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PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

SENATE—*Thursday, March 12, 1970*

(*Legislative day of Wednesday, March 11, 1970*)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

The Reverend John T. Broome, rector, St. Andrew's Episcopal Church, College Park, Md., offered the following prayer:

Most gracious God, Father of all men, who hast given us this good land for our heritage; grant, we beseech Thee, to all who are engaged in the government of our Nation an unfailing devotion to do Thy will. Open our eyes to see more clearly what we must do to succor the poor, relieve the oppressed, and redress social wrongs. Inspire our hearts and minds with a vision of a more perfect society here on earth, of a world made new, in which justice and righteousness, peace and brotherhood shall reign according to Thy will, so that the earth shall be filled with Thy glorious love as the waters cover the sea; through Jesus Christ, our friend, our brother, and our Lord. Amen.

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THE PRAYER

Mr. SCOTT. Mr. President, may I just say that we are all very grateful for the visiting chaplain's fine prayer this morning.

As a fellow churchman, I always enjoy the rolling praises and deep obeisance to higher authority which is to be found in those who adhere to the Book of Common Prayer.

Thus, with the courtesy of the majority leader, I seize this moment to say one more time, as a member of the Episcopal Church, that I am glad the Book of Common Prayer still functions as our guide and our friend.

Mr. MANSFIELD. Mr. President, may I say that I am glad that prayer is still allowed in the Senate of the United States.

Mr. SCOTT. That is what I was getting at.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Clerk will read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 12, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, March 11, 1970, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 713 and 714.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

"MARPOLE"

The bill (H.R. 1497) to permit the vessel *Marpole* to be documented for use in the coastwise trade was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–719), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

H.R. 1497

The purpose of the bill is to permit the vessel *Marpole* to be documented for use in the coastwise trade.

The tug was built in Louisiana in 1942 and was subsequently transferred to the Canadian Navy, which in turn sold it to a Canadian citizen. Thereafter, it was purchased by an American and taken to San Diego, Calif. At this point it was discovered that the vessel although built in the United States lacked coastwise privileges by reason of the intervening foreign ownership. The vessel is presently the sole asset in the owner's estate and the widow desires coastwise privileges in order to dispose of it.

It does not appear that granting such privileges will prejudice any American citizen and will be of substantial benefit to the present owner. Under the circumstances, the committee recommends the enactment of legislation.

COST OF LEGISLATION

It is estimated that there would be no additional cost to the Federal Government in the event this legislation is enacted.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON LABOR AND PUBLIC WELFARE FOR INQUIRIES INTO THE UNITED MINE WORKERS ELECTION OF 1969 AND PENSION AND WELFARE FUNDS GENERALLY

The Senate proceeded to consider the resolution (S. Res. 360) authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries into the United Mine Workers election of 1969 and pension and welfare funds generally.

Mr. COOPER. Mr. President, during the consideration of this resolution by the Rules Committee, I supported it, and voted for reporting it to the Senate.

In addition to providing for an investigation of the United Mine Workers election of 1969, the resolution authorizes the Labor and Public Welfare Committee to conduct a study of the administration and operation of the United Mine Workers of America welfare and pension fund. Legislation is needed to protect the rights of rank-and-file mine employees in the distribution and operation of welfare and pension funds. I look forward to the recommendations of the Labor and Public Welfare Committee on this important subject.

I filed my individual views with the committee report, and I ask unanimous consent that these views be printed in the RECORD at this point.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

INDIVIDUAL VIEWS OF MR. COOPER

Senate Resolution 360 authorizes the Committee on Labor and Public Welfare to expend funds for an investigation and study of the United Mine Workers election of 1969, and further authorizes "a general study of pension and welfare funds with special emphasis on the need for protection of employees covered by these funds."

In committee I voted to report the resolution, and I support its objectives. In doing so I wish to comment briefly on several areas, particularly the need for protection of the rights of beneficiaries of the United Mine Workers pension and welfare fund.

My long standing interest in many of these problems stems from the fact that Kentucky is the country's second largest bituminous coal producing State employing over 15,000 miners. Over the years I have received hundreds of complaints from mine employees, retired miners, and their families concerning the management of the United Mine Workers pension and welfare fund and the methods employed in the distribution of the fund's benefits.

The distribution of welfare and pension benefits is governed by a basic agreement executed in 1950 between the union and the coal operators entitled "The United Mine Workers of America Welfare and Retirement Fund of 1950," which agreement was arrived at by collective bargaining, and has been amended from time to time. The fund consists of contributions made by each coal operator party to the agreement and amounts to 40 cents a ton of coal mined. The fund is administered by a board of three trustees who determine, among other matters, the rules of eligibility and the amount of benefits to be paid employees, their families and dependents, for medical or hospital care, pensions on retirement or death of the employee, and other types of assistance.

Many complaints that I have received indicate that the trustees change the fund's rules of eligibility or the scale of welfare or pension payments in an arbitrary manner. The result has been that the miners and their families are left with no effective procedure to participate in these decisions by the trustees nor remedy to challenge or appeal them once they are made. I recall receiving many letters from disabled miners and their dependents who suddenly found themselves cut off from the cash benefits they had been receiving. Mr. Ward Sinclair of the Louisville Courier Journal in an article in the May 7 issue reports that in 1954 payments to some 30,000 disabled miners throughout the country were discontinued and of these retired miners approximately 70 percent were totally disabled and had no other source of income. In that same year some 24,000 widows and children lost their maintenance benefits. Again, in 1960, coal mining families were informed that they were no longer eligible to receive hospital and medical benefits because of the rule that the miners were not on pension, were no longer working, or had not been employed in the mines during the previous year.

Since no contractual or statutory remedies appear to be effective in protecting his rights, the mine worker has sought to pursue his remedy in court. In a recent decision by Judge Alexander Holtzoff of the U.S. District Court for the District of Columbia, the court awarded judgment to the plaintiff, Mr. Shelby Collins, a retired coal miner from Harlan, Ky., and found that certain eligibility regulations prescribed by the fund's trustees were arbitrary and capricious. The court held that these regulations should be set aside as invalid and that Mr. Collins was entitled to his pension. This case is indicative of many of the problems connected with the administration of the fund, and for that reason I include it in my statement.

[In the U.S. District Court for the District of Columbia, Civil Action No. 1877-67]

Shelby Collins; Plaintiff, Versus United Mine Workers of America Welfare and Retirement Fund of 1950, et al., Defendants

OPINION

Joseph H. Newlin, of Washington, D.C., for the plaintiff.

Charles L. Widman, of Washington, D.C., for the defendants.

This case relates to the Welfare and Retirement Fund established by the United Mine Workers of America, a labor union representing coal miners. Two questions are presented. The first is whether the courts have power to set aside as arbitrary and capricious, a regulation adopted by the trustees of the fund, prescribing eligibility for applicants for benefits. The second is whether a particular regulation, which is being questioned in this case, should be set aside as arbitrary and capricious.

This action is brought by a retired coal miner against the trustees of the Fund to recover a retirement pension that he claims is due him. The salient facts are not in dispute. The Welfare Fund for the purpose of paying retirement pensions and other benefits to coal miners, was created by an agreement between the United Mine Workers of America and a group of owners and operators of coal mines. The Fund is made up of contributions made by the latter. Each operator periodically pays into the Fund a specified amount based on the quantity of coal produced by his mine. The Fund originated in 1946. The creation of such funds was recognized and sanctioned by Congress in the Labor Management Relations Act, 1947 (Taft-Hartley Act), 29 U.S. Code § 186(c) (5).

A new agreement executed in 1950 between the Union and the operators is now in existence, with some amendments adopted from time to time, that are not germane to this action. This agreement established a Fund designated as "The United Mine Workers of America Welfare and Retirement Fund of 1950". The Fund consists of contributions made by each coal mine operator signatory to the agreement, amounting to thirty cents on each ton of coal produced by his mine. It is administered by a Board of Trustees. It is an irrevocable trust. The purposes of the Fund are to make payments of benefits to employees of mine operators, their families and dependents, for medical or hospital care, pensions on retirement or death of employee, and benefits of other types specified in the agreement that are not relevant to this action. Subject to the stated purposes of the Fund, the trustees are given full authority to determine questions of coverage and eligibility to receive benefits and all other related matters. A portion of the Fund was to be set aside for pensions or annuities for retired members of the Union, their families or dependents.

The trustees in due course adopted and promulgated regulations prescribing qualifications for eligibility to receive a pension. The existing regulations involved in this case, were issued by the trustees on January 4, 1965, and are contained in what is known as Resolution No. 63. The requirements for a pension are as follows:

I. Eligibility

A. An applicant who subsequent to February 1, 1965, permanently ceases work in the bituminous coal industry as an employee of an employer signatory to the National Bituminous Coal Wage Agreement of 1950, as amended, shall be eligible for a pension if he has:

1. Attained the age of fifty-five (55) years or over at the date of his application for pension.

2. Completed twenty (20) years' service in the coal industry in the United States.

3. Permanently ceased work in the coal industry immediately following regular employment for a period of at least one (1) full year as an employee in a classified job for an employer signatory to the National Bituminous Coal Wage Agreement, as defined in paragraphs II B hereof.

In other words, in order to be eligible to receive a pension, a coal miner who retired subsequent to February 1, 1965, must have been at least fifty-five (55) years of age; have completed twenty (20) years' service in the coal industry; and during one (1) full year immediately preceding his retirement, must have been employed by an employer signatory to the agreement, in other words by a mine operator who made contributions to the Fund.

The plaintiff, who is a retired coal miner, applied to the trustees for a pension. He was found eligible under paragraphs 1 and 2 of the requirements, but not in compliance in respect to the third requirement, in that during the year preceding his retirement he was employed in a non-union mine instead of by an employer signatory to the agreement. It was found that the mine in which he was employed during his last year of service was a non-union mine, was not signatory to the agreement and, therefore, did not make any contributions to the Fund. This action is brought against the trustees to recover the pension which the plaintiff claims. It is contended in his behalf that this third requirement is invalid and should be set aside by the Court as arbitrary and capricious.

The following facts were stipulated in the pretrial order. On February 18, 1965, the plaintiff applied to the defendants for a retirement pension. The application was originally approved, but later its allowance was revoked. The plaintiff had been regularly employed in the coal mining industry for more than twenty (20) years immediately prior to filing his application. During the year preceding his retirement and the filing of his application, he was employed by a coal company that was not a signatory to the agreement creating the Welfare Fund and, therefore, made no contributions to it. This fact was the ground of the rejection.

The evidence shows that out of his long period of employment in the coal industry, the plaintiff worked for over twelve years in union mines that made contributions to the Fund. He testified, by deposition, that he resigned his job with a signatory mine operator because of unsafe conditions of work; and that he was compelled to accept employment in a non-union mine because no other employment was available and he had to support his wife and children.

In narrating why he resigned his employment with a contributing mine, he said in his deposition:

Q. 168. They didn't lay you off?

A. No, the top got so bad I got scared and quit and I wasn't making too good nohow.

As to the reason why he accepted employment in a non-contributing mine, he said:

Q. 89. How did you happen to continue to work for L & G Coal Company after you found out they weren't under contract and you a member of the United Mine Workers?

A. Well, I tell you buddy they wasn't nowhere to go hardly. Couldn't hardly find a job and I had a bunch of kids and I had to work.

No contradiction of his testimony was introduced. Defense counsel, however, offered in evidence some official reports that, among other things, listed a number of union mines in operation in Harlan County, Kentucky, which is the area involved in this case, during the year in question. The Court deems this evidence incompetent on this issue.

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While *ex parte* Government reports may be evidence of governmental policies and of general conditions, they are hearsay and are, therefore, inadmissible as proof on specific issues in controversy. Parties are entitled to testimony of a kind that can be tested by cross-examination. Even if this evidence were competent in this instance, it would have but little probative value. It does not follow that because there were union mines in operation that every coal miner could get employment there. There may have been more miners seeking employment than the union mines could absorb. Then, too, it does not appear where any of these mines were, or whether any of them were within commuting distance of the plaintiff's home in order that he could travel daily back and forth to work, even if he could secure employment.

The trust involved in this case is of a type hitherto unknown to equity jurisprudence. The conventional and traditional trust of which equity takes cognizance and which it enforces, names specific beneficiaries, or a determinable class of beneficiaries, leaving no discretion to the trustees to decide who is entitled to the benefits of the trust. The only exception is a charitable trust by which a specific gift is left for a philanthropic purpose, or for members of an indefinite group as a free gift. In this instance, the trust is for the benefit of a general class, membership in which, however, has to be defined by the trustees, who have discretion to determine who within the class should be entitled to benefits under the trust. It is not a charitable trust, because it was created by agreement by contributions of employers. These contributions in a sense form part of the wages of employees, and are of a type known nowadays as "fringe benefits". Persons intended to be benefited rendered the creation of the Fund possible by working for employers who made contributions. They furnished a consideration for the payments. The result is that, unlike in a charitable trust, members of the class have a legal right to the benefits. They participated by their labors in the creation of the Fund. The trustees have authority to prescribe criteria for eligibility within the class.

It is part of the genius of the common law and of equity jurisprudence that they are not static but adapt themselves to shifting needs and changing conditions. Mr. Justice Cardozo summarized this doctrine in a few picturesque pointed words. He said:

> The Inn that shelters for the night is not the journey's end. The law, like the traveler, must be ready for the morrow. It must have the principle of growth.[1]

When social or economic conditions change, the law must follow and adjust itself to the new requirements as they become crystalized. Justice Holmes observed that, "It cannot be helped, it is as it should be, that the law lags behind the times."[2] The lag between changes of conditions and the adjustment of the law to them should not, however, be too long.[3]

It has been established that the courts may review decisions of the trustees on individual applications and set aside a denial, if it is arbitrary and capricious, is not supported by any evidence, or is contrary to law. The scope of review is, however, very narrow and is limited in the manner just stated. *Danti* v. *Lewis,* 114 U.S. App. D.C. 105, 108; *Kosty* v. *Lewis,* 319 F. 2d 744, 115 U.S. App. D.C. 343, 346; *Kennet* v. *United Mineworkers of America,* 183 F. Supp. 315, 317.

The next step to be taken is to extend this authority of the courts to setting aside and declaring invalid a qualification for eligibility for a pension, if the Court concludes that the requirement is arbitrary and capricious. No reason is perceived for not taking this additional step. In fact, the Court of Appeals in *Roark* v. *Lewis,* 401 F. 2d 425, has indicated that such power should exist. Naturally this authority shall be exercised very sparingly and cautiously and may be invoked only if the arbitrary and capricious nature of the regulation is clearly established.

The *Roark* case, *supra,* dealt with the same question that is presented in this action, namely, the validity of the regulation requiring a retired coal miner to have worked for a signatory mine owner during his last year before retirement. The enlightened and analytical opinion of the Court of Appeals in that case, written by Judge Tamm, contains a helpful and detailed discussion of the problem. He said (pp. 427–428):

> While the trustees have broad discretion in setting eligibility requirements, there are obvious limits . . . Although none of the reported cases we have found which deal with UMW pension applications has directly confronted the question of court review of eligibility requirements, we see no reason why the previously announced standard (to determine whether the trustees' conduct was arbitrary or capricious) should not apply. Trustees' action in prescribing eligibility requirements affects the rights of potential beneficiaries in the same vital way as do other trustees' actions.
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> * * * * *
>
> When the trust was first established, of necessity, most applicants had worked the bulk of the required time before signatory operators had begun paying into the trust a stipulated price per ton of coal mined.
>
> * * * * *
>
> Appellants have demonstrated the peculiarities of the attacked requirement—that an employee's last regular employment before retirement be with a signatory operator. Under the requirement, employees could spend, as appellants did, practically their entire adult lives working for mine owners who had contributed to the Fund since its inception; yet if they were to work for a non-signatory operator for any period after leaving a signatory operator, they would forfeit their otherwise valid pension claims. Conversely an applicant could have worked nineteen of the required twenty years in the industry for a non-signatory operator (who had contributed nothing to the Fund) and still be eligible for a pension if only he worked his last regular employment for a contributing operator.
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> * * * * *
>
> If the Fund's purpose is to pay benefits to contributing employers' employees (whose work generated the contributions), it is difficult to see how such a requirement promotes that purpose. It makes employees like these appellants sacrifice an otherwise valid pension claim because they worked a relatively short time for non-contributing operators. The contributions which signatory operators made on their behalf did not evaporate as a result of their later employment with non-signatories.

In the exercise of caution, however, the Court of Appeals did not reach a final decision on the validity of the rule, but remanded the case to the District Court for a new trial in order that evidence bearing on a possible justification of the requirement might be introduced. The Court of Appeals indicated that the burden was on the trustees to show some rational nexus between the purpose of the Fund and the challenged requirement.

The brief concurring opinion added the following remarks (p. 429):

> Appellants may have been forced off contributing payrolls because their employers closed the mines and because no other job with a contributing employer was available. On those facts, we might well find arbitrary and capricious a reading of the eligibility requirements which would deny appellants their pensions.

In the instant case the trustees assumed the burden placed upon them by the Court of Appeals in the *Roark* case, and introduced evidence seeking to explain and justify the fairness of the requirement, which on its fact appears so highly unreasonable.[4]

Counsel for the trustees called as a witness, Joseph A. Reid who is a Special Assistant to the Director of the Fund. He testified as follows:

> *Q. What was the purpose and the statistical information the fund had at that time that caused them to put that requirement in effect?*
>
> A. From its inception in 1946 until March 5, 1950, the fund had reecived in excess of 38,000 pension applications. They found through analyses and statistics of all these 38,000 person applications that many coal miners were coming back to the coal industry who had been away from the coal mines for many years, who had lost their identity with the coal industry, but because of the liberal requirements that were first in existence they could come back in the mines and work for one day or one week or one month and receive pension benefits. In fact, they found instances of sham and non-existent coal companies. In fact, they were referred to as "pity me" mines where a man would go for a day and then apply for a pension.
>
> So after these three years of statistics on this subject the trustees inserted the resolution that his last year of employment had to be for a signatory company. Now this was also done because any man who did not work for a signatory company for one year immediately prior to his retirement and returned to work after 1946 could have worked for a company that never paid a cent into the welfare fund. It operates much like workmen's compensation, his last year of employment must be assessed against the employer that contributes to the fund, and that is the reason this regulation was applied.
>
> *Q. Mr. Reid, following the adoption and throughout the years of administration of this welfare fund concerning this requirement of eligibility of employment immediately prior to retirement for a coal operator's signatory, what would be the percentage of the people that have been able to meet that requirement of eligibility?*
>
> A. Oh, the vast majority of the people have met that eligibility requirement. In fact, there are over 70,000 people now receiving pension benefits, and since the inception of the fund over 130,000 have been approved pension benefits.
>
> *Q. Have you in the administration of the*

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[1] Cardozo, *The Growth of the Law* 18.

[2] Holmes, *Collected Legal Papers* 294.

[3] See Holtzoff, *The Vitality of the Common Law in Our Time*, Vol. XVI, The Catholic University Law Review, pp. 23, 25–27.

[4] The *Roark* case is on the civil non-jury calendar of this Court and is about to be reached for trial. In the interest of justice as well as to promote efficiency of its administration, the *Roark* case and the case at bar should have been consolidated for trial, especially as the civil non-jury calendar is practically current. It is to be regretted that none of the parties made a motion to consolidate. This Court would have been inclined to direct a consolidation *sua sponte* but unfortunately the statute of the *Roark* case did not come to its attention until after the trial of the instant case started and was under way.

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funds encountered and difficulty in the administering of this regulation? Has it been found equitable or harsh in the administration of this welfare fund?

* * * * *

A. We have found that this has been an equitable regulation. It has been in effect since 1950 and that is nineteen years. There has never been a great deal of clamor upon the coal miners themselves to alter this regulation. The majority of coal miners feel that this is right.

* * * * *

Q. Mr. Reid, has there ever been any consideration within the welfare fund to change that requirement?

A. In various conferences that the administrative fund conducts discussions have periodically occurred on the whole regulation but it has never come to pass that this regulation should change.

Q. Has there ever been consideration to increase the number of years of signatory employment to more than a year of the last employer?

A. Yes, they have discussed the possibility of making a miner work for more than one year in signatory mines but they want to be as liberal as they possibly can so they have never changed it. (Tr. pp. 8–9, 10–11, 12–13)

In the opinion of this Court, the foregoing explanation is not adequate. In order to prevent possible frauds and in order to confine the benefits of the Fund to retired employees whose labors brought about contributions to the Fund, all that is necessary is to require that the miner should have worked for a specified minimum period in signatory coal mines. To exact a requirement that irrespective of the numbers of years he may have been employed in such mines, he must have done likewise during the very last year of his employment in the coal industry, is unreasonable, arbitrary and capricious. The unfairness of the requirement is patent in respect to a person, such as this plaintiff, who for many years worked in a signatory coal mine, but during the last year of his work in the industry was constrained by circumstances to accept employment in a non-union mine. On the other hand, a person could have worked during his entire career in non-union mines and yet receive a pension if he managed to secure employment in a union mine for a single year immediately preceding his retirement although his participation in the creation of the Fund would be negligible. Such results are unfair and unreasonable and border on the absurd.

The Court concludes that the requirement in question is arbitrary and capricious, and should be set aside and held invalid. Since the plaintiff meets all the other requirements, he is entitled to a pension. Judgment will be rendered in his favor.

This opinion will constitute the findings of fact and conclusions of law. Counsel will submit a proposed judgment.

ALEXANDER HOLTZOFF,
U.S. District Judge.

APRIL 22, 1969.

CONTINUATION OF THE VIEWS OF MR. COOPER

Rather than leaving retired miners to pursue their remedies in the courts on a case-by-case, piecemeal basis, I would hope that in its study the committee would consider methods and procedures which would provide for the vesting of pension and other rights during the mine employees' term of employment as well as in their retirement, and procedures which would give the rank and file membership an active participation in the decisions of the fund's trustees and a means for appeal.

Second, I would suggest that the committee would wish to examine ways for improving the fiduciary standards and management responsibilities of the fund's trustees in the collection, deposit, investment, and distribution of the fund's moneys so that the mine employees who have worked so long and hard in the mines would receive the maximum benefits of their labors for themselves and their families. When I was a member of the Labor and Public Welfare Committee in 1958 and 1959, the committee reported and the Senate enacted the Welfare and Pension Plans Disclosure Act and the Labor-Management Reporting and Disclosure Act. During the committee's consideration of these bills President Eisenhower on several occasions recommended that there be included provisions that would impose a fiduciary responsibility on persons handling welfare and pension funds. I supported and voted for this requirement, but it was not adopted by the Congress.

I note that the Labor and Public Welfare Committee report at page 2 is critical of the Department of Labor for its refusal to take enforcement action under the Labor-Management Reporting and Disclosure Act during the preelection campaign of the recent United Mine Workers' election. I believe this criticism to be unfair and unjustified.

It should be pointed out that an investigation of an election case under section 601 of the Labor-Management Reporting and Disclosure Act could not lead to any enforcement action by the Department under any provision for the act unless and until the Department had received a post-election complaint from a member who had exhausted or attempted to exhaust the remedies available to him under the Constitution. Based on the results of its investigation the Department on March 5 filed suit in Federal court to set aside the election. In its proposed investigation of the recent United Mine Workers election, the Committee on Labor and Public Welfare will have an opportunity to examine the adequacy of the provisions of the Labor-Management Reporting and Disclosure Act in light of the events of this election with a view to recommending ways that the act's enforcement provisions may be strengthened and made more effective, particularly during the campaign period prior to a union election.

JOHN SHERMAN COOPER.

The resolution was agreed to, as follows:

S. RES. 360

Resolved, That the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to the United Mine Workers of America election of 1969 and a general study of pension and welfare funds with special emphasis on the need for protection of employees covered by these funds.

SEC. 2. For the purposes of this resolution the committee, from the date of enactment of this legislation to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; (3) to subpena witnesses; (4) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government; (5) contract with private organizational and individual consultants; (6) interview employees of the Federal, State, and local governments and other individuals; and (7) take depositions and other testimony.

SEC. 3. Expenses of the committee in carrying out its functions shall not exceed $265,000 through January 31, 1971, and shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–720), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 360 would authorize the expenditure of not to exceed $265,000 by the Committee on Labor and Public Welfare, or any duly authorized subcommittee thereof, from the date of its enactment through January 31, 1971—to examine, investigate, and make a complete study of any all matters pertaining to the United Mine Workers of America election of 1969 and a general study of pension and welfare funds with special emphasis on the need for protection of employees covered by these funds.

A letter in support of Senate Resolution 360 addressed to Senator B. Everett Jordan, chairman of the Committee on Rules and Administration, by Senator Harrison A. Williams, Jr., chairman of the Subcommittee on Labor of the Committee on Labor and Public Welfare, is as follows:

U.S. SENATE, COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., February 19, 1970.

Hon. B. EVERETT JORDAN,
Chairman, Committee on Rules and Administration, U.S. Senate.

DEAR MR. CHAIRMAN: I am writing to express my hope that prompt consideration can be given to Senate Resolution 360, an original resolution which has been approved by the Committee on Labor and Public Welfare, reported to the Senate, and referred to your Committee on Rules and Administration.

This resolution would authorize the necessary expenditures for an investigation of the recent election in the United Mine Workers, as well as a general study of welfare and pension funds. Such investigation and study would be conducted by the Subcommittee on Labor.

Because of the great public concern which has developed over recent events relating to the United Mine Workers, I believe it important that our activities in this regard proceed as quickly as possible. Should the Committee on Rules and Administration desire any further information in connection with its consideration of this matter, I will be pleased to appear before the committee to answer any questions which its members may have.

With kindest personal regards,

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman, Subcommittee on Labor.

Additional information concerning the proposed inquiry is contained in the report (S. Rept. 91–708) by the Committee on Labor and Public Welfare to accompany Senate Resolution 360, the pertinent portion of which (including the proposed budget) is as follows:

"Recent events have focused public concern upon charges that have been made of illegal activities on the part of officials of the United Mine Workers of America. Particularly prominent are the allegations, repeated under oath in some detail in hearings held by the Subcommittee on Labor on February 5 and 6, 1970, that numerous violations of the Labor-Management Reporting and Disclosure Act were committed by, or at the direction of, incumbent officials to insure their reelection in the election held by UMWA last December. These allegations include the use of violence, threats of reprisals, improper use of union funds and personnel for campaign purposes, improperly conducted nomination meetings, denial of the right to secret ballot, denial of autonomy to various districts and locals within the UMWA, collusion of employers and union officials in blacklisting dissident members, and use of improperly constituted locals to perpetuate incumbents' control."

As indicated by the record of the recent Labor Subcommittee hearings, details of these charges were repeatedly brought to the attention of the Department of Labor, beginning some 5 months before the election. The Department declined to exercise its investigative authority under section 601 of the Labor-Management Reporting and Disclosure Act, however, stating that it would follow its customary policy of staying its hand until after an election had been held.

While the Department of Labor did commence an investigation of the election shortly after death of the defeated candidate for the UMWA presidency, its delay in entering the case has raised serious questions concerning the adequacy of the Department's administration and enforcement of the Labor-Management Reporting and Disclosure Act.

It is, therefore, desirable that an oversight review be conducted of the administration of the Labor-Management Reporting and Disclosure Act with respect to the UMWA election, and that sufficient investigation be undertaken to resolve any questions which this election raises concerning the adequacy of the law or its enforcement. The scope and extent of such review and investigation will necessarily depend upon the outcome of investigations which it is understood are now being conducted by both the Department of Labor and the Department of Justice. Such review and investigation by this committee would be conducted with due regard for the need to avoid prejudicing those investigations by the Departments of Labor and Justice or any judicial proceedings which may result therefrom.

In addition to those charges involving UMWA officials which arise under the Labor-Management Reporting and Disclosure Act there have also been allegations of improper administration of the UMWA's welfare and retirement fund. These allegations include the following:

Of the fund's assets of $180 million, some $75 million has been kept on interest-free deposit in a bank which is controlled by the union, thus depriving beneficiaries of the fund of interest income which should have been available for benefits.

Fund money has been invested in companies in which trustees have a personal interest.

The fund has lent money to selected coal operators and coal-related companies.

Salaries and expenses are paid by the fund to friends and relatives of UMWA officials who perform little or no work.

Trustees have not taken proper steps to collect all royalties due the fund.

Decisions as to the payment of benefits are made in an arbitrary manner with no due process available to benefit applicants.

The fund's investment portfolio has been mismanaged and has lost money in a period of increasing investment values.

Benefits paid by the fund were increased without actuarial justification in order to obtain support for one of the trustees, who was running for reelection to the UMWA presidency.

The authority under existing law for the Department of Labor or the Department of Justice to investigate the validity of these charges respecting the fund, or to remedy any improprieties which might be found to exist, is limited. It is therefore desirable to undertake a general study of the present inadequacies of the protections afforded to welfare and pension plan participants and beneficiaries, with the allegations concerning this fund serving as a starting point. Such a study would look toward the development of appropriate legislation to provide such protections as are shown to be required, including fiduciary standards for welfare and pension fund administrators and Federal remedies to deal with breaches of those standards, and would include consideration of any bills dealing with welfare and pension funds which are pending before the committee.

The resolution makes appropriate provision for minority staff in connection with this investigation and study. A budget for the investigation and study follows:

BUDGET

Position	Number	Annual salary	Total for period of budget
STAFF			
Legal and investigative:			
General counsel or staff director	1	$28,689	$28,689.00
Special counsel (minority)	1	28,689	28,689.00
Chief investigator	1	28,689	26,689.00
Investigator	3	24,090	72,270.00
Editorial and research: Staff member (minority)	1	24,090	24,090.00
Administrative and clerical:			
Assistant chief clerk	1	11,169	11,169.00
Assistant clerk (secretary to director)	1	11,169	11,169.00
Assistant clerk (file)	1	11,169	11,169.00
Stenographer (minority)	1	11,169	11,169.00
Total	11		227,103.00

ADMINISTRATIVE

	Total for period of budget
Contributions to employees health benefit programs ($8.88 per month per employee)	$1,172.16
Contribution to civil service retirement fund (7½ percent of total salaries paid)	17,032.72
Contributions to employees Federal employees group life insurance (30 cents per month per $1,000 coverage)	817.57
Reimbursable payments to agencies	10,000.00
Travel (inclusive of field investigations)	3,500.00
Hearings (inclusive of reporters fees)	1,000.00
Witness fees, expenses	500.00
Stationery, office supplies	700.00
Communications (telephone, telegraph)	2,400.00
Newspaper, magazines, documents	250.00
Contingent fund	524.55
Total	37,897.00
Grand total	265,000.00

BETTER CONTROLS OVER DEFENSE PROCUREMENT

Mr. SCHWEIKER. Mr. President, as Congress begins its annual review of procurement requests, I believe it appropriate to speak at length on a subject which is of great national concern—defense spending—and the need to achieve better controls over the soaring costs of defense procurement, one of the two or three most important issues in the Congress.

The high cost of military procurement, with the sometimes scandalous cost overruns that double and triple the billion-dollar price tags for defense systems, is certainly a major factor in the inflation we now wrestle with. Obviously, bringing defense costs down, and eliminating the billions of dollars of waste, will help solve some inflation.

A paramount issue has become the reordering of national priorities. Because the cost of maintaining our national defense system amounts to more than 35 percent of our total national budget, it is imperative that steps be taken to eliminate wasteful spending, as opposed to that necessary for maintaining our national security. The elimination of such waste should be most helpful in making additional funds available in the fight to solve our domestic problems.

I cite a recent General Accounting Office report to the Congress which indicated that, although the original planning estimates on 38 major weapons procurement systems totaled approximately $42 billion, the current Defense Department estimate—through program completion—now totals almost $63 billion, an increase of 50 percent—a startling and shocking piece of information.

Equally disturbing is the fact that it took until 1970 for such a report to be made. For years, we have been wasting billions of dollars, and nobody knew, or reported it if they did know, that this money was going down the drain. In fact, nobody has bothered to coordinate major defense contracts, or to put one price tag on what they cost, or figure out how much this eventual cost had increased over what Congress was told they would cost when the programs were first authorized.

Well, the days of the blank check for the Pentagon are over. I, for one, have no intention of accepting any program without being provided with realistic cost estimates, an accurate analysis of problems that may raise the price, and much better arguments and analysis to justify the need for the program. If we are going to restore national priorities, free funds for our many domestic needs, and begin to curb inflation, we can only afford to buy defense systems, and improve existing systems, which in fact add to the preservation of our national security, and are not mere gadgets which someone feels would be nice to have.

Our debate last year on the ABM and other defense systems was one of the most significant developments in the Congress in the last decade. Because, the merits or demerits of any specific weapons system aside, the debate represented a declaration of policy by the Congress that the blank check given defense programs in the past was going to be replaced by more accurate scrutiny. It showed that Congress would weigh national security, along with other budgetary needs, not to reduce our security, but to insure that excessive fat was eliminated so that other important priorities received a fair share.

If, because of the revelations of excessive costs and inefficient procurement practices, and because of the congressional debate, 1969 goes down in history as the "Year of the Defense Cost Overrun"—a title I believe it has already well earned—then 1970, I strongly hope, will be the "Year of Defense Cost Control."

When we talk about wasteful spending, inflation, and priorities, we are really talking about taxes. We are talking about giving the taxpayers something better for their money. One reason that Congress has had enough of cost overruns is that the taxpayers have had enough. And, if we in the Congress are to restore the confidence of the taxpayers in the efficiency and honesty of our defense procurement practices, we had better act fast.

Specifically, the taxpayers are demanding that one of the prime objectives of Congress this year ought to be to stem the tide of inflation. I believe that our efforts in the area of better control over defense spending can contribute substantially to reducing the inflationary spiral.

President Nixon has made clear his intention to reorder our priorities, and to do it within the context of a balanced budget. We desperately need additional funds to clean up our environment, to rebuild our decaying cities, to provide for our expanding educational needs. But before we just blindly spend more money, we must make savings wherever we can on the programs already underway. The defense budget excess is one of the chief sources for this kind of savings, as shown clearly by the GAO report on major weapon systems procurements.

It is for these reasons that I feel strongly the debate on military spending and defense procurement must not only be continued this year, it must be expanded. Our obligation to the citizens of this country—the taxpayers—demands closer scrutiny of the defense budget and a willingness to cutback on waste and fat.

I want to emphasize that during last year's debate, and this year as well, I know of no Member of either body who could fairly be accused of wanting to strip our country of an adequate defense. That is not the issue here, nor should it be. To the contrary, by focusing hard on defense projects, I think we can force more efficient military spending which can, in turn, help create a more effective defense system.

Why, all of us can fairly ask, is this kind of scrutiny just now appearing? Why did it take until 1969 for this kind of full-scale congressional debate over military procurement practices to surface?

During most of my previous service on the Armed Services Committee in the other body, hardly a question was ever raised about the justification or cost of a major weapon system. The feeling then seemed to be that, if the Pentagon experts wanted a particular system, then the Congress would accept their judgment, and pretty well give them what they wanted. It was almost axiomatic at that time that, if a particular Member of Congress seriously questioned the judgment of one of the military services, he was looked upon as a "unilateral disarmer" or, worse, one willing to place the security of the United States in jeopardy.

I believe this was all part of a trend. After the Second World War, and Korea, there was a steady, but perhaps imperceptible, trend toward letting the executive branch and its departments make the judgments as to what was needed to protect our national security, without the benefit of very much advice or leadership from the Congress.

Perhaps it is fair to say that this trend continued during the early 1960's, as the result of bringing to the Pentagon a man with broad experience as a major corporate executive, who, it was said, would "get the Pentagon organized." This lent credence to the belief that things were finally going to get better, and that there would at last be some rational judgments made as to our overall military posture and procurement.

Unfortunately, with the advantage of hindsight, I think it is clear that just the opposite has resulted.

The long and heated ABM debate provided the catalyst for the public attention that focused last year on our defense procurement system problems. But it was far from the only source of discontent.

In Senate Armed Services Committee hearings on the C-5A air transport, we learned that this project, which everyone indicated would be a successful plane, had nevertheless experienced a cost overrun of more than $2 billion. We learned that a Defense Department negotiated repricing formula for the second order of 57 aircraft would allow the contractor to make up the loss from the enormous cost overrun on the first order of planes. This practice had the Government actually encouraging inefficiency and higher costs. It had become common for contractors to "bid-in" unrealistically low prices to obtain lucrative contracts because the Pentagon, which subsequently had an interest in finishing the contract, would eventually bail them out of trouble. The contractor got his profit, the Pentagon got the military hardware, and the losing taxpayer got the bill.

Another event which disturbed many of us in Congress, and the public, was the long Pentagon battle to prevent a highly placed Air Force civilian employee, an expert in defense contract finance problems, from testifying before Congress. The battle ultimately cost this man his job, and the public lost a cost control force within the Pentagon.

Mr. President, I ask unanimous consent to have printed in the RECORD two appendixes to the GAO report provided to the Congress earlier this month—a list of the weapons systems selected for GAO study, and the cost estimates reported, in the selected acquisition reports for the period ending June 30, 1969. A study of these figures amply illustrates the magnitude of the problem.

There being no objection the material was ordered to be printed in the RECORD, as follows:

LIST OF WEAPON SYSTEMS SELECTED FOR GAO STUDY

System	Mission	Status
Department of the Army:		
Aircraft:		
CH-47	Cargo helicopter	Production.
Cheyenne helicopter.	Close in ground/troop transport convoy escort.	Production-canceled.
UH-1H helicopter	Tactical transport helicopter	Production.
AH-1G Cobra helicopter.	Attack helicopter	Do.
Missiles:		
Shillelagh	Surface-to-surface antitank missile-main armament of the Sheridan tank.	Do.
Safeguard	Antiballistic missile	Operational system development.
Dragon	Surface-to-surface missile destruction of armored vehicles and other hard targets.	Development.
SAM-D	Surface-to-air missile—field army air defense system.	Advanced development.
Lance	Artillery support	Engineering development.
Tow	Destruction of armored and field fortifications—surface-to-surface air-to-surface guided missile.	Production.
Vehicles—Ordnance:		
M-551 Sheridan tank.	Armored reconnaissance/airborne assault vehicle.	Do.
M-561 Gama Goat	Vehicle to provide mobility for troops and equipment.	Do.
Department of the Navy:		
Aircraft:		
S-3A	Carrier-based ASW aircraft	Development.
F-14	All-weather fighter	Do.
EA-6	ECM attack aircraft	Production.
F-4J	All-weather fighter	Do.
P-3C	Patrol ASW aircraft	Operational.
CH-46	Assault/transport helicopter	Do.
A-7E	Light attack aircraft	Do.
AN systems:		
AN/SQS-23	Sonar for surface ship detection and tracking of submarines.	Preproduction contrac awarded.
AN/SQS-26	Sonar for surface ship detection and tracking of submarines.	Production.
AN/BQQ-2	Sonar for nuclear submarines	Reproduction contract awarded.
Missiles:		
Phoenix	Long-range air-to-air missile	Prototype production.
Poseidon	Nuclear-guided missile	Production.
Walleye	Air-to-surface missile	Development.
Condor	do	Do.
Standard Arm	do	Production.
Subroc	Underwater-to-air-to-underwater nuclear depth missile.	Do.
Sparrow E	Air-to-air all-weather missiles	Operational.
Sparrow F	do	Development.

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System	Mission	Status
Ordnance:		
Mark 46 torpedo	Antisubmarine warfare	Production.
Mark 48 model 0 torpedo.	do	Development.
Mark 48 model 1 torpedo.	Antisubmarine warfare	Development.
Ships:		
LHA amphibious assault ship.	Deployment of marine expeditionary forces in amphibious assaults.	Construction
CVA-67 aircraft carrier.	Attack carrier	Completed.
CVAN-68 aircraft carrier (nuclear).	do	Under construction.
CVAN-69 aircraft carrier (nuclear).	do	Partially funded (long leadtime items).
DE-1052 class escort ship.	Locate and destroy hostile submarines	Under construction or completed (46 ships).
DD 963	Fleet escort destroyer	Contract definition.
DZGN new guided missile frigate.	do	Do.
SSN attack submarine (nuclear).	Tracking and destroying enemy submarines.	Completed or under construction (37 ships).
Dept of Air Force:		
Aircraft:		
AMSA (advanced manned strategic aircraft).	Destruction of strategic targets with nuclear conventional ordnance; replaces B-52 bomber.	Concept formulation.
F-15	Air superiority fighter	Contract definition.
C-5A	Designed to carry large payloads and outsized cargo over long ranges for MAC.	Early production and flight testing.
F-111, FB-111, and RF-111.	Tactical support, strategic bombing, fleet air defense, air superiority, reconnaissance.	Production.
A-7D	Fixed wing, subsonic, light attack	Do.
AWACS	Provide airborne early warning of a bomber threat and command/control of tactical interceptor force.	Engineering development.
F-4E	All-weather fighter	Production.
RF-4C	All-weather reconnaissance aircraft	Do.
Missiles:		
Maverick	Destruction of tactical ground targets	Development.
Tital III	Space launch vehicles	Development essentially complete, 3 versions in production.
SRAM	Air-to-surface missile to strike primary targets and suppress antibomber defenses.	Advanced engineering development.
Minuteman II and III.	Destruction of strategic ground targets at intercontinental range.	Production.

SCHEDULE OF PROGRAM COST DATA APPEARING ON JUNE 30, 1969, SARS[1] AND ARRANGED BY ACQUISITION PHASE AND MILITARY SERVICE

[Dollars in millions]

	Planning estimates	Contract definition cost estimates	Earlier estimates adjusted for quantity changes	Current estimates through program completion
Concept Formulation:				
None of the 57 systems are in this phase as of December 23, 1969				
Contract definition (7):				
Army				
Navy:				
DD963	$1,396.55		$1,737.55	$3,350.3
CVAN 69	519.0		519.0	
DXGN	726.6			4,750.09
Air Force:				
B-1	8,800.0		8,800.0	8,800.0
F-15	6,039.0		6,039.0	7,700.0
AWACS	2,652.7		2,652.7	2,652.7
RF-111D	579.4		542.1	895.7
Engineering and/or operational systems development (50):				
Army:				
Dragon [2]	381.3	$425.5	464.4	832.8
Shillelagh	373.1	373.1	380.3	573.2
AH-1G	49.8	70.7	466.2	561.0
Safeguard	4,185.0	4,185.0	4,185.0	4,185.0
Gama Goat	69.1	168.1	369.2	373.6
Sheridan tank	388.7	398.1	548.0	689.6
Cheyenne	125.9	125.9	125.9	[3] 203.9
UH-1H	341.3	341.3	1,140.9	1,235.4
TOW [4] [5]	410.4		366.8	944.7
Sheridan Ammo [4] [6]	370.1			489.0
CH-47 helicopter [4]				1,323.7
Lance [4]	543.8		421.9	472.3
SAM-D [4] [7]	4,816.5	3,910.0		3,372.1
Navy:				
P-3C	1,294.2	1,294.2	2,265.3	2,261.7
AN/BQQ-2	126.9	179.0	178.5	269.9
Sparrow E	687.2	740.7	265.6	258.1
Sparrow F	$139.8	$393.0	$246.3	$425.9
Phoenix	370.8	469.0	529.5	1,022.3
Mark 46-Mod 1	347.0	1,033.6	1,021.6	1,039.9
Mark 48-Mod 0	682.4	700.3	715.3	3,890.7
EA 6B	689.7	817.7	793.7	1,034.9
Walleye II	345.0	345.3	123.9	134.6
F-14	6,166.0	6,166.0	6,166.0	6,373.0
Standard Arm	180.3	241.6	220.0	250.7
S-3A	1,763.8	2,891.1	2,891.1	2,891.1
AN/SQQ-23	160.2	175.6	116.6	321.7
A-7E	1,465.6	1,465.6	1,421.5	1,919.1
Mark 48-Mod 1	70.7	71.6	71.6	111.1
Condor	117.2	126.0	126.0	167.0
F-4J	770.0	770.0	2,509.6	2,743.7
AN/SQS-26CX	95.7	88.8	95.6	119.6
CH46 E/F helicopter	323.6	589.0	577.1	550.6
LHA	651.0	1,346.5	1,346.5	1,379.4
DE-1052	1,285.0	1,259.7	1,259.7	1,286.1
CVA-67	310.0	280.0	280.0	307.8
CVAN 68 [4]	427.5	427.5	427.5	
Poseidon [4]		4,384.0		5,602.0
Subroc [4]		438.8	455.3	591.4
SSN 637 [4]			2,515.8	2,838.9
Air Force:				
Minuteman II	2,872.5	4,164.2	4,168.2	4,280.7
Minuteman III	2,678.1	4,339.0	4,060.3	4,226.0
C-5A	3,423.0	3,370.0	3,370.0	4,832.0
Maverick	257.9	391.8	213.1	274.7
A-7D	1,378.1	2,012.1	2,012.1	2,012.2
Titan III	932.2	745.5	745.5	1,130.5
F-111 A/C/D/E	4,686.6	5,505.5	2,941.9	7,401.3
FB-111A	1,781.5	1,781.5	655.7	1,218.5
SRAM [4]		261.1		1,470.1
F-4E [4]				2,630.8
RF-4C [4]				1,571.0

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[1] Cost data presented in this schedule recognizes DOD's and services' adjustments through Jan. 9, 1970.

[2] The cost estimates are from the SAR prepared by the Army Materiel Command since the Department of the Army had not approved the June 30, 1969, Dragon SAR as of Jan. 16, 1970.

[3] While this is the estimate appearing on the June 30, 1969, SAR it should be noted that, due to litigation, the Army's current liability is unknown.

[4] Systems in engineering and/or operational systems development and one or more of the program cost elements were omitted on the June 30, 1969, SAR.

[5] The TOW did not go through contract definition.

[6] The DOD considers this as an annex to the Sheridan vehicle and not a weapon system itself.

[7] Army officials advised us that, while the SAM-D has gone through contract definition, contract award has been limited to advance development.

Mr. SCHWEIKER. Mr. President, I should like to highlight at this time some of the information contained in these analyses, and then discuss some of the efforts currently underway to deal with the problems.

Following are just a few examples of what I am talking about. Take a look at the DD-963 program. The Navy intends to buy a number of fleet escort destroyers. The original planning estimate was approximately $1.4 billion. The current estimate is just over $3.3 billion, and a contract has not even been awarded yet

The original planning estimate on the F-15 fighter was about $6 billion. A contract has now been signed for $7.35 billion. The Army's Shillelagh missile, originally estimated at $373 million, has now been estimated to cost eventually $573 million. Costs on the Cheyenne helicopter, originally estimated at $125 million, were, as of last June 30, estimated at $204 million, an estimated increase of 60 percent, and that program has been canceled.

Here in another real eye opener. The original estimate on the Mark 48 torpedo—Mod O—was $682 million. Now, we are asked to accept the current estimate through program completion of almost $3.9 billion. And as of last June 30, the system was not even in production. Shocking, yes. Wasteful, undoubtedly. But unacceptable, most certainly.

Mr. President, this is the sort of thing we are faced with. And we had best not make light of it any longer, for the taxpayers certainly are not.

I commend President Nixon for his forthrightness and honesty when, during his state of the Union message, he

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indicated, and I paraphrase him, that the major share of responsibility for our current inflationary problems rests with the policies that have been followed by the Government. We had better deal with this problem quickly and efficiently.

Now let me say that, having put all these dollars and cents figures into the RECORD, and I expect that we have not seen the last of them, I have some reason to believe that we are finally on the right track.

I have been among those who have seriously criticized what I feel have been totally inadequate and inefficient cost-management procedures on the part of those responsible for dealing with these problems. But, it would be unfair of me, particularly in view of the steps which have been taken recently, only to criticize.

During debate on the fiscal year 1970 military procurement authorization bill, I introduced, and with the help of many of my colleagues was successful in having approved by this body, an auditing amendment to the bill requiring quarterly reports to the Congress. The amendment required the Secretary of Defense, in cooperation with the Comptroller General, to outline and give specific information on contract cost estimates, increases in those cost estimates, options for additional procurement, causes for time slippages, changes in performance capability, and any other information which might be considered necessary, to provide the Congress with adequate and up-to-date information on the status of major defense contracts. The GAO was assigned a major responsibility for reviewing and auditing the progress and adequacy of this reporting system.

There was substantial opposition to this proposal in many quarters. My colleagues will recall that it was stricken from the final conference version of the bill which we passed. In the end we lost that battle. But I believe we are beginning to win the war. Let me illustrate. Early last year, my distinguished colleague, the chairman of the Senate Armed Services Committee, established procedures to receive reports from the Defense Department on many major contracts. These reports are coming to the committee on a quarterly basis, and are providing important information. With the help of personnel on loan from the General Accounting Office, the committee is now devoting substantial attention and resources to the problems in this area. In addition, the committee has recently added, to its staff, personnel with wide experience in the budgeting and accounting fields. I applaud these steps, and I feel sure that these developments, together with whatever future actions Chairman STENNIS proposes to take, will help give us the kind of information the committee really needs so that this body may be advised up to the minute, every minute.

I should like to say a word or two, also, regarding the efforts of my distinguished colleague from Connecticut, the chairman of the Government Operations Subcommittee on Executive Reorganization, Senator RIBICOFF. He held hearings on these problems last fall, after conclusion of the debate on the military procurement bill. He and I have discussed these problems on many occasions, and I believe his concern will be a major factor in strengthening the role of Congress and the GAO in the future.

Next, I believe that one step Congress can take to restore a sense of balance to some of these overextended programs is to institute controls over the present system of authorizing production funds before the research and development effort has proven that the system will work as required, and as advertised.

In too many instances, as we have so belatedly learned, program costs have skyrocketed because we were still trying to perfect the system, even after a contract had been awarded and production units were coming out of the factory.

I believe that the inefficiencies experienced so far in the concurrent financing of production, at the same time that research and development is still in progress, demand that Congress take steps to correct this most flagrant abuse in the procurement process.

In fact, the GAO has already begun to take some of the much needed steps. Their February 6 report to the Congress stated, in part:

> GAO believes that one of the most important causes for cost growth is starting the acquisition of a weapon system before it has been adequately demonstrated that there is reasonable expectation of successful development. Because of the substantial number of cases found, GAO concluded that DOD had not been effectively administering this process.

To me, this is one of the most significant statements in the GAO report. In essence, it says that the Defense Department has been buying systems before they even know whether the systems will work. It is the old blank-check approach. I ask Senators to think for a moment about that one. Can anyone think of a single corporation which would not have a stockholder revolt on its hands if it did business that way? No wonder the taxpayers of this country are upset. They have every right to be.

The GAO has indicated that it will add additional employees, and that it is going to closely monitor, on a continuing basis, the Defense Department's activities in this area. I strongly believe that we must continue to have a multipronged approach to this problem, and I am delighted that GAO has indicated a willingness to share a significant portion of responsibility for this effort. I recently heard one Defense Department official quoted as saying something to the effect that "if you want to shake up the people who are responsible for making sure that cost estimates are accurate and that contracts are not going beyond their planned costs, just keep a few GAO auditors around them." I certainly hope that that is the case, and if it is, then if there is one thing we need more of, it is GAO auditors.

Truth in military procurement. That is the issue, and if we lose sight of that, we are in real trouble. The GAO report cites widespread evidence, based on its review of the 57 systems, that faulty, and even incomplete, estimating was a major problem. I suppose it is natural that any government agency would want to come to the Congress asking for $10 billion rather than $20 billion, or $40 billion rather than $60 billion. They figure they have a better chance of getting the $10 billion than the $20 billion, or $40 billion rather than $60 billion. But, if a service comes to the Congress and says, "all right, we want $2 billion for this system," and that is approved, and then next year they come back and say, "Well, we are sorry, that $2 billion that we asked for last year will not be enough, we need another billion, then, where are we? They might as well have asked us for the $3 billion in the first place, and let us make our judgment on that basis at that time, and the system may not have been able to go ahead if we had known the true price tag before we started. Therein lies the difficulty of the whole system. I believe it is wrong, and I believe that we are only kidding ourselves and the taxpayers, if we continue to operate this way much longer.

Thus far I have talked about efforts being made by congressional committees, or agencies responsible to the Congress.

Let me now discuss some of the efforts being made by the Department of Defense itself which I hope, and believe, will make a significant contribution to this effort. Secretary Laird has personally assured the Armed Services Committee of his very strong interest in having the Defense Department "police its own beat." As one of his former colleagues in the other body, I know that he is just as sensitive as I am, and as you are, Mr. President, to the cry of the taxpayer who thinks he is being taken for a ride. The selected acquisition reports—SAR's—which the Defense Department has started providing to the Congress and to the GAO, are proving most useful in terms of seeing where we stand on a regular quarterly basis. It has been pointed out, and Secretary Laird recognizes, that these reports need improvement—the latest C–5A panic situation is a good illustration to prove that—and that, in and of themselves, they will not do the total job. They do offer a useful measuring stick as to the scope of the problem, and I expect that as further revisions are made in them, they will prove even more useful.

The Department is also utilizing development concept papers—DCP—which describe major weapons systems requiring more than $25 million of research and development, and more than $100 million of production funds. These DCP's are used to provide the Secretary of Defense and the service Secretaries and other high-level officials with the information they need at certain stages in the weapons procurement process so that they can make decisions based on facts and not on someone's hopes. With honest and appropriate preparation, I believe that these tools will be most useful to the Department, and should save the taxpayers money in the long run. Supporting the DCP process is a new management process called the Defense Systems Acquisition Review Council, made up of key DOD officials, whose responsi-

XUM

bility it is to make the final judgment as to whether a "go" or "no go" decision will be made on a system before it goes into production.

All of this leads me to believe that there is some cause for hope. But we are not out of the woods yet. Let me outline quickly a few thoughts that come to mind which could be of help in this whole problem area. First, and Assistant Comptroller General Robert Keller discussed this matter before Senator PROXMIRE's subcommittee last December, there is the "should cost" concept. Given a reasonable expectation of efficiency and contractor performance, what should a new weapons system cost the taxpayer? What should materials cost? How much should the contractor charge the Government for employee labor? Not how much does he want to get paid, but rather, what does the job that he is doing actually cost? Studies that have been made in this area indicate that we are nowhere near the "should cost" basis. The "learning curse" has too often been the basis for making contract estimates. Much more attention should be given to "should cost," and the GAO has indicated that they intend to go into this in much more detail.

I also believe, and have suggested, that consideration be given to the establishment of a subcommittee on military procurement practices. I believe that such a subcommittee could have major responsibility for oversight and evaluation of a number of areas, including contract costs on major acquisition programs; methods of improving and making more nearly uniform the separate services' internal auditing procedures and reports to the Congress; evaluating the adequacy of the Armed Services Procurement Regulations; eliminating duplication between the services when they are working on the same type of weapon system or research and development effort, and an on-going review of the ratio of competitive to single-source procurement. As a matter of interest, during fiscal year 1969, approximately 60 percent of Defense Department procurement was on a noncompetitive basis.

XUM

Still another meaningful step, I believe, would be to substantially revise the in-service management of our major program acquisitions in one very important respect. Because of the nature of military service, and the desire for career advancement on the part of officers, officers are normally assigned to a particular job for a period of perhaps 2 or 3 years, and then are reassigned to another type of job, or to another command. One of the most unfortunate results of this procedure is that a major, long-range procurement program may end up having two, or perhaps three, or perhaps even more, project managers running it before it reaches completion. It seems to me that there are some very obvious drawbacks to this kind of arrangement. First of all, responsibility cannot be placed on one individual from the start to the finish of the program. It strikes me that one individual, and one individual only, ought to be charged with such responsibility. Hold one person to account for every facet and decision of a program from start to finish, and I believe that many of the problems that we are now experiencing would disappear. I would also suggest that, wherever necessary, steps be taken to absolutely assure that the project manager be totally qualified to do the job. Perhaps the services ought to be thinking in terms of developing a corps of officers who do nothing but manage major procurement systems, or perhaps civilian experts should be given this great responsibility.

Our military services have an unexcelled supply of fine officers. But it seems to me that managing a multimillion- or multibillion-dollar procurement program requires different qualifications from those necessary to lead troops in the field, or to command a fighter squadron, or command a flotilla of ships. I do not believe that adoption of these alternatives will give us all the answers we need, but I believe they would be a start, and I urge this body to consider and debate them.

Mr. President, in concluding, I would like to leave a few more thoughts with my colleagues.

When my auditing amendment was being discussed on the Senate floor last August, I raised the question: "Are we going to take some fiscal responsibility for supervising these huge amounts of money, as is done for other departments?

Government sometimes moves slowly. Sometimes it moves not at all. But in this case, I believe we are at last beginning to move. The President, the Secretary of Defense, my distinguished committee chairman, and other committee chairmen, the Comptroller General, and many others have indicated their desires to see these problems solved. With general agreement among those people, and with concerted action by the Congress, we can meet our responsibilities to ourselves and to our constituents. But it is a long step between agreeing that something should be done, and actually taking the important steps necessary to do it. This is why I said earlier that I believe there is some cause for hope at this time. But I would like to leave my colleagues with one thought. All of us from time to time receive mail from those who feel that the Congress talks too much, and acts not enough. Some believe that the Executive talks too much, and acts not enough.

The cost of living continues up, and all too often, our constituents feel that their representatives are letting them down. I believe that we should change both of these situations, and I believe that we must.

When I sought election to this body, I made a pledge to my constituents that if I found something wrong with the system, I would do my best to change it to make it more responsive to our needs and our problems. I believe that there are a number of things wrong with our military procurement system, and it is our responsibility to change them.

I hope that I have presented a fair and accurate picture of where I think we stand on this important problem and of the great amount of unfinished work remaining before us.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly, so that I will not infringe on the time of the distinguished Senator from Maine?

Mr. SCHWEIKER. I am delighted to yield.

Mr. MANSFIELD. I want to commend the distinguished Senator from Pennsylvania for the forthright, candid, and very worthwhile remarks he has made this morning. This effort is certainly in keeping with the effort he began on the Senate floor last year during the debate on the Defense bill. I think he is moving in the right direction. Every effort to stop waste and inefficiency should be commended. I want to assure Senator SCHWEIKER of my complete support.

I think I should say, in all candor, that the President and the Secretary of Defense are doing an excellent job in this area, all things considered, but I think a little encouragement from here would help. With his remarks this morning, the distinguished Senator from Pennsylvania has indeed performed an outstanding public service.

Mr. SCHWEIKER. I thank the Senator. I appreciated his support of my auditing amendment. His encouragement to me meant a great deal at a key time. I appreciate his comments at this time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maine (Mrs. SMITH) is recognized for 15 minutes.

Mrs. SMITH of Maine. Mr. President, I shall not be taking all of my 15 minutes. If the majority leader would like to take some of my time, I would be glad to have him do so.

Mr. MANSFIELD. I appreciate the offer. I do not need the time.

THE PERSONNEL CUT AT THE PORTSMOUTH NAVAL SHIPYARD

Mrs. SMITH of Maine. Mr. President, the personnel cut at the Portsmouth Naval Shipyard is disturbing.

I don't see how anyone could improve on the statement of the senior Senator from New Hampshire, and nothing in my statement makes any reference whatsoever to him.

I have talked with the White House and the Department of Defense on this matter. In fact, I have repeatedly talked with the Secretary of Defense urging that the 1964 McNamara-Johnson closure order be rescinded.

Before issuing a statement on this 1970 cut, I studied the cuts at other major Government shipyards. I found that all of them were cut.

For example, the Boston Naval Shipyard is being cut down to the same number of 6,000 civilian employees targeted for June 30, 1971, as the number targeted for Portsmouth—6,000—the Philadelphia Naval Shipyard will take a cut of 2,800, and the Mare Island, Calif., Naval Shipyard will take a 2,555 cut.

While the percentage cut for Portsmouth is 20 percent, that percentage is exceeded by the cuts of 25 percent at Philadelphia and 23 percent at Mare Island.

In view of these other cuts, I cannot conscientiously and rightfully contend that Portsmouth is being discriminated against as compared to other Government shipyards—as I could, and did, in the case of the 1964 McNamara-Johnson closure order against Portsmouth and which discrimination I proved by facts and statistics.

Nor can any of us contend that we are taken by surprise with these cuts. Anyone who read in the newspapers about the onslaughts of the Defense budget in the Senate last year by the critics of the Department of Defense and those who were pressuring to take away from defense to give to welfare spending and antipollution spending could see what was coming.

It was as plain as the nose on your face that money was going to be taken away from defense and given to the domestic welfare and antipollution programs.

With the exception of the Safeguard ABM, which I think is worthless, I opposed deep cuts in defense spending and defended the defense budget against the Senate attacks on it.

Nor can we of the Maine and New Hampshire congressional delegations be surprised, for Portsmouth has been living under the closure-10-year-phase-out McNamara-Johnson order for more than 5 years since its announcement on November 19, 1964.

In a way, since Portsmouth is under the closure order, it could be concluded that Portsmouth has fared comparatively well on this cutback in comparison with Government shipyards that have not been ordered closed—such as Boston, Philadelphia, and Mare Island.

It may be recalled that when I warned in a December 16, 1963, Senate speech a year in advance that a decision had been made by Defense Secretary McNamara to close the Portsmouth shipyard but that the decision would not be announced until after the 1964 November election, I was excoriated by a Portsmouth newspaper, denounced by a Senator, charging that I was deliberately "calculating to panic the employees," repudiated by another Senator, and contradicted by then Deputy Secretary of Defense Gilpatric.

Yet, just 16 days after the 1964 November election, the McNamara-Johnson decision to close Portsmouth was announced by Defense Secretary McNamara exactly as I had warned.

I have repeatedly talked with Secretary of Defense Laird urging him to rescind the post-election-1964 McNamara-Johnson closure order. On the basis of those talks, I have repeatedly stated publicly and privately that I saw no indication of any tendency to rescind that closure order. I have done so because I wanted to be as truthful and realistic with the people as possible, just as I unpopularly was with my December 1963 warning instead of getting their hopes up falsely with optimistic talk that I did not feel was justified.

As one who has fought against cuts in defense appropriations, I am in a far more consistent position to protest a defense cut in my State than some others. I am not in the politically hypocritical position of leading a fight for cutting defense spending generally but then militantly protesting any cut on defense spending in my State.

In all fairness, consistency, and political honesty, how can any Senator or Representative pressure for large cuts in defense spending so that the money can be diverted to domestic welfare programs and fighting pollution and on the other hand demand special treatment for military and naval establishments in his State or district and oppose any economy and defense cut moves with respect to his State or district?

In all good conscience, how can any of us support cutting everyone else but demand special exemption for ourselves?

If there are to be cuts, I expect Maine to take her equitable share of the cuts directed toward greater economy, better domestic welfare and antipollution programs, and fighting inflation—and I think that the unselfish people of Maine feel the same way.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. I also ask unanimous consent that, pending the arrival of the senior Senator from California, the junior Senator from California (Mr. CRANSTON) be recognized briefly.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from California is recognized.

HOW WE OBSERVE THE GENEVA ACCORDS

Mr. CRANSTON. Mr. President, yesterday the Senator from Arkansas, the distinguished chairman of the Committee on Foreign Relations (Mr. FULBRIGHT), rendered a very valuable service in discussing Laos, and introducing a resolution relating to our military activities there. Among other things, he cited the fact that we are not fulfilling any treaty obligations in going to the assistance of Laos. I would like to point out that, even worse, we are violating a treaty signed by our Nation by the military actions we are now taking on the ground and in the air over Laos.

I ask unanimous consent to have printed in the RECORD at this point the relevant passages from the Geneva Accords.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM GENEVA ACCORDS

The Governments of the Union of Burma, the Kingdom of Cambodia, Canada, the People's Republic of China, the Democratic Republic of Viet-Nam, the Republic of France, the Republic of India, the Kingdom of Laos, the Polish People's Republic, the Republic of Viet-Nam, the Kingdom of Thailand, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America. . . .

2. Undertake, in particular, that

(*a*) they will not commit or participate in any way in any act which might directly or indirectly impair the sovereignty, independence, neutrality, unity or territorial integrity of the Kingdom of Laos;

(*b*) they will not resort to the use or threat of force or any other measure which might impair the peace of the Kingdom of Laos;

(*c*) they will refrain from all direct or indirect interference in the internal affairs of the Kingdom of Laos;

(*d*) they will not attach conditions of a political nature to any assistance which they may offer or which the Kingdom of Laos may seek;

(*e*) they will not bring the Kingdom of Laos in any way into any military alliance or any other agreement, whether military or otherwise, which is inconsistent with her neutrality, nor invite or encourage her to enter into any such alliance or to conclude any such agreement;

(*f*) they will respect the wish of the Kingdom of Laos not to recognise the protection of any alliance or military coalition, including SEATO;

(*g*) they will not introduce into the Kingdom of Laos foreign troops or military personnel *in any form whatsoever*, nor will they in any way facilitate or connive at the introduction of **any foreign troops or military** personnel;

(*h*) they will not establish nor will they in any way facilitate or connive at the establishment in the Kingdom of Laos of any foreign military base, foreign strong point or other foreign military installation of any kind;

(*i*) they will not use the territory of the Kingdom of Laos for interference in the internal affairs of other countries;

(*j*) they will not use the territory of any country, including their own for interference in the internal affairs of the Kingdom of Laos. . . .

For the purposes of this Protocol

(*a*) the term "foreign military personnel" shall include members of foreign military missions, foreign military advisers, experts, instructors, consultants, technicians, observers and any other foreign military persons, including those serving in any armed forces in Laos, and foreign civilians connected with the supply, maintenance, storing and utilization of war materials;

Mr. CRANSTON. The President stated, in his report on Laos last Friday, that the North Vietnamese were escalating the Laos campaign in violation of the Geneva accords. Any introduction of military personnel into Laos is a violation of those accords. We are escalating, too, in violation of the accords.

I suspect that the first to violate the accords were the Communists or North Vietnam. I presume this although I do not know it. Conceivably we had military personnel in there, or began to recruit the Meo mercenaries, before the Communists moved in from outside.

This did not happen, I point out incidentally, under the Republican administration of President Nixon. Except for the current escalation, the violations began under a prior, Democratic administration.

The Communists deny that they are violating the Geneva accords; so we deny that we are violating the Geneva accords. If we consider that the Geneva accords are null and void because of Communist violations of them and what we have deemed as the necessity to take counteraction, let us say so. If our position is that we are not violating the accords by what we are doing there, let us say so. But the fact is that the President, in his Friday report, while not admitting that we are violating the Geneva accords, did admit that we are doing certain things which are in violation of the precise language of the accords, which I referred to earlier and which will be printed in the RECORD.

I suggest that the United States clear the air, be straightforward, and acknowledge that we are violating the Geneva accords in Laos, or that we consider them null and void. Let us have the United States stop copying the Communists, and set a higher standard of honesty and truth in international affairs.

The fact that we are violating the accords would seem to be tacitly admitted by the fact that the U.S. Embassy in Laos, a while back, printed and released in that country a copy of the protocols to the declaration of the neutrality of Laos. Our Embassy left out the article which, when read, would be plainly recognized as the article that we are violating. When this was pointed out to the Embassy, they said it was a mistake and they reprinted the protocols in full, including the omitted portion that contains the precise parts of the Geneva accords that we are violating by our actions in Vietnam.

I ask unanimous consent to have printed in the RECORD the false, incomplete version of the Geneva accords that our Embassy circulated in Laos.

There being no objection, the section requested was ordered to be printed in the RECORD, as follows:

PROTOCOL TO THE DECLARATION ON THE NEUTRALITY OF LAOS

The Governments of the Union of Burma, the Kindom of Cambodia, Canada, the People's Republic of China, the Democratic Republic of Viet-Nam, the Republic of France, the Republic of India, the Kingdom of Laos, the Polish People's Republic, the Republic of Viet-Nam, the Kingdom of Thailand, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America;

Having regard to the Declaration on the Neutrality of Laos of July 23, 1962;

Have agreed as follows:

ARTICLE 1

For the purposes of this Protocol

(a) the term "foreign military personnel" shall include members of foreign military missions, foreign military advisers, experts, instructors, consultants, technicians, observers and any other foreign military persons, including those serving in any armed forces in Laos, and foreign civilians connected with the supply, maintenance, storing and utilization of war materials;

(b) the term "the Commission" shall mean the International Commission for Supervision and Control in Laos set up by virtue of the Geneva Agreements of 1954 and composed of the representatives of Canada, India and Poland, with the representative of India as Chairman;

(c) the term "the Co-Chairmen" shall mean the Co-Chairmen of the International Conference for the Settlement of the Laotian Question, 1961–1962, and their successors in the offices of Her Britannic Majesty's Principal Secretary of State for Foreign Affairs and Minister for Foreign Affairs of the Union of Soviet Socialist Republics repectively;

(d) the term "the members of the Conference" shall mean the Governments of countries which took part in the International Conference for the Settlement of the Laotian Question, 1961–1962.

ARTICLE 2

All foreign regular and irregular troops, foreign para-military formations and foreign military personnel shall be withdrawn from Laos in the shortest time possible and in any case the withdrawal shall be completed not later than thirty days after the Commission has notified the Royal Government of Laos that in accordance with Articles 3 and 10 of this Protocol its inspection teams are present at all points of withdrawal from Laos. These points shall be determined by the Royal Government of Laos in accordance with Article 3 within thirty days after the entry into force of this Protocol. The inspection teams shall be present at these points and the Commission shall notify the Royal Government of Laos thereof within fifteen days after the points have been determined.

ARTICLE 3

The withdrawal of foreign regular and irregular troops, foreign para-military formations and foreign military personnel shall take place only along such routes and through such points as shall be determined by the Royal Government of Laos in consultation with the Commission. The Commission shall be notified in advance of the point and time of all such withdrawals.

* * * * *

ARTICLE 5

Note is taken that the French and Laotian Governments will conclude as soon as possible an arrangement to transfer the French military installations in Laos to the Royal Government of Laos.

If the Laotian Government considers it necessary, the French Government may as an exception leave in Laos for a limited period of time a precisely limited number of French military instructors for the purpose of training the armed forces of Laos.

The French and Laotian Governments shall inform the members of the Conference, through the Co-Chairmen, of their agreement on the question of the transfer of the French military installations in Laos and of the employment of French military instructors by the Laotian Government.

Mr. CRANSTON. I also ask unanimous consent that the omitted article 4 be printed in the RECORD.

There being no objection the section was ordered to be printed in the RECORD, as follows:

ARTICLE 4

The introduction of foreign regular and irregular troops, foreign para-military formations and foreign military personnel into Laos is prohibited.

Mr. CRANSTON. Let me say in closing that I have no quarrel with the CIA, I have no quarrel with the AID, and I have no quarrel with the DOD, about what they are doing in Laos. Brave men in all three agencies are risking their lives doing deeds they believe to be in the national interest.

I quarrel with Presidents, Republican and Democratic alike, who do not exercise adequate civilian control over the deeds and policies of these agencies. I quarrel with Presidents who do not inform the public, the people of our country, fully of our acts—American acts—in world affairs. I quarrel with Presidents who do not set a high standard relating to treaties solemnly signed by our Nation.

Mr. GORE. Mr. President, will the Senator yield?

Mr. CRANSTON. I am delighted to yield to the Senator from Tennessee.

Mr. GORE. I have listened with great interest to the address of the able Senator from California.

I wonder if it had occurred to the Senator that, from a description of U.S. actions in Laos, it would appear that the United States has done in Laos precisely what is proposed ultimately to be done in Vietnam, under what is called Vietnamization.

According to the President's statement and other information available, the United States has provided military advisers; has provided training; has provided weapons; has provided logistic support; has provided air combat support for ground operations; and has provided helicopter service and support, supplies, and B–52 bombings. In other words, it would appear from the record that all of the supportive operations ultimately contemplated in some indefinite future for Vietnamization has already been done in Laotianizing the Laotian war. Laotianization has failed.

The Pathet Lao seems to have vanquished from the Plain of Jars the Royal Laotians—that is, the Pathet Lao plus the North Vietnamese.

This raises, it seems to the senior Senator from Tennessee, questions, if not doubts, about the advisability and probable success—and also questions about point of time—about Vietnamization.

I just wanted to call to the able Senator's attention the parallel of programs in these two adjacent, small countries.

Mr. CRANSTON. I thank the Senator from Tennessee, I believe that what he says is exactly the case.

What I fear is occurring, and what seems to be occurring, is that this administration is beginning to repeat in Laos the mistakes that were committed in Vietnam by previous administrations. This administration did not start the war in Laos. They are following through on what was begun under a prior Democratic administration. They send in military advisers who wind up engaging in combat, and use air power massively to bomb, and that is exactly what happened in the Vietnam war.

THE AIR TRAFFIC CONTROLLER CRISIS

Mr. MURPHY. Mr. President, the Senate has continued to be aware of the very serious circumstances faced by our Nation's air traffic controllers and this Senator, for one, certainly can sympathize with the workload they are called upon to undertake. Today, I would remind Senators that we should not dim the focus on their situation. Nor should we put off finding solutions to these increasing problems. They should be faced up to and solved.

Just a year ago, my colleague, the Senator from Massachusetts (Mr. BROOKE), pointed out that:

> Air traffic in the United States is rapidly approaching a critical stage; in some areas of high-density traffic, crises already exist.

I can assure Senators that this is the fact. Not long ago, I flew to New York City in bad weather; and in order to avoid traffic, we tried to land at an airport in Westchester. Suddenly, as the clouds cleared away and the sky opened, I thought I was in the middle of Times Square. Never in my life had I seen so many aircraft in a small area, and I have been using aircraft since 1919. I assure my colleagues that I was greatly concerned.

In many areas the system is handicapped by a lack of sufficient competent personnel to operate essential positions and direct aircraft movement. Many controllers are working overtime hours, and their resources are being so overtaxed that their efficiency necessarily suffers. It is becoming increasingly difficult to attract new men of high caliber who possess the skill and stamina necessary to function in this delicate and essential function.

Air traffic controllers in California have pled their case eloquently and most convincingly. We have heard of their heavy load and the Senate is continuing to consider legislation to relieve the pressure; legislation which in one form or another is badly needed.

Obviously, the air traffic controller's conditions have not visibly improved since this matter came to public attention. For example, many airports now are operating additional parallel runways, yet we have not had a corresponding increase in the number of controllers on station to handle the resultant greater traffic. The major cities in my State—Los Angeles, San Diego, and San Francisco—report more landings and takeoffs each month, and accordingly the workload grows.

Because of the individual pressure on each controller, we now know that his effectiveness is pretty much limited to 20 years—a short career by any standard. Coupled with the knowledge that every controller has thousands of lives in his hands each working day, we simply cannot overlook the seriousness of the controller's situation in the simple interest of safety.

Recently, the air traffic controllers, especially those represented by the Professional Air Traffic Controllers Organization have very forcefully made their case known to the public and to the responsible officials of our Government.

I am heartened that Secretary Volpe and FAA Administrator Shaffer report progress with the representatives of the air traffic controllers, and I am hopeful that they may establish the equity of their position without resorting to the outmoded method of the strike. As an active member of labor organizations for 25 years, I have felt that there is a better way to settle these problems; and if there is not, one must be found immediately. The consideration of the public comfort, the public welfare, and the general economy of the country must come in first place in these matters. We need a better way to settle this most important situation, and Secretary Volpe's remarks are encouraging.

It would be my hope that representatives of the Committee on Commerce could meet with representatives of the Department of Transportation immediately in order to examine the facts and make proper recommendations and take action so as to avert possible air tragedies or the necessity of the inconvenience of a strike which would cripple air traffic across this great Nation.

I thank my distinguished colleague.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. TALMADGE). The pending business is H.R. 4249, extension of the Voting Rights Act of 1965, and the pending question is on the amendment of the Senator from Alabama (Mr. ALLEN) to the amendment offered by the Senator from Montana (Mr. MANSFIELD).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be taken out of the limitation.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business which will be stated by title.

The BILL CLERK. A bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, is the question before the Senate the question on agreeing to the amendment offered by the junior Senator from Alabama?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. Mr. President, will the Chair ask that the amendment be stated again?

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The junior Senator from Alabama (Mr. ALLEN) proposes amendment No. 552, as follows:

> Amend section 305 to read as follow:
>
> SEC. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1973.

The PRESIDING OFFICER. How much times does the Senator from Alabama yield to himself?

Mr. ALLEN. Mr. President, I yield myself so much time as I may require out of the time allotted to me on the amendment.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I favor setting the voting age in the United States for all elections at the age of 18 years. I feel that our young people are better qualified, they are more knowledgeable, and they are more interested in government and civic and public affairs than I was when I was that age.

I believe that it is only fair and right and proper that the voting age should be set at age 18. In the home State of the junior Senator from Alabama, by Act of Congress our registrars are required to register for voting every person in the State of the age of 21 years of age at the present time without literacy tests, without the ability to read or write, and without any great degree of mental awareness.

That requirement has been placed on the people of Alabama by the Federal Government. And the Senator from Alabama feels that it is certainly not fair to require the registering of all people 21 years of age, no matter what the degree of their intelligence or mental awareness, and deny the right to vote to alert, knowledgeable, educated boys and girls of the age of 18 years. So, the junior Senator from Alabama strongly favors setting the voting age at 18 throughout the country.

To that end the junior Senator from Alabama is one of the cosponsors of Senate Joint Resolution 147 by the distinguished senior Senator from West Virginia (Mr. RANDOLPH), which would submit to the States a constitutional amendment setting the voting age at 18 throughout the Nation.

The junior Senator from Alabama favors this method of changing our basic constitutional law. Any attempt to change this voting age by statute would run counter to four provisions of the U.S. Constitution which give to the State by necessary implication the right to set the qualifications of voters in the respective States.

Article I, section 2 and section 1 of article II of the Constitution, and amendments 10 and 17, place this right, this power, this obligation within the power of the respective States.

The States should have this power and this authority. It is a power and authority that has been recognized under our Constitution for over 180 years, since the adoption of the Constitution in 1789.

After the War Between the States, a constitutional amendment was submitted dealing with the franchising. When the women of the country were given the right to vote, that right was conferred by constitutional amendment.

When the poll tax was barred as a requirement for voting in Federal elections, that provision was put into our basic law by a constitutional amendment.

So the junior Senator from Alabama believes that such an important, such a basic, and such a fundamental right as the right to vote should be defined by the States.

This thought would be carried forward with a constitutional amendment because it would take ratification by three-fourths of the States, and, if the States want to make that change, three-

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fourths of them favoring the proposal could ratify the amendment.

The 19th amendment, the woman suffrage amendment, as the distinguished Senator from West Virginia yesterday pointed out, was ratified by the necessary three-fourths of the States in 15 months. So this amendment setting the voting age at 18 could easily be submitted to the people and to the States. The method of submission would control whether it was submitted to conventions in the States or the respective legislatures; and the adoption could be easily had prior to the 1972 presidential election.

It is expressly provided in the Mansfield amendment that it does not become effective until January 1, 1971. Therefore, this right, supposedly conferred upon the young people by this statute, would not come into play until after the general elections of 1970.

It is unwise, in my judgment, to handle this matter by statute. Not only is it an invasion of States rights, not only does it run roughshod over the Constitution which gives the States the power to set qualifications of voters; but also it is dangerous, and it is on very thin ice as far as the Constitution is concerned.

Let us assume that the statute is enacted. Let us assume that the Congress does pass this statute providing for the voting age to be set at the age of 18. Let us assume that 5, 6, or 7 million young people of the age of 18, 19, or 20 go in and register and vote in the national election of 1972.

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Let us assume that several days after that election the Supreme Court, in its great wisdom, declared this statute unconstitutional, and it is found that 5 million young people have illegally voted in that election. Where would the presidential election be under those circumsances? What sort of confusion would that cause? Who would the President be? How would it be ascertained how many young people voted for one candidate and how many voted for another candidate?

On the other hand, if the pending amendment were adopted, it would set the effective date of this statute, this statutory method of changing the Constitution—and that is what it is, changing the Constitution by statute, and the junior Senator from Alabama submits that cannot be done.

What sort of confusion would reign in this country? Who would the President be? Now, if the pending amendment were adopted, it would set the effective date of the amendment at January 1, 1973, after the next presidential election. This would give the Congress ample time to go ahead and handle this matter in the proper fashion of submitting a constitutional amendment. I dare say, in all sincerity, if that were done, the constitutional amendment would be submitted and ratified long before the effective date of this act and long before the 1972 presidential election.

What is the hurry? They could not vote in 1970 under the provisions of the statute itself. This would postpone the effective date until after January 1, 1973; and in all probability the constitutional amendment would have been adopted long before that time.

Over 72 Members of the Senate—it was 72 at last count—are cosponsors of the constitutional amendment, and it takes only two-thirds of the Senate to pass a constitutional amendment. The amendment is now in the hands of a subcommittee headed by the distinguished Senator from Indiana (Mr. BAYH), who stated on the floor of the Senate that he strongly favors the amendment—in addition, I might say, to favoring the statute, as well. He states a majority of the members of his subcommittee favor the proposal. The Senator from West Virginia states that a majority of the Committee on the Judiciary favor the amendment. The chairman of the committee states that, if the majority of the committee are for the amendment, he will not stand in the way and will report it to the Senate.

When proposed legislation leaves the committee and is reported to the Senate, the distinguished majority leader sets the flow of consideration of legislation. I think we could very safely assume that the distinguished majority leader, favoring as he does the granting of the voting franchise to those who are 18 years of age, would give prior claim, prior standing to any such amendment, and the Senate would go ahead and vote to submit the amendment. So there is no hurry. There is no reason for a statute, aside from the fact that it goes counter to the Constitution, in the judgment of the junior Senator from Alabama.

Another thing, Mr. President, that occurs to me is that this important proposed legislation does not come before the Senate as a separate piece of legislation. It has not been considered by a committee of the Senate. The Senate does not have the benefit of the views of a Senate committee. It is tacked to a highly controversial bill. I would like to have the stamp of approval of this proposal by the Committee on the Judiciary before voting in favor of handling it by statute; and even if we received any such report I would still reserve the right to vote as I construe the Constitution. But I would like to have the benefit of the recommendation of a committee on the proposed legislation, and not have it merely tacked on to a highly controversial measure such as the so-called amendments to the Voting Rights Act of 1965.

I am a great believer in the efficacy of the committee system of the Senate. Before I came to the U.S. Senate I had great admiration—and still do—for the great committees of the Senate. I admired the committees from afar. Since coming to the Senate, in conversations with my friends from my home State, I have been asked what some of the differences are between the Alabama senate and the U.S. Senate. I have told them that a great deal of the difference is in the committee system. Legislation is referred to committees, it is studied, it is worked on, it is polished, research is done, and when a bill leaves a committee, it is in the best possible shape; whereas in the State of Alabama and in the State senate, we do not have these large, elaborate, and extensive staffs to advise the committees, and much of the legislative process takes place on the floor of the State senate. I said, "Not so here in the U.S. Senate. Most of the work is done in the Senate committees."

With that thought in mind, I have looked forward to having the recommendation of the Judiciary Committee of the Senate on this legislation, rather than have it tacked onto the Voting Rights Act of 1965 amendments.

Mr. STENNIS. Mr. President, will the Senator yield at that point?

Mr. ALLEN. Yes. I am delighted to yield to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator. I hope it is a convenient place to interrupt.

Preliminarily, let me say that due to the pressures of various matters, I have not had a chance regularly to attend the debate on the pending bill and these amendments, but, coming in as much as I could, I want to commend the Senator from Alabama for the thoroughness of his work on the bill and for the clarity of the arguments I have been able to hear. It certainly indicates a fine understanding of this far-reaching subject matter as a whole, and it shows an expert knowledge of the Constitution of the United States.

I am glad to hear more of the arguments. I have arranged to hear more of the debate, because I have felt the need of it.

I am supporting the Senator's amendment No. 552. I know it is highly important.

As I understand it, the Senator is not attacking the entire amendment offered by the distinguished Senator from Montana, but the amendment would just move the provisions forward until January 1, 1973.

Mr. ALLEN. That is exactly right.

Mr. STENNIS. So as to put the provision beyond the forthcoming presidential election.

Mr. ALLEN. That is exactly correct, yes.

Mr. STENNIS. I think it is very timely.

I do not agree, as the Senator from Alabama does not agree, with the amendment of the Senator from Montana in this respect. It seems clear to me that there is only one way to reach the end that the Senator from Montana has in mind, and that is through the constitutional amendment process; but there could be disagreement, and I know it is honest disagreement, among the membership on that question. But, by all means, this matter should not be tied up. Its uncertainty, its constitutionality, and the survival of this provision, the change in the qualification of electors, should not be tied up and involved in the forthcoming presidential election.

That is the primary reason why the Senator has offered this proposal. Is it not?

Mr. ALLEN. That is exactly correct.

Mr. STENNIS. It is certain, it is just as clear as daylight, that this question will be contested. It is a great constitutional question. Is it not?

Mr. ALLEN. It is, indeed.

Mr. STENNIS. It will be challenged, and it should be passed on, should it become statutory law, by the Supreme Court of the United States. Does not the Senator agree with that?

Mr. ALLEN. Yes, that is correct. It

should be, and doubtless will be, passed on by the U.S. Supreme Court.

Mr. STENNIS. Those matters ordinarily take a great deal of time. The question may come up in several cases. May it not?

Mr. ALLEN. That is correct.

Mr. STENNIS. If cases are pending, does not the Supreme Court frequently wait until it gets the full import of more than one case before it on a grave constitutional question?

Mr. ALLEN. That is correct. It must be a justiciable controversy; it cannot be an advisory opinion, of course.

Mr. STENNIS. I know the Senator has worked this out. I really had not thought about this part of the question much until this morning, when I heard his argument.

The Senator said something about 5 million registrants who could be declared disqualified shortly before the election.

Mr. ALLEN. Or shortly after, for that matter.

Mr. STENNIS. Yes. I was going to take that question in two parts. It would be bad enough to have the registrants disqualified just before the election, but does not the Senator think it would be far worse for a holding to come out shortly after the election, disqualifying the people who had already voted?

Mr. ALLEN. Very definitely, and doubtless would lead to a contest of the presidential election that would make the Hayes-Tilden contest look like an election in a Sunday school class by comparison.

Mr. STENNIS. I know we argue over and over—and it is well that we do—about the elecetoral college and about the possibility of a strong third contender throwing the election into the House of Representatives. On the question of delay alone, assuming the House would act fairly promptly, an almost unbelievable situation could result, could it not, between the November election and the choice by the House of Representatives, which could not convene until January 3?

Mr. ALLEN. It is fraught with great danger to this Republic.

Mr. STENNIS. And it could involve international affairs of the most sensitive, positive kind.

Mr. ALLEN. And for what reason? What do we accomplish by going this route?

Mr. STENNIS. We already have that problem, so to speak, in our Constitution and in our laws. Would not the passage of this measure without the Senator's present amendment create another hazard of really far greater proportions?

Mr. ALLEN. It certainly would.

I would like to say to the distinguished Senator from Mississippi that the argument has been advanced on this floor by some of the supporters of the statutory method of amending the Constitution—strange as that term may sound—that they believe the Supreme Court will uphold the statutory method of amending the Constitution. But I would hope that between now and the time that this amendment is ruled on, or this statute is ruled on, by the Supreme Court we might have a different complexion to the Supreme Court and that we would have men on that Court who would follow the Constitution more faithfully and rigidly, and that this amendment would be stricken down by the U.S. Supreme Court.

I thank the distinguished Senator for his comments.

I would like to point out to the distinguished Senator a further reason for setting the effective date of this statutory change as January 1, 1973; that is, that that would allow ample time for Congress to submit a constitutional amendment and have it ratified, and by the terms of that constitutional amendment wipe out the statute. We would then operate under the constitutional amendment prior to the effective date of the statute. The constitutional amendment would be ratified prior to the 1972 election, so that 18-year-old boys and girls could vote in the next presidential election. There would be ample time to do that by the constitutional amendment route without the inherent dangers that the Senator from Mississippi has sought to point out.

Mr. STENNIS. Yes. Will the Senator yield further?

Mr. ALLEN. Yes.

Mr. STENNIS. According to the information I have the proponents of the constitutional amendment are preparing to move forward with the enactment of that provision, Congress being willing.

Mr. ALLEN. Very definitely.

Mr. STENNIS. Regardless of the outcome of the Mansfield amendment.

Mr. ALLEN. That is true.

I should like to point out to the Senator from Mississippi that if there were a statute providing for a January 1, 1971, effective date, as the distinguished majority leader's amendment now provides, and a constitutional amendment were then submitted to the people, young people would be registering all over the country, and they would not understand why a constitutional amendment was coming forward. There would then be a good chance that people would say, "We already have provided the right for 18-year-olds to vote under a statute. What is the use of ratifying a constitutional amendment?" As a result, the constitutional amendment might be lost by reason of the States not ratifying it. Then the Supreme Court might strike down the statute. Talk about disillusionment: the young people would have had the right to vote for a few months, and would then have it taken away from them.

Mr. STENNIS. The Senator has well stated that problem; and it is true that all the confusion that could come about would be very much against the amendment, because it does have to be adopted by three-fourths of the States.

Mr. ALLEN. That is true.

Mr. STENNIS. And there would be confusion compounded among the 50 State legislatures as to what they were passing on, after all.

Mr. ALLEN. I think it would complicate a great deal the constitutional process of submitting the amendment back to the people, and would seriously endanger the eventual ratification of the constitutional amendment, because the people would say, "What is the use of it? We have it under the statute. Why do we need it under the constitutional amendment?"

Mr. STENNIS. But under the amendment offered now by the Senator from Alabama, if it is agreed to, and the Mansfield amendment as amended is agreed to, we would have the statutory enactment and the constitutional amendment proposal both moving along at the same time, but neither one yet operative.

Mr. ALLEN. That is exactly right.

Mr. STENNIS. Until January 1, 1973, which would give ample time for the States to ratify.

Mr. ALLEN. Except that a constitutional amendment could become operative before that time, if it was ratified.

Mr. STENNIS. Well, it would depend upon the wording of it, of course.

Mr. ALLEN. Yes.

Mr. STENNIS. But if we saw fit to coincide those dates, that would still be less than 2 years.

Mr. ALLEN. Yes. But it would be the desire of the junior Senator from Alabama that the constitutional amendment be ratified prior to the 1972 elections.

Mr. STENNIS. Yes.

Mr. ALLEN. So that the young people could register and vote in that election. I think it is important that they do so.

Mr. STENNIS. Well, there could be some argument about that, perhaps. But anyway, to a degree, if the amendment of the Senator from Alabama is agreed to, they would both be moving along together in maturity, so to speak, without this compounded confusion.

Mr. ALLEN. That is exactly correct.

Mr. STENNIS. I thank the Senator for yielding to me.

Mr. ALLEN. I appreciate very much the comments made by the distinguished Senator from Mississippi.

Mr. STENNIS. I support the Senator's amendment.

Mr. ALLEN. And I appreciate the Senator's support. I hope that the other Members of the Senate will support the amendment also.

I was able to obtain the support of one of my amendments by the distinguished majority leader. I have not checked with him this morning to find out his attitude on this amendment. It is hoped that he will recommend its approval, and see the wisdom of this approach and of allowing time for the processing, submission, and ratification of the constitutional amendment. If no other purpose has been served by the discussion, it has certainly shown that the vast majority of the Members of the Senate do favor setting the voting age at 18, as at least 72 Senators have indicated by their cosponsorship of Senate Joint Resolution 147, the constitutional amendment route.

What is the use of taking a chance on the confusion that may be caused? Assume that the pending amendment is agreed to, not to become effective until January 1, 1973. There is no reason whatsoever that that would not give ample time for Congress to submit the constitutional amendment or prevent its being adopted in time for the 18-year-olds to participate in the 1972 presidential election.

Again, Mr. President, I suggest that we are seeking to accomplish an end that some believe to be meritorious; and

I certainly am one of those who feel that the end to be accomplished, setting the voting age at 18, is a laudable and meritorious end.

Where the junior Senator from Alabama disagrees, however, is in the choice of the means for achieving that end. The proper means, in the judgment of the Senator from Alabama, to achieve the end sought to be achieved, is to submit the constitutional amendment.

Let us consider the matter from the standpoint of the young people involved. Do they want a right conferred on them that, at best, is of dubious constitutional authenticity? Do they want a right conferred on them that may be drawn back? Shall we say to the young peope of this country, "Under the amendment of the majority leader, we are conferring this right to vote on you; we feel it might be constitutional, but it may not be"?

What would be their reaction to having that right or privilege conferred on them, and then having it suddenly withdrawn from them? Why not go the constitutional amendment route? Why not, if insistence is made on the use of the statutory method of amending the Constitution, set the effective date at January 1, 1973, to give ample time for following the constitutional amendment route?

Mr. President, we are critical, from time to time, of our Federal judiciary. We are critical of the highest of the Federal courts, the Supreme Court, for some of its rulings; and I daresay that the junior Senator from Alabama has probably been as vocal in his criticism of some of the rulings of the Supreme Court as any other Senator or any other citizen. We criticize the Supreme Court for legislating instead of construing. We accuse them of enacting laws rather than interpreting them.

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We are critical of the judiciary and particularly of the Supreme Court, whence these decisions of questionable merit emanate. We are critical of their usurping the powers of the executive and of the legislative branch of our Government. But here we disregard, in the judgment of the junior Senator from Alabama, four clear provisions of the U.S. Constitution with regard to the right of the States to set the qualifications of the voters within the respective States.

In the home State of the distinguished Senator from Georgia (Mr. TALMADGE), who is presiding over the Senate at this time, the legislature, in its wisdom, saw fit to set the voting age at 18. I applaud that State for having set that voting age. But that was done by the State legislature. That was done because of the power reposed in the State and not in the Federal Government.

Suppose the legislatures of the various States want to keep it at age 21. They would be saying to the legislatures of the 48 States, I believe, that have the 21-year requirement or standard, if the Mansfield amendment is adopted, "We do not care one bit how your State feels about this matter. We are changing the voting age to 18—no matter if your Constitution sets it at 21."

Most State constitutions do make that provision. It is governed, I assume, in more cases than not by constitution rather than statute. So the States have set this qualification by constitution, showing how basic, how inherent, and how fundamental is this right of setting the voting age. The States would be giving their acquiescence to a change if the constitutional amendment route is followed, because it would take three-fourths of the States to ratify the constitutional amendment; and that then would be the States themselves making the change, though it might not satisfy one or more States. If three-fourths of the States would ratify the amendment, it would be declared ratified.

Mr. President, it has been pointed out that the amendment offered by the distinguished majority leader has to do with the voting age, and he seeks to set that by statute at 18; whereas the junior Senator from Alabama favors the voting age being set at 18, but set by constitutional amendment. That is the chief difference as to the amendment of the Senator from Montana. However, the distinguished Senator from Montana, the able majority leader, has seen fit to attach his amendment to the Scott substitute to the administration's voting rights bill.

The voting rights bill of the administration, H.R. 4249, provides for a nationwide voting law; whereas, the Scott amendment seeks to leave that confined to the seven Southern States involved. So, by seeking to tack this amendment onto the voting rights legislation, this amendment has become subject to extensive probing and discussion—possibly more discussion than would have taken place had the amendment been offered as a separate piece of legislation, referred to a committee, and reported by that committee to the floor of the Senate. I dare say that such a separate bill, having reached the floor of the Senate and having been called up—as I feel sure it would have been—by the distinguished majority leader, would already have been passed by the Senate. Choosing, however, to attach his amendment to the highly controversial voting rights legislation has made it subject to somewhat more discussion than ordinarily would have been the case.

Let us consider, then, the bill and the amendment thereto, the Scott amendment, to which the Mansfield amendment is attached. The Mansfield amendment, of course, is tacked onto these amendments, and discussion of them would be appropriate at this time, in the judgment of the junior Senator from Alabama.

The Voting Rights Act of 1965 was passed, and certain States were placed under an automatic triggering provision that held, as a matter of law, that these States, because they did not comply with a certain mathematical formula, were automatically guilty of discrimination in registering and voting processes in their respective States. What was this formula? They worked out the formula after they decided the States they wanted to cover by the act. They decided that they wanted to cover Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana. They decided that they would get up a formula based on how many citizens of those States were registered to vote on November 1, 1964, and how many actually voted in the November 1964 election. They found that all those States except the great State of North Carolina had fewer than 50 percent of their voting age population voting in the election. Thirty-nine counties in North Carolina did not come up to that criterion.

They found that the great State of Texas—I am delighted that Texas is not in this formula; I am just recounting past history as it has been related to the junior Senator from Alabama, because I was not here at that time—had only some 44 percent of their voting age population registered and voting in 1964. Well, how to apply it to the seven States I have named without applying it to the great State of Texas? Well, they decided that they would require a literacy test in addition to the percentage of those voting in the general election of 1964. Of course, Texas had no literacy test so it took the concurrence of the two, the literacy test and fewer than 50 percent of the voting age population voting, because Texas had no literacy test, and so they were not included. I am delighted that they were not. I wish more States had been excluded from it.

In those seven Southern States, Federal registrars, Federal election observers, and Federal poll watchers were sent in to every State, I believe, except Virginia. I believe the record will show that no Federal official or bureaucrat has ever been sent into that State. In the other States, they were sent in.

Mr. President, at this point I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. President, it is provided that in the seven Southern States which are automatically covered, not one single bit of proof was required of actual discrimination. By act of Congress, they were declared to be guilty of discrimination and the voting registrars, the poll watchers, and the Federal observers were sent into the Southern States.

Now, Mr. President, they are seeking by the Scott amendment, to which the Mansfield amendment is sought to be added, to change the measure or the degree or the amount of proof required for a State to come out from under the automatic triggering device of the Voting Rights Act of 1965.

It is provided in the act which was passed in 1965 that if a State comes into the Federal court in Washington, and proves that for 5 years before the filing of its petition it had not used a voting device to discriminate against would-be voters, then, under certain conditions, if the Attorney General of the United States acquiesced, they would release the State from the provisions of the act, but they would maintain and hold jurisdiction of the States for an additional 5 years. In other words, put us on probation. But if anyone came in and said they were discriminating down in those States, they would reopen the proceedings and we would be back under the proceedings again.

So the Scott amendment to the Voting

Rights Act has erroneously been referred to as a bill or an amendment to extend the provisions of the Voting Rights Act. I say that is erroneous because it does not extend the provisions of the Voting Rights Act. There are 19 sections of the Voting Rights Act and every single one of those is a permanent section. Some say four and five are not permanent, but read the sections, and there is not one single word said about either of those sections or any of the remaining 17 sections ever expiring by lapse of time.

What the Scott amendment does is not to extend the provisions. It changes or seeks to change by the amendment the amount of proof that a State has to make, in order to come out from under the discriminatory provisions of the act. That is changed from 5 years to 10 years, requiring a State, then, to petition the court in Washington for release from the terms of the act and show no use of a literacy test for 10 years, although we all know that they had them up until they were banned by the 1965 act. So they are changing the sentence, just as though the State were an individual sentenced to the penitentiary—and we are under just about that sort of humiliating condition—a person sentenced to the penitentiary for 5 years and he sees daylight toward the end of that 5 years, but here we are in the month of March, and on August 7 of this year we could go into a Federal court and petition to get out from under the discriminatory provisions of the act, but they come in and say, "No, we are going to add 5 years to your sentence," just as they might add 5 years to the sentence of a prisoner about to be released from prison.

So, it is not an extension of the same provisions of the act. If they get to the point that they seek to extend the provisions of he act for 5 years, the junior Senator from Alabama will consider support of such a plan, because that would still leave us with the 5-year provision of nondiscrimination and we certainly would have no difficulty proving that.

Mr. President, I yield such time to the Senator from Mississippi (Mr. STENNIS) as he may desire.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I certainly thank the distinguished Senator from Alabama for yielding me this time.

Mr. President, I have made a special analysis of the amendment. Regardless of which way the vote goes, whether the question will be settled by a constitutional amendment passing Congress and then being rejected by the States or approved by the States, or a statutory act being adopted on the floor of the Senate, we will head on, then, to a certain contest in the legal forums, eventually finding its way to the Supreme Court for decision.

Regardless of which route it takes, it seems to me that commonsense clearly dictates, and commonsense almost demands, that here now, while there is a chance to eliminate uncertainty, to eliminate the chance of the gravest kind of error as to the presidential elections, to eliminate the chance of confusion as to the newly enfranchised citizens under this proposal, if it passes, these things, it seems clear to me, all amount to a demand that we should strike them all from the board and do the commonsense thing of following this provision and setting it over beyond the presidential elections of 1972, allowing ample time for everything to move in an orderly way during that intervening period, thus avoiding all this chance that we would be taking as to the uncertainty of a presidential election that would have to be decided, possibly, by a commission.

I have a great deal of regard and interest in the young person, and consideration should be given to him. I do believe it would be the worst thing that could happen to have a provision adopted here that would allow the franchise and then experience the bitter disappointment that would come to millions if the law were to be declared invalid.

But even beyond that, we have a situation already existing in our Constitution, as I see it, in which there is a chance that no one under our present system would be chosen for President or Vice President and that the determination would have to go to a House of Representatives that was elected the same day and could not legally convene for 60 days.

In international affairs that would create an unthinkable hazard to the people of the world. In domestic affairs it would create confusion. In the business and industrial world and in every other aspect of life which the Federal Government touches—and they are many—it would cause uncertainty and confusion. Pandemonium could be caused with regard to certain subject matters.

I do not think this should be done. While we have a chance to do so, let us keep our feet on the ground. I know that the motives of the Senator from Montana are very high and the very best. And that is so with those who have joined him as cosponsors. However, let us decide which side we will be on as to the amendment and the constitutional amendment.

Let us lay the whole matter aside and study the whole structure and thus lend certainty to the matter and give the people time and give the courts time to pass on this matter, and let it be upheld or invalidated in an orderly way without these terrific consequences I have already partly outlined, but which the Senator from Alabama has fully outlined with reference to our Federal Government.

I think the Senator has contributed a great deal in offering the amendment and certainly in his debate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I thank the Senator for yielding to me. I did not mean to take all the time. I am sorry.

Mr. MANSFIELD. Mr. President, many ghosts and hobgoblins have been created in this Chamber. Many promises have been made. Some promises have not been kept.

From time to time illusions have been created, and one of the greatest illusions is what has been said about turning down the amendment offered by the Senator from Montana. It is an amendment many others have joined in cosponsoring. The argument goes that the Judiciary Committee will forthwith report a proposed constitutional amendment seeking to lower the age for voting to 18. It is even suggested that there will be no trouble in obtaining House approval of such a proposal, even though the chairman of the appropriate House committee has indicated—and I recall press reports to this effect—that he is against 18-year-olds voting, regardless of how the ballot is extended to them. And lo and behold, some time this year we will have a constitutional amendment which will have been approved by two-thirds of the membership of both Houses and within 2 years it will have been confirmed by three-fourths of the legislature of the 50 States.

There is a good deal of talk of trips nowadays. But that is a pretty long trip. And the constitutional amendment process seeking to lower the voting age to 18 has been one of many pitfalls and has produced nothing in the way of actual achievement.

I recall the great furor in this country that was raised at the end of the last presidential election for a direct vote for the Presidency.

I have noticed since then that various other arguments have come up, that the possibility of getting this constitutional amendment out has been decreased somewhat and the possibility of getting it through both Houses during this session of Congress has become an unreality.

So I would not be taken away with the thoughts, promises, or encouragement of the moment. But I would like to stick to the facts, and I would like to see the Senate bite the bullet on the issue of allowing the 18-year-olds to vote.

There have been some questions raised about why these youngsters should be given this opportunity and this right to exercise the franchise; this conferring of a duty, so to speak. And I do not look at it in that way, because I think all Americans are born free—at least are supposed to be under the Constitution—and all Americans have equal rights. And as far as the age of 21 is concerned, it has been fully arbitrary and of no realistic value, in my opinion, in the light of the intelligence, the idealism, and the educational achievement of the youth of today.

Incidentally, that 21-year-old idea, I think, is based on the fact, according to what I can find out, that in England during medieval times, it was thought one had to be 21 years old to bear the weight of arms and armor.

Since that time, of course, armor has gone out of style. It still appears in museums and it is still worn to a certain extent in Vietnam and elsewhere where some of our men wear metal vests for protection. But these are 18-year-old men and as most of our young men of today they are still wearing armor in some form—either literally or figuratively. They are still loaded down with responsibilities and worries and concerns. And as one who is above the age of 30, I am interested in these youngsters and I want to see them given a share of

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responsibility, a small share of responsibility, so that they can from within participate in the making of the policies they are called upon to undertake and execute on behalf of our Government; policies laid down in this Chamber and at the other end of the avenue as well.

The youngsters today are being discriminated against just as women were until a few decades ago, just as the slaves were until a century ago. I think it is about time that this discrimination be lifted and that youngsters from the age of 18, young men and women, be given the right to exercise the franchise. Although they cannot serve on juries during that age period, they are tried, nevertheless, as adults in the courts and are subjected to the full penalties of the law.

They are eligible for the draft during that period, but they are not eligible to serve on draft boards until they are 30 years of age. And incidentally, speaking of the draft, it is my information that approximately half of the combat deaths in Vietnam come within the age group of 18 to 21.

As far as voting is concerned, I think it is the most significant symbol of being an adult. I think this responsibility should be given to these youngsters not as a prerogative, but as a right and obligation.

There are close to 13 million Americans between the ages of 18 and 21. And I think that most of these young people can and should be allowed to vote.

I would ask my colleagues to consider a parallel situation that seems rather perplexing; why should a 50- or 60-year-old illiterate be allowed to vote when we have high school and college graduates in the 18- to 21-year-old classification, some with degrees, certainly all of them with a great deal of knowledge, who are not being allowed to vote? I think these young people would treasure that right more and that they would do what they could to provide a reinvigoration within both parties, and both parties can stand some new vigor. They would bring in new blood, new ideas, clearer vision, and less of a tieup with the polices of the past which have brought us so much woe and caused us so much ruin.

I believe the amendment which I have introduced along with the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Kentucky (Mr. COOK), and others would do a good deal to breach the gap between the older and younger generations.

As far as the "What is the rush?" question is concerned, the answer to that is that this proposal in the form of a constitutional amendment has been buried deep within the walls of the Committee on the Judiciary not for years but for decades, and unless something is done and done soon I am afraid its burial will continue for some years longer. So there is a need now.

We do have a proposal before us which faces up to the matter. For the first time the Senate will be given a chance to vote one way or another. I recognize that there are differences of opinion concerning the effective date of this proposal but the date proposed by the distinguished Senator from Kentucky (Mr. COOK) and made a part of the Mansfield amendment, I think, allows sufficient time for the courts, if they so desire, to interpret the constitutionality of congressional action. Because of Senator COOK's foresight more than adequate time is allowed for this purpose.

Therefore, I urge that the Senate retain the date set by the distinguished Senator from Kentucky (Mr. COOK) and vote down the amendment offered by my distinguished colleague, the Senator from Alabama (Mr. ALLEN).

Mr. KENNEDY. Mr. President, will the Senator yield to me for 3 minutes?

Mr. MANSFIELD. I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to second what the distinguished majority leader has suggested, with particular reference to his remarks on the question of whether the pending amendment will cause any delay or uncertainty in elections.

An obvious precedent is the history of the Voting Rights Act of 1965. Although the 1965 act made major changes in the election laws of many States, I am not aware that it caused any unreasonable delay or uncertainty in any elections that were held before its constitutionality was settled by the Supreme Court. Yet, we heard time and time again in the debate over the 1965 act that we would have mass confusion in the elections around the country. The argument was made that there would be thousands of voters whose participation in the election was uncertain. It was said that we would not know if that act was legal or illegal, and that countless elections would be held up. We hear these same arguments applied today. But the precedent of the 1965 act demonstrates that such arguments are unpersuasive. The act was passed in August 1965, and the constitutionality of its provisions was not settled until many months later, well into the spring of 1966. Yet, as I have said, there is no evidence that the status of any elections was clouded. Today, the amendment we are offering is even less likely to cloud the status of any elections. In 1965, the act was not passed until August in the non-Federal election year of 1965. The bill now on the floor will in all probability be passed several months earlier in this year of 1970, but the effective date is January 1, 1971, for the voting age amendment, which is also a non-Federal election year. Thus, there is far more time allowed for a decision on the constitutionality of this amendment than there was on the 1965 act, before any elections could possibly be clouded by any uncertainty over it. I think we are meeting our responsibilities with respect to any possible unconstitutional uncertainty. We have gone far to insure that the electoral process will be secure and valid.

Mr. President, I see no reason whatever for a delay of 2 more years in the effective date, which is the direction and the thrust of the pending amendment. If this amendment is desirable at all, it should be enacted, as it is drafted at the present time, to go into effect in January of 1971.

There are also those who rise on the floor of the Senate and say that if we pass this amendment and then it is struck down by the courts because it is unconstitutional, we will cause great disappointment to our young people. I ask Senators to think of the disappointment of all young people if we do not pass this measure today or in the next ensuing days. What will be their disappointment then? American youth have been waiting almost 30 years for this change in the voting age, ever since the time when this proposal in the form of a constitutional amendment was first introduced before the Committee on the Judiciary. Think of the patience they have had. Now, this measure has come at last to the floor of the Senate. To those who suggest there is some possibility it may be struck down by the courts, I say that we do not believe it will be struck down. More important, I say this amendment may be our last real chance for many years to accomplish this vital goal. I doubt that there is any young person in America today who would say to us, "Don't pass the amendment, because my expectations will be disappointed if it is struck down by the courts."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, will the Senator yield to me for 2 additional minutes?

Mr. MANSFIELD. I yield 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I believe the young people of this country want us to face our responsibility as the majority leader has stated, and to meet this issue today. I think the preponderance of the evidence is quite clear on the record of this debate that our present discrimination against 18-year-olds in the right to vote is unfair, and that we have the power to act by statute. In recent times, the Supreme Court has consistently expanded the suffrage, and has acted time and again to equalize the right to vote for all our citizens. Whether it has been the question of redistricting or striking down the poll tax, or the Morgan case, always the Supreme Court has been moving toward expanding the right to vote. Certainly it is reasonable for us to reach the conclusion that restricting the right to vote to those who are 21 years of age or older is a violation of the equal protection of the laws under the Constitution, because it unreasonably discriminates against those who are 18, 19, and 20 years of age.

Finally, let me say that we have written in to the Mansfield amendment a procedure by which this entire amendment will be tested expeditiously in the court. It will be given a speedy hearing before a district court, and the decision can be appealed directly to the Supreme Court.

When we look back at the poll tax, whose repeal the Senate rejected in 1965, and the other provisions of the 1965 act, we learn that the courts can act expeditiously. They acted within several months to strike down the poll tax. On the basic question of the overall validity of the Voting Rights Act of 1965, the act was held constitutional by the Supreme Court within only a few months after it was passed by Congress.

Indeed, we are providing sufficient time for this measure to be tested before it actually becomes operative under the effective date of the amendment. I believe that the Attorney General or a pri-

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vate litigant has the authority to test the amendment in the Federal courts as soon as it is passed, without waiting until January 1971, the effective date. This advance test would not be an advisory opinion. It would not be unconstitutional under Marbury against Madison and that type of cases. It has enough elements of a real case or controversy. In fact, I am hopeful that the Attorney General will institute a test case as soon as the amendment becomes law.

Mr. President, with the greatest respect, I see no validity in the suggested delay offered by my good friend from Alabama (Mr. ALLEN). All the precautions that are necessary have been taken in the Mansfield amendment to prevent any clouding of elections.

In closing, Mr. President, let me say that I am extremely pleased that the Senate has at last been given the opportunity to express its will on the question of 18-year-old voting. For years, this basic issue—so important to millions of young Americans—was stalled in congressional committees, with little hope of passage by either the Senate or the House. Today, the Senate is being given that opportunity. I hope the amendment will prevail. If it does, then, beginning next January, 18-year-olds will be able to go to the polls in all elections, Federal, State, and local.

Today's Senate vote will be a vote of confidence in American youth. There can be no question that our 18-year-olds deserve the right to vote. Long ago, the age of maturity was fixed at 21 because that was the age at which young men were thought to be capable of bearing the armor of a knight. Strange as it may seem, the weight of armor in the 11th century governs the right to vote of Americans in the 20th century. The medieval justification has an especially bitter relevance today, when millions of our 18-year-olds are compelled to bear modern armor as soldiers, and thousands are dead in Vietnam.

I believe that our 18- to 21-year-olds are mature enough to vote. They are far better educated than their parents' and grandparents' generations. They are old enough to fight, to pay taxes, to marry, and to carry out many other basic responsibilities of citizenship. They are also old enough to exercise the right to vote, the most basic right in our society.

Mr. President, the amendment of the Senator from Alabama should be rejected.

Mr. MANSFIELD. Mr. President, I yield 2 minutes to the Senator from Kentucky and then I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I thank the Senator. I shall conclude in less than 2 minutes.

The distinguished Senator from Massachusetts is entirely correct. In the Katzenbach against South Carolina case the Supreme Court issued its ruling in March of 1966, really for the benefit of South Carolina, which was facing a primary in June of 1966.

In that section of the 1965 act which called for removal of the poll tax in the States, that came under the provisions of the act that was decided in the case of United States against Texas in the spring of 1966. That was done expeditiously because of the law and the implementation of the law, or the confusion it might create.

My only other remark is that if I were assured the junior Senator from Alabama might vote for this bill if this amendment were agreed to, I would be a little bit more enthusiastic about it, but I think even if this amendment were agreed to we would not secure the support of the Senator from Alabama in this regard.

Therefore, I think we should look at the fact that we have given a specific time. We have created a legislative record and history for the Supreme Court to realize the position we are in, and the position we honestly and fairly are placing them in. I think they will live up to their responsibility, as well as I hope this body lives up to its responsibility.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to amendment No. 552 of the Senator from Alabama (Mr. ALLEN) to the amendment of the Senator from Montana (Mr. MANSFIELD). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are absent on official business.

I further announce that, if present and voting, the Senator from Virginia (Mr. BYRD) and the Senator from Georgia (Mr. RUSSELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New York (Mr. GOODELL), the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 15, nays 72, as follows:

[No. 97 Leg.]

YEAS—15

Allen
Bennett
Curtis
Eastland
Ellender
Ervin
Holland
Hollings
Hruska
Jordan, N.C.
Sparkman
Stennis
Talmadge
Thurmond
Tower

NAYS—72

Aiken
Allott
Anderson
Baker
Bayh
Bellmon
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Fannin
Fong
Fulbright
Goldwater
Gore
Griffin
Hansen
Harris
Hart
Hartke
Hatfield
Hughes
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Murphy
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—13

Byrd, Va.
Dodd
Goodell
Gravel
Gurney
Inouye
McCarthy
McClellan
Mundt
Russell
Smith, Ill.
Stevens
Tydings

So Mr. ALLEN's amendment (No. 552) was rejected.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON NATIONAL ESTUARY STUDY—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91–274)

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with Public Law 90–454, the Estuary Protection Act, I submit herewith a report forwarded to me by the Secretary of the Interior. This report, which is the first volume of a seven-volume study prepared by the Department of the Interior, documents the importance of estuaries of our country and the severity of their modification by man. It demonstrates the urgent need for prompt enactment of the bill for a comprehensive Coastal Zone Management System which the Secretary of the Interior submitted to you on November 13, 1969.

RICHARD NIXON.

THE WHITE HOUSE.

REORGANIZATION PLAN NO. 2 OF 1970—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91–275)

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following message from the President of the United States, which, with the accompanying paper, was referred to the Committee on Government Operations:

To the Congress of the United States:

We in government often are quick to call for reform in other institutions, but slow to reform ourselves. Yet nowhere today is modern management more needed than in government itself.

In 1939, President Franklin D. Roosevelt proposed and the Congress accepted a reorganization plan that laid the groundwork for providing managerial assistance for a modern Presidency.

The plan placed the Bureau of the

Budget within the Executive Office of the President. It made available to the President direct access to important new management instruments. The purpose of the plan was to improve the administration of the Government—to ensure that the Government could perform "promptly, effectively, without waste or lost motion."

Fulfilling that purpose today is far more difficult—and more important—than it was 30 years ago.

Last April, I created a President's Advisory Council on Executive Organization and named to it a distinguished group of outstanding experts headed by Roy L. Ash. I gave the Council a broad charter to examine ways in which the Executive Branch could be better organized. I asked it to recommend specific organizational changes that would make the Executive Branch a more vigorous and more effective instrument for creating and carrying out the programs that are needed today. The Council quickly concluded that the place to begin was in the Executive Office of the President itself. I agree.

The past 30 years have seen enormous changes in the size, structure, and functions of the Federal Government. The budget has grown from less than $10 billion to $200 billion. The number of civilian employees has risen from one million to more than two and a half million. Four new Cabinet departments have been created, along with more than a score of independent agencies. Domestic policy issues have become increasingly complex. The interrelationships among Government programs have become more intricate. Yet the organization of the President's policy and management arms has not kept pace.

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Over three decades, the Executive Office of the President has mushroomed but not by conscious design. In many areas it does not provide the kind of staff assistance and support the President needs in order to deal with the problems of government in the 1970s. We confront the 1970s with a staff organization geared in large measure to the tasks of the 1940s and 1950s.

One result, over the years, has been a tendency to enlarge the immediate White House staff—that is, the President's personal staff, as distinct from the institutional structure—to assist with management functions for which the President is responsible. This has blurred the distinction between personal staff and management institutions; it has left key management functions to be performed only intermittently and some not at all. It has perpetuated outdated structures.

Another result has been, paradoxically, to inhibit the delegation of authority to Departments and agencies.

A President whose programs are carefully coordinated, whose information system keeps him adequately informed, and whose organizational assignments are plainly set out, can delegate authority with security and confidence. A President whose office is deficient in these respects will be inclined, instead, to retain close control of operating responsibilities which he cannot and should not handle.

Improving the management processes of the President's own office, therefore, is a key element in improving the management of the entire Executive Branch, and in strengthening the authority of its Departments and agencies. By providing the tools that are needed to reduce duplication, to monitor performance and to promote greater efficiency throughout the Executive Branch, this also will enable us to give the country not only more effective but also more economical government—which it deserves.

To provide the management tools and policy mechanisms needed for the 1970s, I am today transmitting to the Congress Reorganization Plan No. 2 of 1970, prepared in accordance with Chapter 9 of Title 5 of the United States Code.

This plan draws not only on the work of the Ash Council itself, but also on the work of others that preceded—including the pioneering Brownlow Committee of 1936, the two Hoover Commissions, the Rockefeller Committee, and other Presidential task forces.

Essentially, the plan recognizes that two closely connected but basically separate functions both center in the President's office: policy determination and executive management. This involves 1) what government should do, and 2) how it goes about doing it.

My proposed reorganization creates a new entity to deal with each of these functions:

—It establishes a Domestic Council, to coordinate policy formulation in the domestic area. This Cabinet group would be provided with an institutional staff, and to a considerable degree would be a domestic counterpart to the National Security Council.

—It establishes an Office of Management and Budget, which would be the President's principal arm for the exercise of his managerial functions.

The Domestic Council will be primarily concerned with *what* we do; the Office of Management and Budget will be primarily concerned with *how* we do it, and *how well* we do it.

DOMESTIC COUNCIL

The past year's experience with the Council for Urban Affairs has shown how immensely valuable a Cabinet-level council can be as a forum for both discussion and action on policy matters that cut across departmental jurisdictions.

The Domestic Council will be chaired by the President. Under the plan, its membership will include the Vice President, and the Secretaries of the Treasury, Interior, Agriculture, Commerce, Labor, Health, Education and Welfare, Housing and Urban Development, and Transportation, and the Attorney General. I also intend to designate as members the Director of the Office of Economic Opportunity and, while he remains a member of the Cabinet, the Postmaster General. (Although I continue to hope that the Congress will adopt my proposal to create, in place of the Post Office Department, a self-sufficient postal authority.) The President could add other Executive Branch officials at his discretion.

The Council will be supported by a staff under an Executive Director who will also be one of the President's assistants. Like the National Security Council staff, this staff will work in close coordination with the President's personal staff but will have its own institutional identity. By being established on a permanent, institutional basis, it will be designed to develop and employ the "institutional memory" so essential if continuity is to be maintained, and if experience is to play its proper role in the policy-making process.

There does not now exist an organized, institutionally-staffed group charged with advising the President on the total range of domestic policy. The Domestic Council will fill that need. Under the President's direction, it will also be charged with integrating the various aspects of domestic policy into a consistent whole.

Among the specific policy functions in which I intend the Domestic Council to take the lead are these:

—Assessing national needs, collecting information and developing forecasts, for the purpose of defining national goals and objectives.

—Identifying alternative ways of achieving these objectives, and recommending consistent, integrated sets of policy choices.

—Providing rapid response to Presidential needs for policy advice on pressing domestic issues.

—Coordinating the establishment of national priorities for the allocation of available resources.

—Maintaining a continuous review of the conduct of on-going programs from a policy standpoint, and proposing reforms as needed.

Much of the Council's work will be accomplished by temporary, ad hoc project committees. These might take a variety of forms, such as task forces, planning groups or advisory bodies. They can be established with varying degrees of formality, and can be set up to deal either with broad program areas or with specific problems. The committees will draw for staff support on Department and agency experts, supplemented by the Council's own staff and that of the Office of Management and Budget.

Establishment of the Domestic Council draws on the experience gained during the past year with the Council for Urban Affairs, the Cabinet Committee on the Environment and the Council for Rural Affairs. The principal key to the operation of these Councils has been the effective functioning of their various subcommittees. The Councils themselves will be consolidated into the Domestic Council; Urban, Rural and Environment subcommittees of the Domestic Council will be strengthened, using access to the Domestic Council staff.

Overall, the Domestic Council will provide the President with a streamlined, consolidated domestic policy arm, adequately staffed, and highly flexible in its operation. It also will provide a structure through which departmental initiatives can be more fully considered, and expert advice from the Departments and agencies more fully utilized.

OFFICE OF MANAGEMENT AND BUDGET

Under the reorganization plan, the technical and formal means by which the Office of Management and Budget is created is by re-designating the Bureau of the Budget as the Office of Management and Budget. The functions currently vested by law in the Bureau, or in its director, are transferred to the

President, with the provision that he can then redelegate them.

As soon as the reorganization plan takes effect, I intend to delegate those statutory functions to the Director of the new Office of Management and Budget, including those under section 212 of the Budget and Accounting Act, 1921.

However, creation of the Office of Management and Budget represents far more than a mere change of name for the Bureau of the Budget. It represents a basic change in concept and emphasis, reflecting the broader management needs of the Office of the President.

The new Office will still perform the key function of assisting the President in the preparation of the annual Federal budget and overseeing its execution. It will draw upon the skills and experience of the extraordinarily able and dedicated career staff developed by the Bureau of the Budget. But preparation of the budget as such will no longer be its dominant, overriding concern.

While the budget function remains a vital tool of management, it will be strengthened by the greater emphasis the new Office will place on fiscal analysis. The budget function is only one of several important management tools that the President must now have. He must also have a substantially enhanced institutional staff capability in other areas of executive management—particularly in program evaluation and coordination, improvement of Executive Branch organization, information and management systems, and development of executive talent. Under this plan, strengthened capability in these areas will be provided partly through internal reorganization, and it will also require additional staff resources.

The new Office of Management and Budget will place much greater emphasis on the evaluation of program performance: on assessing the extent to which programs are actually achieving their intended results, and delivering the intended services to the intended recipients. This is needed on a continuing basis, not as a one-time effort. Program evaluation will remain a function of the individual agencies as it is today. However, a single agency cannot fairly be expected to judge overall effectiveness in programs that cross agency lines—and the difference between agency and Presidential perspectives requires a capacity in the Executive Office to evaluate program performance whenever appropriate.

The new Office will expand efforts to improve interagency cooperation in the field. Washington-based coordinators will help work out interagency problems at the operating level, and assist in developing efficient coordinating mechanisms throughout the country. The success of these efforts depends on the experience, persuasion, and understanding of an Office which will be an expediter and catalyst. The Office will also respond to requests from State and local governments for assistance on intergovernmental programs. It will work closely with the Vice President and the Office of Intergovernmental Relations.

Improvement of Government organization, information and management systems will be a major function of the Office of Management and Budget. It will maintain a continuous review of the organizational structures and management processes of the Executive Branch, and recommend needed changes. It will take the lead in developing new information systems to provide the President with the performance and other data that he needs but does not now get. When new programs are launched, it will seek to ensure that they are not simply forced into or grafted onto existing organizational structures that may not be appropriate. Resistance to organizational change is one of the chief obstacles to effective government; the new Office will seek to ensure that organization keeps abreast of program needs.

The new Office will also take the lead in devising programs for the development of career executive talent throughout the Government. Not the least of the President's needs as Chief Executive is direct capability in the Executive Office for insuring that talented executives are used to the full extent of their abilities. Effective, coordinated efforts for executive manpower development have been hampered by the lack of a system for forecasting the needs for executive talent and appraising leadership potential. Both are crucial to the success of an enterprise—whether private or public.

The Office of Management and Budget will be charged with advising the President on the development of new programs to recruit, train, motivate, deploy, and evaluate the men and women who make up the top ranks of the civil service, in the broadest sense of that term. It will not deal with individuals, but will rely on the talented professionals of the Civil Service Commission and the Departments and agencies themselves to administer these programs. Under the leadership of the Office of Management and Budget there will be joint efforts to see to it that all executive talent is well utilized wherever it may be needed throughout the Executive Branch, and to assure that executive training and motivation meet not only today's needs but those of the years ahead.

Finally, the new Office will continue the Legislative Reference functions now performed by the Bureau of the Budget, drawing together agency reactions on all proposed legislation, and helping develop legislation to carry out the President's program. It also will continue the Bureau's work of improving and coordinating Federal statistical services.

SIGNIFICANCE OF THE CHANGES

The people deserve a more responsive and more effective Government. The times require it. These changes will help provide it.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to Section 901(a)(1), "to promote the better execution of the laws, the more effective management of the Executive Branch and of its agencies and functions, and the expeditious administration of the public business;" and Section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in this plan make necessary the appointment and compensation of new officers, as specified in Section 102(c) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the Executive Branch who have similar responsibilities.

While this plan will result in a modest increase in direct expenditures, its strengthening of the Executive Office of the President will bring significant indirect savings, and at the same time will help ensure that people actually receive the return they deserve for every dollar the Government spends. The savings will result from the improved efficiency these changes will provide throughout the Executive Branch—and also from curtailing the waste that results when programs simply fail to achieve their objectives. It is not practical, however, to itemize or aggregate these indirect expenditure reductions which will result from the reorganization.

I expect to follow with other reorganization plans, quite possibly including ones that will affect other activities of the Executive Office of the President. Our studies are continuing. But this by itself is a reorganization of major significance, and a key to the more effective functioning of the entire Executive Branch.

These changes would provide an improved system of policy making and coordination, a strengthened capacity to perform those functions that are now the central concerns of the Bureau of the Budget, and a more effective set of management tools for the performance of other functions that have been rapidly increasing in importance.

The reorganization will not only improve the staff resources available to the President, but will also strengthen the advisory roles of those members of the Cabinet principally concerned with domestic affairs. By providing a means of formulating integrated and systematic recommendations on major domestic policy issues, the plan serves not only the needs of the President, but also the interests of the Congress.

This reorganization plan is of major importance to the functioning of modern government. The national interest requires it. I urge that the Congress allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, *March 12, 1970.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. ALLEN) laid before the Senate a message from the President of the United States submitting the nomination of Curtis W. Tarr, of Virginia, to be Director of Selective Service, which was referred to the Committee on Armed Services.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House has passed a bill (H.R. 15945) to authorize appropriations for certain maritime

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programs of the Department of Commerce, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 15945) to authorize appropriations for certain maritime programs of the Department of Commerce, was read twice by its title and referred to the Committee on Commerce.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

AMENDMENT NO. 551

Mr. MILLER. Mr. President, I call up my amendment No. 551, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Iowa (Mr. MILLER) proposes an amendment as follows:

> On page 2, strike from lines 7 and 8 the words "voting in any primary or in any election—" and insert in lieu thereof the following: "full rights and responsibilities" of citizenship".

Mr. MILLER. Mr. President, I yield myself such time as I may require.

First, I would like to say in complete frankness that I think the author of the pending amendment, the distinguished majority leader, understands why there are a number of us who, in good conscience, cannot support a change in the voting eligibility rights by a statute.

I listened with great interest and considerable agreement to some of the arguments he has made, arguments which—

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MILLER. Arguments which I myself could make if I were a member of my State legislature; or which I myself could make if the pending measure were a proposed constitutional amendment.

There was one thing that particularly appealed to me about the arguments of the Senator from Montana. Over and over again, he has talked about the "responsibilities" that the young people should assume. I am offering this amendment, not for the purpose of doing any harm to his amendment at all, but, while with the understanding that I cannot in good conscience support the Mansfield amendment, with the objective of trying to make it into a better measure so that, if it is passed by Congress and if it is upheld by the Supreme Court, we will have a better measure on the books.

Under my amendment, the declaration set forth in the Mansfield amendment would read as follows:

> The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to full rights and responsibilities of citizenship
>
> "(1) denies and abridges—

And so on.

To me, this matter of 21 years or 18 years has to do, not just with voting, but with the full rights and responsibilities of citizenship. The Senator from Montana has, in his remarks, time after time called attenion to responsibilities. I fully agree with that. But there is not a word about responsibilities in his amendment. If my amendment were agreed to, we would talk about full rights and responsibilities of citizenship in connection with this matter of age.

I suggest that probably the highest right and responsibility of citizenship is the right and responsibility of voting. However, there are other inherent features of full citizenship.

Paragraph 1, line 9, of the Mansfield amendment refers to the denial and abridgement of the inherent constitutional rights of citizens 18 years of age and over. I suggest that in addition to the voting right and responsibility there are other inherent rights and responsibilities, such as jury service. Unless there is something in the statutes that I am not familiar with, I believe that once a person is an eligible voter, that person then is eligible for not only the right but also the responsibility of jury service.

Marriage: It seems to me that if a person is old enough to vote, he is old enough to enter into a contract of marriage.

Inheriting property in their own name: In many States now, unless a person is 21, he cannot inherit property in his own name, and a guardian or a trustee has to be established.

Legal and binding contracts: This is both a right and a responsibility. In many States, unless one is 21 years of age, a contract is not enforceable.

The jurisdiction of juvenile courts: In some States, juvenile courts have jurisdiction over people 18 years of age. It seems to me that if a person is old enough to vote, that person is old enough to get out of the jurisdiction of a juvenile court. I will say that most States, to my knowledge, do not go up as high as 18 years of age for juvenile court jurisdiction, but some do.

The coverage of State child labor laws: It is my understanding that in a few States child labor laws cover up through the age of 18, and possibly 19.

I suggest, Mr. President, that these rights and responsibilities are just as inherent—constitutional rights and responsibilities—as that of voting. They are just as much protected by the due process and equal protection of the laws guarantees under the 14th amendment as the right and responsibility of voting.

It seems to me that when Congress makes a declaration of policy having to do——

Mr. KENNEDY. Mr. President, will the Senator yiled on that point?

Mr. MILLER. I yield.

Mr. KENNEDY. Is the Senator suggesting that the age to consume alcoholic beverages is equivalent to the Senate of the United States reducing the voting age to 18?

Mr. MILLER. No; I have not said anything about that. If the Senator from Massachusetts was listening to my arguments, I was pointing out such things as marriage, inheriting property, legal and binding contracts, jurisdiction of juvenile courts, and coverage of child labor laws.

I know that there are some who have argued this point. I do not make that argument.

Mr. KENNEDY. Is the Senator's proposal limited to the five categories he has mentioned?

Mr. MILLER. No; I am not limiting that, necessarily. As a matter of fact, I was going to mention another one—hunting and fishing permits. In some States, if one is 18 years of age or under, there is a special fee.

Mr. KENNEDY. The Senator is equating this with reducing the voting age to 18?

Mr. MILLER. I am pointing out that there are rights and responsibilities that are just as inherent in citizenship as voting. But this is my point. Voting is such a tremendously responsible and important right that if we are going to cover voting, a fortiori, all these others ought to come along.

What I am trying to do is to point out that when we make a declaration of policy in Congress, a national policy, regarding the deprivation of rights on account of age, it seems to me that, instead of confining it to voting rights, we ought to talk about full rights and responsibilities of citizenship.

Furthermore, this declaration will fit with the rest of the amendment, because in paragraph (b) it says:

> In order to secure the constitutional rights set forth in subsection (a).

Those rights are referred to when we talk about full rights and responsibilities of citizenship.

Mr. President, as I have said, I offer this for the purpose of improving the amendment. To me, this is a very awesome and historical declaration of policy by Congress. I do not believe that we ought to confine our attention only to the rights and responsibilities of 18-year-olds with respect to voting. We would have a better declaration of policy if we talked about full rights and responsibilities of citizenship.

Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, I yield myself 5 minutes; thereafter it would be my intention to yield back the remainder of the time and bring this matter to a conclusion.

May I say to my distinguished colleague the Senator from Iowa that jury service and other responsibilities for 18-year-olds are propositions with which I think I might agree. So far as marriage for 18-year-olds is concerned, I am all for it. I do not know of a State in the Union in which people of that age cannot get married, and in some States matrimony is permitted at a younger age.

Mr. MILLER. Mr. President, will the Senator yield at that point?

Mr. MANSFIELD. I yield.

Mr. MILLER. I believe that in some States the consent of one or both parents is required.

Mr. MANSFIELD. If so, it is the case in very few States. But, by and large, I think it is a generally accepted tenet that young adults can be married at 18 on the basis of their own desires and wishes.

Contracts, I think, may fall in the same category.

As to juvenile and adult courts there

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may be differences; but, by and large, the age of 18 is the mark of differentiation between the jurisdiction of a juvenile court and courts that try adults. If one is 18 or over, he is considered an adult, he is tried as an adult and he must suffer the penalty of laws designed for adults.

I do not know too much about child labor laws, but I imagine that they do not apply to a person 18. One would have to be even younger, it is my guess, to be treated as a child under the child labor laws. Their application covers those anywhere up to 10 and 16, generally speaking.

The proposal to which the Senator seeks to offer his amendment, I would point out, deals with voting rights for 18-year-olds. The bill and the Scott substitute deal with voting rights. Therefore, I think that what the Senator from Iowa seeks should not be attempted in this bill; because, in my opinion, it would tend to becloud and befuddle the issue of the vote which is now clearcut, straight, and understood by everyone, without any ifs, ands, or buts.

The amendment offered by the Senator from Iowa goes beyond the confines of voting, with which my amendment is concerned, and with which the bill and the Scott-Hart substitute are concerned. It deals with issues on which there have not been hearings, to my knowledge; whereas, on the question of voting rights, there have been ample hearings down through the years bringing us to today—when there is an opportunity for action for the first time. I hope that opportunity is not jeopardized.

In that respect I am not certain what the effect of the Senator's amendment would be, or what the words that would be added to the preamble of my amendment would accomplish, or whether even they would accomplish what the Senator from Iowa seeks to accomplish.

Because of my initial favorable reaction to the idea of jury duty for persons 18 years of age and over, I should like to see hearings and a study undertaken as soon as possible by the appropriate committee; in this instance, as in the previous instances, the Committee on the Judiciary. I would then consider joining the Senator from Iowa in any bill he might offer on that subject, so that it could be reviewed, discussed, and debated as soon as possible by the appropriate committee.

If we go beyond the scope of the voting proposal at this time, however, I believe the door may be open to the consideration of many other matters never before considered such as—as the Senator from Massachusetts suggested—the age at which persons may drink legally, or the age when they may attend motion pictures, or other activities never before reviewed by a congressional committee. That is not the case with respect to extending the right to vote. On that issue the record is abundant; it is clear beyond doubt.

Therefore, I oppose the amendment at this time and urge the Senate to reject it.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MILLER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the amendment, as amended, of the Senator from Montana.

Mr. MANSFIELD. Mr. President, does any further time remain?

The PRESIDING OFFICER. No further time remains.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief quorum call, the time for the quorum call not to exceed 5 minutes.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. RANDOLPH. Does the Senator from Montana recall my discussion with him earlier today?

Mr. MANSFIELD. I do recall a conversation in which the Senator from West Virginia indicated that he would vote for this proposal.

Mr. RANDOLPH. I am going to vote for it. I had planned earlier today to make a short statement to the Senate.

Mr. MANSFIELD. How much time would the Senator desire?

Mr. RANDOLPH. Three or four minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that 5 minutes time be allocated to the Senator from West Virginia, the author of a proposed constitutional amendment that dates from 1942.

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator from Iowa will state it.

Mr. MILLER. The Senator from Montana asked that the time be taken out of his time. How much time is allotted on the bill itself?

Mr. MANSFIELD. None.

The PRESIDING OFFICER. There is no limit on the bill itself.

Mr. MILLER. May I ask from what time the Senator from Montana would be taking?

Mr. MANSFIELD. Time obtained by unanimous consent.

The PRESIDING OFFICER. In effect the Senator from Montana asked unanimous consent that the Senator from West Virginia be recognized for 5 minutes. The Chair heard no objection, so the Senator from West Virginia has been recognized for 5 minutes.

Mr. MANSFIELD. If the Senator from West Virginia will yield to me briefly, I would like to put in a call for a quorum now, the Senator can then speak, and then the voting can begin.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR RANDOLPH SUPPORTS MANSFIELD AMENDMENT TO LOWER VOTING AGE TO 18

Mr. RANDOLPH. Mr. President, I am very grateful to the distinguished majority leader for cooperating in the parliamentary situation to permit me to make a very brief statement prior to the vote on the Mansfield amendment, as amended by the Senator from Alabama (Mr. ALLEN).

Mr. President, I believe that the age for participation in all elections should be lowered to 18 years, but I believe the voting rights for 18, 19, and 20-year-old youths would best be granted and preserved by indelibly writing such a change into the language of the Constitution of the United States.

The legal basis for lowering the voting age to 18 years by the passing of a statute by this Congress is fragile. I am willing, however, to chance it by voting for the amendment of the Senator from Montana to the voting rights bill, particularly since the Senate voted overwhelmingly to add the words, "except as provided by the Constitution," as proposed by the Senator from Alabama (Mr. ALLEN).

The amendment of the Senator from Montana, which I have cosponsored, would stipulate in the Voting Rights Act that citizens 18 years old and older would have the right to vote. I support this amendment with the knowledge that my resolution proposing the submission of a constitutional amendment to the States to allow 18 year olds to vote, has the cosponsorship of 71 Members of the Senate—and there are others who are not cosponsors who have indicated in statements made during Senate debate that they were in favor of the resolution.

Mr. President, it is important to stress that final approval of the constitutional amendment can be expected very soon in the Judiciary Committee. The Senator from Montana and others have argued persuasively in this matter with reference to the statute approach.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from West Virginia may proceed for 2 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. RANDOLPH. Mr. President, I have said—and I repeat—that the arguments in this matter have been most persuasive on both sides of the approach. We are all seeking a common objective. I prefer the constitutional amendment route over the statute route. I believe it is sounder from a legal standpoint, and many of my Senate colleagues have joined me in urging a constitutional amendment.

Senate Joint Resolution 147 will be reported favorably, I believe, by the Judiciary Committee. I would expect that the measure when reported will be held on the Senate Calendar for action, so that if this amendment to the Voting Rights bill fails to achieve acceptance in the Senate-House conference, the Senate will be prepared to act immediately.

The Senator from Mississippi (Mr. EASTLAND), chairman of the Judiciary Committee, and the Senator from Indiana (Mr. BAYH), chairman of the Subcommittee on Constitutional Amendments, have both assured us, in response to questions during debate in the Senate, that Senate Joint Resolution 147 would be ready for action.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from West Virginia may proceed for 1 additional minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. RANDOLPH. Mr. President, I thank the Senator from Montana.

Mr. President, I know that there will be prompt action by the subcommittee and the full committee on this matter.

In closing, let me express my personal and official appreciation to all those who have understood my position in this matter. The Senator from Montana and others have shown real leadership. I only hope that what we are doing now—and I shall vote for the Mansfield amendment—will achieve the desired result.

I thank the Senator from Montana once more for yielding me this time.

Mr. HANSEN. Mr. President, I rise today to again emphasize my strong support in favor of allowing 18-year-old citizens the right to vote. I am convinced that these young people are capable of living up to the responsibilities which go along with the franchise. I have long favored the lowering of the voting age in my State of Wyoming. In 1963 and 1965, as Governor, my message to the State legislature urged that Wyoming take steps to lower the voting age from 21 to 18 years of age.

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In 1967, Wyoming's Legislature authorized the consideration of a constitutional amendment lowering the voting age to 19. The people of Wyoming will vote on the amendment in the elections this November. The action by the State legislature is a triumph for Wyoming's young people who have shown that youth can express itself and make changes working through our constitutional system of government. The effort to lower the voting age was led by students at the University of Wyoming and junior colleges throughout the State. There were no riots, there were no burnings. Instead these outstanding young people decided what they wanted to accomplish, organized the arguments in favor of their position, went to Cheyenne, and lobbied for the passage of the constitutional amendment. The legislature showed that elected officials are interested in the ideas of young people and will consider these ideas in a proper atmosphere.

I intend to vote for the Mansfield amendment. I feel that it is of great importance that there be no confusion on my stand in this year when my State of Wyoming is voting on a constitutional amendment to lower the voting age. I want people in Wyoming to know that I support the constitutional amendment, appearing on the Wyoming ballot this November. Despite my misgivings about the ramifications inherent in the constitutional questions raised by the Mansfield amendment I shall support it.

However, my vote today on the Mansfield amendment in no way dilutes my grave concern over some of the language included in that amendment. I do feel the States have a very deep and real interest in the age of voters in elections for State and local office. For this reason I am concerned about the broad scope of the Mansfield amendment. We must remember that it is the States, not the Federal Government, who have led the way in lowering the voting age. There is nothing magic in an age determined by Congress rather than a State constitution. Because of this concern, I voted in favor of the Allen amendment qualifying the Mansfield amendment with the words, "except as provided by the Constitution." It is my hope that the Allen amendment clearly protects the constitutional rights of the States.

I am proud of the actions of the Wyoming State Legislature to lower the voting age. I have great confidence in the ability of younger people wisely to participate in the choosing of our elected representatives. I hope that the people of Wyoming will express their trust in their young people by ratifying that amendment in the November elections. I believe that my vote today for the Mansfield amendment will make it very clear to all the people in Wyoming that I am strongly in favor of the amendment to the Wyoming constitution lowering the voting age requirement.

Mr. MONTOYA. Mr. President, again the issue of allowing 18-year-olds the right to vote comes before this body. It is more than a little sad that we must still debate this subject. The 18-year-olds of our Nation can and will handle the responsibility of the ballot if we extend that privilege to them.

I happen to be one of those who is mightily impressed by this generation of young people. A small group who are wrapped up in the world of hard narcotics snags more than their share of headlines. Then several million Americans shake their heads, wondering aloud "what has happened to the younger generation." Another small group of professional protestors perpetrates some attention-getting outrage in the name of dissent. Again headlines blare out the news, because, in truth, it is news. Once more large groups of adults voice dismay over the "kids."

I believe the acts of a few younger people who act in an extreme nonconformist fashion must be placed in perspective by any mature society. It is by feeling that the overwhelming majority of this generation of our young Americans is the most responsible, concerned, and involved group we have ever produced. They challenge accepted doctrines because we have asked them not to accept dogma blindly. Such maturity can only be applauded rather than condemned.

More often than not, a challenge is what elicits the finest response from any given group of people. It seems to me that rather than deplore the untoward behavior of a few, we can challenge the many among our young people by offering them a greater responsibility. Who can doubt for even a moment that they will respond affirmatively? I do not doubt it.

At the age of 18, an American citizen must stand trial as an adult before the law. But now he or she cannot vote. At the age of 18, every male American citizen in sound health can be drafted for military service. But he cannot vote. At the age of 18, every American whose gross annual earnings exceed $600 is paying Federal income tax. But he cannot vote.

Today, an amendment is being offered by the most distinguished Senator from Montana (Mr. MANSFIELD). It would allow 18-year-olds to vote in all elections—Federal, State, and local. I shall support that amendment, and any other effort to rectify what I consider one of the great wrongs of our society.

Today we are involved in insuring that all Americans who deserve or who are entitled to the franchise are allowed full access to it. This should include our 18-year-olds.

Look at recent history. In the last election, there was massive participation on the part of American youth in our national political process. It involved much turbulence. Nonetheless, it stirred that same political process in the most promising manner. Only through familiarity with that process can they understand and appreciate it. Only if they feel they are a part of the process can they respect and play a meaningful role in it.

Further, by denying those between 18 and 21 full participation in our formal electoral process, we offer them no outlet other than campus or street demonstrations. Frustration and a sense of impotence reigns in the minds of our most articulate and involved young people. Let us by all means offer them full access to and participation in the most meaningful portion of that political process—the ballot itself.

I think they have much that is positive to say and offer to us. Let us not become prisoners of political hardening of the arteries. Let us not forget that an infusion of new activism and involvement is the lifeblood of political progress.

Democratic societies can only gain by opening wider access to their most meaningful political processes to more of their people. They can only lose by letting their citizens, particularly their younger ones, beat in growing frustration on their political gates. Let us learn from the past, rather than turn our backs on its lessons. Our Nation faces a crisis of maturity. We need the help of our young people. If we ask them to join in, we shall not be disappointed.

Mr. MONDALE. Mr. President, the issue of lowering the voting age to 18 is not exactly new to the U.S. Congress. Almost 30 years ago Senator Vandenberg, of Michigan, introduced a proposed constitutional amendment to that effect, and there have been a number of attempts at similar legislation in the years since. But Congress has not been willing to give this issue its full attention. Like a flowering perennial, this issue appears every year, elicits the polite support of some Senators and Representatives, and then disappears for another year. I think it is time we quit playing "hot potato" with this issue and give it the attention needed to bring about its favorable passage.

We have all heard the arguments in favor of lowering the voting age to 18. They are the same arguments many of us discussed in high school. If a man is old enough to fight, work, marry, pay taxes, make a contract, drive a car, own a gun, and so on, he certainly is old enough to vote. And we can find considerable data to support these arguments. For example, there are some 6 million young adults between 18 and 21 years of age in our labor market. The wages of these young people are being taxed to pay for the programs we enact in Congress. Yet these people have no say in determining who sits in that Congress. They are truly victims of taxation without representation.

It is not only income that they are losing without representation. For almost 20,000 of them, it has been their lives. Almost half of the 40,000-plus Americans who have died in action in Vietnam have been under 21. They lost their lives fighting in a conflict initiated by a President they had no voice in choosing and continued by the appropriations of a Congress they had no voice in choosing.

Just because a person has a particular right or responsibility does not necessarily mean he should have the right to vote. But I happen to believe that many of the rights and responsibilities we have conferred upon young people are as substantively significant as the right to vote, and, therefore, there is every reason why the right of suffrage should be extended to them also.

We can help to avert the collision between the powerless and the powerful by granting the power of the vote to those young people who have demonstrated their desire to participate in the decisionmaking councils of society.

It is true there are some young radicals who are more interested in anarchy than democracy, and who have not exhibited the maturity to make the choices involved in voting. Yet many adults fall into those categories too. You only have to witness the courtroom antics of the so-called Chicago 7—all eligible voters—to see that 18-, 19-, and 20-year-olds have no exclusive right to bad manners.

The truth of the matter is that today's young adults are far better equipped to make voting choices than most of us were at the same age. Modern communications and advanced education have combined to make our young people the best-informed generation ever. About 78 percent of the people in this age category are high school graduates, and about 46 percent are college students. Yet we continue to refuse them the opportunity to implement their learning at the ballot box. Instead, by promulgating a gap between 18 and 21, we are stimulating young people to lose interest in public affairs. President Kennedy's Commission on Registration and Voting Participation warned in 1963 that the existence of this gap led to the possibility that—

> Some (of these young people) may even be lost as voters for the rest of their lives.

Enfranchisement of 18-year-olds will add approximately 10 million persons to the voting age population, an increase of about 8 percent of the eligible voters. In my State of Minnesota, which will vote this fall on a constitutional amendment to lower the voting age to 19, some 174,000 more persons would be able to vote if the age were lowered to 18. If the voters of Minnesota pass this amendment—and I hope they will—they will join a select group of four other States—Kentucky, Georgia, Alaska and Hawaii—which have realized the importance of letting their young people have some say in their government.

We could wait for the remaining States to pass such legislation in referenda, but when Congress has the power and the responsibility and the right to take the initiative in this matter, it surely should. Congress has been studying, debating, and checking this issue for nearly 30 years, and all of us have heard the arguments, pro and con, ever since. It is time we made a decision. It is time we recognize our young people for the valuable contributions they have to make to the democratic process. I ask Senators to support lowering the voting age to 18.

Mr. DOLE. Mr. President, I wish to associate myself with the remarks of the Senator from West Virginia (Mr. RANDOLPH). As a cosponsor of Senate Joint Resolution 147, I share his view that an amendment to the Constitution would be preferable to the statutory approach of the Mansfield amendment.

The amendment of the junior Senator from Alabama (Mr. ALLEN) to the Mansfield amendment, adopted yesterday, will assure the question of constitutionality of the statutory approach will be tested. In view of this, I shall also vote for the amendment by the senior Senator from Montana.

In the event the Court should hold Congress did not possess the power to authorize 18-year-olds voting, we can, as I understand it, proceed with Senate Joint Resolution 147, which embraces the constitutional amendment approach.

In either event, there is strong support for the objective and I commend the Senator from West Virginia for his initiative.

Mr. HATFIELD. Mr. President, I should like to include in the RECORD on this historic day a statement by Earl Blumenauer, who is the director of the upcoming campaign in Oregon to permit 19-year-olds to vote. Mr. Blumenauer appeared before the Senate Subcommittee on Constitutional Amendment on February 16.

I expect that the Senate will approve the amendment allowing 18-year-old citizens to vote. I am hopeful that the House of Representatives will concur, although that body did not amend the voting rights bill as has the Senate.

As I have stated many times before, if this country continues to make demands upon these young people to serve in its wars and pay its taxes, we should allow them to vote. Young people today are much more serious and are better educated than my generation was at their age, and I commend the statement of Mr. Blumenauer to you as a case in point. I ask unanimous consent to have the statement printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY EARL BLUMENAUER

Mr. Chairman and members of the Committee, my name is Earl Blumenauer, I am the Director of the pending referendum campaign in the state of Oregon. My interest in testifying before your committee is to give you an idea of the seriousness of our effort and reinforce the need for a U.S. Constitutional Amendment.

Perhaps the most prominent characteristic of discussions that concern lowering the voting age is the lack of "hard facts". Concepts such as "maturity", and "responsibility" remain, at least to this point in time, value judgments. All too often, this qualitative argumentation does little to change opinions conditioned by centuries of tradition. The experience of the young people in the State of Oregon lends another dimension to this question of lowering the voting age.

Oregon will be the first of 11 States that will in 1970 submit to their citizens constitutional amendments that seek to lower minimum age requirements for voting. While the history of this specific issue in Oregon dates back more than 20 years, the last 14 months have been the most eventful. What began as the project of a group of high school students spread around the state to encompass a wide variety of young people. They carried their thoughts and feelings from the classroom to the state capital. There they were joined in their efforts to secure a referendum measure by lobbyists from a wide variety of interests, public officials, as well as by many individual legislators. After five months of study, thought and interaction with the legislature (as well as a great deal of old fashioned arm-bending), the measure was submitted to the electorate.

From this point the campaign changed its essential nature to become "voter oriented". The young people were formally joined by business, labor and political leaders in the construction of a broad based campaign organization oriented solely toward this issue. Thousands of hours of planning and consultation were required before the campaign was able to enlist the statewide working support of Oregonians from all walks of life, of all ages. While most of our campaign lies ahead, hundreds of speeches have been given, dozens of campus chapters have been established, and considerable campaign resources have been generated.

Our experiences seem to highlight several points. Most fundamentally, the accomplishments of our young people tend to reinforce their arguments. The political know-how and determination they exhibit indicates "maturity", "responsibility" and "political awareness" far more clearly than graphs or percentages ever could.

Developments in our campaign testify to the merit of a federal amendment to the Constitution. While recognizing powerful arguments couched in other terms, let me suggest a threefold rationale that emerges from our activities.

I. A federal amendment would be a strong indication that the system is amenable to change from within.

Among the young, we've encountered a reoccurrent expression of futility. Every indication from politicians, educators, and among our own ranks is that such opinion is becoming more widespread. Were progress achieved toward an amendment lowering the voting age, it would provide a powerful indication that the democratic process works, even for the disenfranchised.

II. The process of ratification would afford an opportunity to clearly present a defense of today's youth on a nationwide basis.

During the course of our activities in Oregon, we have been shocked by the nature and intensity of the hostility expressed toward young people. Our campaigning has forced many to reexamine their attitudes toward youth.

If a constitutional amendment was submitted to the states for ratification, it would provide the vehicle to present a balanced view of our youth on a much broader scale. All across our nation, communicative efforts to objectively appraise our young people would be encouraged.

III. A constitutional amendment might well have the effect of promoting co-operative effort in a time of desperate division.

In Oregon the campaign to lower the voting age has created a broad coalition that transcends racial, generational, and political barriers. Confidence in youth seems to be exhibited by at least some members of each denomination and profession. By working together toward this common goal, we are affording a preview of the type of coalition that must be directed against the crucial environmental and social issues that are already at hand. Similar results might be expected on a much broader scale were this issue submitted to the states for ratification of a constitutional amendment.

Our campaign in Oregon suggests two distinct benefits of the proposed constitutional amendment. First the manner in which the young people have conducted themselves during the 14 months of this campaign indicates that they would indeed be valuable additions to the electorate. Second, the process of enacting this amendment into law would be a valuable exercise in promoting better communication and understanding between diverse elements of our society.

The PRESIDING OFFICER (Mr. CRANSTON). All time on this amendment has now expired.

The question is on agreeing to the amendment of the Senator from Montana (Mr. MANSFIELD), as amended.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMINICK (when his name was called). On this vote, I have a pair with the Senator from Texas (Mr. TOWER). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. GOLDWATER (when his name was called). On this vote, I have a pair with the Senator from Illinois (Mr. SMITH). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. GRIFFIN (when his name was called). On this vote, I have a pair with the Senator from Alaska (Mr. STEVENS). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. TALMADGE (when his name was called). On this vote, I have a pair with the Senator from Maryland (Mr. TYDINGS). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. MANSFIELD (after having voted in the affirmative). On this vote, I have a pair with the Senator from Georgia (Mr. RUSSELL). If he were present and voting, he would vote "nay." If I were at liberty to vote, as I already have, I would vote "yea." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) and the Senator from Minnesota (Mr. MCCARTHY) would each vote "yea."

On this vote, the Senator from Connecticut (Mr. DODD) is paired with the Senator from Virginia (Mr. BYRD). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from Virginia would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New York (Mr. GOODELL), the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from New York (Mr. GOODELL) would vote "yea."

The Senator from Texas (Mr. TOWER) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Florida (Mr. GURNEY) would each vote "nay."

The respective pairs of the Senator from Illinois (Mr. SMITH), the Senator from Alaska (Mr. STEVENS), and that of the Senator from Texas (Mr. TOWER) have been previously announced.

The result was announced—yeas 64, nays 17, as follows:

[No. 98 Leg.]

YEAS—64

Aiken
Anderson
Baker
Bayh
Bellmon
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cotton
Cranston
Dole
Eagleton
Fong
Fulbright
Gore
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Hughes
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NAYS—17

Allen
Allott
Bennett
Curtis
Eastland
Ellender
Ervin
Fannin
Holland
Hruska
Jordan, N.C.
Long
Miller
Murphy
Sparkman
Stennis
Thurmond

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—5

Dominick, for.
Goldwater, for.
Griffin, against.
Mansfield, for.
Talmadge, against.

NOT VOTING—14

Byrd, Va.
Dodd
Goodell
Gravel
Gurney
Inouye
McCarthy
McClellan
Mundt
Russell
Smith, Ill.
Stevens
Tower
Tydings

So Mr. MANSFIELD's amendment No. 545, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of Virginia subsequently said: Mr. President, I was unavoidably detained and unable to be in the Chamber when the vote was had on the Kennedy-Mansfield amendment. In my judgment, that amendment was a very bad way to handle the question of whether the voting age should be lowered.

Every State has had for almost 200 years the right to determine whether the voting age should be lowered. Four States have done so.

If we are going to get away from the States having the right to make that determination, clearly it should be done by constitutional amendment and not by a statute of Congress.

Had I been present and voting, I would have voted against the Kennedy-Mansfield amendment, and I would like the RECORD to so show.

The PRESIDING OFFICER (Mr. RANDOLPH). The Chair would state that the question now occurs on the Scott-Hart amendment, as amended, in the nature of a substitute for the bill.

Mr. CASE addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

STATEMENT BY SENATOR CASE IN OPPOSITION TO CONFIRMATION OF THE NOMINATION OF JUDGE CARSWELL

Mr. CASE. Mr. President, because I am not a member of the Judiciary Committee of the Senate and did not have the opportunity to sit in on the hearings on the nomination of Judge Carswell to the Supreme Court, I have reserved my decision until this time. Now, however, I have gone over the record of the hearings and the supplementary statements of others both in support and in opposition to the nomination.

I shall vote against confirmation.

I shall do so for several reasons.

They can be summarized in one sentence. On all the evidence, Judge Carswell does not measure up to the standard we have rightly come to expect of members of the Supreme Court. It is a standard exemplified by such men as Oliver Wendell Holmes, Charles Evans Hughes, William Howard Taft, Harlan Fiske Stone, Owen J. Roberts, Benjamin Cardozo, Earl Warren, John Marshall Harlan, William Brennan, and Potter Stewart—all of them nominated by Republican administrations in this century.

The PRESIDING OFFICER. The Chair requests that the Senate and those who are guests of the Senate give their attention to the Senator from New Jersey on a substantive matter. The Senator deserves our attention. The Senate will be in order.

Mr. CASE. Mr. President, from a legal point of view, Judge Carswell's qualifications have been seriously challenged by legal scholars and highly respected mem-

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bers of the bar. Almost without exception, those who have examined his record as a judge characterized it as "undistinguished," "mediocre," "inadequate," "lacking in intellectual stature." Louis Pollak, dean of the Yale University Law School, stated to the Judiciary Committee that after a thorough examination of Judge Carswell's opinions in recent years:

> I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth in this century.

A statistical analysis prepared by law students at the Columbia Law School shows that Judge Carswell holds a record for the repudiation of his decisions as a district court judge. During the period 1956 to 1969 when he sat on the U.S. district court, within the fifth circuit, nearly 59 percent of his printed opinions which were appealed were reversed by higher courts. This was, according to the study, nearly three times the national average for district judges. In the same period 24 percent of decisions from the fifth circuit district courts were reversed.

In other indexes used by the study to measure judicial performance of Judge Carswell and other Federal district judges, Judge Carswell scored significantly below the average of his peers. Specifically, his opinions were cited by other Federal and State judges only half as often on the average as Federal district judges both from the Nation as a whole and from his circuit. He documented his decision with case law authority less than half as frequently as the average of his peers.

And what of the quality of the justice dispensed by Judge Carswell in an area of most pressing concern to the Nation—equal protection of the law?

Here the reviews made of his record indicate a failure to demonstrate the impartiality, much less sensitivity, essential in one who serves on the Nation's Highest Bench.

It has been argued that Judge Carswell's pledge of undying adherence to the principle of white supremacy made during a political campaign 22 years ago should not be held against him. But his record on the bench as well as other nonjudicial activities give no evidence of any change of heart or mind since that time.

On the contrary, witnesses appeared to testify to the extreme and open hostility he has shown to lawyers and defendants in civil rights cases. Specifically, it was stated that in 1964 he expressed strong disapproval of northern lawyers representing civil rights workers engaged in a voter registration project—persons who, it should be noted, would otherwise have had no counsel. Judge Carswell has responded neither to that charge nor to the further charge that he arranged with a local sheriff to rejail workers he had been directed to free by the Fifth Circuit Court of Appeals.

Judge Carswell himself provided further damaging testimony concerning his insensitivity to human rights. I refer to his participation in the conversion of a municipally owned golf club into a private all-white membership club in 1956. His profession of ignorance of the purpose of the change is unconvincing, to say the least, for he admitted that he read the document he signed as an incorporator for the segregated club. Further, there is ample evidence that there was wide public discussion of the matter in the press and in the community. The incorporation was obviously a device designed to circumvent court decisions outlawing segregation on publicly owned recreational facilities. At that time, be it noted, Judge Carswell was a U.S. attorney sworn to uphold the Constitution.

A number of exhaustive analyses of Judge Carswell's decisions have been prepared and have been made part of the RECORD. In the light of them, the conclusion seems to me inescapable that, as Prof. William Van Alstyne of the Duke University Law School—who had testified in favor of Judge Haynsworth's nomination—stated:

> There is, in candor, nothing in the quality of the nominee's work to warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States.

Conversely, there is much in the record to suggest that elevation of Judge Carswell to the Supreme Court would be a disservice to the Court. For, as one writer recently pointed out to critics of the present Court:

> The tragedy is that the appointment of narrow men, men of limited capacity, will make things worse, not better. What that Court needs is not more war of doctrine, in which moderation is crushed. The Supreme Court today needs more reason, more understanding, more wisdom.

To me, my responsibility as a Member of the Senate is clear: I must, and I shall, vote against confirmation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

TRIBUTE TO SENATOR RANDOLPH

Mr. BYRD of West Virginia. Mr. President, I think it was most appropriate that my distinguished senior colleague from West Virginia (Mr. RANDOLPH) was presiding over the Senate at the time of the adoption of the Mansfield amendment lowering the age for those eligible to vote from 21 to 18, especially in view of the fact that my senior colleague has been so active over the years, beginning with his service in the other body, with respect to lowering the voting age to 18.

It was my colleague who, in the other body, in 1942, offered a resolution to bring about an amendment to the Constitution to lower the voting age. Through the years he has never wavered in his support of that proposition. Here in the Senate, as we all know, he has been very, very active in lining up cosponsors for a constitutional amendment to lower the age, and as a result of his dedication and diligent efforts, 71 cosponsors have joined with him in proposing this constitutional amendment.

So I was happy to see my colleague presiding over the Senate at the time the Senate reached its decision on the Mansfield amendment. I joined my colleague in supporting that amendment, as I have joined my colleague in cosponsoring the constitutional amendment which he is proposing.

I feel that eventually the age for voting may be lowered to 18, whether it be by the constitutional amendment route or by statute. I personally favor the constitutional amendment process. I think that is the only way it can constitutionally be done. But, in any event, my colleague has, by his diligent efforts, helped to pave the way for success when the time for it comes. So, again, may I say that it was especially fitting that he be presiding when the vote occurred on the Mansfield amendment.

The PRESIDING OFFICER (Mr. RANDOLPH). The present occupant of the chair expresses his very genuine appreciation to his colleague from West Virginia. I am grateful to him.

Mr. BYRD of West Virginia. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I send to the desk an amendment, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. Without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 1, of the bill, between lines 4 and 5, insert the following new section:

SEC. 2. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq. is amended by—

(1) inserting therein immediately after the first section thereof the following title caption: "TITLE I—VOTING RIGHTS"; and

(2) striking out the word "Act" wherever it appears in sections 2 through 19 and inserting in lieu thereof the word "title".

On page 1, line 5, strike out "Sec. 2." and insert in lieu thereof "Sec. 3.".

On page 3, line 11, strike out "Sec. 3." and insert in lieu thereof "Sec. 4.".

On page 4, line 4, strike out "SEC. 4" and insert in lieu thereof "SEC. 5".

On page 4, line 11, strike out "SEC. 5" and insert in lieu thereof "SEC. 6".

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On page 4, line 25, strike out "SEC. 6" and insert in lieu thereof "SEC. 7".

On page 5, line 4, strike out "SEC. 7" and insert in lieu thereof "SEC. 8".

On page 8, between lines 2 and 3, insert the following new section:

"SEC. 9. The Voting Rights Act of 1965 (79 Stat. 637; 42 U.S.C. 1973 et seq.) is further amended by adding at the end thereof the following new title:

"TITLE II—REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

"DECLARATION AND FINDINGS

"SEC. 201. (a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

"(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

"(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

"(3) does not bear a reasonable relationship to any compelling State interest.

"(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

"PROHIBITION

"SEC. 202. Except as required by the Constitution no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

"ENFORCEMENT

"SEC. 203. (a)(1) In the exercise of the powers of the Congress under the necessary and proper clause of section 8, article I of the Constitution, and section 5 of the fourteenth amendment of the Constitution, the Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this title.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title, which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

"(b) Whoever shall deny or atempt to deny any person of any right secured by this title shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"DEFINITION

"SEC. 204. As used in this title the term 'State' includes the District of Columbia.

"EFFECTIVE DATE

"SEC. 205. The provisions of this title shall take effect with respect to any primary or election held on or after January 1, 1971."

On page 8, line 3, strike out "SEC. 8. The" and insert in lieu thereof "SEC. 10. Except as otherwise provided, the".

Mr. GRIFFIN. I wonder if the Senator from Alabama could inform us whether this amendment is the same as the so-called Mansfield-Kennedy amendment which was offered to the Scott-Hart substitute.

Mr. ALLEN. Mr. President, in response to the question of the distinguished Senator from Michigan, the junior Senator from Alabama will seek to explain the purpose of the amendment which has been offered and to state, further, that he will not call the amendment up for a vote until the distinguished Senator from Pennsylvania, who is the sponsor of the Scott-Hart amendment, has come to the Chamber and has had an explanation given to him of this amendment and has had an opportunity to debate the amendment.

Mr. President, to understand the relevancy of the suggested amendment, the amendment which has just been offered, it is necessary to consider the parliamentary situation with regard to the pending bill and the pending amendment.

Mr. GRIFFIN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I wonder if I could inquire of the distinguished junior Senator from Alabama whether or not this amendment is the same, so far as the text is concerned, as the Mansfield-Kennedy amendment to the Scott-Hart substitute. I did not quite understand his answer.

Mr. ALLEN. It is the same.

The PRESIDING OFFICER. May the Chair be indulged to make this comment: A Senator may yield only for a question and response.

Mr. GRIFFIN. Mr. President, I understood that I had the floor.

The PRESIDING OFFICER. The Senator from Michigan could yield only for a question.

Mr. GRIFFIN. I would be glad to yield for a response to my question.

Mr. ALLEN. The answer is "Yes."

Mr. GRIFFIN. As I understand it, if I may inquire of the distinguished Senator from Alabama, he is proposing this as an amendment not to the Scott-Hart substitute which we have been discussing but is proposing it to the House-passed bill. Is my understanding correct?

Mr. ALLEN. Mr. President, I will respond to the distinguished Senator from Michigan by saying that the junior Senator from Alabama was seeking to make an explanation, and the junior Senator from Alabama understood that ordinarily the sponsor of an amendment is given an opportunity to explain the amendment, which he is seeking to do.

Mr. GRIFFIN. I certainly want to give the junior Senator from Alabama all the opportunity he wants. I shall have to leave the Chamber very soon, and I thought that perhaps I could get this clarified in a short time so far as I was concerned.

It seems apparent that we are dealing now with the same amendment which the Senate has already adopted by an overwhelming majority vote, and it is the purpose of the distinguished junior Senator from Alabama to put this amendment on the House-passed bill, which would be an alternative to the Scott-Hart substitute, and I would not think there would be much question about the Senate adopting such an amendment.

I wonder how much discussion the Senator from Alabama thinks might be necessary.

Mr. ALLEN. In response to the Senator's question, he stated that he did not want to go forward with the debate until the distinguished Senator from Pennsylvania came into the Chamber.

Mr. GRIFFIN. Could I be helpful by seeing if I could get the distinguished Senator from Pennsylvania to the Chamber?

Mr. ALLEN. Yes. I think that would be a constructive effort for the Senator to pursue at this time.

Mr. GRIFFIN. Is there any disposition on the part of the junior Senator from Alabama to agree to some reasonable time limitation about discussion of this amendment?

Mr. ALLEN. Mr. President, in response to the Senator's question, the junior Senator from Alabama will say that where the issues are basic, where they are fundamental and inherent, regarding the rights of the people of Alabama, he will not under any circumstances agree to a limitation of time on his remarks. That does not mean that the length of his remarks might exceed what might normally be set for discussion, but he does not feel that it is proper to limit the length or the amount or the time for his remarks on such important matters as the Senate has under consideration at this time.

Mr. GRIFFIN. I have no doubt in my mind that the junior Senator from Alabama wants to give these matters adequate consideration, and I am sure that the consideration we have given to other amendments that he has proposed has had no relationship whatever to delaying the Senate's intention to take up the Carswell nomination. I am sure that it would not be the intention of the junior Senator from Alabama, in prolonging the discussion of this amendment—about which there is no real controversy and about which the Senate has already voted overwhelmingly—to delay the consideration of the Carswell nomination.

Mr. ALLEN. The Senator from Alabama does not wish to delay the consideration of any nomination. He notices that there are several names on the Executive Calendar, and we should get to all of them. But the junior Senator from Alabama feels that as matters come before the Senate, they should be considered on their merits; they should stand on their own two feet.

Mr. GRIFFIN. I agree with the Senator from Alabama.

Mr. ALLEN. And they should not be considered in connection with the possible effect that their consideration in depth might have on some other matter.

Mr. STENNIS. Mr. President, will the Senator yield to me briefly?

Mr. GRIFFIN. I yield.

Mr. STENNIS. I think this is a very

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important matter and, frankly, I think that the Senator from Alabama has made a good suggestion. I want to discuss the matter briefly, myself. The Senator from Alabama has said how he feels about it.

Mr. GRIFFIN. I appreciate the contribution of the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. ALLEN. To continue the answer to the distinguished Senator from Michigan, when a time limitation is placed on an amendment or a bill, in the opinion of the junior Senator from Alabama, it just indicates that you are not going to agree to your own execution on the day you are discussing the matter, but you will agree to execution 1, 2, 5, 10, or 20 days distant, depending on the length of the agreement. That is why the junior Senator from Alabama, as a matter of principle, does not want to enter into any agreements with respect to limitation of time, by unanimous consent, with regard to any amendment that he might care to offer.

Mr. GRIFFIN. My observation, however, is that on this particular amendment, regardless of what might be the case with others the Senator might offer, the Senate has expressed its will on this amendment, as I recall, with only 17 Members of this body voting against it and all the rest voting for it. I do not think there is much question that they would vote for the Senator's amendment if they had a chance to vote on it.

Mr. ALLEN. The junior Senator from Alabama would respectfully point out to the distinguished Senator from Michigan that he had not discussed the matter more than 30 seconds before the distinguished Senator from Michigan was asking him how long he was going to talk. Until the junior Senator from Alabama has outworn his welcome with respect to a particular amendment, it does seem that the Senator from Michigan would allow the Senator from Alabama to indulge in such remarks as he might care to make.

Mr. GRIFFIN. Certainly that would be the case. I assure the junior Senator from Alabama that there is some concern over the fact that there may be a delay involved; but I am sure that is not the purpose of the junior Senator from Alabama and I appreciate it.

Mr. ALLEN. The junior Senator from Alabama would like to state to the distinguished Senator from Michigan that the purpose of the amendment is not dark or secret.

Mr. GRIFFIN. Of course. Not at all.

Mr. ALLEN. The amendment seeks to get H.R. 4249 into such shape that it will best appeal to the Members of the Senate. The junior Senator from Alabama feels that the Senate, having voted, as the Senator says, overwhelmingly for the Mansfield amendment, if we were to conform the House bill to the Mansfield amendment, at that point we might have a simple question of voting rights only presented to the Senate rather than extraneous matters.

Mr. GRIFFIN. The Senator has made a good point.

Mr. STENNIS. Mr. President, I have already expressed my interest in the amendment and that I wanted some time to discuss it. The Senator brought up the question of delay. I certainly do not want to delay the bill or any other bill intentionally. I really would like to see this one move along now. We have had good debate. We have had many amendments. I would like to see it move along. Personally, it would suit me very much if we could, consistent with reason, move it today. But if not today, then on tomorrow, or as soon thereafter as we can. I just want to make that clear to the Senator.

Mr. ALLEN. Mr. President, may I have the floor in my own right?

The PRESIDING OFFICER (Mr. RANDOLPH). The Senator from Alabama is recognized.

Mr. ALLEN. I thank the distinguished Presiding Officer.

Mr. President, as I suggested a moment ago, there is going to be no effort whatsoever to debate this amendment an undue length of time. The junior Senator from Alabama merely feels that, while we are discussing matters of such importance to the people of his State, the junior Senator from Alabama has no right to give away their rights by agreeing to a limitation of the time during which these matters can be discussed.

It is not the intention of the junior Senator from Alabama to prolong the discussion of the amendment which is now pending before the Senate.

The bill that comes to us from the House, H.R. 4249, sets up a method of handling the matter of voting rights of citizens throughout the entire country.

To that bill has been added, or has been sought to be added, the Scott-Hart amendment which would take a different approach with regard to this most important question.

I do not plan to discuss the manner of the approach that is used in the Scott-Hart substitute. Suffice it to say that, if the Scott-Hart substitute is adopted, then no further amendments can be offered, as the junior Senator from Alabama understands it, to H.R. 4249.

So that, at this time, this is the only time that I shall be able to offer an amendment.

The junior Senator from Alabama feels that H.R. 4249 should be made to conform, with regard to matters that have been under discussion in the Senate, as nearly to the wishes of the Senate as is possible. The Senate has, by an overwhelming vote, approved the Mansfield amendment, and by unanimous consent, or a modification that did not even need unanimous consent, the Goldwater amendment was added to the Scott-Hart substitute.

If this amendment is adopted, I then plan to offer an amendment to H.R. 4249 having to do with residency requirements in presidential elections—in effect, the Goldwater amendment.

So, Mr. President, the amendment that is pending is the exact wording of the Mansfield amendment, so that if this is added to the pending House bill, and the Goldwater amendment is added to the pending House bill, then the Senate can decide between these two measures without going into extraneous matters and deal with voting rights only, because the other two issues would be handled in the same fashion, in the same fashion that Members of the Senate seem to want to handle it in.

So that we would have a direct vote on voting rights. Not to do that would, of course, not have the full question presented to the Senate, because H.R. 4249 does not deal with 18-year-olds voting nor does it have this provision for residency requirements in presidential elections from the Goldwater amendment.

Thus, if these two amendments are adopted, we would have exactly the same issue presented to the Senate on these two extraneous matters, and then the only point of difference would be the manner and the method of handling the voting rights.

Now, Mr President, as the junior Senator from Alabama has stated, there is no desire on his part to prolong the discussion of this amendment.

If there are no questions that any Senator desires to ask on the amendment, it is the intention of the junior Senator from Alabama to ask for a quorum call and then, after the Senator from Pennsylvania (Mr. SCOTT) has come into the Chamber and he can be conferred with, if there is no further discussion, the junior Senator from Alabama would like to call the amendment up for a vote.

So, at this time, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LONG). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, the able junior Senator from Alabama has made a clear explanation of the procedure he seek to follow and a very clear explanation of his purpose.

I think, as the junior Senator from Alabama and my colleague, the Senator from Michigan, stated, all of us understand the substance of the amendment, having just within the hour acted on identical language in the amendment offered by the Senator from Montana.

If there are no others who wish to speak, I would be ready for a vote.

Mr. GRIFFIN. Mr. President, if the Senator would yield, I commend the Senator from Alabama. I am very pleased. If I seemed to have given the impression that we were going to spend too much time on this matter, I apologize, because I am very pleased to proceed to a vote. It seems to be very sensible.

Mr. ALLEN. Mr. President, having said I wanted to wait until the distinguished Senator from Pennsylvania came into the Chamber, I would rather do so unless the Senator from Michigan would speak for the Senator from Pennsylvania.

Mr. GRIFFIN. Mr. President, I have discussed this with the staff of the Senator from Pennsylvania. I do not think there is any question that the Senator from Pennsylvania is satisfied to have us proceed with a vote.

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Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GOLDWATER (when his name was called). Mr. President, on this vote I have a pair with the Senator from Illinois (Mr. SMITH). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

SEVERAL SENATORS. May we have order?

The PRESIDING OFFICER (Mr. LONG). The Senate is not in order. Senators desiring to carry on conversations will retire from the Chamber.

The rollcall was concluded.

Mr. GRIFFIN (after having voted in the negative). Mr. President, on this vote I have a live pair with the Senator from Alaska (Mr. STEVENS). If he were present and voting, he would vote "yea." I have already voted "nay." I withdraw my vote.

The PRESIDING OFFICER (Mr. LONG). The Senate is not in order. The fault is 100 percent that of Senators. Senators desiring to carry on conversations will retire from the Chamber; otherwise the Chair will be required to have the Sergeant at Arms arrest Senators and make them stop talking to one another.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. McCARTHY), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. McCLELLAN) are absent on official business.

I further anounce that, if present and voting, the Senator from Georgia (Mr. RUSSELL) would vote "nay."

I further announce that, if present and voting, the Senator from Virginia (Mr. BYRD) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New York (Mr. GOODELL), the Senator from Illinois (Mr. SMITH) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from New York (Mr. GOODELL) would vote "yea."

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "nay."

The respective pairs of the Senator from Illinois (Mr. SMITH) and that of the Senator from Alaska (Mr. STEVENS) have been previously announced.

The result was announced—yeas 69, nays 15, as follows:

[No. 99 Leg.]

YEAS—69

Aiken
Allen
Anderson
Baker
Bayh
Bellmon
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Fong
Fulbright
Gore
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Sparkman
Spong
Stennis
Symington
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NAYS—15

Allott
Bennett
Curtis
Ellender
Ervin
Fannin
Holland
Hruska
Jordan, N.C.
Long
Miller
Murphy
Talmadge
Thurmond
Tower

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Goldwater, for.
Griffin, against.

NOT VOTING—14

Byrd, Va.
Dodd
Goodell
Gravel
Gurney
Hughes
Inouye
McCarthy
McClellan
Mundt
Russell
Smith, Ill.
Stevens
Tydings

So Mr. ALLEN's amendment was agreed to.

Mr. ALLEN. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Mr. ALLEN. Mr. President, I ask unanimous consent that the reading of the amendment at length be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 of the bill, beginning at line 5, strike out all through line 10, on page 3, and insert in lieu thereof the following:

"(b) (1) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

"(A) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

"(B) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

"(C) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1 of the Constitution;

"(D) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

"(E) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

"(F) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

"(2) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (A) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (B) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

"(3) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; or shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

"(4) For the purposes of this subsection, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President, or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied thereof not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

"(5) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (A) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (B) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

"(6) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any re-

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quirement of registration that does not include a provision for absentee registration.

"(7) Nothing in this subsection shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

"(8) The term 'State' as used in this subsection includes each of the several States and the District of Columbia.

"(9) In the exercise of the powers of the Congress under the necessary and proper clause of the Constitution and under section 5 of the fourteenth amendment, the Attorney General is authorized and directed to institute in the name of the United States such actions, against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this subsection.

"(10) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection, which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

"(11) The provisions of section 11(c) shall apply to false registration, and other fraudulent acts and conspiracies, committed under this subsection."

Mr. ALLEN. Mr. President, this amendment is similar to the amendment the Senate has just agreed to. It is the Goldwater amendment, in effect, which was added to the Scott-Hart amendment by way of modification. With the adoption of this amendment, the two proposals, the administration bill—I say the administration bill, because it is supported by the administration—which passed the House and is pending before the Senate, being H.R. 4249, and the Scott-Hart amendment will be identical except for the method of handling voting rights, the administration bill, H.R. 4249, providing for nationwide application of the law, and the Scott-Hart amendment handling the matter in a somewhat different way, which the Senator from Alabama will possibly detail at length in discussing other amendments.

But when the Senate comes to the point of considering whether to be for H.R. 4249 or the Scott-Hart amendment, if this amendment is agreed to, then the only question of difference between the two proposals would be the method of handling the voting rights question. It would be a pure question of that without extraneous matters being on one and not on the other. It would be a pure question of how to handle the voting rights.

The junior Senator from Alabama discussed this proposal with the distinguished Senator from Arizona (Mr. GOLDWATER). The distinguished Senator from Arizona agreed and acquiesced in this amendment being offered to the bill, H.R. 4249.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. HRUSKA. Mr. President, as one who is interested in this particular title of the House-passed bill, I would say it is highly meritorious and this amendment is good. As a matter of fact, the Senator from Nebraska places high merit upon the entire bill, H.R. 4249, and I hope the Senate will approve the whole thing, but that is left for a future time. It would seem, however, the effort the Senator from Alabama is indulging in now is a good one; namely, that the bills will be identical, that the House-passed bill and the Scott-Hart amendment will be identical in this particular, so that the points of difference will be in other areas and will attach only to the voting rights provisions.

I would suggest a voice vote by way of approval, although I do not want to preclude a rollcall vote.

Mr. SCOTT. Mr. President, will the Senator permit me to speak on my own time?

Mr. ALLEN. Yes.

Mr. SCOTT. Mr. President, I think this amendment is subject to the same defects I addressed myself to before. The two bills, even if they were adopted, would still be far from the same. One will contain the burden of proof in one direction, and the other bill will contain the burden of proof in the other. One bill will, in effect, continue the Voting Rights Act; one bill will not. Therefore, H.R. 4249 and the Hart-Scott substitute are as different as they could be, with the exception of the fact that some amendments, notably the 18-year-old amendment, will appear in both bills. Therefore the objection to the 18-year-old provision, which most of us voted for, will be just as objectionable to the House conferees in one bill as it will be in the other, as I see.

I think we ought to have a yea-and-nay vote. Therefore, I request the yeas and nays.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, the distinguished Senator from Pennsylvania understands, does he not, that the 18-year-old provision has already been added to H.R. 4249?

Mr. SCOTT. I said with the exception of the 18-year-old provision, which will be in both bills now.

Mr. ALLEN. This merely adds the presidential residency requirement. We are not tampering with the other; we are leaving that for decision later.

Mr. SCOTT. There is no great objection to the Goldwater amendment going into both versions of the bill. I thought the Senator was offering what we had referred to as the Cooper amendment.

Mr. ALLEN. No. There is no way for that to go into the administration bill, because the administration bill has no trigger.

Mr. SCOTT. That being the case, having intended to make the point on the Cooper amendment, and now realizing that the Senator from Alabama has proposed only the Goldwater amendment, which we had accepted on the Hart-Scott substitute, I would like to ask unanimous consent that the order for the yeas and nays be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, I request that the yeas and nays be had.

The PRESIDING OFFICER. The Senator objects to the order for the yeas and nays being vacated.

The question is on agreeing to the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Iowa (Mr. HUGHES), the Senator from North Carolina (Mr. JORDAN), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Arkansas (Mr. FULBRIGHT) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. RUSSELL) would vote "nay."

I further announce that, if present and voting, the Senator from Virginia (Mr. BYRD) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT), is absent because of illness.

The Senator from New York (Mr. GOODELL), the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from New York (Mr. GOODELL) would vote "yea."

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Illinois (Mr. SMITH) would each vote "yea."

The result was announced—yeas 78, nays 5, as follows:

[No. 100 Leg.]

YEAS—78

Aiken
Allen
Allott
Anderson
Baker
Bayh
Bellmon
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Fannin
Fong
Goldwater
Gore
Griffin
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Miller
Mondale
Montoya
Moss
Murphy
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Sparkman
Spong
Stennis
Symington
Thurmond
Tower
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NAYS—5

Ellender
Ervin
Holland
Long
Talmadge

NOT VOTING—17

Byrd, Va.
Dodd
Fulbright
Goodell
Gravel
Gurney
Hughes
Inouye
Jordan, N.C.
McCarthy
McClellan
Metcalf
Mundt
Russell
Smith, Ill.
Stevens
Tydings

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So Mr. ALLEN's amendment was agreed to.

Mr. ALLEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which my amendment which embodied the Mansfield amendment was agreed to.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HOLLAND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SAXBE). Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I send up my substitute, known as the Scott-Hart substitute, and in section 205 I propose to change the word "title" in line 4, to the word "act." I have so advised the distinguished Senator from Alabama (Mr. ALLEN).

The PRESIDING OFFICER. The question is on agreeing to the amendment to the substitute amendment.

The amendment to the amendment was agreed to.

Mr. SCOTT. Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPROPER CONDUCT BY GOVERNMENT EMPLOYEES

Mr. LONG. Mr. President, I read two paragraphs from an article published in this morning's Washington Post:

> Meanwhile, more than 500 professionals in the federal government—doctors, lawyers and others in about 10 departments and agencies—signed a petition urging Senate rejection of Carswell.
>
> The petition, drafted by three staff lawyers at the National Labor Relations Board, called Carswell's civil rights position "a callous affront to the black and white citizens of the nation" and criticized his "utter lack of qualifications as a jurist."

Mr. President, according to the article, a part of which I have read, more than 500 professional people in Government, doctors, lawyers, and others, in about 10 departments and agencies have signed a petition urging the Senate to reject the nomination of Judge Carswell.

I am well aware of the fact that we have civil service laws in this country. But I am also aware of the fact that this is supposed to be a government under a Constitution, under which the President is supposed to administer the laws of this country, and he is supposed to lead and direct this country.

These people in the executive branch, theoretically at least, are working for the President, and the President is working, in theory at least, for the people who have elected him President of the United States.

If we are going to have this kind of thing, of those in the executive branch signing petitions urging that the President should not do his duty as he sees it and has promised the people he would do it, be it something I would agree or not agree with, that is a departure from the theory that the people in this country rule.

It supports the argument that the Government should be ruled from within, that those who hold Government jobs, the intellectually elite few in the Nation's Capital, and in a few larger cities in addition to the Nation's Capital, who are mostly on the Government's payroll and who have achieved their present jobs because of their views, should be permitted to pretty well dictate and dominate the Government, even though the people might want it run in some other way.

It does not seem to me that the civil service was meant to achieve that kind of objective. I can recall Government service when those in Government felt that to the victor belonged the spoils. Those in power supported their leadership. If they did not support their leadership, they were fired. When the election came along, everyone in that administration expected to go out if they lost, and they expected the other side to take charge.

Criticize it, and I do criticize it with regard to those who were not attempting to determine policy, but that was the case of the people ruling. They decided who would run the Government, and those they elected would be in charge and would run it.

If the President promised to do something—and President Nixon, for whom I did not vote, said he was going to try to appoint people to the Supreme Court whom he regarded as strict constructionists—and if he is trying to do what he pledged to the American people he would do, the people in the executive branch of the Government should not undertake to sign petitions saying in effect, "You should not do this. You are wrong. You are evil. You are incorrect, and your judgment should be voted down."

If President Nixon is sincere, he should dismiss all or a great number of those people to whom I have referred, so that we would understand who is running the Government.

One of my dear friends, who was once Governor of the State of Louisiana, told me on one occasion:

> If you are not running anything but a peanut stand, someone must run the thing, or otherwise you will go broke.

If the President is to be trusted, and if he has the responsibility of administering the laws and directing the executive branch of the Government and has that duty and responsibility, we should recognize and respect him for that.

Therefore, Mr. President, I view with considerable concern this procedure—and this is not the first time it has occurred—of passing petitions around among people who have positions of responsibility in which they can help to make the policy of the Government and seek to put pressure on Government to do that which is contrary to what the President is trying to do.

I say that as one who did not vote for President Nixon; I voted for Vice President Humphrey in the campaign, but he lost. I assume that the people who signed this petition would be pleased with the way Vice President Humphrey would have handled the same responsibility if he were President, but these people are not supposed to like it.

They presume not to be for Mr. Nixon because he is doing the kind of thing he said he was going to do when he ran for office.

If this Government is going to be a government in which people rule, a government of the people and by the people, then this thing of Government professionals signing petitions urging the Senate to reject the views of the President, they should be terminated.

If we are going to support the theory that the people rule the Government, rather than the other way around, that the Government is responsible to the people, and not merely responsible to itself, then people in the executive branch who sign petitions urging the Senate to decline to support the President in doing what he feels he should do under the law, should not be part of the executive branch. They ought to resign or be dismissed.

If the law needs amending in that respect, I will certainly be happy to offer an amendment to do it.

Some of these people, such as Cabinet officers—whom he has the right to dismiss—have consistently offered their resignations when they said they could not support the President.

The civil service is not intended to support someone in the ranks of Government who sees fit to directly oppose and seek to frustrate the Chief Executive who is elected by the people when he seeks to do what he said he was committed to do when he was a candidate for public office.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

AMENDMENT NO. 547

Mr. ALLEN. Mr. President, I call up my amendment No. 547 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read the amendment as follows:

AMENDMENT

In lieu of the language proposed to be inserted by Mr. SCOTT to H.R. 4249, an Act to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, insert the following:

"That this Act may be cited as the 'Voting Rights Act Amendments of 1970'."

SEC. 2. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by repealing sections 4 and 5 of said Act.

Mr. ALLEN. Mr. President, I modify my amendment by adding, in line 5, after the figure "4" the phrase, enclosed by parenthesis, "except subsection (e)".

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

In lieu of the language proposed to be inserted by Mr. SCOTT to H.R. 4249, an Act to extend the Voting Rights Act of 1965 with respect to the discriminatory use of test and devices, insert the following:

"That this Act may be cited as the 'Voting Rights Act Amendments of 1970'."

SEC. 2. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by repealing sections 4 (except subsection (e)) and 5 of said Act.

Mr. ALLEN. Mr. President, before I yield the floor, I will explain the nature of the amendment and the nature of the modification.

For a number of days I have had a prepared speech to deliver with respect to the pending House bill and the Scott substitute thereto, but all of my discussions in the past few days have been without benefit of text or notes. After reading the prepared speech, it is my purpose to further comment on the bill and the amendment and my own amendment now pending before the Senate.

Mr. President, I am unalterably opposed to the enactment of H.R. 4249 and the Scott amendment offered as a substitute to H.R. 4249. Throughout this discussion I shall refer to H.R. 4249 as the administration bill and to the Scott amendment as the substitute.

No matter what grounds may have existed for enactment of the Voting Rights Act of 1965, they no longer exist. The rationalizations that may have existed no longer apply. We are one nation and we are governed by the law of one Constitution. We canot separate this Nation geographically and apply one set of constitutional standards in one region of our Nation and another set of standards in another region.

In this connection, the law of the Constitution vests the power in States to prescribe voter qualifications. That law applies uniformly throughout the Nation.

I might say parenthetically that I am not discussing the 18-year-old voting qualification; I am discussing the literacy test.

The right to prescribe literacy as a qualification for voting is inherent in every State legislature, and the right to fix residency requirements as a condition for participation in the electoral processes of a State is inherent in the legislative powers of every State of the Union.

We are not talking about the merits of literacy as a qualification for voting. We are not talking about the merits of various residency requirements as adopted by the States.

We are talking about who has the right to decide the merits. Under our Constitution, that right is vested in State legislatures, or else the people have decided these matters and incorporated their decision in the organic law of their respective State constitutions. Congress has no power under the Constitution to prescribe in these areas and it cannot, by any stretch of the imagination, do so except by an open and palpable usurpation of power in violation of the U.S. Constitution.

Mr. President, this is the issue. It is the only issue. Will this Congress be bound by the law of the Constitution?

Literacy as a qualification for voting is not unconstitutional. Neither the Supreme Court nor Congress has even pretended as much. A literacy qualification for voting cannot be abolished by Congress. Neither does Congress have the power to set aside State residency requirements for voting in any election and establish its own, no matter how unwise Congress may believe State decisions to be.

Mr. President, the bills before the Senate attempt to usurp powers of the States under the guise of protecting citizens against discrimination in the exercise of the franchise. Present facts will not support the charge of discrimination. Let me demonstrate the truth of this statement.

The Voting Rights Act of 1965 was justified to the American people on the ground that literacy tests were alleged to have been administered in a discriminatory manner in certain Southern States; it was said that such discrimination could be detected by a low percentage of voting-age citizens who were registered to vote or who actually voted in the presidential election of 1964. It was also contended that the poll tax discriminated against Negroes and that they should not be required to pay the tax as a prerequisite to voting. It was said that if the literacy tests were suspended in certain States for a period of 5 years and that if the poll tax were suspended pending a test of constitutionality, and if Federal registrars were sent into the States to register voters for a period of 5 years, and if Federal poll watchers were assigned, and if State legislatures could be required to submit certain of their laws for approval of the Attorney General or to the Federal court in the District of Columbia, then the alleged discrimination would be cured, and the massive departures from constitutional law would then be justified.

Mr. President, let me briefly review what transpired during almost 5 years of the life of the Voting Rights Act of 1965.

It is said that over a million Negroes have been registered to vote during this period. It is my judgment that this estimate is on the conservative side and that there are considerably more that have been registered.

Be that as it may, it is reasonable to say that 95 percent of those registered were registered with the expectation that they would become alined with the Democratic Party. For example, it is more than a mere coincidence that the assignments of practically all Federal voter registrars were timed to voter registration drives and most occurred in a period of but a few weeks prior to Democratic Party primary elections in the Southern States. Such activity prior to Democratic primary elections seemed passing strange to many observers, if for no other reason than the traditional affiliation of Negroes in the South with the party of Lincoln.

Nevertheless, when a voter participates in a Democratic Party primary election, he pledges to support the nominee of the party in the general election. That means he will not vote Republican in the general election.

Neither was it a coincidence when the then U.S. Attorney General under the Johnson administration journeyed to Alabama to tell an audience of 4,000 gathered for the occasion in the Mobile, Ala., city auditorium that he intended to get every Negro in Alabama registered in time to vote in the Democratic Party primary election 2 months in the offing.

Under the circumstances, one can understand the desire on the part of the Republican administration to appoint Federal voter registrars and to conduct further voter registration drives throughout the South. And if the issue could be decided on the basis of quid pro quo, it would be hard to say that the Republicans are not entitled at least to a turn at bat.

After all, the Democrats got their turn at bat when the Republicans, carpetbaggers, and scalawags pulled up stakes and left the South along with Federal troops following Reconstruction No. 1.

So, there are equitable considerations and historical precedent for giving this administration a chance to proselyte in an effort to regain the votes of its former adherents. And, considering the rather unrestrained manner in which Federal registrars issue bearer certificates which entitled the bearer to vote, and considering the "checkoff" system authorized by present law, the political payoff possibility of recruitment is indeed promising.

But, of course, how Republicans may use the power to appoint Federal registrars and conduct voter registration drives is not the question. The question is whether or not there remains justification in law or in fact for a continuation of Reconstruction II, and more spe-

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cifically that phase of it which relates to Federal supervision of voting.

Let us examine events having a bearing on the original justification for the Voting Rights Act.

Let us consider the poll tax.

The Supreme Court has declared it unconstitutional—it is gone forever, and contrary to what many may have been led to believe it was not particularly grieved. But in any event there is no chance of its reemergence as a prerequisite to voting.

So that justification of the 1965 act no longer exists.

Now what about the literacy test?

It is gone, too. The Supreme Court has said that segregated education imposes a racially discriminatory burden on Negroes in passing a literacy test. So, most of the Southern States cannot reimpose a literacy test.

So that justification no longer exists.

Mr. President, if one were to examine debates on the enactment of the Voting Rights Act and delete the rhetoric in the form of self-righteous breast beating and propaganda about the discriminatory effect of a literacy test and the discriminatory effect of the poll tax, one would be hard pressed to find a single valid argument left for enactment of the act, to say nothing of justification for extending the act for another 5 years.

I use the term "extending the act for another 5 years" loosely, as I shall explain later, because actually, the act is not what is being extended; it is the punishment, the sentence on the Southern States which is being changed from a 5-year sentence to a 10-year sentence, with a 5-year probationary period applying both under present law and under the Scott amendment.

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Even the Supreme Court justification of the act is founded on the necessary assumption of discriminatory use of the literacy test and the discriminatory effect of the poll tax. Without the discrimination, where is the power of Congress to act?

With the poll tax out of the way and with the literacy qualification proscribed by the Supreme Court, what remains of the act to be extended?

The argument is that the administration needs authority to appoint voter registrars and to utilize the checkoff by appointment of Federal observers in order to protect the right of Negroes to vote. Of course, it is well known that the checkoff by observers is not to protect the right to vote but to guarantee that the voter votes right.

The argument for extension assumes that Federal registrars coupled with voter drives will result in greater numerical returns than if local boards of registrars did the job. The implication is that members of local boards of registrars and local election officials who work at a thankless job only from a sense of civic responsibility are lying in wait to deny Negroes the right to vote. That just is not true, Mr. President.

What do the facts show about this alleged plot of housewives and civic-minded citizens who serve as voter registrars and voting officials in tens of thousands of beats and precincts throughout the South?

Even if we accept the shockingly distorted data compiled by special pleaders who rely on 1960 census figures and other unreliable sources of information, their figures show that in six of the Southern States covered by the Voting Rights Act, Federal registrars listed only 158,000 Negro voters, whereas local boards of registrars listed 740,000. 158,000 by the Federal registrars, 740,000 by the local registrars. Mind you, these figures are from just six Deep South States.

Mr. President, the modern reconstructionists point to these figures and cannot say enough in praise about the great success of the Voting Rights Act. It is said to be the most successful piece of civil rights legislation ever enacted. I believe I have heard the distinguished Senator from Michigan make that very statement. But who did the job? Was it the Federal registrars who listed less than 15 percent of the Negroes throughout the South or did local boards of registrars list 85 percent? So, what are the grounds for alleging discrimination? Do these figures prove discrimination?

Well, as all Senators know, there are no specific allegations of discrimination. Instead, we are treated to a new conspiracy theory of discrimination. This theory takes its place beside the dangerous novelty of a dual Constitution propounded by modern liberals. Listen to this bit of information accompanying the substitute bill.

Let me quote from the joint views of Senators who introduced the substitute and who submitted as their own the conclusion expressed in the following language.

The conclusion states:

> Mr. Vernon E. Jordan, Jr., director of the Voter Education Project of the Southern Regional Council, . . . summarized the essential question before us—the danger of failing to extend that act in full force:
>
> I know—as well as any man in this room that Canton and Grenada and Selma and Dandersville and hundreds of other Southern Communities stand poised and ready to eliminate the burgeoning black vote in their jurisdictions. The slightest flicker of a green light from Washington is all these white-dominated communities need. When they receive the signal, they will act.

Can one imagine such nonsense? Does this so-called expert think that cities enact voter laws? Does he not know that State legislatures and only State legislatures can change voter laws? But that is not the worse part of this statement. He asks us to believe that conscientious housewives and dedicated civic-minded citizens who report to the polls at seven in the morning and remain until midnight or later until the ballots are counted are there conspiring to cheat and swindle and steal elections. This is a gratuitous insult to hundreds of thousands of citizens. And on the basis of this insult modern reconstructionists insist that Federal Government must be empowered to police the work of these citizens. This is an infamous and gratuitous insult. I resent it. Millions of people in the South and in the Nation resent it.

Furthermore, the insult in the substitute bill is not limited to thousands of election officials and members of local boards of registrars. This monstrous piece of proposed legislation seeks to perpetuate a contumelious deception to the effect that the members of State legislatures in six Southern States are guilty of a conspiracy to disenfranchise Negro voters.

Nor is the insult limited to State legislators. The substitute implies that U.S. district court judges cannot be trusted to enjoin enforcement of State laws found to be in conflict with the U.S. Constitution as such laws relate to protection of the right of a citizen to vote.

Yet, Mr. President, it is on the basis of this hysterical conspirational theory that some Senators assert a power in Congress to compel State legislatures to submit their laws dealing with elections for approval or rejection by the U.S. Attorney General.

I wish that Senators who advocate the idea that members of State legislatures in the South cannot be trusted would appear before these legislatures and try to justify that charge. And I wish that these Senators would appear before a U.S. district court judge in one of these six States and explain to him why that judge cannot be trusted to uphold the law.

Mr. President, I am tempted to suggest that such a neurotic manifestation of suspicion of citizens, of elected Representatives of the people and of U.S. district court judges, along with the elaborate conspiratorial theory of discrimination is evidence of a psychological malady referred to as the projection complex. Yet, I cannot bring myself to believe that the Senators who support these malicious charges are merely projecting their own faults and hostilities into others. Instead, I have to conclude that they are grossly misinformed of the character and integrity of Southern manhood and womanhood, or else they are unbelievably gullible.

But an insult is one thing and the claim of power in Congress to administer the electoral process of a State is quite another thing and mere insults do not sustain the claim of discrimination, the necessary ground for any kind of congressional action in this area.

Yes, Mr. President, it is the conspiratorial theory that some Senators rely upon as a claim of power in Congress to compel sovereign States to come hat in hand to the Federal executive or to the Federal court in Washington for permission to amend its laws relating to the voting processes and procedures.

Mr. President, I plead for commonsense reasoning in an examination of this issue. Does Congress have the power to veto State legislation? Of course it does not. Then how can Congress delegate a power it does not have to the U.S. Attorney General?

If Congress does not have the power, how can it, the creator, delegate that power to that which the Congress has created, the Attorney General? But that is exactly what the Scott amendment seeks to do. Do the distinguished Senators who contend Congress has such power base it on the 15th amendment? The Supreme Court upheld that point of view under allegations which it mistakenly believed to be facts in 1965. It will not uphold such a palpably nonsensical proposition in 1970 on entirely different facts. One can make that prediction with a degree of certainty because the Supreme Court cannot reasonably be expected to negate one of the fundamental principles set out in the Declaration of Independence.

On this point, Mr. President, the sovereign right of the people to alter their form of government and to reorganize its powers and to structure a new government on principles which they believe will best promote their happiness is set out in the Declaration of Independence and is so fundamental that it is nothing short of astounding that members of the Senate would contend otherwise.

It was this principle that permitted us to change from a government under the Articles of Confederation to a Federal Government under the Constitution. Can it be imagined that this Constitution can now be invoked to deny the people of the States the right to amend their organic law or their statutory law without first submitting them to the approval of Congress or the Attorney General? If so, it is obvious that King George III missed a bet. Do these Senators seriously contend that the 15th amendment so empowered Congress? The 15th amendment did not nullify the Declaration of Independence. How then are States to be denied the right to alter their government by constitutional amendment or by statute?

Very soon now preparations will be underway to celebrate the bicentennial of the birth of our Nation. The people are certainly going to become more familiar than they are now with the fundamental principles upon which this Nation was founded.

All the king's horses and all of the king's men will not suppress a renewed interest in the fundamental principles of our constitutional system of government.

I predict that somebody is going to have to take to the storm cellars if Congress persists in enacting laws which depart from fundamental principles.

Mr. President, let me make this observation. Repeated departures from the principles of our Constitution by Congress and by Federal courts have a significance that transcends considerations of immediate effects of the separate departures. In a very real sense, a series of quantitative changes have taken place to alter our constitutional government. These were based on special pleadings and frequently on distorted and unreliable data and have been generating a head of steam which may abruptly reveal to the people a qualitative change in our form of government.

Even now there are many people, more perhaps than is generally thought, who have arrived at judgments based on the aggregate effect of departures from our Constitution. These judgments are not flattering to those who refuse to accept the law of the Constitution as the law that governs government. I think we had better consider this possibility very carefully and think twice before we lay claim to powers not granted by the Constitution.

Those of us who believe that our Federal Government is bound by the law of the Constitution are concerned by statements in the testimony of the U.S. Attorney General on the administration's proposal to extend the Voting Rights Act both in time and to additional States.

Among other things, the Attorney General in testimony on the administration bill (H.R. 4249) said in part as follows:

> Under the 1965 Act the Attorney General is required to go to court to request voting examiners and observers in non-Southern states. Under our bill he has the authority to send the observers and examiners any place without first applying to a court.
>
> Under our proposal he could institute a law suit any place in the country based on the broader statutory protection of a discriminatory "purpose and effect" of a particular voting law or set of voting laws * * * This would make it clear * * * that it is unnecessary to prove that the intent of the local or state officials was to establish a racially motivated voting requirement.
>
> Our new proposal would * * * (give) the courts the authority to issue blanket orders against voting law changes the penalty for violation of the court order would be contempt.

Mr. President, I submit that the administration design in the proposed legislation is clearly revealed in the above quotations. Consider for a moment the revolutionary departure from constitutional principles in the Attorney General's proposal to grant to Federal courts blanket authority to issue injunctions against State legislatures to prevent changes in voting laws under penalty of fine or imprisonment without benefit of trial by jury for contempt of court.

This means, of course, that State legislatures could be enjoined from drawing any kind of representative district boundaries in cities and counties and throughout the State without first having approval of a Federal district court. Of course, a State legislature may appoint counsel and go to a Federal court and prove that its judgment is based on sound and reasonable grounds. Such proof avails nothing if a Federal judge concludes that the representative district boundary lines offend his own sense of proportion or is contrary to his idea of a proper representative district.

We have already witnessed the spectacle of judicial gerrymandering in the State of Alabama and if the administration bill is enacted, it is clear that the Nation will be treated to the grand spectacle of Federal district court judges gerrymandering representative districts throughout the Nation.

That is but one aspect of the revolutionary power which is to be vested in the nonelected branch of the Federal Government. Federal district judges also become final arbiters of what amendments a legislature can make in any voting law of the States. It is a fact that few, if any, Senators would claim the knowledge to speak with authority on the voluminous election codes in their separate States. But any individual with the faintest knowledge of the volume and complexity of these laws must know that literally hundreds of amendments are necessary at each session in order to adapt and keep procedures in step with constantly changing and vastly disparate local conditions. The idea of denying State legislatures final authority on these changes is a monstrous departure from constitutional government to say nothing of a massive usurpation of power to be accomplished by injunctions against State legislative bodies and threats of fine and imprisonment of State legislators.

Mr. President, all of these departures from principles of constitutional federalism are supposed to be justified by alleged discrimination which has not been substantiated but is based on rumor, gossip, and hearsay perpetuated by shameless insults against citizens who cannot defend their reputations against character assassins.

Well, the Fourth of July is not far distant, and I look forward with avid curiosity to hearing Senators explain how the right of the people to alter their governments and to reorganize its structure and to reallocate its powers on principles which they believe best serve their interest has been repealed by the Constitution which these Senators have sworn to uphold and defend.

Mr. President, we have before us House bill 4249. It is the administration bill. It is the bill which the administration recommends as the best method of handling the voting rights issue in this country. And it is an important issue. It is something that merits the concern of interested citizens.

The junior Senator from Alabama feels that this is a State issue and that it should be handled by State governments.

The junior Senator from Alabama objects strenuously to the fact that the Voting Rights Act of 1965 was designed by a device to make the punitive provisions of the law, the automatic provisions of the law, applicable only in seven Southern States.

So, the target for the action, the target for the trigger, the target to be hit was chosen in advance. And it was the seven Southern States. And it was found by investigation—and it did not take too much trouble to get these figures from the Census Bureau—when the Voting Rights Act of 1965 was under consideration by Congress that in the seven States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana fewer than 50 percent of the voting-age population in those States were not registered or did not participate in the 1964 election.

Obviously the lower figure would be those who participated in the 1964 election, because every registered voter is not going to vote.

So the real test was not how many were registered on November 1, 1964, but how many actually went out and voted in the November 1964 election.

It was found that in seven States—actually only in six of these States—there were fewer than 50 percent. The State of North Carolina had more than 50 percent overall in the State, but it had 39 counties which had fewer than the required 50 percent. And even though the entire State had the requisite 50 percent, the provision of the law was made applicable to any county that had fewer than 50 percent, even if the whole State had more than 50 percent.

XUM

The reverse of that was not true. Where a State had fewer than 50 percent participating in the 1964 election, the whole State was covered even though some of the counties had more than the requisite 50 percent of participating voters in the 1964 election.

On checking into the matter of other States, it was found that the great State of Texas had only 44 percent of its voting age population who participated in the 1964 election.

Obviously, the President being a noted Texan and the Attorney General being a Texan, they did not want their native State to be subjected to the humiliation to which this Voting Rights Act subjects a State.

They therefore had to delve further into the matter of agreeing on a formula that would catch only the seven States I have enumerated. So, they decided they would require for a State to be automatically covered that it should not only have fewer than 50 percent of the voting-age population voting in the 1964 election, but also that it must have a literacy test for voters. But these two factors had to concur and coincide.

So if a State had a literacy test and fewer than 50 percent of its voting age population voted in November 1964, then the automatic trigger was set up in the bill itself, the Voting Rights Act of 1964, that would put those States under the punitive provisions of the act whether there was one single bit of proof of discrimination or not.

So, these States were indicted. They were convicted. They did not have a hearing. They did not have an opportunity to present witnesses. They did not have an opportunity to hear witnesses against them. They were indicted and convicted, without a trial, of discriminating against their own citizens in the matter of allowing their citizens to register and to vote.

XUM

Yes, Texas was left out. And I am glad it was. I do not want to see any State subjected to these humiliating provisions of this act. Why do I say humiliating? Without any proof of discrimination, the Federal Government sends voting registrars into a State. It sends poll watchers and election observers. They cover the ground like locusts.

A further humiliating aspect of the bill applicable to these Southern States—and I alluded to this in my prepared remarks—is that if one of these Southern States wants to change any of its laws dealing with elections, dealing with registrations, dealing with wards, dealing with boundaries of counties or boundaries of States, any law that possibly might have any bearing on any election, any voter, any right to vote, or any right to register, that State has to come to Washington to the District Court of the District of Columbia or to the Attorney General and get approval of that act before it can become final or become operative.

Mr. STENNIS. Is this a convenient place for the Senator to yield?

Mr. ALLEN. I am delighted to yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, the Senator's remarks about coming to Washington to get approval of the Attorney General certainly sparks a thought of my own along this very line. I call the Senator's attention to the fact that the 1970 census, to be taken next month, I believe, will certainly show new figures for virtually every area in the Nation and will bring about under present law reapportionments and redistricting galore, beginning with the county commissioners or county supervisors, whichever term is used, which is the small unit of county government, on up through every category of government including congressional districts, school districts, and many others.

Does not the Senator anticipate that will be what will happen?

Mr. ALLEN. The Senator is correct. The reapportionment, redistricting, rearranging of wards, rearranging of commissioner districts, that would all be done in Washington.

Mr. STENNIS. That would include the city level, the county level, and every level of government.

Mr. ALLEN. The Senator is correct.

Mr. STENNIS. Even in the little town with a five-man board of aldermen, as we say.

Mr. ALLEN. Yes.

Mr. STENNIS. They would be required to conform to that new census and they would have to send someone to Washington. Is that correct?

Mr. ALLEN. The Senator is correct.

Mr. STENNIS. First, the law would demand that they change these districts, then another law—if this should become the law—would require them to come to Washington.

Mr. ALLEN. Yes; and not only that but the enactment of the legislature or the county government could be vetoed here in Washington and it could be sent back with the statement, "We do not approve this; go back and do it another way."

Mr. STENNIS. Yes. I was going to come to a detail in that connection. The law requires the Attorney General to give approval, or they must get approval of the District Court of the District of Columbia.

Mr. ALLEN. Yes; the District Court in the District of Columbia.

Mr. STENNIS. Everyone knows that the Attorney General is no more a superman than anyone else. He could not possibly see more than just a small percentage of these people that are going to have to come up here and get approval. Is that correct?

Mr. ALLEN. The Senator is correct.

As a consequence, there will be subordinates and subordinates to subordinates, and as a matter of necessity those matters will go down to a level actually below the level of the Attorney General of the United States. Is that correct?

Mr. ALLEN. The Senator is correct. It might go down to the level of the typists, I might suggest.

Mr. STENNIS. Well, it could be. My remarks do not pertain to the present Attorney General, of course, but in my span here I have known Attorneys General who have been most strong in their views, which they repeat virtually every day to the press and before the committees, showing a very strong feeling against certain areas of the country. There is no doubt about it. It is a reality. Therefore, we have to deal with that.

Mr. ALLEN. Yes.

Mr. STENNIS. Now, with these villages, towns, small cities, school districts, and everyone else will be coming up here, if we have an Attorney General of that description, it could have the very opposite effect of what is fair play in local government or local responsibility. Is that correct?

Mr. ALLEN. Yes. The distinguished Senator from Mississippi will recall that the distinguished Senator from North Carolina presented a well-reasoned amendment to the bill which would have allowed the State or the smaller political subdivision to go before the Federal district court, in the State involved, for relief. However, that proposal was rejected overwhelmingly by the Senate.

Mr. STENNIS. Yes. I recall the amendment and the vote in that case. Just going down to the hard facts of life, in the first place, a great many of these districts that might be involved in a change of boundaries, because they do not have that kind of treasury, are not able to send lawyers and witnesses up here to see the Attorney General, much less to try a case in the district court here. Is that correct?

Mr. ALLEN. The Senator is correct.

Mr. STENNIS. So this measure would be shooting over the heads and going beyond the capabilities of the people who have these little self-ruling bodies of government at the district level.

Mr. ALLEN. The Senator is correct.

Mr. STENNIS. What is the effect in humiliation and pride at the State level and at the subdivision level of government with respect to not being trusted and not being permitted to attend to the ordinary functions of their own government? What effect will that have year after year after year?

Mr. ALLEN. That is a humiliating experience for our people to be convicted of discrimination without a trial and to have these penalties invoked against us. Our people feel they are sovereign in their respective States. The State government does not expect under the Federal-State relationship that it will have to come to the national government and ask for approval of its acts. I am not saying that a State can pass an unconstitutional act but it should be presumed under the most elementary principles of constitutional law that any law is presumed to be constitutional and presumed to have been enacted in accordance with the Constitution until proven otherwise. This section of the Voting Rights Act overturns that presumption that has been a legal presumption in the common law of England and in the common law of this country for centuries; that a law is presumed to be legally adopted until proved otherwise.

It is humiliating for our people to have to come hat in hand and ask Washington for approval of their legislative acts. We resent it very much.

Mr. STENNIS. Yes. I have stated the facts I know. People come to my office and they want advice and counsel about proceeding. Sometimes they want me to go with them.

I just think it is a very degrading experience for these people to have to go under when they are just totally innocent of any wrongdoing or culpability of any kind in this respect.

Is that the Senator's experience?

Mr. ALLEN. That is it.

Mr. STENNIS. I have a quotation before me. It is in the separate views of Representative POFF, of the House of Representatives, and appears on page 14 of the report. If the Senator will yield, I would like to read it.

Mr. ALLEN. I yield.

Mr. STENNIS. This is from the case of South Carolina against Katzenbach, which has been quoted here; and I do not blame the proponents for quoting it. But there was a dissenting opinion in that case, by none other than Justice Black. It is so striking and strong and pungent that I think this part, at least, ought to be read into the RECORD. I shall be quite brief. I am reading Mr. Justice Black from that case:

> I cannot help but believe that the inevitable effect of any such law—

That is the law we have been talking about—

> which forces any one of the States to entreat Federal authorities in faraway places for approval of local laws before they can become effective is to create the impression that the State or States treated in this way are little more than conquered provinces.

And this is a very important point:

> And if one law concerning voting can make the States plead for this approval by a distant Federal court or the U.S. Attorney General, other laws on different subjects can force the States to seek the advance approval not only of the Attorney General but of the President himself or any other chosen members of his staff.

Those are not my words. These are the words in the dissenting opinion in a decision of the Supreme Court of the United States. In a way, it is like reading the declaration of grievances in the Declaration of Independence, in which our forebears were complaining about how they had been treated by the Crown of England. Here we come along, 200 years later, according to this great Justice, saying that we are running on the same track. We are going back and recreating the very evils from which we fled and from which we gained our independence at the point of a sword.

I am very much impressed with his statement here. He summed it up so well. We have had this law for 5 years, but they do not give us any credit for that time or for any change that has been brought about. Do they give credit for all of that?

Mr. ALLEN. Not a bit. If every State covered by the triggering provision of this act had, since 1965, registered every person over 21 years in the State, and if they had participated in the 1968 presidntial election—with every person down there not participating in the election—we would still not be released from the provisions of the act, according to the Scott substitute. So it has absolutely no relationship to the good-faith efforts that the people of the South have made toward registering our citizens; and we have done a remarkable job.

Mr. STENNIS. I am astounded. I am glad the Senator has brought out so forcefully the fact that the renewal of this law will go that far. Where is there any help if it is not going to come from the Congress, and where will they listen to the plea of those being subjected, if it is not on this floor?

I thank the Senator for yielding.

Mr. ALLEN. I thank the Senator from Mississippi for his very fine comments. I appreciate his reading the dissenting opinion of Mr. Justice Black into the RECORD. I hope the Senator will participate further in the debate at a later time.

Mr. STENNIS. I thank the Senator.

Mr. ALLEN. Mr. President, the amendment offered by the junior Senator from Alabama does knock out two of the sections in the 1965 Voting Rights Act, sections 4 and 5. It does, except for section 4(e), a provision which the distinguished Senator from New York (Mr. JAVITS) and, I believe, the former distinguished Senator from New York, Robert Kennedy, put into the law to preserve the right of non-English-speaking voters to register in the State of New York, or any other State having such persons applying for registration, preserving their right to be accepted for a literacy test. In other words, they would not be barred from registering because they could not pass a test in the English language if they could pass one in their own language. So that would remain in the act, if the amendment offered by the junior Senator from Alabama were adopted.

Sections 4 and 5 are the triggering provisions and the provisions requiring a State to come to Washington for approval of its laws, and also to come to Washington for the purpose of seeking to come out from under the punitive provisions of the law which, under present law, requires 5 years' proof of nondiscrimination in the matter of registration and election in that State. What would remain would be 17 sections now in the present law. All of those sections would be applicable to all the States in the Union, whereas sections 4 and 5 apply to the States covered by the formula, with the exception of the provisions which are left in the act.

Mr. President, we heard a lot about the fact that the Scott amendment extends the Voting Rights Act for an additional period of 5 years. It does not extend the act. The act needs no extension provision. There is nothing in the act whatsoever, and I challenge any Member of the Senate to cite to me the section of the present act, that says it will expire in August of this year or at any other time. It is permanent legislation, and not just the 17 sections. Some say, "Two sections of the act will expire." No section expires. All 19 sections are permanent law.

It is necessary under this permanent law for any State covered by the formula to come into Federal court in the District of Columbia and prove nondiscrimination in the matter of elections and the registration of voters for a period of 5 years prior to the date of the filing of its petition.

So that if a State took no action whatsoever, never went into Federal court in the District of Columbia, it would never be free from the automatic punitive provisions of the act.

Some say, "Let's hurry up. If something is not done, this great act that has done so much, the shining light in the field of civil rights legislation, will expire. We must renew it." That is what some Senators say. But the act needs no renewal. It will not expire. No section of this act will expire. It will remain on the statute books until, hopefully, some day it is repealed.

What then does the amendment of the Senator from Pennsylvania and the Senator from Michigan do? It seeks not to extend the life of the act, because it is permanent legislation. It extends the sentence under which the people of the seven Southern States are operating. We are sentenced to remain under the provisions of this act for a period to be governed by the proof we offer in the Federal court in the District of Columbia that during the 5 years prior to the filing of the petition we did not use a literacy test for the purpose of discrimination.

The Scott amendment seeks to make that period a 10-year sentence.

Mr. STENNIS. Mr. President, is that a convenient place for the Senator to yield to me?

Mr. ALLEN. I yield.

Mr. STENNIS. Mr. President, do I correctly understand the Senator from Alabama to say that the Scott substitute proposes to make a 10-year ban on any kind of literacy test?

Mr. ALLEN. In effect, the Senator is right. We have to come in and prove that the literacy test has not been used in a discriminatory fashion during the preceding 10 years, whereas now it only takes 5 years to come out from under this provision. Not only that, once we serve out the 5 years' imprisonment, then the Federal court here in Washington—again I remind the Senator—not only has to approve of the legislative action of the State, but to get out from under the punitive provisions of the bill, a State has to come to Washington as well.

Once a State is released from the punitive provisions of the act, the Federal court in Washington retains jurisdiction of this matter for an additional period of 5 years, during which time the Federal court on allegations or averments—no proof is required, just an allegation of the Attorney General that we are guilty of discrimination—reopens the case and we are back under the act.

That is the reason the junior Senator from Alabama says that the act does not expire. It goes on and on and on. Suppose a State is not able to prove 5 years of nondiscrimination. Suppose that 3 or 4 years ago a State was found to be guilty of discrimination. The State is not out from under the act yet. It has to wait 5 years from that finding. When it finally does get out from under the act, they will be on probation as it were for an additional period of 5 years. It is a humiliating experience to our people.

Mr. STENNIS. The Senator knows as a lawyer, as well as a man of practical judgment, how hard it is to prove a negative.

XUM

Mr. ALLEN. The Senator is correct.

Mr. STENNIS. It is hard to come into court and put on absolute proof of a negative. And more especially is that true when it pertains to a great many acts involving a great number of people and extending over a period of time, 3 years, 5 years, 8 years, and now the Senator has said 10 years.

So, as a practical matter, it just places us in a position of servitude. There is no presumption of innocence, but rather a presumption of guilt.

Mr. ALLEN. The Senator is correct.

Mr. STENNIS. Mr. President, I want to ask the Senator a question with reference to the qualifications for voting. A ban has been placed on any kind of literacy test. As I said here the other day, in all of my experience here that was a step that Congress took that was the most biting and, if I might use an ordinary term, the most backward step that I believe our system of government could attain.

Does the Senator see this matter in that way with reference to the ban on literacy tests?

Mr. ALLEN. I certainly do.

Mr. STENNIS. Instead of moving forward, we are moving backward. That took off every kind of restriction.

Mr. ALLEN. Mr. President, the junior Senator from Alabama was shocked when the Senator from Pennsylvania offered his amendment, proposing taking a national backward step in the matter of abolishing literacy tests nationally.

I had the affrontery to ask the distinguished Senator from Pennsylvania if he was seeking a less literate electorate. He said in substance, "Why, no. I am not seeking a less literate electorate, because everyone is getting smarter and reading more. And they are learning a whole lot more, and we do not need a literacy test."

It seemed passing strange to me that we are going to get a more literate electorate by abolishing all literacy tests.

I believe that is in line with the thoughts of the Senator from Mississippi in connection with the Voting Rights Act of 1965.

Mr. STENNIS. The tragedy is that we are not moving forward, but moving backward. We are taking areas and banishing them and putting them under this kind of prohibition. Under our form of government, it seems to me—with all due deference to those who voted to the contrary—it is heresy, because the power of the government rests in the hands of the people. They do elect their representatives to make the laws; they do indirectly interpret the law; they do directly choose the ones to execute the laws. It takes intelligence and some kind of test to exclude those that are totally controlled by someone else, and without the tools of being able to read that go with the process of making a decision in modern times.

In some other kinds of government—and I say this with all deference to Asiatic countries—that do not have our system of liberty and freedom it might be all right to have that kind of procedure, but it would be backward for us to take that unto our bosoms ourselves, after all this advance from the old countries of England and other countries that contributed to evolving a separate system of law embracing a concept of liberty and freedom for the individual and the concept of governing ourselves.

Now, to go back and erase something like this and to write it into the law of the land and force it on the people is just ridiculous. I say that with all deference to those who are holding for this provision. It is because of one reason; it is because it is tied in with the civil rights question, and everything goes, except, it seems to me, this time everything is going to be made even stronger, as the Senator from Alabama pointed out.

I am proud of the Senator's amendment that would strike out sections 4 and 5. I wish we could strike it out and then destroy the record of it ever having been the law because of the reasons I have already given relating to the suppression of responsibility that it brings about with respect to our people.

I thank the Senator for yielding to me.

Mr. ALLEN. The Senator will recall that God blots out our sins and remembers them against us no more.

I am sure the Senator would like that sort of treatment applied in this case.

Mr. STENNIS. The Senator has stated it well.

Mr. ALLEN. The junior Senator from Alabama appreciates very much the fine statements and wonderful contributions made by the distinguished Senator from Mississippi to the discussion. The Senator from Mississippi mentioned the fact that this addition of 5 years of proof to the measure that the Southern States have to make in seeking to come out from under the trigger provision, the automatic coverage of this act, is in a sense a conviction. It is a changing of the term or sentence of a conviction. We all know that it is not legal, constitutional, proper, or right for the sentence of a prisoner, imprisoned in the penitentiary under a definite sentence who has about served his sentence, and they come in and say, "Oh, no. We sentenced you to 5 years in the penitentiary and we just decided right here to make that a 10-year sentence." That would not work. In this case it is comparable to our 5-year sentence, being the sentence of the Southern States for proof of 5 years of nondiscrimination, as August 7 approaches and we are able to go into Federal Court in Washington and assure and prove to the court that we have not discriminated for the 5 years preceding the filing of the petition. That would be an ex post facto law and, in a sense, this is an ex post facto law because it changes the sentence imposed on the Southern States after the existence of the fact—if it be a fact—of what we are charged by law, without trial, by act of Congress, with discrimination, have been sentenced to prove 5 years of nondiscrimination before we could be released from it; and then by coming in and saying, as the Scott-Hart amendment seeks to do, "We are going to make that a 10-year sentence."

That is said when we seek to get out from under the provision, still being subject to a probationary period of 5 years. That should satisfy any Senator who wishes to inflict humiliation on the Southern States. That ought to satisfy any person who seeks to protect the voting rights of citizens within our area, I suppose.

With sections 4 and 5 expunged and remembered against the perpetrators of these sections no more, all States would be covered by the same act. As pointed out the other day in the Senate these sections, outside of sections 4 and 5, have nationwide application. If we are seeking a national law as the administration bill seeks to have, we have that national law under sections 1 through 19, excluding sections 4 and 5.

So if it is a national law that we seek, we can get it by agreeing to this amendment knocking out sections 4 and 5, and then all remaining laws will be applicable to all States alike.

The distinguished Senator from Mississippi, early this afternoon, read from a dissenting opinion in the case of South Carolina versus Katzenbach, in which Mr. Justice Black dissented from the majority opinion upholding the constitutionality of the Voting Rights Act of 1965. His dissent was as to section 5, not as to the remaining portions of the act. But as to section 5, he ruled that section unconstitutional in his dissenting opinion.

I do not suppose that anyone would charge Mr. Justice Black with meeting the standards that the President is said to have set for future appointments to the Supreme Court. That he be a strict constructionist, because the junior Senator from Alabama would feel that possibly Mr. Justice Black is an activist on the Court. So it was a pleasant opportunity to read the dissenting opinion of Mr. Justice Black, declaring section 5 of the Voting Rights Act of 1965 to be unconstitutional. He took to task in very brilliant language the provision of the Voting Rights Act of 1965 requiring States and political subdivisions to come to the Federal district court in Washington to prove that their legislative acts—in the case of cities, of course, ordinances, and in the case of county commissioners, resolutions, possibly—are not discriminatory, and getting the approval of the district court or the Attorney General. Apparently the States and political subdivisions are given an option with respect to the approval of their acts, ordinances, or resolutions.

But according to the report of the House Committee, the Federal District Court in Washington is about two and one-half years behind in its calendar. If we have to wait five years before we can even go into court and ask for a release, and then have to wait until the case is reached in the district court—if we go that route—or if we go to the Attorney General and wait in line to get our act, ordinance, or resolution acted upon, there is no telling how long it might be before we could get approval by the court or the Attorney General.

But Mr. Justice Black, as the distinguished Senator from Mississippi pointed out, called attention to the fact that that was similar to the situation in Colonial America and that the Declaration of Independence cited similar grievances

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against King George III. One of the items or charges or indictments against the British monarch was that he required the legislative and judicial bodies of the Colonies to meet at inconvenient places, places far removed from where the records of the Colonies were kept. He did that in order to force the colonies to submit to his will. Well, the colonies did not submit to his will. They rebelled against the English despotism and bureaucracy.

It was interesting that Mr. Justice Black compared that indictment against King George III to the requirement in the Voting Rights Act of 1965 that the States must come, hat in hand, to distant places, and lay their acts, resolutions, and ordinances before the court here in Washington, or the Attorney General here, for approval.

He objected very strenuously to the thought that a creature of Congress, or Congress itself for that matter, could veto acts of the legislative bodies of the respective States. He said if they could veto some act regarding voting or registering, they could veto any type of act; and if the Attorney General could veto it, the President could veto it, or it could be provided that he could veto it. And if it could be provided that the President could veto an act of a State, then it could be provided that any other Federal official that could be named could veto an act. Therefore, Mr. Justice Black is of the opinion that this act of Congress goes beyond the provisions of the Constitution and is unconstitutional. He thinks it might have the effect of helping to destroy the federal system, the relationship between the Federal Government and the State governments, wiping out State lines, and making the Federal Government supreme.

I must say that some of the distinguished Justice's other opinions do just that. I am glad that in this one opinion he seemed to lean the other way—not that it had any great effect upon the holding of the Supreme Court, because it was a dissenting opinion, but it does show the unreasonableness of such a requirement and the humiliating nature of the requirement with respect to the Southern States, just because in 1964 they had literacy tests in their States and fewer than 50 percent of the voting population went to the polls and voted.

Many Senators realized, I am sure, that in the once Democratic South, the big election is not the general election, even in a presidential election; it is the Democratic primaries. That is where we have our biggest votes. Certainly that is true in my State of Alabama. But the test was the 1964 presidential election figures.

There was really not much use in putting in the act that on November 1, 1964, 50 percent must have been registered or have voted, because obviously one could not vote if he were not registered. So they might just as well have knocked out the first requirement and just said "voting."

The Senator from Mississippi pointed out that the Scott-Hart amendment gives no credit to a State for the efforts it has made since 1965 to register its citizens, white and black. I might say parenthetically at that point that the formula that was set up in 1965, looking back retrospectively to the 1964 figures, did not take into account at all the matter of how many of the voters in the respective States were white or black. It could have been that every black person in a State was registered. So, if the percentage did not come up to 50 percent of all voters, the State would have been covered, even if there was no discrimination at all.

In viewing the future application of the Scott amendment, if it is adopted, if every black citizen in a State has been registered, the State is still covered by the Voting Rights Act of 1965, as amended by the Scott amendment, showing that no consideration whatsoever is to be given to whether discrimination does exist in Southern States.

The distinguished Senator from Michigan admitted on the floor that he knew of no case where there had been any discrimination in the State of Virginia; that he knew of no instance in which a Federal registrar or poll watcher or examiner had gone into Virginia, and that he knew of no instance in which there had been discrimination in the State of Virginia. Yet it continues to be covered by the Scott-Hart amendment.

Mr. STENNIS. Mr. President, will the Senator yield right there?

Mr. ALLEN. Yes, I am happy to yield.

Mr. STENNIS. The Senator has stated an odd situation indeed. I believe he is correct about it, but I do want to cross-examine him a little on it.

As I understand, the Senator says that there is no proof as to these States. I believe he said there were five of them.

Mr. ALLEN. There are seven in all.

Mr. STENNIS. Seven in all, but five in particular, I believe?

Mr. ALLEN. Yes.

Mr. STENNIS. But anyway, in the seven, there is no proof of any discrimination or wrongdoing, or violation of the law, or anything like that, and 5 years have passed?

Mr. ALLEN. That is correct.

Mr. STENNIS. And there is no determination of facts now that shows any violation or failure to comply; is that correct?

Mr. ALLEN. I stated that in arriving at this formula, as prescribed by the 1965 act, and in arriving at the increasing of the punishment or sentence, as provided by the Scott-Hart amendment, no consideration is given to whether or not discrimination does in fact exist. The formula continues to be applied.

Mr. STENNIS. Why? On what grounds does the formula continue to be applied? What is the penalty for? Why put it back, and continue the law?

Mr. ALLEN. Well, of course, as I have suggested, the law continues, but there is no reason why the length of the sentence against the Southern States should be continued. That is certainly my contention.

Mr. STENNIS. I have not heard any proof to the contrary of what the Senator from Alabama has asserted here.

Mr. ALLEN. No.

Mr. STENNIS. And to that extent, it appears to be another more or less arbitrary sectional act, not founded on fact nor wrong-doing, nor any conviction or anything of that kind.

Mr. ALLEN. And I might say, if there is any finding, by a court, of discrimination against any citizen, that immediately stops the running of this 5-year sentence, and starts a new 5-year period.

Mr. STENNIS. Yes.

Mr. ALLEN. So it seems to me that it is very unfair and discriminatory as against the South.

Mr. STENNIS. I heartily agree, and I thank the Senator for pointing that out.

Mr. ALLEN. Again I thank the distinguished Senator.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. ALLEN. I am happy to yield to the distinguished Senator from Florida.

Mr. HOLLAND. Mr. President, I have been particularly of the feeling that the requirement that the States or counties within the seven States affected have to come here to the District of Columbia, and go and prostrate themselves either before the Attorney General or before the District Court of the District of Columbia, far removed from the scene of activity, is something that is humiliating, petty, and punitive.

Every one of the district judges and the judges of the circuit courts of appeals in the various States and areas that are involved in this situation—and there are a great many of them—have to be confirmed by this U.S. Senate, and have been confirmed by the Senate; is that not true?

Mr. ALLEN. That is correct.

Mr. HOLLAND. And is it not true also that in the discretion of Congress, this is the only matter in all of the gamut of civil rights enactments which is subjected to this kind of handling?

Mr. ALLEN. I believe it is the only one.

Mr. HOLLAND. Is it not true that the much more troublesome and much more controversial subject of integration of the schools and desegregation of the schools is left to the jurisdiction of the district judges?

Mr. ALLEN. It is.

Mr. HOLLAND. And to the circuit courts of appeals and the three-judge courts in the area affected?

Mr. ALLEN. Yes.

Mr. HOLLAND. Which lies, as I recall, in two separate circuits; and of course there are very many districts.

In all those jurisdictions, district judges and circuit judges now serving have met the test of going through confirmation here by the Senate of the United States; and the cases of desegregation or integration of the schools—which are certainly much more controversial than what we are talking about here—seem to have been cases which Congress feels can be safely and soundly left to the discretion and the honorable intentions, good motives, fine intellects, and excellent experience and training of the district judges and the circuit judges in the area affected by the legislation?

Mr. ALLEN. That certainly is true.

Mr. HOLLAND. Then as to criminal matters: As the Senator knows, there

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have been some cases of murder, where conspiracy cases involving conspiracy to commit murder have been heard and are being heard before the district courts, and are being appealed to the circuit courts of appeals; and such cases are being left to the jurisdiction of the district judges and the circuit courts without any apparent feelings by Congress other than that those cases—some of them much more heinous and some of them much more controversial than those that are involved under this particular law—will be honorably handled by those district judges and circuit judges?

Mr. ALLEN. I cannot understand the distinction.

Mr. HOLLAND. Does it not seem to the distinguished Senator from Alabama that this section is particularly humiliating in its application to these circuit judges and these district judges? And, if I may say so, it seems to me that it is particularly petty and particularly punitive as to them.

Mr. ALLEN. Well, it certainly is.

Mr. HOLLAND. I cannot help calling attention to those matters here in this forum, the U.S. Senate, which is supposed to look, not just South, but all over the Nation when it confirms judges, and has done so when it has confirmed judges. I just cannot understand the application of such pettiness to this particular field of operation, a very noncontroversial field as compared to the others I have mentioned. I wonder if the Senator shares that opinion of the Senator from Florida.

Mr. ALLEN. I certainly share that opinion, and feel that it is an affront to the Federal district judges and the judges of the circuit courts of appeals. In a sense, it might be some little reflection on the Senate itself, because many if not most of these judges have been approved on recommendations of some of the Senators now sitting in this body.

Mr. HOLLAND. As a matter of fact, it is quite customary for the recommendations of Senators to be requested, and for them to be carefully examined by the Department of Justice and the FBI, and then reported to the committees here, and the committees here have full right to conduct investigations, as they have done recently and very searchingly in several cases, and then the Senate is asked to confirm, and has confirmed—generally by unanimous vote—and I think this kind of treatment is being dished out, if I may use that term——

Mr. ALLEN. That is a good expression.

Mr. HOLLAND. Because that is the way it seems to me it is happening—dished out to honorable men serving their country, and frequently called to other parts of the Nation to serve as visiting district judges and judges of circuit courts of appeals.

Mr. ALLEN. That is certainly correct.

Mr. HOLLAND. I just wanted this idea to be explored in the RECORD, because it seems to me it is peculiarly humiliating. I have not served in the Senate but 24 years, but I have noticed that the Senate, which is required to use the same fine discrimination and discretion in approving district court judges and circuit court of appeals judges in the South that it uses elsewhere—and I think it has used that kind of discrimination, discernment, and discretion in approving such appointments—in all that time has not seen fit not to approve any circuit court of appeals judge—and we have had two of them recently suggested for promotion to the United States Supreme Court. Certainly there is a pettiness lying in this whole field, which I think should be examined rather closely by all of our people.

They do not complain of the South when it comes to the defense of this country. They send down South for a Courtney Hodges in Georgia, or for a General Westmoreland in South Carolina, or for a General Patch in Texas, or for a General Van Fleet from my own State.

Mr. ALLEN. Admiral Moorer from my State.

Mr. HOLLAND. Admiral Moorer. Or General Geiger from my own State, who was in command of all the troops at the recapture of Guam from the Japanese; or General Buckner from Kentucky, who was in command up to the time he was slain at Okinawa, and he was succeeded by General Geiger; or General Summerall, from my State, to lead the 1st Army in France in World War I, where I had the honor of serving a while—under him, by the way. He was a native of my State.

They never seem to complain of us when it comes to our willingness to serve the country on the field of battle, and they never seem to complain of us in any other regard, until they come to this particular act, and then they want to humiliate, apparently, our district judges and our circuit judges who have been confirmed by the Senate—most of them unanimously. I just cannot understand this petty feeling which seems to prevail here.

I thank the Senator for yielding.

Mr. ALLEN. I appreciate the remarks of the distinguished Senator from Florida, and I share his perplexity over this pettiness and, I might say, vindictiveness. Certainly, we feel that it is an affront to our people, to our officials, and to the Senate itself, the Members of which have confirmed these very judges, who are not allowed to assume jurisdiction of these matters.

Mr. HART. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. HART. Not for a question, but for a very brief comment, and not to engage in colloquy, and anxious not to extend unduly the discussion.

Mr. ALLEN. I yield.

Mr. HART. The points that the Senator from Alabama has made so ably have been discussed on this floor in the last 11 days. The amendment that he proposes, the amendment that is pending, is itself a substitute for the substitute, and it zeroes in on the very heart and, as the Senator said earlier, the essence of the Voting Rights Act of 1965.

Fortunately, in my opinion, on several rollcall votes in which the amendments involved the elimination of all or a portion of section 4 and section 5, the Senate rejected the amendments. I hope that, understanding the character of the amendments that were rejected, the Senate will ratify its actions over the last few days.

I appreciate the Senator giving me to the opportunity to speak.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. STENNIS. I want to say this to the Senator from Alabama. As I said this morning, I have been tied up on matters, and I have not had the privilege of attending this debate as much as I should have. But I have been here today, and I wish more Senators could have had the chance to hear the arguments of the Senator from Alabama and to get the benefit of his knowledge of basic law and constitutional law on the far-reaching provisions of this act. They extend further than I thought they did.

The Senator from Alabama has made an outstanding contribution in the debate not only today but on previous days as well. I think the Senate and the Nation are indebted to him and will realize it more later than they do now.

I thank the Senator for yielding.

Mr. ALLEN. I thank the distinguished Senator from Mississippi for his kind remarks, for which I am deeply grateful.

Mr. President, the status of the various proposals before the Senate has been simplified somewhat during the course of the debate. The basic bill before the Senate is H.R. 4249, which was the administration recommendation to the House and continues to be the bill of the administration. I assume that the fact that it is here as the administration measure and that it passed the House as the administration measure certainly is proof that it is the measure recommended by the administration. So I suppose the bill itself will have to suffice as proof of its being the administration measure. I do not suppose we will have any letter presented by the Republican leader recommending the Scott-Hart substitute, as he has brought in in the past with regard to some proposal before the Senate.

Then there is the Scott-Hart amendment, to which has been added the Goldwater residence requirement in presidential elections, and to which has been added the Mansfield proposal for 18-year-olds to vote.

I believe the issues have been simplified somewhat by the passage by the Senate of amendments to the administration bill, H.R. 4249, where the Goldwater amendment was added and the Mansfield amendment also was added, making the issue the straight issue of whether we are going to follow the plan suggested by the President, H.R. 4249, in the matter of dealing with voting rights or whether we are going to have the punitive and vicious Scott-Hart substitute, which would increase by 5 years the sentence that Congress has placed on the Southern States.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. PASTORE. Has the Senator asked for the yeas and nays?

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Mr. ALLEN. No.

Mr. PASTORE. Could we ask for the yeas and nays on the Senator's amendment, now that a sufficient number of Senators are present?

Mr. ALLEN. Yes. I have no objection.

Mr. PASTORE. I ask for the yeas and nays on this amendment, Mr. President.

The yeas and nays were ordered.

Mr. PASTORE. I thank the Senator.

Mr. ALLEN. The amendment of the junior Senator from Alabama seeks to amend not H.R. 4249 but the Scott substitute, because the Scott substitute seeks to operate upon, so to speak, the original 1965 act and to amend sections 4 and 5 of that act by increasing the length of the sentence against the South. The amendment of the junior Senator from Alabama would put all States on the same basis and, in effect, would comply with the administration's wish as stated by the Senator from Nebraska (Mr. HRUSKA) earlier this afternoon; and that, in effect, was the adoption of the amendment which would give us, in effect, a national law applicable to all the States alike.

We have been hearing a whole lot in this Chamber in recent weeks about uniformity, uniformity of application of Federal law. But here we have one of the rankest and most vicious cases of nonuniformity that has been the displeasure of the junior Senator from Alabama to see, to have this automatic trigger pulled on the South. For the punitive provisions to apply only in the South, and for our States and our people to be singled out for these punitive provisions, is humiliating, indeed.

As the distinguished Senator from North Carolina pointed out in one of his numerous speeches in this Chamber on this issue, a State does not just consist of a State government, of the land within the boundaries within the State, it also consists of the people who live there.

Thus, this indictment against these States is not, really, an indictment against the State as a State government, or as a political body or a political entity, but is an indictment against the people of the respective States.

Certainly, on behalf of the people of Alabama and the people of the South, I resent this very, very much.

Now, with this great record that we have in Alabama and the South in registration, which has brought the average registration in the Southern States up to the vicinity of 65 to 70 percent, as pointed out in the report of the House committee reporting the bill back to the House, we have far exceeded the requirement that was set and the standard that was set in 1965.

But there is no relief for us. It was sought to update the figures and to use 1968 as the year for the criteria; but that effort was beaten down. The Senate did accept the Cooper amendment to set up still another classification of those who did not come up to the required standard in 1968, and it brought in numerous counties outside the South, including three, I believe, in the city of New York.

But, no matter how much progress we have made in the past 5 years, we are still governed by the automatic triggering device provided by the Voting Rights Act.

Now, Mr. President, this effort of the Scott-Hart amendment to increase this sentence against the Southern States is, in effect, an ex post facto law. It increases the sentence or the term of imprisonment of the people of the Southern States by 5 years after the sentence has been passed.

It reminds me of the biblical story of Jacob, who was promised by Laban that he could have his daughter Rachel as a wife if Jacob would work for him for 7 years. Jacob worked for him for the 7 years, but instead of getting Rachel for a wife, he got Rachel's older sister Leah, and he had to work another 7 years to receive Rachel for a wife.

That situation is comparable to the situation in the Southern States.

We have been promised that if we would go for 5 years without discrimination in the matter of elections and in voting, we could get release on petition to the Federal Court in Washington. As we see the time approach when we can go into the court and pray for relief, we are now told that we have got to wait still another 5 years before we can achieve this objective.

Thus, it is unfair. It is unfair to apply this rule to the South and not apply it to the rest of the Nation.

If we knock out sections 4 and 5, as the amendment offered by the junior Senator from Alabama seeks to do, we will have a truly national bill.

Therefore, I hope that the Senate will vote favorably on the amendment.

Mr. HRUSKA. Mr. President, the amendment of the Senator from Alabama meets the approval of this Senator. In fact, it is a part and parcel of H.R. 4249, the administration bill which received the approval of the House. It goes a little further, however, than the present amendment of the Senator from Alabama. The administration bill goes from that point to substituting other enforcement procedures in place of sections 4 and 5.

The Senator from Nebraska would like to discuss briefly section 5 of the 1965 act, which provides for preclearance of State statutes or local ordinances having to do with election laws that are passed by States or political subdivisions covered by the section 4 triggering formula.

The Senator from Alabama has made a good case against section 5. I make no bones about its undesirability. In the last analysis, although I objected to section 5 in the present text, I voted for the voting rights bill in 1965 believing that, as a temporary measure, the existence of that provision in the overall law could be tolerated in order to correct a situation that was very severe and perhaps not easily remedied at that time without that kind of provision.

However, I believe it has served its purpose, and I believe the experience of the last 5 years has been such as to demonstrate that section 5 ought to be repealed.

The administration bill, as I mentioned, removes section 5 of the Voting Rights Act of 1965. It has been asked, What was the reason for eliminating the procedures under that section? The basic reason is that section 5 has not operated effectively. During the almost 5 years that section 5 has been in effect, 426 laws have been submitted to the Attorney General for approval. It is apparent that voting laws have been enacted and applied by States and localities covered by section 5 which have not been submitted to or approved by the Attorney General. But even more meaningful than that is the fact that the Attorney General has objected to only 22 of the 426 voting laws submitted.

Thus, section 5, which imposes considerable demands on State and local governments, and which involves the expenditure of considerable time and energy by the Department of Justice, has prevented the implementation of only 22 discriminatory voting laws in a period of 5 years.

This is one Senator who does not feel that the small advantage gained justifies the burdens involved.

Already the example has been given of how ludicrous it is to require a State legislature, before it enacts and applies a schedule of new filing fees, for example, raising the fees from $5 to $25—as is one actual case—to come to the Attorney General, hat in hand, and say, "Mr. Attorney General, may we please enact and enforce this law, and put it into effect?"

We had testimony before our Committee on the Judiciary in which Mr. David Norman, the Deputy Assistant Attorney General, representing the Department of Justice, was asked this question:

> If that change was from a $5 filing fee to a $6 filing fee, would that have required the approval of the Attorney General?

His answer was, "Yes."

Mr. Norman went on to say that if the law proposed by the State legislature would have reduced that filing fee from $5 to $3, that State would still have had to come in and request approval.

Mr. President, that is not only degrading and demeaning, it is totally ludicrous and absurd. There are ways to solve that situation without extending this preclearance provision for another 5 years.

I would like to comment on the administration's substitute for section 5 of the 1965 act. It expressly authorizes suit by the Attorney General. If this provision is adopted, it is asked, will individual citizens be able to sue to prevent enforcement of discriminatory voting laws? The answer is "Yes." Individuals could still sue. There is no express mention in the proposal of suits by individuals. Notwithstanding that, it would be entirely proper for a court to permit such a suit on the basis of the administration's section 5.

This provision is intended to protect the rights of individual citizens. It is well established that a member of the class protected by a statute may sue on the basis of the statute, even though there is no express authorization for such a suit. The U.S. Supreme Court applied such reasoning in holding that an individual could sue to enjoin violation of

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the present section 5; the case involved was *Allen* v. *State Board of Elections*, 393 U.S. 544, which was decided last year.

Furthermore, other existing statutes authorize suits by individuals against discriminatory voting laws—42 U.S.C. section 1983, and sections 1971 and 1972, are all statutory authority for this purpose.

The right of private individuals to sue, under the proposed section 5 in H.R. 4249, would supplement the authority of the Attorney General to bring court actions, and would afford additional protection against the implementation of discriminatory voting laws.

The question has been raised whether the administration proposal completely eliminates the responsibility of States and localities to submit voting laws to the Attorney General. The answer is "No." This is a common misunderstanding regarding the administration proposal.

Under section 3 of the 1965 act—which would remain in effect under the administration bill—where a court finds, in a case brought by the Attorney General under any statute, that violations of the 15th amendment justifying equitable relief have occurred, the court would retain jurisdiction of the proceeding for an appropriate period. It would be a matter of continuing jurisdiction; and during that period, which would be determined by the court, the State, or locality would be required to follow the preclearance procedures presently included in section 5.

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Thus the State or locality, in such circumstances, could not implement a new voting law unless it was approved by the Attorney General or the appropriate Federal district court ruled that the law was not discriminatory. The administration bill thus eliminates the formula based on the 1964 voting statistics as the trigger for the submission requirement. It provides for submission only if it is proven in court that the State or political subdivision has discriminated in voting.

I believe that this is a more appropriate standard, since it would impose the submission requirements only under situations in which they are really needed, and not in those ludicrous situations such as the example I cited of changing the filing fee for public office.

The question has further been asked, What procedure would be followed by the Attorney General in suits brought under section 5 of the administration proposal? Mr. President, I would reply to that question in this way: These suits would be brought in the appropriate Federal district courts, from which there would be direct appeal to the U.S. Supreme Court. Under the bill, the Court would be authorized to issue temporary restraining orders and preliminary injunctions, as well as other appropriate orders.

The procedure for granting temporary relief by a three-judge court is found in title 28 of the United States Code, governing judicial procedures. In short, if the Attorney General makes an application for interlocutory relief, a single district judge may at any time grant a temporary restraining order, which would remain in effect until the hearing before the full court takes place. Further, under the statute the matter would be given precedence, and would be assigned for a hearing at the earliest practical date.

This procedure is expeditious, and is designed to make certain that, while the court is considering a case, none of the parties will suffer irreparable harm.

We believe that this procedure is flexible enough to enable the Attorney General to act quickly to block the enforcement of discriminatory voting laws, even in a case where he did not learn of the discriminatory voting law until shortly before the election. By showing that the law would have a discriminatory effect, and that irreparable harm would occur if the law were applied in the election—and in most cases these showings should not be difficult to make—the Attorney General could obtain a temporary restraining order preventing application of the law.

Section 5 of the administration bill does not provide for the submission of voting laws to the Attorney General. The question is asked whether this would make it difficult for him to know whether discriminatory laws have been passed, and thus limit the effectiveness of the provision giving authority to the Attorney General to bring suit to enjoin the enforcement of these laws.

The answer to this question, Mr. President, is that there would be no serious difficulty in the Attorney General's keeping track of State voting laws which are officially printed and reported. He would have available the Department of Justice staff for this purpose. In addition, complaints would be received by the Attorney General from private individuals and organizations regarding any discriminatory laws passed. It might be more difficult for the Attorney General to keep informed as to local laws, which are not normally reported. However, it is significant that, under section 5 as presently enforced, a relatively small percentage of the laws actually submitted to the Attorney General were local laws. Statistics supplied by the Department of Justice show that, of the 426 laws submitted under section 5 during that 5-year period, only 34 were local laws, including ordinances and regulations and the like. That is an average of about six a year.

It is clear, therefore, that the present section 5 has been far from successful in bringing local voting laws to the attention of the Attorney General. It is my view that the Attorney General could, without undue burden to his staff, maintain no less effective scrutiny of local laws under section 5 provisions than in the H.R. 4249 bill, as approved in the House, which is before the Senate at this time.

Mr. President, I chose to make this explanation of the administration bill at this time because I think it fits in with the amendment proposed by the Senator from Alabama. He complains of the provisions of section 5, and rightly so. It should not remain on the books any longer. It was inherently bad legislation to start out with, and it should not be retained.

One of the chief reasons it is bad legislation is that it puts into the hands of a political appointee, in the person of the Attorney General, even though he is confirmed by the Senate the power and the responsibility of reviewing the legislative acts of a sovereign state; and this is not only a violation of the separation of powers doctrine by an executive department official assuming jurisdiction over a legislative body, but there is also a violation of the Federal and State relationship which is an integral part of our concept of Federal Government.

So to the extent that this amendment calls for the repeal of section 5, I want to support it and say that it will rid the law of a very unnecessary and very ineffective provision.

Mr. ALLEN. I thank the distinguished Senator from Nebraska for his able and eloquent remarks. They have made an important contribution to the discussion. I appreciate his support of the amendment. I appreciate his explanation of the discriminatory fashion in which sections 4 and 5 operate, and how humiliating is the effect of requiring a State or a smaller political subdivision to come to Washington for approval of one of its acts.

I think the Senator from Nebraska has made a most important contribution to the discussion, and I am deeply grateful to him.

The **PRESIDING OFFICER** (Mr. SPONG). The question is on agreeing to the amendment of the Senator from Alabama.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Louisiana (Mr. ELLENDER), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are absent on official business.

On this vote, the Senator from Louisiana (Mr. ELLENDER) is paired with the Senator from California (Mr. CRANSTON). If present and voting, the Senator from Louisiana would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from Georgia (Mr. RUSSELL) is paired with the Senator from New Mexico (Mr. MONTOYA). If present and voting, the Senator from Georgia would vote "yea" and the Senator from New Mexico would vote "nay."

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) would vote "nay."

Mr. GRIFFIN. I announce that the

Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. SMITH), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Utah (Mr. BENNETT) is detained on official business.

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Maryland (Mr. MATHIAS). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Maryland would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 16, nays 63, as follows:

[No. 101 Leg.]

YEAS—16

Allen
Allott
Byrd, Va.
Curtis
Eastland
Ervin
Holland
Hollings
Hruska
Jordan, N.C.
Long
Murphy
Sparkman
Stennis
Talmadge
Thurmond

NAYS—63

Aiken
Anderson
Baker
Bayh
Bellmon
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cotton
Dole
Dominick
Eagleton
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Griffin
Hansen
Hart
Hartke
Hatfield
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Miller
Mondale
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Symington
Tydings
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—21

Bennett
Church
Cranston
Dodd
Ellender
Gravel
Gurney
Harris
Hughes
Inouye
Mathias
McCarthy
McClellan
Metcalf
Montoya
Moss
Mundt
Russell
Smith, Ill.
Stevens
Tower

So Mr. ALLEN's amendment was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

By unanimous consent, the following routine morning business was transacted.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Proposed Legislation To Increase the Limitation on Fiscal Year 1970 Budget Outlays

A letter from the Director, Bureau of the Budget, transmitting a draft of proposed legislation to increase the statutory limitation on fiscal year 1970 budget outlays (with an accompanying paper); to the Committee on Appropriations.

Report on Defense Procurement From Small and Other Business Firms

A letter from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, the report on Department of Defense procurement from small and other business firms for July–December 1969 (with an accompanying report); to the Committee on Banking and Currency.

Report on Export Control

A letter from the Secretary of Commerce, transmitting, pursuant to law, the Ninetieth Quarterly Report on Export Control covering the fourth quarter of 1969 (with an accompanying report); to the Committee on Banking and Currency.

Proposed District of Columbia Licensing Procedures Act

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting a draft of proposed legislation to revise and modernize the licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades, and callings, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

Proposed Legislation Authorizing the District of Columbia To Enter Into the Interstate Agreement on Qualification of Educational Personnel

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting a draft of proposed legislation to authorize the District of Columbia to enter into the Interstate Agreement on Qualification of Educational Personnel (with accompanying papers); to the Committee on the District of Columbia.

Report of Claims Paid by Department of Health, Education, and Welfare Under the Military Personnel and Civilian Employees' Claims Act of 1964

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of all claims paid by this Department under the Military Personnel and Civilian Employees' Claims Act of 1964 for the calendar year ended December 31, 1969 (with an accompanying report); to the Committee on the Judiciary.

Report of the Secretary of the Interior Under the Military Personnel and Civilian Employees' Claims Act of 1964

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report covering all employee claims of the Department in fiscal year 1969 (with an accompanying report); to the Committee on the Judiciary.

Report on Proposed Leasing of Space by General Services Administration

A letter from the Administrator, General Services Administration, reporting, pursuant to law, on proposed leasing of space at various locations in buildings to be constructed or altered; to the Committee on Public Works.

Proposed Amendment of the Labor-Management Reporting and Disclosure Act of 1959

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to amend Section 504(a) of the Labor-Management Reporting and Disclosure Act of 1959 by adding to the list of offenses conviction of which bars the person convicted from holding union office (with an accompanying paper); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 1

"Resolution Relative to the Emergency Detention Act of 1950

"Whereas, During World War II, American citizens of Japanese ancestry experienced firsthand the deprivation of their freedom through involuntary evacuation and placement in detention camps; and

"Whereas, More than 100,000 human beings, as a result of this detention, suffered gravely through the total denial of human rights and disregard of principles of constitutional safeguards for individual liberty; and

"Whereas, Americans of all nationalities regret that sad and tragic part of their history; and

"Whereas, The same danger exists today due to the existence of Subchapter II of the Subversive Activities Control Act of 1950, otherwise known as the Emergency Detention Act of 1950, which provides that upon the declaration by the President of a state of "internal security emergency," the President, through the Attorney General, "may apprehend and by order detain . . . each person as to whom there is reasonable ground to believe that such person probably will engage in, or probably will conspire with others to engage in, acts of sabotage or espionage"; and

"Whereas, A person who is detained under the Emergency Detention Act of 1950 is denied his rights to trial under law and is further denied those civil rights and liberties which are guaranteed to him under the Constitution; and

"Whereas, There exist more meaningful, just, and effective laws and procedures to safeguard internal security; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to repeal Subchapter II of the Subversive Activities Control Act of 1950, otherwise known as the Emergency Detention Act of 1950; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of Tennessee; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 100

"Resolution to apply to the Congress of the United States to submit to the states an amendment to the United States Constitution to limit the power of Congress and of individual states to tax the income from interest bearing evidences of indebtedness of other levels of government

"Whereas, Taxes by the United States Government on the interest on evidences of indebtedness of States, their political subdivisions, and the agencies and instrumentalities thereof, impose a burden on the sovereign power of the States, and their political subdivisions, agencies and instrumentalities to borrow money for essential State and local purposes; and

"Whereas, The constantly recurring attempts of Congress and the Treasury Department of the United States to tax the interest on such evidences of indebtedness has severely damaged the ability of the States and their political subdivisions, agencies and instrumentalities to borrow money, and has substantially increased the cost of such borrowings to the detriment of the taxpayers of the States and their political subdivisions, agencies and instrumentalities; and

"Whereas, Such recurring attempts to tax the interest on such evidences of indebtedness flaunt the Constitutional principle of reciprocal inter-governmental tax immunity first enunciated by the Supreme Court of the United States in McCulloch v. Maryland (4 Wheat 316) in the year 1819 and more specifically applied by that Court in Pollack v. Farmers' Loan & Trust Co. (157 U.S. 429) and later cases; and

"Whereas, It is advisable and in the best interest of the States to prevent future attempts to tax the interest on such evidences of indebtedness by amending the Constitution of the United States to unequivocally state the principle of reciprocal inter-governmental tax immunity in respect of taxes on the interest on such evidences of indebtedness and thereby restore investor confidence to the market for such evidences of indebtedness and, consequently, reduce the cost of borrowing by the States and their political subdivisions, agencies and instrumentalities; now, therefore,

"Be it resolved by the Senate of the Eighty-Sixth General Assembly of the State of Tennessee, the House of Representatives concurring, That application is hereby made to the Congress of the United States to submit to the legislatures of the States an amendment to the Constitution of the United States in the following form, which amendment is hereby ratified as an amendment to the Constitution of the United States on behalf of the State of Tennessee, by this Joint Resolution, to wit:

" 'Without the consent of a State, Congress shall have no power to lay and collect any tax, direct or indirect, upon the income derived from interest paid on evidences of indebtedness of such State, or of any political subdivision, agency or instrumentality thereof, nor shall any State have power, without the consent of Congress, to lay and collect any tax, direct or indirect, upon the income derived from interest paid on obligations of the United States or of any agency or instrumentality thereof.' "

"Be it further resolved, That a duly attested copy of this Joint Resolution shall be forwarded to both the President and Secretary of the Senate of the United States and to the Speaker and Clerk of the House of Representatives of the United States.

"Adopted: February 19, 1970.

"Frank C. Gorrell,
"Speaker of the Senate.
"William L. Jenkins,
"Speaker of the House of Representatives.
"Approved
"Buford Ellington,
"Governor."

EXECUTIVE REPORTS OF COMMITTEE ON ARMED SERVICES

Mr. YOUNG of Ohio. Mr. President, as in executive session, from the Committee on Armed Services I report favorably the nominations of 10 flag and general officers in the Army, Navy, and Air Force. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered placed on the Executive Calendar, are as follows:

Rear Adm. Frederick H. Schneider, Jr., U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving;

Lt. Gen. John W. Carpenter III (major general, regular Air Force), U.S. Air Force, to be placed on the retired list in the grade of lieutenant general;

Col. Charles P. Deane, Col. Herbert M. Martin, Jr., Col. John A. Spencer, Jr., and Col. Donald W. Stout, U.S. Army Reserve officers, for promotion to brigadier generals as Reserve commissioned officers of the Army;

Col. Keith E. McWilliams, Army National Guard of the United States, for promotion to brigadier general as a Reserve commissioned officer of the Army;

Brig. Gen. James J. Lison, Jr., and Brig. Gen. Harold R. Patton, Army National Guard of the United States officers, for appointment as major generals as Reserve commissioned officers of the Army; and

Col. Howard V. Elliott, Army National Guard of the United States officer, to be brigadier general as a Reserve commissioned officer of the Army.

Mr. YOUNG of Ohio. Mr. President, in addition, I report favorably 2,001 promotions and appointments in the Army in the grade or colonel and below; 2,451 promotions in the Navy in the grade of captain and below, and 1,692 appointments in the Marine Corps in the grade of captain and below. Since these names have already been printed in the Congressional Record, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Arlo E. Abbott, and sundry other officers, for promotion in the Regular Army of the United States;

William K. Adkins, and sundry other Naval Reserve Officers Training Corps candidates, for permanent promotion in the Navy;

Martin E. Zadigian, civilian college graduate, for assignment in the Navy;

Donald Aguilar, and sundry other scholarship students, for appointment in the Regular Army of the United States;

Charles D. Allen, Jr., and sundry other officers, for promotion in the Navy;

Robert V. Anderson, and sundry other officers, for promotion in the Marine Corps;

Elmer R. Jackson, and sundry other Naval Reserve Officers Training Corps candidates, for appointment in the Marine Corps;

Peter A. Acly, and sundry other officers, for promotion in the Marine Corps; and

Edward Stephen Amis, Jr., and sundry other officers, for promotion in the Navy.

EXECUTIVE REPORT OF COMMITTEE ON FOREIGN RELATIONS

Mr. FULBRIGHT, from the Committee on Foreign Relations, as in executive session, reported an original Senate executive resolution (S. Ex. Res. 1) returning to the President of the United States, as requested in his message to the Senate of February 24, 1970, the Protocol between the United States of America and the United Mexican States, signed at Mexico City on December 21, 1967 (Ex. B, 90th Congress, second session), and submitted a report thereon (Ex. Rept. No. 91–15), which report was ordered to be printed and the resolution was placed on the Executive Calendar.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. YOUNG of North Dakota (for himself and Mr. Burdick):

S. 3584. A bill to modify the comprehensive plan for the Missouri River Basin with respect to certain bank protection and rectification works; to the Committee on Public Works.

By Mr. SPARKMAN:

S. 3585. A bill to provide a Federal employee with certain procedural rights if he is removed or reduced in grade as the result of a reduction in force, and to authorize saved pay to be paid to a Federal employee reduced in grade because of a reduction in force due to lack of funds; to the Committee on Post Office and Civil Service.

(The remarks of Mr. Sparkman when he introduced the bill appear later in the Record under the appropriate heading.)

By Mr. YARBOROUGH (for himself, Mr. Cranston, Mr. Eagleton, Mr. Hart, Mr. Hughes, Mr. Kennedy, Mr. Magnuson, Mr. Mondale, Mr. Nelson, Mr. Pastore, Mr. Pell, Mr. Spong, Mr. Randolph, and Mr. Williams of New Jersey):

S. 3586. A bill to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes; to the Committee on Labor and Public Welfare.

(The remarks of Mr. Yarborough when he introduced the bill appear later in the Record under the appropriate heading.)

By Mr. McGOVERN:

S. 3587. A bill for the relief of Sotirios Zontanos; to the Committee on the Judiciary.

By Mr. STENNIS (for himself and Mrs. Smith of Maine):

S. 3588. A bill to authorize certain construction at military installations, and for other purposes; to the Committee on Armed Services.

(The remarks of Mr. Stennis when he introduced the bill appear later in the Record under the appropriate heading.)

S. 3585—INTRODUCTION OF A BILL TO PROVIDE FEDERAL EMPLOYEES WITH CERTAIN PROCEDURAL RIGHTS

Mr. SPARKMAN. Mr. President, the Congress has acted effectively, I believe, in reducing Federal expenditures both last year and this year. The continuing battle against inflation required it, and, although this has seemed to escape widespread notice in the press, the Congress has acted responsibly in responding to the needs of the economy.

While we can be gratified by the knowledge that we made those hard decisions that had to be made in the fight against inflation, I think we have to

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realize that those decisions are having far-reaching implications throughout the economy—implications that touch the lives of many American citizens. The group that is most directly and most severely hit are those employees of the Federal Government that become involved in reductions in force due to lack of program funds. Federal employees are being terminated or demoted in large numbers, and they are entitled to our consideration in softening this blow, and in assuring that their rights are fully protected. I am introducing a bill today to accomplish this.

Mr. President, my bill basically provides two things. First, the bill gives to Federal employees affected by a reduction in force the right to a hearing. It seems to me that this is the least we can do to assure that the rights of such employees are fully protected. Civil service regulations give such a right to employees who are accused of inefficiency or wrong-doing, and I feel that this right should be given as a matter of law to workers whose employment is being adversely affected through no fault of their own.

Second, my bill will extend the saved-pay provisions of the Civil Service Act to employees who are demoted in a reduction in force due to lack of funds. Under present law, an employee who is demoted for other than personal cause is entitled to have his pay continue at its previous level for a period of 2 years; except that this right is not extended to employees who are demoted in a reduction in force due to lack of funds or curtailment of work. My bill will repeal this exception in the case of reductions in force due to lack of funds. This is a necessary step it seems to me, to soften the impact of reductions in Federal expenditures made necessary by what we all hope are only temporary economic conditions.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD following these remarks. I urge the Members of the Senate to give their careful and sympathetic attention to this legislation, which will mean so much to American families whose source of income is being abruptly cut off or substantially reduced, at a time when prices remain so high.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3585) to provide a Federal employee with certain procedural rights if he is removed or reduced in grade as the result of a reduction in force, and to authorize saved pay to be paid to a Federal employee reduced in grade because of a reduction in force due to lack of funds, introduced by Mr. SPARKMAN, was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 3585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 75 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 7502. Removal or reduction in grade due to a reduction in force; procedure

"(a) An individual in the competitive service who is to be removed or reduced in grade as the result of a reduction in force is entitled to—

"(1) at least 30 full days advance written notice of the proposed removal with specific reasons explaining why the reduction is required and informing the individual of his right to answer the notice personally or in writing prior to removal;

"(2) a reasonable time for answering the notice personally and in writing and for furnishing affidavits in support of the answer;

"(3) a written decision on the answer at the earliest practicable date, including the reasons for the decision and informing the individual of his right of appeal; and

"(4) the right to appeal to the agency employing the individual and then to the Civil Service Commission or directly to the Commission.

"(b) This section does not apply to the removal of an employee under section 7532 of this title."

(b) The analysis of such chapter, preceding section 7501, is amended by adding after item 7501 the following item:

"§ 7502. Removal or reduction in grade due to a reduction in force; procedure

SEC. 2. (a) Section 5337 (a) (3) (C) of title 5, United States Code, is amended by striking out "lack of funds or".

(b) Section 5337 (a) (C) (iii) of such title is amended by striking out "lack of funds or".

S. 3586—INTRODUCTION OF THE HEALTH TRAINING IMPROVEMENT ACT OF 1970

Mr. YARBOROUGH. Mr. President, our health care delivery system is in a state of chaos. Some would say it is near collapse. The demand for service far exceeds the capacity of our health system to respond. Thus costs escalate and service deteriorates.

Our schools are not producing enough graduates in the health fields. This is true of both doctors and support personnel in the allied health fields.

While I am convinced that our health delivery system is in need of major reform, I recognize that until we have such reform, the Federal Government must continue to provide assistance under existing Federal grant programs. We must, of course, improve existing programs wherever possible. We must also extend and improve those which are about to expire.

I do not think anyone will deny that we have a severe shortage of physicians. Currently, this shortage stands at about 50,000 doctors. And there are not enough medical schools to alleviate this situation in the foreseeable future. Indeed, the situation promises to grow worse before it improves.

One of the best opportunities available to improve the productivity of our doctors is through the use of the team approach—the use of health personnel trained to assist doctors in routine tasks within their level of competence. In other words, today's physicians must make more efficient use of their time. They must use more allied health professionals as an extension of their own diagnostic and therapeutic efforts. Yet all too often today we find that doctors are performing tasks which could well be done better and at less cost by individuals who are trained less broadly but more intensively. Unfortunately, the shortage of allied health personnel is also severe.

There is currently a shortage of about 150,000 allied health professionals in our country. According to the annual report on the administration of the Allied Health Professions Personnel Training Act of 1966, which the Secretary of Health, Education, and Welfare sent to the Congress and to the President on April 29, 1969, there will probably continue to be a substantial and harassing manpower shortage. The report states that "although the number of graduates is increasing, the current output of new workers is small in proportion to the demand." In fact, projections indicate that these shortages will be greater in 1975 than they are now, and the trend is expected to continue to 1980.

Part of the rising need for allied health professionals is due to our increasing population and increasing demand for medical services. Part of it is due to changing medical practices. Advances in medical and environmental research and technology, for instance, have brought about an increase in new allied health occupations. Some examples of these are the physician assistants, biomedical equipment technicians, extracorporeal circulation specialists, air pollution technicians, child health associates and others. This is a field that encompasses 200 different specialties and the number is growing. All of the specialties could be eligible for assistance.

In this connection, I should like to point out that in 1900 there was one support person for each physician; today the ratio is about 13 health professionals to one physician. By 1975, the ratio could be as high as 25 to 1.

It is obvious that the problems I have described cannot be corrected by State or local government or by the medical profession itself. Federal assistance is necessary, and to cope with the problem adequately it must be substantial. As I have stated on a number of occasions in the past, I am greatly disturbed that this, the richest country on earth, ranks well below a number of industrial countries in infant mortality, maternal mortality and life expectancy. I know we have the means to improve our ranking, but do we have the will? I hope so.

The Health Training Improvement Act of 1970, which amends the Public Health Service Act to establish the eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for grants under the existing program of grants to improve the quality of such schools, and to extend and improve the program relating to training of allied health professions personnel.

The need for qualified health personnel is such that we need to remove all impediments to existing programs which tend to mitigate against increases in health manpower.

Section 771 of the Public Health Service Act addresses itself to the applications of established schools with prior enrollment history. Section 101 would make inapplicable certain of these pro-

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visions in the case of new schools. In lieu thereof, section 101 would stipulate that the Secretary of Health, Education, and Welfare shall prescribe criteria for enrollment increases for new schools and for determining the amount of each grant in excess of $25,000 to new schools.

The current program of grants to improve the quality of training centers for allied health professions is much too rigid to meet the pressing needs for qualified health manpower. Among other things, the current program does not provide sufficient incentives to induce prospective students to undertake a course of study in the allied health fields. And, of course, the program must be made sufficiently flexible to permit us to take full advantage of all qualified training facilities, including but not limited to junior colleges, colleges, and universities. There are many public and nonprofit private agencies, institutions, and organizations capable of training personnel in the allied health professions. They should be eligible for assistance.

In addition, we need to study and develop mechanisms for determining equivalency and proficiency of previously acquired skills and to develop new means of recruitment, retraining, or retention of allied health personnel.

The need for equivalency examinations appears obvious. The objectives of formal instruction can be achieved in other than a classroom situation. The acquisition of knowledge and skills can be measured by examination and performance. Educational institutions can use the results of these examinations as a basis for advance placement or academic credits. Thus, I can see no reason why students in the allied health professions should be required to repeat what they have already mastered.

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If we can develop equivalency examinations which are acceptable to schools, to licensing bodies, and to the health profession, we should be able to take full advantage of a resource which is poorly used—the returning veteran with military training and experience in health occupations. When the need is so great, we cannot afford to impose impediments to the use of skills acquired in the Armed Forces when veterans return to civilian service. Indeed, we should marshal our resources to make it simple for them to do so.

If we are to close the gap between supply and demand and if we are to make better use of that vast pool of manpower—the economically deprived—we must provide scholarship grants to individuals of exceptional financial need who require such assistance to pursue a course of study in the allied health fields.

In addition, we need to provide Federal grants for a work-study program for those students who are not sufficiently poor to be eligible for a scholarship or who do not want to burden themselves financially for a long period of time with a loan.

If we are to provide all contingencies, we need to provide Federal assistance for a loan program for students who are not eligible for a scholarship and for any number of reasons cannot or will not undertake a work-study program, but still need some form of assistance to undertake a program of study in the allied health fields. And in order to encourage service in the central core of our large urban areas and in the rural sections of the country, we need a cancellation provision on these loans for service in such areas.

The need for qualified professionals in the allied health fields has been amply demonstrated by the news media. To a far greater extent than ever before, the average American has been deluged with information on the status of our health delivery system. My own experience as chairman of the Committee on Labor and Public Welfare plus the numerous articles I have read on the subject, leads me to believe that the Nation is undergoing a massive health crisis. The bill I am introducing today will not of itself solve our health problems. Without it, however, existing conditions will deteriorate. We cannot afford to permit this to happen.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis will be printed in the RECORD.

The bill (S. 3586) to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes, introduced by Mr. YARBOROUGH (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Training Improvement Act of 1970".

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress to advance the public welfare by promoting the expansion and improvement of the health professions in order to meet the growing and critical health needs of our expanding population.

TITLE I—SCHOOLS OF MEDICINE, DENTISTRY, OSTEOPATHY, PHARMACY, OPTOMETRY, VETERINARY MEDICINE, AND PODIATRY

INSTITUTIONAL GRANTS

SEC. 101. (a) Section 771 of the Public Health Service Act (42 U.S.C. 295f–1) is amended by adding at the end thereof the following new subsection:

"(d) In the case of an application for a grant under this section for a new school of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, or podiatry, the provisions of subsection (b)(1) and subparagraphs (A) and (B) of subsection (a)(1) of this section shall not apply. In lieu of such provisions, the Secretary shall by regulations prescribe criteria (1) for enrollment increases to be met by the applicants for such grants, and (2) for determining the amounts of each such grant in excess of the $25,000 authorized by subsection (a)(1) of this section."

(b) The amendment made by subsection (a) of this section shall be effective only with respect to sums available for grants under section 771 of the Public Health Service Act from appropriations under section 770 of such Act for the fiscal years ending after June 30, 1970.

TITLE II—ALLIED HEALTH PROFESSIONS

GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES FOR ALLIED HEALTH PROFESSIONS PERSONNEL

SEC. 201. (a) Section 791(a)(1) of the Public Health Service Act (42 U.S.C. 295h(a)(1)) is amended (1) by striking out the "and", and (2) by inserting immediately before the period at the end thereof the following: "; $20,000,000 for the fiscal year ending June 30, 1971; $25,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975".

(b) Section 791(b)(1) of such Act (42 U.S.C. 295h(b)(1)) is amended by striking out "July 1, 1969" and inserting in lieu thereof "July 1, 1974".

GRANTS TO IMPROVE THE QUALITY OF TRAINING CENTERS FOR ALLIED HEALTH PROFESSIONS

SEC. 202. (a) Section 792(a) of the Public Health Service Act (42 U.S.C. 295h–1(a)) is amended by striking out "and $20,000,000" and all that follows down to but not including the period at the end thereof and inserting in lieu thereof the following: "$20,000,000 for the fiscal year ending June 30, 1970; and $15,000,000 for each of the next five fiscal years; for grants for basic improvements under this section to assist training centers for the allied health professions to improve the quality of their educational programs".

(b) Section 792(a) of such Act is further amended (1) by inserting "(1)" immediately after "(a)", and (2) by adding at the end thereof a new paragraph (2) as follows:

"(2) There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1971; $25,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975; for special project grants under this section to assist public or nonprofit private agencies, institutions, and organizations in providing or maintaining existing programs or planning or establishing new programs for training or retraining of allied health personnel."

(c) Section 792(b) of such Act (42 U.S.C. 295h–1(b)) is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1975".

(d)(1) Section 792(c) of such Act (42 U.S.C. 295–1(c)) is amended to read as follows:

"(c) From the sums appropriated under subsection (a)(2) of this section for any fiscal year, the Secretary, is authorized to make special project grants under this section to public or nonprofit private agencies, institutions, and organizations to (A) plan, develop, or establish new programs for the training or retraining of allied health personnel, (B) effect significant improvements in the curriculums of programs for the training or retraining of such personnel, (C) expand training capacity in programs for the training or retraining of such personnel, or (D) establish special curriculums, in programs for the training or retraining of allied health personnel, designed to meet the needs of, and encourage and facilitate participation in such programs by individuals who are economically or culturally deprived, are returning veterans of the Armed Forces of the United States with training or experience in or related to the allied health fields, or are reentering or interested in reentering the allied health fields."

(2) The heading to such section 792(c) is amended by striking out "IMPROVEMENT" and inserting in lieu thereof "PROJECT".

(e) Section 792(d)(2)(A) of such Act (42 U.S.C. 295h–1(d)(2)(A)) is amended by inserting 'in the case of an application for a basic improvement grant," immediately after "(A)".

(f) The amendments made by this section shall be effective only with respect to grants made under section 792 of the Public Health Service Act from sums appropriated under such section for fiscal years ending after June 30, 1970.

TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PROFESSIONS PERSONNEL

Sec. 203. (a) Section 793(a) of the Public Health Service Act (42 U.S.C. 295h–2(a)) is amended (1) by striking out "and" after "June 30, 1969" and (2) by inserting after "June 30, 1970;" the following: "$8,000,000 for the fiscal year ending June 30, 1971: $9,000,000 for the fiscal year ending June 30, 1972; $10,000,000 for the fiscal year ending June 30, 1973; $11,000,000 for the fiscal year ending June 30, 1974; and $12,000,000 for the fiscal year ending June 30, 1975;".

(b) Section 793(b) of such Act (42 U.S.C. 295h2(b)) is amended by striking out "training centers for allied health professions" and inserting in lieu thereof "agencies, institutions, and organizations",

(c) Section 793(c) of such Act (42 U.S.C. 285h–2(c)) is amended by striking out "centers" and inserting in lieu thereof "public and nonprofit private agencies, institutions, and organizations".

DEVELOPMENT OF NEW METHODS

Sec. 204. (a) Section 794 of the Public Health Service Act (42 U.S.C. 295h–3) is amended (1) by striking out "and" after "June 30, 1969;", (2) by inserting after "June 30, 1970;" the following: "$6,000,000 for the fiscal year ending June 30, 1971; $8,000,000 for the fiscal year ending June 30, 1972; $10,000,000 for the fiscal year ending June 30, 1973; $12,000,000 for the fiscal year ending June 30, 1974; and $14,000,000 for the fiscal year ending June 30, 1975;" and (3) by inserting "or contracts with" immediately after "grants to".

(b) Such section 794 is further amended (1) by inserting "(1)" after "project", and (2) by inserting immediately before the period at the end thereof the following: ", (2) to study and develop mechanisms for determining the equivalency and proficiency of previously acquired knowledge and skills related to the allied health professions, (3) to develop, experiment with, and demonstrate new teaching methods and curriculums relating to the allied health professions, and (4) to develop, demonstrate, and evaluate new means of recruitment, retraining, or retention of allied health personnel".

REDESIGNATION OF SECTIONS

Sec. 205. Sections 795, 796, 797, and 798 of such Act are hereby redesignated as sections 799, 799a, 799b, and 799c, respectively.

ENCOURAGEMENT OF FULL UTILIZATION OF EDUCATIONAL TALENT FOR THE ALLIED HEALTH PROFESSIONS

Sec. 206. Part G of title VII of the Public Health Service Act is amended by adding immediately after section 794 thereof the following new sections:

"GRANTS AND CONTRACTS TO ENCOURAGE FULL UTILIZATION OF EDUCATIONAL TALENT FOR ALLIED HEALTH PROFESSIONS

"Sec. 795. (a) To assist in meeting the need for additional trained personnel in the allied health professions, the Secretary is authorized to make grants to State or local educational agencies or other public or nonprofit private agencies, institutions, and organizations, or enter into contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. (5)) for the purpose of—

"(1) identifying individuals of financial, educational, or cultural need with a potential for education or training in the allied health professions, including returning veterans of the Armed Forces of the United States with training or experience in the health field, and encouraging and assisting them, whenever appropriate, to (A) complete secondary school, (B) undertake such postsecondary training as may be required to qualify them for training in the allied health professions, and (C) undertake postsecondary educational training in the allied health professions, or

"(2) publicizing existing sources of financial aid available to persons undertaking training or education in the allied health professions.

"(b) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $1,500,000 for the fiscal year ending June 30, 1974; and $1,750,000 for the fiscal year ending June 30, 1975.

"SCHOLARSHIP GRANTS

"Sec. 796. (a) The Secretary is authorized to make (in accordance with such regulations as he may prescribe) grants to public or nonprofit private agencies, institutions, and organizations with an established program for training or retraining of personnel in the allied health professions or occupations for (1) scholarships to be awarded by such agency, institution, or organization to students thereof, and (2) scholarships in retraining programs of such agency, institution, or organization to be awarded to allied health professions personnel in occupations for which such agency, institution, or organization determines there is a need for the development of, or the expansion of, training.

"(b) Scholarships awarded by any agency, institution, or organization from grants under subsection (a) shall be awarded for any year only to individuals of exceptional financial need who require such assistance for such year in order to pursue a course of study offered by such agency, institution, or organization.

"(c) Grants under subsection (a) may be paid in advance or by way of reimbursement and at such intervals as the Secretary may deem appropriate and with appropriate adjustments on account of overpayments or underpayments previously made.

"(d) Any scholarship awarded from grants under subsection (a) to any individual for any year shall cover such portion of the individual's tuition, fees, books, equipment, and living expenses as the agency, institution, or organization awarding the scholarship may determine to be needed by such individual for such year on the basis of his requirements and financial resources; except that the amount of any such scholarship shall not exceed $2,000, plus $600 for each dependent (not in excess of three) in the case of any individual who is awarded such a scholarship.

"(e) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1971; $7,000,000 for the fiscal year ending June 30, 1972; $8,000,000 for the fiscal year ending June 30, 1973; $9,000,000 for the fiscal year ending June 30, 1974; and $10,000,000 for the fiscal year ending June 30, 1975.

"WORK-STUDY PROGRAMS

"Sec. 797. (a) The Secretary is authorized to enter into agreements with public or nonprofit private agencies, institutions, and organizations with established programs for the training or retraining of personnel in the allied health professions under which the Secretary will make grants to such agencies, institutions, and organizations to assist them in the operation of work-study programs for individuals undergoing training or retraining provided by such programs.

"(b) Any agreement entered into pursuant to this section with a public or nonprofit private agency, institution, or organization shall—

"(1) provide that such agency, institution, or organization, will operate a work-study program for the part-time employment of its students or trainees either (A) in work for such agency, institution, or organization or (B) pursuant to arrangements between such agency, institution, or organization and another public or private nonprofit agency, institution, or organization, work which is in the public interest for such other agency, institution, or organization;

"(2) provide that any such work-study program shall be operated in such manner that its operation will not result in the displacement of employed workers or impair existing contracts for employment;

"(3) provide that any such work-study program will provide conditions of employment, for the students or trainees participating therein, which are appropriate and reasonable in light of such factors as type of work performed, prevailing wages in the area for similar work, and proficiency of the individual in the performance of the work involved;

"(4) provide that no Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used for the construction, operation, or maintenance of any facility or part thereof which is used or is to be used for sectarian instruction or as a place for religious worship;

"(5) provide that Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used only to make payments to its students or trainees performing work in the work-study program operated by such agency, institution, or organization; except that such agency, institution, or organization may use a portion of such funds to meet administrative expenses connected with the operation of such program, but the portion which may be so used shall not exceed 5 per centum of that part of such funds which is used for the purpose of making payments, to such students or trainees, for work performed for a public or private nonprofit agency, institution, or organization other than the agency, institution, or organization receiving such Federal funds pursuant to such agreement;

"(6) provide that such agency, institution, or organization, in selecting students or trainees for employment in such work-study program, will give preference to individuals from low-income families, and that no individual will be selected for employment in such program unless he (A) is in need of the earnings from such employment in order to pursue a course of study (whether on a full-time or part-time basis) for training or retraining of personnel in the allied health professions provided by such agency, institution, or organization, (B) is capable, in the opinion of such agency, institution, or organization, of maintaining good standing in such course of study while employed under such work-study program, and (C) in the case of any individual who at the time he applies for such employment is a new student or trainee, has been accepted for enrollment in such course of study on a full-time basis or part-time and, in the case of any other individual, is enrolled in such course of study on such

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a basis and is maintaining good standing in such course of study;

"(7) provide that such agency, institution, or organization shall, in the operation of such work-study program, provide all individuals desiring employment therein to make application for such employment and that, to the extent that necessary funds are available, all eligible applicants will be employed in such program; and

"(8) include such other provisions as the Secretary may deem necessary or appropriate to carry out the purposes of this section.

"(c) The Secretary shall not approve any grant under this section unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

"(d)(1) Funds provided through any grant made under this section shall not be used to pay more than—

"(A) 90 per centum, in the case of the three-year period commencing on the date of the enactment of this section,

"(B) 85 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (A),

"(C) 80 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (B), nor

"(D) 75 per centum, in the case of any period after the period referred to in clause (C),

of the costs attributable to the payment of compensation to students or trainees for employment in the work-study program with respect to which such grant is made.

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"(2)(A) In determining (for purposes of paragraph (1)) the amounts attributable to the payment of compensation to students or trainees for employment in any work-study program, there shall be disregarded any Federal funds (other than such funds derived from a grant under this section) used for the payment of such compensation.

"(B) In determining (for purposes of paragraph (1)) the total amounts expended for the payment of compensation to students or trainees for employment in any work-study program operated by any agency, institution, or organization receiving a grant under this section, there shall be included the reasonable value of compensation provided by such agency, institution, or organization to such students or trainees in the form of services and supplies (including tuition, board, and books).

"(e) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, $6,000,000 for the fiscal year ending June 30, 1973, $8,000,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"LOANS FOR STUDENTS OF THE ALLIED HEALTH PROFESSIONS

"SEC. 798. (a)(1) The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this section with any public or private nonprofit agency institution, or organization which has an established program for the training or retraining of personnel in the allied health professions.

"(2) Each agreement entered into under this subsection shall—

"(A) provide for establishment of a student loan fund by such agency, institution, or organization for students or trainees enrolled in such program;

"(B) provide for deposit in the fund of (i) the Federal capital contributions paid under this section to the school by the Secretary, (ii) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (iii) collections of principal and interest on loans made from the fund, (iv) collections pursuant to section (b)(6), and (v) any other earnings of the fund;

"(C) provide that the fund shall be used only for loans to students or trainees enrolled in such program of the agency, institution, or organization in accordance with the agreement and for costs of collection of such loans and interest thereon;

"(D) provide that loans may be made from such fund to students pursuing a course of study (whether full time or part time) in such program of such agency, institution, or organization and that while the agreement remains in effect no such student who has attended such agency, institution, or organization before July 1, 1971, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958; and

"(E) contain such other provisions as are necessary to protect the financial interests of the United States.

"(b)(1) The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by agencies, institutions or organizations from loan funds established pursuant to agreements under this section may not exceed $1,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $6,000 in the case of any student.

"(2) Loans from any such student loan fund by any agency, institution or organization shall be made on such terms and conditions as it may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

"(A) such loan may be made only to a student who (i) is in need of the amount of the loan to pursue a part-time or full-time course of study at the agency, institution, or organization, and (ii) is capable, in the opinion of the agency, institution, or organization, of maintaining good standing in such course of study;

"(B) such loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins nine months after the student ceases to pursue a part-time or full-time course of study in a program for the training or retraining of personnel in the allied health professions at an agency, institution, or organization approved by the Secretary, excluding from such ten-year period all (i) periods (up to three years) of (I) active duty performed by the borrower as a member of a uniformed service, or (II) service as a volunteer under the Peace Corps Act, and (ii) periods (up to five years) during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate or associate degree or the equivalent of either or to a higher degree in one of the allied health professions;

"(C) not to exceed 50 per centum of any such loan (plus interest) shall be canceled for full-time employment in any of the allied health professions (including teaching any such profession or service as an administrator, supervisor, or specialist in any such profession) in any public or private nonprofit agency, institution, or organization, or in a rural area with an individual practitioner if such service is approved by a local county health department or its equivalent at the rate of 10 per centum of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 15 per centum for each complete year of service in such a profession in a public or other nonprofit hospital or other health service facility or health agency in any area which is determined, in accordance with regulations of the Secretary, to be an area which has a substantial shortage of persons rendering service in such profession, and for purposes of any cancellation at such higher rate, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled;

"(D) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

"(E) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum;

"(F) such a loan be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required; and

"(G) no note or other evidence of any such loan may be transferred or assigned by the agency, institution, or organization making the loan except that, if the borrower transfers to another agency, institution, or organization participating in the program under this section, such note or other evidence of a loan may be transferred to such other agency, institution, or organization.

"(3) When all or any part of a loan, or interest, is canceled under this subsection, the Secretary shall pay to the agency, institution, or organization an amount equal to its proportionate share of the canceled portion, as determined by the Secretary.

"(4) Any loan for any year by an agency, institution, or organization from a student loan fund established pursuant to an agreement under this section shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the agency, institution, or organization that any recipient of a loan is failing to maintain satisfactory standing, any of all further installments of his loan shall be withheld, as may be appropriate.

"(5) An agreement under this section with any agency, institution, or organization shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the agency, institution, or organization in need thereof.

"(6) Subject to regulations of the Secretary, an agency, institution, or organization may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this section for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under paragraph (2)(B) or cancellation of part or all of the loan under paragraph (2)(C), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The agency, institution, or organization may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the agency, institution, or organization not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

"(7) An agency, institution, or organization may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this section payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a)(2)(B)(i) $1,500,000 for the fiscal year ending June 30, 1971, $3,000,000 for the fiscal year ending June 30, 1972, and such sums as are necessary for the next three fiscal years, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan from any academic year ending before July 1, 1975, to continue or complete their education. Sums appropriated pursuant to this subsection for any fiscal year shall be available to the Secretary (1) for payments into the funds established by subsection (f)(4), and (2) in accordance with agreements under this section, for Federal capital contributions to schools with which such agreements have been made, to be used together with deposits in such funds pursuant to subsection (a)(2)(B)(ii), for establishment and maintenance of student loan funds.

"(d)(1) From the sums appropriated pursuant to subsection (c) for any fiscal year, the Secretary shall allot to each agency, institution, or organization, which has an established program for the training or retraining of personnel in the allied health professions approved by the Secretary, an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such agencies, institutions, or organizations approved by the Secretary bears to the total number of persons enrolled on a full-time basis in all such agencies, institutions, or organizations in all the States. The number of persons enrolled, in such a program, on a full-time basis in such agencies, institutions, or organizations for purposes of the subsection shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. Funds available in any fiscal year for payment to agencies, institutions, or organizations under this section (whether as Federal capital contributions or as loans under subsection (f)) which are in excess of the amount appropriated pursuant to subsection (c) for that year shall be alloted among agencies, institutions, or organizations approved by the Secretary in such manner as the Secretary determines will best carry out the purposes of this section.

"(2) The Secretary shall from time to time set dates by which agencies, institutions, or organizations must file applications for Federal capital contributions and for loans pursuant to subsection (f).

"(3) The Federal capital contributions to a loan fund of an agency, institution, or organization approved by the Secretary under this section shall be paid from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in its loan fund.

"(e)(1) After June 30, 1979, and not later than September 30, 1979, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to subsection (a)(2) by each agency, institution or organization approved by the Secretary as follows:

"(A) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1979, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to subsection (a)(2)(B)(i) bears to the total amount in such fund derived from such Federal capital contributions from funds deposited therein pursuant to subsection (a)(2)(B)(ii).

"(B) The remainder of such balance shall be paid to the agency, institution, or organization approved by the Secretary.

"(2) After September 30, 1979, each agency, institution or organization approved by the Secretary with which the Secretary has made an agreement under this section shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by it after June 30, 1979, in payment of principal and interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by subsection (f)(4)) as was determined for the Secretary under paragraph (1).

"(f)(1)(A) During the fiscal year ending June 30, 1971, and each of the next four fiscal years, the Secretary may make loans, from the revolving fund established by paragraph (4), to any public or private nonprofit agency, institution or organization approved by him, to provide all or part of the capital needed by any such agency, institution or organization for making loans to students under this subsection (other than capital needed to make the institutional contributions required of agencies, institutions or organizations by subsection (a)(2)(B)(ii)). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in subsection (b). The requirement in subsection (a)(2)(B)(ii) with respect to institutional contributions by agencies, institutions, or organizations to student loan funds shall not apply to loans made to agencies, institutions, or organizations under this subsection.

"(B) A loan to an agency, institution, or organization approved by the Secretary under this subsection may be made upon such terms and conditions, consistent with applicable provisions of subsection (a), as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this subsection will be achieved, these terms and conditions may include provisions making the obligation of the agency, institution, or organization to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (i) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this subsection, and (ii) probable losses.

"(2) If an agency, institution, or organization approved by the Secretary borrows any sums under this subsection, the Secretary shall agree to pay to it (A) an amount equal to 90 per centum of the loss to it from defaults on student loans made from such sums, (B) the amount by which the interest payable by it on such sums exceeds the interest received by it on student loans made from such sums, (C) an amount equal to the amount of collection expenses authorized by subsection (a)(2)(C) to be paid out of a student loan fund with respect to such sums, and (D) the amount of the principal which is canceled pursuant to subsection (b)(2) (C) or (D) with respect to student loans made from such sums. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the purposes of this paragraph.

"(3) The total of the loans made in any fiscal year under this subsection shall not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and the difference between $35,000,000 and the amount of Federal capital contributions paid under this section for that year.

"(4)(A) There is hereby created within the Treasury an allied professions training fund (hereinafter in this paragraph referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of this subsection. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847–849) for wholly owned Government corporations.

"(B) The fund shall consist of appropriations paid into the fund pursuant to subsection (c), appropriations made pursuant to this paragraph, all amounts received by the Secretary as interest payments or repayments of principal on loans under this subsection, and any other moneys, property, or assets derived by him from his operations in connection with this subsection (other than paragraph (2)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interest or participations in assets, of the fund.

"(C) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this subsection (other than paragraph (s)) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participation in obligations acquired under this subsection. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this subsection, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines th moneys in the funds exceed the present and any reasonable prospective future requirements of the funds, such excess may be transferred to the general fund of the Treasury.

"(g) The Secretary may agree to modifications of agreements or loans made under this section, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this section."

EVALUATION

SEC. 207. (a) That section of the Public Health Service redesignated as section 799b by section 205 of this Act is amended (1) by striking out "or 794," and inserting in lieu thereof "794, 795, 796, 797, or 798".

(b) The amendments made by this section shall be effective only with respect to fiscal years ending after June 30, 1970.

DEFINITION OF NONPROFIT AGENCY, INSTITUTION, OR ORGANIZATION

SEC. 208. That section of the Public Health Service Act which is redesignated as section

799 by section 205 of this Act is amended by inserting after "professions", in paragraph (3) thereof, the following: ", or any agency, institution, or organization,".

STUDY

SEC. 209. That section of the Public Health Service Act redesignated as section 799c by section 205 of this Act is amended by adding at the end thereof the following new sentence: "In addition to the report provided for by the preceding sentence, the Secretary shall prepare, and submit to the President and the Congress prior to January 1, 1972, a report on the administration of this part, an appraisal of the programs under this part in light of their adequacy to meet the needs for allied health professions personnel, and his recommendations as a result thereof."

ADVANCE FUNDING

SEC. 210. Part G of title VII of the Public Health Service Act is further amended by adding after the section redesignated as section 799c by section 205 of this Act the following new section:

"ADVANCE FUNDING

"SEC. 799d. Sums authorized to be appropriated for any fiscal year for grants, contracts, or other payments, under this part are hereby authorized to be included in the appropriation Act for the fiscal year preceding such fiscal year."

The section-by-section analysis, presented by Mr. YARBOROUGH, is as follows:

SUMMARY OF THE HEALTH TRAINING IMPROVEMENT ACT OF 1970

Section 101 of the bill amends section 771 of the Public Health Service Act which currently stipulates that each school of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine and podiatry with an approved application shall receive $25,000 with the remainder of the appropriation divided among approved schools on the basis of relative enrollment for the year of the grant, the relative increase in enrollment of such students for such year over the average enrollment of such schools for the five years preceding the year for which the application is made, and the relative number of graduates for such year. Section 771 currently requires at least a 2½ per cent, or 5 students whichever is greater, increase in enrollment over the two school years having the highest enrollment during the five school years during the period July 1, 1963 through June 30, 1968. Section 101 of the bill would require the Secretary of Health, Education and Welfare to prescribe by regulations the criteria for enrollment increases to be met by new schools and for determining the amount of each grant to new schools in excess of $25,000.

Section 201 of the bill would extend section 791 of the Public Health Service Act for five years with increased authorizations.

Section 202 amends section 792 of the Public Health Service Act which limits grants to junior colleges, colleges, or universities. In addition, since special improvement grants may be made only to the extent that the appropriation for this section is greater than the sum of the approved applications for basic improvement grants, no special improvement grants have ever been made. Section 202 of the bill would provide for separate authorization for special project grants and would expand coverage to permit grants to nonprofit organizations including junior college, colleges, and universities but not limited to them which provide training in the allied health professions. This in fact subscribes to a fairly strong consensus that if we are to close the existing gap between the supply and demand of allied health professionals, we must use all available qualified training resources. If a vocational school, a nonprofit trade association or a nonprofit organization claims that it can provide sound training in a scarce specialty in the allied health fields and the Department of Health, Education and Welfare is satisfied that it can, such a training program would be eligible for Federal assistance.

Section 202 would make it clear that special project grants may be used to establish special programs to reach groups such as the economically and culturally deprived and returning veterans with training and experience in the health fields.

Section 203 of the bill would extend the authorization for section 793 of the Public Health Service Act for five years with increased authorizations and would expand eligibility to include public and nonprofit private agencies, institutions, and organizations.

Section 204 of the bill would extend the authorization for section 794 of the Public Health Service Act for five years with increased authorizations. It would also permit expansion of the field for which grants may be made. Among other things it would provide for grants to study and develop mechanisms for determining equivalency and proficiency acquired skills and to develop new means of recruitment, retraining, or retention of allied health personnel.

Section 205 would redesignate sections 795, 796, 797, and 798 of the Public Health Service Act as sections 799, 799a, 799b, and 799c. Only minor changes would be made in the wording of some of these sections. The one substantial change has to do with a requirement in section 209 of the bill which calls for a report from the Secretary of Health, Education, and Welfare to the President and to the Congress prior to January 1, 1972, on the administration of the programs including an appraisal in light of their adequacy to meet the needs for allied health professions personnel.

Section 206 of the bill would amend title VII of the Public Health Service Act by adding new sections after section 794 of the Public Health Service Act to be designated as sections 795, 796, 797, and 798. New section 795 would provide for grants and contracts to encourage full utilization of the educational talents of veterans of the Armed Forces with training and experience in the health fields. The opportunities available to such veterans are not always well known. Thus while there is a severe shortage of allied health manpower, veterans with experience and training in the health fields are going into other fields. The new authorities in section 206 coupled with the amendments provided by sections 202 and 204 should permit fuller utilization of veterans with training or experience in the health fields. It would also provide assistance in identifying individuals of financial, educational, or cultural need with a potential for education or training in the allied health professions.

New Section 796 would provide for scholarship grants to individuals of exceptional financial need who require such assistance to pursue a course of study in the allied health fields. Current legislation does not provide for such grants.

New Section 797 would provide for federal grants for a work-study program for those students who are not sufficiently poor to be eligible for a scholarship under new section 796 or who do not want to burden themselves financially for a long period of time with a loan under new section 798.

New Section 798 would provide federal assistance for a loan program for students who are not eligible for a scholarship and for any number of reasons cannot or will not undertake a work-study program but still need some form of assistance to undertake a program of study in the allied health fields. This section also provides a cancellation clause of up to 50 per cent of the loan for full-time employment in any of the allied health professions in any public or nonprofit private agency, institution or organization or in a rural area with an individual practitioner if such service is approved by a local county health department at the rate of 10 per cent per year with a faster and complete cancellation provision for such service in an area designated by the Secretary of Health, Education, and Welfare as having a substantial shortage of personnel in the allied health fields.

Section 207 of the bill provides for a technical amendment occasioned by the redesignations stipulated by section 205 and the new sections called for by section 206.

Section 208 would amend the redesignated section 799 of the Public Health Service Act to provide for a definition of "nonprofit agency, institution, or organization."

Section 209 would call for a report from the Secretary of the Department of Health, Education and Welfare to the President and the Congress prior to January 1, 1972, on the administration of the allied health professions personnel training programs, including an appraisal of the programs in light of their adequacy to meet the needs of allied health professions.

Section 210 would provide for a new section 799d which calls for advance appropriations to permit the Department of Health, Education and Welfare and recipient institutions to plan more effectively as a result of the greater lead time provided by this section.

VETERANS IN THE ALLIED HEALTH PROFESSIONS

Mr. CRANSTON. Mr. President, I wish to congratulate the Senator from Texas (Mr. YARBOROUGH) for the continuing excellent leadership he has provided in expanding and improving the Nation's health programs. S. 3586, the proposed Health Training Improvement Act of 1970, which he introduced today, and which I am privileged to cosponsor, meets one of the most critical needs in health today—the development of health manpower—and approaches it in the most realistic way through providing for the expansion of the allied health manpower pool.

In recent years, physicians and other health professionals have become more and more reliant on the assistance of individuals trained in allied health fields. The medical community has fully recognized the value of the allied health professional—both as a specialist in his own right and as an extension of the physician's and other health professional's ability to provide treatment for the patient. This pyramiding of personnel has dramatically increased the productivity of the individual physician.

In view of this, the demand for the services of the allied health professional has vastly increased, and there is now a critical need to develop additional and innovative training programs and to attract more individuals into these fields. I believe S. 3586 will accomplish this.

The Veterans' Administration, I believe, can play a substantial role in alleviating the current critical health manpower shortages. As chairman of the Subcommittee on Veterans' Affairs, I am devoting considerable study to methods of improving the ability of the Veterans' Administration to expand its capacity to train and employ additional professionals in the allied health fields. I plan shortly to introduce legislation to that effect. Special emphasis will be placed on Veterans' Administration training programs to develop innovative types of allied health professionals. One of the most

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promising is the "physician's assistant," for which an educational program is now in the formative stages at many medical schools and institutions throughout the country. Those programs which have moved into an operational phase have relied heavily on recruiting returning medical corpsmen and developing curriculums to build upon their skills. Because of the Veterans' Administrations almost unique potential for training and utilizing these new types of professionals and its great needs for more skilled medical staff, the bill will include special provisions for the development of physician's assistant training programs.

Concurrently with this, I will seek substantial increases for funding the Veterans' Administration health personnel training and education program, and shall seek to make that program a separate item in the appropriation bill to permit an expanded, ongoing effort.

Several of the provisions of the proposed Health Training Improvement Act dovetail with the Veterans' Administration programs which I hope will be established by the legislation I am developing. S. 3586 includes provisions to facilitate the entry of returning veterans into health training programs; to develop mechanisms for determining the equivalency of nonacademic training in the health fields; to permit grants for outreach programs to identify individuals from among the culturally and economically deprived and from among returning veterans with training and experience in the health field and to encourage their pursuit of a health career; and to establish a work-study program for allied health professionals.

The first of these provisions would authorize project grants to establish special curriculums for the training or retraining of allied health personnel and specifically includes the returning veteran who has learned health skills while in the Armed Forces.

A second provision authorizes a program to make grants and contracts for the study and development of mechanisms for determining the equivalency and proficiency of an individual's previously acquired skills. This is very pertinent to the returning military corpsman who has received intensive training, has had very substantial responsibilities in emergency care of the wounded on the battlefield and in field hospitals, and is, in many cases, overqualified for regular health training programs. New approaches will be needed to build upon the corpsman's existing skills and to eliminate unnecessary years of study in fields he has already learned.

Many veterans leaving the service are unaware of the existence of training programs in the health field, and are equally unaware of the very substantial potential for career development in those fields. The outreach program provided for in this bill should have a considerable impact in channeling these well-trained, competent young specialists into the allied health professions. And, through the bill I am developing, I hope that many of them will be able to receive further training and be employed as physicians' assistants in the Veterans' Administration.

An additional provision in Senator Yarborough's bill which dovetails with programs I am developing would provide for grants for work-study programs. Although, as presently drafted and under present HEW interpretations, S. 3586 seems to preclude a VA hospital from receiving grants or subgrants under this work-study provision, the legislation I am planning to introduce providing for the expansion of Veterans' Administration education and training programs will include on-the-job training, continuing education, and career mobility as an integral part of the VA health manpower education and training programs. I plan to cooperate closely with Senator Yarborough and officials of the Veterans' Administration in exploring methods to encourage the greatest coordination between such VA training programs and the work-study provisions of the proposed Health Training Improvement Act.

S. 3588—INTRODUCTION OF A BILL TO AUTHORIZE CERTAIN CONSTRUCTION AT MILITARY INSTALLATIONS

Mr. STENNIS. Mr. President, by request, for myself and the senior Senator from Maine (Mrs. Smith), I introduce, for appropriate reference, a bill to authorize certain construction at military installations and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the Record immediately following the listing of the bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the Record.

The bill (S. 3588) to authorize certain construction at military installations, and for other purposes, introduced by Mr. Stennis (for himself and Mrs. Smith of Maine), was received, read twice by its title, and referred to the Committee on Armed Services.

The letter, presented by Mr. Stennis is as follows:

The Secretary of Defense,
Washington, March 11, 1970.

Hon. Spiro T. Agnew,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is forwarded herewith a draft of legislation "To authorize certain construction at military installations and for other purposes."

This proposal is a part of the Department of Defense legislative program for FY 1971. The Bureau of the Budget on March 2, 1970, advised that its enactment would be in accordance with the program of the President.

This legislation would authorize military construction needed by the Department of Defense at this time, and would provide additional authority to cover deficiencies in essential construction previously authorized. Appropriations in support of this legislation are provided for in the Budget of the United States Government for the FY 1971.

Titles I, II, III, and IV of this proposal would authorize $1,222,556,000 in new construction for requirements of the Active Forces, of which $627,455,000 are for the Department of the Army; $284,221,000 for the Department of the Navy; $267,280,000 for the Department of the Air Force; and $43,600,000 for the Defense Agencies.

Title V contains legislative recommendations considered necessary to implement the Department of Defense family housing program and authorizes $809,038,000 for all costs of that program for FY 1971.

Title VI contains General Provisions generally applicable to the Military Construction Program.

Title VII totaling $37,500,000 would authorize construction for the Reserve Components, of which $13,700,000 is for the Army National Guard; $9,300,000 for the Army Reserve; $4,500,000 for the Naval and Marine Corps Reserves; $6,500,000 for the Air National Guard; and $3,500,000 for the Air Force Reserve. These authorizations are in lump sum amounts in accordance with the amendments to chapter 133, title 10, United States Code, which were enacted in Public Law 87–554.

Sincerely,

Melvin R. Laird.

ADDITIONAL COSPONSORS OF A BILL

S. 3566

Mr. HANSEN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. Scott), I ask unanimous consent that, at the next printing, the names of the Senator from Oregon (Mr. Packwood) and the Senator from Oklahoma (Mr. Harris), be added as cosponsors of S. 3566, to establish, within the National Foundation on the Arts and Humanities, a National Council on American Minority History and Culture.

The PRESIDING OFFICER (Mr. Spong). Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 58—CONCURRENT RESOLUTION SUBMITTED EXPRESSING THE SENSE OF CONGRESS ON LOWERING INTEREST RATES

Mr. EAGLETON. Mr. President, the American people have now had 14 months of high interest and tight money because the administration says it is the bitter but unecessary medicine for inflation.

Today the inflation is still with us, the economy is clearly in a slump or possibly the beginning of a recession, more and more people are out of work, and the medicine is feeding the disease. High interest—the highest we have ever paid in our Nation's history—has become an integral part of the high cost of living—part of the inflated price of the goods we purchase.

And who is taking the medicine? Who is paying the interest? The people least able to pay—the consumers, the small businessmen, the farmers, the home buyers—people to whom credit is essential but who are unable to pass along 10, 12, or 18 percent financing charges to someone else.

Tight money and high interest do not seem to be hurting the bankers. It is not hurting the well-financed corporations who are lenders themselves.

The people who are being hurt are the ones for whom a single house or a single college education is the most important investment of their lifetimes. In all of 1969, permits for fewer than 600 family housing units were issued in St. Louis,

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and only 14 of these were for single family homes.

Mr. President, tight money has done its work, for good or ill, and it is time to end the indecent and unfair burden it is imposing on so many millions of people. There are other, more effective instruments available for dealing with inflation, and our distinguished colleague, Senator MONDALE, is now taking testimony on them before the Senate Subcommittee on Production and Stabilization. I trust the administration will give close attention to recommendations which emerge from those hearings.

Meanwhile, however, I believe it is time for Congress to go on record for lower interest rates, and to demand that the administration move promptly to ease money.

Coy hints of easier money just around the corner may titillate Wall Street, but are not doing a thing for the average citizen except perhaps to feed his bitterness.

I therefore submit, on behalf of myself, and Senators CANNON, GRAVEL, HART, INOUYE, MONDALE, RANDOLPH, SPONG, and YOUNG of Ohio, a concurrent resolution expressing the sense of the Senate that the administration should reverse its high interest rate policy, and that the Federal Reserve Board should take steps to gradually roll back the prime interest rate to 6 percent.

An identical resolution was introduced in the House with the cosponsorship of 82 Members from 28 States.

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I request unanimous consent that the text of the resolution be printed in the RECORD at this point.

The PRESIDING OFFICER. The concurrent resolution will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 58), which reads as follows, was referred to the Committee on Banking and Currency:

S. CON. RES. 58

Whereas a high interest rate policy has been followed for the past fourteen months as a part of the administration's fight against inflation; and

Whereas the higher interest rates paid by manufacturers, distributors, transporters, retailers, and all others involved in the production and marketing processes tend to become part of the end cost of the product, thereby adding to the growth of inflation; and

Whereas consumers and small businessmen, to whom credit is vital and who operate on smaller margins, ultimately pay the cost of interest rate increases; and

Whereas the high interest rate policy, continued over an extended period, has served to blunt the Federal goal of attacking the problem of inadequate and substandard housing on a massive scale by systematically reducing the availability of low-cost financing; and

Whereas extended periods of high interest rates have traditionally and historically been followed by recessions: Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress of the United States that the administration should make every effort to reverse its policy of high interest rates in all programs and at all levels, and that the Federal Reserve Board should take steps to gradually roll the prime interest rate back to 6 per centum.

VOTING RIGHTS ACT AMENDMENTS OF 1969—AMENDMENT

AMENDMENT NO. 553

Mr. ALLEN proposed an amendment to the Scott-Hart amendment (No. 544) to the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, which was ordered to be printed.

(The remarks of Mr. ALLEN when he proposed the amendment appear later in the RECORD under the appropriate heading.)

NOTICE OF HEARINGS ON NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

A. Roby Hadden, of Texas, to be U.S. attorney for the eastern district of Texas for a term of 4 years, vice Richard B. Hardee.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, March 18, 1970, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, March 18, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Howard B. Turrentine, of California, to be U.S. district judge for the southern district of California, vice Fred Kunzel, deceased.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

NOTICE OF HEARINGS BEFORE THE SUBCOMMITTEE ON SECURITIES ON BILLS RELATING TO PROTECTION FOR INVESTORS

Mr. WILLIAMS of New Jersey. Mr. President, I wish to announce that the Subcommittee on Securities of the Committee on Banking and Currency will hold hearings on S. 3431, a bill to provide additional protection for investors in corporate takeover bids; and S. 336, a bill to increase the exemption under regulation A of the Securities Act of 1933 from $300,000 to $500,000.

The hearings will be held on Tuesday and Wednesday, March 24 and 25, 1970, and will begin at 10 a.m. in room 5302, New Senate Office Building.

Persons desiring to testify or to submit written statements in connection with these hearings should notify Mr. Stephen J. Paradise, assistant counsel, Senate Banking and Currency Committee, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-7391.

ANNOUNCEMENT OF HEARINGS BY THE COMMITTEE ON ARMED SERVICES ON THE SELECTIVE SERVICE SYSTEM

Mr. STENNIS. Mr. President, I should like to announce that the Senate Committee on Armed Services will begin hearings very soon after we reconvene following the Easter recess on the Selective Service System.

The committee will begin consideration of two aspects of the system: First, the question of how the Selective Service System is operating under its present rules and regulations, and second, the general matter of possible changes in existing law as they pertain to the many aspects of the Selective Service System and as proposed in the numerous bills now pending before the committee.

The witnesses at this initial hearing will be those from the executive branch who will testify both on the operation of the System and the executive branch position on the several pending bills on the subject.

I would like to note that the hearings will be only the beginning of the committee consideration of this entire matter. Following the executive branch testimony, hearings with other witnesses will be scheduled as quickly as the committee work permits.

The committee did not begin Selective Service hearings on February 15, the date previously contemplated and announced, because of the delay in nominating a new director of the Selective Service System and for the reason that reports have not been received from the executive branch on its position on the pending bills on Selective Service.

I would emphasize, Mr. President, that the committee will not complete action on the procurement authorization legislation prior to the Selective Service hearings.

I would note that it would be necessary to resume committee action on the procurement authorization legislation following the Selective Service hearings and, to some extent, hearings on each will continue for a time.

ADDITIONAL STATEMENTS OF SENATORS

SOVIET MISSILE THREAT

Mr. TOWER. Mr. President, development and deployment of Soviet offensive missiles has proceeded at such a rapid rate in the last few years that we must realistically conclude that the United States is in danger of becoming inferior to the Soviets in strategic nuclear power.

Recent history of Soviet missile development clearly demonstrates a concerted effort to match and surpass the United States. In 1966, the Soviet Union had 250 ICBM's on launchers. By 1967, this number had increased to 570 and by

September 1, 1968, 900. This was the best intelligence we had when phase I of safeguard was debated. At that time, Secretary Laird was criticized by Safeguard opponents for recognizing the fact that continued Soviet deployment of the giant SS–9 missiles was indicative of a desire on their part to develop a first-strike capability.

As of September 1, 1969, the Soviets had 1,060 ICBM's on launchers. It is interesting to note that many of the 160 missiles placed on launching pads were the awesome SS–9's.

The SS–9 missile is the largest ballistic missile in existence in the world. It is capable of carrying warheads as large as 25 megatons. When one considers that a much smaller warhead is sufficient to serve as an effective retaliatory weapon for attacking soft targets, the intended use of these giant missiles must be questioned carefully. A 25-megaton weapon is only useful as a "terror" weapon or against hardened missile sites. Hardened missile sites would, of course, only be attacked in a first strike attempt to destroy the defenders' ability to retaliate.

All of these figures illustrate one simple point. There is ample evidence to believe that the Soviet Union is proceeding to develop a first strike capability.

None of us can be sure of what the Soviet intent in this regard is. What is clear, however, is the absurdity of risking the continued existence of the United States on the unsupported assumption that the leaders of the Soviet Union no longer harbor aggressive designs on the Free World.

Instead, we should seek to develop the weapons systems necessary to preserve the credibility of our deterrent and to provide effective protection for ourselves.

The Safeguard ABM system, by insuring that no first strike can neutralize our Minuteman ICBM force, greatly lessens the likelihood that the Soviet Union or any other future nuclear force would make the tragic mistake of initiating a nuclear holocaust. So long as the leaders of the Soviet Union remain convinced that they will be utterly destroyed by a nuclear exchange, we can be sure that they will not make that mistake. We can be sure because it will be in their best interest to avoid a nuclear war. This, I suggest, makes far more sense than to base our security strictly on the good will of the Soviets.

In addition to providing us with the necessary weapons system to prevent a first strike from becoming attractive to the Soviets, the Safeguard ABM system lessens the likelihood of nuclear war in yet another way. The initial round of the SALT talks was considered by all to have been highly encouraging. There is good reason to believe that the decision we made last year to proceed with phase I of the Safeguard system was instrumental in bringing about meaningful talks. It would be counter-productive to turn around now and reject phase II of Safeguard before the SALT talks reconvene. If we sincerely desire that our President proceed with all deliberate speed to reach arms limitations agreements, we must give him the tools he needs to negotiate such an agreement. In my view, the experience of the first round of the SALT talks has taught us that Safeguard may well be the single most valuable aid our negotiators have.

We must proceed with phase II of Safeguard. The taking of any other course of action would ignore the mounting Soviet missile threat and undercut the President's ability to negotiate an arms limitation.

In conclusion, I must stress that it is a naive, dangerous, and unsupportable assumption that the Soviets have some genuine fear of potential U.S. aggression and, therefore, if the United States will simply unilaterally arrest its arms development to prove its good intentions, the Soviets will follow suit or be more amenable to arms limitations. Experience proves the contrary. Those who would thwart technological advance in strategic weaponry must answer the question: Are you prepared to see the United States slide into such a position of strategic inferiority as to make the free world vulnerable to nuclear blackmail in the mid-1970's?

THE INEQUITY OF THE DRAFT

Mr. KENNEDY. Mr. President, last Sunday's Washington Post contained an article, written by Richard Harwood, which documents once again the way in which the draft favors wealthier and better educated registrants.

For many years the draft has been criticized for discriminating against less fortunate young men. Mr. Harwood states:

> At the heart of this discrimination are the exemptions and deferments that have been grafted onto the Selective Service System.

He goes on to show that exemptions and deferments—even for extreme hardship—are far more numerous in the white, middle-class boards of Georgetown and the upper Northwest than in the central-city ghetto boards.

> Although Georgetown and the upper Northwest have less than 15 per cent of the D.C. registrants, they have obtained for their sons 35 per cent of the military reserve and National Guard assignments that insulate men from active duty in Vietnam; 33.5 per cent of the college student deferments; 100 per cent of the conscientious objection deferments that permit young men to do civilian work in lieu of military service; 22 per cent of the occupational deferments; and more "extreme hardship" deferments than Boards 7 and 8 in the central city ghettos.

Mr. Harwood shows clearly why there is currently so much dissatisfaction and disillusionment with the present draft. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD:

[From the Washington Post, March 8, 1970]

"HARDSHIP" AMONG THE RICH: THE DRAFT'S INEQUITY

(By Richard Harwood)

Since John F. Kennedy's time, Georgetown has symbolized for the tourists in Washington the elegant life standards of the American Federal Establishment.

Today it is also a convenient symbol of the grotesqueries of the draft.

It is an area of considerable wealth and learning that has obtained for its sons more "extreme hardship" deferments from military service than a comparable area in the black ghetto of central Washington.

Georgetown (Board 1) and its affluent neighbors in the city's upper Northwest (Board 2), contain 13 percent of the Selective Service registrants in the District of Columbia. But last year they supplied only 6 percent of the District's draftees—47 men. Anacostia, with its grim rows of public housing, supplied 107 men. The black middle class in the far Northeast supplied 129.

That is nothing peculiar to Washington, of course. Alabama, with a little more than 3.5 million people, supplied only 20 percent fewer men to the draft last year (6,020) than New York City, which has a population of nearly 8 million and supplied 7,214 men.

Incongruities and disparities of that kind were remarked a few months ago by Charles Palmer, the president of the National Student Association.

"This war," he told a Senate subcommittee, "is paid for by the poor."

Young people, unable to attend college, unwilling to seek defense-related occupations, young people without the money for adequate medical or legal advice, make up the bulk of the forces now in Vietnam . . . We raise our cannon fodder on small farms, on reservations, in the hollows of Appalachia, in ghettos and barrios, and our ancient friends at the local (draft) boards sift the chaff."

The statement was somewhat overdrawn. The heaviest burden of the Vietnam war falls on the high school graduates and college dropouts. Roughly 60 percent of them go into the military services, compared with only 50 percent of the poorest and least educated young men in American society.

There is no doubt, however, that the lightest burden is borne by the most affluent and most educated classes. Only 40 percent of the college graduates in this country perform military service.

Moreover, the kind of service they perform—officers excepted—tends to be the least hazardous. Of the approximately 100,000 light infantry replacements required by the Army this year—the "grunts" of the rifle companies—only about 2,000 will come out of college graduating classes, according to Defense Department estimates. The rest will be less educated men.

"The exposure (to death) of the college graduate," a Pentagon official observes, "is going to be less than the exposure of other groups."

Or, as former Attorney General Ramsey Clark has put it, "If I went to Vietnam last year and all my buddies haven't gone yet, there is a difference. The difference may be that I am dead and they are still in school."

At the heart of this discrimination are the exemptions and deferments that have been grafted onto the Selective Service System. The reasoning has been that since the manpower supply in the United States far exceeds the demands of the military services, exemptions and deferments are a justifiable luxury. As a result, only about 7 million of the roughly 22 million men between the ages of 18½ and 26 have performed military service.

The theory is that the exemptions and deferments are equally available to all men. In practice it has not worked that way, as the case of the District of Columbia illustrates.

The District has 15 local draft boards of varying sizes. Board 15, covering the far Northeast, has more than 17,000 registrants. Board 8 in the central city has fewer than 6,000 registrants.

If the system worked equitably, each board would provide the Pentagon with men proportionate to its number of registrants and would claim proportionate shares of the deferments and exemptions.

The reality bears no resemblance to that ideal. The far Northeast and its black middle class (Board 15) supplies nearly three times as many draftees to the system as the white middle class of Georgetown and the upper Northwest (Boards 1 and 2), even though Board 15 has fewer registrants.

The allocation of deferments and exemptions is distorted in the same way. Although Georgetown and the upper Northwest have less than 15 per cent of the D.C. registrants, they have obtained for their sons 35 per cent of the military reserve and National Guard assignments that insulate men from active duty in Vietnam; 33.5 per cent of the college student deferments; 100 per cent of the conscientious objection deferments that permit young men to do civilian work in lieu of military service; 22 per cent of the occupational deferments, and more "extreme hardship" deferments than Boards 7 and 8 in the central city ghettos.

The fact that 76 per cent of the college students in this country come out of the most affluent families is a major element in this pattern. They are exempted from military service for four years. Theoretically, they go into the military service when their college days are done; in practice, it works otherwise.

Of the 400,000 male college graduates this year, no more than 100,000 are likely to be called for military service of any kind. About 40,000, the Defense Department estimates, will be drafted—10 per cent of the total. Another 30,000 will enter the officer corps. About 20,000 will enlist in the Navy, Air Force and Marine Corps. About 10,000 will go into reserve and National Guard units.

Thus, the colleges this year are expected to provide only about 12 per cent of the 850,000 new men the services will require.

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"If some men with the education and money are avoiding the draft while others cannot," Sen. Edward M. Kennedy (D-Mass.) has said, "then it can fairly be said that they are buying their way out of the war."

People with money and brains do manage, in a remarkable number of cases, to beat the system. Lawyers for the American Civil Liberties Union in New York City claimed in testimony before Sen. Kennedy's subcommittee that of 500 men they have counseled on ways to avoid the draft, only seven have been inducted. A law firm in Santa Monica, Calif., reports that it has "never lost a man" out of 700 anti-draft clients.

The largest private draft counseling service in the Washington area is the Washington Peace Center, located in the Friends Meeting House at Florida ave. and Decatur pl. NW. In an average week, it advises about 30 young men—nearly all white, nearly all upper middle class, nearly all from Georgetown, the upper Northwest or suburbia—on ways to avoid military service. Dozens of similar organizations are functioning in other cities in the United States, and according to those involved in the movement they have approximately the same clientele.

The Peace Center here is somewhat unusual, however, in that it has been certified by Selective Service authorities as an agency eligible to provide employment for young men who have been classified as I–W conscientious objectors.

The class of COs, unlike the ordinary CO, is not required to perform noncombatant service in the military such as medics and chaplain's assistants.

The I–W is allowed to discharge his "military obligation" by working for two years in some socially useful civilian job—in a mental hospital or a social work agency, for example.

At the Peace Center, however, the "alternative service" performed by the two I–Ws on its staff—Bill Brubaker and Mike O'Hare—is advice on how to beat the draft.

The irony of this alternative service is obvious to the people involved in it but not to Selective Service authorities, who may not be aware of what is going on.

Ira Hamburg, the center's board chairman, says that the organization got its alternative service certification from Selective Service without specifying that draft counseling was one of its principal activities.

In any case, Brubaker and O'Hare are satisfying their "military obligation" as COs by serving as draft counselors, rather than as uniformed noncombatants in Vietnam.

They are not unique, according to Alan Dranitzke, editor of the Selective Service Law Reporter, a 2,200-subscription publication serving the large draft-counseling industry that has grown up in the United States in the last few years. Dranitzke says that a number of I–W COs are serving out their time as advisers on ways to avoid the draft.

David Otto, a young anti-war, antidraft worker in the D.C. Moratoruim Committee, is exempt from the draft because the Selective Service System has ruled that he is in an essential civilian occupation. He teaches children in Georgetown who are enrolled in a private school. In his spare time, he is organizing antidraft demonstrations that are to be held here during the week of March 16–22.

He thinks his occupational deferment is slightly absurd and plans to seek, instead, a CO classification.

There is no doubt in Otto's mind that the deferment-exemption system favors the white middle class. And he offers many examples:

"It is a known fact that in New York there are psychiatrists who—for a fee—will certify that you are under his care and are unfit for military service.

"One of my friends got out of the draft in another way. He bribed a technician at the medical examination to say that he was only 5 feet 4 inches tall and was overweight. The technician measured him from his feet to his shoulder, not to the top of his head."

The ruses used, says Otto, are almost endless. College students, for example, can switch their major courses of study so often that they extend their undergraduate deferments. College freshmen build up four-year histories of "back trouble" with frequent visits to the infirmary; ultimately they are rejected on physical grounds by military medical examiners.

Robert Leisinger, a counselor with IV–F status at the Washington Peace Center, tells of an acquaintance rejected for showing up at an examining station wearing diapers. Another was rejected, he said, because of an obscene tattoo. Yet another beat the draft, said Leisinger, by claiming he was homosexual.

There is no end to stories of this kind, and in almost every case they involve college students who have had the wit to seek counseling or the money to hire a lawyer.

The makeup and location of local draft boards affect the outcome, too. A student of these affairs, Dr. Gary L. Wamsley of Vanderbilt University, has told of a Pennsylvania board that classified a man as 1A "because they thought the Army would be good for him and would get him away from a bad home environment . . . I saw (another) board grant an occupational deferment to a young man organizing YMCA teen clubs in middle-class suburban high schools."

There are more striking examples of double standards. In Puerto Rico, men are drafted if they can pass the Army's written tests in Spanish. In the United States, the Selective Service Law Reporter notes, Spanish-speaking men are rejected for service if they are unable to pass the Army tests in English.

Many men have confronted the system more directly—by fleeing the country or by refusing induction. The number of Justice Department prosecutions of Selective Service violators doubled in a single year—from 1,698 in fiscal 1968 to 3,455 in 1969. Forty per cent of those charged are Jehovah's Witnesses. Draft law violations now rank fourth among all Federal crimes, exceeded only by narcotics violations, interstate car thefts and immigration cases.

The number of these violators is still less than one-half of 1 per cent of the draftees called. They have not filled the federal prisons (only 521 were in jail at the beginning of this year) and they have had no meaningful effect on the manpower supply available to the Pentagon.

They have, however, contributed to the growing public belief that there is a massive anti-draft movement in the United States threatening the stability of the military establishment. They have stimulated the growth of the draft-counseling industry, which now includes law firms, legal volunteers, church organizations, high school and college advisers, and a nationwide network of institutions such as the Washington Peace Center.

The effectiveness of this movement in terms of draft avoidance has not been assessed. The Peace Center, for example, has no follow-up data on the people it counsels.

Unquestionably, the movement has made the Selective Service System more responsive to challenges and appeals and has opened up the opportunities for deferment or exemption, as recent court rulings have shown. It probably contributed, too, to the firing of draft director Lewis B. Hershey.

But as Otto and Hamburg and Dranitzke concede, the beneficiaries of the movement have been, for the most part, the same people who are already the main beneficiaries of the deferment and exemption provisions of the draft law.

Senator Kennedy and members of his subcommittee on the draft are convinced that only when all deferments (except hardship and conscientious objection) are abolished will there be any semblance of equity in the Selective Service System.

There are credible reports that the Nixon administration has come around to the same view and will propose an end to deferments in the next few months as a prelude to an end to the draft in the mid-1970s and a changeover to an all-volunteer army.

If proposed, these reforms will come rather late in the Vietnam era. For more than a year, the Pentagon has been quietly winding down demands for manpower. From a Vietnam peak of 3.5 million men in mid-1968, the strength of the armed forces has been declining to an expected level of 3.1 million in June and 2.9 million a year later.

LOAN SHARKING

Mr. SCOTT. Mr. President, the lead article in the March 5, 1970, edition of the Machinist, published by the International Association of Machinists and Aerospace Workers, concerns one of the most vicious rackets in America today, the crime of loan sharking, and the new law which makes loan sharking a Federal crime.

The author of this significant law is our own Representative Joseph M. McDade of the 10th Congressional District of Pennsylvania, and he is so featured in the story.

I wish to commend Representative McDade for the work he did in authoring this important attack on organized crime. As is noted in the article, the vicious men who run this racket often get between 300 percent to 1,000 percent annual interest on the money they loan, and too often the victims of this racket are the urban poor in America. It has been a multibillion-dollar source of revenue for organized crime; that take may now be cut sharply.

I wish also to commend the Machinist for publishing this story. This paper will go into the homes of every member of the Machinists Union in America, and will not only alert them to the dangers of this vicious racket, but will also inform them of the new law which is now on the books, and which has already been tested in the Court of Appeals, to fight this crime.

I ask unanimous consent that this article be printed at the conclusion of my remarks. I certainly commend its reading to all Senators.

There being no objection the article was ordered to be printed in the RECORD, as follows:

[From the Machinist, Mar. 5, 1970]

FEDS MOUNT DRIVE: TWO CONVICTED, 36 AWAIT TRIALS IN DRIVE ON LOAN SHARKING

A Federal campaign to stamp out loan sharking is picking up steam all over the country.

Loaning money at exorbitant interest rates collected by beatings or threats of physical harm has been a Federal offense since 1968. Congress added it, as an afterthought, to the Truth-in-Lending Act.

So far, the Feds have indicted at least 41 persons in nine states on loan-sharking charges. Two have been convicted under the new law; one was acquitted and two indictments have been dismissed. The other 36 cases are awaiting trial.

The constitutionality of the anti-loan-sharking law was upheld last month by the Seventh Circuit Court of Appeals in Illinois. The law had been challenged by Michael Biancofiori of Chicago, the first loan shark convicted under Federal law.

According to Rep. Joseph McDade of Pennsylvania, whose bill was the basis for the legislation, the new law was directed against organized crime that preys on the poor who cannot find credit thorugh normal channels.

THE 1,000-PERCENT INTEREST

Under the law, it is illegal for anyone to use or threaten violence in making, financing or collecting a loan. The Congressman explained that when direct evidence of violence is available, nothing else is required to prove the crime.

Congressional hearings revealed that a loan shark may charge up to 1,000 per cent interest a year and that loan-sharking is a multi-billion dollar source of income annually for the underworld.

Biancofiori, whose conviction was affirmed in Chicago, had been found guilty of making threats to collect a debt from George Wright and sentenced to seven years in prison. Testimony in that case showed how loan sharks operate.

According to the testimony, Biancofiori loaned Wright, a snack shop employee, $200 in November, 1967, telling him, "You know this is a juice (high-interest) loan." Wright was required to pay $14 interest a week, payable every Tuesday.

This amounted to 364 per cent a year!

Biancofiori also warned Wright:

"Don't try to leave town on me, or the boys will find you and you'll be sorry."

In December, 1967, Wright was again in financial trouble and borrowed an additional $200 from Biancofiori.

Two months later, Wright and Biancofiori formed a partnership in a painting and decorating business, M&G Home Improvement. Biancofiori supplied $1,000 cash needed to start the enterprise and controlled the books. He deducted Wrights's payments from his wages. Wright got two more loans shortly after the partnership was formed, borrowing a total of $75 from Biancofiori. His weekly interest payments amounted to $53.

In August 1968, Wright stopped working for M&G. When Wright was unable to make interest payments, he and his family were harassed by Biancofiori.

Wright complained to the Federal Bureau of Investigation that Biancofiori repeatedly made threats of violence, in person and over the telephone. On a day a collection was scheduled, agents hid in Wright's apartment, overheard the threatening remarks and made the arrest.

Investigation of the Biancofiori case led Federal agents to smash what was described as "the largest blue-collar loan-shark ring in the country." Eleven men were indicted on charges of using or threatening violence in extending credit.

THE 500-PERCENT INTEREST

The ring, which was based in Cicero, Ill., a Chicago suburb, netted an estimated $50,000 a week, loaning money to persons who lost heavily gambling. The victims, including some factory workers, were directed to loan sharks by bookies, agents said.

The loan sharks extended credit at interest rates of five to ten per cent a week. This would be an annual rate of about 250 to 500 per cent.

The victims were told they would be harmed if they did not meet payments, according to the indictments. Biancofiori operated as a collection agent for the lenders.

The second loan shark to be convicted under the new law is Alcides Perez. He was sentenced to 18 months in prison on Mar. 19, 1969, for threatening violence to collect a debt. Here are the facts in his case:

The victim opened a butcher shop in New York State. He borrowed money from Perez after he was unable to obtain credit from a supplier. Within four months the victim paid Perez three times the amount of the original loan and was still in debt. His business failed.

As a result of Perez's threats, the victim and his wife were forced to move out of their neighborhood. Eventually they reported the threats to authorities and testified at Perez's trial.

In another case, not yet come to trial, Eugene C. Dawson of Jersey City, N.J., charged that he was obliged to pay a loan shark 260 per cent interest on a debt. He had borrowed $400 to pay outstanding bills. A month later, he borrowed an additional $300. He was then required to pay $35 a week interest until he could repay the $700 lump sum.

When Dawson began to fall behind in his payments, he was driven to a store to "straighten out his loan." When Dawson explained that he had no money, he was beaten on the arms and hip with a heavy piece of wood.

Next day, Dawson entered a hospital with a broken elbow. He was hospitalized for 11 days.

Another victim of the loan sharks, Frank Gscheidle of New York City, told authorities he borrowed $1,000. Six months later he had repaid the loan plus $400 interest. Yet, the lenders told Gscheidle he still owed them $1,350. When he refused to pay up he was threatened with pistols and beaten with fists. Three men have been indicted for using violence to collect that loan.

The Justice Department has launched an investigation of underworld figures who are financing loan-sharking operations. According to officials, the new law has "provided a real deterrent to this type of activity."

FBI AIDS LOAN SHARK VICTIMS

Under Federal law, a loan shark is any money lender who threatens you or your family with beatings or other physical harm if you fail to make the payments. The penalty can run to $10,000 and 20 years in jail.

If you are victimized by a loan shark who threatens bodily harm, call the nearest office of the Federal Bureau of Investigation. The nearest office should be listed in the front pages of your telephone directory.

ADDITIONAL DEATHS OF CALIFORNIANS IN VIETNAM

Mr. CRANSTON. Mr. President, between Wednesday, February 18, 1970, and Friday, March 6, 1970, the Pentagon has notified 26 more California families of the death of a loved one in Vietnam.

Those killed:

S. Sgt. Daniel A. Alegre, son of Mrs. Edith H. Hussy, of San Francisco.

Sgt. Jeffrey T. Beardsley, husband of Mrs. Patricia J. Beardsley, of San Jose.

Sp4c. Chad A. Charlesworth, son of Mr. and Mrs. Bill B. Charlesworth, of Ojai.

WO Richard J. Connelly, son of Mr. and Mrs. John P. Connelly, of Long Beach.

GMG2 Thomas E. Copp, son of Mrs. Ellen Copp, of Chatsworth.

Cpl. Thomas G. Dickson, son of Mr. William R. Dickson, of Norwalk.

Sp4c. Mark S. Diorio, son of Mrs. Lois A. Prouty, of Santa Cruz.

HM3 Charles P. Duessent, son of Mr. and Mrs. Harry A. Duessent, of South El Monte.

L. Cpl. Warren J. Ferguson, Jr., son of Mr. and Mrs. Warren J. Ferguson, Sr., of Fullerton.

Rdm. Chief Norman G. Gage, husband of Mrs. Rosemary Gage, of Imperial Beach.

Sp4c. Frank N. Figueroa, husband of Mrs. Carol Figueroa, of Santa Ana.

Seaman Gary L. Giovanneli, son of Mrs. Beulah M. Esposito, of San Leandro.

L. Cpl. Barry C. Hiatt, husband of Mrs. Dawn C. Hiatt, of Fremont.

Sgt. Phillip F. Hults, father of Miss Elizabeth A. Hults, of Anaheim.

Sp4c. Mark A. Jenewein, son of Mrs. Virginia M. Jenewein, of Garden Grove.

Pfc. Dennis E. Joy, son of Mr. and Mrs. Earl R. Joy, of Imperial.

Lt. Bernard L. Lefevre, son of Mr. and Mrs. Robert A. Lefevre, of South Laguna.

Pfc. Robert L. Pearson, son of Mr. and Mrs. Jerry B. Pearson, of Porterville.

Sp4c. Trinidad G. Prieto, son of Mr. and Mrs. Trinidad Prieto-Perez, of Chihuahua, Mexico.

Sp4c. David S. Reid, son of Mr. and Mrs. George S. Reid, of San Pedro.

Capt. Patrick L. Smith, husband of Mrs. Theresa Smith, of Madera.

Cpl. Donald J. Wade, son of Mr. and Mrs. Frank Wade, of Santa Cruz.

Pfc. Richard A. Whitmore, son of Mr. and Mrs. Odell C. Whitmore, of Hawthorne.

Pfc. Richard W. Williams, son of Mr. Hobart Williams, of Yreka.

Sp4c. Lawrence W. Yochum, son of Mr. and Mrs. John R. Yochum, of Burney.

Sgt. Victor F. Zaragoza, son of Mr. and Mrs. Florentino V. Zaragoza, of Holtville.

They bring to 3,980 the total number of Californians killed in the Vietnam war.

FARM TENANCY IN VIETNAM

Mr. McGEE. Mr. President, American officials in Vietnam have long held that the country has the worst farm tenancy pattern in the world, with about 60 percent of the country's land still being tilled by tenant farmers and owned for the most part by absentee landlords.

All that, however, is about to change, as the South Vietnamese Senate has given its approval to a bill, already passed in similar form by the House of Representatives, to turn most of the land over to the farmers.

This important development was thoroughly covered in a New York Times dispatch written by James P. Sterba, which appeared yesterday. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAND REFORM BILL PASSED IN SAIGON—SENATE VOTES BILL SIMILAR TO HOUSE-APPROVED MEASURE

(By James P. Sterba)

SAIGON, SOUTH VIETNAM, March 10.—Land reform inched forward in South Vietnam this week after a six-month pause.

A bill that would abolish absentee ownership and turn over about 60 per cent of the country's rice land to the tenant farmers who till it, without charging them for it, was passed by the Senate yesterday by a vote of 27 to 2. The House of Representatives passed a similar bill last Sept. 9.

The original bill was sent to the House by President Nguyen Van Thieu last July 2 as the first and most important social reform of his presidency, and one with obvious political benefit for him in the countryside.

After Senate passage, the bill was sent back to the House, where a two-thirds majority is required to alter it.

President Thieu today asked the House, in recess until April 1, to convene a special session this week or next to approve the Senate's version. A House steering committee agreed, but did not set a date.

COMPUTER WOULD PLAY ROLE

If everything goes according to plan, which rarely happens in this country, the legislation would wipe out in three years what United States rural development experts have called "the worst farm tenancy pattern in the world." A giant International Business Machines Corporation 360 computer in a building of the United States Agency for International Development in downtown Saigon would soon begin churning out titles for about 2.5 million acres of land.

"This was the major hurdle, we think," said one United States official today in referring to Senate passage to the bill. While some American officials foresee numerous administrative problems in implementing the program once it is approved by the President, the officials were obviously delighted with the Senate's action.

The program, known as "Land to the Tiller," as is the Vietcong's land reform program, would expropriate all the holdings of landlords who do not now live on their land. With money coming indirectly from the United States, the landlords would receive from the Saigon Government 20 per cent of the value of their land in cash and the rest in eight-year bonds.

Owner-operators currently living on their farms would be allowed to keep a maximum of 37 acres under the Senate bill and 74 acres under the House version.

Plots of land ranging from 2.5 acres to 12.5 acres, depending on which bill is signed, would be distributed free to 600,000 to 700,000 peasant farmers.

In many cases, the Government would simply issue titles for the land which the farmers have worked for years as tenants. Titles held by landlords, who collect 25 per cent or more of the annual crop would be voided.

Of the 43 million acres of land in South Vietnam, slightly less than 7.5 million acres are presently under cultivation, mostly in the Mekong Delta.

After numerous land reform measures during three previous administrations starting with Emperor Bao Dai in the early 1950's, about 60 per cent of the land continues to be farmed by tenants.

GREECE AND DEMOCRATIC GOVERNMENT

Mr. SAXBE. Mr. President, Greece has lived under all types of governments in its long and varied history, ranging from cruel oppression by foreign dictators to the free exchange of democracy. The lexicon of government and politics is filled with words borrowed from the Greek originals—tyrant, oligarchy, anarchy, and democracy—and the theories of government born in the minds of Greek philosophers have been put into practice by many nations, including our own United States. We owe much to Greece and from the experience of Greece we have learned a great deal about the organization of men in these communities we call nations. Perhaps there is now a need to remind Greece of those lessons of history and to suggest that Greece reread its own dictionary of government.

There is no need to reiterate the long history of Greece. They are well aware of their heritage, of their history, of their accomplishments and their failings, just as we in this Nation are aware of our history and the tasks awaiting us. But we can remind the Greek Government that within their history there are many precedents and examples of the extension of authoritarian rule, once it was established, and what finally emerged from the harsh rule of the few. The social and governmental reforms of Lycurgus of Sparta became the foundation not for democracy but for the authoritarian rule of the few over the many. When the aristocrats of Corinth, Sicyon, and Megara assumed power, they establish tyrannies, and the tyrannies were followed by political chaos and instability. The tyranny of Pisistratus over Athens led not to democracy, but to the "liberation" of the city by the Spartans. The reign of the democrat Pericles was followed by a tyrant, and the tyrants were followed by civil war, unrest, a collapse of values, disunity, instability, and defeat at the hands of foreign armies.

The history of Greece since its independence from the Ottoman Turks in the 1820's is checkered with swings between periods of relative democracy and relative tyranny. Men of good faith do not want to see another chapter added to the cycle of democracy-to-tyranny-to-chaos in Greece, but we want for the nation of Greece a return to democracy. Democracy has been seized by military men who are not tyrants as in the Greece of old, but who have nevertheless gathered all authority in their few hands. The coup d'etat may very well have thwarted a takeover by leftist and Communist elements who were going to use a political rally scheduled for April 24 to ferment a rebellion and eventual Communist takeover of the government.

After the events of April 1967 when this group of men forestalled what they considered to be a serious threat to their nation, there came a period of strict controls over the freedom of the Greek people. As the anxiety of crisis passed and as the new leaders of the government settled into their self-appointed jobs, many of the strictures and bans were relaxed, but some still prevail. Parliamentary government remains in suspension. Many of the individual rights of the Greek people are circumscribed by law. Other rights of the Greek people have been voided by intimidation, as, for example, in the case of free speech where the Greek people are afraid of discussing politics for fear their conversations may be construed as being in opposition to the government.

The present Greek Government has promised, and in some cases made good on those promises, to restore some of the freedoms of democratic government. The government said it would write a new constitution, present it to the people for their approval, and implement it after it had been approved. This has been done. There is a new constitution in effect, but not all of its provisions have been implemented. The government said it would restore free press, and it has, but only a partial restoration of one of democracy's most basic rights has been made. The government retains the right to decide what news may or may not be published or broadcast to the people. The government said it would return control over municipalities and provinces to the local authorities. They have made good on this promise also, but the government continues to appoint certain local administrators. In short, the return to democratic government promised by the leaders of the military Junta now in control of Greece has been only partially implemented. There are several remaining tasks to be done before Greece can again be numbered among the free and democratic nations of the world.

While recognizing the need for a cautious approach to the full restoration of rights in Greece, I believe that the Greek Government could act with more speed in returning Greece to a democratic course. I do not ask for or demand overnight miracles, but reserve the right to ask for a reasonable estimation of how long the junta envisions the process may take, and for an outline of the steps that are necessary for the restoration of democratic government. I ask these questions in good faith, not in tones of condemnation of the regime, of the government, or of the people of Greece. I ask because the American people are the friends of Greece and we want what is best for the Greek nation.

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The colonels who seized power in Greece ostensibly did so because they feared for the security of their nation. The United States also has a stake in the security of Greece, as we ably demonstrated when we extended assistance to Greece in 1947 for its fight against Communist subversion, and through our membership and participation in the North Atlantic Treaty Organization. We would like to see Greece remain strong and free, and we have committed ourselves to that end through NATO and through our continued cooperation with the Government of Greece. The integrity of NATO depends to a great extent upon the continuation of freedom and liberty among the members of the alliance, including Greece. So that the United States and the NATO alliance could further demonstrate to the world our very firm commitment to democratic principles and our equally firm defiance of those totalitarian governments which would seek to subvert our democracy, I ask these questions of the government in Athens: What plans do you have for free elections? What is your program for the extinction of your government-by-fiat and the reinstitution of government-by-choice? When will parliamentary government be returned to Greece? When will Greece again be a democracy? I ask not as accuser or critic, but as a concerned friend. I hope the Government of Greece will return our friendship by offering answers.

THE FIGHT AGAINST INFLATION

Mr. HARRIS. Mr. President, Prof. Melville J. Ulmer, of the University of Maryland, is an economist of fresh viewpoint and ideas worth the consideration of Senators. I met with him yesterday to explore with him further the views expressed in his book and articles which I have studied with great interest. As I, he feels that it is wrong to agree that the present administration has no economic choices in the fight against inflation except those which will necessarily put more people out of work. Yesterday's Washington Post published a letter to the editor from him and I ask unanimous consent that it may be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LETTER TO THE EDITOR

Your editorial of February 18 is quite right in viewing the economic outlook as one of "painful economic adjustment." Most economists think that it may be even more painful, in terms of unemployment than the administration now concedes. You are seriously wrong, however, in characterizing this administration-induced slowdown or recession as in any sense a "remedy," and also in dismissing without a hearing all other possible alternative programs.

At best, the Council of Economic Advisers promises that the inflationary rate will be down to 3½ percent, on an annual basis, by the end of this year. But this is a mighty fast clip; if continued, it would double the price level in 20 years, eating up the value of pension funds almost as fast as they are accumulated. More important, unemployment is expected to be materially higher than it is now at the end of the year. Some think it may reach 6 percent of the labor force. Few outside government put the prospective rate at much less than 5 percent.

So what are we to do then, in line with this policy, after the 1970 elections? Renew the assault on inflation, getting the price rise down lower but creating more unemployment? Relax on unemployment and let prices resume their 1968–1969 gallop? Maintain the status quo, with excessive unemployment and excessive inflation persisting hand in hand? These seem to be the only alternatives offered by present policy.

Viewed in this light, the administration's current clampdown on economic activity is not a remedy for anything. It simply provides another link in the chain of ups and downs that have been in progress since World War II. We never for very long, over that period, have been without too much inflation, too much unemployment, or both.

It is proper, I think, to sympathize with the administration in the real difficulties involved in this economic dilemma. But your editorial goes much too far. It states, at different points, that "no one can come forth with a less risky remedy," and "there is no other known remedy at hand." These assertions do less than justice to economists, like myself, who have offered alternative programs in publicly available books and articles. Perhaps it will turn out, from an economic standpoint, that this really is the best of all *possible* worlds, but few of us outside the administration, I think, share *The Washington Post's* complacent confidence that it most certainly is!

MELVILLE J. ULMER.

SALT: A CALL TO STATESMANSHIP

Mr. BROOKE. Mr. President, the impending resumption of the Strategic Arms Limitations Talks presents an opportunity which may not come again to promote the security of mankind through reasonable international agreements. It is imperative that this opportunity not be lost.

The problems to be resolved in the SALT negotiations are real and profound. They can only be made more difficult by ill-considered actions or statements on either side. Mutual suspicion between the Soviet Union and the United States remains high. Every effort must be made to provide a solid basis for mutual confidence in both sides' commitment to arms control.

In an historic statement last weekend the Soviet Union, speaking through an extensive article in Pravda, reviewed at length a number of issues bearing on the SALT negotiations. This important document, though weighted down with the customary ideological baggage which has impeded international communication for so long, is distinguished primarily by a forthright and perceptive view of the present strategic situation. The Soviet Union makes clear that no advantage can be gained from a new round in the strategic arms race. For a further spiral in the weapons competition will not change the fundamental correlation of force between the two countries. Each nation will do what is required to maintain a devastating retaliatory capability.

As the Pravda article indicates, the only result of a continuation of the arms race will be the waste of vast resources and the heightening of world tensions.

Pravda endorses the recent comment by McGeorge Bundy:

> A strategic nuclear engagement could not lead to any kind of gain either from the viewpoint of national interests or from the viewpoint of ideology or the individual political positions of any leader in this or that country. None of the weapons systems now seemingly within the reach of this or that side can change this fact.

The Pravda article is a remarkable expression of the futility of the arms race and of the urgency of successful negotiations in SALT.

The article is also marked by sharp criticism of American plans to continue work on certain strategic weapons. It reveals the kind of apprehension about American intentions which our country has often felt toward the Soviet Union. Pravda contrasts the United States professed interests in SALT with its reported persistence in certain strategic programs. I think it is of the utmost importance for both countries to maintain a sense of balance in judging each other's behavior at this critical juncture. The Soviet Union should not build exaggerated fears on the basis of American efforts to explore various strategic options which might be required if the SALT talks are unsuccessful. For example, research on improved hard-point ABM systems and preliminary work on measures to reduce the vulnerability of the American deterrent should not cause undue alarm in Moscow.

Most of Secretary Laird's programs for fiscal 1971 are of this character; they are contingency programs which can certainly be suspended as progress occurs in SALT.

At the same time, however, the United States must exercise restraint on any new strategic commitments which might be difficult to reverse. It is for that reason that a growing number of Senators and Congressmen are urging the President to postpone deployment of Multiple Independently Targetable Reentry Vehicles—MIRV. There is no requirement for such weapons at this time, and postponement of MIRV deployment could afford a vital opportunity to explore Soviet intentions and the possibility for early agreements in the SALT conference which reconvenes in April.

This urgent recommendation is grounded not on any naive view of Soviet good will, but on a hard-headed calculation of our two countries' mutual interest in devising a stable strategic relationship at the present level, where both sides have a credible deterrent, rather than at a higher level which can only be reached through a dangerous transitional phase which will call into question that deterrent. The true naiveté consists of thoughtless reliance on the outworn myth that one cannot exercise restraint without creating the impression of weakness. Our confidence in our own deterrent capability should be sufficient to permit such restraint without creating false illusions in Moscow. Certainly we must be wary of the Soviet Union, whose purposes remain to be tested in the SALT negotiations and otherwise; but we must also be wary of any tendency on our own part to drift into unnecessary weapons deployments which only render more remote the effective arms limitations required for security in the nuclear

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era. Some kind of MIRV deployment may ultimately be required, especially if Soviet ABM forces grow substantially, but premature installation of these weapons would be tragically unwise.

Pravda states the case well when it says:

> Despite the difficulties, it is obvious that there is still time and there are still possibilities for reaching an understanding which all states await and by which they will gain. . . . If both sides intend to hold honest talks without striving to obtain any unilateral military advantages and if the negotiations proceed from the need to insure equal security for both sides . . ., then one can count on achieving agreed solutions.

Mr. President, I ask that the text of the Pravda article, entitled "An Important Problem," be printed at this point in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

AN IMPORTANT PROBLEM

The Soviet-American talks on limitation of the strategic arms race which took place at the end of last year in Helsinki and are to be resumed in Vienna on 16 April are arousing the unremitting interest of the international public. It is evident that a great deal in insuring international security will depend on whether or not there is success in ending or at least restricting this race.

The Soviet Union unswervingly advocates the peaceful coexistence of States, irrespective of their social systems, peace, and security. Its consistent and principled position aimed at relaxing international tension and ending the arms race is widely known. At its foundation lies people's fundamental interests—the strengthening of peace and the establishment of good relations between States. This is an ineradicable feature of Soviet foreign policy.

General and complete disarmament is the most radical method of eliminating the dangers connected with the buildup of increasingly more powerful means of destruction. During the entire history of the Soviet state, the Soviet Government has repeatedly made proposals for implementing such disarmament.

In waging the struggle for general and complete disarmament, our state by no means believes that one can be guided by the principle of "all or nothing." Given the current continuing process of building up armaments, including the most destructive, the interests of the struggle for peace demand the utilization of all opportunities for restricting the arms race, reducing the military danger, and relaxing international tension.

Proceeding from this, the Soviet Union has proposed and now proposes the implementation, through the reaching of agreement, of a number of measures that would reduce tension and the scale of the arms race whipped up by aggressive imperialist circles and avert the possibility of unleashing a thermonuclear war. Limitation of the strategic arms race could become an important and timely step in this direction.

The 1963 Moscow treaty banning nuclear tests, the 1967 [treaty] on space which particularly envisaged banning the placing of nuclear weapons in space orbits and on the moon and other heavenly bodies, the nuclear weapons nonproliferation treaty, and certain other international agreements constituted the beginning of the movement in that direction. Article six of the nonproliferation treaty, which came into force on 5 March of this year, specially provides that its participants commit themselves to conduct in a spirit of good will talks on effective measures for the ending of the nuclear arms race and for nuclear disarmament and also talks on a treaty on general and complete disarmament under strict and effective international control.

Undoubtedly, the efforts not of one or two States but the united efforts of the world's states are required to resolve the problem of general and complete disarmament. Nuclear disarmament requires the participation of all nuclear states. At the same time the correlation of strategic forces on an international scale is now such that the efforts of the United States and the Soviet Union, which possess the greatest nuclear potential, aimed at limitation of the strategic arms race could also greatly promote the interests of the security of other countries in addition to the interests of universal peace. Of course, to achieve this it is necessary that a serious and honest approach be made by the sides—an approach shorn of the intention to achieve unilateral advantages by means of the talks or to utilize the talks as a cover for the development of a new round of the arms race.

In its approach to resolving the problem of limiting the strategic arms race, as in its approach to the disarmament problem as a whole, the Soviet Union is invariably guided by the interests of strengthening general security and consolidating peace.

The present situation is such that science and technology have enabled man not only to harness the power of the atom, to create cybernetic and computer devices which considerably ease man's mental labor, to build new branches of industry, to revolutionize the science of control, and to accomplish a breakthrough into space, but have also placed in man's hands weapons of destruction that are monstrous in force. Recent years have seen the creation of new generations of missiles, submarines, bombers, and other offensive means much more powerful and yet at the same time less vulnerable than their predecessors. The emergence of these new offensive means brought into existence means of combating them, and this, in turn, resulted in a further improvement in offensive means. Thus there has arisen the real threat of the beginning of a new stage in the arms race, which on the political and military plane means intensification of the danger of a world thermonuclear conflict.

The military-strategic correlation of forces in the world makes quite unrealistic any of the calculations of western militarist circles about the possibility of victory in a thermonuclear war. Judging by everything, a new spiral in the arms race would not change the essence of this correlation. If an unrestricted strategic arms race were to take place, one could expect an increase in the illusions of aggressive imperialist circles about the possibilities of achieving military superiority and, consequently, also in the temptation to put fate to the test by unleashing a thermonuclear war.

A THERMONUCLEAR WAR

On the admission of many bourgeois figures in the west who are fully informed about the true state of things, with each passing year the arms race becomes increasingly more unpromising. Thus McGeorge Bundy, former adviser to Presidents Johnson and Kennedy on questions of security and military strategy, wrote recently: "A strategic nuclear engagement could not lead to any kind of gain either from the viewpoint of national interests or from the viewpoint of ideology or the individual political positions of any leader in this or that country. None of the weapons systems now seemingly within the reach of this or that side can change this fact."

Meanwhile, the race for strategic offensive and defensive weapons is consuming tremendous resources. According to estimates by the American press, the cost of building the Safeguard ABM system, which is now being created in the United States, will be nearly 50 billion dollars. If the strategic arms race is not halted, there may be a repeat of what happened regarding nuclear weapons when in 1946, as a result of the refusal of the United States and other western countries to accept sound and concrete Soviet proposals on banning and liquidating nuclear weapons, the nuclear arms race began.

How then can a barrier be erected on the path of a further strategic arms race? The USSR and the United States have set about finding an answer to this question in Helsinki. The very fact that talks on such an important question have begun between the USSR and the United States has met with broad support by the peace-loving public and more farsighted political and governmental figures, including those in western countries. Commenting on the Helsinki talks, the American newspaper Christian Science Monitor wrote that "in the United States the public yearns for an end to the fruitless accumulation of weapons." The world press has noted the Soviet Union's serious and businesslike approach toward the talks—an approach that has also been recognized by U.S. officials, namely chief of the U.S. delegation G. Smith and delegation member and former U.S. ambassador to Moscow L. Thompson at a press conference in Washington on 30 December 1969.

However, there are also forces—and these, too, are in the west—that neither the talks on restriction of strategic weapons nor even less the prospect of agreement between the USSR and the United States on this question suit. For example, the West German newspaper *Die Welt* and certain other press organs, reflecting the attitude of the more reactionary militarist circles of the German Federal Republic, have actually spoken out against the Soviet-American talks on limitation of the strategic arms race. The enemies of the restriction of the strategic arms race in the United States itself have also been more active recently.

It is impossible to pass over the fact that precisely now, on the threshold of the round of talks in Vienna, many U.S. newspapers and journals are writing less often about restrictions of the strategic arms race while giving somewhat more space to a diametrically opposed theme—the question of creating and developing new strategic weapons systems. In essence, the beginning of this campaign was launched by U.S. Defense Secretary Laird. The leader of the U.S. military department recently made a whole series of public speeches in which he persistently called for the buildup of various strategic weapons systems. In particular, Laird zealously insisted that development of the safeguard ABM system should be accelerated in the United States now, and he is fighting for Congress to increase appropriations for this purpose.

Nor is it possible not to be put on the alert by how often and how many times the defense secretary discusses Pentagon plans for the creation of new offensive strategic weapons systems. For example, at a press conference on 7 January Laird designated "as most important tasks" creation of a new strategic bomber to replace the B–52 and development of improved long-range underwater offensive systems. The defense secretary also advocated development of an improved offensive intercontinental ballistics missile and so forth. By Laird's own admission, many of the projects mentioned above are already in the "research and development" stage.

It is characteristic that whereas last year in seeking congressional approval of appropriations, first of all, for the safeguard system the U.S. Government certified that the latter's further development would depend to a large extent on the results of the SALT talks with the USSR. U.S. Government figures now prefer not to recall this.

The U.S. Defense Secretary lavishly spices his demands for intensification of the arms race with references to the mythical "Soviet threat." The utter groundlessness of such accusations directed against the Soviet Union is obvious. It is well known that measures implemented in the USSR during the postwar period to strengthen its defense capability were a reply to the unrestrained pace in nuclear missiles and other weapons whipped up by the United States. It suffices to recall that the notorious theory of the need to insure military supremacy over the Soviet Union has been rife in the United States, particularly in the military circles. The New York Post reasonably suggested: "In the light of the Pentagon's traditional negative approach toward disarmament, it is logical to suspect that this argument is designed to prevent the United States from holding the talks."

HOLDING THE TALKS

The American press is paying attention to the fact that the voices of those who seek an increase in appropriations for military preparations are resounding ever louder in Washington. The New York Times recently wrote: "In the process of elaborating the American position in the talks with the Soviet Union on the restriction of strategic weapons, certain alarming signs of the military's excessive influence have come to light . . ."

In connection with Laird's increasingly frequent speeches in favor of the buildup of U.S. strategic weapons, many American observers point out that this answers the interests of the military-industrial complex. It is no secret that the military-industrial complex would like to begin a new expensive round in the strategic arms race, whip up a militaristic tendency in Washington's foreign policy, and lead matters to a further exacerbation of international tension.

Laird's traditional inclination to make bellicose speeches does not surprise us, but nobody can close his eyes to the fact that Laird occupies the responsible post of a member of the Government. Each of Laird's public statements is rightly regarded by the public as a statement on or a reflection of the position of U.S. ruling circles. One must ask to what extent Defense Secretary Laird's militaristic appeals reflect the position of the U.S. Government.

A number of observers, including those in the United States itself, ask this question with a certain uneasiness: Is not this entire campaign in the United States for the benefit of further development of the arms race a new relapse of the old American political disease, which acquired, in the time of J. F. Dulles, sad notoriety under the name of policy "from a position of strength?" What is the correlation between the well-intentioned official speeches which ring out at times in the United States in connection with negotiations and those deeds and tendencies manifest in practice in developing the strategic arms race? Is it really not clear that the essence of the position is put to the test by actions, by practice, and not by statements for the sake of effect when they are not confirmed by facts and not translated into life?

If vestiges of former notions from which even J. F. Dulles was forced to depart in his final years as Secretary of State are really being reborn in the United States, then such a development of events cannot fail to give rise to most serious doubts about the sincerity of U.S. intentions with regard to talks with the Soviet Union on limitation of the strategic arms race.

History has many times irrefutably proved the entire groundless and illusionary quality of the calculations of those who have tried to talk to the Soviet Union "from a position of strength." The policy of pressure on the USSR is an attempt using unsuitable means. No one can or should have any illusions on this score. The past half century has shown in deeds the ability of the working class and all working people of the Soviet Union to prove the firmness of their socialist gains and of the international positions of our motherland. But the question is invariably asked: Do the latest statements by Washington officials about the further buildup of armaments not reflect the growing influence of those military-political forces in the United States which do not want agreement with the USSR on strategic arms limitations? Such a question has recently been appearing more and more frequently on the pages of the American press, too.

The solution to questions connected with limitation of the strategic arms race is undoubtedly not the simplest of tasks. This is explained not only by the nature of these armaments but also by the fact that the solution of problems connected with them affects a sensitive problem for every state—the problem of national security.

All the same, despite the difficulties, it is obvious that there is still time and there are still possibilities for reaching an understanding which all states await and by which they will gain. However, an indispensable condition for this, as the experience of international relations convincingly proves, is the existence of good will on both sides and the quest for a mutually acceptable agreement. If both sides intend to hold honest talks without striving to obtain any unilaterally military advantages and if the negotiations proceed from the need to insure equal security for both sides with the simultaneous complete consideration of the task of reducing military danger and consolidating peace in general, then one can count on achieving agreed solutions. But if one of the sides tries to use the talks merely as a screen for abetting the strategic arms race, then naturally the full weight of political responsibility for all the consequences of such a position will fall on it.

FALL ON IT

As the Soviet delegation in Helsinki emphasized, the Soviet Union is approaching the talks with the most serious intentions and is striving to achieve a mutually acceptable and mutually beneficial understanding. At the basis of the Soviet approach to the problem of restricting strategic arms there is no desire to acquire any unilateral additional advantages for itself in the sphere of safeguarding just its security. The Soviet Union has at its disposal an arsenal of modern weapons enabling the interests of the security of the USSR and its allies to be guaranteed to the necessary degree. The Soviet Union's position on this question is determined by the concern for strengthening international security without harming the interests of all other countries.

Solution of the disarmament problem would help to release from the sphere of military production colossal means which are expended on armaments throughout the world and whose utilization for the needs of economic development could assist the scientific, technical, and economic progress of all mankind, including the most developed capitalist countries where the ostentatious prosperity of the minority cannot conceal, by admission even of bourgeois governments and the press, the glaring elementary needs and requirements of the working majority.

The Soviet Union has confirmed by deeds its sincere interest in contributing by all possible means to the solution of the tasks which even more acutely face mankind in the field of restraining the arms race and of advancing along the path leading to partial disarmament measures and to universal and complete disarmament. Only such a path can provide an effective solution to problems connected with insuring a stable peace.

Mr. BROOKE. Mr. President, let me conclude by summarizing the essential points to be drawn from the present strategic stalemate. Both the United States and the Soviet Union today have credible mutual deterrence for the foreseeable future. No new weapons can alter these fundamental facts; they can only drain billions of dollars in precious resources from both countries and gravely complicate the relations between them. Under these circumstances, and considering the very real danger that the pace of technological innovation may exceed that of political accommodation, I believe there is an overwhelming case for the United States to propose an interim freeze of strategic weapons as the first order of business when the SALT negotiations resume. No further testing or deployment of MIRV, no additions to the offensive missile forces, no expansion of ABM systems beyond the deployments already planned—an agreement to hold the lines on these points would buy time to devise effective verification and controls for a durable strategic equilibrium. As I have said many times, the leading edge of this technological behemoth is MIRV development and deployment. And I am convinced that an initial effort should be made to deal with this factor. But a more general strategic freeze encompassing MIRV and other items should be proposed, perhaps for a period of 2 years. Since both sides now have effective deterence they could accept such an interim freeze with great assurance that the balance would not be disturbed significantly in the short run. Such a freeze is essential if the momentum of technology is not to smother the prospects for success in the SALT negotiations.

Seldom in history has there been so immense an opportunity and so profound a responsibility for creative political leadership. The enlightened initiative of statesmen on both sides is indispensable. For the sake of all mankind, let us not be found wanting.

THE BOMBING OF LAOS

Mr. McGEE. Mr. President, one of the more unfortunate aspects of the recent flurry of debate over the situation in Laos is the drumfire, as Columnist William S. White calls it, of calls to halt the bombing in Laos.

This, of course, could prove disastrous to American troops in Vietnam and to the South Vietnamese people, for it would mean that Laos and the Ho Chi Minh trail would become privileged sanctuaries and that North Vietnam's men and supplies could flow southward without interdiction. Mr. White, in a column published in today's Washington Post, makes this point most effectively. I ask unanimous consent that his column be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

NEW DOVE CAMPAIGN ON LAOS PERILS WAR POSITION OF U.S.

(By William S. White)

The hour of maximum peril to any possibility of effective American prosecution of

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even a limited war in Vietnam is now at hand.

The long and short of it is that here at home the all-out anti-war doves have opened a campaign whose real and ultimate aim is to force a halt to all American bombing operations over Laos. End this bombing and you make a privileged sanctuary of the most vital of all the supply lines of the North Vietnamese Communist enemy—the Ho Chi Minh trail running southward from Red China.

And, as so often before, the Communists themselves are simultaneously exploiting these domestic political pressures upon President Nixon toward the same end—"halt the bombing." The Communist Pathet Lao, the fifth-column Laotian equivalent of the Communist Vietcong in South Vietnam itself, is extending "peace proposals" to the neutralist government of Laos—provided, that is, that first of all the American air arm is withdrawn.

Nobody is suggesting that the Senate doves are consciously cooperating with the enemy for what would amount to a catastrophe to the American and allied military position in all Southeast Asia. Nevertheless, the fact is that this drumfire from the more extreme doves over Laos is the most damaging of all their endless clamors over all the years in which they have so doggedly fought to bring about what would amount to American surrender in Vietnam.

For if all the bombing action over Laos should be foreclosed—and all this bombing is done with the consent and request of a Laotian government to which the Communists themselves once agreed and helped set up—it would mean the beginning of the end. It would mean, specifically, the beginning of the end of any hope, however remote, for any negotiated settlement that would not come down to an American defeat.

XUM

If the President should be forced into this action of folly and disaster, he might as well bring the troops home from South Vietnam on a far faster schedule than any heretofore ever contemplated.

The precariously neutral state of Laos would become Communist within 30 days. Already, and quite apart from the Pathet Lao fifth column, at least 50,000 North Vietnamese troops are in Laos.

"Stop the bombing" was, of course, the cry for years, and at last the successful cry, of the American doves when they spoke of North Vietnam. This concession by the United States was in itself deeply dangerous; but it could be borne, if barely, because of the presence in nearby Laos of American air power. If our pilots could no longer attack our enemies in North Vietnam, they could at least interrupt their line of men and guns coming down the Ho Chi Minh trail. If "stop the bombing" in Laos is also to be a successful cry—and this columnist hopes and believes it will not be—that, as the saying goes, will be the ball game so far as Vietnam is concerned.

The form of "criticism" now coming from the floor of the Senate is all but unexampled in that repeatedly it compels the disclosure of strictly military information.

Mr. Nixon, in summary, faces as to Laos a suddenly and vastly escalated dove attack just when it had begun to appear that his policy of gradual but honorable disengagement from Vietnam was going to be given some chance to work itself out.

FEDERAL MACHINERY RENDERS RELIEF TO INDIVIDUAL

Mr. SCOTT. Mr. President, yesterday an exchange of correspondence between one of my constituents and the Interstate Commerce Commission was called to my personal attention. This correspondence underscores the proposition that the machinery within the Federal Government can be directed to render relief to the individual.

Last December, I received a letter from Mr. William W. Bancroft requesting my assistance in locating his wife's winter clothes, which had been lost in transit from California to Pennsylvania. I referred the letter to the relevant Government agency, in this case the ICC, for any assistance or guidance they might render on behalf of the Bancrofts.

The ICC went into action immediately, and on February 19 it received the subsequent correspondence from Mr. Bancroft which read, in part, as follows:

> In December I wrote Senator Scott for assistance in locating my wife's winter clothes, which had been lost in transit. . . . At that time I was convinced they were irrevocably gone . . . and perhaps I was merely registering a complaint with my State('s) Senator.
>
> (Thereafter) we drove up to Farmingdale, New York, to pick up her last year's styles.
>
> (Now, as a result of the I.C.C.'s help) my wife has two sets of winter clothes, which seems to please her.
>
> I would like to thank you . . . for all your assistance to me. I had not expected to see the clothes again.

This is clear and convincing evidence, Mr. President, that our Federal regulatory agencies do care about the little person and will come to his aid against the massive and sometimes unresponsive machinery of big industry when so requested.

I want to take this opportunity, therefore, to commend the ICC for responding to pleas at the personal level.

Meanwhile, Mr. Bancroft's wife has her winter clothes just in time to worry about the hemlines.

DEMONSTRATION GRANTS TO ADMINISTER OEO PROGRAMS

Mr. HARRIS. Mr. President, my office was informed this week by a representatve of the Office of Economic Opportunity that the State of Oklahoma and 15 other States—Alaska, Arkansas, California, Florida, Idaho, Iowa, Louisiana, Maryland, Minnesota, Nebraska, North Dakota, South Carolina, Tennessee, and West Virginia—will receive demonstration grants to administer OEO programs.

The information I have received is that the States involved will perform the services now being performed by field representatives of OEO. State personnel would, under the grant, assist grantees in the preparation of grant applications; would give funding guidance; would monitor the performance of the grantees for the purpose of determining that the grantees are maintaining proper bookkeeping procedures and other related purposes; would respond to requests for information; and when new guidelines are announced, would hold information meetings. In addition, the States would make the first determination on eligibility for funding, although it is claimed that this determination would be limited to a determination of compliance with State laws by the grantee. No written materials were furnished my office and obviously all of the details of the grants are not set forth above.

However, enough information about this new policy has been furnished to cause me to be very much concerned and disturbed about it. During the last session, Congress decided specifically against giving control of OEO antipoverty programs to the States. Mr. Rumsfeld himself stated at that time that to take such action would be "disastrous" to his agency. Yet, now it would appear that what is being proposed in these demonstration grants would be a step in that direction.

I have contacted the Committee on Labor and Public Welfare to determine whether they have been contacted concerning the demonstration grants and learned that they had not been. Since nothing has been furnished in writing, and since it had appeared on the basis of the information that I have been furnished, that the proposed grants may be in contravention of action taken by Congress I think it would be desirable for the the Committee on Labor and Public Welfare to have hearings on this matter, and I have urged the committee to do so. The Senate and Congress are entitled to more answers than have to date been given if they are going to be expected to approve this procedure and if a majority of them are going to be willing to continue to support the OEO program generally.

TAX REFORM AND FOUNDATIONS

Mr. PERCY. Mr. President, when the Tax Reform Act was passed in December, many Members of Congress expressed their concern and dismay over the final version.

One of the controversial sections of this bill was in reference to foundations. In order to keep foundation funds out of particular political campaigns, Congress provided for restraints such as the provision referring to the use of foundation funds for voter registration.

Now one foundation has given its reply to this legislation in a very thoughtful report by McGeorge Bundy in the Ford Foundation's annual report. In this report, Mr. Bundy raises both the problems and the merits of what this Congress has made the law of the land. I believe that it is a worthwhile report that should be read by every Member of Congress.

On March 8, the Washington Post published an editorial on this issue which I believe is a worthwhile review of Mr. Bundy's report.

Mr. President, I ask unanimous consent that the editorial be printed in the Record.

There being no objecticn the editorial was ordered to be printed in the Record, as follows:

Foundations and the New Tax Law

> Foundations which are trying to adjust to the new Tax Reform Act will find both sympathy and wise counsel in McGeorge Bundy's approach to the problem in the annual report of the Ford Foundation. Mr. Bundy is not one of those who see the new law as a vicious and unwarranted assault on the foundations. He takes the restrained and sensible view that "no group is above regulation, and there is no safety in any notion of an immunity conferred by some

divine right of private charity to do just as it pleases."

Although Mr. Bundy believes that "the freedom of the foundations is their most precious asset," he also acknowledges that this freedom "requires enough regulation to provide confidence, in Congress and in the country, that serious abuses are being prevented." He writes sympathetically of the provision forbidding self-dealing (between foundations and their controlling parties) and of the requirement that foundations gradually divest themselves of controlling interests in particular companies. Likewise he approves the requirement that foundations pay out at least 6 per cent of their assets or full net investment income, whichever is higher, each year for charitable purposes.

Instead of denouncing Congress for striking at the travel and study awards which the Ford Foundation had given to former members of the late Sen. Robert Kennedy's staff, Mr. Bundy prudently expresses satisfaction that a "workable solution" of the problem was found—we say prudently because he had something to do with creating the problem by making the awards. Congress required an "objective and nondiscriminatory basis" for such awards under procedures to be approved by the Treasury. The president of the Ford Foundation thinks the restraints laid upon the use of foundation funds for voters registration may prove to be unduly restrictive, but he recognizes that Congress was actuated by a legitimate aim—to keep foundation funds out of particular political campaigns.

One of the most difficult problems which Congress passed on to the Treasury experts who are now writing regulations for the new law is the insulation of the legislative process from tax-exempt lobbying or propaganda. The old law prohibits charitable organizations from devoting any "substantial" portion of their activity to influencing legislation. The new law extends this restriction to all such activities, even though "insubstantial." Since, as Mr. Bundy points out, "there is almost no subject a foundation touches that may not sooner or later have an effect on legislation," the regulations now in preparation will have to be drawn with the utmost care to avoid stifling the vast amount of good work the foundations do in the spheres of education, social improvement and public enlightenment.

We share Mr. Bundy's concern over the 4 per cent excise tax which Congress levied on the net investment income of the foundations. Many foundations supported the Treasury's idea of an "audit fee" to cover the government's outlay for regulating the foundations, but Congress went substantially beyond this, apparently on the theory that wealthy foundations should carry some part of the tax burden. Actually, however, as the president of the Ford Foundation pointedly notes, the result is "a tax on charity."

A serious question is also raised about the distinction that Congress drew between gifts of appreciated property to foundations, on one hand, and to colleges, universities and other publicly supported charities, on the other. When large gifts are involved the discrimination against the foundations is very substantial. Both of these complaints about the law will merit careful attention when Congress gets around to reviewing its actual operation.

THOMAS MASARYK: A SYMBOL TO THE FIGHT FOR HUMAN RIGHTS

Mr. PROXMIRE. Many great statesmen have led their country's struggle for freedom from an oppressive foreign rule. Other men have devoted their lives to championing the great moral causes of our times. Few, however, have been able to do both—to be at the same time a political leader for independence and a leader for human rights.

Thomas Masaryk, the Czech patriot and founder of the Czech Republic, was one of these exceptional men. A scholar of philosophy and sociology, he was the unchallenged leader of his country's drive for independence. Throughout his long years of dedication to the liberation of Czechoslovakia from the cruel yoke of Austrian rule, he never lost sight of the humanistic goals to which he had ascribed in his early university days. This is evidenced in his own words by his burning desire to "devote himself to a crusade of moral education among the Czechoslovak people." His dedication to this lofty principle, when combined with an exceptional ability for political pragmatism and statesmanship, led to a life of unparalleled service to his country.

It is particularly fitting now, since last Saturday marked the 120th anniversary of his birth, to pay tribute to Thomas Garrigue Masaryk, who is a great symbol to those of us involved in the fight for Senate ratification of the Human Rights Conventions.

Thomas Masaryk was born in 1850 in Hodonin, a small village in a section of Czechoslovakia then under the domination of the Austro-Hungarian empire. After acquiring an extensive academic background in the humanities, he became in 1879 a lecturer in philosophy at the University of Vienna. However, his concern for the plight of his countrymen and his anger at their oppression by a foreign power drove him from Vienna to Prague, where he took the post of professor of philosophy and sociology at the University of Prague.

In 1899 he became the editor of Time, a political weekly devoted to discussion of the burning issues of the day, including Czech political freedom and human rights. His desire to advance the cause of his enslaved people led him to run for Parliament as a reform candidate. After 2 years of service in the legislature, he became convinced that the most effective means of achieving his goals was his work at the University of Prague. However, in 1900 his friends founded a political party, and in 1907 Masaryk was elected to Parliament as a candidate of the Realist Party. His return to the legislature was marked by a continuation of his scathing criticism of the government's internal policies and treatment of the Czech people.

When World War I broke out in 1914, Masaryk traveled abroad to elicit support for Czech independence. In 1915 he inaugurated the movement for independence, and in the following year was a founder of the Czechoslovak National Council. Masaryk's tireless diplomatic efforts on behalf of his country were rewarded in 1918, when France, Britain, and the United States recognized the National Council as the legitimate representative of Czechoslovakia. Independence was proclaimed on October 28, 1918, and Masaryk became the first President of the Republic. For 17 years as President he devoted himself to building a strong and viable government and society.

The tragic events that have occured in Czechoslovakia since then—from the German invasion in 1938 to the Russian destruction of liberalism and humanism in 1968—underscore the crucial need for the continuing protection of these basic human rights, not only for the people of Czechoslovakia but for all mankind. It is only fitting, then, that we pay tribute to Thomas Masaryk, not only for his unequaled role in establishing freedom and independence for Czechoslovakia, but for his tireless efforts in furthering human rights in his country and throughout Europe. We would do well to remember his words in our efforts to secure Senate ratification of the Human Rights Conventions:

> The ethical basis of all politics is humanity, and humanity is an international program. It is a new word for the old love of our fellow men.

L. B. J. AND "THE AUTHORITIES"

Mr. McGEE. Mr. President, today's Washington Post contains a column by Jack Valenti, former special assistant to President Johnson, which is certainly pertinent in these days when there is rampant discourse on who influenced our last President and when.

Mr. Valenti, who owns up to knowing quite a bit about how Presidential decisions were made, but not all, lays it on the line and tells why none of the so-called authorities are right. It is a column worth attention. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

L. B. J. AND "THE AUTHORITIES"

(By Jack Valenti)

Today it is fashionable (and therefore The Truth) in certain environs of Washington and on the east side of New York to declare that President Johnson's word about how he reached a decision is untrue, and to rely for authenticity on the views of commentators and authors and "inside" government people.

This is a splendid arrogance, mocking and impertinent. It is also quite silly.

Those who have reached this conclusion imagine they know more about the President's thinking process and decision-making apparatus than the President himself, and they quote for their authorities various disparate seers and use these often-remote observers as surer sources of truth than the President.

Indeed, one reviewer of President Johnson's telecast, "The Decision to Stop the Bombing," called the President's version "revisionist." Another reviewer actually said: "The President's account is also, of course, quite incompatible with the report of Townsend Hoopes in 'The Limits of Intervention.' "

If this were not taken so seriously by some, it would be a proper skit for "Laugh-In." Hoopes, for example, to my certain knowledge, never attended a single meeting in the White House on Vietnam and he was, in five years, in the White House only five times, twice to be part of the audience at ceremonies awarding Medals of Honor, twice for meetings on the Middle East, and once for a meeting on Turkey. None of these meetings, I might add, included the President.

Hoopes never attended the important 8:30 a.m. Defense Department meetings in the Secretary's office. He seems to have spent most of his time writing memos to himself which he unveils in his book with all the awe accompanying the deciphering of the Rosetta Stone. All Hoopes writes about is what he either overheard in the corridors of the Pentagon or what some people told him. Therefore, it is an accounting which could have been done by any one of a hundred competent Washington reporters. Indeed, Henry Brandon's latest book is far more knowledgeable than Hoopes'. But because Hoopes allegedly was an "insider," a good many people in Washington and New York use him as The Diviner of presidential thought, and The Authority on top secret Vietnam meetings.

But the essential truth overlooked is one that every presidential assistant knows, or ought to know, and every professional reporter understands. This truth is best stated by Arthur Schlesinger in the foreword to his volume "A Thousand Days":

"A presidential associate, moreover, inevitably tends to over-rate the significance of things he does know about. Grace Tully who was FDR's personal secretary acutely observed of the books written by the men around FDR: 'None of them could know that for each minute they spent with the President he spent a hundred minutes by himself and a thousand more with scores of other people—to reject, improvise, weigh and match this against that until a decision was reached.'"

This statement is very, very true. Thus, it becomes comic lunacy to think a minor official in the Defense Department, or anyone else *reporting* events, has a more truthful grasp of presidential motives and thoughts and action than the President. Titus Oakes once had a good deal to say about what high-ranking Englishmen were alleged to have said and thought, but no historian cites Oakes as an authority.

Colorful news reports of the decision to stop the bombing on March 31 are labeled as "the struggle for the President's mind." This is laughable. Whatever you may choose to say about Lyndon Johnson, even his worst enemies would have to concede he was one of the strongest-minded, toughest men ever to occupy the White House. To picture him as a dangling puppet pulled and tugged by various factions may be good theater, but it is lousy reporting.

I daresay I was one of three or four presidential assistants privy to much of what President Johnson was thinking and planning, but none of us was privy to *all*. This is a crucial fact. I must confess I cannot specify under oath exactly how the President reached *any* decision, because I do not know everything that went into the framing of the decision.

As anyone who has served a President can testify, chief executives sometimes encourage conflicting views among advisers, incite one aide to believe he is right in order to generate spacious rebuttal from another. One cabinet officer or assistant can be totally truthful when he reports that he told the President thus-and-such and the President seemed to be agreeable, or shocked, or interested or wrathful or convinced. But the cabinet officer or assistant cannot know that an hour later the President was discussing the same problem with another cabinet officer or assistant and getting another view of the subject and feeding that information into his own mind as he tried to shape and form the right course of action.

My own personal experience with President Johnson makes me know that no one person in his administration knew everything he was thinking. Many times I presented an idea to him and was rebuffed after a merciless cross-examination. I would leave the President convinced I had failed to excite his interest. Several days later, *after* the President had scoured the idea with other aides and advisers, I would find him taking hold of the idea, molding it and reshaping it, and finally using it for specific action.

But I could not swear that someone else had not offered the same idea to him, and I could not really know if it were an idea that had already occurred to the President and one which he wanted to circle and examine before he determined to use it.

That is why if I had scurried to my diary and inserted the presidential conversation in its pages as truth, I would not have been accurate. That is also why at memoir-writing time, each aide and adviser has a fixed and different opinion about what "the President thought." And that is why each memoir by aide and/or adviser can only be half-right, and only partly true.

The President's decision on anything may be right or wrong. It may be to the nation's benefit or it may not. But *how* he reached that decision can be told only by the President and no one else, because no one, no matter how high or powerful in the government or out, knows everything that went on in the President's mind, and the facts, the information, the instinct, the judgments that formed the final shaping of the presidential decision.

MISLEADING STATEMENT REGARDING IOWA FOOD STAMP PROGRAM

Mr. MILLER. Mr. President, page 3 of today's Des Moines Register contains a story by reporter Jerry Szumski covering the Governor's Conference on Food, Nutrition, and Health at Iowa State University.

The keynote speaker at the conference was Mr. Nick Kotz, of the Register's Washington bureau.

The story reports that Mr. Kotz estimated 70,000 Iowa children go hungry because of an inadequate food stamp program and said "Iowa Senator JACK MILLER and Iowa Congressmen WILLIAM SCHERLE and WILEY MAYNE have obstructed legislation to expand food aid."

Mr. President, this is not the first time that Mr. Kotz has abused his power and responsibility as a journalist.

In the first place, the readers of this story have no way of knowing what Mr. Kotz meant by "obstructed."

In the second place, the facts do not support any such allegation.

The facts are that, as a member of the Committee on Agriculture and Forestry, I supported the administration's recommendation that $750 million be authorized for the food stamp program for fiscal 1970—more than double the $340 million authorized in the old law and almost three times the amount appropriated for fiscal 1969; also, that $1.5 billion be authorized for fiscal 1971 and 1972.

When the bill came before the Senate for debate, the junior Senator from South Dakota (Mr. MCGOVERN) offered an amendment to increase the amounts to $1.25 billion for fiscal 1970, to $2 billion for fiscal 1971, and to $2.5 billion for fiscal 1972.

I voted against the so-called McGovern amendment. Nevertheless, the amendment was adopted—notwithstanding that the administration had advised that it did not have the organization and personnel to properly handle more than the amount approved by the Senate Agriculture Committee. Those who supported the McGovern amendment were warned that such great increases in the program would not be approved by the House and might, in fact, jeopardize the entire program.

Although I voted against the McGovern amendment, I still voted for the bill when it passed the Senate, because I felt strongly that the food stamp program had been improved by the Committee on Agriculture and Forestry and I was hopeful that the House would take action on the bill and reduce the amounts down to what could be efficiently handled by the administration.

The bill passed the Senate on September 24, 1969, and it is still in the House. The warnings given the supporters of the McGovern amendment have come true. Had they been heeded, we would likely have had a bill passed by both Houses and signed by the President long ago.

I wonder whether Mr. Kotz should not have called the adoption of the McGovern amendment an act of "obstructionism."

Further, with this authorization bill being considered by the Agriculture Committees of the House and Senate, it became necessary to pass a special authorization bill just for fiscal 1970 as a basis for appropriations for the program in the Agriculture appropriations bill.

On June 24, 1969, the Senate passed Senate Joint Resolution 126, which increased the authorization for fiscal 1970 to $750 million. I not only supported this resolution, but, in fact, made the motion to report it out favorably in the Committee on Agriculture. Subsequently the House passed a similar resolution.

I ask, now, Does this sound like "obstructionism"?

Mr. Kotz, as a Pulitzer prize winner, is quite capable of ascertaining all of the facts which I have recited; and, to the best of my knowledge, all of these facts were known to him.

Now, after making such a gross and misleading statement, abusing his position as a keynote speaker at a Governor's Conference, he will apparently be returning to Washington to continue to undertake reporting in a manner in keeping with the standards of his profession which provide: "Good faith with the reader is the foundation of all journalism worthy of the name," and violation of this principle "is not to be excused for lack of thoroughness or accuracy" within the control of the journalist.

Mr. Kotz does not owe me any apology, because the facts refuting his misstatement are apology enough. But he does owe an apology to those attending the Governor's Conference for misleading them and to the readers of the Des Moines Register who have also been misled by his remarks.

CANADIAN OIL IMPORTS

Mr. MONDALE. Mr. President, the authority for the oil import control program is vested in the President by section 232 of the Trade Expansion Act. Under that act, in order to restrict imports, the President must find that they "threaten to impair the national security."

When the present control program

was established in 1959 by President Eisenhower, Proclamation 3279 expressly exempted Canadian imports. This was clearly because Canadian imports did not, and could not, impair national security.

On March 10, President Nixon announced a significant cutback, about 150,000 barrels a day, in Canadian oil imports. Under what authority did he act?

He acted under the same authority which President Eisenhower concluded did not apply to Canadian imports. And everyone else has reached the same conclusion. Canada is, after all, our best friend and neighbor.

The President's own Cabinet Task Force on Oil Import Control, in a February 1970 report stated, on page 94:

> The risk of political instability or animosity is generally conceded to be very low in Canada. The risk of physical interruption or diversion of Canadian oil to other export markets in an emergency is also minimal.

Have there been any new developments which would justify the President's determination that there is some security risk in Canadian imports? The President's statement points out:

> The flow of oil from Canada, however, has recently risen to levels much higher than anticipated under the (voluntary) agreement.

Indeed, imports have risen sharply since January 1, when Chicago began to draw Canadian oil by pipeline. But exceeding a voluntary agreement is no basis for concluding that the national security is impaired.

The relatively small volume of Canadian oil now being imported is irrelevant to our national security, and it is difficult to believe that very much larger increases in such imports could affect our security interests adversely.

When the President released the task force's report on February 20, 1970, he said:

> All members also agreed that a unique degree of security can be afforded by moving toward an integrated North American energy market.

Are we to believe that in 18 days the "unique degree of security" has, somehow, been lost?

I think there is a serious question as to whether the President's proclamation controlling Canadian oil imports is valid. There is no question, however, that it is unwise. It is unfair to the Northern States and offensive to Canada.

The President said that the task force concluded that the present Canadian situation "does not effectively serve our National security interests and leads to inequities within the United States." And he also said that he deems it necessary "in the interest of the national security objectives of Proclamation 3279" to establish the import limitation. But he did not say expressly that these imports "threaten to impair the national security."

Perhaps, the most significant part of his finding is that it "leads to inequities within the United States." I can find nothing in the statutory authority for the import control program that relates to such internal inequities. And what about the inequities created for Canada? Has the United States no concern about those?

The President declined to adopt the recommendations of the majority of his task force calling for substantial increases in imports from the Middle East and Venezuela. These would have been of great benefit to American consumers and clearly would not have impaired the national security. The only ones who can benefit from that decision are the profit-swollen American oil giants. And now he has taken another decision, in the interest of these same giants, which can only hurt consumers and refiners in the northern part of the United States and our friends across the border.

In the case of my State, the problem is especially acute. The independent refiners there depend entirely on Canadian crude, except for quite limited amounts from North Dakota and Montana. The refiners use all of the domestic output which is available to them. If Canadian imports are curtailed, they must curtail operations.

Before the entry of these refineries in the Minnesota market, my State was plagued with uncertain supplies, high costs, and outright shortages of heating oil in the winter months. These refiners have stabilized the market, eliminated shortages, and controlled costs in what remains a high cost area. To cut back supplies for these refiners is intolerable. Contrary to the President's decision, his task force recommended that these refiners not have their supplies reduced.

For other users of Canadian crude, there are substantial domestic sources of crude oil available, although at a somewhat higher cost. I cannot condone the President's decision which will force higher cost petroleum on the consumers in other parts of the northern United States. In the case of my State, however, it is not a question of costs but of the survival of the refineries which have safeguarded the consumers of Minnesota from the serious problems which they have experienced in the past.

I understand that the Committee on Finance has promised to hold hearings on the oil import program. I thought that was very desirable before the President received his task force report. When he declined to implement his task force's proposals, I concluded that a congressional review was essential. Now I am convinced that it cannot wait.

There is a significant basis for concluding that the President's decision is in violation of the law. It is an unwarranted slap at our Canadian friends. I hope the Committee on Finance will examine in detail the basis for the President's action.

If he has violated the law, his action must be rescinded. In any event, I believe that Congress must seriously consider whether authority which can be exercised in such a cavalier fashion should be permitted to remain law.

INCREASED BROKERAGE COMMISSIONS

Mr. WILLIAMS of Delaware. Mr. President, recently the New York Stock Exchange asked for a substantial increase in brokerage commissions being charged the small investors; that is, those purchasing 200 shares or less. They suggested that this proposed increase for small-lot purchases be offset by a corresponding reduction for the large institutional buyers.

The approval of such a plan would be grossly unfair to the small investors, and it would also have an adverse effect on a recent national program to encourage every citizen to buy securities whereby he would become an owner of a part of America.

On February 20, 1970, I registered my objections to this proposal with the Chairman of the Securities Exchange Commission, and I was encouraged by his reply indicating a similar concern for the small investors.

I ask unanimous consent that my letter of February 20, 1970, addressed to Mr. Hamer H. Budge, Chairman of the Securities Exchange Commission, and his reply thereto, dated March 4, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 20, 1970.

Mr. HAMER H. BUDGE,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. BUDGE: I am very much concerned over the recent proposal of the New York Stock Exchange for a substantial increase in brokerage commissions for the small investors to be offset by a corresponding reduction for the larger institutional buyers.

Just a few years ago the Exchange, supported by Government endorsement, launched a national campaign to encourage the low and middle income investors to buy securities and thereby become owners of a part of America. I heartily endorsed that program not only because it promoted and encouraged savings but also because it is a constructive step toward better citizenship when every individual has an interest in our capitalistic system.

The present proposal to raise the commission rates for the small investor from 60 per cent to over 100 per cent above present rates is a backward step. Already the small investor is being penalized in that by Government regulation he is only getting 5 per cent for investing in a seven-year Government bond whereas the larger investors get from 8 per cent to 9 per cent. Likewise the Federal Reserve and the Federal Deposit Insurance Corporation have authorized an average of 2 per cent variation in the interest that can be paid to the small depositors as compared to the large depositors. This discrimination against small investors with executive approval is highly discriminatory, and I express the hope that your Agency will not approve such a plan.

It should not be overlooked that the various exchanges have a virtual monopoly on the sale of these securities, and if they expect to maintain this monopoly they should recognize their responsibilities to the public and be willing to accept the obligation to protect and encourage the small investors.

Yours sincerely,

JOHN J. WILLIAMS.

SECURITIES AND
EXCHANGE COMMISSION,
Washington, D.C., March 4, 1970.
Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Thank you for your February 20, 1970, letter expressing concern over commission rate proposals submitted to the Commission on February 13 by the New York Stock Exchange. The proposals were a report prepared for the Exchange by National Economic Research Associates, Inc. ("NERA"). They have not been adopted by the Exchange and, as stated in an Exchange Membership Bulletin of February 19, the Exchange represents it will not act on these proposals before discussions with the Commission.

The Commission will most carefully analyze and review these proposals and the underlying data included in the NERA report. Indeed, our staff has advised us that considerably more data may be needed for this purpose.

Your concern that stock exchange commission rates not unfairly discriminate against the small investor is shared by the Commission. Small investors, as you observe, have been encouraged by the Exchange to buy securities and their transactions are an important part of the auction market. The problem is how best to assure that they have access to the exchange markets.

Excessive charges on small investors might discourage their participation. On the other hand, it has been suggested that there are economic factors which may work the other way. There has been no change in the commission rate level, aside from the volume discount instituted late in 1968, since 1958 and the change made then as to individual transactions was a modest one. Since then, costs in the securities business have risen considerably because of inflation, higher salaries and wages for clerical personnel and operations, and the cost of installing electronic data processing facilities. It is suggested that, as a result of this, it has become unprofitable for many firms to execute small transactions and that many firms consequently are attempting to discourage acceptance of small orders and to direct their capital and resources to large institutional business which is much more profitable. The major exchanges, consequently, appear to feel that an increase in the commission on small orders is necessary in order that their member firms may continue to be available to, and to properly serve, small investors, thus keeping the small investor in the auction market. It also has been suggested that commissions on large orders could in effect be used to subsidize commissions on small orders. Aside from any question of fairness this presents (and, as you know, most large investors are institutions representing aggregates of small investors), such subsidization is becoming less possible now because of the very substantial proportion of institutional business which is done by those firms which specialize in that business and do not handle small orders.

We will, of course, have to evaluate this whole subject carefully. You may be sure that the need to protect and encourage small investors will be given every consideration by the Commission in any resolution of the question.

Sincerely,

HAMER H. BUDGE,
Chairman.

PRAIRIE COMMONSENSE IS BEING APPLIED TO A POLLUTION PROBLEM

Mr. HRUSKA. Mr. President, the problem of pollution has become one of the most popular topics for discussion and action in the country today. We have ended several generations of neglect in a flood of activity, some productive and some unproductive. A great many personal, community, and industrial practices which have been accepted over the years are now found to be harmful.

I suppose it is normal in such circumstances to search for scapegoats. But, in some cases, this has resulted in unfair and uninformed criticism.

I have in mind, especially, the matter of runoff from cattle feedlots. There is no doubt that a problem does exist: Nebraska and many of her sister States have major cattle feeding operations to insure that high grades of meat in sufficient quantities are available to consumers throughout the country. These operations do produce waste products, and some of those wastes do find their way into waterways.

What is generally not appreciated, however, is that cattle feeders have been concerned with the matter long before it became a topic for wide public discussion. Operators were not only concerned; at their own initiative, they mounted efforts to reduce pollution from feedlots and turn the waste into useful products. They are continuing these efforts at an accelerated pace and I am confident that the problem can and will be solved. We could wish that all industries would show such initiative.

Mr. President, it is also a fact that the Agricultural Research Service of the Department of Agriculture has been increasingly involved over the past few years with research in this area of animal waste management. As the ranking minority member of the Agriculture Appropriations Subcommittee, I have given my close attention to this item and have vigorously sought adequate funding for such research. The subcommittee has cooperated fully, and especially its chairman, Senator SPESSARD HOLLAND of Florida. In fiscal 1969, the Congress made $536,800 available to ARS for studies in this area. In fiscal 1970, ARS used $774,200 for studies on livestock waste pollution, which was $113,000 more than appropriated by Congress. This was possible by redirecting other funds to this vital activity. Now for fiscal 1971, the ARS has proposed $1,452,200 for animal waste research, an increase of $678,000 over fiscal 1970.

These Federal research studies are being conducted primarily at Clay Center, Nebr.; Lincoln, Nebr.; Fort Collins, Colo.; and Beltsville, Md. At Clay Center, the ARS has the U.S. meat Animal Research Center. At Lincoln is located the State agricultural experiment station. In fiscal 1970, the total amount of Federal funds for animal waste research to be expended in Nebraska will be $185,400. If the new budget request is approved for fiscal 1971, the total amount for Nebraska will then be $350,400.

Eastern Nebraska is ideally suited as an outdoor laboratory to assess the pollution problem arising from animal feedlots in small watersheds. The research at Lincoln and Clay Center is providing us with valuable information, and the increasing intensity of this research should provide us with some lasting answers for remedy of any problems that may be developing due to feedlot wastes. Such research can supply the techniques to minimize these problems without disrupting the vital and growing livestock feeding industry.

Dr. George Irving of the Agricultural Research Service testified before the Senate Agriculture Appropriations Subcommittee last week on the research request in this area. Dr. Irving said at that time:

> We will need to intensify our research in all areas of animal waste management. This includes removing manure from animal quarters in the most expeditious and economic manner possible; deterring runoff; and developing better techniques for storing, transporting, treating, and ultimately disposing of these wastes. All of this must be accomplished with a minimum of disruption of production efficiency. The proposed increase of $678,000 would be used for these purposes.

I know that my colleagues on the Agriculture Appropriations Subcommittee, and in the Senate, will give close and thoughtful attention to this effort to prevent and control feedlot pollution before it becomes a problem, rather than waiting to remedy it afterward.

An enlightening discussion of the entire question is found in a paper entitled "The Feeders Viewpoint on Waste Control," by Mr. William Krejci, of Fairmont, Nebr. Mr. Krejci is a farmer-feeder, and chairman of the Nebraska Livestock Waste Control Advisory Committee. He is also chairman of the Government Affairs Committee of the Nebraska Livestock Feeders Association.

Mr. President, I ask unanimous consent that the text of Mr. Krejci's paper be printed in the RECORD.

There being no objection the text was ordered to be printed in the RECORD, as follows:

THE FEEDER VIEWPOINT ON WASTE CONTROL

(By William Krejci, Fairmont, Nebr.)

I. HISTORY OF THE LIVESTOCK WASTE CONTROL ADVISORY COMMITTEE

After much discussion and concern about the need for a voice in the area of feedlot waste control, a group of various livestock and poultry men gathered on Aug. 29, 1967 and formed the "ad-hoc" group known as the "Livestock Waste Control Advisory Committee". It has proven to be a most valuable tool in working with the various governmental agencies that have been given the responsibility of carrying out the details of pollution control. Representatives on this committee include feeders of beef, sheep, swine, poultry, and dairy: plus representatives from the Nebraska Water Pollution Control Council and the University of Nebraska.

So far this group has had an excellent working relationship with all Governmental Agencies and we hope it will continue that way.

The advice of this committee has been accepted in many cases and as a result, toption has made an effort from the very beminister, have been avoided.

II. PAST ACTION TAKEN BY THE NEBRASKA LIVESTOCK FEEDERS ASSOCIATION

The Nebraska Livestock Feeders Association has made an effort from the very beginning to keep abreast of the feedlot waste situation. A Resolution passed in 1967 set the stage for a lot of their efforts.

"RESOLUTION NO. 7—WATER POLLUTION

"A somewhat emotional drive is underway to bring about the very rapid control of waste materials flowing into our rivers and streams. The Nebraska Livestock Feeders Association is in sympathy and offers its support to the objectives of this effort, however;

"Whereas much remains to be done in a way of educating the general public, including the feedlot owner and operator, as to the existing conditions, the overall problem and proposed solutions; without which knowledge many people might well react in an adverse or erroneous manner, and;

"Whereas much research needs to be completed before programs can be instigated, since little is known of overall effects of feedlot waste or means by which feedlot wastes can effectively and economically be handled, and;

"Whereas there is ample time under existing Federal-State agreements to work out these problems and solutions in an orderly manner, thereby assuring full effectiveness of the final program with adequate protection to the feedlot owner and operator;

It is therefore resolved that the Nebraska Livestock Feeders shall work diligently and continuously toward an equitable and effective solution of the feedlot waste problem, in full cooperation with the University of Nebraska and the appropriate State Officials. However, it is not reasonable nor wise to attempt to set down a final program in the immediate future, and accordingly we respectfully request of the Water Pollution Control Council a minimum of two years time for study, research, and education before reaching a final conclusion.

"It is further resolved that this Association shall work with all diligence toward a final program which must meet the approval of the Board of Directors or the membership, and as such should not impose undue restrictions, requirements, or excessive financial burdens upon the feedlot operator and/or owner. Any approved program should also insure the participation of actual feeder representatives on the state planning and governing boards or councils on water pollution."

The Nebraska Water Pollution Control Council did grant the feeders of Nebraska 2 years for research and study before any type of regulation would be imposed. Research was then pursued on all fronts.

In 1968 the following Resolution was passed:

"RESOLUTION NO. 1—WATER POLLUTION: REGULATORY AUTHORITY

"Whereas, various suggestions have been put forward as to what government agency should be the regulatory group for feedlot water pollution control in Nebraska, including proposals to form an entirely new agency for this purpose; however.

"Since the presently constituted Water Pollution Control council is equitably chosen, and is well versed in all activities in this area to date, be it then

"Resolved that the Nebraska Livestock Feeders Association is in favor of utilizing the Water Pollution Control Council as the regulatory agency for agricultural waste control."

Then the following year (1969) the following resolution was passed by the membership and as a result of this resolution we are trying to keep our membership informed on all fronts of the waste control problem.

"RESOLUTION NO. 8—WASTE CONTROL EDUCATION

"Whereas, there is considerable concern over the waste control problem from feedlots.

"Whereas, it is important that every livestock feeder be extremely aware of how he can help control feedlot waste runoff.

"Whereas, it is the desire of all livestock feeders to be good neighbors.

"Therefore be it resolved that the Nebraska Livestock Feeders Association engage in an informational program keeping the membership informed of all laws, regulations, and research that will affect each livestock feeder in his operation.

"Be it further resolved that every local livestock feeder association and its individual members should make every effort to stay informed on all aspects of waste control and each feeder should accept the responsibility for doing what he can to control waste runoff and strive to be a good neighbor."

III. THINGS THAT ARE DISTURBING TO THE NEBRASKA FEEDER

Many things have been in the news during the past couple of years that have been very disturbing to the livestock feeder. So far we have chosen to let everyone else talk, thinking maybe someday they would stop pointing their fingers at us. But, because it is hard for us to hide, the adverse publicity will keep coming our way.

Examples

(a) The Soap & Detergent Association—"Water in the News," October 1968: "Hollis R. Williams said that farm animals contribute more polluting wastes to waterways than people and that animals are a far more serious problem." Mr. Williams is Deputy Administrator for Watersheds, USDA. "The magnitude of the problem becomes apparent," he said, "when we realize that one cow will produce the fecal effluent equal to that of 16.4 people. We estimate that a feedlot handling 1,000 head of cattle would have the same waste disposal problem as a city of 16,400. A feedlot with 10,000 head equals a city of 164,000—and this size feedlot is not at all uncommon. Each pound of meat means up to 25 pounds of manure."

Why can't the Soap & Detergent people work on their own problem instead of trying to take the spotlight and turn it on us? Also, why do our USDA employees make such statements?

(b) Successful Farming—Dick Hanson, Editorial—"Up a Polluted Creek"—June 1968: "One Cow produces animal waste equal to the sewage of 16 persons. One feedlot of 10,000 head produces the same amount of waste as a city of 160,000 people. Iowa and Nebraska, for instance, feed nearly 3 million head of cattle a year. These cattle produce waste equivalent to that produced by 49 million people, or 11 times the human population of these two states."

(c) Omaha World Herald—RFD—"Feedlots Share Blame in Pollution of Streams": "In feedlot operations, we give little thought that the runoff carries a high quantity of nitrogen which breaks down into nitrates, which is turn have a deleterious effect upon water quality for domestic and industrial uses," Mr. Filipi said.

According to Mr. Filipi, "One steer contributes as much pollution as 20 people, or one thousand steers as much as 20 thousand people which represents a city the size of Fremont." T. A. Filipi is Director of Environmental Health Services, State Health Dept. of Nebraska.)

(d) "Feedlot"—June 1967—"Pollution Will Get You Nowhere": "Death in a massive, ugly slug of animal waste, slid down the Cottonwood river in east central Kansas last month . . . . The stench made a man want to flee across the smooth, grassy Flint hills until his eyes were filled with water and he had run out of breath. Then he could stop to gag . . . Feedlots are, undeniably, the major source of pollution and fish kills in Kansas." (A sports writer wrote this—No doubt an expert in water pollution.)

(e) "The Business Farmer"—Scottsbluff, Nebr.—July 15, 1967: "New Feedlot Guidelines are agreed. . . . The Scotts Bluff County Rural Zoning Board and the Scotts Bluff County Commissioner in a joint special meeting Tuesday night hammered out some guidelines for applicants seeking to set up new feedlots in the country. . . . Guidelines are as follows: Drainage is an important factor and excessive ponding of water must be avoided—Lots should be scraped at least once per year as part of the cleaning process."

(f) "CALF" California Association Livestock Feeders—February 1970: "California to Toughen Pollution Laws—A sweeping package of anti-pollution bills has been submitted to the California Assembly. Much of it concerns auto emissions, but there is one of the bills which could sound the death knell for some feedlots. It calls for up to $6,000 a day fines for non-vehicular air polluters. It is patterned after a similar bill to deal with persistent water polluters signed into law last year. No doubt the author of the bill has industrial offenders in mind, but with present pressure by officials in several counties to control feedlot dust the law could possibly be aimed at feedlots with poor dust control records."

(g) Last but not least—"Lincoln Evening Journal" by Ginger Rice—Friday, January 30, 1970 (Front page pictures and all): "Feedlot pollution of streams and rivers is a growing nationwide concern and the No. 1 problem in the Missouri Basin region, according to Carl Chloupek, area representative of the Federal Water Pollution Control Administration. All of this means that the degradation of the states waterways from these feedlot sources is a problem of major proportions. It will become even greater in the next decade as the outlook for increased productivity shapes up . . . Chloupek explains the problem in terms of "population equivalents." The pollution equivalent of cattle is 15, meaning that each head of cattle produces a pollution volume 15 times greater than that of one person."

IV. FACTS ABOUT POLLUTION—AS IT SHOULD BE TOLD

As I have related, the feeding industry is getting very tired of the pollution accusations that are being aimed at animal agriculture.

We intend to clear up some long overdue misinformation.

First of all we cannot argue that a 1000# steer will give off 15 to 16 times more solid waste than 1 human. But, let us remember that we are talking about *water pollution potential. All* of the human waste is flushed down the drain plus his dishwater, his bath water, his laundry water, his garbage, etc. A 1000# steer does not flush anything until we have at least a one inch rain. Most of his solid waste stays in the lot and is hauled to the field. Much of the liquid is lost to the atmosphere and he certainly does not take a bath, wash his clothes or wash his dishes.

With these thoughts in mind let us look at a few facts.

According to U.S. Dept. of Health, Education & Welfare Bulletin—"Manual of Septic-Tank Practice"—Public Health Service Publication No. 526—Reprinted 1969 page 44: The following facts on human wastes were found:

TABLE 8.—*Estimated distribution of sewage flows in gallons per day per person*

Type of waste:	*Gallons per day*
Kitchen wastes	10
Toilet wastes	25
Showers, washbasins, etc	25
Laundry wastes	15
Total wastes	75

Keep in mind this waste is derived from a one family dwelling and does not include the waste given off from family members when they are not at home.

For comparison with animals, data has been obtained from research done at the University of Nebraska Mead Field Laboratories. (Note—This data is preliminary and has not been published, but reflects 1½ years of study. More study is needed before it will be released in bulletin form.)

This area of the state has an average rainfall of 30 inches per year. By actual runoff data only 10 inches of this will leave the feedlot as runoff. Therefore, 10 inches per year runoff would equal 10 acre inches per year or 272,000 gallons per year per acre. There were 218, 1000# steers on that acre, or 3.41 gallons of waste runoff per animal per day.

Compare 3.41 gallons per steer per day to 75 gallons per human per day and we have a pollution ratio of 22 steers equal to one human. That is a bit different than has been quoted!!

If we compare the animal waste to human waste with these figures in mind, the 128,500 people in Lincoln, Nebr. would be equivalent to 2,827,000 head of cattle on feed. Twice as many as on feed in the entire state of Nebraska on January 1, 1970. (1,477,000 head on feed in Nebraska as of January 1, 1970 according to A. V. Nordquist, State Statistician.)

Someone will say that pollution is figured on Biochemical Oxygen Demand (BOD). We can figure the ratio by BOD and show that 1 human is equal to 100 steers as a pollution potential. At the Mead Field Laboratories, 1 acre inch of runoff contained 13.6 lbs. of BOD or 10 inches of runoff equals 136.8 lbs. of BOD per year for 218 head of cattle. The daily figure would be 0.00165 lbs. of BOD per day per steer. Municipal plants figure that they receive 0.17 lbs. BOD per capita per day from their human population. This is approximately 100 steers per 1 human on pounds of BOD per day ratio.

Now you can see why the feeder is disturbed when someone makes the statement that in the area of water pollution, 1 steer is as bad as 15 or 16 people. This is not true and it is time that this derogatory publicity is stopped.

V. SOME PROPOSED ANSWERS TO OUR PROBLEM

We must make one issue crystal clear—The Feeders of Nebr. are as interested in stopping the pollution of our environment as any other segment of society. We are doing everything possible to control the pollution of our air & streams, and we will continue to do so. The people can be assured of that.

The Feeders are not in favor of having permits to feed livestock and they have given some reasons why:

1. The Pollution problem from feedlots should be solved on an individual lot basis as problems arise. This can be done with the existing laws.

2. If permits were to be issued, every feedlot in Nebraska would have to be checked for compliance, whether it was a problem or not. Some 20,000 feedlots would take a tremendous staff, take a long time or both. Plus, it would be very costly to the taxpayer.

3. Research must prove many things before we impose costly regulations on the feeder. If we had permits we would also need definite criteria. This criteria is not available.

4. We feel that only about 5% to 10% of our Nebraska Feedlots are violating the pollution law. Therefore, why impose a permit system on the other 90% to 95%.

5. We must consider the general erosion of our soils and it's threat to pollution. Will we be asking all farmers to have a permit to farm?

With these facts in mind the Nebraska Livestock Feeders Association is proposing that a voluntary approach toward an *Approved Feedlot* be pursued. This means that a feeder, if he wishes, could ask the Water Pollution Control Council to issue him a certificate stating that he is operating an *Approved Feedyard*. This of course could be done after a thorough checking by the WPCC. It is felt that this concept would accomplish much more for pollution control and for future industry development in Nebraska than the mandatory permit concept.

The feeder plans to work with the County Extension Service and the Soil Conservation Service in planning his feedlots to stop any pollution potential that might exist. This cooperative venture is being perfected and the livestock feeders plan to see that it will work.

We have other possibilities on the horizon for our problem. Al Benton, a cattle feeder from Walnut, California gave a speech at the 1970 Stockmen's School in Phoenix entitled "Manure, A By-Product—Not a Waste!" Some excerpts from his talk:

"For Plant nutrition, manure is worth between $4.00 and $5.00 per ton. . . .

"It has very high nutritional value, probably $24.00 per ton feed-back to a ruminant. . . .

"Another is the production of Tortulia yeast. By a bacterial process we are able to take feedlot manure and process it, producing $140 a ton value, used primarily in the poultry industry, and have a by-product return of 15% which is mostly gypsum as the only waste product to be thrown away. . . .

"Another investigator in Colorado has devised a method to produce magots in a manure mass and separate them, dehydrate them to come up with a useful 62% protein product that's about 9% fat. . . .

"Others are making a lawn fertilizer out of their manure and selling the product for $20.00 per ton."

Maybe our problem will become an important asset to the Livestock Industry someday.

OIL CONFUSION

Mr. PROXMIRE. Mr. President, there appears to be some confusion as to what the chairman of the Cabinet Task Force on Oil Import Control, Secretary of Labor Shultz, actually said in his testimony before the Subcommittee on Antitrust and Monopoly. Therefore, I ask unanimous consent that the Secretary's prepared statement and his appendix be printed in the Record at the conclusion of my remarks.

I call particular attention to the questions and answers in his appendix. They put to rest some myths that the oil industry has been trying to perpetrate on the American public. They lay bare the fact that there is no national security justification for the present oil import program and show how much the program is costing the American consumer.

There being no objection the material was ordered to be printed in the Record, as follows:

Statement of Hon. George P. Shultz, Secretary of Labor and Chairman, Cabinet Task Force on Oil Import Control, Before the Subcommittee on Antitrust and Monopoly, March 3, 1970

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you in my designated capacity as Chairman of the President's Task Force on Oil Import Control. My function as I see it is to go through with you the main elements of the Report we have made to the President, of which I understand you each have copies. It should be understood that I do not and cannot speak for the President, who has reserved decision for the present on the recommendations of the Report. Nor will I undertake to explain the Separate Report, which begins on page 343. That should be done by its authors.

For the Subcommittee's convenience, I have prepared an appendix, which I would like to submit for the record at the close of my remarks. It is a collection of comments on some of the points and questions that have been frequently or commonly raised about the Task Force Report in the trade press and elsewhere. I hope that it may be of some help to this Subcommittee.

I have with me today our principal staff officers for the Task Force: Phillip Areeda, Executive Director; Roland Homet, Chief Counsel; and James McKie, Chief Economist. With the Subcommittee's indulgence, I may ask them on occasion to supplement the answers I make to your questions.

Let me say at the outset, Mr. Chairman, that our Task Force owes a debt of gratitude to this Subcommittee for the information developed in your comprehensive hearings begun last year. We studied closely the testimony presented to you both by independent economists and by the industry, and found many useful points of departure for our own inquiries. Two concrete examples are: *first*, the short-run supply schedules given you by Professor Henry Steele, reproduced in our Appendix D, on page 217; *second*, the actual f.o.b. prices for Persian Gulf crude oil calculated for you by the Petroleum Industry Research Foundation, which we have used in Tables L–1 and L–2 on pages 92 and 93. We adopted these figures because we found them persuasive after comparing them with information available to us from other sources. Of course, this Subcommittee has not completed its inquiries and has reached no conclusions. Therefore, the evidence we have developed and the conclusions we have reached should be regarded as entirely our own responsibility.

Turning now to the substance of our findings and recommendations, I should like to invite the Subcommittee's attention to the organization of our Report. Part I examines the purpose of oil import controls, and it creates the focus for the entire remainder of the Report. Section C on pages 7 and 8 sets forth what we understand to be the governing criteria, and they bear emphasizing. As you will see, paragraph 115 outlines the main objectives of import control established by the Congress. This is a national-security program we are dealing with, nothing else. The Congress could, of course, change that, you could establish other criteria, but the President alone could not and we on the Task Force could not. We take the governing statute as we find it. And we have tried constantly and consistently to keep our focus on the national security—not always an easy task.

This is an important point, because a lot of critics and commentators seem to miss it. Some people talk about our dependence on "foreign oil" under one or another policy. They imply that our choice is between 100% domestic self-sufficiency and outright dependence on the Middle East.

Nothing could be further from the truth. On the basis of most industry submissions, we calculate that oil imports at present domestic prices will have to supply about 27% of our requirements by 1980 unless there is an unforeseen breakthrough in the technology of producing oil from synthetic sources such as shale and coal. The present percentage is 19%, and just about everybody agrees that this will have to be increased. So the real question is not whether but how much and from where. Of course, if we had *no* import controls a large portion of our requirements—perhaps 20% of demand—would come from the low-cost and politically volatile Middle East, and I am not ready to say unequivocally that this would present no threat to our national security. However, the plan the Task Force proposes would draw the bulk of our imports from

Canada and other acceptably secure Western Hemisphere sources, and would strictly limit Eastern Hemisphere imports to a maximum of 10% of U.S. demand. That may be too strict, but it is almost certainly not too permissive; and it seems to me that debate on this subject should begin with and focus on that point.

Returning to paragraphs 115 and 116, you will see that the first statutory objective is "protecting (1) military and (2) essential civilian demand against (3) reasonably possible foreign supply interruptions that (4) could not be overcome by feasible replacement measures in an emergency." Each of these elements is analyzed in detail in Part II of the Report:

(1) *Incremental military demand* is assessed in paragraphs 209 and 223. On the basis of advice received from the Department of Defense, we conclude that even if there were a protracted conventional war (which is not considered likely) and even if the Department of Defense purchased all its requirements in the United States, the additions to demand would not be significant. We have included them in our projections of demand to be met in an emergency, as noted in paragraph 226.

(2) *Essential civilian demand* is also assessed in paragraphs 209 and 226. In addition, on the basis of advice received from the Office of Emergency Preparedness, we have concluded in paragraph 242 that in an emergency total U.S. domestic consumption could be reduced between 9% and 16% through tolerable rationing of automobile gasoline alone; we have adopted a 10% figure as a cautious estimate. The difficult question of consumption in allied and friendly countries is dealt with in several places throughout the Report: Paragraphs 111, 213, 239a, 251, 419, and 424. Here we have found ourselves without clear guidance from the Congress and have had to make our own policy decisions and recommendations. The judgments of the security agencies—the Departments of State and Defense and the Office of Emergency Preparedness—on which we have relied, have led us to conclude that the U.S. oil import program should be addressed in the first instance to protection of the national security in the direct sense, on the ground that 25 years after World War II the burdens of free-world security should be shared with our allies rather than borne exclusively by U.S. consumers. The Report strongly recommends that we should examine with our allies the measures that might be taken—such as increased emergency storage in Europe and Japan—to assure adequate supplies to them in the event of sustained curtailment of Eastern Hemisphere supplies.

(3) *The risks of foreign supply interruption* are assessed in Part II, Section C, paragraphs 209 through 225. Quantification of risks is a hazardous enterprise, and we have not attempted it. Rather, based on the advice of the security agencies—State, Defense, and OEP—we have sought to construct a qualitative analysis of both the likelihood and severity of various types of possible interruption. Our conclusion is that the most serious contingency is not military but political and arises out of Arab-Israel tensions in the Middle East and North Africa. Accordingly, we have focused our security analysis on a denial of all Arab supplies to all free-world markets, varying the model to include interruption of Iranian supplies as well and extending the crisis beyond one year to two and even three years.

I should emphasize that we do not expect a crisis to extend that far or that long. For comparison, the three-year crisis in the early 1950's concerned only one supplier, Iran, and was readily surmounted with supplies from other sources. The 1967 boycott by the Arab states extended to only three consuming countries and was over in a matter of days. The Suez closure in 1956 and 1967 was more troublesome, but it has largely been surmounted now by the construction of supertankers that travel around the southern tip of Africa; it is doubtful that the Suez Canal will ever recapture its former oil traffic. The trouble is that if we used a more limited and more realistic example—say, two or three of the more radical Arab states shutting down production for three months—it could serve as an invitation to create a longer and broader crisis in the hope of influencing U.S. policy towards the Middle East. Temperatures seem to be pretty high there right now. Hence, we have deliberately constructed a model exceeding in scope our expectations of the likely dimensions of any international supply interruption. It is summarized in Table K on page 65, to which I will return shortly.

(4) *Feasible replacement measures* consist in the first instance of (A) available domestic production and (B) secure-source imports, supplemented by (C) emergency additions to supply.

(4A) *Domestic production* is laboriously built up in Appendix D, starting on page 215, from government and industry submissions and our own investigations. The estimates for 1975 and 1980 at various domestic prices are summarized in paragraph 228 and in Table C on page 41, a copy of which is included with the exhibits at the close of this statement. I should emphasize that the domestic price levels—$3.30 per barrel, $3.00, $2.50, and $2.00—are illustrative of various levels of import controls: the present controls, moderately relaxed and then substantially liberalized controls, and finally no controls. We express these variations in terms of price levels for convenience of exposition and because it is price that operates as an incentive for exploration and development. The results are shown in line 2 of Table C. As you will see, production *increases* in all cases between now and 1975, and there is relatively little difference in the production forthcoming at high, moderate, and no controls by that date. This is because abandonment of controls would make pointless the present "market demand prorationing" restraints on efficient production; the excess capacity thus released for production would in the short term more than offset the decline in high-cost "stripper well" production. The significant effects of relaxing or removing import controls would be felt by 1980: a 4.0 million barrels per day (MMb/d) production decline in the "2.00 case" and a 2.5 MMb/d decline in the "2.50 case;" the decline would be only 1.0 MMb/d in the "3.00 case", as shown in paragraph 228c.

(4B) *Imports* as a percentage of demand are shown in line 4 of Table C. As I stated previously, the policy question is not whether we shall import oil but rather how much and from where. The sources of imports under various policies are assessed in paragraphs 234 through 237, summarized in the D-series tables on pages 48 and 49. The import volumes coming from different sources are, of course, more subject to management by way of preference arrangements if import controls are retained than if they are abandoned. Table D–1 indicates that in the $2.50 case we could if we chose draw more than enough imports from the Western Hemisphere to satisfy all our 1980 import requirements and take no oil whatsoever from the Eastern Hemisphere. Table D–3, entry No. 2, shows a more likely distribution of imports, with Eastern Hemisphere sources still supplying less than 10% of our requirements. I will draw on these two tables, also reproduced as exhibits at the close of this statement, in a little more detail in a moment.

(4C) *Emergency supply additions* are assessed in Part II, Section E, paragraphs 238 through 247. It is here that we look at inventories, excess capacity and emergency production increases. Our conclusions on the volumes of oil that could be obtained from these sources are themselves subjected to a sensitivity analysis in paragraph 252a. We also look at certain pre-crisis investments that could be made to increase domestic emergency supplies—through conventional and underground storage, production from synthetics, and the creation of strategic reserves. Estimated costs appear to compare favorably with the costs of the present oil import control program, as shown in Table E on page 56. But further study is needed and is recommended in the Report; we have included no supplies from these sources in our security model.

Turning then to the Tables starting on page 61, two of which have been reproduced as Exhibits, let me invite your attention first to Table H—a one-year interruption of all Arab oil supplies in 1980 at an assumed U.S. wellhead price of $2.50. The first line shows demand and for the U.S. is taken from Table D–3. It includes internal Puerto Rican demand, bonded fuels, and offshore military procurement. It also includes expanded U.S. oil consumption at the lower-than-present domestic price, as explained in paragraph 226. The Canadian demand figure is that of its National Energy Board, while other demand figures are derived from the average of government and industry submissions to the Task Force.

The next line is production, and for the U.S., as I have said, is laboriously built up in Appendix D and summarized in Table C. Eleven million barrels a day is what we expect in 1980 at the $2.50 price. Canadian production is drawn from paragraph 235—based in turn on estimates and detailed technical presentations by the National Energy Board and the Alberta Oil and Gas Conservation Board. Line 3 of Table H shows that we forecast 3 million barrels a day to be supplied by Canada to the U.S. and an additional 1.5 million barrels a day to be kept by Canada for its own internal use. Western Hemisphere production is taken from paragraph 236 and Table D–3, and assumes that the U.S. grants a partial preference to oil from that source. The Eastern Hemisphere is treated as a residual supply source, and the division between Arab and non-Arab shipments is assumed to continue roughly as at present. Thus, we get line 5 of Table H, which is the gross deficit produced by an all-Arab supply interruption after 6 months and after 1 year.

The remaining lines of Table H show the effect of replacement measures: excess capacity, inventories, emergency production increases, and rationing. The figures for this purpose are taken from paragraphs 239 through 242. They show that if pre-crisis trade flows from uninterrupted sources were to continue without diversion, the Western Hemisphere could survive comfortably without any rationing whereas the rest of the free world would be beyond relief even with tolerable (10%) rationing throughout the free world.

Of course, it is inconceivable that we would build up our own inventories and continue Sunday driving while Europe froze. We must allow for expectable diversion from surplus free-world areas to those in deficit. We must also examine for our own policy purposes the effect of variations in U.S. import controls. This is what is done in Table K, and I now invite you to turn to that Table.

This is a complicated table, and I will

ask you to focus on just one column, column (7) about two-thirds of the way across the top. You see that it says "United States and Canada after diversion." We consider the two countries together because of the existence of an integrated transportation network and the likelihood that we would consult closely together during a future crisis as we have in the past. Now column (7) says "No E.H. or O.W.H." That is shorthand for the extreme assumption that North America would receive no oil whatsoever from either the Eastern Hemisphere or Latin America—all of it being diverted to Europe and Japan. Even in this case, which presumably would not happen without our consent if we give any trade preference at all to Latin America, the U.S. and Canada together would be able to satisfy 92% of their demand without rationing and more than 100% with rationing—in the so-called $2.50 case.

This then is the basic analysis that leads the Task Force to conclude that some liberalization of import controls would be consistent with the national security. I would be glad to answer any questions you may have about Table K or other parts of the analysis at the close of my remarks. I apologize for the detail to which I have subjected you, but this is central to our investigation, and it has never been thoroughly analyzed before.

At this point, I should like to return to paragraph 115, on page 8 of the Report. Subparagraph b sets forth the other main import-control objective established by the governing statute; namely that of preventing a weakening of the national economy that would *itself* impair the national security. If I may, I should like to stress the word "national." The Congress did not ask the President to impose import controls to protect a particular industry or a particular region of the country. Of course, oil production can be found in thirty-one of our fifty states, and there is no question that in some localities the production is pretty marginal. The Report assesses the impact of relaxed import controls on such production, on employment, on profits and investment, and on our balance of payments in paragraphs 228 through 232. From a national point of view, it is our conclusion that the effects on the economy of a substantial relaxation of import controls would not be severe. Indeed, relaxed import controls would inure to the *benefit* of the national economy—by redirecting labor and capital to more efficient uses. We estimate the efficiency costs of the present program at between $1.5 and $2.0 billion each year. At a time when we are worried about inflation, I believe that we should not incur such costs without convincing justification.

It should perhaps be noted again in this connection that in the so-called "$2.50 case" the Report estimates *undiminished* additions to crude oil reserves, and *increased* production, between now and 1980. That is because the release of reserve capacity from inefficient market-demand prorationing as practiced by the leading producing states would more than offset the decline in marginal stripper-well production and would stimulate exploration for efficiently producible reservoirs. The initial flow rates for wells thus far tested on the Alaskan North Slope are, for example, many times greater than the average for nonstripper wells in the rest of the United States. If present import controls are continued without change, there is a possibility that those wells will be prorationed by Alaskan authorities to market demand. That would, in my judgment, detract from both the national economy and the national security.

Coming back finally to paragraph 116 of the Report, we note there some additional considerations that were canvassed in this Subcommittee's hearings of last year. Once we establish that there is a case for protection of the national security, what sort of program should be adopted? Our analysis of this question is developed at considerable length in Part III of the Report, with the conclusions stated in Part IV.

First, a majority of the Task Force found that the present oil import system does not reflect national security needs, present or future, and "is no longer acceptable." Its 12.2% limitation on imports into the bulk of the country is based on the mid-1950's level and has no current justification. The present system treats imports from secure sources in a variety of inconsistent ways. Besides costing consumers an estimated $5 billion each year ($8.4 billion per year by 1980), the quotas have caused inefficiencies in the market place, have led to undue government intervention, and are riddled with exceptions unrelated to the national security. Consumer prices for the whole country are, under the quota system, established largely as a result of limitations on oil production by one or two state bodies.

To replace the present method and level of import restrictions, the report recommends phased-in adoption of a preferential tariff system that would draw the bulk of future imports from secure Western Hemisphere sources. A ceiling would be placed on imports from the Eastern Hemisphere. These would not be allowed to exceed 10 per cent of United States demand.

The tariff system would restore a measure of market competition to the domestic industry and get the government, after a three-to-five year transition period, out of the unsatisfactory business of allocating highly valuable import rights among industry claimants. Tariffs also would eliminate the rigid price structure maintained by the present import quotas. They would establish Federal rather than State control over this national security program with its important international implications.

An initial tariff level of $1.45 per barrel of crude oil (higher on products) would be established for imports from the Eastern Hemisphere. Further liberalization towards an equilibrium tariff level would be implemented (after further study) by the new management system proposed in the report—whose creation has already been announced by the President. Consumers and the public treasury would divide the savings thus created.

There are several other important features of the majority recommendations—concerning tariff preferences, the phasing out of special quota privileges, the treatment of products and residual fuel oil and petrochemical feedstocks, and the mechanics of the proposed Eastern Hemisphere security adjustment—which are summarized on pages 134 through 139 of the Report. In the interest of brevity I will not undertake to recapitulate that summary.

For myself, I would close by saying as I did in the Report that I personally am persuaded on the basis of presently available evidence that an equilibrium tariff objective of approximately $1.00 per barrel should be established now. It would not be reached for three or five years, depending on the transition period chosen, and the planning schedule could be altered by the management system if called for by countervailing evidence coming to light during that period. There is some uncertainty in our forward estimates now, but there always will be, and judgments still have to be made. My own judgment is that the national security—the only authorized basis for oil import restrictions—will be adequately protected by such a move. Believing that, I also believe it is fairer to the industry and to all affected interests if the objective is charted now.

TABLE C.—U.S. CONSUMPTION, PRODUCTION, AND IMPORTS, 1975 AND 1980[1]

[Millions of barrels per day]

	1968	1975			1980		
Real price per barrel[2]		$3.30	$2.50	$2.99	$3.30	$2.50	$2.00
1. U.S. consumption[3]	13.1	16.1	16.3	16.4	18.6	19.0	19.3
2. U.S. production[4]	10.6	12.4	11.6	11.2	13.5	11.0	9.5
3. Imports	2.5	3.7	4.7	5.2	5.1	8.0	9.8
4. Imports as a percentage of consumption	19	23	29	32	27	42	51

[1] 1968 figures are from Bureau of Mines data; imports are computed on an OIA basis, 1975 and 1980 figures are taken from app. D; these accord generally with submissions to the task force.

[2] $3.30 is the present south Louisiana wellhead price for crude of 30 degree gravity. $2 is the approximate wellhead price that would prevail in 1980 if import controls were soon eliminated. "Real price" is computed in constant dollars.

[3] Includes exports, residual fuel oil and petrochemical feedstocks. Elasticity of demand at lower prices is assumed to be as stated above. Puerto Rican internal demand, military offshore demand, and bonded fuels are not included. These are assumed to be 0.6 million barrels per day in 1975 and 0.7 million barrels per day in 1980.

[4] Includes natural gas liquids of 1.6 in 1975 and 1980. Depending upon the length and nature of transition arrangements, U.S. production in 1975 could vary somewhat from the figures shown at the lower prices.

TABLE D-1.—SOURCES OF U.S. IMPORTS IN 1968, 1975, 1980[1]

[Millions of barrels per day]

	1968	1975			1980		
Real U.S. wellhead price per barrel[2]		$3.30	$2.50	$2.00	$3.30	$2.50	$2.00
Total U.S. imports[3]	2.5	3.7	4.7	5.2	5.1	8.0	9.8
Source of imports:[4]							
Canada[5]	0.5	2.3	2.0	1.8	5.0+	3.0	1.5
Latin America[6]	1.5	3.9	3.0	2.4	5.1+	5.1+	3.5
Eastern Hemisphere[7]	0.5	0	0	1.7	0	0	4.8
Arab				(1.1)			(3.6)
Non-Arab				(0.6)			(1.2)

[1] Order of magnitude only; includes residual as well as crude.

[2] See table C, note 2.

[3] From table C.

[4] Each entry shows the maximum available from Western Hemisphere sources at that price without import restrictions. Because the Western Hemisphere imports if unrestricted at the $3.30 and $2.50 prices would be greater than the U.S. deficit, some restrictions on Western Hemisphere access or limited entry for Eastern Hemisphere imports would be necessary.

[5] 1975 figures represent maximum probable imports if Canadian oil were given free access immediately.

[6] Assumes Venezuelan exports to other areas would be diverted to the United States at prices above the world level. Import levels at the $2 price are only approximate.

[7] Assumes that Eastern Hemisphere oil is the residuum in the U.S. petroleum balance. If we permitted the Eastern Hemisphere to supply up to 10 percent of normal inland consumption these numbers could be as high as 1.6 in 1975 and 1.9 in 1980.

TABLE D-3.—WORLD DEMAND AND PRODUCTION 1980

[In millions of barrels—Production: Read down; consumption (including source of imports): Read across]

	Western Hemisphere			Eastern Hemisphere			
	United States	Canada	Other Western Hemisphere	Arab	Free non-Arab	Soviet bloc net exports	Total demand
1. $3.30 U.S. price:							
United States	13.5	2.6	2.7	0.4	0.1	(1)	19.3
Canada	(1)	1.5	.4	.1	(1)	(1)	2.0
Other	(1)	(1)	5.1	26.4	6.6	0.8	38.9
Total production	13.5	4.1	8.2	26.9	6.7	.8	60.2
2. $2.50 U.S. price:							
United States	11.0	3.0	3.8	1.4	.5	(1)	19.7
Canada	(1)	1.5	.4	.1	(1)	(1)	2.0
Other	(1)	(1)	4.0	27.4	6.7	0.8	38.9
Total production	11.0	4.5	8.2	28.9	7.2	.8	60.6
3. $2 U.S. price:							
United States	9.5	1.5	3.7	4.0	1.3	(1)	20.0
Canada	(1)	2.0	(1)	(1)	(1)	(1)	2.0
Other	(1)	(1)	4.5	26.9	6.7	.8	38.9
Total production	9.5	3.5	8.2	30.9	8.0	.8	60.9

[1] Minimal.

TABLE H.—AVERAGE SUPPLY BALANCES DURING 6-MONTH AND 1-YEAR INTERRUPTIONS OF ALL ARAB OIL SUPPLIES IN 1980

[U.S. wellhead price $2.50/bbl. millions of barrels per day.]

	United States alone		United States and Canada		Western Hemisphere		Free world	
	After 6 months	1 year	6 months	1 year	6 months	1 year	6 months	1 year
Demand	−19.7	−19.7	−21.7	−21.7	−26.1	−26.1	−58.8	−58.8
Less:								
U.S. production	11.0	11.0	11.0	11.0	11.0	11.0	11.0	11.0
Canadian production	3.0	3.0	4.5	4.5	4.5	4.5	4.5	4.5
Western Hemisphere production	3.8	3.8	4.2	4.2	7.9	7.9	8.2	8.2
Non-Arab Eastern Hemisphere production	.5	.5	.5	.5	.7	.7	7.2	7.2
Gross deficit	−1.4	−1.4	−1.5	−1.5	−2.0	−2.0	−27.9	−27.9
Less:								
Excess capacity:								
United States	.8	.8	.8	.8	.8	.8	.8	.8
Canada	.2	.2	.2	.2	.2	.2	.2	.2
Western Hemisphere	.6	.6	.6	.6	1.2	1.2	1.2	1.2
Non-Arab Eastern Hemisphere	.1	.1	.1	.1	.1	.1	.1	1.1
Inventories:								
United States	4.9	2.4	4.9	2.4	4.9	2.4	4.9	2.4
Canada			.5	.2	.5	.1	.5	.2
Western Hemisphere					1.1	.5	1.1	.5
Remaining Free World							8.1	4.0
Emergency production increases:								
United States	.3	.6	.3	.6	.3	.6	.3	.6
Canada	.1	2	1	2	1	2	1	.2
Western Hemisphere	.1	.3	.2	.3	.3	.6	.3	.6
Non-Arab Eastern Hemisphere	(1)	.1	(1)	.1	(1)	.1	.7	.7
Net deficit	+5.7	+3.9	+6.2	+4.0	+7.5	+4.9	−8.9	−15.4
10 percent rationing							(+5.9)	(+5.9)

[1] Minimal.

TABLE K.—AVERAGE NET DEFICITS/SURPLUSES RESULTING FROM A 1-YEAR SUPPLY INTERRUPTION IN 1980

[Percent of precrisis demand in millions of barrels]

							United States and Canada after diversions			E.H. after diversions		
	Price per barrel	United States (1)	United States and Canada (2)	Western Hemisphere (3)	Eastern Hemisphere (4)	Free World (5)	No E.H. and some O.W.H. (6)	No E.H. or O.W.H. (7)	No E.H. (8)	All E.H. and some O.W.H. (6a)	All E.H. and O.W.H. (7a)	All E.H. (8a)
All Arabs out	$3.30	123.0 (+4.4)	123.0 (+4.8)	124.0 (+6.2)	40.0 (1-19.5)	77.0 (−13.3)	122.0 (+4.6)	104.0 (+.9)	131.0 (+6.5)	41.0 (−19.4)	57.0 (−14.2)	38.0 (−20.3)
	2.50	120.0 (+3.9)	118.0 (+4.0)	119.0 +(4.9)	38.0 (−20.3)	74.0 (−15.4)	112.0 (+2.6)	92.0 (−1.8)	118.0 (+3.8)	41.0 (−19.4)	58.0 (−13.6)	40.0 (−19.7)
	2.00	107.0 (+1.4)	107.0 (+1.5)	109.0 (+2.4)	40.0 (−19.7)	71.0 (−17.3)	96.0 (−.8)	79.0 (−4.7)	104.0 (+.9)	46.0 (−17.8)	61.0 (−12.6)	43.0 (−18.7)
All Arabs and Iran out	3.30	122.0 (+4.3)	122.0 (+4.7)	124.0 (+6.1)	26.0 (−23.9)	69.0 (−17.8)	122.0 (+4.6)	104.0 (+.9)	131.0 (+6.5)	26.0 (−23.9)	42.0 (−18.7)	23.0 (−24.8)
	2.50	117.0 (+3.4)	116.0 (+3.5)	116.0 (+4.3)	24.0 (−24.6)	65.0 (−20.3)	112.0 (+2.6)	92.0 (−1.8)	118.0 (+3.8)	25.0 (−24.3)	43.0 (−18.5)	24.0 (−24.6)
	2.00	103.0 (+.5)	103.0 (+.6)	105.0 (+1.3)	25.0 (−24.1)	61.0 (−22.8)	96.0 (−.8)	79.0 (−4.7)	104.0 (+.9)	28.0 (−23.3)	44.0 (−18.1)	25.0 (−24.2)
Libya out	3.30	125.0 (+4.8)	125.0 (+5.3)	126.0 (+6.7)	123.0 (+7.9)	124.0 (+14.6)						
	2.50	126.0 (+5.2)	124.0 (+5.3)	126.0 (+6.7)	122.0 (+7.7)	124.0 (+14.4)						
	2.00	126.0 (+5.1)	124.0 (+5.2)	124.0 (+6.4)	123.0 (+8.0)	124.0 (+14.4)						
10-percent rationing		(+2.0)	(+2.2)	(+2.6)	(+3.3)	(+5.9)	(+2.2)	(+2.2)	(+2.2)	(+3.3)	(+3.3)	(+3.3)

APPENDIX—OBSERVATIONS ON SOME POINTS AND QUESTIONS RAISED ABOUT THE TASK FORCE REPORT

1. "The Report recommends price-fixing."

Observation: The Report does not recommend fixing the price of oil. Obviously, the level of the tariff would determine the general price environment, and in order to predict the effect on a tariff on production and new additions to reserves one must know generally the price levels which would result. It is for this *analytical* purpose that the Report speaks of the "$3.00 case" and "the $2.50 case"; they are not and cannot be precise price objectives (see paras. 402, 424(1)). Obviously, the number of factors influencing the price of oil—including costs and foreign tax policies—are such that precise predic-

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tion of future prices, even if thought desirable, would be impossible. (Appendix D, para. 3). The fact is that the present program in combination with the activities of state regulatory commissions has gone much further in fixing prices. With the exception of last year's price increase, it has virtually pegged the price of crude oil. By permitting price competition, adoption of tariffs would be a move away from rather than towards price fixing. (See paras. 323–325.)

The domestic price environment is relevant primarily to the *quantities* of oil available in the U.S. Will domestic production be large enough to total somewhere near the desired percentage of demand? Will reserve capacity in secure sources be sufficient to fulfill its assigned role in an emergency? Will sufficient supplies be available from the Western Hemisphere to meet Western Hemisphere demand, or some desired percentage of it? Will domestic production and capacity suffer a disastrous decline or stay about where they are? What supplies will be forthcoming from the Arctic? These are the important questions, and some deviations in each variable from its target value is not especially significant in itself.

What the Task Force plan would do is to give the domestic industry a $1.45 tariff shield (at first) against the Middle East—$1.25 against Latin America—integrate the Canadian industry with the U.S., and then leave the industry to make its own adaptations. We think that the result will be adequate protection of the nation's security, and a high enough price and large enough domestic output to maintain a large and thriving domestic industry—probably a "healthier" one than now. But the report does not seek to fix the price at $3.00 or $2.50 or any particular price. The price might be somewhat higher or lower depending on competitive forces and other factors. The managers of the oil import program would be expected to monitor these changes, but not to adjust the level of restrictions without substantial cause (para. 303).

2. "Adoption of a tariff system would be a foot in the door for federal regulation of the oil industry."

Observation: The assertion appears to be based on the assumption that the tariff system proposed by the Task Force would be "fine tuned" to regulate the level of imports with a degree of strictness comparable to the quota system. The Report's recommendations do not seek such detailed control; the recommended tariff levels are only an approximation of price levels at which we believe the domestic industry would be able to remain vigorous and competitive with imported oil.

Insofar as the assertion relates to the Report's proposal for vastly improved data collection (para. 345b), it should be remembered that government intervention has been solicited by the industry as necessary to sustain domestic prices at a level significantly above the competitive world price. If the industry is to receive such treatment for the benefit of the nation, it would be irresponsible for government not to obtain whatever information it needs to assure that the burden imposed on consumers is no greater than necessary.

3. "The Task Force proposal is too complex to administer."

Observation: Actually most of the complexities are associated with the transition, and they are really defects of the old (quota) system. The new tariff system, once fully in effect, should be administratively a good deal simpler. All the Task Force proposal would do is set a tariff of $1.35+10.5 cents, with a possible step-down of 45 cents after a short time, and a 20 cent preference for Venezuela, and a 10 percent limit on East Hemisphere imports. After an energy agreement with Canada and possibly Mexico is negotiated, the system should practically run itself. (I assume a product differential would soon be fixed at a reliable level, and thereafter left alone.) Further study is called for from time to time, but a complex study does not necesarily entail administrative complexities.

The transitional complexity is a function of the numerous inconsistencies and "special deals" generated by the present program (see paras. 117–130), and could be avoided by an abrupt shift to the new tariff system. However, the Task Force considered that a gradual withdrawal of special arrangements would produce fewer dislocations.

4. "Would a tariff system induce exporting countries to raise taxes?"

Observation: The international oil consultant, Mr. Walter Levy has asserted (Wall Street Journal, 1/12/70) that a switch to a tariff system by the U.S. could "trigger" a world-wide rise in crude oil prices of perhaps 50 cents to $1.00 per barrel, as the governments of producing countries would react to higher U.S. taxes (i.e. tariffs) by increasing their own.

Mr. Levy's conclusion seems to have been based on a misconception of what the Report (not released until 2/20/70) would recommend; namely, that the U.S. tariff would decrease as the "world" price went up. (Compare para. 337.) Without such a compensatory tariff change, a rise in the world price would either (a) price out of the U.S. market the oil from countries joining in the price increase, or (b) cause the U.S. price to rise with it, restoring or even increasing the present price and encouraging U.S. poduction. Both of these, especially (a), could cause subsequent price-cutting to break out.

As for the effectiveness of the producing-country cartel, it is perhaps unnecessary to recapitulate the evidence on the success of OPEC in the past. The world price has steadily fallen, not risen, and if the OPEC countries could effectively cooperate to raise prices (in Europe), why haven't they done it before? A dramatic event like the imposition of a U.S. tariff might provoke a dramatic response, but sustaining it is something else again.

Actually, from the producing countries' point of view, they do not stand to lose from a tariff system. The royalties and taxes they receive will be the same, and sale of their oil to the U.S. will somewhat increase. The only change is that profits previously taken by U.S. importers will inure to the benefit of the U.S. Treasury. Venezuela might, of course, raise prices to mop up a differential rent if given the opportunity. This is not what Levy was talking about.

5. "Why should the federal government interfere with state conservation controls?"

Observation: The proposed program would in no way interfere with state regulation designed to avoid physical waste. This important function, covering such matters as well spacing and the flaring of natural gas, would remain in state hands. Only regulation designed to increase or maintain prices would be inhibited. (See para. 325.)

The importance of market-demand prorationing may be declining for Texas and Louisiana, but continuation of quotas rather than adoption of tariffs would create a strong incentive for Alaska to adopt market-demand prorationing. One of the important benefits of a tariff would be to insure that state regulation in Alaska is not used to maintain the price of oil artificially through market restrictions.

6. "Reducing oil prices will aggregate an already crtiical impending shortage of gas."

Observation: Projections of demand and supply at current prices do show increasing deficits after the mid-1970's. The reluctance of the Chairman of the Federal Power Commission to see this problem aggravated in any degree is understandable. Nevertheless, the following should be borne in mind:

(a) In the short run, the adoption of the tariff system proposed by the Task Force would increase natural gas supplies by encouraging the elimination of market-demand prorationing that currently limits gas output in Texas and Louisiana (para. 207e).

(b) In the longer run, the Task Force was guided by the policy views subscribed to by the Commissioners of the Federal Power Commission as a body last August:

"We do not mean to suggest that possible changes in the oil import program are the major determinants of natural gas supply . . . Although the total level of domestic exploration for petroleum affects the exploration for natural gas, we believe that domestic gas supplies for the Nation's economy will depend at least as much on demand, tax incentives and gas prices allowed by the Commission itself as on the oil import control program."

(c) Over the longer run, again, it is likely that in a few years ways will be found to transport to the "lower 48" the large new supplies of natural gas being developed in the Alaskan and Canadian Arctic. The technology of transporting liquefied natural gas (LNG) will in all probability experience cost-reducing advances during the same period.

(d) Domestic gas supply can itself be stimulated by increasing authorized wellhead prices. The Report, relying on estimates furnished by the Federal Power Commission staff, suggests that any potential decline in the supply of natural gas caused by a reduction in the price of oil could be offset by a price increase at the very maximum of 2.5 to 5 cents per Mcf of gas. This is equal to a 5 to 10 percent increase in the current average price to consumers.

(e) A higher price for natural gas would (1) stimulate "directional" exploration for natural gas, (2) eliminate the present artificial incentive for intrastate use, and (3) reduce demand growth and eliminate some low-priority uses. In the gas-producing states at present, for example, natural gas is frequently used as a boiler fuel. Economical substitutes such as desulphurized fuel oil should become available with a rise in natural gas prices, thus permitting a diversion in the uses of natural gas to higher-priority markets.

(f) Artificially low natural gas prices are not a justification for artificially high crude oil prices—particularly given the regional distortions in the present distribution of these benefits and burdens. Table II of Chairman Nassikas' appendix (pages 373–74) shows that three gas-producing states—Texas, California, and Louisiana—receive more than 40% of the benefit the present low-gas-price subsidy, while consumers in the six-state New England region enjoy about 1% of the benefit.

7. "Oil industry profits are too slim to accommodate any decline in domestic crude oil prices."

Observation: Costs rise to meet price. That is, at present, quota-inflated prices producers are willing (a) to invest in marginal properties and (b) to pay "rents"—royalties lease bonuses, and taxes—that will leave them a rate of return equivalent to that obtainable from investments in other sectors of the economy. In the short run, a decline in prices will squeeze the profits of those who have made marginal investments and contracted to pay high rents. But the volume of production that will actually close down is very small as proportion of the whole (Appendix D). And in the longer run, less inflated prices will deter marginal investments and bring about a squeeze on rents rather than profits. The industry will be just as profitable as ever, but leaner and more competitive. The economy will benefit by ceasing to produce the small fraction of total domestic oil that now comes from the highest-cost marginal sources. Investments in this very expensive oil could be used much more productively in other sectors of the economy.

8. "Consumers have benefited from stable domestic oil prices during the life of the present quota system."

Observation: It is true that U.S. crude and product prices have not risen much during the last decade, although they did jump $.20 per barrel last year. The main point is that crude prices have *fallen* dramatically abroad and U.S. product prices would have presumably followed that trend if import controls had been relaxed. (See para. 207, Table A–1 on p. 26, Appendix G).

9. "A tariff system will adversely affect the position of small independent refiners, particularly those located "inland and dependent on supplies from marginal independent producers."

Observation: Changes induced by a shift in the method of import control would not wipe out the independent segment of the industry; indeed, they should strengthen it. In Europe, where there have been no import restrictions, the past decade has witnessed a remarkable growth in the number of independent refiners and marketers at the expense of the integrated internationals.

The information submitted to the Task Force indicates at least three respects in which the existing program actually tends to cause or increase dependence of independent refiners or refiner marketers on integrated companies: (1) the quota program denies independents the option of importing crude by payment of a uniform tariff as an alternative to purchasing domestic crude from an integrated company; (2) the sliding scale has encouraged agreements whereby small refiners take most or all of their crude from an integrated company to which they sell most or all of their output—thus making the small refiner wholly dependent on the integrated company; and (3) the output of such independent refiners is not available to independent marketers and refiner-marketers which must depend on integrated companies for product purchases. A shift to tariffs would eliminate all three of these features.

There is in fact no reason why small inland refiners should suffer any comparative disadvantage upon adoption of a tariff system, except insofar as they lose the subsidy they now receive under the "sliding scale" method of quota allocation. Any other benefits which they enjoy under the quota system will be denied their competitors as well as themselves. To be sure, proponents of this position allege that the structure of the industry is anti-competitive in a way that operates to the detriment of independent refiners generally. To the extent that this may be so, it is not attributable to import restrictions and should be addressed separately (para. 314c, n. 25). As for the sliding scale itself, it is not required for protection of the national security and should be phased out (see para. 314c, 428).

Statistics submitted to the Task Force on behalf of small refiners allege a continuing downward trend in the number of independent refiners—and not only of small ones. This trend began before import restrictions were imposed and has continued since then, despite the sliding scale subsidy that dates from the inception of the existing program. Withdrawal of the subsidy will obviously be detrimental to any firm that has benefited from it, but independent refiners efficient enough to survive without a subsidy should receive an offsetting benefit through reduced costs for crude oil and reduced dependence on integrated companies for their crude oil supply.

Benefits available to all small businesses under applicable legislation, such as set-aside DOD procurement, would still be available to qualifying small refiners. It should be noted that the sliding scale itself was *not* designed to and has not operated to benefit "small businesses" as defined by applicable legislation and regulations. (See para. 314c of the Report). Special aids to small business refiners cannot be justified on grounds of national security and if warranted on other grounds should be authorized by the Congress.

10. "The Alaskan North Slope oil discovery, which would not have been made in the absence of the quota system, will be less actively developed if domestic crude oil prices are allowed to decline."

Observation: It is impossible to say whether the discovery would or would not have been made in the absence of import controls. Intensive exploration is now being carried on in the Canadian Arctic despite the absence of any assured market above world price levels for oil from that region (see para. 235).

As for the pace of development of North Slope oil, two factors should be noted: (a) The present operators have incurred huge "sunk" costs for lease bonuses ($900 million) and exploration outlays, and have reportedly committed another $900 million to construction of the Prudhoe Bay-Valdez pipeline; their obvious interest lies in maximizing development of the acreage thus far acquired. (b) On future acreage yet to be auctioned by the State of Alaska, an oil price decline will be reflected in diminished bids for lease bonuses; the record bids made last September (when the operators knew that the whole import control program was undergoing comprehensive review) indicate that there is a great deal of room for shrinkage in these "rents." Of course, the State of Alaska could decline to open new acreage up for bidding if it thought the lease and royalty revenues obtainable in a lowered price environment were inadequate. But estimated wellhead costs of North Slope oil are so low that this is unlikely to be the case even at world prices. (See Appendix D, para. 9a.) And the Task Force Report recommends nothing like so drastic a price reduction.

11. "At lower prices, transportation of Alaskan North Slope oil to the 'lower 48' would be uneconomical, and the oil would move instead to Europe and Japan in foreign-flag tankers."

Observation: All available evidence indicates that the real cost of producing Arctic crude oil (including return on capital) is very low—considerably less than $1.00 per barrel and perhaps as little as $0.20. The cost of transportation to the U.S. East Coast is estimated at $1.00 to $1.50 per barrel depending upon whether transportation through the Northwest Passage is successful; transportation to the Midwest by pipeline would be about $1.25. (See Appendix E.) A $0.30 per barrel U.S. price decline would imply a crude price of at least $3.40 on the U.S. East Coast and at least $3.20 in the Midwest. (Prices before 1975 would be even higher. See Table L–1 and L–2, pp. 92–93. Hence, marketing of Arctic crude in those regions should leave at least $1.00 per barrel, and possibly a great deal more, available for payment of lease bonuses, royalties, and state severance taxes.)

Although the Jones Act requires shipments between American ports to move in U.S. bottoms, and thus makes shipping between American ports more expensive than shipping to foreign ports, the price of oil in the U.S. would still be sufficiently above the price in Europe and Japan to offset any differences in transportation costs. For instance, the cost of Jones Act shipping between Valdez and Los Angeles is estimated to be about 35 cents per barrel. Transportation between Alaska and Japan, roughly the same distance, would be about 15 cents per barrel. The higher value of the oil in the U.S. market—an estimated $1.00—$1.20 per barrel differential even after a $0.30 reduction—would far more than offset any such added transportation costs. Shipment to foreign ports to avoid the Jones Act would become profitable only if U.S. prices dropped close to world market levels.

12. "Reducing oil prices would eliminate much stripper and secondary production, foreclose synthetic development, and lose forever the reserves that might otherwise be developed from shut-down marginal wells by future technology."

Observation: Obviously, a decline in the price of oil will make marginal production unprofitable. The factors involved are set out at length in Appendix D of the Report. Some, but not all, stripper well production would be lost; this effect would, of course, be moderated by phasing in any changes. Even at substantially lower prices, some stripper wells would continue to be profitable—although development of new strippers might stop—and some reserves attributable to strippers would be recovered through other wells. Secondary recovery would be less attractive and synthetic development, not certain at current prices, would be much less likely under reduced prices—barring major technological developments or government subsidies. (See para. 246 and Appendix J, paras. 6–10.)

Any reserve loss attributable to a price reduction would, however, be very small indeed. It is notable that private operators currently find potential technological development insufficient reason to keep strippers in production once current costs exceed current revenues. Moving to greater reliance on market forces should *stimulate* development of new technology.

The immediate loss in stripper production if prices dropped to a world level would be only 500,000 b/d. (See Appendix D, para. 6e and footnote 8.) The loss from the far-more modest price reductions which would result from instituting the Task Force's recommendations would be much less. Any additional loss would have to be but a small fraction of this already small total, and would fall well within the general range of error in the Task Force's estimates.

A tariff system of import restrictions should make the domestic producing industry much more competitive and thereby stimulate the development of technology to reduce costs and increase recovery from the more efficiently producible reservoirs.

13. "There is a danger that due either to over reaction to the new program or conceivably a deliberate purpose to create an appearance of crisis, exploration might be artificially reduced during the transition period."

Observation: There may be a weakness in the majority's recommendation of an observation period before the decision is made whether to reduce the tariff to an equilibrium level of $1.00 (or whatever). It assumes that all reactions to the new policy during this period will be non-strategic, and that "objective" facts will be produced to support the decision. But the industry is capable of behaving irrationally for short periods, and even of contriving an apparent disaster by ceasing exploration, dramatically revising its reserve additions downward, closing up intramarginal properties prematurely, etc. Not every firm would do this, but enough might do so (from panic or for calculated strategic reasons) to produce an appearance of crisis calling for immediate "corrective" action, e.g., return to quota restrictions plus a curative dose of higher prices than before the "ill-advised" change to a tariff system. The industry associations could help to produce such an impression. A dramatic increase in imports might well accompany it—after all, the same firms can influence both the domestic reserves and the import reactions. And we must not forget that the "facts" for decision will be produced largely by these same firms and associations.

The industry is not monopolistic enough to sustain a false reaction over an extended period; in the long run the normal commercial motives will reassert themselves and objective facts would win out. But we have no assured means of preventing over-reaction or downright manipulation in the short run, nor is it clear how the administration would distinguish between a fake disaster and a real one. This does put a premium on improving the quality and reliability of statistical information as recommended in the report (PP 345b), so as at least to free the program managers from conclusory industry assertions.

Speaking personally, this is one reason I favor adoption of a definite equilibrium tariff goal now. Such an action would give the industry fair notice of what they must plan to meet, and would remove any temptation to influence government decisions by contrived behavior.

14. "Lower crude oil prices would mean lower lease bonus revenues for the U.S. Government."

Observation: It is true that U.S. lease bonus revenues probably would be lower under the system recommended by the Task Force than under a continuation of the present quota system (see para. 207d). Calculations indicate that adoption of the Task Force's recommended tariff with no further decrease in the tariff level would reduce Federal lease bonus revenues by about $150 million in 1975 (obtained by multiplying average federal lease bonus revenues for the years 1964–68—about $500 million—times the estimated 30% decline in rents in offshore areas which would result from a $0.30 per barrel drop in the domestic price of crude oil). However, these losses would be much less than the estimated $1.6 billion of savings to consumers in 1975 under the Task Force's recommended system (see para. 207d, Table A–1, p. 26, and para. 407). Furthermore, adoption of the Task Force's recommended system would generate about $500 million in additional tariff revenues in 1975 (see Table M, p. 100), more than enough to offset the decline in bonus payments.

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15. "The price of No. 2 fuel oil in New England will rise if the Task Force recommendations for a product tariff ($1.55 per barrel, or 3.7 cents a gallon) are put into effect."

Observation: Long-run. The "Fact Sheet" circulated to members of Congress by the Independent Fuel Oil Terminal Operators postulates that the present posted price of No. 2 fuel oil is 10.1 cents per gallon in Boston Harbor and 6.5 cents per gallon in the Caribbean, and that the transport cost from the Caribbean to Boston is 1.0 cents per gallon. Since the posted Caribbean price plus transport cost is 2.6 cents per gallon less than the present Boston price, the Fact Sheet concludes that a tariff greater than 2.6 cents per gallon would make imported No. 2 fuel oil noncompetitive in the New England market. The Fact Sheet further asserts that at a tariff higher than $1.08 per barrel "(d)omestic refiners would be completely insulated from overseas competition and price increases would result . . . (F) or each 20 cents per barrel of (additional) tariff, the heating oil price could be easily increased by ½-cent per gallon." (Fact Sheet, p. 2).

(1) Even assuming the correctness of the postulated facts (and the relation of the Caribbean posted price to actual transaction prices at least seems open to question), this analysis seems deficient. At present, the import program quantitatively limits imports of No. 2 fuel oil, which during 1966–68 supplied only 3–7% of East Coast heating oil demand. (See Appendix L.) Hence, it is evident that the East Coast heating oil price is primarily determined not by the foreign heating oil price plus the cost of transportation but by the costs of domestic refining and transport. The circumstance that No. 2 fuel oil refined abroad generally can be delivered to the East Coast at less cost than domestically refined No. 2 oil mainly results not in a lowering of the domestic price but in unearned "rents" to the few historical importers now permitted to import No. 2 oil.

Once it is acknowledged that under the present quota system the domestic price of No. 2 oil is independent of the delivered price of product imports, it follows that imposition of even a prohibitively high product tariff would have no effect on the long-run domestic price. That price would still be determined—as at present—by the costs of domestic refining plus transport. Any long-term price rise must stem either from an increase in these costs or from anticompetitive behavior by domestic refiners. Neither would be affected by adoption of a tariff, regardless of its level.

(2) Imposition of a *crude oil* tariff of 3.4 cents per gallon ($1.45 per barrel), as recommended by the Task Force, would tend to lower the domestic price of No. 2 fuel oil by reducing the cost to refiners of domestic crude oil, a fact entirely ignored by the Fact Sheet. The tariff recommended by the Task Force should reduce the cost to refiners of domestic crude oil by about 0.5 cent per gallon (after taking into account the elimination of any pass-through to consumers of cost savings under the present quota system). Assuming that the domestic refining industry is competitive, this saving should be realized by consumers in the form of correspondingly lower No. 2 fuel oil prices.

(3) Thus far, it has been assumed that the prices and transport cost postulated in the Fact Sheet are accurate. This would seem to be true of the Boston Harbor posted price (10.1 cents per gallon). The estimated transport cost (1.0 cent per gallon) appears to be somewhere in the right neighborhood, although the Petroleum Industry Research foundation recently cited a figure of 0.5 cent. However, it is questionable whether foreign posted prices ever represent real transaction prices or are artificially high, so the Caribbean posted price cited in the Fact Sheet (6.5 cents per gallon) is subject to doubt. The corresponding figure for bulk cargoes f.o.b. Italy is, for example, only 5.9 cents. Moreover, even if the 6.5 cents price is accurate, it is certainly based to some extent on the absence of effective price competition in the U.S. market. A U.S. tariff which removed quantitative import restriction but tended to price 6.5-cent Caribbean oil out of the East Coast market might induce Caribbean refiners to lower their prices, perhaps by changing their refinery configurations.

Finally, it must be remembered that the objectives of the tentative product tariff recommended by the Task Force are (1) to prevent "export" of significant refining capacity while (2) keeping the cost of product imports low enough to exert some competitive pressures in the domestic market and aid in relieving temporary shortages. (See para. 333d, Appendix K.) The first goal would be attained even if the tariff were so high as to preclude all product imports. Simultaneous achievement of the second objective, however, requires a much finer tariff adjustment. The considerations are sufficiently complex to lead the Task Force to recommend only a tentative product tariff, with the final tariff level to be the subject of immediate intensive study.

Short-run. No. 2 fuel oil is currently imported pursuant to historical product import allocations. Such imports accounted for 3–7% of East Coast demand during the period 1966–68. If a tariff were imposed which was so high as effectively to exclude No. 2 fuel oil at present prices, and if historical import allocations were immediately abolished, then in the short-run—before the U.S. refinery mix adjusted to the changed situation—there might be a temporary price rise. The Task Force has recommended an initial tariff of 3.7 cents per gallon on No. 2 fuel oil. However, even if this tariff were high enough to price imported No. 2 oil out of the U.S. market over the short run, no price rise would occur because the Task Force has not recommended the immediate abolition of historical product import quotas. Rather, the Task Force Report suggests gradual elimination over a three- to five-year transition period (see para. 428). Especially since recipients of historical allocations are not limited as to the types of products they may bring in, this gradual phaseout should be sufficient to prevent any significant shortages or price rises with respect to No. 2 oil due to institution of the tariff system recommended by the Task Force.

16. "How do you justify exempting imports of heavy fuel oil and not No. 2?"

Observation: (a) If the question were whether we should *now* exempt residual fuel oil, the answer might be no. Residual fuel oil is a refinery product, and refineries can be shut down more easily than oil fields. Of course, restrictions on residual fuel oil entry raise prices for apartment dwellers, hospital patients, schools, and consumers of utility and factory products It is also true that domestic refineries have been upgrading their output, abandoning residual fuel oil production because it is less valuable. But if we were now putting in a tariff system for the first time and we wished to remain serious about national security, we would probably recommend the same kind of tariff on resid as we do for No. 2 fuel oil—that is, one that will (1) avoid artificial encouragement of refinery construction outside the U.S. while (2) maintaining competitive pressures on U.S. refiners.

(b) The present residual fuel oil exemption bears no reasonable relation to national security. It operates in District I, not in Districts II–V. It is not restricted as to source, so that 17% of our resid imports now come from the Eastern Hemisphere, and an *unknown* additional percentage consists of resid produced from Eastern Hemisphere crude oil. The Task Force would grant an exemption to residual fuel oil produced in the Western Hemisphere from Western Hemisphere crude oil, and would phase in a 30 cents/bbl higher tariff on other resid imports (paras. 310, 336e, 430b). This treatment would apply to imports into *all* parts of the U.S.

(c) The Task Force does not write on a clean slate. The Venezuelan Government has been told for years that the residual fuel oil exemption was a form of preference for its oil. Actually, the preference was not keyed to the Western Hemisphere and was declining as low-sulphur requirements were imposed in the U.S. We have proposed corrective action in the form of a differential tariff, so that future resid imports should come predominantly from Caribbean and other relatively secure Western Hemisphere sources. If we had gone in the other direction and wiped out the resid exemption altogether, this would have been taken as a slap in the face by Venezuela. That is important, because for a complex of reasons discussed in the Report, we did not find ourselves able at this time to recommend a full exemption for crude oil imports from Latin American sources other than Mexico (para. 336). Yet Venezuela has been a dependable supplier in all past crises (para. 217), and its continued good will is important to the petroleum security both of the U.S. and of our allies. Hence the "compromise" solution recommended by the Task Force.

(d) The past residual fuel oil exemption presents a good case history of how future oil import policy should *not* be made. The exemption was made in response to consumer pressure and the absence of oil-company resistance. In effect it "brought off" rising political criticism of the oil import program as a whole. That is not the way to do things.

If government policy is to have any general respect, and therefore to be effective, it must be made by *principled* decision. That is what we have tried to do with No. 2 fuel oil. It also explains why we have recommended a revised and greatly strengthened management system.

17. "Would adoption of the Task Force's recommended $0.30 per barrel incremental tariff on Eastern Hemisphere residual fuel oil increase the cost of reducing air pollution on the (a) East and (b) West Coasts?"

Observation: (a) The East Coast presently imports about 800,000 b/d of Venezuelan residual fuel oil and about 170,000 b/d of Eastern Hemisphere residual fuel oil. The proportion of Eastern Hemisphere imports has increased dramatically in recent years, due to their lower sulphur content and consequent advantages in satisfying the antipollution requirements which have become prevalent in the Northeast. Large investments have recently been made in Carribean desulphurization plants, so that desulphurized Venezuelan oil should for the foreseeable future supply the greater part of the low-sulphur residual consumed on the East Coast. This implies that the East Coast price of such residual will be determined by the costs of producing residual in the Carribean, desulphurizing it, and shipping it to the East Coast. The added cost of desulphurizing Venezuelan residual (down to a level of 1.0% sulphur) makes its delivered cost about $0.30 per barrel greater than that of Eastern Hemisphere crude not requiring desulphurization, even taking into account the higher cost of transporting Eastern Hemisphere residual (see (p. 376e). Imposition of the same tariff on both types of residual would tend to induce higher imports of less secure Eastern Hemisphere residual because greater profits could be realized. On the other hand, permitting some Eastern Hemisphere low-sulphur residual imports is desirable because of the increasing demand for such fuel on the East Coast and the particular value of low-sulphur Eastern Hemisphere residual for blending. Hence, the Task Force has recommended a $0.30 per barrel incremental tariff on imports of Eastern Hemisphere residual, which should suffice approximately to offset the cost advantage over Caribbean imports without making Eastern Hemisphere residual entirely uncompetitive. The incremental tariff is to be phased in over 3 years; this should cushion any price effect that does occur and permit modifications if needed in the light of experience.

(b) West Coast imports of residual fuel oil are minimal. However, oil import regulations permit West Coast manufacturers of low-sulphur residual to import additional crude oil on a barrel-for-barrel basis. In 1969, these "bonus" allocations amounted to 50,000 b/d, mainly low-sulphur crude from Indonesia. Although the factors which now determine the price of low-sulphur residual on the West Coast are somewhat hazy because of the "bonus" crude allocations (see para. 125b), it is likely that the long-run price would rise somewhat if the Task Force's recommendation of a $0.30 higher per-barrel tariff on Eastern Hemisphere residual, a $1.45 per barrel tariff on Eastern Hemisphere crude, and elimination of West Coast "bonus" crude allocations were adopted. The rise would be gradual because of the 3-year period provided for phase-out of West Coast "bonus" crude allocations (see para. 341e) and phase-in of the incremental Eastern Hemisphere residual fuel oil tariff (see para. 433). The higher price of Eastern Hemisphere residual would increase the attractiveness of Western Hemisphere and domestic desulphurized residual and natural gas—all relatively more secure than Eastern Hemisphere oil. Moreover, once a higher East Coast tariff on Eastern Hemisphere residual is deemed necessary for security reasons, the Constitution dictates that the West Coast tariff be the same.

(c) Desulphurization of one Venezuelan-refinery residual output stream may be feasible only if adequate markets remain for a second resid stream with higher sulphur content. Thus, if U.S. pollution-abatement requirements become more stringent and/or widespread, blending of low-sulphur Eastern Hemisphere crude or resid may become a necessity. If so, a specified percentage of Eastern Hemisphere crude, blended into the stream of a Western Hemisphere refinery, might be allowed as a ceiling without imposition of any incremental tariff. This decision, like many others of detail, has been left for the management system.

18. "What will happen to the Machiasport free trade zone application?"

Observation: (a) That is an operational question not within the jurisdiction of the Task Force. What we did was examine the general principles that should govern the oil import control program. We did make certain general recommendations for the treatment of foreign trade zones (para. 317) and also for dealing with imports of No. 2 home heating oil (paras. 311, 333d, Appendix L.) Whether or not those recommendations are put into effect, the responsibility for handling particular foreign trade zone applications would remain with the Foreign Trade Zones Board.

(b) The present system whereby a licensing requirement has been engrafted onto foreign trade zone authorizations has encouraged *ad hoc* negotiations for "special deals" which, regardless of their merit in any particular case, seriously detract from the impartiality and generality of the control system. A few simple things have to be kept in mind. The Congress has authorized "foreign trade zones" to be set aside and treated for trade purposes in all respects as if they were foreign countries. This means, for example, that crude oil can be brought into a zone, refined or processed, and its products entered into the United States—subject however, to whatever import restrictions normally apply to those products. If no products can be entered from overseas, then no produce can come in from a zone; if overseas imports of that product pay $1.55 per barrel tariff, then shipments from the zone pay the $1.55 tariff. The Task Force Report would leave that system intact and remove the present licensing requirement, which is of dubious legality and wisdom. In general, the Report recommends that we do away with specially negotiated *ad hoc* deals of all sorts. And the Governor of Maine, when he came down to see us on behalf of the Governors of the oil-consuming states, agreed with that.

(c) Of course people in New England generally seem to feel that they are paying too high a price for home heating oil and they would like some means of relief. They see oil products selling for 3 cents a gallon less in Montreal even though the oil passes through a pipeline from Portland to reach Montreal. Now to deal with this there are two possibilities: (1) you can forget about national security and try to adjust your program to meet strongly voiced complaints wherever they arise; or (2) you can address yourselves to the question of exactly how much—no more, no less—you have to hurt the consumer to protect the national security. The Task Force took the second road, as we thought we had to under the governing statute. So we recommended a uniform products tariff that would keep the needed refinery capacity in this country and also keep competitive pressure on prices and supplies. It will take further study to define the exact tariff that will do those two jobs, but if the *crude* tariff is set as we recommend it then the price of No. 2 heating oil should begin to decline. One further thing—it is *national* security we are concerned about, and the Task Force has recommended that all parts of the country should share equally in the burdens as well as the benefits of that security. Just as we propose no special treatment for New England or for Hawaii, so we recommend an end to the special treatment for the West Coast and Puerto Rico.

(d) If the Task Force recommendations are put into effect, they should eliminate any special incentives to operate a refinery or petrochemical plant in a foreign trade zone. That is not our avowed purpose, and again we leave applications to the Foreign Trade Zones Board. But new petrochemical plants could get access to foreign feedstocks without locating in a foreign trade zone (para. 313) and new refineries in a zone would gain no advantage over their competitors in the domestic sale of tariff-restricted petroleum products.

CONVERTING THE ECONOMY FROM WAR TO PEACE

Mr. McGOVERN. Mr. President, there can be no denying that adjustments in the military budget can have grave consequences in communities with a high economic dependence on defense-related industries.

In the next fiscal year we can expect that some 1.3 million people will be removed from the employment rolls in Government and industry as a consequence of cutbacks now being placed in effect. Scaling down of our operations in Vietnam will exacerbate the problem, and all of this coincides with public policies aimed at discouraging economic expansion. It takes no seer to predict a severe crunch in many localities.

It is my conviction that the Federal Government, having called this new enterprise into being, has an obligation to assist in alleviating the local and regional problems that will attend its scaling down. Continuing military activities that are no longer needed is obviously not the answer. We certainly cannot justify treatment of the Pentagon as a giant make-work institution. Moreover, where the production of weapons is involved, we incur a double cost for superfluous output—the original diversion of funds that could be used for other purposes, and the cost in lost new capital activity deriving from the fact that weapons do not do anything to continue the chain of economic growth.

We can, however, do much more than is being done now to assist industries, employees, and communities to transfer unneeded military enterprise to other uses. Moreover, if the process of conversion is painful, its accomplishment offers a long-run opportunity for much more dependable and productive economic growth.

This is the essential aim of S. 1285, the Economic Conversion Act, which has been sponsored by some 33 Members of the Senate and 50 Members of the House. It seeks to involve industry, labor, and government at all levels in a concerted approach to the development and implementation of conversion plans.

Mr. President, the current issue of Science magazine contains an article which sheds a great deal of light on the procedures through which conversion can be carried out in an individual case. The article, entitled "Swords Into Ploughshares: Hanford Makes the Switch," describes a rarity—an economic changeover which is meeting with substantial success.

I ask unanimous consent that the article be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

Swords Into Ploughshares: Hanford Makes the Switch

(By Luther J. Carter)

Richland, Wash.—The "Tri-Cities," an urban complex of 84,000 people here in the arid region east of the Cascades, is an offspring of war. For this was a desert area with only a few hamlets and small towns until the construction of the Hanford plutonium works, which produced the material for the Nagasaki bomb began in 1943. Since 1964, however, the government has been cutting back production of plutonium, and six of the nine reactors at the Hanford works have been shut down and a seventh is being closed down now. Such a cutback could have precipitated a disastrous economic decline for Richland and the neighboring towns of Kennewick and Pasco. But what in fact has happened is that a good start has been made toward converting sword into ploughshare.

The conversion has not been free of trouble, and, at the moment, people here are protesting that reactors are being shut down and old jobs are being eliminated faster than new job-creating activities can be established. With substantial unemployment in the area (8.2 percent at the end of January), clearly there is reason for this concern. However, the process of changing from an economy based largely on the production of plutonium to one based on a diversity of activities has gone far enough already to allow real hope for the future.

XUM

How this has occurred makes an instructive story. To cushion the reactor shutdown's impact on the Tri-City area, the federal government has used the persuasive power of its contract dollars to bring in new industry and research activities. This has been done partly because Tri-City business leaders have been highly resourceful and have had potent representation in Congress.

The Hanford works took its name from the small village of Hanford, which became the side of a temporary wartime construction camp that at one point had 51,000 people. The Hanford reservation extends over 575 square miles (about half the size of Rhode Island), with most of it lying within a large bend of the Columbia River. Today nothing remains of the old village of Hanford or of the construction camp. The operations office of the Hanford project was established here at Richland, on the south edge of the Hanford reservation, thus virtually assuring that Richland (current population about 28,000) would become the largest of the Tri-Cities.

On entering the Hanford reservation, one first passes through the "300 Area" where reactor fuels are prepared and where the AEC has its Pacific Northwest Laboratory, a $100-million complex of facilities built mostly since 1956 when the laboratory became a separate segment of the Hanford operations. Beyond this area, there is a large domain of desert and sagebrush, with Rattlesnake Mountain rising to the west and the bluffs of the far bank of the Columbia River dominating the scene to the east. Not until after driving some 20 miles from Richland does one come to the reactor area.

All nine of the Hanford reactors and their support facilities are located deep within the bend of the Columbia River and appear as stark intrusions in a landscape otherwise empty of human artifact. The two reactors still running are the dual purpose N Reactor, completed a few years ago and now producing steam-electric power as well as plutonium, and the K East Reactor, which has been operating since the mid-1950's. A line of buttes and low mountains divides the reactor area along the river from area occupied by Hanford's five long, cavernous chemical separation plants in which plutonium produced in the reactors is separated from uranium and fission products. Three separation plants built during the war were closed down in the 1950's and replaced by the Redox and Purex plants; only the Purex facility is now operating as a separation plant.

The du Pont Company, under the supervision of the Manhattan District of the U.S. Army Corps of Engineers, built and operated the original Hanford works but gave up the contract to the General Electric Company in 1946. A year later the AEC, newly created by Congress, replaced the Manhattan District as Hanford's controlling authority. General Electric continued to be the sole contractor at Hanford until 1964, when the cutback on plutonium production began. At this time the AEC announced a "segmentation and diversification" plan intended to bring about a transition from a local economy based on production of weapons material to one based chiefly on work unrelated to military purposes.

SEGMENTATION AND DIVERSIFICATION

"Segmentation" meant that the AEC, instead of continuing to have all work at Hanford done by a single contractor, would split the work into several parts or segments and award a separate contract for each part. "Diversification" meant that the agency would impose, as a major condition of the contract awards, the requirement that the contractors would not only perform work for the AEC but would also invest in facilities and programs to carry on non-AEC-related activities.

Battelle Memorial Institute received the contract to operate the Pacific Northwest Laboratory. In return, Battelle agreed to invest $20 million in new laboratory facilities and to seek a variety of private contract work. Douglas United Nuclear Corporation (DUN), a joint enterprise of McDonnell Douglas Corporation, and the United Nuclear Corporation, was awarded the contract for reactor operations and fuels preparation. DUN's parent companies promised to establish the Donald Douglas Laboratories (for contract work in nuclear science and related technologies) and to set up a plant for the manufacture of zirconium tubing. Their other commitments included a pledge to give $100,000 a year for 5 years to the University of Washington Center for Graduate Study here.

ITT, which received the contract for support services, agreed to set up a plant for the manufacture of electronic components. The contract for chemical separation and waste management work was given to the Atlantic Richfield Hanford Company, which promised to spend some $5 million on construction of a hotel-convention-resort facility, a cattle feed lot, and a meat packing plant. Atlantic Richfield also agreed to organize a risk-capital investment company and to conduct studies on the potential for establishing civilian oriented nuclear businesses in the Tri-City area.

(The chemical separation and waste management contract originally had been awarded to Isochem, Inc., which was owned by the U.S. Rubber Company and the Martin Marietta Corporation. Isochem relinquished the contract, however, when it failed to meet its diversification commitment to build an $8 million plant for converting fission products from Hanford's radio-active wastes into marketable isotopes. A profitable market for isotopes had not yet developed, Isochem had concluded.)

Altogether, these four major Hanford contractors, together with several firms holding lesser contracts, pledged to spend $43.5 million on economic diversification work. The segmentation and diversification concept had developed following discussions involving the AEC, Senator Henry M. Jackson of Washington, and a group known as the Tri-City Nuclear Industrial Council.

The Tri-City council was formed in early 1963 by local businessmen who knew that sooner or later some or all of the plutonium reactors might be closed down, thus creating a crisis for the local economy. A few years earlier some Tri-City leaders had formed an exotic metals fabrication company, but this early, and very modest, approach to segmentation and diversification had gotten nowhere.

By 1963, when the Tri-City council was organized, conditions were changing. The Cuba missile crisis was past, the nuclear test-ban treaty was in the making, the U.S. goals for deployment of land- and sea-based missile forces were rapidly being met, and the need for production of plutonium was declining. The council, coming on stage at a propitious moment, hired a firm of consultants to help it identify opportunities for economic development in fields such as nuclear fuels processing, the encapsulation of isotopes, and the like.

In Washington, Senator Jackson, as an influential Democrat and member of the Joint Congressional Committee on Atomic Energy, was in a strong position to help the council encourage the AEC to bring about a greater diversity of activities at Hanford. One day in March 1963 AEC Chairman Glenn T. Seaborg, together with other AEC officials and a vice president of General Electric and Senator Jackson, visited Hanford to see what could be done. After this visit, the AEC conducted studies from which the segmentation and diversification plan emerged. For his part Senator Jackson pushed through legislation authorizing the AEC to issue use permits making available Hanford facilities for private nonnuclear work.

Such use permits are now held by Battelle and several other contractors and were part of the bait that lured them to Hanford. For the industry contractors there was also the promise of profits and the chance to gain significant new experience in the nuclear field. Accordingly, the industry response to plan was enthusiastic. For instance, Douglas United Nuclear was one of a half dozen firms competing for the fuel fabrication and reactor contract.

Although no one deserves all the credit for segmentation and diversification at Hanford, it is clear that the Tri-City council was the prime mover. It is equally clear that, while the leaders of the council live and work in the boondocks, they know how to make Congress and the Washington bureaucracy do their bidding. The vice president of the council, Sam Volpentest, a Richland banker, is a particularly persistent and energetic promoter of the council's objectives. Volpentest, a man of small physical stature but large enthusiasms, told *Science* last year that when Hanford's problems require attention, he rings up the office of Senator Jackson or Washington's other potent U.S. senator, Warren Magnuson, three or four times a week.

At one time or another, Jackson, Magnuson, and Representative Catherine May, the Tri-City area's congresswoman (who also is now a member of the Joint Committee on Atomic Energy), have each talked personally with President Johnson or President Nixon in an effort to delay the closing down of certain Hanford reactors; moreover, they have had a degree of success, although ultimately the shutdowns have occurred. Magnuson, as a member of the Senate Appropriations Committee, has played a key role in helping obtain funds to advance the diversification effort. Volpentest has raised thousands of dollars for Magnuson's and Jackson's political campaigns, and this he feels, has helped assure him of cordial entree to their offices.

Council leaders are frequently in Washington, seeking some plum or advantage for Hanford or its contractors. In 1967, when the council was making a hard sell to have the 200-Bev accelerator built in the Tri-City area, Volpentest made eight trips to the capital. Although the accelerator ultimately was built in Weston, Illinois, the Tri-City area received a handsome consolation prize in the form of the AEC's $87.5 million Fast Flux Test Facility. The FFTF, on which construction begins this year, will be the major test facility for fuels and materials in the AEC's Liquid Metal Fast Breeder Reactor program.

Other leaders of the council are its president, Robert F. Philip, and its secretary-treasurer, Glenn C. Lee, who are, respectively, president and publisher of the Tri-City *Herald*. While Volpentest and Philip speak with sweet reason, Lee's style is more aggressive and he knows how to apply the kick in the pants with his editorials. Lee is regarded by some AEC officials as a "fanatic" promotor of the Tri-City area, but his fanaticism only seems to drive them into the arms of reasonable men such as Volpentest.

The Hanford contractors are more than meeting their diversification commitments and already have created over 1100 new jobs. The Donald W. Douglas Laboratories has had underway a project to develop (under the sponsorship of the AEC and the National Heart Institute) a thermal engine—plutonium-238 is one possible heat source—for an implantable artificial heart. Battelle has constructed three major new laboratory buildings already and is now completing a fourth. Its work ranges over a broad spectrum of research interests, including such things as arid lands ecology, problems of air and water pollution, development of a vaccine to protect salmon from disease, and hospital systems engineering. Battelle has been designing the FFTF, but it is giving up this project to Westinghouse because, under the 1969 tax reform act, it cannot as a not-for-profit institution receive more than a certain proportion of its income from any one federal bureau or agency.

FUELS FABRICATING PLANT

The hope here has been that segmentation and diversification would create a business climate encouraging even companies with no direct stake in AEC operations to start new enterprises in the Tri-City area. In a small way, this has occurred, mostly notably in the case of the decision by Jersey Nuclear, a subsidiary of Standard Oil of New Jersey, to build a facility for fabricating power reactor fuels.

At the end of 1969 the number of persons employed at Hanford under AEC contract or by the AEC itself was 7750, or only 1750 less than the number so employed at the end of 1963, before the cutback in plutonium production began. This cutback resulted in the loss of 2700 jobs during the 1964–69 period, but new activities at Hanford, such as expanded research activities, the designing of the FFTF, and work on the solidification of nuclear wastes, have partly offset this loss by creating nearly 1000 new jobs. However, there is nothing immediately in sight to offset the loss of some 470 jobs caused by the shutdown of the K West Reactor (which began 1 February) and the loss of 250 jobs at Battelle caused mainly by budgetary stringencies affecting the AEC research program.

But, while the Tri-City area may experience an uncomfortably high rate of unemployment during the next few years, some important new job-generating activities will develop before the mid-1970's. The FFTF will employ several hundred persons, and the Tri-City leaders expect that one of the AEC's Liquid Metal Fast Breeder Reactor demonstration projects will be carried out at Hanford. Westinghouse and a group of utilities in the Northwest would undertake this $200-million project. The AEC would contribute some $80 million toward the project cost, with Westinghouse and the utilities providing the rest.

Moreover, Senator Jackson believes that, ultimately, Hanford will become a major center for the generation of nuclear power in the Northwest, although only Hanford's dual-purpose N Reactor is suited for power production and new reactors would have to be built. The utilities would prefer to build their nuclear power plants close to the population centers and thus reduce transmission costs, but plans to put such plants in the lower Columbia basin and in the Puget Sound area have provoked an outcry from environmentalists. At Hanford people have been living with the atom for a generation. Moreover, Hanford has vast tracts of land available for plant sites and the construction of cooling ponds for the dissipation of waste heat. And it is well to note that, being chairman of the Senate Interior Committee and a key figure in the development of environmental policies, Jackson is in a strong position to encourage utilities to locate power plants at Hanford.

In sum, the success of Hanford and the Tri-City area in surviving the decline in plutonium production over the last 6 years and building a foundation for future prosperity provides a remarkable case history. While some aspects of the Hanford story are unique, it contains object lessons for other communities where defense cutbacks impend. These lie in the resourcefulness of the Tri-City leaders, the adept use of the levers of power by Washington's representatives in Congress, and the AEC's responsiveness to a local community problem which it itself had created.

VOICE OF DEMOCRACY SPEECH WINNER

Mr. THURMOND. Mr. President, I am pleased and proud to report that for the first time a South Carolina student has won the famous Voice of Democracy contest, sponsored annually by the Veterans of Foreign Wars.

Lawrence N. Slaughter is the son of Mr. and Mrs. Crayton N. Slaughter, of North Charleston, S.C. He is very active in student government at North Charleston High School, where he is at present serving as vice president of the student council.

Lawrence's original theme on the assigned subject "Freedom's Challenge" was chosen from a field of over 400,000 entries as being the most well-written and perceptive submission. For his efforts he is to receive a $5,000 scholarship which he plans to use at Emory University in Atlanta, Ga., where he will study for the ministry.

The significance of this speech goes far beyond its monetary value, however, Mr. President. It lends evidence to a conviction that I have always held; that is, despite all the efforts of a small minority of hoodlums to blacken the image of our young people, as a group they are the finest ever. They are aware of the important values of our heritage and they call us all to task when we fail to apply these values to present-day situations.

Mr. President, I note that our largest local newspaper, the Washington Post, which normally devotes a great deal of space to certain elements of today's youth, has not found Mr. Slaughter's achievement newsworthy. Nevertheless, I feel that his speech should be read by every Member of this body. It was entered into the Congressional Record by Representative Mendel Rivers who represents Lawrence's district, and can be found on page 7069 of the Record of Tuesday, March 11, 1970.

U.S. INVOLVEMENT IN SOUTH VIETNAM

Mr. FULBRIGHT. Mr. President, Mr. Harold Willens, national chairman of the Businessmen's Educational Fund, an organization of some of the leading businessmen of our country, spoke to the Stanford University Research Institute on January 17, 1970.

His speech is a penetrating analysis of our involvement in South Vietnam from a businessman's point of view. It is well worth the attention of Senators.

I ask unanimous consent that it be printed in the Record.

There being no objection the address was ordered to be printed in the Record, as follows:

A Businessman's Appraisal of American Myths, Militarism and National Priorities

(By Harold Willens, chairman, the Businessmen's Educational Fund)

In growing numbers American businessmen are becoming concerned about national priorities.

Through the Businessmen's Educational Fund that concern is being expressed by bankers and financiers such as Marriner Eccles, former Chairman of the Federal Reserve Board, and J. Sinclair Armstrong, former Chairman of the Securities and Exchange Commission who is now Executive Vice President of the U.S. Trust Company—as well as industrialists like Joseph McDowell, Chairman of Servomation; Max Palevsky, Xerox Executive Committee Chairman; Jubal Parten, independent rancher and oil producer of Houston, Texas; Lawrence Phillips, President of Phillips-Van Heusen; Gordon Sherman, President of Midas International; Alfred Slaner, President of Kayser-Roth, and George Talbot, President of Charlotte Liberty Mutual Insurance Company.

These and hundreds like them are the vanguard of a potentially influential social force: A non-partisan coalition of businessmen speaking out for new American values and goals.

This is a time when personal interests and national issues can no longer be separated. Enlightened self-interest should motivate American businessmen to press for new priorities: To restoring the natural environment, rebuilding our cities, achieving racial equality and economic opportunity, moving quickly and steadily towards arms control and reduction.

Progress toward these familiar objectives depends upon two overriding priorities which do not appear on most lists. It is with these two critical considerations that I am particularly concerned.

The first is getting rid of our besetting fear of communism and communists, both foreign and domestic. Generations of fearful politicians and bureaucrats have made it seem that all our ills, from heavy tax-loads to backed-up sewage systems and campus turmoil, are traceable to one or another stealthy communist scheme. These spokesmen have made it appear that this nation, with a Constitution two hundred years old and institutions so stable that they are the despair of the rebellious young, is about to crumble before the undermining efforts of the communists. This is to say that all communists are brighter and stronger than the rest of us. It is to say that domestic communists, some eight thousand at the last count, have it in their capacity to bring down history's greatest power.

Similar myths underlie our view of communism elsewhere in the world. One is as nonsensical as the other. To be sure, there are many communists around the world. But we cannot restructure social systems everywhere to suit ourselves. And the communists have enough problems to keep them diverted indefinitely. They are having trouble with one another and trouble with their own economies.

So the first priority I would assert for the country is ridding itself of the false mythology concerning communism and its influence. There is no more paralyzing toxin running through the body politic.

The second priority is to bring our military under public control and to reduce its influence over every aspect of American life. We are tending fatefully in the direction of a police state by our willingness to maintain the military as the spoiled darling of our national budget.

Like every American I am at all times concerned about the defense of our country. What worries me is the difference between legitimate defense requirements and a vast military bureaucracy which exercises enormous influence on our economy, our foreign policy and our national priorities.

Fortune Magazine recently had an editorial entitled: "It is Time to Audit the Defense Department." Without such an audit there can be no serious reappraisal of national priorities. The following entries may be regarded as part of one concerned citizen's preliminary notes for the kind of audit recommended by *Fortune:*

1. Money and size give the Pentagon unprecedented power.
2. One of every nine Americans is indebted to the military for employment.
3. In some sections of the country, the local economy depends almost entirely upon Pentagon money.
4. Such economic dependency gives our military bureaucracy unwarranted power and influence.
5. Because the Pentagon distributes hundreds of millions of dollars to colleges and universities, the military is deeply imbedded in our educational process.
6. Fifty per cent of all United States scientists and engineers in American business are employed by companies doing military and aerospace work.
7. The Pentagon employs 339 lobbyists. That means two Pentagon agents for every three members of Congress. There are grave political implications in such a lobby force.
8. By its own admission the Pentagon is spending $27.7 million this year on public relations, for which purpose 6,140 people have been employed. That is a formidable propaganda staff and budget.
9. While polishing up its public image in this costly way, the Pentagon suppresses legitimate news such as the alleged My Lai massacre and censors news to our men in Vietnam.
10. Efficiency expert A. Ernest Fitzgerald, who tried to save billions of tax dollars, is rewarded by being thrown out of his Pentagon job.
11. Mendel Rivers, whose home district bristles with seventeen military installations and many defense plants, has good reason to boast: "I've got the most powerful job in the United States Congress."

It is reasonable to assume that considerations like these were in the mind of General Eisenhower when he cautioned against excessive military power and influence—as did George Washington in his Farewell Address. It was not conspiracy our first and thirty-fourth presidents were worried about. They were warning against a basic institutional danger: A military bureaucracy too powerful for the interplay of checks and balances upon which democracy depends.

We have given too much power to our military establishment. Seventy per cent of the non-fixed portion of our federal budget is being spent for military use, eleven per cent for building America.

This military burden damages the American economy. It is responsible for inflation, a balance of payments deficit which is destroying confidence in the American dollar, rising interest rates, and heavy tax loads. That is why signs of peace make Wall Street happy. The new economics rejects the communist belief that capitalism will collapse without war. Germany and Japan, unburdened by large standing armies and military budgets, enjoy booming economies, high productivity and profits.

But we have been told that heavy spending is necessary to defend against the Russian threat. Averell Harriman, drawing upon forty years of experience with the Russians, says: "The Soviets are as anxious to avoid destruction of their country by nuclear war as we are of ours." In our self-interest we must recognize that the men who govern Russia and China are also human beings. They have enough on their hands trying to rule their own countries. That is their mission, not the destruction of the United States, which they know would mean their own destruction as well.

Our country is like a person so obsessed with fear of catastrophe that he spends his fortune on insurance against unlikely events while his children starve and his house falls apart. History deals harshly with such obsessions. World historian Arnold Toynbee reminds us that of twenty-one great civilizations which lie in the graves of history only two were victims of external attack. The other nineteen perished from internal decay. Toynbee is a good man to remember as we fight imaginary enemies in a mistaken war 10,000 miles away while here at home the American dream turns sour. The streets of Saigon are safer than the streets of Washington.

Why?

Because, in the words of former Marine Corps Commandant General David M. Shoup, "America has become a militaristic and aggressive nation . . . Militarism in America is in full bloom and promises a future of vigorous self-pollination—unless the blight of Vietnam reveals that militarism is more a poisonous weed than a glorious blossom."

General Shoup is right. Vietnam is the inevitable product of a misdirected militaristic policy. Last October, *Nation's Business*, official publication of the Chamber of Commerce, said: "It appears now that President Nixon is without alternatives—that his only hope of ending the war for us is withdrawal. If that's the case, we'd better withdraw. For this has become a war with no possible winners. Only losers."

Yet not so long ago Lyndon Johnson said: "We must fight them in Vietnam now or we will have to fight them in San Francisco tomorrow." He did not explain how the North Vietnamese or the National Liberation Front would get to San Francisco. He just laid on the scare words as did John Foster Dulles and Senator Joseph McCarthy in the early stages of a foreign policy based more on fear and hysteria than fact and logic. Small wonder that Republican Senator William Saxbe says: "To maintain our current foreign policy is a ticket on the Titanic."

Today few Americans who read more than headlines believe that the Chinese or Vietnamese or Cuban revolutions resulted from a unified international conspiracy. In each of these lands corrupt rulers ignored inhuman conditions. Their people wanted national independence and a decent existence. Because other people want the same, there will be more revolutions in underdeveloped nations. Our country is itself the product of a revolution for national independence, political and social justice. This fact would add irony to tragedy if we found ourselves fighting in other Vietnams like those brewing right now in Laos, Thailand, and the nations of Latin America.

To be sucked into such wars would be costly and foolish. Students of the rivalry between capitalism and communism have observed that as a country gets richer the communist system becomes more relaxed. Orthodox communism cannot survive prosperity. But self-defeating interventions—such as the Vietnam war—make more difficult the transition to a less hostile structure in the Soviet Union. That is one of the many tragic aspects of this Asian misadventure.

Vietnam, where no one has ever seen a Russian or Chinese soldier, is our country's greatest mistake. But Vietnam can also become a great opportunity. I am anxious to communicate clearly this central point. Illustrating it with a business analogy may be helpful.

In the history of American industry Ford Motor Company's experience with the Edsel should be seen as a classic example of success, not failure. The experts who conceived and designed the Edsel guessed wrong. If the company's decisions had been controlled by passionate believers in the Edsel, they might have poured good money after bad and compounded a miscalculation into the death of a corporation. But they were objective and flexible. They recognized and admitted a mistake. They took a financial loss. And they took their company on to a brighter future.

Much magnified, this kind of decision confronts us today. We are stockholders in the American enterprise. Our Edsel is a foreign policy propelled by a powerful military machine fueled by an $80 billion budget. The policy of containment was designed twenty-five years ago. It has not been seriously reassessed by any of our past five presidents. This policy drove us into a tiny country totally unrelated to our basic national interests. We have sacrificed over 40,000 American lives and poured $125 billion into a mistaken war which divides our people and damages our international position. All this in support of a militarized foreign policy which does not fit the world of today. This policy is America's Edsel. The opportunity presented by Vietnam is the realization that what we are doing is not working.

If we can be as objective and flexible as Ford's decision-makers in their crisis, we can create a foreign policy which will prevent other Vietnams and allow us to reorder American priorities. Then our mistake would result in long-range benefit. Because the lives of their younger brothers will have been spared, the American boys killed in Vietnam will not have died in vain. Such a redirection is the opportunity I speak of: The opportunity to gain a great lesson from a great error.

Moving away from Vietnam to the broader problem, the *Fortune* Magazine editorial last August said: "Much of the present $80 billion U.S. military budget is based upon outdated assumptions. U.S. ground troops have been deployed around the world for a generation like the Twentieth Century equivalent of the Roman Legions. The United States is in the grip of a costly escalating pattern of military expenditure (which) has come to live a life of its own."

And John Gardner, Chairman of the Urban Coalition, reminds us that the funds needed to "solve desperately urgent internal problems can come only from the vast and inadequately controlled defense budget."

The problem lies in failing to distinguish between defense and military overkill. For example: 200 nuclear warheads can effectively destroy Russia. We have 4,500. And now, with the development of multiple inde-

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pendently targeted re-entry vehicles (MIRV), we propose to increase the number to 11,000. Why 11,000? Unless Russia's leaders are insane, they would not dare attack us if we had only 200 warheads. If they are insane then even ten million would not deter them.

All this is a kind of madness. Our worse enemies are the fantasies of our military planners. These fantasies produce escalation of arms which the other side's fantasizers feel compelled to match. For Russia also has its ideological paranoiacs who dream of an Armageddon in which only the other side will be wiped out.

Thus costly technological steps toward so-called security result in leapfrogging weaponry which makes nuclear war not less but more likely. With every step forward, more of us can be more quickly killed than one step ago. And when smaller countries with less responsible leaders obtain nuclear weapons, as they surely will, our chances of avoiding incineration will be even more sharply reduced.

As we increase our military power we decrease our national security.

Most Americans undoubtedly believe that none of this is our fault: We simply react to what Russia does. It would be well if all Americans could see and remember these words: "It is utterly senseless that America and Russia both build huge nuclear arsenals at tremendous expense and no real gain for either side. The Pentagon defends MIRV as necessary to insure penetration of a heavy ABM defense, which the Soviets *might* build. Pentagon Research Chief John Foster has testified there is no evidence the Soviets have started such a system and that if they do, it will take five years to build it. He now testifies MIRV will be deployed in the middle of next year.

"In other words, the Pentagon is deploying this weapon at least four years in advance of the Soviet deployment it reportedly is a reaction to. If that sounds as fishy to Soviet diplomats as it does to us . . . their generals would inevitably want to press harder with their own multiple warhead testing."

These words are taken from an editorial of last September 11th. Not *a Pravda* editorial. Not even a *Ramparts* editorial. It is the *Wall Street Journal,* which points out that our military planners share responsibility for an arms race that devours the resources needed for domestic problems.

I am aware that a preliminary audit indicates rather than guarantees what the final accounting will reveal. Nevertheless in this one audit I find indicators which bode ill for the American enterprise.

Even in preliminary audits we look for the bottom line. To me it says: American militarism endangers American democracy and American survival. Since a country becomes a military state when the defense establishment assumes or is given a significant economic and political role, we may have already unconsciously become a de facto military state. Presidents change, but the Pentagon grows. Congressmen complain, but the military budget consumes our economic substance. National priorities lean heavily toward death instead of life. Time may prove that we are already over the line and just going through the motions of an illusory democratic process. If so, the communist menace that has bewitched us will prove to be history's greatest hoax.

Perhaps this appraisal miscalculates the risk. Maybe the odds are better than I think they are. But even if there is an outside chance that a military bureaucracy might supplant civilian supremacy or bring on our physical destruction, can we afford to take the chance? Once the formality of militarizing a society takes place there is no cure. Once nuclear explosion or internal collapse occurs, there is no cure. The only cure is prevention.

Businessmen are forced to deal with realistic analyses and projections. We must rely not on what a kindly fate might do, but on what we ourselves can do to prevent undesirable developments. In considering the question of national priorities, my own analysis and projection indicate that we must develop a more balanced attitude toward the foreign and domestic communist threats. Unless we put these into sensible perspective, we are not likely to reduce significantly the military influence and spending which obstruct necessary changes.

Militarism is the inevitable outgrowth of deeply imbedded Cold War myths and anti-communist paranoia. Until we purge the paranoia and discard the myths, that potentially fatal disease—American militarism—will continue to infect our body politic and continue to ward off sane and healthy national priorities.

THE OIL INDUSTRY

Mr. DOLE. Mr. President, on page 6485 of the CONGRESSIONAL RECORD of March 9, the senior Senator from Wisconsin (Mr. PROXMIRE) placed an article entitled "The Oil Lobby Is Not Depleted," written by Erwin Kroll. The article, which was published in the New York Times Magazine of March 8, was characterized as a "thorough and clear exposition of the oil industry's political power." I hope and trust that Senators who have read the article or who will read it will keep in mind that, instead of its being thorough and clear, it is indeed filled with innuendo, half-truths, and phantom sources of information, such as references to "reputable economists," "experts," "many Americans," and "congressional sources."

Mr. President, at the outset, I should like to note that any article based on such sources should be discounted and, better yet, ignored. However, I cannot ignore it entirely inasmuch as the author has seen fit to allude to my State of Kansas in one or two respects. In the article, the author states:

> Last year the small independent producers in the Kansas Independent Oil and Gas Association broke ranks to support a proposal by Senator Proxmire that would have instituted a system of scaled depletion allowances—a plan emphatically resisted by the majors. The Kansas oilmen were unable to persuade even their own State's Senators to support the Proxmire plan.

In truth, Mr. President, when the Kansas association presented its testimony on the tax reform bill to the Senate Finance Committee, it did not see fit to endorse the Senator from Wisconsin's depletion-cutting bill, referred to above. In fact, the only testimony in the record of the Senate Finance Committee favoring the Proxmire bill was presented by the senior Senator from Wisconsin.

In another section of the article, Mr. Knoll refers to the fact that four Governors called on White House aides on November 7. According to the author, they appeared on behalf of the Interstate Oil Compact Commission—one of these Governors was the Governor of the State of Kansas, the Honorable Robert B. Docking—to urge the retention of the "11-year-old system of oil import quotas." To the best of my knowledge, this latter statement is correct. However, Mr. President, I hasten to add that earlier, a group of Governors from New England, headed by the Honorable Kenneth M. Curtis, of Maine, likewise came to Washington to urge the executive department to approve the proposed foreign trade zone in Machiasport, Maine, which they considered to be in the best interest of New England. I see nothing wrong with either group of Governors petitioning the Federal Government on behalf of their constituents. The thing I do see that is wrong is for the author of this article, by innuendo and otherwise, to imply that there is something sinister and wrong in these four Governors carrying their story to the proper officials in the executive department.

Mr. President, this is quite a lengthy article, and I do not desire to delve into its many inaccuracies to any large extent. However, I would like to set the record straight as to some of its obvious errors.

The author states:

> The result of these (tax) privileges, according to Treasury Department calculations, is that oil and gas companies save in taxes 19 times their original investment for the *average well.* (Emphasis added.)

The fact is that some successful wells might well recover over 19 times their original investment. However, the Department of the Interior's study released in 1968 entitled "U.S Petroleum Through 1980," states:

> Even a large percentage of "successful" leases over their lifetime will fail to produce sufficient revenue to permit them complete recovery of investment. It has been estimated that of *100* new field wildcat wells drilled in search of oil or gas no more than *3* are likely to be profitable. (Emphasis added.)

The author of this "thorough and clear exposition" obviously does care to cover in his article that the average well computation does not include the fact that 97 out of every 100 wildcat wells produce nothing except a loss.

The article states further:

> The import quota system on the other hand has been estimated by reputable economists to be worth between 5.2 billion and 7.2 billion a year.

Earlier in the article, the author states that oil import quotas cost consumers more than $5 billion a year in higher prices for petroleum products. This week the Assistant Secretary of the Interior, Hollis M. Dole, testified before the Subcommittee on Mines and Minerals of the House Committee on Interior and Insular Affairs and stated that the cost of this national security program to the Nation as a whole is currently about a billion dollars a year or about one-tenth of 1 percent of our gross national product. This figure varies considerably from that of the "reputable economists."

The article also states that the oil industry's "average profit of 9 percent—based on net sales—is about double the average for all manufacturing companies." This is an obvious attempt to distort the earning picture of the petroleum industry by hatching an unwarranted earnings comparison with other industries. In fact, based on the Securities Exchange Commission and the Federal Trade Commission approved method of determining profits; that is, "return on net assets" during the last decade, except for the year 1961, the petroleum industry's return on net assets was lower each year than all manufacturing industries.

The article also declares that Sherman Adams, who was "Deputy President" in the early Eisenhower years when the oil import program was instituted—1959—"candidly dismisses the notion that the national security was at stake." Yet, the author proceeds to quote Mr. Adams from his memoirs as follows:

> The imposing of import quotas on oil was primarily an economic decision brought about by an economic emergency, but the action . . . was *based* upon *security consideration* in accordance with the law.

By Mr. Adams' own words, he refutes the author's contention that the oil import program was not based on reasons of national security.

Mr. President, I could go on and on; but I feel that the several points that I have covered here are sufficient to discredit Mr. Knoll's article.

THE CHILD AND THE AMERICAN FUTURE

Mr. McGOVERN. Mr. President, some months ago I delivered an address entitled "The Child and the American Future" to the American Psychological Association convention in Washington.

In it, I sought to describe some of the contrasts between premise and practice which have caused many young people to turn in despair from the society we adults have created and seek to perpetuate. To them the American dream hides a host of ugly realities. Instead of a goal to inspire our energies, it serves as a mask to block our attention.

Most galling of all, perhaps, is our practice of complimenting our youth while denying them any force. "But for a few," we say, "young people today have an idealism and a spirit of involvement that can move the Nation to greatness." But meanwhile we draft them, tax them, and deny them the right to join as full participants in the processes which establish public policy.

The extension of the vote to 18-year-olds will not work miracles, but it will help. I hope the Senate will approve the Mansfield amendment.

Mr. President, because of its relevance to this issue, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

THE CHILD AND THE AMERICAN FUTURE [1]

(By Senator GEORGE MCGOVERN)

In 1677, the Governor of Virginia delivered himself of this prayer of gratitude: "Thank God there are no free schools or printing . . . for learning has brought disobedience and heresy into the world and printing has divulged them. God keep us from both." We not only have books and free education, but, God forbid, television! Indeed, an estimated 3,000 hours are spent watching television before the typical child begins his schooling. What generation of teachers—and parents—has ever faced such formidable competition for the mind of the child?

Maybe Governor Berkeley was right in some ways. Whether it is free books and education and television, I do not know, but there can be little question that modernization, technology, the whole pace of our society has brought us not only thrills, but problems. Some of these problems are comparatively simple in that their solution requires only money and determination. For example, a nation that can reach the moon can surely solve its transportation crisis. We can invent and buy our way out of a problem that we invented and bought our way into.

But the times have also brought us problems that defy easy answers. I would put the current and growing concerns of American youth in this category. This interest affects all our lives, for our children are, of course, the nation's future. By 1975, a majority of American citizens will be under 25. But control, political and social, will still rest with adults. If this nation is to be governed effectively, it is more important to know the minds and needs of our youth than it is to comprehend the stock market or the Pentagon.

There is no formal lobby for American youth. There are no official spokesmen. The media interpret their culture. Their parents attempt to understand it. Our national leaders alternate between viewing youth as the hope of the future or the curse of the Republic.

Recently a half-million young people went to a music festival in Bethel, New York, and stayed three days without adequate shelter or food; the press was amazed to find both tranquillity and drugs. Nearly 80,000 people that same weekend watched professional football 80 miles to the east of the music festival, and no one was amazed to find violence as the main attraction and liquor being consumed eagerly.

The Woodstock festival is worthy of study. It revealed first that the youth rebellion does not always mean disruption. Indeed, the local police chief and his men have outdone each other singing the praises of the young who convened at Woodstock. For three days Bethel was the third largest city in New York State and there were virtually no crimes of violence. In many respects, Woodstock was a lesson in love and brotherhood.

It was a demonstration of the unity of our young people, that they are, in the words of singer Janis Joplin, "a whole new minority group." These young people were "together" and yet they were quite apart from the rest of society.

Finding the mass society lacking, many young people are creating their own culture. They derive a needed sense of belonging from that subculture, not from the larger society. Consider these words from a young man who attended the festival: "I went to Chicago and I found the same thing happening. You'd pass someone young or someone with long hair and you'd smile at each other. Or you'd give the peace sign, or know that he was thinking the same way you were thinking. And like the blacks go by each other and say 'brother.' It gave you that type of unity."

To be sure, Woodstock raises again the question of drugs. Psychotropic drugs are now as much a part of the youth subculture as alcohol is part of adult society. It is long past time when our laws should reflect this reality. What are we to say of a system that jails a teenager for five years for possession of marihuana while permitting men to make fortunes selling cancer in a cigarette pack.

Outstanding men in the psychology profession and associated fields have, fortunately, begun to come to grips with the special concerns of the young, including the young rebels. Men like Kenniston and Erickson and others are pointing to some of the most important factors in the so-called youth rebellion.

But I think the most important thing the profession has told us about our own children is that they are not so much rebelling against life as they are affirming their own view of life. Attitude studies show that our activist youngsters really share many of the values their parents tried to transmit.

But for various reasons, they are not as content as we to compromise and temporize with the goals and values they feel need to be implemented. Perhaps greater wealth and ease of survival are among the reasons for the greater interest in life styles and sensations rather than the once accepted day-to-day demands of getting ahead in the system. The preoccupations with practical monetary and work demands no longer are the focus of young lives. A new generation is turning toward new directions, with little time for transition.

The polarization that makes us somewhat afraid of each other is really the pull of two currents of American history. One direction pulls us back away from the modern age, back toward the conservatism of the first half of the twentieth century toward a mythical past of order and harmony; the other pulls us forward to an equally mythical future of relaxed pleasure and harmony.

I believe that we *can* create a new harmony in this country. It will likely not be the harmony of a young people's music festival, but it can be a constructive national dedication to human dignity and welfare. It can be a society that emphasizes human needs rather than weapons systems, human values instead of bureaucratic interests, the quality of life rather than the volume of technology.

This concern may not affect just the quality of life, it may affect life itself. One scientist warns us that a single massive nuclear attack by any major nation, even if blunted by an ABM system, would produce enough radiation to render our planet uninhabitable within a generation.

But aside from the indefinite nuclear threat, our children are running away from our society. Many, and no one knows how many, are literally running away. Running from comfortable homes to the city centers to be with people of their own life style. There they frequently find trouble and, in too few cases, help.

We have equipped them with the means to sense their dislocation but have provided little to deal with it. They know, for example, that the war in Vietnam is a foolish and self-defeating disaster, and they have tried all the traditional methods of dealing with it and still the war goes on.

Millions of young Americans in the 1960s responded to the leadership of John and Robert Kennedy and Martin Luther King. But three demented men with cheap guns brought about a more dramatic change in our national leadership than the most idealistic and devoted bands of young citizens.

We have raised our children to value the individual, but then asked them to be absorbed into giant bureaucracies that serve themselves before they serve the individual.

We have boasted about the great achievements of our society, about our ability to get to the moon, about our money and our goods and our economic system, and young idealists wonder why 15 million Americans go hungry.

We teach our young people that American history is a glowing example of humanistic concern, of the victory of the underdog, and yet we are frequently identified abroad with repressive military dictatorships that use our money and our guns and sometimes our

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[1] Address given to the Society of Pediatric Psychology at the American Psychological Association Convention, under the sponsorship of Division 12, Section 1, Washington, D.C., September 3, 1969.

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men to suppress indigenous unrest that does not happen to support the status quo.

We teach our young people that all men are equal; yet in some states the entire delegation to the national presidential nominating conventions is picked by one man. Or again, our federal government sees fit to slow the pace of desegregation in those states that are already 15 years behind the law.

This is the usual litany of complaints of the young—complaints with which I agree—social neglect, racism, a self-defeating foreign policy.

But are these such unusual complaints from any young generation? I think not. Certainly those of us who grew up during the depression joined in crying out against a government that ignored the perils of its citizens. Certainly every younger generation has cried out against official hypocrisy, cried out for brotherhood and peace. What makes our young people different? What makes our young people seek the stimulation of illegal drugs? What impels the formation of communal societies, set up inside, yet apart, from the mainstream of our society? What is the root of the mocking political cynicism that marks so much youthful protest? Why has revolution replaced reform as the rallying call of many young Americans?

As I suggested earlier, it is in part the particular historical moment. We are seeing, I believe, a coalition of forces consisting of an aware young generation and new forces of technology and international politics and national wealth producing a moment of unprecedented change.

Our youth today are better prepared, more perceptive, and less conscious of the need to find a secure position in the society. They have more information, acquired earlier than former generations.

They see, I believe, not only the usual faults of a society, they are also keenly aware of the absurd contradictions between our myths and the realities we live.

Most importantly, they see that not only do we not do enough to fulfill the promise of America for all our citizens but that official policy sometimes retards the fulfillment of those promises.

Perhaps most obvious is Vietnam where this country set out to demonstrate the impossibility of a war of liberation and proved the opposite, where we claim to be advancing self-determination but are actually blocking it. While we have been the rhetorical advocates of reform and modernization in developing lands, we have stood with a repressive military dictatorship in South Vietnam that has never had the support of its own people.

The anger and resentment of youth gathers force from official hypocrisy and foolishness. What must many of our young people think of a President who describes the disaster still cruelly dragging on in Vietnam as America's "finest hour"? Or what are we to say of a Chief Executive who describes the landing on the moon of Neil Armstrong as a feat exceeded only by God at the creation! Incidentally, I drew a special delight from Billy Graham lecturing the President on the theological error in his judgment about the moon shot. It is the worst hour and the most shameful hour in our national history, and every intelligent young person knows it in his blood and his bones—perhaps in part because it is the blood and the bones of the young that are threatened.

Any nation must be concerned about its own security. But surely we must see now that security is more than armaments. We contribute only to our own insecurity by wasting untold billions of dollars on useless weapons like the antiballistic missile system and other proposed gadgets. President Nixon's advisers tried to prepare us for more of this syndrome when they announced that even if peace should break out, there will be no excess in the budget for social programs. And there will not be if we fail to stop the maddening spiral of armaments. But what does the President intend to do with the $30 billion a year now being wasted in Vietnam? Is it possible that he sees no peace dividend because he is planning for more war and preparation for war?

Are there not more fundamental factors in a nation's strength than its arms stockpile? Consider, for example, the erosion of national defense stemming from malnutrition. Does it make sense to allocate $10 or $25 billion or $100 billion to a highly doubtful missile defense and then permit bad diets to render 15 million Americans defenseless against hunger? What price are we paying for the brain damage to unborn infants caused by the malnourishment of the mother? What is the cost of retarded intellectual and emotional growth resulting from bad infant diets? Can it be true as Dr. Charles Lowe told my Senate Select Committee on Nutrition and Human Needs that half of the mental retardation among the poor families of this nation is caused by malnutrition! If so, has not our missile defense system already been penetrated by a deadly and dangerous foe?

As the young perceive, it is not even enough to talk about reordering priorities. That is an obvious need. But we must part with a whole set of outworn myths about government programs. It is not enough to spend more money in search of a better, more unified society; it is necessary to learn how to spend that money wisely. It is not enough to regret that the federal government spends more money on highways than it does on education. The more basic question is whether we have to develop either a rational system of education or transportation.

It is the stated policy of our government—and it has been stated policy for many years—to rebuild our cities, to eliminate urban blight. Yet our cures have been worse, in many cases, than the disease. In urban renewal programs, we did construct new buildings and provide expensive homes for the middle class. But in so doing we have crowded the poor into fewer homes. We have simply intensified and relocated urban blight.

Last year, the federal government spent slightly more than $5 billion on welfare programs. In doing so we penalized families with a "man in the house," thereby increasing broken homes and social dependence. It provided no incentive to work and thereby fed the problem it sought to solve. The Job Corps program sought to train young men for productive jobs to end their alienation from society; yet more often than not the jobs were not there, and now we have all but given up on the Job Corps effort.

It is the quality of our responses to problems, not just the problems themselves, that are in part the explanation for the alienation, the cynicism, the rage of our young people. It is also a cause of the rage of American minority groups. Increasingly, I believe, it is the source of discontent among middle-income wage earners.

Young Americans in the 1950s, when I was a college professor, were called the "silent generation," and the nation bemoaned their silence. In the early part of this decade that silence turned to activism and we were all encouraged. But now activism has become agitation and we are bewildered. I think by our inaction, by our feeble solutions to real problems, we have denied the hope that bred that early activism.

It seems to me that at least part of the answer both to the mocking rage of the young and the discontent of others in our society is a new national affirmation of the worth of individual human life.

Our young people can accept that which is of genuine worth, but they cannot embrace what we ourselves have found empty.

Archibald MacLeish, speaking at the University of California, said this of the younger generation:

"It is an angry generation, yes, but its resentment is not a resentment *of* our human life; but a resentment on *behalf* of human life, not an indignation that we exist on the Earth but that we permit ourselves to exist in a selfishness and wretchedness and squalor which we have the means to abolish."

Our young people have found the most serious shortcomings in our society. The best of these young Americans can help lead up into the light of a new day.

TRIBUTE TO GEORGE J. BURGER, VICE PRESIDENT, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Mr. BIBLE. Mr. President, it was my pleasure recently to present an award on behalf of myself, as chairman of the Senate Small Business Committee, and the distinguished senior Senator from New York, the ranking minority member of the Senate Small Business Committee (Mr. Javits), to a man who has spent more than 30 years on Capitol Hill pursuing the best interests of his favorite people: the millions of American small businessmen.

This man is George J. Burger, vice president in charge of the Washington, D.C., office of the National Federation of Independent Business. I believe this award, presented on the occasion of a Capitol reception honoring the 20th anniversary of the establishment of the Senate Small Business Committee, speaks for itself.

Mr. President, I ask unanimous consent that the text of the remarks and the text of the award be printed in the Record.

There being no objection the material was ordered to be printed in the Record, as follows:

Remarks by Senator Alan Bible, Democrat, of Nevada, Chairman, Senate Small Business Committee, in Presentation to George J. Burger, Vice President, National Federation of Independent Business, U.S. Capitol, February 18, 1970

It gives me a great deal of pleasure, as a part of the Senate Small Business Committee's birthday party today, to salute a man who has been one of Capitol Hill's most familiar and best loved figures for some 30 years. That gentleman has been the real Mr. Small Businessman on Capitol Hill for more years than our Committee has had birthdays. Any Senator or Congressman over that span will give testimony to his persuasiveness, his clarity, his good humor and his perseverance in keeping his eye on the goal he sought—a better break for the nation's small businessman—all 5½ million of them.

That man is George J. Burger, Vice President in Charge here in Washington, D.C., of the National Federation of Independent Business, Inc.

George Burger's achievements read like a Small Businessman's anthology. His successful efforts in advocating establishment of a permanent Senate Small Business Committee 20 years ago this February 19, his persuasive activities in supporting organization of the Small Business Administration several years later, his special diligence in encouraging enactment of the Small Business Tax Adjustment Act of 1958, and many other significant accomplishments.

George Burger came by his capabilities naturally. He was schooled in the competitive marketplace of small business himself for 25 years as a retail tire dealer in New Jersey and New York. He has been a friend

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and a helper to both sides of the political aisle on both sides of this Capitol. He has drafted small business plans for national platforms of both political parties—he has served as a Senate Committee small business consultant and as an adviser to the President's Council of Economic Advisers.

Mr. Burger, it is with a deep sense of personal pride on behalf of all your friends that I make this presentation as a token not only of the deep affection Capitol Hill holds for you, but as a memento of the achievements you have accomplished for your favorite people—the millions of American small businessmen from Maine to Hawaii. . . We salute you as *Mr. American Small Businessman Emeritus Par Excellence . . . Congratulations!*

TEXT OF AWARD CERTIFICATE

Know all men by these presents that the Honorable George J. Burger, Vice President and Board Member of the National Federation of Independent Business, is hereby honored and commended for his unceasing efforts over the past 25 years on behalf of the Nation's small business enterprises. Significant among the many contributions he has made, which are herewith gratefully acknowledged, are: his successful efforts to create in the United States Congress permanent Select Committees for Small Business; his untiring endeavors which resulted in the creation of the Small Business Administration; his special efforts in the Congressional enactment of the Small Business Tax Adjustment Act of 1958; and many other significant accomplishments in his efforts to represent the small business community in the Halls of Congress. Mr. George J. Burger is intimately acquainted with the problems of small business by virtue of his being a successful small businessman in his own right.

Therefore, without reservation, do those assembled herewith honor George J. Burger for his many accomplishments and continuing efforts as a persuasive advocate for the American small businessman.

Presented on this Eighteenth Day of February in the year of our Lord 1970.

SELECT COMMITTEE ON SMALL BUSINESS, U.S. SENATE.
ALAN BIBLE,
U.S. Senate Chairman.
JACOB JAVITS,
U.S. Senate Ranking Minority Member.

DEATH FELLS MR. BIG THICKET, LANCE ROSIER

Mr. YARBOROUGH. Mr. President, the report of the death of Mr. Lance Rosier of Saratoga, Tex., brings great sadness to the hearts of all who knew and loved this quiet, gentle conservationist, and naturalist.

Lance Rosier was Mr. Big Thicket. For more than 70 years he lived in and learned in the Big Thicket, perhaps as no other person will ever know that beautiful part of Texas. He knew parts of the Thicket which are now only distant memories.

Lance Rosier was the region's official, self-taught naturalist. He was a patient guide and teacher to those of us who visited and admired the beauty of the Big Thicket, and he enriched the lives of thousands with his quiet lore of the Thicket's natural wonders. He touched our hearts when, his voice filled with sadness, he recounted the ways in which his Big Thicket was being destroyed. He asked whether something might be done to save the Big Thicket so that others might follow where he had walked and that they might wonder at the precious gift nature had bestowed upon this land.

Lance Rosier, this grand old man of the Big Thicket, was slight of stature and soft of word, but his spirit soared higher than the tallest cypress in that virgin wilderness.

It is fitting that Lance Rosier will be buried at Felts Cemetery, between Saratoga and Thicket, Tex., which is the closest possible place one can finally rest near the Big Thicket.

Mr. President, the greatest tragedy of this fine man's death is that he did not live to see his dream that the Big Thicket would be preserved as a national park come true. It is my most fervent hope that the Congress will enact the legislation to perserve the Big Thicket in memory of the man who loved it so and whose loss we mourn today.

AMERICAN AGRICULTURE

Mr. McGOVERN. Mr. President, the Senate Agriculture Committee is presently holding hearings on legislation to replace the existing farm commodity programs when they expire at the end of this year.

The programs are currently in disrepute in some quarters. It is frequently suggested that farmers should be left to their own devices in unfettered commodity markets. Considering the inadequacy of their returns under the programs, it is understandable that many farmers themselves are also exploring alternatives.

It would be disastrous for consumer and farmer alike, however, if we repeated again our past experience of forcing agriculture to rely on boom or bust market cycles. It is nonsense to suggest that the family farm system could survive, or that we could have reasonably stable food prices in this country, if producers were left without government help in managing their supplies to fit effective demand.

The farmer has little to say about the prices of what he buys. As a consumer he operates in organized and controlled markets. As a producer, on the other hand, he has as yet been unable to exert a significant degree of influence over supplies or price levels. Millions of farmers, planning independently, have not yet developed the means of bargaining with the rest of society.

The question of whether this goal will or can be attained is most relevant to our consideration of Federal farm programs this year. No doubt most of us—farmers included—would prefer a system in which producers could control their own marketing structure to eliminate the need for Government help.

In an article published some time back in the Journal of Cooperative Extension, Prof. Denton E. Morrison of Michigan State University has examined the outlook for progress in this area. Because it is both highly informative and timely, I ask unanimous consent that his piece, entitled "Farm Bargaining Problems and Prospects," be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

FARM BARGAINING PROBLEMS AND PROSPECTS

(By Denton E. Morrison)

(NOTE.—Denton E. Morrison is Associate Professor, Department of Sociology, Michigan State University, East Lansing, Michigan. This article is published as Michigan Agricultural Experiment Station Journal Article No. 4355.)

(There are five requirements for the farmer's ideal bargaining situation, according to the author: no alternative supply for the buyer (processor, consumer), indefinite duration of buyer demand, strong farmer desire to bargain, willingness of both sides to negotiate, and legality of the bargaining process. The author discusses the problems involved in meeting these requirements in view of the farmer's present situation. He then suggests three ways to work toward these five ideal conditions.)

Attention in the agricultural community is increasingly being focused on farm bargaining. All the general farm organizations and many special commodity groups are talking more and more about bargaining; and they are setting up subsidiaries and mechanisms for bargaining. The farm press is devoting substantial space to articles about bargaining. We are accustomed to hearing discussions of the role of government in agriculture, but nowadays we are more likely to hear specific discussions of government in farm bargaining.

What are the problems which farm bargaining organizations face? What are the chances that such organizations will be successful in improving the farmers' economic situation? In this analysis I hope to make a contribution to answering these questions by examining both the theoretical requirements of successful bargaining and the current situation.

Farmers are becoming painfully aware of their declining political power, both in terms of voting numbers and of elected representatives. Further, they recognize that their own economic problems are partly caused by the way other highly organized segments of the economy, such as labor, can increase the "cost" side of the farmers' cost-price squeeze. Farmers are in a mood to search for new modes of organization to help them adequately relate to a society in which the fortunes of individuals are increasingly tied to the fortunes of large scale organizations—voluntarily and otherwise.

Farmers are looking to colleges of agriculture for help and guidance in achieving new modes of organization. And, somewhat slowly, the colleges are responding. Colleges of business and schools of labor and industrial relations are much more concerned with the *organizational* problems of their sectors of the economy than are colleges of agriculture. Colleges of agriculture have stressed individual accomplishments through better farm management and technological efficiency. This emphasis has brought about fantastic strides toward solving the food supply problem; unfortunately it has not solved the economic problems of the majority of food producers.

THE IDEAL BARGAINING SITUATION

A bargaining organization is a group of sellers acting together to influence buyers to meet the sellers' terms. Typically, but not always, the methods of influence involve actual or threatened curtailing of supplies to the buyer. This, however, is only the "negative" aspect (for the buyer) of the way sellers influence buyers. On the positive side, sellers can influence buyers by coordinating production and product flow and guaranteeing product quality. Thus, not all bargaining is in terms of price, though price is frequently the most immediate concern of a bargaining organization.

We can proceed best in this discussion if we set up a model of an ideal bargaining situation—from the standpoint of the bargain-

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ing organization. Then by looking at the way farmers match up to this model we can better assess the specific problems farmers may encounter in bargaining and what the prospects for successful bargaining are.

In this ideal bargaining situation the following conditions exist: (1) Buyers have no alternatives for supply other than the sellers in the bargaining organization (this implies that sellers control all the supply); (2) buyers maintain their demand for the product indefinitely; (3) sellers have their economic aspirations focused sharply on the price of their supply (they don't have alternatives for reaching their economic aspirations); (4) further, both sellers and buyers are willing and able to negotiate; (5) finally, the bargaining is publicly (legally) sanctioned and facilitated.

No Alternative Supply

The buyers have no alternatives for supply other than the sellers in the bargaining organization. This implies that sellers control all the supply. A bargaining organization can, obviously, be effective even if its membership does not produce *all* the supply. But its effectiveness is closely related to the *proportion* of the supply its membership produces. Since in this country a relatively small percentage of farmers produce a relatively large share of the food supply, it follows that the *quality* of the membership of a bargaining organization is going to be more crucial than its *quantity* of members.

In this respect studies consistently show that bargaining organizations (for instance, National Farmers Organization) tend to recruit farmers who are above rather than below the average of all farmers in terms of size of farm operation, gross sales, etc.[1] Still, there is no doubt that recruiting and maintaining enough of the right type of members is a fundamental problem for any bargaining organization. Many farmers say they would join a bargaining organization if they knew it would be effective. Other farmers do not join because they hope they can be "free riders" in case the organization is effective; they want to obtain the benefits of bargaining without paying the costs. Both classes of farmers are the producers who create supply alternatives for buyers. As long as the proportion of farmers in these classes is substantial, the ineffectiveness of farm bargaining will be guaranteed, since no bargaining organization can be effective unless and until farmers join in substantial numbers.

Even if the bargaining group's proportion of supply were high enough to put the squeeze on processors when the supply was withdrawn, this squeeze would not be effective unless the bargaining organization could coordinate and control such a withdrawal. Drastic, periodic disposal control as well as day-to-day disposal of supply (in line with negotiated agreements with buyers) is not likely to be possible in the long run unless production is also closely controlled. Farmers often won't join or fully participate in a bargaining organization because they are unwilling or unable to allow control of their production or of its disposal. There are economic, attitudinal, and organizational factors involved.

Economically, farmers are owners, laborers, and managers all rolled into one. When a farmer holds his product from the market he loses more than just his labor, particularly because his product is often perishable. (This further points up the necessity of production as well as disposal controls in farm bargaining.) Because the farmer is typically a small businessman he does not have huge reserves of capital or endless access to credit. Also, current farm bargaining organizations do not have "strike" funds for him to draw on.

Evidence from surveys in Michigan and Wisconsin sheds some direct and indirect light on farmers' attitudes which are relevant to farm bargaining.[2] Farmers most often see themselves in the role of businessmen and are not highly attracted to the notion of acting like laborers—the instigators of the collective bargaining idea. Farmers view themselves as rugged individualists, valuing individual freedom of action and free enterprise. They resent controls and discipline, whether imposed by government or a voluntary organization. Further, many farmers view food as a sacred product. They are morally reluctant to reduce production or control disposal of their production when there are starving people in the world.

The tough-minded, coercive acts which are an actual or threatened part of all bargaining actions, and which are often directed at other farmers as well as at buyers, are simply foreign to most American farmers. Farmers value highly traditional rural organizations such as the family and the neighborhood; and there is no doubt that new rural organizations, such as bargaining organizations, temporarily or even permanently threaten and sometimes dissolve family and neighborhood ties. In short, farmer's attitudes in general are not conducive to the requirements of farm bargaining. Farmers endorse the idea of bargaining in theory, but completely they are not well prepared to behave as bargainers. They do not seem willing to accept the fact that organizational attempts to solve their income problems will inevitably involve individual costs, risks, actions, and commitments. Of course this may change, particularly if the economic situation of farmers deteriorates. But our research suggests that NFO members, for instance, are more different from other farmers in attitudes than in any other characteristic.[3]

Controlling the supply of food will require great organizational skill and sophistication, including considerable management skill. A farm organization is made up mostly of volunteer and part-time leaders and of members widely scattered geographically. Can such a group achieve the kinds of organizational programs and the degree of organizational control, coordination, and discipline necessary to relate in power terms to the well-oiled, skillfully managed, and closely coordinated food processing and retailing industry? Only time will tell. However, with time there are fewer farmers to organize. Those farmers with production worth bargaining with are increasingly educated, more experienced in large scale organizations (including farm and nonfarm bargaining organizations), and more experienced in leadership and management roles.

On the whole, however, the problem of controlling an adequate proportion of supply to influence processors is one of the most severe that bargaining organizations face. The prospect is that this problem will not be quickly or easily solved.

Indefinite demand

The buyers maintain their demand for the product indefinitely. We have some recent instances in the newspaper business where buyers (in this case buyers of employee services) have simply folded up and gone out of business because the sellers' price and other demands could not be met. The terms of the sellers must not be too severe. This would appear to be particularly true in agriculture. Agricultural processors and retailers have their buyers—the consumers. Consumers have many supply alternatives and can, when faced with a price increase for a given product, often lower their demand longer than producers can lower the product's supply. This may mean that processors cannot maintain their demand, and that producers would gain little even if they control the supply.

Thus, in the long run higher prices and higher income for farmers are not necessarily the same thing. They will not be the same if demand at the consumer level shifts to substitute products or if higher price incentives make supplies increase. Farm bargaining cannot involve just farmers bargaining with processors, but will inevitably involve farmers bargaining and competing against each other. The picture becomes even more complex when substitute products and alternative supplies are available through foreign imports and synthetic or "imitation" products. Further, there is nothing to prevent processors and retailers from going (or going further) into the production business themselves, thus insuring the stability of their supply.

Strong farmer desire

Sellers have their economic aspirations focused sharply on the price of their supply. They don't have alternatives for reaching their economic aspirations. Of course it is only if farmers have economic aspirations that you will have a bargaining organization at all! Most farmers are dissatisfied with their income, but many farmers are not dissatisfied enough to do anything very drastic.

Farmers value farming as a "way of life" and are willing to settle for less income to obtain the other benefits that farming provides. Or at least many farmers are unwilling to sacrifice other things they value, such as their freedom, in order to obtain more income. These statements are perhaps particularly true for older farmers—of which there is a high proportion. Many older farmers simply do not want to "rock the boat" and are content to "ride it out" until retirement.

Assuming a farmer is highly dissatisfied with his income *and* is willing to do something about it, there are several things he can do *other* than participate in a bargaining group. He may try to employ better technology, become more efficient, or be a better manager and thus produce more or produce it cheaper. He may, if he is young enough and has the education and the location, get a part- or full-time job off the farm. Both of these are less risky ways of increasing income than joining a bargaining organization.

In a bargaining organization the farmer faces the risk that the organization won't succeed, as well as the social costs and risks of becoming affiliated with a militant group. There are encouraging factors however. Farmers increasingly *do* have higher income aspirations, as they compare their incomes with urban workers rather than with their farm neighbors. Further, neither the age nor the education nor the attitudes of most farmers make the off-farm work alternative attractive as a long run solution. Moreover, the short-run gains from further efficiency, better management, and new technology are not very dramatic for most scales of farming operation. Most farmers have relied on these solutions in the past and have not found them sufficient to solve their income problems.

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[1] Denton E. Morrison and Allan Steeves, "Deprivation, Discontent, and Social Movement Participation: Evidence on a Contemporary Farmers' Movement, the NFO," *Rural Sociology*, XXXII (December, 1967) 414–34.

[2] Dale Hathaway *et al.*, *Michigan Farmers in the Mid-Sixties: A Survey of Their Views of Marketing Problems and Organizations* (East Lansing: Michigan Agricultural Experiment Station, Research Report 54, August, 1966), especially pp. 1–9, 17–37, 40–62, and 74–76; also Denton E. Morrison, "Michigan's General Farm Organizations," *Michigan Farm Economics* CCLXXXI (June, 1966), 1–3. The Wisconsin study and findings parallel closely as well as supplement the Michigan research but the relevant Wisconsin findings are laregly unpublished to date. For a preliminary report of the Wisconsin research see: W. Keith Warner and Donald Johnson, "Wisconsin Farm Operator Survey, 1965, a Preliminary Report," University of Wisconsin Department of Rural Sociology, Madison, Wisconsin (mimeographed).

[3] Hathaway, *et al.*, *op. cit.*, pp. 48–62; also Morrison, *loc. cit.*

Possibility of negotiation

Sellers and buyers are willing and able to negotiate. There is no reason why buyers should be willing to negotiate prices until they are convinced that sellers have substantial production, control over that production, and adequate organizational skills to negotiate and keep bargaining contracts. Many farmers have two kinds of mistaken beliefs in this regard.

In the first place, many farmers seem to believe that if they can cut off supplies to a buyer they will force him to negotiate and that a fruitful contract (for farmers) can be negotiated. But a buyer has no assurance that just because a bargaining association can temporarily cut off supplies that its members can subsequently deliver the quantity and quality of production specified in the contract. Surely no buyer will agree to buy *endless* supplies of a commodity at some higher price than he previously paid.

Who will decide how much each member of the bargaining organization will sell? Can a voluntary organization of producers regulate production when the federal government has had problems with such efforts even with the full force of the law at its disposal? Possibly so, but this consideration suggests the necessity of further legal specification and facilitation of farm bargaining.

Another mistaken belief is that processors are getting fat profits off farmers and that bargaining contracts will let farmers simply and substantially dip into these profits. Either this idea is believed or the idea that the higher prices can be passed on to consumers. Both views are too simple. The gains that can be expected of successful farm bargaining will likely be much less dramatic and much more gradual than most bargaining enthusiasts envision. The persons who do the negotiating for a bargaining organization can expect to spend a good deal of their time talking with the bargaining group's leaders and members. They will have to explain the economic problems of the opposition—processors and retailers. It will require a long education process before farmers will be able to negotiate realistically and effectively.

Legality of bargaining

Bargaining is publicly (legally) sanctioned and facilitated. Groups are not legally free to organize for bargaining in every society. In our own, some groups are prohibited from organizing to bargain. While the Capper-Volstead Act legally grants farmers the basic right to organize for bargaining, the specific legal limits, methods, and mechanisms for bargaining are not sufficiently spelled out. For instance, there is no law requiring a buyer to negotiate with an organization of sellers under specified conditions of seller membership or production strength. There are, in addition, no laws prohibiting buyers from discriminating against sellers who try to form a bargaining group. The sanctions which a bargaining group can legally use to control and discipline its own membership are not clear.

Currently there is much legislative activity aimed at remedying some of these points; the outlook is somewhat encouraging. But many farmers, including farm bargaining organization leaders, do not appreciate the importance of further public sanctioning and facilitation of farm bargaining activities. Unless the ways and means are legally spelled out it is doubtful that meaningful bargaining can take place.

CONCLUSION

These are the requirements of an ideal bargaining situation from the standpoint of the bargaining organization; and here also are some of the facts and problems about farm bargaining organizations which must be considered in assessing how they approximate the ideal. In order to move toward solutions of problems connected with farm bargaining it is suggested that the highest immediate priorities should be as follows: (1) coordination of farm groups' efforts in obtaining further legislation to facilitate bargaining; (2) continued, intensified, and perhaps publicly sponsored dialogue among leaders of farm organizations aimed at increasing understanding of bargaining as well as increasing membership strength in bargaining organizations; (3) publicly sponsored programs for educating farmers, farm leaders, and others in the agricultural community about bargaining. These programs should be a major responsibility of Land-Grant Colleges and should be supplemented by whatever research and extension activities are necessary to produce and diffuse knowledge relevant to farm bargaining.

If the achievement of successful farm bargaining seems impossible, we should remember that a generation ago the agricultural technology and production of today would have been impossible for most farmers to comprehend. All of American society has undergone a technological revolution in the past two or three generations. Most of American society has undergone an organizational revolution: today most live their lives in and through large scale organizations.

The organizational revolution is just starting in agriculture. We can rest assured that the organization of agriculture will be dramatically different 50 years from now. Strong bargaining organizations will be an important part of this changed picture only if farmers, farm leaders, and others concerned with the agricultural community understand the requirements of bargaining and work earnestly to approximate these requirements.

ECONOMIC STABILITY AND GROWTH

Mr. HARTKE. Mr. President, the long-term health of a modern industrial economy is dependent upon its ability not only to grow but to distribute equitably the fruits of that growth. Through most of our history the American economy has admirably met those tests. But it is not now doing so.

As the marks of present economic distress multiply and the portents of recession loom large enough for even the Federal Reserve Board to discern, some of our best analysts are making the point that the standard remedies have lost their potency. A description of what ails us is not to be found in the textbook for an introductory course in college economics—and neither is the remedy. We desperately need bold, innovative thought about the nature of the late 20th century economy.

One of the most stimulating and provocative economic analysts we have today is Dr. Pierre A. Rinfret, of Rinfret-Boston Associates, Inc., New York. Just this morning Dr. Rinfret demonstrated how stimulating and provocative he can be, in testimony he presented to the Subcommittee on Stabilization and Production of the Senate Committee on Banking and Currency. I was pleased to have a chance to read his testimony and chat with Dr. Rinfret early this afternoon. Though we are by no means in agreement on every point of his diagnosis and prescription, I am convinced that he has done a really valuable piece of work, one that would repay the closest study on the part of all of us who are uneasy about the state of the economy.

Mr. President, I ask unanimous consent that Dr. Rinfret's testimony be printed in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. PIERRE A. RINFRET—"ECONOMIC STABILIZATION: THE PROBLEM AND A PROGRAM"

The prerequisite for sustained economic growth and sustained equity in distributing the rewards of economic growth is economic stability. For four years these goals have been placed in ever greater jeopardy by an accelerating loss of control over the American economy. In the fourth quarter of 1965, America's actual production of goods and services exceeded her theoretical potential capacity to supply goods and services. Only four years later, in the fourth quarter of 1969, did actual production fall back to potential capacity. The results of these four years of excessive demand are: inflation of prices, inflation of costs, and inflation of interest rates.

For four years the American economy has moved into ever greater instability. Vietnam-induced Government expenditure, layered on top of an already fully-employed economy, generated strong inflationary pressures as early as 1966. These pressures, cumulatively intensified by growing Government deficits, ran head on into a restrictive monetary policy unattuned to the realities of the requirements of public finance. The economic slowdown induced by the "credit crunch" of 1966 barely cut into inflation before a monetary policy of extreme ease fed the expansion of 1968 and 1969. The tax surcharge of 1968 proved totally inadequate to stem inflation at the same time as it provided the rationale for an ill-judged turn to even greater monetary ease. Finally, in 1969, a moderately restrictive fiscal policy and an extremely restrictive monetary policy generated the worst of both worlds: inflation accelerated while the economy's ability to expand supply in order to satisfy inflationary demands was choked off.

The aggregate measure of the lack of stability in the American economy is the coexistence of a rising rate of inflation and a rising—if still historically low—rate of unemployment. More specifically, a preponderance of the sectors of the American economy are expanding strongly: power generation, consumer and business services, nonresidential construction, communications, producer durables, consumer nondurables; a few sectors—automobiles and other consumer durables—have been in significant slump and increasingly hurt by imports; one sector—housing—can only be termed a social disaster area. Perhaps most critically, the money and financial economy of the United States is and has been clearly out of step with the real, production economy: the sustained growth in the demand for money and credit is far exceeding both the supply of money and credit and the final demand for goods and services.

Three questions are basic to an assessment of where the American economy is, of where the American economy is going, and of what measures may be required to counteract present economic instability and guard against future instability. The first question is: is the American economy in or entering into a recession. The second question is: is the American economy, through a recession or otherwise, likely to correct its own instabilities. The third question is: to the extent the American economy proves incapable of correcting its own instabilities, are present Government policies likely to be adequate to the task.

IS THE AMERICAN ECONOMY IN A RECESSION?

The American economy, on aggregate, is not in a recession and the possibility of it suffering a recession in 1970 is small, verging on the negligible. A recession is not defined by two quarters of no growth in real GNP, nor is it defined by two quarters of decline in real GNP. Rather, a recession consists of sustained, substantial and widely-diffused declines in the preponderance of all the relevant measures of economic activity. To determine whether or not a recession exists, the National Bureau of Economic Research—whose judgment is universally accepted—examines nearly 200 different statistical series. Following the same proven methodology, it is clear that a recession does not exist as of this date in the United States.

Moreover, three forces for renewed economic expansion are already coming on stream:

The Consumer: The Tax Reform Act of 1969 provided for a net $3 billion reduction in tax revenues, including the two-step elimination of the surtax, and for a $6.5 billion increase in social security payments. Certainly the increased social security payments will all be spent: people over 65 are net dissavers, annually spending more than 100 percent of their current income. April payments alone, retroactive to January 1, will put new spending into the stream at a $8 billion annual rate. As for the elimination of the surtax, it is likely that the proceeds will be spent as well, as consumers seek to keep pace with inflation. Moreover, the slowdown in consumer' accumulation of debt during the past six months has significantly increased household liquidity, paving the way for a new expansion of consumer credit purchases. The current upturn in the index of consumer buying intentions for automobiles is one lead indicator of this development.

It may be noted that the retail trade figures, on which many pessimistic judgments of consumer behavior have been based, are both statistically inadequate and misleading. The retail trade figures have been barely holding their own as against last year's levels and have been 5 to 6 percent down on last year in terms of volume. But department stores sales are up as high as 13 to 15 percent over 1969. And, in any event, consumer purchases of services are now as great as their purchases of nondurable goods, up from 50 percent of nondurable purchases 25 years ago. But consumer spending on services is reported only on a quarterly basis, with the result that this dynamic element in final demand is consistently neglected in the formation of economic assessments.

Capital Expenditures. The February 1970 Rinfret-Boston Survey of Capital Expenditure intentions indicates that American business is planning to increase its capital spending by 13 percent in 1970 over 1969. This figure is up by one-half from the 8 percent increase reported in our September 1969 survey of 1970 investment plans. This is the leading expansionary force in the American economy. The increases in capital spending plans are greatest in the service industries, especially for the public utility and communications industries. The electrical and other machinery industries are also planning extraordinary gains. And manufacturing industry as a whole, despite the recent slump in automobiles and other consumer durables, is nonetheless planning a 7 percent increase in capital expenditures. With the most significant increases concentrated in the industries which rely most on external financing, these capital expenditure programs wil not only generate stronger than expected levels of economic activity and aggregate income. They will also maintain severe pressure on the sources of external cash and credit: the financial institutions and markets.

Government. This sector of final demand, like the consumer sector, is subject to misleading analysis. As with the neglect of consumer spending on services, so with government spending: the prime dynamic force is often ignored. This is State and local government expenditures. In the second quarter of 1968 Federal and State and local purchases of goods were each $100 billion. In the fourth quarter of 1969, Federal purchases were $102.7 billion and State and local purchases were $116 billion—more than $13 billion greater. Despite the present hold-down on Federal spending increases, the total government sector remains an expansionary force in the American economy.

CAN THE AMERICAN ECONOMY CORRECT ITSELF?

The classic adjustment pattern for an economy suffering inflationary excesses is the recession widely predicted for the American economy. A decline in final purchases of goods, as price increases outrun income increases, induces inventory accumulation and production cutbacks. As the decline deepens, it is decisively accelerated by declines in capital spending an excess capacity is created. Only when prices fall, responding to the surplus of supply over demand, do business and consumer purchases re-expand their buying—thus touching off a new expansionary phase of the business cycle.

The fundamental short-term economic problem today is that this classic adjustment process is *not* taking place. A mild showdown in the purchase of consumer durables has, indeed, forced inventory accumulation and some lay-offs in several industries. But the response of American industry has been swift and is being effective. The critical point to note is that inventories are being controlled and reduced to appropriate levels—before they can feed back to force cuts in capital expenditure plans. On the contrary, capital investment plans are being accelerated as the bulk of American industry seeks the only solution for the problem of building for expansion in the face of costs rising faster than productivity. Industry, looking to the long-run growth prospects of the American economy, is speeding up its efforts to raise productivity. Industry is refusing to take the short-sighted, short-run approach of responding in knee-jerk fashion to every vagary of consumer behavior. This has been our victory: for it is we economists, together with our political leaders, who have sought—successfully—to educate American businessmen to think and plan and act on a long-run basis.

Those who are betting on a recession to "solve" America's economic problems are losing even the first part of their bet. The American economy is not entering a recession. In practical terms a recession would mean cheap and easy money, easily available labor, and cheap raw materials. Despite the slowdown, which Rinfret-Boston Associates correctly foresaw some six months before its advent in the fourth quarter of 1969, none of these results of a recession are apparent. Interest rates are still at historically high levels—and heading higher in our view. Skilled and semi-skilled labor is still in very short supply. And the prices of raw materials are rising more quickly today than six months ago.

Moreover, and of growing importance, the rundown of liquidity in the American economy has not yet been reversed. Consumers have, to some extent, cut back on their accumulation of new debt relative to their acquisition of liquid financial assets. But American business, with its profits being squeezed and its demand for external financing rising to unprecedented levels, is continuing to reduce its liquidity. As well, State and local governments continue to be unable to meet their capital requirements through long-term borrowing because of legal limitations on interest rates payable; their short-term borrowing is accelerating, as is their rundown of short-term assets. And the Federal Government is returning from a brief period of acting as a supplier of substantial sums to the private economy, to again being a net borrower of funds. The American economy is critically short of liquidity. Key sectors and key participants in many sectors are, in fact, virtually insolvent. The position of the Lockheed Aircraft Corporation is duplicated in many other industries and businesses—and in some State and local governments too. A recession would provide the opportunity for a general rebuilding of liquidity and return to solvency. That recession is not taking place.

ARE GOVERNMENT POLICIES LIKELY TO PROVE EFFECTIVE?

It has now become clear that the Administration has identified its Number One priority to be the stopping of inflation. To this end, it has projected—in The Economic Report of the President—three years of low growth of 2 percent per year; less than half of the 4.5 percent projected growth in potential GNP. To this end, it has substantially reduced projected increases in Federal spending. And to this end, the Federal Reserve Board has maintained restraint in monetary policy. To the extent that fiscal policy remains restrictive and monetary policy avoids any semblance of the excessive ease of 1967 and 1968, it *is* likely that the Administration will succeed in moderating inflation during the course of the next twelve months. The direct cost of such success will be measured by increasing unemployment—possibly to the 5.5 percent level at the end of 1970. It is unlikely in the extreme that this success would be sufficient to reduce inflation from its present 7 percent rate significantly below 4 percent per annum.

The Administration's policies and those of the Federal Reserve do appear adequate to moderate excessive aggregate demand. But neither the Administration's policies nor the Federal Reserve's are yet attuned to the critical imbalances and instabilities which have both contributed to and been fed by inflation. Aggregate actions of fiscal and monetary policy are inappropriate and inadequate for dealing with these imbalances and instabilities. They cannot direct funds into depressed industries such as housing, where real demand is enormous but credit is unobtainable. They cannot of themselves rebuild the liquidity of governments and business—or they can do so only through inducing an unacceptable, drastic contraction in the American economy. They cannot open up employment opportunities and overcome the skills shortage. And they cannot affect what is perhaps the most fundamental of imbalances in our financial system: the surplus of credit to finance the consumption of goods and services and the shortage of credit to finance the production of goods and services.

Present Government policies are oriented towards controlling overall demand. They are not oriented towards expanding supply to meet the real and insatiable demands for both public and private goods and services. A realistic program of economic stabilization will begin at this point. It will direct itself to overcoming the foreseen dilemma of having to choose between inflation or recession. And it will direct itself to overcoming, as well, the widely unforeseen dilemma of choosing between inflation and insolvency.

A PROGRAM OF ECONOMIC STABILIZATION

The following points are not exhaustive. Rather, they comprise a series of measures to supplement the present efforts to control aggregate demand by channelling and expanding supply.

1. Reimpose Regulation W by the Federal Reserve Board. Regulation W specifies minimum down-payment and maximum length for consumer installment purchases.

2. Ban further distribution of credit cards by all non-soliciting distributors and ban all such renewals.

3. Reinstitute Production Loan requirements on the commercial banking system, by Federal Reserve Board directive. This

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places a requirement that commercial loans be for the purpose of financing production—i.e., be contributions to working capital.

4. Re-enact, as a permanent measure, a 10 percent Investment Tax Credit for the financing of capital expenditures.

5. Advocate and, if necessary, direct that new long-term financing by corporations be through the equity market rather than the bond market. This would re-establish access to long-term debt financing for State and local governments.

6. Establish Federal-State-Local trust funds, on the model of the Highway Trust Fund, for the purpose of financing social investment programs. The Trust Funds would be financed by user taxes—e.g., taxes on automobile commuters for the financing of an Urban Transport Trust Fund.

7. Establish comprehensive and mandatory F.D.I.C.-type insurance for *all* savings institutions.

8. Establish controls on commercial paper borrowings by financial institutions or their holding companies.

9. Establish a program to subsidize, on a comprehensive basis, the extension of mortgage loans, including conventional loans.

10. Extend and widen the "Philadelphia Plan" for opening up monopolistic craft unions to new entrants. If voluntary compliance is not made, end the sanctuary from anti-trust action for unions as regards their control of new entrants into employment.

11. Expand job training and re-training facilities, especially through the President's Welfare Reform Program.

12. Undertake a study of the revenue and economic impact of a National Sales Tax: with particular consideration to the minimization of regressivity and to implications for the fiscal position of State and local treasuries.

One further proposal for dealing with our economic excesses is worth noting: verbal reactions by the President to unreasonable wage and price increases. I myself have advocated "jawboning" in the past, as a first line of defense against an inflationary breakout. And President Nixon has recently moved to exert some discreet degree of moderating pressure on the market place. However, "jawboning" attacks only the symptoms of inflation: it does not attack the fundamental excess demand pressures in the economy, nor does it attack the imbalances and instabilities within the economy. On the contrary, to the extent it succeeds it worsens existing imbalances: first, by denying industries subject to profit erosion the opportunity to generate the internal resources required to finance investment in greater productivity and, second, by denying key sectors subject to inflation the opportunity to maintain their liquidity position in the face of declining real profit or wage income. Given the current coordinated fiscal and monetary restrictions on aggregate demand—the first occasion since 1965 in which the Government's economic policy-makers have been working together in the appropriate direction—"jawboning" as a comprehensive answer to inflation is no longer attractive. This consideration is all the more compelling in the light of the view that "jawboning" itself may serve as a substitute for appropriate fiscal and monetary action.

The thrust of the program offered here is the priority direction of the capital resources of our economy to the production of goods and services and the financing of investment rather than consumption.

In addition, it gives high priority to:

The relief of insolvent and illiquid sectors of our economy, particularly State and local government, financial institutions, and housing.

The funding of social investment programs, without which all plans for improving the quality of life are meaningless but which, through proper funding procedures, can be accommodated without furthering inflation.

The widening of employment opportunities and, thus, the expansion of the supply of skills.

Consideration of a National Sales Tax whose fundamental rationale would be to make greater room in the aggregate of our productive potential for increased private and public investment without inflation.

Together with continued responsibility on the part of our fiscal and monetary policymakers, this program can free us from the dilemma of ever greater inflation versus severe recession and can allow us to fund our investment needs without generating either further inflation or further insolvency.

CANADIAN OIL IMPORTS

Mr. KENNEDY. Mr. President, the Presidential proclamation of March 10, cutting back imports of Canadian oil, greatly disappointed all of us who believe that the President should take the lead in fighting inflation by reducing the prices consumers pay for gasoline and home heating oil. In addition to raising questions about the President's commitments to the fight against inflation, the proclamation raised important questions about the administration of the oil import program. It is not clear, for example, what evidence the President considered which demonstrated that the cutback was necessary to serve our national security. Therefore, I have written the Director of the Office of Emergency Preparedness to obtain clarification, and I ask unanimous consent that my letter be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

MARCH 12, 1970.

Hon. GEORGE A. LINCOLN,
Director, Office of Emergency Preparedness,
Washington, D.C.

DEAR GENERAL LINCOLN: I am writing to request answers to several questions relating to the Proclamation issued March 10 by the President imposing import restrictions on Canadian oil.

First, is it your opinon that Canadian oil is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security? Have you made your opinion known to the President and in what form? Could you please send me a copy of any report you submitted to the President.

Second, under whose authority was the notice of proposed rulemaking, which appeared in the March 11 editon of the Federal Register (pp. 4335–6), issued? Was it under your authority or that of the Oil Import Administrator?

Third, under what authority and for what cause was Section 4(c) of the Adminstrative Procedure Act suspended and comment time on the proposed rule-making limited to ten days?

Fourth, what is the justification for requirng applications for allocations under the proposed rule to be submitted by March 20, in view of the fact that the comment period ends on March 20?

Fifth, it is my understanding that since the inception of the Oil Import Program, public hearings have been held by the Department of the Interior on proposed regulations and policy involving significant changes in the Program. Included among these have been proposed allocations for refineries in Puerto Rico and the Virgin Islands, and for feedstocks for petro-chemical plants.

Do you consider the proposed restrictions on Canadian overland imports to be less important than the Puerto Rican, Virgin Island and petro-chemical proposals?

Sixth, why have public hearings or opportunity for oral comment not been ordered on a matter of such importance?

Seventh, has the Executive Order establishing the Oil Policy Committee, outlining its powers and responsibilities, been signed?

I would appreciate your prompt response to these questions.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on
Administrative Practice and Procedure.

MARTIN, S. DAK., HOUSING AUTHORITY AND THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. McGOVERN. Mr. President, Mr. B. B. Hodson, of Martin, S. Dak., is a distinguished constituent of mine. He is the president of the Black Pipe State Bank of Martin, and as a public spirited citizen he is the volunteer chairman of the Martin, S. Dak., Housing Authority.

Almost 10 years ago, the people in Martin conceived a modest low-cost housing program for the elderly. In 1967, they started in earnest and filed an application in the regional office of the Department of Housing and Urban Development in Chicago for 50 units. Over the course of time they were first notified that the entire file could not be located. Later, after compiling a complete new file and after making telephone calls, trips, and supplying additional information, they felt that the file was again complete in March 1969. Earlier this year, Mr. Hodson was again advised that the complete file had again been misplaced, and he was asked again to resubmit for a third time.

These frustrations proved too great for Mr. Hodson, and he composed the following eloquent resignation as chairman of the Martin Housing Authority. I ask unanimous consent that the text of his resignation be printed in the RECORD as evidence of the ultimate frustration of a decent citizen of my State in attempting to deal with the growing bureaucracy of the Federal Government.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

LETTER OF RESIGNATION

Subject: Tender of resignation.
Hon. MAYOR and COUNCIL MEMBERS,
Martin, S. Dak.:

I hereby tender my resignation as Chairman of the Martin Housing Authority. And I suggest that you consider securing a much younger person for that position. Such a request, of course, deserves an explanation, since it might imply to your good board, that I have something in disagreement with you, this is not so. You have been most co-operative and have done all that any taxpayer could ask for this project.

The reason for the above action is because we have again this week received a severe set back from the Chicago Office of Housing and Urban Development. Specifically, a complete beginning. This in spite of numerous telephone calls made by me this last week, in this regard.

You will recall that Martin began looking for some housing for low income and elderly folks about 10 years ago. The best offer we could find, was for 5 units. Some of you will recall that this offer(?) was re-

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jected, since no one felt capable of Solomon's wisdom, in selecting those who should enjoy, and those who much be denied. The many more applications than five, so prompting. . . . some years later, in the spring of 1967, a visit by important representatives of HUD, encouraged us to try again. They acknowledged that there was certainly a need here for at least 50 units of such housing. They prompted you, as a board, to call an election for the purpose of establishing the public approval. This was done in accordance with the new South Dakota State laws, so providing, and due to the promptness on your part, such election was held upon the first legal Tuesday, following such State provision. Following such public (nearly unanimous) support, you then submitted through your legal counsel, one of the first three such applications from this State, for such housing, and directed it to HUD in Chicago.

Time passed, and suddenly changes were adopted, calling for the backing up of all papers, and a new application submission through a newly approved 'State Office' first. . . . The entire project was then removed from its Chicago office, and re-commenced at State Level. . . . Many letters, phone calls, and personal contacts were made. Your own City files will show the multitude to Addendums called for. . . . Then silence. . . .

Another visit to HUD in Chicago revealed that not just parts of the original papers were missing, to which we had grown accustomed, but the entire file was missing . . . But never fear, just make up another complete set, from our original copies, and resubmit, to "My Personal Attention," and "By Golly, it will get special handling, you fellows need that badly, and we will do all we can to get it right out there". . . . By this time Martin was now about 10th on the list in South Dakota . . . Pandemonium! But with a copying machine, and round the clock working, the multitude of copies we reprepared, and "originally" signed by all, and rushed off to HUD. That was on March 10, 1969 . . . A quiver of activity now and then followed . . . "Just get us one more thing," please send us "just one more certification," etc. . . . Then again silence . . .

Another personal visit to HUD in Chicago . . . Low and behold, they don't have the legal transcript! A flurry of phone calls. Oh, yes, we found it . . . But we don't have the 'Co-operative Agreement' . . . We call our Congressmen . . . The next mail brings a large brown envelope, 1½" thick. "Funny thing, but you know, we can't seem to find any of your papers," "Will you please resubmit your entire file?" . . . "If you would just send this copy to "My personal Attention," "By golly I'll see that it gets my personal, special attention," etc.

Honorable Mayor and Councilmen . . . I submit, that at such progress, none of us alive today in Martin will need this project anyway . . . I suggest that we cancel the entire project and send these needy folks to the City, where they are obviously wanted anyway.

I have made some hasty checks, and find that we spent considerably over $100 in paper, postage and phone calls, on this *last* set of papers. (This disregards the many hours of free taxpayes slave-hours, that is expected, of course). Assume that there are 500 employees or more at HUD, and they may each have a pigeon hole (or possibly more). If we must submit one copy to each to assure this project, that comes to $50,000 worth of paper! And more hours of our free time than we can spare from our jobs, if we are to continue to pay the severe income taxes necessary to support these 'Civil Servants.' For surely, if there is anything they like better than to shuffle, file and forget, in paper work, its the folding type paper that they can take home with them! With $50,000 we could probably borrow the rest and build our own housing. I am sure that our taxpayer friends would understand.

This also brings about a second thought. Assuming that this payroll staff at HUD averages $10,000 each (we country boys are naive). That means that this public office probably cost we taxpayers at least $5,000,000 in payroll each year. They seem to be turning out a few projects for approval, but not many. Let's give them the benefit and say they have approved 100 per year, at an office cost then of $50,000 each. We have saved another $50,000 for the taxpayers! Now we are getting close to the total costs of our project!

Putting it another way, we find that this bureaucratic monster has consumed three sets of our forms, and numerous letters, totaling approximately 100 lbs. This monster was able to sustain itself, multiply and remain sterily-static for three years. It probably has application from 3000 projects such as ours, that comes to 30,000 lbs of 'fuel' to sustain such a monster for 3 years! Or 20 lbs of paper, per year, can sustain a $10,000 (?) Federal Servant (?)!! It makes one wonder if our forest can stand up under the onslaught of the entire bureaucracy?

There was a time, many years ago, in my youth, when I remember that a government employee worked for the people who paid the bill, the taxpayer. Somehow things have changed and we taxpayers now find ourselves a slave to a well paid and bureaucratic elite few. We are expected to crawl, beg, conive, and bribe if we are to be favored with a few crumbs to be returned from the billions we give them to *invest* for us! As a veteran, I know that this isn't what I fought for, and I doubt that it was the intention of our forefathers.

But in my own humble way, I'm rebelling, and I'm quitting. I will no longer bow down, beg or humble myself to such an assemblage of leaches. I refuse to feel 'honored' if that bureaucrat 'bestows' some blessings upon me by returning a pittance of my tax dollars to my own community. Nor will I continue to shove paper fuel into the craw of the bureaucratic monster while it shuffles itself into perpetuity!

I apologize for being a quitter. I have never been such before. But I guess I'm getting too old to stomach this treatment further. Perhaps if you can secure a *much* younger fellow to fill my shoes, HE might live to see its fruition. He might even be young enough, not to remember when things were different. He might not know that Civil servants are supposed to 'serve', not just 'take'.

Thanks again for your continued assistance and co-operation. I remain,

Respectfully yours,
Bruce B. Hodson,
Chairman, Martin, S. Dak., Housing Authority.

ARMY INTELLIGENCE ACTIVITIES

Mr. FULBRIGHT. Mr. President, the January issue of the Washington Monthly contained an article by Christopher H. Pyle with the intriguing title: "CONUS Intelligence: The Army Watches Civilian Politics."

The article began:

> For the past four years, the U.S. Army has been closely watching civilian political activity within the United States. Nearly 1,000 plainclothes investigators, working out of some 300 offices from coast to coast, keep track of political protests of all kinds—from Klan rallies in North Carolina to anti-war speeches at Harvard. This aspect of their duties is unknown to most Americans. They know these soldier-agents, if at all, only as personable young men whose principal function is to conduct background investigations of persons being considered for security clearances.

The article involves an issue of fundamental significance for our system of government, based on the theory of civilian control over the military and noninvolvement of the military in politics. I, therefore, wrote to Secretary of the Army Stanley R. Resor on February 2 to ask for his comments on the article and for answers to a number of specific questions.

On February 26 I received a four-page reply from Robert E. Jordan III, General Counsel of the Army, which raised more questions than it answered—and failed to respond to the questions in my letter. Mr. Jordan's letter stated that the Army's "domestic intelligence activity has been to a small degree in the civil sector, but only to focus on civil disorder." According to his reply, the principal function of the domestic intelligence program is in connection with personnel security investigations and related matters, which account for "94 percent of the time of intelligence command field personnel." Presumably this means that the 1,000 Army agents in the United States spend a total of some 2,400 man hours a week gathering intelligence on individuals and organizations that might be involved in "civil disturbances."

The letter went on to state that publication of "an identification list which included the names and descriptions of individuals who might be involved in civil disturbance situations," and a computer data bank containing "information about potential incidents and individuals involved in potential civil disturbance incidents" had been discontinued—whether or not the orders came before or after the article appeared, the letter does not say. But according to a news story in the Washington Star of February 28, the information from the computer data bank is still on file.

Mr. President, although, apparently, steps have been taken to curb the distribution of information on civilians who the Army views as potential troublemakers, it appears that the gathering of information on what amounts to political activities continues.

I hope that the Armed Services and the Appropriations Committees will take a hard look at this activity. The Army has no business spying on the political activities of civilians—regardless of how distasteful or outrageous they may be to the military.

I ask unanimous consent that the article from the Washington Monthly, the exchange of correspondence with the Army, and an article from the Washington Star be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Washington Monthly, January 1970]

CONUS Intelligence: The Army Watches Civilian Politics

(By Christopher H. Pyle)

(Note.—Christopher H. Pyle, a Ph.D. candidate at Columbia University, has recently completed two years service as a captain in Army Intelligence. The information in this article comes from briefings he received at

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the headquarters of the U.S. Army Intelligence Command, and from the observations of friends and acquaintances who served in intelligence units throughout the United States and Europe. None of it carries a security classification of any kind.)

For the past four years, the U.S. Army has been closely watching civilian political activity within the United States. Nearly 1,000 plainclothes investigators, working out of some 300 offices from coast to coast, keep track of political protests of all kinds—from Klan rallies in North Carolina to anti-war speeches at Harvard. This aspect of their duties is unknown to most Americans. They know these soldier-agents, if at all, only as personable young men whose principal functions is to conduct background investigations of persons being considered for security clearances.

When this program began in the summer of 1965, its purpose was to provide early warning of civil disorders which the Army might be called upon to quell. In the summer of 1967, however, its scope widened to include the political beliefs and actions of individuals and organizations active in the civil rights, white supremacy, black power, and antiwar movements. Today, the Army maintains files on the membership, ideology, programs, and practices of virtually every activist political group in the country. These include not only such violence-prone organizations as the Minutemen and the Revolutionary Action Movement (RAM), but such nonviolent groups as the Southern Christian Leadership Conference, Clergy and Laymen United Against the War in Vietnam, the American Civil Liberties Union, Women Strike for Peace, and the National Association for the Advancement of Colored People.

The Army obtains most of its information about protest politics from the files of municipal and state police departments and of the FBI. In addition, its agents subscribe to hundreds of local and campus newspapers, monitor police and FBI radio broadcasts, and, on occasion, conduct their own undercover operations. Military undercover agents have posed as press photographers covering anti-war demonstrations, as students on college campuses, and as "residents" of Resurrection City. They have been recruited civilians into their service—sometimes for pay but more often through appeals to patriotism. For example, when Columbia University gave its students the option of closing their academic records to routine inspection by government investigators, the 108th Military Intelligence Group in Manhattan quietly persuaded an employee of the Registrar's Office to disclose information from the closed files on the sly.

Typical of the hundreds of reports filed by Army agents each month are the following, taken from the unclassified intelligence summary for the week of March 18, 1968:

"PHILADELPHIA, PA.—A. The Philadelphia chapter of the women's strike for peace sponsored an anti-draft meeting at the First Unitarian church which attracted an audience of about 200 persons. Conrad Lynn, an author of draft evasion literature replaced Yale chaplain William Sloane Coffin as the principal speaker at the meeting. Following a question and answer period, Robert Edenbaum of the Central Committee for Conscientious Objectors stated that many Philadelphia lawyers were accepting draft evasion cases. The meeting ended without incident.

"B. Rev. Albert Cleage, Jr., the founder of the Black Christian Nationalist Movement in Detroit, spoke to an estimated 100 persons at the Emmanuel Methodist Church. Cleage spoke on the topic of black unity and the problems of the ghetto. The meeting was peaceful and police reported no incidents."

"CHICAGO, ILL.—Approximately 300 members of Veterans for Peace and Women for Peace held a peaceful demonstration at the Museum of Science and Industry protesting an exhibit by the U.S. Army. Several demonstrators entered the building in spite of warnings by museum officials and 6 were arrested on charges of disorderly conduct, resisting arrest and criminal trespassing. Five of those arrested were juveniles."

To assure prompt communication of these reports, the Army distributes them over a nationwide wire service. Completed in the fall of 1967, this teletype network gives every major troop command in the United States daily and weekly reports on virtually all political protests occurring anywhere in the nation.

The Army also periodically publishes an eight-by-ten-inch, glossy-cover paperback booklet known within intelligence circles as the "blacklist." The "blacklist" is an encyclopedia of profiles of people and organizations who, in the opinion of the Intelligence Command officials who compile it, might "cause trouble for the Army." Thus it is similar to less formal lists which the Department of Health, Education, and Welfare has maintained to exclude politically unpopular scientists from research contracts and consultant work.

Sometime in the near future the Army will link its teletype reporting system to a computerized data bank. This computer, to be installed at the Investigative Records Repository at Fort Holabird in Baltimore, eventually will be able to produce instant print-outs of information in 96 separate categories. The plan is to feed it both "incident reports" and "personality reports." The incident reports will relate to the Army's role in domestic disturbances and will describe such occurrences as bombings, mass violence, and arms thefts. The personality reports—to be extracted from the incident reports—will be used to supplement the Army's seven million individual security-clearance dossiers and to generate new files on the political activities of civilians wholly unassociated with the military.

In this respect, the Army's data bank promises to be unique. Unlike similar computers now in use at the FBI's National Crime Information Center in Washington and New York State's Identification and Intelligence System in Albany, it will not be restricted to the storage of case histories of persons arrested for (or convicted of) crimes. Rather it will specialize in files devoted exclusively to descriptions of the lawful political activity of civilians. Thus an IBM card prepared many months ago for the future computer file of Arlo Tatum, executive secretary of the Central Committee of Conscientious Objectors, contains a single notation—that Mr. Tatum once delivered a speech at the University of Oklahoma on the legal rights of conscientious objectors.

Because the Investigative Records Repository is one of the federal government's main libraries for security clearance information, access to its personality files is not limited to Army officials. Other federal agencies now drawing on its memory banks include the FBI, the Secret Service, the Passport Office, the Central Intelligence Agency, the National Security Agency, the Civil Service Commission, the Atomic Energy Commission, the Defense Intelligence Agency, the Navy, and the Air Force. In short, the personality files are likely to be made available to any federal agency that issues security clearances, conducts investigations, or enforces laws.

Headquarters for the collection and coordination of this information is a wire-mesh "cage" located inside a gray metal warehouse at Fort Holabird. The official designation of the office is "CONUS Intelligence Branch, Operations IV, U.S. Army Intelligence Command." CONUS is the Army's acronym for Continential United States. Direction of this program is in the hands of Major General William H. Blakefield, head of the U.S. Army Intelligence Command at Fort Holabird. Established in 1965, the Command coordinates the work of a number of counter-intelligence "groups" formerly assigned to the G–2 offices of the major stateside Army. Accordingly, its principal function is not to collect intelligence but to protect the Army from espionage, sabotage, and subversion. Its main job is to investigate persons being considered for security clearances and to inspect military installations for adequate physical, wire-communications, and document security.

CONUS Intelligence Branch, also known as "Ops Four," is commanded by a major and run by a civilian. They supervise the work of about a dozen persons, who work in shifts around the clock. Most are WAC typists who operate the teletype consoles that link the Intelligence Command to the Pentagon and to intelligence units around the country. It is here that reports from agents are received, sorted, and retransmitted. Because its staff is small and the volume of reports large, Ops Four rarely has the time to verify, edit, or interpret the reports before passing them on to "user organizations."

Daily recipients of this raw intelligence include all of the Army's military intelligence groups within the United States, riot-control units on stand-by alert, and the Army Operations Center at the Pentagon. The Operations Center, sometimes called the "domestic war room," is a green-carpeted suite of connecting offices, conference rooms, and cubicles from which Army and Defense Department officials dispatch and coordinate troops that deal with riots, earthquakes, and other disasters. Recipients of weekly CONUS intelligence summaries, also prepared at Fort Holabird, include not only those on the daily distribution, but such unlikely organizations as the Army Materiel Command, the Military District of Washington, the Air Defense Command, and Army headquarters in Europe, Alaska, Hawaii, and Panama.

What is perhaps most remarkable about this domestic intelligence network is its potential for growth. Uninhibited by Congressional or Presidential oversight, it has already expanded to the point where it in some ways rivals the FBI's older internal-security program. If the Army's fascination with the collection of domestic intelligence continues to grow as it has in the recent past, the Intelligence Command could use military funds to develop one of the largest domestic intelligence operations outside of the communist world. Before this happens, the American public and its elected representatives ought to demand a say in the development of this program.

THE ARMY'S NEEDS

Intentionally or not, the Army has gone far beyond the limits of its needs and authority in collecting domestic political information. It has created an activity which, by its existence alone, jeopardizes individual rights, democratic political processes, and even the national security it seeks to protect.

There is no question that the Army must have domestic intelligence. In order to assist civilian authorities, it needs maps and descriptions of potential riot or disaster areas, as well as early warnings of incidents likely to provoke mass violence. Before trusting its employees or prospective employees with military secrets, it has to look into their past behavior for evidence of disloyalty or unsuitability. The Army also must investigate train wrecks, fires, and other disasters which may disrupt its lines of supply. And where ultra-militant groups seek to attack military installations, destroy files, or abuse soldiers, it has the right and obligation to keep informed about the groups' specific objectives, plans, and techniques.

The Army needs this kind of information so that it can fulfill long-established, legiti-

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mate responsibilities. But must it also distribute and store detailed reports on the political beliefs and actions of individuals and groups?

Officials of the Intelligence Command believe that they must. Without detailed knowledge of community "infrastructure," they argue, riot-control troops would not be able to enforce curfews or quell violence. To support this contention, they cite the usefulness of personality files and blacklists in breaking up guerrilla organizations in Malaya and South Vietnam. One early proponent of this view was the Army's Assistant Chief of Staff for Intelligence during 1967–1968, Major General William P. Yarborough. At the height of the Detroit riots of 1967 he instructed his staff in the domestic war room: "Men, get out your counterinsurgency manuals. We have an insurgency on our hands."

Of course, they did not. As one war-room officer who attempted to carry out the General's order later observed: "There we were, plotting power plants, radio stations, and armories on the situation maps when we should have been locating the liquor and color-television stores instead." A year later the National Advisory Commission on Civil Disorders reached a similar conclusion about the motives of ghetto rioters. "The urban disorders of the summer of 1967," it declared unequivocally, "were not caused by, nor were they the consequence of, any organized plan or 'conspiracy.'" After reviewing all of the federal government's intelligence reports on 23 riots, it found "no evidence that all or any of the disorders or the incidents that led to them were planned or directed by any organizations or groups, international, national, or local."

Intensive investigations subsequently conducted by local police departments, grand juries, city and state committees, and private organizations have concurred. One of the more recent, a study of 1968 "urban guerrilla" activities by the Lemberg Center for the Study of Violence at Brandeis University, is typical. It found that press and police accounts of shooting incidents were grossly exaggerated. While acknowledging that there had been "a few shoot-outs with the police" some of which "may have been planned," the Center concluded that there was "no wave of uprisings and no set pattern of murderous conflict" from which one could predict organized violence even remotely resembling guerrilla warfare.

But even if there were grounds for making such a prediction, the Army's case for personality files and blacklists would remain weak. The purpose of these records, according to counterinsurgency manuals, is to facilitate the selective arrest of guerrillas and insurgents. However, within the United States the Army has no authority to round up suspects the moment civilians take up arms. The seizure of civilians on suspicion of conspiring or attempting to overthrow the government by unlawful means or of inciting people to crime is, and continues to be, the responsibility of local and state police and of the FBI. The President may order Army units to help state or federalized National Guard troops keep the peace or fight guerrillas, but the Army does not acquire authority to arrest civilians unless and until civilian law enforcement has broken down and a declaration of martial law puts all governmental authority in the area of conflict in the hands of the military. In that highly remote circumstance, the Intelligence Command might have some need for personality files and blacklists on criminally inclined, politically motivated civilians. By then, however, it certainly would have full access to the more extensive and up-to-date files of the civilian agencies and thus would not have had to prepare its own.

The Army's need to keep its own dossiers on the politics of law-abiding citizens and groups makes even less sense. So long as there is a possibility that peaceful protests may get out of hand, some surveillance undoubtedly is in order. But must the Army conduct it? Are its agents and record keepers more competent than those of the FBI or of the police departments of the cities in which large demonstrations typically occur? Are the civilian law enforcement agencies so uncooperative that the Army must substantially duplicate their efforts?

More extraordinary still is why the Intelligence Command each week alerts military headquarters in Alaska, Hawaii, Panama, and Europe to stateside non-events like the following:

"MIAMI, FLA.—A spokesman for the Southern Students Organizing Committee announced plans for a demonstration to be held on the campus of the University of Miami in the morning. According to the spokesman, a group of anti-war/draft supporters will participate in the demonstration."

"PHILADELPHIA, PA.—Members of the Vietnam Week Committee composed largely of professors and students of the University of Pennsylvania, will conduct a 'sleep-in' to protest the scheduled appearance of Dow Chemical Company recruiters on campus. The next day, 19 March, the same organization will sponsor a protest rally on campus."

Perhaps the best answer to all of these questions is that much of the CONUS intelligence program serves no military need at all. But if this is so, then where does the Army get the authority to run it?

THE ARMY'S AUTHORITY

According to the Nixon Administration, authority for this kind of program comes from the Constitution. So, at least, the Justice Department claimed last June in a brief defending the FBI's failure to obtain search warrants before tapping telephone calls of what were then the "Chicago Eight." The Justice Department argued that Article Two of the Constitution authorizes the President and his agents to engage in whatever "intelligence-gathering operations he believes are necessary to protect the security of the nation" and that this authority "is not dependent upon any grant of legislative authority from Congress, but rather is an inherent power of the President, derived from the Constitution itself." Thus, the Department contended, "Congress cannot tell the President what means he may employ to obtain information he needs to determine the proper deployment of his forces."

If this is so, then Army agents do have the authority to undertake any surveillance that does not run afoul of the Constitution and the courts: indeed, they can investigate anything that is normally investigated by the federal government's civilian agencies. Moreover, they do not have to obey laws like the Omnibus Crime Control Act of 1968, which forbids most wiretapping and electronic eavesdropping without prior judicial authorization in the form of a warrant.

Fortunately, the "inherent powers doctrine," as this theory is called, has few supporters. The courts have never accepted the proposition that Congress is powerless to prescribe how the President shall exercise his executive powers. Indeed, in 1952, the Supreme Court rejected President Truman's claim to inherent power to seize the nation's steel mills to avert a strike which threatened the flow of equipment and supplies to American troops fighting in Korea. If there were no constitutional Presidential power to meet that emergency, it is unlikely that one exists to authorize the intelligence powers which the government claims today.

It is far more probable that the courts would endorse a conflicting view: that the Army's authority to collect domestic intelligence is limited by, and can only be inferred from, those laws which traditionally mark off the Army's responsibility for law enforcement from that of other agencies. These include not only the statutes which restrict the Army to a back-up function in times of riot, but the laws which assign surveillance of unlawful political activity within the United States to the FBI and the Secret Service. Other sources of the Army's authority include the Uniform Code of Military Justice, which permits investigation of unlawful political activity within the armed services, and those laws and federal-state agreements under which the Army governs many of its installations. These rules, and not the vague provisions of Article Two, are the legitimate sources of the military's domestic-intelligence powers.

Yet even if the current Administration's claim to an inherent constitutional power to watch lawful political activity were to be accepted by the courts, the surveillance itself probably would be forbidden by the Bill of Rights. The reason is the chilling effect which knowledge of surveillance has upon the willingness of citizens to exercise their freedoms of speech, press, and association, and their right to petition the government for redress of grievances:

Ten years ago the federal courts would not have accepted this contention. Then the courts were hesitant even to accept constitutional challenges to the government's collection of political information when the plaintiffs could prove that the investigators had no other purpose than to deter them from exercising their rights under the First Amendment. Recently, however, the courts have begun to accept the proposition that vague and overbroad laws and administrative actions are unconstitutional if they inhibit the exercise of those rights, regardless of whether that effect was intended.[1]

Even more on point is the decision of a New Jersey Supreme Court which last August declared most of the state's domestic intelligence system unconstitutional. In *Anderson v. Sills*, a suit filed by the America Civil Liberties Union on behalf of the Jersey City branch of the NAACP, the court held: "The secret files that would be maintained as a result of this intelligence system are inherently dangerous, and by their very existence tend to restrict those who would advocate . . . social and political change."

Had the New Jersey authorities been able to show a more urgent need for the records, the court might not have taken such a categorical position. But the police, like the Army, had cast their net so widely that it was bringing up huge quantities of information on wholly lawful political activities. Accordingly, the court brushed aside the state's claim to good intentions and found that the program had a chilling effect upon the exercise of First Amendment rights. It ordered all forms and files destroyed, "except where such information will be used to charge persons with specifically defined criminal conduct."

If people are likely to be deterred in the exercise of their rights by state intelligence systems, they undoubtedly will be inhibited by knowledge that reports of individual participation in public demonstrations are being made daily to the Pentagon, selected troop units, and an interagency data bank at Fort Holabird. Thus, even if the Army's collection of personality files and blacklists is not limited by legislation, it still may be unlawful.

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[1] Typical of this growing body of constitutional interpretation is the 1965 case of *Lamont v. Postmaster General*. There the Supreme Court struck down a federal statute which authorized the Post Office to suspend delivery of unsolicited mail which the government agents regarded as "Communist political propaganda" until the addressee returned a reply post card declaring that he wished to receive the mail. The Court, in a unanimous opinion, held that the effect of this practice, whether the government's purpose, was to abridge freedom of speech by inhibiting the right to read.

THE PROGRAM'S IMPACT

Beyond the Army's need for the present CONUS intelligence program and its authority to pursue it lies the matter of its impact upon the public interest. In particular, there is its effect upon the rights of individuals, the democratic process, and the nation's security.

The impact which the program can have upon the exercise of political rights needs no further explication. The threat it poses to job rights and privacy, however, may not be so apparent.

Like the freedom from inhibitory surveillances, the job rights threatened are rights in the making. As yet no one has established a legal right to a job that requires a security clearance or to a security clearance essential to a job. Nevertheless, in recent years the courts have begun to recognize that those who already hold federal jobs and security clearances have a right not to be deprived of either without just cause or, at the very least, without the rudiments of fairness. The impending marriage of the CONUS intelligence wire service to a computer could nullify even this protection, by filling security-clearance dossiers with unverified and potentially erroneous and irrelevant reports. These reports would then be used to determine who should, and who should not, receive security clearances.

If the men and women who adjudicate security clearance were competent to evaluate such unreliable information, its inclusion in security files might be less cause for concern. Unfortunately, they are not. The most highly trained adjudicators—civilians employed by the stateside army commands—receive only nine days of job instruction on loyalty determinations at the Army Intelligence School. Moreover, this training does not even touch upon the subject of suitability, although almost 98 per cent of all clearances denied today are ostensibly rejected on that ground. The least trained adjudicators—intelligence officers assigned to field commands—receive exactly two classroom hours on loyalty and two on suitability while being trained to become investigators. Because of this extremely brief training, it is not unusual for an adjudicator to conclude that a person arrested in connection with a political protest is not suited for a security clearance, regardless of the circumstances of his arrest, the legality of his detention, or his innocence of the charges.

The adjudicators' lack of training is compounded by security regulations which permit—indeed, seem to require—the denial of clearances on less evidence than would support a magistrate's finding of "probable cause." In other words, it is not a question of whether reliable evidence indicates that the individual cannot be trusted with state secrets, but of whether the granting of the clearance would be "clearly consistent with the interests of national security." No one really knows what this ambiguous phrase means, but in practice it frequently is used to justify findings of guilt by association. For example, soldiers and civilian employees of the Army with foreign-born spouses are virtually blocked from jobs requiring access to especially sensitive intelligence. Their association with a spouse who once "associated with foreigners" is taken as proof of their vulnerability to recruitment by foreign agents. Moreover, in nearly all other cases, adjudicators usually have to make their decisions without knowing the source of the evidence, without hearing the accused confront his accusers, or without hearing the accused defend himself with knowledge of their identity.

Given the tenuousness of the right to due process under these conditions, the influx of CONUS intelligence reports can make the system even more unjust than it is now. At the present time, little information on political activity is developed in the course of most background investigations. Army investigations, in particular, tend to be superficial; in some sections of the country shortages of personnel, caused by the war in Vietnam, have forced the Intelligence Command to abandon interviews of character references in favor of questionnaires-by-mail as its main means of inquiry. But if these questionnaires were to be supplemented by CONUS political reports, the number of clearances unjustly denied would skyrocket. These injustices would occur not only within the military; they would reverberate throughout all federal agencies with access to the Fort Holabird data bank.

The Army's domestic-intelligence program also imperils numerous expectations of privacy, some of which enjoy the status of legal rights. It does so by exposing Americans to governmental scrutiny, and the fear of scrutiny, to an extent to which they have never been exposed before. Even the Budget Bureau's ill-starred proposal to consolidate the federal government's statistical records into a National Data Center would not have brought together so much information about individual beliefs and actions.

The privacy of politically active citizens is especially threatened by the Army's practice of watching political protests, large and small, throughout the United States. To the potential protester, it is one thing to expect local press and police coverage; it is quite another to expect a military surveillance which specializes in keeping permanent records of lawful political activity.

What effect awareness of the CONUS intelligence program will have on the vast majority of people who are not politically active is more difficult to predict. By itself, news that the Army is watching civilian politics is not likely to cause most people to worry personally about their privacy. But it would be one more increment in a growing pattern of governmental instrusiveness that could have a significant cumulative impact.

Such a pattern is now well established. Among the more widely publicized activities in recent years have been the CIA's surreptitious financing of student groups, labor unions, and foundations (despite the territorial limits of that agency's mandate), the Post Office's use of peepholes in restroom walls, and the Defense Department's misuse of lie detectors. Others include countless illegal wiretaps by the FBI, the Internal Revenue Service, and the Department of Interior. More recently, the publication of confidential FBI wiretap information by *Life* and *Newsweek* which linked Jets' quarterback Joe Namath to Mafia figures suggests that the FBI has now assumed responsibility for enforcing professional football's code of conduct.

The cumulative impact of such abuses of power and privacy eventually must convince even the most anonymous of individuals that the United States is moving towards a society in which no one has control over what others know about him. Public awareness of the Army's activities cannot but hasten this conviction.

The unregulated growth of CONUS intelligence machinery also threatens the country's political health. It does so both by inhibiting political participation and by enhancing the potential clout of demagogues and others who would misuse security files for partisan or personal purposes.

The most immediate risk posed, of course, is to political participation. Once citizens come to fear that government agencies will misuse information concerning their political activities, their withdrawal from politics can be expected. This withdrawal can occur in a variety of ways. Some people may decline to become involved in potentially controversial community organizations and projects. Others may go further and avoid all persons who support unpopular ideas or who criticize the government. Some may refuse to object to the abuse of government authority, especially when the abuse is committed in the name of national security. Others may even stop reading political publications, out of fear that the government might learn of their reading habits and disapprove. Indeed, an adjudicator of security clearances once asked me if she could lose her clearance if she allowed her daughter to subscribe to *The National Observer!*

Inhibitions generated by awareness of extensive domestic surveillance are likely to be strongest at the local level. This is where most citizens participate in politics if they become involved at all. The withdrawal can be expected to occur all across the political spectrum, although the strongest objections to surveillance will undoubtedly come from the left. Those most likely to be deterred, however, are not the extremists of the right or the left, whose sense of commitment runs deep, but the moderates, who normally hold the balance of power. Depletion of their ranks would, of course, strengthen the influence of the extremists, polarize debate, increase animosities, and decrease tolerance. As political positions rigidify, compromise and flexibility would become harder to achieve. And the capacity of government to renew itself and promote responsible progress would also suffer.

A less immediate but no less serious danger lies in the potential for misuse inherent in the Army's extensive files on individuals and groups. It is frightening to imagine what could happen if a demagogue in the Martin Dies-Joseph McCarthy tradition were to gain access to the computer the Army seeks now, or if an Otto Otepka in uniform were to leak a copy of the Intelligence Command's so-called "blacklist" to friends in Congress, or if a General Edwin Walker were to take charge of the Intelligence Command.

Such speculation assumes, of course, that the Army cannot guarantee the inviolability of its files. The assumption, unfortunately, has some validity. Only last year, information from the Army's confidential service record on New Orleans District Attorney Jim Garrison was leaked to the press. Officers at the Investigative Records Repository at Fort Holabird (which functions as the Army's lending library for such files) suspected that the leak came from a civilian agency in Washington. They were helpless to do anything about it, however, because they had no system of records accountability by which they could fix responsibility. When asked why such a system did not exist, one officer told me: "We probably couldn't stop it [the leaks] if we tried."

Finally, the unregulated growth of domestic intelligence activity can have the paradoxical effect of undermining the very security it seeks to protect. It can do so in at least two ways. First, by increasing the "cost" of lawful political activity, it tends to force extremist groups to go underground, there to act out their us-versus-them view of politics by criminal means. Second, by intruding too closely into the lives of government employees (or prospective employees), it tends to inhibit them from applying for jobs requiring security clearances or from exercising initiative and imagination in those jobs. A good intelligence officer must be able to analyze and report accurately, and to do so he must feel free to immerse himself in the ideas and culture of the people he studies. A good scientist must have freedom to pursue his curiosities, or he is not likely to work for the government, which rarely pays as much as private industry. The direct consequence of programs which deny this freedom is to impair the quality of secret work and the caliber of the men who do it. As John Stuart Mill warned over a century ago:

"A state which dwarfs its men, in order that they may be made docile instruments in its hands, even for beneficial purposes, will find that with small men no great thing can really be accomplished."

WHAT CAN BE DONE?

If the Army has exceeded the limits of its needs and authority to establish a domestic intelligence program which endangers numerous public interests, what steps should be taken to curb its excesses?

An obvious first step is a court challenge of the Army's authority to possess information for which it has no substantial need. The main target of such a lawsuit should be the personality files and blacklists describing the lawful political activities of individuals and groups. A second target should be the collection and storage of information on individuals and groups suspected of participating in unlawful political activities—except where that information is essential to an "early warning" system, or where the persons involved are associated with the armed forces, or where the information is collected in the course of security investigations.

The lawsuit's argument should be twofold: (1) the Army has no substantial need for either kind of information, and (2) the very existence of the program inhibits the exercise of First Amendment rights. Such a suit should seek a court order declaring the Army's possession of both kinds of information to be unconstitutional; it should also ask the court to enjoin future collection and storage of such information and to direct the destruction of all existing personality files and blacklists.

While such a lawsuit stands a good chance of success, it could take years to litigate. Moreover, a favorable decision could be ignored or evaded for many more years. Thus, while the symbolic value of such a decision would more than justify the time and expense, an effective challenge of the intelligence program will require the development of legislative and administrative remedies as well.

Whoever attempts to devise these remedies should be prepared to undertake subtle analysis of competing interests and values for while the excesses of the program must be permanently curbed, the Army's ability to fulfill its responsibilities must not be impaired.

Ideally, legislative and executive analyses should be based on the kinds of questions I have already asked: What are the Army's real domestic intelligence needs? What authority does it have to initiate specific activities to meet those needs? What threats to liberty does each domestic intelligence effort pose?

The analysis should begin by demanding a justification for each alleged intelligence need in terms of the Army's authority to meet such a need and its purpose in trying to do so. Each need should then be weighed against the threats it may pose to the rights of individuals, to the vitality of the political process, and to the security of the nation. Where the risk is clear and the need doubtful, the Army should be denied authority to satisfy the need. Where the threat and the Army's need are both evident, less hazardous alternatives ought to be considered. In this circumstance, the capacity of politically responsible officials to control the alternatives should be weighed. Where reliable controls cannot be devised, the intelligence effort should not be authorized—even though the denial of authority may deprive the government of useful knowledge about the domestic political scene. If the imposition of these restraints poses a risk to internal security, then we must accept that risk as the price for individual liberties and a truly democratic political system.

The Congressional power of inquiry should be exercised first. Few Americans—including most members of Congress—know anything about the activities and plans of the domestic intelligence community. Many do not even realize that the growth of formal and informal ties among law-enforcement, intelligence, and security agencies has made it necessary to think in such terms.

For maximum effectiveness, Congress should hold open hearings not only to inform itself and the public, but to remind the intelligence community in general, and the Army in particular, that their authority to spy on civilian politics must be construed strictly, in accordance with such established principles as civilian control of the military. Presidential control of the bureaucracies, state and civilian primacy in law enforcement, compartmentalization and decentralization of intelligence duties, and obedience to law. Where is is not, corrective legislation should be promised.

A special effort should be made in the course of these hearings to inform the domestic intelligence community that Congress does not accept the Justice Department's position that "Congress cannot tell the President what means he may employ to obtain the information he needs."

Congress should also exercise its appropriations powers as to encourage major reforms in the Army's program. Specifically, it should block all funds for the planned computer unless and until the Army agrees to:

One. Instruct its agents to limit their collection of CONUS intelligence to reports of incidents, except where the reports describe violations of the Uniform Code of Military Justice or of Army regulations. This would dry up the source of most blacklists and personality files.

(2) Forbid the Intelligence Command to convert incident reports into personality reports, except where they relate to criminal or deviant activity by persons subject to military law or employed by the military. Thus storage of information about named civilians unassociated with the armed forces would be doubly foreclosed, should such information be reported by mistake or as an essential element of an incident report.

(3) Establish effective technological, legal, and administrative safeguards against the abuse of individual rights in the process of collecting, reporting, storing, and disseminating domestic intelligence or personnel security information. For example, the Army should forbid its agents to infiltrate civilian political groups. (If it fails to do so, Congress should make such infiltration a federal crime, just as it is now a crime for a local military commander to order his troops to serve in a sheriff's posse.) Computer storage systems also should be encouraged, since they can be equipped with more effective safeguards against misuse than is possible in document storage systems. However, these safeguards must be carefully designed, regularly tested, and reinforced by laws and regulations to deter those who might seek to circumvent them.

(4) Establish separate headquarters, preferably in separate cities, for the CONUS-intelligence and personnel-security staffs. So long as the two programs are located at the same headquarters (they now share the same room and some of the same personnel), the danger of informal leakage of CONUS intelligence material to the adjudicators will remain high. Establishment of physically separate headquarters would be expensive, since it would probably require two separate communications and information storage systems. Separate storage systems, however, could be more safely computerized. Thus some of the additional expense might be recouped through increased efficiency.

(5) Request that the United States Judicial Conference or some similar body nominate a civilian advisory board to review and report annually on the sufficiency of the Intelligence Command's procedures for safeguarding individual rights. Such a board could satisfy both the public's need for a regularized system of independent scrutiny and the Army's need for friendly critics capable of alerting it to the legal, moral, and political implications of its domestic intelligence program. How successful such a board can be is open to question; much depends upon how skillfully its members can be chosen so as to assure both military and public confidence in their capacity for balanced and constructive judgments.

(6) Improve the professional quality of Intelligence Command personnel and security-clearance adjudicators. In the final analysis, the Army must be the front-line defender against the dangerous consequences of its own actions. Thus, among other things, the Army should be encouraged to end the overcrowding and understaffing of its Intelligence School, to revise and expand the curriculum of its agents' course, and to transfer the training of security-clearance adjudicators to an accredited law school or the Practicing Law Institute, a non-profit organization well known for its practical courses for lawyers and laymen on specialized legal subjects.

Needless to say, each of these reforms should be initiated by the President or the Army without waiting for Congressional encouragement. In addition, the President should appoint a panel of distinguished citizens, on the order of the Kerner Commission, to look into the conduct of all domestic intelligence activities. He should also ask an organization like the highly prestigious American Law Institute to draft a new executive order and code of regulations to govern the granting of security clearances.

Implementation of these reforms can do much to bring the Army's domestic intelligence practices in line with its legitimate responsibilities. But it is not enough to reform the Army. The Intelligence Command is only one member of a huge, informal community of domestic intelligence agencies. Other members of the community include not only the FBI, the Secret Service, the Air Force, and the Navy, but hundreds of state and municipal police departments. Some of the latter are surprisingly large. The New York City Police Department's Bureau of Special Services, for example, employs over 120 agents and has an annual budget in excess of $1 million.

Each of these organizations now shares with the Army the capacity to inhibit people in the exercise of their rights, even without trying. By collaborating, they could become a potent political force in their own right. Thus as the Army, the FBI, and the Justice Department strive to coordinate these agencies through the establishment of wire services, hot lines, and computerized data banks, it is essential that the American public and its representatives be equally energetic in the imposition of checks and balances. In particular, special efforts should be made to prevent needless concentrations of information. The United States may be able to survive the centralization of intelligence files without becoming totalitarian, but it most certainly cannot become totalitarian without centralized intelligence files. The checks must be designed with the most unscrupulous of administrators in mind. The fact that we may trust the current heads of our investigative agencies is no guarantee that these agencies will not one day come under the control of men for whom the investigatory power is a weapon to be wielded against political and personal foes.

FEBRUARY 25, 1970.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter concerning an article which appeared in the *Washington Monthly* entitled "CONUS Intelligence: The Army Watching Civilian Politics" by former Army Captain Christopher Pyle.

XUM

The allegations made by Mr. Pyle were viewed with great concern by both the civilian and the military leadership of the Army. Both have always, over the generations, been keenly sensitive to the long-standing American tradition separating the military from involvement in domestic politics, and both are constantly alert to ensure that Army actions as well as policies are in keeping with the traditional limitations upon our armed forces. Ever since the unfortunate necessity arose, several years ago, for military forces to be prepared for civil disturbance operations when directed by the President, there has been a special sensitivity to the immediacy of this problem.

Our continuing goal has been to maintain suitable limits to Army intelligence involvement in the civilian sector, and toward this end our policies and practices have been undergoing periodic examination. The main charge of the article, and indeed its title, hold that the Army deliberately seeks the opposite, by widespread aggressive, covert collection of intelligence about people who "might make trouble for the Army." This charge is false. The Army's domestic intelligence activity has been to a small degree in the civil sector, but only to focus upon civil disorder, and the Army has long been pressing to have civilian governmental agencies meet even these intelligence needs.

The military security functions of the Army in the United States are conducted by the U.S. Army Intelligence Command, Fort Holabird, Maryland. This Command reports directly to the Chief of Staff of the Army and is closely supervised for him by the Assistant Chief of Staff for Intelligence. The Command employs seven subordinate organizations, military intelligence groups, located throughout the United States in support of its military security functions. These groups, employing approximately 1000 agents, support the principal missions assigned to the Intelligence Command by the Department of the Army.

The principal activity of the U.S. Army Intelligence Command is to conduct security investigations to determine whether uniformed members of the Army, civilian employees and contractors' employees should be granted access to classified information. This activity and allied activity relating to security matters account for 94% of the time of Intelligence Command field personnel, and will consume a higher percentage in the future because of reduction in civil disturbance activities.

To avoid duplication of effort and to give investigators the benefit of prior work, a central filing system of Army investigations is necessary. The U.S. Army Investigative Records Repository, run by the Intelligence Command, has approximately 7 million files relating principally to security, loyalty or criminal investigations of former and present members of the Army, civilian employees and contractor personnel. When security or criminal investigations are completed the entire report is forwarded to the Records Repository at Fort Holabird for filing. The use of these files is limited by Regulation to specifically authorized Executive Branch agencies. No computer has been installed in the Investigative Records Repository; none has been or is planned to be installed since the cost in manpower and time to convert the Repository files to a computer bank would be prohibitive. The Repository does have an automatic retriever system for some of the files; these files, placed in boxes, can be mechanically retrieved on a trolley system in order to save time in searching for files.

In order that investigative efforts in the security field would not be duplicated, Secretary of Defense McNamara directed on 27 May 1965 that a central index of all security investigations conducted by Department of Defense agencies be established. Accordingly, the Defense Central Index of Investigations was established at Fort Holabird. Data included in this Index is limited only to the identification of an individual, the type of investigation conducted, date of completion, and the location of the investigations (for example, Army investigations are filed in the Investigative Record Repository). The data is placed on manually key punched cards which are then alphabetically filed. A sample card is attached (not shown in RECORD). At present, these cards must be manually searched. A plan to install a computer at the Central Index has been approved. Information on the key punched cards will be placed in the computer; the purpose of this computer will be to rapidly identify and indicate the location of files needed in security investigations. The computer will contain only the information shown on the sample card, which does not reflect the existence of any personal information of any kind, derogatory or otherwise. The present system and the planned computer are not and will not be tied in with any form of computer data banks. There is no plan to use the Central Index in any other fashion.

The U.S. Army Intelligence Command also has missions relating to the collection of information that may be needed by civilian planners and Army commanders in the event Federal troops are directed to act by the President. As you know, the Army has certain obligations under the Constitution and the laws to act at the direction of the President to deal with civil disturbances beyond the capability of local and state authorities to control. Army intelligence activities in the field of civil disturbances are directed primarily at ascertaining information needed to prepare appropriate levels of alert for military forces and needed by military commanders if they are directed to act. This limited field of interest removes from legitimate concern of the Army minor forms of disturbances and lawful activities not likely to lead to major disturbance involving use of Federal resources.

Intelligence personnel obtain this limited civil disturbance-related information primarily from the FBI and state and local police agencies. When this information is collected in the field, it is reported usually by teletype to the U.S. Army Intelligence Command. The Director of Investigations, U.S. Army Intelligence Command, is responsible for collecting the information, storing it, and forwarding it, as necessary, to appropriate officials in the Department of Defense. The teletype is not linked to any computer, nor has there ever been a plan to do this.

The collection of civil disturbance-related information by the Army increased after the disturbance in Detroit in 1967. However, the Intelligence Command was not and has never been reinforced with additional personnel to accomplish the civil disturbance missions assigned to them at that time. Since this was a new area for the Army, an appropriate level of action necessary to accomplish the Army's mission had to be evolved. This area has been a subject of constant attention and refinement in order to narrow the Army's actions to only those which are absolutely necessary. There have been some activities which have been undertaken in the civil disturbance field which, after review, have been determined to be beyond the Army's mission requirements. For example, the Intelligence Command published from 14 May 1968 to 24 February 1969, an identification list which included the names and descriptions of individuals who might be involved in civil disturbance situations. All copies of the identification list have been ordered withdrawn and destroyed. The Army's present policy is that reporting of civil disturbance information is limited to incidents which may be beyond the capability of local and state authorities to control and may require the deployment of Federal troops.

In the past, the Director of Investigations at the Intelligence Command has operated a computer data bank for storage and retrieval of civil disturbance information. This data bank, which included information about potential incidents and individuals involved in potential civil disturbance incidents, was thought useful in that it permitted the rapid retrieval of related information for predicting trends and possible reactions. The civil disturbance data bank was discontinued since, after study, it was determined that the data bank was not required to support potential Army civil disturbance missions.

Thus the Army does not currently maintain, and has ordered the destruction of, the identification list referred to above. No computer data bank of civil disturbance information is being maintained, and directives provide that no such system can be initiated without the approval of the Chief of Staff and the Secretary of the Army.

I hope that the information set out above will satisfy your concerns.

Sincerely,

ROBERT E. JORDAN III,
General Counsel.

FEBRUARY 2, 1970.

Hon. STANLEY R. RESOR,
Secretary of the Army,
Washington, D.C.

DEAR MR. SECRETARY: I enclose a copy of an article from the January 1970 *Washington Monthly*, entitled "CONUS Intelligence: The Army Watches Civilian Politics." I would appreciate your letting me have the benefit of your comments on the article. In addition, I would appreciate your providing me with information in response to the following questions prompted by this article:

1. What is the legislative authority for domestic intelligence gathering activities by the Army involving political activities that are not directly related to military or civilian personnel matters?
2. How many people—military and civilian—work in the Army's domestic intelligence program?
3. What is the budget for FY 1970 and proposed for FY 1971 for domestic intelligence gathering, including military pay and allowances? What proportion of the budget is used for personnel investigations and similar intelligence work?
4. What is the justification for the Army to engage in surveillance of organizations or individuals involved in political protests?
5. What criteria are used in determining which activities to cover and report on?
6. How many meetings by civilian organizations were covered or reported on during the last year?
7. What, if any, arrangements exist between the Army and other government investigative agencies to prevent duplication of effort in keeping track of the activities of organizations under surveillance?
8. What periodic reports are filed concerning the activities of political protest groups? Please provide a copy of the latest report available of each type.
9. The article alleges that the Army publishes a booklet containing information on individuals and groups that might "cause trouble for the Army." Is there such a document? If so, please provide a copy of it and details on the distribution of it. Who has access to this information?
10. How many names of individuals and organizations does the Army currently have in its security files? Approximately how many were added in the last year that were not due to investigations for personnel purposes?

Sincerely yours,

J. W. FULBRIGHT.

XUM

Mr. ROBERT E. JORDAN, III,
General Counsel, Department of the Army, Washington, D.C.

DEAR MR. JORDAN: I have your letter of February 25 concerning the Army's intelligence gathering activities.

I am glad to have this information since it does explain some aspects of the program to collect information on civilians. However, you failed to provide most of the specific information requested in my letter of February 2 and I would appreciate your providing this as soon as possible. I would also appreciate your letting me know the date orders were issued to discontinue the identification list and the computer data bank on potential trouble makers, and how many names were on the list and in the bank at that time. In addition, would you please provide copies of all directives relating to collection and reporting of information relating to civil disturbance matters.

Sincerely yours,

J. W. FULBRIGHT.

[From the Washington Star, Feb. 28, 1970]

ARMY STILL MAINTAINING FILES ON CIVILIANS' POLITICAL ACTIVITY

The Army acknowledges that it maintains files on the political activities of civilians other than the computerized political data bank it told congressmen it was closing down.

It also conceded yesterday that information that formerly was kept in the computer is still on file and has not been ordered destroyed.

An Army spokesman confirmed that a microfilm file is kept on civilian political activity by the Counter-Intelligence Analysis Division of the office of the Army's assistant chief of staff for intelligence.

The spokesman, an official in the office of Army General Counsel Robert E. Jordan III, said that very few files were kept on individual civilians. He could neither confirm nor deny existence of files on several specific individuals.

Sources who asked not to be identified reaffirmed, however, that individual and organizational files number in the thousands and that they include data on such individuals as Mrs. Martin Luther King, Jr., folk singers Arlo Guthrie and Phil Ochs and Georgia State Rep. Julian Bond

SOME GROUPS MENTIONED

In addition, the sources said, files are kept on such organizations as the American Friends Service Committee, the American Civil Liberties Union, the Center for the Study of Democratic Institutions, the John Birch Society, Clergy and Laymen Concerned about Vietnam and the New Mobilization Committee to End the War in Vietnam.

Files are also kept on publications, including the magazine the Nation, the newsletter of Young Americans for Freedom, the New Left's National Guardian and the underground Berkeley Barb.

The eight persons indicted in connection with disorders at the Democratic National Convention in 1968 are also listed, sources said.

While admitting existence of the microfilm file, the Army spokesman sought to play down its size and importance. He said it was an uncomputerized "office file" kept "for analysis purposes" by an agency charged with "answering specific questions" posed by top Army officials.

He said questions that might be posed to CIAD include "what likelihood is there that violence will occur this summer?" And "where is it likely to occur?" In case a mass march is planned somewhere. Another question would be "what likelihood is there that violence will occur which local authorities cannot handle?"

CIAD would use its files, which "consist primarily of FBI reports," to get an answer for the Army, based on the expected size of a march and the people and organizations planning it, he said.

CIAD also has a role in determining which U.S. cities might experience large riots. The Army now plans to be able to handle eight major disorders at once, a reduction from the 25 once planned for.

The spokesman said that there was an "innocent bureaucratic reason" for the CIAD files.

FBI POLICY CITED

He said, "The FBI has a policy that, if it once gives you a report, it won't give it to you again. So the analysis people have to keep the report they've worked on before."

The spokesman said the files reflect work that CIAD has done. "This is far different from a data bank which contains whole reams of information," such as the one the Army maintained at Ft. Holabird in Baltimore and which was discontinued after pressure from Congress.

The spokesman said that that a review of the Holabird data bank was under way before congressmen became aroused by a magazine article about it written by a former intelligence officer.

He said 50 congressmen sent inquiries to the Army about it—15 by personal letter to the Secretary of the Army.

The Holabird data bank was ordered discontinued on Feb. 19, he said, and an announcement was made Thursday to the congressmen. The announcement made no mention of the CIAD microfilm files or of the fact that formerly computerized information is still in files at Ft. Holabird, and at seven military intelligence group headquarters around the nation.

NO DESTRUCTION ORDER

No order has been issued yet for the destruction of those files, or of still other files maintained by the Continental Army Command at Ft. Monroe, Va., the spokesman acknowledged.

The Justice Department is the agency charged by President Nixon with primary responsibility for civil disorders.

The spokesman said, "We've been pushing for a long time to get Justice and the FBI to take over this responsibility completely.

"Justice does not (now) have the capability, in our minds, to do the job.

"We have to have an answer if we're asked, 'Will there be violence?'

"Until we are satisfied that Justice can answer the question satisfactorily, we have to do it ourselves."

PROGRAM

Mr. DOLE. Mr. President, will the Senator advise the Senate of the schedule?

Mr. MANSFIELD. I am delighted to respond to the question raised by the acting minority leader. There will be no further votes tonight.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the prayer tomorrow there be a period for the transaction of routine business for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. It is my understanding that the distinguished Senator from Alabama has an amendment he will lay before the Senate tonight and which he will discuss tomorrow and perhaps tonight, if he so desires.

I understand the Senator from Kentucky (Mr. COOPER) has an amendment which will be offered tomorrow.

Hopefully, we might be able to finish this bill somewhere between 1 o'clock and 3 o'clock tomorrow afternoon. Hopefully, I emphasize that if we do finish at a reasonable time tomorrow the next order of business immediately will be laying before the Senate the nomination of Judge Carswell to be an Associate Justice of the Supreme Court.

My next sentence is not a threat. If, perchance the pending bill is not finished tomorrow, it is very likely we will be in session Saturday because, speaking personally, I would like to get to the Carswell nomination just as soon as possible.

I hope that explains the situation.

Mr. DOLE. I thank the Senator.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate resumed consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

AMENDMENT NO. 553

Mr. ALLEN. Mr. President, I call up an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> Amend the Scott-Hart Amendment (No. 544) by striking all of section 3 under title I—Voting Rights, and inserting a new section 3 as follows:
>
> "Section 3. (a) Section 4 of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973 et seq) is amended by adding at the end thereof the following new section '(f) section 4 of this Act shall expire and become inoperative on August 7, 1975.'
>
> "(b) Section 5 of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973 et seq) is amended by adding at the end thereof the following new sentence: 'Section 5 of this Act shall expire and become inoperative on August 7, 1975'."

Mr. ALLEN. Mr. President, with the distinguished majority leader having pointed out that there would be no further votes this evening and most of the Senators having thereupon departed from the Senate Chamber, the Senator from Alabama would desire to wait until tomorrow to start his explanation of the amendment.

To that end, I suggest at this time the absence of a quorum so that if there is no other business to come before the Senate other than the pending amendment, any Senator desiring to bring about other business could move to suspend further proceedings under the quorum call.

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The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 29 minutes p.m.) the Senate adjourned until tomorrow, Friday, March 13, 1970, at 10 a.m.

NOMINATION

Executive nomination received by the Senate March 12, 1970.

DIRECTOR OF SELECTIVE SERVICE

Curtis W. Tarr, of Virginia, to be Director of Selective Service, vice Gen. Lewis B. Hershey.

HOUSE OF REPRESENTATIVES—*Thursday, March 12, 1970*

The House met at 12 o'clock noon.

Rev. David R. Shaheen, assistant pastor, director of youth ministry, St. Luke Lutheran Church, Silver Spring, Md., offered the following prayer:

O God and Father of all mankind, we bow before You to ask Your blessing on us this day.

We pray especially for all those in positions of authority.

We ask for certain things: We ask that our leaders receive the honor and respect due them; we ask that they be endowed with wisdom and understanding for their duties; we ask that they serve with a spirit of sacrifice for all the people.

Grant that their actions may help bring us together as a people.

Grant that hatreds, suspicions, and distrusts will soon disappear from our hearts.

May we all accept Your commandments, obey Your voice, trust Your love. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On March 4, 1970:

H.R. 12535. An act to authorize the Secretary of the Army to release certain restrictions on a tract of land heretofore conveyed to the State of Texas in order that such land may be used for the city of El Paso North-South Freeway.

On March 5, 1970:

H.R. 14464. An act to amend the act of August 12, 1968, to insure that certain facilities constructed under authority of Federal law are designed and constructed to be accessible to the physically handicapped; and

H.R. 15931. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1970, and for other purposes.

On March 10, 1970:

H.R. 2. An act to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1497. An act to permit the vessel *Marpole* to be documented for use in the coastwise trade.

FLOW AND PRODUCTION OF DANGEROUS EXPLOSIVES MUST BE CONTROLLED

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, today America is confronted with a problem of grave concern which calls for immediate action.

Last month a bomb devastated a courthouse and police station in my district. After that it was a police station bombing in Danbury, Conn. This week a bomb devastated an automobile and its passengers in Bel Air, and a courthouse in Cambridge, Md. Today we learn of skyscraper bombings in New York City.

In the meanwhile, dangerous explosives can be purchased almost anywhere by anyone. No questions are asked.

There is a critical need for action at all levels of government before bomb violence becomes more widespread and uncontrollable.

No place and no citizen is immune or safe from this form of violence.

I urge this Congress to act with dispatch to curb the sale and distribution of dangerous explosives, and close this dangerous loophole in the law.

THE 51ST ANNIVERSARY OF THE FOUNDING OF THE AMERICAN LEGION

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, Sunday, March 15, marks the 51st anniversary of the founding of the American Legion. For more than half a century, the dedicated members of the American Legion have labored "For God and Country." Their motto has stood as a monument to their work, for these patriotic men and women have done their utmost to perpetuate Americanism, to impress a sense of individual obligation upon all our citizens, and to safeguard our freedom and our democracy.

The American Legion is the largest organization of war veterans in our country and was born at a caucus of the first American Expeditionary Force in Paris, France, on March 15, 1919. Theodore Roosevelt, Jr., the son of our 26th President, assisted in planning the Paris caucus, and there were many other dedicated men like Teddy Roosevelt at that first meeting who helped to chart the course of the American Legion. Today, thanks to their initial efforts, the American Legion has more than 3 million members and approximately 16,500 posts across the Nation.

The Legion has helped the returning serviceman to adjust to civilian life, to maintain his dignity and self-respect, and has assured the welfare of the veteran's widow and children. The GI bill for World War II veterans came into being largely as a result of the efforts of the American Legion, and it insures the right of the veteran to many rehabilitation and compensation programs.

The Congress passed this Legion-sponsored program in order that the men and women who served in that terrible conflict would not return to a society as unprepared to receive them as America had been when our victorious doughboys returned home after World War I.

The granting of GI bill benefits to Korean war veterans and now to the veterans of Vietnam have been logical extensions of the Legion's magnificent work in behalf of the original GI bill.

An adequate system of national security has been the watchword of the Legion. The Legion has encouraged an understanding of communism by our people. It has helped to foster an enlightened public opinion, the true enemy of communism, and the best defense against it.

While it has always been deeply involved in matters affecting the defense and security of our country, the Legion has never forgotten that the future of this country it loves so well depends upon its younger citizens. The Legion's child welfare program has demonstrated its intense concern for America's children. Almost $200 million has been spent since 1925 to protect the welfare of our veterans' children, and, in fact, the American Legion is recognized as having one of the leading nonprofessional, private child care programs in the country. Additionally, the Legion has helped to obtain the passage of enlightened child welfare legislation by the States and the Federal Government.

The Legion sponsors over 4,000 Boy Scout units. It also sponsors various sports events in order to help our youngsters learn the real meaning of good sportsmanship and team play.

Other programs for youth include Boys' State and Nation, Girls' State and Nation, the National High School Oratorical contest, and various scholarship programs.

In its 51st year of existence, the American Legion continues its course as a responsible and vigilant defender of justice, freedom, and democracy—those precious American ideals which have brought greatness to the United States.

I know that under the distinguished leadership of J. Milton Patrick, the newly elected national commander, the American Legion will continue its steadfast and patriotic service to our Nation.

I am happy to congratulate the American Legion on the occasion of its 51st anniversary and to wish the Legionnaires Godspeed in their work in the years ahead.

A BILL TO AMEND THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

(Mr. BROOKS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROOKS. Mr. Speaker, I am today introducing a bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the procurement of architectural and engineering services. The purpose of my bill is to declare it to be the policy of the Federal Government to negotiate contracts for architect-engineer services on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable prices.

In the years to come, billions of dollars in construction will be undertaken by the Federal Government. Thousands of architects and engineers will be required to develop the plans and specifications to bring these structures into reality. We must do whatever we can to obtain the highest quality, the most efficient and effective services at the lowest reasonable cost.

Design costs are only a minor percentage of the overall cost of construction—not more than 6 percent of estimated construction costs under present statutory limitations. Yet, if design is poor, construction and maintenance costs can be unnecessarily high and the structure may be inefficient to use over a period of many decades.

The commitment to design a complex building is different from purchasing pencils and paper clips. Architects and engineers design buildings and structures after they get a contract for the work, and not before. This means that getting the best possible design and specifications depends upon the selection of the architects and engineers of proven capability with the highest qualifications, who are also willing to undertake contracts at fair, reasonable, and justifiable prices to the Government.

Under my bill, the Government agencies requiring architect or engineering services would invite all interested parties to submit data as to their qualifications and performance. The agency head would then rank those submitting this data according to their qualifications to undertake the particular design contract then under consideration.

The agency head would then negotiate with the highest qualified individual or firm and, assuming a fair and reasonable price can be agreed upon, award a contract to him. If such an agreement on price cannot be negotiated, the next most qualified architect or engineer would then be afforded the opportunity to negotiate a contract, and so on until a contract was let.

This approach, which many Federal agencies have used effectively for many years, discourages the award of design contracts to lesser qualified individuals simply because they might quote a slightly lower fee, as well as those who might quote a lower fee to obtain the contract, then cut corners in their design work to make up the loss.

The proposal that I introduce today will provide the Government with the highest quality architectural and engineering service, and also assure the broadest possible competition among architects and engineers for Government contracts. Members of these professions would compete on the basis that reflects the best interests of the Government—their qualifications.

Federal laws limiting the contract price to be paid architects and engineers to 6 percent of the estimated cost of the construction would remain in force as an additional protection to the public.

I urge all Members of Congress to give this bill the greatest possible degree of consideration. The quality of future Federal projects requires the most creative and capable architectural and engineering services.

The text of my proposal is as follows:

H.R. 16443

A bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

"DEFINITIONS

"SEC. 901. As used in this title—

"(1) The term 'firm' means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

"(2) The term 'agency head' means the Secretary, Administrator, or head of a department, agency, or bureau of the Federal Government.

"(3) The term 'professional services' includes those of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

"POLICY

"SEC. 902. The Congress hereby declares it to be the policy of the Federal Government to negotiate contracts for professional services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

"REQUEST FOR DATA ON PROFESSIONAL SERVICES

"SEC. 903. In the procurement of professional services the agency head shall invite firms engaged in the lawful practice of their profession to submit, in accordance with the terms of the invitation, a statement of qualifications and performance data. The agency head inviting such proposals shall evaluate the submissions received and shall select therefrom, in order of preference, no less than three of the firms deemed to be most highly qualified to provide the services required.

"NEGOTIATION OF CONTRACTS FOR SERVICES

"SEC. 904. (a) The agency head shall negotiate with the highest qualified firm for a contract for such professional services at a fee which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof.

"(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm.

"(c) Should the agency head be unable to negotiate a satisfactory contract with any of the qualified firms, he shall, in his discretion, either select additional firms in order of their competence and qualification, or reissue a new request for proposals."

CLOSING OF U.S. CONSULATE IN RHODESIA

(Mr. ANDREWS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Alabama. Mr. Speaker, the decision to close the U.S. Consulate in Rhodesia is most unfortunate. However, Secretary of State William Rogers' announcement of the closing did not surprise me. A State Department that is so inept at advising the President on Vietnam could hardly be expected to do much better on Rhodesia.

The decision is sheer idiocy. It cannot be justified on political or economic grounds. The loser in such a move is not Rhodesia; it is the United States. Once again we cut our own throat to win an international popularity contest, and, of course, we lose on both counts.

The official reason for removing the consulate is that the United States continues to refuse recognition of Rhodesian independence from Great Britain. How sanctimonious we have become that we can denounce little Rhodesia for doing the same thing to Mother England that we did in 1776.

Since Britain pulled us into this purely domestic squabble in the first place and since "officially" it is for Britain that we are harpooning Rhodesia, it might be appropriate to wonder, at least, just what Britain has done to merit such a fanatical spirit of cooperation.

She continues to operate a consulate in Hanoi, and ships under her flag sail in and out of Haiphong regularly. She

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has made no reciprocal gesture to stop trading with a nation which daily kills American soldiers.

No British casualties are reported, because our great friend and ally is not helping in our effort against the Communists in Vietnam, or anywhere else, for that matter. She finds her friendship with the United States highly profitable and not the least bit dangerous.

Our battles are not Britain's battles, but her battles seem to have become ours. The logic of such an arrangement escapes me. It probably escapes most Americans, outside of the mischief-minded State Department.

Now, one must take State Department "official" lines with a grain of salt. The real reason for our stupid Rhodesian policy, which can be heard in and out of Congress on almost any day of the week from the radical left, rests on this Nation's strong disapproval of a white Rhodesian minority ruling a black Rhodesian majority.

By the standards set by many European and Asian nations, and even other African nations, Rhodesia's so-called crime is hardly as bad as many of her detractors would have us believe. Rhodesia's sins are literally dwarfed by those of a dozen Communist nations, whom we treat with utmost civility.

It is true that property and earnings qualifications for voting do exist in Rhodesia. Yet, in a land inhabited by a black majority, most of whom still live the tribal life, with their own chieftains, one might expect a voting system slightly different than our own.

Nevertheless, the merits or demerits of the Rhodesian system of voting seem hardly relevant in terms of our total foreign policy. We maintain an embassy in the Soviet Union, an enemy with unquestioned credentials.

We also have full embassies in Rumania, Hungary, Bulgaria, Czechoslovakia, and Poland, to name a few Communist nations. With these totalitarians we welcome relations and hope for communication with Red China. Yet, we refuse to welcome Rhodesia to the family of nations.

Will anyone say that the Soviet Union, under brutal and homicidal Communist Party control, upholds the principle of majority rule? And what of Russia's role in supplying weapons to the North Vietnamese to kill American fighting men? Do we really prefer China's Mao and his fellow butchers to Ian Smith?

Naturally, the Soviet Union is delighted with our actions against Rhodesia. She already charges us 50 percent more for strategic chromite than did Rhodesia when she kept us supplied. Again, we are the losers.

Our national defense is dependent on chromite, as a vital ingredient in the manufacture of armament, aircraft, missiles, and other equipment, and we are becoming dependent on Russia for our supply, since we cut off our Rhodesian market, largest in the world.

If the Rhodesian decision is a sample of President Nixon's recently announced "new approach" to foreign policy, we can only expect more of the same foolishness that we have had for years.

I urge the President to prove that this will not be the case, by retaining our consulate in Rhodesia, one of our few real friends.

DR. BURNEY TOLER HEART FUND ESTABLISHED

(Mr. EDMONDSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDMONDSON. Mr. Speaker, a great Oklahoman is being memorialized through a heart fund established by friends and neighbors, to be known as the Burney Toler Memorial Heart Fund.

Dr. Burney Toler, Muskogee civic leader and a warm personal friend, died of a heart attack on February 7, 1970. He was 48 years old and in the prime of his active and productive life at the time of his death.

Dr. Joe A. Teaff, a long-time friend and colleague in the dental profession, is a leader in the move to establish a heart fund honoring Dr. Toler.

Born November 15, 1921, Dr. Toler was a graduate of the University of Missouri at Kansas City and served as a combat soldier in the European theater during World War II.

A trustee of the East Point Christian Church, Dr. Toler was an active member of the YMCA and the Chamber of Commerce of Muskogee, Okla.

A long-time booster for navigation on the Arkansas River, Dr. Toler was a member of the board of directors of the Muskogee City-County Port Authority, and was closely following the progress of construction of the new port at the time of his death.

A past president of the Muskogee County Dental Society and the Eastern Oklahoma Dental Society, he was secretary-treasurer of the State dental association and a member of the house of delegates and board of trustees of that association. He had served both as chairman and member of the State dental association legislative committee.

For many years, he had been a leader in my own campaigns for Congress in Oklahoma, and he was district chairman of the Edmondson for Congress Club at the time of his passing.

He was a great friend, a great civic leader, and one of the finest men I have ever known.

Dr. Toler is survived by his beloved wife, Katie Sue; a lovely daughter, Mrs. Mike Transue of Long Beach, Calif.; and a wonderful mother, Mrs. Grace Pitts of Muskogee. Also surviving are a sister, Mrs. Harvey McArthur of London, England; and four brothers, Jack Toler of Westport, Conn.; Lt. Col. Harold Toler of Bangkok, Thailand; Robert Toler of Ragland, Ala.; and Richard G. Toler of San Antonio, Tex.

LEGISLATION TO AMEND THE WHOLESOME MEAT ACT

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, I am joining today with a number of colleagues in introducing legislation to amend the Wholesome Meat Act so as to clarify the provisions relating to custom slaughtering operations at "locker" plants.

This bill is simply a clarifying amendment to the 1967 law. It would not change the intent of that law. It would not cost any additional money. It would, in fact, do what the U.S. Department of Agriculture originally stated it could do by regulation.

After the Wholesome Meat Act became law, a number of operators of plants which butcher, process and store meat for customers which at all times is owned by the customer raised the question as to how it would apply to custom slaughtering operations—that is, the slaughtering of livestock for the owner of the livestock who plans to consume the meat on his family table.

The Department's original position was that custom slaughtering would be permitted, by regulation, under the authority of section 5 of the act. That section provides that—

> The Secretary of Agriculture may limit the entry of carcasses, parts of carcasses, meat and food products, and other materials into any establishment at which inspection . . . is maintained, under such conditions as he may prescribe to assure that allowing the entry of such articles into such inspected establishments will be consistent with the purposes of this Act.

Under the authority of this provision, the Department included in its proposed regulations for the Wholesome Meat Act a section which would allow plants to process meat from livestock or game animals on a custom basis without requiring inspection at the time of slaughter provided the custom processed meat is kept separate from meat sold to the general public and that other safeguards are taken to assure that the custom processed meat is prepared only for the owner.

However, many of these plants also sell meat which is purchased from an inspected plant and the Department's proposed regulations do not permit the custom slaughtering of livestock at plants under the same inspection provisions where that plant also prepares inspected meat for sale and sells to the general public.

The Department's present position is that the term "carcasses" in section 5 applies only to livestock slaughtered prior to entry into the plant and that, for this reason, a live animal cannot be permitted entry under the same exemption into an inspected plant to be slaughtered.

In reaching its present position, the Department also has given a strict interpretation to section 11 of the Wholesome Meat Act. That section adds a new section 23(a) to the 1907 Federal Meat Inspection Act which provides, in part, that custom slaughtering operations shall be exempt from inspection. It says:

> *Provided*, That such custom slaughterer does not engage in the business of buying or selling any carcasses, parts of carcasses, meat

or meat food products of any cattle, sheep, swine, goats, or equines, capable of use as human food.

Many locker plants are engaged in both custom slaughtering and in preparing and selling meat to the general public and, because of the Department's present interpretation of the act, it is now necessary to revise this provision so that the custom slaughtering exemption can apply to plants selling meat to the public whether it is slaughtered in or outside the plant. Otherwise, the exemption would apply to animals slaughtered outside the plant where no sanitation requirements exist but would not exempt meat slaughtering in a plant where sanitation requirements do exist.

The bill being introduced today specifically provides that all meat slaughtered or processed on a custom basis shall be kept separate at all times from meat prepared for sale to the general public and that the custom prepared meat be marked "not for sale" until it has been delivered to its owner.

These provisions are not in the 1967 law and so the bill does provide an added measure of consumer protection. It also assures that locker plant operators are not placed under any hardships which are not needed to protect consumers.

Representatives of the National Institute of Locker and Freezer Provisioners, an association representing locker plants, have advised me that they fully support the bill being introduced today. They have also stated that their association merely wants to resolve the custom slaughtering problem and is not seeking any legislation that would weaken the 1967 law or delay the protection afforded by the law.

This bill also has the support of the U.S. Department of Agriculture as well as bipartisan support on the House Agriculture Committee, to which it has been referred, and I am hopeful that favorable consideration will be given to it in both the House and Senate in the near future.

HEADSTART TEACHERS OUGHT TO RECEIVE NDEA LOAN CANCELLATION BENEFITS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, it was recently brought to my attention that teachers in Headstart and other prekindergarten programs are being denied the national defense student loans cancellation benefits.

When Congress passed the National Defense Education Act in 1958, it provided students in the NDEA loan program an opportunity to cancel up to 50 percent of their loans upon subsequent teaching in an elementary or secondary school. To date the Office of Education has refused to recognize the inclusion of prekindergarten education in the definition of "elementary" for purposes of partial loan cancellation under the NDEA program.

In New York such prekindergarten classes are conducted under the auspices of the Board of Education and their teachers are regularly appointed and carry the same certificate as their colleagues teaching in the first three elementary grades. Furthermore, administratively, the State's prekindergarten classes are treated as elementary education classes and counsel for the State Education Department has ruled that "prekindergarten education constitutes 'elementary' education within the context of section 103(g) of the National Defense Education Act of 1958, as amended."

I brought this to the attention of James W. Moore, Director, Division of Student Financial Aid in the Office of Education, on February 18. On March 3, he responded and I am placing this letter in the RECORD. In short, Mr. Moore says that the Department has yet to decide whether teachers in prekindergarten programs are in fact bona fide members of the "elementary school" system even though the act defines an "elementary school" as one which "provides elementary education, as determined under State law." It is important to note that the Congress gave the States, and not the Office of Education, the responsibility for defining "elementary education"—and in New York, prekindergarten programs are included under the "elementary" umbrella.

I hope, Mr. Speaker, that the Office of Education will move rapidly in updating its administration of this program so as to extend the NDEA cancellation benefits to Headstart and other prekindergarten teachers. When the Congress originally enacted the program in 1958, we did not have Headstart programs. Since 1958 the frontier of early childhood education has opened up, and prekindergarten schooling has taken a very essential position in elementary education. Quality teachers are needed to instruct children during this most receptive stage of their lives. We should be encouraging teachers to enter this level of teaching instead of turning them away by anachronistic regulations that the wheels of bureaucracy are slow to change.

Mr. Moore's letter follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION,
Washington, D.C., March 3, 1970.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: Thank you for your letter of February 18, concerning the question of eligibility of Head Start and other prekindergarten teachers for partial cancellation of National Defense Student Loans.

In examining the issue of partial cancellation for Head Start teachers, I should like to begin by citing a clause from the National Defense Education Act. The relevant section of the law stipulates that partial cancellation shall be provided ". . . for service as a full-time teacher in a public or other nonprofit elementary or secondary school in a State. . . ." Also, the Act defines an "elementary school" as one which "provides elementary education, as determined under State law or if such school is not in any State, as determined by the Commissioner."

In the case of Head Start and other prekindergarten programs, there is a question of determining whether the teachers in these pre-primary classrooms are in fact *bona fide* members of the "elementary school" system.

Because of the diversity in scope and quality of various pre-kindergarten programs, the Office of Education is studying the problem of cancellation for pre-kindergarten teachers on a national basis. To insure equity for borrowers throughout the country, we want to establish acceptable ground rules which will apply in all states. After consulting with our Office of General Counsel, we plan to issue guidelines to all participating institutions of higher education, in order that cancellation requests for the current year will be judged by similar standards in all states.

The issue of equity for all borrowers in receiving cancellation benefits is of great concern to us. We appreciate your interest in this matter, and we thank you for your thoughtful comments on this subject of our mutual concern.

Sincerely yours,
JAMES W. MOORE,
Director, Division of Student Financial Aid.

EMERGENCY PROGRAM TO COMBAT HEROIN EPIDEMIC IN NEW YORK CITY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the growing use of drugs by teenagers has occupied the front pages of our newspapers and demand the concern of parents across the country. Despite the enormous number of people involved, and the growing magnitude of this problem, little is actually being done by the Federal, State, and local governments to combat it.

The situation is particularly acute in New York City where there are now 25,000 teenager heroin addicts. Last year there were 224 known deaths of child addicts and this year the toll already has passed 40.

What in fact we are faced with in New York City is a heroin epidemic. It is an epidemic likened to that of any of the more orthodox "communicable diseases" demanding immediate action. I believe it is incumbent upon the Federal Government to act now in providing a massive increase in Federal funds for narcotic detection and treatment. The alternative is to allow the continued spread of this social disease dealing irreparable damage to its victims and their families.

Last Saturday, in New York City, I proposed a three-point emergency program for curbing this epidemic. I would like to insert in the RECORD my statement of March 7 and the measures to be undertaken through the coordinated efforts of the city, State, and Federal Governments. My proposals are as follow:

STATEMENT BY CONGRESSMAN EDWARD I. KOCH OUTLINING PROPOSALS TO COMBAT TEENAGE HEROIN ADDICTION IN NEW YORK CITY

Drug addiction is the most troubling problem in our City today. Parents of teenagers are terribly worried about the danger posed to their children by the number of heroin addicts in our schools and on the streets. Even parents of younger children are concerned about the dangers their children will confront in future years by this growing drug culture.

While the City has approximately 4% of the nation's population, we have more than 50% of the nation's heroin addicts. Last year there were 224 known deaths of child addicts, and more deaths are reported daily. It has been estimated that New York City now has 25,000 teenage heroin addicts. The simple fact is that New York City has a heroin epidemic.

Little has been done on any governmental level in trying to halt this frightening and tragic epidemic. I think we must tackle this problem as we would the outbreak of any other epidemic—with immediate action to publicize, detect, quarantine and treat the school-age heroin and hard drug users in our City.

To curb this epidemic, I propose the following three-point emergency program to be undertaken by the co-ordinated efforts of the City, State, and Federal governments.

DETECTION

That unannounced tests be conducted in New York City's junior high and high schools to detect heroin use through urine analysis examinations.

That a voluntary program be conducted at community centers where parents can bring their children for testing if they are worried that their children may be using hard drugs.

That the Secretary of HEW utilize the Communicable Disease Center of the Health Services and Mental Health Administration or a similar emergency force to assist city health personnel with epidemic control measures including any infectious diseases such as hepatitis associated with heroin addiction.

That President Nixon and the Congress provide an emergency appropriation of $15 million for the initial testing in New York City schools, comparable to the $26 million already spent by the federal government to vaccinate 55 million school children against German Measles.

QUARANTINE AND TREATMENT

That teenagers testing positively for heroin use be temporarily quarantined without being separated from their parents and given medical and psychiatric attention.

That existing city health regulations be applied or new emergency health regulations promulgated providing for the temporary quarantine of these heroin users.

That temporary emergency treatment centers in existing facilities, such as hospitals and community centers, be established.

That the level of funding OEO and NIMH community addiction assistance projects by the federal government ($17 million for fiscal year 1971) be increased ten-fold to $170 million so as to provide NYC with additional funds for the emergency treatment centers including renewal of the existing OEO grant to the City.

PUBLICITY

That local radio and tv stations devote a portion of their prime advertising time to spot announcements about teenage addiction so that parents may be alerted to the availability of voluntary testing and treatment and young people warned of the dangers of drug use and addiction.

That the existing public information program on drug abuse conducted by the Federal Bureau of Narcotics and Dangerous Drugs and the National Institute of Mental Health be greatly expanded by increasing Federal expenditures from $4 million per year to $40 million.

* * * * *

I have written to President Nixon, HEW Secretary Finch, and Mayor Lindsay, setting forth these proposals.

This year the Nixon Administration is spending $50 million nationwide on narcotics addiction. It proposes to spend $60 million next year. The fight must be pressed for a massive increase in federal funds if New York City is to bring its drug epidemic under control. It is an outrage that the federal government is currently spending only one four-thousandth of its total budget on narcotics addiction treatment.

We must recognize that the problem before us is acute. Were it an epidemic of a communicable disease in the traditional sense, we would not just sit by and let the number of victims continue to grow.

We should not undertake such an emergency program if medical and psychiatric treatment cannot be made available for each school child discovered to be a heroin user. They cannot be treated like juvenile delinquents. These children are ill and must be restored to health.

I urge those persons who share my concern to write Mayor Lindsay, Governor Rockefeller, and President Nixon, asking that this emergency program be immediately undertaken.

JUSTICE DOUGLAS' BOOK "POINTS OF REBELLION"

(Mr. SCOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT. Mr. Speaker, the second section of "Points of Rebellion" by Mr. Justice Douglas is not long. It commences with various criticisms of our conduct of foreign affairs and concludes with the statement the author credits to Adolf Hitler: "We need law and order." Sandwiched between are these "patriotic" observations:

> Our youth rebelled violently when Mr. Johnson used his long arm to try to get colleges to discipline the dissenters and when he turned the Selective Service System into a vindictive weapon for use against the protestors. . . .
>
> But we know that preparedness and the armament race inevitably lead to war. Thus it ever has been and ever will be. Armaments are no more of a deterrent to war than the death sentence is to murder. . . .
>
> The Pentagon has a fantastic budget that enables it to dream of putting down the much-needed revolutions which will arise in Peru, in the Philippines, and in other benighted countries. . . .
>
> The mass media—essentially the voice of the Establishment—much of the time reflects the mood of the Pentagon and the causes which the military-industrial complex espouses. So, we the people are relentlessly pushed in the direction that the Pentagon desires. . . .
>
> Police practices are anti-Negro.
> Employment practices are anti-Negro.
> Housing allocation is anti-Negro.
> Education is anti-Negro. . . .
>
> For the poor, the interest rates have been known to rise to 1000 per cent a year. . . .
>
> Yet another major source of disaffection among our youth stems from the reckless way in which the Establishment has despoiled the earth. The matter was put by a 16-year-old boy who asked his father, "Why did you let me be born?"
>
> Youthful dissenters are not experts in these matters. But when they see all the wonders of nature being ruined, they ask, "What natural law gives the Establishment the right to ruin the rivers, the lakes, the ocean, the beaches, and even the air". . .
>
> There are "colonies" within the United States. West Virginia is in a sense a microcosm of such a colony. It is partially owned and effectively controlled by coal, power, and railroad companies, which in turn are controlled by vast financial interests of the East and Middle West. The state legislature answers to the beck and call of those interests. . . .
>
> Political action that will recast the balance will take years. . . .
>
> The truth is that a vast bureaucracy now runs the country, irrespective of what party is in power. The decision to spray sagebrush or mesquite trees in order to increase the production of grass and make a cattle baron richer is that of a faceless person in some federal agency. Those who prefer horned owls or coyotes do not even have a chance to be heard. . . .
>
> The truth is that a vast restructuring of our society is needed if remedies are to become available to the average person. Without that restructuring the good will that holds society together will be slowly dissipated.
>
> It is that sense of futility which permeates the present series of protests and dissents. Where there is a persistent sense of fertility, there is violence; and that is where we are today.
>
> The use of violence is deep in our history. . . .
>
> We are witnessing, I think, a new American phenomenon. The two parties have become almost indistinguishable; and each is controlled by the Establishment. The modern day dissenters and protesters are functioning as the loyal opposition functions in England. . . .

These statements made by a private citizen would not attract a great deal of attention but, when made by a sitting Justice of our Supreme Court, one wonders whether the author, because of age or other infirmity, has become so hostile to existing American institutions as to prevent him from impartially deciding issues coming before our Highest Court.

Monday, the remaining section of the book will be reviewed. It is entitled "A Start Toward Reconstructing Our Society." However, this is more than a book review. The book contains the thoughts of a man sworn to uphold our laws, paid by our Government at the highest executive level, and a member of the Highest Tribunal that interprets the law of the land. Can he perform the functions of his office? His voluntary retirement would resolve the issue.

LABOR DISPUTES RESULTING IN WORK STOPPAGES

(Mr. BROCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROCK. Mr. Speaker, labor disputes resulting in work stoppages, with all of their unfortunate effects, including personal hardships and economic dislocation, will always be with us. It is one of the inevitable facts in a democratic system of free enterprise. The struggle of labor and the painful maturing of management have been a long and difficult process—benchmarked by a few major laws passed to insure equity for all.

Because of the immense changes over the past two decades, I believe that major economic and social forces now exist which require another significant legislative step. The awesome size of certain industries no longer permits a "public be darned" attitude while labor and management interests grope toward another inflationary settlement.

Yet here we go again. The financial loss which will occur if the nation's railroads strike, will run into the hundreds of millions of dollars. No one can gain from

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this tremendous waste and millions could suffer because of it. The scars and economic dislocation of many individuals and industries will be permanent.

New legislation is necessary to expand the Taft-Hartley Act to cope with those few management-labor problems involving the national interest where settlements under existing collective-bargaining practices, Federal facilities and statutes are not possible without extraordinary costs and inconveniences to the American people. In the first session of this Congress, I introduced legislation to establish a tribunal for the settlement of those disputse that meet the Taft-Hartley criteria for jurisdiction; that is, disputes that are interstate and affect the national health and safety. Unique to this approach will be the very strong influence of the public on the terms of settlement.

Modeled after the Australian system, the bill will establish a commission and a court.

The seven-member Commission and the five-member court will have limited term appointments made under the "Missouri plan." Under this plan the President will appoint a panel of distinguished citizens who will recommend three candidates for each vacancy. In selecting members from these nominees, the President will insure that the general public—its interest and welfare—is represented along with the interests of labor and management. This bill will avoid the major shortcoming of the present system of appointing different boards for each dispute. In addition, the bill will dissolve the intolerable present pattern of compulsory arbitration evidenced in railway disputes.

Another feature of this legislation is its use for accommodating the unpleasant and often emotionally charged disputes in the public service area. Under this bill the Commission and the court can accommodate disputes not meeting the specified national emergeny criteria if the parties to the disputes have previously and voluntarily, through collective bargaining, indicated their willingness to submit their differences to Commission jurisdiction. I believe that many areas of employment not involving interstate commerce or products affecting the national health and safety will voluntarily partake of the services offered by this legislation. In addition to manufacturing and other businesses, this aspect of the legislation looks toward the public service oriented professions of education, health services, local transportation, trash removal, police, and fire protection.

Congress has once again stepped into a labor-management dispute, and by its actions has only temporarily averted a national crisis. If we legislate a settlement in the current railroad dispute, it will be the third time in the past 7 years that it has ordered a compulsory settlement in a private labor-management crisis. Both of the previous instances involved railroads and one the same shopcraft unions. These disputes should not reach Congress. My bill will take the settlement responsibilities out of the hands of the Congress and put it where it belongs—with a nonpartisan commission to conciliate, arbitrate, and adjudicate disputes, and, court to enforce the terms of settlement as well as to consider disputes arising under the settlement.

It should not take more strikes, more inflation, and more inconvenience to arouse public opinion to the point where the Congress will be forced to take positive action. That time is here. The flood of correspondence from constituents, and the growing demand for solutions from both management and labor all testify to this. We have the motivation, and the capability in this congressional session to do something. If we do not, we can be sure that a reasoned, balanced solution will be much harder to achieve the next time; and the next time is not as far in the future as some of us might hope.

Mr. Speaker, the text of the bill follows:

H.R. 9245

A bill to expand upon the economic freedom and public responsibility of American industry, to encourage the opportunity for the American worker to bargain collectively in his own best interests without economic deprivation, and to guarantee the American consumer and taxpayer protection from the abuse of excessive concentration of power

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Management-Labor Commission and Court Act".

STATEMENT OF POLICY

SEC. 2. (a) Continuing industrial peace is paramount to the interests of the Nation and is necessary to employers and employees alike. This peace can best be achieved through established laws and procedures for collective bargaining between the representatives of management and labor. Settlements of issues and disputes should be continued through active and sincere voluntary negotiations by the parties concerned to agree on rates of pay, laws and conditions of work, length of contract, and any other issues of employment.

(b) This Act is addressed to only that limited segment of our management-labor forum wherein the Nation's health and safety would be impaired through a secession of interstate commerce. It is presumed that the great majority of our labor disputes do not involve the above criteria and will continue to be negotiated and settled under existing collective-bargaining practices, laws, and Federal facilities. When the criteria for judicial action are met, this Act will provide for appropriate representation of the public interest and the consumer during the bargaining, arbitration, and adjudicated process. Disputes not meeting the criteria for jurisdiction can be handled by the expertise of this jurisdiction if the parties of the dispute have previously and voluntarily indicated this interest. It is anticipated that many intrastate activities which affect the public interest to a substantial degree will voluntarily partake of this facility. In addition to manufacturing and other businesses, such activities include the public service oriented professions of education, transportation, trash removal, and police and fire protection.

ESTABLISHMENT OF MANAGEMENT-LABOR COMMISSION

SEC. 3. There is hereby established a Management-Labor Commission (hereinafter referred to as the "Commission") to be composed of seven Management-Labor Commissioners (hereinafter referred to as the "Commissioners").

NATIONAL EMERGENCY STRIKES AND LOCKOUTS

SEC. 4. For purposes of this Act, a strike or lockout shall be deemed to be a national emergency strike or lockout, and therefore within the purview of this Act, if it affects an entire industry, or a substantial part thereof, engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, and will, if permitted to continue, imperil the national health or safety.

APPOINTMENT OF COMMISSIONERS

SEC. 5. (a) The President shall appoint a panel of distinguished citizens who shall be assigned the functions of selecting three candidates for each vacancy on the Commission. The President shall, by and with the advice and consent of the Senate, appoint to fill each vacancy on the Commission one of the candidates selected by the panel to fill the vacancy.

(b) The terms of office of Commissioners shall be fourteen years, except that (1) the terms of office of the Commissioners first appointed shall commence on the date of enactment of this Act and shall expire one at the end of the second year, one at the end of the fourth year, one at the end of the sixth year, one at the end of the eighth year, one at the end of the tenth year, one at the end of the twelfth year, and one at the end of the fourteenth year, after such date, as determined by the President at the time of appointment, (2) any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term of office for which his predecessor was appointed shall be appointed only for the remainder of such term, and (3) upon the expiration of the term of office of a Commissioner he shall continue to serve until his successor is appointed and has qualified.

(c) The panel of citizens referred to in subsection (a), and the President, shall both take action necessary to insure that the interests of consumers are adequately represented on the membership of the Commission, as well as the interests of management and labor.

ORGANIZATION OF THE COMMISSION

SEC. 6. (a) The President shall designate one of the Commissioners to act as Chairman of the Commission, and one Commissioner to act as Vice Chairman of the Commission.

(b) (1) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

"(19) Chairman, Management-Labor Commission."

(2) Section 5314 of such title is amended by adding at the end thereof the following:

"(46) Commissioners, Management-Labor Commission."

(c) Subject to the civil service and classification laws, the Commission is authorized to select, appoint, employ, and fix the compensation of such officers and employees, as shall be necessary to enable it to carry out its powers and duties under this Act.

(d) The Chairman of the Commission shall be its chief executive and administrative officer and shall exercise the responsibility of the Commission with respect to (1) the appointment and supervision of personnel employed by the Commission, (2) the distribution of business among the Commission's personnel, and (3) the use and expenditure of funds. For executing and administering the functions of the Commission on its behalf, the Chairman shall be governed by the general policies of the Commission and by its decisions, findings, and determinations. The Vice Chairman shall perform the duties of the Chairman during his absence or disability. Four Commissioners shall constitute a quorum of the Commission.

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(e) The provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Commission.

JURISDICTION AND DUTIES OF THE COMMISSION

SEC. 7. (a) If the Commission believes there is a likelihood that a national emergency strike or lockout will occur, it shall forthwith make conciliation, mediation, and arbitration services available to the parties to the dispute, but only if all parties to the dispute agree.

(b) Whenever, in the opinion of the President, a national emergency strike or lockout is threatened or in effect, he shall direct the Attorney General to petition the Commission to assume jurisdiction of the dispute. If the Commission then determines that a national emergency strike or lockout is threatened or in effect, the Commission shall assume jurisdiction of the dispute. The Commission shall also assume jurisdiction of any dispute which threatens or has led to a strike or walkout in an industry if, but only if, all parties to the dispute have petitioned the Commission to assume such jurisdiction.

(c) When the Commission assumes jurisdiction of a dispute under subsection (b), it shall issue an order prohibiting the continuation of the strike or lockout for a period of one hundred and ten days, or until an agreement resolving all issues in the dispute has been reached. Such an order may include requirements affecting rates of pay and working conditions to be applicable during the period the order is in effect.

(d) When the Commission takes jurisdiction of a strike or lockout, the Chairman of the Commission shall designate two or more members of the Commission as a board of inquiry. It shall be the duty of the board of inquiry to conduct an inquiry into the dispute. Within eighty days after the Commission has assumed jurisdiction of a dispute the board shall make a full report on the results of its inquiry to the full Commission. Such a report shall contain the recommendations of the board with respect to the resolution of all issues in the dispute. The Commission may require the parties to a dispute to attend hearings before the board of inquiry and produce testimony and documentary evidence with respect to the causes and circumstances of the dispute, and to attend conferences or sessions of the board of inquiry in order to consider and discuss the positions of the parties and possibilities or proposals for settlement; and the Commission may make such orders as are necessary or appropriate to require the parties, or any of them, to make every effort in good faith voluntarily to adjust and settle their differences.

(e) If, at the end of eighty days after it has assumed jurisdiction of a national emergency strike or walkout, the parties have not reached an agreement, within thirty days from the end of such period, the Commission shall issue an order to the parties, shall prescribe the terms and conditions of employment to be in effect, and the period during which they shall be in effect. Such an order may incorporate by reference the provisions of collective bargaining agreements which are not in dispute.

ESTABLISHMENT OF MANAGEMENT-LABOR COURT

SEC. 8. There is hereby established a Management-Labor Court (hereinafter referred to as the "court") to be composed of a chief judge and four assistant judges.

APPOINTMENT OF JUDGES

SEC. 9. (a) The President shall appoint a panel of distinguished citizens who shall be assigned the function of selecting three candidates for each vacancy on the court. The President shall, by and with the advice and consent of the Senate, fill each vacancy on the court by appointing one of the candidates selected by the panel to fill the vacancy.

(b) The terms of office of the judges on the court shall be ten years, except that (1) the terms of office of the judges first appointed shall commence on the date of enactment of this Act and shall expire one at the end of the second year, one at the end of the fourth year, one at the end of the sixth year, one at the end of the eighth year, and one at the end of the tenth year after such date, as determined by the President at the time of appointment, (2) any judge appointed to fill a vacancy occurring prior to the expiration of the term of office for which his predecessor was appointed shall be appointed for the remainder of such term, and (3) upon the expiration of the term of office of a judge he shall continue to serve until his successor is appointed and has qualified.

ORGANIZATION OF THE COURT

SEC. 10. (a) The President shall designate one of the judges to act as chief judge, and the remainder as assistant judges.

(b) The chief judge of the court shall receive the same compensation as is received by the chief judge of a United States district court and each of the assistant judges of the court shall receive the same compensation as is received by judges of a United States district court.

(3) The court shall sit in the District of Columbia.

(d) The court may appoint and fix the compensation of such officers and employees, and may incur such other expenses, as may be necessary to enable it to carry out its functions.

(e) The court and each judge thereof shall possess all the powers of a district court of the United States for preserving order, compelling the attendance of witnesses and the production of evidence, and the provisions of section 401 of title 18, United States Code (relating to authority to punish for contempt) and section 1651 of title 28 of such Code (relating to the issuance of writs) shall be applicable to the court. Process of the court may be served within the territorial jurisdiction of any court of the United States.

(f) The proceedings of the court shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the court may prescribe and in accordance with the rules of evidence applicable in trials without a jury in the United States District Court for the District of Columbia.

JURISDICTION OF THE COURT

SEC. 11. (a) When the Commission has issued an order under section 4 resolving a dispute it shall thereby be divested of its jurisdiction over the matter, and thereafter the court shall be vested with jurisdiction to hear, determine, and render judgment with respect to all questions of law or fact arising under the order.

(b) Decisions of the court shall be final unless they are arbitrary or capricious or are violative of a right conferred by the Constitution of the United States, in which case the Supreme Court shall have exclusive appellate jurisdiction.

SUSPENSION OF NATIONAL LABOR RELATIONS BOARD PROCEEDINGS

SEC. 12. Section 10 of the National Labor Relations Act is amended by adding at the end thereof the following new subsection:

"(n) Whenever a matter before the Board is included in a labor dispute over which the Management-Labor Commission is vested with jurisdiction, the Board shall discontinue all proceedings in such matter."

DEFINITIONS

SEC. 13. For purposes of this Act, the terms "commerce", "affecting commerce", and "labor dispute" have the same meaning such terms have when used in the National Labor Relations Act.

REPEALS

SEC. 14. (a) Sections 206, 207, 208, 209, and 210 of the Labor-Management Relations Act, 1947, are repealed.

(b) Section 10 of the Railway Labor Act is repealed.

EFFECTIVE DATE

SEC. 15. This Act shall become effective on the date of its enactment, except that proceedings already commenced on such date shall be carried through to completion without regard to the provisions of section 14.

DEMOCRAT "HANGER-ON-ERS"

(Mr. SCHERLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. SCHERLE. Mr. Speaker, HEW continues to confirm the adage, "the more things change, the more they remain the same"—at least in the Federal Government.

Willard Edwards, Chicago Tribune columnist, has documented another case of Democrat "hanger-on-ers" being rewarded by appointments to top Government jobs. Considering the recent warning by Robert J. Myers, a career civil servant, that Democratic holdovers are sabotaging the Nixon program at HEW, it would be well to use a little discretion in appointing such dedicated Democrats as Robert R. Aptekar as Director of the Division of Child and Family Service.

If the so-called talent bank whiz-kids are unable to find highly qualified Republicans to fill these positions, then President Nixon's programs will never be fully implemented.

I include at this point two pertinent news articles:

[From the Chicago (Ill.) Tribune, Mar. 10, 1970]

DEMOCRAT RISES IN HEW

(By Willard Edwards)

WASHINGTON, March 9.—Another remarkable success story—a heartwarming tale of how to rise in government—is circulating in administration circles.

The hero of this account is Robert R. Aptekar, 28, who has been appointed director of the division of child and family services, Community Services administration, social and rehabilitation service, department of health, education, and welfare.

The position carries a grade 14 rating, commensurate with its impressive title, and a salary of approximately $17,500.

The appointment startled a number of officials acquainted with Aptekar's earlier record and activities as a grade 13 specialist [$14,000] with the title of assistant to the director, program development division office of program policy, community action program, office of economic opportunity [OEO].

These officials thought Aptekar was on his way out of the OEO as the result of his "disruptive" operations. They found that he had, indeed, left the OEO, only to emerge with a sizable increase in authority and salary in HEW.

Government files give this chronological account of Aptekar's rapid advance in government service:

Born in Detroit, educated at Wayne State university where he was vice president of Young Democrats in 1961, he became a government employe in 1966 under the Johnson administration.

He never concealed his partisan fervor and his antagonism to the Nixon administration when it took over in January, 1969.

He took a leading role in support of the Oct. 15 and Nov. 15 moratorium activities last year. He passed out literature within and outside the OEO headquarters and set up microphones and platforms outside the building for speeches against the President and his Vietnam war policies.

Even for OEO, which is extremely broadminded about the activities of its employes, Aptekar's operations were considered beyond the rules. He was dubbed "a leader in disruptive actions of OEO summer employes in 1969."

The chief and assistant chief, career development branch, OEO personnel office, said that they would not recommend him "for a position of trust" in government.

Despite these obstacles, on Dec. 8, 1969, Steven Simonds, commissioner, Community Services administration, HEW, a Democrat, announced Aptekar's choice as his new director, child and family services.

Subsequent inquiry revealed that no other candidates had been considered altho the post was supposed to be advertised for a period as open to all interested applicants.

On Jan. 26, 1970, Patrick Gray, executive assistant to HEW Secretary Robert Finch, announced his disapproval of Aptekar's appointment. It was withdrawn.

On Feb. 1, Frederick V. Malek, deputy undersecretary of HEW, took over some of Gray's administrative duties, including jurisdiction over the Aptekar matter. He was provided with the adverse information on Aptekar and advised that he had been twice rejected by HEW.

On Feb. 12, Malek approved the appointment.

As Aptekar's supporters hailed this triumph, one high official commented bitterly in a filed protest: "I regard this as among the worst personnel decisions made to date and in the face of adequate warning."

The moral was not lost on government career men. In an administration where Democratic holdovers remain powerful they noted, it certainly does not hurt and indeed, it may be helpful to be known as a foe of the President's policies.

[From the Washington (D.C.) Evening Star]

Social Security Policy Sabotage Is Charged

(By Joseph Young)

The chief actuary of the Social Security Administration charges that Democratic holdovers and career employes are sabotaging the Nixon's administration's "moderate" policies and substituting their own "expansionist" policies.

Robert J. Myers, a GS-18 career employe who entered civil service in 1934 and has been social securities chief actuary since 1947, appears to place the blame for the situation on Health, Education and Welfare Secretary Robert H. Finch who, he implies is trying too hard to please the Democratic Congress. Myers earns $33,000 a year.

"Wilbur Cohen (HEW secretary under former President Lyndon B. Johnson) might just as well still be secretary as far as any change in attitude is concerned," Myers said.

SABOTAGE CHARGED

Myers made his "moderates vs. expanionists" views known in a speech before the American Pension Conference and later expanded on them in an interview.

Myers charged that Social Security career employes twisted policy and sabotaged Social Security programs during the Eisenhower administration.

He said some of the top career people would write the testimony for the various HEW secretaries to present to Congress, then would slip questions to Democratic congressmen on the House Ways and Means Committee designed to "rip holes" in the testimony.

Regarding the present situation under Finch, Myers noted that both the commissioner and deputy commissioner of Social Security are holdovers from the Johnson administration.

DRASTIC EFFECT SEEN

He said the Nixon administration's policy of moderation in Social Security—that the Social Security System be kept up to date with changes in economic conditions and that any weaknesses or deficiencies which show up be remedied—is being shunted aside by careerists and political holdovers who he said embrace the "expansionist" philosophy.

Myers said the "expansionists" want to provide full economic protection when an earning loss occurs. They also advocate that the government should provide a level of income for retirees and disabled persons which is virtually as high as income before retirement, Myers charged.

If the expansionists have their way, Myers asserted, it would have a drastic effect on the nation's economy, greatly reducing private savings and pension plans, reducing investments funds for private industry to expand economic-productivity activities, and would ultimately result in increased government regulation and control "and even ownership of productive activities."

Myers said civil service career employes should be limited to carrying out impartially the policies of the administration in power.

"In the policy-planning field, however, the top policy officials should have staff members working for them who are fully sympathetic to their views nad approaches," Myers said. "Too much civil service and too little flexibility in filling top personnel posts can easily hamstring any administration in a particular area."

"For example, if the high-ranking civil service technical employe is of the same conviction as a public advocate of the 'out' party, how can it be expected that he will produce a vigorous, air-tight rebuttal for his political superior to an attack on administration proposals by such an advocate?" Myers asked.

There have been a lot of rumblings among some top Nixon appointees in recent months that career government employes in their departments and agencies have been thwarting their programs.

But none have been willing to be quoted until now when, ironically, Myers, a career official, made the charge against his colleagues.

LEGISLATION TO ASSIST IN CERTAIN CRIMES AFFECTING FINANCIAL INSTITUTIONS

(Mr. WIDNALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WIDNALL. Mr. Speaker, on December 4, 1969, the Banking and Currency Committee began hearings on a bill which was intended to assist in the investigation and prosecution of crimes in which foreign bank accounts were utilized to thwart our enforcement agencies. Despite the fact that the administration has been wholeheartedly in favor of legislation in this area it has been crucified by the press for withholding support of the initial bill (H.R. 15073) which had been drafted virtually without any consultation with the various kinds of financial institutions which would have to operate under the measure.

I commend the administration for not allowing itself to be stampeded by the press or political pressure into support for bad legislation. I commend it too for the thought and effort which it has put into the development of legislation which is both stronger and more workable. I have introduced this legislation today (H.R. 16444) which is the administration bill. I want to point out that this is the first administration seriously to study this problem and I think the enactment of this bill will prove in time that given proper study, sound legislation can be developed.

H.R. 15073 imposes excessive burdens upon the American public while insufficiently attempting to improve law enforcement effectiveness fostered by the United States and foreign financial transactions. H.R. 15073 is unacceptable principally because—

First. It imposes recordkeeping requirements on financial institutions which I believe are wasteful and counterproductive and which would impose undue costs upon the American public and the American economy. No justification has been made in our hearings for imposing these requirements as set forth in the bill;

Second. H.R. 15073 sets forth purposes totally inconsistent with the stated purpose of H.R. 15073 to curb the illegal use of foreign bank accounts. By comparison, H.R. 16444 provides a relevant standard for the Secretary of the Treasury to apply in establishing recordkeeping requirements; namely, those records which "are likely to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings"; and

Third. H.R. 15073 contains unnecessary recordkeeping and reporting requirements upon all persons engaged in foreign transactions. This provision is especially unrealistic in light of the fact that the Internal Revenue Service will require the disclosure of interests by U.S. taxpayers in foreign bank accounts on the 1970 income tax forms.

In the letter of March 12, 1970, to the chairman from Mr. Rossides it was pointed out that what I can now refer to as this administration bill, H.R. 16444, would maximize assistance to law enforcement and minimize the burdens upon the public and economy. H.R. 15073, by contrast, does the reverse—it maximizes these burdens while minimizing enforcement effectiveness. H.R. 16444 offers the further advantages of brevity, clarity, ease of application and flexibility not shared by H.R. 15073.

Appended herewith is the transmittal letter received this morning from Assistant Secretary of the Treasury Rossides which points out the differences between the two bills. I ask that they be put in the RECORD.

THE DEPARTMENT
OF THE TREASURY,
Washington, D.C., March 12, 1970.

Hon. WRIGHT PATMAN,
Chairman, Banking and Currency Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Transmitted herewith is a draft bill which would carry out the recommendations made in my testimony before this Committee on March 2, 1970. The Treasury Department believes this draft will better achieve the stated objective of H.R. 15073, to curb the use of foreign financial transactions in connection with tax evasion and other crime by U.S. citizens and residents without imposing upon the public and the economy the unwarranted burdens that would result from enactment of the current version of H.R. 15073 (Committee Print dated

March 11, 1970, which is the latest version which has been made available to us).

The Treasury draft would maximize assistance to law enforcement and minimize burdens upon the public and economy. H.R. 15073, by contrast, does the reverse—it maximizes these burdens while minimizing enforcement effectiveness. Our draft bill offers the further advantages of brevity, clarity, ease of application and flexibility not shared by H.R. 15073.

We have undertaken to prepare and submit this alternative draft because of the failure of our representatives to reach any reasonable accord with the Committee and House staff in amending H.R. 15073 to accommodate the points raised in my testimony on March 2, 1970. The failure to reach an accommodation surprised me especially in light of the favorable reaction of yourself and the other Committee members to that testimony.

Because of the tight time schedule set by the Committee, our technical experts have been compelled to work upon this legislation, consult with the Committee staff, and at the same time conduct a full week of day-long discussions with representatives of the Swiss government concerning the possibility of a treaty germane to the subject matter of this legislation. These facts have been made known to the Committee.

At this time, I would like to point out to you and the members of the Committee the principal reasons why H.R. 15073 should be amended by substituting the attached Treasury draft bill.

1. MANDATORY RECORDKEEPING

Section 21(d) of the revised Committee print of H.R. 15073 would require the mandatory photocopying at least one time and perhaps more (due to the lack of clarity of the language) of every check which passes through the American banking system, the overwhelming percentage of which are entirely domestic transactions without any connection to foreign bank accounts and which are of minimal interest in domestic law enforcement. At a minimum, this would require copies be made annually of over 20 billion items. This figure would increase in the future with the rapid expansion of banking facilities in the United States.

As pointed out in my testimony, this kind of record-keeping is wasteful, duplicative and counterproductive.

On the other hand, the Treasury bill would authorize the Secretary to require these records (as well as other records) if, and to the extent, he determines they are likely to have a high degree of usefulness in criminal, tax or regulatory investigations or proceedings. The Treasury approach would give the needed flexibility to require those records be kept which are in fact deemed necessary.

Section 101 of H.R. 15073 contains exactly the opposite stress from that which the Treasury Department has concluded to be correct at this time. Whereas the Treasury Department in its testimony indicated the precise types of records that should be kept with respect to international transactions, we concluded that there was insufficient knowledge at the present time as to which additional records should be required of domestic transactions. By comparison, H.R. 15073 requires the photographing of all checks drawn on domestic banks without regard to any international connections, and as a secondary matter establishes authority for the Secretary of the Treasury to require such other records as he may prescribe. This latter provision is presumably intended to allow requirements for records of international transactions.

2. STATED PURPOSES OF BILL AND STANDARDS FOR ADMINISTRATIVE ACTION

Sections 21(a)(1), 21(f), 411(a)(1), and 411(f) of H.R. 15073 when combined give the Secretary of the Treasury a highly questionable type of authority and one which is clearly not relevant to the ostensible purpose of H.R. 15073 indicated by the Committee to curb the illegal use of foreign bank accounts. These sections would permit the Secretary of the Treasury to require insured banks and savings institutions to maintain any records and evidence which he considered would facilitate the supervision of the businesses of banking and savings institutions.

Similarly, Section 202 of Title II of H.R. 15073 states that two of the purposes of this Title are to facilitate the supervision of financial institutions properly subject to Federal supervision, and to provide for the collection of statistics for the formulation of monetary and economic policy. General Federal supervision of the types of businesses subject to reporting requirements under this Title is unrelated to the need to curb the illegal use of foreign bank accounts or the need to improve law enforcement in general.

By comparison, all three operative sections of the Treasury bill provide a very relevant standard for the Secretary to apply in considering the types of records financial institutions should be required to maintain and the types of reports which must be filed, namely, those which "are likely to have a high degree of usefulness in criminal, tax or regulatory investigations or proceedings."

3. TYPES OF FINANCIAL INSTITUTIONS SUBJECT TO RECORDKEEPING REQUIREMENTS

Whereas Section 123(b) of H.R. 15073 limits the types of businesses which could be subject to recordkeeping requirements, Section 102(g) of the Treasury bill would permit the Secretary to extend these recordkeeping requirements to other types of institutions as he may specify. This gives the Secretary necessary flexibility to carry out the objectives of the Treasury legislation.

4. ENFORCEMENT OF PROVISIONS FOR REPORTS OF EXPORTS AND IMPORTS OF CURRENCY

The provisions of H.R. 15073 which are relevant to enforcing the requirement for reports of exports and imports of currency are seriously deficient.

First, there is no clear delegation of authority to the Bureau of Customs to undertake the necessary enforcement. The Treasury bill would authorize Customs to do this to the extent necessary.

Second, it would be of considerable advantage to treat the points of export and import the same as for customs duty purposes. This would permit coordination with the customs duty program by the Bureau of Customs. However, Section 231(a)(1) of H.R. 15073 establishes the boundaries for this purpose as "any place subject to the jurisdiction of the U.S." Such boundaries are not the boundaries for customs duties purposes which are restricted to the fifty states, the District of Columbia, and Puerto Rico. By comparison, the Treasury bill permits uniformity of treatment.

5. FLEXIBILITY WITH RESPECT TO REPORTS OF EXPORTS AND IMPORTS OF CURRENCY

In addition, Section 231(a) of H.R. 15073 fixes specific $5,000 individual and $10,000 annual minimum figures for reporting exportations and importations of currency. By comparison, the Treasury bill does not fix any minimum figures, but permits the Secretary to have the necessary flexibility to set the minimum reporting figures at the optimum levels for both individual and annual amounts of currency transported.

Section 231(b) of H.R. 15073 sets forth the specific information which must be reported in connection with exports and imports of currency. This provision does not contain even sufficient flexibility to permit the Secretary to require individuals filing these forms to give their Social Security numbers, which are vital for the Internal Revenue Service to relate the information of the currency transportation to the income tax record of the reporting individuals or their principals.

By comparison, Section 302(c) of the Treasury bill is broad enough to give the Secretary sufficient flexibility to require all necessary information on these reports.

6. RECORDS AND REPORTS BY INDIVIDUALS AND CORPORATIONS OF THEIR FOREIGN TRANSACTIONS

The Treasury Department believes that Sections 241 and 242 of H.R. 15073 should be deleted as these Sections provide for much unnecessary reporting and recordkeeping. Section 241 would permit the Secretary to require reporting or recordkeeping of transactions by U.S. institutions which deal with foreign financial institutions on behalf of customers, as well as by the individuals and corporations which directly deal with foreign financial institutions. The existence of a possibility that this Section could be used to require reporting of all transactions with foreign institutions is totally unnecessary.

On the other hand, as stated in my testimony, it is believed the most effective information in this area would be knowledge of the maintenance of the direct or indirect interest in a foreign bank account or other account in a foreign financial institution. The disclosure of such information could be most effectively accomplished in conjunction with the filing of the annual tax return. In light of this fact, it would be more reasonable and more effective for this necessary reporting requirement to be made part of the Internal Revenue Code or to be implemented through regulations pursuant to existing statutory authority. I am pleased to inform the Committee that the Internal Revenue Service will require the disclosure of this information on the 1970 income tax forms. With such a disclosure requirement where information on transactions of particular persons is required, this can be obtained under existing procedures.

To summarize, the Treasury bill would maximize enforcement and minimize the imposition of burdens on the public and economy. H.R. 15073, by contrast, does the reverse—it maximizes the burdens while minimizing enforcement effectiveness.

Therefore, we urge that you and the Committee substitute for the present version of H.R. 15073 the draft bill transmitted to you with this letter.

This action, combined with the action which we hope that the Ways and Means Committee will take on the Treasury presumption proposals discussed in my testimony of March 2, 1970, and which we plan to submit shortly to that Committee, will make us better able to combat organized crime and white collar crime in their use of foreign banks to achieve criminal objectives.

Sincerely,

Eugene T. Rossides.

SPEECH BY DR. JACK EARLY

(Mr. BERRY asked and was given permission to extend his remarks at this point in the Record and to include an address.)

Mr. BERRY. Mr. Speaker, one of the finest speeches I have had the pleasure of hearing in a long time was recently given by Dr. Jack Early, present president of Pfeiffer College in North Carolina and formerly president of Dakota Wesleyan University, Mitchell, S. Dak., before the Conference of Grand Masters of Masons of North America here in Washington, D.C. on February 24, 1970.

So that my colleagues may have the opportunity to read it, I include it in the Congressional Record:

Speech by Dr. Jack Early Before the Conference of Grand Masters of Masons in North America, February 24, 1970

Thank you, Brother Hooks. Distinguished Head Table Guests, Members of the Conference of Grand Masters of Masons in North America, Congressmen, Senators, and ladies and gentlemen, after this very flattering introduction by Brother Hooks it reminds me of an experience of one of our American GIs during World War II who decided, on a weekend pass, that he would check into a hotel in London, England. He came to the hotel clerk and signed his name and noticed that every man who had signed his name had some appropriate title, such as Esquire, PhD, or something similar, so in order to be one of the boys he signed his name, John Smith, MD, DD, LLD. The hotel clerk was very much amazed. He said, "Sir, you are the most distinguished guest we have ever had in this hotel. What does all this mean?" And the GI said, "MD, DD, LLD—Mares edoates and does edoates and little lambsy edivey."

A moment ago, when we heard from this lovely soloist, I was very happy that Mr. McIntosh, in extending an invitation for me to be here tonight, did not ask that I would sing because at age 12 my parents thought this might be the thing I should do, so after having a series of lessons we had our annual recital and in order to be appropriate, I selected as my number, "Carry Me Back to Old Virginia." At about half way through my number I looked down front and the little lady began to cry. The next thing she did was to take her handkerchief from her purse and began to wipe the tears. Being only 12 years of age, rather young and naive about the whole matter, I didn't know what to do, but after the program was over I went down to her and I said, "Excuse me, mam, but you must be from Virginia." She said, "No, young man, I am a musician."

While I think Brother Hooks was very complimentary in his introduction, I had the privilege some time ago of speaking at a civic luncheon and the man who introduced me evidently didn't have the same biographical data because he did know that I had been a minister at one time and, so in order to introduce me, he simply said on this occasion that he had heard of a bridegroom and his bride who were on their way to get married. They were traveling at a very high rate of speed in a new automobile. They came to a rather treacherous curve in the highway and the car overturned and both were killed instantly, whereupon they were immediately sideswept into the heavens and they were met at the pearly gates by St. Peter. The bridegroom said, "Now listen—we'd like to get married." And St. Peter said, "I am sorry, but you will have to wait for a thousand years." So they waited for a thousand years and became terribly discouraged and despondent about the whole matter, but after having waited for a thousand years they finally return again and the bridegroom said, "Now listen, we have been here a thousand years and we still want to get married." And St. Peter said, "I am sorry, but you will have to wait 500 years longer." So they waited 500 years longer and they became even more discouraged and more despondent and finally the bridegroom got up courage and he went to St. Peter and said, "Listen, we've been here for 1,500 years—we still want to get married." And St. Peter said, "I'm sorry, but you'll have to wait 500 years longer." So the bridegroom said, "Now listen, this is going too far, we have been here 1,500 years, and we'll wait 500 years longer, but please tell us why we have to wait." And St. Peter said, "I am sorry, but you'll have to wait until we get a preacher up here."

No reflection on the man that gave the invocation—this was about me.

It is a high honor that I have this evening in sharing with you in this program. I would like to very briefly visit with you about the subject, "Questions Are Important."

In one of his books G. K. Chesterton suggested to a young man searching for lodging in a strange city that he inquire of his prospective landlady about her idea of God. Knowing this, Mr. Chesterton thought the young man would have a sure guide as to the treatment he would receive from his prospective landlady. It is my personal conviction that Mr. Chesterton was far more whimsical than wise in this suggestion, because you and I can have one idea of God that may be completely removed from our every day behavior and conduct. On the other hand, I submit to you tonight it is just as important to ask the right question as it is to find the right answers. Inquiry becomes the hallmark of the discerning Mason.

As one ancient philosopher so aptly said, "An unexamined life is not worth living." I know one college professor who evaluates his students, not so much on the basis of the kinds of answers they give to examinations, as well as the kinds of questions they ask inside and outside of the classroom. Of course, the danger is that we ask the wrong kinds of questions and inevitably get the wrong kinds of answers.

In "The Saturday Review" some time ago, an anecdote illustrates this very vividly. A man watched a little boy as he was pushing a baby carriage down the street. Becoming quite curious, the man went over to the little boy and said to him, "What is your brother's name?" To which the little boy replied, "If the baby were my brother, his name would be John, but since the baby is my sister, her name is Sue."

You see, you ask the wrong kind of questions—you inevitably get the wrong kinds of answers.

I would submit to you tonight as members of this Conference of Grand Masters of Masons of North America that there are at least three questions that to me seem to be relevant and appropriate at this particular banquet.

The first question I would ask of you, as I ask of myself, is this. What are your values? What are the most important priorities that you have established for yourself as Masons, as Congressmen, as Senators, as members of this society in the latter third of the 20th century?

There has been a shift to be sure from values to techniques and useful skills during the past part of our experience. President Hoover's Commission on recent social trends in 1933 pointed out that there was an unbalanced culture in America. We have made remarkable progress in terms of science, technology, and industry, but there has been a corresponding lag in terms of values, morality, heart, and religion. We call this a cultural lag.

The sociologists would say that in terms of our material culture America and other nations have made remarkable progress, but in terms of our nonmaterial culture, values, ideas, and ideals there is a void. It seems to me that we who are the inheritors of the great tradition of Masonry and of this free society need to recognize that what we ought to do today is to understand our priorities—our values. Every person makes value judgments and every person must determine what to him is most important.

The youth of our nation today, in America particularly, seem to be telling us that somehow our values have become distorted. I believe that across America, and even in other parts of North America, there has been a distortion, as it were, of those youth that I know so well on many of our college and university campuses who are not revolutionaries, who are not a part of the hard core radicals, but are young men and women who are idealists, and I would have it no other way.

But this large majority of students that I call decent and law abiding do not make the headlines—they do not get prime time on television—they become somewhat of the silent majority as far as the news media is concerned. Instead we have taken the two percenters on our college and university campuses and we have greatly distorted the fact that this seems to represent the youth of America and of the world. I do not believe it.

The young people that I know are concerned about problems that all of us are concerned about, and if we are true to our calling we will capitalize on the idealism of the youth in this latter third of the 20th century. We will endeavor to challenge them as they have never been challenged before.

I think this is what America needs. This is what all of North America and other parts of the world need so desperately today—a challenge to a sense of moral greatness, and I would hope that we would ask ourselves tonight the questions, "What are my values as a Mason? What are my values as a member of the society in the latter third of the 20th century?"

Arthur Miller in his Pulitzer prize-winning play entitled, "Death of a Salesman" described Willie Loman, a salesman, in the throes of dying. At the end of that play Willie Loman is finally buried, and Biff, the elder son, as he is leaving the cemetery with his mother, turns around and says to her, "Mom, you know the trouble with Dad was he had the wrong kind of dreams—he dreamed of success in terms of wealth, popularity, and prestige." These values may be indigenous with our society—they may be important—but it seems to me that we who know what it means to be Masons realize that there needs to be a call today—a challenge made to a moral greatness and our priorities ought to reflect that call to moral greatness.

Dr. Norman Vincent Peale of the Marble Collegiate Reformed Church in New York City told a very interesting story in Iowa when I was in that state a few years ago. He said one day Carl Erskine, who at that time was a baseball pitcher for the Brooklyn Dodgers, came to him quite disturbed. He said, "You know, Dr. Peale, the doctors tell me I am losing the effectiveness of my pitching arm. Can you do something for me?" And Dr. Peale said, "Well, Carl, I am just a minister—what can I do?" And Carl said "Well, couldn't you pray for me?" And Carl Erskine was a very humble man, a very dedicated man, and listened as Dr. Peale prayed. And Dr. Peale said, "Lord, Carl Erskine is a baseball pitcher—this is all he has ever known, this is all he has ever done—he's losing the power of his pitching arm. Heal him. Amen." And before he could finish his prayer Carl Erskine said to Dr. Peale, "I wonder if I could not pray." Dr. Peale said, "Why, of course, Carl." And Carl said, "Lord, what Dr. Peale said is true. I am a baseball pitcher, and I am losing the effectiveness of my pitching arm, but, Lord, if you will show me your will and your way for my life, this is what I want to do. Amen." And Dr. Peale said, "You know, I think Carl prayed a better prayer that day because he did not pray selfishly nor arrogantly, but he prayed that somehow God's will would be done."

As I look at our society today, and after having gone through my experiences in Masonry, I would say to you, as I say to myself, that somehow in this day nations ought to be true to their sense of values and moral judgment to the point that they will be called to a sense of moral greatness. This I believe is what our society needs. This is what I believe that our youth today will respond to if we are willing to challenge them at the level of their idealism.

In the second place I would ask the question: "What are your motives?" "What is it that gives you the most excitement as a person?" "What is it within you that compels you to want to do something?"

The sociologists say there are four reasons why persons are called to certain levels of incentive: More money, recognition, achievements, and causes.

I believe that there is a fifth—and that is that we are motivated to serve. This is precisely, it seems to me, this brotherhood of which we are a part. We are called today to serve in whatever capacity that we might serve, to take that which we know to be philosophically sound, that which we know to be reasonable, and attempt to put into action in every day relationships this degree of service to our fellow man.

All across the world tonight are the various problems that people are facing—we talk in America about poverty and certainly there may be pockets of poverty—we have our ghettos, we have our pollution problems. In Latin America the average annual income is $300.00—fifty per cent of the boys and girls who finish elementary school in most cases will never enter a secondary school because the schools are not available for them to enter. Africa, one of the emerging nations in this latter third of the 20th century, has a very high illiteracy rate. Between 80 to 85 per cent of the Africans can neither read nor write. But the real tragedy, it seems to me, is in Calcutta. As you and I tonight enjoy the bounties of our society of this great America, in Calcutta there are 250,000 persons who will have no place to go tonight, or tomorrow morning, and tomorrow night, or even the tomorrows, except to spend their time on the city streets.

I say to you tonight that somehow we need to be challenged today, to recognize that in all parts of our country and in all parts of our world we need to serve—not that we give these people, but that we help them so that they in turn can help themselves. This I believe is my philosophy—whether it be in America or other parts of the world. I believe its the kind of philosophy that we need to put into action if we are to meet the needs of the people in our society in this latter third of the 20th century.

People are motivated for different reasons. It is said that when Mr. Disraeli became the Prime Minister of England, one of his colleagues came to him one day and said to Mr. Disraeli, "It is remarkable that you have become the Prime Minister of our country." And Mr. Disraeli rather cynically replied, "Yes, I have climbed the top of the greasy pole."

Later when Mr. Gladstone achieved the same prominent position of Prime Minister one of his colleagues made a similar observation and Mr. Gladstone rather humbly replied, "Yes, the Almighty seems to sustain and spare me for a purpose of his own."

I would ask you then, wherever you are, and whatever capacity that you are called to serve: "What are your motives?" As a member of Masonry, as a member of the United States Senate, the United States House of Representatives, or in your respective communities, it seems to me that in America today there is a need for us to be challenged beyond this level of mediocrity and commonplaceness to a time of moral greatness.

What are your values? What are your motives?

And third, and finally, the question I would ask you, as I ask myself, is the question: "Who are you?"

From the early days of childhood, you and I who are gathered in this banquet ballroom tonight, have been asked the question by a parent, by a relative, or by a friend, the question: "What are you going to be now that you have finished elementary school, or high school, or college?"

It seems to me that we have been asking premature questions and we have been getting premature answers. The question is not the question "What are you going to be?" But the most important question that we can ask the youth of our nation, and even ourselves, at this level of our development, is the question; "Who am I?"

In the Old Testament literature we find these very interesting and remarkable words, "God created man in His own image, breathed into man the breath of life, and man became a living soul—a living reality." God did not create puppets, or marionettes. But God created man in His own image, giving man a free will to choose among alternatives, and as man chooses he becomes like the choices or decisions that he makes. This gives him dignity and words as a human being.

And yet in our time we have taken a quality of being and equated this with quantitative factors, for who in this audience tonight is not known more by number than by name?

We have zip code numbers, telephone numbers, license plate numbers, hunting license numbers, and IBM numbers. And yet it seems to me that what our youth are saying to us tonight is precisely this: "We do not want to be viewed as simply numbers, but rather as individuals, as human beings." And, I would hope that our Masonry will never lose the concern for the individual and for the human qualities of man, the dignity and word that every person ought to have.

This I believe is fundamental if we are to meet the needs of our Lodge, of our society, in the latter third of the 20th century.

Six years ago I had the privilege of representing the state of South Dakota at the meeting of the National Association of Manufacturers in New York City. We heard many excellent speakers on that occasion. On December 7 of that year we had as our luncheon speaker the former President of the United States, that great American, the late Dwight D. Eisenhower. Before Mr. Eisenhower was introduced to this august body of educators, business and industrial leaders from the United States, the West Point Glee Club, under the direction of Colin Kelly, III sang a medley and after they finished singing Mr. Eisenhower was presented to this distinguished body. He said to those of us who were there that day, "I am sure that young Kelly will not mind my saying this, but you will recall that it was his father who was one of the first aces to be killed following the attack on Pearl Harbor December 7, 1941."

He said it was understood that when young Kelly was eligible for a formal United States Military Academy appointment at West Point the President of the United States would make that recommendation. He said it was my privilege to be President when young Kelly was eligible for that appointment. He said, 'I wrote him a letter and I said, 'Dear Mr. Kelly, It is a privilege to recommend you for an appointment to the United States Military Academy at West Point.' " He said, 'A short time later I received a special delivery letter from young Kelly, and he said, 'Dear Mr. President, I thank you for your letter and your recommendation to the United States Military Academy at West Point, but, Sir, in all fairness to myself and to my country I would like to receive an appointment on the basis of my own merits.' " Mr. Eisenhower said, "young Kelly's response epitomizes the faith, hope, and courage of the American people."

If you and I, who are here tonight, with inquiring minds, can develop a sense of values and priorities, if we can be motivated not only to achieve in a secular sense, but in terms of our own dedicated service, if we can understand who we are as persons created by God in his image and his dignity—I believe that we too will represent the faith, hope, and courage, not only of the American people, but of all of free Masonry in North America and in the world.

THE DILEMMA OF THE DISTRICT TRIAL JUDGE IN PRETRIAL BAIL CASES

(Mr. **NELSEN** asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include certain articles.)

Mr. **NELSEN**. Mr. Speaker, I shall include in full below the case decided August 20, 1969, by the U.S. Court of Appeals for the District of Columbia Circuit Court.

It illustrates perhaps better than any other persuasive argument that could be made the dilemma that the District of Columbia trial judge is placed in who sees the danger to the community in releasing individuals who jeopardize the safety of the community and yet is faced with the provisions of the Bail Reform Act of 1966 which, as interpreted by the circuit court, call for the release of such dangerous criminals.

It is also my belief that this case is an excellent example of why there is need for amendment of the Bail Reform Act of 1966, especially as it relates to the District of Columbia, so as to provide for pretrial detention in certain pretrial cases.

H.R. 16196, a bill to reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes, was reported out of the District of Columbia Committee recently and will be scheduled for floor action soon. The bill is also referred to occasionally as the District of Columbia omnibus crime bill of 1970, and is a comprehensive piece of legislation containing nearly 450 pages. Subchapter II of title II of the bill relates to "pretrial detention," an amendment of the law in the District of Columbia concerning bail which is sorely needed if we are to make the streets of this city safe for residents, tourists, and employees from the neighboring metropolitan area.

It is interesting to note that in capital cases the standard of "danger to any other person or to the community" was in the Bail Reform Act of 1966—18 U.S.C. 3148—and that traditionally Federal courts have had the authority to deny bail in capital cases—18 U.S.C. 3148. Yet the eighth amendment to the Constitution, which opponents of the pretrial detention portions of the District of Columbia omnibus crime bill point to as their basis for objection, says nothing about discriminating between capital and noncapital cases for bail.

The pretrial detention portion of the District of Columbia omnibus crime bill contains the provisions for detaining individuals where safety of the community is endangered by release, and where it appears that a person charged with a violent crime may be a drug addict.

The need for legislative reform in this area is perhaps best illustrated by a short recitation of the law as it is and as interpreted by the local U.S. circuit court—see the reprint of the Alston case following my remarks.

The Bail Reform Act of 1966—18 U.S.C. 3146–3152—provides in pertinent part in 18 U.S.C., section 3146(a) as follows:

> Any person charged with an offense, other than an offense punishable by death, shall, at his appearance before a judicial officer, be ordered released pending trial . . . unless the [judicial] officer determines, in the exercise of his discretion, that such release will not reasonably assure the appearance of the person as required. (Bracketed material supplied).

I believe it is important for the Members of Congress to know how the Bail Reform Act is being interpreted in the U.S. circuit court and for that reason I include the Alston decision in full in the RECORD:

[U.S. Court of Appeals for the District of Columbia Circuit, No. 23,102]

UNITED STATES OF AMERICA *v.* DAMON ALSTON, JR., APPELLANT.

APPEAL FROM AN ORDER OF THE DISTRICT COURT DENYING A MOTION TO AMEND THE CONDITIONS OF PRE-TRIAL BAIL

Decided: August 20, 1969.

On Appellant's Motion to Reconsider this Court's Order of June 19, 1969, and Release the Appellant on his Personal Recognizance.

Before: BAZELON, *Chief Judge*, and LEVENTHAL, *Circuit Judge*, in Chambers.

PER CURIAM: This is the second time that this case is before us. On December 16, 1967, appellant was accused of armed robbery and jailed to await trial. Bail was set at $5,000, and appellant, an indigent, has been unable to produce the $280 necessary for a $5,000 bond. He asked the District Court to reduce the bond and establish nonfinancial conditions of bail to assure his presence when required. The District Court refused, and the accused appealed to this court.

We remanded the case to the District Court for further consideration in light of our recent decision in *United States* v. *Leathers*, No. 22,816 (April 17, 1969). In our order we directed the District Judge to do three things:

1. To reconsider his ruling in light of offers of Bonabond and appellant's former employer for employment upon release, in light of appellant's opportunity to reside at the Shaw Residence House, and in light of the appellant's opportunity to enroll with the Alcoholic Rehabilitation Clinic.

2. To explain why nonfinancial conditions would be inadequate, if the District Judge should conclude that they were.

3. To report on appellant's inability to meet the $5,000 bond, if the District Judge should conclude that financial conditions were necessary, and to explain why financial conditions would be superior to nonfinancial conditions.

The District Court's failure to comply adequately with our directive [1] moves us, reluctantly, to reverse and to establish our own conditions for release.[2]

The Bail Reform Act of 1966[3] provides for pretrial release, even of persons who are not model citizens, if there is reasonable assurance that the accused will appear when required.[4] The law requires reasonable assurance but does not demand absolute certainty, which would be only a disguised way of compelling commitment in advance of judgment. To set $5000 bail for this appellant, who is indigent, is also merely another way of compelling pretrial commitment. We think the mandate of the law requires his release, because of the several factors which indicate that there is reasonable assurance that appellant will appear for trial if he is released subject to nonfinancial conditions of supervision.

Appellant is a resident of the District of Columbia and has been for 28 years, since he was a child. He has been assured of entry into the Shaw Residence if released. Bonabond would obtain employment for him and sponsor him, and his old employer has offered to take him back—with a raise. The director of the Alcoholic Rehabilitation Clinic at 14th and Q, where the accused was enrolled when his arrest took place, has stated that the accused may re-enroll upon his release. The D.C. Parole Board will not revoke the accused's parole from an earlier offense if he is released on bail and required to stay at the Shaw Residence. The Offender Rehabilitation project has worked out a plan of release, and the Bail Agency has recommended release to a suitable custodian.

The District Court, in its memorandum, dealt only briefly with the items mentioned above, and instead concentrated on other factors, such as the accused's prior convictions. These convictions are relevant under the Bail Reform Act of 1966, 18 U.S.C. §§ 3146–52 (Supp. IV, 1965–1968), to the extent that they bear on the likelihood of his appearance in court when required. It is not the purpose of the bail system either to punish an accused again for his past crimes, or to punish him in advance for crimes he has not yet been shown to have committed. Past crimes would be material if proceedings incident thereto showed an accused had violated conditions of a bail or release order. The prosecutor makes no such claim here.

A District Court cannot fairly take past convictions into account, as showing tendency to flight, unless he at least makes inquiry whether in the prior proceedings the accused had failed to comply with bail, release, or other orders. The statute requires that the court take into account the accused's "record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings." See *Wood* v. *United States*, — U.S.App.D.C.—391 F.2d 981, 984 (1968): "We do not think that under the Bail Reform Act a determination that money bail is required is appropriate unless the court at least ascertains the conduct of defendant when previously released on conditions, and whether the defendant previously abided by conditions imposed on him in prior proceedings. Consistent appearance when flight is possible is an important indicator of whether a defendant is likely to appear once again. . . . While appellant's record is by no means felicitous, it may be that he poses little risk of flight."

We are disturbed by the reference of the District Judge to the possibility of a life sentence under 22 D.C. Code 3202 (Supp II, 1967–1969). The length of the sentence to which the accused is subject is relevant in determining the conditions of bail; the prospect of a long imprisonment certainly reduces the probability that a suspect will remain in the jurisdiction. But this must be taken into account as part of a balanced judgment, and that judgment is diluted when a judge refers to the possibility of a life sentence for armed robbery. In modern times, at least, a life sentence for robbery, even armed robbery, occurs so rarely as to be fairly described as a transparent rather than substantial consideration.

The District Court also referred to the "brazen act perpetrated in the instant case." This was a determination on an issue that was not noticed for hearing, a finding based solely on the claimed testimony of prosecution witnesses. No one may be confined on the ground that he has committed an offense when the determination is void of the protections that are the essentials of Anglo-American jurisprudence.

It is true, of course, that 18 U.S.C. § 3146 (b) requires the court to take into account "the nature and circumstances of the offense charged [and] the weight of the evidence against the accused," but the statute neither requires nor permits a pretrial determination that the defendant is guilty. It is important to observe rather than obliterate the fundamental precepts of our jurisprudence. This is not merely a matter of the proprieties, though that is itself not unimportant for judicial actions. If one bears in mind that one is examining only the evidence against the accused, for purposes of considering prospect of flight, one is more likely to guard against the impermissible course of reaching some kind of partial determination of guilt and of beginning what is in substance a mandate of punishment.

II

The real dispute in this case is not over whether or not the accused should be admitted to bail; it is what the terms and conditions of bail should be. The District Court, in its more recent memorandum, stated that "[i]f anything could detain him [the accused], it would be the forfeiture of bond money." The District Court did not otherwise respond to our request to be advised of its basis for concluding that money bail would better insure appearance for trial than nonfinancial conditions. This bare assertion runs the risk of holding a pauper without any bail because he lacks the funds to make money bail. We conclude that the mandate and intent of Congress require use of the wide variety of techniques available to provide reasonable assurance that the accused will present himself when required. Our form of order attached sets forth a program which combines financial and nonfinancial conditions in a manner that we think fulfills the fundamental policies of the statutory system for bail. We remand to the District Court to enter a specific order, not inconsistent with this opinion, filling in blanks, and inserting additional conditions as it may be advised.

ORDER

Ordered by the court that appellant shall be released on his personal recognizance on the following conditions:

1. Upon the representation of counsel that appellant Alston has obtained regular employment within the Washington Metropolitan Area, he shall be released.

2. Appellant's employer shall report immediately to -------- upon appellant's failure to present himself for work at the proper time, and -------- shall report that failure to counsel for the United States, counsel for appellant, and the Criminal Clerk's Office of the United States District Court for the District of Columbia.

3. Appellant shall re-enroll in the Alcoholic Rehabilitation Clinic, at 14th and Q Streets, N.W., and participate in a satisfactory manner in the prescribed program.

4. Appellant shall reside at the Shaw Residence, 1770 Park Road, N.W.

5. An appropriate official of the Shaw Residence is to report immediately to ---------- upon appellant's future to return to the residence by curfew time, or upon appellant's failure to abide satisfactorily by the rules and regulations of the Shaw Residence. The District Court shall, upon advice of counsel, determine the appropriate Shaw Residence official.

6. Appellant shall not leave the Washington Metropolitan Area, and shall not leave the District of Columbia except as his employment may necessitate, without the permission of the District Court.

7. Every pay period, appellant shall deposit 10% of his net earnings, unless and until this sum reaches $500, with the Clerk of the District Court as security for his appearance, to be returned in full when appellant appears for trial, or to be forfeited in whole or in part, as directed by the District Court, should he fail to appear. Permissible variation: The sums shall be deposited with counsel, instead of the Clerk, who shall hold them subject to order of the District Court, but if the sum reaches $500, counsel shall transfer forthwith to the Clerk. If appellant should violate the terms of his release before such deposit is made, that portion which has already been deposited with his attorney shall be forfeited. Appellant shall remain subject to all criminal penalties, including fines, for failure to fulfill the conditions of his release.

8. Appellant shall sign a statement indicating his understanding of the conditions set forth above and promising his compliance with them.

FOOTNOTES

[1] The District Court's Memorandum is set out in full below:

"This memorandum is written pursuant to the remand order of the United States Court of Appeals, filed in this Court on June 19, 1969, and is supplementary to this Court's

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Footnotes at end of article.

XUM

memorandum of May 14, 1969. The facts are again recited as follows:

"The defendant is charged with armed robbery, robbery, assault with a dangerous weapon, and carrying a dangerous weapon, and he is being held on a bail of $5,000.

"The United States Attorney has informed the Court that the defendant and co-defendant approached the driver of a beer distributing truck as he stopped at an intersection, and defendant Alston called out that he wished a ride, meanwhile opening the truck door. He then demanded the driver's money while the co-defendant pointed a gun at the driver. The driver handed the money to defendant Alston, who, in turn, handed it to the co-defendant and then Alston proceeded to reach in the driver's pocket and took his wallet, after which he said to the gunman, "Shoot him". The co-defendant remonstrated and the two turned to leave the scene. They had been observed from a distance of less than 50′ by two police officers, who immediately arrested them and all the money was recovered.

"The defendant was on parole at the time he was arrested, and if convicted, the parole is likely to be revoked. He could be sentenced for life on this case.

"The Court considered in the first instance, and has now reconsidered, the offer of Bonabond to supervise the defendant, of his former employer to rehire him, of the Shaw Residence House to house him, and of the Alcoholic Rehabilitation Clinic to receive him for rehabilitative treatment. None of these agencies can assure the Court that the defendant would not flee once he is released from incarceration. When released, he would have freedom to travel to and from the places of his residence and employment. There would be no constant supervision of him, and once he is permitted to mingle among the populace, he is also able to roam about somewhat at will. Other than his promise, the restraint placed on him is minimal in the proposed offers, and his past conduct does not reveal a person whose character is that of a man bound by a promise.

"Counsel for the defendant states that the defendant is unable to meet the $5,000 bail set, so that he cannot afford a monetary bond.

"The order of remand requires that this Court advise the appellate court why a "money bond, if available, would be more effective in minimizing the risk of flight than the non-financial conditions of release proposed".

"This defendant has pursued a criminal career since 1957 and has been convicted seven times. Considering such a course of conduct and also considering the brazen act perpetrated in the instant case, it is this Court's opinion that no reliance could be put on his promise to adhere to the non-financial conditions of release. If anything could detain him, it would be the forfeiture of bond money, for this Court knows of no other way, except incarceration, which would be a restraint on him."

This Court's order of May 14, 1969, will stand.

[2] Because of the length of time that appellant has already spent in jail, and because the District Court has already once had the opportunity to consider the factors which we discuss in this opinion but has failed to do so (no report was provided, for example, on the appellant's inability to meet the $5,000 bond, other than the memorandum's bare statement that counsel reported appellant's inability to pay), we think that it would be unfair and of little use to require appellant to remain jailed through a second remand.

[3] 18 U.S.C. §§ 3146–52 (Supp. IV, 1965–1968).

[4] 18 U.S.C. §§ 3146(a) provides in part:

"Any person charged with an offense, other than an offense punishable by death, *shall*, at his appearance before a judicial officer, be ordered released pending trial . . . *unless the [judicial] officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required.*" [Emphasis added.]

THE FAILURE OF "BAIL REFORM" IN NEW YORK CITY GIVES NEW YORKERS A TASTE OF WHAT HAS BEEN IMPOSED ON WASHINGTON, D.C., FOR 4 YEARS

(Mr. NELSEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. NELSEN. Mr. Speaker, there are certain recent developments in New York City which ought to be called to the attention of the House.

I am informed that several weeks ago, Mayor John Lindsay issued a memorandum on the crowded conditions in the city's jails. The memorandum was interpreted by judges as an order to release felony defendants prior to trial whenever possible. As a result, one judge released on personal recognizance a holdup suspect who had been captured during the robbery of a shoe store. Another judge released on $10 bond a defendant accused of beating a 50-year-old woman, robbing her of $40, and sending her to the hospital with injuries. See reprinted below two reprints from the New York Daily News of February 26, 1970.

New Yorkers were shocked.

District Attorney Frank Hogan said he was "outraged." See reprint from New York Daily News dated February 27, 1970, entitled "Hit on Low Bail."

Brooklyn District Attorney Eugene Gold said he was "flabbergasted."

Edward Kiernan, president of New York's Patrolmen's Benevolent Association, said:

> The misguided effort to relieve overcrowding in city jails by releasing dangerous criminals on low or no bail can quickly turn our streets into a shambles.

Police Commissioner Howard Leary said that—

> Recidivism is and always will be a problem. But turning these criminals out into the streets within hours after arrest, with little or no bail set as a guarantee for return to trial, is almost begging for trouble.

The New York Daily News declared:

> It's little wonder the prosecutors are hot under the collar. And if the public values its safety, it will send up a deafening howl against such judicial foolishness.

This outcry prompted a clarification from Mayor Lindsay. Through a spokesman the mayor said:

> The mayor has asked that our courts review only the cases of those who, without danger to the community, might be released on bail in order to ease the severe overcrowding of the city correctional facilities. It has never been suggested that suspects involved in a serious crime and thought to be dangerous should be released under conditions that do not insure their appearance in court.

The point of this recital is very simple: The public indignation which followed the easy pretrial release of two dangerous defendants in New York parallels the anger of people in Washington. The difference is that, under the Bail Reform Act, easy pretrial release for noncapital defendants has been the law in this city since 1966.

Not two but literally hundreds, perhaps thousands, of dangerous defendants have been released before trial in the Nation's Capital because the Bail Reform Act forbids local judges to consider danger to the community in setting conditions of pretrial release. This factor has contributed significantly to the unprecedented wave of crime in Washington.

Because of the serious problems which have resulted under the Bail Reform Act, the District Committee has proposed an amendment to the act to authorize the limited pretrial detention of dangerous defendants in the District of Columbia. We believe this legislation is fair and reasonable. We believe, for example, that it affords considerably more protection for the individual defendant than the bail legislation in New York. In that State, since colonial times, bail has been discretionary in all felonies—see N.Y. Code Crim. Proc. §§ 552, 553.

Thus, courts in New York are permitted to deny bail in serious cases. See reference to David Critchlow in newspaper excerpt reprinted below dated March 2, 1970.

Another device is to set bail at a prohibitive figure, thereby effecting detention. Two recent narcotics cases in New York illustrate this point. See two excerpts from the New York Daily News, one dated February 14, 1970, and one dated March 2, 1970, reprinted below.

This device is not countenanced in the District of Columbia because it inevitably discriminates against the poor. Yet danger to the community cannot be used to retain defendants either.

Mr. Speaker, people in the District of Columbia are just the same as people in New York. They are justifiably uncomfortable and fearful when dangerous men are released prior to trial. They do not particularly like to be robbed or raped or assaulted by defendants loose on bail.

This House has the responsibility of doing its utmost to protect citizens in the Nation's Capital. That is why the District Committee, after careful deliberation, voted its endorsement of pretrial detention.

I quote in full four articles and one editorial from the New York Daily News, and ask unanimous consent to have them printed below:

[From the New York Daily News, Feb. 26, 1970]

DAs RAP LOW BAIL IN FELONIES "TO EASE JAILS"

(By William Frederici and Joseph McNamara)

Top law enforcement officials in the city yesterday blasted the release of alleged felons in little or no bail, following Mayor Lindsay's edict of last week aimed at easing the crowding of jails.

District Attorney Hogan said he was "outraged" by a Manhattan Criminal Court judge's releasing in his own recognizance a suspect seized while holding up an East Side shoe store with two guns. After his release, the suspect asked the property clerk for return of the two pistols, Hogan declared. He did not get them.

Brooklyn District Attorney Eugene Gold said he was "flabbergasted" by the release in $10 bail of a suspect accused of severely beating a 50-year-old woman and robbing her of $40. The woman was hospitalized.

Protests came also from Edward J. Kiernan, president of the city's Patrolmen's Benevolent Association, and Joseph Balzano, president of the Housing Authority's PBA. Both Kiernan and Balzano said there are indications that the cases cited by the DAs are not isolated ones.

"The men are skeptical, frustrated and disgusted with the way the courts are turning out men who have committed heinous crimes, felonies, with little bail or on parole in their own recognizance," said Balzano.

He said he believes the judges have misinterpreted the mandate of the mayor.

Said Kiernan: "The misguided effort to relieve overcrowding in city jails by releasing dangerous criminals on low or no bail can quickly turn our streets into a shambles."

He said there have been many instances in recent days that "make a mockery of police protection."

"MAY REQUIRE BARRICADES"

"Unless this dangerous practice is stopped," Kiernan stated, "New Yorkers will have lost their only defense against rampant crime, and decent citizens will have no choice but to barricade themselves in their houses."

Late in the day, Mayor Lindsay issued a statement clarifying his position. Through a spokesman he said:

"The mayor has asked that our courts review only the cases of those who, without danger to the community, might be released on bail in order to ease the severe overcrowding of the city correctional facilities.

"It has never been suggested that suspects involved in a serious crime and thought to be dangerous should be released under condition that do not insure their appearance in court."

District Attorney Gold, speaking of the "willy-nilly release without bail or in low bail," said that "by no means can anymore believe that $50 or $10 is going to stop anyone from running away, especially in case of a felony."

COPS SAW HOLDUP IN PROGRESS

In the holdup of the shoe store, Wise's, at 767 Lexington Ave., two radio cops of E. 67th St. station saw the heist in progress. One entered from the front, the other the rear, with guns drawn. The suspect reportedly faced off one patrolman until he realized the second had the drop on him.

In this case, the assistant DA asked the court for bail of $20,000. Instead, the suspect was freed without bail on grounds that he had roots in the community.

Hogan said the only determining of "roots" was a phone call to ascertain that the man lived where he said he did.

[From the New York Daily News,
Feb. 27, 1970]

"Outraged" and "Flabbergasted"

"Outraged" and "flabbergasted"—were two of the choicer terms used by local district attorneys in reaction to the super-leniency the courts are showing in setting bail for suspected felons.

Low bail or no bail has become the rule since the judges agreed last week—at Mayor John V. Lindsay's urging—to reexamine bond requirements in an effort to relieve overcrowding in the city's jails.

Lindsay and the judges are now at odds over who should take the blame for giving desperadoes the run of the city regardless of how grave the charges against them.

Brooklyn District Attorney Eugene Gold tells of a thug who robbed a woman and beat her so severely she was hospitalized. The man was set free on $10 bond.

But Manhattan DA Frank Hogan can top that. A two-gun bandit caught red-handed in a midtown holdup was released without bail by a kindly judge.

It's little wonder the prosecutors are hot under the collar. And if the public values its safety, it will send up a deafening howl against such judicial foolishness.

[From the New York Daily News, Feb. 27, 1970]

Hit on Low Bail, Judges Rap "Turnstile" Justice

(By William Federici)

Angered over an attack by top law enforcement officials for the release of two felony suspects in little or no bail, two Criminal Court judges lashed back yesterday—not at their critics but at "turnstile" justice.

Brooklyn Criminal Court Judge Charles T. Drago denied any misinterpretation of overreaction to Mayor Lindsay's edict last week, aimed at easing the critical overcrowded conditions of the city jail, when he released a robbery suspect in $10 bail.

"I was following an edict and a memorandum," Drago said. "I was following the pleas of the wardens of our jails and the Correction Department. Everybody is right, but we are fast approaching a time of turnstile judges. And the judge ends up holding the bag."

ADMITS IT WAS A RISK

"It was a risk, the $10 bail, I admit," Judge Drago said. But I have every reason to believe he will be here for trial. It was important for me to bring this situation to the public's attention.

The judge, who was appointed to the bench in January 1969, complained that "everyone is right. The mayor, the district attorneys, the police and the jailkeepers. But they are all pulling in different directions. I don't like the idea of a felon walking the streets either."

In Manhattan, Judge William Suglia—severely criticized for releasing a prisoner in his own custody in an armed robbery case, also defended his position and lashed out at the court system.

"I HAVEN'T A NICKEL"

Judge Suglia maintained: "I received a memo from Judge (Edward) Dudley (the administrative judge) explaining the mayor's edict and the crisis in our jails. They played an important part in my setting this man free. When I asked how much bail he could make, he said: 'I haven't a nickel.' "

Suglia also explained that despite a suggestion from the district attorney's office that bail of $20,000 be set, "the parole report indicated this man had deep roots in the community and recommended parole pending trial."

Wryly, the judge remarked, "If I hadn't followed the recommendation, my instructions call for a detail report as to why."

Even as the judges defended their positions, Police Commissioner Howard Leary spoke out on the crisis. "Recidivism is and always will be a problem. But turning these criminals out into the streets within hours after arrest, with little or no bail set as a guarantee of return for trial, is almost begging for trouble."

ASKS "END OF FOOLISHNESS"

The commissioner said he was fully aware of the overcrowded jails but demanded "an end to the foolishness of allowing felons to walk the streets because we don't have room in the jails."

Protests continued to pour into the offices of Joseph Balzano, president of the Housing Authority Patrolmen's Benevolent Association, and city PBA president, Edward Kiernan. Both expressed strong opposition to the judge's actions.

Balzano protested yesterday: "The men want the problem solved. The prisoners are walking out faster than the police are."

Kiernan expressed similar thoughts.

The mayor has maintained he asked only "that our courts review only the cases of those, who, without danger to the community, might be released on bail in order to ease the severe overcrowding of the city jails. It has never been suggested that suspects involved in serious crimes, thought to be dangerous, be released under conditions that do not insure their appearance in court."

[From the New York Daily News, Feb. 14, 1970]

Cops Net $9 Million in Narcotics—Two Are Held in $250,000 Bail

(By Gerald Kessler and Arthur Mulligan)

Two of three men arrested in one of the biggest seizures of narcotics in U.S. history—$9,150,000 worth on the illicit market—were held in $250,000 bail each in Queens Criminal Court yesterday at the urging of Queens District Attorney Thomas J. Mackell. The third suspect was held in $10,000 bail in Manhattan Criminal Court.

Mackell, making his first personal appearance at an arraignment since he took office in January of 1967, told Judge Neal P. Rottiglieri the arrests were part of a continuing investigation of an international narcotics ring and that he feared the two defendants would jump bail if it were fixed at a lesser amount.

SUSPECT WANTED BY FEDS

He said one of the suspects, Rafael Martinez, 38, of 80–15 41st Ave., Elmhurst, Queens, was a Cuban national who was also wanted by federal authorities.

Mackell said the other man, James Cohen, 37, of 42–25 80th St., Elmhurst, was a naturalized citizen who came to this country 11 years ago from Argentina and was reputed to be one of the leaders of an international dope ring.

HEARING IS SCHEDULED

Bottiglieri granted the district attorney's request for the high bail and set a hearing date of Feb. 27.

The third suspect, meanwhile, was arraigned in Manhattan before Judge William F. Suglia and held in $10,000 bail for a hearing March 3. He was Frank Hughes, 56, of 274 W. Kinney St., Newark, said by police to be a top dope supplier for the Newark area.

PREDICTS DOPE PANIC

Mackell said that the dope seizure, $5.4 million worth of pure heroin and $3,750,000 worth of pure cocaine, would start a panic among addicts and send the price of the drugs spiraling.

The arrests were made Thursday night by police of the special investigation unit, headed by Detectives Douglas Reid and Mario Martinez, and federal narcotics agents.

Hughes was arrested as he left an apartment rented by Cohen at 301 W. 45th St., Manhattan. Police said Hughes was in possession of 1.1 pounds of heroin and Cohen, who was in the apartment, was carrying $7,400 in cash, proceeds of a sale he had just made to Hughes.

HEROIN FROM FRANCE

At Cohen's Elmhurst apartment, where he lives with a common-law wife and three children, according to police, the cops said they found 18.7 pounds of heroin in a suitcase.

In Martinez' apartment, police said they found 11 pounds of cocaine in a black attache case. Martinez also had $3,500 in cash.

Mackell said that the heroin originated in France and had been shipped to this country via Argentina. He said he believed most of it had been shipped through Kennedy Airport.

Earlier this week Attorney General John Mitchell said that a major U.S. airport was controlled by mobs and heavily involved in crime. He did not name the airport but it was widely speculated that he meant Kennedy Airport.

[From the New York Daily News, Mar. 2, 1970]

Five Dope Ring Suspects Slammed With $1.5 Million Bail

(By Robert Kappstatter and Edward Benes)

Five alleged members of a narcotics ring were held in the staggering total of $1.5 million bail yesterday by Bronx Criminal Court Judge Louis Fusco, who said "the possession of a large quantity of narcotics is just as bad as killing and, based on the allegations here, the amount seized is more than sufficient to kill."

The suspects were collared in two raids Saturday night by detectives of the special police narcotics investigating unit operating in the Bronx. The cops seized an estimated 24 pounds of heroin and cocaine with a retail value of $10 million.

Armed with "no-knock" warrants, the cops raided a private residence at 466 E. 136th St. and a store at 816 E. 149th St., which specializes in selling "spiritual and religious" articles to Spanish-speaking people.

WOMAN ARRESTED

In the house, the cops arrested Maria I. Tearson, 29, and said they uncovered five kilos of heroin and about 5,000 envelopes ready for sale.

Fusco held her in $500,000 bail for a hearing Thursday. Four arrested in or near the store were held in $250,000 bail each for a hearing the same day.

They were Louis Mangual, 30, of 898 Thompson Dr., Bay Shore, L.I.; Jose Carrion, 40, of 2009 Turnbull Ave., Amado Sanchez, 28, of 530 Tinton Ave., and Renaldo Maristany, 29, of 84 W. 176th St., all Bronx. A sixth defendant, David Critchlow, 40, of 279 Hancock St., Brooklyn, was held without bail because of a long previous record.

In the store, known as "botanica," police said they found five more kilos of heroin and cocaine and about 6,000 glassine envelopes ready for distribution.

Assemblyman Manuel Ramos (D-Bronx) described a "botanica" as a place where Spanish-speaking people, especially natives of Haiti and the West Indies, go for peace of mind when something bothers them. He said there are four or five such stores in his assembly district.

One of those arrested, Carrion, is known as a "priest" to those who believe in voodoo. "If this ring was preying on the people who went there for spiritual guidance, then this is one of the most despicable, heinous crimes I've ever heard of," Ramos said.

TRIBUTE TO CONGRESSMAN JAMES KEE

(Mr. **SLACK** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SLACK.** Mr. Speaker, last evening I attended a reception and tribute in honor of our dedicated and hard-working colleague from the Fifth West Virginia District, Congressman JAMES KEE. The assembled group included our Speaker, the majority leader, Mr. ALBERT, the majority whip, Mr. BOGGS, numerous Members of the Congress, the new Democratic National Chairman Larry O'Brien, and a strong representation from the business and organized labor community.

My friend JIM KEE is unique among those of us who serve in the House. I believe he is the only Member serving today, and perhaps the only Member in our history who is the son of a Congressman and a Congresswoman, and who has then himself gone on to be elected. The continuous service of the Kee family in Congress goes back over a period of more than 30 years, through depression and war and postwar expansion. The problems faced by Congress during those years have been almost infinite, but whatever the nature of any problem, the people of the Fifth West Virginia District have enjoyed devoted and knowledgeable service and representation for their interests.

I was greatly pleased to note the way in which that record of service was recognized by the assembled group last evening. The tribute was both fitting and highly deserved.

LEGISLATIVE PROGRAM FOR THE BALANCE OF THIS WEEK AND FOR NEXT WEEK

(Mr. **GERALD R. FORD** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **GERALD R. FORD.** Mr. Speaker, I have requested this time for the purpose of asking the distinguished majority leader the program for the remainder of this week and the schedule for next week.

Mr. **ALBERT.** Mr. Speaker, will the distinguished minority leader yield?

Mr. **GERALD R. FORD.** I yield to the gentleman from Oklahoma.

Mr. **ALBERT.** Mr. Speaker, in response to the gentleman's inquiry, we will adjourn over upon the completion of the program for today. There is no legislative program in order unless one resolution might be called up from the Committee on House Administration by the gentleman from Maryland (Mr. FRIEDEL). I do not know at this moment whether the gentleman from Maryland plans to call it up.

Mr. Speaker, the program for next week is as follows:

Monday we will have the call of the Consent Calendar, and there are six suspensions as follows:

H.R. 15143, to provide the grade of lieutenant general for the Chief of the National Guard Bureau;

H.R. 1187, to amend Cape Cod National Seashore Act;

H.R. 14896, to amend the act establishing a program for the preservation of historic properties;

H.R. 15689, to increase the authorization for the Missouri River Basin;

H.R. 15700, to authorize appropriations for the saline water conversion program; and

S. 743, to authorize the Touchet division, Walla Walla project, Oregon-Washington.

Tuesday we will have the call of the Private Calendar.

Also on Tuesday there will be the consideration of H.R. 15694, the Coast Guard authorization for fiscal year 1971, under an open rule with 1 hour of general debate; and

S. 858, the Tulelake area Durum wheat allotments, under an open rule with 1 hour of general debate.

For Wednesday and the balance of the week:

S. 952, to provide for the appointment of additional district judges, subject to a rule being granted;

H.R. 15728, to authorize the extension of certain naval vessel loans, under an open rule with 1 hour of general debate;

H.R. 16196, District of Columbia Reform and Criminal Procedure Act of 1970, subject to a rule being granted; and

H.R. 15628, Foreign Military Sales Act Amendments, subject to a rule being granted.

As I have indicated, we have listed these last four bills for Wednesday and the balance of the week. I would advise that there may be an adjustment in the order in which they are called up, as some of the committees are presently in discussion as to which of the bills might be called up first.

This announcement is made subject to the usual reservation that conference reports may be brought up at any time, and any further program may be announced later.

Mr. Speaker, I might also advise that an important conference report on H.R. 6543, concerning cigarette smoking, from the Committee on Interstate and Foreign Commerce, will be called up next week. I am not sure of the date as yet, but it will be called up either Tuesday, Wednesday, or Thursday of next week.

ADJOURNMENT TO MONDAY, MARCH 16

Mr. **ALBERT.** Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The **SPEAKER.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION FOR COMMITTEE ON THE DISTRICT OF COLUMBIA TO HAVE UNTIL MIDNIGHT, MARCH 13, TO FILE A REPORT

Mr. **ALBERT.** Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may have until midnight, Friday, March 13, to file a report.

The **SPEAKER.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. **ALBERT.** Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The **SPEAKER.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

FAILURE OF REPUBLICAN ECONOMIC POLICIES

(Mr. **ALBERT** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **ALBERT.** Mr. Speaker, the Commerce Department-SEC survey of projected business investment in new plant and equipment released yesterday is dramatic evidence of the utter failure of the administration's so-called anti-inflation policy. Spending by big business has been a prime cause of our current rampant inflation. The administration's prescription for curing that inflation, tight money and high-interest rates, has now been proven incapable of coping with this inflationary engine. Large semimonopolistic corporations are all but immune from the effects of restrictive monetary policy. Because of their gigantic internal financial resources and the advantageous relationship they enjoy with the large banks, they are virtually free to expand at will. In sharp contrast, tight money chokes off small business, housing construction, and raises havoc with the efforts of local governments to raise the capital necessary for the expansion of much needed public facilities. The depression forced on the home construction industry during the past year is the most vivid illustration of the gross inequity inherent in the tight-money, high-interest rate policy.

Mr. Speaker, I call upon the administration to put an end to its primitive economic bloodletting. As the medical profession has long since abandoned the practice of bleeding a patient to death, so to has modern economics developed definitive cures for different strains of the inflationary virus. Let the President release the shackles of economic restraint from this Nation's homebuilding industry so we may attain our long established goal of a decent home in a suitable living environment for all our citizenry. Let him remove those letters which are denying needed credit to small business. If he does not, the only result can be a further concentration of economic power in the hands of fewer and fewer giant corporations. Let him act to make available the funds which our local governments direly need to build the schools, sewage treatment plants, mass transit, and other community facilities mandatory to make existence livable in our increasingly urban society.

Let the President then take those steps which he alone can do to apply the proper antitoxin to our present inflationary malady. First, he should utilize the authority which this Congress gave him last year to establish credit controls. The utilization of this authority would enable us to allocate available credit to areas of high national priority such as low- and moderate-income housing and badly needed modernized public facilities. Second, I again call upon the President to invoke the great symbolic and moral power of the Presidency, to be in effect the consumer's chief advocate, against the price raising policies of the large semimonopolistic corporations. During the administrations of Presidents Kennedy and Johnson, these giants were all on notice that the jacking up of prices was in disfavor at the White House. Because of this, they were under strong constraint to curb their greed. President Nixon by way of contrast has disdained the role of the public's guardian against consumer exploitation. Quite the contrary, he has given the monopolists a green light to raise prices. As a result the cost of living has skyrocketed by over 6 percent during the past year.

OCEANOGRAPHY

(Mr. ROGERS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROGERS of Florida. Mr. Speaker, more than a year ago a distinguished panel of outstanding authorities under the chairmanship of Dr. Julius Stratton, submitted a study on this Nation's involvement in oceanography and recommended that we increase our activities because of the vast resources which we would receive from exploring and exploiting our marine environment.

But instead of action, we have seen various spokesmen for the administration call for more studies, more reports, and less activity. In fact, we have seen various departments maneuver to bolster their marine involvement because they know that the oceans will soon play an important part in this Nation's economic, social, technical, and military picture.

The committee headed by Dr. Stratton recommended a single ocean agency—the National Oceanic and Atmospheric Agency—NOAA—to combine our efforts from its now splintered framework. But instead of proceeding along these lines, another study was called for and the existence of mini-NOAA's was preserved, each of more than 20 departments and agencies keeping their own ocean programs.

Secretary of the Interior Hickel, according to testimony, is against the NOAA concept. Indeed, his department has pushed hard for as much control of ocean-related programs as is possible. And Dr. Lee DuBridge, the President's Science Adviser and the man who is overseeing the Ash Committee, which is conducting studies, does not appear to be at all enthused with the concept of a NOAA.

But according to a Washington Post editorial, neither has read Dr. Stratton's report: "Our Nation and the Sea."

This is a perfect example of how Government bureaucracy and departmental fiefdoms are maintained to the exception of the best interests of this Nation.

And according to the Post editorial, Dr. DuBridge, has stated that he feels the ocean is not being polluted, "except in very local areas."

I find this statement startling on its face and doubly so for a man of science to espouse such a statement. This would appear another of DuBridge's making a statement without reading a few reports.

For instance, we have seen reports that Cuba is dumping as much as 100,000 gallons of raw sewage into the Gulf Stream each day. This, of course, travels right up the Gulf Stream along the Eastern Seaboard. And if more evidence is needed, I would call to Dr. DuBridge's attention the "dead area" around New York and New Jersey in the Atlantic Ocean where sludge has been dumped. And I think that if he studies reports of ocean outfalls in just the States of Florida, California, New Jersey and New York, he will find ample examples of ocean pollution, not to mention hundreds of oil spills which have resulted in the pollution of beaches and ports on both coasts.

Indeed, it would appear that in addition to his obvious built-in prejudice against this Nation's need for increased ocean activity, he also refuses to recognize the need for an immediate program to halt ocean pollution.

Unfortunately, this entire matter points to the administration's apparent lack of foresight and enthusiasm for a unified and effective national ocean program.

I would certainly hope that both Secretary Hickel and Dr. DuBridge would take the time to read the report compiled by the Stratton committee. This would lend some credence to any statements they would make on this very important subject. Thus far, Dr. DuBridge's record in the area of marine science and ocean pollution is unbelievably poor and unimaginative. And it is most disconserting to think that the President depends on his recommendations in this field.

At this time, I would like to submit for the RECORD, the editorial from the March 8 edition of the Washington Post:

MUD IN THE WATERS

If Interior Secretary Walter Hickel is any indication of the administration's attitude on marine affairs, then the future of American oceanic programs is even worse than already imagined. Last week, Mr. Hickel, in testimony before the Senate Commerce subcommittee on oceanography, opposed a bill to establish the National Oceanic and Atmospheric Agency. NOAA, widely supported by informed oceanists and expressly recommended by the congressionally prompted Commission on Marine Science, Engineering and Technology, would pull together such ocean and water programs as the Coast Guard, the Environmental Science Services Administration, the Sea Grant College Program and other agencies. Despite the damage it would do to countless princes, knights and dukes in some bureaucracies, NOAA is essential if this nation is to have a comprehensive and long range program of research, development, technical services, exploration and use of our marine and atmospheric environment.

The astonishing part of Secretary Hickel's testimony before Sen. Ernest Hollings' subcommittee involved the commission's well-known and widely distributed report, "Our Nation and the Sea," which recommended NOAA in the first place. Pressed by Senator Hollings, Mr. Hickel admitted he had not even read the report. Were it not for Senator Hollings being a mild man, who is more dismayed than angered by bureaucratic indifference, the Secretary might easily have been shown to be more inept than he actually seemed. The White House science adviser, Lee DuBridge, was not much more help under questioning; not only did he admit that he had not read the report, but he expressed the incredible opinion that the ocean is not being polluted, "except in very local areas."

Obviously, Secretary Hickel and Dr. DuBridge have not done their homework and there is nothing unique about this; public officials, like everyone else, must grapple with priorities. The danger is that the wisdom and guidance of informed men like Julius A. Stratton, John H. Perry, and hundreds of others in marine science who support NOAA, will be lost in the bureaucratic shuffling.

THE SENSELESS BOMBINGS IN NEW YORK

(Mr. PUCINSKI asked and was given permission to address the House for 1 minute.)

Mr. PUCINSKI. Mr. Speaker, the senseless bombing of three buildings in New York last night, the continuing brutal attacks on individual citizens and the alarming rise in crimes of violence all over America, should call our attention to the fact that there is a growing problem of mental health which must be dealt with on a crash basis by Congress.

I am sure that when the person responsible for the bombings in New York last night is apprehended, we will find that it is a sick and demented mind that would lead a person to commit the kind of attack on those buildings and the people in them.

It appears to me as we discuss priorities for our Nation, we ought to put the growing problem of mental health on the very top of the list.

I share the deep concern about pollution, and I share the deep concern about all of the other problems besetting our country. But I am most deeply concerned with the recent National Institute of Mental Health report which shows that three out of 10 Americans suffer from some form of emotional instability to a lesser or greater degree. When you talk about figures of "three out of 10" that does not startle you. But when you take a nation of 210 million people and recognize that some 70 million people have an emotional problem that needs help and attention, then indeed we can say that mental health becomes one of the most serious problems of our society.

I am very concerned about a recent statement made by Charles Lindberg when he asked:

> Why it is that since intellect has gained dominance over instinct, man has become the most destructive of all living creatures?

So it seems to me that mental health ought to get the highest priority in funding and appropriating programs to deal with this problem. Perhaps the administration itself may want to suggest an effective program for dealing with mental health as one of its top priorities. Surely when we contemplate the serious statistics by the Institute of Mental Health, we realize the enormity of the problem.

The damage, the destruction, and the wanton violence will continue until we recognize the fact that there is no deeper problem in our society than dealing with the problem of mental health.

JOINT COMMITTEE ON CLASSIFIED INFORMATION

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, I have today introduced legislation to create a Joint Committee on Classified Information. The purpose of such a committee would be to protect the right of the public to have access to information, the disclosure of which will not endanger U.S. security.

A joint committee with appropriate authority to study classification procedures would safeguard the public's right to information concerning Government activities and could prevent abuse of the Government's power to withhold information in the national interest.

The Laos situation is a good illustration of the need for some congressional control over the unlimited power of the Pentagon to hide behind the classified label. The power to classify information is too easily and too often abused.

I have attended as a member of Defense Appropriation Subcommittee secret briefings on a number of military matters and many times I read about these facts the same evening or the next morning. In my opinion a large percentage of the facts given at these briefings could be made public without endangering U.S. security.

The present situation in Laos may well become another open-ended commitment which will further divide the United States. If we allow the Pentagon to hide behind the cloak of classified information, we will just provoke dissent and protest. The public is entitled to know all the facts which will not jeopardize our security and a congressional committee should have the responsibility to make the determination of what should be classified.

My resolution would establish a joint committee with representatives of the House and Senate Committees on Foreign Affairs, Armed Services, and Defense Appropriations and three other House Members and three other Members of the Senate serving as a screening board to limit the volume of information which is placed in the category of classified by the Defense Department. I am convinced that until Congress acts, the temptation to abuse the power to classify information wil outweigh the responsibility to keep the public informed. This is too important a decision to leave in the exclusive control of the Defense Department.

Mr. Speaker, I submit the text of my Resolution at this point in the RECORD:

H.J. Res. 1131

Joint resolution creating a Joint Committee on Classified Information

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of Congress that the public's right to information relating to the activities of the Federal Government may be restricted only in the case of information the disclosure of which would endanger the common defense and security; but it is also the policy of Congress that security classifications may not be used within the Government as a means for suppressing information on governmental affairs about which the public does have a right-to-know and that means to discover and eliminate misuses of information classification procedures should be established.

SEC. 2. (a) There is hereby created a Joint Committee on Classified Information (hereafter referred to in this joint resolution as as the "joint committee"), to be composed of—

(1) the Chairman and the ranking minority member of the Armed Services Committee of the Senate and of the House of Representatives;

(2) the Chairman and the ranking minority member of the Foreign Relations Committee of the Senate;

(3) the Chairman and the ranking minority member of the Foreign Affairs Committee of the House of Representatives;

(4) the Chairman and ranking minority member of the Defense Appropriations Subcommittee of the Appropriations Committee of the Senate and of the House of Representatives;

(5) three other members of the Senate appointed by the President of the Senate; and

(6) three other members of the House of Representatives appointed by the Speaker of the House of Representatives.

(b) Vacancies in the membership of the joint committee shall not affect power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selection.

(c) The joint committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship shall alternate between the Senate and the House of Representatives with each Congress, and the chairman shall be selected by the Members from that House entitled to the chairmanship. The vice chairman shall be chosen from the House other than that of the chairman by the members from that House.

SEC. 3. (a) The joint committee shall make continuing investigations and studies with respect to (1) the practices and methods used in the executive branch to classify information in the interests of the common defenses and security, and (2) suspected uses of such classification procedures within the executive branch for purposes contrary to the public welfare.

(b) The joint committee (1) shall at such times as it finds classification procedures being used for purposes contrary to the public welfare, initiate such action as it deems appropriate in order to prohibit such misuse; and (2) may publicly disclose any classified information the classification of which the joint committee considers not to be merited in the interests of the common defense and security and the disclosure of which the joint committee considers to be in the public interest.

(c) The joint committee shall report to the Senate and the House of Representatives, from time to time, the results of its investigations and studies, together with such recommendations as it may deem desirable. Any department, official, or agency engaged in functions relative to investigations or studies undertaken by the joint committee shall, at the request of the joint committee, consult with the joint committee from time to time with respect to such functions or activities.

SEC. 4. (a) In carrying out its duties, the joint committee or any duly authorized subcommittee thereof is authorized to hold such hearings and investigations; to sit and act at such places and times within the United States, including any Commonwealth or possession thereof, whether the House or the Senate is in session, has recessed, or has adjourned; to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents; to administer such oaths; to take such testimony; to procure such printing and binding; and to make such expenditures as it deems necessary. The joint committee may make such rules respecting its organization and procedures as it deems necessary. No recommendation may be reported from the joint committee unless a majority of the committee is present. Subpenas may be issued over the signature of a cochairman of the joint committee or by any member designated by him or by the joint committee, and may be served by such person or persons as may be designated by such chairman or member. A cochairman of the joint committee or any member thereof may administer oaths to witnesses.

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(b) The joint committee may appoint and fix the compensation of such clerks, experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable; and, with the prior consent of the heads of departments or agencies concerned and the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Federal Government, as it deems advisable. The joint committee is authorized to reimburse the members of its staff for travel, subsistence, and the other necessary expenses incurred by them in the performance of the duties vested in the joint committee other than expenses in connection with meetings of the joint committee held in the District of Columbia during such times as the Congress is in session.

(c) All committee records, data, charts, and files shall be the property of the joint committee and shall be kept in the offices of the joint committee or such other places as the joint committee may direct under such security safeguards as the joint committee shall determine to be in the interest of the common defense and security.

SEC. 5. The expenses of the joint committee shall be paid one-half from the contingent fund of the House of Representatives and one-half from the contingent fund of the Senate upon vouchers signed by the chairman of the joint committee.

GENOCIDE TREATY—A PITFALL TO FREE PEOPLE

(Mr. RARICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RARICK. Mr. Speaker, 2 weeks ago I addressed the House on the dangers inherent in American ratification of the Genocide Convention, proposed by the United Nations Organization—RECORD, February 25, page 4884.

Today I again arise for that purpose.

Because we are a nation of law, and because under our Constitution a treaty entered into under the authority of the United States actually becomes the law of the land—enforceable domestic law, binding the judges of all the courts, both State and Federal, treaty ratification is far more than international propaganda for us.

In my State, we use the honored term "learned in the law" to designate those attorneys whose judgments and opinions are widely respected by their peers. Such a distinguished attorney, and one truly learned in the law in the most profound sense of the phrase is the Honorable Eberhard P. Deutsch, of New Orleans.

I am pleased to include in my remarks, for the information of our colleagues, Mr. Deutsch's unassailable argument that the United States avoid the pitfalls of the Genocide Convention, as delivered by him at the midwinter meeting of the House of Delegates of the American Bar Association:

ADDRESS BY EBERHARD P. DEUTSCH

The conscience of the entire civilized world is revolted by the concept of mass genocide, as stated by this Association in 1949, because it is "contrary to the moral law and . . . abhorrent to all who have a decent regard for the dignity of human beings, regardless of the national, ethnical, racial, religious or political groups to which they belong".

But the humanitarian fight against genocide will not be furthered by a treaty between the United States on the one hand, and such countries as Ghana and Bulgaria on the other.

The Genocide Convention arose out of a UN Declaration adopted in 1946, denouncing genocide whether "committed on religious, racial, *political* or other grounds".

When this Declaration was transmuted into a draft convention, the word *"political"* was omitted at the insistence of the Communist nations.

Mr. Katzenbach has told you that the United States agreed to elimination of "political" from the definition in return for Communist agreement to insertion of "ethnical". Since "racial" was already in the formula, the United States received only a stale cracker for a warehouse full of fine hams in that unfortunate transaction.

Today, none of the 70-odd states-parties to the Convention is prohibited by that treaty from permitting its nationals to commit genocide on political grounds—or on grounds which they assert to be political.

At the drafting of the Genocide Convention, the representatives of the United States made every effort to have the definition of genocide require that it be "committed with the complicity of government", as in the case of the Nazi persecution of the Jews which gave rise to the concept of genocide in the first instance.

This demand, which would legitimately have made an international offense of genocide, was rejected by the Communist nations. Under the Convention, as drafted, the offense can be committed only by individuals; although governments may be called to account before the United Nations for genocide committed by their nationals.

The position of the Soviet Union, in charging the United States with hypocrisy for not ratifying the Genocide Convention, is the same as its position under the Forced Labor Convention which it has consistently refused to sign because it prohibits imposition of forced labor for political activity opposed to government.

It can hardly be suggested that if pre-Hitler Germany had been party to a Genocide Convention, there would have been no mass extermination of Germany's Jews by the Nazis.

Can it be suggested with any less naiveté that Soviet Russia was deterred from her rape of Czechoslovakia, by the nonaggression provisions of the United Nations Charter to which she has been a party since its inception?

How can it be suggested that United States citizens may not be tried, under the Genocide Convention, in foreign courts, when Article VI of the Convention expressly provides that persons charged with violation of its provisions "shall be tried by a court of the state in whose territory the act was committed," and that genocide is to be considered an extraditable offense under extradition treaties?

President Tito of Yugoslavia and the Government of Hanoi have charged that United States forces in Vietnam have been guilty of genocide in that country.

Are we to enter into a convention which would sanction trial of our prisoners of war on charges of genocide, or under which we must permit members of our military forces to be extradited for trial in Vietnam or elsewhere, without the constitutional guaranties for the preservation of which they have risked their lives, and their buddies have made the supreme sacrifice?

Are we to be compelled to try the members of our own security forces for commission of genocide, on charges made to the United Nations by counsel for the Black Panthers, pursuant to demand under Article VIII of the Genocide Convention, by Byelorussia, Albania, Upper Volta, Mongolia or the Congo—all parties to that treaty?

The Genocide Convention seeks to metamorphose peoples who have no idea as to the meaning of freedom and human rights, into judges of the freedoms of the people of the United States of America.

Genocide by individuals is a matter of domestic concern. This was conceded by Professor Sohn and the late Grenville Clark in their work on "World Peace Through Law", even when committed with government participation, as to conditions in South Africa.

They even advocated amendment of the Charter's prohibition of interference in domestic affairs to enable the Organization to take action to combat genocide in South Africa.

A convention which applies to individuals charged with commission of common-law crimes, and which may be invoked to demand international adjudication, would cause more friction between governments than is now caused by the evil itself, and would tend to provoke war rather than to preserve peace among nations.

In 1949, the American Bar Association resolved not to make matters which are of exclusively internal concern to the United States, the business of other nations by ratification of the Genocide Convention.

Let us now again resolve that this nation, under God, shall remain steadfast in its adherence to the ideals upon which it was founded, and in which it still leads the world along the paths of justice and freedom.

MENINGITIS EPIDEMIC AT FORT LEONARD WOOD

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALL. Mr. Speaker, a few days ago I journeyed to Fort Leonard Wood, Mo., not only as an interested Missourian, but also as a member of the House Committee on Armed Services. It was my desire to be assured that everything possible was being done in the unfortunate epidemic of meningitis that had struck.

While there, I talked with the men in the Fort Leonard Wood Hospital who have meningitis, and I found that neither they nor their families were dissatisfied with their treatment. I also assured myself personally as well as professionally that everything necessary has been done by the post medical personnel, and that the post commander had exerted the proper leadership as far back as last October 1, 1969.

While inspecting Fort Leonard Wood, I learned from the Surgeon General of the Army's member on the Nation's Epidemiological Board, Lieutenant Colonel Winters, MC, USA, that my old friend and comrade in arms, Brig. Gen. Stanhope Bayne-Jones had passed away in the past fortnight at the age of 81.

I enclose herewith a bibliography of this unusual physician who worked in civilian life, as well as in the military services, to prevent disease, as well as remedy them. Of personal pride is the fact that while I was in the executive branch as Chief Personnel Service, Office of the Surgeon General during World War II, I handled General Bayne-Jones' initial commission in the Army of the United States for General Steve Simmons, the Chief of the Preventive Medicine Branch, and the Surgeon General.

We were fast friends, during and after World War II, bound together in part by this Nation's total medical mobilization.

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It was always a joy to clasp hands and renew our friendship through the ensuing 25 years.

Obviously, from his biography he contributed very much to military medicine, as well as to civilian medicine and the general betterment of mankind. Col. Charles J. Simpson the current executive officer of the historical unit, Walter Reed Army Medical Center, put it so well when he said, "Not only did he write history eloquently—over the years he had made it, as well." We regret the passing of "B-J" and extend our heartfelt sympathy to his loved ones who honored him as a man, a warm friend, a husband, and family man, as well as, servant above self to the people of the United States—even the world.

The bibiliography follows:

Biographical Sketch, Stanhope Bayne-Jones

Born in New Orleans, Louisiana, November 6, 1888.

DEGREES RECEIVED

MILITARY

B.A., Yale University, 1910.

M.D., Johns Hopkins University, 1914.

M.A., Johns Hopkins University, 1917.

M.A. (Hon.), Yale University, 1932.

Sc.D. (Hon.), University of Rochester, 1943.

Sc.D. (Hon.), Emory University, 1954.

LL.D. (Hon.), Tulane University, 1955.

L.H.D. (Hon), Hahnemann Medical College, 1959.

LL.D. (Hon.), Johns Hopkins University, 1960.

Sc.D. (Hon.), Ohio State University, 1960.

DECORATIONS AND MEDALS RECEIVED

Military

U.S.A.: Distinguished Service Medal, Silver Star (with 2 oak leaf clusters), Army Commendation Ribbon, United States of America Typhus Commission Medal, Decoration for Exceptional Civilian Service, Department of the Army.

British: Military Cross, Order of the British Empire (Honorary Commander).

French: Croix de Guerre.

Civilian: Chapin Medal (Public Health) from the Rhode Island State Medical Society, Bruce Medal (Preventive Medicine) from the American College of Physicians, Passano Foundation Award—presented on June 10, 1959.

ACADEMIC AND ADMINISTRATIVE POSITIONS HELD AT VARIOUS TIMES

1914–1924: Various positions on faculty of the Johns Hopkins University School of Medicine from Instructor to Associate Professor of Bacteriology and Pathology.

1924–1932: Professor of Bacteriology, University of Rochester School of Medicine and Dentistry.

1932–1947: Professor of Bacteriology, Yale University School of Medicine.

1924–1932: Director, Rochester Health Bureau Laboratories, Rochester, New York.

1932–1933: Chairman, Division of Medical Sciences, National Research Council.

1935–1940: Dean, Yale University School of Medicine.

1932–1933: Master of Trumbull College, Yale University.

1937–1947: Director, Board of Scientific Advisers, The Jane Coffin Childs Memorial Fund for Medical Research.

1939–1941: Member, Board of Scientific Advisers, International Health Division, Rockefeller Foundation.

1939–1954: Member, Board of Directors, Josiah Macy, Jr. Foundation.

1939–1957: Member, Advisory Medical Board, Leonard Wood Memorial (American Leprosy Foundation).

1952 to date: Member, Board of Governors, Gorgas Memorial Institute of Tropical and Preventive Medicine.

1948–1952: Member, Committee on Public Relations, New York Academy of Medicine.

1949–1951: Chairman, Committee on Public Health, Medical Society of the County of New York.

1947–1952: Member, Scientific Advisory Board, Public Health Research Institute of the City of New York.

1930–1947: Member of editorial boards of several scientific journals.

1950–1952: Member, Board of Hospitals, New York City.

1942–1952: Member, Board of Managers, Memorial Hospital for Cancer and Allied Diseases, New York City.

1947–1953: President of the Joint Administrative Board of the New York Hospital-Cornell Medical Center.

1929–1930: President of the Society of American Bacteriologists.

1930–1931: President of the American Association of Immunologists.

1940–1941: President of the American Association of Pathologists and Bacteriologists.

1914 to date: Member of numerous medical and scientific societies, including the American Philosophical Society.

1950–1952: Member, National Manpower Commission, Columbia University.

1951–1954: Member, Commission on Financing of Hospital Care.

1955–1956: Member of the Corporation of Yale University.

1957–1958: Chairman of the Secretary's Consultants on Medical Research and Education, Office of the Secretary, U.S. Department of Health, Education, and Welfare.

1961–1962: Chairman, Board on Cancer and Viruses, National Cancer Institute, National Institutes of Health.

1962–1964: Member, Surgeon Generals (PHS) Advisory Committee on Smoking and Health.

1941 to date: Author of about 75 scientific and medical papers, and addresses on various subjects. Coauthor with Doctor Hans Zinsser of a revision and new edition of "A Textbook of Bacteriology."

Medical and Scientific Member of: American Medical Association; Medical Society of the District of Columbia; Academy of Medicine of Washington, D.C., American Cancer Society, American Association of Immunologists; American Association of Pathologists and Bacteriologists; Society of American Bacteriologists; American Philosophical Society; American Public Health Association; etc.

MILITARY RECORD

1917–1919: Served as Captain, later as Major, MC, in World War I, in France, Belgium, Italy, and Germany. From January to June 1919, was Sanitary Inspector of the 3rd U.S. Army (Army of Occupation) in Germany.

1942–1946: During World War II served on active duty in the Office of The Surgeon General, U.S. Army, in Washington, D.C., in grades of Lt. Colonel to Brigadier General, as—

Deputy Chief, Preventive Medicine Service;

Administrator of the Army Epidemiological Board, (1942–1945);

Director of the United States of America Typhus Commission;

Special Missions to England (1943) and Egypt (1944);

Promoted to Brigadier General on 25 February 1944; Retired in grade 31 December 1949; Recommissioned Brigadier General, Reserves, Army of the United States, 7 May 1953.

1946 to date: Member, Armed Forces Epidemiological Board (President, 1946–1947).

1953–1956: Technical Director of Research, Office of The Surgeon General, Department of the Army.

1954 to 1963: Member of the Army Advisory Scientific Panel. Member of the Advisory Scientific Board, Walter Reed Army Institute of Research.

1955 to date: Chairman of the Advisory Editorial Board, History of Preventive Medicine in World War II, Medical Department, U.S. Army.

FREEDOM'S CHALLENGE

(Mr. BROYHILL of North Carolina asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROYHILL of North Carolina. Mr. Speaker, this week is has been my pleasure to meet with representatives of the Veterans of Foreign Wars during the occasion of their annual congressional dinner in the Nation's Capital. One of the fine public services of the VFW has been its annual, nationwide Voice of Democracy program in which over 400,000 students participate.

This contest stimulates patriotism and analytical thinking among these great numbers of young people. In this way, a new evaluation and appreciation of the guarantees of freedom which our Nation enjoys is made by young people who are about to assume the responsibility of citizenship in our country.

This year, the contest in North Carolina was won by the essay of L. Lyndon Key, Jr., the son of Mr. and Mrs. L. L. Key, Sr., of Hickory, N.C.. This young man's thoughtful and challenging statement upon the nature of freedom in our society is worthy of the highest commendation. I want to commend it to the Members of the House for its ringing dedication to the highest principles which motivate our people. The essay, entitled "Freedom's Challenge," is as follows:

Freedom's Challenge

What is this thing which we call freedom? Is it merely a feeling? Is it merely a set of written rights? Is it a way of life? Is anyone truly free?

If one would stop to ponder his own freedom, these are some of the questions which he might discover within the folds of his heart. The sad thing about freedom, however, is that in all too many men it causes a sense of complacency to develop where a zeal and desire should exist. Too many people who have freedom do not appreciate their blessing and when they stop appreciating their freedom, they come all too close to losing it. The challenge of freedom then is to know what freedom is and live with an awareness of it always.

What is this thing which we have chosen to name freedom? Freedom is the right to think and to express the beliefs which arise from this thought. Each type of freedom which one can name falls under this definition—freedom to worship, to speak, and the freedom to live. Freedom lives in the minds of men, and as long as the minds of men choose to think for themselves, it shall always live. The challenge then goes out to every man to think and to stimulate others to think also. Ah, thinking is easy, one would be prone to give as a rejoinder; but thinking constructively and individually is not quite so easy a task. Each person in the world can think on an idea which someone else gives him, but turning over the ideas of others is not freedom. This is the major basis for Communism and Totalitarianism. Get the masses thinking the thoughts which we want them to think. Do not allow them to formulate their own thoughts. These people are then made ideological slaves.

Is anyone truly free? Yes, a person is truly free as long as he can still think his own thoughts, make his own kind of music as the

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popular song says. A person then can be free while subjugated or a man can be a slave when he is legally free. The challenge then comes forward once again for each of us to use our minds. Is thinking the ultimate challenge however? No. Thinking must be followed up by action. It is obvious that people in a country where individual rights do not exist can only formulate concepts of freedom without acting, but men who live in the nations of the world where man can express his beliefs must do more than just think—they must live their freedom. Each man must live his freedom, not only for himself, but in the way that will insure freedom for those around him and that will help the subjugated peoples of the world find freedom and fight for it. Freedom is not always cheap and sometimes one must fight in order that his ideas may live.

The ultimate challenge then is to live with freedom pulsing in our veins, with freedom radiating from our lives and freedom being shouted from our lungs. To the man who thinks, freedom is his life. If it is in danger, he may have to serve it, with his death. Listen all men, freedom is calling.

STABILIZATION WORK ON THE MISSOURI RIVER BETWEEN GARRISON DAM AND BISMARCK

(Mr. KLEPPE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. KLEPPE. Mr. Speaker, I am introducing a bill today authorizing an additional $6 million for bank stabilization work on the Missouri River between Garrison Dam and Bismarck.

Identical legislation is being introduced in the Senate by Senators MILTON R. YOUNG and QUENTIN N. BURDICK.

The legislation would permit the Corps of Engineers to continue bank stabilization and rectification projects it has been conducting for several years. The corps has utilized nearly all the funds for which it has authorization.

Although the additional $6 million authorization is slightly above the amount the corps has indicated it can support, it is not excessive when we consider inflation and rising construction costs.

Critical bank erosion is continuing along the Missouri River. Some areas are particularly threatened and need attention at the earliest possible time, including the banks near the Interstate Highway No. 94 bridge between Bismarck and Mandan, the Standard Oil pipeline north of the bridge, and valuable agricultural lands.

A sudden break in the pipeline would cause oil pollution of the proportion that has plagued many other areas of the United States.

FISCAL INEBRIATION

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, a number of years ago, on the second day of January, I met on the street a friend who worked for the city in our little community. He did not look well.

It turned out that most of the merchants, in appreciation for the kind of job he had done, had given him many different kinds of spiritous beverages in considerable quantity, and since they had given it to him for New Year's, he thought he had to drink it all on New Year's Day. He said he had had sauerkraut and wieners for supper and then he went to bed. About midnight he woke up, quite uncomfortable. He went to the kitchen and drank a quart of milk.

The next day, in explaining it to me, he said, "You know, JOHN, that milk almost killed me."

Our Nation has been engaged in fiscal inebriation for about 30 years. We are now engaged in a sobering-up process, and some of the hangover is a little painful.

Now the majority leader comes to the floor and claims that the milk is making the economy sick.

These are simply the meanderings of the majority party in trying to explain away this 30-year inebriation in which they have been engaged.

HEW ATTEMPTING TO INTERFERE WITH COURSES, FACULTY, AND STUDENTS

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, one of the greatest educational assets of my State of Alabama is its fine system of junior colleges and technical schools. Two of these are located in my congressional district and would be most adversely affected by a recent proposal of the Department of Health, Education, and Welfare.

Wenonah State Junior College, located in the western sector of my district, has for 20 years served as a junior college and technical school for a predominantly black student body, and it continues to serve with distinction.

HEW would remove the trade school from this school and transfer it elsewhere.

Jefferson State Junior College has for 5 years existed in the eastern sector of my district with a present enrollment of 5,500 students. Like Wenonah, it has operated from the outset with open admission policies, and is approximately 85 percent white and 15 percent black in its student composition. Jefferson State operates fine schools of nursing and of data processing, among other functions. These HEW would seek a court order to close, with the court requested to order the faculty, students, and functions transferred to Wenonah State College.

Mr. Speaker, I vigorously protest a Federal agency seeking to direct what courses a college may or may not teach, or students what college they may or may not attend. The young people involved are enrolled as tuition-paying college students attending schools with free admission policies, and schools of their own choice. There can be no question of their right to do so, or of the absolute wrongness of this Federal attempt to deny both them and the schools they attend fundamental rights and freedoms.

PROPOSED UNITED NATIONS OFFICE AND LIVING SPACE EXPANSION

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I note that the United Nations is planning a massive expansion of its facilities, at the same time that its influence and effectiveness have hit a new low. The proposed new buildings would include offices and living quarters and would constitute a landgrab comprising two blocks of choice Manhattan property. The office and apartment hotel complex would cost $300 million. If the past is any precedent, the United States will be called upon to foot a large share of this bill. This expansion would provide 4.2 million square feet of office and living space. By comparison there are only 3 million square feet of offices in the Pentagon. In addition, 700 families would be put out of their homes so that U.N. employees could live and work in the same building. There is some question in many minds as to just what the U.N. does, except come to the U.S. Treasury periodically for more money. Just a few years ago we bailed them out to the tune of $200 million. Yet, many nations fail to pay their share of U.N. dues and assessments while continuing to use this debating society as a propaganda outlet for their nationalistic propaganda. When we are seeking to trim our own domestic budget to combat inflation, further U.S. investment in the U.N. of this magnitude is foolish and wasteful. I would hope that this Congress would move to inform the U.N. that we do not intend to finance their skyscraper, or any part of it; $20 million has been earmarked in the 1971 U.N. budget to begin this expansion of the "Tower of Babel." This Congress can perform a distinct service to the taxpayers by eliminating whatever portion of the cost which the generous leadership of that body has assigned to the United States.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Iowa, my friend, who similarly opposes the expansion of the great Tower of Babel up in New York.

Mr. GROSS. Mr. Speaker, the gentleman is on House Appropriations Committee, the proper committee to do something about that, and I am confident he will. President Nixon has put $20 million in his budget, and that is first the well-known foot-in-the-door for this plush expansion of the U.N. which the gentleman from Illinois properly describes as a debating society.

Mr. MICHEL. I just want to make it clear to the gentleman from Iowa by my remarks today where the gentleman in the well stands on the subject.

ENVIRONMENT TEACH-INS RESOLUTION

(Mr. McCLOSKEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCLOSKEY. Mr. Speaker, the executive board of the Communications Workers of America recently adopted two resolutions indicating their concern about the environment.

The first resolution endorses the day of environmental study and discussion planned for April 22 throughout the

Nation's colleges and schools and pledges the cooperation and participation of local unions.

The second resolution suggests specific steps that this Nation should take to achieve the goal of a "new quality of life in America" as called for by President Nixon in his state of the Union address, and as strongly supported by the union's president, Joseph A. Beirne.

I submit for inclusion in the RECORD at this point the two resolutions adopted by the Communications Workers' executive board and add my personal commendation to the Communications Workers of America for their leadership in this field:

Environment Teach-Ins Resolution

The era of indifference which saw the pollution of our air and water and the defiling of our cities and countryside can be brought to an end if the people of the nation join together in pushing good environmental programs to the forefront of our national priorities. We, the Communications Workers of America, acting as citizens and as Unionists, accept our responsibility to participate in this effort for the betterment of our lives and the lives of our children.

A method of participation for CWA has become available through the announcement that a nationwide program of teach-ins on environment will be held on many college campuses on April 22. Sponsored by Senator Gaylord Nelson, a Democrat, and Rep. Paul McCloskey, a Republican, the teach-ins are non-partisan, and are designed to develop community awareness of the great risks and great costs of continued lack of improvement in the environment. Those participating in the teach-ins will select issues which are of importance in their particular area, and devise procedures to implement correction of area environmental problems. Therefore, be it Resolved: That the Executive Board of the Communications Workers of America endorse the teach-ins to be held on college campuses, and urge all Locals to participate in the teach-ins. And be it further

Resolved: That Locals participate in helping organize the teach-ins, conduct the teach-ins, follow through on necessary post-teach-in programs to secure environmental improvements, and publicize their participation. And be it further

Resolved: That Locals not located near a campus which is the site of a teach-in aid in this effort for a better environment by informing elected officials in their communities and states, members of the Congress, and the news media, of their support for measures to improve the environment, by noting situations in their areas which need correction. And be it further

Resolved: That the President's office endeavor to obtain and distribute a list of the campuses where teach-ins are being held so that contact may be facilitated by the Locals. And be it further

Resolved: That Local officers call the membership's attention to the extensive coverage of environment in the March issue of the CWA News, and that Local officers use this information as the basis for developing arguments on behalf of environmental improvements.

If the Nation's goal is to become more than another set of slogans coined for political purposes, full commitment must be made—and honored.

While it is impossible to find anywhere in this land a single individual who says he prefers polluted air and water, junkyards on the streets, traffic congestion, ravage of the natural resources, and any of the other indices of a breakdown of the environment, there are natural and artificial sources of inertia which would prevent action. Therefore, be it

Resolved: That the Executive Board of the Communications Workers of America wholeheartedly endorse efforts by the Administration and the Congress to take all needed steps to achieve "a new quality of life in America"; and be it further

Resolved: That this Executive Board express this Union's sense of urgency in the following aspects of the national goal:

1. Definition of the problems of the environment, especially those which require legislative action.
2. Enactment of the most stringent of Federal laws with clear standards, providing adequate funds for the strictest enforcement, and setting criminal penalties against individuals who refuse to obey the law.
3. Permitting the public at large by "class actions" in Federal courts of competent jurisdiction, to secure its rights to an unpolluted and otherwise undefiled environment.
4. Unification of the jurisdiction of Federal agencies and Committees of the Congress in environmental matters.
5. Establishment of a policy that city streets are to be used primarily for the movement of traffic, not vehicle storage.
6. Taxation of slum properties on a formula that favors maintenance and penalizes those who traffic on misery.
7. Expenditure of Federal and other public funds for more useful and practical purposes than up to the present.
8. "Open Spaces" programs meaning more than shopping centers and parking lots.

Environmental Quality—More Than Slogans Needed

The United States is encountering severe problems in the quality of its environment. The problems are largely due to the tremendous success of our mass production-high consumption economy.

Concepts currently prominent in the thinking of government and other public bodies and the information media include "ecology," "total environment," "quality of life," "urban decay" and "pollution." The magnitude of these concepts is at long last being recognized.

The scope of the problem has not been adequately defined. It must include air and water pollution, the ever-growing masses of solid wastes, the abuse of natural resources, and the inability of the individual citizen to do more than protest.

Advances in technology and increases in the Gross National Product have not been accompanied by sufficient efforts to ensure that they are truly forward steps.

For instance, the coming of a paper mill or chemical plant is an event often welcomed by a community, because of the many financial benefits. But the price subsequently exacted on the community can be high—in ravaging of the landscape and waters, in noxious discharges into the air, in congestion.

DDT and other toxic chemicals have greatly reduced the number of insects which have plagued mankind through history. However, these substances are not selective: Bees, birds, fish and other animal life also have been threatened, and there is medical evidence that human health may be harmed by the continued use of these chemicals.

A drilling accident in the Santa Barbara Channel and the wreck of the tanker *Torrey Canyon* in the last two years fully illustrated the dangers inherent in the petroleum industry, and the substantial economic losses by individuals and businesses not directly involved.

For a final instance, the installation of a nuclear power plant can be a source of adequate electricity for a large area. But the price paid by the area can be hazardous radiation, thermal pollution of large expanses of publicly owned waters, and difficulty in disposing of radioactive nuclear wastes.

Heretofore, the individual or local group alarmed at water and air pollution by local industries has been in danger of being an outcast because of "anti-business" attitudes. Opposition to strip-mining has been viewed as somehow "anti-American," because the protester would be denying a company the use of its own minerals. Questioning the "unquestionable assumptions" of the use of nuclear energy has been equated to impeding progress. Open advocacy of modern and adequate mass-transit systems can be offensive to the gigantic automotive industry and its natural allies—the oil industry, tire makers and paving contractors.

In his first State of the Union Message, President Nixon focused attention on the goal of "a new quality of life in America." While the message lacked specific steps to reach that goal, the President promised to send the Congress "the most costly and comprehensive program in this field in the Nation's history."

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The United States is the world's largest producer of cheese. In 1967 the United States produced 868,000 metric tons. France was second with 645,000 metric tons.

AT LEAST ONE NEWSMAN TELLS IT LIKE IT IS

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, it is highly refreshing to find that there is at least one man in the news industry willing to admit to the bias and prejudice which exists among the commentators who dominate the dissemination of news on the television networks. He is Howard K. Smith, Washington-based anchor man for the ABC network.

His admission made not a ripple in the liberal press or on television where it should have made the lead story on the day he spoke these truths. But his comments were carried in TV Guide magazine and reprinted in Human Events of March 14.

Just to set the record straight and make a permanent record of the fact that things are not what the liberal majority would have us believe, I would like to insert this story from Human Events here in the RECORD:

At Least One Newsman Tells It Like It Is

On Nov. 12, 1969, when the liberal media were angrily aboil over Vice President Agnew's blasts at the liberal left and its frequently violent crusades, a quiet voice on ABC–TV declared: "Political cartoonists have that in common with the lemmings, that once a line is set, most of them follow it, though it lead to perdition. The current cliche shared by them and many columnists is that Spiro Agnew is putting his foot in his mouth [and] making irredeemable errors. . . . Well, . . . I doubt that party line. . . . There is a possibility it is not Mr. Agnew who is making mistakes. It is the cartoonists."

One week later, on Nov. 19, 1969, when the liberal media were even more violently aboil over the climactic Agnew speech blast-

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ing bias in network news, that same quiet voice on ABC–TV once again was heard: "I agree with some of what Mr. Agnew said. In fact, I said some of it before he did."

The speaker was Howard K. Smith, ABC's Washington-based anchor man, ex-CBS European correspondent, and winner of a constellation of awards for foreign and domestic reporting. Mr. Smith had, indeed, said some of what Mr. Agnew said before Mr. Agnew had said it. For several years, despite his respect for network news departments and their achievements, he has been criticizing his colleagues—on the air and off—for falsifying U.S. political realities by means of biased reporting.

Mr. Smith is by no means an unqualified supporter of Mr. Agnew, and he has reservations about The Speech. To name the two most important: "A tone of intimidation. I think, was in it, and that I can't accept. . . . Also a sense that we do things deliberately, I don't think we do them deliberately."

Mr. Smith, however, says: "I agree that we made the mistakes he says we made." And he himself levels charges at the network news departments.

In fact, according to Howard Smith, political bias in TV reporting is of such a magnitude that it fully justifies the explosion we have seen. Here is this insider's analysis of the problem.

His candor begins at the very base of the network news operation—namely, with the political composition of the staff. Networks, says Mr. Smith, are almost exclusively staffed by liberals.

"It evolved from the time when liberalism was a good thing, and most intellectuals became highly liberal. Most reporters are in an intellectual occupation." Secondly, he declares that liberals, virtually by definition, have a "strong leftward bias": "Our tradition, since FDR, has been leftward."

This is not to say that Mr. Smith sees anything wrong with being a leftist—"I am left-of-center myself." But he sees everything wrong with the dissemination of an inflexible "party line"; and this, he charges, is what liberal newsmen are doing today:

"Our liberal friends today have become dogmatic. They react the way political cartoonists do—with oversimplification. Oversimplify. Be sure you please your fellows, because that's what's 'good.' They're conventional, they're conformists. They're pleasing the Washington Post, they're pleasing the editors of the New York Times, and they're pleasing one another."

He says a series of cartoonlike positive and negative reflexes are determining much of the coverage.

He names a series of such negative reflexes—i.e., subjects which newsmen automatically cover by focusing on negatives. Herewith, excerpts from his comments:

Race: "During the Johnson Administration, six million people were raised above the poverty level. . . . And there is a substantial and successful Negro middle class. But the newsmen are not interested in the Negro who succeeds—they're interested in the one who fails and makes a loud noise.

"They have ignored the developments in the South. The South has an increasing number of integrated schools. A large part of the South has accepted integration. We've had a President's Cabinet with a Negro in it, a Supreme Court with a Negro on it—but more important, we have 500 Negroes elected to local offices in the Deep South! This is a tremendous achievement. But that achievement isn't what we see on the screen."

Conservatives: "If Agnew says something, it's bad, regardless of what he says. If Ronald Reagan says something, it's bad, regardless of what he says. Well, I'm unwilling to condemn an idea because a particular man said it. Most of my colleagues do just that."

The Middle Class: "Newsmen are *proud* of the fact that the middle class is antagonistic to them. They're proud of being out of contact with the middle class. Joseph Kraft did a column in which he said: Let's face it, we reporters have very little to do with middle America. They're not our kind of people. . . . Well, I resent that. *I'm* from middle America!"

The Viet Nam War: "The networks have never given a complete picture of the war. For example: that terrible seige of Khe Sanh went on for five weeks before newsmen revealed that the South Vietnamese were fighting at our sides, and that they had higher casualties. And the Viet Cong's casualties were 100 times ours. But we never told *that*. We just showed pictures day after day of Americans getting the hell kicked out of them. That was enough to break America apart. That's also what it did."

The Presidency: "The negative attitude which destroyed Lyndon Johnson is now waiting to be applied to Richard Nixon. Johnson was actually politically assassinated. And some are trying to assassinate Nixon politically. They hate Richard Nixon irrationally."

If this is a sampling of the liberal reporters' negative reflexes, as seen by Howard Smith—what then are the positive reflexes? He provides an even more extensive set of examples—subjects on which, he says, his colleagues tend to have an affirmative bias and/or from which they screen out negatives. Again here are excerpts from his comments:

Russia: "Some have gone overboard in a wish to believe that our opponent has exclusively peaceful aims, and that there is no need for armaments and national security. The danger of Russian aggression is unreal to many of them, although some have begun to rethink since the invasion of Czechoslovakia. But there is a kind of basic bias in the left wing soul that gives the Russians the benefit of the doubt."

Ho Chi Minh: "Many have described Ho Chi Minh as a nationalist leader comparable to George Washington. But his advent to power in Hanoi, in 1954, was marked by the murder of 50,000 of his people. His consistent method was terror. He was not his country's George Washington—he was more his country's Hitler or Stalin. . . . I heard an eminent TV commentator say: 'It's an awful thing when you can trust Ho Chi Minh more than you can trust your President.' At the time he said that, Ho Chi Minh was lying! He was presiding over atrocities! And yet an American TV commenator could say that!"

The Viet Cong: "The Viet Cong massacred 3,000 Vietnamese at Hue alone—a massacre that *dwarfs* all allegations about My Lai. This was never reported on,"

Doves: "Mr. Fulbright maneuvered the Gulf of Tonkin Resolution through—with a clause stating that Congress may revoke it. Ever since, he's been saying: 'This is a terribly immoral thing.' I asked him. 'If it's that bad, aren't *you* morally obligated to try to revoke it?' He runs away! And yet Mr. Fulbright—who incidentally has voted against *every* civil-rights act—is not criticized for his want of character. He is beloved by reporters, by everyone of my group, which is left-of-center. It's one of the mysteries of my time!"

Black Militants: "A few Negroes—scavengers on the edge of society—have discovered they're riding a good thing with violence and talk of violence. They can get on TV and become nationally famous."

The New Left: "The New Left challenges America. They're rewriting the history of the Cold War. Some carry around the Viet Cong flag. Some shout for Mao—people who'd be assassinated in China! They've become *irrational!* But they're not portrayed as irrational. Reporters describe them as 'our children.' Well, they're not *my* children. *My* children don't throw bags of excrement at policemen. . . .

"If right-wing students had done what left-wing students have done, everyone, including the reporters, would have called in the police and beaten their heads in. But we have a left-wing bias now, that has 30 years of momentum behind it."

What do Mr. Smith's examples of negative and positive biases add up to, politically? He says: "The emphasis is anti-American." In fact, as he portrays the pattern, it is a dual emphasis: This coverage as described by Mr. Smith is anti-American in that it tends to omit the good about America and focus on the bad. And it is also biased in favor of the attackers-of-America by tending to omit the bad about them and focusing on the good. Mr. Smith has actually reconstituted here a loose variant of the New Left line. And New Left attitudes are influencing newsmen, he says. "The New Left," says Smith, "has acquired a grave power over the liberal mind."

This is not a new charge—it is the essence of the public outcry against network news, and it's the essence of the long-standing conservative charges against the newsmen.

Mr. Smith himself, although he's been described as a "conservative" because he supports the war, is, as he says, a leftist—indeed, a semi-Socialist who shares many views with economist John Kenneth Galbraith. He has been one of TV's most ardent fighters for civil rights—too ardent, Smith says, for CBS's tastes, which is one reason why, he adds, he is at ABC today.

He is generally in disagreement with political Conservatives on virtually everything. And, for that matter, he finds it psychologically easier to defend TV news departments than to criticize them. But on this issue of anti-American, pro-New-Left bias in the network news departments, his observations are identical to those coming from the right.

His explanation of the causes of this pattern, however, are quite different from those which emerge from the right. Where conservatives are often inclined to see this pattern as a deliberate, conscious and intellectually potent conspiracy, Mr. Smith sees it as the opposite—as a largely unconscious phenomenon, stemming from intellectual impotence, from such qualities as "confirmism," "hypocrisy," "self-deception" and "stupidity."

One of the chief conformist patterns, he says, is the automatic obedience to a convention of negativism in journalism itself, often for self-serving reasons. "As reporters, we have always been falsifying issues by reporting on what goes wrong in a nation where, historically, most has gone right. That is how you win a Pulitzer Prize. This gears the reporter's mind to the negative, even when it is not justified."

But how about the opposite form of bias—a chronic omission of negatives and the unremitting focus on the good in our country's enemies? Here Mr. Smith tackles the New Left influence head on. He attributes it to a mental vacuum in the liberal world:

"Many of my colleagues," he says, "have the depth of a saucer. They cling to the tag 'liberal' that grew popular in the time of Franklin Roosevelt, even though they've forgotten it. They don't know what 'liberal' and 'conservative' mean any more! They've forgotten it because the liberal cause has triumphed.

"Once it was hard to be a liberal. Today it's 'in.' The ex-underdogs, the ex-outcasts, the ex-rebels are satisfied bourgeois today, who pay $150 a plate at Americans for Democratic Action dinners. They don't know what they stand for any more, and they're hunting for a new voice to give them new bearings."

The search for a "new voice," he says, has catapulted such men into the arms of the New Left: "They want to cling to that thrill of the old days, of triumph, and hard fighting. So they cling to the label 'liberal,' and they cling to those who seem strong—namely, the New Left. The New Left shouts tirades, rather than offering reasoned arguments. People bow down to them, so they have come to seem strong, to seem sure of themselves. As a result, there's a gravitation to them by the liberals who are not sure of themselves. This has given the New Left grave power over the Old Left."

It is this New Left "power" over many of the nation's liberal reporters, he says, that underlies an anti-American and pro-radical bias in network coverage—and that underlies public anger.

What is the solution to this problem, as envisaged by Mr. Smith?

Let public protest rip, he says. He experiences a twinge of discomfort over the fact that his solution is identical to Mr. Agnew's: "There have been very unpleasant, even threatening, letters," he reports. "But quite literally, what Mr. Agnew suggests is all right."

Public protest, he thinks, will knock these men back into contact with U.S. political realities.

"The networks have ignored this situation, despite years of protest, because they have power. And you know what Lord Acton says about power. It subtly corrupts. Power unaccountable has that effect on people. This situation should not continue. But I wouldn't do anything about it. I would let public opinion and the utterances of the alleged silent majority bring about a corrective. The corrective? Just a simple attempt to be fair—which many people have thrown aside over the last few years."

REPORT ON THE ESTUARY PROTECTION ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91–274)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed with illustrations:

To the Congress of the United States:

In accordance with Public Law 90–454, the Estuary Protection Act, I submit herewith a report forwarded to me by the Secretary of the Interior. This report, which is the first volume of a seven-volume study prepared by the Department of the Interior, documents the importance of estuaries of our country and the severity of their modification by man. It demonstrates the urgent need for prompt enactment of the bill for a comprehensive Coastal Zone Management System which the Secretary of the Interior submitted to you on November 13, 1969.

RICHARD NIXON.

THE WHITE HOUSE.

TO IMPROVE ADMINISTRATION OF THE GOVERNMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91–275)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

We in government often are quick to call for reform in other institutions, but slow to reform ourselves. Yet nowhere today is modern management more needed than in government itself.

In 1939, President Franklin D. Roosevelt proposed and the Congress accepted a reorganization plan that laid the groundwork for providing managerial assistance for a modern Presidency.

The plan placed the Bureau of the Budget within the Executive Office of the President. It made available to the President direct access to important new management instruments. The purpose of the plan was to improve the administration of the Government—to ensure that the Government could perform "promptly, effectively, without waste or lost motion."

Fulfilling that purpose today is far more difficult—and more important—than it was 30 years ago.

Last April, I created a President's Advisory Council on Executive Organization and named to it a distinguished group of outstanding experts headed by Roy L. Ash. I gave the Council a broad charter to examine ways in which the Executive Branch could be better organized. I asked it to recommend specific organizational changes that would make the Executive Branch a more vigorous and more effective instrument for creating and carrying out the programs that are needed today. The Council quickly concluded that the place to begin was in the Executive Office of the President itself. I agree.

The past 30 years have seen enormous changes in the size, structure and functions of the Federal Government. The budget has grown from less than $10 billion to $200 billion. The number of civilian employees has risen from one million to more than two and a half million. Four new Cabinet departments have been created, along with more than a score of independent agencies. Domestic policy issues have become increasingly complex. The interrelationships among Government programs have become more intricate. Yet the organization of the President's policy and management arms has not kept pace.

Over three decades, the Executive Office of the President has mushroomed but not by conscious design. In many areas it does not provide the kind of staff assistance and support the President needs in order to deal with the problems of government in the 1970s. We confront the 1970s with a staff organization geared in large measure to the tasks of the 1940s and 1950s.

One result, over the years, has been a tendency to enlarge the immediate White House staff—that is, the President's personal staff, as distinct from the institutional structure—to assist with management functions for which the President is responsible. This has blurred the distinction between personal staff and management institutions; it has left key management functions to be performed only intermittently and some not at all. It has perpetuated outdated structures.

Another result has been, paradoxically, to inhibit the delegation of authority to Departments and agencies.

A President whose programs are carefully coordinated, whose information system keeps him adequately informed, and whose organizational assignments are plainly set out, can delegate authority with security and confidence. A President whose office is deficient in these respects will be inclined, instead, to retain close control of operating responsibilities which he cannot and should not handle.

Improving the management processes of the President's own office, therefore, is a key element in improving the management of the entire Executive Branch, and in strengthening the authority of its Departments and agencies. By providing the tools that are needed to reduce duplication, to monitor performance and to promote greater efficiency throughout the Executive Branch, this also will enable us to give the country not only more effective but also more economical government—which it deserves.

To provide the management tools and policy mechanisms needed for the 1970s, I am today transmitting to the Congress Reorganization Plan No. 2 of 1970, prepared in accordance with Chapter 9 of Title 5 of the United States Code.

This plan draws not only on the work of the Ash Council itself, but also on the work of others that preceded—including the pioneering Brownlow Committee of 1936, the two Hoover Commissions, the Rockefeller Committee, and other Presidential task forces.

Essentially, the plan recognizes that two closely connected but basically separate functions both center in the President's office: policy determination and executive management. This involves 1) what government should do, and 2) how it goes about doing it.

My proposed reorganization creates a new entity to deal with each of these functions:

—It establishes a Domestic Council, to coordinate policy formulation in the domestic area. This Cabinet group would be provided with an institutional staff and to a considerable degree would be a domestic counterpart to the National Security Council.

—It establishes an Office of Management and Budget, which would be the President's principal arm for the exercise of his managerial functions.

The Domestic Council will be primarily concerned with *what* we do; the Office of Management and Budget will be primarily concerned with *how* we do it, and *how well* we do it.

DOMESTIC COUNCIL

The past year's experience with the Council for Urban Affairs has shown how immensely valuable a Cabinet-level council can be as a forum for both discussion and action on policy matters that cut across departmental jurisdictions.

The Domestic Council will be chaired by the President. Under the plan, its membership will include the Vice President, and the Secretaries of the Treasury, Interior, Agriculture, Commerce, Labor, Health, Education and Welfare, Housing and Urban Development, and Transportation, and the Attorney General. I also intend to designate as members the Director of the Office of Economic Opportunity and, while he remains a member of the Cabinet, the Postmaster General. (Although I continue to hope that the Congress will adopt my proposal to create, in place of the Post Office Department, a self-sufficient postal authority.) The President could add other Executive Branch officials at his discretion.

The Council will be supported by a staff under an Executive Director who will also be one of the President's assistants. Like the National Security Council staff, this staff will work in close coordination with the President's personal staff but will have its own institutional identity. By being established on a permanent, institutional basis, it will be designed to develop and employ the "institutional memory" so essential if continuity is to be maintained, and if experience is to play its proper role in the policy-making process.

There does not now exist an organized, institutionally-staffed group charged with advising the President on the total range of domestic policy. The Domestic Council will fill that need. Under the President's direction, it will also be charged with integrating the various aspects of domestic policy into a consistent whole.

Among the specific policy functions in which I intend the Domestic Council to take the lead are these:

—Assessing national needs, collecting information and developing forecasts, for the purpose of defining national goals and objectives.

—Identifying alternative ways of achieving these objectives, and recommending consistent, integrated sets of policy choices.

—Providing rapid response to Presidential needs for policy advice on pressing domestic issues.

—Coordinating the establishment of national priorities for the allocation of available resources.

—Maintaining a continuous review of the conduct of ongoing programs from a policy standpoint, and proposing reforms as needed.

Much of the Council's work will be accomplished by temporary, ad hoc project committees. These might take a variety of forms, such as task forces, planning groups or advisory bodies. They can be established with varying degrees of formality, and can be set up to deal either with broad program areas or with specific problems. The committees will draw for staff support on Department and agency experts, supplemented by the Council's own staff and that of the Office of Management and Budget.

Establishment of the Domestic Council draws on the experience gained during the past year with the Council for Urban Affairs, the Cabinet Committee on the Environment and the Council for Rural Affairs. The principal key to the operation of these Councils has been the effective functioning of their various subcommittees. The Councils themselves will be consolidated into the Domestic Council; Urban, Rural and Environment subcommittees of the Domestic Council will be strengthened, using access to the Domestic Council staff.

Overall, the Domestic Council will provide the President with a streamlined, consolidated domestic policy arm, adequately staffed, and highly flexible in its operation. It also will provide a structure through which departmental initiatives can be more fully considered, and expert advice from the Departments and agencies more fully utilized.

OFFICE OF MANAGEMENT AND BUDGET

Under the reorganization plan, the technical and formal means by which the Office of Management and Budget is created is by re-designating the Bureau of the Budget as the Office of Management and Budget. The functions currently vested by law in the Bureau, or in its director, are transferred to the President, with the provision that he can then re-delegate them.

As soon as the reorganization plan takes effect, I intend to delegate those statutory functions to the Director of the new Office of Management and Budget, including those under section 212 of the Budget and Accounting Act, 1921.

However, creation of the Office of Management and Budget represents far more than a mere change of name for the Bureau of the Budget. It represents a basic change in concept and emphasis, reflecting the broader management needs of the Office of the President.

The new Office will still perform the key function of assisting the President in the preparation of the annual Federal budget and overseeing its execution. It will draw upon the skills and experience of the extraordinarily able and dedicated career staff developed by the Bureau of the Budget. But preparation of the budget as such will no longer be its dominant, overriding concern.

While the budget function remains a vital tool of management, it will be strengthened by the greater emphasis the new office will place on fiscal analysis. The budget function is only one of several important management tools that the President must now have. He must also have a substantially enhanced institutional staff capability in other areas of executive management—particularly in program evaluation and coordination, improvement of Executive Branch organization, information and management systems, and development of executive talent. Under this plan, strengthened capability in these areas will be provided partly through internal reorganization, and it will also require additional staff resources.

The new Office of Management and Budget will place much greater emphasis on the evaluation of program performance: on assessing the extent to which programs are actually achieving their intended results, and delivering the intended services to the intended recipients. This is needed on a continuing basis, not as a one-time effort. Program evaluation will remain a function of the individual agencies as it is today. However, a single agency cannot fairly be expected to judge overall effectiveness in programs that cross agency lines—and the difference between agency and Presidential perspectives requires a capacity in the Executive Office to evaluate program performance whenever appropriate.

The new Office will expand efforts to improve interagency cooperation in the field. Washington-based coordinators will help work out interagency problems at the operating level, and assist in developing efficient coordinating mechanisms throughout the country. The success of these efforts depends on the experience, persuasion, and understanding of an Office which will be an expediter and catalyst. The Office will also respond to requests from State and local governments for assistance on intergovernmental programs. It will work closely with the Vice President and the Office of Intergovernmental Relations.

Improvement of Government organization, information and management systems will be a major function of the Office of Management and Budget. It will maintain a continuous review of the organizational structures and management processes of the Executive Branch, and recommend needed changes. It will take the lead in developing new information systems to provide the President with the performance and other data that he needs but does not now get. When new programs are launched, it will seek to ensure that they are not simply forced into or grafted onto existing organizational structures that may not be appropriate. Resistance to organizational change is one of the chief obstacles to effective government; the new Office will seek to ensure that organization keeps abreast of program needs.

The new Office will also take the lead in devising programs for the development of career executive talent throughout the Government. Not the least of the President's needs as Chief Executive is direct capability in the Executive Office for insuring that talented executives are used to the full extent of their abilities. Effective, coordinated efforts for executive manpower development have been hampered by the lack of a system for forecasting the needs for executive talent and appraising leadership potential. Both are crucial to the success of an enterprise—whether private or public.

The Office of Management and Budget will be charged with advising the President on the development of new programs to recruit, train, motivate, deploy, and evaluate the men and women who make up the top ranks of the civil service, in the broadest sense of that term. It will not deal with individuals, but will rely on the talented professionals of the Civil Service Commission and the Departments and agencies themselves to administer these programs. Under the leadership of the Office of Management and Budget there will be joint efforts to see to it that all executive talent is well utilized wherever it may be needed throughout the executive branch, and to assure that executive training and motivation meet not only today's needs but those of the years ahead.

Finally, the new Office will continue the legislative reference functions now performed by the Bureau of the Budget, drawing together agency reactions on all proposed legislation, and helping develop legislation to carry out the President's

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program. It also will continue the Bureau's work of improving and coordinating Federal statistical services.

SIGNIFICANCE OF THE CHANGES

The people deserve a more responsive and more effective Government the times require it. These changes will help provide it.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to Section 901(a)(1), "to promote the better execution of the laws, the more effective management of the Executive Branch and of its agencies and functions, and the expeditious administration of the public business;" and Section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in this plan make necessary the appointment and compensation of new officers, as specified in Section 102(c) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the Executive Branch who have similar responsibilities.

While this plan will result in a modest increase in direct expenditures, its strengthening of the Executive Office of the President will bring significant indirect savings, and at the same time will help ensure that people actually receive the return they deserve for every dollar the Government spends. The savings will result from the improved efficiency these changes will provide throughout the Executive Branch—and also from curtailing the waste that results when programs simply fail to achieve their objectives. It is not practical, however, to itemize or aggregate these indirect expenditure reductions which will result from the reorganization.

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I expect to follow with other reorganization plans, quite possibly including ones that will affect other activities of the Executive Office of the President. Our studies are continuing. But this by itself is a reorganization of major significance, and a key to the more effective functioning of the entire Executive Branch.

These changes would provide an improved system of policymaking and coordination, a strengthened capacity to perform those functions that are now the central concerns of the Bureau of the Budget, and a more effective set of management tools for the performance of other functions that have been rapidly increasing in importance.

The reorganization will not only improve the staff resources available to the President, but will also strengthen the advisory roles of those members of the Cabinet principally concerned with domestic affairs. By providing a means of formulating integrated and systematic recommendations on major domestic policy issues, the plan serves not only the needs of the President, but also the interests of the Congress.

This reorganization plan is of major importance to the functioning of modern government. The national interest requires it. I urge that the Congress allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, *March 12, 1970.*

INCREASING THE NUMBER OF POSITIONS OF OFFICIAL REPORTERS TO COMMITTEES AND POSITIONS OF EXPERT TRANSCRIBERS TO OFFICIAL COMMITTEE REPORTERS

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–905) on the resolution (H. Res. 865) increasing the number of positions of official reporters to committees and positions of expert transcribers to official committee reporters and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 865

Resolved, That, effective upon enactment of this resolution, there shall be paid out of the contingent fund of the House, until otherwise provided by law, compensation for the employment of two additional official reporters to committees of the House of Representatives and two additional expert transcribers to official committee reporters, to be appointed in the same manner, and to receive the same rate of compensation, as the other official reporters to House committees and other expert transcribers to official committee reporters.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

IN DEFENSE OF THE AMERICAN FARMER

The SPEAKER pro tempore (Mr. GIAIMO). Under a previous order of the House, the gentleman from Wisconsin (Mr. OBEY) is recognized for 30 minutes.

Mr. OBEY. Mr. Speaker, I am rising in this House today to speak on a subject of great concern to me, and of the greatest importance to the American people and to this Nation's economy. I am speaking because I am not only concerned, but because I am worried. And, I am worried because there seems to be a growing misunderstanding and lack of appreciation—by the public and the present administration—for the role America's farmer's play in the growth of our country.

There has been much discussion recently about the farm problem, and some of my colleagues and certainly many of their constituents seem to feel that a solution to the farm problem is to withhold Government payments from our farmers. This in turn—their story goes—would save the Government billions of dollars and substantially lower the housewives' cost of groceries.

I would like to point out to my colleagues, that this simple solution—ending farm payments—is no solution at all; Americans are getting a bargain in food purchases in comparison with other nations; and that an end to our present farm programs would bring chaos to rural America and eventually to our economy as a whole.

FARMING OUR BIGGEST INDUSTRY

I say this first of all because although some urban residents undoubtedly do not realize it, the fact is that agriculture is still our Nation's No. 1 industry. It employs 5 million workers and its assets total $298 billion, equal to about two-thirds of the current assets of all corporations in the United States.

To be sure our farm population today is only slightly over 5 percent of our total population. But farmers are responsible for buying about $37 billion in production goods and services per year. The commercial farmer buys about 5 percent of our total steel production, about $1.6 billion of our petroleum products or 11 percent of the total sold. He buys enough rubber for his cars and tractors to put tires on 7.5 million cars, and it has been estimated that his purchases are the basis for about 6 million jobs in machinery, chemical and other supply industries. And his products, in turn, are the basis for processing and marketing industries which provide an estimated 14 to 16 million jobs.

DO NOT BLAME FARMERS FOR INFLATION

While the farmer's importance to our economy is generally underrated, his relationship to our increasing cost of living is certainly overrated.

Today the consumer spends only 16.5 percent of his take-home pay to buy food, compared with 20 percent in 1960. In Western Europe the comparative figure is 25 percent to 30 percent, and in the Soviet Union 45 percent to 50 percent. In Asia the consumer pays 75 percent to 80 percent of his disposable income for food.

But it is too often the farmer who is blamed for the increase in the price of bread, or cornflakes or hamburger. It is almost like a litany.

"Who pays for the price increase?" we're asked.

"The consumer," we're told.

"But who gets the blame," I ask.

"The farmer—almost always the farmer."

And what of the prices our farmers are receiving?

Today less than 5 cents of every dollar we spend on everything goes to the farmer for food, as against 10 cents as recently as 1949.

The farmer's share of the retail food dollar was 39 cents in 1968. That compares with 47 cents in 1950. He sells his wheat at 1942 prices and his livestock at 1952 prices.

The true story of course is that it is not the farmer but the "middleman" who is gaining most from any increase in food prices. The farmer provides our consumers with food. It is the middleman who transports it, and wraps it and displays it in tune to the demands of the consuming public.

COST-PRICE SQUEEZE

Every beginning course in general economics uses agriculture as the classic case of "inelastic demand," consumer demand which does not change significantly in response to increases or decreases in price. I think they would be far better off using our farm sector as the classic example of an industry caught in a cost-price squeeze.

In 1947 the realized gross farm income was $34.1 billion, and the realized net income was $17.1 billion.

In 1968 the realized gross farm income was $51 billion, but the realized net income was only $14.7 billion, almost $3 billion less than it was about a quarter of a century ago.

The U.S. Department of Agriculture Handbook shows that the farmers have been caught in a vicious cost-price squeeze since 1953. In the past 10 years interest rates have gone up 300 percent and taxes about 200 percent. The parity ratio which describes the relationship between the prices paid by farmers and the prices received by them is equal to its lowest level since 1933.

Anyone would be hard pressed to show from these figures, Mr. Speaker, that the farmer is getting rich on either government subsidies or anything else.

The parity ratio I mentioned above is about 75 percent. In what other area—industry, labor, the professions or government—would people work for 75 percent of what they are worth.

I think we can safely say in no other industry are we likely to find this situation. And in no industry, including agriculture, should workers have to accept such a disparity. So it is time that we all pay respects to the tremendous job that our farmers are doing in supplying the food and fiber for the Nation, and indeed for a hungry world.

I think it is up to us in Congress and other elected offices throughout the country to periodically remind our citizens that they cannot continue to take their abundant supply of quality food for granted. More importantly, we in Government cannot act as if we could ignore the importance of the farming industry in this Nation.

Food shortages, world hunger, and malnutrition in this country, and even the ever-present pictures of busy, overcrowded, and polluted cities are a daily reminder that we must continue to support our farm industry and encourage our farmers to remain in business.

Does the shopper realize how high prices would rise if large numbers of family farmers decided to "hang up their spikes," and food production were concentrated in the hands of a few growers.

Do our businessmen realize how beneficial the farmer is to our balance of payments? Do they realize, in fact, that the only thing which keeps our balance of payments from going even more heavily in the red is the exportation of food, grown by 5 percent of our population?

Do our city officials realize how their already burdensome problems would be multiplied if larger numbers of farmers decided to migrate to our overcrowded cities?

Do our citizens remember that the Great Depression of 1929 was preceded by an agricultural depression and that the recession of 1957–58 was also preceded by a depression in agriculture?

Do they realize that taking huge amounts of land out of production as some have suggested would probably reduce farm income more than it would reduce Federal expenditures for farm programs? This income drop would cause untold chaos in rural America.

And, if Government support programs were ended, do they realize that farm income would be reduced a full 20 percent, precipitating just the kind of rural depression which caused this Nation severe economic difficulties in the past?

And why, Mr. Speaker, are payments in support of our farmers considered "subsidies" when Federal payments to airlines or railroads or publishing houses are not?

How can the farmer and farm programs be used as whipping boys in attempts to correct excessive Government spending when we are spending billions of dollars for a supersonic transportation airplane, for space shots, and to finance pork barrel projects in our foreign aid program?

What we should be doing is taking positive steps to assure farmers some stability in their business, and at the same time assure the consumer that he will continue to have an adequate supply of quality food.

And it is at this point, Mr. Speaker, when we must look at just who is doing what for the farmer.

COALITION FARM BILL

In the Congress more than 50 Members of the House and Senate, including myself, have cosponsored the so-called coalition farm bill, a bill supported by 27 different farm organizations which includes some income improvement provisions and extends the commodity programs authorized by the Food and Agriculture Act of 1965. Never before have so many farm organizations spoken with one voice. And they are speaking with the experience of many years in agriculture. This bill is not the result of bureaucrats who are trying to tell the farmers what works and what does not.

ADMINISTRATION NEGLECT

When we look at the Executive, the record of the past year is a mixed one at best, and I am sure the farmers are going, and have a right, to expect far better treatment in the years ahead. In fact, in some cases the record of the administration is absolutely dismal. For example:

DAIRY PRICE SUPPORTS

The administration did not raise dairy price supports for manufacturing milk to 90 percent of parity as authorized by law on April 1, 1969.

That decision not to raise the $4.28 hundredweight price support which is now about 78.5 percent of parity to the full 90 percent will cost dairy farmers an estimated $400 million in a 12-month period. While raising the price support for milk would not be inflationary because prices paid for milk are now above the support level, it would put a floor on the price for milk and prevent a deflationary impact on dairy farmers when prices go down during the spring and early summer months. I have asked the Secretary of Agriculture to raise the support level in the past, and I again urge him now to rectify the decision which he made last April 1.

ADVANCE PAYMENTS

The administration decided to eliminate advance payments under the feed grain program.

Just as I did not support the original proposal by the Johnson administration to reduce the advance payment rate from 50 to 25 percent in 1969, I strongly object to the decision of the present administration to abolish advance payments completely in 1970. This move will cost farmers many thousands of dollars in interest if they seek money from lending institutions to buy seed, fertilizer, fuel, and other items for spring planting which they were previously able to purchase with nearly $400 million they received as advance payments. The elimination of advance payments was a budgetary gimmick used by the administration to shove money from one fiscal year to another and come up with a "paper cut" in the budget. The result of this decision has been a 14-percent reduction from a year earlier in the number of signups for the feed grain program. It will undoubtedly impose a hardship on many farmers. Because I believe the decision was an unwise one, I have introduced legislation to require the Secretary of Agriculture to make advance payments to producers under the feed grain program.

IMPORT QUOTAS

The administration has not stopped the evasion of the import quotas which our Nation has for dairy products.

This is a longstanding problem. Dairy products have been subsidized by foreign governments importing cheese into this country. At the present time New Zealand is importing large quantities of Monterey cheese to this country although many persons believe it is just another variety of an American-type cheese. Farmers do not expect the Government to cut off all dairy imports, but certainly we should move swiftly to enforce our present laws and prevent evasion of it, evasions which have allowed large amounts of chocolate milk crumb, Monterey cheese and imports selling for just over 47 cents per pound to squeeze American dairy products out of the market.

TAX-LOSS FARMING

The administration has not come to grips in any way with the tax loss and hobby farmer or with the corporate invasion of agriculture.

Hobby and tax-loss farmers are in farming to avoid taxes, not to make a profit. They milk the Treasury for upwards of $600 million per year by claiming tax losses on farming operations. Many of these Hollywood farmers are accepting grants-in-aid payments from the U.S. Department of Agriculture as if they were legitimate farmers, when they are only in the business for tax purposes. I have introduced legislation and believe with its passage Congress could take a first step in protecting the family farmer from the unfair competition he now faces from large corporations which are looking for tax breaks. My bill would make the tax-loss hobby farmers ineligible to receive agricultural grants-in-aid or farm price support program payments. It would not penalize the family farmer who may legitimately incur losses, but it certainly will affect the so-called farmer who loses at least $30,000 in a 5-year period and who cannot show that he is in farming with an expectation of making a profit. The legitimate farmer who must make a profit in order to survive should not be expected to compete against the tax-loss farmer who has no intention of making a profit—especially if that tax-loss farmer is given a built-in advantage by our own tax laws.

COOPERATIVES

The administration and some segments of the Congress show antipathy toward cooperatives at best, and downright hostility at worst.

During the congressional debate on the Tax Reform Act, some persons attempted to include provisions which would have required cooperatives to return part of their dividends in cash, and would have forced them to redeem all dividend certificates in cash after 15 years. While a number of us from rural districts were able to ultimately eliminate these provisions completely, there was no indication from the Treasury or Commerce Departments that this move was an unwise one and potentially harmful, if not fatal, to many cooperatives throughout rural America. The taxation of cooperatives was carefully reviewed by the Congress in 1962. But, while some cooperatives need reforming, we should not destroy the cooperative movement in the process. Before any new action is taken in this area, I would hope that more research could be done and all concerned persons would have an opportunity to present their views to their elected officials.

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ACP AND SPECIAL MILK PROGRAMS

The administration has presented a budget for the next fiscal year which eliminates the ACP and special milk programs, and may even decrease farm income.

Just when the importance of preserving our natural resources is becoming fully recognized, the President has proposed the elimination of all funds for the ACP or agricultural conservation program. Water erosion is a great environmental hazard, sending large amounts of silt flowing into streams and lakes with much resultant damage. How can we expect farmers to be stewards of the soil by themselves. Our farmers already pay thousands of dollars out of their own pockets for terracing, contour farming and other erosion practices. While the President is calling in his environmental message for more cropland to be used for open space and recreation and for the reforestation of idled farmland, it is ironic that he is calling for the abolishment of a program which helps our farmers to conserve our soil and water and wildlife.

The President's budget also eliminates a program which last year provided milk for some 17 million schoolchildren. I am in total and complete disagreement with the President's recommendation in this matter. I know President Johnson proposed the elimination of this program a year ago, but President Nixon is just as wrong in proposing it now as President Johnson was then. When food, nutrition, and health are uppermost in our minds, and when studies show that even children from the wealthiest of families have been found to be nutritionally deficient, it is hardly the time to eliminate programs which help to meet the nutritional needs of millions of schoolchildren at a cost of $104 million, less than half the subsidies the President has requested for the SST this year.

And lastly is the educated concern by some persons that budget reductions of $150 million in the feed grain program and $386 million for "other price-support operations" may decrease farm income by as much as $1 billion. The U.S. Department of Agriculture itself states that its activities in 1971 will be directed only toward "maintaining" farm income, not increasing it. How much longer can the farmer afford to just maintain, let alone have a decrease in his income when inflation and increasing costs are constantly taking their toll.

So, Mr. Speaker, while we do not have a farm program before us in the Congress which the President and the Secretary of Agriculture are willing to call their own, we can judge them best on their actions in the past. And I think the actions I attempted to outline for you are clear justification for concern by those of us who care about our farmers and rural America.

I am not saying there is a concerted attempt by the President to institute policies which are harmful to the 5 percent of our population in agriculture. Secretary of Agriculture Hardin realizes, as he said a few months ago, that "rural and small town America offers opportunity and hope for a better life for all of us."

But perhaps it is because their numbers are relatively small or their problems so easily misunderstood that our farmers always seem to bear the brunt of Government actions when our economy is in trouble.

In the next few months we will be giving consideration to various but significant proposals pertaining to agriculture. I think the Congress and the Executive will do well to look at these proposals not as a means to end the farm problem but as an opportunity to look at our farmers' problems and to seek ways to help those farmers gain a larger share of the wealth of this country.

And I make this appeal especially to my urban colleagues.

Just because there are abuses of the farm program, such as large diversion payments to certain individuals, we cannot use this as an excuse to throw out the whole farm program. To do so would be as irresponsible as ending medicare which helps all elderly people because we are having serious administrative problems with it. I do not think we would be willing to do that, and I do not think we should be willing to scuttle the whole farm program either.

City legislators say, and rightly so, that all Americans are responsible for helping to solve city problems. I ask them to remember that it is also true that every Member of this House has a similar obligation to those in rural America. I ask you not to use the farmer as the whipping boy for the shortcomings of Government in many other areas. There are too many legitimate targets for you to do so.

Just as a start, in meeting our obligations to rural America, the Government should take the following actions:

First. Raise the price support for milk to the full 90-percent parity. And I have once again asked the Secretary of Agriculture, in a telegram today, to do so.

Second. Require the Secretary of Agriculture to make advance payments to producers under the feed grain program, and make the program permanent.

Third. Take adequate measures to stop the evasion of our dairy import regulations.

Fourth. Pass legislation to deal with the tax-loss and the hobby farmer.

Fifth. Assure the maintenance of viable cooperatives in rural America.

Sixth. Appropriate adequate funds for the agricultural conservation program.

Seventh. Make the school milk program permanent.

Eighth. Strengthen the farmers' bargaining position.

Much more than this must be done, but this is the absolute minimum required of the Congress and the administration and it is required now.

POLLUTION: THE PLUNDERING OF OUR ENVIRONMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Speaker, on April 22, students in practically every institution of higher education and millions of students in secondary schools throughout the Nation will be conducting a day of study and discussion on the overwhelming pollution problems which threaten to reduce the livable areas of our modern world. Discussions are scheduled to be held at Case Western Reserve University, Cleveland State University, Notre Dame College, Ursuline College, and Kent State University.

At University School, the Cleveland Council of Independent Schools, including Laurel, Hathaway Brown, University School, and Hawken, will convene at a conference on April 22, to inform the students of the problems that man is creating in his own environment and, secondly, make students aware of what they can do to help this deteriorating situation. The program will include participants from industry, science, and government.

On March 24, John Carroll University is sponsoring a full day conference on the "Environmental Problems of the Lake Erie Basin" which will include the keynote address by Edwin J. Skoch, assistant professor of biology at John Carroll University and conference coordinator. Other speakers will include: I. M. Korkigian, hydraulic engineer, U.S. Army Corps of Engineers, Detroit, Mich., who will speak on "Physical Factors of Lake Erie"; Leonard T. Crook, planning director, Great Lakes Basin Committee, Ann Arbor, Mich., who will speak on "Land and Water Usage"; Herbert E. Allen, chemist, Limnological Research Laboratory, U.S. Commercial Fisheries Bureau, Ann Arbor, Mich., who will speak on "Chemical and Biological Quality."

A discussion and summary will be chaired by Luna Leopold, ecologist, U.S. Geological Survey, Washington, D.C., and will include on the panel: Mr. Korkigian, Mr. Crook, and Mr. Allen. The dinner speaker will be the Honorable James R. Smith, Assistant U.S. Secretary of the Interior.

Those "concerned" about this problem should include every American. It is not surprising that the efforts to fight pollution are substantially organized by American youth. The young people of America realize that pollution of all types is closing in on the environment which we once believed was unlimited.

No part of America is secure and safe from environmental destruction. The future growth of California is clouded by the cruel smog that has already devastated the San Fernando Valley and has moved halfway up the San Joaquin. Inversions in desert areas between mountains have contaminated large desert areas in Arizona and New Mexico.

The dead waters of pollution which fill Lake Erie threaten to spread their blight. Paper and petrochemical pollution have ruined vast portions of the Gulf of Mexico. Biloxi and Gulfport are has-been resort places. San Francisco Bay vies with the Santa Barbara Channel in oil and industrial pollution. The great rivers of America—the Hudson, the Susquehanna, the James, the Mississippi, the Ohio, the Sacramento—are open sewage drains into the sea. Our own Cuyahoga River ranks among the most filthy of America. The pollution density of the Cuyahoga River is just about the highest in the world.

Pollution is rapidly closing in on the last places in America where the air is clear and the water is good.

The alarm has been sounded, but all is not yet lost. I am among those who believe we can control the encroachment of pollution and reverse its course in time to save the land and the waters of America before we are overwhelmed. While we are confounded with the awesome problem of Lake Erie pollution, our geography is more encouraging on the problem of air pollution. Since we are on the Great Lakes Plain, the prevailing westerly winds disperse and scatter our polluted air—except for occasional stationary inversions which suffocate.

EARLY EFFORTS

My interest in these problems goes back almost 30 years when I represented in city hall those citizens of Cleveland who lived on the east bank of the Cuyahoga River and suffered almost inhumane conditions of industrial air pollution which etched window glass within 2 years, which eroded the Clark Avenue Bridge several times over. Through community action groups, we cried for help and support which never came. We hired our own experts while city authorities ratified and approved existing levels of pollution as "tolerable and acceptable." The Academy of Medicine heard our complaint and dutifully filed it. We knew there would be no real chance for relief until pollution spread into the countryside.

RESPONSIBILITY DIVIDED

Although responsibility for these problems is a multigovernment responsibility, it becomes increasingly apparent that State and local governments are not effective in meeting the problem. The municipal pollution of the Great Lakes is the result of apathy and inadequate planning at the State level. Industrial pollution of Lake Erie and the Great Lakes has substantially resulted from State protection. The State of Ohio has granted permits to pollute which have prevented cities and local governments from interfering to save their environments. Local governments have vacillated, weighing pollution control enforcement against the industrial threat of plant shutdown with resulting unemployment. There are and there have been sufficient local laws and authority to restrain every form of pollution abuse. As far as industrial pollution is concerned, the threat to move away from a community which is vigilant and alert on air and water pollution can be made real as long as there are other communities in America which are hospitable to pollution.

PROFITS IN POLLUTION

Competitive advantages in production based upon a community's indifference to pollution is unfair. Profits generated through pollution are dirty profits and the polluters must be exposed for what they do to the Nation and its people.

Until recent years, practically nothing has been spent to meet the pollution problem. Local governments provided surveillance services with practically no enforcement. If Cleveland attacked a polluting industry, it could always threaten to move to another place. Only recently did the State of Ohio recognize the water pollution problem by loaning funds to local governments from the $100,000,000 set-aside for water pollution control in the State bond issue adopted several years ago.

AIR POLLUTION

Congress has been legislating on the air pollution problem since 1955, the year I came to Congress. The law was considerably amended in 1963. The Air Quality Act of 1967 first established a program of State standards with Federal criteria. Federal spending which totals $330 million to date was primarily directed toward research and State action. The January 20 hearing which I addressed in Cleveland was a State hearing to develop State standards. At this hearing, I advocated Federal air quality standards and opposed the establishment of pollution zones of lesser standards. I also advocated the establishment of new Federal authority to approach the industrial pollution problem on an industry-by-industry basis. Under this plan, the same requirements would apply to a steel mill or an oil refinery or a paper mill—wherever located. This is the only way to eliminate the profit in pollution and the competition between communities based on lax antipollution enforcement.

WATER POLLUTION PROBLEMS

In the water pollution effort, the Federal Government has done considerably more. Federal expenditures up to the present time have exceeded $2 billion. As of December 31, 1969, Federal grants have totaled $1.5 billion for 9,807 public waste treatment projects. Congress has appropriated $800 million for this fiscal year for which the President requested only $214 million. Despite urgent needs, the administration has announced it will only spend $450 million of the $800 million provided by Congress. At the present time, there are over 7,535 new applications for Federal assistance for water pollution control. These desperately needed projects represent a backlog of $9.2 billion.

In response to this need, the President has recommended a $4 billion Federal assistance program which is no more and, in fact, less than what Congress is presently willing to do.

Present Federal programs consist of research and grants for local public waste disposal systems. Nothing has been allocated for removal of existing pollutants in critically contaminated bodies of water like Lake Erie. The lake bottom is filled with slowly dissolving pollutants which continue to contaminate the fresh water flow. These pollutants must be removed either by flushing them out to sea—or by the slow, costly process of dredging or aeration.

BREAKTHROUGH

Last year, I was successful in obtaining congressional approval for the first legislative recognition of the disastrous Lake Erie pollution problem. Both the House and the Senate have approved a $20 million authorization for Lake Erie and the Great Lakes problem. A House-Senate conference is seeking to resolve the appropriation.

The first Federal moneys for the Great Lakes problem was, in a significant measure, the result of the splendid testimony before the House Public Works Committee of the 22d Congressional District high school students from Shaker Heights, Cleveland Heights, Laurel, Hawken, Hathaway Brown and University School on March 4, 1969—the first successful teach-in to occur on this subject in America.

THE FEDERAL POLLUTOR

As a result of the first water pollution conference in Cleveland in May 1965, I was the first Member of Congress to protest the Federal Government's own contribution to pollution by the dumping of dredged material into the Great Lakes. At that time, I charged that the Army Engineers were helping to foul Lake Erie while other Federal agencies, such as the Public Health Service, were spending millions to investigate the source of lake pollution. "When these materials, including undissolved pollutants, are dumped, the contamination spreads throughout the lake."

The Corps of Engineers first denied that these dredgings contributed measurably to the lake pollution problem.

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A United States Public Health Service study confirmed my protest. A limited diking program to contain only 38 percent of the dredged materials was begun in 1967 in an area adjoining the Burke Lakefront Airport. In 1968 the diked area was considerably expanded to include all dredged materials through 1971, at which time the diked area will be filled.

It has been my intention that the White House order all Federal agencies to take the lead in abating pollution including a total nationwide diking program for dredged materials.

In my study of the President's 1971 budget, I was distressed to find no mention of any funds allocated for the construction of any dikes. If we are to solve this problem, the essential resources must be included in the supplementary budget.

CALL TO ACTION

The massive Federal program to build new public waste treatment facilities must be matched with vigorous enforcement against municipal and industrial pollutors. The action of the Chicago Federal grand jury indicting pollutors under an 1899 Federal law indicates what can be done under existing law when there is a will.

To save Lake Erie, I have proposed the establishment of a water pollution disaster fund with 25 percent of all Federal pollution control funds earmarked specifically to meet the problem of high-density pollution, which is interstate and beyond the capacity of local governments. Without this type of funding and special national attention to our dying resource—Lake Erie will not be saved.

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To control water pollution by industry, I am proposing legislation which will authorize the Water Pollution Control Administration to set strict standards and specifications for industrial water use. This agency must be empowered to certify uniform water pollution control processes on an industry-by-industry basis. The people of America must be certain that industrial waters are made safe for reuse. I propose that the same authority be granted to control industrial air pollution on an industry-by-industry basis.

The Ways and Means Committee of which I am a member adopted language which I advocated in the tax reform bill of last year which provides for accelerated depreciation of industrial expenditures for pollution control. Wise taxation policies contribute to the establishment of a balanced pollution control program. Every tool must be used in this fight.

The preservation of our environment begins in the neighborhoods of our community. The networks of freeways which riddle our land must be screened by verdant trees and plantings which can absorb noise and noxious fumes. In this way, through intelligent planning, we can marshal the forces of nature to combat our immediate problem of noise and air pollution. Every technique must be used against every form of pollution.

I share the feelings of frustration of those who are tired of rhetoric. Over the past 32 years, I have labored on this problem. I rejoice in the swell of interest which currently exists. This may be our last chance. This time we must win.

RHODESIA—WHY IS RECOGNITION A CRISIS IN U.S. FOREIGN POLICY?

The **SPEAKER** pro tempore. Under a previous order of the House the gentleman from Louisiana (Mr. RARICK) is recognized for 30 minutes.

Mr. RARICK. Mr. Speaker, it is time for a careful and intelligent review of the policy of the United States in granting or withholding recognition of the governments of foreign powers. Except for the diabolical few who wish to destroy the United States in favor of a world Soviet, all Americans would agree that the primary consideration should be the self interest of the United States.

Basically, where it is in our interest to deal with a foreign government the experience of mankind has shown it to be expedient to exchange diplomatic envoys with such a government. This amounts to diplomatic recognition.

What is a government? Obviously it is necessary that a government—to be recognized as such—must wield an actual and effective sovereignty over the territory it purports to govern. Fictitious sovereignty is not enough, except for the purposes of influencing opinion either at home or abroad.

For example, the United States still recognizes and maintains diplomatic relations with the Baltic republics of Estonia, Latvia, and Lithuania, although they have been seized and incorporated by force into the Soviet Union. As a gesture of disapproval toward the Soviet, this is fine. It has even served the purposes of local politicians seeking an ethnic vote.

But let us not kid ourselves. We could enter into the most ceremonious agreement, bedecked with gold seals and all manner of red ribbons, with the mythical government of Latvia, and still the invited arrival of U.S. Marines at its capital of Riga would be opposed by the Red army of the Soviet Union, which exercises de facto sovereignty over that real estate.

In addition to actual sovereignty, diplomatic recognition requires something else. It implies faith that the effective leadership which controls the land and the people can and will abide by its international agreements, and can and will give the usual safe conduct and protections to citizens of other powers who may be traveling in its domain. In other words, if a territory is firmly controlled by a gang of bandits, there is absolutely no purpose in entering into diplomatic relations with the bandit chief, because he either cannot or will not do what is expected of civilized sovereigns in international relations.

Against this background, we should examine the Republic of Rhodesia.

That its government exercises absolute sovereignty over its territory is beyond dispute. As a self-governing colony it did so for decades, and as an independent nation, recognizing the titular sovereignty of the queen it has done so for years.

The Smith government has won the unquestioned loyalty of the great majority of Rhodesians, of all races, and has maintained under difficult conditions a civilization which is the envy of much of the world. Like the United States, the Republic of Rhodesia represents the continuing growth and development of the English system of freedom under law which has made us the very model of freedom under law.

There is no question about either its desire or its ability to fulfill its role as a civilized government of a civilized nation. Agreements made will be kept. Obligations incurred will be honored. American citizens traveling in Salisbury will be safer than in Washington.

I know, for I have seen both.

We are given three basic reasons for refusing to grant diplomatic recognition to Rhodesia, all of them false, as I will demonstrate.

First, we are told that we must honor the sanctions on that country which were imposed by the United Nations organization. Let us look honestly at these sanctions, from either the point of view of objective evaluation of their validity or from the point of view of the interest of the United States.

Objectively, the sanctions were either the conniving of the Soviet, manipulating the black puppets of the 42 so-called emerging nations which make up a significant and controllable bloc in the General Assembly, or they were the petulant pouting of spiteful children who are going to spit on the pie if they cannot have it to eat.

The idea that peaceful Rhodesia—nonaggressive and with no announced threat to its neighbors—is a threat to world peace—because some other nation may make an aggressive attack on Rhodesia—is the kind of poppycock that thinking Americans are sick of hearing. This is like saying that a law-abiding home is a dangerous threat to law and order in the community because some criminal may rob or burglarize it, therefore, to preserve public peace it must be burned down.

From the point of view of the United States, and although our treaty obligations are the law of the land under our Constitution, the actions of the United Nations organization or any of its organs, no matter how prestigious, are binding on us only if we choose to be bound. In some instances it suits our domestic political purposes or our international relations to be bound, and we ratify the U.N. organization decree by our acceptance. In other cases, where it does not fit the policy of the United States, we have many convenient ways of avoiding the impact of U.N. organization mandates.

For example, Israel is in violation of repeated mandates by the Security Council to withdraw within its own borders and cease its aggressive military operations against its neighbors. As a member of the Security Council as well as of the United Nations Organization, we should apply the same standards to the violation of these mandates as to any other, but instead we are aiding and abetting their repeated daily violation. Not only do we give financial support to Israel, through tax-free bonds enjoyed by no other nation, but we actually manufacture and sell to the Israelies the weapons with which to continue their transgressions against U.N. organization authority.

It has been suggested by some critics of our very elastic interpretation of our obligations to the United Nations organization that the Rhodesians would fare better if there were more Rhodesians voting in New York. I offer no opinion on this idea.

Nor is Israel the only such example of our highly variable standard.

Red China is actually at war with the United Nations organization—or with the United States if you desire to pierce the thin veil of illusion. Remember Korea?

But in Warsaw, our Ambassador chatters happily over tea with Mao's Ambassador, while we seek some way to work out an acceptable—to the Soviet Union, that is—method of diplomatic recognition.

Second, we are told that we must not offend the United Kingdom by granting recognition to a former colony whose independence does not meet with British Government approval—at least with the dictates of the Socialist Party presently in power.

There may or may not be a good reason for being the rubberstamp endorser of British colonial policy. If there is, it has never been even suggested to the American people or to their representatives in the Congress, much less explained to any of us. I, for one, have had enough of the British willingness to fight to the last American, whether in Rhodesia or elsewhere. I believe the majority of the American people share this view.

We do not find our British brethren anywhere near as solicitous of our feelings as they desire us to be of theirs. While Americans die in combat in Vietnam, ships flying many of the flags of the British Commonwealth sail in and out of the port of Haiphong, trading with the enemy and supplying him with the necessary materiel for his slaughter of Americans. Despite the threat to the United States from the presence of Soviet missiles and missile bases in Castro Cuba, our Canadian friends, a nation of the British Commonwealth, carry on a sustaining trade with Havana.

Third, it has been drummed into American ears for years that there is something bad about the Government of Rhodesia, and about the Government of South Africa, because these nations are ruled by civilized white men rather than savage Negroes. A false corollary of this propaganda line is that something must be wrong with the "democracy" in these lands, since where the savages manifestly outnumber the civilized men, a one-man one-vote situation would obviously result in a savage and not a civilized government.

A recent report from UNESCO announced that 97 countries of the world have illiteracy rates of 50 percent—and in 20 countries 95 to 99 percent of the inhabitants are illiterate. And, according to UNESCO, the situation contrary to public opinion has grown worse in some countries.

In short, we are urged not to recognize a government using the criterion of whether or not its internal political processes accord with some intellectual's theories of "democracy."

Let us examine our foreign policy from this angle, and demolish once and for all this totally inane and dishonest argument.

If we were to honestly accept this as a standard of whether or not we recognize a foreign government, we should at once withdraw our Ambassadors from half the nations of the earth. Diplomatic relations should be broken at once with the Soviet Union, as well as its satellites Poland, Czechoslovakia, Hungary, Rumania, Bulgaria, and even Yugoslavia and Albania. If we listen to the complaints of certain dissidents in Northern Ireland, we might even have to withdraw our recognition of the United Kingdom because of the suppression claimed by the Irish.

Any government which resulted from a coup—or for that matter, from an election not to our liking—would be beyond the pale and diplomatically ostracized.

Examining the continent of Africa is indeed revealing.

Dealing with the African nations generally credited with being the oldest and most stable, Ethiopia and Liberia, let us examine their government policies, and the welfare of their inhabitants. Incidentally, these are two particuarly good nations to commence our tour of Africa, since they are the plaintiffs before the World Court in the case of the Southwest Africa dispute, where they were thrown out of court for having no case, a matter referred to by the leftist press as a technicality.

Ethiopia is the private preserve of a little chief who won all of the marbles in the game by winning a tribal war when the former chief passed to his ancestors. He thereupon acquired such typically African titles as "King of Kings" and even "Lion of Judah"—a title which arises from a long legend of a bastard sion of the Biblical Queen of Sheba, a gift from the Biblical Solomon.

Ethiopia is an absolute monarchy. Not too long ago, some of the subjects attempted to change this situation during the absence of their monarch. Their attempted takeover was led by one of the sons of the little Emperor. It was a fatal error, because he dashed home and settled the demonstration by a prompt and efficient hanging—without trial—of all of the dissenters from the palace walls. He spared his son, for reasons not entirely clear, since the son will not inherit the crown. He will have to fight for it with the other tribal chiefs, as did his father. The spoils of political victory in Ethiopia go only to the leader of the strongest gang.

Ethiopia is a favorite of the United Nations organization and furnished troops in its war on the non-Communist Christian, Moise Tshombe, of Katanga. These Ethiopian troops were guilty, by the sworn eyewitness testimony of numbers of Catholic priests, mostly Irish, of atrocities on helpless civilians which even made the bloodthirsty Congolese look moderate. They are accused now of atrocities against the Somali, whose territory they were given by the United Nations organization, but these accusations receive no consideration, since the Somali are not of Negro extraction.

Of course, we recognize Ethiopia, furnish it with money by the barrel, with modern fighters—and bomber aircraft—and with all of the other weapons of land warfare. The peace-loving Israelis, due to their historic fondness for the Queen of Sheba myth, furnish the tactical advisers to train both the Ethiopian Army and its Air Force.

Liberia is a stepchild of the United States—created by another generation of intellectuals—the abolitionists—the civil rights leaders of a century ago and their fuzzy-headed followers.

The idea that Negroes who desired to return to Africa should be permitted to do so was good then, and it is good now. The thought that they would take with them the benefits of an education and an exposure to civilization which their race had never before known was a happy thought. The ultimate dream that these civilized free Negroes would then civilize the natives and build a happy and civilized black country simply did not mature.

Liberia has been economically propped up by the United States since its inception. Like their brethren who did not return to Africa, the Liberian Negroes found the continued and ever-increasing demand for such charity far preferable to work as a way of life. Therefore, they did not work. And we have not shut off the dole.

The returned natives did know one thing, however. They kept firm control of Liberia. They established their own aristocracy, and did not mingle with the indigenous black population. Neither did they permit any white person to become a Liberian citizen.

So Liberia is a pure racist state—a state which denies not only the right to vote, but citizenship itself to anyone who is not a Negro. Is it not strange that this kind of racism does not make it immoral to recognize, and even support Liberia?

Liberians have another accomplishment to their credit. The indigenous population, as was embarrassingly demonstrated to the world before the World Court by the South African lawyers, is the most illiterate in all of Africa. The natives are far more abused by their aristocratic high yellow overlords than their brethren ever were by any colonial European power.

The Bishop of Liberia—American born—was just murdered. It seems that a demented native mistook him for some of the ruling aristocracy. But there is a compensation. The current President of the General Assembly of the United Nations organization is a female Liberian. This is the coming Soviet World.

Of course, Africa in the past decade must include a cursory visit to the Congo—the Belgian Congo, that is.

Here the advent of independence was the advent of total and bloody anarchy. An orgy of rape, murder, and looting led to the secession of the only viable part of the nation, Katanga. This province was led by a Christian—a friend of Western civilization—so the United Nations organization went to war. The carnage was unbelievable. Not only did the blacks of the Congo revert to savagery, but the so-called civilized African armies which

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operated under the blue banner of the U.N. organization did the same.

During the years of bloodshed many Americans died. Most of them were Christian missionaries—some of them Catholic nuns. The natives particularly liked nuns, who afforded all kinds of sport before they were butchered. The frequent technique applied here was gang rape, followed by butchery, and then by a community feast on the remains. Well-authenticated eyewitness stories of living white women being sawed apart on a buzz saw exist—as well as the then enjoyed sport of throwing priests to the crocodiles to be eaten alive.

But the Government of the United States recognizes and aids the Congo—whose government is now run as an absolute possession of a former sergeant of the gendarmerie who could read and write. This qualification, uncommon among his fellows, made him the commanding general of the army when independence came. The army, of course, made him President. These details do not interfere with our recognition of this government.

Ghana, a former British colony which was a showcase at the time of its recognition as an independent member of the Commonwealth, is a good example of savages turned loose with the tools of civilization.

A Communist jailbird, partially educated in the United States, became top dog. Although his official title was only President, with typical African imagination he concocted for himself the more impressive title of "Redeemer" and insisted on being venerated as a deity. Kwame Nkrumah had remarkably little difficulty with dissidents—after he jailed the opposition by the hundreds without the slightest formality suggesting a trial.

Under this kind of leadership—apparently highly to be desired on the sole ground that it was neither white nor civilized—wealthy Ghana promptly went bankrupt. Of course, it seems that certain of its gold reserves wound up in numbered accounts in Swiss banks, and the Redeemer lived in the style to which he aspired. Gold-plated Cadillacs, pleasure yachts, and even golden beds for his favorite mistresses ate rather heavily into the assets with which this emerging nation had emerged.

The Minister of Justice of this regime—like the Liberian today, became President of the General Assembly of the United Nations organization, apparently a status symbol highly sought among these toy states and tolerated by the members of responsible governments under the rationale that as representatives of smaller countries they can easier create an image of impartiality.

While the Redeemer was on a state visit or a party confab to Communist China, the army took over the country, only to find the treasury already empty. The Minister of Justice, ex-President of the U.N. organization General Assembly was jailed in his palatial estate. He counted himself fortunate that he was not eaten.

We still recognize Ghana, and maintain diplomatic relations with one of its near neighbors, Guinea, to which the Redeemer sought sanctuary, became "Co-President" and busily plans for the subjugation—with American arms, money, and men—of such places as Rhodesia, South Africa, Angola, and Mozambique, so that he can attain his destiny of being "Redeemer" of all of Africa—unless Jomo Kenyatta or Haile Selassie has the opportunity to exploit a white army first.

Nigeria was the richest of the British colonies whose independence was recognized by London, its government being black enough to suit the politicians in power at the time.

It has been in the news recently—a little matter of a war or a rebellion or a civil disorder in Biafra. The current high chief of Nigeria is one Major General Gowon—a major general because he promoted himself to that rank after he had led a successful coup. He is politely referred to by the liberal press as the "chief of state" rather than as a dictator, nor is his government called a dictatorship.

The embarrassing reports by civilized observers of the typical African orgy of looting and rape in conquered Biafra, as well as the tales of massive starvation were promptly denied by Gowon—and the Communist Poles on the observation team. It should be understood that these denials are not dishonest from the point of view of the Nigerian natives—it is just that they feel the white men take an un-African view—a racist attitude—of such orgies.

When Gowon overthrew his predecessor, one Major General Ironyi, poor Ironyi was actually eaten by the victorious tribe. He, too, had become a major general by his own order after he had overthrown, but not eaten, his predecessor.

Another former British colony, now an independent and emerging nation with the blessing of the government in London, is Kenya—the land of the Mau Mau.

Most Americans remember the Mau Mau for their wholesale murders and their obscene oathings. Robert Ruark's book, Uhuru, is a highly accurate account of these goings-on. Many of our people also remember that the head Mau Mau was one Jomo Kenyatta, who was convicted of these crimes under British justice, and imprisoned.

Upon independence, he was pardoned and returned to the land, where he is now President Kenyatta—a moderate. But an unfortunate thing happened to the opposition on the way to the last election—its leader was murdered, and Kenya is now a one-party emerging dictatorship. Maybe this is British revenge.

The unfortunate Asians who by hard work have earned things which the natives want are relentlessly persecuted, the land is a police state, and the Mau Mau are again oathing in the jungle.

We recognize Kenya, grant Kenyatta foreign aid, and even occasionally make sorry little sounds when the British refuse to let the Kenya Asians, now British subjects, enter Britain—not because of their race, but simply because they are Asian.

Our tour of Africa takes us next to Tanzania—which is Communist from the word go. It began its independent life by a total bloody slaughter of literally thousands of Arabs on the island of Zanzibar—simply because they were Arabs. Its capital is the staging area for communism in East Africa, and from there the Red terrorists move to their assaults on Rhodesia, South Africa, Angola, and Mozambique.

Surprisingly, Tanzania is not regarded as a threat to world peace by the United Nations organization. It is the resisting victim, not the assailant, who is responsible for the ensuing violence. If this sounds like Marxist logic, it is.

Zambia is Rhodesia's northern neighbor—and one of the bases from which the terrorist assaults on her people have been launched. In Washington this week, the Ambassador of Zambia, in a letter to the editor of a local newspaper, claimed very boldly that if the British were to make a military attack on Rhodesia, they could win handily. He demanded such an attack.

This sabre rattling would be serious if it came from a nation which owned a sabre. This is a land where it takes 7,000 employees to misrun some 600 miles of railroad—and where the drunken employees pose such a problem that there are more breath analyzers than there are trains.

Zambia has a little trouble in organizing itself. Sitting on the world's richest copper deposits—run by a hand-picked, former bank employee—this country suffers such great unemployment, it has been forced to import Red Chinese coolies for a labor force.

Throughout this entire Gilbert and Sullivan comedy runs the same theme. In Africa, full diplomatic recognition, huge sums of American tax dollars, and kowtowing and scraping are accorded the comic opera tribal states, totally incapable of anything but a tribal existence. Civilized nations—Christian, and the inheritors of Western culture and civilization—are held up to scorn and ridicule.

If this were not serious, it would be humorous. But it is deadly serious. The location of southern Africa makes it one of the geographical keys to today's world. The mineral wealth of the continent makes it a key to the future of man. And the domestic tranquillity of these United States is the key to the survival, not only of American civilization and liberty, but to the entire concept of freedom which is the accomplishment of Western, Christian man.

That our Government is on a suicidal course is not an accident.

That we alter that course is imperative.

If our present leaders fail to do so, their successors will.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. VANIK, for 15 minutes, today; to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. OBEY) and to revise and extend their remarks and include extraneous matter:)

Mr. FARBSTEIN, for 30 minutes, today.

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Mr. GONZALEZ, for 10 minutes, today.

Mr. RARICK, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SCHADEBERG) and to include extraneous matter:)

Mr. LANGEN.

Mr. STEIGER of Wisconsin in two instances.

Mr. GUDE.

Mr. STEIGER of Arizona.

Mr. ASHBROOK in two instances.

Mr. TAFT in two instances.

Mr. BROWN of Ohio in two instances.

Mr. SCHERLE in two instances.

Mr. HUNT.

Mr. HALL.

Mr. NELSEN.

(The following Members (at the request of Mr. OBEY) and to include extraneous matter:)

Mr. MOLLOHAN in two instances.

Mr. JACOBS.

Mr. EDWARDS of California in two instances.

Mr. ROSENTHAL in five instances.

Mr. OTTINGER.

Mr. ANNUNZIO in six instances.

Mr. MONTGOMERY.

Mr. FISHER in four instances.

Mr. GRIFFIN in two instances.

Mr. FLOOD in two instances.

Mr. O'NEILL of Massachusetts.

Mr. THOMPSON of New Jersey.

Mr. MATSUNAGA.

Mr. GONZALEZ.

Mr. RARICK in four instances.

Mr. RYAN in two instances.

Mr. SCHEUER.

Mr. HELSTOSKI in two instances.

Mr. KOCH.

Mr. TUNNEY.

ADJOURNMENT

Mr. OBEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until Monday, March 16, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1770. A communication from the President of the United States, transmitting proposed supplemental appropriations and other provisions for the fiscal years 1969 and 1970 (H. Doc. No. 91-272); to the Committee on Appropriations and ordered to be printed.

1771. A communication from the President of the United States, transmitting proposed supplemental appropriations and other provisions for the fiscal years 1969 and 1970, together with amendments to the requests transmitted in the budget for the fiscal year 1971 (H. Doc. No. 91-273); to the Committee on Appropriations and ordered to be printed.

1772. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the act of July 22, 1969, to increase the limitation on fiscal year 1970 budget outlays; to the Committee on Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAYS: Committee on House Administration. House Resolution 865. Resolution increasing the number of positions of official reporters to committees and positions of expert transcribers to official committee reporters (Rept. No. 91-905). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Affairs. H.R. 10138. A bill to amend section 211 of the Public Health Service Act to equalize the retirement benefits for commissioned officers of the Public Health Service with retirement benefits provided for other officers in the uniformed services (Rept. No. 91-906). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS:

H.R. 16443. A bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government; to the Committee on Government Operations.

By Mr. WIDNALL:

H.R. 16444. A bill to require that certain financial institutions maintain certain records, and file certain reports, require the persons exporting or importing large amounts of currency or the equivalent file reports, and for other purposes; to the Committee on Banking and Currency.

By Mr. DINGELL:

H.R. 16445. A bill to amend the Fish and Wildlife Coordination Act to prohibit the issuance of Federal permits authorizing water resources development by non-Federal public and private agencies until such agencies reimburse the U.S. Fish and Wildlife Service for related investigations required by such act; to the Committee on Merchant Marine and Fisheries.

H.R. 16446. A bill to amend the Fish and Wildlife Coordination Act, as amended, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DOWNING:

H.R. 16447. A bill to authorize a program of exploratory fishing for the purpose of assisting in the development and utilization of species of fish suitable for industrial uses, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FRASER:

H.R. 16448. A bill to establish a National Metropolitan Development Bank to provide an alternative source of credit to State and local governments for the purpose of financing public and quasi-public facilities of all types, and for other purposes; to the Committee on Banking and Currency.

By Mr. KLEPPE:

H.R. 16449. A bill to modify the comprehensive plan for the Missouri River Basin with respect to certain bank protection and rectification works; to the Committee on Public Works.

By Mr. McDADE:

H.R. 16450. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; to the Committee on Government Operations.

H.R. 16451. A bill to authorize the Council on Environmental Quality to conduct studies and make recommendations respecting the reclamation and recycling of material from solid wastes, to extend the provisions of the Solid Waste Disposal Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16452. A bill to amend the Clean Air Act so as to extend its duration, provide for national standards of ambient air quality, expedite enforcement of air pollution control standards, authorize regulation of fuels and fuel additives, provide for improved controls over motor vehicle emissions, establish standards applicable to dangerous emissions from stationary sources, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16453. A bill to amend the Federal Water Pollution Control Act, as amended; to the Committee on Public Works.

H.R. 16454. A bill to amend the Federal Water Pollution Control Act, as amended; to the Committee on Public Works.

H.R. 16455. A bill to establish an Environmental Financing Authority to assist in the financing of waste treatment facilities, and for other purposes; to the Committee on Public Works.

H.R. 16456. A bill to amend the Federal Water Pollution Control Act, as amended, to provide financial assistance for the construction of waste treatment facilities, and for other purposes; to the Committee on Public Works.

By Mr. MELCHER:

H.R. 16457. A bill to amend title 5, United States Code, to prohibit the sale or other distribution to the public by the Secretary of the Treasury of lists of names and addresses under his jurisdiction and control, and for other purposes; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON:

H.R. 16458. A bill to amend section 4005 of title 39, United States Code, to restore to such section the provisions requiring proof of intent to deceive in connection with the use of the mails to obtain money or property by false pretenses, representations, or promises; to the Committee on Post Office and Civil Service.

By Mr. ADDABBO:

H.J. Res. 1131. Joint resolution creating a Joint Committee on Classified Information; to the Committee on Rules.

By Mr. ALBERT (for himself, Mr. PUCINSKI, Mr. SAYLOR, and Mr. PATTEN):

H.J. Res. 1132. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. MORSE:

H.J. Res. 1133. Joint resolution to repeal legislation relating to the use of the Armed Forces of the United States in certain areas outside the United States and to express the sense of the Congress on certain matters relating to the war in Vietnam, and for other purposes; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CLARK:

H.R. 16459. A bill for the relief of George Nicolaros; to the Committee on the Judiciary.

By Mr. EDMONDSON (by request):

H.R. 16460. A bill for the relief of the estate of Maj. Gen. William P. T. Hill, deceased; to the Committee on the Judiciary.

H.R. 16461. A bill for the relief of Eliza Backwater Proctor; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

414. The SPEAKER presented a petition of Ray Ward, New York, N.Y., relative to redress of grievances, which was referred to the Committee on the Judiciary.

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EXTENSIONS OF REMARKS

USDA FIGHTS POLLUTION

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. PRICE of Texas. Mr. Speaker, Secretary Clifford Hardin and the Department of Agriculture have been making concerted efforts to bring the great resources of the Department to bear on the problems of environmental pollution. In this connection I am pleased to inform my colleagues that USDA activities have begun to pay real dividends in the solid waste disposal area.

Just this morning, I received a most unusual letter from Edward P. Cliff, Chief of the Forest Service in the U.S. Department of Agriculture. I say unusual, because I have never seen a letter quite like it. The paper the letter was printed on was, in large part, composed of recycled solid waste materials.

In my judgment, the Department's activities constitute a most significant contribution to the continuing public and private effort to cope with the ever increasing amounts of solid wastes generated by our affluent society. The possibilities this creates for innovative uses of solid wastes are boundless. They challenge the ingenuity and abilities of the free enterprise system, and provide a means by which solid waste disposal problems can be ameliorated.

At this time, I would like to commend the Department's letter to the attention of my colleagues. In my view, this USDA activity represents a praiseworthy example of government at its best, government working to meet the human needs of America.

The letter follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., March 9, 1970.

Hon. ROBERT PRICE,
House of Representatives,
Washington, D.C.

DEAR MR. PRICE: This sheet of paper is a matter of particular pride to me and to the research staff of the Forest Service. Thirty percent of the fiber in this sheet came from the city dump in Madison, Wisconsin. We have reclaimed refuse that is an eyesore and pollution problem in most American communities.

The red-dyed wood fibers that give this sheet its pink color came from that dump; the remaining 70 percent from a kraft pulp commonly used in papermaking. The transformation from rubbish to paper was made at our Forest Products Laboratory in Madison. This seeming alchemy is part of our research on reclamation and recycling of urban solid wastes.

The supply of fiber in rubbish is enormous. About half of the rubbish collected by cities is wood fiber, none of which is being reclaimed. Successful recycling of the wood fibers in waste could mean more paper like this, as well as newsprint, building materials, coarser papers, and even new products. It would also mean reduced pulpwood demand, more raw material for industry, less air pollution from burning rubbish, and less cost for waste disposal.

To get the knowledge we need to utilize fiber in solid wastes, we are cooperating with others. The City of Madison, Bureau of Mines, and Bureau of Solid Wastes Management are all concerned and participating in the exploratory research.

President Nixon in his message on the environment ordered "greater emphasis on techniques for recycling materials." We proudly present this sheet of paper as an example of what the Forest Service is doing. The President's budget for 1971 provides for an acceleration of this effort. We believe this is a significant step in learning to re-use resources and to enhance the quality of the Nation's environment.

Sincerely,

EDWARD P. CLIFF,
Chief.

CAN OUR FEDERAL AGENCIES MEET THE CHALLENGES OF THE SEVENTIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include an article from Business Week magazine which analyzes the effectiveness and efficiency of Federal agencies in regulating American business. This study warns that meaningful reforms are needed if our regulatory agencies are going to meet the challenges of the decade.

The article reads as follows:

THE REGULATORS CANNOT GO ON THIS WAY

American business holds these truths to be self-evident: that this nation operates under an economic system of free, private enterprise, that competition is the greatest good, that government intervention in the affairs of business is an unmitigated evil.

The words still have that old, stirring ring. But businessmen know that they are simply not true, that they have not been true for many years, and that any lingering doubts on the matter will be finally dispelled over the next few years.

More than 100 federal agencies exercise some measure of regulation over private economic activities. The production and distribution of energy, the conduct of wired and electronic communications, the operation of the transportation system, and the practices of the banking and securities businesses are substantially regulated in incredible detail. In fact, it has been estimated that at least one-quarter, and maybe more, of U.S. commercial activity is involved only marginally in any form of free, competitive enterprise that Adam Smith would recognize.

The other three-quarters does not exactly run wild, either. Consider, for example, a large manufacturer of electrical equipment. It happens to be General Electric Co., but any other manufacturer would do as well. Just off the top of his head, without doing any research, one official ticks off 11 agencies that have a direct regulatory impact on the conduct of GE's affairs, from the Federal Communications Commission (GE has TV and cable TV properties) to the Atomic Energy Commission and the Defense Dept.

In addition, there are bills working their way through Congress, with what corporate lawyers consider startling rapidity, that could expand the federal regulatory role. Some areas: product safety, insurance rates, credit cards, product warranties, food price labeling, package size standards, trading stamps, door-to-door sales, electric power reliability, gasoline octane ratings, and reindeer meat inspection.

Most of these new regulatory areas will simply be ladled into the existing alphabet soup of agency acronyms already so abundant in Washington. Moreover, most of the new areas are significantly different from those the regulators dealt with years ago. The emphasis has shifted from controlling monopoly pricing—a knotty problem in itself—to dealing with what the economists call "externalities," things like product performance and the effect of transportation on pollution.

CAN THE AGENCIES DO MORE?

The major question of regulation in the 1970s is whether the existing agencies, or even the new ones that inevitably will be created, can take on new burdens and satisfy the requirement to serve the public interest. The evidence, based on their current and past performance suggests that they cannot, especially without real leadership on national policy from the President and Congress. The agencies, burdened with the administration of makeshift, piecemeal laws, and with only fitful support from the White House, do not work that well, and past reforms have fallen short.

Like other ecologies, the ecology of regulation is a delicate balance of forces. In 1946, Congress worried that claimants before the regulatory agencies were being denied a full and fair hearing, which went against the American grain. So an act was passed which hedged the regulators with the full trappings of the judicial process. The result has been little short of disastrous. Instead of a speedy resolution of controversies, which the regulators were set up to supply, cases drag on for years, and only the richest companies can afford to wait it out.

As one veteran observer of the Washington regulators says: "We no longer hope for a fair decision. We just hope for any decision at all."

Such paralysis is especially dangerous at a time when technological, social, and economic change is outrunning the regulators' capacity to respond:

The FCC, an agency created to bring order from chaos in the radio spectrum and to control a telephone monopoly, is faced with problems that it never could foresee: cable television, satellite communications, computers that act like telephones and telephones that act like computers.

The Federal Power Commission is an agency structured to regulate the rates of hydroelectric plants built on navigable waters, a relatively tidy matter. But the FPC is now in the business of approving the rates of thousands of gas producers at the wellhead—hardly a tidy monopoly situation.

The Interstate Commerce Commission in 1887 protected farmers from extortionate charges by monopolistic railroads; now it protects railroads from truck competition.

Even the Securities & Exchange Commission, long a model of flexibility and foresight in anticipating the problems of the securities market, is having trouble keeping up with the technological and economic changes in its industry. The SEC is a hair behind schedule in deciding what to do about public ownership of brokerages, levels of commission rates in a market dominated by big-block traders, and the probable effect of computerization on the markets.

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In other words, something has gone wrong at all the great agencies with the delicate feedback from the economic organisms under regulation. The thermostat is stuck, and businessman and consumer alike will soon feel the heat. In at least three areas—communications, transportation, and energy—the lack of real leadership in the regulatory agencies is critical to the future of the nation. These three hot spots await the development of coherent national policies. The real question is whether anything can be done in the context of the American political system.

REALITY: THE LIMITS OF POWER

Not long ago, Peter Flanigan, one of President Nixon's White House assistants, leaned back in his chair and began to talk about the federal regulation of business. The burden of his comments was that perhaps competition was a better way to guarantee the public interest in some cases, that in any event the regulators had failed to solve a good many problems in important areas, and that the White House intended, with the help of newly appointed and responsive agency chairmen, to take the initiative in developing broad regulatory policies.

Flanigan was obviously both sincere and optimistic. The trouble was that his office was, figuratively speaking, cluttered with the ghosts of sincere and optimistic men.

At the beginning of every new national administration, the scene has been much the same. A bright and energetic young Presidential assistant always leans confidently back in his chair in his freshly furnished quarters in the west wing of the White House, and says much the same things:

The regulators have been allowed to decay. The former chairmen, now replaced with "better" men, were either subservient to the interests—or insanely zealous. The White House is taking the initiative; it believes it has responsibility for shaping the broad national policies of regulation. The revitalized agencies, happily reminded of their duties, are going to be responsive.

Sooner or later, a task force in one regulatory area or another is set up; a reorganization plan is offered to the Congress, and we are off and rolling.

Unhappily, the roll is likely to be downhill, just as it always has been. The plain fact is that a change of administration guarantees almost nothing. Commissioners and chairmen come and go, but the permanent staffs go on forever. The Federal Trade Commission was a more active agency under Eisenhower than under Kennedy; the FPC was all but paralyzed during the same Republican Administration. The SEC slept peacefully under Truman. The ICC has gone its own dogged way no matter who occupies the Executive Mansion.

The regulators simply are not important enough to engage much of the President's attention, and the men he appoints, especially as chairman, are inclined to be less responsive to his wishes as his Administration wears on.

Aside from the threat of withholding reappointment, which by and large is empty since the average commissioner resigns well before his statutory term is up, the White House attempts to exercise some control through the Bureau of the Budget. The bureau has two important powers: Agency budgets must be filtered through it, and it must approve any special economic studies launched by the agencies that would require replies from more than 10 individuals or businesses.

There is very little evidence that the Budget Director has used this second power in any way except those it was designed for: to make sure that the same expensive data are not being collected by two agencies ignorant of each other's work, and to make sure that studies which cost respondents enormous time and expense are not not launched needlessly.

As for the budget power itself, it is hard to pin down. In the 1950s, it was alleged that FTC's request for more money to police deceptive practices was turned down. But negotiations between agency head and budget juggler are generally oral, not written, and no one likes to talk about it. The consensus is that the Budget Bureau has enormous power but uses it sparingly. The funds involved are, after all, minute in comparison to the total U.S. budget, averaging less than $25-million apiece for the independent agencies for salaries and administration.

At any rate, Congress always makes sure the agencies do not get too much money. In fact, those wise in the ways of Washington believe that the legislators who have a say in these things like the agencies just the way they are—arms of the Congress and rather stubby arms at that. Nor is the Congress inclined to launch vast investigations of how its offspring function. The last such major series of hearings occurred in the late 1950s, when the House of Representatives decided to take a look at the independent agencies, under the prodding of Speaker Sam Rayburn. But the committee made the mistake of hiring as chief counsel an unassuming New York law professor named Bernard Schwartz. With the best intentions in the world, the presumably "safe" Schwartz managed to turn the hearings into a circus the like of which had not been seen for years. Before he was finished, one FCC commissioner had resigned amid charges of having accepted gifts in return for his vote on a TV license award, and Presidential Assistant Sherman Adams had left the White House with his vicuña coat and expensive rug.

The experiment has not been repeated. Instead, Congress gets what it wants by indirection. Every commissioner, and indeed nearly every high-ranking staff man has some political sponsor in his background. During the late 1930s, the FTC was the private fief of the Crump machine of Memphis, Tenn. The agency, incidentally, still has a distinctly Southern cast, Robert T. Bartley of FCC was Sam Rayburn's nephew; Kenneth Cox, one of the best of the FCC commissioners, is close to Senator Warren Magnuson (D-Wash.); Nicholas Johnson is allied with Senator Harold Hughes (D-Iowa); Albert B. Brooke, Jr., FTC, was long an aide of Senator Thruston B. Morton (R-Ky.); Frank W. McCulloch, outgoing chairman of the National Labor Relations Board, was an aide to former Senator Paul Douglas (D-Ill.).

The political alliances really say nothing about the quality of the commissioners; they are simply a fact of Washington political life. Almost equally irrelevant is whether the appointee is a politician or an "expert" on his industry. As former FCC Chairman Newton Minow says, "expertise is much overrated. On broad questions, what you want is a generalist." John W. Bush of the ICC has a thoroughly political background, but ranks as an effective commissioner, representing the interests of the shipper rather than the carrier; Lawrence J. O'Connor, Jr., is an "expert" on the FPC, and his views pretty much coincide with those of the oil and gas industry.

GOOD PALS TOGETHER

What happens is something a good deal more subtle than any resolution by a commissioner to be "liberal" or "conservative," tough or lax, broad or narrow. Instead, he simply gets absorbed by the industry he regulates. The process starts even before his appointment and goes something like this:

First, the White House usually queries an industry for nominees for a commission vacancy, and when that industry has been a heavy campaign supporter, its views are given special consideration.

Even when the industry is not consulted first, it has important influence behind the scenes at Senate confirmation time.

Once on the job, the commissioner is immediately visited by industry representatives "just to get acquainted." The representative normally offers to help the fledgling commissioner understand complex questions and announces that he stands ready to talk to him at any time.

Very quickly, the commissioner is invited to address the industry's conventions. At cocktail parties, the industry reps are extremely solicitous of the new man.

Next come the invitations to participate in the rich social life of the Washington lobbyist, from weekends by the shore to hunting trips. There are summer jobs for the children, a bottle of booze at Christmas and invitations to the better country clubs. To the commissioner's wife, a whole new social world has opened up.

Industry associations can often arrange for favorable articles in trade publications.

In the long run, there is the pleasant prospect of a good job in the regulated industry once the commissioner's term is up.

The same treatment is accorded to top staff men, especially the man who carries the title of executive assistant or staff director. He is the aide of the chairman, who has most influence over the agency's agenda.

Before anyone realizes it, the process of absorption is complete, and everyone is good pals together. One eminent jurist once suggested a scholarly study to be called "The Influence of the Car Pool on Administrative Adjudication."

A CURIOUS ORGANISM

Nick Johnson, who is one of the commissioners who does not play ball and who consequently is thoroughly isolated, calls the system the agency subgovernment. This curious organism, he claims, is composed of a trade association and an influential trade publication, both of which serve to keep industry members frightened and mobilized; the section of the Washington bar that most often practices before the commission; the agency and one or more of its staff bureaus; a handful of congressmen and committee staff men.

"The subgovernment has a sociology," Johnson says. "It has a subculture, so that the people in it have a loyalty to the subgovernment rather than to the organizations which formally hire them. It's incestuous. People swap jobs among various parts of it. It exists in the agencies where big money is available either from the government directly or from the general economy by government approval or license, and where a small group of companies or individuals dominate the regulated industry."

The system may be pernicious, but it is not always sinister. Very often, the trade association has the largest pool of expert talent available in Washington for drafting complex bills, many of whose provisions are utterly noncontroversial. For example, the Air Transport Assn. did the major drafting job on the early version of the act that established the Federal Aviation Administration, at the invitation of then Senator Mike Monroney (D-Okla.), and it is considered a minor masterpiece of legislative art.

Of ourtright corruption, not much has been heard since the scandals of the 1950s. The lure of a good job at the end of an appointive term, a political poll discretely conducted by an influential regulated company just before election time for a senator on a key committee—these are all one can put a finger on.

But, says Ralph Nader, "the action is at the bottom, not the top. If you have to pay off at the top, you've lost the first three battles. It's cheaper and less visible at the bottom. Bank loans are arranged; staff men are given stock tips." Meat inspectors, according to Nader, are bribed in a curious way. Under Agriculture

Dept. rules, inspectors' overtime is paid by the packing plant, in order to discourage willful obstruction of the inspection process. What really happens, though, is that the companies encourage unlimited overtime, a sort of bonus for something less than 20-20 vision.

"The corridor creepers," says one veteran Washington lawyer scornfully, "are always with us."

It has been said that under the system of competing interests struggling to be heard, regulatory agencies invariably turn out to be either monsters or slaves. Perhaps that is why the regulators have so far been unable to cope with the rapid changes in vast areas of American economic and social life.

COMMUNICATIONS: A TANGLED WEB

The Federal Communications Commission has bad luck:

It regulates, or attempts to regulate, the world's largest corporation, American Telephone & Telegraph Co., and the most powerful medium of communication—television.

It attempts to allocate one of the nation's scarcest natural resources—the frequencies available on the radio spectrum.

It tries to stay abreast of the most dynamic technology of modern times—telecommunications.

Its decisions can affect the political fortunes of members of Congress (ugly opponents when roused) and the delicate constitutional prerogatives of the news media.

It has about $20 million a year to do it all. Notes one commissioner: "The Navy spends $100 million to design a communications system for the Polaris missile."

The worst is yet to come. The FCC sooner or later must answer a set of questions of unparalleled complexity: Is a private computer that switches messages from one phone line to another subject to tariff regulation? Is a domestic satellite system a natural monopoly like a telephone system? Can a cable TV wire send printed facsimiles, and should it accommodate a two-way data-transmitting computer terminal? And, notes one official, "The FCC cannot give one interest anything without taking it from another."

ALWAYS A BEAT BEHIND THE TIMES

The FCC's weapons for dealing with its task are in no way adequate. It spends most of its time processing two-way radio licenses, radio and TV license renewals by the thousands. It almost always operates on the assumption that it is merely a passive judicial forum for settling competing claims. Thus, its process is a slow and painful one of hearings, testimony, comment, and decision.

Yet the commission has been accused repeatedly of being arbitrary. In license proceedings, thousands of pages of public records are produced, to the tune of perhaps $250,000 expense to each applicant. Petitioners, says former FCC Chairman Minow, "think of hearings as a form of punishment." And despite periodic policy statements or decisional guidelines, no one is really sure why the FCC grants a license.

In respect to the Bell System, even the adversary system that is at the heart of federal regulation breaks down. At any time, more than 50 active dockets on telephone matters are on file. The chance that an outsider can find his way through the maze and make a case against telephone rates or practices is slight.

A general investigation of Bell System rates was launched in 1965. A phase covering interstate and foreign services lasted until 1967. And an investigation into the interrelationships of computers and communications has been in bureaucratic limbo for two years. Domestic satellite policy has remained unresolved since 1965.

Because of the FCC's procedures, problems, and workload, the commission is invariably a beat behind the times. The agency failed, for example, to anticipate the enormous growth of television, and locked commercial TV into the 12 narrow channels of the VHF spectrum (2-13). UHF operators (channels 14-83), licensed afterward, quietly went bankrupt. It took an act of Congress, belatedly sponsored by the FCC early in the 1960s, to get TV manufacturers to equip sets with UHF tuners.

Moreover, Nicholas Johnson, who joined the FCC after a short and stormy career as Federal Maritime Administrator, believes that the commission's approach works against the best interests even of the regulated groups apparently most satisfied with the FCC. His prime example is AT&T's famous dislike of incurring long-term debt. The FCC, Johnson argues, had a duty to push Bell toward a higher debt-equity ratio when cheap money was available. He claims that its failure to do so has resulted in higher telephone rates for consumers, as well as a lower return on capital for shareowners. Not until the general rate investigation of 1965 did the FCC push Bell's debt goals as high as 40%. By then, interest rates on bonds had doubled.

The wonder of it is that the FCC has been as responsive and flexible as it has. Despite charges it is controlled by broadcasters and such legislators as Senator John O. Pastore (D-R.I.), the FCC has accepted citizen challenges to TV license renewals and has even revoked a Boston station's license. New conservative members, Chairman Dean Burch and Commissioner Robert Wells, may try to swing the commission back toward a protectionist position. But the door to controversy, once set ajar, is not easily closed.

In the common carrier area, the decisions have been even more remarkable. In 1969, the FCC decided two landmark cases which broke the hold of AT&T over significant areas of telecommunications, and at least pointed the way toward a limiting regulatory power in favor of competition.

Where larger companies are often unwilling to fight, Thomas Carter of Carterphone and John Goeken of Microwave Communications, Inc. (MCI) fought their cases through to the end. The Carterfone decision ruled that the telephone operating companies could no longer prohibit the attachment of "foreign" or customer-supplied devices to telephone circuits. Affected is everything from an antique French telephone plugged into a home telephone jack to specialized commercial telephone networks.

In the MCI case, the FCC permitted the first competition to AT&T in long-lines communication, which has been the only truly national monopoly this country has known.

The MCI victory, it is true, is not total. The ruling gave the company the right to operate as a common carrier between St. Louis and Chicago. Michael Bader, MCI's attorney, claims that AT&T intends to challenge any new links and force MCI to file the same arguments all over again.

Still, the MCI ruling ranks as a considerable achievement for the hidebound FCC. Not the least of it was the ability of the FCC's Common Carrier Bureau to work its way through the technical aspects of the case. Considering that it is up against no less a scientific entity than Bell Labs, the bureau is woefully short of the money and personnel to provide the countervailing technical and economic data the commissioners need to make a decision.

ENERGY: THE RELUCTANT DRAGON

Some regulators are born regulating, some achieve regulation, and some have regulation thrust upon them. The Federal Power Commission ranks with the last group.

By Washington regulatory standards, the FPC is a modest, even unassuming, agency, slow to grasp power, even slower to exercise it. It is only a slight exaggeration to say that year by year the FPC has had to be pushed by technological and economic change to assume more power.

It is almost a certainty, for example, that the commission will sooner or later be made formally responsible for the reliability of interstate electric power grids, whose failure caused the great Northeast blackout of November, 1965. The FPC is not anxious to acquire that responsibility.

Its powers of resistance are illustrated by one of the most curious episodes in the history of federal regulation. The FPC was set up in 1930 to pull together several overlapping jurisdictions then controlling the production of hydroelectric power on navigable rivers. In 1935, the FPC's authority was extended to cover all interstate utilities and, through subsequent court decisions, virtually all private generator of electric power for sale to the public. In 1938, still another form of utility was added to its stable: natural gas pipelines.

From the very beginning, the FPC resisted regulating the gas men and the prices they could charge their customers. Throughout the 1940s and early 1950s, there were charges of foot-dragging, undue industry influence, and a growing backlog of unresolved rate cases. More than once, the commission tried to get out of gas regulation through legislation.

It is easy to see why. Gas pipelines may be monopolies subject to orthodox regulation, bue their industrial economics have nothing in common with, for example, that of a telephone company. The pipelines depend for their produce on hundreds of independent producers in the Southwest, so their costs are not controllable.

The FPC failed to assert regulatory authority over wholesale pricing of gas at the wellhead on the ground that it was totally inadequate to the task of passing on rate cases one by one. The commissioners also doubted that they had the legal power.

It fact, the FPC ruled in the Phillips Petroleum case that it had no jurisdiction. What happened next surprised everyone. The state of Wisconsin, concerned about the delivered price of natural gas, sued the FPC to force it to reverse the Phillips decision. In 1954, the Supreme Court upheld Wisconsin.

Over the next few years, the FPC was literally buried by rate filings from gas producers, and the commission methodically began plodding through them. But the FPC was not finished yet. It set out to get a law passed exempting it from wellhead price regulation.

In the meantime, it routinely granted price increases, with the understanding that if by some remote chance the law failed, producers would make refunds to consumers.

The law, as it happened, did fail. On Feb. 3, 1956, Representative Francis Case (R-S.D.) arose in the House and declared that proponents of the bill had tried to influence his vote with a campaign contribution. The bill passed, but President Eisenhower vetoed it on the ground that the episode affected the "integrity of governmental processes."

Despite subsequent attempts to get rid of gas rate regulation, the FPC was stuck with it. But not until 1960 did it develop a workable method of coping with the problem: areawide rates rather than case-by-case determinations.

In 1961, with a change in national Administration, Joseph C. Swindler hit the FPC like a streak of greased lightning. On rate refunds, Chairman Swidler settled with the producers by simply splitting the difference—half refunded, half retained. He pushed area pricing proceedings, although not even Joe Swidler could galvanize the FPC on that one. The first area rate case was settled only two years ago, and there are 22 to go.

Nixon's new chairman, John N. Nassikas,

is in the great tradition of the FPC. He doesn't much like regulation and he makes no secret of it.

Reluctance might merely be prudence, because activism has its risks. When Swidler joined the FPC in 1961, he launched the vast National Power Survey, which eventually recommended an ambitious system of interconnection and coordination among the nation's electric utilities. At the same time, Swidler began a personal campaign to persuade the utilities to start tieing into power grids.

The risks were substantial. Not only did the FPC have no statutory power to force interconnection, but it was almost certain that at some transitional point between independent power generation and integrated regional pools something bad would happen. It did, in November, 1965, shortly before Swidler's term of office expired, when the Northeast blacked out.

Swidler came out of it all with his reputation intact, but the great blackout has remained a grim reminder of the risks of regulating. They will be even greater if and when the FPC receives statutory power to regulate electric power system reliability.

THE ATOM AND THE ENVIRONMENT

The same problem exists at the Atomic Energy Commission, which to some extent shares responsibility for energy regulation with the FPC. The AEC is in an uncomfortable position. It is charged not only with promoting the use of nuclear fuels for power generation, but with making sure that those fuels are used safely. In the early days, when the rush to build atomic energy plants was starting, it was assumed the AEC had safety well in hand, and the emphasis was on promotion.

But the commission has run smack up against the tremendous surge of interests in pollution, environment, and life quality. Many states have already indicated they want to set radiation stndards much tougher than the AEC's and accuse the Commission of being too much the atom's promoter and not enough its regulator. The states' right to preempt the AEC on standards will have to be decided in court. Minnesota now has such a case pending, which is expected to go all the way to the Supreme Court. Until it is finally resolved, the AEC will be in a quandary and the economics of nuclear power generation will be impossible to pinpoint.

TRANSPORTATION: MIND-BOGGLING TRIP

In the waning days of the Eisenhower Administration, a volume of 732 closely printed pages was delivered to the Senate Commerce Committee. It was entitled *The National Transportation Policy,* and it was the result of some two and a half years' labor by a large and expert staff.

The study was the last real effort to make some sense out of the nation's vast transportation network. A few dog-eared copies, bound in bilious green blotting paper, are still owned by the kind of people likely to read ICC rate cases for diversion. Otherwise, the report is virtually forgotten.

Meanwhile, rail passenger service has all but disappeared, urban mass transit deteriorates, highways proliferate, automobile traffic increases, and airports get bigger and harder to reach. Every mode of common carrier transportation from trucks and buses to trains and planes is plagued with chronic overcapacity. Transportation experts complain that prices are too high and service is inadequate. No mode of transportation is getting rich, and rates of return are not high.

The future is even gloomier. The standard forecast is that transportation companies will be forced to double their facilities over the next decade, and no one knows how they will be able to attract the private capital to do it.

The old-line independent regulators, specifically the Interstate Commerce Commission and the Civil Aeronautics Board, are squarely in the middle of one of the biggest messes in modern economic life. The mere size of their jurisdictions is mind-boggling. The ICC regulates railroads, long-distance buses, moving vans, the common carrier truckers, some barge lines, and oil shipment by pipeline. The CAB has all the commercial airlines.

To do the regulators justice, neither has had much control over the situation. They are up against something akin to a force of nature: money spent for transportation facilities without much regard for the consequences.

Other agencies come into the picture from all directions. There is the Bureau of Public Roads, which is in the Transportation Dept. but not really of it. The bureau, independently financed by some $5-billion annually from gasoline and other user taxes, has built a system of highways that has remade the face of America, nurtured the automobile, and fed the trucking industry. Unfortunately, the highway system has also wrecked urban mass transit, nearly destroyed intercity passenger rail service, and seriously impaired the railroads' share of high-value freight tonnage.

Then there is the Army Corps of Engineers, which administers with single-minded enthusiasm the annual rivers and harbors appropriation, considered in Washington a Congressional pork barrel second only to the allocation of Defense Dept. installations. The engineers build canals and dredge rivers for barge traffic, and the barges pay no tolls. Barges now carry eight times the amount of freight they hauled in 1940, and most of it came from the railroads.

In short, there is no rational policy governing the national transportation system. Says one veteran ICC staff man: "How can you expect us to have a policy until the country has one?" The result is that each agency continues to operate as if nothing else existed, approving routes, rates, and subsidies for its regulated industry without regard to the financial well-being of competing modes of transportation. Even so, the agencies frequently fail to balance things out in their own bailiwicks.

FLYING BLIND AT THE CAB

The CAB, for one, has been struggling with this problem for years. In 1955, the board apparently decided that competition between airlines on a large number of routes was desirable. But it settled it in a typically chaotic manner. It granted all the route applications before it, even though several of the lines had filed simply to demonstrate the consequences of too much competition.

The 1955 decisions reduced the industry's return on investment drastically and still failed to fulfill at least the objective of offering service to passengers at lower cost.

Normally, the CAB's major policy decisions run behind the technology. The 1955 route awards, based on the economics of propeller-driven planes, came less than a year before the first jets, with their need to fill more seats to operate profitably, were ordered. Similarly, the new round of competitive route awards in 1968 and 1969 was announced on the threshold of the age of jumbo jets. Says one industry observer: "It will take 10 years to undo the damage."

The problems are endless. Congressional pressure dictates that smaller communities as well as big cities get airline service. That is the function of the so-called "second tier" local feeder lines. But the jet age, coupled with interstate highway competition, makes it tough for the feeders to make a profit on such low-traffic short hops.

Faced with the choice of allowing them to go under or continuing to pay huge subsidies to keep them going, the CAB has chosen to grant them longer, more profitable routes. Secondary cities such as Peoria, Ill., and Albany, N.Y., are getting nonstops to Washington. One result: The major trunk lines are starting to feel the competition, while the feeder lines are now trying to abandon the small towns.

The next step in the process is the "third tier" service, the commuter and taxi aircraft, which are supposed to feed passengers from small cities and towns to major airports.

As long as the weight of the planes is kept below 12,500 lb., the taxi operators are exempt from much economic regulation. And low weight meant short, uncomfortable hops to the suburbs. But in the last couple of years, faster, higher-capacity aircraft have been developed within the weight limitations, and the operators are extending their operations. So the CAB is reviewing the weight limitations.

There is some evidence that the CAB may be about to throw up its hands at the insoluble task of keeping every airline in business while forcing them to complete with each other. It is beginning to encourage mergers among the lines, which may or may not solve the problem.

The merger solution is also a way out for the ICC, whose problems are even more severe.

The ICC is a 19th Century regulator, administering a tangle of statutes that reflect economic conditions which existed from the age of the robber barons to the time of the Great Depression. Anything more modern is unthinkable.

Take, for example, the controversial minimum-rate power. In 1920, the ICC was granted the right not only to regulate rate increases, but also decreases. The object was to prevent the railroads from hurting competitors by "predatory pricing" subsidized by profits on monopoly routes.

In most cases, the railroads were required to price on a basis not only of out-of-pocket costs, but on at least a portion of the immense cost of maintaining their rights-of-way. Other freight haulers—truckers and barge lines—have their roads and canals built by the government. Huge segments of water and road transport are not regulated at all.

As a result, wherever competing modes meet head-to-head, the regulatory umpire permits just enough of a cut to meet competition, but no more. The whole point is to maintain each competitor's precise share of the available freight.

In a sense, the ICC fears the real power of the transportation companies to change the economic landscape. In 1958, the Southern Ry. conceived the idea of building a giant hopper car that could move grain from elevators in the Midwest to flour mills and animal feedlots in the Southeast at drastrically reduced cost. If rail rates declined, so would competitive barge and truck rates.

In 1961, the first Big John cars were delivered, and the Southern began a four-year battle in the ICC and the courts to make its rate cuts stick.

The Southern finally won, and the victory changed the face of the grain milling and packinghouse business. Direct shipment of grain to the South hastened the decline of the Midwest's mightly flour mills; the South became a major producer of meat animals and poultry. The consumer apparently benefited from lower prices for bread and meat.

But minimum rates are not considered the real problem of transportation now. If freight haulers were allowed to price their services freely, some experts think freight rates would go higher, not lower. In the long run, though bigger revenues would help the carriers afford the technical improvements which would drop competitive rates.

Sometime this spring, Transportation Sec-

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retary John A. Volpe will submit to the President a report trying, once more to rationalize the chaotic system of policies and nonpolicies in transportation. The recommendations are not expected to produce much in the way of results.

As one experienced transportation lawyer puts it: "We don't have a total transportation policy, and the Transportation Dept. can't make one as long as the regulatory agencies exist and won't pay any attention."

CHALLENGE: IS THERE A BETTER WAY?

Chicago's Midway Plaisance is a long way from Pennsylvania Avenue. But this bleak and windy promenade that slices through the campus of the University of Chicago is, in a very real sense, an arena in which the major philosophical battles over regulatory policy are being fought.

To the north, in one of the undistinguished mock-Gothic quadrangles, is the office of Professor George J. Stigler, one of that group of stern, free-market economists whose best-known member is Milton Friedman. To the south, tucked away among the fifth-floor bookstacks of Chicago's cold and cavernous new law school, is Professor Kenneth Culp Davis, perhaps the most widely known student of the regulatory process and author of the *Administrative Law Treatise*—all four volumes of it.

Stigler and Davis represent the outer limits of reasonable thought on how—or whether—the federal regulatory machinery can work. Stigler thinks the regulators should have far less responsibility than they now do; Davis thinks they should have far more.

What these men think is important. Stigler, after all, was chairman of the task force on productivity and competition commissioned by President Nixon before his inauguration. Davis is a leading light in that freemasonry of law professors and eminent judges who exert enormous influence on the incredible tangle of statutes and rules in the regulatory field.

Stigler's position very broadly is that regulation is basically anticompetitive and thus does not serve the national interest. "I no longer look on regulation as a means by which the public protects itself," he says. "I think regulation is sought by business."

What outrages Stigler's tidy economist's mind is that much of the regulatory panoply of the last 80 years has been nourished on a thin gruel of faith and politics. "The most shocking thing is that no one knows the operative effect of the agencies. No one has ever studied, by and large, the successes and failures of the regulatory process."

Stigler's solution for the evils of regulation is, substantially, to deregulate, and throw the major responsibility for promoting competition and the public interest back into the Antitrust Div. of the Justice Dept. Ironically, John F. Kennedy also argued that competitive market forces should replace regulation in his unsuccessful attempt to strip the ICC of some powers.

Davis agrees that the regulators regulate too much, but has an entirely different basis for his belief. He would relieve them of some of the minutiae that occupy so much of their time, so they could concentrate on substance.

Davis' main preoccupation is not to move responsibility for national policy concerning business into the Justice Dept., but to push it further into the regulatory agencies.

"The central problem," says Davis, "is control of discretion; the biggest power of all is not to prosecute. At the FTC, the crucial moment is not the cease-and-desist order, but the choice of which cases are investigated."

In other words, Davis wants everything out in the open and on the record. A neat, unequivocal record requires decisions to be made on some rational basis: First the general rule, then the specific decision resting on it, and not the other way around. Davis looks to the federal courts to force the agencies to do it this way, by tossing back decisions brought to them on appeal that appear capricious.

So far, Davis admits, he has little on which to base his reliance on the courts, which customarily have upheld the regulators' decisions. But he sees some encouragement in several cases that appear to have little to do with, for example, the grant of television broadcasting licenses. In one, a California court questioned the right of the state liquor authority to lift the license of a go-go joint on the ground that the topless waitresses impaired the public morals, without first having stated formally that waitresses wearing nothing above the belt do, indeed, impair the public morals.

HOW TO SALVAGE THE SYSTEM

The ultimate projections of the Stigler and Davis schools of thought would be to ask nothing of the regulatory agencies or to ask everything of them. But in between lies a range of informed opinion that fills volumes—often slighted tomes that have put generations of law students to sleep.

A lot of lawyers—and their clients—are paying attention these days, however, if only because some reform is overdue for a system that seems to work to no one's advantage.

Some of those overdue notes are already in the process of being called, by Ralph Nader, for one. In a report published in book form not long ago, Nader's Raiders destroyed whatever was left of FTC's reputation. Nader's team of young crusaders has just completed a similar critique of the FAA and air safety; it is working on air and water pollution control enforcement, the Agriculture Dept., and several other agencies that have regulatory or enforcement powers. "Every agency is being challenged," Nader says.

Nader thinks these studies will provide the documentation on how regulated industries really operate and how they respond to—or fail to respond to—regulation. What is done with that knowledge is something else again.

Nader accepts, by implication, the judgment of one veteran Congressional committee staffer: "There is no public interest; there are public interests, and the agencies act as honest brokers among them." Nader simply would like to add the public interest—principally the consumer interest—to the others struggling to be accommodated in the regulatory process.

Nader holds that the regulatory framework is salvageable. "It's just like a city machine when it turns corrupt," he says. "People don't say get rid of city government." In light of this conviction, Nader must be classified among the optimists. So must Judge Henry J. Friendly, once general counsel for Pan American World Airways and now a federal appellate judge with a national reputation. In 1962, Friendly laid out the regulators, warts and all, and then proposed a persuasive program for reform. The problem, in his view, lay in the unwillingness of the commissions to construct, from the vague directions of Congress, "standards sufficiently definite to permit decisions to be fairly predictable and the reasons for them to be understood."

Today, says Friendly, "I would be somewhat less optimistic than I was in 1962 with respect to the various transportation agencies' engaging in useful planning activities. I should think that here the hope lay rather in the newly created Dept. of Transportation."

Friendly is not alone in redirecting his hopes. The proposal "to break up the agencies" or bypass them is an old one. In 1959, Florida lawyer Louis J. Hector resigned from the CAB after two not very happy years. In parting, he wrote a lengthy letter to President Eisenhower that acquired celebrity as The Hector Memorandum. In 1963, Newton N. Minow, President Kennedy's FCC chairman, similarly resigned, and wrote a similar, though shorter letter.

The two men held that the agencies do not do any of their assigned jobs well, and that they are essentially bankrupt. Matters of broad policy affecting the national interest should be decided by the White House. The endless details of cases, renewals, licenses, certificates, and rule infractions should be handled by the civil service in the Executive branch. Major "adjudicative" matters contested by a regulated interest should be assigned to some sort of administrative court.

Both men's views, but especially Hector's, raised a storm of indignation. Friendly's book rejected the proposals, as did a book by William L. Cary, former SEC chairman and now a Columbia University law professor. Cary argued that leaving policy to the "White House" essentially meant leaving it to assistants of scant experience.

If the experts disagree on most recipes for improving regulation, on one thing they agree: The agencies need better men. Testifying last September before the Joint Economic Committee, Nicholas Johnson was asked what qualities should be expected in a regulator. Replied Johnson: "My standards are really very modest in terms of selecting commissioners for regulatory commissions. In the FCC, I wouldn't say a man needed to be an expert necessarily in communications policy or anything that esoteric.

"I would start by saying he probably ought to have an IQ of at least 110, somewhere along in there. I think he ought to be able to read and write. If you could find one who actually likes to read and write, so much the better."

GENERAL PRACTICE SECTION

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. HUNGATE. Mr. Speaker, as one who formerly engaged in the general practice of law, I believe the following article from the February 1970 Illinois Bar Journal concerning the frequent trials and occasional triumphs of great practitioners will be of interest:

GENERAL PRACTICE SECTION

I am not sure that the idea of a General Practice Section [see The Scratch Pad, 58 Ill. B.J. 330 (Jan. 1970)] is one that can be supported by much logic, since there is doubtless an existing Association committee that gives attention in depth to each area of concern to the general practitioner. Nonetheless, I like the idea and I suspect that such a group might be worthwhile.

For one thing, participation in such a Section might do a lot for the mental health of the run-of-the-mine G.P. who for years has served uncomfortably on committees in the shadow of giants in the fields of taxation, negligence, drainage and levee laws, and the like.

For another, he might get to take part in the Section's activities and perhaps voice a thought now and then without fear of having to have his foot extracted by a superstar who sounds for all the world like Lee Bailey—or David Brinkley, depending on the type of committee he is on.

Come to think of it, I guess I have longed for a committee where I could chuckle knowingly at the wry good humor of the current events chairman, after 25 years of chuckling nervously and at the wrong time because I had not heard of the exciting developments that were about to emerge from some suit the chairman had tried last month.

General practitioners also have little problems in social adjustment. If you're not one, you haven't known the terror that grips a G.P. at cocktail parties when he feels that "And what type of law do you practice?" question coming on. You blurt out something like "Why, we have a rather general practice in our little shop" and then shrink back into the woodwork as your dinner partner catalogs you as a guy who handles collection work, traffic cases and small estates and moves quickly off to join some matrimonial lawyer there without his wife, or a brain surgeon who will probably spill his drink on her. Rather than become known as an unspecialist, a G.P. will sometimes conceal his profession from casual acquaintances for long periods just so he won't have to answer The Question and suffer the ensuing agony of a silent put-down. He may be known as "that quiet fellow with the mysterious interests"—and that is no way to pick up a little collection business from friends. (In desperation, I once gave some thought to billing myself as an expert on commodity exchanges after helping handle a case in Washington involving some soybean traders. I rejected the idea when I decided that it's possible to be *too* specialized.)

A General Practice Section could have subcommittees that really meet. I have been on one committee for six or seven years and I don't even know the subcommittee chairmen, some of whom haven't been around that long. I have been assigned to ten or twelve subcommittees over those years, but only once was a meeting ever held, and I was in traffic court that day and could not attend. Not only does this put me at a disadvantage when asked about pending legislation, but I am totally ignorant of the status of Association lectures. Actually, even if a subcommittee had a meeting I would not go and risk being unmasked as a spy who never tried a case in that committee's specialty in his life.

Like it or not, general practice is a sort of fact of life in our profession. I see no harm in recognizing that fact by establishing a section in its honor. I know the effect on the egos of G.P.'s would be significant, and it might even benefit the profession and the public, too, although that certainly isn't to be insisted on.

I like the idea and I would like to join up. I'll go even farther. I look forward to the day when there will be an American Academy of General Practitioners with Fellows and everything. That would *really* kick the old neurosis in the head. I will join even if they don't have their annual convention in the North Beach area or Waikiki or someplace.

And by the way, the material that has been distributed by the General Practice Section of the ABA is about the best I have ever received from any group of the ABA, ISBA or CBA, to say nothing of the American Judicature Society.

J. R. BLOMQUIST.

LESTER MADDOX'S "PICKRICK DRUMSTICK"

HON. FLETCHER THOMPSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. THOMPSON of Georgia. Mr. Speaker, if my memory serves me correctly, there has been recently a controversy concerning pick handles which Members and restaurant employees were taking out of a box in the lobby of the House dining room.

Today, I received from the Governor of the State of Georgia the history of these "pickrick drumsticks" and thought that for the edification of the Congressmen it should be inserted in the RECORD for all to see and I include it at this point:

THE TRUE STORY OF LESTER MADDOX'S "PICKRICK DRUMSTICK"

The wooden sticks picked up by a few customers at the former Pickrick Restaurant in Atlanta, Georgia were not "axe handles."

The sticks were "Pick Handles."

What was the purpose of "Pick Handles" at the Pickrick Restaurant? Pick handles were a part of the decorative pattern of the Pickrick. Other items included a rock garden, waterfall, pond, old spinning wheels, a player piano, carvings of stage coaches, steam locomotives, horses and many other items, all within the dining rooms, and a large and beautiful fireplace surrounded by many items, including hickory wood for burning—and one small wooden keg on each side of the fireplace containing a total of twelve "Pickrick Drumsticks" (Pick Handles—that were identified to the world as "Axe Handles").

The "Pick Handles" (Pickrick Drumsticks) were selected because of the meaning of the word "pick" in the name of the Pickrick Restaurant. In most of our newspaper ads and on our printed menu we carried the definition of the word "Pickrick."

Pick—To pick out, to select, to choose, to make careful selection or fastidiously chosen.

Rick—To pile up, to heap or to amass.

And we always advised our customers, "You Pick it out, we'll Rick it up, and that makes "Everything Pickrick".

The "pick handle" was also selected because it has more of the appearance of a chicken leg than any other available item—hence—"Pickrick Drumstick". Any person offended by the "Pickrick Drumstick" has to be misinformed.

The "Pick Handle" is a symbol of hard work, of progress and of what helped to build America. Lester Maddox's "Pickrick Drumstick" is a symbol of good fried chicken, a reminder of a good restaurant.

LESTER MADDOX.

OIL SPILLED AGAIN

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. KEITH. Mr. Speaker, hardly a week passes that I do not find myself on my feet in this Chamber, decrying yet another oil tragedy. This week's disaster is taking place off the coast of Louisiana, where an off-shore oil drilling rig is spewing forth uncontrolled oil at the rate of 1,000 barrels a day. Some of the most productive shellfish areas in the Nation are threatened, and the experts say that it will be at least 5 days before they can even hope to cap the leaking wells.

This latest accident is further proof—if any is needed—of the desirability of protecting our offshore resources from such despoilation. In 1967 I filed a bill to do just that, through the creation of "Marine Sanctuaries" in areas where ecological and economic interests were too valuable to be left vulnerable to what is happening today in Louisiana. If it had been passed then, the Santa Barbara tragedy, and possibly this one, might well have been avoided.

As it happened, in this particular case the Chevron Oil Co. has assumed the financial responsibility of controlling and cleaning up the mess their drilling created. But this only goes to point up more clearly than ever the necessity for the public works conferees to come to an agreement on the pollution bills that they have been considering for so long. For in most cases, the offender is not so quick to claim responsibility as Chevron has been. And unless a strict and clear liability law is on the books, the current system of unclear responsibility and inadequate means of cleanup will continue—and so will the devastation of our coastliness.

Knowing the House conferees, and Mr. GROVER and Mr. CRAMER in particular, I am sure that the end result of this committee's efforts will be a bill that will effectively cope with the complex problems of liability and cleanup. I am encouraged by reports that the House conferees are insisting on very strict enforcement and heavy penalties against those responsible for oil spills.

Under H.R. 4148, a revolving fund would be established, so as to permit speedy and effective action by the Federal Government when an oil spill occurs. This is a vital necessity, for in most oil spills the perpetrator is not immediately identifiable, and the Government has to assume the lead role in cleaning up the spill.

Under an Executive order of President Johnson, the Coast Guard and the FWPCA have been designated the lead agencies in coping with such spills. Both agencies, however, are sadly underequipped to handle this responsibility.

When the Coast Guard authorization comes before the House next week, two amendments will be offered that would increase this agency's capability in this vital area.

The first increases the number of helicopters authorized from six to eight. These are desperately needed for the Coast Guard to patrol our coastlines watching for oil slicks. The second would provide for acquiring two of the new transportable oil storage systems the Coast Guard has developed, instead of one.

Total cost of restoring these items—which the Coast Guard had originally requested before the Budget Bureau cut them back—is approximately $5.7 million. In our view, this is a small price to pay for the protection such added equipment would produce. If even one major oil spill is detected and prevented from reaching our coasts, its expense will be more than justified.

I am hopeful that these amendments will succeed—and that they will be only a beginning of much more research and much more development of oil control technology.

At this point, I would like to draw my colleagues' attention to the recent trip of my friend and colleague (Mr. McDONALD) who went to Louisiana and saw personally the dimensions of this disaster. Such a journey should be required of us all, to fully understand the dimensions and gravity of this problem.

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NIXON VOLUNTARISM A GLARING FAILURE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. HUNGATE. Mr. Speaker, the Washington Post of Sunday, March 8 carried an interesting article written by Joseph R. Slevin which follows:

NIXON VOLUNTARISM A GLARING FAILURE

(By Joseph R. Slevin)

When it comes to voluntary cooperation and government by example, the Nixon administration is about as mixed up a group as you are likely to find.

Voluntarism was a big thing during the 1968 presidential campaign but it didn't survive election night and is one of the glaring failures of Nixon's first 13 months in the White House.

The President still talks occasionally of voluntarism even as he talks of "new federalism" and of turning power back to the people. Yet his attention-grabbing pollution program calls for imposing a web of new controls on the states and local governments.

One of the country's crying needs is for voluntary wage-price restraint but Nixon blew his chance to unite the country in an effective anti-inflation campaign at his first press conference when he said labor and business leaders have to be guided by self-interest rather than by the national interest.

The President marched part way back in October. He belatedly started a jaw-boning campaign against inflationary wage and price boosts by warning businessmen that it would be self-defeating to give excessive wage increases because economic activity was slowing down.

Secretary of Labor George Shultz still doesn't think much of jawboning, though. He denounced such voluntary appeals in New York just the other day as a "policy of twisting arms or getting people to do something they would not otherwise do."

The way some administration officials talk about jawboning you would think it was a dastardly Democratic plan instead of a national policy that was initiated by President Eisenhower to slow cost-push inflation in the late 1950s.

But even as Shultz was protesting against voluntary wage-price restraint in New York, Nixon's Treasury was rounding out a week of urging pension funds and other big investors to support the administration's homebuilding drive by voluntarily making more mortgage loans to contractors and homebuyers.

The unhappy financial men heard suggestions that they may lose tax benefits or be subjected to "voluntary" credit controls if they do not play ball.

The pension funds put all of their money into loans that pay more than the return they can earn on mortgages. They do not consider it in their self-interest to make mortgage loans any more than Nixon's labor leaders and businessmen considered it in their self interest to settle for less than the biggest wage and price increases they could jam through.

It has not escaped notice here or around the country that Nixon, equally inconsistently, spent the taxpayers' money to buy 150 fancy comic opera uniforms for the White House police at the same time that he was exhorting his cabinet to hold down government spending. It is remembered, too, that Uncle Sam had to foot more than half a million dollars in bills for work around Nixon's plush Florida and California estates only shortly before he cut federal construction contracts and begged local communities to curb their own outlays.

All of which proves that what is sauce for the goose is not always sauce for the gander or, as Attorney General Mitchell injudiciously advised a civil rights group last summer: "Watch what we do instead of listening to what we say."

NEW YORK TIMES DISCUSSES POLITICS AND PETROLEUM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. HAMILTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I wish to bring to the attention of my colleagues in the House the following New York Times Magazine account of the U.S. petroleum industry's fight to maintain favorable tax benefits and a continuing import quota system:

[From the New York Times magazine, Mar. 8, 1970]

THE OIL LOBBY IS NOT DEPLETED

(By Erwin Knoll)

WASHINGTON.—On Thursday evening, Nov. 6, 1969, the Governors of three states met over a quiet dinner at the Tavern Club in Washington with Frank N. Ikard, a former Texas Congressman who is now president of the American Petroleum Institute, the trade association of the nation's largest oil companies. There is no public record of what the four men discussed, although—by coincidence or otherwise—the same three Governors and a fourth were at the White House early the next morning to urge the Nixon Administration to retain the 11-year-old system of oil-import quotas, which costs consumers more than $5-billion a year in higher prices for petroleum products.

The Tavern Club tête-à-tête and the subsequent White House session are examples of the close and continuing contacts between oil and politics—an intimate relationship that has prompted some critics to describe the oil industry as "the fourth branch of government." In recent months those contacts have intensified, for the industry's privileged status is being attacked with unprecedented ferocity. Under the benign patronage of such influential figures as the late Senator Robert Kerr of Oklahoma, who rejoiced in being known as "the uncrowned king of the Senate"; the late House Speaker Sam Rayburn of Texas; the late Senate Minority Leader, Everett McKinley Dirksen of Illinois, and former President Johnson—all of whom shared a profound and undisguised commitment to the industry's welfare—the petroleum producers enjoyed decades of virtually limitless power in Washington. Their strength probably still surpasses that of any other special-interest group. But with the departure of their most prominent and effective champions, their critics are for the first time emerging as a force to be reckoned with.

In one of the few genuine, although limited, reforms to survive the byzantine machinations that produced the final version of the Tax Reform Act of 1969, both houses of Congress voted decisively to reduce the sacrosanct oil-depletion allowance from 27.5 per cent to 22 per cent. The reduction—acquiesced in by a reluctant executive branch—constituted an acknowledgement that many Americans had come to regard depletion as the most flagrantly objectionable abuse in the loophole-riddled tax code.

In a statement that some of his colleagues thought was tinged with exaggeration, Senator Thomas J. McIntyre of New Hampshire declared that the vote to cut the depletion allowance signified that the Senate had "once and for all rejected its role as the bastion of the oil industry." The Senator was among those who had unsuccessfully sought a more drastic reduction to 20 per cent. "But the important thing," he said, "is that we have finally made a crack in oil's protective shield. If others develop in the days to come, American consumers and taxpayers may yet get a fair shake at the hands of this much-pampered industry."

The depletion allowance, which stood inviolate for more than four decades, has allowed an oil or gas company to deduct 27.5 per cent of its gross income from its taxable income, providing the deduction does not exceed 50 per cent of taxable income. With lesser depletion percentages provided for almost 100 other mineral products, depletion has cost the Treasury about $1.3-billion a year in lost revenues—a sum comparable to the "inflationary" spending increments that President Nixon cited as the reason for vetoing the Labor-H.E.W. appropriations bill for fiscal 1970. Special provisions in the tax laws also permit oil and gas producers to deduct many of their intangible costs for exploration, drilling and development, including offshore drilling and production in many foreign countries. And oil companies are allowed to deduct against their United States taxes most of the royalties they pay to foreign powers—an arrangement cloaked in the convenient fiction that such royalty payments are "taxes."

The result of these privileges, according to Treasury Department calculations, is that oil and gas companies save in taxes 19 times their original investment for the average well. In 1968, American oil companies paid less than 8 per cent of their income in taxes, compared with more than 40 per cent for all corporations.

Clearly, the tax laws have played an important part in making the oil industry the formidable economic and political force it is. The industry's annual sales total more than $60-billion. Among the 2,250 largest American companies surveyed last April by the Economic Newsletter of the First National City Bank of New York, the 99 oil companies alone accounted for more than 25 per cent of the total profits. The industry's average profit of 9 per cent (based on net sales) is about double the average for all manufacturing companies; only one other industry—drugs—maintains a higher profit level. The 20 largest oil companies amassed profits of $8.1-billion in 1968 and paid 7.7 per cent of the net in taxes, according to U.S. Oil Week, an independent oil-marketing publication. Thanks to the generosity of the tax laws, one oil company—Atlantic-Richfield—avoided all Federal tax payments from 1964 to 1967, and actually managed to accumulate a Federal tax credit of $629,000 while earning profits of $465-million. Atlantic-Richfield's case is not unique.

A tax structure that lends itself to such egregious inequity is obviously worth defending. In Washington (and at state capitals across the country) the industry's interests are served by a costly and complex but closely coordinated lobbying apparatus. Among its principal components are these groups:

The American Petroleum Institute, whose membership roster of 400 companies and 8,000 individuals represents about 85 per cent of the total production, refining and marketing volume in the oil and gas industry. Despite its broad membership, A.P.I. is regarded as primarily the spokesman for the "Big Seven"—Standard Oil of New Jersey, Mobil, Shell, Standard Oil of Indiana, Texaco, Gulf and Standard Oil of California. Among these, Standard of New Jersey is the dominant force.

The institute's annual budget is a closely guarded secret, and its quarterly reports to the clerk of the House of Representatives on lobbying expenditures are incredibly modest—a total of $39,119 for 1968. Industry sources report that the institute spends between $5-million and $10-million a year, much of it for "research." It has a staff of more than 250 at offices in New York, Washington, Los Angeles and Dallas.

The chief A.P.I. lobbyist is former Congressman Ikard, who represented Wichita Falls, Tex., from 1952 to 1961 and was a protégé of the late Speaker Rayburn. When he resigned from the House to join the institute—a move that he said was "a question of economics"—Ikard was praised by Lyndon Johnson, then Vice President, as "a heavy thinker and a heavy doer." Under his direction, says a Congressional source, the institute has been "a pace and precedent setter . . . vigorously seeking to adapt its positions and attitudes to the wave of the future."

The Independent Petroleum Association of America, with some 5,000 members representing about 60 per cent of the independent oil producers. Its "experts"—a professional staff of six operating out of an impressive Washington office suite—were highly visible among the oil men who flitted in and out of the back door to the Senate Finance Committee's offices while the committee, in sessions closed to the public, considered the oil provisions of the Tax Reform Act. The immediate past president of the association, Harold M. McClure, the Republican National Committeeman from Michigan, has acknowledged making "personal" campaign contributions totaling $90,000 in 1968. He recently testified before a Federal grand jury investigating allegations of political bribery.

The same Congressional source who admires the A.P.I. for its flexibility describes the Independent Petroleum Association as "sticking to the traditional line that the existing state of oil privileges is essential to the national defense and must remain sacrosanct."

The National Petroleum Refiners Association, composed of domestic refining companies and representing about 90 per cent of the refinery production in the United States. Donald O'Hara, the association's executive vice president, was formerly a registered lobbyist for the Petroleum Institute, with which he maintains close liaison.

The Independent Natural Gas Association of America, representing major pipeline companies. Its executive director is a former Texas Representative, Walter E. Rogers. He served in Congress as Chairman of the House Subcommittee on Communications and Power, which handles gas-pipeline legislation. He gave up his Congerssional seat in 1966 and registered as a lobbyist in 1967 to represent 12 pipeline companies in a vigorous—and successful—effort to water down a pending bill that would have established strict Federal safety standards for the nation's 800,000 miles of gas pipelines.

A formidable array of regional and state groups—among them the Mid-Continent Oil and Gas Association, the Western Oil and Gas Association, the Texas Independent Producers and Royalty Owners Association and the Kansas Independent Oil and Gas Association—augments the national contingent. Executives of these organizations are frequent visitors to Washington, and they can draw on the talents of the capital's most prestigious law firms for missions of special delicacy. Individual companies also mount their own lobbying efforts; John Knodell, a genial and knowledgeable lawyer who worked the Congressional beat until recently for Humble Oil, was credited with establishing a new beachhead for the industry in the last year or two by opening lines of communication with liberal members of the House and Senate. He is now assigned to Humble's legal department in Houston.

By pooling their efforts, the companies are able to marshal formidable forces. In the carefully orchestrated campaign against reducing the depletion rate, for instance, one concern urged all its stockholders to write to members of Congress; another focused on mobilizing its retired employes; a third concentrated on service-station operations; a fourth sent brochures to its credit-card holders. The companies claimed all these efforts as deductible business expenses, but the Internal Revenue Service is, at the request of Senator William Proxmire of Wisconsin, examining those claims.

Instances of disarray in the ranks of oil are relatively rare—and when they occur, the dominant companies usually manage to muffle the dissenters. Last year, the small independent producers in the Kansas Independent Oil and Gas Association broke ranks to support a proposal by Senator Proxmire that would have instituted a system of scaled depletion allowances—a plan emphatically resisted by the majors. The Kansas oilmen were unable to persuade even their own state's Senators to support the Proxmire plan. When two executives of the Kansas group flew to Washington to enlist one Senator's assistance, he kept them waiting in an outer office while a representative of Standard Oil of Indiana delivered the pitch for retaining full depletion. "The local boys just don't understand the situation," the Senator later said.

Depletion and tax preferences are hardly the only—or even the most significant—prerequisites the industry is eager to protect. In fact, some Congressional critics suspect that the oilmen were not entirely displeased when Congress voted to reduce the depletion allowance, since they hope that this action will ease the pressures against other oil privileges now under attack.

Chief among such privileges is the import-quota system—the topic the four Governors took to the White House on Nov. 7. Their meeting took place in the office of Peter Flanigan, a Presidential assistant who has special responsibility for financial affairs and who serves as the President's staff expert on oil. The Governors present, representing the Interstate Oil Compact Commission,[1] were Preston Smith of Texas, Robert B. Docking of Kansas, Stanley K. Hathaway of Wyoming and Richard B. Ogilvie of Illinois; they brought with them telegrams of support from the chief executives of 13 other states. Among the Administration officials assembled to hear the Governors' views were Secretary of Labor George P. Shultz, who heads President Nixon's Task Force on Oil Import Control, and several key members of the task force—Secretary of the Treasury David M. Kennedy, Secretary of the Interior Walter J. Hickel and Secretary of Commerce, Maurice H. Stans.

"This meeting," Senator Proxmire told the Senate on Nov. 17, "was clearly the result of a planned campaign of pressure by the oil industry through the Interstate Oil Compact Commission. Even a cursory examination of the telegrams from the Governors who could not attend the meeting shows they are almost all in identical language. . . .

"The pressure on the Governors must have been fierce. The most interesting example of this is a telegram sent [by the State Commissioner of Conservation and Natural Resources] on behalf of Gov. Nelson Rockefeller of New York. The telegram assures the White House that Governor Rockefeller supports oil-import quotas, though Mayor Lindsay has shown that the quotas cost New York City consumers a minimum of $95-million a year in increased prices and that the cost might go as high, just for New York City, as a quarter of a billion dollars."

Whether Governor Rockefeller was, in fact, subjected to "fierce pressure" is problematic; as a member of a family that founded its fortune on Standard Oil, he is presumably not entirely unsympathetic to the industry's point of view. But Senator Proxmire's reference to a "planned campaign of pressure" in behalf of the import-quota system was no exaggeraiton.

About the time the oil-state Governors were meeting at the White House with members of the President's task force, Michael L. Haider, the retired chairman of Standard Oil Company (New Jersey) and retiring chairman of the American Petroleum Institute, had a private audience with President Nixon. He emerged, according to the industry's trade journal, The Oil Daily, "feeling more optimistic about the handling of petroleum-industry problems in Washington." After a "very good conversation" with the President, the report said, Haider "believes Nixon has a good grasp of the problems surrounding oil-import controls and is more confident that the outcome will be favorable."

In the same interview, Haider offered a glimpse of the relative equanimity with which the industry viewed the reduction in the depletion allowance. "Of course we can live with the new taxes," he said. "We obviously aren't going out of business." The Petroleum Institute has estimated that the Tax Reform Act will cost the industry $550-million to $600-million a year.

The import-quota system, on the other hand, has been estimated by reputable economists to be worth between $5.2-billion and $7.2-billion a year. Using the more conservative projection of the quota system's cost, experts have calculated that the average family of four in New York State pays an excess of $102.32 a year for gasoline and heating oil. In Vermont, a family of four pays an additional $195.92. The comparable figure for Wyoming is $258.

President Eisenhower established the oil-import-quota system on March 10, 1959, as a "national security" measure designed to reduce American reliance on foreign petroleum production. In taking this step, Sherman Adams recalls in his memoirs of the Eisenhower Administration, "the President had to go against the principles that he had fought for in his foreign-trade policy." According to Adams, the departure was made necessary by "the unpredictable human factor . . . the men who headed two large oil-importing companies that refused to join in voluntary restraints and to heed the warning of the Government of what would happen if they failed to do so. Oil was coming into the United States from foreign fields at such a rate that the American oil-producing centers were being forced into desperate straits." Adams, who served as "deputy President" in the early Eisenhower years, candidly dismisses the notion that the national security was at stake: "The imposing of import quotas on oil was primarily an economic decision brought about by an economic emergency, but the action . . . was based upon security considerations in accordance with the law."

The quota system restricts the entry of cheap foreign crude oil to 12.2 per cent of domestic production in states east of the Rockies. (The quota does not apply in the Western states because even a maximum rate of domestic production there cannot meet the demand.) The system operates in tandem with state laws that closely regulate month-to-month oil production on the basis of demand estimates furnished by the major producers. The effect is to assure domestic companies of a demand for all production, and to push up the cost to American consumers. A barrel of Middle Eastern oil can be landed in New York harbor for about $1.50 less than a barrel of domestic oil of the same quality.

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[1] The Interstate Oil Compact Commission is supposedly charged with one responsibility, conserving oil and gas within the continental United States. In theory it has nothing to do with the oil-import program, but it has engaged in heavy lobbying for retention of the quota system.

"Import quotas have been instituted in order to insulate the domestic oil market from the challenge of foreign competition," Prof. Walter J. Mead, an economist at the University of California at Santa Barbara, told the Senate Antitrust and Monopoly Subcommitee last spring. "Given this barrier of free entry into the United States market, the price of crude oil in the United States is approximately double the free-market world pride." During the first half of 1968, Professor Mead said, Japan paid an average of $1.42 a barrel for Middle Eastern crude oil. The American price for a similar grade of crude was $3 a barrel.

A Department of the Interior study made public on Jan. 16, 1969—and challenged by some economists as too conservative—found that the removal of import quotas would cause a 95-cent-a-barrel decline in the price of crude oil east of the Rockies. John M. Blair, the Senate subcommittee's chief economist, estimates that the quotas "have cost the American public $40-billion to $70-billion in the last 10 years."

Among the quota system's bizarre byproducts is a complex of exceptions and evasions designed to suit the oil industry. In the interests of "national security," for example, Canadian oil imports, which can be shipped overland to the United States, are curtailed, while no limitation is placed on tanker shipments from Texas and Louisiana. Senator Russell Long of Louisiana, who has inherited Senator Kerr's mantle as the Capitol's chief spokesman for oil, once defended the Canadian restriction by invoking the likelihood of war between the United States and its neighbor to the north.

Another odd and costly arrangement exacts about $14-million a year from Hawaiian consumers because oil shipped to their state from Indonesia and Venezuela is refined in Hawaii, but priced as though it had been refined from more expensive domestic crude on the West Coast, then shipped to Hawaii in American vessels, which traditionally collect a top dollar for their services. "It seems hard to understand," said Prof. Morris A. Adelman, an M.I.T. economist, during the Senate hearings last spring. "If I looked into it, maybe I would find it even harder to understand."

Consumers and their Congressional spokesmen, however—no matter how loud their complaints against the quota system—can claim only modest credit for the current assault. The Presidential task force whose work has worried the industry and preoccupied its lobbyists in recent months came into being as a result of competitive pressures among the companies themselves, which prompted some major producers to seek special Federal benefits under the quota system. The first important breach in the system came when the Johnson Administration granted quotas to a Phillips Petroleum refinery in Puerto Rico and a Hess Oil refinery in the Virgin Islands. Then Occidental Petroleum, a relatively small but aggressive company, discovered vast oil pools in Libya and decided to seek increased access to the restricted American market by requesting a 100,000-barrel-a-day quota for a refinery to be built in a proposed foreign-trade zone at Machiasport, Me. To New Englanders, Occidental promised a reduction of at least 10 per cent in the swollen cost of home heating oil. To the major producers, however, Occidental's request raised the threat of a series of "Machiasports" around the country, dissolution of the import-quota system and substantial reductions in profits.

Confronted with strong and conflicting pressures, the Johnson Administration fumbled indecisively with the Machiasport application during its last year in office, then passed the problem on to its successor. On Feb. 5, 1969, Chairman Haider and President Ikard of the American Petroleum Institute proposed to Dr. Arthur F. Burns, the President's principal economic adviser, that a Presidential task force be appointed to review the quota system. Their intent, it seems clear, was to block the Machiasport project, but surprisingly the task force took on some aspects of a runaway grand jury. The industry has not recovered from the shock.

In a forceful submission to the task force, the Antitrust Division of the Department of Justice challenged the major rationale for the quota system, arguing that "the import quotas themselves do nothing to preserve this nation's domestic oil reserves. Reserve productive capacity is maintained, if at all, by state regulatory action aimed primarily at other objectives, such as conservation. The resulting hodgepodge of Federal and state regulation seems ill-adapted for achievement of a coherent program designed to provide this country with sufficient emergency oil reserves." The import program, the Antitrust Division also noted, "is a keystone in preserving a dual price system as between the United States and the rest of the free world. By insulating the domestic market from he competitive pressures of world oil prices, the program intensifies the effects of the existing lack of competitive vigor in various domestic oil markets."

Under the direction of Prof. Phillip Areeda, a Harvard economist, the task-force staff compiled what is generally regarded as a full-fair and thorough record (although some industry sources passed the word that the staff was dominated by a most dangerous element—"theoretical economists"). In assembling detailed position papers and rebuttals, the staff shunned *ex parte* contacts with the ubiquitous oil lobbyists and withstood formidable pressures, including a telegram from Representative Wilbur Mills of Arkansas, the Chairman of the powerful House Ways and Means Committee, who warned Professor Areeda against "tinkering with the matter of oil imports."

In its final report, the task-force staff found that the quota system has serious disadvantages, including "the hazards of fallible judgment, combined with the ever-present risks of corruption." These factors, the staff concluded, "counsel strongly in favor of getting the Government out of the allocation business as rapidly and as completely as possible." The staff recommended scrapping quotas in favor of a preferential tariff system for oil that would produce about $700-million a year in new Federal revenues and reduce prices by about 30 cents a barrel—a quarter to a third of the price reduction that might be realized by the total elimination of oil-import controls. Under a probable tariff schedule consumers might save a cent or two on a gallon of gasoline and about a cent on a gallon of heating oil.

Such a reduction would have a measurable counterinflationary effect. According to Paul W. McCracken, the chairman of President Nixon's Council of Economic Advisers, "with annual consumption on the order of 80 billion gallons, a 2-cent cut at retail would translate into a reduction of about $1.6-billion in the total national bill for gasoline. Such a cut would be equivalent to a reduction of approximately 6 per cent in the average retail price."

The task force held its last full meeting in December, and a majority—five of the seven members, led by Secretary of Labor Shultz—was prepared to accept the staff's conclusions. The two dissenters were Secretary of the Interior Hickel and Secretary of Commerce Stans, who insisted, in what several participants have described as an angry confrontation, on retention of the quota system.

Present for the first time at a meeting of the task force was Attorney General John N. Mitchell, who emphatically told Secretary Shultz, "Don't box the President in." Some of those present interpreted the remarks as a Presidential request for the retention of quotas. Following Mitchell's appeal, the task force tempered its recommendations, though it reached the basic conclusion that quotas should be scrapped in favor of a tariff schedule.

The broad conclusions of the task-force report leaked out long before it was officially made public, and the oil industry lost no time in stepping up its efforts to win friends and influence people. For many weeks it bombarded Congress and the White House with demands that the quota system be retained.

A retired oil executive who maintains close contact with the industry reported in a confidential memorandum early in February that representatives of the Independent Petroleum Association had made "quite an impression" in a meeting with Flanigan and Bryce Harlow, another Presidential aide. The memo continued: "Theme was—oil revenues are key to the prosperity and state budgets, such as schools (over 90 per cent in Louisiana), of the oil-producing states. Stall any decision until after the election and in this way the Republican party can capture the Senate. This policy will assure Republican Senators' election in questionable states of Alaska, California, Wyoming, New Mexico and Texas. Harlow assured the group that the President is well aware of all the facts and will act to the best interests of the country."

Even more reassuring to the industry was a report published Feb. 6 by Platt's Oilgram News Service, an "inside" newsletter for the industry, based on an interview with a "high Administration official known to be opposed" to the task-force majority's tariff recommendation. The official, whom industry sources identify as Interior Secretary Hickel, said he was convinced that the Administration would not permit "anything drastic" to happen to oil imports.

Secretary Hickel's prediction proved accurate. When the 400-page task-force report, with its recommendation that the quota system be abolished, was released by the White House on Feb. 20, it was accompanied by a Presidential announcement that no "major" change would be ordered now.

The President thanked the task-force members and staff for their "devoted and discerning effort," then announced the formation of a new Oil Policy Committee to conduct further studies. The only task-force member missing from the new group is Secretary Shultz, the original body's most vigorous critic of the quota system. He was replaced by Attorney General Marshall, who presumably will see to it that the President is not boxed in.

Understandably, the Petroleum Institute thought the President's action was "encouraging," while the Independent Petroleum Association declared that the move should "reassure consumers as to future supplies of both oil and natural gas at reasonable prices."

Meanwhile, the industry is reappraising its pressure tactics, assessing its past mistake and preparing for such future battles as the developing national crusade against automotive pollution. Former Congressman Ikard predicts "a pretty substantial change" in the industry's expensive image-building program. "We aren't dedicated to anything we are doing simply because we have been doing it," he says. An industry committee headed by Howard Hardesty, senior vice president of Continental Oil, has been conducting an intensive study of oil's public-relations efforts.

In a speech last fall that attracted sympathetic attention in the industry—it was reprinted in full in The Oil Daily—Michael T. Halbouty, a Houston oil producer, engineer, banker and former president of the American Association of Petroleum Geologists, complained that the industry's trade associations had "simply failed to inform and educate the public properly."

"Frankly," Halbouty said, "all of us took it for granted that our little red house would never be blown down by those howling wolves. So we find ourselves behind the eight ball. We now see depletion being hammered down. We see serious attacks being made on other incentives. The mandatory import program is in trouble. . . . The shortcoming in our own case has been a lack of communication with the people who really count in this country—the people who vote.

"We have done little to tell the history of oil and gas or the industry or the men who have made it. We have said little about how this industry ignited and sustained the age of liquid fuel and thereby helped lift the shackles of toil from labor. . . . We simply haven't put this information out properly, without wrapping it in a package which had the sign 'support depletion' on the outside. The people would automatically support depletion if they knew what our industry means to them."

From a Washington perspective, Halbouty's apprehensions seem overblown, or at least premature. While the industry's critics are increasingly outspoken and have tasted a few small victories, they have also been subjected to large defeats. Though some of oil's most stalwart champions have been removed by the process of attrition, others remain, steadfast and loyal, in Congress and in the executive branch. Despite a few cracks in the solid front the industry was long able to maintain in its lobbying effort, it remains a potent force in the capital.

When the American Petroleum Institute convened in Houston in November, Administration officials on hand to deliver speeches included Treasury Secretary Kennedy, Interior Under Secretary Russell E. Train and John N. Nassikas, the new chairman of the Federal Power Commission. A few days later Interior Secretary Hickel, whose department has broad jurisdiction over matters of importance to the oil industry, was in Houston to inspect offshore drilling rigs and hold private conversations with industry leaders.

Hickel, the former Governor of Alaska whose intimate ties to oil were the subject of stormy confirmation hearings when he was named to the Cabinet, seemed for a time to fall short of the industry's glowing expectations. Mindful of his vulnerability to conflict-of-interest allegations, he appeared determined to stress his independence of the industry. When an offshore oil blowout in the Santa Barbara channel became a national pollution scandal, the Secretary issued relatively stringent controls on drilling procedures, and oilmen complained of official "overkill." Such industry complaints are no longer heard in Washington, however, and Mr. Hickel seems to have dropped his guard. It was reported recently that an Alaska investment firm owned by the Secretary and his wife and managed by his brother, Vernon, had received a $1-billion contract to build an addition to the building in which Atlantic-Richfield maintains its Anchorage headquarters.

President Nixon, too, was well acquainted with leading oil producers long before Michael Haider paid his cordial call at the White House in November. California oilmen were prominent contributors to the Nixon personal-expense fund that erupted into headlines during the 1952 Presidential campaign. In Congress, Mr. Nixon was a reliable supporter of such oil measures as the tidelands bill, which divested the Federal Government of the offshore petroleum reserves. As Vice President Nixon worked closely with Senate Majority Leader Lyndon Johnson in 1956 to block a sweeping inquiry into disclosures by the late Senator Francis Case of South Dakota that he had been offered a $2,500 bribe for his vote in behalf of a bill to exempt natural-gas producers from Federal regulation. The law firm with which Nixon was associated before his 1968 candidacy had its share of oil clients, and oilmen—including president Robert O. Anderson of rapidly growing Atlantic-Richfield—ranked high among contributors to Nixon's Presidential campaign.

No one knows precisely—or even approximately—how much money oil pours into politics through experts on campaign financing agree that the industry outspends all others. Official reporting requirements, which divulge only the tip of the iceberg, indicate that executives of oil companies and trade associations can be counted on for hundreds of thousands of dollars in contributions during Presidential campaigns—the bulk of it (except in 1964) to Republican candidates. The role of oil money in House and Senate campaigns is even more obscure, although occasional disclosures such as the 1956 charge of a bribe attempt and the more recent investigations of former Senate Majority Secretary Robert G. Baker indicate that money is easily—and bipartisanly—available to legislators who can be counted on to vote the industry's way. Baker, whose Senate mentors were Robert Kerr of Oklahoma and Lyndon Johnson of Texas, served as both collector and distributor of oil contributions funneled through the Democratic Senatorial Campaign Committee in the late nineteen-fifties and early sixties.

Periodic disclosures of political bribery, which have a remarkably transitory effect on public opinion and political morality, are probably less significant than the day-in, day-out "legitimate" relations between Congress and the powerful oil industry. As Robert Engler observed in "The politics of Oil," a classic study: "The spotlight here belongs more on lawmakers and respectable men with bulging brown briefcases entering the portals of government than on lawmakers and furtive men with little black bags using side entrances of hotels. Government policy on oil has increasingly become indistinguishable from the private policies of oil. . . ."

For some lawmakers, of course, the wheel of self-interest need not be oiled, even by political contributions. The late Senator Kerr who held a ranking position on the Finance Committee in the nineteen-fifties and early sixties and was always available to the oil industry, was simply advancing his own cause as a substantial shareholder in Kerr-McGee Oil Industries, Inc. "Why, hell," he said, "if everyone abstained from voting on grounds of personal interest, I doubt if you could get a quorum in the United States Senate on any subject."

Senator Long, who now presides over the Finance Committee and the loyal oil contingent on Capitol Hill, shares his illustrious predecessor's view. "Most of my income is from oil and gas," he says. "I don't regard it as any conflict of interest. My state produces more oil and gas per acre than any state in the Union. If I didn't represent the oil and gas industry, I wouldn't represent the state of Louisiana."

According to records of the Louisiana Mineral Board, Senator Long has received income of $1,196,915 since 1964 from his interests in four state oil and gas leases, and almost $330,000 of that income has been exempt from Federal income taxes because of the oil-depletion allowance. The Senator is also a trustee of family trusts that have collected $961,443 from holdings in state leases since 1964; and he has an interest in at least seven private leases whose royalty reports are not available for public scrutiny.

Few of his colleagues can match Senator Long's oil holdings, but many share his solicitous concern for the industry's welfare. Among those on whom the oil moguls can generally count for unstinting support are Senators John G. Tower of Texas, Gordon Allott of Colorado, Clifford P. Hansen of Wyoming, Henry L. Bellmon of Oklahoma, Roman L. Hruska of Nebraska, Robert J. Dole of Kansas, Peter H. Dominick of Colorado, Allen J. Ellender of Louisiana, Theodore F. Stevens of Alaska, George Murphy of California and Karl E. Mundt of South Dakota.

Most—but not all—of oil's fast friends in the Senate are stanch conservatives. Nonetheless, such liberal heroes as J. William Fulbright of Arkansas and Eugene J. McCarthy of Minnesota can usually be counted on to see oil's side. When a crucial vote on depletion came up in the Senate Finance Committee last fall and resulted in an eight-to-eight tie, Senator McCarthy, a member of the committee, was in a New York restaurant autographing copies of his book on the 1968 campaign, which includes a stern rebuttal of charges that he has favored the oil interests.

McCarthy, who voted consistently against oil privileges during most of his first Senate term, cast his first vote in favor of depletion in 1964 and has generally favored the industry's positions since. There were published reports in 1968 that he had raised about $40,000 for his Presidential campaign in one day at the Petroleum Club in Houston.

Senator Fulbright's unswerving loyalty to his state's oil and gas interests is perhaps more understandable, but he has occasionally carried it beyond mere routine support. When Senator Case of South Dakota disclosed the attempt to buy votes for the 1956 natural-gas bill, Fulbright accused him of being "irresponsible"; to jeopardize passage of the bill was "inexcusable," Fulbright explained.

In the House, the Ways and Means Committee, which writes the nation's tax laws, still has the essential make-up decreed for it by the late Speaker Rayburn, whose policy was to interview all candidates for assignment to the committee on issues relating to oil. (Former President Johnson exercised the same kind of control over the Senate Finance Committee in his days as Majority Leader.) Among those who passed Mr. Rayburn's test was former Congressman Ikard, who now serves as the industry's lobbyist in chief. With rare exception, the full House delegations from Texas, Oklahoma and Louisiana serve as the hard core of the oil bloc.

Those legislators who are not irrevocably committed to oil's interests can count on frequent, cordial contacts with the army of lobbyists the industry maintains in the capital. One aide to a Senator who is active in legislative matters affecting oil reports that he received about 20 calls and several visits a day from industry spokesmen. Written communication is rare.

And the oil lobbyists are doing more than socializing during those visits on Capitol Hill. As soon as the thrust of the task-force report on import quotas became clear, they moved decisively to protect the quota system. Already scheduled are two Congressional committee inquires designed to attack the task force's recommendations. In the House, the Interior Subcommittee on Mines and Mining plans an investigation of the "national security aspects" of the quota system under the direction of Representative Ed Edmondson of Oklahoma. "He is a Congressman representing an oil-producing and refining state," one of Edmondson's aides explains. "He feels the smaller independent operator gets squeezed first in this kind of issue." In the Senate, a planned investigation will, from the industry's point of view, be in equally reliable hands—those of Senator Long.

In his announcement that he would not immediately implement the task-force report, President Nixon said he expected that such Congressional hearings would produce "much additional valuable information."

As they make their cordial way through

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the corridors of the Capitol, the oil lobbyists complain that things just haven't been going right lately. Some predict the most drastic consequences—not just for the industry but for the nation—if the quota system is scrapped.

But they don't really look very worried. The well is not about to run dry.

UNCOMMON COMMONSENSE

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. DAVIS of Wisconsin. Mr. Speaker, many have expressed agreement with the stated views of the Vice President of the United States, who has repeatedly pinpointed biased or unbalanced reporting in some of the Nation's major news outlets. Recently, the Vice President suggested that "kooks, misfits, and bizarre extremists" should no longer be allowed to dominate entirely the front pages and the television screens.

The highly indignant, defensive reaction of some major news outlets was to be expected. However, I was pleased to see a recently published editorial in the weekly Dousman Index, a newspaper in the Ninth Congressional District of Wisconsin. Editor Jeanne Hill's reaction to the Vice President's statements is:

> Perhaps it is time for the ivory tower journalists to ask themselves why the citizens agree with his remarks.

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Her complete editorial follows:

COMMONSENSE IS NOT A COMMON THING

Vice-President Spiro Agnew is much admired by the media-dubbed Silent Majority. He talks sense, and sense is something modern day journalists seem to take pride in "putting down."

The Vice-President of our country is a plain spoken man . . . something the common folk (which most of us Americans are) find admirable.

Some of the large and small daily newspapers—and even a rare weekly newspaper—find Vice-President Agnew's spoken words a bit hard to take. His latest message is: "Kooks, misfits and bizarre extremists should be excluded from the front pages of the press and from television screens as part one of a figurative march back to normalcy."

The dailies in much of the United States find such talk reprehensible.

Freedom of the press is a wonderful part of our United States; however, some of us are perturbed by the "kooks, misfits and bizarre extremist" threats to take over our free government.

Apparently Vice-President Agnew shares these misgivings. He does not ask the press and television to use good judgment in its news, because such a request from him would bring accusations of "trying to control the press."

But the press of the United States—and television managers—would do well to take notice that the majority of the U.S. citizens agree with the Vice-President of the United States. Maybe it is time for the ivory tower journalists to ask themselves why the citizens agree with his remarks. Common sense citizens realize that Vice-President Agnew is in a position to see a threat to every freedom in our country, not just the loss of freedom of the press. This is why he speaks so forthrightly.

His words may not be soft and pliable to a liberal journalist's ears—but neither is the commands of a communist government.

THE CONSTANCY OF MRS. MINK MAKES US FACE UP TO THE REALITIES OF THE WAR IN VIETNAM

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. MIKVA. Mr. Speaker, we must overcome the temptation to despair about the pace of American disengagement from Vietnam. Desperation only promotes inaction. The time for American withdrawal has passed, and thus the time for political action to free us from the Vietnam quagmire is at hand.

At the present rate of withdrawal, we might well find ourselves fighting for 4 more years. Even then, the Secretary of Defense has indicated that a residual force of unspecified numbers would remain in Vietnam.

The madness of such a plan—Vietnamization—is plain to anyone willing to look at the realities of the situation. The cost of the war in terms of human suffering is almost incalculable. The drain on American resources similarly baffles the imagination—especially when our domestic needs cry out with such urgent pleas. The Vietnam war is a case of misplaced priorities at home, which has led to diminished respect abroad.

Continuing the madness in the cloak of Vietnamization can only exacerbate an already intolerable state of affairs. I am encouraged by those who have relentlessly sought to change this situation for the better. Among the longtime advocates of peace in Vietnam is our distinguished colleague, the gentlewoman from Hawaii (Mrs. MINK).

In spite of mounting frustration about prolonged American involvement, she continues to call for a cease-fire and rapid withdrawal of troops. For this I commend her and, in turn, commend to my colleagues the Congresswoman's remarks on Vietnam, as presented in a timely speech before the International Longshoremen's and Warehousemen's Union.

The text of the speech follows:

SPEECH BY REPRESENTATIVE PATSY T. MINK

I once saw a slogan posted on a car driven by someone who was obviously under 30. The slogan said, "If you aren't part of the solution, you're part of the problem."

People who don't actively take part in helping to solve our nation's problems are partly to blame for our inability to solve them. Usually it takes effort by a great many people to get anything done, and if everybody sat back nothing would ever be accomplished.

I was asked to talk today about Vietnam. This is a good illustration of the need to get people involved. As long as we ignore the Vietnam war, and as long as the vast majority of our people seem complacent about it, the war will continue.

I have long opposed this war. In 1966 I urged President Johnson to propose a cease-fire. I did so again in 1967, 1968, and with President Nixon, in 1969, and in 1970.

In talking about Vietnam I do not want to dwell on past history. Nearly all Americans are now agreed that we should not have become involved in the first place. The question is how do we end our involvement and restore Peace.

President Nixon said back in 1968 that he had a secret plan for ending the war. He has since announced three reductions of our troops totalling 110,000 men.

I think it is necessary for all of us as citizens to personally examine these policies to see whether they are directed toward Peace or only to a de-escalating stalemate. Peace is the goal and objective that must form our highest commitment. The question we must ask is, Will the President's policy achieve that goal? If not, we must seek something better.

Throughout my Congressional service, I have sought ways to end the war in Vietnam. I consistently urged President Johnson to take those steps which I believed could lead to peace in Vietnam, and now in examining the record of President Nixon I am pursing the same course.

Let us look at what has happened. When General Eisenhower left the White House in January, 1961, we had 685 military advisers in Vietnam and no combat troops. On the day President Kennedy was assassinated, we had 16,120 military advisers there and still no combat troops.

Subsequently, there was an immense build up of our forces in Vietnam. When President Nixon became President more than a year ago, there were well over 500,000 American troops in Vietnam.

By the end of the year, the President announced a reduction of that troop level by 60,000 men. Subsequently, he announced plans to withdraw 50,000 more.

If it takes a year to reduce the troop level from 535,000 to 425,000 men, then projecting that rate of withdrawal over the period ahead we can see that it would take the United States about four more years to get completely out of Vietnam.

But the President's plan does not involve complete withdrawal. Instead it is based upon the continued presence of a large force of American "support" personnel in Vietnam on a semi-permanent basis. It is reported that as many as 200,000 men would be kept in Vietnam in a supporting or non-combat role after the withdrawal of our combat troops. Their presence could be extended indefinitely, just as we have maintained a large "peacekeeping" force in South Korea for twenty years.

Our nation is tired of this war, and so are the South Vietnamese. Our large-scale involvement has lasted 4½ years, longer than any war in which we have engaged. Since the adoption of the Gulf of Tonkin resolution, more than 2,500,000 American combat soldiers, marines, airmen, and sailors have participated in this undeclared war. More than 47,000 young Americans have been killed in combat; 9,000 others of our armed services have been killed in accidents. Of course all of these men would be alive today except for the war.

More than 265,000 of our young men have been wounded, many horribly maimed or disfigured for life, and another 1,483 are missing—either killed or prisoners of war. This is the horrible toll of the war in human misery counting just our own forces. The toll would be even worse except for the fact that more than 20,000 of our wounded have been saved by almost immediate helicopter evacuation and superior medical attention that was not available in past wars.

In monetary and social terms, the cost has been equally high. We have spent $100 billion on the Vietnam war and the fiscal 1971 budget is still $22 billion despite the withdrawal of 110,000 men. This is $22 billion a year that could otherwise go toward meeting the desperate needs of our people at home. We can count the list of social consequences—spiraling inflation, soaring interest rates and higher taxes, cutbacks in essential programs affecting human welfare and social justice.

Our urban development, education, air and water anti-pollution efforts, and other vital programs in health and social reform have been tragically neglected. All of these costs are the price we have paid and continue to pay for the Vietnam war.

This is not to mention the price in international good-will we have paid. Nor does it include the 300,000 Vietnamese civilians who have been killed over the course of the war. Nor does it include the 40 to 50,000 of our children who have left America, because of this war and are now living in exile. Nor does it count the future social consequence of our training 2,500,000 of our finest young men how to kill, brutalizing and compounding the tragedy of war with incidents like My Lai. It will be many years before we can measure the full impact of this war on our society. It could well be said that our teenagers have taken to dope to calm their anxieties over death on the battlefield in a war that is without glory and is everywhere regarded as a mistake!

By announcing troop reductions the President has reduced the public discussion of the Vietnam war. Senator Goodell says Mr. Nixon has "cosmetized" the war by putting a better face on it, without changing the realities of life and death for those involved. It should be obvious that the President's withdrawal actions do not offer any real solution to the war. In fact if enemy activity increases our withdrawal will stop. What are we doing to try to bring the war to an end? Have we taken new initiatives in Paris? President Nixon's policy simply envisions the South Vietnamese Army taking over and continuing the fighting until a military victory is achieved. The whole policy is designed to keep the war going. And we to continue as an accessory with a minimum of 200,000 men.

This is not a policy for peace. It means keeping a residual force of hundreds of thousands of our men there, and spending billions of dollars for the hardware and supplies that South Vietnam will need.

It represents an abandonment of our efforts for a negotiated settlement. We have pulled out our top negotiators from Paris, giving up all that the previous Administration gained by getting the talks underway through the unilateral cessation of bombing. And now the North Vietnamese are widening our war to Laos. Our B52's are bombing Laos daily.

If anything should be 'crystal clear' after our years of effort and suffering in Vietnam, it is that a military solution is not a satisfactory goal. If the South Vietnamese Army was unable to win with the direct help of 550,000 American troops, how can it possibly do so when this is cut in half? The simple arithmetic does not add up to a logical solution. Most of the South Vietnamese have little interest in fighting their own countrymen. It is clear that the villagers have not completely supported our efforts, for if they had, we could have 'pacified' the countryside long ago

The South Vietnamese Army has never been able to make much progress in this kind of situation. By giving them arms and support, we will only continue the killing. When a people are as divided as they are in South Vietnam, the only way to achieve peace is through political efforts. Unfortunately, President Nixon's "Vietnamization" of the war continues to rely on a military solution and thus stands in the way of peace.

The single thing blocking peaceful negotiations is our presence on Vietnamese soil. This was brought out last year in the ten points for negotiation listed by the North Vietnamese representatives at the Paris Peace Talks which we have all but abandoned. One point was the withdrawal of all our troops and bases from Vietnam. Until we agree to do this, serious negotiation cannot begin.

This is why I think it is desperately essential that we announce a fixed timetable for the complete withdrawal of our troops, a move which Mr. Nixon has rejected. The most recent statements by the North Vietnamese in Paris have made clear that their demand is not that we pull out *before* they will talk terms—but only that we *agree* to be out totally by a definite fixed date.

There is a precedent for taking their word on this matter. At one time they demanded a complete bombing halt before coming to peace talks at all. Yet, President Johnson's mere announcement of a timetable for cessation of the bombing was sufficient to get the Paris talks started. Thus, our biggest breakthrough for peace was achieved by such an announcement of a timetable for action. We can do so again by announcing a timetable for withdrawal, which would open the way for meaningful, realistic negotiations toward a freely elected representative government in Vietnam which both sides have already agreed to in principle.

In our negotiations, of course, one of the terms would be a cease-fire and strong provisions for its enforcement. Each side would be responsible for preventing any act of violence in its area of temporary jurisdiction.

There is no sound basis for believing the North Vietnamese would violate this agreement. Actually, we are in Vietnam ourselves only because we ignored the Geneva agreement of 1954, and refused to support free elections.

The danger that we face under the President's policy as carried out so far is that when the eventual negotiations are resumed, we may be in a much weaker position than we are now. The worst potential result would be the complete collapse of the South Vietnamese Army, requiring the emergency return of our forces in larger numbers.

The slow, token withdrawal of our forces begun by President Nixon has the same hazards as the slow, gradual build up of our forces which brought us to the present problem. Again, the enemy is being given the opportunity to renew and strengthen his forces as we slowly de-escalate. He has no incentive to bargain for peace. For he knows that by simply waiting, his relative strength will increase. He can simply re-equip and train his troops at leisure, waiting for an opportune moment to strike. When sufficient American troops have been withdrawn, he can move swiftly to gain control over cities and large sections of the countryside as was done in the Tet offensive of 1968. Then, with a greatly increased bargaining position, he can announce to the world his willingness to negotiate.

Even more dangerous, the President's actions have left the initiatives on the war entirely in the hands of the other side. In his speech last November, announcing hopes for withdrawals but no timetable, Mr. Nixon said the pace of American withdrawal depends on three factors: progress at the Paris peace talks, developments on the battlefield, and the ability of the South Vietnamese Army to shoulder a larger share of the burden of the war.

Note that each of these factors involves Vietnam—how hard North Vietnam fights, its attitude at the peace talks, and the ability of the South Vietnamese Army. According to Mr. Nixon's prescription, then, the fate of our hundreds of thousands of American servicemen in Vietnam is out of our hands and depends entirely on what somebody else does. I hope you will all join me in urging President Nixon to take the initiative and announce a timetable for the complete pullout of our forces. I honestly believe, as I did when I urged the halt in bombing, that these steps will yield the Peace which we all want so fervently.

President Thieu last October told his National Assembly that his country was prepared to accept the complete removal of American men by the end of December, 1970. I had hoped that President Nixon in his most recent speech on Vietnam, last November 3, would reaffirm President Thieu's statement as our own objective. Yet, as of now, we still lack a specific timetable for withdrawal and the way is open for our involvement to continue through this entire decade of the 1970's.

It is so easy to accept gradual withdrawal on faith and believe that it will eventually all go away. Such are not the realities however. If we could have faced the realities in 1965 we would not have become involved. Let us not be blind to them again in 1970.

OGDEN, UTAH, CHAMBER OF COMMERCE OUTLINES OBJECTIVES

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. BURTON of Utah. Mr. Speaker, Richard K. Hemingway, a distinguished banker in Ogden, Utah, is presently serving as president of the Greater Ogden Chamber of Commerce. Recently he outlined to its members a broad and comprehensive program of action for 1970 in which he urged total membership participation. I believe this program may be of interest to other chambers in the country and I submit it, therefore, for their consideration:

PRESIDENT HEMINGWAY SETS OBJECTIVES FOR 1970

President Dick Hemingway, taking the helm in his hands, has set a course of action for the Greater Ogden Chamber of Commerce that will attempt to attain 12 objectives in 1970.

With an eye on industry, government, downtown development, education and community affairs, President Hemingway has spelled out the specifics of his program as follows:

1. Develop a strong cooperative program with the Weber County Industrial Bureau, in an effort to encourage industrial expansion, site locations, and creation of job opportunities in the Greater Ogden area.

2. Continue a close working liaison with our military and government bases, offering community and Chamber support when needed.

3. Actively support and promote our multimillion dollar livestock industry with emphasis on retaining a minimum of its present level.

4. Continue the efforts of our Downtown Development committee, and bring the N.D.P. program to a satisfactory conclusion.

5. To increase Chamber activity in the area of higher education, specifically Weber State College. To offer objective guidance in finance, curriculum, and future planning for all educational systems.

6. Promote Golden Spike Inc., and assist in the establishment of workable guidelines to finance tourist-convention business in the four county areas.

7. Encourage reasonable development and

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modernization of the Ogden City Airport. Prepare studies and recommendations.

8. Expand the Small Business Coordination committee to provide assistance through the S.C.O.R.E. program and S.B.A. for small business men who require management and financial guidance

9. Take a positive position in traffic-highway and transportation problems. Create a closer relationship with the Utah State Road commission. Continue to oppose unreasonable tariffs on in-transit freight traffic.

10. Develop a more sophisticated "Plan Room" facility for use of the building and construction trades to insure their participation and opportunity to competitively bid with other communities.

11. To establish closer liaison with our Washington delegation (congressman and senators) in an effort to assure the business community of total representation and to continue our valuable association with State legislators to accomplish with State legislators to accomplish the objectives on a State level.

12. Motivate Chamber members to participate in community, offering counsel, assistance and involvement in county-city government, health, welfare, employment and general well-being of the community.

President Hemingway has repeatedly emphasized the importance of total members participation in attaining the above objectives, and is particularly anxious that all members serve on at least one of the 19 Chamber committees.

CALENDAR OF THE SMITHSONIAN INSTITUTION, MARCH 1970

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HON. JAMES G. FULTON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. FULTON of Pennsylvania. Mr. Speaker, it is a pleasure to place in the CONGRESSIONAL RECORD the calendar of the Smithsonian Institution for the month of March 1970.

Once again the Smithsonian Institution has scheduled outstanding events which I urge my colleagues and the American people to visit.

The calendar follows:

MARCH AT THE SMITHSONIAN

SUNDAY, MARCH 1

Jazz Concert, featuring McCoy Tyner and the Tony Williams Lifetime Experience. National Museum of Natural History Auditorium, 5:00 p.m. Tickets $2.00 may be purchased at the door. Presented by the Smithsonian Division of Performing Arts and the Left Bank Jazz Society. For information call: JO 3–9862 or 581–3109.

WEDNESDAY, MARCH 4

Smithsonian film theatre: *Time of Man*. Man and his world is the subject of a far-ranging film that explains disruptions in the balance of nature brought about by man's technical achievements, adaptations of life to varying environments, and the interrelationships of living organisms. 2 p.m., auditorium, Museum of History and Technology; 8 p.m., auditorium, Museum of Natural History. Introduction by Dr. Helmut K. Buechner, Senior Ecologist, Smithsonian Institution Office of Environmental Science.

Informal concert with Peter Gott, folk musician from North Carolina who will play the banjo and fiddle. He also will discuss mountain music. 4:30 p.m., Hall of Musical Instruments, Museum of History and Technology.

THURSDAY, MARCH 5

The creative screen: *Monument to a Dream*. Charles Guggenheim's award-winning poetry of engineering. Free film is shown on the half hour from noon until 2:30 p.m. At the National Collection of Fine Arts.

Smithsonian film theatre: *Time of Man*. Noon, auditorium, Museum of History and Technology.

FRIDAY, MARCH 6

Paintings from Chile. Artist Hector Herrera has created for this sales exhibition (his first in the United States) a series of paintings on linen depicting his private world of birds, mothers and other beloved objects. Accompanying the paintings is a selection of the traditional black pottery of Quinchamali, Chile, Arts and Industries Building. Through March 29.

SATURDAY, MARCH 7

The creative screen: *Monument to a Dream*. See March entry for details.

SUNDAY, MARCH 8

Lecture: West, Copley, and the Origins of Modern Painting, by Robert Rosenblum, New York University Institute of Fine Arts. At the National Collection of Fine Arts. Lecture Hall. 4:00 p.m.

TUESDAY, MARCH 10

Encounter: *The Role of Government in Changing the Environment*. Panel discussion with audience participation. Program Chairman: S. Dillon Ripley, Secretary of the Smithsonian. Panel members: Senator Clifford Case, New Jersey; Rep. Paul N. McCloskey, California; Rep. Henry S. Reuss, Wisconsin; Charles C. Johnson, Jr., Administrator, Department of Health, Education and Welfare. 8:30 p.m., auditorium, National Museum of Natural History. Sponsored by the Smithsonian Associates and directed by William Aron, Head, Smithsonian Oceanography and Limnology Program.

WEDNESDAY, MARCH 11

Smithsonian film theatre: *Population Problems of U.S.A.: Time for Decision*. An analysis of population from the colonial period to the present, with emphasis on the increasing number of younger persons and senior citizens in the United States and the resulting national problems. 2 p.m., auditorium, Museum of History and Technology; 8 p.m., auditorium, Museum of Natural History. Introduction by Larry Mason, Sociology Department, American University.

THURSDAY, MARCH 12

Smithsonian film theatre: *Population Problems U.S.A.: Time for Decision*. Noon, auditorium, Museum of History and Technology.

SATURDAY, MARCH 14

Perceptions: *The Concept*. Back by popular demand. A powerful drama created and performed by ex-drug addicts from the Daytop Village in New York City. 8:30 p.m., auditorium. National Museum of Natural History. Tickets: $3.50 for Smithsonian Associates and $4.50 for the general public. Cosponsored by the Smithsonian Division of Performing Arts and the Smithsonian Associates. For ticket information call 381–6158.

Princeton chamber orchestra, Nicholas Harsanyi, music director and conductor, with Helen Kwalwasser, violin, and Janice Harsanyi, soprano, soloists. 3:00 p.m., auditorium, National Museum of Natural History. Tickets: $3.75, $2.75, and $1.75. Cosponsored by the Smithsonian Division of Performing Arts and the Washington Performing Arts Society. For further information call 393–4433.

SUNDAY, MARCH 15

Model T Ford. An exhibition of the famous automobile, accessories, and its background. National Museum of History and Technology. Permanent.

Perceptions 2: *The Concept*. Repeat. See March 14 entry for details.

WEDNESDAY, MARCH 18

Informal concert with The Russell Family, traditional Folk musicians from Galax, Virginia, who will play guitar, dulcimer, and baritone ukelele. 4:30 p.m., Hall of Musical Instruments, National Museum of History and Technology.

Smithsonian film theatre: *So Little Time; The River Must Live; The Redwoods*. Urgent challenges for conservationists are presented in a trio of films that examine the plight of North American waterfowl, illustrate with microphotographic proof the effect of pollution on streams, and report on the threatened grandeur of the Redwood forests in northern California. 2 p.m., auditorium, Museum of History and Technology; 8 p.m., auditorium, Museum of Natural History. Introduction by Dr. I. E. Wallen, Director, Smithsonian Institution Office of Environmental Sciences.

THURSDAY, MARCH 19

The creative screen: *Generation*, kinetic rhythms of the kaleidoscope; *John Marin*, the dean of American watercolorists transforms nature into art. Free films shown on the half hour from noon until 2:30 p.m. At the National Collection of Fine Arts.

Smithsonian film theatre: *So Little Time; The River Must Live; The Redwoods*. Noon, auditorium, Museum of History and Technology.

Lecture by the Audubon Naturalist Society. Auditorium, National Museum of Natural History. 5:15 p.m. and 8:30 p.m. For information call DU 7–6062 or 562–0188.

FRIDAY, MARCH 20

The Armand Hammer Collection. Through April 30 in the Art Hall, National Museum of Natural History. A brilliant collection of some 90 paintings, drawings, and sketches put together in the last few years by Dr. Armand Hammer will be given its first exhibition in the country. The collection focuses on the French Impressionists in particular and the School of Paris in general, although it includes works by a number of other masters. Many of the paintings are small in size. Gaugin is represented by six drawings, and Renoir by six works. Also represented are Matisse, Roualt, Vlaminck, Dufy, Utrillo, Modigliani, Pascin, Chagall, Bonnard, Vuillard, Van Gogh, Toulouse-Lautrec, Monet, Degas, Sisley, Redon, and Pissarro. There are a number of Corots in the collection, and single works by Rubins, Rembrandt, Goya, Courbet, Boudin, and Sargent. A Winston Churchill is included. Many of the paintings in the collection have already been given to the Los Angeles County Museum of Art. Following its exhibition in Washington, the collection will be sent on a national tour by the Smithsonian Institution Traveling Exhibition Service.

Concert by the United States Air Force Band. 8:30 p.m., auditorium, National Museum of History and Technology.

SATURDAY, MARCH 21

Illustrated lecture: The Smithsonian Annual Kite Carnival—History and Design of Kites, by Paul E. Garber, Ramsey Research Associate, National Air and Space Museum, 3:00 p.m., auditorium, National Musuem of Natural History.

The creative screen: Generation and John Marin. See March 19 entry for details.

TUESDAY, MARCH 24

Master class for singers: Hugues Cuenod, tenor, 2:30 p.m., Hall of Musical Instruments, National Museum of History and Technology.

WEDNESDAY, MARCH 25

Concert: Hugues Cuenod, tenor: Flore Wend, soprano; Albert Fuller, harpsichord.

Music of Scarlatti, Purcell, Campra, Rameau, and Clerabault. 8:30 p.m., Hall of Musical Instruments, National Museum of History and Technology.

Smithsonian film theatre: The Voice of the Desert. Joseph Wood Crutch—author, naturalist, teacher, philosopher—presents a magnificently filmed essay on desert life in Arizona showing the beauty of the land and the fascinating variety of wildlife found there, and focusing as well on one man's love for the land. 2 p.m., auditorium, Museum of History and Technology; 8 p.m., auditorium, Museum of Natural History. Introduction by Dr. Helmut K. Buechner, Senior Ecologist, Smithsonian Institution Office of Environmental Sciences.

THURSDAY, MARCH 26

Smithsonian film theatre: *The Voice of the Desert*. Noon, auditorium, Museum of History and Technology.

SATURDAY, MARCH 28

Concert: *Composition*, an experience with Lloyd McNeill, artist-musician. 3:00 p.m., at the National Collection of Fine Arts.

Prints and drawings by Lovis Corinth. An exhibition through April 26 in the Arts and Industries Building. The 64 etchings, drawings and lithographs in this collection are taken from all stages of the German artist's creative life, from some sketches Corinth made as a boy, to some of his last works. Ranging from members of the artist's family, to mythological scenes, to religious subjects to scenes at Walchensee, the lake in Bavaria where Corinth painted some of his most famous landscapes, all the works are a clear reflection of Corinth's powerful strength and vitality as an artist. Circulated by the Smithsonian Institution's Traveling Exhibition Service.

Last Saturday Jazz: Art Blakey and the Jazz Messengers. National Museum of Natural History auditorium, 8:00 p.m. Tickets at $2.00, may be purchased at the door. Presented by the Smithsonian Division of Performing Arts in cooperation with the Left Bank Jazz Society. For further information call: JO 3–9862 or 581–3109.

TUESDAY, MARCH 31

Arms—an historical account, illustrated lecture by Dr. Arne Hoff, Director of the Royal Arsenal Museum, Copenhagen. Sponsored by The Smithsonian Associates, 8:30 p.m., auditorium, National Museum of History and Technology.

RADIO SMITHSONIAN

You can listen to the Smithsonian every Sunday night from 7:30 to 8:00 p.m., on radio station WGMS (570 AM & 103.5 FM). The weekly Radio Smithsonian program presents music and conversation growing out of the Institution's exhibits, research, and other activities and interests. Program Schedule for March:

1. *Ensembles Musical de Buenos Aires*. The distinguished Argentine orchestra under Pedro Ignacio Calderon. Broadcast of the concert at the Natural History Building, presented by the Smithsonian Division of Performing Arts and the Washington Performing Arts Society. Included are *Tangazo—Variations about Buenos Aires* by Astor Piazzola, and *Symphony in Bb Maj*., by J. S. Bach.

8. *China and the Porcelain Trade*. Dr. John Pope, Director of the Freer Gallery of Art, discusses China's ability to make porcelain for 1000 years, before any European country discovered the secret, and how she traded it for ivory and frankincense, etc., from the seventh century onward.

Reading is Fundamental. Young recipients of books, usually underprivileged, gain new pleasure in owning them. They are eager to learn, but lack reading skills. Mrs. Robert McNamara, Chairman of the national program, tells of growing success in matching good books with city youngsters.

15. *The National Zoological Park*. Zoo Director, Dr. Theodore H. Reed, is among the guests. The program tells what makes the National Zoo different, how animals are selected and protected, some special problems with younger animals, and surveys some of the current programs.

22. *Laser-10*. The first ten years of laser technology are reflected in talks with contributing scientists, artists and engineers. The program is based on the exhibit, Laser-10, in the History and Technology Building. Hear about lasers in medicine, industry, commerce, and on the moon. Guests include Dr. Arthur Schawlow, Dr. Henry Lewis, and others.

29. *"Smithsonian."* An interview in which Edward K. Thompson, editor of "Smithsonian," the new magazine, comments on the magazine, its appeal, and its future.

The Collection of Meteorites. Roy Clarke discusses meteorites, what they are, and where they came from. An actual account of the *Lost City Meteorite* which fell on January 3d, 1970, in the United States, and was tracked, photographed and recovered through the prairie network and of the Smithsonian's role in the picture.

FOREIGN STUDY TOURS

The Smithsonian has organized several special tours concerned with archaeology, architectural history, art museums, private collections, and natural history.

1. Nepal, East Pakistan, Thailand, Cambodia, Hong Kong, Taiwan, & Japan: departing March 11th.

2. Classical Greece: July 6–27; a tour designed for first-time visitors to Greece. (itinerary available, but waiting list only).

3. Mediaeval Greece: July 6–27. Dr. Richard Howland will accompany a group of 22; Byzantine churches, Salonica, Mt. Athos, and Patmos are included; 7-day cruise on private yacht "Blue Horizon." $1,575, of which $350 is tax-deductible (itinerary available).

4. Decorative arts & textile tour: England, centering in Oxford and Cotswolds; emphasis on needlework, weaving etc., with lectures and visits to public and private collections under the direction of Mrs. W. L. Markrich. Leaving September 10th, for two weeks, with a third week free for members' arrangements at will in Europe.

5. Northern Italy: Palladian Tour of Venice, Vicenza, Verona, and Padua. Leaving September 14th for two weeks, with a third week free for members' arrangements at will in Europe. $1,250, of which $350 is tax deductible.

THE NO-TOUR TOURS

a) *Air France Excursion*—(Boeing 707) Dulles-Paris-Dulles: May 1–22 $257. Make your own arrangements for three weeks of travel in Europe.

b) *BOAC Excursion*—(Boeing 707), Dulles-London-Dulles: October 2–23, $247. Make you own arrangements for three weeks of travel in the British Isles of Europe.

Please note: These special fares quoted may be subject to airline change or regulations beyond our control.

1971—Negotiations are under way for a unique cruise/tour aboard the new ship "Explorer," from Sydney, Australia, via the Thursday Islands, Penang, Ceylon and the Seychelles Isles, to Mombasa, East Africa. This will take place in March, with S. Dillon Ripley aboard as lecturer on ornithology.

A late Spring tour to Asiatic Turkey; an inexpensive Irish tour will concentrate on Georgian architecture in June; another Latin American tour will take place in the late Summer, and possibly one to Alaska later.

For reservations and details contact: Miss Kennedy, Smithsonian Institution, Washington, D.C. 20560, or call 202-381-5520.

CONTINUING EXHIBITIONS

Malay Archipelago. Through mid-April. National Museum of National History. Foyer Gallery.

Eikoh Hosoe: Man and Woman, and James B. Johnson: A New Perspective of Washington. Through April 14. National Museum of History and Technology, Hall of Photography.

Apollo Art. Arts and Industries Building, through March 29.

Laser 10: The First 10 Years of Laser Technology. National Museum of History and Technology, through May.

Charles Fenderich: The Washington Years. National Portrait Gallery, through August 31.

Thomas Alva Edison: Sound and Light and Elisha Kent Kane. National Portrait Gallery, through April 1.

Landscapes and Seascapes by James McNeill Whistler. Freer Gallery of Art, closing indefinite.

Energy Conversion. National Museum of History and Technology, through March 31.

SMITHSONIAN RESIDENT PUPPET THEATRE

Hansel and Gretel, marionettes created by Bob Brown for the production of the play with music by the Smithsonian Division of Performing Arts. Performances are at 10:30 and 12:30 Wednesday, Thursday and Friday and at 10:30, 12:30 and 2:30 Saturday, Sunday and holidays. Third floor, National Museum of History and Technology. Admission: $1.00 for adults, 75 cents for children; special 50 cent rate in groups of 25 or more (for advance reservations for school groups on weekdays call 381–5241).

MUSEUM TOURS—NATIONAL COLLECTION OF FINE ARTS

Daily tours at 11 a.m. and 1 p.m. Weekend tours 2 p.m., Saturday and Sunday. For advance reservations and full information, call 381–5188 or 381–6100; messages 381–5180

NATIONAL ZOO

Tours are available for groups on weekdays 10 a.m. to 12 noon. Arrangements may be made by calling—*two weeks in advance*—CO 5–1868 Extension 268.

Visitors may purchase animal artifacts and specially designed souvenirs and books at the Kiosk, which is operated by Friends of the Zoo volunteers as a public service and to raise funds for educational programs. Open daily 11 a.m. to 4 p.m.

MUSEUM OF HISTORY AND TECHNOLOGY

Free public tours of the National Museum of History and Technology during weekends are sponsored by the Smithsonian and operated by the Junior League of Washington. They will be conducted on Saturdays and Sundays through May 1970.

The tours begin at the Pendulum on the first floor, and each tour lasts for approximately one hour. Saturday tours begin at 10:30 and at noon, and at 1:30 and 3:00 p.m. Sunday tours begin at 1:30 and 3:00 p.m.

Tours are available to anyone who wants to join the docent stationed at the Pendulum at the above-specified times. However, if you would like to plan a special group tour, call 381–5542 to make arrangements.

NATIONAL PORTRAIT GALLERY

Tours are now available for adults and children at 10:00 a.m. and 1:00 p.m. Presidential Portrait tours on Friday by appointment. For information on adult tours call 381–5380; for children's tours, 381–5680.

Smithsonian Museums are open to the public 7 days a week. Hours: 10 a.m. to 5:30 p.m. daily.

Cafeteria: Open 10:00 a.m. to 5:00 p.m. (Located in the History and Technology

Building, 12th Street and Constitution Ave. N.W.)

HOURS AT NATIONAL ZOO

Gates open 6 a.m., close 5:30 p.m.
Buildings open 9 a.m., close 4:30 p.m.

MUSEUM SHOPS AND BOOK SHOPS

(*Open to public during all regular hours*)

Museum Shops #

1. National Museum of History and Technology—Rotunda.
2. Natural History Building—Constitution Avenue Entrance.
3. Arts and Industries Building—Mall Entrance.
4. Freer Gallery of Art—Mall Entrance.
5. National Museum of History and Technology—Mall Entrance.

Book Shops # #

1. National Museum of History and Technology—Constitution Avenue Entrance.
2. Natural History Building—Mall Entrance.
3. National Collection of Fine Arts—Main Floor, 8th and G.
4. National Portrait Gallery—F Street Entrance.

ADDRESS TO AMERICANISM EDUCATIONAL LEAGUE BY ADMIRAL SHARP

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. BOB WILSON. Mr. Speaker, in recent months there has been much comment on our "entangling foreign alliances." In the heat of discussion, we tend to lose sight of some of the important overriding factors which have gone into the formulation of our post-World War II foreign policy. Adm. U. S. Grant Sharp, former commander in chief of the Pacific, is eminently qualified in the field of Asian affairs and his experienced analysis puts into sharper focus the present foreign commitments controversy. I am very pleased to share with my House colleagues Admiral Sharp's recent address to the Americanism Educational League:

XUM

ADDRESS BY ADMIRAL SHARP

One of the objectives of this fine organization is to help build and maintain a stronger America. Part of the strength of America is in our overseas alliances, for through these alliances we contribute to the freedom and well being of the Western World, without them many smaller countries might be overwhelmed by Communist aggression. Today we are in the midst of a reappraisal of our worldwide treaty commitments. I think it is time that our citizens and some members of the Congress consider the commitments of the United States, the reason for these commitments and the advantages that we gain from them. Too many important people are proposing what appears to be the easy way out—pull back, leave Asia to the Asians, let them defend their own countries, the United States should stop being the world's policeman—you have heard all of these trite comments. It is all part of a desire by some to promote "isolationism" as a cure for domestic problems without regard to the effect that policy would have on the international situation.

Both President Nixon and Vice President Agnew have visited our allies in the Western Pacific and have said that we will abide by our commitments, but we will expect them to do more to protect themselves. This is a very logical policy and one that our allies have seemingly accepted. As a result of these two visits there seems to have been a restoration of confidence in the minds of our allies. I suggest that those hardheaded Asian leaders will be better convinced by action than by words. I'm sure they will make their judgments based on what happens in the Vietnam war and the general trend of United States foreign policy in the years to come.

Meanwhile there is an undercurrent of displeasure being expressed in this country over the assistance we received from our allies in the Vietnam war. They say the members of the Southeast Asia Treaty Organization, called SEATO, did not assist as they should have, our Nato allies gave no help, and other countries with whom we have mutual defense treaties were unresponsive to our request for assistance. They want to cut back on our commitments because of this unenthusiastic response of our allies.

Tonight I would like to review our defense alliances in the Pacific, including how we came to make them, examine how much assistance we actually received, and analyze what help we could logically expect from our various allies. Then I'd like to discuss briefly the Vietnam situation as I see it today.

During my four years as Commander in Chief Pacific, from 1964 to 1968, I had a unique opportunity to observe the effect of our alliances and how they produced in war time. I was the United States Military Adviser to the Southeast Asia Treaty Organization and participated in eight meetings of the Military Advisers and four meetings of the Council. I was also the United States Military Representative to the Philippines—United States Mutual Defense Board and to the Australia-New Zealand-United States Council called ANZUS. In addition, I was Military Adviser and Member of the United States-Japan Security Consultative Committee.

What are our commitments in Asia, and how did they come about? Following World War II, we became a member of the United Nations in the hope that nations of good will would work together for peace, and if necessary, impose sanctions on aggressors. Then as the cold war became more intense, and it became apparent that the United Nations was not going to be very effective, American foreign policy placed increased emphasis on mutual defense alliances. Our new policy undertook to make our strength felt in the international arena when disputes were in the early stages, rather than becoming involved only after the war started. Thus we hoped to be able to avert war by letting our enemies, as well as our friends, know that they would have United States power to contend with. Under this policy we aligned ourselves with those who might become victims of Communist aggression. These collective self-defense pacts had their genesis in Europe. This trend of American foreign policy was one of containment, committing us to the defense of weak nations on the theory that regardless of distance or geographical location, if these nations fell under Communist control, it would be an indirect threat to our security. If the Sino-Soviet block should gain control of all of these countries, we would be completely isolated in a Communist dominated world—and the Soviets have made it quite clear that their aim was, and still is, world domination.

Later the principle of collective self-defense was extended to Asia through numerous alliances, so that today the United States has bilateral and multilateral agreements for collective defense with a total of forty-two countries. One of these, the Southeast Asia Collective Defense Treaty, was created by eight nations at Manila in 1954. It provides for collective action to resist Communist armed attack and to counter Communist subversion. The major purpose of the pact is to give the peoples of the SEATO countries the security they need to live in peace and freedom, and to push forward with economic and social development. A protocol to that treaty included Laos, Cambodia and South Vietnam under Articles III and IV of the treaty, which among other things provides for economic and military assistance—the latter in case of armed attack and only at the invitation or with the consent of the government concerned.

The SEATO treaty reinforced the position taken by the United States earlier the same year at the Geneva Conference that we would view any renewal of aggression in violation of the Geneva Accords as a serious threat to international peace and security.

In October of 1954 President Eisenhower told the President of South Vietnam that the policy behind U.S. aid was to assist the Government of Vietnam in developing and maintaining a strong, viable state, capable of resisting attempted subversion or aggression through military means. In 1959 the Communist party in Hanoi announced that the time had come to liberate the South. Over the next few years the aggression developed steadily. I need not tell you that the evidence of North Vietnam's direct responsibility for the aggression in South Vietnam is well documented. The conflict was initiated by Hanoi and is supported by Communist China and the Soviet Union. Communist domination of all of Southeast Asia is their objective.

In our various treaty commitments our nation has made it clear many times that it will use its strength, when sought and properly matched by self-help, to prevent extension of Communist domination by force. This policy has been quite successful. Our power, our commitments and our determination to live up to those commitments have served as a shield behind which many free nations have been able to preserve their independence and move forward. There could have been much greater erosion of free world security, to the ultimate jeopardy of *our security* and *our welfare*. Instead, the years have seen a gradual development of free world political, economic and military strength and cohesiveness. Today in Southeast Asia the United States has one basic objective—to insure that the small nations of the area are permitted to survive and not be overwhelmed by militant Communist neighbors.

Now let's review the participation in the Vietnam war by the members of the Southeast Asia Treaty Organization—SEATO. Since the organization was set up in 1954 expressly to provide collective defense in Southeast Asia, we might expect full cooperation from these countries. Australia, France, New Zealand, Pakistan, the Philippines, Thailand, the United Kingdom and the United States are members.

Australia sent troops to Vietnam in 1965 soon after we introduced combat forces. Their strength increased from 1,350 in 1965 to 8,500 in 1969.

France, under DeGaulle's myopic leadership, ceased participating in Seato in 1965, and as would be expected, contributed no combat troops.

New Zealand sent a small force to Vietnam in 1965 with the Australians, and had about 550 men there in 1969.

Pakistan ceased participating in Seato for all practicable purposes in 1965, gave no help to us in Vietnam.

The Philippines sent a civic action force with its own defensive unit to Vietnam and at peak strength had about 1,500 men there.

Thailand, faced with the threat of Communist aggression in their own country, still has about 11,500 troops in Vietnam.

The United Kingdom was not a supporter of our position in Vietnam and did not send help.

I can't agree with those who suggest that the members of Seato that did help did so reluctantly, only after great pressure by the United States, and not to their full capability.

Australia, with a total population of only twelve million, has only 84,000 in her armed forces. In 1965 she had even less and had to adopt a very controversial first peacetime draft in 1966 in order to get troops in the numbers needed to man her force in Vietnam. Prime Minister Harold Holt pushed through the draft law over much opposition specifically to help the South Vietnamese in their fight for freedom. Australia has always been a strong member of Seato and a great friend of the United States.

While New Zealand's force in Vietnam is small we have to remember that the population of New Zealand is less than three million and her total defense establishment only totals some thirteen thousand. New Zealand is also a strong member of Seato and a good friend of the United States.

The Philippines military services only total 30,000 and they have trouble supporting that many, so that their contribution of 1,500 was not a small one for them. However, they did pull their unit out last year. Our bases in the Philippines are of great value in support of our forces in Vietnam.

Thailand, with total armed force strength of about 140,000, and having to deal with Communist infiltration in their own northern provinces, still contributed a full division, 11,500 troops to Vietnam. They also supplied air bases for us in their own country and gave us strong support in many ways.

So in summary I believe that the contribution made by Australia, New Zealand, and Thailand has been in line with their national capacities and as much as we could realistically expect. The support of the Philippines could be characterized as less than optimum. The United Kingdom has been a disappointment since that country had the capability to contribute but did not. France and Pakistan are to all intents and purposes no longer members of Seato.

Now let's look at three other allies in Asia, who, while not members of Seato, do nevertheless have mutual defense agreements with the United States. I refer to Korea, the Republic of China and Japan. Korea, with over 50,000 troops in Vietnam, certainly has contributed as much as we could expect in view of the threatening attitude of North Korea. The time and money that the United States has spent training and equipping the South Korean armed forces has paid off handsomely in Vietnam. The Republic of China would have contributed forces if we had asked for them. We didn't ask for them because of an apprehension about Communist China—a controversial subject upon which I won't comment. Japan could not contribute armed forces because of her constitution. Yes, her constitution could be changed, but it would take years to accomplish.

So it's my conclusion that our Asian allies did about as much as we could expect and that Seato can remain a viable and useful organization if we will support it.

Our European allies were certainly much less responsive. Membership in Nato does not obligate a country to come to our aid in Asia. Great Britain and France of course are special cases—they are members of Seato and they did not come to our assistance. While both of them had problems I wonder how they would react if we left *them* in the lurch when the chips were down.

I have discussed our Asian commitments and the response of our Asian allies in Vietnam because I think it is important for the American people to realize that our defense alliances in Asia have been fairly successful and have contributed to the general stability and prosperity of the area. It is essential that we continue our alliances in Asia. Without our pledge of assistance, the Communists would feel free to take over those countries at will. It is most unfortunate that we have senators and congressmen denouncing our overseas commitments and suggesting a program of general retreat. They would withdraw our forces from Europe and the Far East, renounce our commitments and set policies which would compel us to avoid becoming involved again at almost any cost. It is important that our people be made to understand the dangers of isolationism and I don't believe that our government is doing an adequate job of informing the citizens of this country.

Now let's look at the situation in Vietnam. It is here that we will prove to our allies that we will stand by our commitments—or we will convince them that we cannot be depended upon.

For over a year we tried to settle the war by negotiation. In an attempt to get Hanoi to the conference table we gave up all bombing of North Vietnam, a step that was considered a victory by the North Vietnamese. So we are permitting the Communists to continue their aggression, but now they are operating from a sanctuary and we are fighting a defensive campaign in South Vietnam. We are attempting to negotiate from a position of weakness and, of course, it hasn't worked. The only way to negotiate with Communists is from a position of strength and you should continue strong military action while they negotiate—we should have learned that lesson in Korea but unfortunately we didn't. After nearly two years of haggling in Paris the progress toward a negotiated peace has been zero—the North Vietnamese are completely intransigent. That effort has been an utter failure.

Now we are trying a different approach—Vietnamization. We are concentrating on increasing the capability of the South Vietnamese to assume the combat role. They are being supplied with modern weapons as rapidly as they can learn to use them. They have increased the size of their armed forces to about the maximum and are making a great effort to take over the ground battle as rapidly as possible. We have pulled out a large number of combat troops and more are being removed in the near future. We hear optimistic reports that the Vietnamization program is working well and that perhaps we can speed up the withdrawal of our forces. The American people should realize that there are risks in this procedure. Can the South Vietnamese really take over the fighting as rapidly as is now proposed? Are the Communists becoming weaker or are they pulling back to wait until more of our troops are withdrawn? What if the South Vietnamese were overwhelmed, would we order troops back to Vietnam? Are we going to give our support forces in Vietnam proper protection? Aircraft squadrons, helicopter companies and other support troops will have to remain for a long time if we are to give the Vietnamese the support they need. Can you imagine what would happen to the morale of our support forces if they found themselves left behind without adequate protection?

If the Vietnamese can take over the fighting successfully as our troops withdraw and can continue to hold off the aggression from the North, so that their country can remain free, then we will have gained our objective. If, on the other hand, we withdraw before the South Vietnamese are capable of defending their country, then that country and the rest of Southeast Asia may be lost to Communism and Vietnamization will be a failure.

On the third of November, President Nixon made a major pronouncement of Government policy on the Vietnam war. He said that we would fulfill our commitment to South Vietnam; that there would *not* be an abrupt withdrawal of U.S. troops. He noted that precipitate withdrawal would be a disaster of immense magnitude—that a nation cannot remain great if it betrays its allies and its friends. President Nixon said that only two choices were open to us—he could order an immediate withdrawal, or we can persist in our search for a just peace through negotiations if possible, or through Vietnamization if necessary.

I have said on other occasions that I believe there is a third alternative. If Hanoi continues to stall the negotiations and fights on in the South, we should give them an ultimatum. Tell them that if there is no progress at the negotiating table in two weeks, we will take strong measures against North Vietnam. If we started heavy air attacks against the North I believe there would be a sudden desire in Hanoi to get on with negotiating a peace. It is my belief that this course of action would get the war over in the shortest possible time and with the least number of casualties. However, this may not be a feasible course of action from a political point of view.

No matter how this war is concluded, by negotiation, by a military victory, or by Vietnamization, it is essential that it be *successfully* concluded. We are committed to protect South Vietnam from Communist aggression. The other nations of Asia, and indeed, friend and foe alike throughout the world, watch with great interest to see if the United States, the leader of the Free World, has the determination to abide by her commitments. If we withdraw from Vietnam in a way that permits an early Communist takeover of the country, the credibility of the United States will be open to serious question throughout the world. The validity of our many mutual defense treaties will be questionable.

Since World War II United States foreign policy has been based on a concept of resistance to efforts by militant Communist powers to expand their territory by force. It has been our belief that to tolerate aggression only invites more and greater aggression in the future. This strategy is designed to bring about peace and reconciliation in Asia as well as in Europe. It has been reasonably successful in Europe, but in Asia the Communists still seem determined to attempt to add to their empire by militant aggression. We cannot permit them to succeed if the small nations of Asia are to remain free. That is why our various mutual defense treaties that I have discussed with you tonight are so important. Are we going to sustain and carry forward polices which have served us well for over two decades, or will we permit ourselves to be deflected from those policies?

We have the military strength to gain our objectives in Vietnam. But we need more than military strength. We need moral strength and willpower. We need determination, conviction and dedication. This kind of strength and power has to come from the hearts and minds of the citizens of this country—from you and from me. It is the kind of strength that made our country great. It is the same kind of strength that we will need in the days to come.

XUM

SOVIET HUMANISM—JURIST IMPRISONED 20 YEARS WITHOUT TRIAL

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. RARICK. Mr. Speaker, there is an old saying to the effect that one never misses the water until the well runs dry. I am continually awed by the sharp insight of those Americans whom we loosely classify as the ethnic groups into the machinations of tryanny. Liberty is most appreciated by those who have lost it.

Having seen it abroad, and bearing its scars, they—our foreign born Americans—are quick to recognize its symptoms in this land of the free. It would serve us well if we Americans of native birth were just a bit less trusting of some of the glittering promises of the demagogs—and of the international propaganda displays which emanate out of New York and the United Nations Organization.

This year is dedicated to Lenin—the "great humanitarian" according to the international propagandists. We are also urged to sign all kinds of beautiful sounding agreements with anyone and everyone to guarantee to our citizens rights and privileges which they already enjoy, but which those subject to Red slavery will never know.

A dedicated American of Ukrainian lineage has been kind enough to supply me with an accurate translation of the very enlightening appeal of Dr. Volodymyr Horbovyy, imprisoned in a Soviet concentration camp since 1949 without trial. All of us should understand that this is the system contributed to mankind by the humanist—which simply means atheist—and humanitarian V. I. Lenin, whom the international phonies of the United Nations Organization are honoring at our people's expense in 1970.

XUM

I include the appeal for justice in my remarks along with an appeal from Americans for Freedom of Captive Nations to expose Soviet Humanism:

DR. VOLODYMYR HORBOVYY'S APPEAL

My name is Volodymyr Horbovyy. I was born on January 30, 1889 in the town of Dolyna, Galicia, formerly Austro-Hungary. My nationality is Ukrainian. My citizenship was first Austrian, then Ukrainian, afterwards Polish, and in 1947 I became temporarily a Czecho-Slovak citizen. I was never a Soviet citizen and I never lived in the USSR. Before World War II, I was a member of the Lviv (Lvov) Bar Association. During the war I was a judge at the Polish Court of Appeals in Cracow. After the war I was a legal consultant at the Ministry of Agriculture of the Czecho-Slovak Republic.

My imprisonment is not legally justified. I was deprived of my freedom following an accusation by the Government of Poland in July 1947. I was declared a "war criminal" for alleged collaboration with the Germans during the war. Consequently, following an extradition request by Polish authorities, I was arrested in Prague on August 1, 1947 and extradited to Poland on August 7, 1947. The official statement issued by the Polish Government said that I would have to stand trial. Unfortunately, the trial was never held and could not have been held, since a whole year of persistent investigation failed to produce any incriminating evidence. On the contrary, I was able to prove that I had been critical of Hitler's political course and, in general, I was not guilty of any crime. In addition, I also was able to prove that the "document" which contained the argument in support of the demand for my extradition was ineptly fabricated. The Polish authorities were embarrassed. Yet, instead of being sent back to the Czecho-Slovak Republic, I was turned over to Soviet authorities in Warsaw. Another fabricated "document" was produced in which I was accused of being a Ukrainian nationalist.

In the USSR, the investigation process described above was repeated. Another year of dramatic investigation failed to produce the desired results for the MGB (Ministry of State Security—Tran.) The atmosphere prevailing at that time within the MGB is a well known fact. Instead of giving me an opportunity to return to the CSSR and continue my peaceful occupation there, I was sent to the forced labor camps for a term of 25 years. It was done by an administrative order which was based on a closed-door decision of the Special Conference of the Ministry of State Security of the USSR (No. 2906–49) dated July 6, 1949 under Articles 54–2, 54–11 of the Criminal Code of the Ukrainian SSR. The Ministry of State Security does not exist any more and its "special conferences" also have been formally abolished. However, the strange decisions adopted at those conferences continue to carry legal force.

In order to provide a characterization of the legality and justice here, I want to quote the following facts

a. The Soviet Criminal Code and the UN Declaration of Human Rights (which was signed by the Soviet Union) permit the punishment of an individual only on the basis of a verdict by a court of law and, at the same time, guarantee the accused a right to legal counsel. Unfortunately, in the USSR the above stated legal principles are propagandistic in nature and not applied in reality. In my case, there was no trial, no sentence and no opportunity to defend myself. Yet I have been suffering imprisonment for the last fifteen years (22 years by 1969—Translator).

b. According to a decree of March 24, 1956 the commission responsible for the investigation of cases involving individuals who are serving terms for political, violation-of-duty, or economic crimes, should have reviewed the reasons and justifications on the basis of which each prisoner was sentenced. I was summoned and interrogated by that Commission on October 1, 1956. However, a negative verdict had been already reached beforehand on September 29, 1956. On October 1, 1956 the Chairman of the Commission formally informed me that my case was being scheduled for additional investigation.

c. My petition regarding my case (dated May 22, 1960) was reviewed by the Prosecutor General's Office of the Ukrainian SSR. Their decision, (No. 01–20776/60) was that "the Prosecutor General's Office of the Ukrainian SSR can find no basis for protesting the decision of the Special Conference of the Ministry of State Security of the USSR (No. 2906–49), because the Committee of State Security declares that the accusations have been confirmed." Officially, the Prosecutor General's Office should watch over the activities of the security organs and not vice versa.

d. Between July 2, 1960 and November 22, 1960 I spent time in the solitary confinement of the KGB in Kiev, Ukrainian SSR. It meant that my case was being investigated. According to the provisions of the Criminal Procedure Code, an investigation can end either in an indictment and subsequent trial, or in the suspension of the investigation and the release of the arrested. Neither provision was applied in my case.

e. In 1955 the Soviet authorities formally agreed to repatriate all foreigners from the USSR, but in practice they did not make it possible for the concerned to take advantage of that opportunity. I demanded to be returned.

f. The decree of September 3, 1955 and the order of the Ministry of Internal Affairs (No. 0323), dated August 10, 1956 regarding the release of disabled prisoners have not been applied in my case, even though I have been an invalid since January 11, 1952.

g. The ChK, GPU, NKVD, and KGB are various names of one and the same institution which is represented by one and the same element. Therefore, it would be unusual if the same people and the same institutions now worked for the restoration of the so-called socialist legality which they themselves have discredited. It is not difficult to imagine what this "restoration of legality" means in reality.

I declare, that never in my life did I commit any crime or was engaged in any illegal activity. My only blunder was that I, injudiciously, trusted Soviet propaganda about Soviet humanitarianism and legality and remained within the reach of Communist authorities.

As early as 1921 I became interested in jurisprudence. I have many years of experience in the field of law in which I hold a degree of Doctor of Jurisprudence. Reading the statements made by representatives of Soviet justice about the genuine renewal of socialist legality in the USSR, or listening to statements made by political leaders of that state to the effect that there are no longer any political prisoners there, and comparing it all with the situation of persons like myself, I cannot help but wonder about the deceptive and malicious Soviet morality which I am unable to comprehend. I wish to remark that true information about the condition of political prisoners in the USSR could be obtained only by an impartial committee which would inspect places of confinement and question the prisoners (like myself) directly.

I would be grateful if someone became interested in the condition of political prisoners in the USSR. As far as my case is concerned, I would be immensely grateful if someone would help me to avail myself of the rights to which I am entitled as human being and a citizen and, most of all, to help me to be released from illegal imprisonment, to enjoy freedom of movement and obtain a redress.

AMERICANS FOR FREEDOM OF CAPTIVE NATIONS,
Los Angeles, Calif.

Hon. JOHN R. RARICK,
House of Representatives.

DEAR SIR: Point One of the Gromyko resolution for a world security system, presented to the United Nations on September 19, 1969, calls for withdrawal of all troops from occupied territories and discontinuation of all measures to suppress liberational movements. If, the U.S.S.R. is the freedom loving nation she professes to be, then she should set the stage and practice what she preaches.

It is time for the United States of America to go on the offensive and unmask the true imperialists and colonialists by exposing the Soviets for what they are.

The rights of the Captive peoples to self determination and free election should be steadfastly supported by the United States government, of which you are a legislative member. These rights are in line with the Atlantic Charter and other international agreements. The United States government should continue to make clear to the rest of the world that the violations of these agreements by the Russian Communists are a major cause of world tensions today. The United States government must be more than anticommunist minded; the United States government must be positive and affirmative in opposition to the basic philosophy, politics, and practices of communism.

We ask you to put forward every possible solution which would lead to the liberation of the Captive Nations.

Both major political parties have committed themselves to the liberation of the subjugated nations. But, unfortunately, the word "liberation" is used more as an electioneering slogan than as a carefully thought-out foreign policy that is vital to the United States' own national security. In reality, what the United States says and does encourages or discourages the spirit of liberation.

We ask you now to act on behalf of the rights of the enslaved nations now illegally dominated, exploited, and controlled by the Russian Communists—those enslaved nations listed in the Congressional Record. Worldwide attention has been diverted from the plight of the Captive Nations. As a consequence, the enslavement of the Captive Nations is being accepted as the status quo on a de facto basis.

Due to the failure of the United States and the Free World governments to insist that the status of the enslaved peoples be included in the United Nations agenda, the Russians are winning a victory to maintain the status quo by default.

The Russian Communists are trying to break the will to resist of the people of the subjugated countries. We must not, by default, or in any other manner assist the Russian Communists in their determined efforts to break the will to resist of the enslaved peoples.

Ponder the words of Andrei Gromyko, Soviet Foreign Minister, in a speech to the Supreme Soviet, July 10, 1969:

"To take a more sober view is to recognize that it is impossible to keep foreign areas seized as the result of aggression and that they should be returned to those to whom they belong."

We urge you to speak up for the enslaved people and hope that you will speak for the sake of freedom in Eastern Europe, Cuba, and elsewhere in the world so that the true freedom respecting citizens of the world will no longer have to hear the empty words of all the Gromykos all across the world.

Millions of Americans await your action.

Very truly yours,

AVO PIIRISILD,
Executive Secretary.
BERNARD W. NURMSEN,
President.

ICC ISSUES NEW RULES ON HOUSEHOLD GOODS MOVING

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. McDONALD of Michigan. Mr. Speaker, in view of the public's interest in gaining fuller protection in its dealings with the household goods motor carrier industry, I submit for the RECORD the recent announcement by the ICC of the adoption of a comprehensive series of rules in reference to household goods movers, scheduled to go in effect on May 1, next.

The Commission's announcement of March 5 reads as follows:

WASHINGTON, D.C., *March 5, 1970.*

ICC ISSUES NEW HOUSEHOLD GOODS RULES TO EASE HOUSEHOLDER-MOVER FRICTION

The Interstate Commerce Commission today announced the adoption of a comprehensive series of rules—scheduled to become effective May 1, 1970, in time for the peak moving season—designed to afford fuller protection of the consuming public in its dealings with the household goods motor carrier industry. The proceeding, instituted on the Commission's own motion in June of last year reflects the ICC's continuing concern over the practices of some household goods carriers. Today's ruling is designed to minimize the increasing consumer-carrier frictions which have come to the Commission's attention in recent months.

For many people, moving has been an experience of frustration and disappointment since some carriers often have failed to match their promises with performance. The Commission, although emphasizing it was not pointing to any one carrier, stated that "the average householder, shipping his most valued possessions, is not experienced with transportation practices; is not knowledgeable in protecting his rights; is at a disadvantage in his dealings with the carrier, particularly if he is in transit during the move; and is, therefore, in need of all the protection this Commission can afford."

The rules announced today are intended to create an atmosphere of full disclosure between the mover and the householder throughout the entire course of the move. The Commission expressed the hope that such regulations will enable shippers to understand more fully the problems involved in the movement of their possessions and help the carriers in accomplishing moves in a more efficient manner.

A survey, designed in cooperation with the Commission's Bureaus of Economics and Operations, was conducted to yield statistical measures of interstate shipments of household goods, the proportion of shipments occurring in the peak and off-peak seasons, the extent to which delays in pickup and delivery occur, and the extent to which carriers underestimate or overestimate the cost of shipment. On the basis of the survey, it was estimated that during 1968 the total number of shipments transported were 1,433,100, of which 1,216,350 (85 percent) were interstate shipments. Of those, about 743,000 (61 percent) were picked up during the peak season between May 1 and October 31. Many problems, it was determined, are generated by this seasonal traffic concentration, not all of which are the fault of the customer or the carrier alone.

In general, the new rules and the modifications to existing rules include:

Reasonable dispatch.—The new rules require that shipments be handled with reasonable dispatch as defined in the revised regulations. Shippers generally are one-time shippers, and they therefore are not familiar with the problems associated with the transportation of their possessions. The purpose of defining and requiring reasonable dispatch is to urge the carrier and the shipper to disclose fully their respective problems in order to reach a mutual understanding and to agree on dates or periods of time within which the transportation service is required to be performed. A prudent and ethical carrier, prior to agreeing to perform the service on specified dates or during specified periods of time, will consider all the relevant factors involved in the shipment and will fully disclose these considerations during the negotiations preceding the booking of a shipment. At the same time, the shipper has a similar obligation to make a full disclosure to the carrier of all of the pertinent facts relating to his particular transportation requirements. If after such disclosures the parties are unable to agree, the customer will be able to continue his search for a carrier which can fulfill his requirements.

Notification of delay in pickup or delivery.—New rules require the shipper to be notified that his goods will not be picked up or delivered on the date or within the period of time promised by the carrier, the reason for the delay, and when the pickup or delivery was made. The carrier also is prohibited from giving false or misleading information as to the reasons for the delay in picking up or delivering shipments.

Estimating.—The carrier is required to give an estimate, if requested by the shipper, and the estimate is required to be made on a standard form so that the shipper can make an intelligent comparison in choosing the carrier to perform his move. The new rule and estimating form require that the shipper be informed not only of the amount of the estimated cost of his move, but also of the maximum amount of money on a C.O.D. shipment that the customer must have in order to require the carrier to unload his shipment. Thus the shipper will know before the move begins that if a carrier gives him an estimate of $400, the maximum amount he must have on delivery will be $440 (the estimated cost plus 10 percent). The shipper must still pay for the total tariff charges, but he now can request at least 15 days credit for any amount by which the total tariff charges exceed the estimate by more than 10 percent.

Orders for service.—The new regulations require that an order for service be prepared. Orders for service or similar documents have been in use in the industry for a number of years, but the only reference to them in the former rules was in a provision forbidding carriers to mention estimated charges on an order for service. Now the new rules not only require an order for service to be prepared, but the carrier must show the estimated charges and the amount needed by a shipper to require delivery of a C.O.D. shipment if an estimate was made. The order for service contains information which will be incorporated into the contract of transportation—that is, the bill of lading.

Bill of lading.—The bill of lading must show the agreed dates of periods of time required by the reasonable dispatch rule, the estimate of charges and specification of the maximum amount required for delivery as embodied in the rule on estimating, and the entry of the tare weight on the bill of lading before that document is executed.

Determination of weights.—All rules pertaining to weights, obtaining weight tickets, minimum weights, and constructive weights are now under one heading. The former requirement of a driver's weight certificate has been eliminated, but the intent of that rule—the recording of weights—has been incorporated into a new rule which requires the maintenance of a vehicle-load manifest for every vehicle utilized in a carrier's operations. The weights of all shipments loaded on a vehicle will be recorded by a one-time entry on the manifest which will serve as a record of the shipments transported by that vehicle as well as a form of performance report on compliance with the requirements of the rule on reasonable dispatch. From the manifest it will be apparent to carrier management whether shipments are being transported in compliance with the requirements of the new regulations. In addition, the use of constructive weights (weights based upon volume as opposed to actual weighing of the shipment) is strictly limited and must be reported to the Commission.

Claims.—No language releasing the carrier from liability may be contained in the delivery receipt. In addition, carriers now must notify the Commission periodically of the status of *all* pending loss and damage claims—not just those which are pending "for reasons beyond the control of the carrier" as required by the existing rule—and the reasons for the delays in the processing of those claims.

Early delivery.—To protect the shippers' interests and at the same time to enable the carriers to keep their equipment in service to the fullest extent possible, the Commission adopted a regulation prohibiting the tender of a shipment for early delivery except as requested or agreed to by the shipper, and enabling the carrier, at its option and subject to certain conditions, to place the shipment in storage for its own account and at its own expense in a warehouse located in close proximity to the destination point of the shipment until the agreed delivery time.

Finally, the Commission issued a revised booklet of general information—combining two bulletins formerly required to be given prospective shippers—which the carrier is required to furnish the shipper prior to the time arrangements made for the move. The new booklet informs the shipper in understandable language what he may expect from the mover, and what the mover expects of him. The adopted regulations and the booklet are printed in full in Appendix III.

The proceeding is docketed at the Commission as Ex Parte No. MC–19 (Sub-No. 8), *Practices of Motor Common Carriers of Household Goods*, and also embraces Ex Parte No. MC–1 (Sub-No. 1), *Payment of Rates and Charges of Motor Carriers*, reopened on the Commission's own motion in the report.

A NEW REGIONALISM—II

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. ROSENTHAL. Mr. Speaker, I include below the second part of a paper on a reorganization of our States into new governmental units more consistent with the problems and resources of the 20th century. The first part of this paper, which was prepared by Piers von Simson of the Center for the Study of Democratic Institutions, Santa Barbara, Calif., appeared in yesterday's RECORD.

The second part follows:

PART II.—THE METHODOLOGY OF REGIONALIZATION: THE STRUCTURE OF THE REPUBLICS

I. INTRODUCTION

Having hopefully convinced erstwhile supporters of Chief Justice Chase's "indissoluble union of indestructible states," that to preserve the union, the states should be recast into Republics, it is now necessary to consider exactly what form these Republics should take. The aim is to steer a judicious course between the dangers and inefficiencies of a wholly centralized power in so large a country as the United States, on the one hand, and the chaos and inefficiencies of fifty different jurisdictions on the other.

The aim must be to deal with the problem through genuine regionalism and not mere sectionalism, to see the regional areas from the point of view of the nation, rather than the nation from the point of view of the areas. The aim must be not to attempt to define areas capable of economic self-sufficiency and autonomy, a kind of "provincial economy," a process difficult, if not impossible in a civilization dependent on such localized resources as rubber, iron, copper and petroleum. Instead the aim must be to achieve a balanced economy but also a specialized one, an area within which physical resources naturally group themselves in such a way that human adjustments and maladjustments to them can be readily isolated and dealt with; in which agriculture, the extractive industries, manufacture and trade can be coordinated. In such a region, with good planning, its homogeneity and its differentiation from neighboring regions, and yet its dependence on the other parts of the national whole, could be fostered, taken advantage of, and ultimately serve to increase national cohesion.

II. MINIMUM STANDARDS

To this end, it is possible to establish some minimum standard the Republicans must meet if they are to serve their intended purpose.

Firstly, and fairly obviously, the territory of a Republic should be as contiguous and compact in outline as possible, rather than being fragmented.

Secondly, one may postulate that it should display the maximum possible degree of homogeniety, this homogeniety ideally being centered at the core of the region becoming progressively diluted towards the periphery so that the boundaries themselves are transition zones rather than sharp lines.

Thirdly, the Republic should contain all territory containing a major combination of resources, it should be an economic-natural unit in general terms.

Fourthly, it is clear that the region should include whole problem areas and not partial areas, for that is its very *raison d'être*.

A fifth requirement is that it should be so delineated as to conform to existing regional consciousness and sentiments, that it should possess a real degree of regional identity.

Finally, it should be of the fairly large size made feasible by technological mechanisms.

A moment's reflection will reveal the inescapable fact that in some instances some of the minimum standards will have to a certain extent be sacrificed to others. It may be impossible, for example, to include whole problem areas in every region unless the whole country is considered to be a region. Similarly, the requirement that the Republics should contain a major combination of resources may have to be placed above the need for a strong sense of regional identity. At least part of its population will not have this sense. In short, a perfect region is impossible, and some compromises will have to be made.

III. A CONCEPTIONAL PROBLEM

The major guidelines, however, should help in answering some of the questions, the unsatisfactory answers to which, as Odum and Moore (12)[1] have rightly pointed out, have tended to retard regional realism in America. How can we define adequate regions, acceptable as frames of reference for research and portraiture, as basic divisions for administration and planning, and as fundamental, yet flexible units in the totality of the nation? What is the nature and size of those regions best suited to the largest number of purposes, and how may they be determined? What are the limitations of regions too small and too numerous or too large and too few? What are the limitations of the incidental regions chosen for convenience or for political ends?

What, finally, are the limitations of regions which rest primarily upon physiographic character and ignore the units of states as legally constituted administrative and fiscal entities? The spectrum to be covered involves the whole range of physical, biotic, economic, human, and institutional resources, including, at the very least, the following list:

a. Land resources and use.
b. Water resources and use.
c. Mineral resources and use.
d. Commerce and commercial assets.
e. Manufactural resources and development.
f. Transportation facilities and patterns.
g. Urban formations and their problems.
h. Recreational needs and resources.
i. Population and human resources.
j. Social conditions and institutions.
k. Local government and public services.
l. Public works needs and programs.

Faced with this awe-inspiring list, the natural tendency of any would-be reorganizer is to turn to those who have preceded him. He will find if he does this, that proposals to abolish the existing states and replace them with larger regions have often been made in the past. Professor James M. Young of the University of Pennsylvania (13), Professor Roy Peel of Indiana University (14), Professor Patten (15), Professor Leland of the University of Chicago (16), Messrs. James Beck (17), William Kay Wallace (18), William Elliott (19), E. M. Barrows (20), Burdette Lewis (21), Representative E. J. Jones of Bradford (22), and Representative Benjamin Rosenthal of New York (23), have all made such proposals. Of these distinguished advocates, most have even ventured to suggest an ideal number of such regions. Peel favored nine, Beck preferred four, Jones suggested twelve, Wallace nine, Elliott twelve, Barrows eight, and Lewis six. But none really came to grips with the problem of designating the area that a region should have in a manner acceptable for present purposes. Some failed altogether to explain why they made their elections, others wrote vaguely of "natural" regions, the unsatisfactory nature of which will be discussed below. The most explicit was Elliott, who simply adopted the regions of the Federal Reserve System. A cursory inspection of the System's divisions, shows that one single monolithic region is created out of the states of Washington, Oregon, Idaho, Nevada, Utah, Arizona and California. This may be defensible for the single-function purposes of banking, but within it there cannot possibly be the degree of homogeneity and sense of identity required for a single Republic.

IV. FEDERAL PRACTICE

Nor are the administrative areas established by the Federal Government's agencies more useful, because they are all single-function regions like the Federal Reserve System. An article by James Fesler in the *Political Science Review* (24) contained an excellent, if by now outdated, survey of Federal Administrative Regions. It is cited despite its vintage in the certainty that the problem has increased, rather than diminished, since it was made and that a similar survey made today would simply result in a still greater proliferation of regions. Fesler found that 72 federal agencies had territorially defined the jurisdictions of their field agents. Since some agencies performed several functions, for each of which they divided the country differently, there were 106 schemes in use for federal administration. From this he was able to concoct a rather interesting table, which revealed that apart from the natural proclivity towards using existing states as regions, there was little consensus on the ideal number. Thus nine agencies used twelve regions each, two used thirteen, one used fourteen, two used fifty-four, and one even used eighty-three. It should be remembered that this analysis merely concerned the *number* rather than the area of regions used, so that, for example, although nine agencies used twelve regions, these would probably have different territorial limits.

The deficiencies of such single-function regions for present purposes can be illustrated by examining what is probably the best known regional arrangement—that of the Census Bureau. There are nine divisions of states: New England, Middle Atlantic, East North Central, West North Central, South Atlantic, East South Central, West South Central, Mountain and Pacific. There is little to be said for the arrangement, other than for the purposes of gathering census data, because it lumps together the grazing and cattle country of Wyoming and Montana with the deserts of New Mexico and Arizona, the Mormons of Utah with the fleshpots of Nevada, all under the appellation "Mountain." Similarly, Delaware and the District of Columbia are lumped with South Carolina and Georgia, a division which gives them a southern character they do not possess. The same argument applies to even the most basic planning functions. The territories involved in planning for water, minerals, forest use, recreation, agricultural production and other aspects of economic life rarely coincide. They could perhaps be made to coincide under the Republics if some concessions and compromises were made, but the divisions used by the Federal Government with no incentive to make regions coterminous, are of no practical use for the purposes of dividing the country into Re-

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[1] References (1) through (11) appear in part I, CONGRESSIONAL RECORD, Mar. 10, 1970.

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publics, which must by definition be multi-function regions.

V. WHAT IS NATURAL?

The so-called "natural" regions used by most writers on regionalism, simply dividing the country into such classifications as "spring wheat region," "interior mixed farming region," and "Appalachian upland region," suffer from similar defects. They simply center on one aspect of the problem, allowing geophysics to exclude other considerations. To take but one illustration: all schemes which divide the country into geographic regions consider the Appalachian Mountain region to be a region unto itself. Yet, this is wholly unsatisfactory from a socio-economic point of view: it comprehends in New England, in New York and in Pennsylvania many of the highest indices of civilization and wealth at the same time that the lower reaches include some of the most isolated and backward areas of the whole country. To this must be added great contrasts in climate, great distances in travel, great contrasts in culture and in history, so that by any test of homogeneity it cannot be considered an administrative and planning unit from human, cultural, political and economic ends.

There is in short a region for every purpose: a geographer's region, an ecologist's region, a social scientist's region, an anthropologist's region, an economist's region, a political scientist's region, and so on. There is even a division of the country for social psychologists. Thus Professor Giddings claimed to have found that the nation could be divided according to the preponderance of four personality types: *forceful,* along the seaboards, Atlantic and Pacific, in the Ohio Valley and in the Great Plains area; *convivial,* the southeastern portion of the nation; *austere,* along the New England Coast and Westward just south of the Great Lakes into Iowa and Kansas; and the *rationally conscientious* type, confined to the large cities (25).

Somewhat more reasonable is metropolitan regionalism, or the creation of city states. Under this proposal, of which Professor Charles Merriam is the most notable proponent, states would be made out of the metropolitan areas surrounding large cities. It is based on the very reasonable claim that, for example, the Philadelphia area really includes not only the city and county of Philadelphia, but also the adjacent suburban counties in Pennsylvania, much of Southern New Jersey from Trenton down, and Northern Delaware as far south as Wilmington. Similarly, in the New York area, it is argued that socially and economically, northern New Jersey and southwestern Connecticut are integral parts of the greater city of New York.

VI. METROPOLITAN REGIONS

Taking the major metropolitan areas and examining the pattern of newspaper circulation (and hence metropolitan influence) around them, the National Resources Committee constructed a map showing seventeen regions. But such a scheme, like the others discussed above, proceeds from one interest: the admittedly vast problem of urban crisis. It totally ignores the broader aspects of resources, economic patterns and regional interests. The region under such a scheme would merely be an extension of the city. The Committee's report concludes: "It is by no means certain that planning has not arisen at least in part out of the necessity of preserving local rural culture and resources against chaotic economic and social forces emanating from the city. Even were cities themselves carefully planned, this would still be true, for the city is an organism whose very nature places its nutritive processes above larger regional considerations" (26).

A very similar proposal is that of regions based on administrative convenience. In such a scheme, ten to twenty cities would be selected as subnational centers, and a unit of territory arbitrarily assigned to each. The criterion would be administrative convenience, which when closely examined reveals itself to consist of accessibility by rail, road and air, and of proximity to federal field offices. Such regions would, however, not be regions in any chorographic sense, but would simply resemble those now used by federal departments and bureaus, wherein the regionalization has been for departmental convenience. In them composite factors which create regionality are ignored.

This scheme, like the city-states proposal, weights metropolitan influence heavily. This is because the transportation and communication facilities of a place are usually commensurate with the size of its population. Consequently the larger cities would invariably be the centers of regions based on administrative convenience. The areas naturally tributary to such cities are not, however, regions in any real sense of the word. Moreover, in some areas there are no large cities. The absence of city-creating factors in a given area does not diminish its regionality. For example, the Great Lakes Forest and cut-over region contains only one city, Duluth, neither very large, nor very conveniently accessible from other parts of the country. It is a clear-cut region nevertheless. Similarly, the hill region of Ozarkia and the southern Appalachians, and the forest and recreational region of northern New England do not possess any large cities at all. A division of the country on the basis of administrative convenience would not reflect the regionality of these areas, but would simply attach each of them as a whole or in several unrelated parts to the closest city or cities.

VII. GROUPING THE STATES

Regions based on river drainage basins suffer from the same defect. They are regions in one sense only. In other senses, there may be greater homogeneity between areas near the source of the great rivers creating the drainage basins, than between areas at the source and in the valley of the same river. In other words, the areas at the source of the Mississippi and Red Rivers, may well have more in common than they do with the Mississippi Delta Region and the city of Chicago respectively.

The final scheme of regionalization commonly discussed is that of a grouping of states. This, on all counts seems most useful, or at any rate, the least unsatisfactory. Its great advantage for the purposes of creating Republics out of the existing framework of states is that it is politically more realistic than any scheme which involves the wholesale violation of state lines. A Republic consisting of a combination of states is far more acceptable an idea than the total abandonment of present state boundaries. To be sure, such a scheme requires a massive compromise, and in many instances will perpetuate the very faults of which the existing scheme of states has been criticized. There will still be problems which cross the boundaries of the Republics, since the grouping of four or five states together for one purpose, may ignore a multitude of other purposes which would require a different grouping.

Thus Missouri, Illinois and Indiana might be grouped together with their northern neighbors to form a north central region. This would result from considering the characteristics of the northern portions of these three states. But if attention were focused on the characteristics of the southern parts of Missouri, Illinois and Indiana, an equally valid claim could be made for grouping the states with their neighbors in the South. Texas, to take another example, lies partly on the Great Plains and partly in the Cotton Belt, and is both western and southern in its characteristics. It is clear therefore that this very substantial compromise has to be made if the group-of-states scheme is used.

On the other hand, it has hopefully been demonstrated that no other regional scheme, even if it wholly disregards state lines, is any more able to satisfy every requirement. There simply is no such thing as the perfect region for all purposes. That being the case, the clear advantages of grouping states together and not violating state lines, in purely practical terms, would suggest that such a scheme should be employed. A clear gain is still made over the existing fifty states, in that the number of jurisdictions is drastically reduced, as are the number of boundaries, thus obviously reducing the number of social, economic and planning problems which transcend those boundaries. Moreover, while not solving every problem, it is possible to make a highly rational grouping which would result not only in internal benefits to each Republic, but also in greater balance between them as parts of the national whole.

VIII. MAKING A CHOICE

Since such a scheme does not involve a wholly chorographical selection of natural regions, but is essentially artificial, it leaves the reorganizer with a choice of numbers. None of the schemes already mentioned have suggested more than twelve. This latter figure, it is suggested, was dictated merely by the convenience of using the already established Federal Reserve System; and lower figures correspond to the number of "natural" regions which the authors of various schemes thought they could discern. The scheme to be outlined below proposes twenty Republics as a satisfactory number. This figure is dictated partly by a conviction that some such number is required to prevent the emergence of huge and self-sufficient regions able in certain instances to defy the central government and place their own interests above those of the nation, and partly by the fact that some states are sufficiently *sui generis* or sufficiently rich and populous to be regions to themselves. Alaska, Hawaii, and New York State are examples respectively.

It will clearly not be possible to achieve a complete balance of population and economic strength between the various Republics, both because this would ignore other factors, and also because it would inevitably be short-lived. Some balance is aimed at, however, and even if Alaska and Texas are hardly equal in size and population, on the whole the balance can be a great deal better than it is at present with fifty states. Basically, a population of between five and fifteen million is aimed at, so that large and densely populated states will not be grouped together, nor will tiny and sparsely populated states retain their autonomy.

Despite the selection of twenty as the number reached by an intuitive, perhaps, but not arbitrary approach, the selection must still be based on comprehensive regionalism. As Harry Moore put it:

"Such a view of regionalism takes it out of the province of any one field of thought and demands the co-ordination of all lines of approach. And it is just this correlating and co-ordinating of various factors which gives the regional approach its greatest value. It demands that the planner or investigator see the region as a whole. It is the interrelationships of various factors in regional analysis which give to the region its distinctive character, its way of life. Environmental and cultural factors hunt in packs; as has been remarked, the phenomena which mark a region are not simply assorted, but are also associated; they exist in interrelationships" (27).

IX. SIX REGION PLAN

The Republics must therefore approximate the largest possible degree of homogeneity, measured by the largest number and variety of indices or units of homogeneity for the largest number of purposes.

Perhaps the most comprehensive study of regionalism in America was made by Odum and Moore (28). In a volume some six hundred pages long a variety of indices and index groups are used in an attempt to define major societal group-of-states regions. The authors concluded that such a definition was indeed possible. They divided the country into six regions.

These regions consisted of:

1. The Far West, Washington, Oregon, Nevada and California.
2. The Northwest, Idaho, Montana, North Dakota, South Dakota, Wyoming, Utah, Colorado, Nebraska and Kansas.
3. The Southwest, Arizona, New Mexico, Oklahoma and Texas.
4. The Middle States, Minnesota, Iowa, Missouri, Wisconsin, Indiana, Ohio, Illinois and Michigan.
5. The South, Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, West Virginia, Virginia, North Carolina, South Carolina, Georgia, and Florida.
6. The Northeast, Maryland, Delaware, Pennsylvania, New Jersey, New York and the six New England States.

The border lines of these regions were determined by contiguity, population movements, physiographic features, natural resources and indeterminateness of culture domination. As sub-headings of the five index groups, a variety of random miscellaneous indices were used for delimitation. Two criteria for the selection of these indices were applied: dependability and differentiation. Dependability includes not only accuracy and sheer correctness of figures, but also validity and reliability of data, proper sampling and proper labeling. The value of differentiation is obvious, since if no differences are shown, there is no reason to use more than one index in the group. On this basis, the following random indices were selected:

1. Population.
2. Rural population.
3. Urban population.
4. Area.
5. Racial balance of population.
6. Wealth.
7. Cotton.
8. Petroleum.
9. Iron.
10. Tenancy.
11. Swine.
12. Butter.
13. Wheat.
14. Horses and mules.
15. Tobacco.
16. Homes with radios.
17. All cattle.
18. Corn.
19. Number of farms.
20. Farm income.
21. Forest area.
22. Value of vegetables.
23. Railroads.
24. Cows milked.
25. Chickens.
26. Eggs.
27. Gallons of milk.
28. Illiteracy.
29. Value of mineral production.
30. Automobile sales.
31. Developed water power.
32. Gainfully occupied population.
33. Value added by manufacture.
34. Total value of manufactured goods.
35. Coal.
36. Savings.

X. SEVEN NEW REPUBLICS

From these indices, and for reasons which it took a six hundred page volume to explain, six major societal regions were established. The proposal for the selection of Republics is to respect these major groupings in their relations to each other, but to sub-divide them in order to obtain the number and the size of regions desired. The principal boundaries between the six regions, the lines separating the Far West from the Northwest and the Southwest, the Northwest and Southwest from the Middle States and the Southeast, the Southeast from the Middle States, and both from the Northeast, are respected with one very minor exception. The present scheme attempts to sub-divide the six major regions into seventeen Republics without violating the relations of the six regions to each other. The remaining three regions are Alaska, Hawaii and Micronesia, and Puerto Rico, together with the Virgin Islands, each of which must be a Republic unto itself, both because of distance and also because of racial, cultural and socio-economic factors.

The result of this sub-division is twenty Republics.

The first Republic consists of two Pacific Northwest states, Washington and Oregon.

The second of Northern California and Nevada. This division of California is the only instance in which a state line has been violated. It is felt that this is justified by the inherent differences in character between Northern and Southern California, a difference of which different climate, vegetation and divergent political orientation are but a few examples. The dividing line is drawn from the point where the California, Nevada and Arizona borders meet just north of Needles, diagonally across to a point on the Pacific coast near Morro Bay, just north of San Luis Obispo.

The third Republic consists of Southern California, Arizona and New Mexico, and is the only instance in which a dividing line of the six major societal regions previously discussed is violated. It is felt that this is justified, both by the similarity in outlook of the population of these states, and also by the desire to counterbalance the arid and unproductive areas of Arizona and New Mexico with some of the agricultural and industrial wealth of Southern California.

The fourth Republic consists of three mountain states, Utah, Colorado and Wyoming.

The fifth Republic of the cattle states of Montana and the two Dakotas.

The sixth Republic embraces two Great Plains states, Nebraska and Kansas.

Texas and Oklahoma as placed together to constitute the seventh Republic.

The dairy and farming states of Minnesota and Iowa join to form the eighth.

Illinois, Indiana and Missouri form a North Central Republic, the ninth.

The tenth Republic consists of the cotton growing states of Arkansas, Mississippi and Louisiana.

The eleventh of the industrial and farming states of Michigan, Wisconsin and Ohio.

The twelfth Republic comprises the tobacco and cotton states of Kentucky, Tennessee and Alabama.

The thirteenth the tobacco and fruit growing states of Florida and the Carolinas as well as the cotton state of Georgia.

The fourteenth Republic consists of the Virginias and Maryland.

The fifteenth consists of the states of Delaware, New Jersey and Pennsylvania.

The sixteenth solely of the state of New York.

The seventeenth Republic embraces the six New England states.

Alaska forms the eighteenth.

Hawaii, Micronesia, American Samoa and Guam the nineteenth.

Puerto Rico and the Virgin Islands the twentieth.

No claim is made that such a division is perfect. Indeed it has been suggested that perfection is hardly possible. It is suggested, however, that such an arrangement represents a substantial improvement over the existing fifty states. This is not only for the obvious reason that the absolute number of different jurisdictions is reduced, but also because the resulting Republics are more uniform in size and economic power. Furthermore an attempt has been made to group the states in such a way as to include within each Republic as much political, social and economic homogeneity as possible. Clearly some problems will still have to be solved by compromise between individual Republics, but it is hoped that they will be better able than the existing states to cooperate and function together as integral parts of a national whole.

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(26) National Resources Committee: 'Regional Factors in National Planning and Development' December 1935, Page 159.

(27) Moore: 'What is Regionalism?'

NAVY LEAGUE SYMPOSIUM

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. HOSMER. Mr. Speaker, it was my pleasure to participate in the Navy

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League Oceanic-Maritime Symposium held at the Sheraton-Park Hotel in Washington on February 17. The symposium probed a theme of "Wealth and the World Ocean," and endeavored to examine the prosperity portent of the President's national maritime policy, providing incentives for the revitalization of the American merchant marine.

I should like to commend the Navy League for its conduct of this significant symposium relating directly to the national interest and the maritime objectives of the Nixon administration.

Two of the most stimulating papers prepared for presentation at the symposium were those by George Lowe, Maryland University lecturer and recognized writer on ocean strategy, and the Honorable James D. Hittle, Assistant Secretary of the Navy for Manpower and Reserve Affairs.

I am including these papers in the RECORD because of their national importance to all my colleagues within the Congress:

THE OCEANIC OPTION

Nearly 200 years ago William Henry Drayton, one of South Carolina's leading planters and also Chief Justice of the state's Supreme Court, made a prediction concerning the United States of America. This new national state, he wrote, "attracts the attention of the rest of the universe and bids fair by the blessing of God, to be the most glorious of any upon record."

Today, after nearly two centuries of independence, there is doubt and uncertainty concerning America's role in the world and concern for society and civility at home. Tomorrow, in fact, President Nixon is going to give the first annual State of the World address. Parenthetically, I am pleased that this overview comes from the President rather than, as in the past, from Secretary McNamara's posture statement. Obviously, the President will speak for himself, but it is my feeling that what we are witnessing is not, as many commentators fear, a return to isolationism. No, I think that the political-military policy that has been expressed in the Nixon Doctrine first ennunciated at Guam last summer is only the beginning of a great re-examination of America's role in the world. And out of this re-examination will come a new foreign policy, a new military policy, weapons systems, force levels, and the modified institutions to carry them out.

Everyone by now is familiar with the policy of Vietnamization, the gradual turnover of the burden of fighting the Vietnamese War to the South Vietnamese. In the months ahead I am sure we will hear more about the Europeanization of America's commitment to Western Europe. Thus on both edges of the great Eurasian land mass, American political-military policy is being re-examined, and it appears inevitable that the troops introduced into Eurasia as the result of World War II will be coming home. We are witnessing the beginnings of the Americanization of our foreign policy. The years 1970–1976 will most likely be the transition years between two very old policies that have competed with each other since the founding of our Republic—isolationism and interventionism.

It is entirely possible that history's verdict on the Cold War will be that we won it a decade ago. Unfortunately, we didn't realize it, and we went beyond our Cold War victories. In the sixties we fashioned a globalist policy, which in turn over-extended us abroad and threatened domestic tranquility at home.

The Marshall Plan was very successful. Western Europe was saved and is today stronger and more prosperous than ever in history. The Red Army has not moved one inch to the West since VE Day in 1945. And in Asia, Japan has become the third industrial power in the world and promises, in Herman Kahn's opinion, to become Number One by the year 2001 A.D. The unnatural situation of 1945, that is, only two great powers, is no longer true. Today we live in a world of multi-powers with the ever-present possibility of new powers or super-powers arising, i.e., United Europe, Brazil, Japan, and China. The central fact of international life in 1970 is that the world has changed tremendously since 1945.

The following factors must be considered as having permanently changed the immediate postwar climate: Chinese H-bomb and delivery system; Russian-Chinese border conflict; Vietnamese War and wars of national liberation; American-Russian strategic parity; the new strategic technology (ABM, MIRV); the new Europe (after de Gaulle); possibility of European deterrent; United States retrenchment after Vietnam; the continuing Mid-East crisis; the economic and political rise of Japan and Germany; the accelerating population explosion; the unequal consumption of the world's natural resources; growth of Soviet naval power; new balance of power in United States government (Executive versus Legislative); the growing argument over national priorities; rising anti-militarism in the United States; increasing urbanization of the United States and the world; decline of Britain east of Suez; and opening up of space.

During these years, 1970–1976, our policy-makers must digest this changed international reality. It also seems likely that these years will witness a slow disengagement from the continental aberrations made necessary by our victory in World War II over Germany and Japan and by the postwar aggressiveness of the Soviet Union. This disengagement does not have to and indeed isn't the same as the nationalism and isolationism of 1815–1917, 1920–1941, or the interventionism and internationalism of 1776–1814, 1917–1919, and 1941–1970.

As a part of this new re-examination I would suggest that the policy-maker consider the implementation of the oceanic option, for it is a concept whose hour has come. In a recent *Newsweek* article on the SALT talks, Stewart Alsop wrote about an idea circulating in high places: "to propose to the Russians the phased elimination of *all* land-based intercontinental ballistic missiles from the territory of both the Soviet Union and the United States."

1. This would mean the invulnerable thermonuclear deterrents to total war of both the super-powers would be hidden beneath the Great Ocean. Their great deterrents would have no fixed addresses. America's mobile deterrent would be on patrol far from continental America and her great cities. The incentive for an *open-ended quantitative* arms race would be over. A *selective or qualitative* strategic arms modification could begin.

2. On the political front there is also an advantage: baseless naval task forces keeping the peace on the rimlands, backing up a policy of limited liabilities, a policy that is tied into vital American interests as seen in the needs of a great insular nation moving into our third century of independence.

3. There is economic advantage as well: The fleet would guard the essential ocean lifelines of our post-industrial society and those of our allies. The fleet would guarantee that these lifelines are open to all in peace and to us in war.

4. A revived merchant marine will help the chronic balance of payments by hauling a greater per cent of the carrying trade (the historic keys to maritime wealth and greatness).

5. Our technology could produce a nuclear clipper ship era in the seventies and eighties, eventually leading to 100-knot, completely automated, ocean-spanning ships. These new vessels would do for our merchant marine and society what the clipper ship did for the 1850's or the Polaris subs did for America of the 1960's. Admiral Morison has written of clipper ship builder Donald McKay's great clipper ships:

"Never, in these United States, has the brain of man conceived, or the hand of man fashioned, so perfect a thing as the clipper ship. In her, the long-suppressed artistic impulse of a practical, hard-worked race burst into flower. . . . For a brief moment of time they splashed their splendor around the world, then disappeared with the sudden completeness of the wild pigeon."

Where are our new Donald McKays, men possessed of the unusual combination of "artists and scientists, of idealists and practical men of business?" Where are our new *Flying Clouds, Great Republics,* or *Glories of the Seas?*

6. The oceans can be, indeed, must be a source of food and raw materials for a resource-deficient nation and world.

7. Finally, there is also moral and spiritual vitality to be gained from a seaward turn. This last frontier has challenges aplenty for our youth, and by the efficiency of this oceanic option it will see America stronger at home as a greater proportion of our limited resources are redirected to health, education, control of pollution and improvement of the quality of American life.

The challenge then is can we fashion a new grand strategy to match the promise of our greatness? Judge Drayton, whom I quoted at the beginning of this paper as having a grand vision of this new great state of the West, also had some ideas on how to carry out the promise of American life. This early great enthusiast for naval power wrote in 1776:

"If America is to be secure at home and respected abroad, it must be by a naval force. Nature and experience instruct us that a maritime strength is the best defence to an insular situation. Is not the situation of the United States insular with respect to the power of the old world: the quarter from which alone we are to apprehend danger? Have not the maritime states the greatest influence upon the affairs of the universe?"

Indeed, one can argue historically that the South Carolina jurist was correct when he wrote that naval actions have decided the superiority of nations—of Greece over Xerxes, of Rome over Carthage, of England over France, and to update the judge's observations, England over Germany, and of the United States over Germany and Japan.

We are a part of a three milennia-long struggle of continental powers versus oceanic powers. The United States can be either. Alone of the great powers, America faces both Great Oceans, the Atlantic and Pacific. This elementary geographic fact gives the United States the oceanic option. It seems to me that the moment is at hand when we should carry out the implications of our splendid geographic position, our unexcelled oceanic heritage, and our superior naval expertise and technology. If the seventies are going to see America exercise her oceanic option, we will need the maritime forces to do it, and this means *ships* of all descriptions. These ships will enable us to carry out a new policy of national independence that is free, free at last, from French, British, German, Japanese interests and is dedicated to real, not imagined, *American interests* as they confront the international realities of the seventies and eighties—the power constellations in Western Europe, Central Europe, and Eastern Asia. We must scrap the illusion that America has inherited the mantle of the British Empire with all its global responsibilities.

This global pretentiousness began with President Truman's Doctrine in 1947 and reached its high water mark in 1968 with 548,000 American troops in Vietnam. This globalist policy has been slowly dissolved by the existence of invulnerable thermonuclear weapons and by the nationalist and Communist guerrilla. These two weapons have helped dismantle all empires in the last twenty years. What is needed is to admit to ourselves that this is so and devise a new policy. We must protect and perfect this great American nation, and the only way to do it without succumbing to a new isolationism is by adopting a new oceanic policy for America's third century.

As we voluntarily return, at least part way, to our insular status, and as we re-think our grand strategy, our aim should be to create a new and wholly American foreign policy for America's third century. It is my contention that American oceanic doctrine and strategy properly understood and implemented could carry out implications of this new foreign policy. They are, I believe, implicit in the Nixon Doctrine, which is meant to be applied not only in Asia but world wide. It will be interesting to apply the oceanic test to President Nixon's State of the World message tomorrow to see if there is any evidence of an oceanic shift. This may be one of the shortest lived prophecies of all time, but for our nation's sake, I hope not because I believe logic, weapons systems, geography, technology, and international realities all suggest that President Nixon will in the years ahead begin to implement the various pieces of the oceanic option. It is my optimistic belief that all the pieces of an oceanic renaissance are lying around in various stages of perfection just waiting to be picked up and synthesized by a new Mahan or Teddy Roosevelt. If this is to come about, certain institutional changes will probably be necessary:

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1. The President should have a new oceanic advisor.

2. Because oceanic policy cuts across many of the great departments, it is perhaps advisable that all Cabinet officials be included in the deliberations of the National Security Council.

3. Congress should once again carry out the implications of Article 1, Section 8 of the Constitution, where the historic distinction is made between supporting armies and maintaining a navy.

In other words, for the oceanic option to have a viable chance, it will require a new partnership between the Legislative and Executive branches and an in-depth understanding by all elements of our people. Then and only then will America be set on the course implementing the promise of becoming a great maritime nation.

A billion years ago life came out of the oceans and settled on the land. Now man is returning to the seas for his security and sustenance. Perhaps we can realize a new sense of world community through oceanic cooperation now that Apollo has revealed earth life to be a blue-green island in a lifeless universe.

REMARKS BY HON. JAMES D. HITTLE

Traditionally, the United States Navy has provided the intellectual stimulation and the scientific spark for national progress on the oceans. The Navy's transition from sail to steam and from muzzle loading cannons to the nuclear tipped Polaris missile has been the result of naval progressiveness and innovation.

The scientific achievements of naval people are noteworthy in oceanography, meteorology, geophysics, geology and physiology. Rickover, in harnessing the atom for maritime propulsion initiated a revolution in waterborne transportation.

Without an expandable elite corps of professional seafarers, this nation can never tap—much less capitalize—on the vast wealth of the world ocean. Men are needed to man our fleets, to fish the waters; men are needed to explore the deep and for maritime research—basic and applied—to keep our seagoing base—both commercial and military—modern, efficient and competitive. These men must be educated. To be strong on the sea, a nation must know the seas.

Those that follow the seas seeking satisfying occupations are different from their counterparts who cling to the land. Their experience is different, their motivation is different, their education is different, their interests and attitudes are different. For the environment is different, and it requires different perspectives and differing skills—even a different kind of education.

Yes, if America is to regain its prowess on the oceans, first and foremost, there will be a greater need for the knowledge of these men who sail the seas to infuse the maritime thought derived from seagoing habits into the national bloodstream.

For progress, productivity, in an oceanic sense, we are utterly dependent upon people who generally cannot be considered the cross-sectional norm of the American people in our fast-moving world of the 20th Century. The Navy recognizes this fact, the maritime community also, but as yet, the nation does not.

Despite the naval and maritime background of some high ranking officials and educators, relatively few public and private leaders are truly maritime trained and educated to the full grasp of the maritime view. Consequently, there is a requirement for expanded education to give our people the perspective and the conviction as to our role on the world ocean.

Though often overlooked, the U.S. Navy is, in fact, one of the largest and most complex educational institutions in the United States. Naval leaders—civilians and uniformed alike—are becoming more aware of this reality daily. And, the fact is, we are constantly moving to expand this educative role. The Navy for years has been producing men who contribute to the repository of national seafaring knowledge and thus enable the nation to undertake its endeavor on the oceans.

Both in recognition of the technological needs of the new, modern Navy, and as a means for meeting the educational goals of the individuals in the service, a rapid expansion of the educative process is underway. There has been major emphasis placed upon broadening the educational curriculum of the Navy for several years.

Let me briefly touch on a few examples:

Certainly the length of Polaris patrols gave Navy men free time and attendant psychological problems of boredom, . . . motivation, . . . and on the positive side, . . . motivation to accelerate the Navy's emphasis on educational opportunities. In cooperation with Harvard University the Navy implemented the Program for Afloat College Education, (better known as PACE). The Pace program consists of four critical elements: (1) Introductory lectures are given by the college professors before the ship leaves on an extended deployment, (2) At sea, the students study applicable text material, which is supplemented by (3) A series of fifteen thirty-minute filmed lectures, (4) At the end of the deployment the professors again come aboard ship, give summation lectures, then final examinations.

There are now four schools that cooperate with the Navy in the PACE program.

1. Harvard University.
2. University of Hawaii.
3. San Diego State College.
4. University of South Carolina.

In fiscal year 1969, 3,100 men, aboard 98 ships participated in 202 courses. The cost to the Navy was $377,000. In addition, eight courses were given in Antarctica by two Harvard professors who wintered over with the party.

The aircraft carrier *John F. Kennedy* is also working with Old Dominion College in Norfolk, Virginia, on a similar education program. Certain officers on the *John F. Kennedy* have been qualified by the school to teach extension courses on board the carrier. The students are helped with their tuition and fees through the Navy's Tuition Aid assistance program.

The end is not education for education's sake, but rather to give depth to our program resulting in the provision of people well-versed in operations at sea to round out their disciplines and provide a maritime base for national endeavor and national thought pertaining to the seas.

The Navy man with long separations from home and a rigorous life at sea, has always been confronted with many moves and changes of station or duty. Since the naval life is exciting, arduous and self-satisfying, the men—for the most part—enjoy their service. They invariably are attracted to the seas as a masculine career that is intensely challenging. The wives, on the other hand, understandably, lack enthusiasm for their husbandless existence. They frequently win with their subtle strategies designed to gain a more stable home life. I would be less than candid if I didn't state that recent trends have resulted in fewer officers and men being attracted to naval careers. But whether our people remain in service for short terms or for a full professional career; as a general trend, the Navy provides people with a foundation of oceanic knowledge and experience from which the nation can build.

The Navy as a facet of leadership and concern for its people, in recent years, has placed ever-expanding emphasis on education. This has helped in motivation of the men who man the Navy and Marine Corps.

At the Naval Academy this trend has been particularly dramatic in recognition of technological change and the need within the Navy for officers with Masters and Ph. D. degrees. Though the mission and emphasis at the Academy must remain the production of naval officers, the transition to a broadened curricula has reinforced the prime result of producing a well educated, well motivated potential leader, capable of commanding our fleets or elements of the Navy.

The Navy Enlisted Scientific Education Program—accentuates this educational trend for enlisted personnel which enables them to receive a college education and go on to become an officer. 20th Century technology has broadened the base of the educational requirement and there are new fields for professional development in ship design and jet aircraft in the Navy. A whole new vista of occupations has unfolded with nuclear power and missile space development, broadening the professional horizons of all our citizens. Through these modern career opportunities the military services hope to induce greater stability of our people. The dilemma is, of course, that industry requires the men who have received special education and experienced training in the new fields. Though the Navy does not enthusiastically regard the termination of service for a career in industry, the nation gains either way—for the individuals concerned contribute to the national pool of seafarers, providing a hard-core of educated enlightened individuals who understand what the uses of the seas portends in terms of security and prosperity.

Perhaps a little degression along these same lines is in order. Though Navy tends to be technologically oriented—there are innumerable facets of oceanic endeavor. Sea power entails all elements of the nation's resources—the totality of the nation's endeavor is encompassed by national strategy and there must be academic and practical attention given to global geography, international affairs, diplomacy, trade, commerce and the law of the sea.

The Navy encouraged education in these many fields to gain expertise in the disciplines that pertain to the sea. Additionally, our NROTC programs and Junior NROTC, which are oriented toward the sea and gaining people for the sea service, contribute essentially to the numbers of Americans who are aware of the oceans and their meaning.

These people the nation must produce in far greater numbers if we are to attain our objectives of using the oceans to the fullest and a primer of our prosperity and a means for insuring the security of the nation and the safety of our citizens. Both are a function of people, their education, their motivation and their goals in seeking a productive and satisfying way of life through contribution to society as seafarers.

FREEDOM'S CHALLENGE

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. HOGAN. Mr. Speaker, I am very pleased to report that a young constituent of mine, Miss Susan Busse, of Bowie, Md., has won the Voice of Democracy contest for the State of Maryland. This contest is sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. The contest theme was "Freedom's Challenge."

Miss Busse's winning speech follows:

FREEDOM'S CHALLENGE

(By Susan H. Busse)

Today, more than ever, the words "Freedom's Challenge" have a significant meaning. Perhaps at no time in history has the challenge been so great!

In America, as well as in other parts of the world, people are crying out for their own freedoms: freedom to live without discrimination, freedom to speak out, freedom to resist the draft, freedom to protest—either for or against the government—and so on.

American citizens, in particular, are extremely concerned with their rights of freedom. We are proud that we have our freedoms, guaranteed by the Bill of Rights and enforced by the law. Both the "dissentor" and the "patriot" have a common ground: they each want their own freedom—the right to do as they please.

The "patriot" fears communism or fascism. These very words make him tense and filled with hate or fear—fear that through these forces he may lose his rights of freedom.

The "dissentor" feels that he will lose his rights of freedom too, but perhaps his fears are not so much for communism or facism but rather than he is losing his freedom to do as he pleases, perhaps not to fight if he desires.

I believe that we should fear division of our own people more than the outside forces such as communism or facism. For, if we are united, we will not fall to these forces, but we will overcome them—together.

Part of the great division in our country today is caused by large numbers of people acting in protest, while the silent *majority* are apathetic. We want our rights; we value our freedoms; but, some of us are not willing to sacrifice or speak out for them.

It is easy to condemn others—easy to say that others are doing nothing—but how about you?

Have you ever caught yourself merely reciting the pledge of allegiance without thinking of what you are saying? Or have you ever checked a box in front of a candidate's name—without being well versed concerning this man's views on controversial issues—and then even dismiss the action by saying, "One vote's not that important anayway." This is apathy. You see, it's not only *other* people.

We must overcome our apathetic feelings and replace them with enthusiasm. It is true that we have these rights of freedom now, but if we don't take the necessary precautions, we won't have them for long.

It is our generation's responsibility to retain our national heritage—to protect it. We must meet this challenge with determination and courage—the kind that is only developed when each individual searches his own soul for answers, then shares his answers with others.

This, in my opinion, *is* freedom's challenge. The challenge of uniting to cherish and protect the very freedoms we now enjoy.

WELFARE COUNCIL OF METROPOLITAN CHICAGO BACKS CIVIL LIBERTIES PROVISIONS FOR NEW ILLINOIS CONSTITUTION

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. MIKVA. Mr. Speaker, Illinois is now in the midst of a historic constitutional convention which will draft a new charter of government for our State. One of the most important areas of concern of the convention is the protection of individual citizens' liberties—liberties which placed in ever greater danger by fearmongering advocates of repressive anticrime legislation.

An important contribution to the convention's consideration of civil liberties issues has been made by the Welfare Council of Metropolitan Chicago. The council has adopted two important recommendations on the subjects of bail reform and invasion of privacy. I believe that delegates to the constitutional convention would be wise to consider carefully the recommendations which the welfare council has made.

Since the council's recommendations have some relevance to issues which will soon be coming before this House, I insert them at this point in the RECORD for the benefit of my colleagues.

The document referred to follows:

WELFARE COUNCIL OF METROPOLITAN CHICAGO

The Welfare Council of Metropolitan Chicago Takes the Position That: Every person should be eligible for admission to bail and should be released from custody upon his own recognizance while awaiting trial unless, after an examination of fact, the court deems financial surety necessary to assure his appearance at trial, in which case the person should be released upon deposit of ten per cent of financial surety set.

Therefore, The Welfare Council of Metropolitan Chicago Takes the Position that the Illinois Constitution Should Contain:

BILL OF RIGHTS

All persons shall be bailable. Financial surety shall be used only to assure the appearance of the accused at trial and shall not be excessive.

This Position Is Taken For The Following Reasons:

1. It is man's inalienable right to be judged innocent until proven guilty. This was regularized by William the Conqueror through the institution of "frank-pledge," whereby groups of ten men in every shire hundred became hostages for each other's good conduct. Further protection for the rights of the accused came with the Magna Carta when King John guaranteed every freeman from being taken or imprisoned but by lawful judgment of his peers of the law of the land.

2. Pre-trial imprisonment, through denial or release on bail, implies guilt. The presumption of innocence until proven guilty beyond a reasonable doubt, however, is the very foundation of the American concept of criminal justice. That presumption is all-pervasive; it is not qualified and does not hold that all men are presumed innocent until proven guilty beyond a reasonable doubt "except those accused of certain offenses." If any accused person has the right to bail, all accused persons must have such right.

3. Bail requiring financial surety should be used only to assure the appearance of the accused at trial. But the posting of such surety is not, in fact, a guaranteed deterrent from flight to those who have money. Individuals have forfeited the largest financial bonds to avoid income tax convictions. Factors other than financial surety are instrumental in bringing a man to his court date, *e.g.*, family ties, employment, and efficiency of modern police.

Under the ten percent of bail deposit rule, the court retains ten per cent of the amount deposited (or one per cent of the total) to cover costs. Release on bail eliminates the cost of maintaining the accused in jail while awaiting trial. These income-producing or money-saving aspects should not be taken into consideration in deciding whether financial surety is necessary, or in what amount, as they do not bear on securing the appearance of the accused at trial. By giving proper weight to the non-financial reasons a defendant has to reappear in court, this possible mis-use of bail is avoided.

Illinois Criminal Law (Ill. Rev. Stat. 1967, Ch. 38 § 110–2) declares in part: "when from all the circumstances the court is of the opinion that the accused will appear as required either before or after conviction, the accused may be released on his own recognizance," The right of indigent defendants to be eligible for release without posting financial surety was upheld in *Bandy* v. *United States*, 82 S.Ct. 11 (1961).

4. The imposition of "excessive bail" is prohibited statutorily, constitutionally, and by the rules of court procedure. Traditionally, however, the determination of what is "excessive" has been based primarily on the nature of the charges. This has brought about inequity, though unintended by the drafters of the principle. If two jurisdictions regard the same offense with differing degrees of severity, how might "excessive" be determined?

Presently, for many offenses, the amount of financial surety required is preset by rule of court according to the crime charged. Thus the arresting officer has a major role in determining the amount of surety required, then that amount is "excessive" for rest a man on a city charge of disorderly conduct, and the amount of surety required would be $25. If the officer chooses to make the arrest on a state charge of disorderly conduct, however, the surety would be $100.

If a person has not the financial means to pay ten percent of the financial surety required, then that amount is "excessive" for him. The present bail bond procedures discriminate against the poor since they are the ones who cannot pay the ten per cent deposit of financial surety now required in the State of Illinois. This is evidenced by the large number of men held in the Cook

County Jail awaiting trial. For them, bail is both "excessive" and punitive.

In a decision by the United States Supreme Court involving excessive bail, it was stated: ". . . Thus, the amount is said to have been fixed not as a reasonable assurance of their presence at the trial, but also as an assurance they would remain in jail. There seems reason to believe that this may have been the spirit to which the courts below have yielded, and it is contrary to the whole policy and philosophy of bail. This is not to say that every defendant is entitled to such bail as he can provide, but he is entitled to an opportunity to make it in a reasonable amount. I think the whole matter should be reconsidered by the appropriate judges in the traditional spirit of bail procedure." *Stack* v. *Boyle*, 342 U.S. 1, 10, 72 S. Ct. 1, 5 (1951).

5. In summary, the denial of eligibility for admission to bail to persons accused of certain offenses also denies a basic principle of our Democracy, that a person is presumed innocent until his guilt is proved. The misuse of bail requiring financial surety for any purpose other than to assure the appearance of the accused at trial, such as for preventative detention, retribution, or to sop the public ire, does not serve the ends of justice but subverts these ends. The ambiguity of the word "excessive," and the prevailing interpretation, have resulted in that the surety required is based largely on the charges filed rather than at the discretion of the court having determined what would be reasonable and not "excessive" according to the individual's means.

CONSTITUTIONAL CONSIDERATIONS

The Federal Constitution

The Eighth Amendment to the United States Constitution provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

The "excessive bail" clause alone implies that there is a right to bail. But even before the Eighth Amendment was adopted, the Judiciary Act of 1789, enacted by the First Congress, guaranteed a right to bail in all non-capital cases, and made bail discretionary in capital cases dependent upon "the nature and circumstances of the offense and of the evidence and usages of law."* In the case of *Stack* v. *Boyle*, the Chief Justice stated: "From the passage of the Judiciary Act of 1789, * * * to the present Federal Rules of Criminal Procedure, Rule 46(a)(1), 18 U.S.C.A., federal law has unequivocally provided that a person arrested for a non-capital offense shall be admitted to bail. This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of puishment prior to conviction.

* * * Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning." *Stack* v. *Boyle*, id., 4.

A recent comprehensive study of the constitutional history of bail concludes that the excessive bail clause of the Eighth Amendment "was meant to provide a constitutional right to bail . . ."** In 1962, the "cruel and unusual punishment" clause of the Eighth Amendment was held to be binding upon the states under the due process clause of the Fourteenth Amendment. *Robinson* v. *California*, 370 U.S. 660, 82 S. Ct. 1417 (1962). The year after that decision, the Court of Appeals for the Eighth Circuit took it "for granted" that the excessive bail provision also applies to the states. *Pilkington* v. *Circuit Court*, 324 F. 2d 45, 46 (1963).

The present Illinois Constitution

The State of Illinois has, in its present Constitution and by its Supreme Court decisions, imbedded into Illinois law the precept that there is a right to bail. The 1870 Illinois Constitution states:

Article II, § 7. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great; . . .

"Bailable" means only eligibility for admission to bail. It means that the court must give consideration to releasing a "bailable" person on bail; the court, in fact, may deny release of such person on bail if it is of the opinion that no surety will be sufficient to secure his reappearance for trial.

The present Illinois constitutional language provides that all persons shall be eligible for admission to bail except those accused of capital offenses "where the proof is evident or the presumption great." In other words, persons so charged are detained not because they may flee before coming to trial, but because they have been denied the presumption of innocence until proven guilty beyond a reasonable doubt. Thus the accusation itself in Illinois may be sufficient to imprison an individual before trial and before conviction, such being sanctioned by our present constitutional provision on bail.

Other State constitutions

A number of other state constitutions include provision relating to bail which are similar or identical to the language of the Eighth Amendment in the United States Constitution. An example is:

Michigan: *Article 1, Sec. 16*. Excessive bail shall not be required . . .

Many other state constitutional provisions on bail are substantively the same as Illinois', which limits the eligibility for admission to bail based on the charges brought. An example is:

Washington: *Article 1, Sec. 20*. All persons charged with crime shall be bailable by sufficient sureties, except for capital offenses when the proof is evident, or the presumption great.

There are a number of states which combine the two provisions, such as:

Alabama, Article 1, Section 16. That all persons shall before conviction, be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great; and that excessive bail shall not in any case be required.

The proposed Illinois constitution

The present Illinois Constitution, despite the basic concept that a person is innocent until proven guilty, limits eligibility for admission to bail on the basis of the crime charged. This qualification should be eliminated.

The Eighth Amendment to the United States Constitution is concerned primarily with the term "excessive," which concept is not included in the Illinois Constitution but should be.

However, the term "bail," in its legal sense, refers to pre-trial release. In the past, it has also been used to denote the financial surety imposed as a condition to admission to bail. The advent of pre-trial release without requiring financial surety (Release on Own Recognizance) requires a distinction in language for these two concepts. Thus, the use of the term "financial surety" in the language proposed.

To assure that the imposition of bail requiring financial surety will not be used for preventative detention or as pre-trial punishment, a specific statement as to the purpose of requiring financial surety should be included.

A declaration that the sole purpose of requiring financial surety is to assure appearance at trial will eliminate the tendency to like the phrase "excessive" solely to the nature of the charge without considering the financial means available to the accused.

Therefore, The Welfare Council Of Metropolitan Chicago Takes The Position That The Illinois Constitution Should Contain The Following Provision:

ARTICLE —

Bill of Rights

Sec. —. All persons shall be bailable. Financial surety shall be used only to assure the appearance of the accused at trial and shall not be excessive.

Approved by the Board of Directors on December 12, 1969.

INVASION OF PRIVACY

The Welfare Council of Metropolitan Chicago takes the position that: Unreasonable searches and seizures of persons and property, and all interceptions of private communications should be prohibited.

Therefore, the Welfare Council of Metropolitan Chicago takes the position that the Illinois Constitution should contain:

BILL OF RIGHTS

Searches and seizures

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated by any person. No search warrant shall be issued except upon probable cause supported by oath or affirmation, and the place to be searched and the persons or things to be seized shall be particularly described in the warrant.

The right of the people to be secure against any interception of their oral or other communications shall not be violated by any person.

The right of the people to be secure against unreasonable arrest or detention shall not be violated; and no person shall be arrested or detained unless a warrant has issued or unless there is probable cause to believe that the person is committing or has committed an offense.

Evidence obtained in violation of the foregoing requirements shall not be admissible in any civil or criminal proceeding.

And, furthermore, that Section 6 in Article II of the present Illinois Constitution be amended to include the above provision.

This position is taken for the following reasons:

1. While the apprehension, prosecution and conviction of criminals require a governmental power to seize, search and acquire evidence of the commission of crimes, such unfettered power in law enforcement officers historically has resulted in unwarranted and, from the point of view of effective law enforcement, unnecessary official invasions of the person, of property, and of communications intended to be private.

The practice of issuing so-called "writs of assistance" to revenue officers, empowering them in their discretion to search suspected places for smuggled goods, prevailed in the American colonies and in England. There was a similar practice of issuance of "general warrants" for searching private houses for the discovery and seizure of books and papers that might be used to convict their owner for libel. The issuance of general warrants for indiscriminate search and seizure originated in the Star Chamber, where trial proceedings were held in secrecy.

2. Only unreasonable searches and seizures should be prohibited. A reasonable search or seizure, based upon a proper warrant or incidental to a lawful arrest, should be permissible.

Warrants must be issued by a judicial officer. The interposition between the government and the individual of an impartial magistrate and that the warrant may not issue except upon probable cause being established are central to the "reasonableness" of a search or seizure. "Probable cause" has been defined by the United States Supreme Court as follows:

"The substance of all the definitions" of

Footnotes at end of speech.

probable cause "is a reasonable ground for belief of guilt." . . . [T]his "means less than evidence which would justify condemnation" or conviction . . . [but] more than bare suspicion: Probable cause exists where "the facts and circumstances within [an officer's] knowledge and of which [he has] . . . reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that" an offense has been or is being committed.[1]

Likewise, "probable cause" has been required in order to make a lawful arrest.

The "reasonableness" of a search without a warrant but incidental to a lawful arrest lies in the necessity to (1) protect the arresting officer from potential injury by a concealed weapon, (2) deprive the prisoner of a potential means of escape, or (3) prevent the destruction of evidence within the immediate control of the arrested person. In the majority of today's criminal cases in which physical evidence was seized, the search was made without a warrant and incidental to a lawful arrest.

3. A recent development in the area of search and seizure has been the enactment of statutes in some states authorizing seizure of physical evidence without making a formal arrest. The so-called "stop and frisk" laws permit a police officer to temporarily detain a person for questioning upon "reasonable suspicion" or "reasonable grounds to believe" that a crime has been or is being committed. With some variation in terminology, these laws generally authorize a police officer to "frisk" or pat down the outer clothing of the detained person in order to detect, by touch, the presence of a weapon. If a weapon is discovered during such a "frisk," a formal arrest may then be made and a more thorough "search" is permissible incidental to such arrest.

Illinois has recently adopted a "stop and frisk" law which differs significantly from those of other states in that it also permits such action when the police officer believes that the person is "about to commit" an offense.[2] The constitutionality of this law has not yet been tested.

4. Both a "frisk" and a search incidental to a lawful arrest are conducted without issuance of a warrant, but the "frisk" is authorized without "probable cause" under circumstances which would not justify a formal arrest. Proponents of "stop and frisk" legislation maintain that because a "frisk" is less of an invasion upon an individual's person than is a "search" incidental to arrest, a less stringent criteria is permissible, *i.e.*, "reasonable suspicion," which seems to be more than mere surmise but less than "probable cause." (See *People* v. *Peters*, 18 N.Y. 2d 238, 244–45 (1966).)

The core of the matter, however, lies not in whether a less stringent standard should apply to justify a "frisk" than that justifying a "search," but rather in the fact that there is not any actual difference between a temporary detention and a formal arrest in terms of restricting the suspect's freedom of movement. (See *Coleman* v. *United States*, 295 F. 2d 555 (D.C. Cir. 1961)). A person temporarily stopped for questioning is as "arrested" in his ability to resist detention as if he had been formally placed under arrest and should therefore be subject to the same protection against violation of his civil rights. If a person has not acted in such a way as to constitute "probable cause" for a lawful arrest, then a "frisk" authorized upon only the police officer's suspicion is as abhorrent to the principles of personal liberty and security as were the 17th Century general warrants.

5. A mere prohibition of unreasonable searches and seizures has, in many instances, been found to be a hollow statement of a well-intentioned but unenforceable principle. Criminal sanctions against police officers who violate the legal safeguards have proved ineffective. Law enforcement officers are reluctant to take action against overzealous law enforcement. Experience has demonstrated that a prohibition against unlawful activity by law enforcement officers can best be enforced by prohibiting the use of evidence turned up by such unlawful search. If failure to observe legal rules will render fruits of police activity inadmissible as evidence in criminal proceedings, it is likely that the rules will be observed with care.

6. Modern technology, through the development of electronic surveillance devices, has permitted searches to take place which do not involve physical contact with a person or property. While there are technical and legal differences between wiretapping and other means of eavesdropping (such as through a variety of microphones and recording devices, detectaphones, subminiature radio transmitters, etc.), they may be treated together for purposes of comparison with the traditional concept of search and seizure involving physical intrusion.

Most proponents of electronic eavesdropping agree that controls should be imposed similar to those governing ordinary searches and seizures. The real controversy is whether there should be a total ban on electronic eavesdropping or whether it should be permitted under judicial supervision. Apart from their contention that eavesdropping is an essential weapon against crime, particularly in cases of kidnaping, organized crime and official corruption, advocates base their position on the premise that eavesdropping is but an extension of the physical search and seizure and should therefore be permitted under similar rules. They do, in fact, successfully counter many of the prevalent arguments against eavesdropping with analogous situations under lawful searches for physical evidence. For example, it is argued that wiretapping is offensive because it constitutes a "necessarily indiscriminate" electronic search, listening in on all elements of one or more conversations, however innocent. Advocates reply that in a search for physical evidence, a police officer may rummage through private papers and peer into closets, but that the incidental exposure of innocuous privacies does not vitiate an otherwise valid search. Likewise, the surreptitious nature of a wiretap is similar to a lawful conventional search warrant for premises in the absence of its occupants and in such a manner as to avoid subsequent detection.

7. Nevertheless, searches and seizures by means of electronic devices, as opposed to searches and seizures of physical evidence, have one major differentiating characteristic which does serve to legitimate the call for their prohibition, *i.e.*, that the evidence obtained is "testimonial" in nature, taken directly from the accused.

The Fifth and Sixth Amendments of the United States Constitution, as well as Sections 10 and 9, Article II of the Illinois Constitution, protect any person from being compelled in any criminal case to give evidence against himself and guarantee him the assistance of counsel. Evidence obtained by means of an electronic listening device, such as a recorded private conversation, and used or introduced to substantiate guilt of one or more parties to such conversation, may clearly be seen to constitute compulsory self-incrimination, taken without waiver of right to counsel.

8. Laws protecting individuals against unreasonable invasions of privacy originated in colonial opposition to unwarranted searches by revenue officers and customs inspectors, who were administrative rather than police officers. In today's society where there is substantially greater governmental regulation of the lives of individuals, it is ironic that these prohibitions generally do not apply to administrative as well as to law officers. For example, "midnight raids" by case workers seeking entry to determine eligibility of public welfare recipients have been well documented[3] and are undeniably as intrusive upon individual privacy as would be an unwarranted entry by a police officer.

9. Recent literature on invasion of privacy indicates that despite more public attention being focused on law enforcement activity, the most frequent, flagrant, and systematic invasions of privacy are committed by private citizens.[4] The use of private detectives for marital, industrial and labor espionage has been well substantiated.[5] All of the principles supporting a prohibition on unreasonable searches by governmental agents would require the same protection of an individual's privacy and personal freedom from actions by other private individuals.

10. To assist in the enforcement of a legal ban on unreasonable invasion of privacy by governmental administrative officials or by private parties, it is necessary to impose the "exclusionary rule" principle in a similar fashion as that designed to deter illegal activities by law enforcement officers. The proper adaptation of this principle would be to exclude evidence so obtained from admission into both civil and criminal proceedings, which would then include administrative hearings or investigations as well as civil suits.

CONSTITUTIONAL CONSIDERATIONS

The Federal Constitution

The United States Constitution provides in the Fourth Amendment as follows:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

A large body of Federal law has been developed interpreting the foregoing language and setting out rules which must be followed for a search and seizure to qualify as reasonable.

The decision of the United States Supreme Court in *Wolf* v. *Colorado* held that the Fourteenth Amendment's due process of law clause had made the above Fourth Amendment applicable to state action and, therefore, requires the states, in matters of searches and seizures, to adhere to standards which previously had been imposed on Federal law enforcement agencies alone. *Wolf v. Colorado*, 338 U.S. 25 (1949). Accordingly, a single standard has evolved to which all law enforcement agencies must adhere in making searches and seizures.

The exclusionary rule, by which evidence illegally seized is inadmissible as evidence in criminal proceedings, has long been used in the Federal Courts as a method of enforcing adherence to constitutional safeguards. Following *Wolf* v. *Colorado*, the Supreme Court also applied to the states the exclusionary rule through Fourteenth Amendment incorporation. *Mapp* v. *Ohio*, 367 U.S. 643 (1961).

The Fourth Amendment search and seizure provision has recently been expanded in a holding by the United States Supreme Court which bans unauthorized or warrantless electronic eavesdropping or "bugging," or "bugging" authorized by insufficient warrants, as well as unauthorized wiretaps on telephone conversations. *Katz* v. *United States*, 389 U.S. 347, 88 S.Ct. 507 (1967).

In discussing constitutional protections governing search and seizure, a major area

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of issue is what constitutes an "arrest." The definition promulgated by a United States Circuit Court seems to set down the clearest statement:

> . . . the term arrest may be applied to any case where a person is taken into custody or restrained of his full liberty, or where detention of a person in custody is continued even for a short period of time. *United States* v. *Scott,* D.C. D.C. 1957, 149 F. Supp. 837.

In the same discussion, the Court said that the essence of an arrest is ". . . a restriction of the right of locomotion or a restraint of the person." This definition would include "on the street detention," "stopping and frisking" and other police methods (road blocks, drag nets, etc.) of dealing with or seeking suspected persons. An officer may, of course, ask any individual a question or engage in conversation with anyone, so long as he does not confine or restrain the person without his consent. The hard question is whether the officer can "restrict the locomotion or restrain the person" for a brief period of time for the purpose of questioning him where grounds for arrest are lacking, and "frisk" him for a weapon where probable cause for an arrest does not exist.

In a key case on "stop and frisk," the Court upheld the conviction and said that in showing "probable cause" to justify the particular intrusion, the officer who does not have a warrant ". . . must be able to point to specific and articulable facts, which taken together with rationale inferences from those facts, reasonably warrant that intrusion." *Terry* v. *Ohio,* 88 S.Ct. 1868 (1968). But the Court, in another important ruling, reversed a conviction for possesssion of narcotics since the police officer had no "probable cause" to make an arrest or conduct a search. *Sibron* v. *New York,* 88 S.Ct. 1889 (1968).

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Protections of the Federal Fourth Amendment were applied to actions of governmental officials not law enforcement officers by the California Supreme Court in holding that searches by social workers violated the constitutional rights of welfare recipients. The Court held that such raids, even though they were conducted to determine welfare eligibility rather than to obtain evidence for criminal prosecution, transgressed the constitutional limitations of the Fourth Amendment. *Parrish* v. *Civil Service Commission of the County of Alameda,* 425 P. 2d 223 (1967).

The fifth and sixth amendments

Another source of constitutional control of governmental invasion of individual privacy is the Fifth Amendment privilege against self-incrimination. Although the privilege traditionally has been confined to prohibit only the compulsion of testimonial communications from an accused, several justices of the United States Supreme Court have expressed the opinion that the Fifth Amendment, together with the Fourth, covers all private communications with a cloak of privacy that immunizes them from interception by all electronic eavesdropping devices. *Osborn* v. *United States,* 385 U.S. 323, 340–54 (1966) (Douglas, J., dissenting); *Lopez* v. *United States,* 373 U.S. 427, 463–71 (1963) (Brennan, J., dissenting). In another case in which a Connecticut statute prohibiting contraceptive devices for married couples was held to be unconstitutional, the Court identified a Federal constitutional "right of privacy" independent of, but which "emanate[s]" from the "penumbras" of the various provisions of the Bill of Rights. *Griswold* v. *Connecticut,* 381 U.S. 479 (1965). Although the Court did not clearly articulate a constitutional theory of privacy outside the realm of marital intimacies, one commentator has suggested that the rationale of *Griswold* "could be advanced to establish that 'emanations from the Bill of Rights forbid wiretapping and electronic eavesdropping.'"[6]

The import of the Sixth Amendment right to legal counsel was affected substantially by the United States Supreme Court rulings handed down in the landmark *Miranda* v. *Arizona* decision. The Court declared that before the police may interrogate a person "taken into custody or otherwise deprived of his freedom of action in any significant way," certain warnings must be given which include informing such person of his rights to remain silent and to have benefit of legal counsel during interrogation. The Court pointed out that:

> . . . a heavy burden rests on the government to demonstrate that the defendant knowingly and intelligently waived his privilege against self-incrimination and his right to retained or appointed counsel. *Miranda* v. *Arizona,* 384 U.S. 436, 475–76 (1966).

A fundamental principle of the American adversary system is that the prosecution must bear the entire burden of proving guilt. To prevent a suspect from becoming the instrument of his own conviction, *Miranda* contemplates "roughly equivalent adversaries" in the interrogation process by making available to the defendant the tactical advice of counsel.

Though *Miranda* was not directed toward pre-arrest investigatory practices, the principles established, particularly that governing the protection of a defendant from unknowingly becoming the instrument of his own conviction, have great implication on the use of electronic eavesdropping devices to obtain oral evidence for criminal prosecution.

The present Illinois Constitution

The 1870 Illinois Constitution contains the following provision:

Article 11, § 6. Searches and Seizures. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the persons or things to be seized.

The 1818 Illinois constitutional provision on searches and seizures was readopted in 1848 without change. It provided that: (1) people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and (2) general warrants authorizing search of suspected places without evidence of the fact committed, or seizure of any person not named whose offenses are not particularly described and supported by evidence, are dangerous to liberty and "ought not to be granted."

The 1870 provision, above, substituted "effects" for "possessions," introduced specifically the "probable cause" and affidavit requirements for issuance of warrants, and mandated that warrants particularly describe the place to be searched, and the persons or things to be seized, eliminating the somewhat innocuous and ambiguous phrase that general warrants "ought not to be granted."

While the Illinois Constitution is silent on the subject of electronic eavesdropping, the same had been in the past prohibited by statute, but is now permitted with the consent of one party and at a state's attorney's request, but without requiring a warrant. (Ill. Rev. Stat. 1969, Ch. 38, § 14–2).

The absence of specific constitutional provisions specifying circumstances when arrest is authorized has placed the subject within the scope of legislative action. As mentioned earlier, Illinois' "stop and frisk" law has not yet been constitutionally tested.

The so-called "exclusionary rule" by which evidence illegally seized is inadmissible in evidence has long been used in Illinois Courts as a method of enforcing adherence to constitutional safeguards, although there is no Illinois constitutional provision on this.

Other State constitutions

State constitutions, generally, as is the case in Illinois, contain provisions similar or identical to the Fourth Amendment to the United States Constitution. The only constitutions which contain provisions on wiretapping or electronic eavesdropping are those of New York and the Model State Constitution, promulgated by the National Municipal League. These provisions are:

New York: Article 1, Sec. 12. . . . The right of the people to be secure against unreasonable interception of telephone and telegraph communications shall not be violated, and ex parte orders or warrants shall issue only upon oath or affirmation that there is reasonable ground to believe that evidence of crime may be thus obtained, and identifying the particular means of communication, and particularly describing the person or persons whose communications are to be intercepted and the propose thereof.

Model State Constitution: Article I, Sec. 1.03(b). The right of the people to be secure against unreasonable interception of telephone, telegraph and other electronic means of communication, and against unreasonable interception of oral and other communications by electric or electronic methods, shall not be violated, and no orders and warrants for such interceptions shall issue but upon probable cause supported by oath or affirmation that evidence of crime may be thus obtained, and particularly identifying the means of communication and the person or persons whose communications are to be intercepted.

Sec. 1.03 (c). Evidence obtained in violation of this section shall not be admissible in any court against any person.

In 1968, Maryland proposed a revised constitutional provision which integrated requirements for electronic eavesdropping with existing protections against unreasonable searches and seizures of physical evidence:

Maryland: (Proposed) Article I, Sec. 1.08. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures and in their oral or other communications against unreasonable interceptions shall not be violated. No search warrant shall be issued except upon probable cause supported by oath or affirmation, and the place to be searched, the persons or things to be seized, or the communications sought to be intercepted shall be particularly described in the warrant.

Hawaii, in adopting a new constitution in 1968, did not include a provision on wiretapping or eavesdropping. It should be noted, however, that Hawaii has a statute which is an absolute prohibition of wiretapping and eavesdropping in the state, applying to private persons as well as law enforcement officials and with no exceptions for search warrants.[7]

The proposed Illinois Constitution

The continued use of the same basic language as employed in the Fourth Amendment to the United States Constitution, and in the present Article II, Section 6 of Illinois Constitution, would eliminate the need for new and possibly different legal interpretations of what conduct is permitted and what conduct is prohibited relating to search and seizure.

However, the inclusion of language specifically applying such legal requirements to

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Footnotes at end of speech.

actions by other than law enforcement officials is necessary. Likewise, a specific prohibition of the interception (electronic or otherwise) of communications would make clear that such techniques are not included within the scope of conventional search and seizure.

The pre-"stop and frisk" arrest statutes have proved over the years to permit effective law enforcement while affording protection to persons from unreasonable searches, seizures and detention. The requirement of "probable cause" relating to searches and seizures is constitutionally guaranteed at both the Federal and state levels and has been applied to arrests by the Supreme Court. Since state legislatures have circumvented this protection to some extent by authorizing "temporary detention" or "stop and frisk" on less than "probable cause," basic ground rules specifically relating to arrest and detention, therefore, need to be included in the constitution.

Express inclusion of the "exclusionary rule" prohibiting use in evidence of fruits of illegal searches would strengthen and make more meaningful and enforceable the constitutional safeguards themselves. The language has been drafted so as to prohibit use by any person in any civil or criminal proceeding of the fruits of violation of such constitutional safeguards.

Therefore, The Welfare Council of Metropolitan Chicago Takes The Position That The Illinois Constitution Should Contain The Following Provision:

ARTICLE —.

Bill of Rights

Searches and Seizures.

Sec. —. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated by any person. No search warrant shall be issued except upon probable cause supported by oath or affirmation, and the place to be searched and the persons or things to be seized shall be particularly described in the warrant.

The right of the people to be secure against any interception of their oral or other communications shall not be violated by any person.

The right of the people to be secure against unreasonable arrest or detention shall not be violated; and no person shall be arrested or detained unless a warrant has issued or unless there is probable cause to believe that the person is committing or has committed an offense.

Evidence obtained in violation of the foregoing requirements shall not be admissible in any civil or criminal proceeding.

And, furthermore, that Section 6 in Article II of the present Illinois Constitution be amended to include the above provision.

Approved by the Board of Directors on January 21, 1970.

FOOTNOTES

*1 Stat. 91, Sec. 33 (1789).

**3 Foote, *The Coming Constitutional Crisis in Bail*, 113 U. Pa. L. Rev. 959, 987 (1965).

[1] *Brinegar* v. *United States*, 338 U.S. 160, 175–176 (1949).

[2] *Ill. Rev. Stat. 1967, Ch. 38, § 107–14 and § 108–1.01.*

[3] See generally Reich, *Midnight Welfare Searches and the Social Security Act*, 72 Yale L.J. 1347 (1963). A recent survey of a Negro ghetto of an industrial city showed, for example, that while nearly 90 percent of the welfare recipients interviewed believed that there are laws which give a person the right to refuse entry to anyone who does not have a search warrant, only half of them had any conception of themselves as "rights-bearing" citizens with the power to challenge entries of a social worker on a night visit. Briar, *Welfare from Below: Recipients' Views of the Public Welfare System*, 54 Calif. L. Rev. 370, 382 (1966).

[4] *N.Y. Post*, January 3, 1967, p. 35, col. 1.

[5] See generally Dash, Schwartz & Knowlton, *The Eavesdroppers* (Rutgers University Press, New Brunswick, New Jersey: 1959).

[6] McKay, *The Right of Privacy: Emanations and Intimations*, 64 Mich. L. Rev. 259, 278 (1965). "If there is a right to marital privacy in the home, why should there not be as well a right of privacy in the home or place of business against the unwelcome intrusion of uninvited participants in conversations intended to be private?" *Ibid.*

[7] *Hawaii Constitutional Convention Studies, Article I: Bill of Rights* (University of Hawaii, Honolulu: July, 1968) pp. 75–6.

MY PERSONAL BUILDING

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. STEIGER of Arizona. Mr. Speaker, in this day when many Americans are inclined to generalize and decry U.S. youth, Miss Karyn Lawrence submitted an impressive statement to the Veterans of Foreign Wars Voice of Democracy contest. The maturity and sense of personal responsibility displayed in "My Personal Building" are indeed telling rebuttals to those who would shortchange our youth's qualities.

Miss Lawrence's entry follows:

MY PERSONAL BUILDING

(By Karyn Lawrence, Flagtaff High School, Flagstaff, Ariz.)

I am part of a vast organization, engaged in the construction of a single building. I am building myself. The type of government under which I operate has given me this building permit. The strong foundation of education was made possible by the society in which I live. I am protected by government guarantees.

Thus far my growth has been guided in keeping with social standards. My development has been encouraged to expand along certain ideals. My building materials have been provided and sometimes even placed for me as I watched on discovering how and why. As my knowledge enlarged, so did my responsibility to secure my own materials and direct my own growth. I have the ability now to build my future, and I have the freedom.

Each day's existence is a manifestation of this. Where I am living, whom I associate with, what I am saying, what I am reading, what I am writing, what I am thinking are all by my own choice.

The freedom of growth and change are also mine. I am exposed to or I may search myself to find old, new, and conflicting ideas and beliefs. I then decide whether or not to incorporate such ideas and beliefs into my structure.

The contract that I have with my organization protects my individual right. But with this contract are also my unwritten obligations and the responsibility of forming my own codes. It is up to me to be well informed and to understand the public issues. I can prepare myself for the future role of a full pledged citizen by involving myself now in youth organizations. As a member of these groups, I am able to help raise funds for worthwhile projects, and become part of a stronger voice in community affairs. As a person, I know that it is possible for me to bring attention to needed improvements in my school and community, and suggest ideas for their betterment. By being fair and courteous and by trying to prevent injustices within my own circles, I will set sturdy examples for others around me.

My life has been bought with credit. I owe a great deal to those who purchased my future by paying with their lives. I am and always will be in debt. Now that our country has been paid for, it is my job, and the job of my generation, to insure its future so that later generations will continue to prosper.

Each of us has his own responsibility to defend his way of life, to build his own building. His own building can survive only with the protection of all. We must acknowledge our obligations as citizens, and live up to them.

As a citizen, and as a person, I have not yet reached my potential. My building is still incomplete. But whether or not I attain what I am striving for, I hope that my building will serve as a model for others, and that others will benefit from my having lived.

I must recognize and appreciate what I have, and be willing to defend this inheritance. I must fulfill my obligations as a citizen and as a person.

Then perhaps one day in my life I shall reach the completion of my personal building begun for me in my youth. Perhaps with the help of the freedoms my country has given me, and the protection it has provided, and the challenge that freedom constantly hurls at all young Americans, perhaps then, I can finally say, "At last, I am!"

RECOGNITION OF INTERNATIONAL EXPERT

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Thursday, March 12, 1970

Mr. FANNIN. Mr. President, recently, in consideration of the international trade question I have encountered, by reputation, a very outstanding man of impeccable credentials who has studied our international situation, with regard to commerce, exhaustively.

Dr. Walter Adams has often consulted with committees of Congress and appeared as an expert witness before those committees. He is an outstanding author and internationally recognized authority in his field of economics and has most recently served as president of Michigan State University.

As an interesting sidelight, Dr. Adams was petitioned by the student body at his school to stay on as president, even though he had indicated he was taking the job only on an interim basis. In a day when college presidents are resigning because of student body action, this is indeed a welcome note.

I find also, Mr. President, that Dr. Adams was accorded a singular tribute by the Michigan Legislature last December. I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection the resolution was ordered to be printed in the RECORD, as follows:

STATE OF MICHIGAN, JOURNAL OF THE SENATE, 75TH LEGISLATURE, REGULAR SESSION OF 1969

Senate Chamber, Lansing, Thursday, December 18, 1969. 10:00 a.m.

A message was received from the House

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of Representatives transmitting House Concurrent Resolution No. 304.

A concurrent resolution for President Walter Adams, Michigan State University.

Whereas, Dr. Walter Adams, Distinguished Professor of Economics and who served as Acting President of Michigan State University from April 1 to December 12, 1969, was named the thirteenth President of the University by the Board of Trustees in recognition of his superior leadership. President Adams will serve until the president-designate, Clifton R. Wharton, Jr., takes office January 1, 1970; and

Whereas, A further tribute was tendered Dr. Adams December 12, with his appointment as Distinguished Professor to become effective January 1, 1970, when he resumes his post as economics educator; in 1960 he was awarded a Distinguished Faculty Award, the highest honor the University bestows on a faculty member, and received outstanding teaching awards from Excalibur, a student honor society, and from the MSU Veteran's Club; and

Whereas, Dr. Adams, an educator in the field of economics for a quarter-century, was a member of the faculty at Yale University in 1945 and joined the Michigan State University faculty in 1947. A nationally known economist and regular consultant to the Federal Government in both chambers of the Congress of the United States, Dr. Adams was the appointee of two Presidents to the U.S. Advisory Commission on International Educational and Cultural Affairs; and

Whereas, The author of several books, three of which have been translated into foreign languages, his most recent study is "The Brain Drain"; and Dr. Adams has contributed numerous articles to professional journals, including the American Economic Review, the Quarterly Journal of Economics, the Yale Law Journal and others; and

Whereas, Born August 27, 1922, Dr. Adams was educated in New York City's New Utrecht High School, in Brooklyn College to receive the B.A. degree magna cum laude in 1942 and at Yale University received the M.A. degree in 1946 and a year later, the Ph.D. degree when he was twenty-four years of age. His graduate studies had been interrupted by World War II service in the U.S. Army in 1943–1945, and he was commissioned on the battlefield, to complete combat service as aide-de-camp to the Commanding General of the 11th Armored Division, participated in the Battle of the Bulge and among other awards, received the Bronze Star Medal for heroic conduct; now therefore be it

Resolved by the House of Representatives (the Senate concurring), That by these presents Dr. Walter Adams, Thirteenth President of Michigan State University, be unanimously accorded tribute to express a portion of the immense affection and esteem so widely held for him by colleagues, students and The Michigan Legislature.

The message informed the Senate that the House of Representatives had adopted the concurrent resolution; in which action the concurrence of the Senate was requested.

Pursuant to rule 32 the concurrent resolution was referred to the Committee on Senate Business.

FIFTY-SECOND ANNIVERSARY OF LITHUANIAN INDEPENDENCE

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. FLOOD. Mr. Speaker, it gives me great pleasure to insert in today's CONGRESSIONAL RECORD translated excerpts from the speech delivered by the Honorable Joseph Kajeckas, Charge d'Affaires of Lithuania, on the occasion of the 52d anniversary of the declaration of Lithuania's independence at a commemoration held at the Hotel Washington, Washington, D.C., on February 15, 1970.

Excerpts follow:

EXCERPTS

Today is the fifty-second anniversary of the twentieth-century proclamation of the Lithuanian will to be independent and free.

Though the flowering of Lithuanian freedom was thwarted at the beginning of the Second World War and thereafter by the armed might of the Soviet Union and its lust for territorial gain and human vassals, we see on this occasion that there have been many things which have altered the world situation since Lithuania was enslaved in 1940.

History teaches many lessons, and one of the principal ones with regard to government is summed up in the phrase "sic semper tyrannis." It can, in other words, be reasonably assumed that the urge to tyranny is doomed to failure because of mankind's urge to be free and unfettered by artificially contrived systems and ideologies.

It is almost amusing to note, after so many years of Communist history, that the Soviets and the Red Chinese cannot live together amicably. This fact has to stand, I think, as one of the century's major comic surprises—but I suppose we could have been prepared for such a sweeping conflict by the internal struggles within the Soviet Union itself. Where is Stalin's body today? Exhumed from the Lenin tomb and dumped at the base of the Kremlin wall. Where is Stalin's daughter? Living in a land which her father's successor, Khrushchev, promised to bury. For that matter, where's Khrushchev? Where's Bulganin? Where's Beria? And where will Kosygin be tomorrow? I think we can safely say that, when Russian and Chinese soldiers end up shooting at each other across the glacial mists, the rigid and brave optimism which many of us have maintained through the chilling and difficult years of the cold war has been fully justified. There are surprises in history, and they tend to work in favor of people who love freedom and labor steadfastly to insure its survival.

Although all the men who signed the Lithuanian Declaration of Independence on February 16, 1918, have died, their descendants, people of the bravery and devotion to duty of the late Alexander Stulginskis, have continued to safeguard the tradition of freedom to which those original signatories pledged their whole being. An outstanding example of Lithuanian patriotism is present in our midst in the person of Kazys Skirpa. As we honor him on his seventy-fifth birthday, we pay tribute to all those who have inspired him and who have drawn inspiration from him in the service of his native country.

The friends and fellow-patriots of Alexander Stulginskis provided a fitting example to the loyalties of men who were to follow in their footsteps. They insured the success of the democratic enterprise in Lithuania between 1918 and 1940.

When the brutal and genocidal forces of the Soviet state viciously put an end to one of the most ennobling chapters in eastern European history, there were men in my homeland who remembered Alexander Stulginskis, who remembered Kazys Skirpa, who remembered Vytautas, and Myronas, and Msgr. M. Krupavicius. It can indeed be said that such noble Lithuanians who have been exemplars in their steadfastness in the cause of liberty have provided an abiding reminder to all of those blessed with the Lithuanian heritage that, in the words inscribed on the Lithuanian Liberty Bell, "Those who are not willing to fight for freedom are not worthy of its blessings."

On this occasion, Lithuanians everywhere are deeply indebted to their American friends for continuing to espouse the rightful aspirations of Lithuanians to regain freedom and independence. We are especially grateful today to Secretary of State William P. Rogers for his expression of support of America for these just aspirations of my people.

As the Secretary put it to me in a letter I received several days ago:

> Americans sympathize deeply with the Lithuanians' desire to determine their own destiny. By its policy of non-recognition of the Soviet Union's forcible incorporation of Lithuania, the United States Government affirms its continuing belief in the right of the Lithuanian people to self-determination.

The Lithuanian people, grateful to their friends and dedicated to their ancestral inheritance of freedom, readily take an example from the people of ancient Judea, who wished only to return to Jerusalem. We wish only to return to free Vilnius.

REGIONAL WATER MANAGEMENT

HON. FRANK E. MOSS

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, March 12, 1970

Mr. MOSS. Mr. President, in the accelerating dialog on how to improve the quality of our environment, we are hearing a great deal about how to turn back the tide of pollution in our air and our water, how to relieve population pressures through the location of new cities, and how to stop the decay of our countryside generally.

All of these are of great importance. But we have heard very little about the importance of overall water management in the environmental crusade. This, as Senators know, has been of particular concern to me, and I have long been an advocate of continentwide water management, the so-called NAWAPA concept, and of interbasin water transfers in this country; that is, of the transfer of domestic water from water-surplus to water-short areas.

I have also held that efficient management of our water resources, and of all of our other natural resources, could not be achieved on a Federal level until all programs relating to all of our natural resources were brought into a single Department of Natural Resources and the Environment.

It was my privilege recently to discuss continentwide planning on water resource development in Ottawa, Canada, on the TV program, "Encounter," where I tried to make these points.

I was very much interested, therefore, when I received a paper written by Mr. Lewis G. Smith, a water resources consultant in Denver, Colo., which discusses population dispersal in terms of regional water supplies and land use, and refers to some of the plans now under consideration to use some of the Arctic-flowing waters in Canada and Alaska as a practical way to help solve environmental problems in this country.

I ask unanimous consent that the article by Mr. Smith be carried in the Extensions of Remarks.

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There being no objection, the article was ordered to be printed in the RECORD, as follows:

Regional Water Management Key To Improving the Nation's Quality of Environment

(By Lewis Gordy Smith)

"Improving the quality of the environment" has become a maxim of the 70's. It must remain our prime obsession from now on.

The roots of environmental stress lie deep in our own human nature. Abuse of the natural environment springs from the same callous mentality which engenders abuse of our fellow man. An element of modern refined barbarism prevails in both cases. Environmental reform calls for no less than a reform in the individual's whole attitude and concern for his exterior world which sustains him and makes life meaningful for himself and for his fellow men everywhere.

Long term improvement in the quality of environment in our nation, where over 90% of the inhabitants are addicted to urban living, means, for most of us, improving the qualities of our cities. It means a new direction in the way existing cites are allowed to grow and new cties are built. Proper environmental care is just good housekeeping on a larger scale. Today's good housekeepers need to look out the window more to see what is happening to their larger home: first, the city; then, the region; the continent; and, finally, the spaceship "Goodearth."

Urbanism is here to stay but, hopefully, not entirely in its present form. Perhaps the greatest indictment of most large cities is that of sheer size which, after a point, becomes self-defeating. At some point the diseconomy of scale enters in, imposing impossible financial burdens on city budgets and a compounding of social ills. Statistics show that excessive urbanism has its dementing effect on persons: more crime, mental illness, dropouts, and suicides, are spawned in the older city centers than in the suburbs or countryside. Population dispersion into smaller optimum-size cities, many of them preplanned and built new, seems to be a substantial part of the solution.

A strong case for new cities is made by Gus Tyler. In his excellent analysis he says:

"We cannot juggle the 70 percent of the American people around on 1 percent of the land area to solve the urban mess. We are compelled to think in terms of new towns and new cities planned for placement and structure by public action with public funds. 'All of the urbanologists agree,' reported Time amidst the 1967 riot months, 'that one of the most important ways of saving cities is simply to have more cities.' The National Committee on Urban Growth Policy proposed this summer that the federal government embark on a program to create 110 new cities (100 having a population of 100,000 and ten even larger) over the next three decades. At an earlier time, the Advisory Commission on Intergovernmental Relations proposed a national policy on urban growth, to use our vast untouched stock of land to 'increase, rather than diminish, Americans' choices of places and environments,' to counteract our present 'diseconomics of scale involved in continuing urban concentration, the locational mismatch of jobs and people, the connection between urban and rural poverty problems, and urban sprawl.' "

Along with such proposals for large numbers of future new cities consideration must be given to their systematic location with respect to water supplies and the whole present interwoven complex of land, air, and water defilement.

Looking to a more viable urban environment, our goal for all America should be some practical combination of city and countryside, to enable the administrative, cultural, business, and social functions of municipalities to be retained, along-side the more nature-oriented rural open spaces. This could mean more of the "Garden Cities" of Ebenezer Howard. But if we were to build new cities at the average rate of one per month, each to accommodate 250,000 persons, just to keep abreast with our present population growth, most of these cities must have a generous number of multiple-story buildings in order to minimize the cannibalization of farm land as we steer down the century ahead.

The foremost imperative, now widely recognized, in an approach to quality environment for all, is population growth suppression. Our new quality environment in the cities has to be built from basic mineral, water, and plant-life resources of the countryside. An ever-expanding population through the years will bring on an increasing disparity between numbers of persons and available resources, tending ultimately to lessen the average per capita share. This could lead to reduced standards of environment. Thus, long term enhancement of the environment requires an interrelated program aimed at population stabilization and population dispersion. Even if the population were stabilized today, population dispersion would be a worthy national goal just to alter conditions in the existing larger cities. But stabilization could be a long way off even under present drives to limit family size. Dr. Daniel P. Moynihan stated on a CBS television program, January 25, 1970, "There is no government in history that has ever had any effect whatever on population." Might competition between ethnic groups for progeny and control tend to offset stabilization programs?

A fact which must be reckoned with is that many additional numbers of persons will be added before our U.S. population can, hopefully, be stabilized. We can expect an additional 100 million persons 30 years from now. Even at greatly reduced population growth rates there might be some 300 million additional persons 100 years hence. If quality of environment is to have meaning for these, our immediate progeny, we must become concerned for them *now* from the standpoints of water, air, food, fiber, and desirable living space. A question here is, are we as a species going to arrive, through political and technological accommodation, at some sort of permissive balance between numbers of people and availability of resources, renewable and otherwise, with some recycling of resources; or are we going to continue blindly down the dinosaur trail of expansion to the point where the species is reduced or obliterated naturally by repressive environmental situations which the ecologists tell us operate ultimately to halt the expansion of any continuously growing organism within the ecosystem? This question has, of course, its continental and world wide implications.

Population pressures are already generating a growing interest in and need for *regional land use zoning*. The aim is to avoid perpetuation of past and present land use practices, particularly with regard to the manner of locating cities in ways which contribute to the present water quality and environmental dilemma. In times past it was expedient and acceptable, from a standpoint of water supply, industry, and transportation, to locate successive cities near the banks of rivers, and in the flood plains, and to use the river as a common sewer. The proliferation of this practice has come to haunt us today. Gene Bylinsky, writing in Fortune Magazine, makes a penetrating analysis of the water pollution problem. He estimates that two-thirds of all water degradation comes from manufacturing, transportation, and agriculture.

These riverine cities, particularly those near the lower end of a large river system, are having to cope with increasing loads of water pollutants in gaining their water supply. Today, where water is removed directly from a stream for city use, much of the sludge, from both the initial water treatment and from the later treatment of the city's sewage, eventually finds its way back into the water course.

The sludge from water treatment has to be placed on the land, where part of its nitrates, phosphates, and other minerals can be recirculated in the food-waste cycle; but some will be redissolved by rainfall and flushed back into the stream. Even if the sludge were dried and incinerated to produce heat energy, the combustion products in the air eventually return by rain to the soils and finally into the streams. Because of the general eastward movements of air masses the air pollutants tend to build up in the east so that eastern streams would stand, in general, to reap more fallout from air pollution than the western streams.

The above statement also relates to proposed desalting or demineralization of inland waters under water reuse programs. Where are the removed salts and minerals going to be placed? Will they be transported by rail and dumped into the sea, stacked in bins to defile the landscape, recycled as much as possible, or allowed to leach back into the water course further downstream? Such demineralization and desalting of existing inland waters for reuse will probably become necessary soon as the more immediate means of extending fresh water availability in many areas, even if the products removed have to be hauled to the sea. There is, however, a limit to water reuse under recleaning as a means of augmenting the supply: in addition to the sludge disposal problem mentioned above, approximately one-third of the water, on the average, is lost to the atmosphere on each use.

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Thus, in the long pull, despite all the push to "clean up the water," the cities on the lower reaches of streams will have continual water quality problems, particularly as the population of human beings and farm animals increases upstream. This is the inexorable consequence of rainfall on uncontrolled sources of pollution such as city streets and animal feed lots. It has been estimated that in the U.S. waste from farm animals is ten times that of human waste. Some of the wastes can be recirculated in the food-waste cycle, but not all, particularly those wastes from concentrated sources (such as feed lots) lying adjacent to streams. The present water quality impasse in the lower reaches of river basins points up the fact that we are beginning to come face to face with the reality of the exponential equations or laws of compounding effect.

Ultimately, in some of the river systems of the nation we may have to establish points which mark a transition from the upper, less polluted section providing the water supply function, with water supplied to cities by means of man-made aqueducts taking from the stream, and the lower section performing the natural sewer function of last-time disposal of excess and unwanted effluents deriving inevitably from mass human habitation.

The ideal, but certainly not the most practicable, arrangement regarding the future locations of cities with respect to water supplies on a regional basis would be to have a minimum of habitation in the head-waters of a river system and to have the purer head-waters conveyed in a closed aqueduct system to lines of new cities located as much as possible on the higher land of the terrain rather than close to the streams. This arrangement would allow the nutritive wastes from the cities to be placed for recycling in part on the agricultural land lying between the cities and the low points in the regional drainage.

Present patterns of habitation in headwater areas of river basins in the U.S. preclude, for the most part, the preservation of head-waters in pristine purity. Only in the steeper mountain ranges themselves do we find, generally, streams pure enough to be used without treatment. We need to preserve even more of our areas in head-water wilderness and wild streams, not so much so that a few vigorous outdoorsmen can occasionally enjoy an inviolate natural sanctuary, but so that many persons can enjoy a less violated water supply further downstream. About the only real opportunity to separate the water supply function from the drainage and effluent disposal function, *on a regional basis,* is to look to a part of Arctic-flowing waters in Canada for regional augmentation—from source areas which are not now populated and which possess climatic and land conditions which are not conducive to future mass habitation. Regional water augmentation concepts for the west and midwest regions, based on bringing Arctic-flowing water southward for use in Canada and the U.S., were advanced by the author in 1968.

In the western half of the U.S. we find large tracts of land suitable for new cities, lands which lie in a sort of middle ground, not in the headwater collecting areas, not at the lower end of rivers, and not valuable farm land which should be preserved against the encroachment of cities. But at the same time these western lands do not have access to the water needed to make them usable for other than range land. There are vast areas of magnificent open plains and valleys, in the states of New Mexico, Utah, Nevada, Arizona, Wyoming, southeastern California and eastern Colorado, which were more or less passed over during the western migration because of a simple lack of water. The greater mass of contiguous under-used land lies on the High Plains east of the Rockies in the heart of the nation. Also, in some areas, such as the High Plains of west Texas and the Phoenix area of Arizona, lands were occupied in the westward movement because of once abundant ground water, but are in real trouble today as the ground water approaches exhaustion. Where the groundwater extraction exceeds the replenishment by nature or by artificial means, it cannot be considered as a long-term supply.

Given dependable water supplies, these western dry areas would make ideal locations for new farming and light industrial communities under the new emerging concept of rural-urban symbiosis.

A regional water augmentation system could be arranged where water would be fed from closed aqueducts to new cities on higher ground and on valley rims, with the nutrients from city wastes, along with municipally used water, applied to agricultural lands downslope where some of the waste nutrients could be recirculated. Much of the imported water would be used for "environmental irrigation" in the cities. The skeleton of a regional aqueduct system must come first, to provide the framework for the location of the new cities on a regional basis. This amounts to an attempt to separate as much as possible the fresher water from the waste-laden water on a regional basis, similar to our separation of fresh water from sewage in a city. The aqueduct water will not necessarily be potable, however, and may require some treatment before it can be safely used municipally.

These new western communities could assist greatly in a national movement toward population dispersion, absorbing a new wave of migration from eastern areas. Such communities would also have the special advantage of being near (but not in) the great scenic and recreational grounds of the Rockies and the Colorado Plateau. At the same time they could assist in relieving the rapidly compounding eastern environmental problems by a reduction in the concentration of people. In other words, western water augmentation for the specific objective of new cities would be for the benefit of the east and west alike, as long as we have freedom of movement across state lines.

Already serious considerations are being made of ways to collect and convey southward some of the Arctic-flowing water for the future needs of the Canadian Prairies and western United States. An initiative for this undertaking is being generated in Canada where there is a growing awareness of the great economic self-interest involved in Canada's selling a portion of this great *renewable* resource: it might make even more long-term economic sense than the exportation of her exhaustible resources of coal, oil, and gas.

Contrary to popular belief, new water supplies might come less expensively, and in the magnitude required, from the Arctic-flowing fresh waters of northwest Canada, than from desalting seawater and conveying it inland. The apparent advantage of fresh water transfer over desalting, as the next major augmentation measure, is better than ten to one. Furthermore, the waste heat from the 238-odd nuclear desalting and power plants, with fresh water capacities of 150 million gallons per day, required to desalt the same amount of water as imagined for importation, would create severe coastal ecological problems. Finding suitable locations for such plants in a way to enable systematic distribution to the inland west would be an even greater problem.

The Liard River System, in northeast British Columbia and in the Yukon and Northwest Territories, is looked upon as the source area most likely to be shared by Canada. This is because the river's size and strategic location would enable it to supply water, in the simplest way, to both the Canadian Prairie Provinces and western United States. It has an annual flow of some 60 million acre-feet at its mouth where it joins Mackenzie River which, in turn, discharges over 300 million acre-feet, annually, into the Arctic Sea.

Canada, and principally British Columbia, could benefit in many ways under this joint undertaking. The main economic attraction would be the simple sale of surplus, renewable water and power resources from the remote areas of northern British Columbia and the Territories—a region which does not lend itself as do other areas of Canada for permanent *mass* human habitation. The sale of these resources, under Canadian control at all times, would provide Canada the necessary long term capital to develop better and faster these same resources for her own use. While these raw resources might leave the country, the wealth from them would flow back into Canada, and to the extent required, into the specific region of origin.

The construction in Canada of the necessary dams, power plants, pump plants, transmission lines, construction communities, airfields, and access highways, under a systematic preplanned network of total long range but flexible planning, would open these remote areas of resource origin for other development, encouraging the growth of a development corridor extending from present inhabited areas of Canada to Alaska. The present Alaska highway would become only a part of a network of highways within the development corridor.

This new development corridor to Alaska would tend to encourage much more overland tourist and commercial travel through Canada between the lower 48 states and Alaska. This would mean more U.S. tourist and commercial traffic dollars for western Canada.

Arctic-flowing waters from the same areas of origin as considered for export to the U.S. could also be diverted southward for expanded use on the Prairie Provinces. New water will be needed there in the future for the same objective of population dispersion as in the U.S. They will need additional water for environmental irrigation in connection with municipal growth, cooling water ponds for fossil fuel power plants, ordinary municipal and industrial use, some agricultural irrigation, perhaps in covered, climatically-controlled areas using waste heat from thermal power plants to extend the growing season, and for future use in connection with the hydrogenation of coal to produce petroleum products synthetically. A joint financing of the development of the source areas would enable Canada to achieve these objectives with less financial strain. Revenue from the sale of water and power could help finance the new infrastructures on the Prairies.

It appears that the most expedient route for conveyance of Arctic-flowing water southward for the Prairies, under an exchange system, and for export to western United States, is the Rocky Mountain Trench. By deep dredging and the construction of low-head lift plants, a smooth water surface, to be no higher than existing flood levels, could be created in a scenic setting unmatched on this continent. This could become a magnet for tourist dollars, both Canadian and U.S. This entire valley should be dedicated to scenic and recreational values, with no commercial navigation permitted, such as would attract industry tending to pollute the water, the atmosphere, and the scenery.

Water from the Liard diverted southward through the Trench would enable a higher consistent operating power head on the existing Bennett power plant on Peace River and on the Mica power plant under construction on the Columbia.

Some water from higher elevations from the Laird might be lifted in the name of pumped-storage power, and passed down through all the existing plants on Columbia River to provide additional Canadian entitlement to downstream benefits on the Columbia within the United States.

More water passed down the Columbia would sooner justify the construction of Downey and Revelstoke dams and power plants on the Columbia, the power from which, when in surplus, could be sold to the United States for pumping needs in the United States in connection with the water export plan. British Columbia would find a ready market for any hydroelectric power she could generate for export.

Some Canadians have questioned whether their best interest lies in exporting some of these basic resources or holding them against the day when they might want to use them within the country to produce finished industrial products, thus upgrading the raw materials through the addition of human skill. Basic to such a long-term consideration would be the question, do the climate and terrain, say of British Columbia (which is mostly mountainous and the prime source area) lend themselves ecologically to an influx of people and industry, recognizing that both bring environmental problems? Would not their land, from an overall continental land-use zoning consideration, be better off in many respects if its economy were based principally on tourist attraction, in which it is without parallel, and on the export of some of its raw natural resources including water and hydroelectric power?

The water distribution system imagined for the western states under Canadian export contemplates providing new water supplies to each of the seventeen "reclamation" states, even to the Columbia River basin states whose supplies are generally adequate today but may not be in the future. A large pump-storage element in the concept could be attractive to the Pacific Northwest power systems.

A main storage reservoir, at the head of

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the entire distribution system in the western states, might be located in Centennial Valley in southwestern Montana. From this reservoir, water could be distributed systematically to those areas of greatest need and potential, making maximum use of existing river channels where possible in headwater areas, even to the extent of enlarging them in places to provide greater carrying capacity. This main reservoir, with an active capacity of about 50 million acre-feet, would be at elevation 7,000 feet, and could be utilized as a means of storing periodic excesses of power in the region by pumping water to this higher elevation. About two thirds of this pumping energy could be recouped as the water passed through power plants at water-drops within the distribution system. In any event, a certain amount of pumping would be required simply to get the water to flow.

In conjunction with the water system, a major electrical transmission system could be tied in with new large dual-purpose thermal power generating plants looking, hopefully, for a breakthrough on nuclear "fusion" energy. Greater operating efficiency of the aqueduct system would be obtained by performing much of the pump lifting during off-peak hours of the connected power system, and passing the water through the power falls during the peak hours. Many large and small reservoirs located enroute sections of the aqueduct could provide operating flexibility, enabling operating "breaks" in the aqueduct system. Operation could thus be segmented but all could be under central control. About two year's water supply could be contained in all the many holding reservoirs within the system.

Rainfall in much of the west takes wide cyclic swings, both seasonally and annually. During the wetter periods we are lulled into a sense of false security, forgetting that the dry years will surely come again. We need to build a regional system which not only insures against the seasonal dry periods but against the dry years, which could come several in a row. The present wet period was predicted back in 1954, based on sun spots. At the same time a devastating drought was predicted for 1975. The water collection and distribution system imagined in the concept presented here would serve mankind well over a thousand years, through many wet and dry periods.

Thus, the time has arrived for conflicting sectional water interests in the west to combine forces under wide regional planning and land use zoning. The old custom of Congressional horse-trading on western-water developments is grossly inadequate for present and future needs. The aim would be to supply additional water to those areas of most pressing need and to those more attractive valleys and plains which have potential for population absorption in the national interest under a variety of economic endeavors, based on increased water use. The water needs must be approached with the same drive and dedication which characterized the space program in the 1960's.

We have reached the point in our civilization on this continent where some serious decisions must be made regarding our future tenancy, and hopefully for improvement of that tenancy. We are on a downhill course that must be changed. It is becoming increasingly obvious that we cannot continue in the older parochial patterns of development from a standpoint of water and waste management: but must face our land, water use, and waste problems on a wide regional and even continental basis, if we are to build toward order in the future. This will require some tough redirections and an expansion in scale in our thinking and approach, but on a scale not out of proportion to the problems this society will face if we do not change. The question is not, can we afford the change? Rather, can we afford not to change?

We can afford to change better than we can afford voyaging to other planets. For less than the estimated cost of putting a man on Mars we could have the main lines of the western water import scheme.

All evidence points to the validity of the belief that population dispersion into smaller communities where individuals can have closer daily contact with nature should be one of the new national goals as the panacea for our growing urban crisis and its present compounding of human ills. Many of these new places of living, in the west, will be where nature has been improved upon by the large transfer of water such as is suggested in the present concept, and, to the extent possible, by the systematic separation of the fresh water from the degraded water on a wide regional basis.

A VIEW OF CONTINUING TASKS

HON. LEONARD FARBSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. FARBSTEIN. Mr. Speaker, a world convention of former concentration camp inmates and Jewish fighters against the Nazis was held in Israel this week. This reunion of survivors of the holocaust convened to celebrate the 25th anniversary of their liberation from Nazi oppression and to demonstrate their support and commitment to the national existence of Israel.

A delegation of these survivors who now reside in and are citizens of these United States, who are members of the American Federation of Jewish Underground Fighters Against Nazism, also attended this convention. The group's president, Mr. Seymour Robbins, and Mr. Tovia Bielsky, its vice president and partisan hero who was responsible for saving over 1,200 Jewish men, women, and children, headed up the federation's delegation.

Dr. Simon R. Perlmutter, a consultant to the Office of Education, Information and Public Affairs of this American organization, has furnished me with the text of a speech he prepared for delivery at that convention by Mr. Seymour Robbins.

Mr. Speaker, the speech, entitled "A View of Continuing Tasks," is more than just a personal pledge and commitment by these people in support of Israel's existence. It is a sobering and encouraging attestation of faith and allegiance to our Nation and a genuine tribute to my colleagues and to the American people. It is a passionate, humane appeal for peace and freedom in the Middle East, void of rancor and substantivally full of cogencies which I would like to call to the attention of my colleagues who are also partisans of peace and understanding. Extracts from the speech follow:

A VIEW OF CONTINUING TASKS

(By Seymour Robbins)

A quarter of a century has passed since our liberation from Nazism. For each of the millions involved, there was a different story. A different ending or a new beginning.

In 1945, when hardly a German could be found who would admit to being a pro-nazi, the historians and statisticians found one and one half million Jewish survivors in Western Europe. I was one amongst that number. We had options. We could either migrate to those countries that would accept us, return to our homelands, those nations from which we have been driven, or stay in the refugee camps which had been set up as temporary havens.

Many of you tried by legal or illegal means to migrate to the land of our fore-fathers. The British and Arab policy of exclusion must have made you question the meaning and significance of Mankind's victory over Hitler's Germany. Your forced detention and confinement in Cyprus was a bitter and bestial topping to the years you spent in the Nazi concentration camps or in the forests of Europe where you fought so valiantly to preserve Jewish life. You twinged with pain and frustration and had good cause to become distrustful of the Christian and Islamic societies that held the mandate over Palestine and blocked your return to Zion. Your indomitable courage and fortitude enabled you to withstand those torments and humiliations and in time you reached your destination.

Many of us found refuge in the United States, Canada, Mexico or in one or another of the friendly nations throughout the world. From our safe vantage points, we began to pick up the pieces and carved out a new beginning for ourselves. We kept abreast of your whereabouts and our heavy hearts grew ebullient whenever we learned that some of you had landed safely on these shores. We watched with sadness as the inventory of survivors was taken and each of us hoped and prayed that the one amongst them might be one of our relatives. When we learned that it wasn't one of our closest of kin we allowed ourselves the luxury of temporary dejection. Then, we became a vibrant part of the world opinion which was finally galvanized into action. We were overcome with joy and enthusiasm as a half million of you streamed out of the European refugee camps and migrated to Israel.

By then, a good number of us have recovered sufficiently enough so that we could join our brothers and sisters in our respective Jewish communities, and make our contributions to your practical needs. But it was your consideration, your dedication, your labor that began to turn the sands of this land into flowering oases. And still, as you labored, you were faced with the continuing task of eternal vigilance and sacrifice—the need for which, all of us had hoped would be over after our triumph over Hitler.

It was on your shoulders that the continuing and gigantic task of securing the Jewish homeland had been placed. We controlled our fears and repressed our tears lest you sense our weakness and in turn weaken. We thought of the struggle you still faced and of your continuing courage and sacrifice. In turn, we regained our courage and determination and from our safe havens, we became ashamed of our doubts for your survival. You inspired us and instinctively the world Jewish community knew that your aspirations were theirs as well. We all knew that until such time as your life and safety were no longer threatened, we ourselves could not live in true peace—no matter how insulated we were from the dangers you faced every day and night. It was you therefore, that came here via Cyprus and from the refugee camps of Europe, who gave all of us former concentration camp inmates and fighters against nazism, our second wind.

Yes—it was your sweat, your blood, your tears, your spirit and your dedication which has helped make the age long Jewish dream of a return to Zion, a reality. I can only say that I am humbly grateful to you for all

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that you have achieved for yourselves and for the Jewish people. But your achievements are not to be measured by your contributions to our people alone. Many emerging African nations have already benefited from your vast warehouse of "know-how". It staggers my imagination when I think of what could be done if the major difficulties were removed.

There is much encouragement to be taken from these difficulties. As safe and peaceful relations are established between the Jewish and Arab peoples you will be able to answer the call and provide even greater service to the peoples of these emerging and undeveloped nations. Once a secure peace is established, yours will be the opportunity of developing the still untapped and virgin riches of this land. Yes, the obstacles and difficulties are awesome. The toughest obstacle of all is the demagogery and political expediencies of Messrs. Nasser and Kosygin. However, these obstacles must and will be overcome. I can envision that in time, both the Arab and Black people of Africa will be calling on you to provide them with the scientific and technological know-how and tools so that their sands can be turned into flourishing, peaceful and humane oases as well. There is always a big potential for man in peaceful co-existence. You will reap the harvest which a secure and safe peace will bring, so will your Arab neighbors.

For those of us who come to this convention from other lands,—there is a singular satisfaction that by our actions in the past, we saved more than one Jewish life, who is today active in the building and safeguarding of this land. For those of us who are no longer faced with the task of standing a 24 hour a day vigil, or faced with the 24 hours a day dangers which you have been facing for over a quarter of a century, there is the satisfaction that those who took our place in the front lines of Jewish survival are more brave and more dedicated than we were.

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For the Jewish people, the past twenty five years is but the latest chapter in the story of our people's escape from cultural death and annihilation. The dream of returning to the land of our fore-fathers or as you would say, "Shivat Zion," (Return to Zion) infused us with a life-giving force during the thousands of years of our dispersion. It was this dream, this force, which enabled us to keep up the struggle and live through the horrors of concentration camps. It was this force that impelled us in our fight for survival as partisans. It is the same spirit and force which enabled our people to survive the decline and death of many civilizations. It was this force which in essence was transmitted through Talmud and Torah which gave us the spirit to survive and which will guide you into a just and lasting peace with your Arab neighbors. We must never forget that it was this spirit of Talmud and Torah which enabled us to contribute to Mankind's intellectual and spiritual heritage for over 4000 years. It is time that we were allowed to live in peace in this land of our people and we salute all of you Israeli citizens who are seeing to it that the time is now.

A few months from now, the State of Israel will celebrate its 22nd birthday. And a few months ago, as a prelude to both this convention and the forthcoming birthday of the State of Israel, our Federation members convened and celebrated our own deliverance and final victory over Nazism. We paid special tribute to the 300 Jewish partisans who under the leadership of Yichel Greenspan, engaged the might of Hitler's panzer units long enough to divert them from the allied armor which finally broke the back of the nazi foe in that sector of western Poland called Ostrowce. We also paid public tribute to our own Tovia Bielsky, a vice-president of our Federation, who emerged from the forests of the eastern sector of Poland with over 1,200 Jewish survivors.

We paid tribute to all the valiant allied soldiers and particularly to those from the United States of America, the country which served as the world arsenal of democracy and gave the weaponry, and the essentials of life, including the Russians, and made the job of securing a victory and peace possible. We stood in silent prayer to the memory of all Jewish, Christian and Islamic people who had fallen victim to Hitlerism. We vowed then, and we again re-affirm here today, that we will re-double our efforts to bringing the true facts before the people of the world so that the myths spun by today's best known mythologists,—Messrs. Nasser and Kosygin, will be shown to be the hollow rantings which are without fact and without foundation.

Deflating myths is a time-consuming job. It took over 1900 years before the Vatican disavowed the charge that Jews killed Christ. Yet, despite the official change in Christian theology, the Oberammergau Passion Players of Western Germany still depicts the Jews as guilty of deicide. We pray that it will not take that long to expose the web of myths that are being spun this very minute before the peoples of the world, by those story-tellers, Nasser and Kosygin. We pray that they will come to their senses and follow the golden rule of live and let live. The time of Christian Crusades has long passed and in this modern day the Communistic Crusade is duplicating the same chaos and destruction of the antiquarian proponents who searched for the holy grail. Yes, we take on this time-consuming job and at the same time we pledge you the moral and practical support required in your continuing task of building and securing this land of freedom and democracy.

As former partisans, we know that Nazism began with a myth and that the mass murders followed because no one wanted to adhere to the literal meaning inherent in the mythologists words. The world did not believe Hitler when he promised to annihilate the Jewish people. Learned men with great deliberation explained that his bellicosity stemmed from political aspirations and that all he wanted was to achieve greater economic concessions and opportunities for his people. Humorists interpreted his spoutings as a Do-It-Yourself Manual which would take him from paper-hanger and corporal to General or Diplomat. Diplomats became his apologists and advocates of statesmanship became the appeasers and the liaison links between him and the banking and industrial community of Europe. Communist countries who espoused a dislike for the philosophical concepts of nazism and fascism became his allies. Political expediency became the altar on which much of mankind was sacrificed. No one believed him and all wanted to do business with him.

There is a parallelism in Nasser's stated intent and promise to annihilate the State of Israel and its Jewish populace. The hatred that he has inculcated into the minds and hearts of the Arab people is no less intense than that which Hitler exerted on the German people. Mr. Chamberlain is no longer alive but Mr. Kosygin is acting out his script. The same pressures which Hitler brought to bear on the international banking and business community is being flaunted by Mr. Nasser. Apologists and appeasers of Nasserism are being entrenched in the councils of the United Nations. The fury that Hitler whipped up with Reichstag fire are stirred up by the fire in the Al Aksah Mosque. The orthodoxy of hatred for the free enterprise system by the advocates of a differing philosophy in the Kremlin is so great that for the second time in their fifty years of existence, the Kreminologists have made pacts with the mythmaker.

Mr. Hitler, when he wanted political concessions, addressed his grievances to the diplomatic community and through them to the industrial and banking community of Europe. He pleaded, threatened, cajoled. Mr. Nasser follows suit. He advises them and particularly the business and banking community in the United States, that if they do not want their holdings and investments expropriated, they had better bring some pressure to bear on the United States Government to change the American policy of friendship and support towards Israel. He pleads, cajoles and threatens that unless the political climate in America is changed, the Arab people of all Arab lands will be forced to conclude that Americans are their enemies. Lately, he advanced a timetable in which he tightened the political screws by telling the United States Investors that they will lose all their economic interests in Arab lands within the next two years.

Yes, the pages of history are replete with similar Hitlerian annotations. The political paralysis that followed Munich enabled Hitler to embark on his own policy of imperialistic expansion and brought on the world holocaust. Perhaps, Mr. Nasser is not aware of the antipodal differences between Stalin's pro-Hitler support and American friendship of Arab people. He must well understand what American investments in Arab land has and can do in helping the Arab people build a better society. However, he is too busy spending the royalty money to bolster his own regime and too occupied with spending millions on armaments and propaganda to really be concerned with the welfare of his own people. The United States policy of guaranteeing Israel's sovereignty is not predicated on hostility towards the Arab people. Mr. Nasser and Mr. Kosygin know that even though they would like to have the world believe otherwise.

Of course, the threat of economic expropriation is a powerful weapon. Blackmail always is if the victim acquiesces. However, Mr. Nasser must reckon with 200,000,000 Americans whose democratic form of government makes their power greater than that of any vested interest. And through their elected Senators and Congressmen, the American people, those with investments as well as those without investments in Arab lands agree that the deterrent strength of Israel must not be impaired. In a recent advertisement in the New York Times, 64 Senators and 243 Representatives in the House of Congress declared that it would not be in the interests of the United States or in the service of world peace if Israel were left defenseless in face of the continuing flow of sophisticated offensive armaments to the Arab nations. This then, is the American answer to the blackmail of expropriation. But it is more than that, it is a call to Mr. Nasser to meet the opportunity for peace:—An opportunity for the people of Arab lands to take on the task of wiping out the scourge of disease, poverty and illiteracy.

The mythologists in the Kremlin and in the Arab lands know the falsity of their tales. Their puppets and allies in Poland are anti-semitic hooligans whose excesses of inhumane decorum makes us shudder when we think back to the time when our Jewish partisans helped them re-establish their society. The Soviet despots prevent our Jewish bretheren from free and open worship and from migrating to Israel or to other democratic lands. The equally frantic and despotic Arab leaders subjugate their own people and then turn the job of turning them into photostatic copies of Hitler's Storm troopers. Their state supported terrorists carry on an unceasing guerrilla campaign designed to whip the normally peaceful Arab people into a conquering horde, bent not only on annihilating the Israeli people but inadvertently becoming the catalysts that keep their people in a straight jacket and detour them from the tasks of fighting their own poverty, disease and illiteracy.

We are told by many of our Arab and Russian friends that there are multitudes in those lands who silently cry out, "Enough! Enough! Let's start on the road of developing a peaceful and humane life. Let's start living like human beings instead of like animals." Apparently, their big brother guardians hear them, for we read about them being hung from public squares, of being banished from political life and of their imprisonment. Yes, our continuing task is a gigantic one but we must and will awaken world public opinion to these truths and injustices.

It is only when world public opinion is paralyzed that tyrants can run rough shod over people. We witnessed the silence that preceded Hitler's rise to power and similarly we witnessed the silence of Russians whenever Arab terrorists bombed an Israeli village, shelled an Israeli Kibbutz or village, fired on Israeli airplanes. Most recently, we see how that silence is broken by the Russians the moment the Israeli forces begin knocking out the major Arab terrorist and military installations. It is then that they begin to scream and denounce the Israeli defensive measures as "barbarous aggressive actions."

When in 1947, the United Nations partition resolution established an independent Arab and Jewish State, Jerusalem was set up as an international city. The Jordanians invaded and annexed the West Bank and East Jerusalem and by force of arms denied the Jewish people access to our holy sites. The Soviet Union that is now using the most vituperative language in describing before its people and the people of the world, the defensive measures employed by the Israeli Government and labelling them as "criminal and aggressive", kept silent then. We wonder if that silence was a rehearsal for their subsequent quietness which prevailed when they marched into Hungary and in most recent time into Czechoslovakia.

For over 19 years, the Kingdom of Jordan conditioned world opinion that those boundaries were a legal and historic part of Arab lands. In all that time the Jewish people only petitioned for permission to visit the holy sites. When in 1967, the Jordanians again attacked Israel and were quickly ousted from both the West Bank and from East Jerusalem, the Arabs set up a new cry. The Russians joined them in the chorus. "This was Israeli imperialism which had been fathered and bolstered by American imperialism."

The tune was picked up by the pro-Arab nations and gave rise to a resolution in the Security Council of the United Nations on Nov. 22, 1967, which called on the Israeli to withdraw from Arab territory captured in 1967.

When the Israelis entered East Jerusalem and found that the Jordanians had desecrated the Jewish cemeteries and had used the headstones to build bunkers and latrines, Mr. Kosygin and the Soviet Press said nothing. When the cease fire agreement is broken by the Arabs, the Soviets remain silent.

But as soon as the Israeli air force began to knock out Arab military installations, Mr. Kosygin told his people and the people of the world that Israel's continuation of its present course "expands and deepens the conflict in one of the most important areas of the world." Not one public statement is on record to indicate that he told the Arabs to observe the cease fire agreement. Instead, his statement goes on, "It is impossible to force the Arab states into reconciling themselves to aggression and to seizure of their territories. The situation calls for Israel's immediate discontinuation of dangerous armed attacks and raids against the United Arab Republic and other Arab States." Again, not one word to the Arabs to observe the cease fire agreement of 1967.

Yes, our continuing tasks are gigantic ones but no greater than our struggle for survival through the era of Nazism. Our quest for life and peace finally prevailed then and with the awakened and united support of the Jewish people of the world and the enlightened peoples who profess other faiths. We will yet witness in our lifetime, the realization of the Peace which the Israeli people are striving for.

I am emotionally overcome by the joy of seeing so many former Jewish Fighters against Nazism gathered here from all parts of the world. Our convention here is in essence a re-dedication to our continuing tasks which are still before us in our various countries. It is also an avowel to the Jewish people of the State of Israel who carry the major portion and brunt of this task, that we are with them and part of that struggle. It is a dramatic presentation to the whole world that our forces are geared not for conquest and kill, but to Peace and Life. Shalom.

THE GATES COMMISSION REPORT ON ALL-VOLUNTEER FORCES—PART II, CHAPTERS 9 AND 10

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, chapter 9 of the Gates Commission report deals with force requirements for the Reserve Forces and the recruitment of manpower for such forces. Chapter 10 is concerned with the standby draft. The texts of the two chapters follow:

CHAPTER 9—RESERVES

INTRODUCTION

The Commission recognized from its first meeting the need for special attention to the problem of the reserve forces. Surveys indicate that perhaps 75 percent of the enlisted personnel fulfilling their initial six-year military service obligation in the reserves are there only because of the draft. If conscription is eliminated, how are these forces to be manned? Research directed to that question indicates that planned reserves can be maintained on an all-volunteer basis at reasonable levels of compensation. Analysis of the reserve problem, however, suffers seriously from a lack of data. Even though special care was taken to provide against errors of estimation, the assessments of what is required to maintain an all-volunteer reserve force are much more tenuous than those for the active duty force.

U.S. reserve forces have two primary functions: first, to supplement the active duty forces as needed; second, to help maintain domestic peace and assist in time of civil disaster. The latter is largely the responsibility of the National Guard.

Currently, about one million officers and men in the Ready Reserve receive pay for participating in reserve training—two-thirds of them are in the Army Reserve (USAR) and Army National Guard. More than 80 percent of the men in the paid reserve are organized and trained as units which are designed to fit into the structure of the active forces. Should these men be called to active duty, it is intended that they perform in their respective units. The remaining 20 percent, about 165,000 men, can be called as individuals to augment active forces. In addition to paid reservists, there are 1.3 million unpaid reservists in the Ready Reserve pool who may be called up as individuals.

DISCUSSION

In an emergency the President is authorized to call to active duty as many as one million Ready Reservists (10 USC 673). Reserves in the Standby and Retired categories can be called only with the approval of Congress. Table 9–I shows how reserve manpower (less mobilized strength still on active duty) was allocated into recall categories on June 30, 1969. Table 9–II summarizes the major units which that strength provided in FY 1969.

RESERVE FORCE REQUIREMENTS

The impact of planned reductions in active duty forces on reserve force manning requirements is still very uncertain. Four projected active duty forces have been analyzed, spanning the range that is generally considered reasonable, from 2.0 million to 3.0 million men. A similar procedure has been followed in analyzing the reserves. We have associated a reserve force, by service, with each of the four active alternatives. The projected strengths shown in columns 3 and 4 of table 9–III are based on the relationship between active and reserve forces prior to Vietnam.[1]

TABLE 9-I.—DEFENSE DEPARTMENT RESERVE FORCES[1] JUNE 30, 1969

[Thousands]

Paid drill Ready Reserve	Officers	Enlisted	Total
Army National Guard	30.4	358.5	389.0
Army Reserve	32.2	229.1	261.3
Naval Reserve	19.0	113.7	132.7
Marine Corps Reserve	2.7	46.4	49.1
Air National Guard	10.3	73.1	83.4
Air Force Reserve	10.1	34.9	44.9
Total DOD	104.7	855.7	960.4
Other paid Ready Reserve	19.3	37.7	57.0
Total paid status	124.0	893.4	1,017.4
Unpaid Ready Reserve	98.3	1,189.0	1,287.3
Standby Reserve	103.7	322.2	425.9
Retired Reserve	323.8	205.0	528.8
Total not on active duty	649.8	2,609.6	3,259.4

[1] The U.S. Coast Guard Reserve is administered in peacetime by the Secretary of Transportation with the concurrence of the Secretary of the Navy. On June 30, 1969, it included 17,800 Selected Reserve (paid drill) and 9,800 reinforcements. Because of time limitations, we have not specifically considered Coast Guard problems.

TABLE 9-II.—MAJOR RESERVE UNITS, JUNE 30, 1969

Army Reserve	Naval Reserve	Air Force Reserve
13 training divisions. 3 brigades. 2 maneuver area commands.	35 destroyers and destroyer escorts. 28 boats and craft. 36 air squadrons.	14 wings (45 squadrons). 8 military airlift. 6 tactical airlift.
Army Guard	**Marine Reserve**	**Air Guard**
8 divisions. 18 brigades.	1 division. 1 air wing.	21 wings (92 squadrons). 12 fighter. 3 reconnaissance. 2 air refueling. 7 military airlift.

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[1] The reserve analysis omits the Navy's "2x6" program from strength and enlistment calculations. It is included in the analysis of the active forces. Its strength ranges from 18,000, at the 2 million level, to 24,000 at the 3 million level.

TABLE 9-III.—ALTERNATIVE ACTIVE AND RESERVE STRENGTH LEVELS

[Thousands]

Active duty		Reserves			
		Unmodified enlisted strength [1]		Modified enlisted strength [1]	
Total force level	Enlisted strength	Mixed force	Volunteer force [2]	Mixed force	Volunteer force [2]
(1)	(2)	(3)	(4)	(5)	(6)
2,000	1,697.1	628.3	639.5	554.9	558.5
2,250	1,902.7	707.5	712.4	624.8	632.3
2,500	2,107.8	786.0	785.5	694.1	696.3
3,000	2,581.1	838.8	829.8	740.9	734.9

[1] Excludes the "2 x 6" program in the Naval Reserve.

[2] The alternative reserve requirements estimates shown use the concept of equal effectiveness discussed in chapter 4. Like the active forces, the reserves will experience savings accruing from reduced personnel turnover. However, not much reduction in turnover will result from lengthened first enlistments which are now predominantly for 6 years. The principal source of reduced turnover will be higher reenlistment rates in the first 6 to 10 years of service. The effect on reserve manning requirements is attenuated, however, because most reserve trainees receive their initial training from the active establishment.

In addition, the reduction in turnover from higher retention is offset by a decline in the number of prior-service reserve enlistments owing to lower turnover in a voluntary active force. Recruits from civilian life must make up the shortfall, and they enlarge the share of noneffectives in the force. The net result is that the higher proportion of civilian enlistments outweighs the gain from higher retention at levels up to about 2,500,000.

There is reason to doubt, however, that there was a real requirement for the pre-Vietnam levels of paid-drill strength. The public record is clear that the Army was reluctant to accept the minimum strength levels mandated by Congress. The Air Force was similarly pressured into higher levels than it had requested, although the Air Force found useful work for much of the excess strength, largely in part-time support of the active force's mission. The tenuous nature of the pre-Vietnam reserve requirements is also evident from independent research undertaken by the Commission staff, which confirms that reorganization of the reserve forces could eliminate approximately 113,000 men in paid drill status ("spaces") without significantly affecting reserve effectiveness.

Because of these apparent overstrengths, we have prepared a second set of alternative reserve force levels to be associated with the four alternative active levels. This second set modifies the first by removing from the current level 110,000 Army and 2,800 Air Force paid-drill spaces; (16,300 officer and 96,500 enlisted spaces). Proportional modifications are made in each representative force level and are presented as "modified" levels in table 9–III.

These force levels are set forth here to emphasize that shortfalls from present levels in the reserves are not a serious threat to national security. We believe that the recommended pay increase for the active duty component (which is automatically effective for the reserves) will provide enough reserve enlistments to meet the larger requirements in table 9–III. If that turns out not to be true, or if transitional problems develop, reserve strength could decline moderately from the unmodified levels in table 9–III without posing a serious national security problem.

RESERVE NON-PRIOR SERVICE ACCESSIONS

The critical variable in determining the feasibility of a voluntary reserve force is the number of enlistments from civilian life that will be required annually. That number depends on: (1) annual reserve losses (which depend on the reserve re-enlistment rate), and (2) annual prior service enlistments (those who join the reserves after active duty). Columns 3 and 5 of table 9–IV show estimates of the number of civilian enlistments required annually to maintain each of the forces shown in columns 2 and 4 on a stable basis.

TABLE 9-IV.—ANNUAL CIVILIAN ENLISTMENTS REQUIRED FOR VOLUNTEER RESERVE ALTERNATIVES [1]

[Thousands]

Active force level	Unmodified enlisted strength [1]	Civilian enlistments required	Modified enlisted strength [1]	Civilian enlistments required
2,000	639.5	90.0	568.5	76.2
2,250	712.4	97.2	632.3	81.6
2,500	785.5	106.2	696.3	88.6
3,000	829.8	102.6	734.9	84.0

[1] Reenlistments are estimated to be 13 percent of force strength; prior service enlistments vary with active losses. The derivation of these estimates is described below.

For comparison, the annual number of civilian enlistments in the reserves (excluding the "2 x 6" program) averaged 122,000 during the last eight years.

THE SUPPLY OF RESERVE MANPOWER

Like the active forces, the paid drill reserve contains a mixture of true volunteers and men who serve chiefly or solely to discharge the military service obligation imposed by law. The proportion of men who willingly undertake regular drill training is strikingly different for officers than for enlisted men. According to a 1969 Defense Department survey of reserve personnel, 80 percent of officers drill voluntarily, but only 27 percent of enlisted men do. For this reason, our analysis has focused on the enlisted segment of an all-volunteer reserve force.

The prospect of securing volunteers for reserve service is surely related to pay levels. All too often it is said that drill pay is nearly irrelevant to a young man deciding whether to devote free time to unit activity. Yet almost one-third of men with less than six years of service describe drill pay as one of the most significant factors in their decision.

A typical reservist attends 48 training assemblies per year. Each assembly lasts four hours (a small percentage only three) and assemblies are usually "multiple": two on Saturday, or four on a weekend. On average, the typical reservist devotes one full weekend each month to unit training and trains for two weeks on active duty each year. His total investment of time is 312 hours. Counting basic pay alone, he earnes $462 a year if he is an E4 (corporal) with four years of service (about $580 if he has three years of service).

This is not a large amount compared to total family earnings: median income for an E4 falls in the $7,000–$8,000 range. But the more meaningful economic comparison is with part-time employment alternatives. Two-thirds of the E4's are married and more than half of them have working wives. Two-thirds of the E4's are 21–25 years old; and more than one-third have children. The typical E4, in other words, closely resembles the Department of Labor's portrait of the typical multiple job holder—"a comparatively young man with children who feels a financial squeeze." According to the Bureau of Labor Statistics, in May 1966, 5½ percent of 20–24 year-old working men held multiple jobs. They worked a median 14 hours on their second job. In a full 52-week year, they would work 728 extra hours.

For men who are interested in extra income, reserve activity does not offer the earnings potential of part-time civilian work because it is too infrequent. For some men it could become an attractive alternative as a second job. Certainly a necessary if not sufficient condition for voluntary reserve participation is a level of drill pay attractive enough to make military instruction preferable to other part-time activities. While the pay level in the early years of service has been too low to attract voluntarily the high quality of recruits which the reserves have enjoyed over the past ten years, our studies show that a more reasonable qualitative mix can be obtained voluntarily.

Drill pay is now directly linked to active duty basic pay. The present pay schedule is given in table 9–VI. In one drill period (usually four hours), a reservist earns an amount equal to a full day's pay for his regular service counterpart. His starting level, if he enlists directly from civilian life, is about $1.00 per hour. (The federal minimum wage is $1.60 per hour.) A man, who has served four years with the regular forces and has reached the E5 (sergeant) pay grade, can earn $2.75 per hour at drill training. At the career end of the scale, the rates are quite attractive. A First Sergeant with over 16 years of service earns $5.00 per hour.[2]

Our pay recommendations will increase these hourly rates significantly in the lower grades. In this first year of service, a recruit will earn $2.00–$2.50 per hour, approaching the pay that a sergeant now receives. Drill pay will be increased above the amount needed to maintain its present relation to civilian wages as shown in table 9–V.

TABLE 9–V.—*Drill-pay increase by length of service*

Years of service:	*Percent*
0–1	89.8
1–2	64.4
2–3	23.7
3–4	19.5
4–5	8.3
5–6	7.9
6–7	4.9
7–8	7.2
8–10	5.0

In addition to basic pay, certain special and incentive compensation, such as flying pay and parachute pay, is paid to those on inactive duty at the daily active rate. While on active duty, the reservist receives the same pay as the regular. Occupational differentials, such as proficiency pay and the variable re-enlistment bonus, are not paid to reservists on either active or inactive duty.

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[2] Costs of travel to and from drill assemblies are borne by the individual.

TABLE 9-VI.—PAY RATES PER TRAINING ASSEMBLY (DOLLARS)

[Effective July 1, 1969]

Pay grade	Years in pay grade													
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
O10														
O9														
O8	48.44	49.89	51.07	51.07	51.07	54.88	54.88	57.47	57.47	59.85	62.47	64.85	67.46	67.46
O7	40.24	42.99	42.99	42.99	44.90	44.90	47.50	47.50	49.89	54.88	58.66	58.66	58.66	58.66
O6	29.81	32.77	34.91	34.91	34.91	34.91	34.91	34.91	36.11	41.80	43.94	44.90	47.50	51.53
O5	23.84	28.02	29.94	29.94	29.94	29.94	30.87	32.51	34.69	35.04	39.43	40.61	42.04	
O4	20.12	24.47	26.13	26.13	26.59	27.78	29.68	31.34	31.42	34.20	35.16			
O3	18.70	20.89	22.31	24.71	25.88	26.83	28.27	29.68	30.40					
O2	14.98	17.80	21.38	22.09	22.55									
O1	12.88	14.25	17.80											
O3 [1]				24.71	25.88	26.83	28.27	29.68	30.87					
O2 [1]				22.09	22.55	23.27	24.47	25.42	26.13					
O1 [1]				17.80	19.00	19.71	20.42	21.13	22.09					
W4	19.04	20.42	20.42	20.89	21.84	22.80	23.74	25.42	26.55	27.55	28.27	29.20	30.17	32.51
W3	17.30	18.78	18.78	19.00	19.24	20.65	21.84	22.55	23.27	23.97	24.71	25.66	26.59	27.55
W2	15.15	16.39	16.39	16.86	17.80	18.78	19.49	20.18	20.20	21.61	22.31	23.02	23.97	
W1	12.63	14.49	14.49	15.68	16.39	17.10	17.80	18.53	19.24	19.95	20.65	21.38		
E9							21.63	22.12	22.64	23.13	23.64	24.11	25.39	27.85
E8						18.15	18.65	19.15	19.65	20.15	20.63	21.14	22.39	24.88
E7	11.40	13.66	14.17	14.68	15.17	15.66	16.15	16.67	17.41	17.91	18.41	18.65	19.90	22.39
E6	9.82	11.93	12.43	12.93	13.44	13.92	14.43	15.17	15.66	16.15	16.41			
E5	8.49	10.46	10.95	11.44	12.19	12.69	13.18	13.66	13.92					
E4	7.13	8.95	8.44	10.19	10.69									
E3	5.16	7.20	7.71	8.20										
E2	4.25	5.96												
E1	4.10	5.46												
E1 <4 mos. 3.83														

[1] Commissioned officers in the grade of O1 through O3 credited with over 4 year's active enlisted service.

Reservists are also entitled to pensions. Full retirement credit is given for years served on active duty; partial credit is given for years on inactive service. Retired pay is contingent upon completion of twenty creditable years of service and begins at age 60, at the pay scale then in effect.

Proposals are advanced from time to time to permit payment of retired pay at age 50. If this were done and benefits were not reduced, the cost of the retirement benefit would double. Since retirement pay has little attraction for young men whose primary job is in the civilian sector, this added expenditure would do little to solve the recruitment problems of the reserves.

Currently, about 850,000 enlisted men are in paid-drill reserve status. If men temporarily called to active duty are included, the paid-drill total averaged 836,000 over the eight years prior to June, 1969. To maintain this level the reserves have required an average annual inflow of 262,000 men. Of these, 153,000—nearly 60 percent—were men who entered directly from civil life.[9] The remaining 109,000 were personnel with prior service.

Three sources of manpower are available to an all-volunteer paid drill reserve:

1. Re-enlistments—new commitments by those already in the reserves. Re-enlistments affect losses and thereby the level of accessions required to maintain a given force;

2. Prior service enlistments—enlistments by those who have been on active duty; and

3. Civilian enlistments—first enlistments by civilians.

RE-ENLISTMENTS

Reserve re-enlistments are a primary factor in determining the number of new accessions required each year. Re-enlistment rates may be expressed as a proportion of average strength. Measured in this way, re-enlistment rates during the FY 1962–69 period are shown in table 9-VII.

These data imply that if the re-enlistment propensities of the FY 1962–65 period could be re-established, a 20 percent improvement (from 7.2 percent to 8.6 percent) in re-enlistments would result. Since FY 1962 and 1963 were very poor years owing to the crises in Berlin and Cuba and subsequent reorganizations of the Army reserve components, the improvement might well be greater.

TABLE 9-VII.—PAID-DRILL STRENGTH, RE-ENLISTMENTS, AND RE-ENLISTMENT RATES FISCAL YEAR 1962-69

[In thousands]

Fiscal year	Strength	Reenlistments	Rate (percent)
1962	851.6	54.3	6.4
1963	820.3	59.5	7.3
1964	799.7	88.3	11.0
1965	818.7	81.1	9.9
1966	833.5	[1] 80.9	9.7
1967	863.2	[1] 68.4	7.9
1968	856.4	[1] 51.5	6.0
1969	856.7	[1] 43.3	5.1
1962–65	3,290.3	283.2	8.6
1966–69	3,409.8	244.1	7.2

[1] Includes estimated 1.9 for Marine Corps.

The conventional and more useful way of analyzing re-enlistment rates is to examine the proportions of separating men who continue in service at a series of "decision points" along the career path. Because actual rates are not available, we used statements of continuation intentions provided by the 1969 attitude survey to approximate them. Table 9–VIII displays re-enlistment intentions classified by length of service and by obligated and voluntary drill categories. As one would expect, interest in drill participation is higher in the voluntary category; and it is markedly higher after the sixth year of service.

TABLE 9-VIII.—MEN IN 48 DRILL PROGRAMS STATING FIRM INTENTION TO CONTINUE PAID-DRILL PARTICIPATION, 1969

Years of service	Required to drill (percent)	Voluntary drill (percent)
Less than 6	3.4	12.4
3 to 4	3.0	8.2
5 to 6	4.3	13.5
6 to 10	19.2	50.7
6 to 8	15.5	46.9
8 to 10	52.2	57.6

What would have been the effect on re-enlistments if the 1969 reserves had been composed entirely of volunteers? Using re-enlistment intentions as proxies for re-enlistment rates, we have estimated that "conversion" to a volunteer force would have added nearly 33,000 re-enlistments, an increase of three-fourths over the number who actually did re-enlist in FY 1969. The re-enlistment rate, expressed as a percentage of average strength, would have improved from 5.1 to 8.8 percent. (About half of this estimated gain occurred in the under-6 year portion of the force, where the convention re-enlistment rate—percent of men separating—rose from 6 percent, in the mixed force, to 16 percent in the all-volunteer force.)

This comparison suggests that a shift to voluntarism would raise the 7.2 percent re-enlistment rate of recent years to 12.7 percent of average strength. The best-re-enlistment experience in the eight years examined was FY 1964, when 88,000 re-enlistments equalled 11 percent of a mixed volunteer/obligated force. Given the striking differences in re-enlistment attitudes between volunteers and non-volunteers, the estimate that a voluntary force will attain re-enlistments at that level seems quite conservative.

One might assume an additional increase resulting from re-establishment of the pre-1965 environment. If this were the case, the re-enlistment rate would become 15.2 percent of average strength. We did not make that assumption; because the earlier force included a larger proportion of volunteers and the shift to voluntarism was, thus, already partly taken into account.

We then estimated the effect which our proposed pay increases would have on re-enlistment behavior. Survey responses indicate that modest increases in re-enlistment will occur. Higher pay will induce proportionately more re-enlistments among men who now have the lowest inclination to continue in reserve service. For instance, our studies show that among those persons required to drill with from four to six-years of service, a pay increase of 10 percent would be likely to increase the re-enlistment rate from 3.6 to 4.3 percent, an increase of 20 percent. Re-enlistment rates for those who drill voluntarily would rise from 15.2 to 16.4 percent, only an 8 percent improvement. Volunteers with six-to-ten years of service now tend to re-enlist at very high rates—

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[9] Includes over 35,000 in the Navy's "2x6" program.

50.7 percent according to survey statements. A 10 percent increase in their pay would raise their re-enlistment rate to 52.3 percent, a 3 percent improvement.

We propose to increase enlisted drill pay 6 percent after the sixth year of service, when most decisions to continue in the reserves are made. This increase will have both immediate and longer-term effects on re-enlistments. The immediate result will be to provide a moderate rise in re-enlistments of those in the first six years of service. Such men now usually leave the reserves, but they are more responsive to pay changes than their older colleagues. As volunteer enlistees gradually replace draft-motivated men over the six years following conversion to an all-volunteer force, re-enlistment rates will improve at accelerating rates until a higher stable rate is reached. Our calculations indicate that, in an "all-volunteer" 1969 reserve, re-enlistments as a percent of strength would have risen from 8.8 percent (after conversion) to 9.1 percent (after the pay rise); and half of this gain would be realized in the under-six year component of the force.

The recommended pay increase should improve the position of reserve drill duty vis-a-vis other part-time employment opportunities. If relative pay is maintained at the recommended level in an all-volunteer situation, we estimate that the combined effect of moving to a volunteer system and increasing pay will increase the re-enlistment rate from the current 7.2 percent to 13 percent, an improvement of 80 percent.

PRIOR SERVICE ENLISTMENTS

The man who separates from active service is a highly prized candidate for service in a reserve unit. He has had two or more years of training and experience which qualify him not only for immediate assignment to fill a unit vacancy, but often for a leadership role as well. Under present rules, geography prevents full exploitation of this enlistment potential. Unless a unit with a vacancy matching his grade and skill qualification is convenient to his home and regular occupation, a veteran is unable to participate. Because unit assignment specifies location, many prior-service enlistments have been lost.

In the eight years spanning FY 1962–69, 4.8 million men left active service. The reserve components recruited fewer than 900,000 of them into paid drill status. That total includes substantial numbers who were obligated to join, some through training "pay-back" agreements entered into during their active service, but more through involuntary assignment (in the Army Reserve) to achieve programmed strength levels. The number of enlistments would have been still smaller had not the Navy assigned a large fraction of reservists to paid-drill, individual mobilization billets rather than to actual crews. Nearly 80 percent of paid-drill Naval reservists attend regular training sessions during the year and report to a crew assignment for two-week summer training. The Navy's experience demonstrates that it is not necessary to forfeit reserve enlistments because of the self-imposed limitations of unit structure.

Prior-service recruitment experience between FY 1962 and 1969 deteriorated sharply except in the Navy, where the "2x6" program provided a degree of stability. The drop was sharpest in the Army components, especially the USAR, whose recruitment rate fell from nearly 23 percent in the first four years to 6 percent in the last four. This decline is attributable chiefly to wartime and the accompanying sharp rise in the number of inductees separated: 70 percent of 1960–67 inductions were released in the 1966–69 period. Another factor depressing USAR recruitment was a ruling by the Defense Department in June 1967 that involuntary assignments into paid-drill units were to be used only if programmed strength could not otherwise be attained.

Since the 1962–65 period approximates a non-war recruiting situation, we have chosen that period as the basis for estimates of enlistments in a post-Vietnam environment. As a matter of policy, the reserves accepted prior-service men only on a voluntary basis during that period, except the USAR. Even so, survey responses in 1964 show that fractions of the men in the other components also regarded their service as involuntary. These responses may be only the results of retrospection, but they suggest that estimates of potential recruits ought to be discounted for involuntary assignment in all components. The adjusted rate is the number of enlistments multiplied by the fraction who volunteered, the product then divided by the number of separations from the parent service. Table 9–IX presents the unadjusted and voluntary (or adjusted) rates which we applied to projected active separations in order to estimate reserve gains from that source. The high level of voluntarism in the National Guard, and to somewhat lesser degree in the Navy, is striking.

TABLE 9-IX.—PERCENT OF ACTIVE SEPARATIONS ENLISTING IN RESERVE COMPONENTS, FISCAL YEAR 1962-65

Reserve component	Percent of active loss into paid drill	Voluntary proportion	Voluntary enlistment rate
Army National Guard	8.5	0.944	8.0
Army Reserve	22.8	.257	5.9
Naval Reserve	31.5	.811	25.5
Marine Corps Reserve	10.1	.404	4.1
Air National Guard	4.7	.943	4.4
Air Force Reserve	6.0	.601	3.6

Projected losses from the 2.5 million all-volunteer force are 342,300 in the 1977–79 period which would provide 47,800 prior service enlistments for the reserves. Projected losses from the 2.25 million all-volunteer force of the 1977–79 period are 302,500. We estimate that the reserves will be able to recruit about 42,400 of them.

Substantially higher gains can be expected during the early years of transition to an all-volunteer force owing to high separations from the active force. For instance, active separations from a 1971 all-volunteer force are predicted to be 665,000. We estimate that the reserves could voluntarily enlist 92,000, or nearly double the number expected after the active force is stabilized at 2.5 million. Table 9–X consolidates active separations and projected gains into the reserves.

TABLE 9-X.—PROJECTED ACTIVE SEPARATIONS AND PAID DRILL GAINS, ALL-VOLUNTEER ACTIVE AND RESERVE FORCES, SELECTED YEARS

[In thousands]

Component	Rate (percent)	1971 Separation	1971 Gains	1972 Separation	1972 Gains	1973 Separation	1973 Gains	Average 1977–79 Separation	Average 1977–79 Gains
2,500,000,000 ACTIVE FORCE									
Army National Guard	8.0	406	32.5	322	25.8	296	23.7	148	11.9
Army Reserve	5.9		23.9		19.0		17.5		8.7
Naval Reserve	25.5	99	25.3	103	26.4	111	28.4	75	19.0
Marine Corps Reserve	4.1	71	2.9	69	2.8	42	1.7	34	1.4
Air National Guard	4.4	89	3.9	99	4.3	102	4.5	85	3.8
Air Force Reserve	3.6		3.2		3.6		3.7		3.1
Total		665	91.7	593	81.8	551	79.5	342	47.8
2,250,000,000 ACTIVE FORCE									
Army National Guard	8.0	406	32.5	322	25.8	296	23.7	121	9.7
Army Reserve	5.9		23.9		19.0		17.5		7.2
Naval Reserve	25.5	99	25.3	103	26.4	110	28.0	70	17.9
Marine Corps Reserve	4.1	71	2.9	69	2.8	42	1.7	33	1.3
Air National Guard	4.4	89	3.9	99	4.3	102	4.5	78	3.4
Air Force Reserve	3.6		3.2		3.6		3.7		2.8
Total		665	91.7	593	81.8	550	79.1	303	42.4

CIVILIAN ENLISTMENTS

In the presence of the draft, reserve service has provided an attractive opportunity for young men to minimize the personal cost of fulfilling their military obligation. Indeed, it has come to be preferred by so many that queues of prospective enlistees have formed which at times are longer than the entire annual flow of enlistments. The reserves, unable to accept all applicants, have exercised a high degree of selectivity. Table 9–XI compares the educational attainment of reserve and active duty personnel. In 1969, 94 percent of the paid drill reservists had completed high school, over one-half had attended college, and 16 percent had been granted college degrees. This is a much higher level of educational attainment than for the active duty force. Only 1.6 percent of paid-drill reservists were Negro, as compared to 10.5 percent in the active forces. At the same time fewer than 5 percent of paid drill reservists, but 15 percent of active duty enlisted men, were under the age of twenty. Table 9–XII compares reserve and active distribution by age.

TABLE 9-XI.—EDUCATIONAL ATTAINMENT OF ENLISTED MEN—FISCAL YEAR 1969

[Cumulative percent]

	Paid drill reserves	Active duty
College graduates	16.1	2.2
Some college	54.4	21.5
High school graduates	93.9	82.7

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TABLE 9-XII.—AGE OF ENLISTED MEN—FISCAL YEAR 1969

[Cumulative percent]

	Paid drill reserves	Active duty
Under 19	1.2	5.6
Under 20	4.8	15.2
Under 22	19.1	47.8
Under 24	40.9	66.9
Under 26	62.2	75.0

Men of this age and educational level are almost certain to have little real interest in reserve service. The 1969 survey found that three-fourths of the paid-drill reservists serving their initial six-year obligation entered military service because of the draft. Five years earlier the proportion was two-thirds. (Among 17–21 year olds in the 1969 survey, the proportion was 55 percent.)

Evidence of strong draft motivation among reservists has been interpreted to mean that a voluntary system will not work. These draft motivation data, however, significantly overstate the magnitude of the problem. As table 9-XIII shows, draft motivation is strongly related to education and age: the younger and less educated the reservist, the lower the draft motivation. If recruitment is focused on a younger, less well-educated group; the flow of volunteers will be substantially larger than is implied by the draft motivation of the present force.

TABLE 9-XIII.—PERCENT DRAFT MOTIVATED BY EDUCATION ATTAINED AND BY AGE, FISCAL YEARS 1964 AND 1969

Educational attainment	1964	1969
College graduate	90	91
2–4 years' college	77	83
Under 2 years' college	60	73
High school graduate	43	70
Less than high school graduate	24	64
Age:		
21	83	85
20	70	76
19	55	78
18	41	65
Under 18	26	54

In estimating the number of civilian men who can be recruited for reserve service, we have noted the large waiting lists for reserve vacancies. These lists were built up because the ability of the services to accept reserve enlistments has been limited by their budgets and by the capability of the active forces to provide initial training. At the same time, the services' needs for new enlistments are governed by losses which follow a complex cyclical pattern, with crises such as Berlin influencing losses in later years. The size of the queues has fluctuated as capacity and needs varied, and it has not been possible to estimate satisfactorily the additional number of volunteers who might have been recruited if enlistments had been unlimited. Table 9-XIV shows the size of waiting lists annually since 1965 (the first year for which data are available) and the number of enlistments which occurred in the corresponding fiscal year.

While our estimates do not use data on the queue explicity, we have used the existence of the queues to justify basing our estimates on recruitment in a high pre-war year—1964.

TABLE 9-XIV.—NUMBERS OF MEN AWAITING RESERVE ENLISTMENT ON JAN. 1 AND NUMBERS ENLISTED FISCAL YEAR 1965-69

[In thousands]

	1965	1966	1967	1968	1969	1970
Waiting	236.9	153.2	272.2	125.2	81.9	148.2
Enlisted (REP)	117.9	204.7	96.3	61.9	112.7	....

As shown above, educational attainments and mental qualifications have been inflated in the reserves under the pressures of the draft. The reserves do not require such an educationally rich force. Peacetime recruits should come predominantly from among high school graduates and not from those with some college experience. According to the 1964 survey: 43 percent of the high school graduates in their first term of reserve service were draft-motivated enlistees; 55 percent of those 17–21 in the first term were draft motivated; 67 percent of those 17–24 were draft motivated; and 70 percent of the last-named group, excluding the "2 x 6" program, were draft-motivated. Even though that group contained far more college men than is desirable for good retention, we have used a draft motivation factor of 70 percent in projecting enlistments. In 1964, 175,000 men enlisted from civil life. If 30 percent were true volunteers, the true volunteers represented 0.7 percent of the 17–21 year old pool. For our projections we have assumed that at current levels of relative military/civilian pay, civilian reserve enlistments each year would be 0.7 percent of the 17–21 year pool. Our estimates take no account of the fact that entry-level drill pay rose substantially more than earnings of civilian production workers in the five years following 1964, and therefore err on the conservative side.

We have no data from which to estimate the results of pay increases on reserve enlistments. Our analyses of the problem of recruiting into the active forces indicate that a pay increase of one percent will produce a 1.25 percent increase in enlistment rates; our estimates of reserve re-enlistments suggest that a one percent pay increase will generate only 0.8 percent improvement in re-enlistments. Table 9–XV portrays projected enlistments under each of these assumptions and at an intermediate value.

TABLE 9-XV.—PROJECTIONS OF NON-PRIOR-SERVICE RESERVE ENLISTMENTS, FISCAL YEAR 1970-80

[In thousands]

Fiscal year	Manpower pool, age 17 to 21	Number of enlistments		
		(1)	(2)	(3)
1970	9,253	86.1	92.5	101.8
1971	9,451	87.9	94.5	104.0
1972	9,715	90.3	97.2	106.9
1973	9,941	92.5	99.4	109.4
1974	10,171	94.6	101.7	111.9
1975	10,343	96.2	103.4	113.8
1976	10,485	97.5	104.9	115.3
1977	10,673	99.3	106.7	117.4
1978	10,726	99.8	107.3	118.0
1979	10,781	100.3	107.8	118.6
1980	10,791	100.4	107.9	118.7

[1] Manpower pool multiplied by (0.00696) × (1.436). The increase in drill pay is 43.6 percent in the first 4 years.

[2] Manpower pool multiplied by (0.00696) × $(1.436)^{1}$.

[3] Manpower pool multiplied by (0.00696) × $(1.436)^{1}$.

TABLE 9-XVI.—RESERVE STRENGTHS AND REQUIRED AND PROJECTED CIVILIAN ENLISTMENTS,* FISCAL YEAR 1977

Active force	Volunteer reserve	Required enlistments	Modified reserve	Required enlistments
2,250	712	97	632	82
2,500	786	106	696	89

*Reserve strength scaled to active strength; "modified" strength is after possible reductions discussed in requirements section. Strengths and enlistments omit the "2×6" program.

Projected enlistments:

(1)	99
(2)	107
(3)	117

[1] If enlistment rate is $(0.00696)\times(1.436)^{0.8}=0.0093$.

[2] If enlistment rate is $(0.00696)\times(1.436)=0.0100$.

[3] If enlistment rate is $(0.00696)\times(1.436)^{1.25}=0.0110$.

SUMMARY

Table 9–XVI shows required reserve force strengths and enlistments for stable forces corresponding to the 2.5 and 2.25 million men active forces. Table 9–XVI also shows three projections of voluntary enlistments for the reserve forces. The projected enlistments appear to be adequate for the reserve forces associated with the 2.25 million force and 2.5 million man active forces. Given the uncertainty which surrounds projections of reserve enlistments and losses, however, further steps beyond the recommended pay increase may be necessary. Any further steps should await the results of experience with higher pay during the next few years.

In that transition period, recruiting potential for the reserves will be substantially enhanced by the large flow of servicemen being separated now. Prior service enlistments, as we saw in table 9–X, are expected to be significantly higher in the 1971–73 period than they will later be for the stabilized force. As a result, the requirement for civilian enlistments will be well within recruiting capabilities in the early years.

This can be seen in FY 1972, for example, when extremely high losses are expected. The currently planned reserve enlisted strength for FY 1971 is 865,000 in the paid-drill category. That strength is higher than the largest force level considered in our analysis, but our study indicates that even that level could be maintained in FY 1972 with volunteers. The re-enlistment rate is expected to reach 9.2 percent by that year, so that an estimated 79,600 men would re-enlist. Prior-service gains would number 81,800. Losses are estimated at 243,000. To maintain level strength would therefore require 81,600 civilian enlistments (losses less re-enlistments and prior service gains). Using the most conservative evaluation of the effects of the proposed pay increase, we have estimated that 90,300 civilians can be persuaded to enlist.

CHAPTER 10—THE STANDBY DRAFT

Heeding its directive, the Commission has considered "what standby machinery for the draft will be required in the event of a national emergency." The Commission recommends that legislation be enacted to provide, once an all-volunteer force is in effect:

1. A register of all males who might be conscripted when essential for national security.
2. A system for selection of inductees.
3. Specific procedures for the notification, examination and induction of those to be conscripted.
4. An organization to maintain the register and administer the procedures for induction.
5. That a standby draft system can be invoked only by resolution of Congress at the request of the President.

Because there have been several recent studies of the operation of the Selective Service System, we have not undertaken a re-examination of that subject. Instead, we have formulated our recommendations for standby draft machinery in fairly general terms, which would be consistent with a wide range of specific systems.

Clearly the task of creating and maintaining a state of military preparedness capable of dealing with threats to the nation's security is a vital one. The nation's military readiness is both actual and potential: active duty personnel are prepared to act instantaneously; able-bodied but untrained and unorganized civilian males are potential servicemen. This spectrum of manpower can be divided into three groups in descending order of their state of readiness: (1) active duty personnel, (2) reserves, and (3) civilians. In planning standby draft machinery, it is important to recognize

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that conscription is relevant only to the civilian population.

The rationale for providing a standby draft is the possible urgent need for the nation to act quickly. It is clear, however, that a standby draft will not supply effective military forces in being. All it can provide is a basis for acquiring eligible manpower who must be trained, organized and equipped. Effective forces can be available only to the extent that men are organized, trained and equipped prior to an emergency. Under current military policy, should a crisis arise, it is the function of the Reserves to provide the first stage in the expansion of effective forces. They are organized and at least partly trained and equipped; hence they can be operationally ready in a shorter time than new forces. The function of a standby draft is to provide manpower resources for the second stage of expansion in effective forces.

Much thought lies behind the recommendation that Congressional approval be required to invoke conscription. An important issue of national policy is obviously involved. The alternative is to endow the Office of the President with the independent power to call for activation of the standby machinery. This has been rejected for several reasons.

Conscription should be used only when the sizes of forces required for the security of the nation cannot be supplied by the existing system. If Congressional approval is made a prerequisite to the use of conscription, the necessity for legislative action will guarantee public discussion of the propriety of whatever action is under consideration. If discussion yields a reasonable consensus, the nation's resolve will be clearly demonstrated and made less vulnerable to subsequent erosion. If a consensus sufficient to induce Congress to activate the draft cannot be mustered, the President would see the depth of national division *before*, rather than after, committing U.S. military power.

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A standby system which authorizes the President to invoke the draft at his descretion would capture the worst of two worlds. On the one hand, it would make it possible for the President to become involved in military actions with a minimum of public debate and popular support. On the other hand, once the nation was involved, especially in a prolonged limited conflict, the inequities of the draft would provide a convenient rallying point for opposition to the policy being pursued.

It is important to emphasize that Congress has not been reluctant to enact a draft when the President has requested it. In the first World War, the United States declared war on April 1, 1917, the draft law was requested by President Wilson on April 7, and it was signed into law on May 18. Prior to World War II a draft bill was introduced into Congress on June 20, 1940, endorsed by the President on August 2, passed on September 14, and signed into law September 16. When the Korean War broke out on June 24, 1950, debate on extension of the selective service law had been underway for some months. Congress promptly discontinued debate and extended the law for one year on July 9.

Because of the loss of personal freedom and the inequities inherent in conscription, the draft should be resorted to only in extreme situations. If the Office of the President has the power to use the draft, there will be pressures to do so when circumstances do not warrant it. The viability of an all-volunteer force ultimately depends upon the willingness of Congress, the President, the Department of Defense and the military services to maintain (1) competitive levels of military compensation, (2) reasonable qualification standards, and (3) attractive conditions of military service. Under foreseeable circumstances, such as serious budget constraints, there is a danger that inaction by one or another of these parties might force the President to resort to conscription when it is not really necessary. If Congressional approval is made a prerequisite to use of the draft, the danger of using it unnecessarily or by default will be much reduced.

One of the fundamental principles embodied in the Constitution is that taxes are to be levied only by Congress. Since conscription is a form of taxation, the power to conscript is the power to tax. Therefore, it is in keeping with the intent of the Constitution to require Congressional approval for the activation of the standby draft.

Finally, requiring Congressional approval for activation of a standby draft will have little or no effect on the time required for the nation to bring effective military power to bear when needed. To repeat: conscription does not provide the nation with military forces in being. Effective flexibility in response to crisis can be achieved only to the extent that forces are already partly or wholly organized, trained and equipped. The draft is a vehicle for supplying men for gradual expansion, not for meeting sudden challenges. This has been true, for example, in Vietnam. Under our standby proposal, the delay introduced in expanding the forces with conscripts cannot exceed the time it takes for Congress to act. In practice the time lost will be even less: preparations for organizing, training and equipping recruits can proceed simultaneously with Congressional action.

MAXIMUM SIZE OF AN ALL-VOLUNTEER FORCE

No estimate has been attempted of the maximum size of a force that could be provided on a voluntary basis. When it is posed in this general form, the question of maximum size is not a meaningful one. The number of individuals who will serve voluntarily depends on a variety of factors, more or less subject to control, which change over time. One factor is the specific set of circumstances which dictate the expansion of forces. When the threat to national security is clearly serious, as it was after Pearl Harbor, volunteers will be plentiful. For a limited conflict in a distant and alien land, there will be less enthusiasm. Willingness to volunteer also depends on the character and terms of military service, on casualty rates, and on the public esteem such service enjoys. Most importantly, the flow of volunteer depends upon the level of military compensation.

Pay is important because it leads to more relevant questions regarding the size of the voluntary force which can be sustained. Other things being equal, if it is indeed true that higher military compensation will result in more enlistments, the question of the maximum size of a volunteer force becomes one of how high the level of military compensation should be. Ultimately, each of us faces the question: how heavily are we willing to tax ourselves to pay for a volunteer force? The question of the maximum size of a volunteer military force is at bottom political and not economic. Conscription cannot produce more manpower than already exists. The constraint is political, and it is imposed by the reluctance of voters generally to incur higher taxes even though they want forces large enough to guarantee their security.

Whatever the ultimate limitations on the size of a voluntary force, some relatively large forces have been assembled on such a basis—for example, the Union forces in the Civil War. By the middle of 1862, the North, without conscription, had raised a force of approximately 670,000 men, the vast majority of whom had made three year commitments. This was 15 percent of the estimated male population, age 18 to 39, of the Union States. During World War I, Great Britain relied on volunteers until 1916. By that time, England had raised an active duty force of nearly 2.7 million men, or 35 percent of her age 18 to 40 male population cohort.

Such examples are by no means conclusive, but they do suggest that conscription is not necessarily required for conflicts comparable in scale to those the United States has fought since World War II. The maximum active duty force levels reached during the Korean and Vietnamese Wars were 3.7 million and 3.6 million respectively. The Korean War force represented 15 percent of the male population age 18 to 39 in 1952, and the Vietnam War force represented 12.4 percent of the male population age 18 to 39 in 1968. In prosecuting those wars with conscripts, the nation imposed a heavy tax on a small segment of the population. In all, 5.8 million men saw service during the Korean War and 6.0 million during the Vietnam War. In neither case was a serious attempt made to expand the forces with volunteers, and in the Vietnam War little use was made of the Reserves.

Historically, whenever conscription has been used, military pay has fallen further behind comparable civilian earnings and, as a result, enlistments have inevitably been discouraged. The more conscription is used, the less incentive there is to maintain military pay (especially for those in the lower ranks) at levels sufficient to attract volunteers. This inverse correlation between conscription and military pay (and therefore volunteerism) is illustrated by the data in table 10–I which compares military pay and allowances to manufacturing earnings at different dates in our history.

In the future, serious consideration should be given to steps which would facilitate the expansion of forces through voluntary means before invoking conscription. In particular whenever expansion of forces is required to meet a limited emergency, Congress and the President should give serious consideration to enacting significant permanent or temporary increases in military compensation.

TABLE-10-I.—COMPARISON OF ANNUAL MILITARY ENLISTED EARNINGS WITH AVERAGE ANNUAL EARNINGS IN MANUFACTURING

Period	Annual military pay and allowances[1]	Manufacturing earnings[2]	Ratio	Percent of forces drafted
Civil War (1865)	[3] $427	$410	1.041	2
Spanish-American War (1898)	444	394	1.127	0
World War I (1918)	870	980	.888	59
World War II (1945)	1,587	2,469	.643	61
Korean war (1952)	2,584	3,721	.694	27
1960	3,034	5,020	.604	15
1965	3,567	6,130	.581	16

[1] Figures include basic pay and value of quarters, food, and clothing but not medical care, insurance benefits, special pays or income tax exemptions.

[2] Sources:

Civil War—Long estimates average annual earnings in manufacturing in 1860 at $297 (table 14, p. 42) and a 38-percent increase in average daily wage rates by 1865 (table 7, p. 25) See Long, Wages and Earnings in the United States, 1860–1890 (New York: National Bureau of Economic Research, 1960).

Spanish-American War—See table 10 (p. 33) in Rees, Real Wages in Manufacturing, 1890–1914 (New York: National Bureau of Economic Research, 1968).

World War I—Average Annual Earnings of Manufacturing Wage Earners (Historical Statistics, series D 605).

1945–65—Average annual earnings per full-time employee in manufacturing, adjusted for unemployment.

[3] This figure does not include the large bounty payments or payments rendered for substitutes.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks:

"How is my son?" A wife asks: "Is my husband alive or dead?"

Communst North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

TRIBUTE TO PAUL CHRISTMAN

HON. DURWARD G. HALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. HALL. Mr. Speaker, ask anyone in the Nation to list the giants of football and the chances are very good that included among the Grange's, Nagurski's, the Thorpe's, and the Baugh's, will be "Pitchin' Paul."

"Pitchin'" Paul Christman was instrumental in putting the University of Missouri on the football map, and in recent years distinguished himself as an honest and highly informative commentator of professional football on national television.

Dave Gregg, of the Joplin News Herald in Joplin, Mo., recently composed a moving and eloquent tribute to Paul Christman, whose untimely death at the age of 51, has left an unfillable void in the ranks of those who love the game of football.

The article follows:

[From the Joplin (Mo.) News Herald, Mar. 3, 1970]

SO LONG, PAUL . . .

(By Dave Gregg)

If you danced to the smooth swing music of Charley Fisk in Gaebler's Black and Gold; jelly-dated in the uncomfortable booths of the Campus Drug; drank beer in The Shack and The Dixie and "purple passion" when somebody was crazy enough to make it; froze those bleak, bone-chilling winters walking under the tower on the way to class at Jesse hall; gamboled on the banks of Hinkson creek in spring, and sweltered in summer school—if you were around at the tag end of the 30s and at the birth of the new decade at Missouri U., you lost something yesterday.

Paul Christman wasn't just another athlete at M.U., he was the fellow who pushed the sleepy little town of Columbia into the 20th century. When Pitchin' Paul passed the Tigers to victory over New York U., the Missouri football team was discovered by The East. The blond crewcut with the merry eyes, the dimples and the slow grin became Missouri's first All-American. But he was even more than that to us. He was the guy we'd all have liked to have been in our little Walter Mitty lives.

Paul Christman was larger than life on the football field; standing back there in a sea of opposition; disdainfully sidestepping would-be tacklers; holding the ball until the last possible second, and then uncorking one of those incredible aerials of his.

Sure, he had to throw it away on occasion; and there were times when he had to eat the ball. But even in these ignominious situations, Paul was never ignominious. He had that rarest of rare qualities: Class, had it in everything he did. Paul Christman put Missouri on the football map, he was profiled in national magazines. He was, in short, a star; but he never thought so. Nobody, his teammates, his fraternity pals, even his casual acquaintances didn't put the knock on Paul. He never had a bit of trouble with his hat.

After graduation and World War II service, he became a star all over again, this time with the Chicago Cardinals. Not just a great passer, the kid from a St. Louis suburb had a marvelous football mind. He was a great pro. In recent years, his TV football commentary was a pure delight. No Polyana, if somebody missed a key block. Paul pointed it out. He never talked down; condescension was no part of his makeup. And if a game was a bore, you didn't hear Paul doing the gee whiz bit.

When death came to him Monday at 51, he was at the top of sportcasting. Paul never did anything poorly. He made up for a whole lot of short-comings in a lot of us. And he never forgot M.U. either. If the school needed a plug or a personal appearance, Paul Christman was there. Once, years ago, the writer did an eminently forgettable piece on Paul Christman. Some overly enthusiastic alum sent it to the Christmans, and a warm thank-you letter came from Mrs. Christman. Inez couldn't have remembered me. I was a face in the crowd when she was the campus queen being courted by everybody's hero, Paul Christman. I did a sophomoric thing: Wrote and asked Mrs. Christman if she'd have her husband autograph a picture for me. I still have that picture, and I'll always keep it, a memento of one of the nice things to come out of sports hacking, the biggest Walter Mitty dodge of all.

Those of us who were fortunate enough to bask in the Christman charisma lost a great deal yesterday. But you have to figure we were lucky to have had a Paul Christman, not every generation does.

DOES THE PEACE CORPS REPRESENT THE UNITED STATES?

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. HUNT. Mr. Speaker, appearing in the Evening Star of March 6, 1970, was what I believe a particularly perceptive column by Richard Wilson on the political activism of the Peace Corps. Hidden behind this activism is perhaps what can best be described as the burning desire of our young revolutionaries not only to destroy the institutions of our own society, but to remake the governments of the world in their own "image" and conception of what they think is the "right" way to operate a society.

According to Richard Wilson:

> Activities of Peace Corpsmen in a dozen countries have held up to public calumny the policies of a country they are supposed to represent. . . . In some cases, such as Ethiopia, the corpsmen have fanned youthful discontent with existing governments, protested the existing social order and, in general, have placed a heavy strain on American relations with host governments.

Not only do I agree with his observation that "no harm would be done to U.S. policy abroad if a move for a sharp cutback in funds for operation of the Peace Corps were to arise in Congress," but I would suggest emphatically that as a matter of policy, our Government should not stand idly by until our Peace Corpsmen are asked to leave a country in no uncertain terms. For the information of all the Members, the full text of the column follows:

ADMINISTRATION WORRIED BY PEACE CORPS ACTIVISM

(By Richard Wilson)

The President, the vice president and the secretary of state have now had enough experience with the high spirits of the politically turbulent Peace Corps to wonder if this experiment in spreading America's youthful idealism over the world has not gotten badly off the tracks.

To be quite blunt about it, Secretary of State William P. Rogers and Vice President Spiro T. Agnew have been acutely embarrassed abroad by demonstrations of Peace Corpsmen against U.S. policy.

The result is that there would be no great sense of disappointment or deprivation in the executive branch if Congress were to lop off $20 million, $30 million or $40 million from requested funds of $98 million for the Peace Corps in 1970–71, and reduce its political activism accordingly.

Activities of Peace Corpsmen in a dozen countries have held up to public calumny the policies of a country they are supposed to represent. They have done so in Ethiopia, Liberia, Tunisia, Afghanistan, Chile, Peru, Kenya, Niger, Turkey, Brazil, Thailand, Togo.

In some cases, such as Ethiopia, the corpsmen have fanned youthful discontent with existing governments, protested the existing social order and, in general, have placed a heavy strain on American relations with host governments.

Rogers returned from his recent African trip badly out of sorts over the behavior of Peace Corpsmen who had exposed black armbands, snorted their disapproval, and turned their backs on him as he expounded American policy at the U.S. Embassy.

Agnew was cross-examined by Far Eastern statesmen on whether or not the Peace Corpsmen, as representatives of the U.S. government, were expressing hostile attitudes hidden beneath the surface of American friendship and cooperation.

A strange theory, supported by a federal district court decision in Rhode Island, underlies political activism in the Peace Corps. The corpsmen, by this doctrine, are not government officials or representatives, but volunteers financed by the U.S. government and entitled to all the rights and privileges of private citizens.

If they wish to protest the Vietnam war, the pace of integration, the military-industrial complex, the ABM or Spiro Agnew, they cannot be disciplined because their constitutional rights would be denied. If they wish to condemn the government of the country in which they are serving, agitate among its youth, denounce its leaders, that is no concern of the Peace Corps.

Either of these forms of political activity is flagrantly in violation of the rules of the Peace Corps and has been from the beginning. The era of permissiveness began with the original director, Sargent Shriver, and has steadily grown worse. Shriver also suppressed critical investigative reports of the Peace Corps administrative operations.

The present administrator, Joseph H. Blatchford, is trying to weed out the young activists and slowly convert the corps to a more stable and responsible condition with people who are older and have skills useful to the economic and social structure of developing countries.

But it is a hopeless task. The corps has a huge overlay—90 percent—of liberal arts idealists, mostly teachers of English, and cadres of protest-minded youth whose ideas are incompatible both with U.S. policy and the policies of the countries where they serve.

The Nixon administration is not of a mind to liquidate the Peace Corps. Some of the original idealism is regarded as valid. The general idea is appealing and has been politically popular in the past, although today's young are disenchanted with this kind of public service, evidently preferring active duty on the streets and campuses to the relative safety of a tropical jungle.

No harm would be done to U.S. policy abroad if a move for a sharp cutback in funds for operation of the Peace Corps were to arise in Congress. This would afford an opportunity for a new beginning or a worldwide shakedown of the corps to make it a more useful instrument of U.S. foreign policy, or at least not a disruptive influence.

There is something to be said, too, for going back to the purposes and methods of the old Point IV program, which originated in the Truman administration, to give technical aid and support in the development of emerging nations.

The idea that the Peace Corps would be an outlet for the idealistic drive of American youth, their high spirits, dedication and sacrifice spreading light into places of darkness, seems pathetically innocent in today's world—not so much because the world has changed as because youth's concept of its mission has changed.

ANOTHER PROMINENT VISITOR ROBBED ON THE STREETS OF THE DISTRICT OF COLUMBIA

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. NELSEN. Mr. Speaker, I will insert following my remarks an article that appeared in the Washington Post for March 11, 1970, stating that Mayor James N. Corbett of Tucson, Ariz., was robbed of $450 early Saturday morning.

Once again we are reminded by this incident of the danger to all tourists, not only prominent citizens such as the mayor of Tucson, in coming to the District of Columbia where crime, or fear of crime, is ever present.

The District crime bill, H.R. 16196, will, I am informed, soon be considered by the House. In my opinion, this bill is a good and comprehensive measure attacking crime in the District of Columbia and deserves the wholehearted support of those in this body, who are interested in making the streets of the District of Columbia safe not only for the tourist and important visitors that come to the city, but for the residents of the city and those in the surrounding metropolitan area who are employed in or shop in this city.

I strongly urge all the Members to become acquainted with the bill and the committee report when it is filed. I also strongly urge all my fellow Members of the House to give to the law enforcement officials, prosecutors, and judges of this city the tools that are needed and are contained in this bill to permit them to conduct a meaningful and successful fight against crime.

The article follows:

LOSES $450, CREDIT CARDS: TUCSON MAYOR ROBBED HERE

(By Paul W. Valentine)

Mayor James N. Corbett of Tucson, Ariz., here last weekend for a municipal convention, was robbed of $450 early Saturday morning by two thugs who pulled him from a taxi in which he was riding.

Corbett, according to police accounts, reported that he hailed a cab at the Gramercy Inn on Rhode Island Avenue near Scott Circle NW at 1:15 a.m. and asked to go to the Washington Hilton Hotel, 1919 Connecticut Ave. NW, where he was a registered guest.

The taxi drove to 19th and S Streets NW near the hotel and stopped. Two men jerked him from the cab, took $450 in cash, plus a number of credit cards and struck him on the head, Corbett said.

Corbett, 45, could not be reached yesterday for comment. He was here for a National League of Cities congressional conference but had left for San Juan, Puerto Rico yesterday, his office in Tucson said.

Tucson Assistant City Manager Ken Burton said Corbett planned to stay at the San Juan Hotel, but hotel spokesmen said no one by that name was registered or had a reservation.

Donna Reilly, an accounting assistant at the National League of Cities office here, said she saw Corbett the evening after the robbery, and he gave an account somewhat at variance with the official police account.

She said Corbett and Las Vegas, Nev., Mayor Oran K. Gragson hailed a cab from the Washington Hilton, not the Gramercy.

The two mayors were sitting in the back of the cab, and the driver and an apparent companion were in the front seat, she said Corbett told her.

The cab went to an unspecified address, she said, where Gragson got out. Corbett then asked to be taken back to the Hilton, she said.

The taxi drove within three blocks of the hotel, then stopped, she said she was told. Corbet was ordered out of the cab by the two men in the front seat and then robbed and struck above his left eye, she said.

The mayor fell unconscious, and when he recovered, he was standing in front of the hotel, she said Corbett told her.

"I know that's the way he told it to me," she said. "I bet Jim told me the story a hundred times . . . It sure was a terrible thing."

AMERICAN FARMERS

HON. ODIN LANGEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. LANGEN. Mr. Speaker, as one who has had firsthand experience with the problems facing American farmers, I find particularly interesting and worthwhile the remarks offered at a congressional breakfast yesterday by Mr. John Thomsen, president of Western Wheat Associates, U.S.A., Inc.

In particular, Mr. Thomsen offers a number of suggestions near the end of his statement which are relative to further expansion of U.S. wheat exports:

STATEMENT OF JOHN THOMSEN

I have been asked to say a few words this morning on behalf of Western Wheat Associates and Great Plains Wheat.

The two organizations were founded by wheat producers in a self-help effort to develop and expand export markets for U.S. wheat. We are regionally oriented because of our natural export market outlets. Western Wheat Associates in the Asian market and Great Plains Wheat in Latin America, Europe and Africa. During the past 13 years of operations, we have learned that we must promote every class of wheat in each market to do our job. While both organizations maintain their regional identity and market promotion areas, we cooperate very closely in meeting our overall objectives.

Foreign wheat market development is a joint effort between all of us here today. We producers contribute our own dollars through local and regional organizations. The U.S. government contributes foreign currencies generated by PL 480, which are administered by the Foreign Agricultural Service of U.S.D.A. Secretary Hardin, Assistant Secretary Palmby and other Department decision makers have supported our market development efforts as a matter of policy. The necessary actions that have been taken by the Export Marketing Service, Commodity Credit Corporation and the Foreign Agricultural Service have been extremely beneficial in maintaining our markets abroad.

Last year we reported the serious imbalance of the world wheat supply and demand. I am sorry to report that this situation has improved very little. The combined supply of wheat available for export and carry-over as of January 1, in Canada, Australia, Argentina, the European Economic Community and the United States (the major exporting countries) stood at 3.6 billion bushels. This is well above the 3.1 billion of last year. Current world-wide import requirements are only between 1.7 and 2.0 billion bushels.

Recent production estimates put this year's world wheat crop at 10.8 billion bushels, down 5 per cent from last year's record crop. World wheat acreage is off slightly but further reductions to more closely approximate requirements is needed. Significant progress is now being made in this direction. A program to limit wheat exports was initiated several months ago by Australia. Canada has recently announced a plan to reduce their wheat production. It is encouraging to note that the U.S. is no longer expected to shoulder this responsibility alone.

The continued liberalization of U.S. trade policies will be extremely helpful in expanding markets for U.S. wheat. The President of the Chicago Board of Trade recently stated that "the agriculture sector of our own country has always been in the forefront of the movement to liberalize our trade policies. This is readily understood when one looks at the impact of exports on agriculture products throughout the United States." Every one of our states, except Alaska, exports agricultural products. Crops from one out of every four acres in production are exported. In states where wheat is the major crop this ratio runs much higher.

U.S. agriculture exports are a big exchange earner. During the 1960's, agriculture—through its export earnings—contributed significantly to the favorable balance of trade. Wheat plays a significant role in the trade balance. Even last year, when exports were down, total export sales on all wheat and wheat products was 830 million dollars.

Agriculture exports last year totaled 5.7 billion dollars compared to the 1961–1965 annual average of 5.5 billion dollars. Recent projections indicate that they will reach 6.1 billion dollars in fiscal year 1970. The U.S. balance of payments, often in the red in recent years, would be in much greater trouble were it not for the helpful black ink offsets made by American agriculture. We as wheat producers would like to contribute further to the balance of trade. Further expansion of export markets is one way this can be accomplished. Another would be improved for wheat in world markets.

Now I would like to talk about a program that is very important to us, PL 480. PL 480 has been a useful tool in developing cash markets. As a concessional sales country progresses toward cash purchases, it tends to maintain established trade relationships. Recipient countries have developed a liking for our quality wheat and they have grown

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to appreciate our marketing system. In addition, PL 480 sales generate income just as do cash sales.

Senator Dole recently reflected our view when he asked for greater use of the Food for Peace program. He called it "a great basic tool of foreign aid" and said that it generates better farm income and tax receipts, ups employment, reduces government farm program costs, improves nutrition in developing countries and improves peace prospects. A recent study using Kansas data for 1950 to 1969 concludes that, on the average, $1 of farm income generates $3.33 of total income, whereas $1 of non-farm income generates only $1.46.

In the area of PL 480, we have two concerns. One is the extension of the law beyond 1970 and the other is the adequate appropriation of funds for fiscal year 1971. Although we primarily direct our efforts toward expanding cash markets, about 50 per cent of our wheat exports move under concessional sale programs. Reduction of PL 480 funds in time of both national and world surpluses would further undermine our marketing structure. The resultant reduction in sales would compound an already serious economic problem by further increasing total supplies and would subsequently lower export prices while they are already more than 50 percent below parity.

The U.S.D.A. budget for PL 480 for 1970–71 is 118.4 million dollars less than for the current year. The cut-back on major commodities are projected at 69.3 million dollars and over half of this reduction (35.6 million dollars) is wheat and wheat products. The proposed expenditures for five commodities—cotton, feed grains, vegetable oil, dairy products and tobacco—are higher. Our projections for wheat indicate little reduction in the *needs* of recipient countries. We actually foresee a slight increase in requirements because of current crop and economic conditions since adjustments have already been made to offset increased production in recipient countries.

In summary, *the real future for the U.S. wheat producer lies in further expansion of export markets.* To accomplish this objective, all of us here must work together to multiply and perfect the tools we have to work with. These implements are part of a total package, each segment dependent or related to the other. They are:

(1) An aggressive, expanded, well-conceived market development effort between wheat producer organizations and the U.S. Department of Agriculture;

(2) Adequate quantities and qualities of wheat readily available to the world market at competitive prices;

(3) Stronger efforts by major exporting countries to improve world prices and to bring supplies into closer relationship with demand;

(4) Further liberalization of trade policies by both the U.S. and importing countries; and

(5) The continuation and adequate funding of PL 480.

If all of us here today cooperate to accomplish these objectives, America's wheat industry will survive and its contribution to the balance of payments and to the total welfare of our country will be significant.

YOUNG AMERICANS

HON. JOHN V. TUNNEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. TUNNEY. Mr. Speaker, I would like to commend to the attention of the Members of the House, the zest, purpose, and ideals of the 36-member troop of talented young entertainers who are giving people abroad a true picture of what it means to be young and alive in these United States. This group of young people, many of whom I am privileged to represent from the 38th Congressional District of California, is known as the "Young Americans."

They travel in many nations of the free world demonstrating that this country produces and trains skilled performers in music and the dance. More important, they protray our teenagers as modern, bright, and lively, individuals who in the face of fast-moving change maintain a strong hold on our traditional and abiding beliefs in love of country and of fellow man and in the American adherence to morally high standards of human behavior. It is refreshing when we are confronted by reports depicting some elements of our young people as violent, discordant, dissolute, to salute these Young Americans and know that they represent the ideals and achievements of the vast majority of Young America.

I call attention to the accomplishment of these Californians today because tonight over the nationwide network of the American Broadcasting Co., the "Young Americans" will present their first full hour television special program. I hope it will be the first of many by these talented entertainers. I further commend the good taste and thinking of Corning Glass Co. in electing to sponsor a program which will bring laughter, liveliness, and enlightenment to millions of people.

TRANSFER OF NERVE GAS

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. THOMPSON of New Jersey. Mr. Speaker, my attention has been drawn to the possibility that a quantity of nerve gas, now stored in Okinawa, is to be transferred for storage in Oregon. Understandably, there is a good deal of concern among the people of that State with respect to this proposal. In the hope that the following material will provoke public debate on the subject, I take the liberty of placing before the House the accompanying fact sheet and press articles:

PROPOSED NERVE GAS TRANSFER, OKINAWA TO OREGON

WHAT IS NERVE GAS?

Nerve gas is a odorless colorless substance which can kill a human in quantities of 1/50 of a drop. Two forms, VX and GB are involved in the proposed shipments.

HOW MUCH IS IN THE PROPOSED SHIPMENT?

Four to five ships would be required to move the gases to Bangor, Washington which is across the Puget Sound from Seattle, Washington. From that point approximately 600 to 750 railroad cars would be needed to complete the journey to Umatilla Army Depot at Hermiston. Hermiston is approximately 175 miles east of Portland on the Columbia River. No exact figures have been released, but it is estimated that approximately 3,000,000 pounds of nerve gases (excluding explosives and containers) are in the planned shipment.

WHY IS IT BEING MOVED?

In July of 1969, the press reported an accident occurred in Okinawa which required the hospitalization of 24 Americans. This was the first time that Okinawans knew that the nerve gases were stored there. Reaction was immediate and vigorous. Within four days after the announcement, the Army had promised to remove it.

WHAT ARE THE HAZARDS OF TRANSPORTATION?

The gases are enclosed in containers which are attached to explosives. These explosives are designed to spread the toxic agents around over a wide area upon detonation. Certain forms of these munitions which contain the nerve gases are suceptible to shock, fire or the impact of the bullet of a high powered rifle. Tests have shown that sympathetic detonations may then occur and this would make it impossible to stop the spread of the gases throughout the surrounding vicinity. Depending on weather conditions, this could bring death to all forms of human and animal life over a wide area.

ARE THE GASSES NEEDED FOR MILITARY SECURITY?

Recent releases have stated or implied that these chemical weapons are necessary to our national security. However, when the announcement of the planned shipments was first made a different picture was presented. On December 1, 1969, Undersecretary of the Army, Thaddeus Beall met with Oregon's Governor, Tom McCall and told him that the army considered the gas to be surplus. Again on December 3, 1969, Secretary of the Army, Stanley Resor restated this same position to Gov. McCall.

WHAT ARE THE ALTERNATIVES?

Following the removal of the explosives (demilitarization) the nerve gases can be readily detoxified through the use of relatively simple and low cost procedures. They could be burned or neutralized by mixing with a strong base or acid. Neutralization with a base would require chemicals costing approximately $130,000.

WHERE DO THE PEOPLE OF THE NORTHWEST STAND?

Over 115,000 people have signed petitions supporting detoxification in Okinawa. Scientists, physicians, clergymen and many elected officials have voiced strenuous objections. It is felt that the attached newspaper clippings, which are only a small fraction of the large quantity of coverage, accurately reflect the concern of the citizens on this issue.

[From the Oregonian, Jan. 17, 1970]

NATIONAL PANEL URGED TO PROBE GAS MOVE

EUGENE.—A group of University of Oregon scientists Friday urged the reactivation of a national committee to investigate the Army's plan to store nerve gas in Oregon.

The urging came from nine chemistry and biology professors, who called a press conference to make their proposal known.

The professors asked that the Kistiakowsky subcommittee of the National Academy of Sciences be reactivated and charged "with the investigation of the situation created by the proposed large scale transport of GB and VX nerve gases into Oregon."

The subcommittee, headed by Professor George B. Kistiakowsky, professor of chemistry at Harvard University, was the one which recommended against transporting bombs and rockets containing nerve gas last June from Colorado to the East Coast, to dump the gases in the Atlantic Ocean.

The Army subsequently withdrew its proposal for ocean burial of the weapons, a reported 27,000 tons of obsolete nerve gas munitions stored at arsenals in Colorado, Alabama and Kentucky.

REPORTS SOUGHT

In their statement the professors said, "We urge the governor and other state officials to determine whether in fact the findings of the Kistiakowsky committee . . . do not apply equally (or with greater relevance because of the greater toxicity) to the proposed Oregon shipments.

"We recommend that the National Academy panel be reconvened to examine the feasibility of the present transport law and determine whether the objections to the previous proposal (which were accepted as valid by the Pentagon) do not also apply in this case."

The professors also said findings of the subcommittee, if it is reconvened, should be made public.

The professors also said the Department of Health, Education and Welfare and the surgeon general's office should "determine, as required by law, whether the transport of these poisonous gases to Umatilla creates a serious hazard to the population and environment of the areas along the route." These findings should also be made public.

The nine who signed the statement were John Baldwin, professor of chemistry; Sidney Bernhard, professor of chemistry; Virgil Boekelheide, chairman of the university's department of chemistry and member of the National Academy of Sciences, Stanton Cook, associate professor of biology; Edward Herbert, professor of chemistry; Marvin Lickey, assistant professor of physiological psychology; John Menninger, assistant professor of biology; George Streisinger, professor of biology and cochairman of the UO Department of Biology; and Pete Von Hippel, professor of chemistry and director of the UO Institute of Molecular Biology.

VIEWS SHARED

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The professors made it plain they were speaking as individuals and not as representatives of the university. They said their sentiments are shared by numerous other personnel at the university.

"We advocate the destruction of the gases where they are now stored rather than transporting it anywhere," Baldwin said.

Cook and others stressed the number of times the munitions would have to be handled in loading, unloading and transporting them from Okinawa to Umatilla.

Such handling, Cook said, could result in accidental detenation of the weapons if the fusing mechanisms and explosive charges attached to the munitions are in a state of advanced decay.

He said the sensitive fuses of the munitions stored in Colorado, Alabama and Kentucky apparently played a part in abandoning plans to transport them to an ocean disposal site.

"It would appear," said Bernhard, "that these bombs have been put together in such a way that no one ever considered taking them apart."

[From the Oregon Journal, Jan. 22, 1970]

PORTLAND STATE UNIVERSITY PROFESSORS ASK STUDY OF NERVE GAS DANGER

A petition asking that the National Academy of Sciences study the shipment and storage of nerve gas at Hermiston is on its way to the President; the U.S. secretary of health, education and welfare, and Gov. Tom McCall.

The petition, signed by 43 doctorate-rank scientists and professors at Portland State University, was announced Thursday at a news conference in Koinonia House. It requests that the academy is reactivated and given full access to all of the data pertinent to the handling of the controversial gas.

Gordon L. Kilgour, chairman of the PSU chemistry department, read a statement citing the report of the academy regarding an earlier proposal of shipment of nerve gases from Denver to the East Coast. The report indicated, he said, that "Transportation through populated areas is an indefensible risk when the incredibly toxic and volatile GB and VX gases are involved."

He declared that "the combination of overaged explosive charges and massive quantities of gas involved in the Hermiston shipment pose a hazard to the people of the Northwest unparalleled in history."

Kilgour's statement noted that "A single bomb containing 100 pounds of GB or XV has been estimated to provide at least 5 million lethal doses—more than enough to wipe out life in Seattle and Portland and most of the territory between.

"But there are tons being shipped, not pounds. The net effect is not unlike the risk of allowing someone to truck a live hydrogen bomb with a defective fuse through the downtown area of every city within 50 miles of the train route."

Kilgour said none of the PSU petitioners is an expert on nerve gas as such, but all are members of the physics, chemistry and biology departments and qualified to speak on the subject.

He said he sees no insurmountable problems in detoxifying the gas. "None of these gases are such that they can't be detoxified unless the army has come up with a whole new range of gases we don't know about.

Malcolm S. Lea, assistant professor of biology, commented that "It doesn't take a biologist, chemist or physicist to understand the dangers of nerve gas. If you get a drop of this stuff on you, you're dead."

[From the Oregonian, Feb. 1, 1970]

FOES SAY DETOXIFICATION CHEAPER THAN HAULING NERVE GAS TO STATE

(By Harold Hughes)

Tons of deadly nerve gas can likely be detoxified in Okinawa for less than the shipping costs to Oregon, the Portland City Club was told Friday.

Peter von Hippel, chemistry professor and director of the Institute of Molecular Biology at the University of Oregon, and Don Waggoner, an industrial engineer who heads up the Citizens Committee to Stop the Nerve Gas, reported on their research into the nerve gas issue.

They said the government had "boxed itself in" on the controversy and was rapidly establishing a "credibility gap" in statements made to Oregon political leaders, such as Gov. Tom McCall.

(In a statement concerning rumors of plans to move the gas to Colorado, Sen. Mark Hatfield's office said Army Undersecretary Thaddeus Beal reported there were no facilities on Okinawa or the West Coast that could be modified readily to neutralize the gas. Hatfield's spokesman said the "last word" is that objections to shipments to Umatilla have been considered and overruled.)

The chemical process of detoxification is relatively simple and cheap, Von Hippel told the club, drawing on his own knowledge and reports from the National Academy of Science which successfully opposed a similar shipment from Colorado to the East Coast on the grounds the risks were far too high.

Von Hippel said chemicals need to split the nerve gas molecules in a hydrolysis reaction would cost only $130,000, based on estimates of the known quantities of the gas. This would take, using a "shelf item" chemical mixer, only about 24 days, not counting defuzing operations.

The liquids can also be burned in high temperature furnaces, likely a six-month process, he said, mentioning an Oregon firm that builds such furnaces.

If twice the estimated tonnage is actually on Okinawa he said, the costs would still be under the $500,000 estimated shipping costs.

Four or five ships will be used to haul the gas to the Naval Ammunition Depot at Bangor, Wash., from which it will go by rail through Washington to the Army Ordnance Depot at Umatilla, Ore., the Pentagon has reported.

TRAIN ROUTE TOLD

A Northern Pacific Railway official gave the route following a trial run conducted by the Army. It would pass near 20 Washington communities, including Bremerton, Shelton, Centralia, Vancouver, Cámas, Washougal and Pasco before crossing the river into Oregon.

Von Hippel noted that a slide recently derailed several cars along the Columbia River on this route.

He said if the clusters of gas bombs, or "bomblets as the Army calls them," fell into the Columbia River and broke open, all animal and fish life downstream and out into the ocean near the mouth would be destroyed, including any exposed person.

He said the gases, which are liquids in aerosal bombs such as paint spray cans, have a 600 hour half-life in water. After this period, half of the material would still remain and so on, in a downward progression.

The biochemist said death is not instant, but it is "definitely unpleasant" as the doomed victim is fully conscious, drowning in his body fluids as the gas attacks the enzymes that transmit nerve signals to the muscles.

"You can watch yourself asphixiate," he said.

There are antidotes, he said, but these must be given immediately in huge doses that would be lethal if the victim has not been contaminated with the gas.

Both Von Hippel and Waggoner said "time is running out" on any campaign to stop the shipment, which is their goal at this time rather than immediate destruction of other nerve gas bombs at Umatilla, where they are relatively safe.

The ships can't leave Okinawa until the U.S. surgeon general gives approval. Von Hippel said he hopes the surgeon general's findings will be passed on to scientists for evaluation as was done in the East Coast shipment proposal.

The gas, he said, has been in Okinawa since the early 1960s. The containers, even those stored in this country, deteriorate at a rate faster than the gas, so eventually all stores will become dangerous to handle or ship. "It won't get any safer with age," Von Hippel said.

"Twice the Army has officially said the gas on Okinawa is surplus," but other officials have said it is in the national interest to move it to Oregon.

Waggoner said 45,000 Oregonians have signed petitions for the governor and to be sent to the President opposing the shipment, while only 1,800 have favored the plan. "That's 25 to 1 against," he said.

Forty-three scientists in Oregon have signed a statement saying the shipment poses a hazard "unparalleled in history."

The government has the technology developed to take the bombs apart, Von Hippel said, noting that 2,200 were defuzed and neutralized in Colorado last year when they began to leak.

The speakers, who fielded questions from the club and then got a good hand from members, said it won't be easy to stop the shipment as the government has wasted considerable time since it promised the Okinawans to have the gas out by April.

They said the gas is not being rushed out of Okinawa because the United States is giving the island back to the Japanese in 1972, but because of mounting public pressure there to get rid of the dangerous gases.

Now the government is "boxed in," having little time left to neutralize the gas in Okinawa and is taking the admittedly "easy course" of sending it to Oregon, they contended.

The club had planned to ask Umatilla Depot officials to appear on the program but learned they recently refused to make public appearances on the controversial matter.

[From the Oregonian, Feb. 21, 1970]

Nerve Gas Not Wanted; 63,000 Persons Sign Petition

Tacoma, Wash.—A half-mile-long petition bearing the names of some 63,000 persons opposed to shipment of military nerve gas through the Northwest was sent to the White House Friday by a Tacoma late-nite television personality.

The petition is the two-week-project of Bob Corcoran, host of a nightly talk show on Tacoma television station KTVW.

"The station owners and management let me have an open hand," Corcoran said. "I solicited on the air for people opposed to the shipment to send in their names and addresses and phone numbers."

"They came in from every hamlet in the Northwest—Bremerton, Olympia, Centralia, Chehalis, Shelton, the Longview-Kelso area, plus Tacoma and Seattle and even Victoria, B.C.," he said.

Corcoran said he became opposed to the shipment of nerve gas—in a fluid form—from Bangor, Wash., to Hermiston, Ore., after talking to Oregon Gov. Tom McCall and researching the gas with help of Dr. Gordon Kilgare, head of the chemistry department at Portland State University.

The Defense Department has not set a date for the gas shipment, which will originate in Okinawa.

The bulky petition was sent by air freight late Friday to the Washington office of Sen. Warren Magnuson, D-Wash. Corcoran said Magnuson will deliver the petition to the White House.

[From the Oregonian, Dec. 30, 1969]

Foes of Gas Plan Action; Drive Scheduled for Signatures

Opponents of the Army's plan to transfer nerve gas stocks from Okinawa to Hermiston, Oreg., remained active on two fronts Monday.

The Oregon Committee to Stop the Nerve Gas, a citizens group active since the Army plans were first made public, announced a new major effort to seek petition signatures.

Committee Co-chairman Robert Kindley told The Oregonian the group will meet at Centenary-Wilbur Methodist Church at 10 a.m. Saturday, Jan. 10, pick up petitions and then fan out across the city to gain signers in shopping centers and downtown.

Volunteers who would like to join in the new drive are welcome, Kindley said.

Meanwhile Umatilla County Dist. Atty. R. P. (Joe) Smith huddled with a group of lawyers in Portland with whom he has been exploring possible legal channels to block the nerve gas transfer in court.

Smith was slated to meet with Gov. Tom McCall's legal counsel, Robert Oliver, at the state capital Tuesday afternoon.

Oliver said he was uncertain as to the meeting's agenda, except that it concerned the gas question.

The governor's office reported Monday that support for McCall's position against the gas transfer to Umatilla Ordnance Depot in Hermiston continued to grow.

The number of petition signers and letter writers now exceeds 10,500, a spokesman said, and that doesn't include newspaper poll results in Salem and Eugene.

A poll in the capital city showed 68 per cent of those responding oppose bringing the gas stocks into Oregon. The anti-gas forces in Eugene provided a 7-1 margin in the poll there.

Brig. Gen. Robert Concklin, deputy chief of information in the Defense Department, told The Oregonian Monday there had been no change in the Army's plans to start transferring the gas in January.

The stocks are being removed in accordance with a Japan-U.S. agreement under which Okinawa will revert to Japanese sovereignty.

[From the Oregon Journal, Feb. 21, 1970]

Gas, Germ Warfare Hit by Churchmen

(By Watford Reed)

Opposition to the storage of nerve gas in Oregon or anywhere else is voiced by the board of directors of the Greater Portland Council of Churches.

The deadly gas, which is to be shipped from Okinawa, should be made harmless, the board said.

"In the name of God and humanity," it said in a letter to President Nixon, "we further ask that you look again at the subject of our nation's use of all chemical and biological weapons with a view to renouncing their use once and for all time.

"We were relieved when last November on our behalf you renounced the use of bacteriological weapons and called upon the Senate to ratify the Geneva protocal of 1925 (outlawing chemical and biological warfare).

"We shall not be satisfied until our nation has done what more than 80 other nations have done and ratified the protocol without reservations, thus renouncing the use of all chemical and biological weapons, the use of which weapons we believe to be immoral, whether used by others or by us."

The board then quoted from Deuteromomy 30:19, "Let us lead the world by our example, 'choosing life rather than death, blessing rather than cursing, good rather than evil,' that we and all the world's people may continue to live."

[From the Oregonian, Jan. 17, 1970]

Local Firm Sure It Can Destroy Nerve Gas

(By Wally Marchbank)

Sherwood.—Executives of a suburban firm that makes industrial incinerators see no reason why they could not build a furnace to destroy nerve gases.

While government officials from Oregon and Washington have protested the planned shipment of nerve gas from Okinawa to a storage depot in Eastern Oregon, the Sherwood firm has been contacted by the Army to bid on a furnace to decontaminate containers that once held the same type of gas.

Vernon L. Burda, vice president of Wasteco, said his firm bid on a furnace for the Rocky Mountain Arsenal. The furnace will be used to "demilitarize" the gas containers.

In Burda's opinion, his firm could easily build a furnace that could destroy large quantities of gases awaiting shipment from Okinawa to Oregon.

There are a few questions that should be answered, however, Burda said. They are: How much gas are we talking about? How long do we have to destroy it?, and, Does the government really want to get rid of the gas?

Burda said the answers to these questions have evaded him in his contacts with the Army concerning the furnace project.

"If the government really wants to get rid of the gas, why don't we do it in Okinawa, or on a ship anchored at sea?" Burda asked. He said his firm already has built one incinerator that is used on Okinawa to destroy confidential papers.

Burda emphasized that his firm has no political ax to grind, but "we could get the job done." Burda's position is supported by a letter to the firm from Big. Gen. James Hebbeler, director of Chemical, Biological, Radiological and Nuclear Operations, Washington, D.C.

In the letter Gen. Hebbeler discussed a method of destroying nerve gases in a high-temperature furnace and said it appeared to him that the process was feasible.

Burda said he has never been told if the Army is removing gas from containers, but the call for bids to demilitarize the containers would indicate the gas had been removed. Apparently the means to empty the containers is available in the Colorado arsenal and could be made available in Okinawa, he said.

Burda said the Army should get an outside consulting firm to which all facts would be furnished, and make a feasibility study of destroying the gases.

[From the Oregon Journal, Feb. 21, 1970]

Nerve Gas Petitions Signed by 115,000

More than 115,000 residents of Oregon and Washington have signed petitions against U.S. Army plans to ship nerve gas from Okinawa to Eastern Oregon.

The Citizens' Committee to Stop the Nerve Gas said petitions bearing 38,000 signatures have been sent to Gov. Tom McCall of Oregon, who has forwarded them to President Nixon. Petitions bearing another 17,000 signatures have been sent to Nixon by other Oregon groups, the committee said.

Spokesmen for the committee announced the figures after reports that more than 60,000 signatures have been gathered in the Seattle-Tacoma area. These have been forwarded to Sen. Warren Magnuson, D–Wash., who will give them to President Nixon.

At the same time the committee said it has learned that nerve gas stored on Okinawa leaked five times before the mishap last July which sent 24 American servicemen to the hospital and aroused a storm of protest which led the Army to announce plans five days later to remove the gas. These nerve gas bombs, it said, are the containers which the Army plans to ship to Umatilla.

[From the Oregon Journal, Feb. 27, 1970]

Gas Move Risk Seen as "High"; "No Way Safe", Ex-Okinawa Expert Says

Medford.—The Army's former safety director in charge of nerve gas on Okinawa said Friday there is "absolutely no way" to move the munitions safely to Oregon in active form.

"The hundreds of human and mechanical factors involved in a proposed shipment of this magnitude makes the potential for an accident very high," said Jack E. Doughty, 62.

Doughty, who was safety officer on Okinawa from 1948 to 1963, helped write many of the Army's present procedures for handling nerve gas. He said it began arriving on the island in 1956.

"I don't see how this gas can be moved at all without violating literally hundreds of the Army's own safety rules," said Doughty. He also said he believed trainloads of nerve gas would violate rules of the Interstate Commerce Commission prohibiting hazardous concentrations of explosives.

"The risk isn't confined just to the people of Oregon," said Doughty. "I am concerned that a mishap may occur before they even get the gas out of Okinawa. I'm not sure the Okinawa authorities understand the nature of the risk, but I'm writing to Chobyo Yara, the chief executive of the Okinawa government to explain it to him."

Doughty, who was also in charge of safety for nuclear weapons on Okinawa and most of Southeast Asia, said the dangers of transporting hydrogen bombs don't compare with transporting nerve gas.

"The gas is in missiles which are easy to detonate and in containers which are easy to rupture. Any mishap wouldn't kill just a few people. It would kill thousands and would possibly be one of the worst disasters in the history of the country."

Resor Due Protests

Washington.—Gov. Tom McCall planned Friday to present 3,000 letters from students at the University of Oregon to Army Secretary Stanley Resor in his protest about nerve gas shipments to Umatilla Army Depot.

McCall said 98 percent of the letters were in opposition to the proposed shipment of the gas from Okinawa to Umatilla.

[From the Oregon Journal, Dec. 17, 1970]

Gas Peril Worries Multnomah Doctors

The executive committee of Multnomah County Medical Society expressed concern Tuesday "over possible dangers of transporting and storage of toxic nerve gas in Oregon."

Dr. John Bussman, society president, expressed support for Gov. Tom McCall in bringing the situation to the attention of President Nixon.

"We share Gov. McCall's concern over the potential dangers of toxic substances, including nerve gas, to Oregonians," said Dr. Bussman.

"If we are to receive and store this gas in Oregon, we urge that every possible precaution be taken," he added.

Meanwhile, an apparent communications snarl between federal and state authorities continued unabated late Tuesday.

Gov. McCall's Washington, D.C., office said Secretary Robert Finch of the Department of Health, Education, and Welfare had given assurances that any gas shipment plans would be submitted to Oregon's chief health officer, Dr. Edward Press.

However, Press's office here expressed surprise at the alleged HEW statement and said no gas plans had arrived.

Sen. Robert Packwood's office offered information that HEW and the Pentagon were meeting to check safety factors in the plan.

An aide to Sen. Mark Hatfield, R-Ore., tried to cut through red tape in HEW to learn whether Finch was considering a public hearing on the gas question.

Mary Thomas, information officer at the Umatilla Army Ordnance Depot near Hermiston, said she still was trying to find out which HEW department was checking the plans.

Phone queries to the regional HEW office in Seattle ended up in the U.S. Food and Drug Administration, which pleaded ignorance of the whole affair.

[From the Oregon Journal, Dec. 23, 1970]

Oregon Solons Ask Nixon To Destroy Gas

(By Tom Stimmel)

Washington.—The Oregon congressional delegation prepared separate Christmas Eve letters to President Nixon Tuesday. Each urged him to destroy deadly nerve gases on Okinawa rather than ship them to Oregon.

Republicans in the delegation signed one letter, with a space for the signature of Gov. Tom McCall. The two Democrats in the delegation, Reps. Edith Green and Al Ullman, wrote the other.

Originally one letter was to have served the purpose, first introduced by Mr. McCall in a conference telephone call last Thursday.

Sen. Bob Packwood drafted the letter, which urged flatly that the nerve gas be destroyed.

"In view of the hopes raised by your new policies," Nixon was told, "you could create deep confidence in your initiative and build a position of true world leadership and respect," by destroying the gas.

Such language was too strong for Democratic tastes, even at Christmas time, so Mrs. Green and Ullman wrote their own note.

They "commended" Nixon for deciding to eliminate stockpiles of biological weapons and suggested that if the same standards of analysis were applied to nerve gases, "the conclusion would support their elimination as well."

Mrs. Green and Ullman asked Nixon to order such an analysis and to halt shipment from Okinawa to the Umatilla Army Depot until the analysis was completed.

If the gas has to be removed from Okinawa immediately, they wrote, then it should be destroyed or neutralized on the site.

The Republicans' letter proposed out-and-out destruction. "To allow these gases to be shipped from Okinawa to Oregon would serve no useful purpose," they wrote.

"A more useful purpose would be served if plans were made to destroy all lethal gases."

Both letters deplored the existence of nerve gases. Neither letter made even a secondary case for storing them in Oregon.

LACK OF UNDERSTANDING BY LIBERALS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. MONTGOMERY. Mr. Speaker, once before I have shared with my colleagues a column written by Dr. W. A. Leavell of Belfast, Maine, entitled "Keep Off the Grass." I would again like to commend to the Members of the House a column by Dr. Leavell. This one concerns the lack of understanding often exhibited by those of liberal persuasion. I think everyone will find the article most interesting and enlightening. It reads as follows:

Keep Off the Grass

(By W. A. Leavell, Ph. D.)

It might seem that I pick on liberals a lot, because I do. It doesn't bother them because I have found that most dedicated liberals have a common fault, they don't listen. You can hammer at them all day long and it doesn't bother them. I must say that they disregard the false just as easy as they do the truth.

You could prove, beyond a shadow of a doubt, that every super liberal program and dream won't work and it wouldn't cause a good liberal to blink an eye. No sir, when they swallow the liberal bait, they go all the way.

As an example, take the little story a reader sent me recently. It is about a little red hen. It has a very good point but a super liberal would never see it. See if you can appreciate the story.

Once upon a time, I am told, there was a little red hen. She was an industrious little cluck and decided to plant some wheat to make bread.

She has some friends who said they'd be glad to eat the bread. But when the time came to plant the wheat and to water it and reap it, her barnyard friends had a lot of excuses.

Let us look in on the barnyard scene in the early 1970's, soon after the wheat ripened and was ground into flour.

When it came time to bake the bread, "That's overtime for me," said the sow. "I'm a dropout and never learned how," said the duck. "I'd lose my welfare benefits," said the pig. "If I'm the only one working that's discrimination," said the goose.

"Then I will," said the little red hen—and she did.

She baked five loaves of bread and held them up for her neighbors to see.

"I want some," said the cow. "I wan't some," said the duck. "I want some," said the pig. "I want my share," said the goose.

"No," said the little red hen. "I can rest for a while and eat the five loaves myself."

"Excess profits," cried the cow. "Capitalistic leech," screemed the duck. "Company Fink," screamed the goose. "Equal rights," said the pig.

They hurriedly painted picket signs and marched around the little red hen, singing, "We shall overcome." And they did.

For when the owner came to investigate he said, "You must not be greedy, little red hen. Look at the oppressed cow, look at the disadvantaged duck, look at the underprivileged pig, look at the less fortunate goose. You are guilty of making second-class citizens of them."

"But-but-but . . . I earned the bread," said the little red hen.

"Exactly," said the owner. "That's the wonderful free enterprise system: anybody can earn as much as he wants. You should be happy to have this freedom. In other barnyards you would have to give all five loaves to the owner. Here you give four loaves to your neighbors."

And they all lived happily ever after, including the little red hen, who smiled and clucked, "I am grateful, I am grateful."

But her neighbors wondered and wondered why she never baked any more bread!

If you got the message of the story, you might ask, "What can I do to protect the little red hens of our society." Goodness knows they need protecting and you can do a lot.

You are important as an individual. You are more important as a group. Your most important strength is in your vote. The right of secret ballot is worth all the lives it has cost to win and it is worth fighting for again, if necessary. By your vote, you can make the mighty humble and the humble mighty. Vote, Vote, Vote!

AN ERA OF RETREAT ON CIVIL RIGHTS?

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. HELSTOSKI. Mr. Speaker, in the past decade we, as a nation, made great strides toward reaching the constitutional and certainly moral goal of providing equal justice and opportunity for all people in our 50 States.

At times we have faltered, but overall the record of accomplishment has been firm and good as we strive to reach the plateau set for us by our Founding Fathers in freeing our Nation from virtual bondage and oppression.

Yet, there is much more to do that is good and right if all of our people are to have equal justice and opportunity, but we apparently have entered an era where there has been serious retreat from the goal by some in important places in the Federal Government.

The backsliding posture is best explained in the following editorial delivered over WCBS–TV on February 24, 1970:

WCBS–TV Editorial

At any point in time, it is tempting to look back to another age, to see parallels, to draw the easy conclusion that history repeats itself.

This tendency to see definite cycles and repetition in history is very strong in America today. Little more than a century ago, the Civil War was fought; the slaves were freed. Emancipation was followed by Reconstruction, by the attempt of the Radical Republicans in Congress to assure citizenship to the Negro freedmen. By 1877, radical reconstruction had failed. President Rutherford Hayes, a Republican, had surrendered control of the South to white Southern Democrats, an accommodation that fostered the establishment of patterns of racial segregation that would survive for 100 years.

Now, it seems to some, history is repeating itself. The great civil rights revolution of the 1960s, a movement that recaptured the spirit of radical reconstruction a century ago, is in danger of failing. Another Republican, Richard Nixon, is in the White House, and he, too, according to this analysis, seems to be moving toward an accommodation with white racism in the South, just as Rutherford Hayes did. It all seems to be a neat, if not tragic, case of history repeating itself, of racism triumphant once again.

This is what it seems to be, but let us point out some key differences. The first is that the Negro freedman of 1877 is not the black man of 1970. Black America today is more self-assured, self confident, and proud. There is a growing and sophisticated black middle class well able to watch out for itself.

Racial attitudes have changed, too. Many of the leaders of the Radical Republicans a century ago were white supremacists. Today, there are few national leaders, North or South, who profess such racist views.

Now this is not to minimize the threat posed by racist reactionaries in America. They do exist, and they do support the backsliding posture of the Nixon Administration. But it seems to us that the decision last week of the U.S. Senate to call for uniform standards of school desegregation, North and South, does not of itself herald the revival of white supremacy in the United States, even if some of its sponsors intend it to do that.

It could begin a new period of national frankness in attempting to solve the Nation's racial division; it could mean the end of Northern hypocrisy in regarding racial bias as a Southern peculiarity.

A major factor in determining which way the country goes—whether toward a revival of white supremacy or toward a new national commitment to solve the racial problem on grounds of equality—is the office of the President. To date, the President has given the impression of retreat and evasion of racial equality, and this in our opinion is unacceptable.

The die is in the process of being cast, and it is time now for the Nixon Administration to help form it by enunciating a firm commitment to the goal of equal justice and opportunity for all.

IMPROVING POLICE-COMMUNITY RELATIONS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. ANDERSON of California. Mr. Speaker, what may be achieved when law enforcement agencies and the community join hands in common effort? Many of the positive answers were provided by former Torrance, Calif., chief of police, Walter Koenig, who was recently honored for his years of achievements in police and community relations with the American Civil Liberties Union's annual "Courage of Convictions" Award.

Chief Koenig earned the respect of the people of Torrance by applying his convictions in developing positive police-community relationships and, with the assistance of an editorial by Los Angeles television station KHJ-TV, shared some of his wisdom with the Southern California community.

I take great pleasure in inserting a copy of the editorial, broadcast February 1 through February 6, 1970, into the RECORD so that the chief's observations may be shared with my colleagues and serve as an inspiration for improved police-community relations.

The editorial follows:

POLICE COMMUNITY RELATIONS

We recently attended a meeting of the ACLU at which the former chief of police of Torrance, Walter Koenig, was presented the annual "Courage of Convictions" award. In explaining his outstanding success in the field of police-community relations Koenig used two words: First, "sympathy", which he defined as a feeling we have *toward* others. Second, "empathy", which he described as a feeling of being *with* someone.

We hope that our Los Angeles 9 viewers will take time out to consider the significance of that thought, and to support the efforts of our police and other officials who are sincerely seeking solutions to community problems.

Koenig in closing, told of the 3-year-old boy, lost in the woods. A search for him failed. Then, late in the afternoon everyone in town joined hands in a sort of human chain and swept through the woods. Half way through they found him, face down at the bottom of an abandoned well. One grief stricken man dropped to his knees and seemed to say a prayer. Another asked "What did he say", and the one next to him replied—he said "Oh God, why did we not join hands sooner?"

WHEN THE ACLU GOES INTO COURT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. ASHBROOK. Mr. Speaker, a recent column of Jenkin Lloyd Jones, publisher, syndicated columnist, and present head of the chamber of commerce, updated some of the more recent causes which the American Civil Liberties Union is pushing in the courts. His column entitled "When the ACLU Goes Into Court" appears in the February 28 issue of Human Events, and I include it in the RECORD at this point:

WHEN THE ACLU GOES INTO COURT

(By Jenkin Lloyd Jones)

There used to be an old vaudeville gag involving a pair of shoes nailed to the stage. The parting curtain would reveal the comedian unloading his line of patter and gradually he would lean farther and farther to the side until he passed far beyond any point of equilibrium. The humor lay in his bland pretense that he was standing upright.

I have been down to the national headquarters of the American Civil Liberties Union on lower Fifth Avenue, New York, looking over the literature. Those shoes are really nailed.

Once in a sapphire moon the ACLU, to the squeal of fifes and the ruffle of drums, comes to the aid of some ultra-right-wing superpatriot, usually the nuttier the better. These instances are carefully recorded and are periodically trotted across the stage to prove that the ACLU is evenhanded. The case book tells a different story.

For example, here's a sampling of recent ACLU legal interventions:

In behalf of a civilian Air Force instructor who had been fired for spending part of classroom time discussing America's wrongs in the Vietnamese war.

Supporting the showing of the movie *I Am Curious (Yellow)* which had been declared obscene by a Maryland court.

Challenging the conviction of a defendant who had burnt his draft card on the grounds that this was merely a "symbolic protest" against war.

Arguing the unconstitutionality of the Customs Act which prohibits importation of obscene materials from abroad.

Supporting the right to make political speeches, conduct demonstrations and distribute leaflets on military bases on the grounds that these include "public areas."

Supporting the Yippie defendants on trial in Chicago for riots during the Democratic convention on the grounds that "the anti-riot act violates the constitutional rights of freedom of speech and travel."

Supporting as a constitutional exercise of free speech eight Grinnell College students who took all their clothes off during an open meeting.

Supporting Prof. Angela Davis, avowed Communist philosophy professor at UCLA, against efforts to remove her.

Applauding the victory of the ACLU unit in Oregon in getting local courts to order the removal of a 51-foot illuminated cross in a public park overlooking the city of Eugene. Apparently, a publicly paid professor preaching communism on public property is preferable to a donated silent cross.

Battling federal legislation that would remove tax exemptions from private foundations, like the ACLU, engaged in political activities.

Asking the Colorado Supreme Court to declare possession of marijuana legal.

Supporting a former Peace Corps volunteer who was dismissed for sending a letter to a Chilean newspaper protesting that he had not been allowed to make statements on Viet Nam. Also supporting him for his subsequent refusal to answer a draft call.

Demanding that the University of Wisconsin readmit 90 black students who were expelled after they had seized the president's office and destroyed property.

Challenging the arrest of Yippie leader Abbie Hoffman when he appeared at a hearing of the House Committee on Un-American Activities in a shirt made of stars and stripes. The ACLU has challenged all statutes that would prohibit burning or desecration of the American flag on the grounds that "the state has not right to protect official symbols in a manner that restricts freedom of expression."

Recommending that all church property be fully taxed even when used exclusive for religious purposes.

The ACLU and its subsidiary, the Roger Baldwin Foundation, are, of course, tax-free.

In the most recent audit of the Roger Baldwin Foundation, the New York firm of auditors, Soll and Aronin, adds Footnote A:

"It is impracticable to ascertain that all liabilities of special projects incurred by project personnel have been recorded on the books. However, management does not believe that such unrecorded liabilities, if any, could be substantial."

"Management does not believe"? What "special projects"? What kind of an audit of a tax-free institution is this?

Kind little old ladies, still giving money to the ACLU under the impression that it is protecting the liberties of us all, might step down to 156 Fifth Avenue and riffle through this outfit's highly selective outrages. They'd have a fascinating afternoon.

MASSIVE PUBLIC SENTIMENT FOR RELEASE OF INFORMATION ON AMERICAN PRISONERS OF WAR

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. GRIFFIN. Mr. Speaker, I commend American newspaper editors who are keeping before the public the plight of our American prisoners of war. Such an editorial was published Monday, March 9, by Louis Cashman, Jr., editor of the Vicksburg, Miss., Evening Post.

I urge all Members of the House and those in the news media to continue to show North Vietnam that it should live up to its responsibility under the Geneva Convention by providing humane treatment and the release of information on American prisoners.

Under leave to extend, I include Mr. Cashman's editorial. It follows:

"BIG DEAL"

In the vernacular of the present, the announcement from Hanoi of the list of 27 American fliers shot down in the Vietnam war, is indeed a "big deal". What of the other 1300 prisoners of war held by the North Vietnamese? What of the refusal of the Hanoi government to abide by the articles of the Geneva Convention? What disposition has been made of those held prisoner of war in humane terms?

That 27 names have been made public is certainly welcome news to the families of those men, who have yearned for some word about their loved ones, and we rejoice with them that, at long last, they now know these men are alive.

But the manner in which these names were released was, in itself, a further insult to our country and to all of the men held prisoner by the North Vietnamese. The names were relayed through two agencies—the Swedish government and an American pacifist committee, headed by David Dellinger, one of the "Chicago 7" and by Mrs. Cora Weiss of Women's Strike for Peace. Neither of the latter groups is representative of our country, and the selection of them as the avenue through which the names were released is offensive in the utmost, and is but a continuation of the contempt showed by Hanoi for anything which is truly American.

The continued defiance of North Vietnam of its responsibility under the Geneva Convention, only emphasizes the necessity for a unified drive to bring about compliance, through the influence of world opinion. The propaganda machine of the North Vietnamese Reds has kept up an incessant barrage against our nation, and some of the organizations in our own country, of which the two mentioned above are shining examples, have swallowed the bait and have actually been of tremendous aid and comfort to an enemy which callously disregards every norm of decency in withholding information about American missing servicemen.

To that end, we earnestly urge that a short letter be sent to United We Stand, Box 100,000, Jackson, Miss. 39205, urging Hanoi to give out information on those held prisoner. Such letters, by the tens of thousands, from all sections of the country, will do much to counteract the feeling on the part of Hanoi that American dissent and protest against the Vietnam war, as practiced by some organized groups, represents not the majority opinion in the United States, but only a small, and very small minority. Write today!

FAILING NEWSPAPER ACT

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. BROWN of Ohio. Mr. Speaker, the following editorials from the New Yorker and the New York Times for January 31, 1970, speak eloquently with reference to a matter under current consideration by the House Judiciary Committee after its passage in the Senate—the so-called Failing Newspaper bill S. 1520:

NOTES AND COMMENT

Every few seasons, a pickup truck marked in bold letters "Tree Preservation Service" pulls into a suburban street we know about and deposits three or four outdoorsy men with ladders and saws who spend an invigorating hour or so lopping off tree branches that grow out over the road. A couple of times, we watched this operation with indulgence, only dimly wondering how it preserved the trees to thwart their reach for light and air. Then, recently, we learned we had been anaesthetized by a title. The Tree Preservation Service is in the service of Con Edison, and its concern is less for preserving the trees than for preserving the overhead wires into whose air space the branches sometimes protrude. All this is by way of explaining a suspicion we formed, even before we knew its contents, of a bill that Congress has been mulling over for two years and that now has the support of the Commerce Department. The bill is called the Newspaper Preservation Act. The proposed act would allow supposedly competing newspapers to violate the anti-trust laws by pooling their profits and fixing prices. Its ostensible purpose is to shore up shaky papers, but it is most probably not a newspaper-preservation bill so much as a publisher-preservation bill. Any newspaper that has to be preserved this way might as well be preserved in formaldehide. We are pained by the death of every newspaper, but an ad-hoc group that we are proud to be a permanent member of and that we like to think of is the Liberty Preservation Society believes the public is better served by a dead paper than by one mortally sick and given a semblance of health through the connivance of the competition that its voice should continually challenge and of the government about which it is duty-bound to speak the truth.

PRESERVING PRESS DIVERSITY

The Senate has overwhelmingly passed the Newspaper Preservation Act. But, even before the bill goes to the House, the need for any such measure has been rendered extremely dubious by Federal Court approval in Tucson of a joint publishing arrangement for the separately owned morning and afternoon papers in that Arizona city.

The bill, sponsored by 33 Senators and endorsed by a majority of the Judiciary Committee, would grant immunity from the antitrust laws for joint operating agreements between competing newspapers if one of the papers was in danger of failing.

The measure's aim is to help keep alive diversity of editorial expression and news presentation in a period when astronomic increases in all the costs of publication, plus the inroads on circulation and advertising of television, news magazines and other media, have brought monopoly journalism to many large cities.

In 22 other cities rival publishers have pooled their commercial and printing operations to cut costs while retaining independent editorial and news departments. The legality of these arrangements was brought into question when the Supreme Court, in a 7-to-1 decision last March, invalidated an agreement worked out by the two Tucson dailies.

The Court held that the new corporation these papers had formed to handle publishing, advertising and circulation violated antitrust rules against price-fixing, profit-pooling and illegal market control. The bill now up for debate would, in effect, repeal the Supreme Court's ruling by easing the definition of what constitutes a "failing" newspaper and then granting a broad exemption from restraints against monopoly to joint arrangements entered into by such a paper.

However, the joint publishing order agreed to by the Tucson publishers and signed last week by Federal Judge James A. Walsh makes it plain that the Supreme Court decision leaves open considerable latitude for unified operation without any necessity for a new law. The order sanctions a single printing plant for the two papers, unified billing and distribution services and issuance of a joint Sunday paper. The limitations the order imposes in other directions appear far from suffocating. The entire arrangement confirms our previously expressed conviction that the Supreme Court ruling did not doom joint publishing ventures. On the contrary, it laid down healthy guidelines for insuring that a device intended to guard against a monopoly in news and opinion was not perverted into one that fostered monopoly.

While respecting the considerations that have made many publishers endorse the Newspaper Preservation Act, we consider it foreign to the spirit of the freedom of the press, as guaranteed by the First Amendment, for Congress to pass a law granting the press immunity from the rules all other enterprises must obey to insure healthy competition.

Far from encouraging a free and independent press, such immunity could become a shield to established publishers against the entrance of new journalistic competitors. Even without that effect, the sheltered environment of a carefully divided market is a poor spur to editorial ingenuity or creativity. Worst of all, provisions in the bill for prior written consent of the Attorney General introduce an element of political review that would be chilling in any Administration.

The compact just authorized in Tucson indicates that the Supreme Court decision affords newspapers in genuine economic trouble all the scope they need for negotiating joint operating arrangements on a basis that will permit them to survive and at the time preserve for their readers the diversity of editorial and news presentation a democracy has the right to demand.

DR. STANHOPE BAYNE-JONES

HON. ROBERT TAFT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. TAFT. Mr. Speaker, on February 20, 1970, a very quiet but very great American passed away. Known to his friends as "BJ"—his full name was Dr. Stanhope Bayne-Jones and he was a brigadier general, retired, in the U.S. Army Medical Corps. His long and distinguished career and his many honors were so numerous that I am attaching them as a part of my remarks.

But beyond the statistics and the official achievements stood a truly great character who contributed as much personally to those who knew him as he did in a professional or official capacity. My personal acquaintanceship came from the fact that he was a classmate and lifelong friend of my father's, one of the closest and most trusted of all. Their acquaintanceship grew from Yale College days when they both were undergraduates in the class of 1910, and it continued through many years and many times of challenge and achievement on the national scene in connection with Yale University and otherwise. Self-effacing and quiet, but at the same time, warm and direct, he combined rare virtues and a grand sense of humor. A towering figure in the public health field, he was never too busy to give his personal attention and advice to any and all who sought it.

We shall miss him, but his life must be an inspiration to all who knew him. To his widow and his family, we extend our deep sympathy.

Mr. Speaker, under unanimous consent to revise and extend my remarks and include extraneous matter, I include the following biographical sketch of this outstanding man:

BIOGRAPHICAL SKETCH, STANHOPE BAYNE-JONES

Born in New Orleans, Louisiana, November 6, 1888.

DEGREES RECEIVED

B.A., Yale University, 1910.

M.D., Johns Hopkins University, 1914.

M.A., Johns Hopkins University, 1917.

M.A. (Hon.), Yale University, 1932.

Sc. D. (Hon.), University of Rochester, 1943.

Sc. D. (Hon.), Emory University, 1954.

LL.D. (Hon.), Tulane University, 1955.

L.H.D. (Hon.), Hahnemann Medical College, 1959

LL.B. (Hon.), Johns Hopkins University, 1960.

Sc. D. (Hon.), Ohio State University, 1960.

DECORATIONS AND MEDALS RECEIVED

Military

U.S.A.: Distinguished Service Medal, Silver Star (with 2 oak leaf clusters), Army Commendation Ribbon, United States of America Typhus Commission Medal, Decoration for Exceptional Civilian Service, Department of the Army.

British: Military Cross, Order of the British Empire (Honorary Commander).

French: Croix de Guerre.

Civilian: Chapin Medal (Public Health) from the Rhode Island State Medical Society. Bruce Medal (Preventive Medicine) from the American College of Physicians. Passano Foundation Award—presented on June 10, 1959.

ACADEMIC AND ADMINISTRATIVE POSITIONS HELD AT VARIOUS TIMES

1914–1924: Various positions on faculty of the Johns Hopkins University School of Medicine from Instructor to Associate Professor of Bacteriology and Pathology.

1924–1932: Professor of Bacteriology, University of Rochester School of Medicine and Denistry.

1932–1947: Professor of Bacteriology, Yale University School of Medicine.

1924–1932: Director, Rochester Health Bureau Laboratories, Rochester, New York.

1932–1933: Chairman, Division of Medical Sciences, National Research Council.

1935–1940: Dean, Yale University School of Medicine.

1932–1938: Master of Trumbull College, Yale University.

1937–1947: Director, Board of Scientific Advisers, The Jane Coffin Childs Memorial Fund for Medical Research.

1939–1941: Member, Board of Scientific Advisers, International Health Division, Rockefeller Foundation.

1939–1954: Member, Board of Directors, Joseph Macy, Jr. Foundation.

1939–1957: Member, Advisory Medical Board, Leonard Wood Memorial American Leprosy Foundation).

1952 to date: Member, Board of Governors, Gorgas Memorial Institute of Tropical and Preventive Medicine.

1948–1952: Member, Committee on Public Relations, New York Academy of Medicine.

1949–1951: Chairman, Committee on Public Health, Medical Society of the County of New York.

1947–1952: Member, Scientific Advisory Board, Public Health Research Institute of the City of New York.

1930–1947: Member of editorial boards of several scientific journals.

1950–1952: Member, Board of Hospitals, New York City.

1942–1952: Member, Board of Managers, Memorial Hospital for Cancer and Allied Diseases, New York City.

1947–1953: President of the Joint Administrative Board of the New York Hospital-Cornell Medical Center.

1929–1930: President of the Society of American Bacteriologists.

1930–1931: President of the American Association of Immunologists.

1940–1941: President of the American Association of Pathologists and Bacteriologists.

1914 to date: Member of numerous medical and scientific societies, including the American Philosophical Society.

1950–1952: Member, National Manpower Commission, Columbia University.

1951–1954: Member, Commission on Financing of Hospital Care.

1955–1956: Member of the Corporation of Yale University.

1957–1958: Chairman of the Secretary's Consultants on Medical Research and Education, Office of the Secretary, U.S. Department of Health, Education, and Welfare.

1961–1962: Chairman, Board on Cancer and Viruses, National Cancer Institute, National Institutes of Health.

1962–1964: Member, Surgeon Generals (PHS) Advisory Committee on Smoking and Health.

1914 to date: Author of about 75 scientific and medical papers, and addresses on various subjects. Coauthor with Doctor Hans Zinsser of a revision and new edition of "A Textbook of Bacteriology."

Medical and Scientific Member of: American Medical Association; Medical Society of the District of Columbia; Academy of Medicine of Washington, D.C., American Cancer Society, American Association of Immunologists; American Association of Pathologists and Bacteriologists; Society of American Bacteriologists; American Philosophical Society; American Public Health Association; etc.

MILITARY RECORD

1917–1919: Served as Captain, later as Major, MC, in World War I, in France, Belgium, Italy, and Germany. From January to June 1919, was Sanitary Inspector of the 3rd U.S. Army (Army of Occupation) in Germany.

1942–1946: During World War II served on active duty in the Office of The Surgeon General, U.S. Army, in Washington D.C., in grades of Lt. Colonel to Brigadier General, as—

Deputy Chief, Preventive Medicine Service;

Administrator of the Army Epidemiological Board; (1942–1945)

Director of the United States of America Typhus Commission;

Special Missions to England (1943) and Egypt (1944);

Promoted to Brigadier General on 25 February 1944; Retired in grade 31 December 1949; Recommissioned Brigadier General, Reserves, Army of the United States, 7 May 1953.

1946 to date: Member, Armed Forces Epidemiological Board (President, 1946–1947)

1953–1956: Technical Director of Research, Office of The Surgeon General, Department of the Army.

1954 to 1963: Member of the Army Advisory Scientific Panel. Member of the Advisory Scientific Board, Walter Reed Army Institute of Research.

1955 to date: Chairman of the Advisory Editorial Board, History of Preventive Medicine in World War II, Medical Department, U.S. Army.

PRESIDENT NIXON PREACHES WHILE THE CORPS POLLUTES

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. MIKVA. Mr. Speaker, being against pollution is about as safe these days as being for apple pie and the American flag. The test, therefore, should be not what any public official says about pollution, but what he does about it. Letters from young constituents of mine, third-grader students at O'Keefe School, underline the difference between talking about pollution control and doing something about it. These students' letters ask why the Army Corps of Engineers continues to dump polluted dredgings into Lake Michigan after the President visited Chicago and "promised to save Lake Michigan."

That is a very good question. It is a question to which many of us would like to know the answer.

In an effort to obtain an answer for these young students and other constituents of mine who are equally concerned about the Government's continued pollution of Lake Michigan, I have written letters to Secretary of the Army Resor and Secretary of the Interior Hickel. Perhaps they can explain to me and other citizens of Chicago why it is necessary to keep polluting our lake after the President has announced his dedication to environmental protection. What I really hope is that the President will write a letter to Messrs. Hickel and Resor—or maybe even a phone call will do.

I would like at this time to read into the CONGRESSIONAL RECORD one of the letters from the third-grade students at O'Keefe School:

CHICAGO, ILL.
February 11, 1970.

DEAR CONGRESSMAN MIKVA: I am a little girl in third grade at O'Keefe School. I read the newspapers and listen to television. We know President Nixon came to Chicago and promised to save Lake Michigan. Why is he allowing the U.S. Army Corps of Engineers to dump millions of cubic inches of polluted dredging into our Lake Michigan? Does he really mean to save our lake? Please talk about this problem on the floor of the House and to Secretary of the Interior Hickel. Why don't you write a letter to President Nixon? We are.

THE SMALL INVESTOR GETS A ROUGH DEAL

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. FASCELL. Mr. Speaker, one of the principal issues during last year's hearings and debate on tax reform was the treatment of the middle-income taxpayer—the American who is a small saver and investor. It was shown that existing laws put an inordinately large share of the tax burden on this group. In effect, the various groups and wealthy individuals who paid little or no taxes were being subsidized by the little man. Congress responded to these obvious inequities with enactment of tax reform legislation which will take effect next year.

In my efforts in the Congress I have taken a special interest in attempting to see that our monetary and fiscal policies are fair to all. Last year's tax reform bill was clearly a step in the right direction, although more needs to be done by the Congress.

There are, of course, decisions which the executive branch could make which would better the positions of the investor and saver of moderate means. As it turns out, unfortunately, at the same time that the Congress has been trying to give him fiscal relief, the administration has been taking steps which make it harder for the small investor and taxpayer to try to cope with inflation through prudent investment.

XUM

Most of these steps are taken under the guise of meeting the critical housing problem by preventing the flow of money out of savings and loan institutions into Treasury and Federal agency securities. As I have been pointing out, the housing problem must be solved and solved right now. There are numerous other means of helping savings and loans, however, which do not discriminate against the moderate-income earner. Let us not put the whole burden of that load on those who through inflation and high taxes are already carrying more than their share.

Last week the distinguished business and financial editor of the Washington Post, Hobart Rowen, discussed the effects some of the administration's recent decisions will have in a column entitled "The Small Investor Gets a Rough Deal." I believe that it deserves the attention of every Member of the Congress:

THE SMALL INVESTOR GETS A ROUGH DEAL

(By Hobart Rowen)

The small saver and investor is taking it on the chin these days. Like the big boys, he suffers as the dollar depreciates through inflation: the consumer price increase of nearly 6 per cent in 1969 was no less for him than anyone else.

But when he places his dollar bill out for lending or investing, it doesn't seem to go as far. Even the New York Stock Exchange, which once prattled about "investing in a share of America," now wants to jack up commissions as much as 116 per cent for small trades and lower them as much as 60 per cent on the biggest transactions.

The latest step in this discriminatory process was taken by the United States Government itself by reserving the attractive interest rates paid on Treasury bills for larger investors.

Last week, after a battle inside the administration, the Treasury announced it would no longer sell Treasury bills in $1,000 lots—which had become popular with smaller savers—and that the minimum denomination would be $10,000.

The Treasury's plea was that the cost of processing a $1,000 bill was excessive, and that the small saver paying a fee to a banker or broker was losing part of his "real" return anyway.

"Treasury bills are a money market instrument," Secretary David Kennedy told the Joint Economic Committee. Better, the implication was, buy U.S. Savings Bonds which pay 5 per cent, than bother the Treasury for bills which recently have been paying 7 per cent, and paid as high as 8 per cent earlier this year.

Many experts think that the Treasury's plaintive note just doesn't wash. If it uses horse-and-buggy methods of issuing bills, each piece of paper may be costing too much money; but presumably, if computers can be used to trace a path for a rocket to the moon, they could be used to lower the administrative costs of borrowing money from the public.

The real reason for the change, as Secretary Kennedy has admitted privately, is that the savings and loan lobby brought terrific pressure for it. Much of the flood of orders for Treasury bills in $1,000 and $2,000 lots came from people who took their money out of the S & Ls.

That was tough on the S & Ls, which have been the backbone of mortgage support for the housing industry. But it made sense for depositors, who were limited for most of last year to 4¾ per cent on regular accounts and 5¼ per cent on savings certificates.

Recently, the rate structure was adjusted so that the S & Ls can pay 5 per cent on regular savings. And to get as much as 6 per cent, you have to have a minimum of $10,000, and leave it for 2 years. But if you can part with $100,000 for one year, 7½ per cent is now available at S & Ls.

It is little wonder, therefore, that Treasury bills proved so attractive: they paid more, for modest amounts, than available elsewhere. Large banks in this city used to buy them for regular customers as part of their service; more recently, they have put a $5, then a $10 charge on each transaction.

Investors who have direct access to Federal Reserve banks have been able to buy bills without any charges. It is also possible to buy bills directly on a mail-order basis; there is some red tape involved which the Treasury could simplify but doesn't choose to do.

Outside of the Treasury, the discrimination is readily recognized. "This issue is a live one," Economic Council Chairman Paul W. McCracken agrees. The problem as he sees it traces back to the artificiality of interest-rate ceilings at banks, originally intended to prevent the payment of interest higher than "sound" practices would warrant.

But then the ceilings became a device to help protect S & Ls from a massive loss of funds. That worked until it dawned on the small investor that he could "beat" the ceiling limitation by investing directly in Mr. Kennedy's market instruments."

Apparently, only the fatter cats are supposed to deal in these. In fact, just three weeks ago, the Farmers Home Administration (a government agency) sold $200 million worth of 8⅞ per cent 5-year notes and $150 million of 8.90 per cent 10-year notes. And guess the minimum unit? It was a cool $1 million each.

In New York the other day at a meeting of the National Industrial Conference Board, Federal Reserve Board adviser J. Charles Partee, asked whether the small investor was being treated unfairly in view of the new Treasury bill minimum, said:

"I think clearly we're discriminating against the small saver, and I think it's terrible. I think there's some logic for a difference (in rates) based on costs (of the transaction) and liquidity."

But the differentials between what is available to the large investor, and the smaller man have become excessive, Partee said, adding: "I would hope that we're moving toward (a situation) where the market would determine the differentials."

This ideal system, however, is a long way off: we are so locked into the system of ceiling rates that if they were removed entirely, the S & L industry would collapse while savers sought better returns.

For the moment, McCracken says, the government should be working "on something that will give the little saver a better break," perhaps through an instrument "more appropriate" than Treasury bills.

Clearly, something like this ought to be done. If the Farm Credit people can pay around 9 per cent for 5- and 10-year money, why should the average citizen accept 5 per cent for a 10-year U.S. Savings Bond? He shouldn't. Given the pattern of interest rates today, he's entitled to more. The return on savings bonds doesn't even match the rate of inflation.

If bills aren't the right "instrument" for the smaller investor, Secretary Kennedy ought to put his boys to work to find one.

ANOTHER AMERICAN LEARNS ABOUT RACE MIXING—THE HARD WAY

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. RARICK. Mr. Speaker, it has been some 4 months ago that I called to the attention of the House the most recent of the classical Putnam letters—this one addressed to the current occupant of the White House, President Nixon.

Neither a doctrine of fairness nor any standard of honesty in reporting applies to the news trust—which controls and pollutes our news.

When a distinguished American, renowned as a scientist, an attorney, a scholar, and an author, is compelled to buy full page advertisements in the leading daily newspapers to break through the curtain of silence and tell the American people the truth, it should concern all of us. When some of the leading liberal papers refuse to sell advertising space to tell their readers the truth, only because the truth does not agree with their own propaganda campaigns, it should begin to alarm all of us. This is the situation faced by Mr. Putnam in his one man quest for national sanity.

The American people are awakening. They have disliked for some time the activities of the "limousine liberals," but they were successfully deceived into believing that they were alone in their failure to appreciate all of the integration benefits forced on them from the left. Now they know that they are not alone—that they are the large and powerful majority in this land, and they are speaking out in tones which are unmistakable despite being smeared by the Communist-coined trigger word, "racist."

As Americans have personal contacts with the racial subculture of the Negro, they can no longer be deceived by the propagandists. Nor can they any longer be convinced that it is somehow the fault of white America that the members of the Negro subculture behave as badly as they do.

In increasing numbers people are learning from their own sad experience the truth of the old adage that you can't make a silk purse out of a sow's ear—even by education, environment, or manipulated statistics. Americans who have known the facts for a long time, are now discovering that there are others, thoroughly respectable, who know the same facts.

I include in my remarks the letter received by Mr. Putnam from an obviously unbrainwashed American, and commend it to the careful perusal of our colleagues and of all other Americans who have not yet been exposed to the first hand experiences of its very experienced author. The letter follows:

FEBRUARY 21, 1970.

Mr. CARLETON PUTNAM,
The Putnam Committee,
Washington, D.C.

DEAR MR. PUTNAM: Referring to your full page advertisement in the Chicago Tribune for 12 February 1970, I feel it worth while to tell you, for whatever use you might want to make of it, the experiences I had while living in Chicago which have made me what the "liberals" like to call a "bigoted racist."

Ten years ago I was a firm believer in racial equality. I was an "integrationist" to the extent that I believed every man of whatever color should rise or fall according to his own ability. I lived in Chicago then, in a very nice area of white people, good homes and handsome apartment buildings within half a mile of an area "liberals" like to call a ghetto, both misunderstanding and misusing that term. When blacks began moving into the neighborhood, I had no desire to leave for that reason.

Six months later, the nice buildings were wrecks, the white people were gone and the area a social and physical shambles. Noise (24 hours a day), filth and garbage, immorality and crime were rampant, and white skins became the target of a malicious, blatant, organized black racism. When it became totally unsafe for whites to be in the neighborhood because of roving gangs of vicious killers, I moved my family to another area two miles distant.

Again, it was an excellent neighborhood, with handsome single-family homes in the $60,000 to $75,000 class (near the South Shore Country Club) and dotted with luxury apartment buildings, some of which were high rise skyscrapers. There I lived through precisely the same experiences I had had a short time previously, like seeing a movie a second time. Once again, the black tide came, spawning evil, filth, immorality and crime; once again, the roving gangs of black killers and vandals made the nights hideous with screams, yells, catcalls and smashing glass, and the days nearly as bad. I saw more than once blacks copulating in public, scarcely hidden behind hedges, standing in doorways, in cars parked along the curb, like animals in their indifference to public decency. I saw with my own eyes muggings and the stripping of autos; I saw vandalism that deserved shooting on the spot. I saw theft in grocery stores. I found piles of human feces in the foyer of our building, without toilet paper, and our janitor told me that this was a common occurrence wherever negroes lived in apartment buildings. In our three-story building, containing 120 apartments, it was a nightly occurrence to hear men (presumably, although it could well have been women) urinating from upper windows and daylight would reveal dripping, reeking stains down the walls in many places. Screaming sex orgies were a common occurrence in the apartment across the hall, with bloody fights and crashing glass and splintered furniture. Again, it became impossible to live amongst these filthophiles—they like it that way! Not once did I ever see black people attempting to clean up their environment; all I ever saw was black people dumping their garbage out of windows, breaking every glass bottle they saw, throwing old furniture into the street gutters, stuffing rags into broken windows and casting plastic containers and old papers to the four winds. They will have it no other way. Give these animals paradise, and in a month it will be a jungle fit only for animals.

Knowing by then that in due time we would be leaving Chicago permanently for New Mexico, but at some time then still undetermined, I moved a third time three miles further south, again to a decent neighborhood. Once again, for the third time, I endured the same scenario, line for line, cue for cue. I left Chicago finally, after ten years among the blacks, with a profound racial prejudice arising out of personal experience. The blacks had caused me to dislike them beyond all measure. For whatever it might be worth in this context, I would have exactly and precisely the same reaction to white people who acted and behaved as the black people did.

I came from a background of white poverty every bit as pervasive and humiliating as that of a black slum, but instead of turning to crime—like uncounted thousands of other white youth during the depression—I worked, and I worked hard, for the social respect I wanted and expected. I didn't go around whining, with my dirty hands outstretched for alms and charity, and neither I nor my neighbors in poverty ever turned to violence as an answer to our poverty. If we wanted something, we either worked for it, or did without it, and our standard of living then was in every respect Less than the standard of living now enjoyed by 95% of the black people in America today. Even in the midst of grinding poverty of Appalachia in the 1930's, my home and the homes of our white neighbors were clean. We lived decently amongst our neighbors, as our neighbors did. We tried mightily, and successfully, to be good citizens and good people. There was in our community no filth, no public immorality, no bastard children from the whores, no great neighborhood noise and racket, no gangs of sadistic killers and certainly no physical danger to our persons or our property. We slept with open doors in perfect safety.

Now your critics come along, mouthing the myth that the heavy black population of our cities is the victim of conditions there, not necessarily the cause of those conditions. They are wrong, as are all of those who spout this fallacious legend. They are 100%, utterly, completely, wholly, entirely, absolutely, massively wrong. They do not know what they are talking about, and if they were to undergo the experiences nearly all whites have had trying to accept a way of life that is not acceptable, they would not write what they have written, or anything like it. They would be writing what I am writing, whether they believe they would or not.

Black people may have lived among white people for generations, but the white ethos does not rub off on the blacks, any more than the black color rubs off on the whites. Black people whine, rant and rebel because white people don't like them, and will not accept them, yet blacks are unwilling or unable to behave themselves in such a way that white prejudice will be overcome by respect. These people want handed to them on a silver platter, without the condition of personal responsibility, what white people have worked hard for, for generations themselves. The black people riot, loot burn and kill because for 300 years, they whine, they have been "repressed" and "oppressed" by the white "establishment." The black males weep "tears" the size of golf balls because, they slobber, they have been "deprived" of their masculinity—they would eagerly and cheerfully destroy the "establishment" that has cared for them, their prostitutes and bastards since the black man has been on this continent. They would destroy this nation, cheerfully, in a racist holocaust the like of which white people would never even dream of. Among them rise organizations like the vicious black panthers, dedicated to overthrowing this nation by force, and when these liver-lipped —— are called to account by law and order, they whine "genocide," as if, for them, it wouldn't be a good thing. All the white racism in the United States put together cannot surpass or even equal the insane racism of the blacks. The jungle and its first law of nature is just under the black skin, even on the likes of senators, supreme court justices and "leaders" of the blacks.

When your critics write that blacks are not the cause of their social conditions, they obviously write without experience or knowledge on the subject. They are but repeating the myth so assiduously cultivated by the "liberals," who wrongly consider that because black people are in some ways physically like white people, there is no other difference than skin color. This is not only specious, but stupid. There is a difference, a profound, fundamental difference. Intimate contact with black people, in a black environment, would show these liberals those differences starkly and quickly. To perpetuate this lunacy of "equality" is to drive further into the heart of this nation the stake of racial conflict. Only when it is understood and accepted as fact that there are basic and fundamental differences between the two races will there ever be any kind of social tranquility again. The folly of "equality" is the tocsin of doom for America; how anyone can review what has happened since 1960 and not see that conclusion is incredible. How responsible journalists can encourage and perpetuate the monstrous notion that the black community is not responsible for its own condition is unbelievable. Instead of telling these people that white racism is the reason for black conditions, why not tell them that personal responsibility and public decency will go a lot farther towards social "equality" that rioting, crime and lawlessness. Why not tell black people that white people everywhere are (or ought to be) fed up to the eyeballs with loudmouth revolutionaries screaming obscenities and gangs of ruthless killers roaming the streets of cities at night. Why not, for just once, just plainly tell the black people that the best—if not the only—way to get the respect of white people is to earn it, by behaving like decent people instead of jungle animals.

It is not always the white who criticizes the black who is the bigot; to hold black people blameless for their own social filth and personal misbehavior is also bigotry, and every bit as bad if not worse.

Yours truly,

ROBERT B. MCCOY.

SCS WORK IN ENVIRONMENT CONTROL THREATENED BY BUDGET CUTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. HAMILTON. Mr. Speaker, at a time when there is increasing attention to the quality of our environment, I am concerned that the President's 1971 budget request will limit the effectiveness

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of the Soil Conservation Service's work to develop our natural resources.

I would like to bring to the attention of my colleagues an excellent letter I received from Mr. Harold Wilson, president, Indiana Association of Soil and Water Conservation Districts, concerning this situation. Following is Mr. Wilson's letter:

Indiana Association of Soil and
Water Conservation Districts,
Inc.,
Peru, Ind., March 3, 1970.

Hon. Lee H. Hamilton,
House of Representatives,
Washington, D.C.

Dear Mr. Hamilton: In December of 1969 I was elected President of the State Association of Soil and Water Conservation Districts in Indiana.

The Association of Soil and Water Conservation Districts represents over 55,000 individual cooperators throughout the state.

I am writing not only in their behalf, but also in behalf of the 63,000 remaining farm landowners and operators who, too, need technical assistance. In addition, Soil and Water Conservation Districts have only scratched the surface in providing technical assistance to all of the land users in the state. There are in addition to the above, an estimated 200,000 units of miscellaneous land, other than farms, which have a potential need for technical assistance. Units of government in the state that have a potential need for assistance with regards to soil, water, and related resource planning and development, total 2616. The 455 elected and appointed supervisors of the 91 Soil and Water Conservation Districts in the state of Indiana are united in their urgent concern about the decline of the quality of our environment.

We simply cannot understand why in the face of mounting environmental problems affecting both rural and urban populations, our national government is not in tune with the needs for technical assistance to help solve these complex problems. And the SCS, working through Soil and Water Conservation Districts can help tremendously in improving the quality of the environment.

Technical assistance furnished by the Soil Conservation Service is simply not numerically adequate to meet the current and backlog requests for technical assistance.

The USDA Conservation Needs Inventory on agricultural land reveals that 30.4% (or 6,447,000 acres) of the agricultural land in Indiana is adequately treated. 69.6% (or 14,762,000 acres) remain in need of land use changes or application of conservation practices. Progress is being made at the rate of about 1½% each year under the existing programs. This is entirely too slow for such a vital need.

Current evaluation of staffing needs for SCS on a nation-wide basis show a shortage of 2,325 man years for a cost of $22,000,000. Demands for staffing new Conservation Districts have continued with no funds being provided for new Districts in 1969, 1970 or 1971. At present $2,000,000 is needed to fund new Districts. In Indiana alone we need an additional 71 man years of SCS technical assistance to cake care of current needs.

As you know, SWCD supervisors, including State Association Officers, serve without pay, and our interest in additional funding for SCS is to provide sufficient technical assistance to our cooperators, and your constituents, for the conservation of soil, water, and related resources, which can have a significant beneficial impact on the future of our country.

I am sure you recognize that time is of the utmost importance in providing needed technical assistance to groups such as in county-wide comprehensive planning and implementation. Detailed soils data is increasingly being used for site planning for non-agricultural land uses. Guidance in sediment control and water management for safe disposal is an urgent need in the state and there is too little technical assistance available to do the job at hand.

The Soil Conservation Service soil survey program in Indiana is in critical need of acceleration. Of the same 23,000,000 acres of land in Indiana, only about 50% has an up-to-date Soil Survey. With present staff it will take at least 26 years to complete the soil survey for the entire state. You can see that this will be too late. Land use decisions are being made daily in Indiana and many, many without the benefit of vital soils information. At the present rate of growth in Indiana we will see a tremendous amount of land going into permanent land uses in the next 10 years. Without adequate soils information costly and irrevocable mistakes can be predicted which will have a lasting effect on the total quality of the environment of our state.

Several counties in the state have, and the State of Indiana itself has, recognized the need for soil surveys. A total of 10 counties have provided some county funds to accelerate surveys. The State of Indiana, for the first time, last year provided financial assistance in 4 of the 10 above mentioned counties. These 4 were considered high priority from the standpoint of needs.

It is our urgent plea that the Federal government will provide additional funding to SCS in order that this among many other vital programs might be accelerated.

The State Association of Soil and Water Conservation Districts urges that the Congress appropriate the additional conservation operations funds which are needed to provide minimum technical staffing for each District to swing the tide from mis-use toward one of sound land use and treatment for the good of our people. This would mean an increase in the Conservation Operations 1971 Budget estimate from $128,435,000 to $140,000,000 plus a separately identified increase of $2,000,000 for the servicing of new Districts organized in 1969 and 1970, and those that will be organized in fiscal year 1971.

The current SCS personnel ceiling restrictions are also throttling our efforts. It does not make sense to so handicap an agency that can do so much toward improving our environment, especially at a time when the public is demanding more attention toward this serious problem. Why not provide more responsibility and funds to an existing agency that has the technical expertise to do the job?

The 1971 agricultural budget proposal includes an additional $3,000,000 for resource development and technical services to approved Resource Conservation and Development projects. We strongly support this level of funding for existing projects.

However, much to our dismay and disappointment, the budget as proposed for Fiscal Year 1971 provides for no planning authorizations for new projects. Is it good judgment to fail to include authorization for new projects when there is a critical need to improve the quality of the environment, conserve and develop the natural and human resources in the non-metropolitan areas? We believe a very serious mistake will be made if authorization for at least 15 new projects is not provided for in 1971. This is only three more than was authorized in 1970 and this level of authorization is needed to begin to reduce the backlog of almost 60 applications. We strongly believe RC&D projects have demonstrated beyond any doubt that they serve as the catalyst needed to help people help themselves. The "Lincoln Hills" Project in our state is a shining example of what can be done on a multi-county basis to bring about the orderly development of natural resources. Also, accomplishments in developing the human resources of the project area have made significant strides through the successful completion of Vocational Training classes in each county.

An application for a proposed Historic Hoosier Hills RC&D Project was submitted in September, 1968. Although the sponsors were very disappointed that their application has not been approved to date, they are proceeding to develop the action plan for their project area. We must give the needed support and encouragement to leaders like these who are persistently following a sound plan of attack toward solving their problems. Soil and Water Conservation District Supervisors from two other multi-county areas are also contemplating the submission of applications for planning assistance for RC&D projects in the near future.

I strongly urge you to support the RC&D budget as proposed and provide for at least 15 new project starts in 1971.

Indiana has been a leader in the PL-566 Small Watershed Program. Local people have recognized the need to do something about their conservation problems and now stand ready to carry out their responsibilities if the Federal government will provide funds for the federal portion.

A total of 205 potential watershed projects have been identified in Indiana. Annual flood damage runs well over $16,000,000 per year. With watershed protection, this can be prevented. With projects complete 6,000,000 tons of sediment would be prevented from polluting our streams and lakes.

Recreational facilities for more than 5,000,000 visitor days of recreation use each year could be provided. New jobs will be created.

To move these potential projects to the construction stage by the year 2000, we need to double the rate of planning and construction we are currently accomplishing. Our water development and land treatment needs are increasing, not diminishing. Now is the time to act to insure the final success of the plans and work of the local people in Indiana which has already been set in motion.

Accordingly, I recommend to you that the amount of funds for watershed planning be raised to $7,500,000.

Your strong support of the 1971 budget estimate for watershed works of improvement of $74,278,000 is needed. I would also urge removal of the administrative restrictions that cause delays in the development of small watershed projects under PL-566.

The State Association of SWCD's also urges Congress to keep up financial assistance to landowners and operators through the Agricultural Conservation Program for establishment of the soil and water conservation measures on the nation's agricultural lands.

It would be deeply appreciated by the 455 supervisors of Indiana's Soil and Water Conservation Districts and their many thousands of cooperators if you would take whatever action possible to secure a fiscal year 1971 budget for the following items and amounts:

Soil Conservation Service

Assistance to new SWCD's established in 1969, 1970 and 1971	$2,000,000
Assistance to SWCD's (Conservation Operations)	140,000,000
Watershed Planning	7,500,000
Watershed Construction	74,278,000
Resource Conservation & Development Projects	13,876,000

I thank you for your past support of our work. Your support of our present needs can help significantly to provide the kind of a nation we can be proud to leave to succeeding generations.

Sincerely,
Harold H. Wilson, *President.*

VOLUNTARY ACTION TAPS "GREATEST RESERVOIR"

HON. DANIEL E. BUTTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. BUTTON. Mr. Speaker, "Voluntary Action" will be the password of the 1970's. The Nixon administration has helped to launch the National Center for Voluntary Action—which has three main goals: Citizen motivation and recognition, community mobilization, and experience and expertise. I call your attention to an article in the Republican Congressional Newsletter of March 9, 1970, which explains the voluntary action program in detail:

VOLUNTARY ACTION TAPS "GREATER RESERVOIR"

One of the most promising missions thus far devised by the Nixon Administration got underway February 20 when 98 board members met in Washington to launch the National Center for Voluntary Action.

The National Center completes a "creative partnership" between public and private resources. It is the mechanism for stimulating and supporting the private sector on the matter of voluntary action. Together with the Office of Voluntary Action (which serves the Cabinet Committee on Voluntary Action) within government, the National Center rounds out the national program of voluntary action.

The program goes back quite a ways. In an Oct. 26, 1968, nationwide radio address, Mr. Nixon called the energies and spirit of the American people "the greatest reservoir of neglected resources in America today." He said that the nation needed to "enlist those millions of Americans who stand ready to serve and to help, if only they knew what to do and how." And he was clear on what government should do:

"I will expect Federal departments concerned with social problems all to be actively dedicated to the stimulation of new voluntary efforts—and I will expect the Secretaries of those departments to make this a personal responsibility."

Once elected, President Nixon wasted no time reiterating his intentions. He called for enlistments during his Inaugural, and on his 100th day in office he issued a comprehensive statement on voluntary action. It said:

"More than ever, America needs the enlistment of the energies and resources of its people—not as substitutes for government action, but as supplements to it. People can reach where government cannot; people can do what government cannot. Today, more than ever, America needs the hearts and hands of its people, joined in those common enterprises, small as well as large, that are the mark of caring and the cement of the community."

The President pointed out that, in the past, government has sometimes been the jealous competitor of private efforts. He vowed that, from that point on, government would offer encouragement and support. He took four preliminary steps:

1. Formed a Cabinet Committee on Voluntary Action. Secretary Romney (HUD) was named chairman. The Secretaries of Commerce, Labor, Agriculture, HEW, OEO and the Attorney General were also named members.

2. Requested Secretary Romney to establish the Office of Voluntary Action.

3. Appointed Max M. Fisher, Detroit industrialist and leader of voluntary-action efforts, as Special Consultant on Voluntary Action.

4. Directed Secretary Romney to establish a clearinghouse of information on voluntary programs, indicating that eventually the clearinghouse would be moved to the private sector.

Through the Office of Voluntary Action (OVA) staffed mainly by persons volunteering from the public and private sectors, beginnings of a national program were made. An information clearinghouse was started. A survey of federal programs capable of using or assisting voluntary action was made. Three national workshops on college-student volunteer programs were conducted.

Mr. Fisher, the Cabinet Committee and OVA also consulted with private citizens and hundreds of voluntary organizations on means for stimulating and expanding voluntary activities.

Then on November 4, President Nixon announced formation of the National Center for Voluntary Action. The Center was set up as a non-profit, privately financed, non-partisan entity. Max Fisher was named chairman; W. Clement Stone, Chicago insurance executive, chairman of the finance committee; and a nominating committee made up of leaders of the private voluntary sector was named to form a board.

On December 22, the President announced that Charles B. (Bud) Wilkinson would take on the key role in co-ordinating the Administration's voluntary-action program. Wilkinson is White House Co-ordinator for voluntary action and executive director of the National Center.

The National Center has three main goals:

Citizen Motivation and Recognition—Using the mass media as well as existing organizations, the Center will attempt to create a climate of national opinion favorable to voluntary action.

Community Mobilization—The Center will encourage and perhaps even assist communities to achieve a new level of voluntary action directed at meeting community needs.

Experience and Expertise—The Center will gather and disseminate best experience and expertise available for successful voluntary action.

The National Center For Voluntary Action has been deliberately set up to be a responsive organization. It does not plan to do much dictating. It does plan to listen carefully, evaluate what it hears from volunteers, and be guided accordingly.

The basic machinery is in place. The question now is how well it will fly.

There'll be another look six months from now.

THE IMPACT OF AMERICA'S INTERNATIONAL TRADE UPON WEST VIRGINIA

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. MOLLOHAN. Mr. Speaker, it is inevitable that the various branches of a large government such as ours, will on occasion work at cross-purposes and that this will cause unforeseen and unwanted results.

One of these situations exists today in my State of West Virginia due to the trade policies of this administration and the previous administration. For on one hand, through the Appalachian Development Act and numerous other Federal programs, we have been investing substantial sums in West Virginia's basic economic development—roads, education, medical facilities, housing, and municipal sewage plants. The purpose for this accelerated investment is to aid West Virginia and other Appalachian States in their effort to catch up to the economic and social standards of the rest of the Nation. Many of these programs have been successful and when the present commitment of Federal programs reaches completion, West Virginia, will indeed have taken large steps toward the future.

But, what these Federal programs seek to secure—a public and private capital investment that can assure growth and stability—is being tragically undercut by the Government's trade policy. For it is West Virginia's economy that is suffering the effects of free trade while other parts of the country enjoy its benefits. More than 30,000 jobs in West Virginia depend upon six industries which have suffered a decline resulting largely from foreign importation.

These six industries lost more than 50,000 jobs across the country in 1966, the latest year for which complete Government statistics are available. The number has increased since.

In the steel industry, for example, the foreign trade deficit represented the equivalent of a loss of 27,000 jobs.

In flat glass the trade deficit meant a loss of 2,000 jobs. The surplus of earlier years has disappeared from the pressed and blown glassware industries.

The electronics field has suffered a comparative loss of 13,000 jobs due to the trade deficit in radio and television sets during 1966.

The importation of each set also brought a loss of employment in fields related to, and dependent upon, electronics so the absolute loss in employment was much greater.

In the footwear industry seven shoe factories in New England closed in the first half of last year. The high volume of imported shoes and boots is largely blamed for the failures of the American factories.

Since 1960 shoe imports have increased 600 percent and this equals nearly 28 percent of the total domestic production in 1968. The tanneries in West Virginia suffered accordingly because of a decreased demand for leathers.

The production of cellulosic manmade fiber suffered a comparative loss of some 600 jobs in 1966. This advancing industry is fast becoming important to West Virginia and the Nation, and is endangered by imported fibers.

Mr. Speaker, it is of crucial importance that this policy be changed. We in West Virginia realize that we cannot reverse the tide of foreign imports, and we seek through H.R. 16287 not to reverse our policy, but to bring it up to date. It is imperative that the President have the power to curb further inroads made by

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foreign products upon the domestic market in certain industries. Otherwise, West Virginia's industrial base will decline and the investment made by the Federal Government to build a stable and progressive economy will be in vain.

The industries in West Virginia will face even stiffer economic storms in the near future for the slowdown in auto sales affects the steel industry; the drastic cutback in housing construction harms the glass industry, particularly the sheet glass industry which depends upon housing for 60 percent of its sales.

The electronics industry will almost certainly face a reduced market potential as the Vietnam war comes to an end, and the shoe manufacturing industry is very closely dependent upon the general welfare of the country for its sales.

It is axiomatic that a nation which wishes to gain the benefits of foreign exchange must be prepared to purchase foreign products as well. We realize that free trade is based largely upon a sense of equity between nations. The internal effect, however, is to aid some industries at the expense to others. While some industries benefit from increased sales to foreign buyers, other industries must face stiffer competition—the influx of foreign goods.

So in effect, West Virginia, under serious pressure to come from behind to share in America's abundance, is at the same time forced to accept the burdens of imports that make America's free trade program successful. This is a difficult and unfair burden to place upon West Virginia.

H.R. 16287 will give the President the tools to shift this burden. By giving him broad powers to limit imports through both tariffs and quotas, he can act effectively to distribute the burdens and benefits of free trade.

OIL IN ESCALANTE, UTAH

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. BURTON of Utah. Mr. Speaker, in the February 1970 Quarterly Review, published by the University of Utah's Geological and Mineralogical Survey, there is an article by Howard R. Ritzma, their petroleum geologist, concerning oil exploration in Escalante, Garfield County, Utah. The possibility of a big oil hit in this area is exciting news for Utah, and I include Mr. Ritzma's comments at this point in the RECORD:

OIL IN ESCALANTE

(By Howard R. Ritzma)

There's a new bustle along the streets of Escalante. Hard hats are almost as common as the broad-brimmed variety, and conversations at cafe counters may not be so much of cows and tourists as of drilling problems, well locations and the movement of oil tank trucks. And some of the accents may be more typical of south Texas than south Utah.

The difference is two or three years and the Upper Valley Oil Field discovered by Tenneco Oil Company in 1964 and now in its fifth and busiest year of development. Production in October 1969 was 142,263 barrels from 16 wells, an average of 4,590 barrels per day for the field and 287 barrels per day per well. The oil produced from the Kaibab and Timpoweap limestones of Permian age is 27° gravity (API), brownish black, asphaltic base crude with 1.75 percent sulphur content. This field is the only source of this type of crude oil in Utah.

Production of Upper Valley* is summed up as follows:

Year	Number of wells at year's end	Annual production (barrels)	Cumulative production (barrels)
1964	1	57,867	57,867
1965	2	126,611	184,478
1966	4	223,504	407,982
1967	5	431,592	839,574
1968	11	890,943	1,730,517
1969 [1]	13	748,002	2,478,519

[1] 6 months.

Production in October 1969 from 16 wells raised the total to 2,973,979 barrels, and projections indicate that the 3¼ million barrel mark may be reached by year's end.

Almost all oil from Upper Valley moves by truck tankers to Salt Lake City, an operation employing scores of drivers, maintenance men and personnel at loading facilities. Payrolls of oil field employees and of the companies engaged in drilling and servicing the wells have pumped a welcome surge of new dollars into the economies of Escalante and surrounding towns. Garfield County records show that the oil field's first tax bill in 1965 of $2,985 has grown to $33,717 in 1968, about ten dollars annually for every person in the county. Equally impressive is the distribution of royalties, 100 percent payable to Uncle Sam since the field is wholly on Federal land.

In 1968 alone, Upper Valley returned $214,777, 12½ percent of its gross income, in royalties to the Federal government. Following a complicated formula, 37½ percent of this found its way back to the county and state of origin. Ten percent of this, a little more than $8,000, was returned to Garfield County to finance county road work. The remaining 90 percent was distributed through the State Uniform School Fund to Utah's state-supported institutions of higher learning, elementary and secondary schools, and several educational and scientific agencies. Upper Valley's surging oil production in 1968 generated about $15,000 for the University of Utah and $1,300 for Southern Utah State College, to cite two examples.

Escalante's oil activity is far from boom proportions but the scent of big oil has had its effect. Seismic crews have fanned out far and wide across southern Utah as other companies eagerly but cautiously probe for a new big find in the relatively undrilled Kaiparowits Basin. There is talk of connecting Upper Valley to the pipeline 150 miles south in Arizona. Oil would then flow to the hungry California market.

Significant exploratory tests have been drilled and abandoned. More are drilling now and many more will spud in the months ahead. Any one of these could hit, set off the "big play," and give Utah another oil-rich basin to rival the Uinta and Paradox.

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*Data from Division of Oil and Gas Conservation, State of Utah.

RECENT DEATH OF E. H. REES IS COMMEMORATED IN WELSH PRESS

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. SKUBITZ. Mr. Speaker, one of our beloved colleagues, the Honorable Ed Rees, of Kansas, died October 26, 1969. For 24 years he served the Fourth District ably and well before his retirement in 1960. His hometown newspaper, the Emporia Gazette, which is in my district, recently noted that the Welsh press commemorated the death of Mr. Rees, whose grandparents emigrated from Wales in 1871 to Kansas.

Because the article would be of interest to his colleagues, I insert it in the RECORD:

[From the Emporia (Kans.) Gazette, Feb. 28, 1970]

RECENT DEATH OF E. H. REES IS COMMEMORATED IN WELSH PRESS

The recent death of Edward H. Rees, Emporian who was a Kansas congressman for many years, was news in Wales, from where Mr. Rees' grandparents emigrated in 1871. A clipping from a newspaper in Neath, Wales, has been received by relatives in Emporia and was brought to The Gazette by Miss Margaret Rees.

The story, published under a headline reading "An American With a Welsh Heart," follows:

A close link with the United States in Washington and the Vale of Neath, has just ended with the death, at the age of 83, of popular Congressman Edward H. Rees, a vigorous reformer of the U.S. Postal Services.

"Ed Rees," as he was affectionately known to his constituents in Kansas, and to relatives in the Neath Valley, was genuinely proud of his Welsh background, which shone throughout his long political career.

He often spoke proudly about his paternal grandparents, William and Mary Herbert Rees who, together with their family, emigrated to the U.S. in 1871 from Glyngwilym Uchaf Farm (now in ruins) on the mountainside overlooking the village of Resolven. The people in the area who claim relationship with him are the Llewellyns, of Ty-du, the Williams of Llwyncoedwr and Cefn Gelli, and the Rees family of Hendre Owen.

During his 24 years as member of Congress, Republican Mr. Rees kept a regular "hot line" of letters explaining the measure and moves in the House, not only to his electorate, but also to his relatives in Wales.

His long battle for American economy was recognized in 1954, when he was named "Washington Man of the Year," by the 1,000 member Federal Club, for unselfish devotion to public service. Five years earlier his stand against unnecessary expenditure was illustrated when he travelled to Europe on a fact-finding tour, which was financed completely with his own funds.

Back in Washington, D.C., he was described by distinguished fellow Congressman William H. Avery as "a man who was never so much concerned with the popular position, as the position he believed was right in the past interests of his country."

Edward Herbert Rees—To give him his full name, was a long-serving Chairman of the Post Office and Civil Service Committee, and was instrumental in setting off improvements in postal administration, salaries and benefits. He was the author of many bills before Congress—one of which changed November 11th each year from "Armistice Day" to "Veterans' Day."

Ed, who lived in an area teeming with people of Welsh descent, was a keen follower of the Eisteddfod and Cymanfa Ganu in the United States.

This ebullient Republican, who was looked upon as the prince of political orators in Kansas, was as American as the people who put him in power. But at heart, he was really Welsh.

His son, John Edward Rees, who is a lawyer at Wichita, recently visited Resolven to see the old ruined farmhouse from which his ancestors emigrated, and nearby Melincourt Chapel where they worshipped.

In addition to his son and family, Edward Herbert leaves a widow, and one sister, who is a retired school teacher.

ENVIRONMENT AND THE ECONOMY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. OTTINGER. Mr. Speaker, I would like to draw the attention of my colleagues to a new publication and the cover story of its first issue. Pangolin magazine is published in New York City by a small group of young men who are interested in providing what they refer to as "an activist forum" for other young adults who are turned off to today's slick periodicals. The cover story I refer to is titled "Environment and the Economy," written by John G. Mitchell, editor-in-chief of the Sierra Club. Mr. Mitchell's article appears as the introduction to Ecotactics, a book published as a pocketbook by Simon and Schuster and the Sierra Club in April.

This article expresses the deep concern that many feel for what is happening to the earth. Distress over environmental problems is not the only concern of this new magazine, however. Not the least of Pangolin's other coverage is its keenly barbed political satire which many of my colleagues may find intriguing.

Pangolin is now being distributed to 40,000 young adults in the northeast region but will, I am told, go nationwide before the end of the year.

What is included in its pages may annoy or anger some, but I would suggest that the magazine should be read not only for the material of merit it contains but also as an insight into what interests and involves a growing number of our young citizens.

The article follows:

ENVIRONMENT AND THE ECONOMY

"When we try to pick out anything by itself," wrote wilderness wanderer John Muir, "we find it hitched to everything else in the universe." Thus did Muir, who founded the Sierra Club in 1892, become one of the first to define in 25 words or less what ecology is all about. At the time, perhaps, his simple eloquence was wasted on a generation that had devoted itself to the unhitching of North American species, including the Indian, and was now hell-bent on stoking the new fires of technology. Who but a bearded mountaineer, after all, had time to contemplate the adhesiveness of interrelationships in nature? Who then—in good conscience and patriotic spirit—dared challenge the rapid evolution of a singular society that would produce 10 million Babbitts even before Sinclair Lewis could coin the name? Of milk cartons and motor cars there would soon be plenty—more than enough to inspire Stephen Vincent Benet to observe wryly: "We don't know where we're going, but we're on our way."

We Americans have been so busily on our way for the past 50 years that we have only recently discovered all things are indeed interrelated. We now know, for example, that the salmon on our dinner plate is inextricably hitched to the farmer's south-forty. The hitch, of course, is DDT. We also know there is a hitch between the sonic boom and the psychic development of the human foetus, internal combustion and the living lung, waste disposal and water shortages, bulldozers and spiritual blight. We also possess the frightful knowledge that many of the ancient hitches, the natural ones, the links in the chains of life on this plant, are coming apart. We have not picked at them, as Muir would put it. We have wrenched.

By no accident the words *ecology* and *economy* are semantically hitched themselves. *Ekos*—Greek for house—is the root of both words. Our *ekos* is the Earth. Between the atmospheric roof of air above and the lithospheric cellar of rock below is our house and home, the biosphere. It is the only house mankind will even have, interplanetary exploration notwithstanding. And today this house is in a frightful mess. Man, the Master, sits amidst offal in the living-room, counting his short-term profits. Well, tomorrow's another day. We'll get to the housekeeping then. But in the United States, that kind of tomorrow never seems to happen. In fact, some people are beginning to suspect that "due to a lack of interest, tomorrow has been cancelled."

The American pioneer, for all his outstanding qualities, was a dreadful housekeeper. First he clear-cut the forest. Next he planted his crops. Then he failed to understand why the land went stale with erosion. So he moved on, beyond the western hills, and cut again and planted his fields and once more failed to understand. Yet Americans still cling to the pioneer ethic—even in this new age that has carried mankind at last beyond the frontiers of Planet Earth.

In his final speech as U.S. Ambassador to the United Nations, the late Adlai Stevenson delivered a statement that may well stand as the most significant of the 20th Century. He said: *"We travel together, passengers on a little spaceship, dependent on its vulnerable resources of air and soil; all committed for our safety to its security and peace; preserved from annihilation only by the care, the work, and, I will say, the love we give our fragile craft."* Stevenson was not, in the traditional sense of the word, a conservationist. Yet he was in the vanguard of those who recognize that the earth environment, like a spacecraft, is a closed system, dependent on that great life-support apparatus of Nature, with its carefully balanced mix of sunlight, water, green plants and oxygen.

Since our *ekos* is a spaceship, then our economy must become a spaceship economy in which no resource can ever again be considered without limits, including the resource of man himself. But as economist Kenneth Boulding so correctly points out, the U.S. has not yet accepted this principle. We still pursue what Boulding calls the cowboy economy. Growth and expansion must be celebrated. Nature must be subdued. Wilderness must be regarded with suspicion, for it is idle land. Cut, plant, mine the land and get out. Westward Ho!

Westward to where?

The American Cowboy, 1970-style, cuts a different figure than his granddaddy. This one wears a white collar and is the fence-rider of technology. He packs no six-gun. *His* holsters hold sliderules. The Technocrat-Cowboy tells us not to worry about anything. Nature, he says, isn't important anymore. Its gifts can be reproduced in a testtube, or by computers. And so we are promised a brave new world in which the cowboys will corral DNA, the building block of cellular life. Not only will man thus be made molecularly perfect but the world's food problems will be solved. Out of the testtube will come protein *a la algae*. Yummy.

The cowboys, of course, cannot dismiss the relevance of human evolution. Man can adapt, yes. To a remarkable extent he has adapted to a host of unnatural stimuli: poisonous air, malodorous water, demoniacal noise, oppressive overcrowding, and invasion of privacy. In some cities, some citizens have adjusted so well to these urban amenities that they seem, at times, to be non-participants in the process of civilization. Some 38 New Yorkers in 1964 ignored the screams of Kitty Genovese as she was hacked to death beneath their windows. No one even bothered to call the police. So man can adapt, to almost anything. But more than a few scientists are beginning to wonder: In adapting, at what point does man cease to be human?

Wisconsin botanist Hugh Iltis believes man ceases to be human when he totally loses touch with Nature. Iltis writes: "Every basic adaptation of the human body, be it the ear, the eye, the brain, yes, even our psyche, demands for proper functioning access to an environment similar, at least, to the one in which these structures evolved through natural selection over the past 100 million years. For millions of generations . . . any of our monkey ancestors whose faulty vision caused them to miss the branches they jumped for fell to the ground and failed to become our ancestors . . .

"We cannot reject nature from our lives because we cannot change our genes. That must be why we, citified and clothed apes though we are, continually bring nature and its diversity and its beauty into our civilized lives, yet without any real understanding of why we do so. We have flower pots and pedigreed pets in our homes . . . and even in our airplanes' "puke bags" with green beech leaves imprinted on the side to make us feel better, to alleviate boredom or sickness by tending to our largely genetically based appreciation of natural beauty."

The gene pool of nature is important not only to what we are but to what we may need to continue to be what we are. Nearly all organisms moulded by nature over millions of years have survived because of the range of variability built into their genetic structures. Thus, as climate or some other natural condition changes, a species can draw on a genetic variant—and survive.

We speak of saving a species—the whooping crane or the alligator—because it is rare, or because one species has no right to destroy another. But there's another reason to save the crane or the alligator, or the ecosystems of the Big Thicket, the Everglades, or the Grand Canyon. Each species or ecosystem may hold for us the answers to biological questions that have not yet been raised—man has not yet learned how to ask. Henry David Thoreau wasn't kidding when he proclaimed—and not too prematurely at that—that "in wildness is the preservation of the world."

In the cowboy economy, the opportunities for preserving unquestioned answers are disappearing fast. First, we are witnessing a rapid loss of unrenewable resources. Second, we are fouling our nest at an alarming rate and with a multitude of pollutants. And finally, on a global scale, we Americans are exporting our sliderule brainstorms, our double-edged sword of technology, our genius for destruction to promote the most massive modifications of the biosphere since the last of the glaciers retreated 10,000 years ago.

The unrenewable resources in greatest danger of depletion today are not the min-

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erals that we gouge from the earth but our fellow-travelers on Spaceship Earth, those furred, finned, feathered and chlorophylled cousins of ours that evolved from our common colloidal soup. From our present perspective, one wonders now why Noah ever bothered to take aboard passengers in the Great Biblical Flood. Consider North America. Since the Pilgrims celebrated the first Thanksgiving, at least 22 species of mammals, birds and fishes have forever disappeared from this continent—which means, in most cases, from this Earth. They did not go the way of the Jurassic reptiles, by eating their own eggs. They were exterminated by man. And now, incredibly enough, with wolves, coyotes, hawks and other natural predators the bounty-hunter's prey in some jurisdictions of their limited range, another 59 vertebrate species are threatened with extinction. The gene pool has been further emasculated by the axe, and now the chainsaw and bulldozer. In the U.S., more than 80 species of plants are living on borrowed time.

Another great unrenewable resource that is disappearing in the U.S. is the land itself. New concrete is poured over nearly one and a half million acres of it every year. By 1975, the U.S. will be building 2.5 million new housing units annually, and half of them will be single-family homes on lots calculated by archaic zoning regulations to *waste* land. New residential living space alone will annually require a land area nearly half the size of Rhode Island. And new interior roads, not the big expressways but the little neighborhood streets that lead to the front door, will stretch out over 22,000 linear miles—*every* year. In a little more than a decade, developers will have poured enough concrete over New Suburbia to build a Walnut Street to the moon.

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But why wait until 1975 to calculate the consumption of land by cars and roads and parking facilities? They already occupy more space in the U.S. than people do. In Atlanta, to cite just one example, the voracious motor vehicle has cannibalized 60 percent of that city's parkland. And the U.S. government, paying lip service to the need for mass transportation, still proceeds to extend the Interstate Highway System through wilderness and city alike. Perhaps the White House should be moved to Detroit. Perhaps the Vatican, too, with its curious attitude toward contraception, should be moved to Detroit. The late William Vogt once observed that the motor vehicle "has become an adjunct of reproduction and probably has had a significant effect on vital statistics since many of the 20 percent of American women who are pregnant before marriage . . . have undoubtedly been inseminated in automobiles . . ."

Though the modern cowboy might challenge Vogt's analysis of the auto as a mobile fertility lab, he can hardly deny the vehicle's major role in poisoning the air. Despite Detroit's less-than-best efforts to reduce vehicle pollution at its source, the number of cars proliferate faster than the contaminants can be contained. And that seems to be true of almost every kind of waste in our-all-consuming, waste-high society.

About every four seconds, the U.S. census clock ticks off a new American. In his expected 70 years of life, he will contribute to the Gross National Product by consuming 50 tons of food, 28 tons of iron and steel, 1,200 barrels of petroleum products, a ton and a half of fiber and 4,500 cubic feet of wood and paper. All of this material will pass through or around the new American, eventually winding up as waste—100 tons of it, wafting on the breeze, bobbing in mid-current or, along with his 10,000 "no deposit, no return" bottles, ploughed into some hapless marsh, there to pollute both the land and the sea. Nor does any of this take into consideration the consumption and subsequent waste involved each time the individual American throws an electric switch to light his private *ekos* or to shave the stubble from his chin. Clean energy, it seems, is a thing of the past, of muscles and waterwheels and wind-in-the-sail. Energy today comes from fossil fuels, which darken the sky; from nuclear reactors that overheat rivers, and from the turbines in high dams, which bury the rivers behind them under accumulated silt.

From an environmental point of view, no power system today is satisfactory. Nuclear power plants, for example, were initially hailed as "air cleaners." Their development allowed utilities to retire old coal and oil-burning plants. But soon the "nukes" were blamed for creating a new kind of thermal pollution that pours waste heat from the fission process into rivers, causing, in some instances, massive die-offs of fish. To solve that problem (and come up with a more efficient power plant, to boot) industry is now striving to develop a commercially feasible fusion reactor. And one of fusion's byproducts is tritium.

Tritium, or radioactive hydrogen, is not found in nature. One man who wishes it weren't found anywhere is Frank W. Stead of the Geological Survey in Denver. "They can talk of clean power from fusion," says Stead, "but it's strictly a frying-pan-and-fire situation." The trouble with tritium is that no one yet knows how much of it man can tolerate. Though presumably not as dangerous as such other radioactive substances as iodine-131, tritium does emit beta radiation. Also, being hydrogen essentially, it has an affinity for water, and can follow water into the cells of the human body. Some scientists, notably La Mont Cole of Cornell, warns that man already receives much unavoidable radiation from the sun and even from X-rays. Since there is no human threshold for radiation, too must tritium conceivably could cause mutations or malignancies in future generations.

The tritium threat comes not only from fusion reactors but from Project Plowshare and other "peaceful" uses of fusion explosions. Stead, for one, is worried about what could happen when the nonproliferation treaty goes into effect, making fusion explosions available to any nation that might happen to want to dredge a new harbor, or get into the mining business atomically. Without an international agency to monitor tritium and other potentially harmful nuclear byproducts, says Stead, "We can hardly hand these things out like firecrackers."

Caution might also be exercised—but isn't—in the disposal of some of the highly toxic wastes the U.S. is currently flushing into deep, underground disposal wells. Pickling acids, pharmaceutical and petro-chemical byproducts, poison gases and other toxins—down they go, out of sight, out of mind. In the U.S. today there are some 130 such wells, and a full third of them are less than 2,000 feet deep in permeable sandstone or limestone strata laced with aquifers that feed eventually into waters on the surface of the earth. Scientists warn that the acids and poisons poured into these wells rarely stay put. "Once it gets into the drinking water," says Geologist David Evans of the Colorado School of Mines, "there's no way in the world you can clean it up. It may take 50 years to discover that it's on the march, and by that time, the whole countryside is poisoned for miles around."

While most Americans may be willing to run such risks, some Europeans are not. Southwest of Sicily, on the tiny island of Lampedusa, a party of Italian government officials landed recently to inspect the terrain for a new deep-well disposal site. In wrathful self-interest, the islanders drove them off by force. Later, a mainland professor commented that Italy might soon be forced to rocket its wastes into space.

Few of the world's peoples are as environmentally enlightened as the Lampedusans. After all, the U.S. and the Soviet Union made it through technology. Why shouldn't they? And so the undeveloped nations are taking a quantum jump into the 20th Century—a jump that has landed more than a few of them in a pile of ecological crises. Some examples:

Aswan Dam, the world's largest structure of its kind, was designed to reap the United Arab Republic a multitude of socioeconomic benefits: doubled electrical output, a 25 percent increase in cultivated land, the impoundment of 32 million cubic meters of water otherwise poured by the Nile River into the eastern Mediterranean. But already the Aswan account is in arrears. Aswan's giant Lake Nasser, not yet full of water, is beginning to fill instead with silt. The dam is also impounding natural minerals essential to the web of marine life in the Nile delta; since its completion five years ago, Egypt has suffered a $7-million-a-year loss in its native sardine industry. Now there are reports that the delta shrimp fishery is also drying up.

From Chad and the Sudan, Ecologist Raymond Dasmann reports that massive water development, intended to stabilize nomad herdsmen, has instead destroyed the region's groundcover. Over-grazing in fact, has drawn the Sahara south and turned parts of Chad and Sudan into agricultural wastelands.

Behind every ecological boomerang lurks the cowboy-technocrat. Not satisfied with the wonders he has wrought in Africa, he now eyes the Amazon Basin of South America. And what does he see? More dams, dams enough to create an artificial lake the size of East and West Germany combined, dams and dikes and canals enough to turn the rain forests into a hydroelectric-transportation network linking the world's greatest river with the Orinoco watershed. What the technocrat cannot see are the long-range effects of so massive a modification. A new inland sea in the Amazon, some scientists fear, might well throw the heat/moisture balance askew at the equator and inflict some rather vast and frightening effects on the world weather system. At the same time, stopping the Amazon's discharge of nutrients to the sea could destroy the Atlantic shellfish industry as far north as the New England Coast.

The other grand design is for a new sea-level canal to be dredged (by nuclear explosions, no less) across the Central American isthmus—at a point where the Pacific is higher than the Atlantic and Caribbean, 18 feet higher, in fact, when the tides are out of phase. Zappo! The cold Pacific floods into the warm Caribbean. Goodbye Gulf Stream. Goodbye bikinis at Key Biscayne. Hello, thermal underwear. Aye, *there's* a hitch.

So it all comes home again to the Great American pioneer ethic, to what one perceptive observer has diagnosed as a bad case of "frontier hangover." Still groggy after nearly two centuries of exploiting our own land, we now seek new exploitive challenges abroad—and if it can be done, the saying goes, do it, even as the ill-fated British mountaineer George Mallory had to climb Mt. Everest simply *because it is there*.

In his Pulitzer Prize-winning book, *So Human An Animal*, Rockefeller University microbiologist Rene Dubos cites Mallory's heroic statement as an expression of man's determination to accept difficult challenges. But Dubos offers his own challenges. "Dashing expressions," he writes, "do not constitute an adequate substitute for the responsibility of making value judgments."

How long, indeed, in this nation which allocates less than .005 percent of its Gross National Product toward environmental quality, which encourages ecologists to study lichens and water-fleas instead of people and ecosystems, and whose elected leaders choose to substitute rhetoric for action? It is as if we had embraced Benet's folk humor as national policy: not knowing where we're going, but sure-as-hell, damn-the-torpedoes, full-speed-ahead on our way.

Economist H. H. Landsberg once remarked that "if we choose to be plagued by big nightmares, we are entitled to offset them with equally big daydreams." Perhaps we indulge too much in the nightmares. Down the dark tunnel we see the fireballs of a nuclear holocaust. Or the new ice of a glacial era brought on prematurely because warmth from the sun can no longer penetrate the spoor of carbon dioxide high in the stratosphere. Or the spectre of too much heat if solar radiation should, after all, penetrate the veil of global pollution only to be trapped by its "greenhouse effect." And what makes these nightmares really big is that no one can know—at this time—if they'll ever come true. There is no certainty about the daydreams, either. In the light at the end of the tunnel, we see the recycling of wastes, the end of overpopulation, famine and pollution, the preservation of the species. We no longer see Babbitts, but Muirs and Thoreaus who know where they're going. And everything wrenched apart is hitched together again. It's possible. But simply dreaming of it will never make it so.

The gap between rhetoric and action was most recently revealed in President Nixon's State of the Union message, which promised a new crusade in the Seventies to end the war against nature. Mr. Nixon's only specific proposal was for a $10 billion program to provide the nation's cities with sewage disposal facilities. But it required only the most elementary arithmetic to determine that what Mr. Nixon proposed, spread over 10 years, would, in effect, commit the Federal government to spend less on municipal water pollution than was budgeted for this purpose in 1969.

TASK FORCE HEARING

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. BUSH. Mr. Speaker, the Republican Task Force on Earth Resources and Population of which I am chairman, has been conducting hearings on the effects of the mineral shortage problem. The summary of our first set of hearings regarding this subject was published in the Record on February 26. We will continue weekly hearings on this matter, and I will publish the results in the Record for the benefit of my colleagues.

On March 4, we were privileged to have Mr. W. W. McClanahan, Jr., executive vice president; Mr. B. L. Thompson, staff economist; Mr. W. A. Raleigh, Congressional and Government Relations; and Mr. Claude D. Curlin, information director of the National Coal Policy Conference, Inc., appear before our task force. The hearing was a most productive one for the task force, and we greatly appreciated the opportunity to hear the testimony of experts from the private sector. During the course of the hearing Mr. McClanahan presented a very lucid and informative statement that described many of the major resource problems facing our nation. Mr. McClanahan's remarks were extremely helpful, and I include them in the Record at the conclusion of these remarks:

Energy and Fuel Outlooks Through 1990

Those of us working in the energy area must recognize two basic facts.

First, the people of this Nation have made a commitment to an improved environment. This includes cleaner air and water.

Second, the increasing demand for electric power, which is doubling every 10 years or less, must be satisfied or the industrial development of the Nation will be slowed down or reversed.

The industrial complex for which I speak—the producers, transporters and consumers of bituminous coal—believe these two objectives, which in many respects are will be reconciled. It will not be easy. It will cost a lot of money. It will require new technology. It will demand of industry a recognition that it must play a key role in bringing to a growing population the benefits of a highly industrialized society and it must do so in a manner that will contribute to an enhancement of the environment.

The dimensions of the problem the Nation faces in meeting this dual objective—a greatly expanded electric power generation capacity within the context of an improved environment—are great.

In 1968, the Nation's electric generation capactiy totalled 290 million kilowatts. Our economics department has made a projection of the needed generation capacity and how it will be fueled for both 1980 and 1990, based upon a set of assumptions which we believe are valid. According to this projection, a capacity of 571 million kilowatts will be needed by 1980 and 988 million kilowatts by 1990.

To produce this amount of power will require tremendous quantities of fuel—the equivalent of about 1.1 billion tons of coal in 1980 and 1.9 billion tons of coal equivalent in 1990, as compared to 557 million tons of coal equivalent in 1968.

Based upon a very careful analysis of trends and developments affecting the various sources of power, our projection concludes that, if the future electric power requirements are to be met, the use of coal will have to increase from 297 million tons in 1968 to 432 million tons in 1980 and 719 million tons in 1990.

There are so many factors that will eventually affect the availability of oil for utility electric power production that it is almost impossible to project with any semblance of accuracy what share of the utility market residual oil will hold in the next two decades. The President now has before him recommendations which suggest a drastic change in the oil import program. There are proposals being kicked around by very serious people suggesting that we move to find some other form of motive power for automobiles as an air quality control measure, and, of course, at some point we must certainly reach a level of dependence on foreign fuel beyond which we do not dare go. It should be noted that a major portion of all residual oil now used in the United States is from foreign sources and there is no reason to think this will change, since domestic refineries find a much more profitable market in this country for the lighter weight, higher grade petroleum products.

In 1968, residual oil burned by utilities was the equivalent of 45 million tons of coal and this was equal to 8.1 percent of all electric utility fuel, so for the sake of having some basis on which to estimate, let's assume that this 8.1 percent of total utility fuel continues through 1990, although, as I have said, it seems improbable to me that we would dare risk that much of our electric production on insecure foreign sources. But if we assume this percentage will hold, then we can say that in 1980 oil will supply 86 million tons of coal equivalent in utility fuel, and in 1990 it will supply 150 millions of coal equivalent.

Natural gas is likewise difficult to project, particularly in view of increasing warning that we are facing shortages in this country. However, we assume that for several years there will continue to be an increase in natural gas used by utilities, particularly in the Southwest and other major gas-producing areas, and our economic projection has estimated that this will increase from 120 million tons of coal equivalent in 1968 to 146 million tons (C.E.) in 1980 and 153 million tons (C.E.) in 1990. I might point out that this is consistent with recent projections made by the Federal Power Commission.

There are likewise quite a number of uncertainties that will affect the growth of nuclear power, including if and how soon the fast breeder reactor is developed. However, in this study we have assigned to nuclear power, which provided the equivalent of about 5 million tons of coal to electric generation in 1968, some 265 million tons of coal equivalent in 1980 and 705 million tons in 1990. This, of course, assumes that the nuclear power industry grows at the optimistic rate which the AEC has predicted for it, and it is reasonably in line with projections which have been made by that agency.

There will also be small increase in both hydro power and power from internal combustion, largely for peaking purposes.

From this jumble of statistics, one fact emerges. The Nation will have to rely primarily upon coal and the atom to meet the Nation's growing power demand, particularly in the decades immediately ahead of us. This is a conclusion with which Atomic Energy Commission officials agree. Eventually, the atom may dominate electric power generation, particularly when and if a safe, economical breeder reactor is developed, and coal will find a market outlet as a liquid or gaseous fuel. But during this transition from a coal-based to a nuclear-based power industry, I do not see how it will be possible to meet the increasing demand for power without burning coal in amounts indicated above.

There is no question about the availability of coal. Reserves are estimated at anywhere from 800 billion to more than one trillion tons. The technology is available to produce it.

The real question, then, is this: Will the air pollution control program which is becoming nationwide in scope and which would be speeded up by the program outlined by the President this week, permit the burning of coal in the amount required?

At the present time, air pollution control officials are concerned with two pollutants from the burning of coal under power plant boilers, sulfur oxides and particulate matter. It is technically feasible to control the particulates from power plants and other large boilers, although it requires the installation of expensive electrostatic precipitators, dust collectors and the like. Sulfur oxides are another matter. To reduce SO_2 emissions, almost all control agencies are placing limits on the amount of sulfur in the coal which may be burned. In many areas it is as low as 1% and the sulfur limit will be reduced even further in the future. Higher limits have been imposed in other areas. However, in every instance, the sulfur limit is significantly lower than the sulfur contained in the coal historically burned in those areas for power production.

This has forced a widespread change in fuel purchasing patterns by many utilities. Low-sulfur coal is in extremely short supply. As an alternative, a number of utilities have shifted to low-sulfur residual fuel oil or to natural gas. At best, these are short-term expedient measures. The low-sulfur residual fuel oil has to be imported and for the most part its availability is limited to the East Coast, although just recently, efforts have been made to obtain special quotas to import residual for the first time into the interior of the Nation via the Mississippi River. Natural gas is already in short supply and pipeline and distributing companies are experiencing difficulties in meeting increased consumption from present consumers.

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We are deluding ourselves if we think either imported residual fuel oil or natural gas will be available in anything like the amount needed to replace coal as an electric utility fuel in the decades ahead.

It seems to me to be obvious that we must use another approach to reducing SO_2 emissions if the electric power we know we are going to have to have will be available in 1980, 1990 and later years.

The best approach is to remove the SO_2 from the stack gases before it is emitted into the atmosphere. A number of large industrial firms say they have developed the technology to do this. Whether the claims they make for their processes are valid, I am not in a position to say. But when a company such as Monsanto takes a full-page ad in trade publications to advertise its process, and to guarantee performance, they have to be taken seriously.

At any rate, it is extremely important to determine whether we now have sulfur removal processes which are economically and technologically feasible, a condition specified in the Clean Air Act relating to the setting of emission standards. We have addressed a letter to Secretary Finch of the Department of Health, Education, and Welfare, requesting that he appoint a competent, impartial panel to make a study of the processes now available and to report if they do meet these qualifications. If such is the case, then we have requested that the HEW publication entitled "Control Techniques For Sulfur Oxide Polution" be revised to point out that this is an acceptable alternative to limiting sulfur content of fuels. If the panel should determine that the problem has not yet been solved, which I must say some utilities believe, then we have urged that HEW take the leadership in a crash program of research and development to see that the technical problems involved in controlling sulfur oxide emissions from stacks using high sulfur fuel is developed and made commercially available in the shortest possible time.

Up to now, the application of this new SO_2 removal technology has been distressingly slow. Commonwealth Edison Company of Chicago opted for importing residual fuel oil from Venezuela, at an additional cost for fuel of about $5 million per year, rather than installing one of the available processes. A number of utilities on the East Coast have switched to imported oil.

This reluctance on the part of utilities to apply the technology, and the failure of air pollution control officials, thus far, to insist that this approach be tried is a matter of grave concern to the coal industry.

We are losing markets in the utility industry, and we will lose other markets as long as the method for controlling SO_2 emissions is confined to regulating the amount of sulfur in the fuel.

The implications of this approach go far beyond any effect upon coal markets. It relates directly to the ability of this Nation to produce the power it will need in the decades ahead.

What I have said boils down to this:

This Nation cannot meet its electric power demand without the use of coal in increasing amounts.

Under the present approach to controlling sulfur dioxide, most of the Nation's coal reserves will be barred as a utility fuel.

Thus, the Nation's future electric power supply is in grave danger.

As I have stated, the answer lies in applying the technology to remove the sulfur dioxide from stack gases after the coal has been burned—not in limiting the amount of sulfur in the coal which may be burned. If the present SO_2 removal processes which are being offered for sale by a number of large companies do not satisfy the utilities, then let us get on with the job, under a priority equal to the urgency of the problem, of developing the needed technology.

Recently, I presented Health, Education and Welfare Secretary Robert Finch a suggested course of action. A copy of the letter has been made available to you.

As far as our air pollution control program is concerned, I think the matter of sulfur oxide emissions is probably the most serious problem we face.

At stake is the adequacy of the Nation's supply of electrical power.

EXPERIENCE IS A GREAT TEACHER IF WE KEEP OUR MINDS OPEN TO ITS LESSONS

HON. GLENN CUNNINGHAM

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. CUNNINGHAM. Mr. Speaker, I have read in the newspaper that Army medical officers in Vietnam have just about eliminated the tourniquet from the battlefield. They have learned from recent experience that to do so saves not only lives but limbs.

And so another so-called fact of first aid has become a battlefield casualty. Experience is a great teacher, provided we keep our minds open to its lessons.

A case in point is the recent news of an 8-year study of twins. The findings should be unsettling to those who are convinced, as a result of incessant antismoking commercials, that cigarettes are hazardous. Among identical twins, the new study reports, neither young nor old smokers showed any tendency to lung cancer or coronary disease as a cause of death. Among unlike twins, the older smokers were similarly free of fatal effects. Among young unlike twins, the smokers appear to be slightly more durable than the nonsmokers.

I do not cite this new evidence to defend tobacco. My interest is to alert Congress to similar threats now hanging over many industries with legal products that some pressure group or other considers to be objectionable. Dairy products, pharmaceuticals, airplanes, and many others are vulnerable to the same kind of propaganda attack.

Mr. Speaker, I include recent news accounts of this important scientific research so that my colleagues may read it—and remember the tourniquet:

[From the Omaha (Nebr.) World Herald]

Twins Are Watched in Smoking Studies

Rome.—A Swedish-American study on pairs of identical twins showed Tuesday that the twins who smoked had no higher mortality rates than those who refrained from smoking.

And if this was true for twins, the report said, it probably would be true also for people in general. But it added that "only time will tell whether the trends found are stable."

The report by members of the National Institute of Public Health, Stockholm, and the National Research Council, Washington, D.C., was released after it was read at an international symposium on twin studies in Rome.

The scientists said they considered such research to be of immense value because twins provide ideal human examples for comparisons.

"In the identical twin pairs," the report said, "where one member smokes and the other does not, or in pairs that differ in smoking habits, no association between smoking and high mortality was found."

The report was prepared by Dr. Rune Cederlof of the Stockholm institute, Dr. Zdenek Hrubec of the National Research Council and their collaborators.

The study was based on the national twin registries maintained in Stockholm and in Washington. The Stockholm registry, the report said, was organized in 1961, mainly to study mortality in members of twin pairs with differing smoking habits.

"Symptoms of coronary heart disease," the report said, "were more closely related to such factors as drinking habits, physical exercise, change of employment and occupational adjustment than to smoking . . .

"An obvious association between smoking and lung cancer was reported, but there was no difference in the over-all prevalence of cancer between smokers and nonsmokers in twin pairs . . .

"The investigators believe their findings support the hypothesis that probably a substantial part of the higher disease and mortality rates among smokers reported in other studies is not caused by smoking, but by genetic, behavioral or other factors, which are associated with smoking."

[From the Philadelphia Inquirer]

Only Time Will Tell: Eight-Year Study of Twins Disavows Link Between Smoking, Cancer

(By George Weller)

Rome.—The hall of the medical congress was only half filled. Many delegates were shaking hands in the corridors, packing bags in hotels and catching planes. The last of some 150 scientific papers was being read, as dryly and noncommittally as possible, by a Swedish professor. The applause when he finished was perfunctory and everyone ran for taxis.

But the final paper turned into a time bomb with a delayed action fuse. That was two weeks ago and the phones hardly stop ringing in the Gregory Mendel Institute of Medical Genetics and Geminology, a big squarish glass-walled research building in the heart of Rome, where the meeting was held.

The reason for all the fuss is that this final paper questioned much of world-wide research that indicates that people die of lung cancer simply because they smoke. They smoke and they die, but not because they smoke, the paper argued.

The study casts doubt on the arguments of government officials who have been trying to ban cigaret ads from television, newspapers that have refused to accept it and doctors who have denounced it.

The physician who lighted the fuse, Dr. Rune Cederlof of the National Institute of Public Health in Stockholm, prudently folded his manuscript, refused to allow it to be released and ran for his plane. Only a few quotes were authorized.

The study started in Sweden in 1961, when the National Institute of Public Health began to collect data on the lives of twins, mainly to find out how smoking affected them. They drew in the National Research Council in Washington, which pulled together the results from the largest of America's 14 "twin institutes."

Some of the American twin institutes are in Connecticut (24,000 pair), New York (25,000) and California (76,000).

As he fled and before the phones began to ring, Dr. Cederlof threw over his shoulder the cautionary remark: "My personal convic-

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tions have nothing to do with the results of any researches." The other scientists echo him.

The prestigious National Institute of Public Health in Stockholm is the body that advises the Nobel Prize Committee about their choices for medical winners of the world honors. Four other Swedish doctors, all from the Karolinska Institute in Stockholm, signed their names to the result. The only American named is Zdenek Hrubec of the National Research Council.

The Swedes in their eight years have sent out questionnaires to 10,927 pairs of twins over 40 years old. Studies were also made of smokers in their 20s. But only 80 sets of twins had one twin with heart disease.

Among identical twins, neither young nor old smokers showed any tendency to lung cancer or coronary disease as a cause of death. Among unlike twins, the older smokers were similarly free of fatal effects. In the remaining group, the young but unlike twins, the smokers appears to be slightly more durable than the non-smokers.

The real reason smokers get coronary heart disease, say the scientists is "drinking habits, physical excess, change of employment and occupational adjustment."

The study concedes an "obvious" connection between smoking and lung cancer, but refuses to agree that the nicotine is the decisive blow. Where each of identical twins had different smoking habits, "there was no difference in the over-all prevalence of cancer."

When the healthier partners of several sets of twin are grouped apart from the less healthy and the two groups are compared, "there is no noticeable difference in smoking habits between them."

So far the cigaret companies have decorously retrained from joyously breaking down the institute's doors or smothering the Swedes in funds. Only one company, Philip Morris, sent a man to Rome in pursuit of the undivulged original text.

The real trouble is that not enough twins have died yet. "The number of deceased twins in pairs with differing smoking habits is small," the study says. "Only time will tell whether the trends found are stable."

[From the Medical World News]

Coffin Nails? Not for Twins

The murky debate over cigarettes and health has perhaps been further obscured by new evidence of a genetic factor in human response to smoking.

A study of identical twins presented by Swedish and American researchers at an international symposium in Rome this month concludes: "Where one member (of a twin set) smokes and the other does not, or in twins who differ in smoking habits, no association between smoking and high mortality was found." The report, prepared by Drs. Rune Cederlof and Lars Friberg of Sweden's National Institute of Public Health and Dr. Zdenek Hrubec of the U.S. National Research Council, focuses on the incidence of coronary heart disease among 4,311 sets of identical male twins, aged 45 to 55, registered in Washington, D.C., and on the mortality rate among some 8,000 sets of twins in the Stockholm registry. The scientists suggest that their findings in both categories "support the hypothesis that a substantial part of the higher disease and mortality rates among smokers . . . is not caused by smoking but by genetic, behavioral, or other factors associated with smoking."

Another hint in this direction was dropped at the International Conference on Congenital Malformations in the Hague this month, when a Mayo Clinic biostatistician reported that black women who smoke during pregnancy seem to run a far higher risk of miscarriage or still-birth than do white women smokers. Dr. William P. Taylor stressed that the more than 16,000 women covered in his eight-year survey were cared for "in the same prenatal clinic, the same hospitals and delivery rooms, and by the same medical staff."

Mr. Speaker, I also would like to cite the following testimony by physicians before committees of Congress:

[From the Omaha (Nebr.) World Herald]

Another Point of View: "No Proof Smokes Cancer Cause"

Hiram T. Langsten, M.D., professor of surgery, University of Illinois College of Medicine; chief surgeon, Chicago State Tuberculosis Sanitarium and president, American Association for Thoracic Surgery, April 28, 1969.

"It is distressing to me that governmental reports keep repeating those same studies which support their views, while ignoring reports or views or facts that might point to contrary opinions.

". . . I would like to submit that whereas I do not know the cause of cancer of the lung, I cannot accept the preachment that the use of tobacco in general or the smoking of cigarettes in particular causes this important disease. My conclusion is based on the many inconsistencies that I find between the statistical associations presented in support of their theory of causation and the clinical behavior of this tumor in the patients that I take care of.

"I therefore must raise my voice in opposition to the attitude of the United States government through the office of its surgeon general that the solution to this problem is so simple and so clear-cut that elimination of cigarette smoking will likewise eliminate the disease for all practical purposes.

"At the present time to accept cigarette smoking as the cause of cancer of the lung is to do so by edict only."

John P. Wyatt, M.D., professor and chairman of the department of pathology, University of Manitoba, April 28, 1969.

"Since autopsies are performed in only a small portion of cases throughout the country . . . we must conclude that the diagnosis of emphysema on a death certificate may often rest on dubious evidence.

"There is no evidence of which I am aware that constituents of cigarette smoke have the capacity to produce dissolution of lung tissue (emphysema)."

"Most authorities agree that emphysema represents a complex problem which awaits a scientific explanation."

Duane Carr, M.D., professor in surgery, University of Tennessee College of Medicine; a founder of the Southern Thoracic Surgery Association; and a member of the American Board of Thoracic Surgery, April 28, 1969:

"As of the present date, the cause of cancer remains unknown.

"Unfortunately, many supposedly well informed officials in the Public Health Service and certain voluntary health organizations have permitted their emotionalism and zeal to outdistance the actual scientific knowledge and proof.

"This has resulted in misleading the public into believing there is proof where none exists. A bandwagon effect has resulted even in the medical and scientific community where too many have accepted the pronouncements of dedicated zealots . . ."

Victor Buhler, M.D., Pathologist, St. Joseph Hospital, Kansas City, Mo.; associate clinical professor of pathology and oncology, University of Kansas School of Medicine; and former president of the College of American Pathologists, April 28, 1969:

"The cause of cancer in humans, including the cause of cancer of the lung, is unknown. No amount of speculation, no amount of suspicion, no amount of repetition of now familiar findings and no amount of emotion can alter this fact."

HAWAII'S PETE VELASCO NAMED TO VOLLEYBALL HALL OF FAME

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. MATSUNAGA. Mr. Speaker, I take pleasure in calling the attention of the House to the recent announcement that one of Hawaii's greatest athletes, Pete Velasco, has been elected to the Helms Volleyball Hall of Fame.

This recognition for Hawaii's All-American volleyball player is thrilling news to Pete's fans from all across the country, and indeed the world.

Among the Hall of Fame's greatest athletic feats were those he performed as a member of two U.S. Olympic volleyball teams. He captained the 1964 squad in the Tokyo Olympics, and also played in the Pan American Games in 1963 and 1967.

Pete, the father of seven children, is presently attending the Church College of Hawaii on an academic scholarship. Following his graduation from Church College and his postgraduate work, Pete has expressed the desire to work with and train young people.

The Honolulu Star-Bulletin took note of Pete Velasco's most recent athletic honor in an article from the March 6, 1970, issue of the paper. In the article, John Lowell, coach at Church College and the Outrigger Canoe Club, observed:

> As important as his athletic ability, are his outstanding character and self discipline . . . He has been an ambassador of good will at the international games and probably has more friends than anyone else in the sport.

Pete will be inducted in the Helms Volleyball Hall of Fame during the U.S. Volleyball Association Tournament to be held in the Island State in May, in which some 90 teams from the Mainland United States will participate.

I know that the Members of Congress would wish to join me in saluting one of Hawaii's most famous sons, and an outstanding athlete who possesses those qualities which are worthy of emulation by our Nation's youth.

The article, "Velasco Named to Hall of Fame," from the March 6, 1970, issue of the Honolulu Star-Bulletin, follows for the RECORD:

[From the Honolulu Star-Bulletin, Mar. 6, 1970]

Velasco Named to Hall of Fame

Pete Velasco, Hawaii's All-America volleyball player, has been elected to the Helms Volleyball Hall of Fame.

The Church College of Hawaii volleyers will be inducted into the Helms Hall of Fame during the U.S. Volleyball Association tournament here in May. Approximately 90 teams from the Mainland are entered in the tourney, so Velasco should get quite an audience watching him receive the honor.

Velasco, a member of two U.S. Olympic volleyball teams, captained the 1964 squad in the Tokyo Olympics. He also played in the Pan American Games in 1963 and 1967.

John Lowell, coach at Church College and the Outrigger Canoe Club, who has observed Velasco's playing for a number of years, feels that Pete is one of the two or three finest athletes Hawaii has ever produced. (Velasco also starred in prep basketball and in the Armed Forces Basketball League).

"As important as his athletic ability is his outstanding character and self discipline," said Lowell. "He has been an ambassador of good will at the international games and probably has more friends than anyone else in the sport."

Velasco, 33, is father of seven children. He works nights at Pan American and attends classes during the day.

While he is a fine athlete, Velasco is attending CCH on an academic scholarship.

Velasco expects to graduate from CCH in 1971 and take graduate work at Brigham Young University in physical education.

"My hope," he said, "is to work with young people after I finish at BYU."

MASS TRANSIT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. ROSENTHAL. Mr. Speaker, my colleague, the gentleman from New York (Mr. KOCH), testified before the House Banking and Currency Committee last week on the subject of mass transportation. Mr. Koch is the initiating sponsor of legislation to establish a mass transit trust fund of which I am a cosponsor. His testimony urges adoption of the trust fund concept to insure more Federal funds for efficient and adequate mass transit for the urban areas of our country and an increase in the amount of funds to be made available for that purpose.

I commend his testimony to our colleagues for their consideration:

STATEMENT BY REPRESENTATIVE EDWARD I. KOCH, BEFORE THE HOUSE BANKING AND CURRENCY SUBCOMMITTEE ON HOUSING, ON THE MATTER OF MASS TRANSIT, MARCH 3, 1970

Mr. Chairman and Members of the Committee.

I appreciate your invitation to appear before you to speak on the subject of mass transit. It is this legislation which will determine whether or not we move ahead in providing efficient transportation for our country's urban dwellers that now comprise almost 80% of the population and by the year 2000 will represent 90% of our residents. In the sixties we accomplished extraordinary feats in outer space travel while back here on earth we poured a network of roads across the country linking our cities and towns with direct and fast auto travel and providing an economic boom for our rural areas. We spent $19.4 billion in the last decade to accomplish the first moon landing and we allocated $45 billion in federal funds since 1957 in the construction of the Interstate Highway System.

Today, I urge that we dedicate the 1970's as the decade of the urban dweller and working man's transportation—that we make the same commitment that resulted in delivering the astronauts to the moon to providing rapid, convenient and clean transportation for our commuters. We must advance mass transit technology so that it can fulfill its role in the nation's transportation scheme and effectively complement the automobile and airplane.

The automobile was a great invention. It mobilized our nation. But, its overuse as a commuting vehicle in our cities is inefficient and in fact counter-productive. Walter Reuther, President of the United Auto Workers, put the matter succinctly when on December 5, 1966 before the Senate Government Operations Subcommittee on Executive Reorganization, he said:

"I think it is absolutely ridiculous for 100,000 Americans living in the same urban center to try to go to the same place for the same purpose at the same time, as each drives a ton and a half of metal with him. I just think that this is utterly stupid from an economic point of view and from a human point of view."

It takes twenty lanes of highway to accommodate the same number of passengers carried by one pair of subway tracks.

Despite all the difficulties of parking and traffic jams, the American still loves his car. And if we are to woo him into using public transportation for commuter travel, we will have to provide him with service that is clean and efficient and is the technological equivalent of the automobile.

After having spent nearly $20 billion on the Apollo program to carry two men to the moon and $45 billion on highways, I propose that we now commit $10 billion in the next four years to mass transit. To do this I have introduced H.R. 7006, a bill which you have before you, to provide these funds and to establish an Urban Mass Transportation Trust Fund comparable to the Highway Trust Fund. The trust fund would be independently financed by the existing 7% automobile manufacturer's excise tax, just as the Highway Trust Fund receives its revenue directly from the 4¢ gasoline tax. In my bill I also propose that the limitation on federal participation in capital projects be raised from the current ⅔ to 90%.

I have re-introduced this bill eight times with House co-sponsors now numbering 105. The bill numbers are: H.R. 7006, 9661, 10554, 10555, 11080, 11081, 12897, 13198, and 13719.

S. 3154

I of course know of the Senate's action in passing on February 3rd of this year, S. 3154 providing for a total expenditure of $1.86 billion in the next five years with contract authority totalling $3.1 billion. I have decidely mixed feelings about the Senate bill. Surely, the distinguished Senator from New Jersey, Mr. Williams, is to be congratulated for his leadership in getting legislation passed which provides a measure of long term financing for mass transit. But, I feel that the dollar amounts provided in the Senate bill are inadequate. In addition its financing mechanism will again subject mass transit to the Appropriations Committees' annual paring, all of which will undermine the stability of the program, including its long term financing so essential if our country is to make a meaningful change in its public transportation picture.

The opening paragraphs of the Senate bill speak of the need for a $10 billion commitment in the next twelve years if we are to meet the needs of urban areas and "to permit confident and continuing local planning, and greater flexibility in program administration." But this is only rhetoric and no real commitment nor specific authorization for an expenditure of $10 billion appears in the bill. All we have in the Senate bill is $1.86 billion in hard cash for the next five years and $3.1 billion in contract authority. $1.86 billion to be paid out by the federal government for all the nation's mass transit needs during the next five years while we spend $4.5 billion on highways in one year alone. The rhetoric of the Senate bill—which is also the Administration's bill—is of the same character as the President's words in his budget for Fiscal Year 1971 when he declared, "This Administration is dedicated to achieving a balanced national transportation system," but then actually allocated to mass transit only 6% of what he gave highways.

It is true that money for the total cost of a project need not be immediately forthcoming. But even with the system of contract authority proposed, the Administration seems to be reluctant to go forth in making commitments beyond the FY 1971 appropriation. While the Administration has requested $105 million in contract authority during FY 1971, the commitments that will be carried forward in excess of the appropriation actually will amount to only $25 million since $80 million is being put forward for the liquidation of contracts during that year. This will subject the remaining monies available for contract authority to the scrutiny and possible limitations of the Appropriations Committees. Will mass transit suffer the same fate as urban renewal did in 1966 when after having incurred $3.5 billion in obligations, its contract authority was restricted so that it can no longer obligate more than it receives in appropriations?

I would bring to the Committee's attention the observation of Senator Proxmire on the Floor of the Senate during the Debate on S. 1354 just a few weeks ago that the Administration had indicated it would not immediately obligate the total $3.1 billion in the first year; therefore, the Committees in his words, "would have ample opportunity to restrict the use of contract authority in subsequent years if it developed that a higher level of spending could not be justified."

In the same colloquy, Senator John Stennis, Chairman of the Senate Appropriations Transportation Subcommittee, in assuring his colleagues that Congress has control over contract authority, noted that most recently in the 1970 Transportation Appropriations bill, the Congress placed four ceilings on contract authority that were lower than what the original authorization had called for. They were in programs not funded by the Highway Trust Fund, but by regular appropriations and are as follows:

1. $25 million for Highway Beautification was reduced to $16 million.
2. State and Community Highway Safety was reduced from $100 million to $70 million (after having gone through a similar reduction the previous year from $100 million to $75 million).
3. Forest Highways was put at $18 million instead of $33 million.
4. Public Land Highways lost half of its contract authority budget when it dropped from $16 million to $8 million.

Senator Proxmire, himself a Member of the Senate Appropriations Committee for six years stated in the Senate hearings that:

"When the President puts the squeeze on the budget that comes from all the pressures we live under to cut spending wherever we can, there would be tremendous pressure to hold down expenditures in this mass transit area and to cut them down far below the authorization level."

And the Senator from Wisconsin noted further "you won't have anything like the kind of assurance you have in the trust fund. Nothing like it."

During this same session, Secretary Volpe noted that restrictions can also be placed on expenditures from the Highway Trust Fund. But Senator Proxmire rightly replied:

"It could, but what has been the experience? What is the practical effect of the—"

Secretary VOLPE. "The experience has been that the Congress has continued the program at the levels that were set out in the original bill."

Senator PROXMIRE. "Exactly, the trust fund has been an assured regular source of substantial funding, far more I am convinced than it would be if it were under the Appropriations Committee annual appropriations with the contract authority. No comparison. There just isn't any question."

It is true that trust fund expenditures can also be limited, but with its source of funding being apart from the General Treasury, the pressure to do so is not so great because its funds cannot be easily shifted over to another program. Proof of the trust fund's long term stability and dependability comes in the Highway Trust Fund whose expenditures have matched the originally authorized level of spending. Without an assured source

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of long-term financing, cities cannot make their plans and secure public approval of the required bond issues.

For this reason, I would urge you to give very careful consideration to the system of contract authority vis-a-vis the trust fund, and see what might be done to either report out a trust fund bill—which would be far preferable—or make the contract authority financing mechanism a more assured one.

NEED FOR MORE MONEY

Whatever financing mechanism this Committee does adopt the single most important responsibility the House has before it is to allocate more money to mass transit than has the Senate.

Even $3.1 billion does not offer metropolitan areas funds in sufficient quantity to give them the necessary support so that we are able to realistically plan and move ahead with comprehensive capital programs. Without the availability of sufficient funds and a system of assured long term financing, municipalities simply will not be able to develop plans and float bonds for projects of sufficient scope to have a substantial effect in modernizing local public transportation and equipping it to deal with current and future traffic.

To date the lack of federal assistance available and the want of assurance that any money might be forthcoming in the future, combined with the large commitment required from the municipalitiy, has caused plans to bog down in many cities across the country such as Atlanta, Seattle and Baltimore, just to mention a few.

Last year, The President of Atlanta's Transit system, Mr. W. P. Maynard wrote and told me that Atlanta's bond issue referendum to launch the city's plans for a $751 million mass transit capital improvement and expansion program was "defeated by a vote of 57% to 43%, primarily because there was no substantial long range federal help in view." Mr. Maynard continued:

"Even though the urgent need for a rapid transit system was recognized by the voters, there was a strong feeling that this was such a large financial undertaking that the total financing could not be borne locally."

And on the Floor of the Senate during the debate on S. 3154, the Senator from Maryland, Mr. Tydings, said:

"S. 3154, as it presently stands, is simply inadequate. For example Baltimore's $1.7 billion rapid transit system is stalled awaiting realistic federal commitment so it might move forward with its financing. More than anything else, we need this commitment. Here is a city with a serious problem that has been met with foresight, with planning, and with local commitment; but the continued failure of like action in Washington threatens to kill the whole program."

Let us for a moment translate the Senate bill's $1.86 billion into figures for our large cities. Perhaps I can best speak for New York.

The New York Metropolitan Transit Authority estimates that it needs $2.1 billion over the next seven years. The New York City area has received approximately 15% of the federal funds spent on capital facilities grants during the past five years. Assuming the same percentage for the next five years, New York City would receive approximately $465 million in contract authority, $280 million of which would be liquidated with federal cash. Thus, federal assistance would amount to no more than 20–25% of the total cost of mass transit development in the metropolitan areas. Other major cities with mass transit plans similarly would have to find non-federal funds equalling 80% of total development costs. But, our municipalities whose dollars are scarce and competed for by welfare, medical and educational needs as well as those of mass transit, simply do not have this kind of money.

My bill, H.R. 7006, provides a federal commitment of $10 billion over the next four years for mass transit projects. Such an expenditure would provide New York City with approximately $1.5 billion representing 70% of total development cost.

Some of the other metropolitan areas requiring large expenditures in the next decade include: Chicago, $2.2 billion; Baltimore, $1.7 billion; Southern California Rapid Transit District, $2.5 billion; Boston, $784 million; Bay Area Rapid Transit District, $1.8 billion. This does not begin to account for the many middle size cities and the hundreds of smaller cities also needing help that cannot be ignored.

A chart entitled, "1970–79 Capital Requirements of the Rapid Transit Industry—Preliminary Study" which was drawn up by the Institute of Rapid Transit, was introduced in the record during the Senate Floor debate. It included figures for transit needs during the coming decade for just 19 systems and came out with a grand total of $17.708 billion. And here we are talking about a commitment of $3.1 billion.

Furthermore, it should be noted that these figures do not take into account the continual rise in construction costs which increase on an average of 10% annually. Proof of this is found in the interstate highway system whose original cost was estimated at $26 billion, but whose actual cost will exceed two times this. We have already spent $45 billion on it and it is yet to be completed.

Time is of the essence. And were the government to provide a more substantial commitment we could get underway quickly and in the long run save the taxpayer billions of dollars, as well as many valuable man-hours now lost in slow and stalling systems. Savings too would come in the health of city dwellers and in the reduction of millions of dollars spent annually in cleaning up auto pollution.

It is remarkable to me that so many people in the past year have spoken of S. 3154 as though we were launching a new program needing only a small beginning. It is true that S. 3154 offers a new financing mechanism, but the concept of federal assistance for mass transit and the expenditure of large sums on mass transit is nothing new. To suggest that our cities are not equipped to get underway with mass transit construction is ludicrous. It is true that many cities have not made any plans, but it is equally true that many cities have plans that are ready for execution and are stymied for lack of federal funds and commitment. In fact, UMT Administrator Carlos Villarreal testified before the House Appropriations Committee last year that a backlog of applications for capital grant assistance in excess of $400 million would be carried forward into FY 1971.

People also justify the small level of appropriations by saying that experience shows that actual expenditures under these programs are fairly small in the first year or two. This is true—but still the long range commitment afforded by the $3.1 billion level in contract authority remains very small. And, as I noted before, the Administration plans to obligate only $25 million in excess of what it will liquidate in FY 1971.

In essence, the single most important thing needed is to bring the federal level of funding to a point which perhaps is most suitably called a "threshold for action," below which point funds are simply insufficient to enable our communities to undertake transit modernization and new construction.

I believe that such a threshold can be reached if a commitment of $10 billion is immediately made available for long term financing. While I continue to favor the trust fund approach, I have introduced H.R. 15468 which would provide $10 billion in contract authority and $6 billion in appropriations over the next five years. Should your Committee determine that it has no alternative but to authorize a system of contract authority, I would urge that you consider increasing the funding levels to the amounts put forward in H.R. 15468.

DISCRETIONARY FUND

My bill does not place a 12% limit on how much money can go to any one state. This limit does appear in the Senate bill and I know that S. 3154 as finally passed suffered a reduction in the discretionary fund given to the Secretary for his allocation of additional funds to states reaching the 12½% limitation. It is essential that this body restore the discretionary allowance to at least 15%. It is a necessary measure of administrative flexibility for the Secretary of Transportation so that he can place funds where they are most urgently needed. It should not be viewed as a windfall for a few of the larger states. Rather it is a vehicle for allocating added funds in one state in a year when it is needed and then extra money in another state another year.

I would point out that a uniform limitation is not found in the Highway program on the amount of money that can be poured into any one state in a year. Rather, the money is allocated by a formula based on need. This is what the Mass Transportation Administration should be doing—putting the money where it is most critically needed.

SEVEN PERCENT AUTO EXCISE TAX FINANCING OF THE MASS TRANSIT TRUST FUND

There has been some criticism over the fact that H.R. 7006 provides for the financing of the mass transit trust fund by the 7% auto excise tax. But, when in fact carefully considered, the use of an auto tax for mass transit is not without justification in as much as auto driving will be greatly enhanced if commuter traffic is diverted from the single passenger auto to the subways, trains and buses. In addition, if we do not do something to improve mass transit in our cities, traffic congestion will reach such a peak that cars will simply be banned from the central city. Already our metropolitan areas are immobilized by auto traffic and cars built to go 80 mph creep along at an average pace of 16 mph in many of our cities.

Those who do not own cars pay for city streets which are funded locally out of general revenues and far exceed the highways in mileage. We do not hear the argument that only those who drive on the streets should pay for them.

Mass Transit is not a competitor for the automobile; it is its complement. In relieving traffic congestion on the highways, we will enhance the potential as well as the enjoyment of driving an automobile as opposed to their being lined up on every highway, stalled as if in the most expensive open air garage.

NINETY PERCENT FEDERAL SHARE

While I realize that for many large cities an increase in the maximum level of the federal share would effect no real change in the federal government's contribution to the project cost, I believe that we should increase this limitation to 90%. If we are to ever place mass transit on a par with highways, we must offer communities the same ratio of federal funding for mass transit as they get for highways. Too often communities have chosen a highway over mass transit (which would more effectively meet their needs), because federal funds were available in the quantities needed only for the highway. Even with the levels of funding proposed by the Administration, 90% federal participation could benefit some cities and towns with modest mass transit project plans.

CONCLUSION

In conclusion I would like to repeat that the single most important task before us is to give mass transit a meaningful level of funding—one that will enable our communi-

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ties to move forward with their construction programs.

Unfortunately, mass transit has yet to be given the status it deserves by the Administration. And thus, it is a mistake for the Congress just to follow after the President; instead, we should correct his priorities and lead the way.

Just one more indication of the President's cavalier attitude toward mass transit is to be found in his budget for FY 1971 submitted a few weeks ago. There, the $3.1 billion contract authority program is outlined, and one should note that the President has proposed that we deduct from the meager amount (considering the need) of $3.1 billion in contract authority the $214 million already appropriated in advanced funding for FY 1971, plus an additional $4 million to cover salaries and expenses, and the extra $80 million appropriation authorized in S. 3154, thereby reducing contract authority to $2.802 billion. Thus, while S. 3154 suggests a commitment of $3.1 billion in new money, $218 of this is in fact funds that have already been appropriated.

Gentlemen, you have it in your power to redress the inequitable appropriations that have been made in the past for mass transit. I urge you to do that by supporting the mass transit trust fund and providing the sum of $10 billion over the next four years to accomplish the goal. That goal is efficient and adequate mass transit for the urban areas of our country.

HOWARD W. FITZPATRICK

HON. PHILIP J. PHILBIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. PHILBIN. Mr. Speaker, under unanimous consent to revise and extend my remarks, I include a copy of a resolution introduced by my able and distinguished friend, Senator Joseph D. Ward, of Fitchburg, Mass., in the Massachusetts State Senate memorializing the late Howard W. Fitzpatrick, sheriff of Middlesex County, an outstanding Democrat and humanitarian. I want to commend my esteemed friend, Senator Ward, upon his introduction of this resolution.

Howard Fitzpatrick was one of Massachusetts' greatest political leaders and most illustrious sons. He was a very close friend of mine for years, and we campaigned together when we first aspired for the public service. Howard Fitzpatrick was not only a great political leader, but a leader in business, charity, benevolence, and human causes, second to none.

In fact, he devoted the best years of his life to helping people and causes related to their interest, welfare, and well-being, to which he was so loyally attached.

His untimely passing was a great blow to me personally, and it was an irreparable loss to his family, his many friends, his district, our State, and the Nation. Men with the indomitable spirit, human qualities, unbounded generosity, and concern for human kind of Howard Fitzpatrick are rare indeed.

He will long be remembered by a grateful people, and his peerless service to so many causes, and his faithful, outstanding service to our people will long be gratefully recalled by the people of Massachusetts.

A great American has been called to his eternal reward, and his passing has left an irreparable void and deepest grief and sorrow in the hearts of his dear ones and the legion of friends and admirers who were so much a part of the great causes that he served with all his heart.

Our prayers and most heartfelt sympathy will be with his dear ones in their sorrow, and we join them in mourning the loss of a very dear friend, a peerless leader, and a truly great American.

May he find rest and peace in his heavenly home.

The resolution follows:

RESOLUTIONS ON THE DEATH OF HOWARD W. FITZPATRICK, SHERIFF OF MIDDLESEX COUNTY

Whereas, the Senate has learned with deep sorrow of the sudden death of Howard W. Fitzpatrick, sheriff of Middlesex County; and

Whereas, in a long and honored career in the public service during which he served as a member of the Massachusetts Port Authority and as the high sheriff of Middlesex County since 1949, Howard W. Fitzpatrick was distinguished as a public servant who was ever conscious of his obligations to the people he represented and fearless in the discharge of his duties, and will always be remembered as a genial and courteous gentleman who gave untiringly of his time and resources; and

Whereas, Sheriff Fitzpatrick was active in numerous civic, fraternal and political organizations, being the deserved recipient of an honorary degree of doctor of laws from the College of the Holy Cross, the Man of the Year award from the National Conference of Christians and Jews, a Knight of the Order of the Holy Sepulchre and an Official Knight of the Order of Merit of the Republic of Italy, to name but a few of the great honors that have been bestowed upon him; now, therefore, be it

Resolved, That the Massachusetts Senate hereby extends to the family of the late Howard W. Fitzpatrick its deepest sympathy and condolences in their bereavement; and be it further

Resolved, That an engrossed copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the sister and brother of the late Howard W. Fitzpatrick.

Senate, adopted, February 24, 1970.

MAURICE A. DONAHUE,
Senate President.
NORMAN L. PIDGEON,
Senate Clerk.

Offered by Senator Joseph D. Ward.

VOLUNTARY PUBLIC HEARINGS ON CLEAN AIR IMPLEMENTATION PLANS IN NEW YORK

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. KOCH. Mr. Speaker, on January 21, I introduced a bill, H.R. 15491, to provide for public hearings in the formulation of implementation plans for air pollution abatement. Under the Air Quality Act of 1967 public hearings are required before a State can submit its schedule of air quality standards to the Federal Government; and yet, no hearings are required during the second stage when implementation plans are devised.

States are currently preparing such regulations to meet a May 7 Department of Health, Education, and Welfare deadline for the control of sulfur and particulate matter.

On January 21, I also wrote to Gov. Nelson Rockefeller and urged him to direct New York to voluntarily go ahead with public hearings on the control of sulfur and particulates before submitting its implementation plan to the Department of Health, Education, and Welfare.

I am pleased to report that I have received a response from Governor Rockefeller and he tells me that the State's air pollution control board will be scheduling a public meeting for the presentation of the implementation plan for sulfur dioxides and particulates prior to May 7, although a definite date has yet to be announced.

Pending a change in the law, I hope that other States will similarly conduct public hearings before the May 7 deadline.

The Governor's letter follows:

STATE OF NEW YORK,
Albany, February 12, 1970.

HON. EDWARD I. KOCH,
House Office Building,
Washington, D.C.

DEAR MR. KOCH: Thank you for your letter of January twenty-first concerning the introduction of your bill in the House of Representatives which would require states to hold public hearings on implementing regulations for the air quality control regions established under the Air Quality Act of 1967.

It has always been the policy of the State of New York, acting through its Air Pollution Control Board, to keep the public informed about its activities relating to air pollution control. Our Air Pollution Control Law requires that the Board hold public hearings, with thirty days prior notice, on proposed new or amended standards and regulations. The Board advises that it intends to schedule a public meeting for the presentation of the implementation plan for sulfur dioxides and particulates prior to May seventh. As yet, the definite day and time have not been established.

New York State has been in the forefront in establishing standards for ambient air quality and implementing regulations have been adopted to achieve these standards. Regulations for sulfur dioxide and particulates control have already gone through the hearing process. It does not appear likely that these regulations will have to be amended in order to achieve the standards which have been established for the Federal air quality control regions.

The requirement for rehearings on rules each time the Department of Health, Education and Welfare issues criteria for a specific contaminant, unless amendments are necessary, would seem to be wasteful of public funds and staff effort and tend only to delay rather than expedite the control effort.

Please be assured that we will continue to keep the public informed in regard to all our activities in this area.

Sincerely,

NELSON A. ROCKEFELLER.

U.S. FOREIGN POLICY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. JACOBS. Mr. Speaker, Mr. Michael M. Stump has written a most eloquent letter expressing what I believe to be a rather lucid approach to American foreign policy.

The letter follows:

INDIANAPOLIS, IND.,
March 7, 1970.

MR. HENRY KISSINGER,
c/o White House,
Washington, D.C.

DEAR MR. KISSINGER: I am writing to you in an effort to fulfill a function in our representative democracy. It is my sincere hope that although you may never see this letter, the thoughts and feelings will at least reach you.

Having majored in Government and American History, I attempt to view foreign policy with a rather unemotional perspective. I would presume that the foreign policies of the United States are geared to the establishment and maintenance of international commitments which enhance our national objectives.

Among those objectives must be a concern for a healthy and stable world community which is becoming increasingly dependent on the strength of each nation state. Our American experience shows that the evolution of government to democratic forms is healthy both economically and morally to the fiber of the people. In the overview of world history, it must be recognized that the long term trend points toward the establishment of democratic institutions among all nations.

Based on this thought, how can the United States send men to Southeast Asia to be sacrificed for the defense of a dictator every bit as repressive as his communist foes. May I direct your attention to President Thieu's recent action against two members of the National Assembly of South Viet Nam, Hoang Ho and Tram Ngoc Chau. The style reeks of Franco, Hitler and Stalin. At least we are more sophisticated with the fate of Leon Panetta.

We are living in a house of cards if we believe this country has the power to hold back the downfall of political despots. Our country has nothing to fear from Communism as an economic force. Any fear we face comes from the political conduct of the major communist nations. The fear of totalitarianism is all we face. It makes no difference if it is on the so-called "left" or "right". It is still on the opposite end of the spectrum from Democracy.

My frustration comes from the apparent lack of concrete evidence from the President that our foreign policy goals have significantly shifted from those of previous years. When will we ever seek the end to totalitarianism and cease to be distracted by the narrow view of a solely communist threat.

I would appreciate a reply from your staff as to the final resting place of the contents of this letter.

I sit appalled when I think of the Chau arrest!

Sincerely,

M. M. STUMP.

LAND FOR POSTERITY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. GUDE. Mr. Speaker, the quiet, effective work of the Nature Conservancy has served well this Nation and those who would save its natural beauties as an endowment for the future. How the conservancy preserves these valued resources of forests, marshes, rocky and wooded islands is described in detail in an article which I commend to the attention of my colleagues as it appeared in yesterday's Wall Street Journal:

[From the Wall Street Journal, Mar. 11, 1970]

LAND FOR POSTERITY: GROUP WORKS TO KEEP CHOICE SITES UNSPOILED

(By Dennis Farney)

MASON NECK, VA.—The Potomac River ice creaks and groans beneath the January sky. Cardinals flit across the beige and white of the snowy cattail marsh, and crows caw from nearby woods of beech and oak. A great blue heron lifts away on three-foot wings.

Mason Neck on a clear, cold morning is placid, unhurried now. But only five years ago this 10,000-acre peninsula was threatened by the relentless spread of suburban Washington. Real estate speculators controlled the land; there were plans for asphalt streets through the woods, subdivisions near the restored mansion of a Colonial planter.

It didn't happen. And the main reason was the quiet work of an increasingly effective conservationist, the Nature Conservancy.

Three years ago, the Conservancy moved in and began buying up more than 3,000 acres here for about $5.6 million, checkerboarding its holdings to block development of most of the peninsula. It was another successful application of one technique that helps make the Conservancy unique among national conservation groups—unique in what it does as well as what it doesn't do.

MOUNTAINS, PRAIRIES, AND MARSHES

The Conservancy isn't the best-known national conservation organization. It rarely makes headlines with dramatic protests or last-ditch lawsuits. It doesn't sponsor wilderness outings and it doesn't publish beautiful books.

It just preserves land, the kind of land that can't be replaced: Virgin woods in New Jersey, islands off the Atlantic Coast, ancient California redwoods, prairies, marshes and mountains. The Conservancy is the only national conservation group that puts its total resources into land preservation. So far, it has preserved about 150,000 acres in 41 states and the Virgin Islands—most of this since it really got rolling in the early 1960s.

The Conservancy traces its lineage to a 1917 committee formed to acquire natural areas for scientific research. Today, however, the Conservancy is interested in outstanding examples of the American environment for other purposes as well. It buys such land itself or lends money to private groups that wish to do so; tax-exempt and nonprofit, it accepts bequests and donations of land or cash. It has helped preserve everything from a 10,500-acre island off Georgia (now a Federal wildlife refuge) to Ezell's Cave, the subterranean home of *Typhlomolge Rathbuni,* the Texas blind salamander.

BEATING THE BULLDOZERS

Both public and private efforts to preserve natural areas threatened by development often founder for the same reason: A lack of ready cash. By the time a government agency can secure its appropriation or a citizens group can launch a fund-raising drive, the bulldozers have come and gone. The Conservancy is trying to fill this gap with three programs:

From a revolving fund of more than $1.1 million, it makes quick loans to private groups, including its own chapters, organized for the purpose of acquiring specific areas. The groups may take up to three years to repay; the loans are interest-free for three months, then bear interest at an annual rate of 6½%.

A separate endowment fund of about $800,000 guarantees bank loans to such groups when the revolving fund is being used to capacity.

Under its newest program, which utilizes a $6 million line of credit guaranteed by the Ford Foundation, the Conservancy moves in fast to acquire tracts being sought (for parks or wildlife refuges, for example) by Federal state or local government agencies. It resells the land to the agencies when their appropriations come through.

Requests for help are keeping all three funds busy. A loan to a citizens group, for example, recently helped preserve Clausland Mountain, a wooded rampart on the Hudson River near New York City. The $237,500 loan clinched offers of more than $1.1 million in additional money from other sources. Area artists have raised some of the money for repayment with an "Art for the Mountain" benefit.

BROAD SUPPORT

The program using the Ford-guaranteed credit line has acquired more than 11,000 acres since early 1969, sometimes nailing down tracts that slower-moving government agencies might have lost. A good example is the 3,215 acres of Michigan forest recently acquired for the U.S. Forest Service. The Federal agency turned to the Conservancy because the tract was being marketed by a concern that needed to sell quickly, and it might have taken the Forest Service as long as 18 months to secure the necessary appropriation.

Such successes are winning the Conservancy support from figures as diverse as Laurance Rockefeller, Charles A. Lindbergh, Arthur Godfrey ("Boy, they do a job") and Marshall Field. Says a top Federal conservationist: "They haven't tried to branch out and get involved in all aspects of the environment. They've stuck to land preservation—and they're doing it damned well."

Conservancy officials praise the efforts of such better-known organizations as the Sierra Club, which attempts to rouse public opinion and sometimes hauls developers and polluters into court. But the Conservancy generally avoids such fights. "The measure of our success is not how well we propagandize for or against a given issue," says Thomas W. Richards, president. "It's in those acres, and in the quality of those acres."

So it's no accident that Conservancy headquarters in downtown Washington rather resembles a high-powered real estate agency. It's the kind of place where Mr. Richards may interrupt an enthusiastic description of a contemplated project (enclosing both banks of a portion of the Potomac in a "green sheath," for example), to answer the telephone and bargain for an island, a marsh or a forest. The atmosphere seems a little like that cartoon above the desk of Edward R. Kingman, vice president and treasurer. The cartoon depicts an exasperated executive who bellows: "Whattya mean we don't have any capital. . . . The acquisition's already been approved."

The cartoon notwithstanding, the Conservancy is at home in the world of finance. Mr. Kingman has been a bank vice president, a financial consultant and a real estate broker; Mr. Richards has nine years of experience as an IBM department manager. Other staff members include ex-real estate agents, a NASA administrative assistant and an industrial engineer—all recruited for their management skills.

"Conservation problems today are no longer solved by a guy hiking around in the woods," says Alexander B. Adams, an ex-FBI agent who helped lead the Conservancy through most of the 1960s. "They're solved by guys sitting behind desks, thinking." Agrees Mr. Richards: "To win a land conservation battle today, you've got to use the same skills private industry uses."

Last year, its biggest yet, the Conservancy helped preserve nearly 40,000 acres through 101 projects and donations. The year also marked ceremonial completion of a major phase of the Conservancy's most spectacular project to date: The addition of about 10,000 acres to Hawaii's Haleakala National Park.

Before the project, Haleakala Park occupied about 14,000 acres atop a long-extinct volcano. Soon the park will contain about 24,000 acres and extend from the mountaintop to the sea, an enlargement that one conservationist calls a "dream come true." It all began with a 1967 challenge from Laurance Rockefeller. He would donate a $585,000 piece of shorefront to the park—if the Conservancy could acquire the eight-mile-long Kipahulu Valley between the shore and the mountaintop.

Often veiled in fog or drenched in torrential rainfall, the valley is a lush remnant of Hawaii as it used to be. More than 100 waterfalls roar in a rain forest abundant with wildlife, including a bird species presumed extinct for 80 years. The upper valley is a wilderness scarcely penetrated by modern man. Not surprisingly, the Conservancy took the challenge and went to work.

HARD BARGAINING

As negotiator, the Conservancy dispatched Huey Johnson, its western regional director. In two weeks of hectic bargaining, Mr. Johnson reached agreements with the valley's three private landowners, then persuaded the state of Hawaii to donate about 3,000 additional acres it held.

The private owners eventually sold nearly 7,000 acres for $620,000, donating additional acreage valued at $300,000 as a tax-deductible contribution. A mail solicitation, three cocktail parties and a luncheon raised the $620,000, with about $375,000 coming from a gathering in New York's Pan Am building. Mr. Lindbergh addressed that gathering, and Mr. Godfrey did a persuasive job, too. He describes catching a departing donor in the elevator and emerging at the end of the ride with a pledge of $100,000.

In January 1969, the Conservancy donated more than 7,000 acres to the National Park Service under an agreement that will preserve the upper valley as wilderness for scientific research and open the remainder of the valley to the public. (The state is in the process of conveying its 3,000 acres to the Park Service.) Then the Conservancy launched the project's second phase: A campaign to raise about $750,000 to purchase several hundred additional shorefront acres highly vulnerable to development. If this phase succeeds, Gov. John Burns has indicated, he'll work for the donation of additional state land. Says Mr. Richards: "We want to do this thing once and for all, and do it right."

The scope and expertise of the Kipahulu project was a far cry from the Conservancy of 1960. That year the organization preserved only about 4,000 acres, had an operating deficit and only about $100,000 in its revolving loan fund, and was mired in an ill-planned project that threatened to bankrupt it. Adds Mr. Adams, then president: "We were like practically every other conservation group—trying to do everything at once, and not doing anything as well as we might.

Spurred by Mr. Adams, the Conservancy reorganized. It beefed up its staff with the help of Ford Foundation grants, formed the endowment fund and secured the Ford-guaranteed line of credit. And after what Mr. Adams calls "a long battle within the organization," it phased out activities unrelated to land acquisition.

This meant leaving public protests to other conservation groups, a decision that still has its critics. One, for example, asserts that "too much concern about what major contributors might think" sometimes inhibits Conservancy activities and was a major factor in the policy change.

This critic is particularly disturbed because in the early 1960s the Conservancy dropped an active role in opposing a controversial pumped storage hydroelectric plant proposed by Consolidated Edison for New York's Storm King Mountain. He maintains: "Many Conservancy backers are stockholders of Con Ed or are interested in other forms of economic development along the Hudson and might have been offended."

Mr. Adams disagrees. "I know of no instance where our policy has been affected by a donor, and I can say that absolutely flatly," he declares. He calls the protest against the Storm King plant "the kind of project that could be much better handled by other groups" and notes that another group did take over after the Conservancy dropped out. The intent, he says, was to "disengage from things other organizations were already doing and concentrate on buying land."

There's no doubt that Conservancy fortunes soared after the reorganization. In 1969, it either bought or received as gifts land valued at nearly $20 million, up from about $750,000 in 1960; by 1975, it expects this amount to rise to $50 million. During 1969 it transferred ownership of $7.2 million worth of land to various Federal, state and local institutions, including universities.

Increasingly, the Conservancy is going into large-scale projects that will protect complex life chains in broad areas. A top priority for the 1970's will be the acquisition of coastal marshes and wetlands to protect spawning grounds for marine life and refuges for migratory birds. Separate projects, already well under way, aim to establish "coastal reserves" of islands off Georgia, Virginia, Maine and Florida. Other priorities: The acquisition of virgin prairie, water-filled "potholes" (needed by migrating ducks and geese) in the upper Midwest, and desert springs and streams.

NEEDED: $31 MILLION

This year the Conservancy will spend $7.5 to $10 million for land acquisition—a record but about $31 million short of what it would like to spend, says Mr. Richards. He estimates he would need at least $15 million more, for example, to buy up "some of the most critical inholdings" (private land) within national parks and other public areas; $10 million more to fully execute a new project to protect threatened wetlands around San Francisco Bay; $3 million more for Gulf Coast Florida islands and wetlands; and $3.5 million for Atlantic barrier islands and salt marshes.

Meanwhile, additional requests keep coming in. Illinois is asking help in buying a $7.8 million piece of open space in Chicago, for example. And Sen. Ralph Yarborough (D., Tex.) has asked for help in preserving something of East Texas' Big Thicket, a beautiful forest of pines and hardwoods.

Private donations and fund-raising drives by Conservancy chapters and project committees brought in nearly $5.5 million in cash and securities last year. Donors also contributed about $12.5 million worth of land, including a 74-acre ridge in Connecticut and 361 acres of forest (valued at $1 million) in Florida.

"We're willing to go to almost any lengths for a donor," says John F. Jaeger, the staff attorney who processes most of the gifts and bequests of land. Some donors retain the right to live on the donated property for their lifetimes, for example. Others donate only a portion of the value of their land and sell the remainder to the Conservancy, or assign ownership to the Conservancy over a 20-year period.

The Conservancy is looking for help from another area: Business. Last year, in what Mr. Richards called a "breakthrough for conservation," the Conservancy accepted a gift of two-groves of California redwoods (worth about $6 million) from Georgia Pacific Corp., a concern that drew bitter attacks from some other conservation groups during the fight to establish the new Redwoods National Park. The gift, now a California state park, convinces Mr. Richards that business and the Conservancy can work together with mutual benefits.

"I'm anxious to work with other businesses, particularly the extractive industries," he says. "It's conceivable, for example, that a lumber company could assess its massive holdings and find some areas that aren't beneficial to it but which would be great from our standpoint. We could take management problems off their hands and enhance their public image in the process."

It's an irony of Mr. Richards' work that he seldom escapes his office to visit the landscapes he's helped preserve. (His most satisfying acquisition to date is a Georgia island he has yet to visit.) But he's an enthusiastic outdoorsman as a winter hike here on Mason Neck well indicates.

A jaunty beret on his head and field glasses swinging from his neck, Mr. Richards strolls across the iced-over marsh and into the woods, checking tracks in the snow and training the glasses on birds that wing by. "Boy, isn't that great!" he exclaims, focusing in on a flying woodpecker—red and white and black against the sky. Still watching, he quips: "Look at that body!"

He studies a distant treeline, the last known nesting area of the bald eagle on this stretch of the Potomac. (The marsh and nesting area, part of the acreage acquired by the Conservancy, will soon be a Federal wildlife sanctuary.

U.S. SCHOOL EXECUTIVES HONOR DR. KIRBY P. WALKER

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. GRIFFIN. Mr. Speaker, it is a privilege for me to be able to pay tribute in this way to a great Mississippian and a great educator who was honored recently by an assembly of his colleagues. I am referring to the fifth annual meeting of the American Association of School Administrators and the educator is Dr. Kirby P. Walker of Jackson, Miss.

As superintendent emeritus of the Jackson public schools, Dr. Walker can look back on one of the most distinguished careers of service in the history of American education. Last year, this outstanding public servant and teacher retired after 47 years in the field of education, 33 of which were spent at the head of the Jackson city school system.

At the meeting of AASA held in February in Atlantic City, N.J., Dr. Walker was presented that organization's Award for Distinguished Service in School Administration. In making the presentation, Mr. Arnold W. Salisbury, president of the AASA cited not only Dr. Walker's outstanding service to the field of American public education, but to "his unique qualities as a humanitarian."

Mr. Speaker, it is for his wonderful service to Mississippi young people, to his community, his State, and his Nation, that I pay tribute to this man. As a part of my remarks, I include an article which appeared in the Jackson Daily News of February 26, 1970. It follows:

U.S. SCHOOL EXECUTIVES HONOR DR. WALKER

Kirby P. Walker, who retired last year after 47 years as an educator, including 33 as superintendent of the Jackson City Schools, has been presented an award for distinguished service in school administration by the American Association of School Administrators.

He is the first Mississippian to win the award.

The award—an illuminated manuscript—was presented to Dr. Walker by Arnold W. Salisbury, president of the AASA, at the fifth general session of the association at its recent convention in Atlantic City.

It cites his service to education and "his unique qualities as a humanitarian.

Five others receiving distinguished service awards were M. Lynn Bennion, superintendent of the Salt Lake City Schools; John Guy Fowlkes, emeritus professor of educational administration of the University of Wisconsin; Winifred H. Newman, assistant superintendent in charge of elementary schools, Kanawha County Schools, Charleston, W. Va.; Harold Spears, superintendent of the San Francisco Schools; and H. I. Willett, superintendent of the Richmond, Va. Schools.

The Mississippi Association of School Administrators proposed Dr. Walker for the award.

Dr. Walker in December received a lifetime membership in the Southern Association of Colleges and Schools, of which he was president in 1952–53.

The text of the manuscript follows:

"Teacher, administrator, businessman, philosopher, and humorist—a very warm and enthusiastic personality—thus Kirby P. Walker was characterized at the time of his retirement, by an appreciate member of his board of education.

"His career in school administration, spanning 47 years, encompassed the depression years of the 1930's, World War II shortages, building program expansions and integration crises. Under his wise guidance, covering more than three decades, the Jackson Mississippi, Public Schools—largest in the state—rose to increased heights of excellence.

"Especially valued has been his unusual capacity to listen with compassion to the concerns of people in search of reasonable solutions for their problems, believing that people generally are responsive to the weight of fact and logic even though all their concerns may not be resolved or their wishes completely granted.

"Because of his outstanding contributions to the betterment of public education, to the improvement of the profession of the school administration, and because of his unique qualities as a humanitarian, the American Association of School Administrators is pleased to bestow upon Kirby P. Walker this award for distinguished service in school administration.

THE EAGLE SCOUT AWARD

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 9, 1970

Mr. KEITH. Mr. Speaker, on January 14 and February 15 of this year. I had the good fortune to address Eagle Scout courts of honor for two outstanding young men in my district—Mr. Jeff Anderson, of West Bridgewater, and Mr. Kerry Silva, of East Falmouth.

I regret my schedule does not permit me to personally congratulate all such young men who are successful in the Boy Scouts. I am therefore submitting for the RECORD the text of my remarks at both these occasions—largely written by a member of my congressional staff who is also an Eagle Scout. The appearance of these remarks in the RECORD is my tribute to the enduring contribution of the Boy Scouts of America to our national well-being and, specifically, to those young men who attain Scouting's highest honor: the Eagle Scout Award.

My remarks follow:

REMARKS BY CONGRESSMAN KEITH

Scouting has always seemed to me to be one of the best responses to the old saying that "As a twig is bent, so grows the tree." The duties set forth in the Scout oath apply as equally to the duties of a man. The virtues of fairness, honesty, diligence and compassion are needed more today than ever before in our history.

The Scout motto: Be Prepared, is also more appropriate than ever. Scouting prepares a young man to grow in both awareness and character. It recognizes that being truly prepared requires constant growth and development. The recent addition of merit badges for Atomic Energy, Computers, Electronics, Business, Oceanography and World Brotherhood point out Scouting's own development in recent years. These subjects do much to help a young man Be Prepared for today's complex world. Combined with the more traditional subjects of camping, citizenship at home, in the community and nation and the conservation of natural resources, Scouting truly "rounds a guy out." At no time in our history have we needed Scouting's teaching more than we do now.

From their very beginning, Boy Scouts have had a deep and lasting love for Nature—its grandeur and wonders. In this, the Scouts have always known what the rest of the world is just now learning: the great importance of conserving our natural resources. The whole world is finally waking up to the wisdom of the Boy Scouts. Scouting gives a man a lifelong appreciation of our rivers, forests, fields and mountains. As America is among the richest of nations in these resources, the Scouts have done much to make us similarly rich in our appreciation of them. You don't have to be a Boy Scout to love nature and know the importance of conserving it. However, if there had been more of you, we'd certainly have less of a problem now.

We all seem to be hearing more and more about pollution—I certainly am in Congress—about how man will turn his world into a wasteland within the next fifty years if something isn't done now to stop this pollution. And so, scouting may make its greatest contribution to the future through its oldest teaching—a love for nature and its conservation. As various political issues come and go, the always present issue of pollution and the quality of our environment is becoming America's and the World's biggest problem.

As parents, we of the older generation have been listening more than usual to our young lately. This may be in part because they have been shouting more, but also because they are saying some very good things. The young have always been both the hope and the weathervane of tomorrow. We should all be most encouraged by what was reported in my recent newsletter questionnaire. In addition to their concern about education, housing and poverty—concerns we all share—the pollution of our environment received greater attention than ever before. In answering questions about their ideas of the biggest single problem of the future, the quality of our environment was placed amongst those at the top of the list. This certainly gives all of us great hope for tomorrow. But much more than hope, I'm afraid, is needed today.

As I have said, the Scouts have always known about the need for conservation. Just recently we have seen people other than the outdoorsman, scout or long-time conservationist, getting the idea and joining forces. On a local level, the question of pollution is also of greater concern than ever before. You know we New Englanders are fortunate in having some of the most beautiful scenery in the world. The recent oil spillages that have threatened Old Silver Beach, Weymouth Harbor and other parts of the shorelines; the fact that people can no longer even swim in many of our harbors; the ever-increasing amounts of DDT being found in our shellfish; the fewer and fewer areas remaining where one can even dig for clams—these things, affecting all of us, are causing more wide-spread concern about pollution right here at home. We see the last few areas of open space around us being gobbled up by urban sprawl here in southeastern Massachusetts as well as nationwide.

On a national level, fear of pollution is no longer confined to our biggest cities. The average man in the street is being affected by it everyday. The air he breathes is being filled with exhaust fumes and factory smoke. There are fewer woods through which to walk or quiet places to be alone.

So, everyone seems to be catching on to what the Boy Scouts have always been saying.

The President has made the stopping of pollution a "major goal" of the Seventies. For the first time in 20 years: next year's Budget contains more for human resources than for defense spending. Over $10 billion is to be spent to clean up our water supply. The polluters—those in industry and elsewhere—are being called upon to pay much of the cost of this effort. As the President said in his recent State of the Union Message: "It is time for those who make maximum demands of society to make some minimum demands upon themselves."

We in the Congress have also been most active in this area. We have taken several important steps just this year. Last month we agreed to spend more than $800 million to start cleaning up our water supply. We have set up a Cabinet-level Council on Environmental Quality to work with the President on this whole problem. We will soon have new and tougher laws against the kind of oil spills that have occurred here. We are also cracking down on the boating sewage that is fouling our lakes and harbors.

State Governors from around the country are starting to join us in this fight. Here in Massachusetts, Governor Sargent has announced an ambitious new program to both save the state from further pollution and clean up what has taken place.

These are just the first shots in our long and bitter war against pollution.

I'm sure that you in Scouting have shared my own great frustration with those who have merely taken the beauty and natural resources of this country for granted.

Times are changing in this and those who are just waking up will look for guidance to those who have long been in the fight against pollution. I know the Boy Scouts will do their share. I'm also confident the Eagle Scouts will be the leaders in the conservation movement they have been in scouting. And so, I salute all of you in scouting—from Tenderfoot to Eagle. I hope that we in the Congress will accept the challenge that your examples have given us. And I hope, too, that all of you will continue to encourage other young men to join the Scouting movement—and upon joining, they will seek to win the Eagle Scout Award. By so doing you will all continue Scouting's great tradition of making our world a better place in which to live.

VA SEEKS RECORD BUDGET

HON. CHARLES M. TEAGUE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. TEAGUE of California. Mr. Speaker, following the generally excellent statement of VFW Commander in Chief Raymond Gallagher before the

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House Veterans' Affairs Committee on the morning of March 10 in connection with the VFW's 1970 conference in Washington, D.C., I indicated to him that certain of the remarks might well be taken to indicate a belief on his part, and on the part of his organization, that the administrations of Presidents Kennedy and Johnson had a very generous record in the field of veterans' affairs while the Nixon administration was cold and penny-pinching in these matters.

I was pleased that Commander Gallagher asserted unequivocally that his criticism of VA medical program funding also could be leveled against previous administrations. In fact, he stated forcefully that there was "no question about it."

This setting of the record straight is absolutely necessary if the Congress and the House Veterans' Affairs Committee itself is to meet the challenge of improving the VA hospital system after a long period in which spiraling costs have burdened a fine system and made the delivery of quality medical care more difficult to perform for the dedicated doctors, nurses, and administrative personnel who staff what I consider to be the finest hospital system in the world.

I think it important that Congress, the public and veterans and their families understand what is being done today to insure that our veterans will receive medical care that is second to none. Donald E. Johnson, Administrator of Veterans' Affairs, spoke to the VFW Department Service Officers Conference a day or two ago. These are the VFW men in the field who are helping veterans and their families and who are doing an outstanding job.

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Administrator Johnson has held office now for just over 8 months. His statement, portions of which follow below, outlines some of his accomplishments during this brief period. I think Don Johnson is doing a conscientious job for our veterans—and he has just begun. With the cooperation of all who are sincerely and primarily concerned with advancing the interests of veterans we can look for much progress in the months and years ahead.

Mr. Speaker, I submit for the RECORD, portions of Administrator Johnson's report to the National Conference of Department Service Officers of the Veterans of Foreign Wars of the United States, meeting in Washington, D.C., on March 11, 1970:

REMARKS OF VA ADMINISTRATOR DONALD E. JOHNSON

Commander-in-Chief Ray Gallagher, National Rehabilitation Service Director Norm Jones, distinguished National Officers, Department Service Officers, members and guests of the Veterans of Foreign Wars of the United States:

Please permit me to touch briefly on some of the highlights of the Veterans Administration budget which the President has requested for Fiscal Year 1971.

I think it is appropriate that I do so at this conference. Granted the indispensable importance of personal concern and compassion and dedication, by you members of the VFW, and by our employees in the Veterans Administration, money is still needed to make the wheels of service to veterans go 'round.

To begin with, the $8.635 billion in total VA appropriations which the President requested is the most money ever sought for veterans in the history of the nation. It is $347 million more than the appropriations for the Veterans Administration in the current fiscal year. Translated into specifics, this budget, if approved by the Congress, will provide: compensation payments totaling $31 billion to 2.5 million veterans and survivors of deceased veterans for service-connected disabilities and death; pension payments totaling $2.3 billion to 2.3 million disabled veterans and veterans' widows and children in financial need; combined compensation and pension payments in FY '71 will be up more than $142 million over the current fiscal year; increased education and training assistance for 1.5 million veterans and 68,000 sons, daughters, widows and wives of deceased or seriously disabled veterans, with readjustment benefits being increased by $139 million.

The $1.702 billion requested for the VA hospital and medical care program in fiscal '71 is also the highest appropriation request in the history of VA medicine. This sum is $160.5 million more than the original appropriation requested for VA medicine in the current fiscal year, and almost $281 million more than for fiscal 1969. This record budget, if approved, will add a number of pluses to the VA medical care picture. One concerns VA hospital construction. Following on the heels of an appropriation of less than $8 million in fiscal 1969, and the government-wide moratorium on most construction projects this year, we have asked for $59 million for construction in the next fiscal year. Coupled with unexpended funds carried over from this year, this request will enable us to obligate $120.4 million for construction in fiscal '71, thus assuring the largest volume of VA construction placed under contract in 21 years.

Of more immediate interest . . . is the approval which the VA received just last week to ask Congress for another $15 million to become available in the quarter starting this April 1. Some $9.8 million, or almost two-thirds of the approved amount, will be earmarked for our dental outpatient program. We will be able to complete 50,000 additional fee examinations and 45,000 more treatment cases . . . reducing our workload to a normal operating level considering the present, unprecedented demands. Another $3 million will go for specialized medical services. In a word, instead of waiting until the next fiscal year, this money can be devoted to fully staffing specialized units, including pulmonary function, alcoholism treatment, day hospital treatment and speech pathology units, as well as another spinal cord injury center, plus more than 600 coronary and intensive care beds.

Some $200,000 will help us beef up the staffs at our six existing spinal cord injury units by 71 full-time employees; $1 million will go into the home dialysis program, and another $1 million will help meet increased demands for drugs and medicines.

CAMPAIGN GM—II

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. ROSENTHAL. Mr. Speaker, on February 24, 1970, I included in the Extensions of Remarks of the RECORD an account of Campaign GM, an effort of the Project on Corporate Responsibility to engage the active participation of the General Motors Corp. in the issues of mass transit, air pollution, auto safety, and general corporate responsibility for its behavior in the economic and political societies in which it operates and which, to an important extent, it dominates.

Campaign GM submitted to General Motors a series of resolutions for consideration at the corporation's May 22, 1970, meeting. The organizers of the campaign are stockholders in the corporation as evidence of their willingness to abide by the rules of the corporate system in which General Motors operates.

Unfortunately, General Motors Corp. has flatly rejected the initiative of these stockholders as the following statement by the Project on Corporate Responsibility indicates. I am disturbed by this development which seems to reflect an unwillingness by General Motors to take proper account of a rising indignation by the public, including corporate stockholders, at the social and political irresponsibility of many elements of American business.

The statement of the Project on Corporate Responsibility follows:

STATEMENT BY CAMPAIGN GM, MARCH 5, 1970, WASHINGTON, D.C.

During the past few weeks the Project on Corporate Responsibility, a General Motors' shareholder, asked General Motors to give its shareholders an unprecedented opportunity to vote on nine proposals involving corporate decisions of vast importance.

Monday morning, we received General Motors' answer—management flatly rejected each of the proposals. In more than 300 pages of materials—including 71 pages of legal memoranda and more than 250 pages of what it calls "exhibits"—management declared that issues like air pollution and auto safety are no concern of shareholders.

Today we are taking the highly unusual step of releasing our opponents arguments to the press. We do so because General Motors has failed to go directly to the public itself. Reporters who have asked General Motors for these documents have so far been unable to get them. Management apparently continues to believe that it runs a private government where decisions of national importance can be made behind closed doors. Living in remote cubicles of power these decision-makers have become isolated and stale, their decisions unresponsive to public needs. We intend in this campaign to throw open those doors of power and expose the men who live there to the sunshine of public debate.

Shareholders, they say, can vote on complicated financial issues which practically no one understands—but not on corporate decisions which people really care about, such as safe cars and clean air. General Motors has been content to mesmerize its stockholders with the illusion of corporate democracy. For instance, in an unflagging reaffirmation of its faith in the common stockholder, the company annually submits the name of its corporate accountants for shareholder approval. In 1968, the Corporation submitted the following proposal for shareholder approval: to "Amend charter to provide limited waiver of right to subscribe to convertable obligations—for possible foreign financing." But now, the company refuses to submit a proposal which says that nothing the Corporation does shall be detrimental to the public health, safety or welfare, or violate any laws. Clearly General Motors is threatened by the possibility that, for the first time in its corporate history, stockholders will express an opinion on matters which really count.

In its materials, General Motors does not deny that it could allow shareholders to vote on these proposals. Clearly they could, if they wanted. They chose instead to omit the proposals and then to contend that neither state nor federal law can force them to let shareholders vote on these proposals. In effect they say that there is no Voting Rights Act for shareholders. They may or may not be right. The laws have not been fully tested. We do not think much of the largest corporation in the world thumbing its nose at its owners and saying—look, we don't have to let you tell us what you think. No congressman, no senator, indeed not even President Nixon could say that to the public. Most of management's response strikes us as the long-winded work of high-priced lawyers from the best law schools who want to impress their clients and frighten their opponents with the sheer mass of paper, and their familiarity with corporate jargon which has worked in the past to secure their clients from public accountability.

But we are not impressed. We know about this junk. We all came out of the same legal community as General Motors' lawyers before taking our present jobs. We intend to fight in every available forum for the right of shareholders and the public to have an effective voice in making corporate policy.

Today, we are privileged to announce that Mr. Abraham Pomerantz of New York, one of America's leading advocates of shareholder rights, has agreed to represent us in this legal struggle. He will be assisted by our Washington counsel, Professor Donald E. Schwartz of the Georgetown University Law Center. (Ironically, General Motors' lawyers have referred to a book co-authored by Mr. Schwartz, *Manual for Corporate Officers*, in their memorandum.) They will be assisted by a team of lawyers in New York and in Washington. All of these lawyers have agreed to represent us free of charge because they share our view that these issues are so important that they must be litigated, and that public minded efforts such as ours cannot be discouraged for lack of available legal talent.

We have asked Mr. Pomerantz and Mr. Schwartz to begin negotiations with the Securities and Exchange Commission in an effort to require General Motors to include these proposals in its shareholder materials. These discussions are currently underway, and we hope they will soon be resolved. In the event the SEC does not require General Motors to include the proposals, our lawyers are prepared to take these issues to court. If need be, we will seek an injunction to postpone the May 22d shareholders meeting until these issues are resolved.

PROJECT ON CORPORATE RESPONSIBILITY,
Washington, D.C., February 17, 1970.

Mr. GEORGE W. COOMBE, Jr.,
Secretary, General Motors Corp.,
New York, N.Y.

DEAR MR. COOMBE: Enclosed please find copies of six resolutions which the Project on Corporate Responsibility, as a shareholder of record, intends to introduce at the annual shareholder meeting in May. Should management oppose these proposals, we would expect you to include the enclosed 100 word statements in support of the resolutions as is required by law.

These resolutions deal with issues of fundamental importance to the Corporation and the public: air pollution, auto safety, mass transit, car warranties, occupational health and safety, and equal opportunity.

We believe that you are legally obligated to include these resolutions in the proxy materials sent to our shareholders. Certainly, you have the power to do so. It is time that General Motors acknowledge the massive social consequences of its decisions and permit the shareholders, as owners of the company, to participate in making these decisions.

Sincerely,

GEOFFREY COWAN,
For the Board of Directors.

[Submitted by Project On Corporate Responsibility, Feb. 17, 1970]

RESOLUTIONS

Resolved, That General Motors announce and act upon a commitment to a greatly increased role for public mass transportation—by rail, by bus, and by methods yet to be developed.

STATEMENT IN SUPPORT

General Motors is publicly opposed to diverting to public transportation any part of the more than thirteen billion dollars annually generated in automobile-related taxes. While GM lobbies with the government, our cities are being destroyed by too much pollution, pavement, and traffic. With imaginative mass transit, travel would be faster, more convenient, and less costly to society. As the nation's largest transportation corporation, GM should take the lead in helping to develop new modes of mass transit.

Resolved, That, by January 1, 1974, all General Motors Vehicles be designed so as to be capable of being crash-tested—front, rear, and side—against a solid barrier at sixty miles per hours, without causing any harm to passengers wearing shoulder restraints.

STATEMENT IN SUPPORT

The National Highway Safety Bureau has already crash-tested domestically-manufactured vehicles with "marked modifications" at forty-seven miles per hour, without harming passenger, according to Robert Carter, chief of the Vehicle Structures Division. These cars, with much-strengthened frames, are not immediately marketable because of lead time required for design, Carter says. But the technology exists, and Carter expects successful tests at sixty miles per hour within one year. General Motors should have developed such a car itself. Now, it should at least make the necessary modifications on all its cars by 1974.

Resolved, First, that General Motors support and commit whatever funds and manpower are necessary to comply with, the vehicle emission standards recently recommended by the National Air Pollution Control Administration for the 1975 model year; and to comply with these standards before 1975 if in the course of developing the emission controls this is shown to be technologically feasible. Second, that General Motors commit itself to an extensive research program (with an annual budget as large as its present advertising budget of about a quarter billion dollars) on the long-range effects on health and the environment of all those contaminants released into the air by automobiles which are not now regulated by government. These would include, but not be limited to asbestos and particulate matter from tires. The results of this research would be periodically published.

STATEMENT IN SUPPORT

Experts in the National Air Pollution Control Administration consider its recommended standards technologically feasible by the 1975 model year; General Motors should do everything possible to develop the necessary devices, and to make sure they continue to control emissions after 50,000 miles, with one tune-up at 25,000, which their present cars often do not do. But the government's regulations cover only three pollutants—hydrocarbons, carbon monoxide, and oxides of nitrogen. General Motors is not known to have spent anything studying potentially serious pollutants not regulated by the government like asbestos, and tire particulate matter. GM should start regulating itself.

Resolved, That first, the warranty for all General Motors cars and trucks produced after January 1, 1971, be written to incorporate the following:

(1) General Motors warrants that the vehicle is fit for normal and anticipated uses for a period of five years or 50,000 miles, whichever occurs first.

(2) General Motors will bear the cost of remedying any defects in manufacture or workmanship whenever or wherever they appear, for the life of the vehicle. Neither time nor mileage limitations nor exclusions of successive purchasers nor other limitations shall apply with respect to such defects.

(3) General Motors accepts responsibility for loss of use of vehicle, loss of time, and all other incidental and consequential personal injuries shown to have resulted from such defects.

Second, General Motors raise its reimbursement rates to dealers on warranty work, making them competitive with other repair work.

STATEMENT IN SUPPORT

Inevitably, some cars are so bad that replacing parts won't help. At present, GM bears no responsibility for such "lemons." Under (1) GM would replace these cars. (2) and (3) are revisions of present warranty provisions, aimed at relieving the heavy burden now imposed on car owners through no fault of their own. The second part, on raising reimbursement rates, would make dealers less reluctant to take on warranty work than a 1968 FTC staff report indicates they now are.

Resolved, That General Motors undertake to monitor daily the in-plant air contaminants and other environmental hazards to which employees are exposed in each plant owned or operated by General Motors; that the Corporation report weekly the results of its monitoring to a safety committee of employees in each plant; that if such monitoring discloses a danger to the health or safety of the workers in any plant, or in any part of a plant, the Corporation shall take immediate steps to eliminate such hazard, and that no employee shall be required to work in the affected area so long as the hazard exists.

STATEMENT IN SUPPORT

For the most part, General Motors has been an industry leader in providing health and safety mechanisms to its employees. But often the need for safety improvements has been subordinated to the Corporation's concern for production and profit. To date, GM has given too little consideration to the affects of in-plant air contamination which may harm both workers and the immediate community near the plant. Employees must be informed of potential hazards in order to take effective action to help prevent or eliminate them. If adopted, this resolution will enable employees to participate directly in alleviating these health hazards.

Resolved, That General Motors take immediate and effective action to allot a fair proportion of its franchised new car dealerships to minority owners; furthermore, that General Motors act to increase significantly the proportion of minority employees of General Motors in managerial and other skilled positions.

STATEMENT IN SUPPORT

As of January, 1970, GM had seven nonwhite dealers out of an estimated 13,000. GM would have to increase this number sixtyfold—to over 400—to achieve the ratio of nonwhite businesses to all U.S. businesses. A fair proportion would be larger still—perhaps approximating the percentage of nonwhites in the population. Also, while GM in recent years has hired many more nonwhites proportionately than before for unskilled and semi-skilled positions, its record in skilled and managerial jobs remains poor. The most recent public study indicates that in 1966 GM trailed both Chrysler and Ford in these categories.

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ISRAEL'S DEFENSE NEEDS

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. RYAN. Mr. Speaker, the administration's delay in reaching a determination as to the sale of jet aircraft to Israel is of increasing concern. The delay would appear to indicate that there is some question within the administration as to whether to respond affirmatively to Israel's request.

During his January 30 news conference, the President promised to make a decision "within the next 30 days." Yet, on March 1, the White House announced that no decision had yet been reached and that, according to an article appearing in the March 2 edition of the New York Times by Peter Grose, "all the options were before the President for a thorough review of the Arab-Israeli strategic balance." Still no decision has been forthcoming.

House Concurrent Resolution 511, in which I joined on February 18, calls upon the President to consummate the sale to Israel of the jets. While I have full confidence in the brilliant ability of the Israelis to defend themselves and to employ their strategic and military expertise expertly in defense of their very existence, I believe that Joseph Alsop, in his column in the March 11 edition of the Washington Post, states the case well and concisely:

> By shining courage and tremendous skill in combat, the Israelis today enjoy air superiority. But that cannot endure indefinitely, as the stock of aircraft dwindles . . .
>
> If Israel ever loses air supremacy, furthermore, all will be lost against the numerically superior Arabs. So the refusal the President is mulling over, if persisted in, amounts to a sentence of death at long term.

An immediate and affirmative response by the President is necessary to help insure Israel's survival.

Mr. Alsop's column follows:

[From the Washington Post, Mar. 11, 1970]

ISREAL'S CONTINUED SURVIVAL THREATENED BY SOVIET UNION

(By Joseph Alsop)

Unless the President's present inclination is changed by new developments, he will end by refusing to permit Israel to buy the American aircraft that Israel needs for survival.

As any Nixon-watcher can imagine, the refusal, if it comes, will surely be blurred. There will be a promise of a later review of the question. Or there will be an assertion that the planes are not needed immediately, but may be provided later if this is necessary to maintain a "reasonable military balance in the Middle East." But the betting is on a refusal, at least for now.

The sick climate causing the President to incline to turn down the Israeli request, has already been analyzed in the last report in this space. It remains to be seen why Israel's very survival will be endangered if the President sends a "no," however prettily wrapped up, to Prime Minister Golda Meir. There are two aspects, here.

First of all, few people in this country understand the vital importance to Israel of the forward policy of deep air penetrations, particularly over Egypt, that Israel adopted some time ago. This was, quite simply, the only possible response to Gamal Abdel Nasser's intoxicated proclamation of a "war of attrition."

Even in its first, more costly phases, the losses inflicted on Israel by Nasser's "war of attrition" seemed trivial to people in America. But it must be remembered that for little Israel, a weekly toll of 20 men on the Sinai front is precisely equivalent to a weekly toll of 1,800 Americans killed in combat.

If we had to choose between losing 1,800 men a week, or adopting a forward military policy against a hate-swollen enemy, we should not hesitate for an instant. That was the true nature of Israel's choice. The forward policy has also succeeded, reducing the losses from the supposed "war of attrition" to near zero.

Yet the forward policy also inflicts its own inevitable but quite different attrition—on Israel's slender stock of first class fighting planes. By shining courage and tremendous skill in combat, the Israelis today enjoy air supremacy. But that cannot endure indefinitely, as the stock of aircraft dwindles.

Hence, Golda Meir asked permission to buy more Phantoms and Skyhawks—a pitifully small number—in order to be sure of having a sufficient stock of aircraft a year and more from now.

If Israel ever loses air supremacy, furthermore, all will be lost against the numerically superior Arabs. So the refusal the President is mulling over, if persisted in, amounts to a sentence of death at long term.

As to this dark and tragic matter's other aspect, it concerns the Soviet role in the Middle East. The Arabs, it must be understood, are not the enemies Israel mainly needs to worry about. The real threat to Israel's survival is the Soviet Union.

By now, to begin with, the proof is clear that the Soviets were the sole instigators of the Six Day War. Nasser made the threatening moves that directly caused the war. But the puppet, Nasser, only moved because of false Soviet encouragements and grossly fabricated Soviet intelligence reports. These were motivated, in turn, by a wildly incorrect Soviet estimate of the Middle Eastern balance.

When the six day war ended, a true peace was within Israel's grasp. No doubt Israel did not grasp for peace as boldly as was desirable. Yet it was the Soviet Union which hastened to destroy all the conditions which made peace possible.

Like someone blowing poison gas into discarded balloons, the Kremlin re-inflated the Arabs militarily and politically. The Kremlin also approved Nasser's first breaches of the U.N. cease-fire—which Israel would still like to restore. And the Kremlin, once again, was certainly a party to the final, flagrant denunciation of the ceasefire as a deadletter, and the simultaneous declaration of the "war of attrition."

Today, moreover, the Kremlin is still pondering exactly how to deal with the success of Israel's forward policy. Nasser is already getting far more Soviet arms. But the Kremlin may go still further, beginning direct Soviet involvement in the fighting, by partly or entirely taking over Egypt's air defense.

If we ever see this particular thin end of the wedge, the peril to Israel will be dreadful indeed. Yet the policy of weakness, which the President is now thinking about, will actually invite Soviet insertion of the thin end of the wedge.

For the long pull, in fact, it is a matter of life or death to make the Soviets realize they are playing a deadly dangerous game. And that can only be accomplished by American strength and firmness, which we now need to show, to serve our own hard national interests.

FOR SPEEDY TRIALS, AGAINST UNLIMITED PREVENTIVE DETENTION FOR THE DISTRICT OF COLUMBIA

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. MIKVA. Mr. Speaker, the House will soon be called upon to consider the District of Columbia Court Reorganization and Criminal Procedures Act of 1970. That bill contains a number of so-called anticrime provisions of doubtful constitutionality and wisdom. By far the most doubtful on both counts is preventive detention.

I will offer an amendment when the bill, H.R. 16196, is considered on the floor of the House in order to insert a requirement for speedy trials in the District of Columbia, thus reducing the need for radical measures such as preventive detention.

Moreover, because preventive detention turns around the traditional presumption of innocence, historically so important a part of our criminal jurisprudence, and says in effect as to certain defendants "you are guilty until proven innocent," I believe we must limit our use of pretrial detention as much as possible. As we know, pretrial detention—denial of bail—is already possible in capital cases. My amendment will limit the sweeping preventive detention provision in the committee bill to coverage of only the most dangerous defendants—narcotics addicts, probation and parole violators, and defendants who threaten witnesses and jurors.

Because I did not have an opportunity to testify before the District of Columbia Committee or its subcommittees while preventive detention was being considered—although I requested such an opportunity—I would like to explain here the constitutional and public policy rationale against unlimited preventive detention and in favor of my amendment: Speedy trials and limited pretrial detention for only the most dangerous defendants.

THE COMMITTEE BILL

The subject of how most effectively to control crime by defendants released prior to trial is, indeed, a difficult one. I have read the committee bill H.R. 16196; I have read the Department of Justice's legal memo in support of preventive detention; I have read the Supreme Court cases interpreting the eighth amendment and discussing the role of bail and pretrial release in our criminal justice system. There is absolutely no question in my mind that preventive detention could never survive judicial scrutiny on constitutional grounds. To be entirely frank I am not even certain, based on the Court's decision in *Stack* v. *Boyle*, 342 U.S. 1 (1951), that provisions of the existing Federal Bail Reform Act can pass constitutional muster. As the Court said in that case:

> The right to release [not to bail, to release] before trial is conditioned upon the

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> accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty . . . Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is "excessive" under the Eighth Amendment. (342 U.S. at 4–5.)

If assurance of appearance at trial is the only basis on which bail may be set, and if an amount in excess of what is required to provide such assurance is constitutionally unacceptable, then a fortiori, a restriction on a defendant's release prior to trial which goes even beyond setting of excessive bail would be unconstitutional.

CONSTITUTIONAL ARGUMENTS

A. THE EIGHTH AMENDMENT

It is difficult for me to understand how any lawyer who has read the case of Stack against Boyle could argue that preventive detention is constitutionally permissible. Perhaps the author of the Justice Department's memo did not read that case, since the memo relies primarily on a civil case relating to deportation of aliens—persons not even citizens of the United States, *Carlson* v. *Landon,* 342 U.S. 524 (1951). The Justice Department memo makes only one passing reference to Stack against Boyle, the controlling precedent interpreting the eighth amendment.

As to the appropriateness of inferring the need for high bail from the nature of the offense or the fact of indictment, the Court said "To infer from the fact of indictment alone a need for bail in an unusually high amount is an arbitrary act. Such conduct would inject into our own system of government the very principles of totalitarianism which Congress was seeking to guard against in passing the Smith Act under which the petitioners have been indicated." 342 U.S. at 6.

B. THE ERRONEOUS ASSUMPTION

Buried in the middle of a paragraph on page 2 of the Justice Department memo is a sentence which contains the crux of its constitutional argument on preventive detention. The memo asserts:

> It is only reasonable to conclude that anticipated danger to other persons or the community was a substantial motivating factor in making these dangerous offenses, non-bailable.

Such a conclusion may be reasonable, but historically and constitutionally it is unfounded. Prospective danger of a released defendant has never been a part of the rationale of bail. The Court made this clear in Stack against Boyle, as do other cases to which I might call the subcommittee's attention. I have a legal memo in rebuttal to the Justice Department's memo which contains references to these cases clearly setting forth the rationale of bail.

C. THE DUE PROCESS CLAUSE

There are several reasons why the proposed preventive detention violates the fifth amendment's guarantee of due process of law. First, in the absence of statistics demonstrating the incidence of crime by defendants released prior to trial, it is impossible to show a rational connection between detention of certain defendants and the danger sought to be protected against. In the second place, the bill permits detention for some crimes, or alleged crimes, which are neither violent nor dangerous. Finally, since a pretrial determination would, in effect, be a small trial in which the judge must consider the likelihood of the defendant's guilt, any such procedure which did not meet the constitutional prerequisites for a guilt-determining procedure—that is, a jury trial—would violate due process of law.

The cases which the Justice Department memo cites to prove the due process acceptability of preventive detention are all inapposite. The central objection to attempting to import preventive detention into our system of criminal justice is that it is totally at odds with the basic tenet of that system—that we rely on the threat of the criminal sanction to deter crime. Preventive detention, by contrast, relies on prior restraint to prevent crime. The cases which the Justice Department cites are all situations in which the deterrent effect of the criminal law is no longer a consideration—such as when the defendant is insane, when he has already been convicted, when he has made threats against witnesses or jurors, and so on.

D. PRESUMPTION OF INNOCENCE

The Justice Department memo gives the presumption of innocence short shrift as "simply a rule of evidence." In fact, the presumption of innocence is far more than a rule of evidence; it is the spirit which underlies the entire system of American criminal justice; it is the cardinal principle of Anglo-Saxon jurisprudence. Not only would pretrial detention of accused defendants violate his right to assist in preparation of his defense, it would change the whole nature of our system of criminal procedure. It is hard to think of a principle which is more basic to that system than the idea that a man is not jailed until he is convicted by a jury of his peers.

Perhaps the layman's view of how our legal system works is more helpful here than the nice distinctions of the lawyer. Ask the man on the street what separates the American legal system from that of totalitarian societies. He will tell you, "It's because under our system a man is innocent until he's proven guilty; he can't be sent to jail until a jury finds him guilty." Thus, the presumption of innocence is far more than "simply a rule of evidence." As the Supreme Court has noted, preventive detention "would inject into our own system of government the very principles of totalitarianism which Congress was seeking to guard against in passing the Smith Act." The way we determine that a man must be put in jail under our system is called a jury trial; it is not a pretrial determination by an official of the State, based on fragmentary evidence about the man and the act of which he is accused.

But as fundamental to our system as the presumption of evidence has always been, the Justice Department bill reduces it to "simply a rule of evidence"; and then it goes even further and abolishes even that rule of evidence as to certain defendants. That is quite an accomplishment for one bill.

The Supreme Court summarizing nearly two centuries of Federal law has said, and the present Federal Rules of Criminal Procedure, approved by Congress, now say:

> A person arrested for an offense not punishable by death *shall* be admitted to bail. Rule 64(a)(1) (emphasis added).

This is certainly more than "simply a rule of evidence."

Moreover, once preventive detention was established it would generate a momentum of its own which would erode the presumption of innocence even further. The judge faced with the necessity of making a determination on whether to release a defendant prior to trial would never know when he erred on the side of overcaution and incarcerated a man who would not have been dangerous if released. But every time a judge released a man that did commit another crime, he would hear about it. Thus the temptation would gradually become overpowering to always err on the side of overcaution, to always put a man away if there was the slightest doubt. After all, if a released defendant commits a crime, everybody screams—the public, the newspapers, the police. But when a nondangerous defendant is sent to jail before his trial, so the judge can protect himself from criticism for being too lenient, the only people who scream are the defendant, his family, and his lawyer.

Thus to enact preventive detention is not merely to contravene the presumption of innocence for a single time and for a limited group of defendants. It is to promote a revolution in the very nature of our criminal justice system.

THE PUBLIC POLICY ARGUMENTS

There are, of course, a number of reasons beyond the constitutional reasons that make preventive detention a bad policy. In the first place, if we were to recommend this device, and Congress were to enact it, we would have done so without the hard empirical evidence which one needs to justify so fundamental a change. Attorney General Mitchell has admitted that no one has accurate statistics on the incidence of crime by defendants released prior to trial. The constant resort to "commonsense" or "the experience of experts" simply covers up the absence of statistical data to tell us how serious a problem we are dealing with.

Then there are all the practical considerations, obstacles of time, manpower and facilities. The procedures in the committee bill might well require separate bail determinations and preventive detention determinations, for the simple reason that the information necessary to make a preventive detention determination would not be available soon enough to allow the defendant to be brought before a commissioner "without unnecessary delay," as required by rule 5 of the Federal Rules of Criminal Procedure. Thus there would be two hearings instead of one. Untried defendants detained prior to trial might well have to be kept in separate facilities to meet constitutional requirements, assuming that detention is allowed at all. Even if they were not, they would further overcrowd already overloaded jails and lockups. The additional administrative burdens on courts, bailiffs and mar-

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shals—for which no provision is made in the bill—would be enormous. Moreover, the bill would allow detention for only 60 days. With no provision for implementing or even encouraging speedy trials, 60 days protection is as good as no protection since the defendant probably would not be brought to trial in that time anyway, even if his case were given priority.

Two examples which I culled from recent news reports will serve as instructive examples. A recent Philadelphia Inquirer article noted that a man arrested on January 23, 1969, for stabbing a victim was released on $2,000 bail. In November, 10 months later, he was again arrested for another stabbing. The police and the editoralists point to this as an example of where preventive detention is needed. But the Committee bill would have provided no protection here. That bill allows detention for up to 60 days. In Philadelphia, as in almost every jurisdiction in the country, it is impossible to bring a criminal case to trial in 60 days. With no specific requirements for speedy trials, 60-day detention will not provide any more protection than no detention. But speedy trial and a bail system with sufficient resources to administer it properly would.

A much reported case recently told of a man who was charged by neighborhood children of having placed razor blades in the apples he gave them on Halloween. The judge said to the defendant:

> We should put people like you in jail and throw away the key.

If that judge had had preventive detention at his disposal, he probably would have put that defendant in jail and thrown away the key—at least for 60 days. The catch is that it later turned out that the story had been completely fabricated by the children. But the judge did not know that, and he would not have known it at the time a preventive detention determination needed to be made. That kind of experience would become a commonplace if preventive detention was a part of our legal system.

But the most compelling "practical" consideration to me is related to the constitutional objections I voiced earlier. If we enact a scheme for preventive detention, I have absolutely no doubts that within 2 years—or however long it takes a case to get to the Supreme Court—we will have to start over again to deal with the problems of pretrial crime. In other words, preventive detention will last about as long as it takes a case challenging it to reach the Supreme Court. When that happens, 2 or 3 years hence, we will have to start all over again without being one whit the wiser about how much pretrial crime there is, what are workable ways to solve the problem consistent with the Constitution, or how we can speed the trial of criminal cases.

In my opinion we can use that 2 or 3 years much more valuably. We can insure that we have data at the end of that time. We can take concrete steps to help control pretrial crime. And we can do all this in a way which deviates far less than preventive detention will from what we already know is constitutional.

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AMENDMENT TO COMMITTEE BILL

The basic problem which the committee proposal for preventive detention tries to solve is the unconscionable delay between a criminal defendant's arrest and his trial. This extended period between arrest and trial—between crime and punishment—has two harmful effects. First, it destroys almost entirely the deterrent effect of the criminal sanction, the very effect which we have traditionally relied upon to protect us against antisocial behavior. Second, the long delay between arrest and trial exposes society to the danger which a guilty defendant may present for an extended period, not days or weeks, but months and years.

The primary means which we should rely upon to remedy this fundamental defect in the functioning of our criminal justice system is a congressionally mandated requirement for speedy trials. Such a system would not only implement the sixth amendment's express guarantee of a speedy trial, it would help to provide Congress with the information we need to begin furnishing adequate resources to the District of Columbia courts. I will offer an amendment when H.R. 16196 is considered on the floor to establish a workable system of speedy trials, make some small substantive changes in the bail procedures in the committee bill, and narrow the coverage of preventive detention.

SPEEDY TRIAL

The amendment will establish a workable system of time limits within which criminal defendants in Federal courts would have to be tried. It would phase these limits in over a period of 18 months, and would at the same time require the District of Columbia courts to formulate plans to meet the time limits established. The limits for crimes of violence would be 60 days; for all other crimes 120 days. The limit for violent crimes would apply to all informations and indictments filed more than 6 months after the effective date of the District of Columbia Court Reorganization Act; the limit for all other crimes to those filed more than 12 months after such effective date. The effective date for speed trial requirements could be suspended by the Judicial Conference at the request of the chief judge of the court concerned. Such request, a copy of which would go to the Attorney General, would specify the additional personnel and other resources necessary to make compliance with the time limits possible. Within 12 months of the effective date of the act, the Judicial Conference would be required to submit to Congress a recommendation covering additional authorizations and appropriations required for full compliance.

The sanctions on which the scheme relies are citation for criminal contempt in the case of the defendant and/or his attorney, and dismissal of the case with subsequent prosecution forever barred in the case of the Government.

Thus, the speedy trial amendment provides not only for limits, but for a rational means of adjusting those limits where necessary, and a feedback to Congress which will tell us what is needed to make the limits realistic. We will have the benefit, at last, of a report from the men on the frontlines—the judges, the U.S. attorneys, the defense counsels, the marshals, the probation supervisors, and the rest—of exactly what they need in order to bring criminal cases in the District of Columbia to trial within a reasonable time. This bill relies, then, on restoring what we have allowed to erode away—speedy trials in a system adequately staffed and provisioned to insure that justice is both swift and sure.

LIMITATION OF PREVENTIVE DETENTION

Equally important to insure the constitutionality of provisions to reduce pretrial crime is the limitation of preventive detention. As included in the committee bill, a defendant's "dangerousness" could be considered in setting pretrial release conditions no matter who the defendant was, what his previous record was, or what relation the finding of dangerousness had to other factors making the defendant a bad risk of flight. The importance of tying "dangerousness" determinations to risk of flight determinations is that we know that risk of flight is a valid constitutional ground for imposing restraints on a defendant's liberty. On the other hand, prospective "dangerousness" has never been a part of the rationale of bail, either historically or constitutionally. My amendment would, therefore, limit the consideration of a defendant's "dangerousness" in setting pretrial release conditions to those characteristics which also make the defendant a bad risk of flight. As any judge knows, many of the same factors which make a man likely to flee also make him dangerous. My amendment would say that to the extent that "dangerousness" factors and "risk of flight" factors overlap, they may both be considered.

More important, my amendment would limit the all-inclusive sweep of the committee's preventive detention proposal. The committee bill applies preventive detention to: First, all defendants accused of dangerous crimes; second, violent crime second-offenders who are dangerous; and third, defendants who threaten witnesses or jurors. My amendment would limit preventive detention coverage by eliminating the first group—those accused of "dangerous" crimes—by limiting the second group to probation and parole violators charged with violent crimes and found to be "dangerous." The third group—juror and witness threateners—would still be covered.

In addition, under other provisions of the committee bill which my amendment would not change, narcotics addicts could be preventively detained for treatment, and all defendants released prior to trial would be subject to supervision and control of the District of Columbia Bail Agency. This latter provision for supervision of defendants during pretrial release means that for the first time in the District of Columbia, there will be some way to make really effective the conditions on pretrial release which judges impose on defendants—conditions which may include such restrictions as return to custody after certain hours.

Thus while the committee bill offers sweeping preventive detention and no guarantee of speedy trials, my amendment would guarantee that violent crime defendants are tried in a maximum of 60 days, perhaps much less; that they would be subject to supervision during the entire period of their release; and that narcotics addicts, probation and parole violators, and defendants who threaten jurors and witnesses can be preventively detained with appropriate procedural safeguards.

That is essentially the choice: sweeping preventive detention with no guarantee of speedy trials, or express speedy trial requirements with limited preventive detention directed at especially dangerous defendants.

RECOMMENDATIONS OF THE PRESIDENT'S CRIME COMMISSION

In 1966 the President's Commission on Law Enforcement and Administration of Justice completed what is probably the most comprehensive and thorough survey of our criminal justice system and its problems now in existence. In that report and its related task force reports, the President's Crime Commission discussed in detail the arguments for and against preventive detention. It specifically did not recommend instituting preventive detention. Instead it said:

> An intermediate position, short of a full system of preventive detention . . . [imposing] conditions on a person's release designed to reduce the likelihood of criminal acts pending trial should be tried. Task Force Report: The Courts, at p. 41.

While noting that such conditions might not prevent crime by persons committed to a life of crime—and we may assume that many of these would be detained anyway as probationers, parolees, or narcotic addicts—it offers great promise with respect to marginal offenders. The report continues:

> And while such conditions are by no means immune from constitutional challenge, they are less likely to be struck down on due process or excessive bail grounds than an authorization to incarcerate on the basis of predicted dangerousness." *Id.*

With respect to the pretrial release supervision such as would exist for the first time under the committee bill and which my amendment would retain—the Commission said:

> Experience with supervised release has been limited. . . . The potential for this method must be further explored. *Id.*

Finally, the Commission said as to speedy trials:

> Obviously an important step in reducing the danger of criminality by released defendants is to shorten the time between arrest and trial.

It may have been "obvious" to the President's Crime Commission, but the committee bill does not even hint at speedy trial. This important step is at the very heart of my amendment.

DISTRICT OF COLUMBIA CRIME COMMISSION RECOMMENDATIONS

In early 1967 the President's Commission on Crime in the District of Columbia made its report to the President. That report discussed at length the problems of defendants released prior to trial and the threat they present to society. It contained the closest thing we have to statistics on such crime—and even these statistics are incomplete. As three members of the Commission pointed out, these statistics demonstrate indisputably that while the rate of violent crime by men released prior to trial may be disturbingly high at 4.5 percent, there is absolutely nothing to indicate that the offense on release could have been predicted. We all agree that crime by persons released prior to trial is undesirable. But preventive detention assumes that it is also predictable. The District of Columbia Crime Commission's statistics show that this is not true for the District of Columbia.

The Commission made five recommendations for dealing with the problems of crime by defendants released prior to trial. Four of those recommendations—the only ones which were made unanimously by the Commission—are covered in one way or another by the committee bill as improved by my amendment:

First, that judges be allowed to consider danger to the community in setting pretrial release conditions;

Second, that additional penalties be provided for crime committed while on pretrial release;

Third, that speedy trials be guaranteed; and

Fourth, that provision be made for supervision during pretrial release and that modification or revocation of release conditions be allowed.

The only recommendation which I believe should be significantly limited is preventive detention, a recommendation made by a divided Commission which admitted the constitutional problems raised. The committee bill, on the other hand, does nothing about speedy trial, but accepts the Commission's questionable recommendation of preventive detention as the principal answer to the problem of pretrial crime. I submit that this is an indefensible reversal of priorities in following the Commission's recommendation. It puts the last recommendation first. It puts the recommendation of a divided Commission before two unanimous recommendations which, if implemented, might well make preventive detention unnecessary. It places principal reliance on a recommendation which is of very doubtful constitutionally over others far less subject to constitutional challenge.

SIGNIFICANCE OF HOUSE ACTION

This problem of what can constitutionally and wisely be done to control crime committed by defendants released prior to trial is not an easy problem, as all who have studied it admit. With only fragmentary or nonexistent data on which to base our decisions, we are asked to provide procedures which may very well change radically the nature of our whole system of criminal justice from what it has been for almost 180 years. I believe that all of us can agree that speedy trials are desirable. I believe that pretrial supervision by the District of Columbia Bail Agency can serve a tremendously useful purpose in providing us with further information on the nature and extent of crime by defendants released prior to trial. The fact is that we just don't have this kind of information now. Moreover, pretrial supervision by the District of Columbia Bail Agency can serve as an experiment in assessing the effectiveness of constitutional pretrial controls.

The issues with which we are dealing here are too important, too fundamental to the kind of society in which we live, to act without examination of all possible alternatives. If a change from the present procedures is necessary, and I tend to believe it is, then that change ought to be as small a deviation as it can be from the procedures which we know are constitutional—and still be effective.

The responsibility which we in this House bear is a heavy one. At issue are procedures and principles which have endured for almost two centuries. Nothing less than the basic policy of the Constitution and the federal government is at stake here. As the Supreme Court said in Stack against Boyle:

> From the passage of the Judiciary Act of 1789, . . . to the present Federal Rules of Criminal Procedure, Rule 46(a)(1), federal law has unequivocally provided that a person arrested for a non-capital offense *shall* be admitted to bail. This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction. . . . Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning. 342 U.S. at 4. (Emphasis in the original)

MORE ON YOUNG AMERICANS IN CANADA

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. KOCH. Mr. Speaker, I continue to receive letters concerning my trip to Canada to learn about draft-age Americans who now live there. I thought it would be of interest to our colleagues to set forth some of the correspondence in the RECORD. Try as we might, this tragic problem cannot be ignored.

The letters follow:

COMMISSION ON INTERFAITH ACTIVITIES,
New York, N.Y., February 19, 1970.

HON. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: I have been following with a great deal of satisfaction the reports in the press, as a result of your recent visit to Canada, where you indicated that it is imperative that there be discussion by Americans of the situation of our young people who have fled there and the reasons for their emigration across the border. Your urging of the end of the war in Vietnam, your advocacy of the ending of the cool draft, your request that there be established a selective conscientious objector provision that would allow men to apply for this status from wherever they may be—prison, Canada or military service—are as courageous as they are necessary and timely. It is unfortunate that the press has identified you almost totally with your concerns for amnesty. Urging legislation for amnesty while the war is still going on and isolating it from your entire report is a distortion which, unfortunately, does a disservice to the logic of your argument.

I write now not only to express my personal support for your position but to encourage you to continue the call to the American people for an open discussion concerning the plight of our young men in Canada. I hope that you receive many such letters of support and that you will not be deterred in your efforts by those who might not see how that what you ask for is to their own individual lives and freedoms.

Sincerely, do I remain.

Rabbi BALFOUR BRICKNER.

THE UNITED CHRISTIAN MISSIONARY SOCIETY,
Indianapolis, Ind., February 19, 1970.

Hon. EDWARD KOCH,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN KOCH: I have read with interest and sympathy your report of a visit to the draft-age young men who have emigrated to Canada to express their opposition to war in general and to war in Vietnam in particular. The problem which you speak of so eloquently is one faced by many local ministers and regional and national church bodies today. Hardly a day goes by when we do not receive letters or telephone calls from ministers indicating that their young men want to seek qualification as a conscientious objector to war or, having been decried this, are considering either refusing induction or possibly emigrating to Canada. Since we are not an historic peace church the expression of this kind of sentiment among our churches is all the more alarming since it indicates that many young men raised in our church are taking their religious faith seriously and indicating that they cannot kill or take part in the machinery of war.

I found your program for ending the war, eliminating the draft, establishing a selective conscientious objection provision in the draft law, and amnesty one which I could support whole heartily. Our denomination passed a resolution in Seattle, Washington last August asking for repeal of the draft, and a year earlier we expressed our judgment that any draft law that was in effect should make provision for selective conscientious objectors. We only recently became involved with the men in Canada through the personal experience of young men of our denomination who have gone there sometimes because they saw no alternative at this time. Whether we agree with these young men or not is hardly the question. The highest authorities in our own denomination have expressed the feeling that we are mandated by our faith to minister to these young men and their families who are here in the United States.

Therefore, we are grateful to you, as a member of Congress, for taking a courageous step in offering a program that provides a way of dealing with this complex problem. Please let us know of any way in which we can be of assistance.

Cordially,

ROBERT A. FANGMEIER,
Director, International Affairs.

OPERATION CONNECTION,
Santa Barbara, Calif., February 17, 1970.

Hon. EDWARD KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: I have read with interest your speech made on Wednesday, January 21, as reported in the Congressional Record.

As an Episcopal bishop, I cannot overstate my gratitude to you for raising the need for sensible dialogue in tackling the growing problem of the exodus from the United States of so many young men. We do not like to think that we produce our own political refugees. Such an idea is an affront to our national ego. It produces, I realize, a reaction which often is very frightening because of its violence and hysteria.

The fact is, however, as you point out in your speech, that an infinitely larger number of young men than is generally realized have sought sanctuary in Canada. Whether we agree or disagree with their reasons, such young men are concerned about the issue of war and peace. Such concern is not likely to be abandoned or ignored. Most young men who go to Canada rather than have any part in what they regard as an immoral war represent some of our best educated potential for achieving a peaceful world. It is a fearsome thought that we think we can do without their contribution to the building of a more civilized society.

I hope that your concern will become reflected in more visits by Congressmen to meet with our young people in Canada. And I hope your concern will help generate much better information about why resisters to the war choose to go to Canada and sacrifice much of the American way of life for their convictions.

Above all, I hope that all of your well-stated proposals to end the war, to bring an end to the draft, and to establish selective conscientious objector provisions allowing men to apply for this status from wherever they may be at the present time, will be thoughtfully and rationally discussed by all concerned Americans.

Sincerely,

Rt. Rev. C. EDWARD CROWTHER.

UNITED CHURCH OF CHRIST, COUNCIL FOR CHRISTIAN SOCIAL ACTION,
February 13, 1970.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: I have read the report of your visit to Canada in the Congressional Record of January 21 and I wish to extend our heartfelt support for what you have done and are doing to help promote a better understanding of the plight in which these young exiles find themselves.

Our monthly magazine Social Action plans to devote its March issue to this important matter, entitled "The New Exodus". I am sure you will find it useful. We will send you a copy as soon as it is available. In the meantime, I am enclosing our February issue which, though dealing with Economic Justice for Blacks, contains a column of mine which attempts to help parents of exiles to understand what their sons have done. If you believe it to be of value, I would appreciate your putting it in the Congressional Record.

Members of my staff have been much interested in the draft exiles in Canada. We accompanied Dr. Robert V. Moss, the President of the United Church of Christ, as part of the visitation made to Windsor, Ontario, by a group of U.S. clergymen for a consultation with Canadian churchmen, sponsored jointly by the National Council of Churches and the Canadian Council of Churches early last December.

I am enclosing, also for your information, positions the United Church of Christ's General Synod has taken on matters related to the draft and selective conscientious objection.

Thank you for your interest and actions in these matters. Please do not hesitate to call on us if we can be of any service.

Very cordially,

LEWIS I. MADDOCKS.

CANADA TRIP

Excerpt: In regard to your Canada trip: As I said before, I am a lieutenant in the Army serving my two years of active duty, however, my sympathies and my ideological leanings are with the people you visited in Canada. I am very strongly opposed to the war in Vietnam and if I had followed the dictates of my conscience, I would probably be with them. I feel that my course was and still is by far the easier one to take. Thus, as you might expect, I was very pleased to hear of your trip to see these people and am completely in accord with your press conference statement, especially in regard to the eventual granting of amnesty. I am disgusted but not really surprised by the volume of hate mail you received on this matter and I wanted you to know that at least one of your constituents (who is in the Army besides) is 100% behind your actions.

Sincerely,

——— ———.

U.S. ARMY TRAINING CENTER,
INFANTRY,
Fort Dix, N.J., January 1, 1970.

DEAR CONGRESSMAN: I have just viewed the evening television news and am elated to have seen an interview in which you put forth your views on the young men who have fled to Canada to avoid fighting in a truly immoral war. At long last someone of the legislative elite has seen fit to first-hand study this problem of conscience and moral conflict and further to intelligently propose a just (and, in fact, the only) solution. It is apparent that these emigrants had no alternative other than to follow the sagely advice of Albert Einstein who once said, "Never do anything against conscience, even if the state demands it."

As an American citizen, a member on active duty in the Armed Forces, and as an individual who heavily weighed all the alternatives to conscription, I wholeheartedly agree with your proposal and will, in turn, write to my own Congressman in an effort to solicit his support.

If I can in any way aid you in your fight for political amnesty, please feel free to contact me.

Thanking you for your concern, I remain,

Very truly yours,

——— ———.

LEGISLATION TO REDUCE URBAN CRIME

HON. LEONARD FARBSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. FARBSTEIN. Mr. Speaker, no more urgent need faces our Nation than to provide the mechanism to help release our neighborhoods and communities from the grip of crime.

Crime is a danger that affects all segments of our society. Important as the actual physical danger it presents is the psychological fear which keeps our citizens off the streets at nights and away from public facilities even during the daytime.

Crime, however, is overwhelmingly an urban phenomenon. According to the task force report of the National Commission on Causes and Prevention of Violence, Crimes of Violence, the rate of violent crime in cities over 250,000 is seven times that of communities with a population under 10,000:

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VIOLENT CRIME IN THE CITY—VIOLENT CRIME BY CITY SIZE (U.S. 1960 AND 1968)

[Rates per 100,000 population]

Cities	1960	1968
Over 250,000	293.7	773.2
100,000 to 250,000	154.0	325.3
50,000 to 100,000	104.3	220.5
25,000 to 50,000	70.1	150.8
10,000 to 25,000	57.3	126.6
Under 10,000	47.7	111.4
Suburban	(1)	145.5
Rural	(1)	96.5

[1] Not available.

REPORTED URBAN ARREST RATES FOR VIOLENT CRIMES BY AGE

Rate per 100,000 population U.S. 1967	Age	Increase in rate 1958 to 1967 (percent)
123.0	10–14	222.0
408.2	15–17	102.5
222.1	10–17	138.8
436.1	18–24	45.5
127.3	25+	41.1
189.1	(1)	65.7

[1] All ages (10+).

NOTES

Violet crime in the city is overwhelmingly committed by males.

Violent crime in the city is concentrated especially among youths between the ages of fifteen and twenty-four.

Violent crime in the city is committed primarily by individuals at the lower end of the occupational scale.

Violent crime in the cities stems disproportionately from the ghetto slums where most Negroes live.

The victims of assaultive violence in the cities generally have the same characteristics as the offenders: victimization rates are generally highest for males, youths, poor persons, and blacks. Robbery victims, however, are very often older whites.

Source: Task Force Report, Crimes of Violence (National Commission on the Causes and Prevention of Violence).

The Safe Streets and Crime Control Act was enacted by Congress in 1968 to do something about this problem. It provided Federal funding for planning of and execution of programs to upgrade the quality of law enforcement. Eighty-five percent of the money allocated under this program must go to the States, which are required to establish boards to allocate at least 40 percent of the money to local governments. The allocation among the States is based on population.

Local government witnesses before the House Judiciary Committee charged last week that very little of this money is getting to the crime-ridden urban areas. Only eight States allocate crime funds on the basis of local crime rates.

In addition to bringing low per capita funding to large cities, recent reports by the National League of Cities and the Conference of Mayors have found the present allocation procedure:

First. Places few urban representatives on State boards allocating Federal crime money;

Second. Siphons off much of the crime money to unnecessary layers of bureaucracy; and

Third. Leads to the allocation of funds for uses considered by urban officials to be of low priority.

To turn this situation about, I am introducing legislation to give large cities direct access to funding for law enforcement activities under the Crime Control Act.

The bill is predicated on the premise that large cities, for purposes of the Crime Control Act, should be treated like States. Under the terms of the legislation, cities over 100,000 would be eligible for direct crime control funding, provided they have a violent crime rate at least 50 percent above the national average. The level of grants would be based on population. The amount going to the rest of the State would then be recalculated, subtracting the city's population.

The problem of urban crime is too important to be left in the hands to hostile State administrations. Through the approach of this bill, the problem can be dealt with without having to bribe, beg, or bluff the States into passing some of the Federal money on to the cities. By so doing, the money will go where it can best be used to reduce the spiraling crime rate in this country.

The full text of the report of National League of Cities and the U.S. Conference of Mayors on the Omnibus Crime Control and Safe Streets Act of 1968 follows:

Street Crime and the Safe Streets Act—What Is the Impact?

(An examination of state planning and dollar distribution practices under the Omnibus Crime Control and Safe Streets Act of 1968.)

Crime has always been a subject of public concern, but in recent years this concern has risen in some areas to a state of alarm with demands for action by all levels of government to restore a general feeling of safety to America's streets. In the past three years three separate Presidential Commissions have studied problems relating to crime and issued reports recommending substantial, and costly, courses of action to deal with crime and the social conditions which create it. Such close and continued coverage of a subject by Presidential Commissions is unprecedented in the history of America.

The most recent of these Presidential Commissions, the National Commission on the Causes and Prevention of Violence, reported in December of 1969:

"Violence in the United States has risen to alarmingly high levels. Whether one considers assassination, group violence or individual acts of violence, the decade of the 1960's was considerably more violent than the several decades preceding it and ranked among the most violent in our history."

Crime is primarily an urban problem. In 1968 approximately 3.8 million index crimes—85% of the national total—were committed within the nation's metropolitan area. There are over 2,800 crimes per hundred thousand population in metropolitan areas compared to less than 800 per hundred thousand population in rural areas. City officials are particularly concerned about crime problems, for it is upon them that prime responsibility for crime prevention and control rests and it is they from whom the people are demanding most immediate action to improve safety on the streets.

Enactment of the Omnibus Crime Control and Safe Streets Act of 1968 signalled the beginning of a major new federal grant effort to aid in solution of the urban crime problem. Local officials particularly welcomed this development as a valuable source of support for improvement in their law enforcement systems above the improvements already being supported from heavily strained local revenue bases. Local officials were concerned at the time of the enactment of this legislation, however, with amendments to channel all funds through state agencies. While they were encouraged by assurances that states would use funds responsibly to deal with the most urgent crime problems, they were concerned that traditional state dollar distribution patterns would reappear in this program with the result that substantial portions of funds would be channeled away from the most urgent crime problems in the urban areas.

The Safe Streets Act establishes a program of planning and action grants to state and local governments for improvement of their criminal justice systems. All of the planning grants and 85% of the action grants must be channelled through states according to a formula established in the Act. Fifteen percent of the action grants may be allocated directly to state or local governments as determined by the Law Enforcement Assistance Administration.

Several provisions of the Act seek to assure that local government will have a definitive role in planning and funding of the programs. Most important of these protections are sections which require that 40% of each state's planning funds and 75% of the state block grant of action funds be "available to units of general local government or combinations of such units" for local planning and action programs. The percentage for allocations of action funds between state and local governments was drawn from the breakdown of expenditures for the criminal justice system cited in the 1967 report of the President's Crime Commission. The Act also requires that local officials be represented on the state planning agencies and specifically directs the states to take into account "the needs and requests of the units of general local government" and to "encourage local initiative . . ."

Because of the great needs of urban governments for assistance in upgrading their criminal justice systems and the concern of many city officials that funds appropriated under the Safe Streets Act be spent effectively, the National League of Cities and the U.S. Conference of Mayors have followed closely the progress of this program.

In March of 1969 the National League of Cities completed a preliminary examination of the program and issued a report which raised some very serious questions about the early directions the program appeared to be taking. In the fall of 1969, as the state allocation of action funds to local governments are getting under way, Patrick Healy, Executive Vice President of the National League of Cities and John Gunther, Executive Director of the U.S. Conference of Mayors directed three staff members of NLC and USCM to undertake a substantial review of the first year fund allocation processes developed by the states. This report is the product of that study. The findings are a matter of concern because, essentially, they confirm the patterns identified as developing a year ago.

The program, as presently administered by most states, will not have the necessary impact vitally needed to secure improvements in the criminal justice system. The states in distributing funds entrusted to them under the block grant formula of the Safe Streets Act have failed to focus these vital resources on the most critical urban crime problems. Instead, funds are being dissipated broadly across the states in many grants too small to have any significant impact to improve the criminal justice system and are being used in disproportionate amounts to support marginal improvements in low crime areas.

A few states are operating programs which give promise of success, among these are Arizona, Illinois, New York, North Carolina, Washington and Wisconsin. But generally despite the great urgency of the crime problem, states are not acting responsibly to allocate Federal resources, or their own, in a manner which will be most productive in preventing and controlling the urban crime. which was the target of the Act. In light of the findings, the Safe Streets Act must be amended to insure effective use of funds in

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areas of greatest need by giving its dollar distribution pattern greater flexibility, permitting full support of state programs where state and local governments have formed a cooperative and effective partnership to fight crime, but preserving the option of dealing directly with the Federal government to those cities within states which have neither demonstrated a clear commitment to improve the criminal justice system nor used Federal funds entrusted to them most productively.

Specifically, the intensive analysis of state programs under the Omnibus Crime Control and Safe Streets Act concludes:

1. The planning process has not been effective in creating real, substantive state plans. Generally the state plans have focused on individual problems and solutions of varied and often unrelated impact without providing the guidance for coordinated improvements to the criminal justice system which is the most appropriate role of a state planning operation. Further, in many states there appears little relation between plans and actual distribution of funds for projects. The final result is that local governments are presented with generalized statements of problems and solutions which create only confusion among localities as to their immediate role in the program and give no indication of the future impact of system improvements at the local level. In addition to confusing statements of generalized goals, many state plans produced shopping lists of specific projects which frustrated any local attempts at comprehensive criminal justice improvements. Localities in such states were forced to split their programs into separate project categories fixed by the state and hope for funding of those parts of their program which related to the state lists on a hit-or-miss, project by project basis.

This conclusion of confusion in state planning processes is not held by NLC and USCM alone. Mr. James A. Spady, Executive Director of the New Jersey State Law Enforcement Planning Agency and President of the American Society of Criminal Justice Planners, in explaining the need for a good state plan, told a meeting of the New Jersey State League of Municipalities about some of the other state action plans:

"If you had seen some of the confused, contradictory, and unimaginative plans of some other states that I have seen you would know what I mean. You would know how difficult it must be for local officials in those states to decide just what is available under the plan, just what has to be done to get it, and just where is the whole thing headed."

2. The states in their planning processes, have generally failed to take into account the specialized and critical crime problems of their major urban areas. This failure goes to the very heart of the state programs—a crime planning process which neglects to take special notice of problems in those areas where 85% of the crime is committed can be judged by no other mark than failure. Significantly, this is a general defect in the plans recognized by LEAA itself whose Police Operations Division, after reviewing the state plans, noted with concern: . . . "the failure of those states having large metropolitan areas where from 25% to 60% of the state's crime is committed, to give separate treatment to the law enforcement situation in those areas."

3. Despite general statements in plans advocating improvements, most states in the allocation of action dollars have neither demonstrated any real commitment to improve the criminal justice system, nor have they concentrated funds on programs in most critical need areas. Instead of need and seriousness of crime problems, emphasis in dollar allocation appears to have been placed on broad geographic distribution of funds. Some states have established formulas for distribution of planning and action funds among local units or through regional units established for fund distribution purposes. Others have simply allocated funds in many small grants to local units. Few, if any, states have attempted to make difficult decisions which would enable them to allocate sufficient amounts of dollars to have any impact on the most urgent problems. Though LEAA guidelines are reasonably explicit in urging concentration of funds on crime problem areas and in requiring local consent if the local share of funds allocated under this Act is to be used by other than local governments, LEAA has not been very active in enforcing these requirements. Nor does it appear that LEAA has been very demanding in requiring a certain level of quality in state plans.

4. Though better coordination and program comprehensiveness is a stated goal in most plans, and was a goal of Congress in enactment of the legislation, in practice state dollar distributions have frustrated chances for coordination. The many grants to low crime areas, often served by small departments may preserve the fragmentation of the criminal justice system and frustrate efforts to improve coordination. Some small departments which would otherwise be forced to consider coordination or even consolidation because of local financing constraints are now able to continue maintaining an independence existence because of the subsidy provided from Safe Street funds. Also state programs often support separate regional training academies and development of new independent communications systems when these facilities could be operated more economically and improve coordination if they were tied into the existing training or communications facilities of major cities in the area. In some states which allocate dollars to regional units, coordination is also frustrated because jurisdictional lines for law enforcement planning regions have been drawn differently from jurisdictional lines for other existing multi-jurisdictional planning efforts.

5. Assignment of planning responsibility to regional planning units has often frustrated the capacity of individual cities and counties to gain expression of critical needs in the state plan and action program. These regions have been established, in most cases, at the direction of the state planning agency, often without the consent of and sometimes with the actual opposition of the local units assigned to the regions. In most cases these state established regions are supported from the 40% local share of planning funds. Allocations to such regions have resulted in no Federal aid being available for necessary planning in individual localities. The regions impair the ability of LEAA to oversee the fairness of dollar distribution at the local level. In addition they increase administrative costs and often times result in several duplicative studies of similar problems in different areas of the state. Regional units also restrict the ability of local governments to gain expression in the state level plans of their particular local needs and ideas for improvement of the criminal justice system, thus restricting local control over local programs. In many cases representation on the governing boards of regional planning units is not fairly apportioned among participating local units.

6. Finally, the values of the block grant approach stated at the time of enactment of the Safe Streets Act have generally not been realized in application.

(a) Instead of avoiding a proliferation of paperwork and bureaucracy the block grant approach has interposed two new and costly layers of bureaucracy between federal crime funds and their local application in most states, with a resulting confusion of planning boards, staffs, application timetables, guidelines, plan priorities, etc.

(b) The states have not filled their proposed role as agencies to coordinate programs and assure that funds are spent most effectively, rather state program directions have created much confusion for localities trying to define a role for themselves in the program and state dollar allocations have spread funds broadly across the state without regard to need.

(c) Delay in getting funds to local projects has increased, not reduced. A year and a half after the fiscal 1969 appropriation was approved, many states are still in the process of, or have just completed, allocation of fiscal 1969 action funds to their local governments. Regional and state approval must precede Federal program approvals and regional and state decisions to release funds must follow Federal decisions to release funds—compounding delay local governments face in filing applications and receiving determination on the funds they will receive.

(d) Though dispersal of program responsibility down through the levels of government was a stated goal of the block grant approach, the direction of the program has been toward increased concentration of power at the state level at the expense of cities and counties—the levels of government closest to the people and the problem. Many state programs are tending to limit the capacity of the local government and local citizens to affect their law enforcement systems, and the local say in state planning for local programs can often be best described as tokenism.

During the NLC and USCM examination of the Safe Streets program, LEAA officials have always been willing to discuss the issues of the Safe Streets program—its successes and failures—with an openness and candor which is refreshing. Though we have not always agreed with decisions made by LEAA, we believe that LEAA under the leadership of Administrator Charles H. Rogovin has been among the best of the Federal agencies administering grant-in-aid programs. The difficulties LEAA faces are primarily created by the restrictions imposed in the statute which limit LEAA's capacity to further stimulate expansion and improvement of programs in those states making a determined effort to upgrade state and local criminal justice programs, and deprive LEAA of sufficient flexibility to provide urgently needed assistance to cities in states which are failing to use Safe Streets funds responsibly to deal with their major crime problems.

Though review of the Safe Streets program indicates that serious problems exist in many states, several states appear to be acting responsibly in partnership with their local governments to improve their criminal justice systems. Programs in these states stood certain key tests in the NLC and USCM review of the Safe Streets program: (1) NLC and USCM staff identified no major flaws in the state's action plan; (2) No criticism of the state program was received from the largest cities in the state or from the State municipal league; and (3) No major criticisms of the state program were received from small and medium sized cities in the state. The states identified as a result of these tests were: Arizona, Illinois, New York, North Carolina, Washington and Wisconsin.

Generally, however, the picture has not been good. The necessary change in legislation should not, however, reject a major role in the Safe Streets program for those few states which are administering the program responsibility.

Cities are ready, willing and able to work closely with state government where state government demonstrates that it is willing to seriously commit itself to aid in solution to urban problems. Most states have not demonstrated that commitment today. Some have, and the Safe Streets Act should be restructured and program administration practices changed to recognize these differences among states, giving incentives for greater state involvement while at the same time

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guaranteeing that the urgent needs of all urban governments will be met by direct Federal aid in those many states which have little demonstrated commitment to aiding the solution of urban problems.

The following specific program modifications are suggested:

1. In order that cities with serious crime problems will receive urgently needed assistance, the Safe Streets Act must be amended to assure that an adequate share of funds can be distributed directly to cities.

2. Concurrent with amendments allowing adequate amounts of grants to cities, the Safe Streets Act should be amended to give States incentives to deal responsibly with the crime problems of the major urban areas.

3. The LEAA must take a much more active role in overseeing state programs:

To demand that states give proper recognition to needs and priorities of urban governments in development of state plans.

To prevent states from using the local share of planning funds for what are essentially state purposes without first obtaining the consent of affected local governments.

To assure that states and their regional planning agencies in allocating planning and action funds concentrate support on improvement programs for areas with the most serious crime problems.

4. Once these basic substantive changes are made to assure more effective use of funds, the level of assistance available under the Safe Streets Act should be substantially increased and the program matching ratios reduced to allow comprehensive criminal justice improvement programs in all urban areas.

Study Background:

The NLC and USCM study of the first year state action plans covered a period of five months with a primary time commitment in January and February of 1970. The study included:

(a) A comprehensive analysis of 33 state action plans filed with LEAA and approved for funding during the summer of 1969. Action plans studied included those of:

Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho.

Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts.

Michigan, Minnesota, Missouri, Nebraska, New York, North Carolina, Ohio, Oklahoma, Oregon.

Pennsylvania, Tennessee, Texas, Virginia, Washington, Wisconsin.

(b) Communications in person, over the telephone or by mail with local officials or state municipal leagues executives in 45 states. In this regard NLC and USCM wish to express particular appreciation to the city officials who composed two task force groups who met in Washington during January of 1970 to share their experiences and ideas relating to the Safe Streets program with NLC and USCM staff. A list of these officials is included in Appendix A.

(c) Discussions of problems relating to the Safe Streets Act with officials of the Law Enforcement Assistance Administration and several directors of state law enforcement planning agencies.

(d) A review of other studies of administration of the Safe Streets Act published during the last five months of 1969.

THE PLANNING PROCESS

Congress, in writing the statute, clearly expressed its intent that there be substantial local involvement in planning by requiring that 40% of the planning funds be available to local governments, that the state planning agency be representative of local governments and that the state plan "adequately take into account the needs and requests of the units of local government." Many states had promised this participation in grant applications filed with LEAA. Despite general statements in grant applications about the high degree of local government involvement in the planning effort, examination of the 1969 plan development processes indicated that in many states the actual degree of local involvement in the planning process can best be described as tokenism.

Local Representation:

Mayors, county commissioners, and other local elected officials with general policy responsibilities have not been deeply involved in the planning process which is dominated by functional specialists in the various fields in criminal justice.

In September of 1969 the International City Management Association published a survey which showed that only 13% of the members of all state planning bodies were local policy making officials, that 15% were classed as "citizens" and the rest were either state officials or functional specialists in the various fields of law enforcement. At the regional planning level, functional specialists predominate to an even greater degree, with some states including Florida and Louisiana having regional boards made up almost entirely of local law enforcement officials. California has recently added several local policy making officials to its state board, and Pennsylvania has made a major effort to broaden the local policy making representation on regional boards. There has also been some expansion of local officials representation in other states, but generally representation of local policy making officials on state and regional planning boards remains inadequate.

Adequate representation of local policy making officials on state and regional boards is an absolute necessity as these officials provide an overall view of the problems and priority decisions facing local governments which can aid in structuring state and regional planning to assure that the programs developed from these planning efforts can be easily integrated into the overall local governmental processes. Adequate citizen representation on state and regional boards is also necessary to give state and local planning processes and resulting efforts to implement law enforcement plans a degree of legitimacy among those elements of the community who believe they will be most affected by improved law enforcement activity.

Funds for Local Planning:

As NLC's 1969 study indicated, state practices in allocation of the 1969 planning funds severely limited local participation in the planning effort. The local share of planning funds was distributed in a manner which emphasized broad geographic coverage rather than the seriousness of local crime problems or the degree of need for planning assistance.

As a result, in many states a disproportionate share of the planning funds was allocated to benefit rural areas. Further, broad geographic distribution of funds resulted in many planning grants which were too small to have any significant impact in establishing and maintaining a competent local planning process. According to the ICMA survey, 24 states distributed the local share of their planning funds among local governments and regional planning units solely according to population while another 10 states made minimum allocations to regional planning units and then distributed the remainder of available funds to a formula basis.

Minimum allocations discriminate against heavily populated areas in distribution of funds. Superficially, such allocations can be justified as necessary to support a minimum planning competence. However, the manner in which most states drew the planning regions to receive the funds indicate that the regional dollar allocation structure may have been established to benefit the low density areas. Kentucky's plan notes that it has three major urban areas which account for 70% of the crime problems in the state, yet the state designated 16 law enforcement planning regions and allocated a $5,000 base grant to each region. The result: rural regions received twice as much per capita in planning funds as the Louisville area. Oregon has over half its population concentrated in two of its 14 law enforcement planning regions, yet each region received a base grant for both planning and action purposes. Colorado divided planning funds in $2,000 base grants among 14 regions, though more than half the state's population and 70% of its index crime is concentrated in the one region including Denver. As law enforcement systems are similar in many rural regions of individual states, it would appear that these rural regions could have been combined with no significant reduction in effectiveness of the basic planning effort, freeing a substantial amount of the funds to concentrate on planning for solution of crime problems in areas of greater need.

The Impact of Regionalization:

Involvement of individual cities and counties in the planning process has also been severely limited by state impositon of regional planning units to take charge of the local planning effort. In addition to the 50 state planning agencies required under the Safe Streets Act, approximately 40 states have designated regional planning agencies as a third level of bureaucratic activity for planning and the processing of local grant applications. There are currently between 350–400 of these regional law enforcement planning units in operation across the nation. Generally states have made the decision to establish these regional units, but most are supported by the 40% share of the planning funds which the Act requires be "available" to local units for their planning efforts.

Many of these state planning sub-units were developed specifically for the Safe Streets program, others had existed on paper without any source of support until Safe Streets funds were made available, and some of the regional planning agencies were already in operation when aid for the Safe Streets program became available. The ICMA survey indicated local councils of government were used in only 12 states as the agency for regional law enforcement planning. State planning districts were used in 7 states, and economic development districts in 11 states, with the remainder emphasizing mainly regional planning districts which may or may not represent the interest of their local government.

Where they exist, states place primary reliance on regional planning units for direction on what the needs and priorities of local government should be. This saves the state planning agency the trouble of dealing with many local units having differing needs and complicated law enforcement problems. However, it makes it very difficult for individual local problems to gain expression at the state level. The City of Norfolk, Virginia noted the problem it faced in this regard:

"Localities cannot report to the state planning agencies, instead they must refer all priorities to a regional planning commission for approval and new priorities formed, which will then be forwarded to the state planning commission."

Though regions are theoretically established to represent local interests, the ICMA survey indicated that 45% of its 637 reporting cities did not believe that regional planning operations would take city needs into account. The regional arrangements are particularly amicable and convenient for those states which control the staff and/or appointments to the regional boards. There the regional units first loyalty is to the state and not to the local governments it is designated to serve. Among the states in which local officials noted problems because the governor or another state agency controlled appointments to regional boards and staff were Alabama, Arkansas, Colorado, Georgia, Indiana; Kentucky, Oklahoma and South Carolina. One comment from South Carolina noted:

"The state of South Carolina has been di-

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vided up into so called planning districts by the governor. The local legislative delegation from each county has appointed people to a 'planning commission' to plan under this Act."

A Georgia official noted that regional boards are picked by "political philosophy rather than competence." In Florida regional board members are chosen by the police chiefs and sheriffs of the particular regions. The governor then selects a board member as chairman. However, broadening of board membership to include local policy officials, private citizens, etc., has been foreclosed by the state decision that regions should be controlled by law enforcement professionals.

As a result of this emphasis on sub-state regions in planning dollar allocations, local governments have been unable to obtain their fair share of planning dollars for necessary local level planning. Cities in those states where all of the local planning funds are retained at the regional level have a much more difficult time to gaining adequate expression of their needs, particularly since there is no assurance that a commitment of substantial local resources to a locally funded planning effort will result in an action grant from the state agency. St. Paul, Minnesota, pinpointed these problems in its comments about the Safe Streets program:

"Under the Minnesota plan no monies are forwarded to the cities of St. Paul or Minneapolis for planning purposes. In lieu of that the state has designated a Metropolitan Planning Council as the recipient of the funds. We recognize that there is a need for area-wide planning. However, the development of a data base suggests the need for input of the local units of government. Yet, these local units of government will be required to donate time to the state agency which is fully funded. In view of the financial distress of the cities it seems somewhat unrealistic."

Pennsylvania controls the regional boards but pays the board from state funds, freeing the local share of planning funds for expenditures in developing plans for individual local units. All local applications must filter through the regional planning boards, but the availability of planning funds to local units allows them to better analyze their needs and develop a more comprehensive case for assistance to submit to the regional board.

Some states have recognized the problems regional units create and are backing away from them. Kansas abandoned a regional structure which relied on state Congressional districts because of difficulties in establishing the regions and the projected inconsistency of the regional effort with local planning goals. New Jersey modified an initial planning program which emphasized regions to allow direct grants to aid local planning efforts in major cities of the state.

There has been some confusion over the role of LEAA in supporting regional planning structures. In discussion with NLC and USCM staff, several state planning directors have indicated much the same view as expressed by the Utah State Planning Director when he told a January 1970 meeting of executive directors of western leagues of municipalities that LEAA is urging states to establish regional structures for local planning. A publication of the Indiana Criminal Justice Planning Agency indicated regions were established "as requested by LEAA."

The Act says that state plans should: "encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment." When complaints about regional structures are presented to LEAA, it takes the position, consistent with the statute, that while multi-jurisdictional arrangements should be encouraged, LEAA is not urging regionalization upon state law enforcement planning systems.

NLC and USCM agree that multi-jurisdictional arrangements would be of great benefit to many areas to secure improvements in the criminal justice system, provided means are preserved for expression of individual local needs and problems. However, review of the Safe Streets program operations indicates that regional planning structures are essentially grant review and approval mechanisms which provide little positive leadership in efforts to secure coordination of law enforcement and criminal justice systems.

In a number of cases imposition of regions is actually frustrating local coordination efforts already in effect. The cities which are the focus of the three leading city-county consolidation efforts, Indianapolis, Indiana; Jacksonville, Florida; and Nashville, Tennessee were placed in regions with a number of other independent local jurisdictions. The planner in charge of the law enforcement planning region including Jacksonville, Florida did not know of the existence of the Jacksonville-Duval County Planning Board in the early stages of the development of the Jacksonville region law enforcement council. Further, officials in Jacksonville are concerned that the law enforcement planning council is proceeding completely independently of all other planning activities done in the community and acting without regard to capital budgets, community improvement schedules and other factors essential to successful operation of local government.

Limited Local Participation:

The final result of these difficulties in the State planning process is that local governments are effectively excluded from any meaningful participation in the planning process for their state. An NLC and USCM official attending a February, 1970 meeting with mayors, managers and selectmen from 40 communities in Vermont discovered with surprise that none of the attending officials had been contacted by the state regarding the Safe Streets program. Officials of the cities of Savannah, Georgia and Dallas, Texas indicated that their cities were not consulted in the development of the 1970 action plan which their regional planning agencies were submitting to the state. In Dallas' case the officials stated that this lack of consultation really made no difference since the plan was so general it could accommodate anything Dallas wished to do within the program. (This being the case, the question arises: If the plan was so general that it could accommodate anything proposed by a city what was the purpose of the whole regional and state planning process?). North Carolina designated 22 units to do criminal justice planning, but 14 of them had not received any funding when the state plan was submitted to LEAA. Likewise in Pennsylvania, funds were not distributed to regional planning agencies until June, 1969, after the state plan had been filed. The Alabama state plan was submitted to LEAA before the regional committee ever approved the regional plans which were to provide the local element of the state plan. Kansas used the questionnaire approach in developing information for its plan, but drew up and filed the state plan at a time when only 47% of the needs and priorities questionnaires had been returned.

Besides Kansas, Idaho, Illinois, Indiana, Montana and Ohio placed some reliance on questionnaires in developing fiscal 1969 needs and priorities. Questionnaires are valuable to gain data, but the danger of the questionnaire approach is that in adding up all of the votes, general needs, particularly needs of more numerous low crime communities, tend to be emphasized while specialized problems and situations peculiar to one or a few communities are relegated to positions of lesser importance. For example, in March 1969, Ohio requested a letter from each community stating its needs and made a compilation of those letters the basis of the local element of its first year plan. In response to a complaint that major city problems had been overlooked in the Ohio plan, the Ohio planning director justified placing primary emphasis in allocation of action funds on basic training because "the vast majority" of localities had expressed a need for training and that, "one of the basic lessons we learned . . . is that there is a great need for funds to support a minimum standard of law enforcement in the state."

In some states, the time constraints imposed on the local planning process belied the possibility of development of any real local input. The sub-regional board to take responsibility for planning in the Los Angeles area was not established until two weeks before the March 15, 1969 deadline when the comprehensive criminal justice plan for the Los Angeles area was to be filed with the state for inclusion of the state plan. One local official from North Carolina made this observation regarding the time constraints faced in his state: "We are rushing too fast to take advantage of the funds available—for fear they will be lost—without adequate planning and without establishment of proper priorities." Rockville, Maryland was given only two days from original notice to filing deadline to prepare a project application for submission to its regional planning body. Grand Rapids, Michigan had three days to prepare and file its application, then waited nine months for a response from the state.

PLAN RESULTS

Priority Structure and Program Impact:

The allocation of action funds resulting from the first year planning process has created much dissatisfaction among the nation's cities. Even those few major cities relatively satisfied with their first year allocation are concerned at the structure of the program for they recognize that next year their particular projects aimed at satisfying most urgent needs may be sacrificed to appease some of the more strident critics in other cities. These conflicts have developed because of a difference between needs and priorities perceived by cities and state governments. In a paper presented to the annual convention of the American Political Science Association, Douglas Harman, Professor of Urban Affairs at American University, pinpointed the basic problem of the Safe Streets Act: "There is a significant conflict between the goals of fighting immediate urban crime problems and a grant-in-aid system dominated by state governments."

Few of the city officials with whom NLC and USCM have discussed the Safe Streets program believe that the needs and priorities identified in the plans of their states adequately deal with the most urgent law enforcement needs of the major urban areas. One Texas official noted bluntly his belief that, "the state plan mainly aimed at solving problems in rural and suburban areas," while he recognized that there were needs in these areas, he said that the program emphasis was misdirected. He noted further that to get what they wanted most under the need categories set out in their state plan, cities had to play "phony games with words."

Often the plan results reflected state dominance and limited recognition of local needs in the planning process by emphasizing programs which created much concern among local officials. The Tennessee plan placed major emphasis on programs to establish general minimum standards for personnel, and uniform statewide systems in personnel, crime reporting and computer information, though local officials expressed concern at cost implications and other aspects of these programs and urged greater allocation of resources to deal with critical problems in individual jurisdictions. Local officials in Vermont believe that their greatest needs are for improved training and equipment. The Vermont League of Cities and Towns, reflecting these views, protested a proposal to put major emphasis on a statewide communications system and were told in defense of the com-

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munications system: "But, that's what the governor wants." Kansas planned to retain $30,000 from the local share of action funds to establish a training academy though the League of Kansas Municipalities objected that localities had not been consulted about the projected use of local funds.

The city of Toledo, Ohio had four top priority needs in fiscal 1969: (1) modernization of its communications systems, (2) laboratory equipment to handle drug addiction, (3) improvement of a police training facility, and (4) an improved detention facility including a rehabilitation program. None of these were included in the priorities of the state plan. The only projects for which Toledo could apply for assistance under the fiscal 1969 plan were a closed circuit TV system, a mobile riot unit, or portable TV sets. Because the city had made complaints about the state planning process, it was encouraged to file an application. It did so, but the application was turned down because it was not in one of the three project areas set for assistance. Thus, Toledo did not receive a dime under the regular allocation of 1969 action monies, though it had received $21,000 for a community relations unit as part of the allocation of riot funds made available in August of 1968.

Another city noting problems with the state priority determination was Norfolk, Virginia:

"The states number one priority deals with law enforcement training, which we feel is not a critical priority in the larger metropolitan areas."

Denver, Colorado relating their dissatisfaction with program allocations stated:

"The action program for Colorado reflected emphasis on the Colorado Law Enforcement Training Academy over the Denver Police Academy, riot equipment funds for the State Police and the State Penitentiary over the Denver Police Department needs, funds for numerous state juvenile facilities and none for Denver, funds for community relations for cities other than Denver, etc."

Boulder, Colorado—the fifth largest city in the state—did not fair much better:

"Boulder's program request centered around crucial police-community relations and organized crime particularly in drug traffic . . . these program requests were rewarded with evaluation of priority 5 and priority 6. From a rating scale that ranges from 1 to 6, it is obvious that our program requests did very poorly . . . in view of this determination, the city of Boulder, is likely to receive no funding under the Omnibus Crime Control Bill in 1970."

Where did all the money go?

Difficulties a city faces in getting needs recognized at state level are compounded when it is placed under a regional planning structure with many other units of government with widely differing levels of needs and varying law enforcement capabilites. Los Angeles, California has been placed in a sub-region of a region which extends all the way to the Nevada border and includes part of the Mojave Desert. Grand Rapids, Michigan, a city of 200,000 population, placed in a rurally dominated law enforcement planning region has received only $188 of over $54,000 allocated to its region under the program. Grand Rapids city officials contributed time worth substantially more than the grant received to developing local action program applications and participating in the regional planning body.

Two of the nation's largest cities have been placed in regions with vote allocation patterns designed to shift power away from them. Cleveland, Ohio was placed in a seven county region in which the two urban counties get five votes each, and five rural counties get three votes each, result: urban interests and urban priorities outvoted 15 to 10. To avoid this structure Cleveland is attempting to establish a direct relationship with the state through a cooperative planning venture with Cuyahoga County. Houston, Texas contains two-thirds of the population in the council of governments which was responsible for developing its law enforcement plan, but it has only one-twelfth of the vote on the COG board. When time came for allocation of action dollars, Houston received a grant for $126,000 to tie in all suburban jurisdictions to Houston's computer. Superficially, this was a grant to Houston, but the suburban communities were the principal beneficiaries. Houston's operating costs may be increased because of the expanded maintenance requirements on its computer operations.

Though the plans generally did not deal adequately with the special crime problems of major urban areas, almost all plans reviewed by NLC and USCM placed major emphasis on providing basic training and equipment. Such programs will primarily benefit low crime areas serviced by small departments. In addition, many plans stressed broad geographic coverage as a goal to be achieved in allocating funds.

The Kentucky plan, for example, emphasizes that 75.65% of the state's action funds will be distributed among local governments on a "balanced geographical basis."

The Indiana plan often used the phrase: "appropriate geographic coverage will be stressed" in explaining how dollars would be distributed, and the Washington plan in aiming for broad geographic distribution stated: "certain other programs were chosen partly because of their suitability to rural areas."

States which have allocated funds among regions on a formula basis to assure that each region gets something and broad geographic coverage is achieved include: Colorado, Florida, Georgia, Michigan, Oregon, Pennsylvania, and Texas. California has taken a more hard-nosed approach at the state level, judging each local application on its merits with the result that, as of January 30, 1970 no projects in three of its predominantly rural regions had been funded.

The net effect of these two policies, emphasizing geographic coverage and basic standards, has been dissipation of millions of Safe Streets dollars in small grants to provide basic training and equipment for police operations in low crime areas. While the need for upgrading such police services cannot be questioned, its priority in most Safe Streets plans, in face of the urgency of the urban crime crisis, pinpoints again the basic conflict between urban needs and traditional state dollar allocation practices.

State programs which emphasize improvement of basic services discriminate against communities which, because they face major crime problems, already have committed resources to acquire basic equipment but badly need more sophisticated equipment and training techniques to deal with their crime problems.

As a Lancaster, Pennsylvania official noted:

"Under the present system, dominated by rural interests, those of us in the cities who have made substantial financial commitments on our own in the fight against crime will be subverted to the interests of those who have made little or no commitment and are using Safe Streets money as a substitute for local funds."

Essentially the same problem was recognized by Boulder, Colorado:

"Those agencies who do nothing to improve the most basic enforcement tools seem inevitably to benefit most by grant programs."

Spreading funds around the state in many small grants prevents concentration of a sufficient amount of funds in any one area to have any significant impact in improving the criminal justice system.

A communication from San Jose, California stated:

"Money allocated to the states for local use is being spread so thin as to make its effectiveness useless. This action ignores the mandate of the Act that priority should go to high crime areas: urban centers."

A representative of another California city asked: "What can you do with four or six thousand dollar grants?" And the City of Minneapolis indicated that though in total it has received a fairly substantial share of funds, the separate programs to which these funds were assigned by the state chopped them up into so many small pieces that their potential impact was minimized.

Commitment of large sums of money to support basic law enforcement services in low crime areas also contributes to continued fragmentation of the criminal justice system by providing a Federal subsidy for the continued independent operation of smaller agencies, which, without Federal support, would be forced by the economic pressures of rising costs to consider coordination or consolidation with agencies in neighboring jurisdictions. One Pennsylvania official stated that in several instances in his state grants had been made to establish independent county communications networks when combination with the communications system of the central city of the county would have been more economical and promoted coordination of law enforcement efforts.

Opportunities to foster interjurisdictional cooperation have also overlooked in establishment of many basic training programs. Funds have been allocated in 26 of the 50 states for regional training facilities to provide basic training for law enforcement officers. A large number of these regional facilities will be established for the first time under the Safe Streets Act. Local officials from Alabama, Georgia, Ohio, and Texas noted that in their states it would have been much more economical if the state, instead of using the local share of action funds to establish new regional training facilities, had supported expansion of existing training facilities operated by the central city of the region.

Local efforts to coordinate criminal justice systems were also frustrated in many states by the structuring of state plans which presented localities long shopping lists of projects from which the localities had to pick and choose without any particular relation to the priorities at the local level. While these shopping lists often gave the state plans a superficial appearance of comprehensiveness, their net effect was to frustrate comprehensive planning and structure local programs and application processes on an individual project by project basis. A city must split its project applications into the separate categories suggested in the state plan and file separate applications for each with the state. Some of these projects may then receive funds, others may not. The final result is approval of bits and pieces of the local program with each separate part approved having various degrees of relevance to the needs of the local government. The city only knows what it will receive at the end of a long process of formal and informal negotiations.

As noted before, Toledo, Ohio's inability to reconcile its locally developed priorities with the list of projects presented by the state prevented that city from receiving any assistance under Ohio's regular allocation of action funds. The Massachusetts plan presented localities a list of 27 projects for which they could apply to receive federal assistance. The list of projects covered the whole field of criminal justice and gave the Massachusetts plan an aura of comprehensiveness. However, the city of Boston noted that any development of comprehensive local programs was frustrated because separate applications were required for each of the separate items listed in the plan, and the application process was further complicated because different deadlines were assigned for applying for various items on the state list.

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The 1969 Colorado plan presented a list of 31 projects. Of these, only 6 were to provide more than $10,000 in federal assistance, and 16 provided under $4,000 with one providing $450 and another $555 in federal aid. Eighteen of the twenty-nine projects listed in the Maryland plan called for federal aid of less than $10,000. The Maryland plan particularly gave the appearance that federal aid fund allocations had been spread around among many projects to give the appearance of comprehensiveness. In a number of cases the share of project costs provided from the federal assistance was well below the level required by the Act. The total Maryland plan called for expenditures of $1,321,348 of which only $457,528 was to come from the federal government. Considerable bookkeeping costs may have been saved without any reduction in the effectiveness of Maryland's plan if the federal assistance could have been concentrated on a few projects rather than spread over many to comply with the comprehensiveness requirement.

Fund Allocation Patterns:

Following are some examples of state priority systems and grant allocations patterns illustrating the defects discussed above:

Major goals stated in the Arkansas plan were:

Improving patrol equipment by replacing obsolete and private vehicles presently in use (These vehicles were mainly in smaller communities).

Improving training through use of mobile equipment and regional training centers, and

Development of a system of minimum standards for jails.

The Kentucky plan noted that there were 90 police and sheriff's vehicles in Kentucky without radios and consigned up to $25,000 in federal aid for use in providing basic equipment such as car radios and teletype hookups. The Kentucky plan also noted that ten smaller agencies would receive grants from $500 to $1000 to procure services of management consultants.

The Massachusetts and Nebraska plans both indicated a major effort would be made to expand coverage of state teletype networks by installing teletype terminals in many smaller communities.

Idaho planned to split $28,635 in federal aid into 32 subgrants ranging from $395 to $2,500 to provide basic communications equipment.

Alabama planned to use $64,167 to establish seven regional training centers to provide basic training and proposed to divide another $94,000 among 60 to 80 communities for police operations improvements.

Pennsylvania allocated at least 8 grants totaling $186,611 for broadening the basic coverage of several local communications systems.

Michigan placed 23 grants in 22 communities to provide radio equipment. Of these grants, 8 were in amounts of less than $750.

In Michigan, the city of Grand Rapids, with 200,000 population, and annual police expenditures of over $2,900,000, received $188 for a 75% share of two Polaroid cameras and a fingerprint kit while one community of 7,500 population received $1,650 for an infrared Varoscanner with accessories, $1,275 for a surveillance camera, and $2,400 for basic radio equipment. A rural county with a population of 38,600 and total police expenditure of $197,000 was granted $18,000 for basic radio equipment, and another rural county of 33,300 population won $15,100 for a probation services program.

In Oregon, $45,000 was allocated in $5,000 base grants to 9 rural regions. A two county rural area with 31,800 population and an annual police budget of $213,000 received a base grant of $5,000 in action funds, while the four county region including Portland, with 833,500 population and combined annual police expenditures of well over $13,000,000 received only $89,358.

In Pennsylvania, the city of Scranton with 111,143 population and annual police expenditures of approximately $1,000,000 received $5,000 while a rural county with 16,483 population and annual police expenditures of $12,000 received $22,236 for a basic communications system. The city of Philadelphia was allocated $207,536. To receive a comparable per capita allocation to that of the rural county, Philadelphia would have had to receive approximately $2,800,000. To receive a comparable share of its annual police budget, Philadelphia would have had to receive approximately $120,000,000.

There is every indication that allocation patterns which do not focus on areas of greatest need will continue in 1970. Pennsylvania has developed a complicated allocation formula involving crime index, defendants processed, incarcerated inmates and probationers, all related to population. Philadelphia is a region within itself and is assured of receiving one-third of the local share of action funds, or about $2.6 million in fiscal 1970. However, as the allocations across the state are still directed to regions there is no guarantee that regional boards will divide funds to focus on the most pressing crime problems.

Florida and Georgia are planning to allocate fiscal 1970 funds among regions on a population formula as they did in fiscal 1969. Within its region Savannah, Georgia with 150,000 population and an annual police budget of $1,500,000 will receive $132,000 while a rural community of 7,000 population and annual police expenditures of $24,000 will receive $8,400 for basic communications equipment and an additional $5,000 for hire of a juvenile officer.

For fiscal 1970, Denver, Colorado has been told it will receive $350,000 out of the state's total allocation of $1,800,000. This is about 20% of the funds though the city contains 30% of the population and must deal with 70% of the crime in the state. In fiscal 1969, Denver and the 8 counties in its state designated region received 23.6% of the state crime funds.

Red Tape and Delay:

The state and regional bureaucracies imposed between federal dollars and their application at the local level have also added a substantial element of delay and costly confusion in distribution of funds. Though all the states had received their action grants by June 30, 1969, funds did not begin to filter down to the local level until late fall. As 1970 began a substantial portion of the 1969 action funds remained to be distributed. Alabama did not begin allocating its fiscal 1969 action funds until the end of January 1970. Over $500,000 remained to be allocated in sub-grants from the local share of the state of California's $2.35 million action grant as of January 27, 1970. As of January 12, 1970 the state law enforcement planning region including Jacksonville, Florida had received only $13,500 out of its $34,500 allocation of fiscal 1969 action monies. Pennsylvania did not announce grant awards from its allocation of action funds until December 19, 1969.

The city of Boston has indicated that they expect the following schedule to apply with respect to allocation of the 1970 action funds: (a) The state plan is submitted to LEAA in April; (b) Money is expected to be received from LEAA around the first of June. Until the state receives money from LEAA, cities will get no comprehensive guidelines on how to go about getting federal funds; (c) After the money is received and cities get the guidelines, they will have approximately two months to develop project applications which will have to be filed with the state sometime in early August; (d) The state will then approve local project application by comparing it with the programs listed in the state plan. Grant awards to cities are expected to be announced sometime in September.

Much confusion and delay has been added to state programs because of a high rate of staff turnover and uncertainties of funding for necessary state staff services. In the nine months from November 1968 when planning processes began in earnest in most states to August of 1969 when allocation of fiscal 1969 funds was completed, responsibility for program direction changed hands in 30 of the 50 states. Between August 1969 and January 1970 as states were gearing up for the second year planning process, responsibility for program direction changed hands in 18 states. One observer in New Mexico noted: "In thirteen months we have had three state directors of the program and we are working with an acting director at the present. All of this, plus insufficient staff, has put the entire state process way behind."

A number of states including Indiana, Maine, Nebraska and Nevada face major difficulties because state legislatures were slow to authorize funds for staff to perform even the most essential state planning functions. In Indiana, the first planning agency director quit in frustration after eight months because of continuing inability to get staff under state cutback orders.

Several cities noted that difficulties attendant to direct federal-local financing were compounded when localities had to try to develop programs with regard not only to federal appropriations, application deadlines, and approval processes but also to these processes duplicated, often in a different time frame, at the state level. Following a request for assistance through the many levels involved in a block grant program can be an arduous task. One Southern California city in a sub-regional and regional structure noted:

"A unit of government interested in applying for an action grant must submit a request at the local level, and the request must receive approval from a regional task force, the sub-regional advisory board, a regional advisory board, a state task force operations committee, and finally, by the California Council on Criminal Justice before it may receive the money. In each case there is a possibility the action grants will be denied."

In addition to possibilities of denial, at each level the risk increases that the priority attached to a city's specific problem will become lost in more general consideration and that the end result will be grant allocations which favor only generally appreciated needs.

Administrative Costs:

Some has to pay for all the checkpoints in the grant process. To the extent that Safe Streets funds are being used to pay for program administration they cannot be used in action programs to combat crime.

Bookkeeping costs for this program appear to be substantially higher than in programs involving a direct relationship between the federal government and localities. Houston, Texas indicated there were four separate levels of paperwork in administration of its grant program: program substance and financial reporting requirements required by LEAA; another, and different set of requirements imposed by the state; paperwork involved with the regional planning unit, and entirely separate accounting requirements in effect at the local levels. Another Texas city noted that it did not believe that any grant under the Safe Streets program in an amount of less than $15,000 which was worth the effort. The city of Boston decided to turn down one grant of nearly $10,000 which had been offered to it because of the heavy bookkeeping and reporting requirement attached by the state. In addition, the state of Massachusetts has been withholding $21,830 out of the city of Boston's $31,830 allocation from under the special civil disorders program announced in August of 1968 because the city has been unable to comply with reporting re-

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quirements imposed by the state. The following quotation from a letter sent to the city of Boston by the state indicates the information required:

"The following information is needed before further funds can be released. When are the police-school seminars to be held, who is to be involved, what is the program format to be, and what expenditures are to be involved? With respect to the tactical patrol force training program we require:

"1. A schedule of classes to be conducted including time, place and subject;

"2. Lesson plan outlines for all classes to be conducted; and

"3. Qualifications summaries of all instructors to be utilized.

"With respect to the equipment purchases, we need to know what equipment has been ordered, when, from whom, and when delivery is expected."

Many of the reporting requirements imposed by the state appear to be almost impossible to comply with before Boston received funds and began implementation of the project.

The question of bookeeping costs is of particular concern with respect to the myriad of very small grants being given out by state agencies. If a locality must prepare an application and follow it through the approval processes of the region and the state, and then prepare reports satisfactory to LEAA, the state and regional agency and the regular accounting and reporting procedures at the local level, it does not appear that grants of only a few hundred can add much value to a city's operation. Many state plans indicated small grants were planned. The Idaho plan noted that grants as small as $75 were contemplated. The state of Indiana allocated the city of Evansville two very small grants, one of $112 for drug abuse education and another $89 for drug detection kits. While many small grants such as these may satisfy the state goal of broad geographic distribution of funds, it is unlikely that such grants can be of any significant impact on the criminal justice system, and in many cases the heavy cost of bookkeeping may more than outweigh the value of the grant to the community.

Duplication of Effort:

Several consultants retained by LEAA noted with concern that a substantial amount of federal funds were being committed toward repetitive studies because of lack of coordination among the individual states.

Professor Harry I. Subin, of the New York University School of Law, after reviewing the state plans at the request of LEAA noted with concern: ". . . the heavy emphasis in many of the state 'action' grant proposals on 'study'." Professor Subin continued ". . . It would appear that, in view of the urgency—and age—of many of the problems facing the criminal justice system, the emphasis upon "comprehensive studies" contained in the plans is misplaced."

A review for LEAA by the National Council on Crime and Delinquency noted that regarding state training programs:

"Unless national direction and leadership is given to all these training activities, there may be needless duplication of effort substandard instruction and a training in self-defeating setting."

Loss of Local Control

Over the past year there has been developing a new protocol of federalism, strongly supported by many governors, which rests on a theory that direct federal-local contacts should be minimized and that all expressions of local needs and all federal actions to meet these needs should be channelled through the middle man in the state house. Mayors and other local officials are concerned at the growing acceptance of this protocol in the Administration because many believe, as this and other recent studies point out, that generally state government is not willing to respond to the most crucial urban problems and that lines of communication to Washington must be preserved as the only channel through which vital assistance can be gained. Reduced contacts between federal and local officials will make it more difficult for federal officials to understand local problems and gear federal programs to aid in solving these problems in a manner which makes most productive use of the taxpayers' dollar.

Attempts to limit the lines of access between the federal government and cities reached what the *New York Times* described as an "almost comic peak" in April of 1969 after President Nixon invited eleven mayors to the White House to discuss urban problems. Within a week a meeting of governors passed a resolution criticizing this meeting and urging the President to do his talking with governors, not mayors, when he wanted to learn about urban problems.

State House to sensitivity to direct federal contacts has been particularly marked in the Safe Streets program. After LEAA announced grants from its 15% discretionary funds to eleven major cities in May of 1969, a strong criticism of these direct grants was filed by the National Governors Conference through their designated spokesman on urban crime matters, Utah Governor Calvin Rampton. Governor Rampton's telegram to LEAA asserted that governors, "expressed concern about your proposal to grant discretionary funds directly to the nation's ten largest cities. We questioned the wisdom of population as sole criteria of need and confinement of funds to artificial city boundaries. Of greater importance is the departure from your commitment to deal through the state agency."

The point about population allocation of funds according to artificial boundaries is particularly interesting as this is precisely the allocation method which governors supported in amending the Act to provide a block grant approach, and it is an allocation method adopted by many states, including Utah, for allocation of part or all of the Safe Streets funds. In closing, Governor Rampton urged that all future discretionary funds be granted through state agencies, despite the legislative history of the discretionary grant section recently confirmed by a ruling of the General Accounting Office which clearly establishes that discretionary grants may be made directly to units of local government.

Although their authority to make discretionary grants directly to local governments is clear, LEAA is requiring that local applications to receive discretionary grants from fiscal 1970 appropriations receive a state certification of approval before the application is filed and that funds for the local governments under the discretionary grant program be channelled from LEAA through the state agencies to local governments.

This new attitude of federalism has created particular problems for some cities which have tried to communicate with the federal government about problems they saw developing with the program in their state. Mayor George Seibels of Birmingham, Alabama was severely criticized by Alabama state officials after he attempted to gain information about the program by meeting with LEAA officials in Washington. Mayor Seibels had previously been unsuccessful in attempts to obtain adequate information from state officials about ways Birmingham could participate in the program and had appealed to Washington because Birmingham, in the midst of a major effort to upgrade its law enforcement systems, needed indications of the type and level of federal assistance that could be expected. Because of his initiative in this matter, Mayor Seibels, in addition to being criticized, was excluded from membership on the regional board assigned to do local planning for the Birmingham area although Birmingham comprises two-thirds of the population of the region.

CORRECTIONAL REFORM IN INDIANA?

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. HAMILTON. Mr. Speaker, my Indiana colleagues, Mr. JACOBS, Mr. BRADEMAS, and Mr. MADDEN, join me in presenting for your consideration a four-part series recently appearing in the Christian Science Monitor on Indiana's efforts to reform its correction system.

The series is disturbing to us in that it clearly demonstrates the long road our correction systems have yet to travel before their rehabilitation efforts produce a significant downturn in present recidivism rates.

Current House Judiciary Committee hearings on amending the Omnibus Crime Control and Safe Streets Act of 1968 present the opportunity to emphasize the need to provide greater assistance for the reform of the correction system portion of the criminal justice process. During fiscal year 1969, 17 percent of $29 million in LEAA action grants benefited correction systems. This year, 34 percent of $183 million in LEAA action grants will do so.

The series follows:

[From the Christian Science Monitor, Mar. 4, 1970]

INDIANA UPDATES CORRECTIONAL SYSTEM REPORT—DOCUMENT SCRUTINIZED

(NOTE.—Like other states, Indiana is trying to reform its correctional system. Some of its problems were touched on last spring in this newspaper's series, "Children in trouble: a national scandal." This is the first of four articles updating the Indiana correctional situation.)

(By Howard James)

INDIANAPOLIS.—Last spring this newspaper published a series of articles under the heading "Children in trouble: a national scandal." Certain Indiana officials have characterized the portion dealing with the Indiana Boys' School at Plainfield and the State Reformatory at Pendleton as "unfair and inaccurate." In October, Gov. Edgar D. Whitcomb of Indiana, through his aides, asked that The Christian Science Monitor report on progress made under his year-old administration.

QUESTIONS REJECTED

This reporter spent months attempting to get reliable information. In mid-December Whitcomb administration officials finally agreed to answer more than 30 questions about the correctional system. Two months passed, and the questions remained unanswered. During that time this reporter and the Monitor's Boston office made frequent attempts to get the requested information.

Then in February, Governor Whitcomb called the Monitor's Boston office, stressed the difficulty of bringing about correctional reform, and said the questions submitted in December were in the "have you stopped beating your wife" category.

Tvpical of the questions asked were:

What is the Whitcomb administration's policy on the use of the strap? What was the precise date when use of the strap was suspended at Plainfield? What is the Whitcomb administration's policy on solitary confinement of inmates under 25—length of stay, and reasons for commitment to solitary? What is the policy on group punishment? What is the policy on probation subsidies for courts handling juveniles? What is the policy

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on large vs. small correctional institutions? What are the qualifications for social workers in the institutions? What personnel cuts have been, or will be, made on the basis of the Governor's statement that such cuts would be possible?

REPORT DISPATCHED

Governor Whitcomb told the Monitor these questions would not be answered, then added that he would send a progress report compiled by the Department of Correction instead.

On Feb. 13 a 14-page report, dated Feb. 9, arrived at Monitor offices in Chicago and Boston.

While this document contained several valid items on progress made in Indiana correction in 1969, it appeared generally lacking in essential details—including dates, the number of people involved, and other basics. In addition, it seemed heavily padded with routine staff activities. Other items were unclear.

The Monitor asked this reporter to review the entire document, item by item, with correctional officials. This was done. Not all of the information requested was available—partly because of staff turnover in 1969 in the Department of Correction, partly because officials could not find supporting data, and partly because no single official in the department could (or would) discuss the document in its entirety.

PORTIONS SELECTED

The entire 14-page report, with necessary clarification and explanation by correctional officials, would fill several newspaper pages. Instead, the Monitor here offers representative portions of the progress report, with accompanying explanations where called for. Every attempt has been made to present a balanced picture of the document.

The first item in the Governor's progress report reads: "A new data-collecting instrument was designed this year. It not only provides volume information, but also adds individual information, which will provide a more accurate volume control as well as meeting the needs in program design and development. . . ."

Cloid Schuler, administrative assistant to the Correction Commissioner, and Jeff Schrink, classification director, said the "new data-collecting instrument" consists of sheets of paper—a form devised in 1969 on which to record data on those sentenced or committed to the Department of Correction.

At the moment there are neither funds nor staff to compile this data, the two men said. Mr. Schrink described the form and information they hope to collect to be "similar to data compiled by other correction departments around the United States." He added that "at the moment this is still in the planning stage" in Indiana.

MEETINGS SCHEDULED

The next two items discuss an effort to improve local probation. A series of eight meetings was scheduled, with experienced probation officers training those with less skill and experience. The first session was held Oct. 21, with 10 officers attending. Seven more meetings are planned around the state.

(Probation officers do not work for the state, and participation is voluntary. Continuation of the program appears to be dependent on local interest.)

Twelve local judges also have agreed to permit untrained probation officers to "come into their courts for instruction" in how to deal with youngsters.

The last item on this page of the report discusses a program that was started, according to Indiana Boys' School Superintendent Alfred R. Bennett, in October, 1968, before Mr. Whitcomb was elected Governor. Since that time 11 persons—4 judges and 7 probation officers (out of a state total of more than 300)—have taken part in three-day orientation programs at the school at Plainfield. The report says these programs were instituted because "the courts have had little firsthand knowledge about our institutions."

The next page mentions that a new manual is being provided to probation officers. There follows a long discussion of an inmate work-release program (a plan similar to a program developed 67 years ago in Wisconsin). The report shows three persons from the two institutions in question participating.

REPORT CHECKED

In checking, this reporter found 36 of the more than 2,000 inmates at the Indiana Reformatory were on work release, while only one of the more than 500 inmates at the Indiana Boys' School was involved in this program. Indiana officials hope to expand the program.

This section of the report notes that "approximately $20,000" in federal funds has been provided for work release. But officials say the Correction Department has not received the money because the Governor's budget agency has not released state matching funds.

The third page of the report discusses training of parole officers and rewriting of their manual and other matters that are routine in most state correctional agencies. Much of the fourth page also covers normal department operations.

Two items deserve mention. For the first time manuals on departmental policies and procedures are being developed. The first such manual—prepared by John Buck, one of several who left the department in 1969—is "coming out soon," the report states. The second and third are being written now.

INSPECTIONS MENTIONED

There also is mention of "periodic unannounced inspections of all the penal and correctional institutions." However, the reformatory has not been inspected since April 17, 1969, and no inspection has been made of the boys' school, Mr. Schrink told this reporter a few days ago.

Page 5 largely discusses training programs considered routine in most of the 50 states, including a "one-day training session for food personnel" using "resource personnel from industry and the State Board of Health." A $24,057 federal training grant is mentioned. But again the money is not available because state matching funds have not been released by the budget agency, according to correctional officials.

PROGRESS CITED

Much of page 6 involves the state prison, which was not discussed by this newspaper last spring.

The most meaningful progress is found on page 7, where the reformatory at Pendleton is discussed.

(Last Sept. 26 some 200 black prisoners were protesting conditions and rules at that institution by lying or sitting down on an open playing field. Rather than using tear gas or other methods of subduing the inmates, 11 white guards opened fire with shotguns. Two inmates died, 45 others were wounded.)

An inmate-staff council has been established since the September incident to narrow "the communications barrier between inmates and the staff." A literature review committee has been formed (black inmates complained they could not read books popular in the ghetto). Black staff members have been added to the board that passes on punishment for rule violations. Training of guards in use of weapons and methods of restraining outbreaks has been resumed. A citizens' advisory council has been formed. Management-training sessions were held for certain staff members. Certain staff members were organized into inspection teams to check on "safety, security, sanitation, etc."

George W. Phend, who took over as superintendent at Pendleton Aug. 1, says all of these changes were being planned before the September incident.

The reformatory section of the report also mentions the work-release program again and notes that group-therapy and individual-therapy sessions were started in 1969. This, the Monitor was told, was after the position of staff psychologist, vacant 1½ years, was filled.

ROOMS RENOVATED

Mr. Phend told this reporter that of the more than 2,000 inmates, a "conservative estimate" of the number involved now would be 12 in group therapy, 12 in individual counseling, with the therapist also spending part of his time in staff training.

Also in 1969 a trained recreational director was hired, but staff members say he needs more help. The report also notes that inmates renovated and remodeled various portions of the institution, providing seven classrooms and a food storeroom, and improving a dormitory, the chapel, and the dining hall.

The report discusses the state prison farm, pointing out among other things, a saving of $1,600 a year to the state, because the medical director doubles as psychiatrist.

The report notes that the 1969 Legislature passed a bill creating the Indiana youth authority within the Department of Correction. The report also discusses how 23 parole officers who once handled adults as well as children have been assigned to the youth authority.

OVERFLOW ACCOMMODATED

Next the report discusses the Indiana Youth Center. The institution is not officially open, although ground was broken in 1962. (An overflow of 70 boys from the Indiana Boys' School have been sleeping in one of the center's buildings for some time.) When the center opens officially, up to 200 younger inmates will be transferred from the Pendleton Reformatory to relieve overcrowding in that institution.

The report notes the many delays in opening the center, then adds: "We now can see the work of so many people nearing completion with only the formidable tasks of staffing, training, and documenting of programs to be completed."

STAFF REDUCED

The next page reports on changes at the Girls' School, including three new cottages, a staff reduction of 15, expansion of treatment programs, and a work-study program.

The report then devotes half a page to the Boys' School. The first item states that the vocational program was expanded in 1969. Yet, Robert E. Hardin, head of the Indiana Youth Authority, says this took place between 1964 and 1966.

The second item discusses revisions in the "diagnostic process in the orientation unit" and asserts that "the treatment process begins with the boy arriving at the Boys' School and extends through into the community with the inmates' families, by increased visitation and communication."

One official calls this "more of a dream than fact."

The Boys' School also added a psychologist, bringing the number to three. None of the three has a doctorate.

The report lists 40 staff-development sessions. Superintendent Bennett says the only qualified social worker at the school holds a training session each week. While counselors attend, Mr. Bennett says "line staff" decided to drop out.

The next item discusses volunter services. Officials say the chaplain has church members visiting smaller boys (age 10 and up) several times a week in their living unit. Also, townspeople come in for basketball games.

CAMP PROGRAM COVERED

The second half of the 11th page covers the youth rehabilitation facility—a youth

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camp program. Progress in 1969, according to the report, included:

A work-release program at the Chain o'Lakes Youth Camp for 12 inmates; "expansion of community involvement," including the chartering of a youth Lions Club, "the first installation of such a body in any penal facility in the world"; and the chartering of a Jaycee chapter at the Chain o'Lakes Youth Camp.

The report notes that "the Rockville training center became a reality by law and is in median stages of development." Officials say they hope to transfer the smallest boys from the Boys' School to the camp—if staff funding is available and such a step is approved.

The report also notes that an operations manual has been completed for the youth rehabilitation facility (no date given), then adds that "revision and updating" are an ongoing process.

The fifth item shows group counseling programs have been started, although no dates or statistics are provided.

"FUTURE PLANS" LISTED

The final item notes that a vocational typewriter repair program has been initiated at the Chain o'Lakes Youth Camp "with no expenditure of funds from any source other than volunteers within the community."

The final three pages of the report list 18 items under the heading of "Future Plans." The 18 proposals include:

Reorganization of the Department of Correction; uniform records; an extensive staff-development program, including better pay; expanded work-release; expansion of the Indiana Youth Center to accommodate 450 youths; opening of a Rockville Training Center for boys 10–14 now held at the Indiana Boys' School; more contact between the Boys' School and the Girls' School for both inmates and staff; a search for alternatives to commitment, including use of more foster and group homes; inauguration of family counseling; improvements in the parole system, including use of volunteers (the report notes that "as many as half" the state's juveniles fail on parole); and provision of correctional staff members as speakers for civic groups.

Under the heading of "Shock Probation for Juveniles," the report proposes 30-day commitments to a juvenile institution for the "therapeutic value in the 'experience' of having been committed to an institution."

While most of the proposals are useful, Indiana correctional officials agree more is needed.

[From the Christian Science Monitor, Mar. 5, 1970]

PRESSURE BUILDS FOR INDIANA CORRECTIONAL REFORM FOR "CHILDREN IN TROUBLE"—HELP OR PUNISHMENT?

(NOTE.—Last spring, this newspaper published a series of articles on "Children in trouble." While reform came rapidly in several states, little happened in others. In Indiana, officials challenged the Monitor to support charges made in the series, and several months of dialogue ensued. This is the second of four reports updating the Indiana situation.)

(By Howard James)

INDIANAPOLIS.—Pressure for correctional reform is building in Indiana.

Gov. Edgar D. Whitcomb reports that his administration is pushing for needed reforms as rapidly as practicable. Specifically, state correctional officials say they are moving to stop staff brutality at the Indiana Boys' School at Plainfield and to make changes at the Indiana State Reformatory at Pendleton.

Robert P. Heyne, former superintendent of the Boys' School, and now State Correction Commissioner, told this reporter in a meeting in Mr. Heyne's office recently that he has instructed the present superintendent, Alfred R. Bennett, as well as Robert E. Hardin, executive director of the newly formed Indiana Youth Authority, to "clean up" the school. Mr. Heyne assured this reporter there would be "no whitewash."

For some time, most correctional officials, as well as some of Governor Whitcomb's aides, had denied that youngsters at the Indiana Boys' School were being mistreated.

EVIDENCE REQUESTED

State Rep. Harold Shick (R) of Muncie (brother-in-law of Donald Tabbert one of Governor Whitcomb's chief advisers) had written the Monitor last fall asking that this reporter provide evidence of beatings, solitary confinement, and other mistreatment of boys at the school as reported in the Monitor series "Children in trouble."

The breakthrough came in January of this year, when Mr. Shick accompanied me to the Boys' School. We visited boys at random in solitary-confinement cells. Some had nothing to read.

Mr. Shick also saw saucer-sized bruises on the buttocks of one youth who had been disciplined several days before with a heavy wooden paddle for running away. The boy was not permitted to sit on the bed during the day and was forced either to stand or sit on the cement floor.

Mr. Shick saw boys with shaved heads, a practice abandoned years ago in almost all other institutions in the nation.

NOTHING TO DO

He heard boy after boy tell of being "jacked-up" (physically assaulted) by staff members for various rule infractions. Boys, carefully questioned to assure accuracy, with stories cross-checked, told of being hit with fists, kicked, and otherwise attacked.

"The thing that affected me more than anything else," Mr. Shick said, "was when I saw the little kids—10 and 11 and 12—sitting in their pajamas after dinner with nothing to do. At least they could have some games or other activities. They should have more to do than watch television."

Mr. Shick heard both correctional officials and the boys themselves complain of a shortage of qualified staff and too little equipment for evening activities. Thus boys of all ages usually go to bed between 7:30 and 8 p.m.

"The purpose of the institution is to train and to try to help these kids who are in trouble, and not to inflict punishment in such a way as to cause them to be even more bitter toward society."

MEMO STRESSES DISCIPLINE

Nationally most correctional officials agree that it is difficult for a superintendent to learn of staff brutality—especially when inmates have no systematic methods of communicating with administrators. But they also assert that it is the duty of administrators to provide such channels of communication, to continuously check for possible brutality and to make it clear to staff that assaults on youngsters will not be tolerated.

The prevailing philosophy of the Indiana Boys' School seems best reflected in the disciplinary rules and procedures of that institution's academic school.

In a memo prepared by the principal and signed by the superintendent, rules for discipline and for "just and constructive punishment" are covered.

According to this memo, discipline "is the most important characteristic of the school's whole program." The memo explains how youngsters may be paddled "one to five 'licks'" if permission is granted by the principal.

Veteran observers say discipline, control, and punishment for years have been the overriding interest of many who work there.

At the same time, the vocational and academic programs at the school have been cited by experts as the "bright spots" of the institution.

1966 STUDY QUOTED

One study in 1966 by the National Council on Crime and Delinquency stated:

"The teachers are all certified by the State Board of Education and have salaries comparable to county public schools of similar size. The need to maintain established standards of the State Department of Education helps to ensure an acceptable school program.

"Other areas of the institution cannot even get necessities into their budget; yet the academic school has never been refused textbooks and necessary educational supplies. The State Department of Correction has generally respected the standards and requirements of the State Department of Education, but it has not, as yet, adopted recognized standards for the operation of its juvenile institutions."

The report adds that because of the nature of a training school, "the most skillful teachers should be sought, and at salaries considerably above salaries paid to teachers in community schools."

The majority of boys interviewed by this reporter said the academic and vocational schools are "the only good things" at the Boys' School and that most of the teachers are excellent.

TEACHER ADMITS SLAPPINGS

Yet, it is also accurate to say that boys complain that a few of the teachers hit them for minor infractions. One teacher admitted to this reporter that he slapped the boys and punished them in other ways.

Boys had reported that one teacher disciplined them by hitting them on the head with a half-inch wooden dowel. When I entered that teacher's classroom, I found a dowel on his desk.

A staff member told of other teachers assaulting youngsters.

In this newspaper's study of "Children in trouble" it was found that most leading experts agree the solution is not to use rigid or cruel controls or physical abuse, but rather to help the youngsters develop inner controls, improved attitudes, and self-discipline.

This is the basic philosophy at the highly acclaimed reform school at Redwing, Minn., throughout the innovative New York Division for Youth, and in other agencies and institutions with a high success rate across the United States.

"BRUTALITY" REPORTS DENIED

Last spring, in the "Children in trouble" series, I wrote of brutality in Indiana institutions. Later in the year I discussed this in two speeches delivered in the state. At that time Superintendent Bennett of the Boys' School at Plainfield told William B. Ketter, a reporter for the United Press International:

"We certainly do not know where he [Howard James] got the idea that brutality was part of our discipline, because it was not and is not. The accusations are without foundation . . . they are out-and-out falsehoods."

Yet, Mr. Bennett subsequently told this reporter—in the presence of a number of others on several occasions after Representative Shick visited the Boys' School on Jan. 17—that there is "more brutality here than we were aware of."

On several occasions in recent weeks, Mr. Bennett told this reporter he was doing everything in his power to eliminate brutality.

The difference of opinion appears to center on the degree of brutality. Mr. Hardin, head of the new Indiana Youth Authority, a few days ago agreed that "some" brutality exists "but not as much as you say."

PHYSICAL ASSAULT CITED

I found evidence that boys were hit, kicked, and otherwise assaulted by a number of employees at the Boys' School. Mr. Bennett admitted that he had "10 reports" of assault in the first half of January this year and that a staff member was reprimanded for walking through a dormitory at night while boys were sleeping and kicking arms that dangled off beds.

There was also evidence last spring and as recently as January that group punishment is fairly common: Boys were forced to hold heavy chairs over their heads for long periods or to bend over and hold their ankles till they fell over, or to hold their bodies in a push-up position until they collapsed.

This reporter observed this form of punishment last spring. Staff members told him it was still going on at the Boys' School in January.

The heavy leather strap used to punish boys when I visited the school last spring now has been retired. But while the public was told by officials last fall that the strap was not being used, I found one youngster had been strapped in November. (The strap has been abolished in all but a handful of the nation's worst institutions.)

Mr. Bennett first told me there was "no paperwork" on the November strapping incident. But later, in a telephone conversation, he said he thought he could "probably find some paperwork."

PADDLE SUBSTITUTED FOR STRAP

Later he said that the last recorded strapping took place in October and added that a wooden paddle has been used since then. He says that all forms of corporal punishment are being "phased out."

It is interesting to note that his predecessor at the Indiana Boys' School, Mr. Heyne (promoted to Correction Commissioner last summer after the first man appointed by Governor Whitcomb was ousted), is quoted in the Indianapolis News in 1964 as saying that he and his then-assistant, Mr. Hardin, planned to phase out such punishment.

The article quoted Mr. Hardin as saying: "Of course, corporal punishment is not going to be done away with overnight. We cannot do away with the paddle until a suitable substitute is found."

Mr. Heyne and other officials asserted that certain references to Indiana in the Monitor series last spring were "untrue or misleading." They objected strenuously to the word flogging—used in the Monitor's original report—and preferred "spanking." More recently they have referred to it as "strapping."

The issue of brutality came up last fall, after an Evansville, Ind., attorney, Donna Ray Hagedorn, filed a motion in the local court asking that a youth not be sent to the Boys' School at Plainfield because it would "be detrimental to the emotional mental, and emotional stability of the child," because "the Indiana Boys School offers no constructive therapy or program for this specific child," and because the school "has reverted to a hideous and sadistic procedure and type of corporal punishment contrary to rehabilitation."

MOTION QUOTED MONITOR STORY

The exception/motion quoted from the Monitor of last April, and asked that the court "issue an order prohibiting any and all floggings, whippings, lashings, beatings, and/or striking of said minor child as a means of discipline and/or punishment while under the supervision of Indiana Boys' School authorities or staff."

Several weeks ago Superintendent Bennett had agreed to combat the problem of staff brutality. He told me I could return in two months to check on progress made at his school. But when other Indiana officials learned of this, the plan was scrapped, and I was banned not only from the school at Plainfield, but from the Reformatory at Pendleton as well.

Reasons given for the banning varied. At one point I was accused of being insulting to staff members. Later I was told I had "spent enough time investigating the school." Yet, according to an article in the Indianapolis Star by Jep Cadou, one of the earlier charges made by officials was that I had not spent enough time investigating conditions.

It is also unclear whether I was banned on orders from Governor Whitcomb or from Mr. Heyne. When I first asked who issued the order, both Mr. Heyne and Mr. Bennett told me the order came from the Governor's office. More recently, they said the decision was made by Mr. Heyne.

At the same time Mr. Heyne mailed the following letter to me:

"DEAR MR. JAMES: "This is to notify you officially that any allegations of brutality made by you must be submitted to my office in writing, listing names, places, and the alleged incident.

"Sincerely, "ROBERT P. HEYNE,
"Commissioner, Department of Correction."

A copy of the letter was sent to James P. Quinn, the Whitcomb aide who had been assigned to corrections.

LOS ANGELES TIMES REPORTER BANNED

This newspaper also learned that a reporter for the Los Angeles Times, Bryce Nelson, was banned from Indiana correctional institutions, although he is new to the area and has never written on the subject before. Nor, Mr. Nelson said, had officials apparently read anything he had written on any subject.

Mr. Nelson said he was twice refused permission to talk to Pendleton Reformatory officials. He said Correction Commissioner Heyne was "excluding reporters from Indiana's prisons because 'we want to keep out people who only do negative reporting.'"

Maxwell King, a reporter for the Louisville Courier-Journal, has been permitted free access to Indiana correctional institutions. Mr. Heyne said that he wants only "objective reporters" to look at the system.

The Justice Department has assigned the Federal Bureau of Investigation to investigate conditions at the Boys' School and the Reformatory at Pendleton. That report is said to be under study in Washington.

Meanwhile, the United States Civil Rights Commission is conducting its own investigation of the Indiana Reformatory.

The John Howard Association, a private nonpartisan, penal-reform group based in Chicago, investigated the Sept. 26 shooting incident at the Pendleton Reformatory in which two prisoners died and 45 were wounded. The group's report, released recently, was extremely critical of the institution and staff, and said "the most important factor" in problems at the reformatory was "partisan politics."

[From the Christian Science Monitor,
Mar. 6, 1970]

WHY INDIANA LAGS IN CORRECTIONAL FIELD—REFORMATORIES STRUGGLE WHILE COSTLY STUDIES GATHER DUST

(By Howard James)

INDIANAPOLIS.—Reform comes hard in Indiana—at least in the Department of Correction.

In the past 35 years more than 18 professional studies have been published on Indiana corrections. While some important changes have been made, the dusty reports—which have cost Indiana taxpayers hundreds of thousands of dollars—have been largely ignored.

Shortcomings cataloged through the years may be found today.

(Four years ago John W. Buck, who recently left the department to take a teaching job with a university, published a short paper listing the various studies that had been made between 1935 and 1966.)

Some veteran correctional workers interviewed by this reporter in recent months insist that Indiana institutions were, in many ways, better in the 1930's than they are today. For, they explain, it was far easier to find qualified workers during the depression.

SCREENING LESS STRICT

Employees were more carefully screened 30 years ago. The now-decaying buildings were newer. At least in some instances, the number of inmates was far lower.

Thus, while many states have inched ahead in the correctional field in the past three decades, Indiana has continued to lag.

Based on the findings of this reporter in an 18-month national study published in The Christian Science Monitor last spring and return visits to Indiana in recent weeks, it remains clear that Indiana institutions for juvenile and youthful offenders rank with the worst—in the bottom 10 states.

The Boys' School at Plainfield and the reformatory at Pendleton remain brutal, punitive, and largely custodial, rather than rehabilitative. Both are inadequately staffed, poorly run, and critically overcrowded.

Some changes may lie ahead. Attention has been focused on the reformatory at Pendleton in recent months.

GUNFIRE RECALLED

On Sept. 26, 11 guards opened fire with shotguns on some 200 black inmates who were lying and sitting on an open sports field (one was reported to have been standing). Two were killed, and 45 were wounded. All had been ordered to move after they began protesting rules and conditions in the institution.

Bryce Nelson, a Los Angeles Times reporter, writing of the incident, declared Jan. 30:

"Indiana state administrators, from Gov. Edgar D. Whitcomb on down, have supported the guards' shooting of the prisoners. A county grand jury refused to indict any of those who had done the shooting, on the grounds that it could not determine criminal responsibility."

ORDER CRITICIZED

The grand jury did call for 15 changes. Almost all of the recommendations were the same as those cited in various reports through the years.

There also was criticism by the grand jury of the Whitcomb administration's order to cut back correctional staff a few days before the incident.

On Sept. 12 Robert P. Heyne, the second correctional commissioner to be named under the year-old Whitcomb administration, was quoted as saying he planned to cut 100 persons from the correctional staff in Indiana.

In a report on Pendleton issued a few days ago by the nonpartisan Chicago-based John Howard Association, this cutback was severely criticized.

"Even with 403 staff previously authorized, this meant that the institution fell far short of meeting acceptable staff standards. Then the authorized staff was cut to 386. This is absurd."

The report adds: "To meet the standards which exist in some of the more successful institutions, over 100 additional staff should be provided. To meet standards existing in some institutions where even more effective programs have been developed, over 300 additional staff are needed."

Some experienced employees at the reformatory complained to this reporter that a number of correctional workers were emotionally ill equipped for their work, others racially prejudiced, and some physically handicapped. They said some guards were one-armed, one-legged, or one-eyed.

One who gains the confidence of the inmates soon finds contraband scattered throughout the institution. Inmates brag that if the item is small "you can buy anything here that you can get on the streets of Indianapolis."

HOMOSEXUALITY REDUCED

Some inmates were even willing to show this reporter items that are banned. Cigarettes are used as the medium of exchange.

While forced homosexuality is far from

eliminated, at the reformatory, according to inmates and staff interviewed Jan. 18 gang "rapes" of smaller, younger inmates have been reduced there during the past year.

If one probes deeply enough, it is clear that conditions at the Indiana Boys' School remain critical. As pointed out earlier in this series, boys are subject to frequent and severe physical assaults by staff members. And the overall approach of the institution is punitive.

Officials say they are working to eliminate staff assaults on the boys at Plainfield. Superintendents at both the Boys' School and at the Reformatory at Pendleton told me as late as last week they have no objection to my returning periodically to check on progress. But both say higher officials will not permit it.

One reason for the problems is that the amount spent per child in the Boys' School is extremely low. According to Robert Hardin, recently named head of the newly formed Indiana Youth Authority, Indiana's expenditure per child at the institution in 1967–1968 (the most recent figures available) was $2,600.

EXPENDITURES COMPARED

Yet in that same period, one study shows, New York spent $8,850, California paid out $8,217, and the state of Washington spent $8,154 per child. Such states as Illinois, Iowa, Kansas, Maryland, Minnesota, and New Hampshire spent $5,000 per child or more—roughly double Indiana's commitment.

While leaders in the correctional field say even these states are not doing enough, at least conditions are—in almost all cases—far better than what one finds in Indiana.

Part of the problem at Plainfield is size. Experts say that if a juvenile institution is to rehabilitate rather than cause more crime, it should have no more than 50 or 100 inmates. In no case, say these experts, should an institution have more than 150.

The population of the Indiana Boys' School usually runs between 600 and 700 youngsters. About 70 boys have been sleeping at the nearby Indiana Youth Center—an institution not yet officially open.

PROBLEM OF RUNAWAYS

In 1967, the Hendricks County Grand Jury (Plainfield is in Hendricks County) issued a report criticizing the Boys' School. A problem with runaways and other shortcomings were noted.

A year later the grand jury reported, among other things, that the "Indiana Boys' School is terribly overcrowded," adding that "clearly, additional facilities are needed to handle delinquent boys in Indiana."

The grand jury also said that "the school does not have sufficient professional staff to institute and operate a really effective rehabilitation program." Then it recommended that "the Indiana Legislature should take steps immediately to correct the situation. Public safety and human compassion demand it."

As early as 1935 the report of the Indiana State Committee on Governmental Economy urged that the Boys' School adopt a "social-work approach," according to Mr. Buck's paper.

In 1966 the National Council on Crime and delinquency said essentially the same thing and more. The council study pointed out that the Boys' School did not "contain the basic ingredient for behavior change."

But little has happened since any of these reports were released.

POLITICAL ASPECT NOTED

Those close to the problems in the Indiana Department of Correction blame politics for many of the problems. It appears that those who have been trying to sell changes to the Legislature have not been politically expert.

Beyond that, governors too often have made appointments on the basis of party affiliation rather than professional skill. Those ousted by Governor Whitcomb make no secret of the fact that they are Democrats, while most, if not all now holding top posts in the department of corrections, say they are Republicans.

Politicians, through the years, have also found it easier to fire commissioners and other staff members when problems arise than to deal with root problems. In 1968 the John Howard Association pointed out that there had been three commissioners in eight years, five superintendents at the Pendleton Reformatory, five superintendents at the Boys' School, and nine superintendents at the Girls' School."

Since then there has been more shuffling, and Governor Whitcomb now has his second commissioner after little more than one year in office.

The John Howard Association report asserts: "The most important factor leading to the tragic 'Sept. 26 incident' at the Indiana Reformatory is partisan politics, which has existed down through the years in Indiana."

Correctional officials know that they must walk carefully or they will find a long career quickly ended. One correctional expert insists he was told by the present correction commissioner that if Governor Whitcomb is embarrassed again, heads will roll.

[From the Christian Science Monitor, Mar. 11, 1970]

INDIANA PENAL OFFICIALS SEE DIM PROSPECTS FOR REFORM—LOW PRIORITY AND PUBLIC SUPPORT

(By Howard James)

INDIANAPOLIS.—Many Indiana correctional officials are privately pessimistic about reform. Through the years there has been little public support for corrections spending in Indiana.

On more than one occasion James P. Quinn, Gov. Edgar D. Whitcomb's "law and order" adviser, has said corrections were not a "high priority" item for the Governor. Further, not only have the Governor's budget officials been extremely reluctant to release funds approved by the Legislature for corrections, but Indiana has a constitutional debt-ceiling limitation.

It is also clear that correctional administrators are not in control of the institutions. Superintendents ask not to be quoted on this point, but they say that the lowest-level staff too often thwart reform by ignoring orders or refusing to take part in changes.

REORGANIZATION SOUGHT

At the Boys' School in Plainfield, Superintendent Alfred R. Bennett is attempting to reorganize and train the custody staff—those who run the cottages and have the most frequent and important contact with the boys. When pressed on why it was taking so long to do this, he admitted that "it is a matter of selling the staff."

Some members of families in the small community of Plainfield have been on the Boys' School payroll for two or more generations. A family may have inherited "rights" to the use of a state-owned garage for parking a car on an on-grounds living unit.

At the same time many residents of Plainfield grow weary of runaways and stolen cars. Others are frightened and demand harsh punishment.

The attitude in the town of Pendleton where the Indian State Reformatory is located, is little different. Reporters who interview townspeople find many citizens satisfied that the wounding and killing of inmates last Sept. 26 at the reformatory was appropriate. The local grand jury refused to indict those involved in the shooting incident, asserting that guards—described by some witnesses as being "gleeful" as they fired on the prone inmates—were only doing their jobs.

Bryce Nelson, Midwest correspondent for the Los Angeles Times, wrote: "Prison officials receive the feeling that the public does not care what happens to the inmates. They feel that a 'law and order' mood is dominant in the country and that the public will support stiff disciplinary actions taken against inmates."

Yet slowly public pressure is growing. Because of this, Indiana officials have attempted to silence critics, both by barring them from the institutions and by putting pressure on those who are speaking out.

Indiana politicians also have attempted to silence corrections officials, and in many instances they have succeeded. Mr. Nelson, like this reporter, found most afraid to speak out. Mr. Nelson wrote that "all interviews with reformatory staff members had to be conducted in private, away from the reformatory. The reformatory sources asked not to be identified by name so that they would not lose their jobs."

Staff members at the Boys' School who indicate they are concerned by the brutality they see around them say that they would probably "testify truthfully" if called by a grand jury. They encouraged this reporter to expose conditions but then asked that they not be involved because they were afraid of being fired.

Meanwhile, some small steps are being taken to improve both institutions. Solitary-confinement cells have been repainted at the reformatory at Pendleton, for example, and rules for use of the cells have been drawn up. Other changes were listed in earlier articles in this series.

At the Boys' School in Plainfield, officials plan to shut down the inmate-operated farm program April 1—a step taken years ago by better institutions.

One spokesman said there was little opportunity for farm laborers today, that most youngsters come from large cities anyway, and that now it is cheaper in many instances to buy food than to grow it.

More contact is being made with the Girls' School—both by staff and inmates. Boys are getting off grounds more often than before to take part in community activities. At present two are taking courses at a nearby vocational center, and by next fall it is hoped that 25 or 30 will be able to do this.

A so-called "treatment unit"—a high-security building for problem boys—is finally being staffed after many delays. Half of this unit will be opened in the next few weeks. But the philosophy behind this kind of high security is already outdated, according to several leading experts.

Meanwhile, officials hope to reduce inmate population to around the 500 level in 1970 by opening small camps and convincing judges to make fewer commitments by utilizing local resources. While an inmate population of 500 is still at least two, three or four times too large—depending on which experts one listens to—it is, they say, a step in the right direction.

The ideal institution is tailored to the special needs of a group of no more than 150 inmates.

Meanwhile, Superintendent Bennett says he has been "talking to, reprimanding, and suspending" staff members found to be assaulting youngsters.

Where does one place the blame for the deficiencies in the correctional system?

What are the answers?

Some point to the politicians who refuse to support reforms and who, over the years, keep shuffling top officials in the department for political reasons.

Others note that many of the better Correction Department employees have already left and that "new talent" is needed from the outside. Nearly everyone agrees that far more money is needed—so that Indiana correctional expenditures begin to approximate those in other Midwestern or Northern states.

The Indiana Criminal Justice Planning Agency has roughly $4 million in federal funds to spend. While little was done for juveniles and emphasis was on strengthening police departments in 1969, William T. Sharp, chairman of that agency, says the thrust in 1970 will be on preventing delinquency and on keeping children out of the state institutions. Proposals for these federally supported projects now are being drafted and are expected to be submitted in April.

Perhaps this is the greatest hope: that these federal funds will be wisely used for programs that will bring about change.

SENATE—*Friday, March 13, 1970*

The Senate met at 10 o'clock a.m. and was called to order by the Vice President.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou Shepherd of our lives, the Restorer of our souls, who hast promised to lead us in paths of righteousness for Thy name's sake, lead us this day beyond all doubt and fear, step by step, moment by moment, into the light and truth of Thy kingdom. Thus guided, may goodness and mercy follow us all the days of our lives that we may abide in the house of the Lord forever. Amen.

BOARD OF VISITORS TO THE COAST GUARD ACADEMY AND THE MERCHANT MARINE ACADEMY—APPOINTMENTS BY THE VICE PRESIDENT

The VICE PRESIDENT. The Chair, under the provisions of Public Law 207 of the 81st Congress, appoints the Senator from Connecticut (Mr. DODD) to the Board of Visitors to the Coast Guard Academy, and the Chair announces, on behalf of the chairman of the Committee on Commerce (Mr. MAGNUSON), his appointments of the Senator from Louisiana (Mr. LONG) and the Senator from Vermont (Mr. PROUTY) as members of the same Board of Visitors.

The Chair, under the provisions of Public Law 301 of the 78th Congress, appoints the Senator from California (Mr. CRANSTON) to the Board of Visitors to the U.S. Merchant Marine Academy, and the Chair announces, on behalf of the chairman of the Committee on Commerce (Mr. MAGNUSON), his appointments of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from New York (Mr. GOODELL) to the same Board of Visitors.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 12, 1970, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period, not to exceed 15 minutes, for the transaction of morning business, and that there be a limitation of 3 minutes on statements made therein.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

TELEGRAM TO PRESIDENT NIXON ON CIVIL RIGHTS POLICY

Mr. BYRD of West Virginia. Mr. President, press reports yesterday stated that a Member of the Senate had criticized the administration for its handling of civil rights problems.

Last evening I sent the following telegram to the President:

MARCH 12, 1970.

THE PRESIDENT,
The White House,
Washington, D.C.:

A member of the Senate has criticized your administration in the press today for having made, in his words, "a cold, calculated political decision" to adopt a negative civil rights policy. This criticism prompts me to commend your administration on its activities in the civil rights field. Too often in recent years the civil rights of the majority have been subordinated to the civil rights of a militant minority in this country. Your administration, it seems to me, has tried to strike a proper balance with respect to the civil rights of all people, Negro and white, in the Nation. I commend your administration on its efforts to promote increased employment of Negroes based on their qualifications. In addition, I commend your administration on its efforts to train and equip Negroes for better jobs.

I also compliment you on your efforts to restructure the Supreme Court which, for too long, has been the haven of activist libertarian judges who have substituted sociological theories for legal precedent and who have subordinated the rights of law-abiding citizens to the imagined rights of seasoned criminals.

I hope that your administration will continue its reasonable approach to civil rights matters and that you will not be deterred by those in this country whose philosophy was rejected at the polls in the last election but who nevertheless continue to make a determined effort to dictate the policies of your administration.

The voters of this country in 1968 indicated a desire for a more conservative orientation in this government's handling of sociological problems. I trust that your administration will continue to heed the voice of the great unorganized majority even though it may not, at times, make itself heard above the dim of organized pressure groups.

ROBERT C. BYRD,
U.S. Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in yesterday's Washington Post entitled "Brooke Hits Nixon Policy on Rights."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BROOKE HITS NIXON POLICY ON RIGHTS

The Senate's only Negro member, Republican Edward W. Brooke, said yesterday that the Nixon administration has made "a cold, calculated political decision" to adopt a negative civil rights policy.

"President Nixon said he wanted to bring us together, but everything he has done so far appears to be designed to push us further apart," the Massachusetts senator said, in his harshest criticism so far of his fellow Republican.

"I have seen very little for Negroes, for black people, to applaud during the Nixon administration," Brooke said in an interview on the CBS radio program "Capitol Cloakroom."

Sen. Brooke, who campaigned for Mr. Nixon, said he was aware during the 1968 presidential campaign that "the Nixon campaign strategy was to sort of ignore the black community." But he said he had expected that the President would abandon that stance after his election.

Instead, Brooke said, the Nixon administration now is following what "you might very well call a suburban strategy as well as a Southern strategy . . . and I think that it's a rather cold, calculated political decision that has been made by the Nixon advisers and by the President to continue along the road they took during the campaign."

Brooke said some of Vice President Agnew's recent statements, which he said disturbed him, could be explained as "support for this cold political decision."

The Massachusetts senator said he was "dismayed" by the administration's stand on desegregation guidelines, voting rights, Supreme Court nominees and other issues.

"I have seen very few deeds which have pleased me during the early stages of the Nixon administration insofar as black people are concerned," he said.

He has not spoken to the President on these matters for almost a year, Brooke said, but has written letters to him about them. "In most instances the answers have not been specific," Brooke said.

Nonetheless, Brooke said, "I support the administration and I'm very proud of my Republicanism, but there is room in the Republican Party for disagreement and I have that disagreement with the President on certain domestic issues."

He said he gave the administration "high marks" for improving the Vietnam war situation and the nation's economy and for cutting defense spending.

RECONVENING THE 1962 GENEVA CONVENTION WOULD NOT SETTLE THE PROBLEMS IN LAOS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 8 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, President Nixon's call for a reconvening of the 1962 Geneva Convention on Laos was a most commendable diplo-

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matic gesture—but, as a peace effort, it does not go far enough.

The 1962 Convention stands as one of the greatest failures ever recorded by international peace talks. Even while the accords were being signed in Geneva on July 23, 1962, they were being violated in practically every part of Laos, by practically every signatory nation.

Under the accords of 1962, the International Control Commission for Laos officially observed the withdrawal of foreign troops from Laotian soil. The three-nation Commission watched as the United States removed 666 men, the Philippines pulled out 403 men, and North Vietnam withdrew 40 men. In November of 1962—less than 4 months after the signing of the accords—the Commission noted that:

> . . . reports received from newspapers and broadcasters (indicate) that thousands of foreign troops from various nations still remain in Laos . . .

Six years after the Geneva Convention of 1962, the violations continued to be just as blatant. A situation report on Laos, issued on May 21, 1968, stated that:

> Politically, militarily, and economically, the current situation in Laos reflects a failure to realize the purpose of the 1962 Geneva accords. Peace and stability have not come to Laos and the nation has not been isolated from the Southeast Asia theater of conflict.

The situation report concluded that:

> Since 1962, the neutrality of Laos has been more of an internationally-accepted myth than a national reality.

Mr. President, any reconvening of the 1962 Convention would serve merely to give substance to that myth. The President would have been better advised to call on the International Control Commission for an up-to-date report on the situation in Laos—and have the Commission turn over its findings, not to the 1962 Convention which dealt solely with Laos, but rather to the 1954 Geneva Convention which examined the problems in all three of the former Indo-China states.

The Commission for Laos consists of India, Poland, and Canada; and there has been evidence recently that India, as Chairman of the ICC, is willing to launch a new study of the struggle in Laos. I urge the President to encourage such an undertaking.

Under chapter 6, article 30, of the 1954 Geneva agreements, it states that the International Control Commission shall:

> . . . either on its own initiative, or at the request of the Joint Commission, or of one of the parties, undertake the necessary investigations, both documentary and on the ground.

India's desire to carry out a new investigation under that provision was noted in an article that appeared in the Monday, March 2, edition of the Christian Science Monitor.

Writing from New Delhi, Correspondent Ernest Weatherall notes that:

> India's appeal to both sides to end hostilities in Laos is regarded here as perhaps the first step in "reactivating" its role as chairman of the long-dormant International Control Commission.

Mr. Weatherall admits that conflicts exist within the three-nation Commission, and says that some better negotiating bodies may be established in the future. However, he concludes that:

> . . . all these peace consortiums appear to be only in the distant future. The only mediator available today is the imperfect International Control Commission, to help end the crisis in Laos. And it may be, New Delhi feels, the last chance of glory for the commission set up by the Geneva powers 14 years ago.

Mr. President, since the three nations forming the ICC for Laos remained the same under both the 1954 and 1962 accords, they could technically submit the findings of their investigation to either convention. For a number of reasons, I would like to see any findings submitted to the 1954 conference.

For one thing, as I mentioned, the 1954 convention discussed the problems in Laos, Cambodia, and Vietnam, while the 1962 convention was restricted to discussions on Laos. As the President himself pointed out, most of our military operations in Laos are directly related to our war effort in Vietnam. It would be sheer folly, then, to think we could settle the current hostilities in Laos without mentioning Vietnam. A broad-scope convention would also enable us to resolve—or try to resolve—several of the disputes that have arisen because of our military activity near the Combodian-Vietnam border.

The section of the 1954 convention that dealt with Laos was most comprehensive—so comprehensive, in fact, that, almost in its entirety, it was carried over as a part of the 1962 proceedings. The protocol of those latter accords takes special note of the fact that it was:

> Confirming the principles of respect for the sovereignty, independence, unity and territorial integrity of the Kingdom of Laos and non-interference in its internal affairs which are embodied in the Geneva Agreements of 1954.

I am well aware, Mr. President, that the United States did not sign the final declaration of the 1954 Geneva convention. But, at the conclusion of that conference, we issued a statement in which we promised to abide by the accords reached there. We further stated that:

> We share the hope that the agreements will permit Cambodia, Laos, and Viet-Nam to play their part, in full independence and sovereignty, in the peaceful community of nations, and will enable the peoples of that area to determine their own future.

We have used that statement as a basis for calling for the 1954 convention to discuss the situation in Vietnam. And now that the war is in danger of spreading to Laos—now that the Pathet Lao are offering their own terms for peace—it would seem more important than ever to move again for a reconvening of the 1954 conference.

Mr. President, we in the Western World have long labored under the mistaken belief that the problems of Southeast Asia can be attacked by Laotian, Vietnamese, or Cambodian solutions. Yet, Laos is a country whose boundaries were arbitrarily drawn by a French general, and Vietnam is a country which was arbitrarily divided by non-Asian overlords. To attempt to forge solutions according to artificially drawn boundaries is to perpetuate futility. This was what the 1962 convention tried to do, and it failed miserably.

Only in a wide-ranging conference like the 1954 convention do we have the potential for forming an effective settlement.

To be sure, Mr. President, the Soviet Union, as cochairman of both the 1954 and 1962 conventions, can halt any attempts to reconvene either conference. It vetoed our efforts to have the 1954 convention reopened for discussion of Vietnam, and it has thus far ignored the President's call for a reconvening of the 1962 convention—saying, in the latter case, that it will not agree to discuss Laos as long as the United States is at war in Vietnam.

Yet, the situation in Southeast Asia is growing worse almost daily—the war in Vietnam continues, and the hostilities in Laos increase. Under these circumstances, Mr. President, I feel it imperative that we make known our willingness to return to meaningful discussions. And a study of both Geneva Conventions shows clearly that the 1954 conference would be best able to provide a format for those discussions.

Let us call the International Control Commission to investigate the situation and make its findings known both to the world and to the 1954 Convention. And, in light of those findings and in light of the desire of the United States for peace, let the Soviet Union go on record either favoring a settlement of the conflicts in Southeast Asia, or as opposed to peaceful negotiations.

In the call for an honorable peace, Mr. President, we lose nothing. But, in the continuation and escalation of the fighting in Southeast Asia, we lose much.

Mr. GRIFFIN. Mr. President, will the Senator yield to me again?

Mr. BYRD of West Virginia. I yield.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from West Virginia. I think he has made a very significant statement, one that I hope will receive as much attention as the critical statements we hear and read about with respect to Southeast Asia.

I think the Senator takes a very realistic attitude toward the situation. I am sure that every Senator and everyone in the country wishes very much that we could negotiate away the differences and the problems in that part of the world. However, we would be blind if we did not recognize that some other agreements already reached, as for example the accords which supposedly established neutrality in Laos, were meaningless almost as soon as they were signed.

And, as we seek to negotiate the differences in Vietnam, it is essential to realize that negotiations and agreements must be meaningful and enforceable if they are to be implemented.

The distinguished Senator from West Virginia is approaching this complex, difficult subject in a very statesmanlike way. And I wish to commend him.

Mr. BYRD of West Virginia. I thank the Senator.

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Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I be recognized for 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I commend the Senator from West Virginia for his factual analysis of the situation which has developed in Laos and, in effect, in all of what used to be called the Associated States of Indochina.

I am pleased with President Nixon's statement in which he, in effect, has asked the Soviet Union and the United Kingdom to be cochairmen in reconvening the Geneva conference affecting Laos, which was agreed to, as the Senator said, in 1962.

I am also encouraged by the fact that the French Government has indicated that it is also available for the use of its good offices to try to bring about a Laotian settlement.

We will recall that the only troops which were allowed to remain in Laos at the time of the Geneva accords of 1962 were about 400 French soldiers for the purpose of training the Laotians.

I understand that since that time that force has been reduced considerably. There are indications of the attitude of the administration, which would like to bring about a reconvening of the Geneva Conference. It has given its support to any conference, I understand, which might take place between Souvanna Phouma and his half brother, Souphanouvong, the leader of the Pathet Lao.

I am hopeful that either through the Geneva Conference, through the good offices of France, the International Control Commission, or through the offer made through Souvanna Phouma, all avenues will be explored, and that out of them will come a definitive settlement for Laos. Even so, it will be awfully hard to settle the Laotian question in isolation because there are rumblings of disturbances in Cambodia, and if we expect a settlement to be achieved in Indochina, it will have to be applied to all three Indochina states—or to be more exact in the four, because of the division of Vietnam.

Mr. President, I thank my majority leader.

Mr. DOLE. Mr. President I have been listening for the last few weeks as some Senators have exposed facts about Laos that really are not news to anyone. And I have watched as part of the press has tried to make it seem as if there were a secret war being fought in Laos involving thousands of CIA agents, battalions of Green Berets and all kinds of other nonsense.

They have ignored the President's disclosures, most of which have been public knowledge to everyone, I guess, except a few of my colleagues, and they have sought in every way to create a credibility gap.

And I must say as inventors of the credibility gap that began with missiles in 1960 and ran through to Vietnam in 1968, they have become master practitioners of the art of blaming others for their own actions and their own failures.

And that, surely, is what is going on here these days. Just as they have tried—and failed—to make the Democrat war in Vietnam Richard Nixon's war, now they are trying to make the war in Laos Richard Nixon's war.

In fact, they are so busy trying to make political profit out of war that they would rather place the blame for these wars on the President of the United States than where they belong—on the backs of the Communist North Vietnamese, and their Communist cohorts in China and Russia.

Two weeks ago in this Chamber the Senator from Arizona—Senator GOLDWATER—asked the question:

> Why don't they—

Meaning those who seek to make a political issue out of Laos—

> Why don't they ask what the Communists are doing there?

I think the answer to the Senator's question is obvious. They know. They knew before the President's statement last Friday that there are over 60,000 Vietnamese troops in Laos. They knew that the North Vietnamese never, from the beginning, lived up to the Geneva accords. They knew that we are supplying materiel and weapons and logistic support to the Laotians.

They knew we are bombing in North Laos and along the Ho Chi Minh Trail. They know we are doing these things because they are vital to the lives of American troops in South Vietnam. They knew because the administration told them. It is in the record of the hearings.

They know—or they should have, since most of them were a part of the administration—that we have been following the same general policy in Laos for nearly a decade.

Yes, we have escalated our air attacks as the Communists have escalated the war—but not with ground troops and not as a matter of adopting new policies.

Yes, we have had casualties in Laos as a result of enemy action, but not because of American combat activities and this administration has admitted those casualties. Where, I might ask, were those who are now decrying all of this when it began, when policy was established, when in fact, the accords were drawn up and promptly violated by the Communists?

Mr. President, they were nowhere to be found. Where was their criticism of the architects of American involvement in Southeast Asia? They were nowhere to be found.

Mr. President, I am tired of the sanctimonious cries of outrage leveled against a Republican President for the blunders and actions of his Democratic predecessors.

If there is blame to be assessed, let us assess it where it belongs—against those who brought it about.

And Mr. President, it should be remembered, if this body is talking about asserting its foreign policy responsibilities under a Republican President; it should talk also about its abdication of those responsibilities under a Democratic President.

When we can be told why those alleged responsibilities were abdicated, then perhaps we will have better grounds on which to demand their return.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

Report on Reapportionment of an Appropriation

A letter from the Director, Bureau of the Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation of the Veterans' Administration for "Medical care," for the fiscal year 1970 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations; to the Committee on Appropriations.

Proposed Legislation To Authorize the Government of the District of Columbia To Fix Certain Fees

A letter from the Assistant to the Commissioner, transmitting a draft of proposed legislation to authorize the Government of the District of Columbia to fix certain fees (with accompanying papers); to the Committee on the District of Columbia.

Proposed Employee Benefits Protection Act

A letter from the Secretary of labor, transmitting a draft of proposed legislation to amend the Welfare and Pension Plans Disclosure Act (with accompanying papers); to the Committee on Labor and Public Welfare.

Report on Progress in the Prevention and Control of Air Pollution

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on progress in the prevention and control of air pollution, for the calendar year ended December 31, 1970 (with an accompanying report); to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Armed Services, without amendment:

S. 3083. A bill to authorize the disposal of corundum from the national stockpile (Rept. No. 91–721);

S. 3087. A bill to authorize the disposal of chrysotile asbestos from the national stockpile and the supplemental stockpile (Rept. No. 91–722);

S. 3446. A bill to authorize the disposal of refractory grade chromite from the national stockpile and the supplemental stockpile (Rept. No. 91–723);

S. 3451. A bill to authorize the disposal of natural Ceylon amorphous lump graphite from the national stockpile and the supplemental stockpile (Rept. No. 91–724);

S. 3452. A bill to authorize the disposal of molybdenum from the national stockpile (Rept. No. 91–725);

S. 3456. A bill to authorize the disposal of natural battery grade manganese ore from the national stockpile and the supplemental stockpile (Rept. No. 91–726);

S. 3457. A bill to authorize the disposal of Surinam type metallurgical grade bauxite from the national stockpile and the supplemental stockpile (Rept. No. 91–727);

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H.R. 12941. An act to authorize the release of 4,180,000 pounds of cadmium from the national stockpile and the supplemental stockpile (Rept. No. 91–728);

H.R. 15021. An act to authorize the release of 40,200,000 pounds of cobalt from the national stockpile and the supplemental stockpile (Rept. No. 91–729);

H.R. 15831. An act to authorize the disposal of bismuth from the national stockpile and the supplemental stockpile (Rept. No. 91–730);

H.R. 15832. An act to authorize the disposal of castor oil from the national stockpile (Rept. No. 91–731);

H.R. 15833. An act to authorize the disposal of acid grade fluorspar from the national stockpile and the supplemental stockpile (Rept. No. 91–732);

H.R. 15835. An act to authorize the disposal of magnesium from the national stockpile (Rept. No. 91–733);

H.R. 15836. An act to authorize the disposal of type B, chemical grade manganese ore from the national stockpile and the supplemental stockpile (Rept. No. 91–734);

H.R. 15837. An act to authorize the disposal of type B, chemical grade manganese ore from the national stockpile and the supplemental stockpile (Rept. No. 91–735);

H.R. 15838. An act to authorize the disposal of shellac from the national stockpile (Rept. No. 91–736);

H.R. 15839. An act to authorize the disposal of tungsten from the national stockpile and the supplemental stockpile (Rept. No. 91–737).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 3786. An act to authorize the appropriation of additional funds necessary for acquisition of land at the Point Reyes National Seashore in California (Rept. No. 91–738).

SAFEGUARD ON CONSUMERS BY REQUIRING GREATER STANDARDS OF CARE IN THE ISSUANCE OF UNSOLICITED CREDIT CARDS—REPORT OF A COMMITTEE—MINORITY VIEWS (S. REPT. NO. 91–739)

Mr. KENNEDY. Mr. President, on behalf of the Senator from Wisconsin (Mr. PROXMIRE), from the Committee on Banking and Currency, I report favorably, with amendments, the bill (S. 721) to safeguard the consumer by requiring greater standards of care in the issuance of unsolicited credit cards and by limiting the liability of consumers for the unauthorized use of credit cards, and for other purposes, and I submit a report thereon. I ask unanimous consent that the report be printed, together with minority views, and that the committee have until midnight tonight to deliver the copy for printing purposes.

The PRESIDING OFFICER (Mr. COOK). The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Massachusetts.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Stuart W. Rockwell, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Morocco;

Findley Burns, Jr., of Florida, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Ecuador;

Albert W. Sherer, Jr., of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Guinea; and

Clarence Clyde Ferguson, Jr., of New Jersey, to be Ambassador Extraordinary and Plenipotentiary to Uganda.

By Mr. NELSON, from the Committee on Labor and Public Welfare:

Albert E. Abrahams, of Maryland, to be an Assistant Director of the Office of Economic Opportunity.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. JAVITS:

S. 3589. A bill to amend the Welfare and Pension Plans Disclosure Act; to the Committee on Labor and Public Welfare.

(The remarks of Mr. JAVITS when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. HATFIELD:

S. 3590. A bill for the relief of Leo Lucas; to the Committee on the Judiciary.

By Mr. MONDALE:

S. 3591. A bill for the relief of Maurice Polard; to the Committee on the Judiciary.

By Mr. CURTIS (for himself, Mr. HRUSKA, Mr. BELLMON, Mr. BURDICK, Mr. DOLE, Mr. JORDAN of North Carolina, Mr. PROXMIRE, and Mr. YOUNG of North Dakota):

S. 3592. A bill to amend the Federal Meat Inspection Act, as amended, to clarify the provision relating to custom slaughtering operations; to the Committee on Agriculture and Forestry.

(The remarks of Mr. CURTIS when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. WILLIAMS of Delaware:

S. 3593. A bill to reduce budget outlays by restructuring or terminating certain outmoded or uneconomic Federal programs; referred to the Committees on Agriculture and Forestry; Commerce; Finance; and Labor and Public Welfare, by unanimous consent.

(The remarks of Mr. WILLIAMS of Delaware when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. SPARKMAN:

S. 3594. A bill to authorize the acquisition of certain property in square 724 in the District of Columbia for the purpose of extension of the site of the additional office building for the U.S. Senate or for the purpose of addition to the U.S. Capitol Grounds; to the Committee on Rules and Administration.

S. 3589—INTRODUCTION OF EMPLOYEE BENEFITS PROTECTION ACT—ADMINISTRATION BILL TO AMEND THE WELFARE AND PENSION PLANS DISCLOSURE ACT

Mr. JAVITS. Mr. President, on behalf of the administration, I introduce, for appropriate reference, a bill to amend the Welfare and Pension Plans Disclosure Act. This bill is the subject of the Presidential message received today and printed later in the RECORD.

The bill I introduce today represents a vast improvement over existing law by greatly strengthening the disclosure requirements for employee benefit plans and establishing stringent fiduciary standards designed to protect the rights of millions of American workers who are covered by employee welfare or pension benefit plans. While, as I shall indicate later, I also favor other types of pension plan reforms, there is no question that the present bill is also vitally needed to remedy serious defects in existing law which have permitted racketeers and other unscrupulous persons to jeopardize the security of thousands of American workers.

Existing law, namely the Welfare and Pension Plans Disclosure Act, is predicated on a philosophy of disclosure: Congress assumed at the time that act was passed in 1958 that given adequate disclosure of the facts related to employee benefit plans, employees adversely affected by the acts of plan fiduciaries would be willing and able to take the necessary steps to protect their rights under State law.

Sadly, the facts which have surfaced in recent years as a result of investigation by the news media and by local, State, and Federal Government bodies, including the Senate Permanent Investigations Subcommittee of which I am a member, have demonstrated that we were too optimistic in 1958 about the sufficiency of disclosure requirements alone to prevent chicanery by plan administrators and other "parties in interest."

Even now, the Senate Labor Subcommittee, of which I am the ranking minority member, is about to undertake an extensive investigation of abuses in the employee benefit plan area—a fact of which the Senate was informed yesterday when it acted to approve the additional funds for the subcommittee to do the thorough job that needs to be done. Coming as it does at the commencement of the subcommittee investigation, the bill I am introducing today is most timely. This bill, together with S. 2167, which I introduced earlier this session, will give our investigation the legislative basis it should have by highlighting the defects of present law and the inadequacy of the disclosure philosophy which underlies it.

Present law is inadequate for the following reasons:

First, the disclosure required is not sufficiently detailed.

Second, aggravating the lack of specificity in the required disclosure is a definition of "party in interest" which fails to include persons who are not nominally parties in interest—for example, employers, trustees, union officers—but really are under the control of such parties. Thus, transactions between employee benefit plans and wholly-owned subsidiaries of contributing employers or relatives of trustees or union officials need not be reported under present law.

Third, under present law, even if the Secretary of Labor suspects misfeasance, he is unable to do anything about it. At most he can investigate and report it, but the burden is left on the participants or beneficiaries to protect their rights under State law. All too often, participants and beneficiaries of plans, out of ignorance or fear or both, have just not been capable of bearing this burden.

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Fourth, the State law which applies to employee-benefit plans is usually the common law of trusts, developed over the centuries. These trusts usually involve but a single settlor and, at most, a relatively small, well defined class of beneficiaries. In addition, there is a very serious problem arising from the fact that at common law the definition of "trustee" is quite narrow in scope, while in pension and welfare trust administration, the number of persons who handle and exercise control of the funds is much broader. Further, of course, the multistate operations of many such funds makes the application of a single State's law often unworkable, and in any event, the "conflict of laws" problems which arise in such cases are often a stumbling block to effective enforcement of State law.

Clearly, this body of traditional trust law, vast as it is, must be applied quite differently to employee benefit plans which are the product of collective bargaining and may cover thousands of employees of many different employers. It is not surprising then that a great deal of uncertainty exists today with respect to the duties, rights, obligations of, and remedies against, plan trustees and administrators; especially in connection with jointly administered plans where the trustees actually represent different parties with possibly opposing interests.

Finally, in the case of plans covering employees and beneficiaries in many States service of process, venue, and jurisdictional requirements compound even further the difficulty facing individual employees who might want to institute a suit to protect their rights under present law.

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The administration bill which I am introducing today is specifically designed to remedy these defects, as well as to provide additional protections to plan participants.

Much greater specificity of disclosure would be required, particularly with respect to investments in, and transactions with, "parties in interest," which are defined much more broadly than under existing law.

An annual audit by an independent accountant would also be required.

The new definition of "party in interest" includes those, such as administrators, officers, trustees, contributing employers and unions having members covered by the plan and the officers' agents and employees of such employers or unions now included under present law as well as persons controlling or controlled by contributing employers and relatives, partners or joint venturers with persons now included in the definition. "Relatives" is defined to include all ancestors, descendants, spouses and close in-laws. It is to be noted that in thus broadening the definition of "party in interest" this bill goes much further than the bill submitted by the last administration dealing with the same subject matter.

The bill also provides a Federal standard of conduct—the "prudent man" rule—for all employee benefit fund administrators and imposes an obligation on cofiduciaries with joint responsibility to prevent and redress breaches of such responsibility by each other. Fiduciaries who breach their responsibility are made personally liable to make good losses to the fund, and exculpatory provisions are rendered null and void.

The bill further specifies that fiduciaries must discharge their duties "solely in the interests of the participants and their beneficiaries" and also specifically prohibits a wide range of "conflict-of-interest" transactions between the fund and parties in interest subject to certain necessary and reasonable exceptions. In the types of conduct prohibited, the present bill is much more specific than the previous administration's bill. Of particular interest is the provision limiting future investments in contributing employer's stock to a total—when combined with previous holdings—of 10 percent of fund assets—this limitation does not apply to profit sharing, stock bonus and similar types of funds. This 10-percent limit is to be compared with the 20-percent limit contained in the bill reported out by the House Committee on Education and Labor in the 90th Congress. Also to be noted is a provision prohibiting payment of compensation by a fund—except reasonable expenses—to persons receiving full-time pay from contributing employers or unions whose members are participants in the fund. This provision is also included in my bill, S. 2167, and was not included in the previous administration's bill. Another safeguard is the prohibition for 5 years, of persons convicted of certain crimes serving in fiduciary position on employee benefit funds. This is similar to the prohibition on holding union office contained in section 504 of the LMRDA.

The present bill remedies the defect in existing law relating to enforcement by opening the Federal courts to suits by the Secretary of Labor or plan participants—if the amount in controversy exceeds $10,000. The Secretary may enforce any provision of the act, including the fiduciary standards provisions; plan participants or beneficiaries may sue to enforce their right to copies of reports and other documents required to be made available to them, to recover benefits or clarify their right to benefits under a plan, and, as representatives of a class, to redress breaches of fiduciary responsibility by plan administrators. In Federal court actions, process may be served nationwide.

In view of the problems of service of process and jurisdiction involved in maintaining individual suits against funds or their administrators I have some doubts about the desirability of conditioning access to the Federal courts by individuals on at least $10,000 being in controversy, the provisions of the bill permitting counsel fees to be awarded to successful defendants, as well as plaintiffs, and allowing the court to require plaintiffs to post bond to cover such fees.

In summary, those are the highlights of this important bill. I am convinced that it represents a long step in the right direction of providing adequate protection for the rights and expectations of participants and beneficiaries of employee benefit funds.

I would also like to discuss, briefly, some aspects of the relationship between this administration's bill and the broader approach to pension reform which I have taken in my own bill, S. 2167, the Pension Employee and Benefit Act.

The ultimate objective of Federal legislation in this field ought to be to insure that employees who are depending on benefit plans to provide them with help in times of sickness or disability or with retirement security ought to receive that to which they are reasonably and lawfully entitled. At a bare minimum this means that employee benefit funds ought to be protected from outright embezzlement as well as the more subtle, but no less insidious, types of malfeasance and breaches of trust that have occurred and to which the administration's bill is directed. S. 2167 covers this problem and in fact goes beyond the administration bill in certain respects such as requiring all plans to be the subject of a trust instrument, but clearly the administration's bill does a most thorough and complete job in this area.

We must also be concerned with the plan participant who loses his benefits because his plan is not adequately funded, and his employer goes out of business, or the participant whose employment terminates for reasons which may be entirely beyond his control, such as sickness, disability or layoff and who, thereby, is forced to forfeit all of his accrued benefits because he didn't work quite long enough to meet what may be inordinately long vesting requirements?

Every year, some 200,000 employees are affected—we don't know how many actually lose benefits—by pension plan terminations. In addition, the forfeiture ratio under many plans as a result of long vesting requirements and high turnover rates exceeds 75 percent, which means that less than one out of four employees now covered by such pension plans will receive any benefits from them.

S. 2167, my comprehensive bill, attempts to meet these problems by providing what I consider to be reasonable minimum standards for vesting and funding. Vesting would have to commence at 10 percent after 6 years and increase 10 percent per year thereafter until full vesting is achieved after 15 years. New plans would have to be fully funded after 30 years, old ones after 40 years. My bill also provides for a reinsurance plan in the case of premature termination due to cessation of the employer's business, and a mechanism for the creation of true pension portability. It would also provide for administration by an SEC-type commission which would take over the current duties of the Labor Department and the Internal Revenue Service in this area.

It is important to note that the administration's bill I am introducing today does not ignore these problems completely, either. Thus, the new disclosure provisions require a great deal of information concerning vesting and forfeitures to be included in annual reports. Actuarial assumptions must also be set forth in detail. The administration's bill thus implicitly recognizes the importance of vesting and funding provisions to participants. A provision similar to that contained in S. 2167 requiring a statement of rights to be given to persons upon termination of their participation in a plan which will be prima facie evidence of their rights is also included.

All of these matters will, of course, be explored thoroughly by the Subcommittee on Labor in its forthcoming hearings. I note, in this connection, that the Senator from Kentucky (Mr. Cooper) in his individual views printed in the report of the Rules Committee on Senate Resolution 360, authorizing funds for the Labor Subcommittee's investigation, specifically called attention to the need for the subcommittee to consider the desirability of minimum vesting standards in the law. I assure him that the subcommittee will do so.

Mr. President, I ask unanimous consent that there be printed in the Record the full text of the bill, the text of the accompanying letter from the Secretary of Labor, the text of an accompanying explanatory statement, a section-by-section analysis prepared by the administration, and a print of the Welfare and Pension Plans Disclosure Act as it would be amended by this bill.

The PRESIDING OFFICER (Mr. Young of Ohio). The bill will be received and appropriately referred; and, without objection, the bill and material will be printed in the Record.

The bill (S. 3589) to amend the Welfare and Pension Plans Disclosure Act, introduced by Mr. Javits, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the Record, as follows:

S. 3589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to strengthen and improve the protection of participants in and beneficiaries of employee welfare and pension benefit plans under the Welfare and Pension Plans Disclosure Act of August 28, 1958, as amended (92 Stat. 997), such Act is amended as follows:

Sec. 1. Short Title. Immediately following the Table of Contents of such Act is added the title "Short Title", and the following paragraph:

"Sec. 1. This Act may be cited as the 'Employee Benefits Protection Act'."

Sec. 2(a). The title of section 2 of such Act is amended by adding the words "Declaration of" after the word "and".

(b) Subsection (a) of section 2 of such Act is amended by striking out the words "welfare and pension", and by adding the words "that the operational scope and economic impact of such plans is increasingly interstate;" after the word "substantial;". adding the words "and adequate safeguards" after the word "information", and adding the words "and safeguards be provided" after the word "made".

(c) Section 2(b) is amended by striking out the period at its end and inserting in lieu thereof a comma followed by the words "by establishing fiduciary standards of conduct, responsibility and obligation upon all persons who exercise any powers of control, management or disposition with respect to employee benefit funds or have authority or responsibility to do so, and by providing for appropriate remedies and ready access to the Federal courts."

Sec. 3. (a) Subsections 1 through 13 of section 3 of such Act are redesignated by striking out the numbers "1" through "13" and inserting in lieu thereof the letters "a" through "m" respectively.

(b) Sections 3 (a) and (b) are amended by inserting the words "or maintained" after the word "established" in both subsections.

(c) Sections 3 (c), (d), (f), and (g) are amended by striking out the words "welfare or pension" where they appear in each subsection respectively.

(d) Section 3(m) is amended to read as follows: "(m) The term 'party in interest' means any administrator, officer, trustee, custodian, counsel, or employee of any employee benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or any person controlling, controlled by, or under common control with, such employer or officer or employee or agent of such employer or such person, or an employee organization having members covered by such plan, or an officer or employee or agent of such an employee organization, or a relative, partner or joint venturer of any of the above described persons."

(e) Section 3 is further amended by adding subsections "n" through "x", to read as follows:

"(n) The term 'relative' means a spouse, ancestor, descendant, brother, sister, son-in-law daughter-in-law, father-in-law, mother-in law, brother-in-law or sister-in-law.

"(o) The term 'administrator' means—

"(1) the person specifically so designated by the terms of the plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

"(2) in the absence of such designation (A) the employer in the case of an employee benefit plan established or maintained by a single employer, (B) the employee organization in the case of a plan established or maintained by an employee organization, or (C) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintain the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

"(p) The term 'employee benefit plan' or 'plan' means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

"(q) The term 'employee benefit fund' or 'fund' means a fund of money or other assets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (1) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (2) premiums, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

"(r) The term 'separate account' means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains or losses of the insurance company.

"(s) The term 'adequate consideration' when used in section 14 means either (1) at the price of security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (2) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer.

"(t) The term 'nonforfeitable pension benefit' means an immediate or deferred pension or other benefit which a participant or his beneficiary would upon proper application be entitled to receive under the provisions of the plan if at the time in question he had terminated his employment, irrespective of any conditions subsequent which could affect receipt of such benefit.

"(u) The term 'accrued benefit' means that benefit which, irrespective of whether such benefit is nonforfeitable, is equal to: (1) in the case of a profit sharing or money purchase type pension plan, the total amount credited to the account of a participant; (2) in the case of a unit benefit type pension plan, the benefit units credited to a participant; or (3) in the case of other types of pension plans, that portion of the prospective benefit of a participant of the plan as the Secretary may by rule or regulation provide constitutes the participant's accrued benefit under the plan.

"(v) The term 'security' has the same meaning as in the Securities Act of 1933, 15 U.S.C. 77(a) et seq.

"(w) The term 'fiduciary' means any person who exercises any power of control, management or disposition with respect to any moneys or other property of an employee benefit fund, or has authority or responsibility to do so.

"(x) The term 'market value' or 'value' when used in this Act means fair market value where available, and otherwise the fair value as determined in good faith by the administrator."

Sec. 4. (a) Subsection (a) of section 4 of such Act is amended by striking out the words "welfare or pension", "or employers", and "or organizations".

(b) Section 4(b) is amended by striking out the words "welfare or pension", and is further amended in paragraph (3) thereof by adding the letter designation "(A)" after the word "administered" the second time it appears, adding a comma after the word "society" the first time it appears, followed by the words "order or association", adding the letter designation "(B)" after the word "or" the first time it appears, striking out the word "and" the second time it appears and adding in lieu thereof the word "or", and by adding a comma after the word "society" the second time it appears, followed by the words "order, association".

(c) Paragraph (4) of section 4(b) is amended by striking out the period at its end and adding in lieu thereof a comma, followed by the words "except that participants and beneficiaries of such plan shall be entitled to maintain an action to recover benefits or to clarify their rights to future benefits as provided in section 9(e)(1)(B)."

Sec. 5. (a) Subsection (a) of section 5 of such Act is amended to read as follows:

"(a) The administrator of an employee benefit plan shall cause to be published in accordance with section 8 to each participant or beneficiary covered thereunder (1) a description of the plan and (2) an annual financial report. Such description and such report shall contain the information required by sections 6 and 7 of this Act in such form and detail as the Secretary shall prescribe and shall be executed, published, and filed in accordance with the provisions of this Act and regulations of the Secretary."

(b) Section 5(b) is amended, and section 5(c) added, to read as follows:

"(b) The Secretary may require the filing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs, so long as moneys or other assets remain in the plan. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be on such forms and filed in such manner as the Secretary may by regulation prescribe.

"(c) The Secretary may by regulation provide for the exemption from all or part of the reporting and disclosure requirements of this

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Act of any class or type of employee benefit plans, if the Secretary finds that the application of such requirements to such plans is not required in order to effectuate the purposes of this Act."

SEC. 6. Section 6 of such Act is amended to read as follows:

"(a) A description of any employee benefit plan shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this Act.

"(b) The description of the plan shall be comprehensive and shall include the name and type of administration of the plan; the name and address of the administrator; the schedule of benefits; a description of the provisions providing for non-forfeitable pension benefits (if the plan so provides) written in a manner calculated to be understood by the average participant, and if the plan does not provide such benefits, a statement to this effect; the source of the financing of the plan and the identity of any organization through which benefits are provided; whether records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Secretary."

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SEC. 7. (a) Subsection (a) of section 7 of such Act is amended by adding the number "(1)" after the letter "(a)", and by striking out that part of the first sentence which precedes the word "if" the first time it appears and inserting in lieu thereof the words "An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 14 of this Act or".

(b) Section 7(a)(1) is further amended by striking out the word "investigation" and inserting in lieu thereof the words "notice and opportunity to be heard", by striking out the words "year (or if" and inserting in lieu thereof the words "policy or fiscal year on which", adding a period after the word "kept", and striking out all the words following the word "kept."

(c) Section 7(a) is further amended by adding the following paragraphs:

"(2) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such reasonable information determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(3) The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted in accordance with accepted standards of auditing by an independent certified or licened public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing an insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by an agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report."

(d) Sections 7 (b) and (c) of such Act are amended to read as follows:

"(b) A report under this section shall include:

"(1) the amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position or employment he holds with any party in interest;

"(2) A schedule of all investments of the fund showing as of the end of the fiscal year:

"(A) The aggregate cost and aggregate value of each security, by insurer;

"(B) The aggregate cost and aggregate value by type or category, of all other investments, and separately identifying (i) each investment the value of which exceeds $100,000 or three percent (3%) of the value of the fund and (ii) each investment in securities or properties of any person known to be a party in interest.

"(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions and exchanges of securities made during the reporting period; a list of the issuers of such securities; and in addition a schedule showing, as to each separate transaction with or with respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and in the case of a sale, redemption or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss.

"(4) A schedule of purchases, sales or exchanges during the year covered by the report of investment assets other than securities—

"(A) by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and

"(B) for each transaction involving a person known to be a party in interest and for each transaction involving over $100,000 or three percent (3%) of the fund, an indication of each asset purchased, sold or exchanged (and, in the case of fixed assets such as land, buildings, and leasehold, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization.

"(5) A schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition a separate schedule showing as to each loan which

"(A) was made to a party in interest, or

"(B) was in default or

"(C) was written off during the year as uncollectible, or

"(D) exceeded $100,000 of three percent (3%) of the value of the fund,

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral and other material terms), the amount of principle and interest overdue (if any) and as to loans written off, as uncollectible an explanation thereof.

"(6) a list of all leases with

"(A) persons other than parties in interest who are in default, and

"(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leaseholds, etc., the location of the property), the identity of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, and with respect to any such leases in default, their identity, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

"(7) a detailed list of purchases, sales, exchanges or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of the other party to the transactions and his relationship to the plan;

"(8) If some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under section 7(b) (2), (3), (4), (5), (6), and (7), with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act.

"(9) In addition to reporting the information called for by this subsection 7(b), the administrator may elect to furnish other information as to investment or reinvestment of the fund as additional disclosures to the Secretary.

"(c) If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation."

(e) Section 7(d) is amended by striking out the capital "T" in the word "The" the first time it appears in paragraphs (1) and

(2) and inserting in lieu thereof a lower case "t".

(f) Section 7(e) is amended to read as follows:

"(e) Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:

"(1) the type and basis of funding,

"(2) the number of participants, both retired and nonretired, covered by the plan,

"(3) the amount of all reserves or net assets accumulated under the plan,

"(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities,

"(5) the ratios of the market value of the reserves and assets described in (3) above to the liabilities described in (4) above,

"(6) a copy of the most recent actuarial report, and

"(A) (i) the actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this section 7(e), insofar as any such actuarial assumptions are not included in the most recent actuarial report,

"(B) (i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments than are used for any other purpose, a statement explaining same,

"(7) a statement showing the number of participants who terminated service under the plan during the year, whether or not they retain any nonforfeitable rights, their length of service by category, the present value of the total accrued benefits of said participants and the present value of such benefits forfeited, and,

"(8) such other information pertinent to disclosure under this section 7(e) as the Secretary may by regulation prescribe."

(g) Section 7 is further amended by striking out in their entirety subsections (f), (g) and (h).

SEC. 8. (a) Section 8 of such Act is amended by striking out subsections (a) and (b) in their entirety and by redesignating subsection (c) as subsection (a).

(b) The subsection redesignated as subsection (a) is further amended by striking out the words "of plans" after the word "descriptions", striking out the word "the" before the word "annual" and adding the word "plan" before the word "descriptions".

(c) Section 8 is further amended by adding subsections (b), (c), (d) and (e), to read as follows:

"(b) The administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The Secretary shall make copies of such descriptions and annual reports available for inspection in the public document room of the Department of Labor.

"(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

"(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement, contract, or other instrument under which the plan was established and is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

"(2) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

"(3) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a complete copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established and operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

"(d) The administrator of an employee pension benefit plan shall furnish to any plan participant or beneficiary so requesting in writing a statement indicating (1) whether or not such person has a nonforfeitable right to a pension benefit, (2) the nonforfeitable pension benefits, if any, which have accrued or the earliest date on which benefits will become nonforfeitable, (3) and the total pension benefits accrued.

"(e) Upon the termination of service under the plan of a participant having a right to a benefit, payable at a later date, the plan administrator shall furnish to the participant or his surviving beneficiary a statement setting forth his rights and privileges under the plan. The statement shall be in such form, be furnished and filed in such manner, and shall contain such information, including but not limited to the nature and amount of benefits to which he is entitled, the name and address of the entity responsible for payment, the date when payment shall begin and the procedure for filing his claim, as the Secretary may by regulation prescribe. The statement furnished to the participant or his surviving beneficiary or a true copy shall be prima facie evidence of the facts, rights and privileges set forth therein."

SEC. 9. (a) Subsection (a) of section 9 of such Act is amended by adding the words "sections 5 through 13 of" before the word "this".

(b) Section 9 is further amended by striking out in their entirety subsections (b) through (i) and inserting in lieu thereof subsections (b) through (k), to read as follows:

"(b) Any plan administrator who fails or refuses to comply with a request as provided in section 8 within thirty days (unless such failure or refusal results from matters reasonably beyond the control of the administrator) by mailing the material requested to the last known address of the requesting participant or beneficiary may in the court's discretion be personally liable to such participant or beneficiary in the amount of up to $50 a day from the date of such failure or refusal, and the court may in its discretion order such other relief as it deems proper.

"(c) The Secretary shall have power, when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act, to make an investigation and in connection therewith he may require the filing of supporting schedules of the financial information required to be furnished under section 7 of this Act and may enter such places, inspect such records and accounts, and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation. The Secretary may report to interested persons or officials concerning the facts required to be shown in any report required by this Act and concerning the reasons for failure or refusal to file such a report or any other matter which he deems to be appropriate as a result of such an investigation.

"(d) For the purposes of any investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

"(e) Civil actions under this Act may be brought;

"(1) by a participant or beneficiary—

"(A) for the relief provided for in section 9(b), or

"(B) to recover benefits due him under the terms of his plan or to clarify his rights to future benefits under the terms of the plan;

"(2) by the Secretary or by a participant or beneficiary (as a representative party on behalf of all participants or beneficiaries similarly situated where the requirements for maintaining a class action are met) for appropriate relief, legal or equitable, to redress a breach of any responsibility, obligation or duty of a fiduciary, including the removal of a fiduciary who has failed to carry out his duties or who is serving in violation of section 15 of this Act; or

"(3) by the Secretary, to enjoin any act or practice which appears to him to violate any provision of this Act.

"(f)(1) Civil actions under this Act brought by a participant or beneficiary may be brought in any court of competent jurisdiction, State or Federal.

"(2) Where such an action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(3) Notwithstanding any other law, the Secretary shall have the right to remove an action from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for herein. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated such an action.

"(g) The district courts of the United States shall have jurisdiction without respect to the amount in controversy, to grant the relief provided for in sections 9(e) (2) and (3) in any action brought by the Secretary. In any action brought under section 9(e) by a participant or beneficiary the jurisdiction of the district court shall be subject to the requirement contained in 28 U.S.C. 1331.

"(h)(1) In any action by a participant or beneficiary, the court in its discretion may

"(A) allow a reasonable attorney's fee and costs of the action to any party;

"(B) require the plaintiff to post security for payment of costs of the action and reasonable attorney's fees.

"(2) A copy of the complaint in any action by a participant or beneficiary shall be served upon the Secretary by certified mail who shall have the right, in his discretion, to intervene in the action.

"(i) In any civil action authorized to be brought by the Secretary by this Act, or to enjoin any act or practice, or to collect any penalty assessed by the Secretary, the Attorney general shall represent the Secretary, unless the Attorney General delegates all or part of this authorization to the Secretary.

"(j) Except as provided in this Act, nothing contained herein shall be construed or applied to authorize the Secretary to regulate, or interfere in the management of, any employee welfare or pension benefit plan.

"(k) In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this Act. The Secretary shall immediately forward to the Attorney General or his representative any information coming to his attention in the course of the administration of this Act which may warrant consideration for criminal prosecution under the provisions of this Act or other Federal Law."

SEC. 10. Section 13 of such Act is amended by striking out the word "welfare" after the word "employee" the second time it appears in subsection (a), striking out the words "or of any employee pension benefit plan" after the word "plan" the first time it appears in subsection (a), striking out the words "welfare benefit plan or employee pension" after the word "employee" the second time it appears in subsection (b) and striking out the words "welfare benefit plan or of an employee pension" after the word "employee" the first time it appears in subsection (d).

SEC. 11. Such Act is further amended by renumbering sections 14 through 18 as sections 16 through 20, respectively, and by adding the following new sections:

"FIDUCIARY RESPONSIBILITY

"SEC. 14. (a) Every employee benefit fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.

"(b)(1) A fiduciary shall discharge his duties with respect to the fund—

"(A) solely in the interests of the participants and their beneficiaries;

"(B) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(C) in accordance with the documents and instruments governing the fund insofar as is consistent with this Act.

"(2) Except as permitted hereunder, a fiduciary shall not—

"(A) lease or sell property of the fund to any person known to be a party in interest;

(B) lease or purchase on behalf of the fund any property known to be property of any party in interest;

"(C) deal with such fund in his own interest or for his own account;

"(D) represent any other party with such fund, or in any way act on behalf of a party adverse to the fund or to the interests of its participants or beneficiaries;

"(E) receive any consideration from any party dealing with such fund in connection with a transaction involving the fund;

"(F) loan money or other assets of the fund to any person known to be a party in interest;

"(G) furnish goods, service or facilities to any person known to be a party in interest, or

"(H) permit the transfer of any property of the fund to, or its use by, or for the benefit of any person known to be a party in interest.

The Secretary may by rule or regulation provide for the exemption of any fiduciary or transaction from all or part of the proscriptions contained in this subsection 14 (b)(2), when the Secretary finds that to do so is consistent with the purposes of this Act and in the interest of the fund and its participants and beneficiaries; *Provided, however,* That any such exemption shall not relieve a fiduciary from any other applicable provisions of this Act.

"(c) Nothing in this section shall be construed to prohibit any fiduciary from:

"(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the plan under which the fund was established;

"(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund: *Provided,* That no person so serving who already receives full-time pay from an employer or an association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;

"(3) serving in such position in addition to being an officer, employee, agent or other representative of a party in interest;

"(4) engaging in the following transactions:

"(A) purchasing on behalf of the fund any security which has been issued by an employer whose employees are participants in the plan under which the fund was established or a corporation controlling, controlled by, or under common control with such employer: *Provided,* That the purchase of any security is for no more than adequate consideration in money or money's worth; *Provided further,* that if an employee benefit fund is one which provides primarily for benefits of a stated amount, or an amount determined by an employe's compensation, an employee's period of service, or a combination of both, or money purchase type benefits based on fixed contributions which are not geared to the employer's profits, no investment shall be made subsequent to the enactment of this amendment by a fiduciary of such a fund in securities of such an employer or of a corporation controlling, controlled by, or under common control with such employer, if such investment, when added to such securities already held, exceeds 10 per cent of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 10 per cent limitation shall not apply to profit sharing plans, nor to stock bonus, thrift and savings or other similar plans which have the requirement that some or all of the plan funds shall be invested in securities of such employer;

"(B) purchasing on behalf of the fund any security other than one described in (A) immediately above, or selling on behalf of the fund any security which is acquired or held by the fund, to a party in interest, *Provided,* (i) That the security is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission, (ii) that no brokerage commission, fee (except for customary transfer fees), or other remuneration is paid in connection with such transaction, and (iii) that adequate consideration is paid;

"(5) making any loan to participants or beneficiaries of the plan under which the fund was established where such loans are available to all participants or beneficiaries on a non-discriminatory basis and are made in accordance with specific provisions regarding such loans set forth in the plan;

"(6) contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor;

"(7) following the direction in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in subsection 14(b)(2);

"(8) taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection 14(b).

"(d) Any fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to make good to such fund any losses to the fund resulting from such breach, and to restore to such fund any profits of such fiduciary which have been made through use of assets of the fund by the fiduciary.

"(e) When two or more fiduciaries undertake jointly the performance of a duty or the exercise of a power or where two or more fiduciaries are required by any instrument governing the fund to undertake jointly the performance of a duty or the exercise of a power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such cofiduciary from committing a breach of a responsibility, obligation or duty of a fiduciary or to compel such other co-fiduciary to redress such a breach; *Provided,* That no fiduciary shall be liable for any consequence of any act or failure to act of a co-fiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object in writing to the specific action and promptly file a copy of his objection with the Secretary.

"(f) Each employee benefit plan shall contain specific provisions for the disposition of its fund assets upon termination. In the event of termination, whether under the express terms of the plan or otherwise, such fund, or any part thereof, shall not be expended, transferred or otherwise disposed of, except for the exclusive benefit of the plan participants and their beneficiaries. Notwithstanding the foregoing, after the satisfaction of all liabilities with respect to the participants and their beneficiaries under an employee pension benefit plan in accordance with the Internal Revenue Code and regulations promulgated thereunder, any remaining fund assets may be returned to any person who has a legal or equitable interest in such assets by reason of such person or his predecessor having made financial contribution thereto.

"(g) No fiduciary may be relieved from any responsibility, obligation or duty under this Act by agreement or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries, but no such agreement shall restrict the obligations of any fiduciary to a plan or to any participant or beneficiary.

"(h) No action, suit, or proceeding based on a violation of this section shall be maintained unless it be commenced within three years after the filing with the Secretary of a report, statement or schedule with respect to any matter disclosed by such report, statement or schedule, or, or with respect to any matter not so disclosed, within three years after the complainant otherwise has notice of the facts constituting such violation, whichever is later: *Provided, however,* That no such action, suit or proceeding shall be commenced more than six years after the violation occurred. In the case of a willfully false or fraudulent statement or representation of a material fact or the willful concealment of, or willful failure to disclose, a material fact required by this Act to be disclosed, a proceeding in court may be brought at any time within ten years after such violation occurs.

"(i) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.

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"PROHIBITION AGAINST CERTAIN PERSONS HOLDING OFFICE

"Sec. 15. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of: robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, kidnapping, perjury, assault with intent to kill, assault which inflicts grievous bodily injury, any crime described in section 9(a)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a–9(a)(1), or a violation of any provision of this Act, or a violation of section 302 of the Labor Management Relations Act of 1947, 61 Stat. 157, as amended, 29 U.S.C. 186, or a violation of Chapter 63 of Title 18, United States Code, or a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of Title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959, 73 Stat. 519, as amended, 29 U.S.C. 401, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—

"(1) as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusively clerical or janitorial duties) or other fiduciary position of any employee welfare or pension benefit plan, or

"(2) as a consultant to any employee benefit plan,

during or for five years after such conviction or after the end of such imprisonment, unless prior to the end of such five year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, County, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in clause (1) or (2) in violation of this subsection.

"(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) For the purposes of this section, any person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this section.

"(d) For the purposes of this section, the term 'consultant' means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan."

Sec. 12. (a) Subsection (b) of section 16 of such Act, as renumbered by this Act, is amended by striking out the word "such" the second time it appears and by inserting in lieu thereof the word "the", and striking out the word "calendar" the second time it appears and inserting in lieu thereof the word "fiscal".

(b) Renumbered section 16(d) is amended by striking out the words "rate of $50 per diem" and inserting in lieu thereof the words "maximum per diem rate authorized in the current Department of Labor Apppropriation Act for consultants and experts", adding the words "such members are" after the word "when" the first time it appears, and striking out the designation "73b-2" after "5 U.S.C." and inserting in lieu thereof the designation "5703".

(c) Renumbered section 16 is further amended by striking out in its entirety subsection (e).

Sec. 13. (a) Renumbered section 17 is amended by adding a comma after the word "Act" the first time it appears in subsection (a), followed by the designation "5 U.S.C. 551 et seq.", and by adding at the end of subsection (a) the following sentence: "The Secretary, or his delegate, in consultation with the Secretary of the Treasury or his delegate, shall prescribe all necessary rules and regulations for the administration and enforcement of this Act, except that all rules and regulations issued with respect to Section 14 shall be prescribed by the Secretary of Labor or his delegate with the concurrence of the Secretary of Treasury or his delegate."

(b) Renumbered section 17 is further amended by deleting in their entirety subsections (c) and (d).

Sec. 14. Renumbered section 18 is amended to read as follows:

"Sec. 18. It is hereby declared to be the express intent of Congress that except for actions authorized by section 9(e)(1)(B) of this Act, the provisions of this Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the fiduciary, reporting and disclosure responsibilities of persons acting on behalf of employee benefit plans provided that nothing herein shall be construed to exempt or relieve any person from any law of any State which regulates insurance, banking or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary. Nothing herein shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States (other than the Welfare and Pension Plans Disclosure Act of 1958 as amended (92 Stat. 994)) or any rule or regulation issued under any such law."

Sec. 15. Renumbered section 20 is amended to read as follows:

"Sec. 20(a) The provisions of paragraph (b)(3), (4) and (5) of section 7 relating to the aggregating of items reported shall become effective two years after enactment hereof.

"(b) The amendments made by this Act to the reporting requirements of the Welfare and Pension Plan Disclosure Act shall become effective upon the promulgation of revised report forms by the Secretary.

"(c) All other provisions of this Act shall become effective thirty days after enactment hereof.

"(d) In order to provide for an orderly disposition of any investment, the retention of which would be deemed to be prohibited by this Act, and in order to protect the interest of the fund and its participants and its beneficiaries, the fiduciary may in his discretion effect the disposition of such investment within three years after the date of enactment of this Act or within such additional time as the Secretary may by rule or regulation allow, and such action shall be deemed to be in compliance with this Act."

Sec. 16. The Table of Contents of such Act is amended to read as follows:

"TABLE OF CONTENTS

EMPLOYEE BENEFITS PROTECTION ACT

Sec. 1. Short Title.
Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.
Sec. 4. Coverage.
Sec. 5. Duty of disclosure and reporting.
Sec. 6. Description of the plan.
Sec. 7. Annual reports.
Sec. 8. Publication.
Sec. 9. Enforcement.
Sec. 10. Reports made public information.
Sec. 11. Retention of records.
Sec. 12. Reliance on administrative interpretation and forms.
Sec. 13. Bonding.
Sec. 14. Fiduciary responsibility.
Sec. 15. Prohibition against certain persons holding office.
Sec. 16. Advisory Council.
Sec. 17. Administration.
Sec. 18. Effect of other laws.
Sec. 19. Separability of provisions.
Sec. 20. Effective date."

Sec. 17. (a) Sections 664, 1027 and 1954 of title 18, United States Code, are amended by striking out the words "Welfare and Pension Plans Disclosure Act" wherever they appear and inserting in lieu thereof the words "Employee Benefits Protection Act".

(b) Subsection (a) of section 1954 of title 18, United States Code, is further amended by striking out the words "3(3) and 5(b)(1) and (2)" and inserting in lieu thereof the words "3(c) and 3(o)".

The material presented by Mr. JAVITS is as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., March 13, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting herewith draft legislation entitled "Employee Benefits Protection Act", as recommended by the President in his message today. I am also forwarding an analysis of the bill's major objectives and other supporting material.

The proposal will amend the Welfare and Pension Plans Disclosure Act to impose fiduciary responsibility on persons who exercise power of control, management or disposition over employee benefit funds. Additional amendments require disclosure of further information concerning the financial operations of such funds. The proposed legislation will provide basic protection for the vast sums now being handled through welfare and pension funds.

I urge that early and favorable consideration be given to this bill.

Sincerely,

GEORGE P. SHULTZ,
Secretary of Labor.

EXPLANATORY STATEMENT OF AMENDMENTS TO THE WELFARE AND PENSION PLANS DISCLOSURE ACT

The fundamental purpose of the proposed amendments to the Welfare and Pension Plans Disclosure Act is the broadening and strengthening of the protection of rights and interests of participants and beneficiaries of employee welfare and pension benefit plans. This aim is accomplished in three ways. First, by the addition of two new sections: one setting forth responsibilities and proscriptions applicable to persons occupying a fiduciary relationship to employee benefit plans, including a "prudent man" standard for evaluating the conduct of all fiduciaries; the other barring from responsible fiduciary position in such plans for a period of five years all persons convicted of certain listed criminal offenses. Second, by additions to and changes in the reporting requirements designed to disclose more significant information about plans and the transactions engaged in by those controlling plan operations and to provide specific data to participants and beneficiaries concerning the rights and the benefits they are entitled to under their plans. Third, by providing remedies through either State or Federal courts to insure that the protections provided by the Act can be effectively enforced.

I. FIDUCIARY RESPONSIBILITY

A fiduciary is one who occupies a position of confidence or trust. As defined by the amendments, a fiduciary is a person who exercises any power of control, management or disposition with respect to monies or other property of an employee benefit fund, or who has authority or responsibility to do so. The fiduciary responsibility section, in essence, codifies and makes applicable to these fiduciaries certain principles developed in the evolution of the law of trusts. The section was deemed necessary for several reasons.

First, a number of plans are structured in such a way that it is unclear whether the traditional law of trusts is applicable. Predominantly, these are plans, such as insured plans, which do not use the trust form as their mode of funding. Administrators and others exercising control functions in such plans under the present Act are subject only to minimal restrictions and the applicability of present State law to employee benefit plans is sometimes unclear. Second, even where the funding mechanism of the plan is in the form of a trust, reliance on conventional trust law often is insufficient to adequately protect the interests of plan participants and beneficiaries. This is because trust law had developed in the context of testamentary and inter vivos trusts (usually designed to pass designated property to an individual or small group of persons) with an attendant emphasis on the carrying out of the instructions of the settlor. Thus, if the settlor includes in the trust document an exculpatory clause under which the trustee is relieved from liability for certain actions which would otherwise constitute a breach of duty, or if the settlor specifies that the trustee shall be allowed to make investments which might otherwise be considered imprudent, the trust law in many States will be interpreted to allow the deviation. In the absence of a fiduciary responsibility section in the present Act, courts applying trust law to employee benefit plans have allowed the same kinds of deviations, even though the typical employee benefit plan, covering hundreds or even thousands of participants, is quite different from the testamentary trust both in purpose and in nature.

Third, even assuming that the law of trusts is applicable, without provisions (lacking in the present Act) allowing ready access to both detailed information about the plan and to the courts, and without standards by which a participant can measure the fiduciary's conduct (also lacking in the present Act), he is not equipped to safeguard either his own rights or the plan assets. Furthermore, a fiduciary standard embodied in Federal legislation is considered desirable because it will bring a measure of uniformity in an area where decisions under the same set of facts may differ from State to State. It is expected that courts will interpret the prudent man rule and other fiduciary standards bearing in mind the special nature and purposes of employee benefit plans intended to be effectuated by the Act.

Finally, it is evident that the operations of employee benefit plans are increasingly interstate. The uniformity of decision which the Act is designed to foster will help administrators, fiduciaries and participants to predict the legality of proposed actions without the necessity of reference to varying State laws.

Section 14(a), when read in connection with the definition of the term "employee benefit fund", makes it clear that the fiduciary responsibility provisions apply only to those plans which have assets at risk. Thus an unfunded plan, such as one in which the only assets from which benefits are paid are the general assets of the employer, is not covered. However, if the plan does not have assets at risk, the form in which those assets are held is deemed to be a trust, whether or not a trust agreement exists, and the trust assets may be used only for the two stated purposes: providing benefits for participants and defraying reasonable administrative expenses.

The next two subsections (14 (b) and (c)) incorporate the core principles of fiduciary conduct as adopted from existing trust law, but with modifications appropriate for employee benefit plans. These salient principles place a twofold duty on every fiduciary: to act in his relationship to the plan's fund as a prudent man in a similiar situation and under like conditions would act, and to act solely in the interest of the participants and beneficiaries of the plan; that is, to refrain from involving himself in situations or transactions where his personal interests might conflict with the interests of the participants and beneficiaries for whom the fund was established. Thus, section 14(b)(1) sets out the prudent man standard and the attendant affirmative duties to discharge responsibilities in conformance with instructions (as set out in the governing plan documents) and solely in the interest of the plan's participants and beneficiaries. There follows a list of proscriptions (section 14(b)(2)) which represent the most serious type of fiduciary misconduct which in one way or another has occurred in connection with some welfare or pension plans. Some of these situations have been found in the administration of the WPPDA. Others have been discovered by congressional investigations, newspaper reporters, audits, and miscellaneous sources. While the magnitude of these improper practices is small in relation to the total number of plans in existence, the seriousness of the improper practices disclosed indicates the need for additional precautions to insure that these specific examples do not become general conditions. The list of proscriptions is intended to provide this essential protection.

The exemption provision which follows the listed proscriptions has been included in recognition of established business practices, particularly of certain institutions, such as commercial banks, trust companies and insurance companies which often perform fiduciary functions in connection with employee benefit plans. The Secretary will provide, by individual or class exemptions, exceptions so that the established practices of these institutions and others are not unduly disrupted, so long as they are consistent with the purposes of the Act.

Next, there are listed transactions in which fiduciaries are expressly allowed to engage. This listing is necessary for reasons similar to those which required inclusion of the exemption provision. That is, the breadth of the proscriptions, while considered necessary for the reasons stated above, would operate in some cases to prohibit transactions which are deemed desirable to the sound, efficient functioning of employee benefit plans. It was therefore necessary to specify that certain transactions, likely to be engaged in by fiduciaries of virtually all plans, will be allowed notwithstanding the proscriptions. It is emphasized, however, that even with respect to the transactions expressly allowed, the fiduciary's conduct must be consistent with the prudent man standard unless the trust instrument specifically directs investments.

Especially significant among the expressly allowed transactions is that which permits, in most types of plans, investment of up to ten percent of the fund assets in securities issued by the employer of employees who are participants in the plan. Since such an employer will often be an administrator of his plan, or will function as a trustee or in some other fiduciary capacity, this provision creates a limited exception to the listed proscription against self-dealing. The exception is made in recognition of the symbiotic relationship existing between the employer and the plan covering his employees. Such investments are commonly made under provisions in a trust agreement expressly allowing them. The ten percent limitation is prospective only, and does not require divestiture by funds already holding more than that percentage. Furthermore, the limitation does not apply to profit sharing plans, which, by their very nature, require greater investment in the employer's securities. Subsection 14(c) also recognizes the practice of including in trust instruments various authorizations governing the handling of the fund. Many such authorizations have been inserted by legal draftsmen because of questions in their judgment as to authority and are generally recognized as appropriate.

The next two subsections (14(d) and (e)) are intended to codify, with respect to employee benefit fund fiduciaries, rules developed under the law of trusts. Thus a fiduciary is made personally liable for his breach of any responsibility, duty or obligation owed to the fund, and must reimburse the fund for any loss resulting from such a breach. He must also pay over to the fund any personal profit realized through use of fund assets. Where two or more fiduciaries manage a fund, each must use care to prevent a co-fiduciary from committing a breach or to compel a co-fiduciary to redress a breach. Plan business is to be conducted by joint fiduciaries in accordance with the governing instruments of the plan, or in the absence of such provisions, majority of fiduciaries and a fiduciary who objects in writing to a specific action and files a copy of his objection with the Secretary is not liable for the consequences of such action.

The requirement (subsection 14(f)) that every plan contain specific provisions for the disposition of fund assets upon termination is necessary to avoid confusion on the part of fiduciaries and participants and beneficiaries alike as to the proper disposition of the fund assets upon termination of the plan. It is essential at such a time that the plan administrator (who is still, notwithstanding the termination, a fiduciary subject to the Act) know how assets remaining in the plan's fund must be distributed and it is important that the distribution plan be specified so that participants and beneficiaries can assess the property of the fiduciary's actions when the plan terminates. The requirement that liabilities to participants and beneficiaries be satisfied before claims on the fund by contributing parties will be heard is inserted to insure that the interests of participants and beneficiaries will be fully protected.

Exculpatory and similar clauses which purport to relieve a fiduciary from any responsibility, obligation or duty when the Act is expressly prohibited and made void as against public policy. Whatever the validity such provisions might have with respect to testamentary trusts, they are inappropriate in the case of employee benefit plans. The large numbers of people and enormous amounts of money involved in such plans coupled with the public interest in their financial soundness, as expressed in the Act, require that no such exculpatory provision be permitted.

It is noted that the basic three year statute of limitations (subsection 14(h)) for suits to enforce the fiduciary provisions or redress a fiduciary's breach may be extended up to an additional three years where the breach is not discovered earlier. In no event can a suit be maintained more than six years after the violation occurred. Where there has been a willfully false or fraudulent misstatement or concealment of a material fact, an action may be brought any time within ten years after the violation occurs.

Finally, by subsection (i) a fiduciary is specifically made not liable for violations committed before he became or after he ceased to be a fiduciary.

The second all new section, section 15,

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prohibits persons convicted of certain listed crimes from serving, for a period of five years after conviction or the end of imprisonment for such conviction, in a responsible position in connection with an employee benefit plan. The prohibition is considered necessary because of the large funds involved and the attendant great risk of a loss affecting a large number of persons. Section 15 is modeled after section 504 of the Labor-Management Reporting and Disclosure Act (LMRDA) which bars persons convicted of certain crimes from serving as union officers. The presence of the LMRDA prohibition is another reason for including a similar provision in the Protection Act. Without such a provision, persons barred from serving as union officers might take positions with employee benefit plans. The danger inherent in such a transfer is especially great where elements of organized crime are involved.

The crimes listed have been chosen with reference to three kinds of criminal activity. These are (1) activities which involve a wrongful taking of property, (2) activities which are related to, and often occur in connection with the efforts of organized crime elements in the labor-management and securities fields, and (3) activities of a nature so vicious that involvement in them casts grave doubt on the individual's responsibility. Thus, in addition to the specifically named crimes the list includes crimes described in section 9(a)(1) of the Investment Company Act of 1940 (involving misconduct in the securities field), violations of section 302 of the Labor-Management Relations (Taft-Hartley) Act, certain violations of the LMRDA, violations of chapter 63 of Title 18, United States Code (mail fraud) and violation of sections 874 (kickbacks from public works employees), 1027 (false statements in documents required by the Welfare and Pension Plans Disclosure Act), 1954 (offer, acceptance or solicitation to influence operations of employee benefit plan), 1503 (jury tampering), 1505 (obstruction of government agency proceedings), 1506 (theft or alteration of court record or process; false bail), 1510 (obstruction of criminal investigations) and 1951 (interference with commerce by threats or violence), of Title 18, United States Code. The section contains its own criminal penalty, with a higher fine than that provided for other criminal violations of the Act. It is the same penalty as that specified in section 504, LMRDA.

II. REPORTING AND DISCLOSURE

The underlying theory of the Welfare and Pension Plans Disclosure Act to date has been that reporting of generalized information concerning plan operations to plan participants and beneficiaries and to the public in general would, by subjecting the benefit plans to the light of public scrutiny, insure that the plan would be operated according to instruction and in the best interests of the participants and beneficiaries. The Secretary's role in this scheme was minimal. Disclosure has been seen as a device to impart to participants and beneficiaries sufficient information to enable them to know whether the plan was financially sound and being administered as intended. It was expected that the knowledge thus disseminated would enable participants to police their plans. But, experience has shown that the limited data available under the present Act is insufficient even though the burden of enforcement has been partly assumed by the Secretary. The Amendments therefore are designed to increase the data required in the reports, both in scope and in detail. Experience has also demonstrated a need for a more particularized form of reporting, so that the individual participant knows exactly where he stands with respect to his plan—what benefits he is entitled to and what steps he must follow to secure his benefits. Moreover, the addition of fiduciary responsibility provisions has increased the need for both generalized and particularized data. On one hand, participants will be able to ascertain whether the plan's fiduciaries are observing the rules set out in the fiduciary responsibility section only if they have access to sufficient data about plan transactions. On the other hand, the prophylactic effect of the fiduciary responsibility section will operate efficiently only if fiduciaries are aware that the details of their dealings will be open to inspection, and that individual participants and beneficiaries will be armed with enough information to enforce their own rights as well as the obligations owed by the fiduciary to the plan in general.

There are three significant changes designed to impart more information about the plan and its operations in general. First, the annual report must include the opinion of an independent accountant based upon the results of an annual audit. Such information will allow better assessment of the plan's financial soundness by administrators and participants alike (the exemption for the books of institutions providing investment, insurance and related functions and subject to periodic examination by a government agency will prevent duplicative audit examinations of these institutions). Second, plans except those which are unfounded must include in their reports information pertaining to leases, party in interest transactions and investment assets other than securities in addition to information about securities, investments and loans. Finally, actuarial information is now required so that participants and beneficiaries can judge the progress of the plan's funding scheme and its overall financial soundness.

Amendments to provide particularized information to individual participants and beneficiaries are found in section 8. In addition to the obligation to make available copies of the plan description and latest annual report, the administrator will be required to furnish to a participant or beneficiary so requesting in writing a fair summary of the annual report or a statement of what benefits (including nonforfeitable benefits, if any) have accrued in his favor or both. This will enable a participant to find out where he stands with respect to the plan at any given time. The statement which must be supplied to a participant (or his survivor) having a right to a pension benefit upon his termination of service under the plan, is designed to insure that the participant or survivor will know exactly what procedures must be followed to secure his benefits.

Further, the administrator must furnish to participants and beneficiaries upon request copies of the plan description, annual report, or bargaining agreement, trust agreement, contract or instrument under which the plan is established and operated. He may make a reasonable charge to cover the cost of such copies.

III. ENFORCEMENT

The changes in the enforcement provisions have been made so that the rights given to participants and beneficiaries elsewhere in the Act will be enforceable in an appropriate forum. The enforcement section reflects the addition of the fiduciary responsibility provisions and provides remedies of two kinds; those designed to rectify fiduciary breaches and those to insure that participants and beneficiaries, and the Secretary, will receive the information required by the reporting and disclosure provisions. Suits to redress breaches of duty by a fiduciary may be brought by a participant or beneficiary only as a representative in a class action. Certification by an accountant as a prerequisite to the Secretary's investigation is no longer necessary because the annual audit requirement allows an assumption that the plan report is accurate.

Participants and beneficiaries may sue in any State court of competent jurisdiction.

For actions in Federal courts, nationwide service of process is provided in order to remove a possible procedural obstacle to having all proper parties before the court. Federal and State courts are given discretion to award attorney's fees and court costs to any party in actions brought by a participant or a beneficiary. The court also has discretion to require the plaintiff to post security for court costs and reasonable attorney's fees.

Fiduciary breaches may be rectified through civil suits only. Criminal penalties for such breaches are inconsistent with the principles established under the common law of trusts. However, criminal penalties remain available in cases of reporting violations, and, under Title 18, United States Code, in cases of embezzlement, false statements, bribery and kickbacks in connection with employee benefit plans.

IV. EFFECT OF OTHER LAWS

The Act provides for a uniform source of law for evaluating the fiduciary conduct of persons acting on behalf of employee benefit plans and a singular reporting and disclosure system in lieu of burdensome multiple reports. States may require the filing with a State agency of copies of reports required under the Act. State courts as well as Federal courts are available to provide remedies under the Act. Furthermore, the Act expressly authorizes cooperative arrangements with State agencies as well as other Federal agencies and provides that State laws regulating banking, insurance and securities remain unimpaired.

SECTION-BY-SECTION ANALYSIS OF AMENDMENTS TO THE WELFARE AND PENSION PLAN DISCLOSURE ACT

TITLE

The amendment changes the title of the Act from "Welfare and Pension Plans Disclosure Act" to "Employee Benefits Protection Act." The underlying purpose of the Act has always been the protection of the benefit plan interests of employees and the newly added fiduciary responsibility provisions will broaden the scope of this protection, making the use of the word in the title appropriate. The descriptive title is amended to read simply "An act to amend the Welfare and Pension Plans Disclosure Act."

TABLE OF CONTENTS

The table of contents reflects the addition of the two wholly new sections; section 14, entitled "Fiduciary Responsibility" and section 15, entitled "Prohibition Against Certain Persons Holding Office." It also reflects the change in the title of section 2 from "Findings of Policy" to "Findings and Declaration of Policy."

SHORT TITLE—SECTION 1

Section 1 provides that the Act may be cited as the Employee Benefits Protection Act.

FINDINGS AND DECLARATION OF POLICY—SECTION 2

Section 2, presently titled "Findings and Policy" has been retitled "Findings and Declaration of Policy." Language has been added to subsection (a) in recognition of the increasing impact of employee benefit plans on interstate commerce and to stress the intent of the amendments to provide greater safeguards in the protection of participants' and beneficiaries' rights under employee benefit plans. Subsection (b) contains a new clause reflecting the broadened policies of the Act.

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DEFINITIONS—SECTION 3

The definitions of "employee welfare benefit plan" and "employee pension benefit plan" have been modified to make it clear that a plan will fall within the definition not only if it is established by an employer or an employee organization, but also when it is maintained by such an entity.

The definition of "party in interest" has been broadened and the definition of "administrator" has been removed from section 5 and added, in changed form, to section 3. Definitions of the following words and terms have also been included: relative, employee benefit plan, employee benefit fund, separate account, adequate consideration, nonforfeitable pension benefit, accrued benefit, security, fiduciary and market value.

Since the term "employee benefit plan", which means either a plan providing pension benefits or a plan providing welfare benefits or a plan providing both, has been added to the definition section, the term "employee welfare or pension benefit plan", and the term "employee welfare benefit plan or employee pension benefit plan" have been deleted from the Act wherever feasible and the term "employee benefit plan" has been substituted. These changes are not referred to elsewhere in this analysis.

COVERAGE—SECTION 4

Subsection (a) no longer contains the words "or employers" and "or organizations." There is no change in substance, since the singular is read to include the plural. 1 U.S.C § 1.

Paragraph (3) of subsection (b) now contains subparagraph headings (A) and (B) and the words "order or association" have been added to subparagraph (A) and to the proviso. The word "or" has been substituted for the word "and" in subparagraph (B) for the sake of clarity. The changes conform the language more closely to the Internal Revenue Code to which the language refers.

Paragraph (4) of subsection (b) specifies that participants or beneficiaries of plans covering less than 26 participants may bring actions to recover benefits or to protect a contingent interest in benefits, even though the plan is not otherwise covered by the Act.

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DUTY OF DISCLOSURE AND REPORTING—SECTION 5

The second sentence of subsection (a) has been changed slightly to achieve greater clarity.

The definition of the term "administrator" has been changed and added, as noted above, to section 3. Subsection (b) authorizes the Secretary to require special terminal reports. Subsection (c) contains a simplified and more flexible version of an exemption power than the "variation" power currently in subsection (a).

DESCRIPTION OF THE PLAN—SECTION 6

Subsection (a) has been updated. Subsection (b) has been modified to require that the plan description include an easily understood explanation of any plan provision dealing with nonforfeitable pension benefits or a statement, if applicable, that the plan does not provide such benefits. The current requirement that all plan description changes be filed within 60 days has been modified to allow flexibility in accordance with the Secretary's regulations. Subsection (b) has also been modified to eliminate the requirement that the bargaining agreement, trust agreement, contract or other instrument under which the plan was established or is operated be included in the plan description; such full documents are made available for inspection by a participant or his representative, or he may obtain copies of such documents upon request and payment of reasonable charges pursuant to section 8(c).

ANNUAL REPORTS—SECTION 7

Section 7 has been rearranged and broadened. Paragraph (1) of subsection (a) sets forth the basic reporting requirements for all plans. Notice and opportunity to be heard rather than an investigation, is now the prerequisite to the Secretary's requiring a report from a covered plan with less than 100 participants. Paragraph (2) requires the carriers, in the case of an insured plan, to certify necessary information to the plan administrator within 120 days after the end of the plan year, and is identical to section 7(g) of the present Act. Paragraph (3) requires each plan to be audited annually by an independent accountant and the auditor's report with respect to financial information required to be filed under section 7 must accompany the plan's annual report. An exemption is included for the books of banks and insurance companies, if subject to periodic examination by Federal or State agencies.

Subsection (b) sets forth the kinds of information and transactions which must be reported by all plans, save those which are unfunded. Paragraph (1) covers general information, and requires identification of all fiduciaries. Paragraph (2) calls for data concerning all plan investments and paragraph (3) requires information with respect to transactions in securities.

Paragraph (4) deals with transactions involving property other than securities. Loans are covered in paragraph (5) and leases in paragraph (6). Paragraph (7) calls for a list of all party in interest transactions. Paragraph (8) contains special instructions where plan assets are held in a common or collective trust or in a separate account by an insurance carrier and allows the Secretary to prescribe rules for reporting in such situations. Paragraph (9) permits the administrator to furnish additional investment information if he desires to do so.

Subsection (c) deals with unfunded plans—plans in which the benefits are paid out of the general assets of the employer or the employee organization.

Subsection (d) sets forth the reporting requirements for insured plans and is identical to section 7(d)(1) and (2) of the present Act.

Subsection (e) elicits actuarial information, to the extent applicable from all plans.

PUBLICATION—SECTION 8

Subsections (a) and (b) provide for the preparation of forms for plan descriptions and annual reports by the Secretary and for inspection of completed descriptions and reports in the public document room of the Department of Labor.

Subsection (c) restates the current requirements of disclosure to participants: copies of the plan description and most recent annual report and the bargaining agreement, trust agreement, contract, or instrument under which the plan is established or maintained must be made available for examination by participants and beneficiaries at the administrator's principal office and a summary of the annual report must be furnished to any participant or beneficiary so requesting in writing. Copies of the plan description or annual report or agreement or instrument under which the plan is established must be furnished on request but a reasonable charge may be made to cover the cost.

Subsection (d) provides that upon written request, the administrator must furnish to a participant or beneficiary a statement of information concerning nonforfeitable pension benefits accrued, and total accrued pension benefits.

Subsection (e) provides that upon termination of service, each participant or his surviving beneficiary is entitled to receive a statement of his rights and privileges under the plan. The Secretary is authorized to prescribe the manner in which the statement must be furnished, its form, and its content beyond the mandatory content requirements stated in the subsection. Such statement is prima facie evidence of the facts, rights and privileges set forth therein.

ENFORCEMENT—SECTION 9

Subsection (a) restates the current criminal penalty for wilful violations of sections 5 through 13 of the Act.

Subsection (b) provides for liability, in the court's discretion, of up to $50 a day in the event of an administrator's failure or refusal to comply with the written request of a participant or beneficiary for a plan description, annual report, statement of accrued benefits (section 8(d)) or the bargaining agreement, trust agreement or contract under which the plan was established and is operated.

Subsection (c) gives the Secretary the authority to investigate when he believes it necessary to determine whether any person has violated or is about to violate the Act. Subsection (d) incorporates the subpoena provisions of the Federal Trade Commission Act and makes them applicable in an investigation by the Secretary.

Subsection (e) deals with civil actions. Suits may be brought by participants and beneficiaries individually for (1) the relief provided for in subsection (b), (2) to recover benefits due or clarify his rights to future benefits and (3) as representatives of a class to redress a breach of fiduciary duty. The Secretary may sue to enjoin any act which violates the Act and to redress a fiduciary breach.

Subsection (f) allows participants and beneficiaries to bring any action authorized in subsection (e) in any court of competent jurisdiction, State or Federal. Authorization for broad service of process is provided for suits in Federal district courts by participants and beneficiaries to recover benefits due or clarify his rights to future benefits and by participants and beneficiaries or the Secretary to redress a fiduciary breach. The Secretary is allowed to bring any other action authorized in subsection (e) in the proper Federal district court.

Subsection (g) vests Federal district courts with jurisdiction in any action brought by the Secretary to grant any of the relief provided for in subsection (e) without respect to the amount in controversy or the citizenship of the parties. Actions brought by participants or beneficiaries must meet the jurisdictional amount requirement applicable to the Federal district courts.

Subsection (h) gives the court discretion to allow reasonable attorney's fees and costs to any party and also gives the court discretion to require the posting of security by the plaintiff for those fees and costs. A copy of the complaint must be sent to the Secretary.

Subsection (i) prohibits the Secretary from interfering with the management of, or otherwise regulating any plan, except as authorized in the Act.

Subsection (j) authorizes the Secretary to make arrangements with other government agencies, State or Federal, for cooperation in performing his functions under the Act. Provision is made for the transmission of evidence from the Secretary to the Attorney General in cases of criminal violations of the Act.

REPORTS MADE PUBLIC INFORMATION—SECTION 10

Remains identical in substance and form to present Act.

RETENTION OF RECORDS—SECTION 11

Remains identical in substance and form to present Act.

RELIANCE ON ADMINISTRATIVE INTERPRETATIONS AND FORMS—SECTION 12

Remains identical in substance and form to present Act.

BONDING—SECTION 13

Remains identical in substance to present Act.

FIDUCIARY RESPONSIBILITY—SECTION 14

This section is entirely new. Subsection (a) states that all employee benefit funds shall be deemed trust funds which may be used only to provide benefits and defray reasonable administrative costs.

Subsection (b) sets forth a non-inclusive list of fiduciary responsibilities and proscriptions. The listed responsibilities relate to the fiduciary's duties. They must be discharged solely in the interest of the participants and beneficiaries, as a prudent man under like circumstances would do and in accordance with the documents governing the plan insofar as they are consistent with the Act. The listed proscriptions provide that a fiduciary may not lease or knowingly sell fund property to a party in interest, lease or knowingly purchase property on behalf of the fund from a party in interest, deal with the fund on his own account, represent another party dealing with the fund or act on behalf of a party adverse to the fund or the interests of the participants or beneficiaries, receive consideration from a party dealing with the fund in connection with a transaction involving the fund, loan fund assets to any party in interest, furnish goods, services or facilities to any party in interest, or permit transfer of property of the fund to a party in interest, or permit its use for his benefit. The Secretary is authorized to exempt from any or all of the listed proscriptions, individually or by class, such fiduciaries or transactions as he finds to be sufficiently regulated by State or Federal authorities to effectuate the purposes of section 14.

Subsection (c) lists transactions in which fiduciaries may not be barred from engaging: receiving benefits as a participant or beneficiary of the plan, receiving reasonable compensation or reimbursement for services performed with respect to his duties in connection with the fund, serving as a fiduciary in addition to being a party in interest, purchasing on behalf of the fund securities issued by the employer of employees who are plan participants up to a 10% limit, purchasing or selling securities on behalf of the fund to a party in interest under certain conditions, lending to participants or beneficiaries on a non-discriminatory basis, making arrangements for office space with a party in interest, or following directions in a trust instrument insofar as they are consistent with the prohibitions listed in section 14(b)(2). Subsection (c) also provides that a fiduciary is not barred from taking action pursuant to an authorization in the trust instrument if such action is consistent with subsection 14(b).

Subsection (d) provides that a fiduciary shall be personally liable to make good to the fund for any loss due to his breach of any responsibility imposed by the Act and must pay over to the fund any profit he makes through use of fund assets.

Subsection (e) sets out the rules for fiduciaries acting jointly. Under subsection (f), each plan is required to make provision for disposition of fund assets upon termination of the plan. All liabilities and obligations must be satisfied with respect to participants and beneficiaries before any party who has contributed to a pension plan can partake.

Subsection (g) makes exculpatory provisions void as against public policy insofar as such provisions purport to relieve from obligations under the Act and subsection (h) contains a statute of limitations for suits to redress fiduciary breaches. Subsection (i) provides that a fiduciary shall only be liable for violations committed while he is a fiduciary.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING OFFICE—SECTION 15

This new section, which bars persons convicted of certain crimes from holding administrative or fiduciary positions in connection with employee benefit plans is modeled after a similar provision in the Labor-Management Reporting and Disclosure (Landrum-Griffin) Act of 1959.

Subsection (a) lists the crime conviction of which shall constitute a bar. Included within the bar are conspiracies or attempts to commit the crimes, as well as crimes in which any of the listed crimes is an element. Persons so convicted are barred for a period of five years from the date of conviction or the end of a period of imprisonment for such a conviction from serving in any fiduciary position, including but not limited to an administrator, officer, trustee, custodian, counsel, agent or employee of an employee benefit plan or a consultant to such a plan. Persons performing exclusively janitorial or clerical duties are exempted, as are persons whose citizenship rights have been fully restored and persons whose service in connection with the plan has been determined by the Parole Board of the Department of Justice not to be contrary to the purposes of the Act.

Subsection (b) states the criminal penalty for violation of the section. Subsection (c) clarifies the meaning of "convicted" for purposes of determining the beginning of the five year period and subsection (d) defines the word "consultant."

ADVISORY COUNCIL—SECTION 16

This section is virtually identical to the corresponding section, section 14, in the present Act. Subsection (b) of the amendment provides that the Secretary's report to Congress of his activities under the Act shall be based on the past fiscal, rather than calendar, year. Subsection (d) changes the rate of compensation of Advisory Council members from $50 per diem, to the maximum per diem rate for consultants authorized by the Department of Labor Appropriations Act. Subsection (e) has been rendered obsolete by changes in Title 18, United States Code and has therefore been deleted.

ADMINISTRATION—SECTION 17

Subsection (a) now includes that citation of the United States Code for the Administrative Procedure Act and provides that the Secretary or his delegate in consultation with the Secretary of the Treasury or his delegate shall have the authority to prescribe rules and regulations necessary for the administration and enforcement. All rules and regulations issued under section 14 are to be prescribed by the Secretary in concurrence with the Secretary of the Treasury.

Subsections (c) and (d) are no longer applicable and have been deleted.

EFFECT OF OTHER LAWS—SECTION 18

Section 18 designates the Act as the exclusive form of regulation for employee benefit plans within the areas covered, but provides that State laws which otherwise regulate insurance, banking or securities shall remain operative. It provides further that States may require the filing with State agencies of reports required by the Act to be filed with the Secretary.

SEPARABILITY OF PROVISIONS—SECTION 19

Remains identical in substance and form to the corresponding section, section 17, of the present Act.

EFFECTIVE DATE—SECTION 20

Subsection (a) provides that the provision of paragraph (b)(3) of section 7 shall become effective two years after enactment. Subsection (b) provides that amendments to the reporting requirement of the WPPDA shall be effective upon promulgation of revised reporting forms by the Secretary. Subsection (c) makes all other provisions effective 30 days after enactment.

Subsection (d) permits a fiduciary to take up to a year after enactment to dispose of prohibited investments. A longer period may be allowed by the Secretary by rule or regulation.

AMENDMENTS TO TITLE 18, UNITED STATES CODE

The language of sections 664, 1027, and 1954 of Title 18, United States Code, which set forth penalties for criminal offenses involving embezzlement, false statements, and bribery and kickbacks in connection with employee benefit plans, has been changed where necessary to conform to the amendments made by the Act. No substantive changes have been made in these sections.

[Existing law proposed to be deleted is bracketed; proposed new matter is italicized.]

EMPLOYEE BENEFITS PROTECTION ACT

PRINT SHOWING HOW THE PROPOSED BILL WOULD AMEND THE WELFARE AND PENSION PLANS DISCLOSURE ACT

An act [to provide for registration, reporting, and disclosure of employee welfare and pension benefit plans.] *To amend the Welfare and Pension Plans Disclosure Act.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. [That this Act may be cited as the "Welfare and Pension Plans Disclosure Act."] *That, in order to strengthen and improve the protection of the interests of participants in and beneficiaries of employee welfare and pension benefit plans, under the Welfare and Pension Plans Disclosure Act of August 28, 1958, as amended (72 Stat. 997), such Act is amended as follows:*

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Short title

Sec. 1. This Act may be cited as the "Employee Benefits Protection Act."

[FINDINGS-AND-POLICY]

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that the growth in size, scope and numbers of employee welfare-and-pension benefit plans in recent years has been rapid and substantial; *that the operational scope and economic impact of such plans is increasingly inter-*

state; that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; that they are affected with a national public interest; that they have become an important factor affecting the stability of employment and the successful development of industrial relations; that they have become an important factor in commerce because of the interstate character of their activities, and of the activities of their participants, and the employers, employee organization, and other entities by which they are established or maintained; that owing to the lack of employee information *and adequate safeguards* concerning their operation, it is desirable in the interests of employees and their beneficiaries, and to provide for the general welfare and the free flow of commerce, that disclosure be made *and safeguards be provided* with respect to the operation and administration of such plans.

(b) It is hereby declared to be the policy of this Act to protect interstate commerce and the interests of participants in employee welfare and pension benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto, *by establishing fiduciary standards of conduct, responsibility and obligation upon all persons who exercise any powers of control, management or disposition with respect to employee benefit funds or have authority or responsibility to do so, and by providing for appropriate remedies and ready access to the federal courts.*

DEFINITIONS

SEC. 3. When used in this Act—

[(1)] (*a*) The term "employee welfare benefit plan" means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established *or maintained* by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment.

[(2)] (*b*) The term "employee pension benefit plan" means any plan fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established *or maintained* by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits, and includes any profit-sharing plan which provides benefits at or after retirement.

[(3)] (*c*) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose in whole or in part, of dealing with employers concerning an employee [welfare or pension] benefit plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

[(4)] (*d*) The term "employer" means any person acting directly as an employer or indirectly in the interest of an employer in relation to an employee [welfare or pension] benefit plan, and includes a group or association of employers acting for an employer in such capacity.

[(5)] (*e*) The term "employee" means any individual employed by an employer.

[(6)] (*f*) The term "participant" means any employee or former employee of an employer or any member of an employee organization who is or may become eligible to receive a benefit of any type from an employee [welfare or pension] benefit plan, or whose beneficiaries may be eligible to receive such benefit.

[(7)] (*g*) The term "beneficiary" means a person designated by a participant or by the terms of an employee [welfare or pension] benefit plan who is or may become entitled to a benefit thereunder.

[(8)] (*h*) The term "person" means an individual, partnership, corporation, mutual company, joint-stock company, trust, unincorporated organization, association, or employee organization.

[(9)] (*i*) The term "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

[(10)] (*j*) The term "commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place outside thereof.

[(11)] (*k*) The term "industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

[(12)] (*l*) The term "Secretary" means the Secretary of Labor.

[(13)] (*m*) The term "party in interest" means any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan [or employee pension benefit plan], cr a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan *or any person controlling, controlled by, or under common control with, such employer* or officer or employee or agent of such employer *or such person, or an employee organization having members covered by such plan*, or an officer or employee or agent of such an employee organization havthe members covered by such plan, *or a relative, partner or joint venturer of any of the above described persons.*

(n) The term "relative" means a spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

(o) The term "administrator" means—

(1) the person specifically so designated by the terms of the plan, collective bargaining argeement, trust agreement, contract, or other instrument, under which the plan is operated; or

(2) in the absence of such designation, (A) the employer in the case of an employee benefit plan established or maintained by a single employer, (B) the employee organization in the case of a plan established or maintained by an employee organization, or (C) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintain the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

(p) The term "employee benefit plan" or "plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

(q) The term "employee benefit fund" or "fund" means a fund of money or other assets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (1) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (2) premiums, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

(r) The term "separate account" means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

(s) The term "adequate consideration" when used in section 14 means either (1) at the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (2) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer.

(t) The term "nonforfeitable pension benefit" means an immediate or deferred pension or other benefit which a participant or his beneficiary would upon proper application be entitled to receive under the provisions of the plan if at the time in question he had terminated his employment, irrespective of any conditions subsequent which could affect receipt of such benefit.

(u) The term "accrued benefit" means that benefit which, irrespective of whether such benefit is nonforfeitable, is equal to: (1) in the case of a profit sharing or money purchase type pension plan, the total amount credited to the account of a participant; (2) in the case of a unit benefit type pension plan, the benefit units credited to a participant; or (3) in the case of other types of pension plans that portion of the prospective benefit of a participant of the plan as the Secretary may by rule or regulation provide constitutes the participant's accrued benefit under the plan.

(v) The term "security" has the same meaning as in the Securities Act of 1933, 15 U.S.C. §77(a) et seq.

(w) The term "fiduciary" means any person who exercises any power of control, management or disposition with respect to any moneys or other property of an employee benefit fund, or has authority or responsibility to do so.

(x) the term "market value" or "value" when used in this Act means fair market value where available, and otherwise the fair value as determined in good faith by the administrator.

SEC. 4. (a) Except as provided in subsection (b), this Act shall apply to any employee [welfare or pension] benefit plan if it is established or maintained by any employer [or employers] engaged in commerce or in any industry or activity affecting commerce or by any employee organization [or organizations] representing employees engaged in commerce or in any industry or activity affecting commerce or by both.

(b) This Act shall not apply to an employee [welfare or pension] benefit plan if—

(1) such plan is administered by the Federal Government or by the government of a State, by a political subdivision of a State, or by an agency or instrumentality of any of the foregoing;

(2) such plan was established and is maintained [solely] for the purpose of complying with applicable workmen's compensation laws or unemployment compensation disability insurance laws;

(3) such plan is administered by an or-

ganization which is exempt from taxation under the provisions of section 501(a) of the Internal Revenue Code of 1954 and is administered (*A*) as a corollary to membership in a fraternal benefit society, *order or association* described in section 501(c)(8) of such Code or (*B*) by organizations described in sections 501(c)(3) [and] *or* 501(c)(4) of such Code; *Provided* That the provisions of this paragraph shall not exempt any plan administered by a fraternal benefit society, *order, association* or organization which represents its members for purposes of collective bargaining; or

(4) such plan covers not more than twenty-five participants, *except that participants and beneficiaries of such a plan shall be entitled to maintain an action to recover benefits or to clarify their rights to future benefits as provided in section 9(e)(1)(B)*.

DUTY OF DISCLOSURE AND REPORTING

SEC. 5. (a) The administrator of an employee [welfare] benefit plan [or an employee pension benefit plan] shall [publish] *cause to be published* in accordance with section 8 to each participant or beneficiary covered thereunder (1) a description of the plan and (2) an annual financial report. Such description and such report shall contain the information required by sections 6 and 7 of this Act in such form and detail as the Secretary shall [by regulations] prescribe and [copies thereof] shall be executed, published, and filed in accordance with the provisions of this Act and [the Secretary's] regulations [thereunder] *of the Secretary*. [No regulation shall be issued under the preceding sentence which relieves any administrator of the obligation to include in such description or report any information relative to his plan which is required by section 6 or 7. Notwithstanding the foregoing, if the Secretary finds, on the record after giving interested persons an opportunity to be heard, that specific information on plans of certain kinds or on any class or classes of benefits described in section 3(1) and 3(2) which are provided by such plans cannot, in the normal method of operation of such plan, be practically ascertained or made available for publication in the manner or for the period prescribed in any provision of this Act, or that the information if published in such manner or for such period would be duplicative or uninformative, the Secretary may by regulations prescribe such other manner or such other period for the publication of such information as he may determine to be necessary and appropriate to carry out the purposes of this Act.

[(b) The term "administrator" whenever used in this Act, refers to—

[(1) the person or persons designated by the terms of the plan or the collective bargaining agreement with responsibility for the ultimate control, disposition, or management of the money received or contributed; or

[(2) in the absence of such designation, the person or persons actually responsible for the control, disposition, or management of the money received or contributed, irrespective of whether such control, disposition, or management is exercised directly or through an agent or trustee designated by such person or persons.]

(*b*) *The Secretary may require the fixing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs, so long as moneys or other assets remain in the plan. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be on such forms and filed in such manner as the Secretary may by regulation prescribe.*

(*c*) *The Secretary may by regulation provide for the exemption from all or part of the reporting and disclosure requirements of this Act of any class or type of employee benefit plans, if the Secretary finds that the application of such requirements to such plans is not required in order to effectuate the purposes of this Act.*

DESCRIPTION OF THE PLAN

SEC. 6. (a) [Except as provided in section 4, the] *A* description of any employee [welfare or pension] benefit plan shall be published as required herein within ninety days [of the effective date of this Act or within ninety days] after the establishment of such plan *or when such plan becomes subject to the Act*. [whichever is later.]

(b) [The description of the plan shall be published, signed, and sworn to by the person or persons defined as the "administrator" in section 5, and shall include their names and addresses, their official positions with respect to the plan, and their relationship, if any, to the employer or to any employee organization, and any other offices, positions, or employment held by them.] *The description of the plan shall be comprehensive and shall include* the name, [address and description of the plan] and type of administration *of the plan; the name and address of the administrator;* the schedule of benefits; *a description of the provisions providing for nonforfeitable pension benefits* (*if the plan so provides*) *written in a manner calculated to be understood by the average participant, and if the plan does not provide such benefits, a statement to this effect;* [the names, titles and addresses of any trustee or trustees (if such persons are different from those persons defined as the "administrator"); whether the plan is mentioned in a collective bargaining agreement; copies of the plan or of the bargaining agreement, trust agreement, contract, or other instrument, if any, under which the plan was established and is operated;] the source of the financing of the plan and the identity of any organization through which benefits are provided; whether the records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported [to the Secretary within sixty days after the change has been effectuated] *in accordance with regulations prescribed by the Secretary.*

(NOTE.—Section 7, dealing with annual reporting requirements, has been rearranged to effect a more rational structure. Thus, sec. 7(a) now sets out the general requirements for all plans with respect to the *manner* of reporting and secs. 7(b), (c), (d) and (e) state requirements for the *content* of annual reports. Sec. 7(b) gives the requirements applicable to all plans except those which are unfunded, sec. 7(c) deals with unfunded plans, sec. 7(d) with additional requirements for insured plans, and sec. 7(e) with additional requirements for all pension plans, whether insured or trusteed. Due to this rearrangement and because of the addition of new material, it was not possible in every case to set amended provisions next to the WPPDA provisions from which they were derived. To aid in comparison, however, marginal cross-references have been included.)

ANNUAL REPORTS

Sec. 7. (a)(*1*) [The administrator of any employee welfare or pension benefit plan a description of which is required to be published under section 6 shall also publish an annual report with respect to such plan] *An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 14 of this Act or* if it covers one hundred or more participants. However, the Secretary after [investigation] *notice and opportunity to be heard,* may require the administrator of any plan otherwise covered by the Act to publish such report when necessary and appropriate to carry out the purposes of the Act. Such report shall be published as required under section 8, within one hundred and fifty days after the end of the calendar, *policy or fiscal year on which* [year (or if] the records of the plan are kept. [on a policy or other fiscal year basis within one hundred and fifty days after the end of such policy or fiscal year).]

(*2*) *If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such reasonable information determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.*

(*3*) *The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted in accordance with accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing an insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by an agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report.*

(b) A report under this section shall [be signed by the administator and such report shall] include [the following]:

(*1*) [T]he amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets[, specifying the total amount in each of the following types of assets: cash, Government bonds, non-Government bonds and debentures, common stocks, preferred stocks, common trust funds, real estate loans and mortgages, operated real estate, other real estate, and other assets: a statement of,] liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; [The Secretary, when he has determined that an investigation is necessary in accordance with section 9(d) of this Act, may require the filing of supporting schedules of assets and liabilities. The information required by this section shall be sworn to by the administrator, or certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing an insurance, investment, or related function for the plan, if such books or records are subject to examination by an agency of the Federal Government or the government of any State In the case of reports sworn to, but not certified, the Secretary, when he determines that it may be necessary to investigate the plan in accordance with section 9(d) of this Act, shall, prior to investigation by the Department of Labor, require certification of the report by an independent certified or licensed public accountant,] *the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position or employment he holds with any party in interest;*

(2) *A schedule of all investments of the fund showing as of the end of the fiscal year:*

(A) The aggregate cost and aggregate value of each security, by issuer;

(B) The aggregate cost and aggregate value, by type or category, of all other investments,

And separately identify (i) *each investment the value of which exceeds $100,000 or three percent (3%) of the value of the fund and* (ii) *each investment in securities or properties of any person known to be a party in interest.*

(3) *a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions and exchanges of securities made during the reporting period; a list of the issuers of such securities; and in addition a schedule showing, as to each separate transaction with or with respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and, in the case of a sale, redemption or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss.*

(4) *A schedule of purchases, sales or exchanges during the year covered by the report of investment assets other than securities.*

(A) *by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and*

(B) *for each transaction involving a person known to be party in interest and for each transaction involving over $100,000 or three percent (3%) of the fund, an indication of each asset purchased, sold or exchanged (and, in the case of fixed assets such as land, buildings, and leasehold, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization.*

(5) *a schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition a separate schedule showing as to each loan which*

(A) was made to a party in interest, or

(B) was in default or

(C) was written off during the year as uncollectible. or

(D) exceeded $100,000 or three percent (3%) of the value of the fund.

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate the type and value of collateral and other material terms), the amount of principal and interest overdue (if any) and as to loans written off as uncollectible an explanation thereof.

(6) *a list of all leases with*

(A) persons other than parties in interest who are in default, and

(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leasehold, etc., the location of the property), the identity of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during party in interest made during the year, in- the reporting period, the net receipts from the lease, and with respect to any such leases in default, their identity, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

(7) *a detailed list of purchases, sales, exchanges or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of the other party to the transaction and his relationship to the plan;*

(8) *If some or all of the assets of a plan or plans are held in a common or cellective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under section 7(b)(2), (3), (4), (5), (6), and (7) with respect to such common or cellective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act.*

(9) *In addition to reporting the information called for by this subsection 7(b), the administrator may elect to furnish other information as to investment and reinvestment of the fund as additional disclosures to the Secretary.*

(c) [If the plan is unfunded, the report shall include only the total benefits paid and the average number of employees eligible for participation, during the past five years, broken down by years, and a statement, if applicable, that the only assets from which claims against the plan may be paid are the general assets of the employer] *If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation.*

(d) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization such report shall include with respect to such plan (in addition to the information required by subsection (b)) the following:

(1) [T]he premium rate or subscription charge and the total premium or subscription charges paid to each such carrier or organization and the approximate number of persons covered by each class of such benefits;

(2) [T]he total amount of premium received, the approximate number of persons covered by each class of benefits, and the total claims paid by such carrier or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs, paid by such carrier or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose: Provided, That if any such carrier or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include in lieu of the information required by the foregoing provisions of this paragraph (A) a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the plan, and a copy of the financial report of the carrier or other organization and (B), if such carrier or organization incurs specific costs in connection with the acquisition or retention of any particular plan or plans, a detailed statement of such costs.

(e) [Detail relative to the manner in which any funds held by an employee welfare benefit plan are held or invested shall be reported as provided under paragraphs (B), (G), and (D) of subsection (f) (1)] *Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:*

(1) the type and basis of funding,

(2) the number of participants, both retired and nonretired, covered by the plan,

(3) the amount of all reserves or net assets accumulated under the plan,

(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities,

(5) the ratios of the market value of the reserves and assets described in (3) above to the liabilities described in (4) above,

(6) a copy of the most recent actuarial report, and

(A)(i) the actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this section 7(e), insofar as any such actuarial assumptions are not included in the most recent actuarial report,

(B)(i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments than are used for any other purpose, a statement explaining same,

(7) a statement showing the number of participants who terminated service under the plan during the year, whether or not they retain any nonforfeitable rights, their length of service by category, the present value of the total accrued benefits of said participants and the present value of such benefits forfeited, and,

(8) such other information pertinent to disclosure under this section 7(e) as the Secretary may be regulation prescribe.

[(f) Reports on employee pension benefit plans shall include in addition to the applicable information required by the foregoing provisions of this section, the following:

[(1) If the plan is funded through the medium of a trust, the report shall include—

[(A) the type and basis of funding, actuarial assumptions used, the amount of current and past service liabilities, and the number of employees, both retired and nonretired covered by the plan;

[(B) a statement showing the assets of the fund as required by section 7(b). Such assets shall be valued on the basis regularly used in valuing investments held in the fund and reported to the United States Treasury Department, or shall be valued at their aggregate cost or present value, whichever is lower, if such a statement is not so required to be filed with the United States Treasury Department;

[(C) a detailed list, including information as to cost, present value, and percentage of total funds, of all investments in securities or properties of the employer or employee organization, or any other party in interest, but the identity of all securities and the detail of brokerage fees and commissions incidental to the purchase or sale of such securities need not be revealed if such securities are listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or securities in an investment company registered under the Investment Company Act of 1940, or securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, and the statement of assets contains a statement of the total investments in common stock, preferred stocks, bonds and debentures, respectively, valued as provided in subparagraph (B).

[(D) a detailed list of all loans made to the employer, employee organization, or other party in interest, including the terms and conditions of the loan and the name and address of the borrower: *Provided*, That if the plan is funded through the medium of a trust invested, in whole or in part, in one or more insurance or annuity contracts with an insurance carrier, the report shall include, as to the portion of the funds so invested, only the information required by paragraph (2) below.

[(2) If the plan is funded through the medium of a contract with an insurance carrier, the report shall include—

[(A) the type and basis of funding, actuarial assumptions used in determining the payments under the contract, and the number of employees, both retired and nonretired, covered by the contract; and

[(B) except for benefits completely guaranteed by the carrier, the amount of current and past service liabilities, based on these assumptions, and the amount of all reserves accumulated under the plan.

[(3) If the plan is unfunded, the report shall include the total benefits paid to retired employees for the past five years, broken down by year.

[(g) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such reasonable information determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

[(h) The Secretary shall prescribe by general rule simplified reports for plans which he finds that by virtue of their size or otherwise a detailed report would be unduly burdensome, but the Secretary may revoke such provisions for simplified forms for any plan if the purposes of the Act would be served thereby.]

PUBLICATION

SEC. 8. [(a) Publication of the description of the plan and the latest annual report required under this Act shall be made to the participants and the beneficiaries covered by the particular plan as follows:

[(1) The administrator shall make copies of such description of the plan (including all amendments or modifications thereto upon their effective date) and of the latest annual report available for examination by any participant or beneficiary in the principal office of the plan.

[(2) The administrator shall deliver upon written request to such participant or beneficiary a copy of the description of the plan (including all amendments or modifications thereto upon their effective date) and an adequate summary of the latest annual report, by mailing such documents to the last known address of the participant or beneficiary making such request.

[(b) The administrator of any plan subject to the provisions of this Act shall file with the Secretary two copies of the description of the plan and each annual report thereon. The Secretary shall make available for examination in the public document room of the Department of Labor copies of descriptions of plans and annual reports filed under this subsection.]

[(e)] *(a)* the Secretary shall prepare forms for the *plan* descriptions [of plans] and [the] annual reports required by the provisions of this Act, and shall make such forms available to the administrators of such plans on request.

(b) The administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The Secretary shall make copies of such descriptions and annual reports available for inspection in the public document room of the Department of Labor.

(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement, contract, or other instrument under which the plan was established and is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

(2) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

(3) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a complete copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established and operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

(d) The administrator of an employee pension benefit plan shall furnish to any plan participant or beneficiary so requesting in writing a statement indicating (1) whether or not such person has a nonforfeitable right to pension benefits, (2) the nonforfeitable pension benefits, if any, which have accrued or the earliest date on which benefits will become nonforfeitable and (3) the total pension benefits accrued.

(e) Upon the termination of service under the plan of a participant having a right to a benefit payable at a later date, the plan administrator shall furnish to the participant or his surviving beneficiary a statement setting forth his rights and privileges under the plan. The statement shall be in such form, be furnished and filed in such manner, and shall contain such information, including but not limited to the nature and amount of benefits to which he is entitled, the name and address of the entity responsible for payment, the date when payment shall begin and the procedure for filing his claim, as the Secretary may by regulation prescribe. The statement furnished to the participant or his surviving beneficiary, or a true copy, shall be prima facie evidence of the facts, rights and privileges set forth therein.

ENFORCEMENT

SEC. 9. (a) Any person who willfully violates any provision of *sections 5 through 13* of this Act shall be fined not more than $1,000, or imprisoned not more than six months, or both.

[(b) Any administrator of a plan who fails or refuses, upon the written request of a participant or beneficiary covered by such plan, to make publication to him within thirty days of such request, in accordance with the provisions of section 8, of a description of the plan or an annual report containing the information required by sections 6 and 7, may in the court's discretion become liable to any such participant or beneficiary making such request in the amount of $50 a day from the date of such failure or refusal.

[(c) Action to recover such liability may be maintained in any court of competent jurisdiction by any participant or beneficiary. The court in such action may in its discretion, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

[(d) The Secretary may, after first requiring certification in accordance with section 7(b), upon complaint of violation not satisfied by such certification, or on his own motion, when he continues to have reasonable cause to believe investigation may disclose violations of this Act, make such investigations as he deems necessary, and may require or permit any person to file with him a statement in writing, under oath or otherwise, as to all the facts and circumstances concerning the matter to be investigated.

[(e) For the purposes of any investigation provided for this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1941, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

[(f) Whenever it shall appear to the Secretary that any person is engaged in any violation of the provisions of this Act, he may in his discretion bring an action in the proper district court of the United States or United States court of any place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted.

[(g) The United States district courts and the United States courts of any place subject to the jurisdiction of the United States shall have jurisdiction, for cause shown, to restrain violations of this Act.

[(h) Nothing contained in this Act shall be so construed or applied as to authorize the Secretary to regulate, or interfere in the management of, any employee welfare or pension benefit plan, except that the Secretary may inquire into the existence and amount of investments, actuarial assumptions, or accounting practices only when it has been determined that investigation is required in accordance with section 9(d) of this Act.

[(i) The Secretary shall immediately forward to the Attorney General or his representative any information coming to his attention in the course of the administration of this Act which may warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.]

(b) Any plan administrator who fails or refuses to comply with a request as provided in section 8 within thirty days (unless such

failure or refusal results from matters reasonably beyond the control of the administrator) by mailing the material requested to the last known address of the requesting participant or beneficiary may in the court's discretion be personally liable to such participant or beneficiary in the amount of up to $50 a day from the date of such failure or refusal, and the court may in its discretion order such other relief as it deems proper.

(c) The Secretary shall have power, when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act, to make an investigation and in connection therewith he may require the filing of supporting schedules of the financial information required to be furnished under section 7 of this Act and may enter such places, inspect such records and accounts, and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation. The Secretary may report to interested persons or officials concerning the reasons for failure or refusal to file such a report or any other matter which he deems to be appropriate as a result of such an investigation.

(d) For the purposes of any investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

(e) Civil actions under this Act may be brought;

(1) by a participant or beneficiary—

(A) for the relief provided for in section 9(b), or

(B) to recover benefits due him under the terms of his plan or to clarify his rights to future benefits under the terms of the plan;

(2) by the Secretary, or by a participant or beneficiary (as a representative party on behalf of all participants or beneficiaries similarly situated where the requirements for maintaining a class action are met) for appropriate relief, legal or equitable, to redress a breach of any responsibility, obligation or duty of a fiduciary, including the removal of a fiduciary who has failed to carry out his duties or who is serving in violation of section 15 of this Act; or

(3) by the Secretary, to enjoin any act or *practice which appears to him to violate any provision of this Act. (f)(1) Civil actions under this Act brought by a participant or beneficiary may be brought in any court of competent jurisdition, state or federal.*

(2) Where such an action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

(3) Notwithstanding any other law, the Secretary shall have the right to remove an action from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for herein. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated such an action.

(g) The district court's of the United States shall have jurisdiction, without respect to the amount in controversy to grant the relief provided for in section 9(e) (2) and (3) in any action brought by the Secretary. In any action brought under section 9(e) by a participant or beneficiary, the jurisdiction of the district court shall be subject to the requirements contained in 28 U.S.C. 1331.

(h)(1) In any action by a participant or beneficiary, the court in its discretion may—

(A) allow a reasonable attorney's fee and costs of the action to any party;

(B) require the plaintiff to post security for payment of costs of the action and reasonable attorney's fees. (2) A copy of the complaint in any action by a participant or beneficiary shall be served upon the Secretary by certified mail who shall have the right, in his discretion, to intervene in the action.

(i) In any civil action authorized to be brought by the Secretary by this Act, or to enjoin any act or practice, or to collect any penalty assessed by the Secretary, the Attorney General shall represent the Secretary, unless the Attorney General delegates all or part of this authorization to the Secretary.

(j) Except as provided in this Act, nothing contained herein shall be construed or applied to authorize the Secretary to regulate, or interfere in the management of, any employee welfare or pension benefit plan.

(k) In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary shall make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this Act. The Secretary shall immediately forward to the Attorney General or his representative any information coming to his attention in the course of the administration of this Act which may warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.

REPORTS MADE PUBLIC INFORMATION

Sec. 10. The contents of the descriptions and regular annual reports filed with the Secretary pursuant to this Act shall be public information, and the Secretary, where to do so would protect the interests of participants or beneficiaries of a plan, may publish any such information and data. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

RETENTION OF RECORDS

Sec. 11. Every person required to file any description or report or to certify any information therefor under this Act shall maintain records on the matters of which disclosure is required which will provide in sufficient detail the necessary basic information and date from which the documents thus required may be verified, explained, or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

RELIANCE ON ADMINISTRATIVE INTERPRETATIONS AND FORMS

Sec. 12. In any action or proceeding based on any act or omission in alleged violation of this Act, no person shall be subject to any liability or punishment for or on account of the failure of such person to (1) comply with any provision of this Act if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Secretary, or (2) publish and file any information required by any provision of this Act if he pleads and proves that he published and filed such information in good faith, on the description and annual report forms prepared by the Secretary and in conformity with the instructions of the Secretary issued under this Act regarding the filing of such forms. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publications or filings is determined by judicial authority not to be in conformity with the requirements of this Act.

BONDING

Sec. 13. (a) Every administrator, officer, and employee of any employee benefit plan subject to this Act who handles funds or other property of such plan shall be bonded as herein provided; except that, where such plan is one under which the only assets from which benefits are paid are the general assets of a union or of an employer, the administrator, officers and employees of such plan shall be exempt from the bonding requirements of this section. The amount of such bond shall be fixed at the beginning of each calendar, policy, or other fiscal year, as the case may be, which constitutes the reporting year of such plan. Such amount shall be not less than 10 per centum of the amount of funds handled, determined as herein provided, except that any such bond shall be in at least the amount of $1,000 and no such bond shall be required in an amount in excess of $500,000; Provided, That the Secretary, after due notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of $500,000, which in no event shall exceed 10 per centum of the funds handled. For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by their predecessor or predecessors, if any, during the preceding reporting year, or if the plan has no preceding reporting year, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations of the Secretary. Such bond shall provide protection to the plan against loss by reason of acts of fraud or dishonesty on the part of such administrator, officer, or employee, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to the Act of July 30, 1947 (6 U.S.C. 6–13). Any bond shall be in a form or of a type approved by the Secretary, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any administrator, officer, or employee to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any employee benefit plan, without being bonded as required by subsection (a) and it shall be unlawful for any administrator, officer, or employee of such plan, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any such person, with respect to whom the requirements of subsection (a) have not been met.

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(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company through any agent or broker in whose business operations such plan or any party in interest in such plan as any significant control or financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (a) because he handles funds or other property of an employee [welfare-benefit plan or of an employee pension] benefit plan, to be bonded insofar as the handling by such person of the funds or other property of such plan is concerned.

(e) The Secretary shall from time to time issue such regulations as may be necessary to carry out the provisions of this section. When, in the opinion of the Secretary, the administrator of a plan offers adequate evidence of the financial responsibility of the plan, or that other bonding requirements would provide adequate protection of the beneficiaries and participants, he may exempt such plan from the requirements of this section.

FIDUCIARY RESPONSIBILITY

Sec. 14. (a) *Every employee benefit fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.*

(b)(1) *A fiduciary shall discharge his duties with respect to the fund—*

(A) solely in the interests of the participants and their beneficiaries;

(B) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(C) in accordance with the documents and instruments governing the fund insofar as is consistent with this Act, (2) Except as permitted hereunder, a fiduciary shall not—

(A) lease or sell property of the fund to any person known to be party in interest;

(B) lease or purchase on behalf of the fund any property known to be property of any party in interest;

(C) deal with such fund in his own interest or for his own account;

(D) represents any other party dealing with such fund, or in any way act on behalf of a party adverse to the fund or to the interests of its participants or beneficiaries;

(E) receive any consideration from any party dealing with such fund in connection with a transaction involving the fund;

(F) loan money or other assets of the fund to any person known to be a party in interest;

(G) furnish goods, service or facilities to any person known to be a party in interest, or

(H) permit the transfer of any property of the fund to, or its use by, or for the benefit of any person known to be a party in interest.

The Secretary may by rule or regulation provide for the exemption of any fiduciary or transaction from all or part of the proscriptions contained in this subsection 14(b)(2), when the Secretary finds that to do so is consistent with the purposes of this Act and in the interest of the fund and its participants and beneficiaries; Provided, however, that any such exemption shall not relieve a fiduciary from any other applicable provisions of this Act.

(c) *Nothing in this section shall be construed to prohibit any fiduciary from:*

(1) *receiving any benefit to which he may be entitled as a participant or beneficiary in the plan under which the fund was established;*

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund: provided that no person so serving who already receives full-time pay from an employer or an association of employers, whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;

(3) serving in such position in addition to being an officer, employee, agent or other representative of a party in interest;

(4) engaging in the following transactions:

(A) purchasing on behalf of the fund any security which has been issued by an employer whose employees are participants in the plan under which the fund was established, or a corporation controlling, controlled by, or under common control with such employer; Provided that the purchase of any security is for no more than adequate consideration in money or money's worth; provided, further, that if an employee benefit fund is one which provides primarily for benefits of a stated amount, or an amount determined by an employee's compensation, an employee's period of service, or a combination of both, or money purchase type benefits based on fixed contributions which are not geared to the employer's profits, no investment shall be made subsequent to the enactment of this amendment by a fiduciary of such a fund in securities of such an employer or of a corporation controlling, controlled by, or under common control with such employer, if such investment, when added to such securities already held, exceeds 10 per cent of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 10 per cent limitation shall not apply to profit sharing plans, nor to stock bonus, thrift and savings or other similar plans which have the requirement that some or all of the plan funds shall be invested in securities of such employer;

(B) purchasing on behalf of the fund any security other than one described in (A) immediately above, or selling on behalf of the fund any security which is acquired or held by the fund, to a party in interest, Provided (i) that the security is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission, (ii) that no brokerage commission, fee (except for customary transfer fees), or other remuneration is paid in connection with such transactions and (iii) that adequate consideration is paid;

(5) making any loan to participants or beneficiaries of the plan under which the fund was established where such loans are available to all participants or beneficiaries on a non-discriminatory basis and are made in accordance with specific provisions regarding such loans set forth in the plan;

(6) contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor.

(7) following the direction in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in subsection 14(b)(2);

(8) taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection 14(b).

(d) *Any fiduciary who breaches any of the responsibilities, obligations or duties imposed upon fiduciaries by this Act shall be personally liable to make good to such fund any losses to the fund resulting from such breach, and to restore to such fund any profits of such fiduciary which have been made through use of assets of the fund by the fiduciary.*

(e) *When two or more fiduciaries undertake jointly the performance of a duty or the exercise of a power or where two or more fiduciaries are required by any instrument governing the fund to undertake jointly the performance of a duty or the exercise of a power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such co-fiduciary from committing a breach of a responsibility, obligation or duty of a fiduciary or to compel such other co-fiduciary to redress such a breach; Provided that no fiduciary shall be liable for any consequence of any act or failure to act of a co-fiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object in writing to the specific action and promptly file a copy of his objection with the Secretary.*

(f) Each employee benefit plan shall contain specific provisions for the disposition of its fund assets upon termination. In the event of termination, whether under the express terms of the plan or otherwise, such fund, or any part thereof, shall not be expended, transferred or otherwise disposed of, except for the exclusive benefit of the plan participants and their beneficiaries. Notwithstanding the foregoing, after the satisfaction of all liabilities with respect to the participants and their beneficiaries under an employee pension benefit plan in accordance with the Internal Revenue Code and regulations promulgated thereunder, any remaining fund assets may be returned to any person who has a legal or equitable interest in such assets by reason of such person or his predecessor having made financial contribution thereto.

(g) No fiduciary may be relieved from any responsibility, obligation or duty under this Act by agreement or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries, but no such agreement shall restrict the obligations of any fiduciary to a plan or to any participant or beneficiary.

(h) No action, suit, or proceeding based on a violation of this section shall be maintained unless it be commenced within three years after the filing with the Secretary of a report, statement or schedule with respect to any matter disclosed by such report, statement or schedule, or, with respect to any matter not so disclosed, within three years after the complainant otherwise has notice of the facts constituting such violation, whichever is later, provided, however, that no such action, suit or proceeding shall be commenced more than six years after the violation occurred. In the case of a willfully false or fraudulent statement or representation of a material fact or the willful concealment of, or willful failure to disclose, a material fact required by this Act to be disclosed, a proceeding in court may be brought at any time within ten years after such violation occurs.

(i) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING OFFICE

Sec. 15. (a) *No person who has been convicted of, or has been imprisoned as a result of his conviction of: robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, kidnapping, perjury, assault with intent to kill, assault which inflicts grievous bodily injury, any crime described* *in section 9(a)(1), of the Investment Company Act of 1940, 15 U.S.C. 80a—9(a)(1), or a violation of any provision of this Act, or a violation of section 302 of the Labor Management Relations Act of 1947, 61 Stat. 157, as amended, 29 U.S.C. 186, or a violation of Chapter 63 of Title 18, United States Code, or a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of Title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959, 73 Stat. 519, as amended, 29 U.S.C. 401, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—*

1. as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusively clerical or janitorial duties) or other fiduciary position of any employee welfare or pension benefit plan or

2. as a consultant to any employee benefit plan, during or for five years after such conviction or after the end of such imprisonment, unless prior to the end of such five year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, County, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in clause (1) or (2) in violation of this subsection.

(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section, any person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this section.

(d) For the purposes of this section, the term "consultant" means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

ADVISORY COUNCIL

Sec. [14.] *16.* (a) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the "Council") which shall consist of thirteen members to be appointed in the following manner: One from the insurance field, one from the corporate trust field, two from management, four from labor, and two from other interested groups, all appointed by the Secretary from among persons recommended by organizations in the respective groups; and three representatives of the general public appointed by the Secretary.

(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this Act, and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least twice each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act for [such] *the* preceding [calendar] *fiscal* year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the Act's operation and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties.

(d) Appointed members of the Council shall be paid compensation at the [rate of $50 per diem] *maximum per diem rate authorized in the current Department of Labor Appropriation Act for consultants and experts* when *such members are* engaged in the work of the Council, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. [73b–2] *5703*) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

[(e)(1) Any member of the Council is hereby exempted, with respect to such appointment, from the operation of sections 281, 283, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99), except as otherwise specified in paragraph (2) of this subsection.

[(2) The exemption granted by paragraph (1) of this subsection shall not extend—

[(A) to the receipt or payment of salary in connection with the appointee's Government service from any source other than the private employer of the appointee at the time of his appointment, or

[(B) during the period of such appointment, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.]

ADMINISTRATION

Sec. [15.] *17.* (a) The provisions of the Administrative Procedure Act, *5 U.S.C. sec. 551 et seq.*, shall be applicable to this Act. *The Secretary, or his delegate, in consultation with the Secretary of the Treasury or his delegate, shall prescribe all necessary rules and regulations for the administration and enforcement of this Act, except that all rules and regulations issued with respect to Section 14 shall be prescribed by the Secretary of Labor or his delegate with the concurrence of the Secretary of Treasury or his delegate.*

(b) No employee of the Department of Labor shall administer or enforce this Act with respect to any employee organization of which he is a member or employer organization in which he has an interest.

[(c) No more than 260 employees shall be employed by the Department of Labor to administer or enforce this Act for the first two years after the enactment of the Welfare and Pension Plans Disclosure Act Amendments of 1962.

[(d) No more than two million two hundred thousand dollars per year is authorized to be appropriated for the administration and enforcement of this Act for the first two years after the enactment of the Welfare and Pension Plans Disclosure Act Amendments of 1962.]

EFFECT OF OTHER LAWS

Sec. [16.] *18.* (a) In the case of an employee welfare or pension benefit plan providing benefits to employees employed in two or more States, no person shall be required by reason of any law of any such State to file with any State agency (other than an agency of the State in which such plan has its principal office) any information included within a description of the plan or an annual report published and filed pursuant to the provisions of this Act if copies of such description of the plan and of such annual report are filed with the State agency, and if copies of such portion of the description of the plan and annual report, as may be required by the State agency, are distributed to participants and beneficiaries in accordance with the requirements of such State law with respect to scope of distribution. Nothing contained in this subsection shall be construed to prevent any State from obtaining such additional information relating to any such plan as it may desire, or from otherwise regulating such plan.

[(b) The provisions of this Act, except subsection (a) of this section and section 13, and any action taken hereunder, shall not be held to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the United States or of any State effecting the operation or administration of employee welfare or pension benefit plans, or in any manner to authorize the operation or administration of any such plan contrary to any such law.] *It is hereby declared to be the express intent of Congress that except for actions authorized by section 9(e)(1)(B) of this Act, the provisions of this Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter related to the fiduciary, reporting and disclosure responsibilities of persons acting on behalf of employee benefit plans provided that nothing herein shall be construed to exempt or relieve any person from any law of any State which regulates insurance, banking or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary. Nothing herein shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States (other than the Welfare and Pension Plans Disclosure Act of 1958 as amended (92 Stat. 994) or any rule or regulation issued under any such law.*

SEPARABILITY OF PROVISIONS

Sec. [17.] *19.* If any provision of this Act or the application of such provision to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

EFFECTIVE DATE

Sec. [18.] *20.* [The provisions of this Act shall become effective January 1, 1959.] *Sec. 20(a) The provisions of paragraph (b)(3), (4) and (5) of section 7 relating to the aggregating of items reported shall become effective two years after enactment hereof.*

(b) The amendments made by this Act to the reporting requirements of the Welfare and Pension Plan Disclosure Act shall become effective upon the promulgation of revised report forms by the Secretary.

(c) All other provisions of this Act shall become effective thirty days after enactment hereof.

(d) In order to provide for an orderly disposition of any investment, the retention of which would be deemed to be prohibited by this Act, and in order to protect the interest of the fund and its participants and its beneficiaries, the fiduciary may in his discretion effect the disposition of such investment within three years after the date of enactment of this Act or within such additional time as the Secretary may by rule or

regulation allow, and such action shall be deemed to be in compliance with this Act.

S. 3592—INTRODUCTION OF A BILL TO AMEND THE FEDERAL MEAT INSPECTION ACT TO CLARIFY THE PROVISION RELATING TO CUSTOM SLAUGHTERING OPERATIONS

Mr. CURTIS. Mr. President, I am pleased today to present to the Senate a long-awaited, revised bill to amend the Wholesome Meat Act of 1967.

I am introducing this bill as a replacement for S. 2983, a much broader bill which I introduced last year and which is currently pending in the Agriculture Committee.

Some of the problems which last year's measure sought to correct were solved without legislative action. For example, Secretary of Agriculture Clifford Hardin, exercising his authority under the law, granted a 1-year extension to 45 of the 50 States in order to give them time to get in compliance with the Federal standards.

This extension was necessary, Mr. President, simply because it took longer than anyone had anticipated to draft and promulgate the administrative regulations for implementing the new meat inspection law. It was necessary because the law intended that States be given full opportunity to adopt equally tough State standards and crank up their inspection machinery to enforce those standards as an alternative to Federal inspection of intrastate meat processing plants, or those not previously subject to Federal inspection.

The bill which I am offering today actually is a technical amendment designed to clarify the provisions of the 1967 act with respect to custom slaughtering operations.

This bill is not designed to permit anything that was not intended by the principal sponsors and supporters of the present law. I want to make that clear.

The language has been worked out and reworked painstakingly over a period of several months to make certain that it does not create loopholes or do violence in any way to the intent of the Wholesome Meat Act.

I am indebted to a group of Senate and House Members who had a major part in writing the 1967 act for helping to draft and check the language of this bill to make certain that it will do what is intended without relaxing or loosening the protection being provided to consumers under the present law.

In short, Mr. President, this bill would permit custom slaughtering of livestock to be done for farmers and ranchers in the same establishment where meat is cut and sold at retail. It would prescribe strict requirements which would have to be met in order for these two types of activities to be conducted in the same establishment.

First, the Secretary of Agriculture would promulgate regulations assuring that the custom-slaughtering operations and all of the products thereof "are separated at all times" from the meat which is handled for sale at retail.

Second, the containers or packages containing custom-slaughtered meat would have to be plainly labeled "Not for Sale" immediately after being prepared, and kept so identified until delivered to the owner.

Third, the establishment conducting custom operations would have to be "maintained and operated in a sanitary manner" as prescribed by the Secretary of Agriculture.

Finally, all meat processed and sold at retail in such an establishment must come from a slaughter plant which is inspected under the regular standards prescribed in the Wholesome Meat Act as it exists today.

Those are the principal provisions, Mr. President. They provide important and essential safeguards for consumers. At the same time, they would permit a type of activity to continue in the rural areas of our Nation that is essential to the economic life of those areas.

Many small locker and meat processing plants in rural areas cannot continue to operate economically without conducting both custom-slaughtering and retail meat-cutting activities. The Department of Agriculture has ruled that the law as presently written does not permit this. The measure being introduced today will permit such operations and clearly spells out the necessary requirements.

The 1967 law permits custom-processing of game animals in the same establishment where meat is cut and sold commercially. It does not spell out conditions for such processing. The same permission should be extended to farmers and ranchers who want to have their livestock slaughtered and processed for their own use, and it is important to prescribe conditions for such processing for game as well as domestic animals.

The PRESIDING OFFICER (Mr. McGee). The bill will be received and appropriately referred.

The bill (S. 3592) to amend the Federal Meat Inspection Act, as amended, to clarify the provision relating to custom slaughtering operations, introduced by Mr. Curtis (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

ADDITIONAL COSPONSORS OF BILLS

S. 3388

Mr. MURPHY. Mr. President, on behalf of the Senator from Pennsylvania (Mr. Scott), I ask unanimous consent that, at the next printing, the name of the Senator from Hawaii (Mr. Fong) be added as a cosponsor of S. 3388, to establish an Environmental Quality Administration.

The PRESIDING OFFICER (Mr. Cook). Without objection, it is so ordered.

S. 3503

Mr. MANSFIELD. Mr. President, at the request of the Senator from Wisconsin (Mr. Proxmire), I ask unanimous consent that, at the next printing, the name of the Senator from Nevada (Mr. Cannon) be added as a cosponsor of S. 3503, to reduce mortgage interest rates charged middle-income families, and for other purposes.

The PRESIDING OFFICER (Mr. Cook). Without objection, it is so ordered.

NOTICE OF HEARING ON TRUST TERRITORY OF THE PACIFIC ISLANDS

Mr. BURDICK. Mr. President, for the information of Members of the Senate and others, I wish to announce that the Subcommittee on Territories of the Committee on Interior and Insular Affairs has scheduled a hearing for Wednesday, March 18, to consider S. 3479, to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and S. 3153, to authorize the Secretaries of Interior and the Smithsonian Institution to expend certain sums, in cooperation with the territory of Guam, the territory of American Samoa, the Trust Territory of the Pacific Islands, other U.S. territories in the Pacific Ocean, and the State of Hawaii, for the conservation of their protective and productive coral reefs.

The hearing will begin at 10:30 a.m. in room 3110, New Senate Office Building. Anyone who wishes to be heard in connection with the legislation should contact the committee staff in order that a witness list may be prepared.

NOTICE OF HEARINGS ON "CROWN OF THORNS" STARFISH

Mr. MANSFIELD. Mr. President, at the request of the junior Senator from Washington (Mr. Jackson), I ask unanimous consent that a statement by him relating to an important hearing by his committee be printed at this point in the Record.

There being no objection the statement was ordered to be printed in the Record, as follows:

STATEMENT OF SENATOR JACKSON

Mr. President, on Wednesday, March 18, the Subcommittee on Territories and Insular Affairs of the Senate Interior Committee will conduct hearings on S. 3153, a measure to provide for research and control of the devastating "Crown of Thorns" starfish. The hearings will be held in Room 3110 of the New Senate Office Building at 10:30 A.M.

This measure would provide the means to control the "Crown of Thorns" starfish that currently threatens the economic livelihood of Guam and the Trust Territory of the Pacific Islands. Although relatively little is known about the intensity of starfish infestations in other areas of the Pacific under the jurisdiction of the United States, this menacing creature has been noted in American Samoa and the State of Hawaii.

The "Crown of Thorns" starfish is not just a menace to the insular possessions of the United States and a potential threat to the State of Hawaii. It has now become a matter of concern to all nations and territories of the South Pacific. The starfish has already destroyed about 100 square miles of the Great Barrier Reef off Australia.

Last summer, the Westinghouse Ocean Research Laboratory, under contract to the Department of Interior, organized and carried out a survey by ten teams of scientists to determine the severity of the "Crown of Thorns" starfish problem in certain parts of the South Pacific. This report which was published last October revealed that if something is not done soon to control this starfish which feeds on the living parts of coral, it could have long-range economic repercussions, particularly since many of the islanders are dependent upon the reefs and their fisheries resources for subsistence. Evidence now indicates that following the destruction of the living parts of the coral by the starfish, the dead coral becomes encrusted with algae and the resident fishes diminish in total numbers because their food supply has been eliminated.

In addition to providing a habitat and food source for fish, the living coral reefs offer protection to the islands during tropical storms. If the coral dies, and begins to erode, the islands become susceptible to erosion and other damage caused by typhoons.

NOTICE OF POSTPONEMENT OF HEARINGS ON THE DRAFT LOTTERY

Mr. KENNEDY. Mr. President, last December, shortly after Congress removed the ban on random selection, the Selective Service System held the first draft lottery since World War II. The purpose of this drawing was to select an induction sequence for draft-eligible young men, unguided by considerations of race, education, income or connections; pure chance was to determine who was or was not chosen. Soon after the lottery, however, it became evident that the sequence was not all that might be expected from a random drawing. I began to receive letters from statisticians who pointed out that birthdates from the end of the year were disproportionately among the first numbers drawn. I heard increasing criticism that the mechanics of the fishbowl drawing had been allowed to inject bias into the selection process.

I was disturbed by these charges, since the lottery, which I had supported for several years, was designed to avoid completely any semblance of prejudice.

On December 18, I wrote to Dr. Philip Handler, President of the National Academy of Sciences, to ask for his analysis of the randomness of the drawing and his recommendations for insuring completely random selection in the future. In that letter I voiced concern that the lottery, as it was held, might "cause a further erosion in public confidence in the fairness of the draft," and might "generate further distrust and cynicism about the processes of government."

Dr. Handler replied on January 14. After a preliminary determination that the December 1 drawing did not have the properties of a random selection, he offered to make "a presentation on random processes with special reference to the problems posed by the selective service lottery."

I requested such a presentation from Dr. Handler as chairman of the Subcommittee on Administrative Practice and Procedure. I felt it was important for us to consider what steps might be taken administratively to insure that the next lottery could avoid any criticism.

Dr. Handler and Professor John Tukey of Princeton University were to appear before the subcommittee on March 18, to offer the recommendations of the National Academy of Sciences on an improved lottery. I had intended to use this opportunity to discuss as well other aspects of the lottery which have troubled a great many young men.

One goal of the lottery was to afford to registrants at an early age and with a minimum of disruption of their lives the knowledge of whether they would be required to serve. While it is true that 7 years of uncertainty have been telescoped into 1 year, nevertheless a great deal of confusion remains. I believe that the Selective Service System could take further steps to enable young men to interpret the meaning of their lottery number.

After discussions the other day with Senator STENNIS of Mississippi, chairman of the Committee on Armed Services, I have determined that a hearing by the Subcommittee on Administrative Practice and Procedure will not be necessary at this time. Senator STENNIS, agreeing with me that these issues merit full consideration, has assured me that Dr. Handler and Professor Tukey will be invited to make their presentation when the Senate Armed Services Committee begins its hearings on draft legislation early in April. Since this committee will be considering a number of pieces of draft legislation at this time, he and I felt that this would provide the most appropriate way of studying the lottery in its fuller context.

The administration of the lottery is an integral part of the present draft system, and I feel confident that Senator STENNIS will examine it fully in the upcoming hearing. I am therefore postponing indefinitely the planned hearing by my subcommittee.

ADDITIONAL STATEMENTS OF SENATORS

VICE PRESIDENT AGNEW

Mr. DOLE. Mr. President, on February 26, the Vice President addressed the National Governors' Conference in Washington, D.C. In his remarks, Mr. AGNEW presented a concise summary of the administration's broad program to preserve and restore our Nation's environment and natural resources. He also spoke of the obligations of leadership falling on high Federal and State elected officials.

Today's turbulent affairs and events make unique demands on those who have been chosen by the electorate to provide guidance, leadership and direction for the States and the Nation. The Vice President's remarks contain some cogent observations on the obligations of leadership. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE VICE PRESIDENT, NATIONAL GOVERNORS' CONFERENCE, WASHINGTON, D.C., FEBRUARY 26, 1970

Yesterday, the President spoke to you briefly and specifically about a few facets of the Administration's domestic program. I believe you could easily detect in his remarks an awareness of the difficult financial burdens that State government faces. At no other level of government have built-in program increases left less resources for the implementation of new programs. And notwithstanding the rigid disciplines which had to be imposed on the federal budget to brake runaway inflation, the President has moved to commit more federal assistance, and federal assistance in a more flexible form, to State government than ever before.

The beginnings in revenue sharing, in the fight against pollution, and in the welfare reform await the action of Congress. Whether these programs are passed as offered or whether they're modified, they will have an effect on your ability to finance the growing burdens of State government.

But the Administration's recognition of the formidable difficulties faced by the States has a mirror image—the Governors' recognition of the equally difficult problems faced by the Administration.

I want you to know that we are very grateful for your cooperation in our fight against inflation. In September, when we met last, the Administration sought your aid through a voluntary cutback in non-essential construction. Your response was prompt and substantial. The States collectively have reduced or deferred $1,084,000,000 of planned highway construction. Other deferred capital construction has exceeded $1,009,000,000. So you have shared in cooling inflation by putting a potential $2 billion multiplier on ice.

Obviously, you merit and have the plaudits of this Administration and the gratitude of the nation. With this one responsible act you've done more than your share in the war against inflation. You've given life and proof to the federal precept. You've demonstrated that State governments are willing and capable of disciplining themselves and of cooperating in the nation's interest. And you have proven that those who would counsel for federal supremacy, or advocate the by-passing of State governments because they are careless and insensitive about problems outside of Statehouse politics, are totally wrong. In one act, you have put down four decades of slander about State government.

In terms of our nation's history, I believe your prompt, voluntary policing of your own spending will be remembered both as a blow struck to restore a balanced federal system and as a pivotal factor in a year-long crusade to combat inflation.

Yesterday, you heard the President touch briefly on the environment and reiterate the Administration's commitment to the fight against water pollution. We will never be able to clean up our waters without adequate waste water treatment facilities. Our proposed new $10 billion joint Federal-State program for the construction of such facilities represents one of the most important direct steps we can take to begin the restoration of our environment. This new program proposes to allot federal matching funds of $1 billion per year for four years, and is expected to induce the expenditure on a local level of $6 billion in that same period.

I want to emphasize several points from Secretary Hickel's statement of yesterday to your Committee on Natural Resources and Environmental Management.

First, $10 billion is the amount of funding we can look forward to. It should be enough to do the job. If it proves inadequate, the President has said that he will seek more.

Second, the Federal Government will meet its reimbursement commitments. I want to make it clear that for the fiscal year 1970, the States will receive $800 million as a total appropriation—out of which they will have the option of using their monies for new projects or reimbursement of old projects if they are at least 25 percent complete. In succeeding years beginning with fiscal 1971, 20 percent of the amount of money totally authorized will be allocated for reimbursement by regulation of the Secretary of Interior until all of the reimbursable commitments have been met.

Third, for those municipalities unable to finance their share of waste water treatment facilities, a new environmental financing authority will be structured to help meet that need.

Fourth, the new program will permit allocation of federal matching funds on both population density and pollution density.

Fifth, and this is a much desired innovation, we will provide in the program the highly significant reform of comprehensive river basin planning.

Thus, the three R's of restoration, reform and renewal described by the President are all evidenced in our new water pollution control program.

In addition to capital construction deferrals and the financing of the difficult battle against water pollution, there are probably a hundred other matters of specific executive decision which I might move to and discuss with you at this time. They'd all be familiar to you, they'd all be controversial, they'd all have been discussed many times before. Basically, the solution to these problems depends on a constant search for modification and adaptation by professional governmental administrators such as yourselves.

After the long working sessions at this and other Governors' Conferences, you do not need me to preach about subjects you thoroughly understand and which you will eventually solve by hard work, patience and the long process of compromise. Rather than weary you further with recitals geared less to your enlightenment than to the display of what ex-Governors such as I like to think of as accumulated gubernatorial wisdom, I would like to touch briefly on a generality that I feel is of vital importance, even though often lost in the specific frenzies of modern government.

I refer to the most solemn unwritten obligation of a Governor—that of leading the people of his State, and through his statements, molding opinion. Somewhere amid the sometimes exciting, sometimes tedious intricacies of the sophisticated governmental structure of a modern state, the elected leader must disengage from the manipulation of *things* and consider the *spirit of the people* he is elected to serve.

At no time in our history have we seen a greater preoccupation with the machinery of government, a greater fascination with the ideas of the "In-Group" of bureaucrats and professional experts, and less attention to the true functions of leadership, which form the only real reason for the people of a sovereign State to designate one citizen to give them direction and hope.

It's easy to mistake great activity and a proliferation of high-sounding programs for leadership. No one knows better than a Governor how tempting it is to spend hour after hour in staff level meetings discussing tax formulas, Federal-State contributive ratios, education and health budgets and other important details—not to mention all the varieties of unimportant trivia which wash through the sands of the great departments, propelled by the pumps of countless career public servants dependent on activity more than progress to justify their existence.

No one knows better than a Governor, who digs his way through reams of paper—through memoranda ad nauseum—through studies and consultants reports ponderously redundant—how easy it is to get caught in the "make work" climate of modern government. I used to sit in my office in Annapolis and occasionally look up at a portrait of some ancient predecessor and wonder what it was like before the typewriter and the duplicating machine visited these miserable torrents of minutia upon us—before committees and study groups and lobbies, convinced of their unique knowledge and the originality of ideas born and discarded from the time of George Washington down, thrust themselves upon us. I'd suspect that these early executives had more time than we to devote to creative thought and the assessment of the direction of their constituents.

Today, we have a dangerous delusion—words masquerading as decisions, activity masquerading as progress, and nonproductive dissent masquerading as constructive debate. It is easy to be deceived into thinking that because we are busy we are making progress. To the contrary, I would suggest that the destructive forces gathering strength in the country today are equivalent to enormous headwinds on the nose of the ship of state. Our engines are flailing, but we're not getting very far very fast. Until we accept the necessity of facing our leadership obligations and stating a direction for our people, we will continue to lose ground.

What is the greatest issue today? It's not the war in Vietnam, it's not inflation, nor the environment. It is not an issue that you even hear discussed in its stark and simple enormity. But it is, nonetheless, the overriding and compelling issue in the United States today. Simply stated, it is: "Will the government of this country remain in the hands of its elected officials or will it descend to the streets?"

It is not unusual, nor should it be distressing, that individuals of monumental ego among the failures of our society should attack everything fundamental to our free culture. They're simply lashing out in all directions because they cannot bear to face their individual inadequacies. Neither should it overly concern us that certain brilliant but sequestered academicians are criticizing the government. This has always been so, and probably will always be so. Sometimes it even does some good. Also, we should not seem surprised that the neophyte political ambitious loudly champion all causes of the least affluent. That works beautifully until they get elected and have to represent all the people.

Why then, if this political phenomena are standard to a democratic government, should we be disturbed about them today?

The answer lies not in the fear of the kooks or demagogues themselves, but in their current respectability. Never in our history have we paid so much attention to so many odd characters. Twenty-five years ago the tragicomic antics of such social misfits would have brought the establishment running after them with butterfly nets rather than television cameras. It's in this inordinate attention to the bizarre, this preoccupation with the dramatic, this rationalization of the ridiculous, that we threaten the progress of our nation.

It's time for the political, business and academic leaders of this country to lead a figurative march back to normalcy. There are, and always have been, political risks in speaking out; but the silence of our leaders when confronted with outrage is being construed in the country as uncertainty and even in some areas as sympathy for these assaults on the fundamental nature of our culture.

Courts are becoming carnivals; laws are flouted. Criminals commit their despicable acts against society in the name of political activity.

Gentlemen, I propose that all of us elected to positions of governmental responsibility should speak out forcefully and directly against the outrageous patterns of conduct which have become so fashionable of late. Whether or not one agrees with every ruling that the judge made in the recent Chicago trial is not the point. The point is that a handful of oddballs deliberately set out to politicize a simple criminal proceeding and to disrupt the most basic protection of our society—the dignity of the courts. The point is that the new technique of judicial disruption is spreading like wildfire throughout the country. The tactic is to provoke and inflame in the hope that overreaction will obliterate the true nature of the proceeding.

The spread of revolutionary conduct, as you are well aware, is not limited to the courtrooms of this nation. We find it in our educational systems and, in fact, beginning to spread from college to high school to junior high school. We find it invading every governmental body that depends upon constructive citizen participation. The purpose is clear and obvious—to immobilize and incapacitate the normal procedures of our constitutional government.

What can we do? We can exert our governmental authority to protect the people who placed us in these positions of responsibility. This requires firm decisive action and a willingness to withstand the criticisms of the liberal community who are presently so blinded by total dedication to individual freedom that they cannot see the steady erosion of the collective freedom that is the capstone of a law-abiding society. This, of course, means acting within the law.

Of equal importance, we can begin to lead American opinion. I am convinced that the overwhelming majority of Americans will follow the lead of their Governors and other elected officials if we will just launch a campaign to exert the force of public opinion to drive these bizarre extremists from their preemptive positions on our television screens and on the front pages of our newspapers. There are more valuable subjects to be covered in the public interest.

Let us move vigorously to deeply involve our citizens in the traditional American fashion. Let us establish constructive dialogue and debate to replace then non-productive disengagement and dissent. Above all, let us react automatically, briskly and effectively against the threat of violent revolution and recognize it for the clear and present danger it constitutes.

THE SELECTION OF JUSTICES OF THE U.S. SUPREME COURT: UNFINISHED CONSTITUTIONAL BUSINESS

Mr. ERVIN. Mr. President, the Trial Judges' Journal for January 1970 contains an article written by me and bearing the title, "The Selection of Justices of the U.S. Supreme Court: Unfinished Constitutional Business."

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SELECTION OF JUSTICES TO THE U.S. SUPREME COURT: UNFINISHED CONSTITUTIONAL BUSINESSS

(By SENATOR SAM J. ERVIN, JR., North Carolina)

During the last session of Congress the Senate was called upon to perform one of its most important constitutional functions—the consideration of the President's nominations to the Supreme Court. Our deliberations on the qualifications of these nominees, once again, focused attention on what I feel is a primary weakness in the Court. That is, the method for selecting a new Justice.

Because of the present Court's easy willingness to depart from precedents and the plain meaning of the Constitution, I feel that today our federal system stands in great jeopardy, and I believe we must begin now to devise some means which would ensure that only the best qualified people serve on the Court. Rather than continuing the present method which often results in appointments for political purposes and not for judicial excellence, we should try to find some way to complete the job begun by the

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Constitution of having a truly qualified and independent judiciary.

Changing the methods of selecting the members of our three branches of government is not a novel idea. Both the executive and legislative branches have undergone perfecting changes through the years. For example, a person now cannot be elected President more than twice, and the Vice-Presidency is no longer filled by the person having the second largest number of votes in a presidential election. Women are no longer denied the right to vote and no longer is the ballot denied to any person on account of race. In the legislative branch, Senators used to be elected by the legislatures of the States. This is no longer true.

But the method of selecting the Supreme Court Justices continues unchallenged just at is was in the 18th Century, and I feel, that it is even more important to ensure careful selection of the judiciary than the other two branches. As Alexis de Tocqueville, one of the most perceptive observers of American institutions and life, said:

"The President, who exercises a limited power, may err without causing grave mischief in the State. Congress may decide amiss without destroying the union, because the electoral body in which Congress originates may cause it to retract its decisions by changing its members. But if the Supreme Court is ever composed of imprudent men or bad citizens, the Union may be plunged into anarchy or civil war."

This quotation takes on particular significance at this time in our Nation's history when the judgment of just five men has been allowed, with increasing frequency, to seriously change the economic, social, and political direction of our Nation and to do so by overriding our written Constitution and the prerogatives of the States and our Federal Legislature.

The drafters of the Constitution undertook to free Supreme Court Justices from all personal, political, and economic ambitions, fears, and pressures which harass the occupants of other public offices by stipulating that they should hold office for life, and receive for their service a compensation which no authority on earth could reduce. They undertook to impose upon each Supreme Court Justice a personal obligation to interpret the Constitution according to its true intent by requiring him to make an affirmation to support the Constitution. The Founding Fathers did these things because they wished Supreme Court Justices to be independent of everything except the Constitution which was to be the only rule for the government of their official actions. It causes me great pain to observe that the actions of the present Supreme Court lead to the inescapable conclusion that the Founding Fathers did not devise a method of selecting Justices comparable to the trust they placed in them.

Early in this session of Congress I offered a constitutional amendment designed to insure, as far as humanly possible, the appointment of the best qualified people to the Supreme Court. In order to afford greater protection to the judicial branch, my amendment proposes a three-step method of approving a Supreme Court Justice.

The procedure is as follows:

First. Whenever a vacancy occurs in the office of Chief Justice of the United States or Associate Justice of the Supreme Court, the President shall convene a conference which shall be attended by the presiding judge of the highest appellate court of each State, and the chief judge of each judicial circuit of the United States. The senior chief judge of a judicial circuit of the United States shall preside at the conference. By majority vote the conference shall designate, and the presiding officer of the conference shall transmit to the President in writing, the names of five or more persons deemed by the conference to be qualified to fill the vacancy.

Second. The President shall nominate one of the persons so designated to fill the vacancy.

Third. If the Senate advises and consents to the appointment of such person, such person shall be appointed to fill the vacancy. If the Senate does not advise and consent to the appointment of any person so nominated, the President shall nominate another person so designated to fill the vacancy.

My proposal removes the President's unbridled discretion to propose any person he chooses as a member of the Court. This proposal will not substitute one evil for another. The chief judges of the judicial circuits and the chief justices of the state supreme courts are and will be men and women of the most diverse outlooks and perspectives. They will have no common political ideology. They will know few people in common. No one may claim a debt from more than one or two of them at a time. And, most importantly, they will be performing in the public eye a duty of supreme public interest.

Lacking common ideology, common friends, lacking the power to reward supporters, indeed, lacking all but the common design to select exemplary choices for appointment to the High Court, the members of this commission will, because it is their duty and because they in fact must, look more carefully at the judicial qualifications and temperament of possible nominees. Though we may find it difficult to enunciate fully what these qualities should be, it seems clear to me that the members of this commission would recognize them and act on them.

Out of diverse interests and perspectives of my commission would inevitably come the selection of men and women based on merit, on a considered and developed view that they possessed characteristics demanded of good Justices. Cardozo and Stone and Holmes would undoubtedly have emerged from such a group. And so would, to bring up an old injustice, Learned Hand who was more qualified over a longer period of time than innumerable others who were appointed

Out of the operation of competing views would come, I firmly believe, Justices who reflect Felix Frankfurter's concept of "the real judicial temper, that is, detachment from political or personal considerations, a disregard of motives other than those wholly relevant to a judge's job."

I hope that Congress will give early consideration to the problem and will support my proposed solution. Only by acting along the lines I have proposed will we make it as certain as possible that Members of the Supreme Court will not be chosen on the basis of personal friendship with the President, political service rendered to the political party in power, or past association with politically potent groups.

NATIONAL ECONOMIC EQUITY BOARD

Mr. HARRIS. Mr. President, it is apparent that the administration is continuing to try to stop inflation by driving more people out of work.

The latest unemployment figures, released last week, showed the percent of the total work force unemployed was 4.2 percent, up 0.9 percent in the past year. Even worse, the figure was 7.7 percent for unskilled workers, and 6 percent for the semiskilled, while for technical professionals it was only 1.7 percent, and for business administrators an almost unbelievably low 1 percent. This uneven burden of rising unemployment is even more graphically shown by the fact that white unemployment was 3.8 percent, while that for nonwhites was nearly double, or 7 percent, and men were unemployed at a 2.8-percent rate while for women the figure was 4.1 percent.

Contrary to administration expectations, this rise in unemployment has not been accompanied by a reduction in inflation, but by an increase. An acceleration in the Consumer Price Index of 6.1 percent was recorded in 1969, as opposed to 4.7 percent in 1968. In the last 3 months, it has been even worse—a yearly rate of 7.2 percent. The public is losing at both ends—inflation and unemployment are both going up at the same time.

I can only conclude that the steps taken by the administration are insufficient and that prompt and effective further action is very much needed.

To that end I have proposed the creation of a National Economic Equity Board, which would be empowered to set evenhanded, equitable guidelines across the board on prices and wages and institute freezes for up to 6 months if necessary to stem our continued decline toward an inflationary recession.

As the second part of a two-pronged attack, I am drafting legislation which would provide for a comprehensive manpower program for job training and for expanded public and private employment Each rise of 1 percent in unemployment can be translated as the loss of 800,000 jobs. Thus, the increase of 1 percent in the overall unemployment rate since the Nixon administration assumed office means that 800,000 people who held jobs 14 months ago are now in the ranks of the unemployed. Against this figure, the 75,000 positions available under the workfare program presented by the administration appear woefully inadequate. If, as many economists believe the unemployment rate is going to increase another 1 percent in the next year, only 75,000 position will exist for training 1.6 million citizens who will have lost jobs, and this does not even include those additional citizens who have been unable to find work during the entire period. If we want to meet the goal of finding an adequate job for every ablebodied man, a manpower program which is greater by several orders of magnitude must be begun, and the training provided must be keyed to the existing jobs which even now are unfilled because those with the needed skills are not available. Such a program would save substantially on the cost of welfare.

Many of our economic problems are linked together, and only by developing a multifaceted and innovative program can we hope to improve the condition of all our citizens. This I am attempting to do.

As John Maynard Keynes has written

> The difficulty lies not in the new ideas but in escaping from the old ones.

We must escape from the old idea that greater unemployment is necessary for price stability. We must question the old dogmas, so that we may move into a new era of price and employment stability which will benefit us all.

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ORSON BEAN

Mr. DOLE. Mr. President, on Wednesday morning, March 12, Orson Bean was interviewed on the "Today Show" by Edwin Newman. Perhaps I agreed with many of Mr. Bean's comments because he shares my view that liberal legislators care more about theory than practicalities.

There has long been a feeling in Congress and other areas of America that equality and opportunity can be legislated and that those who oppose such an approach are anti-civil-rights or extremist.

The interview was particularly interesting because Bean indicated, and I agree, that labels are really meaningless, but that at one time he considered himself a liberal.

I am not personally acquainted with Mr. Bean, but I would hazard a guess that he speaks for millions of Americans, black and white.

Mr. President, I ask unanimous consent that this transcript be printed in the RECORD.

There being no objection the transcript was ordered to be printed in the RECORD, as follows:

ORSON BEAN INTERVIEWED—THE TODAY SHOW, MARCH 12, 1970

EDWIN NEWMAN. Orson Bean is an extremely versatile man—a second cousin to Calvin Coolidge, actor, comedian, magician, producer of avant garde plays, director of an experimental school for children, and lately, social commentator. He's obviously a man of many parts.

We've invited him to appear on the Today Program because we want to hear his point of view. And after Mr. Bean's remarks, we'll talk with him about them.

Orson Bean.

ORSON BEAN. There is an interesting theory that a social group always feels threatened by the group directly beneath it.

The rich dowager in Newport feels threatened by the upper middle class club woman who tries to imitate her manners and way of life.

The middle class accountant feels threatened by the lower middle class Lithuanian American construction worker, whose income is pushing him up towards middle class.

And the lower middle class construction worker, in turn, is threatened by the black, who has his eye on a construction job, and a formerly all Lithuanian American neighborhood.

Each of these groups, according to the theory, feels an unconscious alliance with the group two notches down, which is trying to unseat the group in the middle.

For instance, John Lindsay was elected Mayor of New York by a coalition of well to do whites and poor blacks and Puerto Ricans. The in between group of lower middle class whites voted for Proccaccino (?).

With all of these social groups, from Newport society on down, what they're after, and what protected their life, is the great American dream; status.

When the rich account executive, living in an all white suburb of Chicago, tells the struggling white lower middle class worker, who has just managed to uplift his family into a better neighborhood, that he has to move over and make room for the blacks, he's living in a dream world.

And that dream world is exactly what liberal legislators have been living in for the past 15 years, every time they have passed laws about housing.

The average black cares no more about racial solidarity, or any other slogan, than the average white does. What he wants is a better apartment.

Every law passed in recent years that was intended to help him get one, has done the opposite. Because the well meaning, confused liberal legislators have refused to come to grips with the need for status of the group directly about the blacks—the lower middle class whites.

Now, here is a hard headed plan to achieve integration in housing: pass a law that would enable the governor of a state to go to the owner of, say, a hundred unit apartment house in a white neighborhood, and say, in this coming year we require you to rent X percent of your apartments, as they become available, to qualified blacks. You may check their financial and credit references the same as you would any white, and accept only qualified tenants.

You may tell your existing tenants that the blacks will be limited percentage wise this year, with the full support of the state. And this will squelch any rumors about block busting and panic moving due to fears of the neighborhood becoming a ghetto.

Now, I don't assume that all land lords and tenants will go ahead with a plan like this without a struggle. But a lot of them would because it would protect their property values and their need for status, at least in large degree.

And, where it had to be, the law could be enforced, because it's a reasonable law. The laws we currently have on the books are unreasonable, because they say, in effect, you may not notice the color of a man's skin, and then you must not act in any way to protect the hard earned status you have achieved with your social group.

Such unrealistic laws result in what they always have: shifty-eyed real estate men who say to a negro, oops, I just rented that apartment.

The use of quota systems could put hundreds of thousands of negro families into formerly all white housing within a very short period of time without jeopardizing property values, or social status systems.

Current housing laws prohibit quota systems. We've got to choose between the concept of integration—a fantasy world where everybody loves everybody—and actual integration, where the government faces the fact that among the things which all Americans share in common, regardless of race, creed, or color, are envy, greed, and compulsive keeping up with the Jones'.

NEWMAN. We'll be back to talk with Orson Bean about the ideas he just put forward. This is Today on NBC.

* * * * *

NEWMAN. Orson, you're really advocating a quota system—you say as much—for blacks. How far would you carry it? What other fields would you carry it into?

BEAN. Well, I don't know that I would use a quota system anywhere else. But, *what I'm against is the people who always deal in theory*.

For instance, in theory, rent control helps the poorer tenants. In practice, rent control causes abandonment of buildings because the only reason a slum lord is going to keep a building open is so he can make a buck on it.

And the poor people are going to live in buildings owned by slum lords. They are the ones who are being adversely affected by rent controls, rather than the other way around—in practice.

NEWMAN. It seems to me, I don't want to overstate this, but it does seem to me that there is one hole in your theory.

You want to have a quota system, which you say in effect will have *X* percent black people in the—an expensive apartment building, *X* percent in the middle income, *X* percent in the lower income—same percentage.

By and large, since black people are somewhat lower than white people economically, you can't have the same quota in the lower income that you have in the middle income and the high income, because there aren't that many blacks to go into the middle income and the high income. Therefore, pressure inevitably is on the lower income group.

BEAN. Sure it is, Edwin. But again, that's only an objection in theory. Because *in practice, the ghettos are going to remain where they are anyway*. It isn't as if you're going to move 80% of the blacks out of the ghetto and stick whites in there. Those are going to stay the same anyway, and all you are doing is opening up entire other areas.

NEWMAN. Well, what—assuming your idea were adopted, what percentage of the negro population would be affected, do you think?

BEAN. Anyone who could afford it. There are hundreds and hundreds of black families who can afford better, and can't get it—at least can't get it without a hell of a struggle.

Now, I say that if you have a black family living next door, your life is suddenly changed in a very dramatic way, because you find out that he's not much different from you. That he cuts the grass, or he doesn't cut the grass; and that he has the same needs and avarices that you do. And this really changes your life.

Going into the Army changes your life if you happen to be in an outfit with blacks, and you've never lived with them before. It changes your life dramatically, and it's not a theoretical thing.

I am for anything that will get black families into formerly all white housing. I don't give a damn if it's a quota or anything else.

And the other approach hasn't worked. The average black man is in exactly the same position as he was 15 years ago. It is true that Super Negro gets a job as an account exec with a big company, and the average black man sees blacks in commercials selling detergents, but his life is the same.

So I want to affect—I want to get to these people, and I will use a quota system or anything else to do it. At least I would if I were a king.

Joe GARAGIOLA. Orson, let's get to you personally. You were a liberal, now you're labeled as a conservative. But, how do you classify yourself? Because it's liberal thinking you're talking about now.

BEAN. I decided that what I am is a moderate radical.

GARAGIOLA. A moderate radical?

BEAN. Yes, whatever that is. Really, the labels, as you know, don't mean anything.

One of my best friends in the world is Paul Krasner, who is one of the founders of the Yippies. I would rather sit and talk all night with Paul, even though we don't agree, than anyone else. I find my mind works like his. He's really a sane fellow, and so am I. So are you, Joe. But the labels really don't mean anything.

What—I mean, when I grew up, the liberals fought for the little individual against the large corporations, against big government, against big anything.

NEWMAN. The large corporation is going to crush you right now by saying station break.

BEAN. Alright.

IS INDEPENDENT RHODESIA A THREAT TO WORLD PEACE?

Mr. ALLEN. Mr. President, on March 9, 1970, Secretary of State William P. Rogers announced that the United States will discontinue protection of American Nationals and American interests heretofore provided by our Consulate-General

Office in Salisbury, Rhodesia. We are to close this office next week.

Such drastic action is usually resorted to only in cases involving overt hostilities by the host nation. It is of such an extreme measure as to constitute in the eyes of many a type enmity approaching covert hostility and it is clearly calculated to create ill will among the nations and peoples thereby affected.

Mr. President, I find this hostile act on the part of our Government almost incredible.

Just a few months ago, on December 12, 1969, this Nation told the world through a NATO alliance agreement that we championed the cause of noninterference in the internal affairs of other nations. In a chest thumping proclamation of self-righteousness, we joined other NATO nations in denouncing intervention in the internal affairs of any state by another state, whatever the difference in their political or social systems.

This Nation intended to be bound by this declaration or it did not. If we were bound by it, why have we abandoned that policy with respect to Rhodesia? I want to know. The American people have a right to know.

The President announced in the Far East that we were not concerned with the political or social systems of those nations. In view of our interference in the internal affairs of Rhodesia, all nations are called upon to reevaluate this administration's policy with respect to nonintervention. Where do we stand?

This question has to be answered. If we look to the President's recent foreign affairs address to Congress, we find a statement which may offer a clue. The President said:

> American policy toward Africa, then, will illustrate our general approach to building an enduring peace.

What is the general approach?

The President said: "Clearly there is no question of the United States condoning, or acquiescence in the racial policies of the white-ruled regimes" of southern Africa. Is this repudiation of nonintervention in the internal affairs of nations the President's approach to world peace?

But what of the racial policies of the black-ruled regimes of southern Africa? Shall we interfere there too? Are these internal policies of a nation a proper concern and object of our foreign policies? Are we going to condone or acquiesce in racial policies of blacks and not those of white regimes in Africa, or shall we intervene in both?

Mr. President, what right have we to tell any nation that we shall not condone a single one or all of its internal policies? I deny that we have such a right. We do not claim such a right of interference when we acquiesce in, condone, and encourage Communist domination and control of nation after nation.

With respect to Communist nations, our State Department does not talk about intervention, it talks only of bridge-building and detente, expanded trade, and cultural exchanges. But in the case of a tiny, proud, and independent nation, of Rhodesia, we assume the role of arrogant world dictator and tell them we will not acquiesce in or condone their Declaration of Independence unless Rhodesia bows to our dictates and adopts a constitution to suit our fancy.

And we talk about "arrogance of power."

And we talk about Congress holding tighter reins on the power of the executive to get us involved in foreign entanglements.

Yet, the world knows that our two-faced, forked tongue interference in the internal affairs of Rhodesia has been undertaken pursuant to dictates of the United Nations Security Council. We have been directed by this agency to impose "mandatory sanctions" against Rhodesia and otherwise use our might to overthrow that government.

All the while, we are involved in a bloody war in Vietnam. Laos and Cambodia are ready to blow sky-high. The Middle East is a powder keg, and we are furnishing aircraft and other instruments of warfare to nations over the globe. Russia holds a cocked gun pointed at the heart of Czechoslovakia and Yugoslavia, and Berlin is a permanent tinder box. Yet, in the face of these situations, the United Nations and the United States have determined that little independent Rhodesia is a threat to world peace. This nonsense is supposed to justify United Nations interference in the internal affairs of Rhodesia, and our Nation in turn is justifying our interference on this silly proposition despite all of our high-sounding protestations to the world of our dedication to the ideal of noninterference in internal affairs of other nations.

Mr. President, the continued proliferation of contradictions in our foreign policies are going to catch up with us. Soon an awareness of the history of our foreign policy failures is going to shake the people of our Nation out of complacency which has arisen from a misplaced trust in the phrasemakers and word worshipers who currently call the shots in the State Department.

Mr. President, I predict that somebody is going to rue the day that he championed this disgraceful repudiation of our commitment of noninterference in the internal affairs of other nations. Clearly, Congress has a responsibility in this matter.

THE TECHNIQUE OF THE RADICAL LEFT MEDIA

Mr. GOLDWATER. Mr. President, the technique of the radical left media of this country for years has been to attempt to destroy everything and everybody they disagree with. Their favorite target has always been the President of the United States.

Another target has been conservatism, and lately they have had a peculiar phobia for anything connected with the defense of our country. What motivates these people is hard to understand because I cannot quite claim they are unpatriotic or anti-American, but I have to come awfully close to that conclusion when I read the constant attacks being made on the defense of our country and our responsibilities to the free world.

Mr. John L. Frisbee, who is senior editor of the Air Force/Space Digest, has written a cogent, timely, and on-the-target article on this subject. I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

THE MYTHICAL MENACE OF MILITARISM

(By John L. Frisbee)

Has America become a militaristic society?

No question bears more importantly on the future of this country. History underscores the gravity of the issue. It's difficult to think of a democracy that became militaristic and remained a democracy. And it's equally difficult to name a militaristic nation that reversed its course except as the result of a war that is sought—and lost.

Despite the importance of the question, it has hardly been debated at all. Discussed, yes. One need spend only a few minutes at the magazine and paperback racks of any large drugstore to compuile a formidable list of critics and commentators who claim that militarism is in the American saddle—or at least has a foot in the stirrup. Among the gloom-spreaders are well-known academicians, scientists, economists, congressmen, novelists, editors, and an occasional retired military officer. But what should be a *dialogue* has been very largely a monologue, with terms defined for the convenience of the speaker. This, in itself, does not make for enlightenment.

The relevance of the current discussion becomes even more dubious when we consider the target on which it focuses—the military profession. That is the wrong target. Militarism is not a disease of the profession of arms. While we may find in the American military discrete attitudes toward discipline, authority, and the legitimate or illegitimate use of force, these are attitudes without which the militarly could not function as a useful agency of the democratic government it serves.

Militarism, rather, is the disease of a society that attempts to misapply to secular, civilian problems the kinds of attitudes and practices that are entirely proper, and uniquely required, in a military context. If we wish to discover whether a society has become militaristic, we should look at civilian attitudes—not at the military profession.

The study of militarism is hardly a new discipline. Serious students have catalogued a number of its symptoms. Among the most virulent are:

Glorification of war, supported by elaborate pseudoscientific justifications based on biological, psychological, ethical, nationalistic, or economic grounds. The best sellers of this genre were written by foreign despots and read here with horrified disbelief.

Public deification of the military, which was last observed in this country about the time of V–J Day. With twelve million men and women in uniform, representing almost every American family, one could then have said quite accurately that the military was the public.

An elite officer corps, with perquisites and privileges denied to most civilians. Ask any officer in uniform who ever tried to pull rank on a New York taxi driver or on a congressman about that.

Belief in a military mystique, unfathomable to the layman. Maintaining such a mystique in a country with twenty-six million veterans, almost any one of whom believes that he could run almost any war better than almost any general, would be the neatest trick of the century.

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A lack of control of the military by elected and appointed officials. Vietnam, where the military stilll fights an Asian land war against which they counseled for years, with strategy and tactics often not of their choosing but dictated by civilian leaders, provides its own refutation of this charge.

A belief that external national goals can be attained only by military means. With few exceptions—none of them in recent years—the public has viewed the purpose of our armed forces as strictly defensive. This view has been shared, almost universally by American military professionals. Certainly public belief in the effectiveness of military power as a solution to world problems, other than defensive ones, is at an all-time low today.

An interesting note is found in the January 1970 issue of *The Center Magazine*, a publication of The Center for the Study of Democratic Institutions. Neither The Center nor its magazine will ever be described as a voice of the so-called military-industrial complex. Seven associates and consultants of The Center were asked to comment on the question, "Has America become a militaristic society?" Collectively, they represented five academic disciplines: theology, economics, mathematics, law, and the humanities. Among their responses, all the criteria described above were touched on directly or indirectly. Six of the seven answered, "No."

When charges of American militarism have been made, they generally are hung on loose and rather rusty semantic hinges. Whatever malaise besets this country, it is not militarism by any accepted definition of the term.

The military is open to criticism for errors of omission and commission, as it should be. It has not, however, committed the fatal error of trying to militarize American society, and the American people show no disposition to adopt militarism on their own.

We are not imperiled by militarism. But there is a real risk that those who would exorcise an imaginary devil may, in the process, dangerously weaken and seriously alienate from American society, the only agency it has to protect it from an external military threat that not only is real, but is growing with each passing month.

This kind of devil-chasing is about as useful as beating your wife because the car won't start.

EASY CREDIT AND INFLATION

Mr. HOLLINGS. Mr. President, the American public is being deluged by easy credit on the one hand and inflation on the other. The two are not compatible, and the public is the loser. The editor of the State, the daily newspaper of Columbia, S.C., has written an outstanding article and a penetrating editorial on the subject. I commend him for this, and recommend these writings to my fellow Senators. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the State, Mar. 8, 1970]

LET THE BUYER BEWARE OF UNSOLICITED CREDIT CARDS

(By William D. Workman)

I suppose I should feel complimented that my credit rating is good enough to inundate me with unsolicited bank credit cards, but I confess to an uneasiness when I think of how the cards showered in without so much as a request, an acceptance, or a by-your-leave on my part. And I shudder to think what could have happened if any of the cards had fallen into the hands of some soul with a bit of larceny in his heart.

It all started back a little more than a year ago. In February of 1969, I received a printed letter from the Master Charge Director, Interchange Group. Said letter, mailed from Moorestown, N.J., informed me that I had been selected to receive a Master Charge card which would bring me many conveniences by letting me charge items hither and yon about the United States.

A tear-off form at the bottom of the letter asked whether I had received other letters and, if so, how they were numbered. Since I had not requested a credit card in the first place, I figured that if I did nothing, maybe nothing further would happen. That was my first mistake, an error of omission, as it turned out.

A second letter came on the heels of the first, different only in that it had my first name rather than initial and bore a different number. Meanwhile, I'd received a couple of letters from local banks with which I had done some business in the past, both of them bearing tidings that I had been selected as a recipient of a Master Charge card.

In March, the cards began to drift in, two at a time. Some were highly flattering in setting my line of credit, but I took a rather dim view of the notice which came along with them—telling me, in so many words, that "Retention of and-or use of the Master Charge Card" constituted an agreement with the bank to be responsible for credit extended on the card, etc., etc.

Since I didn't quite see how I could enter into an agreement with a bank, or anybody else, by doing absolutely nothing, I simply put the first two cards aside to see what would happen.

It didn't take long to find out. Two more cards came in, along with the now familiar notice that their retention made me party to an agreement with another bank. Then came another pair, mailed (like all the rest) from Raleigh, and tying me up with a third local bank. And, so help me, there came still another brace of cards, this time from one of the same banks I'd already heard from.

So there I was by the middle of March, 1969, unhappily possessed of eight (count 'em) credit cards, utterly unsolicited but carrying the potential of a couple of thousand bucks worth of indebtedness even if they had been used only once apiece.

And let me remind the gentle reader that I had yet to lift a finger, either affirmatively or negatively. But, there was more to come. In April, another pair of cards arrived, bearing the imprint of a bank which already had sent two cards. Sure enough, it wasn't long before a letter arrived (in May) from the bank, saying they had mistakenly sent two sets of cards and would I please send one set back.

By this time, a sort of willful inertia had pervaded my curiosity, so I did nothing. But doing nothing did not end the charade. Two more cards arrived in June, this time dragging the good wife into the act for the first time, since one of the pair bore her name instead of mine.

A few weeks slipped by and I heard nothing—except for a spate of notices acquainting me with provisions of the Truth In Lending Act insofar as they related to credit gained through use of the Master Charge cards.

But business picked up again beginning in August. The original cards were about to expire, so here came the replacements. By the end of November, 10 new cards had descended upon me, all with 1970 expiration dates.

Came the new year, and more cards arrived. The first two (the husband and wife set) were good for the entire year 1970. February brought another set, also good for a year. And, something new, a set showed up at the office. All the earlier ones had arrived at the home address. And that's where matters stand at the moment (this appears in print before I've checked the morning mail). Here's the box score, or perhaps I should say the card index:

Credit cards received and expired—16.

Credit cards received and not yet expired—12.

Total Master Charge cards received, unsolicited, within the last 12 months—28.

Total Master Charge cards used—0.

It would be pleasant to think that the story ends here, without my having to pass the word to my trusting friends in the banking business that I really don't want any more credit cards than I've got. But somehow, I seem to have made the master list of Master Charge, and I can expect more cards with the changing of the seasons.

It may take an act of Congress to dislodge me (and thousands of others) from the list, but if I read the signs from Washington correctly, Congress may oblige with just such legislation in the near future. And high time it is.

LETTING THE CREDIT GO

Without credit, public and private economies would collapse in this day of the "buy now, pay later" philosophy.

Yet we wonder it the careless use of credit might not hold the seeds of its own destruction. It's not our intention to meander into the complexities of high finance, but we worry over the increasing tendency of American businesses to extol credit as a way of life and to extend credit as a solicitation rather than as a service.

The individual, whether businessman or housewife, who builds a good credit rating through prudent management may well be entitled to the convenience of a credit card signifying that rating. But there is a growing practice of many firms—oil companies, banking institutions, department stores, and on and on—which involves scattering credit cards among potential patrons without any request whatever from those persons.

Here's where the going gets sticky and the risks get higher. For one thing, the wholesale distribution of such cards has spawned an entirely new criminal activity, stealing of credit cards and using them to run up bills which often come to rest on the shoulders of the original card-holder.

Furthermore, there is a degree of arrogance and, at least in our view, basic business immorality in a unilateral transaction which attempts to make the recipient of an unsolicited credit card party to an agreement not of his asking or of his choosing.

Fortunately, it appears that Congress may be puckering up to blow the whistle on such practices. In recent days, the Senate Banking Committee approved (9 to 6) a bill which would ban the distribution of unsolicited credit cards. The bill also would limit to $50 the liability of card-holder for misuse of his card by another person.

We don't know whether the bill in question is the proper solution to the problem, but at least it reflects a congressional awareness of a situation which is bugging millions of Americans.

LACK OF ACTION ON CRIME LEGISLATION

Mr. SCOTT. Mr. President, time is of the essence in the fight against crime.

If tomorrow Congress were to give the President every new weapon he wanted and every new dollar he has asked, nothing would happen—without time.

Time is needed to implement new legislation—to recruit and train additional personnel—to investigate, apprehend, and convict criminals. Time is required for the deterrent features in new laws to take effect; time is essential to rehabilitate men.

Nothing of lasting significance in the struggle against crime can be accomplished overnight.

Time wasted through delay does not contribute to the healing process. It is lost forever, while our problems become aggravated. Each day that Congress fails to act, the hour of restoration is pushed farther to the future. Each day that corrective legislation is slowed or stalled, adds to the enormity of the present crisis.

When the President addressed Congress in his state of the Union message last January, he reminded us that he had sent the Congress 13 separate pieces of legislation dealing with organized crime, pornography, street crime, narcotics, and crime in the District of Columbia. He said then:

> None of these bills has reached my desk for signature.

He is still waiting.
Time is still passing.
And crime marches on.

Mr. President, the people of this country are wondering where all the time has gone. They are beginning to ask pointed questions of the Congress about whether these long delays can be justified.

I believe our record in the Senate is commendable and I want to examine it:

On June 23, 1969, we passed the omnibus judgeship bill and sent it to the House.

On September 19, 1969, we passed an historic bill on court reorganization in the District of Columbia and sent it to the House.

On November 21, 1969; December 5, 1969; and December 22, 1969, we passed bills relating to public defenders, criminal law revision, and the juvenile code in the District of Columbia and sent them to the House.

On January 23, 1970, we passed S. 30, an immensely important bill to combat organized crime, and sent it to the House.

On January 28, 1970, we passed the Controlled Dangerous Substances Act, a major recodification and reform of Federal narcotics law, and sent it to the House.

To date, none of these bills has been approved by the other body.

There are, of course, some obvious problems. I am aware, for example, of the highly commendable efforts of the House District Committee, which has reported an omnibus crime bill of enormous importance for the District of Columbia. That bill is more than 400 pages in length. It is complex. When it passes it will be as significant a measure as we will consider this session. Time has been used for careful drafting and research to close the loopholes and avoid the pitfalls which inevitably attend such far-reaching legislation.

But I wonder, Mr. President, why almost 9 months have passed since the day we approved the omnibus judgeship bill without our seeing action in the other body.

On June 23 of last year, we passed that bill, which was urgently requested by the Judicial Conference of the United States. The bill created 70 new Federal district judgeships, 67 permanent and three temporary. On that occasion the late Senator from Illinois, Senator Dirksen, was moved to say:

> I believe that these additional judges are absolutely indispensable, particularly so when one stops to consider the congestion of criminal cases in the courts from one end of the country to the other. So this bill, which is an important bill, should reflect the general sentiment of the Senate as it goes on its way to the House of Representatives. I hope they will take expeditious action and that in due course these additional judges can be named so that they can get to work at once and deal with this rather phenomenal caseload.

The distinguished Senator from Maryland (Mr. TYDINGS) observed that:

> Nine months have elapsed since [the request by the Judicial Conference] was made. Final enactment of this legislation still lies in the future. There will be some time expended in filling these judgeships. Indeed, the Justice Department witnesses at hearings on S. 952 estimated the passage of a year after enactment before all the new positions would be manned.

Such a delay should not be countenanced. Our colleague from Maryland said, "a much shorter period of time should be expected by our citizenry."

Mr. President, our citizenry knows that the President and the Department of Justice are anxious to get about the business of investigating and appointing these new judges so they can reduce the backlog in the federal system. The Senate is anxious to receive these appointments to advise and consent.

But the President must wait and the Senate must wait for definite action in the other body.

There may be good reason why we have been waiting for House action for almost 9 months. But it is not because the omnibus judgeship bill is 400 pages in length, because it is not. And it is not because there are great complexities and important constitutional issues to consider, because there are not.

There may also be good reason why almost 7 weeks have passed since the Senate approved S. 30 and sent it to the House. But I do not know what. It has still not been referred to a subcommittee for hearings.

I do know, however, that crime waits for no man—not even for legislators whose own persons are no safer than others from crime in the District. We cannot realistically suppose that organized crime has suspended its vast network of criminal activity in deference to delay in the other body. On the contrary, we can only assume that it is working more tirelessly than ever to exploit and corrupt across the country.

The Senate should not be held responsible for these long delays. The Senate has passed most of the President's crime program. We are proceeding apace on the problem of obscenity and will soon consider criminal appeals. All in all, our record is a good one.

One of the few instances in which we have some explaining to do is the Bail Reform amendments requested by the President. No hearings have been held on the President's legislation; no hearings have been scheduled. I am informed that no delay in the Senate has ever been requested by the Department of Justice.

These bail reform amendments are unusually important, particularly for residents of the District of Columbia. Experience under the Bail Reform Act has demonstrated that it was unwise for Congress to deny Federal courts authority to consider danger to the community in setting conditions of pretrial release. Continued application of this unreasonable standard can only lead to tragedy.

Many people will recall an unfortunate incident in Philadelphia a few years back. An incorrigible young troublemaker with four previous arrests was taken into custody for slashing a boy across the face with a straight razor. He was released on bail. Two weeks later, when police officers tried to arrest the man for driving a stolen automobile, he pulled a revolver, shot one of the officers and was himself killed.

Everyone would have been better off if the man had been held in official custody. No one, including the lawbreaker, was served by his pretrial release.

In the District of Columbia, every noncapital offender like Emanuel Roulhac must be released to trial as a matter of law. A long record of vicious conduct is unimportant and must be disregarded by the trial court. As a result, many defendants like Roulhac are being released in the District of Columbia and elsewhere where they doggedly pursue their commitment to crime.

When John Dillinger was first captured in 1933, he had robbed at least 13 banks, three supermarkets, a mill, a drugstore, and a tavern. Had Dillinger lived in the District of Columbia and had the Bail Reform Act been in effect, that law would have mandated his pretrial release.

Mr. President, in this era of rampant crime, it staggers the imagination to suppose that the Congress of the United States should endure this suicidal statute much longer. The evidence is abundant that it must be changed.

Lives, otherwise to be forfeited, can and will be saved by enactment of these bills.

Let us get on with it.

DR. NORMAN J. SMALL

Mr. ERVIN. Mr. President, I desire to pay tribute to a man whose death, on February 9, ended the career of a distinguished and dedicated public servant. Dr. Norman J. Small served in the legislative reference service of the Library of Congress for the past 29 years, 9 of those years as legislative attorney in the American Law Division. Prior to joining the Library staff, he had served with distinction as a teacher and in the field of educational research.

Dr. Small was an authority on the Constitution and was editor of the 1964 edition of the Constitution of the United States of America: Analysis and Interpretation, a compendium of the construction of the Constitution's provisions

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by the U.S. Supreme Court which has been published intermittently since 1913.

In addition to his work at the Library of Congress, Dr. Small taught courses in government at Howard University and Catholic University, and was a frequent contributor to professional journals. He was a member of the American and Federal Bar Associations, the American Political Science Association, the American Academy of Political and Social Science, the American Society for Public Administration, and the District of Columbia Bar, and the Bar of the U.S. Supreme Court.

On numerous occasions over the years, I called on Dr. Small to assist my staff or one of my subcommittees in preparing analyses and reports on various constitutional and legal matters, and in every instance I was impressed by the excellence of his scholarship. He was a man of great ability. He was unstinting in his devotion to his work, and the services he rendered me and to other Members of Congress were invaluable. Dr. Small's outstanding contributions to scholastic and governmental endeavors long will be a tribute to this eminent American.

Mr. President, I take this means to convey an expression of my high admiration and regard for Dr. Small and my sympathy to the members of his family.

THE LESSONS TO BE LEARNED FROM SAGE

Mr. WILLIAMS of New Jersey. Mr. President, recently I had the good fortune to hear a progress report on the many good works of the Summit-Area Association for Gerontological Endeavor, or—as it is more commonly known—SAGE. I was so impressed that I asked for a special statement describing the achievements of that organization, which can serve as a splendid model for action on behalf of older Americans in other communities.

That statement has been forwarded to me by Mr. Fred Vansant, president of SAGE. It is as helpful as I expected it to be, and I submit it now with some pride for reprinting in the CONGRESSIONAL RECORD.

My pride arises partially from the fact that SAGE was organized in my home county, Union. I am also very much impressed by the fact that its founders began their work almost 20 years ago, when few other private citizens were concerning themselves with the gerontological revolution which was then beginning.

Since then, one need after another has been recognized and met by SAGE which now offers a wide variety of services, including homemaker, employment, meals-on-wheels, friendly visiting, and referral programs. SAGE is, as Mr. Vansant once described it, "a unique but true conglomerate."

Perhaps this conglomerate has been successful because Summit and nearby communities are generally high-income areas. There, it has been possible to enlist leaders who have both the experience and the means needed to establish and improve programs that have become part of everyday life in the Summit area. Only very modest help from governmental sources has been required or requested. For the most part, SAGE has been on its own.

But, even though SAGE may enjoy unique advantages, the lessons to be learned from its successes can be of great help to other communities which do not have such advantages. The Congress acted 5 years ago to enact the Older Americans Act, which was meant to provide seed money and other forms of assistance to establish programs such as those pioneered by SAGE. Other forms of assistance exist, but they will be of greatest help only if community leaders have as clear—and as dynamic—an understanding of the elderly, their needs, and the great resources available but too often unused.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

SUMMIT-AREA ASSOCIATION FOR GERONTOLOGICAL ENDEAVOR, ITS HISTORY AND GROWTH

Summit-Area Association for Gerontological Endeavor, Inc. is the official name for SAGE. It is located at 50 DeForest Avenue, Summit, New Jersey 07901, and was incorporated in March 1954.

It was in 1951 that the need for planning and programming of services and activities for the aging was recognized in the Summit area. At that time a study group of the College Club undertook an intensive survey of the literature, reference material and programs on gerontology available at the time. Among the forecasts were the needs for special attention to health and medical care; for appropriate housing; opportunities for gainful employment; leisure time occupations, including adult education; and greater participation in Church and community activities.

The Summit Coordinating Council on Aging was organized in 1953 as an outgrowth of the study. It included the original study group plus key members of social agencies, professions, and local organizations. This group became the SAGE described above. The Council stated, "The letters accurately spelled out the Association's predicted purpose and at the same time, symbolized a quality of maturity characteristics of later years. The goal was to set up and forward-looking program to be carried out by the whole community. SAGE becomes a non-profit corporation concerned with all aspects of aging and endeavoring to develop attitudes, facilities and services so that all citizens might live with independence, service and dignity." Within this basic policy SAGE worked, developed and grew.

In October of 1954, the year of incorporation, SAGE Visiting Homemaker Service was started with offices in Overlook Hospital. Summit was among the very earliest to inaugurate this service and it attracted wide attention. The Homemaker Service was written up in a feature article in the New York World Telegram and Sun magazine in May of 1956 and in September "AGING," published by the U.S. Department of Health, Education and Welfare, the service was described. Leaders of the SAGE unit were invited to serve on the State's Consultant Committee on Community Homemaker Service, and were members of the National Committee on Homemaker Service. They participated actively. Also, in 1956 the State and County Heart Associations began making generous contributions to the SAGE Homemaker Service in the interest of heart patients.

The Homemaker Steering Committee was relatively small in the beginning but . . . "the members were so busy that the Committee had to be expanded." Members were innovative with respect to training of Homemakers, basic policy and management procedures. In 1954 eight Homemakers served 585 hours with patients. The service grew year by year with 71 Homemakers in 1963, and about that many since serving some 70,000 hours annually. There are now a full-time Director, Assistant Director and a part-time bookkeeper.

In 1961, for the first time, a training course for directors of Homemaker Service was inaugurated in cooperation with the Extension Division of Rutgers University, the Division of Chronic Illness Control of the State Department of Health and the New Jersey Visiting Homemaker Association, Inc. SAGE's first Director of Homemaker Service resigned to become the first Executive Director of the New Jersey Visiting Homemakers Association. The State Department of Health wanted a survey made on the use of Homemaker Service in the maternity cycle. This was done by SAGE volunteers.

During its early years Grants-in-Aid were given to the SAGE Homemaker Service by the State Department of Health to help toward added salaries. It was not the intention of the Department of Health to pay for homemaker care for individuals but to aid Homemaker Service in its operations to offer a better service to the community. The allotments which come from the United Campaigns plus the administrative surcharge, help balance the budget. Assisting over the years are agencies like the Sunshine Society, Convalescent Fund, Chapter O of the P.E.O. Sisterhood, Family Service, the Welfare Departments, those interested in heart, cancer and medically indigent patients.

In 1955 a membership campaign was started; an Executive Director was employed; a personnel policy, recommended by a volunteer consultant, was adopted by the SAGE Board of Directors; the Canteen at Fair Oaks Hospital was started; an Advisory Board was created and SAGE was accepted as a member of the Summit United Campaign. In that year there were 30 members. Now that number has grown to around 500.

SAGE edited the first edition of "Our City and Its Older Citizens—A Guide to Facilities and Resources" in 1956 and also in cooperation with Overlook Hospital SAGE published a guide to nursing homes and boarding homes. Both of these pamphlets are revised as often as necessary to keep them current. The printing costs have been met over the years through the generosity of Kiwanis Rotary, CIBA Pharmaceutical Company and the Soroptomist Club. "Most in demand was the Guide to Nursing Homes in Morris, Union and Somerset Counties. The Division of Aging in Trenton requested 25 copies of the Guide for distribution to Councils on Aging throughout the State, and the U.S. Department of Health, Education and Welfare asked for 75 copies for their regional representatives. The hope of both agencies was that the Guide would serve as an incentive for other communities to make similar surveys."

In 1958 SAGE assisted in the establishment of the Evergreen Nursing Home. It is privately owned and continues to provide a valuable service.

In 1959 it became evident that the organizational structure of SAGE needed attention. With intermediate updating there are now five divisions: General Activities (workshop, canteen, employment referral service, exchange, crafts, information and consultation service, library, and management problem solvers); Membership—Publicity—Finance; Home Services (homemakers, friendly visitors and meals-on-wheels); Research and Development; and Operations. Most of these activities (13) are managed by Steering Committees having from 8 to 18 members each. They work cooperatively, each with all the others, under the SAGE umbrella as to basic policy and management acumen.

In 1961 some of the older friends of SAGE gave their power and hand tools and a workshop was opened to provide a place where older men and women could use these tools in their own interests to make items for sale or to repair furniture for pay and to have companionship. Initially the shop was in the garage behind the Evergreen Nursing Home but now it occupies the basement of SAGE's home at 50 DeForest Avenue. (The workshop is the rare place where a five-man conference will determine whether to use a nail, a screw or glue, following which the man making the repair can do as he pleases.)

1961 was a year when the White House Conference on Aging alerted the whole nation to the needs and challenges of the lengthened life span of its citizens. SAGE participated. It was a year when SAGE gained national recognition through a Lane Bryant citation. In November a copy of SAGE's statement to the Senate Hearing on Housing for the Elderly was sent to all members of SAGE. The Summit Herald was very cooperative about taking pictures to publicize events and "Added Years", the publication of the New Jersey Division on Aging, called statewide attention several times during the year to some of our projects.

In discussing budgetary matters with the Budget Review Committee of the United Campaign, the wisdom of starting a pension plan for employees was discussed, and we were advised to start one as soon as finances would permit. In November of 1961 it was possible to inaugurate such a plan for the staff.

Under the terms of a formal agreement between the Greater Summit Section of the National Council of Jewish Women and SAGE, an employment referral service was opened on April 1, 1963. The volunteer sponsors worked diligently at this project and in the remaining nine months of 1963 interviewed 103 elderly applicants, uncovered 177 job opportunities and made 67 placements. These results clearly demonstrated that older people can work and need help in finding suitable jobs. OWL (Older Workers Lifeline) is not a licensed employment agency. It collects no fees nor does it specify rates of pay. The office is open each week day morning and has a paid Director and a paid Assistant Director (both retired from business) and several well trained volunteer interviewers. In 1969 there were 537 job opportunities, 93 new applicants and 249 placements.

In 1963 the New Providence United Campaign accepted SAGE. Later Berkeley Heights and Springfield admitted SAGE to their campaigns.

For a long time SAGE thought about the desirability of a Friendly Visiting program. January, 1965 saw the launching of such a program under the sponsorship of ten Churches and nine Social Service Agencies, among them was SAGE. Later SAGE organized a Steering Committee and supplied a Staff Coordinator to manage the program.

With the inspirational aid of the College Club and by formal agreement between the Junior Service League and SAGE, the Meals-on-Wheels service was started in June of 1966. The League appropriated $10,000 to equip the SAGE kitchen and subsidize the service for three years while it stabilized into an ongoing service. Other agencies and clubs contributed time, energy and money to meet deficits and/or to provide for the needy. Now "on its own," SAGE Meals-on-Wheels brings well-balanced, quality meals to the housebound, with the assistance of volunteers and the part-time services of an Administrator and a Caterer-Cook.

Also in 1966 an energetic and enthusiastic committee of volunteers opened the SAGE exchange. Useable furniture and bric-a-bac is collected from those who wish to donate them and is sold at very low prices for quick turnover. This activity is bursting at the seam.

SAGE encourages older people to make things for sale—ceramics, jewelry, knitwear, wooden inlay pictures, painting, etc. The consignor receives 80% of the selling price.

During the early years SAGE occupied a room in each of three buildings as unpaying guests. With growth and courteous evictions SAGE brought its office activities together in rented rooms which were soon outgrown. Again the lease was terminated. In 1964, the tenth anniversary, the United Campaign allowed SAGE to start an "EnviSAGE" fund to be used for capital purposes when needed. Now it was needed and in March of 1966 the Board of Trustees voted to buy the property at 50 DeForest Avenue. The Trustees called upon friends of SAGE for help and received nearly $30,000 and a bank mortgage at favorable interest rates. In June of 1966 SAGE had the deed for the property and by the end of 1970 it appears that the mortgage will be retired.

As to income beyond payments for services to people who can afford to pay their way, SAGE earns money through hard work by volunteers at the canteen, the exchange, the workshop and the craft shop. Area United Campaigns review SAGE's contributions to the community and its budget and allot a share of their collections. Many clubs, civic agencies, government agencies, where legal, members of SAGE, and others through direct donations or memorials keep SAGE solvent.

In dollars, the SAGE volume of business was about $1,000 in 1954 and was over $200,000 in 1969.

NO CONSTITUTIONAL OBJECTIONS TO RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, for the past several days I have been presenting sections of the ABA's standing committee on world order through law's report supporting ratification of the Genocide Convention.

The report makes clear that the convention provides for the trial of anyone accused of genocide by courts of the state where the act is alleged to have been committed. And there is nothing in the convention requiring mandatory participation in an international court. Should the United States ever decide to take part in such an international tribunal, it could only be through the positive action of both the Senate and the President.

In its final arguments the committee report says:

> Fear has been expressed that because Article VI refers to a possible trial of an accused before "such international penal tribunal as may have jurisdiction" that an American citizen could be deprived of his constitutional right to a trial by jury, or be forced into a trial in some foreign court under procedures not American.
>
> It is difficult to understand this objection to ratification in the face of the full Article VI which reads:
>
> "Persons charged wih Genocide or any of the other acts enumerated in Article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which have accepted its jurisdiction."
>
> Nothing in the Convention makes mandatory American participation in an international tribunal. In the more than twenty years since the adoption of the Convention no such tribunal has come into being. Although a proposal for one was presented to the United Nations, it was last discussed by the Legal Committee in the U.N. in 1957, but the whole project was indefinitely postponed.
>
> If at some future date such a court is in fact proposed, and if an appropriate treaty is adopted by the United Nations, and if the President of the United States decides to submit it to the Senate for its advice and consent, then and only then will this country, through its elected Senators, by open debate and after full consideration of its merits determine whether it wishes to agree to the court's jurisdiction. It seems most unlikely that any President with the support of the Senate would ratify a Convention which in any way diminished the constitutional rights of Americans.
>
> It is asserted that by virtue of Article 2 (7) of the United Nations Charter and because murder is a matter of domestic concern, that the United States is barred from entering into a treaty on the subject. Article 2(7) provides that "nothing contained in the present charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matters to settlement under the present charter."
>
> This article, of course, is a limitation upon the United Nations, as it was established by the charter and upon such activities as depend on the charter for their authority. This does not prevent the member states from making any agreements they wish to make by new treaties to carry out one of the basic purposes of the United Nations. This is the exercise of sovereign power by any state which accepts the treaty. If any meaning is to be given to the ideals expressed in the purpose clause (and elsewhere) in the Charter, obviously it would not be an interpretation which prevents members from carrying forward these objectives.
>
> Article IX provides for the submission, at the request of any party, of disputes relating to the interpretation, application of fulfillment of the Convention, to the International Court of Justice. This is substantially the same provision as is contained in the treaties unanimously approved by the Senate in 1967 (Slavery) and in 1968 (Refugees). The former was approved by this Association.
>
> This Committee concludes that there exist no constitutional objectives to ratification of the Genocide Convention. It recognizes no justifiable policy reasons for not ratifying. It deems ratification to be in the national interest. . . .

The report concludes there are "no constitutional objections to ratification of the Genocide Convention." The committee recognizes "no justifiable policy reasons for not ratifying" the convention and deems "ratification to be in the national interest."

I strongly support these sentiments.

THE ALASKAN DYNAMO

Mr. YOUNG of Ohio. Mr. President, in the March 12 edition of Newsday, I read an article by Nick Themish referring to Secretary of the Interior Walter J. Hickel as "the Alaskan dynamo." It appears to me, Mr. President, that in little more than a year in President Nixon's cabinet, Secretary Hickel, the former Governor of Alaska, has racked up an outstanding record of service to the American people.

When Mr. Hickel's name was first proposed for the position of Secretary of the Interior, I had serious reservations con-

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cerning his fitness to serve as guardian of our environment and protector of our natural wildlife and voted against the confirmation of his nomination. In fact I based my vote against confirmation on some newspaper items I had read. That was a mistake on my part.

Since taking the oath of office Secretary Hickel has taken the lead in rewriting offshore oil drilling regulations so that companies assume "absolute liability" for all pollution; and he has championed the cause of conservationists against money-hungry land developers who have no pangs of conscience when it comes to tarnishing or destroying our natural wilderness in pursuit of the dollar.

Mr. President, I report today that some months back I wrote a letter to Secretary Hickel, commending him on the outstanding work he has been doing. I know I speak for many Americans when I say that Secretary of the Interior Walter Hickel has our admiration for his industry and his achievements as Secretary of the Interior, and I am glad that he was appointed to his extremely important Cabinet post.

I ask unanimous consent that the article entitled "The Alaskan Dynamo" be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

THE ALASKAN DYNAMO

(By Nick Thimmesch)

WASHINGTON.—The liveliest guy in the Nixon cabinet is Walter J. Hickel, the Alaskan dynamo, whose freshman performance shames early critics who saw him as an environmental Dr. Spock, radiating permissiveness for greedy developers.

To the general delight of conservationists, Wally Hickel slugged the polluters and spoilers pretty good in his first year. And history has chosen him to wade into the issue which has become terribly popular with Americans—the cleanup of our environment and the preservation of what natural beauty we have left.

"We didn't see the environment issue coming this fast," Hickel said in his office last week, punching the air with fists which once earned him $125 for drubbing a prizefighter in Anchorage. "But it's the biggest thing going. The Net Natural Environment is more important than the Gross National Product. We've got to think about God and not materialism.

"A man can live in a slum out in the open spaces and be happier than a man of means who lives in the city and can't get that spiritual renewal," he says, pointing to his head and his heart. "We've just made life miserable for ourselves in these urban areas."

But Wally would rather talk the brass tacks he has dealt with all his life, so he ticks off some of the actions that Interior has been involved in since he took office:

Re-writing off-shore oil drilling regulations so that companies bear "absolute liability" for all pollution, including accidental, and ruling that public hearings be held on applications for proposed off-shore leases.

Stopped the building of a commercial jetport in the Florida Everglades, and intervened in a half-dozen other projects where it appeared conservationists had lost out to developers.

Investigated charges that four major steel companies, a mining firm and the City of Toledo were polluting the already polluted Lake Erie, and delighted in "naming" their names at a Chicago Executive Club's luncheon. The affected parties quickly complied with regulations.

Privately and publicly pushed for higher appropriations for water pollution control than the administration originally asked for.

Advocated that an inventory be taken of land and water resources, and that a value be assigned for each resource, with conservation getting the top priority. The inventory could be taken by an "Environmental Control Organization," a kind of Peace Corps of young people interested in conservation.

Pushed a "Parks to People" program for urban areas which would make use of rooftops, vacant lots, school grounds and streets besides existent playgrounds and parks—for recreation.

Hickel has been so forceful and earnest on behalf of conservation that several Senators who voted against his confirmation when he was considered an ogre, have recanted. Ohio Democrat Stephen M. Young wrote Hickel: ". . . I admire the outstanding work you are doing . . . I made a mistake in voting against your confirmation. I am sorry. I am glad that our President appointed you to this extremely important cabinet post."

Lest Wally be quickly canonized with such conservation greats as Teddy Roosevelt, Gifford Pinchot and Izaak Walton, it should be said he has only started.

The conservation "jury" is still out on such matters as: the oil import quota which Hickel fought for; the precautionary measures being required of Alaska pipeline developers; the cutback on the Federal Great Lakes Fishery Laboratory at Ann Arbor, Mich., as charged by Wisconsin Senator Gaylord Nelson; the delay in moving on federal studies of pollution of the Potomac and Conn. Rivers; and opposition to a bill which would consolidate ocean and water programs into a NATIONAL OCEANIC AND ATMOSPHERIC AGENCY which many marine scientists think would be an effective force.

So far, Hickel gets some satisfaction from his changed "image" and his critics' admissions that he isn't out to ravage the earth. "Without a doubt," he declares, "if they would have looked at my record, they would have known better."

The record is pretty good, and Hickel wants conservation to occupy even more of the government's attention. He'd like to see his venerable Department of Interior renamed and rechartered as the "Department of Natural Resources and Environment."

"After one year," snaps Hickel, "I'm only mad at myself for not having done enough yet."

AGREEMENTS ON TEXTILE IMPORTS

Mr. HOLLINGS. Mr. President, this week's rejection by the Japanese for meaningful agreements on textile imports is the last straw. We have waited through months and months of palavering by the Nixon administration. In the meantime, the U.S. textile industry has lost 50,000 more jobs to imports. This is a cold, hard fact, and one which demands action by this Government.

In January 1969, there were an even 1 million persons employed in the textile mill products industry. By December of 1969, that figure had dropped to 982,000—or a loss of 18,000 jobs in the year 1969. By February 1970—a period of only 2 months—that industry had lost another 15,000 jobs, down to 967,000 employees. This represents a total loss since January of 1969 of 25,000 American jobs.

In the apparel industry, in January 1969, there were 1,424,000 jobs. By December, that had dropped to 1,417,000 jobs, or a net loss of 7,000 jobs. By February of this year, this vital industry has dropped down to 1,407,000 jobs, or a 2-month further loss of another 10,000 jobs. Since January 1969, this industry, too, has lost 25,000 jobs.

Why has this happened? Well, in 1968, 1,648,000,000 square yards of cotton textiles were imported into the United States, much of it from Japan. In 1969—despite a dock strike which affected the first half of the year—imports had risen to 1,654,000,000 square yards. To show how things have worsened, the United States imported 69,000,000 square yards of cotton textiles in January of 1969 but 150,000,000 in January of 1970.

In man-made fabrics, we imported 1,453,000,000 square yards in 1968 and 1,783,000,000 square yards in 1969. It has jumped tremendously this year. In January 1969, the import total was 85,000,000 square yards. In January of this year the figure was 188,000,000, or the largest monthly total increase in the last 6 years—and a record all-time high.

For all textiles, Mr. President, we see a huge increase in the first month of this year compared to January 1969. The figure has gone from 163,000,000 square yards to 350,000,000 square yards in January of this year.

This is appalling and disgusting. On the one hand, we have a critical erosion of American jobs. On the other, imports are increasing at a devastating pace. This can no longer be tolerated, and it is high time the Congress demands action from our President.

Just this week Japan apparently has rejected our request for a comprehensive approach to the textile import program. They had the gall to say American industries have not proved injury from Japanese imports. What more must be proven? How many more American jobs must go down the drain? What will it take to get the White House to stop talking and start acting.

NEEDED: GENUINE SOCIAL SECURITY REFORMS

Mr. WILLIAMS of New Jersey. Mr. President, the House Ways and Means Committee has put social security reform high on its heavy work agenda for 1970. This decision by Chairman MILLS is welcome, and it is timely. It should help overcome any complacency caused by the 15-percent increase in social security benefits voted by the Congress late last year.

That increase, while very much needed, should be recognized for what it is: an inadequate stopgap action. It did not come to grips with other important reforms needed in social security, including a cost-of-living adjustment mechanism such as that proposed in S. 3100, an increase in minimum benefits, fairer treatment for widows and working wives, and adjustments in the "retirement test," or earnings limitation.

In addition, benefits should be raised across the board to more adequate levels. I am the sponsor of a bill, S. 3100, which would have raised these payments by 20 percent this January and another 20 percent in January 1972. Until we in this Nation take such action, social security will be a bare subsistence program for most of the people it serves.

My observations are based partially upon the excellent reports and hearings conducted by the Senate Special Committee on Aging within the past year on the "Economics of Aging: Toward a Full Share in Abundance."

Direct confirmation of the statistical evidence has also come to me at Saturday morning information sessions I have conducted in several New Jersey counties. At all such meetings, I have made a point of listening directly to the elderly themselves, as well as others.

At one such meeting for Union County, for example, I received firsthand evidence of desperate economic problems among older individuals, most of whom had not become poor until they became old.

Rising medical costs certainly are a source of great concern, even with essential medical care coverage. For those who own homes, rising property taxes take a larger and larger bite. And for those who can no longer afford to pay such taxes, another problem arises: the lack of rental quarters at costs within their means.

The Elizabeth Journal account of the meeting provided an excellent summary of problems which should be considered by the Congress as it prepares this year to deal with social security legislation. I ask that this article, as well as an excellent editorial which appeared in the Atlantic City Sunday Press, be reprinted in the RECORD.

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There being no objection the article and editorial were ordered to be printed in the RECORD, as follows:

[From the Elizabeth (N.J.) Daily Journal, Feb. 2, 1970]

CAN'T AFFORD FOOD AND MEDICINE, SENIOR CITIZENS TELL SENATOR WILLIAMS

(By Evelyn Kipners)

"All of us should have property tax exemptions. My husband has emphysema . . . we have high hospital bills," she choked back some tears, unable to continue.

"We can't afford both food and medication," someone in the crowd remarked.

U.S. Sen. Harrison A. Williams Jr., a Democrat from Westfield, listened thoughtfully, sympathetically, to the plight of many who addressed him during a Saturday morning session on the "Economics of Aging."

The community room at J. William Farley Towers, a senior citizens high-rise in Elizabeth, was jammed with more than 250 golden agers, who nodded as Sen. Williams described their plight—namely poverty or prospects of it.

One woman, speaking for a friend who was "too upset to talk," told the senator that the other woman had appealed for federal housing in 1964 and has been moving from place to place ever since.

"She has to be out of her apartment by the 28th of February . . . Her husband is in the hospital . . . both are in their 70's."

Another senior citizen said, "When we bought our house in Plainfield in 1964, the taxes were $200. Now they're up to more than $900."

Another woman said, "My mother is getting $68 a month from social security. She had to sell her home a few years ago but the money is going fast because she is ill. Her rent went up three times this year. There is no place to go."

Sen. Williams, who is chairman of the Senate Special Committee on Aging, has conducted five days of hearings in Washington and met informally with senior citizens in five other New Jersey counties.

He is culling evidence to support his social security bill that calls for a 20 per cent increase effective this month and another 20 per cent increase in two years.

Sen. Williams did not have to dig very deep for evidence to support the measure. During a recess at the Saturday session, scores of the elderly crushed around the speaker's table to encourage him, congratulate him, thank him or just meet him.

Some had tears in their eyes as they told him of their hardships, others were filled with emotion because they were glad that somebody cared.

The distress of the retired citizens is a result of having to meet inflationary prices while living on fixed incomes, Senate investigations proved.

Sen. Williams, in his opening statement, blasted the month-old congressional action on an across-the-board 15 per cent increase in Social Security benefits.

"Now there may be some who say that this 15 per cent raise should quiet down the old folks. After all, it keeps them in the race, just about, with the cost of living. Well, I don't believe that, and I know that you don't either. No, 15 per cent is not enough," he asserted.

"Yes, we still have time—during the last year of the 91st Congress—to win more congressional victories for the elders of this nation," he said.

Sen. Williams said his Social Security proposal "provides for a badly needed increase in minimum benefits, which now stand at $55 a month. Fifteen per cent of $55 doesn't add many dollars to a below poverty income."

He said one of the most important provisions of his bill would unify Medicare, which now is divided into parts A and B. Monthly premiums and other charges are made on part B, he said.

"The recent announcement about a rise in premium cost is bad news for the elderly and bad news for the Medicare program. Our hearing records are already crammed with testimony about difficulties many elderly persons have in paying the present premium, $4 a month," he said.

"Now that the Department of Health, Education and Welfare has declared that the premium will soon be $5.30. I feel safe in predicting this action will cause a flood of Medicare dropouts."

Following the senator's statements, a panel of leaders of the senior citizens community in the county presented ideas to the group as a jumping-off point for discussion.

Mrs. Mildred Barry Hughes of Union, a former state senator from Union County, was one of them. Others were Charles Hamilton, board of directors president of the Senior Citizens Center of Elizabeth; H. Joseph Walsh, president of the Cranford Senior Citizens Club and Mrs. Norman Frank, chairman of the Union County Anti-poverty council.

Also, Mrs. Dorothy Pierce of the Union Township Senior Citizens Drop-in Center; Fred Vansant of the Summit Area Association for Gerontiological Endeavor (SAGE); the Rev. Ace Tubbs of the Westfield Presbyterian Church; Thomas Highsmith, former executive director of Community Action for Economic Opportunity (CAFEO) in Elizabeth, and Mrs. Julia H. Meagher, executive director of the Greater Plainfield Senior Citizens Center.

The group was welcomed by Mrs. Jeannie Afflerbach, president of the former tenants association.

Mrs. Hughes pointed out the problem of residents who move from a city when they can no longer afford adequate housing there and lose their eligibility for senior citizens housing if it should be built in their hometown.

Hamilton said members at the senior citizens center reported that property owners cannot afford to repair their homes or pay their taxes.

Walsh of the Cranford group is going to Trenton to lobby for a broadened bus fare reduction bill, an increase on the $80 property tax exemption for the aged and to Washington to work for passage of Sen. William's bill.

Mrs. Frank spoke of the "exiled citizen," those older people forced to move, and suggested a county-wide coalition of senior citizen groups, a maximum rent no higher than 25 per cent of the Social Security benefit, and cross-municipality planning in Federally financed housing for the elderly.

Highsmith, formerly of CAFEO, closed the comments from the panel on an appropriate note.

"We would not, as an individual, do to our parents, what we as a nation, do to our elderly," he said.

[From the Atlantic City (N.J.) Press, Feb. 8, 1970]

PLIGHT OF THE AGING

The ancient Spartans banished their old people. They moved them out of their city and abandoned them to die of starvation or the elements.

We have come a long way since those barbaric times. Or have we?

Now we pay our oldsters less than a poverty level pension and let them worry about how to live on it in a world of rising costs and spiraling inflation.

Today the minimum Social Security benefit is $55 a month. Thousands of elderly are striving to exist on this amount, and fighting a losing battle. Even those who receive more are having a struggle.

Sen. Harrison A. Williams Jr., Democrat from Westfield, has been championing the cause of the senior citizen. He advocates an increase in Social Security benefits by 20 per cent effective immediately and another 20 per cent in two years. This would help.

A month ago Congress boosted Social Security benefits 15 per cent. "Not enough," says Williams.

Adding 15 per cent to $55 gives the pensioner only $63.25 a month, and anyone, young or old, would have a terrible job trying to stretch that for food and shelter—and medical expenses—for a month.

Many of our senior citizens, who deserve some freedom from worry in their twilight years, are worrying more now than they ever had to during their younger days.

At a recent hearing in Elizabeth, N.J., Sen. Williams listened to the plight of the aged and aging. More than 250 of them attended the session and pleaded, many tearfully, for help.

One woman applied for federal housing in 1964 and has been moving from place to place ever since. She has to move again by the end of the month. Her husband is hospitalized and both are in their 70s.

Another complained: "When we bought our home in 1964, the taxes were $200. Now they're up to more than $900."

Still another, who receives $68 monthly, said she sold her home a few years ago because she needed money. Her funds are rapidly dwindling and her rent has been raised three times within a year. She has no place to go.

Senate investigations have proved that the distress of these retired citizens is caused by having to meet inflated prices while living on fixed incomes.

While Congress has approved the 15 per cent increase in benefits, costs of Medicare also have increased and each subscriber will be assessed an additional $1.30 a month to pay for it. Some can't really afford the $4 they must pay now. Sen. Williams predicts the increase will cause a flood of Medicare dropouts. This is tragic.

Most of our suffering senior citizens are in difficulty through no fault of their own. Many are widows. Many are ill. As the senator pointed out: "None of us would treat our parents the way the government treats its elderly citizens."

"We still have time during the last year of the 91st Congress to win more victories for the elders of this nation," he declared.

We wholeheartedly agree with the senator and support his efforts on behalf of our seniors. We urge everyone to write to Sen. Williams as well as Sen. Clifford Case and to our congressmen indicating support of the fight to help those who need help.

While some of us may begrudge the few dollars a year we contribute to Social Security when we're young—be assured our tune will change when our turn comes to receive the benefits.

THE BATTLE AGAINST MARIHUANA

Mr. CURTIS. Mr. President, I wish to pay tribute to some outstanding young Nebraskans who are carrying on a battle against marihuana. I salute all who are engaged in this endeavor. I particularly want to commend Jerry Zitterkopf, of Lyman, Nebr., and Becky Stevens, of Polk, Nebr., for their leadership.

Mr. President, I ask unanimous consent to have printed in the RECORD a news article entitled "Group Is Organized To Stamp Out Pot," published in Lincoln, Nebr., Journal of March 7, 1970.

There being no objection the article was ordered to be printed in the RECORD, as follows:

GROUP IS ORGANIZED TO STAMP OUT POT

(By Gwen Drake)

An aggressive program to stamp out wild marijuana that grows in abundance throughout Nebraska was kicked off in Lincoln Friday with the formation of Nebraskans for a Better World.

The group, composed of about 40 individuals representing agriculture, church, youth and government divisions from throughout the state, met to draw up a battle plan to defeat the weed. They dubbed their effort "swat pot."

The main weapon the organization hopes to use is the planting of strong native grasses throughout the state in hopes those grasses will eventually crowd out pot, thereby eliminating the problem.

Delegates at the organizational meeting named three cochairmen to head the statewide campaign to replace marijuana "grass" with native grass. They are Ellsworth Carlson, Polk; Jerry Zitterkopf, Lyman, and Becky Stevens, Polk.

Carlson, with the state Agriculture Dept., said Agriculture Director Elmer Schlaphoff announced recently that marijuana should not be treated as a noxious weed but as a social problem to insure fairness to landowners.

Carlson said the key to solving the problem will probably not lie entirely in official hands. Landowners are being encouraged to take measures on their own to destroy marijuana.

In the area of problem solutions, Dr. Bruce Cowgill of the Nebraska Game Commission suggested that a newly organized Nebraskaland Acres for Wildlife Program might serve a dual purpose of providing wildlife cover and encouraging landowners to stop the growth of marijuana.

"If you can get those participating in this program to introduce low grass seed cover in place of the hemp, instead of burning or mowing, we can solve two problems at once," Dr. Cowgill said.

D. E. Hutchinson, with the Soil Conservation Service, said the complexion of marijuana has changed over the past 50 years. "I can remember when we cut hemp and used it for fish poles," he said. "And early this century there was at least one Lincoln company that grew the stuff and distributed the seed to farmers to grow as a crop for binder twine purposes."

Hutchinson applauded the suggestion that the solution to the problem of marijuana lies in the introduction of strong native grasses to take over the wild hemp. He noted that along some sections of Interstate where native grasses are now taking hold, marijuana will soon become a thing of the past

POLLUTION—TWO RESOLUTIONS ADOPTED BY COMMUNICATIONS WORKERS OF AMERICA

Mr. NELSON. Mr. President, one of the Nation's major labor unions, the Communications Workers of America, has acted to help end what the union called the era of indifference which saw the pollution of our air and water and the defiling of our cities and countryside.

Its president, Joseph A. Beirne, has informed me that the union has decided to help organize and to participate in the environmental teach-ins which will be held at schools and college campuses across the country on April 22. It has also spelled out the need for going beyond sloganeering, and specified a series of goals for improving the environment.

There are almost 900 locals in the Communications Workers, many of them in close proximity to college campuses, and their involvement in the environmental crusade will be welcome and helpful.

Mr. President, I ask unanimous consent to have printed in the RECORD the two resolutions adopted by the Communications Workers executive board which established its program for involvement and its goals.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

ENVIRONMENT TEACH-INS RESOLUTION

The era of indifference which saw the pollution of our air and water and the defiling of our cities and countryside can be brought to an end if the people of the nation join together in pushing good environmental programs to the forefront of our national priorities. We, the Communications Workers of America, acting as citizens and as Unionists, accept our responsibility to participate in this effort for the betterment of our lives and the lives of our children.

A method of participation for CWA has become available through the announcement that a nationwide program of teach-ins on environment will be held on many college campuses on April 22. Sponsored by Senator Gaylord Nelson, a Democrat, and Rep. Paul McCloskey, a Republican, the teach-ins are non-partisan, and are designed to develop community awareness of the great risks and great costs of continued lack of improvement in the environment. Those participating in the teach-ins will select issues which are of importance in their particular area, and devise procedures to implement correction of area environmental problems. Therefore, be it

Resolved, That the Executive Board of the Communications Workers of America endorse the teach-ins to be held on college campuses, and urge all Locals to participate in the teach-ins. And be it further

Resolved, That Locals participate in helping organize the teach-ins, conduct the teach-ins, follow through on necessary post-teach-in programs to secure environmental improvements, and publicize their participation. And be it further

Resolved, That Locals not located near a campus which is the site of a teach-in aid in this effort for a better environment by informing elected officials in their communities and states, members of the Congress, and the news media, of their support for measures to improve the environment, by noting situations in their areas which need correction. And be it further

Resolved, That the President's office endeavor to obtain and distribute a list of the campuses where teach-ins are being held so that contact may be facilitated by the Locals. And be it further

Resolved, That Local officers call the membership's attention to the extensive coverage of environment in the March issue of the CWA News, and that Local officers use this information as the basis for developing arguments on behalf of environmental improvements.

ENVIRONMENTAL QUALITY—MORE THAN SLOGANS NEEDED

The United States is encountering severe problems in the quality of its environment. The problems are largely due to the tremendous success of our mass production-high consumption economy.

Concepts currently prominent in the thinking of government and other public bodies and the information media include "ecology," "total environment," "quality of life," "urban decay" and "pollution." The magnitude of these concepts is at long last being recognized.

The scope of the problem has not been adequately defined. It must include air and water pollution, the ever-growing masses of solid wastes, the abuse of natural resources, and the inability of the individual citizen to do more than protest.

Advances in technology and increases in the Gross National Product have not been accompanied by sufficient efforts to ensure that they are truly forward steps.

For instance, the coming of a paper mill or chemical plant is an event often welcomed by a community, because of the many financial benefits. But the price subsequently exacted on the community can be high—in ravaging of the landscape and waters, in noxious discharges into the air, in congestion.

DDT and other toxic chemicals have greatly reduced the number of insects which have plagued mankind through history. However, these substances are not selective: Bees, birds, fish and other animal life also have been threatened, and there is medical evidence that human health may be harmed by the continued use of these chemicals.

A drilling accident in the Santa Barbara Channel and the wreck of the tanker *Torrey Canyon* in the last two years fully illustrated the dangers inherent in the petroleum industry, and the substantial economic losses by individuals and businesses not directly involved.

For a final instance, the installation of a nuclear power plant can be a source of adequate electricity for a large area. But the price paid by the area can be hazardous radiation, thermal pollution of large expanses of publicly owned waters, and difficulty in disposing of radioactive nuclear wastes.

Heretofore, the individual or local group alarmed at water and air pollution by local industries has been in danger of being an outcast because of "anti-business" attitudes. Opposition to strip-mining has been viewed as somehow "anti-American," because the protester would be denying a company the use of its own minerals. Questioning the "unquestionable assumptions" of the use of nuclear energy has been equated to impeding progress. Open advocacy of modern and adequate mass-transit systems can be offensive to the gigantic automotive industry and its natural allies—the oil industry, tire makers and paving contractors.

In his first State of the Union Message, President Nixon focused attention on the goal of "a new quality of life in America." While the message lacked specific steps to reach that goal, the President promised to send the Congress "the most costly and comprehensive program in this field in the Nation's history.

If the Nation's goal is to become more than another set of slogans coined for political purposes, full commitment must be made—and honored.

While it is impossible to find anywhere in this land a single individual who says he prefers polluted air and water, junkyards on the streets, traffic congestion, ravage of the natural resources, and any of the other indices of a breakdown of the environment, there are natural and artificial sources of inertia which would prevent action. Therefore, be it

Resolved, That the Executive Board of the Communications Workers of America wholeheartedly endorse efforts by the Administration and the Congress to take all needed steps to achieve "a new quality of life in America"; and be it further

Resolved, That this Executive Board express this Union's sense of urgency in the following aspects of the national goal:

1. Definition of the problems of the environment, especially those which require legislative action.

2. Enactment of the most stringent of Federal laws with clear standards, providing adequate funds for the strictest enforcement, and setting criminal penalties against individuals who refuse to obey the law.

3. Permitting the public at large, by "class actions" in Federal courts of competent jurisdiction, to secure its rights to an unpolluted and otherwise undefiled environment.

4. Unification of the jurisdiction of Federal agencies and Committees of the Congress in environmental matters.

5. Establishment of a policy that city streets are to be used primarily for the movement of traffic, not vehicle storage.

6. Taxation of slum properties on a formula that favors maintenance and penalizes those who traffic on misery.

7. Expenditure of Federal and other public funds for more useful and practical purposes than up to the present.

8. "Open Spaces" programs meaning more than shopping centers and parking lots.

THE MOYNIHAN MEMORANDUM

Mr. SCOTT. Mr. President, on behalf of the Senator from Colorado (Mr. ALLOTT), I ask unanimous consent to have printed in the RECORD a statement prepared by him and the text of the Moynihan memorandum of January 3, 1969.

There being no objection the statement by Senator ALLOTT and the article were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ALLOTT

In the last few days there have been new developments in the unfolding story of the many Moynihan memoranda.

Last week there was much controversy concerning Daniel P. Moynihan's memorandum to the President concerning race relations.

This memorandum sparked considerable sound and fury, much of it signifying nothing except the fact that many people denounced the memorandum without pondering it.

Some hasty and thoughtless critics seized upon some famous words and tried to find in those words evidence that Dr. Moynihan is indifferent to the fate of American blacks.

Senators recall that I spoke in defense of Dr. Moynihan last week. Today I want to allow Dr. Moynihan to speak for himself. I want to place before the Senate the text of a memorandum Dr. Moynihan prepared for President-elect Nixon in January, 1969.

This memorandum relates America's race problems to the wider problems confronting American society at the outset of the Nixon Administration.

Dr. Moynihan's memorandum is thoughtful and illuminating. It takes as its theme the words of the French philosopher, George Bernanos, who wrote: "There are no more corrupting lies than problems poorly stated." Dr. Moynihan has served the nation well by stating problems clearly.

[From the New York Times, Mar. 11, 1970]

TEXT OF A PREINAUGURATION MEMORANDUM FROM MOYNIHAN ON PROBLEMS NIXON WOULD FACE

WASHINGTON, March 10.—Following is the text of a memorandum, dated Jan. 3, 1969, from Daniel Patrick Moynihan, then the President-elect's chief adviser on urban affairs, to Mr. Nixon:

Before the storm breaks, as it were, on the 20th, I would like to send in a few extended comments on some of the longer range issues that face you, but will tend, I should imagine, to get lost in the daily succession of crises.

I would like to speak first of the theme "Forward Together."

This appeal was much in evidence in your very fine acceptance speech at Miami, and during the campaign the logic of events, and your own sure sense of them, brought it forward ever more insistently.

In the end it was the theme of the campaign and, in the aftermath of victory, it stands as the most explicit mandate you have from the American people. I would hope it might be the theme of your Administration as well.

It has fallen to you to assume the governance of a deeply divided country. And to do so with a divided Government. Other Presidents—Franklin Roosevelt, for example—have taken office in moments of crisis, but the crises were so widely perceived as in a sense to unite the country and to create a great outpouring of support for the President as the man who would have to deal with the common danger.

Neither Lincoln nor Wilson, the two predecessors whose situations most resembled yours, in terms of the popular vote and the state of then current political questions, had any such fortune. No one would now doubt that they proved to be two of our greatest leaders, nor yet that their Administrations achieved great things. But, alas, at what cost to themselves.

COMMON ELEMENT SOUGHT

A divided nation makes terrible demands on the President. It would seem important to try to anticipate some of them, at least, and to ponder whether there is not some common element in each that might give a measure of coherence and unity to the President's own responses and, by a process of diffusion, to provide a guide for the Administration as a whole.

I believe there is such a common element. In one form or another all of the major domestic problems facing you derive from the erosion of the authority of the institutions of American society. This is a mysterious process of which the most that can be said is that once it starts it tends not to stop.

It can be stopped: The English, for example, managed to halt and even reverse the process in the period, roughly, 1820–40. But more commonly, those in power neglect the problem at first and misunderstand it later; concessions come too late and are too little; the failure of concessions leads to equally unavailing attempts at repression; and so events spiral downward toward instability.

The process is little understood. (Neither is the opposite and almost completely ignored phenomenon: Some societies—Mexico in the 1920's—seem almost suddenly to become stabilized after periods of prolonged and seemingly hopeless chaos.)

All we know is that the sense of institutions being legitimate—especially the institutions of government—is the glue that holds societies together. When it weakens, things come unstuck.

CONTRAST IN PEOPLE

The North Vietnamese see this clearly enough. Hence the effort through the subtleties of seating arrangements to establish the N.L.F. as an independent regime, and the Saigon Government as a puppet one.

In contrast, Americans, until presently at least, have not been nearly so concerned with such matters. American society has been so stable for so long that the prospect of instability has had no very great meaning for us. (As I count, there are but nine nations that both existed as independent nations in 1914 and have not had their form of government changed by invasion or revolution since.)

Moreover, we retain a tradition of revolutionary rhetoric that gives an advantage to those who challenge authority rather than those who uphold it. Too little heed is given the experience of the 20th century in which it has been the authority of democratic institutions that has been challenged by totalitarians of the left and the right.

Even the term "authority" has acquired for many a sinister cast, largely one suspects from its association with the term "authoritarian." Yet it remains the case that relationships based on authority are consensual ones: That is to say they are based on common agreement to behave in certain ways.

It is said that freedom lives in the interstices of authority. When the structure collapses, freedom disappears, and society is governed by relationships based on power.

Increasing numbers of Americans seem of late to have sensed this, and to have become actively concerned about the drift of events. Your election was in a sense the first major consequence of that mounting concern. Your Administration represents the first significant opportunity to change the direction in which events move.

Your task, then, is clear: To restore the authority of American institutions. Not, certainly, under that name, but with a clear sense that what is at issue is the continued acceptance by the great mass of the people of the legitimacy and efficacy of the present arrangements of American society, and of our processes for changing those arrangements.

For that purpose the theme "forward together" responds not only to the deepest need of the moment, but also, increasingly, to a clearly perceived need, as the facts of disunity more and more impress themselves on the nation's consciousness.

What has been pulling us apart? One wishes one knew. Yet there are a number of near- and long-term developments that can be discerned and surely contribute significantly to what is going on.

Of the near-term events, the two most conspicuous are the Negro revolution and

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the war in Vietnam. Although seemingly unrelated, they have much in common as to origins, and even more as to the process by which they have brought on mounting levels of disunity.

The French philosopher George Bernanos once wrote: "There are no more corrupting lies than problems poorly stated." I, at least, feel that this goes to the heart of much of the present turmoil of race relations and foreign policy. In a word, those in power have allowed domestic dislocations that accompany successful social changes to be interpreted as irrefutable evidence that the society refuses to change; they have permitted foreign policy failures arising from mistaken judgments to be taken as incontrovertible proof that the society has gone mad as well.

The fact is that with respect to Negro Americans we have seen incredible progress since, roughly, the Brown v. Board of Education decision of 1956 and President Eisenhower's subsequent decision to send Federal troops to Little Rock, thus commencing the second Reconstruction.

Nowhere in history is there to be encountered an effort to bring a suppressed people into the mainstream of society comparable to the public and private initiatives on behalf of Negro Americans in recent years.

BLACKS SAW IT FIRST

As I would like to discuss in a later memorandum, the results have been dramatic. Yet it was only after that effort had begun, and had been under way for some time, that it became possible to see the true horror of the situation white America had forced on black America and the deep disabilities that came about in consequence.

The first to see this, of course, were the blacks themselves. The result on the part of many was a revulsion against white society that has only just begun to run its course. Large numbers of middle-class, educated blacks, especially young ones, have come to see American society as hateful and illegitimate, lacking any true claim on their allegiance. Well they might.

The problem is not that one group in the population is beginning to react to centuries of barbarism by another group. The problem is that this cultural reaction among black militants is accompanied by the existence of a large, disorganized urban lower class which, like such groups everywhere, is unstable and essentially violent.

This fact of lower class violence has nothing to do with race. It is purely a matter of social class. But since Watts, the media of public opinion—the press, television, the Presidency itself—have combined to insist that race is the issue.

As a result, middle class blacks caught up in a cultural revolution have been able, in effect, to back up their demands. This has led to a predictable white counter-reaction. And so on. In the process, we have almost deliberately obscured the extraordinary progress, and commitment to progress, which the nation as a whole has made, which white America has not abandoned, and which increasingly black America is learning to make use of.

To the contrary, it has been the failures of policy that have seemed ever more prominent. The essence of the Negro problem in America at this time is that despite great national commitments, and great progress, a large mass of the black population remains poor, disorganized, and discriminated against.

These facts are increasingly interpreted as proof that the national commitment is flawed, if not indeed fraudulent, that the society is irredeemably "racist," etc.

This interpretation is made by middle-class blacks and whites who, outwardly at least, society would seem to have treated very well, but the continued existence of black poverty makes their argument hard to assail. Moreover, increasingly that argument is directed not to particulars, but to fundamental questions as to the legitimacy of American society.

WAR ALSO A "DISASTER"

Vietnam has been a domestic disaster of the same proportion, and for much the same reason. As best I can discern, the war was begun with the very highest of motives at the behest of men such as McNamara, Bundy and Rusk in a fairly consistent pursuit of the postwar American policy of opposing Communist expansion and simultaneously encouraging political democracy and economic development in the nations on the Communist perimeter and elsewhere.

At the risk of seeming cynical, I would argue that the war in Vietnam has become a disastrous mistake because we have lost it. I quite accept Henry Kissinger's splendid formulation that a conventional army loses if it does not win, the opposite being the case for a guerrilla force. We have not been able to win.

Had the large-scale fighting by American forces been over by mid-1967 (which is my impression of what Bundy anticipated in mid-1965), had the children of the middle class accordingly continued to enjoy draft exemption, had there been no inflation, no surtax, no Tet offensive, then I very much fear there would be abroad at this point at most a modicum of moral outrage.

But this is not what happened. The war has not gone well, and increasingly in an almost primitive reaction—to which modern societies are as much exposed as any Stone Age clan—it has been judged that this is because the gods are against it.

In modern parlance this means that the evil military industrial complex has embarked on a racist colonialist adventure. (I have heard the head of S.N.C.C. state that we were in Vietnam "for the rice supplies.")

But the essential point is that we have been losing a war, and this more than any single thing erodes the authority of a Government, however stable, just, well intentioned or whatever.

"MOB" TOPPLES PRESIDENT

I would imagine that the desire not to be the first President to "lose" a war has been much in President Johnson's mind over the past years, and explains some of his conduct. But the fact is that he could not win, and the all-important accompanying fact is that the semiviolent domestic protest that arose in consequence forced him to resign.

In a sense he was the first American President to be toppled by a mob. No matter that it was a mob of college professors, millionaires, flower children, and Radcliffe girls.

It was a mob that by early 1968 had effectively physically separated the Presidency from the people. (You may recall that seeking to attend the funeral of Cardinal Spellman, Johnson slipped in the back door of St. Patrick's Cathedral like a medieval felon seeking sanctuary.)

As with the case of the most militant blacks, success for the antiwar protesters has seemed only to confirm their detestation of society as it now exists. Increasingly they declare the society to be illegitimate, while men such as William Sloan Coffin, Jr., the chaplain at Yale, openly espouse violence as the necessary route of moral regeneration.

The successful extremism of the black militants and the antiwar protesters—by and large they have had their way—has now clearly begun to arouse fears and thoughts of extreme actions by other groups. George Wallace, a fourth-rate regional demagogue, won 13 per cent of the national vote and at one point in the campaign probably had the sympathy of a quarter of the electorate, largely in the working class.

Among Jews—I draw your attention to this—there is a rising concern, in some quarters approaching alarm, over black anti-Semitism. They foresee Negro political power driving them from civil service jobs, as in the New York City school system. They see anti-Semitism becoming an "accepted" political posture. With special dread, they see a not distant future when the political leaders of the country might have to weigh the competing claims of 10 million black voters who had become passionately pro-Arab.

In the meantime, we must await the reaction of the armed forces, and the veterans of Vietnam to whatever settlement you get there. No officer corps ever lost a war, and this one surely would have no difficulty finding symbols of those at home who betrayed it. All in all there are good reasons to expect a busy eight years in the White House.

REJECTION OF VALUES

There is a longer term development contributing to the present chaos which bears mentioning. Since about 1840 the cultural elite in America have pretty generally rejected the values and activities of the larger society.

It has been said of America that the culture will not approve that which the policy strives to provide. For a brief period, associated with the depression, World War II, and the Cold War there was something of a truce in this protracted struggle. That, I fear, is now over. The leading cultural figures are going—have gone—into opposition once again. This time they take with them a vastly more numerous following of educated, middle class persons, especially young ones, who share their feelings and who do not "need the straight" world.

It is their pleasure to cause trouble, to be against. And they are hell bent for a good time. President Johnson took all this personally, but I have the impression that you will make no such mistake!

It is, of course, easier to describe these situations than to suggest what is to be done about them. However, a certain number of general postures do seem to follow from the theme "bring us together." I would list five:

First, the single most important task is to maintain the rate of economic expansion. If a serious economic recession were to come along to compound the controversies of race, Vietnam, and cultural alienation, the nation could indeed approach instability.

It would be by judgment that the great prosperity of the 1960's is the primary reason we have been able to weather this much internal dissension. The lot of Negroes has steadily improved, and so has that of most everyone else. Black demands for a greater share have thus been less threatening.

The war has been costly, but largely has been paid for through annual fiscal increments and recent deficits. Consumption has been effected not at all. If this situation were to reverse itself, your ability to meet black needs, the tolerance of the rest of the society for your efforts, the general willingness to see military efforts proceed, would all be grievously diminished.

Second, it would seem most important to de-escalate the rhetoric of crisis about the internal state of the society in general, and in particular about those problems—e.g., crime, de facto segregation, low educational achievement—which Government has relatively little power to influence in the present state of knowledge and available resources.

This does not mean reducing efforts. Not at all. But it does mean trying to create some equivalence between what Government can do about certain problems and how much attention it draws to them. For this purpose the theme you struck in presenting your Cabinet on television seems perfect: Yours is an Administration of men with wide-ranging interests and competence whose first concern is the effective delivery of Government services.

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There is a risk here of being accused of caring less than your predecessors, but even that will do no great harm if you can simultaneously demonstrate that you do more. It is out of such perceptions that the authority of Government is enhanced.

STRESS OF MINORITIES

It would seem likely that a powerful approach to this issue will be to stress the needs and aspirations of groups such as Mexican-Americans, Puerto Ricans, American Indians and others, which have also been excluded and exploited by the larger society. This, of course, is something you would want to do in any event.

Third, the Negro lower class must be dissolved. This is the work of a generation, but it is time it began to be understood as a clear national goal. By lower class I mean the low income marginally employed, poorly educated, disorganized slum dwellers who have piled up in our central cities over the past quarter century. I would estimate they make up almost one half the total Negro population.

They are not going to become capitalists, nor even middle class functionaries. But it is fully reasonable to conceive of them being transformed into a stable working class population: Truck drivers, mail carriers, assembly line workers—people with dignity, purpose, and in the United States a very good standard of living indeed. Common justice, and common sense, demands that this be done.

It is the existence of this lower class, with its high rates of crime, dependency, and general disorderliness, that causes nearby whites (that is to say working class whites, the liberals are all in the suburbs) to fear Negroes and to seek by various ways to avoid and constrain them.

It is this group that black extremists use to threaten white society with the prospect of mass arson and pillage. It is also this group that terrorizes and plunders the stable elements of the Negro community—trapped by white prejudice in the slums, and forced to live cheek by jowl with a murderous slum population. Take the urban lower class out of the picture and the Negro cultural revolution becomes an exciting and constructive development.

Fourth, it would seem devoutly to be wished that you not become personally identified with the war in Vietnam. You have available to you far more competent advice than mine in this area, and I am sure you will wish to proceed in terms of the foreign policy interests of the nation in broader terms, but I do urge that every effort be made to avoid the ugly physical harassment and savage personal attacks that brought President Johnson's Administration to an end.

The dignity of the Presidency as the symbolic head of state as well as of functioning leader of the Government must be restored. Alas, it is in the power of the middle class mob to prevent this. I would far rather see it concentrate, as Faute de Mieux it now seems to be doing on attacking liberal college Presidents as "racist pigs."

I fear the blunt truth is that ending the draft would be the single most important step you could take in this direction. The children of the upper middle class will not be conscripted.

In any event, the present system does cast a pall of anxiety and uncertainty over the lives of that quarter of the young male population which does in fact require four to eight to 10 years of college work to prepare for careers which almost all agree are socially desirable, even necessary.

Fifth, it would seem important to stress those things Americans share in common, rather than those things that distinguish them one from the other; thus the war on poverty defined a large portion of the population as somehow living apart from the rest.

I would seek programs that stress problems and circumstances that all share, and especially problems which working people share with the poor. Too frequently of late the liberal upper middle class has proposed to solve problems of those at the bottom at the expense, or seeming expense, of those in between.

Obviously the theme "forward together" is essential here, and there are other symbols at hand of which I would think the approaching 200th anniversary of the founding of the Republic is perhaps the most powerful.

In the final months of your second term you will preside over the anniversary ceremonies of July 4, 1976. It would seem an incomparable opportunity to begin now to define the goals you would hope to see achieved by that time, trying to make them truly national goals to which all may subscribe, and from which as many as possible will benefit.

Hopefully our 200th anniversary will see the nation somewhat more united than were those 13 colonies.

INVOLUNTARY, FORCED BUSING OF CHILDREN

Mr. ALLEN. Mr. President, the spread between words and deeds of this administration is becoming more apparent with each passing day. Contrary to protestations in favor of neighborhood schools, grossly discriminatory, involuntary, forced busing of children from their neighborhoods continues to be vigorously pursued as fixed policy of the Department of Health, Education, and Welfare. Unless this policy is reversed, we will destroy our public school system. The end result will be poorer education of white and black alike.

An editorial by the Jesuit priest, Father Daniel Lyons, entitled "The Big Yellow School Bus," appeared in the publication Twin Circle of March 8, 1970. We believe that Senators and the public alike will profit greatly by a thoughtful consideration of the observations and conclusions of Father Lyons.

With this object in mind, I ask unanimous consent that the editorial be printed in the Record.

There being no objection the editorial was ordered to be printed in the Record, as follows:

The Big Yellow School Bus

The Supreme Court ruled in 1954 that the two separate school systems in the South, one for whites and one for Negroes, were bound to be unequal and were therefore unconstitutional. It was a fair and wise decision, and the dual school systems have gradually been unified. But the Court has since confused segregation by law with residential areas where whites or blacks predominate, and where the schools reflect the racial composition of those areas. Many Negroes prefer to live in predominantly Negro areas, just as many whites prefer to live in predominantly white areas. There is no law preventing whites from moving into colored neighborhoods, but most whites would rather not, and the blacks would rather they did not. Blacks usually prefer to live with others of their race, if the neighborhood is as nice as they can afford, and if prices are fair and police protection good.

Unless we are going to destroy our neighborhood school system, local schools will continue to reflect the make-up of their neighborhood. What has been happening down South, however, is that the Court has forced many areas to bus students into other parts of the city, as though that were necessary to prove that the dual school system has been dismantled. The Court ruled on de jure segregation, then tried to break up de facto segregation as though that were a part of it. Yet the Supreme Court has never ruled on de facto segregation. In many ways it would be impossible to prevent it.

NO MASS LEVELING

There can never be a mass leveling of society. If you live in an area where most of the breadwinners are unskilled workers, no matter what their race, the vast majority of their children will not go on to college, even if the college is free. To go to college means giving up the chance to earn about $20,000 during those four years. It means being dependent on one's parents instead of being independent. The interests of parents in working-class neighborhoods are much less academic than in neighborhoods where most of the parents attended college. As a whole, working-class parents do not provide as much intellectual background or stimulation to their children. Schools in such an area will reflect this lack of interest. Teachers soon realize this, and the schools are not as good, from a college preparatory point of view.

Is that unfair? That's the way it is. The point to keep in mind is that most of the poor families in the U.S.A. are white. The children in these working-class areas are somewhat underprivileged. Should we bus them across town and vice-versa? What about the social dissatisfaction of mixing children who cannot afford cars, expensive clothes, and fancy parties with those who can? What about the hours spent riding buses that could have been employed more profitably? Or are we only going to bus "underprivileged" children if they being to another race?

GROUPS STICK TOGETHER

Our country is full of areas that are predominantly Catholic or Protestant or Jewish or Irish or Italian or German or Polish or Puerto Rican or Cuban or Chinese or Japanese. Spanish language groups stick together. So do other language groups. When they attend school in their neighborhood they find the teachers who know their language and help them learn English. In Los Angeles alone there are 600 bi-lingual teachers in Spanish-speaking areas. An English-speaking child, however, would be held back in such a school. The majority of students in many schools are Jewish, and so are the teachers. Are we supposed to bus them all over town, whether they want to be bused or not?

Last month Judge Alfred Gitelson ruled very arbitrarily that no school in Los Angeles can have a racial minority of less than 10 per cent or more than 50 per cent, after September of next year. Governor Reagan termed it "utterly ridiculous." Said the governor: "It represents a vast and dehumanizing manipulation of school population . . . it will shatter the concept of the neighborhood school . . . the courts were never meant to legislate, or to run our schools." Mayor Yorty commented: "This is a very dangerous thing. They are literally going to tear some of our cities apart." Arthur Gardner, president of the Los Angeles school board, said it would "virtually destroy the school district."

The only way the order could be carried out is by busing at least one-third of the city's 650,000 students all over the school district, which encompasses 711 square miles. The cost to the city for the first year alone would be $42 million. For that price, 4,200 additional teachers could be hired.

UNSOUND DECISIONS

For 20 years the U.S. Supreme Court has been getting away with unsound decisions, but recent appointments to the Court prom-

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ise an end to some of these. Judge Gitelson's very arbitrary ruling is almost sure to be set aside in a higher court. It is in direct contradiction to the 1964 Civil Rights Act, which declared that "nothing herein shall empower any official or court of the United States to issue any order seeking to achieve racial balance."

Will parents from better neighborhoods sit idly by and let their children be bused into the worst of ghetto schools, where vice and crime and drugs run rampant, where the majority of the children are uninterested in school, where discipline has disappeared, and where students from the better areas would be unwanted, resented and disliked? Well-established parents will never let it happen. They will move out of the city first.

FREEDOM OF CHOICE

Involuntary, forced busing of children should stop because it will be evaded everywhere except in rural sections of the South, where they can't evade it. It is grossly discriminatory to enforce it only there. People should be able to live in any neighborhood they wish and can afford. If parents choose to live on welfare or spend their money on other things, the choice is up to them. Many parents will find some way to move into an area with better schools, even if it means taking an extra job. Other parents will request that their child be accepted in another school district. The request should be honored wherever possible.

Some cities, like New York, have so encouraged idleness among adults that they are already spending more on welfare than they are on the education of all the children. This is a crime against our nation's future. Let us not compound it by spending countless millions on unnecessary busing when the money should be spent on education. Massive busing to other schools is not the answer, either in the South or in the North. Agitators always like the sound of mass coercion, but it is not the way to make progress in a free society.

FOREIGN AID—THE PETERSON REPORT

Mr. McGEE. Mr. President, I think all of us should pay attention to serious studies of Government programs. But we should not necessarily be eager to accept their findings and recommendations without question. So it is that an editorial published in the Washington Post on Thursday, March 12, on the latest study of U.S. foreign aid programs—the Peterson report—serves a very good purpose. As a critique, the editorial is rather pointed. It concludes that there is not a great deal that is genuinely new about the recommendations, even if some are rather radical departures from today's situation.

I ask unanimous consent that the editorial, entitled "Foreign Aid: Saying versus Doing," be printed in the Record.

There being no objection the editorial was ordered to be printed in the Record, as follows:

Foreign Aid: Saying Versus Doing

There is a fine old tradition in the business of reviewing foreign aid which is made all the more ironic by the fact that so many of the same people seem to keep showing up on the review panels. The fashionable thing is to criticize just about everything that is being done, in favor of new programs, new institutions, new directions—the operative word is *new*. This hallowed custom has not been slighted in the latest contributions to the literature in this field, a 48-page document drawn up by a 16-man task force headed by Rudolph A. Peterson, president of the Bank of America, and a shorter critique of the existing program by our Ambassador in Chile, Edwin M. Korry. On the other hand, it becomes necessary to add that in foreign aid, as in foreign policy, "new approaches" are never nearly so new as their advocates would have you believe. Both, the Peterson group and Mr. Korry are very rough indeed on the results and the techniques of our present aid efforts. Both pledge their support to a continuing effort to uplift the underdeveloped two-thirds of the globe. Yet, if you leave aside for the moment the organizational reshuffling and a shift in emphasis which amounts to not much more than a difference in degree, there is not a great deal that is genuinely new about the recommendations in either report.

This is not to knock the idea of regularly reviewing foreign aid; as both reports argue, the problem is evolving, and given the chronic sluggishness of large bureaucracies in reacting to change, it requires some sort of sharp prod from time to time to translate changed thinking into actual changes in programs and priorities. So there is something to be said—in the interest of moving more rapidly away from bilateral aid and toward a larger cooperative, multilateral effort—for forcing the pace by dismantling the present machinery and building new agencies and institutions directly geared to a more impersonal, apolitical collective approach. The Peterson task force sensibly stresses concentration on development lending, through a new American development bank, and heavier contributions to the World Bank's International Development Agency.

But there is something less to be said for a reorganization as radical as the one proposed by Mr. Peterson, in which the present Agency for International Development would be demolished, almost all bilaterial American aid would be ended, military aid would be split off entirely from economic aid, most overseas technical advisers would be recalled, and aid policy would be vested in some sort of White House czar, with a nine-man staff. To the extent that this is a move toward purity in economic assistance and away from political bribery, who could argue. Peeling off military aid, so as not to entangle economic development with military commitments, is also a useful step. But pledging to do away with the international pork barrel and doing it are two different things; pork has been almost as much a feature of international politics as it has of politics at home and it is hard to believe that this won't remain the case, at least to some extent, with the White House rather than the State Department pulling the strings. The result could be something of an organizational monstrosity, with development lending, technical assistance, military aid and surplus food programs all under separate roofs.

This doesn't take into account the likely reaction on the Hill; what the Executive Branch deposes on this matter of how foreign aid legislation is to be handled is very rarely the last word. Even more worrisome is the way Congress may react to the swing toward multilateralism, with the use of American money decided in concert with other international donors, either through established institutions or the consortum approach. This is the point about the alleged newness of all this; we have been moving steadily down this road in recent years, but also very slowly for the very reason that Congress, while talking a good game about burden-sharing and all the rest, is inherently reluctant to surrender any great measure of control over the use of our money for foreign aid.

So we shall see whether the Peterson report turns out to be as "fresh and exciting" as President Nixon finds it now. There is nothing very exciting about making public a blueprint for a new approach to foreign aid which recommends dismantling the present aid program, and then doing nothing more about it until next year; an orderly transition would have been difficult enough without openly inviting Congress to fall upon this year's aid appropriations with even more than its usual vengeance. Still less is there anything exciting about a proposal which encourages native congressional tendencies to scrap all foreign aid while offering as a substitute something which has not only proved unpalatable to Congress in the past but which will depend for its effectiveness upon a lot more collaboration and coordination with international donors as well as beneficiaries than we have been able to elicit up to now.

"We believe that the U.S. role in international development will be as important in the future as it has ever been in the past," the Peterson task force said. Unhappily, we won't really know until at least a year from now whether Mr. Nixon agrees.

WAR ON CRIME IS BEING LOST

Mr. BAYH. Mr. President, on Monday of this week my distinguished colleague from Indiana (Mr. Hartke) testified before Subcommittee No. 5 of the House Judiciary Committee on behalf of legislation he has introduced to focus Federal crime fighting funds in urban areas. As a cosponsor of S. 3171, I share Senator Hartke's concern that our crime-plagued cities receive their fair share of these Federal funds. At present, not nearly enough is being done to curb urban crime. As the distinguished senior Senator indicates in his testimony, title I of the Omnibus Crime Control and Safe Streets Act has thus far failed to fight crime in those areas where its incidence is the highest.

I ask unanimous consent that his incisive testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Senator Vance Hartke Before Subcommittee No. 5 of the House Judiciary Committee, March 9, 1970

Mr. Chairman, the much talked about war on crime is being lost. It is being lost in our cities where last year more than 12,000 people died because of crime. It is being lost in our urban areas where in 1969, 200,000 people were hospitalized with injuries inflicted in a struggle which, in many ways, is more desperate than the one in Southeast Asia.

I find it undeniable that the existence of crime, the talk about crime, the reports of crime and perhaps most importantly, the fear of crime, have served to erode much that is basic to the quality of life in America.

Although most of us here this morning have not actually been robbed or injured or felt a gun at our neck, we are nonetheless the victims of crime. For we have been victimized by the fear of crime. That same fear that catches you when you hear footsteps behind you on the street at night, or when you see someone waiting up ahead in an alley, or when you wonder if you double-locked your door before going to bed at night.

But surely a nation such as our which treasures above all else its heritage of personal freedom cannot long allow its citizens to live in fear, behind locked doors.

The challenge of crime must be met and met soon. The question is how? This subcommittee is currently reviewing what should be one of the chief tools in the battle against lawlessness: Title I of the Omnibus Crime Control and Safe Streets Act. If used intelligently, the planning and action grants distributed to the states by the Law Enforcement Assistance Administration could serve as invaluable instruments in the crime fight. Unfortunately, I find no persuasive evidence that this is now the case. It is my conclusion, rather, that these funds have generally been wasted in low-crime, non-urban areas where crime is not nearly the real and present danger it is in our urban areas. The cities, on the other hand, have been left to their own very limited devices to cope with a problem which daily grows in intensity.

In California, for example, the county of Tuolumne located high in the Sierra Madre mountains received $30,000 to establish a half way house for drug addicts under the authority of the local district attorney's office. The population of Tuolumne County is less than 20,000, yet it does not appear that the contemplated facility will serve any other county. Thus, a legitimate question can be raised whether the drug problem in this county merits an award of $30,000 in view of the more obvious needs of other areas. In this regard, it should be noted that as of December 31st, 1969, the City of Anaheim, California had received only $3,000, the City of Long Beach only $6,000, the City of Oakland only $18,750 and the City of San Francisco, $20,200. In short, four of California's most populous cities received less federal funding from their state agency than did the County of Tuolumne, population less than 20,000. As much as I applaud the objectives of half-way houses, I cannot believe that the expenditure of $30,000 in the Sierra Madre mountains could not be better used in the high crime areas of Long Beach or Oakland or San Francisco, California.

As you are well aware from your current investigation, the National League of Cities and the U.S. Conference of Mayors have voiced similar doubts concerning Title I's first full action year. In a report released on February 17th of this year, the NLC indicated that Title I block grant funds as presently allocated by the majority of states would not have the necessary impact vitally needed to secure improvements in the criminal justice system. The states in distributing funds entrusted to them under the block grant formula of the Safe Streets Act have failed to focus these vital resources on the most critical urban crime problems. "Instead," charges the study, "funds are being dissipated broadly across the states in many grants too small to have any significant impact to improve the criminal justice system and are being used in disproportionate amounts to support marginal improvements in low crime areas."

I know too that the mayors of New York and Philadelphia have given similar testimony to this subcommittee. Mayor Lindsay made the point that a purpose of Title I was to insure that local law enforcement authority would be spared any federal infringement. Yet, we find the situation now where those local jurisdictions with the most obvious responsibility for law enforcement, have been effectively pre-empted by the states. This clearly violates that most basic tenet of "creative federalism" which holds that those jurisdictions which have the primary responsibility for action should also have the primary decision-making authority. Under the present system state officials with oftentimes limited expertise are, as Mayor Lindsay very aptly put it, encouraged "to second-guess the professional judgment of city officials."

By November of last year, the problems associated with the implementation of this program in Indiana (of which I will have more to say later) and other states, convinced me that there were serious defects in the block grant formula as currently written.

In an attempt to cure what I considered the most obvious inadequacies of Title I, I introduced legislation in the Senate last year (S. 3171) on November 21st. Identical legislation has since been introduced in the House of Representatives by Mr. Bingham.

The Hartke-Bingham Bill would change section 306 of Title I so that no more than 50 percent of the funds appropriated by Congress, rather than the 85 percent currently provided, would go to the states as block grants. Attached to this amendment is the proviso that a State's block grant allocation will be increased by 20 percent from funds allocated at the discretion of LEAA, where it finds that the comprehensive State plan, required under the act, adequately deals with the special needs and particular problems of its major urban areas, and other areas of high crime incidence within the State.

This legislation further provides that a State's block grant will be increased by an additional 20 percent from LEAA discretionary funds where the State contributes at least 50 percent of the non-Federal share of the costs for programs of local government.

Thus, if LEAA finds that a state has "adequately" dealt with the pressing problems of its urban areas and if that state is also willing to accept at least half of the matching cost burden now placed on "units of local government," this state's block grant award will be actually larger than under the current formula. That is, a state which complies with the two provisos in this legislation will receive a 90% block grant allocation rather than the 85% currently provided.

With respect to the first proviso requiring the states to deal "adequately" with the crime problems of its urban areas, I would emphasize that it is not its purpose to weaken the effective control that the states now exert over Title I funds. Rather it is an attempt to further sensitize the states to the needs of their major urban areas. As things stand now, all too many state planning agencies have failed to make provision for the aggravated problems of those urban areas where high population density and low median income combine to breed massive lawlessness.

Similarly, the second proviso is not meant to strengthen the position of the urban areas at the expense of the states, but rather is an attempt to better recognize fiscal realities. At a time when our cities, and other units of local government, are finding it increasingly difficult to generate revenue sufficient to perform even the most basic services, the matching cost requirements of Title I place an unfair burden on our already over-extended cities. Even now many cities are finding it literally impossible to furnish matching funds under a program which is still relatively modest in scope. What, then, will be their position when Title I grows into a billion dollar program? I strongly believe that if the block grant approach to Federal assistance is to work, there must exist a partnership between not only the federal government and the states but also between the states and the units of local government. It is my belief that this partnership can best be established through a more equitable sharing of costs.

As this committee is aware, certain objections have already been raised to S. 3171. Chief among these is that "it is too soon to tell if action grant money is being misallocated by the states." Critics of the Hartke-Bingham approach contend that a program as new and complex as this must be given time to work out its defects, and that any attempt to amend at this time would be premature. I am afraid that I cannot accept this contention. All indications are that the trend of fund misallocation established during this program's first action year will not be atypical. Essential to this conclusion is my belief that the traditional rivalry between state and local governments is very much in evidence in this program. Until it is sublimated to the objective of fighting crime, I believe implementation of the program will suffer.

Interestingly enough this view is apparently shared by officials in the Justice Department. In an address before the Federal Bar Association March 10, 1969, Attorney General Mitchell urged the States to "marshall their resources to concentrate on their urban centers." Later in his address the Attorney General commented that:

"All too often, needed cooperation and help has stumbled on political rivalries and bureaucratic parochialism which divide the urban centers and the state governments. While I understand the basis for much city-state government rivalry, political parochialism must be put aside in the name of our citizens who live in our cities."

On October 20 of last year, Daniel L. Skoler, director of Law Enforcement Programs at LEAA said that the Title I program "promises to absorb billions in tax money in the coming decade," but it has yet to "produce anything in either improved law enforcement or crime control beyond paper plans and fund transfers." Among its chief deficiencies said Skoler was the failure of the States "to demonstrate a clear commitment to the problems of the large cities which account for the bulk of crime incidence."

A Justice Department memorandum sent to the states on April 5, 1969, in effect made official the doubts Attorney General Mitchell and Mr. Skoler expressed earlier. It stated that "State planning agency programs for local planning awards have assumed a greater regional emphasis than was expected. There has been considerably less direct pass-through to major local units or major metropolitan areas than had been anticipated." In short, the memorandum acknowledged that our major urban areas were not receiving an appropriate share of LEAA funds and urged the states to take into account their urban crime problems. But as can be seen from a careful examination of the allocations by the states for fiscal year 1969, most states have failed to heed this advice and LEAA is unable to enforce its will.

In Indiana the failure of the state planning agency to adequately provide for the needs of its cities is most apparent. Last year my state received $613,000 from LEAA, but as of this date less than half of those funds had even been distributed. And those funds which have been distributed have generally not gone to urban, high-crime areas. Gary, for example, an industrial city of close to 200,000, has yet to receive *any* funds from the state planning agency, although it did receive close to $20,000 under section 307(b) earmarked for riot control. These funds were received in August of 1968 and, as the committee is aware, pre-dated the establishment of the state planning agencies. The City of Evansville with a population in excess of 140,000, has received a mere $201 to fight crime since the establishment of the planning agency. The situation in other major urban areas of the state is much the same.

Since in large measure the extent of our commitment to meet the challenge of crime is measured by the funds we reserve for that task, the Hartke-Bingham legislation would also increase the authorization for this program to $800 million in fiscal year 1971, $1 billion in fiscal 1972, and $1.2 bilion in fiscal year 1973. This is an authorization of $3 billion for the period from June 30, 1970 to June 30, 1973. If this program is to be given a much-needed sense of continuity, I believe such a three year authorization is essential, coupled with funds sufficient to get the job done. I would add, however, that my support for quantum increases in the authorizations for LEAA is preconditioned on necessary changes being effected in the fund distribution formula. Certainly, I would be unable to support massive increases in funding to the states without some better guarantee that these funds will be wisely used. In my estimation the Hartke-Bingham legislation would furnish this guarantee.

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By way of conclusion, Mr. Chairman, I would suggest that the fear of crime which I spoke of earlier will not be diminished until real progress is made to check crime in the cities. It must be emphasized that although non-urban crime is on the rise, and cannot be ignored, it still represents only one-twelfth of the overall incidence of crime in this country. If the war against crime is to be won it must be won in our cities. If real substantial progress is made there, I am confident that all areas of the country, both urban and non-urban, will profit.

ISRAEL TRIES TO EASE ARAB REFUGEE PROBLEM

Mr. WILLIAMS of New Jersey. Mr. President, too often, news reports bring to our attention only the bad news in the world. Certainly this has been the case with reports out of the Middle East. However, in the Wall Street Journal of March 6, Ray Vicker brings to our attention a series of progressive projects being undertaken by Israel to ease the refugee problem in occupied territories.

In order that we may all appreciate the positive steps being taken in that wartorn area, I ask unanimous consent that Mr. Vicker's article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

Mideast Indigents: Israel Tries To Ease the Refugee Problem in Occupied Arab Lands—Work and Education Projects Begun in Gaza and Sinai—"Self-Help" Is Stressed—Bitter Issue Impedes Pace

(By Ray Vicker)

GAZA, GAZA STRIP.—Some 1,200 students from this Israeli-occupied Arab area, many of them from Arab refugee families, are enrolling in universities in Cairo and Alexandria. The Israeli government is paying for their schooling in Egypt.

Israel recently persuaded 35 Palestinian agronomists working elsewhere in the Arab world to come to the West Bank of Jordan, which also is occupied by Israel. There the agronomists will try to stimulate farm production. Israel is subsidizing their salaries.

Even as the Arab-Israeli war continues to heat up dangerously, Israel is coming to grips with one of the most explosive problems in the Middle East—the Arab refugees. The situation had existed since Israel proclaimed its independence in 1948, and bitterness has accumulated in the succeeding 22 years. In the six-day war of June 1967 Israel took over 26,000 square miles of territory, and with it one million Arabs, nearly 400,000 of them refugees.

Both Israel and the Arab nations have declined to take full responsibility for the refugees, with Israel putting off settlement of long-standing compensation claims and the Arab governments refusing to assimilate the indigents. Now Israel is starting to move, by setting up rehabilitation and assistance programs that include expanded education and vocational training opportunities and by simply providing work for the refugees.

"WE WON'T SHIRK"

"As long as we administer the Arab areas we must see to the health, education and welfare of the Arabs," says Golda Meir, Israel's prime minister. "This is a responsibility that we will not shirk."

It won't be an easy task, and Israeli officials acknowledge that they have only made a beginning. But observers here agree that the outcome of Israel's efforts could have an important bearing on whether or not peace comes to the Middle East in the foreseeable future.

The hitherto aloof attitude of both Israel and the Arab nations has tended to bind the refugees together as a class. Their bitterness further heightens Middle East tensions, stimulates Palestinian Arab nationalism and provides a manpower reservoir for Arab guerrilla groups like Al Fatah.

Israel clearly envisages ultimate solution of the refugee problem as possible only in a negotiated peace in the area. For instance, what about the Arabs with claims against Israel for homes and land lost in the 1948 war? "We are prepared to pay compensation for just claims, within the framework of a broad peace plan," says Prime Minister Meir. "But we are not going to hand that compensation to an Arab government for distribution as it sees fit."

Israeli officials say that 25,000 Arabs from the occupied territories, many of them refugees, now have jobs in Israel, and another 5,000 may get jobs shortly. Each workday morning, a bus picks up dozens of Arab men and women on the road near Gaza town for transportation to their jobs at a citrus canning plant in Ashkelon, Israel. Another bus takes other workers to a textile plant in Beersheba.

Unemployment still totals about 10,000 in the Gaza Strip. But the figure a year ago was 20,000. And the downward trend should continue. On the northern edge of the Strip, bulldozers have been leveling sand dune sites for factories in a new industrial center. Bids to build plants have been received from Israeli companies. It is hoped that foreign money will come in,too.

A BREAKTHROUGH

"We're experiencing a real breakthrough," says Harold Silcox, CARE representative here. He oversees a program that is providing nearly $8 million worth of U.S. food aid this year. At the ministry of social welfare in Jerusalem, Josef Ben-Or, deputy director general, says that 26 schools, two dispensaries and four hospitals recently have been completed in the Gaza Strip and in El Arish, the neighboring Sinai city on the Mediterranean. Roads, wells and canals also are being built.

Israeli officials say they are spending $10 million in Gaza ana Sinai developments this year. However, the Israeli effort gets a substantial boost from U.S. oragnizations. Peter Cassimatis, field representative for Community Development Foundation, a nonprofit American agency, says that CDF has 28 projects in the region.

At Beit-Lehia there is a new road nearly a mile long that stretches from the village to an orange grove that supports the local economy. At El Arish, a cooperative fish market is being built with local labor.

"We encourage the local people to launch these projects on a self-help basis," says Mr. Cassimatis. "They select the project that seems most necessary, a new school, a road or whatever they want. Technical assistance comes from the Israeli department of public works. We pay villagers for their labor, and the village or the people involved get the completed project."

Other agencies involved in projects here or in the West Bank include the Lutheran World Service, the Catholics' Caritas, a Mennonite group, the Swedish Organization for Independent Relief and German Community Development. The United Nations Relief and Welfare Agency has food aid programs here.

The Israelis insist that projects be designed to help the refugees help themselves. Mere distribution of handouts is opposed. "These people do want to improve their conditions," says Mr. Cassimatis. "They only want a chance."

There is some progress on the education front, too. The Gaza vocational school, for instance, is a set of barracks-like buildings clustered about towering fig trees. Built years ago by the United Arab Republic, it now houses 40 students from the locality. "Next month we will double the number," says Mohammed Kamal Sousi, director.

Haim Segev, the big, bluff Israeli who heads the Gaza Labor Exchange, says that six new vocational schools now are functioning in the Strip, supplementing the long-established school run by the UN. "Before the war there were about 100 students attending the government vocational school here," says Mr. Segev. "Now we have 1,200, and next month we will have 2,000." Auto mechanics, welding, carpentry and brick-laying are among the trades studied by the men; the women take up such work as dress-making and home economics.

Israeli officials say they are striving to integrate the refugees with the rest of the Arab population and not treat them as a class apart. This isn't easily done, however. The refugees predominate among the poorer Arabs. In the Gaza Strip, the eight refugee camps clustered in shabby huts contain nearly 180,000 persons, more than half the Strip's total population of 355,000. Anti-Israel bitterness is deep here, and there are many guerrillas among the refugees.

The Arab guerrilla organizations have been trying without notable success to discourage Arab-Israeli contacts in the occupied areas. They have tossed hand grenades at buses taking Arabs to their jobs and warned the refugees to shun contact with the Israelis.

The guerrilla hostility poses problems for Arab leaders here who are working with the Israelis. "I am only trying to help my people," says Mohammed Suliman El-Azizeh, Arab mayor of Dir-El-Balah, a village in the Gaza Strip. He is cooperating with Israeli authorities in construction of a plant to alleviate poverty in the village. "If Israel offers work to my people, should I turn my back?" this official asks. "My people must eat."

In the Gaza Strip, it soon becomes apparent that the Israelis have left most of the local administration in Arab hands. Of 3,000 bureaucrats and administrative officials in the region, only 150 are Israelis or outsiders.

"The psychological value of this Arab-Jewish cooperation is very important," says Mr. Ben-Or, the social welfare official in Jerusalem. "We are proving that Arabs and Jews can indeed work together."

At times the cooperation extends to high levels. At a recent cocktail party in Jersusalem, M. A. Kurtz, director general of Israel's ministry of social welfare, was observed discussing the refugees with a key social welfare official from the Gaza Strip—an Arab still holding the job he had for years under the Egyptian government in the strip.

Last month 11 Arab social welfare officials from the Gaza Strip met in Bethlehem with 29 compatriots from the West Bank, in a seminar conducted by Israeli social welfare officials from Hebrew University in Jerusalem. The seminar focused on methods of coordinating activities in behalf of poverty-stricken Arabs in the occupied regions.

The Israelis have decided that if the tension and antagonism is to be dissipated in the refugee camps, lines of communication must be kept open with the Arab world. So Israel is encouraging such contacts, though militant Israelis warn that this provides Arab guerrillas with an opportunity to subvert Israeli-controlled Arabs.

Family visits are encouraged. "Last month we had 16,000 visitors from Arab countries, people allowed to stay up to a month with relatives," says Mr. Ben-Or. More than 1,000 Arabs from Hebron, Gaza and other cities under Israeli rule made pilgrimages to Mecca this year, passing across the Allenby Bridge into Jordan and then proceeding to Saudi Arabia.

Israel's efforts, of course, aren't being greeted with cheers by the Arabs in the occupied regions. For most of them there is only

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one answer to the situation: Israel's withdrawal. Alu Mad, proprietor of the Lido restaurant near the Dead Sea, offers this comment: "Any Arab who tells you he likes the occupation is a liar."

SGT. MATTHEW LEONARD, MEDAL OF HONOR WINNER

Mr. SPARKMAN. Mr. President, the people of Birmingham and indeed the State of Alabama and the Nation paid tribute a few days ago to Sgt. Matthew Leonard, of Birmingham.

Sergeant Leonard was killed in action in Vietnam 3 years ago. He was awarded the Medal of Honor. Over 800 people gathered in Birmingham on February 28 to hold memorial services for Sergeant Leonard. Among these was Army Chief of Staff, Gen. William C. Westmoreland. General Westmoreland noted in the services that Sergeant Leonard was among an elite group of 3,275 men, who since the Civil War, have received the Medal of Honor. He noted that this was quite a distinction in view of the fact that 32 million Americans have served in uniform since that time.

I am proud to join with those who honor Sergeant Leonard.

The Birmingham News of March 1, 1970, carried a moving account of the memorial services. I ask unanimous consent that this account be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STORY OF HERO UNFOLDS AGAIN IN CITY TRIBUTE

(By Charles Nix)

The jungle of Vietnam came alive inside the brick walls of Graymont Armory as the saga of a hero unfolded and a widow cried.

Sgt. Matthew Leonard was gone. He was dead.

And within those gray walls the powerful, whole bass notes of tubas, the brassy curtness of trumpets and the flutter of a flute had new meaning in the National Anthem.

A four-star general, Army Chief of Staff William C. Westmoreland, stood before nearly 800 persons and expressed awe at the bravery of the Birmingham man whose heroic death earned him the Medal of Honor.

For Sgt. Maj. Henry Cobb the anguish that comes with the loss of a friend has been softened with the passing of time, but his gratitude for his life was strong.

A teacher, Mrs. Bessie Estell, remembered a student with ambitions, "with dreams, with aspirations" and a personality that transcended his average academic rating.

They were among the speakers paying tribute to the soldier who, dying, propped his bullet-riddled body against a tree and continued to fight.

Each of the speakers told the audience they must take up the torch.

"Sacrifice unobserved seems pointless. But sacrifice unremembered surely must rank with profound sin," said CWO Chester Jezierski, who presented a portrait of Leonard to Mayor George Seibels on behalf of the Society of the 1st Division.

"When I came home to Alabama, I related to Mrs. Leonard that it was my sincere hope that should this nation see fit to award the Medal of Honor, that the city of Birmingham would conduct a memorial in his honor. Today, you have made that wish a reality," said Cobb.

The speakers several times said America owes Leonard much, but Sgt. Cobb owed his very life.

"I can't believe we got out to tell you the truth," Cobb said.

Leonard, "my close and personal friend," and his platoon of 43 men were taking the brunt of an enemy attack. Cobb started out to help with a six-man machine gun crew. He was the only one that made it.

When the fight that began at 10 a.m. and stopped at sundown, there were six men able to fire a weapon.

They could almost see the enemy's eyeballs when a burst of fire cut Cobb and a machine gunner down. Cobb was hit in the chest and throat by grenade fragments, a burst of machinegun fire hit him in the back and he still carries a small-arms round in his back from the encounter.

He said Leonard was the type that kept people in high spirits and could cause people to "follow him to the gates of hell."

That trait was already evident in his school days. "The pleasant relationship and rapport with his teachers and the unusual popularity with the students made for him an uncommon position of leadership," Mrs. Estell said.

"His teachers described his character traits as being loyal, ambitious, manly, trustworthy, conscientious, polite, alert and cooperative. These indeed must have been the foundation for the making of a brave soldier," she said.

On his last trip home, he discussed the future with Mrs. Estell. "The welfare of his family seemed to have been uppermost in his mind.

"Thus, he distinguished himself as a student, as a citizen, as a father and indeed as a soldier.

"And so, as we honor him today, there is a deep sense of pride, tempered with reality, that as teachers, somewhere along the way, each of us played a small role in the drama that was his life.

"Ours is the unfinished task he so nobly advanced," she said.

Westmoreland said, "In the course of human events, some few risk their lives to help others. Still fewer give their lives to help others. But all stand in awe and reverence before the man who sacrifices his life in the performance that is clearly 'above and beyond the call of duty'."

He said Leonard was among an elite group of 3,275 men, who since the Civil War, among 32 million men who have served in uniform, who have received the Medal of Honor.

"They have little in common, except uncommon gallantry," he said.

"As we remember Matt Leonard on this occasion, three years after the day he gave all any man could ever give, let us resolve that our remembrance of him and what he did for his fellow men shall be eternal," Westmoreland said.

A PERSONAL "GREEN THUMB" PROJECT

Mr. WILLIAMS of New Jersey. Mr. President, the national Green Thumb program funded through the Office of Economic Opportunity has won widespread admiration from Members of Congress and many others who are aware of its two great purposes.

First, it helps hearty older Americans by providing modest compensation for such tasks as beautifying parks and restoring historical sites.

Second, it helps communities and States by providing talented and hardworking manpower for these projects.

The Green Thumbers and the Farmers Union deserve the thanks of the Nation for making this program work so well.

Recently, I encountered another example of Green Thumb activity. It is not associated in any way with the national program, but it does involve the enthusiasm and the hard work of the elderly—actually, just one 66-year-old man who has devised a unique way of encouraging others to beautify their surroundings.

An article published recently in the Elizabeth, N.J., Daily Journal described this project and its founder, Mr. Maurice M. Freedman. I ask unanimous consent that it be printed in the RECORD as a fine example that could be emulated elsewhere.

There being no objection the article was ordered to be printed in the RECORD, as follows:

GROWER OFFERS TO GIVE AWAY CELLAR ORCHARD

So, you think you have a "green thumb." Chances are you can't compare with Maurice M. Freedman.

The 66-year-old Roselle retiree has 1,500 to 2,000 young fruit trees in the cellar of his home at 337 W. Third Ave. which he has literally cultivated from seedlings.

In fact, the seeds were removed from the very fruit that he ate during a two-year period from 1966–68 while he was laid up with a series of spinal operations.

Freedman received a disability retirement in 1966 from his position as a security guard at the Menlo Park Shopping Center in Edison.

During the three months he spent in a hospital, Freedman began saving seeds from the apples, oranges, grapefruit, pears and pits from peaches and plums.

"You name the fruit and I've saved its seeds," Freedman said.

But Freedman didn't stop there.

He also saved the empty cans from the fruit juices he drank during this period for use as "pots" and the skins from the fruit to mix with his backyard dirt for mulch. Incidentally, he "cooked" the dirt to remove any worms and other impurities.

As the plants grew, he visited supermarkets where he obtained grape boxes for use as boxes for his trees. Luckily, he came across some priedieus which were discarded by the Salvation Army and he converted to hold the larger boxes for his trees.

Once again, he is being faced with the need to transplant the larger trees which are now about one year old and becoming overcrowded.

So, Freedman has come up with a plan to give away the trees to various church groups and charities "if they will provide their own pots."

Freedman said the organizations could in turn sell the trees and thus raise funds for their work.

Freedman, who also is active as vice president of the Senior Citizens of Roselle-Roselle Park, said he will give the plants away to anyone who provides his own pots.

His celler, he reports, "is such a beautiful place with all those plants that I spend about four hours down there each morning—watering and caring for them."

Although Freedman spends most of his time around the house, his wife "still goes to business," he said. She is employed at a Shop-Rite supermarket in Elizabeth.

CONCLUSION OF MORNING BUSINESS

The VICE PRESIDENT. Is there further morning business? If not, morning business is concluded.

VOTING RIGHTS ACT AMENDMENTS OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate resumed the consideration of the bill.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Alabama.

CALL OF THE ROLL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk called the roll, and the following Senators answered to their names:

[No. 102 Leg.]

Allen
Baker
Byrd, W. Va.
Cannon
Cotton
Dole
Ervin
Gore
Griffin
Hart
Jackson
Mansfield
Spong
Stennis
Talmadge
Thurmond
Williams, Del.

Mr. KENNEDY. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Utah (Mr. MOSS) are absent on official business.

I also announce that the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. JORDAN), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Iowa (Mr. HUGHES) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. HRUSKA), the Senator from Illinois (Mr. SMITH), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion (putting the question).

The motion is agreed to, and the Sergeant at Arms is so instructed to request the attendance of absent Senators.

After some delay the following Senators entered the Chamber and answered to their names:

Aiken
Allott
Anderson
Bayh
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, Va.
Case
Cook
Cooper
Curtis
Dominick
Eagleton
Eastland
Ellender
Fannin
Fong
Fulbright
Goldwater
Goodell
Hansen
Harris
Hartke
Hatfield
Holland
Hollings
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Murphy
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Sparkman
Symington
Tydings
Williams, N.J.
Young, N. Dak.
Young, Ohio

The PRESIDING OFFICER (Mr. KENNEDY). A quorum is present.

Mr. ALLEN. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, I ask that the clerk state the amendment again.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> Amend the Scott-Hart Amendment (No. 544) by striking all of section 3 under title I—Voting Rights, and inserting a new section 3 as follows:
>
> "Section 3. (a) Section 4 of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973 et seq) is amended by adding at the end thereof the following new section '(f) section 4 of this Act shall expire and become inoperative on August 7, 1975.'
>
> "(b) Section 5 of the Voting Rights Act of 1965 (79 Stat. 438, 42 U.S.C. 1973 et seq.) is amended by adding at the end thereof the following new sentence: 'Section 5 of this Act shall expire and become inoperative on August 7, 1975'."

Mr. ALLEN. Mr. President, I requested the majority leader to call for a live quorum because I felt that the consideration of this amendment was important enough to seek to increase the attendance of Senators at the session of the Senate. I am delighted to see that a number of Senators—more than is the usual case—are in the Chamber at this time.

Mr. President, the junior Senator from Alabama has been unwilling to limit debate on the amendments he has offered to the pending bill. The junior Senator from Alabama feels that on matters that are so basic, so inherent, so fundamental, and so important to the people of Alabama and the Nation, there should be no limitation on debate. The Senator from Alabama does not feel that any particular significance is to be attached to his amendments, but he does feel that the people of Alabama and the Nation expect that there will be a full and complete discussion of these issues.

Yes, limit debate on such matters as a military procurement bill for the appropriation of billions of dollars. Yes, limit debate on a foreign aid bill for the appropriation of billions of dollars. There, only money is involved. But in the bill under discussion, the good name of the people of Alabama and the South is at stake.

This is a bill that holds the people of Alabama and the people of the South up to ridicule, up to vilification, and up to shame, because, under the terms of the Voting Rights Act of 1965 and under the terms of the Scott-Hart amendment thereto, by act of Congress, the people of Alabama and the South are declared to be guilty of discrimination against their own citizens. They are subjected to the most humiliating requirements. They are subjected to having Federal registrars invade their States and to having Federal election observers and poll watchers swarm over the State like locusts. They are subjected to the humiliation of having to come to Washington to seek approval of the acts of their legislatures, of their town councils, of their county governing bodies. They are required to suspend the use of literacy tests in voter registration; whereas, outside the South, literacy tests are permitted.

Yes, discussion is valuable. It contributes much to the consideration of any measure before the Senate. Much good, in the judgment of the junior Senator from Alabama, has come from lengthy but germane discussion of the pending measure. Four amendments have been adopted to the pending measure. One amendment, offered by the distinguished senior Senator from Kentucky, amended the trigger provision of the Voting Rights Act, on which I shall make comment later. Another amendment was the amendment offered by the junior Senator from Alabama which put into the prohibition against a State, preventing it from having a requirement that would not allow 18-year-olds to vote, the phrase "except as required by the Constitution," which was inserted into the language of that prohibition. Under that, unless this statute is held to be constitutional, it could not apply. Of course, in the humble opinion of the junior Senator from Alabama, this statute, or this legislation would be held to be unconstitutional because it would take a constitutional amendment to change the required voting age throughout the Nation, because the power to set the voting age reposes under the Constitution in the respective States.

Then, too, two amendments were adopted that would get the bill that came over from the House—that is the basic bill now being considered by the Senate—into conformity with the Scott-Hart substitute, except for the matter of the treatment of the problem of voting rights.

Some other amendments may be adopted. I hope so. I hope amendments will be adopted that would change the Scott-Hart substitute beyond recognition, because it is a vicious bill, a bill that should not be adopted by the Senate.

Thus, discussion is helpful. Had there been no discussion of this measure, the amendment offered by the Senator from Kentucky, which is a vast improvement on the bill, would not have been agreed upon, and the three amendments offered by the junior Senator from Alabama would not have been agreed upon.

Yes, there has been some lengthy discussion of the measure, but I submit to Members of the Senate that all discussion has been germane, that all discussion has hit at the issues involved, that all discussion has been with respect to the provisions of the bill and the views of the people of Alabama with respect to the measures, speaking through the junior Senator from Alabama.

Let me call attention, Mr. President, to the fact that when all amendments have been considered to the Scott-Hart substitute, and that substitute has been adopted, it will not be subject to amendment. The Senate will be required to take it or leave it just exactly as it is then worded.

So we have come to the point where we must act. We must amend the vicious Scott-Hart substitute or we must accept it as it is.

Several days ago, in the course of debate, the Senator from Indiana (Mr. BAYH) spoke, and I have seen in the press references to the Scott-Hart substitute as being a compromise bill. Well, I asked the distinguished Senator from Indiana: A compromise as between what? What did these gentlemen who come forward with this so-called compromise bill compromise?

To compromise anything, you have to have differing views.

Mr. ERVIN. Mr. President, will the Senator from Alabama yield at that point?

The PRESIDING OFFICER (Mr. HOLLINGS). Does the Senator from Alabama yield to the Senator from North Carolina?

Mr. ALLEN. I am delighted to yield to the Senator from North Carolina.

Mr. ERVIN. I would say it is a compromise because it has certainly compromised the Constitution out of all recognition.

Mr. ALLEN. I agree with the distinguished Senator from North Carolina on that point.

This was a different type of compromise that the junior Senator from Alabama had in mind. It would be an agreement between differing views that results in a common bill, that is a result of give and take as between two differing sides. So that the junior Senator from Alabama was unable and is unable to discern any difference in the political philosophies of the Senators supporting the so-called compromise plan, because he notes from the report of—actually a majority of the members of the Judiciary Committee—and I want to comment on that, that while the individual members had to send in a report, ordinarily the committee makes such report. But just look at some of the distinguished Senators who signed the report. I fail to see and difference in their philosophy and just wonder what the compromise was that was agreed upon.

I see here the name of the distinguished Senator from Indiana (Mr. BAYH), the distinguished Senator from North Dakota (Mr. BURDICK), the eminent and able junior Senator from Kentucky (Mr. COOK), the eminent and able and distinguished senior Senator from Michigan (Mr. HART), the able and distinguished Senator from Massachusetts (Mr. KENNEDY), the able junior Senator from Maryland (Mr. MATHIAS), the able Republican leader (Mr. SCOTT), and the able Senator from Maryland (Mr. TYDINGS).

These gentlemen, along with two others—among the 10 who signed it—there were two others whose names I did not mention with respect to whose philosophies I am not so aware as I am of the eight Senators whose names I did call—these gentlemen are all of one mind with respect to this issue.

To call this a compromise bill is certainly an unusual choice of words.

Now, Mr. President, I suggest that I was going to comment on why, rather than having a committee report, with respect to this bill here in the Senate, that the individual Members came in with a lengthy report, a copy of which I hold in my hand, indicating their support of the bill and the fact that favorable consideration should be given to the bill; but the fact of the matter is that the bill did not have the opportunity for a real study before the Judiciary Committee. As a matter of fact, it looked for a long time as though the proponents of the bill—many times I have used the word "perpetrators" of the bill instead of proponents, because I feel that is a proper word—that the proponents of the bill for a while stopped the bill when it came over from the House from even going to a Senate committee. And they objected to the bill going to a committee. It was only when the able chairman of that committee, the distinguished Senator from Mississippi (Mr. EASTLAND) agreed to report the bill out by March 1 that the proponents of the bill were even willing for this important bill to go to the Judiciary Committee for consideration.

So, they held the bill up until that stipulation was agreed to. It was all in the newspapers. There was nothing confidential about it. I am sure that all Senators involved were proud of their part in the procedure that required the chairman to enter into an agreement that he would report the bill out by the first of March.

The committee never had an opportunity to go into a complete investigation and study of the bill. And the chairman, true to his promise, reported the bill, I believe, on the last day of February without recommendation, because the committee had not had an opportunity to consider the bill fully. Therefore, we have no Senate committee report. There is no Senate committee report because the committee was not allowed to consider the bill in the depth that it is supposed to be considered.

So, we do not have a recommendation of the Senate committee on this bill, the need for the bill, or the reason for the bill. We do not have the benefit of any analysis. We do have—and I think this is passing strange—a committee report that has been on the desk on each Senator. And it has been there for the last few days. It is a report of the House committee at the time the bill was reported by the House committee to the full House. But we do not have the benefit of a Senate Judiciary Committee report.

A bill of this magnitude, a bill which discriminates against my home State and the people of the South, was never given the opportunity to be considered in the Senate Judiciary Committee.

I spoke of my State and the other States of the South. The Senator from North Carolina, the eminent constitutional authority of the Senate, and of the entire country for that matter, was pointing out several days ago that a State is not just the State government, the political entity of the State. It is not just the territory within the State's boundaries. It is the people of that State.

So all of these things that are done to the Southern States, are done to the people of the Southern States. And our people resent the implications of the bill. They resent the discrimination provided by the bill. They resent the humiliation, the vilification that the bill and the present act heaps upon them. Speaking for them and for myself, I resent the implications of the bill.

Suggestions have been made that this debate is holding up the consideration of some of the President's appointees to high office, and that the debate should quickly be brought to a close so as not to endanger the confirmation of some of these appointees.

The junior Senator from Alabama rejects the theory that debate should end on an important matter of this sort just because of some supposed effect that it might have on another proceeding to be entered into the future. All issues, in the judgment of the junior Senator from Alabama, should be carefully considered as they come up. Each issue should be considered on its own merits or demerits, and further discussion, if necessary, to point out the defects of the pending legislation, should not be desisted from because of any possible effect that it might have on other action by the Senate.

If the debate should end, would it change the votes of these gentlemen who are proposing the Scott-Hart substitute? Would the cessation of discussion cause any Senators to change their position with respect to any other matter? Are not all Senators willing to consider each question which comes before the Senate on its merits or demerits?

In the judgment of the junior Senator from Alabama, we are going to go from a scant discussion of this bill into a full discussion of the next matter to come before the U.S. Senate. And that discussion is going to be much longer and much fuller in the judgment of the junior Senator from Alabama than the discussion that has taken place with respect to this bill.

The junior Senator from Alabama feels that this measure should be fully discussed, that it should not be agreed to just to get on to still another discussion. If we are going to have a discussion, why not just continue to discuss this?

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So, it seems to the junior Senator from Alabama that nothing is to be gained from an end to legitimate discussion. The remarks of the junior Senator from Alabama are going to continue to be with respect to this bill and its evils. And when he gets to the point where he cannot discuss the bill on its merits or demerits, he will be willing to turn the floor over to someone else for, hopefully, a continuation of the remarks.

Mr. President, let us consider for a moment the parliamentary status of the pending legislation. The pending bill is H.R. 4249, the Voting Rights Act. It comes to the Senate after having passed the House. It is the so-called administration plan. It is called "administration" because the present national administration headed by President Nixon suggested the terms of H.R. 4249. It provides for a national law with respect to the protection of the voting rights of all the citizens of this country. In that respect it is a great improvement over, or it is much to be preferred over, the Scott-Hart substitute. It has provisions also, as does the Scott-Hart substitute, about the residence requirement in the respective States for people who vote or seek to vote in presidential elections. It also has the 18-year-old voting provision, as does the Scott-Hart substitute.

The only difference in the bill is the manner and method of treatment of the protection of the voting rights of the people of the Nation, the administration bill having a national application and the Scott-Hart substitute applicable, as it is, to punitive provisions applicable automatically in the seven Southern States only. So when the amending process as to the Scott-Hart substitute has ended and the Scott-Hart substitute is adopted by the Senate—if it is, and I hope it is not—that will close off all amendments either to it or to the basic bill, H.R. 4249, because at that time the Scott-Hart substitute will have supplanted the House bill, the President's plan.

This thought occurs to me. We should be hearing from the President with respect to this important matter. He should reiterate his support of the so-called administration bill. He spoke of his desire to bring us together. Well, he is not bringing us together when he allows such a measure as the Scott-Hart substitute to be adopted. That certainly does not bring us together and it discriminates against the South, without the President saying something about it.

The distinguished Senator from Pennsylvania, the Republican leader—and I assume by virtue of that position, the President's floor leader in the Senate—on two separate occasions has brought into this Chamber letters, which he described as being from the administration, with respect to legislation involving issues regarding Federal public school desegregation policy, and with respect to the Whitten amendments to the HEW appropriation bill, which provided, as the bill came to us from the House, as it came to us from the subcommittee in the Senate, and as it came to us from the full committee in the Senate, that no portion of the funds appropriated by that act should be used to force busing, to force the closing of any school, or to force any child to go to any school against the wishes of his parent. The Senator from Pennsylvania brought in a letter from the administration—I never saw the letter; he spoke of it as being from the administration—endorsing an amendment which he added or sought to add, and which the Senate did add to the HEW bill.

He added the phrase "except as required by the Constitution." That is the very same language that the Senate added with respect to 18-year-olds voting. So by putting in that phrase, HEW was allowed to continue with its double standard of desegregation of the public schools as between North and South because HEW is taking the position that there is nothing wrong with de facto segregation and that these provisions of the Whitten amendment protect de facto segregation but do not protect de jure segregation, so called, the type that is said to apply or that formerly applied in the Southern States.

So the distinguished Senator from Pennsylvania brought in that letter from the administration saying, "We favor your amendment."

Then, the Stennis amendment was laid before the Senate. That amendment provided for uniformity throughout the country in the application of Federal public school desegregation policy. To the great credit of the Senate, it was passed overwhelmingly.

During the course of the consideration of the Stennis amendment here in the Senate, the distinguished Senator from Pennsylvania brought in a letter, again from the administration, saying that the administration approved an amendment which the Senator from Pennsylvania (Mr. SCOTT) sought to attach to the Stennis amendment. That amendment, in effect, sought to freeze de facto segregation into the statutory law of this country by saying there should be uniformity in the application of Federal desegregation policies in those areas of the country where segregation had been ruled to be unconstitutional. Well, the only place in which segregation had been ruled to be unconstitutional was in the South, because they claim we have de jure segregation.

It said that busing should not be used—I am referring to the Scott amendment to the Stennis amendment—for the purpose of overcoming racial imbalance.

Senators well knew that the term "racial imbalance" has been construed to mean de facto segregation. So the effect of that section of the Scott amendment was to say that there should be no busing to overcome de facto segregation, thereby freezing de facto segregation into the Northern States.

I wonder what the black leadership of this country thought about the distinguished and able and eminent Republican leader seeking, by this amendment, to freeze de facto segregation into the statutory law of our Nation.

Is desegregation of the public schools something to be applied only in the South? The Stennis amendment says, "Not so. Apply the same policy in the South as in the North, and vice versa." The Stennis amendment called for uniformity of Federal policy. The distinguished Senator from Pennsylvania, the Republican leader, did not favor this type of uniformity, and apparently he does not favor uniformity now in the matter of voting rights of people throughout the country.

Yes, the Scott amendment is the amendment to the administration plan, and I wonder if the distinguished Senator from Pennsylvania is going to bring in a letter, today, or tomorrow, or next week, or next month, or whenever this bill is voted on, explaining the administration's position with respect to his pending substitute. Yes, it is mighty fine to bring in a letter from the President when he supports your position. Well, let us have that same letter come into the Senate and be inserted in the RECORD to advise us of the administration's position.

Come to think of it, Mr. President, the President has been somewhat silent on this issue while it has been pending in the Congress. The Attorney General appeared before the House committee and recommended the plan that we are now working on, H.R. 4249, but we have not had much comment out of the administration since that time.

I assume the administration's policy has not changed. I would be interested in seeing, though, a letter from the administration—and I wish the distinguished Senator from Pennsylvania had seen fit to attend this session of the Senate so that I might call on him to bring in a letter from the administration—advising us of his position with respect to the Scott-Hart substitute. I believe the Senate could profit by that guidance. If he gave us the benefit of the President's views, or the administration's views—which, supposedly, is synonymous with the President's—on two important issues of a similar nature, why cannot he furnish us his views with respect to this legislation?

I think Senators would be interested in hearing from the President on this score.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. ALLEN. Yes; I am delighted to yield to the distinguished Senator from North Carolina.

Mr. ERVIN. Does the Senator from Alabama think he can infer the President's position from the course which the Republican leader in the Senate has taken?

Mr. ALLEN. In answer to the question of the Senator from North Carolina, I would have to say no, because it would be very difficult to judge the President's position by the actions of the distinguished Senator from Pennsylvania. But I would be interested in seeing that letter, if one could be obtained, and I feel the junior Senator from Alabama might be able to discuss this matter long enough for the distinguished Senator from Pennsylvania to communicate with the Presi-

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dent and get the benefit of his views with respect to the pending legislation.

I would like to see the membership of the distinguished Senators on the opposite side of the aisle stand by the position that has been said to be the administration's position. I believe we could get a bill that it is in keeping with what is said to be the President's position, and that is H.R. 4249. I would like some reassurances as to the President's position in this regard. I believe there are some 43 Members from across the aisle, and if we could get those 43 in favor of the President's plan, I do not believe we would have any difficulty getting eight from this side of the aisle to go along, and possibly as many as 16, 18, or 20, if we would just get a little help from the party of the President. So we need some help from the President in this regard, and we are here fighting his battle.

It seems a little strange for the junior Senator from Alabama, who I assume is a Democrat of sorts—I am an Alabama Democrat; I do not claim to be much of a national Democrat, but I am an Alabama Democrat—to be here fighting the President's battle, and I wish he would rally some of his troops over on the other side.

I know that the distinguished Senator from Kentucky, who does me the honor of sitting through some of my discussions here, wants to follow his President. If he will just do that, and get his 42 colleagues on the other side of the aisle together, we will carry this battle for the President. We will strike down this vicious Scott-Hart substitute, and we will go along with the President's plan. If the President's plan is agreed to, or if the Scott-Hart substitute is defeated so that the President's plan then may come up for a vote, I assure my distinguished friend from Kentucky, who is occupying the role of the minority leader at this time, that the vote of the junior Senator from Alabama will be in favor of the President's plan. I am ready to vote right now on the President's plan, and vote affirmatively for it.

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So the position of the junior Senator from Alabama is this: Any plan with regard to voting rights that the Senate is willing to vote affecting equally the entire country, the junior Senator from Alabama will support; but he is not going to support a plan that applies the punitive and discriminatory provisions of his act against the South and does not apply them against the North.

What has become of the demand for uniformity that we heard so much about during the argument on the Stennis amendment? What has happened to that? Why are we for uniformity there, and not for uniformity in voting rights matters? Possibly it is because the distinguished Senators from sections outside the South are becoming a little bit more aware of some of the problems that we have in our section of the country with respect to schools, and are willing to go along with some degree of uniformity in that area, while in the matter of voting rights they insist on applying one standard down South and another standard up North.

We are one nation, under God, indivisible——

Mr. ERVIN. But, if the Senator will yield, not under the Constitution.

Mr. ALLEN. We are one nation under the Constitution, too.

Mr. ERVIN. Theoretically.

Mr. ALLEN. Yes, theoretically; but the way some of us are being flouted, in complete disregard of the Constitution, we do not seem to be, in the view of some of the gentlemen who are the perpetrators of this act.

We are supposed to be one nation, under God, indivisible, with liberty and justice for all. We make that pledge in our hearts all the time, I assume, and vocally at many meetings, dinners, and patriotic occasions we attend.

But are we one nation, under God, indivisible, with liberty and justice for all, when it comes to applying a standard for voting rights? I submit, Mr. President, that we are not.

I cannot warn too strongly about the danger of the adotpion of the Scott-Hart substitute, because at the time when that Scott-Hart substitute is adopted, if it is—and I certainly hope that it will not be—that vicious proposal will become as unchangeable as the laws of the Medes and Persians, and cannot be changed. No more amendments; we will vote on it just like it is. Now is the time to amend, or forever hold our peace.

Yes, now is the time to amend, and now is the time to talk, because if we do not talk now we are not going to be able to talk for 5 more years. Five more years under this oppressive yoke.

I remember something else that the distinguished senior Senator from North Carolina said. He said that the War Between the States is over, but Reconstruction is not, and, that this is a throwback to Reconstruction I, and we are now in the midst of "Reconstruction II."

The junior Senator from Alabama feels that he should speak out against this proposal, because the people of his State expect him to do that. They would be displeased if he failed to do so.

So, Mr. President, I hope that the distinguished Senator from Kentucky will communicate with the distinguished Republican leader and advise him that the Senate, or at least some Members of the Senate, would be interested in having the President's views with respect to the pending legislation, feeling that it would help them make a decision in this regard.

I see that the distinguished Senator from Kentucky is writing, and I hope he is penning a note to the distinguished Republican leader, advising him of the request of the junior Senator from Alabama for obatining a letter from the President with respect to his views on the pending legislation. I am sure that the Senator will expedite that request, and I shall forever be grateful to the distinguished Senator.

Now, Mr. President, what is the voting rights law? What does it do? When, if at all, does it expire? What is proposed to be done to it by the Scott-Hart substitute?

A little history of this measure is in order, in my judgment, with regard to the initial enactment of this law and the forces behind the Scott-Hart substitute.

In 1965, I am advised—though I was not here at that time——

Mr. ERVIN. Mr. President, will the Senator yield, so that I can clarify my understanding of his present amendment?

Mr. ALLEN. Yes. I am delighted to yield.

Mr. ERVIN. As I construe the pending amendment of the distinguished Senator from Alabama, his amendment is not an amendment designed to extend the period of the operation of the act, but to make it certain beyond any ambiguity that the act will expire at the time that its proponents have stated they intend it to expire?

Mr. ALLEN. That is correct.

Mr. ERVIN. Since the Senator from Alabama, a while ago mentioned with emphasis that we are "one Nation under God," I construe the objective of the Senator from Alabama to be that the residents of the States of North Carolina, Virginia, South Carolina, Georgia, Alabama, Mississippi, and Louisiana will have the privilege to invoke the blessings of the Almighty up to the seventh day of August 1975, with the hope that on that day we will truly be one Nation, not only under God, but also under the Constitution?

Mr. ALLEN. Yes, that is exactly the purpose of the amendment; and the junior Senator from Alabama plans to go into much greater detail with respect to his amendment at a later date. There is plenty of time to get to that. The junior Senator from Alabama was leading up to it gradually, and the hope was that before the day was out we would get to a discussion of the terms of the amendment. The Senator from North Carolina has correctly stated, certainly, the main thrust of the amendment. It has one other aspect to which I will call attention later. But that matter will be discussed in some detail.

Mr. President, as the junior Senator from Alabama was stating, he was not a Member of the Senate or a Member of Congress when the vicious Voting Rights Act of 1965 was passed by Congress. He is advised, however, that the perpetrators of that act decided the States they wanted to trigger the bill against. They decided on the States they wanted to discriminate against. They decided on the States they wanted to humiliate. The decision was reached to apply the automatic trigger; and by that I mean to apply it under a formula that had no relation to discrimination of any sort but to a mathematical formula.

They decided that they wanted to apply it against what might be called the Deep South States. They wanted to apply it against Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana.

They decided that, since they could not name the States in the bill—they felt that to do so, I assume, would be declared unconstitutional even by the Supreme Court—they hit upon a formula. It was easy enough, this being the year

1965, to refer to available figures on voting statistics in 1964 in these States. By studying those statistics, it was found that in these seven Southern States fewer than 50 percent of the voting age population were registered on November 1, 1964, or voted in the general election of 1964. But, lo and behold, they found that in the 1964 election, only about 44 percent of the voting age population in the great State of Texas voted. The President at that time being a native of Texas and the Attorney General being a native of Texas, it was decided that they did not want Texas under this automatic trigger. I do not say that in a disparaging way about the great State of Texas. I am delighted that they were left out of the automatic trigger device. I wish all States had been left out of it, and I am happy and grateful and thankful that Texas was left out. But they had to figure some way to leave out Texas. They observed that Texas did not have a literacy test for voting. So they decided to couple the two—less than 50 percent voting plus the State having a literacy test—and they enacted the provision that where those two factors occurred, where fewer than 50 percent voted and the State had a literacy test, they were covered. A State that had only one factor was not covered. So that left Texas out. That is fine. I have no objection to that. But it does show how it was arrived at—not whether there had been any discrimination down there; not whether there had been a single case of discrimination. That does not enter into it. Did they have 50 percent voting and a literacy test? If so, they are covered by the automatic trigger.

The State of Virginia, it has been brought out on the floor of the Senate—and it is referred to in the House report—according to this report and according to statements by the distinguished Senators from Virginia and the admission by the distinguished Senator from Michigan (Mr. Hart), has never had a single case of discrimination reported. Yet, in order to get these other States, they subjected Virginia to the same humiliating trigger device.

Mr. President, this is supposed to be a bill to eliminate devices. That is what they said. They called the literacy test a device. It is supposed to be a bill to eliminate devices by which people were discouraged from voting. If the Voting Rights Act is not itself a device, I do not know what it is. If devices have been used by the Southern States—and I do not concede that they have—the Federal Government here is using a worse device than anything that has ever been used in any State of the Union to discourage voting. This bill is referred to as "a bill to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices." This is supposed to eliminate devices, and it is, in itself, the worst device that I have ever seen used, or suggested in any State of the Union. So, apparently, Congress felt that it was proper to use a device to eliminate devices.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield. I want to point out a number of facts to the Senate, but I am delighted to yield at this time.

Mr. STENNIS. I was intrigued by the Senator's amendment, which I read for the first time very late yesterday afternoon, after the vote on the amendment to strike out sections 4 and 5.

As I understand, by this amendment the Senator just proposes to make a date certain when this authority, this vast authority, this uncharacteristic authority in the American system of government, would terminate. That is all the amendment would do. It is just to make certain of the termination date. Is that correct?

Mr. ALLEN. Yes, sir; that is correct, with this added thought that instead of increasing, as the Scott amendment does, this conviction that has been levied against the Southern States from 5 years, as at present, to 10 years, it uses that 5-year period as a period during which these two sections are effective. In other words, the amendment provides that the very same provision now in effect will terminate at the end of 5 years from the enactment of the original law, so that it will meet the objective that the proponents of the Scott-Hart substitute say they are trying to accomplish, that is, to extend the same provisions of the act for 5 years.

Well now, this amendment does not extend, but it does say that it will terminate 5 years from now, indicating, of course, that if it is terminated then, it will last up until then; but the 5-year period is not raised to 10 years as the Senator from Pennsylvania seeks to do.

Mr. STENNIS. Well, now, as the Senator from Mississippi understands it, that was the original concept of the original law that was passed in 1965.

Mr. ALLEN. That is correct.

Mr. STENNIS. To put this unusual requirement in but only for a temporary span of 5 years.

Mr. ALLEN. That is correct.

Mr. STENNIS. It is exactly that pattern which the Senator from Alabama has adopted, as the authors of the original proposal for 5 years did. The Senator adopts that pattern. That is what the Senator asks to do here; is it not?

Mr. ALLEN. Not one single "i" is dotted or single "t" is crossed other than to say that these two sections will expire in August of 1975.

Mr. STENNIS. If I may ask the Senator, what reason has been given against the Senator's amendment? What logic, what cause, what facts have been shown that are different from what they were 5 years ago?

Mr. ALLEN. Well, Senator, in the judgment of the junior Senator from Alabama, one reason I feel is that it is offered by a Senator from the South. Had it been offered by the Senator from Kentucky (Mr. Cooper), who was successful in getting a reasonable amendment adopted. I feel that the chances of passage of this amendment would be greatly enhanced. That is the real answer, in the judgment of the junior Senator from Alabama.

Mr. STENNIS. In addition thereto, though, there have been no new facts cited as to why this proposed reenactment should extend beyond 5 years.

Mr. ALLEN. None whatsoever.

Mr. COOK. Mr. President, will the Senator from Alabama yield at that point?

Mr. ALLEN. I shall be delighted to yield to the Senator from Kentucky as soon as I answer that question. Not only that, but the proponents point out that the bill has been so successful that it is the crowning light and achievement of the civil rights people in this country, that they are more proud of this than of any other act that they have been successful in getting enacted. My amendment offers a continuation of exactly the same language, but it does set a definite termination date for the act.

Mr. STENNIS. I thank the Senator from Alabama for yielding to me. Let me say this, that as I understand it, and I believe I do understand it, the amendment has great merit. I am tempted to relate what happened to me once. After months of working on an amendment, I showed it to our good friend from Georgia (Mr. Russell) and asked him to look it over and see what he thought about it. He did so, and he said to me, "That is a good amendment. Its contents are good and sound. In fact, it is so sound that I am afraid it will not pass."

The Senator from Alabama has an amendment here that is so logical, so reasonable, and so much in keeping with the proponents of this measure that I am afraid it will not pass.

Mr. ALLEN. I thank the distinguished Senator from Mississippi. It is the plan of the junior Senator from Alabama to discuss this amendment until he feels that a substantial majority of Members of the Senate understand the provisions of the amendment. It looks as though I will have to discuss this matter piecemeal because it looks like we will have about 25 or 30 sittings of Senators if no more come into the Chamber than are presently here.

Mr. President, I am delighted now to yield to my good friend, the distinguished Senator from Kentucky.

Mr. COOK. I merely want to make a point of clarification, before the distinguished Senator from Mississippi leaves the Chamber, that there has been no opportunity for anyone who might oppose the amendment to speak on it yet. I would say to the Senator that the opportunity will come, as soon as the Senator from Alabama speaks on all of the points he wishes to speak on.

Relative to the remark of the Senator from Alabama that if the pending amendment had been introduced, say, by my distinguished colleague, Mr. Cooper, it would be passed, but that, somehow or other, he feels that coming from the part of the country he comes from he will not get his amendment passed. I would remind the distinguished Senator from Alabama, in all fairness, that there were two amendments which he introduced yesterday and which were overwhelmingly adopted by the Senate. As a matter of fact, I might state to him that I voted for both of them along with the overwhelming majority of the Senate. I merely want the Record to show that.

Mr. ALLEN. I appreciate the remarks of my good friend, the distinguished Senator from Kentucky, and I do appre-

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ciate his acknowledgment of the wisdom of the other amendments. I am hopeful that he will see the wisdom of the pending amendment.

The junior Senator from Alabama would remind the distinguished Senator from Kentucky that actually there were three of his amendments adopted by the Senate, the other one being insertion of the magic words, "except as required by the Constitution."

Mr. COOK. That is correct.

Mr. ALLEN. I would like to state to my distinguished colleague from Kentucky that any time he would like to speak, or at any time any other Senator would like to speak, the junior Senator from Alabama would be delighted to yield as much time as the distinguished Senators would care to use. The Senator from Alabama would welcome that opportunity.

Mr. COOK. I merely wanted to make the point that the Senator from Mississippi had said there had been no facts brought out or that there had been no conversation relative to what may be wrong with this amendment, and I merely wanted the RECORD to show that opportunity has not yet been given to do so. I want to make that clear to my colleague from Alabama.

I also want to make it clear to him, in his comment a few minutes ago that I have the duty on the floor. I do not. I do not know who does. I came here for the purpose of hearing the Senator from Alabama, as a courtesy to him, and I want him to know that I will be delighted to listen to him. If there are any comments that those of us who oppose his remarks about the Scott-Hart amendment wish to make, we will have more than enough opportunity to speak on that subject, I am sure.

Mr. ALLEN. I am delighted to yield at any time. I notice that the Senator was saying that his group would oppose the junior Senator from Alabama, indicating that he might possibly look somewhat askance at the amendment for that reason, but I do appreciate the support of the junior Senator from Kentucky on the amendments that I have introduced, and that have passed. I appreciate his courtesy in coming over and listening to me. I do hope that he will see the wisdom of the amendment and that he will communicate with the other Senators on that side of the aisle and that he will give support to an amendment that, in effect, would get a nationwide law in time. It would not get it immediately. We would have to serve our servitude for a considerable time yet.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

THE WELL-BEING OF THE AMERICAN WORKINGMAN—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

In his First Annual Message in 1901, President Theodore Roosevelt wrote: "The well-being of the wage-worker is a prime consideration of our entire policy of economic legislation."

The United States of America has changed in innumerable ways in the almost seventy years since those words were written. Yet, despite the changes that have transformed our economic and social life, the profound truth of those words remains: today the well-being of the workingman is a prime consideration of this Administration.

Last year I sent to the Congress legislation dealing with Manpower Training, Unemployment Insurance and Occupational Safety and Health.

The Manpower Training bill deals with how we can help a jobless man get work or help the workingman move on to better-paying and more challenging jobs.

The Unemployment Insurance bill deals with how we can help the workingman when he is temporarily out of work.

The Occupational Safety bill deals with how we can help the workingman to do his job under the best possible conditions of health and safety.

This legislation has now been before the Congress for more than seven months. And while I know that all of these bills are in one stage or another of the Congressional process, I am hopeful that they will be enacted promptly and sent to me for signature. I urge the Congress, for the sake of the American workingman, to reach final action on these measures without further delay.

This legislation concerns the American workingman on and off the job. Yet there is another important part to the average workingman's life; after his working years, the time when he can begin to enjoy his pension and welfare benefits.

The earliest known industrial pension plan in this nation was established in 1875. Today, less than one hundred years later, there are hundreds of thousands of employee benefit plans providing pension and welfare benefits to some 50 million workers.

Welfare and pension plans are a part of the success story of the American workingman. Employee benefits are among the most familiar—and most admired—aspects of economic life in our nation.

These plans involve over one hundred twenty billion dollars. More important, they involve the security, the dignity and the well-being of millions of Americans whose lives have been enhanced upon retirement or on the job by welfare or pension benefits. The control of these funds is shared by employers, unions, banks, insurance companies, and many others. While most of the plans are carefully managed by responsible people, we must make certain that the employee's money is fully protected.

I am therefore proposing the "Employee Benefits Protection Act." This Act would protect employees with pension fund rights against improper investments and conflict of interest on the part of administrators of these funds. This has never before been done by the Federal government.

The reforms proposed in the Employee Benefits Act can be divided into four major areas:

First, the Federal government would require that persons who control employee benefit funds must deal with those funds exclusively in the interest of the employee beneficiaries. A Federal standard of these obligations would more effectively provide a remedy where conflict of interest or carelessness exists in the management and investment of funds.

While these situations are infrequent, existing State and Federal laws are inadequate to deal with them. Theft, embezzlement, bribery, and kickbacks in connection with employee benefit plans have been made Federal crimes in earlier Congressional action, but conduct that breaches established principles of trusteeship has not been adequately dealt with.

Second, the reporting and disclosure provisions would be broadened and strengthened by requirements which call for additional information. Further and more detailed disclosure as to the financial operations and actuarial basis of employee benefit plans is a necessary complement to the imposition of fund management obligations and responsibilities. It is well established that those in a trustee-type relationship should give a detailed accounting of their stewardship. This type of accounting is similar to requirements presently applicable to mutual investment funds, banks, and insurance companies. However, the present reporting and disclosure provisions for employee benefit plans are more limited. The proposed Act would make available to employees vital information about the plans that are run for their welfare and retirement.

Third, changes would be made to implement the newly imposed management responsibility and the newly strengthened reporting provisions. These include broadened investigatory and enforcement powers for the Secretary of Labor and revisions designed to provide an alternative mode of enforcement of remedies through class actions by participants and beneficiaries.

Fourth, the Act would foster a body of uniform Federal law in employee benefits protection. State laws that otherwise regulate banking, insurance and securities are expressly allowed to remain in effect.

In summary, the Act would provide for a uniform source of law for evaluating the conduct of persons acting on behalf of employee benefit plans and for a single system of reporting and disclosure in lieu of burdensome multiple reports. Under the Act, States could require the filing with a State agency of copies of specified reports and State courts as well as Federal courts would be available to provide remedies. Furthermore, the Act would expressly authorize cooperative arrangements with State agencies as well as other Federal agencies. It would also provide that State laws regulating banking, insurance and securities remain unimpaired. Finally, experience in administering the present law has demonstrated that minor technical amendments are needed to resolve certain details of procedure and to otherwise make the law more workable.

The Employee Benefits Protection Act further expands my program to protect the American worker as he works, when he is out of work, and after his working career is over. Once again, I must express my concern that the first three parts of this program—relating to Manpower Training, Unemployment Insurance, and Occupational Safety—have been so long before the Congress without final action. And again I urge the Congress to enact these measures at the earliest possible date and to give urgent priority to this fourth part of the program—the Employee Benefits Protection Act.

America's most valuable asset is its workers. From their skills and from their determination to build a better life for themselves and their children has come a strong and free economy and a nation whose prosperity is unmatched in the history of the world. They deserve our active interest in their welfare.

RICHARD NIXON.

THE WHITE HOUSE, *March 13, 1970.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations received today, see the end of Senate proceedings.)

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Michigan without losing my right to the floor.

The PRESIDING OFFICER (Mr. HOLLINGS). Is there objection? The Chair hears none, and it is so ordered.

Mr. HART. Mr. President, I thank the Senator from Alabama. I shall be very brief.

The pending amendment would, I think, accurately be described as repealing as of the date suggested, August 7, 1975, sections 4 and 5 and taking down with them the authority contained in sections 6 and 8 for the Attorney General to designate areas that, without prior litigation, examiners could be dispatched to.

The substitute offered by the 10 members of the Committee on the Judiciary, to whose report the Senator from Alabama has made reference, allows any State which has not used tests since the date of the adoption of the 1965 act, by declaratory judgment to escape the trigger of sections 4 and 5.

Under the amendment the Senator from Alabama has offered, these areas would automatically be free of the trigger. Under the substitute amendment these areas would, under section 4(a), have to seek a release from the trigger through the court.

Alabama, for example, we are told has not used tests or devices since 1965. So the question is put, why not automatically release the State? We should not automatically release the State because under section 4(a), States in that situation are retained under the language of that section for a period of 5 years before the court. Jurisdiction attaches for another 5 years.

It is true that even without this retained jurisdiction, the Attorney General could initiate suit all over again under section 3 if there is a reimposition of an improper test. But that suit would have attached to it all of the delays and problems inherent in commencing litigation.

That is the reason we retained jurisdiction in the first place in the fashion outlined in section 4(a). To assure prompt relief was a key element of the 1965 act.

I would hope, Mr. President, that the amendment will be rejected. The substitute retains the 4(a) jurisdiction in these areas where the trigger has operated. This retained jurisdiction would assure against a return to old habits, or if the temptation to return to old habits is overwhelming, the court would be on top of it instantly. It would not require the Attorney General or an interested witness to discover the backsliding, if that is what it would be called, and a new litigation effort undertaken.

We think it is useful that this safeguard remain. It would be lost by agreement to the amendment.

I thank the Senator from Alabama very much.

Mr. ALLEN. Mr. President, would the Senator retain the floor long enough for me to ask a question or two.

Mr. HART. I yield.

Mr. ALLEN. Mr. President, I understood that the distinguished senior Senator from Michigan in the Scott-Hart substitute was asking only for 5 additional years. And this amendment would not knock sections 4 and 5 out until August 7, 1975. That would seem to the junior Senator from Alabama to be the 5-year period that the Senator refers to.

I would like to call attention further to the fact that section 4(b) says that where a State does come out from under the provisions of the automatic trigger by proof of nondiscrimination and nonuse of a device for 5 years, the court shall retain jurisdiction of any action pursuant to this section for 5 years after judgment and shall reopen the action on motion of the Attorney General's allegation that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

So during this 5-year period that the amendment of the junior Senator from Alabama allows these two sections to continue, even if a State would get out from under the provision of the automatic trigger, all the Attorney General would have to do would be to file a motion and they would be under it. It does not require any proof or anything, but just a one-page motion to the court.

Mr. HART. That is the interpretation of the Senator from Alabama.

Mr. ALLEN. That is what it says.

Mr. HART. Our contention is that the adoption of the termination date would require the initiation of action in the event there was a failure in the future to comply with a provision of the act.

Mr. ALLEN. It is hard for the junior Senator from Alabama to equate the Senator's present position with his position when saying in his sponsorship of the Scott-Hart substitute that all he is trying to do is to get an additional 5 years for the act, and then his opposition to the amendment, saying that it will cause the sections to expire in 5 years. It is also difficult for the Senator from Alabama to equate it with the Senator's statement that unless something is done, the act will expire—not 5 years from now, but in August.

Mr. HART. The statement that it will expire is, in truth, inaccurate. We do not argue that the 1965 Voting Rights Act will expire.

Mr. ALLEN. That argument has been made time and again here on the floor.

Mr. HART. It is a shorthand way of saying that the key symbol regarding a test or a device would be lost.

We have always pointed out the fact that section 3 would continue. We have cited it and explained that it is a time-consuming process that was followed in earlier years, the result of which could not be labeled by—I was going to say—objective observers. We hope that history will indicate that we were right in saying that procedure was ineffective. And that is why we turned to the more direct trigger device.

It is our belief that the retention by the court for an additional 5 years would be lost if the amendment were agreed to.

Mr. ALLEN. Would be lost when? Five years from now.

Mr. HART. No. It would be lost as of 1975.

Mr. ALLEN. The Senator is correct.

Mr. HART. And we believe that when the State comes out from under it pursuant to the court's decision, it is desirable that it remain alive in the sense of being an open case and open for the court to promptly respond in the event subsequently there is a return to old practices.

Mr. ALLEN. In other words, the Senator is asking for the present 5 years, plus 5 years; plus 5 years; he is asking for 15 years of subjugation. Is that right?

Mr. HART. Only if the so-called conquered provinces return to old practices. The assurance has been given that that will not happen. It is a question that is academic unless the safeguard were required.

Mr. ALLEN. The Senator stated that no device has been used since 1965. The Senator would want to convict the people of Alabama for what they might do 5 years from now.

Mr. HART. I am assuming, and the Senator from Alabama has assured us,

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that because of the existence of the Voting Rights Act, among other things, there have been no applications of tests and devices in Alabama.

Mr. ALLEN. That is what the Senator from Michigan stated.

Mr. HART. I do not challenge the position that Alabama has obeyed the law. I am sure it has. I think the presence of that law has contributed to the elimination of the practices. There have been instances that have been placed in the RECORD indicating desires to make difficult, in improper fashion, the exercise of the franchise. The Senator will recall some of those discussions in earlier days here. But the presence of the law has and will continue, I am sure, to eliminate in almost all cases any discriminatory use of tests and practices; and the retention by the court for an additional 5 years would again be an additional assurance that should there be a return to old customs there would be prompt remedy available. It is for that reason we urge that the amendment not be agreed to.

(At this point, Mr. BYRD of Virginia assumed the chair.)

Mr. ALLEN. The sponsors of the so-called Scott-Hart substitute have been making the statement here on the floor of the Senate that the law is going to expire if not renewed prior to August 7. The Senator from Alabama has been saying that there is no expiration date on any section of the law.

Which statement more clearly reflects the facts?

Mr. HART. I think the precise way to describe what is going on is that the key trigger devices would expire if the administration recommendation were adopted.

Mr. ALLEN. I submit to the distinguished Senator that that is incorrect.

Mr. HART. Well, we are in disagreement.

Mr. ALLEN. The key device does not cease to exist until a State goes into the Federal court and waits for its case to be reached and has proved to the satisfaction of the district court, the three-judge court, on the acquiescence of the Attorney General, that it has not engaged in discrimination for 5 years. Until that petition is filed, and that permission given, and an order entered, only then would the triggering devices cease to be in effect; and if the court found that within that 5-year period they had been guilty of this type discrimination that order of release would not be given and further delay would be required.

So it takes overt action on the part of the State, plus a finding of nondiscrimination for 5 years by the court.

Mr. HART. Assuming that States are anxious to get out from under and assuming States obey the law for the 5-year period, the effect of the triggering device would expire.

Mr. ALLEN. They would expire only when the Attorney General and the courts take action.

Mr. HART. It is assumed by most of us that States will act. We have been assured they are offended by being under it now. We are assured the States are complying with the law. In that sense, the effect of the trigger is gone.

Mr. ALLEN. The Senator would not be satisfied, then, with the cutoff date of sections 4 and 5, 5 years from now.

Mr. HART. Inasmuch as it would remove from the Federal court jurisdiction the States that have come out from under, no. It is desirable, we believe, that there be available the prompt remedy in the event, having come out from under, there is a return to old practices.

Mr. ALLEN. The Senator would not be satisfied with the 5-year probation the act puts the Southern States under.

Mr. HART. There is no probation unless the retained jurisdiction is there.

Mr. ALLEN. That is what I say. It is retained under the amendment.

Mr. HART. That is our disagreement. We believe that by the termination of sections 4 and 5 in August 1975, that the Attorney General would be forced to file actions with a court, to make his proofs in the event it is his judgment that there had been a violation by the use improperly of test and devices.

This would not be the case if the 1975 date was not fixed, as the amendment provides.

Mr. ALLEN. The junior Senator from Alabama would like to point out to the distinguished Senator from Michigan that the action that the Attorney General has to file is not an action de novo. All he has to do is file a little paper and it does not take any proof. That is another vicious provision. All he has to do is file a motion; that triggers the act; the act would be back in effect.

How the Senator from Michigan could feel any rights are being cut off under sections 4 and 5, when the amendment states it does not expire until August 1975, is beyond the junior Senator from Alabama.

But I do thank the distinguished Senator. I appreciate his statement. His statement, made time and time again on the floor of the Senate, that the Voting Rights Act of 1965 is on the verge of expiring, is incorrect, and it was used merely as a shorthand rendition of another set of affairs.

The junior Senator from Alabama has pointed out time and again, without successful refutation, that there is in fact no expiration date in the present act or in sections 4 and 5, but that they are permanent law until changed by act of Congress.

Mr. President, I ask unanimous consent that I may make a request for a quorum without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I am glad to have engaged in colloquy with the distinguished senior Senator from Michigan with respect to the effect of the amendment now under consideration. I was pleased that the distinguished Senator from Michigan conceded the claim that has been made by proponents of the Scott-Hart substitute—that the bill was necessary because the Voting Rights Act of 1965 is about to expire.

The statement that it does expire, as has been said, on August 7, 1970, is in fact incorrect. The junior Senator from Alabama has been making a statement on the floor of the Senate day after day that there is no need whatsoever for the Scott-Hart substitute, because the 19 provisions of the Voting Rights Act are permanent legislation, and that the junior Senator from Alabama would be willing to do what the proponents of the Scott-Hart substitute have been saying that they are in fact seeking to accomplish, which is to renew the same provisions of the Voting Rights Act of 1965 for an additional period of 5 years.

What the pending amendment does is to leave intact every single provision of the Voting Rights Act of 1965. Not one single "t" is crossed nor "i" dotted, nor any change of any sort made, except that at the end of section 4, this sentence is inserted:

> Section 4 of this Act shall expire and become inoperative on August 7, 1975.

Which is 5 years after the supposed expiration date of the Voting Rights Act of 1965; and, at the end of section 5, the following sentence:

> Section 5 of this Act shall expire and become inoperative on August 7, 1975.

That, in effect, would show that these sections do continue to operate until terminated in some fashion; and the purpose of the amendment I have offered is to put a definite expiration date on them.

I do hope that the distinguished Senators on the other side of the aisle will see this amendment as an effort and a method of coming close to the President's suggestion of a nationwide voting rights law. It would not be as favorable to my section of the country as the President's plan. It would not immediately put us all on the same basis. It would continue the exact provisions of the present law until August 7, 1975; but what it would do—and herein is the defect of the Scott-Hart substitute, and what it does that its proponents have not made clear, with the expression that the act will expire unless renewed, and that all they are seeking to do is to renew the identical provisions for 5 years: It does not increase the sentence against the people of the South from 5 years to 10 years, as sought by the Senator from Pennsylvania. It does not require a State to come out from under the automatic trigger to prove any more than it is now called on to prove, which is 5 years of no discrimination.

Mr. President, I point out that section 4 of this act has a provision—and it would be continued under the terms of my amendment for 5 years—that after a State, a Southern State now covered by the act, goes into Federal court and proves that during the 5 years next preceding the filing of the petition, it had not used a device such as a literacy test for the purpose of discriminating then, if the Attorney General acquiesces, and if the matter is ever reached in the Federal court—as is pointed out in the report of the House Committee on the Judiciary, the district court here in Washington is about 2½ years behind in its cases—if it takes 2½ years to reach a case, with that added to the 5 years the State has to wait to file its petition, even after the case is reached, and the State has proved to the satisfaction of the court that it has not engaged in discrimination for 5 years, then the court retains jurisdiction for another 5 years. That is the situation under the present law.

Even if my amendment is adopted, we would have to go through all of that process, and we would be subject to these provisions for 5 years—the exact provisions of the act: prove nondiscrimination for 5 years, wait until the case is reached and judgment entered, and then the court retains jurisdiction for 5 years.

In effect, they treat us as though we are a bunch of criminals. They put us on probation for 5 years. They retain jurisdiction of the case, and say, "Well, yes, we find that you have not been guilty of any discrimination for 5 years, and that's fine, but we are afraid you are going to go back to your evil ways, so we are going to retain jurisdiction for 5 years," and all the Attorney General has to do to trigger the case again is to file a motion alleging discrimination. It does not require any proof of discrimination.

Let me read an amazing sentence in section 4(a) of the 1965 act, appearing on page 542 of the hearings before the Committee on the Judiciary. This is after the case is reached, and you prove 5 years of nondiscrimination:

> The court shall retain jurisdiciton of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

So the judge reopens it, on the motion of the Attorney General alleging that a device has been used.

Under my amendment, this provision would remain in force and effect for 5 years, until August 7, 1975. During all of that time, the State or other subdivision would have to be free of any type of discrimination. It would have to prove no discrimination for 5 years, and be subject to a probationary period of 5 years at the hands of the Federal court here in Washington—and here, again, is this matter of coming to Washington to try a case in the Federal court, when we have Federal district courts all over the country. Why has the one in Washington any special significance? And why would we want to come to a court that is 2½ years behind with its docket? That is what we have to do, under the terms of the act.

The junior Senator from Alabama, by his amendment, is not seeking to change a single sentence of the Voting Rights Act. But he does want the proponents of the bill to stop coming in here and saying that this act is about to expire, when it is not about to expire. When the Senator from Michigan (Mr. HART) was questioned on that subject, he admitted that it is not about to expire and that it will not expire.

So why all this haste to rush the bill through—not even let the Judiciary Committee give it ample consideration, not even let it go to the Judiciary Committee, until the chairman was subjected to a requirement that he report it by a given date? The Judiciary Committee had other matters that prevented a full hearing of the bill, and it came back without so much as a recommendation of the Judiciary Committee.

So, Mr. President, it occurs to the junior Senator from Alabama that by his amendment he takes at their word the proponents of the Scott-Hart substitute. He takes at their word that all they want to do is to continue the identical provisions of the Voting Rights Act as they now exist on the Federal statute books.

That is what this amendment does. It cuts off sections 4 and 5, 5 years from August 1970.

Yesterday, the junior Senator from Alabama offered an amendment that was rejected, as several of his have been. Several have been adopted, as the junior Senator from Kentucky pointed out. But yesterday the Senate saw fit to reject the amendment of the junior Senator from Alabama which would have repealed sections 4 and 5 now, right now. That is what ought to be done. Voting rights ought to be put on a uniform basis throughout the country. But the Senate, in its wisdom, saw fit to reject the amendment.

So we have gone to the other extreme. We say, "All right. You don't want to repeal sections 4 and 5 now. Let us go ahead and keep them for the 5 years that you say that you want to extend the law." That is all that is added. That is what it says: Add at the end of section 4, "Section 4 of this Act shall expire and become inoperative on August 7, 1975."

The other half of it: "Section 5 of this Act shall expire and become inoperative on August 7, 1975."

During that time, this exact act, as it has existed since its passage, would remain in full force and effect, with not one item changed. That is what the proponents say they want. But they came in, by the admission on the Senate floor of the distinguished Senator from Michigan, and said that their statement that the bill would expire on August 7, 1970, was incorrect, and that that phrase is used as a short method of saying something else that they really meant. That is what we have before the Senate today.

This amendment is offered in all seriousness and candor. It is not a frivolous amendment. It is a serious amendment. It is an amendment that takes at their word the proponents of the measure.

Many Senators, not having read the provisions of the Voting Rights Act of 1965 in some time, and having read in the press time and time again that this act would expire in August of 1970, probably assumed that that was correct. I assumed it was correct until I took the trouble to read the act, and I found to my amazement that no section of the act expires.

The other night I read a small article on the Voting Rights Act in a national news magazine—I shall not state its name, because it is not too important, but it has a general circulation throughout the country—which said in three places that this act is going to expire on August 7, 1970, unless it is renewed. That statement is false.

Mr. President, I regret that the Members of the Senate are not present in larger numbers. I feel that this is an important amendment, and I might say that I would be willing to see the substitute come on for a vote with this amendment adopted, because it puts into effect what they have said they wanted. They want to extend the provisions for 5 years. All this amendment seeks to do is to add after sections 4 and 5 that section 4 shall expire and become inoperative on August 7, 1975, and that section 5 of this act shall become inoperative on August 7, 1975.

According to this Senator's addition, that is 5 years from the fifth anniversary of the passage of the original act. If it is the intention to extend the act to 10 years, this amendment will do that.

The junior Senator from Alabama is not well versed in these matters of wording and is a little confused by the statement that the act is going to expire, when, in fact, it is not going to expire.

All that the junior Senator from Alabama seeks to do is to put the bill in such shape as the proponents have been saying they want it. It seems passing strange to the junior Senator from Alabama that he is having to stand on the floor of the Senate and discuss this matter with the Senate.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. DOLE. Can the Senator give us any idea when we might be able to support the amendment?

Mr. ALLEN. I shall be delighted to yield at this time for a little vocal support.

Mr. DOLE. I was speaking about the real support—the yeas and nays.

Mr. ALLEN. If the Senator from Kansas will advise us when 51 Members of the Senate will share his views, we can vote then.

The junior Senator from Alabama would suggest further that if we were voting on the President's plan, we could vote now.

The junior Senator from Alabama suggests that the amendment he is offering will get the Scott-Hart substitute as nearly in line with the President's plan as we are able to do that, using the framework of the Scott-Hart substitute, and not knocking out sections 4 and 5, as we sought to do yesterday.

Mr. DOLE. Do I correctly understand that the Senator from Alabama is saying that he would support the bill passed by the House—the House-passed voting rights bill?

Mr. ALLEN. The junior Senator from Alabama has made that statement already on the Senate floor earlier this afternoon. He is sorry that the distinguished Senator from Kansas was not present to hear him make that statement.

Personally, he would prefer that this matter be left to the States; but he did say that on such a serious matter as voting rights, if we have a national policy and if all sections of the country are subjected to or have the benefit of the same law, then the junior Senator from

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Alabama is willing to support that, and he will support the President's plan.

The junior Senator from Alabama also would like to suggest to the distinguished Senator from Kansas that if the party of the President would support the President's plan to the extent of some 75 percent of its members, there is a good chance that the President's plan can be adopted.

It does seem passing strange that the junior Senator from Alabama, who, as he said earlier, is an Alabama Democrat, should be advocating the President's plan while he hears very little about it from his colleagues across the aisle.

Mr. DOLE. That may be the new Southern strategy we have been hearing about. But as I remember the motion to table, the vote was about 18 to 16 on this side of the aisle for tabling the substitute. Generally, I share the views expressed by the Senator from Alabama with respect to these two sections.

In fact, the expiration date suggested in the Senator's amendment seems to have merit, but I am not certain that I will be here to support it, because of the conflicts. I wonder whether it will be this week or next week that we may be voting on the amendment?

Mr. ALLEN. The junior Senator from Alabama would be glad to advise the Senator from Kansas if he knew, but it looks like it will be necessary to talk to Members of the Senate in small numbers. He is pleased to hear the expressions of the Senator from Kansas regarding possible support.

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Mr. DOLE. The point I am making is that while the Senator is talking to one small number, there will be another small number that might have to leave, so that I will be glad to pass the word along if it will expedite matters. I am not certain of what the response will be.

Mr. ALLEN. I will be glad to hear from them. I will be glad to have other Senators make similar declarations and the junior Senator from Alabama, with pencil and paper over here, will total up the number.

Mr. DOLE. At this point, the Senator will not need much paper. But I would say, as stated earlier, in the statement made last week, regarding 17 of the 19 sections in the original act, that they are permanent law. As the Senator correctly states, sections 4 and 5 do not expire. They may become partly inoperative but, in effect, as the Senator indicates, they are still a part of the law and they are still a cloud over a part of the country.

I share the view that my State of Kansas and other States in the Nation should have the benefit of the Voting Rights Act or any extension thereof. I support H.R. 4249 as passed by the other body and would hope that I may have a chance, sometime today, to indicate my support.

Mr. ALLEN. I appreciate the remarks of the distinguished Senator from Kansas.

Mr. President, I ask unanimous consent that I may ask for a quorum call, with the assurance that it will not last more than 5 minutes.

The PRESIDING OFFICER (Mr. YOUNG of Ohio). Is there objection? The Chair hears none, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Sergeant at Arms will see that the attachés remain seated or else leave the Senate Chamber.

The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, as I pointed out a few moments ago, on yesterday I offered an amendment to the Scott-Hart substitute seeking to repeal sections 4 and 5 of the Voting Rights Act of 1965 on the theory that these two sections are the so-called trigger sections that trigger the vicious and discriminatory provisions of the act against the seven Southern States.

I pointed out also that it was necessary to repeal these sections if the present voting rights law is to be made applicable to the entire country and use the voting rights law as the basis or vehicle for the change. And that is what the Scott-Hart substitute seeks to do. It seeks to use the present Voting Rights Act as the vehicle for the change and seeks to amend certain sections of it.

The Senate in its wisdom voted down these amendments, causing the junior Senator from Alabama to prepare and to offer the current pending amendment which takes at their word the proponents of the Scott-Hart substitute that all they are seeking to do is to extend the provisions of the Voting Rights Act just as they are, without any change, for a period of 5 years.

In the rest of the country, outside the South, the literacy test under the Scott-Hart substitute is abolished. But the punitive provisions of sections 4 and 5 are applicable only in the South.

So the pending amendment merely adds one sentence to section 4 of the Voting Rights Act and one sentence to section 5 of the Voting Rights Act.

The first sentence as to section 4 says that, "Section 4 of this act shall expire and become inoperative on August 7, 1975."

As to section 5, it says, "Section 5 of this act shall expire and become inoperative on August 7, 1975."

The reason August 7, 1975, is used is that the original act was approved on August 6, 1965. So this would be extending the exact provisions of the act for a period of 10 years from the original effective date. That is what the proponents of the measure said they wanted to do.

The junior Senator from Alabama, on the other hand, has made the statement time and again here on the floor of the Senate that, in fact, no section of the 19 sections of the Voting Rights Act expires in August of 1970 or at any other time by lapse of time. They do not expire. They are there permanently unless changed.

So, the effect of the amendment offered by the junior Senator from Alabama would put an expiration date on the two trigger sections, so-called, of the Voting Rights Act and have them expire 10 years after the original effective date, adding the 5 years that the proponents of the measure say they want.

So, this amendment would do exactly what the proponents of the Scott-Hart substitute said they were seeking to accomplish. However, in dialog earlier this afternoon with the distinguished Senator from Michigan (Mr. HART), he conceded that these sections and that no section of the act would, in fact, expire in August 1970, or at any other time, and that the proponents' use of that term was merely a shorthand rendition of something else that they had in mind.

This amendment will put a cutoff date in the act for the first time there has ever been one, if it is agreed to. But, it will take at their word what the proponents said. There will be another 5 years of the same provisions. So, that would be a cutoff date of August 7, 1975—not on the whole act, which is nationwide, but on these punitive provisions.

I hope that before the afternoon is over I will be able to point out and show to the Members of the Senate wherein these sections are punitive, because they do discriminate against the seven Southern States. They humiliate our people. When I say they discriminate against the seven Southern States, I use the word States not in the sense of being State governments or the territories within the boundaries of the States, but to mean the people of the States.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. LONG. Mr. President, the Senator has made the statement that he would show before the afternoon is over that these sections are punitive. I believe most of us pretty well know the issue. I believe the sections are punitive.

I would hope that he would not take all afternoon to discuss this matter, because I suspect he would get more votes if he lets the Senate vote within the next half hour than if he were to have the Senate vote sometime afterward.

Senators do pretty well understand the issue, and I believe that we will get as many votes if we vote in a half hour as we would get if we voted in 3 or 4 hours.

Mr. ALLEN. I appreciate the suggestion of my distinguished friend. I doubt if we will vote within the next 30 minutes. I do appreciate the suggestion of my distinguished friend.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. ALLEN. I yield.

Mr. LONG. If we are not going to vote sometime soon, then some of us feel we will have to look after some other business and, of course, return for the vote.

Mr. ALLEN. I am delighted to be able to excuse the distinguished Senator; and I will be delighted to have him return for a vote at the time the amendment is called up for a vote.

Mr. President, the Voting Rights Act of 1965 was passed in an effort to discriminate against the Southern States and hold them up to humiliation and vilification. The States against which the act operates were chosen in advance. It was decided that the act would operate against the States of Virginia, North

Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana. But they could not put the names of the States in the law because even the Supreme Court would have found that contrary to the Constitution. However, in order to have a seemingly nationwide application of the law, it was determined that these States had fewer than 50 percent of their voting age population participating in the 1964 presidential election. But it was also found that the State of Texas had only 44 percent of its voting age population voting in the 1964 election. Since the President of the United States was a Texan, as was the Attorney General, some other method of hitting the target of these seven Southern States had to be devised.

On further investigation it was found the State of Texas had no literacy test, whereas the other States did have. It was provided where a State had a literacy test and had fewer than 50 percent of the voting age population participating in the 1964 electioin, that the provisions of the act would automatically be triggered against those Southern States. There was no investigation as to whether there was any discrimination in those States. They were indicted and the people of the States were convicted without a hearing, without an opportunity to present witnesses, or to hear witnesses against them. Federal voting registrars, election observers and poll watchers swarmed over the Southern States.

It is provided that as to these States, operating on the 1964 figure—and the Senate, in rejecting amendments earlier in the debate, was unwilling to update those figures to the 1968 election—that fewer than 50 percent participating in the 1964 presidential election triggered the act against them.

This provided that as to those States the State must come to Washington to obtain approval of any law that it seeks to enact having to do with elections, registration, boundaries of cities or counties, or having to do with voting in any way. It is necessary for a city to do that. They must come hat in hand to Washington for approval of their actions. That is humiliating, indeed. It caused Mr. Justice Black in the case of South Carolina against Katzenbach to hold that section 5 making that requirement was unconstitutional because it gave the Attorney General the right to veto the act of a sovereign State.

Mr. Justice Black said that if Congress could provide that the Attorney General could veto an act of the legislature of a State, Congress could delegate that power to the President or anyone else, to whom it saw fit to delegate that power; and that under our State-Federal relationship, it would be unconstitutional as giving the Federal Government the power to veto the acts of a State legislature.

He also stated that this requirement that the States come to Washington to get approval of their legislative acts—and this is required only of Southern States—was reminiscent of the charge made in the Declaration of Independence against King George III wherein that document charged that the English monarch required legislative and judicial bodies of the Colonies to meet at strange, unusual, and distant places far removed from the places where they kept their records in order to force them to accede to his wishes. The Colonies did not do that. But it was interesting that the opinion of Mr. Justice Black saw a similarity between this requirement in the voting rights law with the despotism of the British monarch.

Now, refusal has been made of the effort to apply 1968 election figures as a criterion for triggering these provisions of the Voting Rights Act against the Southern States. Why use 1964 figures when 1968 figures are available? Why, if the purpose of the act is to encourage registration and voting would a State not be given consideration for having registered thousands and thousands of voters, having come from just under 50 percent of its voting age population participating in an election, up to 70 to 75 percent? Why should not some credit be given for that?

Amendment after amendment was voted down by the Senate at this point, requiring us in the South to continue to be humiliated by this humiliating and insulting statute directed against the people of the South.

The people of the South are not allowed to have literacy tests, whereas other States do have them.

People in other sections do not have to come to Washington to get their acts approved. The people of the South do.

It has been said that the Voting Rights Act is going to expire on August 7 of this year unless renewed, but I have pointed out that that is incorrect, and the senior Senator from Michigan has conceded that is true.

The provision of the amendment that the junior Senator from Alabama has offered does cut sections 4 and 5 out of the act as of August 7, 1975. That would leave 17 sections still in the act, and it would be in effect a nationwide voting rights law. That is what the President has recommended, and that is what we are considering in House bill 4249, to which the Scott-Hart amendment has been offered as a substitute.

So we have before us House bill 4249, approved by the House, calling for a nationwide voting rights law, and we have the Scott-Hart substitute, which would not extend the act, because it needs no extension. It is permanent legislation. What it does is increase the period in which Southern States are required to prove that they have not been guilty of any type of discrimination.

In other words, under the present law, a State can come in at the end of 5 years and prove that it has not been guilty of any discrimination during the preceding 5 years prior to the filing of the petition. If it does not come in at all, the statute continues to operate against the State. Only by coming into the Federal court here in the District of Columbia, filing a petition for release, getting the case heard, and then getting a favorable decision and the acquiescence of the Attorney General in the Federal district court, can the State be released from those punitive provisions.

Even after an order is entered releasing the State, it is kept on probation for a period of 5 years, during which all the Attorney General has to do is file a petition, and he can trigger again the provision of the act against the State.

Suppose it is found, when a State went in and sought release from the provisions of the act, that 3 years before that it had been guilty of some kind of denial of the right to vote or right to register to someone, and the court turned the matter down. It would have to wait for 5 years from the last instance of discrimination. And suppose the State never went in to seek release from this provision. This act would continue on and on and on.

So the purpose of the amendment is to put a definite expiration date to these provisions.

The Scott-Hart amendment, instead of just extending the provisions of the act, seeks to make the 5-year period in which the State must prove nondiscrimination, 10 years.

The amendment seeks to change the measure of proof, the amount of proof, the degree of proof, the length of the sentence, the length of the period or term of conviction and servitude and subjection under the act. It is just as though a prisoner in a penitentiary—and, in effect, that is what the people of the South are under this act—under a 5-year sentence, looking forward to being released at the end of the sentence in August, is told by the warden who comes to him, "Well, we are sorry. They have decided to increase your sentence from 5 years to 10 years." We know that cannot be done. It certainly would be an ex post facto law which would increase a man's sentence after he had been sentenced, started his sentence, and almost completed it.

We have almost completed our sentence, and we do not like this idea of being sentenced by the Federal Government. That is what has happened to us. We would like to feel that we are one nation under God, with liberty and justice for all; but we are not so under this act. There is one rule for the North, another rule for the South.

We resent that, and we resent the indictment and the conviction that has been levied against the people of the South by this vicious Voting Rights Act, which the Scott-Hart amendment seeks not to extend, but to change at a most critical point, and that is the length of our sentence. We have not done anything wrong, but we have been held, under an act of Congress, to have been guilty of discrimination. The Scott-Hart substitute seeks to make our term of conviction a sentence of 10 years instead of 5 years.

Yesterday I used the example of a comparable situation, or a situation with comparable facts, and I related what was recorded in the book of Genesis, in the Bible, wherein Jacob, who is also called Israel, who was the father of the Hebrew nation, worked for a man named Laban, and fell in love with one of his daughters, Rachel, who had an older sister, Leah. Jacob was working for Laban and asked for his daughter Rachel as his wife. Laban agreed that if he would work for him for 7 years, he could have his daughter Rachel for his wife.

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Well, Jacob put in his 7 years of servitude and labor in order to win this beautiful damsel, and at the end of the 7 years, when he was expecting his reward—as we expect our reward for having complied with the Federal statutes—Laban, at a feast, with Jacob not too much in possession of his faculties, was able to give him Leah for his wife.

He had worked 7 years—the 7 years that Laban stipulated—to gain the girl that he loved, Rachel; but instead he ended up with Leah, and he had to work an additional 7 years to obtain Rachel for his wife.

That situation is not too different from that which we face. Instead of 7 years, we have two 5-year periods—5 years of servtitude, 5 years of subjection to this vicious Voting Rights Act; and, as we get into position to move out from under it, with the proof that we have not been guilty of discrimination in 5 years, they say, "No, we are changing that to 10 years." It is an ex post facto law if there ever was one, and we resent it. We feel that this law, if it is to apply at all, should apply nationwide.

Several weeks ago we had considerable debate on the Senate floor regarding uniformity in application of Federal policy regarding desegregation of our public schools. The eminent and able Senator from Mississippi (Mr. STENNIS) offered an amendment which called for uniformity in the application and enforcement of criteria of the Federal Government regarding the desegregation of the public schools of the Nation. The Senate, in a great display of statesmanship, voted in favor of that Stennis amendment, saying that we should have a uniform rule, that we should have the same rule throughout the country, that we should not have one rule in the South and another rule in the North.

XUM

The same policy should be followed with respect to voting rights. What is more important than a man's right to vote? One of the problems we have in our Nation is not only getting people in a position where they are eligible to vote, but getting them to go out and exercise that franchise after they have become eligible. But you take a man's franchise away from him, you say that a voter cannot go to the polls, and you are going to hear from him. We are apathetic about it until the right is denied.

So voting rights are important. The right to vote is one of the greatest rights we have in a democracy, because it gives us a feeling and a sense of participation in the Nation's Government and in the affairs of our State and local governments. We cherish that right.

We also, in my State—and I know that Senators from other States feel the same—value our good name. We resent the fact that we have been declared by act of Congress to be guilty of discrimination, without any proof, without any hearings, and without any witnesses, merely because we did not measure up to a mathematical formula agreed on in advance so as to apply to seven Southern States only.

That is the reason that the junior Seantor from Alabama has been unwilling to agree on a limitation of time regarding this substitute bill, the Scott-Hart substitute, because it does deal with matters that are basic, inherent, fundamental, and important to the people of Alabama and the South.

Yes; put a limitation on it if you are going to consider a military procurement bill involving billions of dollars, or a foreign aid bill involving billions of dollars. Put a limitation on that; because that is only money. But where you are defaming the good name of our people, where you are holding us up to vilification, humiliation, and abuse, that is a matter on which we cannot agree upon a time limitation. That is the reason why the junior Senator from Alabama has felt impelled to speak for his people, to whom this legislation is anathema, and point out how the people of his State feel about this legislation. His feeling and their feeling is that the act has been vicious, and it has held us up to contempt, vilification, criticism, and abuse, has treated us as second-class citizens—and we do not like that, we resent it—the enactment of the act is past. Let us let the legislation be past and gone.

Under this amendment, provisions 4 and 5 are permitted to go on for another 5 years, just exactly as they are on the statute books today.

Mr. STENNIS. Mr. President, before the Senator leaves the thought he has been expressing, will he yield to me briefly?

Mr. ALLEN. I am delighted to yield.

Mr. STENNIS. Mr. President, I think the Senator has given a fine illustration of why he thinks this matter ought to be debated word by word. We are not dealing here with material things.

Mr. ALLEN. That is exactly right.

Mr. STENNIS. We are dealing with things that are more important, that rise above the ordinary; and this sentence that these States are under now, including my own, subjects them to a law. Some law is going to be passed here; I think there is no doubt about that. I am glad to have heard the Senator's argument. I am glad he has made it, or is making it now.

But, as I understand—and I want to be certain—by this amendment the Senator does not propose to destroy the 5-year duration of this new proposal, or this new law that is proposed to pick up where the old one ends; under his amendment, it would definitely continue for 5 years?

Mr. ALLEN. My amendment would continue the present law, every single word of it, yes. It would not change any of its provisions.

Mr. STENNIS. No. It would provide a termination date, though, of August 7, 1975?

Mr. ALLEN. Yes; that is correct.

Mr. STENNIS. Which is a little over 5 years from now, of course.

Mr. ALLEN. Yes.

Mr. STENNIS. And the same provisions, as I understand it, unusual as they are, would apply as in the present law about the degree of proof, if I may use that term, although it does not require any proof?

Mr. ALLEN. That is correct.

Mr. STENNIS. It is just a mandate of the law?

Mr. ALLEN. Yes.

Mr. STENNIS. The same thought with reference to the weight of the evidence, so to speak—there will not be any weight of the evidence? The State will just be guilty under the mandate of the law?

Mr. ALLEN. That is correct.

Mr. STENNIS. But the Senator proposes to let that continue for 5 years, under his amendment?

Mr. ALLEN. That is correct.

Mr. STENNIS. Certainly, that would give Congress a chance to make such reappraisal, take another look, as we say here, and determine in its own wisdom whether there would be an extension of such a law beyond the 5 years mentioned here.

Mr. ALLEN. That is correct.

Mr. STENNIS. Perhaps by then there would be a mood that had mellowed some, with more willingness to give the presumption of innocence to our area of the country. Is that one of the objectives of the Senator?

Mr. ALLEN. That is correct.

Mr. STENNIS. I think the Senator is to be highly commended, and I salute him for his work and his effort, and I join him in it. I thank the Senator, too, for his work here yesterday, when he really strengthened these matters and brought them out clearly, so that there is a clear-cut choice on which the Senate can vote.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I should like to explain again the purpose and effect of the amendment. The proponents of the Scott-Hart substitute have been stating that it was necessary to enact it to prevent the Voting Rights Act of 1965 from expiring on August 6, 1970. In colloquy earlier this afternoon with the distinguished Senator from Michigan, he conceded that that statement is not correct, that no portion of the act does expire on that date or at any other given date that all the provisions continue to be operative until changed by Congress.

Taking the original explanation at its face value, that is, that the proponents of the measure, the Scott-Hart substitute, were seeking merely to extend for 5 years the present provisions of the Voting Rights Act of 1965. The junior Senator from Alabama introduced the amendment now under consideration.

All that the amendment would do would put a cut-off date on the operation of sections 4 and 5 which localizes the provisions of the Voting Rights Act in the South and which make the punitive provisions applicable only in the South.

Thus, the amendment would put a cut-off date of 5 years from August 7, 1970, to August 6, 1975, on the section, so that for the next 5 years we would be governed by the provisions of the present Voting Rights Act.

The key point is that whereas this would provide a cut-off date on trigger sections 4 and 5, it does not, as the Scott-Hart amendment seeks to do, change the 5-year period of servitude which the South is under to 10 years. That is what the Scott-Hart substitute seeks to do, rather than to extend the act for 5 years.

The effect of the pending amendment would be to put that 5 years not on our sentence but on the duration of the act, so that the States convicted under the act of Congress in the automatic triggering device could come in under the present provisions of the law, to seek to get release from the punitive provisions, on a showing of 5 years nondiscrimination, as under present law, instead of the 10 years that the distinguished Senator from Pennsylvania would impose upon us.

The junior Senator from Alabama has pointed out that to change—and the distinguished Senator from Mississippi has underscored this point—from 5 years to 10 years, as the Scott-Hart substitute seeks to do would, in effect, be increasing a sentence on a prisoner from the sentence that he is serving, by adding 5 years to the term of the sentence. The people of the South are imprisoned under this bill just as a prisoner is.

So that the purpose of the amendment is to give the 5 years uninterrupted operation of the Voting Rights Act word for word as it is at present.

So, Mr. President, it would seem to the junior Senator from Alabama that if the Senate wants to carry into effect the stated purpose of the Scott-Hart substitute; namely, to extend the operation of the act as is for 5 years, then the amendment offered by the Senator from Alabama would accomplish that.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Young of Ohio). The question is on agreeing to the amendment of the Senator from Alabama.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Georgia (Mr. Russell). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. Dodd), the Senator from North Carolina (Mr. Jordan), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. McCarthy), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Georgia (Mr. Russell), and the Senator from Texas (Mr. Yarborough) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from Arkansas (Mr. McClellan), the Senator from Utah (Mr. Moss), and the Senator from Hawaii (Mr. Inouye) are absent on official business.

I further announce that, if present and voting, the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from Rhode Island (Mr. Pastore), and the Senator from Texas (Mr. Yarborough) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Hruska), the Senator from Illinois (Mr. Smith), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Florida (Mr. Gurney) is absent because of illness in his family.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from North Dakota (Mr. Young) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. Mundt) would vote "yea."

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from Illinois (Mr. Smith). If present and voting, the Senator from Texas would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 25, nays 52, as follows:

[No. 103 Leg.]

YEAS—25

Allen
Allott
Baker
Bennett
Byrd, Va.
Byrd, W. Va.
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fulbright
Goldwater
Hansen
Holland
Hollings
Murphy
Sparkman
Spong
Stennis
Talmadge
Thurmond

NAYS—52

Aiken
Anderson
Bayh
Bible
Boggs
Brooke
Burdick
Cannon
Case
Cook
Cooper
Eagleton
Fong
Goodell
Gore
Griffin
Harris
Hart
Hartke
Hatfield
Hughes
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Symington
Tydings
Williams, N.J.
Williams, Del.
Young, Ohio

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—22

Bellmon
Church
Cranston
Dodd
Gravel
Gurney
Hruska
Inouye
Jordan, N.C.
Long
McCarthy
McClellan
Montoya
Moss
Mundt
Pastore
Russell
Smith, Ill.
Stevens
Tower
Yarborough
Young, N. Dak.

So Mr. Allen's amendment was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(The following discussion on the imposing postal strike occurred during the debate on the Allen amendment and, by order of the Senate, is printed at this point in the Record:)

AN IMPENDING POSTAL STRIKE

Mr. McGEE. Mr. President, a few moments ago I was advised of an impending postal strike by a group in Long Island. Because of the action of the House Committee on yesterday, passing a postal reform bill with a formua for postal salary increases, because of the already announced executive session of the Senate Committee on Post Office and Civil Service on Thursday next to mark up our postal reform bill in conjunction with postal rate adjustments, I think it is important to say that if there is a precipitate act such as threatened now, nothing could do more to harm the cause or place in greater jeopardy the chance for comparability in wage adjustments for postal employees, or, indeed, all of the employees.

We should remind ourselves that a deadline for a strike on Monday, or Tuesday, or any day takes no precedence over the importance of a government under law being maintained. We are going about this expeditiously, with dispatch, and we are arriving at the best judgment this Congress can arrive at under the law.

For that reason, I wanted, as chairman of the Senate Committee on Post Office and Civil Service, to issue the reminder that all that a precipitate act can do at this critical stage, of all time, is not only to "louse it up," but probably to introduce a series of reverse responses that could only make matters much worse.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. GRIFFIN. I wish to associate myself with the remarks the Senator has made and to make clear that what he has had to say has bipartisan support. Not only would such a strike be illegal and in violation of the law, but I agree with him that it would not help the legislative at all.

Mr. McGEE. I thank the minority whip for his statement.

Mr. President, I have a lengthier statement to make on this subject.

Mr. President, yesterday the Committee on Post Office and Civil Service in the House of Representatives voted to report to the House a postal reorganization bill establishing the Postal Service Authority, which is in fact a Government corporation, and recommending a 5.4 percent retroactive pay increase for postal employees in the clerk and letter carrier categories and below, but nothing for other postal employees, 1.5 million classified employees, or 3 million military servicemen.

Also, yesterday I announced that the Senate Committee on Postal Office and Civil Service has scheduled an executive session to consider postal reorganization on Thursday, March 19. At that time, I intend to lay before the commit-

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tee a proposal to reorganize the present Post Office Department and discuss with my fellow Senators on the committee the problems and proposed solutions pertaining to the post office.

Closely related to postal reform is the vitally important subject of the pay we legislate for our postal and other Federal employees. To say that the pressure for pay increases has been intense is to understate the case. Likewise, to say that pay raises are badly needed is so obvious that no one who has any familiarity with the pay lag for Federal employees and the effect of inflation on the families of Federal employees could for a moment doubt that pay raises are justified.

Your committee recognized the necessity for pay adjustments long ago and, of course, the Senate acted expeditiously in unanimously voting a 4-percent increase last December for rank-and-file postal and classified Federal employees. That bill has languished since then. Although it would have increased the take-home pay of every rank-and-file employee in the Federal Government and would have guaranteed at least a 7-percent annual pay increase for all Federal employees by July 1—just 3 months from now—it was described by one employee union magazine as a "monstrosity of legislation."

Now I have been advised that unless the Congress acts within 2 days to guarantee very significant and unprecedented pay increases for some employees, there will be a postal strike. The challenge is that simple.

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No Senator has more appreciation for the needs of our postal and other Federal employees than the chairman of the Post Office and Civil Service Committee. I do not wish to be immodest in saying that I take great pride in the role that I am honored to have as chairman in helping to insure that Federal employees share in the bounty of our great Nation. I am proud to have coauthored the McGee-Daniels Civil Service Retirement Act of 1969, which did more to improve the civil service retirement program for our employees than any other piece of legislation in a score of years. I am proud to be the author of legislation, which I hope the Senate will enact at an early date, to require the Federal Government to pay a greater share of the cost of health insurance for Federal employees; and I am proud of the pay legislation which I have sponsored and guided through the Senate. The members of the Post Office and Civil Service Committee are second to none in having concern for, and doing something about, the welfare of Federal employees.

Therefore, I believe that it is incumbent upon me to make it very clear that the threat of reprisals by anyone, anywhere, that if the Senate does not act by a deadline, some precipitate, unwarranted, and illegal action will be taken contributes nothing whatsoever toward resolving the real postal and pay problems we face. The committee will meet next Thursday, and after we have a full and adequate opportunity to consider postal reorganization and the need for any further pay legislation, we will act. I am sure that the majority leader will cooperate with us, as he always has, to achieve speedy enactment of the best bill possible. I am equally confident that our very able colleagues from the House will cooperate.

I hope, therefore, that those who counsel, stir up, initiate, or otherwise participate in "rattling the saber" of a postal strike will consider very carefully the wisdom of their action and the results they might achieve. It seems to me the one way to insure that the public sentiment, as well as the congressional sentiment, might change from understanding and cooperation to suspicion and hostility would be for a misguided handful of employees to take matters into their own hands, to strike in violation of the criminal statutes of the United States, and to walk out on the American people.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. McGEE). The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. COOPER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 2, between lines 6 and 7, insert the following new section:

SEC. 5. Section 5 of the Voting Rights Act of 1965 (79 Stat. 439; 42 U.S.C. 1973c) is amended by (1) inserting after "section 4 (a)" the following: "based upon determinations made under the first sentence of section 4(b)", and (2) inserting after "1964," the following: "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the second sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968,".

On page 2, line 7, strike out "Sec. 4" and insert in lieu thereof "Sec. 6".

Mr. COOPER. Mr. President, I have discussed this amendment with the Senator from Pennsylvania (Senator SCOTT). It is a technical amendment but it also has substance. Senators will remember that 3 days ago I offered an amendment to section 4(b) of the Scott-Hart amendment. The effect of that amendment, which was agreed to by the Senate, was to prescribe second dates in 1968, as a base for the "trigger" in States which did not register 50 percent of their residents of voting age on November 1, 1968, or in which 50 percent did not vote in the Presidential election of 1968. Such States would automatically fall under the provisions of section 4(b) as have other States with reference to registration and voting in the 1964 Presidential election. That was an amendment to section 4(b).

A similar amendment should have been provided for section 5. As the Senate knows, section 5 provides that a State which maintained a test or device on November 1, 1964, and desired to make a change in its test or qualification, must institute action for a declaratory judgment.

As the Senate has acted to provide the proceeding for additional States to be brought under section 4(b), then it follows logically that an amendment should be provided for in section 5. The only change would be as follows: I shall read section 5:

> Whenever a State or political subdivision with respect to the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964.

My amendment in effect would add "on November 1, 1968."

Mr. SCOTT. Mr. President, I am aware of the amendment proposed by the Senatory from Kentucky. While it has modest substance in it, it is a perfecting amendment. The purpose is to clarify what was to be accomplished. I have no objection.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. COOPER. I yield.

Mr. JAVITS. As I understand the amendment, it proceeds upon the fact that the Senate has already acted with respect to a test used in a particular State in relating that test to the size of the voting and, therefore, to the implications which that has in respect of the Voting Rights Act. I understand that the present amendment extends that situation to any change in the law of that particualr State or of the rules or regulations followed by that particular State.

Is there anything in the change which would take it out from under the provisions of law which enable a State or part of a State to be freed of those restrictions upon the determination of a court as provided by the Voting Rights Act? In other words, if the so-called perfecting amendment were adopted, would the particular State or local area still be able, by a declaratory judgment proceeding in court, to be freed of the inhibitions, whatever they may be, of both sections 4 and 5 of the Voting Rights Act?

Mr. COOPER. The Senator's interpretation is correct. It would extend to such State or subdivision power to enter the court, file a suit for declaratory judgment, and, if such State or subdivision were able to sustain the fact that it had not practiced discrimination, it would be released from the coverage of the act.

Mr. JAVITS. And the provisions of section 4(a), then, with relation to such declaratory judgment proceeding, would not be affected by the amendment now proposed to be changed as they apply to section 5?

Mr. COOPER. That is correct.

Mr. JAVITS. My reason for the question is that I can read the statute and know what it says, but I do not know exactly what the Senator is doing. I want to be sure our intent is correct, so that if he is doing something other than what he thinks he is doing, it can be straightened out in conference.

Mr. COOPER. I may be doing something other than what I think I am doing, but I think I know what I am doing and what the amendment intends. The amendment I offer would authorize States placed under the trigger by reason of my amendment section 4(b) which has been agreed to by the Senate, and it would afford to any State that may fall under the trigger of the 1968 provision, the same cause of action which is provided for other States under the 1964 date.

Mr. JAVITS. For a declaratory judgment?

Mr. COOPER. For a declaratory judgment. That is the purpose of my amendment. I do not intend any other effect, and I do not believe it has any other effect.

Mr. SCOTT. If the Senator will yield, 4(a) of the amendment is not affected.

Mr. JAVITS. And it continues to apply to 5?

Mr. COOPER. Yes.

Mr. JAVITS. Mr. President, I opposed the Senator's earlier amendment, and I still do, but I think the Senate has spoken. This effort is simply to bring about consistency in the drafting, and I have no objection.

Mr. COOPER. I thank the Senator for his statement and for his explanation.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter sent to me by the Department of Justice which gives a certification of the 1968 election as it affects certain States.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., March 11, 1970.

Sen. JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOPER: In accordance with your request today, I am enclosing a table containing statistics on counties maintaining, on November 1, 1968, a test or device within the meaning of Section 4 of the Voting Rights Act of 1965 in which less than 50 percent of persons of voting age voted in the Presidential election of 1968.

Please note that the statistics on voting age population are based on the 1960 Federal Census.

Please let me know if I can be of any further assistance to you.

Sincerely,

DAVID L. NORMAN,
Deputy Assistant Attorney General, Civil Rights Division.

COUNTIES MAINTAINING ON NOV. 1, 1968, A TEST OR DEVICE WITHIN THE MEANING OF SEC. 4 OF THE VOTING RIGHTS ACT OF 1965 IN WHICH LESS THAN 50 PERCENT OF PERSONS OF VOTING AGE VOTED IN THE PRESIDENTIAL ELECTION OF 1968

State and county	Population of voting age, 1960[1]	Total vote in 1968 election[2]	Percent of voting age persons who voted
Alaska:			
District 11	4,379	2,095	47.8
District 12	4,081	851	20.8
District 16	27,615	12,175	44.1
Arizona: Apache	13,035	4,162	31.9
California: Imperial	41,215	20,399	49.5
Idaho: Elmore	8,909	3,769	42.3
New York:			
Bronx	965,315	441,649	45.8
Kings	1,745,408	770,673	44.2
New York	1,257,867	519,222	41.3
Oregon: Wheeler	1,566	762	48.7

[1] Source: U.S. Bureau of the Census: Current Population Reports, Series P-23, No. 14, April 21, 1965.

[2] Source: Statistics furnished by Secretaries of State of respective States.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. MURPHY. Mr. President, I would like to ask the manager of the bill a question. It has to with the language "the term 'test or device' means any requirement that a person as a prerequisite for voting," and so forth.

Some of our States contain many citizens who do not speak English. In our State we have many Mexican-Americans and Indians. Nor do they read English.

As I read that section of the substitute, it states:

> (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject . . .

These people are not illiterate, by any means. They are extremely bright, many of them extremely competent, but in their own language, not in English.

I would like the manager of the bill to say whether or not he agrees with me that, under the pending measure, which would ban literacy tests, it would clearly preclude the use of any test or device requiring one to read or write in English.

Mr. SCOTT. Yes, I will be glad to answer that question. I agree with the distinguished Senator from California that the ban of literacy tests would clearly preclude any requirement that any such person would have to read or write in English.

Mr. MURPHY. I noticed one of the facts mentioned in the discussions that it is now prevalent in the country that one can learn a great deal about political matters from radio or television. There are many Spanish-speaking programs in California. I understand some Chinese programs are being innovated in the San Francisco and Los Angeles areas. So that would apply to the Spanish-speaking, the Indian, the Japanese, and the Chinese.

Mr. SCOTT. Es verdad. The Senator is correct.

Mr. MURPHY. I thank the Senator.

Mr. JAVITS. Mr. President, I have not spoken heretofore with respect to the Scott-Hart amendment in a definitive way and I wish to do so now. I shall vote for the Scott-Hart substitute.

Mr. President, for almost a month now, we have been discussing, and with some emotion, the extension and application of certain laws passed during the early 1960's to extend equal treatment to all Americans regardless of color. Last month we debated the continued application of school desegregation guidelines first established to implement the 1964 act. It was an extremely emotional debate in which the North was charged with enacting regional legislation designed to punish one segment of the country. Today, we hear the same argument with regard to the extension of voting rights legislation enacted in 1965.

I think it would be well at this time to look back a few years at the conditions which produced this kind of legislation and to consider whether the Voting Rights Act of 1965 was indeed designed to punish one segment of the country, or whether it was absolutely necessary to insure equality of treatment which had been denied to black Americans for decades. Surely, if we review conditions and statistics prevailing in 1964, we can see why these laws came to be enacted.

Let us consider the conditions of the black voter in the South in 1964—the conditions which brought about the passage of the 1965 act. Throughout the South, literacy tests and other devices were employed discriminatorily in order to keep the Negro from voting; so, too, were many other forms of intimidation, including violence. In Mississippi, 6.4 percent of eligible black voters were registered. In Georgia, 25 percent; in Louisiana 30.5 percent. Remember these figures. This law didn't spring full bloom from the minds of Northern Congressmen as some mad design to punish the South. These were the conditions which existed, and which absolutely had to be remedied. And the law has worked.

In the 5 years since the passage of the act, more than 800,000 black Americans have been registered in the six affected States. Dozens of blacks have been elected to State and local office. Finally, many formerly disenfranchised black Americans are beginning to feel and act like citizens—a right which had been theirs by virtue of the Constitution, for a century, but which had been denied.

And so now that registration and voter participation has increased because of the act, because of Federal registrars and poll watchers, because of suspension of the literacy tests, and because of Federal surveillance of State election laws, it is suggested that we abandon these tools and relegate the whole problem to a period of "benign neglect." We have seen in Lamar, S.C., the new climate which is capable of being produced when the Federal Government gives the smallest indication of slackening in its determination to proceed on school desegregation, and I, for one, am not prepared to see this happen in the field of voter protection.

We need this law for at least another 5 years; the black voter needs this protection and he should be able to count on the Federal Government to provide it.

It is interesting to note that even after the passage of the 1965 act, the affected States used every possible means to evade it by changing State and local laws. Elective offices were changed to appointed ones. Voter districts were changed and at-large elections were ordered. Deadlines for filing of candidates papers were changed. Every possible obstacle was thrown in the path of the black voter. It is only section 5 of the 1965 act which saved them. We cannot afford to abandon it.

The House committee report, for example, states that—

> These measures have taken the form of switching to at-large elections where Negro voting strength is concentrated in particular election districts and facilitating the consolidation of predominantly Negro and predominantly white counties. Other changes in rules or practices affecting voting have included increasing filing fees in elections where Negro candidates were running; abolishing or making appointive office sought by Negro candidates; extending the term of office of incumbent white officials, and withholding information about qualifying for office from Negro candidates.

This pattern of obstruction has continued, resulting in the Attorney General's disapproval, only 10 months ago, of three amendments to the Mississippi statute which would: First, provide for the at-large election of members of the county boards of supervisors at the option of incumbent boards; second, increase the requirements which must be met to qualify as an independent candidate; and third, require the appointment rather than the election of certain officials. In June of last year, the Attorney General had to object to the implementation of two similar statutes in Louisiana. This is not the time to slacken upon the law lest we encourage the kind of men who hand out ax handles as a persistent and flagrant testimony to their determination to resist the law.

In 1964 the dual school system prevailed in the South in spite of a Supreme Court decision of 10 years standing mandating a unitary system. The law was ignored—even flaunted—and an entire generation of Negro youngsters was deprived of a quality integrated education. So we passed the 1964 act saying, in effect, the Federal Government would not stand for this condition any longer. We cut off Federal money from any district which continued to segregate, and we vigorously pursued court action to integrate the schools.

Within 5 years, more than a million black children in the South were admitted to school with whites. By September of this year, compliance would have been complete. But for a few months, we hesitated. The guidelines were modified. Enforcement was slowed. Government officials with dedication to this cause were dismissed. And last month, the Senate adopted two amendments which appear to encourage delay. We see now what has happened in response to this weakening of our resolve. The many thousands of State and local officials who, in good faith, complied with the law, now find themselves undercut. And, most important, we have encouraged, by our indecision, the very worst, the violent element in our Nation—those dedicated to resistance, even if it means violence. The true extent of the damage was shown last week in Lamar, S.C., when a band of lawless and vicious hooligans stoned school busses filled with black children attempting to attend an integrated school and actually overturned those buses after the children had escaped into school. This morning, in Lamar, the National Guard is on alert because the schools have reopened and armed troops may be necessary to protect children from the violence of a lawless mob. Is it not sickening? Is it not shocking that after some years of relatively peaceful compliance with the law, and indeed on the very brink of full compliance, the conditions of 1957 can occur again? Lamar, S.C., has shown us vividly the price of vacillation.

I urge my colleagues not to abandon the cause of voting rights now. The time is crucial. A failure by the Congress and all the progress of the last 6 years in voting rights can be destroyed. Let us continue to enforce the law which has brought about so much progress, so much hope, and rekindled in so many Americans, the belief that we really can provide equal justice under law for all. This can best be done by passing the Scott-Hart amendment.

THE ADMINISTRATION'S AMENDMENTS TO THE VOTING RIGHTS ACT

Mr. ERVIN. Mr. President, thus far I have devoted my remarks to a discussion of the 1965 act. I would like now to talk briefly to the administration's proposal.

The administration's proposal, H.R. 4249, is only a little less objectionable than the proposal to extend the 1965 Voting Rights Act for 5 years without any change. It does have the virtue of eliminating the discriminatory and illogical trigger device, terminating the exclusive jurisdiction of the District Court of the District of Columbia, and taking away the unreviewable authority of the Attorney General to disallow changes in State voting laws. These changes make the administration's proposal appealing, but only in contrast with the 1965 act itself. They do very little to correct the fundamenal constitutional defects in the 1965 act. Indeed, by providing for the elimination of literacy tests nationwide and by prescribing uniform residency requirements for presidential elections, the administration's amendments to the 1965 act incorporate even greater inroads upon the State's constitutional authority over voting qualifications.

The proposed elimination of literacy tests throughout the Nation represents a direct assault upon the constitutional and traditional authority of the States over voting qualifications. Section 2 of article I, section 1 of article II, the 10th amendment, and the 17th amendment, clearly grant to the States this authority. It is true that section 2 of the 15th amendment grants Congress the power to enact "appropriate legislation" to insure that no person is deprived of the right to vote on account of race, color, or previous condition of servitude. However, the essentially negative mandate of the 15th amendment does not include congressional power to grant the right to vote where it does not otherwise exist; it only prohibits the States from denying suffrage on the ground of race or color.

Even from a more expansive view of congressional power under section 2 of the 15th amendment, the Congress would have to make legislative findings to the effect that literacy tests across the Nation per se constitute a denial of the right to vote on account of race. This finding of fact has not been made and cannot be made on any evidence submitted by the Department of Justice.

The Supreme Court has twice dealt directly with the constitutionality of State literacy tests. In both instances, it has decided that, in the absence of unreasonable and discriminatory application as prohibited by the 15th amendment, the literacy test is a valid exercise of the State's power, and the citizen is not deprived of any right under the Constitution. See *Guinn* v. *U.S.*, 238 U.S. 347 (1915); *Lassiter* v. *Northampton County Board*, 360 U.S. 45 (1959). In the Lassiter case, the Court clearly set forth the power of the States to require literacy tests as a condition for the exercise of the franchise:

> We come then to the question whether a state may, consistently with the fourteenth and seventeenth amendments, apply a literacy test to all voters irrespective of race or color. The Court in *Guinn* v. *United States* disposed of the question in a few words. "No time need be spent on the question of the validity of the literacy test considered alone, since, as we have seen, its establishment was but the exercise by the state of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted." [238 U.S. at 366]

Despite the Supreme Court's decision in Lassiter against Northampton County, there are those who assert that Congress has power under the 14th amendment to abrogate State power over voter qualifications. They contend that section 5 of the 14th amendment gives the Congress power to define the equal protection clause.

Unfortunately, this pernicious theory has been embraced by a majority of the justices on the Supreme Court in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966).

In holding that section 4(e) of the Voting Rights Act of 1965 is a constitutional exercise of Congress' power under section 5 of the 14th amendment, the majority in *Katzenbach* against *Morgan* asserted that Congress could find that an English literacy test was a violation of the equal protection clause of the 14th amendment even if a State legislature and the Federal courts determined otherwise. The scope of judicial review over such a congressional determination would be limited to whether the purpose of the legislation was proper and the means chosen appropriate. Congress, in other words, has the power to determine whether State action poses any possible threat to the equal protection of the law and, after making such a determination, can proceed to prohibit such State action. The scope of such congressional power is limitless.

XUM

According to Prof. Archibald Cox's analysis of this theory, Congress can invalidate State legislation upon the ground that it denies equal protection where the Supreme Court itself would uphold, or even has upheld, the constitutionality of the same statute. It would be enough if Congress has a "rational basis" for the conclusion that a certain State action violated the equal protection clause and, therefore, should be prohibited.

I reject this theory as a basis for a nationwide ban on literacy tests. I trust that the Congress will not accept any such fundamental disregard of the Federal system of government provided for in the Constitution.

The language of the Constitution and the history of our Republic make clear that the States have authority to prescribe voting qualifications. To find a constitutional basis for invading such authority in any other part of the Constitution is to assume that the Constitution is to be interpreted as containing mutually hostile rather than harmonious provisions. Except for the Morgan case, to the best of my understanding, neither the Supreme Court nor the Congress has ever accepted such an interpretation.

In the past, Congress has used a constitutional amendment as the means for affecting voting qualifications. It is especially noteworthy that in this same session of Congress the Senate has under consideration a proposed constitutional amendment to lower the voting age to 18 years. I do not understand why, according to the constitutional theory underlying the administration's proposal to eliminate literacy tests and residency requirements, Congress could not proceed to do the same thing through the legislative process. Indeed, Prof. Archibald Cox, of the Harvard Law School, in recent testimony before the Subcommittee on Constitutional Rights, argued for this very position. He said:

> In my opinion, the constitutional underpinning for abolishing residency requirements and literacy tests is equally applicable to legislation reducing the voting age to eighteen.

I am left with the suspicion that an unsupportable and dangerous constitutional theory has been hastily constructed to support the immediate demands of certain powerful interest groups. Such an attitude toward our constitutional form of Government cannot bring forth any lasting security for the rights of the individual.

My objections to the proposed restriction on State residential requirements for voting in presidential elections are basically the same as those I have concerning the proposal to eliminate the literacy test or to lower the voting age. While few persons would look with disfavor upon a broadening of the franchise by reducing voter residency requirements, an attempt to change these requirements by Federal legislation is simply not sanctioned by the Constitution. To contend that the 14th amendment gives Congress such authority is to suggest again a constitutional theory which would allow the complete dismantling of State power over all matters. The States themselves have both the constitutional authority and the wisdom to consider the merits of proposals to reduce or to eliminate residency requirements.

While Congress in its collective wisdom may believe that residency requirements are no longer as necessary as they were 100 years ago, it has no constitutional authority to decide that residency requirements per se violate the due process or equal protection clauses of the 14th amendment and, therefore, should be prohibited by statute. Such a determination is for the courts to make. Yet, such a usurpation by Congress of a judicial function underlies the constitutional theory set forth as the basis for Congress' power to enact such legislation.

I respectfully submit that the proposed Federal restriction on State residency requirements for voting in Presidential elections constitutes both a violation of the separation of powers doctrine and a serious undermining of our Federal system of government.

The administration's bill proposes the establishment of a National Advisory Commission on Voting Rights to study the effect upon voting of residency and literacy laws as prerequisites to voting. The bill expressly authorizes the Commission "to collect data regarding voting in Presidential and other elections, by race, national origin, and income groups."

Mr. President, the nature of the studies authorized to be conducted by this provision of the act clearly constitutes a threat to the individual's right to privacy. There are already enough surveys, questionnaires, information forms, and other data collecting activities by the Federal Government to compromise seriously the individual's "right to be let alone." I see no compelling reason to initiate yet another assault on this right as is lurking in the proposed establishment of the Commission on Voting Rights.

While I am sympathetic with both the liberalization of literacy tests and residency requirements as conditions for voting, I oppose any attempt by the Congress to legislate in an area so clearly within the exclusive domain of the States. In my view, Congress simply does not have constitutional authority to enact the amendments to the 1965 Voting Rights Act as proposed by the administration. If there is general agreement on the elimination of literacy tests, lowering voting age to 18, and establishing uniform residency requirements, let us make these reforms through constitutionally sanctioned means.

Again, Mr. President, I will acknowledge the merit of the administration's amendment to the 1965 act in that it provides for uniform application of its provisions. To a Senator from the South, who has seen his State and others of the South subject to unfair and unequal treatment by the Congress, I am not unappreciative of the administration's approach. However, simply stated, I cannot support even a uniformly applied unconstitutional piece of legislation.

Mr. SCOTT. Mr. President, on the substitute offered by the distinguished Senator from Michigan (Mr. HART) and myself, at this point I demand the yeas and nays.

The yeas and nays were ordered.

Mr. SCOTT. I wish to announce, Mr. President, that when we reach that point, following the vote on the substitute, if the substitute shall be adopted, I shall then ask for another vote, on final passage of the bill as amended by the Scott-Hart substitute amendment, and I shall ask for the yeas and nays—I do this so that Senators may be advised.

The PRESIDING OFFICER (Mr. McGEE). The question is on agreeing to the amendment of the Senator from Michigan (Mr. HART) and the Senator from Pennsylvania (Mr. SCOTT), as modified and as amended.

Mr. GRIFFIN. Mr. President, the distinguished Senator from Florida (Mr. GURNEY), who is necessarily absent because of illness in his family, has asked me, and has authorized me to state his views on the Voting Rights Act now before us.

Senator GURNEY favored the enactment of H.R. 4249, the administration's sponsored Voting Rights Act, in the form approved by the House.

Had he been present, Senator GURNEY would have opposed and would have voted against the Scott-Hart amendment—amendment No. 519.

Had he been present, Senator GURNEY would have opposed and would have voted against the Mansfield amendment—amendment No. 545—for reasons he had previously made clear.

The inclusion of these amendments in the Senate version of the bill has compelled Senator GURNEY reluctantly to withdraw his support for the bill now before us.

If present, Senator GURNEY would oppose the bill in its present form and would vote against it. It is Senator GURNEY's hope that these provisions will be deleted in conference, and that he will be in a position to support fully the conference version.

Mr. TALMADGE. Mr. President, the Voting Rights Act of 1965 is scheduled to expire on August 5 of this year.

This law is sectional legislation at its worst. It was enacted purely and simply as a punitive measure against only a few carefully selected States.

This law is clearly unconstitutional in that it deprives these States of their right to set qualifications for voting.

Because it is regional legislation and because it flies in the face of clear constitutional doctrine, the Voting Rights Act of 1965 should be allowed to die.

Some say that it has done some good, that between 800,000 and 1 million people have been registered to vote since it went into effect in 1965. That is good. No one that I know of would argue with the proposition that every qualified American citizen is entitled to the full and unfettered right to vote. Voting is more than a right. It is also a duty.

But I have yet to see any substantial proof that the number of minority voters registered since 1965 would not have been registered if the law had not been enacted.

Over the past several years there has been greatly increased interest in voter registration. This has been due to a great many factors, such as intensive voter registration drives and increasing interest in politics and government. I am sure it is also partly a result of the turbulent times in which we live.

By way of example, according to the Civil Rights Commission, there were 1,238,038 Negroes registered in the 11 Southern States in 1956. Between 1957 and 1964, that number rose by almost 1 million, to 2,174,200.

Thus, tremendous progress in voter registration was already being made, and this was before the enactment of the Voting Rights Act of 1965. In fact, the movement was then just beginning to build up steam.

So, I am far from being convinced that full credit can be given the 1965 law for the increased registration in the past 3 or 4 years.

I want to make myself clear. We are not here to put up stumbling blocks in the way of any citizen's right to vote. Nor would we retire from trying to remove any stumbling blocks that may exist now.

The right to vote is secure. There are some 17 civil and criminal statutes that relate directly or indirectly to the right to vote. It is guaranteed by the 15th amendment to the Constitution. Whenever or wherever this right is abridged by manipulation of literacy tests or any other device, it is readily enforceable in every court of the land.

XUM

I will defend the right to vote. I urge people not only to register, but to exercise their franchise. Georgia is one of the States where 18-year-old citizens are allowed to vote, and they are encouraged to register at age 17½. The State of Georgia need apologize to no one for its record in extending the right to vote.

But I am also sworn to uphold the Constitution of the United States. I cannot support a bill that violates the Constitution by depriving States of their right to establish voter qualifications.

That is what the Voting Rights Act of 1965 did.

I also object to putting laws on the books that are cleverly contrived to apply to only one section of the country and to only a few States.

This amounts to discrimination between the various States, under a Constitution that applies equally to every State in the Union. That also is what the Voting Rights Act did.

If Congress deems there is need for a law affecting voter rights, school desegregation, or any other issue, then that law ought to apply equally to all 50 States and not to just those in one part of the country.

This principle is so elementary that I cannot see how anyone in either the executive, legislative, or judicial branches of the Government could fail to understand it.

Yet, in recent years, it has become fashionable in some circles to put double standard laws before the Congress, and for many of our courts to hand down double standard decrees. It has amounted to a virtual campaign against the South. The people are just about fed up.

The War Between the States has been over for more than 105 years. It is time that the Federal Government stopped treating the South like a conquered province and let this section back into the Union on an equal, legal footing with all the other States.

When the Voting Rights Act was before the Senate 5 years ago, I expressed regret that the Senate was unable to reaffirm its support of the right to vote without doing violence to the Constitution.

To extend this law for another 5 years would compound that violence.

We are asked to consider three major proposals. What it comes to is this: We are asked to choose the lesser of three evils.

We have proposals for extending the law without modification.

We have the administration bill.

We have the so-called Scott-Hart "compromise."

To simply extend the law as it is would add insult to injury, not only to the Constitution but also to the States held captive by the terms of this noxious act.

We need to review the provisions of the Voting Rights Act.

Even some of its supporters admit that it departed from the principles of good legislation.

Under an arbitrary trigger device, the bill outlawed literacy tests and set up Federal election machinery in States where less than 50 percent of their citizens were registered on November 1, 1964, or where less than 50 percent of the registered voters cast ballots in the presidential election of November 1964.

As planned, the States of Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and 39 counties of North Carolina became subject to the act.

What manner of legislation would pass judgment on a few States, and find them guilty of vote discrimination simply because less than 50 percent of their voting population was registered or voted in November 1964?

What manner of law do we make that presumes States to be guilty until proven innocent?

What manner of law is this that would forbid the State of Georgia from employing a literacy test to determine voter qualification, and at the same time permit other States to keep their literacy tests?

What manner of law is this that gives the Attorney General veto power over State legislatures?

Under the 1965 act, affected States must secure his permission before changing any of their election laws in any way whatsoever.

What manner of legislation is this that requires States to come all the way to the Federal court in Washington, D.C., to prove their innocence? States cannot go before their Federal district courts. These courts were held unfit to hear cases brought under the so-called "escape provision" of the law.

This is the provision that allows States to come to Washington on bended knee to seek forgiveness for sins that were never proven. They can escape from the law, providing they are able to prove to the satisfaction of the court that they are not presently sinning and have committed no transgressions for the past 5 years.

It should be pointed out that the escape provision has now been rendered meaningless. This came from a ruling of the three-judge District Court in Washington in the Gaston County, N.C., case of 1966.

Gaston County proved all it had to prove. The fact that there was no voter discrimination there went uncontradicted.

But the court was not satisfied with the law as it was written. In another supreme example of legislating by court decree, the District Court added a new provision to the law.

It held that all States and counties which maintained a separate school system prior to 1954 must stay under the law's provisions.

The court rendered this decision in the full knowledge that prior to 1954 the "separate but equal" doctrine was the law of the land. The court chose to ignore this fact, and to indulge in dictating ex post facto law.

Mr. President, it is unthinkable that such a law as this be extended for another 5 years. In the first place, it is not needed. All of the States affected by the act met the 50-percent requirement in the 1968 election.

This law was politically motivated in 1965. It is motivated by political expediency today. This law was unconstitutional in many respects. It is unconstitutional in the same respects today.

We now come to the administration's version of the Voting Rights Act. I suppose it must be said that it has certain virtues over the law as it now stands. The administration's bill would at least make this national legislation, instead of regional. Thus, it would apply to all 50 States instead of just seven.

It would readmit States to their Federal district courts from which they were locked out in 1965. States, in seeking to secure pardon from the terms of the law, would no longer have to come hat-in-hand to Washington, D.C.

In short, the administration bill would make the law apply nationally. It would put the Federal district courts back in good standing. It would permit State legislators to make laws without having the Attorney General, an appointed official, looking over their shoulders with a club in his hand.

These features probably make the administration's bill more desirable than the present law. But, it is still not a very attractive piece of legislation. It still blatantly flouts longstanding constitutional doctrine.

By proposing to outlaw literacy tests in all the States, the administration's bill violates the Constitution in three separate instances.

Three specific provisions of the Constitution—article I, section 2; article II, section 1; and the 17th amendment—give the States, and not the Federal Government, the power to set qualifications for voting.

The Voting Rights Act is based on the 15th amendment. Yet, we are asked to use this limited authority to enact legislation that directly violates other provisions of the Constitution.

However noble they may seem, we cannot base a law on one provision of the Constitution when it does violence and conflicts with other sections. The Constitution cannot be interpreted by bits and pieces. It must be considered as a whole.

No other provision is more firmly imbedded in the Constitution than the right of the States—and not the Federal Government—to set qualifications for voters. The power to change or establish voter qualifications can be accomplished by constitutional amendment alone.

Short of amending the Constitution, the Congress has no more authority to declare what voter qualifications will not be than it does to dictate what they will be.

The Congress can no more abolish voter qualifications, whether it be a literacy test or any other requisite, than it can create them, unless it does so by putting an amendment before the States for ratification.

Wherever there exists the wrongness of voter discrimination, let it be remedied at the local level, in accordance with existing Federal and State law, not by congressional edict that relies on one section of the Constitution and casts aside the rest of it.

Wherever literacy tests are unfairly administered so that the right to vote is abridged, let corrective action be taken by the Attorney General in a court of law.

Wherever citizens claim the deprivation of their right to vote, let them secure a redress of grievances in a legal and orderly fashion. They will find a multitude of existing law that puts the full might of the Federal Government at their disposal.

I can find no justification in anything that has taken place in the past, or that is allegedly happening now, for overriding the Constitution and long-established law in the manner that is proposed here today.

I hope the Congress will let the Voting Rights Act of 1965 expire next August.

Mr. HARRIS. Mr. President, the Voting Rights Act of 1965 has won wide acclaim from blacks, civil rights advocates, and people of goodwill everywhere as the most significant and effective legislation passed by the Congress in this century to guarantee and protect the rights of Negroes and other American citizens.

Although the right to vote had been guaranteed by law to blacks since the adoption of the 15th amendment to the Constitution, there was little evidence to support the fact that blacks were able to make effective use of this basic right. Time after time this right depended almost entirely upon private litigation.

In the Civil Rights Act of 1957, Congress gave the U.S. Attorney General statutory authority to institute suits on behalf of Negroes deprived of voting rights. Supplementary legislation strengthening the 1957 act was passed in 1960 and 1964.

The chief means of limiting the franchise of blacks in the 1950's and early 1960's was the literacy test. Generally, State laws vested wide discretion in local registrars in administering these and other qualification tests. Although the Department of Justice had a right to sue, litigation oftentimes was protracted and successfully reached only a small percentage of blacks.

The Voting Rights Act of 1965 departed from this pattern by providing for "direct Federal action" to enable Negroes the right to register and vote without reliance on protracted litigation required by the previous legislation. This point, is very important, as for the first time the burden of proof concerning discrimination or nondiscrimination shifted from the plaintiffs to the State—or its political subdivision. The opposite effect will be true if H.R. 4249 is approved by the Congress.

Since passage of the Voting Rights Act, there has been a significant increase in the number of blacks registered, voting and holding elected offices in southern States. Records of the Civil Service Commission show that Federal examiners have been assigned to 58 counties in Southern States since 1965 and have listed as eligible to vote 158,094 persons including 150,767 nonwhites and 7,327 whites.

Voting rights suits brought by the Department of Justice between 1957 and 1965, when the Civil Rights Act of 1957, 1960, and 1964 were in effect, produced only 36,000 black voter registrations throughout the South. Testimony presented to the Judiciary Subcommittee on Constitutional Rights by the Southern Regional Council indicates that there has been an increase of 897,000 Negroes registered to vote in the seven Southern States principally covered by the 1965 act. These States are: Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and 39 counties in North Carolina. The registration figure represents approximately 59.5 percent of the voting age population in those States. We might also attribute the election of approximately 570 black public officials in the South to this act.

Who, then, can question the effectiveness, or deny the need for the continuation for this particular piece of legislation? The Constitution of the United States as well as all legislative acts of the Congress should be designed in the best interests of all citizens of this country, and to assure equal opportunity and protection under the law for all Americans.

This, of course, will not be true in the area of voting rights if the Senate supports H.R. 4249 as passed by the House and endorsed by the Nixon administration. These amendments, if passed, would considerably weaken the effect of the 1965 act by:

First. Deleting the provision which permits appointment of Federal examiners and election observers and suspension of literacy tests in any area which, in 1964, had such tests and had less than 50 percent of voting age persons registered or voting. Commonly referred to as the "trigger formula".

Second. Deleting the requirement that covered areas must submit new voting laws for Federal approval prior to their taking effect, and substituting a provision authorizing the Attorney General to prohibit any discriminatory laws enacted in any State.

As I stated earlier, Negro registration now exceeds 50 percent of the black voting age population in Southern States. Prior to passage of the act, this was true only in Florida, Tennessee, and Texas. The biggest gain has been in Mississippi, where Negro registration has gone from 6.7 percent to 59.8 percent. There have been important gains in other States. For example, in Alabama the percentage has increased from 19.3 to 51.6; in Georgia from 27.4 to 52.6; in Louisiana from 31.6 to 58.9; and in South Carolina from 37.3 to 51.2.

Broadly based community and national interests groups have presented testimony in committee hearings and made statements recommending extension of the present act. Correspondence from my home State of Oklahoma has been 100 percent in favor of extension.

Supporters of the administration bill have argued against the regional focus of the 1965 act. They argue that the act has accomplished its purpose; that is, an increase in black voter registration to approximately 59 percent. I ask whether the administration and its supporters, through these arguments, intend to establish a ceiling on the level to which we, the Congress provide and enforce equal opportunity for disenfranchised blacks and other minorities? It would seem that now is the time to extend the act and to work for its full effectiveness. To do otherwise is to retreat on the progress we are making in human relations and to replace substance and hope with subterfuge and frustration.

Contrary to the arguments of the administration and its supporters, the 1965 act applies to all 50 States and their political subdivisions. Section 4 of the present act suspends the use of literary tests and other specified prerequisites to registration or voting in any State or political subdivision if less than 50 percent of the voting age residents of the area were registered to vote on November 1, 1964, or actually voted in the 1964 presidential election. The 1965 act specifically provides that any State or political subdivision may remove itself from a coverage by obtaining a judgment from a three-judge Federal district court in the District of Columbia, or the Attorney General.

In addition to the seven Southern States presently directly affected by the act, the "trigger formula" covered the States of Alaska, three counties in Arizona, one county in Hawaii, and one county in Idaho. As of January 16, 1968, these States removed themselves from coverage by using the above process. The principally affected southern areas can, under the law, exercise the same right—

if they prove that race is not a factor in their registration and voting process.

On Wednesday, July 9, 1969, testimony and statements were received from Senators SCOTT and MATHIAS and from Commissioner Freeman of the Civil Rights Commission. All testified to the need for continuation of the 1965 act as enacted. On July 10, 1969, Senator SCHWEIKER submitted a statement urging extension of the act, and Mr. Clarence Mitchell and Mr. Joseph L. Rauh appeared on behalf of the Leadership Conference on Civil Rights, representing over 125 organizations interested in civil rights. Commissioner Freeman, Mr. Mitchell, and Mr. Rauh and others have presented, at length, facts demonstrating the need for retention of the act.

We have heard considerable debate on the legislation before us. Many amendments have been offered to weaken the major provisions of the 1965 act—sections 4, 5, and 6. These efforts have been defeated by substantial margins. Yesterday, the Senate by a margin of 64 to 17 passed the amendment to extend voting rights to 18-year-olds in national, State, and local election.

The Scott-Hart substitute bill provides for extension of the 1965 act. It also extends the suspension of literacy tests and other devices to all States and establishes uniform residency requirements for national elections.

I strongly support the Scott-Hart bill and hope that it will be passed by the Senate without further delay.

XUM

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute, as modified and as amended, of the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Michigan (Mr. HART). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COTTON (when his name was called). On this vote I have a live pair with the Senator from Rhode Island (Mr. PASTORE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote, "nay." Therefore, I withhold my vote.

The bill clerk resumed and concluded the call of the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the senior Senator from Georgia (Mr. RUSSELL). If he were present, he would vote "nay." I have already voted in the affirmative; I therefore withdraw my vote.

Mr. FULBRIGHT (after having voted in the negative). On this vote I have a pair with the senior Senator from Idaho (Mr. CHURCH). If he were here, he would vote "yea." I have already voted "nay." I withdraw my vote.

Mr. SPONG (after having voted in the negative). On this vote I have a pair with the Senator from Hawaii (Mr. INOUYE). If he were here, he would vote "yea." I have already voted "nay." I withdraw my vote.

Mr. SPARKMAN (after having voted in the negative). On this vote I have a live pair with the Senator from New Mexico (Mr. MONTOYA). If he were present, he would vote "yea." I have previously voted "nay." I withdraw my vote.

Mr. JORDAN of Idaho (after having voted in the affirmative). I have a live pair with the Senator from Nebraska (Mr. HRUSKA). If he were here, he would vote "nay." I have already voted "yea." I therefore withdraw my vote.

Mr. EASTLAND (after having voted in the negative). On this vote I have a live pair with the Senator from Connecticut (Mr. DODD). If he were present, he would vote "yea." I have already voted in the negative; I therefore withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. JORDAN), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), and the Senator from Texas (Mr. YARBOROUGH), are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Utah (Mr. MOSS), and the Senator from Hawaii (Mr. INOUYE), are absent on official business.

On this vote, the Senator from Utah (Mr. MOSS) is paired with the Senator from North Carolina (Mr. JORDAN). If present and voting, the Senator from Utah would vote "yea" and the Senator from North Carolina would vote "nay."

On this vote, the Senator from Alaska (Mr. GRAVEL) is paired with the Senator from Arkansas (Mr. MCCLELLAN). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Arkansas would vote "nay."

I further announce that, if present and voting, the Senator from California (Mr. CRANSTON), and the Senator from Texas (Mr. YARBOROUGH) would each vote "yea."

Mr. GRIFFITH. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. HRUSKA), the Senator from Illinois (Mr. SMITH), the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER would each vote "nay."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from Alaska (Mr. STEVENS). If present and voting, the Senator from Illinois would vote "nay" and the Senator from Alaska would vote "yea."

The pair of the Senator from Nebraska (Mr. HRUSKA) has been previously announced.

The result was announced—yeas 51, nays 22, as follows:

[No. 104 Leg.]

YEAS—51

Aiken
Anderson
Bayh
Bible
Boggs
Brooke
Burdick
Cannon
Case
Cook
Cooper
Dominick
Eagleton
Fong
Goodell
Gore
Griffin
Harris
Hart
Hartke
Hatfield
Hughes
Jackson
Javits
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Symington
Tydings
Williams, N.J.
Young, Ohio

NAYS—22

Allen
Allott
Baker
Bennett
Byrd, Va.
Byrd, W. Va.
Curtis
Dole
Ellender
Ervin
Fannin
Goldwater
Hansen
Holland
Hollings
Long
Murphy
Stennis
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—7

Cotton, against.
Eastland, against.
Fulbright, against.
Jordan of Idaho, for.
Mansfield, for.
Sparkman, against.
Spong, against.

NOT VOTING—20

Bellmon
Church
Cranston
Dodd
Gravel
Gurney
Hruska
Inouye
Jordan, N.C.
McCarthy
McClellan
Montoya
Moss
Mundt
Pastore
Russell
Smith, Ill.
Stevens
Tower
Yarborough

So the Scott-Hart amendment in the nature of a substitute (No. 544), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Several Senators requested the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BENNETT (after having voted in the affirmative). On this vote I have a pair with the distinguished junior Senator from Nebraska (Mr. HRUSKA). If he were present, he would vote "nay." Having already voted in the affirmative, I withdraw my vote.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the distinguished senior Senator from Georgia (Mr. RUSSELL). If he were present, he would vote "nay." Having already voted in the affirmative, I withdraw my vote.

Mr. GOLDWATER (after having voted in the affirmative). On this vote I have a pair with the senior Senator from Texas (Mr. Tower). If he were present and voting, he would vote "nay." Having already voted in the affirmative, I withdraw my vote.

Mr. LONG (after having voted in the negative). On this vote I have a pair with the Senator from Rhode Island (Mr. Pastore). If he were present, he would vote "yea." Having already voted in the negative, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. Dodd), the Senator from North Carolina (Mr. Jordan), the Senator from Minnesota (Mr. McCarthy), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Georgia (Mr. Russell), and the Senator from Texas (Mr. Yarborough) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from Arkansas (Mr. McClellan), the Senator from Utah (Mr. Moss), and the Senator from Hawaii (Mr. Inouye) are absent on official business.

I further announce that, if present and voting, the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Minnesota (Mr. McCarthy), the Senator from New Mexico (Mr. Montoya), and the Senator from Texas (Mr. Yarborough) would each vote "yea."

On this vote, the Senator from Utah (Mr. Moss) is paired with the Senator from North Carolina (Mr. Jordan). If present and voting, the Senator from Utah would vote "yea" and the Senator from North Carolina would vote "nay."

On this vote, the Senator from Connecticut (Mr. Dodd) is paired with the Senator from Arkansas (Mr. McClellan). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from Arkansas would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Hruska), the Senator from Illinois (Mr. Smith), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Florida (Mr. Gurney) is absent because of illness in his family.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Oklahoma (Mr. Bellmon), the Senator from South Dakota (Mr. Mundt), the Senator from Illinois (Mr. Smith), and the Senator from Alaska (Mr. Stevens) would each vote "yea."

The respective pairs of the Senator from Nebraska (Mr. Hruska) and that of the Senator from Texas (Mr. Tower) have been previously announced.

The result was announced—yeas 64, nays 12, as follows:

[No. 105 Leg.]

YEAS—64

Aiken
Allott
Anderson
Baker
Bayh
Bible
Boggs
Brooke
Burdick
Cannon
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eagleton
Fannin
Fong
Fulbright
Goodell
Gore
Griffin
Hansen
Harris
Hart
Hartke
Hatfield
Hughes
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Murphy
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Symington
Tydings
Williams, Del.
Williams, N.J.
Young, N. Dak.
Young, Ohio

NAYS—12

Allen
Byrd, Va.
Byrd, W. Va.
Eastland
Ellender
Ervin
Holland
Hollings
Sparkman
Stennis
Talmadge
Thurmond

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—4

Bennett, for.
Mansfield, for.
Goldwater, for.
Long, against.

NOT VOTING—20

Bellmon
Church
Cranston
Dodd
Gravel
Gurney
Hruska
Inouye
Jordan, N.C.
McCarthy
McClellan
Montoya
Moss
Mundt
Pastore
Russell
Smith, Ill.
Stevens
Tower
Yarborough

So the bill (H.R. 4249) was passed.

Mr. SCOTT. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MANSFIELD. I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER** (Mr. Cook). Without objection, the title will be appropriately amended.

Mr. SCOTT. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized and directed to make all necessary clerical and technical changes, including section captions and changes in section numbers and cross-references, in the engrossment of the amendments to the bill, H.R. 4249, extending the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

TRIBUTE TO SENATORS ON THE PASSAGE OF THE VOTING RIGHTS BILL

Mr. MANSFIELD. Mr. President, the Senate has just witnessed final action on what I believe is one of the most significant measures to have come before this body. The right of the ballot is without a doubt the most important right—the most fundamental responsibility—in a democracy. The strength of a society in my judgment is measured greatly by the degree of participation enjoyed by the people who comprise it. The strength of its government, its institutions, its policies, and programs is derived directly from the citizens. They express their support through the ballot. The more people who are given access and use it, the more durable will be the Democracy under which they live.

I am happy to note on that score that the Senate of the United States has gone on record squarely in favor of expanding the franchise of the ballot. I am delighted to note that the Senate has among its Members men like Philip Hart of Michigan, Hugh Scott of Pennsylvania, Sam Ervin of North Carolina, and others who, though they may differ as to the means, work tirelessly in behalf of a democracy founded firmly on the proposition that the right to vote is the most precious right of all.

Their leadership, their devotion and ability, I might say assured the efficient and orderly disposition of this measure. The entire Senate is deeply grateful.

In addition to Senator Scott, Senator Hart, and Senator Ervin, there are many others who deserve a great deal of credit for their outstanding efforts on this measure. The senior Senator from Nebraska (Mr. Hruska) and the senior Senator from Mississippi (Mr. Eastland) deserve great credit for their splendid cooperation. As the chairman and ranking minority member of the Committee on the Judiciary they joined to assure most efficient action.

The issue of expanding the ballot to those between 18 and 21 has long been with us. It is well on its way to being resolved. That it has, has been made possible solely because of the efforts of a number of Members of this body who led the fight with the highest degree of skill and devotion. Certainly the Senator from Massachusetts (Mr. Kennedy) and the Senator from Washington (Mr. Magnuson) are to be singled out in this respect.

It was through the initial efforts of Senator Kennedy, I might say, that the idea of establishing by statute the vote for the 18-year-old was developed. I must give full credit as well to the distinguished senior Senator from Washington (Mr. Magnuson). His association with the concept of expanding the ballot to 18-year-olds goes back to 1933 when he offered such a proposal in the Washington State Legislature.

Of course my hat goes off to the distinguished Senator from West Virginia (Mr. Randolph), on this issue of 18-year-old voting. He has proposed constitutional amendments seeking to lower the voting age for almost 30 years in both the House and the Senate. He has led the way. He has inspired all of us to stick with the idea and to press on in our efforts. He is to be deeply commended. It is a victory he may truly cherish.

The same may be said for the distinguished Senator from Indiana (Mr. Bayh). As the chairman of the Constitutional Amendments Subcommittee he has provided the basic record on which the Senate has acted. During the past few years especially have the hearings held by his subcommittee demonstrated beyond all question the propriety of lowering the voting age.

I also want to pay special tribute to the distinguished Senator from Kentucky (Mr. COOK). He contributed immensely to the discussion of voting rights generally and especially to the issue of 18-year-old voting. His advice and counsel through these past few days have been most appreciated by me.

I want to express to the distinguished junior Senator from Alabama (Mr. ALLEN) my feelings for the outstanding service he performed in behalf of the State which he so ably represents. His views are strong and most sincere. He is an able and effective advocate. Most of all I want to express appreciation for his integrity, his devotion and cooperation. The understanding which he showed during the course of the debate was truly exemplary and the Senate is most gratfeul.

I could go on singling out others who contributed so much to the high-level discussion on the vital issues that have confronted this body during the past several days. Senator COOPER for one offered a proposal that improved the voting rights measure greatly in my opinion. The same may be said of the distinguished Senator from Arizona (Mr. GOLDWATER). His residency proposal was most significant.

I could continue in this endeavor, Mr. President. I do not wish to ignore the efforts of anyone. Indeed, it would be accurate to state that every Senator played a role—every Member of this body made a contribution. I, personally, am most grateful to this entire body.

Mr. ALLEN. Mr. President, I merely want to express my appreciation to the distinguished and outstanding majority leader for his kind and complimentary remarks and to express my appreciation to him for his kindness and unfailing good humor and tolerance of the efforts of the junior Senator from Alabama, and to say I greatly admired his fairness. He was fair at every step of the proceedings to the junior Senator from Alabama in his efforts. The junior Senator from Alabama hopes that he has made clear to the Senate his views with respect to this legislation.

I thank the distinguished majority leader.

REASON FOR VOTE

Mr. HOLLINGS. Mr. President, while the announced intention of the voting rights bill is to eliminate discrimination, I voted against this bill because it discriminates. I believe in voting rights. When other States burned their voting records, as Governor of South Carolina, I furnished then Attorney General Robert Kennedy with the voting records of counties in South Carolina. We have had a few minor complaints; none of them has been substantiated and the individual's right to vote is protected in South Carolina.

This bill is premised on percentages that do not accurately reflect the right of the individual to vote. Up to now, the presence of Federal registrars and the requirement that voting records be submitted to the Attorney General have not, by themselves, disturbed us. But the discrimination against South Carolina has. And it is patently unconstitutional.

It is for this reason, among others, that I supported the amendment permitting 18-year-olds to vote. If an 18-year-old can vote for President in one State, he should be allowed to in all States. I realize the passage of this bill is imminent and that my vote now is not necessary to the 18-year-old issue. No one should construe my vote against the bill as being against the right of 18-year-olds to vote. I supported the right of 18-year-olds to vote in a bill introduced by me in the State legislature back in 1951 and will continue to support this right at every opportunity.

Mr. KENNEDY. Mr. President, I wish to express a word of commendation to the distinguished Senator from Pennsylvania (Mr. SCOTT), the distinguished Senator from Michigan (Mr. HART), and to the majority leader.

We have witnessed today one of the most important pieces of legislation that will pass the Senate in this session. Both the Senator from Pennsylvania and the Senator from Michigan have been on the floor day after day debating these issues and bringing to bear an extraordinary sense of balance and judgment on these most complex and complicated issues and questions affecting the right to vote and the constitutional guarantees related thereto.

My statement is in no way intended to take away from the efforts of those who have expressed their reservations by a series of amendments to this major piece of legislation. Most notably the distinguished constitutional jurist, the senior Senator from North Carolina (Mr. ERVIN), and my good friend, the Senator from Alabama (Mr. ALLEN).

I think that the debate itself has been enormously informative and helpful to all Americans. The vote that has been had here today will indicate to all Americans that we will extend the franchise as nearly as we can to all Americans, black and white Americans, of all races, religions, and creeds, and that we will eliminate the artificial barriers that have been established in the past and assure all Americans that those barriers will not be raised again in the future.

I think that by our agreement to the amendment extending the franchise to the 18-year-olds, we have given 10 million young Americans reason to believe that they can and should play an important and significant role in the whole franchise system of this great Nation. It is a very extraordinary vote of confidence in their judgment and ability to exercise an informed judgment in the important national, State, and local elections. All of us who were involved in this effort are grateful for the leadership of the distinguished majority leader.

I think the Senators whom I have named and others that have not been mentioned are entitled to the commendation of the Senate and the American public.

Mr. SCOTT. Mr. President, I express my very deep thanks to the Senator for his very kind remarks.

The Senator from Michigan and I are both very deeply grateful to the Senator from Massachusetts and to the cosponsors of the Scott-Hart substitute and also to those who have contributed to, I hope, the final result. We are grateful to the Senators from Kentucky (Mr. COOPER and Mr. COOK) for their fine amendments and also to the Senator from New York (Mr. JAVITS), and to all of those on both sides of the aisle who were at all times so deeply concerned over the matter.

I also extend my thanks to those who were opposed, for their courtesy, tolerance, and consideration.

Mr. MAGNUSON. Mr. President, I associate myself with the remarks of the distinguished Senator from Massachusetts.

Mr. JAVITS. Mr. President, I, too, would like to associate myself with the remarks of the Senator from Massachusetts.

I think we have seen a landmark piece of legislation pass the Senate here.

I add only the deep hope that the action on the measure this afternoon will be final—I know there are some reservations in the other body—and that we will be expressing the sentiment of the Nation in giving the 18-year-olds the right to vote and in passing the Voting Rights Act.

LETTER BY O. L. WARR CONCERNING LAMAR, S.C.

Mr. THURMOND. Mr. President, a distinguished citizen of Lamar, S.C., has written a letter to the editor of the State newspaper concerning recent events in Lamar. Mr. Osta L. Warr is a prominent farmer and writer who is well known for his intellect and fine sense of judgment throughout South Carolina.

Mr. Warr served in the South Carolina House of Representatives in 1957–58. He graduated from the University of South Carolina in 1927 where he was a member of Phi Beta Kappa. He coauthored "Darlington County—Economic and Social," which is an excellent history of Darlington County. For 40 years Mr. Warr has contributed columns to the Charleston News and Courier and other South Carolina publications on numerous topics.

Mr. Warr is concerned that numerous facts about what actually happened in Lamar have not been made clear to the public. For example, many citizens believe that the buses overturned in Lamar were filled with students when actually the buses were empty when they were overturned.

He also suggests that adequate State law enforcement personnel were not on hand to maintain law and order in spite of the fact that State officials had prior warning of the tenseness of the situation. He asks whether or not the mob may not have been entrapped so as to discredit the thousands of citizens of Darlington County who had peacefully protested the unjust court order integrating the schools in midterm.

XUM

I believe Mr. Warr's story deserves the attention of the Nation. If citizens are properly to assess what happened in Lamar, they should have the views of those who have the best interests of Darlington County at heart and are not merely seeking the exploitation of another "racial incident."

Mr. President, I ask unanimous consent that the article entitled "Writer Relates Lamar Side of Riot Story," written by Osta L. Warr, which appeared in the State newspaper on Wednesday, March 11, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Writer Relates Lamar Side of Riot Story

To the Editor:

At mid-morning of March 3, the Governor's office issued a news report stating that rioters at Lamar had overturned two buses loaded with school children. Immediately this false report was broadcast to every part of the nation, bringing down upon the town of Lamar a storm of unjust denunciation. The Governor was quick to condemn the men who had done this "unspeakable" deed.

Later this damaging libel was grudgingly corrected, without one word of apology or excuse. The buses had been entirely empty when overturned, it was admitted. Then followed a claim as false as the first, that only valiant efforts on the part of the officers had made possible the rescue of the children.

The occupants of the buses were never for one moment the object of the wrath of the crowd. No child was harmed beyond some accidental scratch, or was ever in any danger of any real harm. The fury of those few minutes was never for one moment directed at the children; but at the buses. In the eyes of the angry men and women these had come to serve as symbols of unfair and tyrannical orders and decisions which had pushed their fury past the boiling point. They vented their wrath that morning by turning two empty buses upon their sides.

Of the hundreds of confrontations viewed upon television during recent years, this was the smallest and least damaging that I ever remember seeing. Physical casualties of consequence? One citizen, hit in the temple with a tear gas canister fired on the level by an excited officer. Financial damage? Maybe a thousand dollars or two.

If false reports from official sources had not blown the matter out of all true proportions, it is doubtful if the incident would have made the front page of any save local newspapers.

Unmentioned anywhere was the fact that Lamar citizens had made every effort within their power to prevent the occurrence. On Monday, a push-and-shove confrontation between protesters and police had put the public pulse to racing mildly. By nightfall tension had reached an intensity the like of which none of us ever seen before.

So strong was our sense of alarm that the magistrate of the town arranged, with the aid of the sheriff, a conference with the county boards of education and trustees. Former Rep. W. J. Carter and I were delegated by the Lamar citizens present to describe the urgency of the situation to this group, which also included the board's attorney, the senator, the superintendent of education, and two members of the House of Representatives.

We described the seething situation and attendant dangers. We suggested that it might be wise not to operate the school next day. But if the decision should be to continue operation, we urged with all emphasis that the National Guard be on hand next morning. We felt certain that highway patrolmen alone would not be able to cope with the situation. Mr. Carter emphasized our plea that under no consideration should buses be routed to the school next day.

We have been told that these views were conveyed to the Governor, and that other pleas for Guardsmen were transmitted to him during the night. To all these urgent and desperate pleas the answer remained in the negative. If the National Guard had been present next morning, the incident would almost certainly not have occurred. The Guard was called to the scene and the school closed immediately after the clash.

We begged help from the Governor in that hour of peril, and could not get it. Where else could we turn? Hindsight would seem to indicate that we of Lamar understood the temper of our townsmen better than those less well acquainted with them.

But could they have been victims of a plan to incite them to violation of law, with deliberate entrapment as the goal? There are facts that arouse such a suspicion.

Recent protests and demonstrations had grown increasingly frustrating to officialdom. But so long as they had remained nonviolent, there had been no way of preventing them.

Here now was a chance to catch these dissidents with their tempers up, to encourage them to violation of law by limiting the peace-keeping force to a squad too small to effectively maintain that peace. Then maybe they could be jailed, and their nuisance brought to an end.

Next morning, in the face of every warning and plea, buses were driven past their usual entrance point along a completely unhampered road into the schoolyard, and routed straight before the faces of men and women tense and angry. Was this the deliberate flaunting of a red flag?

If such was the plan, its first half worked. The charge was immediately forthcoming, with a lot more power behind it than had been bargained for. Patrolmen and SLED agents were not able to arrest individuals one by one, as they had perhaps intended.

And on Wednesday when finally they had warrants, they served them with that vengeance. It was then that the knock on the door in the night, the universal symbol of the police state, echoed in the ears of several citizens of the county.

Wayne Seal, the Governor's representative, was on the scene to see that it was done that way, and to force those arrested to spend a night in the jail by announcing that bonds, of $5,000 each, could not be arranged until morning. Next day, somebody with a better sense of balance reduced the bond figure to $2,000. Before the first dime was needed, hundreds of thousands of dollars had been offered for that purpose.

Long before the Governor's appeal for a restoration of calm, many of us at Lamar had busied ourselves to that end. But our small successes in that direction have been far more than counterbalanced by the news releases from the Governor's office that some of the women of this area are soon to be arrested. The Governor should see to it that such arrests be made in a more civilized manner than the methods used.

The men of Darlington County remain uncowed and unawed. Through the years, I have heard it said that "Lamar folks just won't let themselves be pushed around." Until now I had never realized and appreciated the full strength of those words.

Osta L. Warr.

A GREAT MOTION-PICTURE DOCUMENTARY—"MONTGOMERY TO MEMPHIS"

Mr. JAVITS. Mr. President, I would like to note for the information of the Senate that the senior Senator from Massachusetts (Mr. Kennedy) and I were hosts last night at a previewing of the great documentary motion picture about the Reverend Dr. Martin Luther King entitled "Montgomery to Memphis."

It is one of the most moving documentaries I have ever seen. It will be shown at 8 p.m. on March 24 in 1,000 theaters in 300 cities throughout the Nation. It is hoped that Americans by the tens of thousands will turn out to see this extraordinary film, and will each pay $5 for the privilege so that the proceeds can go for the benefit of the Southern Christian Leadership Conference and the Martin Luther King Foundation.

I hope very much that every Member of the Senate will go to see this magnificent documentary testifying to the moral power of nonviolence at a time when we certainly need to come to an understanding of what is happening in this possibly most violent time in our Nation's history.

Perhaps the most moving portion of the film—and one that has particular meaning in these times of deepening crisis of alienation, polarization, violence, and hate—was that moment of pure poetry and love on the steps of the Lincoln Memorial on a sunny August day in 1963 when the Reverend Dr. King told black and white America of his "dream." It is a dream—tragically—still unrealized, but it is a dream that we as Senators and we as Americans must never forget. It is a dream that still lives in the memory of Martin Luther King. It is a dream that we must bring into all our deliberations as Senators whether they concern the desegregation of our public schools, the guarantee of the right to vote to all Americans, or the confirmation of Justices to the Supreme Court of the United States.

Therefore, let me quote from that portion of the Reverend Dr. King's message pertaining to his dream—a dream for all Americans—and I ask unanimous consent that this passage be inserted into the Record as an extension of my remarks;

There being no objection, the quotation was ordered to be printed in the Record, as follows:

I Have a Dream

I say to you today, my friends, that in spite of the difficulties and frustrations of the moment I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this Nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident; that all men are created equal."

I have a dream that one day on the red hills of Georgia the sons of former slaves and the former sons of slaveowners will be able to sit down together at the table of brotherhood.

I have a dream that one day even the State of Mississippi, a desert State sweltering with the heat of injustice and oppression, will be transformed into an oasis of freedom and justice.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

I have a dream today.

I have a dream that one day the State of Alabama, whose Governor's lips are presently dripping with the words of interposition and nullification, will be transformed into a situation where little black boys and black girls will be able to join hands with little white

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boys and white girls and walk together as sisters and brothers.

I have a dream today.

I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low, the rough places will be made plains, and the crooked places will be made straight, and the glory of the Lord shall be revealed, and all flesh shall see it together.

This is our hope. This is the faith with which I return to the South. With this faith we will be able to hew out of the mountain of despair a stone of hope. With this faith we will be able to transform the jangling discords of our Nation into a beautiful symphony of brotherhood. With this faith we will be able to work together, to pray together, to struggle together, to go to jail together, to stand up for freedom together, knowing that we will be free one day.

This will be the day when all of God's children will be able to sing with new meaning "My country 'tis of thee, sweet land of liberty, of thee I sing. Land where my fathers died, land of the pilgrim's pride, from every mountainside, let freedom ring."

And if America is to be a great nation this must become true. So let freedom ring from the prodigious hilltops of New Hampshire. Let freedom ring from the mighty mountains of New York. Let freedom ring from the heightening Alleghenies of Pennsylvania.

Let freedom ring from the snowcapped Rockies of Colorado.

Let freedom ring from the curvacious peaks of California.

But not only that; let freedom ring from Stone Mountain of Georgia.

Let freedom ring from Lookout Mountain of Tennessee.

Let freedom ring from every hill and molehill of Mississippi. From every mountainside, let freedom ring.

When we let freedom ring, when we let it ring from every village and every hamlet, from every State and every city, we will be able to speed up that day when all of God's children, black men and white men, Jews and gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, "Free at last; free at last; thank God Almightly, we are free at last."

RECENT WAVE OF TERRORIST BOMBINGS ACROSS THE NATION

Mr. EASTLAND. Mr. President, there is strong evidence today that the recent wave of terrorist bombings across the Nation are indeed connected with Cuba. I note the headlines of the afternoon press link victims of recent New York and Maryland bombings to visits in Cuba. The news accounts indicate that one victim spent 3 months in Cuba, and the other traveled as part of a student group going there to cut sugarcane.

The Subcommittee on Internal Security has been investigating this matter for sometime now, and, as chairman, I intend to make a detailed address in this Chamber within the next few days. It is my hope that we will hold hearings on this matter. I can state that we intend to get to the bottom of these allegations and put a stop to these tactics if at all possible.

The recent wave of rioting on college campuses and in our cities has now been accentuated by these terrorist bombings. Such tactics strike fear into the heart of every American and rightfully so. Cuba sits at our very doorstep and exports revolution and anarchy into every nation of this hemisphere.

Mr. President, at this very hour there are 687 students in Communist Cuba under the guise of canecutters. These people are not canecutters—but they are in Cuba to learn revolution.

They will return to this country and put to use what they have learned in Cuba.

We cannot afford to sit idly by while revolutionists stage riots in our major cities, disrupt our college campuses and now bomb our cities.

These people strike at the very heart of America. Their objective is the downfall of this Nation. We must assert our sworn duties here and now to see that these revolutionaries are deterred in their goal.

MR. MOYNIHAN'S MEMORANDUM TO THE PRESIDENT

Mr. LONG. Mr. President, there has been quite a flap in some liberal circles on the part of people who learned of a confidential memorandum addressed to the President by Mr. Pat Moynihan prior to the time the President formulated his message to Congress and the different procedure some of the people seem to think the President was being advised to follow from whatever desires he had or does have now to benefit the Negro community of our Nation.

Mr. President, I have before me an article from the Wall Street Journal which undertakes to set forth the contents of that memorandum, as well as an editorial on the same page entitled "Mr. Moynihan's Apostasy," which make clear to this Senator that the President seems to be receiving sensible, moderate advice to the effect that nothing was to be gained by escalating the rhetoric, and that something was to be gained by speaking softly in this matter, while efforts are made to better the conditions of the poor among the Negro community.

For the life of me, I can find nothing about this matter to arouse the kind of explosion that seems to have occurred in some local circles. I find myself in agreement with the editorial.

I ask unanimous consent to have printed in the Record the article entitled "Mr. Moynihan: 'What Has been Pulling Us Apart?' ", the editorial entitled "Mr. Moynihan's Apostasy," and an editorial entitled "The Moynihan Papers: Volume I, No. 2," which was printed in the Washington Post this morning, which seems to parallel my thinking.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Mar. 13, 1970]

Mr. Moynihan's Apostasy

The confidential memorandums of Presidential Counselor Daniel P. Moynihan are reaching the public domain because his enemies are leaking them to the New York Times. With enemies like that, who needs friends? In particular, Mr. Moynihan's preinaugural advice to the President, printed alongside, is a fascinatingly perceptive analysis of the nation's present condition.

The substance of the views for the moment aside, the relationship between their author and the reaction they produce is itself revealing. Mr. Moynihan, a long-standing Democrat and former official of the Kennedy and Johnson Administrations, is generally regarded as the most liberal of close Presidential advisers. Whoever leaked his memos presumably intended to somehow discredit him, and while conceivably this was done by foes on his right, just as possibly it was done by foes on his left.

The memos make it obvious that Mr. Moynihan failed to come down hard on the liberal side of intra-Administration battles over integration policy. The first memo leaked spelled out his prescription of "benign neglect," meaning nothing more sinister than policies directed at maintaining the rapid social and economic progress of Negroes without crisis-invoking rhetoric. It seems safe to assume the leak was intended to produce the effect it did, enraging civil rights leaders and their allies because of the incendiary phrase. It's noteworthy, too, that Mr. Moynihan had been forced out of his Democratic Administration post in a similar flap for observing that all was not well with the family structure of slum Negroes.

In any event, reaction to the memos clearly reveals the special animosity the liberal community holds toward Mr. Moynihan. It is not his flamboyance that causes the controversy but his apostasy. Few liberals forgive either his shaking of their easy assumptions or his embrace of Mr. Nixon. Even before the latest episode, you could hear the knives clicking in the catty commentary certain liberal writers directed at him. And now many liberals are obviously tempted by the conclusion that he is merely ingratiating himself with the President, and therefore the substance of his views can be safely dismissed.

This attitude greatly underestimates the intellectual peril to the liberal creed. The truth is that Mr. Moynihan has never taken his bearings from stone-inscribed dogma, but always from the insights of social science. The crux of it is that the latter has increasingly worked to undermine the former. Anyone who thinks this merely a matter of pleasing the President should look closely at what is happening among those outside government who are generally associated with Mr. Moynihan's academic views.

In fact, a cutting edge of social science is actively engaged in debunking much of the liberal creed. One must not exaggerate; such views are scarcely the prevailing ones among social scientists, and the men involved are certainly not becoming conservatives in any ideological sense. But the debunkers are often among the most prominent names in their fields, men like Edward C. Banfield, Irving Kristol, Warren E. Miller. More and more often, their learning is forcing them to prove themselves social scientists first and liberals way second.

Mr. Moynihan has pursued the debunking far more systematically than most (along with Mr. Banfield, also of the MIT-Harvard Urban Studies center). As his pre-inaugural memo suggests, he seems to have concluded that liberal tenets are often not the solutions but the problems. The crisis in the slums is that unrealistic rhetoric has obscured real progress and rubbed raw the real discontents. The crisis over Vietnam arises from failing to win. Discontent among the intellectual class reflects its preference of wrecking to building. And these are the forces that threaten to tear this society apart.

Couched as they are in deep social and historical understanding, these views are not easily dismissed. Even those who would quarrel must admit they are the product of a thoughtful and informed mind. A good public debate over them would contribute much to our understanding, and they richly merit the intense exposure the current little episode gives them. Whoever put Mr. Moynihan's thoughts before the public has performed us all a service.

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MR. MOYNIHAN: "WHAT HAS BEEN PULLING US APART?"

It has fallen to you to assume the governance of a deeply divided country. And to do so with a divided Government. Other Presidents—Franklin Roosevelt, for example—have taken office in moments of crisis, but the crises were so widely perceived as in a sense to unite the country and to create a great outpouring of support for the President as the man who would have to deal with the common danger.

Neither Lincoln nor Wilson, the two predecessors whose situations most resembled yours, in terms of the popular vote and the state of then current political questions, had any such fortune. No one would now doubt that they proved to be two of our greatest leaders, nor yet that their Administrations achieved great things. But, alas, at what cost to themselves.

A divided nation makes terrible demands on the President. It would seem important to try to anticipate some of them, at least, and to ponder whether there is not some common element in each that might give a measure of coherence and unity to the President's own responses and, by a process of diffusion, to provide a guide for the Administration as a whole.

ERODED AUTHORITY

I believe there is such a common element. In one form or another all of the major domestic problems facing you derive from the erosion of the authority of the institutions of American society. This is a mysterious process of which the most that can be said is that once it starts it tends not to stop.

It can be stopped: The English, for example, managed to halt and even reverse the process in the period, roughly, 1820–40. But more commonly, those in power neglect the problem at first and misunderstand it later; concessions come too late and are too little; the failure of concessions leads to equally unavailing attempts at repression; and so events spiral downward toward instability.

The process is little understood. All we know is that the sense of institutions being legitimate—especially the institutions of government—is the glue that holds societies together. When it weakens, things come unstuck.

Americans, until presently at least, have not been nearly so concerned with such matters. American society has been so stable for so long that the prospect of instability has had no very great meaning for us. (As I count, there are but nine nations that both existed as independent nations in 1914 and have not had their form of government changed by invasion or revolution since.)

Moreover, we retain a tradition of revolutionary rhetoric that gives an advantage to those who challenge authority rather than those who uphold it. Too little heed is given the experience of the 20th century in which it has been the authority of democratic institutions that has been challenged by totalitarians of the left and the right.

Even the term "authority" has acquired for many a sinister cast, largely one suspects from its association with the term "authoritarian." Yet it remains the case that relationships based on authority are consensual ones: That is to say they are based on common agreement to behave in certain ways.

It is said that freedom lives in the interstices of authority. When the structure collapses, freedom disappears, and society is governed by relationships based on power.

Increasing numbers of Americans seem of late to have sensed this, and to have become actively concerned about the drift of events. Your election was in a sense the first major consequence of that mounting concern. Your Administration represents the first significant opportunity to change the direction in which events move.

Your task, then, is clear: To restore the authority of American institutions. Not, certainly, under that name, but with a clear sense that what is at issue is the continued acceptance by the great mass of the people of the legitimacy and efficacy of the present arrangements of American society, and of our processes for changing those arrangements.

For that purpose the theme "forward together" responds not only to the deepest need of the moment, but also, increasingly, to a clearly perceived need, as the facts of disunity more and more impress themselves on the nation's consciousness.

What has been pulling us apart? One wishes one knew. Yet there are a number of near- and long-term developments that can be discerned and surely contribute significantly to what is going on.

THE NEGRO REVOLUTION

Of the near-term events, the two most conspicuous are the Negro revolution and the war in Vietnam. Although seemingly unrelated, they have much in common as to origins, and even more as to the process by which they have brought on mounting levels of disunity.

The French philosopher George Bernanos once wrote: "There are no more corrupting lies than problems poorly stated." I, at least, feel that this goes to the heart of much of the present turmoil of race relations and foreign policy. In a word, those in power have allowed domestic dislocations that accompany successful social changes to be interpreted as irrefutable evidence that the society refuses to change; they have permitted foreign policy failures arising from mistaken judgments to be taken as incontrovertible proof that the society has gone mad as well.

The fact is that with respect to Negro Americans we have seen incredible progress since, roughly, the Brown v. Board of Education decision of 1954 and President Eisenhower's subsequent decision to send Federal troops to Little Rock, thus commencing the second Reconstruction.

Nowhere in history is there to be encountered an effort to bring a suppressed people into the mainstream of society comparable to the public and private initiatives on behalf of Negro Americans in recent years.

As I would like to discuss in a later memorandum, the results have been dramatic. Yet it was only after that effort had begun, and had been under way for some time, that it became possible to see the true horror of the situation white America had forced on black America and the deep disabilities that came about in consequence.

The first to see this, of course, were the blacks themselves. The result on the part of many was a revulsion against white society that has only just begun to run its course. Large numbers of middle-class, educated blacks, especially young ones, have come to see American society as hateful and illegitimate, lacking any true claim on their allegiance. Well they might.

The problem is not that one group in the population is beginning to react to centuries of barbarism by another group. The problem is that this cultural reaction among black militants is accompanied by the existence of a large, disorganized urban lower class which, like such groups everywhere, is unstable and essentially violent.

This fact of lower class violence has nothing to do with race. It is purely a matter of social class. But since Watts, the media of public opinion—the press, television, the Presidency itself—have combined to insist that race is the issue.

As a result, middle class blacks caught up in a cultural revolution have been able, in effect, to back up their demands. This has led to a predictable white counter-reaction. And so on. In the process, we have almost deliberately obscured the extraordinary progress, and commitment to progress, which the nation as a whole has made, which white America has not abandoned, and which increasingly black America is learning to make use of.

To the contrary, it has been the failures of policy that have seemed ever more prominent. The essence of the Negro problem in America at this time is that despite great national commitments, and great progress, a large mass of the black population remains poor, disorganized, and discriminated against.

These facts are increasingly interpreted as proof that the national commitment is flawed, if not indeed fraudulent, that the society is irredeemably "racist," etc.

This interpretation is made by middle-class blacks and whites whom outwardly at least, society would seem to have treated very well, but the continued existence of black poverty makes their argument hard to assail. Moreover, increasingly that argument is directed not to particulars, but to fundamental questions as to the legtimacy of American society.

DISASTER OF VIETNAM

Vietnam has been a domestic disaster of the same proportion, and for much the same reason. As best I can discern, the war was begun with the very highest of motives at the behest of men such as McNamara, Bundy and Rusk in a fairly consistent pursuit of the post-war American policy of opposing Communist expansion and simultaneously encouraging political democracy and economic development in the nations on the Communist perimeter, and elsewhere.

At the risk of seeming cynical, I would argue that the war in Vietnam has become a disastrous mistake because we have lost it. I quite accept Henry Kissinger's splendid formulation that a conventional army loses if it does not win, the opposite being the case for a guerrilla force. We have not been able to win.

Had the large-scale fighting by American forces been over by mid-1967 (which is my impression of what Bundy anticipated in mid-1965), had the children of the middle class accordingly continued to enjoy draft exemption, had there been no inflation, no surtax, no Tet offensive, then I very much fear there would be abroad at this point at most a modicum of moral outrage.

But this is not what happened. The war has not gone well, and increasingly in an almost primitive reaction—to which modern societies are as much exposed as any Stone Age clan—it has been judged that this is because the gods are against it.

In modern parlance this means that the evil military industrial complex has embarked on a racist colonialist adventure. (I have heard the head of SNCC state that we were in Vietnam "for the rice supplies.")

But the essential point is that we have been losing a war, and this more than any single thing erodes the authority of a Government, however stable, just, well intentioned or whatever.

I would imagine that the desire not to be the first President to "lose" a war has been much in President Johnson's mind over the past years, and explains some of his conduct. But the fact is that he could not win, and the all-important accompanying fact is that the semi-violent domestic protest that arose in consequence forced him to resign.

In a sense he was the first American President to be toppled by a mob. No matter that it was a mob of college professors, millionaires, flower children, and Radcliffe girls.

It was a mob that by early 1968 had effectively physically separated the Presidency from the people. (You may recall that seeking to attend the funeral of Cardinal Spellman, Johnson slipped in the back door of St. Patrick's Cathedral like a medieval felon seeking sanctuary.)

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As with the case of the most militant blacks, success for the antiwar protesters has seemed only to confirm their detestation of society as it now exists. Increasingly they declare the society to be illegitimate, while men such as William Sloan Coffin, Jr., the chaplain at Yale, openly espouse violence as the necessary route of moral regeneration.

A COUNTERACTION

The successful extremism of the black militants and the anti-war protesters—by and large they have had their way—has now clearly begun to arouse fears and thoughts of extreme actions by other groups. George Wallace, a fourth-rate regional demagogue, won 13% of the national vote and at one point in the campaign probably had the sympathy of a quarter of the electorate, largely in the working class.

Among Jews—I draw your attention to this—there is a rising concern, in some quarters approaching alarm, over black anti-Semitism. They foresee Negro political power driving them from civil service jobs, as in the New York City school system. They see anti-Semitism becoming an "accepted" political posture. With special dread, they see a not distant future when the political leaders of the country might have to weigh the competing claims of 10 million black voters who had become passionately pro-Arab as against one or two million pro-Israel Jewish voters.

In the meantime, we must await the reaction of the armed forces, and the veterans of Vietnam to whatever settlement you get there. No officer corps ever lost a war, and this one surely would have no difficulty finding symbols of those at home who betrayed it. All in all there are good reasons to expect a busy eight years in the White House.

There is a longer term development contributing to the present chaos, which bears mentioning. Since about 1840 the cultural elite have pretty generally rejected the values and activities of the larger society.

It has been said of America that the culture will not approve that which the policy strives to provide. For a brief period, associated with the depression, World War II, and the Cold War there was something of a truce in this protracted struggle. That, I fear, is now over. The leading cultural figures are going—have gone—into opposition once again. This time they take with them a vastly more numerous following of educated, middle class persons, especially young ones, who share their feelings and who do not "need the straight" world.

It is their pleasure to cause trouble, to be against. And they are hell bent for a good time. President Johnson took all this personally, but I have the impression that you will make no such mistake!

It is, of course, easier to describe these situations than to suggest what is to be done about them. However, a certain number of general postures do seem to follow from the theme "bring us together." I would list five:

First, the single most important task is to maintain the rate of economic expansion. If a serious economic recession were to come along to compound the controversies of race, Vietnam, and cultural alienation, the nation could indeed approach instability.

It would be my judgment that the great prosperity of the 1960s is the primary reason we have been able to weather this much internal dissension. The lot of Negroes has steadily improved, and so has that of most everyone else. Black demands for a greater share have thus been less threatening.

The war has been costly, but largely has been paid for through annual fiscal increments and recent deficits. Consumption has been affected not at all. If this situation were to reverse itself, your ability to meet black needs, the tolerance of the rest of the society for your efforts, the general willingness to see military efforts proceed, would all be grievously diminished.

Second, it would seem most important to de-escalate the rhetoric of crisis about the internal state of the society in general, and in particular about those problems—e.g., crime, de facto segregation, low educational achievement—which Government has relatively little power to influence in the present state of knowledge and available resources. This does not mean reducing efforts. Not at all. But it does mean trying to create some equivalence between what Government can do about certain problems and how much attention it draws to them. For this purpose the theme you struck in presenting your Cabinet on television seems perfect: Yours is an Administration of men with wide-ranging interests and competence whose first concern is the effective delivery of Government services.

There is a risk here of being accused of caring less than your predecessors, but even that will do no great harm if you can simultaneously demonstrate that you do more. It is out of such perceptions that the authority of Government is enhanced.

DE-ESCALATE RHETORIC

It would seem likely that a powerful approach to this issue will be to stress the needs and aspirations of groups such as Mexican-Americans, Puerto Ricans, American Indians and others, which have also been excluded and exploited by the larger society. This, of course, is something you would want to do in any event.

Third, the Negro lower class must be dissolved. This is the work of a generation, but it is time it began to be understood as a clear national goal. By lower class I mean the low income, marginally employed, poorly educated, disorganized slum dwellers who have piled up in our central cities over the past quarter century. I would estimate they make up almost one half of the total Negro population.

They are not going to become capitalists, nor even middle class functionaries. But it is fully reasonable to conceive of them being transformed into a stable working class population: Truck drivers, mail carriers, assembly line workers—people with dignity, purpose, and in the United States a very good standard of living indeed. Common justice, and common sense, demands that this be done.

It is the existence of this lower class, with its high rates of crime, dependency, and general disorderliness, that causes nearby whites (that is to say working class whites, the liberals are all in the suburbs) to fear Negroes and to seek by various ways to avoid and constrain them.

It is this group that black extremists use to threaten white society with the prospect of mass arson and pillage. It is also this group that terrorizes and plunders the stable elements of the Negro community—trapped by white prejudices in the slums, and forced to live cheek by jowl with a murderous slum population. Take the urban lower class out of the picture and the Negro cultural revolution becomes an exciting and constructive development.

Fourth, it would seem devoutly to be wished that you not become personally identified with the war in Vietnam. You have available to you far more competent advice than mine in this area, and I am sure you will wish to proceed in terms of the foreign policy interests of the nation in broader terms, but I do urge that every effort be made to avoid the ugly physical harassment and savage personal attacks that brought President Johnson's Administration to an end.

The dignity of the Presidency as the symbolic head of state as well as of functioning leader of the Government must be restored. Alas, it is in the power of the middle class mob to prevent this. I would far rather see it concentrate, as *faute de mieux* it now seems to be doing, on attacking liberal college presidents as "racist pigs."

I fear the blunt truth is that ending the draft would be the single most important step you could take in this direction. The children of the upper middle class will not be conscripted.

In any event, the present system does cast a pall of anxiety and uncertainty over the lives of that quarter of the young male population which does in fact require four to eight to 10 years of college work to prepare for careers which almost all agree are socially desirable, even necessary.

Fifth, it would seem important to stress those things Americans share in common, rather than those things that distinguish them one from the other; thus the war on poverty defined a large portion of the population as somehow living apart from the rest.

I would seek programs that stress problems and circumstances that all share, and especially problems which working people share with the poor. Too frequently of late the liberal upper middle class has proposed to solve problems of those at the bottom at the expense, or seeming expense, of those in between.

Obviously the theme "forward together" is essential here, and there are other symbols at hand of which I would think the approaching 200th anniversary of the founding of the Republic is perhaps the most powerful.

In the final months of your second term you will preside over the anniversary ceremonies of July 4, 1976. It would seem an incomparable opportunity to begin now to define the goals you would hope to see achieved by that time, trying to make them truly national goals to which all may subscribe, and from which as many as possible will benefit.

Hopefully our 200th anniversary will see the nation somewhat more united than were those 13 colonies!

[From the Washington Post, Mar. 13, 1970]

THE MOYNIHAN PAPERS: VOL. I, NO. 2

There are several things to be said about Mr. Moynihan's communication of Jan. 3, 1969, to the President which has found its way into the press. One—and perhaps the most important—is that it is an impressive document, well-reasoned and to the point. We mean to dwell on this a little and to provide quotations from the text, because you could get the idea from various accounts of what is in the memo that it was making points directly opposed to those it actually made. Somehow, when a black activist or a white liberal inveighs against the conditions under which we have forced large segments of our black population to live, it is regarded as enlightened, whereas when Mr. Moynihan makes the same point, people don't say, "Right on!"—they say, "Right wing!"

Our colleagues at the New York Times, for instance, discerned in this memo, which Mr. Moynihan wrote the President on the eve of his inauguration, something consistent with a policy of "de-escalating progress toward an integrated society and of appeasing white backlash sentiment." They further viewed it—along with Mr. Moynihan's other leaked works—as providing "a sophisticated rationale for racial retrogression." For reasons of basest self-interest we will defend to the death the right of editorial writers to interpret documents in ways with which we (or others) disagree. But we believe that the reverse of this interpretation is true: the whole burden of Mr. Moynihan's Jan. 3 argument, as we read it, is that "common justice" and "common sense"—his terms—require that the *causes* of racial tension be relieved and that this be done in time to avert (1) further violence and (2) resulting white repression.

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Here, for example, is Mr. Moynihan on the perspective in which such progress toward common justice as has already been made should be viewed:

"The fact is that with respect to Negro Americans we have seen incredible progress since, roughly, the *Brown* v. *Board of Education* decision of 1954 and President Eisenhower's subsequent decision to send Federal troops to Little Rock, thus commencing the second Reconstruction . . . Yet it was only after that effort had begun, and had been under way for some time, that it became possible to see the true horror of the situation white America had forced on black America and the deep disabilities that came about in consequence. The first to see this, of course, were the blacks themselves . . . Large numbers of middle-class, educated blacks, especially young ones, have come to see American society as hateful and illegitimate, lacking any true claim on their allegiance. Well they might."

Mr. Moynihan, however, does not regard this perception of injustice or the feelings which flow from it as the main source of the trouble or as the appropriate target for administration heavy-fire:

"The essence of the Negro problem in America at this time is that despite great national commitments, and great progress, a large mass of the black population remains poor, disorganized, and discriminated against."

Mr. Moynihan's recommendations included "dissolving" this Negro lower class—"the low income, marginally employed, poorly educated, disorganized slum dwellers." Had he used another verb such as "assisting" or "saving" or "helping" (which is what that section of his memo describes) he might have got a little more credit for what he said. But one can hardly be sure of that, since so many accounts of his argument have stood his principal thesis regarding the black lower class on its head.

We have in mind Mr. Moynihan's observation that "like such groups everywhere," this group is "unstable and essentially violent," and his conclusion: "This fact of lower class violence *has nothing to do with race. It is purely a matter of social class.*" We have added the emphasis because this, unaccountably, is the part of Mr. Moynihan's memo that appears to have caused the most trouble, suggesting to some that, despite the explicit confirmation of the responsibility of racism for the black slum-dweller's plight that runs through this memo, Mr. Moynihan does not think race has anything to do with that plight. The (widely missed) point is that in characterizing black slum violence as a manifestation of class attitudes rather than racial ones, as an outgrowth of class conditions rather than characteristics of race, Mr. Moynihan was making what has always been regarded as the indispensable liberal and/or enlightened argument in these matters. It is generally applauded by Mr. Moynihan's critics when it is otherwise stated as the fact that black slum-dwellers tend to violent behavior because they are poor and misused, not because they are black. That racial discrimination ("centuries of barbarism") accounts for their poverty and misuse is stated with such clarity in Mr. Moynihan's memo that it seems incredible for his point about race-versus-class to have got so distorted in the retelling.

At the outset we remarked there were several things to be said about this memo; but setting its arguments straight seemed to come first. We mean to get around to a second aspect of this whole affair—namely, the manner in which these leaked documents have been promoted and transformed in such a way as to suggest that we are present at a public hanging. But that—and a great deal of head-scratching over the merits and dangers of the leak—will come later.

DEATH OF FORMER SENATOR HOMER T. BONE

Mr. MAGNUSON. Mr. President, with a sense of great sorrow I announce to the Senate the passing yesterday of a former distinguished Member of this body, Homer T. Bone of the State of Washington. He was 87 years old. He served here for two terms with great distinction. I am sure those who served with him would agree with me that he was one of the most brilliant men ever to grace this body.

He was a determined advocate of the development of power through the use of natural resources, particularly hydroelectric development. Out in the Pacific Northwest we considered him to be the father of public power, and also the Rural Electrification Administration.

Mr. President, untold millions of people have benefited by his early leadership in this field. I recall an incident many years ago in which he participated. I was a member of my State legislature in 1933. The late Senator Bone had been a member of the State legislature prior to that time. He had fought long and valiantly to reduce power rates in the State of Washington and in the entire Pacific Northwest, through the development of public power, which led to the great powerplant of Seattle City Light, and many other city powerplants throughout the country. He ran into a sort of roadblock in those days with the private power people. It became a considerable political fight, although it is not any more. Private and public power in the Pacific Northwest now work together aided by what is known as the Bonneville Power Administration.

Homer T. Bone had been trying to have passed in the State legislature what was known as the Bone power bill. My colleagues will remember that the city of Seattle was served by a municipal powerplant. Outside the city limits service came from a private power group. In those days the city limits of Seattle were at 85th Street. All of that area has grown up, but that was the city limit. It was found that the people on the city side were paying one-half the amount for city light as compared to those who lived on the other side.

The bill that was introduced caused more furor in our part of the country than anything I have ever known. It would allow the Seattle City Light Co. to service people outside the city limits. The bill was passed. I was in the legislature when it was passed and I had the privilege of managing the bill on the floor of the house. From thereon we had lower power rates, and we have in our area now a combination of public and private power interest.

As far as I am concerned he was the father of public power developed by our great natural resources in the Pacific Northwest. He left the Senate in 1944. He had had a mishap in which he had fallen down and broken his hip and some other bone troubles and he did not want to campaign again for the Senate that year. He often said he did not want to go out on the campaign trail with crutches. He was a great friend of Franklin D. Roosevelt. Roosevelt was persuaded, because of his brilliant mind and brilliant career, to recommend him for the Ninth Circuit Court of Appeals. He was made a judge. He served with great distinction on the circuit court of appeals for over 10 years. He retired from the circuit court and continued to live at the site of the court in San Francisco where he participated in many decisions. He was called in on numerous cases and worked until almost 3 or 4 years ago. However, he had persistent trouble with bone problems and decided to retire completely and go back to his hometown in Tacoma.

Among other things, he wrote some great decisions on the circuit court of appeals, so lawyers tell me. They were masterpieces in the law. My colleague and I would agree that he was one of the most articulate men we ever knew. He was brief and to the point, and his speeches and opinions were brilliant. One did not have to guess about any of his meanings. He meant what he said and he said it clearly with almost classic use of English. He was a close personal friend of mine for over 40 years. As a matter of fact, I succeeded Homer Bone in the Senate. I agree with his many friends who have also lost a friend and a great American.

His sole survivor is his son, Homer T. Bone, Jr. He has a brother-in-law in Tacoma, John Coffee, who served in the other body with distinction for many years.

There are many Senators who served with Homer T. Bone and who would probably believe we have located a new or popular issue with our rhetoric in the so-called military-industrial complex. Homer T. Bone was known here during the period of World War II for calling attention to those who profited during the course of World War II from military contracts and industry. It was his voice that first called attention to some of the abuses that can occur during a large and great war, as occurred in World War II,

We will all miss him but all remember Homer T. Bone.

I yield to my colleague from Washington.

Mr. JACKSON. Mr. President, I wish to associate myself with the fine remarks made by my senior colleague in connection with the passing of Senator Homer T. Bone.

He was indeed one of the most colorful persons in public life in the Pacific Northwest in the 1920's, the 1930's, and the 1940's.

He was a person of singular purpose. He made it a point to take on one issue and stay with that issue year in and year out. This was especially true of the public power program. But his interests transcended that particular program.

After he came to the Senate, it would be my guess that one of the accomplishments in which he took greatest pride was the passage of legislation that made possible the National Cancer Institute. My distinguished senior colleague (Mr. MAGNUSON) was a cosponsor of that particular measure in the House of Representatives at the time.

Senator Bone was a man of great in-

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tegrity and, as my colleague has mentioned, he was extremely articulate. He was a most effective advocate. He was a loyal friend. He was a man who could be depended upon.

He distinguished himself during the period of his service on the circuit court of appeals from 1944 to 1956.

He leaves a son, Homer T. Bone, Jr., and a grandson, Gregory Scott Bone, both of California; and a brother-in-law and a sister-in-law, Mr. and Mrs. John M. Coffee, of Tacoma, Wash. Mr. Coffee was formerly a U.S. Representative from Washington.

I convey to them my deepest sympathy in the passing of a great public figure and an outstanding jurist.

Mr. MAGNUSON. I thank my colleague.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I want to join both Senators from Washington in expressing my sorrow on the passing of a former colleague of this body, Senator Homer T. Bone. Senator Bone used to come to Montana quite often in company with Senator Murray, and it was a joy and a pleasure to listen to him and to visit with him and to be the beneficiary of his wise advice and counsel.

There comes a time for all of us, and even though it may be anticipated and expected, it nevertheless comes as shock when the time comes for someone close to pass on.

As a Member of this body from a sister State of the Northwest, I want to join Senators MAGNUSON and JACKSON in expressing my feelings, and I am sure the feelings of the people of the country as a whole, in the passing of a man who made his mark in this body and in the country.

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S. 3593—INTRODUCTION OF FEDERAL ECONOMY ACT OF 1970

Mr. WILLIAMS of Delaware. Mr. President, under date of February 26 the President sent to the Congress a proposed reduction, termination, or restructuring of 57 programs which are either obsolete, in low priority, or in need of basic reform.

The approval of these recommended changes would save a total of $2.5 billion in fiscal year 1971, and of this amount $1.4 billion savings would be by administrative action and $1.1 billion savings would require congressional approval.

At a time when our Government is operating at an annual deficit of approximately $8 billion Congress should give full support to the administration toward this economy goal.

Today I am introducing a bill which will carry out that part of the administration's recommendation which needs legislative action.

This bill is very properly being labeled the Federal Economy Act of 1970.

At this point I read in the RECORD an excerpt from the President's message outlining the necessity for the enactment of this legislative proposal.

> I propose reduction, termination or restructuring of 57 programs which are obsolete, low priority or in need of basic reform. These program changes would save a total of $2.5 billion in the fiscal year 1971. Of this amount, $1.1 billion saving require Congressional action—roughly the equivalent of the amount by which the 1971 budget is in surplus.
>
> No government program should be permitted to have a life of its own, immune from periodic review of its effectiveness and its place in our list of national priorities.
>
> Too often in the past, "sacred cows" that have outlived their usefulness or need drastic revamping have been perpetuated because of the influence of special interest groups. Others have hung on because they were "too small" to be worthy of attention.
>
> At a time when every dollar of government spending must be scrutinized, we cannot afford to let mere inertia drain away our resources.
>
> Some of these programs are the objects of great affection by the groups they benefit. But when they no longer serve the general public interest, they must be repealed or reformed.
>
> No program should be too small to escape scrutiny, a small item may be termed a "drop in the bucket" of a $200.8 billion budget, but these drops have a way of adding up. Every dollar was sent to the Treasury by some taxpayer who has a right to demand that it be well spent.
>
> As an extreme example, the government since 1897 has had a special board of tea-tasters. At one time in the dim past, there may have been good reason to single out tea for such special taste tests; but that reason no longer exists. Nevertheless, a separate tea-tasting board has gone right along, at the taxpayer's expense, because nobody up to now took the trouble to take a hard look at why it was in existence. The general attitude was: It did not cost much, it provided a few jobs, so why upset the teacart?
>
> That attitude should have no place in this government. The taxpayer's dollar deserves to be treated with more respect.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the bill introduced by the Senator from Delaware (Mr. WILLIAMS) be referred to the following committees for their consideration of the subject matter falling within their respective jurisdictions:

The Committee on Commerce, the Committee on Agriculture and Forestry, the Committee on Finance, and the Committee on Labor and Public Welfare.

The **PRESIDING OFFICER.** Without objection, the bill will be received and appropriately referred to the committees as requested by the Senator from Montana.

The bill (S. 3593) to reduce budget outlays by restructuring or terminating certain outmoded or uneconomic Federal programs, introduced by Mr. WILLIAMS of Delaware, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry, the Committee on Commerce, the Committee on Finance, and the Committee on Labor and Public Welfare.

PROPAGANDA THROUGH USE OF MOTION PICTURES

Mr. MURPHY. Mr. President, many times during my membership in this distinguished body I have talked about the importance of propaganda and the use of motion pictures in that field. I have talked about the high hope that the propaganda—and I am using that term in the best usage of that word—might be utilized so the true story of our country, our designs and desires throughout the world, might be told.

I find there is evidence that those who disagree with our system of government and our form of life are beginning to use it, and I am afraid quite effectively.

I have here a series of articles from the Santa Monica, Calif., Evening Outlook, written by Williamson Good, the first of which is dated February 24, 1970. This article is entitled "Communist Propaganda Films Shown at Los Angeles Public Libraries."

The article begins:

> Our job is to make propaganda useful for the education of broad sections of the people about the necessity for the revolutionary Socialist transformation of American society.

Nothing could be clearer than that; I do not think it needs any explanation or translation. To achieve that objective, there is a company or a group, I do not know which, called "The Newsreel," and they are distributing these Communist propaganda films to libraries and colleges. They have shown them at UCLA. The ones to which particular reference is made here were shown at UCLA following a lecture by Professor Angela Davis, who I believe is an admitted member of the Communist Party. I am not certain of that, but I believe she is.

The title of one of the films being shown is "Off the Pig." Produced by San Francisco Newsreel, this is a Black Panther recruiting film—"Off the Pig" means "kill the police." This is one of their most popular films.

Then there is another one called "The Accusation." They describe this film in their catalog as a compilation of news footage and stills of American atrocities in Vietnam.

One of my close friends in the intelligence business in the Far East, a year and a half ago, told me that he would not be surprised if atrocity films would be brought into this country; and, according to his information, they would be infiltrated through Canadian sources at a certain time—films that had been made a year, a year and a half, or 2 years ago in Hanoi—they would be systematically released, and there would be a great humane outcry about American atrocities.

This film was produced by the North Vietnamese with British narration for the Bertrand Russell International War Crimes Tribunal which was held in Stockholm, Sweden. So, you see, as we study these matters out, the international aspect comes to the surface.

There was another film called "Vietnam, Land of Fire," which the catalog states "Explicitly documents U.S. military's torture and murder of civilians in Vietnam." It was produced by the North Vietnamese.

And there is one produced in Communist Cuba called "Hasta La Victoria Siempre." This is a strong indictment of U.S. imperialist control as a reason for the poverty in Bolivia. It features speeches by Che Guevara, the Cuban revolutionary who, together with Mao Tse-tung, has become the hero of some younger people who are inclined toward revolution, and who, I am afraid, have not done their homework and do not really know the elements that they are dealing with in these matters.

A second article, under date of February 25, explains how these films seek to recruit revolutionaries on the campuses. These are campuses that are sustained mainly through the efforts of the American taxpayers—that great silent majority—and these are the uses that are being applied to some of the campuses facilities by those who would destroy the very system that makes those facilities possible; and, may I say, the best and most productive system that we have found.

The third of this series of articles by the same writer goes into the matter of the school dropout. It shows how films are used to encourage youngsters to drop out—extremely well made and carefully made films, exposing full knowledge of the art and of the use of the art to persuasively show the reasons, create the enthusiasm, and exploit the inclination to drop out of school. There is one which is very exciting, where the youngster involved runs first to his parents, then to his professors, and all the way down the line, saying, "I quit, I quit, I quit."

I have spent a great deal of time, as have many of my colleagues, trying to figure out how to cure the dropout problem; and here we have this same group, using this same type of propaganda—well-made, insidious, clever films, not readily discernible for what they are unless you have had some experience in the field.

I find that Federal funds are also being used to help pay for the showings, as the fourth article points out.

Mr. President, I think this is most disturbing. I think it absolutely requires our immediate attention. I intend to find out all the details and speak on this matter at length later, and, if necessary, to introduce legislation, in the hope that the general welfare of this great Nation and the national security may be preserved and the wishes of the great majority of the people about these matters presented.

So, Mr. President, I ask unanimous consent that this series of four editorials from the Santa Monica Evening Outlook be printed in the RECORD at this point.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

COMMUNIST PROPAGANDA FILMS SHOWN AT LOS ANGELES PUBLIC LIBRARIES

(By Williamson Good)

"Our job is to make propaganda useful for the education of broad sections of the people about the necessity for the revolutionary socialist transformation of American society."

Such is the stated objective of "The Newsreel," a national organization of left-wing film producers and distributors.

To achieve this objective, Newsreel is distributing foreign Communist propaganda films in the greater Los Angeles area and elsewhere. They have been shown to classes at UCLA; at a lecture by Communist professor Angela Davis at USC; at a benefit for a "movement coffee house" at UC Irvine; at a program sponsored by the Black Students Union at East Los Angeles City College, and at the Venice Public Library.

A program featuring Communist films and other revolutionary "newsreels" has been underway at the Lincoln Heights branch of the public library for almost six months. In addition, these films can be seen most any week at the "Haymarket" on North Hoover St., at the "Ash Grove" on Melrose and in Newport at "Bird in a Gilded Cage."

To complement foreign Communist films, Newsreel shows many of its own domestic propaganda films as well as films produced by others. Newsreel of Los Angeles is located at 188 W. 39th St.

Newsreel is no small-time outfit. A financial prospectus for Los Angeles Newsreel alone showed an annual budget of $94,814. This amount—to cover the period from June 1969 to June 1970—included $8,030 for two films to be produced on Venice and its problems in race and police relations.

From January to June of 1969, the prospectus claims, over 900 separate showings of Newsreels were held in every state in the West. In Southern California alone, "46 groups (are) now using Newsreels." Other full-time Newsreel production and distribution offices are operating in San Francisco, New York, Chicago, Boston, Washington, D.C., and Atlanta.

Newsreel is especially interested in getting their films shown to students. "To move against the repression and manipulation of the educational system," wrote San Francisco Newsreel in the December "Movement" newsletter, a radical monthly, "we must *educate* (their emphasis) young people to the necessity of building a powerful revolutionary movement." Newsreel has an ample stock of films for this purpose. Their slick-cover, 12-page catalogue describes over 60 of them.

The purpose of individual films varies. Some, in the words of New York Newsreel, "must aim at neutralizing opposition; some must aim at eliciting support or mobilizing; some aim at increasing the sense of what is relevant, raising the imaginative possibilities . . . some aim at converting specific groups of people."

Among Newsreel's stock of films are:

"Off the Pig." Produced by San Francisco Newsreel, this is the Black Panther recruiting film. "Off the Pig" (which means "kill the police") is one of Newsreel's most popular films.

"The Accusation," Newsreel's catalogue describes this film as "a compilation of newsfootage and stills of American atrocities in Vietnam. It was produced by the North Vietnamese with English narration for the Bertrand Russell International War Crimes Tribunal in Stockholm."

"Vietnam, Land of Fire." States the catalogue: "Explicitly documents U.S. military's torture and murder of civilians in Vietnam." It was produced by the North Vietnamese.

"Hasta La Victoria Siempre." Produced in Communist Cuba, this is "a strong indictment of U.S. imperialist control as reason for the poverty in Bolivia." It features speeches by Che Guevara, Cuban revolutionary killed while making revolution in Bolivia.

The showings of these films do not present opposing viewpoints; they are instead billed as newsreels of documentaries. Any discussion following the films is very carefully controlled, and when a speaker accompanies the films, questions are often planted in the audience to enable a speaker to make his point without appearing to lecture.

NEWSREEL FILMS SEEK CAMPUS RECRUITS FOR U.S. REVOLUTION

(By Williamson Good)

"We must educate young people to the necessity of building a powerful revolutionary movement," states Newsreel, a national "collective" of revolutionary film producers and distributors. With branches in six major cities and contacts nationwide. Newsreel is a major outlet for progaganda films produced in Cuba and North Vietnam.

Anyone who has ever attended a showing of Newsreels on a college campus can readily appreciate the role these films play in building the revolutionary movement which Newsreel seeks to build. Foreign and domestic films alike are highly professional, and as such, carry the conviction that "seeing is believing." When martial music is added, the films then appeal to the students' emotions as well as their intellect.

On campus, the films are frequently accompanied by a speaker whose role is to answer questions and remove any doubts that arise. One such event took place on Sunday afternoon, Oct. 5, at the University of California at Irvine.

Two of the films shown were "Hanoi 13" and "FALN." The Newsreel catalogue gives excellent descriptions of both.

"Hanoi 13" was produced by a "team of Cuban filmmakers (who) have documented everyday productive activity around Hanoi—building irrigation ditches, planting in rice paddies . . . as necessary for their survival and self-defense. During the bombing raid, peasants and workers form armed defense units so efficiently that the productive life of the nation is not interrupted."

"Hanoi 13" was in English and obviously aimed at an American audience. Whenever American planes were shown making their bombing runs, the audience hissed and booed. When one was shot down, the audience cheered.

"FALN" was "compiled in 1965 by Americans from actual footage" taken by Communist guerrillas in Venezuela. It depicted the United States as an imperialist power allegedly grinding the peasants into the most degrading poverty. The Communist guerrillas were shown as the friends of the peasants and as fighters for peace and justice.

The films were followed by a speaker, revolutionary priest Blase Bonpane, who was suspended from the Maryknoll Fathers. He has recently denied charges that he was expelled from Guatemala for training armed guerrillas, yet the left-wing and Communist press has always referred to him as a "priest expelled from Guatemala for aiding the guerrilla movement."

A highly skillful and persuasive speaker, Bonpane attacked the Communist party USA for being conservative. He said the reason so many faculty members at UCLA were concerned over the Angela Davis case was that there were "perhaps a thousand" of them who considered themselves to the left of the Communist party.

Newsreel's film catalogue says, "We want people to work with our films as catalysts for political discussions about social change in America; we want you to relate the questions in the films to issues in your own communities. Without these kind of discussions, our films would not be complete." Bonpane's appearance completed the afternoon.

Newsreel films were shown at the University of Southern California following an address by USLA Communist professor Angela Davis which was attended by several hundred people.

The highlight of the film showing was "On Strike," a domestic propaganda film produced by San Francisco Newsreel which deals with the student strike which disrupted San Francisco State College for most of the 1968-69 school year.

"On Strike" is a thoroughly professional film. It is a withering attack on San Francisco State, the tracking system, capitalism, and most particularly S. I. Hayakawa, president of the beleaguered college.

At nicely spaced intervals, the film showed students battling police. These sequences invariably included an instance of a policeman beating a student. The film editing was such that no student provocation whatever was shown. Each time such a sequence was shown, the audience booed. And then, when emotion was worked up against police, a stu-

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dent was shown attacking police. The audience burst into spontaneous applause.

Both at USC and UC Irvine, there were no opposing viewpoint presented. The films were explicitly used to sway those who might be bordering on active support for New Left causes; they also served to encourage and inspire those already committed.

Communism, Marxism or socialism are rarely mentioned in Newsreel films. Yet no one in the audience can fail to know that Marxist socialism is the alternative posed to our present system by each one of the Newsreel films.

San Francisco Newsreel has written that its members actively study Marxism-Leninism. That orientation is clearly shown in the films which Newsreel itself has produced and in those which it has imported from Communist countries.

Newsreel Films at Los Angeles Library Urge Students To "Drop Out"

(By Williamson Good)

For six months, the Lincoln Heights branch of the Los Angeles Public Library has been regularly showing Communist propaganda films from Cuba and North Vietnam. These films and others were provided free to the library by the "The Newsreel," a national "collective" of revolutionary film distributors and producers. Newsreel explicitly urges the "necessity for revolutionary Socialist transformation of American society."

The film program began last summer when Al Korpella—described by head librarian Mrs. Hermia M. Davis as a "person in the community"—approached Joe Buelna at Lincoln Heights Library and expressed a desire to run a film program. According to Korpella, Mr. Buelna introduced him to sources of film, and the program got under way. The films were shown approximately every three weeks on a Friday night in the library's main reading room from 9 p.m. until midnight.

"School is Revolting" was the title of a showing held last November 7. Only two of the six or seven films screened that evening were Newsreels; some of the others came from the Visual Aids Department of the Los Angeles Public Library. The theme of the first part of the evening was "Drop Out of School." Three films dealt with this subject.

Of these the most skillful was "No Reason to Stay," a property of the library. It opened with a shot of a clean-cut young man going down a hill in New York's Central Park on a sled with his pretty girlfriend. Life on the outside of school was shown as exciting, as fun. But before long the film switched to a shot of one of New York City's drab school buildings which was surrounded by a chain-link fence. The message was clear: School fenced them in.

Before long, the hero of the story was having to contend with a history teacher who required only memorization, a French teacher who required the entire class to conjugate verbs in unison, an English teacher who endelssly recited ridiculous poetry.

Each of the some 50 high school students in the audience could identify some aspect of his own school life in that film. Each had had some teacher who had frustrated him and no doubt made him want to drop out. But the young man in the movie didn't have a single good teacher, and the movie built up in him a frustration which the members of the audience could not help but feel themselves.

Finally, the pressure built until the boy couldn't stand it any longer. Rather than drop out passively, he jumped up, ran out of class, barged into the principal's office and shouted, "I quit!" And then to his mother's advertising office—"I quit." And then to his father's corporation board meeting—"I quit!" The overwhelming implication of the film was that those watching it should do likewise.

"That's Me" starring popular screen star Alan Arkin followed "No Reason To Stay." This film is also owned by the Los Angeles library system—showed a social worker talking with a young Puerto Rican dropout to try and get him to drop back into the system. The Puerto Rican, played by Arkin, succeeded in talking the social worker into dropping out. Again, the message of the film was: Drop out.

Why would leftist revolutionaries encourage people to drop out of school? To alienate them from the school and thus from the system. When a student gives up the system he now has, he will be open to another. Before he can be "turned on" to socialism, he must first be "turned off" to America. The "drop-out" films were clearly designed to bring out a sense of frustration in the students and thus alienate them.

Following the turn-off films, there were two Newsreels designed to turn students on to socialism. The first was "Historia De Una Batalla" (Story Of a Battle) which was produced in Communist Cuba in 1961. The film opened with a shot of a trainload of happy, revolutionary teachers going into the Cuban mountains to teach illiterate peasants. Whereas the educational system in the United States had been depicted as dull, gray, blah and compulsory, the Cuban propaganda film showed Cuban education as exciting, colorful and voluntary. Thus, after having subjected the students to a withering attack on the educational system of the United States, they were offered the Communist system of Cuba as an alternative.

Federal Funds Help Finance Showings of Communist Films

(By Williamson Good)

Mrs. Hermia M. Davis, head librarian at Lincoln Heights Public Library, was present in the library the evening of Feb. 6 when two Communist propaganda films were shown in the "Free Flics" series which has been running there for some six months.

Although it was readily apparent at the beginning of both films that one was produced in Cuba and the other in North Vietnam, Mrs. Davis denied being aware that any of the films shown in her library were Communist propaganda. She also denied any knowledge that the people running the "Free Flics" had passed out a flyer urging contributions to The Newsreel—the national organization which distributes Communist propaganda films as well as its own productions, which urge "revolutionary Socialist transformation of American society."

The flyer stated: "Free Flics is proud of its association with Newsreel of Los Angeles. They have been most cooperative and generous, making their films available to us free of charge. Making and distributing films is obviously not free. Newsreel needs money! We hope that you will come to their aid with whatever you have available."

In a telephone interview, Mrs. Davis said that the "Free Flics" series was consistent with one of the purposes of the Library Services and Construction Act—known as the "Federal Project"—which was passed by Congress in 1965. This act appropriated money to pay salaries of library employes whose function was to "create services which would bring disadvantaged people to the library." Instead, they brought in leftist revolutionaries.

Lincoln Heights is not the only public library which has felt that "Newsreels" are consistent with the purposes of the "Federal Project." At the Venice Public Library, a series of Newsreel showings was arranged by Miss Averill Adams, a "community aide" whose salary was paid with funds from the "Federal Project."

On Oct. 2, "Threatening Sky," produced in North Vietnam and "Off the Pig," the Black Panther recruitment film, were shown. Newsreel even provided its own publicity for this. The leaflet was headlined "Power to the People" and it announced "The Venice Library will show such films, made by Newsreel."

The librarian at the Venice Public Library when these films were shown was Mrs. Gloria Joyce Elliot who has since transferred to the Baldwin Park library. She said she did not attend any of the film showings and was not aware that any were produced in Cuba or North Vietnam.

The Newsreel showings at the Venice Public library were finally stopped after a showing on Oct. 15 which, ironically, did not include any Newsreels.

Library publicity had advertised "Come Back Africa," a film on South Africa. No other films were mentioned.

As the audience of some 60 people were waiting for the show to start, a young black woman announced that a short documentary would be shown first. About this time, five black men, clad in black leather jackets, arrived and sat down in the audience. The "documentary" was "Huey's Birthday," a film promoting the Black Panthers. During the film, the five men instigated applause and cheering. When the film was over, they got up and left. No further revolutionary films have since been allowed in the Venice Public Library.

Would Mrs. Gale, head librarian, have allowed the films if she had known some of them were Communist propaganda? "That's hard to say," she said, "but as long as you have open discussion afterward, you can use almost any film as a springboard."

Averill Adams, who obtained the Newsreels, has since left the library and now works for the Venice Post Office. She was completely uncooperative in answering questions about her association with Newsreel.

What can or should be done about our public facilities being used to show Communist and other revolutionary films? Possibly the best approach would be for the people to insist that academic freedom be preserved in public institutions.

Committees of concerned citizens should be formed to attend library and school functions. They should insist that Communist propaganda films be labeled as such, rather than presented as newsreels or documentaries. They should insist that both sides be presented.

The Los Angeles area has many people in it who have fled the boot of Communist repression. The public should insist that these people be given equal time in public facilities to present an opposing viewpoint.

Censorship never has and never will achieve the preservation of a free society. Only a free exchange of ideas can preserve it. The public, which largely opposes Newsreel's call for "revolutionary Socialist transformation of American society," should see to it that those who use public facilities for this end do not go unchallenged.

VOTING RIGHTS ACT AMENDMENTS OF 1969

Mr. COOK. Mr. President, I wish to thank the Senator from Alabama for permitting me to take the floor, and also to thank the distinguished majority leader for his kind remarks in regard to the passage of the 1965 voting rights extension and the Scott-Hart amendment, with the 18-year-old voting provision.

Mr. President, as Senators know, my State has voted 18-, 19-, and 20-year-olds since 1955. I must join the distinguished majority leader in saying that I truly believe history was made in this body today. I think history was made for an extremely articulate portion of our society—that group of 18-, 19-, and 20-

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year-olds, who represent over 11 million adult Americans—and I congratulate the Senator from Montana for staying tenaciously with his amendment in the wake of criticism from the House of Representatives that it would not be accepted.

I can only say to those in the House who will be charged with the consideration of this matter that I hope, as they go to conference, if they have to, they will go with the understanding that this is a remarkable nation, a remarkable society, where a man can go into a committee meeting or into a conference holding the fate of the franchise of more than 11 million people in his hands; and I hope that when they go into that conference, they will realize and understand that there are two States in this Union which permit 18-year-olds to vote, the State of Kentucky and the State of Georgia; that the State of Alaska permits 19- and 20-year-olds to vote; and the State of Hawaii, 20-year-olds.

I hope the conferees will go into that room understanding that as long as there are some 400,000 of this class who are now franchised, they should realize their responsibility to permit the remainder of the class to be franchised.

I can only thank the distinguished majority leader for bringing forth an amendment and forcing it to its conclusion by the processes of a free society, in a free debate on the floor of the U.S. Senate, fulfilling something that is very dear to me. I thank him very, very much.

Mr. MANSFIELD. Mr. President, I wish to thank the distinguished Senator from Kentucky for the remarks just made, and to call to his attention that any credit for the passage of the amendment reducing the voting age to 18 should go to both parties and, if I may say so, to the present administration, because I know of no Member of this Chamber who was averse to giving the vote to the 18-year-olds. They were just apart on the method to be used.

So far as the administration is concerned, it, likewise, was in favor of the vote for the 18-year-olds.

So I would say that the credit can be spread around equably; that the chief beneficiaries, hopefully, if this measure is agreed to in the House and is upheld in the courts, will bring about changes desired within the system rather than without; and that through the infusion of new blood, new vigor, new capabilities, clearer visions, and clearer heads, they will be able to do a better job of looking after the affairs of this country than many of us who have gone before them but who have been charged with the responsibilities.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HOLLAND. Mr. President, I had not expected to say anything about the passage of the Voting Rights Act with the amendment as to 18-year-olds attached; but in view of the fact that the distinguished majority leader said he knew of no Member of the Senate who was not in favor of granting the voting right to 18-year-olds, either by statute or by constitutional amendment—the only difference being as to the method—I want to make it clear that there are Members of the Senate, of whom I am one, who are opposed to the granting of the voting right to 18-year-olds. We were particularly against the proposed granting by statutory enactment, which we think cannot be done legally under the Constitution.

In opposing the granting of the voting right to citizens 18 years old, the Senator from Florida thinks that he and others who feel as he does side decidedly with the majority expression of the citizens in all parts of the United States whose voice has been heard on this subject in recent years.

The Senator from Kentucky, who now graces the chair as the Presiding Officer, spoke of the fact that his State did in 1955, as a constitutional amendment, adopt the 18-year-old voting age, which was of course completely constitutional, completely within the judgment of the citizens of the State of Kentucky, and no one could have any criticism about that whatever. But since that date no State has followed that course. To the contrary, in recent years the 11 States which actually submitted this question to their citizens found the question voted down by the vote of their citizens in every case.

I placed a list of these 11 States in the RECORD a few days ago, and I think that RECORD shows with great force that the great majority of the people in those States, which lie in all parts of the United States, have expressed very clearly their disapproval of the granting of voting to 18-year-old citizens.

As to which point of view is sound, only time can tell; and only the decisions of the Supreme Court can say what is constitutional and what is not, so far as the method of approach is concerned.

But I do want the RECORD to show that there are Members of the Senate who disapprove the granting of the voting right to citizens 18 years of age, for many reasons which appear in the arguments in the RECORD, and the Senator from Florida is one of those Senators. He feels that for the Senate—and for the House, if it should later do it—to vote by statute such a provision is simply flying in the face of tremendous expressions of our citizens in at least 11 States in recent years to the contrary.

In addition to those 11 States where the people themselves have voted down this provision, there are several other States in which, in constitutional conventions, the effort has been made to write this into the proposed new constitution, and it has been rejected. Every State, I think, without exception, has had this question considered in its legislature—in my own State several times—and in each instance the legislature has refused to submit a constitutional amendment on this subject.

So that the Senator from Florida feels that the great majority of expressions in recent years of legislatures and of voters in State elections—with all credit to the State of Kentucky and to the State of Georgia, both of which have seen fit, within their rights and within the conscience of their citizens, to adopt the 18-year-old rule—have been against this course. That is entirely beside the question of constitutionality of the Senate action, which itself is a very grave one.

With all respect to the majority leader for his perseverance and for his soundness of conscience, and with similar respect to every Senator who has voted as the majority leader has voted—because certainly I do not question anybody's motives—I just want to make it very clear that it would be a mistake to assume that all Members of the Senate approve the granting of the voting right to 18-year-olds.

I thank the Senator for yielding.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished Senator from Florida. I see that we are in almost total disagreement on the question of the 18-year-olds.

I am glad, though, that the Senate, for the first time in my memory, has had a chance to face up to this particular question and has, so to speak, bit the bullet and at least has paved the way for the first time to allow the franchise to these people, who are responsible in so many ways but who are not given the main responsibility which would allow them to exercise a little bit of that responsibility, at least, in the making of policy—policy which, all too often, they are called upon to carry out without their consent and without their views being made known.

EXTENSION OF TIME FOR SPECIAL COMMITTEE ON AGING TO FILE REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for filing the report of the Special Committee on Aging be extended to April 17, 1970.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO MONDAY, MARCH 16, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

The PRESIDING OFFICER (Mr. COOK). Without objection, it is so ordered.

RELIEF OF MARIE-LOUISE (MARY LOUISE) PIERCE

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 495.

The PRESIDING OFFICER (Mr. COOK) laid before the Senate the amendment of the House of Representatives to the bill (S. 495) for the relief of Marie-Louise (Mary Louise) Pierce which was to strike out lines 3 through 7, inclusive, and insert:

> That, notwithstanding the provisions of section 212(a) (3) and (4) of the Immigration and Nationality Act, Marie-Louise (Mary Louise) Pierce may be issued a visa and admitted to the United States for per-

manent residence if she is found to be otherwise admissible under the provisions of that Act:

Mr. MANSFIELD. Mr. President, on February 17, 1969, the Senate passed S. 295 to grant the status of permanent residence in the United States to the wife of a U.S. citizen and to provide for the posting of a bond as a guaranty that she would not become a public charge.

On February 17, 1970, the House of Representatives passed S. 495, with an amendment to provide for a waiver of the grounds for exclusion relating to one who has suffered from mental illness and who has a mental defect. Under this amendment the beneficiary must make specific application with the immigration service for an adjustment of status to permanent residence. Medical information in the case is favorable, and it is stated that the beneficiary responds well to treatment, which is required infrequently.

I move that the Senate concur in the House amendment to S. 495.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a statement by the Senator from Washington (Mr. JACKSON) relative to the implementation of the National Environmental Policy Act of 1969, as corrected in certain aspects, and Executive Order 11514 and a press release be printed in the RECORD.

There being no objection the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON

Mr. JACKSON. Mr. President, during Senate debate on adoption of the Conference Report on S. 1075, the "National Environmental Policy Act of 1969", I noted that a "statement of environmental policy is more than a statement of what we believe as a people and as a Nation. It establishes priorities and gives expression to our national goals and aspirations. It provides a statutory foundation to which administrators may refer for guidance in making decisions which find environmental values in conflict with other values."

During the debate I also said that "while the National Environmental Policy Act of 1969 is not a panacea for the Nation's environmental problems, it is a starting point. A great deal more, however, remains to be done by the Federal Government, both in the form of legislation and executive action, if mankind and human dignity are not to be ground down in the years ahead by the expansive and impersonal technology modern science has created."

On March 5, the President issued an Executive Order designed to implement the National Environmental Policy Act. Because the effectiveness of this important measure will depend in large measure on how vigorously the Act is administered by the Executive Branch, I wish to call the Order to the attention of the Senate.

In a related development, the Department of Transportation announced earlier today that Federal Funds for additional runways at the John F. Kennedy International Airport will not be approved pending the results of an environmental study by the National Academy of Sciences. The Department's action was based on the National Environmental Policy Act of 1969, the Executive Order and a Departmental memorandum implementing the Act within the Department of Transportation.

Because the Department of Transportation is one of the first Departments to base an administrative action directly upon the Act, and because this action represents a vigorous endorsement of both the spirit and the provisions of the statute, I wish to bring the action to the attention of my colleagues in the Senate.

I ask unanimous consent that the Executive Order and the March 13 press release of the Department of Transportation be included in the record along with the Department's February 27 memorandum implementing the Environmental Policy Act of 1969. I share Secretary Volpe's desire that the activities of the Department of Transportation serve as an example for other agencies of government in the implementation of this important measure.

[Executive Order 11514, Mar. 5, 1970]

PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91–190, approved January 1, 1970), it is ordered as follows:

SECTION 1. *Policy*. The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

SEC. 2. *Responsibilities of Federal agencies*. Consonant with Title I of the National Environmental Policy Act of 1969, hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act.

SEC. 3. *Responsibilities of Council on Environmental Quality*. The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2)(C) of the Act.

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act.

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of

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preventing or reducing adverse effects from such technologies.

SEC. 4. *Amendments of E.O. 11472.* Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget,", the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91–190) shall assist the President in directing the affairs of the Cabinet Committee."

(5) By deleting subsection (c) of section 102.

(6) By substituting for "the Office of Science and Technology", in section 104, the following: "the Council on Environmental Quality (established by Public Law 91–190)".

(7) By substituting for "(hereinafter referred to as the 'Committee')", in section 201, the following: "(hereinafter referred to as the 'Citizens' Committee')".

(8) By substituting for the term "the Committee", wherever it occurs, the following: "the Citizens' Committee".

RICHARD NIXON.

THE WHITE HOUSE, *March 5, 1970.*

[Filed with the Office of the Federal Register, 2:29 p.m., March 5, 1970]

DEPARTMENT OF TRANSPORTATION NEWS RELEASE

Secretary of Transportation John A. Volpe today said he will not approve use of Federal funds for additional runways at John F. Kennedy International Airport in New York, pending the results of an environmental study by the National Academy of Sciences.

Secretary Volpe's announcement is a continuation of Department of Transportation policy that gives the highest priority to environmental factors before approval is given for use of Federal funds for any transportation project.

The New York decision also is in conformity with the National Environmental Policy Act of 1969, which President Nixon signed into law on January 1. Secretary Volpe in a recent memorandum, told Departmental policy makers to consider any proposed action that may affect the environment as one that could significantly affect the environment. He also spelled out Departmental policy on environmental matters.

In his announcement today, Secretary Volpe said the Department would cooperate fully with the National Academy of Sciences in its study since "the results of this study could be of great benefit to us in our efforts to deal with similar situations across the country.

"I recognize the critical need for additional airport capacity in New York and in other major cities," Secretary Volpe said. "I also recognize the need for additional highways and other transportation corridors. But I am not going to approve the use of Federal funds for these airports and corridors unless and until I am satisfied that the price of this additional mobility is not irreparable damage to the quality of the environment.

"I am determined that this Department will become the leader in preserving, protecting, and restoring our environment and appreciably improving the quality of American life."

He stressed that any actions taken to improve the three major New York-New Jersey airports must not have the effect of increasing overall community noise exposure, increasing air pollution or otherwise causing harm to the area's ecology.

"The airports of New York, as well as those across the country, must be compatible neighbors to the areas they serve," Secretary Volpe said.

Further, Secretary Volpe said that all Department of Transportation efforts to resolve New York's airport problems would be fully coordinated with the Department of the Interior because of the proposed Gateway National Recreation Area. No decisions have been made concerning proposed improvements to JFK Airport and they will not be made until the environmental/ecological reviews are completed. In addition, all study results will be made available to the Council of Environmental Quality for its review and comment.

"Situations such as that in New York are becoming more common," Secretary Volpe said, "and the Federal Government's role—and interest—in them is increasing. The recent growth in commercial aviation and the development of new aviation technology have generated urgent needs throughout the United States, both for new airports and an expansion of existing facilities—either of which can have a serious impact on the environment.

"This is true for every mode of transportation, and it is a problem at which my memorandum to Departmental policymakers was directed," the Secretary said.

That directive orders that all proposed actions deemed likely to affect environmental quality be accompanied by a detailed statement outlining the possible impact of the action on the environment. The Secretary designated J. D. Braman, Assistant Secretary of Transportation for Environment and Urban Systems, to oversee the Department's response to the National Environmental Policy Act, signed into law by President Nixon on January 1, and to compile the material far the July 1 report required by the new law.

Secretary Volpe noted that positive action by government often is required to ensure that genuine needs for additional facilities are not met at the expense of irrevocable harm to the quality and nature of the environment. An excellent example of this may be seen in the recent proposal to build a jetport near the Everglades National Park in South Florida. The Department of Transportation, working with the Department of the Interior, successfully concluded an agreement with the local authorities to safeguard the National Park by requiring the local authority to find another site for the proposed airport.

In conformance with this Departmental policy, Federal Aviation Administrator John H. Shaffer today announced that the Federal Aviation Administration will not consider any applications for Federal aid for additional runways at New York Airports without assurances that there will be no unacceptable environmental or ecological impact. Mr. Shaffer stressed the necessity for balancing the increasing transportation needs of the New York area with the absolute requirement that all steps be taken to achieve excellence in environmental quality.

The FAA will release a limited study which analyzes the technical considerations concerning the airport capacity of the New York-New Jersey metropolitan region. This study provides a basis, along with the National Acadamy of Sciences Study, for further efforts to determine how airport capacity can be increased and the area's ecological and environmental quality enhanced.

The limited study released by the FAA for printing is in two parts, "Analytical Study of Air Traffic Capacity in the New York Metropolitan Area" and "New York Traffic Capacity Study (Real Time Simulation)." The study examines the capacity of the system of airports serving the New York area, concentrating on Newark, LaGuardia and Kennedy. It assumes that additional parallel runways are added at Newark and Kennedy. The reports also consider several improvements to the air traffic control system, such as the use of area navigation routes, standard instrument departure and arrival procedures, and computer-aided approach spacing and sequencing. The effect of regulating or limiting traffic during peak hours is also examined.

The first part of the study uses analytical and mathematical techniques to estimate capacity. The second part is a real time simulation study conducted on the air traffic control simulation system at the FAA's National Aviation Facilities Experimental Center. The simulation system, which includes controllers, control equipment, such as radars, and simulated aircraft, permits study of all elements of the system simultaneously.

The addition of runways at Kennedy and Newark would provide substantial peak-hour airport capacity increases depending upon the noise abatement procedures used and the degree of success resulting from the recently developed metroplex plan.

Substantial increases in air traffic capacity are obtained from the revised route structures, standard departure and arrival procedures, and automated control aids. These or other improvements are necessary to prevent control positions from becoming overloaded at traffic demands equivalent to the maximum capacity of the reconfigured airports.

In releasing the report for printing, Mr. Shaffer emphasized that it is only a part of a total study effort. Studies considering the impact of the expansion plan on the environment, and the plan's relationship to the total transportation needs of the New York area, must be conducted before the overall feasibility can be determined.

Copies of the report should be available from the Clearinghouse for Federal Scientific and Technical Information, Springfield, Virginia 22151, by April 1st.

MEMORANDUM ON PUBLIC LAW 91–190: THE ENVIRONMENTAL POLICY ACT OF 1969

From the Secretary.

To the Under Secretary, the Assistant Secretaries, the General Counsel, the Administrators, Deputy Under Secretary.

On 1 January 1970, President Nixon signed into law the National Environmental Policy Act of 1969, P.L. 91–190, and said, "It is particularly fitting that my first official act in this new decade is to approve the National Environmental Policy Act." He continued, "We are determined that the decade of the '70's will be known as the time when this country regained a productive harmony between man and nature." The President added that he was convinced that the years immediately ahead "must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters, and our living environment. It is literally now or never."

While the Department of Transportation has already taken significant steps to see that environmental considerations are given increased attention and weight in its policies and programs, steps which include the establishment of the Office of Environment and Urban Systems, we shall have to take additional steps in order to bring this Department's activities into line with those specified by P.L. 91–190.

I should like to review for you some possibilities in this regard which may affect operations within the Department and within the Administration.

First of all, the law declares a national environmental policy which calls on the Federal Government in cooperation with State and local governments and other concerned public and private organizations "to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." The Act continues by calling on the Federal Government "to use all practicable means . . . to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

* * * * *

(2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment . . .

(4) Preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment which supports diversity, variety and individual choice; . . .

* * * * *

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources."

From the standpoint of the Department of Transportation, however, the most important section of the Act, Section 102, calls on all Federal agencies to

"(A) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment ;

(B) Identify and develop methods and procedures . . . which will insure that presently unquantified environmental amenities and values may be give appropriate consideration in decision making along with economic and technical considerations."

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Insofar as day-to-day activities of the Department are concerned, the law also calls for a "detailed statement" by the responsible Federal official "in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment . . . on

(i) The environmental impact of the proposed action,

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) Alternatives to the proposed action,

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented."

There are other important requirements as well.

For purposes of interpreting this provision of the law for the Department of Transportation, all actions and programs which affect the environment or have the potential for affecting the environment are to be considered "major Federal actions significantly affecting the quality of the human environment" and all such actions and programs should include a detailed statement as specified. Each Administration is to prepare a policy issuance and establish workable procedure to assure that the required statement accompanies every project to be financed in whole or part by this Department. To assure a responsive and consistent approach to these policy issuances and procedures throughout the Department, they are to be coordinated by the Office of the Assistant Secretary for Environment and Urban Systems, in consultation with the General Counsel's Office.

I have asked the Assistant Secretary for Environment and Urban Systems, in cooperation with the General Counsel, to oversee the Department's response to this Act, both in terms of policies and procedures. I shall further expect all officials at the policy-making level of the Department and the Administrations to become familiar with this new law and its implications for planning and operations at all levels of government.

In addition, all elements of the Department should anticipate the need for instructing field personnel as to the intent and demands of this new law. Further, it would seem advisable to incorporate responses to the requirements set forth in this legislation into PPBS memoranda and other budget documents. Possibly it may also prove necessary to re-examine personnel allocations in order to determine where and how new or different personnel may be required in order to meet the requirement of the law.

The Environmental Quality Act also requires that the President shall submit annual Environmental Quality Reports, to include measures of current environmental quality, steps taken to meet the requirements of this law, and recommendations for additional action. The first such report is due on July 1, 1970. To help meet this urgent reporting requirement, each Administration is requested to furnish to me on or before March 9, 1970, a statement of tentative plans for meeting the mandate of P.L. 91–190. I have asked the Assistant Secretary for Environment and Urban Systems to coordinate the Department's contribution to this report and to cooperate with the newly established Council on Environmental Quality, both for purposes of this report and other Council matters relating to transportation.

I am confident that the Department's record of conformance and responsiveness to this law will set an example for the other agencies of the Government and I seek your wholehearted cooperation in establishing such a record.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, with the exception of Calendar No. 21, message No. 1.

There being no objection, the Senate proceeded to consider executive business.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations on the executive calendar will be stated, beginning with U.S. marshals.

U.S. MARSHALS

The bill clerk proceeded to read sundry nominations of U.S. marshals.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF DEFENSE

The bill clerk read the nomination of Theodore C. Marrs, of Alabama, to be Deputy Assistant Secretary of Defense for Reserve Affairs.

Mr. THURMOND. Mr. President, it was with distinct honor that on February 26, 1970, I presented to the Senate from the Committee on Armed Services the nomination of Dr. Theodore C. Marrs to be Deputy Assistant Secretary of Defense for Reserve Affairs.

This high post to which Dr. Marrs has been nominated is one of the most important positions in the Department of Defense as he will be the chief civilian responsible for the Reserve programs of the various services in our Defense Establishment.

It has always been my conviction that the overall military strength of our country is directly related to the strength of our Reserves. Therefore, the continued strength of our Reserve program over which Dr. Marrs will preside is of critical importance to our national defense.

Mr. President, this point is amply demonstrated by the fact that our total nonactive duty Reserve Forces number 3,356,000 personnel. Of this number 2,411,000 are Ready Reserves, 398,000 are Standby Reserves, and 547,000 are Retired Reserves.

As Deputy for Reserve Affairs in the Office of the Secretary of the Air Force, Dr. Marrs has had the responsibility at policy level for the Air Force Reserve, the Air National Guard, the Air Force ROTC programs, and the Civil Air Patrol. This has resulted in Dr. Marrs' association with the leaders of Reserve Forces of the Army, Navy, and Marine Corps, with foreign Reserve representatives, and with the Congress. He is well known as a participating member of the Reserve Officers Association and the National Guard Association.

Mr. President, Dr. Marrs retired from the active practice of medicine 7 years ago to serve in Government. After a productive year as special assistant to the Surgeon General of the Air Force he was asked to assume his position in the nonmedical reserve field.

He was born in Rutherfordton, N.C., on August 29, 1918. He attended the University of Tennessee at Knoxville and completed medical college there in 1940. Following graduation he completed a residency in pediatrics at Henry Ford Hospital in Detroit, Mich. He was active in certain classified missions, wrote papers on industrial medicine and pioneered use of electroencephalography in pediatrics and in aviation medicine.

During the period from 1945 to 1951, Dr. Marrs maintained an office for medical practice in Montgomery, Ala. During this time he was instrumental in organizing and managing a number of successful medical facilities. These activities included service as president of the board and chief of pediatrics at Jackson Hospital and Clinic, Montgomery, Ala., a 500-bed hospital with a staff of 40 doctors; president and medical director of Pineview Manor for the Handicapped, Montgomery, Ala.; medical director of the Elks Memorial Clinic for the Handicapped, Montgomery, Ala.; medical consultant for Carlson School, Pompano Beach, Fla., and Laradon Hall, Denver, Colo.; and national consultant to the

United Cerebral Palsy Association during which time Dr. Marrs pioneered development of schools or clinics for handicapped children in 30 cities.

In the area of industrial medicine and aerospace medicine he has served as consultant to numerous aerospace corporations; vice president and one of the founders of Spacelabs, Inc.; completed courses in occupational health, aviation medicine, space operations, medical aspects of missile operations, and aviation medicine and written papers on aviation and industrial medicine subjects.

In the area of military medical administration Dr. Marrs has served successively as flight surgeon, tactical hospital commander, chief of outpatient clinic, base hospital commander, member of the Medical Reserve Advisory Council, and special assistant to the Surgeon General of the Air Force.

As special assistant to the Surgeon General he was a principal in reorganizing the Medical Reserve program in accord with current Air Force needs.

He has worked with CIA in paramilitary and other areas.

Dr. Marrs has been on the Governor's Committee for the Handicapped under five Alabama Governors and on the President's Committee for the Handicapped under three Presidents.

He is a member of the American Board of Pediatrics, the Royal Society of Health, the Association of Military Surgeons, the Aerospace Medical Association, and the Society of U.S. Flight Surgeons.

He has been cited on numerous occasions for his contributions in intelligence areas and medical areas. He has consistently received outstanding performance ratings in his present civil service assignment, and he has been awarded the decoration for exceptional civilian service. The Air Force Association, National Guard Association, Reserve Officers Training Corps, Arnold Air Society, the Polio Foundation, the Nicaraguan Medical Service, the Guatamalan Health Association, the American Association on Mental Deficiency, the American Physicians Art Association, the Mental Health Association, the National Society for Crippled Children and Adults, and other organizations have cited him for his contributions in this area.

Dr. Marrs also has an outstanding career as an Air Force reservist. His various duty assignments included a tour, beginning October 1, 1961, as commander of the 117th Tactical Hospital, Dreaux Airbase, France. On October 1, 1963, he was named assistant to the Surgeon General of the Air Force for Reserve Affairs and in 1964 became a colonel in the Air Force Standby Reserve. On February 16, 1968, he was promoted to brigadier general in the USAFR and on December 21, 1968, he was designated as a mobilization assistant to the Surgeon General of the Air Force.

Mr. President, the Armed Services Committee was unanimous in its approval of Dr. Marrs and it is believed he will render our Nation an outstanding service in this high post.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Theodore C. Marrs, of Alabama, to be Deputy Assistant Secretary of Defense for Reserve Affairs?

The nomination was confirmed.

FEDERAL DEPOSIT INSURANCE CORPORATION

The bill clerk read the nomination of Frank Wille, of New York, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of 6 years.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

THE DEPARTMENT OF TRANSPORTATION

The bill clerk read the name of Robert H. Cannon, Jr., of California, to be an Assistant Secretary of Transportation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. COAST GUARD

The bill clerk proceeded to read sundry nominations in the U.S. Coast Guard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

PUBLIC PRINTER

The bill clerk read the nomination of Adolphus Nichols Spence II, of Virginia, to be the Public Printer.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. AIR FORCE—U.S. ARMY—U.S. NAVY

The bill clerk proceeded to read sundry nominations in the U.S. Air Force, the U.S. Army, and the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION, IN THE ARMY, IN THE NAVY, AND IN THE MARINE CORPS

The bill clerk proceeded to read sundry nominations in the Environmental Science Services Administration, in the Army, in the Navy, and in the Marine Corps, which had been placed on the Secretary's desk.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

WITHDRAWAL OF UNITED STATES-MEXICAN BROADCASTING PROTOCOL

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. Do I correctly understand that Senate Executive Resolution No. 1, 91st Congress, second session, on the withdrawal of a United States-Mexican broadcasting protocol, reported by the Committee on Foreign Relations favorably, is subject to consideration only on the basis of a majority vote?

The PRESIDING OFFICER. The Chair would inform the Senator from Montana that he is correct.

Mr. MANSFIELD. Mr. President, I thank the Chair. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Executive Resolution No. 1, 91st Congress, second session, withdrawal of United States-Mexican broadcasting protocol.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider Senate Executive Resolution No. 1, 91st Congress, second session, withdrawal of United States-Mexican broadcasting procotol.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

SUPREME COURT OF THE UNITED STATES

Mr. MANSFIELD. Now, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of George Harrold Carswell, of Florida, to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. The clerk will state the nomination.

The bill clerk read the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. Is there objection to the consideration of this nomination?

There being no objection, the Senate proceeded to consider the nomination.

Mr. SCOTT. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, the Senate of the United States is asked to decide whether it will advise and consent to the nomination of Judge George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

The majority and minority views of the Senate Judiciary Committee have been printed and we have been treated to a variety of statements, both by Senators and by those outside the Senate, as to why they oppose Judge Carswell's confirmation. These arguments have seemed to me to boil down to basically two: first, that Judge Carswell, during his tenure as a judge of the Federal district and circuit courts has not been sufficiently "pro-civil rights" in his decisions; and, second, that Judge Carswell is not sufficiently "distinguished" to be an Associate Justice of the Supreme Court of the United States.

Let me first address myself to this question of "distinction" in judicial nominees. I find it a very difficult notion either to define or to explain. I take it that no one seriously questions Judge Carswell's integrity, judicial temperament, or professional competence. The American Bar Association's standing committee on the Federal judiciary has spoken rather emphatically on that subject, in discharging its obligation to determine whether or not a man nominated to be a Justice of the Supreme Court is or is not qualified for that position.

That committee unanimously found Judge Carswell to be qualified and so advised the chairman of the Senate Judiciary Committee on January 26; asked by opponents of the nominee, after the conclusion of the hearings before the Senate Judiciary Committee, to reconsider its position, the committee unanimously reaffirmed its earlier determination.

The committee's communication to the chairman of the Senate Judiciary Committee points out the difference between the question of professional competence and other factors that the President or the Senate may wish to consider in evaluating a nominee. I quote from a paragraph of Judge Walsh's letter to Senator EASTLAND:

> With respect to nominations for the Supreme Court, the Committee has traditionally limited its investigation to the opinions of a cross-section of the best informed judges and lawyers as to the integrity, judicial temperament and professional competence of the proposed nominee. It has always recognized that the selection of a member to the Supreme Court involves many other factors of a broad political and ideological nature within the discretion of the President and the Senate but beyond the special competence of this Committee.

If 12 members of the American Bar Association, specially appointed by my good friend and fellow Pennsylvanian, Bernard G. Segal, president of the association, to discharge this important responsibility, have concluded that Judge Carswell is qualified as to "integrity, judicial temperament and professional competence" and have reached that conclusion on the basis of an investigation of "the opinions of a cross-section of the best informed judges and lawyers," that part of the inquiry is for me at an end.

I think the "lack of distinction" argument is really a make-weight for those whose real ground of objection is that the nominee is not sufficiently in accord with their views. He may not be in accord with many of my views, for that matter. But, to the extent that the lack-of-distinction argument suggests that Judge Carswell lacks either integrity, judicial temperament or professional competence, it is rebutted by the unanimous opinion of the American Bar Association's Standing Committee on the Federal Judiciary.

To the extent that it suggests disapproval of Judge Carswell's judicial philosophy, it is really not grounded on "distinction" at all, but on ideological considerations.

There has been, in the past, some disagreement among members of the Senate Judiciary Committee, and of the Senate as a whole, as to the extent to which an individual Senator ought to evaluate and take into account a nominee's judicial philosophy in deciding whether to vote in favor of confirmation or against it. One thing certainly is clear—each of the 100 Senators cannot insist that the nominee be a carbon copy of his own views on the various matters that come before the Supreme Court, since there are only nine Justices of that Court. I am sure that 100 will not go into nine, if I still remember my early math.

If the President's power to appoint is to mean anything, it must mean that the President is empowered to consider a nominee's judicial philosophy in naming him to the Court in the first instance. The role of the Senate must be, I believe, at most to insist that the nominee's public record be within a range of reasonableness on controversial judicial issues. Each individual Senator cannot insist that the nominee bear his own philosophical stamp, but must limit his consideration, as I must, to whether the nominee's record is within broad limits of reasonableness.

Testimony before the Senate Judiciary Committee has satisfied me that Judge Carswell is indeed a "middle of the roader" in this field of the law.

I repeat, this is not to say that I would necessarily approve of each of Judge Carswell's decisions in the field of civil rights. In fact, in several cases it seems to me that he was stricter than I would like to have seen a judge be, in holding against civil rights plaintiffs.

I am convinced, however, that his rulings—even in these cases—were motivated by his own understanding of the precedents, and his own judicial philosophy. Even though I might not have decided these cases the same way as he did, his overall approach in the area of civil rights is based on his construction of the Constitution, and certainly not in defiance of it.

When I turn to Judge Carswell's work in the field of criminal law, I find myself in accord with virtually everything he has done. He has established a good reputation for fairness as a trial judge in those criminal cases which he tried himself, as can be seen from the statistics regarding affirmance on appeal of these cases by the Fifth Circuit.

However, in several decisions on legal points in habeas corpus cases, he has indicated that where under the law he is free to do so, he would take a more restrictive view of the constitutional rights of criminal defendants than would some other sitting judges.

In a nation confronted with a rising tide of crime which has made the average citizen fearful of going about on the streets of his neighborhood, I do not believe it is wise to further expand concepts under which criminal defendants may be freed on technical points unrelated to their guilt or innocence of the crime of which they are charged.

As a matter of fact, within the last 48 hours, the wife of a former Representative has been an unwitting and unwilling witness to the aftermath of a robbery in a grocery store, and a Member of the U.S. Senate has had his clothing stolen from his car in a parking lot. Therefore, we are well aware that crime is with us in the United States.

I think the President, in short, indeed has nominated a "strict constructionist" to the Supreme Court. Judge Carswell's record is that of a judicial conservative; and, quite consistently with this record, his decisions tend to a less expansive reading of the constitutional rights of both civil rights' plaintiffs and of criminal defendants.

As I have said, my own personal preference, were I sitting on the bench, would probably be for a more liberal reading of the rights of civil rights plaintiffs, but for the same sort of more restrictive reading of the rights of criminal defendants as that found in Judge Carswell's decisions.

Only if I were to insist that a judge nominated to the Supreme Court mirror precisely my own views as to how Supreme Court Justices should decide particular cases, could I have serious doubts about voting to confirm Judge Carswell. Obviously, neither I nor any other Senator has the right to impose such a requirement.

Judge Carswell is within the realm of reason in the area of civil rights, and will bring to the area of constitutional rights of criminal defendants a somewhat more skeptical approach than has been followed by the Supreme Court in some of its decisions of the immediate past. I welcome this latter development.

Judge Carswell is an experienced, sitting judge. There are those who argue that he has not had sufficient time on the bench, and to them I point out that of the last four appointees to the Supreme Court, three never wore judicial robes before being confirmed here.

It strikes me as strange, moreover, that some of those now opposed, were prepared some years ago, to rush through a Supreme Court appointee simply because "this was the man the President wanted."

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. HOLLAND. Mr. President, the Senator knows that this nominee served 5 years as assistant district attorney in the Eisenhower administration. He was appointed in the closing part of the Eisenhower administration as a district judge and was appointed last year in the Nixon administration as a judge of the Circuit Court of Appeals for the Fifth Circuit.

I simply want the record to show on this point, first, that the Senator from Florida, not being of the same party as the Executive on any of these three occasions, did not make the nomination, but that there was every chance for anyone who wished to complain to him of Judge Carswell personally, or later as an official, to do so.

The area over which he presided is predominantly Democratic. The bar over which he presided is predominantly Democratic. Not only did I have no complaint, but I had much encouragement to approve the appointment when he was named as district attorney. And he was unanimously approved by the Senate.

When the time came for his appointment as a district judge—and the situation was the same, as the nomination came from a Republican administration and was not upon my recommendation—there was ample opportunity for me to hear objections, if there were such, to the way he had treated defendants or lawyers in cases which he had handled as a prosecutor.

I had no such complaints, and to the contrary, even when the circuit court of appeals nomination was made last year, with the situation exactly the same—the nomination coming from a Republican President—with every opportunity for me to hear the complaint of any lawyers or others who might complain of his judicial conduct, I had none.

I want the record to show that I had many dozens of pleasant, approving, and recommending letters and other contacts last year. I did in 1958 when he was named as district judge. And I did in 1953 when he was named as an assistant district attorney. And through the course of the years, I have had many opportunities to hear from members of the bar, in particular in that part of the State, and I have yet to have the first complaint of mistreatment or poor judgment on the part of Judge Carswell, which I thought was quite a commendation for a man who has served in these three positions since 1953. And the Senate having acted unanimously to confirm him on each of these three occasions, we must have felt unanimously that he was well chosen and well regarded and that it was well understood that he was a man of integrity, a man with a knowledge of the law, and a man of judicial temperament.

Mr. SCOTT. Mr. President, I thank the Senator from Florida for his contribution to the information on the background of this appointee. He was, indeed, confirmed unanimously by the Senate and reported unanimously by the Senate Judiciary Committee on each occasion. And if there were any objections to him, they must have been at that time quite minimal.

One is, therefore, entitled to wonder why some of the things have been said which have been said later on this, the fourth time the name of Judge Carswell has been submitted to the Senate.

If we were right three times, one wonders how we could be so wrong the fourth time. This is another one of the reasons why I am supporting the nomination.

This nomination is not rushed through. Judge Carswell has been subjected to the closest scrutiny by the Senate and the public. And the fact remains that this is the man the President wants. This is the man the Judiciary Committee, by a heavy majority, favorably reported. This is the man on whose qualifications we in the Senate have passed on three times already.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. KENNEDY. Of course, in making the evaluation three previous times, neither the Judiciary Committee nor the Senate carried out any searching inquiry. I think that in all fairness it should be pointed out that on this occasion, with a nomination to the Highest Court in the land at stake, there were materials presented to the Committee on the Judiciary which had not been submitted to the Committee on the Judiciary before; and that this time there was an opportunity to review his work in greater detail. We had somewhat of a chance to look at his performance with a higher degree of care, particularly in terms of his interpretation of certain controlling cases and statutory and constitutional provisions, and his willingness to follow precedents. There was a much more complete—although not even yet a totally thorough—inspection of his general performance during his tenure on the court. I think that any examination of the record would indicate incontrovertibly that this was a much more thorough and far-reaching study than had been made before.

Would the Senator agree?

Mr. SCOTT. I agree there has been a great deal more discussion on the nomination of Judge Carswell this fourth time than there has been before. There have been witnesses and controversy; there have been different points of view. The distinguished Senator from Massachusetts knows I share his views generally on civil rights; and I believe I can say conversely that he shares mine. But I am pointing out that had this appointee's record been as unfortunately subject to criticism as it now is, that it did not occur in the previous three situations. But I do think the Senator has made an important contribution to the record and I could not dispute that these matters have since been brought out.

Mr. KENNEDY. I thank the Senator. I regret having interrupted the Senator in his formal presentation because I think it is only fair that he make his presentation. I think in fairness, when we are considering this matter we should realize that this has been perhaps the only extensive and intensive examination of this nominee's background, competence, and judicial temperament for this important position. There have been those who say it has been too expansive and exhaustive an examination, but I think there can be no doubt that we have a much more complete record on this nominee than at any time in the past.

When we consider the nominee on this occasion compared to the other times he was considered, we must realize that we are considering him for the highest kind of national responsibility, a position on the Supreme Court of the United States; as compared to the other occasions when he was being considered for the position as U.S. attorney and district or circuit court judge. Perhaps we should have considered his previous nominations more carefully. But that is certainly no reason not to consider his present nomination as carefully as we can.

I thank the Senator.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. HOLLAND. It was the Circuit Court of Appeals, the second highest court in our Nation, and a court that is the court of final appeal in the normal case. There was certainly an ample opportunity to investigate at that time.

I repeat that he was not my nominee. I nominated someone else, just as I have this time. But I must in fairness state that although I am a member of the bar in Florida of long standing and have served as Governor of my State, and lived in Tallahassee, the city where he lives, and know him and have been acquainted with practically all the lawyers who practice in practically the entire western and northern part of my State, I have yet to have any complaint of mistreatment or lack of judicial knowledge and handling by members of the Florida bar.

The Senator will remember, of course, that the president of the Florida Bar Association came to testify heartily in support of this nomination.

Mr. KENNEDY. Mr. President, would the Senator yield further?

Mr. SCOTT. If I may, I would like to finish two short paragraphs, and then I will be glad to yield.

In nominating Judge Carswell, President Nixon has taken into consideration notions of geographical and philosophical balance in the Supreme Court.

This is his prerogative and in the absence of ethical considerations, I support the nomination of Judge Carswell and I intend to vote for his confirmation.

Mr. President, I ask unanimous consent to have printed in the RECORD a biographical sketch of George Harrold Carswell.

There being no objection the biographical sketch was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH OF GEORGE HARROLD CARSWELL

Judge Carswell was born on December 22, 1919, in Irwinton, Georgia. He graduated from Duke University in Durham, North Carolina, with a B.A. degree in 1941. He attended the University of Georgia Law School for one year prior to his entry into the armed forces in 1942. He was discharged as a Lieutenant in the Navy in 1945, after which he resumed his law studies at Mercer University Law School, at Macon, Georgia. He graduated from the Walter F. George Law School at Mercer in 1948, and engaged in the private practice of law in Tallahassee, Florida, until 1953.

He was appointed United States Attorney for the Northern District of Florida by President Eisenhower in July, 1953, and served in that position for five years. In 1958, he resigned as United States Attorney to accept appointment as United States district judge for the Northern District of Florida, a post which he held until President Nixon appointed him to be a judge of the United States Court of Appeals for the Fifth Circuit in June, 1969. He is presently serving as a circuit judge.

Shortly after he was appointed a district judge, Chief Justice Warren appointed Judge Carswell to be a member of the Committee on Statistics of the Judicial Conference of the United States. This Committee performs the essential function of evaluating the need for additional federal judges throughout the nation, on the basis of studies of current workload and backlog. The present Omnibus Judge bill already passed by the Senate and pending in the House of Representatives is based largely on the recommendation of the Committee on Statistics. In April, 1969, Judge Carswell was chosen by the other circuit and district judges to be the Fifth Circuit's district judge representative to the Judicial Conference of the United States. As such, he attended and participated in the meeting of the Conference held in June, 1969, dealing with the problems of judicial ethics arising from outside employment of federal judges. He voted with the majority of the Conference at that time to require disclosure of outside employment, and to regulate it in other ways.

Mr. SCOTT. Mr. President, I am glad to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to comment on the statement of the distinguished Senator from Florida in regard to the question of whether any members of the bar in Florida did complain.

Mr. HOLLAND. To me.

Mr. KENNEDY. We are talking about the whole record in this matter. If the Senator is limiting complaints of the Florida bar to him, I would reserve any comment. If the Senator is talking about reservations expressed by lawyers who practiced in Florida in terms of their practice before Judge Carswell in numerous cases, I would suggest that the Senator review the record. There were a number of members of the bar that did complain and complain vociferously about the kind of treatment they received in the nominee's court. They used the words "intimidated," "hollering," and "scolding." One lawyer who supervised a large number of other lawyers throughout Florida during a 4-year period of the 1960's, said that he felt it necessary to train them for appearances before Judge Carswell by harassing them and interrupting them as Judge Carswell repeatedly did. And other lawyers who appeared in his court corroborated that complaint.

I would certainly hope the Senator, for whatever value he might place on it, would get a chance to review those comments, as well.

However, those are really the secondary questions when taken in isolation. I think the Senator from Pennsylvania has touched on the really important questions which will be discussed and debated. I had really not intended to have the opportunity to speak this afternoon on this question and I hope to do some time next week. But I do feel that the individual views expressed by four members of the Committee on the Judiciary, and those expressed in the more complete memorandum, which touch upon the question of the professional competency of Judge Carswell, that talk about his judicial temperament, about the question of whether his interpretations really follow the controlling cases or not, questions of his sensitivity to and understanding of human rights, really present a very responsive and complete expression of why many Members of this body will find there are sound grounds to believe that this nomination should not receive the Senate's endorsement.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. GRIFFIN. Mr. President, I expect to have some further remarks at a later point in the debate on this nomination but I should like at this time to commend the distinguished minority leader for a very excellent statement and, in general, to associate myself with what he has said.

He has focused on what are supposed to be the issues, and I believe he has demolished the arguments of those who seek to build a case against the nominee.

Certainly any Senator who wishes to oppose a nominee for the Supreme Court simply because of disagreement with philosophy is within his rights as a Senator to do so; but I suggest that it breaks with the tradition and practice of the Senate over the years, as I understand the history of the Senate, Senators have been very tolerant with respect to differences of philosophy when nominations to the Supreme Court have been considered.

I would not try to characterize or categorize the philosophy of Judge Carswell. However, like the minority leader, I am quite sure that the philosophy of the nominee would not be completely in tune with mine. I know that there are decisions which have been handed down by the nominee which would not have been my decisions if I had been sitting in his place. But I am also conscious of the fact that any Senator would expect too much if he should expect or demands 100 percent agreement with any nominee so far as philospohy or ideology are concerned. I am not impressed with the arguments of those who try to portray this nominee as a "racist" or an extremist.

As a member of the Judiciary Committee, I have listened to the testimony and I have reviewed the record. On the whole, I believe the record indicates that the nominee has sought to apply the decisions of the Supreme Court as he, in good faith, has interpreted them.

Once again, I want to commend the distinguished minority leader.

Mr. KENNEDY. Mr. President, will the Senator permit me to respond on this point to the Senator from Michigan?

Mr. SCOTT. I yield. I understand the Senator wishes to respond to the Senator from Michigan. I can yield the floor at this time. Is the Senator seeking recognition?

Mr. KENNEDY. Yes.

Mr. SCOTT. Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I would like to say, in terms of response to my good friend from Michigan, that I am sure that during the course of this debate it will be stated on the floor that there were members of the Judiciary Committee who expressed their reservations to this nominee solely on the basis of philosophy. I certainly did not, and I do not believe my colleagues who signed the minority views did so, either.

Realistically, I believe we would expect that during this administration, there might very well be nominees whose philosophy might be different from that of some of us who sit on the Judiciary Committee; we have had such nominees for every kind of position from U.S. marshal to Chief Justice of the United States, and we have not opposed their confirmation. But the point raised in the individual views, which is extremely basic with respect to this nominee, is whether the nominee's personal prejudice and predilections interferred with the decision-making process, in his court, and affected his judicial temperament, his objectivity, and his fairness. I think it is a legitimate area of pursuit for those of us on the Judiciary Committee, and for all Members of the Senate, because it is a basic question and must be resolved. There were suggestions, comments, and statements by witnesses that indicated strongly that this happened. We will have an opportunity to review that evidence and examine it in some detail during the course of the debate. Obviously it is a question that reaches the essence of the question of the suitability of the nominee, even apart from the overall and threshold question of whether his general qualifications are such as to merit a Supreme Court appointment.

This is a better portrayal of at least one of the areas of the reservations expressed by the Senators who signed the individual views. It is surely a truer express of their reservations than merely a bland expression that goes merely to the question of philosophy.

Mr. BAYH. Mr. President, I intend to deal with the whole matter of the nomination of Judge Carswell on Monday, following the presentation of the views of the distinguished chairman of the committee (Mr. EASTLAND); but inasmuch as the issue has been joined at this hour, I feel obliged to make at least one or two comments.

I listened with a considerable amount of interest to the views of the distinguished minority leader and his good right arm, the distinguished Senator from Michigan (Mr. GRIFFIN). This is another example of how Members of this body can have the greatest respect for their colleagues and still take issue with their interpretation of the problem before us.

I admired the courage—and I think it was tremendous courage—of both the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Michigan (Mr. GRIFFIN) in the previous conflict over the nomination to the Supreme Court. None of us likes to go through that. Difficult as it was for the Senator from Indiana, I am sure it was more difficult for them.

I would not want one to intimate for a moment that it is a sign less than that of courage if one feels contrary to the way the Senator from Indiana feels on this issue; but I am hard pressed, looking at the record of the qualifications of the previous nominee and then look-

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ing at the record of qualifications of the present nominee, to see how the issue is not more clearly drawn. It would be easier to vote in opposition to the President's nomination on the Carswell qualifications, demeanor, philosophy, or any of the points raised in the individual views coming from the Judiciary Committee.

The Senator from Michigan pointed out that the history of the Senate shows it has been tolerant of the philosophical views of judicial nominees, and I think perhaps history will show he is accurate in that statement. The Senator from Indiana was inclined to be most tolerant about the views of this nominee. Having just gone through the terrible struggle over the Haynsworth nomination. I must say, at the risk of sounding like a public confession, I was hoping that this whole thing would go away and that we could easily advise and consent to the nomination of just about any person whose name the President had sent to the Senate. But, as the record began to build up, it became more and more clear that I could not see my way clear to vote the easy way, I could be tolerant of the judge's philosophy to the place where it became greatly contrary to what appears to me to be in the best interests of the country. At that point I felt compelled to say, "Mr. President, it is your initial responsibility to send the name of your own nominee, but, indeed, if the advise and consent procedure means anything, this is a time when we have, in all respect, to say, 'Send us a man of bigger stature, who is more in tune with what the country needs at this time.' "

I agree that what the Senator from Michigan said is accurate. I think Judge Carswell did indeed apply the views of the Supreme Court to the various cases before him, as he saw fit, as he judged. But it seems to me it is a question that this body should consider when the issues involve the broad area of human rights, whether it be school segregation, utilization of public facilities by the public as a whole rather than a few, or the use of habeas corpus as an instrument for the protection of individuals who are incarcerated in a certain manner. Indeed, it is difficult to find any similarity between what the Supreme Court has said on these issues and the way they have been interpreted by Judge Carswell.

I do not want to prolong the debate at this particular moment, but I would like to put in the RECORD at this point a statement on the confirmation of Judge G. Harrold Carswell as an Associate Justice of the Supreme Court of the United States, issued by a former judge of the Court of Appeals of the State of New York, Judge Bruce Bromley; president of the Association of the Bar of the City of New York, Francis T. P. Plimpton; former president of the Association of the Bar of the City of New York, Samuel I. Rosenman; former president of the Association of the Bar of the City of New York, Bethuel M. Webster.

I ask unanimous consent that the statement be printed in the RECORD at this point.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON THE CONFIRMATION OF JUDGE G. HARROLD CARSWELL AS AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The undersigned members of the Bar, in various sections of the United States, and of differing political affiliations, are deeply concerned about the evidence in the hearings of the United States Senate Judiciary Committee on the confirmation of Judge G. Harrold Carswell as an Associate Justice of the Supreme Court of the United States.

The testimony indicates quite clearly that the nominee possesses a mental attitude which would deny to the black citizens of the United States—and to their lawyers, black or white—the privileges and immunities which the Constitution guarantees. It has shown, also, that quite apart from any ideas of white supremacy and ugly racism, he does not have the legal or mental qualifications essential for service on the Supreme Court or on any high court in the land, including the one where he now sits.

The testimony has shown no express or implied repudiation of his 1948 campaign declarations in favor of "white supremacy" and of his expressed belief that "segregation of the races is proper and the only correct way of life in our State"—until his confirmation for the United States Supreme Court was put in jeopardy by their disclosure. On the contrary, it shows a continuing pattern of reassertion of his early prejudices.

That pattern is most clearly indicated by his activities in 1956 in connection with the leasing of a public golf course in his city to a private club, for the purpose of evading the Constitution of the United States and excluding blacks from its golf course.

We are most deeply concerned about this part of the testimony. He was then no longer the youthful, enthusiastic campaign orator of 1948 running on a platform of "white supremacy" and "segregation as a way of life." He was then a mature man, holding high Federal office.

Unfortunately, insufficient public attention has been paid by the media of public information and by the public in general to this episode.

The testimony as to the golf club is particularly devastating, not only because of the nominee's lack of candor and frankness before the Senate Committee in attempting to explain it, but because his explanation, if true, shows him to be lacking the intelligence of a reasonable man and to be utterly callous to the implications of the scheme to which he was lending himself.

The circumstances surrounding this golf club incident are extremely important, and should be made clear. By 1955, the Supreme Court of the United States had declared that it was unconstitutional for a city or state to segregate any of its public recreational facilities, such as golf courses. As a result of this decision, a common and well-publicized practice had grown up in the South, in order to keep blacks off municipal golf courses, by which the cities would transfer or lease the public facilities to a private corporation, which would then establish rules for exclusive use by whites. This was, of course, a palpable evasion—and universally understood so to be.

By 1956, many cases had already been filed in various cities of the South to invalidate these obvious subterfuges. Several lower United States Courts had already struck them down as unconstitutional. These cases were well publicized at the time when United States Attorney Carswell, who had been, of course, sworn as a United States Attorney to uphold the Constitution and laws of the United States, became involved in the matter of the municipal golf club in Tallahassee, Florida, where he lived.

By the date the Tallahassee incident occurred, five lawsuits had already been started in different cities in the State of Florida to desegregate municipal recreation facilities, including, among others, golf clubs; and it was clearly evident that Tallahassee and its municipal golf club would soon be the target of such a suit.

Therefore, to circumvent the results of such a suit, some white citizens of Tallahassee incorporated a private club, to which the municipal golf course was thereupon leased for a nominal consideration. Affidavits, dated in February 1970, were submitted and read to the Senate Committee, signed by both blacks and whites who were residents of Tallahassee at the time, showing that it was generally understood that this transfer was being made solely for the purpose of keeping black citizens off the course.

One of these affidavits (TR 610)[1] was by a Negro lady, a public high school teacher for ten years, the business manager of Tallahassee's A & M Hospital for one-half year, and presently an Educational Specialist at the Federal Correctional Institution in Tallahassee. It said in part:

". . . Tallahassee was in a racial uproar over the bus boycott and other protests—bringing a reaction of fear to the white community. The word 'private' had increasingly become a code name for segregation.

"The Capital City Country Club incorporation proceedings were well-publicized and the racial overtones were necessarily clear to every knowledgeable citizen in the area, and it would have been surprising to me if an intelligent man, particularly an incorporator was not aware of the repeatedly emphasized racial aspects of this case.

"We did discuss this corporation widely at the time; had we not been so preoccupied with other protests, we would have undoubtedly moved against the Corporation in civil suit."

Another affidavit (TR 611) was signed by a white lady, "a life-long resident of Tallahassee whose family has been domiciled in city for several generations," "the wife of the chairman of Florida's oldest bank, the Lewis State Bank of Tallahassee." It stated that: (1) the golf course had been developed and improved by a grant of $35,000 of WPA funds; (2) she refused to join in the new club "because we wanted no part in converting public property to private use without just compensation to the public, and because of the obvious racial subterfuge which was evident to the general public"; (3) that she had discussions at the time of the lease "with a variety of parties during that period on the subject of a golf course, the issue being of wide civic concern." She stated:

"I would have been surprised if there was any knowledgeable member of the community who was unaware of the racial aspect of the golf course transaction. The controversy appeared in the local newspaper of the time and a city commissioner was known to have raised questions about the racial implications involved."

There was then received in evidence (TR 613) a clipping from page 1 of the local newspaper, referred to, the Tallahassee Democrat, for February 15, 1956. This contemporaneous clipping corroborated the affidavits in showing the community discussion of the racial purpose of the lease. Reporting the fact that the lease had been entered into by the City Commission with the private club, it stated:

"The action came after a two-month cooling off period following the proposal's first

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[1] References are to the transcript of the hearings on the nomination before the Senate Committee on the Judiciary.

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introduction. At that time former City Commissioner H. G. Easterwood, now a county commissioner, blasted the lease agreement.

"He said racial factors were hinted as the reason for his move.

"Under the arrangement, the country club group would take over the operation of the course September 1. The lease is for 99 years, running through 2055, and calls for a $1.00 a year payment.

The then United States Attorney, now seeking to become an Associate Justice of the Supreme Court of the United States, became an incorporator and director of that private club to which the golf club was to be leased. Here was a high Federal public official, thoroughly cognizant of the decisions of the Federal courts, participating in a scheme to evade the Constitution.

The answer of Judge Carswell to the disclosure of this was that: (1) he thought that the papers he signed (with a subscription of $100) were for the purpose of fixing up the old golf club house; (2) that he at no time discussed the matter with anyone; and (3) that he never believed that the purpose of this transaction had anything to do with racial discrimination or keeping blacks off the course.

Some of the Senators at the hearings were as incredulous as we are. We think that a few short extracts of the Judge's testimony on this matter will give a clearer picture of the man who now seeks a seat on the Supreme Court of the United States—the final guardian of the individual rights of all of us:

Judge Carswell (in answer to a question by Senator Kennedy as to whether the Judge was testifying that the transaction was principally an effort to build a club house): "That is my sole connection with that. I have never had any discussion or never heard anyone discuss anything that this might be an effort to take public lands and turn them into private lands for a discriminatory purpose. I have not been privy to it in any manner whatsoever." (TR 65)

Senator Kennedy (TR 149): Mr. Nominee, I think the document speaks for itself in terms of the incorporation of a club, a private club . . . I think, given the set of circumstances, the fact that they were closing down all recreational facilities in that community at that time because of various integration orders, I suppose the point that Senator Bayh is getting to and some of us asked you about yesterday is whether the formation of this club had it in its own purpose to be a private club which would, in fact, exclude blacks. The point that I think he was mentioning and driving at, and Senator Hart talked to, and I did in terms of questions, is whether, in fact, you were just contributing some $100 to repair of a wooden house, club house, or whether, in fact, this was an incorporation of a private club, the purpose of which was to avoid the various court orders which had required integration of municipal facilities. . . .

"Now, I think this is really what, I suppose is one of the basic questions which is of some interest to some of the members and that we are looking for some response on."

Judge Carswell: "Yes sir, and I hope I have responded, Senator Kennedy. I state again unequivocally and as flatly as I can, that I have never had any discussions with anyone, I never heard any discussions about this."

Senator Bayh: "You had no personal knowledge that some of the incorporators might have had an intention to use this for that purpose?" (TR 150)

Judge Carswell: "I certainly could not speak for what anybody might have thought, Senator. I know that I positively didn't have any discussions about it at all. It was never mentioned to me. I didn't have it in my mind, that is for sure. I can speak for that." (TR 150)

Senator Bayh then asked whether there were then any problems in Florida relating to the use of public facilities and having them moved into private corporations. Judge Carswell answered:

"As far as I know, there were none there and then in this particular property."

Senator Bayh then asked whether Judge Carswell was not aware of other cases in Florida?

Judge Carswell: "Oh, certainly, certainly. There were cases all over the country at that time, everywhere. Certainly I was aware of the problems, yes. But I am telling you that I had no discussions about it, it was never mentioned to me in this context and the $100 I put in for that was not for any purpose of taking property for racial purposes or discriminatory purposes." (TR 151)

Senator Kennedy: "Did you have any idea that that private club was going to be opened or closed?"

Judge Carswell: "The matter was never discussed."

Senator Kennedy: "What did you assume?"

Judge Carswell: "I didn't assume anything. I assumed that they wanted the $100 to build a club house and related facilities if we could do it. . . ." (TR 153)

Senator Kennedy: "When you sent this and you put up the money, and you became a subscriber, did you think it was possible for blacks to use that club or become a member?"

Judge Carswell: "Sir, the matter was never discussed at all."

Senator Kennedy: "What did you assume, not what was discussed?"

Judge Carswell: "I didn't assume anything. I didn't assume anything at all. It was never mentioned."

Senator Kennedy: "Did you in fact sign the letter of incorporation?"

Judge Carswell: "Yes, sir. I recall that. . . ."

Senator Kennedy: "Did you generally read the nature of your business or incorporation before you signed the notes of incorporation?"

Judge Carswell: "Certainly I read it, Senator. I'm sure I must have. I would read anything before I put my signature on it, I think [sic]."

We cannot escape the conclusion that a man, in the context of what was publicly happening in Florida and in many parts of the South—which the nominee says he knew—and what was being discussed locally about this very golf club, would have to be rather dull not to recognize this evasion at once; and also fundamentally callous not to appreciate and reject the implications of becoming a moving factor in it. Certainly it shows more clearly than anything else the pattern of the Judge's thinking from his early avowal of "white supremacy" down to the present.

Particularly telling—as showing the continuing pattern of his mind which by the time of the golf club incident, if not before, had become clearly frozen—are the testimony and discussion of fifteen specific decisions in civil and individual rights cases by the nominee as a United States District Judge (TR 629, et seq.). These fifteen were, of course, only a few of the decisions by the nominee. A study of a much fuller record of his opinions led two eminent legal scholars and law professors to testify before the Senate Committee that they could find therein no indication that the nominee was qualified—by standards of pure legal capacity and scholarship, as distinguished from any consideration of racial prejudices—to be a Supreme Court Justice.

These specific fifteen cases are all of similar pattern: they involved eight strictly civil rights cases on behalf of blacks which were *all* decided by him against the blacks and all *unanimously* reversed by the appellate courts; and seven proceedings based on alleged violations of other legal rights of defendants which were all decided by him against the defendants and all *unanimously* reversed by the appellate court. Five of these fifteen occurred in one year—1968.

These fifteen cases indicate to us a closed mind on the subject—a mind impervious to repeated appellate rebuke. In some of the fifteen he was reversed more than once. In many of them he was reversed because he decided the cases without even granting a hearing, although judicial precedents clearly required a hearing.

We do not dispute the Constitutional power or right of any President to nominate, if he chooses, a racist or segregationist to the Supreme Court—or anyone else who fills the bare legal requirements. All that we urge is that the nominee reveal himself, or be revealed by others, for what he actually is. Only in this way can the Senate fulfill its own Constitutional power to confirm or reject; only in this way can the people of the United States—the ultimate authority—exercise an informed judgment. That is the basic reason for our signing this statement, as lawyers, who have a somewhat special duty to inform the community of the facts.

We agree with Judge Carswell that a nominee for the Court should not ordinarily be compelled to impair his judicial independence by explaining his decisions to a Senate Committee. But this was no ordinary situation. It involved a consistent and persistent course of judicial conduct in the face of continual reversals, showing a well-defined and deeply ingrained pattern of thought.

We believe that—at the very least—the hearings should be reopened so that an official investigation can be made by independent counsel for the Committee, empowered as it is to subpoena all pertinent records, including the files of the Department of Justice and the records of Judge Carswell's court. So far, the evidence in opposition—compelling as it is—has been dug up solely by the energy and efforts of private citizens or groups, without power of subpoena. For example, the episodes of the 1948 pledge to "white supremacy" and the country club lease were both dug up by independent reporters.

Are there any other incidents like the golf club, or other public or private statements about "white supremacy"? Are there additional, but unreported, decisions in the files of Judge Carswell's court, not readily available to lawyers who can search only through the law books for cases which have been formally reported and printed? What information can be found in the files of the Department of Justice, unavailable, of course, to the opposition but readily subject to a Committee subpoena?

One vote out of nine on the Supreme Court is too important to rely on a volunteer investigation, on the efforts of private, public-spirited lawyers and reporters, although they have already uncovered evidence clearly indicating, in the absence of a more credible explanation, rejection of the nomination.

The future decisions of the Supreme Court will affect the lives, welfare and happiness of every man, woman and child in the United States, the effectiveness of every institution of education or health or research, the prosperity of every trade, profession and industry. Those decisions will continue to be a decisive factor in determining whether or not ours will, in the days to come, truly be "a more perfect Union," where we can "establish Justice, insure domestic Tranquility, . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity."

We urge that the present record clearly calls for a refusal to confirm by the Senate of the United States.

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Signed: [2]

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Dean Jefferson B. Fordham, University of Pennsylvania Law School, Philadelphia, Pennsylvania [embracing basic objection to confirmation, but uncommitted as to factual details].

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Dean David M. Helfeld, University of Puerto Rico, School of Law, San Juan, Puerto Rico.

Ted Foster, Associate Dean, Oklahoma City University Law School, Oklahoma City, Oklahoma.

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[2] Mention of an organization is purely for descriptive purposes, and not to indicate an expression of the views of the organization.

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William T. Coleman, Jr., Member, Board of Governors, Philadelphia Bar Association, Philadelphia, Pennsylvania.

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Harold Cramer, Vice-Chancellor, Philadelphia Bar Association, Philadelphia, Pennsylvania.

John O. Stewart, Coordinator, Neighborhood Legal Assistance Foundation, San Francisco, California.

Ralph F. Fuchs, Bloomington, Indiana.

Dean Malchy T. Mahon, Hofstra University School of Law, Hempstead, New York.

Harold Evans, Partner, MacCoy, Evans & Lewis, Philadelphia, Pennsylvania.

H. Greig Fowler, Member, Steering Committee, San Francisco Lawyers Committee for Urban Affairs, San Francisco, California.

George R. Davis, Lowville, New York.

Robert H. Cole, Professor, University of California School of Law, Berkeley, California.

Jonathan P. Harvey, Member, Membership Committee, New York State Bar Association, Albany, New York.

Walter E. Dellinger, Professor, Duke University School of Law, Durham, North Carolina.

Dean and Faculty, University of Toledo, College of Law, Toledo, Ohio: Karl Krastin, Dean; Edward Dauer; J. Kirkland Grant; Judith Jackson; Vincent M. Nathan, Assistant Dean; Martin Rogoff; John W. Stoepler; Janet L. Wallin; Thomas Willging.

John P. Frank, Partner, Lewis Roca Beauchamp & Linton, Phoenix, Arizona.

Benjamin E. Shove, Past President, Onondaga County Bar Association, Syracuse, New York.

Arthur J. Freund, Former Member House of Delegates of American Bar Association, St. Louis, Missouri.

Alfred M. Saperston, Partner, Saperston, Wiltse, Duke, Day & Wilson, Buffalo, New York.

Charles W. Allen, Former Chairman, Portland Maine City Council, Portland, Maine.

Victor H. Kramer, Partner, Arnold & Porter, Washington, D.C.

William Lee Akers, Philadelphia, Pennsylvania.

William L. Lynch, Partner, Cleary, Gottlieb, Steen & Hamilton, New York, New York.

Theodore Sacks, Detroit, Michigan.

Reuben E. Cohen, Partner, Cohen, Shapiro, Berger, Polisher and Cohen, Philadelphia, Pennsylvania.

Faculty, University of Arizona College of Law, Tucson, Arizona: Arthur Andrews, James J. Graham, Junius Hoffman, David Wexler, Winton Woods.

Edward E. Kallgren, Partner, Brobeck, Phleger & Harrison, San Francisco, California.

Thomas M. Cooley, II, Professor, University of Pittsburgh School of Law, Pittsburgh, Pennsylvania.

Dean Louis A. Toepfer, Case Western Reserve University, Franklin J. Backus Law School, Cleveland, Ohio.

A. Crawford Greene, Partner, McCutchen, Doyle, Brown & Enersen, San Francisco, California.

Herbert B. Ehrmann, Of Counsel, Goulston & Storrs, Boston, Massachusetts.

John J. Barcelo, Professor, Cornell Law School, Ithaca, New York.

Louis B. Schwartz, Professor, University of Pennsylvania Law School, Philadelphia, Pennsylvania.

Faculty, Syracuse University College of Law, Syracuse, New York: George J. Alexander, Robert M. Anderson, Samuel J. M. Donnelly, Samuel M. Fetters, Martin L. Fried, Peter E. Herzog, William J. Hicks, Robert F. Koretz.

Dale Swihart, Professor, Washington University School of Law, St. Louis, Missouri.

Maurice H. Merrill, Professor, University of Oklahoma College of Law, Norman, Oklahoma.

Robert F. Henson, President, Hennepin County Bar Association, Minneapolis, Minnesota.

William L. Marbury, Former President, Maryland State Bar Association, Baltimore, Maryland.

Community Action for Legal Services, Inc., New York, New York: Joshua H. Brooks, Jr., Oscar G. Chase, Lawrence J. Fox, John C. Gray, Jr., Manuel Herman, Marcia Lowry, Cornelia McDougald, Gerald Rivera, Robert Roberts, Richard A. Seid, Alfred L. Toombs, Napoleon B. Williams.

Arthur J. Harvey, Former President, Board of Directors, Legal Aid Society, Albany, New York.

Alfred A. Benesch, Partner, Benesch, Friedlander, Mendelson & Coplan, Cleveland, Ohio.

Frank T. Read, Assistant Dean, Duke University School of Law, Durham, North Carolina.

Francis H. Anderson, Professor, Albany Law School, Union University, Albany, New York.

Dean Russell N. Fairbanks, Rutgers University School of Law, Camden, New Jersey.

David L. Cole, Former President, The National Academy of Arbitrators, Paterson, New Jersey.

Asa D. Sokolow, Partner, Rosenman Colin Kaye Petschek Freund & Emil, New York, New York.

Archie Katcher, President, Detroit Bar Association, Detroit, Michigan.

Vincent R. FitzPatrick, Partner, Willkie Farr & Gallagher, New York, New York.

Joseph L. Rauh, Jr., Partner, Rauh and Silard, Washington, D.C.

Michael V. Forrestal, New York, New York: Boris Kostelanetz, Former Special Assistant to the Attorney General of the United States, New York, New York; Charles Denby, Partner, Reed, Smith, Shaw & McClay, Pittsburgh, Pennsylvania; Hugh A. Burns, Partner, Dawson, Nagel, Sherman & Howard, Denver, Colorado.

Faculty, College of Law, Willamette University, Salem, Oregon: Courtney Arthur, Edwin Butler, Edwin Hood, Dallas Isom, John Paulus, John Reuling, Ross Runkel, Robert Stoyles.

Wayne B. Wright, Former President, Bar Association of Metropolitan St. Louis, St. Louis, Missouri.

Ross, Stevens, Pick & Spohn (all eleven partners), Madison, Wisconsin.

Melvin G. Shimm, Professor, Duke University, School of Law, Durham, North Carolina.

Leonard M. Nelson, Chairman, Judiciary Committee, Maine State Bar Associataion, Portland, Maine.

Lloyd N. Cutler, Washington, D.C.

Lyman M. Tondel, Jr., Former President, New York State Bar Association, New York, New York.

Dean and Faculty, University of Kansas School of Law, Lawrence, Kansas: Lawrence E. Blades, Dean; Jonathan M. Landers; John F. Murphy; Arthur H. Travers.

Dean and Faculty, Harvard University Law School, Cambridge, Massachusetts (Subscribe to the conclusions expressed herein concerning the qualifications of Judge Carswell for appointment to the Supreme Court.): Derek C. Bok, Dean; Paul M. Bator; Stephen G. Breyer; Abram Chayes; Jerome A. Cohen; Charles Fried; Livingston Hall; Louis L. Jaffe; Benjamin Kaplan; Robert E. Keeton; Louis Loss; Frank I. Michelman; Albert M. Sacks; Frank E. Sander; David L. Shapiro; Henry J. Steiner; Donald T. Trautman; Adam Yarmolinsky.

Carroll J. Donohue, Former President, Bar Association of St. Louis, Former Member, Board of Governors of Missouri Bar Association, St. Louis, Missouri.

James W. Lamberton, Partner, Cleary, Gottlieb, Steen & Hamilton, New York, New York.

Joseph A. Califano, Jr., Washington, D.C.

Edwin B. Mishkin, Partner, Clearly, Gottlieb, Steen & Hamilton, New York, New York.

R. Walston Chubb, Partner, Lewis, Rice, Tucker, Allen and Chubb, St. Louis, Missouri.

Shedd, Gladstone & Kronenberg (all three partners), Hackensack, New Jersey.

Mr. BAYH. Mr. President, I notice two names that are not unfamiliar to those of us who have had the responsibility of sitting on the Judiciary Committee during the whole ordeal of trying to fill the vacancy which presently exists. One of those names is familiar to all of us, Judge John Frank, who testified before our committee in support of the Haynsworth nomination. Judge Frank has spoken rather eloquently in opposition to the qualifications of this nominee, and feels that the Senate should not advise and consent to this nomination.

I notice also that Prof. William Van Alystyne, who testified before the Judiciary Committee when we were considering the qualification of Judge Haynsworth, and who thought Judge Haynsworth was qualified, takes issue rather eloquently in this report, as he did before the committee itself. He feels the qualifications of the present nominee, Judge Carswell, are far less than were those of Judge Haynsworth.

So, Mr. President, I think it is important that, as the Senate debates this issue, we look at the issue involved.

We are not only filling a vacancy on the highest judiciary tribunal in the land, but the most compelling thing to me is that we are filling this vacancy, exercising this responsibility, at a time of great tension and turmoil in this country, at a time when disadvantaged people have been told, again and again and again, that there is a place for them in the system. I know I have told large numbers of my constituents that it is our responsibility, in this system, to work through it, to strengthen it, to make it respond in every way possible, to see that every citizen can be heard, that their grievances can be reconciled, that they may indeed have a full opportunity for themselves and their families by working through the system.

I have come to the conclusion that it would be completely inconsistent, feeling as I do that the system is the best way, and that this is not a time when we can be indifferent to discussing revolution and tearing down the system—it would be totally inconsistent, feeling as strongly as I do that in spite of its imperfections there has not been a better system devised by mankind—to now stand mute and let a man be appointed at the very top of our judicial system who has exhibited such a degree of insensitivity relative to the problems of large numbers of our people.

For that reason, I respectfully take issue with the distinguished assistant Republican leader, the Senator from Michigan (Mr. GRIFFIN) and his colleague from Pennsylvania, after having said earlier, as I think I did when indulging in a colloquy with his colleague, that I had the greatest respect for his integrity.

That is true. I have seen him in action when the going was rough, and my disagreement with him on this issue in no way lessens my respect for his qualities and ability.

Mr. GRIFFIN. Mr. President, will the distinguished Senator from Indiana yield?

Mr. BAYH. I am glad to yield.

Mr. GRIFFIN. I appreciate the Senator's remarks. Since this early stage of the discussion and debate seems to be a time for framing and identifying issues, I might make a comment at this point.

The Senator referred earlier to a list of distinguished lawyers who signed a statement which has been inserted in the RECORD. The Senator from Indiana referred to several lawyers who had supported the Haynsworth nomination. I daresay that if the Senator looked again at that list, he would find a number of others, in addition, who supported, to the bitter end, the Fortas nomination as well.

The point that I wish to make, at this stage of the discussion—and I think that the Senator from Indiana would agree with me—even though we did not agree completely on the two previous nominations—is that in those instances the Senate was primarily concerned with questions relating to ethics. Justice Fortas was a liberal Democrat, as I viewed his philosophy, and Judge Haynsworth was a conservative Republican, as I viewed his philosophy. But the junior Senator from Michigan did not oppose either of those nominations on the basis of the philosophy of the nominees.

In each of those situations, I could have found differences of philosophy with either of the nominees. But my position had nothing to do with the views or philosophy of either of those nominees.

Like the Senator from Indiana, with whom I agreed concerning the Haynsworth nomination, I was troubled and disturbed by what I considered were substantial questions relating to ethics.

Now then, so far as the nomination of Judge Carswell is concerned, I find no significant challenge or substantial question raised in the record involving ethical considerations. I find only arguments which focus primarily on the nominee's philosophy; arguments based on the way he decided particular cases. I wonder if the Senator from Indiana would agree with me that we are confronted with a different question and a different issue with respect to this nomination.

Mr. BAYH. The Senator from Indiana would concur that, to his knowledge, there has not been the ethical question raised which concerned the Senator from Michigan and the Senator from Indiana in connection with the other nominations.

I remember very well sitting here in the Chamber and listening to the eloquent remarks in opposition to Judge Haynsworth of the Senator from Michigan. If he recalls, at that time I rose to compliment him on the very difficult decision—which it indeed was—for him to decide to oppose the nominee of his President, which he based on the ethical ground, suggesting then as he does now that the philosophical question was not one that he felt it was appropriate to consider.

I must say at the time I expressed, I do not remember the exact terms, but I said I thought there was great leeway in the area of philosophy, that I thought, the way our system worked, that if you get a President with President Nixon's philosophy you are going to have a little different philosophy expressed by the Court than if you get a President like Hubert Humphrey, for example, or someone else.

I do not wish, in responding to the Senator's question, to make a speech; but the thing that concerns me is that if you look at the difference in philosophy—at least speaking for myself, and I think it is fair to say that the petition that has been made by a large number of judges and legal scholars, deans of law schools, and eminent lawyers reflects a similar concern—you can begin to see a difference in degree as far as the philosophy is concerned. In other words, I think the President is within his rights to appoint a strict constructionist, however that term might be defined. I think we might define the strict constructionist on a case such as U.S. against Miranda or U.S. against Escobedo a little differently than on a matter such as Brown versus Board of Education, where the situation is a little different, and all of us have our own individual standards.

The fact that the Senator from Michigan might disagree with the Senator from Indiana on such matters is not so important, it seems to me, as the fact that we have gone clear over to the other side of the spectrum, where I think we are getting into dangerous ground relative to a situation in this country which I have heretofore described. I think it is not only wrong, but dangerous, thus to give the back of our hand, so to speak, to people who are seeking for redress of their grievances within the system.

I am about to do what I said I would not do—make a speech in response to the Senator's question.

As the Senator from Michigan knows, there were also Members of this body who were deeply concerned about the philosophy of Judge Haynsworth. The Senator from Massachusetts (Mr. BROOKE), was concerned about philosophy, and as I recall the senior Senator from Massachusetts was also concerned about philosophy.

Mr. KENNEDY. Mr. President, will the Senator yield at that point?

Mr. BAYH. I am yielding on the Senator from Michigan's time.

Mr. GRIFFIN. Mr. President, if I have the floor, I will add the name of another Senator, the Senator from New York (Mr. JAVITS).

Mr. BAYH. That is right and the Senator from Michigan also. Perhaps I do have the floor. If so, I yield to the Senator from Massachusetts.

Mr. KENNEDY. As I remember, at least from our discussions—and I think it is explicitly clear in the minority views—those who expressed their opinions in the minority views did not do so on the basis of philosophy, but did so, as I mentioned very briefly earlier, on a much more serious and troublesome question. Since there had been significant evidence introduced during the course of the hearings about the judge's personal views on racial questions, we felt that was certainly appropriate for the members of the committee to make some determination and some finding as to whether those personal views had carried over into his decisions as a judge affecting vital constitutional and statutory questions in the field of equal rights, and had infected his courtroom temperament, his respect for precedent, his adherence to the purpose and spirit of even his own orders.

I think that the Members of this body should take the opportunity to read the complete record, and especially to read the discussion and hear about the various evidence regarding the nominee's statements on race relations, his association and involvement while U.S. attorney in the development of the golf

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course, the land transaction, and other matters regarding human rights. I think we have a responsibility to review that evidence and to make a determination as to whether we feel that his personal views did in fact dictate the outcome of his cases and interfere with the fair and impartial running of his court. This, for me, was one of the principal reasons for expressing reservations about the nominee, rather than just a broad kind of philosophical disagreement with him.

Second—and as the Senator from Michigan pointed out, we are just getting into the initial stages of this discussion and debate and trying to frame what these questions are—is the question of competency in all its implications, both in terms of the same issues of temperament and his handling of the lawyers who appeared before his court and the general decorum there, and perhaps, more importantly, the separate question of his own personal competency as measured by the quality of his work, the level of respect for him among the bar in the Nation, whether he shows an insight and learning and skill in the law, whether he has demonstrated leadership of any sort or any other qualities which should place him above, or even among, the outstanding members of the legal profession. When a man is being considered for the Supreme Court it is not enough to say that we cannot find anything seriously wrong with him—although in this case we easily can. We must be able to find something professionally right with him which leads us to believe that he should be selected for elevation to our Highest Court. If we cannot find some such evidence of eminence or merit, then we are doing a disservice to the Court, the bar, and the Nation.

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This, as I understand it, was one of the foremost reasons why leading law professors and bar leaders of outstanding reputation from all over the country have opposed this nomination. I know that we can all balance law professors versus law professors and lawyers versus lawyers, but I think the particular distinction of the group which has questioned Judge Carswell's qualifications should be given very special weight.

These two levels, I feel, would be the basis for my reservations and should be the basis of inquiry by the Members of this body.

I thank the Senator from Indiana.

Mr. BAYH. I am always glad to yield to my friend the Senator from Massachusetts.

As I said earlier in responding to the question of the Senator from Michigan, I think the whole question of where a philosophy enters into our judgment and how this can be interpreted in other ways is a matter of individual interpretation.

I think that perhaps it would be helpful to put in the RECORD at this time, inasmuch as we are trying to begin to show the matters of concern, the individual views in the report of the Committee on the Judiciary, with the memorandum on the qualifications of the nominee. I ask unanimous consent to have this material printed at this point in the RECORD.

There being no objection the material was ordered to be printed in the RECORD, as follows:

Individual Views of Mr. Burdick

The Constitution invests with the President the responsibility to nominate Justices of the Supreme Court. I do not believe the Senate should withhold its advice and consent in the absence of clear evidence that the nominee is not qualified.

I cannot agree with all the observations and conclusions of the majority report and respectfully decline to join therein. However, after careful consideration of the hearing record, I have concluded that Judge Carswell's qualifications are sufficient to report the nomination to the Senate.

Individual Views of Mr. Mathias

The Carswell nomination has engendered some strong opposition and the objections advanced demand thoughtful evaluation. They are indeed troubling, and cannot be dismissed as trivial.

But the argument made against the confirmation of Judge Carswell is based on a significantly different character of evidence than that adduced in opposition to the prior nomination of Judge Clement F. Haynsworth. The case against confirmation of Judge Haynsworth was made on objective evidence: the judge's ownership of certain stock, the judge's participation in certain cases and the existence of statutory guidelines and clearly defined codes of judicial ethics. These are factual matters that are easily sustained on the record. The code and the statute had been violated and, in my judgment, the Senate properly rejected the nomination.

In the case of the Carswell nomination the evidence is largely subjective. The issue arises from the fact that witnesses before the committee have disagreed with his judicial views, that a considerable body of citizens disagree with some of his expressed views and that I myself am in disagreement with some of Judge Carswell's past and present views. Whatever objective evidence may have existed was largely verbal and is now obscured by the passage of time and the rhetoric of renunciation.

This distinction raises two separate considerations. The first is the difference between the act of nomination and the act of confirmation. The appointive power is positive, plenary and broad as the human race. The power to accept or reject is essentially negative, restricted and limited to judgment of a single man. It may well be that a President's choice does not generate grounds for condemnation so as to justify rejection without debate even though it is not a nomination of the character and quality that any single member of the Senate would wish to make if he were President. So it is with the Carswell nomination, and I would not have chosen him.

Second, and more significantly, is the proper role of the Senate in review of a judicial career. Every aspect of a nominee's record should, of course, be considered by the Senate. But, in the case of sitting judges nominated for other office there must be some regard for the principle of judicial independence. In the Haynsworth case I expressed concern that we came close to placing the principle in jeopardy. In this instance, I find it an even more serious concern.

I disagree, and the superior courts have disagreed, with a number of Judge Carswell's judicial decisions. Other Carswell decisions were unexceptional. In the absence of objective or material evidence of personal or judicial bias, the decision of a judge in a specific case should be accorded great respect. The record made in the Judiciary Committee did not go so far as to be conclusive in establishing such bias. The concept of judicial independence is not a natural or inherent human quality. It is a political principle that was hard won by courageous men in England and preserved by brave men in America. The freedom of a judge to determine a case on its merits, subject only to other judges' opinions on appeal, and not to suffer any retribution from any external authority such as the Crown or the Parliament, has become a fundamental principle. In the United States, we have traditionally protected judges—even unpopular judges—from non-judicial retribution.

Yet, the Senate could become a kind of jurists' tribunal or appellate bench if we scrutinize individual decisions of judges nominated to posts of judicial preferment. Without this kind of case by case scrutiny, Judge Carswell's record, albeit undistinguished, is not fatally flawed.

Under the circumstances, I find the situation such that the President and his nominee, Judge Carswell, ought not to be denied their day in court. There is no absolute bar to confirmation such as existed in the Haynsworth nomination and the issue of personal competency or qualification becomes, therefore, one for the judgment of the Senate. In this instance that means submission of the nomination to the full Senate for debate and decision. On this basis and for this purpose I have voted in the Judiciary Committee to report the nomination to the Senate.

Individual Views of Messrs. Bayh, Hart, Kennedy, and Tydings

The President's nomination of George Harrold Carswell as Associate Justice of the Supreme Court presents to the Senate a candidate whose credentials are too meager to justify confirmation. The distinguished Dean of the Yale Law School, for example, could rightly describe the nominee as having "more slender credentials than any other nominee for the Supreme Court put forth in this century."

Judge Carswell has been a practicing attorney, a federal prosecutor, and a lower federal court judge. For Supreme Court nominees, however, length and variety of service is no substitute for professional distinction. Having carefully reviewed the hearing record, we can reach no other conclusion but that Judge Carswell has failed to distinguish himself in each of these capacities.

Our opposition to Judge Carswell is not based on geography or philosophy.

In his campaign speeches, President Nixon pledged appointees to the Court who were both "strict constructionists" and men of distinction. There are many such men throughout the country—including eminent jurists, lawyers, and legal scholars in the South. Judge Carswell, unfortunately, is not among them. Professor William Van Alstyne one of the most eminent legal scholars in the South and a supporter of Judge Haynsworth's nomination, testified that Judge Carswell shows no promise of ability or judicial capacity "to warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States." We believe it is reasonable to require that expectation of a nominee.

Our concern is not with academic degrees or scholarly publications. It is simply that we believe appointments to the Court should evidence some degree of achievement and eminence in the law. To demand less is a disservice to the cherished place of the Supreme Court in our national life. Nominations to the Supreme Court should serve to enhance respect for the Court. The Carswell nomination, in contrast, demeans it.

Beyond Judge Carswell's competence, there is a further disturbing aspect of his candidacy. Judge Carswell's record indicates that he is insensitive to human rights and has allowed his personal views and biases to invade the judicial process. His decisions and his courtroom demeanor have been openly hostile to the black, the poor, and the unpopular. This record raises serious questions about his judicial temperament and his ability to provide a fair hearing on many of the great issues that will come before the Supreme Court.

Confirmation of this nomination would discredit the Senate and the Court. Most important, it would be a disservice to the finest ideals of the American people.

While each of us places different emphasis on the various points raised in the hearings, we feel it would be helpful to bring together, in one place, the mass of information calling into question Judge Carswell's qualifications. The following memorandum summarizes all of the information offered in opposition to the nomination.

MEMORANDUM ON THE QUALIFICATIONS OF G. HARROLD CARSWELL FOR THE SUPREME COURT OF THE UNITED STATES

I. INTRODUCTION

The role of the Supreme Court in our national life is too vital to be endangered by the appointment of men whose qualifications are subject to serious doubt.

Judge G. Harrold Carswell has not demonstrated that he meets the high standard of excellence that must be demanded of those chosen to serve on the nation's highest court.

He has exhibited no legal distinction, no judicial leadership, no outstanding qualities that would place him among the first rank of American judges and lawyers. Our concern is not with academic degrees or scholarly publications. It is simply that we believe appointments to the Court should contain some degree of achievement and eminence in the law.

Moreover, we are concerned that Judge Carswell's record indicates that he is insensitive to human rights and has allowed this insensitivity to invade the judicial process. This record raises serious questions about Judge Carswell's judicial temperament and his ability to provide a fair hearing on many of the great issues that come before the Supreme Court.

It has been suggested that since the Senate rejected the first candidate for this vacancy, the Senate must now acquiesce in the President's choice, no matter how inferior the selection.

Obviously, reason presses in precisely the opposite direction. If this nominee, as is universally conceded, is inferior to the prior nominee, whom the Senate rejected 55–45, then he certainly ought to be rejected by at least as great a margin.

The Senate's duty to render "Advice and Consent" to the President's Supreme Court appointments is a Constitutional responsibility of the first magnitude. That duty persists in full measure even when it has been met by rejecting a prior nominee. The Senate's duty is to assure the nation that the nominee who is accepted will be *better* qualified, not less qualified, than the previously rejected nominee or nominees.

Moreover the question of the nominees qualifications is too serious to be brushed aside by the suggestions that opposition to him is based on the fact that he is a southerner or a "judicial conservative".

All of those who voted against reporting the Carswell nomination favored the confirmation of the present Chief Justice, notwithstanding his reputation as a "judicial conservative." His eminence, his leadership and his integrity in every sense of the word, led to the conclusion that he well met the criteria for Supreme Court service.

There are, in fact, an array of candidates of all parties and philosophies including many from the South whom Carswell's opponents would be not only obligated, but pleased to confirm. Unfortunately, Judge Carswell is not among them.

II. JUDGE CARSWELL'S LACK OF PROFESSIONAL COMPETENCY

Despite the many questions about Judge Carswell's suitability, which will be discussed below, there might still be some basis for supporting his confirmation to the Supreme Court if he were a man of great intellectual and professional distinction. At least then there would be hope that once on the Supreme Court, he would display a capacity for growth that would enable him to deal capably and objectively with the matters of vast importance that come before the Court.

He is, however—at best—an undistinguished lawyer, a mediocre judge, and an unimpressive thinker. He has demonstrated neither the depth of intellect nor of understanding that would indicate that he might fill with honor and insight the seat once held by Felix Frankfurter and Benjamin Cardozo. He is, instead, in the opinion of the Deans of two or our most respected law schools, a man who is personally unqualified to sit on the Supreme Court. Dean Louis Pollak of Yale testified that Judge Carswell—

"Has not demonstrated the professional skills and the larger constitutional wisdom which fits a lawyer for elevation to our highest court . . . With all deference, I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth this century."

Dean Derek Bok of Harvard has written that Judge Carswell has—

"A level of competence well below the high standards that one would presumably consider appropriate and necessary for service on the Court."

Twenty members of the University of Pennsylvania Law School examined his opinions in various areas of the law and concluded "that he is an undistinguished member of his profession, lacking claim to intellectual stature." Charles L. Black, Jr., Luce Professor of Jurisprudence at the Yale Law School and one of the most respected members of the academic legal community stated in a letter to the Chairman "(T)here can hardly be any pretense that he (Carswell) possesses any outstanding talent at all. On the contrary, all the evidence I have seen would lead to the conclusion that mediocrity is an independent valid objection to his appointment."

Professor Guido Calabresi of Yale reviewed Judge Carswell's opinions in Tort cases, an area that Professor Calabresi has taught for eleven years and concluded "there is nothing in them to suggest any special distinction or qualification for the United States Supreme Court." Interestingly, Professor Calabresi also noted that Judge Carswell's opinions in the field of Torts "do not show that universal a dedication to precedent and strict construction which it is said the President desires."

In a letter to Senator Eastland, John Griffiths, a teacher and scholar in criminal law at the Yale Law School, well expressed the thoughts of many lawyers who have written to members of the Senate:

"Surely there can be no doubt but that only the most distinguished and technically qualified members of the legal profession ought even to be considered for the highest court in the nation. Surely, also, it is part of the Senate's duty to exercise its responsibility in confirmation so as to maintain the highest standard, in proficiency as well as in integrity, as a *minimum* qualification for elevation to the Supreme Court. But while the subject has not been intensively discussed, there is certainly widespread belief in the profession, and beyond, that Judge Carswell falls far short of any reasonable minimum standard and ought therefore not to be confirmed."

After examining the nominee's criminal law decisions, Professor Griffiths concluded:

"We found no sign whatever of special ability. Judge Carswell's opinions are characterized, at best, by unimaginative, mechanical mediocrity. This is not a matter of judicial ideology: one did not expect to find a future Justice Black or Brennan, but no potentially solid (let alone great) judicial conservative—no Justice Harlan, no Judge Friendly—is revealed in these opinions either. We found nothing that, by anyone's lights, could conceivably justify confirming Judge Carswell to the Supreme Court. In addition, we found some troublesome indications of a lack of proper judicial temperament in the Judge."

Professor Griffiths also cited "lack of technical ability" and "serious questions of craftsmanship" at least, if not "judicial integrity" in habeas corpus cases; see infra.

These views have been mirrored in the statement of Samuel I. Rosenman, Bruce Bromley, Francis T. P. Plimpton, and Bethuel M. Webster, all recognized leaders of the bar. Judge Carswell, they believe, "has none of the legal or mental qualifications essential for service on the Supreme Court or on any high court in the land, including the one where he now sits."

The Chicago Council of Lawyers reached a similar conclusion:

"Looking solely at Judge Harrold Carswell's judicial record and judicial accomplishments, one finds no evidences of that special merit that should be a sine qua non for appointment to the Supreme Court. His record is totally devoid of any special attributes of learning, experience, or statesmanship, which should be the hallmarks of a Supreme Court Justice."

Perhaps most telling was the testimony of Professor William Van Alstyne of the Duke University Law School, one of the most distinguished legal scholars in the South. Professor Van Alstyne had testified before the Senate Judiciary Committee in support of Judge Haynsworth, but testifying in opposition to Judge Carswell, Professor Van Alstyne concluded that Judge Carswell's decisions reflected "a lack of reasoning, care, or judicial sensitivity overall."

The outpouring of professional dismay over this nomination has reached a level unequaled in recent history. Lawyers and law professors from all over the country, despite their preference for maintaining cordial relationships with members of the Court, have forcefully expressed the view that the Carswell nomination will demean the Court and dilute its stature. Other lawyers, professors, bar officials and judges, have been constrained from expressing themselves because of their positions or affiliations, or because they have cases pending in the Supreme Court. But they, like most lawyers, would, in the words of a law professor and former U.S. Assistant Attorney General, "put a high premium on the capacity for perceptive legal thinking, for judicial decision-making that commands respect whether one agrees with the results or not . . . It is right for the Senate to insist that a nominee, if not among the 'best', at least have qualities sufficiently distinguished that he promises to make a material contribution to the intellectual work of the Court." And they would agree that "Nothing that has appeared would lead me to believe that Judge Carswell is so qualified."

III. JUDGE CARSWELL'S LACK OF JUDICIAL TEMPERAMENT

Our judicial system must accord litigants a fair hearing. Justice is not dispensed when a judge's personal views and biases invade the judicial process. In Judge Carswell's court, the poor, the unpopular and the black were all too frequently denied the basic right to be treated fairly and equitably.

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Judge Carswell was simply unable or unwilling to divorce his judicial functions from his personal prejudices. His hostility towards particular causes, lawyers, and litigants was manifest not only in his decisions but in his demeanor in the courtroom.

Professor Leroy Clark of New York University, who supervised the NAACP Legal Defense Fund litigation in Florida between 1962 and 1968, called Judge Carswell—

"(T)he most hostile federal district court judge I have ever appeared before with respect to civil rights matters . . . Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible.

"It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him while using a civil tone to opposing counsel."

And Mr. Clark provided a piece of evidence not at all dependent on his present recollection of the nominee's behavior but reflecting a contemporaneous assessment and reasoned response that is at once startling and devastating:

"*(W)henever I took a young lawyer into the state, and he or she was to appear before Carswell, I usually spent the evening before making them go through their argument while I harassed them, as preparation for what they would meet the following day.*"

Professor John Lowenthal of Rutgers University Law School recalled attending a session in Judge Carswell's chambers in 1964 in which he "can only describe his (Judge Carswell's) attitude as being extremely hostile."

"He expressed dislike at Northern lawyers . . . appearing in Florida, because . . . (they) were not members of the Florida bar."

The choice, as the court well knew, was between "Northern lawyers or no lawyers", for Professor Lowenthal's clients had been arrested for trespass while attempting to assist sharecroppers to register to vote.

Norman Knopf, a Justice Department Attorney, testifying under subpoena, who had worked with Professor Lowenthal as a volunteer in 1964, corroborated Professor Lowenthal's recollections:

"Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on . . . It was a long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people, and he in effect didn't want any part of this, and he made quite clear that he was going to deny all relief that we requested."

Judge Carswell's manifest intention to deny all relief did not represent an idle threat. Professor Lowenthal's clients had been tried in a state court and imprisoned in a county jail when a local judge had refused to recognize the removal jurisdiction of Judge Carswell's court. As Professor Lowenthal pointed out, "it was evident to all those with experience in Northern Florida that it was not safe for voter registration people to be in local jails." Nevertheless, Judge Carswell's attitude and actions were ones of delay and harassment.

Indeed, when Professor Lowenthal's predecessor in the case, Ernst H. Rosenberger, had initially sought to remove it from the state court, he had been required to pay a filing fee in Judge Carswell's court, despite the clearly controlling decision of the Fifth Circuit in *Lefton* v. *Hattiesburg*, 333 F. 2d 280, that no such fee could be demanded.[1] Subsequently, when Professor Lowenthal and Mr. Knopf attempted to file a habeas corpus petition for their clients, Judge Carswell did not permit them to do so until they had wasted valuable time attempting to obtain the signatures of the imprisoned civil rights workers, despite the fact that Rule 11 of the Federal Rules of Civil Procedure indicates that the attorney's signatures are sufficient.

Moreover, Judge Carswell would not accept the habeas corpus petition that Mr. Knopf had painstakingly drawn up until it was redone on special forms provided by the court, although the forms had no applicability to habeas corpus petitions arising out of the refusal of a state court to honor the jurisdiction of the federal courts in a removal proceeding.

Despite the barriers that Judge Carswell placed before them, Professor Lowenthal and Mr. Knopf were finally able to file habeas corpus petitions and to demonstrate to Judge Carswell that he had no choice under the law but to grant the petitions. Judge Carswell, however, still managed in a series of actions to thwart their efforts to keep the improperly detained civil rights workers out of jail. The normal process would have been to grant the petitions, take custody of the petitioners, hold a hearing on the appropriateness of removal if local authorities challenged it, and if the decision was adverse to petitioners, stay the removal pending appeal. However, as described by Professor Lowenthal, at the same time that Judge Carswell granted the habeas corpus petitions—

"(O)n his own motion, because the Gadsden County officials were not there to ask for it, and without notice to the defendants, the habeas corpus petitioners, and without a hearing or any opportunity to present testimony or argument, he remanded the cases right back to the Gadsden County courts.

"I at that point moved before Judge Carswell directly for a stay of the remand so that I could have time to file a notice of appeal to the Fifth Circuit. He denied my request for a stay, pending filing notice of appeal."

Judge Carswell also refused to have the marshall serve the habeas corpus order on the Gadsden County sheriff despite the requirement of 28 U.S.C. Sec. 1446(f) that—

"If the defendant or defendants are in actual custody on process issued by the state court, the District court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such state court."

When Professor Lowenthal served the writ of habeas corpus himself the sheriff first released but then immediately rearrested the civil rights workers pursuant to the unrequested remand. It is not clear how he learned of his authority to do so. Professor Lowenthal testified as follows:

"The sheriff produced the jailed voting registration workers, at once rearrested them because *Judge Carswell had had his marshal telephone the sheriff to advise the sheriff that Judge Carswell had on his own motion remanded the cases right back to the Gadsden County court* . . .

"I was in Judge Carswell's chambers and office, and I do not remember whether I overheard the conversation between Judge Carswell and his marshal or whether somebody reported this to me. I do not know. What I do know is that when I got to the sheriff with the habeas corpus order to release the man, the sheriff already knew of the remand, and therefore on the spot produced the defendants and rearrested them and put them back in jail."

The experience of Ernst Rosenberger who preceded Professor Lowenthal as a representative of the American Civil Liberties union in Northern Florida were indicative of Judge Carswell's willingness to go beyond the courtroom to deny litigants their basic rights.

Mr. Rosenberger represented nine clergymen freedom riders arrested in a Tallahassee airport restaurant in 1961. There had been numerous appeals in the case and as a result of a filing date having been missed the appeals were terminated. At the time Mr. Rosenberger entered the case the only recourse open to the clergymen was a writ of habeas corpus. Judge Carswell denied the writ without a hearing on the merits, and the case was immediately appealed to the Fifth Circuit which modified Judge Carswell's order so that it provided for an immediate hearing by Judge Carswell if the state court did not grant such a hearing.

On the same day that the judges of the Fifth Circuit rewrote Judge Carswell's order, Mr. Rosenberger met with Judge Carswell and Mr. Rhoads, the City Attorney of Tallahassee. On his own initiative Judge Carswell then suggested to Mr. Rhoads "that this whole case could be ended by reducing the sentences of the clergymen to the time already served," although the petitioners had requested no such reduction and in fact wished to have their claims decided on the merits so that their records could be cleared. As Mr. Rosenberger pointed out, Judge Carswell's advice "could have no other effect except to moot the entire question, to leave . . . (the clergymen) with no way for vindication, to insure them a permanent criminal record. This was a matter where the judge advised the City Attorney in a state court proceeding actually of how to circumvent an order which had been put in by the U.S. Circuit Court." The City Attorney and the state judge thereupon followed Judge Carswell's advice despite the objections of Mr. Rosenberger, and totally preempted the legitimate efforts of the clergymen to obtain a judicial ruling.

The impressions and experiences of Professor Clark, Professor Lowenthal, Mr. Knopf and Mr. Rosenberger paint a picture of blatant hostility and aggressive unfairness that casts serious doubts upon Judge Carswell's judicial temperament to sit even on the District Court much less on the Supreme Court of the United States. Judge Carswell did not take the stand to rebut these charges. His general statement that there has never been "any suggestion of any act or word of discourtesy or hostility on . . . his (part)" certainly does not dispel the doubts they raised. None of them have anything to gain by misleading the Committee or the Senate. In particular, it is worth remembering that Mr. Knopf is an employee of the Justice Department of the United States, who testified pursuant to a subpoena.

IV. JUDGE CARSWELL'S REFUSAL TO ADHERE TO CONTROLLING LAW IN EQUAL RIGHTS CASES

The Majority report of the Committee on the Judiciary concludes that Judge Carswell's judicial record in the field of civil rights cases is "one of balance and evenhandedness." In fact it was one of obstruction and delay, amounting too often to an improper refusal to follow the mandates of the Constitution and the clear guidelines of the higher courts.

Judge Carswell handled extensive litigation involved in desegregating three northern Florida school districts—Escambia County, containing Pensacola, Leon County containing Tallahassee, and Bay County.

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[1] "Filing fees are not to be collected in connection with criminal removal petitions. Such fees are regulated by statute, and a comparison of the present statute with its predecessor shows that there is now no authority for the clerk to charge fees in such proceedings." 333 F. 2d at 285.

The Pensacola case, ***Augustus* v. *Board of Public Education of Escambia County*,** 185 F. Supp. 450 (1960), *reversed* 306 F. 2d 862 (1962) first came before Judge Carswell in 1960. It was still in court last year.

In the initial complaint students asked Judge Carswell to end faculty segregation as an essential step in making school integration work. The question of faculty segregation was unsettled at the time, but, Judge Carswell refused to even hold a hearing on the issue and struck the whole issue from the complaint, asserting that students had no standing to sue for desegregated faculties any more than they "can bring action to enjoin the assignment to the school of teachers who were too strict or too lenient."

Moreover, Judge Carswell did not even obtain a student desegregation plan from local authorities for a year and a half. Then he approved a plan that allowed another year before even token desegregation would begin. And that plan provided for only vague notification of rights to parents, allowed only 5 days a year for Negro students to request transfer to white schools, and authorized the school board to reject such transfer applications on a variety of general grounds contained in the Florida Pupil Assignment Act.

Because of the danger that such plans could be used to maintain segregation, the Fifth Circuit had previously held in 1959 that a school board's adoption of the Florida Pupil Assignment Law did not meet the requirements of a plan of desegregation or constitute a "reasonable start toward full compliance" with the Supreme Court's 1954 decision in *Brown*. *Gibson* v. *Board of Public Instruction of Dade County, Florida,* 272 F. 2d 763 (1959). The Fifth Circuit had reaffirmed this decision in 1960. *Mannings* v. *Board of Public Instruction of Hillsborough County, Florida,* 227 F. 2d 370 (1960).

In *Gibson* the Fifth Circuit also held that the Pupil Assignment Law, even if administered nonracially, was not enough to satisfy a school board's duty to desegregate; it had to be desegregating its schools simultaneously with the application of the Pupil Assignment Law.

Despite the clarity of the law on this point, and despite Judge Carswell's obligation to follow the decisions of the Fifth Circuit, the desegregation order he entered against Escambia County in 1961, provided, in effect, only that the Board should continue using the Pupil Assignment Law which, up to that time, had resulted in the continuation of a fully segregated school system. No meaningful additional steps were required.

The 5th Circuit had no trouble reversing both of Judge Carswell's action.

As to Judge Carswell's striking of the reference to faculty segregation, the 5th Circuit ordered a hearing on the allegation that students are injured by the policy of faculty segregation saying:

"Whether as a question of law or of fact, we do not think that as a matter of such importance should be decided on a motion to strike . . ."

As to the desegregation plan the court said "It has not gone far enough . . . ," and proceeded to instruct Judge Carswell as to the minimum that should be required.

In the discussion of Judge Carswell's handling of desegregation in Escambia County the 5th Circuit made clear that a school board could not constitutionally adopt a plan of desegregation under which all pupils would be given a blanket reassignment to the segregated schools they were presently attending and black students desiring to attend an integrated school would be required to go through the procedures of the Florida Pupil Assignment Law before they would be assigned to a white school. Yet, the plan subsequently presented to Judge Carswell in the Leon County case proposed to do just that. Moreover, the plan provided for the desegregation of schools at the rate of only one grade per year, despite the direction of the 5th Circuit in the Escambia County case that at least two years should be desegregated the first year if, as provided for under the Leon County plan, desegregation did not begin until 1963. Nevertheless Judge Carswell approved the plan, *Steele* v. *Board of Public Instruction of Leon County,* 8 Race Rel. L. Rep 932 (1963), disregarding the guidelines set for him by the 5th Circuit in the previous case.

The children of Bay County fared no better in Judge Carswell's court. In *Youngblood* v. *Board of Public Instruction of Bay County, Florida,* 230 F. Supp. 74 (1964), Judge Carswell again disregarded the guidelines set for him in the Escambia County case as well as the intervening Supreme Court decision in *Griffin* v. *County School Board of Prince Edward County,* 337 U.S. 218 (1964) in which the Court held that "there has been entirely too much deliberation and not enough speed in enforcing * * * constitutional rights * * *." In Bay County Judge Carswell once more approved a plan that placed the barriers inherent in the Florida Pupil Assignment Law before black students wishing to transfer to white schools. Moreover, the plan did not provide for any transfers whatsoever until the 1965–66 school year.

A review of the desegregation schedules approved by Judge Carswell in Escambia, Leon and Bay Counties indicate clearly that a decade after *Brown,* he was unwilling to accept the dictates of the Constitution even when they had been specifically defined by courts superior to his own.

After the Fifth Circuit had reversed his earlier order in *Augustus* v. *Board of Public Instruction of Escambia County,* Judge Carswell ordered the elimination of dual school attendance zones, drawn up by race, at the rate of a grade a year. 8 Race Rel. L. Rep. 58 (1962). On April 20, 1965, Judge Carswell denied plaintiffs' motion for changes in the plan ordered in 1962. 11 Race Rel. L. Rep. 148 (1965). A further order denying relief to plaintiffs was entered by Judge Carswell on October 6, 1965. *Id.* Thus, grade-a-year desegregation remained in force.

On April 22, 1963, Judge Carswell ordered grade-a-year elimination of such dual attendance zones in *Steele* v. *Board of Public Instruction of Leon County.* 8 Race Rel. L. Rep. 934 (1963). On January 20, April 17, and April 19, 1965, Judge Carswell denied plaintiffs' motions for changes in the plan ordered in 1963. 10 Race Rel. L. Rep. 607 (1965). Thus, grade-a-year desegreation remained in force.

On July 20, 1964, Judge Carswell ordered a grade-a-year elimination of such dual attendance zones in *Youngblood* v. *Board of Public Instruction of Bay County.* 9 Race Rel. L. Rep. 1206 (1964).

At the desegregation rate ordered by Judge Carswell, dual attendance zones based on race would not have been completely eliminated in the Escambia County school case until the start of the 1973–74 school year. Desegregation would have been completed in the Leon County school case at the start of the 1974–75 school year. In the Bay County school case, it would have taken until the start of the 1975–76 school year, or 21 years after *Brown.*

The Third, Fourth, Fifth and Eighth Circuits, however, had all held that such slow rates of desegregation were constitutionally unacceptable *before* Judge Carswell made the first of his 1964 and 1965 rulings upholding this rate.

Ruling on July 19, 1960, the Third Circuit in *Evans* v. *Ennis,* 281 F. 2d 385, cert. den. 364 U.S. 933 (1961) rejected a grade-a-year plan beginning in the Fall of 1959. It ruled that, as a matter of law, all grades had to be desegregated by the Fall of 1961.

The Sixth Circuit was the next to rule. In *Goss* v. *Board of Education of the City of Knoxville, Tennessee,* 301 F. 2d 164 (April 3, 1962) *reversed in other respects* (discriminatory pupil transfer plans which had been approved by the Sixth Circuit), 373 U.S. 683 (June 3, 1963), the court of appeals rejected a grade-a-year plan and ordered a faster rate of desegregation. It reaffirmed this position in *Northcross* v. *Board of Education of the City of Memphis,* 333 F. 2d 661 (June 12, 1964).

On June 29, 1963, the Fourth Circuit took the identical position in *Jackson* v. *School Board of the City of Lynchburg, Virginia,* 321 F. 2d 230.

On June 18, 1964—a month before Judge Carswell ordered a grade-a-year plan in the Bay County case—the Fifth Circuit held that a grade-a-year plan was impermissible in the case before it because, even though a large metropolitan school system was involved, there was no reason that would justify such a slow rate of desegregation. The court said:

"Plans providing for the integration of only one grade a year are now rare; and the possibility of judicial approval of such a grade-a-year plan has become increasingly remote due to the passage of time since the Brown decisions."

Armstrong v. *Board of Education of the City of Birmingham, Alabama,* 333 F. 2d 47, 51.

The Fifth Circuit's position was made unmistakably clear on February 24, 1965, months before Judge Carswell denied motions to change the grade-a-year plan in the Escambia County and Leon County school cases. On that date, the court of appeals decided *Lockett* v. *Board of Education of Muscogee County School District, Georgia,* 342 F. 2d 225, which outlawed any use of grade-a-year plans. Discussing its own decisions on grade-a-year plans and the clarity of the law on this point, the court of appeals stated:

"The grade a year plan came into rather wide use but, with the passage of years, fell into judicial disfavor mainly because of the inability to offer proof sufficient to sustain the burden, which was on the school boards, that such delay was necessary. We sent up a warning flag in *Davis* v. *Board of School Commissioners of Mobile County,* 5 Cir., 1963, 318 F. 2d 63, that the day was near at hand when grade a year plans would no longer pass muster. In *Watson* v. *City of Memphis,* 1963, 373 U.S. 526, 83 S. Ct. 1314, 10 L. Ed. 2d 529; *Goss* v. *Board of Education of the City of Knoxville, Tennessee,* 1963, 373 U.S. 683, 83 S. Ct. 1405, 10 L. Ed. 2d 632; and *Griffin* v. *County School Board of Prince Edward County,* 1963, 375 U.S. 391, 84 S. Ct. 400, 11 L. Ed. 2d 409, the Supreme Court, in rather rapid fire order, made the point, in language understandable by all, that the doctrine of "all deliberate speed" could no longer be viewed, due to the passage of years, in the same context as when announced. Following these cases, the court in *Calhoun* v. *Latimer,* 1964, 377 U.S. 263, 84 S. Ct. 1235, 12 L. Ed. 2d 288, where we had approved Atlanta's grade a year plan, see 321 F. 2d 302, remanded the case to the District Court for reappraisal of the speed of the plan in light of Watson, Goss, and Griffin. It was then beyond peradventure that shortening of the transition period was mandatory."

342 F. 2d at 227. The court of appeals then noted that, in five cases it had decided the previous summer, it had decided that all grades in those school systems had to be desegregated by Sepetmber 1969, "or earlier, as we pointed out, if the school boards are unable to justify the delay on a future complaint." 342 F. 2d at 228. The court stated that these decisions had laid out "minimal standards to be applied in other cases. *Id.* at 229. In the face of this decision, however, Judge Carswell still refused to review the grade a year plans that he had approved several years earlier.

XUM

Judge Carswell also managed to delay desegregtion of the Florida state reform schools. *Singleton* v. *Board of Commissioners of State Institutions*. 11 Race Rel. L. Rep. 903, reversed 356 F. 2d 771 (5th Cir. 1966).

The plaintiffs in this case were inmates at the time the suit was brought, but had been released on conditional probation while the suit was pending in the district court. The plaintiffs were still juveniles and, under Florida statutes, would be subject to the jurisdiction of the juvenile court until their twenty-first birthday. The plaintiffs were subject to recommitment if they violated the terms of the probation.

Judge Carswell dismissed the complaint on the ground that the plaintiffs lacked standing, even though they could be re-committed in the future and were still subject to the jurisdiction of the juvenile court.

In the opinion reversing Judge Carswell's decision, the 5th Circuit pointed out that Judge Carswell's approach would preclude any effective effort to desegregate the facilities since the average stay in the reform school was less than the time necessary to file an action and obtain a court order.

Judge Carswell's record in equal rights cases other than these involving school desegregation is no less discouraging. His highly questionable actions in *Wechsler* v. *Gadsden County* have already been discussed at length in the section of this memorandum on *Judicial* Temperament. Two other cases, *Dawkins* v. *Green,* 285 F. Supp. 772 (1968) and *Due* v. *Tallahassee Theatres, Inc.,* 9 Race Rel. L. Rep. 904 (1963), are also particularly indicative of Judge Carswell's unwillingness to follow the dictates of the 5th Circuit and the Supreme Court when they conflicted with his basic predilections. The suit involved in *Due* was brought by black residents of Tallahassee against city officials, the sheriff of Leon County and local theatre corporations and their owners. The suit charged that the defendants were conspiring to deprive the black residents of Tallahassee of their civil rights. The Court of Appeals summarized the thrust of the complaint:

"We take the following statement from the brief of the appellee Joyce, which brief has been accepted in full by the other appellees:

"The substance of this conspiracy is said to be that the Appellees, under color of law, pursue and enforce a policy of requiring white persons in Tallahassee to conduct their private business establishments on a segregated basis, which object is accomplished by requiring peace officers to disperse or arrest and jail any negroes attempting to secure services on a non-segregated basis. The Appellants allege that all of the previously enumerated acts [specific allegations dealing with the refusal of the Theatres to permit Negroes to enter the theatres even after, on one occasion, purchasing tickets] were done in pursuance of the conspiracy, and that the said actions of the Appellees constitute State action prohibited by the Fourteenth Amendment."

Judge Carswell dismissed the first three of five claims in the complaint described above, for failure to allege a claim on which relief could be granted. 9 Race Rel. L. Rep. 904. Chief Judge Tuttle, speaking for a unanimous panel, treated this ruling unusually sharply:

"The orders of the trial court dismissing the complaint for failure to allege a claim on which relief could be granted can be quickly disposed of. These orders were clearly in error."

* * * * *

"It appears, in fact, to be a classical allegation of a civil rights cause of action."

* * * * *

"There is no doubt about the fact that the allegations here stated a claim on which relief could be granted, if the facts were proved."

333 F. 2d at 631.

On May 20, 1963—five months before Judge Carswell's decision—the Supreme Court had ruled that local officials in New Orleans had violated the Constitution by pressuring white businessmen to maintain segregated restaurant operations and by causing the arrest of black citizens seeking desegregated services. *Lombard* v. *Louisiana,* 373 U.S. 267. Although this decision involved the reversal of criminal convictions, the principle of law discussed was identical to that involved in the *Tallahassee Theatres* case.

Furthermore, when the sheriff of Leon County filed a motion for summary judgment in the *Due* case, Judge Carswell granted the motion on the ground that "there is no genuine issue as to any material fact." 9 Race L. Rep. 904, 905. The opinion of the Fifth Circuit states, however, that the sheriff had filed only a conclusionary affidavit denying only some of the violations of law charged against him. The Circuit Court said the affidavit showed only that "conflicting evidence exists," 333 F. 2d at 633. Nevertheless Judge Carswell chose to give complete effect to the sheriff's unsubstantiated affidavit, and no effect to the plaintiffs' depositions, and denied the plaintiffs an opportunity for any factual hearing and cross-examination. This action, too, was reversed by the Fifth Circuit:

"There clearly remained issues of fact to be determined on a full trial of the case. . . ."
333 F. 2d at 633.

Judge Carswell learned no lesson from *Due,* however. In *Dawkins* v. *Green,* plaintiffs sued several officials of the City of Gainesville and of Alachua County, Florida, charging that the defendants had initiated bad faith prosecutions against the plaintiffs in an attempt to retaliate against them for engaging in civil rights activities in the past and to intimidate them from doing so in the future. The defendants filed a motion for summary judgment in their favor, and filed affidavits in support of their motion.

Again, Judge Carswell accepted all of the allegations of the defendants' affidavits as true, coupled that with "the presumption that the State's motive was law enforcement and not interference with speech or assembly" (quoting from the dissenting opinion in *Cameron* v. *Johnson,* 390 U.S. 611, 623 (1968)), and stated his findings in broad terms:

"From the proofs here it is clear that there was no harassment, intimidation or oppression of these complainants in their efforts to exercise their Constitutional rights, but some were arrested and they are being prosecuted in good faith under Constitutionally valid criminal laws of the State of Florida."

285 F. Supp. 772, 774. He then granted the motions for summary judgment in favor of all of the defendants, and dismissed the case.

In reversing Judge Carswell, the court of appeals described the affidavits filed by the defendants:

"However, the affidavits filed by the defendants are simply a restatement of the denials contained in their answer and add no new information. Moreover, they set forth only ultimate facts or conclusions in that their contents are statements by the county and city officials involved to the effect that they did not enforce the laws against plaintiffs in bad faith. No facts were present so that the trial Court could arrive at its own conclusions."

412 F. 2d 644 (June 2, 1969).

Previously, the Fifth Circuit had ruled that the affidavits containing only "mere conclusions of fact" have no probative value. *Woods* v. *Allied Concord Financial Corporation,* 373 F. 2d 733, 734 (1967). In *Dawkins,* the court of appeals stated in a footnote: "This rule is well founded in the law." 412 F. 2d at 646 note 4. The court concluded:

"Since the affidavits that were before the trial Court were of no probative value, this is not a case in which summary judgment was 'appropriate.' "

The point of law was the same used in reversing Judge Carswell previously in *Due.*

The aforegoing examination of Judge Carswell's decisions touching upon civil rights issues reveals that he is not, in fact, a "strict constructionist" in any sense of that vague term. Indeed, he has displayed little, if any, regard for the principle of "stare decisis" when its application has directly required him to follow the holdings of the 5th Circuit and the Supreme Court in civil rights cases. His decisions in this area merely reinforce the picture of a judge who was unable to divorce his personal prejudices from his judicial functions.

V. JUDGE CARSWELL'S DISDAIN FOR THE WRIT OF HABEAS CORPUS

Historically, the writ of habeas corpus—the Great Writ—might well represent the most precious safeguard possessed by a free people against abusive and improper governmental confinement. Indeed, in Art. I, Section 9, the writ of habeas corpus has been constitutionally enshrined. Because the writ often stands as the final judicial guarantee against the tragedy of erroneous imprisonment, each application demands scrupulous attention.

An examination of Judge Carswell's habeas corpus decisions evidences a judge who does not take seriously the importance of this vital Constitutional provision. It reveals a judge who has developed with regard to the writ a pattern of inattentiveness—inattentiveness which could deprive our Constitution of any real meaning. It reveals a judge who is inclined to look the other way.

The record reveals that in at least nine cases, Judge Carswell has been unanimously reversed *for refusing even to grant a hearing* in habeas corpus proceedings or similar proceedings under 28 U.S.C. § 2255. Whether this unseemly record is the product of simple callousness, obliviousness to constitutional standards, or pure ignorance of the law, one might only surmise.

In *Meadows* v. *United States of America,* 282 F. 2d 942 (1960) the petitioner moved under 28 U.S.C. § 2255 to set aside his sentence on the ground of a prior determination of mental illness which made it impossible for him to make intelligent waivers and pleas. Judge Carswell denied the motion without hearing. The court of appeals reversed most preemptorily, saying this was an adequate petition and obviously should have a hearing.

In *Dickey* v. *United States,* 345 F. 2d 508 (1965), the petitioner moved to vacate judgment on the ground that he was mentally incompetent at the time he waived counsel. Judge Carswell denied the motion without an evidentiary hearing. Again he was reversed unanimously and instructed to give the man a hearing.

In *Baker* v. *Wainwright,* 391 F. 2d 248 (1968), petitioner alleged that he was denied the right to counsel on appeal from his conviction. After conviction, petitioner had filed an affidavit of insolvency and per se notice of appeal. The State court did not apprise him of his right to have counsel appointed.

Judge Carswell denied habeas corpus without evidentiary hearing and again he was reversed.

In *Dawkins* v. *Crevasse,* 391 F. 2d 921 (1968), the Fifth Circuit unanimously reversed Judge Carswell when he denied bail to a habeas corpus petitioner without a hearing. The Circuit Court directed him to enter an order granting bail.

In *Brown* v. *Wainwright,* 394 F. 2d 153, (1968), petitioner alleged that his incriminating statements used against him were involuntary and requested habeas corpus.

Judge Carswell denied the petition without holding an evidentiary hearing and again was reversed unanimously and directed to give the hearing.

In *Harris* v. *Wainwright*, 399 F. 2d 142 (1968), at the hearing of the petitioner's post-conviction attack in a State court, petitioner was not represented by counsel. The State court held that petitioner was represented by "able counsel" and the conviction was not illegal.

Judge Carswell denied a request for a hearing summarily. He was reversed unanimously.

In *Barnes* v. *Florida*, 402 F. 2d 63 (1968), petitioner alleged coercion of guilty plea and ineffective assistance of counsel. He alleged that he saw court-appointed counsel for only a few minutes four days before trial and a few minutes prior to trial. He claimed that the attorney coerced him into pleading guilty and submitted portions of a certified letter from the lawyer as proof.

Judge Carswell denied this habeas corpus petition without a hearing. The case was unanimously reversed and remanded for evidentiary hearing.

Similarly Judge Carswell refused hearings and was reversed in *Rowe* v. *U.S.*, 345 F. 2d 795 (1965) and *Cole* v. *Wainwright*, 397 F. 2d 810 (1968).

Judge Carswell's insensitivity to the need for careful study of charges that basic constitutional rights have been denied indicates once again his lack of concern for human rights.

A study of Judge Carswell's record in the area of habeas corpus by Professor John Griffiths of Yale Law School and others concluded by stating that in the area that they investigated, "Judge Carswell's judicial performance does not qualify him for elevation to the Supreme Court." It is a difficult conclusion to dispute.

VI. JUDGE CARSWELL'S INSENSITIVITY TO HUMAN RIGHTS

Shortly after Judge Carswell's nomination was sent to the Senate, a reporter discovered and brought to the nation's attention a speech given by the nominee when he was a candidate for the Georgia State Senate in 1948, and then reprinted by him in the weekly newspaper which he edited.

The full text of the speech is set forth in the Hearing Record at pages 21–23, but the passages which have attracted most attention are these:

"I am a Southerner by ancestry, birth, training, inclination, belief and practice. I believe that segregation of the races is proper and the only practical and correct way of life in our states. I have always so believed, and I shall always so act. I shall be the last to submit to any attempt on the part of anyone to break down and to weaken this firmly established policy of our people.

"If my own brother were to advocate such a program, I would be compelled to take issue with and to oppose him to the limits of my ability.

"I yield to no man as a fellow candidate, or as a fellow citizen, in the firm, vigorous belief in the principles of white supremacy, and I shall always be so governed."

The nominee was a 28 year old attorney at the time, and the time was 21½ years ago. Surely, no reasonable person would contend that *merely* because he uttered those words in 1948, he necessarily believes them in 1970. And we are concerned about what he is in 1970, what kind of man, what kind of judge.

The nominee himself stated the point of inquiry:

"There is nothing in my private life, nor is there anything in my public record of some 17 years, which could possibly indicate that I harbor racist sentiments or the insulting suggestion of racial superiority. I do not so do, and my record so shows."

Judge Carswell's official and unofficial conduct must be scrutinized with this standard in mind, as well as for its implications regarding his professional qualifications. Some of the evidence has already been discussed such as his attitudes toward civil rights lawyers, his resistance to granting civil rights relief in the face of a clear responsibility to do so, the record of repeated reversals on civil rights cases and his aiding local officials to deprive civil rights workers due process of law.

Other pieces of evidence may be less dispositive, and even minor, taken separately, but taken together they confirm a clear pattern. On July 11, 1953, George Harrold Carswell became United States Attorney for the Northern District of Florida. On December 16, 1953, the Florida Circuit Court for Leon County approved the Charter of the Seminole Boosters, Inc., a non-profit corporation. The charter was typed on legal paper bearing the name "Carswell, Cotton and Shivers—Attorneys at Law—Tallahassee, Florida." The 11 incorporating subscribers and charter members included Harrold Carswell, Tallahassee, Florida, and his signature is the first to appear. He was also the affiant on the notarized affidavit in which the facts of the charter were sworn to. Taken together these facts indicate that he was the one who drafted and filed the charter. Indeed an article in the February 27th *New York Times* has confirmed that conclusion. Article III of the Charter reads: "The qualificaion and members shall be any white person interested in the purposes and objects for which this corporation is created."

In November of 1955, the Supreme Court held in Holmes v. Atlanta that the constitution required municipal golf courses to desegregate, and later that year a suit was filed in the United States District Court for the Northern District of Florida to enforce that holding with respect to the municipal golf course in Pensacola. George Harrold Carswell, having taken an oath to "support and defend the Constitution of the United States . . . without any mental reservation . . . ," was then United States Attorney for the Northern District of Florida. In his home town of Tallahassee, there was a white municipal golf club, which, it became clear in 1955, would have to be desegregated and opened to black citizens if it remained under city control. Since the club had once, many years before, been privately owned, and had been deeded to the city with a right of first refusal in the prior owners upon any future disposition, the prior owners sought to exercise that right to obtaining a long-term lease from the city so that control of the golf course could be placed in private hands. Under the state of the law at that time, it could reasonably be expected that the obligation to desegregate would thereby be avoided.

According to a front-page article in Tallahassee's only daily paper,[2] when the question was raised at the City Commission meeting in December of 1955, one of the commissioners objected on the grounds that the proposed transfer was racially motivated, and the proposal was temporarily shelved. Two months later, in February, 1956, after the objecting commissioner had left the commission, another attempt was made to transfer the white golf course to private hands. The commission was clearly conscious of the fact that there were racial implications to the transfer, for it felt obligated "to make the same deal on a Negro golf course" then being constructed by the city. And asked if the white course would be open to the public after the transfer, the private group's representative said it would be available to "any acceptable person," a euphemism which could only mean one thing in Tallahassee in 1956. These facts are related in detail because the newspaper record shows they were well known to the citizens of Tallahassee, as is confirmed by numerous personal recollections and affidavits of black and white citizens. The transfer was in fact completed, and the club did in fact become a facility open at daily, monthly, or yearly rates to any white person. Until very recently, Negroes were not permitted to attend even public functions there.

Despite the universal knowledge that the transfer of the golf course to private control would allow that municipal facility to remain segregated, U.S. Attorney Carswell, when asked to subscribe $100 and lend his name as one of 21 incorporators and directors of the new corporation which would actually hold the lease and run the club, could think of no reason not to do so, even though he was not a golfer and had no special interest in using the club, according to his testimony. Since the incorporation was central to a large fund-raising effort, it was clear that the incorporators' names would be used to solicit others, and the list of incorporators included high state officials and legislators, in addition to the U.S. Attorney.

In 1963, the nominee's brother-in-law and next-door neighbor, Jack Simmons, Jr., exchanged some swamp land he had purchased for shore property owned by the federal government. In its first private transfer, a parcel of that property was conveyed to and accepted by Mrs. Carswell with newly imposed covenants including one preventing transfer to any Negro, but permitting Negro servants to live with white owners. The transfer was handled by the Judge's former law associate and close friend who of course knew that Mr. Carswell was a federal judge. The expectation was that a white-only vacation community would be developed as the Carswells, other Simmons' friends, and other purchasers built second homes there. The Carswells, however, sold their plot in 1966. The Judge personally signed the deed, which included a specific provision enforcing all of the restrictive convenants. Since we know from his testimony that the Judge, like any lawyer, reads what he signs, we can conclude that he saw that provision, and declined to do anything about it, despite the fact that racially restrictive covenants had been unenforceable since 1948 and that this one had been attached only three years previously by his own brother-in-law.

Late in 1969 Circuit Judge Carswell appeared before a meeting of members of the bar in Atlanta, Georgia. There is some dispute about the exact words of his opening joke, but it is agreed that it included a story about a Negro in Southeast Asia, and played upon his pronunciation of the word "door." Nor is there any doubt that it was considered racially insulting by some in the audience and by many who read about it thereafter.

Again these items are not necessarily earth-shaking taken separately, but together they betray a continuing insensitivity to human rights and to his status as a federal official and judge. And thus they, with Judge Carswell's bench activities, bring 1948 up to 1953, 1956, 1966, and 1969.

Clearly, there are many Americans who have overcome previous records of resistance and reticence and have developed affirmative records on civil rights. President Nixon mentioned Ralph McGill, who some thirty years ago favored school segregation, and then became one of the leading crusaders in the South for equality and freedom. The Committee had as a witness former Governor LeRoy Collins of Florida, who, as Governor, overcame his earlier record with a clearly expressed commitment to equal access to public accommodations and who then served with distinction as director of the U.S. Community Relations Service.

In contrast, the nominee's supporters can find no such statements or activities to show his change of heart and his commitment to equal rights.

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[2] Tallahassee *Democrat*, Feb. 15, 1956, p Reprinted at p. 261 of hearing.

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His supporters do say that he once ruled that his own barber would have to cut the hair of Negroes, and that this proves he is pro-equal rights. As the testimony before the Committee clearly demonstrated there were only two issues in that case—was the barber shop in a place covered by the 1964 civil rights act and did it hold itself out as serving patrons of that place? Facts providing affirmative answers to both questions *were* stipulated by the parties, and thus there was really nothing for the judge to decide.

The only other activity cited is the institution by Judge Carswell of a random jury selection system *in one division* of his court "shortly before the passage" of legislation requiring such a system to be instituted. As Judge Carswell himself pointed out to the Committee, at the time he instituted the plan it had already "become perfectly clear that this was going to have to be done . . . " under the pending legislation. The legislation was signed into law on March 27, 1968. All districts were required to institute it by December 22, 1968. Judge Carswell did not institute a *district-wide jury* selection plan until September 12, 1968.

Nor can that plan stand as a tribute to his fairmindedness. The plan utilized only the voter registration lists as a source of names. As the Judiciary Committee's report, Rept. No. 891, 90th Congress, 1st Session, on the Federal Jury Selection and Service Act pointed out, such voter lists are to be "supplemented by other sources whenever they do not adequately reflect a cross section of the community." No supplementary sources were provided for in Judge Carswell's plan despite the fact that a much smaller percentage of black citizens than white were registered to vote in his district. Even when the responses to a questionnaire required to be sent out by the court clerk indicated that the system was working in a discriminatory manner, Judge Carleswell took no remedial action.

In short there is nothing in Judge Carswell's record to challenge the conclusion that his insensitivity to human rights has persisted to the present.

CONCLUSION

Judge Carswell has not displayed the qualifications requisite for service on the Supreme Court of the United States.

INDIVIDUAL VIEWS OF MR. TYDINGS

I have concluded that Judge G. Harrold Carswell has demonstrated neither the judicial temperament and fairness nor the professional competence commensurate with the high standard of excellence that must be demanded of a Justice of the Supreme Court. Therefore, I must oppose confirmation of the appointment.

As Chairman of the Senate Subcommittee on Improvements in Judicial Machinery, I have been very much concerned with improving the operation of our Federal judicial system. I have chaired innumerable hearings and moved a substantial legislative program dealing with the administration, practices and procedures of that system, including creation of the Federal Judicial Center and the Federal Magistrate system, revision of the Federal jury selection system and development of an effective approach to multidistrict litigation.

Because of this legislative background, as well as by personal inclination, I feel a deep responsibility to my colleagues and to the nation to delve deeply into issues touching upon the effectiveness of the federal judiciary. Nothing, of course, is more relevant to that effectiveness than the process of assuring that the federal bench, and in particular, the Supreme Court are manned by appointees of the highest quality.

Men appointed to the Supreme Court have for practical purposes life tenure with no effective means for discipline or removal. Their influence on our national life may well transcend that of the President who appointed them. The role of the Supreme Court in our society is too vital to be endangered by the appointment of men whose judicial temperament or professional qualifications are subject to serious doubt.

In considering those named by the President for the vacancies on the Federal district and circuit courts over the past 5 years, and in considering previous nominees for the Supreme Court, I have consistently adhered to the position that, barring some unusual situation, a man selected by the President for the Federal bench should be confirmed by the Senate if he has demonstrated a character beyond reproach, professional competency equal to the task set for him, and a proper judicial temperament.

By proper judicial temperament, I mean at least the ability to put aside one's own prejudices and biases so as to be able to approach every case with a fair and open mind.

These criteria are not always easy to apply. But I have made every effort to apply them in a consistent manner to those nominees whose names have been placed before the Senate.

I opposed the appointment to the District Court of Massachusetts of Francis X. Morrissey, a man sponsored by two of my closest personal friends in the Senate, because I believed that his record did not demonstrate the legal ability requisite for a federal judge. When the Governor of Mississippi, James P. Coleman, was appointed to the Fifth Circuit, I spoke in his favor on the floor of the Senate and voted to confirm, despite the firm opposition of many civil rights groups. My examination of his record convinced me that he would make a fair and objective judge. Although I had supported the initial appointment of Mr. Justice Fortas, I took the lead in calling for his resignation when the unanswered questions surrounding his nonjudicial activities cast a cloud over the reputation of the Supreme Court. I also supported President Nixon's choice of Judge Warren Burger for Chief Justice, although I have not always agreed with him on substantial issues.

Now the Senate is asked to advise and consent to the appointment of Judge G. Harrold Carswell to be an Associate Justice of the Supreme Court.

I approached the hearings on Judge Carswell's appointment seeking to learn not what he was when he delivered his infamous racial supremacy speech in 1948, but what he is in 1970, what kind of judge—what kind of man.

Unfortunately, some of the most revealing testimony was presented to the Judiciary Committee after Judge Carswell testified and the members of the Committee were not able to review it with him. A request that he be recalled was rejected. Moreover, the short, general rebuttal letter that he submitted for the record was unresponsive and unenlightening. On the whole, however, the hearings were enlightening, indeed shocking, but hardly reassuring.

I will not dwell on Judge Carswell's willingness in 1956 to lend his name and the prestige of his office as United States Attorney to an effort to circumvent the mandate of the Constitution by converting a public golf course into a private one. Nor will I attempt to analyze similar events that have come to light, such as his attempt, in 1969, to amuse the members of the Georgia Bar Association with a racial joke. These are serious matters, but not, I believe, the keys to the case against Judge Carswell.

JUDGE CARSWELL'S LACK OF JUDICIAL TEMPERAMENT

Our judicial system must accord litigants fair hearing. Justice is not dispensed when a judge's personal views and biases invade the judicial process. In Judge Carswell's court, the poor, the unpopular and the black were all too frequently denied their basic right to be treated fairly and equitably.

Judge Carswell was simply unable or unwilling to divorce his judicial functions from his personal prejudices. His hostility toward particular causes, lawyers and litigants was manifest not only in his decisions but in his demeanor in the courtroom.

Professor Leroy Clark of New York University, who supervised the NAACP legal defense fund litigation in Florida between 1962 and 1968, called Judge Carswell—

> "[T]he most hostile federal district court judge I have ever appeared before with respect to civil rights matters. . . ."

* * * * *

> "Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible.
>
> "It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him while using a civil tone to opposing counsel. . . ."

* * * * *

> "[*W*]*henever I took a young lawyer into the State, and he or she was to appear before Carswell, I usually spent the evening before making them go through their argument while I harassed them, as preparation for what they would meet the following day.*"

Professor John Lowenthal of Rutgers Law School recalled attending a session in Judge Carswell's chambers in 1964 in which he "can only describe his [Judge Carswell's] attitude as being extremely hostile":

> "He expressed dislike at Northern lawyers . . . appearing in Florida because . . . [they] were not members of the Florida bar."

The choice, however, was between "Northern lawyers or no lawyers" for Professor Lowenthal's clients who had been arrested for trespass while attempting to assist sharecroppers to register to vote.

Norman Knopf, a Justice Department attorney, testifying under subpoena, who had worked with Professor Lowenthal as a volunteer in 1964, corroborated Professor Lowenthal's recollections:

> "Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on . . . It was a very long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people, and he in effect didn't want any part of this, and *he made it clear that he was going to to deny all relief that we requested.*"

Judge Carswell's manifest intention to deny all relief did not represent an idle threat. Professor Lowenthal's clients had been tried in a state court and imprisoned in a county jail when a local judge had refused to recognize the removal jurisdiction of Judge Carswell's court. As Professor Lowenthal pointed out:

> "[I]t was evident to all those with experience in Northern Florida that it was not safe for voter registration people to be in local jails."

Nevertheless, Judge Carswell's attitude and actions were ones of delay and harassment.

Indeed, when Professor Lowenthal's predecessor in the case, Ernst H. Rosenberger, had initially sought to remove it from the state court, he had been required to pay a filing fee in Judge Carswell's court despite the governing decision of the Fifth Circuit in *Lefton v. Hattiesburg*, 333 F. 2d 280, that no such fee could be demanded. Subsequently when Professor Lowenthal and Mr. Knopf attempted to file a habeas corpus petition for their clients, Judge Carswell did not permit them to do so until they had wasted precious time attempting to obtain the signatures of the imprisoned civil rights workers, despite the fact that Rule 11 of the Federal Rules of Civil Procedure indicates that the attorney's signatures are sufficient.

Moreover, Judge Carswell would not accept the habeas corpus petition that Mr. Knopf had painstakingly drawn up until it was redone on special forms provided by the court, although the forms were not designed to cover habeas corpus petitions arising out of the refusal of a state court to honor the jurisdiction of the federal courts.

Despite the barriers that Judge Carswell placed before them, Professor Lowenthal and Mr. Knopf were finally able to file habeas corpus petitions and to demonstrate to Judge Carswell that he had no choice under the law but to grant the petitions. Judge Carswell, however, still managed to thwart their efforts to keep the civil rights workers out of jail. As stated by Professor Lowenthal, at the same time that Judge Carswell granted the habeas corpus petitions—

"[O]n his own motion, because the Gadsden County officials were not there to ask for it, and without notice to the defendants, the habeas corpus petitioners, and without a hearing or any opportunity to present testimony or argument, he remanded the cases right back to the Gadsden County courts.

"I at that point moved before Judge Carswell directly for a stay of his remand so that I could have time to file a notice of appeal to the fifth circuit. He denied my request for a stay, pending filing notice of appeal."

Judge Carswell also refused to have the marshal serve the habeas corpus order on the Gadsden County sheriff despite the following provisions of 28 U.S.C. § 1446(f) that—

"If the defendant or defendants are in actual custody on process issued by the state court, the District court shall issue its writ of habeas corpus, and the marshal shall thereupon, take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such state court."

When Professor Lowenthal served the writ of habeas corpus himself the sheriff first released but then immediately rearrested the civil rights workers pursuant to the remand. It is not clear how he learned of his authority to do so. Professor Lowenthal testified as follows:

"The sheriff produced the jailed voting registration workers, and at once rearrested them because *Judge Carswell had had his marshal telephone the sheriff to advise the sheriff that Judge Carswell had on his own motion remanded the cases right back to the Gadsden County court.*"

* * * * *

" I was in Judge Carswell's chambers and office, and I do not remember whether I overheard the conversation between Judge Carswell and his marshal or whether somebody reported this to me. I do not know. What I do know is that when I got out to the sheriff with the habeas corpus order to release the men, the sheriff already knew of the remand, and therefore on the spot produced the defendants and rearrested them and put them back in jail."

The experiences of Ernst Rosenberger who preceded Professor Lowenthal as a representative of the American Civil Liberties Union in Northern Florida were indicative of Judge Carswell's willingness to go beyond the courtroom to deny litigants their basic rights.

Mr. Rosenberger represented nine clergymen freedom riders arrested in a Tallahassee airport restaurant in 1961. There had been numerous appeals in the case and as a result of a filing date having been missed the appeals were terminated. At the time Mr. Rosenberger entered the case the only recourse open to the clergymen was a writ of habeas corpus. Judge Carswell denied the writ and the case was immediately appealed to the Fifth Circuit which modified Judge Carswell's order so that it provided for an immediate hearing by Judge Carswell if the state court did not grant such a hearing. On the same day that the judges of the Fifth Circuit rewrote Judge Carswell's order, Mr. Rosenberger met with Judge Carswell and Mr. Rhoads, the City Attorney of Tallahassee. Judge Carswell told Mr. Rhoads "that this whole case could be ended by reducing the sentences of the clergymen to the time already served." As Mr. Rosenberger pointed out, Judge Carswell's advice—

"Could have no other effect except to moot the entire question, to leave . . . [the clergymen] with no way for vindication, to insure them a permanent criminal record. This was a matter where the judge advised the City Attorney in a state court proceeding actually of how to circumvent an order which had been put in by the U.S. Circuit Court."

The City Attorney and the state judge followed Judge Carswell's advice despite the objections of Mr. Rosenberger.

The impressions and experiences of Professor Clark, Professor Lowenthal, Mr. Knopf and Mr. Rosenberger paint a picture of blatant hostility and aggressive unfairness that casts serious doubt upon Judge Carswell's judicial temperament to sit even on a federal District Court much less on the Supreme Court of the United States. Judge Carswell did not take the stand to rebut these charges. His general statement that there has never been "any suggestion of any act or word of discourtesy or hostility on . . . [his] part," does not dispel the doubts created by their testimony. None of them have anything to gain by misleading the Committee or the Senate. In particular, it is worth remembering that Mr. Knopf is an employee of the Justice Department of the United States, who testified pursuant to a subpoena. As was forcefully pointed out during the hearings Mr. Knopf has other things to occupy his days now—"earning a paycheck."

JUDGE CARSWELL'S LACK OF PROFESSIONAL COMPETENCY

Despite the problems of temperament that Judge Carswell displayed on the lower courts, there might still be some basis for supporting his confirmation to the Supreme Court if he were a man of great intellectual and professional distinction. At least then there would be hope that once on the Supreme Court he would display a capacity for growth that would enable him to deal capably and objectively with the matters of vast importance that come before the Court.

He is, however, a mediocre man. He has demonstrated neither the depth of intellect nor of understanding that would indicate that he might fill with distinction the seat once held by Felix Frankfurter and Benjamin Cardozo. He is, instead, in the opinion of the Deans of two of our most respected law schools, a man who is professionally unqualified to sit on the Supreme Court. Dean Pollak of Yale testified that Judge Carswell—

"Has not demonstrated the professional skills and the larger constitutional wisdom which fits a lawyer for elevation to our highest court.

"I am impelled to conclude, with all deference, I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth in this century."

Dean Bok of Harvard has written that Judge Carswell has "a level of competence well below the high standards that one would presumably consider appropriate and necessary for service on the court."

Twenty members of the University of Pennsylvania Law School examined his opinions in various areas of the law and concluded "that he is an undistinguished member of his profession, lacking claim to intellectual stature." Charles L. Black, Jr., Luce Professor of Jurisprudence at the Yale Law School and one of the most respected members of the academic legal community stated in a letter to the Chairman:

"[T]here can hardly be any pretense that he [Carswell] possesses any outstanding talent at all. On the contrary, all the evidence I have seen would lead to the conclusion that mediocrity is an independent valid objection to his appointment."

Perhaps most telling was the testimony of Professor William Van Alstyne of the Duke University Law School, one of the most distinguished legal scholars of the South. Professor Van Alstyne had testified before the Senate Judiciary Committee in support of Judge Haynsworth, but testifying in opposition to Judge Carswell, Professor Van Alstyne concluded that Judge Carswell's decisions reflected "a lack of reasoning, care, or judicial sensitivity overall."

Despite his failure to follow the opinions of the higher courts in a number of areas of the law, Judge Carswell has been referred to by his supporters as a strict constructionist or a judicial conservative. Such terms, properly applicable to men with highly developed judicial philosophies such as Mr. Justice Felix Frankfurter and Mr. Justice John Harlan have no relevance to a man such as Judge Carswell who at best is mediocre and, at worst, has allowed his biases to permeate his courtroom.

There are many great southern judges and lawyers to whom the adjective "strict constructionist" is properly applicable and whom I would willingly support if they were nominated for the Supreme Court—men such as Sam Ervin of North Carolina, Judge Walter E. Hoffman of Virginia, Judge William F. Miller of Tennessee and Stephen O'Connell of Florida, President of the University of Florida. These are men with whose philosophies I might differ, but whom I would support because they are fair men and men of legal distinction. As Dean Bok pointed out, "The problem [with Judge Carswell] is one that has much less to do with judicial philosophy than with judicial competence; for extremely competent judges can be found with widely varying attitudes concerning the judicial function, let alone political or social questions."

CONCLUSION

I must conclude that Judge Carswell has displayed neither a proper judicial temperament nor a professional competency equal to the task set for him. I oppose the confirmation.

Mr. BAYH. I find that these have been broken down into five different areas about which we are concerned—lack of professional competency, lack of judicial temperament, refusal to adhere to controlling precedent, disdain for the writ of habeas corpus, and insensitivity to human rights.

I was about to make one last comment to the Senator from Michigan relative to the degree of concern which the Senator from Indiana has over interpretation of the judge's beliefs in the area of human rights, with the same concern that had been expressed in the previous debate relative to Judge Haynsworth. Many of the Haynsworth decisions were split decisions, 3 to 2 decisions. Those who opposed Judge Haynsworth's position felt he was wrong. But next week the Senator from Indiana intends to discuss in some detail 17 cases in which the present nominee was reversed 3 to 0 by a unanimous panel of the Fifth Circuit Court of Appeals, which is a panel of illustrious judges. The Fifth Circuit Court of Appeals is hardly what one would call a bastion of liberalism. If that court unanimously says this nominee is out of step with the issues of habeas corpus and the various other cases that the Senator from Indiana will discuss in some detail, then I think he is out of step with what we need on the Supreme Court right now.

I am looking forward to the opportunity to pursue these thoughts in greater detail.

Mr. STENNIS. Mr. President, since I may have to be away from the floor of the Senate on Monday, I wish to say a few words now, although I would not seek the floor if a member of the Judiciary Committee wanted to speak at this time.

Mr. President, this debate will cover many points, but I think the Senator from Pennsylvania in his opening remarks pointed out a few basic facts and a few basic principles that will be and should be controlling, to which the Senator from Michigan added, in his very fine way, the question of judging one on his philosophy and judging him on his principles of character, and qualifications of that kind.

Mr. President, I expect to be heard later, and I shall be quite brief at this time.

I wish to emphasize that the office of Supreme Court Justice is one of the highest offices in the land, and is of particular importance because, subject to good behavior, a Justice of the Supreme Court may serve for life. For this and other reasons, the question of the confirmation of Judge G. Harrold Carswell which is now before us is of particular importance. A Supreme Court Justice can have a lasting impact since he usually participates in the shaping of the law over a period of many years without being accountable to any authority except his expertise, learning, judicial integrity, and judgment.

Having made extensive inquiry into this matter with persons known to me who have personally known him for many years, I am satisfied that Judge Carswell measures up to the requirements of the office in every respect and that he has the legal experience, learning, integrity, judicial philosophy, and other attributes which will enable him to serve on the Supreme Court with great distinction. This experience includes years of active practice in the courts, service as a U.S. district attorney, service as a U.S. district judge, and membership on the Fifth Circuit of the U.S. Court of Appeals. I believe we should give our consent to his confirmation, and I will vote to do so.

There are some in the country, including some Members of the Senate, who regret and oppose the nomination of Judge Carswell from an ideological point of view and they, I assume, would prefer someone they would consider less conservative. While I do not impugn the motive of any Senator who opposes Judge Carswell, I am compelled to believe that many are influenced by widely disparate views and personal, judicial, political, and philosophical ideology. With many of these, perhaps without conscious realization of the fact, the charges against Judge Carswell become an excuse and not a valid reason for opposition.

The logic of the situation, however, suggests that we should agree that all Supreme Court Justices should not be cast from the same mold or the same geographical location. Judge Carswell should not be opposed simply because of the thought that he may exercise judicial restraint rather than being a judicial activist in the tradition of some of the Justices who have sat on the Supreme Court in the last decade or so.

The basic proposition is that we should recognize the fact that much of the opposition to Judge Carswell is motivated by disagreement with some of his decisions and with his personal and political philosophy rather than by any question of his ability, ethics, or integrity.

When we speak of these thngs, I think it is highly important to remember that this gentleman is already an experienced judge. He is experienced, first, as a practicing lawyer, and for 5 years he had the responsibility of representing the Federal Government as a U.S. district attorney. But, more than that, he spent 8 or 10 years as a trial judge, a U.S. district judge, who carried all the responsibility of a court of unlimited jurisdiction, in both civil and criminal cases. In the area he was then serving, that is a test, in these modern times, that is very severe and very exacting. It is the training in the courtroom and in the trial courtroom from which real lawyers and jurists are made. Then, on top of that, he served almost a year as a member of the U.S. court of appeals where he is well along on his way to becoming a highly valuable member of that court.

Mr. President, Judge Carswell is not a personal friend of mine. I do know others, however, who strongly vouch for his ability, honesty, and integrity. These include some of my high school associates who now live in Florida and have known this man for a great number of years.

My close inquiry into this matter has convinced me that he is fully qualified for the office for which he has been nominated and will discharge his duty with distinction if he is confirmed, as I hope and expect that he will be.

I say again, that this is one of the most crucial and important matters that has come before the Senate at any time. To give or withhold consent to the nomination of a Supreme Court Justice is one of the most solemn, delicate, sensitive, and important functions of the Senate. While I believe very strongly that we should not act from an ideological or geographic standpoint, I think it is important to realize that the confirmation of Judge Carswell and his ascendancy to the bench will bring needed judicial and geographical balance to the Court—a balance which has been sorely lacking in recent years.

In closing, Mr. President, let me say that the record indicates Judge Carswell has been an outstanding lawyer and a judge with exceptional ability. I think that he would be a great credit to the Supreme Court, where he will gain rapid seasoning there. There is no support in the public or private records for any of the charges that have been hurled at him, of charges that are in any way controlling that would detract from his very fine record and his solid character.

Thus, I feel sure that all Members of the Senate will consider this man on the merits. When that has been fully appreciated, I am strongly of the opinion that Judge Carswell will be confirmed by a substantial majority of the Members of this body, and that he will go on to render valuable and serviceable years to the court and the country with a most creditable record as a member of the Highest Court in the land.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL MONDAY, MARCH 16, 1970

Mr. KENNEDY. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 12 noon on Monday next.

The motion was agreed to; and (at 5 o'clock and 3 minutes p.m.), the Senate in executive session adjourned until Monday, March 16, 1970, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate March 13, 1970:

IN THE ARMY

The following-named person for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be second lieutenant

Kreb, Charles A., Jr., 228-58-4848.

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be lieutenant colonel

Hanson, Chester A., Jr., 301-16-7251.

To be major

Bertrand, Robert J., 016-22-7373.
Bridges, James T., 427-56-7110.
Butler, Douthard R., 456-52-5991.
Crandall, Bruce P., 533-28-7264.
Herman, David E., 468-28-3603.
Holtom, Stanley E., 198-28-2262.
Hyland, Eugene P., 080-18-6012.
Larson, Gerald W., 505-36-3646.
Lennon, James J., 131-20-0092.
Nixon, John L., Jr., 006-22-9679.
Rushkowski, Edward C., 211-24-7816.
Soriano, Franklin M., 346-32-5657.
Young, Ray A., 519-24-3632.

To be captain

Alexander, Lawrence N., 227-48-7628.
Alsop, Jack R., 405-40-4808.
Beckley, Leander K., 576-24-3039.
Bell, John O., 450-68-3450.
Blair, Willis A., 337-26-7261.
Bowen, Harold L., 238-50-2364.
Boyd, Barclay A., 207-26-1451.
Brynildsen, Gordon A., 518-46-5663.
Burt, Joe M., 462-48-0899.
Cade, Ernest W., 314-32-8684.
Collins, James L., Sr., 579-52-5896.
Cox, Troy D., 263-56-6567.
Deck, Howard R., 415-62-0326.

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Floyd, Hugh A., 202-26-7805.
Freeman, Guy G., 115-26-6863.
Garrity, Joseph L., Jr., 015-30-3878.
Goldsboro, Jerome A., Jr., 140-28-6926.
Griffin, Gerald K., 229-30-4576.
Inberg, Darlow L., 504-26-8395.
Johnson, Anthony J., 224-46-9183.
Leone, Louis J., Jr., 147-28-8620.
Linscott, Paul K., 314-32-2006.
Mauk, Roby M., 408-62-9305.
McVay, Mary R., 510-28-7613.
Mills, Robert D., 503-28-2451.
Murgo, Joseph P., 037-29-7887.
Norton, William J., II, 008-24-3030.
Peters, Lowell F., 479-36-1287.
Piper, William S., III, 264-60-6016.
Pollock, Harlan, 287-32-4576.
Quijano, Ramon, Jr., 459-46-0251.
Ramey, Thomas P., 408-62-9770.
Rice, Myron K., Jr., 573-50-3638.
Rice, Robert C., 423-40-8469.
Rice, Wilfred E., Jr., 265-42-4225.
Robertson, William L., 427-68-6712.
Schenck, Roger L., 036-22-1432.
Shlenker, Lenard L., Jr., 433-46-4897.
Smith, Joseph A., 362-36-5336.
Stitt, Wilbert, Jr., 243-42-1566.
Thorp, Douglas L., 556-48-5314.
Wiker, Edmund P., 033-30-7937.
Williams, Bertha C., 519-36-9109.
Williams, Jack G., 258-60-1434.
Winslow, Robert A., 390-34-0788.

To be first lieutenant

Anderson, Louie H., 415-62-4519.
Arrington, Jimmy S., 419-44-6865.
Aschenbrenner, Richard L., 513-40-8577.
Augustat, Edwin C., 435-62-4165.
Barnes, Herbert E., 261-60-0662.
Bell, Ronald D., 452-62-4087.
Boyle, David J., 034-28-8071.
Brown, John E., 401-56-6138.
Carlson, Ronald W., 351-32-1568.
Carson, Charles R., Jr., 224-58-2126.
Chapple, Frank E., III, 466-67-7256.
Clyde, Gerald A., 208-28-2473.
Colbert, Richard C., 389-44-5384.
Cole, Janet E., 385-46-6033.
Coleman, Richard L., 411-70-3567.
Cotsonas, Peter M., 089-34-1192.
Counts, Harold K., Jr., 364-44-7243.
Crook, Robert T., 026-26-6554.
Crosse, James E. W., 095-32-4366.
Culbert, Harry J., 530-26-6565.
Difiore, Ralph J., 256-62-2192.
Dionne, Wayne C., 257-70-9151.
Duggleby, Robert W., 254-54-7241.
Easton, Jack E., 484-40-1489.
Ebbitt, Harold K., 201-31-6046.
Eby, Daniel L., 264-66-0034.
Eckman, Mary K., 200-34-1251.
Ellis, Giles L., Jr., 264-64-5453.
Emington, John P., II, 401-60-5076.
Engen, Gary O., 258-64-3522.
Farris, Stephen R., 478-44-6352.
Graham, Jimmie R., 525-90-0818.
Haley, Richard L., 431-76-9782.
Halper, Stephen R., 223-64-0206.
Hill, Daniel J., 530-22-2362.
Hirning, Ervin N., 519-46-4667.
Howard, David, 094-32-6265.
Hrubetz, John E., 364-36-6630.
Johnson, Wesley L., 255-62-7762.
Kaczkowski, Dennis E., 387-42-6387.
Keane, Patrick J., 551-56-4793.
Knox, Everett, 088-32-9964.
Lafontaine, Daniel E., 270-40-3998.
Lahr, Wayne J., 484-46-3279.
Lalli, Charles G., 036-26-0146.
Lawless, James J., 157-32-3358.
Leblanc, Robby J., 439-72-8314.
Lee, Lorin L., 535-42-5744.
Leonard, Bruce M., 155-30-3542.
Lippard, Robert L., 523-58-2207.
Logan, Robert B., 532-40-4834.
Long, Jerry D., 232-58-1954.
Lundeen, Randall R., 352-32-1047.
Lyssy, Walter J., 455-68-6131.
Mann, Morris M., III, 224-54-4666.
Marrero, Gualberto, 061-34-2548.
Marshok, John A., Jr., 253-68-0446.
May, Ronald L., 210-28-4365.
Maykowskyj, Viktor, 537-36-8333.
McAdams, Spurgeon A., 266-60-9320.
McKnight, David A., 459-70-1669.
Miller, Howard E., 222-26-2958.
Montgomery, Thomas M., 311-38-3708.
Morita, Lloyd T., 575-44-1468.
Moss, David R., 524-58-9702.
Muzzy, John K., 466-66-4235.
Neary, Jack M., 398-42-5157.
O'Brien, Andrew J., 017-34-0247.
O'Brien, Frederick J., 576-34-8524.
Parris, Richard, 088-32-0426.
Petrilli, Frank J., Jr., 370-40-3836.
Phillips, David E., 549-50-5209.
Phipps, Olen C., Jr., 409-60-9658.
Poor, James L., Jr., 445-40-6153.
Ratts, Michael D., 461-72-5266.
Raznick, Alan E., 573-54-9522.
Reneau, Marvin B., 461-54-7795.
Reynolds, John W., 115-30-1992.
Ritzschke, Charles R., 538-36-6421.
Rogers, Sherman C. C., 238-64-0024.
Rooney, Christopher J., 170-30-5306.
Sakamoto, Frederick A., 575-44-1873.
Scaer, Herbert A., 300-34-4966.
Schmierer, Alan F., 013-32-9839.
Schulenberg, Robert H., 459-62-1545.
Squitieri, Alfonse P., 057-32-9884.
Stefko, John G., 277-38-2383.
Stemberger, Victor J., 279-36-4880.
Stuck, William W., 364-44-3271.
Tassinari, Anthony D., 015-32-8456.
Thomas, John P., III, 459-70-2502.
Touron, Francis L., 072-36-9959.
Triplett, Robert L., 232-68-9958.
Tucker, Larry W., 425-72-0667.
Tuttle, Jay R., 212-38-3573.
Unlaub, Carl G., 450-58-4271.
Unzelmann, Werner O., 167-32-1783.
Wahl, Robert W., 510-40-3484.
Weitzel, William D., 364-44-6207.
Wilkinson, Donald R., Jr., 035-28-3881.
Wiltrout, Robert E., III, 281-40-5614.
Wise, James C., 265-70-8065.
Wolff, Monte L., 539-36-9210.
Woodruff, Harvey C., III, 226-54-6371.
Yeargan, Robert G., 513-40-9758.
Yurcaba, John Jr., 207-28-6531.
Zadrozny, Paul J., 167-32-2067.

To be second lieutenant

Bradley, John J., 032-32-5356.
Callahan, Edward C., Jr., 100-34-4047.
Clifford, Gayne A., 518-52-6666.
Comeau, Ronald J., 262-64-8097.
Dasher, Steven A., 253-70-3672.
Donahue, Richard I., 018-34-3181.
Eatherly, Jerry W., 408-68-1717.
Fairchild, Kerry L., 515-44-1142.
Grassi, Augustine M., 278-38-5446.
Harris, Donald J., 098-36-3474.
Hickerson, Patricia P., 230-56-5172.
Hill, Mack C., 265-60-7091.
Kjolarud, Michael, 342-36-2987.
Lazicki, Daniel R., 452-72-5573.
Lockaby, Boyd N., Jr., 249-78-0332.
Madison, Amy J., 239-68-5411.
Martin, James A., Jr., 270-32-1349.
McCann, Robert C., 501-54-1095.
Miles, Bernard L., III, 551-50-7032.
Moxley, Paul S., 462-72-0365.
Myers, Robert G., 560-44-8402.
Natkin, Ian L., 327-38-7397.
Norman, John F., 133-34-7295.
Norton, Charles V., 297-38-2773.
Perry, Ray H., 229-52-2797.
Quigg, Loren T., 563-58-7787.
Rangel, Hector M., 459-78-6330.
Ristroph, Joseph D., Jr., 229-56-3161.
Rogers, Richard S., III, 515-50-3068.
Schmid, Harold W., Jr., 436-72-0197.
Smith, Roger E., 320-36-3587.
Starling, James M., 544-50-7105.
Taylor, John R., 447-44-4241.
Thompson, Eugene E., 210-34-9873.
Todd, Tony W., 382-42-0325.
Tucker, Gary C., 361-34-7050.
Webb, James L., 464-64-2180.

The following-named cadets, graduating class of 1970, United States Military Academy, for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 3284 through 4353:

Abbott, John C., 045-44-0415.
Adams, John W., 539-46-5029.
Adams, Mitchell K., 353-40-1091.
Adams, William V., 060-42-7792.
Addy, William M., 562-70-2040.
Albright, Earl R., Jr., 198-38-6382.
Alcorn, George W., 163-40-1446.
Alden, Arthur J., 076-38-6637.
Aldrich, Joseph E., 363-48-4445.
Alexander, Billie J., 302-46-0077.
Allbee, David C., 528-72-1974.
Allin, George R. III, 053-38-8266.
Alphin, Arthur B., 223-66-6045.
Ambrose, Walter J., Jr., 483-58-5551.
Ancker, Clinton J. III, 556-70-4419.
Anderson, Michael D., 473-54-9138.
Anderson, Ray C., 455-72-2301.
Anderton, Daniel L., 456-80-9773.
Andrzejczak, Henry J., 042-44-8909.
Anthony, Thomas W., Jr., 215-54-5317.
Archer, Robert L., 511-42-3911.
Arcuri, William Y., 266-80-1414.
Armeli, Thomas F., 216-54-0360.
Auman, Thomas R., 251-82-1932.
Avery, Jimmie S., 536-46-7952.
Babcock, Robert T., 399-48-3563.
Backman, Rodney J., 369-52-9199.
Bagstad, Stephen S., 513-48-5926.
Bailey, Steven S., 150-40-5410.
Bain Michael W., 539-48-0461.
Balmer, Mearl E., Jr., 195-38-9999.
Baltimore, Perry F. III. 234-78-6015.
Barbour, Mark Q., 328-38-9093.
Baribeau, Stephen R., 520-52-9558.
Baron, Ronald J., 499-48-6274.
Barre, Anthony G., 062-40-5597.
Barth, Wayne M., 452-78-5988.
Bartholomees, James B., Jr., 239-82-1825.
Basta, Rudolph F., Jr., 221-32-4768.
Bauman, Robert A., 146-42-0710.
Beahm, Richard S., 212-48-6998.
Beasley, John H., 350-38-4269.
Beasley, William E. II. 567-70-2354.
Becker, John B., 559-74-3204.
Beddow, Edward G., 564-74-1126.
Bellotty, James J., 536-46-4589.
Benardo, Charles J., 149-38-7856.
Benham, Eric V., 576-54-3075.
Bennett, Edwin T., 031-34-4619.
Bennett, Thomas C., 477-58-0871.
Bennett, William C., 485-56-8570.
Bentley, Henry B. III, 256-74-8144.
Beziat, Robert L., Jr., 205-36-5889.
Bickel, John W. II, 465-72-0170.
Biddle, John M., 432-86-9384.
Billia, Peter E., 156-38-0888.
Bishop, William G., 451-76-1189.
Bisulca, Paul J., 006-48-6367.
Blakeslee, Don B., 352-36-3170.
Boehm, John M., 485-56-4279.
Boggs, Ronald H., 191-40-9779.
Boies, Michael A., 190-40-7932.
Bonarrigo, Nicholas A., 189-38-8034.
Boslego, John W., 202-36-9767.
Boswell, Joseph R., 175-40-4793.
Bowden, William M., 277-46-1838.
Boyce, Tommy J., 236-76-3734.
Boyer, Lewis L., 334-40-5278.
Boytim, Thomas E., 160-40-8264.
Brace, Alan L., 198-40-0030.
Bradford, Richard N., 286-44-3027.
Bradley, Thomas G., 176-40-2328.
Brand, Robert C., 229-66-1612.
Brandtner, Thomas A., 479-56-7430.
Brennecke, Lucas H., 500-50-3118.
Brenner, John C., Jr., 200-36-6061.
Brigadier, John D., 262-98-6864.
Brink, James E., Jr., 540-60-4313.
Britton, Barry J., 558-70-8187.
Brock, Tony H., 414-80-2836.
Broussard, Glenn J., 434-70-4442.
Brown, David L., 417-68-9267.
Brown, John R., Jr., 156-40-2230.
Brown, Larry T., 237-82-7804.
Brown, Robert N., 317-48-4291.
Brown, Willard D. III, 388-52-3550.
Bruce, William A., 403-66-8536.
Bryant, John M., Jr., 416-64-8945.

Bryson, Brian D., 227-70-6456.
Bunch, Philip S., 238-82-7071.
Burns, Julian H., Jr., 250-80-6198.
Burns, Martin R., 194-40-7892.
Busack, James A., 287-42-4130.
Byrd, James D., 229-66-1188.
Campbell, Brian C., 001-34-8833.
Campbell, Clark D., 529-66-3838.
Campbell, Paul V., 345-42-2704.
Campbell, William L., 429-92-5323.
Cannavo, Francis A., Jr., 144-42-1428.
Carlson, Edwin T., 088-40-5230.
Carlson, John W., Jr., 401-64-9175.
Carlson, Lee C., 476-54-4648.
Carlson, Randall A., 043-42-3043.
Carman, Timothy R., 526-74-1389.
Carr, David M., 574-16-5270.
Carroll, Danford F., 459-74-8125.
Carter, John L., 065-42-5254.
Carter, Roland W., 452-74-7822.
Cass, John P., Jr., 064-42-0970.
Castleman, Richard A., 347-38-7195.
Casto, Perry C., Jr., 233-76-1781.
Cater, William P., 489-52-4871.
Chandler, James A., 345-40-3364.
Charest, Geoffrey B., 072-40-7834.
Chavez, Guillermo D., 461-74-2327.
Churchill, Ralph B., 047-42-3963.
Clapp, Edwin G., III, 501-50-4498.
Clark, Lawrence R., 112-38-0800.
Clarkson, Francis A., 247-78-8523.
Clow, Kenneth H., 531-48-6479.
Cogbill, John V., III, 217-52-1731.
Colacicco, John H., 213-52-2418.
Coleman, Richard W., 069-40-6860.
Colson, William B., Jr., 503-58-3104.
Conard, Frederick W., II, 279-44-0957.
Conkin, Walter C., 465-82-4387.
Connatser, Charles T., Jr., 409-82-8073.
Connolly, Kevin C., 043-42-5958.
Connors, John T., 071-42-3489.
Conte, Robert D., 293-46-5623.
Cook, Stephen K., 541-52-2532.
Cooper, James C., 320-42-0370.
Corfman, James E., 270-44-6301.
Cornelison, Gary A., 561-74-8416.
Cortese, David W., 371-50-1931.
Cossette, Raymond P., 553-80-3043.
Constantino, Nicholas S., 097-38-9712.
Costello, Thomas M., 195-38-3696.
Coulman, Michael A., 243-78-8026.
Cousar, Robert J., Jr., 177-38-4154.
Cox, Randall L., 307-50-5762.
Coy, William A., 262-98-8276.
Craig, James R., 227-70-3680.
Cramblet, Peter B., 071-42-8740.
Crawford, Hunt D., Jr., 407-68-2005.
Crawford, James W., Jr., 585-14-1285.
Crawford, Sherman W., 260-72-6909.
Crea, Dominick A., 080-36-4589.
Cross, Roger W., III, 224-62-5481.
Crumling, Harry W., Jr., 202-36-9282.
Cumiskey, William T., Jr., 435-68-1042.
Cunningham, Paul E., 070-40-7776.
Curtis, Phillip L., 526-68-0122.
Davidson, Charles P., IV, 218-48-7512.
Davis, Brian C., 532-48-9006.
Davis, Charles E., 075-36-1365.
Dawson, David D., 236-74-5634.
Day, William S., 523-66-7216.
De Castro, Edward M., 128-38-7761.
De Cort, Donald P., 201-38-1546.
De La Garza, Agapito, Jr., 458-70-2355.
De Leo, John P., 093-38-7646.
De Scioli, Louis A., 177-38-1928.
De Vito, Thomas P., 441-52-0949.
Deas, Quincy A., 427-94-6946.
Deason, Jonathan P., 263-90-5160.
Decker, John H., Jr., 238-78-8485.
Desannoy, David A., Jr., 471-58-6271.
Diekema, Larry A., 380-48-6741.
Diesto, Winston E., 462-78-4692.
Dinsmore, David R., 175-40-9643.
Dixon, Paul J., 367-48-8549.
Dobiac, John J., 121-38-9837.
Dockery, Thomas C., 421-62-5348.
Doleac, Philbert C., Jr., 452-82-0965.
Drab, Guy W., 273-48-2905.
Drake, Douglas J., 390-50-0490.
Drinkwater, John P., 569-76-9788.
Driscoll, Robert F., 140-36-4433.
Dueker, Thomas G., 413-80-9563.
Duncan, James W., Jr., 231-68-5391.
Dunphy, Patrick M., 473-56-6583.
Dunwoody, Harold H., Jr., 227-70-7870.
Dvergsten, David H., 482-52-7206.
Edmonston, Donald R., 253-72-2201.
Edwards, Gregory N., 240-76-2248.
Ekegren, John W., III, 147-42-2903.
Ekman, William J., 575-50-9057.
Elder, Michael A., 443-46-9537.
Elliott, William T., 208-36-5025.
Ellis, Lester N., Jr., 225-70-4297.
Engram, Bartlett J., Jr., 420-58-7412.
Ennis, Charles W., Jr., 574-16-4929.
Epley, John F., 571-66-9495.
Ernst, Chester N., 182-40-9807.
Esmann, William J., 265-70-4286.
Etchechury, James, 545-68-9973.
Etzler, Norman W., 218-48-1582.
Fadden, Dennis L., 563-72-5535.
Faraguna, Joseph R., 069-38-7207.
Fardink, Paul J., 124-40-7802.
Fenili, John A., 087-42-9032.
Fenty, Alan D., 261-96-5762.
Ferraro, Joseph F., 055-40-8878.
Fishback, John B., 416-64-6476.
Fisher William K., Jr., 275-46-3422.
Fletcher, Edward J., Jr., 578-64-6224.
Fleumer, Matthew H., 158-38-9657.
Fogg, William A., Jr., 281-42-7991.
Forbes, John M., Jr., 100-40-2170.
Forinash, David R., 362-46-6294.
Forsythe, George B., 253-80-8065.
Foster, Laurence H., Jr., 098-38-8247.
Fox, Roger R., 307-48-5774.
Frank, Robert S., 108-40-1650.
Franke, Paul F., 139-40-6473.
Franklin, Thomas P., 243-80-1822.
Frazer, Donald C., 228-68-9492.
Fredrick, Dale R., 397-52-0029.
Fricks, Thomas E., 257-78-3355.
Froncek, Michael C., 394-50-3728.
Funke, Carl A., 567-72-7666.
Gallogly, John R., 426-96-0844.
Galloway, James F., 412-78-0037.
Galton, Bruce R., 216-48-4064.
Gandy, Charles L. III, 562-74-0779.
Garman, Robert L., 536-50-8069.
Garner, Cary E., 140-42-0117.
Garrett, Leonard E., Jr., 224-70-7336
Garrett, Stephen F., 316-52-5493.
Gasperini, Richard H., 523-66-7057.
Gass, David R., 457-80-1200.
Gates, Larry L., 567-64-7218.
Gault, Jeffrey W., 467-86-3756.
Gehrki, Frank J. III, 430-92-0343.
Geiger, Warren F., 152-40-6069.
Geist, William C., Jr., 213-48-4117.
Gerard Thomas A., 153-40-3279.
Gibbons, Raymond W., 578-62-6004.
Gibson, Gerry S., 246-74-4884.
Gibson, Kim R., 142-42-1247.
Gidlund, Clifford J., 231-68-9834.
Gilbert, Mark C., 203-38-1597.
Gillihan, Kennard E., 322-38-3674.
Ginn, Robert D., Jr., 258-78-4914.
Glawe, Michael H., 423-66-0799.
Goeth, Frederick C., III, 215-52-1487.
Goff, Donald G., 222-32-0298.
Golden, Kim B., 266-90-6182.
Goodell, Mark G., 540-52-0132.
Goodier, Kerry M., 007-46-9176.
Goodman, Glenn W., Jr., 216-50-4029.
Goodman, Jon R., 519-54-0451.
Goodyear, Richard L., 193-36-3484.
Gracyas, Gary A., 354-38-9507.
Green, Richard A., 158-38-3697.
Green, William H., III, 101-40-5726.
Greene, Donald J., 124-38-4698.
Greenwalt, John M., 213-52-3841.
Grove, Michael L., 163-40-5142.
Guy, Howard L., 038-32-3449.
Gyovai, Frank M., 318-40-3637.
Haas, James R., 575-52-2673.
Hagan, William L., Jr., 115-40-7594.
Hahney, William J., 442-52-5750.
Haislip, William A., Jr., 240-80-0365.
Hales, Robert E., 345-42-4562.
Hall, Thomas R., 585-12-9984.
Haller, Thomas L., 195-40-8024.
Hanna, John H., 482-60-2415.
Hannigan, Thomas U., 459-72-1907.
Harper, Gilbert S., III, 144-40-7910.
Harris, Phillip G., 585-24-8045.
Hartman, Larry K., 505-64-9763.
Hausmann, Fritz J., 390-50-3825.
Hawley, Michael A., 280-46-4376.
Haworth, Michael D., 466-80-2015.
Hayes, James P., 218-46-4689.
Heaton, Robert L., 299-44-7796.
Hedberg, William A., 395-46-2693.
Heffelfinger, Harlan M., 463-74-8336.
Heineman, David E., 508-56-4730.
Heinen, Robert R., 475-50-6905.
Helgerson, Earle H., 527-82-3448.
Helmich, Eugene H., 491-54-4619.
Henderson, James W., 566-76-8175.
Henderson, Larry K., 312-50-1040.
Henly, Larry L., 172-36-7644.
Henn, Joseph E., 137-38-9805.
Hennessey, John J., Jr., 253-74-8449.
Herring, David M., 504-56-9780.
Hicks, Charles B., 511-52-0007.
Hilderbrand, Terry N., 248-80-4764.
Hilliard, Robert E., 194-36-6102.
Hirsch, Edwin C., Jr., 115-40-3402.
Hobson, Michael W., 513-52-2319.
Hodges, Genous S., III, 225-70-4263.
Hoen, Michael M., 375-50-2632.
Holm, John A., 349-38-3031.
Holton, Gregory A., 381-46-2648.
Homoleski, Stephen W., 002-34-8498.
Horacek, Larry B., 448-50-4089.
Hostettler, John R., 357-40-3745.
Howell, John S., 200-38-7558.
Hudson, Arthur L., III, 265-80-7173.
Hume, William S., 365-52-9242.
Huncharek, John D., 230-66-8059.
Hunn, James C., 010-36-6065.
Hurff, Walter F., Jr., 225-82-1527.
Hutchison, Louis V., Jr., 418-66-3827.
Ingwersen, Lowell B., 356-36-3066.
Isaacson, Scott P., 532-48-2026.
Ishida, Claude T., 575-50-8032.
Jaccard, John K., 073-40-7728.
Jackson, William D., 406-80-3952.
Jagger, Donovan F., 143-36-0925.
James, Anthony V., 223-70-9125.
Jarchow, Robert C., 358-42-9800.
Jarrett, Keith B., 233-76-0372.
Jatko, Thomas L., 747-56-6788.
Jenkins, Brooke W., 110-38-0628.
Jenkins, David S., Jr., 034-34-2590.
Jeray, Thomas L., 474-56-6788.
Jenkins, Brooke W., 110-38-0628.
Jenkins, David S., Jr., 034-34-2590.
Jeray, James F., 010-40-3284.
Johnson, Michael W., 476-54-8092.
Johnson, Nelson P., Jr., 231-62-5946.
Johnson, Terry L., 469-54-4433.
Johnson, William S., Jr., 497-48-7193.
Jones, Michael L., 434-74-9648.
Jones, Peter H., 159-40-1986.
Jones, Russell B., III, 565-64-0812.
Joyce, John F., 314-52-9958.
Kaine, Jay W., 062-40-5727.
Kahalekai, Leslie H. A., 575-54-3104.
Kauza, Thomas F., 370-48-2859.
Kee, James A., 190-40-2932.
Keegan, Christopher J., 220-52-1296.
Keene, Terence E., 521-68-3125.
Keiser, Daniel D., 218-52-4682.
Keller, Thomas R., 248-84-7116.
Kelley, Richard H., 463-78-6521.
Kelly, Edward V., 122-36-7169.
Kelly, Ross S., 242-76-1705.
Kendrick, John L., 143-42-7874.
Kenevan, Robert J., 473-50-8904.
Kennedy, Nelson E. 276-44-3025.
Kensinger, Philip R., Jr., 175-36-0022.
Kent, David B., 134-40-2482.
Kerr, Charles J., 461-80-4256.
Kibler, Daniel R., 110-40-8908.
Kimmel, Lawrence J., 388-48-9629.
King, John B., 024-36-2055.
Knight Gregory H., 228-62-5147.
Knight, Scott P., 335-40-8216.
Knoll, Rolf W., 043-38-4774.
Knorr, Mathias, III, 102-40-4213.
Knowlton, William A., Jr., 002-34-9350.
Kowalczyk, Paul A., 178-38-6840.
Krebs, Timothy E., 174-40-7996.

Krieger, Philip S., 135–38–3809.
Krueger, Larry W., 336–38–0114.
Kuehne, Christopher, 524–62–0181.
Kulungowski, Michael A., 499–50–6484.
Kupec, Stephen R., 193–38–7441.
Laird, Robert S., 181–38–5580.
Lampley, Thomas S., 420–68–0406.
Lane, William D., 522–62–6249.
Larsen, Bradley W., 353–40–9021.
Larsen, Marshall O., 501–50–7947.
Lauckhardt, Charles J., 125–36–4158.
Lavelle, Timothy C., 548–74–4638.
Lawlor, Thomas K., 571–78–2966.
Lawrence, Kelly C., 384–50–9329.
Lazzeri, Jon. J., 221–32–1956.
LeDoux, Roger C., 437–76–6054.
LeFevre, Douglas A., 606–42–4820.
Leckerling, Jon P., 066–40–3718.
Lenox, Thomas A., 080–38–1860.
Leonard, Henry A., 224–64–2581
Lewis, John R., 533–46–5650.
Lilly, Peter B., 232–76–9615.
Linke, Carl E., 273–44–3798.
Linn, Phillip J., 297–42–7637.
Lisi, Alfred M., Jr., 037–30–6984.
Locke, Brian P., 004–44–8043.
Lough, Frederick C., Jr., 134–40–6442.
Love, Robert M., 420–64–8647.
Lovelace, James J., Jr., 230–60–0304.
Lucas, John F., 057–42–2565.
Lucente, Charles A., 264–76–8620.
Lucia, Arthur C., 086–40–9826.
Lynch, Daniel M., 521–62–8856.
Lyons, Dennis W., 583–09–7455.
MacIver, Thomas D., 231–68–9943.
MacLane, Howard, Jr., 228–62–8627.
Madeja, Victor J., 072–40–7076.
Madley, Stephen D., 558–72–4571.
Maertens, Thomas B., Jr., 511–52–3219.
Mahan, Michael W., 023–36–5708.
Maki, Bruce A., 297–46–0946.
Malkemes, William C., 081–40–4070.
Marcello, John J., 037–32–0589.
Mark, Kenneth M., 350–40–4375.
Markus, Kurt M., 516–52–5358.
Marple, Allan D., 314–48–1279.
Marshall, Arthur R., Jr., 240–74–6970.
Martin, Richard E., 503–56–6133.
Martinez, Thomas E., 585–18–6164.
Marvin, Dale K., 513–46–7942.
Mason, Robert E., 577–62–6474.
Mathews, Thomas G., 521–68–7526.
Maxwell, Sean E., 539–40–2016.
McAteer, Charles, 079–38–5595.
McBeth, William W., 507–58–5748.
McCabe, Michael V., 266–98–0593.
McCall, Peter B., 059–42–2805.
McChesney, Thomas S., 255–80–3683.
McClanahan, Ashey A., Jr., 264–88–5218.
McClellan, Johnny M., 535–48–8035.
McCormick, Roger L., 489–52–1137.
McDowell, John D., Jr., 216–50–2469.
McDowell, Paul R., 198–38–6321.
McDugald, John C., 565–64–7156.
McGee, Charles B., 102–40–3592.
McGill, John L., 039–28–9063.
McGoldrick, Patrick J., 565–64–1035.
McHone, James S., 238–72–8353.
McKinney, Joseph W., 407–64–0860.
McNamara, Thomas J., Jr., 054–42–1926.
Mearsheimer, John J., 218–52–2073.
Measner, Richard D., 390–50–8658.
Meier, Robert A., Jr., 260–78–3493.
Meinhold, Don H., 150–40–0174.
Mellinger, Alan J., 544–52–0307.
Meranda, Mark E., 223–68–8013.
Meuleners, Michael S., 471–48–9264.
Meyer, Kurtis A., 482–58–4854.
Michalowski, Bruce C., 397–50–7274.
Miles, Charles R., 540–56–1775.
Millar, Thomas H., 551–76–1372.
Millard, Robert H., Jr., 268–44–1537.
Miller, Richard B., 263–48–6864.
Miller, Thomas E., 351–40–0707.
Minor, Gerald C., 223–66–0642.
Minor, John M., 223–66–0644.
Mitchell, E., 533–50–0038.
Mitchell, Michael T., 491–50–3398.
Monaco, Francis J., 048–40–3881.
Montieth, Frank S., Jr., 247–86–3411.
Moore, Lynn D., 443–50–3175.
Moran, John P., 218–46–0725.
Morford, Terry A., 571–78–7056.
Morgan, Roderick H., 306–52–1909.
Morris, Charles A., 075–38–0872.
Morris, Russell O., 414–80–8689.
Morrison, Reginald A., 008–36–7108.
Moser, Richard P., Jr., 212–50–1251.
Mowery, James L., 228–66–0224.
Mozoski, Paul A., Jr., 370–52–9812.
Muir, David N., 281–48–0022.
Mullady, Michael P., 059–42–5241.
Mulligan, James G., 002–38–7607.
Murdoch, Richard E., 161–36–6230.
Murphy, Edward J., III, 095–36–2452.
Murphy, Michael P., 563–80–8294.
Murphy, Michael T., 009–34–3950.
Murray, James K., 039–30–5387.
Muse, Stephen H., 557–68–9768.
Mylan, Thomas H., 098–42–8986.
Naymick, William M., 378–50–3188.
Nell, Peter A., 083–42–6166.
Neuman, Joseph C., 369–48–7229.
Newby, Bruce L., 510–44–6691.
Newcomb, Curtis L., 473–56–4888.
Newcomb, Dana L., 278–44–8631.
Newman, Robert A., 032–38–8080.
Nicholson, Tom M., Jr., 253–80–8401.
Nickles, Dean J., 236–76–4502.
Noll, Jon G., 322–40–4130.
Nolte, Bruce B., 229–62–6186.
Norris, John A., 265–78–8448.
Norton, John, Jr., 253–80–8311.
Norwood, James B., 560–80–3838.
Nyhous, Terrence L., 230–62–5545.
O'Connell, Joseph P., 585–28–1144.
O'Hara, Patrick M., 522–64–3188.
O'Malley, George E., 452–84–7921.
O'Meara, Thomas F., 136–38–7277.
Odermann, James O., 567–64–8439.
Oettinger, Thomas E., 136–40–9231.
Olson, Mark R., 477–54–3418.
Olson, Wallace B., III, 147–38–0621.
Opatovsky, Robert E., 064–40–4988.
Osman, James A., Jr., 527–86–4128.
Oxley, James E., 153–40–8668.
Page, Thomas F., 576–48–3861.
Pantier, Robert E., 430–96—2769.
Paris, Victor E., 407–62–5554.
Parker, Howard M., 229–70–0721.
Passaro, Paul V., 123–40–6521.
Patten, Scott A., 522–62–3987.
Patterson, Joseph W., 585–14–7109.
Patterson, William N., 246–82–4303.
Paulson, Myhre E., Jr., 529–72–7579.
Pavlick, John J., Jr., 193–40–2657.
Pearce, Michael J., 216–52–1347.
Pease, Willard D., 004–50–0312.
Peckham, Gary L., 385–44–8994.
Pedersen, Walton E., 208–36–7000.
Pella, Peter J., 044–40–5840.
Peltier, Bruce N., 384–50–6893.
Pembrook, Wayne R., 457–82–4687.
Peters, David M., 406–66–0920.
Phelan, David W., Jr., 158–38–8675.
Pittman, Barry V., 530–36–6620.
Plummer, McDonald, Jr., 419–64–7583.
Pohl, Gregory R., 406–62–2061.
Porreca, David M., 049–34–7812.
Pratt, Donald I., Jr., 231–60–3939.
Pratt, William F., 272–48–6883.
Pressler, Steven J., 219–52–2219.
Price, Bill B., Jr., 464–72–9688.
Price, James D., 527–78–6527.
Price, Willie J., 346–42–2224.
Prince, William F., 236–68–3531.
Pritchard, Gilbert, Jr., 090–40–3638.
Purdin, Calvin O., Jr., 514–52–0127.
Quimby, Donovan M., 506–56–5144.
Quirk, Earl S., 049–42–4346.
Rabaut, Thomas W., 381–48–1074.
Rains, Roger A., 443–50–0576.
Raisor, Bruce C., 559–72–3875.
Rank, Steven A., 293–46–9175.
Ray, Russell T., 513–52–1588.
Reagor, Dale E., 517–54–4444.
Reeder, Joe R., 442–44–0792.
Reese, John N., 548–78–1152.
Reid, Trevor A., 119–36–7478.
Reifenberg, Philip D., 387–48–6107.
Reilly, Vincent E., 158–36–4166.
Reineke, Kurt B., Jr., 049–38–5135.
Reitz, John W., 228–62–9577.
Reyen, Daniel W., 257–68–7365.
Rhoads, Daniel L., 460–86–0307.
Richard, Philip W., 001–34–4516.
Richardson, Chester A., Jr., 543–58–3315.
Richardson, Robert T., 231–60–9390.
Riggs, Ronald M., 035–32–7336.
Riley, John S., 305–52–4013.
Roberts, Clayton J., 471–58–9814.
Roberts, Herbert R., 078–32–9659.
Roberts, Steven, 124–38–1683.
Robinson, Bruce E., 173–40–2520.
Roedy, William H., Jr., 262–96–2796.
Rogers, Ralph G., 075–38–3439.
Roland, James N., 257–72–0063.
Rold, Ronald L., 325–38–3890.
Rolf, Lynn W., Jr., 310–50–9343.
Romano, Frank, III, 219–50–5918.
Rorick, Kurt W., 112–40–7727.
Rosati, Cesare F., 068–40–5368.
Rose, William F., Jr., 403–66–1440.
Rosenblum, David C., 007–44–2281.
Ross, Victor L., 257–78–2695.
Rozman, Thomas R., 220–48–3800,
Rundle, Michael R., 172–40–2665.
Rushfeldt, James L., 476–58–8424.
Russ, Michael B., 472–50–7683.
Rutledge, Richard L., 451–76–9977.
Rutler, Randall C., 142–42–2428.
Ryan, Harry M., III, 230–70–0710.
Ryan, Jerryl N., 419–60–8578.
Ryan, John B., 016–36–5950.
Ryan, Robert F., III, 043–42–4690.
Ryder, Charles W., III, 214–54–3082.
Saari, Gerald O., 224–68–1022.
Sabia, Giacomo R., 075–38–0574.
Santangelo, Francis A., Jr., 225–66–4115.
Saunders, William A., Jr., 047–42–1466.
Sauter, Louis F., III, 162–40–0367.
Schaf, Robert L., 225–70–4456.
Schafer, Charles P., 303–54–3942.
Schall, Bruce L., 180–36–3557.
Schilling, Dan E., Jr., 216–54–0762.
Schmidt, Jeffrey A., 348–38–4816.
Schmidt, Thomas C., 513–48–6400.
Schmidt, William P., 308–46–5583.
Schneider, Michael E., 392–50–0940.
Schroeder, David E., 225–64–5798.
Schwaderer, Stephen F., 299–44–5146.
Schweninger, Elmer W., 349–38–1897.
Sculley, Patrick E., 453–86–0369.
Seaman, Frank E., 547–68–1295.
Sebastian, Nicholas H., Jr., 511–52–0038.
Secrest, Thomas L., 451–88–5429.
Seifert, Harold J., 388–46–8868.
Selby, Edwin D., 262–86–6139.
Self, Marvin S., 566–72–1042.
Selge, Paul E., 314–54–3142.
Senor, John G., III, 334–38–2933.
Severson, Jonathan E., 556–68–3054.
Shadid, Theodore M., Jr., 448–46–3241.
Shadis, Thomas A., 003–34–2589.
Shary, John H., III, 456–82–9358.
Shaw, Dan D., 518–52–4084.
Shiely, Albert R., III, 026–38–8387.
Short, Michael N., 222–32–2597.
Shull, John F., 522–68–0214.
Sidio, Jerome B., 402–66–5656.
Siegesmund, Rudolf O., 095–38–7401.
Sigmund, Robert L., 197–36–3832.
Sikes, Randall A., 254–70–4612.
Smith, Brian M., 575–54–6193.
Smith, David C., 381–52–6158.
Smith, Edwin K., III, 348–40–4119.
Smith, Gregory E., 070–38–8822.
Smith, Jack M., 427–88–7359.
Smith, Joel D., 268–42–4214.
Snider, James R., 460–84–6531.
Snider, Richard O., 447–48–6359.
Snow, Michael D., 288–44–0184.
Sobul, Anthony W., Jr., 086–36–2487.
Soucek, Paul D., 012–38–4274.
Spear, Bruce L., 307–52–6149.
Spears, Ronald E., 495–52–1238.
Spinney, George M., 170–38–8388.
Spivy, Peter B., 218–48–4010.
Spracher, William C., 232–80–0339.
Squires, William H., Jr., 249–82–2403.
St. Denis, Richard H., 241–82–8364.
Stadelnikas, Joseph R., 467–84–4993.
Stahlak, Roger F., 354–42–3156.
Stainback, David A., 218–52–5115.
Stall, Christopher M., 101–38–9309.

Starner, Steven G., 225-70-0377.
Steele, Gary R., 205-36-5787.
Steidel, Thomas C., 290-44-1780.
Steinfeld, Howard M., 463-86-9657.
Stetor, John M., 205-34-5710.
Stevens, Shelby T., 243-80-4994.
Stewart, Robert M., 220-48-1408.
Stidd, John A., 174-36-0932.
Stockton, Douglas E., Jr., 463-82-5323.
Stockwell, Vernon R., Jr., 437-70-6859.
Strom, Stephen H., 228-68-5595.
Studer, Eugene A., 474-58-8074.
Sullivan, James P., Jr., 322-42-4618.
Sumner, Lester F., 263-94-6421.
Swain, Stephen J., 461-84-1880.
Swanda, Donald F., Jr., 105-40-7196.
Sweet, Erick W., 058-42-4127.
Swingle, Gary R., 269-44-3186.
Tam, Gilbert K. T., 576-54-0251.
Taylor, Michael R., 531-46-7050.
Taylor, William C., 554-76-0953.
Terranova, Frank A., Jr., 062-40-8250.
Terrill, William L., Jr., 395-46-9037.
Terry, Paul D., Jr., 508-64-0270.
Terry, Philip E., 506-58-8135.
Thibodeau, Richard E., 041-38-3812.
Thomas, Gary, 137-36-7460.
Thomas, Kenneth L., 374-50-5732.
Thomas, Robert G., 225-70-9465.
Thompsen, Charles R., 519-54-0483.
Thompson, Carey G., 419-62-6879.
Thompson, Kenneth P., 478-64-4699.
Thompson, Russell S., 061-40-1995.
Thomson, Robert P., 563-74-4783.
Thornton, Patrick T., 483-54-8201.
Tierney, Terence J., 352-42-1252.
Todd, Loren L., 513-48-4784.
Townsend, Ira K., 265-86-0852.
Trammel, David W., 487-54-1249.
Treat, Terry J., 214-50-1001.
Trivette, William S., 246-76-4556.
Troxell, Jeffrey R., 438-70-6575.
Tully, Lewis A., 265-84-4859.
Valbracht, David C., 572-74-3671.
Valliere, James B., 003-36-4027.
Van Vliet, John H., III, 266-02-2090.
Vann, William N., Jr., 230-62-6701.
Varnell, Davd F., 417-60-6848.
Veenstra, John A., 151-42-7687.
Velez, Carlos R., Jr., 422-66-7127.
Vermillion, John M., 40-64-2642.
Vernon, James C., 479-58-4127.
Verrochi, Lawrence R., Jr., 530-38-5528.
Viehl, Philip C., 060-42-1796.
Vogt, William J., II, 290-44-6355.
Vuksich, Gregory D., 253-82-2441.
Wagener, Charles K., 219-46-6281.
Wagner, David W., 236-72-4241.
Wagner, Robert W., 287-40-3914.
Walker, Robert O., 552-68-0572.
Walker, Thomas G., 042-42-5111.
Wallis, Robert A., 140-40-6223.
Wallis, William L., 421-62-5106.
Walrod, Larry D., 484-56-6389.
Walton, Robert A., 240-72-9501.
Ward, Edward P., 115-40-2888.
Ward, James R., 520-50-5756.
Waters, William S., 222-34-0059.
Watkinson, William P., 223-64-6211.
Wattendorf, William J., 553-68-4928.
Weaver, Thomas W., 346-42-7220.
Webb, Gregory R., 585-20-7462.
Wehrle, Dennis F., 144-42-6690.
Wehrle, Joseph H., Jr., 569-78-6021.
Weisman, Leonard E., 141-38-4234.
Wells, John C., 155-38-1812.
Wennerberg, Richard A., 022-38-0416.
Werner, Robert, Jr., 096-40-9006.
Wesbrook, Stephen D., 315-48-5636.
Wessels, William R., 420-66-0568.
Wetherill, Robert S., 212-48-4824.
White, David D., Jr., 265-74-5149.
White, Frederick E., 532-48-3503.
White, Joseph L., 427-98-6890.
White, Lawrence K., Jr., 577-66-9524.
Whitlock, Frank P., Jr., 248-76-3323.
Wilkins, Gary G., 262-96-5149.
Wilkins, Lawrence B., 156-40-1072.
Williams, Bristol W., Jr., 223-72-2542.
Williams, Dennis E., 523-70-3725.
Williams, Richard L., 448-44-1967.
Williams, Ross C., 216-48-1873.
Williamson, Ray T., 224-68-0657.
Wilson, Steven D., 478-58-5740.
Wimberly, Gary V., 436-70-2146.
Wise, Richard W., 267-76-9955.
Wittmayer, Chris G., 098-38-0734.
Woloski, John C., 071-38-3683.
Wood, Gerald L., 189-38-5544.
Wood, Stephen J., 224-68-0044.
Woythal, Jeffrey P., 393-44-3206.
Young, David J., 010-40-6731.
Young, John R., 535-48-7349.
Young, Mason J., III, 510-54-5133.
Young, Robert N., 452-84-3374.
Young, Robert S., 152-40-0678.
Young, Terry J., 160-36-4829.
Zeper, Bernard A., 538-48-6558.
Zilian, Frederick, Jr., 143-42-7997.
Zimon, Henry A., 176-36-1544.
Zoeller, Jack C., 117-40-9704.
Zolidis, Michael J., 294-44-9834.
Zollo, Robert A., 158-40-4273.
Zychowicz, Ralph C., Jr., 295-44-9622.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 13 (legislative day March 12), 1970:

U.S. MARSHALS

Arthur F. Van Court, of California, to be U.S. marshal for the eastern district of California for the term of 4 years.

Carl H. Slayback, of Illinois, to be U.S. marshal for the Southern District of Illinois for the term of 4 years.

DEPARTMENT OF DEFENSE

Theodore C. Marrs, of Alabama, to be Deputy Assistant Secretary of Defense for Reserve Affairs.

FEDERAL DEPOSIT INSURANCE CORPORATION

Frank Wille, of New York, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of 6 years.

DEPARTMENT OF TRANSPORTATION

Robert H. Cannon, Jr., of California, to be an Assistant Secretary of Transportation.

U.S. COAST GUARD

The following-named officers of the Coast Guard for promotion to the grade of rear admiral:

James A. Palmer
Ellis L. Perry
John F. Thompson, Jr.
Edward D. Scheiderer
Albert A. Heckman

The following-named officer to be a member of the permanent commissioned teaching staff to the Coast Guard Academy as a professor in the grade of captain:

Otto E. Graham, Jr.

PUBLIC PRINTER

Adolphus Nichols Spence II, of Virginia, to be Public Printer.

U.S. AIR FORCE

Lt. Gen. John W. Carpenter III, 433-58-1475 FR (major general, Regular Air Force), U.S. Air Force, to be placed on the retired list in the grade of lieutenant general, under the provisions of section 8962, title 10, of the United States Code.

U.S. ARMY

The U.S. Army Reserve officers named herein for promotion as Reserve commissioned officers of the Army, under provisions of title 10, United States Code, sections 593 (a) and 3384:

To be brigadier general

Col. Charles P. Deane, SSAN 224-01-2688, Infantry.

Col. Herbert M. Martin, Jr., SSAN 421-03-3825, Artillery.

Col. John A. Spencer, Jr., SSAN 240-01-5257, Quartermaster Corps.

Col. Donald W. Stout, SSAN 490-36-8131, Quartermaster Corps.

The Army National Guard of the United States officer named herein for promotion as a Reserve commissioned officer of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. Keith E. McWilliams, SSAN 480-09-9199, Infantry.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. James J. Lison, Jr., SSAN 387-14-7207, Adjutant General's Corps.

Brig. Gen. Harold R. Patton, SSAN 332-01-0102, Adjutant General's Corps.

To be brigadier general

Col. Howard V. Elliott, SSAN 024-05-9545 Corps of Engineers.

U.S. NAVY

Rear Adm. Frederick H. Schneider, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

IN THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

The nominations beginning Archibald J. Patrick, to be commander, and ending Lester B. Smith, Jr., to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 27, 1970.

IN THE ARMY

The nominations beginning Arlo E. Abbott, to be colonel, and ending Marsha M. Jones, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on Feb. 16, 1970; and

The nominations beginning Donald Aguilar, to be 2d lieutenant, and ending Ronald M. Zychowski, to be 2d lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 19, 1970.

IN THE NAVY

The nominations beginning William K. Adkins, to be ensign, and ending John A. Balikowski, to be a permanent lieutenant and a temporary lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 16, 1970;

The nominations beginning Charles D. Allen, Jr., to be captain, and ending Lucy A. Job, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 20, 1970; and

The nominations beginning Edward Stephen Amis, Jr., to be lieutenant commander, and ending John R. Stein, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 3, 1970.

IN THE MARINE CORPS

The nominations beginning Robert V. Anderson, to be colonel, and ending Jack R. Zellich, to be major, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 24, 1970;

The nominations beginning Elmer R. Jackson, to be 2d lieutenant, and ending Douglas G. Wilson, to be 2d lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 24, 1970; and

The nominations beginning Peter A. Acly, to be 1st lieutenant, and ending William H. Ganz, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 3, 1970.

XUM

EXTENSIONS OF REMARKS

ENVIRONMENTAL QUALITY FROM GOVERNMENT-INDUSTRY COOPERATION

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Friday, March 13, 1970

Mr. SCOTT. Mr. President, I am greatly encouraged by the willingness of the private sector to assist the Nixon administration in its war on pollution. The captains of industry very often double as civic leaders and, as such, they have recognized that the preservation of our precious natural resources is important to all Americans.

I would like to single out the Nation's coal industry as one of the enlightened participants in the battle to save our environment. I am aware of past abuses. I am also aware of inadequate and ineffective laws which allowed these abuses to continue. But we have begun to turn back the tide.

Under the leadership of Mr. Stephen F. Dunn, the National Coal Association has assumed a substantial role in the effort to conserve our resources. In my own Commonwealth of Pennsylvania, the Coal Association maintains and operates a modern research laboratory at Monroeville, 15 miles from downtown Pittsburgh, which is devoted to effective control of sulfur oxides, a dangerous air pollutant. The association has also worked closely with the National Air Pollution Control Administration in this endeavor. I am hopeful that we will all soon be able to breathe a lot easier if this important work continues.

Acid mine drainage is one of the tragic consequences of unchecked coal mining practices. The industry, itself, is searching for ways by which this problem can be controlled. The Coal Association's Monroeville research laboratory maintains a complete library on the subject of mine drainage. Channels of communication have also been opened up with the U.S. Bureau of Mines and the Federal Water Pollution Control Administration. Continued research will insure that free-flowing water will again be fit for human consumption.

Another consequence of careless mining operations is the strip mine—ugly scars on nature's landscape. Because of coal industry assistance, more land is now being reclaimed than mined. We must continue to reclaim this valuable land so that nature's visage can again be restored to its original state.

This effort to conserve our resources cannot be considered total without the full cooperation of our State and local governments. Speaking for Pennsylvania, I am proud of the work being done by H. Beecher Charmbury, secretary of Mines and Mineral Industries. Dr. Charmbury has coordinated Pennsylvania's drive to clean up the environmental mess. His efforts have all but eliminated the mining industry from its role as a major industrial polluter. Pennsylvania's antipollution laws are strong, but fair. There is a healthy attitude on the part of the coal industry to comply with those laws. And there is strong, but equally fair enforcement by the Commonwealth's own department of mines and mineral industries. Secretary Charmbury has, on behalf of Gov. Raymond Shafer, committed Pennsylvania to a program of true environmental quality.

It is my firm belief that a full partnership between government and industry is the only way to preserve our resources. In Pennsylvania, it is working. In the Nation, as a whole, it is beginning to work. We must push on, clearing away the filth that blocks the road to a more beautiful America.

At this point, I ask unanimous consent to insert two letters concerning the efforts of Government and industry to salvage our environment. One, from the National Coal Association's President Stephen Dunn to President Nixon, outlines the industry's effort to clean up the landscape. The other letter, from Dr. Charmbury to Governor Shafer, tells of the Commonwealth's activities in relation to pollution control.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COAL ASSOCIATION,
Washington, D.C., January 6, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As the organization designated to represent the coal industry in Washington, we take this opportunity to pledge our complete support of your environmental improvement program. Our industry is deeply concerned about environmental problems and is determined to make its contribution toward their solution. As a matter of fact, major coal producers for many years have been active in air pollution control, research on acid mine drainage and in reclamation of land following strip mining.

In air pollution, our concern dates back to 1941 when the Coal Producers Committee for Smoke Abatement spearheaded a voluntary campaign to clear the skies over such cities as Pittsburgh, St. Louis and Chicago. This committee was absorbed into the National Coal Association's air pollution control division in 1960. For the past ten years we have worked closely with the National Air Pollution Control Administration and with the most active state air pollution control agencies in our effort to insure sound control programs. Recently, our efforts have been concentrated more toward control of sulfur oxides, inasmuch as equipment is now available to catch more than 99 per cent of the dust and ash that comes from plant stacks. Much of the work at our modern research laboratory at Monroeville, Pennsylvania (15 miles from downtown Pittsburgh), is devoted to effective control of sulfur oxides.

Reclamation of mined land also has received the industry's close attention in recent years. Today we are happy to say that more land is being reclaimed than mined. Unfortunately, the eyesores which are frequently called to public attention are usually on land that was mined years ago, before anyone—including government agencies—gave serious thought to reclamation. Ownership of these lands now is difficult to trace.

Mine drainage is another problem which for many years has received constant attention from coal and allied industries. At our research laboratory, we also maintain the most complete library on this subject. We are also cooperating with various Federal agencies, including the U.S. Bureau of Mines and the Federal Water Pollution Control Association, and also with state agencies. We shall diligently pursue our efforts until we find an answer.

When the new Council on Environmental Quality is established, we will welcome the opportunity to serve the Council in any way you deem appropriate. In the meantime, we stand ready to be of any possible assistance to your Cabinet Committee on Environmental Quality.

Sincerely,

STEPHEN F. DUNN.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF MINES AND MINERAL INDUSTRIES,
Harrisburg, Pa., January 6, 1970.

Hon. RAYMOND P. SHAFER,
Governor, Commonwealth of Pennsylvania, Room 225, Main Capitol Building, Harrisburg, Pa.

DEAR GOVERNOR: I am most happy to report to you that tremendous progress has been made made over the past year in areas of this Department's primary concern.

For example, Pennsylvania's coal industry has not only made the Commonwealth the electricity capital of the nation, but it is also the best example in the state of an industry that's doing a good job in complying with our air and stream pollution laws.

Two of my main objectives when I first became Secretary of Mines and Mineral Industries back in 1963, were to do all I could to help the coal industry make Pennsylvania the electric power producing capital, and to see to it that the technological answers to this industry's air and stream pollution problems were provided.

I am most happy to report that both of those goals have been overwhelmingly realized during your Administration.

By and large, the coal industry of Pennsylvania, at least, has succeeded in reversing its former image as a wholesale contributor to the air and water pollution problems confronting our state. We're still fighting scars from the past, and we're making great strides in correcting them, too. But future generations of Pennsylvanians should not have to worry about the current coal industry from a pollution standpoint.

As a member of both the Sanitary Water Board and Air Pollution Commission, I have seen three major factors at work during the past year which, to my way of thinking, have all but eliminated the surface and deep coal mine industries from the roles of major industrial polluters in Pennsylvania. These are 1. our strong, but fair anti-pollution laws, 2. a healthy attitude on the part of the overall coal industry to comply with those laws, and 3. strong, but equally fair, enforcement by our own Department of Mines and Mineral Industries.

These factors may not exist in other coal mining states, in fact, I'm sure they don't all prevail at the same time. But they have all been combined in Pennsylvania to make our state a showcase of conservation achievement for the rest of the nation. For example, during the past year, our Department was host on several field trips to sportsmen, officials, and even other coal industry representatives from West Virginia, Kentucky, Tennessee, Ohio and the TVA. On each of these occasions, the visitors expressed amazement over the technology that was manifested and the progress we have made

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in the areas of strip mine land reclamation and mine acid water control under our present laws.

By way of review of the past year, current surface or strip mine operators in the state restored 9,306 acres of despoiled lands during their active mining operations in 1969. They have averaged close to 10,000 acres per year in restoration for the past four years. Anthracite strip mine operators restored 432.56 acres in 1969.

In addition, deep coal mine operators now have some 140 treatment plants onstream in controlling their mine water wastes, while applications for another 204 such plants are now before the state for approval.

Not only that, Governor, but solid coal wastes or refuse from these active deep mines are being deposited, compacted, covered, and then seeded with suitable plant life so as not to create any new mountainous banks that are unsightly and potential air pollution hazards, too.

Bituminous coal production went up over the previous year, from 64,474,332 tons through November, 1968, to 71,606,742 tons through November of 1969.

The future of the coal-by-wire concept has also never been brighter due to the instant success of mine-mouth power installations and the unit coal train. As evidence, witness the fact that the Penn Central Railroad is now carrying Pennsylvania-mined bituminous coal to 51 different electric power stations scattered throughout the northeastern United States. These coal-burning installations have a combined power output of 24,304,320 KW.

Of that total, the Chestnut Ridge energy center located in the central highlands area of Pennsylvania is producing 6,757,130 KW, and that surpasses the combined output of Niagara Falls, Grand Coulee and Hoover Dams. Chestnut Ridge is made up of eight mine-mouth power installations, such as the Conemaugh complex near Johnston and the Keystone complex near Indiana, Pennsylvania. These mine-mouth power installations are currently employing 10,000 men, Governor, and by 1975, it is estimated that they will be employing 14,000 men all told. Coal production in the central highlands area totalled 26 million tons in 1965, and I expect that figure will be doubled by 1975 when planned new mine-mouth installations go into operation.

On the other hand, anthracite production, continued its downward trend, however, due to market failures experienced over the past years. Through November of 1969, only 9,500,000 tons were produced, while 10,027,324 tons were produced during the corresponding period in 1968.

In other areas, I would like to express my appreciation for your own efforts in helping us to obtain amendments to the oil and gas statutes which would help in preventing disasters such as the one occurring at Harding, Pennsylvania, last July, and killing four persons. If we can succeed in regulating underground gas storage in these areas, then we would be able to monitor the amounts put into them and thereby prohibit excessive buildups which tend to fracture the strata and cause accidental release.

Control of dust and gas accumulations in the deep mines through better ventilation procedures, along with more rigid roof control, remain pressing problems. Critical, too, is the urgency of finding trained manpower to fulfill the coal industry's market commitments in the months and years ahead, but unquestionably a key factor as to whether or not the industry finds that much needed manpower will be the intensity of our combined efforts to minimize the hazards created by dust, gas and roof falls.

During 1970, be assured, Governor, that I intend to see that research we began two years ago on these problems is completed and brought to the work faces in the mines so that we can prove or disapprove the results.

We must find the answers, and we will, just as we did on acid mine drainage.

Our progress in mine area restoration work during the past year is also nothing less than a landmark conservation achievement which has vaulted Pennsylvania to the point of being 10 years ahead of other states plagued by similar problems.

In this regard, there is no question in my mind, that what Pennsylvania has accomplished and the progress we have made in attacking mine drainage pollution and air pollution from burning refuse banks constitutes not only a technological breakthrough, but a major scientific contribution to the world, wherever coal is or has been mined.

I must credit the $500 million Land and Water Conservation Act (Project 500), which provides our Department with $200 million in project money over a 10-year span, as the financial catalyst which is helping us to transform the coal regions of our state from an area of blight, to one of new industrial and tourist potential. Without the bond issue money, which is our principal source of funds, we would be just like the other coal mining states—and that is nowhere when it comes to action and results.

The rest of the nation seems to be just now awakening to the critical need for environmental pollution controls, while we have been working in the field for the past seven years doing something about them. If the nation, as President Nixon has indicated, is going to undertake an all-out effort on air and water pollution control, then certainly Pennsylvania's progress over the past few years on these matters should put us in the best position of any of the states to achieve maximum results.

Depending on the federal money allocated to the years ahead, and what's equally important, the dispatch with which that money reaches the state agencies to do the job, we can foresee the time within the next 10 years when Pennsylvania's coal regions will truly enhance the overall beauty of the state, not detract from it.

Our department successfully completed a total of 99 anthracite and bituminous mine areas reclamation projects under "Operation Scarlift" during 1969, at a cost of $6,703,086. Besides the bond issue, additional funds for this program were supplied to the department from direct allocations by the legislature, matching grants from the federal government and Coal Research Board field-demonstration type grants.

Of the total, there were 28 stream pollution abatement projects completed at a cost of $585,836; eight air pollution elimination projects (burning refuse banks), extinguished at a cost of $2,430,258.03; 10 mine subsidence prevention projects completed at a cost of $2,065,825.41; 14 underground mine fire extinguishment projects completed at a cost of $1,309,826.33; 13 strip mine reclamation projects completed on public lands at a cost of $286,879.75; and 26 abandoned deep mine openings sealed at a cost of $24,457.05.

Sincerely,

H. CHARMBURY.

TRIBUTE TO EDWARD B. PATTERSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. ANDERSON of California. Mr. Speaker, today I pay tribute to Edward B. Patterson, division manager of the Southern Counties Gas Co. of San Pedro, Calif., who was recently selected by the San Pedro Lions Club as "Man of the Year." Mr. Patterson has long proven himself a devoted public servant, and a brief examination of his personal background indicates the reasons for his recent honor.

As division manager, Mr. Patterson heads one of the eight operating divisions in the Southern Counties Gas Co. of California. He is responsible for the direction of sales, customer service, construction, and distribution activities.

His career with Southern Counties began in 1937 in the service department and has continued with advancements to branch office chief clerk, local office supervisor, division sales manager, and his present position. In 1955 he was appointed manager of the Natural Gas Bureau, a two-company operation, to coordinate large exhibits and newspaper, radio, and television stories relating to the coverage of special events.

Edward B. Patterson received his B.A. degree from Whittier College in 1937 and did graduate work in business administration at the University of Southern California. At Whittier he played 3 years of all-conference football and 1 year of baseball. In addition, he played 2 years of professional football with the Los Angeles Bulldogs.

During World War II, Mr. Patterson served with General Patton's 3d Army and received a battlefield commission to 1st lieutenant. He was assigned to a tank destroyer battalion which had battle campaigns in Normandy, Brest, Ardennes, and Ruhr River. He was wounded, captured and held as a prisoner of war for 6 months in Germany and has been decorated with the Silver Star, Purple Heart, and four Bronze Stars.

In civic activities, Mr. Patterson has achieved an equally outstanding record. He is a member and past president of the Rotary Club of San Pedro and is presently serving on the Board of Directors of the American Red Cross, San Pedro Fishermen's Fiesta, and the YMCA. He has held the latter post for the past 8 years.

In addition, he has served on the board of directors—united way; budget committee, united crusade; board of directors, San Pedro community hospital; American field service panel for selection of students; mayor's advisory council; advisory board, Los Angeles Harbor College; advisory board, 15th councilmanic district; and executive committee of urban renewal program.

Mr. Patterson also was on the executive committee of the Urban Renewal Program in San Pedro; chairman of the Peck estate fund; chairman of the cancer research and development campaign; Community Redevelopment Agency—Beacon Street project; police review board; and the 1969 City of Hope Eighth Annual Salute of the Maritime Industry honoring Vincent Thomas. He is a member of both the Pacific Coast Gas Association and the American Gas Association.

Edward B. Patterson and his wife, Irma, make their home in San Pedro with two of their three sons, John and Larry.

The third, Jim, is married and lives in La Habra.

His selection as "Man of the Year" is certainly deserved recognition in light of the outstanding contributions he has made to the San Pedro community over many years. It is my privilege to join in saluting Edward B. Patterson for his long record of service to his country and his community.

FAIRNESS DOCTRINE—REPRESSION OF DISSENT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. RARICK. Mr. Speaker, last January 19, on the front of the State capitol in Richmond and amid impressive ceremonies, Virginia's Linwood Holton was inaugurated as Governor of the Commonwealth. As he is the first Republican to hold this office since the tragic era of Reconstruction, his inaugural address was a subject of unusual interest, not only in the Old Dominion but also in other parts of the Nation. Its importance was evidenced by its live broadcast and by subsequent editorial comment.

One of the significant statements in Governor Holton's inaugural address was to the effect that:

> No more must the slogan of state's rights sound a recalcitrant and defensive note for the people of the South. For the era of defiance is behind us.

Like any inaugural address, these words were not off-the-cuff remarks but were carefully chosen. They represent an open appeal by the new Governor for the people of all States in the South to acquiesce in the criminal usurpation of power by Federal agencies of our Government. They encourage the States government to abandon the operation of their public school systems.

The thrust of the address was promptly endorsed editorially by Norman Davis over WTOP, the TV branch of the Washington Post, arousing the ire of many thoughtful citizens of Virginia and other States.

Among these were Capt. F. O. Willenbucher of Bethesda, Md., a retired naval officer and experienced lawyer, and Col. Matthew P. McKeon of Springfield, Va., executive vice president of the Defenders of the American Constitution.

In line with the announced policy of WTOP to permit the broadcast by responsible persons of opposing views of its editorials, Colonel McKeon wrote Mr. Davis on January 27, requesting that Captain Willenbucher be allowed to respond to the Davis editorial. With this letter he submitted an advance copy of the proposed rebuttal. The expected approval was not forthcoming and the matter apparently became the subject of concern on the part of WTOP management. Instead of authorizing the reply to be made while the original editorial was still fresh in the minds of WTOP listeners as any fairness would have indicated, the station by procrastination and omission to this day has not acted.

The request was timely submitted in conformity with the current fairness doctrine policy of the Federal Communications Commission.

Because of the long delay, Colonel McKeon has now withdrawn his application for equal opportunity to reply to Governor Holton's address and WTOP's editorial endorsement. The statement originally intended for airing under the fairness doctrine has how been published in a number of newspapers, among them the Southwest Virginia Enterprise of Wytheville, Va.

As this "denial by procrastination" of the opportunity to reply is a well-documented example of the repressive practices of news management by the controlled media, I include in my remarks the request, the subsequent letter of Colonel McKeon and the proposed reply as published by the Wytheville newspaper.

The items follow:

DEFENDERS OF THE AMERICAN CONSTITUTION, INC.,
Springfield, Va., January 27, 1970.

Mr. NORMAN DAVIS,
WTOP Broadcast House,
Washington, D.C.

DEAR MR. DAVIS: This letter will confirm my telephone conversation this morning with Miss Linn McIntyre of your office.

On behalf of the Defenders of the American Constitution, Inc., I am requesting the opportunity of making a free time commentary upon your TV editorial of 19–20 January concerning Governor Linwood Holton of Virginia.

Captain F. O. Willenbucher, U.S.N. (Ret.), tel. OI 6-5926, a member of our organization, is prepared to express a contrasting point of view at such time and place you may designate.

Thanking you in advance for your courtesy in this matter, I am.

Very truly yours,
MATTHEW P. MCKEON,
Executive Vice President.

DEFENDERS OF THE AMERICAN CONSTITUTION, INC.,
Springfield, Va., February 9, 1970.

Mr. NORMAN DAVIS,
WTOP Broadcast House,
Washington, D.C.

DEAR MR. DAVIS: Reference is made to my letter of 27 January, 1970, wherein I requested that a member of our organization be given the opportunity to express a view contrary to that expressed in your TV Editorial concerning Governor Holton.

Two weeks have elapsed and having had no reply from you, other than week-old responses to our numerous telephone calls saying that "the matter was being considered by the board" as you yourself told me, I must assume my request is now dead. The time interval between your editorial and the possibility of a response from us is now too great to permit a connection in the minds of the listening public.

However, I would appreciate your advising me at your earliest convenience of the reason for your obvious denial to this organization of the rights proclaimed in your stated "Editorial policy".

Yours truly,
MATTHEW P. MCKEON,
Executive Vice President.

[From the Southwest Virginia Enterprise, Feb. 5, 1970]

TO THE EDITOR,
Southwest Virginia Enterprise,
Wytheville, Va.

DEAR SIR: On Jan. 19 and 20, WTOP broadcast over its Washington radio and television facilities an editorial lauding Gov. Linwood Holton's inaugural address in Richmond, Va., especially its demand that the South silently acquiesce in the enforcement of federal Civil Rights program. The Defenders of the American Constitution, Inc., a nationwide organization, with headquarters in Ormond Beach, Florida, has requested opportunity to reply to the editorial through a member, Captain Franz O. Willenbucher, USN (Ret.). The following statement was prepared by the Captain and submitted to WTOP-TV station for their approval, but no reply has been received to date: (Jan. 31).

"WTOP praised Virginia Governor Holton's inaugural, particularly his demogogic statement: 'No more must the slogan of states rights sound a recalcitrant and defensive note for the people of the South. For the era of defiance is behind us.'

"This is an invitation to usurpation! It advocates ignoble surrender to abuse of power—power not even possessed by the Federal Government—but reserved to the States or to the people.

"Peaceful defiance will continue. People will persist in demanding freedom of choice in school attendance and an end of 'busing' children merely to achieve racial balance—now enforced only in the South.

"Government cannot long endure, unless they 'derive their just powers from the consent of the governed.' That, Governor Holton, is from our Declaration of Independence.

"President Nixon calls for a new federalism in which power 'will flow from Washington back to the states and to the people.' That, Governor Holton, clearly recognizes Article X of our Constitution which demands that powers, neither delegated nor prohibited 'are reserved to the States, respectively, or to the people.' That is no 'slogan' Governor Holton as you seem to regard it.

"The real defiers are not the people. They are the socialistic usurpers in Washington who defy the Constitution and the people. They will be met with sustained demand from the people to restore local self-government to them, where it belongs."

THE JOKE IS ON THE JUDGE

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. MIKVA. Mr. Speaker, there are several flaws in the record of Judge Carswell which cause me to oppose his nomination to a position on the Nation's Highest Court. I do not do so because the judge is a native of the South. I oppose his nomination because of an undistinguished and blemished record—especially as it touches on civil rights law.

A recent article by Anthony Lewis in the New York Times spells out the weaknesses in Judge Carswell's record and brings to light an incident about which I was previously unaware. I refer to the joke the judge reportedly told to the Georgia Bar Association. If true, this incident reflects a callousness and carelessness that should characterize no Supreme Court Justice.

I insert the article at this point in the RECORD for the benefit of my colleagues:

THE SIGNIFICANCE OF JUDGE CARSWELL

(By Anthony Lewis)

LONDON, March 6.—The dilemma that President Nixon confronts on the racial issue is plain enough. Many white Americans have come to resent black demands, and the President wants to take account of their feelings. That is not in appropriate, for resentment and alienation among white people are a serious social danger.

But it hardly needs to be said that there are deep resentments on the other side as well. The intensity of black feelings at even an intimation of retreat from civil rights progress has been shown in the angry reaction to the memorandum by Daniel Patrick Moynihan, the President's counselor. Mr. Nixon knows how easily bitterness in the black community could destroy the racial peace he desires.

SYMBOL OF INDIFFERENCE

The nomination of G. Harrold Carswell to the Supreme Court has to be considered in this light among others. For it is becoming a symbol of indifference to racial justice.

When Judge Carswell was nominated two months ago, he appeared to be undistinguished but harmless, a Federal judge from Florida who would meet quietly the President's wish for a Southern appointment. But Senate hearings and newspaper explorations since then have changed that picture. Judge Carswell has a record in the racial field that cannot be overlooked.

In 1948, Harrold Carswell said in a political speech that he would yield to no one in his "belief in the principles of white supremacy." This year he termed that view "obnoxious" and said he no longer holds it.

ON THE RECORD

In 1953 he drafted a charter for a Florida State University boosters club that opened membership to "any white person interested in the purposes . . ."

In 1956, while he was a United States Attorney, he joined in a scheme to lease Tallahassee's municipal golf course, built with $35,000 in Federal funds, to a private segregated club for $1 a year. Although the local papers prominently displayed the racist purpose of the scheme, and the document he signed stated it, Judge Carswell said this year that he had been unaware of it.

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In 1966, Judge Carswell sold land with a covenant attached that restricted its occupancy to "members of the Caucasian race."

Between 1962 and 1968 he was, according to Prof. Leroy D. Clark of the New York University Law School, "the most hostile Federal district judge I have ever appeared before with respect to civil rights matters." Professor Clark said Judge Carswell was "insulting" and "would shout at a black lawyer who appeared before him while extending every courtesy to white lawyers."

A young lawyer now working for the Justice Department, Norman C. Knopf, said that while acting as a civil rights attorney he had heard Judge Carswell express his disapproval of Negro voter registration projects. Another lawyer testified that he had heard Judge Carswell advise a city prosecutor how to "circumvent" a civil rights decision of the United States Court of Appeals for the Fifth Circuit. Judge Carswell denied any discourtesy or prejudice toward civil rights lawyers.

EVIDENCE OF INSENSITIVITY

In December, 1969, Judge Carswell reportedly told the following joke to a meeting of the Georgia Bar Association:

"I was out in the Far East a little while ago, and I ran into a dark-skinned fella. I asked him if he was from Indochina, and he said, 'Naw, suh, I'se from Outdo' Gawja.' "

In a written statement last month, Judge Carswell denied that there were any racial overtones in that joke.

That record displays at the very least extraordinary insensitivity. It must raise questions about Judge Carswell's fitness for a lifetime position on a court that must decide some of the most sensitive and most important racial questions before the country. For the black community, the idea of Judge Carswell on the Supreme Court bench must now be a provocation.

ALTERNATIVE PROPOSED

Judge Carswell's record on race was obviously not known to President Nixon when he made the appointment. It is never easy for a political leader to admit a mistake, but in this instance the President could do so with grace and for the most urgent of reasons: the country's interest and his own.

Withdrawal of the nomination now would not even, necessarily, do permanent damage to Mr. Nixon's relations with the South. It would be demeaning—and untrue—for any Southerner to suggest that there are no Southern lawyers better qualified to sit on the Supreme Court than G. Harrold Carswell.

FEDERAL INSURED LOAN PROGRAM

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. O'NEILL of Massachusetts. Mr. Speaker, on Tuesday, March 3, Mr. Donald G. Hanson, executive vice president of Bryant and Stratton in Boston, Mass., testified before the Special Committee on Education of the House of Representatives, chaired by the gentlewoman from Oregon. I would like to bring Mr. Hanson's testimony to the attention of my colleagues.

Bryant and Stratton is an accredited junior college of business which is extremely interested in providing education for many disadvantaged youths. Mr. Hanson testified with regard to part B, title I of the Federal insured loan program. I am sure my colleagues know of my support for this program; I think it may be one of the most broadly supported education measures in the Congress, for this bill gives students who cannot afford a college education an opportunity to help themselves, to borrow money for an education that will enable them to advance in life.

Mr. Hanson and Bryant and Stratton are interested in having schools included as lending agencies eligible for "education warehouse loans" under the act. The school may then lend money to needy students.

The second point Mr. Hanson presented to the committee was that the maximum amount that could be borrowed during the first 2 years of postsecondary education should be increased from $1,500 to $2,000 a year. I wholeheartedly support this. The Congress must realize that there are deserving students who do not have any financial resources available to pursue higher education. Some of these students work, others get scholarships, but there is very often a gap and in these days of increasing college costs, $1,500 is simply not enough.

I commend Mr. Hanson's testimony to my colleagues not only for the recommendations it makes, but also because I think Bryant and Stratton's interest in providing an education for students who generally would not acquire an education is admirable. The testimony follows:

TESTIMONY OF DONALD G. HANSON BEFORE THE SPECIAL COMMITTEE ON EDUCATION OF THE HOUSE OF REPRESENTATIVES

Madame Chairman and Members of the Committee. I should like to thank you for the opportunity to testify before you today. Permit me to introduce myself and the school which I represent.

Bryant and Stratton is accredited as a junior college of business located in Boston, Mass. It has been training young men and women for the business world since 1865, one hundred and five years.

I am Donald G. Hanson, Executive Vice-president of Bryant and Stratton. Previously I was Dean of Faculty at Bryant and Stratton, and before that Professor of Economics at Bryant College in Providence, Rhode Island, and at Suffolk University in Boston. I am outgoing President of the New England Business College Association.

We are interested in Part B, Title I of this education bill, because we are convinced that schools should be included under it as lending agencies eligible for "education warehouse loans".

1. The experience of schools like ours is with students who would not normally go to four year liberal arts colleges or universities. Rather it is with students who come from average income families, the sons and daughters of working America.

Many of these students have had considerable difficulty in acquiring loans from banks. Schools such as ours are actually in a better position to administer loan funds for truly needy students. The bank, after all, has a primary responsibility to the interests of its depositors; whereas we as representatives of scholastic institutions are able to think more objectively of the needs, the potential, and the character of individual students.

We deal primarily with what we call the "specialty-oriented" student, that is the one who tends to have a specific career objective. In addition to this characteristic, he is often subject to certain types of educational problems. Our experience is that many of them suffer from having home environments that are not conducive to good school performance.

In case after case we find a remarkable improvement in performance, interest, motivation when we bring such students into a total academic situation where we can provide special teaching techniques and individual attention. This is a major reason why we have acquired a dormitory. The special needs and goals of these students, many feel, are best satisfied by private schools that cater to them specifically—1800 at Bryant and Stratton alone with its 1300 commuters and 500 dormitory residents. We estimate that close to 35% of all high school graduates could fall into the category which I have described.

2. Schools such as ours have considerable experience with the Federal Insured Loan Program under the 1965 Education Act. As a matter of fact, in our school there are approximately 400 students who are able to attend primarily because of this loan fund. We know, however, that the current serious shortage of loan money has prevented many average income students whose parents have neither a healthy savings account, or a checking account from attending school.

This past September alone, our admissions department processed fifty students who had been accepted to our school, but could not attend only because they could not find a bank to lend them the necessary money.

If our school is included as a lending agency eligible for "education warehouse loans" as under this bill, we shall be able to extend loans to many more needy and deserving students.

3. The students who attend schools such as ours come to us with specific and realistic goals in mind. They are eager to acquire the skills which will enable them to enter the business world at much higher income levels than they would attain as graduates from high school. There is a tremendous demand for these citizens in industry, and there is

no need, I am sure, to tell this committee what a valuable contribution they make to the economy.

For all these reasons, Madame Chairman and Members of the Committee, we feel that schools should be included as lending institutions eligible for the "education warehouse loan."

4. We also think that the maximum amount allowed to be borrowed during the first two years of post-secondary education should be increased from $1,500 to $2,000 per year. We find, particularly for students from low income families, that it is most important to provide them the wherewithal to enter post-secondary education and continue through the first two years. The key here is to assure the student that he can indeed continue his schooling. Our experience is that, if the student completes two years of post-secondary, there is a very good chance that he will find the funds to complete his work for a baccalaureate degree.

Again, as I am sure this committee is aware, there has been a tremendous increase in tuition, room and board since 1965. Our school, for example, in 1965 was charging $750 tuition. This year, because of increased salaries for staff and other expenses, we have had to charge $1,200 tuition. All other costs have been raised.

We would, however, not recommend raising the total maximum amount a student may borrow during his schooling. In order that the student may not go too deeply in debt, we would recommend that the total maximum amount borrowed remain at $7,500.

To me, Title I, Part B, represents a long step in the direction of equal opportunity for every American to secure the amount of schooling for which he is suited by mental capacity, interest, and motivation. For this purpose, it is an excellent section. I look forward to the time, however, when the Congress sees fit to make these funds outright subsidies to needy and deserving students, rather than loans which must be repaid at precisely the time in a young adult's life when he is presumably starting out in his career and in process of establishing a home and family.

The underlying principle of the bill is sound in that it is consumer oriented; it places purchasing power in the hands of the student and allows him the option of selecting his course as well as his school—rather than giving the money to existing schools or creating new ones. This principle—purchasing power in the hands of the consumer of education, will go a long way toward alleviating the disaffection and frustration that is the cause of so much student unrest.

Many students feel that their interests are not given proper consideration by the "educational establishment"—that they are unable to make their voices heard as to the quality, nature and relevancy of the courses to which they are subjected. There are many measures we could adopt to make the education industry more responsive to the public it serves, but probably few of them would be more effective than that which Title I, Part B, can accomplish—placing more purchasing power in the hands of the education consumer.

Thank you for your time and attention. I would be pleased to answer any questions.

UNITED STATES SHOULD VETO ZAMBIAN IDIOCY

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. RARICK. Mr. Speaker, as I called to the attention of the House yesterday, the moment of truth has arrived with respect to the African policy of the United States.

Following the dictates of their Soviet masters, the puppet diplomats from such remarkable contributors to the civilization of the world as Burundi and Zambia are again misbehaving in the Security Council of the United Nations Organization. Zambia's Moto Nkama, bearing the imposing title of Minister of State for Foreign Affairs, is said to have made a special trip to parrot the line.

Even though it is patently assinine for any reasonable man to consider peaceful Rhodesia a threat to world peace, this little saber-rattler without a saber loudly demands that Britain bring down the Rhodesian Government by force. With absolute Marxist logic, the intended victim is the threat to world peace because someone else may attack him.

This specious reasoning makes the raped and murdered nuns of the Congo entirely responsible for their own rape and murder, for if they had not have been there, it would never have happened.

But because we are a civilized nation, given to the honoring of our international obligations, the possibility that a puppet Security Council may concoct another sanction ukase is important to us. After all, by the United Nations Participation Act, and by Executive orders both of President Johnson and President Nixon, we are helping the Soviet enemy impair our own national security—based on just such a toy sanction.

The time for foolishness has passed. The time to act adult and responsible is now here.

The United States should forthwith announce—and I do not care whether this announcement is made publicly or in private—that we intend to exercise our veto in the Security Council to terminate such idiocy.

So that our colleagues may fully understand the constitutional problems presented by the possibility of an outside sanction on the freedom of speech protected by the first amendment, I include the official English translation of the proposed sanctions—drawing particular attention to proposed action No. 6—together with pertinent articles in which the full manipulation makes itself visible, as part of my remarks:

BURUNDI, NEPAL, SIERRA LEONE, SYRIA AND ZAMBIA: DRAFT RESOLUTION

The Security Council,

Recalling and reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965, 221 (1966) of 9 April 1966, 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968,

Reaffirming in particular its resolution 232 (1966), in which it determined that the situation in Southern Rhodesia constitutes a threat to international peace and security,

Deeply concerned that the situation in Southern Rhodesia has deteriorated further as a result of the proclamation of a so-called republic and that the measures so far taken have proved inadequate to resolve the situation in Southern Rhodesia,

Gravely concerned further that the decisions taken by the Secretary Council have not been fully complied with by all States,

Noting that the Governments of the Republic of South Africa and Portugal, in particular, in contravention of their obligation under Article 25 of the Charter of the United Nations, have not only continued to trade with the illegal racist minority regime of Southern Rhodesia, contrary to the terms of Security Council resolutions 232 (1966) and 253 (1968), but have in fact given active assistance to that regime, enabling it to counter the effects of measures decided upon by the Security Council,

Noting in particular the continued presence of South African forces in the territory of Zimbabwe,

Affirming the primary responsibility of the Government of the United Kingdom to enable the people of Zimbabwe to exercise their right of self-determintaion and independence,

Reaffirming the inalienable right of the people of Zimbabwe to freedom and independence and the legitimacy of their struggle for the enjoyment of that right,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* the proclamations of so-called republic in Zimbabwe by the racist minority regime in Salisbury and declares null and void any form of government which is not based on the principle of majority rule;

2. *Decides* that all States Members of the United Nations shall refrain from recognizing this illegal regime and urges States not Members of the Organization, having regard to the principles set out in Article 2 of the Charter of the United Nations, to act accordingly;

3. *Calls upon* all States to take appropriate action at the national level to ensure that no competent State authority gives official or legal recognition to any act carried out by the leaders and institutions of the illegal regime in Southern Rhodesia;

4. *Emphasizes* the responsibility of the Government of the United Kingdom, as the administering Power, with regard to the situation prevailing in Southern Rhodesia;

5. *Condemns* the persistent refusal of the Government of the United Kingdom, as the administering Power, to use force to bring an end to the rebellion in Southern Rhodesia and enable the people of Zimbabwe to exercise their right to self-determination and independence in accordance with General Assembly resolution 1514 (XV);

6. *Decides* that all States shall immediately sever all diplomatic, consular, economic, military and other relations with the illegal racist minority regime in Southern Rhodesia, including railway, maritime, air transport, postal, telegraphic and wireless communications and other means of communication;

7. *Calls upon* the Government of the United Kingdom, as the administering Power, to abrogate any existing agreement on the basis of which commercial or other foreign consular missions can be maintained in Southern Rhodesia;

8. *Condemns* the assistance given by the Governments of Portugal and South Africa and by other imperialist Powers to the illegal racist minority regime in defiance of resolutions of the Security Council and demands the immediate withdrawal of the troops of the South African aggressors from the territory of Zimbabwe;

9. *Decides* that Member States and members of the specialized agencies shall apply against the Republic of South Africa and Portugal the measures set out in resolution 253 (1968) and in the present resolution;

10. *Call upon* all Member States and members of the specialized agencies to carry out the decisions of the Security Council in accordance with their obligations under the Charter of the United Nations;

11. *Calls upon* all States Members of the United Nations, and, in particular, those with primary responsibility under the Charter for the maintenance of international peace and security, to assist effectively in the implementation of the measures called for by the present resolution;

12. *Urges all* States to render moral and material assistance to the national liberation

movements of Zimbabwe in order to enable them to regain their freedom and independence;

13. *Requests* all States to report to the Secretary-General on the measures taken to implement the present resolution;

14. *Requests* the Secretary-General to report to the Security Council on the progress made in implementing the present resolution.

Burundi Urges End to Ties: Soviet Union Blames United States, Britain for Existence of Rhodesian Regime

(By Robert H. Estabrook)

United Nations, March 12.—Soviet Ambassador Yakov Malik blamed the United States along with Britain this afternoon for allegedly supporting the white supremacy republic in Rhodesia.

The U.S. and its allies "bear the main responsibility for the emergence and subsistence thus far of the racist regime" of Prime Minister Ian Smith, he charged in a cold-war-style indictment in the Security Council.

Contending that these countries had had a major part in "emasculating" sanctions voted by the council, he accused them of preventing extension of similar measures to Portugal and South Africa.

Why does Britain not apply the treason act to members of the Smith regime, he asked rhetorically, recalling that in the last century treason had brought a death sentence.

"Because Smith and his government are committing crimes not against the United Kingdom but against Africans—against the people of Zimbabwe," (the African name for Rhodesia) he declared. He added that Smith regards the British "as friends and patrons."

Apart from championing an Afro-Asian resolution for extension of sanctions, Malik appeared to be attempting to offset any credit accruing to Western countries for the closure of their consulates in Rhodesia. West Germany today joined the U.S. and six other countries that have recently withdrawn consular representation.

XUM

A British spokesman noted today that apart from the U.S. and Germany, Norway, Denmark, Italy, the Netherlands and France have closed their consulates in Rhodesia and that Austria, which has been erroneously reported as having representation there has not had even an honorary consul since 1967.

Belgium and Switzerland are reviewing their policies, the British spokesman said, and only Greece, Portugal and South Africa appear unmoved by pleas to withdraw representation.

Burundi ambassador Nsanze Terence introduced the five-power Afro-Asian resolution calling on all states to sever immediately all remaining ties with Rhodesia including postal, telegraphic and air communications.

But Britain, which asked originally for a simple resolution calling on all states not to recognize the new republic, is understood to be considering a veto if the Afro-Asian measure should be put to a vote in its present form. The total communications ban also would pose constitutional difficulties for the United States.

The council will continue the debate Friday afternoon.

[From the Christian Science Monitor, Mar. 13, 1970]

New Blast at Rhodesia Builds in U.N.

(By Bertram B. Johansson)

United Nations, N.Y.—The groundwork for still another UN Security Council condemnation of Rhodesia and for cutting all consular, and perhaps other, relations with the Ian Smith government, now is laid.

Zambia's Minister of State for Foreign Affairs, Moto Nkama, called for both types of ostracization of the Smith regime.

He suggested also, as did other African speakers, that Britain should bring the Rhodesian Government down by force.

Mr. Nkama made a special trip from Africa for the occasion to report the views of the Organization of African Unity. He asked for severance of "all consular, military, or any other relations with the illegal, racist, minority regime."

"This should include," he said, "rail, maritime, and air transport, postal, telegraphic, radio, and any other means of communications. These measures should also be applied by the specialized agencies and organs of the United Nations."

CONSULAR RELATIONS CUT

Since March 2, when the first of the current series of Security Council meetings on Rhodesia was called, several countries have broken off consular relations. These include the United States, Norway, Italy, France, Denmark, West Germany, and the Netherlands, at this writing.

The United States move, in particular, was praised by several African speakers as a hopeful sign of a new African policy by the Nixon administration.

The current Security Council sessions on Rhodesia are being held apropos of the Smith government's declaration March 1 of Rhodesia as a republic, independent of Britain. British and other speakers here have labeled the declaration as another in the series of illegal acts by the Smith government.

Britain is calling for a Council resolution condemning the independence announcement and for all nations to abstain from diplomatic relations with Rhodesia.

African and Asian members of the Security Council want a much more drastic approach. Zambia, Syria, Nepal, Sierra Leone, and Burundi call for condemnation of the "illegal, racist, minority regime."

BRITAIN BLAMED

They also call for nonrecognition of the regime. They want to "emphasize the responsibility of the government of the United Kingdom, as the administering power, for the situation that prevails in Southern Rhodesia."

They want a condemnation of the "persistent refusal of the government of the United Kingdom, as the administering power, to use force to bring an end to the rebellion in Southern Rhodesia and enable the people of Zimbabwe [Rhodesia] to exercise their right to self-determination and independence in accordance with Security Council resolutions."

An African-Asian resolution also calls for all states "to render moral and material assistance to the national liberation movement of the people of Zimbabwe in order to enable them to regain their freedom and independence.

Zambia's Minister of State based his appeal for condemnation and the ostracizing of the Smith regime on the basis of its treatment of the black population since its presumption of establishment of a government on Nov. 11, 1965.

RUTHLESSNESS CHARGED

Mr. Nkama said the Smith government has not only "shown its ruthlessness to the indigenous inhabitants of Zimbabwe, it has also, like every despotic regime, treated liberal-minded white journalists with the same ruthlessness.

"It has kicked out no fewer than 50 journalists in its attempt to suppress the freedom of the press. It has refused entry into Rhodesia to no fewer than 400 applicants every year.

"Religious missionaries have been no exception in this campaign. In short, it is a regime that has shown every intolerance to all those opposed to it."

Meanwhile, the Soviet Union has expressed its agreement with Britain that the Smith regime should be condemned, though it appears to advocate other methods for its downfall.

An official statement in Tass, the Soviet news agency, says the Soviet Union "consistently comes out for the adoption of measures directed at the elimination of the racist regime in Southern Rhodesia. It expresses full solidarity with the people of Zimbabwe who are conducting a just struggle for national independence and freedom."

SANCTIONS CALLED INSUFFICIENT

The Tass statement criticizes what it terms the "falsity of the British Government's assurances that economic and financial sanctions are a sufficient measure to liquidate the Smith regime. . . ."

The Tass statement then suggests that "in these conditions the policy of Britain, which has failed to ensure the handing over of power to the people of Southern Rhodesia and did not take resolute measures to liquidate the unlawful Smith regime, is an example of colonialist attempts to retain power by other methods. . . ."

With this wide divergency of views, there is some question here whether Britain may not have to use its veto once again to prevent a resolution advocating the use of force.

THIRD DISTRICT HOOSIERS DEMAND NEW PRIORITIES

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. BRADEMAS. Mr. Speaker, I recently conducted a public opinion poll among the citizens of the Third Congressional District of Indiana on a number of important national issues.

The results indicated that the voters of my district share the general concern in this country for a redirection of our national efforts toward the solution of domestic problems.

I insert at this point in the Record the results of my poll, and I commend them to the attention of my colleagues:

Third District Demands New Priorities

Citizens of Indiana's Third Congressional District want the Federal government to reorder its priorities for the 1970's. They want the government to reduce spending on the Vietnam War, military programs and space exploration, and to redirect its resources into domestic programs aimed at solving the problems of pollution, crime, health care and education.

These are the most striking conclusions that emerge from an analysis of the results of Congressman John Brademas' poll of Third District residents.

The quest for new directions in national policies was made especially clear in the questionnaire when citizens were given a list of eleven areas of governmental activity and asked to indicate whether they felt government spending in each area should be increased, decreased or held at present levels. The results of this section are given in the table below.

The table shows that high percentages of the respondents want spending to be increased in four areas: crime prevention and control, pollution control, health and education.

Cuts in defense and space spending are favored by a majority of those returning the questionnaire. Sixty-five percent urge reducing expenditures on the Vietnam War, 57.1% want cuts in space programs and 54.3% favor decreasing other defense spending.

These conclusions received further confirmation from another section of the questionnaire which asked for opinions on a number of vital issues. Here are some of the most significant results:

Vietnam War: On the crucial issue of Vietnam, an overwhelming 81.5% of those responding favor withdrawal of American troops in some form, while only 15% urge a military victory through increased military operations. The 81.5% for withdrawal include the following three categories:

Immediate withdrawal, 11.5%.

Complete withdrawal before December, 1970, 16.2%.

Withdrawal only as fast as the South Vietnamese can assume the burden of the war, 53.8%.

Military Spending: Answers to this question reflect public reaction to the national debate over military spending: 68.6% of all respondents feel outlays for defense can be substantially reduced without hurting our national security. Only 7.6% want substantial increases in the interest of national security, while 19.6% favor keeping military outlays at present levels.

Space Programs: In spite of U.S. successes in space, 62.3% of those responding urge less spending on space programs in order to make more funds available for domestic programs. Only 6.1% want to increase our space effort to land on Mars, and 27.5% favor keeping space spending at current levels.

Pollution Control: Third District residents are more united on the question of fighting pollution than on any other issue. Almost eighty percent feel the Federal government is doing too little to combat pollution. Fifteen percent say present efforts are sufficient, and only 1.7% think the government is doing too much.

Below are the complete results for ten questions on national issues.

THE MAJOR ISSUES

You will find below the results of the opinion survey on ten important national issues. The figures show the percentages of those responding who chose the various answers to each question.

Vietnam

In Vietnam the U.S. should:

Increase military operations to secure military victory	15.4
Withdraw all our forces immediately	11.5
Withdraw all our forces by December 1970	16.2
Withdraw our forces only as fast as South Vietnam can assume the burden of the war	53.8
No answer	3.1

Tax relief

With respect to the personal income tax exemption, I would favor:

Keeping it at the present level of $600 for each dependent	22.5
Raising it to $800 for each dependent	40.6
Raising it to $1000 for each dependent	34.0
No answer	2.9

POLLUTION CONTROL

With respect to controlling air and water pollution, the Federal government is doing:

Enough	15.0
Too much	1.7
Too little	79.6
No answer	3.7

MILITARY SPENDING

Military spending, now at an annual rate of almost $80 billion:

Should remain at the present level	19.6
Can be substantially reduced without hurting national security	68.6
Should be substantially increased in the interest of national security	7.6
No answer	4.2

WELFARE

With respect to welfare programs, I would favor:

Retaining programs as they are at present	20.8
Setting minimum Federal standards for all states	51.7
Replacing present programs with a guaranteed annual income for the poor	16.6
No answer, miscellaneous opinions	11.0

SOCIAL SECURITY

Social Security benefits should:

Remain at present levels	21.3
Be increased by 10%	32.8
Be increased by 15%	39.9
No answer	6.0

THE SURTAX

The 10% income tax surcharge should be:

Ended when it expires on December 31, 1969	49.3
Extended at 5% until June 30, 1970	45.4
No answer	5.3

FARM POLICY

With respect to Federal farm policy, I would favor:

Maintaining present programs	25.8
Providing greater Federal support to farmers	14.4
Providing less Federal support to farmers	49.8
No answer, miscellaneous opinions	10.0

SPACE PROGRAM

In our space programs we should:

Continue expenditures at present levels	27.5
Increase expenditures in order to land on Mars	6.1
Reduce expenditures in order to make available more funds for domestic programs	62.3
No answer	4.1

PRE-SCHOOL EDUCATION

With respect to pre-school education programs, the Federal government should:

Continue Head Start programs (for children of low-income families	47.6
Expand such programs to include children from middle-income families	20.6
Support neither	25.4
No answer	6.4

WHERE TO SPEND IN THE 1970'S: YOUR OPINIONS

This chart summarizes the responses given in the section of the questionnaire which dealt with national priorities. For each of the eleven categories of Federal activities listed, the respondent was asked to indicate whether spending should be increased, decreased or held at present levels.

[In percent]

	Federal spending should be—			
	Increased	Decreased	Held at present levels	No answer
1. Vietnam war	7.6	5.0	22.2	0.2
2. Other defense spending	6.2	54.3	33.1	6.4
3. Welfare programs	26.0	29.5	36.9	6.9
4. Space programs	67.4	57.3	32.0	4.8
5. Pollution control	77.0	3.6	14.6	4.3
6. Farm programs	14.7	46.0	30.5	8.8
7. Aid to education	49.5	11.7	33.3	5.5
8. Programs for the poor	42.9	13.8	36.2	7.1
9. Aid to cities	31.5	21.0	39.4	8.1
10. Crime prevention and control	82.9	2.1	11.2	3.8
11. Health programs	56.8	7.1	31.7	4.4

FRANCIS MARION FOLSOM—1894–1970

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. CAREY. Mr. Speaker, on January 12 the country lost one of its great business and industrial leaders in the death of Frank M. Folsom, former president of the Radio Corp. of America.

Frank Folsom's career from his first job as an elevator operator in 1910 until his retirement as chairman of the board of RCA's executive committee in 1966, was typical of the American dream. His greatest success developed as a result of his faith and confidence in the potentialities of commercial television. During his presidency of RCA, from 1949 to 1957, the gross income of the corporation increased from $397.2 million to $1.1 billion, largely due to the application of his merchandising skills to the sale of television sets.

Much has been written and spoken about Frank Folsom in his capacity as a business and industrial executive. But, I believe, no one has portrayed the inner qualities of this great American so eloquently and ably as the Reverend Theodore M. Hesburgh, C.S.C., in a sermon delivered at the concelebrated pontifical mass of the resurrection at St. Patrick's Cathedral on January 16, 1970.

I insert the full text of the sermon at this point in the RECORD:

FRANCIS MARION FOLSOM, 1894–1970

(Sermon delivered by Rev. Theodore M. Hesburgh, C.S.C.)

I appreciate more than I can say the generosity and sensitivity of Terence Cardinal Cooke, the Archbishop of New York, in inviting me to say these few words at the Funeral Mass we are celebrating for our dear friend, Francis Marion Folsom.

It is given to every human being to deliver at least one sermon. Strangely enough, this sermon is mainly delivered after one has departed this life. People stop and think for a moment of the dear departed one. All that was for so long taken for granted suddenly comes into focus. And there, all bound up in a fleeting moment, is the totality of a person's life.

Each of us came here today to pray that the good Lord give to Frank Folsom the great blessing of eternal life. And, to each of us, Frank Folsom today gives his brief and powerful sermon, the sermon of his life.

Saint Thomas once wrote that the measure of a successful Christian life is to know truly what to have faith in, what to hope for, and what to love. Look at each of these and you have the measure and meaning of Frank Folsom's life—the theme of his sermon to us, as I see it.

When Frank stood at his mother's death bed, she had a simple charge for him: "Never forget that you are an Irishman and a Catholic." He never did.

The last thing I saw him do, less than a week ago, was to make the sign of the Cross feebly, yet firmly, and to wrap the Rosary around his wrist so that it would not fall off when he slipped off into oblivion, as he did shortly thereafter.

I cannot remember all the times and places he served my Mass and received Holy Communion with great devotion: in Rome and Vienna, in Madrid and Munich, in Paris and Tokyo, and, of course, here in New York.

And when we drove through the countryside abroad, he always started the day by reciting the Rosary; he leading, I driving. When we were almost killed one day in the Alps by a wild bus driver who wanted more than three quarters of the road Frank never flickered an eyelash. "Someone's watching us," he said calmly. He believed it. So did I, especially after that closest of calls, right after completing the Rosary.

Frank's was a simple faith, like his mother's, but again deeply penetrating. We were close enough to the Church's operation on the things we were doing together to see many of the human imperfections of the operation—but he used to reassure even me, saying, "Don't let's mix up the human and the divine, God's grace and what human beings do to neglect it, God's word and how poorly we follow it". He knew many Popes, more Cardinals than most Catholics know priests, Archbishops, Bishops, Monsignori, and priests without number. Though he loved them all, some more than others, they were not the substance of his faith.

He was relaxed about having been awarded about every honor the Church has to give. He only wanted to serve, and serve he did, in every way he knew how, with all the energy and all the considerable talent he could summon, without looking for anything for himself. And when he came home at night in some foreign land and emptied out his pockets, I was always edified to see a much worn Rosary and a blue Rosary Novena booklet that had more mending scotch tape than paper for a cover. He would kneel down and confess to a good friend like a child, which he was not, because in his faith he was talking about his faults to God through the mediation of a priest, asking mercy and forgiveness and promising to do better. He loved a sermon on Sunday, even if he was the only one at Mass in some far corner of the world.

I have heard him speak the truth to Popes and Cardinals when the truth was difficult to say and flattery and evasion would have been much easier, but less honest.

He had an instinct about the faith and its meaning for life, his life and the life of the Church. In these difficult changing days, he somehow always managed to land on his feet, to take the long view, to avoid disillusionment and frustration, and to see the positive good in change. He was a builder rather than a destroyer, a man for growth rather than decline, a doer in the middle of the action rather than a sideline critic.

This was all part of his faith in his Irish heritage. While perceptive in mind, his real talent was of the heart. He had a great feel for the human situation and there are thousands across the world who have felt the warmth of his greeting, the bounty of his limitless generosity, the thoughtfulness of his gifts, the understanding and affection of his great heart.

He had an abiding faith in human beings, even though he sensed with the Irish poets and songsters that human beings will often break your heart. Like all good Irishmen, he knew the heights and the depths of human feeling, the great joys and the deep sorrows, the wild triumphs of soaring success and the lonely anguish of personal failures. But those great eternal realities that claimed his deepest faith kept him on course through time to eternity, and he always knew deep down that he would some day come to a final harbor of light, refreshment, and peace, as we pray in the Mass today.

On the human side, his greatest faith was in the abiding reality of his family and friends. In this regard, his two favorite sayings were, "Nothing changes" which was his personal version of "semper fidelis"—always be faithful; and "Everyone must belong to someone and something". I have never known anyone who worked harder at making his family and his friends know that he really and truly belonged to them.

His dear wife, Gladys, was his anchor while she lived. His girls and boys were his light of life; a light went out when one of the boys was killed in World War II. The only thing he loved more than his grandsons were his granddaughters, and each new great grandchild was a special treasure to be specially loved and cherished. Speaking as a special friend of his, I will candidly admit that the only person on earth who bragged about me more shamelessly and with less regard for truth than Frank was my mother.

His friends were endless, of every religion, of every nation, of every race, of every class, of every profession. He amassed them with abandon, from Pope to pauper, and loved them all. He was, as all of us are, accused of many things in his lifetime, but never of being without faith and never, never of being unloving. Where family and friends, Church and country, good causes and human hopes were concerned, his only measure of love was to love without measure.

What did he hope for? Certainly, he hoped for only the best for his girls and boys and their sons and daughters, and for his friends. He hoped for the best, too, for his Church and his country, both of which he served so well in so many ways. For himself, his only real hope was to be at the right place at the right time so that he might serve, and build, and be a positive influence for good.

If you asked him what was his greatest accomplishment as chief executive of a great corporation, it was not its phenomenal growth under his leadership in the postwar years, but the fact that he had inaugurated a generous pension plan that would greatly benefit its thousands of employees now and in the future.

It is a long road from the small rural towns of Sprague and McMinnville in the great Northwest to San Francisco, Sacramento, Chicago, Washington, Philadelphia, and, finally, New York. But here he was finally at home, in this great Cathedral with an Irish Patron Saint, with a Cardinal-Archbishop named Spellman who for twenty-five years and more was a true brother to him, with the great charities of this Archdiocese, with the Knights and Ladies of the Holy Sepulchre whom he loved so well, especially the ladies, with a long list of other great endeavors centered here in the religious and secular world of New York

A few days before Cardinal Spellman's death, Frank tried to give him an accounting of one such endeavor that the Cardinal was sponsoring and Frank was leading. The Cardinal kindly shut him off by saying, "Frank, I'm tired, and besides I know that everything you've done has been done with style, and integrity, and efficiency. If you must account to me, let it ride for awhile, and some day soon enough we'll get off together in a quiet corner of heaven and get all the accounts straightened out and squared away." If they haven't done it already, I am sure they will do it soon.

In simple terms, reflecting great realities, these are the life lines of Frank Folsom: what he had faith in, what he hoped for, what he loved. This is his sermon to all of us. I cannot tell it to you without sharing with you how I know he would have reacted to the telling—even this simply.

Since 1957, Frank and I have spent the better part of a year of our lives together representing three Holy Fathers in an endeavor called the International Atomic Energy Agency—Atoms for Peace. Frank was a very lonesome man in 1957, since his wife had died the year before. This new endeavor gave him an outlet for new faith and hope and love. Without any training in diplomacy or science, he became a perceptive and persuasive apostle for the peaceful uses of atomic energy, and a diplomat who persuaded even the Russians in those days that peace was possible if faith and hope and love could be allowed to flourish between us. When a high Church dignitary accused him of being soft on Communism, he quoted St. Matthew: "Love your enemies. Do good to them that hate you".

No one will ever know how the power of his faith and hope and love mediated peace during a precarious and difficult period of history, and how much the more hopeful signs of today result quite directly from those efforts in darker days. But his faith begot faith, his hope engendered hope, and his very real love attracted those without much faith or hope and endeared them to what he stood for.

Late at night in Vienna, after writing up the results at the end of a difficult conference, I would sit in Frank's room and read to him the text of our report for his approval. At the end, he would smile and say, "You make me look better than I am". I'm afraid that is what he would say again today.

All I can say is that his life speaks for itself to all of you. His faith and hope and love speak for themselves. And because human words are always inadequate in describing human deeds, especially human deeds at their noblest, I must admit that the sermon of his life is better than I have portrayed it. Despite any disclaimer he would make, you and I know that the good Lord will be good to him in eternity because he was so good to so many of us in the days we enjoyed together. May the good Lord grant us more like him, and may Frank Folsom rest in peace eternal.

PUPILS SHOW GAINS IN WOODLAWN TESTS

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. MIKVA. Mr. Speaker, amidst the controversy over college student protests, we have often lost sight of our younger students. Many of these have suffered from the deprived environments in which they find themselves. The neglect of our central cities has spawned conditions that prevent many young children from being prepared to read when they begin school.

It is most exciting to see some groups tackling this problem on their own initiative, with Federal assistance. As a result of the Woodlawn experimental schools project in Chicago, there has been a significant increase in the reading readiness of participating first graders. I commend to my colleagues the following results; as reported in the Chicago Tribune:

In 1964, when the project began, tests showed that 36 percent of entering first graders at Wadsworth Elementary School were not ready to read. By 1969, only 5.4 percent were not prepared to learn how to read. This contrasts with a city-wide average of 13 percent not ready.

These results are most heartening. They show that community action and local schools can help to offset the environmental handicaps that retard the development of reading skills.

Of course, this experiment would have

never taken place without adequate funding. Neither should the results lead us to conclude that our cities do not need thorough rehabilitation.

I commend those responsible for these encouraging results and urge my colleagues to weigh their importance for Congress responsibility for public education.

METROBANK WOULD PROVIDE LOW INTEREST CREDIT FOR COMMUNITIES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. FRASER. Mr. Speaker, the bill H.R. 16448, contains several excellent ideas for making credit more available for municipalities now caught in a tight, expensive municipal bond market.

Because the ideas in this bill were actually developed by Hubert H. Humphrey during his term as Vice President, I am placing in the RECORD a very valuable address Mr. Humphrey gave before the Minnesota League of Municipalities last June:

REMARKS OF THE HONORABLE HUBERT H. HUMPHREY, MINNESOTA LEAGUE OF MUNICIPALITIES, JUNE 19, 1969

Today we are part of a massive, concentrated society. Seventy percent of the U.S. population lives in metropolitan areas. Indeed, one out of five people lives within the limits of cities with a population of over one million.

We hope to land a man on the moon within a month. We are deciphering the innermost secrets of the human cell. We have created enormous energy from minute nuclear reactors. The science of communication—telephone, radio and television and radar and computers—has made commonplace occurrences which my father—and your father—would have regarded as supernatural.

We have an industrial economy which this year will record a gross national product of one trillion dollars. Only eight years ago we somehow existed with a GNP of only 500 billion dollars.

Can we keep pace with these changes? Can we preserve the dignity of the individual?

Can our educational institutions transmit an ever-increasing body of knowledge?

Can our religious institutions become a force for justice in a changed world which complicates spiritual and moral concepts?

Can our labor and business institutions change so that management techniques and technology are the benevolent servants of man, rather than their malevolent masters?

Can our financial institutions find new ways of allocating credit other than by increasing interest rates?

Can our law enforcement institutions, now costly and slow-moving change so that swift justice is available to all?

These are the questions which concern an ever-broadening cross-section of the American people—and these are the questions which concern persons—like yourselves—who are charged with making our municipalities true communities of *people,* living rewarding and satisfying lives.

Change is inevitable. Change creates crisis only when our response is inflexible and rigid. Today I want to propose two specific programs which I believe will provide a much needed flexibility and adaptability to our basic economic, political, and social institutions—those established structures which in large measure must decide the kind of local communities we are able to build in the final third of the 20th century.

My first proposal is for each state government to create and establish a new department or office for Community Development. The title and the purpose of the department should reflect the development of urban centers. Therefore, it could be called a Department of Urban Development or preferably a Department of Community Development. This new department in state government should be the equivalent of the state level, to the Department of Housing and Urban Development at the national level. The Department of Community Development should be authorized to coordinate and activate all housing and urban development programs, particularly those from the federal level which require state participation. This new department should have its own Community Development program and budget designed to assist and stimulate local activity. It must engage in broad research pertaining to urban needs such as community planning, economic development, the proper use of land and such areas as zoning, building codes and all social services. Urban research must not be the special prerogative of the federal government. We desperately need the input—the ideas the long-range proposals—of local and state government. This new department should be strengthened by the creation of a broadly representative advisory committee on urban and community development. This advisory committee to include representatives of local government, business, labor, the academic community, social services, financial institutions and other community leaders. Active participation by state government in urban development is essential if there is to be any hope for our cities. State governments must recognize that we are essentially an urban, industrialized nation with a highly mobile population.

But emphasis on development of urban America and new cities does not mean less attention to rural America. It means above all making rural America a more inviting place to live—making rural America modern, forward looking and attractive to its children. After all, when we talk of cities, we talk of people and new cities will have to find their location in rural America.

The second proposal outlines a new approach to amassing the credit cities need to supply basic community facilities for the coming years.

Even if our population remains stable—and it certainly will not—the amount of capital needed to clean our air and water—to build schools and hospitals—to improve law enforcement and justice is truly staggering. But this country is *not* standing still—we will have to provide for an additional 27 million people in the next 6 years.

A conservative estimate of the cost of replacing obsolete facilities, reducing backlogs, and meeting needs of an expanding population by 1975 is $625 billion.

Between now and the turn of the century, the Institute of Public Administration estimates that *$6 trillion* will have to be raised just for housing and community facilities.

In the past, current tax revenues supplied about ½ the cost of community facilities. For the other half, states and cities issued bonds—a well-established method of obtaining credit and one which should be preserved.

But we must realize that this magnitude of borrowing will likely force interest rates beyond the point which many municipalities can pay. In addition, procedures for issuing bonds are cumbersome, expensive, and time consuming.

Many municipalities will find it difficult—if not impossible—to raise the needed money. Moreover, a bond resolution creates rigid patterns of obligations which can be changed only at great cost to the municipality.

In order to lessen these burdens, I have proposed that the U.S. Congress establish a National Metropolitan Development Bank, and I have been developing legislation which I hope Senator Mondale will introduce.

The Metro Bank—as I call it—would provide an alternative source of low-interest credit for communities. It would raise money in investment markets throughout the nation from all groups of investors. Of greater significance to local governments, it would relieve the pressure on bond markets so that communities could pay less for money whether they borrow from the Metro Bank or whether they issue municipal bonds.

The Metro Bank would sell federally guaranteed bonds and debentures on the national investment market, and then lend to local governments at rates of interest 30–50% below the rates of the federally guaranteed bonds. The range of interest rates insures that local governments would not pay more to borrow from the Bank than they would to issue tax exempt bonds.

The Federal government would make up the difference by an annual appropriation. Because the federal bonds are taxable, however, this could not constitute a net cost to the government.

The Bank would be authorized to make long term—40 to 60 years—low interest loans for building basic community facilities. It would also make "soft" loans for up to 20 years to promote economic development in those areas where an increase in investment would be in the national interest. Such a determination would be made by the Council of Economic Advisors, with the advice of counsel of the various Federal departments with responsibilities for urban and economic development.

The Metro Bank would be chartered by act of Congress, but it would not be a Federal agency. It would work closely with the Federal government and appropriate Federal departments and agencies would be represented on the Board of Directors.

I propose the Bank be capitalized at $6 billion—½ to be borrowed from the U.S. Treasury over a 10 year period, and the other $3 billion by the sale of commercial stock. Each user would be required to purchase a portion of this stock based on the number of persons within its jurisdiction.

The Metro Bank would not only provide a wholly new alternative source of money for local governments, but it would also enable the Federal government to utilize flexible approaches in aiding the construction of essential community facilities.

The third proposal I want to discuss today involves a broader view of the future of our cities—how and where our people will live, work, learn, and play—30 years from today.

I believe we must find a way to build brand new cities. Whether they are located on the fringes of today's suburbs, on the sites of existing small towns, or on wide open spaces, we need no less than 100 *new* cities flourishing by the year 2000. Population increases alone could make necessary 20 new cities of one million population.

New cities provide an alternative to both excessive concentrations—up to 140,000 persons per square mile in New York's Harlem—and excessive sparseness found in areas of suburban and rural sprawl.

In new cities we have the opportunity to avoid the mistakes of unplanned cities—to eliminate parking on the street, on-street loading and highway clutter. We can begin with new communications, using tunnel economics for the delivery of essential services, utilities and goods, and we can plan open spaces and pedestrian pathways.

Can our social and political institutions meet the new challenge?

We already possess the technical knowledge for building such cities. We have the management tools and skills—computers, cost-benefit analysis.

We have an understanding of the economic

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forces which must serve as a basis for a new city. The most vital task in building a new city is the creation of an industrial and employment base.

We know some of the social problems we want to avoid, and to a certain extent, we know how to avoid them.

What we lack is a public policy—a framework in which all our knowledge can be put to use. City planners, architects, sociologists, financiers, public officials and bureaucrats have produced considerable insight and knowledge about what to do—now we must generate the popular support and the governmental structures to carry out these plans.

I propose that a joint committee be created in the United States Congress charged with the responsibility of

defining the fundamental social, economic, demographic, and ecological objectives to help guide the growth of new cities;

deciding how many new cities we need and where they can be located;

designing the public development corporations that would be necessary to establish and manage the new cities until local governments are elected.

A word about the corporations themselves. First, it is absolutely essential that they be formed jointly by states and the Federal government. It is the state, and only the state, which can delegate the legal power of local self government. On the other hand, the national interest in the success of the city is so great that the corporations must reflect national developmental goals.

Second, the corporation must have available the planning skills and management skills necessary for such a complex undertaking. And the corporation should have the power of eminent domain to procure adequate land area.

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But the work of our political institutions is not fulfilled solely by the activities of the Joint Congressional Committee. As I stressed earlier, the task of creating an economically viable city is essential. While much of this task can be accomplished by imaginative recruiting and promotion, or by inexpensive or free land, other incentives will be required. The Federal and the state governments can help provide these incentives.

This issue is not whether the Federal government should try to influence local development; the issue is whether the influence which the Federal government already exercises will be haphazard or directed by fundamental national goals for urban development.

The government is a major buyer. Its defense procurement practices have literally created Los Angeles.

The Congress must define national goals of development and then it must assure that practices of the Federal government contribute to those goals.

The placement of government facilities has a profound effect on local community life. The government is a major employer. The location of a defense installation, a new university, even a government office complex can mean new economic life for a community. Federal financial incentives such as tax, loan, or direct payment arrangements can foster growth in new cities. Placement of Federal procurement contracts and construction projects can provide jobs.

Federal policies such as resettlement allowances, on-the-job training allowances, and job placement, can neutralize the factors producing excessive population concentration.

These will be cities to protect and foster man's natural inclination toward community. The physical design of these cities can relieve the pressures of urban living pressures which too frequently result in the breakdown of the family. Families in our new cities can prosper, can develop a viable, modern form of this most natural and basic unit of human organization.

These cities can also relieve the pressures confounding our old cities. They can provide a moment of relief, a pause in their constant struggle against the intertwined problems of urban life.

In order to do the things which I have been talking with you about, we need a willing electorate—a clear political decision by the American people to get the job done.

We also need creative and decisive leadership from mayors, governors, and particularly from the President of the United States.

Because the task is so complicated, because the problems are so vast, our people must be inspired to act. Only qualities of real greatness can inspire our people to greatness.

DRUGS, THE DISTRICT, AND CRIME

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 3, 1970

Mr. PEPPER. Mr. Speaker, the Select Committee on Crime, of which I am privileged to be chairman, held 3½ days of hearings in Metropolitan Washington communities February 25–28.

On the opening day, at the Abraham Lincoln School located at 16th and Irving Streets in Northwest Washington, the committee took testimony from 15 witnesses including victims of crime, police officers, ex-offenders, and private citizens who have taken leadership roles in the effort to prevent and control crime in the Washington community.

While all the testimony of our hearings will appear in printed form and be available to the Members of the House, I should like to insert in the CONGRESSIONAL RECORD a portion of the remarks made by two of our witnesses concerning drug addiction and abuse.

Both of these witnesses are former addicts. Both are now devoting themselves to the prevention of addiction among young people. Their remarks—concerning the best way to communicate with young people and to spare them from the desolate life of the criminal and the drug addict—may offer all of us new insight into these grave problems.

One, Mr. Laurence M. Helton, is the director of Project Progress, a group of ex-offenders who were formed after the serious Washington disturbance of 1968. Since then, Project Progress has established itself as an effective instrument in guiding young Washingtonians along constructive paths, away from those roads that lead to crime and to prison.

The other, Mr. Steve Matthews, is also a member of Project Progress, one who is particularly knowledgeable about the factors contributing to the growing menace of drug addiction.

At one point in our hearings I put this question to these two witnesses:

Gentlemen, one of the subjects this Committee is most interested in is the matter of youth crimes and drugs and narcotics in relationship to youth particularly. Now you gentlemen have had experience in these two areas. We are charged with the duty of trying to find out the facts in respect to these matters and making recommendations to the House of Representatives.

Out of your experience, I will ask each one of you, what Federal legislation or policy would you suggest that we recommend to the House of Representatives that would be most helpful in keeping young people from committing crime and in correcting them if they do commit crimes, and in helping young people to stay off drugs, or, if they do get on drugs and narcotics, to help get them off them?

Here, then, is the testimony that question brought forth:

Mr. HELTON. First I think we are talking about a problem that has existed for a long, long time, and one for which we have never made anything available. By "we" I mean the whole system; I consider myself a part of the system at this particular time. There is nothing now available. There has to be an alternative, a hope for young people who don't have it.

Steve has told you about it. You just don't have it. A young man sees too many things going on around him that draw him to them rather than doing what is considered right in this society.

There have to be funds and programs available for young people where young people can become involved from the beginning of the program so that they can say: This belongs to me; I am a part of this. And you do that first by listening to young people to find out what they are really saying to you.

Then as adults, the people who are in policy-making positions do something about those things. Don't say that the young people are talking off the top of their heads. Before you can talk about prevention of crime, prevention of drug abuse, you have to understand these young people. First of all, I guess I'll give you a hypothetical thing. Just block all the boats and ships and airplanes that come into this country for a week, and you'll solve the drug problem. But, it has to be a community thing. There has to be a community thing to deal with this whole problem. There has to be some things available to the community.

I know that you men from the Congress, when you were young boys, there were certain things that you would do and certain things you would not do because you knew that that was the way these things were done by the whole community. Not just your parents, but the whole community was looking at you. There has to be a team effort of everybody in the community, professionals and nonprofessional people coming together, dealing with the whole problem as it exists there in the communities. Because there is a difference in every community. You have to make some type of funds available to community oriented groups so that they can deal with particular segment of the community.

If you took any trip into Washington, D.C., there's a difference in every community. Every community has a different environment. You have to let the community be involved in all the policy-making decisions that influence their lives. They, in turn, would be the controlling factor in the community. You can bring in all the police dogs and all the policemen you want to bring into the community; if there's no pride or dignity in this community, there will be crime in the community, as you have now.

You see, people in the community know what crimes are being committed and who commits the crime. But there has to be a vehicle in the community for the community to deal with these individuals, and we say again, not a vigilante. Not vigilante groups in the community, a pride in the community that makes the individual understand that he just doesn't do these things anymore. That there is something available for him; an alternative for him; the person that's committing the crime, the person that's on drugs, another alternative. That there are people to help him, and people, his own peers, professional, nonprofessional people are there to make things available for him. That's what we are trying to do with our program.

The reason we are having trouble is because there are no funds, they say, for this type of thing, and we're going to be out of business, I think, at the end of June. But there has to be a vehicle in the community that belongs to the community, and that everyone in the community understands. This is part of the community. This is our thing. That would be my recommendation.

Mr. PEPPER. Thank you very much, Mr. Helton.

Mr. Matthews, let us have your advice.

Mr. MATTHEWS. Well, first I would like to start on the crime thing about younger kids. When you go into that, first of all I'd like you to realize that some people are just going to do wrong regardless. And as far as the drugs go, it's a two-faced thing in crime. Like crimes of violence, as far as addicts are concerned, you may as well forget that. Most of that isn't by addicts. There are other reasons for that. That's an altogether different problem.

Now so far as your shoplifting, housebreaking and crimes of this nature, the majority of that is probably drug-related. And in answer to stopping the flow of drugs so far as to prevention, it has to be done through a realistic education standpoint. I mean, like you have to put someone before the students who can relate to the students; someone they can relate to.

When you put a doctor who hasn't been to college in 20 years, maybe, and has read 75,000 books and never lived the life any of these kids have lived, there's nothing in this doctor that they can relate to. He is alienated to a degree right there. And we have a program where we go into schools, I personally, and only two more people. This is all the funds that they could find for us to go into every school in the District from elementary to high school, but yet when we speak to those kids, the response—I mean, you know—it's amazing. The questions that they ask and their opinions that we break down and use to show them the realistic viewpoint, you can practically see them changing their attitudes. We get letters in our office from students, not only teachers, but from students saying things of this nature.

Yet, when I was in school, when they were using doctors, psychiatrists and people of this kind, giving me a lot of long terminology, things I could have read in a book, it just didn't reach me. So I say you have to recognize the paraprofessional.

You know, there are people who have been involved in these things who would gladly, who can tell a youngster far more about a drug and give him far more logical reasons why not to go on a drug than a doctor can. I've heard doctor after doctor describe what life is like on drugs. But, if you hear a former addict describe it to you, if he describes one part of it, even just a cold turkey, one withdrawal, it will stop you from using drugs. As far as the penalties and things are concerned, I say that our laws are too strict on things like first offenders.

And that new no-knock law they have, as far as I can see, that is a way of just appeasing. You know, just like saying to the public, look, we are doing something. I believe all of you ought to know that that no-knock law is not solving any drug problem, because the only doors getting kicked down are the ones right here in the inner-city. And there's no one, but no one, in this inner-city who has the money or pull or power to bring these drugs in or to really wholesale supplies.

So, therefore, when you kick his door in, and you take these drugs, you are stopping part of the problem, but you are only delaying. The right doors aren't kicked in. If they were kicked in, a whole lot of this drug traffic would be stopped. Like a lot of our drugs are brought in by people who have diplomatic immunity, people who maybe they wouldn't dare stop and try to prosecute.

This is where a lot of our drugs come in. A lot of our drugs come in by big money people. I mean there's no way—if you give me $400,000, if you give me a million dollars—there's no way that I could get a drug into this country. It would be hard for me to get a drug from California over to the District with no connections, you know. It takes a rich man to do it. He's not going to get scratched. As long as he's not getting scratched, you are not going to solve the problem.

Mr. PEPPER. What is the economic status of the boys that drop out? Are they poor or are they from middle-class homes?

Mr. HELTON. No economic standing; it's just a man that does not have any ray of hope. They're helpless.

Mr. PEPPER. You mean they could come from all financial groups?

Mr. HELTON. All walks of life.

Mr. PEPPER. Any other questions?

Mr. MATTHEWS. There is one other thing I would like to say to you. You all give these grants to various programs in the city. Lexington, Kentucky is another Government program. And as far as I'm concerned, seriously, about being an addict, that's actually a farce. I would be ashamed to say I was part of the Government that funded something like Lexington, Kentucky, or I would be ashamed to say I was part of the District of Columbia that set up St. Elizabeths. I mean when is the day going to come that you all realize that in order to cure an addict, first of all no doctor, no one can do what he has to do to himself.

Something that's worth more to him than shooting drugs. He himself will know that he cannot accomplish anything using drugs. With paraprofessionals and doctors working together we can cure an addict far faster than anything before. When you keep splitting like it is now when the paraprofessional is ignored by the doctor or vice-versa, you will never get anywhere with it, and that's exactly what they are doing in Lexington and St. Elizabeths because I have been in a lot of those institutions. And all I have to do is lay there on the couch and find out which way that doctor wants me to go, what he wants me to say, and I can say it and smile, and in six months or 30 days, I'll be back out in the street, with the same habit. Psychologically, they haven't done anything about it, and that's the worst part.

Mr. PEPPER. Well, gentlemen, you have both been very helpful to us. We thank you very much, and we commend you upon wanting to help your fellow man, and we hope that spirit will actually benefit more people and help us solve some of these problems.

Mr. HELTON. Let's hope so.

Mr. PEPPER. Thank you very much, Mr. Helton. Thank you, Mr. Matthews.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

"RACIST"—A COMMUNIST-COINED TRIGGER WORD

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 13, 1970

Mr. RARICK. Mr. Speaker, a typical high-powered subliminal thought-control process is well under way in our country. Through the transmission chain of the mass media there is running from the propaganda and psychological warfare experts to the unsuspecting American people the ringing repetition of the word "racist."

Americans should understand that this word is a weapon of the enemy. It is a Communist-coined trigger word. It is repeated and repeated—again and again—always in a bad context. Unsuspecting listeners, just like Pavlov's dogs, develop a conditioned reflex to the sight or sound of the word. And just as the dogs' saliva flowed when Pavlov rang the bell—so will conditioned Americans react with disfavor when they hear the word "racist."

The difference between a conditioned reflex and the use of a free mind is quite simple. Among free men it is just as right and natural to notice the differences—good and bad—between the races of men as it is to recognize the distinction between the sexes, the various flowers, and the different breeds of pedigreed dogs.

If it is necessary for Communists to convince every American each time that it is bad, wrong, sinful, or immoral to notice obvious truths of nature, the Communist brainwashing cannot succeed. But Pavlov's technique has been proven terribly effective.

By constantly repeating the Communist-coined trigger word "racist" in a bad context, the innocent listeners and readers subconsciously associate the word with the Communist-desired reaction—scorn, disdain, repulsion, hate, and untruth.

This is the desired psychological function of a trigger word. Once established, it is never necessary to explain, justify, or prove an accusation, no matter how fantastic. All that is required is the use of the trigger word and the conditioned mind immediately reacts as it has been trained to do.

The truth and the facts are unimportant. When something or someone is labeled racist, the whole burden of proof is neatly shifted to the accused.

An outstanding example of the operation of the Pavlovian technique is the connection between the Russian Communist reaction to the Watts riots 5 years ago, and the current rabble-rousing of Communist mouthpiece Kunstler.

In 1965, Columnist John Chamberlain warned us of a Soviet intention to exploit this technique by associating America's racial problems with Nazi Germany, and by identifying white Americans with the bad image already established of Hitler and his master race philosophy.

Two weeks ago Kunstler was ranting to a California audience about "the swastika on every courthouse, on universities, on Government buildings and even on the apartment next door." The conditioned reflex worked perfectly—his audience burned a bank right on cue.

The infamous Kerner Commission conveniently blamed Negro misconduct, riots, arson, and other violence on "white racist America" without making any effort to establish a connection between the two. The trigger word is supposed to perform that job, so reason is surplusage.

Now, the Civil Rights Commission, under a wildly liberal interpretation of its "clearinghouse" role, has published at taxpayers' expense a slick propaganda document accusing most American whites of being "racist," even if they protest their pseudo-intellectual purity. This attack on the American people was promptly followed by a byline article in the local press to further the gains made by the left in the use of the trigger word "racist" by the Government itself, which is now in the domestic propaganda business using the Communist technique.

Yesterday, I had occasion to speak at length on the true facts of the obvious double standard applied by our Government under three Presidents to our relationships with the nations of Africa. Since the truth is not complimentary to some of those so-called nations, I should be surprised if a response were not made by their friends. Since the nauseating facts cannot be denied, ignored, or otherwise disposed of in honest debate, I do not expect that we shall learn anything new.

I anticipate being called a "racist"—which is the routine Communist slide-off to dodge the issue and is the standard defensive use of this Communist-coined trigger word.

I insert several related news clippings to be included in my remarks.

[From the Baton Rouge (La.) State Times, Sept. 3, 1965]

Soviets Going All Out To Portray Americans as Heirs to Hitler Master Race Philosophy

(By John Chamberlain)

The Communists have never had anything more than the most cynical interest in the American Negro. A generation ago the American Communist party was preaching "self-determination for the Black Belt"—meaning a sort of apartheid in reverse for the states of the deep South.

This was completely out of tune with American possibilities, but it made good overseas propaganda. Lately the Communists have shifted to support integration. But, for reasons best known to themselves, the Russian Communists have not made anything more than a sporadic international issue of American race relations.

Now, however, they appear to be going all out to portray Americans as cold-blooded heirs to the Hitler master race philosophy. In its issue of Aug. 21 Pravda, the mouthpiece of the Russian Communist party, printed a long open letter addressed to President Johnson accusing Americans of a cold-blooded execution of the civilian population in Los Angeles.

The letter was signed by some 30 Russian intellectuals including scientists, composers, and writers. These intellectuals professed to being shaken to the depths by the "monstrous butchery" in Los Angeles. How, so they asked of President Johnson, could the America that had given Jefferson, Longfellow, Lincoln, and Edison to the world be guilty of such a thing?

With "no end" to the rule of the nightstick and the machine gun in sight, how could Johnson go on speaking of a Great Society? The final clincher was the intellectuals' statement that the Los Angeles blood bath cannot but be related to the barbarous acts of American soldiers in Viet Nam and the Dominican Republic.

And there you have it: The Russian Communists have decided to risk the hypocrisy of calling American racists simply because of foreign policy necessities.

The whole thing could be made to backfire if only our own propaganda agencies would get on the ball. For the Soviet Communists are the last people in the world who can afford to throw stones in the glass house constructed by their own record in race suppression. The erasure of Russian Jewry, begun by Stalin, continued unabated under Khrushchev and still goes on.

The Balts of Latvia, Lithuania, and Estonia have been shifted about with an eye to their liquidation as an ethnic group. The Katyn Massacre of World War II days took care of the flower of the Polish Army. The Volga Germans are no more.

As for the colored races, Victor Lasky's recent book, "The Ugly Russian," is packed with instances of Communist animosity toward African Negroes and Laotian and Burmese Asiatics. Moreover, Africans who have gone to Moscow to study have returned home to complain about discriminatory treatment at "Apartheid University."

It so happened that publication of the intellectuals' letter in Pravda coincided with the issue in the United States of Varlery Tarsis's "Ward Seven." This is the book written by a Russian who was consigned to an insane asylum because he had questioned the legitimacy of the Soviet regime.

The insane asylum was Khrushchev's substitute for Siberia; it enabled Nikita to pretend that there were no more concentration camps for intellectual dissidents. This column wrote about Tarsis's incarceration at the time; it is glad to salute his book now.

Tarsis's book offers a transvaluation of the Communists' own idea about Russia. To Tarsis, the inhabitants of the asylum are the sane ones. Those who maintain the power structure of the Kremlin, far from being concerned with the future of humanity, are mere killers. They are a gang of "apes," the builders of a "Sino-Soviet fascism."

No doubt the Soviet intellectuals who signed the letter in Pravda would publicly agree with the Kremlin that Tarsis was a fit candidate for a mental hospital. But anything that appears in the official Communist party newspaper is obviously manipulated by the party itself.

Tarsis had smuggled his book out of Russia to get it printed. By comparison, intellectuals in America are as free as birds; witness the unimpeded publication of books describing the assassination of John F. Kennedy as a Rightist plot.

[From the Atlanta Journal, Feb. 26, 1970]

Protesters' Fire Guts Bank Near Santa Barbara Campus

Santa Barbara, Calif.—Rampaging demonstrators burned a Bank of America branch to a skeleton early Thursday while outnumbered police and firemen watched helplessly.

The California highway patrol declared a state of emergency and sealed off the Isla Vista district near the campus of the University of California at Santa Barbara.

Sheriff James W. Webster described the situation as "completely out of hand" and asked Gov. Ronald Reagan for 500 National Guardsmen.

The young people numbering about 1,000 apparently were protesting both the Vietnam war and what a student spokesman called "increasing police repression aimed at stifling political dissent in Santa Barbara and around the country."

The outbreak of fires and window smashing followed a campus speech by William Kunstler, a defense attorney in the Chicago riot trial.

A deputy sheriff said scores of deputies and policemen from other California counties and cities were enroute to Santa Barbara to augment a force of 80 local officers and 150 highway patrolmen.

Firemen were ordered to stay away from the bank blaze for fear demonstrators might attack them.

"We went to the fire but the sheriff's men lined across the street wouldn't let us by," said Fire Capt. Clarence Saletti. "They feared for our lives because of the demonstrators."

Young people with fire extinguishers quickly doused a small fire demonstrators had set in the bank Wednesday evening. But sheriff's deputies said another fire was touched off shortly before midnight.

Deputies said they did not know who set the fires but that those who extinguished the first blaze were "student volunteers."

Douglas Trueblood, 20, a nonstudent, told a newsman that the branch of the nation's largest commercial bank was fired because "it holds the money for the war in Vietnam."

A solid phalanx of officers, helmeted and wielding night sticks, moved through a major disturbance center, Perfect Park, clearing demonstrators from their path.

The retreating protesters pelted the oncoming officers with rocks and taunted them with shouts of "Piggy! Piggy! Piggy" as they darted away.

Student unrest, including window-breaking, developed Tuesday in advance of a scheduled on-campus lecture by William Kunstler, a defense attorney in the Chicago riot trial.

When Kunstler's lecture ended Wednesday, about 500 of the audience wandered from the campus area to an Isla Vista vacant lot.

Members of the crowd began pelting passing police cars with rocks and bottles and breaking store windows on the main street, Embarcadero del Mar.

Shifting a block to a parallel street, demonstrators set fire to the Bank of America branch where $3,000 worth of windows had been smashed Tuesday night.

Helmeted officers brandishing riot clubs moved two abreast from both ends of the street but retreated under a barrage of rocks and bottles.

Smashing auto windows along the way, the crowd ranged back to the Embarcadero where a police patrol car was overturned and set ablaze.

A spokesman for the Associated Students Lecture Committee which sponsored Kunstler's appearance, said the disturbance was "merely a consequence of the increasing police repression aimed at stifling political dissent in Santa Barbara and around the country."

Kunstler told some 5,000 persons attending the lecture at the football stadium that "the real violence doesn't occur in Santa Barbara."

"The real violence," he said, "occurs in the backrooms of police stations.

"I think the shadow of the swastika is on every courthouse, on universities, on government buildings, maybe even on the apartment door next to you."

He was accompanied by Nancy Rubin, wife of Chicago riot trial defendant Jerry Rubin.

"When there's no justice in the courtroom," Mrs. Rubin told the crowd, "we'll have to take the justice to the streets."

Four persons were arrested Tuesday night after a sheriff's deputy was roughed up and his patrol car damaged. A crowd of about 350 then milled through the Isla Vista area, setting numerous small fires and breaking store windows.

[From the Washington (D.C.) Evening Star, Mar. 9, 1970]

Most Whites are Racist, Rights Panel Essay Says

(By Duncan Spencer)

Almost every white American is a racist—whether or not he thinks, knows, or does anything about U.S. racial problems—according to an essay released by the U.S. Commission on Civil Rights today.

In the 50-page pamphlet, written by an economist who was a consultant to the Kerner Commission, a new definition of the explosive term is attempted. Under the definition, practically every institution of government and industry here is part of a "system" that discriminates against non-whites.

Attached to the essay are the comments of five commission members, two of whom, vice chairman Stephen Horn, and member Robert S. Rankin, enter strong objections to some of the essay's methods and conclusions. The commission approved the essay as a whole, however, as a "catalyst" for producing national debate on the issue.

The author is Dr. Anthony Downs, senior vice president of the Real Estate Research Corp., and a consultant to the Rand Corp., the Urban Institute, the Brookings Institution, the Ford Foundation, and a number of federal agencies.

All whites, he says, have contributed to a system that "constantly produces racist effects from actions which are usually not overtly racist in either content or intention."

He says he was concerned, after publication of the Kerner report, which examined the causes of the 1967 riots and blamed white attitudes, that many whites were enraged at being labeled racists even though they had little opportunity to practice it.

He makes his new definition of the term "any attitude, action or institutional structure which subordinates a person or group because of his or their color."

Downs is quick to differentiate racism from racial pride. Thus, he argues, the black power, black awareness, and other minority solidarity movements are racist "only when these reactions involve some sort of subordination."

Downs outlines two main objectives to combat racism: First, to change the behavior of whites so they will no longer consciously or unconsciously support racism, and second, to increase the capabilities of non-white groups so they can overcome the handicaps racism imposes.

He proposes nine basic strategies, including the following:

Build up the capabilities of minority group members through political support and support for concepts such as black power and black nationalism to give minorities greater bargaining power.

Develop legislation to make it the self-interest of whites to support minority aims.

Develop alliances of non-whites and whites to obtain common goals in place of the separate efforts which are now the norm.

Open up "many more" opportunities for minority group members in business, housing, schools and personal daily life.

OEO MOVES TOWARD INCREASED STATE INVOLVEMENT IN ANTI-POVERTY ACTIVITIES

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, when the Director of the Office of Economic Opportunity, Donald Rumsfeld, appeared before the Education and Labor Committee last June to testify on proposed amendments to the Economic Opportunity Act, he stated his concern with bringing the States "into a more meaningful and active role" and concluded that "we can find new and better ways to involve the States in dealing with the problems of poverty."

I would like to include as part of my remarks at this point a recent press release outlining the many positive steps which have been taken by OEO to bring about closer cooperation and better communication with the States.

The press release follows:

Donald Rumsfeld, Director of the Office of Economic Opportunity, announced today that during recent months, the Office of Economic Opportunity has undertaken a major revamping of its approach to the involvement of state and local governments in poverty activities. The positive actions that have been taken in this area reflect the implementation of Mr. Rumsfeld's statement before the State Economic Opportunity Directors' Conference in September 1969, in which he pledged "I have decided to take steps to strengthen the state contribution to the poverty program."

Among the steps that have been taken with regard to closer cooperation and better communication with the states are:

Establishment of a new Division of State and Local Government under the Assistant Director for Operations, who is also responsible for regional offices and community action agencies.

New guidelines describing a greater involvement for the State Economic Opportunity Offices (SEOOs) are being issued this week.

Provision has been made to increase the amount of funds available for SEOOs in Fiscal Years 1970 and 1971.

The State Special Technical Assistance Program (STAP) is being expanded by eleven states to a total of fourteen. The Council of State Governments has received an OEO grant to support this program with technical assistance. The State/STAP program is designed to strengthen community action agencies and single-purpose grantees through the provision of long-term, on-site technical assistance for rural communities. The three states already involved in this program are: Tennessee, Colorado and Oklahoma. Maine, West Virginia, South Carolina, Minnesota, Arkansas, Louisiana, Nebraska, North Dakota, California, Alaska and Florida are expected to receive State/STAP grants in about a month.

A planning development program for the State Economic Opportunity Offices which now includes thirteen states is being expanded to five additional states. The states which have been involved in this activity during the past year are: Maine, New York, Alabama, North Carolina, Ohio, Wisconsin, Arkansas, Iowa, Nebraska, Colorado, Hawaii, Minnesota and Washington. South Carolina, Kentucky and three other states should be receiving funds for this program shortly.

Action is being taken to re-establish the State Economic Opportunity Office in Indiana and to establish SEOO-type offices in Puerto Rico and the District of Columbia.

OEO is working with the President's Council on Youth Opportunity to provide funds for state youth program coordinators in a number of states.

Mr. Rumsfeld also announced that a series of demonstration grants will be made to a number of states that have indicated an interest in working with OEO to test out new ways to increase state government involvement in programs operating under the Economic Opporunity Act.

Mr. Rumsfeld indicated that it is expected that the first demonstration grant in this series will be awarded to the State of Oklahoma. The grant would provide for experimentation with performance by the State of a variety of grant administration functions for community action agencies.

Under the terms of this grant, the State would assume responsibility for some functions that have previously been performed by Federal employees on the staff of OEO's Regional Office in Austin, Texas. The State and the Regional Office would work closely at every step of the way during the duration of the grant to ensure close coordination and to provide for evaluation of the effectiveness of this new experimental approach.

The Oklahoma demonstration grant is expected to encompass a two-year period and would require the state to focus greater state resources on the problems of the poor as a result of this expanded state role in the form of dedication of state monies to the project and ensuring greater involvement of other state agencies in anti-poverty activities. It is the intent of OEO that this demonstration result in the mobilization for the poor of additional state government program resources while, at the same time, serving the immediate needs of the grantees in the state.

The Office of Economic Opportunity will be negotiating other types of demonstration proposals with additional states that have indicated their interest in particular activities. These proposals will be directed at testing different techniques and levels of state government involvement in a variety of areas of poverty research, planning, training, technical assistance and grant administration.

It is anticipated that some of these additional demonstration grants will be approved by June 30, 1970.

EUGENE R. BLACK, DISTINGUISHED LEADER FOR PROGRESS IN DEVELOPING NATIONS

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 10, 1970

Mr. PATMAN. Mr. Speaker, international development banks are, in my opinion, the most effective institutions now contributing to economic progress in developing nations, and one of the men most directly responsible for making these multilateral self-help programs a success is Eugene R. Black. As past president of both the World Bank and the International Bank for Reconstruction and Economic Development, he has helped to shape these institutions which have done so much to give new hope to developing countries and to alleviate the deprivation and suffering of their citizens. The Asian Development Bank, which Eugene Black was instrumental in helping to establish, promises to be another effective implement for economic progress in developing nations.

His outstanding ability as a banker, his solid judgment, and his deep knowledge of and commitment to the solution of problems encountered by developing nations have made the concept of the multinational development bank a truly effective force for improving the conditions of life for millions of people. His constructive and enlightened counsel to President Johnson with respect to economic development in Southeast Asia is especially noteworthy, and the success already achieved there holds out fresh hope for peace and stability in that troubled part of the world.

Mr. Speaker, Eugene Black has done as much if not more than any man to show us how best to help developing countries. He deserves the thanks of all Americans and of all nations, and I only hope that we will continue to have the benefit of his spirited and responsible leadership in this new and promising form of international economic cooperation for progress.

HOUSE OF REPRESENTATIVES—*Monday, March 16, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Be of good courage and He shall strengthen your heart, all ye that hope in the Lord.—Psalm 31: 24.

O gracious Father of mankind, our spirits' unseen friend, to Thee our prayer ascends at the beginning of another week. Help us to live through these troubled times with faith and hope and love. Let not our strength fail, nor our vision fade, nor our trust in Thee falter in the heat and burden of the day. Make us patient with one another and understanding, remembering that each one faces demanding duties and each one walks a lonely road.

Sustain us, O God, as we endeavor to do our duty, to seek the best for our country, and to lead our people in right and good paths. Day by day, whatever befalls us, may we hold Thy hand, look up to Thy face, and endeavor to walk with Thee until our work is done and our day comes to a close. In Thy name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, March 12, 1970, was read and approved.

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MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4249. An act to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 495. An act for the relief of Marie-Louise (Mary Louise) Pierce.

The message also announced that the Vice President, pursuant to Public Law 301, 78th Congress appointed Mr. Cranston to be a member of the Board of Visitors to the U.S. Merchant Marine Academy.

The Vice President announced the appointment by the chairman of the Committee on Commerce, pursuant to the above-cited law, of Mr. Hollings and Mr. Goodell as members of the same Board of Visitors.

The message also announced that the Vice President, pursuant to Public Law 207, 81st Congress, appointed Mr. Dodd to be a member of the Board of Visitors to the U.S. Coast Guard Academy.

The Vice President announced the appointment by the chairman of the Committee on Commerce, pursuant to the above-cited law, of Mr. Long and Mr. Prouty as members of the same Board of Visitors.

INDEPENDENT LITHUANIA

(Mr. ADAIR asked and was given permission to address the House for 1 minute, to revise and extend his remarks and included extraneous matter.)

Mr. ADAIR. Mr. Speaker, in these days of multitudinous and crucial issues there are events of the past that merit our recognition. One month ago today, America, together with the Lithuanian-American community remembered the historic event of the 52d anniversary of the independence of Lithuania, and it is hoped that our pressing legislation schedules will not make the date of February 16, 1918, as one to be remembered only on its anniversary month and then to be forgotten about the following day, or even the following month. The Lithuanian patriots should be remembered and I have spoken on former occasions on the floor of the House on this matter and I again urge the leaders of the Kremlin to reexamine their deeds and consider the millions of freedom-loving people now captive in the Soviet Empire.

Indiana Hoosiers are cognizant of the American Lithuanians who have made significant contributions to the progress and growth of Indiana, and in every State in this Union, who have aided our Government in fighting Communist expansion.

PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs may sit during general debate today.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION, COMMITTEE ON MERCHANT MARINE AND FISHERIES, TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Fisheries and Wildlife Conservation of the Committee on Merchant Marine and Fisheries be permitted to sit during general debate today.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON BANKING AND CURRENCY TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Currency may sit during general debate today.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, I have been informed that there are individuals who would object to the Committee on Banking and Currency sitting today during the time that the House is in session. A few moments ago, Mr. Speaker, the gentleman from Texas, the chairman of the committee, indicated to me that the committee had voted unanimously to request such authority. This is contrary to information I received previously.

Mr. Speaker, I am trying to find out from the sources who contacted me whether there has been a change in attitude. Therefore, until I have had such an opportunity to check with the Members of Congress who contacted me, I must either object or preferably ask that the request be withdrawn temporarily.

Mr. ALBERT. Mr. Speaker, will the gentlemen from Michigan yield to the gentleman from Texas for an explanation?

Mr. GERALD R. FORD. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Speaker, may I suggest that we had difficulty agreeing on a time to meet. We worked Thursday afternoon and it was getting late, when we decided to ask if the committee would like to adjourn until the next day, Friday. The members of the committee did not want to meet Friday morning or Friday afternoon or Saturday. Then I suggested that Monday would be the only time, if we wanted to have a bill out and get it considered before Easter. I asked the committee if we could agree to meet at 9:30 a.m. Monday—today. Most of the members did not want to do that. Then I asked about 2 p.m. today. They seemed to be agreeable to that. I said:

> Well, without objection the committee will stand in recess until 2 o'clock Monday afternoon, with the understanding that we will seek permission to sit while the House is in session during general debate, and if we fail to get that permission, we will meet immediately after the House adjourns. So, without objection the committee will adjourn to meet at 2 o'clock on Monday.

That is the way it was and I think the record will bear me out.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the distinguished minority leader yielding. I simply want to point out that all these requests are academic, in view of the program under "suspension of the rules" today, because there will undoubtly be repeated quorum calls and rollcalls if this program is followed up.

Mr. GERALD R. FORD. Mr. Speaker, I repeat my request to the gentleman to withdraw the request until I have had an opportunity to check with the individuals who called me earlier today.

Mr. PATMAN. Mr. Speaker, of course, I will certainly have to yield to the gentleman. I will be glad to.

I would like to make this statement, that this is a very important bill on Swiss bank accounts and it is against organized crime. There are some terrible things happening. The administration of the gentleman is for the bill. They want a few changes, which we will be considering, but we must get that bill through before Easter if we can, because the banks are being robbed and citizens are being robbed and organized crime is running rampant and it should be stopped immediately.

Of course, I will yield to the gentleman and I will ask the majority leader to withhold the request, but I hope the gentleman will consider that, because I know he wants a bill of that kind passed if possible before Easter.

Mr. GERALD R. FORD. Let me say with emphasis, I am certainly in favor of the legislation, but it does not seem practical to me for the committee to consider important legislation of this kind while the House is in session, while we are in the process of having a number of bills considered and a number of bills voted on. I do not believe the committee can adequately consider this vital legislation while Members are going back and forth from the committee room to the floor of the House to participate in or listen to the debate here and to vote on the various legislative proposals before us this afternoon. So it just seems to me, unless the objection which was raised with me is withdrawn, that it would be the proper course of action for us to defer it until I have had an opportunity to check.

Mr. ALBERT. Mr. Speaker will the gentleman yield?

Mr. GERALD R. FORD. I yield to the distinguished gentleman from Oklahoma.

Mr. ALBERT. In view of the statement of the minority leader, I withdraw my request for the time being.

The SPEAKER. The gentleman from Oklahoma withdraws his request.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

MARCH 13, 1970.

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's Office at 11:45 a.m., on Friday, March 13, 1970, and said to contain a message from the President concerning Protection of Employee Benefits.

With kind regards, I am
Sincerely yours,
PAT JENNINGS,
By W. RAYMOND COLLEY,
Clerk.

PROTECTION OF EMPLOYEE BENEFITS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-276)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Education and Labor and ordered to be printed:

To the Congress of the United States:

In his First Annual Message in 1901, President Theodore Roosevelt wrote: "The well-being of the wage-worker is a prime consideration of our entire policy of economic legislation."

The United States of America has changed in innumerable ways in the almost seventy years since those words were written. Yet, despite the changes that have transformed our economic and social life, the profound truth of those words remains: today the well-being of the workingman is a prime consideration of this Administration.

Last year I sent to the Congress legislation dealing with Manpower Training, Unemployment Insurance and Occupational Safety and Health.

The Manpower Training bill deals with how we can help a jobless man get work or help the workingman move on to better-paying and more challenging jobs.

The Unemployment Insurance bill deals with how we can help the workingman when he is temporarily out of work.

The Occupational Safety bill deals with how we can help the workingman to do his job under the best possible conditions of health and safety.

This legislation has now been before the Congress for more than seven months. And while I know that all of these bills are in one stage or another of the Congressional process, I am hopeful that they will be enacted promptly and sent to me for signature. I urge the Congress, for the sake of the American workingman, to reach final action on these measures without further delay.

This legislation concerns the American workingman on and off the job. Yet there is another important part to the average workingman's life: after his working years, the time when he can begin to enjoy his pension and welfare benefits.

The earliest known industrial pension plan in this nation was established in 1875. Today, less than one hundred years later, there are hundreds of thousands of employee benefit plans providing pension and welfare benefits to some 50 million workers.

Welfare and pension plans are a part of the success story of the American workingman. Employee benefits are among the most familiar—and most admired—aspects of economic life in our nation.

These plans involve over one hundred twenty billion dollars. More important, they involve the security, the dignity and the well-being of millions of Americans whose lives have been enchanced upon retirement or on the job by welfare or pension benefits. The control of these funds is shared by employers, unions, banks, insurance companies, and many others. While most of the plans are carefully managed by responsible people, we must make certain that the employee's money is fully protected.

I am therefore proposing the "Employee Benefits Protection Act." This Act would protect employees with pension fund rights against improper investments and conflict of interest on the part of administrators of these funds. This has never been done by the Federal government.

The reforms proposed in the Employee Benefits Act can be divided into four major areas:

First, the Federal government would require that persons who control employee benefit funds must deal with those funds exclusively in the interest of the employee beneficiaries. A Federal standard of these obligations would more effectively provide a remedy where conflict of interest or carelessness exists in the management and investment of funds.

While these situations are infrequent, existing State and Federal laws are inadequate to deal with them. Theft, embezzlement, bribery, and kickbacks in connection with employee benefit plans have been made Federal crimes in earlier Congressional action, but conduct that breaches established principles of trusteeship has not been adequately dealt with.

Second, the reporting and disclosure provisions would be broadened and strengthened by requirements which call for additional information. Further and more detailed disclosure as to the financial operations and actuarial basis of employee benefit plans is a necessary complement to the imposition of fund management obligations and responsibilities. It is well established that those in a trustee-type relationship should give a detailed accounting of their stewardship. This type of accounting is similar to requirements presently applicable to mutual investment funds, banks, and insurance companies. However, the present reporting and disclosure provisions for employee benefit plans are more limited. The proposed Act would make available to employees vital information about the plans that are run for their welfare and retirement.

Third, changes would be made to implement the newly imposed management responsibility and the newly strengthened reporting provisions. These include broadened investigatory and enforcement powers for the Secretary of Labor and revisions designed to provide an alternative mode of enforcement of remedies through class actions by participants and beneficiaries.

Fourth, the Act would foster a body of uniform Federal law in employee benefits protection. State laws that otherwise regulate banking, insurance and securities are expressly allowed to remain in effect.

In summary, the Act would provide for a uniform source of law for evaluating the conduct of persons acting on behalf of employee benefit plans and for a single system of reporting and disclosure in lieu of burdensome multiple reports. Under the Act, States could require the filing with a State agency of copies of specified reports and State courts as well as Federal courts would be available to provide remedies. Furthermore, the Act would expressly authorize cooperative arrangements with State agencies as well as other Federal agencies. It would also provide that State laws regulating banking, insurance and securities remain unimpaired. Finally, experience in administering the present law has demonstrated that minor technical amendments are needed to resolve certain details of procedure and to otherwise make the law more workable.

The Employee Benefits Protection Act further expands my program to protect the American worker as he works, when he is out of work, and after his working career is over. Once again, I must express my concern that the first three parts of this program—relating to Manpower Training, Unemployment Insurance, and Occupational Safety—have been so long before the Congress without final action. And again I urge the Congress to enact these measures at the earliest possible date and to give urgent priority to this fourth part of the program—the Employee Benefits Protection Act.

America's most valuable asset is its workers. From their skills and from their determination to build a better life for themselves and their children has come a strong and free economy and a nation whose prosperity is unmatched in the history of the world. They deserve our active interest in their welfare.

Richard Nixon.

The White House, *March 13, 1970.*

AUTHORITY TO POSTPONE VOTES FROM ST. PATRICK'S DAY UNTIL WEDNESDAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that in view of the fact tomorrow is St. Patrick's Day any votes on bills and conference reports—and this does not include rules or procedural matters—may go over until Wednesday.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

PROVIDING THE GRADE OF LIEUTENANT GENERAL FOR OFFICER SERVING AS CHIEF, THE NATIONAL GUARD BUREAU

The Clerk called the bill (H.R. 15143) to amend title 10, United States Code, to provide the grade of lieutenant general for an officer serving as the Chief of the National Guard Bureau, and for other purposes.

The SPEAKER. Is their objection to the present consideration of the bill?

Mr. Koch, Mr. Ryan, and Mr. Rees objected; and, under the rule, the bill was stricken from the Consent Calendar.

PROVIDING FOR LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

The Clerk called the bill (S. 227) to provide for loans to Indian tribes and tribal corporations, and for other purposes.

The SPEAKER. Is their objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, I should like to ask a question or two concerning this bill.

What happens when loans are made to Indians and they are unable to pay off the loans? As a condition for obtaining a loan must they waive immunity from prosecution for collection of the loans or foreclosure?

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I will always yield to my friend from Florida.

Mr. HALEY. The loan would be foreclosed. In the ordinary case, the loan would merely cover the land that has been purchased. However, the original loan would not take trust lands away from the Indians. This gives them the right to obtain a loan for the purchase of other properties. Of course, if the loan is not paid, they could foreclose on the land covered by the loan.

Mr. GROSS. This would not take trust land or land within the reservation owned by an Indian who borrowed money from the Farmers Home Administration, and for reasons beyond his control or for reasons within his control, he could not pay the loan?

Mr. HALEY. Mr. Speaker, if the gentleman will yield further, if I may explain to the gentleman, this is land that may be bought with the money obtained with the loan in order to try to increase the economic benefits of the tribe. But, no trust land that is in a reservation would ordinarily be affected. It would merely be a loan to acquire an industrial site, you might say.

Mr. GROSS. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

S. 227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to make loans from the Farmers Home Administration Direct Loan Account created by section 338(c), of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1988(c)), to any Indian tribe recognized by the Secretary of the Interior or tribal corporation established pursuant to the Indian Reorganization Act (25 U.S.C. 477), which does not have adequate uncommitted funds, to acquire lands or interests therein within the tribe's reservation as determined by the Seretary of the Interior for use of the tribe or its members. Such loans shall be limited to such Indians tribes or tribal corporations as have reasonable prospects of success in their proposed operations and as are unable to obtain sufficient credit elsewhere at reasonable rates and terms to finance the purposes authorized in this Act.

Sec. 2. Title to land acquired by a tribe or tribal corporation with a loan made pursuant to this Act may, with the approval of the Secretary of the Interior, be taken by the United States in trust for the tribe or tribal corporation.

Sec. 3. A tribe or tribal corporation to which a loan is made pursuant to this Act (1) may waive in writing any immunity from suit or liability which it may possess, (2) may mortgage or otherwise hypothecate trust or restricted property if (a) authorized by its constitution or charter or by a tribal referendum, and (b) approved by the Secretary of the Interior, and (3) shall comply with rules and regulations prescribed by the Secretary of Agriculture in connection with such loans.

Sec. 4. Trust or restricted tribal or tribal corporation property mortgaged pursuant to this Act shall be subject to foreclosure and sale or conveyance in lieu of foreclosure, free of such trust or restrictions, in accordance with the laws of the State in which the property is located.

Sec. 5. Loans made pursuant to this Act will be subject to the interest rate provisions of section 307(a) of the Consolidated Farmers Home Administration Act of 1961, as amended, and to the provisions of subtitle D of that Act except sections 340, 341, 342, and 343 thereof: *Provided*, That section 334 thereof shall not be construed to subject to taxation any lands or interests therein while they are held by an Indian tribe or tribal corporation or by the United States in trust for such tribe or tribal corporation pursuant to this Act.

With the following committee amendments:

Page 1, line 5, after "section 338(c)" insert ", and to make and insure loans as provided in sections 308 and 309,".

Page 1, line 7, after "1988(c)" insert ", 1928, 1929".

Page 2, line 1, after "Interior" insert ", or within a community in Alaska incorporated by the Secretary pursuant to the Indian Reorganization Act,".

Page 2, lines 1 and 2, strike out "or its members." and insert in lieu thereof "or the corporation or the members of either."

Page 2, line 8, after "made" insert "or insured".

Page 2, line 12, after "made" insert "or insured".

Page 2, line 25, after "made" insert "or insured".

The committee amendments were agreed to.

(Mr. HALEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HALEY. Mr. Speaker, the purpose of S. 227, and the companion bill H.R. 13732 introduced by the gentleman from Montana (Mr. OLSEN) is to make it possible for the Farmers Home Administration to make loans to Indian tribes for the purchase of land within their reservations. This purpose is accomplished by removing the obstacles that now prevent such loans.

The principal obstacle to FHA loans is the inability of most tribes to mortgage tribal land as security for a loan. The bill permits any tribe to mortgage its land as security for an FHA loan to buy additional land within its reservation if the tribe has reasonable prospects of repaying the loan, and if the mortgage is authorized by the tribal constitution or a tribal referendum, and if the mortgage is approved by the Secretary of the Interior. In the even of a default, the mortgage can be foreclosed and the land sold. If the mortgage covers only the land purchased with the loan funds the present tribal land estate will not be diminished by a foreclosure of the loan.

Another obstacle is the possible immunity of the tribe from suit without its consent. The bill permits the tribe to waive this immunity as a part of its loan agreement.

Still another obstacle to FHA loans is a provision of the Farmers Home Administration Act that land mortgaged to secure a loan shall be subject to local taxation. The bill excepts trust lands from this provision and permits the title to land acquired with loan funds to be taken in trust.

Indian tribes now have inadequate credit resources, particularly loan funds for the purchase of land. By making tribes eligible for FHA loans, on the same terms that apply to other borrowers, Indian tribes will be helped.

Mr. OLSEN. Mr. Speaker, I introduced H.R. 1372, the companion bill to S. 227, at the request of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., although it is legislation which will benefit all Indian tribes throughout the United States, and as you know, I have a deep concern in legislation affecting Indians generally, as well as that affecting those who are my constituents.

This bill as amended will authorize the Secretary of Agriculture through the Farmers Home Administration to make loans to any Indian tribe or tribal corporation for the purpose of acquiring land within the tribe's reservation and to insure loans to tribes made by commercial lending institutions. It is well known that one of the most serious problems facing many Indian tribes today is the lack of capital funds which precludes tribes from many economic activities, including land acquisition. Continuing efforts are being made to upgrade the economic conditions of American Indians, and some of these efforts have been quite successful. However, for the Indians who are located in the Midwest and West, as a majority are, industrialization is more often a dream than a reality and in plain economic facts it is through land that one establishes an economic base. The market for good lands has become quite dear, and unless tribes have funds available they will be unable to meet the competition of nonmembers in acquiring the available lands. This bill will help alleviate that situation.

In addition, the bill, by providing authority to the Farmers Home Administration to make loans to tribes, will enable tribes to purchase lands which are in multiple ownership status, and this will help solve the vexing Indian heirship land problem. The bill also will help retain individually owned trust or restricted land in Indian ownership by making available to tribes funds which they can use to purchase land. Finally, of course, the funds will help the Indians purchase land which is necessary to round out various land acquisition programs and make them economically viable.

The bill recognizes that the requirements of the Farmers Home Administration in connection with a loan made pursuant to the bills would require a tribe or tribal corporation, upon approval by the Secretary of the Interior, to waive immunity from suit and to mortgage trust or restricted property if authorized by its constitution or charter or by a tribal referendum. This, of course, means that there is authorization to mortgage the property which is being purchased by the funds made available under the bill, and this is recognized as an accepted business practice; it is an exception to the general rule of mortgaging tribal property, but there is, of course, the usual safeguard of approval by the Secretary of the Interior.

The bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

DISPOSITION OF ESTATES OF INTESTATE MEMBERS OF THE CHEROKEE, CHICKASAW, CHOCTAW, AND SEMINOLE NATIONS OF OKLAHOMA DYING WITHOUT HEIRS

The Clerk called the bill (H.R. 4145) to provide for disposition of estates of intestate members of the Cherokee, Chicasaw, Choctaw, and Seminole Nations of Oklahoma dying without heirs.

There being no objection, the Clerk read the bill, as follows:

H.R. 4145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the final determination of a court having jurisdiction or by decision of the Secretary of the Interior after a period of five years from the death of the decedent, it is determined that a member of the Cherokee, Chickasaw, Choctaw, or Seminole Nations or Tribes of Oklahoma or a person of the blood of said tribes has died intestate without heirs, owning trust or restricted Indian lands or an interest therein in Oklahoma, such lands or interests owned, together with all rents and profits occurring therefrom, shall escheat to the Nation or tribe from which title to the trust or restricted Indian lands or interest therein was derived and shall be held thereafter in trust by the United States for said nation or tribe.

With the following committee amendments:

Page 1, line 9, after "lands" insert "in Oklahoma"

Page 1, line 10 through page 2, line 1, strike out "in Oklahoma, such lands or interests owned, together with all rents and profits occurring therefrom," and insert "or rents or profits therefrom, such lands, interest, or profits"

(Mr. HALEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HALEY. Mr. Speaker, the purpose of H.R. 4145, introduced by Mr. EDMONDSON, is to provide that when a member, or the decedent of a member, of the Cherokee, Chickasaw, Choctaw, or Seminole Tribes of Oklahoma dies without a will, and he has no heirs, his interest in any trust or restricted land, or in the rents therefrom, will escheat to the tribe.

The enactment of this bill is needed to make applicable to the four tribes named the same rule of law that has applied for many years to most other tribes throughout the country—25 U.S.C. 373a.

The general law by its terms does not apply to the Five Civilized Tribes of Oklahoma—which are the four tribes named in this bill, plus the Creek Tribe of Oklahoma. The reason for the exception probably was the fact that a 1918 statute, 25 U.S.C. 375, gave the Oklahoma courts jurisdiction to probate the estates of deceased members of these tribes. The 1918 statute made no provision, however, for the estates of persons dying intestate without heirs.

In 1967 an escheat statute was enacted by the Congress for the Creek Tribe, and the enactment of the pending bill will cover the remaining four of the Five Civilized Tribes.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR DISPOSITION OF CERTAIN FUNDS AWARDED TO THE TLINGIT AND HAIDA INDIANS OF ALASKA

The Clerk called the bill (H.R. 12858) to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. JOHNSON of Pennsylvania. Mr. Speaker, reserving the right to object, and I will not object; however, I do want to take this opportunity to congratulate the committee on reporting out this bill. Repeatedly, when such bills have come before the House where we pay out anywhere from $10 to $30 million, I have deplored the fact that usually the money is divided per capita among the Indians, and no money is ever set aside for tribal purposes. Whereas, here, there is $7 million and $4 million is being set aside for education and other worthy purposes.

So I say, the committee should be congratulated in doing this, and of course the Tlingit and Haida Indian Tribes should be congratulated for taking such a progressive step. It is regrettable that the other $3 million that is involved here, and is held in reserve, was not also allocated for education or some other good general tribal purpose.

Mr. HALEY. Mr. Speaker, if the gentleman will yield, I might say to the distinguished gentleman that the committee was somewhat discouraged that there was not a greater allocation of the funds for educational purposes at the disposal of the tribe, and the Department and the tribes, we hope, are going to remedy that situation by making more money available for educational purposes.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 12858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the unexpended funds and interest thereon on deposit in the Treasury of the United States to the credit of and otherwise invested by the Secretary of the Interior for the account of the Tlingit and Haida Indians of Alaska which were appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case entitled The Tlingit and Haida Indians of Alaska, et al. versus The United States, numbered 47900, after payment of attorney fees and expenses, may be advanced, expended, invested or used for any purpose and in any manner authorized by the Central Council of the Tlingit and Haida Indians of Alaska and approved by the Secretary of the Interior. Any of such funds that may be distributed under the provisions of this Act shall not be subject to Federal or State income taxes.

Mr. HALEY. Mr. Speaker, the Tlingit and Haida Indians of Alaska have recovered a judgment against the United States. The money to pay the judgment has been appropriated and is invested in interest-bearing accounts. The net amount now available is just over $7 million.

Under a 1965 statute the judgment money is available to pay the administrative expenses of the council, and the cost of program planning. The money may not be used, however, to carry out these programs until further authorized by Congress. This bill will give that authorization.

The pending bill follows the pattern that has been used for most tribes in recent years when per capita distributions were not contemplated. That pattern is to authorize the money to be used for any purpose authorized by the tribe and approved by the Secretary, after the Congress is satisfied that the tribe's general plans are sound. The committee feels that the plans are sound and that the tribal leadership is competent. Under these circumstances, further delay in making the money available for use is not justified.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING LONGER TERM LEASES OF INDIAN LANDS AT YAVAPAI-PRESCOTT COMMUNITY RESERVATION, ARIZ.

The Clerk called the bill (H.R. 12878) to amend the act of August 9, 1955, to authorize longer term leases of Indian lands at the Yavapai-Prescott Community Reservation in Arizona.

There being no objection, the Clerk read the bill, as follows:

H.R. 12878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is hereby further amended by inserting the words "Yavapai-Prescott Community Reservation" after the words "San Carlos Apache Reservation".

With the following committee amendments:

Page 1, line 6, strike out "Reservation'" and insert "Reservation,'"

Page 1, line 7, strike out "Reservation'." and insert "Reservation,'."

The committee amendents were agreed to.

Mr. HALEY. Mr. Speaker, the purpose of the bill, which was introduced by Mr. STEIGER, is to authorize lands on the Yavapai-Prescott Community Reservation to be leased for periods up to 99 years if a long-term lease will be in the best interest of the Indian owner.

For most reservations, the general law restricts the lease term to 25 years with an option to renew for 25 years—which is in effect a 50-year lease. Experience has demonstrated that some types of development cannot be financed by a lessee on the basis of a 50-year lease. Lending agencies will not lend money for construction on leased land unless the lease extends for a term that will permit the loan to be amortized, with sufficient leeway to permit refinancing in the event of a default. In practice, this frequently means a lease for more than 50 years.

The Yavapai-Prescott Community Reservation adjoins the city of Prescott. The proposed construction of a multimillion-dollar junior college, and a new high school, near the reservation will create a pressing need for new apartments and single family residences, and the reservation lands are ideally situated to capitalize on the growth of the city if adequate lease terms can be offered.

Long-term lease authority has been given to 18 other reservations where the need has been adequately demonstrated. Although leases up to 99 years are authorized, the Department of the Interior has been careful to limit the term to a shorter period—for example, 55, 65, or 75 years—when the shorter period will serve the need. The committee expects this practice to be continued.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MICHAUD FLATS IRRIGATION PROJECT

The Clerk called the bill (H.R. 14855) to amend the act of August 31, 1954 (68 Stat. 1026), providing for the construction, maintenance, and operation of the Michaud Flats irrigation project.

There being no objection, the Clerk read the bill, as follows:

H.R. 14855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of August 31, 1954 (68 Stat. 1026), for the construction, maintenance, and operation of the Michaud Flats Irrigation project in the State of Idaho, is amended by adding thereto a new subsection (c) as follows:

"(c) The Secretary of the Interior is authorized to execute a contract required by subsection (b) of this section on behalf of any Indian who owns an undivided trust or restricted interest in a tract of land when (1) the contract has been signed by or on behalf of the holders of a majority not less than 50 per centum interest in the land, or (2) the Indian is a minor, or (3) the Indian has been adjudicated non compos mentis, or (4) the Indian's ownership interest in a decedent's estate has not been determined, or (5) the Indian cannot be located by the Secretary after a reasonable and diligent search and the giving of notice by publication, the Indian has been adjudicated non compos mentis."

With the following committee amendments:

Page 2, line 2, strike out "majority" and insert "not less than 50 percent".

Page 2, line 3, after "(2)", strike the remainder of the sentence and insert in lieu thereof "the Indian has been adjudicated non compos mentis."

The committee amendments were agreed to.

Mr. HALEY. Mr. Speaker, the purpose of the bill is to permit the Secretary of the Interior to sign water supply contracts on behalf of certain Indian owners of undivided interests in trust land within the Michaud division of the Fort Hall Indian Reservation, and thereby permit the delivery of irrigation water to the Indian lands.

Construction of the Michaud division was originally authorized in 1931 and was reauthorized in 1954. The 1954 act provided, however, that before irrigation works could be constructed to serve the lands of the division, contracts must be signed by the landowners agreeing to certain limitations on water supply and to certain priorities of use. Pumps, main canals, and laterals have been constructed or are in the process of construction to serve all of the lands of the tribe, most of the lands of the individual Indians, and all the lands of non-Indians. Some owners of undivided interests in 19 allotments, however, have not signed the necessary contracts, and project works to serve those lands have not been constructed. The acreage covered by signed contracts totals 19,037 acres, and the acreage not covered by contract totals 1,963 acres.

The 19 allotments not under contract range in size from 20 to 160 acres. Each of these allotments is owned by more than one Indian as tenants in common. Some of the owners are minors. The Bureau of Indian Affairs has been able to get some, but not all, of the owners of these undivided interests to sign the contracts, but the failure of all owners to sign has prevented the delivery of water to these 19 allotments.

The bill as amended by the committee provides that if a contract has been signed by persons who own not less than a 50-percent interest in an allotment, the Secretary of the Interior may execute the contract on behalf of the other owners. This will permit the Indians holding a majority interest in the land, and who have executed the contracts, to share in the benefits that can be derived from irrigation.

The committee understands that the enactment of the bill as amended will permit the completion of water supply contracts for all of the allotments in the Michaud division.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR DIFFERENTIATION BETWEEN PRIVATE AND PUBLIC OWNERSHIP OF LANDS IN ADMINISTRATION OF ACREAGE LIMITATION PROVISIONS OF FEDERAL RECLAMATION LAW

The Clerk called the bill (S. 2062) to provide for the differentiation between private and public ownership of lands in the administration of the acreage limitation provisions of Federal reclamation law, and for other purposes.

There being no objection, the Clerk read the bill as follows:

S. 2062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto) which limit the acreage of irrigable land which may receive irrigation benefits from, through, or by means of Federal reclamation works, shall not be applicable to lands owned by States, political subdivisions, and agencies, thereof, so long as such lands are farmed, primarily in the direct furtherance of a non-revenue-producing public function, as determined by the Secretary of the Interior.

SEC. 2. Irrigable lands owned by States, political subdivisions, and agencies thereof which do not fall within the provisions of section 1 may receive water from a Federal reclamation project, division, or unit if a valid recordable contract for the sale of such lands within ten years of the date of said contract has been executed under terms and conditions satisfactory to the Secretary of the Interior but without limitation upon selling price.

The purchasers of lands sold under the provisions of this section, or the heirs and devisees of such purchasers, if otherwise eligible under reclamation law to receive project water for the lands purchased, shall not be disqualified for delivery of water by reason of the amount of the purchase price paid for said lands.

SEC. 3. Lessees of irrigable lands owned by States, political subdivisions, and agencies thereof which are held to be subject to the acreage limitation provisions of Federal reclamation law and for which recordable contracts to sell have not been made may receive project water subject to the same acreage limitation provisions of Federal reclamation law as private land owners.

With the following committee amendments:

Page 2, line 3, strike out "Interior." and insert in lieu thereof "Interior; and to the extent that such lands continue to qualify for the exempted status afforded by this section they shall not be deemed to be excess lands for any purpose whatsoever under said reclamation laws."

Page 2, beginning on line 18, strike out all of section 3.

The committee amendments were agreed to.

Mr. JOHNSON of California. Mr. Speaker, S. 2062 is a bill which deals with the administration of the acreage limitation provisions of the Federal reclamation law; widely known as the 160-acre law. It does not, nor is it intended to reform, extend, revise, or repeal the acreage limitation statutes which have been a part of the reclamation program since it first started in 1902.

What the bill intends to do first is to clarify a situation which has arisen in the past 2 or 3 years as a result of a strained administrative interpretation of these statutes of long standing. Section 1 provides that water deliveries may be continued to acreages in excess of 160 acres if the farm in question is operated by a State or political subdivision thereof for nonrevenue producing purposes. This means that State agricultural extension farms of a research character, State penal farms for social rehabilitation, parks and other recreational facilities, and like operations may receive water without regard to the 160-acre limitation. For many years, the Bureau of Reclamation delivered water to these activities without regard to acreage limitation on the grounds that they were public enterprises. In 1966, a ruling by the Department set forth the premise that all non-Federal undertakings must be considered as private operations under the acreage law. Section 1 of S. 2062 will correct this situation. The committee has amended section 1 to cover those situations in the program where delivery to excess lands was authorized subject to interest payments on a share of the costs. Such interest payments may now be waived insofar as the excess lands are in qualified public farms operated for nonrevenue purposes.

Section 2 of S. 2062 deals with another aspect of the administration of acreage limitation statutes on State lands. The Federal law requires that recordable contracts must be executed to sell excess lands—over 160 acres per ownership—within 10 years at an appraised price if such excess lands are to continue to receive water. In certain cases, controlling State law requires that State lands be sold at auction: thus creating a situation where States may neither sell their lands or receive water for them. Section 2 will correct this situation by permitting States to execute recordable sales contracts without regard to the limitation on selling price normally applying to such lands.

Mr. Speaker, this bill as it appears before the House is noncontroversial in that the controversial provisions of it were deleted by a committee amendment to strike section 3. That provision would have let the States lease their otherwise excess lands in blocks of 160 acres on indefinite contracts to individual leaseholders. The administration felt and the Committee on Interior and Insular Affairs agreed that such an arrangement would allow benefits intended for individual family farm operators to flow to political subdivisions contrary to the basic spirit of the reclamation program.

I now believe that we have a bill that will allow the Bureau of Reclamation to operate its program dealing with State-owned lands in a manner that balances very carefully the best interests of the program and the public in general. For that reason, I commend it to my colleagues for approval.

Mr. McCLURE. Mr. Speaker, this bill, which was cosponsored by my colleague from Idaho (Mr. HANSEN), is in response to a problem that has arisen in a number of States, but primarily in Idaho and Washington. It is my intention to confine my remarks at this time to the bill as it affects my own State.

I want to make it clear that this bill does not raise the general question of the 160-acre limitation. Any problems in that regard must necessarily await the report of the Public Land Law Review Commission.

The Reclamation Act of 1902 and the Omnibus Adjustment Act of 1926 provided in part that no water would be delivered to any land in private ownership in excess of 160 irrigable acres.

The situation in Idaho arose following an opinion issued early in 1967 by the Solicitor of the Department of the Interior which interpreted the words "private ownership" as meaning all "non-Federal ownership."

Largely because of a series of events connected with the Columbia Basin

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project, this provision has undergone an evolution in its interpretation. But it was not until 1967 that the Solicitor's opinion gave it broad application to all State agencies, and in Idaho we now have State-owned institutions which are threatened with a loss of water because they exceed the 160-acre limitation. The University of Idaho's experimental farm at Caldwell has 267 acres of land irrigated from a Federal project and the State school and hospital for the mentally retarded at Nampa has 384 such acres.

They were notified that water could no longer be delivered, but because of the legislation pending before us, both were granted temporary relief. I want to emphasize that these institutions are operating for the public good on a nonprofit basis.

At Nampa, the State of Idaho has had much success in rehabilitating the mentally retarded through vocational training. Dr. Terrell O. Carver, the State administrator of health, has reported to me that the majority of successfully trained and community placed residents have received the major portion of their preparation in the school's farm program.

At the Caldwell Agricultural Experiment Station, valuable research is conducted on breeding, nutrition, management, and other problems related to livestock in Idaho. It is one of six outlying branch stations in Idaho strategically located to serve Idaho's farmers and related industries.

At the present time, the State of Washington has brought legal action against the Secretary of the Interior in order to clarify the status of lands owned by States and their political subdivisions under the Federal reclamation law. I want to make it perfectly clear that passage of this bill should not be interpreted as an attempt to interfere with that litigation in any way. It would be wrong to conclude that Congress has found those State-owned lands to be private lands for the purpose of administering the acreage-limitation statutes.

Also, this bill is not intended to indicate that the committee agrees the basic law must be modified or the limitation on non-Federal lands removed. The sole purpose is to remove questions raised by the Solicitor's decision in 1967.

On the other hand, the legislation does point to a need for review of the 160-acre limitation. The philosophy upon which it was based remains valid, but the economics and the methods of farming have changed so that the figure is no longer realistic. It has ceased to achieve its stated purposes. However, as I said earlier, this bill is not intended to raise that basic issue.

The measure before us will eliminate the problem caused by the recent interpretation insofar as it applies to lands owned by a State or local governmental entity or subdivision. Essentially, it would exempt those lands operated for a nonprofit, public purpose and provide an equitable method by which the State can dispose of those lands which are in excess.

Certainly, Congress never intended to hamper public institutions operating for the public good. It is not our intention that this legislation should be interpreted to mean that the limitation applies to other State lands.

In conclusion, I would like to insert in the RECORD the text of a telegram I have received from Governor Samuelson indicating that this bill has the official support of the State of Idaho:

Hon. JAMES A. MCCLURE,
Longworth Building,
Washington, D.C.

The State of Idaho is in support of H.R. 6245 which is currently a subject for hearing before your Committee. The Water Resource Board and staff has submitted a statement to you outlining the reasons for the State's support of this bill. I wish to have my endorsement of the Water Resource Board position entered into the record and my support noted for H.R. 6245.

DON SAMUELSON,
Governor of Idaho.

Mrs. MAY. Mr. Speaker, I would like to commend the distinguished chairman and all members of the Committee on Interior and Insular Affairs for dealing effectively with the problems designed to be resolved by approval of S. 2062, as amended by the committee.

This bill, as amended, will successfully deal with a situation involving State-owned lands located within the confines of the Columbia Basin reclamation project in my district of the State of Washington. With the continuing extension of irrigation into new areas of the project, this situation has become more critical with each passing year.

The State, under provisions of its constitution and regulations adopted pursuant thereto, is required to dispose of State school lands at public auction to the highest bidder. In such circumstances, the price offered by the successful bidder for Columbia Basin project land frequently exceeds the price limitation imposed by the antispeculation provisions of both the earlier effective Columbia Basin Project Act and reiterated in the October 1, 1962, amendment which brought the project under basic reclamation law.

Prior to the October 1, 1962, amendment to the project act, special legislative authority existed whereunder the landowner who purchased State land on the Columbia Basin project could, if otherwise eligible under the project act, receive project water for the land thus acquired without regard to the price paid. The October 1, 1962, amendment to the Columbia Basin Project Act, however, did not perpetuate the special legisative authority. Such lands were then viewed as "lands in private ownership" for purposes of acreage limitation and antispeculation control under the controlling provisions of section 46 of the act of May 25, 1926 (44 Stat. 649, 650, 43 U.S.C. 423e).

In these circumstances, the State is now entitled to a 160-acre nonexcess landholding in each irrigation district. The remaining irrigable State lands are not entitled to receive project water unless covered under a valid recordable contract or sold at a price not in excess of the current fair market value without consideration to the construction of irrigation works. For the most part, this has precluded sale of irrigable State lands at public auction. State-owned lands aggregating slightly less than 3,500 irrigable acres make up about 30 farm units in platted irrigation blocks on the project.

Mr. Speaker, S. 2062 as amended in the Committee on Interior and Insular Affairs, will resolve this problem because under its provisions the State may dispose of this described land at public auction, and the purchaser shall not be disqualified for delivery of project irrigation water by reason of the amount of the purchase price paid to the State for such lands.

Since State income from these lands goes to the school fund, the schools will benefit from the greater enumeration associated with the value of irrigated lands as compared with the value of dry lands.

I fully support S. 2062 as amended, Mr. Speaker, and commend my colleagues to its support also.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON PUBLIC HEALTH AND WELFARE, COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Health and Welfare of the Committee on Interstate and Foreign Commerce may sit during general debate today.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PROVIDING THE GRADE OF LIEUTENANT GENERAL FOR OFFICER SERVING AS CHIEF, NATIONAL GUARD BUREAU

Mr. RIVERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15143) to amend title 10, United States Code, to provide the grade of lieutenant general for an officer serving as the Chief of the National Guard Bureau, and for other purposes.

The Clerk read as follows:

H.R. 15143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10, United States Code, is amended as follows:

(1) Section 3015(c) is amended to read as follows:

"(c) The Chief of the National Guard Bureau holds office for four years, but may be removed for cause at any time and may not hold that office after he becomes sixty-four years of age. He is eligible to succeed himself. An officer now or hereafter serving as Chief of the National Guard Bureau shall be appointed as a Reserve in his armed force in the grade of lieutenant general for services in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, while serving as the Chief of the National Guard Bureau. The position of Chief of the National Guard Bureau is in addition to the number of lieutenant general positions authorized by section 3066, 3202, 8066, or 8202 of this title, or any other provision of law."

(2) Section 3962 is amended by adding the following new subsection:

"(d) Upon retirement or being granted retired pay, a reserve commissioned officer of the Army who has served as Chief of the National Guard Bureau in the grade of lieutenant general may, in the discretion of the President, by and with the advice and consent of the Senate, be retired in, and granted retired pay based on, that grade."

(3) Section 8962 is amended by adding the following new subsection:

"(c) Upon retirement or being granted retired pay, a reserve commissioned officer of the Air Force who has served as Chief of the National Guard Bureau in the grade of lieutenant general may, in the discretion of the President, by and with the advice and consent of the Senate, be retired in, and granted retired pay based on, that grade."

(4) The catchlines of section 3962 and 8962 are each amended by deleting ": regular commissioned officers."

(5) The analysis of chapter 369 is amended by striking out "regular commissioned officers" in item 3962.

(6) The analysis of chapter 869 is amended by striking out "regular commissioned officers" in item 8962.

The SPEAKER. Is a second demanded?

Mr. KOCH. Mr. Speaker, I demand a second.

Mr. O'KONSKI. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman from Wisconsin opposed to the bill?

Mr. O'KONSKI. Most emphatically, Mr. Speaker.

The SPEAKER. The gentleman from Wisconsin qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 47]

Alexander
Anderson, Ill.
Anderson, Tenn.
Annunzio
Ashbrook
Ashley
Ayres
Barrett
Belcher
Bell, Calif.
Berry
Bevill
Bow
Brasco
Brock
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burleson, Tex.
Burton, Utah
Bush
Button
Byrnes, Wis.
Cabell
Carter
Cederberg
Clark
Clawson, Del
Clay
Conyers
Corman
Coughlin
Cramer
Daddario
Davis, Wis.
Dawson
de la Garza
Dellenback
Dickinson
Diggs
Dorn
Dulski
Dwyer
Edwards, Ala.
Erlenborn
Evans, Colo.
Fascell
Feighan
Findley
Fish
Fisher
Frelinghuysen
Friedel
Fulton, Tenn.
Galifianakis
Gallagher
Garmatz
Gaydos
Goldwater
Gray
Green, Oreg.
Grover
Hagan
Halpern
Hanley
Hanna
Hansen, Wash.
Harsha
Hébert
Hogan
Holifield
Horton
Howard
Jarman
Jones, Tenn.
Keith
Kirwan
Kleppe
Kluczynski
Kuykendall
Leggett
Long, La.
Lukens
McCarthy
McEwen
Macdonald, Mass.
MacGregor
Madden
Mailliard
Mann
Mayne
Michel
Morton
Myers
Nix
O'Hara
Ottinger
Pickle
Pike
Pirnie
Poage
Podell
Pollock
Powell
Pryor, Ark.
Pucinski
Purcell
Quie
Railsback
Rarick
Reid, Ill.
Rhodes
Roe
Rostenkowski
Roudebush
Ruppe
Ruth
St Germain
St. Onge
Sandman
Scheuer
Schwengel
Shriver
Sisk
Smith, N.Y.
Staggers
Stanton
Steed
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Sullivan
Taft
Teague, Calif.
Teague, Tex.
Tiernan
Tunney
Ullman
Vander Jagt
Waldie
Watkins
Watson
Weicker
Whalley
Wilson, Charles H.
Wold
Wright
Wyatt
Zion
Zwach

The SPEAKER pro tempore (Mr. Albert). On this rollcall 278 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING THE GRADE OF LIEUTENANT GENERAL FOR OFFICER SERVING AS CHIEF, NATIONAL GUARD BUREAU

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. Rivers), will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. O'Konski) will be recognized for 20 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. Rivers).

(Mr. RIVERS asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. RIVERS. Mr. Speaker, I rise in support of H.R. 15143, and urge its passage by the House.

EXPLANATION OF THE BILL

The purpose of the bill is as stated in its title—it would provide the grade of lieutenant general, a three-star rank, for an officer serving as the Chief of the National Guard Bureau.

BACKGROUND

Existing law providing the grade of major general, two-star rank, for the Chief of the National Guard Bureau was passed in 1921. At that time, Congress, in stipulating that the grade of the Chief of the National Guard Bureau should be a major general, did so because of the substantial responsibilities which accompany this position.

At that time, that is in 1921, the National Guard strength totaled 56,106 men and officers in 32 States and required an annual Federal appropriation of $12,177,750.

Almost a half a century has passed since Congress took this initial action.

During the intervening years, the National Guard has increased tremendously both in size and importance to the various States of our Nation.

Today, the National Guard consists of almost half a million men and officers in 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, with an annual appropriation of more than $1 billion.

The tremendous growth of the National Guard has paralleled the growth of our Nation, and has become an absolutely indispensable adjunct to both the Federal Government as well as the Governors of the several States.

This tremendous increase in the size of the National Guard and its importance to our Nation has resulted in a similar growth in the responsibilities and demands made upon the Office of the Chief of the National Guard Bureau, the officer who has the basic responsibility for making this organization function efficiently to satisfy both Federal and State needs.

UNIQUE RESPONSIBILITIES OF THE CHIEF, NATIONAL GUARD BUREAU

Let me briefly identify some of the unique responsibilities of the Chief of the National Guard Bureau:

First. He has management responsibilities for two separate Reserve components. He is responsible for both the Army National Guard with a strength of slightly less than 400,000 officers and men, as well as the Air National Guard with a strength in excess of 86,000 personnel.

Second. The Chief of the National Guard Bureau by virtue of his responsibility for two Reserve components, must report to both the Chief of Staff Army, and the Chief of Staff Air Force, on the administration of these programs.

Third. The Chief of the National Guard Bureau has the prime responsibility for insuring that every unit of the Guard and every individual of the Guard is ready to meet both Federal mission requirements as well as State mission requirements. For example, in their State role, the Army and Air National Guard has been called to State active duty for an average of 40 times each year since 1965 to control riots and maintain the domestic peace.

Fourth. The Chief of the National Guard Bureau has the responsibility of both justifying and administering an annual budget in excess of $1 billion. This responsibility alone, in my judgment, would completely justify making this office a three-star billet.

These are just a few of the unique and manifold responsibilities of the Chief of the National Guard Bureau. If we contrast these responsibilities to those charged to military officers in the Regular Establishment, we find almost without exception that such officers now hold three-star rank or better. It is evident that in the interest of equity and justice, as well as good management, the Chief of the National Guard Bureau must be an officer of three-star rank.

PRESENT INCUMBENT

The officer presently acting as Chief of the National Guard Bureau is Maj. Gen. Winston P. Wilson. General Wilson was first assigned to the National Guard Bureau in 1950, and has held the rank of major general since 1955. He has performed as Chief of the National Guard Bureau since 1963. He is well known to most Members of Congress who at one

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time or another have had reason to contact him in regard to National or State Guard problems.

I am certain that almost without exception, the Members of Congress who have come to know General Wilson agree that he is an outstanding officer and a dedicated public servant. However, despite this man's magnificent record and the tremendous responsibilities assigned him as Chief of the National Guard Bureau, an objection has been raised to the action being considered by the House today.

Apparently the objection to this bill is not directed to the merits of the legislation, but rather to the individual who would be the immediate beneficiary of higher rank if this legislation were passed. In short, as I understand it, those who might object, object to General Wilson and not the purpose of this legislation.

CRITICISMS OF GENERAL WILSON

General Wilson has been accused of attempting to "politicize the people who are under his command" by issuing "instructions that the people under his command should keep their porch lights on and have their automobile lights on as a counterdemonstration to the November moratorium."

I appreciate and subscribe to the concern of any Member of Congress, or any citizen of this country who objects to any effort by the military to control political thought or action.

I quite agree that such action would not only be reprehensible but would also be dangerous. However, the action taken by General Wilson was clearly not a violation of this principle or even remotely of this nature.

GENERAL WILSON'S MESSAGE REGARDING VETERANS DAY

After becoming aware of the objections raised on March 3, 1970, to the passage of H.R. 15143 on the Consent Calendar, I contacted General Wilson to determine what action he had taken that had created this misunderstanding.

General Wilson therefore provided me with a copy of his memorandum to the various adjutants general of the National Guard urging all National Guardsmen to join in a national effort to underscore the Nation's determination to follow a prudent course in Vietnam.

If there is no objection, I will include that memorandum, dated November 3, 1969, at this point in the RECORD:

NOVEMBER 3, 1969.

To: Adjutants general of the 50 States, District of Columbia, and Commonwealth of Puerto Rico.

On November 11, our nation will once again pay tribute to those who have made the supreme sacrifice in the defense of their country. This year's ceremony, as for the past number of years, will take place while our armed forces are still locked in battle in Vietnam.

In that war, at least 75 National Guardsmen from the four mobilized Air Guard and eight Army Guard units which were deployed to the combat zone or who volunteered to serve in Vietnam, have given their lives. One of our mobilized Army Guard units is still fighting there. Many former Air Guardsmen who became active Air Force pilots have been shot down over North Vietnam and are now prisoners of war suffering indignities and torture at the hands of a cruel, inhumane enemy.

I find unfortunate the fact that just a few days following the day of national tribute to Americans who have fallen in battle, many other Americans will demonstrate in many cities to demand a course of action that not only would betray those Americans who already have suffered and died in Vietnam, but also would mean abandonment of our allies and a revocation of our pledged word.

Certainly, every American wants to end the war. Every American wants peace. However, the desire for a speedy conclusion of the conflict should not be so great that we become blind to the realities of such a short-sighted course. We do not, through emotional confusion, want to pursue an impetuous action at the price of capitulation and surrender. We should move ahead coolly, methodically and orderly—as I believe we are doing—in a manner which will give us the greatest guarantee of lasting results.

I am concerned that those Americans who seek a capitulatory solution are creating a feeling of comfort in Hanoi and are leaving the enemy with the impression that their vocal and active groups represent the majority opinion within the United States.

As a result, I think the time has come for all of us to awaken to the difficulties these misguided activities create for our nation's efforts to bring about an honorable peace in Vietnam; how disruptive they must be to negotiations in Paris. It's time for Americans to unite behind a move that will demonstrate the true majority opinion in this country. I believe as a matter of national honor, the will of the American people will be to show Hanoi that America's overwhelming public opinion is *not* represented by those who carry the enemy flag in our streets.

Undoubtedly, many Guardsmen may be called upon to protect the rights of these citizens to protest. To act with restraint in the face of what many of the Guardsmen, I know, believe to be a dishonor to our country requires a patience and understanding that are above and beyond what most Americans are ever asked to perform. Yet, I know Guardsmen will act with the restraint and orderliness that has marked their past efforts to maintain peace in our cities and on our campuses.

Because of my grave concern that the moratorium activities might be misunderstood in North Vietnam, however, I suggest that we ask even more of our Guardsmen. Therefore, I urge that we encourage all National Guardsmen, as citizens, to join in a national effort that will underscore the nation's determination to follow a prudent course in Vietnam. To do this, I urge that from 11 November through 16 November 1969, National Guardsmen:

1. Fly the American flag at their homes and businesses.

2. Drive their automobiles with the headlights turned on and turn their porch lights on at home.

I hope, too, that Guardsmen will encourage others in their families and in their communities to do the same.

WINSTON P. WILSON,
Major General, Chief, National Guard Bureau.

In addition, I have here a memorandum directed to me by General Wilson explaining this matter in its entirety. With the indulgence of the House, I would like to read that memorandum in its entirety:

MARCH 13, 1970.

MEMORANDUM FOR THE HONORABLE H. MENDEL RIVERS

Subject: Message to Adjutants General regarding Veterans Day.

1. In accordance with a request from your office, herewith is the background information concerning the Veterans Day message I sent to the Adjutants General.

2. There are a number of reasons for the message having been sent:

a. Veterans Day was approaching, and in an effort to create better communications between the Guard Bureau and the States, a procedure of sending messages from the Chief has become customary. Veterans Day, I believed, offered an opportunity for Guardsmen to show their respect for their nation.

b. A number of our National Guard units, for the most part, had just returned from combat in Vietnam. Many of our Guardsmen had given their lives in battle, a factor that I believed could influence the reactions of other Guardsmen.

c. All intelligence information received to that time indicated clearly that violence might erupt and that the National Guard, as it often does, would be called upon to restore the peace and maintain order.

3. Because of a growing antagonism among Americans toward such activities, I believed that taking note of the moratorium activities in a message to the Adjutants General might help focus their attention on the need for National Guardsmen to act with restraint in dealing with these groups or individuals. Thus, I thought a message from the Chief of the Bureau might result in broad dissemination of this warning and, therefore, create a stronger impression among the troops than normally they would have received.

4. Additionally, in keeping with the tradition of the Guard, I thought that the development of a constructive effort into which they could express their dedication to their nation might alleviate some of the Guardsmen's personal feelings. In other words, I thought I was suggesting an outlet for their emotions that would offset any animosity they might develop from their face-to-face confrontation with the demonstrators.

5. As further background, I should emphasize that for the past few years the "theme" of our National Guard program has been based on patriotism. Our billboards, posters and radio and television public service announcements were geared to that thought. In 1968, we devoted our efforts to the Pledge of Allegiance. In 1969, our theme was "Patriotism is Alive . . . And Living in the National Guard."

6. I think anyone who reads the complete message will find there were no politics involved whatsoever. I did not call for a "counter-demonstration," as such, although that unfortunate term crept into some of the press accounts. The message was sent to the Adjutants General the morning of November 3, many hours before the President addressed the nation to call for national unity. I was not aware of the contents of his speech, and, therefore, I don't believe I can be accused either of partisanship or of doing something merely to support the President.

7. In other words, Mr. Chairman, my motives were patriotic, not political. I believed that under the circumstances I've already cited I should—as Chief of the National Guard Bureau—exercise the responsibility of that position to call for restraint and patience by our Guardsmen if confrontations did materialize. Finally, I did not think that flying the American flag, as cherished a monument to our freedom that one can find, could be interpreted as either defiance to or support of any political or ideological view. I should like to emphasize, in conclusion, that the message was in no way an order compelling Guardsmen to carry out any activity. I merely suggested that a display of patriotism on that particular occasion would be in keeping with the tradition of the National Guard.

WINSTON P. WILSON,
Major General, Chief, National Guard Bureau.

In conclusion, Mr. Speaker, I trust that this memorandum from General

Wilson will place this matter in proper perspective. His action was purely a suggestion as to a course of action which could be taken by National Guardsmen if they so desired. I am sure that not a single guardsman had the slightest impression that he was being directed or required to take any action on this subject. The memorandum simply suggested the possibility that guardsmen might wish to reflect their patriotism on Veterans Day by taking the action outlined in General Wilson's memorandum.

COMMITTEE ACTION

The Committee on Armed Services, on February 3, 1970, approved this bill and recommended its passage by the House. The report on the bill unfortunately contains a clerical error. The report indicates that the bill was reported unanimously. It was not. One of the members of the committee stated that he was not going to object to the legislation but he would "like to be recorded as voting against it."

I trust my remarks will now place this entire matter in proper perspective and we can pass this bill and provide the office of the Chief of the National Guard Bureau with the rank it so richly deserves.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. RIVERS. I yield to the distinguished gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I join in supporting the gentleman's remarks, and I hope this bill will receive very strong support. I understand General Wilson suggested these young Americans fly the flag and show patriotism, and that it was more of a suggestion than anything else.

I would also like to comment to the gentleman in the well that on moratorium day I was attached to the District of Columbia National Guard when the moratorium was going on in Washington, and I saw the Vietcong flag and the so-called Peace flag put up by the moratorium people flying at the Washington Monument.

For some reason our park personnel had taken down the American flags and the antiwar demonstrators had run up the Vietcong flag.

I support the gentleman from South Carolina. I see nothing wrong with being patriotic.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. RIVERS. I yield to the gentleman from Indiana.

Mr. JACOBS. Does this bill carry with it, in effect, a pay raise for this general?

Mr. RIVERS. All the emoluments that go with it are involved. It raises the position to a three-star rank.

Mr. JACOBS. And the Department of Defense has objected to the bill?

Mr. RIVERS. Yes, I believe so.

Mr. JACOBS. According to the committee report, the witness from the Department testified against it.

Mr. RIVERS. It would not make any difference, so far as I am concerned. We do not take orders from the Department.

Mr. JACOBS. But the bill does carry with it a pay raise. And I am against it.

The SPEAKER pro tempore. The time of the gentleman has expired. All time of the gentleman from South Carolina has expired.

Mr. O'KONSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. BRAY).

Mr. BRAY. Mr. Speaker, I believe it is important that someone emphasize there are some fundamental reasons why the Chief of the National Guard Bureau is unique among the Reserve component chiefs.

First of all, he is the only one of the component chiefs who has responsibilities for managing components from two services—the Army and the Air Force. Each of these two components has its own separate command structure, its own special operational procedures, its own directive system, and each has its own distinct traditions. Dealing with the problems of both the Army Guard and the Air Guard places a great demand for the background knowledge the Chief of the Bureau must possess in dealing with the top military and civilian leadership of both the Army and the Air Force. Of course, in that respect, he not only deals with that high-level leadership—he is also responsible to the leadership of both the Army and the Air Force.

Quite significant, too, I believe, is the fact that only the Chief of the Bureau, among the component chiefs, is responsible for insuring individual and unit readiness to meet both State and Federal missions. The Reserve chiefs and the Reserves have not had to face up to the responsibility of quelling civil disturbances, for example, while the National Guard has been called upon to perform that unpleasant duty time after time. The Guard also has responsibilities in civil disasters that the other components do not face. When floods, hurricanes, and forest fires threaten any section of the Nation, the guardsmen are the first organized military group called.

By the same token, no major war has ever been fought by this country without calling upon the National Guard. The record speaks for itself on this matter, so I need not dwell on that.

Furthermore, the budget of the National Guard Bureau—in excess of a billion dollars—is by far the largest of any of the Reserve-type components. The Chief of the Bureau administers six of the 13 separate defense appropriations for the components. Additionally, the Guard Bureau is the only agency among the components with operating responsibilities as well as staff agency responsibilities for budgetary matters. In its role as a budget operating agency, the Bureau allots to the National Guard of the 50 States, the Commonwealth of Puerto Rico and the District of Columbia. In that sense—where the Chief of the Bureau exercises a span of control over what is tantamount to 52 joint headquarters—he holds the broadest span of control of any of the component chiefs. By comparison, the Chief of the Army Reserve manages the Army Reserve primarily through Continental Army Command and the U.S. Army Administration Center. The Chief, Air Force Reserve manages his force primarily through Headquarters Air Force Reserve and the Air Reserve Records Center. The Chief, Naval Reserve Training Command manages the Naval Reserve surface fleet through 10 naval districts. The Chief, Naval Air Reserve manages the Naval Air Reserve through 18 air stations and training units, and the Director of the Marine Corps Reserve manages his force through six Marine Corps districts, the 4th Marine Division, and the 4th Marine Air Wing.

Another reason for citing special significance to the position of Chief, National Guard Bureau, is the fact that the Guard represents the largest Ready Reserve unit program in the Nation. The nearly half million guardsmen comprise more than half of all the Selected Reserves. On the ground, the Army Guard has eight of the nine combat divisions allocated to the various components, and 18 of the 21 separate combat brigades. In addition, the Army Guard provides all of the on-site Nike Hercules batteries assigned to the Reserve Forces. On the air side, the Air National Guard mans 24 of the 38 flying wings allocated to the Reserve-type elements, and 92 of the flying squadrons of a total of 190 squadrons allocated the Reserve Forces. That is approximately half of the flying squadrons in the Reserve Forces.

Under any careful analysis, the responsibilities of the Chief of the National Guard Bureau show up to be so much more overwhelming than the chiefs of any of the other components that I believe that position deserves the three-star rank being requested in this bill.

Mr. O'KONSKI. Mr. Speaker, I now yield 7 minutes to the gentleman from New York (Mr. KOCH), and if he needs more time, I still have a few minutes left.

Mr. KOCH. Mr. Speaker, I would like to address myself to some of the arguments raised by the distinguished chairman of the committee, the gentleman from South Carolina (Mr. RIVERS), whom I respect, but whose arguments I would suggest are not persuasive.

When public attention was first paid to what General Wilson said, I was outraged. Irrespective of how one feels about this war—and we are split in this House and in this country—it seems to me that almost everybody does believe that the military should never enter the political arena. If a general decides that he wants to participate in a demonstration out of uniform or run for political office, or if a soldier wants to get into a demonstration out of uniform, that is their right; but, in uniform and in direct command they do not have this right. That distinguishes us from other forms of government.

I do not think anybody in this House would want to see a government like the Greek junta. There they let the military involve itself in politics and we know what happened. And I do not believe, either, that we would like to see a situation arise where General Wilson would say to his men, "You know, they are debating the war in Vietnam down in Congress tomorrow. Why don't all the members of the National Guard go down there and fill the galleries and show by

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their physical presence in uniform that they are opposed to what they are doing down on the floor." You know, they could even bring their guns in here, because under the regulations of the Capitol, men in uniform are entitled to carry rifles with them while in the Capitol. We would be very distressed by that.

I say that when a general sends out an official directive urging his subordinates to participate in a political demonstration, he is entering the political arena. I urge you to put aside how you might feel about the war, because this is not the issue. The issue is whether or not the military can get involved in politics.

When General Wilson spoke, he said the following—and my good friend, the chairman of the committee, the gentleman from South Carolina (Mr. RIVERS), quoted a part of it, but I want to give you another part which is different from the part that he read. This is a quote:

> I find unfortunate the fact that just a few days following the day of national tribute to many Americans who have fallen in battle, many other Americans will demonstrate in many of our cities to demand a course of action that not only would betray those Americans who already have suffered and died in Vietnam, but also would mean abandonment of our allies and a revocation of our pledged word.

He has a right to his private opinion, but he is talking about 100 Members of the House who might feel that we ought to get out of Vietnam, and he is saying that we are betraying our country. However, I do not believe you want a general, as a general, casting aspersions on other Members of the House. Each of us is trying to do our job as a Congressman as God gives us the light to see it.

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General Wilson goes on to say this:

> Because of my grave concern that the moratorium activities might be misunderstood in North Vietnam, however, I suggest that we ask even more of our Guardsmen. Therefore, I urge that we encourage all National Guardsmen, as citizens, to join in a national effort that will underscore the nation's determination to follow a prudent course in Vietnam. To do this, I urge that from 11 November through 16 November 1969, National Guardsmen: 1. Fly the American flag at their homes and businesses. 2. Drive their automobiles with the headlights turned on and turn their porch lights on at home.

I am a veteran of World War II. I honor Veterans Day—that is the 11th of November. Veterans Day does not go through November 16. It just happens that the moratorium in November took place from the 13th through the 16th of November. Clearly, General Wilson's "national effort" was to be a counter-demonstration.

I really resent, and bitterly so, when people on one side or the other side of the Vietnam issue think they can preempt the use of the American flag. I think it is our symbol of freedom. It belongs to all. It does not belong just to those who believe we ought to be fighting and dying in Vietnam. Those who are opposed to the war have the same right to that flag. I do not think it should be slighted or sullied, and I especially do not think it should be used in a political way.

I give you my word that had it been General Shoup of the Marines, who is opposed to the war, who had sent out word to his command, "Join the protest against the war and participate in the November demonstration." I would have thought that an outrageous act even though I would have agreed with his position on the war. Mr. Speaker, it is simply wrong for the military to do that. When the general tells his people to drive with their lights on and keep their porch lights burning, and to do this not just on November 11, but also on November 12th, 13th, 14th, 15th, and 16th he is not celebrating Armistice Day—Veterans Day. He is engaging in a counter-protest to the November moratorium which took place in that period. He is talking about a political demonstration to counter the moratorium. That is wrong. We do not want that.

Mr. Speaker, this country is sufficiently divided that we do not want the military to divide us even further.

If you should not be concerned about the separation of the military from affairs political, I would urge you to simply accept the fact that the Department of Defense opposes this bill.

Mr. Speaker, it is all good and well to say, "What do I care about the Department of Defense and the fact that they oppose the bill." But the Department of Defense is always being brought into the debate on this floor to say, "We need this; we have to spend that." But when the Department of Defense takes a position contrary to the proponent's argument, it is not consistent suddenly to say that the Department's position is of no consequence.

I, therefore, urge you to vote this bill down.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentleman.

Mr. BIAGGI. Just for the sake of argument, assuming that General Wilson was incorrect in his position and the bill was defeated, how long would the gentleman suggest that he be punished for this dereliction of duty, if you will?

Mr. KOCH. Should his nomination come up again, my action would be determined by what General Wilson did in the interim to recognize his error. His latest communication to Chairman RIVERS, however, indicates that he continues to think what he did was correct.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. O'KONSKI. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding and I would like to commend the gentleman highly for bringing this matter to the attention of the House. I agree with everything he has said in his characterization of this general's performance last November. I think it was an outrage.

However, my vote—and I will vote "no" on this bill—will be brought forth by the opposition of the Department of Defense to the bill, on the ground that I do not believe we should act in a particular case of this kind in opposition to their views.

I am not voting "no" because of the individual's performance, this is a general proposition.

Mr. KOCH. Mr. Speaker, may I just respond to that by saying that when this matter came to my attention I wrote to the Secretary of Defense and asked him to take action. Instead, the Department of Defense defended the general's actions.

The only way the Congress can exert its will and can have civilian power over the military is to do what I am asking the Members to do today.

The SPEAKER pro tempore. The time of the gentleman from New York has again expired.

Mr. RIVERS. Mr. Speaker, will the gentleman yield?

Mr. O'KONSKI. Mr. Speaker, I will yield 1 additional minute to the gentleman from New York in order to answer a question from the gentleman from South Carolina (Mr. RIVERS), the chairman of the committee.

Mr. RIVERS. Mr. Speaker, will the gentleman agree that the position of the Chief of the National Guard Bureau has more responsibility than it had when it was created?

Mr. KOCH. I do not doubt that for a minute.

Mr. RIVERS. Mr. Speaker, will the gentleman agree——

Mr. KOCH. Mr. Speaker, I would rely on the Department of Defense's position on that matter. They have said in this case the elevation in rank is not needed.

Mr. RIVERS, I am sure the gentleman from New York has followed the recommendations of the Department of Defense, and has voted on all of the recommendations that they have sent here?

Mr. KOCH. No, I often find myself in disagreement with the Department of Defense, but I consider them as experts in certain particular fields.

Mr. RIVERS. Did the gentleman vote against this bill when we had it up last year?

Mr. KOCH. With respect to this item? I can only say if it came in on the Consent Calendar—which I suppose it did, and I was not alerted to it, I may have. It was only by the grace of God, if you will, that I was alerted to it this time.

Mr. RIVERS. Mr. Speaker, I will state to the gentleman from New York that it was in the authorization bill last year that authorized all the money for the defense hardware. I am sure the gentleman from New York knows whether or not he voted for that particular bill.

Mr. KOCH. I must say that I believe I voted against it.

Mr. RIVERS. I thank the gentleman very much.

The SPEAKER pro tempore. The time of the gentleman from New York has again expired.

Mr. O'KONSKI. Mr. Speaker, I yield 1 additional minute to the gentleman from New York so that he may reply to a question from the gentleman from New York (Mr. RYAN).

Mr. KOCH. Mr. Speaker, I appreciate the gentleman yielding me the additional time.

Mr. RYAN. Mr. Speaker, I appreciate the gentleman from Wisconsin yielding this additional time to the gentleman from New York.

Mr. Speaker, as I recall when the gentleman from New York quoted from the memorandum from the Chief of the National Guard Bureau, the memorandum urged all National Guardsmen, to drive their automobiles with the headlights turned on and to burn their porch lights at home for 6 days. Would the gentleman characterize that as a mere suggestion?

Mr. KOCH. It was more than a mere suggestion. He used the word "urged." And when you get a directive from the general and you happen to be a private, and he urges you to do something, you do it with alacrity.

Mr. RYAN. That is my point. A suggestion made by a general is tantamount to an order, especially when it comes to National Guardsmen from a general who is the Chief of the National Guard Bureau; is that correct?

Mr. KOCH. That is indeed true.

Mr. Speaker, I would urge that this body defeat H.R. 15143 providing for the promotion of the Chief of the National Guard Bureau from a major to a lieutenant general.

The present Chief of the National Guard is Maj. Gen. Winston P. Wilson. It was General Wilson who last November sent an official memorandum to the 50 States' adjutants general urging that the country's 500,000 National Guardsmen provide a counter demonstration to the moratorium activities. The National Guard Chief specifically recommended that National Guardsmen:

First, fly the American flag at their homes and businesses; and

Second, drive their automobiles with the headlights turned on and turn their porchlights on at home.

This "national effort," as General Wilson called it, to "underscore the Nation's determination to follow a prudent course in Vietnam" was to last 6 days—from Tuesday, November 11, through the weekend's moratorium activities ending November 16.

I submit, Mr. Speaker, that in sending this politically based official directive, General Wilson acted irresponsibly as a military officer and abused his position is Chief of the National Guard Bureau. I believe that this is not the time to reward him with a promotion.

No matter how strong this body's disagreements may be over Vietnam or any other issue of foreign policy, I am certain that few would disagree that basic in our democratic form of government is an essential separation of politics and the military. History has too often demonstrated that when this separation breaks down, civic freedom is lost and government of and by the people perishes.

Clearly, our Nation cannot let the military engage in or provide political demonstrations. Since our founding, men while in uniform, from privates to generals, have been barred from engaging in political demonstrations and rightly so. General Wilson out of uniform is free to do what he wishes and support any position, including protests favoring the war in Vietnam, as well as those opposing that war. He does not have the right, however, in his capacity as a general to issue a directive urging his men to engage in a political demonstration.

Not only was General Wilson in uniform, but more important he was using his official capacity as the National Guard Chief to urge the members of his command to undertake actions which could only be interpreted as constituting a political demonstration. If we reward this kind of activity with a promotion we endanger our democratic form of government.

It should be noted that the Department of Defense has not recommended the bill. In fact, it has opposed it. At stake is not an item of national defense, but rather the promotion of an individual who has debased the military. Perhaps we should consider, not the promotion of the general, but the removal of a star.

Major General Wilson's paper follows:

MAJ. GEN. WINSTON P. WILSON'S MEMORANDUM OF NOVEMBER 3, 1969

From: NG Departments of the Army and Air Force, Washington, D.C.

To: All groups, 50 States and Puerto Rico.

Copies to: White House (Mr. Butterfield), Secretary of Defense, Secretary of the Army, Secretary of the Air Force.

On November 11, our nation will once again pay tribute to those who have made the supreme sacrifice in the defense of their country. This year's ceremony, as for the past number of years, will take place while our armed forces are still locked in battle in Vietnam.

In that war, at least 75 National Guardsmen from the four mobilized Air Guard and eight Army Guard units which were deployed to the combat zone or *who volunteered to serve in Vietnam,* have given their lives. One of our mobilized Army Guard units is still fighting there. Many former Air Guardsmen who became active Air Force pilots have been shot down over North Vietnam and are now prisoners of war suffering indignities and torture at the hands of a cruel, inhumane enemy.

I find unfortunate the fact that just a few days following the day of national tribute to many Americans who have fallen in battle, many other Americans will demonstrate in many of our cities to demand a course of action that not only would betray those Americans who already have suffered and died in Vietnam, but also would mean abandonment of our allies and a revocation of our pledged word.

Certainly every American wants to end the war. Every American wants peace. However, the desire for a speedy conclusion of the conflict should not be so great that we become blind to the realities of such a shortsighted course. We do not, through emotional confusion, want to pursue an impetuous action at the price of capitulation and surrender. We should move ahead cooly, methodically and orderly—as I believe we are doing—in a matter which will give us the greatest guarantee of lasting results.

I am concerned that those Americans who seek a capitulatory solution are creating a feeling of comfort in Hanoi and are leaving the enemy with the impression that their vocal and active groups represent the majority opinion within the United States.

As a result, I think the time has come for all of us to awaken to the difficulties these misguided activities create for our nation's efforts to bring about an honorable peace in Vietnam, how disruptive they must be to negotiations in Paris. It's time for Americans to get behind a move that will demonstrate the true majority opinion in this country. I believe as a matter of national honor, the will of the American people will be to show Hanoi that America's overwhelming public opinion is *not* represented by those who carry the enemy flag in our streets.

Undoubtedly, many Guardsmen may be called upon to protect the rights of these citizens to protest. To act with restraint in the face of what many of the Guardsmen, I know, believe to be a dishonor to our country requires a patience and understanding that are above and beyond what most Americans are ever asked to perform. Yet, I know Guardsmen will act with the restraint and orderliness that has marked their past efforts to maintain peace in our cities and on our campuses.

Because of my grave concern that the moratorium activities might be misunderstood in North Vietnam, however, I suggest that we ask even more of our Guardsmen. Therefore, I urge that we encourage all National Guardsmen, as citizens, to join in a national effort that will underscore the nation's determination to follow a prudent course in Vietnam. To do this, I urge that from 11 November through 16 November 1969, National Guardsmen: 1. Fly the American flag at their homes and businesses. 2. Drive their automobiles with the headlights turned on and turn their porch light on at home.

I hope, too, that Guardsmen will encourage others in their families and in their communities to do the same.

WINSTON P. WILSON,
Major General, Chief,
National Guard Bureau.

The SPEAKER pro tempore. The time of the gentleman from New York has again expired.

The gentleman from Wisconsin has 5 minutes remaining.

Mr. O'KONSKI. Mr. Speaker, first I will yield 4 minutes to the distinguished gentleman from Missouri (Mr. HALL) and then I will yield 1 minute to the gentleman from Mississippi.

Mr. HALL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, in the interest of expediting this unusal procedure, I would submit that the technical, including training background, fiscal, and personnel requirements for this position have been well documented by the chairman of the committee, and the gentleman from Indiana (Mr. BRAY).

I have little use for personal pique, and thus endeth the forensic orgasm, as far as I am concerned.

Mr. Speaker, I recognize that the legislation about which we are talking is aimed at upgrading the rank of a position or job vacancy, and not a man. However, the man who happens to hold the position of Chief of the National Guard Bureau at this time, certainly deserves promotion on his own merits.

Winston Peabody "Wimpy" Wilson has made so many contributions to this Nation, individually and collectively through the Guard, that we Americans never will be able to repay him. A great many of the innovations he initiated into the National Guard have proved their value, time and time again, so much so, as a matter of fact, that many of them have been adopted as a pattern by the other Reserve forces.

It was "Wimpy" Wilson who sat at the helm to direct the conversion of the

Air National Guard from prop-driven aircraft to jets. This was done at a time when a great many persons believed the jets were too sophisticated for a component. He accepted four-engine aircraft at a time when critics maintained the Guard would never be able to maintain them. The wisdom of his foresight has been proved repeatedly.

General Wilson—who, by the way, has been a major general for 15 years and is senior Air Force major general—has implemented many programs that have proved their value. In 1952, for example, he started the Air National Guard on weekend training, a significant departure from the Guard's traditional one night a week routine. The weekend warrior training provided a more realistic training base, allowed for more flying training and great increase in the combat capability of the Air National Guard. He brought the Army National Guard into the same weekend training program when he became Chief of the Bureau in 1963.

He was responsible for the implementation of a 6-month training program. That program proved so successful that it was made mandatory under the Reserve Forces Act of 1955 for all Reserve-type components.

He initiated the "Gaining Command" concept, which brings Air Guard units directly under the Air Force command which would gain them in a mobilization so far as inspection and supervision of training are concerned. The wisdom of this concept was proved during the Berlin mobilization when the Tactical Air Command was able to deploy eight Air Guard squadrons to Europe less than 30 days after mobilization in the largest deployment of jets in Air Force history.

If anyone is responsible for bringing professionalism to the Guard and the other components, it is General Wilson. Because of his foresight primarily are we able to call these forces "ready now."

General Wilson has actively shared the responsibility for economy and efficiency within the Armed Forces, also. To this end, he has continuously sought for the identification of peacetime missions which could be performed by the Guard and Reserve as a byproduct of their training program. Thus, the American taxpayers are able to save many of their defense dollars. First among these programs was the runway alert program in 1955, when the Air Guard assumed part of the active defense of the Nation. At this time, the Guard is providing more than 50 percent of the fighter interceptors performing that important mission for the Nation. Now Guard transports are flying missions wordwide and other elements of the Guard repeatedly perform their active duty in support of an active service exercise, be it in the United States or overseas.

Right now, Air Guardsmen are in Turkey performing an active role in the communications field, as they have done in France when we were forced to remove our equipment from that nation with the forced withdrawal of NATO. The Air Guard has aerial tankers in Germany on a full-time basis. But it utilizes part-time guardsmen to carry out the impressive mission, the first of its type ever conducted.

These are just a few of the accomplishments one can attribute to General Wilson and his leadership. He is a most deserving individual. He is a person respected from the highest to the lowest ranks. And I think he deserves the recognition that would be accorded him under this legislation. He works and trains so our Nation sleeps well at night.

Mr. O'KONSKI. Mr. Speaker, I yield the remaining time, 1 minute to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, looking at the facts in this situation, General Wilson is in rank the oldest major general in the Air Force, having been promoted in 1955. If we do not change the law, he cannot be promoted now. He commands and controls over 500,000 young Americans, young citizen soldiers. They handled themselves well in Korea and they handled themselves well in Vietnam. Certainly, during the civil disturbances that we have had across the country, thank God that we had the National Guard to help our people in time of trouble and danger.

I would like to close by saying that the three times I have been in Vietnam, the biggest gripe I have received from our American soldiers and airmen and Navy people over there is that they worry about the antiwar demonstrations and moratoriums and draft card burners back in the United States.

I am not going to belabor the point of whether General Wilson was right or wrong, but certainly any suggestion to fly the flag and burn lights to show patriotism cannot be wrong.

Mr. Speaker, I hope the Members of the House support this bill.

The SPEAKER. The time of the gentleman has expired.

All time has expired.

The question is on the motion of the gentleman from South Carolina that the House suspend the rules and pass the bill H.R. 15143.

The question was taken.

Mr. KOCH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 269, nays 44, not voting 117, as follows:

[Roll No. 48]

YEAS—269

Abbitt
Abernethy
Adair
Albert
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Arends
Aspinall
Baring
Beall, Md.
Bennett
Betts
Biaggi
Biester
Blackburn
Blanton
Boggs
Boland
Bow
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Button
Byrne, Pa.
Cabell
Caffery
Camp
Carter
Casey
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins
Colmer
Conable
Conte
Corbett
Cowger
Crane
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Delaney
Denney
Dennis
Dent
Devine
Dickinson
Dingell
Donohue
Dowdy
Downing
Duncan
Edmondson
Edwards, Ala.
Edwards, La.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fallon
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Foreman
Fountain
Frey
Friedel
Fulton, Pa.
Fuqua
Galifianakis
Gettys
Giaimo
Gibbons
Gonzalez
Goodling
Griffin
Griffiths
Gubser
Gude
Haley
Hall
Hamilton
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Hays
Heckler, Mass.
Henderson
Hicks
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Kazen
Kee
Keith
King
Kleppe
Kyl
Kyros
Landgrebe
Landrum
Langen
Latta
Lennon
Lloyd
Long, Md.
Lujan
McClory
McClure
McCulloch
McDade
McDonald, Mich.
McFall
McKneally
McMillan
MacGregor
Mahon
Mailliard
Marsh
Martin
Mathias
Matsunaga
May
Mayne
Meeds
Melcher
Meskill
Miller, Calif.
Miller, Ohio
Mills
Minish
Minshall
Mize
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Hara
Olsen
O'Neal, Ga.
O'Neill, Mass.
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Philbin
Pickle
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Quie
Quillen
Randall
Reifel
Rhodes
Rivers
Roberts
Robison
Rodino
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Roth
Ruppe
Satterfield
Saylor
Schadeberg
Scherle
Schneebeli
Schwengel
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Snyder
Springer
Stafford
Staggers
Steed
Steiger, Ariz.
Stratton
Symington
Talcott
Taylor
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Udall
Van Deerlin
Vander Jagt
Waggonner
Wampler
Watts
Whalen
White
Whitten
Wiggins
Williams
Wilson, Bob
Winn
Wold
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young
Zablocki
Zion

NAYS—44

Adams
Addabbo
Bingham
Brademas
Burton, Calif.
Carey
Celler
Chisholm
Clay
Cohelan
Culver
Derwinski
Eckhardt
Edwards, Calif.
Farbstein
Gilbert
Green, Pa.
Gross
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Helstoski
Jacobs
Kastenmeier
Koch
Lowenstein
McCloskey
Mikva
Mink
Moss
O'Konski
Pike
Rees
Reid, N.Y.
Reuss
Riegle
Rosenthal
Roybal
Ryan
Scott
Vanik
Vigorito
Yates

NOT VOTING—117

Alexander
Annunzio
Ashbrook
Ashley
Ayres
Barrett
Belcher
Bell, Calif.
Berry
Bevill
Blatnik
Bolling
Brasco
Brock
Brown, Calif.
Burleson, Tex.
Burton, Utah
Bush
Byrnes, Wis.
Cederberg
Conyers
Corman
Coughlin
Cramer
Daddario
Davis, Wis.
Dawson

XUM

de la Garza
Dellenback
Diggs
Dorn
Dulski
Dwyer
Erlenborn
Evans, Colo.
Fascell
Feighan
Findley
Fish
Fisher
Fraser
Frelinghuysen
Fulton, Tenn.
Gallagher
Garmatz
Gaydos
Goldwater
Gray
Green, Oreg.
Grover
Hagan
Halpern
Hanley
Hanna
Hansen, Wash.
Hébert
Hogan
Holifield
Jones, Tenn.
Karth
Kirwan
Kluczynski
Kuykendall
Leggett
Long, La.
Lukens
McCarthy
McEwen
Macdonald, Mass.
Madden
Mann
Michel
Morton
Murphy, Ill.
Myers
Nix
Ottinger
Pirnie
Poage
Pollock
Powell
Pryor, Ark.
Pucinski
Purcell
Railsback
Rarick
Reid, Ill.
Roe
Rostenkowski
Roudebush
Ruth
St Germain
St. Onge
Sandman
Scheuer
Smith, N.Y.
Stanton
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Sullivan
Taft
Teague, Calif.
Tiernan
Tunney
Ullman
Waldie
Watkins
Watson
Weicker
Whalley
Whitehurst
Widnall
Wilson, Charles H.
Zwach

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert and Mr. Annunzio for, with Mr. Brasco against.

Mr. Morton and Mr. Burleson of Texas for, with Mr. Hanna against.

Mr. Whitehurst and Mr. Watkins for, with Mr. Brown of California against.

Mr. Fulton of Tennessee and Mr. Jones of Tennessee for, with Mr. Conyers against.

Mr. Daddario and Mr. Feighan for, with Mr. Diggs against.

Mr. Garmatz and Mr. Long of Louisiana for, with Mr. Powell against.

Mr. Rarick and Mr. Stephens for, with Mr. Scheuer against.

Mr. Stuckey and Mrs. Sullivan for, with Mr. Waldie against.

Mr. Blatnik and Mr. Dorn for, with Mr. Stokes against.

Until further notice:

Mr. Rostenkowski with Mr. Widnall.
Mr. Alexander with Mr. Belcher.
Mr. Kluczynski with Mr. Byrnes of Wisconsin.
Mr. Ashley with Mr. Ashbrook.
Mr. Holifield with Mr. Cederberg.
Mr. Mann with Mr. Davis of Wisconsin.
Mr. St Germain with Mr. Ayers.
Mr. Gallagher with Mrs. Dwyer.
Mr. St. Onge with Mr. Coughlin.
Mr. Barrett with Mr. Frelinghuysen.
Mr. Tiernan with Mr. Cramer.
Mr. Gaydos with Mr. Burton of Utah.
Mr. Pucinski with Mr. Dellenback.
Mr. Ullman with Mr. Grover.
Mr. Leggett with Mr. Halpern.
Mr. Macdonald of Massachusetts with Mr. Hogan.
Mr. Dulski with Mr. McEwen.
Mr. Stubblefield with Mr. Bell of California.
Mr. Evans with Mr. Michel.
Mr. Corman with Mr. Pirnie.
Mr. Fascell with Mr. Bush.
Mr. Charles H. Wilson with Mr. Goldwater.
Mr. Fisher with Mr. Myers.
Mr. Karth with Mr. Berry.
Mr. Bevill with Mr. Kuykendall.
Mr. Hanley with Mr. Pollock.
Mr. Fraser with Mr. Railsback.
Mr. Hogan with Mr. Erlenborn.
Mr. Gray with Mrs. Reid of Illinois.
Mr. Helstoski with Mr. Brock.
Mr. Kirwan with Mr. Findley.
Mr. Tunney with Mr. Fish.
Mr. McCarthy with Mr. Lukens.
Mr. Murphy of Illinois with Mr. Roudebush.
Mrs. Hansen of Washington with Mr. Sandman.
Mr. Ottinger wth Mr. Ruth.
Mr. Roe with Mr. Nix.
Mr. Pryor of Arkansas with Mr. Whalley.
Mr. Purcell with Mr. Smith of New York.
Mr. Watson with Mr. Taft.
Mr. Steiger of Wisconsin with Mr. Zwach.
Mr. Weicker with Mr. Teague of California.
Mr. de la Garza with Mr. Stanton.

Mr. MINISH, Mr. RODINO, Mr. HAMILTON, and Mrs. HECKLER of Massachusetts changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

CAPE COD NATIONAL SEASHORE

Mr. TAYLOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1187) to amend the act of August 7, 1961, providing for the establishment of Cape Cod National Seashore, as amended.

The Clerk read as follows:

H.R. 1187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act entitled "An Act to provide for the establishment of Cape Cod National Seashore," approved August 7, 1961 (75 Stat. 284, 293), is amended by striking out the figure "$16,000,000" and inserting in lieu thereof the figure "$33,500,000".

The SPEAKER pro tempore (Mr. BOGGS). Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. TAYLOR) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. SAYLOR) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR. Mr. Speaker, I yield myself 8 minutes.

Mr. TAYLOR. Mr. Speaker, the bill now before the House, H.R. 1187, is not complex. It simply authorizes an increase in the amount authorized to be appropriated to complete the land acquisition program at Cape Cod National Seashore in Massachusetts from $16 million to $33.5 million. It gives to the Cape Cod Seashore area the same consideration which we gave Padre Island Seashore in Texas last year and Point Reyes National Seashore in California earlier this year.

The original authorization of the Cape Cod National Seashore, approved in 1961, did not establish the first national seashore. That is in my home State of North Carolina at Cape Hatteras, but it was donated to the Federal Government. The Cape Cod legislation was new in one respect. It represented the beginning of a new era in the field of conservation legislation because it was the first massive commitment by the Congress and the Nation to purchase needed recreation lands near large centers of population and in regions of the country where public outdoor recreation opportunities are vitally needed, but are limited. Prior to the establishing of the Cape Cod Seashore, efforts had been limited principally to areas located on existing federally-owned lands or to areas donated to the Federal Government for conservation or recreation purposes.

Frankly, this lack of experience was one of the causes for the underestimating of the total cost which would be involved. There are two other reasons for the error in the cost estimates. First, the original estimates of land values were based on tax valuations and were far too low. Today the National Park Service employs professional real estate appraisers and ascertains the actual market values. Second, the authorization was established 9 years ago and land values at Cape Cod, as in other choice recreation areas, have been increasing some 10–15 percent per year.

However, it is not necessary for Congress to apologize nor regret the action that we took in 1961 when we authorized the Cape Cod Seashore. Regardless of the increased cost, that area is a valuable national asset and will become more valuable in future years.

Mr. Speaker, we have made a considerable amount of progress at Cape Cod with the $16 million which was authorized and has been appropriated for land acquisition. Some 16,400 acres of uplands have been deeded over to the United States and some areas have already been developed for public use and enjoyment. In fact, public visitation at this area exceeded 4 million visitor-days in 1969 and is expected to double in the next 4 or 5 years.

It is important that the land acquisition program at this national recreation area be completed as promptly as possible, but lands within the boundaries cannot be acquired, and appropriations cannot be made until the authorization ceiling is increased as provided in this bill. The existing authorization has been completely funded, and 7,518 acres of land, some of it the most valuable and most needed land on the waterfront, remain to be acquired.

Mr. Speaker, I want to emphasize that the Members of the committee bring these increased authorizations to the floor of the House reluctantly. If the circumstances were different, if the funds were not needed to complete a project, or if they were not important to accomplish a recognized national goal, then we would not recommend this legislation. But, the fact is that they are needed. They do serve a national purpose, and they should be available as soon as possible. The moneys are available in the land and water conservation fund for appropriation for this purpose.

It is poor economy to leave this money in this earmarked fund, drawing 4 or 5 percent interest, while the value of the land to be acquired is increasing at 10 to 15 percent per year.

Let me emphasize that the members

XUM

of the Committee on Interior and Insular Affairs have tried to keep this national recreation program on a reasonable and realistic basis, both in terms of the national need to be served and in terms of the funds available to meet this need. Had we followed the recommendations of the bureaucrats originally, we would not be here today with this bill. Instead the original authorization would have provided for no limitation on appropriations. But the Committee on Interior and Insular Affairs, as a policy, has insisted on a ceiling in all authorization bills of this type. These ceilings are established by an amendment in the committee, commonly referred to as the Haley amendment.

As everyone knows, we have been confronted with massive ceiling increases at Padre Island and Point Reyes, and now Cape Cod. I know that Members are wondering when we will reach the end of these ceiling increases. This has been a source of considerable embarrassment to all of us, but we have faced them frankly and candidly. I am pleased to say that this should be the last of the large ceiling increases if the funding program continues at the anticipated pace. We will probably face some difficulties in some additional areas, such as Minuteman National Historical Park and Lake Mead National Recreation Area. But they will be relatively small. Most of the newer areas, which have been established since the Department started using land appraisers to determine values, are expected to be acquired within the authorization limits established by Congress.

XUM

The Members of the House will notice that the committee has recommended an amendment to the bill to increase the amount to be appropriated to $33,500,000. This represents an increase of $17.5 million over the present ceiling. Based on January 1969 appraisal data, the committee was told that the anticipated cost to complete the project would be $17,401,000 if funded within the next 3 years. The committee rounded out the figures and made a little allowance for the year that has expired since the appraisal was made.

As chairman of the Subcommittee on National Parks and Recreation and as spokesman for the committee on this legislation, I urge favorable consideration of H.R. 1187. I believe that we have no choice but to pass the legislation and proceed with the completion of the land acquisition program at Cape Cod National Seashore.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Colorado, chairman of the Committee on Interior and Insular Affairs.

Mr. ASPINALL. I thank the gentleman from North Carolina for yielding to me.

Mr. Speaker, I wish to advise my colleagues in the House that now, for the first time, with our action on Point Reyes and now the Cape Cod authorization, we are getting ourselves into complete coordination with the administration.

We have been promised—and we have every right to expect that the promise will be fulfilled—that with these authorizations we are bringing forth, the money will be available from the land and water conservation fund, some by supplemental appropriations this year and others by appropriation in the years ahead, to do the work that should have been done from the very beginning.

If we had not had the hold-up we have had, we would not be behind as we now are, but we have every right to believe and to advise our colleagues in the House that with the reauthorization in this bill, and for those projects in being at the present time, and for those projects not started but already authorized, they will be carried on in accordance with the wishes and approval of the House of Representatives action.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I thank the gentleman for yielding.

I was interested in the gentleman's point about the need for expediting acquisitions. I am familiar with the land acquisitions policies and know the changes that need to be made, but I understand in these land acquisitions the owners' properties have been purchased but they have been given life estates in residence. How many trades or tracts of land have reverted to the government under this acquisition policy, and does the gentleman think it wise in view of the need for expediting?

Mr. TAYLOR. I would state it is my opinion that it is wise. However, the Government has not been purchasing the land and reserving life estates. The legislation provides in the case of single-family dwelling units constructed prior to a date in 1959 and complying with the zoning regulations, the owners could keep the property for a period of 25 years or during the lifetime of the owner, at his election, so those properties just have not been acquired and this legislation does not provide for acquiring them.

I am proud to state the zoning regulations have been put into effect by the local authorities.

Mr. HALL. Mr. Speaker, I thank the gentleman. I recall in 1961 when we were discussing the original bill, there was some question about access road development and the expectation that would cost as much as $50 million to $59 million. Have any of those roads been constructed?

Mr. TAYLOR. The answer is "No."

Mr. HALL. The same thing applies to the central sewage system. Is the Federal sewer system being initiated, and if so, will it be within the ceiling the gentleman's committee has so wisely placed it?

Mr. TAYLOR. No; the ceiling deals with acquisition only.

Mr. HALL. Finally, is this budget within the 1971 budget?

Mr. ASPINALL. Mr. Speaker, if the gentleman will yield to me, according to the statements that have been made, we have been promised a certain amount would be budgeted, not in the present budget, but it would be recommended for the supplemental. The rest of it would follow in accordance with the schedules that have been made out.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, do I understand that this project started at $16 million and is now up to $33,500,000?

Mr. TAYLOR. It started in 1961 at $16 million and is now up to $33.5 million as the total cost of the land.

Mr. GROSS. About twice the original cost. Where are the 249 acres that would be acquired at a cost of between $9,000 and $10,000 an acre? Does the gentleman know?

Mr. TAYLOR. The 249 acres are improved property, the improvements having been constructed since the date in 1959 when some individuals went in and bought lots and built houses, even though the act had been passed or was in process of being passed, knowing the property would be taken. We had no way of stopping that. We could not prevent developments until we were in a position to take the land and pay for it. So that is the area the gentleman refers to.

Mr. GROSS. Is that in one area?

Mr. TAYLOR. It is several areas. The houses are on different lots in areas that need to be taken.

Mr. GROSS. The speculators have gotten into this act?

Mr. TAYLOR. Yes. That happens every time we wait for 9 or 10 years to acquire property after we authorize an area to be taken.

Mr. GROSS. So some of that would happen even if there were a lesser period?

Mr. TAYLOR. The gentleman is correct. We are hoping now that within about 2 years our acquisition program can be more nearly current.

We hope that when we approve an area we can provide for legislative taking or quick purchase.

Mr. GROSS. I have one final question, if the gentleman will indulge me. Does this provide for a new bridge at Chappaquiddick, or is that area in this project?

Mr. TAYLOR. The area is not in the project.

Mr. GROSS. Is that area in this bill as a part of the seashore?

Mr. TAYLOR. It is not.

Mr. GROSS. I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. TAYLOR. Mr. Speaker, I yield myself 2 additional minutes.

Mr. KEITH. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Massachusetts, the author of the bill.

Mr. KEITH. I should like to invite the attention of the gentleman to what I feel certain is an error on page 8 of the report. Under the Ramseyer rule, there is shown the figure of $16,000,000, and adjacent thereto the figures 933,500,000. I trust the gentleman will reassure us that is intended to mean $33,500,000 and not $933,500,000.

Mr. TAYLOR. I will state to the gentleman that is a typographical error. I noticed it earlier. That "9" is supposed to be a dollar mark.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1117, as amended by the committee, to amend the act of August 7, 1961, providing for the establishment of the Cape Cod National Seashore.

The purpose of this legislation is to increase the amount authorized to be appropriated for the acquisitions of lands and interests therein at the Cape Cod National Seashore in the State of Massachusetts from $16 million to $33,500,000.

This bill, once again, demonstrates the problem of escalating land costs as they relate to acquisition of lands and interests therein for national park and recreation areas and the need to acquire these areas as quickly as possible after authorization and without resorting to legislative takings.

The Cape Cod National Seashore was authorized by the Congress and enacted into law on August 7, 1961. That act authorized the appropriation of $16 million to acquire 27,650 acres of land or interests in land and waters based upon assessed valuation appraisals made in 1959. However, the first appropriation to acquire these lands was not made available until 1962 and the actual funding of this national seashore has been drawn out over a period of 7 fiscal years.

We all know that land values do not remain static and if protracted over a period of 7 years, we cannot expect that acquisition costs in the seventh year would remain the same as anticipated in the first year. This is a simple matter of commonsense knowing the many variables that affect land values. The inability to acquire these properties promptly after authorization, and the inadequate appraisals made coupled with the escalation of land values are the reasons we in the Congress are faced with this type of legislation.

This bill proposes an increased appropriation authorization of $17,500,000 to acquire 7,519 acres of land and interests therein, based upon 1969 appraisals. This will round out the acquisition of lands for the Cape Cod National Seashore except for 1,311 acres containing 653 improvements and having an aggregate estimated value, at this time, of $13,290,000. These private lands come under the so-called Cape Cod formula; which suspends the right of condemnation and permits the right of use and occupancy for noncommercial residential purposes to be freely transferred or assigned subject to zoning laws approved by the Secretary of the Interior. It has always been anticipated that these properties would not be acquired, so long as their use was in conformity with the purposes for which the national seashore was established and to provide a tax and economic base for established communities in the area.

Now that this administration is on record to expend the total funds available under the land and water conservation fund to reduce the backlog of national park and recreation area authorizations, this legislation becomes priority legislation. In this sense, it will fulfill an obligation which Congress created for the benefit of the American people, and, in particular, the citizens of the area involved. Establishment of the Cape Cod National Seashore was the first time that the Congress authorized the use of appropriated funds at the outset to purchase a large natural area for the national park system. Prior to the establishment of the Cape Cod National Seashore in 1961, national park areas were for the most part established either by setting aside public lands or from lands donated to the Federal Government by the States, or private interests.

This achievement was a major accomplishment to those of us who had long before the present day shared our concern for the environment. In 1961, our concern was in preserving for present and future generations of Americans a part of their natural heritage. The visitation to this area in 1969, which was in excess of 4 million people, only bears tribute to these facts and the job that remains to be accomplished.

Mr. Speaker, I urge the rules be suspended and we support the passage of this legislation.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am very happy to yield to the gentleman.

Mr. GROSS. Did they put up something more than beach houses or cabanas on that land?

Mr. SAYLOR. Yes. They put up a great deal more than beach houses and cabanas on that land. Some of them have been outstanding pieces of property. There have been real developments going on in this area, and the houses have been expensive houses. This has not just been the idea of putting in a little something and getting a great deal more out of it. Somebody said that it may be 10 or 20 or 30 years, so rather than wait they have gone ahead and developed their land, which they owned at the time the establishment of the Cape Cod Seashore.

Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Speaker, because I believe there is very little, if any, objection to this matter, if it is fully understood, I would like to summarize the excellent arguments that have been made.

We have to start with these two basic points. First, Congress did authorize this area for a national seashore. The second realization is that we will buy this land some time, if not now, later.

We have to consider a couple of attendant factors. Cape Cod the first such area established. Most of the parks that have been established before that time were carved out of public lands. In this case we did not own the land. We had to go and buy it. At about the same time the Cape Cod project was before the Congress we had a new program being developed which established the land and water conservation fund. This land and water conservation fund, which was approved overwhelmingly, was supposed to give additional impetus to the acquisition of park and recreational land for the country by increasing available funds. It was a separate fund which was not established from tax sources. But immediately when this fund was established the Appropriations Committees of the two bodies and the Bureau of the Budget said that, "The only money you are going to get is that from the land and water conservation fund." In spite of the fact that there were authorized figures for appropriations under that fund, the Bureau of the Budget and the Committees on Appropriations have never seen fit to grant even the totals which were authorized within that fund; and they made no appropriations from the general fund. As a consequence, we fell behind in acquiring park lands. We are now told, as the chairman of the full committee has said, that the Bureau of the Budget and the Committees on Appropriations are going ahead to fund the land and water conservation fund completely, and with this we will be able to catch up with the backlogs.

Mr. Speaker, I want to reiterate that there is no mystery about increased land cost: Even in our agricultural areas, we have had individuals who bought land and were able to make money on that land even though they operated at zero profit or at a loss for 10 years and then sold the land. This is because of the escalation of the land value. They have been able to show a good profit and a good interest on their investment. The same thing happened all over the country in cases like this.

Mr. Speaker, we have had some good discussion about the improved properties. These properties were not completely speculative. The individuals who built the single family dwellings had owned the property, and they had intended to build homes there if this park had not been authorized by the Congress. So, at least, they were developing homes where they had wanted to develop them on their own land, and to that extent they were not speculating.

I want to reiterate that all these homes were built under very strict zoning ordinances which are approved by the Federal Government even though they are local in nature. People who live in this area are very much concerned about preserving the atmosphere that prevails there. So in spite of the fact that this does call for an increased authorization, it is an increased authorization which no one could anticipate. Then there is the matter of life estates.

I would say again to the gentleman from Missouri that we granted life estates because we did want to give the individual citizens their right and their property so far as possible. We also wanted to keep as much property on the tax rolls as possible while other economic developments were filling in for the property tax loss. I, myself, think this is a good thing because it does give consideration to people who had intended to live on this property throughout their lives. They are not forced to move.

I know the gentleman from Missouri agrees with me that we have sometimes been less than equitable when property is condemned for public purpose. No one can tell the value of a piece of property to the individual who owns it and lives on it and wants to stay in that home. This way, at least, we do not have to face

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that problem, so long as they live there in a home which lends itself to the general atmosphere of the area—and in this particular case that is what these homes do. No one hates worse than does the committee to come before you with these increased authorizations because we have no control whatsoever over them. This is an attempt to get us out of the quandary, to get the job done and to establish the area which we authorized so overwhelmingly 10 years ago.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I favor this legislation. The conservation of our national wilderness areas is vital to offset the tedium of urban living. There must be opportunities for recreation, for rest, and relief from the crowded conditions of our cities for clean air and for clear air, if you please.

Mr. Speaker, over the last few years it has become clear that the major adversary in the fight against air pollution is the internal combustion engine. Today, there are more than 105 million automobiles, trucks, buses, and other vehicles operating on the Nation's streets and highways. They contribute more than 60 percent of the pollutants which infect the air we breathe. The fight against air pollution is in large measure the fight against the polluting emissions from the internal combustion engine.

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Accordingly, I have filed today a bill which will allow individual States to establish whatever emission standards they deem necessary to restore the quality of the air in our urban areas. Why is my bill necessary? At the present time, with the exception of California, no State can establish emission standards which are more stringent than Federal standards.

I cannot understand why the Congress permitted this to happen. Certainly, if any State wants to protect its people from the growing menace of the noxious fumes from automobile engines, it should be able to do so.

Bureaucratic procedures at the Federal level are preventing effective State action. States that are anxious to take affirmative action by setting more stringent emission standards are frustrated in their efforts to move quickly and effectively. My bill will open the door to permit effective State action.

The bill I have filed will be especially important to cities such as Chicago where the concentration of motor vehicles is such that very strict emission standards are required at once if there is to be a chance at stopping the progressive deterioration of the air supply. It has been estimated that to breathe the air in New York for 24 hours has the same effect on one's lungs as smoking a pack of cigarettes. Respiratory diseases are on the rise throughout our urban areas and pollutant emissions from automobile exhaust are a primary cause. Delay in enacting really effective emission standards is measured in additional visits to doctor's offices, certainly to dry cleaners as well. It is measured in fresh layers of soot and ever-denser covers of smog.

The citizens of Chicago, New York, Boston, Honolulu, and of many of our urban areas cannot afford to wait until Federal standards are made stringent enough to stem the tide of air pollution. Certainly, they ought to be made more stringent. I offer this bill today so that the fight against air pollution in those areas can begin without delay.

Mr. SAYLOR. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER of Massachusetts. Mr. Speaker, I would like to identify my attitude with that expressed by the ranking minority member of the Committee on Interior and Insular Affairs, Mr. SAYLOR of Pennsylvania, in that his practical advice, based on experience and efforts to avoid the kind of skyrocketing land costs which are apparent in the bill we are considering today, I think deserves attention and deserves congressional action.

In regard to the Cape Cod National Seashore, perhaps I might be accused of bias as a New Englander. However, in view of the fact that I have observed cars from every section of the United States whenever I have visited this magnificent section, I am well aware of the fact that this is indeed a national monument, and of concern to this Nation.

Mr. Speaker, I wish to congratulate the gentleman from Massachusetts, Mr. HASTINGS KEITH, for his sponsorship of this bill, and to commend the committee for its leadership in these areas of conservation.

Let me say also that I consider the cape one of the most beautiful national seascapes that one can find in these United States, with the rolling surf silhouetted by majestic sand dunes. It is a very unique and very beautiful natural resource of this country. I heartily endorse this bill, and hope it will receive the required two-thirds vote of this body.

As an asset to all Americans, I think it might be noted that Cape Cod has long been a major national tourist attraction which is visited by families from all parts of the United States. The number of visitors to this beautiful seashore rose from 1.5 million in 1961 to 4 million in 1969, and is expected to reach 8 million by 1975.

But the full use of this area has been denied to the public since 1961 when Congress authorized the Cape Cod National Seashore project at an estimated cost of $16 million. In that decade, land costs continued to rise. Today the seashore is only about two-thirds acquired.

To complete the project, the committee recommends that the remaining 7,518 acres should be acquired without further delay. The additional $17.5 million required is available in the land and water conservation fund, and the President has indicated his intention to utilize this money when the authorization is approved. I am further pleased to note that the President's 1971 budget contemplates using the full amount of the land and water conservation fund to reduce the backlog of land acquisition for other park and recreational areas. This decisive action is desirable in view of skyrocketing land costs everywhere.

I consider it commendable that the committee took a realistic look at land prices, and accordingly saw the need to raise the appropriation. Since my 10th Congressional District adjoins the district in which Cape Cod is located, I know the beauty of the Cape Cod National Seashore area. I welcomed the committee's description of it, as follows:

> It is truly a national asset worthy of the Federal investment. While the costs involved are more than were originally contemplated by the Congress, this investment is one which will benefit all Americans, now and in the future.

I agree with that assessment. And I think that millions of Americans also agree that the cape should be saved for future generations.

Mr. SAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. Mr. Speaker, I thank the gentleman from Pennsylvania and the committee for their patience in dealing with this problem, which is not only of great importance to me, but is, of course, national in its scope.

Mr. Speaker, one of the most discussed and important issues facing us as we enter a new decade is conservation of our natural resources. The danger of pollution to our waterways, our air, and our environment in general is gradually being recognized, and effective preventive action is beginning to be taken.

In our efforts to protect our environment from further deterioration, it is necessary not only to recover the purity of those resources already spoiled, but also to preserve those areas as yet untarnished. In this regard, the bill before us today, H.R. 1187, goes a long way toward preserving one important natural area of our Nation. This bill authorizes $33.5 million to complete land acquisition for the Cape Cod National Seashore.

Mr. Speaker, it is very close to 10 years ago that the park was authorized, and some $16 million appropriated for purchasing land. This was due to the efforts of many—the late President John F. Kennedy, former Senator Saltonstall, and all of my colleagues in the Massachusetts delegation—most of whom filed the legislation with me.

At the time we envisioned a new kind of national park: one that would preserve a way of life—the unique way of life that is found on Cape Cod—and not merely the physical characteristics of that narrow land.

Almost everyone would have to agree that that concept, that dream, has been an unqualified success. The original $16 million, however, was insufficient to buy all the land within the park's planned perimeters, and due to delays it will now cost $17.5 million to acquire the remaining 7,500 acres.

I would like to correct one understanding that may have been gathered, or one impression that may have been gained by the remarks of the earlier speakers.

I do not believe that there has been

a general violation of the spirit of this act insofar as homebuilding on the property that has been allocated for the Federal inventory. Actually, the people of Cape Cod have been very patient with the Federal Government and its slowness to move in this area. Many of them did have the plans to build on these lots and these extensive shorelines, but it is my understanding that only a few people have gone contrary to the will of the Congress and done so. The cost for the increased value of this land is almost directly in proportion to the general increase in land values throughout the area, and does not in any way represent improved property as such.

Mr. Speaker, I hope that the House will act expeditiously now, so that the Government in turn will follow the lead of the House in making the funds available to pay for this property, and so that our constituents can have funds with which to purchase homes outside of the national seashore.

Mr. DONOHUE. Mr. Speaker, I most earnestly urge and hope the House will promptly approve this measure now before us, H.R. 1187, providing for an increase in the originally authorized appropriation to establish the Cape Cod National Seashore.

The need and justification for this increase is readily admitted and recommended by all authorities and agencies concerned and the President's 1971 budget anticipates this requested increased authorization.

A total of 16,411 acres were obtained through the original authorization appropriation of $16 million. The experts testify that it is essential, for the proper completion of the seashore, to further acquire 249 acres of improved acreage, and 7,270 acres of unimproved land, which should be obtained while it is still in a natural state.

I think it should be explained that the original $16 million authorization was based on 1959 appraisals but appropriations for actual land acquisitions first became available in 1962. Meanwhile, of course, land values have risen tremendously and there is little question that they will continue to rise in the foreseeable future.

The natural, scenic, and recreational values of the Cape Cod National Seashore were utilized and enjoyed, it is reliably estimated, by more than 4 million visitors in 1969 which number will undoubtedly double or even triple within the next decade.

Since the additional land required to complete the seashore project will continuously increase in value its acquirement as soon as possible would be most prudent.

From all the factors involved it is clear that the objective of this bill is in the national interest and I urge the House to overwhelmingly approve it.

Mr. PHILBIN. I want to commend and thank the distinguished gentleman from Colorado (Mr. ASPINALL) for bringing the Cape Cod National Seashore bill so promptly to the floor of the House. It is a good bill, well conceived, and properly amended by the committee to meet today's needs for additional authorization of funds for this great park, in which the late President Kennedy was so interested.

Chairman ASPINALL's concern and interest in the original Cape Cod bill some few years ago were largely responsible for the prompt action in the House in making possible the establishment of the Cape Cod National Seashore in my State and our people are truly indebted to him and the members of his great Committee on Interior and Insular Affairs for their continuing efforts to assist us. I want to commend and thank you all for your effective help.

Now, with regard to the pending bill, which is similar to my H.R. 5246, it became soon evident after the establishment of this great park in 1961 that the initial funding authorization of $16 million would be inadequate for needed land acquisition in the area of the Cape Cod National Seashore, especially in view of the continued dramatic rise in prices for land along our vanishing shore line in recent years.

In anticipation of this land acquisition problem for Cape Cod, during the 89th Congress, I sponsored with Senator Saltonstall legislation to increase the funding limitation and subsequently in 1967, during the 90th Congress, at the request of the Cape Cod National Seashore Advisory Commission, I and other interested members of the Massachusetts delegation in Congress sponsored legislation to increase the funding authorization from $16 million to $28 million. By then, this legislation was badly needed more than ever because land acquisitions under the terms of the original act at the average rate of about $3.2 million annually has already reached the land purchase ceiling.

The situation which faces us today is that all of the $16 million authorized and funded by the Congress since the original act has been appropriated and obligated. With this money, some 16,400 acres have been acquired and there remain about 8,800 acres of privately owned land within the national seashore which have not been acquired because of lack of funds.

The members of this able committee are aware more than others how fast land values have risen in areas adjacent to our great national parks. The combination of soaring land prices for vacation and permanent homes near the water and the establishment of the Cape Cod National Seashore have produced serious conditions in this constantly rising market in relation to the truly limited land area of Cape Cod.

Prompt approval of this bill by the House will be truly beneficial to the Federal Government over the long run. Of the unacquired land within the Cape Cod National Seashore, approximately 7,270 acres are unimproved. These should be acquired now while they are in their natural state and I urge the House to help us now before land values in the area soar out of sight.

You have helped us before and I know that you will do your best to help us again.

It was my great privilege to be the first sponsor in the Congress back in 1957 of the original proposal seeking the establishment of a national park on Cape Cod. I am indebted to Chairman Aspinall for his assistance then in getting the National Park Service to draw up the initial boundaries of the Cape Cod National Seashore on the basis of his request for a detailed survey and report from the Department of the Interior on my bill.

I was indebted to him then and I am indebted to him now for seeing to it that his committee took another look at our needs. It is to him and his fine committee that the country owes a great debt of thanks for seeing to it that we now have on Cape Cod a small portion of the Nation's dwindling shoreline for the recreational use of all the people in the Cape Cod National Seashore.

Mr. BOLAND. Mr. Speaker, I want to express my support for this legislation to make possible acquisition of the remaining 7,518 acres of land needed to complete the Cape Code National Seashore. Land costs on Cape Cod, like land costs everywhere, had steadily inched upward over the decade since the seashore was established. The bill now before us would increase by $17.5 million the appropriations ceiling in the legislation that created the seashore—a ceiling established when the cost of Cape Cod beach land was dramatically lower than it is today.

The need for this legislation is plain—indeed, obvious. The Cape Cod National Seashore, one of the most strikingly beautiful stretches of beach land in the world, simply cannot be completed without the $17.5 million sought in the bill. The money is already available in the land and water conservation fund, and President Nixon has made clear his intention to request its appropriation once H.R. 1187 is enacted into law.

The public demand for recreation areas like the Cape Cod National Seashore grows more insistent virtually day by day. A few statistics will make this clear. In 1961, when we enacted the Cape Cod National Seashore Act, the Committee on Interior and Insular Affairs estimated that 1.5 million visitor-days approximated the yearly public use of Cape Cod. This figure has risen to nearly four million over the past 9 years and is expected to reach 10 million within the next 4 or 5. The need for prompt acquisition of the remaining 7,518 acres in the seashore—roughly one-fourth of its eventual size—is quite apparent.

The Cape Cod National Seashore Act is a landmark in conservation history, extending the national effort to preserve scenic areas to include areas in private ownership.

I am proud of the leadership role I took in enacting this legislation, and I feel strongly that we must not betray its intent now.

Again, I urge passage of H.R. 1187.

Mr. REID of New York. Mr. Speaker, I rise in strong support of H.R. 1187, to increase the authorization for land acquisition at the Cape Cod National Seashore from $16,000,000 to $28,000,000, and in support of the committee amendment to increase the authorization further to $33,500,000. I am the sponsor of H.R. 12364, which is identical to H.R. 1187.

According to the Department of the Interior's report on H.R. 1187, all of the $16 million authorized by the 1961 act establishing the seashore has been appropriated and obligated. That amount, which was based on 1959 appraisals, was originally expected to cover the cost of acquiring all 27,650 acres envisioned as part of the national seashore. Because the first appropriations were not made available for acquisitions until fiscal 1962 and land values had risen rapidly, the $16 million covered the cost of acquisition of only approximately 16,411 acres. There remain approximately 8,830 acres of privately owned lands within the seashore which have not been acquired for lack of funds.

It is my understanding that the Department of the Interior currently needs sufficient funds to acquire approximately 7,519 additional acres. Based on January 1969 appraisals, it is thought that $17,401,000 will be needed. The committee amendment to H.R. 1187 would cover that cost, and I therefore urge its adoption by the House. The 1,311 acres of remaining private lands cannot be acquired without the owners' consent, and are deemed compatible with the seashore; so no funds are being provided for their acquisition at this time.

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As past experience with this national park area has indicated, land values in the Cape Cod area are skyrocketing. In my judgment, the Congress and the administration would be exercising false economy if action on this authorization bill, the necessary appropriations legislation, and the actual expenditure of funds were delayed. The land must ultimately be acquired in order to complete the Cape Cod National Seashore; of the unacquired acreage covered by this authorization, 7,270 acres are unimproved and should be acquired as soon as possible, while they are still in a natural state. If we delay, costs will certainly rise.

The Cape Cod National Seashore is easily accessible to millions of Americans who live in New England and the Boston and New York metropolitan areas. More than 4 million persons visited the seashore in 1969. In my judgment, there are too few park areas available to residents of the northeastern corridor, who have shown their appreciation of such areas, and we must take advantage of every opportunity to preserve the natural regions which still remain.

I strongly support the passage of this bill.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time.

Mr. SAYLOR. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from North Carolina that the House suspend the rules and pass the bill H.R. 1187, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the bill H.R. 1187, on the Cape Cod National Seashore.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

ESTABLISHING A PROGRAM FOR THE PRESERVATION OF ADDITIONAL HISTORIC PROPERTIES THROUGHOUT THE NATION

Mr. TAYLOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14896) to amend the act of October 15, 1966 (80 Sat. 915), establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 15, 1966 (80 Stat. 915; 16 U.S.C. 470) is amended as follows:

(a) Section 108 is amended by deleting the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated not more than $7,000,000 to carry out the provisions of this title for fiscal year 1971, $10,000,000 for fiscal year 1972, and $15,000,000 for fiscal year 1973.".

(b) Section 201(a) is amended by—

(1) striking out "seventeen" and inserting "twenty";

(2) inserting after paragraph (6) the following:

"(7) The Secretary of Agriculture

"(8) The Secretary of Transportation

"(9) The Secretary of the Smithsonian Institution; and"

(3) redesignating paragraphs "(7)" and "(8)" as "(10)" and "(11)", respectively.

(c) Section 201(b) is amended by striking out "(6)" and inserting "(10)".

(d) Section 201(c) is amended by striking out "(8)" and inserting "(11)".

(e) Section 201(f) is amended by striking out "Eight" and inserting "Eleven".

(f) Section 204 is amended by striking out "(7)" in the first sentence and inserting "(10)", and by striking out "(8)" in the second sentence and inserting "(11)".

(g) Section 205(d) is amended by striking out "(6)" in the first sentence and inserting "(9)".

SEC. 2. The following new section is added to the Act of October 15, 1966, supra:

"SEC. 206. (a) The participation of the United States as a member in the International Centre for the Study of the Preservation and Restoration of Cultural Property is hereby authorized.

"(b) The Council shall recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations concerned with the technical problems of preservation, the members of the official delegation which will participate in the activities of the Centre on behalf of the United States. The Secretary of State shall appoint the members of the official delegation from the persons recommended to him by the Council.

"(c) For the purposes of this section, there are authorized to be appropriated not more than $100,000 annually for fiscal year 1971 and for each of the two succeeding fiscal years."

The SPEAKER pro tempore. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TAYLOR. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I rise in support of H.R. 14896 which was introduced by our colleague from Colorado (Mr. ASPINALL).

I want to take a few minutes to explain the basic elements of this bill. In general terms, it does three things:

First, it extends the matching assistance program which allows limited Federal funds to be made available to the National Trust for Historic Preservation and to all of our 50 States for their respective historic surveys and approved historic preservation programs. The National Trust for Historic Preservation is a nonprofit corporation chartered by Congress in 1949 to encourage donations and participation from interested private individuals and organizations in the preservation of sites, buildings, and objects significant in American history and culture. The National Trust has about 22,000 contributing members throughout the whole country and there are over 1,000 organizations that belong to the trust.

Second, the bill expands the membership of the Advisory Council on Historic Preservation from 17 to 20 members.

Third, it authorizes limited U.S. participation in the International Center for the Study of the Preservation and Restoration of Cultural and Historical Property.

By far, the most important element in the legislation is the extension of the authorization for the matching assistance program. Without the enactment of H.R. 14896, or comparable legislation, there will be no authority to appropriate funds for this program

As most of the Members of the House will recall, in 1966 we approved legislation which established the national historic preservation program. Unlike other features of the overall preservation effort, the main thrust of this program was to encourage and to help the States, localities, and the National Trust for Historic Preservation preserve historically and culturally significant properties which the Federal Government could not reasonably be expected to preserve.

I am happy to report that the States have, for the most part, responded with enthusiasm. The committee was told that they are anxious to move forward with the program and that many have already taken action to supply their share of the 50–50 matching money. South Carolina has approved a $3 million bond issue to foster this problem.

The program, as it was originally enacted, authorized the appropriation of

$2 million in fiscal year 1967 and $10 million annually in fiscal years 1968, 1969, and 1970—a total of $32 million. Funding levels have never reached that magnitude for a number of reasons, but the principal reason has been that the budget requests of the Department of the Interior and the Bureau of the Budget have been limited in the past. It was for this reason that the gentleman from Colorado (Mr. ASPINALL) limited the authorized ceiling in his bill to amounts which, based on past experience, seemed reasonable.

As a result of our hearings, we learned not only that many of the States and the National Trust for Historic Preservation were eager to go forward with this program, but that this administration was willing to make a more substantial commitment to it than had been made in the past. The President's budget for fiscal year 1971 calls for the appropriation of $6,950,000 for the national historic preservation program if the authorizing legislation is approved.

With respect to the matching assistance program, Mr. Speaker, H.R 14896, as amended, does little more than what the Congress originally authorized. In 1966 we authorized a program which could have resulted in the appropriation of $32 million. In fact only $1,369,000 of this authorization was actually appropriated. H.R 14896, as amended, in effect, reauthorizes a $32 million program, but this time we feel confident that more will be accomplished.

The National Historic Preservation Act, approved by Congress in 1966, Mr. Speaker, authorized the establishment of the Advisory Council on Historic Preservation. Its main functions are to advise and report to the President and the Congress concerning matters involving historic preservation and to provide a forum where the problems of preservation and progress can be discussed. It is not an expensive part of the program, because many of the advisory council members receive no additional compensation for this activity and it has no elaborate staff, but it is providing a useful public service.

H.R. 14896 authorizes the addition of three new members to the 17-member council. The three are the Secretary of Agriculture, the Secretary of Transportation, and the Secretary of the Smithsonian Institution. All of these potential new members have a considerable direct interest in the overall historic preservation program and all of them could make constructive contributions not only to the work of the council, but to its effectiveness in handling preservation problems. This provision of the bill would not cost the Government any money.

The last major element in H.R. 14896 is the only feature of the legislation that actually constitutes a completely new authorization. It authorizes limited U.S. participation in the International Center—commonly called the Rome Center—for the Study of the Preservation and Restoration of Cultural and Historical Property. In making this recommendation the committee wants it clearly understood that this authorization is limited—both in terms of the maximum U.S. contribution and in terms of the duration of the U.S. participation. H.R. 14896, as amended, limits expenditures for this purpose to $100,000 annually and expressly limits the duration of U.S. participation to 3 years, unless later extended by Congress.

In emphasizing this point, I want to assure the Members of the House that this aspect of the program will not be extended without further congressional action. Your committee, under the leadership of the gentleman from Colorado (Mr. ASPINALL), will follow this program closely to be sure that it proves beneficial in terms of the national overall historic preservation program. If it proves valuable in relation to its cost, then the Congress can extend the authorization 3 years hence, if it does not, at least we have given it a fair opportunity to prove its value.

I do want to take just a moment to explain what the "center" is and what it does. It is an independent, intergovernmental organization which was established by UNESCO in 1958. Over 50 nations are presently members and each contributes to its financial needs based on an established formula. Each member nation is required to pay 1 percent of its annual UNESCO contribution, but no nation may contribute more than 30 percent of the total. On this basis, the U.S. contribution to the center would be about $62,000 annually, at the present time. While this amount may vary somewhat, the legislation strictly limits the maximum appropriation for this purpose to no more than $100,000 annually.

The function of the "center" is chiefly concerned with the expansion of knowledge with respect to technical aspects of historic preservation. It is geared to the dissemination of technical information and to the training of professional preservationists. The committee was advised that there is a demonstrated need for specialists and trained conservators and that there are extremely few opportunities to secure this training in the United States.

Most of the experts in this field are trained in Europe.

The training courses at the Rome Center are oversubscribed. Naturally, the center gives priority to students from member nations. Very few Americans have been able to attend these courses. By belonging to the center, our citizens could enroll in classes and secure needed training and specialization.

There are 6,000 museums in America today and the task of restoring and preserving the millions of objects in these museums is a large one. There is a need for experts trained in restoring and preserving these valuable articles. And restoring historic sites and monuments. A regional training center could be located in the United States.

Joining the Rome Center would mean access for our Nation to worldwide sources of technical information on conservation and restoration of cultural property.

Mr. Speaker, H.R. 14896, as amended, is important legislation. It is proper to encourage the States and the local units of government and private citizens and organizations, which work through and contribute to the National Trust, to join hands with the Federal Government in preserving the landmarks of our history that are so important to our Nation. All money authorized will have to be matched by the States or by private donors.

It is important today, perhaps as never before, that we direct the attention of our citizens, especially our young citizens, to our American heritage. A part of the alienation of our youth today is probably due to a lack of understanding or pride in our national heritage, a lack of feeling of anchor with the past. Even as times are changing today, we must teach our young people that there is much good in our past which must be preserved for the future. We must teach them that freedom as we know it today has been achieved at a great price. The medium of historic preservation properly used can be a factor in redeveloping pride in our country, its history, and its institutions.

This legislation has been carefully considered by the committee, Mr. Speaker, and, I believe, that it merits the support of the Members of the House.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation. The purposes of H.R. 14896, as amended and reported by the Committee on Interior and Insular Affairs are: First, to extend the program for the preservation of additional historic properties throughout the Nation for 3 years, through fiscal 1973; second, to authorize the appropriation of $32 million for grants and administrative expenses under the program; third, to increase the Federal membership on the Advisory Council on Historic Preservation; and fourth, to authorize the United States to participate as a member in the International Center for the Study of the Preservation and Restoration of Cultural Property.

I urge my colleagues to support this legislation. It concerns every State in the Union in their efforts to preserve, acquire and develop properties that are significant in American history, architecture, archeology, and culture pursuant to the statewide historic surveys authorized in the act passed by the 89th Congress. For my friends who have recently acquired "environmental religion," this legislation most assuredly deserves your support.

During the 89th Congress, we passed what became Public Law 89–665 and established a program for the preservation of additional historic properties throughout the Nation. The thrust of this act is to establish a program which would stimulate local and State participation in the preservation of these historical properties through matching grants in aid and in accordance with comprehensive statewide surveys. For this purpose the original act authorized the appropriation of $32 million through June 30, 1970. In approximately 3 months this program will terminate if it is not extended by the legislation we are now considering.

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The National Historic Preservation Act of 1966 pledged the Federal Government to an active role in historic preservation throughout this Nation through financial assistance to the States and the National Trust for Historic Preservation. The act was landmark environmental legislation when not too few could see the merits or value of such legislation.

Because the environmental star had not risen to its present heights to engulf our new brethern, this program got off to a slow start. Actually, the reason the program got off to a slow start was because Congress only authorized appropriations for a 4-year program without considering the leadtime necessary to provide the information to the States, for the States to obtain their legislative authorizations and crank up their apparatus to conduct the survey required before financial assistance would be forthcoming. In fact we did not provide sufficient leadtime for the program to get off the ground before its appropriation authorization runs out.

In the meantime, 35 of the 50 States have sought the financial assistance as provided in the law through matching grants. Now, these States in requesting their matching funds as required by the law, find that the program is running out on them. There has been appropriated only $1,369,000 of the originally authorized $32 million for a 4-year matching assistance program. Yet, this program has in the past 2½ years, through the National Trust for Historic Preservation and its Council, assisted in more than 50 situations where Federal undertakings affected or potentially affected national historic properties.

Mr. Speaker, we in the Congress must keep the pledge we made to the States in passing the National Historic Preservation Act on October 15, 1966. Now that the States have responded to this program it is incumbent on the Congress to extend this program for an additional 3 years and authorize the appropriation of $32 million to carry out the program.

H.R. 14896, as amended, also enlarges the Advisory Council on Historic Preservation from 17 to 20 members. The added members are the Secretary of Agriculture, the Secretary of Transportation, and the Secretary of the Smithsonian Institution. Since the Council is charged with advising the President and the Congress on matters of historic preservation it is appropriate that these additional members who have vast Federal responsibilities affecting historical resources be included as members of the Council.

The bill also authorizes the participation of the United States in the International Center for the Study of the Preservation and Restoration of Cultural Property in Rome, Italy. The Rome Center, as it is known, is an independent, intergovernmental organization which, since its establishment in 1958, has become the focal point for technical knowledge, training and research related to cultural property and historic preservation. Some 50 nations now participate and make available the benefits of their studies and efforts in this endeavor. This Nation will through its membership and participation have access to the best information and technical advice available.

Mr. Speaker, as we move forward in our concern for the environment, historians will record the passage of the National Historic Preservation Act of 1966 as one of the landmark pieces of legislation which gave impetus to the age of environmental enlightenment of the 1970's. Therefore, I urge my colleagues to suspend the rules and support the passage of this legislation.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Speaker, I wonder if our colleague would advise us that our committee, at the time we had our first okay of this authorization, did think it had a justification for spending that amount. Is that correct?

Mr. SAYLOR. This is correct. We had a justification, but it never worked out, because by the time the word got out to the States that these funds were available to help them—and by the way, 35 of the 50 States have now submitted plans—they suddenly find out the $32 million is just not there because the time is running out. So we are extending this program for 3 years.

Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. I thank the gentleman from Pennsylvania for yielding me this time before this crowded House.

Mr. SAYLOR. I will be glad to yield to the gentleman more time if he wishes.

Mr. GROSS. Mr. Speaker, it is quite a statement my friend from Pennsylvania has made, that evidently we must join another international organization in order to get the benefit of what the foreigners may have learned about culture and the preservation of certain alleged historic sites. This to me is very, very illuminating.

We have put into this outfit known as UNESCO heaven knows how many millions of dollars to support them through the years. Do I correctly understand that now they are so selfish, after all we have done for them, that they cannot pass along to us what information they may have obtained? Is this the story?

Incidentially, how did we get along for so many years without UNESCO's help, and without joining this Rome Center for the so-called Study of the Preservation and Restoration of Cultural Property?

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Iowa. I hope he can throw some light on this.

Mr. KYL. May I say first to my gentle friend from Iowa, I should like to give him more than a 10-second response, and if he believes I am taking too much of his time I will give him some that the gentleman from Pennsylvania has allotted to me.

Mr. GROSS. That is a fair deal. I accept.

Mr. KYL. First, I would have preferred to have this Rome Center come to us in another fashion. I believe that probably, if we did not take care of it here, it would be in, for instance, a Smithsonian Institution appropriation at some time, because the people of that Institution do believe there is a tremendous amount of value and that we can expand our benefits if we participate completely.

As a matter of fact, UNESCO has not shut us off from all the good things they are doing. They have permitted us to act informally, to attend conferences and so on, but it has been a limited participation.

Mr. GROSS. Are we supposed to collectively feel humble about this, after having poured millions of dollars into UNESCO?

Mr. KYL. I would respond by saying I certainly do not feel humble about this.

Further, the Library of Congress, which is involved in this kind of work, the Society for Historic Preservation, the Smithsonian itself believes there is great value in participation. I know my colleague from Iowa understands that the people who are engaged in cultural preservation are an interesting group of individuals because they do devote their lives to one of the specks which exist in the activities of mankind.

Thank goodness we have them, because they are the people who seek out the various cultural factors that exist from the past. They are the ones who developed the carbon methods of dating. They are the ones like those we have employed at the Jefferson Memorial now, who know how to pump mud under a sinking building so that it does not crumble. They make so many meaningful contributions that enrich our lives and our appreciations.

While the gentleman from Iowa and I might not spend our weekends talking about these things, the folks who are really earnestly engaged in this sort of activity do go into it very deeply and devote their lives to it.

I say once more, had we not included this in the bill, and I wish we had not, it probably would have come some time in an authorization for the Smithsonian Institution or an organization like that, and no one probably would have raised objections to it because it was from the Smithsonian itself.

We do spend moneys of this kind for conferences, very many of them, as a matter of fact, and they are useful.

Mr. GROSS. How did we manage to stagger along all of these years without belonging to this center in Rome?

Mr. KYL. Probably very well, if I might answer the gentleman honestly. However, every year, too, there are things which are lost because we do not know exactly how to treat them, or the best way to treat them, and we also sometimes spend money needlessly because we do not use the latest scientific means of making the preservations. We could get along without saving anything of a historical kind, but I do not want to do so.

Mr. GROSS. Is all of that information classified top secret in this center in Rome?

Mr. KYL. Will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. KYL. As I indicated before, we

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have been permitted to attend and absorb information, but undeniably we would get more out of it if we participated completely in the process.

Mr. GROSS. You mean by sending more people out on a larger junket?

Mr. KYL. I suppose these trips might be called junkets, but at the same time any business of any interested group I suppose could be so termed.

Mr. GROSS. Let me ask the gentleman this question for I do not seem to be getting very far very fast. Who fixed the amount of contribution on the part of the United States to this outfit at 1 percent or $100,000 per year?

Mr. KYL. It was fixed by UNESCO, and our people voted on the matter.

Mr. GROSS. Does the gentleman like to have a bunch of polyglots meet somewhere—in Ougadougou or New Delhi, India—in a meeting where we are outvoted 50 or 100 to 1—and fix a tax on the people of the United States? I am absolutely opposed to it. Does he think this is a good way of doing business?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SAYLOR. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. KYL. I would respond in this fashion. This organization was set up by UNESCO. We participate in that. Our people voted on the establishment of it. To this time we have not appropriated funds for our participation.

Mr. GROSS. We contribute to UNESCO and we have contributed millions of dollars through the years. Now comes this latest international club to tell us how and when to jump through the hoop.

I do not like this kind of business and I do not intend to be caught voting for it here today or any other time.

Mr. KYL. Will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. KYL. The other nations which are participating in this Rome center are, as a matter of fact, paying an extra fee to UNESCO to participate.

Mr. GROSS. I do not care what they do if it is their money that is being spent. What I care about is the money of the taxpayers of the United States. Do not try to minimize it. As I understood him, the gentleman from North Carolina (Mr. Taylor), a little while ago seemed to be minimizing $100,000. Well, bless your heart and soul, Mr. Taylor, I have a flood control project out in Waterloo, Iowa, and Congress appropriated $200,000 for that last year, but the administration has reserved or impounded the money. We are trying to keep people from being flooded and driven out of their homes nearly every year. I cannot get $200,000 for that. The money was appropriated and it has been reserved or impounded, call it whatever you will. Yet you come in here and with the greatest of ease provide $100,000 in this bill for dues to a club over in Rome, and this with the apparent blessing of the same budget office that denies money for worthwhile purposes. I do not like it.

Mr. ASPINALL. Mr. Speaker, will my colleague yield to me.

Mr. GROSS. I am delighted to yield to the gentleman.

Mr. ASPINALL. I do not want my friend, the gentleman from North Carolina (Mr. Taylor) to be maligned at all, but our committee was requested——

Mr. GROSS. What is that about the gentleman from North Carolina?

Mr. ASPINALL. I said I did not want the gentleman from North Carolina to be maligned at all.

Mr. GROSS. I would not think of maligning the gentleman. I am just giving him a few facts of life as we go along.

Mr. ASPINALL. The gentleman from North Carolina had a right to say what he did because we were requested to give an open-ended, an open-term for the Rome Center. We cut the Rome Center back for a definite appropriation authorization by 1 year, also cutting it to a 3-year term. This is what the gentleman from North Carolina was referring to. It was not with any particular glee when he was speaking about making available $100,000. We keep oversight on all these operations as closely as any committee of the House.

Mr. GROSS. I appreciate the committee conducting the best kind of oversight, but the facts of life are that the $100,000 in this bill will be spent for the purpose of attending a meeting at the so-called center in Rome or some place else.

It seems to me that with all the money we have put into the United Nations and UNESCO we ought to be able to get something back from it without putting up more money. For the life of me I do not see why the committee has jacked up the price of this bill as you apparently have to $32,000,000 over a period of 3 years.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Iowa.

Mr. KYL. In this bill we actually restore the original congressional authorizations which were impounded as were the funds for the gentleman's flood control project.

Mr. GROSS. I am not interested in freeing any funds for this purpose. I think we can get along in this day of financial crisis without joining the Rome Center and a lot of other foreign spending.

Mr. KYL. If the gentleman will permit me to complete my answer to his question, what we are doing here is simply trying to restore what the Congress once did.

Mr. GROSS. Is there anything wrong with Congress changing its mind or slowing down its appropriations process in terms of the financial crisis which face the country? What is wrong with that? And what would be wrong with delaying this expenditure until we can stabilize our finances?

Mr. KYL. Mr. Speaker, if the gentleman will yield further, the gentleman knows that I am much of the same mind as he is in the matter of economy.

We once promised the States this amount of money and many of the States acted in accordance with our announced purpose. Then, not because of the gentleman from Iowa or the gentleman from North Carolina, we broke faith with those States who went ahead with their part of the program.

Mr. GROSS. You could not pick a more inopportune time to make another mistake. I thought it was a mistake then and know it now.

Mr. KYL. It may be an opportune time in one respect, because if we do nothing, the promised program would die, leaving the States in limbo.

Mr. GROSS. Mr. Speaker, if this bill could be amended I would try to knock out the authorization for the $100,000 handout for the club in Rome. Since it is not amendable, and since I am convinced there are projects in this country of far higher priority for the spending of $32 million, plus the $100,000, I have no alternative but to vote against the entire deal.

The SPEAKER pro tempore (Mr. Boggs). The question is on the motion of the gentleman from North Carolina that the House suspend the rules and pass the bill H.R. 14896, as amended.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 317, nays 9, not voting 104, as follows:

[Roll No. 49]

YEAS—317

Abbitt
Abernethy
Adair
Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Arends
Aspinall
Beall, Md.
Belcher
Bennett
Berry
Betts
Biaggi
Biester
Bingham
Blackburn
Blanton
Blatnik
Boggs
Boland
Bolling
Bow
Brademas
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Calif.
Button
Byrne, Pa.
Cabell
Caffery
Camp
Carey
Carter
Casey
Celler
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Cleveland
Cohelan
Collins
Colmer
Conable
Conte
Corbett
Coughlin
Cowger
Crane
Culver
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
Delaney
Denney
Dennis
Dent
Derwinski
Dickinson
Dingell
Donohue
Downing
Duncan
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Edwards, La.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fallon
Farbstein
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Foreman
Fountain
Frelinghuysen
Frey
Friedel
Fulton, Pa.
Fuqua
Galifianakis
Gallagher
Gettys
Giaimo
Gibbons
Gilbert
Gonzalez
Green, Pa.
Griffin
Griffiths
Gubser
Gude
Haley
Halpern
Hamilton
Hammerschmidt
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski

Henderson
Hicks
Hogan
Holifield
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Kee
Keith
King
Kleppe
Koch
Kyl
Kyros
Landrum
Langen
Latta
Leggett
Lennon
Lloyd
Long, Md.
Lowenstein
Lujan
McClory
McCloskey
McClure
McCulloch
McDade
McDonald, Mich.
McFall
McKneally
McMillan
MacGregor
Mahon
Mailliard
Marsh
Martin
Mathias
Matsunaga
May
Mayne
Meeds
Melcher
Meskill
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mink
Minshall
Mize
Mizell
Mollohan
Monagan
Moorhead
Morgan
Morse
Morton
Mosher
Moss
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Hara
Olsen
O'Neal, Ga.
O'Neill, Mass.
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Philbin
Pickle
Pike
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Quie
Quillen
Randall
Rees
Reid, N.Y.
Reifel
Reuss
Rhodes
Riegle
Roberts
Robison
Rodino
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roth
Roybal
Ruppe
Ruth
Ryan
St. Onge
Satterfield
Saylor
Schadeberg
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Stokes
Stratton
Symington
Talcott
Taylor
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Udall
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Wampler
Watts
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wold
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young
Zablocki
Zion

NAYS—9

Ayres
Collier
Devine
Goodling
Gross
Hall
Landgrebe
O'Konski
Snyder

NOT VOTING—104

Alexander
Annunzio
Ashbrook
Ashley
Baring
Barrett
Bell, Calif.
Bevill
Brasco
Brock
Brown, Calif.
Burleson, Tex.
Burton, Utah
Bush
Byrnes, Wis.
Cederberg
Chisholm
Clawson, Del
Clay
Conyers
Corman
Cramer
Daddario
Dawson
de la Garza
Dellenback
Diggs
Dorn
Dowdy
Dulski
Dwyer
Erlenborn
Evans, Colo.
Fascell
Feighan
Findley
Fisher
Fraser
Fulton, Tenn.
Garmatz
Gaydos
Goldwater
Gray
Green, Oreg.
Grover
Hagan
Hanley
Hanna
Hansen, Wash.
Hébert
Horton
Jones, Tenn.
Kirwan
Kluczynski
Kuykendall
Long, La.
Lukens
McCarthy
McEwen
Macdonald, Mass.
Madden
Mann
Michel
Montgomery
Murphy, Ill.
Myers
Nix
Ottinger
Pirnie
Pollock
Powell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Railsback
Rarick
Reid, Ill.
Rivers
Roe
Rostenkowski
Roudebush
St Germain
Sandman
Scheuer
Sisk
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Sullivan
Taft
Teague, Calif.
Teague, Tex.
Tiernan
Tunney
Ullman
Waldie
Watkins
Watson
Weicker
Whalley
Wilson, Charles H.
Zwach

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Horton.
Mr. Hébert with Mr. Del Clawson.
Mr. Barrett with Mrs. Dwyer.
Mr. Brasco with Mr. Grover.
Mr. Madden with Mr. Byrnes of Wisconsin.
Mr. Feighan with Mr. Cederberg.
Mr. Fascell with Mr. Sandman.
Mr. St Germain with Mr. McEwen.
Mr. Hanna with Mr. Teague of California.
Mr. Sisk with Mr. Ashbrook.
Mr. Charles H. Wilson with Mr. Whalley.
Mr. Jones of Tennessee with Mr. Kuykendall.
Mr. Fulton of Tennessee with Mr. Cramer.
Mr. Gray with Michel.
Mr. Garmatz with Mr. Pollock.
Mr. Dulski with Mr. Pirnie.
Mr. Daddario with Mr. Erlenborn.
Mr. Corman with Mr. Burton of Utah.
Mr. Mann with Mr. Findley.
Mr. Kluczynski with Mr. Bush.
Mrs. Sullivan with Mrs. Reid of Illinois.
Mr. Bevill with Mr. Goldwater.
Mr. Alexander with Mr. Myers.
Mr. Burleson of Texas with Mr. Price of Texas.
Mr. Dorn with Mr. Roudebush.
Mr. Waldie with Mr. Bell of California.
Mrs. Green of Oregon with Mr. Steiger of Wisconsin.
Mr. Fisher with Mr. Taft.
Mr. Gaydos with Mr. Dellenback.
Mr. Rostenkowski with Mr. Zwach.
Mr. Stephens with Mr. Watkins.
Mr. Tiernan with Mr. Brock.
Mr. Teague of Texas with Mr. Watson.
Mr. Stuckey with Mr. Lukens.
Mr. Hanley with Mr. Weicker.
Mr. Nix with Mr. Brown of California.
Mr. McCarthy with Mr. Clay.
Mr. Long of Louisiana with Mr. Macdonald of Massachusetts.
Mr. Ashley with Mr. Diggs.
Mr. Dowdy with Mrs. Hansen of Washington.
Mr. Rivers with Mr. Rarick.
Mr. Scheuer with Mr. Powell.
Mr. Ottinger with Mr. Murphy of Illinois.
Mr. Montgomery with Mr. Kirwan.
Mr. Ullman with Mr. Baring.
Mr. Roe with Mrs. Chisholm.
Mr. Pucinski with Mr. de la Garza.
Mr. Pryor of Arkansas with Mr. Stubblefield.
Mr. Tunney with Mr. Conyers.
Mr. Purcell with Mr. Hagan.
Mr. Fraser with Mr. Dawson.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

INCREASING AUTHORIZATION FOR APPROPRIATION FOR CONTINUING WORK IN MISSOURI RIVER BASIN

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15689) to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior.

The Clerk read as follows:

H.R. 15689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated for fiscal years 1971 and 1972 the sum of $32,000,000 for continuing the works in the Missouri River Basin to be undertaken by the Secretary of the Interior pursuant to the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law Numbered 534, Seventy-eighth Congress, as amended and supplemented by subsequent Acts of Congress. No part of the funds hereby authorized to be appropriated shall be available to initiate construction of any unit of the Missouri River Basin project, whether included in said comprehensive plan or not.

The SPEAKER. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. JOHNSON of California. Mr. Speaker, I yield such time as he may consume to the chairman of the full Committee on Interior and Insular Affairs, the gentleman from Colorado (Mr. ASPINALL).

Mr. ASPINALL. Mr. Speaker, the next three bills are reclamation bills. The first two bills are authorization bills which must be acted upon one way or the other before the appropriations can be made. Each one of the three bills, especially the first two, have been gone over very closely by the Subcommittee on Irrigation and Reclamation. They are in proper form. They conform to the wishes of the Appropriations Committee.

I might say that the other body has seen fit to already pass one of these bills and at the end of the discussion of our bill and its passage, which was reported out of the committee in the identical form of the Senate bill, we plan to ask for unanimous consent for the immediate consideration of the Senate-passed bill.

Mr. Speaker, these bills should cause no trouble this afternoon and I am hopeful that it will not take long to dispose of them.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 15689. This bill increases by $32 million the authorization for appropriation on works to be performed by the Bureau of Reclamation of the Department of the Interior in the Missouri River Basin. This work will be done pursuant to the comprehensive plan which was adopted in the Flood Control Act of 1944, Public Law 78–534.

Since the passage of the Flood Control Act of 1944 and up through fiscal year 1969, the development of the Missouri River Basin by the Bureau of Reclamation has involved planning and construction on 33 units at a total cost of $1.127 billion. Appropriations totaling $995 million have been used for this work as of June 30, 1969. Of these 33 units, 13 were entirely completed on June 30, 1969, and 17 are in active construction status in this fiscal year. The completed units plus those substantially completed with operating facilities provide irrigation water to 420,500 acres, 721,960 acre-feet of water for municipal and industrial uses,

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and 424,200 kilowatts of electric power. The units under construction, when completed, will supply an additional irrigation water, municipal and industrial water and electric power.

This legislation provides the authorization for appropriations for work to be done in fiscal years 1971 and 1972. The program for fiscal 1971 involves an appropriation of $13,838,000 which will continue active construction on the Yellowtail unit in Montana and Wyoming, work on various transmission divisions, various investigations and drainage and minor construction work in 11 units or divisions.

The program for fiscal 1972 involving an appropriation of $18,130,000 will clean up the construction on the Yellowtail unit, complete drainage and minor construction on nine units or divisions, and continue the investigation program and the work on the transmission divisions.

Section 9(e) of the Flood Control Act of 1944 authorized the appropriation of $200 million for partial accomplishment of the comprehensive plan to be undertaken by the Secretary of the Interior. Because of the inaccurate long and drawn out comprehensive plan of the Corps of Engineers, U.S. Army, the appropriation authorization of $200 million has long been recognized as inadequate or insufficient. However, this type of planning by the Corps of Engineers and its congressional lobby are but two reasons for its existence as a Federal agency. Subsequent appropriation authorization acts have been required for the completion of these works in the Missouri River Basin totaling $1,073 million. This bill will increase the total appropriation authorization to $1,105 million.

Over the years I have gone along with these appropriation authorizations for the Missouri River Basin development primarily because there has been little, if no choice, but to see it through. However, there are two components of this continuing program which will require serious scrutiny in the future. They are the continuing and increasing requests for appropriation authorizations for investigations and work on power transmission divisions. When the Committee on Interior and Insular Affairs began annual authorizations for the Missouri River Basin development we were advised that there were approximately 20 prospective new irrigation projects in the basin. The amounts annually authorized for continuing investigations have not turned up any new projects so far as I can determine.

The other component of this authorization which is disturbing is the increasing amounts requested for construction of transmission facilities. This is particularly true when approximately all the authorized powerplants in the Missouri River Basin are essentially built and operational. Over 50 percent of the appropriation authorizations for fiscal 1971 and 1972 are allocated for this expenditure. The position that this amount is required to improve the reliability of the system will require careful consideration by the committee in future requests for appropriation authorizations.

Mr. Speaker, I urge that the rules be suspended and H.R. 15689 be passed.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding. Could it be possible that this $32 million expenditure has the approval of the Bureau of the Budget?

Mr. SAYLOR. This $32 million expenditure has the approval of the Bureau of the Budget and the administration at the present time.

Mr. GROSS. And this is for flood control?

Mr. SAYLOR. This is for a number of purposes: flood control, for municipal and industrial water, for construction of powerlines, and for completion of certain other projects which have been authorized for construction or are in the process of construction in the Missouri River Basin. It is not for the authorization of any new projects in the Missouri River Basin.

Mr. GROSS. So that if anyone wanted to get money for flood control from the Bureau of the Budget these days, he should be from the Missouri River area. If you happen to be on an island stream you are out in the cold, for your money is impounded or reserved, or whatever they are pleased to call it at the Bureau of the Budget.

Mr. SAYLOR. It is my understanding, I might say to my colleague from Iowa, that this will authorize no new projects in the Missouri River Basin, but it will authorize the completion of projects which are already under construction.

Mr. GROSS. Is that not just lovely?

Mr. SAYLOR. Well, I do not know whether it is lovely or not, but it is the state of the art at the present moment.

Mr. JOHNSON of California. Mr. Speaker, H.R. 15689 will authorize appropriations for the continuation of the Missouri River Basin project by the Secretary of the Interior for the fiscal years 1971 and 1972. It will authorize the Committee on Appropriations to include funds for this activity in the amount of $13,838,000 in the public works appropriation bill for fiscal year 1971 and will authorize an added amount of $18,130,000 for fiscal year 1972.

These funds will be used by the Department of the Interior to complete work on the elements of the Missouri River Basin project that were started under the authority of the Flood Control Acts of 1944 and 1946. Beginning in 1944, appropriations authority for the Missouri River Basin project was provided periodically in flood control legislation. This procedure was followed from 1944 through 1960 during which time appropriations in the amount of $810,000,000 were authorized. Beginning in 1963, individual bills have been required and since 1964, these bills have been biannual affairs. This procedure has allowed the Committee on Interior and Insular Affairs to stay in close touch with progress on the program and to exercise needed oversight on behalf of the Congress. Under previous legislation there has been authorized for appropriation for this program an aggregate amount of $1,073,000,000. In the three immediately preceding biannual bills, the amounts have been progressively reduced from $120,000,000 in 1964, to $68 million in 1966, $59 million in 1968, to $32 million in the present bill. This trend gives promise that amounts required in succeeding years will be further reduced and suggests that within a few years we will not need this particular legislation, as it may be possible for the Secretary to seek such minor fund needs as he will then require under some other funding authority.

The funds for fiscal year 1971 will be used to continue the Yellowtail unit and transmission division, perform minor completion and drainage on 11 other units, and engage in a limited investigation program looking toward additional feasible development.

The funds for fiscal 1972 will be required for the same kind of activity.

It is important to note that the money that will be authorized to be appropriated by H.R. 15689 may not be used to initiate new activities in the Missouri River Basin. From time to time, the Congress authorizes additional units and projects in this area, but those programs provide their own appropriations authority.

Mr. Speaker, there is, as implied earlier in my remarks, a sense of urgency connected with the consideration of this measure. This comes about from the need to dispose of this bill so that the Committee on Appropriations can get on with its work in the field of public works appropriations. For this reason and for the added reason that it is a conservatively drawn and carefully considered measure, I urge its acceptance by all Members.

Mr. OLSEN. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Montana.

Mr. OLSEN. Mr. Speaker, I rise to support the increased authorization for appropriations for the continuing work in the Missouri River Basin. Specifically, I strongly support the continuance of the completion of the Yellowtail Unit in Montana and Wyoming for $495,000 in 1971 and $2,048,000 in 1972; for the East Bench Unit, Dillon, Mont., for $380,000 in 1971 and $256,000 in 1972; for the Helena Valley Unit, Helena, Mont., for $210,000 in 1971 and $292,000 in 1972; for the lower Marias Unit, Chester, Mont., for $8,000 in 1971, and for $300,000 in 1972; for the Owl Creek Unit, Mont., for $60,000 in 1971, and for $50,000 in 1972.

Further, I agree that the Transmission Division for the transmission of power should have the greater authorization to the extent of $8,644,000 in 1971 and $11,411,000 in 1972.

Further, it seems to me there ought to be increased authorization based upon the broadened and more liberal recognition of the benefits of numerous other benefits in addition to irrigation, power development, flood control, namely municipal water use, and industrial water use from all the tributaries of the Missouri.

Specifically, I think there should be greater recognition of the numerous benefits of the Reichle Dam storage—

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that is, municipal water uses and industrial water uses.

Reichle Dam has been justified twice in my mind under the old criteria and only because of the delays of the Department has the project lost its justification by reason of ever increasing interest rates charged to the project. This would not have happened had the Department not delayed in its decision. I would hope that the Committee on Interior and Insular Affairs would have hearings soon on the question of broadening the recognition of beneficial uses and recognizing the additional beneficial uses we have gained in our years of experience with construction projects. The old uses are wonderful by having added to their value by bringing to light the new beneficial values.

Let us get busy in recognizing the new beneficial values.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman yielding, and having been reassured that this is within the budget and for ongoing projects, I have only two questions:

One: Why is there an increase in the authorization for $4.5 million?

Mr. JOHNSON of California. To the best of my knowledge, the funds are not increased. This was the request that was sent to the chairman of the full committee for introduction, and the total amount was $32 million. The funds for 1971 are $13 million plus, and the funds for fiscal year 1972 are $18.13 million, as itemized in the letter to the chairman of the full committee for the purpose of inclusion in the bill that is before us. As I understand it, this was the amount requested by the Departments and by the administration and approved by the Bureau of the Budget. These are funds that are used to just complete the ongoing projects, there is no increase, as far as I know.

Mr. HALL. I understand that, and I appreciate the reassurance given by the gentleman, and perhaps I misinterpreted the list in the way I added it up. I thought it was $4.5 million over last year's appropriation.

Mr. JOHNSON of California. The appropriation authorization for the last 2 fiscal years called for $59 million for those 2 construction years.

Mr. HALL. I thank the gentleman, and I appreciate his reassurance.

Second, let me ask if in the committee's view—and I know they maintain oversight and an annual review on the handling of these programs, and I appreciate it—but has due consideration been given to the continual flow downstream in this basin to maintain the 9-foot channel?

Mr. JOHNSON of California. Mr. Speaker, I presume that that has absolutely been taken care of because these are previously authorized projects under construction, and at that time the 9-foot channel was provided for.

Mr. HALL. I thank the gentleman.

The SPEAKER. The question is on the motion of the gentleman from California that the House suspend the rules and pass the bill H.R. 15689.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

INCREASING AUTHORIZATION FOR APPROPRIATION FOR CONTINUING WORK IN MISSOURI RIVER BASIN

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3427) to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior, an identical bill to the one just passed.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated for fiscal years 1971 and 1972 the sum of $32,000,000 for continuing the works in the Missouri River Basin to be undertaken by the Secretary of the Interior pursuant to the comprehensive plan adopted by section 9(a) of the Act approved December 22, 1944 (Public Law Numbered 534, Seventy-eighth Congress), as amended and supplemented by subsequent Acts of Congress. No part of the funds hereby authorized to be appropriated shall be available to initiate construction of any unit of the Missouri River Basin project, whether included in said comprehensive plan or not.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 15689) was laid on the table.

AUTHORIZING APPROPRIATIONS FOR SALINE WATER CONVERSION PROGRAM, 1971

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15700) to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes, as amended.

The Clerk read as follows:

H.R. 15700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to carry out the provisions of the Saline Water Conversion Act (66 Stat. 328), as amended (42 U.S.C. 1951 et seq.) during fiscal year 1971 the sum of $28,873,000, to remain available until expended as follows:

(1) Research and development operating expenses, not more than $16,150,000: *Provided,* That, notwithstanding the provisions of section 8 of the Saline Water Conversion Act (66 Stat. 328), as amended (42 U.S.C. 1958), not to exceed $100,000 of such amount may be obligated for the procurement of research services through contract with institutions or individuals in foreign countries;

(2) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion test beds and test facilities, not more than $5,000,000;

(3) Design, construction, acquisition, modification, operation, and maintenance of saline water conversion modules, not more than $5,345,000; and

(4) Administration and coordination, not more than $2,378,000.

(b) Expenditures and obligations under any of the items in this section, except item (4), may be increased by not more than 10 per centum if such increase is accompanied by an equal decrease in expenditures and obligations under one or more of the other items, including item (4).

The SPEAKER. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. JOHNSON) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. SAYLOR) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado, the chairman of the full committee (Mr. ASPINALL).

Mr. ASPINALL, Mr. Speaker, this is an authorization that takes care of continuing the work of the Saline Water Office program which was authorized first in 1952. The program was authorized for several years.

Several years ago the committee felt it needed closer supervision over the activities of the Office of Saline Water. So the last 2 or 3 years we have asked for an annual authorization. This is an annual authorization staying within the limits that the committee feels are necessary to carry on a viable program, and giving to the office moneys necessary for its contracting authority and for the personnel that the office needs.

This is not a large administrative agency. This is a small administrative agency. Their record is good. We proceeded not as fast as some of us in 1952 thought we were going to, but we have made rapid strides. Water which at one time cost $3 or more per thousand gallons, we now have gotten down to a figure of 65 cents to 85 cents per thousand gallons. We have made great progress. We still have a long way to go to use waters that are brackish and waters that are saline, and we need to carry on our research work.

Mr. SAYLOR. Mr. Chairman, I yield myself such time as I may consume.

(Mr. SAYLOR asked and was given permission to revise and extend his remarks.)

Mr. SAYLOR. Mr. Speaker, I rise in support of this bill, as amended, to authorize appropriations for the saline water conversion program.

The purpose of this legislation is to authorize the appropriation of $28,873,000 to carry on the research and development program of the Office of Saline Water for fiscal 1971. This annual authorization is in keeping with the policy adopted in the 90th Congress in order to assure an innovative but controlled desalting program.

Since the inception of this program in 1952, a total sum of $183,190,000, up through fiscal 1970, has been authorized to be appropriated for the purpose of developing low cost potable water on a large scale from saline and brackish waters through research and development. In the 18-year existence of this program no significant breakthrough has been achieved to accomplish the objectives of the program. The major accomplishment of the saline water conversion program has been the advancement of large-scale desalting technology through the refinement of known processes. However, there continues to be some hope for the program as a result of newly found confidence in the present management of the program.

The Committee on Interior and Insular Affairs in considering this legislation adopted two major amendments to the bill as introduced. The first amendment reduces by $500,000 the administration request for appropriation authorization. Nevertheless, the bill as amended and approved by the committee represents an increase of approximately $3 million over the fiscal 1970 appropriation authorization. The committee feels that with the authority to transfer funds among program functions as presently in the basic law, there is sufficient flexibility to more than cover the $500,000 decrease.

The other major committee amendment provides limited authority for the procurement of research services through contract with institutions or individuals in foreign countries. The committee adopted the amendment to permit the Office of Saline Water to extend two specific research contracts, one in Israel and the other in England, as opposed to the request for general authority to conduct foreign activities.

The bill as amended and approved by the committee presents a viable program for fiscal 1971, and I urge that the rules be suspended and the bill be passed.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my colleague from Iowa.

Mr. GROSS. Does this bill not provide that "not to exceed $100,000 of such amount may be obligated for the procurement of research services through contract with institutions or individuals in foreign countries"?

Mr. SAYLOR. That is correct. The contracts have already been entered into. These are prior contracts. The bill would authorize the expenditure of funds for contracts that are presently in existence.

Mr. GROSS. I note on page 6 of the report the following language:

> We have noted with concern that the Office of Saline Water received no unsolicited research proposals from foreign sources during the past year. The foreign scientific community has become aware of the foreign restriction and is turning its attention to other problem areas.

In other words, if we did not cough up the money they would do something else—study butterflies, dandelions, or something of that kind. Is that correct?

Mr. SAYLOR. No; that is not correct. The Office of Saline Water was prevented, by a strict prohibition in legislation which passed this Congress last year, from entering into any new contracts, and we have not gotten the benefit of any new information from our foreign friends who are engaged in the same field.

Mr. GROSS. The report states, "We have noted with concern." What did they note with concern? I am not quite able to——

Mr. SAYLOR. One of the concerns is that foreign countries are just not cooperating with the United States in giving us the benefit of their research.

Mr. GROSS. How much of the $183 million expended for this purpose have we given to them in the past? Does the gentlemen have any figure on that?

Mr. SAYLOR. All the technology of the United States has been made available to foreign countries. Under some prior contracts their technology was made available to us. There are now no contracts with foreign countries except Israel and England. Their information is not available to us; consequently, our information is not available to them.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to the gentleman from Colorado.

Mr. ASPINALL. The gentleman from Iowa is quoting from the Department report. The departmental report shows the desire of the agency of the Government to be working more in foreign countries and groups of foreign countries than our committee desires them to do so. They say, "We have noted with concern that the Office of Saline Water received no unsolicited research proposals from foreign sources during the past year."

Our committee has gone on record. We do not care whether we solicit or whether we receive unsolicited requests. Nevertheless, we just do not believe that this is a foreign aid operation, and therefore we are limited to what we have had heretofore and we intend to keep it within those bounds during the next year. That is all we have done.

Mr. GROSS. Mr. Speaker, will the gentleman yield further?

Mr. SAYLOR. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. I want to commend the committee for the position they have taken in this particular matter. I only wish that their influence could have extended over to the foreign handout bill, which authorized, if I remember correctly, $20 million to put Israel into the business of desalting water, or trying to desalt water for the purpose of irrigation, if you can believe that. At any rate, more money is apparently going to to go to Israel for research and experimentation in desalting than this committee proposes to spend in this country in what? One year?

Mr. SAYLOR. This is a 1-year program.

Mr. ASPINALL. Mr. Speaker, if the gentleman will yield further, I am sure our friend from Iowa joins with some of us, at least, in commending the Appropriations Committee. That $20 million has not been made available as yet.

Mr. GROSS. Mr. Speaker, if the gentleman will yield, as one Member of the House, I hope that it is never made available.

Mr. JOHNSON of California. Mr. Speaker, H.R. 15700 is a bill to authorize appropriations for the continuation of the research programs in desalinization of water by the Secretary of the Interior, through the Office of Saline Water. The bill as amended by the Committee on Interior and Insular Affairs will authorize $28,873,000 which is $500,000 less than requested by the administration, but is $3,873,000 more than was authorized for this purpose by the House in fiscal 1970.

This program has been in operation since 1952. It started out as a modest $2 million to be expended over a 5-year period. In subsequent years the program has been extended in term and enlarged in its scope. For several years, appropriations authority was conveyed by amending the basic Saline Water Conversion Act. For the past 5 years, the Congress has followed the practice of requiring an annual authorization and this is the second straight year in which there has been no change in the substantive legislation. The total authorizations for saline water conversion research through fiscal year 1970 is $183,190,000.

For appropriations purposes, the program of the Office of Saline Water is subdivided into four activities. H.R. 15700 provides specific amounts for each activity and further conveys administrative latitude to the Secretary of the Interior to adjust funds among activities to meet changes in program emphasis during the course of the fiscal year. This latitude is limited to 10 percent of the gaining activity with the further limitation that funds for administration and coordination may not be increased beyond the amount appropriated.

The bill, as amended in committee, provides appropriations authority to the various activity categories as follows:

Category 1: Research and development operating expense, $16,150,000.

Category 2: Design, construction, acquisition, modification, operation, and maintenance of saline water test beds and test facilities, $5,000,000.

Category 3: Design, construction, acquisition, modification, operation, and maintenance of saline water conversion modules, $5,345,000.

Category 4: Administration and coordination, $2,378,000.

Mr. Speaker, the Members will note that category 1, that is, research and development operating expense, has been reduced by amendment by $500,000, actually resulting in a cutback in this activity from fiscal 1970 when $17,223,000 was authorized. Our committee believes that the cut is warranted in the light of the general fiscal situation and in view of the history of carryover funds in like amount in recent years. Despite this reduction, there is, as noted, an overall increase in the bill. This comes about solely through the authorization of a single new conversion module which will cost over $4 million. This module which will employ a combination of distillation concepts has been shown through design studies to be potentially superior than any single distillation concept standing alone. The new facility will employ a combination of multiple-stage flash distillation and the vertical tube process. It shows promise of reducing product water costs by as much as 15 percent below that attainable in a simple multistage flash plant.

This year, the Subcommittee on Irrigation and Reclamation, which handles this bill in the Interior and Insular Affairs Committee, undertook the most definitive inquiry into the distillation research program of the Office of Saline Water that we have had in recent years. We visited the installations in San Diego, Calif., where this work is going forward. There we saw firsthand how our research money is being used to resolve the many technical problems confronting the economical conversion of sea water to a useful product. This is a highly complex technical undertaking involving the interaction of many physical disciplines. I am convinced that the problems are, indeed, being resolved steadily and that we now have perfected technology through which competitive water supplies can be obtained for many localities.

I would not want the Members to believe that there has been the dramatic breakthrough that we have all heard will make the desert bloom as a rose. That has not happened and is not likely to happen. What is taking place and what can reasonably be expected to continue is the gradual resolution of the problems through intensive research, development, and testing of concepts, components, and materials. The combination module which will be authorized by H.R. 15700 provides the vehicle for the practical large-scale proving out of the fruits of this work.

Concerning the bill itself, the Members will note a number of amendments to the text in addition to the amendment to reduce the amount. Basically, these amendments serve to reject certain suggested changes in the Saline Water Conversion Act. One of these changes would have served to permit unlimited involvement with foreign countries and the second would repeal the statutory termination date on the program. The committee felt that changes as profound as these should only be made after a full and definitive review of the program, which there was not time to undertake in this session. The Committee on Interior and Insular Affairs intends to conduct such a review in the next session. At that time, it is proposed that there be a complete inquiry into the progress that has been made into the role of the Federal Government versus that of industry, and a reidentification of the mission of the Office of Saline Water. That will be the opportunity to make desirable changes in the organic charter if, on the basis of proper hearings, it appears that such changes are desirable.

Despite our belief that there should be no general change in the authority of the Secretary to engage in foreign activities, H.R. 15700 has been amended to allow a limited amount of research activity in fiscal year 1971. The bill will allow not to exceed $100,000 to be used for this purpose. This amount of money is specifically intended to be used for contracts with the Weizmann Institute in the Republic of Israel and the University of York in the United Kingdom. These institutions have an acknowledged competence in the field of membrane technology and their services should be continued in the interest of further progress in the reverse osmosis field.

Let me say, in closing, that the saline water conversion program, while not as dramatic as many hoped, has made giant strides toward the realization of useful water supply from otherwise useless resources. An important contribution of this program is the development of a domestic industrial capability that shows an increasing ability to carry out research and development. This industry has actually constructed badly needed water plants throughout the world and has brought prestige to the American scientific community while at the same time helped our balance of payments. As research programs go, it is being carefully and conservatively administered, and the Nation has a great deal to show for its investment. I do not hesitate to commend this bill to my colleagues and urge its adoption.

Mr. RYAN. Mr. Speaker, consideration of H.R. 15700, authorizing appropriations for the saline water conversion program for fiscal year 1971, provides an opportunity to comment upon the failure of the administration to participate in the Israeli prototype desalting plant for which $20 million has been appropriated.

It is anomalous that the administration has requested the House to appropriate moneys for desalting programs on the one hand, and on the other is refusing to use those moneys which the Congress has specifically mandated it to use to complement and enhance these programs.

That the $20 million for the Israeli desalting plant would be well spent is without question. The letter of Max N. Edwards, former Assistant Secretary of the Interior, to Congress on January 17, 1969, made explicit the direct benefits to be derived by the United States from such a plant. Mr. Edwards pointed out:

> Its significance to the United States is the opportunity to improve and advance science and technology in the field of saline water conversion and to contribute materially to development of low cost desalination processes.

The Foreign Assistance Act of 1969, Public Law 91–175, specifically provides, furthermore, that pursuant to any agreement into which the United States enters with Israel—

> All information, products, uses, processes patents and other developments obtained or utilized in the development of this prototype plant will be available without further cost to the United States.

From Israel's standpoint, as well, this $20 million would be well spent. She has already harnessed 95 percent of her fresh water reserves. Unless additional sources of fresh water are utilized, her agricultural development will be stymied.

Needless to say, Israel's progress has thus far been amazing. Whereas in 1949, the total land under cultivation amounted to 412,000 acres, the figure had risen, by 1967, to 1,050,000 acres. And that portion of the land which is irrigated rose from 75,000 acres in 1949 to 410,000 acres in 1967—more than a fivefold increase.

Yet, despite this impressive maximizing of her limited resources, Israel will be able to irrigate—once complete development of her fresh water supplies is achieved—only 40 percent of the land which could, if water were available, be irrigated. Clearly, Israel's growing food needs require her to rely on desalination as the means to develop sufficient water resources to irrigate her arid—but potentially fertile—lands.

Another point accounting for Israel's urgent need for large and effective desalination facilities is her requirement for revenues to support her economy. Fighting for her very survival, Israel must now spend one-fourth of her gross national product—or $1.2 billion—on defense. The revenues she receives from agricultural exports—$109 million alone in 1967—are obviously of critical importance. Needless to say, water is essential if these exports are to grow in volume.

Clearly from Israel's standpoint, then, the Nixon administration's heeding the will of Congress, which should follow automatically and which should not require protest such as I have already made on the floor on March 9, and in my letter of the same day to the President, is essential.

In addition to the facts that both the United States and Israel would benefit if the administration would only follow Congress' mandate, there is another factor which makes the administration's continued intransigence hard to understand. This is the commitment which this country gave to Israel to participate in this plant by virtue of President Johnson's assurance to the late Premier Eshkol of our willingness to assist Israel. Refusal to do so now belies that commitment.

Finally, I want to stress that this plant is feasible. This was made clear by the study conducted pursuant to agreement in 1965 between Israel and the United States. The February 1966 report of that study, entitled "Engineering Feasibility and Economic Study for Dual Purpose Electric Power Water Desalting Plant for Israel" concluded that an operating plant could be built and, if begun then, be in operation by late 1972.

I again urge the administration to respond to the will of Congress and to meet the commitment this Nation has made to Israel to participate in the design, development, and construction of a prototype desalting plant.

The SPEAKER pro tempore (Mr. HOLIFIELD). The question is on the motion of the gentleman from California that the House suspend the rules and pass the bill H.R. 15700, as amended.

The question was taken; and (two-thirds having voted in favor thereof)

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the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING TOUCHET DIVISION, WALLA WALLA PROJECT, OREGON-WASHINGTON

Mr. JOHNSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (S. 743) to authorize the Secretary of the Interior to construct, operate, and maintain the Touchet division, Walla Walla project, Oregon-Washington, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of supplying irrigation water initially for approximately ten thousand acres of land, providing municipal and industrial water, flood control, the enhancement of fish and wildlife resources, and the enhancement of recreation opportunities, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to construct, operate, and maintain the Touchet division of the Walla Walla project, Oregon-Washington, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal works of the division (hereinafter referred to as the project) shall consist of the Dayton Dam and Reservoir, fish passage facilities, a diversion dam, and associated drainage facilities.

(b) The Secretary is authorized to construct the Dayton Dam and Reservoir to the physical limitations of the site and to recognize the cost of providing such additional capacity as a deferred obligation to be paid, in accordance with section 2 of this Act, at such time as the additional storage capacity is contracted for: *Provided*, That until such additional storage capacity is contracted for, operation and maintenance costs attributable to the excess capacity shall be funded and added to the construction costs allocated to deferred capacity.

(c) In order to assure a realization of the fish and wildlife enhancement benefits contemplated by this Act, the Secretary shall adopt appropriate measures to insure the maintenance of a streamflow between Dayton Dam and the mouth of the Walla Walla River that is not less than thirty cubic feet per second unless he determines that a water shortage or other emergencies exist or that lesser flows would be adequate for the maintenance of fish life.

SEC. 2. Irrigation repayment contracts shall provide for repayment of the obligation assumed thereunder with respect to any contract unit over a period of not more than fifty years, exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of the irrigators to repay shall be charged to and returned to the reclamation fund in accordance with the provisions of section 2 of the Act of June 14, 1966 (80 Stat. 200), as amended by section 6 of the Act of September 7, 1966 (80 Stat. 707).

SEC. 3. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Touchet Division shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213). All costs allocated to the enhancement of anadromous fish species shall be nonreimbursable.

SEC. 4. The interest rate used for purposes of computing interest during construction and, where appropriate, interest on the unpaid balance of the reimbursable obligations assumed by non-Federal entities shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption from fifteen years from date of issue, adjusted to the nearest one-eighth of 1 per centum.

SEC. 5. For a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 6. (a) There are hereby authorized to be appropriated to the Bureau of Sport Fisheries and Wildlife, for transfer to the Bureau of Reclamation, such sums as may be required to cover separable and joint construction costs of the Touchet Division, Walla-Walla project, allocable to the enhancement of anadromous fish as determined by cost allocation studies comparable to those set forth in House Document Numbered 155, Eighty-ninth Congress, second session.

(b) There are authorized to be appropriated to the Bureau of Reclamation for construction of the works involved in the Touchet Division $22,774,000 (January 1969 prices), less the amounts authorized by subsection (a) of this section.

(c) The total sums authorized to be appropriated by subsection (a) and subsection (b) of this section shall be plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes, and, in addition thereto, such sums as may be required to operate and maintain such division: *Provided*, That funds appropriated pursuant to the authority contained in subsection (b) of this section shall be expended only if the amount thereof is increased in any given fiscal year by a porportionate amount appropriated pursuant to subsection (a) of this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California is recognized for 20 minutes.

Mr. JOHNSON of California. Mr. Speaker, I yield to the gentleman from Colorado (Mr. ASPINALL) such time as he may consume.

Mr. ASPINALL. Mr. Speaker, the legislation now before us is an authorization for another small reclamation project, which in toto would cost $22,774,000. All last session of Congress there was a hold order on the authorization of new reclamation projects, but since the administration this session has recommended in its budget message sufficient moneys to increase the construction program of the Bureau of Reclamation, it was thought we could very honestly and logically authorize a few million dollars worth of new reclamation projects so that we would have a going program.

We have already authorized a project in Washington. This is the second for this Congress. The other was known as the Kennewick extension project. This is the Touchet division of the Walla Walla project.

There is one thing about this project that is different from any other project we have had before, and that is the amount that has been allocated to the fish and wildlife enhancement. Our projects of recent years have all been multiple purpose projects, tending to have less and less irrigation benefits and more and more municipal water benefits more and more power benefits, and more and more recreation benefits.

Here we have a project which has a great deal of fish and wildlife enhancement benefit, at least to the tune of more than half of the project cost. Our committee thought it was only fair in authorizing this project, which is a good project and has a very fine benefit-cost ratio, that we ask that these funds for the anadromous fish benefits in the river be taken from the program of another agency of Government rather than from the reclamation fund. So this legislation has the one amendment that provides for this. The committee was not unanimous on it, but almost unanimous on it, in thinking that this would be a very good way to take care of the additional benefits which were not exactly related to the irrigation program.

The project is a good project.

Mr. GROSS. Mr. Speaker, will the gentleman from Colorado yield?

Mr. ASPINALL. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. Will the gentleman turn to page 3 of the bill and briefly explain how the interest is to be computed? I do not quite understand the language. In other words, is the interest rate to be computed on the basis of 15-year Government obligations?

Mr. ASPINALL. Outstanding obligations of the Government. This is the old formula which we have always used on reclamation projects. This has nothing to do, of course, with the question of interest as it applies to figuring the benefit-cost ratio. This has to do with the borrowing of money for the construction of this particular project at the time construction starts. The rate is based upon the average rate payable by the Treasury on outstanding obligations which are not due for redemption for 15 years from the date of issue.

Mr GROSS. For bonds issued by the Government with the maturity date at the end of 15 years.

Mr. ASPINALL. The gentleman is correct.

Mr. GROSS. I was not aware that the Government had very many 15-year bonds. I know it has made 40-year and 50-year loans to foreign countries at no interest, only a carrying charge of 1 percent or less. Do we have very many 15-year Government obligations?

Mr. ASPINALL. We have had them.

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We should have more of them, rather than the short-term loans we have at the present time.

Mr. GROSS. I agree with the gentleman, but that will not make it so. I wondered if we had enough 15-year obligations outstanding to get any kind of a fix on the interest rate.

Mr. ASPINALL. Yes. We can get it. It will be, as I understand it, at the present time somewhere around 4⅞.

Mr. GROSS. Four and seven-eighths percent at the present time? Is that what the gentleman is saying? It must be higher than that.

Mr. ASPINALL. I am advised by one of my staff members it is a little lower than that.

Mr. GROSS. Lower than 4⅞?

Mr. ASPINALL. That is correct.

Mr. SAYLOR. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington (Mrs. MAY).

Mrs. MAY. Mr. Speaker, this is a landmark day for me and for the people of the city of Dayton and the Touchet Valley in my district in the State of Washington—all of us have long awaited congressional authorization of the Touchet division of the Walla Walla project.

The Touchet division feasibility report was first prepared in 1962. Although the many benefits of this project have long been recognized, it was not until 1968 that preliminary hearings were held in the House, and full hearings were held last year. The favorable report from the Department of the Interior and concurring views of the Bureau of the Budget were among the first on any bills of this nature to be issued during the current administration.

This is an unusual project that it presents an opportunity to accomplish not only highly desired reclamation benefits, but also is a multiple purpose project that presents us with an opportunity to control particularly disastrous floods which have plagued Dayton and the Touchet Valley for years, which gives us an opportunity to enhance fisheries in the area and throughout the Pacific coastal region, and gives us also an opportunity to provide for public recreation in an area where recreation needs have increased. This legislation will also provide the city of Dayton, Wash., with a needed domestic and industrial water supply.

The principal works of the Touchet project will be the Dayton Dam and Reservoir on Touchet River, about 4 miles upstream from the city of Dayton. The reservoir of this earthfill, 200-foot high dam will have a storage capacity of 52,600 acre-feet. The major portion of this capacity will be utilized for conservation storage, irrigation, municipal water, and for fisheries and wildlife. The remainder will be used for control of seasonal floods and for conservation.

The irrigation and municipal water will be released from the Dayton Reservoir into the channel of the Touchet River, and irrigators and the city of Dayton will divert it through their own facilities. The Touchet Valley is a long, narrow valley and the irrigation water will initially serve nearly 10,000 acres. The project will make possible the growing of vegetables for canning and freezing, replacing dryland wheat farming. Livestock production will also increase.

The flood control aspects of the Touchet project are important. The Touchet Valley has been repeatedly and severely hit by destructive floods. Most recently these occurred in the winter of 1964–65 and in January and February of 1969. At that time it was estimated that of the more than $350,000 in tangible flood damages that resulted, $300,000, or most of it, would have been prevented had Dayton Dam been in place. In the earlier floods, in excess of $1 million in damages would have been prevented. On both occasions, the floods left the city of Dayton without a domestic water supply except for an auxiliary well which could not provide other than bare essential emergency needs.

The Dayton Reservoir would provide the only recreation lake of consequence in the area and the National Park Service has prepared a good recreation plan for the reservoir. The Columbia County Port District has agreed to administer the plan in accordance with the provisions of the Federal Water Project Recreation Act.

The reservoir will also provide sport fishery, and waterfowl and wildlife habitat. The water released from the reservoir will maintain anadromous fish runs in Touchet River, and facilities for fish enhancement will be provided.

As a sponsor of legislation in the House similar to S. 743—H.R. 1216—I urge the approval of this bill.

Mr. JOHNSON of California. Mr. Speaker, I yield myself such time as I may consume.

(Mr. JOHNSON of California asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. JOHNSON of California. Mr. Speaker, S. 743 will authorize the Secretary of the Interior to construct the Touchet division, Walla-Walla Basin project in the State of Washington. This is a very carefully investigated and fully justified development, even under the rigid analytical criteria now being used for water resource development projects. It will meet to a high degree the water resource related needs of the local community and make a great contribution to the sectional and regional economy.

The project is a simple one in a physical sense. It consists solely of a dam and reservoir and the immediate appurtenant facilities. The dam which has been designated as Dayton Dam will be located about 4 miles upstream from the city of Dayton, Wash. It will create a reservoir of 52,600 acre-feet. This amount of capacity can be operated to achieve a very high degree of regulation both from the standpoint of flood control and from the standpoint of conserving water supplies for beneficial uses.

Fifteen thousand acre-feet of the reservoir capacity will be used for flood control during the late winter and spring season when streamflow is at a maximum. At other seasons, this capacity will be available for water storage. With the exception of a dead storage pool of 4,400 acre-feet for fish preservation, the remainder of the space will be operated for conservation purposes.

The reservoir will be equipped with facilities for outdoor recreation and the dam will be equipped with fish passage equipment to facilitate the passage of migratory or anadromous fish both upstream and downstream.

At one time, the Touchet River was an important salmon and steelhead spawning and rearing stream. This resource has been destroyed by the works of man which have depleted streamflow to essential zero in the summer months when salmon spawn and migrate. Despite this level of development, the area is chronically short of irrigation water supplies for the lands holding water rights and many acres of highly suitable lands have no water supply at all. The city of Dayton is also dependent on the river for its municipal supplies and in certain seasons, not even this high priority use can be served. Being totally unregulated, the Touchet River is a notorious flooding stream and in most years some property loss is caused from this source. In other more severe years, the flood damage to private and public property is such as to cause serious economic distress.

Dayton Reservoir will have the capability to rectify and overcome all of these problems. It will furnish almost total protection from flooding, assure a dependable water supply for the city of Dayton, enable the irrigation of approximately 20,000 acres of high quality land capable of growing specialty crops, and benefit outdoor water-based recreation.

The most unique feature of this project is its capability to make a contribution to an improved environment in terms of the restoration of the salmon and steelhead runs. Irrigation releases from Dayton Reservoir, for subsequent diversion at a number of downstream points will provide a level of flow adequate for the fish runs. This water will be of high quality from the standpoint of dissolved oxygen and this factor will also be helpful to the fish population. It is important to note that the creation of the water conditions through which the fish population can be restored is a byproduct effect of the irrigation operation and involves no additional expenditures of funds. The realization of these important fish benefits does require a means of passing migrants by the Dayton Dam and these facilities will be provided as a part of the project plan.

Mr. Speaker, the plan which I have described will cost $22,774,000 at January 1969 price levels. The costs will be shared in accordance with established Federal law and procedure and the project has a benefit-cost ratio of 1.72 at the discount rate of 3¼ percent. At the rate of 4⅞ percent which would be invoked if the project were being sent up at this time by the administration the ratio would still be 1.2.

There are two aspects of this program, however, that deserve special mention, and which were the subject of intensive consideration by the Committee on Interior and Insular Affairs. The House should take particular note of the committee amendment to section 6 of the bill

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and the situation which motivated the committee to recommend this amendment. The situation centers around the fish and wildlife features of the project. Reference to the committee report will show that more than one-half the cost of this project is allocated to fish and wildlife, and the great percentage of that amount is for the restoration of anadromous fish resources in the Touchet River. Also, the costs of this restoration program, some $9,082,000, will be nonreimbursable.

The committee recognized that a program of this character can indeed be brought up under a literal reading of general water resource development law, but it, nevertheless, presents a substantial departure from the customary Federal reclamation project from the standpoint of the amount of the cost assignable to fish and wildlife. This unique feature of the Touchet division presented the Committee on Interior and Insular Affairs with a dilemma. The other features of the project—the irrigation, the municipal water, the flood control, the recreation, and the at-site fish and wildlife purposes, were eminently well justified and badly needed. For that matter, the anadromous fish restoration also appeared to be economically justified. Our committee had no desire to withhold this project that is otherwise so well qualified and feasible. At the same time, we recognized that the anadromous fish restoration and enhancement program came basically within the purview of the Committee on Merchant Marine and Fisheries. Accordingly, the advice of the chairman of that committee and its Subcommittee on Fisheries was sought and received. Letters of response from Chairman Garmatz and Chairman Dingell of the full committee and subcommittee, respectively, were received. These letters endorse the anadromous fish features of the Touchet division, and I herewith present them for inclusion in the Record at the conclusion of my remarks. The amendment to section 6 is reflective of the significance of anadromous fish to the plan for the Touchet division. Its basic purpose is to enable participation in funding decisions within the executive branch by the agencies and instrumentalities of that branch of Government having the primary interest and responsibility for the salmon and steelhead resources of the Pacific Northwest.

Our amendment, which simply authorizes an appropriate part of the required funds to be appropriated to the Bureau of Sport Fisheries and Wildlife, will also offer clear testimony to the role of reclamation projects in environmental protection and enhancement. In this sense, Mr. Speaker, the amendment is relevant to the nature of the project and to the public concern for the associated values found in properly formulated water projects. I therefore urge the support of all Members for its adoption.

Our committee also viewed with concern the fact that not enough land had been subscribed for water service to utilize the full regulatory capability of Dayton Reservoir. We were convinced, however, that suitable land resources are available and that the owners of these lands will bring them into the project service area after authorization. To assure that the project sponsors will actively pursue the sign-up of the additional required lands, we have expressed in the committee report the admonition that construction not be initiated until the land base has been expanded to utilize all of the water supply. This will doubtless prove to be an effective constraint on project development until the committee's requirements are met.

Mr. Speaker, with the committee amendment and the restrictive language in the report, we have presented a bill that will, at one and the same time, let advance planning study proceed on a highly desirable and deserving project while the overall public interest is provided with effective safeguards. The bill, as thus proposed to be amended, is in my judgment fully supportable and should be approved here today. I urge all of my colleagues to give it their full support.

The material referred to follows:

Washington, D.C.,
July 28, 1969.

Hon. Wayne N. Aspinall,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This will acknowledge your letter of July 2 concerning two bills pending before your Committee which would authorize the Secretary of the Interior to construct, operate and maintain the Touchet Division, Walla-Walla project, Oregon-Washington, and for other purposes. They are H.R. 1216 by Mrs. May and H.R. 9252 by Mr. Foley.

I appreciate your communicating with my Committee and bringing to its attention the fact that more than half the cost of this project would result in the enhancement of anadromous fish resources. At this time, I do not see that the project presents any adverse problems.

I will advise you further after checking into this matter more thoroughly.

Sincerely,

Edward A. Garmatz,
Chairman.

Washington, D.C., *August 11, 1969.*

Hon. Wayne N. Aspinall,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: I wish to express particular appreciation to you for communicating with the Committee on Merchant Marine and Fisheries on fish and wildlife values of the Touchet Division, Walla Walla project, Oregon-Washington.

Not only does the project appear to be desirable from the standpoint of enhancement of anadromous fish resources, but your kindness in permitting our Committee to view this matter is greatly appreciated.

I would respectfully suggest that a precedent of this sort, the preservation of stream flow for the enhancement of migratory fish resources, is indeed a desirable one. Many irrigation and diversion projects have not considered that aspect of conservation over the years and, as a result, we observe major water systems in the United States which dry up in their entirety at certain periods of the year for want of application of this kind of principle. Indeed, some western rivers are particularly afflicted with this problem, with an enormously destructive effect on salmon and similar resources.

I would hope that this principle could be applied in the future in connection with other water diversion and water storage projects. I believe that migratory fish resources could be substantially bettered by this, and the amount of water used to guarantee fairly regular annual flow should be slight, especially in relation to the benefit received.

With warm good wishes,

Sincerely,

John D. Dingell,
Member of Congress.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 743, a bill to authorize the construction, operation, and maintenance of the Touchet division, Walla Walla project, in the States of Oregon and Washington.

The purpose of this bill is to authorize the Secretary of the Interior to construct, operate, and maintain the Touchet division of the Walla Walla project located in southeastern Washington. The principal feature of this division will be the Dayton Dam which will impound a reservoir of 52,600 acre-feet of water. In turn, the division will provide irrigation, municipal and industry water supply, outdoor recreation, fish and wildlife enhancement, and flood control to the Touchet River Valley and the city of Dayton, Wash.

Based upon 1969 cost indexes, the total construction cost is estimated at $22,774,000 and allocated among the project purposes. Costs allocated to irrigation will be reimbursable from water-user repayment contracts over a 50-year repayment period, from municipal and industrial water service, and from the sale of power marketed by the Federal Columbia River power system.

The cost-benefit ratio of the project based upon a comparison of total benefits to total costs at 100 years and 3¼ percent interest is 1.72 to 1. The benefit-cost ratio based on direct benefits only is 1.47 to 1.

Two provisions of this legislation are of significance and require specific mention at this point. The first provision relates to the treatment of a portion of the irrigation investment as a deferred obligation. The Committee on Interior and Insular Affairs in its report on the legislation takes the position that the "start of construction on the dam and reservoir should not be undertaken until enough lands have been organized into irrigation districts and repayment contracts have been signed with water-user organizations to utilize practically all of the regulatory capability of the reservoir."

The other provision of this legislation requiring specific mention is the committee amendment which authorizes appropriations to the Bureau of Sport Fisheries and Wildlife for subsequent transfer to the Bureau of Reclamation, in an amount equivalent to the nonreimbursable cost of restoration and enhancement of anadromous fish. At the present time, the estimated value of this project feature is $9,082,000. In this project, more than 50 percent of the project costs are attributable to the enhancement of fish and wildlife. The committee took the position that since more than 50 percent of the project costs involved this feature and the major portion of that amount is for the anadromous fish function, it should be funded from sources other than the general Bureau of Reclamation appropriation and particularly so, when construction funds for the Federal reclamation program are in fact limited. While I support the committee position, I do not want the Bureau of Sport Fisheries and Wildlife to assume in any way that this amendment opens the door for that agency to justify its long sought authority to build dams and reservoirs for fish and wildlife enhancement purposes.

Mr. Speaker, I urge that the rules be suspended and S. 743 be passed.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my colleague from Iowa.

Mr. GROSS. I am looking at paragraph C in the bill on page 5. Will the gentleman explain that language briefly: what this proposes to do and how it operates?

Mr. SAYLOR. Yes. The amount authorized in this bill is $22,740,000 as of January 1969 prices. There is no doubt about it that prices increase and in some places, because of the type of new equipment used, prices decrease in the indexes used by construction firms. This authorizes the increase or decrease in accordance with those indexes used by the construction industry itself.

Mr. GROSS. Is this something new, or has it been used before?

Mr. SAYLOR. It is something that has been used in reclamation projects, I believe, for at least the last 10 years, and it is in every bill authorizing a reclamation project since that time.

Mr. GROSS. It is a form of escalation, then?

Mr. SAYLOR. It could be escalation and it could be deescalation. For example, in the old days whereas much of the work of moving earth was done by hand or by shovels, they have now found that there is mobile equipment which all of the contractors now have that can move large yardages at one time. This has caused a reduction in the indexes. The department can take cognizance of this in any contract that they negotiate.

Mr. GROSS. I thank the gentleman for his explanation.

Mr. SAYLOR. Mr. Speaker, I have no further requests for time.

Mr. JOHNSON of California. I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from California that the House suspend the rules and pass the bill S. 743, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE

The SPEAKER. Pursuant to the provisions of section 2(a), Public Law 91-213, the Chair appoints as members of the Commission on Population Growth and the American Future the following Members on the part of the House: Mr. BLATNIK and Mr. ERLENBORN.

PERSONAL EXPLANATION

Mr. DEL CLAWSON. Mr. Speaker, I would like to state for the RECORD that on rollcall No. 49 I was at the White House on official business. I would like the RECORD to show that, had I been present, I would have voted "yea."

DANGERS OF DEFOLIATION CAMPAIGN IN VIETNAM

(Mr. McCARTHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McCARTHY. Mr. Speaker, the New York Times carried an article yesterday concerning the defoliation campaign that we are carrying out in Vietnam. I was deeply disturbed to read reporter Ralph Blumenthal's reports of damage to newborn and unborn children that may have resulted from our spraying operations. Mrs. Tran Thi Tien, Mrs. Nguyen Thi Hai, and Mrs. Tong Ti An, of the village of Tanhiep, report that they have children that are malformed as a result of the jettisoning of 1,000 gallons of defoliants on the village in December 1968.

Mr. Blumental's detailed report adds weight to the already disturbing reports that came out last fall concerning possible damage to the unborn or newly born in Vietnam. Saigon newspapers carried reports of genetic damage as a result of U.S. defoliation spraying last June. The newspapers carrying these reports were shut down by the Saigon government but not before the articles were seen by a number of Southeast Asia experts and the information began to filter back to the United States by word of mouth. I assume that our USIA and State Department personnel in Saigon also read these reports. As far as I know, they did not take steps to alert responsible authorities in the United States to the problem.

In late October 1969, Dr. Lee DuBridge announced that, on the basis of studies performed by the Bionetics Laboratory for the National Cancer Institute indicating that the defoliant 2,4,5-T caused deformities in rat litters, this defoliant would no longer be used in American agriculture or on populated areas in Vietnam. The Department of Defense showed its disregard for this White House spokesman when one of its public information officers said that 2,4,5-T would still be used on enemy training and regroupment centers. The Department of Agriculture followed suit in January when it failed to halt the use of 2,4,5-T in the United States with the comment that it did not always follow the advice of White House spokesmen.

The continued use of defoliants on populated areas in Vietnam without definite knowledge that it will not injure the unborn or the newlyborn opens the United States up to charges of war crimes—war crimes involving genetic damage. To continue spraying with 2,4,5-T in Vietnam where civilians may be exposed shows a callous disregard for innocent human life. In the light of this additional information I call on President Nixon to end the spraying of these potentially dangerous chemicals until we know definitely whether there is any danger of damage to humans from them.

I am including Mr. Blumenthal's article in the RECORD for the information of my colleagues:

[From the New York Times, Mar. 15, 1970]

U.S. SHOWS SIGNS OF CONCERN OVER EFFECT IN VIETNAM OF 9-YEAR DEFOLIATION PROGRAM

(By Ralph Blumenthal)

SAIGON, South Vietnam.—Many South Vietnamese who live adjacent to areas that are being defoliated by spray from United States planes are convinced that any ailments or misfortunes that they suffer are related to the sprayings.

There is no proof that they are right about the effect of the chemical sprays on the human body, but neither is there any assurance that they are wrong.

Although the defoliation program, organized and run by the United States, has been in operation for nearly nine years the full effect of the chemicals on animal and human life remains largely undetermined.

The United States military command says the program, which is designed to strip plant cover from areas occupied by the enemy and to destroy crops that might yield him food, has covered about 5,000 of South Vietnam's 66,350 square miles.

U.S. TERMS IT VALUABLE

The United States command says the program has proved its military worth. "It has contributed materially to the security of units operating in the field by increasing their visibility from the ground as well as the air," the command said.

About 13 per cent of the program has been directed against crops, presumably food grown by and for the enemy. Because of the drifting of defoliants and the difficulty of assessing the results on the ground, it is virtually impossible to say how much of the crop has been destroyed by the chemicals, but it would not appear to be a significant part of the country's capacity. It has brought hardships, however, to individual farmers.

After years of assuring the South Vietnamese that this extensive spraying was harmless to animals and humans, United States officials are showing signs of concern over recent reports that the chemical sprays may have some little-understood and alarming effects.

PANEL STUDYING EFFECTS

In the last several months, reportedly on instruction from Washington, the United States military command and the United States Embassy have formed a special committee to review the effects of the defoliation program, especially on humans.

The sensitivity of the issue has foreclosed official comment, but according to informed sources the science advisory office of the command is responsible for gathering data in interviews and tests that embassy officials will then evaluate.

The South Vietnamese Government regards the entire subject as taboo. Vietnamese newspapers have been suspended for publishing articles about birth defects allegedly attributed to the defoliants, and the Public Health Ministry declines to provide any statistics on normal and abnormal births.

However, the concern felt among the Americans is shared by many South Vietnamese scientists, physicians, health officials and villagers interviewed in a three-week survey of the effects of the program.

Officers of the United States command are aware of the allegations of birth defects but they generally discount the reports.

Responsible South Vietnamese scientists and officials say they know virtually nothing about the effects of the chemical sprays.

Saigon's leading maternity hospital, Tudu, from which rumors of an increase of abnormal births emanate periodically, has not even compiled annual reports of statistics for the last three years. Recent monthly figures show an average of about 140 miscarriages and 150 premature births among approximately 2,800 pregnancies, but the hospital is not prepared to say whether this represents an increase and, if so, what the cause might be.

A high Agriculture Ministry official said: "I don't think the Americans would use the chemicals if they were harmful."

He conceded that his ministry had made no tests and asserted that his experts had been unable to get any information about the defoliants from the Defense Ministry, which considers such data secret. The main defoliant compounds and some information about them are available in the United States.

Last Oct. 29, President Nixon's science adviser, Dr. Lee A. Du Bridge, announced that as a result of a study showing that one of the defoliants used, 2, 4, 5-T, had caused an unexpectedly high incidence of fetal deformities in mice and rats, the compound would henceforth be restricted to areas remote from population.

That directive appears to be ambiguous in South Vietnam for military spokesmen assert that 2, 4, 5-T continues to be used only in "enemy staging areas"—by definition populated regions.

DEFOLIANTS WERE CONCEALED

Don That Trinh, Minister of Agriculture from November, 1967 to May, 1968, and for 10 years professor of agronomy at Saigon University, said that while he was minister, the Defense Ministry "would try to conceal the defoliant products from me."

"I did not believe in defoliation," he added.

According to one of the Vietnamese directors of a Government research laboratory in Saigon: "We didn't know anything before the United States started spraying. It was only when we received complaints from the livestock people that we started getting interested." But, he added, there are still no Vietnamese studies.

Even the village of Tanhiep, 20 miles north of Saigon, on which 1,000 gallons of defoliants were jettisoned on Dec. 1, 1968, has not been the object of attention or study.

An American C–123 flying out of Bienhoa air base, Northeast of Saigon, developed engine trouble shortly after takeoff. To lighten the craft, the pilot sprayed the full load of chemicals over Tanhiep and nearby Binhtri in 30 seconds instead of the usual 4 minutes 30 seconds, which spreads the defoliant at the rate of three gallons an acre in unpopulated areas.

The defoliant involved, according to the United States command, was a 50–50 mixture of 2, 4-Dichlorophenoxyacetate, or 2, 4-D, and 2, 4, 5-Trichlorophenoxyacetate, or 2,4, 5-T, in an oil base. It is one of three compounds the military says it uses here, the others being a Dow chemical product called Tordon 101, a mixture of amine salts of 2, 4-D and Picloram, and an arsenic compound of cacodylic acid.

No physicians visited Tanhiep to examine the people after their exposure, which, like eight similar emergency dumpings since 1968—some over unpopulated forests—was not made public by the United States command.

A United States Air Force medical team visited Binhtri shortly after the spraying and, according to American district officials, found the villagers had suffered no ill effects. There was no later inquiry.

Mrs. Tran Thi Tien of Tanhiep, who says she has four normal children, is convinced that the malfunction of her son, who still looks like a newborn at 14 months of age, "must be due to the chemicals I breathed."

Her neighbors, Mrs. Nguyen Thi Hai and Mrs. Tong Thi An, blame the spraying for the fact that their children, one year and 20 months old respectively, still crawl instead of walk.

Nguyen Van Nhap, a farmer, complains of suffering bouts of fever, sneezing and weakness.

"I was working in the field when the spray came down," Mrs. Tien said through an interpreter. "I felt dizzy, like vomiting and had to stay in bed three or four days."

Many other villagers reported feeling the same sensations as Mrs. Tien, but, except for the two children described as retarded in learning to walk, no other abnormal children were described to visitors at the village of 1,200 residents.

Tran Van Dang, a farmer in neighboring Binhtri, recalled that three days after the spraying two villagers, Tam Ten and Mrs. Hai Mua, died after suffering respiratory difficulties and trembling. The next day, he said, a third villager, Mrs. Hai Nuc, died after showing similar symptoms. Mrs. Ten was an old man and could have been expected to die soon anyway but the two others, Mr. Dang said, were middle-aged and seemed healthy.

Such complaints are not limited to Tanhiep and Binhtri, where villagers were admittedly exposed to concentrated doses of defoliant—though just how concentrated has not been established.

In Bienhoa city, 10 miles from Tanhiep, any defoliant in the air drifts down from the heavily sprayed battle areas to the north.

Dr. Nguyen Son Cao says he finds a clear correlation between the days when there is spraying and the number of patients who come in with respiratory ailments, mostly sneezing and coughing.

Dr. Cao, who has been practicing in Bienhoa for 21 years, said he had also noticed that in the last two to three years the number of miscarriages among his patients had doubled.

"These women are convinced they are the victims of the chemicals," he said. "I only suspect there could be a relationship. This suspicion is very well known. The increase in miscarriages is very obvious, very significant."

However, the manager of another clinic reported no increase in miscarriage over the last several years.

Any increase in miscarriages has many possible explanations: perhaps the deterioration of the daily diet, the cumulative effect of the hardships of war, population and economic movements that register statistics of only certain groups, or air pollution, of which the defoliant chemicals are a part.

LEGISLATION TO IMPROVE QUALITY OF JUSTICE

(Mr. McCULLOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McCULLOCH. Mr. Speaker, I am pleased to introduce today legislation recommended by the Nixon administration which will improve the quality of justice available in Federal courts. This bill will modernize procedures for appellate review of rules, regulations and final orders of the Interstate Commerce Commission. Joining me in sponsoring this important measure are Messrs. Poff, MacGregor, Hutchinson, McClory, Smith of New York, Railsback, Biester, Wiggins, Dennis, Fish, Coughlin, and Mayne.

At present, appellate review of orders issued by the Interstate Commerce Commission necessitates empaneling a three-judge Federal district court. This extraordinary procedure, usually reserved for cases of particular public importance involving constitutional or civil rights questions, disrupts the already overcrowded dockets of the Federal courts. While important constitutional or civil rights questions justify the use of this special three-judge court procedure, cases of lesser public significance clearly do not.

Yet, the record shows that appeals involving ICC orders comprise a large percentage of the three judge courts convened each year. For example, in 1969, 64 of the 215, or 30 percent of the three-judge cases heard that year involved review of ICC orders. In 1968 the figures were 51 of 179, or 28 percent. Moreover, this procedure places unneeded burdens on the Supreme Court. Decisions of three-judge Federal courts are appealed directly to the Supreme Court. There, because of the direct appeal involved, the appeal is entitled, as a matter of right, to a merits determination. Many of these cases are not of sufficient public importance to warrant such treatment. Indeed, during the 1967 term, 16 direct appeals involving ICC orders were taken to the Supreme Court. Only two, however, were of sufficient significance to require full briefing and oral argument before decision.

The legislation I am introducing will in large measure solve these problems. The bill makes rules, regulations and final orders of the Interstate Commerce Commission subject to the Judicial Review Act of 1950. Under this act, the administrative decisions of the agency, like several other independent administrative agencies already subject to the act, would be reviewed by the Circuit Court of Appeals for the District of Columbia or the one in which the petitioner resides. With this change, the delay and disruption resulting from the empaneling of three-judge district courts would be eliminated. Further, appellate review by the Supreme Court of judgments of the court of appeals would be by petition for writ of certiorari. With this discretionary tool, the Supreme Court can decline to rule on those cases of insubstantial public importance, leaving it free to devote more time to the increasing number of important cases it hears.

Moreover, additional provisions in the legislation are designed to further streamline appellate review of ICC orders. For example, multiple appeals challenging ICC orders often follow the agency's decision. Under existing law these actions cannot be transferred from different districts and consolidated into one proceeding. Long delay and wasteful duplication of effort results. The bill would solve these problems by requiring consolidation of petitions to review the agency's determination in the circuit court where the first appeal is filed. Also for the first time the bill imposes a time limit—60 days—within which ICC orders can be challenged.

Last, the control of and responsibility for representation of the Government in appellate review of these ICC orders is vested in the Attorney General. Though the ICC will have the absolute right to appear and defend the Commission's order, vesting ultimate control in the Attorney General will, as the Hoover Commission on Organization of the Executive Branch of the Government recommended in 1955, serve the public better by eliminating potentially destructive and wasteful intragovernmental dispute.

Mr. Speaker, we are today witnessing a crisis in the courts. Our legal structure is being tested and strained by caseload demands and other pressures which were inconceivable a generation ago. I am happy to say the Nixon administration has responded to this crisis with a broadly based and continuing program of court reorganization and reform. Much of this legislation is before the Congress and deserves action without unnecessary delay. The legislation which I introduced today is an additional part of this much-needed plan for court reform. I urge its prompt consideration and enactment.

SHOCKING RASH OF UNPRECEDENTED BOMBINGS

(Mr. MINSHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MINSHALL. Mr. Speaker, as we all know, a shocking rash of unprecedented bombings has swept the Nation. These terrifying anarchist acts are the vital concern of every American. Bombings have occurred in nearly every State in the Union. A courthouse, a city hall, and private homes, have all been victims, and the end is not in sight. Yes, even bomb factories have been found throughout the Nation. Explosive devices of great destructive capacity are easily concealed. I have only to remind the Members of this House that in 1954, we had a shootout from the galleries to my left rear by some misguided persons, who seriously wounded several Members of this House.

I should like to point out that this House could again be an easy target for some anarchist or even the victim of a depraved person, who could secret a powerful explosive device into the House Gallery.

Mr. Speaker, I have reviewed all of the Federal statutory provisions pertaining to explosives, and I fail to find any Federal law which would vitally affect, control, or restrict the distribution or sale of dynamite or other explosives, or require records of such sale to be maintained except under the Federal Explosives Act, which is operative only upon declaration of war or national emergency as a war power. It, of course, is not now operative. It seems the least we can do is to attempt to control and restrict the sale of dynamite and other explosive devices.

Accordingly, I have today introduced legislation to amend the Federal Gun Control Act of 1968 to include explosives. If enacted, my bill would supplement and parallel the Gun Control Act to include all explosives and their ingredients, and would require the seller of such explosives to record the sale by name, age, and residence of such purchases and maintain such records in a manner prescribed by the Secretary of the Treasury. The sale of such explosives would, of course, not be permitted to anyone under indictment, under the influence of narcotics or alcohol, or if there is reasonable grounds to believe that the purchaser is mentally unsound. I am also including an editorial which appeared in the Cleveland Press, March 12, 1970.

I hope the House leadership will take prompt and favorable action on this measure.

The editorial follows:

THE BOMB IS BACK

There must be better arguments for social and political change than dynamite, nitroglycerin and TNT.

Yet the country seems to be rife with fanatics who specialize in stuffing gasoline-soaked rags into bottles and then lighting a match.

The anarchists who carried bombs in their pockets years ago were pikers compared to the new breed of demolition experts.

Consider the explosion that ripped through a Greenwich Village townhouse last week, the bombings this week of a car and a courthouse in Maryland and three more bombings early this morning in New York City.

Four people have been killed in a matter of days—and many others might have been.

One of the victims of the Maryland car explosion was a friend of H. Rap Brown, on trial there for inciting to riot. A note found with the shattered auto summed up the new style of twisted thinking.

"Dynamite," said the note, "is my response to your justice."

Dynamite isn't a response to anything. It simply shows how many sick minds are loose in the land.

Trying to prevent these assaults on life and property is an extremely difficult proposition. A bomb can be planted almost anywhere.

But a judge in New York has opened one possible avenue of protection for the public. Judge Irving Lang refused bail to a man accused of bombing six buildings in Manhattan last year. He said the man's release might endanger the community.

This, of course, is "preventive detention"—a tactic that can too easily be abused by vindictive or unscrupulous judges.

But in this particular case, the refusal of bail seems justified. At a time when blowing things up is a popular pastime, the innocent bystander deserves consideration, too.

EXTENDING VOTING RIGHTS ACT OF 1965

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, the other body now has acted on extending the Voting Rights Act of 1965, H.R. 4249, and has restored the measure substantially to the form as recommended by the overwhelming majority of the House Judiciary Committee. I am pleased with this result and I hope that the House will recede from its earlier position and will agree to the version regarding voting rights as set forth in the bill which has now been acted upon by the other body. Instead, I note that the vote on final passage was supported by a decisive 64 to 12 vote.

Included in the measure which will now be reported back to the House, is an amendment to authorize 18-year-old voting in Federal, State, and local elections. While 18-year-old voting is the subject of a great many proposed constitutional amendments, it was the decision of the other body that this could be accomplished by legislation. Indeed, this particular amendment was adopted by a decisive 64 to 17 vote and would become effective January 1, 1971.

The basis for this legislative provision is that citizens between the ages of 18 and 21 are protected by the 14th amendment to the Constitution by virtue of "the equal protection of the laws" clause. This provides that the Congress finds that it would deny such equal protection for States to deprive citizens 18, 19, and 20 who are otherwise qualified to vote. It is my understanding that there are approximately 10.5 million young people who are in this category, of whom about 6 million are employed or are employable. Eight hundred thousand of these are in the Armed Forces and over a million are housewives managing their own homes. About 2.5 million are in school—principally in our colleges and universities.

While the argument has been made that a person old enough to fight should also be considered old enough to vote may have its limitations, there would seem to be no reason on the basis of education to deny 18-year-olds the right to vote. Almost all of these young citizens have completed 4 years of high school and all of us who have had an opportunity to discuss current issues with our high school and college youths must agree that they are active students of issues and events with respect to which our elected officials must deal.

Mr. Speaker, whatever form or action the proceedings in the House may take, it is my hope that a clear-cut opportunity will be presented to the Members of the House to vote on the issue of permitting 18-year-olders to vote. May I add that it is my firm belief that these provisions of the Voting Rights Act are constitutional. Nevertheless, between the time of enactment and the effective date of the measure, there would be ample time for determining the constitutionality of this issue.

COMPROMISE BETWEEN THE WHITE HOUSE AND THE CONGRESS ON THE HEW APPROPRIATIONS BILL

(Mrs. MAY asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous material.)

Mrs. MAY. Mr. Speaker, on March 4, the New York Times carried a two-column headline that said, "House and President Yield to Senate on School Funds." The headline, of course, was inaccurate.

The story underneath, by John W. Finney, makes that plain. There was compromise between the House and the Senate as there always is in cases of difference and there was compromise between the White House and the Congress as there always is in case of difference.

The ability to reach satisfactory compromise is the strength of our system of government.

For the sake of the RECORD let me point out that Mr. Finney was aware of this. He wrote:

> The controversy, which began with a Presidential veto threat last December . . . ended

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> in a compromise. Congress and the Administration split their differences . . .

And then he notes,

> As a concession to the Administration the Senate bill also provided that only 98 percent of the appropriations could be spent.

Mr. Speaker, it is my opinion that nobody yielded everything and that everyone yielded something in reaching agreement on the HEW appropriations bill. There was no surrender. The article follows:

HOUSE AND PRESIDENT YIELD TO SENATE ON SCHOOL FUNDS

(By John W. Finney)

WASHINGTON, March 3.—A prolonged confrontation between the White House and the Democratic Congress over domestic spending was resolved today when the House accepted the Senate version of a health and education appropriations bill and the President said he would sign it.

The controversy, which began with a Presidential veto threat last December and centered on the issues of inflation and domestic priorities, ended in a compromise. Congress and the Administration split their differences over how much money to provide the Department of Labor, the Department of Health, Education, and Welfare and the Office of Economic Opportunity.

The House voted 228 to 152, to instruct its conferees to accept the Senate version providing $19.4-billion for the current fiscal year, which began eight months ago. As a concession to the Administration, the Senate bill also provided that only 98 per cent of the appropriations could be spent.

The result of this 2 per cent spending cut is to reduce the total to about $19-billion, bringing it within the range acceptable to the President, who vetoed an earlier $19.7-billion version as inflationary.

Through Republican Congressional leaders who visited the White House, the President relayed word today that he would sign the substitute bill, and the House then acted.

Another battle over school desegregation was avoided when the House accepted the Senate version, which modified two House amendments and eliminated a third. Those amendments had been designed to sanction "freedom of choice" integration plans and to restrict the authority of the Office of Education to require busing of pupils to achieve integration.

The bill is expected to reach the President's desk tomorrow or Thursday. It must still be approved by a House-Senate conference committee and then be formally accepted by the House and Senate.

The anti-integration amendments had been introduced into the bill as a result of a coalition between Republicans and Southern Democrats in the House. But today that coalition fell apart as Republicans, interested in preserving the spending cut, voted with Northern Democrats, interested in nullifying the Southern amendments.

THANKED BY WHITTEN

The only acknowledgement of the fractured coalition came when Representative Gerald R. Ford of Michigan, the minority leader, said he would have preferred the House version of the bill with its amendments. For that statement he was thanked, in the brief debate, by Representatives Jamie L. Whitten, Democrat of Mississippi, the principal author of the antibusing and "freedom of choice" amendments that in recent years have been repeatedly incorporated into House bills and then rejected by the Senate.

Both Democrats and Republicans regarded the outcome of the battle between Congress and the White House as a political standoff.

Representative Carl Albert of Oklahoma, the majority leader, in urging House acceptance of the Senate bill, summed up the first major domestic confrontation betweeen the President and Congress by saying, "There is no victory completely for anybody no defeat completely for anybody."

Congressional Democrats ended up with a bill appropriating some $760-million more than originally proposed by the Administration. The increases go largely for education, health care and hospital construction.

Using the veto weapon, the Administration succeeded in cutting about $700-million from the $1.26-billion in increases for health and education originally voted by Congress.

After the veto in January, the President, as a compromise, agreed to accept $449-million of the Congressional increases. With the 2 per cent spending reduction, the bill, as it finally emerged, still provides $232-million more than the Nixon compromise suggestion.

More important than these specific figures, however, were the political issues both sides felt they had established, to be used in the forthcoming Congressional elections.

Republicans believed the President had succeeded in pinning an inflationary label on the Democrats by attributing inflation to excessive deficit spending by Democratic Administrations and Congresses.

A POINT IS CONCEDED

To a certain extent this point is conceded by the Democrats, who privately acknowledge they were thrown on the defensive when the President used his televised veto of the original bill to raise the inflation issue against a Democratic Congress.

But moderate and liberal Democrats believe that, as a result of the battle they can now return to the electorate as champions of education and health care who are urging that national priorities be changed to give greater emphasis to domestic needs.

Democrats also believe they have found a political counter to the Administration's inflation charge. In political appearances back home, several Congressional Democrats report a favorable response to their argument that, because Congress had cut foreign aid by $1-billion and defense appropriations by $5.6-billion, Democrats were not really being inflationary in advocating a $1-billion increase for education.

"POINTS OF REBELLION" BY JUSTICE WILLIAM O. DOUGLAS

(Mr. SCOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT. Mr. Speaker, as you know, I have been reviewing the recent book by Justice William O. Douglas entitled "Points of Rebellion" and have come to the last section.

Let me complete the review by quoting some of the text of the section entitled "A Start Toward Reconstructing Our Society."

These are direct quotations:

> Our militarism threatens to become more and more the dominant force in our lives. This is an inflammatory issue; and dissent on it will not be stilled.
>
> If history is a guide, the powers-that-be will not respond until there are great crises, for those in power are blind devotees to private enterprise. They accept that degree of socialism implicit in the vast subsidies to the military-industrial complex, but not that type of socialism which maintains public projects for the disemployed and the unemployed alike.
>
> The specter of hunger that stalks the land is likely to ignite people to violent protest.
>
> In one year Texas producers, who constitute 0.2 per cent of the Texas population, received 250 million dollars in subsidies, while the Texas poor, who constitute 28.8 per cent of the Texas population, received 7 million dollars in food assistance.
>
> The local agencies also determine what families are "eligible" for food stamps. Their word is the law, for there are no procedures and no agency or surveillance to make sure that people are not made "ineligible" because of race, creed or ideological views. Retailers who may receive food stamps and turn them into the local bank for cash have prescribed remedies if they are discriminated against. But the faceless, voiceless poor have no such recourse.
>
> The person who must pick those allowed to eat on the limited budget is the principal. The result is that some hungry children go without lunches—80.8 per cent in Virginia, 70.4 per cent in West Virginia, 73.5 per cent in Pennsylvania and 86.8 per cent in Maryland. Overall, the national figures show that at least two out of three needy children do not receive school lunches.
>
> The use of violence as an instrument of persuasion is therefore inviting and seems to the discontented to be the only effective protest.
>
> Racial problems often are the key to a freeway crisis. In Washington, D.C., the pressure from the Establishment was so great on the planners that the natural corridor for the freeway was abandoned and the freeway laid out so it would roar through the Black community. That experience is not unique. Many urban areas have felt the same discrimination. The Blacks—having no voice in the decision—rise up in protest, some reacting violently.
>
> Why should any special interest be allowed to relocate a freeway merely to serve its private purposes?
>
> People march and protest but they are not heard.
>
> In some parts of the world the choice is between peaceful revolution and violent revolution to get rid of an unbearable yoke on the backs of people, either religious, military, or economic.
>
> The welfare program works in reverse by syphoning off billions of dollars to the rich and leaving millions of people hungry and other millions feeling the sting of discrimination.
>
> The special interests that control government use its powers to favor themselves and to perpetuate regimes of oppression, exploitation, and discrimination against the many.
>
> If society is to be responsive to human needs, a vast restructuring of our laws is essential.
>
> The universities should be completely freed from CIA and from Pentagon control, through grants of money or otherwise. Faculties and students should have the basic controls so that the university will be a revolutionary force that helps shape the restructuring of society A university should not be an adjunct of business, nor of the military, nor of government. Its curriculum should teach change, not the status quo. Then, the dialogue between the people and the powers-that-be can start; and it may possibly keep us all from being victims of the corporate state.
>
> George III was the symbol against which our Founders made a revolution now considered bright and glorious. George III had not crossed the seas to fasten a foreign yoke on us. George III and his dynasty had established and nurtured us and all that he did was by no means oppressive. But a vast restructuring of laws and institutions was necessary if the people were to be content.

That restructuring was not forthcoming and there was revolution.

We must realize that today's Establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also revolution.

That revolution—now that the people hold the residual powers of government—need not be a repetition of 1776. It could be a revolution in the nature of an explosive political regeneration. It depends on how wise the Establishment is. If, with its stockpile of arms, it resolves to suppress the dissenters, America will face, I fear, an awful ordeal.

Justice Douglas appears to champion everything that is wrong with the Government.

In my opinion his obsession with criticizing the Government and the free enterprise system renders him incapable of impartially deciding issues coming before the Supreme Court. When the statements in this book are coupled with his other activities and conflicts of interest, it seems to me that we have an obligation to remove him as a Justice of the Supreme Court.

Such a serious course should be carefully charted and I would prefer to join with others in taking the necessary action. However, after further study of procedure and his activities, I expect to institute impeachment individually or in conjunction with others.

A NATIONAL SCHOOL DESEGREGATION POLICY

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(Mr. PREYER of North Carolina asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous material.)

Mr. PREYER of North Carolina. Mr. Speaker, I have today introduced a bill which we believe will make a significant contribution toward the establishment of a national school desegregation policy. The principal draftsman of the bill is Prof. Alexander Bickel, Chancellor Kent professor of law and legal history at Yale University and author of the recently published book, "The Supreme Court and the Idea of Progress."

Our Nation has lost its way in grappling with the toughest moral and political dilemma of our times—how to insure justice for its blacks and tranquillity among its races. Race relations in our country are at a turning point, our education system is in deep trouble. There is a climate of indecisiveness; we do not know what to do.

Some think our country is somehow coming apart—that we have come to problems that our system will not resolve.

This situation calls for an initiative from Congress. We are convinced that our system can resolve our problems through the use of creative intelligence, and that the confusion can be ended if Congress enacts a national policy on school desegregation.

Professor Bickel's draft is a careful and thoughtful contribution to such a policy. It is firmly grounded in the effort to redeem the American credo that all men are created equal and the American promise of one nation, indivisible. It recognizes that there is no acceptable future for American society in segregation and that there must be no legal impediment to those seeking to implement a free and open society. But it recognizes that mechanistic programs of racial balance in desegregation are not always the most realistic routes to the achievement of a free and open society, and are often inimical to educational quality.

People closely associated with the problems and opportunities of education in several sections of our country have contributed to the language of this bill. Members from both parties have reviewed early drafts and suggested changes. All of these people have a great interest in building better schools for all our children and in bringing together the sections of our country in a new sense of unity. They have helped to make this a national bill directed toward the resolution of a national problem.

The times call for moral leadership from Congress. Let us debate this sensitive subject with care and good will in the weeks ahead. We invite your attention to this bill in this spirit.

The bill is as follows:

H.R. 16484

A bill to enforce the guarantees of the Fourteenth Amendment with respect to the desegregation of public elementary and secondary schools

Whereas, the Fourteenth Amendment forbids the segregation of children in the public schools solely on the basis of race; and

Whereas, the Congress has the authority and the duty to enforce the Fourteenth Amendment by appropriate legislation; and

Whereas, section 5 of that amendment is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National School Desegregation Act of 1970."

SEC. 1. (a) The definitions of the terms "public school" and "school board" contained in section 401, subsections (c) and (d) of the Civil Rights Act of 1964, shall be applicable to this Act.

(b) Segregation is the separation of children of different races in the public school pursuant to provisions of applicable law, or by action of persons exercising administrative authority over the public schools, where such action is intended to achieve the separation of children solely on the basis of race, and has that effect.

SEC. 2. (a) Any student in any public school shall have the right at the beginning of any school year to transfer from a school to which he has been assigned or would in the regular course be assigned, in which his race is in a majority, to a school in which his race is in a minority; provided that the exercise of such right may be postponed for a reasonable period of time while the most rapid feasible effective measures are taken to alleviate conditions of overcrowding in the school to which transfer is requested; and provided that the school to which transfer is requested offers education in the grade equivalent to that from which the student transfers.

(b) Transportation which may be required to effectuate the right of transfer under this section shall be provided at public expense.

(c) Any person or persons alleging that the right established in subsections (a) and (b) of this section has been denied to him or her individually or to a class of which he or she is a member, or the Attorney General, if he has reasonable cause to believe that any person or class of persons have been denied such right, may bring a civil action in the appropriate district court of the United States for equitable relief, including an application for a permanent or temporary injunction, or other order.

(d) In any action commenced under this Section, the court shall allow the moving party or parties, other than the United States, a reasonable attorney's fee as part of the costs, if such party or parties prevail in the action.

SEC. 3. Where there are students of a particular race, color, or national origin concentrated in certain schools or classes, school boards shall ensure that these students are not denied equal educational opportunities by practices which are less favorable for educational advancement than the practices at schools or classes attended primarily by students of any other race, color, or national origin. Examples of disparities between such schools and classes which may constitute a denial of equal educational opportunities include:

(A) comparative overcrowding of classes, facilities, and activities;

(B) assignment of fewer or less qualified teachers and other professional staff;

(C) provision of less adequate curricula and extra curricular activities or less adequate opportunities to take advantage of the available activities and services;

(D) provision of less adequate student services (guidance and counseling, job placement, vocational training, medical services, remedial work);

(E) assigning heavier teaching and other professional assignments to school staff;

(F) maintenance of higher pupil-teacher ratios or lower per pupil expenditures;

(G) provision of facilities (classrooms, libraries, laboratories, cafeterias, athletic and extra curricular facilities), instrumental equipment and supplies, and text books in a comparatively insufficient quantity.

(H) provision of buildings, facilities, instructional equipment and supplies, and text books which, comparatively, are poorly maintained, outdated, temporary or otherwise inadequate.

SEC. 4 (a) All persons exercising administrative authority under the laws of a State or of the United States over public schools have the affirmative duty to eliminate segregation or any other discrimination based solely on race in public schools subject to their authority, and to correct the present effects of past segregation or other discrimination based solely on race.

(b) A public school is organized and administered in compliance with the Constitution and laws of the United States when all persons exercising administrative authority over it—

(1) have in good faith discharged their affirmative duty under subsection (a), provided that the question of good faith shall be treated as a question of fact by courts of the United States adjudicating suits brought under the Constitution or laws of the United States, and by duly authorized officers of the United States implementing title VI of the Civil Rights Act of 1960, and shall be decided by them, having regard to the criteria set forth in this Act; and

(2) have ensured that the school system or systems subject to their authority are unitary school systems, as defined in section 5 of this Act.

SEC. 5. For the purposes of this Act—

(a) The term "unitary school system" means one in which—

(1) the requirements of section 2, subsections (a) and (b) and of section 3 of this Act have been met;

(2) school activities are open to all pupils and faculty and staff, without segregation or any other discrimination based solely on race;

(3) subject to the provisions of section 2 of this Act, each child attends the school nearest its place of residence, or the ratio of

racial minority to racial majority pupil population in each school is within 50 percent to 150 percent of the percentage representing the proportion which the number of students of a minority race bears to the entire pupil enrollment in a system administered by a school board, where the geographical boundaries of the system are themselves not determined on the basis of racial considerations of any sort;

Provided, however, That variances from a policy of assigning each child to the school nearest to his place of residence may be made—

(A) to the extent necessitated by variations in the availability of programs suited to the needs of the child, school capacity, traffic conditions, and other considerations of ease of access;

(B) pursuant to measures put into effect by a school board or other persons exercising authority over public schools under the laws of a State, the District of Columbia, or a territory of the United States, where such measures are intended to achieve better racial balance in the school population, and have that effect; and

(C) pursuant to measures put into effect by a school board or other person exercising authority over public schools under the laws of a State or of the United States, where such measures are intended to prevent the resegregation of a school, and have that effect.

(b) Variances provided for in paragraph (3)(A) of this section shall be lawful only if they result in the assignment of children to public schools or within such schools without regard to their race. Variances provided for in paragraphs (3)(B) and (3)(C) shall be lawful only if they form part of policies pursued in good faith to achieve better racial balance or to prevent resegregation. The question of good faith shall be treated as a question of fact by courts of the United States in the course of adjudicating suits brought under the Constitution or laws of the United States, and by duly authorized officers of the United States implementing title VI of the Civil Rights Act of 1964: *Provided, however,* That school boards or other persons exercising authority over public schools who shall put into effect variances intended to prevent resegregation shall have the burden of proof in showing their good faith intention to do so.

Sec. 6. (a) Any person or persons alleging, or the Attorney General if he has reasonable cause to believe, that any policy or measure, adopted by a school board or other person or persons exercising administrative authority over a school or schools in a system which is otherwise a unitary one, was intended to achieve the separation of children solely on the basis of race, and has had that effect, may bring a civil action in the appropriate United States district court for equitable relief, including an application for a permanent or temporary injunction, or other order. The court shall rescind such policy or measure, and shall order affirmative action to be taken to cure present effects still directly attributable as having been caused by such policy or measure.

(b) In any action commenced under this section, the court shall allow the moving party, other than the United States, a reasonable attorney's fee as part of the costs, if such party or parties prevail in the action.

(c) Any policy or measure found by an officer of the United States duly authorized to implement title VI of the Civil Rights Act of 1964, to give rise to a cause of action under this section, shall be found by him to be a violation of said title VI, even though suit has not been brought in a court of the United States under this section. The violation shall be deemed to have terminated upon application by the school board, or other person responsible, of the remedy that a court would apply under subsection (a) of this section.

MIND POLLUTION

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WYLIE. Mr. Speaker, last Wednesday I testified before two members of the Presidential Commission on Obscenity and Pornography named by President Johnson in 1967. This Commission is supposed to make recommendations on the widespread distribution of obscene materials by July 1. These two members of the Commission, Msgr. Morton A. Hill and the Reverend W. C. Link are not very hopeful that this Commission will come up with anything constructive and they are holding hearings on their own.

More than one-half of the Members of Congress have introduced legislation which would deal with this subject. Yet, nothing happens. People are demanding action. An article written by Mr. Roulhac Hamilton, a veteran, able correspondent who is chief of the Dispatch Washington bureau, appeared in the Columbus Dispatch for Sunday, March 15. On Friday, March 13, an editorial appeared in the Columbus Dispatch. The story by Mr. Hamilton and the editorial deserve reading by Members of this Congress.

The articles take Congress to task and, I think, rightfully so for its footdragging in this area. We hear a lot about pollution now and right we should. The problem of mind pollution is most serious and something should be done immediately. The article and editorial are included in my remarks as extraneous material.

[From the Columbus (Ohio) Dispatch, Mar. 15, 1970]

Legislation Against Smut Bogs Down in Congress

(By Roulhac Hamilton)

It is somewhat more than strange, in view of widespread public and congressional clamor for action, that those who presumably will have the most to do with imposing legal curbs on dissemination of pornography are doing so little.

That there is public outrage throughout the nation over the spreading traffic in filth cannot be doubted by anyone who takes the trouble to make the rounds of Congressional offices and ask for a look at mail received on the subject.

That there also is outrage in Congress is clearly indicated by the fact that more than 200 members—almost equally divided between Republicans and Democrats and representing all areas of the country—have introduced bills aimed at slowing the traffic.

But introduction of bills in Congress means nothing unless Congress passes a bill and it is signed into law by the President. And at the moment, there is no evidence that Congress is going to act, because of inexplicable reluctance of committees to bring legislation to the floor.

This seeming indifference to what the public regards as a pressing problem is not, however, confined to Capitol Hill. It extends to the administration, despite the fact that President Nixon urged Congress in a special message last May, to move. And it seemingly extends even to the special Presidential Commission on Obscenity and Pornography, named by President Johnson in 1967 at the request of a Congress seeking advice on what sort of effective legislation it could constitutionally enact.

This commission, under the leadership of Dean William B. Lockhart of the University of Minnesota, has been conducting a variety of studies, but according to at least two of its members, it has been perverting the purpose for which it was appointed.

As two clerical members of the 17-man commission see it, Lockhart and a majority of the group have diverted its work primarily into a study of the effects of the traffic in obscenity.

Those two, Monsignor Monton A. Hill, of New York and the Rev. W. C. Link, a Baptist minister from Tennessee, point out that the Congressional resolution creating the commission defined its primary duty as that of making recommendations to Congress on the form of legislation which should be enacted to "regulate effectively the flow" of traffic in smut.

So irate have been the two clergymen at the refusal of the commission to delve into the subject through public hearings around the country that they have, at their own expense, journeyed from New York to San Francisco to New Orleans and to Washington to hold hearings on their own. And they plan more of these sessions before the commission files its final report on July 31.

On Capitol Hill, despite the hefty package of legislation proposed by 200 members, there has been foot-dragging, in both the House and Senate judiciary committees. The Senate committee has held no hearings at all. A House subcommittee headed by Rep. Robert W. Kastenmeier, D-Wis., reluctantly held two or three days of hearings after Rep. Chalmers P. Wylie, R-Columbus, had prodded Speaker John W. McCormack into prodding Judiciary Chairman Emanuel Celler, D-N.Y., into prodding the reluctant Kastenmeier into moving.

But beyond the hearings, the subcommittee has done nothing on the subject.

The House Post Office and Civil Service Committee has been a bit more active, but not much more effective. One of its subcommittees did approve, weeks ago, a bill to bar use of the mails for dissemination of smut. But the full committee has yet to act, although the bill was sponsored by its chairman, Thaddeus J. Dulski, D-N.Y.

The administration also has been seemingly indifferent to the matter despite Nixon's urgent message of last June. Atty. Gen. John H. N. Mitchell has given lip service to the matter and, after weeks of delay, did send a couple of underlings to Capitol Hill to discuss the matter with the Kastenmeier subcommittee. There was no suggestion of urgency in their attitudes, which were at best lukewarm.

It could be that some action may come after the Presidential commission reports July 31. But that date is late in a year in which Congress will be desperately attempting to end its session in September in order that its members may go home and campaign.

[From the Columbus (Ohio) Dispatch, Mar. 13, 1970]

Smut, Antisocial Behavior

Four attempts have been made by as many congresses to develop a strategy to control the traffic in obscenity. The most recent was creation of another special commission whose final report is due July 31. We are hopeful a way has been found to dry up the primary source of a social evil.

Unless we do find a way, we can expect a further deterioration of moral and ethical standards along with parallel increase in antisocial behavior.

The new bills in Congress reflect an acute public discontent about obscenity for more than 200 proposals are now before the federal legislature, virtually all designed to curtail the merchandising of smut. And smut is big business, its annual gross estimated at upwards of $2 billion.

One of the criticisms of past obscenity controls is that the laws were at best ambiguous. Needed more than anything else are precise definitions rather than terms such as obscene, lewd, lascivious, filthy and indecent. Courts, where laws must be tested, demand preciseness.

At the moment, the basic standard on what is obscene is the result of U.S. Supreme Court decisions with regard to the First Amendment. Three elements are involved in determining what is obscene; it must appeal to prurient interest, be patently offensive to contemporary standards and be utterly without redeeming social value. In addition, the high tribunal has ruled materials can be censored if offered for sale to minors.

Yet there are huge gaps in law enforcement. The Post Office Department received 128,140 complaints of unsolicited obscene mailings in 1965. Since then, the number of complaints has doubled. Five years ago there were fewer than 100 theaters offering "sexploitation" films; today there are more than 600.

And with all this there has been an increase in crime, permissiveness and what Chief Justice Warren Burger considers to be attitudes "wholly out of step with American standards."

It seems incredible that lawwriters cannot come up with legislation assuring protection against the continuing erosion of those standards.

CRIME IN THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore (Mr. HOLIFIELD). Under a previous order of the House the gentleman from Maryland (Mr. HOGAN) is recognized for 60 minutes.

Mr. HOGAN. Mr. Speaker, crime has become a desperate problem in the District of Columbia.

Last year crime in the District jumped to a new high: Homicides were up from 209 to 291. Reported armed robberies leaped from 4,640 to an astounding 7,071. The number of forcible rapes increased from 260 to 326.

The 26-percent increase in forcible rape is particularly disturbing in light of certain related developments.

Through court interpretation, rape is no longer a capital offense in the District of Columbia. As a result, persons accused of rape are automatically subject to the liberal release provisions of the Bail Reform Act of 1966. Under that act, danger to the community may not be considered by the court in setting conditions of pretrial release. Thus, courts in the District of Columbia are virtually powerless to retain in custody a dangerous accused rapist, no matter how evident his guilt may be and no matter how seriously his release will menace the public safety.

With dangerous men at large on pretrial release, only time stands between the people of Washington and an unspeakable tragedy.

Let me develop these thoughts in detail.

The District of Columbia Code provides that—

> Whoever has carnal knowledge of a female forcibly and against her will, or carnally knows and abuses a female child under sixteen years of age, shall be imprisoned for not more than thirty years: *Provided*, That in any case of rape the jury may add to their verdict, if it be guilty, the words "with the death penalty," in which case the punishment shall be death by electrocution: *Provided further*, That if the jury fail to agree as to the punishment the verdict of guilty shall be received and the punishment shall be imprisonment as provided in this section.

In April of 1968, the Supreme Court ruled in *United States* v. *Jackson*, 390 U.S. 570, that the death penalty provision in the Federal Kidnaping Act was unconstitutional because it placed an impermissible burden—the threat of the death penalty—upon the exercise of a defendant's right to a jury trial and tended to coerce a defendant either to plead guilty or be tried without a jury. Inasmuch as the death penalty provision for rape in the District of Columbia is equivalent to the death penalty provision for kidnaping, the Federal Government has conceded the invalidity of the death penalty clause. As a consequence, the maximum penalty which may now be imposed for rape is imprisonment for 30 years. The omnibus crime bill approved by the House District Committee includes my amendment authorizing imprisonment of convicted rapists for any term of years or for life.

Even if this change becomes law, however, rape will remain a noncapital offense in the District of Columbia; and defendants accused of rape will continue to be subject to the liberal release provisions of the Bail Reform Act of 1966. That act provides, in 18 U.S.C. 3146, that any person charged with an offense, other than an offense punished by death, shall be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by a judicial officer, unless the officer determines that such a release will not reasonably assure the appearance of the person as required. Only as a last resort may financial conditions be set to discourage flight.

The language of the act implies and the courts have held, the danger to the community may not be considered in setting conditions of pretrial release. For example, in *United States* v. *Leathers*, 412 F. 2d 169, 170–117 (D.C. Cir. 1969), the Court of Appeals said:

> The Bail Reform Act specifies mandatorily that conditions of pretrial release be set for defendants accused of noncapital offenses. When imposing these conditions, the sole concern of the judicial officer charged with this duty is in establishing the minimal conditions which will "reasonably assure the appearance of the person for trial. . . ." The structure of the Act and its legislative history make it clear that in noncapital cases pretrial detention cannot be premised upon an assessment of danger to the public should the accused be released.

The upshot of all this is that courts in the District of Columbia are precluded from setting conditions that will effectively assure the pretrial custody of dangerous noncapital offenders. Under the Bail Reform Act, courts in the District are virtually powerless to hold a dangerous accused rapist, regardless of the threat he poses to society.

Unfortunately, it is not difficult to illustrate the immense hazards which exist in the present law. All that is needed to place two tragic incidents from the Midwest in the context of the District of Columbia.

CASE I: THOMAS D. JANES

In August 1967, a 17-year-old Milwaukee girl was kidnaped and raped. According to news reports, the girl was seized in her home by a 26-year-old man, bound and gagged, placed in the trunk of the man's car, and then driven to a suburb where she was sexually attacked.

When the man, Thomas D. Janes, was apprehended, he was brought before a county judge who set bail at $25,000, saying, "A man like this cannot be free on the streets."

Later, at the request of the defendant's attorney, a circuit judge reduced the bail to $2,500, allowing Janes to go free. Not long afterward, the same defendant abducted a teenage boy and girl at knife point with the apparent intention of repeating his first crime. The boy was slashed and stabbed with a 5-inch hunting knife. Although the boy was hospitalized with stab wounds, the couple was lucky to escape alive.

Had this incident occurred in Washington, the defendant would have been set free, not as a matter of judicial discretion but as a matter of statutory law. Something is terribly wrong when a man like Janes must necessarily be set loose so that he can commit new crimes. Something is terribly wrong when Congress requires courts in the District to pretend that dangerous men like Janes will behave in public like innocent cherubs.

I insert at this point in the RECORD documents relating to the case of Thomas D. Janes:

[From the Milwaukee Journal, Oct. 30, 1967]

YOUTH, GIRL ABDUCTED ESCAPE AFTER STRUGGLE

A West Milwaukee high school football player and his girl friend were abducted at knife point in Greenwood Sunday by a man awaiting trial on earlier charges of rape and kidnapping, police said.

The suspect forced his victims to drive to Racine county where the youth, Randall L. Scudder, 17, of 1241 S. 44th Street, struggled with the man while the girl, Barbara Lemke, 15, daughter of Mr. and Mrs. Herman Lemke, 1626 S. 57th Street, West Allis, escaped.

Scudder was stabbed and slashed with a hunting knife with a four to five inch blade. He managed to break free and run.

The suspect was caught about two hours later when he returned to his car near the abduction site, police said.

Authorities said they would seek new charges against the suspected abductor. He had been free on bail set in a case involving the alleged kidnapping and rape of a 17-year-old Milwaukee girl Aug. 29.

In that case, police said, the suspect took the girl from her home, bound and gagged her, placed her in the trunk of his car and drove her to a suburb, where he allegedly attacked her.

YOUTH OUT OF HOSPITAL

Scudder, son of Mr. and Mrs. Ted R. Scudder, 1241 44th Street, West Milwaukee, was released from St. Luke's Hospital, Racine, after treatment for slashes, two stab wounds in the chest and one in the back. The youth, co-captain of the football team, plays left end. He is a senior. His father is a printer for the Journal Company.

Doctors said Scudder would have to stay in bed at least a week.

"He really saved my life," Miss Lemke said, referring to Scudder. "I'm pretty proud of him. I could have been hurt worse." She was treated at St. Luke's for a small cut, suf-

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fered when she and Scudder made their escape.

"I figured I would try to save my life and hers," Scudder said. "I thought something a lot worse might happen."

FAMILY GIVES ACCOUNT

The Scudder family and Miss Lemke, also a student at West Milwaukee high, gave this account:

The two teenagers were parked in Scudder's car on Root River Parkway, a block south of W. Forest Home Av., about 11:30 p.m. Saturday when a man shined a flashlight in their faces.

The couple, who had been dating about a month, had been to a dance at the school gymnasium at St. Florian's Catholic Church, 1233 S. 45th Street, West Milwaukee.

Miss Lemke said the man gave the impression of being a policeman. "He asked Randy for his driver's license, then asked how old I was," she said. "After I told him, he told me I was out after curfew." Greendale has an 11 p.m. curfew.

The man then motioned for Scudder to open the rear car door, Miss Lemke said.

KNIFE PUT TO THROAT

"When he got inside," she said, "the man put a knife to my throat and told Randy to start driving; that nothing would happen if we didn't goof.

"Randy kept asking him where he wanted him to drive and the man kept saying, "I haven't made up my mind what I'm going to do; everybody says I'm crazy'."

She said that Scudder told the man: "I'll take you wherever you want to go, or you can take the car—just don't hurt the girl."

Scudder said he slowed the car in Racine county, just north of the Seven Mile rd. on S. 76th Street and told Miss Lemke to jump out.

MEN START STRUGGLING

The man started struggling with Scudder and Miss Lemke. She was cut on the neck but managed to steer the car off the road into a ditch. Then she jumped out and ran.

Scudder grabbed his assailant around the neck and pulled him into the front seat. They rolled out of the car onto the ground. Scudder was stabbed as they struggled on the ground.

Police said Scudder is 6 feet tall and weighs 175 pounds; his assailant, 5 feet 7 and 180 pounds.

WOMAN CALLS POLICE

Scudder broke free and ran. He found Miss Lemke and they began seeking help. No one was home at the first two farmhouses they found.

They ran to a third house.

Seeing no lights, Scudder wrapped Miss Lemke's coat around his head and dived through a patio window.

"When Randy picked up the phone to call police," Miss Lemke said, "the woman who lived there was on the line trying to call home. Randy told her what had happened and she called police."

The woman was Mrs. Rudolph Berlich, whose husband happens to be a longtime friend of Scudder's father.

Meanwhile, police said, the young couple's assailant took Miss Lemke's purse, Scudder's coat and portable radio from Scudder's car and returned to Milwaukee county. Police said they did not know how he got back. They estimated the distance about eight miles.

Greendale police, alerted to the abduction by Racine county authorities, were waiting when the suspect returned to his car on Root River Parkway.

When officials arrested him, they said, his clothing was covered with blood. He had a hunting knife, the coat, purse, and radio in his possession, they said.

Police said the suspect had been free on $5,000 bail. County Judge Christ T. Seraphim had originally set bail at $25,000, but it was later reduced by Circuit Judge Marvin Holz after the suspect's attorney, Arthur Manti, argued that the amount was excessive.

Manti had asked Seraphim to reduce the bail, but Seraphim had told him: "A man like this cannot be free on the streets."

[From the Milwaukee Journal, Oct. 31, 1967]

Bail Set at $250,000 for Kidnaping Suspect

Bail was set at $250,000 Monday for a Cudahy man accused of abducting a teenage couple at knife point.

County Judge Christ T. Seraphim said he set the high bail for the defendant, Thomas D. Janes, 26, of 5805 S. Swift St., to "protect this defendant . . . and society."

The judge said he had set bail at $25,000 in another case in which Janes is charged with the kidnapping and rape of a 17 year old Milwaukee girl Aug. 29, but that it had been lowered to $2,500 by Circuit Judge Marvin Holz.

"This man was then free to commit other crimes," Seraphim said.

[From the Milwaukee Journal, Nov. 8, 1967]

High Bail Justified

To The Journal: This letter is from a disgusted public official. The lowering of bail in the kidnaping and rape case of Thomas D. Janes from $25,000 to $2,500 by Circuit Judge Marvin Holz is just another example of how persons in the upper echelon of our courts have lost contact with the "gut" problems that face public officials on the front lines in our schools, police departments and courts.

It is my hope that the second abduction charge against Janes will make Judge Holz think twice before he overrules a judge in a lower court again. It is fortunate that the two young people recently abducted are alive; however, this is only one example of the result of lenience shown by many judges.

Today it appears that offenders of the law have more rights than the innocent victims. This situation must be corrected soon or the public will lose confidence in the courts. Policemen, teachers and many other public officials are already disgusted with the attitude of many judges.

A change must come soon or the innocent will live in fear.

CASE II: MILTON BROOKINS, JR.

An even more grisly case occurred last summer in St. Louis. Milton Brookins, Jr., a policeman, was identified by seven women as the man who had raped them. The evidence strongly indicated that Brookins was "the phantom rapist," a man who was terrorizing the city and boasting of more than 50 attacks on women. When Brookins was arrested, a criminal court judge told his attorney that bail should be set at $51,000. But another judge intervened, setting bail at $12,000, and Brookins went free. In an editorial published June 5, 1969, the St. Louis Globe-Democrat called Brookins' release a "miscarriage of justice."

Less than a month later, while free on bond, Milton Brookins forced his way into an apartment, attempted to rape two women, slashed their clothing with a knife, and shot one woman in the face at close range.

Because rape is a capital offense in Missouri, the court could have denied bail to Brookins in its sound discretion. It did not. In Washington, however, courts do not have discretion to consider a defendant's potential danger to the community. Thus, in Washington, Milton Brookins would have been set free as a matter of law.

I insert at this point in the RECORD documents relating to the case of Milton Brookins, Jr.:

[From the St. Louis Globe-Democrat, June 5, 1969]

Justice on Trial

The case of the "phantom rapist" has raised serious questions of official procedure which demand a more exact accounting than has been given to date.

Why was Milton Brookins Jr., suspended St. Louis patrolman identified by seven victims of the phantom rapist as the man who had attacked them, released from jail Tuesday on the minimum bond requirement of $12,000?

What miscarriage of justice enabled Brookins to be freed only 13 days after being charged with forcible rape in two warrants?

Another man arrested in the case, Isom Combs Jr., was released only Monday, even though he had been cleared 12 days previously when a 20-year-old coed, who had identified him as the man who had raped her in her West End apartment, withdrew her identification and picked out Brookins as her attacker. Combs had been held since April 29.

Bail for Combs was fixed at $12,500. He simply had no way to raise it, and as long as the identification against him stood he was considered a suspect.

What can explain away the unjust treatment which Combs received? He was jailed for 35 days in a case of mistaken identity. During that time he was subjected to extreme abuse and beatings by other inmates, suffering a possible brain concussion, broken nose and punctured ear drums.

As for his being arrested in the first place, there is some doubt that a thorough investigation was made to determine if he was at the scene of the crime with which he was charged. Even after the identification which has put him in jail was withdrawn, nearly two weeks elapsed before his release.

Brookins, meanwhile, was able to be freed on bond of $12,000 set by Circuit Judge J. Casey Walsh, although Judge Richard J. Brown of the Court of Criminal Correction had told Brookins' attorney earlier that bond should be set at $51,000.

In view of the extreme seriousness of the charges Brookins faces, the higher figure should have been required. Justice should be more than a matter of individual administration.

[From the St. Louis Post-Dispatch, June 30, 1969]

Milton Brookins, Jr. was held today in the shooting and attempted rape of a young St. Louis newspaper woman in her apartment in the West End yesterday. Brookins is suspected of being the "phantom rapist" and is free on bond on two rape charges. He is a policeman but has been suspended.

Miss Connie Rosenbaum, a reporter for the Post-Dispatch women's section, was struck on the head with a revolver and shot in the face when resisting a criminal attack. Miss Rosenbaum was reported to be in satisfactory condition at Barnes Hospital. She is 23 years old and is the daughter of Dr. and Mrs. Herbert E. Rosenbaum, 907 South Warson Road, Ladue.

Miss Rosenbaum was entertaining a friend, Miss Rene Flanders, 17, of 62 Chestnut Avenue, Webster Groves, at 4 p.m. when there was a knock on the door. Miss Rosenbaum said a man asked for her by name, then shoved his way in the apartment. Miss Rosenbaum's name is on her mailbox at the apartment, 4924 Buckingham Court.

CLOTHING SLASHED

The intruder displayed a revolver and said he intended to rape both women. He drew a knife and slashed their clothing. Cutting the cord from an electric appliance, he started to tie Miss Rosenbaum's hands.

The intended victim screamed and fought the assailant, who struck her on the head repeatedly with his revolver. He then shot her in the face at close range. The assailant fled after stealing $24 and a ring from Miss Rosenbaum's purse.

Except for cutting her clothing, the assailant did not harm Miss Flanders.

The man, who wore leather gloves, was seen by Harry Glass, the apartment house maintenance man. Glass heard the shot and screams and described the assailant and the automobile in which he fled.

Brookins, who was at liberty on $24,000 bond on an indictment charging him with two counts of rape, was arrested at his home, 1912 Red Maple Walk, La Clede Town.

Warrants issued by the circuit attorney today charged Brookins with assault with intent to ravish, assault with intent to kill and armed robbery.

Police reported that Miss Flanders and Glass identified the prisoner in a line-up. Miss Rosenbaum identified a photograph of Brookins and will view the prisoner when her condition permits. Lawyer Daniel P. Reardon, Jr., representing Brookins, was present during the identifications.

The self-styled "phantom rapist" left insulting notes to policemen boasting of more than 50 attacks on women, mostly in West End apartment. Brookins was indicted by the Circuit Court grand jury in two of the attacks. He was booked yesterday as suspected of assault with intent to kill, robbery and attempted rape.

Isom Combs, Jr., a yard man employed at Washington University, was identified by a student as the man who had raped her. After Brookins was arrested, the woman changed her mind and picked Brookins out of a line-up. Combs was released.

Brookins was released from jail June 3 on the $12,000 bond set by Circuit Judge J. Casey Walsh. Earlier, Judge Richard J. Brown of the Court of Criminal Correction told a lawyer representing Brookins that bond of $51,000 would be required. The lawyer went to Judge Walsh, who was quoted as saying there were only two rape charges before the court, and that $5,000 on each charge was common practice.

The bond was raised to $24,000 by Judge Walsh on Wednesday, when Brookins was arraigned on the indictment. The earlier bond, signed by the defendant's parents, was on warrants.

[From the St. Louis Globe-Democrat, July 1, 1969]

LOW FELONY BONDS DON'T PROTECT PUBLIC

Milton Brookins Jr., the suspended St. Louis policeman accused as the "phantom rapist," is now charged with new crimes, an atrocious beating and shooting, and the attempted rape of two young St. Louis women.

We warned on June 14 that Brookins should never have been released on a low bond of $12,000 by Circuit Judge J. Casey Walsh. When the bond was raised to $24,000 after a grand jury indicted him on two counts of rape and one of auto theft, this was still too low.

Seven women have identified him as the man who raped them. Two have signed warrants against him.

And now he is alleged to have brutally beaten and shot a young St. Louis newspaperwoman in an attempt to rape her and a 17-year-old girl, after forcing his way into the newspaperwoman's apartment.

The courageous woman reporter fought her assailant even though he struck her repeatedly on the head with his pistol and then shot her in the jaw. She was literally covered with her own blood after fighting off her attacker. Now she will require plastic surgery and an extended recuperation from the effects of the beating and bullet wound.

Milton Brookins Jr. is charged with being the man who inflicted this merciless beating and shooting and was identified as the man who said he intended to rape both young women.

As a result he has four new charges: two of assault with intent to ravish with malice, one of assault with intent to kill with malice and one of armed robbery.

A man charged with repeated rapes, attempted rapes, an attempt to kill, armed robbery and auto theft certainly should not be permitted to roam the streets.

Brookins' bond should be set at the absolute maximum on all seven felony charges against him.

If the first bond recommendation made by Criminal Court Judge Richard J. Brown at the time of Brookins' first arraignment had been followed, Brookins might never have left jail. Judge Brown set the bond at $25,000 on each rape charge and $1,000 on the auto theft because he considered this an "aggravated case."

Aggravated it most certainly is.

Judges must start giving far more consideration to the rights of the public to protection from those who are accused of rape and other vicious crimes. And prosecution must be with utmost vigor.

Today we see rapists have almost no fear of the law or the consequences of their acts. This is one reason the crime of rape is being committed far more often than in the past.

In addition to reporting the Saturday night crime in which Brookins is accused, the Monday edition of the Globe carried four separate articles on page 4A telling of five other rapes in the city over the weekend.

The best way to deal with rapists and other felons is to give them a fair and speedy trial.

Brookins should be tried promptly. With seven felony charges against him there should be no shortage of evidence.

[From the St. Louis Post-Dispatch, July 3, 1969]

NOT A CASE FOR BAIL

Without trying to draw general conclusions from a single case, it seems obvious to us that Judge David W. FitzGibbon was fully justified in refusing bail—which, indeed, has not been requested—for Milton Brookins, Jr., the suspended policeman who has been identified in numerous cases of rape and attempted rape. Bail is discretionary in capital cases. Brookins is accused of assault with intent to kill and armed robbery at a time when he was free on bond granted in connection with other charges of rape. Though he has not been found guilty, the circumstances warrant the presumption that he is not a safe person to be at large while awaiting trial. The corollary is that both he and the community are entitled to a prompt, fair and judicious trial.

Mr. Speaker, these two incidents are far from academic. Recently, an 18-year-old Silver Spring girl was kidnaped and slashed three times in the face on Old Georgetown Road. Two weeks ago, four men forced their way into a Northwest Washington apartment, tied and blindfolded a man, and raped his wife. With 326 forcible rapes reported in the District last year, it is perfectly obvious that a Thomas Janes tragedy or a Milton Brookins tragedy can happen here. This is why the omnibus crime bill for the District of Columbia must be passed.

The Congress of the United States has both a moral and legal responsibility for the safety of citizens in the District of Columbia.

Corrective legislation is needed now to permit courts in the District of Columbia to consider danger to the community in setting conditions of pretrial release. Reform legislation is also needed to authorize the limited pretrial custody of dangerous defendants, defendants like Thomas Janes and Milton Brookins whose release would threaten the public safety.

Speedy trials are one answer to crimes committed during pretrial release. The historic court reorganization included in the omnibus crime bill will ease the present backlog and permit the relatively speedy trial of dangerous defendants.

But speedy trials are not the whole answer. Pretrial detention is essential for dangerous defendants like Janes and Brookins, who can and will commit their crimes of violence at any time, day or night. As a matter of record, the last Brookins offense occurred less than 30 days after his release on bond, during the afternoon.

I call upon Congress to pass the omnibus crime bill including the preventive detention provisons.

EMPRISE: CHARGED BY ARIZONA STATE AUDITOR GENERAL

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Arizona (Mr. STEIGER) is recognized for 20 minutes.

Mr. STEIGER of Arizona. Mr. Speaker, in keeping with previous attempts to alert you, my colleagues, to the business methods of Emprise, the Buffalo, N.Y., firm with La Cosa Nostra ties, I call your attention to the following report. This report is a result of an order by the bipartisan, joint, House and Senate Committee of the Arizona State Legislature, known as the Joint Legislative Budget Committee. The order called for a thorough audit of all parimutuel operations in the State. The first audit in our State's history, I might add.

This is the first portion of a two-part report and points out the concern of the auditor general, Ira Osman, that Emprise has been involved in an apparently illegal joint investment with one of the State racing commissioners;

That they have misrepresented the true ownership position of Emprise in the dog tracks and the Tucson horse track known as Tucson Turf Club;

That in the past Emprise failed to disclose the true nature of their concession contract with the Tucson Turf Club;

That an employee of the State tax commission was also employed as the money room manager by the Tucson Turf Club, representing, in Mr. Osman's words, a clear conflict of interest;

The concern of the Securities and Exchange Commission that Emprise had concealed the fact that they were the backers of an individual who made a public stock offering;

And, that Emprise used false income totals to demonstrate to the 29th session of the Arizona Legislature that the dog tracks which they control needed a tax break. These figures that they showed the legislature differed substantially from those reported on their Federal income tax returns for the same corporate entities for the same years.

Mr. Osman also mentions the transfer of funds from the one public corporate entity to one of its wholly controlled corporate entities in the form of a very questionable loan, the amount in this instance was $300,738.

The report includes suggestions for new legislation which you may want to call to the attention of your State legislatures and racing commissions.

The report is a clarion call to beware of Emprise, a call I hope you will bring to the attention of all appropriate officials in your own States.

The report follows:

AUDITOR GENERAL,
STATE OF ARIZONA,
Phoenix, March 6, 1970.

The Joint Legislative Budget Committee of the Arizona State Legislature:

At a meeting of the Joint Legislative Budget Committee on October 30, 1969, this office was requested to make an audit of all pari-mutual racing facilities in the State. We have been engaged in this examination for approximately four months. While we have received considerable cooperation from the companies being examined, there have also been delays in our receiving vital legal and financial documents pertaining to ownership and controls of racing in Arizona.

Two companies operating racing facilities in Arizona have a fiscal year of August 31. Both of these companies have retained the services, for many years, of independent certified public accountants. These independent auditors have been unable to compete the examinations for the year ended August 31, 1969, due to inadequate information as to ownership and financial controls of these corporations.

This report pertains to problem areas to which the Arizona State Legislature and certain regulatory commissions should give immediate consideration. The following topics are reviewed herein:

Summary of Recommendations.
Tucson Turf Club.
Investment Research of the Southwest, Inc.
Racing Commission—Business Interests.
House Bill #91, Twenty-ninth Legislature of Arizona.
Interstate Transactions.
Examination of Financial Statements.
Arizona Income Tax Returns.

The material included in this report reflects a pattern of interlocking corporate relationships, misleading and inadequate financial reporting, corrosive personal relationships and potential conflicts of interest.

Your particular attention is directed to the short-lived history of Tucson Turf Club during 1967 and 1968.

The continuation of these patterns can only result in the public loss of confidence in all pari-mutuel racing in Arizona.

In the Summary of Recommendations we have stated eleven specific recommendations which require, in my opinion, immediate action by the Legislature, by the Arizona Racing Commission and by the Arizona State Tax Commission.

A separate report will be submitted of financial statements of those companies engaged in horse and dog racing as of June 30, 1969 and August 31, 1969.

IRA OSMAN,
Auditor General.

SUMMARY OF RECOMMENDATIONS

1. All annual financial statements (including balance sheets, with full stock ownership disclosure and income and expense statements) furnished to the Racing Commission by applicants, permittees, concessionaires, management companies and holders of 50% or more of corporate stock of applicant or licensee, should be examined by Certified Public Accountants. Such financial statements should be furnished to the Commission within sixty days after the end of the fiscal year of each entity.

2. All Arizona tax returns filed with the Arizona State Tax Commission by permittees and concessionaires should be audited annually by the State Tax Commission.

3. All investments of permittees in outside business activities must be fully disclosed.

4. The Racing Commission must be empowered (with adequate funding) to conduct thorough financial examinations.

5. Full disclosure must be made, at least annually, of all corporations engaged in pari-mutuel activities, as to stock ownership, stock options and pledging of stock of said companies. The granting of all stock options, the pledging of all stock, and any assignments thereof of all permittees and owners of racing facilities must secure prior written approval of the Racing Commission.

6. Statutes and regulations restricting business transactions of Racing Commission members with pari-mutuel permittees, and officers and employees of permittees should be strictly enforced.

7. All racing meets should be conducted by separately owned permittees and no interlocking directorates should be allowed.

8. Employees of the State of Arizona and all counties and schools in Arizona must not be employees of pari-mutuel companies.

9. All testimony and other information provided to the Racing Commission must be under oath; providing of false and misleading information to the Racing Commission or to the Legislature shall be cause for license revocation.

10. All agreements pertaining to leasing of facilities, concession operations and management contracts must be approved by the Commission prior to the issuance or renewal of a permit.

11. All legal instruments submitted to the Racing Commission must be approved by competent legal counsel of the Commission.

TUCSON TURF CLUB

Tucson Turf Club was incorporated April 18, 1967, for the primary purpose of conducting horse racing at Tucson, Arizona. The Arizona Racing Commission subsequently granted Tucson Turf Club rights to conduct a race meeting in the Fall of 1967 and the Winter of 1968.

In October of 1967, the Company offered to sell to the public, 298,000 shares of common stock at the par value of $1 per share. The "offering circular" was reviewed by the Securities and Exchange Commission and the Company did obtain the sanction of the SEC for this public offering on the basis of information provided.

Tucson Turf Club did conduct a race meeting in the Fall of 1967 and the Winter of 1968. This meeting resulted in a financial loss and there have been no races held by this Company since April of 1968.

The property (land, buildings and other race facilities) was leased by Tucson Turf Club from Emprise Corporation. The public was advised (in the stock sale offering) that "the concessions will be run by a nationally known concessions operator." The public was also advised that "the concessionaire is required to pay to Tucson Turf Club one-half of the net profit from the concessions." The concessionaire was, in fact, Emprise Corporation itself.

We have examined a Concession Agreement between Tucson Turf Club and Emprise Corporation-Concessionaire, filed with the Arizona Racing Commission on August 31, 1967. This Concession Agreement does not stipulate the terms of any concession commission, whether based on profits or sales, which shall be paid to Tucson Turf Club.

We believe that full disclosure was not provided the public in that:

1. The public was not advised that the concessionaire was the same party as the owner of the property.

2. The agreement filed with the Racing Commission makes no provisions as to the concession income to be paid to Tucson Turf Club.

3. Monthly financial statements through March 31, 1968, of Tucson Turf Club furnished to this office do not include any concession income.

In the course of our examination I learned that the employed auditor of Tucson Turf Club was also an employee of the Arizona State Tax Commission. This individual has been employed by the Arizona State Tax Commission from March 17, 1965, through, to my knowledge, March 2, 1970. On March 2, 1970, I interviewed this individual in the Tucson offices of the Arizona State Tax Commission. He advised me that his duties with the Tax Commission was as a sales-tax field auditor. He also advised me that his duties with Tucson Turf Club included "money-room manager," and that he was in charge of office personnel, all accounting records, and all financial reportings of Tucson Turf Club. He was employed by Tucson Turf Club from approximately September, 1967, through April or May of 1968.

In my opinion, this *duplication* of *duties* represents a serious *conflict* of *interests.*

The underwriter of the common stock offering of Tucson Turf Club was named as being Jacob J. Isaacson. With respect to the public stock offering of 298,000 shares, in the underwriting agreement, Mr. Jacob J. Isaacson represented that he would purchase, at $1 per share, from his own funds, shares up to a total of 248,000. Similar representations were made before the Arizona Racing Commission. In a list of stockholders received by the Racing Commission on March 22, 1968, Mr. J. J. Isaacson is listed as a shareholder holding 218,000 shares.

The Securities and Exchange Commission has undertaken an examination of the financial operations of this Company. One of the issues is whether or not these shares of stock (218,000) were acquired by Mr. Isaacson with the usage of his own monies or whether, in fact, these monies were received either from Emprise Corporation or from an officer of Emprise.

At a public meeting before the Racing Commission held on March 2, 1970, Mr. Jeremy Jacobs, President of Emprise Corporation, testified under oath that the monies used by J. J. Isaacson to buy the stock (218,000 shares) was actually loaned to Mr. Isaacson by either Mr. Louis Jacobs (deceased), formerly the president of Emprise Corporation, or by Emprise Corporation. Such testimony was in direct conflict with information supplied to the Arizona Racing Commission in May of 1967 by attorney Lawrence P. D'Antonio, who was representing before the Commission, Emprise Corporation and/or Louis Jacobs. At that time Mr. D'Antonio informed the Commission that the monies used by Isaacson to buy stock in Tucson Turf Club were, in fact, Isaacson's funds and were not in fact supplied by Emprise Corporation.

On September 16, 1968, a company known as Pima Racing Corporation was incorporated in the State of Arizona. Mr. Jacobs advised the Racing Commission in his appearance of March 2, that Pima Racing Corporation is owned by Emprise Corporation. Although the Corporation Commission report of this company has not yet been filed, it is believed from the testimony of Mr. Jacobs on March 2, 1970, that the principal asset of the company is the stock of Tucson Turf Club, formerly represented as being owned by Mr. Isaacson. The consideration paid by Pima Racing Corporation for such stock is not known.

As a result of the foregoing, in our opinion, the Legislature, the Arizona State Tax Commission, the Racing Commission and the Corporation Commission should determine its policies with respect to: (1) employment by pari-mutuel companies of State and County employees; (2) effective procedures in the review of legal instruments filed with the Racing Commission; and (3) more stringent supervision of companies offering corporation stock for sale in the State of Arizona.

Specifically, the following recommendations are made:

1. All concession contracts must be approved by the Racing Commission;

2. All information or testimony given to the Racing Commission must be under oath;

3. Any false or misleading information

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given to the Racing Commission shall be grounds for denial or revocation of a racing permit;

4. Each racetrack and each permittee be owned or operated by separate individuals or corporations without interlocking directorates;

5. Complete annual disclosure of ownership of all licensees or permittees, as well as all concession operators. This disclosure must also reveal all stock pledged, if any, as well as all stock options granted;

6. All employees of racing facilities must be fingerprinted.

INVESTMENT RESEARCH OF THE SOUTHWEST, INC.

This corporation was incorporated on November 13, 1964. Among others, one of the incorporators was Mr. Donald Butler, a member of the Arizona Racing Commission. The Annual Report to the Arizona Corporation Commission on December 31, 1964, December 31, 1965, December 31, 1966, December 31, 1967, and December 31, 1968, state that Donald Butler is the Vice President of this corporation, and also that he is a member of the Board of Directors.

The annual Corporation Commission reports at December 31, 1964, and December 31, 1965, state that Mr. C. W. Van Horn is the corporation President and a Board member; the Corporation Commission reports at December 31, 1966, December 31, 1967, and December 31, 1968, state that Donald N. Soldwedel is the President, as well as a Board member.

On December 16, 1964, the Real Estate Department of the State of Arizona received an application for a brokers license wherein Mr. Van Horn, as President of this corporation, was named as the designated broker for Investment Research of the Southwest, Inc. The application names the other officers, including Donald Butler as Vice President and Manager.

On October 5, 1967, the President (Donald N. Soldwedel) of the Company addressed a letter to Mr. David Funk, stating: ". . . that now is the time for you to take the 'ten days' you said you would need to come up with the initial $10,000 on our land syndication here near the Yuma East Interchange . . ."

On December 15, 1967, Mr. C. W. Van Horn submitted his resignation as Director of Investment Research of the Southwest, Inc. The resignation was submitted to Mr. Don Butler, Manager. On February 8, 1968, Mr. Van Horn advised the Real Estate Commissioner of Arizona that he ". . . was no longer associated with Investment Research of the Southwest, Inc. . . ."

On March 5, 1968, Funk's Greyhound Racing Circuit submitted a check in the amount of $10,000 payable to Investment Research of the Southwest, Inc. On October 1, 1968, Greyhound Parks of Arizona, Inc. submitted their check to Investment Research of the Southwest, Inc. in the amount of $5,878.10. Of this amount, $5,000 was treated as an investment and the $878.10 was treated as interest.

On September 5, 1969, Investment Research of the Southwest, Inc., directed a letter to Mr. Albert Funk, describing with some detail the 380 acre land project located near the new U.S. Highway 80 going through Yuma, Arizona. Among other things, the letter states that:

"The total payment due for your 5% share, including principal and interest, is $5,300. For tax purposes, $5,000 represents principal and $300 represents interest.

"We would appreciate your check by October 1st and will keep you advised as to the progress of a master plan on the project."

The letter was signed by Donald Butler.

On October 6, 1969, Greyhound Parks of Arizona, Inc. submitted their check in the amount of $5,300.00 to Investment Research of the Southwest, Inc.

The majority of the stock of Greyhound Parks of Arizona, Inc. is owned by American Greyhound Racing, Inc. The stock ownership of American Greyhound Racing, Inc. has been variously represented (1) as being wholly owned by Emprise Corporation and/or (2) as being 50% or 51% owned by Emprise Corporation.

Through a series of journal entries in the books of Funks' Greyhound Racing Circuit, Greyhound Parks of Arizona, Inc. and American Geryhound Racing, Inc., the entire $20,000 (which excludes interest expense of $1,178.10) is now recorded on the books of American Greyhound Racing, Inc. as an "Investment in Investment Research of the Southwest, Inc." In other words, these cash investments ($20,000) no longer appear (as of August 31, 1969) as investments of either Funks' Greyhound Racing Circuit or Greyhound Parks of Arizona, Inc.

During this entire period of time (from November 13, 1964 through March 2, 1970), Mr. Donald Butler was a member of the Arizona Racing Commission. ARS 5–115(C) provides that "A member of the Commission who . . . directly or indirectly, receives any money, bribe, tip or other thing of value or service from any person connected with racing, is guilty of a felony . . ."

This information should be submitted to proper law enforcement agencies for further consideration.

RACING COMMISSION—BUSINESS INTERESTS

Listed below are a series of payments made by Funks' Greyhound Racing Circuit to Mr. Frank Waitman, a former member of the Arizona Racing Commission, or to a corporation of which he was president (Arizona Mining Supply Corporation). These payments were made while Mr. Waitman was a member of the Commission.

Date of check	Check number	Payable to	Amount
Feb. 25, 1965	2739	Arizona Mining Supply Corp.	$390.00
May 13, 1965	3455	Frank Waitman	6,500.00
June 5, 1965	3788	Arizona Mining Supply Corp.	8,856.81
June 22, 1965	4070	do	550.00
July 20, 1965	4504	do	645.00
Nov. 1, 1965	5472	do	718.11
Apr. 22, 1966	7219	Frank Waitman	1,000.00
May 2, 1966	7399	do	3,100.00
June 1, 1966	7870	do	1,960.00
Total			23,719.92

The files of Funks' Greyhound Racing Circuit do include proper appearing invoices in support of these payments. All indications are that the payments were related to the Prescott Downs Track.

The underlying issue is whether or not ARS5–115(C), which pertains to a member of the Commission obtaining money or other things of value or service, applies to transactions listed herein.

These transactions should be submitted to proper law enforcement agencies for further consideration.

HOUSE BILL NO. 91

The first regular session of the 29th Legislature of the State of Arizona passed House Bill No. 91, which was approved by the Govnor on April 18, 1969. Among other things, this law reduced the amount received by the State from Small County Tracks to "four per cent of all money not to exceed $65,000 handled in the parimutuel pool for each separate racing program operated by the permittee and 6% of all money handled exceeding $65,000." Small counties were defined as those counties having a population of less than 180,000, as shown by the last United States census. The following race tracks are operated in counties of this size:

Amado Greyhound Park.
Yuma Greyhound Park.
Apache Greyhound Park.
Black Canyon Greyhound Park.

During the various Committee hearings for action preceding the passage of the Bill, financial information was presented to the Legislature by race track representatives. We have compared operating profits and losses given to the Legislature with operating profits and losses as reported in the Federal Income Tax returns of these companies. Such comparative figures are reported below:

NET PROFIT OR (LOSS)

	Submitted to legislature	Per income tax return	Difference
Amado Greyhound Park:			
1966	($107,152)	($107,152)	
1967	(177,613)	(177,613)	
1968	(98,421)	(126,158)	$27,737
Yuma Greyhound Park:			
1966	(111,610)	(101,229)	10,381
1967	(165,479)	(223,662)	58,183
1968	(165,915)	(24,975)	140,940
Apache Greyhound Park:			
1966	51,612	76,612	25,000
1967	81,086	104,840	23,754
1968	116,969	116,969	
Black Canyon Greyhound Park, 1967	47,456	65,737	18,281

We believe that the financial information presented to the Legislature (HB #91) was not adequate for the following reasons:

(a) Substantial management fees, consulting fees and interest paid to the owners of the race tracks, and included in operating expenses, are not disclosed.

(b) Investment amounts, as reported, could not be verified by examination of the books and records.

In addition, we believe that representations made to the Legislature as to stock ownership are in conflict with stock ownership representations made by the permittees at other times.

Shortly after passage of this Bill, substantial fees were paid "for legal services performed in connection with House Bill #91, including legislative liaison, preparation of materials, conferences with legislators, and appearance at Committee hearings."

In connection with legislative control of lobbying activities, the Legislature might wish to consider requirements pertaining to reportings of fees paid for lobbying activities.

INTERSTATE TRANSACTIONS

Western Racing, Inc. is a corporation whose stock is publicly held and must file annual financial statements with the Securities and Exchange Commission. The principal activity of the corporation is the conducting of one 63-day race meet each year, in Phoenix, on facilities owned by Greyhound Parks of Arizona, Inc.

Over the years, Western Racing, Inc. has become financially involved with other corporations engaged in racing:

Amado Greyhound Park, Inc., Portland Turf Association, Florida Greyhound Racing, Inc.

AMADO GREYHOUND PARK, INC.

The audited financial statements of Western Racing, Inc., at August 31, 1968, include:

Notes receivable (due from Amado Greyhound Park)	$240,260
Accrued interest	60,478
Total	300,738
Less: valuation reserve	(300,738)
	0

The cumulative effect of these transactions is to increase the operating deficit of Western Racing, Inc. by $300,738. The accumulated deficit of Western Racing, Inc. at August 31, 1968 was $590,403.

As of August 31, 1969, the accounting records of Amado Greyhound show that $315,154 is due to Western Racing, Inc. As of the

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same date, the books of Amado Greyhound Park, Inc. reflect an accumulated operating deficit of $788,860. Amado Greyhound Park, Inc. obviously is unable to repay the funds which have been and continue to be loaned by Western Racing, Inc.

PORTLAND TURF ASSOCIATION

Western Racing, Inc. was the owner of approximately 84% of the outstanding stock of the Portland Turf Association located in the State of Oregon. During the operations of Portland Turf Association, considerable debt was incurred to either Sportservice Corporation or Emprise Corporation. As of August 11, 1961, Portland Turf Association owed to Sportservice and/or Emprise, amount in excess of $331,764, excluding any mortgage indebtedness.

Portland Turf Association sold its assets for $1,277,000 on May 15, 1962. As a result of this sale, the closing statement reveals that Emprise Corporation received at least $855,642, towards a mortgage indebtedness of $606,117, as well as partial payment of various other above-mentioned debts owed by Portland Turf Association.

FLORIDA GREYHOUND RACING, INC.

Florida Greyhound Racing, Inc. was incorporated in the State of Florida on December 9, 1958. All stock had been issued to Western Racing, Inc., subject to certain voting trusts. The October 31, 1965 financial statements of Florida Greyhound Racing, Inc. report indebtedness to Emprise of $470,975.

The annual report filed by *Western Racing, Inc.* with the Securities and Exchange Commission as of August 31, 1965, reflects indebtedness of $617,537, in addition to $190,715, in accrued interest, owing to Emprise. Emprise obtained a judgment on November 10, 1965, on the above amount of $617,537, plus interest.

On or about December 15, 1965, the operating assets of Florida Greyhound Racing, Inc. was sold for $2,000,000.00 to Pensacola Greyhound Racing, Inc. As a result of this sale, Emprise Corporation received $1,265,692 in repayment of the above debts, interest and legal fees incurred by Florida Greyhound. Available evidence indicates that additional obligations owing by Portland Turf Association were paid on December 15, 1965, the date of the sale of assets of Florida Greyhound Racing, Inc.

A Voting Trust Agreement dated June 1, 1959, states that Carl T. Johnson was cotrustee of a Voting Trust which held all of the outstanding capital stock of Florida Greyhound Racing, Inc. All outstanding shares were issued to Western Racing, Inc.

We have been supplied with separate and conflicting minutes of a special meeting of the Board of Directors of Florida Greyhound Racing, Inc., held October 23, 1965, pertaining to the sale to Pensacola Greyhound Racing, Inc. One set of minutes states that the president of Florida Greyhound Racing, Inc. was negotiating the sale of the corporation's operating assets in the State of Florida, with Carl T. Johnson, Trustee, for a group who planned to form a corporation. Carl T. Johnson, a member of the Board, was present at the directors' meeting when the sale was discussed and approved by the directors of Florida Greyhound Racing, Inc. (The meeting of October 23, 1965.)

The audited report of the company's financial statements for the year ended October 31, 1965 (dated by the C.P.A.'s December 16, 1965), states that Mr. Carl T. Johnson was the President of the Company.

A second set of minutes of the October 23, 1965 meeting of the Board of Directors of Florida Greyhound Racing, Inc., reveals that David K. Funk, Vice President, was negotiating for the sale of the Corporation's operating assets in the State of Florida, with Carl T. Johnson, acting as Trustee for a group who planned to form a corporation. These minutes state that Carl T. Johnson was absent from the meeting when the sale was approved. (The meeting of October 23, 1965)

Separate and conflicting minutes of a Special Meeting of the Board of Directors of Florida Greyhound Racing, Inc., held in Pensacola, Florida on December 3, 1965 both include a resolution resolving the Funk Greyhound Racing Circuit be paid the amount of $193,876.50 from the proceeds received from the sale of the corporation's assets.

One set of minutes of the December 3, 1965 Board meeting states that the Vice President reported upon negotiations that had been conducted for the cancellation of the management contract between this corporation and Funk Greyhound Racing Circuit.

The other set of minutes (of a special meeting held on the same hour, of the same day, in the same town) indicates that the president reported upon such negotiations.

The State of Florida Corporation Reports and Tax Returns filed by the Company as of July 1, 1965 and July 1, 1966, state that David K. Funk was Vice President of this corporation. David K. Funk was, and is now, a partner of the Funk's Greyhound Racing Circuit.

One set of minutes of the December 3, 1965 Board meeting states that Carl T. Johnson was absent. The other set of minutes (of a special meeting held on the same hour of the same day in the same town) states that Carl T. Johnson was present.

Western Racing, Inc. reported to the Securities and Exchange Commission in February 1966, that: ". . . Florida Greyhound Racing, Inc., a Florida corporation, a wholly owned subsidiary of Western Racing, Inc. was purchased in an arms-length transaction, by Pensacola Greyhound Racing, Inc., a Florida corporation, for a total consideration of $2,000,000 . . ."

This reporting was signed by Darwin Charles Brown, General Attorney.

Funks' Greyhound Racing Circuit is a partnership owned by Albert, Arthur and David K. Funk. The principal income of this partnership is management fees received from Arizona dog tracks. (In 1968 such management fees totalled $342,407.)

In 1967, five years after the sale of Portland Turf Association assets, Funk's Greyhound Racing expensed $8,455 as promotional costs. The actual expenditures were made in 1962 and 1963 in connection with the proposed acquisition of land in the State of Oregon.

In the past, the Legislature and the Commission have had *inadequate* knowledge of the extensive out-of-state financial activities of licensees whose primary function is the operation of pari-mutuel tracks in our State. We believe that the proper authorities in Arizona should at all times have complete knowledge of all such financial operations of those tracks licensed in this State.

EXAMINATION OF FINANCIAL STATEMENTS

Neither the statutes nor the Racing Commission have adequate regulations concerning the examination of financial information presented to the Commission by applicants for racing licenses. We strongly advise that all applicants for permits to conduct racing must file financial statements examined by Certified Public Accountants, and, further, that all permittees and licensees be required to file annual financial statements examined by Certified Public Accountants. Further, the Racing Commission should have the ability, the authority, and the funds to conduct their own examinations of the financial structure of all applicants and licensees.

Licenses should be denied or revoked upon evidence of inadequate financial responsibility.

Permittees should be required to have readily available, at all times, all documents pertaining to stock ownership, mortgages, minutes of stockholders' and board of directors' meetings, leases and concession agreements. These requirements would help assure that adeqaute financial statements could be promptly prepared at all times.

ARIZONA INCOME TAX RETURNS

At the present time we do not have confirmed knowledge as to the extent of audits made by the Arizona Tax Commission of income tax returns filed by entities engaged in pari-mutuel racing in Arizona. The Tax Commission should conduct annual income tax audits of all corporations, partnerships, and individuals conducting pari-mutuel racing in this State.

The Arizona State Tax Commission has not made available to us the income tax returns of companies involved in pari-mutuel racing.

PALMBY ON SOYBEANS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Illinois (Mr. FINDLEY) is recognized for 20 minutes.

Mr. FINDLEY. Mr. Speaker, on March 2, Assistant Secretary of Agriculture Clarence M. Palmby made a speech in Sioux City, Iowa, in which he called attention to expansion in the commercial market for U.S. soybeans. This expansion represents improvement in dollar returns to farmers for soybeans actually marketed in commercial channels from $2.3 billion for 1968 soybeans to $2.6 billion estimated for the 1969 crop.

On March 5, the gentleman from Montana (Mr. MELCHER) attacked the Assistant Secretary in this Chamber on grounds that 1968 crop returns were actually larger than the estimate for the 1969 crop. In doing so, he cited Department of Agriculture data on "value of production" figures that included that part of the 1968 crop that went into storage under the Government price support program.

That is one way of reckoning returns, and I do not quarrel with it. But when commercial market sales and Government obligations are lumped together in this way, it does testify to the confusion that has grown up around the programs over the years. The fact is that 13 percent of the 1968 soybean crop went into Government storage or into farm storage under Government loan. In effect, it lies there still—without a home in industry, in livestock feeding, or in human stomachs. To my mind, it does not represent real income so much as it represents a borrowing against a future time when these stocks will have to be moved into the market in competition with future crops.

The story is different for the 1969 crop. Disappearance of the large 1969 crop is expected to be right at 100 percent. This would mean a disappearance of 1.1 billion bushels compared with a disappearance of only 946 million bushels from the 1968 crop. Such a sizable 1-year growth in the soybean market, at a time when soybeans were threatening a surplus problem, is a cause for real satisfaction among soybean growers. It is by all means worthy of comment by the Assistant Secretary of Agriculture.

The gentleman from Montana supported his attack on Secretary Palmby with a letter from the Legislative Reference Service of the Library of Congress, challenging the importance of the 1969 loan level as a factor in expanded use of the crop. That letter refers vaguely to increased demand as the real cause.

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I agree that the factors creating an increase in demand may be multiple, but it is patently ridiculous to discount price as a key element.

I do not know of any farm product that has a greater variety of competitors that does soybeans, and it is perfectly apparent that competing oils and proteins, both natural and synthetic, have in recent years intruded rapidly into traditional soybean markets. A major factor was price. Now—in 1970—it is apparent that U.S. soybeans have resumed their share of world expansion in oils and protein use. They have survived a serious adjustment period. This is considered good by those of us who regard the market as the natural outlet for farm products, and human use as the natural end. I am sorry that our satisfaction is not more widely shared.

Like Secretary Palmby, I am also pleased with the rise in utilization of corn in the current marketing year, even though the rise was modest. It is reasonable to assume that early announcement of the CCC sales policy is helping in this movement, and I find nothing to contradict this in the assertion from the Legislative Reference Service that demand has increased. This is hardly a point of argument.

Secretary Palmby did not make any mention of it, but he also could well have pointed to the long overdue improvement in the prices farmers have been receiving lately for their meat, milk, and egg production. Best of all, the farmer's share of the consumer's food dollar has increased so that the farmer is finally getting some of the increases in the retail cost of food. It is clear that farmers have been coming into a generally better economic picture when we learn that the index of prices paid by farmers during February was up 13 points from a year ago while the index of prices received by farmers was up 23 points.

The gentleman from Montana may be excused for a bit of verbal "nitpicking." After all, up to a point this can be a healthy influence on the administration. We all need the prod of critics to keep doing a good job. But what he should wish to guard against is the role of being an apologist for the Orville Freeman era.

It was Mr. Freeman who, as Secretary, got soybeans bin deep in trouble. Three years ago, against the protests of many of us, he embarked upon a heavy and unwise program to boost soybean production while demand declined. He called for more planting, permitted planting on diverted acres and, worst of all, boosted the loan rate to an unrealistic level. He asked for lot more beans and got them.

All of this put soybeans in a crisis position when the Nixon administration took office. Secretary Hardin inherited a near disaster. He should be complimented for handling the crisis wisely and smoothly. Loan rate adjustments and CCC sales policies that he ordered saved the day, and enabled this wonder crop to survive this adjustment period.

In saying all this, I would not wish to leave the impression that I was satisfied with 1969 crop income for soybean growers. I wish it had been higher. But at the same time it could have been a lot worse. Certainly, the soybean picture would have been much worse today if the unwise and shortsighted practices of the Freeman era had been continued.

My good colleague from Montana need not take any of the blame for the Freeman years. He was not in Congress when Mr. Freeman ordered trouble for soybeans. Now that he is in Congress he would do well carefully to avoid getting trapped by those still around Washington who were either the architects or the cheerleaders for the Freeman decisions.

SCHWENGEL-KYL COMMUNITY OFFICIALS CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Iowa (Mr. Schwengel) is recognized for 15 minutes.

Mr. SCHWENGEL. Mr. Speaker, on February 24 and 25, Congressman John Kyl and myself sponsored a community officials conference for civic leaders from the First and Fourth Congressional Districts of Iowa.

Over a hundred people attended the conference. Three members of the Cabinet, Robert H. Finch, Secretary of Health, Education and Welfare; Clifford M. Hardin, Secretary of Agriculture; and John A. Volpe, Secretary of Transportation addressed the conference.

Congressman Kyl and I were pleased by the exchange of views which took place at the conference. Federal officials learned of the concerns and problems of local government, and local officials gained a better appreciation of the way Federal officials have to manage the program here.

A summary of what took place at the conference has been prepared. I would like to submit it for the Record. It is an excellent source of information on the current operation of programs which affect our cities and towns. The summary follows:

Summary of Community Officials Conference

Health, Education, and Welfare Secretary Robert Finch, opened the Community Officials Conference held in Washington, D.C., Feb. 24–25. The conference was sponsored by Iowa Congressmen Fred Schwengel and John Kyl—first and fourth congressional districts, respectively, and attended by more than 100 Iowa civic leaders.

Finch emphasized the importance of the local leaders, saying that the thrusts of HEW are dependent upon the ability of the local leaders to insure that the federal programs really reach the human targets aimed at.

The Secretary said the future of federal-state-local relationships was evolving from a layer cake (completely separatist ideal) to a marble cake concept (inter-related levels of cooperation and inter-departmental cooperation). This concept combined with the President's stated policy of "New Federalism" calls for and is producing a revised partnership between the levels of government with the resultant increase in dependency upon the local grass roots leaders. Finch told the representatives that they must constantly work to upgrade their services and to increase their knowledge of the federal opportunities open to communities.

"The practice has been for HEW to act as broker for the cities. Under the policy of "New Federalism," we have surveyed all programs in an effort to most efficiently decentralize to state and local levels of operation and we have and are continuing to work to unify the previously strict boundaries of HUD, HEW, OEO and other organizations with similar programs of grants, aid and assistance," Finch said.

Within the next hundred days, the HEW grant approval capacity of the Washington office will be abolished and reassigned to various regional advisors. The regional advisors will be more aware of, and have a clearer focus on the entire perspective of an area's problems and consequently able to make faster and better decisions on the scene rather than having a bureau more than 1,000 miles away determine issues. Many of the regional advisors will have the authority to make on the scene interdepartmental decisions as well, due to the decentralization process.

Finch said the "New Federalism" would make a significant difference in the next five years, monetarily as well. An extra $50 billion is expected to be channeled toward the alleviation of the problems of the poor, with increasing percentages of the money being channeled to the state and local governments to be handled at those levels toward whatever priorities they may have established in that area.

Concerning social services, the Secretary admitted the inadequacies of the federal government to follow through—especially down to the local level—and added that it was in this area that more and more planning would be passed on to the states and communities through the development of a new partnership with the objectives of utilizing the unlimited resources available.

Environment: "The better we live the more we pollute," Finch said. "Solid waste disposal per individual, per day, runs at approximately 5 lbs. with a projected increase of up to 8 lbs. by 1980."

Finch said that current studies are planning environmental input procedures in conjunction with planning to correct and rehabilitate the already blighted environment. He said the primary burden in environmental rehabilitation would be placed upon those who produce the waste with an increasingly greater emphasis being put upon recovery and reclamation. The initial programs in effect now, for example, the national air quality standards designed to arrest the problems before it is too late and before more drastic and costly measures have to be taken.

Health: The critical crisis encompassing the health problems and inadequacies is the manpower resources shortage.

"The health crisis really centers around manpower—we simply don't have the doctors and other health care personnel to facilitate our hospitals and patients. We're only producing some 100 graduates per year and 40% of the doctors licensed in the 50 states were trained abroad. We're falling farther and farther behind each year in this crucial area of public service. Our medical schools must expand mightly and we must also concentrate on the distribution of doctors especially to the suffering rural areas," Finch said. "At present, only 12% of the doctors are located in the rural areas (pop. 5500 and under) of the nation."

He added that in 1970, 25 new neighborhood community facilities for medical attention would be established with acting payment mechanisms, but the crux of the problem would still be to supply these and other existing facilities with the manpower needed.

Education: HEW is taking hard looks at the elementary and secondary approaches to public education.

"Many of our schools," Finch said, "are turning out functional illiterates. The educational institutions have not taken into consideration the new innovations available and have not compensated for background approach such as TV."

Family assistance: "The developing and emerging family assistance program is complex and has met with some sort of universal disapproval on almost all fronts. But this is the most efficient way, this Admin-

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istration believes, to provide welfare support for families and at the same time provide incentives for the poor to work. This is the first time an Administration has come up with a proposal to support the working poor," Finch concluded.

HOWARD A. COHEN, DEPUTY ASSISTANT SECRETARY OF HEALTH, EDUCATION, AND WELFARE FOR WELFARE LEGISLATION ON FAMILY ASSISTANCE PLANNING

"In the last decade the costs of aid to families with dependent children (AFDC) have more than tripled. The caseload has more than doubled," Cohen reflected.

"Even more disturbing is the fact that the proportion of persons on AFDC is growing. In the last 15 years the proportion of children receiving assistance has doubled—from 30 children per 1000 to about 60 per 1000.

"This burgeoning problem combined with the more and more obvious inequities of the former program, prompted the Nixon Administration and HEW advisors to re-evaluate and re-structure a family assistance program," Cohen said.

The serious inequities include regional discrepancy, discrepancy between male and female-headed families, and between poor people who work to help themselves on the one hand and the welfare poor on the other hand. The present AFDC system encourages dependency. The preferential treatment of female-headed families has lead to increased family breakup.

Cohen re-emphasized the President's message delivered to Congress on Welfare, August 11, 1969. The President said he proposed a new approach that will make it more attractive to go to work than to go on welfare, and will establish a nationwide minimum payment to dependent families with children.

The Administration proposed, Family Assistance Program will provide direct Federal payments to all families with children with incomes below stipulated amounts. The principal new group made eligible for cash assistance under the proposal is working poor families headed by males employed full-time. The Administration's proposed system would cover both dependent families—those headed by a female or an employed father, and working poor families—those headed by a full-time employed male.

The basic federal benefit for a family of four would be $1600 per year, $500 per person for the first two family members and $300 for each family member thereafter.

Families of four with earnings up to $3920 per year would be eligible for payments. Families of seven would be eligible up to $5720. All families would be allowed to disregard $720 per year as work-related expenses—transportation, meals, clothing. Benefits would be reduced by 50% as earnings increase above $720 per year.

The basic element of the Administration's Family Assistance Program is the emphasis on work, both a strong work requirement and the provision of incentives throughout the system for training and employment.

All applicants for benefits who are not working are required to register with the Employment Service. Employable recipients must accept training or employment or lose their portion of the family's benefit.

An additional 150,000 training opportunities will be provided along with 75,000 opportunities for upgrading. Child care services will be provided for an additional 450,000 children in families headed by welfare mothers. The day care centers are provided with the idea that plenty of women who need to supplement the family income cannot afford the offsetting child care expenses. Women in training for jobs may utilize the child care facilities when available also.

The estimated cost in the first full year of operations of the proposed Family Assistance Program is $4.4 billion. In order that the present benefit levels not be reduced for families aided under the existing AFDC program, the new system would require the continuation of State benefits equal to the difference between the proposed Federal minimum and a State's present benefit level. Under the new program no recipient receives less and no state pays more.

All states would receive fiscal relief under the proposed program. But the savings would increase in the long run. Sixteen hundred dollars is the basic assistance for a family of four and the aid is scaled up. As the earnings accruing from a steady job or training increase, the recipient earns to the break even point and finally breaks out of the federal dollar donation where he is on his own in society to support himself and his family.

Under the proposed program the savings for the state of Iowa will be some $2.9 million as opposed to the present AFDC program—a savings of $3.9 million as the proposal currently stands in the ways and means committee.

The family assistance program also establishes a minimum income level of $90 per month for the three adult public assistance categories (aid for the blind, disabled, and the aged.) The federal government pays 100% of the first $50; 50% of the next $15 and 25% of the rest. Fiscal relief for state and local governments as a result of this federal minimum for the adult categories is $400 million.

The total cost for training 150,000 persons with upgrading programs for an additional 75,000, and providing child care services for an additional 450,000 children is $623 million.

Under the proposal, all states receive fiscal relief. For a period of five years the federal government will assume a minimum of 10% of the costs that would have been incurred by the states if no change was made in the existing programs. In some states the fiscal relief will be as much as 50% of state costs.

In his revenue sharing message of August 13, the President placed special emphasis on the relationship between revenue sharing and the family assistance program proposal.

The revenue sharing proposal "is integrally related to the national welfare reform. Through these twin approaches, we hope to relieve the fiscal crisis of the hard-pressed state and local governments and to assist millions of Americans out of poverty and into productivity.

MURRAY L. WEIDENBAUM, ASSISTANT SECRETARY FOR ECONOMIC POLICY, TREASURY DEPARTMENT ON REVENUE SHARING

"The state and local governments are making a substantial effort to support their programs, as evidenced by the fact that the states made more than 300 rate increases in the major taxes during the 1960s. But due to the increasing essential expenditures in the areas of welfare, education, health and hospitals, public safety, environmental quality, transportation, and others, the states and cities are caught in a fiscal squeeze. In 1968 state and local revenues across the nation were at the $82.8 billion mark but expenditures were above $102 billion," Weidenbaum told officials.

Inequities in the present system have come to light characterized by the number of individual grant programs nearly tripled between 1963 and 1969, the federal aid outlays were 213 times the 1963 amount, and constant difficulty with overlapping and duplicated programs, red tape and other inefficiencies.

To increase the effectiveness of the growing volume of federal aid, programs were improved and grants consolidated. Under a new proposal, revenue sharing was also suggested, with the purpose "to turn back to the states a greater measuring of responsibility not as a way of avoiding problems, but as a better way of solving problems. This is the ideal of the President's revenue sharing proposal.

The basic idea of revenue sharing is to provide broader and less conditional federal financial aid to state and local governments.

The first quarterly payment of $275 million is in the new budget with $5 billion appropriations estimated for 1976.

All 50 states, their cities, counties and townships will share. The states will receive a per capita (population based) allotment with a small adjustment for tax effort. Allotments will be made to individual local governments based on their share of local revenues raised. Thus it is based on population but also upon the degree of effort to provide social services as evidenced through a community's-state's revenue raising and spending efforts. The only restrictions on the program are reporting and accounting requirements.

The priorities for spending are determined by local or state needs by the respective governing bodies. The allotment will be sent each month directly to the state which will then pass the particular allotments on to the counties and cities.

Data—Population figures will be revised yearly. According to the projected 1971 to 1976 distribution of revenue sharing figures, Iowa will receive $4,180,000 in the first year which will increase to approximately $76,000,000 by 1976. The city governments will receive $505,780 the first year up to $9,196,000 by 1976.

Weidenbaum told officials this was the only feasible alternative to increases in city and county property taxes and the most efficient way to bring city and county governments in to more and more of the total governing process.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—HUD ASSISTANCE PROGRAMS

Representing the Department of Housing and Urban Development, Mr. Lawrence Goldberger of the Housing Assistance Administration, William McGill with the Renewal Assistance Administration and Leo Morris with the Community Facilities Division spoke to the delegation with reference to their particular areas of assistance. Inter-departmental relations were emphasized with discussions following HUD representatives by Sec. of Ag., Clifford Hardin, Commissioner David Dominick-Federal Water Pollution Control Administration and by Director Douglas Hofe, Bureau of Outdoor Recreation.

Goldberger provided information on the HUD programs providing low cost housing for the elderly.

"It is a fact-of-life that millions of American families cannot afford to buy or rent new or used housing that is reasonably standard condition. Private industry unaided by public subsidy, simply has been unable to provide satisfactory housing, cover operation expenses, and receive a fair profit at the rents low-income families can afford to pay. As a result, these families have been forced to live in substandard conditions in order to afford the other necessities of life."

National concern for "one-third of the Nation ill housed" lead to the passage of the United States Housing Act of 1937—the Act which initiated the public housing program. The federal government, operating through HUD, provides annual contributions or subside to cover the capital cost of housing developed by local housing authorities. Since local authorities must meet only administrative and maintenance expenses, plus payments in lieu of taxes, they may establish rents at levels which low-income families can afford to pay.

Until 1965 most local housing authorities built only new projects using what is now termed the "conventional bid" method. Under this method, the authority bought a site, acted as the developer, employed its own design team and when plans were completed, took competitive bids. The construction contract was then awarded to the lowest responsible bidder. Generally speaking, these projects are easily identified as one drives throughout our cities and villages.

Recent administrative and legislative changes, however, have added several new options to the public housing program. As a result of these changes, the public has begun to realize that the old stereotype about public housing no longer holds true. As was noted in a recent publication, public housing is potentially the most flexible and high powered of housing programs.

Under the alternatives now available, local housing authorities may:

1. Purchase new housing constructed by private developers under "turnkey" procedures;
2. Acquire existing housing which may or may not require rehabilitation;
3. Lease housing from private owners;
4. Enable tenants to achieve homeownership through the performance of routine maintenance;
5. Sell public housing units to tenants;
6. Place public housing under private management; and
7. Arrange leasing-homeownership programs.

The evidence of the attractiveness of public housing is seen in Iowa. At the end of 1968, there were only 17 local housing authorities operating public housing programs in Iowa. One year later, this number more than doubled to 35 and the total number of units increased more than three-fold from 1,197 units to 3,721. Ten of the state's local housing authorities are located in Schwengel's and Kyl's districts. These authorities will have approximately 1200 units under management—90% of them specifically designed for the low-income elderly.

Description of some new approaches:

Under the "turnkey" method of construction, local housing authorities may invite developers with appropriate sites, or site options, to submit proposals to build housing in accordance with their own plans and specifications. Selected developers then enter into contracts of sale with the local authorities for purchase of the completed housing. Because these contracts are backed by a HUD financial commitment "turnkey" developers may obtain their development financing through their regular private lending sources. As under the conventional method, housing authorities will eventually sell long-term bonds to finance the purchase of the completed projects. These bonds are secured by HUD's pledge to make annual contributions in an amount sufficient to cover their annual debt service.

Acceptance of the "turnkey" approach is attributed to the substantial time savings in supplying needed low-rent housing; there has been vigorous support by local builders and the real estate community—a by-product of which has been increased variation in project design; and good sites often not available for public housing under the conventional method have been made available to private developers.

In addition to buying new housing under the "turnkey" method, a local authority may also use the turnkey approach to buy existing structures from private owners. These structures may be in good condition, or they may require rehabilitation which can be undertaken either by local authority employees, or by a private contractor retained by the local authority.

Under the public housing leasing program, HUD provides annual contributions to local authorities so that privately owned dwellings may be leased and made available to low-income families. The difference between what the low-income tenant can afford to pay and the actual costs is made up by the federal contributions.

The leasing of privately owned dwellings has several advantages for a community. It provides virtually "instant" housing; it permits federally subsidized properties to remain on the local tax rolls; it can result in private developers constructing new housing and it can facilitate a program of intensive code enforcement by providing the owner with the means of fixing up his property.

Homeownership is a goal toward which most American families strive. Unfortunately most low-income families are unable to buy their own homes, particularly one that is in standard condition and suitable to their needs.

Local housing authorities can bring ownership within the reach of low-income families in several ways. They can develop a "HOPLIF" project; they can utilize a Leased Home Ownership Program; or they can sell existing public housing dwellings to tenants.

Under the homeownership program for low-income families, originally called "turnkey III" but now known as "HOPLIF" a family living in a home owned by a housing authority may earn ownership of the home by maintaining it in good condition and making monthly payments based on 20% of its income. The monthly payments must cover the family's share of all housing authority operating expenses and reserves, including the budgeted cost of the repairs and maintenance the family is required to provide. However, since the family assumes the responsibility for repair and maintenance, the budgeted amount paid in for this purpose is credited to the family as a homebuyers ownership reserve.

While this equity account is building up, the local authority uses the annual contributions to make payments on the capital debt of the unit. As the capital debt is reduced, the eventual sales price to the resident family is also reduced. When the family's income and assets, including the equity account, are sufficient to enable the family to obtain financing for the remaining capital debt the family may take title to the home.

Under the "HOPLIF" program, the local authority also provides both training and other assistance for potential homebuyers. The training covers such subjects as household budgeting, care of property, and minor household repairs.

A local authority also may purchase and resell to tenants, privately owned housing which is being leased by the authority under this program. HUD annual contributions may be used to permit a deferment of the required down-payment and the elimination or adjustment of interest payments for a temporary period when necessary to avoid undue financial hardship on the part of low-income purchasers.

In addition, local authorities may sell existing low-rent units which are suitable for individual ownership. These sales may be made to any member of a tenant family, as an individual or as a member of a group—thus facilitating sales to a cooperative composed of a group of tenants in a multi-unit structure.

In the 1950's, as a result of the low level of appropriations and the management concepts that prevailed at that time, rural housing efforts did not proceed rapidly. However, this past trend has been greatly reversed and low-rent housing activity in small communities has increased remarkably in recent years. Efforts to improve and speed up the delivery of public housing in rural America presently are underway, and an increasingly larger proportion of the total program will be found in smaller communities.

Although the low-rent public housing program provides more housing for senior citizens than any other housing program, older people are eligible to use the Federal Housing Administrations mortgage insurance programs, the rent supplement program, and the Section 235 and 236 programs, as well as the FHA and Renewal Assistance Administration programs for home modernization and rehabilitation.

HUD Advisor, William McGill, addressed remarks specifically to Urban Renewal assistance. Urban Renewal is geared toward correcting deterioration of the downtown areas—-the inner cities.

McGill said there had been some widespread misunderstandings of the nature of the program. It is designed to deal with the social problems accruing from deterioration as well as with the actual physical upgrading. It is not the case he said, that the city has the prerogative to come in and buy homes at will and at the city price. Aside from the just compensation provisions, there is a clause that calls for the replacement in a similar price category of every home removed in urban renewal projects. Communities of less than 50,000 population receive ¾ funding and cities of over 50,000 receive ⅔ funding.

This method has been found to be a more equitable way of distributing the available funds and guards against the better deal being given to larger cities that are comparatively better able to absorb a larger percentage of the total cost of the project.

In applying for urban renewal assistance, the city must first present evidence of having taken a comprehensive look at the needs of the city and the needs that should develop. They must then submit a workable plan for study by HUD.

Renewal programs: A survey is made of the area and a plan developed and approved. The city then acquires property that is too deteriorated or the property usage of the land is obsolete. Urban renewal, as a project, provides loans to property owners to upgrade and meet the need demands of a growing city. Loans of this type allow the property owner to still pay the mortgage and afford the cost of repairs.

Neighborhood development programs: Does all the same things urban renewal does but receives annual funding rather than specific project funding. The annual increment plan enables communities to proceed simultaneously with actual renewal of areas requiring immediate action and with detailed planning and scheduling of subsequent redevelopment, rehabilitation, and public improvements. A contract for a loan or capital grant for the annual increment of a renewal program may cover activities in several contiguous or noncontiguous urban renewal areas. Funding on a two-thirds basis (¾ if the community has a population of 50,000 or under or is located in a designated redevelopment area) is based on the amount of loan and grant funds needed to carry out activities during a 12-month period in an urban renewal area. Relocation assistance and federal relocation payments must be provided for individuals, families and businesses displaced by program activities. Direct federal 3 per cent rehabilitation loans and rehabilitation grants are available to eligible owners and tenants of property in the area.

Code Enforcement Project: A program to help communities restore the stability of neighborhoods and prevent blight by programs of concentrated code enforcement and provision of adequate supporting facilities and services. Grants of up to two-thirds of a program cost for municipalities over 50,000 population and up to ¾ of program costs for municipalities 50,000 or under in population are made for planning, reviewing and administering concentrated code enforcement programs in selected local areas. Eligible project expenses include planning, administration, and public improvements, such as necessary streets, sidewalks, curbs, street lighting, tree planting, and similar improvements. Direct Federal 3 percent rehabilitation loans and rehabilitation grants are available to eligible owners and tenants of property in the area.

The community must have a currently certified workable program for community improvement, must have adopted and be enforcing a comprehensive system of codes that

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meet minimum standards, must agree to maintain normal levels of expenditures for code enforcement exclusive of any expenditures required for the project area, must provide relocation assistance to all those displaced by the project activities, and must provide, at local expense, all public facilities that are necessary to accomplish the purpose of the program. Application is made to the HUD regional office serving the municipal area.

Bridge-the-gap programs: At the present it is approximately a 2-year wait for grants to be processed and awarded. These provide interim assistance payments in the form of some funds for temporary improvement of public land as streets etc. while waiting for Urban Renewal to take over. The interim assistance for slum and blighted areas is a short-term, limited type program to help cities and other municipalities, and countries plan and carry out programs to alleviate harmful conditions. Grants are made to assist localities in taking interim actions to alleviate conditions. Generally these are grants of ⅔ to ¾ according to the most recent population figures. Stop-gap aid provides for the cost of planning and carrying out programs which may include: repair of streets, sidewalks, parks, playgrounds, publicly owned utilities and public buildings; demolition of structures determined to be structurally unsound or unfit for human habitation; establishment of temporary public playgrounds on vacant land or cleared lots within the area; and improvement of garage and trash collection, street cleaning, and similar activities. Wherever feasible, HUD will require the employment of otherwise unemployed or underemployed residents of the area in carrying out interim assistance program activities.

Demolition grants: A program to assist communities in clearance of unsound structures. Grants are made to pay up to two thirds of the cost of demolishing structures which, under state or local law, have been determined to be structurally unsound harborages of rats or unfit for human living. The applicant must show that the demolition is proposed on a planned neighborhood basis and will further the overall renewal objectives of the community or will be consistent with a systematic rodent control program being undertaken in the neighborhood. The local governing body must certify that other available legal procedures to secure remedial action by the owners of the structures involved have been exhausted and that demolition by governmental action is required. Relocation assistance and federal relocation payments must be provided for individuals, families, and businesses displaced by the demolition.

McGill said the back log of funded projects awaiting payments is a problem. The funding level is at $1 billion now, with a back log of $2½ billion approved and waiting just in the neighborhood development program alone. McGill said much of the problem was attributed to the fact that cities have greatly underestimated their costs and also been hit by inflation before project is completed . . . Thus the increasing demand for aid to finance projects already begun.

$500 million dollars has been rechanneled to the fund for re-financing these projects. Cities can expect a year to a year and a half wait before region-recommended projects are approved or disapproved at the Federal level. McGill said in the area of demolition grants—the situation was pretty rapid—about a 2 month wait was involved.

HUD, COMMUNITY FACILITIES DIVISION

The Community Facilities Division of HUD has on account with the Treasury Department, some $270 million that program funds may be borrowed against at a 5⅜% interest rate. Morris noted that this was a low rate for the current fiscal year.

The long-term loans, up to 40 years, are made especially for support of water and sewer systems grants. The grants do not have to be for new construction.

All programs sponsored by HUD must be under the local sponsorship of a local public body that will take full responsibility for the functioning and maintenance of the facilities and for the payments to the Federal Department. Morris said, however, that the public body may sublet to private enterprise, although still retaining the ultimate responsibility for the program. The local government will be held responsible to the regional director in turn held responsible to the Department in Washington, D.C.

Morris said, in answer to questions, that there is no competition or comparison between the economic status of different areas. Under the program and the means of distribution of funds—although a poor town in Iowa does not compare to a poor town in Mississippi, for example—funds are still awarded the comparatively "richer" poor town in Iowa as well. Morris also said there was no established priority for sanitary sewers over water pollution control system grants. Both programs are funded. And in the case of minority group centers, Morris said HUD was extremely careful to insure that service was not gerrymandered or that these communities were not cut entirely off.

Public Facilities Program: A program to provide long-term loans to help communities finance the construction of needed public works. Loans for up to 40 years and covering up to 100 percent of the project cost are made for use in financing a variety of public works projects—construction of water and sewage facilities, gas distribution systems, street improvements, public buildings (except schools) recreation facilities, jails, or other public works. Loan aid under this program is available only for those parts of a program not covered by aid provided under other Federal agency programs. Priority is given to applications of smaller communities for assistance in construction of basic public works.

Applicants may be local units of government or State instrumentalities. The political subdivision for which the loan is made must be under 50,000 in population. The population may be up to 150,000 in designated redevelopment areas. Communities near research or development installations of NASA are not subject to population limit. A nonprofit private corporation serving a community under 10,000 population may apply for aid for water and sewer facilities only.

Application is made to the HUD regional office that serves the area in which the facility is located.

Public Works Planning: A program to help communities plan for essential public works and community facilities. Interest-free advances are made to cover the cost of feasibility studies and of preparing engineering and architectural plans for needed public works. This planning aid may be used for all types of public works except public housing. Examples of public works that can qualify are water and sewer systems, public buildings, health facilities, recreational projects and bridges. The planning advance is repayable to HUD when construction of the planned public work begins.

The applicant may be any non-Federal public agency that is legally authorized to plan, finance, and construct the proposed project. Such agencies include States, counties, other political subdivisions, special districts, regional and metropolitan public agencies and Indian tribes.

Application is made to the HUD regional office that serves the area in which the project is to be located.

Public Water and Sewer Facilities: A program to help communities construct water and sewer facilities that are basic to efficient and orderly areawide community growth and development.

Grants are made in amounts of up to 50 percent of land and construction costs for new water and sewer facilities. The facilities must be consistent with a program for a coordinated areawide water and sewer facilities system which is part of the comprehensively planned development of the area.

A grant may be up to 90 percent under certain conditions, for a community that has a population under 10,000.

The applicant may be a city, town, county, Indian tribe, or public agency or instrumentality of one or more states or one or more municipalities established to finance specific capital improvement projects.

Application is made to the HUD regional office that serves the area in which the facility is located.

HUD Neighborhood Facilities: A program to establish multipurpose neighborhood centers offering concerted community, health, recreational, or social services.

Grants covering up to two-thirds of the development cost (three-fourths in designated redevelopment areas) are made to develop facilities to be used for neighborhood health, welfare, educational, cultural, social, recreational, or similar community facility activities. Facilities may be provided by new construction or rehabilitation of existing structures, or both. The facility must be: needed to carry out a program of community service (including a Community Action Program under title II, Economic Opportunity Act of 1964) in the area; consistent with comprehensive planning for the area; and accessible to a significant proportion of the area's low- or moderate-income residents. Relocation assistance and Federal relocation payments must be provided for individual families, and businesses displaced by program activities.

Applicants may be local public bodies, agencies or Indian tribes authorized under State or local law to undertake neighborhood facility projects. A local government agency may contract with a qualified nonprofit organization to own or to operate the facility, but the public body must retain control over the facility's use.

Commissioner David Dominick, Federal Water Pollution Control Administration, told the conference that the environment and what we are going to do about it has become one of the looming and challenging public issues of the day.

"Before time runs out, we must provide an affirmative answer to this question: Can we bring man and nature into basic harmony? We must provide the answer because for the first time in history, the future of the human race is now in question. We must act or face the terrible threat of irreversible catastrophe.

"We must find cures for ecological imbalance. We must halt wanton destruction of the natural elements—our land, our air, our water", Dominick said.

"President Nixon's environmental message to Congress on Feb. 10 presents, I believe, a strong, comprehensive program upon which the American people can found a national crusade to restore and preserve their natural habitat and engender a new quality of life for the land.

"The President's program calls for total mobilization of the nation's resources, scientific, governmental, and human—and to do this he will need state, county and city help. Not just today and tomorrow but next year as well. Have no doubts about it the crusade for environmental quality will be a long one and there is no place in the ranks for faddists, for temporary helpers," Dominick warned.

"Close federal-state-city relationships are essential—indeed imperative—if we are to succeed in cleaning up the environment, or to put it another way, if we as a people are to survive. There must be no quests for primacy as between federal and state roles in pollution control. Too much is at stake.

As you know, fourteen of the thirty-seven points in the President's program concern

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water pollution and I am convinced that these fourteen proposals by the President will serve well the vitally important causes of close, working federal state relationships. The President called for a national $10 billion program for construction and modernization of municipal treatment plants, including $4 billion in federal funds.

He proposed establishment of a new environmental Financing Authority to insure that all municipalities would be able, financially, to participate in the program.

"Through these two proposals alone the President moved decisively to strengthen and re-invigorate federal, state, and local government relationships. Certainly, through these proposals, the President has made it clear that the national clean water program will have continuity and that the federal government is committed to stand firmly behind the program.

"I am confident that with full state and local and federal cooperation we will surmount the cost barricade which has impeded execution of effective municipal and industrial pollution abatement programs."

Dominick said this was the first time the Administration had chosen this type of program. Emphasis has been directed toward steps to change the allocation formula and the matching grant program.

In Iowa $12 million is available for water facilities grants under the program. Only one grant of approximately $100,000 had been awarded the state. Dominick said the Administration anticipates the ability to take care of all predicted grants from Iowa this year.

Dominick labeled the water quality standards program a blueprint for victory over water pollution. "It is the first systematic nationwide strategy we have ever had for water quality management," he said.

The standards are designed as effective tools to help clean up America's polluted rivers and lakes. In addition, the standards program provides for the protection of fishing streams and other waters already of high quality.

Under the Water Quality Act of 1965 passed unanimously by Congress, all the states were given the option of preparing water quality standards for their interstate streams, rivers, lakes, and coastal waters or of possibly having the federal government do it for them.

All 50 states elected to draft their own water quality standards, which were, under law, subject to the approval of the Secretary of the Interior. Approvals of the standards by the Secretary are practically complete.

The standards package for a state contains three main elements:

1: The use to be made of a particular stretch of a river, lake, or coastal water, such as swimming, drinking water, industrial use, or a combination of these uses.

2: A scientific determination of the specific characteristics or criteria which will permit the appropriate uses agreed on by the state and the federal government. Limits on such pollutants as bacteria, toxic materials, and taste-and-odor-producing substance in the water are set by the standards.

3: A step-by-step plan for construction by cities and industries of waste-treatment facilities and use of other measures to meet the water quality requirements.

Once standards submitted by a state have been approved by the Secretary of the Interior, they become federal standards as well and are therefore subject to federal enforcement action. However, the initial responsibility for enforcement of standards rests with the states.

Grants for waste treatment works construction are made to states, municipalities or interstate agencies to assist in the construction of waste treatment works, including intercepting and outfall sewers, which are needed to prevent discharge of untreated or inadequately treated sewage or other wastes into any waters.

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The Clean Water Restoration Act of 1966 authorized $700,000,000 for fiscal 1969, $1,000,000,000 for fiscal 1970 and $1,250,000,000 for fiscal 1971 for grants for construction of sewage treatment works.

The Federal Water Pollution Control Act, as amended, provides that the first $100,000,000 of funds appropriated for the construction of sewage treatment works shall be allotted among the states as follows: 1) 50% of such sum in the ratio that the population of each state bears to the population of all the states; 2) 50% of such sum in the ratio that relates to the per capita income of each state.

Under the act, sums allotted to a state which are not obligated within six months following the end of the fiscal year for which allotted shall be reallotted to other states having approved projects for which grants have not been made because of lack of funds. Prior to reallotment, these funds may be used to finance supplemental grants for projects where the need for sewage treatment works is attributable, in part, to a federal institution or federal construction activity.

The Act specified that a grant may not exceed 30% of the estimated reasonable cost of construction. The grant may be increased to 40% if the state contributes at least 30% of the cost of all assisted projects and to 50% if the state contributes 25% of the cost and the project is in conformity with enforceable water quality standards. In metropolitan areas the grant may be increased by 10% if the project is in conformity with a comprehensive metropolitan plan. Grantees are required to pay all costs not covered by the federal grant and to assure proper and efficient operation of the treatment works after completion.

The Act authorizes grants to any state or municipality—a municipality defined to mean any city, town, borough, county parish, district, or other public body created by State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

The construction grants program is administered in cooperation with the State Water Pollution Control Agencies. Application forms are obtained from the state agencies which review the completed applications for conformance with state water pollution control plans and establish a priority for grants. Following state action, the applications are sent to the appropriate Federal Water Pollution Control Administration regional office for processing.

Secretary of Agriculture, Clifford Hardin, told the community officials that the present Administration has an extremely high priority for the development of rural America. Rural America being that portion of the population outside the designated metropolitan areas of the nation. The Secretary said rural America constitutes 65 million Americans, better than ⅓ the total U.S. population.

"Sixty percent of the substandard housing and about ½ the nation's poor people live in rural America. Until this Administration, little focus has been on this portion of the country," Hardin said. "Most of the emphasis has been on the cities and their problems."

"The problem of crowding into the metropolitan centers is a critical one. The crux of our problem is to bring about a redistribution of the growth in population and of plants and industry to rural centers."

"The Rural Affairs counsel, combining the secretaries of AG. int. HUD, LABOR, OEO the VP and chaired, by the President, is working to devise means of correcting the problems of rural America and to determine a development program. These interdepartmental meetings and program planning is part of what constitutes the new emerging national policy on rural America. Nothing will have a more far-reaching effect on the future of America, than the products of this program," Hardin emphasized.

The developing programs involve the coordination of some 90 agencies involved—that alone a difficult project. Progress is being made to alleviate some of the problems of rural America, but the initiatives must come from the communities and their leaders."

James V. Smith, FHA Administrator, Department of Agriculture discussed housing, water and sewer system grants and recreational facilities in smaller rural towns.

The programs are designed and granted to towns with populations up to 5500. Smith said that with the establishment of the Rural Affairs Counsel, great strides were being made to assist this portion of America.

The FHA budget was awarded $200 million more to loan this year, an increase over the past fiscal year, which Smith said further demonstrated the extreme concern and interest of both Secretary Hardin and the President for the rural affairs development programs.

"The greatest need in the rural areas is to develop a favorable economic balance in conjunction with water pollution and waste disposal systems and housing. These are the major assets that would encourage the sustainment of the rural areas development and help them to hold their populations."

FHA is not strictly a farm oriented Administration. It provides for home loans and other assistance. In the assessment of priorities, given the budget under a tight money situation, recreation is not as high a priority. Smith said, however, that there will be no reduction of funds on those contracts already entered into.

Smith emphasized that FHA is not a welfare program but is the credit department of the Department of Agriculture.

There is no plan in the immediate future for the funding of golf courses. The administration will consider swimming pools but recreation grants and loans in general, are difficult to obtain.

FHA grants are very small. It is basically a loan program.

The agency's programs provide financial and management assistance to strengthen family farms and rural communities and reduce rural poverty.

Farm ownership loans help family farmers obtain the resources needed to improve their living conditions and farm successfully. These loans are made to buy farms or land to enlarge farms; construct or repair buildings; improve land; develop water, forestry, and fish farming resources; establish recreation and nonfarm enterprises to supplement farm income and refinance debts.

The interest rate is 5% repayment period may not exceed 40 years. (ADD A)

Water and waste disposal system loans and grants for the construction of community systems are made to public bodies and nonprofit organizations.

A borrower's total indebtedness for these loans together with any assistance in the form of a grant, cannot exceed $4,000,000. The maximum term is 40 years. The interest rate cannot exceed five percent. A grant cannot exceed 50% of the development cost.

The projects can serve residents of open country and rural towns of not more than 5500.

Rural housing loans through the FHA are made to farmers and other rural residents including senior citizens who are 62 years of age and over. Loans may also be made to urban residents of low and moderate income who are employed in rural areas, and other urban residents who own buildings sited in rural areas.

Funds may be used to finance dwellings, building sites, and essential farm service buildings. Rural housing loans are made only to applicants who are unable to obtain the credit they need from private lenders.

Rural housing loans may be used to build, improve or repair rural homes and related facilities, farm service buildings, fallout shelters, or to provide water for farmstead and household use. In addition to major construction, funds are available to modernize homes as well as to enlarge or remodel form service buildings and put in related facilities such as yard fences and driveways.

In cases where buildings are destroyed or damaged by floods, earthquakes, and other natural disasters, loans to repair or replace these buildings can be made at a low interest rate.

To be eligible, an applicant must: (1) own either a farm or nonfarm tract or become the owner of a minimum adequate building site when the loan is closed. (2) be without decent, safe, and sanitary housing or without farm service buildings essential to the success of his farming operations. (3) be unable to finance the needed improvements with his own resources or with credit from other sources. (4) Have sufficient income to pay operating and family living expenses, and meet payments on debts, including the proposed rural housing loan.

However a low- or moderate-income applicant who does not have enough income to meet the full amortized payment on a rural housing loan may qualify for an interest credit to offset a portion of interest on the loan. Also, an applicant whose income is not sufficient to repay a rural housing loan—even with an interest supplement—may be able to qualify for a rural housing loan if a relative or someone else with adequate repayment ability cosigns his note.

(5) Possess the character, ability, and experience to carry out the undertakings and obligations required of him in connection with the rural housing loan.

(6) Have training or farming experience necessary to give reasonable assurance of success whenever the soundness of the loan depends on the farming operations. In certain cases holders of long-term leases on farms may be eligible.

The Farmers Home Administration three-member local county committee determines the eligibility of applicants.

The maximum repayment term is 33 years.

Interest supplement payments: Low- and moderate-income families who do not have sufficient income to meet payments on a loan at the usual rate of interest may qualify for interest credits. The interest credit, however, could not result in an interest rate of less than 1 percent. The actual amount of interest that a low- or moderate-income family will need to pay will depend on its income and the size of the family.

Financial assistance to small towns and rural groups for water systems and waste disposal systems. The FHA makes loans and grants to public bodies and nonprofit organizations primarily serving rural residents to develop domestic water supply systems and waste disposal systems.

Public bodies and corporations not operated for profit which will serve residents of open country and rural towns and villages up to 5,500 population which are not part of any urban area, may receive financial and technical assistance in planning, developing and improving and extending water and waste disposal systems when:

1. they are unable to obtain needed funds from other sources at reasonable rates and terms.

2. the proposed improvements will primarily serve farmers and other rural residents.

3. they have legal capacity to borrow and repay the loan, to pledge security for loans and to operate the facilities or services.

4. they are financially sound and will be effectively organized and managed.

Grants may be made to help finance up to 50% of the development cost of a water or waste disposal system when grants are needed to reduce to a reasonable level the charges the users will pay.

Loans and grant funds may be used to:

Install, repair, improve, or expand rural water supply and distribution systems including water supply reservoirs; pipelines; wells; pumping plants; water filtration and treatment such as chlorination, fluoridation and iron removal.

Purchase a water supply or a water right.

Install, repair, improve, or expand waste collection, treatment, or disposal systems. Facilities to be financed may include such items as sewer lines, treatment plants stabilization ponds.

Pay necessary fees.

Pay other costs related to the improvements, including the acquisition of rights of way and easements, and the relocation of roads and utilities.

A borrower's total indebtedness for these loans together with any assistance in the form of a grant cannot exceed $4,000,000 at any one time.

The maximum term on all loans is 40 years.

The interest rate varies but may not exceed 5%.

Applications for loans and grants are made at the local county offices of the Farmers Home Administration.

Emergency loans are made to eligible farmers in designated areas where natural disasters such as floods and droughts have brought about a temporary need for credit not available from other sources. Loans may be made for the purchase of feed, seed, fertilizer, replacement of equipment, livestock, and for other items needed to maintain normal operations. Loans may not be made to refinance debts or compensate applicants for their losses.

Emergency loans may also be made outside of designated areas to farmers who have been affected by disaster when the disaster affects only one or a few farms.

Loans are scheduled for repayment when income from the crop or livestock financed is normally received. The interest rate is 3%.

Grants are available to help communities which currently are without the resources to pay for the development of official comprehensive water and sewer plans in rural areas. Such plans promote efficient and orderly development of rural communities and provide information necessary to avoid overlapping, duplication, underdesign or overdesign of community water and sewer facilities.

Each farm loan made by the farmers home administration is based on a plan that when followed will provide enough income from the farm and other sources to enable the family to have a reasonable standard of living and make payments when due on their debts.

ASSOCIATE ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, DEPARTMENT OF JUSTICE

Richard Velde, Associate Administrator, Law Enforcement Assistance Administration, the Department of Justice, told Iowans that the LEAA has been working to develop a broad approach to the whole gambit of crime and correction.

As an alternative to complete federal control and the semblance of a police state, the LEAA under Title I and the Dirksen Block Grant amendment, devised a means of allocation of funds on the basis of population to assist the states and local government in fighting crime, training police, and studying correction procedures.

This was the nation's first comprehensive anti-crime program created under the Omnibus Crime Control and Safe Streets Act in June 1968.

In the first year of operations ending June 30, 1969, LEAA awarded millions of dollars in grants and began research and development and technical assistance projects to help improve the nation's criminal justice system—police, courts, and corrections.

State and local governments were given primary responsibility under the Act for law enforcement improvements, and they received most of the federal financial aid given by the LEAA.

With the aid of planning grants, detailed programs for state-wide law enforcement improvements were drafted by the 50 states and Washington, D.C. Action grants then were awarded by LEAA and all jurisdictions initiated their specific improvements projects.

A breakdown of how LEAA used its $63 million budget in fiscal year 1969:

Nearly $19 million in planning grants was awarded to the states;

More than $25 million in action grants was granted to the states;

Some $4 million was awarded at LEAA's discretion for a variety of anti-crime projects, including more than $1 million directly to the nation's largest cities;

Some $3 million was devoted to research and development;

And $6.5 million was awarded to finance college studies by law enforcement and crimminal justice personnel;

The remainder of the LEAA budget was composed of $3 million for FBI programs and $2.5 million for administration.

Iowa's largest budget item for the fiscal year was for prevention and control of juvenile delinquency.

Under the fiscal 1970 program, $32 million is available to the states for projects Velde said all Iowa cities were eligible.

In the initial establishment of the LEAA program, planning grants to each state were awarded on the basis of $100,000 and an additional amount based upon population figures. All planning funds went to the states in block grants, and they proceeded to make at least 40% available to the local governments.

85% of the total action funds were given to states in block grants—$25 million of the $29 million—and the states made at least 75% available to local governments. LEAA used $4 million for discretionary awards.

Iowa's budget to be supported by the planning and discretionary and action funds called for programs of training for law enforcement personnel, $47,720; prevention and control of juvenile delinquency, $67,820; improvement of detection and apprehension of criminals, $50,803; improvement and prosecution and court activity and law reform, $57,426; increasing the effectiveness of correction and rehabilitation, $21,000; reduction of organized crime, $3,000; prevention and control of riots and civil disorder, $36,675; improvement of community relations, $50,460; research and development, $2,400.

Under the LEAA Academic Assistance program funds are provided for college studies by law enforcement and other criminal justice personnel and for promising students preparing for such careers. During fiscal 1969, a total of $6.5 million was awarded to nearly 500 colleges and universities which administer the aid to individual students—Loans of up to $1800 a year for full-time study, grants of up to $200 per quarter of $300 per semester for full-time or part-time study. Assistance was given to more than 23,000 persons during the second half of the 1968–69 school year and the summer session.

Velde said this assistance was prompted by surveys which showed that of the average law enforcement officers only 9% held college degrees and only 3% of the correction line officers held college degrees. With the participation now of more than 750 colleges, loans and grants are available for pre-career and career study.

Velde said 40 Iowa colleges and universities participate in the program.

LEAA has budgeted $7½ million for research to bring to bear on crime the techniques of advanced technology. For example, Velde cited the sophisticated burglar alarm system research grant of $300,000 for Cedar Rapids. The grants are solely hardware-oriented or for research toward the streamlining of court procedures and correction.

LEAA is also setting up a National Criminal Justice Information and Statistics

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services. Working closely with the states, the Service will conduct a nationwide program to obtain statistics on all importanat aspects of the police, courts, and corrections fields.

Late in fiscal 1969, LEAA awarded a $600,000 grant to six states to develop and test the prototype of a computerized criminal justice date system, including standardizd recordkeeping on arrests, trials, and dispositions of offenders.

Velde told officials the budget request was being doubled over the past year. Planning grants are expected to cover 90% of the programs; 50% of the construction programs will be funded federally; and 60% of the training will be footed by the federal government. Specially organized riot control forces training will receive 75% funding under the new budget requests. All federal aid for programs is entirely in cash or services and matched by the states and local governments.

Velde said the time element for funding approval was approximately 30 to 45 days at the present time.

BUREAU OF OUTDOOR RECREATION DIRECTOR—BOR

Director G. Douglas Hofe, Bureau of Outdoor Recreation, Department of the Interior explained to Iowa community officials that the Bureau itself was not a land-management agency. Its purpose is to provide leadership in a nationwide effort to meet the increasing demands for recreation opportunities in the outdoors.

The bureau has three main activities through which it accomplishes its purpose:

1. Planning—which identifies necessary action to protect the natural beauty of the outdoors;
2. Coordination of Federal activities relating to outdoor recreation and natural beauty; and
3. Assisting Federal, State, and Local efforts to reclaim and protect the outdoors and providing increasing outdoor recreation opportunities for the American public.

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This third function is accomplished through the Land and Water Conservation Fund program. The Land and Water Conservation Fund, as originally set up, was supported by entrance and user fees charged at designated federal areas, proceeds from the sale of surplus federal property, and federal tax on motor boat fuels. In 1968 the Congress amended the land and water conservation fund act to supplement these revenues from offshore mineral lease income up to $200 million a year for the next 5 years.

Once Congress appropriates money into the Fund, Hofe said, it is apportioned by the Sec. of the Interior among the 50 states, Washington, D.C., the trust territories on the basis of a formula which takes several factors into consideration. Two-fifths of the appropriation is apportioned equally among the states and ⅗ is divided according to total population, out-of-state visitor's use, and other federal recreation programs and areas in the State.

Since the start of this program, Iowa has received a total apportionment of slightly in excess of $5.3 million. Over $4.4 million has been committed to 175 state projects.

Hofe said in Schwengel's and Kyl's districts, almost ¾ million dollars from Land and Water Conservation funds are spent on 40 projects. Only 5 of these projects are state sponsored. Hofe concluded that Iowa was well aware of the BOR opportunities and doing a good job.

Currently, Iowa has a Land and Water Conservation fund balance available of $850 thousand for fiscal year 1970.

Hofe explained that Iowa has operated on a system of retaining 50% of the annual apportionment for state sponsored projects and making the remaining 50% available to local units of government. "Under this system each county receives an allocation and some counties may have used their available funds through FY 1970," Hofe said.

In his Environmental Message to the Congress, the President stated, "I propose full funding in fiscal 1971 of the $327 million available through the Land and Water Conservation Fund for additional park and recreation facilities, with increased emphasis on locations that can be easily reached by the people in crowded urban areas."

This is almost double the level of funding for FY 1970. The direction is quite clear; Hofe interrupted. "We're going to bring recreation to the people. It means that a greater emphasis will be placed on projects for the cities."

The Land and Water Conservation Fund Program is designed with the State in the pivotal role. The first step in applying for assistance under the program is to be sure the proposed project is eligible under the Statewide Comprehensive Outdoor Recreation Plan for Iowa.

This Plan is prepared and kept current by the State and approved by the Bureau as an acceptable tool for defining the priority demands and needs for outdoor recreation areas and activities within each region of the State and on an overall statewide basis.

Iowa current Statewide Outdoor Recreation Plan eligibility runs until March 31, 1971. In addition, the State already has studies underway for an updating and revision, so Hofe said he didn't anticipate any problem because of a lapse of eligibility.

Next, the proposed project must be submitted to the State Liaison Officer. This official is appointed by the Governor to administer the program within the State. Everett B. Speaker is the State Liason Officer. His title is Special Projects Coordinator and his office is in the State Office Building in Des Moines. Mr. Fred A. Preewert, Director of the Iowa State Conservation Commission is the alternate State Liaison Officer.

The State Liaison Officer will review the project for technical adequacy and accord with the Plan, give it a priority rating and submit it, with his recommendation for approval funding from his State's apportionment, to the appropriate Regional Office of the Bureau. Depending on the amount of assistance requested, the project is either acted on there or forwarded to the Washington office for further review and approval.

It is important to note that the State Liaison Officer is the focal point of the program. The State has the prerogative to determine which projects are eligible for funding under the Statewide Plan and the order in which funding is to be requested.

It is the State Liaison Officer who is responsible for coordination between the State and the Bureau. All projects for Land and Water Conservation Fund assistance are submitted to and reviewed by this office before they are submitted to the Bureau.

The Land and Water Conservation Fund is divided into State and Federal portions. The Federal share is used to assist Federal agencies in the acquisition of land only. The State share may be used to assist the State and local levels in planning acquisition and development of public outdoor recreation areas and facilities.

The fund provides 50/50 reimbursable matching grants for eligible projects. The money is intended to supplement the amounts spent by States and local governments rather than to replace their expenditures. Because the money in the fund is limited, it is clearly impossible to completely finance a State's entire program of recreation expenditures solely from the Land and Water Conservation Fund. Limited money means that competition between projects is inevitable, so that high quality, well documented projects naturally are most likely to be funded quickly.

Acquisition and development projects for many kinds of outdoor recreation opportunities are eligible to receive matching assistance under the BOR program. However, Hofe emphasized, that projects must be outdoor oriented; the program cannot assist in indoor recreation facilities except to the extent that they may be considered to directly support outdoor recreation activities. This could include bathhouses for swimming pools or comfort stations in picnic areas, but would eliminate indoor community centers.

Any area or facility which receives Land and Water Conservation Fund assistance must be maintained for public outdoor recreation use. Because funds are limited and demands are great, BOR will assist in only basic, as opposed to elaborate facilities. The public's best interests are served by careful consideration of the most economic method which provides the most extensive opportunity. For instance, acquisition of easements may provide the same opportunities for scenic viewing as a more costly acquisition of fee simple title of an area. We urge that any sponsoring agency be extremely careful to consider and thoroughly investigate every possible solution prior to submitting an application for Land and Water Conservation Fund assistance.

The objective of the BOR is to enhance the quality of American life through the preservation of the outdoor environment and the provision of numerous and diversified outdoor recreation opportunities. Since the beginning of the fund program in 1965, a total $243,349,624 has been apportioned to the states. Of this $207,040,476 has been qualified and approved for 3,958 projects.

Transportation Secretary, John A. Volpe, discussed the efforts of the Department to develop new techniques of moving both people and goods across the country safely, efficiently, and expediently.

Volpe said safety in all areas of transportation had been one of the increasing concerns of the departments especially as evidenced by recent legislation as to the transportation of unsafe materials like gases.

Volpe said that his department in conjunction with local and state governments must plan in light of the 50% population increase projected for the decade ahead and to plan to alleviate the increasing pollution problems aggravated by this increase and by industry. Volpe said the Dept. had appointed an Under Sec. for Environment.

"We must work to find the proper balance in transportation of public and freight and plan to expand in the support of airport facilities as the influx of air freight and passenger transportation becomes a larger and larger problem to cope with."

"We must work to insure that ground transportation continues and to see that it is uplifted and upgraded. Even with all the modes of transportation now in existence, we still won't be able to handle all the people and freight needing transportation in the future.

Volpe said the Department was now working with the new town concept developed in conjunction with the Rural Affairs Counsel which will work to alleviate the crisis whereby 70% of the population lives on 2% of the land and in 10 years nearly 80% of the population will live on 2% of the land. "We must study and work to tackle the whole transportation problem and the intermodal concept."

Volpe said many of the programs devised to correct inherent transportation difficulties would depend, for their success, upon the cooperation of the states and local governments.

Walter Mazan, Assistant Secretary for Public Affairs, Department of Transportation was also on hand to field questions conferees raised about the specific areas and modes of transportation and facilities.

Other speakers at the two-day Community Officials Conference included Jack Eachon, Jr., Associate Administrator for Financial Management, Small Business Administration; Robert G. Cleveland, Director of Public Affairs, Department of State; Donald Johnson, Administrator of the Veterans' Administration and Clark Mollenhoff, Special Counsel to the President. Colonel Ferd Anderson and Lt. Colonel Carlyle Charles reviewed

Corps of Engineers assistance programs available to local governments.

Eachon said the SBA funded basic principal loans to businesses that show evidence of a reasonable chance to repay the loan. The SBA operates with a limited amount of guaranteed funds. The normal guaranteed loan is usually for 20 years. Eachon said that two main areas of work now include research toward the efficient shortening of the application forms and the continued efforts to campaign for secondary markets for the SBA loans, especially in private enterprises.

Cleveland fielded delegates questions on such hot spots as the Middle East, policy forming on Vietnam and U.S. role in the rest of Asia—especially Laos.

Johnson told officials that the VA today was second to none in hospital care for the nation's veterans. Contrary to rumors, he assured the Iowans, the VA has not suffered any monetary cuts for the 1970–71 budget. The Presidential request, he said, will give tht VA at least $357 million over fiscal appropriations for 1970 and allotment was made for a 10 percent staff increase over the previous year.

Johnson said that there was no truth to the rumor that there has been a loss in doctors for the VA hospitals. He said that, in fact, at the present there is an increase of 300 more doctors than the figures showed 8 months ago, including 29 hard-to-get psychiatrists. Johnson also added that the VA is and will meet the hospitalization needs and other benefits of the Vietnam War era veterans.

Mollenhoff addressed his remarks specifically to the role of the Omsbudsman in government. Mollenhoff said there was a need for an advisor or counsel who is not personally or otherwise involved in the decisions of government and someone who does not have responsibilities in that capacity. With the services of such a person, the President or other government officials can attain objective advice. The work of this particular type of counsel is to hear, feel out and see the rumblings in the undercurrent of public or federal opinions.

Mollenhoff said the President needed this type of counsel especially to protect him from his own cabinet; a counsel to act as investigator, to clarify the facts and bridge the gap toward fast action when a particular crisis arises.

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Recreation.

Water Resources Development.

President's Budget for Corps of Engineers, Fiscal Year 1971.

Participants in Community Officials Conference Agenda

FIRST DISTRICT

Bettendorf: William R. Rashid, Don Schmeiser, James W. Strieck.

Burlington: J. Craig Eaton, John J. Dullea, Fred Savely.

Davenport: Bob Fensterbusch, John H. Jebens, Robert H. Krieghoff, John McCormick, Joe Tomlinson, Robert Whitson, Bill Gress.

Donnellson: Carroll I. Redfern.

Durant: Harlan Finck, Delmar Frick.

Fairfield: M. W. (Bud) Stewart.

Fort Madison: John Einspanjer, M. L. Howard, Gordon Lane, Lee Schoon.

Iowa City: Loren Hickerson, Dennis Kraft, Frank R. Smiley, Ben E. Summerwill.

Keokuk: H. A. Stephenson.

Muscatine: Elmer E. Bloom, K. M. Bright, Gil Dietz, Gordon B. Jaeger, S. A. Keller.

Tipton: Russell J. Scott, Jack Spear.

Washington: Dave Livingston.

West Burlington: Robert J. Gibson, Chester Mason.

West Point: E. M. Boerger, Victor Schierbrock.

FOURTH DISTRICT

Albia: Virtus Beaumont, J. Logan Cain, Hugh Lundy.

Afton: Kenneth Seeley.

Attica: Harvey Sweem.

Bloomfield: Mrs. Hazel Nardini, Mrs. Elaine Perry.

Centerville: Vern C. Price, David H. Swanson.

Corydon: Kenneth Ireland, Charles Wray.

Creston: Edward Bray, Marvin J. Taylor.

Grinnell: Theodore K. Clausen, Donald Howig, Gerald L. Rankin.

Indianola: Darrell Goodhue, Glen Powers.

Knoxville: Vernon Cooley, Abie Davis, Merlin George, Fred Godfrey, Mike Lane, Dick Opie.

Lamoni: Rollin S. White.

Leon: Ward Kilgore.

Marshalltown: W. B. Crosby.

Newton: Thomas E. Hill, Sam Paley.

Norwalk: Dave Hoskins, Jack R. Lane.

Ottumwa: Ernest Brody, Ken Clow, Virgil Johnson, Jr., Jesse Merrill, Joseph Mondanaro, Del White, Robert Workman.

Vinton: Bennett Fischer, Kyle Hummel, John H. Moore, Robert Nelson, Dr. Norman Reitzel, Robert Steffa, Winston Watson.

OTHER PARTICIPANTS

Des Moines: James W. Callison, Kenneth C. Henke, Jr., William M. McLaughlin, Chad A. Wymer, Bob Wilbanks.

Lincoln, Nebraska: Marvin Garber.

WASHINGTON AREA MEDIA REPRESENTATIVES

James Risser, David Henderson, Dorothy Williams, Bob Poos, David Ferguson.

Speakers at Community Officials Conference Agenda

Honorable Robert Finch, Secretary of Health, Education, and Welfare, Department of Health, Education, and Welfare.

Honorable John A. Volpe, Secretary of Transportation, Department of Transportation.

Honorable Clifford M. Hardin, Secretary of Agriculture, Department of Agriculture.

Mr. Clark R. Mollenhoff, Special Counsel to the President, The White House.

Honorable Donald Johnson, Administrator, Veterans' Administration.

Honorable James V. Smith, Administrator, Farmers Home Administration, Department of Agriculture.

Mr. Joseph R. Hanson, Assistant Deputy Administrator, Farmers Home Administration, U.S. Department of Agriculture.

Mr. Howard A. Cohen, Deputy Assistant Secretary for Welfare Legislation, Department of Health, Education, and Welfare.

Mr. Jack Eachon, Jr., Associate Administrator for Financial Management, Small Business Administration.

Mr. G. Douglas Hofe, Director, Bureau of Outdoor Recreation, Department of Interior.

Mr. Leo A. Morris, Director, Community Facilities Division, Department of Housing and Urban Development.

Mr. William S. McGill, Senior Program Advisor for Region 4, Department of Housing and Urban Development.

Mr. Lawrence Goldberger, Chief, Program Policy Staff, Housing Assistance Administration, Department of Housing and Urban Development.

Mr. Murray L. Weidenbaum, Assistant Secretary for Economic Policy, Department of Treasury.

Colonel Ferd E. Anderson, Jr. and Lt. Colonel Caryle H. Charles, U.S. Corps of Engineers, Department of the Army.

Mr. Richard W. Velde, Associate Administrator, Law Enforcement Assistance Administration, Department of Justice.

Mr. David D. Domminic, Commissioner, Water Pollution Control Administration, Department of Interior.

Mr. Robert G. Cleveland, Director, Office of Public Affairs, Department of State.

Mr. Walter Mazan, Assistant Secretary for Public Affairs, Department of Transportation.

Mr. Lamar Guthrie, Chief, Development Program Division, Department of Transportation.

Mr. Ed Swick, Deputy Director, Bureau of Public Roads, Department of Transportation.

Mr. Bill Loftus, Chief, Policy & Analysis, Railway Administration, Department of Transportation.

Mr. Ron Luczak, Office of Program Operations, Urban Mass Transit Administration, Department of Transportation.

TRANSISTHMIAN PIPELINE IN PANAMA: PLANS FOR

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania (Mr. Flood) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, the Wall Street Journal of January 23, 1970, published a news story from London to the effect that the Panamanian Government has signed an agreement with two European companies, one British and the other German, for the construction and operation of a transisthmian oil pipeline.

This pipeline would run from the Gulf of San Blas on the Atlantic side of the Isthmus to a point on the Pacific side near the mouth of the Bayano River and cost about $80,000,000. There would be a tank farm at each terminus.

To obtain fuller information than that supplied in the news story, I wrote the Secretary of State asking specific questions and have received a reply from the State Department.

As this exchange of letters will be of interest to all concerned with the interoceanic canal problem, particularly committees of the Congress, I quote them as part of my remarks, as follows:

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[From the Wall Street Journal, Fri., Jan. 23, 1970]

PANAMA SIGNS ACCORD FOR TWO FIRMS TO BUILD WEST-TO-EAST PIPELINE—LOW-COST ROUTE, BYPASSING CANAL, WILL MOVE CRUDE OIL; BRITISH, GERMAN TEAM TO DO THE WORK

LONDON.—The Panama government has signed an agreement for two companies, one British and the other German, to arrange financing, supply, installation and operation of a $80 million trans-Panama pipeline, including ocean terminals and related facilities.

The state-owned pipeline is aimed at providing a low-cost route for the movement of crude oil from fields on the Pacific coasts of North and South America to consuming markets on Atlantic coasts. Panama expects companies producing crude oil in Alaska and on the Pacific coast of South America to be the main users of the pipeline. The pipeline would eliminate tanker transit through the Panama Canal.

The two concerns involved are International Management & Engineering Group Ltd. of London, privately controlled engineering consultants, and Thyssen Stahlunion-Export, a subsidiary of the West German steelmaker, August Thyssen-Huette AG of Duisburg-Hamborn.

JANUARY 28, 1970.

Hon. WILLIAM P. ROGERS,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: During World War II the United States constructed a Trans-Isthmian pipe line in the U.S. Canal Zone territory, which was used extensively in loading tankers at Balboa, with fuel destined for the Pacific.

I have read with much interest a newsstory from London, England, in the *Wall Street Journal* of January 23, 1970, to the effect that the Panamanian Government has signed an agreement with two European companies for the construction of a state-owned Trans-Isthmian pipeline across the Republic of Panama. A copy of the newsstory is attached.

Full information is requested on the following points:

(a) Location of the proposed pipe line with general plans for ocean terminals and related facilities.

(b) Whether the capacity of the existing pipe line in the Canal Zone is adequate for the prospective needs, and whether the United States ever abandoned its use.

(c) Whether the construction of the proposed new pipeline is in derogation of existing treaty rights of the United States.

(d) What agreements, if any, have officials of our government made in the promises.

Sincerely,

DANIEL J. FLOOD,
Member of Congress.

DEPARTMENT OF STATE,
Washington, D.C., February 19, 1970.

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FLOOD: The Secretary has asked me to reply to your letter of January 28, 1970 concerning a newspaper report that the Panamanian Government is proceeding with plans for the construction of a state-owned Trans-Isthmian pipeline. You requested information on several specific points concerning this proposal.

Before answering your specific questions, it might clarify matters to point out that the proposed pipeline referred to in the newspaper article does not contemplate the use of facilities constructed by or subject to the jurisdiction of the United States Government. I understand that there was an earlier proposal by National Bulk Carriers and Williams Brothers which would have utilized the Navy facilities referred to in your letter; however, this is unrelated to the European proposal which was the subject of your inquiry.

Returning to your questions, our understanding is that the pipeline envisaged in the European proposal would extend from a tank farm approximately 50 miles east of Colon across the Isthmus to a tank farm more than 25 miles northeast of Panama City. Terminal sites would be located entirely in territorial waters of the Republic of Panama. A map cut which appeared in the January 20, 1970 issue of the *Panama American* is enclosed for your information.

We understand that the Department of the Navy, in examining the proposal from National Bulk Carriers/Williams Brothers, had noted that there was some excess capacity in the pipelines constructed during World War II in Canal Zone territory. Some portions of the pipelines are still used by the United States Government. For more details on the existing Navy pipeline you may wish to contact the Department of the Navy directly.

Since the official announcement describing the European firms' proposal indicates that the route will be entirely on Panamanian territory and waters, it does not appear that the questions of treaty rights would arise.

Concerning your final question, officials of the United States Government have made no agreements with the Government of Panama on Panamanian plans to construct a pipeline in their own national territory.

If the Department of State can be of further service to you, please do not hesitate to call on us.

Sincerely yours,

H. G. TORBERT, Jr.,
Acting Assistant Secretary for Congressional Relations.

THE UNITED STATES CAN AND SHOULD CUT MILITARY COSTS IN EUROPE NOW

The **SPEAKER** pro tempore. Under a previous order of the House the gentleman from Wisconsin (Mr. REUSS) is recognized for 60 minutes.

Mr. **REUSS**. Mr. Speaker, on March 12 I sent a letter to Secretary of Defense Laird inquiring into the fate of a Department of Defense program known as Redcoste. The initials stand for "Reduction of costs—Europe." When some $14.8 billion of our defense budget goes toward fulfilling our NATO commitments, when more than $2.6 billion of this amount is spent directly in Europe leading to at least a $1.6 billion dollar drain, I can think of no more laudable or timely obective for a program.

Yet last year, Secretary Laird, in his revised defense budget for fiscal year 1970, deferred action on at least two cost-savings measures recommended under Redcoste. And in this year's defense posture statement, there is no mention of Redcoste, or even of a son of Redcoste. This is surely a singular omission given the size of the U.S. balance-of-payments deficit, soaring U.S. military expenditures, and savings reportedly to be achieved under Redcoste—some $200 million in overseas expenditures and some $400 million in the budget according to a January 26, 1969, article by Mr. William Beecher of the New York Times.

If Redcoste has been dropped—which is what I fear—the program should be promptly revived and expanded. In the meantime, I have a few modest suggestions of my own to make on where we can cut some costs in Europe—and now—with savings for both our defense budget and balance of payments.

OUR PAYMENTS DEFICIT WORSENS

Mr. Speaker, the U.S. balance-of-payments deficit last year climbed to a record high of $7 billion. U.S. defense expenditures abroad also reached a new high—almost $5 billion. And this is counting only the direct costs of our military presence abroad. If we add in the indirect costs, the total is certainly higher by a billion or more. In Western Europe, our dollar outflow for military activities continued its upward course—$1.468 billion in 1965, $1.535 billion in 1966, $1.616 billion in 1967, $1.533 billion in 1968, a whopping $1.624 billion as a preliminary figure for 1969. In West Germany alone, our dollar outflow is now running at an annual rate of close to $1 billion.

In view of these record-setting figures for 1969, I find the attitude of our defense, foreign affairs, and monetary officials remarkably ostrichlike. To be sure, adjustments in value in the currencies of several Western European nations and the creation of "paper gold" have brought some calm to the international monetary scene. To be sure, for the moment foreigners like our dollars because they earn high interest. But without a more determined effort to reduce our payments deficit and to curb inflation, and especially to cut the military expenditures at home and abroad which contribute so largely to both, we are asking for future trouble.

To be sure, we may realize some balance-of-payments savings as we reduce our forces in Vietnam—but oh, so slowly. To be sure, Western European countries still purchase military goods and services from us—some $1.006 billion in 1969—but in amounts that are declining and insufficient to cover our rising expenditures on that continent. Worldwide, our receipts from military sales were an estimated $1,893 billion in 1969 as against dollar outflows for military purposes of over $4.8 billion. And then we have been promised some savings as we assume a somewhat "lower profile" abroad. But these are for tomorrow. What we need is some concrete action today.

INADEQUATE ACTION SO FAR

Mr. Speaker, I propose some action in Europe. Almost one-fifth of our defense is oriented toward Western European security. By far the greatest proportion of our ever more costly land forces are committed to the defense of Europe. Yet, at the same time, we find the sternest critics of our persistent payments deficits, the firmest devotees to gold, among our European friends. In West Germany, where we station some 210,000 U.S. military along with their 150,000 dependents and employ some 70,000 German nationals, our dollar drain last year amounted to $949 million, up from $877 million in 1968. Yet we limp from year to year with ever more unsatisfactory offset arrangements with West Germany, recent ones being comprised largely of West German bond purchases which increase the U.S. foreign debt and require us to send even more dollars to Germany in interest payments.

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I note also that the few steps we have taken to cut costs in Europe—and these have been largely in reaction to congressional pressure or initiatives by other governments—have failed to produce any long-term savings. In 1966 and 1967, as a result of being asked to depart from France, we carried out some long overdue streamlining of our military establishment in Europe and brought a few personnel home. Recently, we have taken some very small similar steps in Spain and Turkey. In 1968, we also carried out a limited redeployment of some 28,000 military personnel from Germany. But any budgetary and balance of payments savings we may have realized from these actions have been more than wiped out by rising prices and wages in Europe, pay increases for our military, and the revaluation of the German mark.

WHAT CAN BE DONE NOW

For several years I have urged that Western European countries, and particularly West Germany, be asked to shoulder a portion of the enormous budgetary costs of the U.S. commitment to NATO. Recently, my colleague on the Joint Economic Committee the senior Senator from Illinois, Mr. PERCY, has pinpointed a number of areas where assumption of these costs by Europeans would be both logical and fair. For example, he suggests that Europeans pay the wages of local nationals employed by U.S. forces, construction costs for permanent installations built for U.S. forces, and transportation and fuel costs. These proposals should be pressed by U.S. officials. To be realistic, however, they will require lengthy and difficult negotiations.

Recently also, the majority leader of the other body, Mr. MANSFIELD, joined by 49 colleagues, reintroduced his resolution calling for a substantial reduction of U.S. forces in Europe. Certainly, gradual reductions should be possible over the next several years. But, again, the negotiating process within our own bureaucracies and with allies promises to to be lengthy.

Mr. Speaker, fortunately opportunities are at hand for achieving some savings in the budgetary and balance-of-payments costs of our European deployments without delay. Essentially these opportunities lie in carrying forward the streamlining begun with our move from France—in consolidating headquarters, perhaps in eliminating one or two whose missions appear less than essential, in trimming the brass at some headquarters and the support personnel and foreign employees at others.

I cannot pretend that the streamlining I propose will be painless. But at least it can be accomplished without dickering with allies, without debates over cutting into combat capabilities, and with greater efficiency and leanness for our forces as dividends. A March 1970 article in Dun's Review, entitled "Deadwood in the Executive Suite," pointed out that the giant company, North American Rockwell, like other companies now seeking more efficiency and economy in their operations, recently eliminated an entire level of management. It said:

> As a result of a management study on the company's Aerospace and Systems Group, Dun's has learned, top management decided to cut out one complete reporting level for the seven divisions in the group. So the group president's office was eliminated, and the divisions now report directly to corporate headquarters. In the process, says a company spokesman, there was a major cutback "including a number of executives."

I have no doubt that the American Military Establishment in Europe can benefit from similar if less draconian measures.

During a recent conference I attended in West Germany, I was appalled to learn that within a single German electoral district there resided 37 American generals. Since that time, I have requested and received figures from the Pentagon listing the number of U.S. general-grade officers, enlisted men and civilians attached to important U.S. military headquarters in Europe. The totals are impressively large, classified of course, and tell only part of the story. For every headquarters has its support personnel—motor pool drivers, teachers, hospital personnel, maintenance personnel, translators, file clerks, and whatall who are not officially counted as part of the headquarters staff.

I cite one example. Ramstein Air Base in West Germany, headquarters for the U.S. 17th Air Force, has 18,000 military men—I repeat, 18,000 military—plus 31,000 wives and children, plus 1,200 civilian employees, 598 buildings—cost $52 million—and 1,600 vehicles, not counting private cars. The figures come from Arthur Veysey, an enterprising reporter for the Chicago Tribune, who wrote an illuminating series of articles on the U.S. Military Establishment in Europe in January 1970.

Ramstein, of course, may be unique in size and numbers. According to Veysey, it is also a tactical airbase for U.S. Phantom jet fighters, host to a NATO subcommand and 50 various support operations. But then again, unfortunately, it may not be unique. Several other U.S. commands back up, parallel, or overlap the numerous NATO commands, which also have their very ample share of U.S. personnel. Moreover, several U.S. commands are co-located with tactical air squadrons, which also appear to have a rather generous number of support personnel for the number of planes they fly.

ARE SO MANY SEPARATE HEADQUARTERS NEEDED?

There are at least 14 important headquarters for U.S. forces in Europe. Some of them undoubtedly approach the overload of military personnel who are stationed at Ramstein. They should be trimmed.

Mr. Speaker, to be specific, I suggest that streamlining in Europe can include at a minimum the following measures:

First. Cut the number of U.S. generals and admirals stationed in Europe by 10 percent. I cannot reveal the number stationed there now because the Pentagon has enjoined me from doing so, but it is enormous. Spending by U.S. personnel and their families is the largest single category of military expenditures abroad—making up 33 percent of the total. The more you earn, the more you have to spend—and generals earn a lot. Furthermore, since services for high-level officers tie up a certain number of enlisted personnel, bringing home these officers, or retiring them, should release a large number of these personnel for useful combat assignment.

THE STUTTGART COMPLEX

Second. Why not abolish the separate headquarters for U.S. Forces, Europe? The U.S. European Command, known as EUCOM, is located at Stuttgart with a vast staff, and a brand new command center that cost $13 million. Yet the commander in chief of U.S. Forces, Europe, Gen. Andrew Goodpaster, is located many miles away at Casteau, Belgium, which is the headquarters of NATO's Allied Command, Europe, and where General Goodpaster also wears the NATO hat of Supreme Allied Commander. Surely, the functions of EUCOM can be performed by a slightly augmented staff for General Goodpaster at Casteau, or by the separate Air Force, Army, and Navy commands in Europe, or by both. We could rent or sell the building at Stuttgart to the Germans, who need the space and have the cash.

Third. Combine headquarters, U.S. Air Force Europe—USAFE—now located at Wiesbaden, Germany, with headquarters U.S. 17th Air Force at Ramstein, Germany, or for that matter with headquarters U.S. 3d Air Force at Ruislip, England. What is good for the Army should be good for the Air Force. The Army accomplished an equivalent streamlining of its command structure when U.S. forces were ousted from France in 1966, and I applaud them for it. The headquarters of U.S. Army Europe, formerly located at Stuttgart, was combined with the headquarters of U.S. 7th Army, located at Heidelberg, Germany, with savings in personnel and costs and support elements. If the U.S. Army, with 190,000 men stationed in Europe can manage very well with one headquarters less, surely the U.S. Air Force with less than half that number in Europe—some 80,000—can manage even better minus a headquarters installation.

VARIOUS NAVAL HEADQUARTERS

Fourth. What is good for the Army and Air Force should also be good for the Navy and for our defnese budget and balance of payments too. The headquarters of U.S. Navy, Europe—USNAVEUR—is presently located in London, in a luxury apartment house across the street from the American Embassy, according to Veysey. Why not move it to Naples, where we have ample high-level naval personnel wearing NATO hats in NATO's Allied Forces Southern Europe command—AFSOUTH—who could well assume the responsibilities of USNAVEUR, or transfer these responsibilities to the admiral who commands the 6th Fleet in the Mediterranean?

At present, as reported by Roy Meachum in the December 7, 1969, Washington Star, we have one four-star admiral acting as NATO's commander in chief for AFSOUTH with a navy consisting of exactly one barge under his peacetime command, "a rather fancy motor boat used by the admiral for visiting ships that come calling in the beautiful Bay of Naples." We also have a

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three-star admiral in command of the U.S. 6th Fleet with its 50 ships and 200 planes. He reports to our four-star admiral in charge of London headquarters, not to our admiral in Naples, who takes charge only if war breaks out and we assign our fleet to NATO. Presumably our admiral in London reports to General Goodpaster in his capacity as chief of EUCOM, as well as to the Chief of Naval Operations in Washington. Our admiral in Naples also reports to General Goodpaster—in his capacity as NATO's Supreme Allied Commander. Is this any way to run a Navy?

USNAVEUR has to look after even fewer men than U.S. Air Force, Europe—some 25,000 manning the ships of the 6th Fleet, and those manning the Polaris subs which come into Holy Loch and Rota, Spain for maintenance. There is of course a healthy complement of lesser U.S. admirals in Europe backing up those I have mentioned. Surely, we do not need all these chiefs and all these headquarters in Europe for this modest number of Indians.

AN ITALIAN HEADQUARTERS

Fifth. Mr. Speaker, I suspect there is another headquarters in Europe that we could phase out completely, lock, stock and barrel, without causing a ripple. I refer to an Army headquarters known as Southern European Task Force, SETAF, stationed in Italy and blessed, I am sure, with an ample number of support personnel and dependents.

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The mission of this headquarters, according to the Department of Defense, is "to provide combat support to the NATO forces in Northern Italy." According to the 1966 Army Times "Guide to Army Posts":

> Getting orders to Italy is often considered a "dream assignment" by Army officers, EM, civilians and dependents.

According to the same source:

> SETAF plays host each year to thousands of vacationing U.S. servicemen and their families from France and Germany.

I am sure that SETAF is more than a serviceman's spa. But Italy is not on the central front in Western Europe, where a good argument can be made for providing substantial American "combat support." Italy is less exposed than Greece and Turkey, where we certainly have numerous military personnel but no equivalent headquarters. Let us put SETAF in cold storage at the Pentagon and airlift it to Europe when tension says we might need it.

TIME TO STREAMLINE

Mr. Speaker, the opportunities for streamlining that I have listed are only the most obvious ones. There may be other ways of carrying out these measures than the ones I have suggested. One way or another, however, I urge that these opportunities be seized. As other opportunities for savings come to my attention, and when I receive the status report on Redcoste which I have requested from Secretary Laird, I will report to my colleagues. In the meantime, for the information of my colleagues, I include at the conclusion of my remarks the series of recent articles on U.S. forces in Europe by Arthur Veysey of the Chicago Tribune, an article in the December 1969 issue of the Survey of Current Business on U.S. military expenditures abroad, a January 1969 article by Mr. William Beecher of the New York Times on cost reduction in Europe, and the text of my letter to Secretary Laird.

Mr. Speaker, the streamlining I recommend in our military establishment in Europe can be carried out promptly. It can lead to substantial budgetary and balance of payments savings. If our NATO allies should protest the measures proposed, let them be invited to assume the costs of maintaining the status quo. If these economizing measures lead to the release of foreign employees—all to the good. I know for a fact that the German economy needs every worker it can find. I also know for a fact that the American Government needs every budget dollar and balance of payments dollar it can find to put to work productively at home.

The material referred to follows:

[From the Chicago (Ill.) Tribune, Jan. 18, 1970]

DEBATE GROWS OVER AMERICAN ROLE IN EUROPE

(By Arthur Veysey)

(NOTE.—Arthur Veysey, chief of the Tribune's London bureau, has traveled more than two months thruout Europe to study first hand the United States role in the North Atlantic Treaty Organization. He has interviewed top-ranking American commanders and their staffs, and visited military bases and support facilities. In the first of eight articles on our role in NATO, Veysey discusses the views of top commanders and tells how the United States became involved in the defense of Europe.)

STUTTGART, GERMANY, January 17.—A big American military force remains in Europe 25 years after the end of World War II, and debate rages over the issue of whether many, if not all, of the servicemen should be brought home.

Almost daily, new voices join the demand that the United States reduce its military commitment and let the Europeans look to their own defenses. Sen. Mike Mansfield [D., Mont.] wants half of the troops returned home, and he may now have the backing of a majority of senators.

Today, the United States has in Europe 310,000 soldiers, airmen, and sailors, with their 240,000 wives and children. Add to this 10,000 European employes, acres of warehouses, fields of tanks, 22 air fields with 500 warplanes, a 3 billion dollar radar network, post exchanges, hospitals, schools, and deep shelters for a least 7,000 nuclear explosives.

More than two months ago, THE TRIBUNE began a study of American commitments in Europe, focusing on how troops are used and whether big cuts would be practical and wise.

Top commanders were interviewed. Military installations were visited. Meetings of the North Atlantic Treaty Organization were attended. Firsthand observations have ranged from joining a patrol along the Czech border to flying faster than sound over the Rhine river. TRIBUNE correspondents in Washington, Moscow, and Bonn contributed facts and views.

NIXON PLEDGES TO KEEP STRONG FORCE

President Nixon has declared:

"The American commitment to the North Atlantic Treaty Organization remains in force and will remain strong."

Melvin Laird, secretary of defense, told NATO defense ministers in Brussels this winter:

"The United States will make no reduction in combat troops in Europe as far as NATO is concerned."

At the same meeting, William Rogers, secretary of state, emphasized:

"A sound defense posture is indispensable as we move from the era of confrontation to the era of negotiation."

The carefully worded statements, rather than reassuring Europeans who fear the consequences of an American withdrawal, convinced NATO ministers that American cuts are coming, and they may be heavy.

American military commanders also are concerned. "Some people want the fruits of peace without the costs of peace," said Gen. Andrew Goodpaster, NATO's supreme commander, commander in chief of American forces in Europe and a native of Granite City, Ill.

TROOP LEVEL CALLED AT MINIMUM

Gen. James Polk, our European army commander, added:

"Our conventional forces are razor thin. Our level of troops is about the minimum. The soviet is speeding up and training hard."

The United States air force commander in Europe, Gen. Joseph Holzapple, a flyer from Peoria, Ill., said:

"The soviet proved in Hungary and Czechoslovakia it will move when doing so is in its interest. Our forces make a soviet move into a free part of Europe unattractive."

The American naval commander in Europe, Adm. Waldemar Wendt, son of a minister in Millstadt, Ill., said:

"If we withdraw our 6th fleet we would say to our allies, 'Let the Mediterranean become a soviet lake.'"

The United States commander in Berlin, Maj. Gen. Robert Fergusson, a native of Chicago, added:

"With 40,000 soviet troops within an hour of the city, a cut in our troops in Europe would cause real apprehension in Berlin."

In western European capitals, politicians, diplomats, political scientists, and editors tend to agree that a heavy reduction in American forces in Europe would be an event of major historical importance, outweighing in the long run decisions about Viet Nam.

Policymakers here suspect that American decisions about Europe may come as an aftermath of the Viet Nam war and be based more on emotions than on a cool assessment of the present situation in Europe and repercussions that might result from a basic change in the military balance between East and West in Europe.

ROGERS GIVES WARNING

Rogers warned the NATO ministers:

"American public opinion will increasingly demand troops be brought home from many parts of the world."

A German newspaper, Die Rhienpfalz, commented:

"The American public has grown tired of NATO."

The current American commitment in Europe stems from the end of World War II in 1945, when victory brought a euphoria.

Under its spell, the United States dismantled the most potent military force ever created. Within one year, we brought home from Europe all but 390,000 of our 3.1 million men. Canada brought home all of its 300,000 service men. Britain cut its forces from 1.3 million to fewer than 500,000. Western European nations freed from Nazi rule were impotent.

However, the Soviets were not content to restore the European map of 1939. During the war, they had taken over the Baltic states and moved their boundary westward thru parts of Finland, Poland, Romania, and the Balkans, adding, altogether, an area bigger than Italy with 23 million persons.

COMMUNISTS INSTALLED

By 1947, they had installed communist governments in the "liberated" nations of

Poland, Hungary, Romania, Bulgaria, Yugoslavia and ruled East Germany with a firm fist, thus bringing another 360,000 square miles and 95 million persons under Soviet control. Millions fled westward.

In France, Italy, and Belgium, battered by war and occupation, Communists rioted and connived. In Greece, they waged bloody civil war and held much of Athens. They were busy in distant, vital areas such as Iran with its oil, Malaya with its rubber.

Early in 1948, Jan Masaryk jumped or was thrown from his window in the foreign ministry at Prague, Czechoslovakia, which had advanced so fast in its few years of independence between the wars, fell to the Kremlin. On June 24, Josef Stalin blockaded West Berlin.

The situation was now clear. Stalin, while perhaps not seeking a new war, was certainly out to get all he could. No western European nation was strong enough to stand up to the soviets. Even together, they were a poor second. Only the United States, with its atomic bomb, could hold off the Kremlin.

"At that moment, we in the United States came to a conscious decision that our defense began right here at the iron curtain," recalls Gen. David A. Birchinal, deputy to Goodpaster.

So American troops came back to Europe. Twelve nations pledged themselves to fight all for one, one for all. Later Turkey, Greece, and West Germany joined the alliance.

ELLSWORTH TELLS VIEWS

"We must not forget," said Robert Ellsworth, the present ambassador to NATO, "that we came here for our own vital interest. We are still here for our own vital interest."

The commander of the United States 17th air force standing guard in Germany, Maj. Gen. Royal Baker, who has flown into combat more than 500 times in Germany, Korea, and Viet Nam, said:

"We are insurance for peace. But then, some people don't believe in insurance."

This insurance can be illustrated by the daily nonstop aerial marathons over western Europe.

ON CONSTANT ALERT

Three times every day of the year—at 1 a.m., 9 a.m., and 5 p.m.—a 707 jet liner packed with electronic gear roars along the 11,000-foot runway of the American air base at Mildenhall, England, 60 miles northeast of London.

Aboard is an army general, an air force general, or a navy admiral from the United States military headquarters for Europe outside Stuttgart. When high in the sky, the officer calls by radio to the plane which preceded him. He then flies in great loops over western Europe until, eight hours later, he is relieved by the next officer.

The officer has just one task: to be ready to take command instantly of all of United States military forces in Europe should a soviet missile suddenly, without warning, drop an H-bomb onto the new windowless 13 million dollar United States European command center in Stuttgart.

[From the Chicago (Ill.) Tribune, Jan. 19, 1970]

UNITED STATES IS READY FOR AN INSTANT EUROPEAN WAR

(By Arthur Veysey)

(NOTE.—What would happen if a military attack was launched against one of several western European nations? Poised to react instantly are land, sea, and air units of the North Atlantic Treaty Organization. In this second of eight articles on the United States' role in NATO, Arthur Veysey, chief of the Tribune's London bureau, tells of plans charted to react to any attack ranging from a border skirmish to all-out nuclear bombardment.)

STUTTGART, GERMANY, January 18.—The United States is ready to go to war in Europe this instant. It has been pledged to do so every minute of every day for 20 years should the soviets attack any of the North Atlantic treaty partners.

American and NATO war plans are drawn to meet any kind of strike against western Europe, Turkey, or Greece, as well as Iceland or Canada, be it an isolated border crossing by a small band, or an all-out world war.

American soldiers continuously patrol the most exposed fronts—isolated West Berlin where the Communists continue to strengthen their 50 million dollar wall with its 14,000 armed guards, and a 300 mile stretch of the iron curtain which separates the southern half of West German from East Germany and Czechoslovakia.

The patrols are thin—6,500 infantrymen in West Berlin, 6,000 cavalry men along the curtain. They constitute little more than a trip wire against the 40,000 soviet soldiers within an hour of Berlin and 300,000 more soviet troops elsewhere in the satellites, not to mention 600,000 men in satellite uniforms.

But the American patrols, in the words of America's and NATO's commander, Gen. Andrew Goodpaster, are backed up by rank upon rank of forces, American and NATO, drawn on according to the severity of the threat.

INSTANT WAR DEMANDS INSTANT REACTION

In the era of missiles and nuclear explosives, a nation deliberately starting a war could hope to win only thru an overpowering sneak attack.

The possibility of instant war demands instant reaction.

Thus the 13 million dollar command post here is always manned and backed up by alternates, some deep under the ground, one always airborne in a jet liner.

Thus vital officers at 22 air fields must always answer the telephone before its sixth ring. When parted from a phone line, if only for a minute's walk, they must carry a two-way radio tuned to the switchboard. The bases must be ready to get the first of their 500 combat planes into the air within five minutes.

Thus the 3 billion dollar radar screen, its stations perched atop mountains and hills with its 14,000 men, always probes the eastern skies, feeding information thru a variety of channels, into computers and then on to headquarters and mobile field command huts and the 12,000 men of the air defense command with their 80 batteries of missiles, big and small, and their new-style guns which spew 6,000 bullets per minute.

Every friendly plane, military or commercial, flying near the iron curtain emits a signal identifying itself. Whenever a strange golden blob shows up on radar screens, at least two jet fighters take off to learn its identity, while, down below, missiles are cocked.

Thus the Berlin and iron curtain patrols always carry a rifle, carbine, or machine gun, and are ordered, if shot at, to shoot back, stand fast, and call for help. Within 30 minutes, 50,000 American soldiers could be moving out of their camps in southern Germany and, within another 90 minutes, a further 35,000.

Thus, in the Mediterranean, the two aircraft carriers of the United States 6th fleet cruise at least 700 miles apart and one always is ready to fight. The fleet's 1,500 marines are ready to go ashore in amphibious craft and helicopters in less time than their transports need to reach land.

SUPPORT FROM THE UNITED STATES

If all this is not enough, the plans call for immediate help from the United States. Twenty-eight thousand infantry men, though living in the United States, are ready to be on their way to Europe within a day. Their tanks, cannon, armored cars, and thousands of other vehicles await them here. The air bases are ready to receive within three days at least 500 combat planes which would fly across the Atlantic, some of them refueling five or six times on the way.

The United States also expects instant help from its NATO partners who have put under Goodpaster's command 800,000 of their 2.2 million service men, with 5,000 tanks and 2,500 warplanes on 200 air fields. Former President Charles de Gaulle withdrew France's 500,000 men, 500 warplanes, and two fleets from NATO's command. NATO officers don't count on using the French forces, but they believe any Soviet attack serious enough to involve NATO also would involve France.

Current war plants, both American and NATO, limit all American and NATO forces to the immediate use of so-called conventional weapons. However, the United States admits having on hand in Europe more than 7,000 nuclear explosives.

BOMBERS AND MISSILES

A few years ago, the first Red foot on free European earth would have brought American H-bombs onto soviet cities. Today, the United States has 500 long range bombers and 1,000 missiles capable of reaching Russia, as well as 41 Polaris submarines—each with 16 missiles, but the soviets are credited with 1,100 missiles able to reach United States and 700 smaller ones and a thousand bombers able to spread havoc across western Europe.

Consequently, the United States and NATO have given up the policy called "massive retaliation" for one of "flexible response," which means that Goodpaster would use forces strong enough only to overcome the attack. Intelligence services report that the soviet's maneuvers the last two years also shunned nuclear weapons.

Consequently, tactics and equipment developed during World War II but scrapped during the era of instant nuclear war are being revived. Planes practice flying a few hundred feet off the ground and attacking such single targets, as bridges, factories, railroads, truck convoys, tank columns. Buildings painted white or cream color are being camouflaged and 342 concrete shelters are being built for combat planes at a cost of $128,000 each. Emergency repair crews with 40 men and 37 pieces of equipment are learning how to fill bomb craters in runways in a couple of hours.

COULD HANDLE ATTACK

The planners believe that American and NATO forces, as they exist today, are capable of halting any conceivable soviet attack, or at least slowing it until help could come.

But should the soviets break thru massively, plans call for nuclear weapons, altho only of battlefield size.

The basic tactic attempts to use the nuclear arms as a blocking weapon. NATO troops would set off a row of small atomic explosives in front of the advancing forces to create a radioactive belt thru which the invaders could pass only in sealed troop carriers. West German planners, would prefer the belt to be laid across soviet territory.

MORE MONEY, MEN

Being prepared for a war without nuclear weapons means more men, more equipment, more bases—all of which means more money. Yet the move away from nuclear war planning comes at a time when NATO members are cutting forces and budgets.

Britain's defense minister, Denis Healey, warned NATO ministers that large cuts would force NATO commanders to return to the policy of meeting any kind of soviet attack by immediately throwing at Moscow every nuclear explosive they hold, and if the United States holds off in an attempt to spare American cities, that Britain and France will have to launch their own missiles and bombs which, tho puny compared with those of the United States, would make quite a mess of Moscow.

[From the Chicago (Ill.) Tribune, Jan. 20, 1970]

General From Illinois Heads United States, NATO Forces in Europe

(By Arthur Veysey)

Casteau, Belgium, January 19.—A United States army engineer from Granite City, Ill., holds the power of life and death over more people than anyone else in western Europe.

He is Gen. Andrew Goodpaster, supreme commander of 1.1 million soldiers, sailors, and airmen from 14 nations, including 310,000 Americans.

HAS TWO HEADQUARTERS

He presides over two headquarters—the North Atlantic Treaty Organization command in the village of Casteau with a many-nationed staff of 3,500 in a 50 million dollar complex of buildings put up in five months three years ago, and the United States European Command, called Eucom, in a former army post outside Stuttgart, Germany. The staff there is small, about 700. Because of the distance between the two headquarters, Goodpaster's deputy, Gen. David Birchinal, runs the day to day affairs at Stuttgart.

Gen. Dwight D. Eisenhower, the first supreme commander, established NATO headquarters near Versailles, outside Paris, and the American headquarters for Europe soon moved from Frankfurt, Germany, to a one-time royal hunting forest not far from Versailles. President Charles de Gaulle ordered both of them out of France.

SERVICES HAVE OFFICES

The United States army, navy, and air force each has its own European headquarters, subordinate to Goodpaster. They are widely scattered, with army Gen. James Polk in a former German army post in Heidelberg, air force Gen. Joseph Holzapple in another prewar German army post in Wiesbaden, and navy Adm. Waldemar Wendt in a luxury apartment house in London across the street from the American embassy.

The army carries the main burden of America's participation in the joint defense of western Europe. It has 190,000 men in Europe. Another 28,000 soldiers, tho living in the United States, are pledged to fly over within a day if Goodpaster asks for them. The number of American soldiers in Europe has varied somewhat during 20 years, depending upon the fierceness of Russia's threats, but the figure has usually been in the low 200,000s.

FIVE ARMY DIVISIONS

The army's fighting force centers around five divisions, each with about 13,000 men and 3,300 vehicles. The soldiers live mostly in former German army camps, which are quite comfortable after 25 years of American use. Most married soldiers have their families here.

The soldiers go on maneuvers two or three times a year and to one of three training centers for about a month to fire their weapons. Missile crews go to the Greek island of Crete. Combat soldiers here are expected to be ready to fight at any time, so the army gives them more training here than in the United States. The extra training costs two million dollars a year for each division.

MOST ARE VOLUNTEERS

About three-fourths of the soldiers are three-year volunteers. Soldiers like European duty and few draftees get the chance to come. Each soldier costs the army at least $5,000 a year altho Gen. Polk denies that "young American soldiers have never had life so good as they do here." Most single soldiers save money, encouraged by 10 per cent interest on their special savings bonds.

Nineteen thousand soldiers reenlisted last year, most of them to stay longer in Europe. Sixty-five thousand have volunteered for Viet Nam duty, altho most did so in the early years of the war. Gen. Polk says the possibility of being sent to Viet Nam discourages some short-term soldiers from reenlisting. Career soldiers ask to go where the action is, the biggest source of promotion and awards.

U.S. AIRMEN

Gen. Holzapple's 80,000 airmen are divided into the 17th air force with headquarters at Ramstein, Germany, and about 250 combat planes and 50 transport planes at 6 German airfields; the 3d air force with headquarters at Ruislip, outside London, and about the same number of planes on 5 British bases; and the 15th air force with headquarters at Tarragona, Spain, and five bases in Spain, Italy, Turkey, and Libya, altho it is losing Wheelus field outside Tripoli. The young Arab captains and majors who seized command of the Libya government, told ailing, elderly King Idris not to come home, and ordered the Americans to pack up. Our 3,000 airmen there and their families are already leaving.

DE GAULLE ORDERS MOVE

All American air bases in Europe used Wheelus field for year-round fair weather training. Because some German fields are weatherbound about half the time for normal flying, the flyers will miss Wheelus. Gen. Holzapple says the air force will survive, but with extra effort and at higher cost.

De Gaulle, however, was most costly. He deprived the air force of nine bases. The air force moved some planes forward into Germany or backward into Britain, neither militarily ideal, and sent the others home.

The air force is taking over a German field abandoned by Canada. Present bases, together, occupy 93,000 acres of land valued at 1.6 billion dollars supplied without rent for our NATO partners.

Most of our airfields have about 3,000 men, altho Ramstein has 18,000 military men, 31,000 wives and children, 1,200 civilian employes, 598 buildings, and 1,600 vehicles, not counting private cars. However, Ramstein, besides being a Phantom jet fighter base, provides headquarters for the 17th air force and a NATO subcommand and 50 various support operations. We'll take a closer look at airfields later in this series to see why the air force has 3,000 airmen on a field with only 60 or so planes.

NO NAVY LAND BASES

Adm. Wendt boasts that his 50 ships with their 25,000 men and 200 planes need no European land bases. The 6th fleet ships are based in the United States and come to the Mediterranean area for periods of four to six months. Tankers and cargo ships deliver fuel and supplies at sea.

Of the navy's 41 Polaris missile submarines, nine operate from a tender anchored in Holy Loch in Scotland; nine from another tender at Rota, near Cadiz, Spain, and nine from the American east coast.

Each sub has two crews of about 140 men each. The men are based in the United States, fly here, take over a submarine during its month at Holy Loch or Rota being maintained and resupplied, then go to sea for two months. They fly home after the patrol. Being away from home for three months twice a year causes considerable family problems and, altho enlisted submariners may earn up to $13,000 a year, living conditions are excellent and the duty challenging, the navy is short of Polaris men.

Two special combat forces deserve mention—the 32d air defense command and the 601 tactical control wing.

The air defense men are descendants of an anti-aircraft unit that, by shooting down 240 Japanese planes in New Guinea and the Philippines, earned Gen. Douglas MacArthur's comment: "This is superior shooting."

When planes started flying higher than guns could reach, anti-aircraft outfits were scrapped. Now missiles can go higher and faster, thus planes fly low and ack-ack fire is back.

Today's ack-ack men start shooting with the Hercules, a two-stage solid fuel missile 39 feet long and radar guided, that can reach out 175 miles and catch a plane flying three times as fast as sound. Big trailers carry the "Herk." It can carry an atomic warhead.

Next comes the Hawk, 16 feet long and radar guided, reaching out 20 miles for planes flying at altitudes of 100 to 4,500 feet.

Next comes the Chapparel, borrowed from the navy.

All of these missiles can be fired without the crew ever seeing the plane.

For close work, the army has a new small missile fired by a soldier from his shoulder and a modern version of the old Gatling machine gun with revolving barrels.

TEAMS AID SOLDIERS

The men of the air control wing are the link between the flyer and the soldier. Two-man teams, each with a Jeep, live with infantry outfits. If the soldiers need help from the air force, the teams, called forward air controllers, or FACs for short, identify the target, call for appropriate planes, guide them to the target, and report damage done. In the old days, artillery spotters on a hill, or in a balloon or plane did the same job for artillery. "FACs" proved their value in Viet Nam, often operating from small, slow planes or helicopters.

Visits to army, navy, and air force units in Europe indicate that American service men are fairly happy, reasonably comfortable, and justly paid. Specialists are highly intelligent, expertly trained, and dedicated—real professionals.

[From the Chicago (Ill.) Tribune, Jan. 21, 1970]

Nothing Too Good for GI's in Europe

(By Arthur Veysey)

Kaiserslautern, Germany, January 20.—For as long as anyone knows, people moving east and west across the heart of Europe have come this way. The countryside is hilly and thickly covered with evergreen forests, but the going is easier than to the north or the south.

Soldiers sacked Kaiserslautern in the 30-Years war three centuries ago. Napoleon's armies came this way. In World War II, allied bombers destroyed more than half the buildings here and killed 518 persons.

Today Kaiserslautern and the wooded hills around it hold our biggest military supply center in Europe. Commanders would prefer to have the supplies further back, in France, for example, where they were until President de Gaulle told us to take them away. About half of the material was moved here. Some of it was sent to Burtonwood, near Liverpool, in England, where we have our biggest warehouses—equal to a building 1,000 feet long and 1,000 feet wide. Ammunition went to hideouts in Wales or to Viet Nam.

A BOOMING CITY

Kaiserslautern is a booming city of 190,000 persons and, despite a large car factory and sewing machine plant, the United States is its biggest employer—with 10,000 workers.

Warehouses hold 160,000 items, ranging from tiny rivets and transistors to bulldozers, nine hospital trains, enough bridging to provide 200 spans across the Rhine river, and enough snap-on pipe to run a fuel line 1,000 miles. The list value of the items in storage is 364 million dollars.

Six-thousand tons of material arrive monthly, mostly by truck from Bremerhaven. The warehouses, always open, dispatch 50,000 orders monthly.

A long workshop is used in rebuilding heavy equipment. Tanks, jeeps, trucks, torn

XUM

sleeping bags, and worn shoes go to other workshops. The armed forces save money by getting the work done here. Wages are lower and there are no Atlantic freight bills to pay.

Kaiserslautern, though the biggest supply center, is only one of six American depots and four major maintenance areas in Europe, where our forces have, altogether, 2 million tons of supplies worth 2 billion dollars. Commanders think they have enough to wage a war for three months. To keep stocks level, a cargo ship arrives from the United States every other day.

Most of the 310,000 American service men in Europe are stationed in Europe for two or three years. Almost all married men have their families here. The bases have apartments or houses for only half of the 240,000 service wives and children. The rest live "on the economy" and many complain of high rents and low temperatures.

HOUSING CHANGES HANDS

Military housing changes hands every eight months, on the average. Cleaning and redecorating cost 40 million dollars a year. Workshops repaired 123,000 pieces of furniture last year. Base laundries washed 68 million pieces of clothing, and base dry cleaners handled 1,445,000 apparel items. Post exchanges employ 16,000 persons and made 26 million dollars on sales of 406 million dollars. Commissary sales amount to 68 millions.

About 110,000 children attend military post schools, with staffs of 5,000 at a cost to the government of 79 million dollars a year, or about 700 dollars per child [about the same as in the United States]. Children at remote, smaller bases attend boarding schools.

The high school at Lakenheath, England, is fairly typical. The buildings are American-designed, bright, light, warm, well equipped, and overcrowded, with 920 boys and girls, including 380 boarders, in space designed for 450. The 41 teachers and 25 counselors are American citizens. They came here for one or two years. Texas and California supply the largest number. The students read American books, have American curriculums, play American games. Slightly more than half go on to college.

GROW UP FASTER

Military children supposedly grow up faster than others, and become accustomed to separation from their families earlier.

Fifty thousand service men are taking college subjects, either from 50 universities offering correspondence courses or in seven operating classrooms at various bases. Forty-thousand are learning foreign languages, although the Pentagon, in an economy move, is threatening to charge them $10 each if it thinks the language is not a military necessity. The military offers to help its 15,000 men who are almost illiterate, but few of the latter take advantage of the opportunity.

The armed forces boast that their medical service is as good as that in any American community. In Germany, the army has 15 hospitals with 500 doctors, four psychiatrists, and three psychologists useful for keeping an eye on persons who know military secrets, and 11,500 other staffers; a variety of field medical services; 65 dispensaries; 108 dental clinics.

A TYPICAL DAY

On a typical day, about 750 service men and 650 wives and children are hospital patients, and 32 babies are born. The army puts its medical bill in Germany alone at 23 million dollars a year.

An air force hospital at Lakenheath cares for the 25,000 American service men in England and their 25,000 wives and children. Its new building is quite magnificent. For its daily quota of from 80 to 100 patients, it has 35 doctors, 54 nurses, 270 other medical personnel. Every Monday a plane flies around Britain collecting people requiring treatment. The hospital operation costs a million dollars annually but its commanders say the cost would be double that back home.

OWN RADIO NETWORK

The army, navy, and air force believe that by keeping a man interested and active on his base, he will stay out of trouble. Bases have a variety of clubs with good food, cheap, tax-free drinks, and bingo and slot machines to help pay the costs. They have movie theaters, bowling alleys, shops, libraries, gymnasiums, baseball and football grounds with military league games on Saturdays, and often swimming pools.

The GIs have their own radio network and, in Germany, a television station showing American programs nightly between 8 p.m. and 1 a.m. American and German TV systems are different technically, so the Germans need converters to look in.

The military daily paper, Stars and Stripes, prints lots of news, sells for a nickel, carries no advertising, has built a new million dollar plant, and has a circulation of 145,000, the largest of any English language newspaper on the continent. American Express provides banking services and military postoffices accept letters for homes at regular American postal rates.

The crime rate is lower here than in the United States. Agreements with European governments authorize local police to arrest suspects for crimes off the bases, but the police turn most offenders over to the military. Drunken driving is the most common offense. At last count, 51 soldiers were in German jails. Military courts now have professional judges and lawyers. A portion of the World War II horror camp at Dachau is an American military prison.

SOURCES FOR ADVICE

For advice, soldiers can call on 188 lawyers, 200 chaplains, 350 Red Cross workers. To get away from their bases, families can obtain cheap vacations at 15 subsidized resort hotels, mostly in the Bavarian Alps. Berchtesgaden, where Hitler used to vacation, has a religious retreat.

The forces make available a much fuller life than many service men expect.

[From the Chicago (Ill.) Tribune, Jan. 22, 1970]

PLANES ARE FEW, BUT UNITED STATES MANS NATO BASES FOR WAR

(By Arthur Veysey)

ALCONBURY, England, January 21.—One day in 1938 English workmen cut a gap in a hedge separating two cow pastures. They put up a couple of huts and some tents and, lo, the royal air force had a flying field.

During the war, the American air force moved in, making some improvements. Jimmy Stewart and Clark Gable flew and manned guns in bombers.

The Americans went away after the war, but the Berlin blockade brought them back.

Today Alconbury is a base for Phantom reconnaissance planes. Not far away, another American base, Mindenhall, handles transport planes. They are fairly typical of our air force installations in Europe.

NINETY-PLANE NUCLEUS

About 60 Phantoms are based here, and there are about 30 Hercules transports at Mildenhall. Now, guess how many men the two bases have together. Two thousands? Four thousand? The answer is 6,000. Plus 6,000 wives and children. Plus 200 American civilian experts. Plus 1,500 British civilians to do the chores. And these numbers would be larger if the two bases did not depend upon another, Lakenheath, for a hospital and secondary schools.

Does the air force really need all these people to keep 90 planes flying?

Commanders quickly explain that our air bases in Europe are all designed for use in war and thus must be ready to handle many more planes than the few kept here in peace time. Basic services are about the same whether an air field is putting up 10 planes or 200. The control tower, communications systems, weather bureau, emergency services are all needed 'round the clock. Maintenance shops have equipment and supplies needed in the early days of a war.

At a peace time base, flyers are hard to find. A Phantom has a crew of only two, a Hercules transport four to seven. The Phantom flyers, usually lieutenants or captains, average 29 years in age, are college graduates, and have been flying for four to six years. Squadron commanders sometimes have as much as 7,000 hours of flying time.

VIETNAM BACKGROUND

Nine out of 10 have been in Viet Nam, and some can tell fierce tales. Col. Ralph Findlay, deputy commander of operations, was hit over North Viet Nam but managed to guide his burning plane out to sea. His canopy jammed and his suit was burned off by the time he got out. His navigator was plucked out of the sea with both legs shattered, but he is walking again now.

The Alconbury Phantoms, faster than sound, fly over enemy territory and radio back anything specially important they see.

But their main task is to take pictures. The planes carry a variety of magical cameras. One takes a picture from horizon to horizon. Another uses infra-red film which records differences in heat.

PICTURE OF THE PAST

On a black night, the infra-red camera not only picks out planes on a runway but can tell whether the engines have been used recently.

On a hot afternoon, flyers may come back with pictures of parked planes which the men didn't see because they weren't there. They had been moved, but their earlier shadows had cooled bits of concrete.

The cameras use film by the hundreds of feet. It must be developed quickly. So each Phantom photo base has a magnificent darkroom. It fills 26 trailers, linked together in an air-conditioned steel maze, self-sufficent except for water, and for that a pond or stream will do. Within six hours the whole thing can be ready to move either on wheels or hoisted into transport planes.

The purchase price of the spectacular, efficient darkroom? $2,600,000.

OTHERS TO INTERPRET

A photograph means different things to different people. So Alconobury has people trained to find in a photo all sorts of things of military importance, peering thru the enemy's efforts to hide and distort.

Their discoveries warn ground forces of enemy preparations and provide targets for the air force. And, after a raid, the Phantoms go back and take new pictures to assess damage. The planes are unarmed and rely on speed, maneuverability and, especially, the ability and courage of the pilot and navigator.

The Phantoms are slowed by a parachute on landing. So Alconbury must have its parachute shop. For each hour in the air, a Phantom needs 36 man-hours of maintenance. So Alconbury has 300 maintenance men who draw supplies from warehouses with 40,000 different items worth 20 million dollars. A computer keeps track of the stuff and cuts the warehouse staff by half, but, even so, 300 men are needed to fill 8,000 orders a day.

ONE NIGHT FROM UNITED STATES

If the warehouse lacks an urgent item, the computer orders it from the appropriate American warehouse and the daily trans-Atlantic cargo plane brings it overnight. The base uses 3 million gallons of fuel monthly. Most comes by pipeline from British refineries.

An air base's communications equipment

costs 28 million dollars and needs 190 men. Alconbury is tied into worldwide military networks, and indeed some of the chat from the moon comes thru here.

If the operator wanted to, he could open a line from a pilot flying over Turkey to his wife making a cake in her kitchen in Oak Park.

The generals and admirals who take turns flying around western Europe in a Mildenhall 707 have an open line to President Nixon, wherever he may be. Some operators handle secret messages and thus need approval of the Federal Bureau of Investigation, but electronic coders do most of the scrambling.

A 2-MONTH STINT

Mildenhall is the military passenger and cargo center for Britain. Eighty thousand persons, including President Nixon, passed thru last year, along with 14,000 tons of high priority cargo. The terminal has a staff of 190, plus 11 army men who serve as postal clerks, and 106 sailors for naval cargo planes.

The main business is carried out by 30 Hercules propjet transport planes which come here for two-month stints from their American bases, bringing along about 350 key men. The planes operate as far east as India and make deliveries to American embassies behind the iron curtain. For the Moscow run, the crews pick up a soviet navigator and radioman in Copenhagen.

The flyers like that run. It usually means three days of parties in Moscow.

SAFETY FOR EGGS

The planes join in military maneuvers, dropping paratroops and supplies. The packers boast that eggs they have packaged can be dropped without cracking a one.

The motor pool requires 179 men. Various offices, athletics, hobby shops, library, gym, theater, post exchange, commissary, a new steam bath, various clubs, the bowling alley, and the dental shop occupy about 350.

[From the Chicago (Ill.) Tribune, Jan. 23, 1970]

Officials Call NATO a Success

(By Arthur Veysey)

Casteau, Belgium, January 22.—"There is no doubt in my mind that NATO has been a howling success," said the United States Army commander in chief for Europe, Gen. James Polk.

Gen. Andrew Goodpaster, supreme commander of the North Atlantic Treaty Organization, asserts that NATO has fulfilled its major objectives:

Europe has had 25 years of peace.

Western Europe has regained its confidence, recovered from war and occupation, and become more prosperous, more productive than ever.

NATIONS WORK TOGETHER

Free European nations are working together, altho shunning political union. Military cooperation makes the joint strength greater than the sum of the separate forces.

West Germany has become sovereign and an active member of the alliance.

"The real trouble with NATO is that NATO has been too successful," members of Goodpaster's 3,500 multi-nation staff say. "We've kept things quite for so long that people no longer are scared of the soviets. People say they don't need us any more."

NO FEAR SEEN

In 15 NATO nations, by any statistical comparison, need not fear being overrun by Russia and its satellites. NATO nations have 518 million persons to the Communists' 336 millions. They have 120 million men of military age against 64 million. They are much richer, with an estimated income of 1,400 billion dollars, against the Communist's 536 billion. NATO controls two-thirds of the world's wealth and does two-thirds of the world's trade in three-fourths of the world's ships.

NATO members, believing a good offense is the best defense, have doubled and redoubled their military budgets. In recent years, spending has shrunk but NATO military budgets this year exceed 100 billion dollars, more than double the soviet and satellite total. However, about 25 billions should be charged to Viet Nam.

NATO efforts to pool manufacture of arms continually clash with national business interests but occasionally do succeed. National projects can give added value to the alliance if they fit into an over-all plan. The best example is about 200 air fields, each nationally run but suitable for joint operation. Radar, communications, and pipe lines are interlinked. A NATO flotilla of four or five destroyers and frigates carries little punch but works out procedures which could be applied in war.

FAIR SHARE DOUBTED

Many Americans complain that Europeans aren't doing their fair share, devoting an average 5 percent of their national incomes to the military compared with America's 9 percent. But their budgets total 23 billion dollars where the soviet satellites contribute only 7 billion dollars to Warsaw pact costs, perhaps reflecting a soviet lack of trust.

NATO nations have 5.4 million soldiers, sailors, and airmen, a million more than the combined Communists. Because the United States has only 10 percent of its men in Europe, the Communists are slightly thicker on the ground, 1.3 million to the American's 1.1 million.

London's institute of strategic studies estimates that the communist forces have 17,000 tanks to NATO's 7,000 in Europe and 1,500 combat planes to NATO's 3,000. However, that comparison omits America's forces in the United States and America's mighty industry. The United States has given away 26,639 tanks, 8,502 warplanes, 8,598 cargo planes and helicopters, 354,992 trucks and Jeeps, 58,136 cannon, 29,357 missiles, and 3.3 million rifles, carbines, and machine guns. Much of this came to Europe as part of a 17 billion dollar military aid program. The United States also gave its partners 16 billion dollars in cash and civilian goods and services.

WEAKNESSES NOTED

NATO has two weaknesses. First, the members are widely scattered and form, in effect, a series of islands.

Geographically, France is the hub of NATO but former President Charles de Gaulle created a hole there, closing nine American air fields and 24 depots, and forcing headquarters to move to Belgium, Holland, and Germany.

High French military men and many influential citizens want France back in the NATO military command, knowing France lacks the equipment and men necessary to fight on its own.

POLITICAL WEAKNESS TOLD

The second NATO weakness is political.

Factions, as so often in the past, are rending the democratic nations internally and pulling them one from another. Greece is of increasing importance to NATO as the Russian fleet moves into the Mediterranean, but NATO members are threatening to oust Greece from the alliance because of its military regime.

In 1945, the United States, and western European nations which were to become its partners in NATO, controlled much of the world. The navies ruled the seas, unchallenged. The United States ended the war with 500 foreign bases. Today, America has fewer than 100. The British, French, Dutch, and Belgian empires are gone and much of the former colonial territory is closed to NATO.

Instead of a wide choice of east-west routes across southern Europe, Africa, and the middle east, we today have just one—thru Turkey and Iran.

OPINION SHIFT COSTLY

Perhaps most costly to NATO has been the shift in public opinion in western Europe concerning the Soviet Union and the United States.

Advocates of the soviets are getting a better hearing for their contention that Russia does not intend to move into western Europe and never did.

They claim that the United States, by trying to ring the Soviet Union alliances, forced it to maintain its defenses. They point out that Russia has not fought any war since 1945 while the United States had one war in Korea and now is fighting in Viet Nam.

HELP SEEN AS UNLIKELY

Quite a few Europeans, both friends and foes of the United States, believe that ever since the Soviet Union developed its hydrogen bombs and long range missiles, the United States would be unlikely to rush to Europe's defense.

Britain's Harold Macmillan, a firm friend of the United States, believed this strongly enough to begin construction of five Polaris submarines—with American help—to replace British made bombers carrying British-made atom bombs.

Similarly, de Gaulle built 35 Mirage bombers and atom bombs at an estimated cost of 9 billion dollars. Pompidou is spending another 5 billions to give France 18 land missiles and three Polaris submarines.

ARMS RIGHTS LIMITED

NATO's front line runs thru West Germany but West Germany's military rights are limited sharply by post-war treaties.

By imposing an 18 month draft, Germany has 460,000 men in uniform but 11,900 young Germans refused to be drafted last year as conscientious objectors. The army lacks 2,500 officers and 31,000 noncommissioned officers.

The prospect of American military cuts in Europe pushes Germans toward rearmament, a word that has scared generations of Europeans.

[From the Chicago (Ill.) Tribune, Jan. 24, 1970]

NATO Burden on United States a Cost Analysts' Maze

(By Arthur Veysey)

Stuttgart, Germany, January 23.—The joint defense of Europe, now in its 21st year, is the most costly enterprise ever undertaken by any group of nations.

In the first 20 years, the members of the North Atlantic alliance, first 12, then 15, now 14, spent 1 trillion 165 billion dollars on their military forces. Not all, of course, can be charged to operations in Europe. The United States, for instance, with military budgets totaling 847 billion, has in the meantime fought wars in Korea and Viet Nam.

A FASCINATING PUZZLE

Military spending produces two kinds of costs. Every dollar spent must come from American taxpayers, and certain foreign spending drains gold or foreign currency from the American treasury, adding to our balance of payments problem.

Trying to assess each kind of spending is a fascinating financial puzzle. Figures for the cost to American taxpayers of keeping 310,000 men in Europe vary from less than 2 billion dollars a year to more than 25 billion, depending upon who provides the figures and what he is trying to prove.

WAGES ARE LOWER

The lowest figure comes from American military finance officers in Europe, who want to emphasize economy. These officers cite the current budget for forces in Germany, totaling 1,262 million dollars and made up of 702 million for military pay, 62 million for

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pay to American civilians, and 216 million for pay to German civilians, 31 million for transportation and similar costs, 79 million for supplies bought in Germany, and 172 million for electricity, water, and other German services.

The United States has more than two-thirds of its European forces in Germany. If one assumes a similar level of costs for forces outside Germany, the total European figure would be under 2 billion dollars a year.

These finance officers add that, by keeping 310,000 troops in Europe, the military saves the taxpayers money because wages of civilian employes are lower here than at home, because the European government provides real estate worth at least 3 billion dollars with a rental value of more than 150 million dollars a year, and because the Germany government pays 95 per cent of all military bills in Berlin.

Looking on the drain on gold, the officers say that about 375 million of the 1,262 million finds its way back home in savings, remittances to families or purchases of American goods and services. Also, the German government has agreed to offset 1,520 million dollars of American spending this year and next.

EXCHANGE RATE HURTS

Consequently, the officers conclude, the forces are costing the American treasury only 127 million dollars a year in gold and marks, a pittance.

On the dark side, Defense Secretary Melvin Laird says the higher value of German marks will add 100 million dollars to American costs this year. And finance officers say rising German wages and prices will add another 50 million.

Another military accounting puts the European figure for the army alone of 1.8 billion dollars and lists, among major items, 1.1 billion dollars for military pay. 63 million for education, and 23 million for medical services.

ZERO DRAIN CLAIMED

A department of defense accounting for 1967 gave the total for all forces in Europe as 2.6 billion and said that of this 1.5 billion was spent in Europe. The department claimed that all of the 1.5 billion was recovered by the treasury, 1 billion thru German arms purchases in the United States and 500 million thru German investment in treasury certificates. Thus, the department said, the forces cost nothing in foreign money or gold.

German offset deserves a closer look. Under the latest agreement to offset 1 billion 520 million dollars over the next two years, the German government proposes buying American military equipment costing 800 million dollars and American civilian goods and services costing 125 million dollars. But Germany presumably would buy these goods and services in any case. The purchases do not reduce the cost of keeping our forces in Germany.

For the rest of the offset, Germany proposes using 150 million dollars to help Germans invest in American enterprises and property. The German treasury will end the American treasury 250 million dollars worth of marks for 10 years, will extend the term of existing German loans to the United States amounting to 113 million, will delay collecting 33 million dollars interest earned on German loans to the United States, and will make early repayment of 44 million dollars in American loans to Germany.

GERMANS DRAW THE LINE

These measures have aspects of financial sleight of hand, distorting the real cost in foreign currencies and gold. In using them, the United States is behaving like an overstretched householder who borrows in order to pay current debts. He delays the day of reckoning but, by adding interest charges, increases the sum he pledges himself eventually to pay.

The United States treasury is currently trying to revise the offset agreement to include the 100 million in added costs brought about by Germany's upward revaluation of its mark. But negotiators are running up against solid German opposition. German financial officiers say that, altho Germany has had trade surpluses in recent years, the higher mark is hurting sales abroad and Germany cannot afford to alter the arrangement.

BIG MISSING ITEM

Some Americans believe the time has come for Germany to assume more of the cost of maintaining the joint defense of western Europe. They propose that Germany take over such tasks as operating the radar screen and anti-aircraft weapons, the workshops, warehouses and docks used by the American forces. American military commanders say Germans are fully capable of doing these jobs well, altho the commanders, like all military men, would regret seeing any vital service pass from their direct control.

None of this accounting so far takes into consideration the very high cost of supplies and services provided from the United States. For this, no military estimate is available.

Price tags are high: one Phantom, 2.5 million dollars; training one pilot, $170,000; a muffler for testing engines, $30,000; equipment for one army division, 236 million dollars; one Polaris submarine, 100 million dollars; 596 buildings at Ramstein air base, 52 million dollars; equipment for one bridging platoon of 23 men, 7 million dollars; shelter for on plane, $128,000; Falcons to drive birds from a Spanish air field, $22,000 a year.

TEN PERCENT OF BUDGET

The 310,000 men in Europe constitute about one-tenth of the United States' military forces and thus could be said to account for one-tenth of the normal military budget. Allowing about 25 billion dollars for Viet Nam, our normal military budget is about 50 billion. One-tenth of 50 billion is 5 billion. This figure would be light, because forces here depend heavily on many services conducted entirely in the United States.

American forces here are part of the NATO command. Some accounts would include not only American spending on our own forces, but also the sums the United States spends on allied forces. The United States has given NATO partners 17 billion dollars in military aid and 16 billion in economic aid and has contributed about 2 billion dollars to joint NATO projects.

BALANCE OF THREATS

Because of the inability to trace cost items, one accounting procedure attempts to calculate the cost of keeping troops in Europe by considering reasons for military spending.

If one accepts the widely used generality that the Soviet Union was the biggest military threat to the United States until Viet-Nam came along—if the Russian threat, that is, were equal to all other threats put together—then half the normal military budget could be assigned to meeting that threat. Our normal budget, deducting Viet Nam costs, is 50 billion dollars. Half is 25 billion, and that, these accountants say, is the real cost of keeping troops in Europe.

A look at past American military budgets supports this figure.

REMAINS ON PLATEAU

Before NATO, the United States 1949 military budget was 13 billion dollars. American forces came back to Europe and by 1952 the budget had shot up to 49 billion. In those years the United States fought the Korean war, but even after that war ended the budget never dropped below 42 billion.

For more than a decade, until the Viet Nam buildup in 1965, American military effort was designed to contain the Soviet Union and its satellites. If half of the non-Korean, non-Viet Nam, United States budgets were charged to the defense of Europe, the 20-year total would be about 400 billion. In the 20 years, European military budgets approach $300 billion. The joint total is about $700 billion.

For $700 billion, three-fourths of all European NATO families could have a new $20,000 home. But NATO supporters say that without the military spending many of the families would not need a new home. They would be dead.

[From the Chicago (Ill.) Tribune, Jan. 25, 1970]

COMMANDERS OPPOSE PULLOUT BY NATO

(By Arthur Veysey)

LONDON, January 20.—Should the United States bring home many of its 310,000 men in Europe?

"No," our top military commanders here all answer. They, and other NATO supporters, give five reasons:

1. The remaining American forces would be unbalanced and unable to fight effectively, even to defend themselves. "A token force is an expendable force and that is not good enough nor fair to the troops," Gen. David Birchinal, deputy commander-in-chief for Europe, told The Tribune. The navy commander, Adm. Wardemar Wendt, said: "Without the American 6th fleet, the ability of European navies to fight would be sharply degraded."

CLAIMS U.S. OUT-PLANED

Our air force commander, Gen. Joseph Holzapple, said the United States is already out-planed by the soviets in Europe. The army commander, Gen. James Polk, said the army has already been deprived of new model tanks and helicopters. "Our soldiers deserve the best," he says.

2. American withdrawals would leave a military gap in Europe that Europeans are unlikely to fill. "If America drops the torch, there will be no one to grab it," comments a London periodical, Time and Tide. Former ambassador to NATO, Harland Cleveland, predicted to Congress on his retirement that American withdrawal would "trigger similar reductions by our allies." NATO meetings for two years have been concerned primarily with reductions.

The Russian invasion of Czechoslovakia in 1968 frightened some Europeans into demanding stronger NATO forces but the fear has worn off and, despite the continued stationing of 70,000 soviet troops in Czechoslovakia, NATO forces are withering.

SEES PRESSURE INCREASE

3. American cuts would probably increase European pressures for seeking agreements with the soviets, regardless of the cost. The last NATO council meeting, recognizing the widespread and growing public demand for easier relations with the soviets, agreed to seek negotiations aimed at a balanced reduction of forces on both sides of the iron curtain as the best hope of keeping the military balance even in Europe.

4. For 20 years the presence of American forces here and the American pledge to fight for any of its allies if attacked have restrained European nations from seeking to dominate the continent. American withdrawal would put western Europe up for grabs. The nation in the best position to reach for continental power is West Germany, already foremost economically, financially, and industrially, West Germany has, so far renounced seeking military and political power outside its borders and accepted a role secondary to that of the United States. But West Germany, alone of NATO allies, lost territory in the World War. It alone has a basic desire to change present borders by

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putting together the two halves and trying to recover territory lost to Poland in recompense for Polish territory seized by the soviets.

"West Germany is a considerable nation," says Gen. Holzapple. "Were Germany to change sides, that would make quite a difference in world affairs. Twice in my lifetime Germany has gone off the rails. The Germans have political savvy and, having been twice burned, are wary. But I don't say it's impossible for them to go off the rails again. There is much apprehension about Germany, especially in Britain and in the lowlands. I believe were we to make a big cut, the immediate shock wave would make Germans also quite panicky. I don't know where reactions would lead."

DECRY GERMAN CONTROL

Gen. Polk, former American commandant in Berlin, said: "People have long said they don't want a German finger on the nuclear trigger. To keep our vote on what happens in Europe, we must continue to keep our forces here."

5. American cuts would give the soviets a freer band at a time when the Kremlin masters have dropped former Premier Nikita Khrushchev's talk about "peaceful coexistence."

"Never again will the soviet allow anyone to speak to it from a position of strength," said President Nikolai Podgorny on the 52nd anniversary of the Bolshevik revolution.

Gen. R. G. Simonyan, writing in the Soviet Military Review, reported: "The Soviet Union's growing defense potential and its indomitable nuclear missile might have basically changed the balance of strategic forces between the United States and the Soviet Union."

CITES SOVIET MOVES

In the past year and a half, the soviets have moved their navy into the Mediterranean and "introduced" troops in Czechoslovakia, thus strengthening the communist forces east of the iron curtain.

Soviet Secretary Leonid Brezhnev bluntly pronounced the new soviet hard line in Europe. The troops will stay in Czechoslovakia, he declared, "because so long as imperialism exists, it will continue its attempts to interfere in the affairs of socialist countries."

The commander of the soviet's long-range missiles, Marshal Nikolai Krylov, wrote in Pravda that "world capitalism, headed by the United States, is preparing to plunge mankind into a rocket-nuclear war whose social, biological, psychological, and moral consequences will be far more disastrous than those of any previous war."

The soviets, besides reportedly now making more big missiles than the United States and developing warheads which will split and scatter over several targets, showed in its Czech invasion how massively it has developed its "conventional" forces in the last three years.

DOUBTS REDUCTION

Reporters of soviet policies believe the Soviet Union is unlikely to agree to any reduction in its reequipped troops because the soldiers, with their tanks, can be used also to control the growing restlessness and dissatisfaction within eastern Europe. All soviet cities have large garrisons. The satellite leaders, Walter Ulbricht, Wladyslaw Gomulka, and Janos Kadar, are old men. Their death or replacement could set off unrest. Their successors could need soviet troops.

The soviets, in presenting a pleasing face to the world, propose disbanding both the Warsaw and NATO alliances and holding a European conference to produce a "European security system."

WOULD LOSE LITTLE

At first, the soviets said the United States would not be included, it not being a European nation. Subsequently, it said the United States could be admitted as an observer. The goal is obvious: To make the soviets supreme in Europe by speeding up American withdrawal and by keeping Germany divided.

The soviets would lose little in scrapping the Warsaw pact, signed in 1955 by East Germany, Poland, Hungary, Romania, Bulgaria, Albania, and Czechoslovakia. For several years the pact had no meeting at all, taking all orders from Moscow. Satellite officers were included on its staff but when one, a Czech general named Vaclav Prchlik, complained publicly that satellite officers were given no responsibility, the soviets abolished his post and sent him back to Prague, where the Communist party expelled him. NATO Secretary General Manlio Brosio points out that the soviet have concluded a series of pacts with individual satellites which make the Warsaw pact superfluos.

The soviets continue to portray NATO as an aggressive military bloc dominated by the United States and "revenge-seeking circles in West Germany." It claims these two "coerce smaller nations into accepting NATO burdens against their own interests." It claims Norway and Turkey are "eager to escape from the NATO yoke" and calls Denmark "an unwilling junior partner."

"We see no indication that the soviet is going to jump us," says Gen. Polk, "but it keeps a firm hand behind the iron curtain. One can wonder why. The soviet could try blackmail, seizing something and challenging us to restore the old line."

Former British Prime Minister Sir Alec Douglas Home says: "Without American troops here and without America's nuclear weaponry, few nations would be free today."

UNITED STATES WEIGHING PLAN TO REDUCE NONCOMBAT TROOPS IN EUROPE

(By William Beecher)

WASHINGTON, January 25.—A little-known plan of the Johnson Administration to withdraw about 30,000 troops from Europe is expected to be reviewed by the Nixon Administration as part of a special study just ordered by the National Security Council.

The plan, involving mostly administrative and support troops rather than combat forces, was prepared in the final weeks of the Johnson Administration and was incorporated into the budget presented to Congress this month.

President Johnson's budget message offered only this glancing reference to the cut-back: "Actions contemplated in this budget will support our share of the efforts to improve the combat effectiveness of the NATO forces and, by streamlining overhead, will reduce the costs of maintaining U.S. forces in Europe."

Reliable sources say the program is designed to save almost $100-million a year in overseas expenditures and nearly twice that amount in budget costs.

About a third of the program involves consolidations of bases and other actions that do not affect American commitments to the North Atlantic Treaty Organization and thus could proceed without consultation with the allies, officials say.

The rest requires consultations, which, for the most part, have not yet started: These items are expected to be scrutinized carefully in the Security Council's two-month study of Alliance force levels and strategy.

Origins of the troop reduction plan go back almost a year, when the Department of Defense, worried about the increasingly adverse balance-of-payments problem, were seeking ways to substantially reduce costs of overseas garrisons.

SHUTTLE PLAN APPROVED

The Atlantic allies had recently approved a formula under which two-thirds of an American division would be withdrawn to the United States, but would leave its equipment in Germany and would return once a year for training exercises. Two brigades of the 24th Infantry Division flew back to West Germany this month for the first such exercise.

Pentagon officials considered applying this formula to a second American division, but quickly rejected the idea for fear it would bring a snowballing of troop reductions by other NATO Countries.

Instead, they hit upon the idea of studying the entire system of post exchanges, schools, headquarters establishments, supply depots and combat support facilities to see where consolidations and closing of bases could save money.

They produced a plan that would have reduced forces by 35,000 to 40,000 men and offered the prospect of annual savings of about $200-million in overseas expenditures and $400-million in the budget.

Such action, its proponents felt, would also show Congress the Administration was actively trying to pare down expenses in Europe and perhaps forestall Congressional demands for more drastic troop cuts.

There was considerable discussion within the Government, with the Joint Chiefs of Staff and some State Department officials insisting the program be scaled down so as not to include any basic combat elements.

Proponents described the program as "cutting the tail without hurting the dog."

Some changes were made, however, and the program was moving toward acceptance and implementation when the Soviet block invaded Czechoslovakia in August.

RELUCTANT AFTER INVASION

In the aftermath of that event, the Administration did not want to approach its Atlantic allies on the administrative reductions, primarily because they might have undercut the primary effort at the time to convince the allies they must bolster their forces in response to the Soviet Union's more threatening posture in Europe.

In the fall, when the United States was preparing to announce actions that would cost $77-million—including the advance of the 24th Division exercise by several months and an accelerated aircraft shelter building program—some officials also wanted to announce details of the proposed "streamlining" of noncombat forces and facilities.

But again, because of the fear that it might psychologically be the wrong time for such disclosure, details were withheld.

Knowledgeable officials say the consolidations that do not require consultation with allies are likely to proceed without delay.

An example would be to move American naval personnel in London to a large Navy complex in Naples. This would make room for Air Force personnel in England to take up the vacated offices and quarters, thus allowing the closing of commissaries, schools, quarters, medical facilities, and clubs for officers and noncommissioned officers at an air base in Britain.

But other parts of the plan are expected to be reviewed closely. One of these would offer to turn a number of air defense installations over to West Germany, allowing the United States to pull out the troops and supporting elements now assigned such duties.

[From Survey of Current Business, December 1969]

U.S. DEFENSE EXPENDITURES ABROAD

(By Cora E. Shepler and Leonard G. Campbell)

U.S. Government defense expenditures abroad for goods and services reached an annual rate of over $4.8 billion in the first half of 1969, the largest amount ever recorded for these transactions in our international balance of payments. For the past several years they have comprised a tenth of all U.S. purchases of goods and services from foreign countries, and have been exceeded only by private merchandise imports as a source of foreign dollar earnings. In recent years the large increases in defense expenditures abroad have been associated with the conflict in Southeast Asia.

Defense expenditures abroad averaged about $3 billion a year from 1960 through 1965, but increased sharply following the involvement in combat in Vietnam. Tables 1 and 2 show that outlays in 1966 were $800 million higher than in the prior years, and in 1967 rose by another $600 million to $4.4 billion. In 1968 expenditures rose by only $150 million to $4.5 billion. Expenditures in each of the first three quarters of 1969 have amounted to about $1.2 billion and are now expected to total between $4.8 billion and $4.9 billion for the whole year. The flattening out in the recent past is primarily due to completion of certain major construction projects in Southeast Asia.

In 1961 the U.S. Government undertook to increase Government and commercial sales of military equipment to friendly nations economically able to bear a larger portion of the defense effort. The objectives of this program include increasing the strength of our allies, standardizing military equipment, and establishing cooperative logistics arrangements. These sales also help to offset the adverse effect of the balance of payments resulting from U.S. military deployment abroad. Since 1961 U.S. Government cash receipts associated with military sales contracts, and commercial sales of military equipment taking place under government to government agreements, have averaged well over $1.2 billion annually. As can be seen in table 3, the total for the four-year period 1965–1968 was $5.4 billion when barter sales of agricultural products arranged to reduce military net foreign exchange costs are included.

BALANCE OF PAYMENTS IMPACT

Defense expenditures abroad represent only the foreign costs of U.S. defense programs. Total Department of Defense outlays are, of course, very much larger. For instance, outlays for Vietnam in fiscal year 1969 are estimated at about $28.8 billion, of which about $27.0 billion was spent in the United States. Many of the items used abroad by the military were produced domestically and thus were not balance of payments entries. The remainder of the $28.8 billion, about $1.8 billion or 6 percent of the total, was spent in various countries for foreign goods and services for the war effort, and represents the direct Department of Defense balance of payments costs of the hostilities in Vietnam.

Defense expenditures in the United States have adverse indirect effects on the balance of payments, which are not included in the figures mentioned in this article. The indirect effects arise from increased requirements for imported materials used in the domestic production of military equipment. They also arise from the combination of an increase in military and civilian demand on the productive capacity of U.S. industry, which contributes to the increase in domestic costs and prices, and diverts a rising share of the domestic demand to imported goods and services.

On the other hand, both direct and indirect expenditures abroad have contributed to increased dollar earnings by foreign countries and thus have enabled them to step up their purchases of U.S. products either directly or through third countries. Because most of these shipments take place through commercial channels and are not related to Government activities, they are not reflected in the data discussed in this article, and it would be difficult to estimate them. It is not likely, however, that the rise in foreign expenditures in the United States has fully compensated for the increase in U.S. expenditures abroad that resulted from the large expansion of military activities in recent years.

The defense expenditures shown in the tables accompanying this article (equivalent to line 16, table 1, in the quarterly U.S. balance of payments presentations) include outlays for foreign goods and services by the military agencies and similar defense transactions of the Atomic Energy Commission and the Coast Guard which meet the NATO definition of defense expenditures. In addition to the direct expenditures of these agencies for goods and services, the data include the foreign expenditures of U.S. contractors employed to construct and operate U.S. foreign installations and to furnish other services abroad. Also included are the personal expenditures of U.S. military and civilian personnel and their dependents abroad, together with the foreign purchases of the military exchanges and similar agencies which sell to personnel. Other disbursements include expenditures for NATO infrastructure, the offshore procurement of military equipment to be transferred as aid to foreign countries, contributions to international military headquarters expenses, and other outlays for administration of military assistance programs.

Outlays for material, supplies, and equipment for our own use have included uranium, petroleum, and other items imported by the Government into the United States, as well as goods bought abroad and used abroad for the support of our forces. The data shown here do not include foreign products purchased in the United States, or the foreign components of U.S. products purchased here.

Defense expenditures abroad include all purchases of goods and services from foreign governments, foreign contractors, or foreign subsidiaries or branches of U.S. firms unless contractual arrangements stipulate that a certain portion of amounts paid out to the contractors is to be expended for U.S. products and services to be used in fulfilling the contracts. In the latter case, the resulting U.S. exports are netted against military expenditures and excluded from commercial exports in the balance of payments accounts.

FOREIGN CURRENCIES AND BARTER

Expenditures by the defense agencies do not always provide new dollar earnings to foreign areas since some purchases are paid for in foreign currencies previously acquired by the U.S. Government as repayments on loans and other credits, as counterpart funds received under grant programs, and as proceeds from sales of goods and services. Of course, such use of foreign currencies does not imply equivalent balance of payments savings for the United States. During the years 1965–1968 use of these currencies by the Department of Defense has averaged about $170 million a year. All expenditures in foreign currencies acquired without concurrent payment abroad in dollars are included as part of the data shown in tables 1 and 2. Acquisitions of these currencies are included as receipts in table 3 when they are proceeds of military sales programs.

During the 1965–1968 period the defense agencies acquired an average of approximately $175 million a year of foreign goods and services under barter agreements whereby U.S. agricultural products were exchanged for foreign products. The dollar value of such foreign procurement is included as part of the data shown in various categories of expenditures in tables 1 and 2, and the barter sales of agricultural products are included in table 3.

PERSONNEL SPENDING INCREASES

Not surprisingly, higher expenditures abroad by personnel and their dependents account for a significant part of the rise in defense expenditures abroad in recent years. In addition to an overall increase in military strength abroad, recurring pay raises have made many more dollars available for foreign spending. At mid-1969, the U.S. military establishment abroad was comprised of about 1.2 million men stationed abroad or on board ships at sea, and approximately 400 thousand of their dependents were living in foreign countries.

After averaging about $810 million a year from 1960 through 1963, personnel outlays rose to over $950 million in 1964 and continued to expand rapidly to reach an annual rate of almost $1.6 billion in the first half of 1969, nearly twice the rate of the 1960–63 period. About two-fifths of the most recent totals shown for this category were purchases of foreign goods for resale and other expenditures of the military exchanges, officers' clubs, and similar activities operating with nonappropriated funds to serve personnel.

Personnel spending varies from country to country according to the number of troops and dependents stationed in each country and the attractiveness of the merchandise and services offered on the local market. Where combat duty is involved, there are other special factors. Personnel expenditures in Vietnam, for example, dropped off during the Tet Offensive last year because most of the combat troops were moved out of urban areas and early curfews were imposed in urban areas. Per capita outlays there are also lower because personnel are not authorized to bring their dependents into the area.

Where the local market does not adequately meet demand, military men and their families spend mostly in the commissaries, exchanges, and other facilities operating within the military economy. Some of this spending is for goods bought by the military exchanges in other foreign areas and significant earnings are thus recorded for some countries where relatively few U.S. personnel are stationed. Major earnings are also realized by various countries from sales to men visiting on leave or rest and recuperation and from outlays ashore of Navy personnel stationed aboard ship.

Programs to reduce the foreign exchange costs of personnel spending abroad necessarily have been voluntary in nature since some specific curbs on the per capita expenditures of military men could create a morale problem and could require legislative sanction. The number of military personnel and U.S. civilians in some oversea areas has been reduced, but pay and price increases have offset any significant savings. More U.S. goods have been made available in the military exchanges and certain limitations have been placed on sales of foreign goods.

An attractive savings program, made available to servicemen overseas on September 1, 1966, offers military personnel on active duty a 10 percent interest rate, compounded quarterly. Each man may deposit an amount equal to his entire pay and allowances up to a maximum of $10,000, subject to withdrawal overseas only in case of an emergency. Gross deposits, excluding interest, from the inception of the program through June 30, 1969, totaled nearly $620 million. These deposits, however, do not represent equivalent balance of payments gains since they may have replaced other forms of saving or remittances to the United States or may have been facilitated by transfers of money from the United States to personnel stationed overseas.

Treasury savings bond sales through payroll deductions have also helped to absorb GI funds, and disbursement procedures have been modified to make it easier for servicemen to leave a portion of their pay "on the books." U.S. personnel have also been urged to make greater use of American-controlled recreation facilities overseas. Handsome arrangements have been made for travel on U.S. carriers, and thousands of servicemen in Vietnam have taken advantage of rest and recuperation flights to Hawaii instead of traveling to Hong Kong, Thailand, Japan, or other foreign areas.

MANY CONSTRUCTION PROJECTS COMPLETE

Military expenditures abroad for construction began to decline in 1968 and dropped off

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gradually to a low of less than $100 million in 1963. The next 2 years showed small increases followed in 1966 by a substantial increase of about $200 million, occurring principally in Southeast Asia. Outlays in the following year were more than $380 million but declined to $275 million in 1968.

The balance of payments costs of major defense construction projects in Vietnam and Thailand were held down by employing U.S. prime contractors who made their large purchases of heavy equipment and construction material in the United States. Thus only two-fifths of the payments to these contractors represented expenditures for construction materials bought in various foreign countries and for the employment of foreign labor. The major construction programs undertaken in Vietnam and Thailand over the last several years are by and large completed and the major contracts under these programs have been superseded by similar but smaller contracts for operation and maintenance by U.S. contractors.

DEFENSE PROCUREMENT ABROAD

As a result of various measures instituted in the early 1960's to minimize defense procurement abroad, expenditures for foreign materials, supplies, and equipment had declined from nearly $670 million in 1962 to less than $530 million annually in 1964 and 1965. Thereafter, as a result of activities in Vietnam, these purchases began to increase sharply and by 1968 they passed $1.0 billion and accounted for over one-fifth of total defense expenditures abroad.

Purchases of petroleum products represented more than half of oversea defense expenditures for merchandise in 1968, amounting to about $520 million as compared with a yearly average of $265 million for the 5 years just prior to the expansion of the U.S. involvement in the Vietnam conflict. This sharp increase in the foreign cost of refined petroleum reflected not only the stepped-up requirements for the Seventh Fleet and for aircraft fuel in Southeast Asia, but also price increases resulting from the closing of the Suez Canal in June 1967.

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Reported expenditures abroad for subsistence to be supplied to troops or sold in commissaries were less than $90 million in 1968, including foods acquired under barter programs. Purchases from foreigners for cash have been held to a minimum in the last two years, in part, by employing improved modes of transportation to carry U.S. subsistence items overseas.

Another $200 million was spent abroad in 1968 for major equipment as compared with $75 million as recently as 1965. More than 80 percent of these expenditures were in Canada with most of the remainder in Germany and Japan. Expenditures for missiles, electronics, and aircraft engines and spare parts are included in the outlays reported for this category.

Expenditures abroad for the military assistance offshore-procurement programs accounted for only $16 million of defense expenditures abroad in 1968. This program, once a major factor in our defense spending, was originally established to develop the military productive capacity of our allies by buying military equipment abroad to be transferred as grant aid. After peaking at $640 million in 1955, such expenditures dropped off sharply through 1958, and since then have declined more gradually.

In 1961 the Department of Defense initiated a program to reduce expenditures abroad for materials and supplies by placing contracts in the United States when estimated U.S. costs, including transportation and handling, did not exceed the estimated foreign cost by more than 25 percent. This differential was raised to 50 percent in mid-1962 and remains in effect, together with other programs, to minimize the foreign exchange cost of procurement abroad.

SPENDING FOR SERVICES

Payments to foreigners, contractual services outlays, and other direct expenses for services totaled $1.6 billion in 1968 and comprised well over a third of defense expenditures abroad. Of this amount, nearly $900 million was paid out in Southeast Asia and $600 million was spent in Europe.

Although the employment of foreign citizens in Europe has declined, activities in Southeast Asia and higher wages and bonuses have increased the costs of employing foreigners in recent years. These expenses, which are incurred principally for the maintenance and operation of bases, amounted to about $400 million annually in the 6 years prior to 1966, and then increased to an annual rate of over $630 million in the first half of 1969.

Other expenditures include payments to foreign contractors and the foreign expenditures of U.S. contractors engaged in the day-to-day operation of our bases and providing communication, utilities, real property maintenance, and repair services. Although a reduction in the number and functions of oversea facilities has occurred in certain areas, expenditures have increased considerably, primarily as a result of Southeast Asia activities.

NATO INFRASTRUCTURE PAYMENTS

The infrastructure program is the major multilaterally-funded program by which NATO provides combat support facilities, including airfields, naval facilities, missile sites, pipelines, and land-based communication and radar warning systems. As a result of the relocation of the NATO headquarters and forces from France in the spring of 1967, it has also been necessary to construct new headquarters in Belgium and the Netherlands, to relocate the communications network, and to provide other new facilities.

The U.S. share of infrastructure costs under the current formula, is 25.8 percent on projects in which France participates and 29.7 percent when France does not participate. U.S. contractors are now eligible to bid on construction projects on equal terms with European contractors. The foreign exchange cost of our share of outlays is reduced, in part, by procurement from U.S. sources by U.S. contractors and, in some instances, by foreign contractors as well.

From the inception of U.S. participation in the program in 1951 to the end of June 1969, our total contribution to NATO infrastructure came to nearly $1.2 billion. The net impact of this program on the U.S. balance of payments cannot be measured, since procurement from U.S. sources is recorded as commercial exports and cannot be separately identified. However, activities under the program during the last several years probably have not contributed significantly to the U.S. deficit because, in some instances, special arrrangements have been established to insure that U.S. contributions are offset by orders to U.S. suppliers.

CONCENTRATION OF DEFENSE SPENDING

Even though U.S. military establishments are widely distributed throughout the world, our defense outlays are concentrated in a relatively small number of countries. In the recent past, 10 countries have accounted for about 80 percent of the total. Nearly one-fifth of the 1968 total was spent in Germany alone, where outlays reached nearly $900 million. Over one-fourth was spent in Japan and Vietnam together, where disbursements were close to $600 million in each country. Thailand, Korea, the Ryukyu Islands, the Philippines, and Taiwan, the other major support areas for the Vietnam conflict, together received almost $1.1 billion, another fourth of the total. However, data for Vietnam and Thailand are somewhat overstated since petroleum expenditures are normally charged to the location where title is transferred to the military agencies rather than to the location of the refinery. Canada with nearly $300 million and the United Kingdom with nearly $200 million were the other two major recipients.

Although it is difficult to establish a clear-cut distinction between outlays for hostilities in Southeast Asia and expenditures for other purposes, it is estimated that in 1968 about $1.7 billion, or more than a third of our gross expenditures were attributable to the Vietnam conflict. The greatest increase in military expenditures in the last several years has, of course, been in Vietnam and the support areas. However, the conflict there has clearly increased expenditures in other areas of the world, such as in certain of the oil-producing countries.

OUTLAYS IN WESTERN EUROPE

Defense expenditures in Western Europe have averaged $1.5 billion a year since 1960 and have not deviated by much more than $100 million a year. The rather substantial reduction since 1960 in the number of U.S. troops deployed in Europe has been largely offset by price and wage increases. The rapid decline in military expenditures in France, following the relocation of U.S. and other NATO forces from France in 1967, was accompanied by increased expenditures in Germany, Belgium, and elsewhere in Europe.

The Czechoslovakian crisis in August 1968, which led to an increase in troop deployment in Germany, also was partially responsible for increased expenditures in that country. In the past decade, Germany has earned more than any other country from U.S. military expenditures. In the first half of 1969, the annual rate of our military expenditures there reached almost $910 million, comprising nearly 60 percent of the Western European total.

U.S. defense expenditures in Germany probably did not contribute substantially to our balance of payments deficit from 1962 through 1967 because of our military offset agreements with that country. Under these arrangements Germany agreed to purchase military goods and services from the U.S. Government and from private U.S. suppliers at levels approximating our defense expenditures there. Final payments under these agreements was made in June 1967. Since then Germany has continued to purchase military equipment in the United States, but at greatly reduced levels. While Germany has also invested in medium-term non-convertible and non-negotiable U.S. Treasury securities, these securities will reach maturity in a few years and are a claim upon our real resources.

U.S. military expenditures in France before 1967 exceeded French purchases of military supplies and equipment from us. The peak in our defense outlays there was reached in 1955 at almost $600 million; our spending declined thereafter to somewhat over $200 million in 1966, the last full year before our military forces were removed. Expenditures in France are now running at an annual rate of less than $20 million.

Expenditures in the United Kingdom declined steadily from nearly $290 million in 1960 to less than $150 million in 1966. In the following year, the United States made an advance payment of $35 million to the United Kingdom for military equipment and the total for 1967 rose to $210 million. Expenditures have since averaged close to $200 million a year. Apart from purchases by military exchanges and direct personal expenditures by servicemen and their dependents, most outlays in the last 2 years have been for troop support and the operation and maintenance of our bases.

EXPENDITURES IN THE WESTERN HEMISPHERE

U.S. defense outlays in Canada reached a peak in 1958 of over $440 million, which included about $280 million spent by the Atomic Energy Commission for the procurement of uranium. Thereafter, uranium purchases declined and our overall expenditures trended downward until 1966. Beginning in 1966 they increased steadily to reach an annual rate of $310 million in the first half of 1969.

These outlays have been partially offset by Canadian purchases in the United States under the U.S.-Canadian defense production-sharing program. Under this program the value of contracts placed directly by the Department of Defense in Canada, as well as subcontracts placed there by U.S. contractors, is measured against the value of similar Canadian contracts placed in the United States. Thus the program was designed to provide that, in the long run, military exports to Canada would balance military imports from Canada for certain military procurement, repair, overhaul, and modification of military equipment. Basic raw materials, fuels and lubricants, construction, off-the-shelf general procurement, and certain services do not come under the provisions of this program.

Outlays for goods and services in the American Republics, although widely dispersed among countries, now consist primarily of expenditures in Panama related to Canal Zone operations and purchases of petroleum products in Venezuela. During 1965 and 1966 these transactions were augmented by relatively small expenditures in the Dominican Republic. Since 1966 expenditures have been in excess of $100 million annually.

Reported expenditures in other countries of the Western Hemisphere, a little more than $80 million in 1968, have been less in the last 5-year period than in the several years preceding our entry into the Vietnamese conflict. These expenditures are principally for procurement of petroleum products from the Netherlands Antilles and Trinidad. It should be noted, however, that data for these areas are somewhat understated since petroleum expenditures are normally charged to the location where title is transferred to the military agencies, e.g., Thailand and Vietnam, rather than to the location of the refinery.

URANIUM PURCHASES IN SOUTH AFRICA

The data shown in table 2 for Australia, New Zealand, and the Union of South Africa cover primarily expenditures of the Atomic Energy Commission in the Union of South Africa and, beginning in the fourth quarter of 1967, the personal expenditures of troops from Vietnam on rest and recuperation in Australia. Purchases of uranium from South Africa were concluded in first quarter of 1967 and the expenditures for this commodity in 1966 and 1967 were offset by barter sales of agricultural products.

SOUTHEAST ASIA AND REST OF THE WORLD

In the rest of the world, expenditures amounted to $800 to $900 million annually in the 5-year period before hostilities intensified in Vietnam. In 1965, the first year of stepped-up activity, they increased to almost 1.1 billion and in the following year rose to $1.8 billion. The increase in 1967 was less steep but still amounted to over $500 million, for a total of over $2.3 billion. Thereafter, expenditures climbed at a slower pace, and by the first half of 1969 they reached an annual rate of $2.7 billion.

U.S. military outlays in Japan have been second only to those in Germany since 1959, but in the prior decade Japan earned considerably more than Germany. Annual Japanese earnings reached a peak of about $750 million in calendar years 1952 and 1953, but then began to fall after the Korean armistice and continued to decline through 1964 when they amounted to only two-fifths of their largest annual total. Japanese earnings turned upward in 1965 with the increased U.S. activity in Vietnam and by the first half of 1969 were running at an annual rate of $640 million.

Almost half of the 1968 outlays in Japan consisted of expenditures by U.S. personnel or purchases by the military exchanges for resale to troops in Japan, Vietnam, Korea, and the other areas. Military exchange purchases amounted to $135 million in 1968, almost triple the 1965 figure. Direct personnel expenditures in Japan have also increased, primarily because of outlays by men based in Vietnam who are in Japan on furlough or on rest and recuperation. Also, most of the men in the Pacific Fleet sooner or later have an opportunity to make a port call in Japan, a favorite liberty port among camera and stereo enthusiasts, and spend heavily on these and other items.

As in many other countries in this area, expenditures in Korea varied little during the years 1960–65, but almost doubled in 1966 when procurement of goods and services for use in the war effort began to make its impact. In 1967 Korea earned nearly $240 million, almost twice the annual average earlier in the decade and about three times the highest annual amount earned during the Korean War. In 1968, following the Pueblo incident, our military position in Korea was strengthened and expenditures rose to over $300 million. By the first half of 1969 the annual rate had climbed to nearly $360 million.

The United States has built up in Thailand a network of air bases, deep-water ports, supporting highways, supply installations, and communication systems. Construction in Thailand was carried out by several U.S. civilian construction companies and Army engineers, using American equipment to a considerable extent. Many Thai laborers were employed, however, and construction materials were procured in Thailand and other support countries. Most American military supplies have been moved from seaport to airfield via Thailand's domestic transport network.

Gross expenditures in Thailand reached a peak of almost $320 million in 1968 and then began to decline with the completion of the major construction programs. The withdrawal of 6,000 Air Force and Army support and construction personnel in this fiscal year may reduce them even further. Operating and maintenance expenses, combined with the personal outlays of U.S. troops stationed in Thailand and of troops there on rest and recreation from the combat zone, represent most current defense expenditures providing dollar earnings to that country.

U.S. military expenditures in Vietnam were comparatively minor prior to the last half of 1965. About mid-1965, however, with the progressive increase in personnel and activity, expenditures began to rise rapidly and by 1968 amounted to over a half billion dollars, as compared with about $65 million in 1964. When the United States entered combat activities, it was hampered by a scarcity of logistical facilities. The two major ports at Da Nang and Saigon were grossly inadequate to meet new demands and the delivery of support equipment by sea necessitated the construction of deep-draft ports. Large construction projects were also begun on airfields and storage facilities.

The increased requirements for labor, both skilled and unskilled, brought about by these vast projects led to labor shortages and resulted in an agreement between the U.S. Government and the Government of Vietnam for employment by U.S. contractors of third-country nationals, with first priority going to troop-contributing countries and then to countries rendering economic assistance to Vietnam. Of the amounts paid out as wages to such third-country nationals, only the workers' piastre expenditures are included in the data shown for Vietnam. The balance is allocated principally to Korea, the Philippines, and Thailand where most of these wages are remitted.

Late in 1965 military payment certificates (MPC's) were introduced as a means of paying the U.S. forces in Vietnam. These MPC's are denominated in dollars and used instead of U.S. currency or dollar negotiable instruments as the official medium of exchange for transactions in military exchanges and other establishments of the Armed Forces. Military disbursing officers and banking facilities are authorized to exchange MPC's for piastres to be spent in the local economy but will not generally exchange MPC's for U.S dollar negotiable instruments unless personnel are leaving the country. Personnel are prohibited from using either U.S. currency or MPC's for purchases of Vietnamese goods and services and are required to purchase all piastres from official sources.

While the recent withdrawal of 60,000 troops from Vietnam will reduce personnel expenditures in Vietnam, the total oversea disbursements will not fall by a proportionate amount because some of these troops are moving to other foreign areas. Nevertheless, with the completion of major construction programs and the decline in troop levels in Southeast Asia as a whole, military expenditures in the area may decline in 1970.

U.S. ALLIES BUY AMERICAN PRODUCTS

Increased U.S. military sales in countries economically able to procure a portion of their defense requirements in the United States have helped to offset the deficit impact of U.S. military disbursements. These sales have also fostered cooperative logistics with our allies and have enabled them to obtain weapons systems from the United States for much less than it would have cost them—counting research, development and production—to manufacture comparable systems.

Many American products have been transferred under military sales contracts, including aircraft such as fighter-bombers, transport and training planes, multipurpose jets, and helicopters; destroyers and patrol boats; ammunition and missile systems; electronic and communication equipment; tanks, vehicles, and various parts and spares. As a result of these transfers U.S. Government cash receipts associated with military sales contracts and other programs have ranged from $0.9 billion to $1.1 billion a year during the last several years, as shown in table 3. In the first half of 1969 they were at an annual rate of $1.1 billion—nearly five times the amount of 1960. (Quarterly data are shown in line B.3, table 5, of the U.S. balance of payments presentations.)

Receipts from Germany accounted for nearly half of the aggregate $7.1 billion of such receipts during calendar years 1962 through 1968. Of the global total, about $6.5 billion represented cash received under foreign assistance legislation authorizing reimbursable military exports. The remainder, averaging nearly $90 million a year, represented primarily the dollars and foreign currencies acquired either through the sale of property excess to the needs of military installations abroad, or through sales of materials and services provided under various logistical support programs to the United Nations Emergency Forces and to the allied countries contributing military strength in Korea and Vietnam. Also included are sales both here and abroad of petroleum products and other goods and services furnished to foreign naval vessels and aircraft. Receipts of foreign currencies contributed to the United States by foreign countries under military assistance programs, which are used principally for the support of our military missions abroad, are also included as part of these various receipts.

Although $7.1 billion of cash was received by the Government in the last 7 years, approximately $6.4 billion of goods and services were actually transferred to foreign countries during the period. These transfers under the military sales program included exports from the United States, transfers from stocks overseas, sales over-the-counter abroad, and training and other services provided either here or abroad. Transfers of goods and services to Germany represented 35 percent of the total, to the United Kingdom 13 percent, and to the other countries of Western Europe 21 percent. Exports to Canada and the American Republics were 7 percent of the total, to Australia and New Zealand 9 percent, and the remaining 15 percent went to Japan and the rest of the world. Line 4, table 1, of the quarterly U.S. balance of payments presentations provides quarterly data for these military exports.

Barter sales of agricultural products arranged to finance purchases by the military agencies and the Atomic Energy Commission began in 1963 and by the end of June 1969 the cumulative value of payments to the Department of Agriculture by these agencies for shipments to foreign countries was almost $840 million. Under this program agricultural commodities are provided to a barter contractor as an intermediary in obtaining foreign goods and services to meet a portion of the oversea requirements of both military and nonmilitary agencies. The objectives of the barter program are achieved only to the extent that the exports under it are additional to agricultural sales that otherwise would be made abroad for payment in dollars. The Department of Agriculture has a screening procedure to maximize the probability of additionality in each approved barter transaction.

Table 3 also shows the available data for commercial sales of military items to NATO and to Germany, Italy, Japan, Iran, and Saudi Arabia under government-to-government agreements. These receipts for equipment procured directly by foreign countries from private U.S. sources have averaged about $200 million a year since 1961.

In recent years special U.S. Treasury medium-term securities have, on occasion, been sold to foreign governments when our military expenditures in their countries are significantly larger than their military purchases from us. These financial measures, which do not represent a long-term solution to the military deficit, are not included in table 3.

TABLE 1.—DEFENSE EXPENDITURES ABROAD FOR GOODS AND SERVICES, BY MAJOR CATEGORY[1]

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	January–June 1969
Total[2]	3,087	2,998	3,105	2,961	2,880	2,952	3,764	4,378	4,530	2,412
Department of Defense expenditures[3]	2,722	2,694	2,839	2,765	2,755	2,894	3,718	4,367	4,521	2,406
Expenditures by U.S. personnel and by military exchanges, clubs, etc.	806	772	829	843	954	1,050	1,256	1,391	1,502	791
U.S. military and civilian personnel and dependents	418	460	484	472	561	623	738	799	871	453
Military exchanges and other nonappropriated fund agencies	388	312	345	371	393	427	518	592	631	338
Construction	166	152	110	92	106	152	353	382	275	140
Equipment	56	59	79	84	88	75	145	197	199	112
Materials and supplies	551	579	589	510	427	453	592	721	805	444
Foreign citizens (direct and contract hire)	363	388	414	429	409	422	482	558	580	317
Other services and unallocated	466	490	522	536	570	589	754	993	1,052	553
NATO infrastructure	117	50	85	56	55	41	46	49	55	19
Military assistance program offshore procurement	148	147	143	151	89	57	40	30	16	7
Military assistance program services	49	57	68	64	57	55	50	46	37	23
Atomic Energy Commission defense expenditures	365	301	262	188	118	49	36	2		
Coast Guard expenditures	(4)	3	4	8	7	9	10	9	9	6

[1] For quarterly data see line 16, table 1, of the quarterly U.S. balance-of-payments presentations in the Survey of Current Business.

[2] This series differs from the series maintained by the Department of Defense which includes expenditures for retired pay, claims, grants of cash to foreign countries, and net changes in Department of Defense holdings of foreign currencies purchased with dollars. These transactions are included in other entries in the quarterly balance-of-payments presentation in the Survey of Current Business.

[3] Data by category differ from the series maintained by the Department of Defense in certain instances, e.g. (1) Department of Defense includes permanent change of station and per diem allowances in the category "Expenditures by U.S. personnel" beginning with the last half of 1967, whereas they are included here in the category "Other services and unallocated"; and (2) Department of Defense data do not include expenditures for equipment from operation and maintenance appropriations in the category "Equipment" beginning with 1965, whereas they are included here as "Equipment" through 1967, and "Materials and supplies" thereafter.

[4] Not shown separately.

Source: U.S. Department of Commerce, Office of Business Economics, from information made available by operating agencies.

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TABLE 2.—DEFENSE EXPENDITURES ABROAD FOR GOODS AND SERVICES, BY MAJOR COUNTRY

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969 January–June
Total	3,087	2,998	3,105	2,961	2,880	2,952	3,764	4,378	4,530	2,412
Western Europe	1,652	1,531	1,633	1,523	1,492	1,468	1,535	1,616	1,533	797
Belgium/Luxembourg	28	12	16	12	11	12	14	35	37	21
Denmark/Greenland	51	37	34	42	36	40	37	36	34	18
France	274	286	268	243	218	208	206	97	25	10
Germany	649	636	749	691	694	714	770	837	877	454
Greece	19	18	20	27	28	31	24	26	28	13
Iceland	14	14	12	10	11	13	17	24	18	7
Italy	116	97	114	93	102	102	106	102	103	65
Netherlands	37	28	34	31	40	41	43	49	41	19
Norway	17	14	15	14	24	24	28	38	32	7
Spain	64	54	52	49	45	45	50	48	42	21
Switzerland	9	6	5	8	10	11	10	12	10	6
Turkey	57	54	55	50	58	42	49	48	51	22
United Kingdom	287	225	197	184	173	154	146	210	172	106
Other and unallocated	30	50	62	69	38	31	35	54	63	28
Canada	387	357	326	296	258	177	205	232	285	155
Latin American Republics	59	57	76	79	86	89	91	102	105	55
Other Western Hemisphere	89	100	87	92	94	80	68	81	83	38
Bermuda	13	14	14	14	10	8	9	11	8	4
Netherlands Antilles	60	63	53	51	54	33	21	43	44	20
Trinidad and Tobago	12	20	17	21	24	32	29	19	22	10
Other and unallocated	4	3	3	6	6	7	9	8	9	4
Australia, New Zealand, and South Africa	75	98	103	105	103	57	59	29	33	21
Other countries	825	855	880	866	847	1,081	1,806	2,318	2,491	1,346
Bahrein	36	43	39	35	31	36	38	56	61	32
Japan	412	392	382	368	321	346	484	538	581	320
Korea	94	112	103	90	91	97	160	237	301	178
Morocco	26	21	18	16	7	4	5	6	5	3
Philippines	47	49	51	46	58	81	147	167	169	90
Ryukyu Islands	78	93	96	97	115	123	150	188	202	104
Saudi Arabia	42	45	44	43	37	36	51	53	91	45
Taiwan	25	23	22	20	21	21	60	70	76	42
Thailand	5	8	30	27	34	70	183	286	318	139
Vietnam	[1] 7	[1] 12	[1] 37	52	64	188	408	564	558	303
Other and unallocated	53	57	58	72	68	79	120	153	129	90

[1] Includes Cambodia and Laos.

Note: See table 1 for other notes.

Source: U.S. Department of Commerce, Office of Business Economics, from information made available by operating agencies.

TABLE 3.—U.S. GOVERNMENT RECEIPTS UNDER MILITARY SALES PROGRAMS, COMMERCIAL SALES UNDER GOVERNMENT-TO-GOVERNMENT AGREEMENTS, AND BARTER SALES ARRANGED TO FINANCE PURCHASES OF THE DEPARTMENT OF DEFENSE AND THE ATOMIC ENERGY COMMISSION

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969 January–June
Total [1]	323	549	1,392	1,243	1,216	1,326	1,280	1,421	1,383	778
U.S. Government cash receipts associated with military sales contracts [2] [3]	319	399	1,139	994	987	1,080	927	1,023	974	564
Barter sales of agricultural products arranged to finance purchases of:										
Department of Defense [4]				8	35	109	141	226	200	90
Atomic Energy Commission [4]	(5)	(5)	(5)	(5)	(5)		28	2		
Commercial sales under government-to-government agreements [4] [5] [6]	4	150	253	241	194	137	184	170	209	124

[1] Does not include certain Department of Defense and Export-Import Bank collections on credits financing commercial sales of military equipment and does not include interest collections on credits financing Department of Defense sales which are included in the series on U.S. defense receipts maintained by the Department of Defense. These transactions are included in other entries in the quarterly balance of payments presentations in the Survey of Current Business.

[2] For quarterly data see line B. 3, table 5, of the U.S. balance of payments presentations in the Survey of Current Business.

[3] U.S. Government cash receipts include principal repayments on credits financing military sales contracts and are net of refunds.

[4] Included as part of the data shown in line 3, table 1, of the quarterly U.S. balance-of-payments presentations in the Survey of Current Business.

[5] Not available.

[6] Includes available data for commercial sales of military equipment under government-to-government agreements.

Source: U.S. Department of Commerce, Office of Business Economics, from information made available by operating agencies.

MARCH 12, 1970.

Hon. MELVIN R. LAIRD,
Secretary, U.S. Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: I understand that the Department of Defense is now implementing a program known as REDCOSTE ("Reduction of Costs, Europe") which was first developed in the summer of 1968. According to testimony by Maj. Gen. George S. Boylan before the Department of Defense Subcommittee of the House Committee on Appropriations on April 22, 1969, Redcoste: "stems from a Department of Defense survey of forces and support elements in Europe, all three services—Army, Navy, Air—last summer. The defense team visited installations and looked at the relationship of the support overhead to the combat posture, and concluded that, in fact, savings could accrue in Europe through consolidations, eliminations, and changes." (Hearings, p. 753)

Earlier, former Defense Secretary Clark M. Clifford described the program as: "a number of measures designed to tighten up further our force structure in Europe so as to ease, to the extent feasible, our balance of payments and budgetary problems. What are involved here are consolidations and relocations of certain force elements and command and support activities within NATO; reductions in administrative personnel at major headquarters and in personnel support activities, such as communications, post exchanges, recreation facilities, etc.; and the elimination of overlapping and duplication generally." (Posture Statement, January 15, 1969, p. 71)

In your statement before the House Armed Services Committee on March 27, 1969, you announced that the Redcoste program for Fiscal Year 1970 was being cut back:

"The original fiscal year 1970 budget anticipated savings of about $160 million from this effort. We have reexamined the impact of the fiscal year 1970 Redcoste program and are convinced it is somewhat too ambitious in the time frame contemplated. The Army and Air Force in particular cannot implement the program on the schedule originally planned. Accordingly, we propose to restore $17 million of the $56 million deleted from the Army budget under Redcoste, and $19 million of the $88 million deleted from the Air Force budget." (Hearings, p. 1760)

In an article in the New York *Times* of January 26, 1969, William Beecher reported that the original Redcoste plan called for a force reduction of 35,000 to 40,000 men, with an annual saving of $200 million in overseas expenditures and $400 million in the budget.

With inflation at the highest level since the Korean War, and with a balance of payments deficit approaching $7 billion a year, I think it is imperative that the Redcoste program be fully implemented at the earliest possible date.

The testimony of Maj. General Boylan last April, a portion of which is cited above, indicates that there is opposition, at least within the Air Force, to full implementation of Redcoste.

Accordingly, I would appreciate receiving answers to the following questions:

1. What measures were recommended by the original Redcoste study prepared by the Office of the Secretary of Defense? What was the estimated budgetary and overseas expenditure saving for each measure recommended?

2. Which of these recommendations were implemented in Fiscal Year 1969?

3. Which of the recommendations were approved in the Fiscal Year 1970 budget as prepared by Defense Secretary Clark Clifford? As modified by you?

4. Which of the original Redcoste study recommendations remain unimplemented?

5. Which of the recommendations not yet implemented do you plan to implement in the future?

I would like to receive as much of this information as possible in unclassified form. If it is necessary to classify it, please give the reasons for classification.

If possible, I would like to have the answers to these questions by March 25.

Sincerely,

HENRY S. REUSS.

CONSTITUENTS FIGHTING MAD

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. O'HARA) is recognized for 15 minutes.

Mr. O'HARA. Mr. Speaker, my constituents are fighting mad about the high cost of living, and they have every right to be. This is particularly true for the scandalous rise in the price of beef the first year of this administration.

Mr. Speaker, I believe it is about time that this administration does something to aid the consumer besides talk and hand wringing. He could increase their buying power with the stroke of a pen, simply by eliminating the import quotas on beef. Experts have testified this could significantly reduce the price of processed beef.

Accordingly, I have written the President and advised him to take immediate action to eliminate these beef import quotas. Let us see if his actions match his words.

I request that my letter to the President be printed in the RECORD.

The letter follows:

MARCH 13, 1970.

DEAR MR. PRESIDENT: In recent months you have repeatedly emphasized the devastating effect inflation is having on millions of American families. Your verbal concern for the middle-class American is noteworthy, yet your actions have done very little to aid the consumer.

Your Administration voiced disapproval of the tax reform measures that increased the personal exemption, claiming that it gave too much tax relief to individuals. Yet you hardly rallied to the cause of those attempting to make the major oil companies pay a fair share of taxes.

You vetoed the HEW–Labor Appropriations Bill, which will undoubtedly place more pressure for support of schools upon the local taxpayer, yet you left it to Congress to take the major initiative in cutting Federal expenditures for defense.

Many of us in Congress feel strongly that the brunt of the war on inflation should be borne by those most able to afford it, not the poor and middle-class family on a fixed budget.

One superb example of this inequity is the scandalous rise in the price of beef during the first year of your Administration. The statistics are unquestionable, whether we refer to those provided by the Bureau of Labor Statistics, the Economic Research Council of the Department of Agriculture, or by Hendrik Houthakker, member of your own Council of Economic Advisors. In spite of the slight decline after the disastrous month of July in which the retail prices for the principal cuts of beef were 17 percent higher than a year earlier, the yearly figures show that retail prices were between 9 and 13 percent higher during 1969 than the year before.

Furthermore, figures released by the Department of Labor and Department of Agriculture indicate this trend is continuing in 1970. In fact, if the rise for January is indicative, 1970 will be worse than 1969.

Mr. President, the price of hamburger rose 7 cents a pound during the first year of your Administration.

In spite of the rising price of choice cuts of beef, the differential between hamburger and prime cuts is getting smaller. Houthakker reports that in October 1969 the retail price of hamburger had risen more than any other reported kind of beef.

These exorbitant prices for beef cut deeply into the American family budget. Surely, this is an area in which you can take direct action to ease the impact of inflation on the

American consumer. In fact, one obvious area of action lies with the beef import restrictions provided for in an Act of 1964. As you know, the major cause of spiralling beef prices is the lack of an adequate domestic supply. Hence, it is obvious that *any* increase in the beef imports would make *some* contribution to lowering prices.

Yet, once again your actions have worked against the consumer, the tax-paying citizen. The "voluntary restraints" negotiated by the Administration with most of the exporting countries, have effectively limited the amount of beef imported into this country. This limitation on the imported processed meat has kept hamburger short in supply and hence high in price.

The cattlemen of this country are quite pleased with your actions in this matter, but the American housewife might have quite another thing to say.

Mr. President, the law is quite clear with respect to your prerogative in this matter. Public Law 88–482 clearly states that "The President may suspend any proclamation . . . or increase the total quantity proclaimed . . . if he determines and proclaims that . . . the supply of articles of the kind described . . . will be inadequate to meet domestic demand at reasonable prices . . ."

Hence, Mr. President, under the law you are authorized to lower or eliminate import quotas on beef if you determine that the prices are too high because of inadequate domestic supply. Surely, neither you nor anyone in your Administration will deny that such is the case today.

The time has come for you to match the concern of your words with appropriate action. The price of beef is sky-high, and you have the power to bring it somewhere closer to earth. I call on you to immediately ease or eliminate the import quotas on beef so that we can once again afford to eat hamburger.

Very truly yours,

James G. O'Hara,
Member of Congress.

LEGISLATION TO ABOLISH THE DRAFT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. Farbstein) is recognized for 20 minutes.

Mr. FARBSTEIN. Mr. Speaker, I have today introduced for myself, Congressman Philip Crane, and 27 other Members of the House of Representatives a resolution to establish a volunteer army.

More than any other single item, the draft has become the symbol of the gap between the generations and the major source of friction in our society. This was demonstrated dramatically in the January Harris poll which found an overwhelming belief among those under 30 that the draft was wrong.

The draft is inherently inequitable since it imposes an undue burden of service on some, while leaving others totally free from any obligation. All too often, it is the poor that have had to bare the burden of this terrible inequity.

Partial reforms of the draft system does not appear to be the answer. The experience of the draft lottery enacted by the Congress last fall dramatically demonstrate this. The lottery was supposed to eliminate the uncertainty of the oldest first system. All that it has done is to replace that uncertainty with the uncertainty of whether your number will come up.

Left untouched by this reform has been the system of local draft broads able to make nonuniform decisions on who is eligible and who is not. These boards continue to enjoy arbitrary powers with regard to deciding the validity of the moral and religious reservations of draftees. It is these inequities which have led thousands of our young men to flee this country and become refugees in foreign lands.

It is way past the time that we got down to the business of putting through some real reforms in the Selective Service System, and got beyond superficial changes.

And the greatest inequity is the draft system itself.

The draft is a nonvolunteer period of servitude to begin with, and its method of operation, the current process of registration and classification, is a tremendous infringement upon the loves of all those who fall under its power.

The recent report of the President's Commission on an All-Volunteer Armed Force, chaired by former Secretary of Defense, Thomas Gates, has demonstrated not only the feasibility of an all-volunteer army, but its desirability to our society. The Commission has also dealt effectively with the specific concerns that bothered many about a volunteer army. It is to be noted that the majority of the Commission members began their work in opposition to the concept of a volunteer army. Through their extensive examination of this area, they unanimously endorsed the final report of the Commission which called for the establishment of a volunteer army by June 1971, with a standby draft that can be reinstated only upon joint resolution of Congress following a recommendation of the President.

The Commission found that an all volunteer army would cause only a small budget increase, and would actually be cheaper in real economic terms; could be achieved by July 1971 without affecting our ability to meet existing and anticipated troop level requirements; would be adequate to defend the Nation, and that a peacetime draft is not required to protect the Nation in case of a sudden attack; is not more isolated from society than the present mixed force; and would not vary greatly in ethnic, racial or economic makeup from the present system.

While the Gates Commission has demonstrated the feasibility of ending the draft, if this system which grinds up the young and the poor is to be eliminated, the Congress is going to have to provide the leadership and act now. Too many Presidential commission reports have been relegated to the scrap heap once the rhetoric of initial public reaction subsided. I hope this will not happen here.

The resolution I have introduced demonstrates the broad based support for a volunteer army within the House of Representatives. Among the 29 sponsors are Congressmen representing all shades of the political spectrum, including Members of both political parties and coming from almost every part of this country. The breadth of support for this resolution demonstrates the political feasibility of the establishment of a volunteer army.

The House Armed Services Committee will be considering the general area of the draft. I hope that the introduction of this resolution will serve to encourage the committee to consider the question of a volunteer army, and to act favorably on its establishment.

The resolution calls for an end to compulsory military service after July 1, 1971 and permits its reinstatement only upon request of the President and approval of both Houses of Congress.

The full text of the resolution and list of the sponsors follows:

H. Con. Res. 543

Concurrent resolution expressing the sense of Congress with respect to the establishment of all-volunteer Armed Forces

Whereas, the United States has relied throughout its history on a voluntary armed forces except during major wars and since 1948; and

Whereas, a voluntary armed force is a system for maintaining standing forces that minimizes government interference with the freedom of the individual to determine his own life in accord with his values; and

Whereas, an all-volunteer force will promote the efficiency of the armed forces, and enhance their dignity: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress, in accord with the conclusions of the President's Commission on an All-Volunteer Armed Force which recommend a workable framework for meeting military personnel requirements, that—

(1) compulsory military service should be abolished and a volunteer armed force established when the power to induct individuals under the Military Selective Service Act of 1967 expires after July 1, 1971; and

(2) compulsory military service should be reestablished only by Congress at the request of the President.

Sponsors of Resolution

Leonard Farbstein, Democrat, of New York.

Philip Crane, Republican, of Illinois.

Mark Andrews, Republican, of North Dakota.

George E. Brown, Jr., Democrat, of California.

Daniel E. Button, Republican, of New York.

Shirley Chisholm, Democrat, of New York.

Don H. Clausen, Republican, of California.

Don Edwards, Democrat, of California.

Barry M. Goldwater, Jr., Republican, of California.

Seymour Halpern, Republican, of New York.

Michael J. Harrington, Democrat, of Massachusetts.

James F. Hastings, Republican, of New York.

Ken Hechler, Democrat, of West Virginia.

Margaret M. Heckler, Republican, of Massachusetts.

Edward I. Koch, Democrat, of New York.

Allard K. Lowenstein, Democrat, of New York.

Robert McClory, Republican, of Illinois.

Spark M. Matsunaga, Democrat, of Hawaii.

Alvin E. O'Konski, Republican, of Wisconsin.

Richard L. Ottinger, Democrat, of New York.

Jerry L. Pettis, Republican, of California.

Thomas F. Railsback, Republican, of Illinois.

Fred B. Rooney, Democrat, of Pennsylvania.

Garner E. Shriver, Republican, of Kansas.

M. Gene Snyder, Republican, of Kentucky.

William A. Steiger, Republican, of Wisconsin.

Charles M. Teague, Republican, of California.

William B. Widnall, Republican, of New Jersey.

John M. Zwach, Republican, of Minnesota.

THE TIDE OF MILITARY SPENDING IS RECEDING AT LAST

(Mr. HALL asked and was given permission to extend his remarks at this point in the Record, and to include extraneous material.)

Mr. HALL. Mr. Speaker, though some narrowly partisan attempts have been made to descredit President Nixon by linking him with an alleged, or more properly misnamed "military-industrial complex," or by trying to blame him for the Vietnam war, the facts of this matter speak loudly for themselves.

The facts are, Mr. Speaker, that it has taken this Republican President to change the course our Nation had been following for the past several years: to begin bringing our troops home from Vietnam, to lay out the facts regarding our military commitments clearly before the American people, and to reverse the trend of what had been ever-increasing defense spending.

An editorial from the Kansas City Times recognizes the President's achievement in beginning this reversal, and discusses some of the difficulties he faced in doing so. Let us be sure we do not become second-vote defensively. I insert this editorial in the Record:

[From the Kansas City Times, Feb. 4, 1970]

The Tide of Military Spending Is Receding at Last

Defense spending is turning downward after five years of relentless rising because of Vietnam. That is the main import of the President's recommendations on what remains by far the biggest single slice of the national budget. The President proposes to spend 71.2 billion dollars or approximately 10 billion less than the Johnson administration projected one year ago as the cost of national security for fiscal 1971.

President Nixon regards this as an achievement for his administration. Much more will be said by the Republicans on that score before the congressional elections next November. The Democrats may also do some whacking away at the Pentagon requests approved by the White House, especially on new weapons systems being sought. One result could be a further reduction in defense spending to around the 70-billion-dollar level.

Even without that much trimming, however, Mr. Nixon calculates that his proposal represents 36.6 per cent of the total budget, a smaller percentage than in any year since 1950. But only a change in the budget's format that was introduced a few years ago makes such a claim possible. Under the old format the allocation for defense in all categories would still be close to half of the total.

The Nixon administration could have cut defense spending deeper if it had not determined to ask for part financing of certain weapons programs that were deferred during the time of much heavier outlays for Vietnam. These include development of a new Air Force bomber, some shipbuilding and extensive replacement of the first generation of Minuteman long-range missiles by a new model armed with multiple warheads.

The budget message held back full details on the President's decision to move ahead with both the first and second phases of the Safeguard antiballistic missile system (for which 1.49 billion dollars was recommended). Mr. Nixon's announcement on his Safeguard plans was surprising since he had said last year that an annual review of the ABM's effectiveness would precede any further action on the Safeguard program. No results of such a review have been made known. But Melvin R. Laird, secretary of defense, is scheduled to reveal details of an ABM expansion in less than a month. The administration's rationale on this particularly controversial weapons project may then become clear.

It is probably not as generally understood as it should be that the pay and upkeep of servicemen account for well over one-third of all military costs. Military "hardware" is a lesser item. Thus the big cut ahead will be made possible through slashing uniformed strength from its level of 3.45 million last summer to 2,908,127 by June 30, 1971.

The President and Secretary Laird are believed to be aiming for a level of 2.5 million—or less—by the next presidential election in 1972. New emergencies could alter these plans. But continuing withdrawals from Vietnam seem virtually certain regardless of how well the Vietnamization program goes.

President Nixon is obviously satisfied with the manner in which he has gone about reversing the trend of military spending. His more partisan critics will contend that he should do even better. But there is a new point of view on how much is required to defend the United States—and a truly impressive start on cutting back the cost of it is in sight.

INFLATION

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record, and to include extraneous material.)

Mr. DEVINE. Mr. Speaker, the problems facing our Nation, both foreign and domestic, are complex and varied. But an underlying problem, which affects all the others, is that of inflation.

A perceptive editorial from the Kansas City Star discusses the President's attempts to control this inflation, by presenting a sound, balanced budget, and the important responsibility of the Congress to maintain that balance as they deliberate on the final budget. I insert this editorial in the Record:

[From the Kansas City Star, Feb. 3, 1970]

Congress and the Crucial Matter of Keeping the Budget Balanced

By instinct Richard M. Nixon is a President who would propose a balanced budget—if the state of the world and nation, the conditions of the economy and the needs of the day permit it. But more than instinct was involved in preparation of the budget that went to Congress yesterday, it was a labor of necessity, an absolute imperative in the context of inflation. A deficit budget proposed by the administration at this time would have been the beginning of disaster.

So the tentative budget for the fiscal year beginning July 1 is balanced, shakily and at the record level of 200.8 billion dollars in spending. While Congress can and will debate the matter, and no doubt will cut here and add there (as it should), a budget unbalanced by legislative action would also court trouble. This nation simply cannot afford a continuation of the pattern of inflation.

In effect, that was what the administration was saying in both the economic report and in the budget itself. The priority is slow inflation. Let's not kid ourselves: A balanced budget (or a small surplus) by itself is not going to do that. A large surplus might, rather quickly. But that is not possible. So Mr. Nixon is left with only a part cure, which is his small surplus. Its chief effect at this point has to be in the psychological impact. The mere submission of such a budget is a blow on behalf of the dollar.

Submission of the budget, of course, was really only step No. 1. Overwhelmed as everyone must be by the size and scope of a federal budget, quick judgment on all of its many parts is virtually impossible. Mr. Nixon has attempted to reorder certain priorities, and in theory gives precedence to seven "most urgent" domestic needs. It will be interesting to see how Congress reacts to that menu. Two—initial appropriations for the President's proposed new welfare system and the launching of federal revenue-sharing—are by no means certain of winning legislative approval. It is risky to bet on Capitol Hill's willingness to reform, particularly in an election year.

Other programs on the list deal with pollution, crime, food assistance, transportation and manpower training. Pollution and crime legislation in particular are likely to be very big this year. Congress may be tempted to raise the ante for each.

In another area, Mr. Nixon whacked rather heavily into the defense budget. Congress, judging by the mood it has been in lately, may want to go further. Foreign aid is scheduled for another cutback, and Congress is not likely to reverse the trend of the last few years. But a little serious contemplation of the meaning of foreign aid in terms of today's problems might be in order. This may be one of the more risky places for economy.

At this point, however, only the administration has had the problem of putting it all together. We suspect that this was done with the basic and unchanging assumption that a balanced budget was essential. It was, and is—no doubt about that.

But that which is balanced in February has a long route to travel on Capitol Hill. Congress may reject some of the proposed new sources of revenue, one of which, a speed-up in collection of excise and income taxes, is a onetime gimmick. Congress may also have some other ideas on priorities and may regard rather dimly some of Mr. Nixon's decisions—on education, for example, where the budget would simply hold the line in a time of concern over the financing of the schools at all levels.

The debate and final action will take place in an election year, and the work will be done by an institution—Congress—which has become notoriously inefficient and shortsighted in dealing with money bills. (After all, it is still wrestling with one major money bill for the present fiscal year.) That is not the most comforting thought in the world as the legislators begin the critical task of considering Mr. Nixon's budget which, in the beginning, is balanced and by all means should stay that way.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the Record and to include extraneous material.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The United States is the largest producer of fruit in the world. In 1967, the United States produced 127,650,000 boxes of oranges and tangerines. This was about one-fourth of the world total and nearly twice as much as produced by Spain, the second leading nation. Also,

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42,700,000 boxes of grapefruit were produced in the United States. This was 72 percent of the world total and six times more than produced by Israel, the second leading nation.

COMMUNITY SUPPORT FOR PRETRIAL DETENTION

(Mr. HARSHA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HARSHA. Mr. Speaker, this week the House will take up the District of Columbia Court Reform and Criminal Procedure Act of 1970. Included among the provisions in this important bill is a chapter authorizing the limited pretrial detention of dangerous defendants.

Although the experience under the Bail Reform Act of 1966 demonstrates beyond question the need for new legislation, pretrial detention remains controversial. The District Committee considered the issue in depth and with great care, and we drafted the legislation we thought was needed.

One of the most cogent and lucid statements of why pretrial detention is so urgently necessary for the District at this time was issued by the advisory panel against armed violence. In late September of last year, the Senator from Maryland (Mr. TYDINGS) asked 13 leading citizens of Washington to advise him, as chairman of the Senate Committee on the District of Columbia, on the steps which could be taken to reduce violent crime. In December, the panel, which was headed by Judge Alfred Burka of the District of Columbia court of general sessions, submitted its report. Other members of the panel included:

Frederick H. Evans, past president of the Washington Bar Association.

William T. Finley, Jr, former Assistant Deputy Attorney General of the United States.

Thomas A. Flannery, U.S. Attorney General for the District of Columbia.

Herbert J. Miller, Jr., chairman, 1966 President's Commission on Crime for the District of Columbia.

Paul Miller, dean, Howard University School of Law.

Luke Moore, former chief marshall for the District of Columbia.

H. Carl Moultrie, past president, NAACP, District of Columbia chapter.

Tilmon O'Bryant, Deputy Chief of the Metropolitan Police Department.

William E. Rollow, secretary and general counsel, National Capital Area Council of Sportsmen, and president, District of Columbia Skeet Shooting Association.

James C. Slaughter, Director of the District of Columbia Human Relations Commission.

Quinn Tamm, executive director, International Association of Chiefs of Police.

Joseph P. Yeldell, member, District of Columbia City Council.

The panel concluded, with one dissenting vote, that "pretrial detention offers an immediate response to armed violence and adds long-range rationality to our criminal justice system."

I quote in full pages 17, 18, and 19 of the report of the advisory panel against armed violence and commend the discussion to the House membership:

PRETRIAL DETENTION AND SPEEDY PROSECUTION

Armed violence in the District of Columbia is being aided and abetted by the inadequate operation of our criminal justice system.

At present, justice is neither swift nor certain. Persons who are apprehended for crimes of violence remain at liberty for eight months to a year. Many of them commit additional offenses with virtual impunity knowing that they will again be released on bail after the second or third offense; that the offense committed on bail will not be reached for trial for a year or so; that the sentence, if any, will probably be concurrent; and that fugitivity in the District of Columbia is a fairly secure status which can postpone the day of reckoning for many more months.

The net effect of these circumstances is tragic. The public is victimized again and again—almost without recourse. The work of the police is undercut and correctional efforts are severely impeded.

Action is imperative. In the view of this panel, we cannot await long-range remedies. We must take steps which will have immediate effect in abating armed violence.

For reasons developed more fully below, we urge:

Enactment of bail legislation to permit pretrial detention of certain defendants who pose a danger to the community,

Accelerating the disposition of cases of armed violence by expanding the individual calendar program, by prompt indictment, by decreasing time for mental exams and by speedier sentencing procedures,

Expedited appeal in cases of persons charged with more than one crime of violence,

Development of better procedures to supervise persons on bail and to secure the return of persons who become fugitive, and

Enactment of court reorganization legislation together with the proposed increases in judicial manpower and the creation of a court executive.

PRETRIAL DETENTION

There is no doubt that accused felons free on bail while awaiting trial commit a significant part of the serious crimes in this city. Judicial Council Committee studies indicate that one of every 11 defendants who is indicted and released on bail is reindicted for another felony while awaiting trial. The police report that one out of every three armed robbery suspects released on bail is arrested for another offense before he comes to trial.

Further, it appears that persons involved in certain types of crime have a much higher rate of recidivism. Specifically, the District of Columbia Crime Commission found that persons charged with robbery, burglary and narcotics offenses were more frequently indicted for additional crimes on bail than were persons charged with other offenses.

Most recently, Police Chief Jerry Wilson has highlighted the bail problem. He reported to the President that there are about 100 professional hold-up men in the District of Columbia who are repeatedly released on bail and commit additional holdups. In his view, legislation authorizing pretrial detention of such persons is *item number one* on any list of action to abate armed violence. In fact, he states that if 300 dangerous criminals were removed from the streets, we could "almost cure" the problem of armed violence in Washington.

However, under existing law, there is virtually no way to remove these dangerous persons from the street in any less than eight months or a year. First, the Bail Reform Act of 1966 requires the release on bail of all defendants not involved in capital crimes no matter how dangerous. The only factor which the court may consider in setting bail is the likelihood that the defendant will flee. Second, the court system is so backlogged that crimes of violence can not be prosecuted promptly. In fiscal 1968, it took an average of nine months for bank robbery cases to come to trial, an average of eight and one-half months for robbery cases to come to trial, an average of nine and one-half months for aggravated assault cases to come to trial, an average of ten months for second degree murder cases, and an average of fourteen months for first degree murder cases.

In view of this Panel, the only immediate recourse is enactment of legislation to authorize pretrial detention of certain persons who pose a serious danger to the community. We endorse legislation which will authorize pretrial detention of hard core dangerous criminals who are awaiting trial for armed crimes. Detention should be imposed in cases where the defendant's record for violence indicates high probability of additional crimes of violence if released on bail. Further, it is absolutely essential that any system of pretrial detention include all appropriate Constitutional safeguards. Finally, detention shall not exceed 60 days.

Pretrial detention is not a "cheap" solution to the crime problem. Properly limited, it is a Constitutional, realistic approach to our crime problem. First, it takes cognizance of the fact that even if speedy trials are provided, there are still persons who pose a great danger to the community if released on bail for any period of time. Second, it recognizes that our present system of justice will not be speeded up overnight. New facilities, new judges, etc., will be slow in coming. In addition to other personnel, an adequate public defender system should be established to insure adequate representation for the defendants. Finally, pretrial detention is a realistic way to deal with repeated crime in a system which encourages delay. Speedy trial efforts simply have limited efficacy in a system where delay is often the best trial strategy.

In sum, pretrial detention offers an immediate response to armed violence and adds long-range rationality to our criminal justice system.

UNITED STATES TO CLOSE CONSULATE IN RHODESIA

(Mr. GROSS asked and was given permission to extend his remarks at this point in the RECORD and to include pertinent additional material.)

Mr. GROSS. Mr. Speaker, in his state of the Union message before a joint session of Congress only 2 months ago, President Nixon said:

> We shall reduce our involvement and our presence in other nation's affairs.

Yet on tomorrow, playing the role of a stooge for the British, President Nixon is scheduled to plunge the U.S. Government deeper into trouble with Rhodesia by closing the U.S. consulate and severing diplomatic relations with that friendly nation which 2 weeks ago declared its independence from Britain.

Does the President mean what he says about involvement? If so, why should the United States give anything but the back of its hand to the British leeches in London? During last year alone these ruthless, blood-money profiteers sent 74 vessels and their cargoes under the British flag into North Vietnamese ports to supply those whose principal business is the killing of Americans.

Incidentally when does President Nixon intend to demand that the British close their consulate in Communist North Vietnam?

Moreover, if the President is severing diplomatic relations with Rhodesia because of internal racial practices or denial of the right to self-determination, he must, if consistent, promptly sever diplomatic relations with Liberia which refuses citizenship to whites; with Australia which refuses admission to nonwhites, and the Soviet Union and its satellites which deny both majority rule and rights of minorities.

The action by the President against the Republic of Rhodesia will be immoral and disgraceful unless it is applied with an even hand to all other nations, large and small, which practices the same denials.

It is interesting to note that Secretary of State William P. Rogers, one of the mainsprings in this diplomatic travesty, has issued a statement in which he says he will "attempt" to have arrangements made where Americans in Rhodesia will have "appropriate assistance" if they need it when the U.S. consulate is closed.

Rogers belated concern for Americans and American interests in Rhodesia is about par for the course in Washington's Foggy Bottom. The Rhodesians had already issued an official statement on March 10, 1970, assuring that the rights of Americans in that country will be fully protected without Rogers' "arrangements."

That statement follows:

> The Rhodesian Government was advised formally this morning of the United States Government's intention to close its Consulate General in Salisbury at 1700 hours on March 17th. It is regretted that the American Government has allowed itself to be forced into this decision by the British Government, the consequence of which is that United States citizens will be deprived of United States consular facilities in this country. Rhodesians may rest assured, however, that the closure of the Consulate-General will make no difference at all to Rhodesia or to themselves. The United States Government in closing the Consulate is secure in the knowledge that the interests of their citizens will be safeguarded and their rights protected under our stable Rhodesian law.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hagan (at the request of Mr. Albert), for today and tomorrow, on account of official business.

Mr. Pickle (at the request of Mr. Waggonner), for March 12 to March 16, on account of being part of official delegation to United States-Canadian Interparliamentary Union.

Mr. Charles H. Wilson (at the request of Mr. Johnson of California), for today, on account of official business.

Mr. Jones of Tennessee (at the request of Mr. Blanton), for today, on account of official business.

Mr. Barrett (at the request of Mr. Byrne of Pennsylvania), for March 16, on account of death in family.

Mr. Grover (at the request of Mr. Gerald R. Ford), for today, on account of influenza.

Mr. Cederberg (at the request of Mr. Gerald R. Ford), on account of official business.

Mr. Corman, for March 16, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Biester); to revise and extend their remarks and include extraneous matter:)

Mr. Hogan, for 1 hour, today.

Mr. Steiger of Arizona, for 20 minutes, today.

Mr. Findley, for 20 minutes, today.

Mr. Schwengel, for 15 minutes, today.

Mr. Camp, for 1 hour, on March 17.

(The following Members (at the request of Mr. Marsh); to revise and extend their remarks and include extraneous matter:)

Mr. Flood, for 10 minutes, today.

Mr. Lowenstein, for 30 minutes, today.

Mr. Reuss, for 60 minutes, today.

Mr. Gonzalez, for 10 minutes, today.

Mr. O'Hara, for 15 minutes, today.

Mr. Farbstein, for 20 minutes, today.

Mr. Dent, for 30 minutes, on March 17.

Mr. Gaydos, for 30 minutes, on March 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Haley, immediately prior to the passage of H.R. 12858 today.

Mr. Haley, immediately prior to the passage of H.R. 12878 today.

Mr. Haley, immediately prior to the passage of H.R. 14855 today.

Mr. Olsen, immediately prior to the passage of S. 227 today.

Mr. Johnson of California, immediately prior to the passage of S. 2062 today.

Mr. McClure, immediately prior to the passage of S. 2062 today.

Mrs. May, immediately prior to the passage of S. 2062 today.

Mr. Philbin in five instances and to include extraneous material.

(The following Members (at the request of Mr. Biester) and to include extraneous matter:)

Mr. Steiger of Wisconsin.

Mr. Burton of Utah in five instances.

Mr. Ayres.

Mr. Wyman in three instances.

Mr. Weicker.

Mr. McClory in two instances.

Mr. Gude.

Mr. Carter.

Mr. Hogan.

Mr. Goldwater in two instances.

Mrs. May in two instances.

Mr. Mize.

Mr. Broyhill of Virginia in three instances.

Mr. Burke of Florida.

Mr. Scherle in two instances.

Mr. Derwinski in two instances.

Mr. Hosmer in two instances.

Mr. Findley.

Mr. Schwengel in three instances.

Mr. Hansen of Idaho.

Mr. Brotzman.

Mr. Smith of New York.

Mr. Dickinson.

Mr. Fish.

Mr. Adair.

(The following Members (at the request of Mr. Marsh) and to include extraneous matter:)

Mr. Boland.

Mr. Scheuer.

Mr. Fraser in three instances.

Mrs. Griffiths in two instances.

Mr. Andrews of Alabama in two instances.

Mr. Rodino.

Mr. Gonzalez.

Mr. Matsunaga.

Mr. O'Hara.

Mr. Blanton in four instances.

Mr. Monagan in two instances.

Mr. Hungate in three instances.

Mr. Evins of Tennessee.

Mr. Anderson of Tennessee in two instances.

Mr. Kyros in three instances.

Mr. Moorhead.

Mr. Dent in six instances.

Mr. Brooks.

Mr. Gettys in two instances.

Mr. Griffin in two instances.

Mr. Holifield.

Mr. Evans of Colorado.

Mr. Carey.

Mr. William D. Ford in four instances.

Mr. Vanik in two instances.

Mr. Nichols.

Mr O'Neill of Massachusetts in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1181.—An act to provide for potato and tomato promotion programs, to the Committee on Agriculture.

ENROLLED BILL SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1497. An act to permit the vessel Marpole to be documented for use in the coastwise trade.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 495. An act for the relief of Marie-Louise (Mary Louise) Pierce.

ADJOURNMENT

Mr. MARSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 38 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 17, 1970, at 12 o'clock noon.

XUM

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1773. A letter from the adjutant general, Veterans of Foreign Wars of the United States, transmitting the proceedings of the 70th national convention held in Philadelphia, Pa., August 17-22, 1969, pursuant to the provisions of Public Law 224 of the 88th Congress (H. Doc. No. 91–277); to the Committee on Armed Services and ordered to be printed, with illustrations.

1774. A letter from the Comptroller General of the United States, transmitting the report on the examination of financial statements of the Panama Canal Company for the fiscal years ended June 30, 1969, and June 30, 1968, pursuant to (31 U.S.C. 841) (H. Doc. No. 91–278); to the Committee on Government Operations and ordered to be printed with illustrations.

1775. A letter from the Chairman, Joint Committee on Internal Revenue Taxation, transmitting a report covering refunds and credits of internal revenue taxes for the fiscal year ended June 30, 1967, pursuant to the provisions of section 6405 of the Internal Revenue Code of 1954 (H. Doc. No. 91–279); to the Committee on Ways and Means and ordered to be printed.

1776. A communication from the President of the United States, urging Congress to enact legislation to provide funds relative to home mortgage financing; to the Committee on Banking and Currency.

1777. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a report that the appropriation for the Veterans' Administration for "Medical Care," and for the fiscal year 1970 has been apportioned on a basis indicating a need for a supplemental estimate of appropriation, pursuant to the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665); to the Committee on Appropriations.

1778. A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting a draft of proposed legislation, "To amend the provisions of title III of the Federal Civil Defense Act of 1950, as amended"; to the Committee on Armed Services.

1779. A letter from the Assistant to the Commissioner, Government of the District of Columbia, transmitting a draft of proposed legislation, "To authorize the Government of the District of Columbia to fix certain fees"; to the Committee on the District of Columbia.

1780. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Welfare and Pension Plans Disclosure Act; to the Committee on Education and Labor.

1781. A letter from the Director, Bureau of Land Management, Department of the Interior, transmitting copies of the report of negotiated sales contracts for disposal of materials during the period July 1-December 31, 1969, pursuant to the provisions of Public Law 87–689 (76 Stat. 587); to the Committee on Interior and Insular Affairs.

1782. A letter from the Secretary of Health, Education, and Welfare, transmitting a report relative to national emission standards for stationary sources of air pollution, pursuant to the provisions of section 211(a) of the Clean Air Act, as amended; to the Committee on Interstate and Foreign Commerce.

1783. A letter from the Secretary of Health, Education, and Welfare, transmitting the second annual report of estimates of expenditures for the prevention and control of air pollution, pursuant to the provisions of section 305(a) of the Clean Air Act, as amended; to the Committee on Interstate and Foreign Commerce.

1784. A letter from the Secretary of Health, Education, and Welfare, transmitting the third report on the progress in the prevention and control of air pollution for the calendar year 1969, pursuant to the provisions of section 306 of the Clean Air Act, as amended; to the Committee on Interstate and Foreign Commerce.

1785. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "Hydroelectric Power Evaluation, Supplement No. 1, 1969"; to the Committee on Interstate and Foreign Commerce.

1786. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "Statistics of Publicly Owned Electric Utilities in the U.S., 1968"; to the Committee on Interstate and Foreign Commerce.

1787. A letter from the Attorney General, transmitting a draft of proposed legislation to amend title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes; to the Committee on the Judiciary.

1788. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development; to the Committee on Merchant Marine and Fisheries.

1789. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on the advisory committees that assist the Secretary in carrying out his functions under the Social Security Act, pursuant to the provisions of section 1114(f) of the act, as amended by Public Law 87–543; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

(*Pursuant to the order of the House on March 12, 1970, the following report was filed on March 13, 1970*)

Mr. McMILLAN: Committee on the District of Columbia. H.R. 16196. A bill to reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes; with amendments (Rept. No. 91–907). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted March 16, 1970*]

Mr. NIX: Committee on Post Office and Civil Service. H.R. 15693. A bill to amend title 39, United States Code, to exclude from the mails as a special category of nonmailable matter certain material offered for sale to minors, to protect the public from the offensive intrusion into their homes of sexually oriented mail matter, and for other purposes (Rept. No. 91–908). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14385. A bill to provide authority for subsidized transportation for Public Health Service employees affected by the transfer to the Parklawn Building in Rockville, Md., with amendments (Rept. No. 91–909). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 15733. A bill to amend the Railroad Retirement Act of 1937 to provide a 15-percent increase in annuities and to change the method of computing interest on investments of the railroad retirement accounts; with amendments (Rept. No. 91–910). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON of Tennessee: Committee on Rules. House Resolution 878. Resolution for consideration of H.R. 13956, a bill to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act (Rept. No. 91–911). Referred to the House Calendar.

Mr. YOUNG: Committee on Rules. House Resolution 879. Resolution for consideration of H.R. 15628, a bill to amend the Foreign Military Sales Act (Rept. No. 91–912). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 880. Resolution for consideration of S. 952, an act to provide for the appointment of additional district judges, and for other purposes (Rept. 91–913). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AYRES (for himself, Mr. Erlenborn and Mr. Gerald R. Ford):

H.R. 16462. A bill to amend the Welfare and Pension Plans Disclosure Act; to the Committee on Education and Labor.

By Mr. BOLAND:

H.R. 16463. A bill to amend the Fair Packaging and Labeling Act to require a packaged perishable food to bear a label specifying the date after which it is not to be sold for consumption; to the Committee on Interstate and Foreign Commerce.

By Mr. BRINKLEY:

H.R. 16464. A bill to provide a Federal employee with certain procedural rights if he is removed or reduced in grade as the result of a reduction in force, and to authorize saved pay to be paid to a Federal employee reduced in grade because of a reduction in force due to lack of funds; to the Committee on Post Office and Civil Service.

By Mr. BURKE of Florida:

H.R. 16465. A bill to prohibit the furnishing of mailing lists and other lists of names or addresses by Government agencies to the public in connection with the use of the U.S. mails, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BYRNE of Pennsylvania:

H.R. 16466. A bill to encourage the growth of international trade on a fair and equitable basis; to the Committee on Ways and Means.

By Mr. CLANCY (for himself, Mr. Devine, Mr. King, and Mr. Goodling):

H.R. 16467. A bill to amend title 38 of the United States Code so as to provide that monthly social security benefit payments and annuity and pension payments under the Railroad Retirement Act of 1937 shall not be included as income for the purpose of determining eligibility for a veteran's or widow's pension; to the Committee on Veterans' Affairs.

By Mr. CORMAN:

H.R. 16468. A bill to amend title 5, United States Code, to authorize election of health benefits coverage by employees and annuitants for themselves and their spouses at a special rate based on coverage of two persons, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DERWINSKI:

H.R. 16469. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65; to the Committe on Ways and Means.

By Mr. FARBSTEIN:

H.R. 16470. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that municipalities having a population of 100,000 or more shall be considered to be "States" for the purposes of participating in certain grant programs authorized under such act; to the Committee on the Judiciary.

By Mr. FREY:

H.R. 16471. A bill to amend the Economic Opportunity Act of 1964 to provide judicial enforcement of certain requirements therein relating to disclosure of information and to consultation; to the Committee on Education and Labor.

By Mr. GIAIMO:

H.R. 16472. A bill to authorize the importation without regard to existing quotas of fuel oil to be used for residential heating purposes in the New England States; to the Committee on Ways and Means.

By Mr. GUDE:

H.R. 16473. A bill to amend the Federal Aviation Act of 1958 to require the Secretary of Transportation to prescribe regulations under which air carriers will be required to reserve a section of each passenger-carrying aircraft for passengers who desire to smoke; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 16474. A bill to amend the Internal Revenue Code of 1954 to allow an incentive tax credit for a part of the cost of constructing or otherwise providing facilities for the control of water or air pollution, and to permit the amortization of such cost within a period of from 1 to 5 years; to the Committee on Ways and Means.

By Mr. HORTON:

H.R. 16475. A bill to amend the District of Columbia Alcoholic Beverage Control Act and for other purposes; to the Committee on the District of Columbia.

By Mr. JACOBS:

H.R. 16476. A bill to make it lawful to set up or fly any kite in the District of Columbia; to the Committee on the District of Columbia.

By Mr. LOWENSTEIN:

H.R. 16477. A bill to assist in reducing crime by requiring speedy trials in cases of persons charged with violations of Federal criminal laws, to strengthen controls over dangerous defendants released prior to trial, to provide means for effective supervision and control of such defendants, and for other purposes; to the Committee on the Judiciary.

H.R. 16478. A bill to assist in combating crime by reducing the incidence of recidivism, providing improved Federal, State, and local correctional facilities and services, strengthening administration of Federal corrections, strengthening control over probationers, parolees, and persons found not guilty by reason of insanity, and for other purposes; to the Committee on the Judiciary.

By Mr. McCULLOCH (for himself, Mr. Poff, Mr. MacGregor, Mr. Hutchinson, Mr. McClory, Mr. Smith of New York, Mr. Railsback, Mr. Biester, Mr. Wiggins, Mr. Dennis, Mr. Fish, Mr. Coughlin, and Mr. Mayne):

H.R. 16479. A bill to amend title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes; to the Committee on the Judiciary.

By Mr. MARTIN:

H.R. 16480. A bill to amend the Federal Meat Inspection Act, as amended, to clarify the provisions relating to custom slaughtering operations; to the Committee on Agriculture.

By Mr. MINSHALL:

H.R. 16481. A bill to amend the Gun Control Act of 1968 to require certain records to be kept relating to the sale or delivery of explosives; to the Committee on the Judiciary.

By Mr. OLSEN:

H.R. 16482. A bill to provide for equipment maintenance compensation for the rural mail carrier; to the Committee on Post Office and Civil Service.

By Mr. PELLY:

H.R. 16483. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PREYER of North Carolina (for himself and Mr. Galifianakis):

H.R. 16484. A bill to enforce the guarantees of the 14th amendment with respect to the desegregation of public elementary and secondary schools; to the Committee on Education and Labor.

By Mr. PURCELL (for himself, Mr. Smith of Iowa, Mr. Foley, Mrs. May, Mr. Kleppe, Mr. Andrews of North Dakota, Mr. Nelsen, Mr. Denney, Mr. Langen, and Mr. Martin):

H.R. 16485. A bill to amend the Federal Meat Inspection Act, as amended, to clarify the provisions relating to custom slaughtering operations; to the Committee on Agriculture.

By Mr. RYAN:

H.R. 16486. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require the establishment of certain standards relating to power-operated windows; to the Committee on Interstate and Foreign Commerce.

By Mr. TUNNEY:

H.R. 16487. A bill to establish California Coastline National Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHITEHURST (for himself, Mr. Saylor, Mr. Marsh, and Mr. Donohue):

H.R. 16488. A bill to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended; to the Committee on the Judiciary.

By Mr. YATES:

H.R. 16489. A bill to amend section 208 of the National Emissions Standards Act to permit States to adopt motor vehicle emission standards more stringent than the Federal standards; to the Committee on Interstate and Foreign Commerce.

By Mr. BROWN of Michigan:

H.R. 16490. A bill to amend title 10, section 1032 of the United States Code relating to the rights and benefits of members of the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. GALIFIANAKIS (for himself and Mr. Preyer of North Carolina):

H.R. 16491. A bill to enforce certain provisions of the 14th amendment of the Constitution as applied to public elementary and secondary schools; to the Committee on Education and Labor.

By Mr. GUBSER:

H.R. 16492. A bill to establish a Commission to encourage, process, and make awards with respect to citizens' suggestions for the improvement of Government operations; and for other purposes; to the Committee on Government Operations.

By Mr. MURPHY of New York:

H.R. 16493. A bill to incorporate the Junior Sea Knights of America, Inc.; to the Committee on the Judiciary.

By Mr. RUPPE:

H.R. 16494. A bill to provide for the establishment of a Commission on Marihuana; to the Committee on the Judiciary.

By Mr. VANIK:

H.R. 16495. A bill to amend the Internal Revenue Code of 1954 by imposing a tax on the transfer of explosives to persons who may lawfully possess them and to prohibit possession of explosives by certain persons; to the Committee on Ways and Means.

By Mr. ZABLOCKI (for himself, Mr. Reuss, and Mr. Davis of Wisconsin):

H.R. 16496. A bill to authorize certain uses to be made with respect to lands previously conveyed to Milwaukee County, Wis., by the Administrator of Veterans' Affairs; to the Committee on Veterans' Affairs.

By Mr. MIKVA:

H.J. Res. 1134. Joint resolution establishing the Commission on U.S. participation in the United Nations, and for other purposes; to the Committee on Foreign Affairs.

By Mr. DUNCAN:

H. Con. Res. 542. Concurrent resolution expressing the sense of Congress with respect to an all volunteer armed force; to the Committee on Armed Services.

By Mr. FARBSTEIN (for himself, Mr. Crane, Mr. Andrews of North Dakota, Mr. Brown of California, Mr. Button, Mrs. Chisholm, Mr. Don H. Clausen, Mr. Edwards of California, Mr. Goldwater, Mr. Halpern, Mr. Harrington, Mr. Hastings, Mr. Hechler of West Virginia, Mrs. Heckler of Massachusetts, Mr. Koch, and Mr. Lowenstein):

H. Con. Res. 543. Concurrent resolution expressing the sense of Congress with respect to the establishment of all-volunteer armed forces; to the Committee on Armed Forces.

By Mr. CRANE (for himself, Mr. Farbstein, Mr. McClory, Mr. Matsunaga, Mr. O'Konski, Mr. Ottinger, Mr. Pettis, Mr. Railsback, Mr. Rooney of Pennsylvania, Mr. Shriver, Mr. Snyder, Mr. Steiger of Wisconsin, Mr. Teague of California, Mr. Widnall, and Mr. Zwach):

H. Con. Res. 544. Concurrent resolution expressing the sense of Congress with respect to the establishment of all-volunteer armed forces; to the Committee on Armed Services.

By Mr. PODELL:

H. Con. Res. 545. Concurrent resolution expressing the sense of Congress that the United States should sell Israel aircraft necessary for Israel's defense; to the Committee on Foreign Affairs.

By Mr. ROGERS of Florida:

H. Con. Res. 546. Concurrent resolution condemning the treatment of U.S. prisoners of war by the Government of North Vietnam and its allies and urging the President to initiate appropriate action to insure that such prisoners are accorded humane treatment, and to obtain their release; to the Committee on Foreign Affairs.

By Mr. YATES (for himself, Mr. Brasco, Mr. Brown of Michigan, Mr. Button, Mr. Cleveland, Mr. Culver, Mr. Diggs, Mr. Fascell, Mr. Halpern, Mr. Hansen of Idaho, Mr. Hungate, Mr. Koch, Mr. Lukens, Mr. Moorhead, Mr. Olsen, and Mr. Tiernan):

H. Con. Res. 547. Concurrent resolution urging the President to determine and undertake appropriate actions with respect to stopping armed attacks on aircraft and passengers engaged in international travel; to the Committee on Foreign Affairs.

By Mr. BINGHAM:

H. Res. 877. Resolution providing for reimbursement of certain travel expenses incurred by the immediate families of Members of the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COUGHLIN:

H.R. 16497. A bill for the relief of Maj. R. B. Throm, USMC; to the Committee on the Judiciary.

By Mr. HATHAWAY:

H.R. 16498. A bill to permit the sale of the passenger vessel *Atlantic* to an alien, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PUCINSKI:

H.R. 16499. A bill for the relief of Miss Emilia Ruffolo; to the Committee on the Judiciary.

By Mr. ROGERS of Florida (by request):

H.R. 16500. A bill for the relief of Jesus Garza Venegas, Jr.; to the Committee on the Judiciary.

By Mr. RUPPE:

H.R. 16501. A bill for the relief of Bienvenido Turla Capul; to the Committee on the Judiciary.

By Mr. WIGGINS:

H.R. 16502. A bill for the relief of Gary W. Stewart; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER:

330. A memorial of the Legislature of the State of Idaho, relative to the treatment of prisoners by North Vietnam; to the Committee on Foreign Affairs.

331. Also a memorial of the Legislature of the State of Tennessee, relative to an amendment to the Constitution of the United States regarding the right of citizens to attend the public schools of their choice; to the Committee on the Judiciary.

332. Also, a memorial of the Legislature of the State of Tennessee, relative to amending the Constitution of the United States regarding taxation of income from interest on obligations of other levels of Government; to the Committee on the Judiciary.

333. Also, a memorial of the General Court of the Commonwealth of Massachusetts, relative to helping preserve the textile and apparel industry through international agreement; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

415. By the SPEAKER: Petition of the city council of East Orange, N.J., relative to using post office facilities for the registration of voters; to the Committee on House Administration.

416. Also, petition of the city council of Huntington Beach, Calif., transmitting a copy of a resolution expressing respect and gratitude for the exemplary accomplishments of Congressman James B. Utt, deceased; to the Committee on House Administration.

417. Also, petition of Henry Stoner, York, Pa., relative to reducing the voting age to include those aged 18; to the Committee on the Judiciary.

SENATE—*Monday, March 16, 1970*

The Senate met in executive session at 12 o'clock meridian and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, our Father, in whose keeping are the destinies of men and nations, we thank Thee for this good land, born in Thy providence, nourished by Thy grace and strengthened by Thy power. Draw together the diverse populations of city, hamlet and countryside into one united people. Be in our hearts, our heads and our homes. In these turbulent times save us from evasion, from cowardice, and from violence. Order our outward action by an inner righteousness and peace. Nerve us to be firm in the right, ready to be corrected when wrong, always striving for the more perfect way. Teach us how to live for others and so fulfill the law of God. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 16, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. James B. Allen a Senator from the State of Alabama to perform the duties of the chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

SETTLEMENT—NOT VICTORY—IN VIETNAM

Mr. SYMINGTON. Mr. President, for some reason, in many quarters, things have developed in the country to the point where, in spite of our increasingly serious financial problems, if there is any questioning of any military policy or program, or the cost of either, by any Member of Congress, the now somewhat hackneyed word "dove" is automatically applied to the critic in question.

In this connection, it has long been my privilege to know—and at one time to work with—an outstanding American who has one of the great military records of our history, former Chief of Staff of the U.S. Army, Gen. Matthew B. Ridgway.

I ask unanimous consent that an article by this distinguished public servant in the New York Times of March 14, "Settlement—Not Victory—in Vietnam" be printed in the RECORD; and I would hope that all Members of the Senate, as well as the public at large, would weigh the wisdom of his experienced advice.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 14, 1970]

SETTLEMENT—NOT VICTORY—IN VIETNAM

(By Matthew B. Ridgway)

Many continue to argue that a military solution, or "victory," in Vietnam has all along been within our reach, that nothing less would serve our interests. I believe such a solution is not now and never has been possible *under conditions consistent with our interests.*

That would have required, and would still require, resort to military measures unacceptable to most of our people. But regardless of past policy decisions, were such a course to be pursued now the divisive influences throughout our land, comparatively quiescent, would be intensified.

The basic decision, which I believe is irrevocable and which was made and announced long ago, was to reduce our operations and to initiate disengagement and withdrawal according to a plan merely outlined.

Whether or not it includes an ancillary decision to complete withdrawal by a fixed date, I do not know, though I assume it does. For reasons of its own—and reasonable ones are not lacking—the Administration has not seen fit to announce it.

Last Nov. 3 the President set forth three conditions that would, he said, determine the rate of our withdrawal: progress in the Paris talks; the character of enemy operations; and the rapidity with which the South Vietnamese Army can assume full responsibility for ground operations. He warned that "if increased enemy action jeopardized our remaining forces," he would "not hesitate to take strong and effective measures," not spelled out but alluded to again in his Jan. 30 press conference.

Adherence to these conditions could result in relinquishing the initiative. Hanoi's stalling in Paris, or Saigon's unwillingness or inability to bring its army up to the requisite level of combat effectiveness, or an escalation of enemy action would then compel a choice between resort to "strong measures"—a reversion, it would seem to me, to the search for a military solution already publicly eschewed—or suspending and even reversing our withdrawal.

NONMILITARY OPTIONS

If this reasoning is sound, then it is relevant to examine our options, should events seem to demand dealing "strongly" with the situation.

We could decide: to halt and subsequently reverse the disengagement process; to resume bombing in North Vietnam on the same scale and against the same target systems as before; to widen the bombing to include key points in power grids, port facilities and utilities, even though located in population centers; to impose a sea blockade of North Vietnamese and Cambodian ports; to invade North Vietnam with ARVN or U.S. ground forces, or both; to use nuclear weapons.

Putting any of these measures into effect could result in: ending hopes for arms control; raising U.S.S.R.-U.S. tensions; causing heavy loss of life among noncombatant North Vietnamese; raising U.S. casualty rates and dollar costs; impairing our capability for quickly responding to other challenges elsewhere; seriously accentuating domestic criticism of Government policy. If there was a land invasion of North Vietnam by U.S. ground forces, the possibility, if not probability, would follow of massive Chinese ground force intervention as occurred under similar conditions in Korea in 1950; and, if nuclear weapons were employed, world and domestic opinion would revolt.

I question that the execution of any of these options would serve our interests. Most of them, I believe, should be rejected. Certainly we should repudiate once and for all the search for a military solution and move resolutely along the path of disengagement and eventual complete withdrawal.

This will present painful problems, but they must be faced. It raises serious military questions: How long will it take to increase the combat effectiveness of the South Vietnamese Army to a necessary level? If a long time, how much U.S. combat and logistic support will be needed, and for how long? If chiefly U.S. Air Force and Navy combat elements are needed, who is to provide security for their bases? And if reliance is to be placed on South Vietnamese forces, who will command them? How will U.S. base commanders and their troops react to such arrangements? These are a few of the military problems, quite apart from the political ones.

FOR A POLITICAL SOLUTION

A negotiated political settlement, which I think we would all prefer, and which I believe we must ultimately reach, will be unattainable unless we retain the initiative and face up to these problems now.

Regardless of how much this may tax the wisdom and determination of our Government and the patience of our people, our decision is, I believe, the prudent one, and we should channel its execution into the mainstream of our long-range national interests.

TRANSACTION OF ROUTINE MORNING BUSINESS AS IN LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, notwithstanding the Senate's being in executive session, there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HAPPY BIRTHDAY TO SENATOR MANSFIELD

Mr. SCOTT. Mr. President, I have asked for recognition ahead of the usual requests of the distinguished majority leader for one purpose only, to say that some 39 years ago there came into this world a very much to be admired citizen, a delightful person, with an open mind, a good heart, and a sense of fairness and decency which has established a standard and a guide for all of us, his colleagues.

Thus, I wanted to have the opportunity to give us all a chance to take note that today is the birthday of the distinguished majority leader, who has served his country well in all branches of the armed services with the exception of the Coast Guard, and in both branches of Congress.

He is a modest man, a fine friend, a considerate colleague, one whose presence here has been one of the great gifts to the Nation from the Senate. I am sure we would have fewer problems if all 100 of us had the great qualities that the distinguished majority leader possesses.

Thus, I rise for the purpose of paying this tribute to him and to wish him happy birthday.

Since I cannot carry a tune, I cannot go further and indulge in song, but my heart is filled with joy and my soul with music that we have with us so good a man as Senator MANSFIELD.

Mr. SYMINGTON. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. SYMINGTON. I thank the minority leader. I want to associate myself with the statements just made by the Senator from Pennsylvania.

It was a great day for the United States of America when, 39 years ago, the distinguished majority leader was born.

Mr. MANSFIELD. Mr. President, allow me to extend my thanks to the distinguished minority leader and the distinguished senior Senator from Missouri for their kind comments.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, March 13, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER DISPENSING WITH THE CALL OF THE CALENDAR UNDER RULE VIII

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the calendar of unobjected to bills under rule VIII be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INFORMING THE PEOPLE ON NATIONAL SECURITY

Mr. MANSFIELD. Mr. President, in reading the Washington Post on yesterday, I was struck by a very good review written by John Chancellor, former Director of the Voice of America, and now an NBC reporter. Mr. Chancellor reviewed the book "Confirm or Deny," authored by Mr. Phil G. Goulding, former Assistant Secretary of Defense for Public Affairs. The book and the documents published therein indicate that every now and again there are foulups in the Pentagon. Mr. Chancellor's skillful analysis would indicate that this book may be well worth reading. Certainly this review is well worth reading by the Members of this body, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

FOUL-UPS IN THE PENTAGON

("Confirm or Deny: Informing the People on National Security," By Phil G. Goulding. Harper & Row. 369 pages $7.95; reviewed by John Chancellor)

This is a disturbing book.

An American photographic reconnaissance plane flies over the French atomic plant at Pierrelatte, and the French are furious. The American Air Force tells the office of the Secretary of Defense in the Pentagon that the plane was forced off course by a thunderstorm, and the news is duly announced in Washington. In fact, the skies were clear, and the incident occurred because of a communications mix-up. But the Secretary of Defense was given wrong information.

The American communications reconnaissance ship *Liberty* is cruising off the coast of Sinai during the 1967 Arab-Israeli war. The Pentagon sends orders for it to move farther off shore. But the orders are sent by mistake first to the Pacific, back to Fort Meade, Md., and finally to a shore station in Morocco. But the *Liberty* was listening for signals from Ethiopia which never came. Israeli planes and ships attacked the *Liberty*, and many men were killed or injured.

The Pentagon orders the Commanders-in-Chief, U.S. Pacific Command, to investigate Soviet charges that American planes strafed a Russian ship in a North Vietnamese harbor. CINCPAC replies that no American planes were over the harbor, which is announced by the Pentagon. Two weeks later, the Secretary of Defense discovers that American planes *had* been firing at anti-aircraft guns in the harbor, and could, indeed, have hit the Russian ship.

Phil Goulding was Assistant Secretary of Defense for Public Affairs when these things happened, and his book is a remarkably candid and unsettling chronicle of one foul-up after another. Nobody's perfect, but there are times, reading Goulding's memoir, when you wonder if the Pentagon isn't lowering the national average.

What is truly disturbing about some of these incidents is the degree to which the office of the Secretary of Defense is either uninformed or misinformed. While it is surely difficult to maintain instant communication with about five million people in the defense establishment, uniformed and civilians, in just about every place on earth, Goulding destroys the image we have, or the hope, perhaps, that somewhere, somebody must know what's happening. For people who worry about Presidents with fingers on the nuclear button, this kind of reading leads to bad dreams.

Goulding says, "In our office, the Secretary's office or the White House, we never knew how much we did not know." He served for four years as the senior public relations officer of the Department of Defense, and of those years, he says, "I misled and misinformed the American people a good many times in a good many ways—through my own lack of foresight, through carelessness, through relaying incomplete information which the originators considered complete, through transmitting reports which had been falsified deliberately at lower levels." That last phrase is very plain talk in the growing community of former Defense officials who are jotting down their recollections of public service.

Moreover, Goulding says that in almost every instance he operated from the very same reports which were going to his bosses, Secretaries McNamara and Clifford.

Goulding believes Lyndon Johnson fired McNamara because the Secretary of Defense had lost faith in the bombing of North Vietnam. Further, Goulding is convinced that McNamara was opposed to the military request for 206,000 more troops for Vietnam in 1968, and would have resigned if the President had pushed through any significant increase in troop levels.

As it was, McNamara was on his way out, being replaced by Clark Clifford. Goulding first regarded Clifford as a hard-line crony of the President who would be inflexible on the war. As it turned out, it took only two months for Clifford to decide that the effort in Vietnam was no longer essential to the national security of the United States.

Goulding belonged to that small, influential group of Pentagon civilians who were against further escalation of the war as early as 1967, Cyrus Vance, Paul Nitze, Paul Warnke and the late John McNaughton. His testimony confirms the brilliant reconstruction of that period written by the former Under Secretary of the Air Force, Townsend Hoopes, called *The Limits of Intervention*. Curiously, Goulding makes no mention of a long paper he wrote on the perils of escalation. According to Hoopes, the Goulding paper was a decisive document.

Nor is there any mention in either book of a proposal from Dean Rusk to limit the bombing of North Vietnam, as described by Lyndon Johnson on television. In fairness, Goulding and Hoopes might not have known of such an unexpected development from such an uncharacteristic source, but neither account supports the Johnson version of what happened.

What does come through in Goulding's book is the picture of a very human, often disorganized, divided Pentagon, being held together by civilians in the Office of the Secretary of Defense. The book is flawed by too much insider's stuff, too many organizational outlines, plugs for parts of the bureaucracy—but it is nevertheless vivid contemporary history, of great value to people who wonder what's really going on in the Pentagon. We can, perhaps, take some perverse comfort in the fact that even the Assistant Secretary for Public Affairs didn't always know what was going on himself.

DEATH OF BEN REGAN, CLOSE FRIEND OF FORMER SENATOR DIRKSEN

Mr. MANSFIELD. Mr. President, an old friend and longtime close friend of our late beloved and distinguished minority leader, the Senator from Illinois, Mr. Dirksen, has passed to his reward.

I speak of Ben Regan, whom many of us knew, who was noted, politically speaking, for being an outstanding and uncompromising Republican at all times, but who was also a decent man, a considerate man, and to a certain extent, a man always willing to see another's point of view.

He was a great contributor to the welfare of the State of Illinois and to the Nation. He was involved in many charities. He did much that was good.

I extend on behalf of my wife and myself our deepest sympathy to his widow, Doris, also a good friend of ours, and to his two sons Royal B., of Santa Monica, Calif., and Ben, Jr., of Naperville, Ill., to his sister, four brothers, and four grandchildren.

I ask unanimous consent to have printed in the RECORD an obituary on Ben Regan which was published in the New York Times this morning in memory of this fine and outstanding man.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

BEN REGAN, BROKER AND OFFICIAL OF PORT AUTHORITY, DEAD AT 59

WESTPORT, CONN., March 15.—Ben Regan, vice chairman of the Port of New York Authority and a general partner in the brokerage concern of Hornblower & Weeks-Hemphill Noyes, died of a heart attack last night. He was 59 years old and lived at 203 East 72d Street in New York and on Little Fox Lane here.

FREQUENT GUEST OF NIXON

Mr. Regan, who had presided over the monthly meeting of the Port Authority last Thursday in the absence of the chairman, James C. Kellogg 3d, was a former Middle Westerner who was influential in Republican politics.

He was for 33 years a confidant and adviser of the late Senator Everett McKinley Dirksen of Illinois, and he annually arranged a birthday party for the Senator in Washington.

Mr. Regan often entertained public officials and political figures of both parties at his Connecticut home and was a frequent guest of President Nixon at the White House.

He was a director of many corporations and was well known in financial circles and the aviation and food industries. He was a leading Roman Catholic layman and had a distinguished career as a public servant in Chicago, Washington and New York.

ON AUTHORITY SINCE 1963

Appointed to the Port Authority by Governor Rockefeller in 1963, Mr. Regan was reappointed in 1967 and was elected vice chairman last April.

Born in Big Rapids, Mich., Dec. 23, 1910, he was a son of J. M. Regan, a financial writer and publisher, and Mary Jeffs Regan. He attended Loyola University and held an honorary Doctor of Laws degree from Marquette University.

He began his association with Hornblower in Chicago in 1928. He had served as president of Nationwide Food Service, Inc., in Chicago and chairman of Frontier Air Lines, Inc., before coming to New York in 1961.

Mr. Regan was chairman of the board of trustees of Mundelein College in Chicago, a member of the board of advisers of the University of Illinois and of the board of regents of Marquette University, and a trustee of Fordham and Sacred Heart Universities and Marymount Manhattan and Oblate College.

IN AIR FORCE ASSOCIATION

He was chairman of the Illinois Aeronautics Commission from 1941 to 1945, director of the National Aeronautics Association from 1948 to 1958 and President of Iron Gate Chapter of the Air Force Association from 1963 to 1967.

Mr. Regan was a member of the Bishop's Finance Committee for the Diocese of Bridgeport and a director of the Joseph P. Kennedy Jr. Home. He was a Knight of Malta and of the Holy Sepulchre. He received a citation last year from the Anti-Defamation League of B'nai B'rith.

Surviving are his widow, the former Doris Barnett; two sons, Royal B. of Santa Monica, Calif., and Ben Jr. of Napierville, Ill.; a sister, four brothers and four grandchildren.

A requiem mass will be offered at 10 A.M. tomorrow at St. Jean Baptiste Roman Catholic Church, Lexington Avenue and 76th Street.

Mr. SCOTT. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. SCOTT. Those of us who knew Ben Regan knew how close was the friendship between him and our distinguished and late beloved minority leader Everett Dirksen.

I suppose that nearly all of us in the Senate who have attended those parties which Ben Regan used to give for his good friend Everett knew how close they were and what a fine man Ben Regan was.

Our sympathy and condolences go out to Doris and to the family.

One can imagine Ben and Ev being reunited again in some other place. We hope that Ben still enjoys the now celestial voice of his lifelong and forever friend, Everett Dirksen.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOUSING, NEW HOUSING, HOUSING STARTS, AND SAVINGS AND LOAN ASSOCIATIONS

Mr. SCOTT. Mr. President, I ask unanimous consent that a letter addressed to me under date of March 13, 1970, by the President of the United States on the matter of new housing starts, and savings and loan associations expressing his support of certain legislation pending in the House and certain action by the Secretary of Housing and Urban Development be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 13, 1970.

Hon. HUGH SCOTT,
Minority Leader, U.S. Senate,
Washington, D.C.

DEAR HUGH: As you know, in recent months new housing starts have fallen sharply. If we are to provide the new homes that the American people need, we must do even more at the Federal level to increase the current number of housing starts.

Savings and loans associations are a basic source of home mortgage financing. To provide these associations with funds, the Federal Home Loan Bank System in 1969 increased its advances to its member savings and loan associations by $4.6 billion. The Federal Home Loan Bank System itself borrowed this money at a high interest cost, and this cost has been passed on to the savings and loan associations. The associations, in turn, must then pass this high cost on to the homeowners taking out mortgage loans.

Savings and loan associations are at a point where they are reluctant to increase these high interest rate advances from the Federal Home Loan Bank System. As a result the shortage of mortgage funds in the hands of these associations has inhibited homebuilding.

On March 5 Mr. Patman introduced H.R. 16330 and Mr. Widnall introduced H.R. 16331 to provide the Federal Home Loan Bank System with $250 million to subsidize advances to savings and loan associations. Chairman Preston Martin of the Federal Home Loan Bank Board advises me that as a result of these advances the associations will provide financing for an additional 240,000 housing units in the near future.

I urge the Congress to pass this legislation with minimum delay so that the American people can have the benefit of these vitally needed additional houses.

In addition, on March 12 I submitted to the Congress a request for a Supplemental Appropriation that would add $50 million to the 1970 authority available for entering into interest subsidy contracts under the Homeownership and Rental Housing Assistance Programs. These programs enable the Department of Housing and Urban Development to provide subsidies for housing for low- and moderate-income individuals by reducing interest rates paid on mortgages. The Secretary of Housing and Urban Development advises me that a backlog of applications for this type of subsidy exists and therefore the result of this $50 million will be a substantial increase in housing starts in the near future. I also urge prompt action on this Supplemental request.

Sincerely,

RICHARD NIXON.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

XUM

Proposed Legislation To Provide Housing Subsidies

A communication from the President of the United States urging the Congress to enact proposed legislation to provide subsidies for housing for low- and moderate-income individuals by reducing interest rates on mortgages; to the Committee on Banking and Currency.

Statistics of Publicly Owned Electric Utilities in the United States, 1968

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Congress, a copy of the publication "Statistics of Publicly Owned Electric Utilities in the U.S., 1968" (with an accompanying document); to the Committee on Commerce.

Hydroelectric Power Evaluation, Supplement No. 1, 1969

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a copy of the publication "Hydroelectric Power Evaluation, Supplement No. 1, 1969" (with an accompanying document); to the Committee on Commerce.

Report on Advisory Committees Assisting the Secretary of Health, Education, and Welfare During 1969

A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, on the advisory committees which assisted him in the calendar year 1969 (with accompanying papers); to the Committee on Finance.

Report of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of financial statements of the Panama Canal Company and the Canal Zone Government, for fiscal years 1969 and 1968, dated March 13, 1970 (with an accompanying report); to the Committee on Government Operations.

Proposed Legislation With Respect to Judicial Review of Decisions of the Interstate Commerce Commission

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to amend title 28 of the United States Code with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

Report on the Cost of Clean Air

A letter from the Secretary, Health, Education, and Welfare, transmitting, pursuant to law, a report on the Cost of Clean Air, dated January 1970 (with an accompanying report); to the Committee on Public Works.

Report on National Emission Standards for Stationary Sources of Air Pollution

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the need for, and effect of, national emission standards for stationary sources of air pollution, dated January 1970, (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of Idaho; to the Committee on Foreign Relations:

"Joint Resolution of the State of Idaho

"A joint memorial to the Honorable Senate and House of Representatives of the United States in Congress assembled

"We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Fortieth Idaho Legislature, do respectfully represent that:

"Whereas, the government of the United States is a party to the Geneva Convention, having acceded to the terms of the convention on August 2, 1955; and

"Whereas, the government of North Vietnam is a party to the Geneva Convention, having acceded to the terms of the convention on June 28, 1957; and

"Whereas, it is the intent of the Geneva Convention that the high contracting parties to the convention insure the proper and humanitarian treatment of prisoners, provide needed medical service and supplies to sick and wounded prisoners, release the names of prisoners held by them, release the names of combatants known to have been killed, deliver mail to prisoners, and allow the impartial inspection of prisoners of war camps and facilities; and

"Whereas, the government of North Vietnam has not conformed its actions to the terms of the Geneva Convention and has shown a blatant disregard for the feelings of the families of prisoners held and has ignored the representations of interested persons throughout the world.

"Now, therefore, be it resolved by the Second Regular Session of the Fortieth Idaho Legislature, speaking for and on behalf of the people of the state of Idaho, that the Congress of the United States take all possible steps to bring the weight of world public opinion to bear on the government of North Vietnam to require them to live up to the terms of the Geneva Convention which our government has signed in good faith and with which we are conforming.

"Be it further resolved that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

A telegram, in the nature of a petition, from Anita Yanoihik, of Phoenix, Ariz., praying for the enactment of the bill (H.R. 515), the school lunch bill; to the Committee on Agriculture and Forestry.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. FANNIN, from the Committee on Interior and Insular Affairs, without amendment:

S. 2882. A bill to amend Public Law 394, 84th Congress, to authorize the construction of supplemental irrigation facilities for the Yuma Mesa Irrigation District, Ariz. (Rept. No. 91–740).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 3426. A bill to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes (Rept. No. 91–741).

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. BIBLE:

S. 3595. A bill to establish a Commission on Security and Safety of Cargo; to the Committee on Commerce.

(The remarks of Mr. Bible when he introduced the bill appear later in the Record under the appropriate heading.)

By Mr. GOODELL:

S. 3596. A bill to amend the Fur Seal Act of 1966 by prohibiting the clubbing of seals after July 1, 1972, the taking of seal pups, and the taking of female seals on the Pribilof Islands or on any other land and water under the justification of the United States; to the Committee on Commerce.

(The remarks of Mr. Goodell when he introduced the bill appear later in the Record under the appropriate heading).

By Mr. HRUSKA:

S. 3597. A bill to amend title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. Hruska when he introduced the bill appear later in the Record under the appropriate heading.)

S. 3595—INTRODUCTION OF BILL TO ESTABLISH FEDERAL COMMISSION ON SECURITY AND SAFETY OF CARGO

Mr. BIBLE. Mr. President, I introduce for appropriate reference, a bill to establish a presidentially appointed commission to investigate and recommend steps to seek out methods to curb alarming increases in cargo theft, pilferage, and hijacking in the air, truck, water, and rail transport industries that today have pushed normal cargo movements to a crisis point for some businesses. This is especially true in incoming international air shipments.

The time is overdue for a hard look at both the short- and long-run approaches to this growing problem which is the heart of the biggest multi-billion-dollar racket nationally today—stealing from business. Its worst victims are the small businessmen, who can least afford it, and the consumer public who, in the final analysis, pays a crime-inflated price for his needs.

As an example, the Civil Aeronautics Board has before it a tariff revision application that could on April 1 stop interstate shipments of furs by air to and from the New York City area, the Nation's fur manufacturing center. Air Cargo, Inc., the ground service organization owned by the Nation's airlines, has asked permission to cancel pickup and delivery service for fur shipments as a result of growing thefts. Exactly what effect this will have on the fur-raising industry of Alaska and many northern and western States cannot be accurately forecast right now.

Is this the forerunner of other high-value cargoes which the airlines may find it impossible to handle in the normal course of ordinary commerce because of thievery? Likewise, is this an admission that the problem is so severe that the airlines find it impossible to control?

The Committee on Small Business, of which I have the honor to serve as chairman, has been actively involved for the last 2 years in an investigation and hearings into cargo theft in air commerce and at waterfront docks and terminals and its impact on the small business shippers who rely on public carriers to deliver their products. We are pleased that the Departments of Justice, Treasury, and Transportation have recently turned their attention to the cargo crime problem.

What the exact crime cargo losses are in our domestic-international commerce cycle today cannot be accurately measured because loss-reporting systems for all transport modes are not in use. But our committee has some information that serves as an indicator of the real dimensions of the problem.

The growing severity of crime in air commerce is provided by the American Institute of Marine Underwriters which reveals that the theft of goods from air carriers has tripled over the past year. Stolen cargo on incoming international air shipments insured by the Institute's member companies had a value of $6 million in 1969.

Because no loss reports are kept by airlines, some estimates place domestic-international air cargo losses in this country at $20 million to $50 million or more in 1969. Most air cargo is not insured and small businessmen, as a result of loss-induced high insurance premiums, generally self insure.

As another example, the American Watch Association testified that air cargo losses for 1 year exceeded $2½ million, comparable to a company like General Motors losing some $300 million per year in automobile thefts. Shippers lost more than $1 million in 1 week last year at New York City's Kennedy International Airport.

Another hard-hit transport mode is in truck thefts and hijacking whose losses reached over $600 million for 1969, according to figures provided to the committee by the American Insurance Association. Babaco, a private alarm company serving trucking companies, estimates 1969 losses were $702 million, 17 percent above 1968.

XUM

What the exact dimensions of thievery are in the waterfront dock category are not accurately known. For one reason, no loss-reporting system is in use. We are aware of the Treasury Department's plans to submit proposed legislation to the Congress seeking to deal with this problem. We do hope it will not provide for a Federal police force on the docks and thereby add another layer of a Federal bureaucracy.

As demonstrated preliminarily by our hearings, present Federal agencies with authority over maritime shipping unquestionably require stronger powers. And equally important, more effective and closer cooperation by all Federal, State, and local law enforcement and regulatory agencies, plus more realistic and affirmative cooperation by private industry, business and labor areas involved would assist.

But, Mr. President, most of all, the cargo theft problem must be attacked on all its fronts within the entire transport chain—truck, air, water, and rail.

My bill, for which I invite cosponsors who are disturbed by the skyrocketing cargo thievery, seeks to take a businesslike, hard look, with a government, industry, labor, and shipper partnership involved.

As a summary, my bill would establish a Commission on Security and Safety of Cargo, with nine members drawn from air, truck, water, and rail carriers, cargo labor unions, terminal-warehouse operators, the Attorney General, the Secretary of Transportation and the Secretary of Commerce. Ex-officio members would include Federal transportation regulatory agencies and the insurance industry.

Briefly, the Commission's duties would be:

First. To define the causes, scope, and value of cargo losses and their disposal methods.

Second. To evaluate cargo theft deterrents including packaging, containerization, personnel security, physical security, law enforcement liaison.

Third. To establish a uniform, centralized loss-reporting system for all cargo.

Fourth. To examine insurance liability limitations.

Fifth. To encourage development of crime prevention technology.

Sixth. To recommend appropriate legislation to Congress.

Mr. President, hearings by the Small Business Committee to date have demonstrated that too little attention has been paid to fundamental efforts to achieve security and safety of cargo. Testimony showed that unless conditions are improved in the transport of air and maritime cargo, some major shippers and importers would begin to consider Montreal, Canada, as a port of entry for the purpose of assuring safe delivery of cargo by circumventing the congestion, theft, and pilferage at the New York waterfront docks and airports.

That losses, thefts, and pilferages have produced inestimable damage in cargo is no longer a matter of dispute. The question is: What shall we do to bring about some remedial reforms? Some attempts have been made by some segments of the transportation industry to promote voluntary improvements to increase the safety and security of cargo. But, it is convincingly clear that despite sound motives, the solution is not solely there. Insurance payments can no longer be substituted for good security. Cargo loss reimbursements have brought insurance companies to their knees, bringing policy cancellations.

The need for safekeeping, protection, safe, and secure delivery of cargo is a matter of community interest within the transportation industry. One segment of the industry, whether it be air, truck, rail, or ship, cannot succeed without continuity of protection and security of its cargo.

Notwithstanding the competitive character and different modes of transportation, cargo in many instances will run the entire gamut from point of origin to point of delivery, involving every form of transportation. Protection of cargo must be uniform, continuous, and uninterrupted.

The instability and lack of uniform protective procedures for safe and secure delivery of cargo demand establishment of a body consisting of representatives of both government and private industry which would function as a coordinated unit.

The Commission on Security and Safety of Cargo which I propose, will form a partnership to amass all resources available through research, assessments, and intelligence data of the private sector and of government. This sharing of responsibility can produce an effective impact.

There are those who believe the transportation industry, faced with the economic demands of a burgeoning population and the complexities of the economic-social changes of the 1970's, needs a new burst of innovative enthusiasm. Since transporting cargo is its business, possibly it requires new ideas, new variations, new dimensions, and new answers, lest the theft problem becomes uncontrollable.

Our primary focus must always be what will be beneficial to the American businessman and the consumer. A reduction in cargo theft will produce beneficial economic effect upon both because they will be relieved of some of the undue and unfair burdens of additional costs which transporters and shippers have imposed upon them to make up for the major increases they have suffered through losses, thefts, and pilferages of all commodities, including those which are necessities of life.

The time to try is here and now. Delay will only accentuate the problem.

Mr. President, I ask unanimous consent that a summary of what I believe are the purposes and goals of the proposed Commission on Security and Safety of Cargo, be printed in the RECORD at the conclusion of my remarks together with the full text of the bill.

The PRESIDING OFFICER (Mr. HART). The bill will be received and appropriately referred; and, without objection, the bill and summary will be printed in the RECORD.

The bill (S. 3595) to establish a Commission on Security and Safety of Cargo, introduced by Mr. BIBLE, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3595

FINDINGS OF FACT AND DECLARATION OF POLICY

SECTION 1. (a) The Congress finds that one of the fundamental bases for the development and growth of commerce and trade on an interstate and international basis is the security and safety of movement of such goods and cargo. The Congress has become aware that there is an alarming growth of criminal activity which results in loss of and damage to goods moving in interstate and international commerce. Such loss and theft are increasing to the degree that it represents a clear and present danger to the national economy, especially American business and particularly the small business community, which bears the greatest portion of such losses. The Congress further finds that the Constitution places the control, regulation, and stimulation of interstate and international commerce and trade within the purview of the Federal Government. Prevention of larcenies and malfeasances in connection with goods in interstate and international transit is an inherently difficult phase of crime control; goods in motion or in large-scale storage are hard to watch closely; the multijurisdictional nature of thefts facilitates criminal evasion; and protection arrangements impose unwelcome and often disastrous expenses in terms of operational delays, added paperwork, and increased costs for insurance and protection. The Congress finds that common carriers in cargo transportation by air, truck, rail and water, manifest a serious deficiency in the level of coordination and effort needed to establish deterrents and preventive measures and utilize resources to combat criminal activity. These criminal activities and attendant losses pose an especially serious threat to the economic stability of small business. The apparent magnitude of the resultant costs suggests that the Federal Government make a further detailed and continuing inquiry to determine whether remedial measures can and should be implemented by cargo carriers, their agents and assigns, possibly supported by Federal assistance, to minimize criminally inspired losses of cargo during storage and transit.

(b) The Congress further finds that State and local governments, through exercise of their regulatory powers, have an equal responsibility in stimulating measures to enhance the safety and security of cargo storage and transport. Accordingly, attempts by the Federal Government to deter and curb such losses, thefts and pilferages should be coordinated at various levels of government.

(c) It is the purpose of this Act to establish a Commission which shall conduct an inquiry and research into matters of cargo security for the purpose of designing programs to achieve maximum security and safety for such cargo when in storage and in transit in interstate and foreign commerce. It is a further purpose to create an organization which will administer this Act and implement its purposes by establishing liaison and coordination with, by and between the common carriers, their agents and assigns, as well as supporting organizations such as private terminal operators, port authorities, and others, engaged in all modes of transportation, distribution, and storage of good and cargo in transit, and by fostering consultation and coordination with appropriate governmental and private agencies and concerns.

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) For the purpose of carrying out the intent of Congress as expressed in this Act, there is hereby created a commission to be known as the Commission on Security and Safety of Cargo (hereinafter referred to as the Commission).

(b) The Commission shall be composed of individuals who, by virtue of their education and experience demonstrate an ability to discover causes, develop solutions, and implement strategies to solve the problem of cargo loss and theft. Members shall include one representative from each mode of the cargo transportation industry, air, truck, rail, and water; one representative from the cargo handlers labor organizations; one representative from terminal operators and independent warehouse and storage concerns; and three representatives of the Federal Government, consisting of the Attorney General of the United States, the Secretary of Transportation, and the Secretary of Commerce.

(c) The members of the Commission, other than those designated to represent the Federal Government, shall be appointed by the President. Not more than four of such appointed members shall be members of the same political party.

(d) The Chairman of the Commission shall be elected annually from among the members of the Commission.

(e) The following shall be ex-officio members of the Commission: the chairmen of the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission; the Commissioner of Customs; one representative having expertise in providing security for the storage and movement of Federal cargo appointed by each of the following: the Secretary of Defense, the Atomic Energy Commission, and the National Aeronautics and Space Administration; one representative of the National Bureau of Standards appointed by the Secretary of Commerce; one representative from the Law Enforcement Assistance Administration appointed by the Attorney General; and one representative from the cargo underwriters insurance industry. Ex-officio members of the Commission shall not participate except in an advisory capacity to the Commission in the formulation of its findings and recommendations.

(f) Vacancies on the Commission shall be filled in the same manner as initial appointments.

(g) A quorum of the Commission shall consist of 5 members, but 2 members shall be sufficient for the purpose of taking testimony, or conducting any hearings on a matter within the purview of the Commission's jurisdiction.

COMPENSATION OF COMMISSION MEMBERS

SEC. 3. (a) Members of the Commission who are officers or full time employees of the Government shall serve without compensation in addition to that received for their services as such officers or employees; but they shall be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code for persons in government service employed intermittently.

(b) Other members of the Commission who are not officers or officials in the employ of the United States shall be compensated at the rate of $50.00 per day when engaged in the actual business and duties vested in the Commission, and in addition be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code.

STAFF OF THE COMMISSION

SEC. 4. (a) The Commission may appoint such personnel as it deems necessary without regard to the provisions of title 5 of the United States Code concerning appointments in the competitive services and such personnel may be paid without regard to the provisions of chapter 51 and subtitle 3 of chapter 53 of such title, relating to classification and general schedule pay rates.

(b) The staff of the Commission shall be composed of, but not limited to, individuals having expertise determined to be pertinent to the conduct of a systematic operations research study of the problem of cargo theft, such as persons qualified in statistical mathematics, applied mathematics, human factors engineering, security engineering, cargo operations and movement, police and law enforcement, social psychology, criminology, business management, traffic engineering, security architecture, and deterrence, detection, and apprehension technology and methodology.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission, or any two members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data. In connection therewith the Commission is authorized by the majority vote—

(1) to require, by special or general orders, corporations, business firms, and individuals to submit in writing such reports and answers to questions as the Commission may prescribe; such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in the case of disobedience to a subpoena or order issued under this subsection, to invoke the aid of any district court of the United States in requiring compliance with such subpoena or order;

(5) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony and the production of evidence in the same manner as authorized under clauses (3) and (4) of this subsection; and

(6) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) Any district court of the United States within the jurisdiction of which an inquiry is carried on may, in case of refusal to obey a subpoena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information it deems necessary to carry out its functions under this Act; and each such department, agency, or independent instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information to the Commission upon request made by the Chairman or the Vice Chairman when acting as Chairman.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e)(1) When the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information which would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held confidential and shall not be disclosed by the Commission or its staff: *Provided, however*, That the Commission shall permit business firms or individuals reasonable access to documents furnished by them for the purpose of obtaining or copying such documents as need may arise.

(f) The Commission is authorized to delegate any of its functions to individual members of the Commission or to designate individuals on its staff and to make such rules and regulations as are necessary for the conduct of its business, except as herein otherwise provided.

DUTIES OF THE COMMISSION

SEC. 6. It shall be the duty of the Commission to undertake and compile inquiries and studies to determine the causes, and practical and effective measures for the prevention and deterrence of loss, theft, and pilferage of cargo in interstate and international commerce. It shall be a further duty of the Commission to encourage the use of existing preventive technology and to promote the development of new techniques, procedures, and methods to enhance the safety and security of cargo storage and transportation. Such duties shall include, but not be limited to:

(1) definition and description of the causes, scope, and value of losses due to cargo theft;

(2) evaluation of methods to deter cargo theft, including analysis of labor-management practices; packaging and labeling of cargo; containerization; personnel security; prevention, detection and apprehension systems and devices; physical security protection, including lighting, fencing, gate placement, and other similar means; sociological and psychological deterrents and remedies; liaison of cargo security programs between law enforcement agencies and cargo terminal operators, forwarders, and transporters;

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(3) design, implementation, and analysis of pilot experimental programs to demonstrate the effectiveness of different security systems;

(4) establishment and maintenance of liaison with the various modes of transportation of cargo to exchange and disseminate data to promote safety and security of cargo;

(5) periodic consultations with appropriate governmental and private agencies to discuss problems and investigate solutions;

(6) complementing programs and activities of different modes of cargo transport to produce an effective and low-cost program of safety and security;

(7) Development of a system of comprehensive, continuous and uniform loss and damage reporting by the different modes of transportation;

(8) study and evaluation of present carrier liability limits for losses incurred in the transport of cargo by the different modes of transportation, and evaluation of the adequacy of such limits of liability;

(9) development of physical facility security standards and encouragement of voluntary implementation by the various industries involved;

(10) continuous reassessment of programs, plans and operations to determine necessary revisions; and

(11) recommendations for legislative, administrative, or other actions deemed necessary to promote the safety of cargo transport.

REPORTS

SEC. 7. The Commission shall report to the President and to the Congress its findings and recommendations as deemed desirable and necessary, but in no event less often than annually.

AUTHORIZATION

SEC. 8. There is authorized to be appropriated for the purpose of this Act not to exceed $250,000 for each fiscal year.

TERMINATION DATE

SEC. 9. The Commission shall continue in existence until December 30, 1975, at which time it shall cease to exist. Prior to such date, it shall provide the Congress with a complete report on its activities pursuant to this Act, and its final recommendations.

The summary, presented by Mr. BIBLE, is as follows:

FUNCTIONAL OPERATIONS

I. SCOPE AND PURPOSE

The Commission would be a coordinate body of the private and government sectors exercising jurisdiction over the safety and security of cargo transported in interstate commerce, whether by air, truck, rail or marine carrier. It would function to promulgate policies and procedures for regulatory control to assure maximum safety and security of cargo through advisory powers. The primary mandate of the Commission would be to curb and deter losses, thefts, and pilferages, and various forms of criminal activity inflicted upon cargo, and to promote operational measures for implementation by carriers, while serving as a clearing house for research and expert technology to enhance the security of cargo transport.

Due to inherent and intrinsic operations of cargo movements in the different modes of transportation, the bill recognizes that there is an imperative need in the transport industry:

(a) To establish and promote continuing liaison among the various carriers transporting cargo.

(b) To confer periodically with the cargo transportation media, to exchange information and cause dissemination of the same which is of mutual interest for cargo security.

(c) To complement the various security activities of cargo transport to achieve optimum effectiveness and efficiency at minimum costs and maximum economy to small business and the consumer.

(d) To serve as a catalytic agent to improve cargo safety and security among cargo carriers, and

(e) To encourage private industry in cargo transport to serve as an adjunct to the law enforcement community, where responsibility is vested for investigation and prosecution of such criminal activities.

The Commission would serve to provide unity of direction and purpose in the promotion of cargo transport security by combining and correlating the collective efforts of the cargo transporters.

II. IMPLEMENTATION OF POLICIES AND PURPOSES

The Commission would achieve its mandate in a gradual and methodical approach by a preliminary analysis of the current activities, operations and procedures currently utilized for the security of cargo transport and defining of this must be accomplished within a broad perspective by ascertaining the policies and functions of the various transport carriers relative to those areas involving:

(a) Personnel security.

(b) Physical facilities security for cargo.

(c) Liaison and coordination of cargo security programs.

(d) Uniform and centralized reporting procedures for cargo losses, thefts, and pilferages.

(e) Training of cargo transport personnel security.

The implementation process would be accomplished through five steps progressively by:

(a) Analysis through research, surveys and inspections.

(b) Evaluation of the findings made.

(c) Recommendations for voluntary compliance by the carriers and wherever appropriate recommended legislative remedies.

(d) Implementation of recommendations by the carriers.

(e) Revisions as appropriate to assure continuing maximum security and minimum economic impact upon all concerned.

Guides, standards and procedures would be promulgated and requests made for voluntary compliance by the industries. Where deemed necessary, or appropriate, specific recommendations for corrective activities and procedures would be made to the Federal regulatory agencies having jurisdiction or to the Executive or Legislative branches of the Federal government. In essence, the programs sponsored by the Commission would be designed to fill the void existing among the law enforcement agencies as a result of manpower shortage.

S. 3596—INTRODUCTION OF THE HUMANE SEAL PROTECTION ACT OF 1970

Mr. GOODELL. Mr. President, hundreds of letters sent to me over the last few months have expressed my constituents' shock at discovering the brutality with which seals are killed in the Pribilof Islands in the northern Pacific, with the authorization of the Department of the Interior.

Native hunters in the Pribilofs complain bitterly, according to a memorandum by the Director of Field Services of the Humane Society of the United States, that the U.S. Government is making them take female seals in order to make up quotas. The hunters firmly contend that for every female seal taken, three seals die: The mother, the embryo which she nearly always carries, and the pup which she has left alone on the beach.

After a public furor sparked by several lurid magazine articles on the killing of seals under 1 year of age, the Canadian Government has now prohibited this practice. The Department of the Interior, which has jurisdiction over the taking of seal skins in the Pribilofs, has not seen fit to follow suit. Consequently, there is now no U.S. Government regulation preventing the killing of pups.

The only reason why this practice is not presently engaged in on the Pribilofs is that the skin tanning process used in our country makes the processing of pups' skins unprofitable. Industrial processes change, and should the tanning of pup skins ever become profitable, nothing stands in the way of those who would begin to kill seal pups. An Interior Department regulation ought long since to have foreclosed this possibility.

After a long and wearing drive from the beaches to the killing grounds, a drive during which seals become so heated and exhausted that their skin begins to steam in 38-degree weather, seals are now killed by clubbing of their heads. Many times an animal receives a second or even a third blow to insure that he will not recover, and that the men who will dispose of him after the clubbing will not be harmed.

According to a report given credibility by the Humane Society, 13.6 percent of the animals clubbed undergo multiple blows. These subsequent blows are justified on the basis that they are a safety factor, but we must consider that if the clubbers believe that those blows are necessary for safety—and the clubbers, you will remember, are the native experts—then they must believe that there is still a possibility of recovery. It is quite probable, then, that a healthy proportion of clubbed seals continue to feel pain even after their brain waves had supposedly been terminated.

The seal hunt is presently governed by an international convention which limits the number of seals which any one country may take from the Pribilofs. The Humane Society emphasized that if this country were to unilaterally move to terminate its participation in the hunt, we would free the other signatories of the convention to kill as many seals as they can. Since the result of that would be the decimation of the species, we cannot unilaterally terminate sealing in the Pribilofs. We can, however, make the process of sealing more humane.

To end the brutality which is attendant upon the killing of seals in the Pribilofs, I am introducing today the Humane Seal Protection Act of 1970. That act will prohibit the killing of seal pups and of female seals, and will mandate the Interior Department to promulgate a humane killing procedure which is to replace clubbing by July 1, 1972.

Mr. President, I request unanimous consent to have the bill and a summary and analysis thereof printed in the RECORD.

The PRESIDING OFFICER (Mr. DOLE). The bill will be received and appropriately referred; and, without objection, the bill and summary will be printed in the RECORD.

The bill (S. 3596) to amend the Fur

Seal Act of 1966 by prohibiting the clubbing of seals after July 1, 1972, the taking of seal pups, and the taking of female seals on the Pribilof Islands or on any other land and water under the jurisdiction of the United States, introduced by Mr. GOODELL, was received, read twice by its title, referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

S. 3596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act shall be known as the "Humane Seal Protection Act of 1970."

SEC. 1. Section 104 of the Fur Seal Act of 1966 is amended by adding at the end of subsection (a) thereof the following new subsections:

"(b) The killing of seals by clubbing shall be prohibited after July 1, 1972."

"(c) The taking of the skin of any seal under one year of age, and of any female seal, shall be prohibited."

Subsection (b) of the Act shall be redesignated subsection (d).

SEC. 2. Section 109(d) of the Act is amended by adding at the end thereof the following:

"by any means, except after July 1, 1972 by clubbing,"

SEC. 3. Section 404 of the Act is amended by adding at the end thereof the following:

"Whoever knowingly transports in interstate commerce, or knowingly sells subsequent to such transportation, any package containing any seal skin, or any product manufactured, made or processed, in whole or in part, from such seal skin, which has been taken in violation of any provision of this Act shall be fined not more than $2000, or imprisoned not more than one year, or both, and the gross revenue derived from any such sale of any such illegally taken skin shall be confiscated by the Secretary of the Interior and deposited into the Pribilof Island Fund in the Treasury." SEC. 4. Section 405 of the Act is amended by adding at the end thereof the following:

"The Secretary shall initiate or contract for research on alternative means of killing seals, with the end of replacing the currently used method of clubbing. On the basis of such research, he shall determine which killing technique is maximally painless to the seals, and shall, not later than April 1, 1972, adopt regulations requiring that after July 1, 1972, such technique be the only permissible method of killing seals.

"The Secretary shall, moreover, initiate or contract for research on shortening the seal drive from rookery to hauling ground, and on minimizing the stress upon seals during that drive."

The material presented by Mr. GOODELL is as follows:

SUMMARY AND ANALYSIS OF THE HUMANE SEAL PROTECTION ACT OF 1970

SECTION 1. It is quite clear, from the healthy proportion of clubbed seals which must undergo multiple clubbings to ensure their unconsciousness, that clubbing can be a slow and painful killing process. Equally is it clear that the taking of seal pups—which in fact does not presently occur on the Pribilof Islands, but which is not presently prohibited by United States law or Interior Department regulation—is inhumane and unnecessary to meet hunting quotas. It is undisputed, moreover, that the taking of female seals always entails the death of an embryo and nearly always of a pup as well.

Electroencephalograms recorded immediately after clubbing have, according to scientists from a Virginia Mason Research Center medical team which conducted tests on the Pribilofs in July, 1969, shown gross electrical activity in the seal's brain for three minutes following the blow, indicating a distinct ability to feel pain during that period. Animals frequently recover in American slaughterhouses, after having been stunned by humane slaughter devices, but the proportion of animals recovering is quite a bit less than 13.6%. Since 13.6% of seals clubbed must be given multiple blows to ensure their unconsciousness, seal clubbing is without question less humane than mainland slaughter processes.

Humane Society tests have demonstrated that more humane killing options are available: the use of carbon dioxide chambers, of electricity, of exposure to a flooded nitrogen atmosphere. Experiments conducted in 1969 by doctors at the Virginia Mason Research Center, in collaboration with the Interior Department's Bureau of Commercial Fisheries, have the nitrogen technique as a particularly painless alternative to clubbing.

I concur with the Humane Society in its belief that no painless alternative to clubbing has yet been developed. Section 1 therefore sets a deadline, July 1, 1972, after which clubbing may not be utilized. Surely two years is more than sufficient for the Department of the Interior to come up with a recommendation on a more humane option.

Section 1(c) prohibits the taking of seal pups. Moreover, it protects the size of the Pribilof herd, in accordance with the beliefs of the native hunters, by prohibiting the taking of female seals.

SEC. 2. Section 2 amends the definition of the term "sealing" so as to exclude clubbing, after July 1, 1972, as a permissible killing device.

SEC. 3. Section 3 prohibits the transmission in interstate commerce, and the sale subsequent to such transmission, of any illegally taken seal skin or product made therefrom, and imposes criminal penalties for the violation of that prohibition.

SEC. 4. Section 4 mandates the Secretary of the Interior to conduct research to develop a more humane killing method which is to replace clubbing and to initiate research which will lead to making the seal drive to the killing ground more humane. The Secretary is required, on the basis of such research, to determine which killing method is least painful to seals, and to adopt regulations requiring that such technique be the only permissible one after July 1, 1972.

ADDITIONAL COSPONSORS OF BILLS

S. 3388

Mr. BROOKE. Mr. President, at the request of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the name of the Senator from Iowa (Mr. MILLER) be added as a cosponsor of S. 3388, to establish an Environmental Quality Administration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 3388

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the name of the Senator from Hawaii (Mr. FONG) be added as a cosponsor of S. 3388, to establish an Environmental Quality Administration.

The PRESIDING OFFICER (Mr. DOLE). Without objection, it is so ordered.

S. 3566

Mr. BROOKE. Mr. President, at the request of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the names of the Senator from Wisconsin (Mr. NELSON) and the Senator from California (Mr. MURPHY) be added as cosponsors of S. 3566, to establish, within the National Foundation on the Arts and Humanities, a National Council on American Minority History and Culture.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 3566

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of S. 3566, to establish, within the National Foundation on the Arts and Humanities, a National Council on American Minority History and Culture.

The PRESIDING OFFICER (Mr. DOLE). Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 16, 1970, he presented to the President of the United States the enrolled bill (S. 495) for the relief of Marie-Louise—Mary Louise—Pierce.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary.

Robert E. Hauberg, of Mississippi, to be U.S. attorney, southern district of Mississippi for the term of 4 years, reappointment.

Joseph W. Keene, of Louisiana, to be U.S. marshal, western district of Louisiana for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, March 23, 1970, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER OF BUSINESS

Mr. EASTLAND. Mr. President, I ask unanimous consent that I be permitted to address the Senate for a period of 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE VENCEREMOS BRIGADE—AGRARIANS OR ANARCHISTS?

Mr. EASTLAND. Mr. President, American citizens are being indoctrinated and trained to attack and destroy our institutions and our Government. This activity is underway on our doorstep at this hour.

Fidel Castro's Cuba is the enemy base for the operation. Only yesterday—in the span of time—this despot sought to aim offensive missiles at our people. Today he is exporting revolution in another effort to drag this democracy down.

The Internal Security Subcommittee is determined to expose this assault upon America and we know the Congress will be in the forefront of the fight to smash it.

Since the very early 1960's individuals and groups of varying sizes have traveled to communism's outpost in this hemisphere and returned to the United States. In the recent past a comparative trickle threatens to become a flood—and this rising tide represents a clear and present danger to the fabric of our society.

We want to direct attention to some of these visitors to Castro's domain—and to their violent, destructive, and revolutionary actions in this country.

We intend to light the shadows that surround this vicious operation—to drive from those shadows the missiles—in human form—which have been fashioned on that Communist island and fired at America. We want our people to be aware of the direct chain which reaches from Cuba into our cities, our campuses, our conventions, our lives—and which threatens the life of this Republic.

Mr. President, three of the "Chicago 7"—Jerry Rubin, David Dellinger, and Tom Hayden—are veterans of Cuba and veterans of attempts to disrupt a national convention and to destroy our judicial system.

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Mark Rudd made his journey to Havana—returned—and led the riots which rocked—and almost wrecked—Columbia University.

Following his all-out assault on Columbia, Rudd moved on to the leadership of the dangerous Weatherman faction of Students for a Democratic Society.

In October of 1969 the Weathermen launched their four days of rage campaign against the city of Chicago. It can only be described as a war on lawful authority—an act of open insurrection.

In the phalanx of 70 female Weathermen who battled police at Grant Park were Kathy Boudin and Cathryn Wilkerson who escaped from the bomb blasted residence in New York City which belonged to the Wilkerson woman's family—and which was being used as an assembly plant for explosive devices.

Again, Mr. President, we confront the chilling fact that both of these women were among American visitors to Cuba—as was Theodore Gold—another Weatherman—whose body was found in the ruins of the bomb manufacturing facility. One of the bodies recovered from the wreckage showed unmistakable evidence of the nails which were being attached to the explosive to produce shrapnel.

Kathy Boudin—this traveler to Castro's island—wrote:

> We need to attack the legal system of the United States—courts, grand juries, legislative committees, the ideology itself—just as we attacked its fraternal institutions, the university and the selective service system.

I think it would be well for us to note the ominous repetition of the term "attack" by this woman as well as her reference to the ideology itself.

She says—in part:

> Just as we attacked the university.

Now, Mr. President, let us listen to a broadcast from Havana on the day after the riots at Berkeley. Here is the Communist commentary:

> It can be observed that the incidents take place in a chain reaction. One day it is the youths who travel to Cuba contrary to the restrictions of the State Department, and who then bravely challenge the inquisitions of the Senate Committee. This is a dramatic sign of the growing awareness in the United States universities. Today it is the turn of the Berkeley students who are fighting to break the straightjackets of the "American way of life" in a restless effort to face the realities of the surrounding world.
>
> This is not much or definitive, but you have to start somewhere.

A start has been made somewhere, Mr. President and that somewhere is Cuba. Every American is fully aware of Fidel Castro's concept of what the end of this effort should be and that is of course the end of the United States of America.

One of the leaders of the Berkely riots was Yvonne Bond, yet another traveler to Cuba.

The convicted mastermind of a plot to blow up the Statue of Liberty, Robert Collier, is a visitor to Havana. He has also been indicted for conspiring to bomb the Bronx Botanical Gardens, police stations, subway switching rooms, and railroad tracks. Additionally, he is accused of possessing and carrying dangerous weapons, including guns, rifles, pistols, bombs, and explosive substances. I must observe that these sojourners to Cuba have a real affinity for explosive substances.

Ralph Featherstone, who recently lost his life in an explosion in nearby Maryland, attended a conference in Havana in January of 1968, along with David Dellinger, Tom Hayden, and others of this type.

Rubin, Dellinger, Hayden, Rudd, Collier—what a whirlwind we reaped from their visits to Cuba. Of course, these are but a few of the examples we could cite to establish firmly the direct and definite link between the hierarchy in Havana and the chaos and confusion—the anarchy and terror—which these travelers have inflicted on this Nation.

I ask Senators and Americans now to ponder the dark and bloody results which could flow from 1,000 of these people spread like a stain across our land.

Mr. President, we face that grim prospect at this very hour.

The first contingent of that peculiar organization of Americans which styles itself "the Venceremos Brigade" has returned from Communist Cuba to this country and a second group of these strange "cane cutters" has arrived on that sad island which exists in poverty, misery, and bondage under the iron rule of Fidel Castro.

I submit to the Senate and to the people of this Nation that the organizers of the brigade are dedicated enemies of the United States and of free men everywhere. I assert that the membership of this band are persons who are preparing to engage in activities dangerous to democracy and those who are dupes and pawns of people who hate this Government and who are striving ceaselessly to destroy it.

Why does this conglomeration of revolutionaries and the misguided constitute a menace to America? We shall answer that vitally important question.

Let us begin with the name of this outfit—the Venceremos Brigade.

Venceremos is the Spanish translation of Benito Mussolini's slogan which the Italian dictator employed to exhort his legions to kill American soldiers during World War II. Thousands of our veterans saw the term painted under the helmeted head of Il Duce while they were winning freedom for the Italian people.

It is fitting, of course, that Dictator Castro would adopt Dictator Mussolini's slogan; but it is ironic that a Communist would use the words of a fascist, of one of the arch enemies of communism. However, since the governmental concepts of Fidel and Benito are identical, it is understandable that one dictator would approve the slogan of another.

Venceremos means "we shall win." Now, who, exactly, is "we"—and what, exactly, could canecutters be seeking to win? Are we expected to believe that winning for the brigade means a successful battle against a stand of sugarcane? We believe that winning for those who created this organization means the destruction of this country—and the "canecutters" are being trained to hack away at the foundations of America.

We must face the disgusting and disquieting fact that these young American citizens who are chanting—by Communist direction—"we shall win" are, in fact, screaming for the death of their native land.

Examine with us the use of the term "brigade" in connection with an agricultural activity. "Brigade" has a clear and precise military connotation; it suggests, and indeed it is, a military unit. What are harvesters to attack—shall the Venceremos Brigade launch a strategic assault on a field of cane? What battle cry will the brigade commanders shout to the troops? We all know that one of their favorites is "Ho—Ho—Ho Chi Minh—the NLF is gonna win." But, then, the NLF cuts down young Americans—not stalks of cane—and the NLF certainly would not want to defeat their comrades in the Venceremos Brigade in the "battle of the sugarcane." So, Mr. President, I presume that these ridiculous soldiers will be obliged to produce a new slogan to better fit their fight against the cane, and against their country.

Another parallel of their choice of the term "brigade" occurs to me. I refer to the Lincoln Brigade—an aggregation dedicated just as deeply to the protection and promotion of communism as is the Venceremos crew. However, the Lincoln Brigade engaged openly in military operations in Spain and did not seek to mask their mission on behalf of the Communist cause, as is the case with the "we shall win" canecutters.

During the so-called Spanish Civil War, a number of Americans went to Spain to fight with the Abraham Lincoln Brigade, proclaiming motives of high idealism. Almost without exception, they came back as hardened revolutionaries. The men of the brigade not only fought openly in battle for the Communist side, but for 30 years and more, as a gradually diminishing group in this country, they have constituted the most dependable hard-core Communists in the Nation.

Now, let us take a closeup look at the leadership of this traveling circus and weigh their interest in agriculture against their real purposes for the creation and deployment of the Venceremos Brigade.

In the vanguard of the movement, serving as a principal spokesman and prime organizer, we find that 54-year-old youth leader, David Dellinger. He has not been in farming much of late. As I observed, he has been engaged in a serious effort to wreck the judicial structure of this Nation. We find it difficult to believe that he is deeply devoted to the Cuban sugarcane harvest—especially in view of the fact that no one is more aware than Dellinger that most of the cane Castro can grow already belongs to the Soviet Union.

Also on this list of "agricultural specialists" and of committed enemies of our country and our people we discover Julie Nichamin. She is, of course, a veteran Cuban visitor and a veteran in the war against America.

She traveled to Castro's domain last year as the beneficiary of a $1,500 grant from tax-exempt funds of the Wenner-gren Foundation. At the time, she was a fellow of the Henry L. and Grace Doherty Foundation—as well as one of the best-known members of Students for a Democratic Society. I must observe, in passing, that SDS's interest in Agrarian matters has not been as well publicized as its activities in other areas—disrupting conventions, attacking police officers, attempting to destroy universities, and the like.

I am thoroughly familiar with the wailing and whining of Dellinger, Nichamin, et al., for the full protection of the rights afforded them by this free Government—even as they seek to rend it to pieces. I shall not, therefore, state what I know Julie Nichamin's plans and hopes for the Venceremos Brigade are. I will let her speak for herself, as follows:

In a joint statement in which North Vietnamese and Vietcong delegations participated, she wrote for the Cuban armed forces:

> And we know that we will leave here with a new dedication to bring back to our brothers and sisters a dedication to destroy the imperialist monster from within just as the rest of the peoples of the world are destroying imperialism from without.

She signed this declaration of war against America, "Julie Nichamin, National Committee of the Venceremos Brigade."

Information available to us indicates that this woman had a direct contact with a Cuban diplomat at the United Nations for the purpose of coordinating the affairs of the brigade in the United States with the Cuban Government. Incidentally, this Cuban representative has been denied reentry into this country because he had engaged in activities outside the scope of his official duties as an accredited representative of a foreign government.

Julie Nichamin then transmitted the directives of the Cuban Communist Party to her associates here and arranged a contact at the U.N. for them to facilitate their mission against their country.

Now, Mr. President, we have left the realm of cane harvesting and arrived at the single reason for the existence of the brigade. Let me repeat Julie Nichamin's pledge to "bring back to our brothers and sisters a dedication to destroy the imperialist monster from within."

Here it is, spelled out concisely and clearly. Here is the announcement of who the "we" in the slogan is, and the Senate and every American is told, bluntly, precisely what the Venceremos Brigade seeks to win.

This Nation has been divided into eight regions for the purpose of brigade recruitment. Proposed trainees are required to prepare applications which are carefully screened before successful candidates for brigade membership are selected.

Leaders are chosen, those who display dedication and potential as revolutionaries to the satisfaction of the national executive committee, whose membership includes, in addition to Dellinger and Nichamin, Arlene Eisen Bergman, Karen Ashley, and Gerald Long, among others. At this point in this grim recital of action against America, it seems almost unnecessary to advise that the Nichamin woman and Long are both members of Weathermen.

The remaining members are followers, who by their own choice or their own stupidity will be used by the brigade commanders to "destroy the monster from within," to overthrow this Government.

We can quickly, as well as fully and finally, dispose of any foolish claim concerning the worth of the Venceremos crew to the cane harvest. The average Cuban cane cutter, not the best producers, but the average worker, cuts 25,000 pounds per day. Brigade members contributed 3,925 pounds per day, or less than 16 percent of an average day's work. When part of the cost of round-trip transportation and maintenance of these people is added to their pitiful production of cane, it becomes apparent that participation in the cane harvest was at the bottom of the priority list of activities planned for the brigade by its Communist patrons.

Let me say that those who are presently in Cuba are averaging only around 3,900 pounds of cane a day, when the cost of bus transportation to take one group costs the Cubans in excess of $40,000, as well as the cost of transportation to Cuba, and expenses while in Cuba and boat back to Canada.

Additionally, and as further proof, we can state that each of these "workers" contributed a total of $83 worth of production during their entire stay on the island. This is a farce—even by Communist standards.

Having determined that this band of comrades did not journey to Cuba to cut cane, we shall proceed to check their associates during their stay on the island.

The brigade was moved by bus to their camp and went immediately to "work" on their real project. They were addressed by the camp director who is the chief of the international relations section of the Young Communist League of Cuba.

The director informed the crew that "the sugar harvest was dedicated to the heroic Vietnamese people." He assured the group that they were "helping to fight American aggression in Vietnam." This strikes me as a most unusual greeting to extend to a band of loyal Americans.

However, the members of the Venceremos circus were equal to the greeting. They paraded before television cameras and matched and surpassed the director. In fact, as difficult as this is to believe, they referred to their own country as the "imperialist aggressors of Cuba and Vietnam."

Having begun their agricultural activities by applauding the vilification of their native land and attacking her themselves, the harvesters moved into new fields.

It seems that two other foreign delegations had arrived in Havana, one from the Soviet Union and one composed of representatives of North Vietnam and of the Vietcong.

The Vietnamese visited the Venceremos Brigade and were saluted by the American cane cutters with shouts of "Vietnam will conquer."

The formal spokesman for the brigade in the welcoming ceremonies for those who are at war with our Nation today was Julie Nichamin, who urged her comrades to "pay homage" to the Vietnamese.

Responding to this brand of Nichamin oratory, a Vietcong captain spoke to the gathering. He described the importance of the struggle against what he called "the Yankee aggressor" and expressed the gratitude of the Vietcong to the Venceremos Brigade.

Melba Hernandes, president of the Cuban Committee of Solidarity With South Vietnam, also addressed the meeting. Comrade Melba concluded her speech by telling the members of the Venceremos Brigade that "Cuba, Vietnam, and you shall conquer." Frankly, Mr. President, that is an awful lot of conquering to expect from a gathering of "harmless harvesters."

Finally, as a token of their regard for their comrades in the brigade, the Vietnamese presented the Americans with rings allegedly made of aluminum taken from U.S. aircraft shot down in Vietnam. Imagine, if you will, American citizens accepting "trophies" fashioned from planes which carried young Americans to their deaths from the hands of those who killed their countrymen. While American fliers fight for freedom, American "can cutters" mock the memories of our dead.

I am not aware of the souvenirs presented to the Venceremos outfit by the Soviet delegation but I would hope that the presents accepted by live Americans from the Russians were not connected with Americans who have given their

XUM

lives to prevent Communist domination of the world.

Mr. President, for the benefit of any citizen of this country who may think I am attaching too much significance to this matter—to the presence of young U.S. citizens in Cuba, to their meetings with Communists from several different countries, and to their indoctrination in the ways of those who hate America—let me point out that 216 members of the Venceremos Brigade have already returned from Cuba and that approximately 687 more are there today for another session of "cane cutting"—or training. Remember, Rubin, Dellinger, Hayden, Rudd, and the rest. Consider the tragic consequences of losing 1,000 "cane cutters" on our campuses, in the streets of our great cities and from end to end of our land.

Looking at the record of past performance, it does not take a trained imagination to envision the trouble which can be expected when young revolutionary activists—already committed to aiding an adversary of their own country—return to the United States after weeks of instruction, training, and indoctrination by hand-picked Cuban Communists, Vietcong, North Vietnamese, and a delegation from the Soviet Union.

It is not only a likelihood, but—to repeat—a very clear and present danger, that these militant revolutionaries will return to the United States to implement the Communist purpose of causing chaos, confusion, and outright revolution in our institutions of higher learning, in the streets of our cities, and all across our Nation.

XUM

These young people have volunteered, not to serve their country in the American tradition, but to be active enemies of their homeland; not to defend America, but to bring her down.

Of all the nations in the Western Hemisphere—this hemisphere where freedom and progress walked hand-in-hand under the protection of the Monroe Doctrine—why would loyal Americans choose to support Castro's Cuba? Why would loyal Americans rush to the aid of a dangerous dictator, who was preparing to position offensive missiles—on the soil they are supposed to be harvesting—aimed at the members of their own families in this, their homeland?

If they are willing to travel to Cuba and to conspire with Communists to seek training in terror tactics and revolutionary actions, we submit that they are prepared to employ what they have been taught against the people and the institutions of this country.

We believe that our citizenry deserves to know who these fake farmers are. We have been able to obtain—and have in our possession—the passenger manifest, signed by the captain of the Cuban vessel which transported 213 members of the brigade from Cuba to Canada. The manifest contains the names, ages, martial status, passport numbers, and addresses of these revolutionary trainees.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks the manifest from this boat, signed by its Cuban captain, which lists the passengers transported to this country from Cuba.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. EASTLAND. The purpose of this address is to focus attention on these "canecutters" in advance of the hearings we shall schedule to thoroughly explore every aspect of the Venceremos Brigade.

Among the many pieces of information we shall develop is the means by which Castro intends to show his gratitude to these "harvesters" in addition to a ride home on a cattle boat and 1½ cubic feet of anti-American propaganda which he generously provided each member of the aggregation, some of which, Mr. President, is now in possession of the Subcommittee on Internal Security.

In those hearings we shall examine, closely and carefully, the leadership and the membership of the organization and delve into the past and present of the brigade. I say past and present because, in my judgment, the future of this outfit is going to be limited.

The Venceremos Brigade may echo Mussolini and Castro with their empty slogan "We shall win." However, Mr. President, they will not win.

This great, generous, and powerful country—the pride of every free man and the dream of every man who hopes to be free—victor over all the brigades sent against her in almost two centuries—will turn back this band of anarchists who pose as agrarians.

We shall, as always, protect our Nation from all enemies foreign and domestic—from Castro, and from his canecutters as well.

EXHIBIT 1

PASSENGER MANIFEST

[Name, age, passenger number, and address]

Tarmel, Abbott, 16, G–93668, 2001 Tunnel Road, Oakland, Calif.

Natalie Patterson Adams, 24, K–1654642, 431 S. Main St., Fall River, Mass.

Elisa Adler, 16, K–1579145, 460 Cascade Mill, Marin, Col.

Arcadio Alleenas, Jr., 25, K–16–218–, 289 W. 12th St., New York, N.Y.

Chari Anang, 16, K–1——10, Apt. 5, 2576 Washington St., San Francisco, Cal.

Anna Maria Seal Anderson, 22, K–189266–, 20 Meadow Rd., Baltimore, Md.

Merrian Stearns Ansara, 25, K–16—50—, 519 Commercial St., Provincetown, Mass.

Ronald Auerbach, 23, K–1–-9—, 8034 Daytona Drive, St. Louis, Mo.

David Auer, 19, K–573—, RFD 1, Slatington, Pa.

Ellen Susan Baker, 19, K–1662—0, 2900 18th. St., N.W., Washington, D.C.

Kathryn Flo Barrett, 25, G–9–7723, 1000 Vogler St., S.E., Albuquerque, N.M.

Barry M. Harris, 25, K–1599617, 534½ Pacific St., Brooklyn, N.Y.

P. Joseph Barthel, 24, K–1599921, 87 Clairmont Ave., Buffalo 22, Dist. 267 E. 188th St., N.Y.

William George Baxter, 22, K–1662888, 4911 Davenport St., N.W., Washington, D.C.

Alice Berger Simo, 22, J–482895, 4900 Davenport St., N.W., Washington, D.C.

Sha-n Victor Bayer, 21, J–2CA1–7, 790 Grand Concourse, Bronx, N.Y.

Denis Roland Berger, 23, –15—630, 30th. 5th. Ave., New York, N.Y.

Jerry Wayne Blined, 27, K——4463, 5 Cooney St., Somerville, Mass.

Neal Birnbaum, 24, K–1–55236, 344 Putnam Ave., Cambridge, Mass.

Ronald Gary Bitten, 24, K–1—4054, 491 S. Main St., Fall River, Mass.

James Douglas Bliesner, 24, K–1–56342, 40 Boswell St., Boston, Mass.

Rosa Borenstein, 23, K–1598264, 366 Oarward Ave., Essex, N.J.

Edward Bouchard, 22, K–1639753, 5206 S. Emerald Rd., Chicago, Ill.

Gregory Bruce Bostick, 21, K–1641604, 358 Emerald Rd., Columbus, Ohio.

Douglas Roy Braasch, 26, K–1651447, Island Farm, Paradox, N.Y.

Dale Frederick Brandt, 21, K–1640370, 7863 Rogers St., Chicago, Ill.

Alison Broege, 24, K–1599–24, 22 Hillyer St., Orange, N.J.

Keith Michael Brook, 21, J–529111, 217 Avenue R, New York, N.Y.

Ellen Amelia Brotsky, 17, K–1590413, 46 Davidson St., San Francisco, Cal.

Mert Ernest Boelter, 19, K–1637881, 7 S. Loomis St., Chicago, Ill.

Comsielo M. Butler, 25, H–806117, 2198 Blake St., Berkerly, Cal.

Leslie Sue Cagan, 22, H–1321357, 960 Grand Concourse, Bronx, N.Y.

Christina Camarino, 23, K–1604172, 318 W. 104 St., NYC, N.Y.

Marianne Camp, 19, K–1593289, 22509 Mission Blvd., Hayward, Cal.

Betty Margaret Carey, 23, H–940862, 552 62nd St., Oakland, Calif.

Judith Anne Cashin, 24, K–1654950, 229 W. 109th St., N.Y.C., N.Y.

Marian Ching, 18, K–1592907, 383 63rd St., Oakland, Cal.

Richard B. Cluster, 22, K–1651477, 6 Caldwell Ave., Somerville, Mass.

George Michael Cohen, 26, J–1428657, 132 E. 17th., N.Y.C., N.Y.

Linda Treme Corbett, 22, H–171068, 11 Pleasant Valley Rd., Westwood, Mass.

Richard White Cornish, 18, K–1660622, 110 Minden St., Jamaica Plains, Mass.

Deter Jon Countryman, 27, K–1683727, 401 W. Stafford St., Philadelphia, Pa.

Stephen Danis Courtney, 21, K–1577473, 197 Cleveland Dr., Croten-on-Hudson, N.Y.

Robert Ashworth Cowan, 21, H–1337533, 618 S. Madison, LaGrange, Ill.

Stephen Ingersoll Craine, 23, Z–686309, 39 Shelter St., New Haven, Conn.

Howard Lee Cunningham, 27, Z–877257, 156 5th Ave., N.Y.C., N.Y.

Peggy Ann Darm, 20, K–1640543, 15740 Wood Acres Road, Los Goyos, Cal.

Sonia Helen Deepmann, 27, K–1655693, 66 Rutland St., Boston, Mass.

Lisa Diamond, 20, J–117896, P.O. Box 518, Ross, Calif., 94957 (Armsby Circle).

Mark Dimandstein, 19, H–651059, 434 W. Mifflin St., Madison, Wisc.

Charles Leonard Draper, 19, J–503520, 3706 Perishing St., Alberquerque, N.M.

Gail Bari Dolgin, 24, G–424203, 34 Bayside Terrace, Great Neck, N.Y.

Dorothy Jane Dube, 21, J–1044795, 415 S. Ashland, Green Bay, Wis.

Karen Elizabeth Duncan, 24, K–1593000, 2020 Fell St., San Francisco, Calif.

Deborah Ann Dunfield, 19, K–137893, 217 Pine St., South Dayton, N.J.

June Carolyn Erlick, 22, K–1069619, 70 West 107th St., N.Y.C., N.Y.

Linda June Evans, 18, K–4683464, 412 W. Stafford St., Philadelphia, Pa.

Nancy Wale, 34, J–373819, 11 Blackwood Street, Boston, Mass.

John Alexander Field, 22, H–380932, West Street, Harrison, N.Y. 10528.

Rebecca Ann Foulk, 18, H–188084, 606 Grace Lane, Flourtown, Pa.

Francesca Freedman, 20, H–703129, 345 E. 47th, Paterson, N.J.

John Edward Fritz, 18, K–1683611, 2107 Rockingham Dr., Wilmington, Del.

Daniel Joseph Fuller, 20, K–1639351, Pembina, Wisconsin.

Carol N. Finnegan, 19, K–1683811, 90 E. Main St., Newark, Delaware.

Lijar Gaut Jr., 25, K–1692499, 5943 Seminole, Detroit, Mich., Dorothy Devine Gilberg, 22, K–1655575, 466 Locust St., Fall River, Mass.

Carol Ann Gilbert, 24, K–459588, Apt. 5B, 210 Sullivan St., N.Y.C., N.Y.

David Ethan Gilden, 19, K–1652131, 18 Mt. Auburn St., Cambridge, Mass.

Linda Jane Gleich, 22, K–1603731, 71 Barnes St., Long Beach, N.Y.

Howard Michael Goldman, 20, K–1599176, 448 E. 22nd St., Brooklyn, N.Y.

James Alexander Goodhill, 22, K–1694780, 2420 K-Street, N.W., Washington, D.C.

Betty Ann Graphreed, 19, K–1706394, 1479 Virginia Park, Detroit, Mich.

Robert Gregg Wilfong, 23, K–1655056, 57 Lawton Road, Needham, Mass.

Gay Steere Guetzkow, 21, J–244601, 4600 Connecticut Ave., N.W., Washington, D.C.

David Allen Guinard, 21, K–1683612, 106 Cherry Lane, Newcastle, Del.

Linda Sue Haile, 24, H–1066032, 236 Lily St., San Francisco, Calif.

Eo Jun Hamaji, 17, K–014352, 968 Regal Road, Berkeley, Calif.

Jay Robert Hauben, 28, K–042720, 83 Chestnut Hill Ave., Brighton, Mass.

Joseph Charles Harris, 16, K–1600918, 208 Delancy St., New York, N.Y.

Arcc Sholom Harris, 17, K–011973, 1721 Francisco St., Berkeley, Calif.

Annie Hipshman, 18, K–687511, 624 Vanessa Dr., San Mateo, Calif.

Phillip Alan Huff, 19, K–1603096, 18145 Alta Vista, Southfield, Mich.

Jonathan Lee Hoffman, 21, K–1604739, 865 West End Ave., New York City, N.Y.

Antony Hurst, 18, K–1608359, 208 Telance St., N.Y.C., N.Y.

Arturo Nieves Huertas, 23, K–1601471, 208 E. 1st Ave., Apt. 4, N.Y.C., N.Y.

Larry S. Israel, 29, K–1678555, 552–62nd, Oakland, Calif.

Ronald Eugene Jones, 24, K–1641420, 1548 Culhessee, Columbus, Ohio.

Trudy Maxine Kahn, 18, K–1593026, 3915 B. Cerrito Ave., Oakland, Calif.

Bonnie Sue Kanter, 24, G–496913, 252 West 76th St., N.Y.C., N.Y.

Michael Kazin, 22, G–526416, 199 Prospect St., Cambridge, Mass.

Thomas George Kelley, 21, K–1599702, 28 Philips Lane, Doirion, Conn.

Joanne Theresa Kelly, 16, K–1602746, 87–70, 109 St. Richmond Hill, New York City, N.Y.

Patrick Doyle Kelly, 23, K–1600685, 610 E. 13th St., N.Y.C., N.Y.

Noreen Ann Kirk, 16, K–1603112, 127 E. 15th, N.Y.C., N.Y.

Ronald Jerald Kleinbandler, 20, J–332860, 621 Avenue Z. Brooklyn, N.Y. (356 Terrassee St. Denis Monyra.)

Joseph Calvin Donley, 23, K–1593134, 1934–24 Ave., Oakland, Cal.

Gene Heth Cluster, 22, G–288842, 6 Caldwell Ave., Somerville, Mass.

Martin Alexander Henderson, 22, K–1640236, 437 Hawthorn St., Dayton, Ohio.

Richard Timothy Koor, 23, Z–761110, Ioha, Minnesota.

Elena Irene Koplowicz, 23, H–1065107, 81702 Freeland Ave., Detroit, Mich.

Steve N. Kraner, 26, K–1600070, 895 West End Ave., N.Y.C.

Larry Lamar Vapes, 19, K–1707241, 6821 Felix St., McLean, Va., U.S.A.

Michael Norman Landis, 27, G–700205, 5107 Prospect St., Cambridge, Mass.

Michael Lasley, 21, K–1705749, 60 South Docker, Apt. 5, Dayton, Ohio.

Joseph Lawrence Boyd, 20, K–1716533, 10 One Knoll Dr., Trenton, N.J.

Burnetta Kenaviani Lee, 19, K–1569577, 2255 Tantalus Dr., Honolulu, Hawaii.

Thomas Stearns Lee, 19, K–163974, 901 Edgewood, Ann Arbor, Mich.

Richard Gale Lessoff, 38, K–1652525, 27 Hurd Road, Brookline, Mass.

Kathleen Lipscomb, 29, K–160117, 535 E. 78th St., New York, N.Y.

Marvin Lewis Vinik, 24, J–302120, 145 Winthrop Rd., Brookline, Mass.

Rodney David Lincoln Bain, 24, K–1662794, 33 Jordan Ave., San Francisco, Cal.

Forrest Rich London, 21, K–1530149, 29800 Pickford St., Livonia, Mich.

Gerald William Long, 33, K–1604032, 4297 5th St., Detroit, Mich.

Lanyuen Belvin Louis, 19, K–1592853, 473 Market St., Salines, Cal.

Samuel Holden Lovejoy, 23, H–194824, 147 Satlett Ave., Wiberham, Mass.

Wayne Robert Lovermark, 27, K–913127, 6460 45th Ave. N., Minneapolis, Minn.

Karen Mae Towsend, 23, J–533472, RFD 1, Woodland, Michigan.

Erica May Manfred, 26, H–384471, 255 W. 93rd St., N.Y.C., N.Y.

Linda Jean Martin, 22, K–364386, 329 East 12th St., New York City, N.Y.

Susan Connell Magon, 22, K–821593, 216 W. 102 #2A., N.Y.C., N.Y.

Lisa Dale May, 19, K–1122891, 86 Washington Ave., Cedarhurst, N.Y.

Lindsay McDonald, 19, K–1602691, 90 Sylvian Ave., New Haven, Conn.

Patricia McCauley Bouchard, 21, K–1–397–4, 5206 S. Emerald Ave., Chicago, Ill.

Cathleen Claire McGhee, 21, K–1641809, 6621 Brookside Rd., Cleveland, Ohio.

Robert George McKenzie, 21, KE–294803, 6244 Carvell Rd., Brigton, Mich.

Linda Meyers, 21, K–5–0029, 331 S. 116th, Phila., Pa.

Paul Theodore Meyers, 21, K–1692512, 285 E. Ferry St., Detroit, Mich.

Cythia Roberta Michel, 21, J–1268–24, 33 W. Helen St., Hamden, Mich.

Anne Edith Miller, 18, K–1602692, 42½ Ferry St., New Haven, Conn.

John Richard Mitchell, 25, K–620301, 17 Clinton St., Woburn, Mass.

Timothy Michael Morearty, 24, K–1651507, 791 Tremont St., Boston, Mass.

Michelle Paula Mouton, 16, K–1592420, 485, 17th, San Francisco, Cal.

Randall Murray, 19, K–1640182, 6920 Crandon St., Chicago, Ill.

Jay Guy Nassberg, 29, K–1602748, 560 Howard Ave., New Haven, Conn.

David Lawrence Neustadt, 23, K–803110, 34 Bancroft Rd., Poughkeepsie, N.Y.

Laura Anne Obert, 20, K–1678304, 2557 E. Camamillo St., Col. Springs, Col.

Bruce Nicolas Occena, 22, J–300031, 71 May Ave., Keansburg, N.J.

Daniel Miche O'Donnell, 20, K–645074, 20 Brinton St., Buffalo, N.Y.

Constance Ann Olsen, 22, K–1678976, 5 Deer Park Lane, San Anselmo, Cal.

Dennis Adams O'Neill, 19, K–1601—4, 1889 Sedgwick, Apt. 14C, Bronx, N.Y.

Richard Alan Ostrow, 20, K–1601920, 1424 Hawthorne St., Pittsburgh, Pa.

Susan Dabney Pennybacker, 16, J–871739, 3307 Warrington Rd., Cuyahoga, Ohio.

Terry De Verne Phillips, 19, K–1590757, 519 W. 8th., Denver, Col.

Robert Jessee Pilisuk, 25, K–1177752, 91–59 191 St., Halis, N.Y.

Alexander Pollack, 23, K–9685–0, 250 W. 85th. St., New York, N.Y.—5631–175th. St., Fresh Meadows, N.Y.

Barbara Pottgen, 21, K–15—57, 2306 Dwightway St., Berkeley, Cal.

Sharon Lee Post, 20, K–1705756, 1807 Chestnut Blvd., Cuyahoga Falls, Ohio.

Jeffrey Lee Pressman, 21, K–1602858, 1033 N. Broad, Allentown, Pa.

Antony Paul Prince, 19, X–036408, Lake Forest College, Lake Forest, N.Y.

Charles Emerson Ragland Jr., 23, H–396311, 2001 Main St., Newberry, So. Carolina.

Leo Raineri, 54, K–1588529, 1371 64th Ave., Oakland, Calif.

Margaret E. W. Raymond, 22, J–627360, Duhk Rock Road, Guilford, Conn.

Thomas Lloyd Reltzner, 21, K–1640316, 118½ E. College Ave., Appleton, Wis.

Jeffrey Harris Richards, 24, G–49–709, 211 Chester Ave., Massapequa Park, N.Y.

Nicholas Britt Riddle, 16, J–683–31, Rt. 2, Moravian Falls, N.C.

Jon Taylor Robertson, 17, K–160811, 2820 Clark St., Boise, Idaho.

William Walter Robinson, 17, K–16–4730, 2928 S. Carlisle St., Philadelphia, Pa.

Nicholas Earl Rulich, 21, K–16–364, 236 Ohio St., Racine, Wis. 401 East 100th St., New York, N.Y.

Joe Luis Rodriguez, 32, K–1600002.

Luis Roman, 19, K–1684875, 708 Duley St., Philadelphia, Pa.

Patricia Mariane Rourke, 20, K–1599990, 325 E. 194 St., Bronx, N.Y.

Nina Rutmaker, 17, K–1593027, 6385 Hillegas Ave., Oakland, Cal.

Antony Bourke Ryan, 21, K–012410, 519 Humphrey Road, Santa Barbara, Calif.

Sheila Mario Rayn, 24, K–1573857, 517 E. 5th St., New York City, N.Y.

Adrianne Aron Schaar, 29, K–1592761, 449 Ocean View Ave., Berkeley, Calif.

Ronald George Scharns, 22, K–16–5585, Blank Drive RFD #1, Baden, Pa.

Barry Martin Schreibman, 23, K–1–019–0, 348 E. 15th St., New York City, N.Y.

James Curtis Scott, 17, K–164–00–6, 1614 Orchard St., Chicago, Ill.

Leslie Scott, 19, K–1654777, 26 Myrtle St., Apt. 2, Boston, Mass.

Thomas Oliver Scott, 31, J–125445, 519 W. 8th St., Denver, Colo.

Louis Daniel Segal, 20, K–5168–6, 2927 Dieakin St., Berkeley, Calif.

Henry Gilbert Shonerd, 26, K–1420783, 8257 Renssalaer, Sacramento, Calif.

Clarence Frank Sills, Jr., 22, K–1601750, 399 Fairview Ave., Orange, N.J.

Gerald Majella Sino, 20, K–1644773, 17404 Birch Crescent, Detroit, Mich.

George Ernest Singh, 25, K–1590157, 960 Stannage Ave., Albany, Cal.

Waynes Leonard Smith, 19, K–1592543, 3361 Madera Ave., Oakland, Cal.

Todd M. Smith, 23, K–368342, 33 Bon Aire Circle, Suffern, N.Y.

Jeffrey David Sokolow, 21, K–1599992, 200 W. 106 St., New York City, N.Y. 10025.

Ruben, Solorzand, 21, K–1593211, 1150 S. Drake St., Stockton, Calif.

Earlon Sterling, 20, K–1638414, 206 W. Lincoln, McCleane, Illinois.

Carol Ann Stern, 18, K–1602247, 326 20th, Brooklyn, N.Y.

Judith Reva Stern, 23, J–713714, 80 Spencer Dr., San Francisco, Calif.

John Kemp Stuckey, 20, G–588967, 16, Douglas St., Brunswick, Maine.

Carol Jane Strickler, 23, K–1597536, 1245 West 10th St., N.Y.C., N.Y.

William Dening Strong, 39, G–861739, 1410 Walnut St., Newton, Mass.

Marshall S. Tack, 21, K–1641605, 375 Lincoln, Lexington, Mass. (c/o Wm. Safier, University of Cincinnati, Cincinnati, Ohio.)

Janet Tenney, 21, K–1639278, Wood Road, Port Washington, D.C.

Patricia Todd Glowa, 19, K–1599740, 356 Terrace Street, St. Denis, Montreal, P.Q.

Malorie Tolles, 23, K–1686304, 520 Crestview Road, Wayne, Pa.

Ellen Shaffer, 20, K–1652250, 31 Forest St., Somerville, Mass.

Patrick Andrew Valdes, 17, K–1562373, 3316 W. St. Ohio, Denver, Colo.

Morton Morris Vicker, 53, K–1590887, 225 B 9th St., San Francisco, Cal.

Joanne Carol Wallace, 19, K–1642217, 1227 Broadway, Apt. B, North Chicago, Ill.

Frank Robert Ward, 24, K–1601526, 3926 Bell Blvd., Bayside, N.Y.

Susan Constance Wender, 23, K–1692520, 18400 Pennington, Detroit, Mich.

Roy Harrison Whang, 28, K–1643500, 17083 Magnolia St., Southfield, Mich.

Katharine Elizabeth White, 22, J–1274614, 173 Benvenue St., Wellsley, Mass.

Penelope L. Wickersham, 20, K–164130, 3208 West 2nd St., Wilmington, Delaware.

Jean Irene Wilburn, 36, K–1638276, 9128 Stewart St., Chicago, Ill.

Andrew Mitchell Willis, 21, K–1641220, RD 2 Dutch Road, Fairview, Penn.

Donna Jean Willmott, 20, K–1640837, 1232 Greenwood Ave., Akron, Ohio.

John Farrell Wilson, 18, K–1602870, Box 832, 5 W. 63rd St., N.Y., N.Y.

Dennis Blair Wood, 27, J–313693, 2418 Blake St., Berkeley, Calif.

Charles Earl Woodson, 29, K–015904, 2719 Pacific Ave., San Francisco, Calif.

Candece Elisabeth Wright, 24, K–1592675, 2531 Grove St., Berkeley, Cal.

Betty Wright, 28, K–1601810, 193 Berkeley Place, Brooklyn, N.Y.

Carol Wright, 25, K–1592674, 474 55th St., Oakland, Cal.

John Paine Wright, 25, K–1602683, 183 Berkley Place, Brooklyn, N.Y.

Morris J. Wright, 61, F–604401, 2531 Grove St., Berkeley, Cal.

Ethan Jeremy Young, 17, K–1636895, 49–23 Greenwood Ave., Chicago, Ill.

Laurie Susan Zoloth, 19, K–1683875, 1219 South Camden Dr., Los Angeles, Cal.

Daniel Walter Scott, 21, K–1654778, 120 Fitz Randolph Road, Princeton, N.J.

Humberto Valdes Diaz, 47, 002762.

Orlando Martinez Masueira, 27, 02766.

Roberto Yepe Menedez, 32, 002701.

Rodolfo Garcia Hechevarria, 30, 002765.

Juana Rosario Carraseo Martin, 28, 002758.

Orlando O'Reilly y Arango, 40, 002771.

Alberto Gabriel Landa Garcia, 33, 002686.

APPOINTMENTS BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. Allen). As in legislative session, the Chair, on behalf of the Vice President, pursuant to Public Law 84–372, appoints the Senator from New York (Mr. Goodell) to the Franklin Delano Roosevelt Memorial Commission in lieu of the Senator from Massachusetts (Mr. Brooke) resigned.

CONFIRMATION OF NOMINATIONS

Mr. MANSFIELD. Mr. President, I understand that the Senate is in executive session; and I ask unanimous consent the Senate turn to the consideration of the nominations on the executive calendar beginning with "New Reports."

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to the consideration of the nominations.

AMBASSADORS

The bill clerk proceeded to read sundry nominations of Ambassadors.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed en bloc.

OFFICE OF ECONOMIC OPPORTUNITY

The bill clerk read the nomination of Albert E. Abrahams, of Maryland, to be an Assistant Director of the Office of Economic Opportunity.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

LOCKHEED AIRCRAFT CORP.'S NEGOTIATIONS WITH THE AIR FORCE

Mr. PROXMIRE. Mr. President, during the debate over the C–5A last August, I predicted that Congress was voting for funds to bail out Lockheed Aircraft on its contract for the C–5A plane, and that according to the best estimates I could make, their deficits would amount to over $500 million. I said then:

> Next year we will be faced with bailing out Lockheed again on this same C–5A.

Three weeks ago I became aware of the fact that Lockheed, in its negotiations with the Air Force, was pressing for the Government to bail it out, otherwise, the company said, it would suffer enormous and perhaps irreparable financial difficulties. As a result, I wrote to Assistant Secretary Whittaker, asking about that fact and urging him not to waive any more rights than the Air Force had already waived during its negotiations.

I ask unanimous consent that my letter of February 26 to Secretary Whittaker be printed at this point in the Record.

There being no objection the letter was ordered to be printed in the Record, as follows:

February 26, 1970.

Hon. Philip N. Whittaker,
Assistant Secretary of the Air Force (Installation and Logistics) The Pentagon, Washington, D.C.

Dear Mr. Whittaker: I am informed that in the current negotiations between the Air Force and Lockheed over the C–5A cost overruns and other matters relating to the C–5A contract, that the possibility of Lockheed's declaring bankruptcy has been raised. It is my understanding that Lockheed is using this possibility as a way to induce the Air Force to bail it out of the enormous financial difficulty it has gotten into over the C–5.

I would hope that the Air Force will enforce the terms of the contract and not waive any more rights than it has already waived during these negotiations. As you know, there is a provision of the law which permits the Government to bail out a contractor if it is in the national interest to do so. I urge you to follow these procedures if it is necessary to bail out the contractor, and to do it openly and with full public disclosure. In my judgment, the public interest would be seriously damaged if the Air Force submits to any threats by this contractor, express or implied, to go out of business.

In addition, I would like to know the status of the technical difficulties in the C–5A and the latest estimate of schedule slippages.

May I please hear from you on these matters?

Sincerely,

William Proxmire,
Chairman, Subcommittee on Economy in Government.

Mr. PROXMIRE. Mr. President, on March 5, I received a reply dated March 4. Mr. Whittaker said that he was not aware of any action on the part of Lockheed that it was threatening to declare bankruptcy as a means of inducing the Air Force to bail it out of its C–5A difficulties.

He claimed that any actions taken would be determined solely in the light of the best interests of the Government. I ask unanimous consent that the text of Secretary Whittaker's letter to me be printed at this point in the Record.

There being no objection the letter was ordered to be printed in the Record, as follows:

Department of the Air Force,
Washington, D.C., March 4, 1970.

Hon. William Proxmire,
Chairman, Subcommittee on Economy in Government, Joint Economic Committee, U.S. Senate.

Dear Mr. Chairman: I very much appreciated your thoughtful letter of February 27, 1970, which, incidentally, was received by me late yesterday.

You comment on information you have received concerning the possibility of Lockheed declaring bankruptcy as a means of inducing the Air Force to bail it out of its C–5A difficulties. I am not aware of any such action being threatened or contemplated by Lockheed.

We are working diligently to reach a resolution of the contractual and financial issues and to bring the C–5A program along as successfully as possible throughout the rest of its performance period. We are, of course, aware of Public Law 85–804 and want to assure you that, should any use of this statute appear appropriate, we would employ this approach openly and with full disclosure. I would also like to emphasize that the courses of action we take will be determined solely in the light of the best interests of the Government.

As you requested, I will be providing you with the technical status, the latest schedule information program cost estimates within the next several days.

Sincerely,

Philip N. Whittaker.

Mr. PROXMIRE. Mr. President, on March 5, however, the Pentagon released a letter dated March 2, 1970, from Mr. D. J. Haughton, chairman of the board of Lockheed, to the Honorable David Packard, Deputy Secretary of Defense.

In that letter, Lockheed states that it is now financially impossible for them to complete performance on a number of its military production programs unless it receives further financing from the Department of Defense.

It states that its problems stem largely from drastic innovations in procurement procedures used by the military services.

It claims there has been a breakdown in the procurement process. In particular, it condemns the "total package procurement" method of contracting involved in several of its contracts. It claims that method is virtually unworkable.

It states that while it was assumed that state-of-the-art advances were not required in these programs, it is generally admitted that these assumptions were incorrect.

With respect to the C–5A it states that an additional $435 million to $500 million "will be required to cover production expenditures." This is almost precisely the amount I said in my arguments last September would be needed.

I ask unanimous consent that the letter from Mr. Haughton to Secretary Packard be printed at this point in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

LOCKHEED AIRCRAFT CORP.,
Burbank, Calif., March 2, 1970.
Hon. DAVID PACKARD,
Deputy Secretary of Defense, the Pentagon, Washington, D.C.

DEAR MR. SECRETARY: We have completed a review of the current status of a number of our major Department of Defense programs in connection with which our corporation has filed claims or has been compelled into contractual disputes with the military services. It has become abundantly clear to us that the unprecedented dollar magnitude of the differences to be resolved between Lockheed and the military services make it financially impossible for Lockheed to complete performance of these programs if we must await the outcome of litigation before receiving further financing from the Department of Defense. We consider it imperative that some alternate method of resolution of these differences be immediately and seriously pursued in order to avert impairment of the continued performance of programs essential to the national defense.

We realize that the military services normally expect their contractors to continue performance, including financing, pending administrative review and resolution of any disputable matter. In the present instances, however, the cumulative impact of the disagreements on four programs creates a critical financial problem which cannot be supported out of our current and projected assets and income. We have intensified our cost reduction efforts, have eliminated dividends to our stockholders, have reduced drastically our planned expenditures for fixed assets, and intend to reduce our overhead costs and cut discretionary outlays in all other possible areas. We also intend to continue pursuit of all possiblities of financing from the private sector. Despite these efforts, we must state that we cannot maintain uninterrupted performance on these programs without receiving significant financing assistance from the Department of Defense. Also, in absolute candor, we do not consider that Lockheed, even if it were capable of so doing, should be expected alone to sustain for an indefinite period the financial burden while awaiting the outcome of litigation resulting largely from drastic innovations in procurement procedures utilized by the military services.

However, if absolutely necessary the parties may be forced to have their major disagreements involved in these programs settled through litigation. Indeed our obligations to our stockholders will require us to take this course of action if the only settlement proposals which can be evolved would ruinously deplete our corporate resources. Moreover, it should be recognized that contractual disagreements of such enormous magnitude represent a breakdown in the procurement processes.

Without disregarding our own deficiencies, the common ingredient in three of the four programs which cause our present difficulty, namely, the C–5A, the SRAM, and the AH–56, is the fact that under the Total Package Procurement procedure development was required to be undertaken under a fixed price type contract with concurrent production commitments with respect to price, schedule, and performance. Although it was assumed that state-of-the-art advances were not required in these programs, it is generally admitted that these assumptions were incorrect. Although industry generally, including our company, perhaps erred in competing for contracts under this system, the system itself and its use were the responsibility of the military departments.

We believe that the hindsight of today shows us that the procurement procedure utilized for these programs was imprudent and adverse to our respective interests. We did not contemplate, nor do we believe anyone in the Department of Defense ever contemplated, that these contracts could generate differences of opinion involving such vast monetary amounts as, for example, exist on the C–5A program. Nor did either party appreciate the major hazards involved in undertaking production on the Cheyenne program before technical problems on the development program had been solved. Considering that these problems were known to the Army at the time the letter contract for production was issued in January 1968, and that the parties subsequently had been unable to reach agreement on a definitive contract, the unprecedented action of terminating this letter contract under a fixed price default clause is difficult to understand.

Despite the growing awareness that the total package method utilized in these programs is virtually unworkable, there seems to be little disposition to correct existing contracts on terms which most contractors can accept or to recognize that litigation is a seriously inadequate avenue. Even on the shipyard contracts where the total package concept was not involved, the fact the bulk of the shipbuilding industry has encountered grave trouble as indicated by the more than a billion dollars in contract claims suggests that the system, rather than solely individual deficiencies, was a major contributor to the problem.

Apart from the disastrous potential for our own company and its effect on Department of Defense programs, litigation of these problems may well have grave consequences on the Department of Defense's ability to secure the industrial support which it traditionally has required, regardless of who ultimately wins. With this in mind, whatever steps may be taken to alleviate our immediate financial problems I wish to urge that the way be left open to negotiate settlements which are within the ability of the corporation to absorb.

Although I know you are generally familiar with the aforementioned programs, I would like briefly to recapitulate the critical financial problems they cause and to urge interim financing actions which should be taken immediately to avoid impairment of continued performance.

C–5A

On January 19, 1970, our appeal from the Contracting Officer's decision concerning the C–5A contract dispute was docketed by the ASBCA and our complaint has been filed. All parties are cooperating toward the earliest possible resolution of these issues by the Board, but most optimistically it would appear this cannot be accomplished before late 1971.

In addition, there is a distinct possibility that the decision of the Board may be appealed to the Court of Claims, and consequently a final decision may not be made until 1973 or 1974. The Air Force has indicated it will not provide funds for this contract which will exceed the estimated contract price as the Air Force interprets this contract. Under these conditions, the Air Force has indicated it will not provide funds for this contract which will exceed the estimated contract price as the Air Force interprets this contract. Under these conditions, the Air Force funding would at best be adequate only until near the end of this year. However, in order to complete the delivery of 81 aircraft and related items during 1971 and 1972 an additional $435 million to $500 million will be required to cover production expenditures. Lockheed cannot provide such funding and believes the Air Force should advance the necessary funds pending the outcome of the litigation. This could be accomplished by an amendment to the current contract which could contain appropriate safeguards for both parties with respect to preserving their rights in litigation.

SHIPYARD CLAIMS

At the present time, the Lockheed Shipbuilding and Construction Company has performed, or is performing, on 9 contracts for several classes of new ships. More than $175 million of contractual adjustment claims have been presented to the Navy to date. As of December 29, 1969, amounts expended by Lockheed on these claims exceed $100 million and are expected to continue at a rate of $3 to $4 million per month. These claims have been under consideration for many months with provisional payments of only $14 million made to date.

We believe the solution to this problem lies in an immediate increase in provisional payments to an aggregate of $85 million. We understand the Department of the Navy plans to settle the majority of these claims during the last three months of 1970 which should permit the payment of the balance of the amounts due Lockheed Shipbuilding and Construction Company by the end of this year. Should there be any delay in the Navy's present schedule an additional amount of provisional payments would be required. Immediately increasing provisional payments to $85 million would substantially ease the financial burden at the Shipbuilding Company and permit continued work toward the completion of the DE 1052 and LPD class ships now in process. In addition, arrangements can be made which will not impair the rights of either Lockheed Shipbuilding and Construction Company or the Navy with respect to negotiation and final settlement of these claims.

AH–56A, PHASE III

On May 19, 1969, the Army Contracting Officer issued a final decision terminating this letter contract for default. Lockheed's appeal from this decision was made to the ASBCA on May 22, 1969, and both Lockheed and the Army are proceeding in accordance with the rules of the Board. It is unlikely that the Board will hear this case before midyear and that a final decision can be made before the first quarter of 1971. As of the end of 1969, total costs incurred by Lockheed (both prior and subsequent to the Contracting Officer's decision) amount to approximately $89 million. Prior to the Contracting Officer's decision the Army had made progress payments amounting to $53.8 million. We have reached an agreement with the Army under which these progress payments may be retained by us pending a decision by the ASBCA. However, during the early part of 1970, costs incurred may reach a total of some $110 million requiring a total cost participation by Lockheed of some $60 to $65 million which may be increased by the necessity of payment by Lockheed to subcontractors of additional amounts. We suggest that the Army increase the amount of progress payments to a minimum of 90% of the costs incurred, and continue such payments until resolution of this case by the Board of Contract Appeals or the Court of Claims. The same agreement under which Lockheed is currently retaining the $53.8 million or progress payments could apply to these additional provisional payments.

SRAM

The Lockheed Propulsion Company is the propulsion system subcontractor to the Boeing Company under its prime contract with the Air Force for DDT&E of the Short Range Attack Missile (AGM–69A). On December 29, 1969, Lockheed Propulsion Company and the Boeing Company presented a Contract Adjustment Claim to the Air Force under Contract AF 33(657)–16584 in the amount of $50 million. At the present time, Lockheed

Propulsion Company is continuing its performance of its subcontract and has incurred costs approximating $30 million in excess of the $16.9 million received to date. Continued performance during 1970 is expected to add more than $15 million. Negotiations of the issues involved in our claim are currently being sought jointly by Lockheed Propulsion Company and Boeing with the Air Force. It is possible that most or all of the issues will become the subject of an ASBCA case in the next few months. We believe that a provisional payment to Lockheed Propulsion Company of $25 million should be authorized under the Boeing prime contract pending final resolution of the issues. As is the case with the AH-56A and the C-5 programs, suitable arrangements protecting the rights of both parties could be arranged.

In summary, in the absence of prompt negotiated settlements there is a critical need for interim financing to avert impairment of continued performance. We urgently solicit the assistance of the Department of Defense in providing such financing.

Very truly yours,

D. J. Haughton,
Chairman of the Board.

Mr. PROXMIRE. Mr. President, on March 5, I issued a statement on this matter. I ask unanimous consent that it be printed at this point in the Record.

There being no objection the statement was ordered to be printed in the Record, as follows:

STATEMENT OF SENATOR PROXMIRE

"The Lockheed request for about $600 million in bailout money symbolizes the breakdown in military procurement. It comes as no surprise to those of us who have concerned over mismanaged and unnecessary military purchases."

"Last September, during the debate over my amendment to delete out of the military authorization bill $500 million for the C–5A, I warned that the money would be used for the 3 squadrons that had already been paid for, and that next year Lockheed would be back asking for additional funds to pay for all 4 squardrons. I stated then that Lockheed's losses, according to the official figures, would amount to over $500 million and that "next year we will be faced with bailing out Lockheed again on this same C–5A."

"Next year is here. And so is Lockheed, asking for that $500 million and more.

"The fact is that Lockheed has been milking the Pentagon for years on this and other programs and that Government agency has been standing still like a contented cow giving milk.

"The question now is whose interests are to be considered in this matter, the public's or Lockheed's.

"A week ago I wrote to the Air Force urging them not to waive any of its contractual rights in the current negotiations and not to submit to any threat by this contractor, express or implied, to go out of business.

"I submit that the issue of whether to provide a subsidy of $600 million to the Lockheed Corporation is one for the Congress to decide, and not the Air Force or the Pentagon.

"In addition, the present crisis presents a rare opportunity to review all of Lockheed's military contracts, to discover how many times they have been bailed out on other programs up to now, and to re-examine the military necessity for these weapons systems.

"The tragedy is that much more than the fate of a single corporation has been placed in jeopardy by the colossal failures of the Department of Defense. Lockheed and practically every other aerospace contractor is seriously undercapitalized, with net assets far below the level of its military business. It has been a mistake to concentrate so much of our defense program in the hands of the few giant contractors for the very reason that is being dramatized today. A continuation of present polices and practices could bring about a collapse of the industry with serious damage to our military security.

"The Lockheed fiasco symbolizes the breakdown of the military procurement system. If our defense program is not to be damaged beyond repair military procurement needs to be totally overhauled, and now."

Mr. PROXMIRE. Mr. President, one thing must be done. This matter must not be settled privately between Lockheed and the Air Force. It should receive a public airing, and that should be done by Congress. Any funds paid out to Lockheed in this matter should come only after full hearings have been held and proper authorization and appropriations have been made. That is essential.

What is most important about the Lockheed request is the statement that the company needs $435 to $500 million more for the C–5A. The company has received progress payments covering almost the entire costs of their outlays on the plane. They are paid for "costs incurred," not for "work finished." As a result, what appears to have happened is that Lockheed needs the funds to cover its losses, some of which may be in its commercial business. Payments, at least in the case of the C–5A, are almost up to date for costs incurred.

Because of the real possibility that the company is in trouble on its military projects—or at least on the C–5A—because of general inefficiencies and the use of military funds to pay for some of its commercial business, we must not let the taxpayer be forced into a bail-out to protect the company's commercial business.

For many months—since November 1968—I have said that "total package procurement" was a flop. This was denied by the Air Force and Lockheed. Now it is admitted.

We developed in hearings that great technical difficulties were involved in the development of the plane. The Air Force and the company said we were dead wrong. Now that is admitted.

We predicted that if we went ahead with the C–5A beyond the first 58 planes, Lockheed would be back, asking us to bail them out. I said they would ask for $500 million.

Now Lockheed is back. Now it is asking for almost precisely that amount.

It is always nice to be able to say, "I told you so." But the tragedy is that the taxpayers of the United States have been taken for a ride by a breakdown in the procurement system.

The defense of the United States is weakened by this fiasco.

I urge Congress not to act hastily on this matter. We must not be rushed off our feet. We should act only after all the facts are in, after public hearings have been held, and after we have examined all the possible means of dealing with this problem, including that of receivership and a court-appointed trustee to run the company so that the orders for military weapons can be fulfilled timely and economically.

Finally, on Thursday, March 12, I released a letter to Comptroller General Elmer Staats, calling for a full-scale review of Lockheed's financial condition and its ability to continue performance of its military contracts.

I also released a companion letter to Secretary of Defense Melvin Laird urging that the Pentagon withhold action on Lockheed's request for $641 million in bailout money until the General Accounting Office and Congress complete their review.

The Government should not permit itself to be pressured into impulsive action. As Secretary Packard has said, there is time for full consideration. Congress and the administration must have all the facts before any action is taken.

I ask unanimous consent that the letters I sent to Comptroller General Staats and Secretary Laird be printed at this point in the Record.

There being no objection the letters were ordered to be printed in the Record, as follows:

March 10, 1970.

Hon. Elmer Staats,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

Dear Elmer: This letter is a formal request for the General Accounting Office to immediately undertake an investigation of the financial condition of the Lockheed Aircraft Corporation and its ability to continue performance of its military contracts.

You will recall that the Subcommittee on Economy in Government of the Joint Economic Committee has conducted a continuing inquiry into military procurement for many years and, since 1968, has paid particular attention to several of the major weapons systems for which Lockheed is the prime contractor.

As you know, Lockheed has recently informed the Department of Defense that unless it receives "further financing" from DOD, it will be "impossible for Lockheed to complete performance of these programs." Lockheed refers to four of the larger programs it is working on, the C–5A, the Cheyenne helicopter, the SRAM missile, and nine shipbuilding contracts, and requests approximately $641 million from the Government for what it terms "interim financing."

Although this action has been termed unprecedented by some officials, there is a question as to whether we are witnessing only a variation of one of the oldest military procurement themes: buy-in-now, get-well-later. Is it possible that the contractor is attempting to develop a new way to pay for massive cost overruns?

Because of the magnitude of the sum requested, the uncertainties that exist, and the incompleteness of the information that has been made public so far, I believe it is imperative that GAO make a comprehensive review of all of Lockheed's military space, and related contracts at the earliest possible time.

Your report should include the following:

1. A list of all Lockheed military, space, and related contracts, their dollar amounts, the funds authorized and appropriated so far, and the sums paid to Lockheed as reimbursement to date for each of those programs;

2. The amount expended to date by Lockheed on its commercial version of the C–5A, and the L–1011;

3. The value of Lockheed's net assets;

4. The total amount of government-owned property held by Lockheed;

5. The amount of progress payments paid to Lockheed on its contracts in calendar year 1969;

6. The cash requirements for all major

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Lockheed Aircraft programs over the next two years, including the L–1011;

7. The cash deficits and surpluses for all major Lockheed programs, including the L–1011, on Lockheed premises and customer premises;

8. A copy of the full Arthur Young and Company audit report on Lockheed;

9. A summary of DOD military needs justifications for each of Lockheed's major military procurements;

10. An estimate of the effects on Lockheed's cash picture if the C–5A program were terminated at 58 aircraft;

11. GAO's response to Lockheed's criticism of Total Package Procurement;

12. The details of possible solutions to the Lockheed crisis considered by DOD, including bankruptcy, break-up of the Lockheed Corporation, and substitution of new tenants for the Government's Marietta, Georgia, and Sunnyvale, California, plants.

I urge you to complete this report within ten days from the date of this letter. As you can see, we are not asking your office to make any analyses or evaluation of the facts, but rather to gather them together for transmission to Congress.

In view of the urgency of the situation and the impact that a decision could have on the Federal budget and the national economy, time is of the essence.

Sincerely,

WILLIAM PROXMIRE,
Chairman, Subcommittee on Economy in Government.

MARCH 10, 1970.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MEL: On this date I have requested from the General Accounting Office a comprehensive review of the Lockheed Aircraft Corporation's military, space, and related contracts. A copy of my letter to the Comptroller General, Elmer Staats, is enclosed. I have asked Mr. Staats to complete his review within ten days from the date of my request.

As you know, Lockheed has made a most extraordinary request to the Department of Defense. As I understand this request, its approval could entail an outright subsidy or a loan to this contractor in the amount of approximately $640 million.

It is essential, in my judgment, that an application for funds of this magnitude be passed upon by the Legislative Branch. The review I have asked the General Accounting Office is intended to develop some of the facts upon which an intelligent decision can be reached by the Congress.

Although some of the Information has been made known by the Department of Defense to the press and, to a limited extent to the Congress in executive closed-door sessions, it is important for the Congress as a whole to be fully informed.

I am further requesting that no administrative actions be taken to approve the Lockheed application for funds prior to the completion of the General Accounting Office review and prior to the consideration of this review by the Congress. Any actions taken before this can be done will, in my judgment, be premature and could have serious and harmful effects on the defense industry, the defense program, and the national economy.

Sincerely,

WILLIAM PROXMIRE,
Chairman, Subcommittee on Economy in Government.

THE ANTIOIL LOBBY

Mr. DOLE. Mr. President, the New York Times Sunday Magazine of March 8 contains an article entitled "The Oil Lobby Is Not Depleted," written by Erwin Knoll. I called several of the article's most inaccurate statements to the Senate's attention on March 12, 1970. Mr. Frank Ikard, president of American Petroleum Institute, in a letter to the editor of the New York Times Sunday Magazine, further discusses the deficiencies and distortions of this same article.

I commend Mr. Ikard's comments to the serious attention of Senators, lest they become swept up in the currently popular but widely misrepresented antioil hysteria.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no obection the letter was ordered to be printed in the RECORD, as follows:

AMERICAN PETROLEUM INSTITUTE,
New York, N.Y., March 9, 1970.

Mr. LEWIS BERGMAN,
Editor, New York Times Sunday Magaine,
New York, N.Y.

DEAR SIR: Your March 8 issue carried an article attacking the so-called "oil lobby", written by Erwin Knoll, Washington editor of *The Progressive*. Effusions such as this, which are actually propaganda thinly disguised as reporting, tend to foster public skepticism as to the objectivity of the press.

It would take a reply fully as long as the original to do justice to the superficialities, misrepresentations, and artful omissions in the article. I would like to cite a few examples however, which clearly indicate how far Mr. Knoll's piece departs from balanced and responsible reporting:

1. A great deal is made in the article of the alleged $5 billion "cost" of the oil import program to the public, but nowhere is it indicated that this is a matter very much in dispute. The U.S. Interior Department, for example, estimates that the real cost of the program—after taking all factors into account—is only about one-fifth of the figure cited in Mr. Knoll's article, and points out that such a cost represents very inexpensive insurance for the national military and economic security provided by the program. A study by the Stanford Research Institute found that there is no net cost of the program to consumers, because of offsetting factors. Unless your readers had followed the debate on this question very closely, they would certainly be misled by the article into thinking that the figure cited was universally accepted.

2. Along the same lines, the article quotes at length from hostile testimony at last year's hearings on the import program. No mention whatever is made of the telling points made by many prominent witnesses at the same hearings in support of the program. As far as the reader could tell, there was no "other side" to the case. Moreover, the author of the article seems to be disturbed at prospects that committees in both the House and the Senate plan further hearings on oil imports this year. Are we to infer from this that Mr. Knoll not only avoids presenting both sides of the issue himself, but objects to having both sides presented before Congress?

3. The article suggests that there is something unusual about a group of state governors undertaking to inform the White House that a proposed change in the import program would bring about severe economic loss, curtailed revenues and widespread unemployment in their states. Yet no mention is made whatever of White House visits on the part of other governors and state officials who were seeking to abolish or drastically modify the program.

4. Ironically, some of the Senators and Congressmen who are most vocal in condemning controls over oil imports, are outspoken advocates of import restrictions on other commodities that are manufactured in their states. Thus, some, for example, argue forcefully for controls over dairy imports, while others favor tight import restrictions on shoes and textiles. Apparently, however, Mr. Knoll sees nothing inconsistent in this.

5. The article carves a quotation out of context to give a misleading and distorted impression of a telegram sent by the Chairman of the House Ways and Means Committee to the staff of the Cabinet Task Force on Oil Import Control. The key part of the telegram, as reported in the press, was: "If, at the same time Congress is reducing depletion allowances, it develops that imports of oil are increased, the combination of the two could be injurious to the development of further reserves in the U.S." Moreover, Mr. Knoll suggests that this telegram was an example of "pressure" on the task force; in fact, it was sent by Rep. Mills in response to an inquiry from the task force staff as to his views.

6. Mr. Knoll quotes liberally the arguments and statistics cited by opponents of import controls. One would think that a reporter seeking to present a balanced view of his subject would feel obligated to take note of what was said by some of the prominent supporters of the program. Submissions to the Task Force by the governmental departments and agencies most concerned—Interior, Commerce, Defense and the Federal Power Commission—contained impressive statistical support for the program. So did a letter sent to the President by 81 members of the House of Representatives, including the majority leader and the chairmen of eight committees, who opposed weakening the program on the grounds that such action would jeopardize national security. None of these submissions is even mentioned in the article. One might be pardoned for speculating as to whether they would have been similarly ignored had they opposed the program and contained extravagant estimates of its cost.

7. In treating the subject of taxes, Mr. Knoll conveniently confines his statistics exclusively to the area of federal income taxes, where oil companies admittedly pay at a lower rate than most other industries. But he might, in fairness, have recognized that when total direct taxes paid to all levels of government are taken into account, oil companies pay heavier than average taxes, even with gasoline excise levies excluded from the comparison.

8. An interesting example of the selective use of figures occurs in the section of the article dealing with oil company profits. The author quotes figures from the First National City Bank of New York to try to build a case that oil profits are excessive, as compared to those of other industries. Ironically, the very same bank tabulation cited by Mr. Knoll, shows that the petroleum industry's rate of return on net worth—the true measure of profits—was 12.9 percent in 1968, as compared with an all-manfacturing average of 13.1 percent. In fact, for the last ten years, fifteen years, or as far back as these statistics have been maintained by the bank, the petroleum industry's return on its investment has run slightly below the average for all manufacturing. (Incidentally, a reproduction of an oil industry advertisement accompanying the article was conveniently cropped one line above where this comparison of profits would have been shown.) These data scarcely support the article's depiction of oil as a "fat cat" industry, and this may account for the failure to provide them to your readers.

9. The article quotes a Congressional source to the effect that the American Petroleum Institute "has been a pace and precedent setter . . . vigorously seeking to adapt its positions and attitudes to the wave of the future." We like to think this is true and

that it is reflected in such actions as the allocation of more than $3,000,000 annually in Institute funds to air and water pollution research. API's research program includes dozens of scientific projects conducted at universities and research laboratories, many of them with participation by government agencies. This being the case, we deeply resent the innuendo that there is something spurious about our research program, especially since the author made no effort whatever to get the facts, which are readily available.

It is ironic that writers such as Mr. Knoll, who profess to be liberal and progressive, are so intolerant of the ideas and views of those who disagree with them that they are unwilling to present those views fairly and objectively. We believe the readers of *The New York Times Magazine* are entitled to a more responsible and better balanced brand of journalism than is reflected in this article.

Sincerely,

FRANK N. IKARD.

THE OIL QUOTA CONUNDRUM

Mr. McINTYRE. Mr. President, the recent announcement by President Nixon regarding Canadian oil imports has raised eyebrows across the Nation. Those who have followed the oil import question are dumfounded by the rationale given for this action.

The Boston Globe, in an editorial entitled "The Oil Quota Conundrum," has admitted that it, a newspaper very familiar with the oil import issue, is puzzled by this latest protectionist act.

The Globe recognized the double talk in the announcement. It recognized that once again the administration has attempted to justify another gift to the oil industry in the guise of a measure reportedly designed to protect our national security. It recognized that the administration has again ignored the interests of the consumers for the coffers of the oil companies.

I ask unanimous consent that the Boston Globe editorial of March 12, 1970, be printed in the RECORD.

There being no objection the editorial was ordered to be printed in the RECORD, as follows:

THE OIL QUOTA CONUNDRUM

President Nixon's order clamping a limitation on oil imports from Canada is a puzzler in more ways than one.

Item: The White House first described the order as "a temporary formal limitation" for the remainder of the year only. But a few hours later administration spokesmen indicated it will continue in effect indefinitely.

Item: The President said his order will permit "a substantially higher level" of imports than the 322,000 barrels permitted each day under a voluntary U.S.-Canadian agreement negotiated in 1967. But, as Rep. Silvio O. Conte (R-Mass.) has pointed out, American Petroleum Institute figures show that this is not quite so either. Imports have been averaging 559,999 barrels a day.

Item: Assistant Secretary of State for Economic Affairs, Philip Trezise, asserts that, if imports were to continue at their current rate, Canadian oil reserves would be depleted and American national defense needs would suffer. But this quarrels not only with Mr. Nixon's assertion that imports now will be "substantially higher" than formerly, thus presumably hastening Canadian depletion by executive order. It quarrels also with the seemingly sound assumption that imports enable the United States to husband its own reserves for defense purposes.

Item: Finally, the President's clampdown order flies in the face of his earlier expression of support for "a freer exchange of energy sources" between the U.S. and Canada. It makes mincement, also, of his task force's recommendation for "an integrated North American energy market" within which all energy products would move without restriction.

Where there is such confusion, the Toronto head of a Canadian Oil Co. is not alone in his not-for-attribution reaction, "I'm mystified." Nor should there be any wonder that the official Canadian reaction is one of "suspicion, annoyance and puzzlement."

"Apparently," comments Sen. William Proxmire (D-Wis.), "the consumer once again is being sacrificed to the oil industry."

This may (or may not) be rougher than the senator intended. But a member of the President's task force, Labor Secretary George P. Shultz, earlier had himself put it on the record in congressional testimony: "Import quotas are costing consumers $5 billion a year."

Plainly, it is the consumer, not the oil industry, that needs protection. Just as plainly, he is not getting it.

RETIREMENT OF KAY RANDALL

Mr. MOSS. Mr. President, I wish to take note of the retirement from public life of a fellow Utahan, Kenneth A. Randall, who has served with distinction as Director and then Chairman of the Federal Deposit Insurance Corporation.

Kay Randall, as he is known by all of us, was appointed by President Johnson in March 1964, to the Board of Directors of the Corporation. He had my full support for the position. A little over a year after his appointment—in April of 1965—he was elected Chairman by the members of the Board, and has served in that position until his retirement.

Mr. Randall began his banking career in the State Bank at Provo, Utah, rising from part-time clerk, while he was in school at Brigham Young University, to assistant cashier, cashier, vice president and cashier, and then president. He also served a period in the senior training program at the Citizens National Bank in Los Angeles. He therefore brought with him to the Federal Deposit Insurance Corporation a knowledgeable insight into the dual banking system of the country.

At the FDIC he dedicated himself to raising the quality of bank supervision. He understood the need for a progressive banking industry to meet the changing requirements of the American economy and to provide better services for the public. His achievements at the FDIC have been applauded in the Congress and in the financial community.

As Kay Randall returns to private life I wish him much success and extend my congratulations on a job well done.

WAGE-HOUR CARES

Mr. BROOKE. Mr. President, it is a pleasure to draw to the attention of Senators a most remarkable address given last month by the Administrator of the Labor Department's Wage and Hour Division, Mr. Robert D. Moran.

In his speech, Bob Moran demonstrates a warmth and human understanding which are not generally associated with Washington bureaucracy. He tells what the Wage and Hour Division does, how it does it, and why. Basically, he says, the Division cares about people, and his speech makes that very clear.

I am proud of the fact that Administrator Moran is from Massachusetts. I commend him for his concern. I recommend his statement as coming from a fine public servant who is clearly doing very well the task of translating the cold language of the law into humane action.

I ask unanimous consent that his speech be printed in the RECORD.

There being no objection the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF ROBERT D. MORAN, ADMINISTRATOR OF THE DEPARTMENT OF LABOR'S WAGE AND HOUR DIVISION BEFORE THE FOURTH ANNUAL LABOR-MANAGEMENT WORKSHOP OF THE AMERICAN SOCIETY FOR PERSONNEL ADMINISTRATION AND THE BUREAU OF NATIONAL AFFAIRS, INC., WASHINGTON, D.C., FEBRUARY 26, 1970

I'd like to paint with a rather broad brush today—telling you what we do and who we are—and maybe a little on what we think about ourselves and our work.

Many people know what the Wage and Hour Division does: it annoys businessmen by auditing their books and bothering their employees in order to see if they are getting paid the minimum wage and time and one-half for overtime.

OK, I'll admit to that.

Making sure employees were paid properly was virtually *all* we did for the first 25 years of our existence. But times change. People do too. And, surprisingly as it may seem to some, Government agencies also change.

Would you believe, for example, that the Wage and Hour Division, which was created by Section 4(a) of the Fair Labor Standards Act, to administer and enforce the unprecedented and far-reaching social and economic changes included in that landmark legislation, now has enforcement responsibility not only for that law—but for more than 50 other laws?

Let me mention a few of these laws to indicate the type of thing we sometimes get involved in:

The National Foundation of the Arts and Humanities Act of 1965;

The National Technical Institute for the Deaf Act;

The National Housing Act;

The Research and Development in High-Speed Ground Transportation Act of 1965;

The Demonstration Cities and Metropolitan Development Act of 1966;

The Federal Airport Act; and

The Consumer Credit Protection Act of 1968.

I could name many more. But I want to tell you some of the things the Wage and Hour Division does under these and other laws:

We certify and oversee sheltered workshops for the handicapped to insure that these people receive wages commensurate with their productivity, and that the goods they produce do not compete unfairly in the market place with goods produced in the profit-making sector of the economy.

We assure that there are equal employment opportunities for persons between the ages of 40 and 65 pursuant to the Age Discrimination in Employment Act.

We are interested in sex. Yes, that's part of our job, because we are responsible for insuring that men and women doing equal work in the same establishment are paid on an equal basis.

In order to do this, we must analyze and evaluate jobs of all kinds.

We help keep kids in school, and out of hazardous occupations, by enforcing prohibitions against employment of child labor.

We will soon be in the small claims arena, preventing unreasonable wage garnishments—and in the personnel offices, trying to correct illegal job dismissals caused by wage garnishments.

On Government financed construction projects, we not only make sure that employees are paid properly, but we see to it that no one works outside his job category without proper pay—such as an apprentice working as an electrician or a laborer doing carpenter's work.

We schedule surveys and establish prevailing wage rates on an area by area and job by job basis for service employees working on Government service contracts. In such cases we tell contractors what they must pay in both salary and fringe benefits for sheet-metal workers on Kwajalein Atoll, janitors in San Diego, or window washers in Lewiston, Maine or Tulsa, Oklahoma. Then we follow up to see that they do it.

We do research. Lots of it. On the socio-economic characteristics of people working for less than the minimum wage, on what constitutes a seasonal industry, on how to tell who is a bona fide executive, administrative or professional employee, and on many other things.

We hold hearings.

We testify in court.

We write bulletins and publish documents of all kinds—9 million of them in 1969 alone.

We answer questions and inquiries. Over 800,000 of them in fiscal 1969.

We also make speeches. About 5,000 of them will be made this year.

And what does all this mean? How do these seemingly diverse laws, heterogeneous activities, and ubiquitous presence fit together? In short, do we make sense?

Well, I, for one, think that we do.

Each and every thing I have mentioned, and the hundreds of things I've left unsaid, all add up to fulfilling our overall goal—preventing the exploitation of human resources in the work place.

I've chosen those words carefully because I don't want to leave you with the impression that we only help working people—and those who would like to be working people.

We help employers by making sure they are not undercut by unscrupulous competitors who would save labor costs by paying people less than the law provides.

If we do our job properly, we can even keep welfare costs down in many ways—one of which would be to make sure people aren't wrongfully fired because of wage garnishments.

We help the handicapped so that employers can afford to hire them—and that no one will pay them less than their productivity justifies.

We even—believe it or not—have helped to make that delightful pastime of shrimp-eating more sanitary. The impact of the Wage-Hour law on this industry helped speed the introduction of a shrimp-heading machine which not only cuts labor costs but makes the shrimp delivered to the consumer a great deal cleaner.

A number of people have told me the Wage and Hour Division, to us a currently popular phrase, maintains too low a profile—that nobody knows us. Someone else suggested that we ought to adopt a slogan—so we can be more readily identified in peoples minds.

The slogan suggested was a simple one: "Wage-Hour Cares". It's short, but it says a lot—for we do care. We care about older workers. We care about children. We care about women who work. We care about migrant workers. We care about retail merchants, and schools, and hospitals and farmers. In short, we care about people—whether they are employers or employees or people who want to be employers or employees.

And we are people, too. There are about 1700 of us at the present time. We are smaller than we used to be and not big enough to do all the nice things we would like to do. But we are all kinds of people in all kinds of places.

Often people like those here present look at us. And many are not reluctant to tell us what they think about us.

But we look at ourselves, too. I thought you might be interested in some of the comments made anonymously during a survey of our employees in the Chicago region of the Wage and Hour Division.

I was personally quite intrigued to read what our own people had to say. The survey contained both good news and bad news.

First the good news:

"One reason I like my job as much as I do is that it's interesting, varied and presents a new challenge every week."

"I like the fact that Wage-Hour can reach and help so many of the poverty-stricken citizens of this country. If our job is done properly, we can help these citizens through enforcement of the Wage and Hour Law. The full enforcement of the law would insure many low paid employees and an almost liveable wage."

"I like the pioneer spirit required and the results accomplished."

"Working in an enforcement agency trying to achieve compliance with needed remedial legislation is the thought that keeps me in this job."

"I like best setting up my own programs and working with people, particularly in the educating of employers."

"The best part of my job is the work itself."

"I like the variety and challenge of my work, and meeting the public, and the feeling of accomplishment."

"I like best the high caliber of almost all the people I work with in the Department of Labor."

"Personally, I think the Department in which I work is needed by industry, labor and management. The self-satisfaction and the accomplishments perceived can be beyond comprehension."

"The feeling here is that we are helping employers and employees, and always take the extra step to be of assistance in any possible way."

"I think Wage-Hour is one of the best Departments, allowing initiative, chance for experience and promotion, while doing a good job for people subject to the laws enforced."

"I like especially about my work the competence, decency, and congeniality of associates and superiors, by and large."

"I like best—helping others."

And now, for some of the bad news:

"The least appealing aspect of my work is the finite time one has to accomplish his myriad priorities. There are too many requests for assistance, and a lack of individuals to assist. To be frank, the bureau of which I am an employee should ameliorate its services through expanded employment."

"I like least the excessive amount of time that I am required to be away from my family because of the large geographic area served."

"I like least the false accusations employers will write to Congressmen when they are caught in violation of federal laws."

"What I dislike is the serious shortage of personnel."

"Letters which I get from certain . . . officials are in legalese instead of plain English."

"There is not enough positive praise to offset the constant criticism of employers, employees and the area director. Even intelligent people need an occasional pat on the back because days and days pass by, and if negative items appear repeatedly, it becomes difficult to be enthusiastic about your job. We are paid professionals, but if money were the only pertinent reward I am afraid many Government employees would be toiling in private industry."

"We are not being kept informed."

"Additional field personnel are needed to properly service employees and employers."

"Since automobiles must be used by us in our everyday work, there should be parking facilities for us at or near the office."

"Our particular agency is satisfied to give the field men 'cast off' equipment (WPA desks yet) and third class office space with no ventilation, while we see newer agencies well equipped with new furniture and offices and proper tools to do their work."

"I don't like the fact that no attempt is made to effectively promote our organization."

"I like least the fact that people on the national level divorce themselves from the problems on the local level."

Well there it is—unexpurgated and direct from the heart of the Wage-Hour men and women in the field. I am sure that many people here have heard similar comments in their own organizations. As personnel people, I think you'll agree that a survey of this kind is very helpful for a person in a position like mine. I won't deny that I enjoyed reading the favorable comments but I shall not allow satisfaction therewith to get in the way of effectively handling the adverse comments.

These comments, of course, are individual observations and we can't always be sure that they are representative. There are, however, two indicators I would like to cite to show the extent of public service interest in the Wage and Hour Division.

First, in the most recent Government-wide U.S. Saving Bond drive, there was 92% participation nationally by Wage-Hour employees—by far the highest percentage within the Department of Labor and one of the best showings among any organization its size in the country, Incidentally, I like to think that this is why I have been named to head this year's Saving Bond Drive in the Department. One of my associates—who claims to be in the know—assures me that this was not the reason. It's simply because I am the most expendable of the top officials.

Secondly, in the most recent Combined Federal Campaign of the Washington, D.C. United Givers Fund, the contributions of Wage-Hour employees amounted to better than two hundred and eight percent of the established goal. That figure bears repeating: 208%.

Yes, our people do care—not only about their jobs and the goals of the agency—but about our Government, and the underprivileged members of their community. And they show their concern demonstrably—with money from their own pockets.

Now that you know a little more about us, perhaps you can appreciate us better as fellow human beings and some of you might agree that we are not your antagonists, but are, in fact, kindred spirits with you.

We certainly have no monopoly on caring—or on helping others. It's emphasized here because we have no other reason to exist. We manufacture no product. We sell no merchandise. And, contrary to what some think, we don't even wear horns. We are simply people helping other people.

I doubt if this has been the kind of a speech you came to hear at a Labor-Management Workshop. But the invitation I received specified "A wage and hour topic of your choice." And that's what I've talked about—a topic very close to my heart. I have certainly enjoyed it. I hope it has not been too much of a disappointment to you.

THE ADMINISTRATION'S MILITARY PROGRAMS

Mr. PROXMIRE. Mr. President, today's New York Times carries an edito-

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rial charging, quite correctly, in my view, that the administration's "comprehensive and far-reaching reconsideration" of military programs seems to have resulted in a fiscal 1971 budget little different from that of the current year.

The Times points out the huge sums of money going for new weapons systems—for ABM, MIRVing the missiles, AMSA, AWACS, ULMS, and the shift from Polaris to Poseidon submarine attack force.

They quite rightly point out that the Armed Forces have come out of the Southeast Asian war "in better shape than when they went in," and specifically mention the new Air Force tactical aircraft, the new helicopter capability of the Army, and the $2.5 billion Navy shipbuilding program which would never have been authorized in peacetime.

Almost daily the Pentagon announces some new "savings"—the closing of bases, the cutback in troops, the reduction in contracts. But these cuts do not show up in an equivalent reduction in the Pentagon budget. The reason is quite simply that the military has usurped the peace dividend and is spending it for alternative Pentagon purposes.

I want to emphasize the major point of the editorial. This is the crucial year. As it states:

> The Congress now has a chance to call a halt before passing the point of no return on a whole new series of weapons programs—most of which call for small initial expenditures as (former Budget Director) Schultze has emphasized but cast long, wedge-shaped shadows spreading out into the financial future.

XUM

Mr. President, this year is the time to act.

I ask unanimous consent that the editorial, entitled "Preparedness for What?" be printed in the RECORD.

There being no objection the editorial was ordered to be printed in the RECORD, as follows:

PREPAREDNESS FOR WHAT?

Speedy demobilization after a war is an old American tradition. Vietnam has initiated a new phenomenon: demobilization before a war is over. To defuse antiwar sentiment, the Administration has been trimming military manpower and defense spending and even hinting at elimination of the draft. But it has still not succeeded in heading off a coordinated drive in Congress to cut the new $71.8 billion defense budget further, particularly the non-Vietnam expenditures that make up more than 80 per cent of the total.

President Nixon himself has helped fuel this drive by arousing—and then disappointing—expectations of a re-ordering of national priorities from military to peaceful pursuits. In his State of the World message, he asserted that elaborate new National Security Council review machinery had enabled him to choose "defense strategy and budget guidelines for the next five years that are consistent not only with our national security in the maintenance of our commitments but with our national priorities as well." Yet there is no indication of a five-year plan in the one-year budget. Nor is there much reflection of the "significant modification" Mr. Nixon said he had made in the nation's strategy, reducing requirements for general purpose forces from a 2½ to a 1½-war capability.

On the contrary, the Administration's comprehensive and far-reaching reconsideration of military programs seems to have resulted in a fiscal 1971 budget little different from that of the current year. Spending cuts are almost entirely a function of the de-escalation in Vietnam. The list of weapons systems on order or under development for strategic and conventional forces shows little change. The "rational and coherent formulation" of requirements by a high-powered review board has ended with the Army, Navy and Air Force each getting an almost identical sum—about $22 billion—which is suggestive of traditional log-rolling decisions within the Joint Chiefs of Staff.

Mr. Nixon claimed a "significant intellectual advance" had been achieved in framing "four specific criteria for strategic sufficiency." But these undisclosed new criteria, curiously, seem to require a continuation at much of the same pace of all the programs currently under way. Deployment of defensive anti-ballistic missiles (ABM) and offensive MIRV multiple warhead missiles—pressing forward the new round in the strategic arms race that Mr. Nixon asserts Russia alone is pursuing—gets $3.2 billion. Development continues on a new strategic bomber, a new air defense system, a new underwater long-range missile system (ULMS) and more accurate MIRV warheads for counterforce purposes.

Congressional critics are likely to look particularly closely at the Navy's $7-billion-a-year force of fifteen attack carriers and the new F-14 fighters they are to carry—a $25 billion project over the next decade. Some analysts believe ten or twelve carriers with existing F-4 fighters could meet all the requirements by more efficient deployment. Former Budget Director Charles Schultze recently explained the origin of the magic number fifteen as follows:

"In Washington Naval Disarmament Treaty of 1921, the United States Navy was allotted fifteen capital ships. All during the 1920's and 1930's, the Navy had 15 battleships. Since 1951 . . . it has had fifteen attack carriers, the 'modern' capital ship. Missions and 'contingencies' have changed sharply over the last 48 years. But this particular force level has not."

The armed forces, despite their claims that Vietnam has delayed modernization, come out the Southeast Asian war in better shape than when they went in. The Air Force has large numbers of new tactical aircraft. The Army has a huge new helicopter capability. The Navy has a shipbuilding program under way that would never have been authorized in peacetime.

The Congress now has a chance to call a halt before passing the point of no return on a whole new series of weapons programs—most of which call for small initial expenditures, as Mr. Schultze has emphasized, but cast long, wedge-shaped shadows spreading out into the financial future.

CANADIAN OIL IMPORTS

Mr. DOLE. Mr. President, in few cases has distortion been so evident as in some of the political reaction to the President's March 10 proclamation on Canadian oil imports. The facts underlying the President's action make out a clear case of a neighboring country abusing a special privilege accorded it by the United States.

INCREASE OF CANADIAN OIL EXPORTS

Under a formal understanding promulgated in September 1967, the Canadian Government agreed that its imports into the area east of the Rockies—districts I–IV—would be held to 280,000 barrels per day in 1968 and that daily imports would not be increased by more than 26,000 barrels through 1971. Under this agreement, in other words, Canadian oil exports to the U.S. upper Midwest would not reach 358,000 barrels daily until next year. Throughout the entire period of this formal understanding, Canadian exports have exceeded the agreed-upon levels. Since the mandatory oil import program was begun, Canadian oil exports into the United States have risen from 161,000 barrels daily in 1959 to 585,000 barrels a day in 1969. In the past 90 days, these exports have surged to levels of about 550,000 barrels a day east of the Rockies. Canadian imports, accommodated under our import program, were estimated to be 332,000 barrels daily for 1970. Actual imports in recent months have exceeded this estimate by more than 200,000 barrels a day.

PRESIDENT HAD TO ACT

Canadian oil exporters, who have been accorded special treatment, simply abused that treatment. The President did what had to be done. Other importing countries do not receive exemption permitting them to increase imports at will. Venezuela, for example, has been forced to move over for ever-rising Canadian imports for the past 10 years. Canada, meanwhile, has done nothing to justify its special treatment; it has, in fact, constantly increased its own imports which fill more than half its needs, while exporting most of its increased crude oil production to the United States. In effect, the United States is expected to buy their crude oil, and at the same time, hold a protective umbrella for Eastern Canada in any oil supply crisis. If foreign oil sources were cut off, U.S. supplies would have to be diverted to the Canadian maritime provinces. This arrangement works no net improvement or help for U.S. or continental oil security.

Perhaps the President's action will cause the Ottawa government to reassess its policies. Hopefully we can reach agreement, based on continental security requirements, to permit an early and permanent end to any limitation on Canadian-United States oil movements. Such an agreement should involve efforts by Canada to limit its own imports on some rational basis that would support continental security.

I regret the unfounded accusations which have come from some Senators in the other party about this matter.

UNWARRANTED CRITICISM

The rationale of the senior Senator from Wisconsin (Mr. PROXMIRE) that this action would cost consumers a penny a gallon on petroleum products is without foundation.

Likewise, the Senator's accusation that the President ignored his Task Force on Oil Import Control only shows that he has not read the report of that task force. I quote from that report:

> Preference for Canadian oil is difficult to justify while Eastern Canada continues to import all of its requirements from potentially insecure sources. Some provision for limiting or offsetting Canadian vulnerability to an interruption of its own oil imports would therefore be made a precondition to unrestricted entry of Canadian oil into our markets.

Contrary to the Senator from Wisconsin's assertions, the President has acted in accord with, rather than contrary to, the findings of the Cabinet task force.

The junior Senator from New Hampshire (Mr. McIntyre) has mistakenly blamed the President's action on something he calls the oil industry's "secret government." Contrary to the Senator's statement, there is not a scintilla of evidence that the oil industry was responsible for this action. It was an action necessitated by Canada's excesses, which had to be corrected if administration of the oil import program was not to become an impossibility.

Also contrary to the assertions of some Senators, this action will not penalize consumers. There is no evidence that a quadrupling of Canadian imports into the U.S. Midwest has brought any appreciable consumer benefits. There certainly is no evidence that the President's action will adversely affect the consumer public. The President can hardly undo a "benefit" which never existed.

THE 18-YEAR-OLD VOTING AMENDMENT

Mr. ALLEN. Mr. President, last week's debate in the Senate concerned with the constitutionality of the 18-year-old voting amendment to the Voting Rights Act has resulted in considerable editorial comment throughout the Nation.

Because of this interest, and because of the contrast shown by editors in dealing with the subject, I ask unanimous consent that editorials from the Saturday, March 14, 1970, editions of the Washington Post and the Birmingham News be printed in the Record.

There being no objection the editorials were ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 14, 1970]

The 18-Year-Old Vote: Statute or Amendment?

The Senate's 64–17 vote to lower the voting age to 18 reflects a widespread demand for greater youth participation in the processes of government. It is a salutary trend. This newspaper is fully sympathetic with the objective, but the attempt to attain it by means of a statute instead of a constitutional amendment seems to us highly dubious.

The reasoning that a statute alone will suffice is based largely on the Supreme Court's opinion in *Katzenbach* v. *Morgan* and the subsequent projection of the reasoning in that opinion to voting-age requirements by former Solicitor General Archibald Cox. The court, in that case, upset a New York law which made ability to read English prerequisite for voting. The state requirement was in conflict with the Voting Rights Act of 1965 which provided that no person may be denied the right to vote because of inability to read or write English if he had successfully completed the sixth grade in a Puerto Rican school where the instruction was in Spanish. The Supreme Court gave preference to the federal statute because it could "perceive a basis" on which Congress might view the denial of the vote to Spanish-speaking Puerto Ricans "an invidious discrimination in violation of the equal protection clause" of the Fourteenth Amendment.

Mr. Cox and some other constitutional authorities have concluded that Congress is now free to say that the denial of the vote to citizens between 18 and 21, on the ground that they lack the maturity to vote, is also invidious discrimination. It is a long leap, however, from striking down a discriminatory language requirement to fixing an age limit at which voting may begin. In the New York case there was actual discrimination against Puerto Ricans seeking to vote in that state despite the seeming general applicability of the statutory language. But where is the denial of equal protection in a voting-age requirement that is applied without discrimination to citizens of all nationalities, races and so forth? If it is invidious discrimination to deny the vote to 18-, 19-, and 20-year-olds, would it not be equally unconstitutional to deny it to 17-year-olds?

The founding fathers unquestionably intended to leave voting-age requirements to the states. This is evident in the provision that voters in congressional elections "shall have the qualifications requisite for electors of the most numerous branch of the state legislature." The effect of the Senate's 18-year-old voting amendment to the voting rights bill would be to transfer to Congress this authority to fix voting requirements, in state as well as federal elections. We agree that the voting age should be lowered, but there are powerful arguments on grounds of policy as well as constitutional law for using the amendment process.

Sponsors of the change by statute, Senators Mansfield, Kennedy and Magnuson, think they have adequately guarded against inconclusive elections under the bill by expediting a test of its constitutionality. Certainly that is a wise precaution. But when basic changes of this kind are to be made (46 states now impose the 21-year-old voting requirement) the proper procedure is a constitutional amendment. Now that senators have had an opportunity to vote for a popular measure, they could logically agree to rest the reform on more secure ground.

[From the Birmingham (Ala.) News, Mar. 14, 1970]

Lower Voting Age

We believe that the Senate acted properly Thursday in approving a provision to lower voting age from 21 to 18 in all states, although we hate to see such an important piece of legislation tacked on as an amendment to the Voting Rights Act which, if renewed, will continue to discriminate against a geographical region (the South) even as the amendment removes restrictions for an age group (18 to 21).

Sen. James B. Allen of Alabama led an effort to defeat or amend the proposal on the grounds that such legislation is of questionable constitutionality and could throw the 1972 presidential election into chaos.

We see Sen. Allen's point clearly enough—it could be catastrophic if several million young people under 21 were to vote in the presidential election and then a court were to declare the legislation under which they voted invalid. However, we believe that the constitutionality of the measure would be tested and ruled upon before that time, precisely to avoid such an obvious hazard.

It seems to us that the application of the Senate measure to local and state elections is of more doubtful validity than its application to federal elections. That is a point on which challenge is certain to come.

It would establish the lowered voting age's legitimacy beyond challenge if it were effected by constitutional amendment rather than by statute. But an overwhelming majority of the Senate (64–17 on the final vote) clearly believes that Congress has the authority to act. If they are wrong, the courts will say so—assuming that the House of Representatives goes along with the Senate.

On the question itself, there seems to be little argument against lowering the voting age. Surely there must be merit in a proposal when Sens. Edward Kennedy and Barry Goldwater can join in its sponsorship. If all of the people whose views fall somewhere between those two agree, support will be nearly unanimous.

This newspaper has supported lowering the voting age in the belief that it makes sense from a number of angles. Not least, in our opinion, is the fact that it would responsibly involve college-age Americans in the political process, thereby removing one of the sources of frustration which makes too many of them susceptible to the rantings of the nihilists who seek to destroy that political process and the government which it serves.

As Sen. Goldwater pointed out, it is the responsible youth, not the crazies, who make up the majority of their age group, and it's not fair to judge them all by the actions of the misfits who get most of the attention.

IRON HORSE AND BUFFALO

Mr. BROOKE. Mr. President, within the past 10 days much of the eastern seaboard has been threatened with nothing less than geographic isolation from the rest of the Nation. This has resulted from the proposals of the Penn Central to end westbound railroad passenger service and to terminate through service between Springfield, Mass., and New York City.

At the very time we are beginning to question the validity of our past decisions to solve all transportation problems by simply building more and more roads, displacing homes by highways, paving over the countryside, this is not the moment to stand idly by and permit a major alternate form of transportation to atrophy and die.

A perceptive article on this subject, written by columnist Tom Wicker, of the New York Times, has been published in a number of newspapers. I ask unanimous consent that the article be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

Iron Horse and Buffalo

New York.—Now that the Penn Central has asked to abandon passenger service in what is almost the heart of America—the area between Chicago and Harrisburg—the scheme the railroads have been pushing for decades is nearing completion. With the collusion of the Interstate Commerce Commission, which is supposed to protect the interests of the public, railroad passenger service has been all but sacrificed to profits.

This is not because passenger trains are inherently unprofitable in the era of the jet plane and the superhighway, or because there is no railroad riding public to be cultivated and served. It is because the railroads sought to make maximum profits by concentrating on freight-hauling and defaulting their obligations as passenger carriers.

At least since World War II, therefore, most lines have been deliberately discouraging passenger traffic through poor service, ill-kept schedules, filthy trains, insolent crewmen, archaic ticketing and reservation systems, outmoded station facilities, ancient rolling stock and the steadily declining frequency and availability of trains even between major cities. To this catalogue of public horrors, the railroads added outrageously contrived financial "losses" on passenger trains for the sympathetic consideration of the I.C.C.

An article in The New York Times by Christopher Lydon has detailed how accounting gimmickery made it appear that passenger trains had been losing huge sums since 1945—when in fact passenger traffic was profitable, despite the decline in service, at least until the early sixties, and in the east until 1966. It was, of course, on the basis of the hiked-up figures that the I.C.C. permitted the discontinuance of so many trains in the fifties and sixties.

And while it is true that throughout this period the government in one way or another was heavily subsidizing air and highway travel, Lydon pointed out that it was the railroads themselves who took the lead in asking the government to discontinue a major form of passenger-train revenue—federal payments for carrying the mail.

Thus, the railroads' disinterest in serving passengers, the compliance of the I.C.C., and the lack of a coherent federal transportation policy, have combined to deprive the American public of what citizens of every other western industrial nation take for granted—adequate railroad service. And this has happened at a time when the automobile has become the worst polluter of the air, when airports and the air traffic lanes around important centers are dangerously overcrowded, when technology is exploding, and when the American people are the richest in history.

The Penn Central's Metroliner has proved between New York and Washington the need for and the potential convenient, comfortable, fast rail service in metropolitan corridors, of which there are many. The Seaboard Coast Line's Florida Special on the New York-Miami run demonstrates every winter that there is still a demand and need for first-rate long-haul service over particular routes.

But the California Zephyr, which through some of the most spectacular scenery anywhere in the world, is apparently to be abandoned like so many other things of value in America. Its worth is not recognized by a careless people tragically exploited by those designated to serve them and to protect their interest. Property operated and offered to the public, the route of the Zephyr should be a priceless asset to American tourism, to say nothing of American transportation.

The problem is not just to retain the spavined bones of an ancient and staggering passenger network as a sort of curiosity, like the few buffalo one can now see penned sadly in corners of the great range they once roamed in their vast and splendid herds. What is needed is a national transportation *system*, providing safe and speedy air service everywhere needed, maintaining the great interstate highway grid, extending into similar corridors the kind of fast intercity service the Metroliner provides, maintaining and improving a serviceable minimum of long-haul rail routes to supplement air and auto travel and tourism.

That kind of integrated national transportation network is beyond the scope of a last-gasp bill that the Senate commerce committee is developing. But that measure would at least preserve, like buffalo, a last few passenger trains, placing them beyond the power of the railroads to subvert, providing some operating and equipment subsidies, and keeping alive the dim hope of better, safer, more convenient travel in America.

ABA'S STANDING COMMITTEE ON WORLD ORDER THROUGH LAW EXAMINES THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, earlier in the month, I discussed the broad conceptions of the Genocide Convention as presented by the American Bar Association's standing committee on World Order Through Law. Today it would be useful to set out the committee's somewhat more detailed analysis of existing U.S. treaty commitments, the relationship between treaties and the constitution, and the subject of existing treaties.

Discussing such matters the committee observed:

THE EXISTING U.S. COMMITMENT

The United States, by an almost unanimous vote of the Senate, ratified the United Nations Charter and thereby assumed the obligation to further its objectives. One of these (Article I) was to achieve universal respect for, and observance of, human rights and fundamental freedoms for all. Articles XIII, LV, LVI, LXII and LXVII of the Charter spell out the commitments in greater detail.

As Phillip C. Jessup, now a member of the International Court of Justice, said in his *Modern Law of Nations* (p. 91):

"It is already law at least for members of the United Nations, that respect for human dignity and fundamental human rights is obligatory. The duty is imposed by the Charter, a treaty to which they are parties."

TREATIES AND THE CONSTITUTION

The opposition to the Genocide treaty has long asserted that the whole subject matter of human rights is not a proper one for international agreements (treaties) and therefore Genocide must fall with all the rest.

The treaty-making power under our Constitution (Article II, Section 21 is very broad. Article II, Section 2 of the Constitution provides:

"He (the President) shall have the power by and with the advice and consent of the Senate to make treaties, provided two thirds of the Senators present concur;"

The power does not, of course, rise above the Constitution. But, subject to that limitation, it is extensive. As the Supreme Court said in Geofrey v. Riggs, 133 U.S. 258, 267 (1890):

"It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States, or a cession of and portion of the territory of the latter without its consent. But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching on any matter which is properly the subject of negotiations with a foreign country."

The question of the treaty-making power in this area is thus answered in the Clark committee report (p. 1):

"It may seem almost anachronistic that this question continues to be raised. It is nearly a quarter of a century since this country used the treaty power to become a party to the U.N. Charter one of whose basic purposes is the promotion of human rights for all. The list of parties to the various human rights treaties proposed by the U.N. has become longer each year. In each of the last 2 years the U.S. Senate has approved a human rights treaty without a single dissenting vote. In December 1968, the Chief Justice of the United States noted that "We as a nation should have been the first to ratify the Genocide Convention and the Race Discrimination Convention." And yet the suggestion persists that this Nation is constitutionally impotent to do what we and the rest of the world have, in fact, been doing."

SUBJECT MATTER MAY BE BOTH INTERNATIONAL AND DOMESTIC

It has been said in opposition to ratification that the subject matter of a treaty must be exclusively or essentially of foreign or international concern. But our history is to the contrary. We have repeatedly entered into treaties held to be valid covering matters usually considered domstic and left to local state regulation. These deal with such matters as debts, land titles, escheat, statutes of limitation, administration of alien estates. It may be an oversimplification to suggest that if this country has the power to enter into a treaty to save the lives of birds, as was sustained in Missouri v. Holland, 252 U.S. 416, (1920), the same power must exist to save the lives of human beings.

It is interesting to recall that the United States has long accepted the view that the denial of human rights and other anti-Social conduct are proper subjects of treaties. Thus, the United States has entered into treaties prohibiting white slave traffic, traffic in arms, in narcotic drugs, and in slaves. The two human rights treaties recently ratified by the United States, after unanimous votes in the Senate, included the Supplementary Convention on Slavery (1967) and the Supplementary Convention on Refugees (1968).

Special note should be taken of the 1967 Slavery treaty because its ratification was specifically endorsed by the American Bar Association. It obligated the U.S., inter alia, to abolish practices whereby, 'a woman, without the right to refuse, is promised in marriage on payment of a consideration of money or in kind to parents, guardian, family or any other person . . .' and to abolish any institution whereby 'a woman on the death of her husband is liable to be inherited by another.' It is hard to conceive of something more likely to be an exclusive municipal subject than that of the right of inheritance.

THE COST OF IMPROVING THE ENVIRONMENT

Mr. ALLOTT. Mr. President, everyone is talking about the environment. Everyone wants to improve it. I wonder, though, how many are willing to pay for it.

Without any intent of dampening public enthusiasm for environmental measures, I want to offer some general thoughts on the money problems involved. These problems must be faced eventually. We should face them squarely, and the sooner we do so the better.

Mr. President, there is a new step to the political dance nowadays and it deserves to be called the Apollo leap. It consists of systematic and sustained non sequiturs, all of which are designed to help people leap to the conclusion that there is no problem we cannot solve right now, if not sooner.

You know the Apollo leap is underway when you hear someone begin a sentence with these words: "If we can land a man on the moon then there is no reason why we cannot." That is the predictable beginning. People improvise the end according to their preferences for large Government exertions.

Today the most popular version of the Apollo leap goes something like this: "Any nation that can land a man on the moon can clean up its own environment." To which the proper but unpopular answer is: It is not that simple.

In fact, it is going to be a lot harder and very much more expensive to clean the earth than it was to reach the moon.

As one White House aide put it recently:

> One generation of taxpayers is being asked to pay for 200 years of pollution sins.

Of course no single generation can do that, and this generation is patently unwilling to try.

A recent nationwide poll found that

85 percent of those interviewed declared that they were concerned about the environment. But when these same people were asked to indicate how much they would be willing to pay each year to improve the environment, 51 percent said $10 or less, 18 percent said $50, 4 percent said $100, 9 percent said they would not pay anything, and 18 percent said they did not know. Extrapolating from this one poll, it would seem that the American people are willing to spend about $1.4 billion for environmental improvement.

To get some idea of how little this is, consider two facts:

New York City's Environmental Protection Administration recently asked for $1.043 billion to "start solving the crisis" in that one city.

There is a kit which, when installed on American automobiles, virtually eliminates pollution emissions. It costs approximately $300 to install these kits. If the owners of the 11 million privately owned cars in California each equipped their cars with this kit, the total bill would be $3.3 billion. If all the 104 million cars in America were similarly equipped, the cost would be $31.2 billion.

Perhaps one way to encourage people to spend money to cure environment problems is to explain what it costs not to cure them.

We will never put a price on the human health and life that is endangered by air pollution. But we can and should compute the price of air pollution damage to material things.

For example, it is not always realized that air pollution can damage or destroy a wide variety of agricultural produce.

In New Jersey, which takes pride in its name as "The Garden State," pollution damages at least 36 commercial crops. Florida oranges and California orchids have also suffered. According to Government figures, agricultural losses from air pollution, including damage to livestock, crops, and other plants and trees may exceed $500 million a year.

Further, the Nation is paying an enormous maintenance and replacement bill for metals, rubber, leather, fabrics, paper, stone, paint, and other materials that are made brittle, weakened, discolored or in other ways damaged by air pollution.

This bill mounts in many hidden ways. For example, air pollution often makes it necessary to use gold for electrical contacts because it is highly resistant to pollution damage. If silver could be used instead, the saving would be nearly $15 million per year.

Again, to protect the precision instruments of modern industry, companies frequently must go to great expense to clean pollutants from all air admitted to their buildings—the same air we admit uncleansed to our lungs.

Further, sulfur pollutants contribute to runs in women's stockings: When sulfur in the air accumulates on outdoor stone statues, and then combines with moisture, the result is a diluted form of sulfuric acid, which can do more damage to sculpture in a decade than the normal weather will do in centuries. In fact since the famous piece of Egyptian statuary called "Cleopatra's needle" arrived in New York in 1881, it has deteriorated more than it did in 3,000 years exposure to the wind and sand and sun of Egypt.

These examples of air pollution damage could be multiplied many times. Although it is impossible to compute exactly the total cost of air pollution to property, a widely used estimate is that the cost to the Nation is over $12 billion a year. This is $65 per person, and remember that this is only damage to property, and only damage from air pollution.

Now even if these damage estimates make it psychologically easier to pay for environmental improvement, it still will not make this painless. We will still be faced with a task of creative policymaking. This task is to spread the burden judiciously and equitably.

Business must spend money. Government must spend money. Business cannot change its profit structure. Government cannot spend if it does not tax. Thus we will all pay as consumers and taxpayers.

First, consider what business will have to pay.

Fortune magazine is correct in saying that the new concern about environment is "the most important current change in the surroundings of U.S. business."

Edwin A. Locke, Jr., president of the American Paper Institute, has put this point well:

> The freedom of industry to operate without onerous governmental regulation depends largely on the soundness of its policies with respect to public requirements. But sound governmental relations is not the only reason for driving ahead with programs in the environmental field. Looking at the issue in strictly economic terms, the money we spend on programs in this area can properly be regarded as a form of insurance for future earnings.

The business community seems to have taken this to heart.

The National Industrial Conference Board estimates that investment in air and water pollution control was 4 percent of capital outlays in 1968, double the total of the year before. Fortune magazine reports that "a good number" of companies recently polled indicated that they would be spending 10 percent of their capital budget on pollution control.

Industry's expenditures on water pollution control have shot up from $45 million in 1952 to $600 million in 1969.

The paper industry has currently earmarked $100 million a year for forest conservation, $100 million a year for additional water treatment facilities, and $25 million a year for air pollution abatement.

The Bethlehem Steel Corporation plans to spend 11 percent of its capital outlay on environment control over the next 5 years.

In one Indiana plant, Bethlehem installed $37 million worth of water cleaning equipment to protect Lake Michigan from pollution discharges.

Kaiser Steel spent $17 million on air pollution control equipment at its Fontana, Calif., plant with spectacularly successful results.

Republic Steel is completing a $18 million treatment plant for its used water.

U.S. Steel has $235 million invested in pollution control equipment.

Armco Steel spent $74 million in 3 years on air and water pollution control equipment and its yearly maintenance budget for this equipment comes to $8.5 million.

DuPont has $125 million in pollution control equipment, and annual operating costs of that equipment are $25 million. DuPont is building a plant on the Cape Fear River in North Carolina, 10 percent of the cost of which will be in pollution control measures.

The Boise Cascade Corp. has allotted $7 million to air and water pollution research for its pulp and paper mills.

A new Humble Oil refining plant on the West Coast has $10 million worth of antipollution equipment.

The Standard Oil Corp. as a whole spends $5 million a year on pollution research alone.

These examples could be multiplied many times over. They teach one lesson: The times are changing for American businesses.

There was a time when some industries thought of pollution control as an optional public service activity which they could undertake if their profit structure made it convenient. Given the current state of public opinion and government determination, this relaxed attitude is no longer acceptable. Increasingly, industries must factor the cost of pollution control into their normal accounting of production costs.

As the President has said:

> To the extent possible, the price of goods should be made to include the costs of producing and disposing of them without damage to the environment.

In many cases this will be inevitable. And in all cases where the price of goods reflects their cost to the environment, that cost will eventually reach the consumer. This will do nothing to slow the rise in the cost of living. And, as always, increases in the cost of living will be most painful for those whose low incomes leave them little margin for added costs.

Thus the war on pollution will complicate the war on poverty. Again the lessons are clear. There are no gains without pains. And in a complicated society, everything is related to everything else.

But we must not be deterred by these complex interrelations. As the President says in his message to Congress on the environment:

> Quite inadvertently, by ignoring costs we have given an economic advantage to the careless polluter over his more conscientious rival.

There are those who argue that stringent environment protection laws will upset pricing policies in a haphazard manner and put some firms at a competitive disadvantage with other firms in the same industry. We can minimize this risk by doing everything possible to insure that such measures do not apply haphazardly. In some cases this can be done by insisting on industrywide regulations, so that all competitors come under the same edict simultaneously. In other cases it will be necessary to adopt national standards or encourage uniform State statutes. This will also limit the temptation for States to put economic development above environment concern by luring industry with the promise of lax antipollution enforcement. Such a policy would penalize conscientious States and damage the national environment effort.

There is another difficult aspect of making environment concern compatible with fair competition. This is the international problem.

Stringent antipollution measures can raise production costs and damage an American firm's ability to compete with foreign producers who are under less stringent environmental requirements.

Thus the encouragement of good environmental policies should be a part of our trade policies. Fortunately Mr. Russel Train, new Chairman of the Council on Environmental Quality, is well aware of this problem. In testimony before the Senate Interior Committee Mr. Train said that his Council planned to have "early discussions with the Department of Commerce and the State Department, to explore the possibility of international bilateral and multilateral negotiations" on this problem. He noted that "environmental problems are being faced by all nations, particularly our largest commercial competitors Japan and Western Europe." Thus we can expect an active and coordinated effort on the part of Federal agencies to protect American industry from predatory pricing and unfair competition resulting from mandatory environment policies.

These are some of the problems involved in getting business to help with environmental improvement. There are also problems associated with governmental help.

An estimated 70 percent of every American tax dollar goes to pay for past or present wars, or for the prevention of future wars. In contrast, until recently less than 2 cents from every tax dollar has been spent on environment problems. The Nixon administration is beginning to redress the balance.

The percentage of the budget that is devoted to military spending is down, and spending on environment control is up.

The big problem is that the money and the problems are in two different places. The money is concentrated in Washington; the problems are widely scattered.

This is unfortunate because it is almost axiomatic that you reduce governmental efficiency when you increase the distance between the point where a dollar is collected and the point where it is spent.

This may be especially true when it comes to spending for environmental improvement. Pollution is not evenly distributed across the Nation. It is the result of myriad local conditions, and solutions must be tailored to those conditions.

But the fiscal facts of life in America right now force Washington to play a lead role in the environment effort. In this regard I am reminded of the time an exasperated judge asked bank robber Willie Sutton why he was constantly robbing banks. Sutton's answer:

> Because, your honor, that's where the money is.

Similarly, Washington must take the lead in this effort because Washington is where the money is.

If the administration gets its way with a program of revenue sharing with the States, this deplorable condition may be alleviated. Then local governments will be better able to take the lead in environmental matters.

But until that policy is a reality, Washington must continue to make an environment effort that is proportionate to the revenues it receives.

Having examined some of the problems facing business and government as a result of the environment problems, it would be nice to have an overview of the total cost to the community. Unfortunately this is hard to predict.

The most optimistic assessment I have seen comes from Sanford Rose, an associate editor of Fortune. His reasoning is explained in his article in the special environment issue of Fortune, February 1970. His article deserves citing at length:

> It is conceivable that industrial costs will not rise at all in the medium or longer term. Pollution control not only provides for more efficient operation through re-cycling, but also makes cities more liveable. And people who work in more liveable places don't have to be paid quite so much as those who work in less liveable places. If wage rates in the future are just slightly lower than they would have been if the cities had remained polluted, the difference might quickly offset industry's increased pollution-control costs.
>
> Over the long term, pollution abatement seems likely to *increase* real G.N.P. A significant decrease in air pollution, for example, can be expected to reduce absenteeism and turnover and improve productivity. Some industries, perhaps many industries, might have to pay out less in sickness and death benefits. With turnover reduced, they might also have lower training costs. If these longer range savings were put into a thorough benefit-cost analysis, many corporations might discover that pollution control yields a profit, entirely apart from any altruistic considerations.
>
> In a broader sense it is a mistake to put any great emphasis on the G.N.P. aspect. Although the costs of environmental improvement are reflected in national product, many benefits are not. For example, when property values rise because of a decline in air pollution, the community's real wealth or capital stock increases; but this shows up in the G.N.P. only to the extent that actual or imputed rents go up or real-estate salesmen's commissions get bigger. Similarly, although environmental improvements may enrich leisure and so increase satisfactions (or reduce dissatisfactions), these benefits could not be reflected in G.N.P. at all, as G.N.P. is presently reckoned.

A less soothing—and probably more accurate—assessment comes from Henry C. Wallich, a distinguished commentator on economic matters. He recently offered this anticipation of some financial problems of the environmental effort—in Newsweek, January 26, 1970:

> What will it cost? An old budgeting principle says that if you figure on twice as much as you think, you will probably not have underestimated by more than one half. The Harvard Center for Population Studies calculates annual costs for a full job on air and water pollution and solid waste disposal at $5.1 billion for capital investment and $8.4 billion for current operation. Relative to an annual GNP gain of $40 billion in real terms this is not overwhelming. It is clearly, however, beyond what the Federal Government could take on with its annual revenue gain or fiscal dividend of perhaps $10 billion in real terms. The burden would have to be spread, and the program probably pared down.
>
> Critical would be the financing of the capital investment part. If this is thrown upon the private capital market, by selling government, corporate, or municipal bonds, it will add to the congestion already threatening that long-suffering market. Interest rates will be pushed up. Housing would suffer most, according to recent experience. If we consider housing as an important part of the environment, we would be improving one part of the environment at the expense of another. If something is done to help housing, the burden might fall upon business investment, which is now running at a little more than $100 billion per year. The economy's rate of growth would be affected, although only minutely. If this is to be avoided, an increase in taxes, or a cut in spending, with the resulting surplus flowing into the bond market, would be needed.

As Mr. Wallich concludes:

> The program is probably manageable though not cheap.

Mr. President, I began my remarks today by giving a jaundiced view of some current analogies between the space program and the emerging environment program.

I want to close on another note. There is something relevant to be learned from our experience with space exploration. It has to do with our national character.

Our national character is curently being tested by environment problems—and by the need to meet them with mature and realistic responses. Fortunately, our space program has told us something important about our national character.

We spent $24 billion to land a man on the moon and it was worth it in part because it came when it did, and because it demonstrated what it did.

It came at the end of a dispiriting decade, when Americans were ragged in spirit and were doubting their ability to accomplish large tasks. It demonstrated that we possess that ability as much as we ever did.

Perhaps we do need a kind of Apollo program for our inner space here on earth. Certainly we can approach our environment problems with the proven methods of the space program.

We can fix a budget commensurate with the task.

We can divide the undertaking into manageable units, taking advantage of the division of labor and specializations which make American management the wonder of the world.

Finally, we can set ourselves a deadline.

At the beginning of the last decade President Kennedy pledged that we would go to the moon. President Nixon has dedicated this decade to replenishing the American earth, cleansing our lakes and rivers and seashores, and purifying our air.

This is an awesome task. But ever since the pilgrims landed on the cold and rocky shores of Massachusetts Bay, and began to push inland, there has been one conviction uniting Americans. It is the conviction that we can rise to difficult occasions: There is no reason to begin doubting that conviction now.

We have or can develop the techniques to cope with our many environment problems. We can work patiently and reasonably. And we had better get started.

As Astronaut Walter Shirra says:

> The moon is not hospitable. Mars is not hospitable. We'd better do what we can to clean up Earth, because this is where we're going to be.

AMERICAN POLICY ON THE MIDEAST

Mr. GOODELL. Mr. President, I ask unanimous consent to include in the RECORD a speech on American policy toward Israel and the Middle East which I delivered yesterday to the American Jewish Committee in New York.

There being no objection, the speech was ordered reprinted in the RECORD, as follows:

THE MIDDLE EAST—ILLUSION AND REALITY

(By Senator CHARLES E. GOODELL)

I should like to speak to you today about American relations with Israel and the Middle East.

Let me begin by clearing away some of the illusions that the survival of Israel is the sole concern of this or that section or ethnic group in our nation.

Israel's survival is, rather, the profound concern of all Americans who cherish the tradition of pioneering, who support the ideals of democracy and human development and who are committed to the cause of peace.

It is illusion to fear that a commitment to the security of Israel will somehow lead us into a new and more fearful Vietnam in the Middle East.

Israel is not asking, nor is she about to ask, for the assistance of American military advisors or American troops. She is asking only for diplomatic support and for the arms and planes needed to deter future Arab incursions or invasions. She fully recognizes that the task of self-defense is her own—and, if properly supplied, she is fully capable of that self-defense. There is no question of direct American military involvement in the area.

It is illusion to suppose that the United States can have a workable "evenhanded" policy in the Mideast.

The concept of "evenhandedness" presupposes that the United States is the only great power capable of exercising influence in the Middle East—and that it therefore can reduce tensions by adopting an attitude of "benign neglect", to borrow a phrase from Dr. Moynihan. This obviously is not the case.

The Soviet Union has wholly identified herself with Arab intransigence. In hopes of establishing a permanent foothold in the area, she has during the last fifteen years armed the militant Arab states for war against Israel in three huge waves of arms shipments. She has added to the tensions in the area by deliberately playing upon the frustrations and hatreds of the Arab people and the short-sighted ambitions of their leaders.

France has now joined in the deadly game of Russian roulette in the Mideast by undertaking to deliver over 100 supersonic jets to the militarist regime in Libya. The French now are firmly embarked on a policy of trading arms for Arab oil at the expense of peace.

Britain, also fearful of her oil supplies, has discontinued her former shipments of tanks and other arms to Israel and now stands fearfully aside.

In this situation, an American policy of "evenhandedness" is equivalent to a policy of isolating Israel at a time when her enemies have the fullest diplomatic and arms support of two of the other great powers.

It is illusion to hope that peace can be achieved by placating Arab "moderates."

Some of the seemingly "moderate" Arab governments, such as those of Jordan and Lebanon, are scarcely masters in their own house—and have become virtual captives of the most immoderate forces of guerrilla warfare and sabotage.

Moreover, given the perpetual internal bickering among Arabs, any advantage we might gain from currying favor with this or that Arab faction is sure to be short-lived. The United States cannot build any rational policy upon the shifting sands of Arab politics.

It is illusion to fear Arab threats to our oil supplies.

Past experience has shown that the Arab oil-producing countries, notwithstanding repeated warnings that they might terminate oil shipments, have recognized their own clear economic interests in continued oil production.

At present, only about 5% of the U.S. oil demand is met from Mid-East sources—and new discoveries in Alaska and various offshore locations will make the United States still less dependent upon the Arab oil-producing countries in future.

Finally, it is illusion to imagine that peace in the Middle East can be imposed or guaranteed from the outside. It can only be brought about through direct negotiations between Israel and her Arab neighbors.

In its sincere but ill-conceived proposals of last December, the State Department made a futile attempt to "draw maps" and suggest border changes that could only impede the chances for direct negotiations.

A unilateral Israeli withdrawal, such as that suggested by the State Department, would force Israel to abandon the most secure lines that the region affords—along the Suez Canal and the Jordan River—without any effective guarantees in return. Such a withdrawal would once again bring Tel Aviv, Jerusalem and other Israeli population centers under the direct range of Jordanian artillery. It would enable Egyptian guns to block the straits of Tiran. It would permit Egyptian planes to strike across the Sinai Peninsula, without precious extra minutes of warning time. It would expose the border along the West Bank and Gaza strip to ever more frequent raids by Arab terrorists.

To require Israel to absorb unspecified numbers of Arab refugees, as the State Department has also proposed, would compound the threat to Israel's security. It would only create within Israel a fifth column of unfortunate Palestinian refugees who for two decades have been kept by their host Arab governments in squalid camps to be taught hatred of Israel and to become volunteers for terrorism.

The December State Department proposals envisaged, in short, a strange form of give and take—that would have been all Israeli "give" and all Arab "take". Far from encouraging moderation in the Arab world, they would have had just the opposite effect—of encouraging extremism and whetting the aggressive appetites of Arab militants.

If these are illusions, what then are the realities on which the United States must build its policies?

It is reality that Israel has no desire for, and no conceivable interest in, the territorial destruction of its Arab neighbors—whereas militant Arab governments have time and again clamored for the complete annihilation of Israel.

It is reality that the continued technical superiority of Israeli forces remains, in absence of effective arms control agreement, the only stabilizing influence that now exists in the Mideast. The present military balance serves to deter Arab aggression, without creating an incentive for further Israeli territorial expansion. Were the balance to shift in favor of the Arab states, Arab hopes for a reconquest of Israel would rise, and a fourth round of war would become imminent.

It is reality that Israel has no other source than the United States for the arms she needs to preserve her own security, whereas the Arab states have two competing sources of arms supply, the Soviet Union and France.

It is reality that Israel's needs for self-defense are placing a heavy and mounting burden on her economy—and that her precious foreign reserves are being exhausted in the purchase of planes and other essential military equipment. Israel has had to buy all of her arms supplies whereas her Arab antagonists have received massive financial assistance in the form of grants and low-cost loans for building their arsenals.

If these are the realities, what are the requirements of a Middle East policy that is in the true interests of the United States?

Our policy must be based on a firm commitment to the survival of the State of Israel. It must clearly recognize the dangers of Arab intransigence and Soviet and French efforts to exploit Arab hatreds. It must, in short, recognize that peace in the Middle East is blocked not by Israel but by Arab extremist governments and by shortsighted men in Moscow and in Paris.

Our policy must be consistent. It cannot shift—as it recently has seemed to do—in contradictory announcements from month to month. It cannot appear to be "pro-Israel" at one moment, "pro-Arab" at another, and "evenhanded" at another. It cannot seem the plaything of conflicting economic and ethnic groups within the United States. Only a consistency of purpose will win the respect of all segments of American opinion, of the governments of the Middle East and of the other major powers.

Our policy must clearly recognize that any readjustment of present borders or settlement of other disputes can take place only as a result of direct negotiations between Israel and her Arab neighbors. The State Department should abandon its present futile attempt to "draw maps" and suggest specific border changes.

I attempted to make this clear in a resolution I introduced in the Senate in February, which was co-sponsored by Senators Ribicoff and McCarthy and eight other Senate colleagues. The resolution, S. Con. Res. 54, expresses the sense of Congress that:

Any readjustment of disputed borders or settlement of other Arab-Israeli differences should take place only in the context of direct negotiations between Israel and the Arab states;

The United States should concentrate its diplomatic efforts on encouraging such direct negotiations and promoting arms control agreement among the Big Powers with regard to the Mid-East; and

The United States should henceforth refrain from "proposing or attempting to impose, prior to or outside the context of . . . direct [Arab-Israeli] negotiations, any specific readjustment of disputed borders or any specific settlement of other outstanding differences between Israel and the Arab states."

My resolution also proposes the termination of the Big-Power talks on the Mid-East.

The Big-Power talks have by now become definitely counter-productive, and should be broken off at once.

When these talks were initiated, it was hoped they would be a vehicle for bringing

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Arab and Israeli leaders to the conference table and developing a workable plan for the control of the arms traffic into the Mideast.

It has now become apparent that the Soviet Union has not the slightest interest in bringing the Arab leaders to bargain directly with Israel or in promoting any sort of Mideast arms control scheme.

In these circumstances, the continuation of the Big-Four and Big-Two talks is contrary to the interests of peace in the Middle East. The talks merely encourage the Arab world in the belief that somehow the Big Powers will intervene and impose a settlement favorable to the Arabs without direct negotiations by the parties concerned.

The United States can continue to explore the possibility of arms control arrangements with the other Great Powers, by making use of regular, bi-lateral diplomatic channels.

The United States also should exercise the strongest form of diplomatic persuasion—far stronger than that hitherto attempted by the Administration—to dissuade the Government of France from further arming militant Arab states with supersonic jets and other assault weapons.

The United States must continue to meet Israel's future defense needs, taking full account of the lead time that is involved before deliveries are actually made. The Phantom jets that are being made available to Israel under a decision confirmed by the Johnson and Nixon Administrations are now being delivered on a schedule that will take us to 1971. But Israel's future needs must be anticipated so as not to cause any fatal lapse in deliveries. We must commit ourselves to deliver additional aircraft to Israel as they will be needed to maintain the present military balance in the region.

We must also keep a watchful eye on related arms developments in the area, especially to determine whether Egypt intends to use Libya as a rearguard sanctuary to build up a French-delivered airfleet for its own aggressive designs.

The United States must begin to assist Israel to meet the economic burden of her self-defense. We must provide Israel with grants and low-cost credits for the purchase of the arms she needs for her security, rather than continuing to require her to pay for these arms in cash.

When the State Department announced its ill-conceived proposals this December, I was deeply concerned that the United States was weakening its historic commitment to Israel; diminishing the prospects of direct negotiations; and arousing false and dangerous hopes on the part of the hard-line elements in the Arab world.

I was somewhat reassured by more recent While House statements that suggested a greater sense of concern for the security of Israel and reaffirmed the principle of direct negotiations. I refer in particular to the President's statement of January 25th that:

"We are convinced that the prospects for peace are enhanced as the governments in the area are confident that their borders and their people are secure. The United States is prepared to supply military equipment necessary to support the efforts of friendly governments, like Israel's, to defend the safety of their people. We would prefer restraint in the shipment of arms to this area. But we are maintaining a careful watch on the relative strength of the forces there, and we will not hesitate to provide arms to the friendly states as the need arises."

Despite these reassuring statements, however, the Administration's policy remains difficult to discern. The Administration claims, for example, that the December State Department proposals continue to represent its views—although these proposals evidence a wholly different spirit than the President's more recent utterances:

The President has also continued to defer action on the current Israeli request for Phantom jets, although his announced 30-day timetable for a final decision has already passed.

The Administration's real policy will be determined by what it does, not merely what it says.

To preserve her security, Israel needs arms, not assurances.

The acid test of the Administration's intentions will be the President's response to Israel's current request for Phantom jets.

It is absolutely essential—to the credibility of our policy, the security of Israel, and the stability of the Middle East—that his response come swiftly and that his response be affirmative.

JUSTICE DELAYED IS JUSTICE DENIED

Mr. ALLOTT. Mr. President, we are rapidly sliding into a crisis of major proportions, a crisis brought on by a deranged few.

There has been an astonishing increase in the number of bombings in America, and there has been a consequent epidemic of disruptive bomb threats.

Last week, three buildings in New York were bombed.

A townhouse was demolished when some high explosives detonated, evidently by accident, and evidently killing some persons who were insufficiently skillful at the delicate task of storing and working with high explosives. One dead person was a veteran of the Columbia University riots, a member of the Weatherman faction of the SDS, and an outspoken advocate of violence.

Last Thursday three Manhattan skyscrapers were bombed. There followed a rash of bomb threats which caused the evacuation of many buildings in New York. From midnight until 4 p.m. Thursday, the police in New York received 590 bomb threats.

For awhile last Friday the New York City police were receiving a new bomb threat every 6 minutes.

Sanford D. Garelik, president of the New York City Council, has said that the city has become the battleground for as many as four urban guerrilla organizations and a number of smaller terrorist groups.

New York Mayor John Lindsay has called for tighter restrictions on the sale of dynamite.

The New York headquarters of seven industries and banks have been bombed since last Augst.

Nor is New York the only victim of bomb mania.

Campuses have been experiencing bombings for several years.

Bombs have been thrown at the homes of some college professors.

A judge's suburban home has been bombed.

San Francisco police stations have been bombed.

Schoolbuses in Denver have been bombed. The home of a member of the Denver School Board was bombed.

Last Friday explosions ripped a Washington nightclub, a Pittsburgh jewelry store, and two schools in Appleton, Wis. There was also arson at Berkeley last week, but that is nothing unusual.

Schools and shopping centers in the Washington area have been evacuated as a result of telephoned bomb threats.

Mr. President, this rash of violence and threats of violence tells us something about the vulnerability of our institutions in this age of large and vulnerable institutions.

We have seen what a tiny but ruthless group of delinquents can do to a university, and especially to a university in a city, such as Columbia or San Francisco State.

Now we are seeing what a tiny number of ruthless and cowardly and deranged people can do with a few real bombings and a wave of telephone threat of bombings.

These tactics, which are becoming the trademark of the radical left, are effective when used against anything that resembles a city.

A city is a complicated network of independencies. It is a complex system, the functioning of which depends upon thousands of persons performing their particular functions according to expectations.

This sort of "metropolitan" living is the hallmark of the 20th century, for better or for worse.

For better or for worse, this is the age of large institutions.

Today's cities are one kind of city.

The large industrial plant is a kind of city.

The multiversity is another kind of city.

The age of large organizations is neither an unmixed blessing nor an unmixed curse. We benefit in many ways from large organizations. And we lose some deficiencies, and some intangibles—such as community intimacy—from our dependence on large organizations.

But one thing is clear, at least to America's homegrown enemies: Large organizations—be they cities, universities, or industries—are vulnerable to the attack of a tiny but determined minority.

Thus it is imperative that Federal, State, and local law enforcement use every legal measure to root out and destroy the organizations which foster these attacks.

Mr. President, this is vital to the protection of our courts.

A court is another complex and subtle institution. A court cannot work when the people involved with it do not accept the traditions of civility. There is some evidence that some of the recent bombings and bomb threats are related to an attack on the American judicial system.

Mr. President, recent events in nearby Maryland, events relating to the much delayed trial of H. Rap Brown, indicate that some persons may have hit upon a new way of avoiding trial and punishment.

The tactic is stunningly simple: They refuse to come to trial or, failing that, they behave like the defendants in the Chicago conspiracy trial and refuse to allow the trial to proceed.

In Chicago the trick was to hurl insults and obscenities at the judge, and then to turn around and say the judge had betrayed a flicker of hostility.

William Kunstler, who served as ring-master in the Chicago circus, has surfaced in Maryland to see what damage he can do there as defense attorney for Mr. Brown.

Although it is ancient history by now, Senators may recall what got Mr. Brown in trouble in the first place.

Way back in July 1967, he was charged with incitement to riot and arson after an appearance in Cambridge, Md. At that appearance he gave an incendiary talk, threatening to burn America down. Within a few hours after this speech, Cambridge experienced a serious riot, including considerable damage from arson.

Today, 2 years and 8 months later, our overburdened judicial system is about to consider the case. But there are still some roadblocks in the way.

In recent days the courthouse in Cambridge has been severely damaged by a bomb blast. This blast is hard to explain, because the trial of Mr. Brown is scheduled to open many miles away, in Bel Air, Md.

Earlier, two friends of Mr. Brown were killed when a bomb exploded in a car in which they were riding. Maryland authorities and the FBI have suggested that the bomb was being carried by the two men.

We must assume that if the two men were carrying the bomb, knowingly, the bomb did not explode when and where it was supposed to explode. But we must also assume that if they were knowingly carrying the bomb, they did not have sweet reason in their hearts when they built it and began transporting it to wherever they were going.

Mr. President, all these events are alarming enough taken by themselves. But notice what is now happening.

As always happens in these cases of escalating madness, the nuts are beginning to gather. In recent days there has been a wave of bomb threats in the Baltimore, Washington, and suburban Maryland area.

This has brought forth another predictable response.

Yesterday we began to hear the claim that the turmoil accompanying the approach of Mr. Brown's trial is so great that Mr. Brown cannot be guaranteed a fair trial.

So look where that leaves us. Let us put the best of all possible interpretations on everything.

Let us suppose that the authorities are mistaken concerning the blast that killed Mr. Brown's friends. Let us suppose that the two were not knowingly transporting a bomb.

Let us suppose that the blast in the Cambridge courthouse has no connection whatever with the impending trial of Mr. Brown in Bel Air.

Let us suppose that the wave of bomb threats is an uncoordinated outpouring of sickness from the lunatic fringe that responds to any form of deviant behavior.

Mr. President, even when we make all these assumptions, one thing remains clear. The trial which has been delayed 32 months has not started yet. The American system of justice can hardly be accused of railroading Mr. Brown to jail.

Indeed, it would be hard to railroad Mr. Brown anywhere because no one knows—or will say—where Mr. Brown is. According to Associated Press, Mr. Kunstler himself has not seen Mr. Brown for many days.

Mr. President, all this might seem like an isolated eruption of madness if it did not follow so closely on the heels of the Chicago trial fiasco. But it does follow that fiasco, and it might achieve what the Chicago defendants set out to achieve—the frustration of the judicial process.

Let us hope the violence subsides in Maryland. Let us hope that Mr. Kunstler decides to conduct a trial rather than a circus. Let us hope that the recent events in Maryland are random and in no way part of a plot to disrupt the courts.

But above all, let us hope that the trial gets underway. This is owed to the people of Maryland, and to Mr. Brown. It is a truism that justice delayed is justice denied. Justice has already been delayed for 32 months. There should be no more delay.

PENN CENTRAL'S DISCONTINUANCE OF 34 EAST-WEST PASSENGER LINES

Mr. GOODELL. Mr. President, I must deplore the decision of the Penn Central Co. to discontinue operating 34 of its east-west passenger trains.

Penn Central's announced decision represents the culmination of years of failure by the railroads to meet the needs of the public for adequate intercity rail transit.

With our population growing, and our highways and airways clogged with traffic, railroad passenger transit has more than ever become an essential method of intercity travel.

Yet the railroads have abandoned their responsibility for providing passenger service. Faced with the competition of road and air, they have simply refused to compete.

It has recently been reported that the number of passenger trains in service has dwindled from 20,000 in 1929 to less than 500 at the end of last year. Trains now carry scarcely 1½ percent of all intercity travelers.

The railroads have sought to justify their abandonment of passenger service by citing the losses they have sustained. Even if these claimed losses have been accurately calculated—and many have disputed the accuracy of the railroads' loss calculations—they do not justify a wholesale abrogation of their responsibility to the traveling public.

The railroads' losses in the passenger field have significantly been the product of their own failure to provide adequate service and to develop well-thought-out plans for meeting the competition of other modes of transport. The railroads have permitted themselves to lapse into a vicious circle of patron decline followed by revenue losses; revenue losses followed by deteriorating facilities and eventual discontinuance of trains; and these curtailments of service, in turn, followed by further patron decline.

The solution to the problem does not lie in further indiscriminate discontinuances.

Nor does it lie in letting the existing trains limp on with steadily deteriorating service.

It lies in genuine long-range planning and a real effort to compete with other forms of transportation—something the railroads so far have made little or no attempt to do.

It lies in the creation of a balanced rail passenger transit system that is planned to meet the actual needs of the traveling public.

It lies in the railroads and governments entering into partnership to upgrade the passenger transportation system, not to collaborate in its discontinuance.

The effectiveness of such an approach is dramatically illustated by the success of the New York-Washington Metroliner.

The Federal Government has contracted for $11.5 million and the Penn Central has spent $50 million in the development of high-speed, comfortable, clean, and scheduled train service between the two cities. This experiment has been successful beyond all expectations. The Department of Transportation reported that during the first 6 months of 1969, half of the 228,000 Metroliner passengers had switched from using a plane, bus, or auto. Significantly, the majority of people indicated they would use the train on their next trip between New York and Washington.

The Penn Central now proposes to discontinue 34 east-west passenger trains, including the express New York-to-Chicago runs such as the Broadway Limited, the Manhattan Limited, and the Pennsylvania Limited.

The discontinuances will drastically inconvenience the long-distance travelers. They also will do harm to the economies of the communities through which the trains now run—to communities such as Poughkeepsie, Hudson, Albany, Schenectady, Amsterdam, Utica, Rome, Syracuse, Rochester, and Buffalo.

If the railroad wishes to discontinue the existing east-west runs, why is it not offering the public any substitute? Why has it made no effort to develop plans for a more limited but higher quality service, based on the successful concept of the Metroliner?

I recognize that an improved, high-speed east-west passenger service requires Federal aid. I am convinced that with such aid, an east-west service of this nature would be successful, just as it has been in the New York-to-Washington Metroliner service.

The Commerce Committee, of which I am a member, has reported on a bill to provide Federal operating subsidies for rail carriers operating within a national rail system. This bill marks a major step in bringing our rail passenger service into effective competition with air and road service.

Some action must be taken at this session of Congress if we are to avoid an even worse situation than now exists.

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CONCLUSION OF MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Is there further morning business as in legislative session? If not, morning business is concluded.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. **BYRD** of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, as in legislative session, until 11 o'clock tomorrow morning.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

SUPREME COURT OF THE UNITED STATES

The **ACTING PRESIDENT** pro tempore (Mr. ALLEN). The question is, Will the Senate advise and consent to the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States in lieu of Abe Fortas, resigned?

Mr. **BYRD** of West Virginia. Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **HRUSKA**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

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THE CARSWELL NOMINATION SHOULD BE CONFIRMED

Mr. **HRUSKA**. Mr. President, the business before this body is the confirmation of the nomination of Judge Harrold Carswell to be an Associate Justice of the U.S. Supreme Court. This nomination should be confirmed. Judge Carswell's nomination is sound, logical, and desirable.

He is well qualified and well suited for the post.

He is learned in the law.

He is experienced.

He is a man of integrity.

He is possessed of proper judicial demeanor which he has displayed and exercised during his years of public service.

He enjoys the approbation and the respect of bench, bar, and community.

All of these attributes appear affirmatively in his personal, professional, and judicial acts and doings.

His elevation to the Supreme Court will serve to better balance the Court philosophically.

He should be confirmed.

KNOWLEDGE AND EXPERIENCE IN JUDICIAL SYSTEM

A Supreme Court Justice can perform his duty more effectively if he has a thorough, varied, and active practical experience, and understanding of the judicial system in all its aspects.

He should have more than an academic knowledge or appreciation of the law. He must be able to visually picture the trial court scene and all that transpires there. It would be well that he, himself, participated at the outset of the litigation—to initiate it or to defend it, as the case may be, thus acquiring experience in all stages of its preparation.

Certainly one is better qualified to sit on the bench if he has helped select a jury, has presented an opening statement before it, has asked for ruling on admissibility of evidence, has cross-examined witnesses, has prepared and submitted jury instructions, and has made a jury argument.

Likewise, a nominee is better qualified for a justiceship if he goes through the anguish of sentencing a man to prison, if he encounters and deals with the many efforts to delay, and to obstruct, the scheduling of a trial, and if he appreciates the complexities of presiding over trials.

And finally, he is much better qualified if he has some appellate experience, and if he has participated in measures to improve the quality of the judicial machinery.

Mr. President, the nominee for the Supreme Court, whose confirmation we are considering at the present time, has lived a career in the past 20 years which has resulted in the thorough, varied, and active practical experience and understanding of the judicial system as that which I have just described.

Judge Carswell spent 16 years in an active official role in the Federal District Court, Northern District of Florida, 5 of those years as district attorney, and 11 years as judge. Since June 1969, he has been a circuit judge.

Those were busy, arduous years, Mr. President. But they were also fruitful years. This is proved, first, by the type and volume of work involved, and, second, by the high esteem and reputation earned by the nominee with bench, bar, and the general public.

TYPE AND VOLUME OF WORK

When asked as to the general nature of the litigation in the northern district, Judge Carswell testified:

> Virtually everything across the board that comes into the Federal Court in the way of criminal law and the civil law—contract cases, antitrust cases. We have had a whole range of cases. It has a rather heavy criminal docket for an area of that size. I have sentenced, unfortunately. The worst aspect of the district judges' job is sentencing. I have had the unfortunate responsibility of sentencing no less than 2,000, perhaps as high as 3,000, individuals. These involve criminal trials ranging across the board, most of them involving young people, most of them involving—not crimes of violence necessarily, but all the multiple problems that come up in the Federal criminal law—Dyer Act cases, some narcotics recently. We have not had any until recently, but we have had a good many of those in the last few years.

Until 1968, there was only one judge in the Northern District and Judge Carswell carried the burdens alone.

The Northern District has four divisions. During his years as district court judge, he handled about 2,000 civil cases and about 2,500 criminal cases, according to a letter from Clerk of the Court Marvin Waits, who was one of the witnesses appearing before the committee. Many of them required multiple orders, memorandum decisions, and hearings. It was estimated that there were at least 7,000 to 8,000 orders and decisions.

It should be clear that both as district attorney and as judge, the nominee was required to work diligently to keep up with the schedule.

But he did not limit his work to the court proceedings alone. He was also very active in the field of judicial administration.

By appointment of Chief Justice Warren, he served on two committees. One was the Committee on Statistics of the Federal Judicial Conference. It concerned itself with all the data compiled by the Administrative Office of the U.S. Courts. It evaluates caseloads, backlogs, and other factors bearing on the needs of judicial manpower.

The second committee was that on supporting personnel, which deals with problems relating to administrative help for the Judiciary.

In April 1969, Judge Carswell was chosen by the other district and circuit judges of the Fifth Circuit, as there representative to the Judicial Conference in Washington in June 1969, which concerned itself with the problems of judicial ethics arising from outside employment of Federal judges. He voted with the majority of the committee at that time to require disclosure of outside employment and activities.

From time to time, while on the district court bench, he responded to invitations to sit on the circuit court in its deliberation and disposition of cases. One witness before the Judiciary Committee recalled a circuit court opinion written by Judge Carswell as early as 1961.

His work to improve judicial machinery included the field of jury selection. A year and a half before Congress enacted the Jury Selection and Service Act of 1968, Judge Carswell took affirmative steps to get jurors—in the heaviest populated area in the Northern District—selected from the voter registration rolls—not from a list of those actually voting, but from the total of the registration rolls, to be sure there was a fair cross-section of jurors. This new arrangement was in operation before the new Federal law—Public Law 90-274—became effective, after it was enacted. To comply with the law, minor modifications were needed, but it was already in operation before the law was effective.

Because of this advance division plan, Judge Carswell was then able to draw a districtwide plan and secure its approval by the fifth circuit reviewing panel 3 full months before the deadline date prescribed by the act.

Critics seek to downgrade this jury selection activity by saying it was instituted when it became "perfectly clear that this was going to have to be done."

The fact is, there was advance action long before enactment of the act. There was accelerated action under the law in the remaining divisions of the district because of the preliminary work he had performed.

Critics also seek to deprive Judge Carswell of fairmindedness and a desire to improve judicial machinery by attempting to show that the plan is defective and not working properly.

It is submitted that the fifth circuit

reviewing panel's judgment of approval is much more to be relied on than any opinion voiced by anyone not directly involved, and particularly when that lack of direct involvement is accompanied by a bias against the candidate and is being voiced for the purpose of trying to advance that bias into the thinking of our colleagues in the Senate.

Judge Carswell was a very active member of a group of lawyers, jurists, and educators, who effected establishment of a law school at Florida State University at Tallahassee.

James William Moore, sterling professor of law at Yale University, has been a student of the Federal judicial system for 35 years and is an eminent author in this field. He served as consultant, without compensation, for the law school founders group approximately 5 years ago.

Professor Moore appeared before our Judiciary Committee at his own request, to testify on Judge Carswell's behalf and on the basis of both personal and professional knowledge. Part of his testimony reads:

> I was impressed with his views on legal education and the type of school that he desired to establish; a school free of all racial discrimination—he was very clear about that; one offering both basic and higher legal theoretical training; and one that would attract students of all races and creed and from all walks of life and sections of the country. Judge Carswell and his group succeeded admirably . . .

It is noteworthy that not a single critic of Judge Carswell has seen fit to put into proper perspective this constructive, progressive, and sustained achievement of the nominee. There seems to have been a greater propensity instead for a brief, inactive exposure to incorporation of a golf cart or cosigning with his wife a deed of land "subject to" restrictive—white only—covenants that were contained in a previous deed in the chain of title. Such covenants have been obsolete for a long time. They are unconstitutional and legally unenforceable.

A lurid flurry of criticism arose briefly on this incident, Mr. President (Mr. HART). It was a short-lived flurry. Because it was discovered that such restrictive covenants are found in many deeds, as a remnant of an earlier state of the law.

Even Members and former Members of this august body are among those so afflicted. It became generally known that a Member of the Senate, shortly after being nominated as vice presidential candidate of his party was grantee in a deed similarly subject to such covenants.

Needless to say—the original criticism against Judge Carswell on this ground has been muted. But even a recollection of its being expressed at one time strains somewhat at the minds of the fair-minded.

Judge Carswell has had a thorough, wide, varied, and practical experience, constructive in the fields of judicial administration and legal education.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. HRUSKA. I am happy to yield to the chairman of the Judiciary Committee.

Mr. EASTLAND. Mr. President, the Senator speaks of a restrictive covenant. Is the Senator aware that Franklin Delano Roosevelt signed a restrictive covenant?

Mr. HRUSKA. That is my information.

Mr. EASTLAND. Mr. President, I will put a certified copy of that document in the RECORD during the debate on this matter.

Mr. HRUSKA. Mr. President, the chairman of the Judiciary Committee can be assured that if a poll and a little research were performed, the number of high officials in Government over the years who have signed such deeds would be almost legion. Why, except for a feeling of bias, the issue should be brought up in respect to Judge Carswell is difficult to understand.

Mr. EASTLAND. Mr. President, if the Senator will yield further, as I recall it, I have not done so. However, I am not about to call out the name of anyone who has signed such documents because I know that there are many.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. BYRD of West Virginia. Mr. President, what Senators have not engaged in land transactions in which the deeds have contained such racial covenants?

Mr. HRUSKA. Mr. President, I would venture a guess that virtually all Members of the Senate have. I should not say all, but a substantial number of them certainly have been involved in restrictive covenants in the deeds they have executed.

Mr. BYRD of West Virginia. Mr. President, is it not true that it was a pretty general thing in years past to include such provisions in deeds of conveyance?

Mr. HRUSKA. The Senator is correct.

Mr. BYRD of West Virginia. I, as one Senator, have bought lands with such covenants in the deed. I think it was a pretty general thing. I imagine that if most people will go back and look at the old deeds by means of which they have purchased lands or transmitted those lands to other people, they will find that those deeds carried the same racial covenants.

That was before the courts ruled such covenants to be unenforceable. I think if we are to judge a nominee to the Court by that standard, then we ought to go back and open up our cedar chests and trunks and desks and look at some of the old deeds by which we ourselves have sold or transferred lands.

It was once thought that such covenants were enforceable. In the old days, people who bought and sold land were often probably unaware of the presence in the deeds of such provisions. Nevertheless, the covenants were there.

I think the important point is that these covenants have long since been adjudged to be unenforceable.

Mr. HRUSKA. Mr. President, I thank the Senator from West Virginia for his comment.

I might point out that for a quarter of a century I engaged in the general practice of law in Nebraska. I did quite a little real estate and abstract work. Restrictive covenants like those we are discussing are not to be considered unique to the deeds coming from the southern part of the Nation. They are to be found in the chain of title to property in the prairie States in the Middle West.

Mr. EASTLAND. Mr. President, the charge has been made that Judge Carswell is not big enough to be a Justice of the Supreme Court. Judging from the advertisements I see in the newspapers, that is the principal argument used against him.

Judge Parker was one of the greatest judges this country ever had.

Mr. HRUSKA. He was one of the most brilliant legal minds and one of the best jurists this country ever had.

Mr. EASTLAND. Judge Parker was nominated by President Hoover to be a Justice of the Supreme Court. The Senator knows that that same argument was made against Judge Parker in the newspapers at that time. The New York newspapers said that he was not big enough to be on the Supreme Court.

Mr. HRUSKA. I am aware of that. I read the account in the New York newspapers to which the Senator refers.

I might point out that the covenant was not even in the document that Judge Carswell and Mrs. Carswell signed. It was in the chain of title, and the deed he did sign, of course, referred to the covenant as being of record.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. BAYH. Mr. President, I appreciate it that the Senator has yielded to me. I will be very brief. I shall try to keep this matter in the proper perspective. Inasmuch as our committee chairman has specifically alluded to the covenant, I have asked a staff man to get the deed so that we can examine it.

It is my opinion that that piece of property was purchased by Judge Carswell's brother-in-law from the Federal Government in 1963 and that it did not have a restrictive covenant in it at that particular time. That covenant was added only when the property was later given to Judge Carswell's wife.

It seems to me that the particular sequence of events puts this whole business of a restrictive covenant in a much different perspective.

If this were a covenant dating from either the Revolutionary or the Civil War, I concede that it would be a different matter. However, this covenant was of recent date and 15 years after the Supreme Court had held such covenants unenforceable. That is why I am very concerned that this incident is but another in a long sequence of events that shows that Judge Carswell was not as sensitive to these matters as I personally feel a Supreme Court Justice should be.

Mr. HRUSKA. That is wonderful. But I do believe, Mr. President, that, when a vice presidential candidate and Member of the Senate had such a similar covenant in the deed to his home, no greater effort was made to blackball him from the office of Vice President. I venture to say there was a great deal of support for

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his candidacy for Vice President. And he was successful.

We know that this provision is unenforceable and that it had not come to the attention of the nominee. Now we want to read into it something dastardly.

I think the commonsense of Members of this body will assert itself, and they will put it in proper perspective.

Mr. BAYH. Mr. President, will the Senator yield further?

Mr. HRUSKA. I yield.

Mr. BAYH. Does the Senator from Nebraska know when this covenant relating to a former Member of this body, who was nominated to be Vice President, was first placed in the deed?

Mr. HRUSKA. I did not make any search for it. I did not consider it that important. It was unconstitutional.

Mr. BAYH. The Senator from Nebraska, who is a patently fair man, apparently sees nothing to be concerned about, when this covenant, the very matter we are discussing, was added at the time the judge's family received title to the property. That does not concern the Senator at all and the fact that the judge himself signed the deed transferring the property?

Mr. HRUSKA. No; it does not. It has no relationship, whatsoever, to the qualifications of this nominee. As I understand, it was the deed from Mrs. Carswell's brother to her, and it is customary, under State law—and, certainly, it is the requirement in Florida—that the husband of a married woman must join with her even when she conveys her property.

I venture to say that Judge Carswell had that deed placed on the desk in front of him and he signed it; that he was asked to sign it by the lawyer for his wife; that he was not aware of the covenant; and that he made no conscious effort to put it in there or to perpetuate it.

Of course, it does not concern the Senator from Nebraska, not one bit.

I would think if anyone wishes to place any significance on it, they will be impugning the integrity, honesty, and truthfulness of Judge Carswell. If that is the position of the Senator, we would like to hear it.

Mr. BAYH. The Senator has raised an entirely different matter. I think each Senator should make that determination for himself. But it seems to me strange that a piece of property bought as late as 1963, long after this had been outlawed by the Supreme Court and such covenants held unenforceable, that even then, after the property was conveyed to the judge's wife, that this covenant was retained in the deed.

As I said a while ago, I have asked one of the staff men to get a copy of the deed which we will place in the RECORD. I do not want to specify anything that is not accurate, but it is my understanding, from reading this deed during the hearings we held, that when the Carswells together, man and wife, sold this property in 1966, the judge not only signed the deed but that the deed at that particular time included another provision calling for enforcement of this restriction.

I do not wish to interrupt the Senator because each Member can put his own interpretation on the acts of the nominee.

Mr. HRUSKA. The Senator from Nebraska only refers to it because it is being asserted as a ground for disqualification of the nominee. I suggest he had nothing to do by way of placing it in there. The deed was actually signed by Judge Carswell in 1966. It was prepared by an attorney in Tallahassee who actually represented the buyers of the property. In keeping with the general practice he included a "subject to" clause to exclude from the Carswell's warranty any restrictive covenants already on the property. The only time the judge saw this deed was on the day he and Mrs. Carswell executed it. They were simply executing a document which had been prepared in a conventional form, with the appropriate language in it, to protect them, based on restrictions which had been placed on the property by the previous owner. That is the simple story on it. If anyone wants to read black implications in that, they are straining beyond a reasonable degree.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. DOLE. I think the Senator has made it clear. As I understand the situation, this covenant was not placed in the deed in the first instance by Judge Carswell; that it appears, if anything, guilt by association because of what may have been on the deed at that time. I think the Senator has covered the point I wanted to raise.

Mr. HRUSKA. In signing the deed as they did, they neither adopted, approved, nor signified any agreement with any restrictions on the property.

It is further pointed out that from 1959 to the present they sold off several parcels of property they had in Tallahassee. In none of the deeds they executed conveying portions of the parcels they owned did they impose any racial restriction on that property.

Mr. BAYH. Mr. President, will the Senator yield further? Then, I will let the Senator finish his remarks in peace.

Mr. HRUSKA. I yield.

Mr. BAYH. I just think I should explain, as I shall later on this afternoon, that the Senator from Indiana is not raising the question of the convenant in a vacuum, totally removed from any other matters which concern him, relative to the judge's pattern of conduct, activity, and judicial decorum. But this is just one matter which concerns the Senator from Indiana and does not concern the Senator from Nebraska. I think, in all good conscience, the Senator from Nebraska and I look at the matter differently.

I appreciate the courtesy of the Senator in yielding.

Mr. HRUSKA. The Senator from Indiana says again this was placed in the deed by one other than the nominee. It is the same answer in the other case concerning Vice President Humphrey.

Mr. BAYH. The Senator from Indiana——

Mr. BYRD of West Virginia. Mr. President, I ask for the regular order. The Senator from Nebraska is supposed to be yielding only for a question.

Mr. BAYH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield?

Mr. HRUSKA. Mr. President, I yield for a question.

Mr. BAYH. Did the Senator understand that the Senator from Indiana was referring to a covenant that had been placed in the deed at the time the Judge's wife received this property from the judge's brother-in-law?

Mr. HRUSKA. It was my understanding that what he represented the fact to be was that Mrs. Carswell's brother inserted the restrictive covenant in the deed before it was conveyed to Mrs. Carswell. But that had nothing to do with the deed signed by Mrs. Carswell who by law had to be joined by her husband to convey a property title. When she transferred the property to a third person.

If my recollection of the facts and statement of the matter are at fault I would be happy to defer to the Senator from Indiana for a correction.

Mr. BAYH. The Senator from Indiana does not wish to infer anything incorrect; and I defer to the request of the Senator from West Virginia.

Mr. HRUSKA. Judge Carswell has had a thorough, wide, varied, and practical experience, constructive in the fields of judicial administration and legal education.

Few members of the Supreme Court have served in all these capacities and in such fruitful a fashion. He has had extensive, firsthand acquaintance with the endless variety of litigation that is brought to our Federal courts. His experience has made him conversant with the atmosphere and practicalities of the courtroom as can come only from experience in the actual combat of that forum.

Judge Carswell's experience will serve him well on the Supreme Court; and the Court will be well served by such experience.

BASES FOR EVALUATING A JURIST'S RECORD

Several principles and requirements must be kept in mind when reviewing and appraising a judge's official act.

It should be assumed that the object of such review is to determine whether he possesses the qualities expected of a Justice of the U.S. Supreme Court, to wit: That he is learned and experienced in the law; that he will be fair and just in his consideration of cases; that he will decide cases on the law and evidence without bias or prejudice; that he is a man of integrity, and possesses a judicial temperament.

Any evaluation should be cast according to some relatively neutral, objective standard. Bias and prejudice have no place here either.

To declare opposition to a candidate because "he has failed to heed and to promote the civil rights revolution of the past decade, as was urged by one of our colleagues, is to deny any pretense of fairness and objectivity. Moreover, it is presumptive that such a standard totally ignores the essential qualification for a Supreme Court Justice. After all, a Justice should not be an advocate. In fact, he would more normally be rejected if he were an advocate. He is expected to

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be an arbiter, a judge—one who will decide controversies and disputes. To seat one as a Justice, as some suggest, because he advances and promotes as preconceived point of view is to ask for one who is biased and prejudiced. Such a man cannot properly judge on the law and on the facts.

Here are four simple rules which I think ought to be considered in evaluating a judge's record.

First. In the process of evaluating a judge's record, a substantial number of typical cases should be considered. These cases should not be cited out of context, nor on a selected basis to support an already arrived-at conclusion.

Second. A single case should not be criticized on the basis of the ultimate decision alone. Long before final disposition of a case, a judge makes many rulings and decisions, writes many memorandum decisions and legal instructions. A judge issues many orders, both interim and interlocutory.

Most cases in our complex society have these features and many are prolonged and of continuing jurisdiction. This is especially true of civil rights school desegregation and integration cases. All of the circumstances in any given case being analyzed should be considered, and statements or sentences must not be taken out of context.

Third. A judge's decisions also must be considered in light of the law as it exists when the decision is rendered; and not on what the law develops to be at a later time, or even what the law should have been, or what some people think it should be.

Again, this is especially applicable to civil rights cases because this field is so dynamic, fluid, and quickly changing.

In fact, it was not until October 29, 1969, that we had the latest decision by the Supreme Court that turned on and developed another facet of Brown against Board of Education. Of course, that was a landmark decision, to which reference will be made after a while.

This point is well stated by a highly qualified witness in an earlier confirmation hearing held last September—G. W. Foster, Jr., of the University of Wisconsin Law School. Here is a man who is now associate dean of the law school. He had served as administrative aide to Secretary of State Dean Acheson, and legislative assistant to Senator Francis Myers, Democrat, of Pennsylvania. He has been a consultant on problems of school segregation to the U.S. Commission on Civil Rights and to the U.S. Office of Education. He says:

> Any description of judicial implementation of *Brown v. Board of Education* involves a moving picture. Every judge worth his salt who has devoted any substantial time to wrestling with problems of school desegregation has changed views he earlier held. The reasons are straightforward: Remedies thought workable when ordered by the court turned out in practice to be partially, sometimes entirely, unworkable either because they were circumvented by school authorities or had encountered obstacels not foreseen. Again, there remain to this day questions not resolved as to the final scope of the Brown mandate: even now I know no one bold enough to attempt a final definition of what constitutes a "racially nondiscriminatory" public school system.

Mr. President, that is the testimony of a person who is highly in sympathy with and who has been an advocate of the expanding role of the desegregation of schools and the integration of our system of schools by the courts, or by statutes, or whatever; and he recognizes, as do all of us, that we should sit back and wait for a moment for our decisions to catch up with our overeager thoughts. We know it is a moving picture and we know it is a picture which has been changed not only by legislation but by intervening judicial decisions.

Fourth. A Federal district judge is not a policymaker. It is not for him to make "landmark" decisions. His duty is to apply the rules and interpretation of law as declared by his superior courts—the Supreme Court and his circuit court.

That is what he is expected to do. When he does not do it, of course, he is overruled by the circuit court to which appeal is taken.

DISREGARD OF ABOVE PRINCIPLES BY CARSWELL OPPONENTS

There has been a disregard of these principles and simple tests and rules by many of the opponents of Judge Carswell's nomination.

Charges against Judge Carswell's judicial record are based on disregard and violation of these standards and requirements. Fairness demands more.

A lack of objectivity is clearly evident in such cases.

The list of cases considered is very selective and not representative; often intervening decisions of a superior court are not mentioned.

The same is true as to subsequently enacted legislation which imposes need for a different decision.

Instead of a freedom from prejudice and bias, a nominee is demanded who will heed and promote the civil rights revolution.

First. In assessing Judge Carswell's judicial record, critics considered a limited number of typical cases. Their list of decisions was very incomplete, selective, and some cited out of context.

As I mentioned above, Judge Carswell has considered 2,000 civil cases and about 2,500 criminal cases. There were cases with multiple rulings, which means that he formally ruled on at least 7,000 to 8,000 different occasions. Only about 100 of his decisions found their way into the published reports.

Of these, one witness selected a list of 15 cases. The balance of the judge's record is not included. Many of the 15 "selected" cases were set out and discussed out of context and without laying a proper foundation as to what preceded that case and what intervened between the decision in the district court and the time the appeal was decided, either by the Circuit Court of Appeals for the Fifth Circuit or by the Supreme Court.

Another critical witness said he read published cases over a 5-year period of Judge Carswell's 11 years of tenure as judge and based his testimony on this limited knowledge, and there are other indications of scant reference and scant basis for appraisal of the judge's record on a judicial basis.

Second. Many charges against Judge Carswell's decisions are too often based on the ultimate or final decision alone. They refuse to consider or even recognize the many preliminary and interlocutory decisions, rulings, and orders which precede final judgment and are the true mark of a judge to a large extent.

Third. Many, in fact most, of the cases on which criticism is based fail to take into consideration the state of the law as it existed at the time such case was decided.

Fourth. Criticism of cases by his opponents often fails to recognize and give weight to the rule that a district judge is bound by the law as it exists when he renders a decision. That law is determined by his superior courts.

Judge Carswell should not be blamed when the superior court changes the rules after original judgment is entered.

The result of disregard for common sense principles and requirements of appraising a jurist's record is a misleading, distorted, and unfair presentation.

Let us consider some examples:

EXAMPLE OF LATER SUPREME COURT RULING CAUSING REVERSAL

Much is made of the fifth circuit court reversal of two decisions by Judge Carswell when he was on the district bench: First, Youngblood against Board of Bay County, and second, Wright against Board of Alachua County. They are cited as unanimous reversals and as proof of Judge Carswell's "hostility on the racial issue," as proof of his refusal to allow the law of the land to apply to the schools of the district in which he sat.

The fact is the Youngblood and Wright cases were but two of 13 similar school desegregation cases decided by district courts in the fifth circuit. All of them were consistent with fifth circuit court law. I venture to say, in fact we know, that there were in other circuits similar situations to that which is now being described.

In October 1969, after Judge Carswell had been elevated from the district bench to the circuit court, the Supreme Court decided Alexander against Holmes County Board.

This decision requires reversal of all 13 of the cases pending in the fifth circuit to which I have referred. The entire fifth circuit court, including Judge Carswell, reversed and remanded to their respective district courts, 11 of those cases. The circuit court, with Judge Carswell abstaining because he had written and rendered the decisions in the Youngblood and Wright cases, also reversed and remanded the Youngblood and Wright cases which had been decided by Judge Carswell while he was district judge.

Technically, it can be truthfully said that Judge Carswell had been reversed by the circuit court in those two cases. But if he is to be so charged with these two cases, he should also, by the same line of reasoning and the same approach, be given credit for having voted in 11 cases in favor of civil rights group contentions when he voted to reverse and remand those 11 cases.

These facts were not brought out by the witness who presented the testimony

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before us. His testimony was a simple statement, as though Judge Carswell had, in defiance of the law of the land, made decisions in the Youngblood and Wright cases that were unanimously reversed and rejected by the Court of Appeals for the Fifth Circuit.

Any fairminded man would know that neither the charging of the two cases against Judge Carswell nor giving him credit for thinking favorable to the civil rights group in the 11 other cases makes much sense.

The fact is that the Supreme Court had made a new rule. The circuit and district courts applied that new rule. This is their duty and responsibility.

The noteworthy item is that Carswell opponents in their testimony did not cite the entire record. Their failure to do so resulted in a misleading and distorted picture. This omission may have been due to carelessness or design—but that was the result, nevertheless, whatever the cause may have been.

It is not true that Judge Carswell refused to follow the law of the land as applied to the schools of his district in the Youngblood and Wright cases. His holdings were the law of the land as applicable in the fifth circuit when he rendered his decision.

Those holdings were changed by the Supreme Court speaking out to the contrary at a later time.

If Judge Carswell is to be charged with failing to anticipate that change by the Supreme Court, then every Federal judge who heard civil rights cases from 1865 to 1954 should have been charged with failure to foresee the judgment in Brown against Board of Education.

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Let us recall the testimony of G. W. Foster, Jr., of the University of Wisconsin, quoted earlier in my remarks. When he appeared, in addition to testifying as I have already quoted him, he also stated:

> Thus an assessment of a judge's view on school segregation must be made in the context of the time in which he spoke. Said another way, he must be judged by comparison with other judges facing the same problems with respect to the particular forthcoming school year to which the answers were to be applied. The reason is simply that from school year to school year the picture changed—and rules and priorities applied for one year were modified or abandoned for the next.

Judge Carswell made his decision in these cases consistent with his judicial contemporaries and in the context of the law of the times in which he spoke.

STILL ANOTHER EXAMPLE: WECHSLER AGAINST GADSDEN

Much has been attempted by way of discredit to Judge Carswell on the basis of his handling of *Wechsler* v. *Gadsden* found at 311 Fed. 2d 311 (1965). In this situation, which involved a removal case in a State prosecution. Judge Carswell, citing the fifth circuit decision in the Dresner case, remanded to the State court a criminal prosecution originally brought in the State court but removed to the Federal court by the defendant. The fifth circuit vacated Judge Carswell's order on the authority of two cases which had been handed down by the fifth circuit itself subsequent to Judge Carswell's initial order. These two other cases were later appealed to the Supreme Court: *Georgia* v. *Rachel,* 384 U.S. 780 (1966), and *Greenwood* v. *Peacock,* 384 Fed. 808 (1966).

The fifth circuit's decision in the Peacock case was reversed. Based upon statements of the Wechsler case counsel found in the Carswell hearing record, it is clear that the doctrine enunciated by the court in the Peacock case is applicable to the facts presented to Judge Carswell in the Wechsler case.

Thus, by reversing the fifth circuit's decision in Peacock, the Supreme Court made clear that Judge Carswell was correct in holding that the Wechsler case was not properly removable to the Federal court and should have been remanded, as Judge Carswell ordered.

Witnesses testifying in the Carswell hearings on the Wechsler case conveniently pointed out the fifth circuit reversal, but they did not mention, until challenged, in the hearings themselves, the later appeal to the Supreme Court which vindicated Judge Carswell.

Either the witnesses were not aware of the Supreme Court ruling in the Peacock appeal, or they did know about it and failed to disclose it to the committee.

Neither of those alternatives would reflect creditably upon the witnesses.

In any event, Judge Carswell applied the law of the fifth circuit as it existed when he remanded the Wechsler case to the State court.

It was the fifth circuit court which strayed from the law of the land in reversing Carswell, but the Supreme Court later confirmed the correctness of the Carswell ruling by its decision in the Peacock case.

Yet Judge Carswell's critics ask us to believe that Judge Carswell was racially motivated when he sent the Wechsler case back to the State court. The simple truth is that they are disgruntled litigants with animus toward the judge because he did not see the law as they did.

ANOTHER EXAMPLE OF MISLEADING AND UNFAIRNESS

Steele against Board of Leon County is cited by opponents as another example of Judge Carswell being reversed in a school desegregation case on January 18, 1967.

The fifth circuit court did remand this case for further consideration on January 18, 1967. That part is true. But the reason for remand lay in the fact that 20 days before, on December 29, 1966, the circuit court had handed down a landmark case, United States against Jefferson County Board.

The basis for the Leon County school plan was totally and radically changed by two legal events:

First, the Jefferson case, embracing seven school plans, decided December 29, 1966, and

Second, the passage of the Civil Rights Act of 1964, which was subsequently applied in Jefferson.

But that act did not even exist when Judge Carswell had made his decision in the case of Steele against Board of Leon County.

The school plan in Steele had been adopted in 1963. Judge Carswell had no way of anticipating future events, such as a congressional act and a landmark case—Jefferson—based on the new law.

Mr. President, to indicate how important the Jefferson case is, let us consider that the opinion is approximately 75 printed pages long in the Federal Reporter, including a decree and a plan and a letter to be sent to parents regarding the plan. The opinion has 125 footnotes. The Federal Reporter sets out 114 syllabus points.

It is quite clear that no preexistent school plan could have been written to comply with such a vast ocean of detail and particularity created some years later.

Yet, opponents criticize Judge Carswell for not doing the impossible. They suggest that in 1963 Judge Carswell should have anticipated what Congress and the fifth circuit were going to do some 3 or 3½ years later. This is wrong.

THE FILING FEE

A belabored but misguided effort is made to make it appear that Judge Carswell was racially prejudiced because he collected a filing fee in a criminal case petitioning for removal from State to Federal court.

I can just envision, as one who practiced law for many years, a Federal judge collecting a fee. It just does not happen. It is charged that the fifth circuit had in Lefton against Hattiesburg, decided at an earlier time, eliminated filing fees for such cases.

First and foremost, filing fees are charged and collected by the clerk of the court—not by a judge.

Second, the clerk of the court, Mr. Marvin Waits, testified that in the charging of fees, the clerk is guided and bound by the clerk's manual. That manual is formulated and is distributed by the Administrative Office of the U.S. Courts. The manual at the time of the removal case had been in effect from about 1952 to April 1, 1966. It provides a filing fee of $15 for removal cases.

If the clerk had not collected the $15 in such cases, he testified, upon audit of accounts by the administrative office, he, himself, would have been called upon to make the payment personally.

He testified further that in 1966 the clerk's office received a new manual from the Administrative Office of the U.S. Courts, which contained section C, 1001.5 reading:

> Note. New language effective April 1, 1966: A. Criminal cases removed from state courts; filing fees are not chargeable for filing of petitions to remove criminal prosecutions from state courts. (*Lefton* v. *City of Hattiesburg*).

From that day on, no fee was charged or collected.

If anyone wants to complain about tardiness of a new, revised clerk's manual on this point, he should direct his efforts to the Administrative Office of the U.S. Courts, but not against the clerk. And, in any event, not against the judge. This Senator would be the last one to criticize blindly the Administrative Office of the U.S. Courts. I have no information as to why there was a delay in the amendment of the clerk's manual.

But, at any rate, it is by that manual that a clerk of the court is bound.

Further, the clerk testified that Judge Carswell always waived payment of a fee upon an affidavit in forma pauperis.

The clerk was asked whether he knew of any case in Judge Carswell's court where such affidavit was filed, where it had been refused by Judge Carswell.

The clerk replied:

> No, sir; not any case accompanied by any affidavit *in forma pauperis*.

So that the matter of the filing fee showing racial bias and prejudice is but another attempt to discredit Judge Carswell based upon distorted facts.

HIGH RESPECT AND COMMENDATION FOR JUDGE CARSWELL'S COMPETENCE AND DEMEANOR

I come now to the subject of the high respect and commendation for Judge Carswell's conduct and demeanor as a public official.

The 17 years of Judge Carswell's public life have earned for him solid approval by bar, bench, and the public.

In this regard it is best to turn for information and counsel to those who have known him well, who have had opportunity to work with him as an official, with or against him as a lawyer, and to observe him in his actions and to know his record.

We commend those who pore over all or even a part of the official records, and then seek to render judgment upon the quality and character of the judge and his works. It is sought to vest such ventures with authority and with an aura of some high standing and quality.

But it is earnestly submitted that they are but superficial, even if pursued in an objective, scholarly, competent, and balanced fashion. I have already pointed out that such an ideal, or even satisfactory quality, is definitely wanting in the surveys and reports on the judge's record. In fact, such ventures are a sterile, narrow-based intellectual exercise rather than a balanced appraisal.

I might make a brief reference at this point to a full-page advertisement published in one of the local newspapers. At breakfast time I read the one concerning a statement made and published in New York, signed by some 350 law school and faculty members opposed to Judge Carswell's nomination. The signers of that statement—considering only the contents of that statement itself, self-serving as it is, erroneous, and sketchy as it is, and highly selective as it is, without having read the hearing record of the nomination—blindly accepted the judgment of the man who drafted that report as to the facts in the case. This is all part of a slick Madison Avenue type game being played against Judge Carswell. It is confirmed, interestingly enough, by a phony deluge of postcards, apparently originating in California but postmarked from the various States, in an attempt to make it appear there is broad, national opposition to Judge Carswell's nomination. It is an effort to show there is a great ground swell of opposition to confirmation of the nomination.

But, Mr. President, in due time, this statement as contained in the New York newspaper and the mail campaign will be commented upon more fully as this debate proceeds.

Let us consider instead some of the better qualified witnesses on the subject:

First. Florida State Bar Association: Testimony came from its president, Mark Hulsey, Jr. In preparation for his appearance, he polled the 41-member elective board of governors, who unanimously endorsed Judge Carswell's nomination. During his testimony, President Hulsey stated:

> I might also say to the committee that it has been my pleasure to know Judge Carswell personally for over 17 years. Based on my observation of him . . . it is my opinion that Judge Carswell possesses the integrity, the judicial temperament, as well as, of course, the professional competence required to hold the high office of Associate Justice of the Supreme Court of the United States. And I hope that this committee will unanimously recommend his confirmation to the Senate.

Second. Judge Carswell's colleagues of the Fifth Circuit Court of the United States have endorsed him.

Third. American Bar Association: Its committee on judicial selection concluded unanimously that Judge Carswell is qualified for the appointment. Hon. Lawrence Welsh, a former Federal judge, is chairman of the committee. He was at one time Federal district judge, and is considered one of the leaders of the American bar. This standing committee does not engage in routine and nominal acts to reach its decision. It is based upon the views of a cross section of the best informed lawyers and judges in the area served by the nominee. Many of the interviews are personal; others by phone. Inquiry is made in depth into factors bearing upon the integrity, judicial temperament and professional competence of the nominee. The committee's report is always welcomed by the Judiciary Committee since it has the capability to, and has a record of rendering a fair and impartial judgment. Certainly, this Senator's membership on the Judiciary Committee has never considered that the American Bar Association would hold a veto necessarily on the actions of the committee. It is certainly evidence of the highest grade and of the highest quality in the proceedings that might evolve on the nomination of anyone for any position to the Federal bench.

Fourth. The Honorable LeRoy Collins, a former Governor of Florida and a longtime acquaintance, active in professional and civic affairs with Judge Carswell, testified in part that he knew the nominee "as a man of untarnished integrity, a man with an extraordinary keen mind, and very importantly, a man who works prodigiously."

At another point in his testimony, Governor Collins said:

> I feel strongly that Judge Carswell's appointment deserves confirmation. I feel this way on the basis of my personal knowledge of the man, first of all, but more importantly on the basis of the overwhelming judgment of the bar of my state, on the basis of the judgment of his peers on the bench, and, I think this is most important, on the basis of the judgment of the Senate and of this distinguished committee based upon your prior hearings and investigations.

Fifth. Hon. James William Moore, to whom I have already referred earlier in my remarks, sterling professor of Yale University Law School, with a career of 35 years in teaching as well as in practice at special capacities, also testified on this particular point. He got to know Judge Carswell personally and also his works by reason of close association over several years. This was in connection with Professor Moore's consultation work, without compensation, for the founders' group at Florida State University at Tallahassee Law School.

In regard to professional and other qualifications of the nominee, Professor Moore stated:

> From those and subsequent contacts I have formed the personal opinion that Judge Carswell is a vigorous young man of great sincerity and scholarly attainments, a good listener who wants to hear all sides, moderate but forward-looking, and one of great potential.
>
> I have a firm and abiding conviction that Judge Carswell is not a racist, but a Judge who has and will deal fairly with all races, creeds, and classes. If I had any doubts, I would not be testifying in support, for during all my teaching life over 34 years on the faculty of the Yale Law School I have championed and still champion the rights of all minorities.
>
> From the contacts I have had with Judge Carswell, and the general familiarity with the federal judicial literature, I conclude that he is both a good lawyer and a fine jurist.

Mr. President, these are men and organizations highly respected and regarded in the legal community. Their opinions and judgments must be given great weight. The opinions expressed are unbiased and objective.

They are but a few of the many fellow jurists and fellow trial practitioners who contacted the committee and who offered their support for Carswell. These are the people who know him as a man, lawyer, and judge. They rely on personal knowledge and not a superficial review of a number of legal opinions not even closely approaching the total work product of this man's 17 years in public service.

CONCLUSION

The individual isolated acts referred to by the opponents of this nomination must be viewed as part of the total record. Then you will see a picture which shows that Judge Carswell is a man with a thorough knowledge of the judicial processes. It shows a man who is respected by his peers and has a reputation as a diligent hard-working judge. It shows a man who has applied the law of the superior courts as he knew it and to the best of his ability. It reveals that Judge Carswell is a man devoted to the law and its institutions and is one who by training and aptitude is qualified to sit on the Supreme Court.

Mr. President, I urge every Member of the Senate to give this nomination serious thought. When studying the nomination, I urge that the total record be inspected. If done, I am confident that each Senator will independently decide to support the President's choice and vote to confirm the nomination of G. Harrold Carswell as an Associate Justice of the U.S. Supreme Court.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the will of the Senate?

Mr. BAYH. Mr. President, I rise in opposition to the confirmation of the nomination of Judge G. Harrold Carswell as Associate Justice of the Supreme Court. I must say, at the outset, that opposing presidential nominees is hardly ever a welcome or pleasant task. I did not welcome nor was it pleasant for me personally to oppose the nomination of Judge Haynsworth. As we recall, this was perhaps the hardest fought nomination in over a generation, and it was made doubly difficult because the matter that concerned us centered on the very sensitive issue of judicial ethics. It was a matter in which many of us felt obliged to object, not because we in any way felt that the judge had become involved personally through calculated design to take advantage of his high office, but because we felt he had exhibited a high degree of insensitivity to the very area where increasingly large numbers of our people are calling for a higher standard of conduct; namely, the area of ethical propriety.

The Carswell nomination, in contrast, does not involve the ethical questions present in the Haynsworth nomination, but involves, instead, the question of judicial competence and professional distinction. The President's nomination of Judge Carswell presents to the Senate, for its advice and consent, a nominee whose legal credentials are too threadbare to justify appointment to the highest court in the land.

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The Supreme Court is not just another court, Mr. President. Many observers have long regarded it as a unique American contribution to democratic government, insuring progress with stability. No court in any other political democracy has its awesome responsibilities and powers.

As the late Chief Justice White once remarked:

> The glory and ornament of our system which distinguishes it from every other government on the face of the earth is that there is a great and mighty power hovering over the Constitution of the land to which has been delegated the awful responsibility of restraining all the coordinate departments of government within the walls of the governmental fabric which our fathers built for our protection.

And Winston Churchill, from what can accurately be called his unparalleled perspective on history, could say of the Supreme Court that it is "the most esteemed judicial tribunal in the world."

That is quite a compliment and quite a tribute paid to the Supreme Court of the United States—a compliment that I personally feel is more than justified.

Surely, then, only the most distinguished and qualified members of the legal profession ought even to be considered for appointment to the Court. Surely, too, it is part of the Senate's responsibility, in exercising its power to advise and consent, to require a standard of professional excellence as the minimum qualification for elevation to the Supreme Court. To demand less of a nominee is a disservice to this esteemed tribunal and its unique place in our national life.

Mr. President, because of my position on the Judiciary Committee and because I have been in the midst of both of these confrontations over Supreme Court nominees, perhaps I have become overly sensitive to some suggestions made by distinguished officials in the administration, as well as certain other voices around the land, that the Presidential prerogative is absolute and all inclusive when it comes to Supreme Court nominations. The President's power is great, and he does have much leeway, true, and everything else being equal, certainly he should be sustained.

But the Senate does, in fact, have a responsibility under the advice and consent authority written into the Constitution by our forefathers, and it seems to me we must take very seriously the responsibility and the gravity of it when considering nominations of this magnitude. In my judgment, I do not believe the Members of this body want simply to serve as a rubberstamp agent for the President of the United States.

I do not believe it is a matter of disrespect—certainly the Senator from Indiana does not rise in opposition to this nomination in any way intending to be disrespectful—to our Chief Executive. Rather, it is the position of the Senator from Indiana, and I believe the position of many other Members of this body, that we should actually advise, before consenting.

In Judge Carswell, rather than having a man of excellence, the President has, unfortunately, confronted the Senate with a nominee who is incredibly indistinguished as an attorney and as a jurist. That is, itself, an affront to the Supreme Court.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BAYH. I am glad to yield.

Mr. LONG. Did not some of these same professors upon whom the Senator relies object to nominees who interpreted laws in ways that reversed previous laws and resulted in a 100-percent increase in crime? Did not those same legal authorities recommend, for example, Judge Fortas?

Mr. BAYH. I do not know to whom the Senator is referring. If he cares to enumerate who they are and whom they recommended, I would be willing to take his statement as accurate, because I know he makes accurate statements. If he would care to name them, I will be glad to have them in the record.

Mr. LONG. The Senator is telling us about these great lawyers. Were they not pretty unanimously for Justice Fortas? Did not most of these same great people themselves favor a judge who participated in the Miranda decision, which reversed previous decisions and led to a 100-percent increase in rapes and murders in this country?

Mr. BAYH. I do not know what great legal minds the Senator is referring to. I wish he would mention one or two of them so we could have them in the record. The Senator from Indiana has not mentioned any names. Yet my good friend from Louisiana is mentioning some. I will be glad to have the names of those he has in mind, so we will have them in the record.

Mr. LONG. I assume the Senator is going to refer to some of them. Is the Senator aware, for example, of some of the professors and lawyers who signed the letter in the Washington Post such as Mr. Plimpton, of the New York Bar? Did some of these people object to the nomination of Justice Fortas to be a member of the Court?

Mr. BAYH. I do not know what Mr. Plimpton wrote or whether he took any advertisements in favor of Judge Fortas. Did Mr. Plimpton take out any advertisements?

Mr. LONG. Mr. Plimpton and members of the Yale Law School faculty have opposed the nomination of Judge Carswell. Is the Senator aware of any of them from that Yale Law School group who supported the nomination of Judge Fortas?

Mr. BAYH. I was not aware of letters or petitions in support of Judge Fortas from the Yale Law School. I would suppose that perhaps only on occasions of extreme concern would as large a number of legal minds, as we now see exorcised, become exorcised over appointments to the Supreme Court.

Mr. LONG. When the appointment of Judge Fortas was before the Senate, much was made of the point that he was a brilliant student. My reaction was, "Look at those decisions on law and order. Look at that Miranda case, and the other cases that have made it virtually impossible to punish criminals in this country."

The Senator from Arkansas (Mr. McCLELLAN) stood here and mustered the support of a majority of the Senate for the proposition that those decisions were responsible for much of the 100-percent increase in crime in this country. We voted, by a majority vote, to do something about that. I do not think we mustered the vote of the Senator from Indiana, but we did muster the votes of a majority of the Senate.

May I say to the Senator that all this ability to think in corkscrew fashion, to stand on one's head and make it sound logical, did not particularly appeal to this Senator, if the result was wrong, leading to an increase in murder, rape, burglary, and major crime across this country, and making law enforcement authorities powerless to act.

Does it not seem to the Senator that we have had enough of those upside down, corkscrew thinkers? Would it not appear that it might be well to take a B student or a C student who was able to think straight, compared to one of those A students who are capable of the kind of thinking that winds up getting us a 100-percent increase in crime in this country?

Mr. BAYH. I do not know what my friend from Louisiana calls corkscrew thinking. I think if he will look at the record, however, he will find that the Senator from Indiana joined him in voting for passage of the crime bill, which I think was the bill he referred to.

The man whose nomination is presently before us has been woefully lacking in ability to interpret what the law of the land is and apply it to the situation before him.

Mr. LONG. My friend says he has no credentials. I do have a few credentials. At least they have my name on the building where I graduated. I was associate editor of the law review. As one who was associate editor of the law review, I recall that we never picked out for a case note or comment some decision where the judge said, "Look, it is just perfectly plain; the statute says black is black and white is white, and since this happens to be black, I have to hold that it is black; and since, on the other hand, this happens to be white, I have to hold that it is white."

If you want to be written up, however, you take something that is white and try to reason it to be black or some shade of yellow; or take something over here that is square and reason it to be circular. You will perhaps get yourself written up in the Harvard Law Review, especially if you can get some court to uphold that kind of reasoning.

Such a case is the Miranda decision. Nothing in the Constitution says that when you apprehend a criminal, you have to tell him he does not have to answer questions, and that he is entitled to have a lawyer, and if he does not feel like hiring a lawyer, the State will hire one and have him advised as to the law; and then you can ask him the question, "What are you doing with that blood on your hands?" That was a contrivance of Judge Fortas, the sort that gets a judge the kind of notoriety that is written up in law reviews.

I assume the Senator would have voted for Judge Fortas, would he not, had he had the opportunity? Decisions of that sort would get you in the Harvard Law Review. However, but if you say, "Look, there has been no decision like that, but we have 50 cases that say you are entitled to ask the question," that would not be picked up for comment or any note. You do not pick up all that notoriety if, as a straightforward person you decide the cases on the law and the precedents.

Mr. BAYH. Mr. President, the Senator from Louisiana makes the Senator from Indiana feel less ashamed of his legal accomplishments, if being the editor of the Law Review automatically makes him an expert in the law. The Senator from Indiana was a member of the Indiana Law Journal, and on the board of review there. I am sure he did not make as illustrious a record as the Senator from Louisiana did, and he surely does not have a building named for him.

Mr. LONG. I did not say there was a building named for him on the LSU campus. I said my name was on the building where I graduated. It is on a plaque they put up for people in a moot court competition.

I assume, since the Senator has some ability as a lawyer, then, he is not simply relying on what someone has said. It has been my impression that if one has some ability to think about these things, and he has credentials, he ought to state them. The Senator started out by disqualifying himself; I am pleased that now he does qualify himself as a lawyer.

Mr. BAYH. The Senator from Indiana, with all due respect to my distinguished colleague and friend, for whom I have a great deal of respect, does not need the help of the Senator from Louisiana to interpret the cases for him. He will make that determination for himself. But he is broadminded enough to hear what various legal scholars have to say about a man's qualification to sit on the Highest Court in the land, before he makes his decision.

Does the Senator from Louisiana know of any dean of any law school who recommends the confirmation of the nomination of G. Harrold Carswell?

Mr. LONG. I have not looked for any, but I am sure I can find plenty of them.

Mr. BAYH. I thought, since we are trying to fight a battle of experts here, that surely the Senator could name some.

Mr. LONG. Well, I will make the assertion, without the slightest fear of successful contradiction, that I will find quite a few who recommend the man's confirmation. I assume that those who signed the petition to which the Senator refers did not have the support of 50 law school deans, because they are the only ones who signed it. I assume if you have 500 lawyers on an advertisement, it is because you did not have a thousand who wanted to sign it.

So far as I know, I do not know of anyone who happens to hail from my State who would not agree that the nomination of Judge Carswell should be confirmed.

Mr. BAYH. I am sure that the Senator from Louisiana speaks with authority relative to what the people of his State think. I know of no one who has ever represented his State more ably, and I compliment him for it, and have just a touch of envy and hope in my voice, that I will have a chance to serve my State as well and as long as the Senator from Louisiana has served his; and I know his period of service has just begun.

Mr. LONG. Mr. President, permit me to return the compliment. I think the Senator from Indiana is doing a great job for his State. While I regret that he may be in error in this particular case, I have the highest regard for the Senator, and I hope nothing that I have said implied anything to the contrary.

Mr. BAYH. I think the Senator from Louisiana and the Senator from Indiana understand each other perfectly, and each knows what the other is after.

In the final analysis, I think the Senator from Louisiana and the Senator from Indiana, as well as their 98 colleagues, for whom we have the greatest respect, are not going to make their determination on what is said in an advertisement or what is said by law school deans or a list of lawyers pro or con, but on the facts as they see them. I know that the Senator from Louisiana would be the first to say that it is possible for reasonable men, and good friends, as far as that is concerned, to look at the same facts and perhaps come to somewhat different interpretations.

Mr. LONG. Mr. President, if the Senator will be so kind as to yield further——

Mr. BAYH. I am happy to yield.

Mr. LONG. When President Johnson was considering possible nominees for Chief Justice, this Senator made a television presentation which appeared in his State, and was broadcast on a large number of radio stations as well. We were discussing the crime bill. At that particular time, I made the statement that there were about four decisions of that Supreme Court for which I would blame a major part of the 100-percent increase in murder, rape, armed robbery, and other major crimes in this country.

I discussed those decisions, and I pointed out that there were certain Judges on that Court that I could not vote to confirm, if I knew they were going to vote that way, and that, looking at their records, I could not vote to promote any of them. I mentioned Justice Fortas as one of them.

That was not putting myself against all nine of them; that was just saying that the five who had constantly voted to help the criminal enthrone himself above society would never attain my vote, if I had anything to say about it, because I thought those decisions were destroying this country.

When Justice Fortas' name came down, I was one of the Democratic leaders in the Senate at that time, the assistant majority leader, notwithstanding which I told the President, who was a very dear friend of mine, that I could not support his nomination and I could not vote for him.

I told my people how I felt about it, and that I felt that if a man stood for anything, he ought to be consistent. I said if it were up to me, I could not support his even being on the Court, considering what I knew about him then.

That was not a matter having anything to do with ethical sensibilities. That was just a fact that men are responsible for decisions that, in my view, might have been erudite. They might have marked him as a legal scholar, as one who can reason around from the decisions to reach a conclusion different from his predecessors. Nevertheless, it seems to me that that was not the kind of man we need for Chief Justice or who even should be a member of the Supreme Court—not that I do not admire him as a brilliant lawyer. He had no business being a Chief Justice because of the kind of reasoning and the decisions of the Court that were destroying this country. They were part of the 100-percent increase in crime that this country has sustained.

I heard President Nixon say, on the issue of law and order, that if he became President, he was going to appoint someone who would vote with the three who had tried to uphold the cop against the criminal, rather than the five who had voted to uphold the criminal against the cop.

When he submitted Judge Carswell's nomination to the Senate, it was my impression that that is the kind of man he had nominated.

XUM

A man does not have to have such brilliance as to be able to reason as nobody ever reasoned before in order to satisfy me. All he has to do is to read where it says it is a crime to kill somebody, and if you did it you are guilty and have to go to jail, and perhaps face the death penalty for it. If the law says that the penalty is death, he would say, "It says that you suffer death if you do that." That is how it has been since this Nation was founded. He would not try to find some way to say, "You do not have to face the death penalty," to a man who had killed many people and who deserved to be put to death, if that was the judgment of the State and the law passed by the State.

We would not need all that sort of brilliance to say that capital punishment had been outlawed, when Congress did not see fit to outlaw it.

I would think that that sort of straightforward thinking might not merit a comment in the Harvard Law Review or the Yale Law Review, but I think it would help to get on with the business of saving this great country of ours and arresting the increase in crime.

It seems to me that that is the kind of man we ought to be looking for. The ability to come up with some brilliant new legal thought which nobody ever thought about before would seem to me to be something we have had too much of already. That is half of our trouble.

I thank the Senator.

Mr. BAYH. I appreciate the Senator's comments. I certainly would be the first to suggest that the President was within his right, totally and completely, to suggest that if he were elected President of the United States he would appoint men of certain qualifications. I think he referred to strict constructionists. I think he referred to a balance that was necessary on the Court. I think he also referred to boyhood idols, such men as Holmes, Brandeis, and Cardozo. Does the Senator from Louisiana feel that G. Harrold Carswell fits into the same category as these three men whom the President admires?

Mr. LONG. Brandeis, Holmes, and Cardozo could very well qualify as dissenters, and that is fine. They were great dissenters of their day. Once in a while, though, someone should be nominated who is something of a conformist, and I would take it that that is apparently what the Senator is complaining about with regard to Judge Carswell.

Mr. BAYH. I want to know if the Senator from Louisiana feels that Mr. Carswell fits in the same caliber and is of the same quality of judicial competence as the three men to whom the President alluded.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. LONG. I have no particular objection to those Judges. So far as the decisions they handed down, I see no particular mischief that they reflected at that particular time. I think that some of those decisions were very well taken, for which those men were very famous.

But I am frank to say that what we need at this time more than anything else is some conformists on the Court, someone who would conform to what the law always has been, rather than some of those who try to upset what the Constitution says and what the law has always been regarded as being, particularly that which has been pretty well established in the field of law and order. We need them.

Mr. BAYH. I note that the Senator is deeply concerned about reversing the increase in crime. I am concerned about that, too. I wish it were possible to say that the presence or absence of one man on the Supreme Court is automatically going to reverse this increase in crime. Judge Fortas has been off the bench for more than a year now. Has the Senator from Louisiana paid any attention to the direction in which the crime rate has been headed during the absence of former Justice Fortas?

Mr. LONG. In the District of Columbia, we are told, it is going down, which is fine. Of course, I do not know of any of Mr. Fortas' decisions that have been changed.

Incidentally, on that subject, the Senator said he voted for the crime bill. Only one Senator voted against it. How did the Senator vote on the McClellan amendments?

Mr. BAYH. There were several.

Mr. LONG. How about the one that had to do with the Miranda warning?

Mr. BAYH. I do not remember. I would be glad to check it out and see.

Mr. LONG. May I say that that particular case has to do——

Mr. BAYH. My assistant advises me that I voted against an amendment that would have struck the McClellan amendment from the bill.

I think the Senator referred to some supposed statistics relative to the District of Columbia. I think I recall seeing an FBI report to the effect that last year crime went up nationwide 17 percent, even without Judge Fortas on the Supreme Court. I wonder how that happened.

Mr. LONG. The scene had been set. We still have not done what needs to be done to apprehend and punish those who have been committing all these crimes in this country.

Mr. BAYH. With all due respect to the Senator from Louisiana, I think we have gotten a bit far afield. I do not want my last question to suggest in any way that the Senator from Indiana feels that Judge Fortas was responsible for any increase in the rate of crime. I think we have a number of factors that have to be dealt with, only one of which is certain decisions that the Court might hand down.

If the Senator is concerned about getting men on the Court who will think or vote a certain way, the Senator from Indiana has been of the opinion that the President has the primary prerogative of making this choice.

I wonder if it would not be possible to find a man who fits the stereotype that the Senator from Louisiana is searching for, whether it is a strict constructionist or a Southern conservative, or whatever it might be that he is searching for, to reverse this trend we are talking about but that such a man also be one of great professional competence and distinction.

When I was in Louisiana a few years ago, I had the good fortune to meet a learned judge from the Senator's home State, Judge Wisdom. I wonder how the Senator from Louisiana would weigh the Carswell nomination, and Judge Carswell's qualifications against the learned judge from Louisiana, Judge Wisdom.

Mr. LONG. Mr. President, Judge Wisdom's name is not before us.

Mr. BAYH. Neither is Judge Fortas', let me suggest, but we are trying to assess the relative qualifications of men who might be nominated.

Mr. LONG. Judge Fortas' name was here, and I took a position on Judge Fortas, and I do not regret it for a moment. I think the position I took was right.

Mr. HART. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HART. Judge Fortas' nomination was not before us. We were never permitted to get Judge Fortas' name out here. Now is the time to remind those who are sensitive about how long a debate is going to take——

Mr. LONG. Perhaps it happened in a dream. I thought the Senator from Michigan sat right there, in that chair, with Judge Fortas' name.

Mr. HART. And pleaded with the Senator from Louisiana to permit us to bring it up.

Mr. LONG. I had nothing to do with bringing it up.

Mr. BYRD of West Virginia. Mr. President, I ask for the regular order.

Mr. BAYH. I would be glad to yield to my friend from Louisiana if he wants to ask any more questions.

Mr. LONG. I have asked the questions I had in mind.

Mr. BAYH. I would be glad to hear any more comments from the Senator from Louisiana. The Senator from Louisiana has been favorably impressed with the qualifications of Judge Wisdom. I believe that he is the kind of man that would not be confronted with any opposition on an intellectual basis or on the basis of judicial demeanor basis. If the Senator from Louisiana does not agree, I would be glad to have his thoughts.

Mr. LONG. The Senator has asked me a question. Would he yield to permit me to respond to that question?

Mr. BAYH. I would be very glad to yield to the Senator.

Mr. LONG. Frankly, I would say that Judge Wisdom impresses me as one of those fellows who sometimes seeks to wander out into the wide blue yonder and make new law and rule in areas where rulings have not been made before. He may be just exactly what the Senator is looking for, because he will rule that something is the law even though the question has never been brought up before, and he is seeking to make new law and to make a name for himself. I would assume that such decisions would meet with the Senator's praise. Personally, that does not particularly impress me. I hold to the old-fashioned view that any time we take something out of the Constitution we have violated our oath to uphold and defend the Constitution.

If we rule on something against the Constitution which was put in there by our Founding Fathers or amended later by constitutional amendments by Congress and the country, we have violated our oath. So far as I am concerned, we should amend the Constitution only when a man deliberately does differ, and I think that when a man does differ with the Constitution, that man should be subject to being voted off the Court or to have his term expire, so that we can decline to put him back on.

The other day we voted on something and I was in the minority on it, about the 18-year-old matter. So far as I am concerned, that was clearly an unconstitutional procedure. It concerned something that can be done, in my judgment, only by a constitutional amendment. In my judgment, had I voted for that, I would have violated my oath. That is just one of those cases. That is how I feel about it. If I think a man takes an oath to uphold the Constitution and then votes to destroy some of it, he is violating his oath. Does that answer the Senator's question?

Mr. BAYH. I think the Senator spoke rather eloquently there as to his lack of faith in Judge Wisdom. I disagree with the Senator's assessment. I think we need to be careful, with all due respect to my friend from Louisiana, that we do not adhere to the mistaken notion that a judge must decide every case as we would decide it, as the Senator from Louisiana or the Senator from Indiana would decide it. For that reason I am very reluctant to put myself in a position where I would say that Judge X or Judge Y should be recalled or voted down because he is rewriting the Constitution.

The Senator from Indiana would be the last to suggest that if Judges find contrary to the way I would decide things, that they should be kicked off the Court.

Mr. LONG. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield.

Mr. LONG. I would suggest to the Senator that what we need on the Court is a man who simply keeps his oath of office and upholds the Constitution and the laws of the country, construing them to mean exactly what Congress intended them to mean and not one who wants to "innovate," try to make new law, which is not his job. That man is not supposed to be making new law, he is supposed to be upholding the law that was passed on to him, to uphold the Constitution, which is our fundamental law. It was my understanding that President Nixon indicated that he wanted to appoint someone who would do that. My impression is that there is much disappointment with some people over Judge Carswell since he appears to be that kind of man, the kind of man who does not have all this sort of sophistication in order to come up with a forthright decision.

It seems to me that Judge Carswell has all the qualifications we need, contrary to some of those—let us face it, those who were deliberately appointed in years gone by, based on the probability that they would differ with their predecessors. I feel that if one does not like the basic law put in the Constitution, they should not do so by usurpation. Those who like the other school, for one reason or another, might not like Judge Carswell, might like Judge Fortas a lot better, but there are quite a few others who would find some way to destroy that Constitution and engage in some brilliant reasoning to show that they had not done what they clearly had. My impression is that Judge Carswell is not in this thing to bring that about and I applaud that. He is not being appointed as being that kind of judge.

Mr. BAYH. I do not want to belabor the point, but I think perhaps the Senator and I have different interpretations as to how to rate a judge's characteristics and competence relative to interpreting the Constitution. The Senator from Louisiana, of course, is, I am sure, proud of the fact that his State of Louisiana is in the fifth circuit. Is that not accurate?

Mr. LONG. We are in the fifth circuit, yes.

Mr. BAYH. Louisiana is in the fifth circuit. I suppose the Senator from Louisiana has a certain degree of pride for the overall competence of the judges that sit in the fifth circuit relative to their interpretation of the Constitution?

Mr. LONG. I have never been heard to say that the judges of the fifth circuit were the greatest judges in the land. Did the Senator ever hear me say that?

Mr. BAYH. I never heard the Senator say that.

Mr. LONG. So be it.

The Senator asked me what I thought of the fifth circuit. I did not have occasion to cast a vote for judges on the fifth circuit because those judges were appointed without consulting me, with the exception of one, Judge Ainsworth, who I think is a fine man—while I may differ with him from time to time, I take no particular issue in that. I think he is a fine judge.

Now, Mr. President, I would be glad to give the Senator my assessment of the judges that I did have something to say about who were on the Federal judiciary, men who came from Louisiana. They are all fine judges. I have in mind both those appointed by President Eisenhower, with regard to whom I was not consulted, those appointed by John Kennedy and those who were appointed by Lyndon Johnson. Every last one of them are very fine men.

The Senator asked me about the fifth circuit, and I should like to make the Senator a sporting proposition here, to pick out any of those, any three, I will call them, the judges that the Senator thinks are men who have had more cases before them than before Judge Carswell. Those are judges I know. I went to law school with some of them.

Mr. BAYH. Relative to the interpretation of the Constitution and how the judges on the fifth circuit might interpret the Constitution, is it fair to say that the Senator from Louisiana has not objected to the appointment of any of these men on the fifth circuit on the basis that they could not adequately interpret the Constitution?

Mr. LONG. Mr. President, I do not know of any of these judges on the fifth circuit that I have opposed. I know of one that I supported, and I am not complaining. As far as I am concerned, he is all right.

Mr. BAYH. Mr. President, I do not want to belabor the question. However, it seems to me that I have been listening to the Senator from Louisiana express the great concern he has over certain decisions made by certain Judges of the Supreme Court.

What concerns me relative to the ability of the present nominee, Judge Carswell, on interpreting constitutional questions is not related to what the Supreme Court has said on Carswell cases. But it is related to the fact that on 17 occasions, by a unanimous vote of the fifth circuit, the judge has been overruled on matters involving civil rights, human rights, and habeas corpus petitions.

It seems to me that should be of some concern to the Senator if he is consistent, because he would have to suggest that the judges—whom he did not object to and who knew how to interpret the Constitution in the fifth circuit, have said that Carswell was wrong on 17 occasions.

Mr. LONG. Mr. President, would the Senator from Indiana tell me how many cases Judge Carswell decided that the court affirmed and the vote on those cases?

Mr. BAYH. I think, since the Senator from Louisiana is asking the question, he could supply the information.

Mr. LONG. Mr. President, I would not ask the question if I were going to answer it. I am not on the committee. The Senator brought up the matter for the record. He seems to be very well aware of the number of times he was reversed.

Is the Senator here just trying to give one side of the matter?

Mr. BAYH. I am here to show what I think is his very unbalanced picture on civil rights.

Mr. LONG. Mr. President, I do not know whether it is an unbalanced picture, but I think it is an unbalanced presentation.

Does the Senator have the information?

Mr. BAYH. Mr. President, the Fifth Circuit Court agreed with Judge Carswell's decisions so well that they reversed him 59 percent of the time when written opinions were handed down on appeals.

If the Senator would like to do so, he could ask to have one of the members of the staff of the committee go through them case by case.

I am informed that this is three times the rate of reversal for a district judge. And I am particularly concerned because of the insensitivity that the judge shows with respect to the areas of civil rights, human rights, and habeas corpus.

I point out that we are talking about circuit court reversals, and not about the Supreme Court of the United States that some people say is out of balance. We are talking about the fifth circuit which is a little more conservative than other circuits. It is not a flaming bastion of liberalism.

XUM

The fifth circuit has overruled the judge, unanimously, on 17 occasions involving civil rights, human rights, and habeas corpus. That is a matter of some concern to me.

Mr. LONG. Mr. President, I am well aware of the fact that the fifth circuit has sought to be out in front of the Supreme Court of the United States and in many instances has sought to make new law, even going beyond the Brown case. And I would assume that when a court is trying to make new law, it is going to have to reverse a judge who holds in accordance with the old law. And I would have to say that the judge is right and that the fifth circuit is wrong.

Mr. BAYH. Seventeen to nothing?

Mr. LONG. Mr. President, I am not here to say that the fifth circuit is always right. I am trying to say that there are a lot of occasions when I have felt that the fifth circuit was wrong.

Is the Senator aware that the fifth circuit has been reversed by the Supreme Court? I do not say that they are always right.

Mr. BAYH. Mr. President, I am sure that few of us would say that any circuit has escaped being reversed by the Supreme Court.

I must say that this is an interesting description of the fifth circuit given by the distinguished Senator from Louisiana, that it is trying to establish new law and is out in front of the U.S. Supreme Court.

I am sure that would be of some interest to the Senate and to the country, but I do not think it is correct.

ORDER OF BUSINESS

Mr. RANDOLPH. Mr. President, will the Senator from Indiana yield to me as in legislative session.

Mr. BAYH. Mr. President, I yield.

THE RIGHT TO VOTE

Mr. RANDOLPH. Mr. President, as in legislative session, I point out that in the aftermath of the recent Senate action to lower the voting age to 18 by statute, there have been editorials of varying opinions on the method of achieving this desired objective.

I particularly call the attention of my colleagues to the editorial published in the Washington Post on Saturday, March 14, 1970, in which the editor strongly recommends that a constitutional amendment be pursued.

I believe that our 18-, 19-, and 20-year-old citizens are vital to the American system of selecting public officials. They will add the vibrancy of youth and new insight in the determination of national policies during these trying and challenging times.

Mr. President, I ask unanimous consent that the editorial to which I have referred, as well as an editorial which was published on Saturday, March 14, 1970, in the Washington Daily News, be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 14, 1970]

THE 18-YEAR-OLD VOTE: STATUTE OR AMENDMENT?

The Senate's 64–17 vote to lower the voting age to 18 reflects a widespread demand for greater youth participation in the processes of government. It is a salutary trend. This newspaper is fully sympathetic with the objective, but the attempt to attain it by means of a statute instead of a constitutional amendment seems to us highly dubious.

The reasoning that a statute alone will suffice is based largely on the Supreme Court's opinion in *Katzenbach* v. *Morgan* and the subsequent projection of the reasoning in that opinion to voting-age requirements by former Solicitor General Archibald Cox. The court, in that case, upset a New York law which made ability to read English prerequisite for voting. The state requirement was in conflict with the Voting Rights Act of 1965 which provided that no person may be denied the right to vote because of inability to read or write English if he had successfully completed the sixth grade in a Puerto Rican school where the instruction was in Spanish. The Supreme Court gave preference to the federal statute because it could "perceive a basis" on which Congress might view the denial of the vote to Spanish-speaking Puerto Ricans "an invidious discrimination in violation of the equal protection clause" of the Fourteenth Amendment.

Mr. Cox and some other constitutional authorities have concluded that Congress is now free to say that the denial of the vote to citizens between 18 and 21, on the ground that they lack the maturity to vote, is also invidious discrimination. It is a long leap, however, from striking down a discriminatory language requirement to fixing an age limit at which voting may begin. In the New York case there was actual discrimination against Puerto Ricans seeking to vote in that state despite the seeming general applicability of the statutory language. But where is the denial of equal protection in a voting-age requirement that is applied without discrimination to citizens of all nationalities, races and so forth? If it is invidious discrimination to deny the vote to 18- 19- and 20-year-olds, would it not be equally unconstitutional to deny it to 17-year-olds?

The founding fathers unquestionably intended to leave voting age requirements to the states. This is evident in the provision that voters in congressional elections "shall have the qualifications requisite for electors of the most numerous branch of the state legislature." The effect of the Senate's 18-year-old voting amendment to the voting rights bill would be to transfer to Congress this authority to fix requirements, in state as well as federal elections. We agree that the voting age should be lowered, but there are powerful arguments on grounds of policy as well as constitutional law for using the amendment process.

Sponsors of the change by statute, Senators Mansfield, Kennedy and Magnuson, think they have adequately guarded against inconclusive elections under the bill by expediting a test of its constitutionality. Certainly that is a wise precaution. But when basic changes of this kind are to be made (46 states now impose the 21-year-old voting requirement) the proper procedure is a constitutional amendment. Now that senators have had an opportunity to vote for a popular measure, they could logically agree to rest the reform on more secure ground.

[From the Washington Daily News, Mar. 14, 1970]

LET'S VOTE AT 18 IN 1971

The U. S. Senate's decision by a vote of 64 to 17 to lower the voting age to 18 next year indicates the nation finally may be ready to do something about the fact that millions of Americans have been unfairly excluded from the political process.

The chief argument in the Senate against lowering the voting age to 18 by an act of Congress was that it might be unconstitutional.

But the Constitution does not explicitly speak to the matter one way or another. This would seem to mean that Congress is free to act.

If there is any question about lowering the voting age by act of Congress rather than by constitutional amendment, the lower voting age proposed by the Senate would not take effect until Jan. 1, 1971, allowing plenty of time for a Supreme Court ruling.

Highly significant was the fact that Senate debate ignored almost entirely the outworn argument that persons 18-to-21 are too young to be trusted with the responsibilities of citizenship.

As the situation stands, more than 10 million Americans between the ages of 18 and 21—some of our brightest and most concerned citizens—are denied the right to vote in local, state and national elections.

Waiting for the states to lower the voting age (only four have done so) would be an admission that the nation simply doesn't care enough to correct an obvious injustice.

Unfortunately, the Senate bill has a long way to go before it becomes law.

The vote-at-18 proposal was attached as a rider to the bill extending the protection of Negro voting rights in the South.

This means the youth issue could become entwined with the race issue when the differences between the Senate bill and a bill passed by the House of Representatives last year are worked out.

Another obstacle is the opposition of the Nixon Administration to a lowering of the voting age without constitutional amendment.

But if the Senate action is any measure of the new mood in Congress, there is good reason to believe that voting at 18 is an idea whose time has finally come.

Mr. RANDOLPH. Mr. President, additionally, a New York Times editorial of Saturday, entitled "Protecting the Right To Vote," states:

> The proposal to lower the voting age from 21 to 18, though highly desirable, is too important to be slipped through as a rider. Indeed, it is far from certain that the change in voting age can be made by simple act of Congress without formal amendment of the Constitution. The whole question deserves consideration—and approval—on its merits.

ADDITIONAL COSPONSOR

SENATE JOINT RESOLUTION 147

Mr. RANDOLPH. Mr. President, as in legislative session, I ask unanimous consent that, at the next printing, the name of the Senator from California (Mr. MURPHY) be added as a cosponsor of Senate Joint Resolution 147, proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older.

The PRESIDING OFFICER (Mr. DOLE). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, with the addition of the senior Senator from California (Mr. MURPHY), would the Senator inform the Senate how many Senators are cosponsors of his resolution.

Mr. RANDOLPH. Mr. President, I am grateful for the inquiry of the able assistant minority leader. There are now 72 Senators who have joined me in the cosponsorship, making a total of 73 Senators on Senate Joint Resolution 147.

As the Senator knows, Senate Joint Resolution 147 is now pending in the Subcommittee on Constitutional Amendments chaired by the Senator from Indiana.

I am sure it is the hope of the Senator from Michigan (Mr. GRIFFIN) and also of my colleague, the Senator from West Virginia (Mr. BYRD), who is in the Chamber at this time, as well as other Senators, that we will have a prompt reporting of that resolution from the subcommittee to the full Judiciary Committee and then to the Senate, so that we will be prepared to act immediately on the constitutional amendment approach.

As I stated last week, it is my belief that the lower voting age would best be accomplished through the constitutional route by an affirmative vote of two-thirds of the Members of the two Houses present and voting and the subsequent ratification by three-fourths of the States. This would bring the matter to finality by writing this change into the language of the Constitution of the United States.

COMMISSION ON GOVERNMENT PROCUREMENT—APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. DOLE). The Chair, on behalf of the Vice President, pursuant to Public Law 91-129, appoints the Senator from Washington (Mr. JACKSON), the Senator from Florida (Mr. GURNEY), and Mr. Richard E. Horner to the Commission on Government Procurement.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Acting President pro tempore (Mr. ALLEN):

S. 495. An act for the relief of Marie-Louise (Mary Louise) Pierce.

H.R. 1497. An act to permit the vessel *Marpole* to be documented for use in the coastwise trade.

SUPREME COURT OF THE UNITED STATES

The Senate, in executive session, resumed the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. HART. Mr. President, a few moments ago I had the privilege of hearing the exchange between the Senator from Indiana (Mr. BAYH) and the Senator from Louisiana (Mr. LONG). It was interesting and informative in several respects. I rise to make comments not on the qualifications of the nominee now pending, nor on the fact that the Senate was not permitted to consider the name of Justice Fortas who had been nominated to be Chief Justice, nor on the performance record of the fifth circuit. I just wish to express my hope that this debate will not contribute to the foolish notion that crimes of violence—such as murder, rape, and robbery, which the distinguished Senator from Louisiana mentioned—can be eliminated or substantially reduced by changing the men on the Supreme Court. Indeed, I suggest it would serve the country poorly in this debate to advance the proposition that it is because of the Supreme Court that there has been this shocking increase in crimes of violence.

Every American realizes that if he is fearful to go out of his home at night, his liberty is less; if he is afraid to attend a parents meeting at school at night, his freedom is impinged—and not as the result of anything Mao Tse-tung or Moscow is doing.

But to suggest that these conditions result from three or four decisions of the Supreme Court and can be changed by adding new personnel until there is a reversal of those decisions does not promote the security of this country.

It is suggested once again that there is an easy and cheap answer. Only when we realize there is no cheap answer, but only an expensive one; and not a quick answer but only a long term answer, will we begin to fight crime intelligently.

What I have said echoes cautions that have been voiced for years. Congress can get into a great lather when some hoodlum commits a crime that outrages a community; and agree to do a great deal about that fellow. Why do we not react as vigorously to the documentation of the unmet human need as it relates to the incidence of crime. Let us go back to the Wickersham Commission. I think I was still in school when that group told us we should put up money, incorporate systems of jurisprudence, and improve the institutions to which criminals are sent.

What are our needs today? This is where too many people today turn off their listening devices. There is assurance of equality of opportunity which begins with decent, healthy bodies in childhood; in this way, malnutrition has its affect on crime. There are the needs for a decent home in which to grow up and a school system where there is excellence. It involves whether one comes from a home of darkness to begin with or not; it involves all of this.

Let us stop encouraging the dangerous mood in this country which suggests that if we just get tough and double or triple jail sentences, everything would be great.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. BAYH. Mr. President, I do not wish to interrupt the Senator's thought, but I could not concur more than I do with what the Senator said very adequately when he pointed out the fallacy and the mistaken reasoning of some that to stop the increase in crime is a 2-plus-2-equals-4 problem; that it is, indeed, a complicated algebraic problem; and he made reference to the locking up of suspects. Of course, all of us feel that anyone who transgresses against his neighbor and is convicted should be subject to punishment under the law. But it seems to me totally inconsistent for those who are really concerned in a meaningful way about doing something to increase the safety on our streets and in our neighborhoods to suggest that we lock up more people and put them in the same snake pits they were taken from.

Seventy percent of those who are turned out of the prisons are going to be right back on the streets, preying on the men and women in this country. They are going to be back in the prisons. Once that happens they become professional criminals and we are not doing anything to solve the problem.

I am glad the Senator from Michigan brings it out so clearly.

Mr. HART. I thank the Senator. I had better be careful as I go on because I do not want to forget one point I intended to make when I rose. I did not intend to make it at any great length. I just hope that not alone in connection with this debate but in the conduct of all of our business we will resist the temptation to suggest to ourselves, much less to the country, that there is some shortcut, easy answer to reverse the prevalence of crime in this country.

I intend to make the point that national commission after national commission has told us the things that must be done if we want to make America secure internally from the threat of violent crime. There was the Wickersham Commission of some 30 or 40 years ago. No attention was paid to that in terms of delivering on the basic recommendations. There is in our own recent past the report of the President's Commission on Crime, which is about 3 years old. They told us what had to be done.

There is the Kerner Commission of 2 years ago, and there is the Commission on Causes and Prevention of Violence, on which I was permitted to sit. Let me read two sentences from a section of our report on violence and law enforcement:

> Too little attention has been paid to the Crime Commission's finding that the entire criminal justice system—federal, state and local, including all police, all courts and all corections—is underfinanced, receiving less than two percent of all government expenditures. On this entire system—

May I repeat—Federal, State, and local—

> we spend less each year than we do on federal agricultural programs and little more than we do on the space program.
>
> *In this Commission's judgment, we should give concrete expression to our concern about crime by a solemn national commitment to double our investment in the administration of justice and the prevention of crime, as rapidly as such an investment can be wisely planned and utilized.*
>
> When the doubling point is reached, this investment would cost the nation an additional five billion dollars per year—less than three-quarters of one percent of our national income and less than two percent of our tax revenues. Our total expenditure would still be less than 15 percent of what we spend on our armed forces. Surely this is a modest price to pay to "establish justice" and "insure domestic tranquility" in this complex and volatile age.

Mr. President, this has attracted very little attention, but assume the conclusion of the Commission is sound. Think

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of all the things that have to be done at each level of our government before anybody can get up here and say he is engaged in fighting crime. And let nobody get up here and say he is engaged in fighting crime by picking off some seat on the Supreme Court.

I do hope that those who feel so deeply that certain decisions of the Supreme Court have contributed in substantial fashion to the increase in crime—and when a man does feel that he has every reason to seek to turn the Court around—will join those of us who say there is much more to be done, including this massive infusion of resources.

The suggestion the Senator from Indiana has made is one that I hope he will now continue to develop. Is the nominee before us possessed of such distinction, academically and professionally, as a judge to persuade us to consent to the nomination? If he is a strict constructionist, none of us can quarrel with that. That was one-half of the President's pledge when he was campaigning for the Presidency. But is he a man of eminence in his profession? That was the second part of his pledge. That is what the Senator from Indiana addresses himself to. I welcome the opportunity to hear him further on it.

Mr. BAYH. Mr. President, I am reluctant ever to take issue with the Senator from Michigan because he is such a student of anything he speaks on, but, in the judgment of the Senator from Indiana, when one examines carefully the record of the case law established by G. Harrold Carswell, it seems to me he really does not meet the standard of a strict constructionist at all.

Mr. HART. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HART. I sense that the Senator is going to develop a point that has been overlooked, and I am prepared to stand corrected. When I said I have no doubt that he is a strict constructionist, I used the term "strict constructionist" in the shorthand message that is intended to be conveyed by someone in an election when he is campaigning for President; but in terms of whether he in fact understands the flow of history that produced the Constitution and the forces that operated then and that operate now with respect to that interpretation, I would like to see that developed to see whether Judge Carswell meets the test of whether he understands the meaning of construing the Constitution constructively and conservatively.

Mr. BAYH. I appreciate the comments of the Senator from Michigan. The Senator from Indiana is going to follow the effort of developing what is and what is not a strict constructionist. That is why I was so anxious to get the thoughts of our colleague, the Senator from Louisiana, into the RECORD, to see what test one must meet to be a strict constructionist. I suppose there are 100 opinions in this body with respect to what a strict constructionist means, but if by "strict constructionist" we mean one who applies given facts to a situation and the law involved to the Constitution and what has been said prior to that time on the Constitution, not only by the Supreme Court but the various circuit courts, then it seems to me we have an abundance of opinion which leads us to the conclusion that, rather than being a strict constructionist, this nominee has been launching on a sea of new law, trying to establish a record of "Carswell on the Constitution." I frankly do not see how that is related in any way to the now famous term of "strict constructionist."

The Senator from Indiana was about to discuss what some eminent legal scholars throughout the country had determined was the legal competence of the nominee, when he became involved in a very enlightening colloquy with our distinguished colleague from Louisiana. I will return to that part of my remarks, but before doing so, inasmuch as the Senator from Louisiana and the Senator from Indiana had been discussing the number of times in which the nominee had been reversed by the fifth circuit, and trying to analyze his ability to interpret the Constitution as it had been interpreted by the fifth circuit, and other courts as well, I ask unanimous consent to have printed in the RECORD perhaps the most thorough analysis of the judge's various holdings in a number of cases, which was compiled by the Ripon Society, and then let the Senate decide for itself the validity of the assessment made by that body.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE CASE AGAINST CARSWELL: A RIPON SOCIETY PAPER

The Ripon Society urges Republican Senators to uphold their party's best traditions by rejecting confirmation of the nomination of Judge G. Harrold Carswell to the United States Supreme Court. While very damning evidence concerning Judge Carswell's judicial impartiality has already come to light, the most manifest reason for refusing confirmation to this nomination is the undeniable legal inadequacy of Judge Carswell.

Virtually all legal historians and scholars who have examined G. Harrold Carswell's record have found him to be one of the least qualified, if not the least qualified, nominee to the United States Supreme Court in the twentieth century. Exhaustive studies which have been performed jointly in the last month by a large number of lawyers and law students and which are being released for the first time in this Ripon Society paper give extremely strong statistical corroboration to the contention of judicial scholars that G. Harrold Carswell is seriously deficient in the legal skills necessary to be even a minimally competent Supreme Court Justice.

IN THE LEGAL INADEQUACY OF JUDGE CARSWELL

Legal scholars who have examined G. Harrold Carswell's judicial opinions (Carswell has written no scholarly articles) or who have studied his record have concluded that Carswell lacks any legal distinction whatever.

Duke University Law School Professor William Van Alstyne, who testified in favor of the Haynsworth nomination, testified of Carswell: "There is in candor, nothing in the quality of the nominee's work to warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States."

Yale University Law School's Luce Professor of Jurisprudence, Charles L. Black, Jr., himself a native of Texas, has stated of Carswell, "There can hardly be any pretense that he possesses any talent at all."

Twenty professors at the University of Pennsylvania Law School have announced concerning Carswell: "Our examination of his opinions in various areas of the law compels the conclusion that he is an undistinguished member of his profession, lacking claim to intellectual stature."

After thoroughly examining Judge Carswell's opinions of recent years, Louis Pollak, Dean of the Yale University Law School, testified to the Senate Judiciary Committee: "I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth in this century, and this century began as I remind this committee with the elevation to the Supreme Court of the United States of the Chief Justice of Massachusetts Oliver Wendell Holmes."

An exhaustive statistical study recently completed by a number of lawyers and law students organized by Law Students Concerned for the Court reveals some very damaging information concerning Judge Carswell's judicial record. After a careful examination of the statistics yielded by the study and of the soundness of the methodology used in obtaining them, the Ripon Society concludes that these statistics strongly corroborate the contentions of legal scholars that Judge Carswell is an exceptionally inadequate federal judge besides being a poorly qualified Supreme Court nominee. This study yielded the following results:

1. *Reversals on Appeal.* During the eleven years (1958–1969) in which Judge Carswell sat on the federal district court in Tallahassee, 58.8% of all of those cases where he wrote printed opinions (as reported by West) and which were appealed resulted ultimately in reversals by higher courts. By contrast in a random sample of 400 district court opinions the average rate of reversals among all federal district judges during the same time period was 20.2% of all printed opinions on appeal. In a random sample of 100 district court cases from the Fifth Circuit during the 1958–1969 time period the average rate of reversals was 24.0% of all printed opinions on appeal.[1]

2. *Reversals in General.* Carswell's rate of reversals for all of his printed cases was 11.9% as compared to a rate of 5.3% for all federal district cases and 6% for all district cases within the Fifth Circuit during the same time period.

The majority of cases before any federal district judge ordinarily do not result in appeals, hence precluding the possibility of reversals in those cases. It is significant however, that Carswell's overall reversal record for his printed cases is more than twice the average for federal district judges. When additional unprinted opinions revealed by the testimony of Joseph L. Rauh, Jr. before the Senate Judiciary Committee and by the memorandum of Senator Hruska are included, Carswell is found to have an overall reversal rate of 21.6%. [For further discussion refer to the statistical summary in the appendix to this paper.]

3. *Citation by Others.* Carswell's 84 printed opinions while he was serving as a district court judge were cited significantly less often by all other U.S. judges than is the average for the opinions of federal district judges. Carswell's first 42 opinions during his first five years on the federal judiciary (1958–1963) have been cited an average of 1.8 times per opinion. Two hundred opinions of other district judges randomly chosen from district court cases spanning this same time period have been cited an average of 3.75 times per opinion. The 42 most recent of Carswell's printed district court opinions have been cited an average of 0.77 times per

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Footnotes at end of article.

opinion. Two hundred opinions of other district judges randomly chosen from cases spanning the same 1964–1969 time period have been cited an average of 1.57 times per opinion.

4. *Elaboration of Opinions*. Carswell's printed district court opinions average 2.0 pages. The average length of printed opinions for all federal district judges during the time period in which Carswell sat on the district bench was 4.2 pages.[2]

5. *Use of Authority*. In the 84 above-mentioned printed Carswell opinions the average number of citations of cases is 4.07 per opinion, and the average number of citations of secondary source material is 0.49 per opinion.[3] The average for all district judges during the 1958–1968 time period was 9.93 case citations per opinion and 1.56 citations of secondary source material per opinion.

When these results are analyzed cumulatively they form a most impressive indictment of Judge Carswell's judicial competence. The incredibly high rate of reversals (59%) which Carswell has incurred on appeals in those cases in which he has written printed opinions brings into serious doubt the nominee's ability to understand and apply established law.

The shortness of a particular opinion and the relative paucity within it of case citations and citations of secondary materials do not necessarily indicate deficiency. Short opinions which are succinct and logical display great legal virtuosity, as Justice Holmes demonstrated. Yet not even Carswell's strongest supporters could argue seriously that the nominee's opinions have shown any unusual conciseness, perceptiveness, or skill. The very fact that Judge Carswell was so rarely cited by other federal judges who as a group are best equipped to evaluate the weight to be given to a judge's opinion underscores the generally low quality of Carswell's opinions. We are led inevitably to the conclusion that the shortness and slim documentation of most of Carswell's opinions is evidence of either Carswell's lack of diligence or his lack of ability.

The Senate Judiciary Committee record shows the Fifth Circuit Court of Appeals' reversing Judge Carswell again and again for failing to follow established legal procedures. Of particular concern was Carswell's failure to grant adequate hearings to individual petitioners in civil rights and criminal cases. [Attached to this paper is an appendix summarizing a number of these cases.]

Judge Carswell is said to have boasted that he almost never held an evidentiary hearing in the federal equivalent of a *habeas corpus* case. This cavalier attitude on Carswell's part is yet another example of his insensitivity to essential individual rights dating at least as far back as the Magna Carta. Judge Carswell's attitude in *habeas corpus* cases, as well as in the civil rights area, suggests that his constructionism has been more "selective" than "strict."

The analysis of Judge Carswell's record during his eleven years on the federal district court would suggest that the nominee was significantly below the level of the average federal district courts judge. There is no evidence to suggest that Carswell possesses any unusual talent to raise him above other federal judges. G. Harrold Carswell's performance in the short time since he was appointed to the Fifth Circuit Court of Appeals has shown no signs of a late-blooming virtuosity.

Whatever their legal philosophies, young lawyers, law students, and law professors have reacted with overwhelming dismay to the appointment of such a mediocre lawyer to the Supreme Court. These individuals who form a major portion of the Ripon Society's constituency are fully aware of the enduring character of a Supreme Court appointment, especially that of a man as young as Carswell.

This dismay is felt generally throughout the legal profession. The vote of the Standing Committee on the Judiciary of the American Bar Association finding Carswell qualified is unrepresentative of membership sentiment within either the overall bar or the American Bar Association. Significantly the Chairman of this Standing Committee is the same man who as Deputy Attorney General of the United States played a major role in 1958 in the selection of Carswell to the federal bench in the first instance.

II. CARSWELL FALLS FAR SHORT OF REPUBLICAN STANDARDS FOR JUDICIAL DISTINCTION

During the twentieth century Republican Presidents have maintained a remarkable standard in choosing judicial statesmen for the Court. Oliver Wendell Holmes, Charles Evans Hughes, William Howard Taft, Harlan Fiske Stone, Owen J. Roberts, Benjamin Cardozo, Earl Warren, John Marshall Harlan, William Brennan and Potter Stewart have all made significant contributions to American jurisprudence. The Ripon Society welcomed Mr. Nixon's campaign pledge to appoint to our nation's highest court persons of the caliber of Holmes, Brendeis, and Cardozo. Yet the members of the Ripon Society and many other concerned Americans find themselves deeply disappointed with the quality of recent nominations to the Supreme Court made by the present administration.

The Haynsworth nomination was inadequate to the national need to restore public confidence in the integrity of the judiciary in the wake of the Fortas resignation. Yet far more important than the possible vulnerability of Judge Haynsworth to conflict of interest charges was his limited sensitivity to the rights of blacks and labor. Judge Haynsworth, although a decent man, did not meet either in judicial insight or craftsmanship the standards of greatness which a nation demanded.

The duty which Republican Senators deliberating on the Carswell nomination owe to the Court and to the best traditions of the Republican Party transcends any duty to support a President of their own party on his Court nominee. They do the President no disservice by preventing a mistake which is likely to endure long after the President's tenure in the White House. In fact, by opening this seat once more to a Presidential nomination Senators could enable the President to put on the Supreme Court a person of greatness.

Legal inadequacy of a Court appointee has historically been a principal ground for the rejection of a number of Supreme Court nominees. President Grant withdrew the nominations of George H. Williams of Oregon and Caleb Cushing of Massachusetts after public outcries based largely on their mediocrity. Two of President Cleveland's nominees, William B. Hornblower and Wheeler H. Peckham, were rejected by the Senate largely because they were felt to lack either the impartiality or the stature necessary for the judiciary.

III. CARSWELL'S LACK OF JUDICIAL IMPARTIALITY

Although it may be true that most people including judges have biases of one sort or another, it is incumbent on a judge in fulfilling his judicial function that he rise above these biases and adopt a neutral posture as an adjudicator of the law. Yet Judge Carswell through his decisions and his other uses of judicial power has seemed to eschew the role of impartiality demanded of a judge.

When he was serving as a federal district judge, Judge Carswell achieved the astonishing record of reversal in a tremendous number of civil rights decisions. Fifteen times Carswell was unanimously reversed on civil rights cases by the Fifth Circuit Court of Appeals.

Carswell's 1948 election speech declaring undying allegiance to the principles of white supremacy is deplorable, but we fully recognize that such ill-spoken words can be surmounted by men with a potential for growth. The example of Justice Hugo Black comes readily to mind. Judge Carswell during his entire time of federal service, however, has shown no growth either in legal ability or in sensitivity to the rights of black Americans.

In 1956 when he was serving as a United States attorney responsible for upholding the rights of members of all races, G. Harrold Carswell acted as an incorporator of a private club set up to take over the municipal golf course to prevent its integration. Judge Carswell's recent denials that he knew the private club was set up to maintain segregation seem disingenuous in the extreme.

More disturbing than the golf course incident, however, has been the blatantly anti-Negro, anti-civil rights character of Judge Carswell's conduct on the federal bench. In his letter of reply to Senate Judiciary Committee members who had queried him concerning charges of activity on his part to stifle civil rights workers, Judge Carswell failed to make any denial of some severe charges of judicial misconduct. He left unrebutted the charge that while he served in Tallahassee as a federal district judge he arranged with a local sheriff to rejail some civil rights workers he had been ordered to free by the Fifth Circuit Court of Appeals.

The testimony before the Senate Judiciary Committee suggested that in one case Judge Carswell granted a writ of habeas corpus, required the prisoners' attorney to serve the writ on the sheriff at the jail, then notified the sheriff that he had remanded the case to local jurisdiction so the prisoners could be rearrested before they left the jail.

Other unrebutted testimony has alleged that Judge Carswell commuted sentences of civil rights workers for the purpose of preserving illegal local practices. Faced with a legal necessity to overturn the convictions of certain civil rights workers, Judge Carswell allegedly advised the city attorney that if he commuted their sentences to time already served the matter would become moot.

Judge Carswell's continuing involvement as a charterer of a segregated Florida State University Boosters Club, his passage of property in 1966 under a racially restrictive covenant, and his telling of a tasteless "darky" joke as speaker at a recent public gathering of the Georgia Bar Association are all indications that G. Harrold Carswell has not progressed appreciably beyond the views expressed in his 1948 campaign speech.

IV. THE CARSWELL NOMINATION IS AN INSULT TO SOUTHERN JURISPRUDENCE

Our opposition to the Carswell appointment in no way derives from the nominee's Southern origin. A number of great towers of our nation's judiciary are Southerners. Such men as Judge John R. Brown of Texas, Elbert Tuttle of Georgia, John Minor Wisdom of Louisiana and Frank Johnson of Alabama all have displayed an unflinching devotion to the Constitution of the United States and have exhibited a moral courage of high degree. Justice Hugo Black of Alabama has established himself as one of the great jurists of American history.

Both today and throughout our nation's history the South has produced first-rate legal minds. A Virginian, John Marshall, has had as great an influence as any American judge on the development of our legal institutions. The first Justice John M. Harlan from Kentucky and Justice L. Q. C. Lamar from Mississippi both demonstrated the high potential of Southern legal scholarship.

In passing over so many well qualified Southern lawyers and jurists, the choice of Carswell seems an insult to Southern jurisprudence. Unhappily a man lacking in both intellectual distinction and in judicial fairness is presented to the nation as representative of Southern jurisprudence.

Conclusion:

Persuaded that G. Harrold Carswell lacks either the intellectual stature or the judicial impartiality to qualify for a place on our nation's highest court, we urge the Republican members of the Senate to uphold their party's best tradition by denying confirmation to G. Harrold Carswell's nomination thus allowing President Nixon to submit the name of a person who can command national respect both for his or her fairness and legal stature.

BRIEF SUMMARY OF REVERSALS OF JUDGE CARSWELL

Judge Carswell has been reversed by the Fifth Circuit Court of Appeals and by the United States Supreme Court at least 33 times. A brief description of some of those cases follows.

Augustus v. *Board of Pub. Instr. of Escambria County, Fla.*, 185 F. Supp 450 (1960). Judge Carswell was unanimously reversed by the Fifth Circuit, 306 F. 2d 862 (1962) for striking portions of Negro children's complaint asking integration of school faculties. He held they had no standing to enjoin teacher assignments based on race, which he said was like enjoining "teachers who were too strict or too lenient." (p. 453). The Fifth Circuit criticized Carswell's ruling: "Whether as a question of law or one of fact, we do not think that a matter of such importance should be decided on a motion to strike. As well said by the Sixth Circuit: '. . . it is well established that the action of striking a pleading should be sparingly used by the courts. . . . It is a drastic remedy to be resorted to only when required for the purposes of justice.'" (p. 868)

In the same opinion, the Fifth Circuit also unanimously reversed Judge Carswell's school desegregation plan order of 1961, 6 Race Rel. L. Rep. 689, which was merely to permit continued assignment of pupils under Florida's Pupil Assignment Law, which the Fifth Circuit has twice held, in both 1959 and 1960, to be inadequate to meet the *Brown* requirement, because it was "administered . . . in a manner to maintain complete segregation in fact." (p. 869) After being reversed Carswell waited four months to implement the Fifth Circuit's decision, then postponed the effective date of the plan for 10 months or more.

Steele v. Board of Pub. Instr. of Leon County, Fla., 8 Race Rel.L.Rep. 934 (1963), decided by Judge Carswell 10 months after the *Augustus* reversal, found him again approving assignments under the Pupil Assignment Law, then thrice held inadequate by the Fifth Circuit Court of Appeals, and making token desegregation of only one grade per year beginning in 1963 despite the Fifth Circuit's statement in *Augustus:* "[If it is too late to integrate for the 1962 year] then the plan should provide for such elimination as to the first *two* grades for the 1963 fall term." (p. 869, emphasis added) Two years after Carswell's 1963 order the Negro children moved to have him speed up the plan in compliance with subsequent Supreme Court rulings, and Carswell refused to reorganize the plan, telling their attorney, "it would just be an idle gesture regardless of the nature of the testimony." The Fifth Circuit unanimously reversed both of Carswell's orders, 371 F.2d 395, instructing him to follow its subsequent definitive *Jefferson* ruling extending the earlier precedents.

Youngblood v. Board of Pub. Instr. of Bay County, Fla., 230 F.Supp 74 (1964), two years after the reversal in *Augustus*, was another Carswell decision unanimously reversed by the Fifth Circuit (No. 27683, Dec. 1, 1969), in which he had permitted token desegregation under the disapproved Pupil Assignment Law, and even that delayed for 16 months. Carswell's plan allowed only for so-called "freedom of choice" transfers during a five-day registration period and parents would have to come to the superintendent's office during working hours. His plan was again a grade-a-year plan, violating the Fifth Circuit's then one-month-old decision in *Armstrong*, 333 F.2d 47 (1964).

Subsequent motions in *Youngblood* denied by Carswell also violated precedents unmistakably clear at the time of denial. For example, in 1965, when Carswell refused to speed up his grade-a-year plan, such plans had already been clearly held unconstitutional by the Third Circuit (*Evans*, 281 F.2d 385 (1960)), Fourth Circuit (*Jackson*, 321 F.2d 230 (1963), Haynsworth, J., concurring), Sixth Circuit (*Goss*, 301 F.2d 164 (1962), rev'd on other grounds 373 U.S. 683) and Eighth Circuit, and Carswell's own Fifth Circuit Court of Appeals had held months earlier, in *Lockett*, 342 F.2d 225 (1965): "It was then [after *Calhoun*, 377 U.S. 263 (1964)] beyond peradventure that shortening of the transition period was mandatory." (p. 277) Similarly, after the Justice Department intervened to support plaintiffs' motions to substitute effective methods in place of so-called "freedom of choice" transfers, Carswell on August 12, 1968 and April 3, 1969 approved "freedom of choice"—all of this after the U.S. Supreme Court on May 27, 1968 held: "The New Kent School Board's 'freedom-of-choice' plan cannot be accepted as a sufficient step to 'effectuate a transition' to a unitary system." ". . . experience under 'freedom of choice' to date has been such as to indicate its ineffectiveness . . ." *Green*, 391 U.S. 430, 440, 441.

Wright v. Board of Pub. Instr. of Alachua County, Fla., unreported, unanimously reversed by the Fifth Circuit (No. 27983, 1969) repeats the story of *Youngblood*.

Singleton v. *Board of Comm'rs of State Institutions*, 11 Race Rel.L.Rep. 903 (1964) was another segregation decision by Carswell unanimously reversed by the Fifth Circuit, 356 F. 2d 771 (1966). In a 99-word opinion he held that inmates had no standing to seek desegregation of reform schools because before he had rendered judgment they had been released on conditional parole. The Court of Appeals decisively rejected that notion: "The plaintiffs' probationary status brings them well within the future-use requirement for standing." It relied on its own *Anderson* decision, 321 F. 2d 649, rendered a year before Carswell's order.

Due v. *Tallahassee Theatres, Inc.*, 9 Race Rel.L.Rep. (1963), still another segregation case in which Judge Carswell denied even an evidentiary hearing, also resulted in unanimous reversal by the Fifth Circuit, 333 F. 2d 630 (1964). In a suit seeking desegregation of theatres and alleging a conspiracy between the theatres, the city and the sheriff, Carswell dismissed the complaint as against the theatres and the city for failure to state a justiciable claim, and granted summary judgment on the sheriff's affidavit denying that there was any conspiracy. The Fifth Circuit held that both of his actions plainly violated clear pre-existing law: "This Court has repeatedly held that if the complaint alleges facts, which, under any theory of the law, would entitle the complainant to recover, the action may not be dismissed for failure to state a claim. *Arthur H. Richland Company* v. *Harper*, 5 Cir., 302 F. 2d 324 [1962]. There is no doubt about the fact that the allegations here stated a claim on which relief could be granted, if the facts were proved. See *Lombard* v. *Louisiana*, 373 U.S. 267 [May, 1963 (5 months before Carswell's decision)]." (p. 631) And on the issue of granting summary judgment without a trial: "There clearly remained issues of fact to be determined on a full trial of the case. . . ." (p. 633).

Dawkins v. *Green*, 285 F. Supp. 772 (1968) was, as the Fifth Circuit recognized in its unanimous reversal of Carswell's grant of summary judgment for the defendants, 412 F. 2d 644 (1969), a case similar to the well-known *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965). The plaintiffs were Negro civil rights workers, suing public officials and alleging that the defendants had initiated prosecutions in bad faith to retaliate for and to chill their exercise of constitutional rights in civil rights activities. The public officials filed affidavits, described by the Fifth Circuit as "simply a restatement of the denials contained in their answer . . . they set forth only ultimate facts or conclusions . . . that they did not enforce the laws against plaintiffs in bad faith." (p. 646) Carswell held that, "From the proofs here it is clear that there was no harassment, intimidation or oppression . . . and they are being prosecuted in good faith. . . ." (p. 774) Once more, the Fifth Circuit cited its own clear pre-existing law on summary judgments in reversing Carswell: "No facts were present so that the trial Court could arrive at its own conclusions. As discussed in *Woods* v. *Allied Concord Financial Corporation*, (Del.), 373 F. 2d 733 (5 Cir. 1967), in summary judgment proceedings, affidavits containing mere conclusions have no probative value." (p. 646)

In at least 10 habeas corpus cases, Carswell was unanimously reversed by the Fifth Circuit for refusing to permit petitioners the opportunity to prove facts they alleged, which if proven would have clearly—under then-existing rulings—entitled them to relief, except perhaps in *Beufve*, below, where substantive law was clarified in the interim. The 10 cases are listed first, then discussed:

Meadows v. United States, 282 F.2d 942 (5th Cir. 1960);

Dickey v. United States, 345 F.2d 508 (5th Cir. 1965);

Rowe v. United States, 345 F.2d 795 (5th Cir. 1965);

Beufve v. United States, 344 F.2d 958 (5th Cir. 1965);

Baker v. Wainwright, 391 F.2d 248 (5th Cir. 1968);

Dawkins v. Crevasse, 391 F.2d 921 (5th Cir. 1968);

Brown v. Wainwright, 394 F.2d 153 (5th Cir. 1968);

Cole v. Wainwright, 397 F.2d. 810 (5th Cir. 1968);

Harris v. Wainwright, 399 F.2d 142 (5th 1968); and

Barnes v. State of Florida, 402 F.2d 63 (5th Cir. 1968).

Following is some of the Fifth Circuit's language in its peremptory reversals, citing Carswell to controlling precedent:

Meadows: "We think that the allegations of the motion, inartful though they be, are sufficient to set forth the contention [that mental illness voided effective waivers and guilty plea]. His statements of prior determination of a mental illness takes the motion out of the category of frivolous claims and requires a hearing. Bishop v. United States, 350 U.S. 961 [1956]."

Dickey: "the prisoner was entitled to an evidentiary hearing. Gregori v. United States, 5 Cir., 243 F.2d 48 [1957]."

Rowe: The *entire* Fifth Circuit opinion states: "The appellant sought relief under 28 U.S.C.A. § 2255 from a mail fraud conviction. The district court denied relief. Merrill v. United States, 5th Cir. 1964, 338 F.2d 763, requires a reversal." The Fifth Circuit's order then not only reversed and remanded, but added the unusual directions to vacate the conviction and sentence and dismiss the indictment.

Baker: "[Defendant] sought habeas corpus relief in the district court on the ground that he was denied the right to counsel on the appeal from this conviction. The court denied relief without a hearing. . . . In Entsminger v. Iowa, 1966, 386 U.S. 748 . . . the Supreme Court said: 'As we have held again and again, an indigent defendant is entitled to the appointment of counsel to assist him on his first appeal' . . . [T]he cause is remanded for an evidentiary hearing. . . ."

Dawkins (the same Dawkins as in Carswell's summary judgment reversal): "we conclude that the Trial Judge erred in not granting a writ of habeas corpus at least to the extent of ordering appellants' release on bail pending their appeal in the Florida courts. We . . . direct the District Judge to enter an order granting bail in the amount of $1000. . . ."

Cole: The entire Fifth Circuit reversal states: "The allegations of the petitioner are of such a nature as to require a hearing under 28 U.S.C.A. § 2243. It could not appear from the application and the file supplied by the state 'that the applicant . . . [was] not entitled' to the writ."

Barnes: "[Defendant] alleges coercion of a plea of guilty and ineffective assistance of counsel, contending that court-appointed counsel, whom he saw only for a few minutes four days before trial and a few minutes prior to trial, coerced him into pleading guilty, assuring him that a deal had been made for shorter sentences. . . . If appellant's allegations as to what occurred at his arraignment and sentence are found to be true, he is entitled to have the writ granted and his conviction set aside. Holloway v. Dutton, 5 Cir., 1968, 396 F. 2d 127 Roberts v. Dutton, 5 Cir. 1966, 368 F. 2d 465. . . ."

In addition to the Fifth Circuit's frequent unanimous reversals of Carswell for failing even to hear the claims of civil rights and habeas corpus petitioners, the appellate court sharply rebuked his judgment for a bank in a National Banking Act case, *Dickenson v. First National Bank*, 400 F. 2d 548 (1968). The issue was whether the bank's shopping center receptacle and armored car messenger service constituted illegal "branch banking" under Florida law. "The district court granted judgment for First National stating explicitly: 'Florida statute 659.06(1)(a) is not operative or controlling in this instance.' We conclude that in this instance Florida law is operative and controlling and reverse." Carswell held that the lacking of inclusion of the bank's activities in the words of the federal statute (Section 36(f)) ended the matter, and ignored the reference of another section to activities permissible under *state* law. Of his dubious reasoning, the Fifth Circuit stated: "Congress is in the defining business and is knowledgeable as to how to immunize or deimmunize an activity from its statutory engulfment. In Section 36(f) Congress provided only that the term 'branch' 'shall be held to include'. . . . Such a provision is hardly adequate as a definition. . . . If we construed Section 36(f) as permitting paper evasions from state anti-branching laws, we would be letting the left hand give and the right hand take away. *Statutory construction has not fallen to such legalistic depths.* (p. 557, emphasis added)

FOOTNOTES

[1] A reversal is defined in this study to include an outright reversal, a vacation, a remand, and an affirmance with major modifications. An affirmance is defined to include an outright affirmance, an affirmance with minor modifications, a dismissal of an appeal, and a denial of a writ of certiorari. The ultimate disposition of the case rather than the action alone of an intermediate appellate court determined whether the result was to be classified as an affirmance or a reversal. It also should be noted that the Carswell figures are based on 84 of the nominee's reported decisions, believed to be all of his printed district court opinions. The completeness of this analysis might be confirmed if the Justice Department made public its entire file of Carswell opinions. Unfortunately the Justice Department has not yet seen fit to make available such a complete file.

[2] The 84 printed Carswell opinions were calculated to the nearest tenth of a page. Four hundred decisions of other district judges were drawn randomly from Federal Supplements spanning the years 1958 to 1969. These opinions were calculated also to the nearest tenth of a page. In making all page computations only the text of the opinion was counted. Headnotes were not counted as part of the opinion.

[3] These averages for all federal district judges were derived from another random sampling of 80 opinions drawn from Federal Supplements spanning the 1958–1969 period. Citations for any reason are included in these computations.

SUMMARY OF STATISTICAL STUDY OF PERFORMANCE OF JUDGE CARSWELL—JUDGES' DECISIONS CONSIDERED, SAMPLE

Index, number, type of data	Carswell, all 84 decisions 1958–69 printed in F. Supplement	All circuits: 400 decisions (1958–69 random selection) in district courts printed in F. Supplement	All circuits: 400 appeals (1959–69 random selection) to all C.A.'s printed in F. 2d.	5th circuit only: 100 decisions (1958–69 random selection) in district courts printed in F. Supplement	5th circuit only: 100 appeals (1959–69 random selection) to 5th Cir. C.A. printed in F. 2d.
I. Reversals:					
Number	10	21		6	
As percent of decisions	11.9	5.3		6	
Carswell's percent worse by		+123		+98	
IA. Reversals; including Rauh and Hruska cases [1] not printed:					
Number	33	21		6	
As percent of 152 decisions	21.6	5.3		6	
Carswell's percent worse by		+308		+260	
II. Reversals/appeals:					
Number	10/17	21/104	115/400	6/25	26/100
Percent	58.8	20.2	28.8	24.0	26.0
Carswell's percent worse by		+181	+104	+145	+126
IIA. Reversals/appeals including Rauh and Hruska cases [1] not printed:					
Number	33/85	21/104	115/400	6/25	26/100
Percent	38.8	20.2	28.8	24.0	26.0
Carswell's percent worse by		+81	+35	+62	+49
III. Authority value:					
Cite frequency/1958–63 cases	1.80	3.75		3.93	
Percent greater than Carswell		+108		+118	
Cite frequency/1964–69 cases	0.77	1.47		1.50	
Percent greater than Carswell		+91		+95	
IV. Use of authority:					
Case cites per opinion	4.07	[2] 9.93			
Percent greater than Carswell		+144			
Secondary source cites/opinion	0.49	1.56			
Percent greater than Carswell		+218			
V. Elaboration of opinions:					
Page length per opinion	1.99	4.21			
Percent greater than Carswell		+112			

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[1] 12 of the 15 reversals by the 5th Cir. C. A. in civil rights and habeas corpus which were mentioned in the testimony of Joseph L. Rauh, Jr., had no printed opinion below by Carswell; 44 additional appeals of criminal trials and 12 more habeas appeals were in Senator Hruska's memo.

[2] Sample was 80 random printed district court cases.

Mr. BAYH. I was impressed by the fact that Louis Pollak, distinguished dean of the Yale Law School, looked at the credentials of this nominee and said that, in his judgment, to quote Dean Pollak, he has more slender credentials than any other nominee for the Supreme Court put forth in this century.

It is true, as Judge Carswell's supporters have pointed out, that he has been a practicing attorney, a Federal prosecutor, and a Federal court judge. For appointment to the Supreme Court, however, mere length and variety of service is certinly not a substitute for distinction—and yet that is what President Nixon promised the country his "strict constructionists" would be—not only strict constructionists, but men of distinction.

There are many such men in the South if, as the President seems to believe, this appointment must be based on geography. I would note, for anyone who cares to pursue it, the list of these eminent jurisists in the individual views in the report from the Committee on the Judiciary. The Senator from Maryland (Mr. TYDINGS) lists several southern jurists and southern lawyers, the Senator from Maryland being a lawyer who practiced in the fourth circuit, and a member of the Judiciary Committee, who would be qualified not only as strict constructionists but as men of distinction.

Prof. William Van Alstyne, one of the most eminent legal scholars in the South and a supporter of Judge Haynsworth, testified, however, that there was nothing in Judge Carswell's record to "warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States." And more than one dozen members of the University of Virginia Law School faculty, after studying Judge Carswell's record, described his abilities and judicial service as "sadly wanting."

It seems to me that the general assessment is that in his truly second-rate career as a Federal district judge, it is obvious that Judge Carswell has failed to exhibit any of those qualities the late Justice Frankfurter described as essential for service on the Supreme Court. After 15 years of distinguished service on the Court, Frankfurter himself concluded that a judge "should be compounded of the faculties of the historian and the philosopher and the prophet." No one has yet been audacious enough to claim any of these qualities for Judge Carswell. In fact, even his most ardent supporters have been unable to point to one contribution he has made to the law; none have cited his opinions as worthy of recognition.

Even Professor Moore of Yale, in his statement supporting the Carswell nomination, failed to mention a single Carswell decision as worthy of note. For the leading student of Federal practice to omit any reference to Judge Carswell's judicial record is, to my mind, an omission of great significance. It tells us, in effect, that there is nothing in Judge Carswell's record worthy of mention, as far as the contributions he made while sitting on the Federal district bench are concerned.

Interestingly, a close look at Judge Carswell's decisions reveals him to be not a strict constructionist but an activist. As his 17 unanimous reversals in civil rights and habeas corpus cases indicate, Judge Carswell has not adhered to a strict construction of the law of the land in civil and human rights cases, but has used his judicial office to advance his own personal racial and social philosophy—and to deny to defendants in his court the basic constitutional rights of equal protection and due process.

Mr. President, this nomination is an affront to the Senate, to the Supreme Court, and to the finest ideals of the American people. I do not hesitate to call upon my colleagues, therefore, to deny confirmation. An examination of the record could lead them to no other conclusion.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. BAYH. I am happy to yield to my committee chairman.

Mr. EASTLAND. The Senator mentioned some cases in which he said that Judge Carswell was reversed by the fifth circuit. Does the Senator know that most of those cases were reversed on decisions of the fifth circuit decided after Judge Carswell had ruled?

Mr. BAYH. I think it is rather obvious that the circuit court could not decide to overrule a Federal district judge until after the district judge had made his decision.

XUM

Mr. EASTLAND. No; that is not what I am saying. In at least a majority of those cases, it is my understanding that after Judge Carswell's decision, the fifth circuit, in other cases, had decided the law was different.

What I am saying is that his ruling originally was in line with what the law was, as interpreted by the fifth circuit.

I know those are Ripon Society decisions that my distinguished friend has cited. One of the cases he decided, where he was overruled, was the Wechsler case, which went on to the Supreme Court of the United States, and the Supreme Court overruled the fifth circuit and decided Judge Carswell was right.

I say that in simple justice to Judge Carswell, and to keep the record clear.

Mr. BAYH. If the Senator will yield back to me——

Mr. EASTLAND. I cannot yield back.

Mr. BAYH. Then I might just interrupt long enough to make one observation. Inasmuch as the Senator is pointing out that in some of these cases the fifth circuit made new law, and that is why Judge Carswell was out of step, I might suggest that the Wechsler case was one where the fifth circuit made new law, and thus Judge Carswell was out of step with the fifth circuit at the time the fifth circuit decided it.

Mr. EASTLAND. Yes; but the Supreme Court upheld Judge Carswell's decision. It was the law at the time he ruled. He was reversed by the fifth circuit on the basis of new law, and the Supreme Court corrected it, and sustained Judge Carswell.

Just in simple, ordinary justice to him—and I think on the Senate floor every nominee should receive a straight deal—in a substantial number, even in most of those reversals, Judge Carswell's decisions were in line with the decisions of the fifth circuit at the time he made them. That decision had been changed, or the law had been changed, by the fifth circuit by the time the decision got from Judge Carswell to the fifth circuit.

Mr. BAYH. I appreciate our distinguished chairman, my friend the Senator from Mississippi, adding his thoughts to the statement of the Senator from Indiana. I would not want the Ripon Society held to account for the assessment that the Senator from Indiana is making of these cases. I put their interpretation into the RECORD so that everyone would have a chance to compare it with the statement the Senator from Indiana is about to make on his own.

Mr. EASTLAND. No; I asked the Senator a question. I asked him if his figures on Judge Carswell's reversals in the colloquy with the distinguished Senator from Louisiana were not compiled by the Ripon Society.

Mr. BAYH. The figures that I had were figures that were established long before the Ripon Society report was published.

I appreciate the fact that our chairman is adding his thoughts to the matter.

Mr. EASTLAND. Anyway, the figures given by the Senator were misleading.

Mr. BAYH. I respectfully suggest that I do not think they are misleading at all. What the figures were designed to do was to try to give us some feeling for Judge Carswell's ability to wrestle with the interpretation of the Constitution and the law of the land as compared to various cases that came before him.

The matter of the circuit court, and, indeed, the Supreme Court deciding new law is a matter that confronts all judges, but I think some rather interesting comparisons can be made.

The average rate of reversal for all judges throughout the country is 20 percent. In other words, the average Federal district judge is going to be reversed 20 percent of the time. In the fifth circuit, the average percentage of reversal is 24 percent of the time. But, interestingly enough, Judge Carswell was reversed by the fifth circuit 59 percent of the time—about 2.5 times the average reversal rate can be attributed to Judge Carswell, as compared to all of the other district judges in the fifth circuit.

Mr. EASTLAND. That is exactly what the Senator said, and that is exactly where my friend put his foot in it.

Mr. BAYH. I hope my chairman will help me pull my foot out of it, then.

Mr. EASTLAND. In a majority of those decisions, when they were made by Judge Carswell, he was applying what the fifth circuit had said the law was.

Mr. BAYH. Would my chairman——

Mr. EASTLAND. Wait just a minute, now. To the facts in the case; and when the case got to the fifth circuit for decision, they had changed the law.

Then the Wechsler case went on to the Supreme Court of the United States, and they overruled the fifth circuit and said Judge Carswell was right.

Mr. BAYH. Is my distinguished chairman, who is such an ardent student of the fifth circuit, suggesting that the fifth circuit is changing the law relative to just those cases in which Judge Carswell sits?

Mr. EASTLAND. The Attorney General of the United States told me one time that the fifth circuit was the most liberal circuit in the United States. I know some of the judges change the law as they desire.

Mr. BAYH. The question I was trying to develop was that I am not quite willing to accept the glowing plaudits that the Senator from Mississippi gives to the fifth circuit relative to their philosophy. But, given that case, does the Senator feel they are more liberal in dealing with Carswell cases than they are in dealing with cases of all the other judges in the district? Why is it, if that is the case, that they reverse Carswell twice as often as the average of any of the other judges in the fifth circuit?

Mr. EASTLAND. What is the basis of the figures?

Mr. BAYH. The basis is the total numbers of reversals in the fifth circuit.

Mr. EASTLAND. I say, what is the basis of those figures?

Mr. BAYH. Looking at the cases and the number of times his decisions were reversed.

Mr. EASTLAND. Who compiled them?

Mr. BAYH. The Library of Congress.

Mr. EASTLAND. I have just explained it in simple justice to Judge Carswell. In most of those cases, when he rendered a decision, his decision was in line with the way the fifth circuit had interpreted the law. They had decided otherwise when the case got to the fifth circuit.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HRUSKA. Numerically, how many cases are involved? Does the Senator have that information?

Mr. BAYH. That will be in the RECORD with the entire Ripon Society paper. The Senator from Nebraska, inasmuch as he is a strong supporter of the distinguished nominee, perhaps has a better idea of how many cases he sat on than I do.

Mr. HRUSKA. The Senator from Nebraska has read the record and has his own conception of what the percentage is in which the nominee was sustained and reversed. Here comes a new figure, which I cannot identify. I presume that in due time the Senator from Indiana will put in the RECORD the basis for that statement.

But I should like to call the attention of the Senator from Indiana to this proposition: The judge, when he was district judge, sat in judgment upon and disposed of a total of some 4,500 cases—2,000 civil cases and 2,500 criminal cases. Approximately 100 of them are found in the printed reports of the West Publishing System and in the official reports. A small fraction of a district judge's opinions appear in the printed reports. The fact is that the ultimate decision of reversal or of being upheld does not necessarily indicate the nature of a judge's rulings.

The further fact is, as the Senator

from Mississippi pointed out, that in many of the cases—very likely in most of them—when they were rendered by Judge Carswell they were in keeping with the law of the land, as indicated either by the Supreme Court or by the fifth circuit or by the statutes that governed. There have been some Supreme Court decisions that reversed the Supreme Court itself. There have been cases in which the fifth circuit, which reversed Judge Carswell, was reversed by the Supreme Court.

So when we get into a numbers game, Mr. President, we all know the story, that figures can be used to prove a lot of things. It will be with interest that the Senator will await the production of that list of cases and the number of them.

Mr. BAYH. I think the Senator from Nebraska has helped to substantiate the adage that statistics can be used to prove a number of things, because he is looking at the same statistics the Senator from Indiana is looking at, and we are coming to entirely different conclusions. The figures the Senator from Indiana is referring to are the number of cases that have been appealed; and considering Judge Carswell's cases that have been appealed, the Senator from Indiana arrives at the statistics given in the discussion with our distinguished committee chairman.

Of course, I would be the first to suggest that any circuit court, or the Supreme Court itself, from time to time does change the law. But it seems to me that no court would change the law any more often for one judge than for another, and therefore equally qualified judges should in theory be reversed the same proportion of the time. Interestingly enough, this is not the case with the President's nominee.

Mr. HRUSKA. Mr. President, will the Senator yield further?

Mr. BAYH. I yield.

Mr. HRUSKA. Has the Senator given figures on the criminal cases decided by Judge Carswell that were appealed, and the record thereon?

Mr. BAYH. The Senator has not gotten into the area of criminal cases in detail, although these statistics include criminal cases. He would be glad if the Senator from Nebraska would supply more detail. Perhaps the Senator did that in his remarks today. Unfortunately, I did not hear the Senator's remarks.

Mr. HRUSKA. I had them in my remarks today. On page 319 of the hearings is the list of 36 affirmances in criminal cases decided by Judge Carswell, and only eight reversals. That is a pretty good record, Mr. President.

II. PERSONAL AND POLITICAL BACKGROUND

Mr. BAYH. In 1948, while a candidate for the Georgia State Senate, Judge Carswell delivered an undeniably racist speech. He spoke forcefully of his belief "that segregation of the races is proper and the only practical and correct way of life in our States."

He also said:

> I have always so believed and I shall always so act. I shall be the last to submit to any attempt on the part of anyone to break down and to weaken this firmly established policy of our people.
>
> If my own brother were to advocate such a program, I would be compelled to take issue with and to oppose him to the limits of my ability.
>
> I yield to no man as a fellow candidate, or as a fellow citizen in the firm, vigorous belief in the principles of white supremacy, and I shall always be so governed.

That was 1948, only 22 years ago. I suppose all of us would be somewhat tolerant and hopeful that, with the passage of time, such thoughts and philosophies and ideals might change, hopefully for the better. But I think it is most interesting, in addition to pointing out that that was 22 years ago, to point out what was happening 22 years ago. It was at a time when the national leadership of Carswell's party was attempting to enact President Truman's civil rights program. That was 1948, 6 years before Brown, as Carswell has said in defense of the speech, but 60 years after Plessy against Ferguson had held separate but equal to be the law of the land.

Shortly after the President submitted Judge Carswell's name to the Senate, a reporter uncovered the 1948 speech. It was said, in defense of the judge, that the speech was made in the heat of a political campaign, and, therefore, should be discounted as political rhetoric. Others have advanced the so-called redemption theory, which holds that Judge Carswell indeed spoke of, and might even have believed in, white supremacy in 1948, but what has he said and done since? That is the standard his supporters seek to apply. That is the standard Judge Carswell himself has asked us to apply.

After espousing that standard, Judge Carswell stated unequivocally:

> There is nothing in my private life, nor is there anything in my public record of some 17 years, which could possibly indicate that I harbor racist sentiments or the insulting suggestion of racial superiority. I do not so do, and my record so shows.

I have sought to apply that very same standard, hoping that Judge Carswell's deeds would match his words. I certainly like to believe in the redemption theory. I like to believe that each and every one of us is a bit better today than he was yesterday, and that we will try to be even better tomorrow. But, unfortunately, I found nothing in Judge Carswell's subsequent personal and professional life that would indicate he ever renounced his belief in racial superiority. There is, in fact, throughout Judge Carswell's private and public career a not-too-subtle pattern of conduct that only confirms his 1948 views. He may not have been as eloquent or vociferous in later life, but his private actions, his judicial demeanor, and his incredible record of 17 unanimous reversals in civil rights and habeas corpus cases show him to be as completely and totally insensitive to human rights in the 1950's and 1960's as he was in 1948.

Mr. HRUSKA. Mr. President, will the Senator from Indiana yield for a question?

Mr. BAYH. I yield.

Mr. HRUSKA. Would the Senator consider that Judge Carswell's active participation with a group that founded a law school for Florida State in Tallahassee, in which there was insistence by Judge Carswell upon a completely open policy, that there would be open doors to members of all minorities of all races, colors, and creeds, not only from his State but from the country at large, would that be considered in any way an indication that he still believes as he spoke in 1948, or would it, in all fairness, considering the very high degree and high quality of evidence to the effect that he has repudiated that 1948 statement?

Mr. BAYH. If the Senator could be more specific as to where, when, and how, the Senator from Indiana could perhaps answer that question more intelligently.

Mr. HRUSKA. The remarks I made earlier this afternoon cover the testimony which is in the record, by Prof. James William Moore, sterling professor of law at Yale University, a man with 35 years' experience as a teacher and also of practice. He is a recognized authority. He appeared personally before the Judiciary Committee and testified in regard to his activities as a consultant to this group of founders of the law school at Florida State in Tallahassee, and it was over a sustained period of time that he did that work, free, gratis, in an effort to try to form that college.

He testified on the quality of work that was done and the activities in which Judge Carswell participated. The testimony is there. He did say this during the course of his testimony:

> I was impressed with his views on legal education and the type of school that he desired to establish; a school free of all racial discrimination—he was very clear about that; one offering both basic and higher legal theoretical training; and one that would attract students of all races and creed and from all walks of life and sections of the country. Judge Carswell and his group succeeded admirably.

Then the professor proceeded to describe some of the excellent academic results which flowed from the early years of the university and they have become increasingly successful since.

Mr. President, repeatedly we hear it said that there has been nothing in the record repudiating Judge Carswell's 1948 statement.

I submit that when he repudiated that statement, as he did in open committee hearing, and wrote it in a letter afterward, that this was supplementing a career as a judge and a lawyer in which he has repeatedly repudiated that 1948 speech, not only the law school being formed but his implementing of a jury selection system long before there was a Federal statute on the subject, in which there was an effort made to adopt the program later incorporated into the Federal statute of the 90th Congress for the selection of jurors in a way to get away from racial discrimination. Those two acts helped to put to rest the question of repudiation any of the words and spirit of that 1948 speech.

But some people are so intent upon remaining back in 1948 that they refuse

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to open their minds to the high excellence and quality of evidence of this type. I suggest that for the consideration of the Senator from Indiana.

Mr. BAYH. Mr. President, I ask unanimous consent to have printed in the RECORD the document included on page 294 relative to the Washington Research Project Action Council's assessment of whether this jury system indeed was discriminatory or nondiscriminatory.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection the document was ordered to be printed in the RECORD, as follows:

WASHINGTON RESEARCH PROJECT ACTION COUNCIL MEMORANDUM—FEBRUARY 1, 1970

Re racial discrimination in Judge Carswell's system of selecting persons for jury service.

To: Marian W. Edelman.
From: Richard T. Seymour.

In 1968, Judge Carswell adopted a plan for the selection of persons for jury service in the Northern District of Florida which has resulted in gross racial discrimination in every one of the four Divisions of his district. Moreover, it is clear that this result could easily have been predicted from information available to him at the time. His failure to take action to correct this discrimination is in clear violation of a Federal statute passed several months before he adopted the plan.

On March 27, 1968, the Jury Selection and Service Act of 1968 was enacted.[1] It required a number of sweeping reforms in the methods used by Federal district courts for selecting jurors for grand juries and trial juries. One of the primary goals of the legislation was to ensure that black citizens and members of other minority groups would be fairly represented on grand juries and trial juries in the future.[2]

The Act provides that jury lists shall be compiled by selecting names on a random basis from either lists of actual voters or of registered voters of the political subdivision within the district. But where reliance on only these sources of names will result in the disproportionate exclusion of racial or other minorities, a district court is required by the Act to turn to other sources of names in order to achieve a reasonable cross-section of the community.[3]

The Act requires all Federal district courts to draw up plans showing the exact manner in which lists of potential jurors will be compiled and members of juries selected from the lists. Under the plan ordered into effect by Judge Carswell on September 12, 1968, a grossly disproportionate number of black citizens will, regardless of their qualifications, be excluded from consideration in drawing up the jury lists.[4]

Judge Carswell's plan provides for the selection of names on a random basis from lists of registered voters, and no provision has ever been made for using supplementary sources. In each of the four Divisions of the Northern District of Florida, statistics available to Judge Carswell at the time he adopted the plan show that, compared with the statistics for whites, relatively few black citizens of voting age are registered to vote. Considering the proximity of the counties in the Northern District to Alabama and Georgia, and the pervasive history of voting discrimination throughout this area, the statistics could scarcely have been surprising.

In accordance with the plan,[5] the Clerk of Judge Carswell's court sent out questionnaires to persons on the jury list late in 1968. When the completed questionnaires were tabulated, it was apparent that the system adopted was working in a grossly discriminatory fashion in each one of the four Divisions in the Northern District of Florida. Not even then, however, did Judge Carswell take any remedial action.

GAINESVILLE DIVISION

The Gainesville Division is composed of Alachua, Dixie, Gilchrist, Lafayette and Levy Counties. There were 40,225 white persons and 12,155 nonwhite persons in the voting-age population in 1960, and there were 36,455 registered white voters and 6,296 registered nonwhite voters in these counties in 1968. Assuming that the increases and decreases in voting-age population in these counties since 1960 has been roughly proportional between the two races, 90.6% of the white voting-age population is registered to vote and therefore eligible to serve on Federal juries, but only 58.8% of the nonwhite voting-age population is eligible.[6] More directly, Judge Carswell's plan disqualifies only 9.4% of the whites of voting age from consideration for jury service, but disqualifies 41.2% of the nonwhites.

The results of the official questionnaires sent out and returned to the Clerk of Court show that the racial disparity shown above actually affected the composition of the jury list. 1,468 whites and 199 blacks were selected under Judge Carswell's plan.[7] After deducting the names of those exempt or excused from jury service and the names of those who are unqualified, 1,044 qualified white persons and only 149 qualified black persons were placed on the jury list. If Judge Carswell's plan had used nondiscriminatory sources of names, 415 qualified black persons would have been placed on the jury list.

MARIANNA DIVISION

The Marianna Division is composed of Bay, Calhoun, Gulf, Holmes, Jackson and Washington Counties. There were 65,152 white persons and 13,344 nonwhite persons in the voting-age population in 1960, and there were 55,895 registered white voters and 8,361 registered nonwhite voters in these counties in 1968. Assuming that the increases and decreases in voting-age population in these counties since 1960 has been roughly proportional between the two races, 82.7% of the white voting age population is registered to vote and therefore eligible to serve on Federal juries, but only 62.7% of the nonwhite voting-age population is eligible. More directly, Judge Carswell's plan disqualifies only 17.3% of the whites of voting age from consideration for jury service, but disqualifies 37.3% of the nonwhites.

The results of the official questionnaires sent out and returned to the Clerk of Court show that the racial disparity shown above actually affected the composition of the jury list. 1,698 whites and 181 blacks were selected under Judge Carswell's plan. After deducting the names of those exempt or excused from jury service and the names of those who are unqualified, 1,214 qualified white persons and only 133 qualified black persons were placed on the jury list. If Judge Carswell's plan had used nondiscriminatory sources of names, 249 qualified black persons would have been placed on the jury list.

PENSACOLA DIVISION

The Pensacola Division is composed of Escambia, Okaloosa, Santa Rosa and Walton Counties. There were 130,172 white persons and 22,306 nonwhite persons in the voting-age population in 1960, and there were 104,105 registered white voters and 15,143 registered nonwhite voters in these counties in 1968. Assuming that the increases and decreases in voting-age population in these counties since 1960 has been roughly proportional between the two races, 80.0% of the white voting-age population is registered to vote and therefore eligible to serve on Federal juries, but only 67.9% of the nonwhite voting-age population is eligible. More directly, Judge Carswell's plan disqualifies only 20.0% of the whites voting age from consideration for jury service, but disqualifies 32.1% of the nonwhites.

The results of the official questionnaires sent out and returned to the Clerk of Court show that the racial disparity shown above actually affected the composition of the jury list. 2,256 whites and 262 blacks were selected under Judge Carswell's plan. After deducting the names of those exempt or excused from jury service and the names of those who are unqualified, 1,638 qualified white persons and only 215 qualified black persons were placed on the jury list. If Judge Carswell's plan had used nondiscriminatory sources of names, 315 qualified black persons would have been placed on the jury list.

TALLAHASSEE DIVISION

The Tallahassee Division is composed of Franklin, Gadsden, Jefferson, Leon, Liberty, Taylor and Wakulla Counties. There were 54,620 white persons and 30,679 nonwhite persons in the voting-age population in 1960, and there were 49,692 registered white voters and 15,532 registered nonwhite voters in these counties in 1968. Assuming that the increases and decreases in voting-age population in these counties since 1960 has been roughly proportional between the two races, 91.0% of the white voting-age population is registered to vote and therefore eligible to serve on Federal juries, but only 50.6% of the nonwhite voting-age population is eligible. More directly, Judge Carswell's plan disqualifies only 9% of the whites of voting age from consideration for jury service, but disqualifies 49.4% of the nonwhites.

The results of the official questionnaires sent out and returned to the Clerk of Court show that the racial disparity shown above actually affected the composition of the jury list. 1,643 whites and 413 blacks were selected under Judge Carswell's plan. After deducting the names of those exempt or excused from jury service and the names of those who are unqualified, 1,215 qualified white persons and only 301 qualified black persons were placed on the jury list. If Judge Carswell's plan had used nondiscriminatory sources of names, 682 qualified black persons would have been placed on the jury list.

FOOTNOTES

[1] Pub. L. 90–274, 82 Stat. 53.

[2] Sec. 101 of the Act, codified as 28 U.S.C. secs. 1861 and 1862 provides:

"Section 1861. *Declaration of policy.*

"It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.

"Section 1862. *Discrimination prohibited:*

"No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status."

The House Report further confirms this purpose:

"More important, random selection eliminates the key man system and insures that jurors will be selected without regard to race, wealth, political affiliation, or any other impermissible criterion."

H. Rept. No. 1076, 1968 U.S. Code Cong. & Adm. News 1972, 1974 (footnote omitted).

[3] This provision, codified as 28 U.S.C. sec. 1863 (b), provides in part:

"Section 1863. *Plan for random jury selection:*

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"(b) Among other things, such plan shall—

"(2) specify whether the names of prospective jurors shall be selected from the voter registration lists or the lists of actual voters of the political subdivisions within the district or division. The plan shall prescribe some other source or sources of names in addition to voter lists where necessary to foster the policy and protect the rights secured by sections 1861 and 1862 of this title * * *."

The House Report leaves no room for doubt that this provision is mandatory:

"The bill requires that the voter lists be supplemented by other sources whenever they do not adequately reflect a cross section of the community * * *.

"The voting list need not perfectly mirror the percentage structure of the community. But any substantial percentage deviations must be corrected by the use of supplemental sources * * *."

H. Rep. No. 1076, 1968 U.S. Code Cong. & Adm. News 1792, 1794.

[4] A copy of Judge Carswell's plan has been attached as Appendix A. There have never been any modifications of the plan attached. Although the Act was approved on March 27, 1968, it would be unfair to criticize the delay between that date and the adoption of this plan, since sec. 104 of the statute only required that a plan be in effect by December 22, 1968. The drawing of names for the jury list was actually carried out in November.

[5] See the plan, Appendix A, at pp. 4–5.

[6] These statistics are taken from Tables A and B below.

[7] The Clerk included in his tabulation only questionnaires returned by December 23, 1968. The vast majority had been returned by that time. The Clerk's office informed me that they considered the persons who failed to designate their race in the questionnaire as having the same racial proportion as those who did designate their race. Only those who did designate their race have been included in the figures used in this memorandum.

A tabulation of these results for each Division has been attached as Table C.

TABLE A.—1968 VOTER REGISTRATION STATISTICS FOR THE 22 COUNTIES IN THE NORTHERN DISTRICT OF FLORIDA[1]

County	1960 voting-age population		Registered voters, 1968		Percentage of the voting-age population who are registered voters	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Alachua	30,555	9,898	25,534	5,081	83.6	51.3
Bay	31,940	4,964	22,747	3,033	71.2	61.1
Calhoun	3,434	582	3,674	366	100+	62.9
Dixie	2,138	363	2,981	396	100+	100+
Escambia	76,688	18,041	59,511	12,593	77.6	69.8
Franklin	3,186	779	3,477	531	100+	68.2
Gadsden	11,711	12,261	6,655	4,610	56.8	37.6
Gilchrist	1,513	154	1,855	86	100+	55.8
Gulf	4,196	1,138	3,861	693	92.0	60.9
Holmes	6,131	249	6,465	179	100+	71.9
Jackson	14,087	5,390	11,349	3,207	80.6	59.5
Jefferson	2,383	2,600	2,410	1,494	100+	57.5
Lafayette	1,536	152	1,791	138	100+	90.8
Leon	28,241	12,322	36,599	6,902	94.2	56.0
Levy	4,483	1,568	1,294	595	95.8	37.9
Liberty	1,525	240	1,940	211	100+	87.9
Okaloosa	30,816	2,097	23,569	1,073	76.5	51.2
Santa Rosa	14,710	1,082	13,186	726	89.6	67.1
Taylor	5,454	1,724	5,961	1,090	100+	63.2
Wakulla	2,120	753	2,650	694	100+	92.2
Walton	7,958	1,086	7,839	751	98.5	69.2
Washington	5,364	1,021	5,799	883	100+	86.5
Total for northern district	290,169	78,464	244,147	45,332	84.1	57.8

[1] All figures in this table, except the totals, have been taken directly from Voter Registration in the South: Summer 1968, a publication of the voter education project of the Southern Regional Council. The pages from which this information has been taken, and the pages with explanatory notes, have been duplicated and attached. I have prepared the totals myself.

TABLE B.—1966 VOTER REGISTRATION STATISTICS FOR THE 22 COUNTIES IN THE NORTHERN DISTRICT OF FLORIDA[1]

County	1960 voting-age population		Registered voters (October 1966)		Percentage of the voting age population who are registered voters	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Alachua	30,555	9,898	25,595	6,216	83.8	62.8
Bay	31,940	4,964	23,587	3,345	73.8	67.4
Calhoun	3,434	582	4,007	390	100+	67.0
Dixie	2,138	363	2,778	370	100+	100+
Escambia	76,688	18,041	59,197	13,574	77.2	75.2
Franklin	3,186	779	3,423	533	100+	68.4
Gadsden	11,711	12,261	6,557	4,620	56.0	37.7
Gilchrist	1,513	154	1,833	88	100.0	57.1
Gulf	4,196	1,138	3,681	712	87.7	62.6
Holmes	6,131	249	6,406	196	100+	78.7
Jackson	14,087	5,390	11,485	3,525	81.5	65.4
Jefferson	2,383	2,600	2,470	1,628	100+	62.6
Lafayette	1,536	152	1,778	102	100+	67.1
Leon	28,241	12,322	25,856	7,331	91.6	59.5
Levy	4,483	1,568	3,910	613	87.2	39.1
Liberty	1,525	240	2,088	177	100+	73.8
Okaloosa	30,816	2,097	24,140	1,349	78.3	64.3
Santa Rosa	14,710	1,082	13,281	765	90.3	70.7
Taylor	5,454	1,724	5,393	974	98.9	56.5
Wakulla	2,120	753	2,684	602	100+	79.9
Walton	7,958	1,086	7,909	862	99.4	79.4
Washington	5,364	1,021	5,641	867	100+	84.9
Total for northern district	290,169	78,464	243,699	48,839	84.0	62.2

[1] All figures in this table, except the totals, are a matter of public record. The statistics showing the 1960 voting age population are taken from the 1960 census. The statistics showing the number to registered voters are as of Oct. 8, 1966, and are taken from the "Tabulation of Official Votes Cast in the General Election, Nov. 8, 1966," compiled by Tom Adams, Florida's Secretary of State. These figures and accompanying notes are reprinted in a May 1968 report of the U.S. Commission on Civil Rights, "Political Participation," at 230–233. Only persons registered as Democrats or as Republicans were included in Mr. Adams' compilation. I have prepared the totals myself.

TABLE C.—RESULTS OF QUESTIONNAIRES MAILED BY THE CLERK OF THE NORTHERN DISTRICT OF FLORIDA TO THE PERSONS ON THE JURY LISTS OF THE FOUR DIVISIONS OF COURT[1]

	White	Black	Failed to designate race
GAINESVILLE DIVISION			
Persons exempt from jury service	129	14	41
Persons excused from jury service at their request	83	18	15
Persons unqualified for jury service	212	18	62
Persons qualified for jury service	1,044	149	117
Total questionnaires returned	1,468	199	235
MARIANNA DIVISION			
Persons exempt from jury service	106	5	41
Persons excused from jury service at their request	129	16	29
Persons unqualified for jury service	249	27	55
Persons qualified for jury service	1,214	[2] 133	118
Total questionnaires returned	1,698	181	243
PENSACOLA DIVISION			
Persons exempt from jury service	153	6	45
Persons excused from jury service at their request	126	3	17
Persons unqualified for jury service	339	38	125
Persons qualified for jury service	1,638	215	125
Total questionnaires returned	2,256	262	312
TALLAHASSEE DIVISION			
Persons exempt from jury service	131	31	46
Persons excused from jury service at their request	106	31	17
Persons unqualified for jury service	191	50	65
Persons qualified for jury service	1,215	301	142
Total questionnaires returned	1,643	413	270

[1] This information was given to me by the office of the clerk of court for the Northern District of Florida, in a telephone conversation January 30, 1970.

[2] Includes 1 Indian.

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Mr. BAYH. I appreciate the fact that the distinguished Senator from Nebraska has brought this matter of the law school into the record for the second time today. I think it bears on our deliberations. Perhaps it would be even more informative if the Senator could provide the same degree of description as to the judge's charter of the Florida State Boosters Club, which was a white-only organization supporting a public institution. Here we have a man who has been a Federal district attorney, a Federal district judge, and an appellate court judge, but I have yet to see one speech that this nominee made in public asserting that he did not believe what he said in 1948.

Now can the distinguished Senator from Nebraska give me one sentence disaffirming this terrible statement made back in 1948?

Mr. HRUSKA. The committee has taken the official view:

> Unless the committee were to adopt the proposition that all political candidates are to be forever held to every sentiment which they express during an election campaign, this speech delivered more than 20 years ago provides no basis for recommending against confirmation of Judge Carswell. The committee is satisfied, both by his own statement, and by his public career spanning the years from 1953 to the present time, that he has long since abandoned the notions which he expressed in his 1948 speech.

That language is found on page 3 of the committee report.

When a man makes a speech in 1948, Mr. President, and it could be in the campaign of 1958 as well, or at any time, and it is clearly wrong, does he have to get up at stated periods each week, or each month, and mount a soapbox or a stump, and proclaim to all the world that he made a speech back there in 1948, that he repudiates it and is no longer bound by it, and now has reason to hope that salvation will come his way?

Is that the way speeches are repudiated? Or is it by official act and career?

Former Gov. Leroy Collins testified:

> Judge Carswell, gentlemen, is no racist. He is no white supremist. He is no segregationist. I am convinced of this and I am sure that most if not all of you are.

Mr. President, what does Governor Collins base that statement on, and his estimate of this man that he testified he has known ever since he moved to Tallahassee? He reaches the deliberate conclusion that this man is no racist, then we have such programs as the founding of the law school and the initiation and implementation of the jury selection system long before there was the compulsion of a Federal statute. But those things are completely ignored. There is a grubbing around in the year 1948, when the temper of the times was completely different than it is now, a temper which has been completely rejected, orally and expressly, as well as by the life and the deeds of this man.

I say, let us put that down. Let us put that down as an argument. It is not fair. It does not even make sense. The official position taken by the committee is that unless we want to hold every politician to every statement that he makes forever and a day, regardless of what he says and does after that, this is going to be considered as a factor which will disqualify the nominee.

Mr. BAYH. I appreciate the position of my good friend from Nebraska. Of course, to quote the statement in the committee report as gospel completely ignores the fact that four members of the committee took strong issue with it. So, I think that the Senate itself will have to decide whether the basis on which the committee reached its determination is valid or not. But, Mr. President, as I said a moment ago, I believe in the theory of rehabilitation, or whatever we might call it. I believe that it is possible for someone to say something today that he regrets tomorrow or will change his mind on. The Senator from Indiana, when he was running for the legislature back in 1954—I do not remember everything I said—but I know that nothing I said ever approximated the type of statement that this nominee made back in 1948.

I will not read that statement again. But it is so contrary to everything that I believe in and to everything I think most Members of the Senate believe in that I cannot suggest in a cavalier manner that it should be ignored since it was 22 years ago. I have to look carefully.

I am glad to have the thoughts of my friend as to the establishment of the law school. But then I am faced with the establishment of the white only booster club and with the chartering of the white only golf club intentionally designed to avoid the Supreme Court holding.

I think the Senator from Nebraska and I can disagree. But I do not think it is unreasonable to suggest the impact of a statement such as this made back in 1948, never publicly repudiated by a man holding public office—a man who has made speeches over a large part of this country—and never refuted until the man is nominated for the Supreme Court.

I do not think it is totally unreasonable to suggest that this repudiation might be a little self-serving.

Mr. President, I yield to my friend, the Senator from Michigan.

Mr. HART. Mr. President, as the Senator from Indiana has pointed out, there are many reasons assigned by those who oppose the nomination as a basis for our opposition.

Some may be convinced that each alone is persuasive. Others may feel that some of the assigned reasons are not reasons at all.

Others who oppose the nomination do so on the basis that the accumulation of reasons forces us to the conclusion that the nominee is not the distinguished, gifted person whom we should seek for the Supreme Court.

On this one point concerning what force should be assigned to the white supremacy statement of 1948, I confess that I am troubled as to what conclusion we should draw and to what extent we should assign this one incident as the principal objection. Or should we go beyond that and say that a statement such as this estops any man in these times from Senate approval for any position? Or at the other extreme should we, as the Senator from Nebraska suggests, recognize that each of us in our day has said things that were either foolish or wrong and that each of us seeks to be given the opportunity of reparation and rehabilitation, through a change of mind and position?

We can debate that as white Americans. But what if one were a black American? We have a responsibility to evaluate the judgment of black Americans on our action and their future attitude toward this Court.

I do not know who it was, but some gifted mind in this country years ago wrote something that went something like this, and I regret that this is a paraphrase, "What we are today is a part of what we were; and what we will be is a part of what we are."

Part of this man was a public promise that he would always believe in white supremacy.

We must try to empathize with the feelings of black Americans. Let us assume that the man was being nominated to the office of justice of the peace. Let us assume that the Senator was a white lawyer who was interested in assuring the elimination of inequity and injustice in this community.

Let us assume that the Senator realized that it was more likely that injustice could be eliminated through the process of the law than by violence against the system. If a militant black in the community engaged the Senator to represent him, the Senator would try to persuade him to stay within the system, to go to court, and get this thing corrected.

The client would say, "Who is the judge?"

The Senator would tell him, and he would say, "That man told me what he thought of me 18 years ago." Nonetheless, the Senator would get the client to agree to go to court.

Suppose that the rules of law were applied with eminent professional precision and that, as far as the Senator could see, the verdict against him and his client was soundly based, does the Senator think that he could really convince that black client that it was a decision made at the hands of a just man?

This is something that I think troubles many of us. I do not say that I am yet prepared to assert that that statement should bar a man from high office per se, but the Senator from Indiana is perfectly correct in raising it early in the debate so that we can each answer it in our own light.

Is this the man in the year 1970 who should be on the Supreme Court to whom we will point as a symbol of the progress made under law?

This is a delicate kind of think to talk about. And I am not comfortable about it. But it is something that everyone, when the roll is called, will have to include in his yea or nay vote.

Mr. HRUSKA. Mr. President, will the Senator yield to me so that I might ask a question of the Senator from Michigan?

Mr. BAYH. Mr. President, I will be glad to yield to the Senator from Nebraska in a moment. However, I first want to respond to the Senator from Michigan.

I have tried to make it clear that I am willing to accept at face value the judge's feelings as of this moment. But I really feel an obligation to do a little double-checking as a result of that decision made back in 1948. It waves as a red flag and invites me to look closer and see if the judge really has evolved in his thinking on this very important matter.

That is why I got into the discussion with my friend, the Senator from Nebraska, over this matter of the covenant. It is the pattern of things that convinces me as of this moment—and perhaps the Senator from Nebraska can convince me that I am wrong—but the pattern of public and judicial conduct and association do not indicate to me that the nominee has changed.

Mr. President, I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, it was with interest that I listened to the question concerning how we could make the black man feel that he would be treated honestly and fairly as outlined by the Senator from Michigan.

Let me pose a question that entered the minds of millions of Americans when the Senate considered the nomination of Judge Thurgood Marshall to be a Justice of the Supreme Court, a man admittedly possessed of bias and prejudice and great advocacy for the cause of the black man.

He did it well as an advocate. He carried 31 cases to the Supreme Court and won 29 of them—a pretty good record.

There were grounds for many white people to say, "My goodness, how can we look to that Court for justice, if we have a problem before the Court with a man like that sitting in judgment on a problem involving the rights of white people as opposed to rights asserted by some members of the minority?"

We bridged that situation. This Senator voted to report out of committee the nomination of Thurgood Marshall; and this Senator voted to confirm the nomination of Thurgood Marshall. There were not any misgivings about it. I will tell the Senator why. Before that nominee went out of the room he was asked, "Judge Marshall, can you be fair in lawsuits brought before you as a member of the Supreme Court, fair to the point that you will be rendering decisions on the basis of the law and the evidence, regardless of the color of a man's skin, whether black or white, and whether he is from the North, the South, or any other place?"

The judge said, "Yes, I can and I will be fair." That is where the matter ended.

That is not the situation now. Now, there is a man accused but not proven to be possessed of bias and prejudice; the man's record is frankly good on matters involving civil rights law. But even if it were granted for argument that he had a bias the other way, what would be wrong with that? It is wrong in the one case but it is not wrong in the other case. That is a double standard.

If there is any doubt in the minds of people, I say there is no objection to bias and prejudice for a nominee to the Supreme Court for some people, provided it is in the right direction; provided there is advocacy for this great civil rights revolution of the last 10 years—that is what one Senator said; he said, "I object to him because he is not an advocate of the great civil rights revolution."

Mr. HART. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Michigan?

Mr. BAYH. I yield.

Mr. HART. Mr. President, I think all of us appreciate the comment made by the Senator from Nebraska. I am not sure it is on all fours. Our population is 200 million people; the black population is 20 million people. I am not at all sure we can suggest an analogy, given the circumstance and history of this country, and I am not at all sure that there was ever assigned to Thurgood Marshall the statement that he would always be guided by black supremacy, but this man has said, "I yield to no man in the firm and vigorous belief of white supremacy," and he said, "I shall always be so governed."

I suggest that when the minority member goes to court to present a grievance to that man, that theoretical guardian, he might say, "He told me what he thought of me 18 years ago, and it is in black and white."

Another distinction between the nominee and Thurgood Marshall is in the record of the man as a lawyer. As the Senator from Nebraska said, Thurgood Marshall was, indeed, a distinguished member of the American bar. If my recollection serves me correctly, there were only two other men at the bar in America who had been so brilliantly successful in their arguments before the Supreme Court. Thurgood Marshall is a man of distinction. White lawyers can share in the pride at seeing this man and that record. We envy him. None of us has those litigating credentials. That is another distinction between the nominee and Thurgood Marshall.

That is what we should be in search of for the Supreme Court today. Surely, each of us can agree there should be some recognition that a nominee is among the most distinguished candidates available.

We do not seek to put on the Court nine men who, as a whole, represent the ratio of adequacies and inadequacies of our society. We should look at the qualifications of the nominee. Here again the Senator from Nebraska and I disagree.

I think the Senator from Indiana states it well in his second paragraph when he says:

> The Carswell nomination involves a question of judicial competence and professional distinction.

We are getting off the question as to how we should treat the pledge of 1948 that he shall always be governed by the principle of white supremacy. It was not all right to say that 18 years ago merely because the Supreme Court had not yet handed down the Brown against Board of Education case; the doctrine of white supremacy has been unconstitutional for 100 years. The 14th amendment settled that. That was as wrong in 1948 as it would be today.

Mr. HRUSKA. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield?

Mr. BAYH. I yield.

Mr. HRUSKA. If we are going to say we look at the quality of the man and we are going to do it here on the floor of the Senate, then we are invading the province of the man who appoints. The appointing power is different than advising and consenting. If the Senate is going to go into the business of saying that each one of us here, 100 strong, is going to have his own idea of quality, we would be engaging in the business of appointing. That is for the President to decide. The President is the appointing power. The Founding Fathers, and a reading of the Federalist Papers will show, considered whether the Senate should do the appointing. They came to the conclusion that a body of only 26 men could not do the appointing business and that that power should be fixed in the President. Now, we have four times as many Senators as 26. This body does not appoint. There must be someone to appoint, and that is the President. It is for this body to determine the capacity to be a judge, for being learned and experienced in the law, the experience in judging the law, and as a district attorney, and so forth, and decide whether to confirm or not.

But let us not get the business of appointment mixed up with advising and consenting.

Mr. BAYH. If the Senator will bear with us a moment, I must say after listening to the Senator's discussion of the advise and consent authority that I wonder what powers are delegated to this body. It is for the Senate to decide if a man can stand up to the strains of the Court. What does the Constitution mean when it says the Senate is going to advise and consent to the President's nomination? Of course, if one looks at what the Founding Fathers did in the early days, in connection with the Supreme Court nominations from the President, a good number of them were turned down by a Senate controlled by the same party as the President.

I am one Senator, and I trust I am not alone, who is not willing to totally abdicate any authority and responsibility I might have in looking at the qualifications of this man or any man. The Senator from Nebraska brought up the point that we were going beyond the realm of our authority. The Senator from Nebraska brought Thurgood Marshall into the discussion in dealing with the very appropriate reference made by the Senator from Michigan. I think the Senator from Michigan raised an excellent point and the Senator from Indiana would like to know if his friend from Nebraska is aware of any black supremacy statement that Thurgood Marshall made.

Mr. HART. May I interject at this point?

Mr. BAYH. I yield.

Mr. HART. In fairness to the record, to no one's surprise in the hearing on the

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Thurgood Marshall nomination, there was put into the RECORD a speech that a professor of history made at a meeting of political scientists or historians. This was a professor who had assisted in the development of the case that culminated in the Brown decision. He was discussing many aspects of it—the formal, the procedural, the substantive, and the interesting anecdotal; and he stated that, a convivial dinner one night, as these men were associated in seeking to make the strongest possible case to present to the Supreme Court, Thurgood Marshall had jokingly said if he were in power, he would tax the white man for every breath he drew.

Mr. HRUSKA. Would the Senator want the exact words?

Mr. HART. Were they not almost verbatim?

Mr. HRUSKA. They were reasonably accurate. The exact words were:

> When we take over, the whites will have to pay a tax every time they take a breath.

Those are the words taken from the transcript.

Mr. HART. My memory is better than I would have guessed.

The committee then received from the professor in question a full description of the circumstances of that statement, and, not unanimously, but by solid majority, that white committee concluded it had indeed been in conversational jest.

I think when you look back on the history of those who were brought here in chains, down through the postwar experience of the 1870's, 1880's, and then into the early 1900's, that kind of remark is not surprising at all.

Again, I repeat, the difference, on the one issue that we have been discussing now, the pledge to the electorate that he would always be governed by the principle of white supremacy, voiced by a member of the majority group, is a rather serious element which we have to resolve in considering whether this man, at this moment in history, should be one of the nine symbols on the Supreme Court of the United States.

As I did when I interrupted the Senator from Indiana, I am not suggesting that any one of the reasons that are assigned by those of us who are opposing the nomination should be controlling. I am not suggesting to any colleague how he should resolve the question of what you do when you are presented with a nominee who has made that kind of pledge. But that is what it is. That was a pledge made by the judge: "I yield to no man in the firm, vigorous belief in the principles of white supremacy, and I shall always be so governed." I accepted Judge Carswell's statement. I remember asking him, "Did you believe it then or did you just say it?" It was in the heat of a political campaign in Georgia. As I recall it, I think he said, "Well, I think I meant it, but I do not mean it any more. It is repugnant to me."

I am willing to accept that as descriptive of his present attitude, but what do you say to the 20 million blacks? To what extent should we be concerned with their feelings on that kind of speech? We are all part of what we were. That pledge is a part of that nominee.

Mr. BAYH. Mr. President, as I said earlier in this enlightening discussion with the Senator from Nebraska and the Senator from Michigan, this part of the 1948 speech should not be damning from now until the end of time, but some attention should be paid to subsequent acts, interpreted in light of that statement, to see if indeed there has been a change of heart. When that is done, the Senator from Indiana is concerned that there has not been the necessary change of heart.

Judge Carswell has publicly repudiated his 1948 views, true. But that repudiation, coming as it did, only after the speech had been uncovered by a reporter, and obviously jeopardizing his nomination, surely was involuntary. How much significance should we attach to a repudiation 22 years too late, and dictated by circumstances, when the judge's behavior between 1948 and 1970 belie his words.

Four years after the Georgia speech, for example, Carswell was actively involved in the 1952 presidential primary in Florida. The Carswell forces centered their attack on the Fair Employment Practices Act and the campaign, by all accounts, was marked by racist overtones. As a study of the 1952 primary in northern Florida reported, the campaign was "against FEPC and for white supremacy." The extent to which Carswell was a leader in this effort remains undetermined, but the fact that he was an active participant is undeniable.

George Harrold Carswell was appointed U.S. attorney for the northern district of Florida on July 11, 1953. Some 5 months later, on December 16, 1953, a charter for the Seminole Booster, Inc., a nonprofit corporation, was approved by the Florida circuit court for Leon County. The Seminole Boosters charter was prepared in the law offices of "Carswell, Cotton and Shivers." George Harrold Carswell was not only one of 11 incorporated subscribers and charter members, his name appeared on the notarized affidavit—an affidavit in which the facts as stipulated in the charter were sworn to as being truthful. Article III of the Seminole Boosters charter holds that "the qualifications and members shall be any white person interested in the purposes and objects for which this corporation is created." George Harrold Carswell, according to the testimony of his former law partner, Douglas Shivers, personally drafted that charter.

On November 7, 1955, the U.S. Supreme Court ruled that the city of Atlanta's refusal to permit Negroes to use municipal golf facilities was in direct violation of the 14th amendment's guarantee of equal protection and ordered the city to desegregate the golf course by making it available to Negroes. *Holmes* v. *City of Atlanta*, 350 U.S. 879 per curiam. By Christmas of 1955, Negroes were playing golf on Atlanta's municipal course and a series of suits, throughout the South, were instituted to desegregate municipal recreational facilities. One such suit was Augustus against City of Pensacola, filed in the northern district of Florida—the same district in which Judge Carswell was then serving as U.S. attorney.

Ingenious local officials in Tallahassee who were seeking to avoid litigation and the necessary desegregation of municipal facilities, obviously, thought that by turning over such facilities to private groups they would be removed from the purview of the 14th amendment's guarantee of equal protection. In December 1955, for example, at a meeting of the Tallahassee City Commission the question was raised—and hotly debated—about leasing the municipal golf course to the Tallahassee Country Club, a private corporation. A front-page story in the Tallahassee Democrat, February 15, 1956, at the time the transfer was finally approved by the city commissioners, pointed out:

> The action came after a two-month cooling off period following the proposal's first introduction. At that time Former City Commissioner H. G. Easterwood, now a county commissioner, blasted the lease agreement.
>
> He said racial factors were hinted as the reason for the move.

In view of the Atlanta decision by the Supreme Court only a few months earlier and as reported by the only daily newspaper in Tallahassee, it should be obvious that the purpose of transferring the golf course—which was to circumvent the Supreme Court's ruling—was public knowledge. In a sworn affidavit to the Judiciary Committee, also contained in the record, one of Tallahassee's most prominent citizens, Mrs. Clifton Van Brunt Lewis, confirmed the racial implications of the proposed transfer. According to the affidavit, Mr. and Mrs. Lewis were invited to join the country club but—

> We refused the invitation because we wanted no part in converting public property to private use without just compensation to the public—and because of the obvious racial subterfuge which was evident to the general public.

On April 24, 1956, the Capital City Country Club was formed for the specific purpose of acquiring the municipal facilities and operating a golf club on the premises. The certificate of incorporation lists G. Harrold Carswell, who admittedly is not a golfer, as an original subscriber and as a director of the Capital City Country Club. It seems to me that, as the U.S. attorney for northern Florida, Judge Carswell certainly should have been aware of the litigation pending throughout the South in the wake of Holmes against Atlanta and of the efforts to avoid complying with the Supreme Court's ruling by converting public facilities into private property. Could the transfer of the Tallahassee municipal golf course to the Capital City Country Club, following immediately upon Holmes against Atlanta, and in view of the successful suit in nearby Pensacola to open that city's golf course, have been anything but a thinly disguised attempt to avoid desegregating? In my judgment, a contrary opinion would be difficult to comprehend.

The circumstances surrounding the formation of the Capital City Country Club are too obvious to belabor. It was formed to operate a segregated golf

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course on what had been public property and which, under current law, would have had to have been desegregated. As Julian Smith, one of the original incorporators, said when asked about the pressure to desegregate the municipal course, "it was in the back of our minds at the time the transfer was contemplated." "I know I had it on my mind," Smith admitted.

The subsequent history of the Capital City Country Club surely confirms the view that the transfer was an end-run around the Supreme Court. The club was operated on a completely segregated basis—and continues to operate that way even today, though within the last 3 months the first nonwhite guest was admitted.

True, this elaborate scheme to avoid compliance with the Supreme Court's ruling was legal at the time. But I find it particularly disturbing that the U.S. attorney should have been in the forefront of such an effort. We have a right to expect more of our U.S. attorneys—and of Supreme Court nominees. Ingenuity in subverting the Constitution is no recommendation for appointment to the Supreme Court.

In 1963, Judge Carswell's brother-in-law and neighbor, Mr. Jack Simmons, exchanged a piece of swamp land he owned for some shore-front property owned by the Federal Government. Mr. Simmons, in turn, soon conveyed the property to Mrs. Carswell, but added to the deed a restrictive covenant that prohibited transfer of the land to Negroes. The Carswells sold the land in 1966, with the judge signing the deed—and the deed including not merely the covenant but a provision calling for the enforcement of the restriction.

This land transaction, I want to remind my colleagues, took place during Judge Carswell's tenure on the Federal bench. It occurred, moreover, more than a decade and a half after the U.S. Supreme Court in *Shelley* v. *Kraemer*, 334 U.S. 1 (1948), had specifically ruled that restrictive covenants could not be enforced because they represented a denial of equal protection. Surely, as a Federal district court judge, Carswell was familiar with the Shelley decision. Yet, he personally signed the deed anyway.

III. JUDICAL TEMPERAMENT

As Judge Carswell's personal and political activities give us an insight into his character, so his conduct over a period of 12 years as a Federal judge reveals his judicial temperament and suggests the level of his professional qualifications. On the basis of that record, and we intend to lay the record fully before this body, I believe the Senate will deny confirmation.

Perhaps the most shocking aspect of Judge Carswell's judicial record is his personal antagonism and hostility toward attorneys representing clients in civil rights litigation. Not only were Judge Carswell's decisions in these cases out of step with existing precedent—as I shall note in a moment—but Judge Carswell has been clearly hostile and antagonistic to these lawyers and their clients even in his courtroom conduct.

Prof. Leroy Clark of New York University, who spent 6 years supervising civil rights litigation in the South, called Judge Carswell "insulting and hostile" and "the most hostile Federal district court judge I have ever appeared before with respect to civil rights matters." He said that Judge Carswell had on at least one occasion turned his chair away in the middle of an argument. He and other witnesses told the Judiciary Committee of occasions on which Judge Carswell deliberately disrupted arguments while according every courtesy to opposing counsel, shouted at black lawyers, and harassed and attempted to intimidate young civil rights lawyers inexperienced in courtroom procedures.

One of the most surprising acts of judicial hostility involved nine clergymen arrested in the Tallahassee airport restaurant in 1961. They asked for a writ of habeas corpus from Judge Carswell's court, and the writ was denied. On appeal, the fifth circuit ordered the judge to hold a hearing on the case immediately, if the State court did not do so. Judge Carswell, in the presence of the attorney for the nine imprisoned clergymen, then told the city attorney prosecuting the case that "If you go ahead and reduce these sentences, then there will be no hearing. There will not be anything. It will be moot." On Judge Carswell's advice, this is precisely the action that was taken—over the objection of the clergymen, who wanted their claims decided on the merits so that their records could be cleared. As the State court judge told them, when he denied them the opportunity to vindicate themselves, "Now you have got what you came for. You have got a permanent criminal record."

The full range of Judge Carswell's judicial temperament is even more clearly revealed in the bizarre chain of events arising out of the arrest of a group of voting registration volunteers and their imprisonment in the Gadsden County jail. In this case:

First, contrary to controlling precedent in the fifth circuit, *Lefton* v. *Hattiesburg*, 333 F. 2d 280, an illegal filing fee was required by Judge Carswell court before a petition for removal to Federal court was accepted.

Second, when a petition for habeas corpus was filed, Judge Carswell delayed the proceeding by requiring the petition to be resubmitted on a special form, which had been designed for a different class of cases.

Third, the proceeding was delayed further by Judge Carswell's requirement that counsel attempt to secure the signatures of the prisoners, although the attorney's signature was all that could be required under rule 11 of the Federal Rules of Civil Procedure.

Fourth, Judge Carswell told the attorneys representing the civil rights workers that he would try, if at all possible, to deny the petition.

Fifth, when he finally granted the petition, as the law expressly required, he violated 28 U.S.C. 1446 by refusing to have his marshal serve the writ on the Gadsden County sheriff.

Sixth, despite the complexity of the questions posed, without any request from the State, and without affording the civil rights workers any hearing whatever, he remanded the case to the State on his own motion and made possible their immediate rearrest.

Seventh, notwithstanding the congressional grant of a special right of appeal from civil rights remands, he even refused to stay his remand order, a decision promptly reversed by a single judge of the fifth circuit.

When the fifth circuit subsequently considered this case on the merits, it unanimously reversed Judge Carswell. *Wechsler* v. *County of Gadsden*, 351 F. 2d 311 (1965).

Seldom has the Senate heard such a checkered record of judicial action on the part of a Federal judge.

IV. THE QUALITY OF DECISIONS

But, while the Wechsler case may be unusual, or even unique, in the degree of transparent antagonism, there is one way in which it is not the least bit unusual for Judge Carswell. For Wechsler is only one of 17 times when Judge Carswell was unanimously reversed by the fifth circuit in cases involving human rights.

Indeed, the Ripon Society—a group of progressive young Republicans—recently analyzed Judge Carswell's decisions and found that he had been reversed in 59 percent of the appeals in which he wrote published opinions, a rate nearly three times that of other Federal district court judges.

Before analyzing these 17 cases, I believe it is important to make several points about Judge Carswell's record on appeal. In the first place, all of these appeals were to the U.S. Court of Appeals for the Fifth Circuit. The fifth circuit includes the States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas. The judges of this court can hardly be considered northerners or knee-jerk liberals. They are southern colleagues of Judge Carswell, most of them born and raised in these six States, and faced with the same difficult problems of racial integration arising out of the Supreme Court's decision 16 years ago in Brown against Board of Education. These able judges have come to an honorable reconciliation of these problems. They have by and large faithfully applied the law of the land and followed the precedents set before them—often by overruling the decisions of Judge Carswell. Moreover—and unlike the record of Judge Haynsworth, whose decisions were often overturned by split panels—we are talking about 17 reversals of Judge Carswell, each by a unanimous panel of three fifth circuit judges.

One of these 17 is the incredible Wechsler case, discussed above, in which the fifth circuit finally unanimously reversed Judge Carswell's failure to allow removal.

In a second case, *Augustus* v. *Board of Public Instruction of Escambria County*, 306 F. 2d 862 (1962), Judge Carswell earned reversals on each of two separate grounds. He had held that Negro schoolchildren had no standing to seek integration of school teaching staffs, saying that enjoining teacher assignments based on race was like enjoining teach-

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ers who were too strict or too lenient. The effect of Judge Carswell's ruling was to deny these children even a hearing on the question of whether racially discriminatory teacher assignment was unlawful. The fifth circuit unanimously reversed.

In the same case, Judge Carswell had accepted a school desegregation plan in 1961 which merely permitted continued assignment of pupils under Florida's pupil assignment law. Yet the fifth circuit had previously held twice, in both 1959 and 1960, that this law was inadequate to meet the Brown requirement, because it was "administered—in a manner to maintain complete segregation in fact." The fifth circuit unanimously reversed.

After being reversed, Judge Carswell waited 4 months to implement the fifth circuit's decision, then postponed the effective date of the plan for 10 months more.

The third case, *Steele* v. *Board of Public Instruction of Leon County*, 8 Race Rel. L. Rep. 934 (1963), was decided by Judge Carswell 10 months after he was unanimously reversed in Augustus. Again, however, he approved assignments under the pupil assignment law, then three times held inadequate by the fifth circuit. Moreover, he required only token desegregation of one grade per year beginning in 1963, despite the fifth circuit's statement in Augustus that: "If it is too late to integrate for the 1962 year then the plan should provide for such elimination as to the first two grades for the 1963 fall term." Two years after Judge Carswell's 1963 order, the Negro children moved to have him speed up the plan in compliance with subsequent Supreme Court rulings, and he refused even to hold an evidentiary hearing, telling their attorney, "it would just be an idle gesture regardless of the nature of the testimony."

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The fifth circuit unanimously reversed both of Judge Carswell's orders. 371 F. 2d 395 (1967).

The fourth case, *Youngblood* v. *Board of Public Instruction of Bay County*, 230 F. Supp. 74 (1964), came 2 years after the reversal in Augustus. Again, Judge Carswell permitted token desegregation under the three-times disapproved pupil assignment law, and even that was delayed for 16 months. Again, he approved a grade-a-year plan, violating the fifth circuit's then 1-month-old decision in *Armstrong* v. *Board of Education of the City of Birmingham*, 333 F. 2d 47 (1964). Moreover, the plan allowed only for so-called "freedom of choice" transfers and then only during a 5-day registration period and only if parents would come to the superintendent's office during working hours.

Judge Carswell's denials of subsequent motions in Youngblood also violated precedents unmistakably clear at the time of denial. For example, in 1965, when he refused to speed up the grade-a-year plan, such plans had already been clearly held unconstitutional by the third, fourth, sixth, and eighth circuits, and the fifth circuit had held months earlier, in Lockett, 342 F. 2d 225 (1965), that "It was—beyond peradventure that shortening of the transition period was mandatory."

Again, after the Justice Department intervened, seeking to substitute effective methods in place of so-called freedom of choice transfers. Judge Carswell on August 12, 1968, and April 3, 1969, approved "freedom of choice"—all of this contrary to and after the Supreme Court's decision on May 27, 1968, in *Green* v. *County School Board of New Kent County*, 391 U.S. 430. The fifth circuit unanimously reversed, No. 27683, December 1, 1969.

The fifth case, *Wright* v. *Board of Public Instruction of Alachua County*, repeats the story of Youngblood. Again, the fifth circuit unanimously reversed, No. 27983, 1969.

The sixth case, *Due* v. *Tallahassee Theaters, Inc.*, 9 Race Rel. L. Rep. (1963), was a suit seeking desegregation of theaters and alleging a conspiracy between the theaters, the City of Tallahassee, and the sheriff. Judge Carswell dismissed the complaint against the theaters and the city for failure to state a justiciable claim, and granted summary judgment on the sheriff's affidavit denying that there was any conspiracy, thus precluding any evidentiary hearing whatsoever.

The fifth circuit unanimously reversed both of Judge Carswell's actions, 333 F. 2d 630 (1964), stating that "There is no doubt about the fact that the allegations here stated a claim on which relief could be granted, if the facts were proved," and on the issue of granting summary judgment without a trial: "There clearly remained issues of fact to be determined on a full trial of the case."

In the seventh case, *Singleton* v. *Board of Commissioners of State Institutions*, 11 Race Rel. L. Rep. 903 (1964), Judge Carswell had held—in a 99-word opinion—that certain inmates had no "standing" to seek desegregation of reform schools because, before he had rendered judgment, they had been released on conditional parole.

The fifth circuit again unanimously reversed, 356 F. 2d 771 (1966), relying on its own Anderson decision, 321 F. 2d 649 (1963), rendered a year before Judge Carswell's order. The fifth circuit's opinion pointed out that Judge Carswell's approach would preclude any effective effort to desegregate the facilities since the average stay in the reform school was less than the time necessary to fill an action and obtain a court order.

The eighth case, *Dawkins* v. *Green*, 285 F. Supp. 772 (1968), involved Negro civil rights workers alleging that public officials had initiated prosecutions in bad faith to retaliate for civil rights activities and to "chill" their exercise of first amendment freedoms in continuing these activities. The public officials filed affidavits later described by the fifth circuit as "simply a restatement of the denials contained in their answer—they set forth only ultimate facts or conclusions—that they did not enforce the laws against plaintiffs in bad faith." Judge Carswell held that—

> From the *proofs* here, it is clear that there was no harassment, intimidation or oppression . . . and that they are being prosecuted in good faith. . . .

On this basis, he granted a summary judgment for the defendants.

Once more, the fifth circuit unanimously reversed, 412 F. 2d 644 (1969), citing its own preexisting law on summary judgments:

> In summary judgment proceedings, affidavits containing mere conclusions have no probative value.

And in addition to those eight unanimous reversals by the court of appeals, there is at least one other civil rights case in which Judge Carswell has shown himself unaware of the temper of the times—and the law of the land. In *Gaines* v. *Dougherty County Board of Education*, 334 F. 2d 983 (5th Cir. 1964), Judge Carswell was sitting by designation on the fifth circuit while still a district court judge. On appeal from a decision of a Georgia district court, Judges Tuttle and Wisdom ruled that the minimum school desegregation required—10 years after Brown—was the first two grades plus the 12th grade. Tuttle and Wisdom said that if the 12th grade were not desegregated, an entire generation of children would have graduated under Brown without any desegregation.

Judge Carswell, however, dissented, remarking angrily:

> In my view this simply violates the longstanding and wise view that no court should rain down injunctions unless there be some demonstrated factual necessity to insure compliance with the law. (334 F. 2d at 986.)

Surely, 10 years after Brown against Board of Education, this view cannot be sustained.

Each of these cases involves civil rights. But there is another, equally fundamental area of human rights in which Judge Carswell has been no less remiss—in denials of the writ of habeas corpus.

Historically, the writ of habeas corpus, the "Great Writ"—embodied in the Constitution itself—represents one of the most precious safeguards possessed by a free people against abusive and improper governmental confinement. Because the writ often stands as the final judicial guarantee against the tragedy of erroneous imprisonment, each application demands scrupulous attention.

Yet the record reveals that in at least nine cases, involving postconviction relief, Judge Carswell has been unanimously reversed, in almost every case for refusing even to grant a hearing in habeas corpus proceedings or similar proceedings under 28 U.S.C. 2255. In every one of these cases, had petitioners been able to prove what they alleged, they would clearly have been entitled to relief under then existing rulings. Whether this unseemly record is the product of simple callousness, obliviousness to constitutional standards, or pure ignorance of the law, one might only surmise.

I will not elaborate on these cases, because they are all set out in the memorandum attached to the Judiciary Committee report. Moreover, they have much in common—and with terrible consequences. Among the allegations which Judge Carswell would not grant a hearing were charges that a prisoner was unable to waive defenses and enter pleas rationally because of prior mental illness; suffering from mental incompetence at the time counsel was waived; not told of the right to counsel an appeal; involuntarily forced to make self-incriminating statements; not represented by counsel at a crucial hearing; coerced into entering guilty pleas; and denied effective assistance of counsel. In all these cases, the fifth circuit unanimously reversed, ordering Judge Carswell, at least, to provide the minimal guarantee of a hearing before denying such fundamental pleas.

And these are only the habeas corpus cases that were appealed. *Edwards* v. *State of Florida*, N.D. Fla. Crim. Action No. 1271, is a district court case never appealed to the fifth circuit, and thus possibly representative of hundreds of Judge Carswell's unreported actions on habeas petitions. Edwards mistakenly placed the statement "coerced guilty plea" in the wrong blank on his handwritten petition, listing in the proper blank only "denial of appointment of counsel for appeal" and "denial of court records, et cetera, with which to appeal" as his grounds for the writ.

Without holding a hearing, Judge Carswell denied the petition, choosing to ignore entirely the allegation written in the wrong blank—an allegation which, if true, would clearly have entitled him to a writ. Then, incredibly, Judge Carswell denied Edwards a certificate of probable cause for appeal. How many more cases like this might there be?

V. CONCLUSION

Mr. President, all these cases can be interpreted by each Member of the Senate and related as important or insignificant. Of course, it is the right and responsibility of each of us to look at these cases as well as the cases cited by the distinguished Senator from Nebraska in his fine opening remarks. But I am concerned about the picture that all this activity paints of the nominee, Judge G. Harrold Carswell. His words and his deeds, from 1948 until the week of his nomination to be an Associate Justice of the Supreme Court, have been consistently out of step with the direction in which this country must go in providing equal opportunity for all Americans. As I said earlier, he is not a "strict constructionist" at all, in my judgment, but a man reaching out from the Federal bench to foster his segregationist views, both by personal hostility toward the advocates of racial justice and by repeated failure to follow precedent he finds distasteful. A man whose single most distinct judicial trait is an unseeming interest in preventing evidentiary hearings on the merits. What manner of Supreme Court Justice is this?

Some time ago—I think this conclusion is important, and it relates to the remarks of the Senator from Michigan a moment ago—a black militant commented on America in these words:

> For all these years whites have been taught to believe in the myth they preached, while Negroes have had to face the bitter reality of what America practices. It is remarkable how the system worked for so many years, how the majority of whites remained effectively unaware of any contradiction between their view of the world and the world itself.

I do not believe that violence is the way to resolve this contradiction; but all of us must recognize the truth in such a statement. The single most pressing issue of our time is the problem of eliminating the unconscionable gap between what we preach and what we practice.

A hundred years ago, in the 14th amendment, we embodied in the Constitution itself the concept that all Americans are entitled to equal protection of the laws. Only in the past 20 years have we begun to put flesh and bones on the 14th amendment—to turn its promise into reality. That task remains unfinished. Until it is finished, until the day every American has truly equal opportunity, we must continue the struggle.

Today a great many alienated Americans seriously question whether our system can and will deal effectively with this crucial problem. Some have decided that the institutions of our society cannot or will not respond. In their view, our institutions must be scorned and eventually pulled down, as the only course to meaningful reform. At the same time, we face the specter of institutional insensitivity, we feel the hand of officials grown disrespectful of the law and the tradition they represent. While the great majority of elected and appointed officials are in tune with these difficult times and are working for progress, a few still seek to undermine the ability of the system to respond effectively to the crisis of confidence we face.

From Selma and Birmingham to Detroit, from Berkeley to Chicago, we have learned the terrible consequences of violence breeding repression and repression breeding violence. We have learned that those masses who might follow the call to violence must be brought back into our society, even if their leaders cannot be.

Some cite the need to bring our alienated minorities into the system solely as a means of quelling revolution. This is not enough. We must bring all Americans into this great effort because America needs their talents, their energies and ideas to help make a great America an even better America. We cannot begin to make the progress we must, unless we can bring these forces fully into the institutional framework of American society. And we will not do that until we make it clear that those in positions of leadership have a deep moral commitment to the concept of social equality. Today, 100 years after the Civil War, we cannot support a policy which will guarantee anything less than full opportunity for all Americans to enjoy all of the rights of American citizenship.

The evidence is persuasive. Judge G. Harrold Carswell lacks such a deep moral commitment to the concept of racial equality. The elevation to the highest court of such a man would serve as an encouraging symbol to those violent extremists who are outside the mainstream of American life and lend credence to their argument that our system cannot, that it will not, act to make freedom and equality for all Americans a reality. It would also serve as an encouraging symbol to all those at that opposite extreme, who would take comfort in this nomination and redouble their efforts to reverse two decades of slow but steady progress. For all of the millions and millions of Americans—black and white—who have worked as tirelessly to achieve that progress, the confirmation of G. Harrold Carswell, as Associate Justice of the Supreme Court would be a sign of retreat.

Mr. President, I do not think the Senate can withhold its advice and consent from a nominee merely because he is not of the stature of Holmes and Brandeis and Cardozo, men whom the President admires. It is not necessary that we should hold Supreme Court Justices to the high standards of other Republican nominees in this century, the standards of Charles Evans Hughes and William Howard Taft and Harlan Fiske Stone, the standards of Earl Warren and John Marshall Harlan and William Brennan and Potter Stewart. But I do not think we can let our standards fall to the low level suggested by the present nominee. Mr. President, the U.S. Senate, the American people, have a right to insist upon a better man—a man in tune with these difficult times, a man committed to justice for all Americans, a man of recognized stature within his profession, a man of measured sensitivity.

Mr. President, this appointment demeans the Court. It demeans the South. It demeans the Nation. It may be good politics, but it is bad government and bad conscience and it would assuredly give us bad law. At a time when millions of black and white Americans are questioning the American dream, and asking us for a clear sign of where we stand on the most crucial issue of the century, this appointment gives them the back of our hand. I hope the Senate will have the courage and wisdom to refuse to advise and consent to this nomination, and await an appointment by the President of a man more suited for the times in which we live.

Mr. HRUSKA. Mr. President, will the Senator from Indiana yield?

The PRESIDING OFFICER (Mr. HUGHES). Does the Senator from Indiana yield to the Senator from Nebraska?

Mr. BAYH. I yield.

Mr. HRUSKA. Am I correct in my recollection that the Senator asked that there be unanimous consent to include in the RECORD a report of the Washington Research Action Council on the jury selection plan?

Mr. BAYH. That is right.

Mr. HRUSKA. I thank the Senator.

Mr. President, I invite attention to the opening sentence of that memorandum which reads:

> In 1968, Judge Carswell adopted a plan for the selection of persons for jury service in the Northern District of Florida which has resulted in gross racial discrimination in every one of the four Divisions in his district. Moreover, it is clear that this result could easily have been predicted from information available to him at the time.

Then the following is a significant sentence:

> His failure to take action to correct this discrimination is in clear violation of a Federal statute passed several months before he adopted the plan.

Mr. President, I ask unanimous consent that there be printed in the RECORD, a copy of the plan. It commences on page

298 of the hearings after the words "Appendix A."

There being no objection, the plan was ordered to be printed in the RECORD, as follows:

PLAN OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA, ALL DIVISIONS, FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968 (Public Law 90–274), the following plan is hereby adopted by this court, subject to approval by a reviewing panel and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

I. APPLICABILITY OF PLAN

This plan is applicable to the Northern District of Florida which consists, by divisions, of the counties of:

(1) The Pensacola Division: Escambia, Santa Rosa, Okaloosa and Walton.

(2) The Marianna Division: Jackson, Holmes, Washington, Bay, Calhoun and Gulf.

(3) The Tallahassee Division: Leon, Gadsden, Liberty, Franklin, Wakulla, Jefferson and Taylor.

(4) The Gainesville Division: Alachua, Lafayette, Dixie, Gilchrist and Levy.

The provisions of this plan apply to all divisions in the district.

II. POLICY

This plan is adopted pursuant to and in recognition of the Congressional policy declared in Title 28, United States Code, as follows:

"§ 1861. Declaration of policy

"It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.

"§ 1862. Discrimination prohibited

"No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status."

III. MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

The clerk of the court shall manage the jury selection process under the supervision and control of the Chief Judge of the District and there shall be no jury commission. The use of the word "clerk" in this plan contemplates the clerk and any or all of his deputies. The phrase "Chief Judge of this district" wherever used in this plan shall mean the Chief Judge of this district, or in his absence, disability or inability to act, the active District Court Judge who is present in the district and has been in service the greatest length of time. Wherever the Jury Selection and Service Act of 1968 requires or authorizes the plan to designate a district court judge to act instead of the Chief Judge, the above definition shall apply and such active District Court Judge above mentioned is hereby designated to act.

IV. RANDOM SELECTION FROM VOTER LISTS AND MASTER JURY WHEELS

Voter registration lists represent a fair cross section of the community in each division of the Northern District of Florida. Accordingly, names of grand and petit jurors serving on or after the effective date of this plan shall be selected at random from the voter registration lists of all of the counties in the relevant division.

The clerk shall maintain a master jury wheel or a master jury box, hereinafter referred to as master jury wheel, for each of the divisions within the district. The clerk shall make the random selection of names for the master jury wheels as follows. There shall be selected for the master jury wheel for each division as a minimum approximately the following number of names:

Pensacola division	3,200
Marianna division	2,450
Gainesville division	2,100
Tallahassee division	2,600

These numbers are as large as they are to allow for the possibility that some juror qualification forms, hereinafter mentioned, will not be returned, that some prospective jurors may be exempt by law or excused, and that some may not comply with the statutory qualifications. The court may order additional names to be placed in the master jury wheels from time to time as necessary.

If the above numbers are less than one-half of one percent of the total number of registered voters for the division, the court concludes that such percentage number of names is unnecessary and cumbersome.

The clerk shall ascertain the total number of registered voters for each division and divide that number by the number of names to be selected for the master jury wheel from that division. For example, if there are 42,751 registered voters in a division that number will be divided by 2,100 producing the quotient of 20. Then he shall draw by lot a number not less than 1 and not greater than 20 and that name shall be selected from the voter registration list of each county in that division along with each 20th name thereafter. Thus, if the starting number is 19, the 39th, 59th, 79th, 99th, 119th, etc., names shall be picked from the registration list of each county of that division.

Each master jury wheel shall be emptied and refilled during the period June 1–November 30, 1971, and each fifth year thereafter.

This plan is based on the conclusion and judgment that the policy, purpose and intent of the Jury Selection and Service Act of 1968 will be fully accomplished and implemented by the use of voter registration lists, as supplemented by the inclusion of subsequent registrants to the latest practicable date, as the source of an at random selection of prospective grand and petit jurors who represent a fair cross section of the community. This determination is supported by all the information this court has been able to obtain after diligent effort on its part and after full consultation with the Fifth Circuit Jury Working Committee and the Judicial Council of the Fifth Circuit. In order to assure the continuous implementation of the policy, purpose and intent of the Jury Selection and Service Act, a report will be made to the Reviewing Panel on or before March 1, 1969, showing a tabulation by race and sex of all prospective jurors, qualified and unqualified, based upon returns of Juror Qualification Forms from a mailing of such forms to 20% of the total number of persons placed in the master jury wheel or 1,000 persons, whichever is greater.

V. DRAWING OF NAMES FROM THE MASTER JURY WHEEL; COMPLETION OF JURY QUALIFICATION FORM

This plan hereby incorporates the provisions of 28 U.S.C.A. § 1864, which reads as follows:

"(a) From time to time as directed by the district court, the clerk or a district judge shall publicly draw at random from the master jury wheel the names of as many persons as may be required for jury service. The clerk . . . shall prepare an alphabetical list of the names drawn, . . . The clerk . . . shall mail to every person whose name is drawn from the master wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk . . . by mail within ten days. If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a form, the clerk . . . shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk . . . within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk . . . forthwith to appear before the clerk . . . to fill out a juror qualification form. . . .

At the time of his appearance for jury service, any person may be required to fill out another juror qualification form in the presence of . . . the clerk or the court, as which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk . . . may be noted on the juror qualification form that transmitted to the chief judge or such district court judge as the plan may provide.

"(b) Any person summoned pursuant to subsection (a) of this section who fails to appear as directed shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance with the summons may be fined not more than $100 or imprisoned not more than three days, or both. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than $100 or imprisoned not more than three days, or both."

VI. EXCUSES ON INDIVIDUAL REQUEST

This court finds and hereby states that jury service by members of the following occupational classes or groups of persons would entail undue hardship and extreme inconvenience to the members thereof, and serious obstruction and delay in the fair and impartial administration of justice, and that their excuse will not be inconsistent with the Act and may be claimed, if desired, and shall be granted by the court upon individual request: (1) actively engaged members of the clergy; (2) all actively practicing attorneys, physicians and dentists, and registered nurses; (3) any person who has served as a grand or petit juror in a federal court during the past two years immediately preceding his call to serve; and (4) women who have legal custody of a child or children under the age of 10 years.

Additionally, the court may in its discretion excuse persons summoned for jury service upon a showing of undue hardship, extreme inconvenience, or other ground of exclusion as set forth in Section 1866 of the Act, for such period of time as the court may deem necessary and proper.

VII. EXEMPTION FROM JURY SERVICE

This court finds and hereby states that the exemption of the following occupational classes or groups of persons is in the public interest, not inconsistent with the Act, and shall be automatically granted: (1) members in active service of the armed forces of the United States; (2) members of the Fire or Police Departments of any State, District, Territory, Possession or subdivision thereof; (3) public officers in the executive, legislative, or judicial branches of the government of the United States, or any State, District, Territory, Possession or subdivision thereof who are actively engaged in the performance of official duties (public officer shall mean a person who is either elected to public office or who is an officer directly appointed by a person elected to public office), and (4) all persons over 70 years of age at the time of executing the jury qualification form.

XUM

VIII. DETERMINATIONS OF QUALIFICATIONS, EXCUSES, AND EXEMPTIONS

This plan hereby incorporates the provisions of 28 U.S.C.A. § 1865, which reads as follows:

"(a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon recommendation of the clerk . . . shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and the alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

"(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, shall deem any person qualified to serve on grand and petit juries in the district court unless he—

"(1) is not a citizen of the United States twenty-one years old who has resided for a period of one year within the judicial district;

"(2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

"(3) is unable to speak the English language;

"(4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

"(5) has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of, a crime punishable by imprisonment for more than one year and his civil rights have not been restored by pardon or amnesty."

IX. QUALIFIED JURY WHEEL

The clerk shall also maintain separate qualified jury wheels or boxes, hereinafter referred to as qualified jury wheel, for each division in the district and shall place in such wheel the names of all persons drawn at random from the master jury wheels and not disqualified, exempt, or excused pursuant to this plan. Each qualification form as called for by section 1864, *supra*, shall bear the number which its addressee bears on the voter list. The clerk shall insure that at all times at least 300 names are continued in each such qualified jury wheel over and above and exclusive of the names of jurors previously drawn from such qualified jury wheel. The qualified jury wheel in each division shall be emptied and refilled with names when the master jury wheel for that division is emptied and refilled.

X. DRAWING OF AND ASSIGNMENT TO JURY PANELS

From time to time the court or the clerk, if so ordered by the court, shall publicly draw at random from the qualified jury wheel or wheels such number of names of persons as may be required for assignment to grand or petit jury panels, and the clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel. These names may be disclosed by the clerk to parties and to the public after said list is prepared and the jurors have been summoned; provided, however, the court may at any time or from time to time order generally, or with respect to any particular term or terms of court, that these names be kept confidential in any case where in the court's judgment the interest of justice so require. (28 U.S.C. § 1863(b)(8)(9))

XI. GRAND JURIES

Two separate and distinct geographic areas of this district are hereby established for the calling of grand jurors, to wit:

(a) Matters within the jurisdiction of the Marianna, Tallahassee, and Gainesville Divisions shall be presented to grand jurors drawn from the qualified jury wheels of each of these three divisions only. A pro-rata, or approximately pro-rata, number of names shall be drawn at random from the qualified jury wheel of each of these three divisions only and those so drawn shall constitute grand juries for those three divisions. Unless otherwise specifically ordered by the supervising judge, as defined in paragraph III, the grand juries for the Marianna, Tallahassee and Gainesville Divisions shall sit at Tallahassee.

(b) Matters within the jurisdiction of the Pensacola Division shall be presented to grand jurors drawn from the qualified jury wheel of the Pensacola Division only.

Court personnel responsible shall proceed to take all action necessary for the implementation of this plan in order that it may be placed in operation on and after December 22, 1968, in accordance with the Jury Selection and Service Act of 1968.

So ordered, this 17th day of July, 1968.

G. HARROLD CARSWELL,
Chief Judge.
WINSTON E. ARNOW,
U.S. District Judge.

I hereby certify that this plan of the Northern District of Florida for random selection of jurors has been formally approved by the Reviewing Panel of the Fifth Judicial Circuit as of September 10, 1968, and that copies hereof have this date been transmitted by mail to The Attorney General of the United States and to the Director, Administrative Office of the United States Courts, respectively.

This 12th day of September 1968.

G. HARROLD CARSWELL,
Chief Judge.

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT REVIEWING PANEL, JURY PLAN

The foregoing and attached plan of the United States District Court for the Northern District of Florida for the random selection of grand and petit jurors in accordance with the Jury Selection and Service Act of 1968, having been reviewed by the Reviewing Panel of this circuit is hereby approved.

Entered for the Reviewing Panel at Houston, Texas, this the 10th day of September, 1968.

JOHN R. BROWN,
Chief Judge.

The following Judges comprised and acted as the Reviewing Panel:

(a) *Fifth circuit judicial council*

John R. Brown, John Minor Wisdom, Walter P. Gewin, Griffin B. Bell, Homer Thornberry, James P. Coleman, Irving L. Goldberg, Robert A. Ainsworth, John C. Godbold, David W. Dyer, Bryan Simpson, Lewis R. Morgan.

(b) *Chief district judge*

G. HARROLD CARSWELL,
Chief District Judge.

Mr. HRUSKA. Mr. President, it strikes me that for any researcher to say that this plan is illegal and that there is a violation of the statute thereby, in the face of the eminent jurists who have studied that plan carefully and matched it up with the statute and who have certified it as complying with the statute, and to come out with a statement of that kind, is certainly effrontery to say the least.

Mr. BAYH. I appreciate the fact that the Senator from Nebraska put that entire plan into the record. It was the intention of the Senator from Indiana—I do not know whether the record will show it—to include from page 294 to page 303 of the hearings, so that both sides of this thing could be made part of the record and everyone can determine it for himself.

I think the Senator from Nebraska knows, and I certainly accord him the knowledge, that although we might differ on the ultimate conclusions, neither one of us would want to try to put something over on the other, or try to give only half the information.

Mr. HRUSKA. Mr. President, I should like to make this added observation. Of course we can differ as to conclusions but we should not differ as to facts. We should try to be fair. This Washington research project action council memorandum is dated February 1, 1970. Nowhere in it is there a word of reference to the fact that the reviewing panel of these eminent members of the fifth circuit court of appeals approved the plan and pronounced it to be, and certified it to be, in compliance with the statute. It seems to me—maybe I am mistaken—maybe I am asking a degree of fairness that is above the capacity of the researcher in the project action council—but in all fairness, attention should be called to the fact that it was so certified.

I am glad that the Senator from Indiana joins me in agreeing that the whole record should be placed in the CONGRESSIONAL RECORD on this debate at this point.

Mr. BAYH. Mr. President, inasmuch as the contention of the memorandum is that the jury selection system has a discriminatory impact, and the memorandum includes several tables and figures and an analysis of the plan, everyone can judge for himself whether the plan is in effect discriminatory.

Certainly I think, as I said a few minutes ago, that it is only fair that all of the information be printed in the RECORD. Then we can let each Senator make this determination for himself. I might also point out that the fifth circuit reviewing panel cited by the Senator approved the plan on September 12, 1968, while the memorandum itself is based on the results of questionnaires sent out by Judge Carswell's court late in 1968. As the memorandum says—at page 295 of the hearings:

> When the completed questionnaires were tabulated, it was apparent that the system adopted was working in a grossly discriminatory fashion. . . ."

So the fifth circuit panel's review is hardly conclusive.

S. 3597—INTRODUCTION OF A BILL TO AMEND TITLE 28, UNITED STATES CODE

Mr. HRUSKA. Mr. President, as in legislative session, I ask unanimous consent to introduce a bill which seeks to amend title 28, United States Code, with respect to judicial review of Interstate Commerce Commission decisions. It is introduced at the request of the Attorney General.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. The bill would modernize the existing judicial machinery for review of decisions of the Interstate Commerce Commission, and is geared to relieve a significant burden on the Federal judiciary. At the same time, the proposal would not alter the Commission's own administrative procedure.

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The existing judicial machinery for review of ICC decisions can be tolerated no longer. In the 1968 fiscal year, 51 three-judge courts were convened throughout the country to review ICC orders. This review represents 30 percent of all three-judge courts impaneled that year.

Mr. President, I refer my colleagues to the letter of transmittal from the Attorney General to the Vice President explaining in greater detail the reasons why this bill should become law. I ask unanimous consent that the Attorney General's letter of transmittal and the text of the bill be printed at the conclusion of my remarks, and that the bill be appropriately referred.

The PRESIDING OFFICER (Mr. HUGHES). The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the RECORD.

The bill (S. 3597) to amend title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes, introduced by Mr. HRUSKA, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 3597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1336(a) of Title 28, United States Code, is amended to read as follows:

"(a) Except as otherwise provided by Act of Congress, the district courts shall have jurisdiction of any civil action to enforce, in whole or in part, any order of the Interstate Commerce Commission, and to enjoin, set aside, annul or suspend, in whole or in part, any order of the Interstate Commerce Commission for the payment of money or the collection of fines, penalties and forfeitures."

SEC. 2. Section 1398(a) of Title 28, United States Code, is amended by deleting ", suspended or set aside".

SEC. 3. Section 2341(3)(A) of Title 28, United States Code, is amended by inserting following "Federal Maritime Commission," the words "Interstate Commerce Commission,".

SEC. 4. Section 2342 of Title 28, United States Code, is amended as follows:

(a) In the paragraph designated "(3)" following the semicolon, strike "and";

(b) In the paragraph designated "(4)," strike the period and insert in lieu thereof a semicolon followed by the word "and";

(c) Add a new paragraph "(5)" as follows:

"(5) all rules, regulations or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title."

SEC. 5. Section 2321 of Title 28, United States Code, is amended to read:

"2321 Judicial review of Commission's orders and decisions; procedure generally; process.

"(a) Except as otherwise provided by an Act of Congress, a proceeding to enjoin, set aside, annul, or suspend, in whole or in part, a rule, regulation or order of the Interstate Commerce Commission shall be brought in the court of appeals as provided by and in the manner prescribed in chapter 158 of this title.

"(b) The procedure in the district courts in actions to enforce, in whole or in part, any order of the Interstate Commerce Commission other than for payment of money or the collection of fines, penalties and forfeitures, shall be as provided in this chapter.

"(c) The orders, writs and process of the district courts may, in the cases specified in subsection (b) and in the cases and proceedings under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat. 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43), run, be served, and be returnable anywhere in the United States."

SEC. 6. The first paragraph of section 2323 of title 28, United States Code, is amended to read as follows:

"The Attorney General shall represent the Government in the actions specified in section 2321 of this title and in actions under section 20 of the Act of February 4, 1887, as amended (24 Stat. 386; 49 U.S.C. 20), section 23 of the Act of May 16, 1942, as amended (56 Stat 301; 49 U.S.C. 23), and section 3 of the Act of February 19, 1903, as amended (32 Stat. 848; 49 U.S.C. 43).

SEC. 7. Sections 2324 and 2325 of title 28, United States Code, are hereby repealed.

SEC. 8. The table of sections of chapter 157 of title 28, United States Code, is amended to read:

"Chapter 157—Interstate Commerce Commission Orders: Enforcement and Review

"Sec.
2321 Judicial review of Commission's orders and decisions; procedures generally; process.
2322 United States as party.
2323 Duties of Attorney General; intervenors."

SEC. 9. The proviso in section 205(h) of the Motor Carrier Act, as amended (49 Stat. 550; 49 U.S.C. 305(g)), is amended by striking "file a bill of complaint with the appropriate District Court of the United States, convened under section 2284 of Title 28" and inserting in lieu thereof "commence appropriate judicial proceedings in a court of the United States under those provisions of law applicable in the case of proceedings to enjoin, set aside, annul or suspend rules, regulations or orders of the Commission".

SEC. 10. This Act shall not apply to any action commenced on or before the last day of the first month beginning after the date of enactment. However, actions to enjoin, set aside, or suspend orders of the Interstate Commerce Commission which are pending when this Act becomes effective, shall not be affected thereby, but shall proceed to final disposition under the law existing on the date they were commenced.

The letter, presented by Mr. HRUSKA, is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed is a proposed bill "To amend Title 28 of the United States Code with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes." The bill would modernize the cumbersome and outdated judicial machinery for review of actions of the Interstate Commerce Commission.

Since Congress adopted the Urgent Deficiencies Act of 1913, orders of the Interstate Commerce Commission, except those for the payment of money, have been reviewed in a United States district court of three judges, at least one of whom is required to be a judge of the court of appeals. The decisions of that statutory three-judge court are then reviewed on direct appeal by the United States Supreme Court. In 1950, Congress enacted the Judicial Review Act (28 U.S.C. 2341 *et seq.*) which transferred to the courts of appeals the jurisdiction of three-judge district courts to review certain orders of the Federal Maritime Commission, the Federal Communications Commission and the Department of Agriculture. Although the Judicial Conference recommended including the ICC among the agencies to which the 1950 statute would apply, the bill as finally enacted did not include the ICC

The existing procedure has imposed a substantial burden on the judiciary which, in this era of mounting caseloads, should no longer be tolerated. In the fiscal year 1968, 51 three-judge courts were convened throughout the country to review ICC orders. This was nearly 30 percent of all three-judge courts empaneled that year, including cases involving serious constitutional, civil rights, and federal-state relations disputes. In fiscal 1966, the 72 three-judge ICC cases represented nearly 45 percent of all cases requiring this special court that year. The number of ICC three-judge cases in each of these years was greater than all the three-judge courts empaneled ten years ago. Many of the judges assigned to these ICC cases—particularly the judges assigned from the courts of appeals—were required to lay aside their regular duties in order to attend these hearings, frequently in distant locations within the circuit because a full complement of three judges was not regularly assigned to the city in which these cases were filed. As far back as 1941, Mr. Justice Frankfurter described the three-judge procedure as "a serious drain upon the federal judicial system particularly in regions where, despite modern facilities, distance still plays an important part in the effective administration of justice. And all but the few great metropolitan areas are such regions." *Phillips* v. *United States,* 312 U.S. 246, 250 (1941).

The burden on the Supreme Court has been comparable. In the 1967 Term, that Court disposed of 16 direct appeals from three-judge courts of decisions reviewing ICC orders. Because of the limited public importance of most of these cases and the large number of cases involving constitutional or other important questions requiring greater attention, the Supreme Court decided all but two of the ICC cases without full briefing and oral argument.

The proposed bill would amend the Judicial Review Act to include the Interstate Commerce Commission within its terms, thereby making ICC orders reviewable in the courts of appeals. To conform other provisions of the Judicial Code to this change, the bill would revise several sections of Title 28 that prescribe the jurisdiction, venue, and procedure applicable to district court review of ICC orders. Appellate review of judgments of the courts of appeals would be to the United States Supreme Court by way of a petition for a writ of certiorari under 28 U.S.C. 1254. By accomplishing this change as an amendment to the Judicial Review Act of 1950, litigants and judges would have the benefit of an established and familiar procedure with a sizeable body of interpretive case law that has served efficiently and with general approval for nearly 20 years.

The change we propose will have several additional desirable consequences. Under present law, multiple suits challenging a single ICC order can be brought at the same time in different locations. The existing venue statute (28 U.S.C. 1398(a)) requires a party to bring suit only in the district in which it resides or has its principal office, and there is no provision for consolidating multiple suits by transferring them into a single district. Serious delay and duplication of effort often result. For example, a major obstacle to expeditious judicial review of the ICC's authorization of the Penn-Central Railroad merger was threatened by separate suits challenging aspects of the merger in New York, Pennsylvania, and Virginia. A serious procedural tangle was averted only because of the cooperation of the judges in Virginia and Pennsylvania in staying proceedings in their courts while the first-filed action in New York was expeditiously heard and decided. See *Penn-Central Merger Cases,* 389 U.S. 486, 497, n. 2 (1968), approving comment of Circuit Judge Friendly in *Erie Lack-*

awanna R. Co. v. *United States,* 279 F. Supp. 316, 323–324 (S.D. N.Y. 1967). The proposed bill would cure this defect by making applicable to such actions the provisions of 28 U.S.C. 2112(a) which require consolidation of all petitions to review an agency order in the circuit in which the first challenge to the order was filed.

A second defect in existing procedure is the absence of any time limitation within which an aggrieved party may challenge an ICC order. Our proposal will make applicable to the ICC the Judicial Review Act provision which requires that a petition for review be filed within 60 days from the date of service of the agency's order.

The shift in jurisdiction to the courts of appeals will ease the procedural and financial burden on private parties challenging ICC orders by requiring the agency, instead of the plaintiff, to file the record of proceedings before the agency with the reviewing court.

The added cost to the government will not be undue, since the new Federal Rules of Appellate Procedure, which govern cases in the courts of appeals, allow the agency to file a certified list of the documents, testimony and exhibits comprising the record rather than reproducing or filing the original papers.

One additional consequence of the proposed legislation would be to permit a quorum of the court of appeals to decide a case challenging an ICC order when one of the assigned judges has become incapacitated. See 28 U.S.C. 46(d). Present law does not include a quorum provision for three-judge district courts, and the Supreme Court has declared that the participation of fewer than three judges in the decision of a case required to be heard by a three-judge district court renders the decision void. See *Ayrshire Collieries Corp.* v. *United States,* 331 U.S. 132 (1947). This becomes a particular hardship in the rare circumstance of the incapacitation or death of a judge after hearing but prior to decision of the case.

In all other material respects, the existing procedure will be retained under the new statute. Actions will be filed against the United States, with the Attorney General managing and controlling the defense of the agency's order. This is in line with existing procedure applicable to the ICC and to agencies already governed by the Judicial Review Act, and simply retains a procedure that was strongly endorsed as critical to the "efficient performance of legal services within the Executive Branch" by the Hoover Commission in 1955. See Commission on Organization of the Executive Branch of the Government, *Report on Legal Services and Procedures,* p. 6 (1955). The ICC will retain its right to participate independently through all stages of judicial review. In addition, the court of appeals will have the same power as do the three-judge courts to issue interlocutory orders to stay the effect of a challenged decision pending review on the merits. The only change would be that applications for interlocutory relief will have to be submitted to a three-judge panel of the court of appeals instead of merely one district judge prior to the empaneling of a three-judge court. In practice, this will not amount to any hardship since comparison applications are routinely referred to a panel of the court regularly assigned to hear motions on an expedited basis.

The legislation also proposes to make specific what is already assumed by litigants and the courts—rules and regulations of the Commission are reviewed in the same judicial tribunal which has jurisdiction to review adjudicated orders of that agency. See *American Trucking* v. *A.T. & S.F.R. Co.,* 387 U.S. 397 (1967). The jurisdictional provisions of existing law make no reference to rules and regulations, even though the procedure and the standards for judicial review of rules and orders differ materially. Despite the practice of the Commission to label the promulgation of a rule as an order, we think parties should not be left with uncertainty as to the nature and jurisdiction for judicial review of the ICC's decisions. For this reason, we propose that the scope of the jurisdiction of the courts of appeals should be made clear by specific statutory reference to rules, regulations and orders, as those terms are defined in section 551 of Title 5, United States Code.

The provisions of existing law repealed by section 7 of the bill apply solely to proceedings by three-judge district courts which would no longer apply in any way to the ICC. The existing jurisdiction and procedure of single-judge district courts as they concern ICC proceedings are in no way altered. However, the language of 28 U.S.C. 2321 making orders, writs, and processes of district courts returnable on a nationwide basis would be eliminated insofar as judicial review proceedings which are being transferred to the courts of appeals are concerned. That language is no longer essential once a 60-day period of limitations is adopted and consolidation of multiple proceedings is required in that court in which the first challenge is filed. However, provision for nationwide process would remain fully in force with respect to those cases remaining in the district courts.

The Bureau of the Budget has advised that there is no obligation to the presentation of this proposed bill from the standpoint of the Administration's program.

Sincerely,

——— ———,
Attorney General.

TRIBUTE TO FREDERICK WOLTMAN

Mr. ALLOTT. Mr. President, America has lost another journalist in the great tradition. I refer to Scripps Howard writer Frederick Woltman, a Pulitzer Prize winner, whose distinguished reporting was respected throughout the Nation.

Mr. Woltman, who passed away March 5 at his home in Sarasota, Fla., was a reporter who took his position seriously and whose record in exposing corruption, enemy infiltration, and political manipulation in Government was nearly unmatched in the 3 decades between 1929 and 1959.

The Washington Daily News of Friday, March 6, 1970, carried an excellent tribute to Mr. Woltman, which details a part of his outstanding journalistic career. Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FREDERICK WOLTMAN, PULITZER JOURNALIST

SARASOTA, FLA., March 6.—Frederick E. Woltman, a superb reporter, died here yesterday.

Fred, who would have been 65 years old today, spent his entire professional career with The New York World-Telegram, a Scripps-Howard newspaper, which he joined in 1929 and from which he retired in 1959. Many of his dispatches ran in the Washington Daily News and other Scripps-Howard newspapers.

He won early professional recognition when he collaborated on a series exposing a real estate mortgage and bond racket, which helped The World-Telegram win the 1933 Pulitzer Prize "for most distinguished and meritorious public service."

In 1934 he won honorable mention from the Pulitzer Prize Committee "for clear, exact and understanding writing in reporting the status of various closed banks in suburban areas of New York after the national (bank) holiday."

EXPOSED INFILTRATION

In 1947 he won the Pulitzer Prize for "distinguished example of a reporter's work" in exposing Communist infiltration into labor unions, educational organizations and church groups. From the middle 1930s until ill health compelled him to retire he was a tireless chronicler of Communist activities, winning a place in the Communist demonology with such mortal enemies of Marxism as FBI Director J. Edgar Hoover. In the litany of abuse heaped on him by various Communist publications for 30 years, "Freddie the Fink" was one of the milder examples.

Until his retirement he lived in Greenwich Village, New York, in an apartment that was a mecca for newsmen, labor union intellectuals, apostate Communists, animal trainers and other circus people, politicians, literary lions of greater or lesser magnitude, and various others undistinguished except as bon vivants, a field in which Fred himself also excelled.

LOVED CIRCUS

Fred's affection for the circus and for circus people was legendary, and the friendships he formed in his lifelong romance with the big tent shows led him to choose Sarasota, the former winter quarters of the Ringling Bros., Barnum and Bailey Circus, as a retirement home.

Fred, who was born in York, Pa., was graduated from the University of Pittsburgh in 1927, and taught philosophy and ethics as a graduate assistant until 1929, when he joined The World-Telegram. He quickly became an expert on Tammany Hall and municipal corruption, and one of his exposés of labor racketeering led to the removal and subsequent conviction of Sam Kaplan, czar of Moving Picture Machine Operators Union, Local 306.

One of his most celebrated journalistic coups took place in 1954, when after three months of painstaking work he wrote a scrupulously documented series on the late Sen. Joseph R. McCarthy. The series, titled "The McCarthy Balance Sheet," arraigned the Wisconsin senator as a "major liability to the cause of anti-communism," and created a storm of controversy. Altho Sen. McCarthy had long been the target of liberal writers, Mr. Woltman's impeccable anti-communist credentials gave his series tremendous impact and is credited with being an important factor in Sen. McCarthy's subsequent downfall.

Mr. Woltman was a meticulous craftsman. His files on the old left were enormous, and offered rich veins of information to be worked by students, fellow reporters and government agencies.

Death was caused by a heart attack. He is survived by his wife, Myra Lehman Woltman. Services are to be private, and the family requests that donations be made to Happiness House, in Sarasota, in lieu of flowers.

FREDERICK E. WOLTMAN

Frederick E. Woltman, longtime Scripps-Howard reporter who died yesterday in Sarasota, Fla., was a newspaperman in the great tradition of Lincoln Steffens. (See obituary on page 50.) To describe him as a prize-winning journalist (he won the Pulitzer as well as a host of other awards) is to attempt to capsule an unrivaled career dedicated to the people's right to know.

His exposures of Communist infiltration into labor unions, educational organizations and other groups won for him lasting celebrity 30 years ago. But even without that capstone, his professional achievements would have earned him an enduring place among the great ones in a difficult calling. He was a master craftsman, and an honest and tireless seeker after the truth.

Mr. ALLOTT. Mr. President, America shall miss Frederick Woltman, his honor, his devotion to his beliefs, his unyielding determination to get at the truth. Mrs. Allott joins me in expressing sympathy to Mrs. Woltman.

THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. ALLOTT. Mr. President, I am sure that Members of the Senate recall that the Congress approved legislation in the fall of 1968 under Public Law 90–542 to provide for a national wild and scenic rivers system.

It was my good fortune and great delight to receive last week a copy of the February 1970 issue of Parks and Recreation, published by the National Recreation and Park Association, containing a most interesting article concerning wild rivers which I wish to bring to the attention of the Senate. The article was prepared by Mr. G. Douglas Hofe, Jr., Director of the Bureau of Outdoor Recreation in the Department of the Interior.

Mr. Hofe reports on the progress being made at the State, local, and Federal levels of government to establish a national wild and scenic rivers system.

Portions of eight rivers—the Clearwater in Idaho, the Eleven Point in Missouri, the Feather in California, the Rio Grande in New Mexico, the Rogue in Oregon, the St. Croix in Wisconsin and Minnesota, the Salmon in Idaho, and the Wolf in Wisconsin—were initially declared by Congress as components of the system.

Twenty-seven other rivers were designated for study by the Department of the Interior and Department of Agriculture for possible future inclusion in the system.

Truly amazing progress has been made by the States in moving to set aside wild and scenic rivers which will be managed by the States and can be included in the national system.

As of February 1970, 12 States have active scenic river programs. Eleven other States are considering legislation to protect and preserve free-flowing rivers. Study groups have been authorized in eight additional States to investigate the feasibility of creating State and local scenic river programs. Many specific action programs are expected to be recommended. Also, seven of the remaining 19 States have identified State rivers which, in their opinion, merit study for possible inclusion in a future stream preservation program.

Mr. President, I ask unanimous consent that the article and summary of State actions by Director Hofe be printed in the RECORD at this point.

There being no objection the article and summary were ordered to be printed in the RECORD, as follows:

WILD RIVERS

(By G. Douglas Hofe, Jr.)

Of the more than three million miles of rivers and tributaries in the United States pouring their waters down to the sea, many have been harnessed for flood control, navigation, hydroelectric power, municipal and industrial water supply and irrigation. Cities, factories and homes have been built on their flood plains. Their banks have become dumping grounds for used and unwanted materials and their waters the recipient of our industrial and municipal wastes. In many ways we have mindlessly destroyed the beauty and purity of these streams. Our affluent society has become an effluent society. It has neglected the very water we drink, as well as the values of fish and wildlife, scenic and recreation resources. President Nixon presented the challenge to conservation when he said:

"Can we have technological progress and also have clean beaches and rivers, great stretches of natural beauty and places where man can go to find the silence and privacy he is unable to find in our increasingly urbanized daily life?

"I say we can have technological advances and natural beauty . . we can have the greatest industrial might in the history of man and have places where man's work seems as distant as the stars."

And Secretary of the Interior, Walter J. Hickel, recently said:

"There is an environmental 'uneasiness' throughout the land—throughout the world. . . . We are our own worst environmental enemy, yet we do not have to be . . . all of our natural resources should be catalogued and inventoried, both in general—and specifically—for various uses, whether for preservation of beauty; or as resources to accommodate people."

Fortunately there are still some rivers which flow wild and free, largely unspoiled by man's handiwork. In October 1968, after some six years of discussion and debate, the Wild and Scenic Rivers Act, P.L. 90–542, became law. That Act established the basic principle that certain selected rivers of the Nation, which, with their immediate environments, possess outstanding remarkable scenic, recreation, geologic, fish and wildlife, historic, cultural, and other similar values, are to be preserved in a free-flowing condition, and protected for the benefit and the enjoyment of present and future generations. The Congress declared: that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

The Wild and Scenic Rivers Act establishes the Wild and Scenic Rivers System composed of eight initial rivers and identifies 27 other rivers to be studied for possible inclusion in the National System. The Act further encourages the inclusion of state rivers into the National System by providing that upon request of the state governor, rivers which have been designated by the state legislature as wild, scenic, or recreation river areas and which meet the criteria set forth by the Congress and any supplemental criteria developed by the Secretary of the Interior, may be protected as part of the National System. In addition, the Act authorized the Secretary of the Interior to provide technical assistance, advice, and encouragement to the states, political subdivisions, and private organizations in their efforts to establish state and local wild, scenic and recreation river areas.

The Act describes a free-flowing river as ". . . any river or section of a river . . . existing or flowing in a natural condition, without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway." For the purposes of this Act, free-flowing was further defined by stating that:

"The existence, however, of low dams, diversion works, or other minor structures at the time any river is proposed for inclusion in the National Wild and Scenic Rivers System shall not automatically bar its consideration."

GUIDELINES FOR INCLUSION IN SYSTEM

Every free-flowing river segment which meets the criteria established by the Act is potentially eligible for inclusion in the National System. Those rivers selected for inclusion in the National System will be classified and managed under one of the following guidelines:

1. Wild river areas.—Those unpolluted rivers or segments of rivers that are free of impoundments, generally inaccessible except by trail, and have essentially primitive shorelines and watersheds. These are vestiges of primitive America.

2. Scenic river areas.—Those rivers or segments of rivers that are free of impoundments, which are accessible in places by roads, but still have shorelines and watersheds that are largely undeveloped and primitive.

3. Recreation river areas.—Those rivers or segments of rivers that have undergone impoundment or diversion in the past, are readily accessible by road or railroad and have some development along the shorelines.

Congress has made it clear that the task of preserving and administering outstandingly remarkable free-flowing streams ". . . is not one that can or should be undertaken solely by the federal government, the states ought to be encouraged to undertake as much of the job as possible. . . ." Congress also identified two rivers which have been protected by action of the states—the Allagash Wilderness Waterway in Maine, and a portion of the Wolf River as it flows through Langlade County, Wisconsin—as potential additions to the National System. These and other rivers similarly protected by state action could be included in the National System with all of the protection afforded to that System and yet remain under state and local control and administration.

STATE SCENIC RIVER PROGRAMS

To date, 12 states have active scenic river programs to enhance the values of free-flowing rivers. Eleven other states are considering legislation to protect and preserve free-flowing rivers. Study groups have been authorized in eight additional states to investigate the feasibility of creating states and local scenic river programs and, in many cases, to recommend a course of action. The remaining 19 states have no specific programs at this time to preserve such river areas at the state level. However, seven of the 19 states have identified state rivers which, in their opinion, would merit study for possible inclusion in some future stream preservation program.

Comprehensive Outdoor Recreation Plans prepared by the states as part of the Land and Water Conservation Fund program consider the need for preserving segments of free-flowing streams. Several such plans have detailed proposals for development of state scenic river systems. Financial assistance under the Land and Water Conservation Fund is available on a 50-50 matching basis to plan, acquire and develop state and local wild, scenic and recreation river areas.

The State of Maine, through a request for Land and Water Conservation Fund moneys, has received to date a $1,250,000 matching grant as part of an estimated $3,000,000 State program to establish the Allagash Wilderness Waterway. Similarly, the Upper Wolf River in Langlade County, Wisconsin, has been preserved as one of that State's wild and scenic rivers through the use of $537,586 from the Land and Water Conservation Fund. Wisconsin also received $181,855 for land acquisition along the Flambeau River. The State of Arkansas used $6,400 from the Land and Water Conservation Fund in the preparation of a Statewide plan for stream preservation as a part of the overall Arkansas Comprehensive Outdoor Recreation Plan.

The Bureau of Outdoor Recreation has been designated to provide assistance and coordinate state and local efforts to maintain and enhance free-flowing rivers. That Bureau also is coordinating a major portion of the study program leading to the addition of rivers to the National Wild and Scenic Rivers System. The Forest Service, Department of Agriculture, has a similar role where national forest lands are involved.

The importance of the wild rivers program at the state and local level is emphasized by the fact that 44 governors have designated personal representatives to work directly with the Bureau of Outdoor Recreation.

The table on this page summarizes the status of state and local wild, scenic and recreation river programs.

The Bureau of Outdoor Recreation in cooperation with the states and other concerned federal agencies is now preparing preliminary guidelines and criteria to evaluate the resources associated with free-flowing river areas which might be recommended for inclusion in the National System.

The Regional Offices of the Bureau of Outdoor Recreation have assembled an up-to-date, nationwide compilation of state and local actions to preserve free-flowing river areas. These offices can provide technical assistance in the creation of state and local river programs. Recommendations for candidates for either the state and local rivers program or for potential additions to the National System will be extremely helpful to the Bureau. At the same time suggestions concerning characteristics which should be used to evaluate free-flowing rivers and their immediate environment will also be appreciated. You should make your views known to your state wild river representative or in the absence of a state representative, to the Bureau of Outdoor Recreation Regional Office in your area.

SUMMARY OF STATE ACTIONS TO ESTABLISH STATE SCENIC RIVER SYSTEMS

State	Drafted	Legislation enacted	Implemented	Nonlegislated programs	Number of rivers [1]	Governor's representative on scenic river programs	Scenic rivers [2]
Alabama		Aug. 7, 1969, resolution.	Designates Little River as wild and scenic river.		11	Joe W. Graham, director, Alabama Department of Conservation.	No.
Alaska				399 miles of scenic canoe trails have been designated.	None	F. J. Kennan, director, Division of Lands	Yes.
Arizona					None	No	Yes.
Arkansas	Yes				34	Harold E. Alexander, Economic Development Program, Office of the Governor.	Yes.
California		1968	California Protected Waterways Act.		35	Paul L. Clifton, Federal resources project coordinator, the Resources Agency.	Yes.
Colorado	Yes			Special ad hoc committee has been established to determine approach State will take toward establishment of State scenic river system.	None	Tom Ten Eyck, executive director, Department of Natural Resources.	No.
Connecticut					3	Joseph N. Gil, commissioner, Department of Agriculture and Natural Resources.	Yes.
Delaware					3	Rudolph F. Jass, director, State Planning Office.	No.
Florida					14	Ney Landrum, Florida Outdoor Recreation Development Council.	Yes.
Georgia		1969	Georgia Scenic Rivers System.		5	George T. Bagby, Game and Fish Commission.	Yes.
Hawaii					None	Dr. Shelley M. Marks, director, Department ment of Planning and Economic Develop ment.	No.
Idaho				Research project to develop methodology for evaluation of wild and scenic rivers in Idaho under contract with University of Idaho.	None	Prof. C. C. Warnick, director, University of Idaho Water Resources Research Institute.	Yes.
Illinois				Department of Conservation has undertaken a study of a portion of the Vermilion River.	1	William L. Rutherford, director, Department of Conservation.	Yes.
Indiana	No legislation needed.			Natural stream preservation program	5	John R. Lloyd, director, Department of Natural Resources.	Yes.
Iowa				State Conservation Department now studying 13 rivers which might compose a future scenic river system.	12	Fred A. Priewert, director Iowa Conservation commission.	Yes.
Kansas				State, with use of Department of Housing and Urban Development "701" funds, now conducting inventory to identify and evaluate potential State scenic rivers.	None	Lynn Burriss, Jr., director, Parks and Resources Authority.	No.
Kentucky				Recently appointed Wild Rivers Commission reviewing streams for inclusion in future system.	50	Frank J. Groschelle, administrator, Kentucky Program Development Office.	Yes.
Louisiana	Yes				34	Lamar Gibson, State Parks and Recreation Commission; Gladney Davidson, Wildlife and Fisheries Commission.	Yes.
Maine		1966	Allagash Wilderness Waterway.		60	Lawrence Stuart, director, State Parks and Recreation Commission.	Yes.
Maryland				Scenic River Review Board established to inventory scenic river sites and recommend legislation.	1	Spencer P. Ellis, director, State Forests and Parks.	Yes.
Massachusetts				Commissioner of Water Resources Board recommending study legislation.	None	No	Yes.
Michigan					None	Ralph MacMullan, director, Department of Natural Resources.	Yes.
Minnesota		1963	Recreational canoe routes.		16	No	Yes.
Mississippi	Yes				68	Spencer E. Medlin, director, State Park Commission.	Yes.
Missouri	Yes			Governor has established a wild rivers advisory commission.	19	Robert L. Dunkeson, executive secretary, Inter-Agency Council for Outdoor Recreation.	Yes.
Montana		Yes		State recreational waterway system	3	Wesley R. Woodgerd, chief, Recreation and Parks Division, Montana Fish and Game Department.	Yes.
Nebraska					None	Melvin O. Steen, director, Game and Parks Commission.	Yes.
Nevada					None	No	Yes.
New Hampshire					None	J. R. Crowley, Department of Resources and Economic Development.	Yes.
New Jersey					1	No	Yes.
New Mexico				State planning office is presently inventorying potential State scenic rivers.	None	Elie Gutierrez, State planning officer	Yes.
New York					1	R. Stewart Kilborne, Conservation Commission.	Yes.
North Carolina	Yes				41	Dr. W. L. Turner, director, Department of Administration.	Yes.
North Dakota					4	John Greenslit, director, State Outdoor Recreation Agency.	Yes.
Ohio		1968	Ohio Scenic Rivers System.		2	Fred E. Morr, director, Department of Natural Resources.	Yes.
Oklahoma	Yes				2	Robert Breeden, director, Industrial Development and Park Department.	No.
Oregon	Yes				3	Kessler Cannon, executive secretary, Committee on Natural Resources.	Yes.
Pennsylvania					None	William C. Forrey, Assistant Director, Bureau of State Parks.	No.
Rhode Island					None	Calvin B. Dunwoody, chief, Division of Planning and Development, Department of Natural Resource.	No. No.

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State	Drafted	Legislation enacted	Implemented	Nonlegislated programs	Number of rivers[1]	Governor's representative on scenic river programs	Scenic rivers[2]
South Carolina					11	John A. May, director, Division of Outdoor Recreation.	Yes.
South Dakota					None	Robert Hodgins, director, Game, Fish, and Parks.	No.
Tennessee		1968	Tennessee Scenic Rivers Act.		10	E. Boyd Garrett, commissioner of conservation.	Yes.
Texas	Yes				15	J. R. Singleton, executive director, Parks and Wildlife.	No.
Utah					None	No	Yes.
Vermont					None	Forrest Orr, Interagency Committee on Natural Resources.	Yes.
Virginia	Yes			University of Virginia School of Architecture, Division of Planning completed statewide survey and appraisal of streams as directed by General Assembly. Legislation is being drafted.	26	Elbert Cox, Commission of Outdoor Recreation.	Yes.
Washington	Yes			An ad hoc interagency committee to study scenic rivers.	None	Lewis A. Bell, chairman, Interagency Committee on Outdoor Recreation.	Yes.
West Virginia		1969	Natural streams preservation system.		3	Dr. B. L. Coffindaffer, director, Federal-State Relations.	Yes.
Wisconsin		1965	Wisconsin Wild and Scenic Rivers.		9	John Brasch, assistant director, Bureau of Fish and Management, Department of Natural Resources.	Yes.
Wyoming					None	Paul Westedt, acting director, Wyoming Recreation Commission.	Yes.

[1] Identified by States for potential inclusion in scenic river programs.

[2] Considered in Statewide Comprehensive Outdoor Recreation Plan.

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. HOLLAND. Mr. President, with reference to the confirmation of the nomination of Judge G. Harrold Carswell to be a Justice of the Supreme Court, I shall not attempt to make any speech today. But I do want other Senators to know something about how Judge Carswell is regarded by the bar of the State of Florida and by some of the leading elected officials of the State.

I, therefore, ask unanimous consent first that there be printed in the RECORD a resolution adopted by the Governor and cabinet of the State of Florida assembled at Tallahassee, Fla., on January 27, 1970, approving the nomination and urging the Senate to confirm Judge Carswell to be a Justice of the Supreme Court.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ADOPTED BY THE GOVERNOR AND CABINET OF FLORIDA ASSEMBLED AT TALLAHASSEE, FLA., JANUARY 27, 1970

Whereas G. Harrold Carswell, Judge for the U.S. Fifth Circuit Court of Appeals in New Orleans, has distinguished himself in the field of law for more than twenty years and

Whereas Judge Carswell received his law degree from the Walter F. George School of Law at Mercer University in 1948 after serving with the U.S. Navy during World War II and

Whereas Judge Carswell, after service as a U.S. Attorney for the Northern District of Florida became at the age of 38 the youngest federal judge in the history of this country and

Whereas Judge Carswell after his appointment to that position by President Dwight D. Eisenhower served with distinction on that court for more than twelve years and

Whereas Judge Carswell was appointed in 1969 to the U.S. Fifth Circuit Court of Appeals and

Whereas Judge Carswell has esteemed himself in the minds of his friends and neighbors, members of the Bench and Bar, and all with whom he has come in contact, because of his natural instinct for the law, his judicial temperament and his ability to quickly define legal issues and

Whereas Judge Carswell's recent appointment by President Richard M. Nixon to the U.S. Supreme Court brings honor not only to him and his family but indeed to Tallahassee and the State of Florida.

Now therefore be it resolved that the Governor and Cabinet of the State of Florida in a meeting assembled in Tallahassee, Florida, do go on record as commending him upon his appointment with all good wishes for a quick confirmation as the first Floridian ever to hold the title of U.S. Supreme Court Justice.

Adopted this 27th Day of January, 1970.

CLAUDE KIRK,
Governor.
TOM ADAMS,
Secretary of State.
EARL FAIRCLOTH,
Attorney General.
FRED O. DICKINSON, JR.,
State Comptroller.
BROWARD WILLIAMS,
State Treasurer.
FLOYD T. CHRISTIAN,
Commissioner of Education.
DOYLE CONNER,
Commissioner of Agriculture.

Mr. HOLLAND. Mr. President, I call attention to the fact that the Governor is a Republican and that the six members of the cabinet other than he, who are all elected statewide, are Democrats.

I ask unanimous consent that there be printed in the RECORD a wire I received today from Mr. Pat Thomas, the chairman of the Democratic Executive Committee of the State of Florida, completely approving and urging the confirmation of Judge Carswell and stating what he had to say in a press release recently given by him and carried statewide, and stating likewise that he had had nothing but approval from leading members of his party throughout the State.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

QUINCY, FLA.,
March 16, 1970.

HON. SPESSARD L. HOLLAND,
U.S. Senator,
Senate Office Building, Washington, D.C.

DEAR SENATOR HOLLAND: As active debate now approaches on the confirmation of Judge G. Harrold Carswell and in view of your probable role of leading the floor debate on behalf of his confirmation I thought I should apprise you of my response as chairman of the Democratic Party of Florida when asked by the Associated Press what posture did we of the official party take on this nomination. This inquiry was prompted pursuant to the appearance of our distinguished former Democratic Governor Leroy Collins, before the Senate Judiciary Committee; I related to the press that while no poll had been conducted and that I could not render an official endorsement of Judge Carswell, I felt that most Florida Democratic officials would favor the confirmation and heartily endorse the testimony rendered by Governor Collins. I did report that I knew of no party or public official in Florida opposing this confirmation and have observed that he had been an outstanding member of the judiciary, a credit to our State, and was at all times recognized as a jurist of great fairness to all who came before him. These comments were carried statewide February 5 by the AP. I also called attention to the assistance given this nomination by other Democrats in addition to that of Governor Collins, principally yourself, Congressmen Sikes and Fuqua and others from the delegation. I further mentioned Comptroller Fred Dickinson's offer to testify on behalf of the Florida cabinet. The interviewer quizzed me to ascertain if we were then not critical of the intense efforts of examinations by Senators KENNEDY and BAYH to which I responded in the negative and expressed belief that such a fine tooth investigation should be expected of those who would sit on the nation's high courts. These statements received healthy airing in Florida's press and I have been gratified at the positive response and approval which I have received from our Democrats throughout the State. As a matter of fact not one single protest or criticism have I received from any of the 7000 precinct workers as well as several thousand Democratic office holders. This would certainly indicate that this fine American is worthy of the very diligent stewardship you now render on his behalf, and is consistent with the leadership which you have always directed in the fashion that best serves your State and Nation; you exemplify great statesmanship as you champion issues such as this which should be far removed from the field of partisan battle.

Very sincerely,

PAT THOMAS.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a wire which I received from Honorable W. May Walker, a circuit judge, who is the senior circuit judge of Florida, living now at Tallahassee.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.,
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
Senate Office Building,
Washington, D.C.:

As a Florida Circuit judge and as the senior judge in point of service of all judges of Florida, appellate or otherwise and as a Democratic office holder, I strongly urge confirmation of Judge G. Harrold Carswell as Supreme Court Justice. Having known him for many years both socially and professionally, I deem him eminently qualified in every respect to capably and creditably discharge the duties of this high office.

W. MAY WALKER,
Circuit Judge.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be printed at this point in the RECORD, a wire I have received from the two presiding circuit court judges of the 19th Judicial Circuit of Florida, who were holding court today at Vero Beach, Fla.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

VERO BEACH, FLA.,
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
Hon. EDWARD J. GURNEY,
U.S. Senate, Capitol Building,
Washington, D.C.:

Judge G. Harrold Carswell is known to be an able jurist and a man of excellent character. If his nomination to the Supreme Court of the United States is confirmed, he will serve the Court and his country well.

D. C. SMITH,
WALLACE SAMPLE,
Circuit Judges, 19th Judicial Circuit of Florida.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be printed in the RECORD a wire which I received yesterday from Judge Tom Barkdull, of Coral Gables, Fla., who is a judge of the district court of appeals, which is next to the highest court we have in our State.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

MIAMI, FLA.
March 15, 1970.

Senator SPESSARD HOLLAND,
Senate Office Building,
Washington, D.C.:

As a member of the Florida bar for over twenty years I heartily endorse Judge Carswell for the Supreme Court.

JUDGE TOM BARKDULL,
Judge, District Court of Appeals.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be printed in the RECORD a wire from Circuit Judge B. C. Muszynski, of Orlando, Fla., urging that the nomination of Judge Carswell be confirmed.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

ORLANDO, FLA.,
March 16, 1970.

SPESSARD HOLLAND,
U.S. Senator,
Washington, D.C.:

Request your affirmative vote for Judge Carswell appointment to the Supreme Court, United States.

B. C. MUSZYNSKI,
Circuit Judge.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be printed in the RECORD a wire received from Judge Roger F. Dykes, of Cocoa, Fla., urging the confirmation of the Carswell nomination.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

COCOA, FLA.,
March 16, 1970.

Senator SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

Bench and bar together urge approval Carswell appointment.

Judge ROGER F. DYKES.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be printed in the RECORD a wire I have received from Judge Ben C. Willis, a circuit judge and a member of the Florida circuit court for 13 years, commenting favorably on the nomination of Judge Carswell and urging his confirmation.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.,
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
Senate Office Building,
Washington, D.C.:

As a Florida Circuit judge for thirteen years who is a democratic office holder, I strongly urge confirmation of Judge G. Harrold Carswell as supreme court justice. I have known him well for many years both socially and professionally and I deem him fully qualified by temperament, integrity and scholarship to capably discharge the duties of that office.

BEN C. WILLIS.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be printed in the RECORD a wire I have received from all five of the sitting judges of the District Court of Appeals of the First Circuit, which covers all of west Florida and most of north Florida, extending from Pensacola to Jacksonville and down, which I say again is an appellate court and the second highest court in our State, unqualifiedly endorsing the nomination and urging confirmation of Judge Carswell.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.,
March 16, 1970.

Senator SPESSARD L. HOLLAND,
421 Senate Office Building,
Washington, D.C.:

We, the undersigned democratic judges of the first District Court of Appeals of Florida, individually know and have been personally acquainted with G. Harrold Carswell during his period of service both as United State Attorney and Judge of the United States District Court at Tallahassee; as a practitioner, adversary, and presiding judge we have found him to be fair and impartial in the discharge of his official duties which he has performed with a high degree of judicial competence and dispatch; we consider him eminently qualified in every respect for membership on the Supreme Court and unanimously recommend his confirmation.

JOHN T. WIGGINTON,
DONALD K. CARROLL,
DEWEY M. JOHNSON,
JOHN S. RAWLS,
SAM SPECTOR.

Mr. HOLLAND. Mr. President, I ask unanimous consent that a wire I have received from Guyte P. McCord, Jr., a circuit court judge, urging confirmation of the nomination of Judge Carswell be printed at this point in the RECORD.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.,
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
Senate Office Building,
Washington, D.C.:

I have known Judge G. Harrold Carswell for many years and strongly recommend him for confirmation to the United States Supreme court. In my opinion he is well qualified for that office by integrity, ability, and temperament. As you know, I am serving my tenth year as a circuit judge of Florida and have been elected each term on the Democratic ticket.

GUYTE P. MCCORD, Jr.

Mr. HOLLAND. Mr. President, I ask unanimous consent to have printed in the RECORD a telegram which I have received from John A. H. Murphree, presiding judge, eighth judicial circuit of Florida, asking for the approval of Judge Carswell's nomination.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

GAINESVILLE, FLA.
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
Old Senate Office Building,
Washington D.C.:

I urge the confirmation of Judge Harrold Carswell as Justice of the Supreme Court. I have known him for many years. It is my considered judgment that he possesses the intellectual capacity, the moral fiber, and the innate sense of justice that would fit him for this high position.

JOHN A. H. MURPHREE,
Presiding Judge, Eighth Judicial Court of Florida.

Mr. HOLLAND. Mr. President, I ask unanimous consent to have printed in the RECORD a telegram I have received from George L. Patten, circuit judge, eighth judicial circuit at Gainesville, Fla., asking for the confirmation of Judge Carswell.

There being no objection the telegram was ordered to be printed in the RECORD, as follows:

GAINESVILLE, FLA.
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
Old Senate Office Building,
Washington, D.C.:

Judge Harrold Carswell nomination as Justice of the Supreme Court of the United States is coming up for Senate confirmation this week. I have personally known Judge Carswell since his appointment to the Federal District Bench Northern District of Florida. Have observed him in the discharge of his duties as such judge and have the highest respect for his ability, judgment and integrity. I feel that as a Justice of the Supreme Court he will bring great credit to that court and to the Nation. I respectfully urge the Senate to confirm his appointment.

GEORGE L. PATTEN,
Circuit Judge, Eighth Judicial Circuit.

XUM

Mr. HOLLAND. Mr. President, I wish to comment for the RECORD that most of the first district court of appeals lies within the same area in which the northern district of Florida lies, which was presided over for so many years—12 years, as I recall—by Judge Carswell as district judge. I ask unanimous consent that the RECORD show that the circuit court in Gainesville, Fla., which has jurisdiction over several counties that lie in the eastern part of the first Federal judicial district of Florida or the northern district of Florida, was presided over for so many years by Judge Carswell.

Mr. President, I ask unanimous consent to have printed in the RECORD a telegram from Hugh M. Taylor, circuit judge, who describes himself as having served for 30 years as a Democratic officeholder and for the last 25 years as a circuit judge. He recommends the confirmation of Judge Carswell.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

I have been a Democratic officer holder over a span of more than thirty years and a Florida Circuit Judge for twenty-five years. I strongly urge confirmation of Judge Carswell to the U.S. Supreme Court. My observations are that he is fully qualified by maturity, judgment, discretion and knowledge of the law.

HUGH M. TAYLOR.

Mr. HOLLAND. Mr. President, I ask unanimous consent to have printed in the RECORD a telegram from John J. Crews, circuit judge, eighth judicial circuit of Florida, recommending the confirmation of Judge Carswell.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

GAINESVILLE, FLA.
March 16, 1970.

Hon. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

I have been shocked at the nit-picking of otherwise prudent men in opposition to the nomination of Judge G. Harrold Carswell to the Supreme Court. As a prosecutor trial judge and now appellate judge the nominee has served ably, honestly and with distinction. Without reservation I endorse his nomination. Respectfully,

JOHN J. CREWS,
Circuit Judge, Eighth Judicial Circuit of Florida.

Mr. HOLLAND. Mr. President, in closing this brief appearance, and it is necessarily so because I am engaged in hearings and will be engaged in hearings tomorrow, my files show a very large number of other letters and resolutions to the same effect as these which I have just placed in the RECORD, and which I will have a chance to assemble and offer for the RECORD later, including strong letters from such distinguished Americans as a former Governor and an earlier Member of our House of Representatives, later a member of the supreme court of Florida, who lives in Tallahassee, and who has known Judge Carswell throughout his residence there. He strongly recommends the appointment and confirmation of Judge Carswell; as well as others too numerous to mention which I shall have placed in the RECORD at the appropriate time.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment, as in legislative session, until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 25 minutes p.m.) the Senate adjourned, as in legislative session, until tomorrow, Tuesday, March 17, 1970, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 16, 1970:

AMBASSADORS

Stuart W. Rockwell, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

Findley Burns, Jr., of Florida, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ecuador.

Albert W. Sherer, Jr., of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

Clarence Clyde Ferguson, Jr., of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Uganda.

OFFICE OF ECONOMIC OPPORTUNITY

Albert E. Abrahams, of Maryland, to be an Assistant Director of the Office of Economic Opportunity.

XUM

EXTENSIONS OF REMARKS

GOOD PLACE TO START: POLLUTION DRIVE

HON. CHESTER L. MIZE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. MIZE. Mr. Speaker, even before his inauguration, many of us were convinced that Richard Nixon was a man—and would be a President—of action and not of words alone.

This belief has been borne out many times in the 14 months since the President has taken office, and we have seen his words of intent transformed into policy almost instantaneously.

One more example of this is the President's drive to end pollution. First he issued a strong statement of this problem, an important starting point—then immediately he set forth an order that the Federal Government would begin first, and a $359 million program would be undertaken to eliminate the pollution caused by Federal agencies or installations.

The President's decisive action toward alleviating this serious problem is praised in a February 6, 1970, editorial from the Kansas City Star. I insert this editorial in the RECORD at this point:

GOOD PLACE TO START THE POLLUTION DRIVE IS U.S. INSTALLATIONS

It occurred to President Nixon that before the federal government began exerting all-out pressure on the nation's cities and industries to clean up pollution, it should first "sweep its own doorstep clean." Hence Wednesday's sternly worded order to all government agencies and installations to get started on a 359-million-dollar program to abate their own air and water pollution, or at least have measures under way, by the end of 1972.

It is not that the government is a deliberate violator, any more than are most cities or industries. Most pollution is inadvertent, the inevitable product of disposing of wastes of various kinds in the ways in which this has always been done. In the case of the one worst single source of pollution, motor vehicle exhausts, it is not even a conscious act on the part of the individual.

Thus it is that Mr. Nixon could accurately refer to the federal government as "one of the worst polluters" without any particular recrimination. It is simply that the government, in the aggregate—military and civilian—has more vehicles, aircraft, sewers, incinerators and so on than possibly any other single entity in this country. And the man at the top of this enormous pyramid reasonably concluded that here was a good place to start to get some of the most early and effective results in the war on pollution.

The White House in this instance has only to pass the word—and the money—and in due course considerable headway can be achieved in pollution abatement just by cleaning up all federal installations, buildings, bases, vehicles, missiles and aircraft. The executive order extends even to public works projects such as flood reservoirs and barge canals, with especially stringent language ordering the secretary of the interior to review the possible pollution effects of any new project for which authorization or funding is being sought.

The Defense department, as might be supposed, was identified as the largest single source of pollution within the government, with West Point's need of more than 3 million dollars for improved treatment of sewage now damaging the Hudson river given as a major example.

Government stocks of fuels and chemicals of various types, with their danger potential in spillage accidents, also were cited for preventive action. There was a word too, on radioactive pollution from atomic materials.

This was not the first federal directive ever put out on the subject. But previous ones, said the Nixon statement, have been "ambiguously worded" and poorly enforced. The timing of the statement was fortuitous, on the eve of a major pollution meeting in Chicago of the President, his new Environmental Quality council, most of the cabinet and four Great Lakes area governors, who share one of the nation's most acute water pollution situations. On such an occasion, the President manifestly didn't want anyone to be able to say to the federal chiefs: "What about yourselves?"

WHO PAYS THE BILLS?

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. HANSEN of Idaho. Mr. Speaker, I am pleased to bring to the attention of the Members of the House of Representatives a very thoughtful and penetrating analysis of some of the problems and opportunities facing the Nation's timber industry by our colleague Congressman JAMES A. McCLURE of Idaho. I include as a part of my remarks a recent address by Congressman McCLURE to the Western Forestry Conference:

WHO PAYS THE BILLS?

(By Hon. JAMES A. McCLURE)

This is your 60th Western Forestry Conference. Today your organization looks back over 60 years of progress in the science and practice of forestry. I think it is appropriate that you have chosen as your theme for this meeting "The Next 60 Years". I wonder, though—do you really think you can look that far into the future? Do you suppose that any of your members in 1909 could have predicted what is happening today? What do you suppose would have been the reaction if, at your first annual meeting 60 years ago, a speaker had prophesied that in 1969 we would be using forest products on the surface of the moon? Even less than ten years ago, most of our people did not think such a feat would be possible.

We can no longer plot the trends of the future by merely projecting the past. For example, during the 60-year history of your organization, you have already seen more technological change than have all the combined generations of mankind before you! Think of it! We now split the atom and harness its fury. Already we talk of commerce with the stars. And little by little we are deciphering the genetic code of life itself. If we plot our technological progress on a wall chart, it becomes apparent that we now live in the age of the right angle. The flat curve on the graph has turned abruptly upward and is climbing like a homesick angel.

Time, as we have known it in the past, is collapsing. Right now, in our own time, 90 percent of all the scientists who have ever lived on this earth are alive and working *today*. The total fund of human knowledge is now *doubling* every 4 or 5 years. Even the miracle of computers and automatic data processing are challenged to keep up with tne tremendous output of science and technology.

Recently I visited the Forest Products Laboratory at Madison, Wisconsin. If there is any indication of what the future holds for us in the development of wood science and wood technology, this Forest Service installation is the place where we might find it. For in the land squeeze that will increasingly affect the nature of wood production, it is science and technology that will help counterbalance the encroaching restrictions of our society on land uses.

I was deeply impressed by the amount and quality of research that was going on at the Laboratory. As I walked through the workshops, I could not help but feel that here, to a great extent, lay the future of wood as a consumer's item.

It also became evident to me, in a more forceful way than ever, that this was not merely an operation of the Federal Government, but a vital activity that represented and touched all of us—forest industry, universities, small forest owners, and the consuming public.

We can look forward to developments in the future such as nondestructive testing that uses ultrasonic waves to determine how to get maximum value from a tested board, automated sawmills, slicing machines that will reduce sawdust and planing losses, the use of water jets or laser beams in cutting wood, and an increasingly greater utilization of the entire tree.

Concerned as we are with a land squeeze and the kind of limitations it may impose on land uses, research offers opportunities toward increasing timber yields. New opportunities for timber investment can open up when research finds effective ways of extending the timber supply and reducing the cost of production. As you know, some industrial landowners already are seizing these opportunities.

The research people have informed me that there are many ways of doing this. Increasing the growth of forest stands within a specified period is one way. It has been found that the application of fertilizers, for instance, can increase the growth of a Douglas-fir substantially over a 5-year period. The development of genetically superior trees is another way. The staggering annual loss of about 14 billion board feet of sawtimber could be considerably reduced if more intensive timber management were practiced.

I'm sure that much of what is wasted in the harvesting process today will be the source of some new wood product tomorrow. Forest scientists also see in the future the production of new trees resulting from a more intensive culture, further mechanization and automation of forestry and wood production processes, refined remote sensing techniques for forest resource surveys, and ways of increasing incentives among small forest owners for greater timber productivity on their lands. Many breakthroughs will come as research, aided by more sophisticated techniques, zeros in on specific problems.

Today the Western Forestry Conference also faces new vistas. You are scanning the horizon for new solutions to old problems. You are searching for leaders with distance in their eyes—men who can see beyond the political expediency of the moment. You need men of vision who can see farther and more clearly than other man. It was Sir Isaac Newton who said, "If I have been able to see farther than other men, it is because I stood on the shoulders of giants". In the days of Newton, the shoulders of giants in science were indeed rare.

Our present-day scientists and foresters have whole pyramids of giants to support their research. With this advantage, the vistas of forestry are greater than ever before—but so are the challenges and conflicts.

We have been developing our Nation for more than three centuries. Still, our forests occupy one-third of the land and supply us with more than eleven billion cubic feet of wood each year. But today's growing population tears insatiably at the forests. As people spread into every corner of the land, the forests shrink. (1) Roads drive deep wounds into the solitudes. (2) The power saw turns beauty into board feet. (3) Sheep nibble the high pasture. (4) Dam builders covet choice valleys; and (5) Armies of mechanized campers invade.

In discussing these conflicts, Charles Reich made this statement in a report entitled "Bureaucracy and the Forests":

"Management must decide between the competing demands on the forests. When different users clash, which shall be favored? How are local needs to be balanced against broader interests? Who is to have the benefit of the economic resources and on what terms? How are the conflicting recreational demands of fishermen, skiers, hunters, motorboat enthusiasts, and automobile sightseers to be satisfied? Should the requirements of the future outweigh the demands of today?

As we devote more land to the single use of recreation, who will bear the increased cost of more intensive management on other lands? Will the recreationist? Will the public through taxes? Will the consumer, through higher prices?

As we build roads to design standards intended to make the road an addition to a permanent road system, but which will not be needed (at least at that standard) simply to remove timber, who will bear the added cost? The taxpayers of the nation as a whole through increased appropriations? Local governments through lowered revenues? The hunter or fisherman through use fees?

And if we succeeded in shifting a proportion of the total production to private lands, who will make the investment in future production and increased management costs? Will the consumer alone, or will those who benefit through decreased pressures on public forest lands share in these costs?

It is fair to say that the public has wanted the benefits of public ownership but has not been willing to pay the bill. Or maybe the public has been, but have not convinced their Senators or Congressmen. At least, Congress has not been willing to appropriate enough money to properly manage the forests, let alone the necessary money for investments which will meet future public needs and demands.

To this I might add, who pays the bills? When, etc.?

A lot of people seem to think that all we need to do is print some money to pay our bills. The current inflationary spiral and erosion of the dollar over the years are a living testimonial to that point of view. But that's another object. When thinking of the care of our forests, knowing that someone will pay the bill, we must try to smoke out just who that someone will be, without burning down the forests, of course.

Some citizens say, let the government do it, ignoring the fact that they themselves will actually pay the bill through increased taxes. On the other hand, some say let the industry provide the where-with-all, failing to recognize that this cost will come back to them in increased prices for forest products.

In private forestry, if you are to pay the bills, and protect your investment, and make plans and carry out research, you must make a profit. That is the free enterprise system. Whereas, in public forestry we pay the bills out of the U.S. Treasury—from taxes, revenues from timber sales, and other Federal sources. Right now, it is not easy to make a profit in the lumber business. This has been about the most hectic year for price fluctuations we have ever seen. Or as Business Week describes it in their October 25, 1969 issue, the industry is now feeling the effect of "The boom in wood that busted." The article says: Like a horse player with a sure thing the lumber and plywood industry put its money on a 1969 housing boom. Over optimism plus sharply rising prices led to overproduction. But strong demand for wood products was expected to solve all problems before yearend. The boom never came. The first rude awakening came last spring when tight money and high interest rates clobbered homebuilding. Wood prices plummeted at an alarming rate. Even though consumption continued to run roughly the same, lumber mills promptly shaved output below last year's level. Plywood producers started to get the message in June.

Among lumber and plywood men, the contrast between the bubbling optimism of January and the grim reality of October is striking. Old hands in the industry are unable to recall another such sharp drop in the market. Probably no other major commodity now is priced as much below year-ago levels, let alone the peaks of last February. This is an example of the current financial ups and downs in the lumber market. You know who pays the bills in times like these—and you know what happens to the margin of profit.

Forestry is an investment in the future. As evidence of the investments that private and industrial forestry are making, let's take a brief look at the Tree Farm movement in America. It was 28 years ago in this State near the town of Montesano that the first Tree Farm was established. In that year the country was harvesting 20 percent more trees than were being grown. Today we are now growing 31 percent wood than we harvest each year or lose to fire, insects, and disease. A striking 85 percent reduction in forest fire losses during this period is allowing more young forests to reach useful size.

Today nearly 10,000 professional foresters participate in industrial forest management at all levels in comparison to fewer than 1,000 at the dawn of tree farming. This is an unparalleled achievement in resource conservation, one that has no counterpart in the history of modern civilization. This, too, is an investment in the future.

By the very nature of its business the forest industries of this country keep their eyes on the future. They must! The cutting cycle from sprouting of the seeding to harvest is at least 40 years, usually 60 years, and sometimes 120 years. Timber companies are spending several million of dollars each year on forestry practices and protection of their tree farm lands. Much of the investment is made for generations yet unborn—*and for profit*, too, of course.

In this leisure-time age of multiple-use forestry we frequently hear complaints that outdoor recreation does not pay its fair share of the forestry bill. We also face the same conflict in regard to grazing fees on Federal lands. Over-emphasis on wildlife and wilderness perhaps falls in the same category. How are productive timberlands going to compete with all these other legitimate uses? And who will pay the bill?

Competition is a part of the free enterprise system that we cherish in America. Had we not been free to move men, goods, and services in the open market would the United States have been the breadbasket for the whole world? Would it have become the greatest Nation on earth? Would it have become the champion of freedom for all mankind?

Looking 60 years ahead, I foresee that the Multiple Use-Sustained Yield principle will be expanded and refined to the point where the needs of the American people will be better served, in terms of resource uses. Better methods—based on research and experience—will have been found to guide the management of public and private lands. These methods, no doubt, will not only be influenced by economic forces, but by social needs, esthetic standards, and ecological considerations as well.

The multiple-use concept is a relatively new thing. By one name or another we can trace it back perhaps five decades or so. It grew in scope and meaning through the years, but it was only a short decade ago that Congress gave it official sanction with the passage of the Multiple Use-Sustained Yield Act of 1960.

Professional foresters know that it works—that it can produce timber on the one hand and provide recreation for millions of people on the other, that it can improve wildlife habitat and grazing ranges, protect important watersheds and other resource values, and accommodate as many different kinds of users as derive benefits, in one way or another, from the forest environment.

The years ahead will no doubt be crucial ones for the forest manager. Public demands inevitably will continue to build up, exerting pressures for different kinds of land uses—wilderness, recreation, limited timber harvesting, and other special purpose lands. The future forest manager will have to anticipate these demands and come up with acceptable solutions to the problems these demands will pose. Many believe that the answer lies in the application of the multiple use principle to forest management.

Progress in multiple use management is leading to less conflict among resource uses; there are fewer impacts of one use on another and greater benefits as a result of research and careful planning. For example, a road will be designed and constructed to control the impact of exposed soil on water, fisheries, and esthetic values while providing access to timberlands. Or timber harvesting may be so modified as to benefit wildlife through the production of desired browse or through a favorable "edge effect."

Land ownership involves benefits and obligations whether the owner is the public, a private individual, or a corporation.

The bills incurred on private lands increase with public use. Forest lands attract recreation use, and with increased use costs go up. Fire risks increase and the costs of protecting forest property from fire loss is largely borne by the owner, not the user. The Federal Government covers part of the cost in cooperative areas through assistance under the Clarke-McNary Act. Public use also increases the costs of maintaining roads, and providing sanitation facilities, public direction, and patrols to reduce losses due to vandalism and theft.

In State or National Forests or on Bureau of Land Management lands, the public is the owner and has more to say about the use of these lands. The cost of achieving a mix of resource uses is often reflected in reduced revenue from the sale of timber, to minimize the effect of timber harvesting on other resources. Roads necessary to provide access to timber are financed by the public through reduced revenue for stumpage. The recreationist, however, benefits from this. The water user benefits when roads are stabilized to reduce erosion, by enjoying increased water yields. And the hunter also benefits through improved accessibility to game and larger wildlife populations, though he pays nothing other than his pro rata share of public ownership.

The future of timber depends on research and on good management. It also depends on the attitude of people who use the forest, as well as those in urban areas who seldom see a tree.

We will all be glad when credit is again loosened and we can get back to the business of business in a stable and progressive fashion.

We know there is a demand to meet and the timber industry stands ready to do the job.

We need and must have a new era of cooperation between conservationists and producers and all others. For together we can build and plan for a compatible and prosperous future.

REACTIONS TO PRESIDENT'S PLAN TO SELL AEC'S GASEOUS DIFFUSION PLANTS

HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. HOLIFIELD. Mr. Speaker, on November 10, 1969, the President issued a press release announcing the establishment of a Directorate within the Atomic Energy Commission to operate the Government's uranium enrichment facilities "in a manner which approaches more closely a commercial enterprise." That announcement stated that the President's decision was based on the belief that the Government, which is now the sole owner-operator of such facilities, should sell these gaseous diffusion plants to the private sector "at such time as the various national interests will best be served."

As chairman of the Joint Committee on Atomic Energy, I issued a press release on November 10 commenting on the President's proposal. My distinguished colleague from Illinois (Mr. PRICE) inserted my comments in the CONGRESSIONAL RECORD, volume 115, part 26, page 34969. I should like to invite the attention of my colleagues to an excellent speech on this issue and the entire matter of providing for an adequate supply of electric energy delivered on the floor of the Senate by Senator GORE of the Joint Committee on February 17 which appears in the RECORD at page 3502. Senator GORE served the Congress some real food for thought in that excellent speech.

The administration's budget request for fiscal year 1971 contains a request for funds in the amount of $5 million to conduct a paper study on the matter of improvement of our Nation's gaseous diffusion plants—the so-called cascade improvement program. There still is no commitment by the administration to go forward with that program which is absolutely essential if we are to meet the demands, both domestic and foreign, for enriched uranium which are foreseen through the growth of the nuclear power industry. We have the responsibility and have made the commitment to meet those demands. Initiation of that program has been delayed and is continuing to be delayed by this administration. These plants represent the sole source of enriched uranium in the United States—it is simply inconceivable to me that anyone would not take every necessary step to assure that they are of sufficient capacity to meet the needs. The Joint Committee will be exploring this subject in depth during hearings next Thursday on the AEC's authorization bill. I can assure you this matter will receive the most searching examination.

Since the President's announcement, there have been a number of editorial and other comments on his proposal to sell these unique facilities. Some of these comments have been inserted in the record by my distinguished colleagues from

Tennessee (Mr. Evins) and New York (Mr. Goodell). Mr. Speaker, in order that the Members of the Congress may be apprised of the various reactions to the President's plan, I include the following editorials and two speeches on the subject:

[From the Wall Street Journal, Nov. 14, 1969]

SELLING THE URANIUM PLANTS

President Nixon's proposal for the ultimate sale of the Government's uranium-enrichment plants deserves support. Delay in the sale until "sometime in the future," as he suggests, may be justified to provide time for steps needed to assure a reasonable price for the properties.

Mr. Nixon, for instance, has ordered the Atomic Energy Commission to begin operating the plants as a separate commercial entity. Accounting of their operation, he said, is to be placed on a basis "fully reflecting commercial criteria."

The growing use of nuclear power, one official estimated, may provide the plants with full order books by the mid-1970s, a development that obviously would enhance their attractveness to private industry. The attractiveness to the Government—and the taxpayers—lies in the fact that needed further development of the facilities would be financed by private industry.

Atomic energy necessarily began as a Governmental enterprise, and it has continued so as the industry has struggled through its infancy. Now that it is coming of age, there's no sound reason why it should go on in the same fashion.

Some Congressmen argue that the fuel processing setup should remain in the Government's hands as a "yardstick" to measure the prices charged for other fuels. But the economic situation of Federal plants, in regard to taxes and other factors, makes them poor yardsticks for any industry. In any case, the need for such yardsticks is highly dubious—especially in an industry as thoroughly regulated as power.

It's difficult to say just how bright atomic energy's future really is; so much depends on what happens in fossil fuels. And that, of course, is precisely the sort of future with which private industry is best equipped to cope.

[From the Christian Science Monitor, Nov. 22, 1969]

SELL URANIUM PLANTS?

It will come as a surprise to many Americans to hear that the Nixon administration is preparing to sell, to private industry, some of its atomic production plants. These comprise 13 colossal plants—at Oak Ridge, Tenn., Paducah, Kentucky, and Portsmouth, Ohio—which turn out enriched uranium (U–235).

Anyone coming suddenly upon that half-mile long gaseous diffusion plant at Oak Ridge, there in the hills, would think he had stumbled upon something out of a science fiction magazine. It turned out the U-235 which fueled the Hiroshima bomb. After World War II the Atomic Energy Commission expanded its plants and, by 1968, had produced some $6 billion worth of uranium. Much of this has gone into supplying the explosive ingredients for America's vast nuclear arsenal. Some has gone into fueling nuclear reactors for generating electricity.

Why should the government want to sell these plants, which would cost some $2.3 billion to replace? Critics say that the Republicans, when in power, are always wanting to turn government operations over to private business. "In the Eisenhower era it was the Tennessee Valley Authority, now it's the atom plants." The impelling question is asked: Should not the production of a such dangerous, national-security item as uranium remain a government monopoly?

But President Nixon a week ago directed the AEC to get ready to sell these plants. The administration's argument—and there are congressional supporters—is that the price of uranium fuel will determine whether electric companies turn strongly to nuclear power generation, to meet vastly expanding future needs. And that the profit motive will enable nuclear fuel to be produced at lower prices. And that the AEC's security provisions would still apply to uranium production—including sales of U–235 or derivatives to foreign countries.

So there's an issue here, which Congress' Joint Committee on Atomic Energy is exploring. One question is: What kind of new ownership should be established? Should the plants be run by a public corporation, like the TVA, or by a joint government-private agency, or by a complex of private companies?

Certainly the price of nuclear fuel is vital to the future electric power needs of America. We think the congressional joint committee should ponder thoroughly the questions of security, national safety, the public interest, and private efficiency in power production, before Washington decides one way or the other.

[From the Sacramento Bee, Dec. 11, 1969]

NIXON PLAN TO SELL U.S. NUCLEAR POWER PLANTS MAY NOT BE IN PUBLIC INTEREST

President Richard Nixon's opening of the door to possible turnover of the government's nuclear fuel processing plants to private interests has serious and dangerous implications to the public interest.

The plants, located at Paducah, Ky.; Portsmouth, Ohio, and Oak Ridge, Tenn., are the only facilities in the United States which can produce enriched uranium for atomic warheads and for peaceful uses such as nuclear electric generating plants.

They represent an investment of $2.3 billion of the taxpayers' money. There is little indication any business other than oil has the kind of capital available needed to purchase the plants. Should an oil firm, or a combine of them, become owners of these plants the oil industry could have almost complete control of the basic sources of energy in the nation.

These plants represent the last link in the nuclear fuel chain still under public control. The demand for electricity is growing at a startling pace. A recent Federal Power Commission estimate shows the country will need double the present power-producing capacity for 1980.

John A. Carver Jr., an FPC commissioner, figures the nation will have to turn more and more to nuclear power plants to fulfill this staggering need.

Private utilities and others involved in nuclear power production for years have been lobbying for private ownership of the government's enrichment plants. The Nixon administration has asked the Atomic Energy Commission to prepare their operation for eventual sale to private industry.

There is a hint of a recurrence of the Dixon-Yates scandal during the administration of President Dwight D. Eisenhower. The Washington Post has reported the idea of selling the nuclear plants originated with Kenneth D. Nichols, who was AEC general manager at the time of the Dixon-Yates episode.

Dixon-Yates was an attempt, blocked by the courts, to get the Tennessee Valley Authority's public power business into private hands.

Rep. Chet Holifield, D-Calif., chairman of the House-Senate Atomic Energy Committee and a leader in the fight against the Dixon-Yates deal, has warned the proposal on the nuclear plants has dangerous pitfalls. He has suggested they be operated publicly by a corporation patterned after TVA. This would assure the public would be protected against a mammoth power monopoly.

THE CHALLENGES OF THE 1970'S

(By Alex Radin)

Perhaps the most significant monopoly issue in the energy industry will have to do with the control over the sources of energy—coal, oil and uranium. Considering the importance of energy to our society, and the fact that the cost of fuel represents one of the most vital factors in the cost of producing energy, it is alarming to observe the increasing degree of concentration of economic power that is taking place in the energy fuel business.

Senator Aiken of Vermont, one of the most highly respected members of the United States Senate, warned of this problem when he spoke at APPA's annual conference earlier this year.

He pointed out that there are now 21 oil companies with interests in the nuclear fuel business. Well over half of all the coal sold is being sold by the oil companies, and at least five of the large oil companies have an interest in all energy fuel—coal and uranium in addition to oil.

A new threat developed last month when President Nixon proposed that the gaseous diffusion plants now owned and operated by the Federal government, through the Atomic Energy Commission, be "transferred to the private sector, by sale, at such time as various national interests will best be served, including a reasonable return to the Treasury."

It is likely that you will be hearing and reading a great deal more about this issue, so it is worthwhile to devote some time to it now.

Presently, there are three gaseous diffusion plants which were developed by the Federal government to provide enriched uranium that was needed initially for the atomic bomb and is now needed to provide fuel for nuclear power plants.

Although I would suspect that only a relatively small fraction of the American people are aware of the existence of the gaseous diffusion plants, they represent a very large investment of the Government—some $2.3 billion, in fact. These plants are among the largest industrial facilities in the world, the process buildings having a total floor area of approximately 640 acres. They also use large quantities of electricity; at a load of slightly more than 6,200,000 kilowatts in 1956, they consumed almost one-tenth of the electrical energy of the United States at that time.

The significance of the gaseous diffusion plants is emphasized by the growing reliance of the electric industry on nuclear power. By the end of September of this year fifteen nuclear power plants were in operation in the United States, with a capacity of 3.9 million kw. But AEC estimates that by 1980, 120 to 170 million kw of nuclear power capacity will be in operation, plus 70 to 100 million kw of "free world" capacity. Virtually all of these plants are expected to use light water reactors which employ enriched uranium as fuel.

An AEC example for a typical 1,000,000 kw light water reactor in 1980 indicates that enrichment of an annual reload would contribute about .43 mill per kwh to generating cost, or more than one-third of the total fuel cycle cost.

What would be the danger to the public interest if these huge gaseous diffusion plants were sold to private companies?

Critics of the proposal—among them, Congressman Chet Holifield of California, chairman of the Joint Congressional Committee on Atomic Energy—have pointed out that perhaps the most dangerous consequence of this proposal is that it would likely lead to further monopolization of energy supply. The successful bidder for these plants probably would be the oil industry, which has the cash

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to purchase the highly expensive plants. Considering the encroachment of the oil industry into its two competing sources of energy, coal and uranium, the control of the gaseous diffusion plants by the oil companies would give this industry a virtually complete monopoly over energy supply, with consequences that are frightening to contemplate.

Among other consequences of such a monopoly, the prices of fissionable materials would rise dramatically under private control, Congressman Holifield has warned.

"Just imagine what would happen if you owned the only gasoline refinery in existence," he said. "You obviously could set the final price for gas.

"You could charge all that the traffic would bear."

Other likely results of the sale of the gaseous diffusion plants to private companies would be the encouragement of creation of a new international cartel, since the U.S., as a prime source of "free world" enriched uranium, will become increasingly involved in foreign sales as other countries move to nuclear powers; increasing the possibility of radioactive contamination and proliferation of nuclear weapons material as control leaves government hands; and the "give-away" of a valuable going business developed with public funds but sold at depreciated prices.

It is little wonder that some have already charged that the proposal to dispose of the gaseous diffusion plants could result in another infamous "Dixon-Yates" deal.

A nine-man APPA task force which studied this issue reported in May of this year that there are "substantial reasons" to doubt that the "spur of the profit motive" would insure "fair and reasonable pricing policies." The APPA task force concluded that the plants should remain under government ownership. However, if AEC operation is considered infeasible, particularly if it is concluded that funds will not be provided through appropriations to satisfy demands for increasing uranium enrichment capacity, then a Federal corporation with authority to use its own revenues and to secure funds from bond issues should be set up to take over existing plants and to provide necessary new facilities.

The issue that is being posed undoubtedly will become a highly controversial one, and of great consequence to all utilities, whether they generate or purchase power. It therefore behooves your organization and each of you individually to follow developments carefully, and to present your views in your usually forceful manner.

STATEMENT BY JOSEPH A. BEIRNE, PRESIDENT, COMMUNICATIONS WORKERS OF AMERICA

The Nixon Administration has taken its first official step in a program which has all the signs of being a giveaway of the government's nuclear production facilities to a corporate combine which already controls much of the nation's energy sources. This should be stopped before the Administration can take the next step.

This program involves the planned disposal of the government's three uranium enrichment plants. These plants, located at Oak Ridge, Tenn., Paducah, Ky., and Portsmouth, Ohio, produce the material which fuels nuclear electric power plants—but which also can be used to arm nuclear weapons.

If the Administration goes ahead with the program to sell the plants, it is treading on the edge of a potential scandal greater than the Dixon-Yates fiasco of the 1950s.

It took the first step when, on November 10, 1969, President Nixon ordered the Atomic Energy Commission to operate the plants as "a separate organizational entity" so that they can be sold to private industry at an unspecified time in the future.

Ostensibly, this is being done because the Atomic Energy Act of 1963 included as policy the provision that atomic energy should "strengthen free competition in private enterprise."

But in a study on the proposed sale made for the Atomic Energy Commission by the atomic industry's own organization, Atomic Industrial Forum, Inc., a warning that the sale would do little if anything for "free competition" was given.

William M. Capron of the Brookings Institution, a member of the study committee, asked how competition would come about if three super-corporate entities control the entire supply of enriched uranium. He made this comment:

"At least initially and perhaps for many years thereafter, this will be a three-firm oligopoly. Observation of performance in other industries suggests that the possibility of 'hard' competition is further lessened in markets of as few as three firms such as this where the product is homogeneous; uranium enriched to a given percentage by one produced is indistinguishable from that produced by another."

After recommending "somewhat hesitantly" that the plants be sold, Capron pointed out:

"I find it necessary to emphasize the fact that this recommendation does entail a not insignificant risk that an industry will be created which does not display effective price competition. While overt collusion can be attacked under the anti-trust laws, protection of the public interest through reliance on the anti-trust laws is much more difficult (and perhaps impossible) to achieve if the collusion is tacit and passive, as it can easily be in an industry with only three firms."

In the light of this informed comment, there is a certain hollow sound to the pleas made by some of the nation's gigantic industries and financiers for the sale of the plants in the name of competition and free enterprise.

The need for consideration of national security is also of great importance in this issue.

While some of those advocating the sale rightfully recognize the security problems involved in disseminating the vast amount of heretofore secret information which would be needed just to prepare bids, let alone operate the plants, too many others dismiss security as a minor problem.

But in the Atomic Energy Commission staff report on the proposed sale—a report which did not advocate sale of the plants—security is seen as running risks of being weakened.

The staff report said:

"A major advantage of a private competitive industry in any field is that the profit incentive stimulates efforts to advance the technology and reduce costs. The profit incentive, however, can introduce potential conflicts in an industry using classified technology and with a product subject to safeguards, as is the case with uranium enriching. Under current conditions of Government ownership, operations are carried out by industrial contractors under cost-type arrangements. In the absence of the profit motivation, such operating contractors are under no economic pressure in connection with carrying out security responsibilities required by the national interest."

Joseph C. Swidler, one of the developers of the Tennessee Valley Authority's public power program, and a former chairman of the Federal Power Program, recognized the great danger involved.

"Profit motivated operators cannot be expected to maintain security conditions with the same strictness as the present operating contractors," he said. "The proceedings preliminary to a transfer would be even more risky. Numerous companies would wish to be in position to bid, and at a minimum several representatives of each potential bidder would be entitled to a full briefing on classified technology."

One aspect of technology security has arisen since the Nixon order and makes preservation of security especially vital. It involves the two methods of producing enriched uranium, gaseous diffusion and gas centrifuge. The three American plants use the gaseous diffusion system, not gas centrifuge.

In mid-December, Britain, West Germany and the Netherlands disclosed that they had formed a consortium to manufacture nuclear fuel through the gas centrifuge process.

The development requires an entirely new examination of the ownership proposal.

British Minister of Technology, Anthony Wedgewood Benn, in announcing the formation of the consortium, said no part of the procedure would "be used by or to assist any non-nuclear state to manufacture or otherwise acquire nuclear weapons or other nuclear explosive device."

Britain was one of the signers of the Nuclear Non-Proliferation Treaty, which decreed that the nuclear powers would not give non-nuclear powers access to nuclear devices for 25 years, and that non-nuclear nations would not seek such devices for the same period.

It also decreed that the nuclear nations would cooperate with non-nuclear in peaceful uses of atomic energy.

But the AEC staff report dated March, 1969, said that "the gas centrifuge technology is particularly sensitive from the standpoint of proliferation because it lends itself more readily to smaller scale facilities which are easier to conceal and to operate clandestinely."

With the danger of misuse of enriched uranium always present, and obviously growing, and with many existing agreements between the United States and other nations providing for the supply of enriched uranium for foreign nuclear electric power programs, it seems that the wise course would be for the major existing supplier system to remain with the government out of commercial hands.

Some of the advocates of sale of the plants have seized this security issue and converted it into a device to help assure that only a small corporate elite will ultimately control the plants. They have done this by proposing that, in the interests of keeping security information from as little dissemination as possible, the number of bidders be limited.

The Atomic Industry Forum study committee report suggested that actual bidding should be limited to from 10 to 15 bidders.

"The study committee does not intend to imply that there will necessarily be this many responsive bids submitted, but felt that such a number should be set as an upper limit for security reasons."

So, if the recommendation was followed, we would have at the most 15 corporations or combines of corporations bidding to control the entire national supply of enriched energy.

They would be bidding on plants which cost the government $2.25 billion to build. The plants, according to the AEC staff report, "would have a depreciated book value of about $1 billion by 1972, but may have a higher commercial value."

The AEC report also discussed other aspects of financing, including plant improvements and expansions which will be needed for anticipated increased demand in the future. It said:

"Expenditures for the improvement programs are estimated at $600 to $800 million, and commitments in the order of $800 million would have to be made by about 1975 for required new plant capacity needed by about 1980. Commitments for electric power procurement to operate the new plant, assuming a five-year termination notice period, could run another $500 million. Substantial additional investments and power commitments for more new capacity would follow in the late 1970s. Inability to undertake such major investments or difficulties or delays in arranging financing for such commitments could compromise the assurance of adequate supplies of enriching services to overseas and domestic customers."

Who could provide such financing?

Rep. Chet Holifield, Democrat of California, and chairman of the Joint Committee on Atomic Energy, who opposes the proposed sale, pointed out that the major oil companies have both the financial ability to handle the acquisition and also have already been moving into such energy sources as coal mining industry and uranium.

"The thing that I fear is that there will be an energy combine developing," Rep. Holifield told interested news media. "I'm not maintaining that there is an evil conspiracy, just an inevitable result of the forces that are interested, a coalescing of private interests that want to exploit it," he said.

Holifield pointed out that the oil industry was in a financial position to do this because of the tax breaks which the industry enjoys.

"If they are going to control basic energy in the United States they will be controlling power across the board," Rep. Holifield said.

The fact that these plants now operate at only about 40 percent of capacity should not be considered permanent—as now planned programs to establish nuclear power plants go ahead the plants are expected to operate at full capacity, and new and expanded facilities will be needed.

It should also be noted that Peter M. Flanigan, a former vice president of Dillon, Reed, New York investment bankers, is the Nixon assistant who is coordinating the White House effort to sell the plants. Flanigan is responsible for regulatory agency affairs in the White House.

This action for sale of the plants does not give Flanigan much credibility as an official interested in regulatory agencies operating for the benefit of consumers of public power.

All this points to the same thrust which motivated the Dixon-Yates affair—greed and disregard for the public interest—as the reigning philosophy in the proposal to sell the plants.

A look at the major events in the Dixon-Yates affair is appropriate.

President Truman, in his January 9, 1953, budget message, included $30 million to start construction of a TVA steam plant at Fulton, Tenn., to supply power for the Memphis area.

The Eisenhower Administration came into office that year, and dropped the steam plant from the budget.

In 1954, the Administration backed a plan, named for Edgar H. Dixon, President of Middle South Utilities, and Eugene A. Yates, board chairman of the Southern Company, which called for building a private power plant at West Memphis.

Supporters of TVA saw the proposal as a phony plan, to open the TVA area to private power. If it went through, it would mean that TVA would be denied funds for needed expansions of generating facilities, while private power got the authority to build the facilities. This would destroy TVA as a power price yardstick.

Calls for an investigation came out of Congress, but the pressure of the private power interests against this were so great that Senator Langer, a North Dakota Republican who was chairman of the Judiciary Committee and its Antitrust and Monopoly Subcommittee was compelled to say on the senate floor:

"The Republican leadership has refused to give our anti-monopoly committee any money which was unanimously requested by the 15-member Judiciary Committee. . . ."

Subsequently, the committee did hold hearings, and a former official of a subsidiary of Dixon's Middle South Utilities testified that if the Dixon-Yates plan went through the result would be a private power combine "so huge it is frightening."

But on November 11, 1954, the contract was signed under Eisenhower's orders.

The fight had not yet ended, however.

On January 24, 1955, the Anti-trust and Monopoly Subcommittee issued a report warning that Dixon-Yates would bring about "the third great corporate merger movement in our history," and calling for a nation-wide monopoly investigation.

Then, information about the role of the Budget Bureau in Dixon-Yates began to develop. It became clear that Adolphe H. Wenzell, an officer of the First Boston Corp., financiers representing Dixon-Yates, was at the same time advising the Budget Bureau on TVA's accounting system.

The monopoly subcommittee held an investigation into this, but on July 11—before it concluded—Eisenhower ordered the Dixon-Yates contract cancelled. (The city of Memphis had proposed to build its own power plant.)

The part Wenzell played, according to AEC General Counsel William Mitchell, had "raised a substantial question as to the validity of the contract. . . ."

The monopoly subcommittee said Dixon-Yates "purpose was unwholesome; the methods used devious; and in carrying out the scheme, every concept of decent government and fair and impartial administration of applicable law was ignored."

Sen. Estes Kefauver, Tennessee Democrat and a member of the subcommittee, said, "this whole plan was conceived in darkness for the base and ulterior motive of destroying the Tennessee Valley Authority."

Although it is generally forgotten now, Dixon-Yates filed suit and was awarded $1,867,545 for damages by the U.S. Court of Claims. The Supreme Court overturned that in 1961, by a 6–3 vote, saying that Wenzell's conflict of interest made the contract invalid.

Now, we are in the early stages of a plan which would turn the supply of enriched uranium over to a few private interests—most likely to interest which now exercise great control over energy sources.

The plan does not pass the test of free competition.

The plan does not pass the test of national security.

If the public interest is upheld, that plan will be aborted.

If special interest prevails, we are headed for the 1970's version of the Dixon-Yates debacle.

HEW FUNDS—TIME FOR RESPONSIBILITY

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. GOLDWATER. Mr. Speaker, it now seems possible that the President may again be faced with an inflationary HEW appropriations bill and that we may have to cast another vote of concurrence with the President. An editorial in the Los Angeles Times on February 25, 1970, very adequately sums up the problem in the editorial entitled "HEW Funds—Time for Responsibility." I wish to bring this intelligent comment to the attention of my colleagues:

HEW FUNDS—TIME FOR RESPONSIBILITY

Robert H. Finch, secretary of health, education and welfare, has warned that he will recommend a second presidential veto if Congress insists on voting another inflated appropriations bill for his department.

Indications are that Senate Democrats are prepared to ignore Finch's plea for restraint. President Nixon, in that event, should not hesitate to veto the big money bill all over again.

It is ludicrous that, with only four months remaining in the current fiscal year, appropriations for the agencies which account for a major portion of the government's nondefense spending should still be at issue.

Congress was very late in voting out a health, education and labor bill at all. When the lawmakers finally got around to clearing the first version of the measure last month, Mr. Nixon was forced to veto it because it contained $1.26 billion more than he had requested.

As the President properly explained, the extra money not only threatened the budget surplus which is so essential to his fight against inflation, but was to a large extent earmarked for the wrong programs.

Now the House has approved a new version which still contains almost $900 million more than he originally requested, and over $400 million in excess of the compromise which he proposed after his veto.

The measure, now before the Senate Appropriations Committee, also includes provisions which would bar HEW from requiring bussing as part of school desegregation plans, and would legalize so-called "freedom of choice" school plans.

Congress, to be sure, is going to have to come to grips with the question of how far the federal government should go in compelling school integration. But hastily considered riders on an appropriations bill are hardly the way to go about it.

Finch is asking the Senate to eliminate the House-approved amendments in question. He also requests that the senators either cut the bill by $447 million, or give Mr. Nixon the authority not to spend some of the money.

Senate Majority Leader Mike Mansfield indicates that the Democrats will ignore Finch's plea. This is unfortunate.

If Mr. Nixon is forced to veto the appropriations bill again, thus prolonging uncertainties in the vital federal programs involved, the blame should be placed squarely where it belongs—on lawmakers who cannot withstand the temptation to play election year politics with inflation.

U.S. AGENCIES PEDDLING MAILING LISTS

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BURKE of Florida. Mr. Speaker, for several years I have been most interested in the data collection operations of various Government agencies and the threat they pose to personal privacy. Recently, alarming information has caused me even greater concern.

The U.S. Government is actively aiding many individuals and companies in violating the so-called mail privacy of millions of Americans.

Mailing lists bring approximately $400 million a year on the open market and the Federal Government is one of the most active sellers. The scope of such activities is not so amazing when one realizes that two out of every three adults and many teenagers are on some mailing list.

Hundreds of thousands of names and addresses, with related information, are being sold by such agencies as the Post Office Department, Federal Aviation Administration, and the Internal Revenue Service.

These agencies claim that the Freedom of Information Act forces them to make such sales. However, I seriously question whether this law, which was designed to assure public access to many Government records, should be used as a defense for selling mailing lists. These practices constitute an unacceptable invasion of privacy.

Here are some examples of the Government's activities:

The FAA sells its computer tape list of 400,000 names and addresses of licensed pilots to aviation magazines and product suppliers looking for customers.

The Post Office Department lists are sold to the growing complex of firms which sell or rent them to commercial and nonprofit organizations. Much of the "junk mail" received last year was sent to addresses obtained in this manner.

A more startling and disconcerting practice is that of IRS selling a list of 140,000 names and addresses of licensed gun dealers and collectors throughout the United States.

This IRS roll of mailing labels sells for approximately $140 and the revenue derived from these sales is estimated for fiscal year 1970 at $10,000. It seems that making this information available to the public flies in the face of the whole intent of the State Firearms Control Assistance Act, which purpose was to help States exercise some control over the location of firearms in an attempt to keep them from falling into criminal hands.

I believe this practice of selling Government mailing lists should be prevented. When a citizen must provide information to his Government, he should not, as a result, subject himself to harassment and solicitation by private concerns using this Government-collected data.

In an effort to forbid this practice, I have joined in sponsoring legislation that would prohibit any Federal agency from making mailing lists available to the public. My bill is now before the House Post Office and Civil Service Committee.

CRASH LOCATOR BEACONS

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BROTZMAN. Mr. Speaker, the Aviation Facilities Expansion Act has now passed in both Houses of Congress. As a member of the committee which drafted the bill, Interstate and Foreign Commerce, I feel the version we passed in the House is generally sound.

However, Mr. Speaker, one Senate amendment is particularly worthy of our attention. I refer to the amendment offered by the distinguished Senator from Colorado (Mr. DOMINICK). His amendment, which was included in the bill as it passed in the Senate, would require all private aircraft to be equipped with a crash locator beacon. This is a simple, relatively inexpensive device which is triggered upon impact when a plane crashes. Its beeps are sent out on a wavelength customarily monitored by civil and military aircraft and aviation agencies.

This device would save many lives, particularly in a mountainous State such as Colorado. In the first place, quick location of a crash would result in medical attention for injured victims hours and perhaps days sooner than is now the case. And in the second place, aerial searches often jeopardize the lives of the searchers, and I firmly believe that thousands of air hours can be prevented through widespread use of such locator devices.

Mr. Speaker, I wish to commend Senator DOMINICK for his efforts on behalf of airline safety, and I wish also to urge our House conferees to accept this Senate provision when they meet to work out the differences in the bill as it passed in each body.

In this respect, I would like to call my colleagues' attention to two excellent editorials. One was aired on March 5, 1970, by KLZ radio and television in Denver, Colo., and the other was published in the Denver Post:

CRASH LOCATOR BEACONS

Last year in Colorado 37 people died in small plane crashes. Four others were rescued through the efforts of the Civil Air patrol. It is not certain, but it is a real possibility that others might have been rescued if reached in time.

Installation of a crash locator beacon on the downed aircraft at the very least would have saved 80 percent of the search cost, according to a spokesman for the Colorado Civil Air Patrol.

The Civil Air Patrol is just one of many groups which support a bill now in congress that would require private aircraft to be equipped with a crash locator beacon. Channel 7 has editorialized in the past supporting such legislation. Now for the first time the bill has passed the U.S. Senate, and there is hope that the amendment sponsored by Senator Peter Dominick will be approved by the House.

Senator Dominick's proposal would give the private aircraft operators 3 years to comply. The delay is longer than we might prefer, but it is probably necessary to allow manufacturers to catch up with the demand.

Senator Dominick in quoting a cost figure of $200 per airplane is probably understating the expense. The better models of the crash locator beacon sell for as high as $550 a piece. The $200 model he refers too is not the most dependable for mountain flying where night time temperatures can go far below zero.

Still even at $550—and mass production can be expected to bring the costs down somewhat—the crash locator beacon is a good buy.

Far from impinging on the freedom of private pilots it should be considered as a public safety device, similar to the auto seat belt, or the provision of guard rails along our highways. It makes sense and if fully utilized can save lives, and cut down the expense and danger of extensive search operations.

Senator Dominick deserves credit for his persistence, and we hope his proposal will soon become law.

[From the Denver Post, Mar. 3, 1970]

AIRCRAFT HOMING DEVICES NEEDED

Coloradans can be especially gratified that Sen. Peter H. Dominick, R-Colo., has pushed through the U.S. Senate a bill requiring installation of homing transmitter devices as an aid in finding downed light aircraft.

Colorado's mountains, as well as those of other Western states, take a tremendous toll of life among private pilots inexperienced in flying at high altitude and under wind conditions far different than those prevailing elsewhere.

Dominick's plan would require installation of a simple transmitting device which is triggered upon impact when the plane crashes. The beep then is sent out on a wavelength customarily monitored by civil and military aircraft and aviation agencies.

Frequently, the presence of such a device would mean the difference between life and death; some flyers have died of exposure and injuries after lying in the wreckage for several days. An early discovery system would enhance their chances of survival.

Extensive and costly searches (which sometimes endanger additional lives) would also be reduced.

Against estimates of $200 per installation when such devices are manufactured on a large scale, we see no reason why the Dominick project, along with a similar bill in the House, should not be given early approval by President Nixon. It is not that much of a hardship on the plane owner's pocketbook, especially considering how much it might save him later.

We realize that lawmakers from flat, densely-settled states are not enthusiastic about the devices. Crashes in such areas are discovered rather quickly without homing devices (even at night a homing device would not be likely to speed up the discovery process greatly).

But a reasonable response is that most flyers are not limited to a small geographical area. Pilots travel far and wide. And it is precisely the flatland pilot who will be most likely to need a homing device when he does travel into a mountainous area. Pilots in such areas are, therefore, shortsighted in opposing the Dominick bill.

THE DUTY TO DISBAR KUNSTLER

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. WYMAN. Mr. Speaker, the violence resulting in arson in Santa Barbara, Calif., last month, is reported to have been incited by the deliberately inflammatory remarks of Attorney William Kunstler of Chicago seven infamy. No attorney who conducts himself in this manner ought to be permitted to remain a member of the bar, for such activity is a direct violation of his oath as a lawyer.

Public attention is increasingly focusing on the American bar in this connection to see whether it acts to recommend to the New York bar that Kunstler be disbarred. No professional organization of lawyers claiming to maintain self-policing responsibility can continue to have public confidence and respect if it allows members to remain in good standing who violate their oath and their fundamenatl obligation as officers of the court as Kunstler has, and on television no less.

In this connection the following paid advertisement of the Bank of America appearing in many newspapers across the United States this week, is significant:

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[From the Record American, Mar. 6, 1970]

VIOLENCE IN AMERICA—ONE COMPANY'S POSITION

Isla Vista, California, population 11,250. The business district consists of a couple of gas stations, a few small shops, some real estate offices—and a bank. A large campus of the University of California is nearby. All in all, a normal American suburban community—perhaps very much like the one you live or work in. Normal, that is, until Wednesday, February 25, when violence shattered the peaceful calm of Isla Vista.

At about 8:30 p.m. on the night of February 25, rampaging demonstrators—students and non-students—protesting the "capitalist establishment" converged on the community's small business district.

Several protestors rolled a gasoline-soaked trash bin through a smashed front door in a Bank of America branch and set it ablaze. Other students extinguished the fire. But just before midnight, with the angry crowd in a frenzy, the branch was set ablaze again. While police and fire officials were held at bay by a rock-throwing mob, the bank was gutted by fire and totally destroyed. A police patrol car was overturned and burned. Numerous other fires were started. Windows were smashed and life and property threatened

These events took place in a community called Isla Vista. They could have happened in your community. They can happen anywhere and with even more disastrous results.

Why did the eruption in Isla Vista take place?

Participants in the violence say it was a protest against the "capitalist establishment," "the war in Vietnam," "the Chicago trial," "student repression," "police brutality," and a list of other grievances against America in 1970. Some of these grievances are real, some are fanciful and others are false. But all deserve to be aired. To the degree that they are not aired, are not taken seriously, Americans break faith with their young.

But all Americans, young and old, liberal and conservative, lose by violence. Violence and destruction are the seeds of anarchy and tyranny—whether it be the tyranny of the extreme right or the extreme left.

We believe the time has come for Americans to unite in one cause: a rejection, total and complete, of violence as a means of political dissent.

All of us, young or old, liberal or conservative, have for too long been silent on the issues of violence. We have been afraid of labels or slogans that would brand us either arch conservatives or traitors to a liberal cause. Such sloganeering does all of us a grave injustice.

Let us, as a nation, find once again our ability to distinguish between protest and revolt; between dissent and chaos; between demonstration and destruction; between non-violence and violence.

Let us cease to condemn those who disagree with us, but let us also be prompt and resolute in putting an end to violence in our land.

To this end we applaud the courageous response of many dedicated public officials. They deserve the cooperation of all citizens. They will have ours.

Every American has a right to walk the streets in safety. No polemic should be allowed to obscure this right. Your wife or husband, son or daughter ought to be safe in visiting a supermarket, a filling station or a bank—regardless of whether another may choose to reject that institution as an onerous symbol.

It is for these reasons that we plan to reopen our Isla Vista branch on Monday, March 9. We realize that there is danger in this course of action. But we believe the greater danger to ourselves and to all of the people in this nation is to be intimidated by mob violence. We refuse to be so intimidated.

Is the branch worth this much? In monetary terms, the answer is no. It is not, and never has been particularly profitable. But it is there to serve the banking needs of the community and we refuse to be driven out of any community by a violent few.

Is this a bad business decision? Perhaps in a narrow sense it is. But we believe that at some time and in some place Americans must decide whether they intend to have their decisions, indeed their lives, ruled by a violent minority.

We are but one bank, but we have decided to take our stand in Isla Vista.

BANK OF AMERICA.

CONSERVATION PROGRESS IN 1969

HON. RAY BLANTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BLANTON. Mr. Speaker, at its 24th annual convention in San Francisco, Calif., February 1–4, a Tennessean, John S. Wilder, was elected president of the National Association of Conservation Districts.

State Senator Wilder is a constituent of mine from the Seventh Tennessee Congressional District. His work in the conservation and development of our natural resources, and his national leadership in improving the quality of our environment, is well known in Tennessee and throughout the Nation.

We in Tennessee have long known of his dedication to the cause of "conservation, development, and self-government." He has been a conservation district supervisor of his Fayette County Soil Conservation District for many years. He served 5 years as president of the Tennessee Association of Conservation Districts, vice president of the Southern States Association of Conservation Districts, national treasurer, and later served 4 years as vice president of National Association of Conservation Districts.

I consider it an honor for Tennessee and the Seventh Congressional District and a great tribute to John Wilder's dedicated and able leadership that he now heads one of the Nation's great conservation associations.

So that my colleagues may know of the fine work of the 3,000 soil conservation districts in America, I commend to their attention the following address of John S. Wilder, the new president of NACD, presented at the 24th annual convention of NACD in San Francisco, Calif., February 2, 1970:

PROGRESS IN 1969

(By John S. Wilder)

It is my task this morning to review the accomplishments of NACD—and Conservation Districts—in 1969. I can only sketch these accomplishments, of course, because the list is very long. But one thing is crystal clear—Districts can be proud of the advances they made in the cause of Conservation, Development, and Self-Government.

As we began the year, our nation's upstream watershed program received a good deal of our attention. Our primary objective was to break the deadlock between Congress and the President over approval of P.L. 566 projects. In April, President Nixon ended the long impasse that had stalled nearly 100 projects and had disrupted state appropriation and planning schedules.

This was a major victory, but other problems were not long in coming. The fiscal year 1970 budget proposed a $10 million cutback in watershed construction funds. It also called for sharp limits on new planning and construction starts. After getting the program back on the track, it looked as if it would be stalled again.

Hard work by Milton Fricke's Water Resources Committee, plus scores of individual Districts, State Associations, and State Commissions turned the tide. The watershed funds were not only restored by Congress, but increased! Limits on new starts were raised to reasonable levels.

The struggle to secure adequate funds for federal agencies that assist Districts is a continuous one. In 1969, it was complicated by anti-inflationary policies, spending limitations, and intense competition for money to finance military and domestic programs. Congress, however, came through. The final appropriations for the Great Plains Program, watershed work, and Resource Conservation and Development Projects all exceeded the President's budget recommendations.

A few gains were made in forestry appropriations, principally in research and state and private forestry cooperation. But funds for soil and moisture conservation work on the public lands administered by the Interior Department were decreased—further evidence of a disheartening trend in recent years.

Adequate funds for District programs are vital. You can't carry out conservation work without money. Every District official knows the crunch we're going through in terms of technical help. Over the 10 years ending with 1968, for example, the Soil Conservation Service lost 600 man-years of employment. In 1969, the work force was decreased by another 600 men—just in one year! Inflation and hiring limitations continue to decrease the technical services available to Districts.

But overall, considering the problems we faced, the funding picture for 1969 turned out to be relatively bright. In another arena, we took part in a coalition of conservation organizations that helped secure an $800 million appropriation for federal sewage treatment grants. The budget had proposed only $214 million.

A significant accomplishment of the year was the extension by Congress of the Great Plains Conservation Program for 10 more years. A. L. Black and Lyle Bauer of the Great Plains Committee recommended several changes in the program—including one that gives District officials more authority—and these were written into the law. The program has already been so successful in stabilizing agriculture and conserving resources in the 10 Plains states that there are over 5,000 farmers and ranchers on the waiting list.

All in all, it was a busy legislative year. Charlie Ladd testified in support of a Presidential Council of Environmental Advisers—and a law establishing it was passed a few weeks ago. President Sam traveled to Washington to urge formation of a Youth Conservation Corps to give teen-agers summer jobs in our National Parks and Forests. The Senate passed this bill and it's pending in the House.

With the help from State Association leaders in North Dakota, Minnesota, and other states, we supported establishment of a "water bank" that would reimburse farmers who protect prime wildfowl habitat from drainage. The proposal has been received warmly by wildlife groups and Congress.

Throughout the year, Dick Longmire, Chairman of our Legislative Coordination

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Committee, kept key District leaders in the states informed of developments. Dick, by the way, startled Agriculture Department officials at one of Secretary Hardin's "listening conferences." He began by saying "the ox is in the ditch" and took USDA to task for cutting back on resource programs when the need for conservation has never been greater.

The legislative scene in statehouses across the country was not quiet last year, either. State Legislatures appropriated over $30 million for District-related work. But the state legislators didn't confine their action to money bills.

There was action in Tallahassee and Columbus to incorporate State Soil and Water Conservation Commissions in other agencies of state government. In Florida, the State Board went to the Agriculture Department. In Ohio, District supervisors chose to locate their State Committee in the Department of Natural Resources.

This kind of consolidation of state agencies is taking place everywhere in the United States. We studied 10 recent reorganization cases of this type and found that the state soil and water conservation agency was retained intact in every instance. In all cases, however, where the agency had been independent, it was incorporated into a state department of natural resources, conservation, or agriculture.

The Ohio action was part of a bill that expanded District powers and enabled Districts to cooperate much more closely with county governments in carrying out watershed and other resource projects. Montana's legislature gave Districts new powers also and established a system whereby counties will help finance District work. Districts in New Mexico were empowered to levy a modest tax on real property within their boundaries. Other legislation was passed and introduced in Texas, Arkansas, Nevada, and other states; and Alaska is considering widespread changes in their law based on the recommendations of NACD's District Outlook Committee.

Probably the most sweeping change in District legislation occurred in Nebraska. A new law there directs the merger of Soil and Water Conservation Districts, watershed conservancy districts, watershed advisory boards, watershed planning boards, and mosquito abatement districts into a few dozen "natural resource districts." Other units such as water, ground water, drainage, reclamation, and irrigation districts are encouraged to join with the new districts. This is ground-breaking legislation, and we'll be watching developments closely.

By the way, we only have 937 soil conservation districts in the U.S. anymore. There are 12 soil conservation sub-districts (in Alaska), 1,878 Soil and Water Conservation Districts, 171 Conservation Districts, and 14 Natural Resources Conservation Districts. This adds up to 3,012 in all. As our functions grow, our names are changing.

Another trend was particularly evident in 1969. This is the growing participation of women in District programs—as supervisors, members of State Commissions, and advisers. And they come from a variety of backgrounds. Mrs. Helen Wilder of Columbus, Ohio, for example, the first woman in the state to serve as a supervisor, is a journalism graduate. Mrs. Russell Wiltbank of Prince Georges County, Maryland, is a suburban housewife. Mrs. Charles Hooks, Jr., of Harris County, Texas, is prominent in aviation and civic affairs. This is a most heartening trend, and one that we should all encourage.

It's hard to know where to turn next in this report. The 16th National Watershed Congress, which we help sponsor, was an outstanding success. Held in Louisville, Kentucky, it attracted over 300 conservation leaders. So did the first National Conference on Sediment Control which we co-sponsored with the Soil Conservation Society of America and the National Association of Counties. Earl McClellan, Chairman of our District Operations Committee, was our official representative, Dave Unger, our Assistant Executive Secretary from Washington, was staff adviser for the conference.

Soil Stewardship Week in 1969 was the best ever. More materials than ever before were distributed to clergymen and their congregations. Stewardship Chairman Del Krenik reports that there were several special and unusual observances, such as a program held by the Southern Aroostook District in Maine in a drive-in theater. They plan to make it an annual event.

Our work with youth groups continued during the year. President Sam appointed a new Youth Programs Advisory Committee with representation from distinguished officials of the Future Farmers of America, Extension Service, Soil Conservation Service, Boy Scouts of America, and Camp Fire Girls. Quincy Cornelius, Chairman of our Youth Programs Committee, met with these advisers and mapped out new directions for our work with organized youth groups.

Three other events are of particular interest. First, we helped to organize a program called "Trees for People" which you'll hear about on Wednesday. Farm Forestry Chairman Monroe Samuel points out that programs of this kind can have important side-effects—such as improved cooperation between people in the forestry field. Malcolm Crooks, Eastern Program Advisor, is secretary of the steering committee.

Second, we prepared an extensive position paper on public land issues which was submitted to the Public Land Law Review Commission. The statement was draft by Lewis Merritt, Russ Reiff, T. L. Meredith, and other members of our Committee on Recreation and National Environment. It covers everything from grazing fees to mineral rights.

Third, the Corps of Engineers began work on the survey of shore erosion for which NACD helped secure authorization. I'm pleased to report also that Elmer Peterson's Shore Erosion Committee is working with Senator Tydings of Maryland on proposed legislation to establish a series of pilot erosion control projects in the Atlantic, Gulf, Pacific, and Great Lakes areas.

I've been emphasizing people in this summary, because they're what makes an organization work. We've had some excellent participation this year from some of our newer officers and directors, like Silas Eakins, Tom Ford, Harley Bogue, Hans Lawaetz, and Don Stephens. Each of them is active in important committee work. Lorin Trubschenck, of course, has been spending a tremendous amount of time, along with Western Program Advisor Bob McClelland, helping to plan this convention. And you all know that George Hartley was elected to the board after Willis Lord resigned to accept a position with the Agricultural Stabilization and Conservation Service.

One of our Directors, Donald Fraker, received signal recognition in 1969. Along with Allegheny County District Director Ralph Abele of Pennsylvania, Don received a coveted American Motors Conservation Award. Your Executive Secretary in Washington, Gordon Zimmerman, was honored also. He was elected Vice-President of the Natural Resources Council of America, a federation of the major private conservation organizations.

Other people who help your NACD function successfully are the dedicated employees in our offices—League City, Washington, Denver, and New Hope, Pa. Under the management of Dave Stewart, the Service Department handled about 10,000 printing orders in 1969 with a total dollar value of about $424,000. That's a lot of business! New publications, new procedures, and new services are enabling League City to do an even better job of serving Districts and State Associations.

One new service, by the way, is a slide talk describing how NACD works. Entitled "With One Voice," it's available for training sessions, District meetings, and other programs. Although we have 10 copies, they are tightly scheduled—so make your reservations early.

Programs of our sister organization, the Soil and Water Conservation Districts Foundation, were expanded and improved in 1969. Under the guidance of Marion Monk, Foundation Director, the District Planning Guidebook was completely revised. The result was a marked increase in use. The Davis Conservation Library at League City operated by the Foundation, steadily added to its shelves last year and made good progress with a number of special collections of fundamental District documents from each state.

There simply isn't enough time to report on all the developments of 1969. What I have said should give you some idea of the tremendous number of activities that are carried on in behalf of Conservation Districts by your national association. And these activities are only the tip of the iceberg. They rest on the countless contributions of each of the 18,000 District officials of this nation and those of the State Commissions, government agencies, and individuals who work with them.

There is more to conservation than the physical accomplishments that need to be attained. The way we go about the job is as important, in our democratic society, as the job itself.

Conservation Districts are a good way to go about this job. Let's continue to work together on the unfinished resource business of the decade ahead.

NEW MARKETING AVENUES, CUSTOMERS BEST WAY TO HELP FARM SITUATION

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. SCHERLE. Mr. Speaker, in the following interview with Mr. Jack Kiesner, the distinguished Washington editor of Feedstuffs, I discussed positive ideas about helping the farmer and creating a sound agriculture program. These comments are respectively submitted for your consideration:

[From Feedstuffs, Dec. 20, 1969]

NEW MARKETING AVENUES, CUSTOMERS BEST WAY TO HELP FARM SITUATION, SCHERLE SAYS

(By Jack Kiesner)

WASHINGTON.—Keying in on market opportunities and finding new ways of selling agricultural commodities, as well as new customers, are the best way of enhancing net farm income and avoiding the incongruities involved in compulsory bargaining negotiations and farm unionization, according to one of the few "dirt farmers" left in Congress, Rep. William J. Scherle (R., Iowa), a 46-year-old grain and livestock producer who represents the southwestern quarter of Iowa, one of the leading corn, cattle and hog producing districts in the U.S.

Scherle sees a continuation of a trend to larger, more specialized and more efficient farm operations, with family ownership continuing to prevail. He believes that land grant colleges and agribusiness interests, including feed companies and other suppliers, have done a tremendous job of gearing research and management skills to production efficiencies, but that marketing and sound economics have often been neglected. He believes any hunger problems in the nation

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are linked largely to problems in distributing the food produced in surplus.

NEW APPROACHES

He said farmers tell him they're yielding 120 bu. corn per acre through new production techniques, "but it would be more significant if they told me they'd found new customers or new approaches to marketing that corn." Scherle believes farmers' low net income problems are compounded by the fact that they "can't cheat on fixed costs" if they are to continue farming. They must buy equipment, feed and fertilizer while supporting efforts to expand their foreign and domestic markets, he explained.

The Iowan is very pragmatic in discussing current approaches to farm bargaining power, pointing to the independent nature of farmers, difficulties in getting them to sell as a group and problems involved in attaining the necessary supply-demand balance needed for effective bargaining.

"Sure, I like to see strong farm prices, but remember that real lucrative prices bring in the lawyers, barbers and everyone else until production climbs way up and prices drop again." He cited built-in hazards in bargaining for terms for perishable commodities, and pointed out, that, "You just can't profitably keep cattle on feedlots when they're ready to move."

The 1968 bargaining rights bill commonly known as S. 109, which outlawed discrimination against producers because of their activities in bargaining co-ops, was termed "workable" by Scherle, who takes a skeptical view of proposed steps beyond S. 109 calling for rigid compulsory bargaining and government intervention.

He noted that, distasteful as it may be now, the continual off-migration from farms may eventually improve the price situation for the remaining producers. If the number of farms is drastically cut, however, consumer prices would quite possibly be forced higher or food shortages could result, Scherle cautioned. On the extreme in such a case, he said, the government could eventually move to make food production and distribution a public utility.

Scherle plans to double his cow-calf operation and sell them as yearlings. He noted that older packing plants have become obsolete, that enormous amounts of cattle in his area are being fed by corporations and that competition on the market has been stepped up because of an influx of new, modern, regional packing operations, which must have the raw products on a regular basis. Need for this new production may force a problem in the next few years, he mentioned, adding that it might also encourage more imports.

Pointing to the demise of the old farm bloc in Congress, Scherle said that in order to get passage for agricultural legislation, including farm programs, rural interest must have "trading stock," such as support for food stamp expansion and other issues important to urban congressmen. City people, he said, can't understand why they "have to pay farmers not to produce." They must be shown that there are 20 backup workers in agribusiness and the food and distribution industries for every farmer, and that agriculture and the world's best food supply are one of the great assets of this nation. He mentioned that farmers are subsidized by government no more than are airlines, the merchant marine and General Motors. "When the farmer ceases to have a minimum return on investment, there will be grass growing on every street and town in the U.S.," Scherle said. He predicted a continued off-migration from farms, as producers are discouraged by a low 3–5% return on investment and high capital expenditures. It was mentioned that, "A lot of decisions will have to be made in the next five years on whether to stay and farm or get off."

Scherle has been trying to muster support for legislation he introduced which would allow tax incentives to business and industry moving into or expanding in rural communities. He contends the long-range solution to urban problems is to provide good jobs for rural people in their own communities. The congressman said he was concerned that the high school dropout rate is higher in rural areas than in inner cities and that those who do graduate often must move to Des Moines, Omaha, or Kansas City for meaningful jobs.

NEW FARM PROGRAM

On development of a farm program to replace the Food and Agriculture Act of 1965, which expires at the end of 1970. Scherle favors continuation of a modified feed grain program and a selective 5–10 year land retirement scheme to take 5–6 million acres out in the first year, increasing it the next year to 10 million acres. He's opposed to a limitation on farm payments, feeling this is a penalty on operators because of size and that the big producers contribute most of the surplus, therefore they should be in the program.

The feed grain program favored by Scherle would be similar to the present one, would provide for advance payments and would allow the secretary of agriculture more leeway in making adjustments for special situations.

The long-term land retirement scheme would have to be organized so that large amounts of land would not be retired in any one farming community, thus disrupting the economy of small towns. Land retirement options would be offered first, on a bid basis, to older farmers who want to retire on their farms, and to the disabled. Those who are unable to get farm help or who have working sons in the service would also get special consideration, according to Scherle's plan.

The congressman said 75% of the eligible farmers in his district participate in the feed grain program, and should have a chance to continue in it or bid on land retirement. "We can't suddenly ask them to break away from farming or go to massive land retirement." Scherle said he was against a precipitous withdrawal from the feed grain program. He added that it should be kept voluntary and annual.

Scherle said there were many unhappy producers when the soybean loan was adjusted downward last March from $2.50 (No. 2 grade) to $2.25 (No. 1 grade), but that this move has allowed soybeans to move on world markets and has led to increased domestic consumption. If necessary to move beans for export, the loan may have to be dropped another 5¢, as has been rumored, Scherle said.

On use of Commodity Credit Corp. and reseal loan grain stocks, the congressman pointed out that USDA should avoid dumping corn on the market and disrupting prices, as, he said, was done in recent years. At the same time, Scherle maintained that CCC and producers can not build up surplus stocks year after year without eventual repercussions on the market.

How's Secretary of Agriculture Clifford M. Hardin doing?

"Very well," according to Scherle, who finds Hardin not as dogmatic as predecessors Orville L. Freeman and Ezra Taft Benson. Scherle said Hardin has neutralized much potential opposition, by not coming forth with all the answers, but rather by going into the country and getting views of farmers and agribusiness through a series of listening conferences.

Scherle said he had only one complaint about Hardin's first year performance: Although he's worked closely with members of the House and Senate agriculture committees on development of farm programs, he hasn't contacted other congressmen with strong agricultural interests. "I would like to visit with him before he comes out with his plan," Scherle said.

SUNNY SLOPE FARMS OF GAFFNEY, S.C., WINS PEACH COUNCIL AWARD

HON. TOM S. GETTYS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. GETTYS. Mr. Speaker, I am proud of the achievement of a distinguished family of Gaffney, S.C., the Caggianos, who have contributed greatly to the agricultural economy of my State.

To those of you who are not familiar with the agricultural and industrial development of South Carolina, I have an interesting bit of information to divulge at this time. In the overall field of agriculture, South Carolina is rapidly coming into its own and her star is shining ever brighter with awards for progress in many areas of agricultural and industrial development.

Today another national honor is brought to our State in the recent award to Mr. Vincent Caggiano and his fine family who operate Sunny Slope Farms at Gaffney, S.C. Mr. Caggiano and his sons have just been honored with an award from the National Peach Council for outstanding contributions to the peach industry. One of the largest peach producers in America, Mr. Caggiano and his son, Louis, were instrumental in designing the ¾-bushel container, which in itself has saved millions of dollars for producers, shippers, and retailers through less bruising and spoilage of fresh fruit. Sunny Slope Farms, which has over 1,200 acres in production is the pride and joy of Vincent Caggiano and his family.

Mr. Caggiano was born in 1880 in Salerno, Italy, and migrated to the United States at the age of 16. He had the hungry desire first to become an American citizen, and second to be a good farmer. His dream became a reality when he purchased his first small farm in New Jersey. He dreamed of growing the finest apples and peaches to be had on the fresh fruit market. The first Sunny Slope Farm was developed at Bridgeton, N.J., and later the Sunny Slope Farm at Gaffney, S.C., was established. The New Jersey farms are now owned and operated by his son, Alfred. All of the Caggiano family, Anthony, Dominic, Alfred, John, Mildred, Louis, and Vincent, Jr., have assisted their father in the Sunny Slope operations.

James Caggiano, a grandson, is a graduate of Clemson University's School of Horticulture. Louis Caggiano, assisted by sons James and Louis, Jr., now leads the Gaffney operation started in 1943 and all work closely with Clemson College of Agriculture with Dr. William Wiley, dean of the agriculture school, as well as Dr. T. L. Senn, Dr. Robert Skelton, and their fine staff of horticulturists. South Carolina's Horticulture Department now reports over 4 million peach-bearing trees are expected to be in production this year to help furnish the finest fruit grown for the American dinner table.

Vincent Caggiano, Sr., who recently celebrated his 90th birthday, is semi-retired but still maintains his interest and enthusiasm for farming.

Mr. Speaker, it is with deep and proud humility that I take this time to honor a great American, an immigrant to this country at age 16, and his fine family for their help and devotion to their adopted State as well as their contributions to one of the most competitive industries of this day—the elements and environment included.

WE STILL HAVE MEN WHO BELIEVE IN DUTY, HONOR, AND COUNTRY, WE NEED MORE

HON. GEORGE W. ANDREWS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. ANDREWS of Alabama. Mr. Speaker, the effects of the wave of shameful antiwar demonstrations on the spirit of our fighting men in Vietnam is a matter that receives all too little consideration these days.

Yet, it is not hard to imagine the disappointment and disgust that our soldiers feel when they see and hear of acts of desecration against the American flag, obscenities against the Government of the United States and her President, glorification of the Vietcong and the late Ho Chi Minh, and condemnation of American servicemen in Vietnam.

An act of unspeakable treachery occurred recently in downtown Cincinnati, Ohio, when an American flag was hauled down from its pole and a Vietcong flag hoisted up in its place.

That incident and the loss of a good friend and comrade-in-arms prompted Lt. Col. William Schroeder, a fine officer and one of my appointees to the U.S. Military Academy to write the following letters to me and the Cincinnati Enquirer.

The last is a truly remarkable letter written by Colonel Schroeder's friend's grandfather in 1917, requesting permission from his father to join the U.S. Navy. We still have men like him today, men who believe in duty, honor, country. We need more. The material follows:

MARCH 10, 1970.

HON. GEORGE ANDREWS,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR SIR: It was recently my honor to escort the body of a friend, Major William McConnell, from Vietnam to his home in Denver, Colorado. Many relatives of Bill's live in Alabama and attended the funeral. He was a member of the Alabama National Guard when called to active duty.

I was profoundly disturbed by a front page newspaper article which stated that a group of 300 demonstrators had removed a large American flag from its pole in downtown Cincinnatti and replaced it with the Communist Viet Cong flag at approximately the same time that I was presenting my friend's widow with our country's flag. I wrote a letter to the editor of the Cincinnati Enquirer which I am enclosing.

Also, I thought you may enjoy reading a letter from Bill's grandfather written in 1917 in which he requested permission from his father to join the U.S. Navy. I believe this letter illustrates Bill's heritage which instilled within him a high degree of belief in duty, honor, country.

Sincerely yours,
Lt. Col. WILLIAM SCHROEDER,
Staff CINCPAC—Box 13, FPO San Francisco 96610.

MARCH 9, 1970.

Attn: Mr. BRADY BLACK,
Editor, Cincinnati Enquirer Inc.,
Cincinnati, Ohio.

DEAR SIR: I could not help being struck by the irony of the attached clipping in which I read about a group of 300 demonstrators who removed a large American flag from its pole in downtown Cincinnati and replaced it with the communist Viet Cong flag. At approximately the same time I was presenting the widow of a soldier with our country's flag at his funeral in Denver, Colorado.

My friend Bill was a brave soldier on his second Vietnam tour who sincerely believed in our country's effort to prevent communism from absorbing still another country. He had served as an advisor to a Vietnamese unit, as a company commander of U.S. troops, and finally when he met his death as a staff officer of a U.S. battalion.

Those of us who have served in Vietnam, especially those who have been advisors to Vietnamese units, have been necessarily close to the war. We have had personal involvement. Therefore, we have a right to question the supposed objectivity of those who have not seen what we have seen, who have not done the job that our nation asked us to do.

I have seen results of many polls taken to determine the feelings of the American people about the Vietnam war. Yet no one, to my knowledge, has ever taken a poll of the many thousands of U.S. advisors who have returned from service in Vietnam to ascertain how they feel about our effort and commitment to that brave little country.

Vietnam didn't ask to be caught in the middle of a power struggle between a godless ideology and the leader of the free world. Of course, however, neither did Korea. I thank God that in Vietnam the great majority of the people prefer their freedom; will, and are fighting to preserve it, and will continue to do so even if we pull out.

It was not very difficult for me to explain to my friend's widow, children and parents that bill had not died in vain, for after his first Vietnam tour he had convinced them and his friends in Denver of the necessity of our commitment.

What is more difficult to explain or even understand is how a major city's police force or even its ordinary citizens would allow our country's flag to be removed from a flag pole and replaced by an enemy's flag. Perhaps a confrontation was avoided, temporarily. Perhaps Cincinnati can be proud of the avoidance of a clash with demonstrators.

Perhaps one can dismiss the small percentage of demonstrators in our country by explaining that they just don't know any better. How does one explain the speeches and comments of many of our political leaders who appear to be vying with one another to see who gets quoted the most in the communist propaganda organs. I have seen numerous Viet Cong propaganda leaflets praising the statements made by U.S. Senators. These statements have encouraged our enemy to continue the fight. I can think of at least 40,000 reasons why these statements should not have been made and while there in still an American in Vietnam why they should cease. Political expediency above national interest at the cost of American lives is difficult for a soldier to fathom.

I don't believe there is anyone in this country that is more for peace than those who have fought and are fighting in Vietnam. Our brave soldiers have won the military victory in Vietnam. For God's sake don't throw away this victory and then ask us to go at a later time to another place and do it all over again, as surely we will be required to do.

What did I say when I presented our country's flag to Bill's widow? "Bill fought and died bravely for this flag; as a symbol of its gratitude, a grateful nation presents it to you."

Lt. Col. W. SCHROEDER.

HONOLULU, HAWAII.

YOUTHS IN PROTESTS

CINCINNATI.—A group of about 300 demonstrators marched to Fountain Square in the heart of the downtown section here and removed the large American flag from its pole, replacing it with a Viet Cong flag.

The group, composed mostly of young people, assembled at the Federal Building for a rally in support of "suppressed ideologies."

In Frankfort, Ky., between 500 and 600 youths marched through the streets of the state capital to protest the war in Vietnam.

IN MEMORY OF MAJOR WILLIAM C. MCCONNELL, IV

Passed away February 22, 1970.

SERVICES

1 P.M., Tuesday, March 3, 1970.

Fairmount Memorial Chapel.

Chaplain (Col. Res.) Paul G. Hansen, officient.

Jacqueline Wennberg, organist.

CASKET BEARERS

Frank Chirico, Peter Schaefer, Lionel Topaz, Frances E. Kahn, Alvie J. Willis, Richard Maloney.

Military Honors by Fitzsimons Honor Guard at Fort Logan National Cemetery.

MARS HILL, N.C.,
April 9, 1917.

DEAR PAPA: As you have no doubt seen from the papers, the naval department has issued a call for five hundred thousand volunteers for the war with Germany. This call, together with the declaration of war, has interested me very much. However, I cannot join the Navy without your consent and mother's, because I am under eighteen. I have no intention of enlisting until school is out, but I would like to have your permission, at that time to go to the aid of my country.

I have several reasons for making this request, strange as it may seem, since I have never expressed such a desire before. In the first place my country needs me, and it seems to me nothing but cowardice for a physically strong man to hold back in a time like this. The most general thought, among the young men now, is: "What's the use for me to go? There will be plenty of volunteers." The man who thinks this has absolutely no grit, nor back-bone, and above all, no love for his flag and country. I do not fear death. I rather fear the scorn of my fellow-men and of those I love. Someone must die and "better be a dead hero than a living coward." But the war will not last long, I think.

It may be possible to get in the Navy for a year or until the end of the war. Here is another reason. The training received in the Navy will be good for me not only physically but mentally. Then again it will not hinder my education. A year in the Navy will be worth any year at school, I think. As you know I am planning for a business career. In order to be a successful businessman it is essential that I should know human nature. And nowhere can this be learned better than by rubbing shoulders with every class of humanity in the world. So I do not believe that a term spent in the Navy would be time wasted.

However, as I said before, I do not want

XUM

to enlist until after school is out. I could enter on Monday after school is out on Friday. That will be May the seventh, four weeks from today.

Now, Papa, I have considered the subject seriously, and aside from the training I will receive, I believe I will not be showing true *American Blood* unless I volunteer my services to my country in this time of need. I want you and mother to consider it and also consider what you would do under the same conditions. Write me as soon as possible and let me know your opinion.

I am returning the check sent to Kinton. It arrived two days after the books were closed for the exchange of rooms.

I hope you are all well. Can't you come out sometime soon, when the roads are better, to see me?

Love to all.
Your Son,
WM.

STATEMENT OF INCOME

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. HUNGATE. Mr. Speaker, in accord with my regular practice since coming to Congress, I again disclose my income as shown by my most recent income tax return for the year, 1968, due and filed in the year 1969.

My joint personal income tax return, form 1040, line 5, shows my congressional salary of $30,000. Line 6 lists other income of $3,393.65, for a total income on line 7 of $33,393.65, less line 8, adjustments for allowed congressional living expenses attending Congress in Washington, D.C., $3,000. Total income, line 9, is $30,393.65.

Itemized deductions, line 11a, are $5,016.91, consisting primarily of State and local real estate and personal property taxes of $2,108.38 and interest payments of $2,188.15.

The total income tax and surtax, line 12, is $5,732.49, less a tax credit of $6.58, line 13, leaving $5,725.91, income tax due, line 14. Plus a self-employment tax of $106.18, line 15. The total tax, line 16, is $5,832.09. The total Federal income tax withheld, line 17, is $6,473.30, plus Federal income tax paid on estimate, line 20, $1,156.33.

Total tax payments are $7,629.63 as shown on line 21. This constituted an overpayment of $1,797.54, of which $800 was credited on line 24 to 1969 estimated tax, and the balance of the overpayment refunded.

The principal sources of income, aside from congressional salary, were interest on savings and loan deposits, speaking fees in excess of travel expense incurred in connection therewith, and income from law partnership. The gross amount of ordinary income received from the law partnership—Hungate & Grewach, Troy, Mo.—was $3,251 which was substantially reduced by depreciation and partnership expenses chargeable to me. As I have previously indicated, the partnership was terminated on June 30, 1969, and this income will be duly reported by me when my 1969 income tax forms, due April 15, 1970, have been filed.

Neither my wife, myself, nor the law partnership bought or sold any stocks, bonds, or real estate during the year for which this report is filed.

Campaign funds raised for me are handled by committees and held in trust so that I have no direct control over such funds.

THE UNITED NATIONS AND THE HUMAN ENVIRONMENT

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. FISH. Mr. Speaker, along with my distinguished colleague, GEORGE P. MILLER, of California, I serve on the U.S. delegation to the Preparatory Committee for the United Nations Conference on Problems of Human Environment. Twenty-seven nations are represented on this committee preparing for the 1972 conference in Stockholm, Sweden. The U.S. delegation is ably led by Christian Herter, Jr., Special Assistant to the Secretary of State for Environmental Affairs, and by Mrs. Shirley Temple Black.

At the opening session, March 10, 1970, United Nations Secretary-General U Thant eloquently stated the critical need for international action, calling for the United Nations to be a "center for harmonizing the actions of nations in solving the problems of the human environment."

The Secretary General correctly stated the problem in terms of the effects of the productive processes on the physical environment. He stated:

> Control of these effects, will require new economic thinking, new legal instruments, new administrative measures and new governmental priorities.

The estimated doubling of the world's population, he reminds us, will double the worlds consumption of water, energy, and minerals.

Monitoring what is happening the world over to the oceans and to the atmosphere is advocated to supply the knowledge needed to meet the challenge of preserving human life on this planet.

I am inserting the remarks of the Secretary General in the CONGRESSIONAL RECORD for the benefit of my colleagues:

TEXT OF STATEMENT BY SECRETARY GENERAL U THANT

LADIES AND GENTLEMEN: I wish to welcome you to this first session of the Preparatory Committee for the United Nations Conference on the Human Environment. Never in the twenty-five-year history of the United Nations has there been a problem of more relevance to all nations than the present environmental crisis. The time has come for the United Nations, in the spirit and the letter of the Charter, to be a centre for harmonizing the actions of nations in solving the problems of the human environment.

The work which you are about to undertake is symptomatic of new trends which are emerging in contemporary events and which seem to me to mark the beginning of a new era in human history. The mastering of energy and the transformation of natural resources into innumerable instruments and goods at the service of man, brought about by the industrial revolution, have provided one of the most astounding pages of human history. It would seem, however, that the aims and methods of the industrial revolution, which has brought such immense prosperity to some areas of the earth, must come under review before it has even reached the entirety of the globe. A new civilization characterized by more human beings, with longer lives and a better quality of life has flowered in the last two centuries, and is spreading slowly over the entire world. Justice in the world-wide distribution of these benefits so far has not been ensured. Indeed, it has been one of the major preoccupations of the world community during the last twenty-five years to enhance the share of the poorer countries in these benefits and to help in their development.

The realization of a new and very disturbing aspect of the spreading and growing industrial civilization has now arisen: man has suddenly awakened to the dimensions, to the rapidity and to the mass effects of productive processes on the physical endowment and configuration of this planet and on its basic biological balances. To produce at any cost, without due consideration to effects on the environment, can no longer be the central preoccupation of man. Control of the effects of productive processes will require new economic thinking, new legal instruments, new administrative measures and new governmental priorities. I am convinced that men and institutions will be able to solve this problem in time, for under the pressure of necessity, man is quite capable of adapting to new conditions. The new challenge posed to industry can be solved by industry itself, once the minds of our best scientists and engineers are bent on devising clean processes of production and proper means of waste disposal.

Mankind is also coming to the realization that a new dimension of time, reaching substantially into the future, must be added to its thinking, planning and endeavours. For never before has the future been so decisively engendered and moulded by present-day decisions. Historically, man has been preoccupied with a time range of scarcely a few years ahead. Life spans were short. The rate of change was slow. Anyone who dealt with forecasts was labelled a utopian, a visionary or a dreamer. In our time it is the utopians who have become realists, and even their forecasts often fall short of reality. The seeds of future benefits and levels of life on our planet are being planted now and are already beginning to germinate. We must carefully weigh the effects of present behaviour on the future if we do not wish to be considered by later generations as having failed in our foresight. It is consequently of paramount importance that the youth of the world be fully involved in our planning. I think that their current unrest and revolt against many of the values of the past arise in part from their uneasiness with the deterioration of the human environment and human situation. Seldom has any century or any generation been faced with such serious responsibilities.

The United Nations and its specialized agencies pioneered in dealing with prospective problems. We possess today sound long-term projections for a great variety of economic and social phenomena such as population, urbanization, education, food requirements, international trade, rates of growth in national income, and so forth. But much remains to be done: we need similar long-term forecasts for the consumption of our natural resources such as water, minerals and energy which will increase prodigiously in the decades ahead. We will need statistics and projections on the total effects of consumption, production and transportation processes on the human environment.

We are thus necessarily on the threshold of a new era of international co-operation. Whatever the political stalemates may be and however long they may last, it seems clear that most economic, social and physical world indicators will change by at least 100% every twenty-five years: world population will double and so will world consumption of water, of energy, of minerals, of transportation, and so forth. Under the impact of rapid scientific and technological changes, nations are being brought closer together and problems are progressively becoming the same in all countries. The total effects of changes within all countries, added together, will require joint international surveillance, consultations and actions if human life on this planet is to be preserved and enriched.

It is urgent that we rapidly fill the gaps in our knowledge. While immense resources are being devoted by many towns, states and national governments in order to obtain better knowledge of their territorial areas, not enough is being done to improve our collective knowledge and to monitor what is happening to our atmosphere and our oceans. Little is being done, for example, to calculate the totality of wastes and deleterious materials which are being introduced by nations and by international transports into our common resources through rivers ad oceans, combustion and radiation. As noted in my report on problems of the human environment issued in May, 1960, only a few regional efforts had been made toward the development of systematic air-pollution sample networks.

I sincerely hope that the international community will decide to make the necessary arrangements so that all nations will be informed year by year of the changes occurring in vital elements of the human environment. The time has come when we must establish an appropriate world-wide network of environmental statistics and forecasts as we have done in other major economic and social areas of collective concern. The time has come when nations must realize that each of them has responsibilities towards the state of the natural endowment of the earth as a whole and that its individual actions added to individual actions of other natons may have collective deleterious effects. Concerted preventive action now is far less costly than to repair the damage after it has occurred.

At this first session of your Preparatory Committee, I would like to make one remark on the orientation of your work. When the Conference was proposed by the Government of Sweden—to which we must be so grateful—one of the major preoccupations was to arouse world-wide attention to human environment problems. We are living in a world of extremely rapid communications and of a great sensitivity to new emerging problems, and it would seem that this original objective of the Conference has already been largely achieved. The human environment is now a matter for almost daily discussion in governments, in the press, in non-governmental organizations, in the schools and in the municipalities of industrialized societies. Two years will pass before the Conference takes place. You must be alert to the rapid changes which are likely to take place during this period. The Conference must be in step with whatever developments may occur during this interval. It must live up to the expectations which will prevail two years hence. Knowledge about the human environment is likely to improve considerably in that time as well as public awareness to the problem. It would seem to me, therefore, that the Conference should be planned in a predominantly action-oriented manner.

The 1972 Conference on the Human Environment can provide a unique opportunity for the United Nations family to provide leadership in dealing with a complex of problems which endanger the most fundamental well-being of mankind. I would like to make a passing reference to the considerable efforts already made by the United Nations institutional system in the environmental field as well as to the first international agreements concluded by major governments. Let me remind you that the universality of the concern with human environment was dramatically recognized in 1963 with the entry into force of the tripartite treaty banning nuclear weapon tests in the atmosphere, in outer space and under water. This was one of the most enlightened acts of statesmanship witnessed in recent years. May I express the hope that the wisdom of nations inspired by the vision of a world united around the human objectives of peace, justice and prosperity will soon enrich human life with a renewed respect for the earth's resources, and reward us with a hostility-free and weapon-free human environment. Perhaps it is the collective menaces, arising from the world's scientific and technological strides and from their mass consequences, which will bind together nations, enhance peaceful cooperation and surmount, in the face of physical danger, the political obstacles to mankind's unity.

I wish you every success in your important deliberations.

WE CONTINUE TO EXPORT TEXTILE JOBS

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. NICHOLS. Mr. Speaker, as one whose district has a large number of textile plants, I am vitally concerned about the growing number of textile imports from other countries. Mr. J. Craig Smith, president of Avondale Mills is also a student of this serious problem. He has recently written an editorial for his company's newspaper, the Avondale Sun. This editorial expresses the feelings of many of those in the textile industry who are hopeful that the administration will soon take steps to remedy this situation.

The editorial follows:

WE CONTINUE TO EXPORT TEXTILE JOBS

The most recent figures of the U.S. Bureau of Labor Statistics show the following losses in textile employment last year: North Carolina 7,200, Georgia 2,200, and South Carolina, 1,200. Alabama had a slight gain.

So far this year, the situation has worsened. Many textile mills have been forced to curtail their operations. The curtailment in the carpet industry has particularly adversely affected us.

President Nixon said during his campaign that he intended to protect our jobs. He has restated this several times since his election. Secretary of Commerce Stans has made a valiant effort to get the Japanese to agree to reasonable restraints. These efforts have been completely rebuffed. Our court of last resort is the Congress of the United States. I am convinced that the Congres would give President Nixon any legislation he may need to deal with the critical situation of textile imports. I believe all President Nixon has to do to get this legislation is to nod his head. He has been in office now over a year. The bad situation he found us in has worsened. The hour for him to say he wants restraints on imports fixed by legislation is late. I can't and don't believe that it is too late.

EDUCATIONAL SUCCESS STORY IN WAUKEGAN

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. McCLORY. Mr. Speaker, in this day of generation gaps, ethnic gaps, and other roadblocks to effective communication, it is heartening to observe a project in Waukegan, Ill., in my 12th Congressional District, designed to bridge the gap between Americans who are Spanish-speaking and the English-speaking community.

An illuminating article by Gene Mustain appeared in the Saturday, March 7, edition of the Waukegan News-Sun describing the so-called Project ELSA, meaning the English Language School for Adults. This educational success story merits the attention and praise of those in positions of leadership who are seeking improved means for bridging the gap between our Spanish-speaking compatriots and ourselves. Mrs. Joanne Arnold, Mayor Robert Sabonjian, and the leaders and members of the Latin American Community Advisory Council of Waukegan, as well as John Rasmussen, principal of Andrew Cooke School, deserve special commendation.

I was pleased also that my longtime friend, Edwin Montano, chairman of the Latin American Advisory Council, and many others in the Waukegan community, cooperated to make this an effective and productive program in behalf of teaching English to Spanish-speaking Americans.

The article is reproduced below:

"PROJECT ELSA" SUCCEEDS—ENGLISH LANGUAGE SCHOOL FOR ADULTS IN FULL SWING

(By Gene Mustain)

It was about 5 p.m. the day before last Thanksgiving when Mrs. Joanne Arnold got the call.

It was Waukegan Mayor Robert Sabonjian on the phone, and at that time, although Mrs. Arnold didn't know it for sure, "Project Elsa" had just been born.

The mayor had arranged to meet that night with leaders of the Latin American community and Mrs. Arnold. The purpose: to organize a program for improving the English of the many citizens of the area who speak Spanish as a first language.

And, as Mrs. Arnold recalls it, it is somewhat amazing that less than two months later the program had a $5,000 grant, lots of "positive participation", and nearly 180 Latin Americans attending classes thrice weekly at Andrew Cooke School.

The program is called English Language School for Adults, hence the name, "Project Elsa", and its coordinator is Mrs. Arnold, a first-year Waukegan Grade School teacher.

Though she is the first to admit the program would have not become a reality without help from numerous sources, Mrs. Arnold deserves much credit. In her capacity as a special teacher for Spanish-speaking youngsters, she learned the children's parents needed instruction, too.

"I'd find that talking with parents of the children was a real problem. They had trouble communicating." And when you realize how important communication is in finding and holding a job and living in a community, the problem becomes acute, she added.

So she contacted Mayor Sabonjian who called upon members of the Latin American Community Advisory Council. All of them went before the Waukegan Grade School Board Dec. 15 and sought—and received—approval for a 16-week program.

The program got underway Jan. 13 with registration and opening classes. Was it well received?

"Well, we expected an enrollment of 100, but we have about 180 registered. And it's getting bigger, too," answers Mrs. Arnold. "Even during the cold weather, we had 180 each night."

The popularity that "Elsa" received is why eight teachers are needed instead of five as planned under the original $5,000 appropriation.

In addition to the teachers, three teacher-aides and other adult volunteers operate a nursery for children of adults attending the classes.

Mrs. Arnold and John Rasmussen, principal of Andrew Cooke who serves as the program's director, both speak highly of the cooperation and participation "Elsa" enjoys.

"We emphasize the importance of people here. Without them the program could not work. The people make it work. The Latin American community has been just tremendous," Mrs. Arnold praised.

"Many of these people have never been to school. To them it's a completely new experience. It helps them develop pride in a strange environment," Rasmussen remarked.

Latin American leaders who helped formulate and still participate in the program are Edwin Montano, LACAC chairman; Edwin Colon, grade school board member; Manuel Garcia and Joe Mota.

The program is divided into three separate levels based on achievement recorded on a pre-test when the student registered for the course.

Of the eight classes, three are basic, two intermediate, and one advanced. The latter meets only once a week. Persons with varying degrees of education and U.S. residency can be found at each level.

The basic classes are aimed at improving conversational English where "people learn to read and write what they say and the necessary things about living in the community."

"We try to tell them the community services that are available to them, like police and fire," explained Mrs. Arnold. Anyone who has visited a foreign country knows what problems the language barrier presents.

One of the basic English adult students is Quintana Diaz, 70, who has lived in the United States for 51 years. Another is Carlos Lopez, a pre-law student in Mexico.

At the intermediate level emphasis is shifted more toward reading and writing. At the advanced stage proficiency in English skills is the goal.

One visual aid used in the advanced level is the Waukegan News-Sun, which sends 70 papers to the school.

Right at the start, in basic classes, only English is spoken. "We try to use just English because we have them for only six hours a week. The rest of the week they use Spanish," explained Mrs. Arnold.

One of Mrs. Arnold's key helpers, Mrs. Anne Sutkus, who is responsible for curriculum development, teaches her class with all the vibrancy of a child opening Christmas packages.

One day recently Mrs. Sutkus stood in the middle of a group of basic English students, laughing, gesticulating, teaching. She motioned for one to stand and turned to another, "Is she standing?"

"Yes, she is standing," came the uncertain reply in studied but good English. Then Mrs. Sutkus said, "Yes, she's standing," making a contraction and setting an example. Mrs. Sutkus then led the group in a chorus of "Yes, she's standing." Lesson learned, but more important, understood.

After a similar demonstration a few weeks earlier three of her students came up after class and threw their arms around her, exclaiming "Thank you, thank you."

"That's the kind of program we have here," relates the "Elsa" coordinator. "The people like it and they feel at home."

Other teachers in the program are Mrs. Laura de Blank, Mrs. Diane Ray, Mrs. Lydia Albarran, and Mrs. Becky Van Hoose, basic instructors; Miss Kaye Whitehouse and Mr. Ken Ray, intermediate, and Mrs. Alice Curry, advanced.

The teacher aides are David Albarran, Raul Zavala, and Angel Rosario. Zavala speaks six languages.

Although most of the program's enrollees speak Spanish as a first language, "Elsa" is open to anyone from any ethnic group who wishes to improve his English.

Of course, Mrs. Arnold hopes "Elsa" is continued in future years. "There are many others whom we can't possibly reach right now. But his program is making it. It is a success. We hope it continues."

FLEXIBLE DETERRENT REQUIRES MULTIPLE SHIPYARDS

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. KYROS. Mr. Speaker, the Newport News Shipyard in Virginia is one of the most important defense facilities which our Nation possesses, and this is made very clear by a recent article by Bernard D. Nossiter which appeared in the Washington Post of Sunday, March 15. This article also outlines a situation "of crisis proportion" which has arisen at this facility, with regard to alleged racial discrimination which exists in the shipyard's work force.

I hope very much that this impasse will be resolved promptly and satisfactorily; the article points out that very substantial progress has been made in the elimination of segregation and discrimination, and that agreement on the issues involved is expected.

The fact that such a serious problem has arisen, however, underscores my serious concern about the trend in our present national policy, under which more and more of our important defense contracts are being assigned to fewer and fewer contractors. The effects of such a policy could be disastrous in the event of a prolonged work stoppage at these huge facilities, regardless of the reason for the stoppage.

The possibility of such a shutdown emphasizes the need for multiple shipyards, adequate at the very minimum for the continued maintenance of our Navy's fleet. The importance of the Portsmouth-Kittery Naval Shipyard should be obvious in this regard, for this is the only shipyard in the United States which is exclusively devoted to submarine work. Given the crucial role of our submarine deterrent in our national defense, I believe it vital that we have sufficient shipyard facilities to maintain this deterrence. Only in this manner can our security remain assured, while problems such as described in the following article are being resolved. Mr. Nossiter's description of the impasse at Newport News follows:

[From the Washington Post, Mar. 15, 1970]

SHIPYARD JOB BIAS: UNITED STATES CITES NEWPORT NEWS FIRM, BARS NEW NAVY CONTRACTS

(By Bernard D. Nossiter)

The Newport News, Va. shipyard, the nation's largest, has been ordered to create a plan ending discrimination in its work force on pain of losing hundreds of millions of dollars in Navy contracts.

The Maritime Administration has ruled that the yard is failing to live up to the equal job opportunities provision of the 1964 Civil Rights Act. As a result, the Navy is now prohibited from signing any new contracts with the yard, the Newport News Shipbuilding and Dry Dock Co.

Immediately affected is more than $700 million worth of contracts for nuclear-powered vessels that the Navy intends to place with the yard. This includes two aircraft carriers, a frigate and a high-speed submarine.

Unless the impasse is resolved—and both government and company officials are confident that it soon will be—the huge shipyard could be shut down entirely.

Maritime Administrator Andrew E. Gibson has scheduled a meeting with Newport News President Lennis C. Ackerman for Wednesday.

Yesterday, Gibson said he has stepped in because the situation has reached "crisis proportions." However, he quickly added. "It is my firm expectation that we will reach agreement. They have intention of abiding by the law. I think they have gone a tremendous way and very real progress has been made."

In Newport News, Ackerman said, "I frankly don't think there are that many differences" between his company and the government.

"After all, we are below the Mason-Dixon line," he said. But he continued: "We know we have to be in compliance. In both spirit and positive action, we are working towards the elimination of segregation and discrimination."

Both government and company officials were reluctant to discuss their specific differences. However, those familiar with the affair said that they centered largely on the kind of work blacks perform, rather than the total number of Negro workers.

EMPLOYS 21,000

Newport News Shipbuilding, a subsidiary of Tenneco Inc., employs 21,000 and Ackerman puts the black employment at 5,600. Other sources said that Negroes make up 35 to 40 per cent of the blue-collar force and this is regarded as a high level.

But blacks have traditionally held the least skilled, poorest paid jobs and the better ones have gone to whites.

The Maritime Administration, which oversees equal employment policy for shipyards, is understood to have demanded that Newport News produce a plan with the following elements: upgrading black workers assigned to categories below their skills; a training program to enlarge skills; better promotion opportunities; and more equal prospects for transfers.

A ruling issued earlier this year by Labor Secretary George P. Shultz requires federal contractors to set up an "affirmative action program" providing equal job chances.

Under this order, Maritime Administration officials have been negotiating with Newport News. These talks reached a stalemate last week.

NAVY INQUIRY

As a result, when the Navy routinely inquired whether the yard was complying with the law, the Maritime Administration declared that it was not. On Friday, Deputy Maritime Administrator Robert J. Blackwell sent Ackerman a letter directing the yard to produce its program by March 27.

Before the yard is stripped of its present contracts, a lengthy procedure that includes a hearing must be pursued. Yesterday, however, no officials thought there was even a remote possibility that this would happen.

Although the Navy is now barred from signing the contracts, officials said that this would not cause a construction slowdown for several months.

Rear Adm. Nathan Sonenshein, commander of the Naval Ship Systems Command, said that "slippages" in his timetable would occur only if the dispute drags on into the summer. The Navy intends to write a firm contract with Newport News for the two nuclear aircraft carriers in May, the nuclear submarine in September and the nuclear frigate in December.

The yard is due to receive about half the sums spent for each ship. The Navy currently figures the two carriers will be built for $536 million and $510 million, the frigate for $225 million and the submarine for $200 million. Typically, costs exceed estimates on these programs by 50 to 100 per cent.

THE OCEANIC OPTION IN AMERICAN STRATEGIC POLICY 1970-1990

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. ANDERSON of Tennessee. Mr. Speaker, on February 17, 1970, the Navy League of the United States conducted a superb symposium on the American oceanic and maritime role through the crucial three decades ahead. The list of speakers and participants resembled a "Who's Who" of the U.S. ocean affairs drawn from the enormous range of diverse interests encompassed by that term.

One of the many topics of mounting interest was the naval role in the new "low posture" configuration of U.S. foreign policy planned by President Nixon. Substantial discussion centered upon a system of strategic force deployments and functions generally termed "the ocean option." In general, this approach to the shifting world power mosaic would, first, place the principal U.S. nuclear deterrent forces in mobile bases within the 128 million cubic miles of subsurface ocean hydra space; second, replace many of our foreign land bases with a powerful offshore military presence; third, take the steps necessary to secure the ocean supremacy of the consensual democracies—in trade, exploitation of marine wealth, development of the sea floor, and in military power.

Vice Adm. Richard G. Colbert, president of the Naval War College, prepared a paper for the symposium exploring some features and possibilities of such a sea-oriented military posture. I commend this paper to the attention of all my colleagues in the Congress. There is much in it that is worthy of critical perusal:

THE BLUE WATER OPTION

(By Vice Adm. Richard C. Colbert)

Mr. Chairman, distinguished guests:

I am deeply honored to have been invited to join with you as a member of this panel to discuss "the defense contribution to future maritime prowess." I regret that I am unable to be present for a direct personal exchange of views for I am thus deprived of the opportunity for intellectual stimulation and enlargement of my own perspectives that such discussions always present. It is a privilege to be able to submit this brief paper to be read on my behalf, understanding that my contribution may have already been overtaken by the broadened thinking and imaginative approaches which are generated from live discussions.

In considering the possible new demands to be made on our navy in support of a revitalized American merchant Marine during the final one-third of this century, it is essential that we first carefully evaluate significant trends now visible in national and international affairs—trends which will profoundly influence American naval and mercantile development during the next three decades.

First, President Nixon has stated in unequivocal terms his intention to bring about substantial change in the international posture of the United States—as expressed in a recently published interview by Secretary of State William P. Rogers, "Our posture today is one of a lowered profile and a reduced presence of the United States, consistent with security considerations. . . . It means putting more emphasis on regional cooperation, making other nations realize that they must take the lead in carrying out the responsibilities in their area" This policy, described as the Nixon Doctrine, is, I believe, based on the realities of the world situation. First of all, the mood of this country has changed—there is little support for the United States continuing to act as "unilateral policeman" of the world; secondly, many countries of the free world which were politically and economically unstable two decades ago when we took on this role, are now reasonably healthy and viable; and thirdly, there are the pressing internal needs of our country which require a reduction in the resources we can devote to our military force structure.

While this new foreign policy posture denies any significant retrenchment toward isolationism, it does advocate a quantitative reduction in our military strength and activities abroad. Thus, our military forces in the 1970's, including the Navy, will be smaller but more sophisticated forces whose presence on the international scene will not be as visible as in the past.

Concurrently, another trend of great significance to our discussions has become clearly and dramatically visible: I refer to the announced determination of the Soviet Union to establish and maintain a worldwide maritime and naval presence. It is obvious that the Soviet leaders are not engaged in idle talk when they refer to their sea forces as capable of supporting foreign policy objectives in the littoral areas of the world. During the past two decades the Russian fleet has risen from a third rate force to challenge our position today as the mightiest naval power. In so doing the Russians have clearly and accurately interpreted Mahan's definition of seapower. Not only is their navy the largest, in numbers of ships, to ply the oceans of the world, but so is their fishing fleet and their oceanographic fleet; and their merchant marine is embarked in a fantastic growth program. In their overall balanced capabilities at sea, they have some reasonable claim to the title of the world's greatest seapower, as defined by Mahan. Their maritime presence, both naval and commercial, has already proved to be an effective tool, a valuable political-military instrument, of Soviet foreign policy in the Mediterranean, the Atlantic, the Indian Ocean and the Pacific—all the world's sea areas.

These trends—the low profile posture to international affairs, increasing emphasis on domestic as opposed to international problems, and the ubiquitous Soviet maritime forces—indeed have serious implications for the strategic role of the Navy in protecting a revitalized U.S. Merchant Marine.

With bloc obsolescence of fifty-eight percent of our warships becoming a reality and the likelihood of replacing these ships on only a one-to-two or one-to-three basis, the U.S. can no longer assume the burden as "minuteman" of the world's oceans.

Taken together, then, one might conclude that Soviet maritime expansion in the face of an American policy of political and military retrenchment may result in a diminishment of the world importance of American naval and commercial maritime power. On the contrary—these two trends indicate to me that the final decades of this century will and must witness a resurgence of American maritime spirit and commercial enterprise at sea, and that this rebirth will require continuation of the existing U.S. Navy predominance of the world's oceans.

The Nixon doctrine seems to be fully consistent with the preferences of American public opinion, and thus is may be considered as a non-partisan and enduring new expression of our national policy. This shift of posture calls for a significant change in the future role of American Armed Forces, in that the commitment of additional ground forces and land based air forces overseas seems improbable, short of full-scale hostilities against a major power. On the other hand, if the regional partners of the United States in various places in the world are to be convinced that we intend to fulfill our existing commitments worldwide, some American presence must be visible to them. In particular, as an enlarging Russian maritime strategy begins to exert pressures within the spheres of interest of the various regional groupings, it will be increasingly necessary for the United States to demonstrate support for local efforts to turn aside or resist such pressures.

If American presence on the ground or with land based Air Forces overseas is to be ruled out, it seems to me that the next decades will present increasing opportunity for American maritime and Naval power to substitute a sea-based presence in support of our allies, some have termed this a "blue water" strategy.

I believe that President Nixon has indicated his belief the importance of American sea-oriented forces through his advocacy of a new and meaningful program for the American Merchant Marine, and his support for continuing the modernization of U. S. Naval Forces.

Thus, it appears to me that we will see a growing partnership of American commercial maritime interests and American Naval power in mutual support of this new keystone of American policy.

In summary, recognizing that our Naval Deployment Worldwide will be reduced in the years ahead, I believe the U. S. must place increased reliance upon the Navies of allied and friendly nations of the world to maintain freedom of the seas and protect free world merchant shipping in their contiguous areas. In order to be credible, these Navies must be provided with the technology and material to allow them to become partners of the U. S. on this mission, and they must be backed by selected but wide-ranging operations of the U. S. Navy, and too, if we are to provide this vital support in the face of inevitable reductions in our overseas bases, our forces must become increasingly self-sufficient to enable them to remain at sea for extended periods and range throughout the oceans of the world.

Thus, I believe that the dual presence of free world navies operating in their local areas and the selected appearance of United States Naval Forces cruising in the area in their support, will best serve to reaffirm our support for our allies and friends, and to maintain the freedom of sea communication and trade so vital to the economic and political health of our country.

Thank you.

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NURSING HOME ABUSE

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mrs. GRIFFITHS. Mr. Speaker, at this time, I would like to insert into the RECORD an article written by James A. Treloar, which appeared in the Detroit News of March 8. The article points to shocking abuse in nursing homes and the resultant tragedy of nursing home patients. Certainly, the facts presented are to be kept in mind as Congress examines ways to provide better health care services for our population and improvements in our medicare and medicaid programs. The article follows:

NURSING HOMES: A STORY OF ABUSE

(By James A. Treloar)

"A layman doesn't know what to look for in a nursing home. He walks in and sees a patient is nice and quiet. And he thinks this guy is happy. And the nurse tells him:

"'This is John. John is one of our best patients. He sits here and watches television.'

"But you just take a look at John's pupils, and you'll see what condition John is in. John is so full of thorazine that it's coming out his ears. Thorazine—that's a tranquilizer they use. It's a brown pill. It looks like an M & M candy.

"The nursing home where I worked kept at least 90 percent of the patients on thorazine all the time. They do it for the money. If they can keep John a vegetable, then they don't have to bother with him. They never have to spend anything to rehabilitate him. And as long as John is there, the money keeps rolling in.

"And John is lost."

These words were spoken by a former nursing home administrator.

He called The Detroit News after reading a special magazine supplement on the problems of the aged, published Feb. 24 by The News.

"I can't hold it in any longer," he said. "I've got to tell somebody what's happening to the old people in these places." He spoke about drug abuse, kickbacks from funeral homes, watered milk on the dinner trays, money stolen from his patients, election fraud, and doctors who collect fees from patients they never see.

Here's the story he tells, in his own words: "One place I worked, they had this director of nursing who just wasn't a good administrator. One day, I walked in her office, and her desk was piled this high with boxes and bottles full of drugs. I've never seen such gross waste of the taxpayer's money.

"These were all drugs that had been ordered for patients, and medicare and medicaid were paying for them. But most of them had never even been opened. Some had been there two and three years. There was everything from thorazine to sleeping pills, to amphetamines, barbiturates—you name it, any kind of drug you could name, it was there.

"By law, a lot of these drugs should have been under lock and key, but you could walk right in off the street and help yourself, and nobody would know the difference.

"The nurses, they just helped themselves. They stole antibiotics, narcotics—anything they wanted. And if any of them wanted to take birth control pills, they'd just tell the nursing director. She'd order them for some patient, and then hand them out to the nurses. The patients never saw the birth control pills. But medicaid paid for them.

"I was really scared, I could have gone to jail for some of the things that were happening in that place. The doctors, they were supposed to prescribe these drugs. But they never did.

"They'd come in and here'd be all the doctors' daily reports. The doctors didn't make them out. The nurses did. The doctors just came in and signed these things. They never even read them. They didn't even look at the dead patients.

"I'll never forget this one man. One day the nurses were passing out the medications. I don't know what this patient was getting. It could have been most anything. But just after he got these pills, he started screaming.

"Then he was quiet. None of the nurses bothered to check on him. But I was curious, so I went over to his room.

"And he was dead. Just like that—dead. The doctor wrote 'cardiac arrest' on his death certificate. But he didn't even look at the body. Everything there was called 'cardiac arrest.'"

(Dr. Louis Hayes, vice-president for Michigan Blue Shield, which administers medicare and medicaid funds, said: "We have been particularly concerned about doctors' charges in nursing homes for some time, and we have many cases in various stages of investigation in which we are cooperating with both federal and state officials.")

"When anybody died—unless there was some family that had a special funeral home they wanted—all the bodies went to the same place.

"Now, I can't prove that the owner was getting a kickback from this funeral home. But I did see a $500 check from the funeral director to the owner of the nursing home. And I can't imagine what else it could have been for. And this is state money again. Most of these people who died, their funerals were paid for by the state.

"The owner of that place would steal from the patients. There was this one man—he came to the home in a taxicab from Harper Hospital. And to my amazement, he had $190 in cash in his pocket, which was most unusual.

"The head nurse and I counted the money, and we put it in a valuables envelope and put it away for safekeeping. So in comes the owner, and he doesn't say 'Hello' or 'How are you?' or 'Where's the new patient?' or anything. The first thing he says is: 'How much money did he have and where is it?'

"The next morning I came in, and the money was gone. Two weeks later, the guy dies. Know who paid for the funeral? The state! Know where the $190 went? Into the bank—the owner's personal account. I know. I did all his banking.

"You want to know what happens in a nursing home? OK. Say a family sends a patient some money. And the patient dies. The family comes, and they want to know 'What happened to the money we sent John?'

"We'd tell them. 'Oh, we bought John some new shoes and pants and shirts.' And we'd take the family upstairs and sure enough in the closet there'd be these clothes.

"But these things don't belong to John. These things have been there for years. The money they sent John is gone! John never got to see it.

"Under medicaid, every patient gets $15 a month for personal expenses. The patients who knew this showed up in the office the day the checks came. The others? The owner would scrawl an X on their checks and cash them.

"The money would go into the patient fund, then get transferred to the general account, and nobody could ever trace it.

"Patents get charged for everything. Even the lubrication for an enema. That was 10 cents. And if a patient needed to go into an oxygen tent, that was great; because you bought the oxygen for about $10, and marked it up to $30 or $40 on his bill.

"Even United Fund money was stolen. One month, we collected $40 for the United Fund. Only the United Fund never saw it. Christmas presents were stolen. There's an insurance company downtown that makes a project every year of buying Christmas presents for the patients at this one home.

"But anything that was too nice, the patients didn't get. The owner took them. The nicest clothes, candy—all the good stuff. I've even seen the owner come out in the kitchen and water down the milk that was served at dinner.

"The state says we're supposed to have a dietitian plan the menus. Sure, there was a dietitian. She came in once a month, wrote out the menus and left. But whatever sounded too expensive, the owner changed.

"Can you imagine patients getting a couple of pancakes and one hotdog for dinner? That's the kind of meals we served.

"The patients at one nursing home I worked for weren't even allowed to vote their own ballots at election time.

"The owner made sure they all applied for absentee ballots, but when they came, he took them all and voted them himself. Voted for the people HE wanted.

"The health inspectors aren't at all effective. One place I worked, they came once that year. And they gave us notice. They told us they were coming. So all the men were given shaves, the women's hair done up, special meals planned, the floors all scrubbed, and it looked just fine.

"I never heard of a state inspector coming at night.

"There has got to be stiffer state controls on nursing homes. Most nursing home operators are making a great deal of money, and this is how they're making it.

"But first, the public has got to learn to care. If more people would visit nursing homes regularly, the owners would shape up.

"They'd have to."

THE PLIGHT OF HOSPITAL WORKERS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. MOORHEAD. Mr. Speaker, hospital workers at two of Pittsburgh's major hospitals are seeking the right to be represented by a union. Their ultimate aim is to raise their take-home salaries from their current $70 per week average to something closer to $100 per week.

In attempting to have themselves represented by the National Union of Hospital & Nursing Home Employees, these workers are being met with some illogical opposition from the boards of directors and officers which run the hospitals.

A recent editorial in the Pittsburgh Post-Gazette sketches quite clearly the hospital workers' dilemma.

I would like to introduce this editorial into the RECORD for the benefit of my colleagues:

THE PLIGHT OF HOSPITAL WORKERS

The basic issue at stake in the lengthening struggle here between two hospitals and Local 1199P is the right of working men and women to have union representation and collective bargaining. The minimum hourly wage at Presbyterian-University and Mercy Hospitals is about $1.75 or $70 for a 40-hour week, which is barely above the officially defined poverty level for a breadwinner with a family of four.

The National Union of Hospital & Nursing Home Employes (the "P" in 1199P stands for "Pittsburgh" and distinguishes the local here from the union's other locals in the South and the East) is aiming for a $2.50-per-hour minimum. That would come out to $100 a week for the approximately 600

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service and maintenance unit personnel at Presby and the 650 similar workers involved at Mercy.

The battle over the organization and bargaining rights of workers was, ironically, fought and won largely in Pittsburgh in the first half of this century. But in the ensuing national and state legislation which codified these rights of labor, certain groups—such as hospital and farm workers—were excluded from minimum wage and collective-bargaining guarantees because they were then unorganized and not very vocal. The rationale for excluding hospital workers was that they worked for nonprofit institutions.

One result has been that hospital workers have, in general, been helping to subsidize the community's health establishment by working for lower wages than workers in private-profit enterprises. Hospital boards of directors, often themselves captains of industry and banking who deal with unions in their own fields as a matter of course, have generally been reluctant to grant union recognition to hospital workers and have argued that making salaries competitive with those of workers in private industry would boost the costs of hospital care to patients. This is undoubtedly true. But it is unfair to deny hospital workers—janitors, food preparers, plasterers, painters, etc.—collective bargaining rights and expect them, just because they labor in a non-profit institution, to subsidize indirectly the community's health care, the costs for which are, after all, the responsibility of the whole community.

Both hospitals should adopt the position taken by the Jewish Home and Hospital for the Aged here, which was that although it did not believe its workers needed union representation it would not deny them the right to vote on it. (The workers at the Jewish Home and Hospital did, and now Local 1199P represents them.) All unions which wish to represent the workers should be welcome on the ballot.

As for the problem of increased costs—which admittedly will arise as a result of the granting of bargaining rights to hospital employes—the hospitals must be preparing now for this later eventuality. They must increase their efforts to curb waste and to achieve greater efficiency. In the case of Presbyterian-University Hospital, the University of Pittsburgh will have to appeal to the state Legislature to help it to meet the higher costs of decent wages for employes. Finally, patient fees must be raised if this is necessary to avoid paying substandard wages. A real effort now to settle the hospital worker dispute on an equitable basis could avoid the confrontations and the suspension of health care services that have occurred in some other cities.

DEDICATION AT THE HADASSAH-HEBREW UNIVERSITY MEDICAL CENTER IN JERUSALEM

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. FRASER. Mr. Speaker, one of the beneficiaries of this Nation's foreign aid program has been the Hadassah-Hebrew University Medical Center in Jerusalem. On February 25, 1970, three new wings, made possible by a U.S. Government grant, were dedicated.

The new buildings, built at a cost of $1 million, granted by the Agency for International Development, comprise the Department of Public Health and Social Medicine, a physicians' residence for overseas doctors working at Hadassah, and an addition to the Hadassah-Henrietta Szold School of Nursing. The grant was made under the Foreign Assistance Act of 1967, section 214.

The Hadassah-Hebrew University Medical Center is the largest center of healing, teaching, and medical research in the Middle East. It serves Jews and Arabs alike, as well as patients who come from countries in Africa, Asia, and Europe.

The Department of Public Health and Social Medicine provides a link between the individual, the family, and the community with the medical center. The physicians' residence is essential because large numbers of physicians from African and Asian countries study at Hadassah and many American physicians spend their sabbatical leaves there. The nursing school, which has already produced over 1,000 graduates, is now deepening its study program in accord with new concepts in nursing.

At the ceremony, the speakers said:

Mrs. Faye Schenk, national president of Hadassah, the Women's Zionist Organization of America:

The clasped hands—the meaningful symbol of United States aid and concern for smaller underdeveloped and developing nations of the world—is a perfect characterization! Please note the symbol—see what it is—also see what it is not! You do not see a disparity in the size of the hands—one larger, stronger than the other—as it might well be if it were depicting the donor as the dispenser of largesse to the other, the weak and cowering recipient. Not at all! The hands are of equal size denoting mutual exchange, the proffering of aid, of encouragement leading to self-help, to self-sufficiency, and, in turn, to the help of others.

I am reminded of the words spoken by Prime Minister Golda Meir to President Nixon at the White House dinner tendered to her during her recent visit to the United States—and I quote very freely: "I have come," she said, "the leader of a tiny country to the largest, most affluent country in the world, and as I talked with the President of this rich and powerful nation, I felt all the while that I was talking to a friend who listened and who cared."

Indeed the Government and the people of the United States have cared and continue to care and these areas which we dedicate today are only a small but to Hadassah a very important and significant part of the tangible, visible evidence of that great sense of caring, a caring which helped build this sturdy little land of Israel—a caring which has helped make the United States the great nation it is, a worthy inheritor of the legacy of its founding fathers dedicated to the support of the democratic rights of men and nations and to the betterment of the human condition wherever man has his being.

Mr. Barbour, to you, as the much beloved Ambassador of the United States to Israel, I, as President of Hadassah, the Women's Zionist Organization of America, say to you: I am more than proud and privileged, I am humbly grateful that these two nations—the United States of America and Israel, so beloved by the 318,000 members of Hadassah—stand in mutual accord and not only figuratively, but literally clasp hands and join hearts on these premises today as we dedicate these gifts of the American Government to Hadassah and to the weal of mankind.

This business in which we are engaged together we believe to be the most effective means to peace and today when peace is the most complicated and most essential business on earth, may we say that we would like to engage in more of this kind of good business together.

Mrs. Charlotte Jacobson, national chairman of the Hadassah Medical Organization Committee, who presided:

There is no event which can bring satisfaction to the members of Hadassah than one dedicating new buildings to serve the people of Israel. It represents the physical evidence of plans fulfilled, years of hard labor and perseverance rewarded, and faith triumphant.

In this case, our gratification is intensified because the funds for these buildings were given to Hadassah by the United States Government thru the Agency for International Development program. This is not the first grant that Hadassah has been privileged to receive from the U.S. Government, and certainly our expectations are great that it will not be the last. While we have always been proud of the high regard for our medical activities as expressed by many American statesmen, it is nevertheless a great tribute to our work that in 1966 the United States Congress voted the equivalent in Israel currency of one million dollars to help us carry out essential areas of development.

A Medical Center exists to study, understand and cure the common enemy of man everywhere—disease—and to enhance the common good for all men everywhere—good health. Indeed, in one of his messages to a Hadassah National Convention, John F. Kennedy wrote: "Not only Israel but the entire free world benefits from projects such as the Hadassah-Hebrew University Medical Center." Only last year, when Mr. Robert H. Finch, U.S. Secretary of Health, Education and Welfare, was in Israel, he wrote us that "The Medical Center near Jerusalem, for which Hadassah can take so much credit, was a particular highlight of my trip. Its physical plant alone represents a breakthrough of major proportions, and its approach to the delivery of a total package of health, training and services will figure directly in our future planning here at HEW. We can learn much from our friends in Israel, and I intend to see that the opportunity is not wasted.

His Excellency, Mr. Walworth Barbour, the U.S. Ambassador to Israel, said:

I have participated in a number of dedications here in the Hadassah-Hebrew University Medical center in Jerusalem. It has invariably been a pleasure to do so, as they have been historic occasions commemorative of the so-well expressed clasped hands symbol, which signifies the solidity and activities of the aid program, and of Israel's willingness and ability to cooperate and aid itself with a minimum of our help. On this occasion, particularly, the American Government has participated directly through the Congress in making possible these additions to this magnificent plant. The use of these monies and the fact that the Congress appropriated them is an indication of several things, not the least of which is the general recognition of the important role Hadassah has played in world medicine, not only in Israel, but throughtout the world, scientifically and otherwise. I congratulate Hadassah. I sincerely support the action of Congress in making these monies available.

The Israel Minister of Finance, Mr. Pinhas Sapir, said:

I am really indebted to you, my dear ladies and friends of Hadassah, for the chance you give me—in a world so troubled with anxiety and worry—to get together with all of you representing both sides of the ocean, on this happy occasion. I must congratulate you most heartily upon the successful carrying-out of new projects at this Hadassah-Hebrew University Medical center in Jerusalem through the international cooperation of the United States and Israel.

Fifty years of pioneering in the health field in this land are an asset and credit to the great Hadassah movement in the United States. I wish to say to the dedicated members of Hadassah in America and to the devoted physicians, nurses and general staff of Hadassah Medical Organization in Israel: the work you have carried out has justly won acclaim in the United States as well as many other far-flung continents. It is thus no surprise that the American Government and people have sought to associate themselves in so generous a way with the further development of your humanitarian work on behalf of patients of all races and creeds.

By their infinite devotion to these holy tasks, the leaders and members of Hadassah have created the closest personal links between the Jewish communities of the United States and of Israel and also between the leading medical institutions of both countries. Thus, you have attracted valuable support from U.S. public funds for the expansion of medical service, training and research activities at Hadassah in Jerusalem.

As a movement, you have always remained loyal to Jerusalem, and shared the fortunes of its residents in times of peace and emergency alike. You are now on the threshold of great expansion at the Ein Karem center and of reconstruction at your impressive Medical center on magnificent Mount Scopus—the purpose of which is to bring the blessing of health to tens of thousands of Arabs and Jews from East and West Jerusalem and, indeed, from all over the country, and even—as was the case throughout the history of Hadassah—from neighbouring countries.

It is a real privilege for me to bring to you on this occasion the warm greetings of the Government of Israel and to express the hope that you may reach the fulfillment of your dreams and projects within a lasting peace—both for Jerusalem, the city of peace, and for the Middle East as a whole.

Mrs. Vera Tsur, chairman of the Hadassah Council in Israel, said:

It is no coincidence that Hadassah pioneered in the setting up of a country-wide network of maternity, child health and school hygiene services. The concern for the welfare of the family is deeply rooted in Jewish tradition and was always a pivotal factor in the structure of Jewish community life. An abiding concern for the physical and spiritual well-being of the family has preserved the unity and the survival of our people throughout the centuries and has guarded it against the trials and tribulations to which it has been exposed. Inspired by this tradition, Hadassah, from its inception, placed the emphasis not only on treating and curing the sick but emphasized the prevention of disease by entering into the problems of the family—its living conditions and environment—through its public health program and later focused in its family and community Health Center and Department of Social Medicine.

As an Israeli mother whose family has benefited from Hadassah's blessed facilities, may I, on behalf of the motherhood of this country, express deep gratitude to Hadassah and to the American Government for the generations to come.

Prof. Sidney L. Kark, head of the Department of Public Health and Social Medicine:

I am very honoured to speak on behalf of those who have received accommodation as a result of this very fine gift of the U.S. Government to Hadassah.

What is social medicine? The social medicine developed at this school has included three important related elements:

Firstly—Epidemiology which is its basic science;

Secondly—Studies of the health care system; and

Thirdly—The practice of community medicine, which itself includes several elements, namely family practice, family nursing, care of the chronic sick at home and maternal and child health care in a community.

I would like to refer to something that has happened since we moved to the Medical Center to our new wing. In the last academic year we have had twelve United States medical students, mostly in their senior year of studies, undertaking a clerkship in community medicine in our department for periods ranging between six weeks and three months. This clerkship in community medicine was recognized by their various faculties in the U.S. and it has apparently stimulated so much interest that we have had a number of inquiries from students in the United States who wish to come and spend a period of three and sometimes more months in a community medicine clerkship.

What will the transfer of our department to the Medical Center mean for social medicine and its various fields, like the practice of medicine in the community—a transfer which has been made possible by the U.S. Government funding and the imagination of Hadassah itself, for which we are very grateful? It is my hope that this will lead to a gradual coming together of the community health activities of Hadassah and its hospital and basic sciences of the Medical School. It is true that the social medicine aspect is at present but a tiny part of the totality that exists here in Ein Karem, but this is a reflection of the state of medicine at the present time where all emphasis is on the hospital and the basic sciences integrating the clinical sciences in the hospital.

The advent of social medicine into the University Medical itself adds a third dimension. While only a small beginning, I am sure that it will in time develop the same relationship with the basic sciences as has been developed by the clinical departments of the hospital and any association with these clinical departments will broaden the scope of the University Medical Center to include more advanced teaching and research in a much needed field of community medicine. Through this research and through the practice which is growing in the community, the medical center will be enabled to provide a scientific foundation on which policy decisions by government and other agencies can be made.

We cannot in Israel afford petrification in our health center system and must seek new ways. As in other fields of medicine, these new ways can be helped by suitably supported research.

Prof. Kalman J. Mann, director-general of the Hadassah Medical Organization:

Our work in the field of Pulic Health and Social Medicine is the end result of a long road of growth and development that has its beginning in this country over 3,000 years ago, when there were enunciated here the earliest laws for the promotion of health by the initiation of a weekly day of rest; for the prevention of physical disease by the introduction of laws governing personal hygiene and isolation of infectious cases; for the elimination of Social Pathology by the formulation of inter-human patterns of behavior.

This road continued its westward course throughout the 19th century with the development of Medical Sciences and a deeper understanding of infectious diseases. It broadened in the 20th century to include the psychological and social causes of community ill-health in addition to those of physical origin, and in 1918, with the help of Hadassah, it made the return journey from the United States to its starting point—to Israel—where it changed the image of health of Man and Environment.

Yet, Hadassah's contribution to health extends far and beyond the field of Public Health. As you stroll around the Medical Center, you will perceive that the area for Public Health which we are now dedicating is less than one percent of the area housing the totality of our medical work; that the subjects of our care are not only social groups and environment, but also 400,000 individuals who are being taken care of annually in the Outpatient departments, Dental Clinics, Student Health Services, Emergency Room, Traumatic Unit and Hospital wards.

You will note that the subjects of our care reflect the demographic structure of Israel's population, including Christians, Moslems, and Jews; children and adults friends and enemies, whether stricken by God or human hand.

And interwoven within this mass of suffering humanity you will find our 2,000 undergraduate subjects training in the Schools of Medicine, Dentistry, Nursing, Occupational Therapy, Public Health and others, so that they are able, once qualified, to undertake the responsibility for Israel's health.

While wandering through the hive of activity, you will meet its 2,400 workers, adding the third dimension of Research to that of Service and Teaching; extending the fruits of their labour to medical institutions in Jerusalem, in Israel and beyond to African and Asian countries; enriching Man's health and the pool of his scientific knowledge.

Today we are dedicating the physical facilities for Public Health, which were given to us by the American people. Is not the totality of this center a tribute to the greatness of the American people and to the Jewish community within them which made that greatness available to us?

Today we pay homage to the United States for being the source from which we draw our knowledge and know-how in the field of Public Health.

Should we not recognize the enormous benefits that have accrued to Mankind through this partnership of the American people, the American Jewish Community and Israel?

Let us deepen and strengthen this partnership so that, together, we can bring health to Man and his environment and Peace to a war-torn region and its people.

Mr. Speaker, the eloquence of these speakers attests to the value of this project which is assisted by our foreign aid money. This support and these buildings represent the positive side of U.S. foreign policy. We need more of this sort of involvement.

RETAIL DRUGGISTS MEETING STRESSES CONTINUING IMPORTANCE OF SMALL BUSINESS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. EVINS of Tennessee. Mr. Speaker, the National Association of Retail Druggists recently held its second annual conference on national legislation and public affairs in Washington. This 2-day session was intended to meet the need for independent retail pharmacists throughout the country to discuss national legislative issues affecting pharmacy with Members of Congress and with top-level officials in the executive branch.

I would like to take this opportunity to commend the National Association of Retail Druggists for its sponsorship of this informative and enlightening conference. This long-established national organization, representing the interests of some 40,000 independently owned retail pharmacies in the United States, has made an earnest effort to encourage its members to play an active role in the democratic political process and to apprise them of the legislative measures and Federal agency programs and regulations affecting them.

It is a pleasure for me to pay special tribute to the NARD for instituting this annual political action meeting which featured addresses by Senator PHILIP HART, Senator FRANK E. MOSS, and Congresman LLOYD MEEDS.

It has rendered a valuable service to an important segment of the small business community. Notwithstanding the fact that this Nation's economic power has become more and more concentrated in the hands of a few corporate giants, this second annual conference of the NARD clearly demonstrates that small business is still a viable force in our Nation. The 5,500,000 small businesses in America remain the hard core of our free enterprise system and there is still a place in our economy for those individuals who want to chart an independent course.

I wish to offer my commendation to the NARD for its efforts in protecting and promoting the interests of the Nation's retail druggists. It is extremely important to those of us in the Congress to have the benefit of the views of this important sector of the small business community.

In this connection I want to commend the Honorable E. Boyd Garrett, commissioner of conservation of the State of Tennessee, one of the leading champions of independent retail druggists and a leading exponent of the importance of the small business sector to our Nation and our economy.

THE HABIT OF WASTE

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1970

Mr. REUSS. Mr. Speaker, the March 2, 1970, issue of the Nation includes the following perceptive article on the utilization of our forest resources by Malcolm Margolin:

THE HABIT OF WASTE

(By Malcolm Margolin)

"We had better worry about wood," warns *Pulp & Paper*, a trade journal, and statistics from the U.S. Forest Service are certainly ominous. They predict: two and a half times the current demand for pulpwood by 1985; well over twice the demand for all wood products by 2000; and millions fewer forested acres to grow it on.

We could, of course, simply use less wood. We could take advantage of substitute materials for home building—materials not being used because of a reactionary building industry and a jungle of obsolete building codes that only the most preposterous overuse of wood can satisfy. "We're still building houses the same way we did in the 1890s," notes Gov. Daniel Evans of Washington.

Or we could recycle paper, thus eliminating simultaneously a good part of the garbage, air pollution and conservation problems. If *The New York Times* were de-inked and recycled instead of being burned, that would save nearly 36 square miles of mature Canadian forest each year. Add just a few more cities on the East Coast to this recycling plan, and we would save something close to a national park's worth of standing timber a year. Yet a recent conference on recycling attracted what one journal called "widespread disinterest."

It is insane to suppose that if the public sits on its hands long enough, industry will lead the way to conservation of wood. The forest products industry is the fourth largest in America; and, typically American, it thinks only one brute thought: bigger! The very companies that yell "timber shortage" the loudest spend millions of dollars to develop "disposables"—throwaway evening gowns, tuxedos, tablecloths, and the like. For every scientist seeking to save wood, there are a hundred searching for new ways to waste it. Would you believe wooden pipes for conducting liquids underground?

When the Defense Department stops ordering pinewood ammunition cases, the loggers do not rejoice at the salvation of the Southern pine forests; they demand (and get) a House Small Business Committee conference to find out why. And last year when the price of lumber suddenly jumped 30 per cent and plywood nearly 80 per cent, Congress held three separate hearings to discuss, not how to decrease the demand but how to squeeze more timber out of the forests.

Congress might have examined that 1968–69 timber famine more closely. Why, for instance, wasn't the 20 per cent restrictive tariff on plywood imports dropped? Or why, during the crisis, did the industry's profit ratio double, climbing "beyond what should reasonably be expected," according to George Romney.

There were other oddities. The industry unanimously demanded that the National Forest increase the allowable cut on public lands by 10 per cent. At the same time, industry had purchased 26.6 billion board feet of national forest timber which they were not cutting—a backlog equal to twice the annual cut. "It's beginning to look like someone here is pulling our leg," commented Bert Cole, State Land Commissioner of Washington.

Finally there was the puzzling business of exports to Japan—2.23 billion board feet of prime Pacific Northwest logs in 1968, 35 per cent more than was exported in 1967, ten times what was exported in 1960. Fat, healthy logs were jamming the West Coast harbors within view of sawmills that had closed down for lack of supply. Yet Japan was so glutted with wood at this time that companies like Germain Lumber of Pittsburgh were actually forced to import plywood from Japan.

This adds up to something more than collusion or a deliberate manipulation of the market. (Collusion, if it existed, could have been stopped by already existing laws.) The timber crisis indicated how extensive is the mismanagement and nonmanagement of the timber supply.

Where will the wood come from? Ask a logger or a forester, and you will get a very tempting answer: from intensified forestry. Weyerhaeuser is squeezing 33 per cent more lumber out of its forests by intensive cultivation methods. International Paper, Potlatch Forests, St. Regis and others use fertilizers and genetically improved "supertrees" to get 50 per cent to 60 per cent more wood per acre. And from legislation now being pushed through Congress (The National Forest Conservation and Management Act), the national forests will soon be enjoying *intensive cultivation* to increase yield by a whopping 66 per cent. It sounds marvelous—until you get out of your car, walk through the gates of Weyerhaeuser, International Paper, or any of the others, and take a look at the "Forests of the Future." The trees are arranged in straight rows precisely the same distance apart. They are all the same species, the same age, the same height and the same shape. They were selected from genetically improved stock to remove any imperfections that might give the trees individuality. These tree farms are sometimes fertilized, sprayed for insects and fungi, and are regularly thinned. They are wildlife deserts and have no more recreational value than do cornfields. In fact, that is the first association of every one who sees them: "wheat fields," "cornfields." Yet today nearly every logged-over acre of industrial timberland in the South and Northwest is artificially reforested in this manner—more than 1 million acres last year alone, about 1,600 square miles.

If tree farms were as visible as smog there would be an enormous protest; but they are mostly on private land, as far removed from the public eye as logging itself, and they are well padded by public relations lullabies. Except for industry, only the Sierra Club, the Wilderness Society, and a few others are aware of tree farms; and they have been waging an unsuccessful battle to preserve at least the publicly owned land from such a fate.

If this is what threatens America's remaining forests, the first question to ask is: are there alternatives? I have already touched upon a few: use of substitute materials, recycling of paper, stopping exports (which now account for 10 per cent of America's timber production). There are many more. American logging, milling and home-building practices were developed during an age when forests were plentiful, even a nuisance. The attitudes and technologies from this era still cling. In its progress from forests to its ultimate destination—the dump—we find wood outrageously wasted at every step.

To begin at the beginning, logging, especially on the steep slopes of the Northwest, is still exciting; but once the chain saws have stopped whining, the engines have stopped roaring and the donkey whistle is silent, what remains are hillsides littered with slash. Ten to 20 per cent of the volume is left behind, to be burned or buried. It could all be used. Portable chipers, skylining and ballooning (lifting whole trees with balloons as they do in Russia) make it possible and according to a Wilderness Society estimate would increase the national timber supply by 10 per cent.

Next comes the sawmill, where fat logs go in one end and skinny planks emerge from the other. Bark, which is about 10 per cent of the log, is burned or sold as mulch: it could be converted into bark board. Sawdust, which accounts for about 7 per cent of the log, could be halved with thinner blades. New methods and patterns of cutting Southern pine could increase output by another 8 per cent. Few mills have special equipment to process undersized or defective logs. And finally there are the thousands of marginal, small-town sawmills that stink up the air by burning ends, edgings and slabs instead of converting them into fiberboard, particle board, or pulp.

What I am describing are ways of applying *existing* technology. Why haven't they been applied? They are, unfortunately, economically marginal, or worse. Good forestry and good milling are simply not profitable—not when the price of lumber is artificially depressed by overcutting private land and by raiding the national forests. Deliberate action will be needed to bring them into harmony: perhaps a steep price rise, perhaps legislation to promote better practices, or maybe something sweeter like tax relief or subsidies to insure proper treatment of wood.

The next stage on the journey through the sawmill is past the grader. Although devices for grading accurately exist, it is still done haphazardly. A man glances at one side of a passing board and puts on the grade. The standards are set by industry, and they are entirely voluntary. Strong wood is occasionally misgraded (and misused) as weak. But a recent check by *The Washington Post* found that half the lumber bought from randomly selected dealers was "much weaker" than it was supposed to be. Architects and builders know this, and they automatically compensate, using 2-by-10s instead of 2-by-8s, etc. More accurate grading, the Western Forests Industries Association thinks, could reduce the amount of lumber used in the average house by 15 to 30 per cent. Rep. John Dingell (D., Mich.) thinks that the waste from misgrading "could amount to as much as *25 per cent of the total resource."*

Then there is the matter of proper seasoning, to make wood last longer and reduce the rate of replacement. The antiquarian Eric Sloane has compared the suburban house which sags, rots and sports termites after a single generation, with the New England barn that lasts centuries—without paint or preservatives. The difference is in the seasoning.

It is impossible to estimate how many Yellowstones could be saved by recycling, using slash and sawmill leftovers, increasing milling efficiency, halting exports, grading properly, seasoning adequately and using alternate materials. Yet there is more to the subject. I have not even touched upon the attacks by hundreds of critics against numberless stupidities: the Jones Act, for example, which in effect forces Alaska to ship nearly all of its lumber to Japan; the telephone poles which devastate forests and scenery at the same time; power transmission lines that destroy more than 30,000 acres of forest a year; flood-control dams in areas where reforestation would not only control floods but would produce commercial timber; failure to use bagasse (sugar refinery refuse) instead of pulp for certain grades of paper; failure to encourage use of groundwood paper (which uses 90 per cent of a log) over finer grades (which convert only 50 per cent).

We steadily reduce our wild varied forests to mono-cultural tree farms; yet we allow 2 million logged-over acres in Southern Florida and millions more in nearly every state to be taken over by brush. If an Oregon landowner wants to strip his land of mature firs, cedars, hemlocks and larches, and replant with colonnades of genetically improved Douglas firs, he will benefit from millions of dollars worth of research, state nurseries, and the visitations of public foresters. But if he wants to rehabilitate his brushland, there is nothing he can do but buy the one book available on the subject. "And if this represents the state of the art," comments one of them, Bruce Starker, "I could have spent my money more effectively on an ax."

At the present rate of waste, we shall certainly have a timber crisis by the 1980s. We shall also see a large part of our forests brutalized by "intensive cultivation." Every one will blame the sad state of affairs on overpopulation, but they will be wrong. The real cause of that double disaster, timber famine and tree farms, will be the current gross mismanagement.

Various solutions have been put forth. They include price rises, price controls, federal or state regulation, tax reforms to promote efficiency, subsidies, and others more radical. Every one who views the situation would like to take the villain by the throat, but he is not to be found. The four largest timber producers combined control less than 10 per cent of the market. There is not one hole in the barrel but a thousand.

Whenever the industry itself speaks of the approaching timber famine, it casts the entire blame on three evils: the refusal of small landowners to let their land be logged; the withdrawal of timberland for national parks and wilderness areas: and the failure of the government to cultivate the national forests more intensively. In effect they have only one solution: we must cut more, and that is ridiculous.

Many individuals and groups have looked into aspects of the timber situation—they range from the Sierra Club to Ervin Peterson, former Assistant Secretary of Agriculture and now president of Sonic Jet Processes Corp.—and they usually come to the same conclusion. We need, at this moment, a high-level commission, a sort of Hoover Commission, to study the whole seedling-to-dump timber problem, to sort out fact from public relations propaganda, to collect for the first time adequate statistics, and finally to make recommendations.

The call for "more study" always tends to sound pale and timid, yet in this case it is the first and necessary step. Without such an authoritative, comprehensive study, critics of timber mismanagement are left with nothing but the current scatter-gun attack on a gigantic, fragmented industry that doesn't care that never responds honestly, and that wastes, wastes, wastes, the very last of the wild forests.

MISLEADING EDITORIALISM BY THE TIMES

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. WYMAN. Mr. Speaker, to no small extent our domestic difficulties, with emphasis on law enforcement, are made a bit more difficult by editorials such as appeared in yesterday's Sunday New York Times on the subject of law and order. From a cursory reading of this misleading editorial one would think the representatives of the people in Congress seek to take the United States down the road to fascism.

Let it be clearly understood that almost all Members of Congress seek better police methods and a more adequate system of criminal justice. Let it be also understood, in this connection, that rehabilitation while in confinement is an important objective in the post-conviction process.

At the same time let it explicitly be stated that neither preventive detention, nor narcotics control, nor the use of electronic surveillance against organized crime is repression of the unpopular or abridgement of constitutional rights of majority or minority.

The problems of constitutionality we face relate to interpretations of the Warren Court. The problem in America is an urgent one in which crime is out of hand and the streets in many localities are unsafe for law-abiding citizens. The problem, in no small degree, is with the Court decisions and one needs look no further for a part of the cause than Associate Justice William O. Douglas, whose recent writings in justification of revolution by force and violence undermine the Court of which he is a member and the structure of our society as well.

What is needed, in addition to thoughtful, responsible, understanding yet firm law enforcement, is rephrasing and redefinition of constitutional limitations by the newly composed Supreme Court, in a manner that allows society a reasonable measure of protection against those who are openly seeking and acting to destroy it.

We do not have this in many areas covered by confusing and libertarian decisions of the Warren Court, and the hour is late.

The Times ought not to mislead our people by saying that measures to protect people from criminal repeaters and dope addicts risk a descent into lawlessness or are the forerunnner of a police state. This is media demagogy pure and simple and it ought to be recognized as such.

The editorial follows:

LAW AND ORDER

The nation rallies easily to the defense of its liberty when threatend by enemies abroad. It is far more difficult to arouse men to the protection of their freedoms when they are eroded at home, especially when civil liberties and personal rights are being diminished in the name of law and order.

Citizens everywhere are properly insisting on effective measures against crime and disorders that menace public and individual safety. The current wave of bombings must be halted, and so must the narcotics traffic, organized corruption and the various other manifestations of a breakdown in law and law-enforcement which renders cities unsafe and politics unsavory.

But instead of pressing for better police methods and a more adequate system of criminal justice, political leaders increasingly stoop to repressive legislation which would eventually limit the rights of all under the guise of curbing the lawless.

There is awesome consistency in the pattern suggested by these developments of recent months:

Anti-riot legislation, although enacted in response to some provocative forays by revolutionary extremists, is being employed in such broad and sweeping ways that it is more likely to convict men for their thoughts than for the commission of unlawful acts;

At a time when there is growing uneasiness over the resort to excessive bail as a form of punishment, the "law-and-order" forces threaten to legalize *preventive detention*, when the emphasis ought to be on speeding the legal process;

Legislation already passed by the Senate would give the prosecution wide range in the use of illegally obtained evidence, while sharply limiting the right of the accused to challenge its veracity;

A narcotics control bill, also approved by the Senate, would allow police to break into private homes and may eventually even permit the rifling of physicians' records;

The use of bugged telephones and other forms of electronic eavesdropping has assumed proportions which only a few years ago would have been thought inconceivable in a free society;

The House of Representatives, in defiance of earlier Supreme Court opinion, would let the Federal Government bar or dismiss defense plant employees, by bureaucratic fiat and on the vaguest of political pretexts.

This ominous trend is accompanied by attacks on the news media and verbal assaults on dissenters. It exploits fear and suspicions. Instead of building confidence in the law by making it more efficient and impartial, such a strategy fosters mutual distrust. It pits one group against another and, by threatening repression of the momentarily unpopular, creates the illusion that the rights of the majority are enhanced.

In reality, when the constitutional rights of some are abridged or suspended, the rights of all are in jeopardy. To give extraordinary powers to the police or the courts in the name of "law and order" is to risk descent into the lawlessness and moral disorder that have marked every police state throughout history.

THE IMPORTANCE OF RURAL DEVELOPMENT

HON. CATHERINE MAY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mrs. MAY. Mr. Speaker, on February 9, our distinguished colleague, Mr. EVINS, who has done so much to emphasize the importance of rural development as an integral part of any effort to find solutions to both rural and urban problems, inserted an article by former Deputy Undersecretary of Agriculture James L. Sundquist.

Knowing it would interest him, I sent the article to Dr. Clayton C. Denman, the president and codirector of the Small Towns Institute in Ellensburg, Wash. He and his colleagues at the institute have been, and continue to be, deeply and constructively involved in developing programs directed toward the revitalization of small towns in America.

Dr. Denman has now responded—and because his thoughtful comments merit the consideration of all of us who are involved in the problems of rural, as well as urban, areas of our country, I am submitting Dr. Denman's letter and remarks at this point in the RECORD:

MARCH 6, 1970.

Hon. CATHERINE MAY,
2332 Rayburn Building,
Washington, D.C.

XUM

DEAR MRS. MAY: Thank you for bringing my attention to Mr. James Sundquist's article on small communities published in the *Washington Post* on February 8th.

I have two rather opposite feelings in reading this analysis: basically it is an excellent description of the real situations facing small town and rural America. While I would agree that we are not now well organized, I resent his implication that the business of revitalizing small towns must be managed by urban rather than small town institutions.

Mr. Sundquist is obviously not aware that small towns are concerned about the problems of which he speaks and that a Small Towns Institute already exists. But the failure of small towns and rural communities to actively pursue programs of revitalization lies in the fact that we are not able to exert the pressures on business and government that urban leaders have at their command. The Urban Institute of which Mr. Sundquist speaks, for example, is a federally chartered corporation, and the director alone receives an annual salary of $50,000. By contrast the Small Towns Institute was organized by small town people and our entire income in 1969 was less than $500. Perhaps Mr. Sundquist's insights are really predicting our failure rather than criticizing our initiative.

As Co-Director of the Small Towns Institute I have been seriously concerned with the influences that urban-oriented planners will have on rural communities and small towns. Last February 5 I was asked to speak at a public gathering in the town of Zillah, Washington, sponsored by the Zillah Lion's Club. The enclosed transcript of my remarks indicates much of the Institute's concern with encouraging small town leaders to plan the future of their own communities.

I would be very pleased if you could support our point of view with publication in the *Congressional Record;* or at least forwarding a copy to Mr. Sundquist.

Thank you for your continuing help to our program.

Sincerely yours,
CLAYTON C. DENMAN,
President and Co-Director.

SMALL TOWNS ARE THE FUTURE OF AMERICA

(By Clayton C. Denman)

Recent concern with environmental pollution has pointed up crucial reasons for considering small towns an important part of America's future. Those of us who live in rural communities or small cities are relatively free of the problems that come from crowding and overpopulation. We already enjoy life styles much like those which city planners and urban engineers hope to create in the future, perhaps in "new towns" now being proposed as a way of relieving urban population pressures. Small town residents whose communities are in a state of economic decline have a simple problem to alleviate compared to the urban dweller's task of finding solutions to crime, smog, and overpopulation.

Most of the 72 million people now living outside of urban complexes enjoy low crime rates, minimum air and water pollution and less social decay than the majority of Americans living in big cities. We all know that small towns do have serious problems of poverty and unemployment, but these conditions are largely a result of economic pressures and technological change and not the result of overpopulation and lack of rational planning for change. It took protests and even riots before the cities started planning; and then it was through the efforts of private organizations such as Urban America Inc., the National Alliance of Businessmen, and the Urban Coalition that the fight for remedial programs was undertaken as soon as it was.

To the urban planner of today, small towns seem to be existing in a state of apathy regarding their own problems, a view which has led some analysts to suggest that if small towns are to be revitalized, the leadership will have to come from the cities. If these people are right, it will not be because small town leaders are not capable of their own planning, but because they have not organized to make themselves heard in the policy-making centers of this country. In fact, as a group, small town leaders were active in pointing out and solving problems long before urban planners became aware that cities were headed for disaster. The main reason for this is that small towns have retained a sense of community—the essential social ingredient that enables men to work together. This is something that cities have lost, something that they try to re-create in "new towns"; it is also a reason that they are hungrily eyeing our small towns as places to direct their unwanted populations.

Most of us will welcome new members to our communities, especially if they are accompanied by small industries fleeing overcrowding and decay. But I also suggest that we retain control over the process of redevelopment; that we must have funds for retraining and housing, for expanded public and private utilities, for preventing a repetition of pollution that fouls the cities, and for the necessary expansion of educational facilities.

This means that small towns will have to organize, will have to support organizations such as the Small Towns Institute which have their origins and interests in small towns and their goals the economic revitalization and continuity of community functions in the towns they serve. Since its founding over a year ago, the Small Towns Institute has been concerned with developing a more modern economic base for small town life, new ideas for prosperity of the small businessman, the family farm, the retired and the elderly. We have also attempted to develop opportunities for youth in small towns—opportunities leading to the continuity and increased prosperity of institutions that make up the "sense of community."

We have been particularly concerned with developing a program that would encourage small town leaders to guide community affairs and to bring the economic benefits to local institutions. We have not played the role of "big brother" to the small town, opening up new resources for large industries and thereby destroying the right of the small entrepreneur to increased benefits from an expanding economy and population. We have thus forfeited financing and donations from large corporations and investors. It is for these and similar reasons that there are not many small town organizations compared to the proliferating and well-financed urban institutions; for most of these are begun by those already prosperous. But it is untrue that small towns and rural communities are not aware of their problems or are not capable of speaking out and of planning for future prosperity. The only thing lacking is a measure of aid in the form of increased communication among towns and a voice in decision-making processes.

PRESENT CONDITIONS

Many small towns suffer from conditions of economic and population decline—factors which contribute significantly to poverty and decay of housing and business properties, to poor educational and medical facilities, and to continued unemployment. I might point out, however, that these conditions are a result of economic and technological changes created in, and for, urban needs. Agricultural technology is a product of urban industry and city oriented marketing and pricing systems. High paying jobs—the "better opportunities" of educational advertising—are creations of urban demands for goods and services. These and similar conditions have all combined to stimulate out-migrations from small towns and farms, leaving behind people more dedicated to rural life styles than to visions of vast wealth. Some of us are, like yourself, returnees to small towns, some are struggling small town businessmen, some are retired, and many are living in poverty conditions as a result of technological unemployment. All of us, however, have chosen to maintain small town life styles; to save these values we must now adapt them to modern conditions in our society. This should be our job, not that of those who have already failed in the cities.

I would agree that housing in many small towns is in need of replacement, and that incomes, educational facilities, medical services, and public utilities need improvement. But we should not allow city oriented planners to equate rural or small community life styles with poverty, nor to demean the average small town dweller for not having aspirations for a $450 a month "middle income" apartment.

Small towns are good places to live precisely because they lack the pressures of cities; because they offer a more personal and serene atmosphere; and, I repeat, have a sense of community and cooperation. All citizens benefit from closer association with the elderly, with young people, with farmers, businessmen, with teachers and with one another. These are some of the factors that have attracted the attention of city planners, as well as the more often expressed reason of open space.

In the past, government policy and attention was focused almost exclusively upon the cities. Urban conditions had resulted in riots, rising crime rates, unemployment for minorities; school, housing, employment, and transportation crises; as well as an increasing breakdown of traditional family living and rebellion among youth. No one seemed to realize that a major cause of these urban problems was increasing population pressures on an urban system that was designed for much smaller numbers and for the life styles and technology of the past century.

Increasing urban population was not only a result of a rising birth rate after World War II, but of a massive out-migration of young people, farmers, and especially unskilled minorities from rural areas. Most of this migration was a direct result of change in technology, but a good proportion of it was in response to a false belief that a better life was to be attained in the cities. We now know that the city offered millions greater hardships than it did answers to dreams. It also left many small towns with decreasing populations; small businesses, schools and town governments with new problems; and a self-fulfilling prophecy that small town and rural America were on the decline.

MYTHS AND FACTS ABOUT THE SMALL TOWN

It wasn't too many years ago that small towns were looked upon as the backwaters of America, as places forever alien to the progressive and exciting life in the cities. Small towns have suffered from this mythological image fostered by negative thinking in such novels as Sinclair Lewis' *Main Street* and Edgar Lee Masters *Spoon River Anthology*, two early twentieth century literary works which presented small towns in a light of "conformity, stupidity, loneliness, and physical ugliness," in addition to ideas about an entrenched elite who ran the community from behind the scenes.

These beliefs were perpetuated by many professional community studies that did not go far enough to understand the diversity that exists in every community. Even Robert Lynd's classic study of *Middletown* in the 1920's and 1930's failed to point out that the economic conditions producing poverty and a confirming class structure had their roots, not in the small town community, but in the reflection of urban conditions on agriculture and small town industry. It was not until the publication of Aaron Wildavsky's book *Leadership in a Small Town* (1964) that even the objective social scientist began to understand the diversity of interest and process in small communities.

In the past ten years, however, these out-of-date myths have rapidly dissolved. Academic researchers are now aware of diversity in small communities, and the average American has come to look with favor upon life in our small towns. A recent study conducted for the National Rural Electric Cooperative Association showed that most Americans think positively toward people in rural communities: 81 per cent think small community dwellers are warm and friendly toward others, and only 7 per cent think city people are this way. Nearly 65 per cent think small town merchants are more honest, and only 6 per cent think city merchants are more honest. When asked about emotional differences, 83 per cent thought that city people were more tense and pressured in their daily lives, and only 5 per cent thought small town and rural residents were more tense and pressured. About 22 per cent of the people surveyed thought there were no differences between urban and rural community life.

In fact, this study indicated that 82 per cent of all Americans would prefer to live in rural communities if they could find suitable employment opportunities. Other studies show similar impressive results. A 1968 Gallup Poll indicated that only 18 per cent of Americans would choose to live in cities, while 56 per cent would prefer to settle in rural areas if the same economic opportunities were available to them as in the city. A study of University of Nebraska graduates in agriculture now working outside of that state showed that sixty per cent desire to return to Nebraska if suitable employment were available.

The prospective of these studies strongly indicates that small towns have been the victims of the urban myth and of an unchallenged faith that technological developments were a contribution to human progress to which men had to adapt their lives even if it meant a change from satisfying social environments to the chaos of the modern city. The desire to return to rural America indicates a shift in our values from a blind faith in technology to a realization that men must live together in a social context before technological progress can become meaningful. As further proof of the truth of this premise, we are on the threshold of a concern with environmental conditions that will eventually include the quality of living as an integral part of economic profits; and economists are increasingly feeding social costs into cost-benefit formulas.

Our communities will share in this new awakening to the values of quality in both our natural and social environments. We are finally realizing that small towns, even though they have serious problems, represent the basic life styles to which a majority of Americans aspire. Furthermore, most small towns and rural communities exist in more ecologically balanced environments than do cities. If we can come to better understand these conditions and improve upon them where they are headed in undesirable directions, we can proudly present our towns as models which cities have only begun to think about. A small town free from environmental threats and still maintaining its sense of social community will have a prime asset for attracting both population and industry that can no longer tolerate the deterioration of urban services, as well as declining physical and social environments. The people who left the small towns and farms of America in the last two decades are fast discovering that the economic and psychological pressure that led them to the city in a search for greater abundance are melting away before the realities of social and environmental crises.

THE SENSE OF COMMUNITY

We have already touched upon some of the important factors which make small towns good places to live today and to build upon for a more livable future.

One of these important features is what I have called the "sense of community," a critical need for human beings living together and sharing even minimum values, goals, and expectations of the good life. In recent years, planners and policy makers alike have discovered that most small towns have never lost this desirable feature, even though many of them have sharply declined in population and economic viability. Heavily funded federal urban programs have many times tried to re-create in cities the social values associated with community. Most of them have failed to reach this goal. In fact, many city programs such as urban renewal, freeways, and public housing, have probably destroyed more functional communities than they have aided. The result is social disorganization seen by all of us as higher crime rates, decreasing respect for schools and other public institutions, juvenile delinquency, drug abuse, and a host of other socially disruptive conditions. We now depend upon formal law enforcement agencies rather than community pressures to hold these disruptions in check.

Without the sense of community, there is no sense of social commitment to fellow citizens, no longer a relationship between people that can be channeled into making our social and physical environments better places in which to live. Small towns still have a sense of community—even if we are sometimes apathetic, we at least know who is active and who is not—and we can use this sense of community as a foundation upon which to build for a more prosperous future.

With an absence of social community in the cities, many human values are no longer transmitted by the group in which growing up takes place. Children tend to learn only the more artificial values of mass media, the schools, and of course the inexperience of their peers. What is missing is not so much abstract truth, but knowledge of how human groups live together; for no longer do the young, the mature, and the aged share common interests.

Thus in cities there is no longer a blend of the enthusiasm and energy of the young, the experience of their parents, the wisdom of grandparents, all focused into a goal of realizing an "American Dream." Urban life has dispersed this interlinking between these basic assets that all societies—whether primitive hunters or modern industrial—have shared.

It has been these attributes of community and the interlinking of the contributions of young and old that has built our country. Where these tend to break down, as we have seen them do in the cities, our society gives way to despair, lawlessness, splintered family life, and other forms of disorganization. Small towns have not been entirely immune from his process, and they are vulnerable during periods of decline as well as growth. Therefore it will take a measure of vigilance to avoid the loss of community values as towns begin a regrowth in the seventies. Most of us are already familiar with the loss of community solidarity when small towns decline. Signs of a dying community are numerous, and they affect everyone. The loss of economic and social institutions can be the initial cause of decline, eventually leading local residents to become dependent on services from other communities. Young people leave for opportunities elsewhere, small businesses fail to interest fresh management, industries stand still or close, maintenance of stores and houses ceases. Absence of young families means no prosperous schools, so necessary to attract new industry. Even those who choose to retire in such a place find retail facilities closing and community services faltering.

Although the loss of the sense of community in the city leads to crime, poverty, and disorder, it is not as critical for survival there as it is in a small town. A city's services are far more diverse than those of small towns, and citizens can always trade in another district. Public services are always available from a distant governmental source, but in the small town there is little appeal to outside agencies. The solution to the problem is to retain the sense of community, and to maintain the ability and motivation to work together for mutual benefit.

TRENDS FOR THE FUTURE

New federal domestic policies are being centered on the basic roots of current national social problems. The major social pressures on the cities are not generated wholly within them, but arise in the imbalance of rural to urban migration of the unskilled and of young people who in past decades would have become the future leaders, businessmen, professional people, and responsible citizens of their home communities.

Even though small towns may be in a process of economic decline, they still provide a basic foundation upon which to build a new and revitalized America of the 1970's. In a nation whose cities have been devastated first by social crises and now by lethal environmental pollution, the small rural community can offer a less encumbered environment where vast expenditures to correct the mistakes of the past will not be necessary.

Many new bills designed to encourage increased settlement of people and development of industry in non-urban places are now before Congress. They range from the long overdue Rural Job Development Act, introduced by Senator James B. Pearson of Kansas, to the recent $800 million appropriation for the development of sewage treatment facilities.

All of these programs will help ease the transition that will take place when population growth increases in small towns. Before these influxes begin it will be our job, as leaders and planners, to see that change comes in an orderly fashion, preserving the social values of our communities at the same time that we gain economic prosperity. We must be vigilant in seeing that economic prosperity accrues to the people and institutions of our communities and does not arrive in pre-packaged bundles of new industries and new workers who hope to use our treasured environments for the benefit of only themselves and not the entire community.

When this population reversal occurs, towns must have outside funds to expand sewer and sanitary facilities, education and medical institutions, and highways and transportation without overburdening the retired and the small businessman who has been subsisting for years at the break-even level. Small town residents must learn how to retain the positive features of their life styles and also to adapt to the benefits of a progressing America.

We must now begin to prepare for this future development of our towns. Taking a lesson from the failures of the cities, we should start by planning far reaching local programs designed to assure growth patterns that will maintain or increase the health, aesthetic, social, and educational standards of our communities. Quiet towns with clean water and pure air, adequate sewage and garbage disposal, up-to-date utilities, and social concern for all citizens will draw new industry and new residents far faster than the town that is willing to submit its leadership and integrity to interests that are concerned only with profits and little with community responsibility. The "small town atmosphere," once seen as a sign of being left behind is, in this dawning era of environmental concern, a positive asset upon which to build a prosperous future.

The kinds of people who will be leaving the cities are looking to the small town to provide a more desirable environment than the one they now live in, and it will pay small town leaders to begin thinking about plans to preserve the environment they have enjoyed, to attract newcomers by those virtues, and to improve those desirable features for the future.

XUM

PLANS FOR ACTION

It is not enough to present facts, praise ideals, and warn of the consequences of inaction in the future if we are really to solve the social, economic, and environmental problems now facing us. We can no longer confront the future merely with plans for studies and research. Social scientists, economists, and small towns themselves have conducted numerous studies and surveys which now lie unused and often unknown to those who are ready for action.

Research is a valuable tool, but it should always be linked to a remedial program if it is to accomplish practical results. This failure to make use of expensive studies is one of the reasons that the Small Towns Institute was organized. We decided that it was now time to make problem-oriented research useful and to reclaim some of the value of past studies by using them to develop practical formulas to alleviate small town problems. What are some of these programs and where do we start?

One of the first places to start a practical revitalization program is with people. "Manpower development" is the technical phrase—but it all boils down to planning a program which will focus upon the present and potential human resources of the community. Manpower is basic because it is one of the essential ingredients in industrial development. People build up the institutions of a town, they sustain small business; and most important, people are the crucial factor in that all important "sense of community" that I previously indicated was an essential virtue of the small town.

Each community needs to look seriously at its efforts to induce young people to become involved in local businesses or to learn skills that are marketable within the community. In many of the towns studied by the Small Towns Institute, we found an overwhelming number of high school seniors who expressed a strong desire to settle in their home communities (or to return there after college or military service), but who have *not* been encouraged to obtain training in skills that are locally marketable. Young people are not encouraged to take over businesses whose owners plan retirement and closure. Thus these towns are losing valuable assets—fewer small businesses and a continued out-migration of young people who really would prefer to stay.

Communities also fail to keep track of the skills of those who move away but who would like to return. A program designed to list manpower resources ready to return to a small town would be a crucial factor in persuading an industry to leave the crowded, polluted, violent environment of the city and rebuild in the smaller community.

Meanwhile, the town that retains its small businesses, improves its schools, updates its medical, nursing and hospital facilities, and provides jobs for youth who want to stay, is a community well on the way to revitalization. These improvements require some major effort to bring young people into management levels of business, to introduce locally marketable vocational training into the schools, and to encourage new payrolls based on an extensive listing of skills available from outside the community.

To make these new programs work, there will have to be some changes in small town economic attitudes, for we have encouraged our youth to leave by pointing out that the more lucrative economic opportunities are in the cities, yet we often fear having to pay comparable wages in the small town. We too often expect a new employee to have a college education, yet seldom credit him with any more experience than we allowed an eighth grade graduate fifty years ago. With simple changes like these, we can retain many of the old values that we are concerned about losing. In such cases we must make decisions that lead to survival of the community.

Another place to start is with *environment*, which all of you know is an issue topping the priority lists of most political leaders. I predict that it will soon be of crucial importance to most businesses, and that the relatively unexploited environments of small towns will become assets sought by industries looking for places to expand or to escape from intolerable urban conditions. The town in the best bargaining position will be the one which provides a more desirable environment into which industry can move, not one which allows an industry to merely escape public pressures to clean up the results of years of irresponsibility. The town that makes of itself a haven for deserters from responsibility will soon find that its short term prosperity has shorn it of a future with continued growth based upon solid ecological principles.

The way to attract responsible industry is to have ready the technological tools to supplement the industry's needs. Public funds are becoming increasingly available for these purposes and a community need only have ready a comprehensive plan for ecological balance to favorably impress granting agencies.

Ecology is much more than merely air, water, trees, and waste products. Human resources are a part of the environment also. Adequate sewage and waste disposal, water supplies, and clean air are vitally important to supply industrial requirements; but people planning to move to your town will be concerned about medical facilities, care of the aged, excellent schools, and many other private and public services. An industry will be reluctant to move if its key people will not move, and you will have to sell your town to them as well as to management.

There are of course ways to revitalize a town without attracting basic industries. The most promising of these is the *special image town*, ultimately based upon an influx of visitors. Not every town can develop its own special image, just as not every town will be able to attract industry. But there have been some notable successes where towns have concentrated on converting themselves into European-styled ski resorts such as the town of Leavenworth, Washington, or Long Grove, Illinois, which has met success as an antique center, offering unique restaurants and afternoon relaxation. Visiting small towns could easily become a new form of excursion for tourists, once they discover that small communities provide contrast with the frustrating experiences of urban living.

Farming is not yet a lost cause, even though corporate farms have purchased vast acreages and forced the development of incredibly expensive machinery which stimulates the exodus of farm workers and owners. The farm problem is much too complex to analyze extensively in these brief remarks, but after considering the analysis of such ecologists as Stanford's Paul Ehrlich and John Holdren, it is apparent that family farms will continue to be the more efficient level of land utilization, and may well rise again in number if our population increase is not sufficiently checked in the coming decades.

I will conclude with a note of optimism on the future of small towns in America. We are beginning to move forward out of the patterns of decline so typical of the past two decades. Future prosperity will not come as a gift on the winds of inevitability, but will arise out of sincere efforts directed toward expanding our assets and avoiding the mistakes so vividly pointed up in the urban experiment. Small town leaders must now take the initiative, exchange ideas through their own national organizations, and look to the future.

THE MILITARY CONTRIBUTION TO AMERICAN OCEANIC DEVELOPMENT

HON. RAY BLANTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BLANTON. Mr. Speaker, our distinguished colleague from Tennessee (Mr. ANDERSON) is a recognized authority on naval and oceanic matters. His illustrious career in the U.S. Navy, from his graduation from the U.S. Naval Academy in 1942 to his command of the first atomic submarine, the *Nautilus*, gives him excellent credentials to advise us, and the Nation, on oceanic affairs.

Recently, Congressman ANDERSON addressed the Navy League Symposium—"Wealth and the World Oceans," Washington, D.C., February 17. His subject was "The Military Contribution to American Oceanic Development." In these remarks are some observations which I think all of the Members of this great body should give their attention.

I have asked my colleague from Tennessee permission to include his speech in the RECORD for the benefit of Members who may not have had an opportunity to hear or to have read it. I am sure it will be worthwhile for everyone to read:

THE MILITARY CONTRIBUTION TO AMERICAN OCEANIC DEVELOPMENT

(By Congressman WILLIAM R. ANDERSON)

From our national infancy—as a long thin coastal confederation of British lineage—we have gone to sea for food and trade, for adventure, for political leverage, and for military advantage. And where oceanic enterprise was concerned there has always been—to turn a fashionably unpopular phrase—a military-commercial complex. The merchants of Salem, Boston and Baltimore did not risk valuable ships and cargoes where maritime law and order could not be enforced by friendly navies. Indeed, a fundamental reason-for-being for many navies was the protection of seaborne commerce.

The court of last resort in disputes over fishing rights was, not rarely, naval confrontation. In earlier times the U.S. Navy augmented its combat forces by commissioning "privateers." The readings of Maury's revolutionary ocean maps and charts were taken by commercial vessels, and the information compiled was used by merchant fleets ever after. We know where the current fishing sonar originated. The civil definition of territorial waters was settled by the range of early naval cannon.

Three factors have dictated the profound interdependence of military and commercial activity at sea:

Beyond the narrow territorial seas there is no effective civil authority. Past that invisible line international law operates, but without enforcement by any world body. National naval forces do the job, and their interpretive prerogatives at sea are considable. Without dependable law enforcement commerce cannot flourish anywhere—at sea this requirement dictates a special relationship between seagoing commerce and the seaborne national military.

Technological innovation in ocean transportation has for hundreds of years involved extremely high cost and risk. Consequently, navies and commercial interests have most often found ways of pooling resources and spreading these risks.

Nations like the United States, Britain and Japan, who cannot project substantial conventional military power abroad except by sea, have never undertaken the expense of keeping full logistic forces at sea during peace time. They have relied upon mobilization of the civil merchant marine in time of crisis.

For these reasons, the military, scientific and commercial establishments share an intimate and working concern with mutual well-being. It is a concert of interest which has been reflected politically in Congress.

Mid-twentieth century history and technology now presents us with what is, in many crucial aspects, a new political and economic ocean. It is hard to avoid the conclusion that this newly dynamic ocean will, for the foreseeable future, feature a vastly increased scope and scale of human economic activity at sea, and markedly increased probabilities of international oceanic conflict. There is every reason to expect that the historic fabric of technological and political relationship within the marine military-commercial complex will and must become more tightly and richly woven.

It has become virtually habitual for us to assume oceanic supremacy. We have based our foreign and defense policies on continuance of that supremacy. The global power balance includes that United States superiority at sea is here to stay—to counter communist advantages in geography, population and capabilities for total mobilization. Not surprisingly, however, as the strategic importance of the oceans have increased, our oceanic supremacy is under perceptive and capable challenge. Neither the stakes at issue in Vietnam nor the race to the moon are comparable in magnitude to those involved in the Soviet effort to neutralize America at Sea.

We have the resources and certainly the technology to reverse this trend, but further delay becomes unnecessarily risky.

We have polluted our oceans with oil and waste and chemicals—but never with defeat. For Americans, the oceans have been friendly—sources of wealth and food, pleasure, buffers from foreign compulsion, symbols of freedom, carriers for our own trade and power abroad, the scene of accomplishment, victory and promise. We must understand that this traditional bright marine horizon is not an act of nature of divine ordinance, but a product of seapower.

The average Britisher, Italian, Frenchman, German, Greek or Norwegian would understand this. The average American—and his elected representatives—do not.

Our salvation—from being shoved into the trap of imbalance of power vis-a-vis Russia—is not technology, not dollars, but to solve the lack of conviction of the citizen of Peoria. He sees quite a few soldiers every day, and quite a few airplanes, but he rarely sees a submarine, an ocean-going freighter, or a destroyer or carrier. His visualization is through "'McHale's Navy," "The Caine Mutiny," and "Mr. Roberts."

Someone should set up a new style confrontation—in behalf of the Navy and Merchant Marine—before the leading TV, motion picture, magazine and newspaper people—and ask for equal treatment.

The Navy League is ideally suited to do this.

VIOLENCE AGAIN SHOCKS AMERICANS

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. GOLDWATER. Mr. Speaker, recently, Americans were again shocked by irresponsible, violent activity some young people perpetrated at a university campus. This time, the once quiet, tranquil campus by the sea, the University of California at Santa Barbara, was rocked by the burning of a bank and other violent activities. Edmund Bunker, the president of KFI radio in Los Angeles, presented a very apropos comment on the violence in an editorial of March 3, 1970. I wish to bring his comments to the attention of fellow House Members:

KFI EDITORIAL

The vicious and mindless violence which last week spread from the University of California's Santa Barbara campus and engulfed much of an otherwise quiet community has again pointed up a fact of our time.

Many of those who pretend to protest injustices are themselves quite capable and often quite disposed to perpetrating acts of cruelty and hatred as easily as ugly as that which they protest.

And those who are sincere in seeking reforms are learning the hard way that their first task will be controlling their unruly allies, and disassociating themselves from those who can not or will not be controlled.

Having the Vietnam war defended by the Ku Klux Klan or Hell's Angels is hardly a source of consolation to those who sincerely support participation in that conflict . . . why should earnest opponents of the war feel called upon to defend the action of bank-burners and cop-cripplers?

Young rebels in Westwood and Santa Barbara have chosen to take out their hostilities on branches of The Bank of America . . . which they somehow link with the war, or parental authority, or the capitalistic system . . . whichever they happen to be most upset about at the moment. We can only speculate what motives led the Santa Barbara rioters to destroy a coin-operated public laundry.

The fact remains . . . the actions are criminal. They are none the less criminal because those carrying them out pretend to doing so in a good cause. And the guilt of those involved doesn't disappear simply because they were part of a large group.

K–F–I calls for a new priority of police action . . . identification of those taking part in rioting and mass violence. Take away the safety of being part of an unruly mob . . . perhaps with the use of wide-angle cameras and portable floodlights . . . to aid in pinpointing the hoodlums who think they can get away with anything if there are enough of them to avoid identification.

The right of peaceful dissent will be destroyed, for all practical purposes, if action isn't taken against the rank-and-file vandals and thugs who hide their hooliganism behind a pretense of protest.

MRS. JANET B. KRAMER DELIVERS BLOOMFIELD COLLEGE VALEDICTORY ADDRESS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. RODINO. Mr. Speaker, recently I had the privilege of participating in the Bloomfield College midwinter commencement exercises. The valedictory address, delivered by Mrs. Janet B. Kramer, perceptively and adeptly comments upon the concerns of the "then," "now," and "tomorrow" student. Her remarks are notable, as follows:

THE THEN PEOPLE AND THE NOW PEOPLE

Dr. O'Brien, Congressman Rodino, Distinguished Guests, Ladies and Gentlemen: We graduates feel a sense of accomplishment tonight, but we are well aware that many people have contributed to our achievements. Trustees, administrators, faculty and families have guided us, argued with us, encouraged us and taught us. We owe them a great debt. All of them have our thanks and our deep appreciation.

For most of you it must have been a shock to see a middle aged woman come forward to deliver this particular address. I enrolled at what is now Douglass College about thirty years ago. Halfway through the prescribed program I left to marry. Almost a quarter of a century passed before I found myself back on a college campus here in Bloomfield. My particular experience as a student thirty years ago and today probably provides a good vantage point from which to compare the college student of then and now.

There has undoubtedly always been a difference in perspective between parent and child. Today's college students have named this difference "the generation gap," and, having labelled it, they think they invented it. In fairness it should be noted that while not a new phenomenon the fast pace at which the world moves today has accentuated the differences in viewpoint between the generations.

It is impossible to characterize two generations within a few minutes, but one point seems particularly significant. Both the "then" student and the "now" student have been preoccupied with survival; however, survival means different things at different times.

Material possessions seem to have the most value to those who have been denied them. The "then" people, haunted by the specter of the country's worst depression, were concerned with a very personal kind of survival. Getting a job, supporting a family, saving for the proverbial rainy day were almost universal goals; but they were individual goals.

The "now" people face different problems. They are coming of age in an affluent society, but one where millions still are hungry, badly housed and uneducated. The "now" people breathe air that is polluted and try to swim and fish in water that is poisoned. Over-population is beginning to vie for the very ground they stand upon, while nuclear warfare and atomic fallout threaten their very existence. They search for identity in a world where computers have changed even their names into numbers.

Unlike the problems we faced then, these are not individual problems: they are group problems. In place of individual survival the "now" people are concerned with social survival. If we abhor the methods they sometimes employ to achieve survival we must still stand in awe of the courage and passionate idealism that causes them to take the risks they do to cure society's ills.

The obvious point seems to be that without society individuals cannot survive, and without individuals there is no society. Survival must be both individual and social.

America needs a new kind of melting pot. In place of our ethnic, racial and religious differences of the past let us put into our pot the experience, the perseverance and the patience of the "then" people. Let's add the courage, the idealism and the vision of a better world of the "now" people. Nourished from such a pot all of us may look forward to a brighter future for the "tomorrow" people.

THE STUDENT IN THE UNIVERSITY AND SOCIETY OF TODAY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. McCLORY. Mr. Speaker, one of the agenda items before the Educational, Scientific, and Cultural Committee of the Interparliamentary Union at its annual spring meeting in Vienna last year was "The Student in the University and Society of Today." This item—and I am quoting now from the official report of the meeting—

> Drew five memoranda for the Committee's consideration and engendered comment and speeches from 22 members in a discussion the Chairman declared to be the most "moving" and serious the Committee had ever had. All speakers agreed that the time was most suitable for a review of the student problem, and that the views and the attitudes of the young people in the world today could not be neglected. The problem at hand, it was said, not only affected the present members of society but their successors, and where unrest existed it must be accepted that society itself, and in some places even the power structures themselves, were under critical examination. * * *
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> In summing up, the Chairman (Mrs. H. Meerman of the Federal Republic of Germany) praised the delegates for their valuable contributions but stated that it would be premature to draft a resolution on the subject. In proposing that no resolution be presented therefor, the Chairman said the subject might better be left for the agenda of the Spring Meeting at Monaco in 1970 and that a rapporteur be appointed to observe continuing world events among students and to review the situation at the 1970 conference.
>
> Accordingly, it was agreed that members of the Committee should submit their information and expressions on the subject to the Japanese delegate (Senator K. Nishimura) who was nominated to prepare a world-wide report on students movements, which would then be considered by the Committee at its sessions in Monaco next year.

Mr. Speaker, I feel privileged to bring this report to the attention of my colleagues in the U.S. Congress and to the American people by inserting the full text in the CONGRESSIONAL RECORD. Parts 1 and 2 are included in today's remarks; the remaining portion of the report will be inserted in my next remarks on this subject.

Mr. Nishimura has performed a noble labor of collecting, digesting, translating, and summarizing information provided by delegates of the various national groups of the Interparliamentary Union on some of the causes of and attitudes about student unrest in the world today. I hope my colleagues will take time to read this report, and I would be pleased to have their reactions and views on it. I invite the comments, as well, of others in government and in general public, especially the students themselves, who are concerned about the role and problems of the student in the university and society of today.

The report follows:

REPORT ON STUDENT IN THE UNIVERSITY AND SOCIETY OF TODAY

(Presented by Mr. Kanichi Nishimura)

PREFACE

In accordance with the decision taken by the Educational, Scientific and Cultural Committee at the Spring Meeting held in Vienna in April, 1969, I herewith submit a report on "Students in the University and Society Today."

This report was compiled on the basis of the interim report presented by Dr. R. Meinecke (Federal Republic of Germany) to the meeting of the Educational, Scientific and Cultural Committee held during the 57th Inter-Parliamentary Conference in November, 1969, the materials submitted before November, 1969, by various national groups, the materials obtained from UNESCO through the initiative of the Inter-Parliamentary Bureau and others.

I wish to take this opportunity to express my deepest gratitude to the following national groups who took pains to send valuable materials: the United States of America, Australia, Canada, Denmark, Finland, the Federal Republic of Germany, Great Britain, India, Ireland, Israel, Italy, Republic of Korea, Malawi, Rumania, Singapore, and Yugoslavia. I also wish to express my appreciation especially to Mrs. H. Meermann, the Committee Chairman, Dr. R. Meinecke of the Federal Republic of Germany, Mr. R. McClory of the United States of America, and Mr. J. Douglas, the Assistant Secretary General, for being so generous with their assistance in compiling this report.

January, 1970.

KANICHI NISHIMURA,
Member, House of Councillors, Japanese Group of the Inter-Parliamentary Union.

PART 1—STUDENT DEMANDS AND ACTIONS

Tension between students and university authorities began to surface in the advanced countries in the early 1960s. With the disputes at Berkeley in 1964 and at the Free University of Berlin in 1965, student unrest began to spread around the world. The student movement in the early period was strongly influenced by the many kinds of socialism which developed in the newly emerging nations and by the social scientists who were conducting an analytical criticism of the social structure in the capitalistic countries. The later escalation of the Vietnam War, the Great Cultural Revolution in Communist China, and the priority given by states to economic growth as symbolized by the manpower training program acted as catalysts to intensify student unrest rapidly on a global scale.

The student unrest reached its climax in 1968. The material presented below summarizes the information on student demands and actions after 1968.

1. AMERICA (THE UNITED STATES OF)

(*1*) *Slogans most frequently used by students during disorders*

According to the "Urban Crisis Monitor" (a weekly information service, March 21, 1969) the most frequently articulated demands can be listed for the academic year 1968–69 as follows:

A. The most frequent demands made by white students:

a. University changes in response to black student demands.

b. Increased student voice in administrative decisions.

c. Student voice in faculty hiring and firing.

d. Educational relevance in curriculum and courses.

e. Women's liberation.

f. End giving academic credit for Reserve Officers Training Corps.

g. End university research under defense contracts.

h. End campus recruitment efforts by defense-related businesses.

i. End relationships with organizations and business with investments in South Africa.

B. The most frequent demands made by black students:

a. Increase enrollment of black students.

b. Increase scholarships for black students.

c. Create an autonomous black studies department controlled by blacks.

d. Give black students a voice in selecting the head of the black studies department.

e. In some cases, limit the enrollment in the black studies department to black students.

g. Provide financial support for black students.

g. Provide financial support for black student organizations.

h. Hire more black faculty members, administrators, and counselors.

(2) *The Views of a Typical Liberal*

Many student activists have their own theories about what is disturbing young people in the United States today. Kenneth Glazier, Jr. was interviewed by U.S. News and World Report. Mr. Glazier is a student at Harvard University, and he participated in the strike at that university during the spring of 1969. Mr. Glazier believes that the current wave of student unrest in the United States is a sign of deeper social ills and he says, "This is our country too and we want to have a voice in seeing that it's the kind of country we want to live in." Although most students, Mr. Glazier says, believe in America and the American ideals they are upset because the American people are not living up to those ideals. Students feel frustrated over the war in Vietnam, the draft and its inequities, the plight of the poor, and the role of the university within the community. These social concerns are compounded by demands for a voice in university affairs, more relevant curriculum, and increased enrollment of minority students. It appears to Mr. Glazier that campus unrest is actually a healthy sign that young people are deeply concerned about their country and many are eager to work to improve and correct its faults. Mr. Glazier concludes the interview with this comment:

"But in the concern over campus disorders there must be a realization that unrest on campus is not an isolated problem. The unrest on campus is only a symptom of the much deeper ills of our society. The only way you're going to solve the problem of campus unrest is to begin to tackle the societal problems which prompted the unrest in the first place."

(3) *The demands and action of the radical minority*

In a Memorandum entitled "The New Left" (prepared for the Subcommittee to Investigate the Administration of the Internal Security Laws, of the U.S. Senate Committee of the Judiciary, October 9, 1968) such groups as the Student Nonviolent Coordinating Committee, the Youth International Party, the Progressive Labor Party, and the Students for a Democratic Society are discussed. Group leaders such as Mark Rudd, Tom Hayden, and Jerry Rubin are quoted in the Memorandum, as well as statements by J. Edgar Hoover and a number of university professors who have dealt with these groups.

The Memorandum illustrates the type of thinking that the radical students follow.

A. Mark Rudd, leader of the Columbia University student rebellion during the spring of 1968 made a statement agreeing with the view of President Grayson Kirk that the generation gap was both significant and almost impossible to bridge:

"You are quite right in feeling that the situation is 'potentially dangerous.' For if we win, we will take control of your world, your corporation, your university and attempt to mold a world in which we and other people can live as human beings. Your power is directly threatened, since we will have to destroy that power before we take over. We begin by fighting you about your support of the war in Vietnam and American imperialism—IDA (Institute for Defense Analysis) and the School for International Affairs. We will fight you about your control of black people in Morningside Heights, Harlem, and the campus itself. And we will fight you about the type of miseducation you are trying to channel us through. We will have to destroy at times, even violently, in order to end your power and your system . . ."

B. Split of the SDS and the difference between the two factions:

Michael Klonsky, one of the leaders of the SDS group, discussed the organization during a television program, "Face The Nation." During the interview, Mr. Klonsky criticized the United States and advocated student radicals arming themselves. He said,

"I believe we are going to have a revolutionary change in the society."

In describing the SDS, Mr. Klonsky said:

"There are differences within SDS. SDS is not some kind of a centralized organization, really. I believe that we have unity, and when these sweeps come down on our people, you will see."

The actual unity of the organization has come under question following the national convention of the Students for a Democratic Society, which opened in Chicago on June 18, 1969. At the conclusion of the conference, the SDS had broken into two factions: the "regulars" or Revolutionary Youth Movement, and the Progressive Labor Party. According to Barry Kalb in "The New Republic" the difference between the two factions lies in the approach to a solution. The Progressive Labor Party states:

"The influence of the university must be destroyed. We cannot do that by opportunistically building the student power illusion that we can reform the university into 'serving the people' under capitalism. That just gives a radical sounding cover for liberal politics."

Mr. Kalb goes on to say that the "regulars" see the situation in another way:

"SDS is, above all, a youth movement, and particularly a youth movement on college campuses . . . (But) for all the talk of a 'student-worker alliance,' we have not even won over a substantial number of students, much less youth generally. By withdrawing into a hardening sectarian shell (ideology of the Progessive Labor Party), we will be well on the way toward losing whatever influence we have exercised in the past on campuses . . ."

(4) *General trend of student movement*

The general trend of the student movement in the United States, including that of the radical groups, can be summed up as follows:

A. The most militant students seem to form a minority of the American student population. However, the issues that the militants have raised are matters of concern to the majority of students as well.

B. The moderate students have attempted to work within the democratic system to remedy the problems within the colleges and universities. The more radical students, however, believe that the university structure must be entirely rebuilt before any real improvements can be worked.

(5) *Increased unrest feared in high schools and junior high schools*

The US News and World Report predicted in its issue of September 22, 1969 that American high schools and junior high schools may face more trouble than college campuses in the school year ahead. This was the opinion of many educators. Four threats to orderly schools were seen:

A. One growing threat is the risk of racial flare-ups. Incidents between individual students and groups of students tend to increase as more schools are involved with larger mixtures of racial groups.

B. Another threat is posed by outright criminal activity of school dropouts who slip into school buildings and bully students, assault teachers, steal or vandalize property.

C. A third threat is the drive to "politicalize" and "radicalize" high school and even junior high school students by groups such as the SDS and the Black Panthers. As early as 1968, SDS leaders were boasting that high schools were their next target.

D. A fourth threat arises from the "youth rebellion" type of activity. This usually centers on student demands for more liberal dress codes, hair styles, smoking rules, "freedom of speech," the "right to self-government" and other issues.

2. AUSTRALIA

(1) *The main student organizations and their activities*

According to the Financial Review (May 13, 1969), the two most representative student organizations in Australia are the Labor Club and the SDS.

A. Labor Club

The Labor Clubs, which in several States have been specifically disowned by the Australian Labor Party, are Marxist oriented and typically include student Communists (including children of members of the Communist Party hierarchy), though they are not organs of the Communist Party.

The membership also includes Trotskyites, admirers of Castro's Cuba (which has achieved the status of the Promised Land among some Leftist stalwarts), supporters of Mao Tse-tung's cultural revolution and unattached students attracted to parts of Marxist theory.

In some of the smaller universities, where student politics are less intense, the Labor Club may be a catch-all group containing committed A.L.P. supporters, Fabians and social democrats as well as revolutionaires, but in larger universities (Sydney, Melbourne, Monash) the Labor Club label is a reasonably reliable guide to the Marxist inclinations of the membership.

Labor Club members mostly support socialism and workers control and emphasize cooperation with Leftist elements in the working class.

B. SDS

The Students for a Democratic Society, whose name is adopted from a similar development in the United States, are essentially middle class in outlook and tend to regard Marxist theory as irrelevant to the real problems of Australian society.

At a recent meeting of a related group at Queensland University (Society for Democratic Action) a ritual reference to the workers was made at the beginning of a three-hour meeting, and with that out of the way the proletariat was promptly forgotten.

The identifying cry of the SDS members is "participatory democracy," by which is meant an effort to reduce the influence of pressure groups, lobbyists and the controllers of Australian society, and replace them with a system in which the whole population is directly involved in decision-making process concerning it.

They see the Australian universities as part of an existing power system by which self-chosen elites rule Australia.

Common concerns of both the Labor Club and SDS include the people who live in poverty in Australia, the individual's lack of control over his life, heavy expenditures on defense and lack of student participation in control of universities.

(2) *Interview between a journalist and student leaders*

The Advertiser carried in its issue of May 24, 1969 the following conversations made between Cole-Adams (interviewer) and students playing leading roles in SDS and Labor Club.

Cole-Adams. As a starter, could each of you tell me briefly what your grievances are against the universities and Australian society as a whole?

Spigelman. Well, most students are reformers rather than revolutionaries. They are concerned with issues. The list includes race-oriented issues—like the White-Australia policy, the aborigines—New Guinea, civil liberties issues and, to a certain extent, things like conscription and moral concern over Vietnam.

Within the universities, it is basically a question of more student involvement in their own courses and curricula decisions, disciplinary questions and other important issues which affect them directly.

Langer. I don't think it is so much a question of students wanting a greater say as of students becoming involved in a broader movement to change society.

Universities are institutions geared to provide graduates to manage the various fields of industry and commerce on behalf of a very small ruling class.

Some students don't like being trained to fit into this role. They feel the universities should serve people in Australia and that society as a whole should be geared to the needs of the people who live in it, not the needs of bosses in Australia and the United States.

Cole-Adams. But what about your current activities. Are they directed simply at university and social reform? Or are you aiming at the destruction and recreation of Australian society, using the universities as a sort of spring-board?

Spigelman. Quite clearly the former in my case. I am concerned with issues. If the specific changes I want do occur, I would regard that as a fundamental change in society. But I am not waiting for a revolution. I prefer to see single things change over a period of time.

Van Moorst. Basically, a complete change in society—a change in its values and structure—but I don't like the term "destruction of present society." I think society is already changing and that this change has to be geared to fairly non-violent means.

Langer. We are not interested, primarily in the university issue or in social reform. We do aim at the destruction of the present social system and its replacement by a socialist one.

However, this is not something that can be achieved by students and not something for which the universities are a springboard. It is something that can only be achieved by the working class and involves students simply as part of a broader socialist movement.

Cole-Adams. What about means? What do you regard as the legitimate limits of protest? Do any of you encourage or condone violent demonstrations?

Langer. I don't think it is a question of protest. It is a question of trying to overthrow the existing social system. And in view of the existence of a powerful army and police force, I do not think this is going to be accomplished peacefully.

But as far as I am concerned there is no need for us to initiate violent pressures. We do not call violent demonstrations. We merely attend them. They are called by the police.

VAN MOORST. I don't think violent demonstrations or confrontations ought to be condoned because they are basically a denial of the rights of the people—either by the police or the protesters. They are simply a reinforcement of existing tendencies towards violence. I don't consider that by violent demonstrations we can create a non-violent society.

COLE-ADAMS. Do you believe a minority of militants have the right to take action—for example, to take over an administration block—without the approval or even against the wishes, of a majority of students?

OSMOND. Yes, I think small minorities of students, whether they be Right-wing or Left-wing, have a right to take any shocking or dramatic action, regardless of the wishes of the rest of the students.

Clearly, they have to be prepared to take some consequences for themselves and also consequences for other people. That is the only reservation I have on that.

SPIGELMAN. Quite definitely not. A minority group has a right to take action if it is being oppressed. But when you talk of general political issues where the minority is not being directly oppressed it becomes a question of the minority trying to impose its will on other people. That is a blatantly authoritarian attitude.

VAN MOORST. No. I don't think minorities have the right to impose their will—which is exactly what they would be trying to do—upon the majority of students.

Nobody should try to impose their will or manner of life upon anyone else. To attempt to do so is to go against the very values we are trying to create in society.

LANGER. I don't think it is a question of minorities or majorities. It is a question of right or wrong. We are engaged in a struggle to change society—a struggle which requires for its success the support of the majority of people in society.

Now, at a stage when the majority of people are not yet fully politically active, I see nothing wrong with one section of the people taking action to show the way forward. It is not a question of imposing their will upon others but of resisting the imposition of an exploitative society on the majority of people.

COLE-ADAMS. Mr. Langer, you are talking of right and wrong in absolute terms. You are setting yourself up as the judge of what is right and what is wrong.

LANGER. The boot is on the other foot. You are talking in absolute terms about majorities and minorities in the university, which is a fairly meaningless social unit.

The issue is one of right and wrong. The Vietnam war is wrong. And if a majority of students in a university or a majority in any other institution, were to say it was right—or to say that Nazi Germany was right—then they would be wrong. The minority would be quite right in taking action.

SPIGELMAN. I don't enjoy being treated as a moral and political idiot by a self-appointed prophetic minority who think they know what is good.

3. CANADA

(*1*) *Student organization*

From the point of view of both organization and activities, the student groups in Canada are highly diversified. The most powerful of these groups, the Canadian Union of Students (C.U.S.) at one time reached a membership of 140,000 students at 33 universities. But as a result of the disorders since 1968, there arose growing criticism of radical activities. An increasing number of students began dropping out and the membership fell to 73,000 at 19 universities.

In September 1969, the Canadian Union of Students held a Congress in Port Arthur. During the Congress, the C.U.S. dropped its radical slogans in an attempt to regain the support of the mainstream of Canadian university students. However, the radical wing of the C.U.S. was opposed to that accomodationist stand where as a group of liberals proposed a new project of federation.

The radical wing of C.U.S. was disenchanted with the incoming President, Martin Loney, who stated at the Congress that the first order of priority of the Union was to regain a strong base of support at the campus level. Martin Loney added that the C.U.S. was a student organization before it was a radical organization. It was foolhardy, he said, for C.U.S. to decleare itself favorable to the Viet Cong guerrilleros as it did in 1968, whereas such a stand would be opposed by the majority of Canadian University students.

On C.U.S. right wing, a group of students, calling themselves liberals or moderates, proposed the abolition of C.U.S. and its replacement with a federation restricted to student issues. However, a majority of both Dalhousie and Toronto Universities opposed the project.

(At the end of October 1969, the Council members of the Canadian Union of Students decided to disband their union at the end of November 1969.)

(*2*) *An example of extreme action by radical students (the Anderson affair)*

In February 1968, six students from the West Indies started to think that Mr. Anderson, a professor of biology at the Sir George Williams University, was prejudiced against them.

In April of the same year, they charged Mr. Anderson with racism and incompetence and presented their grievances to the Dean of the Department of Sciences who asked another professor of biology to evaluate the work of these students. In the light of this evaluation, the Dean considered that the students' charges were ill founded and apparently only advised Mr. Anderson of his judgment.

At the end of the summer of 1968, the same group of students stated that the university bureaucracy did not take seriously their complaints.

In December 1968, the six West Indies students demanded that Mr. Anderson be fired immediately by the University. Mr. R. Rae, the rector of the University turned down their request because he refused to fire a professor without enquiry.

A special committee made up of five professors was established to enquire about the behaviour of Mr. Anderson. The Committee included two black professors. However, on January 22, 1969, the two black members resigned from the Committee and were later replaced by two other white professors. The six students charged the University with racism and rejected the new Committee.

At this time, white radicals from Sir George Williams University and students from McGill and Montreal University approved of their refusal and behaviour.

On January 29, a group of white and black students invaded the Computer Center located on the ninth floor of the Hall building of Sir George Williams University and stated that the Computer Center would not be freed unless their demands were accepted by the University.

On the night of February 10, 1969, the students occupying the Computer Center appeared to have lost any hope of seeing the conflict settled without the use of violence. At 4 a.m., on February 11, 1969, they started throwing pieces of furniture down onto the moving staircases and into the elevators to cut the access to the building. The University requested the help of the police. The Computer Center of the University of Sir George Williams was entirely destroyed.

In July 1969, the special Committee of the Sir George Williams University concluded that Mr. Anderson never acted in a prejudiced manner toward the six complainant West Indies students.

(*3*) *A case which was affected by Canada's mixed society*

On February 3, 1969, Mr. Gray, a lecturer in political science at the University of McGill, wrote an article in the McGill Daily. In his article, he stated that although it was mostly financed by the Province of Quebec, the McGill University did not fulfill the needs of the Quebec society. He added that the University was controlled by Anglo-American Corporations, precisely those which oppressed the Quebec people.

On February 4, 1969, Stanley Gray received a letter from the administration whereby he was advised that his firing was requested. On the other hand, Stanley Gray was supported by the Radical Students' Alliance which was in open conflict with the administration.

Later on, a special committee of arbitration was established by the Canadian Association of University Teachers. After 38 sittings, the Committee found that Stanley Gray was guilty of having fermented two demonstrations which disquieted and interrupted the sittings of the McGill Senate on January 24, 1969, and of the McGill Board of Governors on January 27, 1969, and of having participated on February 5, 1969, in a demonstration which forced the Senate to adjourn.

Consequently, the firing of Mr. Stanley Gray was confirmed by the University of McGill.

4. DENMARK

Since the spring of 1968, university life in Denmark has been affected by student unrest in various forms.

This unrest may be ascribed not only to unmistakable international inspiration but also to a number of internal factors.

One major factor is overcrowding at universities. A vigorous expansion of education has brought new categories of students into institutes of advanced studies which are often influenced by century-old traditions, and it has not been possible to provide adequate and up-to-date facilities in terms of teaching staff, premises and equipment to cope with the heavy influx into universities and other institutes of advanced education.

The arguments used in student criticism are: inefficient organization of studies, authoritarian and obsolete teaching methods, insufficient elbow-room for individual student initiatives, content and scope of curricula irrelevant in relation to targets, student teacher ratio renders personal contact impracticable, professors autocratic in the general planning studies.

In addition, students have objected to authoritarian forms of university management which allows students and non-professorial teaching staff little or no influence on the academic bodies of educational establishments.

The primary claim of students is for "university democracy" which will give students and non-professorial teachers a controlling influence, not only on the organization of studies in "study (planning) committees" (where professors, other teachers and students jointly prepare study plans), but also on university management through all academic bodies including faculty councils in which students claim 50 per cent representation.

Unrest has been most outspoken in those universities where admission is not restricted, especially in the University of Copenhagen which is the oldest and biggest in Denmark and which has experienced the greatest difficulties in achieving expansions on a scale which is large enough to cope with present-day exigencies.

Unrest began in the spring of 1968 when psychology students occupied the Faculty of Psychology under the motto "Break the Professorial Domination-Influence now" in order to obtain reforms by force. Similar episodes occurred in other faculties in the course of 1968 and the spring of 1969, but the Danish student revolt has, on the whole, been peaceful and nonviolent, meetings and debates being the most common manifestations. The student movement is divided in two: one group feels that nothing important can be gained by negotiation and employs "extra-parliamentarian" action from time to time, while the other group regards negotiation as the only practicable means today.

There are several reasons for the fact that Danish student revolt has followed a more peaceful course than in most other countries: Students do not live in a "university campus." Student hostels are widely scattered, have a large measure of self-government, and can house only a fraction of the students. Politically, students act through the ordinary political bodies together with other interested youth groups. Another probable reason is that student councils have held an official status for more than a generation and that study (planning) committees were established for several faculties and subjects at an early stage. Although students have had only an advisory status they have been able to exercise more influence than students in countries where unrest has been most conspicuous.

The course of unrest has indubitably also been influenced by the fact that university managements have in no case called in the police to deal with student action; they preferred to solve and did, in fact, resolve the conflicts by negotiation.

The two-fold aim of the University is to carry out research and to provide higher education based on the results of research. Its stated purpose is to train scholars, scientists, public administrators, in academic posts, doctors, school-teachers, clergymen, lawyers, economists, etc. Groups of students have been attacking these aims, and are demanding an education which is relevant not only to the developing society but which at the same time is critical of the Establishment—thus forming a preparation for the changes in the existing state of society. Some groups—admittedly only representing a small sector of the students—believe that this can only be achieved through a revolution.

5. FINLAND

In 1968 the Autumn Congress of the National Union of Finnish Students accepted a program for the democratization of higher education. In this program a demand is expressed that university administration has to be based upon general and equal suffrage.

In the beginning of 1969 when the universities of Helsinki and Tampere and the Technical University made propositions in order to change the acts and statutes concerning these universities, the question of the international administration became of great actuality.

The local student unions and the National Union of Students then demanded that the university administration has to be based on the principle of "one man—one vote." In addition to these demands the local student unions prepared detailed and thorough propositions for the administrative model of their university.

6. THE FEDERAL REPUBLIC OF GERMANY

(*1*) *The situation in 1968*

A. Vietnam Congress

Since the end of 1967, disturbances became a permanent feature: in various cities students demonstrated against the Vietnam war, against the political conditions in Greece and against the Springer newspaper combine. The culminating event was a Vietnam congress in Berlin on February 17th and 18th, when 10,000 people demonstrated. In the churches in Berlin, Hamburg, Münster and Bonn, Christmas services were disturbed and interrupted by Vietnam demonstrations. At many universities the holding of lectures and courses was interfered with; in the Land Baden-Württemberg the students left the lectures and went on strike.

B. Dutschke and Springer Affairs

The murderous assault on student Rudi Dutschke on April 11th, 1968, produced a second wave of solidarity among the students and meant the beginning of the Easter riots 1968. Students reacted spontaneously on this criminal attack and organized demonstrations in Berlin, Frankfurt, Bremen, Düsseldorf, Freiburg, Ulm, Dortmund and Bonn, among other places. The Easter riots which followed these spontaneous actions had been staged by the radical leading group among the student protest movement, the "Socialist German Students' Association" ("Sozialistischer Deutscher Studentenbund" SDS); they took place in numerous cities, from Hamburg as far as Munich, and were once again directed against the "Springer" press combine. Delivery of Springer newspapers partly was prevented by means of force, and in Munich it happened at such an occasion that two onlookers were killed.

C. Emergency Legislation

On May 1st, 1968, numerous manifestations of the so-called "Extra Parliamentary Opposition" ("Ausserparlamentarische Opposition"—APO) were being held: in Berlin, 40,000 people took part in them. A campaign against the "emergency legislation" passed by the government was the outstanding feature during the period between 8th and 30th of May. There were 30,000 participants in a well organized and disciplined anti-emergency legislation march on Bonn. Protests and strikes, occupation of universities or university institutes as well as interruptions of theater performances in many cities of the Federal Republic were the consequences of the second and third reading of the emergency bills.

D. Court Trials

The disturbances were continued during summer and fall of 1968, but they were confined mainly to the university areas. However, in a number of cases court trials against participants of earlier actions were taken as a reason for new public actions. Heavy fights with the police took place on November 4 in Berlin, on the occasion of the proceedings at the Court of Honour against the lawyer Mr. Mahler who had advocated for the students.

(*2*) *The situation in 1969*

A. University Disorders Intensify in January

From the beginning of January 1969 on, student disturbances were moving towards a further climax. A university building in Frankfurt was occupied, with the student leader Cohn-Bendit as instigator, who had been expelled from France and sent back to Germany, after he had played a leading part in the French May riots. On January 7, 1969, at the university of Frankfurt, the minister of education of the Federal Land of Hesse was attacked and pelted with water and mustard and was prevented from leaving the building. In Berlin, the obstruction of university life in general led to the closing down of the law department. Severe fighting between policemen and students on January 10, 1969, resulted from the arrest of five students in Heidelberg, who were accused of breach of public peace and breach of domestic peace. These riots were followed by serious disturbances of university lectures and courses, occupation of rectorates and a wave of actions of solidarity at almost all the German universities. At a number of universities, and particularly in Berlin, certain departments and institutes had finally to be closed because of continuous interruptions of teaching and ravages in the buildings.

B. Street Action in January-February and Its Relation to International Problems

At the end of January and the beginning of February 1969, a further spreading and an increase of the disturbances could be noted: in several cities, acts of violence and fightings with the police occurred. The state of martial law in Spain, the situation in Greece as well as political verdicts in Iran and in Turkey were shown as being parallelled by conditions in the Federal Republic and gave rise to joint actions between German students and foreign citizens: the outrages were mainly directed against foreign consulates. The temporary arrest of the student leader Krahl because of the occupation of a university institute in Frankfurt and his trial before a court of law (February 5, 1969) was the signal for increased agitation and new riots. Once against university buildings were demolished and in repeated cases had to be cleared by the police force. Public political meetings were interrupted by riots. The middle of February 1969 brought a slight decrease of actions of violence, which was due to stronger and more flexible police interventions and to the university vacations: only some sporadic minor attempts of demonstrations and protests could be registered.

From the middle of February onward, student protests concentrated more and more against draft university legislation. Apart from these protests, and in a few cases only, there were riots which were directed against compulsory military service and against the Federal armed forces.

C. Change of Strategy After February

The following period was characterized by protests against university policy in general and by activities of merely local significance (changes of street names, pamphlet actions, encouragement of conscientious objections). In May, June and July 1969, protest demonstrations instigated by the SDS were held in Bremen, Hannover, Heidelberg, and Saarbrücken, as well as actions which resulted in a paralysation of all public means of transport in these cities, owing to the raise of fares for high school and university students; to a certain degree, the general public that was also interested, joined in with these actions.

D. Elections and Student Activities

In the electoral contest of 1969, the Communist-steered "Actions Democratic Progress" ("Aktion Demokratischer Fortschritt"—ADF) was supported in the first place, and several cases of grave disturbances of CDU/CSU and SPD party meetings took place. Demonstrations and counter manifestations along with almost all meetings held by the NPD were organized, in the course of which a considerable number of people suffered injuries.

7. BRITAIN

(*1*) *Demands of National Union of Students*

The National Union of Students of Britain submitted the following 10 demands to the Committee of Vice-Chancellors for its consideration on June 13, 1968.

A. Effective presence on all relevant college committees.

B. Staff/student control of discipline.

C. Student control of own organizations (Unions).

D. Staff/student discussion of course content and teaching methods.

E. Better careers advice.

F. Abolition of outdated rules and regulations.

G. Better facilities in Further Education sector.

H. Government and authorities to ensure that all students have equal opportunities of getting jobs.

I. Immediate reform of examination system.

J. Votes for all young people, including students, at the age of 18.

(*2*) *Examples of Recent University Disputes*

Nov. 1968 Oxford University, University Reforms, etc. More than 100 Oxford Revolutionary Socialist Students clashed with University officials when they tried to force their way into a meeting of Congregation at Convocation House. Three students were invited by the proctors to state their business after they were told they had no constitutional right to attend the Convocation meeting.

Nov. 1968, City University. Student grievances. More than 1,000 students boycotted lectures to discuss their grievances at huge Students' Union meeting.

Nov. 1968, Reading University. Student representation, etc. About 250 students sat down in the women's hall and refused to leave, mainly members of the new movement called Action for a Free University.

Nov. 1968, Salford University. Student representation and inadequate facilities. Protest by about 600 students to greet the arrival of Duke of Edinburgh on the occasion of his visit to the University.

Nov. 1968, Birmingham University. Student representation and their role in the university. "Sit-in" by 500 students or more in the administrative building. Students gain access to secret files and documents. Disciplinary action threatened by University officials on December 5, and on the same day the "sit-in" ended. It had commenced on November 28. After the "sit-in" ended, students and senior academic staff were to discuss demands for more active student participation in university government.

Dec. 1968, Bristol University. University's failure to meet student demands that all Bristol students should be able to use University Students' Union Building. Commencement of "sit-in" on December 6. Students occupied Senate House. University staff were locked out and scuffles broke out. Later on staff and police were allowed in. The Vice-Chancellor Professor Roderick Collar issued a writ claiming damages for the unlawful occupation of the building. Four students promised a High Court judge that they would not enter the University's Senate House without permission. The "sit-in" was called off on December 16.

XUM

Jan. 1969, London (L.S.E.) University. Suggestion of L.S.E. links with Rhodesia and South Africa (Investments and holdings). Students sat down outside Dr. Adams' office to force him to discuss their demands on these topics. When they found he had left, they occupied the senior common room instead. Later, at a teach-in on Rhodesia scuffles broke out between students and supporters of the National Front. Police waiting outside the building were not called in.

Jan. 1969, Essex University. Protest over the sending down of Mr. Raphael Halberstadt, a language student. About 50 left-wing students started a sit-in at the university's computer center. The sit-in ended 24 hours later. The students demanded his reinstatement and that university discipline should not be administered solely by the Vice-Chancellor, Dean or "hierarchically constituted authorities."

8. IRELAND

A recurrent theme was the need for recognition by State and college authorities of the Union of Students in Ireland as an organ of student opinion. The Union, in its second submission, stated that students must participate in their society by way of their local and national organization, but that student organizations on the local (i.e., college) level are inadequately provided for in the statutes of their colleges; it recommended that student unions be given responsibility for a union building in each college, which they should be free to organize and administer, and that unions should be allowed to send their representatives to committees or governing bodies to express student views. The Union also proposed that, in all matters affecting the body of students, it should be officially recognized by the government as the organization that represents students and their views; that the Union's right to be consulted should be recognized by the Department of Education; and that this recognition should be implemented by invitation to the Union to nominate official representatives to all advisory bodies constituted by the government in regard to higher education. The Union rejected as an "unfortunate myth" the notion that students are immature and that their capacity for responsibility is, therefore, open to doubt; even if the charge could be sustained, it had to be borne in mind that students had not been given the opportunity of showing that they could act with maturity and responsibility. As earlier indicated, the Union's first submission regarding its recognition was supported in submissions from student councils and associations in the various institutions.

The Union also called for a regular annual capital expenditure of 250,000 from public sources on the provision of hostels for students, which, they estimated, would provide residential places at the rate of nearly 150 a year; in addition, they proposed that provision should be made on an adequate basis for student centers in the colleges. As regards the use of vacations by students, the Union pointed out that the growing practice of holding examinations in autumn—which the Union had no objection on academic grounds—placed additional expenditure on students and their parents and deprived poorer students of the means of earning money during vacations. Nevertheless, the Union felt that students should not be forced to take up employment during vacations.

The Students' Representative Council of University College, Galway, endorsed generally the submission of the Union of Students in Ireland, but differed from it on the question of hostel accommodation; available moneys, they said, should be used to improve teaching accommodation and facilities, and the State should not undertake a hostel building programme in the near future at least. The Council also made proposals for the development of physical education in the schools and for the training of teachers of physical education. It further pointed out that none of the university colleges employed a physical education instructor of any kind, and drew the Commission's attention to "the disgraceful and primitive gym facilties (due to lack of finance and appreciation) in U.C.G. and U.C.C."

9. JAPAN

(1) *General trend*

The biggest feature of student disorders in Japan is the fact that they have been influenced by the social and economic energy of the country which aimed at the establishment of democratic institutions and rapid economic growth following World War II. Japan's democratic systems, especially her system of parliamentary democracy, have undergone many trials during the past 20 years with the sharp confrontation between the ruling conservative party and the opposition reformist parties always in the background. It was because of this background of social tension that the student movement in Japan assumed a generally strong political coloration.

Japan's rapid economic growth, unequalled by any other country in the world, enabled engineering students and youths with creativity to obtain good positions in society. The emphasis placed on economy gave rise to a situation where students faced a future in which their social and economic status would differ widely. This growing status gap caused resentment to breed. This became one of the important factors which drove students in the humanities and social sciences to engage in anti-capitalistic political activities.

The second feature of the student movement in Japan is the diversity of radical organizations and the similarity of the actions resorted to by these diverse organizations. At the time of the Tokyo International Air Port Incident of 1968, the radical groups which were known as the anti-Yoyogi or anti-Communist Party Zengakuren went under the name of Sampa (three faction) Zengakuren. Subsequently, this split into five factions and 13 branches, later into six factions and 16 branches and still later into nine factions and 18 branches. At present these student groups can be divided broadly into three factions from the point of view of their theoretical tendencies—the Trotskyists, the Marxist-Leninists (Mao Tse-tung followers), and the structural reformers.

Despite this diversity and despite the furious struggle among the various factions, all radical student groups follow the same action pattern in general.

A very simple example of this is the world famous trademarks of Japanese radical students—helmets, staves, and scrum demonstration. It has been pointed out that the cohabitation of existentialism and romantic idealism is one of the factors which gave birth to this similarity in action pattern. However, it should also be pointed out, at the same time, that the various groups share a common strategic outlook. They want, through their own actions, to make adults conscious always that today's society contains a structural aspect which is strongly technological.

(2) *Main incidents of recent months*

The most dramatic recent incidents involving students occurred in January 1969, on October 21, 1969 and on November 16, 1969. In the first incident, the All Japan Joint Struggle Student Committee occupied the Yasuda Auditorium of Tokyo University and clashed violently with the Metropolitan Police Department's riot squad which was called in by the university authorities to oust the students. In the second incident, massive demonstrations were held to mark Anti-War Day. In the third incident, action was taken in an effort to prevent Prime Minister Sato from making a trip to the United States. In the latter two incidents, minority radicals resorted to extreme guerrilla tactics. There was a conspicuous difference between the Tokyo University affair and the other two incidents. In the Tokyo University affair, a large number of ordinary students supported the All Japan Joint Struggle Student Committee. But in the October and November protest movements, which had strong political colorings, the ordinary students did not back up the radical student minority. Instead, there appeared a new trend of the radical students joining hands with a small number of young workers with radical tendencies.

The important factors which caused the big upsurge in the student struggle at Tokyo University were as follows:

A. The aggressive participation by graduate students, who adopted the social reform theories of the SDS which were spreading throughout the world and who made the regular students conscious of wide-ranging problems, including the need for university reform;

B. The participation of young assistant professors who provided intellectual leadership which made possible a unique struggle which went beyond the pale of traditional Zengakuren strategies and ideals;

C. The sudden coming to a head of the students' criticisms of the university and society. This is a marked contrast to the cases in other countries, for example, the case of the Free University of Berlin where the SDS had theoretical dispute with the university authority for several years.

D. The clumsy response of the university authorities which caused students to feel an extraordinary sense of crisis.

A new source of apprehension in Japan is the recent increase in the number of disputes in high schools and in the number of high school students taking part in street demonstrations. It is not clear to what extent the activists leading the high school radicals were influenced by the theories and tactics taught them by activists among university students. Strong interest is held by all circles in Japan on the future trend among high school students.

10. YUGOSLAVIA

(*1*) *Main student problems*

A. General Situation

At the beginning of June 1968, student demonstrations took place, first at the Belgrade University, and later on, to a limited extent, in some other Yugoslav university centers. The demonstrations lasted a few days and resulted in the intenisfied dynamics on the general political plane within the country.

Of course, it is not possible to establish with absolute accuracy all the elements underlying the outbreak of the dissatisfaction of the Yugoslav intellectual youth in such an energetic manner. However, the main elements had been known long before the unrest took place.

The direct motive was a clash in Belgrade between a group of students and a group of participants in a youth voluntary action in connection with a minor performance organized there and, on that occasion, neither side did actually want a conflict; the political elements especially were irrelevant.

The intervention of the organs of public order for the purpose of preventing physical encounters and appeasing the situation, as well as the panicky, but groundless rumors about the alleged victims of the intervention, were a direct motive for a large number of students, concentrated in the student settlement at Novi Beograd (New Belgrade), to get excited to a considerable degree. All this led, the next day, to an organized protest which developed into demonstrations and a political action of students. Later on, followed new interventions of the organs of public order and on that occasion there were injured people on both sides.

B. Student Dissatisfaction

Although it is not possible to establish with precision all the elements in the background of the student demonstrations, it is incontestable that the main sources of dissatisfaction were as follows:

a. Dissatisfaction with the material position of the students studying at institutions of higher educations;

b. The unsatisfactory degree of self-management at the universities, with special emphasis on the participation of students in the self-management structures at universities and schools of higher education;

c. Some general political elements of the situation in the country such as dissatisfaction with the pace of the implementation of the social and economic reforms; differences in social position; slow solving of the unemployment problem; slow process of democratization of the society and a number of similar factors.

(*2*) *Student demands and settlement of dispute*

At the joint meeting of the University Committee of the Union of Students, the University Committee of the League of Communists and of representatives of action committees from all faculties, schools of higher education and academies in Belgrade, held on 5 June 1969, the programme of political action constituting the platform of the student action was adopted.

The programme in the interest of "more accelerated and efficient solving of the central problems of our socialist society as a community of free and equal people and nationalities based on self-management" called for:

Urgent measures for diminishing of social differences; consistent application of the socialist principle of distribution according to work performance; abolishment of privileges; more efficient solving of the unemployment problem, especially of young graduated students; measures for the elimination of bureaucratic forces and a more rapid pace of the establishment of relations in the whole society based on self-management.

Greater responsibility on the plane of implementation of social tasks at all levels, including the personal responsibility of the public functionaries;

More rapid and thorough democratization of all social and political organizations in accordance with the development of relations based on self-management and, in this context, the realization of freedoms and rights of the citizens provided for by the Constitution;

Reform of the educational system with a view to bringing it into line with the requirements of the economy, culture and relations based on self-management;

Organization of the university as an institution based on self-management at which the progressive and critical thought can freely develop; improvement of the material position of the university; participation of students in self-management;

Improvement of the material position of students; intensified construction of institutions for students and their handing over to students for management;

System of re-election of all functions at the university;

Abolishment of fees in all educational institutions.

Within the framework of their action, the students occupied faculties and held meetings there. On the other hand, they were in constant touch with the Government and other political factors of the Socialist Republic of Serbia.

In addition to the direct conflict with the organs of public order on the first day in Belgrade, there were no other conflicts of this type or disorder in general. The students maintained order themselves at their meetings as long as they held the faculty buildings. In some other towns there were also physical clashes between the students and the organs of public order. They were however on a small-scale and not as those in Belgrade.

After the speech of the President of the Republic of 9 June 1968, in which he spoke of these events, the students stopped their action, left the occupied buildings and the situation at universities was normalized.

PART 2—CAUSES AND BACKGROUND OF STUDENT UNREST

As mentioned in Part One, the modern student has grasped with great sensitivity the structural characteristics of the rapidly changing society of today and has turned sharply critical eyes toward the activities of various social influences which play important roles in today's changing society. Further, the similarities in the forms of student protest in all parts of the world and the similarities in the symptoms of discontinuity between adults and youths, including students, have surfaced as a global cultural phenomenon common to both capitalist and socialist countries.

Furthermore, these social and cultural problems posed by the students reflect changes in the development of information and management techniques in modern society and in the self-consciousness of the human being. They also reflect changes in the role and the position of youth in this society and the trend of the knowledge industry to shift from an individual to a collective merit basis. Thus, these problems could develop into issues of increasing importance in the 1970s. In Part Two, we will take up, in main, the opinions and the writings of specialists on the student and the university problem and of experts on social analysis and cultural phenomenon, while giving due recognition to the characteristics of present-day student unrest as outlined in Part One.

(In this Part, there will be passages written by foreign authors and quoted by Japanese sources, which may differ from the original as a result of retranslation back into English from the Japanese translation.)

1. SOCIAL AND CULTURAL CAUSES

Extensive research is being undertaken on the characteristics of modern society which forms the background of today's world-wide student unrest from the standpoint of cultural theories and analysis of social structures. This research can be divided into four general categories according to fields of study.

(*1*) *Technological society, management society, information society*

The first field in which research is being undertaken is that which deals principally with the social significance and the characteristics of the technologies created and developed by mankind and the knowledge and information accumulated by human society. This field is known as the field of the technological society, the management society, the knowledge society and in information society. The importance of the work done in this field by Dr. Daniel Bell, Professor of Columbia University, as represented in his theory of the Post-Industrial Society, is widely acknowledged. Professor Bell contends that the Post Industrial Society has five different aspects, as follows:

A. The development of a service economy.

B. The emergence of specialists and technical experts as a distinct social class.

C. The key role played by the theoretical knowledge as the fountainhead of policy-making and social innovation.

D. The possibility of achieving self conscious and planned technological advances.

E. The creation of new knowledge techniques.

As for the development of the service economy, scholars estimate that over 60 per cent of the work force of the United States will be engaged in the service industries in the 1970s. Even in Japan, 50 per cent of the work force is expected to be employed in the tertiary industry. This development is expected to create a wide range of problems both from a political and a practical point of view.

As for the emergence of specialists and technicians as a separate social class, the 1970s will bring an increasing need for men with university educations. The important reason why the decade of the 1970s is regarded as the decade for reforms in higher education is because of the belief that the need for people with university education will spread to every field of social activity, not only in industry, but also in politics and in creative activity.

As for such aspects as the importance of theoretical knowledge, the development of planned and self-conscious technological advances and the creation of new knowledge techniques, research in these fields is principally concerned with knowledge, information and technology. However, active discussion is now being continued on these three aspects of the Post-Industrial Society, because of the anticipated growth of the technological society, the information society and the knowledge society at an increasingly accelerated pace. For example, a large number of scholars believe that social development in the 1960s had as its background the East-West technological race, typified by U.S.-Soviet competition in space, armaments and in industrial output. However, in the 1970s, these scholars believe, social progress will be promoted by the transformation of this relationship of East-West competition to one of global cooperation through the development of social information systems. In other words, society will produce large volumes of all kinds of information and in the process of processing this information society will see the accelerated production of new knowledge and techniques, and, as a result, both the individual and society itself will be forced to adopt setups or systems capable of coping with these rapid changes. This, in turn, will greatly increase the importance of society having a high degree of ability to make selections from multiple values. In other words, there will be a need for a "high-selectivity society." It will make social safety valves necessary that will enable the dissipation of irrational desires, in other words, it will call for "static spaces in a kinetic society." It will also increase the importance of a total system approach to society capable of adjusting the unbalanced social growth. It will, furthermore, require a flexible social attitude that will permit the adoption of suitable countermeasures to cope with these developments.

The study of the urbanization of society forms an important theme in this field. We need not refer anew to the inter-relationship between the development of the information society and the technological society and the concentration of population in urban centers. The problem rather lies in the consequences of this urbanization—the emergence of the technocrat as a new social class and as the nexus of the great urban and metropolitan centers. It lies in this study of the composition of his ideology, his ability to reform society and in the manner in which the reform is carried out. It lies in the study of his social and political impact and the extent of that impact.

(2) *The mass society, the consumer society*

The second field in which research being pursued is that of the individual consciousness of the people who compose society and the trends of specific groups of individuals. The most important themes now being studied in this field are the theories of the mass society and the consumer society.

A. The study of the mass society constitutes an importance not only for political parties, bureaucrats and industry, but also for student groups, intent on bringing about social reforms. The principal aims of this research into the mass society lies, it goes without saying, in ascertaining the class structure of those employed in supporting social development through their productive efforts, in determining the trend of consciousness of each group and in grasping their ability to act, their power of influence and the direction of their consumer desires.

Further, important subjects for study in this field are the qualitative differences between the mass movements of the past and the citizens movements now being launched by residents of housing projects, the growing importance of the public responsibilities now borne by labor unions and management and the inter-relationship between the civil movements of small groups in modern society, which are now tending to grow in size as a result of, for example, the rise of protest movements against the war in Vietnam.

B. We must not overlook the research being undertaken in this field on the intensification of the student dispute.

Take the example of Paul Sivadon, Professor of the University of Brussels and President of the European League for Mental Health.

Marcel Hicter in his essay, "The Angry Generation" (The UNESCO Courier, April, 1969) writes:

"Paul Sivadon, . . . (in his) contribution to the study of youth, points out that the period of adolescence is growing longer, not shorter. Formerly, the transition from childhood to adulthood took place in a few months: it now takes 10 years. While this prolonged adolescence may enable youngsters to compare and experiment with different and often contradictory standards of conduct before working out their own moral code, it also prolongs the period of no-decision-taking and the inclination to live in a dream world of unreality.

Young people are now biologically mature earlier than their predecessors but it takes them longer to achieve social independence.

" 'There have always been conflict between the generations,' student revolts and violent youth groups, Professor Sivadon has written, 'but the difference is that today the student is no longer the exception, but the rule.'

"When the youth population becomes as big as the adult population, youngsters are no longer just potential adults, and if grown-ups are not careful, they will quickly find themselves outdated and on the sidelines. It is even possible that, in the not-too-distant future, society will be faced with the problem of maladjusted adults, not maladjusted youth."

C. In contrast to this approach to the study of the mass society, which emphasizes group phenomena, the study of the consumer society requires a more delicate approach, since the problem involves a man's humaneness.

Already at the level of studies in the technological society the domination of technology and the escape of the human being from it had been an important theme in the past. However, thanks to the high state of development of today's industrial society and the progress made in techniques of market surveys, the techniques of predicting consumer demands has become so advanced that even the hidden desires of the consumer can be grasped accurately. In fact, industry has reached the stage it can even manipulate by various means the direction of consumer tastes. For this reason, the problem has come to assume grave importance.

This "industrial conditioning" of the mind is taken up by H. Magnus Eisensberger in his book, "Culture ou Mise en Conditions," ("Culture or Conditioning").

Hicter, in his article "The Angry Generation," contends that everyone should read Eisensberger's book, particularly his analysis of the industrial shaping of minds, a phenomenon which has known an extraordinary development in the last hundred years.

Hicter then quotes the following highly interesting passage from Eisensberger's book:

"While people passionately argue about the new technical media, radio, cinema, TV, the record industry, propaganda, advertising, and public relations as separate entities, the industry of mind fashioning seen as a whole is actually neglected . . . We do not seem to realize that mind conditioning has not yet reached its peak development, that it has yet to gain control of its most important medium, i.e. education.

"The industrialization of education is a very recent phenomenon which has barely begun. While we continue to discuss such things as class schedules, school systems, the shortage of teachers and maximum use of school space, the new technical media which make nonsense of any debate on educational reform are already on our doorstep.

"Industrial mind conditioning is as prevalent in capitalist as in communist countries. It makes little difference whether it operates under State, public or private control. Everywhere its aim is to perpetuate the existing patterns, inculcate a certain way of thinking, and then to manipulate and exploit it. The exploitation of minds, either overt or subconscious, serves as a smoke screen for physical exploitation, resulting in spiritual degradation, a loss of political faculties and the subjection of the masses to the ever-powerful control of the few.

"The rapid development of industrial mind-conditioning and its integration into the very fabric of modern society is transforming the role of the intellectual. The intellectual now finds himself exposed to new dangers, and a totally new and subtle type of corruption and blackmail. Voluntarily or not, consciously or unconsciously, he is becoming the accomplice of an industry which needs him for survival just as he now needs it, but whose purposes (the consolidation of established authority) are incompatible with his own. Here we are at the threshold, if not at the heart of a world of psychological violence."

(3) *Mass culture and cultural criticism*

The third field of research is that which delves into the kind of manipulation of human beings by other human beings, as pointed out above by Professor Eisensberger from the standpoint of cultural theories. The main themes of study in this field are, first, the role played by mass media in the formation of mass culture and, secondly, critical analysis of modern industrial society, such as those of Herbert Marcuse, Professor of the University of California.

A. On the role played by mass media in modern society, Hicter, in his "Angry Generation", writes:

"The world-wide extension of information has gone hand in hand with the acceleration of communications. This is the age of mass communications and mass culture, where the youngsters of today are the first generation that has grown up with the TV screen from early childhood.

"Since infancy, the young generation has been bombarded by a stream of images and sounds from their television sets with one piece of information very rapidly replaced by still newer information, fragmented, in bits and snippets and unconnected. There is no opportunity for analysis or calm reasoning on the part of the young TV viewer.

"An important book has just been published by A. Moles, entitled Socio-dynamique de la Culture, which paints an alarming picture of contemporary man (and youth) subjected to mass communications. Moles shows how man has abandoned the hierarchical structures that permitted him to classify newly-acquired knowledge, and sees the brain reduced to a felt-like substance held together only by the compression of many loose, interlocking fibres arranged in a helter-skelter jumble of total disorder.

"Since 1962 Professor Marshall McLuhan of the University of Toronto has thrown a bombshell into our thinking about society with his book 'The Gutenberg Galaxy,' followed in 1964 by his 'Understanding Media' and 1967 by 'The Medium is the Massage.' McLuhan maintains that our society, based on linear forms of print, shaped a culture of the eye and of reason (man saw life as he saw print—as a continuity which enabled him to arrange his ideas and think in isolation). But the environment that man creates becomes his medium for defining his role in it. With the advent of the 'electric technology' of mass communication and especially television, we are leaving the age of reason to enter a new moral age with the world transformed into 'a global village' of retribalized life."

B. It is well known that the theories of Professor Marcuse appear frequently among the utterance of student activists, granted they are interpreted and quoted in many different ways. The principal reason for this lies in the fact that Professor Marcuse's criticism of modern civilization highlight in uniquely compelling language the characteristics of present-day society, in particular, the highly industrialized aspects of modern society. Thus, Professor Marcuse has succeeded in wrapping up in an apt manner the problems of modern society as seen by social students, who played the leading roles in the student demonstrations of the United States.

Hicter in his article, "The Angry Generation," deals at some length with Marcuse's critical analysis of modern industrial civilization, "One-Dimensional Man," and writes:

"He (Professor Marcuse) sees society dominated by technology which he describes as a power in itself, all the more to be feared since it acts in and against man to make him a mutilated, one-dimensional being.

"If the purpose of the social apparatus is 'to create a human existence on the basis of a humanized nature,' then it defeats its purpose, Marcuse writes, for 'we live and die rationally and productively.' It is this which mutilates our liberties and satisfactions.

"Bureaucrats, administrators, planners and party officials are all obsessed now by one thing: the absolute priority they give to production. Pots are made to put soup in and soup is made to fill the pots, as Marcuse expresses it. It is quantity not quality that is now the overriding preoccupation of life and human welfare. And what counts in the industrial society is to have more rather than to be more, the standard of living rather than the art of living. In all systems, socialist or capitalist, there exists, says Marcuse, the same 'collusion of modern society and power.'

"Man is now only an instrument. The administration of things has replaced government of people, and we reach the surrealistic limit of both rationality and absurdity when we sell 'luxury fall-out shelters' equipped with every modern convenience.

"We must rediscover the art of living, Marcuse asserts, and rebel against the totalitarianism of technocratic reasoning. We must rediscover flowers and love. We must reject psycho-sociology that aims at providing treatment for the individual so that he may continue to function as part of a sick civilization, and which 'transforms our hysterical misery into banal unhappiness,' as Freud put it.

"The tyranny suffered by man in our industrial society which we call democratic is as total, alienating and dehumanizing as the worst dictatorship. Social science students have popularized these ideas: they refuse to be treated as things or objects, and proclaim their determination not to be integrated in a society where they would become the massifiers and the massified, the manipulators and the manipulated."

(4) Questions of policy

The fourth field deals with methods of approach to the student problem from the standpoint of realistic policies based on the social analyses of the experts cited above. Data on research in this field is extremely limited. This is no doubt, due to the fact that this is an area which the governments of various countries and international organs are still studying or intend to take up in the future. From this standpoint, we believe that the study, entitled, "Student Unrest: Impact on Educational Systems, the Economy and Society in General," prepared by George S. Papadopoulos, Head of the Educational Development Division in the OECD Directorate for Scientific Affairs, (OECD Observer, No. 37, December, 1968) offers a number of interesting suggestions and an excellent insight into the problem.

A. Papadopculos first lists the causes of the student unrest under three broad headings:

a. Uncertainty as to the permanent aims of society beyond material satisfaction, and student desire to participate as adults in shaping the destiny of the university and of a new society;

b. Student preoccupation with professional and career prospects after graduation, particularly in the professionally unanchored disciplines;

c. Dissatisfaction with, and in many cases utter rejection of, the existing internal structure, organization, content and methods of the educational system. He also offers realistic measures to cope with these dissatisfactions.

B. However, Papadopoulos first characterizes student unrest as "the price of economic growth," and adds:

"There is strong reaction among a great number of people, particularly the younger, against the very narrow and materialistic objectives of modern highly technological societies. This "growthmanship" or "index-economics" objective, because of the very clarity of its definition and purport, has tended to overshadow, even vitiate, the broader goals of society and to inculcate a view of the individual human being as merely a productive unit . . ."

He continues:

"In this sense, the student rebellion is primarily directed against the consumer view of society; it has focused attention on the fact that economic euphoria is not an end in itself and that, together with its close companion, technology, it carries with it unintended consequences which add new problems to those it attempts to solve. These problems are no longer ideological but technical, in the broadest sense. Yet existing political parties are still based on out-dated concepts of irrelevant ideology with a consequent decrease of idealism and a corresponding growth of cynicism."

C. Papadopoulos then takes up the first cause of student unrest, student "participation" in the "decision-making process in the university," as part and parcel of a problem that involves the social composition and management technique of today's technological society.

He writes:

"The problem of participation has in any case to be seen as part of the wider issue of the more pluralistic nature of highly technological societies in which the decision-making process at all level can no longer be manipulated by centralised procedures. Behind this lies the thesis that the old management-worker dichotomy in which participation was difficult to envisage is rapidly giving way to a more articulated "techno-structure" involving more subtle relationships in decision-making.

"As far as the university is concerned, the quest for participation is probably the hub of the current problem: the fundamental demand of the students is that they be given a voice in all the essential aspects of the life of their institutions which is meaningful and commensurate with their newly-realised identities as mature people . . .

". . . The rapid transitions in modern societies have occurred in spheres, such as technology and mass-media, in which the younger generation participates, or anticipates entering, to a higher degree. In this sense, students may be made aware of changes in society and their consequences than the older generations. The very term "generation" today takes on a new meaning in the context of scientific and technological change."

D. As for the second and third causes of student unrest, Papadopoulos lumps them together and writes:

"In essence, the occupational problem is one of the integration of students into society on completion of their studies which is stultified by society failing or refusing to create enough jobs at the graduates' level of qualifications . . . Obviously a great deal can be done to alleviate the imbalances between choice of studies and job prospects, but it is doubtful whether any such measures can overcome the inherent problem of social or individual demand as the determining factor of the distribution of students over the educational physiognomy.

"If this is recognised, it could then be argued that the problem for the future is how to devise an occupational structure better attuned to this educational output, on the over-riding assumption, however, that adequate flexibility is ensured in the latter to enable it to adapt easily to changing demands; hence the importance of more integrated courses, more general educational background at all levels and deferring of specialisation to the latest stage possible, and of continuing education. It is through such means, as is clearly shown by the educational policy and planning experience of the more advanced OECD countries, that the apparent contradiction between the 'manpower' approach and the 'social demand' approach to education is being resolved.

"For this to be done, drastic changes would have to be effected in the structure, content, methods and organisation of teaching, not only at university level but throughout the cycle. The total educational experience of students before they come to university sets the stage for the explosive expression of student's discontent with formal educational procedure and the content of education as well as the social context and the 'rules' within which this education takes place.

"Though this pre-university experience results in a student group increasingly more sophisticated than former generations of students, it does not adequately or evenly prepare them for the disciplined perspectives of the adult world which they face on entering university; this is all the more so because of the growing "democratisation" of education which brings together into the educational establishment a variegated social clientele who may be successfully trained to pass entrance examinations and courses but find themselves under strain, inadequate, frustrated and uncertain in the face of a more or less monolithic system of higher education, out of joint with the world around it, still elitist in its concepts and highly competitive in its methods.

"Moreover, the position of formal education in the total educational experience is becoming increasingly marginal as the power of other sources of information grows. Educational institutions have failed to redefine their role in terms of this new situation, and there is a galloping tendency for them to become irrelevant. In this, the obsolescence of the university merges into the antiquated concepts governing all aspects of the educational system and, beyond that, the rebellious students would claim, of society as a whole."

E. Finally, Papadopoulos presents his overall conclusions:

"If the above analysis is corrected and on the assumption that the problem of student unrest has come to stay, the first conclusion to be drawn is the need to ensure a constructive outlet for it and to absorb it into the framework of social, political and educational structures. The second conclusion is that much greater understanding of social and behavioural processes is required, and this understanding will not come from the natural scientists and the engineers for whom modern industrial society shows an infinite appetite for absorption. It must come in the first place from social and behaviour scientists, who are not easily absorbed by modern society and who have not had the research support needed, so that they have been forced to concentrate on secondary problems instead of the large-scale inquiries necessary in relation to important social problems.

"A similar problem faces the humanities, which are supposed to make more meaningful and enjoyable the 'good life' which people nowadays can afford because of the technologically advanced society. Thus the real problem for the universities is not primarily one of science and engineering education, though much remains to be done here in the way of 'humanizing' it, but how to transform the frustrated intellectual and professional potential of the social sciences and humanities into a force in our society of equal weight to that of science and engineering. Such transformation imposes new and heavy tasks for the universities which would have to rethink the essence of their purpose and functions and spell it out clearly before the much discussed problem of their diversification can begin to be considered in practical terms."

XUM

2. THE PROBLEM OF REFORM OF INSTITUTES OF HIGHER EDUCATION

(1) *Tension between university authorities and students*

The question of the reform of institutes of higher learning was the most direct cause of student unrest during the 1960s. For example, the students of the Free University of Berlin, as early as 1960, stressed the necessity of university reforms and began criticizing the authoritarianism of the university authorities. Their criticisms, in particular, were aimed at the bureaucratic authoritarianism of the university, symbolized by the hierarchical position of the president of the university and the feudalistic absolutism of lecturers in the field of academic pedagogy. Tension between the administration and the students gradually mounted and developed, as is well known, into an open clash in 1965. On the other hand, it was in 1962 when the Students for a Democratic Society (SDS) issued its manifesto, "The Port Huron Statement," in Port Huron, Michigan. The SDS of that period was more liberal than radical and their advocacies included such demands for greater creativity and social responsibility in education and greater emphasis on individual ethics, as are now supported by the general public. However, in both instances, in West Germany and in the United States, the response of the university authorities was negative. Indeed, it was not until 1964–1965 that the conflict between the university authorities and the student became more complex and the resultant atmosphere of tension began to attract the attention of public opinion. This heightened clash was the result of the emergence of the reform of the selection systems of students based upon national needs.

(2) *Efforts at reform*

On the other hand, the universities, on their part, did not remain idle during this period. From about 1963, many universities and educational authorities began actively tackling the university problem, in order to cope with student demands and the demands of the nation and society for higher education. For example, the pioneering efforts of the Assembly of European Rectors and Vice-Chancellors (September, 1964) and the "Colloque de Caen," or the Caen University Roundtable (November, 1966) and the plans they produced for reform of institutes of higher education deserve high praise. Further, specialists also began studies of the student problem, with Clark Carr coming up in 1963 with his "multiversity" proposal and his contentions for the need of establishing functional relations between the federal government and universities and the systematic expansion of international educational organizations. In 1968, James A. Perkins announced the results of his studies in internal reforms of university administrations, the problem of decision-making and the development of university curricula over a wide field. Further, in 1967, Eric Ashby, in his "Ivory Towers in Tomorrow's World," described the university of the future; while F. Keppel expounded his theory of the need for harmonizing values in education, such as "competitive value" versus "cooperative value." (He emphasized the need for the ability to pass correct judgments of moral acts and public issues and the need for mutual cooperation in a complex society, with its racial and class tensions.) Further, many constructive suggestions and ideas were put forward on the question of reuniting research and education. In 1967, J. H. Simmons proposed the establishment of a "graduate college of scholarships," while many groups of specialists engaged themselves in research on new types of universities. For example, one of these studies was the Conference of the Cluster College Concept.

In the field of general university education, Daniel Bell had emphasized the need for reforms in 1966 in his "Reforming of General Education." However, in the same year, Earl J. McGrath, in his "The Liberal Arts College and the Emergent Caste System," outlined the need for a switch from an educational system, emphasizing the creation of a small elite, to an educational system, emphasizing the creation of many kinds of elites in diverse fields and the need for developing greater egalitarianism as a prerequisite to political and social stability. Further, a large number of concrete proposals were made, incorporating these various ideas and contentions. "The Report of the Committee on Academic Innovation and Development," submitted to the Academic Senate of the University of California at Berkeley in November, 1967, may be regarded as representative of these proposals. This report proposed the establishment of a council on educational development and the appointment of campus grievance officers to deal with student grievances. The report also proposed a re-examination of the methods of production and transmission of knowledge and information, the constant incorporation of new cultural and social problems into the university curriculum, increased educational counselling and the promotion of "interdisciplinary" research.

(3) *Recent efforts at reform*

Beginning in 1968, efforts at reform were pursued vigorously by a wide range of people and organizations. First, we have the theoretical studies undertaken by such specialists as David Riesman. Secondly, we have the university authorities of various countries, who felt most directly the effects of the student unrest, engaged in university reforms, or, in the case of the United States, the university authorities and the local societies joining forces in undertaking innovations. Thirdly, we have national governments launching reforms of higher education, as a part of their program of revising national educational policies. Examples are: one, the adoption of new legislation, such as the Faure Law in France, the New University Law in Italy and the university laws passed by the federal states of West Germany: two, the recommendations and proposals made by government advisory organs, such as the Japan's Central Educational Council and West Germany's "Wissenshaftsrat", and, three, the research in various countries on new types of universities, such as universities of the air, cluster universities and specialized universities. Fourthly, we have the co-operative efforts of international regional organizations, such as the Nordic Cultural Committee.

(4) *Difficulties faced by reform efforts*

Despite the fact that efforts are being made over a wide range and by many sources, as described above, it is felt that definitive reforms of higher education systems will remain a continuing problem in the 1970s. The chief reason for this lies, as is self-evident, in the fact that higher education has two dimensions. In the past, the problem of the duality of higher education was approached from three angles—education versus research, general education versus specialized education and basic research versus applied research—and discussion revolved around the issue of whether these two dimensions should be coordinated or remain differentiated. However, beginning in the latter half of the 1960s, emphasis has shifted to such problems as: one, the balance between a system capable of coping with the rapid changes and developments of a dynamic society and a system in which stabilized research can be continued in the static areas of society; two, the fluid changes in the position and the role of universities in society's general knowledge production systems, such as research institutes, industrial research and development and the data processing of government offices; three, the conflict between the need for greater efficiency in the physical facilities of universities as a result of increases in student population and the need for the continued inefficiency latent in the character-building functions of universities; and, four, changes in the content of educational concepts and theories as a result of the increasingly greater role played by mass media in the transmission of knowledge and by industry in conditioning the quest for knowledge and in supplying knowledge to society in general. Indeed, the problem of educational reforms has now gone beyond the simple realm of reform of university systems. It now embraces issues involving society as a whole.

3. THE PROBLEMS OF STUDENT CULTURE AND THE GENERATION

Beginning in 1968, when student unrest rose to new peaks throughout the world, interest intensified in the peculiar characteristics of student cultures and in various cultural phenomena common to the younger generation.

Paradoxically, the student problem is essentially a cultural problem and, because of this, it has historic universality and global scope. Further, it contains elements which make for its constant and unending recurrence in the future. This is the reason given by certain scholars in stressing the importance of research in student problems.

Scholarly works devoted to this problem are exceedingly numerous. However, we are limiting our examination here to the relation between professors and students on the campus.

Let me introduce at this point the gists of the ideas advanced by David Riesman; by Samuel P. Huntington, who took up the counterculture of the students at Harvard University; Lewis S. Feuer, who takes up the question of the generation gap from a psychological standpoint; Richard E. Peterson, Kenneth Keniston and Frank A. Pinner, who undertook empirical studies of types of student activists;

(1) *Student cultures*

A. Riesman, in his "The Academic Revolution," undertakes an analysis of the various cultural strata existing in society and empirical study of the various problems inherent in student cultures. His study contains, as one of its themes, the increasing gap between the culture of the youth and the culture of the adult in university life. Riesman focussed his attention on the attitude and conduct of professors as one of the background factors contributing to the development by a few leaders of the feeling of resistance to authoritarianism into an effective student movement. Riesman cites as glaring examples of shortcomings of professors: one, the tendency of professors to place research above everything to monopolize information and to neglect their duty of building the moral character of students; two, the tendency of professors to regard the average student as expendable, to avoid contact with students and to concentrate on mass instruction with only efficiency in mind; and, three, the tendency of professors to emphasize compulsory regulations in the maintenance of peace and order on the campuses.

A small minority of students, most sensitive to these trends, succeeded, by resisting the existence of everything authoritarian in campus life, in arousing the interest of the general student and in winning their sympathy and support. However, the professors, engrossed in ethical considerations aimed at achieving a highly organized society, are helpless before the widening gap between the adult culture that lives at the basis of their way of thinking and the student culture which feeds and grows on unrealistic possibilities.

Riesman not only focussed his attention on the existence and role of graduate students, caught in this gap between the two cultures, who lead the student unrest and strove to justify the student movement; but also emphasized the fact that the student representatives participating in the university administration are thought of "their" representatives but not "ours."

B. Professor Huntington says there are three student cultures at Harvard University. One is the academic culture, whose prime concern is intellectual competition. The second is the "clubby culture," which involves "the old-style gentlemanly values: good manners and good breeding." The third is a counterculture which, Huntington says, combines:

". . . commitments to expressionism, participation, passion, feeling, subjectivism, relevance, and commitment. It is essentially a (capital R) Romantic culture. It seems to oppose any distinctions among people. Thus there is the assault on the institutions which separate men from women—dress styles, hair styles, living arrangements—as well as those practices inherent in the academic culture which separate the scholarly from the nonscholarly: grade, honors, specialization. The counterculture is, in this sense, culture of homogenization."

As a result of the counterculture, Huntington adds:

"Faculty members cannot help but be somewhat wary of students, and it is not because we think they may disrupt our classes or burn our files. The cause is much more fundamental. It is because of the consensus which did prevail on the purposes of the university community is now breaking up. It is because students and faculty increasingly tend to worship at different altars and to judge by different codes."

(2) *The generation gap*

On the other hand, Lewis S. Feuer, Professor of Sociology at the University of Toronto, approaches the problem of the generation gap from a psychological standpoint in his article; "Conflict of Generations."

Feuer contends that student political movements, or, to use his words, "the generational struggle in politics" is "a universal theme in human history" and has as its common denominator the desire to return to the people.

He cites as an example the Russian revolutionary student movement in 1870s which was inspired by feelings of guilt and responsibility for the backward people embarked on their "back-to-people" movement. It was a collective act of selfless idealism.

Another example of the "back-to-the-people" student movement, according to Feuer, was the Parisian student movement of the 1830s, described by Victor Hugo in his novel, "Les Misérables," with particular reference to the duality of nature and motivation of the student leaders, Enjolras—"pontifical and warlike," "a churchman and a militant," "a soldier of democracy" and "a priest of the ideal."

Feuer also calls Saint-Just, the "enfant terrible" of the French Revolution, "the precursor of the revolutionary student leader, and the "Young Italy" movement of Giueseppe Mazzini in which "the student movement was impelled to superimpose the irrational pattern on its general revolt" on Italy's independence movement.

Finally, Feuer links all these student movements of the past with the student movement in the University of California at Berkeley in 1964.

As for the duality of the student movement, namely it propensity for reforms and, at the same for destruction, Feuer says:

" . . . the duality of motivation which has spurred student movements has always borne its duality of consequence. On the one hand, student movements during the past 150 years have been the bearers of a higher ethic for social reconstruction, of altruism, and of generous emotion. On the other hand, with all the uniformity of a sociological law, they have imposed on the political process a choice of means that are destructive both of self and of the goals which presumably were sought. Suicidalism and terrorism have both been invariably present in student movements."

Feuer calls this duality a Hamlet-Don Quixote complex, citing Ivan Turgenev's essay, "Hamlet and Don Quixote." The student, he says, is "a complex of urges—altruism, idealism, revolt, self-sacrifice and self-destruction," and adds: "nihilism has tended to become the philosophy of student movements not only because it constitutes a negative critique society but because it is also a self-critique moved by an impulse toward self-annihilation."

By way of conclusion, Feuer says:

"A student movement, moreover, tends to arise where political apathy or a sense of helplessness prevails among the people. The young feel that the political initiative is theirs, especially in countries where the people are illiterate."

"This brings us to what is most significant for the theory of social change namely, the consequences of the super-imposition of a student movement on a nationalistic, peasant, or labor movement. Every student movement tries to attach itself to a 'carrier' movement of much more major proportions—such as a peasant, labor, nationalist, racial, or anti-colonial movement. We may call the latter the 'carrier' movements, analogous to the harmonic waves superimposed on the carrier wave in physics. But the superimposition of waves of social movements differs in one basic respect from that of physical movement."

He adds:

"The student movement gives a new qualitative character and direction to social change. It imparts to the carrier movement a quality of emotion, dualities of feeling, which would otherwise have been lacking. Emotions issuing from the students' unconscious, and deriving from the conflict of generations, impose or attach themselves to the underlying political carrier movement and channel it in strange directions. Given a set of alternative paths—rational or irrational—for realizing a social goal, the direction of a student movement will tend toward the most irrational means to achieve the end."

We should mention also Feuer's contention that the universality of the student movement is bolstered by "the principle of the universality of ideologies," the "principle of the maximum expandability of cultures and the phenomenon of" the world-wide acceptance of knowledge fashions among the student generation.

(3) *Student stereotypes*

A. Richard E. Peterson in his essay, "The Student Left in American Higher Education ("Daedalus," Winter, 1968 issue) undertakes a unique empirical study of student stereotypes. Peterson attempts to classify students on the basis of their concepts of values as revealed in replies to a questionnaire "administered" to over 120,000 students in some 250 universities and colleges in the United States.

Peterson classifies his students according to their political activities. He calls his classification the "typology" of American college students and posits "eight student types distinguishable in terms of their dominant value commitment." He arranges his types "on a continuum of degrees of acceptance-rejection of prevailing American institutions" as follows:

a. Vocationalists:

Of this group, Peterson says:

"The basic commitment of the vocationally oriented college student is to the training he is receiving for a specific occupational career. He views his college education chiefly in instrumental terms—as a means of acquiring a skill that will ensure the occupational security and social prestige that his family has lacked. Vocationalists are predominantly from working-class backgrounds . . . In college, they specialize in engineering, education, business, or other technical specialties . . . The vocationalist, in sum, is preparing himself to 'make it' within the American system, which he accepts uncritically."

b. Professionalist:

"This type," Peterson says, "(is from the) upper-middle-class and professional parents. He (this category is practically all male) aspired to much the same life pattern as his highly successful father—achievement, expertise, 'noblesse oblige'."

"Well-endowed intellectually, the professionalist was strongly motivated to succeed in secondary school (often one of the best), and in college he is bent on continuing his record of outstanding academic achievement toward early enrollment in a postgraduate professional school (law, medicine, business, government, and so forth) . . . The general political outlook of the professionalist is conservative to middle-of-the-road, and oriented toward the status quo."

c. Collegiates:

"The collegiate commitment," Peterson says, "is to popularity, play, and sex, as these proclivities may be realized through the various formalized extracurricular activities as well as informal off-campus events, such as spring-vacation congregations at beach resorts of fraternity weekends in the mountains, that define 'college life.'

"Collegiates are from the middle classes. They are attracted to the relatively unselective public colleges and universities . . . the strongholds of big-time football and the national Greek-letter fraternities and sororities. Anti-intellectual, the collegiate's course work tends to center in fields that make relatively few intellectual demands . . ."

d. Ritualists:

Of this type, Peterson says:

"The distinguishing attribute of the ritualist . . . is his lack of commitment to anything. Possibly of less than average academic aptitude and usually from lower socio-economic strata, he has in a sense been swept into college by forces beyond his control—parental prodding, friends going on to college, a college within easy driving distance with admissions standards that can be met . . . the ritualistic type (is) more strongly oriented toward home than the university, as preferring solitary rather than social activity, and as uninterested in either the academic or the collegiate environment. For the ritualist (as an ideal type), lack of commitment is total. He is apolitical, having no beliefs one way or another about the efficacy of American institutions."

e. Academics:

"The fundamental commitment of the academic type," Peterson says, "is the scholarly achievement within a specific subject field or academic discipline. Academics are concentrated in the selective and prestigious colleges and universities. They plan to go on to graduate school, a Ph. D., and a career of research and scholarship . . . (and) are broadly middle class in background and have relatively well-educated parents. In high school, by self-report, they studied extensively, received recognition course work in the natural sciences . . . The academic type tends to score above the norm. We would infer that as an analytic type, the academic is slightly left of center in his politics. By nature and because of the pressure of other commitments, he is not an activist; he would, however, be a sympathizer and possibly even a participant in some future, broadly-based radical student movement."

f. Intellectuals:

"Whereas the academic pursues knowledge

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within the confines of a specific academic discipline" says Peterson, "the intellectual, as a type, is oriented toward ideas and networks of ideas irrespective of the curriculum . . ."

"These students tend to come from middle- and upper-class families, to be highly individualistic, liberal in their political outlook (but rather cool or unemotional about it), and aesthetically sensitive. Motivation for grades, a mark of the academic type, is not noticeable in the intellectual . . ."

g. Left-activists:

"The basic commitment of the left-activist, dues-paying and otherwise," says Peterson, "is to personal involvement in action directed at reforming some facet of American life—be it political, economic, or cultural. His parents are prosperous and liberal in outlook. Highly intelligent, activists are found for the most part in the most selective and best-known colleges and universities, where their non-career-oriented academic interests center in the social sciences and humanities. Activists share many of the personality traits of the intellectual, although the radical activists are characterized by a more passionate sense of outrage at perceived hypocrisy, injustice, and wrong-doing, and they have the courage to act."

h. Hippies:

"Of the eight types," Peterson says, "the hippie's estrangement from American values and institutions is the most thoroughgoing. Unlike the left-activist who hopes for radical reform through political action, the hippie is pessimistically apolitical. The hippies who are enrolled in college would reject most of the usual student roles . . ."

B. In 1966, Kenneth Keniston in his "The Faces in the Lecture Room," made the observation that the faces in the lecture room reflected the modern age. In particular, he selects from these faces the minorities and divides them into the activists, the isolationists and the "hippies." According to Keniston, the "left-activist" is self-assertive and, above-average in intelligence and in studiousness and, despite the fact that he has the same essential sense of values as his parents, differs from his parents in actual methodology.

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C. C. Frank A. Pinner, Professor of Political Science, Michigan State University, in his "Tradition and Transgression: Western European Students in the Postwar World," ("Daedelus", Winter, 1968, issue), takes up the question of how a small but organized minority of activists is able to mobilize the general student body and approaches this important theme from an empirical standpoint.

Activists, naturally, need slogans, such as on intramural issues or extramural political, social or economic issues, in order to rally students to their standard. They must, of course, have appropriate issues to take up in rousing the general student body. Pinner, first of all, divides students into two types, the "traditional" student, who "prepares himself to occupy a position in society," and the "transgressional" student, who "commits himself to a restructuring of society that would make new roles and new positions available." He then divides the activities of the "transgressional" student into two categories.

(a) First is the "ideological protest movement." This is the type of movement represented by the Sozialistishe Deutsche Studentendbund (SDS), a movement that has no "hope for success in the present or the immediate future" and, therefore, "will look forward to a total destruction of the social fabric." In this movement, Pinner says, "the only payoff in the present will be the stubborn and self-reinforcing hope for the 'dies irae.' It may adopt conspiratorial attitudes and practices and thus accentuate its separateness from society." Thus, under revolutionary conditions, this movement can exercise strong leadership, but in normal times, its efforts tend to become spasmodic and ineffective and end up in a great waste of energy.

(b) The second is the "role-seeking movement," as typified in the Union Nationale des Etudiants de France (UNEF), which "deemphasizes ideological divisions and stresses the values that unite its members and followers." Thus, it is possible for this movement to ally itself with progressive forces critical of the status quo and to seek a responsible role and active participation in the policy-making processes of existing society.

Further, Pinner points out that "role-seeking movements are frequently alliances of dissidents from established parent organizations" and that they tend to be more leftist than the parent bodies. He cites the cases of the Jeunesse Etudiante Chrétrienne (JEC) and the Union des Etudiants Communistes (UEC). As reasons for dissidents breaking away from parent organizations, Pinner lists resistance to the lack of autonomy in their beliefs, actions and alliances and the ineffective role given to student movements within the parent organization.

For this reason, ground is being lost by the optimistic view that the radical student's rejection of the reformist approach to problems, as well as the principle of structural reforms, derives simply from tactical differences in weighing values. This is giving way to the view that the radicalism of the New Left is a completely new type of anarchism of completely modern content that seeks to destroy even the socialist system itself.

Studies of the ideolgical background of the activism of the New Left has generally paid attention to the analyses of "neocapitalism" made by the SDS of West Germany and by the SDS of the United States prior to 1967. The studies tended to give high marks to the recurring motif of the conquest of scientific socialism appearing in those analyses. However, although the activists of that period, Rudi Dutschke, Louis Lefèvre, Daniel Cohn-Bendit and Yoshitaka Yamamoto, recognized the fact that modern capitalism was quickly transforming itself into a new society of a type which Marx had failed to anticipate, these activists adopted guerrilla tactics in leading the students.

Furthermore, most of these student activities collapsed in face of the flexible tactical reaction of the Establishment. If we were to jump to the conclusion that this impulsiveness of youth presages one aspect of the society of the future, we can only conclude that the problem of ideologies, as the background to the student unrest, will not have any great significance in the near future. This is because there is in the imulsiveness of the young intellectual a desire to escape from ideologies, as a natural reaction to his resistance to established ideologies.

At the same time, the young intellectual disguises this subjective consciousness, as an individual seeking to recover his human qualities, with an anti-intellectualism and consciously flaunts this disguise. Furthermore, it is recognized that if social progress in the 1970s is to develop along constructive lines, it must start by intellectually challenging the very problems that brought about the collapse of the radical student movement.

4. IDEOLOGICAL BACKGROUND AND VIOLENCE

(1) The ideological characteristics of the radical student

The fact that the so-called New Left has social and cultural motifs that do not fit into the framework of either the theories or party platforms of established socialist parties is one of the points viewed as being most important in the ideological background of radical students. In general, there is tendency among the general public to regard Maoists and Castroites, such as are found in France and among the Zengakuren in Japan, as representative of the extreme or radical left. However, as a matter of reality, Maoists do not believe that orthodox Marx-Leninism or the type of thinking represented in the Chinese Cultural Revolution provides the only basis for their actions. Rather it would be more correct to say that these factions of radical students have chosen for themselves the most attractive of the many established theories out of a common feeling that they have certain pioneering missions to perform. This feeling is derived from their acquaintanceship with the romanticism associated with the Che Guevara or from the Marcuse School of social analysis. The frequency with which factions of the New Left keep splitting up and then merging together again substantiates this fact.

Further, the sense of existentialist self-negation which permeates the New Left boils down, in the last analysis, to either an emotional choice between suicide and compromise or the practice of self-righteously demanding self-negation from others. He rejects, without exception, adults who try to understand him or hope for the birth of new constructive and creative energies from this agonizing of the radical student. The fact that the radical student gave the widest berth to the so-called dove faction of left-wing intellectuals and progressive liberals, even during the heights of the student unrest after 1968, attests to this fact. Curiously enough, similar phenomena are to be found in many other countries, besides France and Japan.

Let us now turn to the socialist view of the radical student. Rossana Rossanda, Member of the Central Committee of the Italian Communist Party (CPI), has written a book on students, entitled: "I'Anno degli Studenti" (The Year of the Student), (Donato, Bari, 1968). An extract from this book, with the title: "Les Etudiants Comme Sujet Politique:," (Students as a Political Subject), was published in the August of 1968 issue of Les Temps Modernes magazine.

A. Rossanda writes on the tactical gap that has arisen between students and socialists in their ideological characteristics as follows:

"The (student) movement does not, thus, consider itself in any way as being an affiliation, even a heretical affiliation, of any one of these forces (the Italian Communist Party, C.P.I., and the Italian Socialist Party of Proletarian Unity, P.S.I.U.P.). It is, in effect, the only grand political body of youths, of the masses, formed neither by a party nor by secession. This originality of organization (of the movement) has, in itself, produced, first of all, a solid suspicion toward the structures and proceedings of parties. The egalitarianism of the students is opposed to the vertical and rigid centralization of these (established parties). On this point, the students have come up against an unforeseen obstacle and are unable to surmount it . . ."

She adds:

". . . The contradictory character of students does not concede any intermediate stage. Experience has taught them that any confrontation with authoritarianism rapidly transforms itself into a direct conflict with the State . . . At the same time, the student movement refuses to identify itself with all positions of the left or of the extreme left, seemingly corresponding to the position of the students themselves, and even with those ideological positions which seem to offer the student movement the basis of their expressed criticism . . ."

B. As for the relationship between students and workers, she writes from the standpoint of workers as follows:

"The same rapport with the working class turned out, thus, difficult to establish, in view of the objective situation—the prejudices and the very origin of the movement. In actual fact, the student movement can either conceive itself as being a new party, or assign itself the role of a 'detonator' of other social explosions, or choose to play the role of a pressure group within political forces through direct confrontation on the very field of battle (first of all within the labor union). However, the successive failures of all its experiences rest in the impossibility of remaining alone in the vacuity of visionary declarations of its availability and readiness for revolution, while constantly accusing each and everybody of not being sufficiently revolutionary. . . ."

C. Rossanda writes as follows on the relation between the student movement, as a new social force, and present society and the socialists

". . . We are faced with the explosion of new social group which is not in any way an aggregation of a number of individuals, but actually a collective body conscious of its privileged status and giving expression to specific needs discovered in its "misery" and alienation and not borrowed from other disinherited peoples through a sense of solidarity with them. . . ."

She adds:

"On the other hand, as a social phenomenon, the students acquired a still greater importance the very moment when society manifested its inability to integrate them. This explains their radicalism and the position they have taken, which are direct expressions, contrary to appearances, of their 'materialistic' malaise in society. Thus, a social-democratic current does not and cannot exist within the bosom of this movement (which is extreme-left, with the exception of an extreme-right fringe,) and, thus also, the radical opposition of the student movement to reformism, from whence it came . . ."

(2) *The actual and tactical use of violence*

The fact that many radical students are in favor of the use of violence to achieve their aims is well known. The optimistic view that social development and technological progress will eliminate violence belongs, in this present day and age, to the realm of fantasy. Rather, technological progress is spawning new means and methods of violence.

Hicter refers to the "world of violence" around us, in his "Angry Generation," (UNESCO Courier, ibid), and writes:

"The violence which surrounds us is a cause for real alarm, for it represents a challenge to civilization itself.

"The Center for the Study of Contemporary Civilization, at the University of Nice, has just published the proceedings of a symposium on 'Violence in the Present-Day World,' (Desclée de Brouwer, Publishers, 1968), the table of contents of which makes grim reading: tensions and distortions in contemporary humanism, violence and immorality, terrorism and psychological violence, violence in the theatre, literature, cinema, television; violence and social conflict; violence in the Third World; violence and the American Negro; World War II, nuclear weapons; international violence, etc. . .

"I quote a few lines from a text by Jean Onimus who outlines some of the newer facets of contemporary violence: 'Paradoxically, violence has reached such a stage of shocking cynicism and refinement during the past 30 years that the cruelty of the most brutal periods of history pales in comparison: torture, scientifically organized genocide, persecutions of every kind, the mass deportation of populations, the crushing of defenceless victims or entire nations under the heel of oppression, the revival of the most inhuman forms of terrorism, and finally, the threat of atomic war and the so-called balance of terror.'

"Like a giant tide, violence is rising and sweeping towards the horizon of tomorrow, threatening to engulf the benefits of progress in a wave of destruction or total annihilation.

"In fact, as our society has moved toward greater and greater technology, it has given impetus to new forms of physical and moral brutality which now include the invasion of the right to privacy, brain washing, the manipulation of men's minds and all kinds of pressures that bluntly challenge and threaten our freedoms."

(3) *The cultural aspects of violence*

Charles W. Anderson, Fred R. Von der Mehden and Crawford Young, members of the International Research Center, University of Wisconsin, have jointly authored a book, "Issues of Development" (New Jersey, 1967), in which they give the results of an empirical study on revolutionary processes in the newly emerging countries. In this book, they cite various cultural theories regarding the true nature of violence. Those are, in brief, as follows:

A. The theory of the warrior culture.

This theory says that the culture of certain peoples make them prone to violent acts, with particular reference to the existence of a "warrior culture" or a people with atavistic root of violence.

B. The theory of the military elites and the male "sub-culture."

This theory says that "the value system of the military in some states is one which seeks immediate solutions and is incompatible with evolutionary parliamentary processes."

C. The factors or the reasons why individual or groups seek violent political solutions—the "projection of personal conflict onto a public object."

a. Romanticism of guerrilla life; boredom and restlessness:

"We have a number of instances, particularly in Southeast Asia, where young men have admitted joining a revolutionary organization because of the boredom of their peasant, urban, or school existence . . . Particularly in areas suffering from the disruption of war or the struggle for independence, youths may find that life in the village lacks the exhilaration and opportunities that they perceive to be available in guerrilla warfare against authority."

b. Alienation and dissatisfaction with his personal role and a sense of being blocked from improving his situation:

"There is some evidence to show that personal frustration with his status or prospects may lead an individual to seek higher status or an improvement of his prospects through antigovernmental activity. The blocks to individual growth may not be only personal but may relate to his ethnic, religious, or racial background."

c. Reconciliation of a sense of personal inadequacy by projecting the blame on an external object such as the imperialists or capitalists:

"Leading from the factor of personal frustration is the possibility that the affected individual will blame his troubles upon the evil acts of the imperialists or capitalists. These objects of his frustration are perceived as the forces which have led to his present state and, therefore, must be overturned. This conviction may lead to a sense of paranoia—a feeling that his world is inhabited by impersonal, threatening forces, conspiratorial by nature. These possible relations of personal problems and political perceptions do exist, but, given our present information, we have no way of ascertaining the extent to which the relationship is important in orienting an individual to violence and revolution."

d. Loss of existential meaningfulness, the quest for it in political activity, and the acceptance and commitment to an all-explanatory world view:

"In a developing world where old traditions and values are being warped or destroyed, many individuals seek a new meaningful explanation of life or attempt to defend the old ways. To the former, the traditional religion appears inadequate, the advice of the elders not pertinent, and the traditional pattern of values unequal to the task of meeting the modern world. In this period of transition new revolutionary ideologies may appear to provide the needed world view and explanation of how the old ways can be quickly uprooted . . ."

e. Quest for the heroic act, immortality, or being in tune with the "inevitable force of events":

"The desire to be part of the flow of events, to take part in active politics has been noted as an important aspect of Italian and French Communist membership, at a time when these movements were still committed to direct action including violence. Not only is the flow of events supposedly impossible to stop, but it is exhilarating to take part in the process . . ."

"Another aspect of this pattern of thought is the 'heroic' or romantic aspect of taking part in revolution or guerrilla activity. In some areas of Southeast Asia young guerrilla revolutionaries have been looked upon as romantic, somewhat swashbuckling heroes. . . . There is a difference between this and the more intellectual attraction to a philosophy of historic inevitability, but both can lead to support for a revolutionary action."

f. Revolution as a way of life.

"Persistent instability may foster a situation in which rebellion and revolution are constants. This state of affairs can attract individuals to a revolutionary cause for two reasons. First, as in some nineteenth-century Latin American states, revolution can be the accepted pattern of political change. It can be taken as a more common cause of ameliorating grievances than free elections, and an individual would not need any personal traumas or aberrant experiences to cause him to seek a revolutionary cause. In the second instance, there are states such as Burma and Vietnam where various forms of guerrilla activity have taken place over a generation. The young man growing up in this environment may accept it as the only way of life, because he has experienced no other. War, tension, antigovernment views—all have been part of the 'normal' pattern of existence. In an almost Orwellian world he knows no other way."

g. Simple indignation, frustration or fury at injustice, stupidity and tyranny:

"Unmet demands for agrarian reform, the rape of a daughter by a landlord, peer wages, political oppression or neglect, lack of food for the family, administrative inefficiency, graft or corruption, and a long list of actual or perceived personal injuries can lead an individual to seek redress. If he does not believe that change can be obtained through peaceful evolution, he may turn to violent actions."

h. Terror, the use of force to get individuals to aid movements of violence:

"Finally, a person may use violence out of fear for his own safety under pressure from others who demand his services . . . This fear may arise out of seeing others punished for serving the government or from direct threats against the villager."

(4) *Violence in everyday life*

In the United States, the National Commission on the Causes and Prevention of Violence published a statement on September 23, 1969, after an intensive study of violence on television. Extracts from this statement were published in the U.S. News and World Report (October 6, 1969 Issue), under the head, "TV Violence: 'Appalling'."

Excerpts follow:

"All surveys indicate that children and adolescents are the heaviest viewers of television. . . .

"One study of 15 to 17-year-olds found that on Sunday the middle-class youngsters watch television for four hours, while the low-income youngsters watch it for upward of five to six hours. . . .

"In both 1967 and 1968, approximately 8 out of every 10 dramatic programs contained some violence.

"Cartoon programs comprised only about 10 per cent of the total hours of dramatic programs, but they were almost entirely concentrated in the children's programs on Saturday morning. Almost all the cartoon programs contained violence, and the rate of violent episodes was quite high in both years—more than 20 per hour.

"Three fourths of all violent programs and nearly 9 out of every 10 violent episodes were found in the crime, Western, action-adventure category . . .

"Those who commit acts of violence more often perceive them to be in their self-interest than in the service of some other cause. Nearly half of all the leading characters who kill and more than half of all leading characters who are violent achieve a clearly happy ending in the programs. To this extent, violence is portrayed as a successful means of attaining a desired end . . .

"In summary, then, television portrays a world in which 'good guys' and 'bad guys' alike use violence to solve problems and achieve goals. Violence is rarely presented as illegal or socially unacceptable. Indeed, as often as not, it is portrayed as a legitimate means for attaining desired ends . . .

"We believe it is reasonable to conclude that a constant diet of violent behavior on television has an adverse effect on human character and attitudes. Violence on television encourages violent forms of behavior, and fosters moral and social values about violence in daily life which are unacceptable in a civilized society . . ."

5. INTERNATIONAL PROBLEMS

We have already referred to the universality of student unrest in a number of preceding passages. In this section we would like to concentrate on three aspects of student movement from an international point of view.

(1) International comparisons of student activity

Seymour Martin Lipset, Professor at Harvard University, in his "Students and Politics in Comparative Perspective," ("Daedalus," Winter, 1968 Issue) points out the following:

A. The world trend is to recognize increasingly the importance of the political role played by students. Lipset writes:

"Ten years ago, hardly anyone devoted himself to research on students and politics. Today hundreds of scholars are analyzing student political movements, behaviors and attitudes. It is evident that student activities and the importance of students in politics long antedates the current interest . . .

"The important role of students in the movements for national independence in the developing areas also goes back a half a century or more . . .

"(However,) the greater willingness to recognize the political role of students stems, in part, from the awareness by many on the left that other social forces are not always available for support. The organized workers of the developed countries of Europe and America, for example, have become a conservative force, as C. Wright Mills has pointed out . . .

"As such, they are not concerned with policies and programs that may upset the political pattern. The orthodox (pro-Russian) Communist Parties in many countries have also become part of the regular system of representation and no longer advocate use of extralegal and extraparliamentary tactics. In Latin America, they oppose the guerrilla tactics fostered by Castroites and Maoists.

"Mills saw in the intellectuals and students a major potential mass base for new revolutionary movements . . ."

B. In adult society, the poorer classes are, generally, more left-oriented than the rich. However, among students, the opposite is true. Lipset says:

"Students from relatively poor families tend to come from the minority within the lower strata which is strongly oriented toward upward mobility and the values of the privileged. Hence, their parents are often among the more politically conservative of their class . . .

"In Scandinavia, a student of working-class origins is likely to shift from a Social Democratic family orientation to a conservative one. There is less probability that a student from a conservative middle-class background will shift to left-wing parties. Recent American data suggest the reverse finding. Attendance at university is stronger in pressing well-to-do students to a position to the left of their parents, than in moving those from less-privileged democratic and liberal families to the right . . ."

C. Student movements in the developed countries, Lipset says; tend toward "non-economic liberalism—support for civil liberties for unpopular minorities, internationalism, and so forth."

"These orientations are generally fostered by the more liberal or leftist campus groups. Matters related to economic class are less salient sources of campus politics than non-economic ones. Students in the United States, for example, are much more concerned with civil rights for Negroes or political rights on campus and in the larger society, than with the power of trade unions or the consequences of different systems of taxation on economic growth."

D. Lipset says:

"Academic ecology, the social environment in which a student happens to find himself by virtue of his choice of university or academic field, tends to be more important than his class background in affecting his opinions. The faculty within which students are enrolled seems more predictive of their political stance than class origins. . . ."

He adds:

"American research findings suggest that there is congruence between the characteristic political orientation of different disciplines and the political beliefs of entering students who plan to major in them. Conservatives are more likely to study engineering or business, and liberals the humanities or social sciences. . . . Leftists, particularly those from well-to-do and well-educated families, are inclined to favor academic fields concerned with social and political issues or careers in the arts, social work, scholarship, and public service."

E. Lipset contends religious background also influences the political stance of the student:

"In the Catholic countries of Latin America and Europe, practicing Catholic students are much more conservative than nonbelievers. Thus, reported differences in family religious practices are highly predictive in this respect. Similar findings have been reported for India. In the United States, Catholics and evangelical Protestants are also among the most conservative groups in the university."

F. Lipset further contends:

"Minority-majority social status also seems more important than economic class background in affecting student propensity for action."

G. The varying demands that universities make on students also affect the possibilities for political participation and the political climate on the campus. The examination system used is a key factor in determining student political activism.

Lipset adds:

"In many countries, it is possible to predict accurately the cycle of student activism on the basis of examination schedules. In India, students do not generally study until a month before the annual examinations. Thus, most students have a very substantial amount of free time during the year. In Latin America, many student leaders are able to maintain their status within the university for years by postponing their examinations and devoting themselves full-time to political activity."

"Entrance requirements to a university may also affect political reactions. The Japanese and American patterns place great emphasis on getting into the best universities and require high-school students to work long hours under considerable psychic pressure. These patterns clearly affect the way some students behave after they are admitted to the university. A great deal of Japanese and American student activism is concentrated in the freshmen and sophomore years. Upperclassmen tend to be more liberal in their attitudes than lower-division groups, but to give less time to politics. . . ."

"The greater activism of lowerclassmen may also reflect the liberating influences of the university. Students often express their newly found freedom by engaging in various forms of "nonconformist" behavior. . . ."

H. Generational conflict is caused, at least in part, by sharp value differences among generations,

says Lipset, and adds,

"Such cleavages—particularly between the better educated (younger on the average) and the uneducated (older)—are great in modernizing societies, but relatively minor in the developed societies."

"Similarly, the difference between the values of the university and those of society is considerable in backward societies and small in developed societies. . . . The tension between university and society will, therefore, be great in authoritarian societies, considerable in emerging and developing nations, which are normally quite particularistic, and relatively small in the democratic societies . . ."

I. Lipset continues:

". . . as societies "modernize," their universities necessarily move from a diffuse to a specific relationship with both the state and religion. The growth of the scholarly and research function has required universities to separate themselves from the clergy and the politicians. The university must be free to find and teach what is scientifically "true" without concern for the reactions of religious or political establishments . . ."

He points out, however,

". . . universities in the East, particularly state universities have been expected to be agents of state purposes . . . Similarly, in many developing countries the national emphasis on economic development and modernization overrides the idea of the completely autonomous university. Various section of the governing elite . . . believe that the university should serve the national interest of fostering development . . . The effort to separate the university from extramural influences has been the most successful in the developed countries of Western Europe and the English-speaking world."

J. Lipset also points out:

"Student political patterns are also determined, in part, by variation in political institutions . . . The lack of political stability in much of Latin America has stimulated student activism, since the possibility of successful agitation has been substantial, and students have occasionally been able to exert political leverage on weak governments. In Scandinavia, on the other hand . . . the stability and legitimacy of the established political structures have discouraged student activism, and national politics is not generally seen as a legitimate domain of student concern. The same pattern can be seen in other politically stable nations.

"Confrontation politics is characteristic of politics in which students, and other groups as well, lack legitimate channels of communication to authority. Political groups turn to activist demonstrations when they find themselves ignored by the adult power structure. . .

K. Finally, Lipset lists as other causes of student unrest in many countries the substantial strains caused by rapid expansion of university facilities, the emergence of large student populations on one campus or within given cities, such as Buenos Aires, Mexico City, Berkeley, Calcutta, Tokyo or Paris.

Through this analysis of the role of the student movement in modern society, Lipset emphasizes the need for educational reforms and adds:

"These are some of the issues with which any analysis of the role of students in politics and higher education must deal. The university is premised on the belief that "knowledge will make man free" and will increase his ability to control and to better his environment. Those interested in the role of students in politics are obligated to avoid using their special competencies and knowledge as weapons in ongoing campus politics. To separate one's role as scholar and citizen is often difficult. In this case, it is almost impossible."

(2) *International student organizations*

Philip G. Altbach, Assistant Professor at the University of Wisconsin, is well known for his bibliography of reference material dealing with the student movement. However, in his "International Student Movement" (United Asia, 1968), and his "Student Politics and Higher Education in the United States" (1968), Altbach makes the following interesting comment:

"A. Since the splitting up of the international student movement into Communist International Union of Students and the non-Communist International Students conference, the international student movement has not been able to free itself from financial and ideological reliance on either the East and West camps. As a result, (he adds), it should be noted that the true student movement has taken place outside the framework of these international student organizations.

"B. This would indicate, (Altbach says), the student movement cannot be manipulated from outside. The student movement has, in the last analysis, refused to identify itself with either left-wing or right-wing ideologies and the students are exchanging information among themselves and working on the government from their own independent standpoints."

In addition, Altbach has made a study of student sub-cultures, their political consciousness, the generation gap and the alienation of the student from his society. However, Altbach points out the need for future in-depth studies of student activist tactics, the reaction of the Establishment and the organizational basis of student activism. At the same time, he emphasizes that the research into student activism is the key for an understanding of the younger generation, and effort should be made to continue the research and use its constructive achievements.

Altbach is also known for dividing the student movement into "norm-oriented movements" and "value-oriented movements."

(3) *International confederation among student movements*

The Times (London) published a series on "Students in Revolt" in its May 27 to June 1 editions. One of the series, written by Richard Davy, was on the international interrelationship of the student protests in various parts of the world. Davy concludes there is mutual inspiration but no international conspiracy in the student movement and adds:

A. There was "no evidence of any organized conspiracy" behind the student movement. He says, however, the students all over the world are, first, affected by the same issues—the war in Vietnam, racial discrimination, "consensus politics" and "overstrained educational systems."

Secondly, he says, ". . . there is a great deal of cross-pollination, some of it organized and some not."

Then he cites the mutual visits of radical leaders, students and lecturers, exchange of letters, papers and books and the organization of mutual support demonstrations. He also points to the powerful effect of mass communications, bringing news of students movements in other countries almost instantaneously.

B. Davy contends the nearest thing to an international protest organization is the syndicalist movement, which Davy says:

". . . started in Europe before the "new left" in America, but it is now linked with it. The charter of the syndicalist movement was adopted at a meeting of the French National Student Movement in Grenoble in 1946. But it was not very active until 1966 when a French student leader, Peninou, a former Chairman of the French National Student Union U.N.E.F. called a meeting in Geneva."

Davy adds the movement attracted many students, including Communists, "who have influenced the movement but have never managed to control or direct it." He adds the syndicalists are not directing the protest movement. It merely facilitates the exchange of informaion and contacts.

Countries where the syndicalists are represented or have a following are Belgium, Canada (Quebec), West Germany, Great Britain, Holland, Ireland, Luxembourg, Portugal, Spain, Switzerland and the United States.

Davy then lists as concrete examples of international cooperation between various student movements, such cases are the members of the West Germany SDS playing a leading role in the Grosvenor Square demonstrations in London on March 17, 1968, participation of British and French student representatives in the conference of the West German SDS in Bonn, the participation of British and West German students in the Paris demonstrations . . . the joint declaration issued by Italian and West German students after a conference in Berlin, in April, 1968, the correspondence between the Sampa Zengakuren of Japan with the student nonviolent Coordinating Committee (SNCC) in the United States and the extensive international contacts maintained by the Trotskyist Fourth Internaional of Paris . . .

Events have not necessarily borne out Davy's predictions. But, it is interesting to note his forecast, written in May, 1968, on future international relations between student movements was as follows:

"It seems likely that international cooperation among students will increase, at any rate so long as there are issues such as Vietnam which bind together otherwise disparate groups. Possibly the momentum is now sufficient to carry the process on even if the Vietnam war ends. Present signs are that the cooperation will be largely confined to the United States and Europe—including gradually more of eastern Europe. There may be some contacts and common causes made with students in other parts of the world, particularly on issues like racial discrimination. Certainly European students will try to get this sort of cooperation going. But progress, if any, is likely to be slow, since most of the third world is wrapped up in itself."

THE GATES COMMISSION REPORT ON ALL-VOLUNTEER ARMED FORCES—PART II, CHAPTERS 11 AND 12

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, chapter 11 of the Gates Commission report briefly touches on the budgetary implications of an all-volunteer force. Chapter 12 deals with the objections most frequently raised by critics against a volunteer force. The texts of the chapters follow:

PART II

CHAPTER 11—BUDGETARY IMPLICATIONS

A major share of our research has been devoted to estimating the budget increases that will be required to sustain an all-volunteer force. The results of that effort are summarized in tables 11–I and 11–II.

Table 11–I presents our estimates of the additional expenditures that will be required to put our recommendations into effect in FY 1971.

Each of these sources of increased budget expenditures is discussed elsewhere in this report.

Table 11–II summarizes the average budget increases required to sustain all-volunteer forces with the same effective strengths as the 2.0, 2.25, 2.5, and 3.0 million man mixed forces for FY 1977 through FY 1979. We have chosen the period 1977 through 1979 as fairly representing the differences in budget requirements for the mixed and all-volunteer forces, because at that time accession requirements will have stabilized, and most of the savings resulting from an all-volunteer force will have taken effect. All of the comparisons are made in constant 1970 dollars; that is, there is no allowance for inflation. The pay profiles used to compute total pay and allowances are those set forth in chapter 5. For all of the mixed forces, we have used the estimated pay for FY 1970, which includes an across-the-board increase of 8 percent. For the 2.0, 2.25, and 2.5 million man all-volunteer forces, we have used the proposed pay profile shown in table 5–III. The 3.0 million man volunteer force requires a further pay increase both for first term personnel and for those serving beyond the first term. A more detailed discussion of the method used to derive these estimates is set forth in appendix A.

TABLE 11–I.—ADDITIONAL BUDGET EXPENDITURES FOR ALL-VOLUNTEER FORCE FISCAL YEAR 1971

[In billions of dollars]

	Expenditure
Basic pay increase	2.68
Proficiency pay	.21
Reserve pay increase	.15
Additional Medical Corps expense	.12
Recruiting, ROTC, and miscellaneous	.08
Total	3.24
Less added Federal income tax	.54
Net addition to budget	2.70

CHAPTER 12—OBJECTIONS TO AN ALL-VOLUNTEER FORCE

Critics argue that elimination of the draft will adversely affect our society or our armed forces. Their main objections are: (1) an all-volunteer force will become isolated from society and threaten civilian control; (2) isolation and alienation will erode civilian

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respect for the military and hence dilute its quality; (3) an all-volunteer force will be all-black or dominated by servicemen from low-income backgrounds; (4) an all-volunteer force will lead to a decline in patriotism or in popular concern about foreign policy; (5) an all-volunteer force will encourage military adventurism.

There are several compelling reasons why an all-volunteer force will not have the dire consequences some predict.

First, an all-volunteer armed force will not affect the institutional framework within which the Department of Defense and the military services now operate. The system of manpower recruitment is only a small part of that framework. An all-volunteer force does not impinge on the constitutional roles of the President, who will remain Commander-in-Chief; or the civilian service secretaries, who will remain responsible to him; or Congress, which will continue as an independent legislative and budgetary overseer. The change from a mixed volunteer/conscript force to an all-volunteer force maintains intact the legal structures that define the role and status of the military services.

TABLE 11-II.—ADDITIONAL BUDGET EXPENDITURES FOR ALL-VOLUNTEER FORCE, FISCAL YEAR 1977–79 AVERAGE

[In billions of dollars]

	2.0 Force	2.25 Force	2.5 Force	3.0 Force
Basic pay increase	1.58	1.86	2.24	5.09
Reserves	.13	.17	.24	.44
Proficiency pay			.14	.21
Medical	.13	.16	.16	.20
Miscellaneous	.08	.08	.08	.08
Total	1.92	2.27	2.86	6.02
Less turnover-related savings [1]	−.16	−.19	−.32	−.50
Total net of turnover-related costs	1.76	2.08	2.54	5.52
Less additional Federal income tax [2]	−.29	−.34	−.42	−.97
Net budget increase	1.47	1.74	2.21	4.55

[1] These are savings from reduced turnover over and above the direct pay and allowance savings that accrue as a result of force reductions.

[2] These are the additional Federal income taxes that will be collected as a result of the increased basic pay and other additional compensation paid to members of the Active Duty and Reserve Forces. They should properly be deducted in calculating the incremental expense for an all-volunteer force.

Second, this structure rests on deeply rooted and widely held values. Americans firmly believe in a clearly defined and limited military role, a belief derived from the Anglo-American heritage of individual freedom and democratic political processes. Defense of personal rights and liberties against all threats, foreign and domestic, has been a constant theme in English and American history. The English established parliamentary control over the military through the Glorious Revolution in 1688. The authors of the United States Constitution recognized that military forces were necessary, but they carefully circumscribed their role. They provided that the President be the Commander-in-Chief of the forces and gave the Congress the power to raise and support armies. Civilian control of the military has concerned every generation of Americans since 1776 and this concern remains high today.

In 1940, when peacetime conscription was first proposed in the United States, Senator Vandenburg reminded the Senate of these long-held attitudes and traditions:

"I am opposed to tearing up one hundred and fifty years of American history and tradition, in which none but volunteers have entered the peacetime Armies and Navies of the United States, unless there is valid reason to believe that this reliance in 1940 has become a broken reed for the first time in a century and a half.

"There must have been sound reasons all down the years why our predecessors in the Congress always consistently and relentlessly shunned this thing which we are now asked to do. These reasons must have been related in some indispensable fashion to the fundamental theory that peacetime military conscription is repugnant to the spirit of democracy and the soul of Republican institutions, and that it leads in dark directions. That certainly is my view."

More recently, President Eisenhower reminded the nation of these considerations in his Farewell Address:

"In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.

"We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together."

In short, however the armed forces are recruited, a watchful population will continue to be the strongest force limiting the influence of the military in American society.

Third, there is much evidence that our society has more to gain than to fear from an all-volunteer force. Throughout its history, the United States has relied on volunteer military forces, resorting to conscription only in time of clear danger. Prior to 1948 conscription was abandoned after each major war and voluntary recruitment reinstated. Only in the past twenty years has the United States used the draft to raise a standing military force. During the long periods of entirely voluntary recruitment the United States never experienced a threat to civilian control from the military. These voluntary military forces were able to accomplish successfully the military tasks required of them. The rush of volunteers at the outbreak of every war demonstrates that a voluntary military did not produce a decline in patriotism. Nor is there evidence in our history that voluntary forces encouraged military adventurism. Our national experience strongly indicates that a volunteer force is likely to promote civilian control of the military improve the quality of the armed forces, foster continued patriotism and help avoid military adventurism.

Lastly, the manpower policies of an all-volunteer force will largely maintain the existing qualitative composition of the armed forces. This conclusion is based on an analysis of the main alternatives available to us for recruiting military manpower. We have made projections of two future forces—one a mixed volunteer-conscript force, the other an all-volunteer armed force. In comparing the two alternative forces, we use four categories: the career force, true enlistees in their first tour of duty, draft motivated enlistees in their first tour, and draftees. The career force contains men voluntarily serving beyond any period of obligated service. True enlistees are men who would have joined even if there were no draft. Draft-motivated enlistees are men who say they would probably not have joined if there were no draft. Draftees are, of course, men inducted under Selective Service procedures. Table 12–I shows the number of enlisted men in each of the categories for the two alternative 2.5 million man future forces. The table shows that 83 percent of the mixed force will be serving voluntarily.

TABLE 12-I.—COMPOSITION OF MIXED AND VOLUNTEER FORCES, 1980

[In millions of men]

	Volunteer force		Mixed force	
	Number	Percent	Number	Percent
1st-term force				
Draftees	None		0.193	9
Draft-induced volunteers	None		.182	8
True volunteers	1.079	52	.925	43
Career force—volunteers	1.010	48	.846	40
Total	2.089	100	2.146	100

Since career men and true volunteers in the mixed force will remain in a volunteer force, the potential differences in the two forces are mostly limited to the kind of men who are draft induced volunteers or draftees in the present mixed force.

Draft motivated volunteers are men who object less to military service than the men who are drafted. A potential draftee is presented with a forced choice. He can be drafted into the Army for two years or he can enlist in the service of his choice and get a better chance of serving in the branch and occupation he prefers. Enlistment generally requires additional time in service—one year extra in the Army, two extra years in the Navy and Air Force. Draftees are not willing to serve this extra time. But draft motivated volunteers are willing to trade extra time in uniform for preferred service. These draft motivated volunteers are the type who will find service in an all-volunteer force attractive. Improved compensation and better conditions of service will appeal to the men who would otherwise volunteer to avoid the draft. The major quantitative difference between the projected all-volunteer force and the projected mixed volunteer-conscript force is, therefore, the presence of 193,000 draftees in the latter, nine percent of the enlisted force.

Further, the qualitative standards for entry into the two alternative forces will be the same. Identical mental, physical and moral standards will act to reduce differences in the types of men who man the two forces. Men who will not qualify to enter the mixed force will also not qualify for the all-volunteer force. For example, some 30 percent of America's young men do not presently qualify for military service. A disproportionate share of these men come from a low income environment. These men will continue to be ineligible for military service whether or not they are attracted to military life.

Raising first-term military pay will increase the attractiveness of the military more to young men with higher earnings potential than to young men with lower earnings potential. For those who have very poor civilian alternatives even the present low level of first-term pay is relatively attractive. In either the mixed force or the all-volunteer force, men who have very poor civilian alternatives and who meet the military's standards will be able to enlist and re-enlist. But the low first-term pay of the present mixed force is a real obstacle to recruiting men who have better civilian alternatives. Increasing first-term pay for the all-volunteer force removes this obstacle and should increase the flow of qualified enlistees. In spite of low first-term pay an estimated 140,000 high-school graduates entered the military as true volunteers during 1968. Higher first-term pay certainly would have attracted some of the remaining 1.2-million male high-school graduates who either entered the labor force or continued their education.

The men attracted to an all-volunteer force will not necessarily make military service their career. In fact, about 65 percent of the men who enter the all-volunteer force will leave after a single tour of duty. We estimate that turnover in the all-volunteer force will be three-quarters of the turnover in a comparable mixed force. As table 12–I shows, 52 percent of the men in the projected volunteer force will be first-termers—only slightly less than the estimated 60 percent in the comparable mixed force.

The all-volunteer force will resemble a mixed volunteer and conscript force in other ways. In the important area of officer recruitment, the majority of new officers in the all-volunteer force will come from ROTC, direct appointments and officer candidate school. Each year the military will continue to draw new leaders into the service from the same sources as it does today. Most of these men will enter at the bottom and advance to higher levels just as officer personnel do today.

Because we do not expect major changes in the composition of the armed forces, we do not expect major changes in the relationship between the armed forces and the rest of society.

Beyond these general considerations, we felt obliged to study several specific questions to insure that our conclusions were valid. Assuming the change to an all-volunteer force might affect the relations between the armed forces and society, would it result in understandable separation? How might the change affect the racial composition of the forces? What might be the consequences of a reduced flow of veterans from the forces into society? How might the end of the draft and reliance on all-volunteer forces affect the foreign policy decision-making process? Much of the opposition to an all-volunteer force arises because such questions have not been carefully explored.

Concerns about the all-volunteer force are often expressed in emotionally charged terms—"mercenaries"—and rely on, leaps of the imagination to close the gaps where evidence is lacking. It is easy to conjure up the threat of a more powerful military establishment which would gain unwarranted influence within the government, until one hears other voices claiming the opposite—namely, that isolation of the military will lead to reduced influence and a less effective force. Through these (and other) objections, runs the assertion that the military and the rest of society will be "alienated."

Isolation and civilian control

The long-established institutional framework, firm public attitudes, and the similarity of the future forces with or without conscription will help prevent separation between the armed forces and society if the United States adopts an all-volunteer force. Still, critics feel that the high turnover of manpower generated by the Selective Service System is a healthy phenomenon. The flow of men into and out of the armed forces is thought to generate a link between the services and civilian society that will be weakened or lost with an all-volunteer force. It is claimed that the constant inflow of civilian draftees with limited commitment to the military guards against the growth of a separate military ethos. It is further claimed that the constant outflow of veterans to society makes society more informed, more patriotic, and more alert to threats to national life.

Concern about isolation of the military is heightened by the knowledge that the men in an all-volunteer force would be self-selected rather than chosen by their draft boards. The change, some say, will result in an Army composed of undesirable psychological types, men inclined to use force and violence to solve problems. A mercenary army might develop. The men in the military might come to serve the military's interests against society, leading eventually to loss of society's control over the armed forces. Isolation and alienation could also operate on civilian society. As the military grew apart from the rest of society, interest in military matters would diminish and anti-military attitudes would develop. This would make it difficult to attract high quality men into the armed forces and the military's stature would fall further. A cycle of anti-militarism and falling prestige would ensue. Both the quality of military leadership and the effectiveness of the military as a fighting force would deteriorate. The experience of other nations is sometimes cited to support fears of such undesirable consequences.

We have examined the issues raised by those who fear potential alienation of the armed forces. Some are mutually contradictory. For example, an all-volunteer force cannot both strengthen and weaken the influence of the armed forces. We do not believe that an all-volunteer force such as we recommend will become isolated or alienated from society.

Those who fear greater alienation from voluntary recruiting exaggreate the difference between volunteer and conscripted forces. We have already pointed out that the men in both forces will be largely the same types. Moreover, the turnover of the volunteer force will be three-fourths as large as if conscription is retained. At a force level of 2.5 million men the volunteer force must attract 325,000 men, the conscripted force 440,000 men. Further, the men who join the volunteer force will not all become long service professionals. An estimated 215,000 men will leave after serving a single tour. As a result, about half the men in the volunteer force will be in their first tour of duty. The large infusion of new men will help insure that neither force becomes isolated from society.

The charge that the United States' armed forces will become "mercenaries" is easiest to answer. The term implies a single motive—monetary reward—which precludes patriotism and all other motives for service. It is usually applied to those who serve a foreign power. We simply cannot take the charge seriously. Why should an all-volunteer force be a mercenary force when our local police, F.B.I. agents, and federal marshals, all entirely voluntary, are not? Changes in compensation and conditions of service for the all-volunteer force will enhance the attractiveness of the armed forces for citizens who will serve for a variety of reasons. Many factors affect the choice between military and civilian opportunities, and pay is weighed along with the chance for interesting work, living conditions, travel, opportunities for promotion and others.

To suggest that men who enlist to serve their country do so only for pay is to demean the hundreds of thousands who voluntarily serve today. More than half of all the men in today's forces are true volunteers. This includes one-third of the men with less than four years service. Given today's first-term pay levels, these men must be motivated by other considerations, including a high sense of dedication to their country. Whatever motivates these first-term men will not disappear simply because the draft is no longer used to compel other men to serve and because conditions of service improve. Nor should we expect that the recommended pay increases will diminish the demonstrated dedication of the career force. On the contrary, patrotism is now weakened by the fact that society initially underpays men who volunteer and generally treats military service as an activity which men will undertake only if compelled to do go.

The charge that the all-volunteer force will be manned by "hired killers" obsessed with violence is as empty as the talk of "mercenaries." Such men—assuming they exist in significant numbers—are free to join the present mixed force. If anything, discipline of the violence-prone would be enhanced in a fully professional volunteer force.

As for the feared possibility of military intervention in political matters, this occurs when civilian political leadership is weak and indecisive or when its legitimacy is called into question. Those nations which have experienced military interference in political affairs suffer ills entirely unrelated to the presence or absence of conscripts in the ranks. Furthermore, such interventions usually arise from the officer corps. In the two major nations which have relied on volunteer forces throughout most of their modern history—the United States and the United Kingdom—it is difficult to find anything remotely resembling military intervention.

The modern history of Europe and Latin America reveals no evidence that all-volunteer forces are more likely to overthrow civilian leadership. But, major direct military interventions in political affairs are not the only concern of those who oppose an all-volunteer force as a threat to civilian control of the military. They also fear that the military will acquire excessive political and social influence. These fears appear groundless. An all-volunteer force will not have any more influence on the President, Congress or the rest of society than the military now possesses. In fact, to the extent size alone matters, the impact of an all-volunteer force will be less since it will be somewhat smaller than a mixed force of equal effectiveness. An all-volunteer force will have a larger budget, but the additional funds will be used for compensation and will not provide more control over real resources.

Elimination of the draft will also reduce somewhat the military's influence over the use of manpower resources in the civilian sector. The Selective Service System frankly acknowledges that it uses the draft to direct potential draftees into activities it regards as vital to the nation:

> "The deferment of men from military service to pursue civilian activities in the national interest has always been a function of Selective Service. The prospect of deferment has had the effect of influencing men to pursue such activities.
>
> "The spectrum of skills vital to the nation's capacity to survive has steadily broadened. Its limits cannot be foreseen. It embraces many civilian activities as well as service in uniform. Particularly since the beginning of the "space age" the breadth of the concept of what constitutes "service" in defense has been difficult to fix. But it has been equally apparent that the fullest development and wisest utilization by citizens of their capabilities is vital to the nation."

In making decisions about manpower allocation, the Selective Service System operates independent of any direct Congressional review. This "channeling" process gives deferments for defense related work and not for otherwise similar non-defense work. The return to an all-volunteer force would end this practice, and to that extent limit the military's influence on the setting of social priorities in America.

On balance the elimination of conscription may slightly reduce the influence of the military, but the effect is so small as to be negligible.

Behind fears that the military's political power would be enlarged lies a basic concern that an all-volunteer force would develop its own rigid ethos. Even if the military did not have increased political power, some fear it would use the power it possessed in undesirable ways. Again, this fear assumes a greatly exaggerated difference between an all-volunteer and a mixed force.

The officer corps exercises the dominant influence on military values. Elimination of the draft will not significantly alter its composition. Officers will continue to be recruited from all over the nation and from a variety of socio-economic backgrounds. Further, the change to an all-volunteer force will have no effect on top leadership, since these men have always been professionals. There is little evidence that the views of enlisted men have a

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significant impact on their thinking and even less evidence that this impact depends upon how enlisted men are recruited. If there is a separate military ethos, it will persist in a mixed as well as an all-volunteer force.

Moreover, it is by no means clear that a problem exists at all. There is now significant interaction between the military and the rest of society. The military is not isolated from the mass media which permeate all walks of life. Also, the forces contain a wide variety of specialists, not only in air, sea and ground combat, but also in all branches of engineering and science, in computer applications, medicine and dentistry, law, aviation, personnel management, ship building, and others. These men are often in daily contact with their fellow professionals in the civilian sector. Much specialist and officer training takes place in the civilian sector. The Defense Department employs more than one million civilians, and many officers serve tours of duty which require daily contact with the business community, academic institutions, and other civilian organizations.

If the present degree of military and civilian interaction is inadequate, conscription does not solve the problem. The solution lies in taking further steps to reduce the separation between the military and the rest of society. Many of the benefits provided in-kind to military personnel increase that separation. A serviceman can live on a base, shop in the commissary and post exchange, send his children to a school filled with children whose parents are also in the military, and have his family's medical needs attended to in a military hospital. If more military compensation were paid in cash and less of it in-kind, the military might be less isolated from the rest of society. Also, more of the training and education of military personnel could be civilianized; and, as suggested elsewhere in this report, medical services could be civilianized. An aggressive expansion in the use of lateral entry, especially in the officer corps, would provide leaders less identified with any prevailing military ethos. These are some steps which might be taken if the nation desires a closer identification between military and civilian values. However, they may have an adverse effect on morale in the military. By working and living together, servicemen develop a rapport which is very important in combat. One cost of having more civil-military integration may be a less effective defense establishment.

Isolation and military quality

While some worry that an all-volunteer force will increase the power of the military, others believe it will lead to the deterioration of the military. They see the end of conscription as causing public neglect, significant reductions in the defense budget, a general decline in the prestige of military service, and a reduced quality of military personnel. In fact, the effect of the all-volunteer force should be the reverse of this gloomy picture. As it stands today the draft is a major source of antagonism toward the military, which erodes public support of the armed services. Because the draft is unnecessary, an all-volunteer force offers an obvious opportunity to curb the growth of anti-militaristic sentiment.

Of course, civil-military relations will never be uncontroversial. They have not been so in the past, whether manpower has been raised by conscription or voluntarism. The military have a distinct and separate set of responsibilities of fundamental importance to the survival of American society. Military leaders seek assurance that they will be able to accomplish successfully the tasks they may be called upon to do. Uncertainty about potential threats and our ability to cope with them leads to differing judgments about the size of forces required. These differences bring about conflict between the demands of the military and the demands of other groups in our society and will do so regardless of whether there is a draft.

The resolution of this conflict will vary depending on the public's evaluation of national priorities. During the 1930's defense expenditures averaged one percent of Gross National Product, but from 1955 to 1964 they averaged nine percent of Gross National Product. The strength of our armed forces is based on fundamental public attitudes toward national defense. No doubt the shift to an all-volunteer force will have some effect on those attitudes. Those who no longer face the threat of conscription and those who oppose the draft on moral grounds are likely to feel less hostile toward the military, while those whose taxes are increased may be displeased. On balance, it is difficult to see which of these factors will predominate.

More importantly, it seems clear that neither factor is likely to have very much effect. Since World War II our peacetime armed forces have been consistently supported at levels unparalleled in our history. This can hardly be explained by the fact that we have also had conscription during these years. The public has supported the maintenance of large forces because it has felt that they were essential to national security. The change from a mixed force of volunteers and conscripts to an all-volunteer force will not dramatically change that feeling.

In recent years military service has been scorned and condemned by some Americans. No doubt, the Vietnam War is partly responsible, but the draft has also contributed to the military's unpopularity. Young men are inevitably skeptical about a career in an organization which has to use compulsion to obtain recruits. Moreover, the low pay implies that society places little value on a soldier. The termination of the draft should immediately enhance the prestige of enlisted service. The knowledge that those in the armed forces have freely chosen to serve their country cannot but improve their image—in their own eyes as well as in the eyes of society. Our recommendations regarding military compensation have been discussed earlier. They should also go a long way toward improving the image of a military career and they are aimed at maintaining the quality of military personnel. Many of our recommendations for increasing the efficiency of military personnel management will also enhance the image of military life. Making the terms of obligated service for enlisted men the same as those for officers, vesting retirement benefits, encouraging lateral entry and similar changes will operate to reduce the differences between military and civilian careers. Military careers will become more professional and avoid the stigma of being an unpleasant task that some men must be forced to do temporarily.

The return to an all-volunteer armed force should improve the "quality" of military life. Conscription enables the military to ignore individual dignity and desire, secure in the knowledge that the draft will replace those who do not like the military system. The entire military "atmosphere"—the approach to training, discipline, and treatment of individuals—must be re-examined. In the modern army at most one-third of the men serve in infantry or ground combat units, and the others serve in technical, administrative and logical billets. The appeal and utility of military occupational training can be improved by greater recognition that some individuals do not need the kind of training traditionally given all recruits as potential infantrymen. Assignment policies which minimize family separation and which reduce the frequency of duty changes and moves will also make military life more attractive.

Elimination of conscription will also affect the American officer corps even though its recruits have always been volunteers. The draft induces many men to volunteer for service as officers to avoid being inducted as enlisted men. Thus the prestige of military service has been hurt by the draft even in the officer corps. Officers as well as enlisted men will benefit from the changes the Commission is recommending. Pay will be increased, particularly for junior officers. Change in conditions of service and in the quality of military life will make military careers more attractive to potential officers.

An army of the black?

Members of both the white and Negro communities have expressed concern that the all-volunteer force might fill its enlisted ranks with the poor and the black. This concern is linked to the recognition that to move to a voluntary force requires a substantial increase in first-term military pay. Higher pay, it is said, will increase the attractiveness of military service primarily among lower income groups, where the proportion of Negroes is high. A predominantly black enlisted force might develop. This will result, according to some, in the black and the poor bearing a disproportionate share of the burden of defense. Some whites are concerned with the dangers of having in the community a large number of blacks who have had military training. They fear that these men will participate in domestic disorders and riots.

There is no evidence that the black community would be happy with an increase in the number of blacks in the military. Increasing the attractiveness of the military will draw able young males into the services because other job opportunities are denied them. In most black communities there is a need for able young black males to enter civilian careers, work on community projects, and inspire the young. There is strong evidence to suggest that the black community, more than the white, looks at the "male drain" as extremely costly.

Many of these questions and concerns cannot be answered rationally. Racial attitudes and fears are emotionally based. Solid facts and the sound judgments are seldom cures for prejudice. For example, those who fear "domestic disorders" as a result of blacks serving in the military raise such unanswerable questions. To bar blacks from the military because of these fears will not solve the root causes behind domestic disorders. Black participation in the military will neither quiet nor aggravate domestic disorders.

The racial aspects of the relationship between the armed forces and society have been given special consideration by the Commission. We have concluded that the racial composition of the armed forces cannot be fundamentally changed by ending the draft. Even if higher pay appealed only to the "poor," twice as many whites as blacks would be attracted. The proportion of blacks below the poverty line in 1967 was 38 percent while only 11 percent of whites were in the same category. But, in absolute numbers, more than twice as many whites (17.6 million) as blacks (8.3 million) were below the poverty line.

The relevant comparison is between the racial mix of the all-volunteer force and the racial mix of an alternative force of conscripts and volunteers. We conclude that the similar manpower policies of the two forces will result in similar racial composition in the two forces. The mental, physical, and moral standards for enlistment will ensure that neither force recruits an undue proportion from minority groups or the poor. The best estimate of the proportion of blacks in the all-volunteer force is 14.9 percent, compared with 14.1 percent in a mixed force of conscripts and volunteers. In the Army, the proportion of blacks in the volunteer force is 18.8 percent; in the mixed force it is 16.6 percent. At a 2.5 million man force level, only five to ten thousand more blacks will serve in the enlisted component of a volunteer force than in a mixed force.

Our estimates are based on a careful review of all aspects of the racial composition of the armed forces. As a first step, participa-

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tion by whites and blacks in the military during the 1960's was examined. Second, the detailed projections of the alternative future forces were analyzed to determine the racial mix of the 2.5 million man force in 1980. The number of blacks in either force depends on the number of young black males in the population, their qualifications for military service, the rate at which the qualified enter the military, and the rate at which they re-enlist. Our analysis of these factors is based on data provided by the Department of Defense and the Census Bureau.

Participation of blacks in present forces

Because of racial differences in civilian earnings, even the current levels of military pay are more attractive to blacks than to whites. In 1966, the average annual income of a 24-year old white high school graduate was $6013, for a black high school graduate the same age average annual income was $4344. In the military, the earnings of the two men would be nearly the same. In spite of this relative attractiveness, the proportion of blacks in the armed forces has been slightly less than the proportion in the U.S. male population.

During the late 1960's, Negroes constituted from 9.0 to 9.5 percent of the total armed force. In June 1969, two percent of the officers were Negro as were 10.5 percent of the total enlisted force as shown in table 12-II. Both in total and in the enlisted component alone, the proportion of Negroes was somewhat less than their proportion (12 percent) in the young male population. Negro participation in the Army in Southeast Asia (11.4 percent) is slightly less than their percentage in the total Army (11.7 percent).

The forces of the 1960's were, of course, mixed forces of volunteers and conscripts. However, the racial composition of these forces is only partially the result of conscription, since even under the draft a majority of the military are there on a fully voluntary basis. The distinction between the first term force and the career force is helpful in understanding the racial composition of the armed forces. The first term force includes draftees, draft motivated volunteers and true volunteers, men who say they would have volunteered at current pay levels even if there were no draft. The career force includes all men who have voluntarily re-enlisted.

TABLE 12-II.—NEGRO PARTICIPATION IN THE ARMED FORCES, JUNE 30, 1969

[In percent]

	Officer	Enlisted	Total	In Southeast Asia
Army	3.2	12.8	11.7	11.4
Navy	0.4	5.3	4.8	4.5
Marine Corps	1.0	11.9	11.0	10.3
Air Force	1.8	10.6	9.2	10.5
Total, DOD	2.0	10.5	9.5	10.4

The racial mix among true volunteers in the first term of service and in the career force gives some insight into the racial composition of the all-volunteer force. Table 12-III shows that blacks constituted only 12.7 percent of nearly 1.7 million enlisted men serving voluntarily in 1969. Among true volunteers, blacks are now serving in the armed forces almost exactly in proportion to their numbers in the U.S. population. About one-third of the men in the first term of service are true volunteers. Of these men, 11.6 percent are black. The proportion of blacks in the career force is 13.1 percent—only slightly higher than the percent in the U.S. population. The same holds for women in the military who, of course, serve free of the compulsion of the draft. In all cases, the proportion of blacks is highest in the Army and lowest in the Navy. At present, blacks constitute nearly 20 percent of the Army career enlisted force.

These proportions depend on the racial mix among men entering the two force components. The proportion of blacks in the first term true volunteer force depends on the proportion of blacks among true volunteers entering the military. The proportion of blacks in the career force depends on the proportion of re-enlistees who are black. The data in table 12-IV shows blacks as a percent of the men flowing into the the career force. (The percentage given in the table should not be confused with re-enlistment rates. Re-enlistment rates are higher for Negroes than for whites, but these depend on the definition of eligibility for re-enlistment. Since eligibility rates are lower for Negroes than for whites, a comparison using re-enlistment rates overstates the proportion of Negroes entering the career force.) The percentage of blacks among those re-enlisting at the end of their first term of service has fallen sharply in recent years. This is largely the result of a sharp decline in the percentage of blacks among first term re-enlistees in the Army. The decline in the percentage of blacks re-enlisting will eventually lead to a decline in the percent of blacks in the Army career force.

TABLE 12-III.—BLACKS, AS A PERCENT OF ENLISTED TRUE VOLUNTEERS IN THE 1969 ARMED FORCES

	Male			
	1st term	Career	Total	Female, total
Army	16.4	19.2	17.7	15.4
Navy	6.0	7.0	6.5	6.2
Marine Corps	11.8	11.9	11.8	15.1
Air Force	11.4	12.0	11.8	11.1
DOD total	11.6	13.1	12.7	11.0

TABLE 12-IV.—BLACKS AS A PERCENT OF 1ST-TERM REENLISTMENTS [1]

	1965	1966	1967	1968	1969
Army	22.3	20.7	19.2	14.3	11.8
Navy	6.8	6.4	7.1	6.5	6.8
Marine Corps	12.5	11.9	13.4	12.0	12.8
Air Force	15.1	10.9	15.1	13.0	14.0
DOD total	16.3	14.7	14.6	11.9	11.4

[1] Data for 1965 to 1968 is calendar year. Data for 1969 is fiscal year.

In summary, in today's force blacks do not serve disproportionately to their numbers in the population. This is true for the total force and for the true volunteer component alone. Black participation is highest in the Army, where about one man in five in the career force is Negro.

Participation of blacks in future forces

Estimating the participation of blacks in the all-volunteer force or the future mixed volunteer and conscript force requires examination of (1) the projected pool of young white and black men available for military service, (2) the ability of these men to meet the mental and physical standards of the military service, (3) the first term military participation rates among qualified men of both races and (4) the re-enlistment behavior of men in the military. A range of estimates of the proportion of blacks in the armed forces has been developed by varying assumptions about qualifications rates, enlistment rates and re-enlistment rates.

Young men in the 17 to 20 age group are the primary source of initial enlistments. During the 1970's this pool will grow by more than a million men. But, since the white pool will grow at a slower rate than the black pool, the proportion of blacks available for military service will increase, as shown in table 12-V. This trend makes it likely that the proportion of blacks in either the all-volunteer force or the mixed force will increase during the 1970's from today's 10.6 percent. These proportions of blacks in the military age population provide a standard for evaluating minority group participation in the alternative future forces.

TABLE 12-V.—TRENDS IN THE 17-20 MALE POPULATION

[In thousands]

Year	Black	White	Total	Percent nonwhite
1965	782	5,726	6,508	12.0
1970	998	6,456	7,454	13.4
1975	1,159	7,188	8,347	13.9
1980	1,297	7,358	8,655	15.0
1985	1,195	6,388	7,583	15.8

TABLE 12-VI.—PREINDUCTION EXAMINATION ACCEPTANCE RATES

[In percent]

	1964	1965	1966	1967	1968
White	52.8	60.3	64.8	60.8	59.7
Black	21.7	29.2	42.5	49.9	45.8

It is an unfortunate fact that not all these young men will be qualified for military service. The qualifications for service will be retained at today's level in both the all-volunteer force and the alternative mixed force. To be acceptable for military service, young men must meet certain minimum physical, moral, and mental standards. For example, men who score in the lowest 10 percent on the Armed Forces Qualification Test are exempted from military service. The results of examinations of draftees * * * acceptable for military service in young men for military service. (See table 12-VI). Clearly, the proportion of young black men found acceptable for military service in preinduction examinations is lower than the proportion of young whites found acceptable. But just as clearly, the acceptance rate for young blacks is rising rapidly. Acceptance rates for enlistees are higher than for draftees, running better than 90 percent overall. Combining the results for draftees with the higher acceptance rates for similar examinations for enlistees in all services gives an overall acceptability rate of about 73 percent for whites and 53 percent for blacks based on the recent past. Estimates of the qualified black population have been made based on recent experience (53 percent acceptability), and for improved black acceptance rates (63 percent acceptability) and are shown in table 12-VII. The acceptability of young whites has been held constant at 73 percent. Though the proportion of young blacks in the population is growing, their numbers remain relatively small. This limits the number of blacks who will serve in the armed forces.

TABLE 12-VII.—MALE POPULATION 17 TO 20 QUALIFIED FOR MILITARY SERVICE

	Qualified black population based on—		Qualified white population, 73-percent acceptability
	53-percent acceptability	63-percent acceptability	
1970	528,490	628,740	4,712,880
1975	614,270	770,170	5,247,240
1980	684,410	817,110	5,371,340
1985	633,350	752,850	4,663,240

The next step in estimating the racial composition of future forces is to determine the number of men of both races who can be expected to participate in the first term force. The all-volunteer force will attract men through higher pay and improved conditions of service. The mixed force would in-

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clude draftees, draft induced volunteers and true volunteers. Recent experience has been used to estimate the participation of true volunteers in the armed forces and to show how the participation rate is affected by military pay increases. Table 12–VIII gives true volunteers in the first term of service during 1969 as a percent of the qualified male population, 17 to 20. For example, some 51,200 blacks in the Army in their first term of duty would have enlisted even if there had been no draft. In 1969 the qualified black population was about 512,000, so 10 percent of the qualified men were serving as true volunteers.

TABLE 12-VIII.—TRUE VOLUNTEER PARTICIPATION RATES AT CURRENT LEVELS OF PAY

	White (percent)	Black (percent)
Army	5.65	10.00
Navy	3.80	2.18
Marine Corps	2.47	2.96
Air Force	3.46	4.01
DOD total	15.38	19.15

The rates in table 12–VIII, and similar participation rates for draft induced volunteers have been used to estimate volunteer participation in the mixed volunteer and conscript forces. The proportion of blacks among draftees in recent years has been higher than their proportions in the qualified population. During the last five years, Negroes constituted only 9.2 percent of the qualified population but were 14.3 percent of the men actually inducted. Estimates of the proportion of blacks among draftees are based on recent experience and, alternatively, on the assumption that blacks are drafted exactly in proportion to their numbers in the qualified population.

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Voluntary participation rates depend on the relationship between the military compensation and civilian earnings. If military pay is increased relative to civilian earnings, participation rates should increase. The pay increases recommended in chapter 5 will result in about a 40 percent increase in first term military pay. But the effect of the increase on black participation rates will be smaller than on white participation rates. Because a larger proportion of the qualified black population is willing to serve at today's relative pay level, the 40 percent increase will attract a smaller percentage of additional black entrants. For example, studies of Air Force re-enlistments indicate that a 10 percent increase in relative pay will increase white re-enlistments by 24 percent but black re-enlistments by only 18 percent. Two assumptions were used in estimating the effect of the recommended first term pay increase on participation rates. In one case, the percentage increase in the black participation rate was assumed to be three-quarters of the percentage increase in the white participation rate. In the other case, equal percentage increases were assumed.

Experience during the 1960's has also been used to estimate the racial composition of the career force. For example, blacks constituted 12.7 percent of the true volunteers entering the Air Force between 1963 and 1966. When men who entered the Air Force in this cohort made first term re-enlistment decisions, 14.4 percent of the re-enlistees were black. The ratio of these percentages, 1,134, is applied to the estimated first term black proportion to estimate the proportion of blacks in the career force. Thus, if 11.1 percent of the men in the first term service in the Air Force were black, the percent of blacks in the career force is estimated to be 12.6. The same procedure was used for all services.

These assumptions and estimates yield a variety of estimates of the proportion of blacks in the two alternative 2.5 million man future forces. For the voluntary force, these estimates range from 12.8 percent to 16.0 percent. For the mixed force of conscripts and volunteers the lowest estimate is 12.1 percent and the highest is 15.1 percent. Tables 12–IX and 12–X give the best estimate of the proportion of blacks in the two forces. For both forces, these estimates assume that the proportion of black males qualified for military service rises to 63 percent. For the mixed force, blacks are assumed to be drafted in proportion to their presence in the qualified population. For the all-volunteer force, the effect of the first term military pay increase is assumed to be smaller for blacks than for whites. Given these assumptions, the proportion of blacks in the two forces is nearly equal. The highest estimate for the proportion of blacks in the all-volunteer force 16.0 percent, occurs when the effect of the pay increase is assumed to be the same for both races. For the mixed force, the highest estimate is 15.1 percent, when blacks are assumed to be drafted in a higher proportion than their numbers in the qualified population, as during the late 1960's.

TABLE 12-IX.—ESTIMATED RACIAL COMPOSITION OF THE ENLISTED MALE ALL-VOLUNTEER FORCE IN 1980

	White	Black	Total	Percent Negro
Army	671,250	155,850	827,100	18.8
Navy	476,050	42,550	518,600	8.2
Marine Corps	155,150	29,650	184,800	16.0
Air Force	476,200	82,700	558,900	14.8
DOD total	1,778,650	310,750	2,089,400	14.9

TABLE 12-X.—ESTIMATED RACIAL COMPOSITION OF THE ENLISTED MALE MIXED FORCE IN 1980

	White	Black	Total	Percent Negro
Army	723,400	144,300	867,700	16.6
Navy	483,750	42,850	526,600	8.1
Marine Corps	154,250	31,950	186,200	17.1
Air Force	481,200	84,200	565,400	14.9
DOD total	1,842,600	303,300	2,145,900	14.1

Even if higher estimates were realized, we would not consider asking the government—including the military—to cut back on hiring blacks, or to set quotas. Government service has traditionally been a major source of employment for blacks. This is as true for blacks with the highest skills and degrees as well as for other levels of training and income. The participation of blacks in municipal, state and national government reflects the confidence blacks have in the government as a "hirer of last resort." Discrimination and segregation in other sectors of society traditionally have persisted long after government policy changed to include blacks. Citizens who are concerned with racial imbalance in this or that sector must work to open opportunities for blacks in all occupations. Then, and only then, will the question of "proportionate representation" be fair.

Veterans in society

Many Americans are concerned that creation of an all-volunteer force will adversely affect the size and composition of the veteran population. They reason that a system of military recruitment which uses conscription takes many young men from society, exposes them to an important experience, and then rather quickly returns them to civilian life.

Veterans are today a substantial part of American society. In 1968 veterans were 13 percent of the total population, 23 percent of the adult population, and 47 percent of the adult male population. These more than 27 million veterans averaged 44 years in age, and 27 months of active duty. Both their numbers and their ages make the influence of veterans on American life highly significant.

A volunteer system will take fewer recruits, retain them longer, and return fewer veterans to civilian society. If military experience is beneficial, there would be some loss in the qualities that veterans bring to society—qualities that are attributed to military experience.

Military life is thought to have a discernible and beneficial impact on an individual's capabilities, attitudes, and behavior patterns as they are carried over into the veteran's civilian life. The differences between veterans and non-veterans are described in a variety of ways. Veterans are said to display more patriotism and to be readier to serve our nation. Some argue that veterans are better informed and more concerned about a wide variety of foreign and domestic affairs and, thus, are more alert to threats to the nation. Veterans are alleged to behave differently—to have more self-discipline and to pay greater attention to neatness and hygiene. Veterans are said to do better economically than non-veterans, to participate more in community social and political activities, and, in general, to make better and more productive citizens.

We have studied the effect of an all-volunteer force on the size of the veteran population. In addition, we have examined the effect of military service on men's attitudes toward national security and other contemporary issues to determine whether veterans are different from non-veterans and whether the differences are beneficial.

At any force level, the turnover of military personnel and the consequent annual flow of new veterans will be smaller under an all-volunteer system than under the mixed, conscript-volunteer system. Using an estimate of 15 percent as the enlisted turnover for the volunteer force and 20 percent for the mixed force, about 130,000 fewer veterans would be added annually to the veteran population with the all-volunteer force.

For the next 20 years World War II, Korean War and Vietnam veterans will dominate the veteran population and therefore the short-run impact of ending the draft will be small. Eventually, lower turnover will mean a smaller veteran population. For example, by adding projected new veteran accessions to the existing veteran population and adjusting for mortality, the present system of conscription will generate a veteran population of 26.3 million by the year 2000. For the same effective force, an all-volunteer force adopted in 1971 would generate 3.2 million fewer veterans over the next 30 years. Veterans as a percentage of the total population would decrease from 13 percent today to about 8 percent in the year 2000 under a mixed conscript-volunteer system and to about 7 percent for an all-volunteer force.

Whatever the exact quantitative effect of a return to an all-volunteer force, if military service instills patriotism and greater awareness of national interests, ending the draft would eventually affect public attitudes about foreign policy and national security matters. Alternatively, if military service does not instill different attitudes then the change in method of recruiting will have no effect. To study the influence of military service on public attitudes we used national opinion surveys on a wide variety of domestic, foreign policy and security issues that also had information on the veteran status of respondents. Military experience proved to be a minor factor in explaining opinion differences. Other characteristics—notably occupation, income, region, education, political party, age, race and other sociological attributes—are far better predictors of attitudes than veteran status. Indeed, there is a significant difference between attitudes of veterans and non-veterans—holding other characteristics constant—on only one matter of contemporary debate—namely, attitudes toward veterans' benefits.

Similarly, the effect of military training on earnings is much more questionable than frequently supposed. Since 1960 over three-quarters of the active military personnel served in jobs that had white-collar or blue-collar civilian counterparts. Yet, only an estimated one-quarter of the men who left the services accepted jobs which they judged to be related to their military service. The figure for the Army, which experiences the highest turnover rate, is 15 percent, the lowest among the services.

As with attitudes, earnings depend on such factors as age, ability, education and race. Gross comparisons of veterans' and non-veterans' incomes are likely to be misleading because men who enter the service are more intelligent, healthier, and have more schooling than those who do not. A meaningful comparison would allow for these factors. Recent studies which have attempted to do this conclude that differences in the earnings between veterans and non-veterans disappear when factors other than military service are considered.

In summary, the belief that two or three years of military service increases earnings or alters opinions is not supported by the evidence. Other experience factors, such as region, education, age, and the more fundamental family and community history, are more significant in shaping a person's earning power and the way he thinks of himself and of his environment. Most of these factors are determined long before military service and are unaffected by it. Whatever qualities veterans bring to their communities—informed judgment or ignorance, patriotism or indifference, self-discipline or personal disarray, community participation or apathy—are qualities that these individuals would probably have displayed without prior military experience.

Effects on foreign policy decision making

We have heard conflicting concerns about the effect on foreign policy of a return to voluntary recruiting. One view foresees a less militaristic foreign policy as a consequence of the all-volunteer force; the other, more military adventurism.

Those who hold the first opinion believe that an all-volunteer force necessarily will be smaller and less flexible than a force raised by conscription. Therefore the return to voluntary recruiting signals a weakening of the United States' capability to meet its military commitments overseas. The opposing belief is that the greater training and readiness of a volunteer force will offer a tempting military solution to problems which might be better resolved peacefully. Further, those who hold this opinion think that an all-volunteer force would have fewer and weaker links to civilian society, imperiling democratic control of foreign policy decisions. We have considered both of these concerns in the light of our recommendations. Neither provides a valid basis for rejecting the all-volunteer force.

Since World War II, the United States has benefited from an extensive system of defense alliances. Similarly, the security and freedom of our allies depend on United States' military power. Both the resolve and capability of the United States to continue using its power in the defense of freedom help shape the expectations and actions of friendly governments. Our recommendations are designed to insure that an all-volunteer armed force would be fully consistent with the strategic concepts underlying national security policy.

This Commission has not tried to project the armed forces required to carry out the nation's foreign policy after the transition to an all-volunteer force. The determination of these peacetime force requirements is the responsibility of the Department of Defense and the National Security Council. The Commission has relied on a range of estimates of active duty requirements and developed estimates of the all-volunteer force required to yield the same effective force strength as these equivalent mixed forces of conscripts and volunteers.

In addition to active duty forces, there will be 700,000 to 800,000 trained men in Reserve or National Guard units (assuming a 2.5 million man active duty force). These units furnish a force capable of rapid mobilization, which no draft law can match. Deployment lead times vary from less than a week for some naval units to 6 to 14 weeks for Army units. Under an all-volunteer system, these units will continue to be an important second line of defense. If a crisis situation requires more men than are available in the active and reserve forces, untrained manpower from the civilian pool can be recruited voluntarily or by conscription.

As set forth elsewhere in this report, the Commission recommends that permanent peacetime forces be put on a voluntary basis and that a stand-by draft system be maintained in readiness. We cannot foresee the shape of future threats to the security of the United States, and prudence requires that provision be made for mobilizing civilian manpower by conscription if necessary.

The Commission's recommendations, in summary, provide 1) active duty forces comparable in strength to those currently projected, 2) reserve forces for quick reinforcement of the active forces and 3) a stand-by draft system as a final measure if large-scale mobilization of untrained men is needed. We believe that these provisions constitute an effective and flexible military manpower policy, and will enhance national security during and after the transition to an all-volunteer force.

We have examined how the return to volunteer forces might affect the decision to use U.S. military power. We conclude that the recommended all-volunteer force will actually increase democratic participation in decisions concerning the use of military force. We reject the fear of increased military aggressiveness or reduced civilian concern following the return to an all-volunteer force.

A decision to use the all-volunteer force will be made according to the same criteria as the decision to use a mixed force of conscripts and volunteers because the size and readiness of the two forces will be quite similar. These military factors are key determinants in any decision to commit forces. Beyond initial commitment, the policy choice between expanding our forces by conscription or by voluntary enlistment is the same for both the all-volunteer force and a mixed force of conscripts and volunteers. The important difference between the two forces lies in the necessity for political debate before returning to conscription. Voluntary enlistments in both alternative forces can be increased by enhancing the attractiveness of military service. If either force is expanded by making military service more attractive, civilian participation obviously will be increased in the process. Increased pay and added fringe benefits will be borne by the general taxpayers, a far more inclusive group than potential draftees and their families. If tax increases are needed or military spending claims priority over other public spending, a broad public debate is likely. Recent history suggests that increased taxes generate far more public discussion than increased draft calls.

With the all-volunteer force, the President can seek authorization to activate the stand-by draft, but Congress must give its consent. With the mixed system, draft calls can be increased by the President. The difference between the two alternatives is crucial. The former will generate public discussion of the use of the draft to fight a war, the latter can be done without such public discussion. If the need for conscription is not clear, such discussion will clarify the issue, and the draft will be used only if public support is widespread.

The claim is made that the ranks of the public attentive to foreign policy are swelled significantly by those citizens touched by the draft. It is a doubtful notion. The corollary—that public interest in foreign affairs will decrease significantly if voluntarism is adopted—is also doubtful. Volunteers have as many concerned relatives and friends as men who are drafted. Higher educational levels, the diffusion of modern mass communications, and the newsworthiness of compelling national security events assure that foreign affairs will hold the attention of a substantial and growing public, regardless of the method used for procuring military manpower.

When a minority is selected to fight a long and unpopular war, the draft is inevitably a focal point for dissent. Voluntarism would be expected to decrease dissent stemming from the issue of conscription. However, popular dissent usually arises from many issues and reaches the Government along many channels. Ending conscription will close off one of the channels, but it will not end dissent.

Because conscription is a tax in kind, part of the cost of armed forces is hidden when there is a draft. The explicit costs of using military forces are underestimated, with the result that decisions to use the armed forces are made which perhaps would not be made if the true costs were known. The all-volunteer force, by making economic and political costs explicit, should lead to more rational and democratic decisions about the use of military force.

Finally, there is the allegation that political leaders will be more inclined to military adventures if the armed forces are composed entirely of volunteers. This argument is based on three important inferences: (1) an all-volunteer force will be more aggressive than a mixed force; (2) the nation's civilian and military leaders will risk the lives of volunteers with less concern than those of conscripts and (3) a doubtful foreign commitment could be undertaken and sustained with less popular dissent than if conscripts were used.

Decisions by a government to use force or to threaten the use of force during crises are extremely difficult. Presidents have arrived at such decisions only after consulting a broad range of informed and responsible interests. The high cost of military resources, the moral burden of risking human lives, political costs at home and overseas, and the overshadowing risk of nuclear confrontation—these and others factors enter into such decisions. It is absurd to argue that issues of such importance would be ignored and the decision for war made on the basis of whether our first-term forces were entirely voluntary or mixed.

As discussed earlier in this report, an all-volunteer military is not expected to differ significantly from the present mixed force in its, size, composition, and relations with civilian society. Its subordination to the nation's political leaders will change not at all. The belief that volunteers will be more aggressive, will have greater autonomy from the civilian leadership and will exploit international tensions to their own advantage springs, not from any rational evidence, but from an irrational fear of relying on the neglected mechanism of freedom to preserve and protect our nation.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks:

"How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

EQUAL RIGHTS FOR MEN AND WOMEN

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. RHODES. Mr. Speaker, last month the Citizens' Advisory Council on the Status of Women endorsed the enactment of a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women. The Council's press release follows:

CITIZENS' ADVISORY COUNCIL ENDORSES EQUAL RIGHTS AMENDMENT

"President Nixon certainly appointed an action-oriented Council," said Mrs. Jacqueline Gutwillig, Chairman, when announcing that the Council had endorsed the equal rights amendment at its meeting on February 7, 1970.

The Council concluded that ratification of the equal rights amendment is the most effective and expeditious method of securing equal protection of the laws for women, who lag 40 years behind minority groups in achieving Constitutional protections. Passage by the Congress of the joint resolution in 1970, would be a most appropriate commemoration of the fiftieth anniversary of the suffrage amendment.

Adoption of the equal rights amendment would mean that women could no longer be required to meet higher standards than men in admission to State educational institutions. State laws could not require longer prison sentences for women than for men for the same offense or otherwise discriminate against women in the criminal law. Women could not be denied by so-called State protective labor laws the same rights to choose jobs that men have always had.

Mrs. Gutwillig emphasized that the amendment is really an equal rights and responsibilities amendment. Often overlooked is the fact that it would result in greater equity for men in alimony and custody of children disputes in many States. She also emphasized that the amendment would equalize the responsibilities for military service and jury service.

Joint resolutions proposing that the equal rights amendment be submitted to the States for ratification have been introduced in each house of the Congress for almost half a century. Seventy-two Senators and 220 Members of the House of Representatives are currently sponsoring the joint resolutions. Ratification would require a ⅔ vote of both houses of Congress and approval of ¾ of the State legislatures.

A project group established at the Council's first meeting in November and chaired by Miss Sarah Jane Cunningham of McCook, Nebraska, proposed the resolution adopted by the Council:

"The Citizens' Advisory Council on the Status of Women endorses the proposed Equal Rights Amendment to the United States Constitution and recommends that the interdepartmental Committee on the Status of Women urge the President to immediately request the passage of the proposed Equal Rights Amendment by the Congress of the United States."

Other members of the Council working on the project are: Miss Virginia R. Allan, Michigan; Mrs. Lorraine L. Blair, Illinois; Miss Rachel E. Scott, Maryland; Mrs. Irene Wischer, Texas. The project group is preparing a comprehensive paper on the equal rights amendment which will be available in about two weeks.

The Council also voted to send a letter to the President including the following paragraphs concerning the Council on Environmental Quality:

"The members of the Citizens' Advisory Council on the Status of Women are pleased with your emphasis on environmental improvement. The end to solve problems of pollution are of high priority and the need for a national population policy is a pressing one, and one in which this Council has particular interest.

"We are concerned, however, that no woman was named to the Council on Environmental Quality. We feel a qualified woman could make substantial contributions on such a Council."

HENRY B. GONZALEZ—FOE OF RACISM

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BROOKS. Mr. Speaker, racism is the problem that is most discussed throughout the news media. This stigma is not limited to southern whites or to the establishment.

Daily we see many examples of deep-seated prejudice in minority groups against other minorities and against the majority. An editorial which appeared in the March 3, 1970, edition of the San Antonio Express demonstrates the unfairness of racism, even when that prejudice arises from within a minority.

Our colleague, HENRY B. GONZALEZ, was the subject of such activity on the part of a few militant Mexican-Americans. The editorial comments on their efforts to attack and embarrass the gentleman from San Antonio—one whose record on behalf of justice, fairness, and equality is unsurpassed.

It is reassuring to see this able and dedicated Congressman stand up and overwhelm those who would perpetrate injustice in the form of thinly veiled racism. It is heartening to note further that many minority leaders are willing to speak out for fairness, not only for themselves, but for everyone.

So that my colleagues may read what the San Antonio Express thinks of their Congressman's actions, the text of the editorial follows:

[From the San Antonio Express, Mar. 3, 1970]

HENRY B. HANDLES HECKLERS FROM BASE OF SOLID VOTER SUPPORT

The frustrations of certain West Side splinter groups are beginning to reveal themselves.

They can't get Congressman Henry B. Gonzalez to dance to their racist tune. They can't control him. Worse, they can't even get a sacrificial lamb to run against him because they know that the people of his district believe in him and will support him.

They know that his support is broad and cuts across party, ethnic, social and economic lines. But because he has exposed the racist pretensions of certain elements and eroded the financial underpinning of others he has been marked for a campaign of harassment.

There is a handful on the West Side who cannot abide a Mexican-American politician who refuses to make his ethnic background a profession in itself.

That is what happened Friday night when a group of 25 to 30 staged a noisy, prearranged walkout when the congressman was to speak at St. Mary's University.

A few of the demonstrators had the honesty to admit that the walkout was planned ahead of time. One even was candid enough to say that he left when the congressman opened his remarks by saying that he appeared as a representative of all his constituents and not just as a Mexican-American.

We applaud the congressman's position. He was fighting racism before most of those who walked out were born—and he has shown himself just as quick to oppose Mexican-American racism as he has been to oppose Anglo racism.

He deserves the support of the entire community for his courage and with the exception of a few on both sides of the political spectrum he has support.

He has no opponent this year. Two years ago when he last ran for reelection he scored his largest majorities since taking office. None of the so-called militants who snipe at him—and this includes County Com. Albert Pena—has the courage to put their names on the ballot and let the voters decide.

The really serious opponents of the congressman could hold their meetings on a Transit Co. bus and have a few seats open.

Henry Barbosa Gonzalez is still king of the hill. Nobody likes Henry B. but the voters.

STRATEGIES FOR SURVIVAL

HON. FRANK E. EVANS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. EVANS of Colorado. Mr. Speaker, with the thousands of problems, both large and small, that we here in the House have brought to our attention each year, it becomes very difficult for most of us to be able to step back from our busy lives and the multitude of problems in order to gain perspective and in so doing better our judgment.

However, I recently received a copy of a speech made by Prof. Richard C. Bradley of Colorado College in Colorado Springs, Colo., which he gave at Mesa College in Grand Junction, Colo., on February 16, 1970. In his speech he discusses three major problems of mankind: First, how the nations of this earth can learn to live under law; second, the crisis of the population explosion, and third, the preservation of our environment. His speech was done with such good organization, clarity, and gift of expression that I found that it provided the means to me of stepping back from our forest of problems and gaining some much needed perspective.

It is, for this reason, that I submit the text of Professor Bradley's speech for the RECORD in order that my colleagues may have a similar experience:

STRATEGIES FOR SURVIVAL

(By Richard C. Bradley)

Your week-long symposium on "Survival" could scarcely be more timely. The question "Can Man Survive?"—which was the topic of a similar symposium we held at Colorado College last month—is surely the most important question we can ask ourselves as we enter the new decade.

Personally, I think the answer to the question is: Yes, man *can* survive—but only if he makes a monumental effort in the next few years, and then only if he is lucky. John Platt, writing in a recent issue of *Science* magazine, likens our present predicament to that of a miner caught inside a mine in which the walls are caving in. Off in the distance is a ray of sunlight, and a chance for escape. If the miner stays where he is, he is doomed, but if he struggles toward the light, he might get out.

And so it is with us. If we stay where we are—or rather if we keep doing what we are doing now—we are surely doomed. You tell me the rate of population growth today, and I'll tell you the year we will have a layer of people on the earth's surface one mile thick. You tell me what the chance is of surviving a single game of Russian Roulette played with thermonuclear weapons, and I'll tell you have many games we can expect to play before the odds turn against us. You tell me the rate at which marine plant life is dying as a result of pesticide poisoning, and I'll tell you the year the oceans will be as dead as Lake Erie.

We simply must change our ways of doing things, and soon. The span of your lifetime and mine—indeed, just the next 30 years—appear to be especially critical. If we can make it through to the year 2000 in some sort of reasonable shape, then I think man's survival is assured, for by that very achievement we shall have found the way out of the trap that is closing in behind us.

And so today I ask your help in a great and universal cause, the cause suggested by the title of your symposium—survival. It seems to me we are already in an emergency situation, and will need all the energy and enthusiasm and idealism of young people like yourselves, applied in many different areas, plus the wisdom and experience of *certain* older people (some of whom I shall mention in the course of this talk), just to bring us through these next stormy 30 years.

What are the major threats to our survival, and how can we cope with them?

I see three major threats: full-scale thermonuclear war, runaway population growth, and environmental destruction (or pollution). War is probably the most *immediate* threat, overpopulation the most *basic* threat, and polution the most *obvious* threat. They are all bound together of course. Overpopulation brings both environmental destruction and war, and war brings further environmental destruction.

Environmental destruction, being the most obvious threat, may ultimately turn out to be a blessing in disguise, for it will force us to think seriously about the reasons for it, and this will bring us face to face with the other two threats. It is hard for any of us who live in peaceful uncrowded mountain valleys to be too much concerned about war and overpopulation. On the other hand, it is easy to see the dirty brown pall hanging over Denver every day, and to smell the foul odor emanating from the once clear South Platte River, and to realize that all is not well. And then if we think about it a little while, we must surely realize we cannot possibly have clean air and water if all the world become a Manhattan or an India, no matter how many conservation societies we support; nor can we expect clean air and water if we once start exploding hydrogen bombs all over the place in an effort to resolve some border dispute. Concern over the environment is becoming world wide, and my hope is that this concern will galvanize us into international efforts to protect the ecosystem which supports us, stop the population boom, bring man back into some kind of long term balance with nature, and work out a more sensible way of settling a border dispute than by spraying the world with radioactive strontium.

Let us look briefly at these three threats: war, overpopulation, and pollution.

I have said I consider full-scale thermonuclear war the most immediate threat. If this symposium had been held 10 years ago, war likely would have been regarded the *only* threat—except by those who feared even more the possibility of being taken over by international Communism. Those were the days of the first Russian Sputniks and the Cuban arms buildup, and both had us very much on edge. Now, ten years later, we have come to fear Russia less, feeling that she wants war no more than we do; but in the meantime another great power, China, has acquired the bomb, and very soon Israel will probably have it also. Thus, we still live very much in the shadow of the mushroom cloud.

At the moment, the great danger is not so much that one of the nuclear powers will suddenly decide to incinerate us, but rather that a small war somewhere will develop into a big one. Every time there is a crisis anywhere in the world—whether it be in Vietnam, Korea, Cuba, the Gulf of Aqaba, Berlin, Czechoslovakia, Hungary, or wherever—we come face to face with catastrophe. But crises in the form of revolutions and civil wars are bound to occur in the developing nations, and in some cases we might even be persuaded they are desirable. The trouble is, every single one of them is a major threat to world stability, out of all proportion to the magnitude of the crisis. At the moment we seem to have no satisfactory way of dealing with any of them. What happens, typically, is that one of the super-powers jumps in on one side of the fray, rattling its nuclear armaments, while the other one stands a little distance back and makes similar threatening noises. Sooner or later one of these insane exercises will prove fatal! Russian Roulette always does.

I recently asked a colleague in our Political Science Department what he thought the chance was of having a nuclear war in the year 1970, realizing, of course, that the question can not be answered precisely, for there is no way to determine that chance. But he made a guess anyway: 2%. If those are really the odds, and if they get no worse, then we have only a 50–50 chance of making it to the year 2000. If the odds are 5%, we always only a 50–50 chance of making it to 1984. Whatever the odds are, they aren't good enough to add up to a sensible foreign policy.

Is there not another way?

Of course there is! We use it every day at every level of our society except the international level, and with a fair amount of success. We call it "law." Man has known for centuries that, people being what they are, the only viable alternative to the rule of force is the rule of law, and every United States president since Herbert Hoover has said that the ultimate goal of American foreign policy must be a world under law.

Now of course the concept of law and order has become somewhat tainted in recent years, owing to certain egregious abuses of it, and of course law has not stopped all crime everywhere. But can you imagine what your life and mine would be like if we handled the domestic affairs of this country the way we handle the foreign ones? If a Grand Junction man were to murder the son of Denver's mayor, Denver might very well bomb Grand Junction (that's more or less the way World War I began). And if Arizona were to steal California's share of the Colorado River, California would probably defoliate Arizona. Our homes would be armed fortresses, surrounded by moats, our cars General Sherman tanks. Who among us would dare venture into downtown New York without a bazooka over his shoulder and an army at his back? Well, our country is an armed fortress surrounded by moats, and the bazookas are the Polaris Missiles, the Intercontinental Ballistic missiles, the Strategic Air Force, and the naval armadas.

And so I suggest that the first order of business in foreign relations should be, not the thickening of the Safeguard ABM System, as Mr. Nixon now proposes doing, but the fashioning of the instruments of peace that would make it possible for all nations to dismantle all their war-making machinery in safety. As Supreme Court Justice William O. Douglas said recently, we should be calling for summit conference after summit conference with all the other great powers in order to hammer out a workable legal framework for keeping the peace, a framework which would allow, for instance, a world society to apprehend a lunatic like Hitler before he does his mischief, instead of forcing that society to burn down an entire nation to destroy one rat; a framework that would not only make our military involvement in Vietnam impossible, but also unnecessary (if it ever was necessary).

People always ask, wouldn't this mean giving up a slice of our national sovereignty? Of course it would. But the idea is that by giving up some sovereignty, we would gain much more security in return. Look at our situation today. We have never had a more devastating arsenal of weapons at our disposal, yet we have never been more vulnerable. The Defense Department tells us that in an all-out ICBM attack we must expect initial losses to be at least 30 million people, even with an ABM System, and that figure doesn't include the deaths that would follow due to starvation, poison, disease, and pestilence. That's the price our nation, or any nation, must be prepared to accept if it continues to insist on being above the law. How much more sensible it would be if all nations gave up their sovereign right to wage war, and turned over to a higher authority the responsibility for keeping the peace. In that case everyone would benefit.

We have already given up national sovereignty in smaller ways, and found it beneficial. For example, we gave up some national sovereignty when we joined the International Postal Union, and again when we helped establish the present elaborate worldwide transportation system. I give up sovereignty every time I drive up to a stoplight, yet who would deny I am better off for having to do so?

Is a world order with powers sufficient to maintain the peace a hopelessly idealistic prospect? I would put the question the other way around: Is a foreign policy based on an obsession with the machines of mass death likely to promote world stability and peace? I doubt it; weapons are built to be used, and sooner or later someone will use them.

World order may be an idealistic prospect, but it is not out of the question. We already have the United Nations and the International Court of Justice. We should now be doing everything in our power to give these agencies the capability, and the tradition, of settling international disputes by peaceful means. That is why we created them in the first place.

Now I would not have the slightest hope that we could make much progress in this direction at this time if it were not for two things: first, we are a war weary nation, sick of our involvement in Vietnam, knowing we cannot possibly police the whole world, and yet feeling that it is in our own self-interest to have the world policed; and second, there is the growing concern over pollution that I mentioned earlier, and the realization that pollution is a global problem.

I keep thinking about that beautiful image of the earth, brought home by the astronauts: one blue-green world floating in the vast sea of space, the only patch of soil and air and water within trillions of miles, the only place we shall ever know where one can

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plant a seed and it grows. We *are* one world, physically, geographically, economically, and ecologically. The question is, shall we get together and take care of what we have, or shall we destroy its precious life-giving capacity by our foolish bickerings? If we are going to get together, we should do it soon, for the threat of war will rise as food shortages and population pressures become acute, perhaps within the next decade but surely within the decade after that.

And this brings me to the second aspect of our problem of survival: the threat posed by the world's cancerous population growth.

This is the most basic threat we face, and potentially every bit as dangerous as the threat of war. In a way, it will be an even harder problem to cope with than war, because it deals with one of our strongest built-in drives, the drive to have children. This drive served man well a million years ago when he was eking out an uncertain existence in a perilous world, and those of his relatives who lacked that drive left no descendants among us now. Would that they had, for at this moment we could use their quality of restraint!

Harrison Brown at Cal Tech has said that one of man's greatest tragedies has been his inability to comprehend the exponential curve of population growth. This curve is also called the compound interest curve or the doubling curve, this last because it is a characteristics of the exponential that the item in question keeps doubling itself in equal time intervals.

What is really remarkable about such a growth rate is that for a long time nothing much seems to be happening, and then, all of a sudden, there is an explosion. I can illustrate this with a piece of paper. If I fold it in the middle, I double its thickness. If I fold it again, I double its thickness again. Each time I fold it, I double its thickness. Now let us suppose I can double its thickness an indefinite number of times (in practice the paper gets hard to fold after about 7 times). After 10 folds it is still only a few inches thick, but after 40 more folds it reaches from here to the Sun!

David Brower of the John Muir Institute, speaking at our symposium, gave another graphic example of the exponential. Imagine you are on a highway, going 1 mile an hour, with instructions to double your speed every minute. At the end of the first minute you accelerate to 2 m.p.h., and at the end of the second minute you accelerate to 4 m.p.h. Then 8 m.p.h., 16 m.p.h., and 32 m.p.h. By modern standards you are still going quite slowly after 5 minutes; many animals can run this fast. At 6 minutes you are driving 64 miles an hour, which is too fast for almost any animal, but still no problem for you in your automobile; you probably drive this fast most of the time. But on the next doubling you are up to 128 m.p.h. and in real trouble. At this speed, it takes all your effort and concentration to keep yourself on the road. Perhaps there is a flashing red light in your rearview mirror to add to your predicament. In any case, on the very next doubling, the game is over. So for 6 minutes, you had everything under good control, in the 7th minute things got tough, and in the 8th minute you were off the road.

And so it is with population growth—except even more so, for the population doubling time has not stayed constant but has gotten progressively shorter and shorter, thus bringing matters to a head all the more suddenly. A million years ago the population doubling time was perhaps a million years. Two thousand years ago the doubling time was about a thousand years. After the industrial revolution really got going, the doubling time dropped to about a hundred years, and now it is something like 30 years—more in some countries, less in others. The mathematical equation that fits the population curve in the period since the birth of Christ predicts an infinite population in the year 2026. That cannot happen of course, for it would mean a universe entirely filled with people; but it does illustrate how abruptly things are coming to a head. We have had our easy 6 minutes of driving, are now well into the difficult 7th minute, and wondering if the 8th will throw us into the ditch.

Just in the time I have been talking, the number of passengers on our planet has increased by 3,000. There are 200,000 more than there were at this time yesterday, over a million more than we had last week, and 70 million more than last year. And all of them want food, shelter, and space. Can we provide it?

We lose ground every day. In the years immediately following World War II, we were able to keep up pretty well. The increase in food pretty well matched the increase in people. But around 1958 "the stork passed the plow", as the saying goes, and since that time the race has become progressively more hopeless. In 1970 half the people of the world are undernourished, and about 15 million of them will starve to death by next January, most of them children. Despite this fact, certain myopic Chambers of Commerce still speak brightly about another doubling by the year 2000!

It is too late to avoid the tragic consequences of this runaway situation. The people who are doomed to starve in the most massive famine ever experienced by mankind have already been born. According to Paul Ehrlich, Stanford biologist who wrote *The Population Bomb*, this famine will take place within the next 10 years.

What the implications are for the United States are not clear. In 10 years we shall probably be sitting on the only food surplus in the world, and it will not be large. At best, we shall have to watch helplessly while people in the undeveloped countries die by the hundreds of millions. At worst, we shall be the target of a world revolution.

There is considerable danger that as the crisis becomes acute, the industrial nations, in an attempt to find short term remedies, will precipitate long term ecological disasters. For example, it would seemingly be the most humane act imaginable to sponsor the massive use of pesticides and chemical fertilizers in the underdeveloped countries in an effort to help them raise their food production, yet if we should do that we might very well kill the oceans. We have known for two years that the present level of DDT in the oceans is slowing down photosynthesis in the marine plant life upon which all other ocean life ultimately depends. If photosynthesis were to stop, the entire food chain would be wiped out. Nobody knows how much DDT or other biologically active material would be needed to do this, but it is not hard to imagine the disastrous consequences if it ever should happen.

So what are we to do?

Paul Ehrlich suggests a course of action which might carry us through. It would not be pleasant, but at least it would preserve the life support system of the planet. The key lies with the United States.

First, we in the United States must get our runaway population under control, for only by doing that can we expect to bargain effectively at the international level. When the time comes to help other nations, we must be able to say to them "Do as I do", rather than "Do as I say." This means we must bring our growth rate to zero, or even reverse it; we must have no more births than deaths. How hard a job this will be to accomplish I cannot say, but if we could at least prevent all *unwanted* births, either by contraception or abortion, that in itself would cut the birth rate by nearly 40%, and bring it down somewhere reasonably close to the death rate. So as a starter, we should remove all legal and financial impediments to birth control. Contraceptive information and devices, sterilization operations, abortions—all these things should be free and readily available upon request. (State Representative Richard Lamm, a pioneer in liberalizing state abortion laws, predicts that 10 years from now we shall look back and regard as barbaric the present practice of forcing a pregnant woman to bear an unwanted child.) Simultaneously, the federal government should sponsor an enormous research program directed toward finding and producing better methods of birth control, a better contraceptive pill, a better abortion pill, and perhaps developing ways to control the sex of the offspring, so that couples desiring a boy won't have to beget five girls before giving up. If such measures as these prove inadequate to bring the growth rate to zero, then we must consider other less appealing alternatives, but if we must we must, for it is still survival we are talking about.

The second part of Ehrlich's blueprint for survival involves our aid abroad. In 10 years we shall be in something of the position of the lone medic on the battlefield, surveying the wounded and wondering whom to help. Knowing he cannot possibly help everyone, he avoids those who are certain to get well without his help, and those who are certain to die even with his help, and concentrates his attention only on those who would die without his help but who might live if they receive it.

Similarly, the United States, once it has shown by example that it really means business about population control, should offer its limited aid only to those countries which, like Pakistan, have a reasonable chance of becoming self sufficient if we help them; and it should withhold its aid from those other countries that can either get along without it, or cannot possibly achieve stability with it. In the latter case, we shall have no choice but to wait until the famine brings the numbers down to a manageable level.

It all sounds terribly grim, and if this is what must now be done to stabilize world population, think how tragic it is we didn't get moving in massive birth control programs 20 years ago when we have a chance of feeding everybody! Harrison Brown is right: not enough people understood the exponential curve.

The third major threat to our survival, environmental destruction, is receiving great attention these days, and that is a hopeful sign. As someone remarked recently, this has been the year when people started listening to the ecologists. Up until now, we as a nation have been avid fans of engineers and developers, the people who move scenery around, dam rivers, blast canals, and so forth; but have dismissed as impractical do-gooders the biologists and ecologists who have warned of possible adverse effects of these actions. Rachel Carson started the present trend with her best-seller *Silent Spring;* but it took yet another decade before environment became a major election issue, and it will probably take several more years before we have a federal Department of Environment, staffed by ecologists.

One of the most important lessons the ecologists teach us is that everything is related to everything else. John Muir once put it: "When we try to take anything out by itself, we find it hitched to everything else in the universe." DDT is an example of this. We spray farms and forests with DDT to eradicate certain insects, but wind up killing birds and fish besides, which we had no intention of doing, and reducing photosynthesis in the sea. This last not only affects all sea life, it may also cut down on our own oxygen supply in the atmosphere.

Another example is the government proposal to create a sea-level canal through

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Central America, parallel to the Panama Canal. From an engineering standpoint, there is no doubt it can be done. But *should* it? Lamont Cole, one of the foremost ecologists of the day, warns of far-reaching consequences. The Pacific Ocean is several feet higher than the Carribean Sea in the vicinity of Central America, and is cold whereas the Carribean is warm. A sea-level canal would bring a steady stream of cold water into the Carribean, which would not only affect the fishing industry there, but might even change the flow of the Gulf Stream and the climate of Europe. To make matters worse, the engineers propose to dig the canal by nuclear explosions, thus producing an enormous amount of radioactive caesium vapor to be carried out to sea by the prevailing winds. Caesium behaves like sodium or potassium in biological systems, and would spread rapidly among living things, carrying its lethal radioactivity with it. It is a pity that a person like Lamont Cole, who after all speaks for all humanity, cannot argue with the engineers on equal terms.

But enough of this. It must surely be apparent we face some appalling problems, and that there is much to be done. And that brings me now to *you*. What role can you, or I, play in the unfolding drama to ensure that man and his planet will survive until the year 2000?

First and most importantly, it is imperative that all of us stop thinking of politics as a dirty word. We must all take an active part in getting the kinds of people elected and the kinds of laws passed that will help see us through. We must work for candidates, or for people already in office; or we must work on specific issues. But work we must. This means writing letters, hundreds of them, expressing support for good things, dismay at bad things. Every proposed bill should be judged by such simple criteria as: Does it promote stability or does it promote uncontrolled growth? Does it promote international law or does it further the arms race? Does it favor a long term balance or does it lead to short term exploitation? (By these criteria the proposed Timber Supply Act, which would allow lumber industries to overcut the national forests, is a bad bill; and the Lamm bill, which would provide financial advantages to couples having small families, is a good bill.) Candidates for public office should also be judged by these criteria.

We *can* be effective as individuals; Ralph Nader and Rachel Carson have shown that. And as individuals we should write letters, articles, talk to people, appear at hearings, etc. But we can be even more effective if we organize into action groups. *Ecology Action* is just such a group. It was organized shortly after our symposium, and partly because of it, and now has well over 1000 students from several colleges and universities over on the east slope. One week ago, this group held a cocktail party for state senators and legislators near the State Capitol, and sold "Stamp Out Pollution" buttons to help defray expenses. Several ecologists and government officials gave short talks. But the really exciting thing about this affair was that 60 State Senators and Representatives felt the meeting was important enough for them to attend, far more than anyone had expected. Last Wednesday, a large group of these same students attended a hearing at the State Capitol on a proposed birth control bill, and several of them testified. A short time before that they got a full page spread in the *Denver Post* by taking out truckloads of junk and debris from along the South Platte River in Denver. *Ecology Action* in just three weeks has become a major political force.

It is this kind of activity that gives me the courage to say to you today: Yes, man can survive, and he will. Now let us go to work and make it come true.

DON JOHNSON SPEAKS ON AMERICAN LEGION'S NATIONAL REHABILITATION COMMISSION MEETING

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. SCHWENGEL. Mr. Speaker, on March 4, the Administrator of Veterans' Affairs, Don Johnson, spoke at the 47th Annual National Rehabilitation Conference of the American Legion.

Mr. Johnson's remarks constitute a clear and concise statement of the service goals of the Veterans' Administration.

His speech should calm the feelings of those who have been expressing concern about the quality of care at the veterans hospitals. Under Don Johnson's leadership, I am confident that the Veterans' Administration is doing an excellent job in caring for the health and other needs of our veterans.

At this point, I would like to submit Don Johnson's statement for the RECORD:

REMARKS BY HON. DONALD E. JOHNSON

Chairman Lenker . . . distinguished members and guests of the American Legion's National Rehabilitation Commission . . . and my fellow-Legionnaires:

As always . . . it is a great personal pleasure for me to meet with you Legionnaires. However . . . this 47th annual National Rehabilitation Conference is especially meaningful to me.

Although I had the privilege of extending brief greetings to the Legion National Convention in Atlanta last August . . . this is my first opportunity . . . as Administrator of Veterans Affairs . . . to report to a National American Legion meeting.

I know that Dr. Jim Musser, Olney Owen . . . and their associates in the Veterans Administration's Department of Medicine and Surgery . . . and Veterans Benefits . . . have answered . . . as fully and frankly as possible . . . the many serious, thought-provoking questions which you submitted for this Conference.

I can add little to the detailed, technical information which they provide. Let me say here and now . . . however . . . that the door to my office is open . . . and it will always be open . . . so that any or all of you can come in to discuss those matters which you sincerely believe require my personal attention.

I come before you today . . . not as a Past National Commander of the American Legion . . . because . . . while I am proud of this title . . . and grateful for the many Legionnaires I am privileged to call friends . . . I realize full well that there is nothing so past as a Past National Commander.

Rather . . . I am here today as Administrator of Veterans Affairs . . . to give you some of the impressions I have formed after a little more than eight months in office . . . and to report on what is being done to achieve the mutual goal of the Veterans Administration and the American Legion.

This goal . . . of course . . . is service to those who served . . . and to their dependents and survivors . . . the delivery of a broad range of veteran benefits . . . when these benefits are needed . . . where they are needed . . . and in the amount needed.

One of my first and strongest impressions is that my concept of the service mission of the Veterans Administration is shared fully and enthusiastically by the VA's 170,000 able and dedicated employees.

With you Legionnaires . . . and with me . . . they believe that they have not only the responsibility . . . but the opportunity and the privilege . . . to provide:

Unsurpassed service to those who served . . . and to their dependents and survivors . . . and compassionate service . . . that goes far beyond the bounds of what they are required to do.

It is a matter of record that . . . until just a few years ago . . . the Veterans Administration operated on the premise that it existed to make available to veterans and their families the benefits provided by Congress . . . but it was up to them to learn about these benefits . . . establish their entitlement . . . and take the initiative in obtaining the benefits to which they were entitled.

There has been a revolutionary change in the veteran benefits philosophy of the Veterans Administration. As far as I am concerned . . . this change is not only welcome . . . but long overdue.

Now . . . the Veterans Administration operates on the premise that veterans and their families not only have a right to know about the benefits to which they are entitled . . but must know about them if they are to take advantage of the benefits which a grateful nation has provided . . . and wants them to use.

The result of this change is the Veterans Administration's Out Reach program . . . a program with which you are very familiar . . . more than this . . . one to which the American Legion and our other national service organizations have made . . . and are continuing to make . . . such an indispensable contribution.

Because of your interest and involvement in Out Reach . . . I would like to review quickly today some of the activities and accomplishments of this vital and . . . I sincerely believe . . . most successful program.

Without question . . . the most dramatic chapter of the Out Reach story has been written on the battlefields of Vietnam.

For the first time in American military history . . . Veterans Administration representatives have been giving our combat troops overseas information and counseling on their veteran benefits.

In the past three years . . . more than 1 million 140 thousand G.I.'s have been briefed by Veterans Administration representatives in Vietnam. A total of 54 VA Contact Officers . . . including nine now stationed there . . . have served average tours of six months in Vietnam. Two have given their lives in this important work.

I am sure you realize that all of these representatives have volunteered for Vietnam duty.

Less dramatic perhaps . . . but no less important . . . has been the Veterans Administration's program of counseling sick and disabled servicemen in stateside military hospitals . . . and those at separation points awaiting discharge.

Since this phase of the overall Out Reach effort began, . . . more than 1.7 million G.I.'s in these hospitals and separation points have been briefed on their veteran benefits. Many of them . . . especially hospitalized servicemen . . . have been given in-depth interviews at their bedsides . . . and assisted in applying for disability compensation, vocational rehabilitation training, and other benefits.

The Out Reach battle has been . . . and is being . . . fought on many fronts. One of the most strategic . . . and one to which the resources, experience and know-how of the American Legion have been committed so effectively . . . is our United States Veterans Assistance Center program.

Launched just two years ago . . . this Out Reach campaign has resulted in 600,000 Vietnam veterans being interviewed . . . as-

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sisted in applying for education and training . . . or helped in finding jobs.

Every veteran benefit is important. And every effort of the Veterans Administration . . . the American Legion . . . and our other service organizations . . . to assure maximum use of each benefit . . . is essential.

I think we can agree here today . . . however . . . that no single benefit will contribute more to the welfare of our Vietnam veterans . . . and to the welfare of America . . . than the Vietnam G.I. Bill education and training program.

It follows . . . of course . . . that the Out Reach efforts to contact our returning Vietnam veterans . . . and to convince them that they should use their education and training entitlement . . . are especially significant.

Let me emphasize that the Vietnam G.I. Bill cannot be considered completely successful until every eligible veteran has been contacted . . . and at least been made aware of . . . and fully assisted in applying for . . . his education and training entitlement.

This is especially true of the Vietnam veteran who did not complete high school before entering service . . . and who is considered to be educationally disadvantaged.

Nonetheless . . . I believe we can be encouraged by the increasing rate of participation of Vietnam veterans in the G.I. Bill education and training program.

Let me give you a quick "for instance."

We expect the peak enrollment in education and training this spring to top 810,000 . . . or about 35 percent more than the number of veterans and servicemen enrolled in training last spring.

Enrollment in college level training will hold at or near the 60 percent of total enrollment which has obtained from the outset of the Vietnam G.I. Bill . . . and which has been much higher than under the World War II and Korean programs.

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I think we can safely say that because of these tremendous Out Reach efforts that our Vietnam era veterans are better informed about their benefits than have been the veterans of any of our earlier conflicts. To me this is the more satisfying, for certainly they have had to fight America's loneliest war as far as national solidarity is concerned.

Judging from my mail, however, I would say there are many Americans sincerely concerned because of recent publicity about the VA's capacity to provide medical care for these younger veterans.

I have seized every opportunity to give assurance that the VA does now, and will continue to provide care for these veterans just as we have for our older veterans. During the past fiscal year only some 44,000—or slightly over five-percent—of the total VA patients treated were Vietnam veterans, and it looks now as though their numbers will increase to only about 60,000 in this fiscal year. The numbers will grow, of course, just as has VA's ability to treat more and more veterans each year.

I don't need to tell this audience that there have been many news stories and newscasts in recent months about the VA medical program.

I do want to tell you, though, that I do not for one minute question either the propriety or the sincerity of the Congressional committees in bringing this matter to the attention of the public. Furthermore, I accept as well-intentioned the criticisms that have been voiced by the many critics in or out of government.

Nor do I discount in any degree the earnest belief by our VA hospital directors that they could effectively use more funds and staff, for I am sure this belief has prevailed for many years.

Without at this time entering into the controversy about VA medical care, I would like—in fairness to the army of dedicated employees now providing care in our 166 hospitals—to emphasive some of the "positives"; some of the progress that is being made in this vitally important field.

First, the matter of money.

The President on November 26, 1969, approved the F.Y. 1969, VA budget which included nearly 1-billion, 542-million dollars for medical care. This was the amount recommended by the outgoing Chief Executive and by Congress, and represented the most money ever appropriated for this purpose. And all of these monies have been made available to the agency.

Then, just about one month ago, the President submitted to Congress for F.Y. 1971 a budget that included 1-billion, 702-million dollars for VA medical care—another record sum.

To the 1-billion, 542-million dollars already appropriated for this fiscal year will be added another 91-million dollars to help cover salary increases.

On top of this, the VA received approval—just today—to ask Congress for still another 15-million dollars to become available this year in the quarter starting next April first.

Let me tell you some of the things this extra money will permit us to do.

Some 9.8-million dollars will be earmarked for our dental outpatient program. We will be able to complete 50,000 additional free examinations, and 45,000 more treatment cases, thus reducing the workload to a normal operating level considering the present, unprecedented demands.

Another 3-million dollars will go for specialized medical services. In a word, this means that instead of waiting until the next fiscal year . . . this money can be devoted to fully staffing specialized units, including pulmonary function—alcoholism treatment—day hospital treatment—and speech pathology units . . . as well as an extra blind clinic, an epilepsy center, and another spinal cord injury center . . . plus more than 600 coronary and intensive care beds.

Some 200-thousand dollars will help us beef up the staffs at our six existing spinal cord injury units by 71 full-time employees . . . 1-million dollars will go into the home dialysis program . . . and another 1-million will help meet increased demands for drugs and medicines.

We are today treating more sick and disabled veterans than ever before in the history of the Veterans Administration.

This fiscal year we expect to treat in our own hospitals an all-time high of more than 780,000 veteran patients. Next year this figure should go up to about 875,000.

To really evaluate this remarkable accomplishment we need to go back a few years. Back to 1958, for instance, when VA was able to treat only 608-thousand patients—172-thousand less than we will care for this year. Or even back to the mid-1960s when we were treating about 50,000 fewer patients.

It is worthy of note, I believe, to point out that in 1958—when we were treating 172-thousand *fewer* patients—VA was operating 121-thousand, 200 hospital beds, which is over 19-thousand *more* than are in operation today.

What I am pointing out is that how effectively beds are used is more important than sheer numbers of beds. The number of operating beds necessary to do the job has been declining steadily for many years. In F.Y. 1969 VA operated some 107-thousand beds; this year the number required has been a bit more than 100-thousand, and the *estimate* for Fiscal Year 1971 is 95-thousand-plus—and yet we have or will be treating more patients in each of these years.

I purposely stressed the word "estimate" in talking about the 1971 figure by way of clarification. Although VA estimated when the budget was prepared some months ago that we would need to operate some 5-thousand fewer beds in 1971, there is nothing sacred or binding about that estimate. If actual experience indicates more beds are needed—then I assure you we will place more beds in operation.

Although the estimate right now for hospital beds is down in the next fiscal year . . . we will have a 28-percent increase in nursing beds in VA hospitals . . . going from the present 4,000 beds to 5,155.

Another improvement I would mention concerns the staffing of our hosiptals.

Just six months ago—at a time when he was reducing employment elsewhere in the government by about 50-thousand jobs—the President authorized a VA increase of 1,500 employees, with the vast majority of the increase ticketed for the medical program.

The new budget for the next fiscal year calls for another increase of 2,150 medical employees.

The ratio of hospital staffs to patients has increased steadily . . . from 146.2 employees per 100 general hospital patients last year to 150.2 this year, and this will go up to 156.8 next year.

Hopefully indicative of VA's ability to recruit physicians is the fact that as of the last reporting date there were 5,137 full-time doctors on the rolls, including 800 scarce-category psychiatrists. This is 373 more doctors than we had nine months earlier, including 26 more psychiatrists.

The outlook for hospital construction constitutes another "positive". Following on the heels of an appropriation of less than 8-million dollars in Fiscal Year 1969, the government-wide moratorium on most construction projects this year . . . we have asked for 59-million dollars for construction in the next fiscal year. This will be the largest volume of construction placed under contract in 21 years.

The fact that VA is treating ever-more patients has, of course, had an impact on hospital waiting lists. The records reveal there were more than 25,000 on the waiting list in 1958, and the number was nearly 17,000 in 1964. Today the list numbers only 2,700 nonservice-connected veterans in the continental United States.

Medical research funds have grown from an appropriation of 48-million dollars in F.Y. 1969 to 57.6 million dollars this year . . . and we are asking for 59.2-million dollars in the new budget.

I have not cited these few examples of progress with the intention of rebutting any of the VA critics, for I realize full well that there will always be differences among sincere and reasonable men in a field as difficult to measure as medicine.

Instead, I have spoken out in the belief that all of us need to remind ourselves—as well as the thousands of veterans who will be VA patients in the days ahead—that there is much that is good about the VA medical program.

I am well aware of the adage that the mind can absorb only as much as the seat can endure.

Despite that awareness, I am moved to tax your patience with one more observation.

Although I have been Administrator of Veterans Affairs for only a little more than eight months, I learned early on the job that a considerable amount of criticism—from a wide variety of sources covering a broad range of subjects—is part and parcel of the position I hold.

Mind you, I am not complaining. I appreciate that any operation as mammoth and complex as the Veterans Administration is bound to have lots of critics. And I think this is as it should be, for constructive criticism not only is welcome, but enables us to do a better job.

Although I like to think that I do a pretty good job of maintaining my "cool," I must confess to you that I was hurt by that portion of your National Commander's statement yesterday morning before the House Committee on Veterans Affairs in which he linked my name with some mysterious, long-range program to phase out the medical and hospital program of the Veterans Administration.

To you, Commander Patrick, and to all my other friends in the great American Legion let me make this point absolutely clear.

I speak for the President of the United States as well as Don Johnson when I tell you that there is *no* program—long-range, short-range or intermediate-range—to phase out, or in any manner diminish VA hospital and medical care.

It strikes me, as a matter of fact, that providing more funds, and treating more sick and disabled veterans than ever before in the history of our nation is an odd way to go about phasing out a program.

I yield to no man in this audience, including your present National Commander, in my determination to maintain—and to strengthen the great VA medical program—as a separate entity as it is now constituted.

Should there ever be at any time in the future . . . any attempt . . . by anyone in or out of the government . . . to phase out, destroy, or in any way lessen the importance of the VA medical program . . . let me assure you of one thing.

The first person they will have to deal with is Don Johnson.

And those of you who remember the fight I led in 1965 against the VA hospital closings decreed by the former President might agree, I believe, that Don Johnson can battle pretty effectively when veteran programs are threatened.

I am the same Don Johnson. My title may have changed, but certainly not my regard for veterans, nor my concern for their welfare.

Again . . . I apologize for taking so much of your valuable time.

However . . . I want you to know how grateful I am for the opportunity you have given me to join once again a gathering of this body of great Americans.

There have been times in the past . . . as there will be in the future . . . when the American Legion and the Veterans Administration don't see eye to eye.

There has never been a time . . . however . . . and I know that there never will be . . . when we shall seriously question the other's honor and integrity and dedication to the welfare of America's veterans, their dependents and survivors.

This is all any of us could ever ask.

This is all America's veterans will ever need.

Thank you.

THE HUMAN SIDE OF OCCUPATIONAL SAFETY AND HEALTH

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. O'HARA. Mr. Speaker, the human side of occupational hazards is seldom understood or reported.

The United Auto Workers monthly newspaper, Solidarity, goes to 1.8 million union homes. The recent February and March issues of Solidarity carried a series of articles on occupational safety and health describing in human terms what happens when death or injuries on the job reaches into a worker's home.

The Congress is still trying to write legislation which will prevent thousands of deaths and many thousands more injuries. The Select Subcommittee on Labor, under the vigorous leadership of its chairman, the Honorable DOMINICK DANIELS, has completed hearings. One of our difficulties is the lack of public understanding or sense of urgency about the problem of occupational safety and health. The UAW articles help make people realize that the need for legislation to protect 80 million working Americans, white and blue collar alike, because, as the article states:

> Studies show that occupational harm and ailments are like icebergs. Beneath the surface effects of a broken bone, blackened lung or other condition lie massive, unforeseen forces that can plummet a wage-earner from middle income to poverty.
>
> They are forces which can spark an emotional illness out of a physical injury, ruin a worker's ability to go hunting or engage in other recreation, disrupt marriages or doom a person to a kind of half-life of idleness or unsatisfying work.

Mr. Speaker, it is my earnest hope that the second session of the 91st Congress will see the approval of a strong, comprehensive bill to protect workers from death and injury on the job. To appreciate and feel the human side of the problem, I insert at this point in the RECORD two articles "American Tragedy" and "Factory Fumes" from the February and March 1970 issues of UAW Solidarity, as prepared by Karl Mantyla:

[From UAW Solidarity, February 1970]

AMERICAN TRAGEDY: FACTORY ACCIDENTS CLAIM MORE LIVES THAN THE VIETNAM WAR

(By Karl Mantyla)

Hotter than a meteor, a golden river of molten iron flows along a trough from a foundry blast furnace.

The metallic liquid courses at a temperature of 2700 degrees past a UAW member—a cupola operator who runs the furnace.

Within the time it takes to wipe sweat and dirt off his face, the worker could be burned alive or maimed by an explosion.

His job has a built-in danger: without warning, the flow of iron could become clogged and shift silently into another trough filled with water and designed to carry away the slag or impurities.

"When you run iron onto water you get a near-nuclear explosion," says a veteran foundry worker who recently saw an explosion kill a cupola operator. "There is a terrific explosion that just about blows out every window in the plant."

The job is one among the thousands in which industrial workers are exposed daily to perils—hazards that could sever an arm or leg, fill lungs with death-inducing fumes and grit, cripple backs, destroy eyesight, hammer the vibrancy out of eardrums, crush bodies or sear skin.

The causes represent a chamber of horrors: presses which can crush a hand with seven tons of weight; gaping holes leading to scrap chutes; faulty machines being run at top speed to maintain production quotas; overtime work that tires workers and impairs their alertness; unventilated fumes from welders' torches; lack of safety instruction, oil-slick floors and others.

Each year, 14,000 American workers are killed on the job. This toll is greater than that of the Vietnam battlefields, and on-the-job deaths have increased alarmingly in recent years.

Eighty million persons work for a living in the United States. The U.S. Dept. of Labor says 2,200,000 disabling work injuries occurred among the labor force in 1968, the most recent year for which statistics are available.

World War II killed 300,000 Americans and wounded 700,000. But in the 25 years since then, jobs, machines and equipment—almost like sinister snipers—have claimed the lives of 400,000 Americans and disabled almost 50 million.

The UAW is urging the current session of Congress to enact a Federal occupational safety and health law giving the Secretary of Labor power to order any hazardous work practice or condition halted immediately until a hearing board rules on the matter.

SAFETY "MAGNA CARTA"

Appearing recently before the House Labor subcommittee, UAW officials called for a "worker's occupational Magna Carta, assuring him that he has a right to a safe and healthful job." Lloyd D. Utter, UAW safety director, and Franklin Wallick, legislative representative, in presenting the union's position, emphasized that the law should provide money for massive research on health and safety and for the hiring of inspectors and other personnel to make sure it is enforced.

"Too many employers think they have done their duty by displaying warnings, making workers wear safety glasses and hard hats and putting up safety posters," the UAW statement pointed out. It urged that employers be forced to prove that a machine or work practice is safe, rather than putting the burden of proof on the accuser.

"A technological genie has unlocked thousands of miraculous but oftentimes dangerous chemicals. They present both a danger and a boon to the American economy," UAW said in calling for a full-scale research effort.

"We know very little about the dangerous and deadly effects of 6,000 toxic substances which workers use on their jobs. These substances are introduced into industry at the rate of about 600 new chemical processes a year."

BUILT-IN DELAYS

Wallick criticized a bill by the Nixon Administration, which calls for a five-member hearing board which could set penalties. He said it contains "built-in delays for reaching decisions which are critical to the life or death of millions of workers. And there is no assurance that the proposed board would be free of political or commercial influence, nor that it would guarantee professional competence . . ." Two other major bills before Congress would focus responsibility for occupational health and safety on the Secretary of Labor.

Nobody is sure of the extent of occupational disease and injury.

Costs of occupational disease and injuries are staggering: $5.75 billion alone from the lost time amounting to 250 million man-days in 1968, plus $7.9 billion in compensation, insurance and fire damages that year. Equipment and plant losses haven't even been calculated.

NO PRICE TAG ON LIFE

Greater than the economic loss is the human suffering, in which the damage lies in the hearts and distraught lives of widows, of sons and daughters robbed of parents and of workers cheated of chances to live satisfying, productive lives.

"There's no price for his life," says Mrs. Lola Stallard, the widow of Furl Stallard.

Tears spill from her eyes as Mrs. Stallard recalls the night of Aug. 16, 1967, when a cupola explosion killed her 35-year-old husband at the General Motors Central Foundry in Defiance, Ohio.

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Less than a year later at the same blast furnace, another iron-water explosion fatally burned Stallard's one-time boyhood chum and closest friend, Doyle E. Price, 36.

Today, Mrs. Stallard, 40, and Price's widow, Clara, 34, grapple alone with the tasks of raising a total of five children scarred emotionally by their fathers' deaths. The youngsters range in age from 9 through 17.

At the foundry, workers call the furnace "The Jinx of Plant No. 2."

What really killed Stallard and Price and perhaps thousands of other industrial workers?

Some say the lethal agent is a timeworn method of "trial and error." Only by trial and error, once a man is injured or killed on a job is the cause studied and a safeguard engineered. Only after men lost fingers and hands did two-hand controls appear on punch presses. Only after pallets of steel parts fell on lift truck drivers did steel guard rails surround the drivers seat.

"SOLUTION" DIDN'T WORK

At the Defiance foundry, union safety men and management officials thought the hazard at the cupola was solved after Stallard's death when GM lowered the height of a dam which separates the pure molten iron from the slag.

Clogging of the dam and diversion of the 2700-degree iron into the water killed Price. This time, management—pressured by union officials for a positive safeguard—installed a slag diverter which can be used to dump the slag trough into a safe place in case molten iron flows into the wrong channel.

"There's no question that the slag diverter has prevented other explosions," says Kenneth Blosser, Local 211 shop committee chairman at the foundry.

The cost of the slag diverter: less than $2,000.

The cost of Price's and Stallard's deaths: $38,000 in compensation to the widows and children, plus insurance death benefits—and seven lifetimes of ruptured hopes, dreams and realities.

FOUNDRIES HIGH ON INJURY LIST

In any list of the most dangerous places to work, foundries rank high.

The government says foundries—heart of the automotive industry with their engine castings—create the third worst environments for disabling injuries of any type of work in the nation. Only coal mining and the lumber industry produce more frequent injuries.

Foundries yielded 30 disabling injuries for every million man-hours of work in 1967. At the same time, the average for the transportation equipment industry as a whole, including autos, trucks and aerospace, was 7.1 lost-time mishaps for every million man-hours. The average for all types of work throughout the nation in 1967 was 14.0.

Officials note a rise in the frequency of disabling accidents in the transportation equipment field where most UAW members earn their livelihoods—up from 7.1 in 1967 to 7.3 lost-time accidents per million man-hours in 1968. In 1958, the disabling accident frequency was 6.0.

CANADIANS MORE ACCURATE

Canadian industries show even higher figures on the frequency of disabling accidents, possibly through more accurate reporting of mishaps. In the province of Ontario, where most heavy manufacturing is located, the auto industry reported in 1968 a frequency of 20.5 lost-time mishaps for every million man-hours of work, compared with a general industrial average of 25.5 and an aerospace industry total of 13.4.

Though virtually all victims of work accidents are nonsupervisory personnel management is not immune from either physical hazards or health conditions. In December, a foreman at the Ford Motor Co. plant in Louisville, Ky., climbed atop a load in a brand-new automatic stacking machine controlled by a computer.

An automatic shutoff device failed, and the foreman was crushed between the ceiling and the load as the uncontrolled machine continued its stacking.

INTENSIVE SAFETY DRIVE

"Safety is the last thing to be checked," asserts Ray Berndt, director of UAW Region 3 in which the Ford plant is located. "They wanted to see if that new machine would stack, but they weren't interested in whether it would shut off."

Last June, alarmed by a rash of deaths and injuries in his region, Berndt launched a tough safety campaign.

He issued a proclamation naming June as "Industrial Safety Month" throughout the region which has 130,000 UAW members in 225 plants. Berndt called on the full membership "to bring to the attention of their respective union representative every possible industrial safety and occupational disease hazard in the plant."

Then he instructed all union officers "to see that the complaints on safety conditions lead to corrective action," notifying him of any problems. Leaflets and safety posters went out to every union local.

But Berndt says no campaign will be fully effective until in-plant safety inspectors gain the "right to red-tag a machine and shut it down if it is hazardous."

The UAW's strongest alternative, in cases where bargaining on safety conditions fails, is the strike.

But while officials are exhausting the grievance procedures, the dangerous conditions continue unchecked.

The Federal government's role in safeguarding workers has been stymied by archaic laws, red tape and insufficient funds.

Eugene Newman, chief of contract safety for the Labor Dept., says he needs "300 to 400 inspectors to do the job right" in enforcing the 30-year-old Walsh-Healy Public Contracts Act.

TOO FEW INSPECTORS

Newman says there are only 27 inspectors and five field hygienists available to police the health and safety provisions of the law which affects 27 million workers in plants performing government work. Inspectors are unable to visit more than two or three per cent of the plants.

The Labor Dept.'s only weapon to force improvement is a blacklist, in which firms that refuse to correct violations of safety and health standards can be declared by the Secretary of Labor as ineligible to deal with the government for three years.

Newman says five small firms are on the blacklist currently.

His bureau's budget for safeguarding the 27 million workers in 75,000 plants doing government work: $530,000.

[From UAW Solidarity, March 1970]

FACTORY FUMES: THEY CAN BE DEADLIER ON THE INSIDE THAN ON THE OUTSIDE

(By Karl Mantyla)

Until the grim evening of Oct. 24, 1969, LeRoy W. Frederick had "never missed a day of work in my life, due to a cold or flu or anything."

Then, in a brief span of 90 minutes that night, the 50-year-old electrician from Muldrow, Okla., became a statistic: one of the more than two million workers disabled each year by accidents on their jobs in the United States. Whether he will be forced to join the 90,000 permanently disabled each year is yet to be known.

The plight of Frederick—a UAW worker so badly poisoned by smoke and chemical fumes at the General Electric plant in Fort Smith, Ark., that it plunged him into a ten-day coma—illustrates the financial and physical hardships awaiting a worker who is stricken by injury or disease on his job.

INJURY'S CHAIN REACTION

Studies show that occupational harm and ailments are like icebergs. Beneath the surface effects of a broken bone, blackened lung or other condition lie massive, unforeseen forces that can plummet a wage-earner from middle income to poverty.

They are forces which can spark an emotional illness out of a physical injury, ruin a worker's ability to go hunting or engage in other recreation, disrupt marriages or doom a person to a kind of half-life of idleness or unsatisfying work.

In virtually every disability case, state workmen's compensation payments fall far below the dollar needs of the worker and his family. Because of varying state laws, a disabled worker in one state will be worse off than his counterpart in another state. In Texas, the most a worker can get if a machine rips off his right hand is $4,900. In Michigan, he may receive as much as $21,070 for loss of the hand.

The doors of employment no longer open readily to workers with handicaps, and a man who has lost one hand, surveys show, can quickly exhaust compensation payments.

UNCERTAIN FUTURE

Like most disabled workers, Frederick faces a darkly clouded future.

A divorcee who is sole supporter of his six children ranging in age from 11 through 20, Frederick was stricken while working on faulty exhaust fans at a furnace which "paints" Teflon chemical coatings on GE frying pans. In a series of production-line events, thick smoke and fumes billowed throughout the plant.

"It was so smoky in there I couldn't see," he recalls. "The assistant plant manager sent the workers home, but I stayed to set up exhaust fans because I was the electrician and that was my job."

By 8 p.m. Frederick was "getting sicker and sicker and sicker" with nausea, dizziness and headaches. "We have no first-aid nurses at night," he says, "so I got a slip from the plant guard to go home."

On the 23-mile drive to his home across the Arkansas-Oklahoma state line, he said, "I lost consciousness, almost hit a bridge and ended up on the median." He vomited alongside the auto and regained his senses enough to make it home. A day and a half later, after alternating periods of semiconsciousness, Frederick blacked out completely and his oldest daughter called an ambulance.

"According to all the information I've received they thought I was dead when I got to the hospital," Frederick said. "A doctor and a nurse revived me but I had not been revived very long when I lost consciousness again. I had to be revived with heart massage." Then he slipped into the comatic state from which he emerged 10 days later.

After 11 weeks, Frederick was released by the hospital, a once-energetic man turned frail by the ailment which cost him 24 pounds and dropped his weight to 146 pounds on his 5-foot-11 frame.

"I'm awfully weak," he says. "I still have dizziness when I bend over and I shake like a leaf."

UAW officials are pressing a claim against GE for compensation with the State of Arkansas.

Meanwhile, Frederick says he has lost a normal income of $300 a week and his part-time electrical contracting business is near collapse.

"I had to dig into my savings by better than $4,000 while I was in the hospital, in just keeping my six children going," he says. Hospital and medical bills totaling some $10,-

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000 are unsettled, with the UAW seeking to force payment of them by GE.

Union representatives say doctors diagnosed Frederick's illness as hydrocarbon poisoning, with evidence of a chronic condition, after exposure to nitric and sulfuric acids.

PERMANENT HEART DAMAGE

"There is definite heart damage, or a scar, that the doctor says I will have the rest of my life," Frederick says.

Interviews by *Solidarity* and professional research studies indicate many disabled workers face bleak prospects.

An intensive study of 485 disabled workers by the Survey Research Center of the University of Michigan revealed:

"Of those who settled (their compensation claims), 31 per cent were back at work even before they settled, 24 per cent were back after the settlement, while the remaining 45 per cent were not back a year and a half later, nor were they very hopeful about their futures."

Between 12 and 25 per cent of the disabled were dissatisfied with medical care necessary for their rehabilitation. "This was particularly true of services provided by company doctors or plant first-aid stations, and of care secured in contested cases in the absence of help from the insurance company or employer."

The disabled "frequently could not live on the payments" under weekly compensation benefits.

"Workers appear to have very little knowledge of their rights, and very little genuinely free choice as to method of settlement (lump sum versus weekly payments)."

OBSTACLES TO CLAIMS

The study, published in 1959, found that compensation procedures in Michigan—one of the better states in providing for disabled workers—were "cumbersome, expensive and difficult emotionally for the workers. The long delays, uncertainty, the contingent fees charged by lawyers all have served to push the worker toward a settlement at a time when his own financial needs were most pressing." The research unveiled undue pressures on the workers even by doctors.

Older workers suffer greater difficulties in returning to work than younger persons, the study found. And, "Sometimes the employer or the insurance company regarded the worker as a bad risk for future employment, particularly in back injury cases."

The hodge-podge of state compensation laws have one basic effect: a worker's life or health may hardly be worth a dime in one geographic location while the same worker is valued more highly in another area.

The State of Georgia puts a maximum of $5,000 on medical payments under its compensation law—small consolation to the worker suffering a major injury or occupational disease requiring long-term medical care.

In Texas, a foundry worker suffering the dreaded silicosis may be treated medically for only 91 days before his state-allowed medical benefits run out. And, in Texas, the weekly maximum payments of $49 for a permanent total disability will continue for only 401 weeks. In Michigan the maximum such payment is $98 a week as long as the disability continues, and medical treatment is fully paid.

AILMENTS COMPOUNDED

Experts, including those in the UAW Compensation and Safety Department, say many industrial injuries and diseases become compounded by leading to other ailments.

In one Midwestern state last year, a young foundry worker's left leg was crushed by a hi-lo truck. Doctors amputated the limb four inches below the knee. The worker, a UAW member in his 20s, went home to his wife and child to recover.

Within a month he had entered a mental hospital for treatment of a severe emotional disturbance that arose from the loss of his leg.

Chances are, experts say, such a worker will be haunted the rest of his life by the intertwined difficulties of maintaining employment despite a major physical handicap and regaining his emotional health under the most trying of circumstances.

"You're the scapegoat," says Marcel Lauriault, a 40-year-old inspector who slipped on an oily floor and suffered a back injury at Chrysler Corp.'s engine plant in Windsor, Ont. "You can be replaced any day, any second, by the company."

Lauriault says his only medical examination was from a plant doctor who "told me the muscles in my back were retracted and bruised. He gave me a couple of pills and told me to use a lot of heat."

No X-rays were taken, Lauriault said, adding bitterly: "If they find something wrong, let's face it, they do not want a man to get compensation."

NO MORE SPORTS

A wiry, dark-haired man, Lauriault's hobbies had been dancing and bowling. Now he can do neither. He had been planning to get married soon, but now he says, "I don't want to get married and have to put up a sign saying, 'Do Not Disturb.' "

Five nights a week, Joe Charron, 34, an assembler at the Windsor engine plant, walks into a doctor's office for heat and therapy treatments. He suffered broken blood vessels and muscle spasms in his back when he fell after losing his balance attempting to lift an oily flywheel stuck against two other flywheels.

Once an avid weight lifter and ice skater who played hockey with a team, Charron has been formed to abandon his recreations. He received compensation payments of $98 a week from Oct. 27-Jan. 5, returning to work despite the pain because he was falling into debt.

The biggest single percentage—27 per cent—of the 2,200,000 disabling work injuries which occurred in 1968 involved the trunk of the human body, mainly in back injuries.

Such injuries also can be among the most long-lasting.

For nearly 10 years, Gladstone "Jack" Goins of Van Wert, Ohio, has been bearing a burden of financial and physical distress caused by a back injury. He was leaning over a guard rail, hoisting a 50-pound load of steel with a rope to a work area when "I felt a snap and I went to my knees and I hollered."

A company doctor at GM's Central Foundry in Defiance gave him pain pills and sent him home, says the 54-year-old Goins, a father of five who supports his wife and a 16-year-old son. A month later, X-rays were taken and revealed two chipped vertebrae and one cracked vertebrae.

SPENT ALL SAVINGS

Through the UAW, Goins won a compensation claim for 33⅓ per cent disability but "I spent all my savings, around $3,000." Because of continuing back trouble that limits his ability to work as a millwright, "I've lost half of the wages I could be getting—at least $5,000-$6,000 a year. I used to hunt all the time. I can't hunt any more. I can't even shovel snow."

"Accidents Can Be Prevented." So say the signs at thousands of plants across the nation.

The signs are belied by the fact that within the same corporation some plants have local managements known to be responsive to union safety suggestions while others balk at improvements to guarantee the health and safety of workers.

THE EMPLOYEE BENEFITS PROTECTION ACT

HON. WILLIAM H. AYRES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. AYRES. Mr. Speaker, on behalf of the administration, I am today introducing the Employee Benefits Protection Act. This act amends the Welfare and Pension Plans Disclosure Act and is designed to broaden and strengthen the existing law governing employee welfare-pension funds. The administration's proposal will serve to assure the working men and women of this country that the assets of welfare and pension funds, established for their benefit, will be managed prudently, and that the individual entitlement to welfare and pension benefits will be disclosed in clear, understandable fashion.

Specifically, the Employee Benefits Protection Act proposes new and important Federal safeguards with respect to the administration of employee benefit funds. Fiduciary responsibilities, in particular a prudent man standard, are imposed upon those who occupy a relationship of confidence or trust with respect to such funds. The act would also bar from fiduciary position all persons convicted of certain enumerated criminal offenses for a period of 5 years. The cumulative effect of these two provisions is to insure that the fruits of a man's labor will not be lost in maladministration of employee benefit funds.

In other respects, the act serves to strengthen the disclosure and reporting requirements pertaining to such funds as well as to broaden the legal remedies available for the effective enforcement of the duties imposed upon fund fiduciaries. In particular, fund fiduciaries would be required to give a detailed accounting of their stewardship, and employees upon request would be entitled to receive a description of benefits that have accrued in their favor as well as an explanation of the procedure that must be followed to obtain benefits on the distribution date.

In sum, the act would provide a national fiduciary standard for the governance of welfare-pension funds and a more effective system of disclosure and reporting, on both of which the happiness and well-being of many depend.

Mr. Speaker, I believe the administration's bill represents a sound and constructive step, and I hope it will have early consideration in the Congress.

Mr. Speaker, I include in the RECORD a section-by-section analysis, an explanatory statement, and a comparison print showing how the bill would amend the Welfare and Pension Plans Disclosure Act:

SECTION-BY-SECTION ANALYSIS OF AMENDMENTS TO THE WELFARE AND PENSION PLAN DISCLOSURE ACT

TITLE

The amendment changes the title of the Act from "Welfare and Pension Plans Disclosure Act" to "Employee Benefits Protection Act." The underlying purpose of the Act has always been the protection of the benefit plan interests of employees and the newly added fiduciary responsibility provisions will broaden the scope of this protection, making the use of the word in the title appropriate. The descriptive title is amended to read simply "An act to amend the Welfare and Pension Plans Disclosure Act."

TABLE OF CONTENTS

The table of contents reflects the addition of the two wholly new sections; section 14, entitled "Fiduciary Responsibility" and section 15, entitled "Prohibition Against Certain Persons Holding Office." It also reflects the change in the title of section 2 from "Findings of Policy" to "Findings and Declaration of Policy."

SHORT TITLE—SECTION 1

Section 1 provides that the Act may be cited as the Employee Benefits Protection Act.

FINDINGS AND DECLARATION OF POLICY—SECTION 2

Section 2, presently titled "Findings and Policy" has been retitled "Findings and Declaration of Policy." Language has been added to subsection (a) in recognition of the increasing impact of employee benefit plans on interstate commerce and to stress the intent of the amendments to provide greater safeguards in the protection of participants' and beneficiaries' rights under employee benefit plans. Subsection (b) contains a new clause reflecting the broadened policies of the Act.

DEFINITIONS—SECTION 3

The definitions of "employee welfare benefit plan" and "employee pension benefit plan" have been modified to make it clear that a plan will fall within the definition not only if it is established by an employer or an employee organization, but also when it is maintained by such an entity.

The definition of "party in interest" has been broadened and the definition of "administrator" has been removed from section 5 and added, in changed form, to section 3. Definitions of the following words and terms have also been included: relative, employee benefit plan, employee benefit fund, separate account, adequate consideration, nonforfeitable pension benefit, accrued benefit, security, fiduciary and market value.

Since the term "employee benefit plan", which means either a plan providing pension benefits or a plan providing welfare benefits or a plan providing both, has been added to the definition section, the term "employee welfare or pension benefit plan", and the term "employee welfare benefit plan or employee pension benefit plan" have been deleted from the Act wherever feasible and the term "employee benefit plan" has been substituted. These changes are not referred to elsewhere in this analysis.

COVERAGE—SECTION 4

Subsection (a) no longer contains the words "or employers" and "or organizations." There is no change in substance, since the singular is read to include the plural. 1 U.S.C. § 1.

Paragraph (3) of subsection (b) now contains subparagraph headings (A) and (B) and the words "order or association" have been added to subparagraph (A) and to the proviso. The word "or" has been substituted for the word "and" in subparagraph (B) for the sake of clarity. The changes conform the language more closely to the Internal Revenue Code to which the language refers.

Paragraph (4) of subsection (b) specifies that participants or beneficiaries of plans covering less than 26 participants may bring actions to recover benefits or to protect a contingent interest in benefits, even though the plan is not otherwise covered by the Act.

DUTY OF DISCLOSURE AND REPORTING—SECTION 5

The second sentence of subsection (a) has been changed slightly to achieve greater clarity.

The definition of the term "administrator" has been changed and added, as noted above, to section 3. Subsection (b) authorizes the Secretary to require special terminal reports. Subsection (c) contains a simplified and more flexible version of an exemption power than the "variation" power currently in subsection (a).

DESCRIPTION OF THE PLAN—SECTION 6

Subsection (a) has been undated. Subsection (b) has been modified to require that the plan description include an easily understood explanation of any plan provisions dealing with nonforfeitable pension benefits or a statement, if applicable, that the plan does not provide such benefits. The current requirement that all plan description changes be filed within 60 days has been modified to allow flexibility in accordance with the Secretary's regulations. Subsection (b) has also been modified to eliminate the requirement that the bargaining agreement, trust agreement, contract or other instrument under which the plan was established or is operated be included in the plan description; such full documents are made available for inspection by a participant or his representative, or he may obtain copies of such documents upon request and payment of reasonable charges pursuant to section 8(c).

ANNUAL REPORTS—SECTION 7

Section 7 has been rearranged and broadened. Paragraph (1) of subsection (a) sets forth the basic reporting requirements for all plans. Notice and opportunity to be heard, rather than an investigation, is now the prerequisite to the Secretary's requiring a report from a covered plan with less than 100 participants. Paragraph (2) requires the carrier, in the case of an insured plan, to certify necessary information to the plan administrator within 120 days after the end of the plan year, and is identical to section 7(g) of the present Act. Paragraph (3) requires each plan to be audited annually by an independent accountant and the auditor's report with respect to financial information required to be filed under section 7 must accompany the plan's annual report. An exemption is included for the books of banks and insurance companies, if subject to periodic examination by Federal or State agencies.

Subsection (b) sets forth the kinds of information and transactions which must be reported by all plans, save those which are unfunded. Paragraph (1) covers general information, and requires identification of all fiduciaries. Paragraph (2) calls for data concerning all plan investments and paragraph (3) requires information with respect to transactions in securities. Paragraph (4) deals with transactions involving property other than securities. Loans are covered in paragraph (5) and leases in paragraph (6). Paragraph (7) calls for a list of all party in interest transactions. Paragraph (8) contains special instructions where plan assets are held in a common or collective trust or in a separate account by an insurance carrier and allows the Secretary to prescribe rules for reporting in such situations. Paragraph (9) permits the administrator to furnish additional investment information if he desires to do so.

Subsection (c) deals with unfinished plans—plans in which the benefits are paid out of the general assets of the employer or the employee organization.

Subsection (d) sets forth the reporting requirements for insured plans and is identical to section 7(d)(1) and (2) of the present Act.

Subsection (e) elicits actuarial information, to the extent applicable, from all plans.

PUBLICATION—SECTION 8

Subsections (a) and (b) provide for the preparation of forms for plan descriptions and annual reports by the Secretary and for inspection of completed descriptions and reports in the public document room of the Department of Labor.

Subsection (c) restates the current requirements of disclosure to participants copies of the plan description and most recent annual report and the bargaining agreement, trust agreement, contract, or instrument under which the plan is established or maintained must be made available for examination by participants and beneficiaries at the administrator's principal office and a summary of the annual report must be furnished to any participant or beneficiary so requesting in writing. Copies of the plan description or annual report or agreement or instrument under which the plan is established must be furnished on request but a reasonable charge may be made to cover the cost.

Subsection (d) provides that upon written request, the administrator must furnish to a participant or beneficiary a statement of information concerning nonforfeitable pension benefits accrued, and total accrued pension benefits.

Subsection(e) provides that upon termination of service, each participant or his surviving beneficiary is entitled to receive a statement of his rights and privileges under the plan. The Secretary is authorized to prescribe the manner in which the statement must be furnished, its form, and its content beyond the mandatory content requirements stated in the subsection. Such statement is prima facie evidence of the facts, rights and privileges set forth therein.

ENFORCEMENT—SECTION 9

Subsection (a) restates the current criminal penalty for willful violations of sections 5 through 13 of the Act.

Subsection (b) provides for liability, in the court's discretion, of up to $50 a day in the event of an administrator's failure or refusal to comply with the written request of a participant or beneficiary for a plan description, annual report, statement of accrued benefits (section 8(d)) or the bargaining agreement, trust agreement or contract under which the plan was established and is operated.

Subsection (c) gives the Secretary authority to invesitgate when he believes it necessary to determine whether any person has violated or is about to violate the Act. Subsection (d) incorporates the subpoena provisions of the Federal Trade Commission Act and makes them applicable in an investigation by the Secretary.

Subsection (e) deals with civil actions. Suits may be brought by participants and beneficiaries individually for (1) the relief provided for in subsection (b), (2) to recover benefits due or clarify his rights to future benefits and (3) as representatives of a class to redress a breach of fiduciary duty. The Secretary may sue to enjoin any act which violates the Act and to redress a fiduciary breach.

Subsection (f) allows participants and beneficiaries to bring any action authorized in subsection (e) in any court of competent jurisdiction, State or Federal. Authorization for broad service of process is provided for suits in Federal district courts by participants and beneficiaries to recover benefits due or clarify his rights to future benefits and by participants and beneficiaries or the Secretary to redress a fiduciary breach. The

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Secretary is allowed to bring any other action authorized in subsection (e) in the proper Federal district court.

Subsection (g) vests Federal district courts with jurisdiction in any action brought by the Secretary to grant any of the relief provided for in subsection (e) without respect to the amount in controversy or the citizenship of the parties. Actions brought by participants or beneficiaries must meet the jurisdictional amount requirement applicable to the Federal district courts.

Subsection (h) gives the court discretion to allow reasonable attorney's fees and costs to any party and also gives the court discretion to require the posting of security by the plaintiff for those fees and costs. A copy of the complaint must be sent to the Secretary.

Subsection (i) prohibits the Secretary from interfering with the management of or otherwise regulating any plan, except as authorized in the Act.

Subsection (j) authorizes the Secretary to make arrangements with other government agencies, State or Federal, for cooperation in performing his functions under the Act. Provision is made for the transmission of evidence from the Secretary to the Attorney General in cases of criminal violations of the Act.

REPORTS MADE PUBLIC INFORMATION—SECTION 10

Remains identical in substance and form to present Act.

RETENTION OF RECORDS—SECTION 11

Remains identical in substance and form to present Act.

RELIANCE ON ADMINISTRATIVE INTERPRETATIONS AND FORMS—SECTION 12

Remains identical in substance and form to present Act.

BONDING—SECTION 13

Remains identical in substance to present Act.

FIDUCIARY RESPONSIBILITY—SECTION 14

This section is entirely new. Subsection (a) states that all employee benefit funds shall be deemed trust funds which may be used only to provide benefits and defray reasonable administrative costs.

Subsection (b) sets forth a non-inclusive list of fiduciary responsibilities and proscriptions. The listed responsibilities relate to the fiduciary's duties. They must be discharged solely in the interest of the participants and beneficiaries, as a prudent man under like circumstances would do and in accordance with the documents governing the plan insofar as they are consistent with the Act. The listed proscriptions provide that a fiduciary may not lease or knowingly sell fund property to a party in interest, lease or knowingly purchase property on behalf of the fund from a party in interest, deal with the fund on his own account, represent another party dealing with the fund or act on behalf of a party adverse to the fund or the interests of the participants or beneficiaries, receive consideration from a party dealing with the fund in connection with a transaction involving the fund, loan fund assets to any party in interest, furnish goods, services or facilities to any party in interest, or permit transfer of property of the fund to a party in interest, or permit its use for his benefit. The Secretary is authorized to exempt from any or all of the listed proscriptions, individually or by class, such fiduciaries or transactions as he finds to be sufficiently regulated by State or Federal authorities to effectuate the purposes of section 14.

Subsection (c) lists transactions in which fiduciaries may not be barred from engaging: receiving benefits as a participant or beneficiary of the plan, receiving reasonable compensation or reimbursement for services performed with respect to his duties in connection with the fund, serving as a fiduciary in addition to being a party in interest, purchasing on behalf of the fund securities issued by the employer of employees who are plan participants up to a 10% limit, purchasing or selling securities on behalf of the fund to a party in interest under certain conditions, lending to participants or beneficiaries on a non-discriminatory basis, making arrangements for office space with a party in interest, or following directions in a trust instrument insofar as they are consistent with the prohibitions listed in section 14 (b)(2). Subsection (c) also provides that a fiduciary is not barred from taking action pursuant to an authorization in the trust instrument if such action is consistent with subsection 14(b).

Subsection (d) provides that a fiduciary shall be personally liable to make good to the fund for any loss due to his breach of any responsibility imposed by the Act and must pay over to the fund any profit he makes through use of fund assets.

Subsection (e) sets out the rules for fiduciaries acting jointly. Under subsection (f), each plan is required to make provision for disposition of fund assets upon termination of the plan. All liabilities and obligations must be satisfied with respect to participants and beneficiaries before any party who has contributed to a pension plan can partake.

Subsection (g) makes exculpatory provisions void as against public policy insofar as such provisions purport to relieve from obligations under the Act and subsection (h) contains a statute of limitations for suits to redress fiduciary breaches. Subsection (i) provides that a fiduciary shall only be liable for violations committed while he is a fiduciary.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING OFFICE—SECTION 15

This new section, which bars persons convicted of certain crimes from holding administrative or fiduciary positions in connection with employee benefit plans is modeled after a similar provision in the Labor-Management Reporting and Disclosure (Landrum-Griffin) Act of 1959.

Subsection (a) lists the crimes conviction of which shall constitute a bar. Included within the bar are conspiracies or attempts to commit the crimes, as well as crimes in which any of the listed crimes is an element. Persons so convicted are barred for a period of five years from the date of conviction or the end of a period of imprisonment for such a conviction from serving in any fiduciary position, including but not limited to an administrator, officer, trustee, custodian, counsel, agent or employee of an employee benefit plan or a consultant to such a plan. Persons performing exclusively janitorial or clerical duties are exempted, as are persons whose citizenship rights have been fully restored and persons whose service in connection with the plan has been determined by the Parole Board of the Department of Justice not to be contrary to the purposes of the Act.

Subsection (b) states the criminal penalty for violation of the section. Subsection (c) clarifies the meaning of "convicted" for purposes of determining the beginning of the five year period and subsection (d) defines the word "consultant."

ADVISORY COUNCIL—SECTION 16

This section is virtually identical to the corresponding section, section 14, in the present Act. Subsection (b) of the amendment provides that the Secretary's report to Congress of his activities under the Act shall be based on the past fiscal, rather than calendar, year. Subsection (d) changes the rate of compensation of Advisory Council members from $50 per diem, to the maximum per diem rate for consultants authorized by the Department of Labor Appropriations Act. Subsection (e) has been rendered obsolete by changes in Title 18, United States Code and has therefore been deleted.

ADMINISTRATION—SECTION 17

Subsection (a) now includes the citation of the United States Code for the Administrative Procedure Act and provides that the Secretary or his delegate in consultation with the Secretary of the Treasury or his delegate shall have the authority to prescribe rules and regulations necessary for the administration and enforcement. All rules and regulations issued under section 14 are to be prescribed by the Secretary in concurrence with the Secretary of the Treasury.

Subsections (c) and (d) are no longer applicable and have been deleted.

EFFECT OF OTHER LAWS—SECTION 18

Section 18 designates the Act as the exclusive form of regulation for employee benefit plans within the areas covered, but provides that State laws which otherwise regulate insurance, banking or securities shall remain operative. It provides further that States may require the filing with State agencies of reports required by the Act to be filed with the Secretary.

SEPARABILITY OF PROVISIONS—SECTION 19

Remains identical in substance and form to the corresponding section, section 17, of the present Act.

EFFECTIVE DATE—SECTION 20

Subsection (a) provides that the provision of paragraph (b)(3) of section 7 shall become effective two years after enactment. Subsection (b) provides that amendments to the reporting requirement of the WPPDA shall be effective upon promulgation of revised reporting forms by the Secretary. Subsection (c) makes all other provisions effective 30 days after enactment.

Subsection (d) permits a fiduciary to take up to a year after enactment to dispose of prohibited investments. A longer period may be allowed by the Secretary by rule or regulation.

AMENDMENTS TO TITLE 18, UNITED STATES CODE

The language of sections 664, 1027, and 1954 of Title 18, United States Code, which set forth penalties for criminal offenses involving embezzlement, false statements, and bribery and kickbacks in connection with employee benefit plans, has been changed where necessary to conform to the amendments made by the Act. No substantive changes have been made in these sections.

EXPLANATORY STATEMENT OF AMENDMENTS TO THE WELFARE AND PENSION PLANS DISCLOSURE ACT

The fundamental purpose of the proposed amendments to the Welfare and Pension Plans Disclosure Act is the broadening and strengthening of the protection of rights and interests of participants and beneficiaries of employee welfare and pension benefit plans. This aim is accomplished in three ways. First, by the addition of two new sections: one setting forth responsibilities and proscriptions applicable to persons occupying a fiduciary relationship to employee benefit plans, including a "prudent man" standard for evaluating the conduct of all fiduciaries; the other barring from responsible fiduciary positions in such plans for a period of five years all persons convicted of certain listed criminal offenses. Second, by additions to and changes in the reporting requirements designed to disclose more significant information about plans and the transactions engaged in by those controlling plan operations and to provide specific data to participants and beneficiaries concerning the rights and the benefits they are entitled to under their plans. Third, by pro-

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viding remedies through either State or Federal courts to insure that the protections provided by the Act can be effectively enforced.

I. FIDUCIARY RESPONSIBILITY

A fiduciary is one who occupies a position of confidence or trust. As defined by the amendments a fiduciary is a person who exercises any power of control, management or disposition with respect to monies or other property of an employee benefit fund, or who has authority or responsibility to do so. The fiduciary responsibility section, in essence, codifies and makes applicable to these fiduciaries certain principles developed in the evolution of the law of trusts. The section was deemed necessary for several reasons.

First, a number of plans are structured in such a way that it is unclear whether the traditional law of trusts is applicable. Predominantly, these are plans, such as insured plans, which do not use the trust form as their mode of funding. Administrators and others exercising control functions in such plans under the present Act are subject only to minimal restrictions and the applicability of present State law to employee benefit plans is sometimes unclear. Second, even where the funding mechanism of the plan is in the form of a trust, reliance on conventional trust law often is insufficient to adequately protect the interests of plan participants and beneficiaries. This is because trust law had developed in the context of testamentary and inter vivos trusts (usually designed to pass designated property to an individual or small group of persons) with an attendant emphasis on the carrying out of the instructions of the settlor. Thus, if the settlor includes in the trust document an exculpatory clause under which the trustee is relieved from liability for certain actions which would otherwise constitute a breach of duty, or if the settlor specifies that the trustee shall be allowed to make investments which might otherwise be considered imprudent, the trust law in many States will be interpreted to allow the deviation. In the absence of a fiduciary responsibility section in the present Act, courts applying trust law to employee benefit plans have allowed the same kinds of deviations, even though the typical employee benefit plan, covering hundreds or even thousands of participants, is quite different from the testamentary trust both in purpose and in nature.

Third, even assuming that the law of trusts is applicable, without provision (lacking in the present Act) allowing ready access to both detailed information about the plan and to the courts, and without standards by which a participant can measure the fiduciary's conduct (also lacking in the present Act), he is not equipped to safeguard either his own rights or the plan assets. Furthermore, a fiduciary standard embodied in Federal legislation is considered desirable because it will bring a measure of uniformity in an area where decisions under the same set of facts may differ from State to State. It is expected that courts will interpret the prudent man rule and other fiduciary standards bearing in mind the special nature and purposes of employee benefit plans intended to be effectuated by the Act.

Finally, it is evident that the operations of employee benefit plans are increasingly interstate. The uniformity of decision which the Act is designed to foster will help administrators, fiduciaries and participants to predict the legality of proposed actions without the necessity of reference to varying State laws.

Section 14(a), when read in connection with the definition of the term "employee benefit fund," makes it clear that the fiduciary responsibility provisions apply only to those plans which have assets at risk. Thus an unfunded plan, such as one in which the only assets from which benefits are paid are the general assets of the employer, is not covered. However, if the plan does have assets at risk, the form in which those assets are held is deemed to be a trust, whether or not a trust agreement exists, and the trust assets may be used only for the two stated purposes: providing benefits for participants and defraying reasonable administrative expenses.

The next two subsections (14(b) and (c)) incorporate the core principles of fiduciary conduct as adopted from existing trust law, but with modifications appropriate for employee benefit plans. These salient principles place a twofold duty on every fiduciary: to act in his relationship to the plan's fund as a prudent man in a similar situation and under like conditions would act, and to act solely in the interest of the participants and beneficiaries of the plan; that is, to refrain from involving himself in situations or transactions where his personal interests might conflict with the interests of the participants and beneficiaries for whom the fund was established. Thus, section 14(b)(1) sets out the prudent man standard and the attendant affirmative duties to discharge responsibilities in conformance with instructions (as set out in the governing plan documents) and solely in the interest of the plan's participants and beneficiaries.

There follows a list of proscriptions (section 14(b)(2)) which represent the most serious type of fiduciary misconduct which in one way or another has occurred in connection with some welfare or pension plans. Some of these situations have been found in the administration of the WPPDA. Others have been discovered by congressional investigations, newspaper reporters, audits, and miscellaneous sources. While the magnitude of these improper practices is small in relation to the total number of plans in existence, the seriousness of the improper practices disclosed indicates the need for additional precautions to insure that these specific examples do not become general conditions. The list of proscriptions is intended to provide this essential protection.

The exemption provision which follows the listed proscriptions has been included in recognition of established business practices, particularly of certain institutions, such as commercial banks, trust companies and insurance companies which often perform fiduciary functions in connection with employee benefit plans. The Secretary will provide, by individual or class exemptions, exceptions so that the established practices of these institutions and others are not unduly disrupted, so long as they are consistent with the purposes of the Act.

Next, there are listed transactions in which fiduciaries are expressly allowed to engage. This listing is necessary for reasons similar to those which required inclusion of the exemption provision. That is, the breadth of the proscriptions, while considered necessary for the reasons stated above, would operate in some cases to prohibit transactions which are deemed desirable to the sound, efficient functioning of employee benefit plans. It was therefore necessary to specify that certain transactions, likely to be engaged in by fiduciaries of virtually all plans, will be allowed notwithstanding the proscriptions.

It is emphasized, however, that even with respect to the transactions expressly allowed, the fiduciary's conduct must be consistent with the prudent man standard unless the trust instrument specifically directs investments.

Especially significant among the expressly allowed transactions is that which permits in most types of plans, investment of up to ten percent of the fund assets in securities issued by the employer of employees who are participants in the plan. Since such an employer will often be an administrator of his plan, or will function as a trustee or in some other fiduciary capacity, this provision creates a limited exception to the listed proscription against self-dealing. The exception is made in recognition of the symbiotic relationship existing between the employer and the plan covering his employees. Such investments are commonly made under provisions in a trust agreement expressly allowing them. The ten percent limitation is prospective only, and does not require divestiture by funds already holding more than that percentage. Furthermore, the limitation does not apply to profit-sharing plans, which, by their very nature, require greater investment in the employer's securities. Subsection 14(c) also recognizes the practice of including in trust intruments various authorizations governing the handling of the fund. Many such authorizations have been inserted by legal draftsmen because of questions in their judgment as to authority and are generally recognized as appropriate.

The next two subsections (14(d) and (e)) are intended to codify, with respect to employee benefit fund fiduciaries, rules developed under the law of trusts. Thus a fiduciary is made personally liable for his breach of any responsibility, duty or obligation owed to the fund, and must reimburse the fund for any loss resulting from such a breach. He must also pay over to the fund any personal profit realized through use of fund assets.

Where two or more fiduciaries manage a fund, each must use care to prevent a cofiduciary from committing a breach or to compel a co-fiduciary to redress a breach. Plan business is to be conducted by joint fiduciaries in accordance with the governing instruments of the plan, or in the absence of such provisions, majority of fiduciaries and a fiduciary who objects in writing to a specific action and files a copy of his objection with the Secretary is not liable for the consequences of such action.

The requirement (subsection 14(f)) that every plan contain specific provisions for the disposition of fund assets upon termination is necessary to avoid confusion on the part of fiduciaries and participants and beneficiaries alike as to the proper disposition of the fund assets upon termination of the plan. It is essential at such a time that the plan administrator (who is still, notwithstanding the termination, a fiduciary subject to the Act) know how assets remaining in the plan's fund must be distributed and it is important that the distribution plan be specified so that participants and beneficiaries can assess the propriety of the fiduciary's actions when the plan terminates. The requirement that liabilities to participants and beneficiaries be satisfied before claims on the fund by contributing parties will be heard is inserted to insure that the interests of participants and beneficiaries will be fully protected

Exculpatory and similar clauses which purport to relieve a fiduciary from any responsibility, obligation or duty when under the Act are expressly prohibited and made void as against public policy. Whatever the validity such provisions might have with respect to testamentary trusts, they are inappropriate in the case of employee benefit plans. The large numbers of people and enormous amounts of money involved in such plans coupled with the public interest in their financial soundness, as expressed in the Act, require that no such exculpatory provision be permitted.

It is noted that the basic three year statute of limitations (subsection 14(h)) for suits to enforce the fiduciary provisions or redress a fiduciary's breach may be extended up to an additional three years where the breach is not discovered earlier. In no event can a suit be maintained more than six years after the violation occurred. Where there has been a willfully false or fraudulent misstatement or concealment of a material fact, an

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action may be brought any time within ten years after the violation occurs.

Finally, by subsection (i) a fiduciary is specifically made not liable for violations committed before he became or after he ceased to be a fiduciary.

The second all new section, section 15, prohibits persons convicted of certain listed crimes from serving, for a period of five years after conviction or the end of imprisonment for such conviction, in a responsible position in connection with an employee benefit plan. The prohibition is considered necessary because of the large funds involved and the attendant great risk of a loss affecting a large number of persons. Section 15 is modeled after section 504 of the Labor-Management Reporting and Disclosure Act (LMRDA) which bars persons convicted of certain crimes from serving as union officers. The presence of the LMRDA prohibition is another reason for including a similar provision in the Protection Act. Without such a provision, persons barred from serving as union officers might take positions with employee benefit plans. The danger inherent in such a transfer is especially great where elements of organized crime are involved.

The crimes listed have been chosen with reference to three kinds of criminal activity. These are (1) activities which involve a wrongful taking of property, (2) activities which are related to, and often occur in connection with the efforts of organized crime elements in the labor-management and securities fields, and (3) activities of a nature so vicious that involvement in them casts grave doubt on the individual's responsibility. Thus, in addition to the specifically named crimes the list includes crimes described in section 9(a)(1) of the Investment Company Act of 1940 (involving misconduct in the securities field), violations of section 302 of the Labor-Management Relations (Taft-Hartley) Act, certain violations of the LMRDA, violations of chapter 63 of Title 18, United States Code (mail fraud) and violation of sections 874 (kickbacks from public works employees), 1027 (false statements in documents required by the Welfare and Pension Plans Disclosure Act), 1954 (offer, acceptance or solicitation to influence operations of employee benefit plan), 1503 (jury tampering), 1505 (obstruction of government agency proceedings), 1506 (theft or alteration of court record or process; false bail), 1510 (obstruction of criminal investigations) and 1951 (interference with commerce by threats or violence) of Title 18, United States Code. The section contains its own criminal penalty, with a higher fine than that provided for other criminal violations of the Act. It is the same penalty as that specified in section 504, LMRDA.

II. REPORTING AND DISCLOSURE

The underlying theory of the Welfare and Pension Plans Disclosure Act to date has been that reporting of generalized information concerning plan operations to plan participants and beneficiaries and to the public in general would, by subjecting the dealings of persons controlling employee benefit plans to the light of public scrutiny, insure that the plan would be operated according to instructions and in the best interests of the participants and beneficiaries. The Secretary's role in this scheme was minimal. Disclosure has been seen as a device to impart to participants and beneficiaries sufficient information to enable them to know whether the plan was financially sound and being administered as intended.

It was expected that the knowledge thus disseminated would enable participants to police their plans. But, experience has shown that the limited data available under the present Act is insufficient even though the burden of enforcement has been partly assumed by the Secretary. The Amendments therefore are designed to increase the data required in the reports, both in scope and in detail. Experience has also demonstrated a need for a more particularized form of reporting, so that the individual participant knows exactly where he stands with respect to his plan—what benefits he is entitled to and what steps he must follow to secure his benefits. Moreover, the addition of fiduciary responsibilities provisions has increased the need for both generalized and particularized data. On one hand, participants will be able to ascertain whether the plan's fiduciaries are observing the rules set out in the fiduciary responsibility section only if they have access to sufficient data about plan transactions. On the other hand, the prophylactic effect of the fiduciary responsibility section will operate efficiently only if fiduciaries are aware that the details of their dealings will be open to inspection, and that individual participants and beneficiaries will be armed with enough information to enforce their own rights as well as the obligations owed by the fiduciary to the plan in general.

There are three significant changes designed to impart more information about the plan and its operations in general. First, the annual report must include the opinion of an independent accountant based upon the results of an annual audit. Such information will allow better assessment of the plan's financial soundness by administrators and participants alike (the exemption for the books of institutions providing investment, insurance and related functions and subject to periodic examination by a government agency will prevent duplicative audit examinations of these institutions). Second, plans except those which are unfunded must include in their reports information pertaining to leases, party in interest transactions and investment assets other than securities in addition to information about securities, investments and loans. Finally, actuarial information is now required so that participants and beneficiaries can judge the progress of the plan's funding scheme and its overall financial soundness.

Amendments to provide particularized information to individual participants and beneficiaries are found in section 8. In addition to the obligation to make available copies of the plan description and latest annual report, the administrator will be required to furnish to a participant or beneficiary so requesting in writing a fair summary of the annual report or a statement of what benefits (including nonforfeitable benefits, if any) have accrued in his favor or both. This will enable a participant to find out where he stands with respect to the plan at any given time. The statement which must be supplied to a participant (or his survivor) having a right to a pension benefit upon his termination of service under the plan, is designed to insure that the participant or survivor will know exactly what procedures must be followed to secure his benefits.

Further, the administrator must furnish to participants and beneficiaries upon request copies of the plan description, annual report, or bargaining agreement, trust agreement, contract or instrument under which the plan is established and operated. He may make a reasonable charge to cover the cost of such copies.

III. ENFORCEMENT

The changes in the enforcement provisions have been made so that the rights given to participants and beneficiaries elsewhere in the Act will be enforceable in an appropriate forum. The enforcement section reflects the addition of the fiduciary responsibility provisions and provides remedies of two kinds; those designed to rectify fiduciary breaches and those to insure that participants and beneficiaries, and the Secretary, will receive the information required by the reporting and disclosure provisions. Suits to redress breaches of duty by a fiduciary may be brought by a participant or beneficiary only as a representative in a class action. Certification by an accountant as a prerequisite to the Secretary's investigation is no longer necessary because the annual audit requirement allows an assumption that the plan report is accurate.

Participants and beneficiaries may sue in any State court of competent jurisdiction.

For actions in Federal courts, nationwide service of process is provided in order to remove a possible procedural obstacle to having all proper parties before the court. Federal and State courts are given discretion to award attorney's fees and court costs to any party in actions brought by a participant or a beneficiary. The court also has discretion to require the plaintiff to post security for court costs and reasonable attorney's fees.

Fiduciary breaches may be rectified through civil suits only. Criminal penalties for such breaches are inconsistent with the principles established under the common law of trusts. However, criminal penalties remain available in cases of reporting violations, and, under Title 18, United States Code, in cases of embezzlement, false statements, bribery and kickbacks in connection with employee benefit plans.

IV. EFFECT OF OTHER LAWS

The Act provides for a uniform source of law for evaluating the fiduciary conduct of persons acting on behalf of employee benefit plans and a singular reporting and disclosure system in lieu of burdensome multiple reports. States may require the filing with a State agency of copies of reports required under the Act. State courts as well as Federal courts are available to provide remedies under the Act. Furthermore, the Act expressly authorizes cooperative arrangements with State agencies as well as other Federal agencies and provides that State laws regulating banking, insurance and securities remain unimpaired.

EMPLOYEE BENEFITS PROTECTION ACT

[Ramseyer print showing how the proposed bill would amend the Welfare and Pension Plans Disclosure Act]

An act [to provide for registration, reporting, and disclosure of employee welfare and pension benefit plans] *To amend the Welfare and Pension Plans Disclosure Act*

[Existing law proposed to be deleted is bracketed; proposed new matter is italicized.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. [That this Act may be cited as the "Welfare and Pension Plans Disclosure Act."] *That, in order to strengthen and improve the protection of the interests of participants in and beneficiaries of employee welfare and pension benefit plans, under the Welfare and Pension Plans Disclosure Act of August 28, 1958, as amended (72 Stat. 997), such Act is amended as follows:*

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Short title

Sec. 1. This Act may be cited as the "Employee Benefits Protection Act."

[FINDINGS-AND-POLICY]

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that the growth in size, scope and numbers of employee welfare-and-pension benefit plans in recent years has been rapid and substantial; *that the operational scope and economic impact of such plans is increasingly interstate;* that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; that they are affected with a national public interest; that they have become an important factor affecting the stability of employment and the successful development of industrial relations; that they have become an important factor in commerce because of the interstate character of their activities, and of the activities of their participants, and the employers, employee organization, and other entities by which they are established or maintained; that owing to the lack of employee information *and adequate safeguards* concerning their operation, it is desirable in the interests of employees and their beneficiaries, and to provide for the general welfare and the free flow of commerce, that disclosure be made *and safeguards be provided* with respect to the operation and administration of such plans.

(b) It is hereby declared to be the policy of this Act to protect interstate commerce and the interests of participants in employee welfare and pension benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto, *by establishing fiduciary standards of conduct, responsibility and obligation upon all persons who exercise any powers of control, management or disposition with respect to employee benefit funds or have authority or responsibility to do so, and by providing for appropriate remedies and ready access to the federal court.*

DEFINITIONS

SEC. 3. When used in this Act—

[(1)] (*a*) The term "employee welfare benefit plan" means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established *or maintained* by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment.

[(2)] (*b*) The term "employee pension benefit plan" means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter, established *or maintained* by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits, and includes any profit-sharing plan which provides benefits at or after retirement.

[(3)] (*c*) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose in whole or in part, of dealing with employers concerning an employee [welfare or pension] benefit plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

[(4)] (*d*) The term "employer" means any person acting directly as an employer or indirectly in the interest of an employer in relation to an employee [welfare or pension] benefit plan, and includes a group or association of employers acting for an employer in such capacity.

[(5)] (*e*) The term "employee" means any individual employed by an employer.

[(6)] (*f*) The term "participant" means any employee or former employee of an employer or any member of an employee organization who is or may become eligible to receive a benefit of any type from an employee [welfare or pension] benefit plan, or whose beneficiaries may be eligible to receive such benefits.

[(7)] (*g*) The term "beneficiary" means a person designated by a participant or by the terms of an employee [welfare or pension] benefit plan who is or may become entitled to a benefit thereunder.

[(8)] (*h*) The term "person" means an individual partnership, corporation, mutual company, joint-stock company, trust, unincorporated organization, association, or employee organization.

[(9)] (*i*) The term "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

[(10)] (*j*) The term "commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place outside thereof.

[(11)] (*k*) The term "industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

[(12)] (*l*) The term "Secretary" means the Secretary of Labor.

[(13)] (*m*) The term "party in interest" means any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan [or employee pension benefit plan], or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan *or any person controlling, controlled by, or under common control with, such employer* or officer or employee or agent of such employer *or such person, or an employee organization having members covered by such plan,* or an officer or employee or agent of such an employee organization having members covered by such plan, *or a relative, partner or joint venturer of any of the above described persons.*

(n) The term "relative" means a spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

(o) The term "administrator" means—

(1) the person specifically so designated by the terms of the plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

(2) in the absence of such designation, (A) the employer in the case of an employee benefit plan established or maintained by a single employer, (B) the employee organization in the case of a plan established or maintained by an employee organization, or (C) *the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintain the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.*

(p) The term "employee benefit plan" or "plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

(q) The term "employee benefit fund" or "fund" means a fund of money or other assets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (1) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (2) premiums, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

(r) The term "separate account" means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

(s) The term "adequate consideration," when used in section 14 means either (1) at the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (2) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer.

(t) The term "nonforfeitable pension benefit" means an immediate or deferred pension or other benefit which a participant or his beneficiary would upon proper application be entitled to receive under the provisions of the plan if at the time in question he had terminated his employment, irrespective of any conditions subsequent which could affect receipt of such benefit.

(u) The term "accrued benefit" means that benefit which, irrespective of whether such benefit is nonforfeitable, is equal to: (1) in the case of a profit sharing or money purchase type pension plan, the total amount credited to the account of a participant; (2) in the case of a unit benefit type pension plan, the benefit units credited to a participant; or (3) in the case of other types of pension plans that portion of the prospective benefit of a participant of the plan as the Secretary may by rule or regulation provide constitutes the participant's accrued benefit under the plan.

(v) The term "security" has the same meaning as in the Securities Act of 1933, 15 U.S.C. § 77(a) et seq.

(w) The term "fiduciary" means any person who exercises any power of control, management or disposition with respect to any moneys or other property of an employee benefit fund, or has authority or responsibility to do so.

(x) The term "market value" or "value" when used in this Act means fair market values where available, and otherwise the fair value as determined in good faith by the administrator.

SEC. 4. (a) Except as provided in subsection (b), this Act shall apply to any employee [welfare or pension] benefit plan if it is established or maintained by any employer or [employers] engaged in commerce or in any industry or activity affecting commerce or by any employee organization [or organizations] representing employees en-

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gaged in commerce or in any industry or activity affecting commerce or by both.

(b) This Act shall not apply to an employee [welfare or pension] benefit plan if—

(1) such plan is administered by the Federal Government or by the government of a State, by a political subdivision of a State, or by an agency or instrumentality of any of the foregoing;

(2) such plan was established and is maintained [solely] for the purpose of complying with applicable workmen's compensation laws or unemployment compensation disability insurance laws;

(3) such plan is administered by an organization which is exempt from taxation under the provisions of section 501(a) of the Internal Revenue Code of 1954 and is administered *(A)* as a corollary to membership in a fraternal benefit society, *order or association* described in section 501(c)(8) of such Code or *(B)* by organizations described in sections 501(c)(3) [and] *or* 501(c)(4) of such Code; *Provided* That the provisions of this paragraph shall not exempt any plan administered by a fraternal benefit society, *order, association* or organization which represents its members for purposes of collective bargaining; or

(4) such plan covers not more than twenty-five participants, *except that participants and beneficiaries of such a plan shall be entitled to maintain an action to recover benefits or to clarify their rights to future benefits as provided in section 9(e)(1)(B).*

DUTY OF DISCLOSURE AND REPORTING

SEC. 5. (a) The administrator of an employee [welfare] benefit plan [or an employee pension benefit plan] shall [publish] *cause to be published* in accordance with section 8 to each participant or beneficiary covered thereunder (1) a description of the plan and (2) an annual financial report. Such description and such report shall contain the information required by sections 6 and 7 of this Act in such form and detail as the Secretary shall [by regulations] prescribe and [copies thereof] shall be executed, published, and filed in accordance with the provisions of this Act and [the Secretary's] regulations [thereunder] *of the Secretary.* [No regulation shall be issued under the preceding sentence which relieves any administrator of the obligation to include in such description or report any information relative to his plan which is required by section 6 or 7. Notwithstanding the foregoing, if the Secretary finds, on the record after giving interested persons an opportunity to be heard, that specific information on plans of certain kinds or on any class or classes of benefits described in section 3(1) and 3(2) which are provided by such plans cannot, in the normal method of operation of such plan, be practically ascertained or made available for publication in the manner or for the period prescribed in any provision of this Act, or that the information if published in such manner or for such period would be duplicative or uninformative, the Secretary may by regulations prescribe such other manner or such other period for the publication of such information as he may determine to be necessary and appropriate to carry out the purposes of this Act.

[(b) The term "administrator" whenever used in this Act, refers to—

[(1) the person or persons designated by the terms of the plan or the collective bargaining agreement with responsibility for the ultimate control, disposition, or management of the money received or contributed: or

[(2) in the absence of such designation, the person or persons actually responsible for the control, disposition, or management of the money received or contributed, irrespective of whether such control, disposition, or management is exercised directly or through an agent or trustee designated by such person or persons.]

(b) The Secretary may require the fixing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs, so long as moneys or other assets remain in the plan. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be on such forms and filed in such manner as the Secretary may by regulation prescribe.

(c) The Secretary may by regulation provide for the exemption from all or part of the reporting and disclosure requirements of this Act of any class or type of employee benefit plans, if the Secretary finds that the application of such requirements to such plans is not required in order to effectuate the purposes of this Act.

DESCRIPTION OF THE PLAN

SEC. 6. (a) [Except as provided in section 4, the] A description of any employee [welfare or pension] benefit plan shall be published as required herein within ninety days [of the effective date of this Act or within ninety days] after the establishment of such plan *or when such plan becomes subject to the Act* [whichever is later].

(b) [The description of the plan shall be published, signed, and sworn to by the person or persons defined as the "administrator" in section 5, and shall include their names and addresses, their official positions with respect to the plan, and their relationship, if any, to the employer or to any employee organization, and any other offices, positions, or employment held by them.] *The description of the plan shall be comprehensive and shall include* the name [address and description of the plan], and the type of administration *of the plan; the name and address of the administrator;* the schedule of benefits; *a description of the provisions providing for nonforfeitable pension benefits (if the plan so provides) written in a manner calculated to be understood by the average participant, and if the plan does not provide such benefits, a statement to this effect;* [the names, titles and addresses of any trustee or trustees (if such persons are different from those persons defined as the "administrator"); whether the plan is mentioned in a collective bargaining agreement; copies of the plan or of the bargaining agreement, trust agreement, contract, or other instrument, if any, under which the plan was established and is operated;] the source of the financing of the plan and the identity of any organization through which benefits are provided; whether the records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported [to the Secretary within sixty days after the change has been effectuated] *in accordance with regulation prescribed by the Secretary.*

(NOTE.—Section 7, dealing with annual reporting requirements, has been rearranged to effect a more rational structure. Thus, sec. 7(a) now sets out the general requirements for all plans wth respect to the *manner* of reporting and secs. 7 (b), (c), (d), and (e) state requirements for the *content* of annual reports. Sec. 7(b) gives the requirements applicable to all plans except those which are unfunded, sec. 7(c) deals with unfunded plans, sec. 7(d) with additional requirements for insured plans, and sec. 7(e) with additional requirements for all pension plans, whether insured or trusteed. Due to this rearrangement and because of the addition of new material, it was not possible in every case to set amended provisions next to the WPPDA provisions from which they were derived. To aid in comparison, however, marginal cross-references have been included.)

ANNUAL REPORTS

SEC. 7. (a) *(1)* [The administrator of any employee welfare or pension benefit plan a description of which is required to be published under section 6 shall also publish an annual report with respect to such plan] *An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 14 of this Act or* if it covers one hundred or more participants. However, the Secretary after [investigation] *notice and opportunity to be heard,* may require the administrator of any plans otherwise covered by the Act to publish such report when necessary and appropriate to carry out the purposes of the Act. Such report shall be published as required under section 8, within one hundred and fifty days after the end of the calendar, *policy or fiscal year on which* [year (or if)] the records of the plan are kept [on a policy or other fiscal year basis within one hundred and fifty days after the end of such policy or fiscal year).]

(2) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such reasonable information determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

(3) The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted in accordance with accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing an insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by an agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report.

(b) A report under this section shall [be signed by the administrator and such report shall] include [the following]:

(1) [T]the amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, [specifying the total amount in each of the following types of assets: cash, Government bonds, non-Government bonds and debentures, common stocks, preferred stocks, common trust funds, real estate loans and mortgages, operated real estate, other real estate, and other assets: a statement of,] liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; [The Secretary, when he has determined that an investigation is necessary in accordance with section 9(d) of this Act, may require the filing of supporting schedules of assets and liabilities. The information required by this section shall be sworn to by the administrator, or certified to by an independent certified or licensed public ac-

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countant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing an insurance, investment, or related function for the plan, if such books or records are subject to examination by an agency of the Federal Government or the government of any State. In the case of reports sworn to, but not certified, the Secretary, when he determines that it may be necessary to investigate the plan in accordance with section 9(d) of this Act, shall, prior to investigation by the Department of Labor, require certification of the report by an independent certified or licensed public accountant,] *the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position or employment he holds with any party in interest;*

(2) A schedule of all investments of the fund showing as of the end of the fiscal year:

(A) The aggregate cost and aggregate value of each security, by issuer;

(B) The aggregate cost and aggregate value, by type or category, of all other investments,

and separately identify (i) each investment the value of which exceeds $100,000 or three percent (3%) of the value of the fund and (ii) each investment in securities or properties of any person known to be a party in interest.

(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions and exchanges of securities made during the reporting period; a list of the issuers of such securities; and in addition a schedule showing, as to each separate transaction with or with respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and, in the case of a sale, redemption or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss.

(4) A schedule of purchases, sales or exchanges during the year covered by the report of investment assets other than securities:

(A) *by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain* (*or loss*) *on sales, and*

(B) *for each transaction involving a person known to be party in interest and for each transaction involving over $100,000 or three percent (3%) of the fund, and indication of each asset purchased, sold or exchanged (and, in the case of fixed assets such as land, buildings, and leasehold, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization.*

(5) A schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition a separate schedule showing as to each loan which

(A) was made to a party in interest, or

(B) was in defeault or

(C) was written off during the year as uncollectible, or

(D) exceeded $100,000 or three percent (3%) of the value of the fund

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral and other material terms), the amount of principal and interest overdue (if any) and as to loans written off as uncollectible an explanation thereof.

(6) A list of all leases with

(A) persons other than parties in interest who are in default, and

(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leasehold, etc., the location of the property), the identity of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, and with respect to any such leases in default, their identity, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the defaut;

(7) a detailed list of purchases, sales, exchanges or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of the other party to the transaction and his relationship to the plan;

(8) If some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under section 7(b) (2), (3), (4), (5), (6), and (7) with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act.

(9) In addition to reporting the information called for by this subsection 7(b), the administrator may elect to furnish other information as to investment and reinvestment of the fund as additional disclosures to the Secretary.

.(c) [If the plan is unfunded, the report shall include only the total benefits paid and the average number of employees eligible for participation, during the past five years, broken down by years, and a statement, if applicable, that the only assets from which claims against the plan may be paid are the general assets of the employer] *If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation.*

(d) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization such report shall include with respect to such plan (in addition to the information required by subsection (b)) the following:

(1) [T]*t* the premium rate or subscription charge and the total premium or subscription charges paid to each such carrier or organization and the approximate number of persons covered by each class of such benefits;

(2) [T]*the* total amount of premium received, the approximate number of persons covered by each class of benefits, and the total claims paid by such carrier or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs, paid by such carrier or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose: Provided, That if any such carrier or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include in lieu of the information required by the foregoing provisions of this paragraph (A) a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the plan, and a copy of the financial report of the carrier or other organization and (B), if such carrier or organization incurs specific costs in connection with the acquisition or retention of any particular plan or plans, a detailed statement of such costs.

(e) [Detail relative to the manner in which any funds held by an employee welfare benefit plan are held or invested shall be reported as provided under paragraphs (B), (G), and (D) of subsection (f) (1)] *Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:*

(1) the type and basis of funding,

(2) the number of participants, both retired and nonretired, covered by the plan,

(3) the amount of all reserves or net assets accumulated under the plan,

(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities,

(5) the ratios of the market value of the reserves and assets described in (3) above to the liabilities described in (4) above,

(6) a copy of the most recent actuarial report, and

(A) (i) the actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this section 7(e), insofar as any such actuarial assumptions are not included in the most recent actuarial report,

(B) (i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments than are used for any other purpose, a statement explaining same.

(7) a statement showing the number of participants who terminated service under the plan during the year, whether or not they retain any nonforfeitable rights, their length of service by category, the present value of the total accrued benefits of said

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participants and the present value of such benefits forfeited, and,

(8) such other information pertinent to disclosure under this section 7(e) as the Secretary may by regulation prescribe.

[(f) Reports on employee pension benefits plans shall include in addition to the applicable information required by the foregoing provisions of this section, the following:

[(1) If the plan is funded through the medium of a trust, the report shall include—

[(A) the type and basis of funding, actuarial assumptions used, the amount of current and past service liabilities, and the number of employees, both retired and nonretired covered by the plan;

[(B) a statement showing the assets of the fund as required by section 7(b). Such assets shall be valued on the basis regularly used in valuing investments held in the fund and reported to the United States Treasury Department; or shall be valued at their aggregate cost of present value, whichever is lower, if such a statement is not so required to be filed with the United States Treasury Department;

[(C) a detailed list, including information as to cost, present value, and percentage of total funds, of all investments in securities or properties of the employer or employee organization, or any other party in interest, but the identity of all securities and the detail of brokerage fees and commissions incidental to the purchase or sale of such securities need not be revealed if such securities are listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or securities in an investment company registered under the Investment Company Act of 1940, or securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, and the statement of assets contains a statement of the total investments in common stock, preferred stocks, bonds and debentures, respectively, valued as provided in subparagraph (B).

[(D) a detailed list of all loans made to the employer, employee organization, or other party in interest, including the terms and conditions of the loan and the name and address of the borrower: *Provided,* That if the plan is funded through the medium of a trust invested in whole or in part, in one or more insurance or annuity contracts with an insurance carrier, the report shall include, as to the portion of the funds so invested, only the information required by paragraph (2) below.

[(2) If the plan is funded through the medium of a contract with an insurance carrier, the report shall include—

[(A) the type and basis of funding, actuarial assumptions used in determining the payments under the contract, and the number of employees, both retired and nonretired, covered by the contract; and

[(B) except for benefits completely guaranteed by the carrier, the amount of current and past service liabilities, based on these assumptions, and the amount of all reserves accumulated under the plan.

[(3) If the plan is unfunded, the report shall include the total benefits paid to retired employees for the past five years, broken down by year.

[(g) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such reasonable information determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

[(h) The Secretary shall prescribe by general rule simplified reports for plans which he finds that by virtue of their size or otherwise a detailed report would be unduly burdensome, but the Secretary may revoke such provisions for simplified forms for any plan if the purposes of the Act would be served thereby.]

PUBLICATION

SEC. 8. [(a) Publication of the description of the plan and the latest annual report required under this Act shall be made to the participants and the beneficiaries covered by the particular plan as follows:

[(1) The administrator shall make copies of such description of the plan (including all amendments or modifications thereto upon their effective date) and of the latest annual report available for examination by any participant or beneficiary in the principal office of the plan.

[(2) The administrator shall deliver upon written request to such participant or beneficiary a copy of the description of the plan (including all amendments or modifications thereto upon their effective date) and an adequate summary of the latest annual report, by mailing such documents to the last known address of the participant or beneficiary making such request.

[(b) The administrator of any plan subject to the provisions of this Act shall file with the Secretary two copies of the description of the plan and each annual report thereon. The Secretary shall make available for examination in the public document room of the Department of Labor copies of descriptions of plans and annual reports filed under this subsection.]

[(c) *(a)* the Secretary shall prepare forms for the *plan* descriptions [of plans] and [the] annual reports required by the provisions of this Act, and shall make such forms available to the administrators of such plans on request.

(b) The administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The Secretary shall make copies of such descriptions and annual reports available for inspection in the public document room of the Department of Labor.

(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement, contract, or other instrument under which the plan was established and is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

(2) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

(3) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a complete copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established and operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

(d) The administrator of an employee pension benefit plan shall furnish to any plan participant or beneficiary so requesting in writing a statement indicating (1) whether or not such person has a nonforfeitable right to pension benefits, (2) the nonforfeitable pension benefits, if any, which have accrued or the earliest date on which benefits will become nonforfeitable and (3) the total pension benefits accrued.

(e) Upon the termination of service under the plan of a participant having a right to a benefit payable at a later date, the plan administrator shall furnish to the participant or his surviving beneficiary a statement setting forth his rights and privileges under the plan. The statement shall be in such form, be furnished and filed in such manner, and shall contain such information, including but not limited to the nature and amount of benefits to which he is entitled, the name and address of the entity responsible for payment, the date when payment shall begin and the procedure for filing his claim, as the Secretary may by regulation prescribe. The statement furnished to the participant or his surviving beneficiary, or a true copy, shall be prima facie evidence of the facts, rights and privileges set forth therein.

ENFORCEMENT

SEC. 9. (a) Any person who willfully violates any provision of *sections 5 through 13* of this Act shall be fined not more than $1,000, or imprisoned not more than six months, or both.

[(b) Any administrator of a plan who fails or refuses, upon the written request of a participant or beneficiary covered by such plan, to make publication to him within thirty days of such request, in accordance with the provisions of section 8, of a description of the plan or an annual report containing the information required by sections 6 and 7, may in the court's discretion become liable to any such participant or beneficiary making such request in the amount of $50 a day from the date of such failure or refusal.

[(c) Action to recover such liability may be maintained in any court of competent jurisdiction by any participant or beneficiary. The court in such action may in its discretion, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

[(d) The Secretary may, after first requiring certification in accordance with section 7(b), upon complaint of violation not satisfied by such certification, or on his own motion, when he continues to have reasonable cause to believe investigation may disclose violations of this Act, make such investigations as he deems necessary, and may require or permit any person to file with him a statement in writing, under oath or otherwise, as to all the facts and circumstances concerning the matter to be investigated.

[(e) For the purposes of any investigation provided for this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1941, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

[(f) Whenever it shall appear to the Secretary that any person is engaged in any violation of the provisions of this Act, he may in his discretion bring an action in the proper district court of the United States or United States court of any place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted.

[(g) The United States district courts and the United States courts of any place subject to the jurisdiction of the United States shall have jurisdiction, for cause shown, to restrain violations of this Act.

[(h) Nothing contained in this Act shall be so construed or applied as to authorize the Secretary to regulate, or interfere in the management of, any employee welfare or pension benefit plan, except that the Secretary may inquire into the existence and amount of investments, actuarial assumptions, or accounting practices only when it

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has been determined that investigation is required in accordance with section 9(d) of this Act.

[(i) The Secretary shall immediately forward to the Attorney General or his representative any information coming to his attention in the course of the administration of this Act which may warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.]

(b) Any plan administrator who fails or refuses to comply with a request as provided in section 8 within thirty days (unless such failure or refusal results from matters reasonably beyond the control of the administrator) by mailing the material requested to the last known address of the requesting participant or beneficiary may in the court's discretion be personally liable to such participant or beneficiary in the amount of up to $50 a day from the date of such failure or refusals, and the court may in its discretion order such other relief as it deems proper.

(c) The Secretary shall have power, when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act, to make an investigation and in connection therewith he may require the filing of supporting schedules of the financial information required to be furnished under section 7 of this Act and may enter such places, inspect such records and accounts, and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation. The Secretary may report to interested persons or officials concerning the reasons for failure or refusal to file such a report or any other matter which he deems to be appropriate as a result of such an investigation.

(d) For the purposes of any investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

(e) Civil actions under this Act may be brought:

(1) by a participant or beneficiary—

(A) for the relief provided for in section 9(b), or

(B) to recover benefits due him under the terms of his plan or to clarify his rights to future benefits under the terms of the plan;

(2) by the Secretary, or by a participant or beneficiary (as a representative party on behalf of all participants or beneficiaries similarly situated where the requirements for maintaining a class action are met) for appropriate relief, legal or equitable, to redress a breach of any responsibility, obligation or duty of a fiduciary, including the removal of a fiduciary who has failed to carry out his duties or who is serving in violation of section 15 of this Act; or

(3) by the Secretary, to enjoin any act or practice which appears to him to violate any provision of this Act.

(f) (1) Civil actions under this Act brought by a participant or beneficiary may be brought in any court of competent jurisdiction, state or federal.

(2) Where such an action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

(3) Notwithstanding any other law, the Secretary shall have the right to remove an action from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for herein. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated such an action.

(g) The district courts of the United States shall have jurisdiction, without respect to the amount in controversy to grant the relief provided for in section 9(e) (2) and (3) in any action brought by the Secretary. In any action brought under section 9(e) by a participant or beneficiary, the jurisdiction of the district court shall be subject to the requirements contained in 28 U.S.C. 1331.

(h) (1) In any action by a participant or beneficiary, the court in its discretion may—

(A) allow a reasonable attorney's fee and costs of the action to any party;

(B) require the plaintiff to post security for payment of costs of the action and reasonable attorney's fees. (2) A copy of the complaint in any action by a participant or beneficiary shall be served upon the Secretary by certified mail who shall have the right, in his discretion, to intervene in the action.

(i) In any civil action authorized to be brought by the Secretary by this Act, or to enjoin any act or practice, or to collect any penalty assessed by the Secretary, the Attorney General shall represent the Secretary, unless the Attorney General delegates all or part of this authorization to the Secretary.

(j) except as provided in this Act, nothing contained herein shall be be construed or applied to authorize the Secretary to regulate, or interfere in the management of, any employee welfare or pension benefit plan.

(k) In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary shall make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this Act. The Secretary shall immediately forward to the Attorney General or his representative any information coming to his attention in the course of the administration of this Act which may warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.

REPORTS MADE PUBLIC INFORMATION

SEC. 10. The contents of the descriptions and regular annual reports filed with the Secretary pursuant to this Act shall be public information, and the Secretary, where to do so would protect the interests of participants or beneficiaries of a plan, may publish any such information and data. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

RETENTION OF RECORDS

SEC. 11. Every person required to file any description or report or to certify any information therefor under this Act shall maintain records on the matters of which disclosure is required which will provide in sufficient detail the necessary basic information and date from which the documents thus required may be verified, explained, or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

RELIANCE ON ADMINISTRATIVE INTERPRETATIONS AND FORMS

SEC. 12. In any action or proceeding based on any act or omission in alleged violation of this Act, no person shall be subject to any liability or punishment for or on account of the failure of such person to (1) comply with any provision of this Act if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Secretary, or (2) publish and file any information required by any provision of this Act if he pleads and proves that he published and filed such information in good faith, on the description and annual report forms prepared by the Secretary and in conformity with the instructions of the Secretary issued under this Act regarding the filing of such forms. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publications or filings is determined by judicial authority not to be in conformity with the requirements of this Act.

BONDING

SEC. 13. (a) Every administrator, officer, and employee of any employee benefit plan subject to this Act who handles funds or other property of such plan shall be bonded as herein provided; except that, where such plan is one under which the only assets from which benefits are paid are the general assets of a union or of an employer, the administrator, officers and employees of such plan shall be exempt from the bonding requirements of this section. The amount of such bond shall be fixed at the beginning of each calendar, policy, or other fiscal year, as the case may be, which constitutes the reporting year of such plan. Such amount shall be not less than 10 per centum of the amount of funds handled, determined as herein provided, except that any such bond shall be in at least the amount of $1,000 and no such bond shall be required in an amount in excess of $500,000; *Provided*, That the Secretary, after due notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of $500,000, which in no event shall exceed 10 per centum of the funds handled. For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by their predecessor or predecessors, if any, during the preceding reporting year, or if the plan has no preceding reporting year, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations of the Secretary. Such bond shall provide protection to the plan against loss by reason of acts of fraud or dishonesty on the part of such administrator, officer, or employee, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to the Act of July 30, 1947 (6 U.S.C. 6–13). Any bond shall be in a form or of a type approved by the Secretary, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any administrator, officer, or employee to whom subsec-

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tion (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any employee benefit plan, without being bonded as required by subsection (a) and it shall be unlawful for any administrator, officer, or employee of such plan, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any such person, with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company through any agent or broker in whose business operations such plan or any party in interest in such plan as any significant control or financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (a) because he handles funds or other property of an employee [welfare-benefit plan or of of an employee pension] benefit plan, to be bonded insofar as the handling by such person of the funds or other property of such plan is concerned.

(e) The Secretary shall from time to time issue such regulations as may be necessary to carry out the provisions of this section. When, in the opinion of the Secretary, the administrator of a plan offers adequate evidence of the financial responsibility of the plan, or that other bonding requirements would provide adequate protection of the beneficiaries and participants, he may exempt such plan from the requirements of this section.

FIDUCIARY RESPONSIBILITY

Sec. 14. (a) *Every employee benefit fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.*

(b) (*1*) *A fiduciary shall discharge his duties with respect to the fund—*

(*A*) *solely in the interests of the participants and their beneficiaries;*

(*B*) *with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and*

(*C*) *in accordance with the documents and instruments governing the fund insofar as is consistent with this Act,*

(*2*) *Except as permitted hereunder, a fiduciary shall not—*

(*A*) *lease or sell property of the fund to any person known to be party in interest;*

(*B*) *lease or purchase on behalf of the fund any property known to be property of any party in interest;*

(*C*) *deal with such fund in his own interest or for his own account;*

(*D*) *represent any other party dealing with such fund, or in any way act on behalf of a party adverse to the fund or to the interests of its participants or beneficiaries;*

(*E*) *receive any consideration from any party dealing with such fund in connection with a transaction involving the fund;*

(*F*) *loan money or other assets of the fund to any person known to be a party in interest;*

(*G*) *furnish goods, service or facilities to any person known to be a party in interest, or*

(*H*) *permit the transfer of any property of the fund to, or its use by, or for the benefit of any person known to be a party in interest.*

The Secretary may by rule or regulation provide for the exemption of any fiduciary or transaction from all or part of the proscriptions contained in this subsection 14(b)(2), *when the Secretary finds that to do so is consistent with the purposes of this Act and in the interest of the fund and its participants and beneficiaries; Provided, however, that any such exemption shall not relieve a fiduciary from any other applicable provisions of this Act.*

(c) *Nothing in this section shall be construed to prohibit any fiduciary from:*

(*1*) *receiving any benefit to which he may be entitled as a participant or beneficiary in the plan under which the fund was established;*

(*2*) *receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund: provided that no person so serving who already receives full-time pay from an employer or an association of employers, whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;*

(*3*) *serving in such position in addition to being an officer, employee, agent or other representative of a party in interest;*

(*4*) *engaging in the following transactions:*

(*A*) *purchasing on behalf of the fund any security which has been issued by an employer whose employees are participants in the plan under which the fund was established, or a corporation controlling, controlled by, or under common control with such employer; Provided that the purchase of any security is for no more than adequate consideration in money or money's worth; provided, further, that if an employee benefit fund is one which provides primarily for benefits of a stated amount, or an amount determined by an employee's compensation, an employee's period of service, or a combination of both, or money purchase type benefits based on fixed contributions which are not geared to the employer's profits, no investment shall be made subsequent to the enactment of this amendment by a fiduciary of such a fund in securities of such an employer or of a corporation controlling, controlled by, or under common control with such employer, if such investment, when added to such securities already held, exceeds 10 per cent of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 10 per cent limitation shall not apply to profit sharing plans, nor to stock bonus, thrift and savings or other similar plans which have the requirement that some or all of the plan funds shall be invested in securities of such employer;*

(*B*) *purchasing on behalf of the fund any security other than one described in* (*A*) *immediately above, or selling on behalf of the fund any security which is acquired or held by the fund, to a party in interest, Provided* (*i*) *that the security is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission,* (*ii*) *that no brokerage commission, fee (except for customary transfer fees), or other remuneration is paid in connection with such transactions and* (*iii*) *that adequate consideration is paid;*

(*5*) *making any loan to participants or beneficiaries of the plan under which the fund was established where such loans are available to all participants or beneficiaries on a non-discriminatory basis and are made in accordance with specific provisions regarding such loans set forth in the plan;*

(*6*) *contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor.*

(*7*) *following the direction in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in subsection 14*(b)(2);

(*8*) *taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection 14*(b).

(d) *Any fiduciary who breaches any of the responsibilities, obligations or duties imposed upon fiduciaries by this Act shall be personally liable to make good to such fund any losses to the fund resulting from such breach, and to restore to such fund any profits of such fiduciary which have been made through use of assets of the fund by the fiduciary.*

(e) *When two or more fiduciaries undertake jointly the performance of a duty or the exercise of a power or where two or more fiduciaries are required by any instrument governing the fund to undertake jointly the performance of a duty or the exercise of a power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such co-fiduciary from committing a breach of a responsibility, obligation or duty of a fiduciary or to compel such other co-fiduciary to redress such a breach; Provided that no fiduciary shall be liable for any consequence of any act or failure to act of a co-fiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object in writing to the specific action and promptly file a copy of his objection with the Secretary.*

(*f*) *Each employee benefit plan shall contain specific provisions for the disposition of its fund assets upon termination. In the event of termination, whether under the express terms of the plan or otherwise, such fund, or any part thereof, shall not be expended, transferred or otherwise disposed of, except for the exclusive benefit of the plan participants and their beneficiaries. Notwithstanding the foregoing, after the satisfaction of all liabilities with respect to the participants and their beneficiaries under an employee pension benefit plan in accordance with the Internal Revenue Code and regulations promulgated thereunder, any remaining fund assets may be returned to any person who has a legal or equitable interest in such assets by reason of such person or his predecessor having made financial contribution thereto.*

(*g*) *No fiduciary may be relieved from any responsibility, obligation or duty under this Act by agreement or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries, but no such agreement shall restrict the obligations of any fiduciary to a plan or to any participant or beneficiary.*

(*h*) *No action, suit, or proceeding based on a violation of this section shall be maintained unless it be commenced within three years after the filing with the Secretary of a report, statement or schedule with respect to any matter disclosed by such report, statement or schedule, or, with respect to any matter not so disclosed, within three years after the complainant otherwise has notice of the facts constituting such violation, whichever is later, provided, however, that no such action, suit or proceeding shall be commenced more than six years after the violation occurred. In the case of a willfully false or fraudulent statement or representation of a material fact or the willful concealment of, or willful failure to disclose, a material fact required by this Act to be disclosed, a proceeding in court may be brought at any time within ten years after such violation occurs.*

(*i*) *A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.*

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PROHIBITION AGAINST CERTAIN PERSONS HOLDING OFFICE

Sec. 15. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of: robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, kidnapping, perjury, assault with intent to kill, assault which inflicts grievous bodily injury, any crime described in section 9(a)(1), of the Investment Company Act of 1940, 15 U.S.C. 80a—9(a)(1), or a violation of any provision of this Act, or a violation of section 302 of the Labor Management Relations Act of 1947, 61 Stat. 157, as amended, 29 U.S.C. 186, or a violation of Chapter 63 of Title 18, United States Code, or a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of Title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959, 73 Stat. 519, as amended, 29 U.S.C. 401, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—

(1) as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusively clerical or janitorial duties) or other fiduciary position of any employee welfare or pension benefit plan or

(2) as a consultant to any employee benefit plan, during or for five years after such conviction or after the end of such imprisonment, unless prior to the end of such five year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such person's service in any capacity referred or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, County, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in clause (1) or (2) in violation of this subsection.

(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section, any person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this section.

(d) For the purposes of this section, the term "consultant" means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

ADVISORY COUNCIL

SEC. [14.] *16.* (a) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the "Council") which shall consist of thirteen members to be appointed in the following manner: One from the insurance field, one from the corporate trust field, two from management, four from labor, and two from other interested groups, all appointed by the Secretary from among persons recommended by organizations in the respective groups; and three representatives of the general public appointed by the Secretary.

(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this Act, and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least twice each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act for [such] *the* preceding [calendar] *fiscal* year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the Act's operation and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties.

(d) Appointed members of the Council shall be paid compensation at the [rate of $50 per diem] *maximum per diem rate authorized in the current Department of Labor Appropriation Act for consultants and experts* when *such members are* engaged in the work of the Council, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. [73b–2] *5703*) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

[(e)(1) Any member of the Council is hereby exempted, with respect to such appointment, from the operation of sections 281, 283, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99), except as otherwise specified in paragraph (2) of this subsection.

[(2) The exemption granted by paragraph (1) of this subsection shall not extend—

[(A) to the receipt or payment of salary in connection with the appointee's Government service from any source other than the private employer of the appointee at the time of his appointment, or

[(B) during the period of such appointment, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.]

ADMINISTRATION

SEC. [15.] *17.* (a) The provisions of the Administrative Procedure Act, *5 U.S.C. sec. 551 et seq.,* shall be applicable to this Act. *The Secretary, or his delegate, in consultation with the Secretary of the Treasury or his delegate, shall prescribe all necessary rules and regulations for the administration and enforcement of this Act, except that all rules and regulations issued with respect to Section 14 shall be prescribed by the Secretary of Labor or his delegate with the concurrence of the Secretary of Treasury or his delegate.*

(b) No employee of the Department of Labor shall administer or enforce this Act with respect to any employee organization of which he is a member or employer organization in which he has an interest.

[(c) No more than 260 employees shall be employed by the Department of Labor to administer or enforce this Act for the first two years after the enactment of the Welfare and Pension Plans Disclosure Act Amendments of 1962.

[(d) No more than two million two hundred thousand dollars per year is authorized to be appropriated for the administration and enforcement of this Act for the first two years after the enactment of the Welfare and Pension Plans Disclosure Act Amendments of 1962.]

EFFECT OF OTHER LAWS

SEC. [16.] *81.* (a) In the case of an employee welfare or pension benefit plan providing benefits to employees employed in two or more States, no person shall be required by reason of any law of any such State to file with any State agency (other than an agency of the State on which such plan has its principal office) any information included within a description of the plan or an annual report published and filed pursuant to the provisions of this Act if copies of such description of the plan and of such annual report are filed with the State agency, and if copies of such portion of the description of the plan and annual report, as may be required by the State agency, are distributed to participants and beneficiaries in accordance with the requirements of such State law with respect to scope of distribution. Nothing contained in this subsection shall be construed to prevent any State from obtaining such additional information relating to any such plans as it may desire, or from otherwise regulating such plan.

[(b) The provisions of this Act, except subsection (a) of this section and section 13, and any action taken hereunder, shall not be held to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the United States or of any State effecting the operation or administration of employee welfare or pension benefit plans, or in any manner to authorize the operation or administration of any such plan contrary to any such law.] *It is hereby declared to be the express intent of Congress that except for actions authorized by section 9(e)(1)(B) of this Act, the provisions of this Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter related to the fiduciary, reporting and disclosure responsibilities of persons acting on behalf of employee benefit plans provided that nothing herein shall be construed to exempt or relieve any person from any law of any State which regulates insurance, banking or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary. Nothing herein shall be construed to alter, amend, modify, invalidate, impair or supersede any law of the United States (other than the Welfare and Pension Plans Disclosure Act of 1958 as amended (92 Stat. 994) or any rule or regulation issued under any such law.*

SEPARABILITY OF PROVISIONS

SEC. [17.] *19.* If any provision of this Act or the application of such provision to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

EFFECTIVE DATE

SEC. [18.] *20.* [The provisions of this Act shall become effective January 1, 1959.] *Sec. 20(a) The provisions of paragraph (b)(3), (4) and (5) of section 7 relating to the aggregation of items reported shall become effective two years after enactment hereof.*

(b) The amendments made by this Act to the reporting requirements of the Welfare and Pension Plan Disclosure Act shall become effective upon the promulgation of revised report forms by the Secretary.

(c) All other provisions of this Act shall become effective thirty days after enactment hereof.

(d) In order to provide for an orderly disposition of any investment, the retention of which would be deemed to be prohibited by this Act, and in order to protect the interest of the fund and its participants and its beneficiaries, the fiduciary may in his discretion effect the disposition of such investment within three years after the date of enactment of this Act or within such additional time as the Secretary may by rule or regulation allow, and such action shall be deemed to be in compliance with this Act.

EDUCATION EXPERT ASSAILS NIXON POLICY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. WILLIAM D. FORD. Mr. Speaker, I was pleased to see Douglass Cater speak out against the Nixon administration's education strategy. Mr. Cater is one who worked most closely with the Education and Labor Committee in developing the historic Elementary and Secondary Act and who worked with great dedication to assure the act's passage by the 89th Congress in 1965. This is the act of which President Johnson said:

> I believe deeply no law I have signed or ever will sign will mean more to the future of America.

Mr. Cater is well qualified by both experience and ability on matters of education and his views should merit close attention. I insert at this point in the RECORD his article on the new stalemate on education which appeared in the Washington Post on March 15, 1970:

BACK TO A STALEMATE IN EDUCATION

(By Douglass Cater)

(NOTE.—Mr. Cater was a special assistant to President Johnson and worked on the Johnson education programs.)

A few days ago, the Lockheed Corporation was reported to be in serious financial trouble. Promptly, Deputy Defense Secretary Packard hastened to Congress to explore ways to bail out this great manufacturer of aircraft and missiles. Regularly, we learn of cost overrides in the defense industry totally billions of dollars. Tanks, planes and missiles not only cost much more than estimated but perform below expectations. Our defense policy is to grimace and bear it, recognizing that weapons production is a complicated business.

To educate a child is more complicated than to construct a plane or missile, especially if that child suffers from the ugly blight euphemistically called "disadvantage."

Yet, President Nixon means to apply the policy of a prudent investor in education. "As we get more education for the dollar, we will ask Congress to supply more dollars for education," he has declared in his Message on Education Reform earlier this month. Knowing why education works and what makes it fail, he argues, must "precede" any rational attempt to provide every student with the best possible education.

Lockheed would go bankrupt if such a policy were applied to defense. It may have less dramatic but no less destructive impact on the national education. For the Nixon budget makes explicit what his message only hints at: The federal commitment to education is being reduced. Support for higher education has received an even more severe cutback than the elementary and secondary programs. I find it hard not to conclude that Nixon policy is designed to achieve the stalemate that was the longtime condition of federal aid to education.

It may be useful to review the federal role and how we got where we are today. Since 1946, at least a dozen presidential commissions have called urgently for federal aid to education. These included the one appointed by President Eisenhower in 1954 and headed by Neil McElroy, who is now being summoned to study the subject still another time. As a result, beginnings were made in higher education. Yet, there were roadblocks to federal assistance at the lower level—segregation, church-state separation distribution formulas—which produced 20 years of stalemate.

Finally, Congress cleared away or bypassed the roadblocks. A successful formula was worked out assigning first priority to the needs of the disadvantaged student. This formula became Title I of the Elementary and Secondary Education Act of 1965—a major breakthrough.

There is abundant evidence that ESEA not only was good politics; it was good policy. Over the past two decades, there has been an explosion in the nation's education system. Middle-class America was moving to the suburbs and spending great sums for new school plants, teachers, etc. Overall statistics reveal this growth. But it doesn't take a statistician to measure what has been happening to the metropolitan school systems as well as many rural ones. Most have been caught in a desperate budget squeeze.

HAS TITLE I FAILED?

Can anyone dispute the logic of ESEA's Title I that disadvantaged students have a severe impact on schools? The sad question, as we witness the desperate floundering of city school systems where the influx of disadvantaged students has been heaviest, is why government did not anticipate this impact 20 years earlier and help the schools prepare for it.

Has Title I failed? Commissioner Allen points out that many school systems have diverted Title I funds to other purposes. This is grievous folly on their part and points to a lack of controls in the federal system. It won't be corrected by President Nixon's promise of revenue sharing with the states.

President Nixon's aides have cited the Coleman Report to prove that the size of classes don't have a measurable effect on learning achievement. They come precariously close to arguing that dollars don't make a difference in education.

To anyone who has watched a child in school, the Coleman findings are not that surprising. While learning cannot be measured by student-teacher ratio, learning does depend on student-teacher relations. Even in the age of technology, the best kind of education may still be "Mark Hopkins on one end of a log and a student on the other." You can't buy inspired teachers like Mark Hopkins with dollars alone. But it takes dollars to expand the Teacher Corps and other programs which offer incentives to attract our best teachers to the hardship posts in education.

Prof. Coleman and others have rightly pointed to the need for basic reforms in the public school systems. But I doubt very much that they meant their words to be seized by the politicians to justify stalemate on federal aid to education. Coleman, for example, calls for increased action to break down *de facto* segregation as the best way to achieve equal educational opportunity. To have the remotest chance of success, this will cost a great many more dollars.

President Nixon's aides mention numerous failures and few successes in programs of compensatory education. They claim that these programs have not paid off in improved reading norms. Even if this were a fair summary, what does it prove? What would have happened to reading norms in New York or Washington if there had been no attempt to cope with the disadvantaged students crowding into the schools? Perhaps it was an achievement merely to prevent total collapse of the public school system.

But the fact is that there have been notable breakthroughs. The Nixon aides fail to mention the latest Hawkbridge study which cites some of the success stories of Title I. The Kingsbury Center here in Washington has pioneered in overcoming severe learning disabilities, including those of children from the black ghetto. Operating costs run about $3,500 per student. A fearful cost. Almost as much as it costs to keep a youngster in a reformatory or a mental institution.

We need to know more. That is why President Johnson's first education message in 1965 put such heavy stress on research. Congress multiplied many times the budget for research in the Office of Education. Regional education laboratories have been established in leading universities. But President Nixon is right in saying we need more and better research. I support his proposal to create a National Institute of Education.

But research alone can never provide the answer. It is faulty to use the analogy of the National Institutes of Health. We cannot expect to discover miracle drugs to cure learning disability as we hope to cure cancer. We can't inoculate a kid against ignorance. Our chief frustration today is in transforming what we already know into effective action. It is going to take trial and error, success and failure. To open the mind of a child, especially one scarred by his life outside the classroom, is an independent miracle each time it happens.

Can we prove compensatory education will pay off? Of course not! Can President Nixon prove that putting a $1,600 floor under income will enable a family to break out of the rut of poverty? Of course he can't! Conceivably, it could lead to an inflation of the ghetto economy that would quickly soak up all the benefits. It may take a floor of $6,000 or $8,000 to have a measurable impact in a city like New York, just as it may cost much more than was anticipated to make New York's education programs succeed. But this is no reason to delay the new commitment to welfare. The alternative of standing still is unbearable.

Education, like welfare, is a dynamic enterprise in America. It can't be made to lie dormant while waiting for reform several years in the future. To cripple the momentum of our nation's commitment to equal educational opportunity is a greater gamble than to delay spending billions of dollars on the ABM. For the dangers of the education gap are more clearly demonstrable.

In the struggle over priorities in the federal budget, education has great disadvantage in competing against defense programs. Education has to fight harder for its claim on the federal dollar. If the President tires to whittle away the education budget, if he fails to set clear and purposeful priorities, this fight for dollars could turn into a bitter struggle among vested interest groups. For example, the programs for federally impacted areas, through grossly inequitable, will claim a lion's share no matter what the President says. Strong interest groups will rally selfishly around tax credits for tuitions, costing billions in federal revenue and mainly benefitting the higher income families.

While this savage struggle goes on, the programs to bring equal opportunity could die of neglect, and a great national commitment be forgotten. The Nixon message and the Nixon budget seek to freeze these programs until there is positive proof of "more education for the dollar." If this policy succeeds, the nation's education is in danger.

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ARBITRARY LIMITS ON POPULATION

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BURTON of Utah. Mr. Speaker, the Ogden, Utah, Standard-Examiner, in its lead editorial on Monday evening, March 9, 1970, commented:

> When laws are suggested to tell a husband and wife how many children they can have, we run the risk of tampering with a basic human right.

I insert this timely editorial in its entirety for the consideration of my colleagues in the Congress:

ARBITRARY LIMITS ON POPULATION

Dr. Roger O. Egeberg, the nation's "top doctor" as assistant secretary of Health, Education and Welfare, last week said he favors abortion on demand as one method of stabilizing America's population.

Sen. Robert W. Packwood, of Orgeon, has introduced a bill limiting personal tax exemptions to three children in any family.

And HEW Secretary Robert H. Finch has said that limiting families to two children is one way Americans can improve their environment.

All in all, despite the recent birth of the quintuplets in New York and the news about the British housewife who hopes to be the first in the world to have a test-tube baby, infants currently aren't considered "in" with those who worry about this old world becoming overpopulated.

They see seven billion people in the world in 30 years, twice as many as now. That would indicate 300 million in the United States, 650 million in Latin America, 4.25 billion on the Asian continent.

And so you get suggestions like the above, and some more extreme—such as, for example, that there may have to be a law limiting families to two children, or whatever number would keep the world's population in balance.

There is a danger in all this. By concentrating too much on limiting births, we might be devoting less effort to improving our environment and adapting it to the number of people we have.

Although they are not perfect examples, consider how Belgium, the Netherlands and Japan have accommodated population densities far greater than America's.

Belgium has 11,781 square miles and 9.63 million people, or 817 per square mile. The Netherlands spaces 810 persons per square mile between dikes and tulips. Japan, another nation which has made land usage a fine art, supports 708 persons per square miles.

The United States, on the other hand, has only 56 people per square mile, hardly elbow to elbow.

Hunger is relatively unknown in Belgium, the Netherlands and Japan. In America, however, undernourished and hungry citizens can be found in numbers, despite the fact that in fiscal 1967–68, the U.S. Department of Agriculture paid $4.5 billion to farmers (mostly large corporate farms) to help stabilize their incomes, mainly by cutting back on food and fibers. This amount was three times what it is estimated it would have cost the government to feed America's hungry that year.

Congress in that same year appropriated only about one-ninth of needed moneys for the federal food stamp program. The logic of huge subsidies not to grow food at the same time that people are starving escapes many observers.

One can also look at India to witness how predictions of mass starvation because of too many people have never quite turned out so gloomily. Although drought brought hunger to some areas in 1967, a large wheat crop was produced in 1968, and improved grains, fertilization and irrigation are steadily reducing India's previous food storage. Voluntary sterilization by about 3.5 million persons has also helped ease fears.

Certainly, the overpopulation threat cannot be ignored. Man has no right to destroy his individuality and his environment by thoughtless propagation. But when population forecasters move toward putting arbitrary limits on the number of people a nation or a world can hold, or when laws are suggested to tell a husband and wife how many children they can have, we run the risk of tampering with a basic human right while neglecting social and economic means at our disposal.

THE FORGOTTEN SINGLE PERSON

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mrs. GRIFFITHS. Mr. Speaker, in connection with the current Ways and Means discussion of social security amendments, I recently received a letter from a constituent in Detroit urging that the special needs of single persons under the law be given equal consideration. The letter expresses well some of the problems confronting single persons, which too often are overlooked. I insert into the RECORD the letter for everyone to read:

DETROIT, MICH.
February 23, 1970.

DEAR MRS. GRIFFITHS: Why is it that the widow needs an increase in social security? If they have had any decent sort of husband, there is at least an insurance to help them out. Perhaps a bank account, too. I'm not saying that all are so blessed, but when is the unmarried woman going to be considered? She never had the assistance of a husband. There is no insurance for her and her only bank account is what she was able to save—a few dollars a month. I am speaking from my own experience. Husband or no, I still have to pay all the taxes on property the married couple has to pay. The utility bills are the same, and so is the repair work on a house, to maintain a decent appearance in a respectable neighborhood.

So why all this concern over the widows? Even though I have no children to assist me when I get older (I'm already almost fifty-eight), I assisted my own parents financially. I was happy to do it . . . but where does my help come from? It isn't that I want to deny the widows anything, but if only someone would remember the forgotten woman: the unmarried, the single, the "old maid", or whatever you want to call us. At sixty-five, I'm not going to feel much like battling the weather, transportation (the bus, in my case I have no car), and customers (I'm a salesperson), but that is just what I'm going to have to do to supplement my Social Security, when the next seven years are over. Maybe by then someone will remember that maiden aunt on his mother's side and will include all the other aunts in his or her proposal for a higher S.S. for them.

Sincerely yours,

MISS ANNA KULL.

A CALIFORNIA COASTLINE NATIONAL PARK

HON. JOHN V. TUNNEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. TUNNEY. Mr. Speaker, the ocean front is the single most valuable natural resource in California. The bulk of the State's population is concentrated within a few miles of the sea, and its impact upon the people's way of life is greater than that of any other geographical entity. But the California coastline is shrinking rapidly as demand for its values increases and as public access to attractive frontage decreases. Undeveloped shoreline, including bays, estuaries, and salt water marshes, can no longer be regarded as ordinary real estate subject to residential or commercial-industrial development. Only prompt and bold action can protect the quality of one of the world's most spectacular shorelines from further deterioration.

Recognizing these facts, I am today introducing legislation to establish a California Coastline National Park to protect the public interest in the scenic, biological, recreational, and economic values of the State's ocean frontage.

The shell of this park would begin with the following coastal regions:

CAMP PENDLETON

The longest section of undeveloped shoreline south of Los Angeles—17½ miles—this area will become increasingly important in the future of a growing southern California. There is a wide, sandy beach, low coastal bluff, and level upland suitable for camping, picnicking, and parking. Along the shoreline are six tidal marshes which provide good habitat for numerous waterfowl and shorebirds. The coast highway—U.S. 101—parallels the shoreline at an average distance of one-half mile inland. The coastal portions of the Marine reservation could be donated to the California Coastal National Park.

CHANNEL ISLANDS

Collectively, the 241 miles of shoreline on the Channel Islands represents the most important undeveloped segment of the Pacific coast, with unique scenic, scientific, and wildlife values, the islands figure to play a key role in the recreational future of California. Santa Barbara and Anacapa Islands are presently under the administration of the Channel Islands National Monument. Santa Cruz and Santa Rosa Islands are privately-owned ranches. San Miguel Island is now under the administrative control of the U.S. Navy. I have introduced a bill to establish a Channel Islands National Park, and welcome the idea of incorporating this region into the larger California Coastline National Park. A mainland unit of the park in the vicinity of Point Conception could serve as a gateway to the Channel Islands. From Vandenberg southeast to U.S. 101 is a prime coastal area, unique in being relatively isolated from major arteries of transportation. Although ownership is in

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large private blocks, there is precedent for recreational easements.

VANDENBERG AIR FORCE BASE

There are over 20 miles of ocean frontage of varied character with combinations of wind, sandy beaches, reefs, offshore rocks, dunes, and bluffs. The upland is mainly chaparral or grassland and contains unique floral values. Some 25 species of plants occur only in this transition region between the colder northern ocean and warmer southern sea. State Highway 1 parallels the shoreline about 10 miles inland. The coastal portions of this base could be donated to the California Coastline National Park.

BIG SUR COAST—WHICH INCLUDES LOS PADRES NATIONAL FOREST

This magnificent coastal reach from San Simeon to Carmel is variously controlled by State, Federal, and private interests. There are presently several outstanding State parks, and Los Padres National Forest has developed its portion of the coast for recreation. There should be more comprehensive protection for one of the West's great scenic attractions, and the California Coastline National Park could become the unifying and coordinating agency. State Highway 1 parallels the coast closely in this region, but numerous canyons provide access to both ocean and upland. Approximately 30 miles of shoreline are involved.

POINT REYES

About 45 miles of coast are involved in the complex and beautiful mingling of land and water that is Point Reyes Peninsula. Currently a national seashore, the area could benefit from inclusion in the California Coastline National Park since the latter could have a more lenient conception of private inholding and would permit a possible solution to the difficult land acquisition problems now faced by the national seashore project. There are nine fresh water lakes, Abbotts Lagoon, several fresh and salt water marshes, and a variety of birds, mammals, and plant cover.

Also, the updating of the National Park Service's "Pacific Coast Recreation Area Survey" compiled in 1959 would reveal additional needs and opportunities for shoreline protection.

The proposed California Coastline National Park would not end at the water's edge. Seaward areas, including submerged land, reefs, and islands, would also be protected for present and future generations. The ecologically rich kelp forests, for example, which grow from 100 to 1,000 feet off shore, would become a key part of this party concept. Kelp was once prevalent along the entire California coast, but sewage, pesticides, industrial wastes, and thermal pollution have greatly reduced this forest to a mere 18 square miles. For scientific economic and ecological reasons, as well as scenic and recreational considerations, this remarkable plant must be allowed to make a comeback.

I would like to emphasize that this bill should be considered only a first step—establishing a "shell" or container with but a few core units. Eventually it is my hope that the public stake in the entire California coastline will be recognized and protected under this proposed national park umbrella. Other segments of ocean frontage should be added after review and interagency agreement. In this sense the new park would function in the manner of the national wilderness preservation system.

It is my hope that when the committee considers this bill it will also consider a new concept in land management; a proposed narrow, chain-like park such as this could take a linear rather than an area approach in land acquisition and control. This concept aims at protecting a kind of environment rather than a block of land. Precedents for such a park exist in the national trails system and the the national wild and scenic rivers system as well as in highway beautification projects. Thus the California Coastline National Park also implies the abandonment of the National Park Services' traditional fee simple—direct ownership—policy in favor of a variety of land management techniques. I believe that existing Federal, State, and county shoreline reserves could retain their autonomy with the new park administration acting as a coordinating agency. Unreserved reaches of coastline, or donated portions, could be administered directly. Since much of the California coastline is in private hands, private ownership might be compatible with the park idea provided the owners complied with park standards of management and access. A model of such a policy exists in Great Britain where national parks operate successfully with farms and towns in their midst.

THE WORLD OF LOUIS FIELD

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. EDMONDSON. Mr. Speaker, last week Oklahoma lost a great citizen and I lost a close friend with the death of Louis Field, the publisher of the Hominy News in Hominy, Okla.

Louis was an outstanding person and an inspiration to all who had the privilege to know him. When he died at age 44, he had been a quadraplegic for 24 years, the result of a tragic automobile accident when he was 21 years old.

Paralyzed from the neck down, he purchased the newspaper in his hometown of Hominy, and operated it from his bed through a closed-circuit television system. He won a seat on the Hominy City Council, and became a civic leader in every sense of the term. He dedicated himself to his town and its people.

In the course of his publishing career he earned many awards, including the Oklahoma State Fair sweepstakes award for newspapers in his category. He was named an editor of the week by the publication, Publishers Auxiliary. He won local, State, and national awards from the Junior Chamber of Commerce. And somehow he found time to earn a law degree by correspondence.

An editorial in his newspaper, written by a close friend while Louis was ill but published after his death, tells the story of this valiant man better than I can.

Mr. Speaker, I insert the moving editorial, "The World of Louis Field," in the RECORD.

THE WORLD OF LOUIS FIELD

Louis Field, scrappy editor and publisher of The Hominy News, a man who is paralyzed from his neck down, is now undergoing the greatest battle for his life. He is doing it on rawbone courage and his tremendous feeling and desire for living. Balancing on a thin thread of life is nothing new for him. For nearly 24 years he has been under constant harassment from illness that chipped a little here and a little there at the vital organs of his body. Each time he would return to work with greater zest and deeper feeling and understanding for those that came in contact with him.

With the whole community hopefully waiting for a break or a change in his condition, the world of Louis Field is casting a strong impact on anyone that ever knew him. His wide influence and following of people has had a notable effect as far away as Washington, D.C. Family members and friends everywhere have come just a little closer in this hour of crisis. Louis really belongs to everyone.

Fate dealt Louis a cruel blow on August 8, 1946 in a California auto accident. His strong youthful body at age 21 was damaged beyond repair and his spinal cord was completely severed. He spent many months at the brink of death while the stunning paralysis engulfed his system.

Now the die was cast. He had to make a decision. He wondered if he could resign himself to a life of immobilty. Maybe he was spared for some unknown good reason. If so, he must set out to discover the answers. Well, they came slow. No one would have condemned him had he quit. For Louis, there was no such word in his vocabulary. He visioned only a bright new future and he saw the sun even when the clouds hid the rays from view. So he set his sights on impossible goals, at least for a man in his condition. Then painstakingly, he moulded each one together until they materialized and his dreams were coming true. His cheerful attitude was as contagious as a fresh spring breeze and the lift it gave was far more enlightening.

Louis was a dedicated public servant and still serves on the present City Council. He has always been the champion of the underdog. He took to heart the problems of the needy and those in trouble. A visit with him changed the course of life in many people. It was like the after effects of medicine and far easier to take. Many a strong man would come away with moistened eyes and straighter shoulders after seeing Louis as he really was and what he stood for.

He was so sincere about wanting to do things for people that he often overlooked his own health trying to come up with just the right solution. He would lie awake far into the night when the stillness helped transform complex problems into workable answers.

His honest desire to make Hominy a better place to live prompted him to buy the Hominy News in 1959 and he used the paper as a sentinel to promote and publicize the community. While serving on the Council he had a hand in shaping many key projects for the benefit of all. He learned a long time ago that you must arm yourself with all the facts and figures on important issues, both pro and con if you were to succeed in making them come through.

Louis Field had a partner that spurred him on in his battle for survival and that would be his 83 year old mother. As fiery as her red hair and as peppery as a General she took

XUM

over the job of keeping him alive. This wouldn't be an easy chore. She must call on strength far and above that of human endurance and she talked with God in her conference room often and He reduced her mountainous chore to a gentle slope. She busied herself in scores of little ways and there was a bond between them that kept their hopes and visions alive. They suffered each other's illness and shared the times of happiness.

Although the lights have dimmed some on the world of Louis Field there is a ray of hope that the Man upstairs doesn't want him yet and will let him stay on a little longer to complete his unfinished works upon this earth.

But knowing Louis, and for all the things he stands for, he is more than prepared to go wherever he is needed most and you can bet that when this time arrives, he will be well armed with all the facts and figures—but somehow—we can't help but feel that it would be his easiest battle.

A COMPASSIONATE DEED ON BEHALF OF BIAFRA

HON. LOWELL P. WEICKER, JR.

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. WEICKER. Mr. Speaker, I would like to share with you a compassionate deed which came to my attention several days ago.

Upon learning of the many people in Biafra, in particular, the small children, who were dying every day due to disease, malnutrition and lack of sufficient food, the inmates at Portland Connecticut Conservation Camp and Osborn Connecticut Correctional Institution organized a vigorous campaign for donations to this worthy cause. Between the two institutions, nearly $400 was collected to provide adequate food and clothing for Biafran children.

When you realize that most of these inmates earn 25 cents a day, I think that sum represents a significant achievement and a tremendous display of humanitarianism. I applaud these men for their selfless interest in contributing to those less fortunate than themselves.

I am inserting in the RECORD the letters accompanying their checks to the Americans for Biafran Relief so that you may have the opportunity to read firsthand of the great pride these men took in submitting their donation:

ENFIELD, CONN.,
January 14, 1970.

CHILDREN'S AIR-LIFT FOR BIAFRA,
c/o Mrs. JORDAN,
New York, N.Y.

DEAR MRS. JORDAN: This is to inform you that the inmates at the Connecticut Correctional Institution, Osborn, Enfield, Connecticut, have concerned themselves with your plea on behalf of the children of Biafra.

During the past two weeks we have pressed a vigorous campaign for donations to your cause from the inmate population. Considering the fact that there are less than three-hundred of us, and that the majority of us earn but twenty-five cents a day, I am proud to write that a check for $356.50 is awaiting disposition, according to your wishes.

Please use the following name and address in making contact with me:

Richard D. Meyers, Biafra Committee, c/o Superintendent R. M. Steinert, Box G. Hazardville Station, Enfield, Connecticut 06082.

Hoping to hear from you in the very near future, we, the inmates of C.C.I., Osborn, are anxious to share in your most worthy effort, and we salute your organization for its humanitarian goals.

Sincerely,

RICHARD D. MEYERS.

JANUARY 30, 1970.

Mrs. ROBIN JORDAN,
Chairman, Americans for Biafran Relief.

DEAR MRS. JORDAN: Received your most welcome letter and it was interesting to know just how very much your organization has helped in relieving the situation that exists in the Biafran Area.

We, here at the Correction Institution, Osborn; are thankful that we have helped someone who is less fortunate than ourselves.

We wish you continued success in your quest for aid for the Biafrans'.

Enclosed you will find our check, to your organization, in the amount of $356.50.

Once again Good Luck.

RICHARD D. MEYERS,
Biafran Committee, C.C.I., Osborn.

STATE OF CONNECTICUT,
CORRECTIONAL CONSERVATION CAMP,
Portland, Conn., February 13, 1970.

Mrs. LIONEL MARTINEZ,
Program Coordinator,
New York, N.Y.

DEAR MRS. MARTINEZ: Enclosed please find check totaling forty dollars and twenty five cents contributed to the Biafran Childrens Fund by the inmates and staff here.

This represents a 100% inmate involvement and is especially meaningful when one considers their daily wages are only twenty five cents.

In spite of their meager wages, however, our boys gained much satisfaction in knowing that their contributions will help feed and cloth a Biafran child.

Sincerely,

S. J. FAZIO,
Director.

HIGH SCHOOL STUDENTS REFLECT NATIONWIDE TREND

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. HOGAN. Mr. Speaker, I would like to call the attention of my colleagues to a recent poll conducted among the student body at Potomac Senior High School in Oxon Hill, Md., in my congressional district.

It is interesting to me how closely the results of this high school poll correlate with the results of two questionnaires which I sent to all constituents, including the parents of these students.

Mr. Speaker, I would like, for purposes of comparison, to insert at this point the results of both these polls:

POTOMAC SENIOR HIGH SCHOOL
OPINION POLL

VIETNAM

Do you favor immediate withdrawal of all U.S. forces from Vietnam?

	Percent
Yes	16
No	74
Undecided	10

Do you favor gradual withdrawal of U.S. forces from Vietnam?

	Percent
Yes	73
No	18
Undecided	9

Should the U.S. use full military power to defeat the North Vietnamese on the battlefield?

	Percent
Yes	37
No	40
Undecided	33

THE DRAFT

Should the U.S. abolish the draft?

	Percent
Yes	32
No	54
Undecided	14

Do you prefer the new lottery system over the system used in the past?

	Percent
Yes	62
No	17
Undecided	21

CIVIL RIGHTS

Is violence a satisfactory means for effecting social change?

	Percent
Yes	10
No	82
Undecided	8

Do you favor busing students to enforce integration?

	Percent
Yes	11
No	79
Undecided	10

DRUGS

Do you favor legalizing marijuana?

	Percent
Yes	27
No	61
Undecided	12

Are the punishments for drug use too severe?

	Percent
Yes	42
No	47
Undecided	11

OCTOBER NEWSLETTER

1. Do you favor a constitutional amendment to permit voluntary nondenominational prayer in public schools?

	Percent
Yes	71
No	29

2. Do you favor conversion of the Post Office Department into a self-supporting, government-owned corporation?

	Percent
Yes	78
No	22

3. Do you favor a voluntary army over present draft?

	Percent
Yes	61
No	39

4. Do you feel we are putting too much of our resources into military spending?

	Percent
Yes	65
No	35

NOVEMBER NEWSLETTER

	Percent
1. I support President Nixon's Viet Nam Plans	59
2. I favor immediate unilateral withdrawal of all troops	24

NOVEMBER NEWSLETTER—Continued

	Percent
3. I favor an all-out effort to win the war in Viet Nam	17
Total	100

MISSISSIPPI LEGISLATURE CALLS FOR RELEASE OF AMERICAN PRISONERS OF WAR IN NORTH VIETNAM

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. GRIFFIN. Mr. Speaker, recently the Mississippi House of Representatives adopted a resolution urging the President of the United States to exert every possible effort to assist American prisoners of war in North Vietnam and to take steps to insure their release. The resolution was introduced by Representatives Ferguson, Moss, Massey, Jones—46th, Beach, Stennis, Marks, Owens, Sowell, Mitchell—30th, Lotterhos, Lester, Moorse—16th, and Cossar.

This resolution by the Mississippi Legislature is one more expression of outrage at North Vietnam for the withholding of information on American prisoners of war. In violation of all basic tenets of humaneness, North Vietnam continues to refuse information on prisoners as it promised to do when it signed the Geneva Convention.

In my view, the American people are becoming more united behind President Nixon to win an honorable peace in Southeast Asia because of the fact that North Vietnam is mistreating Americans.

On leave to extend my remarks, I include the aforementioned resolution:

HOUSE CONCURRENT RESOLUTION NO. 30

Concurrent resolution urging the President of the United States to exert every possible effort to assist American prisoners of war in North Vietnam and to take steps to insure their release

Whereas, more than 1,410 American pilots and servicemen are listed as missing in action or presumed a prisoner of war in North Vietnam, twelve of these being Mississippi citizens; and

Whereas, North Vietnam has persistently refused to adhere to the Geneva Convention requirements that a list of her prisoners be furnished to the United States, that mail be exchanged by prisoners and their families and that prisoners be humanely treated; and

Whereas, the uncertainty as to whether many of these men are dead or alive as well as the lack of communication with those in prisoner of war camps has caused great anguish among their families, and this anguish is shared by the people of Mississippi; and

Whereas, the United States is now engaged in peace conferences with North Vietnam in an effort to bring about a speedy end to hostilities and, as an expression of good faith, is at this time withdrawing a large number of troops from the combat zone:

Now, therefore, be it resolved by the House of Representatives of the State of Mississippi, the Senate concurring therein, That we do hereby urgently and strongly request in the name of humanity and common decency that the President of the United States exert every possible effort in the Paris peace negotiations, with the United Nations and with the governments of other nations, to insist that North Vietnam adhere fully to the Geneva Convention requirements for prisoners of war, including furnishing a list of prisoners' names, provisions for an exchange of mail with their families, inspection of prisoner camps by a neutral organization, and delivery of medical aid and food parcels by such neutral organizations.

Be it further resolved, That the House of Representatives, the Senate concurring therein do urgently request the President to take steps to insure that the release of these American pilots and servicemen receives high priority in future plans for withdrawal of American troops from Vietnam.

Be it further resolved, That copies of this resolution be sent to the President of the United States and to the Legislatures of the fifty states with encouragement that they, too, join in a similar appeal and exert all effort to bring the conscience of the world to bear on the plight of these prisoners of war, and further, that a copy of this resolution be presented to the immediate family of each of the Mississippi Prisoners of War in North Vietnam; copies of said resolution be sent to the President of North Vietnam, the Secretary General of the United Nations, and the Foreign Ministers and Ambassadors of USSR, Sweden, Romania and Poland.

THE NIXON ADMINISTRATION'S FIRST YEAR

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BRADEMAS. Mr. Speaker, evidence of the concern today's youth are devoting to public issues is an impromptu speech delivered by 15-year-old David Van Hoogstraten at the American Legion public speaking contest at Bronxville High School, Bronxville, N.Y., on February 12, 1970. David is the son of Jan Van Hoogstraten, director of the African program for the Church World Service. I am taking this opportunity to insert David's remarks in the RECORD:

REMARKS OF DAVID VAN HOOGSTRATEN

Mr. Chairman, Ladies and Gentlemen. About one year ago, Richard Nixon, the first Republican in eight years became President. Since that time, the administration has pursued with some success its goals in the field of foreign affairs; however, it is regretful that we are moving farther and farther away from the time when we will fulfill the tremendous domestic needs of this country.

President Nixon has only tried a moderate approach toward these mammoth problems. His administration has been unimaginative during a time which seems to cry for innovation. Many of the President's attempts at domestic reform have been equivocal, ineffective, and certainly not encouraging.

First, although President Nixon enforced the desegregation of southern schools as recommended by the Supreme Court, he did so with personal reservations. He has been charged on numerous occasions with slowing the pace of desegregation in the south.

His relations with the blacks of this country have been unforgivable. Such great American Negroes as Ralph Bunche, a Nobel Peace Prize winner, have expressed little confidence in the ability of the administration to advance on the crucial problems of racism and black-white relations. One of the classic examples is Nixon's proposal to abandon the Voting Rights Act of 1965. Such a proposal is extremely insensitive to any black viewpoint. Last February, Nixon admitted that he was not regarded "as a friend by many of our black citizens." I really don't think he can say anything different this February.

President Nixon's nominees to the Supreme Court have thus far lacked Judicial distinction: first, Judge Haynesworth who was rejected by the Senate, and now Judge Carswell whose credentials are slender and whose decisions, according to Senator Gaylord Nelson of Wisconsin, read like a plumber's manual. Both are examples of the "Southern Strategy" designed to win the votes of the South.

For a man who says he is as interested in the stopping of crime as does Mr. Nixon, it is puzzling to see him force the resignation of Robert Morgenthau as Federal Attorney for the Southern District of New York. Democrat or Republican, he was an excellent crime fighter with one of the most impressive records in the country.

Last January eighth, the President announced he was against an appropriations bill only because it contained too much money for education than should be spent now. Go down and ask the people of New York City if we're spending too much money on education. He has vetoed the bill and after it is hacked away by Congress next year, it may become apparent that he vetoed a better America.

Last year was the most inflationary since 1951. The administration's anti-inflation program is seemingly more effective in slowing down the economy than in stopping retail or wholesale price rises.

If President Nixon is really determined to solve these problems—remember—he has the money and the power to do so. For instance, the cost overruns of defense contracts last year totaled about the same amount that Milton Einsenhower's committee on violence recommended would be needed to remake America.

Hubert Humphrey, looking back on the Nixon administration, remarked "They know how to manage but they have no creativity. They know how to lay bricks but they have no vision of a cathedral."

THE TOLL OF HUNGER ON A CHILD'S INTELLIGENCE

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. MIKVA. Mr. Speaker, scientific evidence continues to mount in support of a proposition which has long seemed to me a matter of commonsense: When a child goes chronically hungry, not only his physical but also his mental well-being suffers.

The latest confirmation of this fact is contained in an article which appeared in the March 1, 1970, edition of the Sunday New York Times' News of the Week in Review. The article describes results of studies which show that children who suffered from severe malnutrition scored lower on IQ tests than their siblings who had not experienced malnutrition. The study is, as the Times said, "one more link in the growing chain of evidence connecting intelligence development with early nutrition."

The findings of this study give added urgency to the expansion of Federal food assistance programs. During the last week in February, our colleagues in the other body finished work on a bill that would increase Federal aid to school lunch programs for needy children to $817 million, almost double the present sum. This bill, along with related legislation to expand the Federal food stamp program, are now awaiting action in the House Agriculture Committee. The results of studies linking hunger and malnutrition to lowered intelligence make it all the more imperative that this House act on these important programs as early as possible. I urge my colleagues on the Agriculture Committee to resolve whatever differences remain on food stamp and school lunch programs and bring the necessary legislation to the floor without delay. The article follows:

[From the New York Times, Mar. 1, 1970]

The Toll of Hunger on a Child's Intelligence

(By Nancy Hicks)

Doctors last week reported one more link in the growing chain of evidence connecting intelligence development with early nutrition.

The findings were the result of a three-year study of children from a small agricultural Mexican village. Thirty-seven children hospitalized as babies for kwashiorkor, a severe malnutrition disease were tested for I.Q. later in life. They scored lower on these tests than their siblings who had not had the severe disorders.

The study was conducted by Dr. Joaquin Cravioto, director of nutrition at Children's Hospital in Mexico City, and by Dr. Herbert G. Birch, a psychologist and professor of pediatrics at the Albert Einstein College of Medicine in New York. It was part of a larger study of ecological factors in child growth and development that they have been conducting for the last seven years.

Data linking development to early nutrition are not new. For years studies on animals deprived of vital foods in the prenatal stage of life or just after birth have reported that the animals are smaller, have more difficulty learning, and often have smaller brains—up to 10 per cent smaller—than animals given proper nutrition.

Extrapolation to the human state is not necessarily a direct route, although autopsies of children who died from malnutrition reinforce the animal studies. So has earlier work by Dr. Cravioto and Dr. Birch, among others. They have shown a correlation between the nutrition of a population and its average size, between the mother's height and the infant's weight at birth, between the mother's hygiene practices and the child's weight at birth.

In the new study, each child in the experimental group had been hospitalized somewhere between his sixth and 30th month of life with kwashiorkor. Each had recovered and was five years of age when given standard intelligence tests at the Army Hospital in Mexico City.

As a control group, the doctors chose and tested a brother or sister of each experimental group member. Each sibling in the control group was within three years of age of his brother or sister and had never had severe forms of malnutrition.

It is this control group that makes the experiment different. The most difficult part of this kind of study is finding a control group to match the experimental group.

"We chose siblings," Dr. Birch said in an interview, "because even though malnourishment goes with disadvantage and affects in varying degrees many members of the same society, it is very difficult to match control groups for the exact same socioeconomic factors or child-rearing practices as the experimental group. Within the same family, we thought we would eliminate the problem."

Some results of the tests were these:

The average intelligence quotient score of the experimental groups was 68.5. The average for the control group was 81.5. Scores between 95 and 110 are considered normal.

Half of the experimental children scored below 70 on the I.Q. tests, as opposed to about 20 per cent scoring below 70 in the control group.

Only four of the kwashiorkor victims, or 10 per cent, scored above 90, while more than 10 children, or more than one-third of the children who had not suffered from severe malnutrition, scored above 90.

These "insults of environment," Dr. Birch said, are lasting. They affect the child throughout life. And the next generation. . . .

ECONOMICS AND CARE OF THE ELDERLY

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. OBEY. Mr. Speaker, it was my privilege to cosponsor the resolution to create a Select Committee on Nursing Homes and Homes for the Aged proposed by the gentleman from Arkansas (Mr. Pryor).

I think my colleague deserves great credit for taking the lead in this area. Creation of a select committee would lead to full exploration of the alternatives and various viewpoints on the care and treatment of America's aged.

Today I should like to insert in the Record an editorial from the Christian Science Monitor underscoring some of the problems in our treatment of older folk and lauding the move for a special committee investigation of the nursing-home industry.

I hope that economists especially will pay close attention to the editorial, headed "Aged-Care Study" which follows:

[From the Christian Science Monitor, Feb. 27, 1970]

Aged-Care Study

Providing for the basic needs of the several generations has always been a challenge for society. Until only the most recent of times, the family unit was relied on to house and give a sense of useful activity to older folk. But the basic living pattern has become couple-oriented. Homes are smaller. Dependence on the auto tends to isolate the aged. Many need special care. And the longevity pattern, plus the general increase in the population, points to increasing numbers of older folk for whom right provision must be made.

This social problem has led to rapid growth of the nursing home industry in the United States. And while some of these homes are excellent both in the quality of care and their mental atmosphere, others are shabby and scandalous.

Rep. David A. Pryor (D) of Arkansas has called for a special committee investigation of the nursing-home industry. We believe this is needed. Some $2 billion a year in tax deductions alone are going into such homes. Nursing home chains—many operated by small-business men such as auto dealers with no knowledge of aged care or with any interest other than profit—are springing up across the nation. The danger of exploitation is great.

Last summer the Senate looked into the economics of aging in the United States. Nursing homes were among the subjects considered. The Senate found a shortage of trained help. Representative Pryor also has made an issue of the lack of qualified personnel. In personal visits to a number of such homes, in which he acted the part of a volunteer aide, he found many of the basic physical needs of the residents being met by maintenance workers.

Cost also should be investigated. Since more than 90 percent of homes for the aged are profitmaking operations, the public deserves to know whether it's getting its money's worth. Standards of care should be established.

Not all is negative for today's older generation. True, the pace of modern life and the pressure to get ahead have excluded many from their children's lives. But at the same time, social security (slim as its help is) and modest savings enable most to carry on their own households. Many are not, and do not want to be, beholden to others for their basic needs.

Yet for millions of senior Americans special care is needed. And there is evidence the industry for providing such care needs prompt looking into.

LAWYERS REPORT ON NOVEMBER MORATORIUM

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. ROSENTHAL. Mr. Speaker, on Saturday, March 14, the Lawyers' Task Force on the November Moratorium issued its report. This task force, chaired by Ramsey Clark, the former Attorney General, Adrian S. Fisher, dean of the Georgetown University Law Center and E. Clinton Bamberger, dean of the Columbus School of Law of Catholic University, based its report on the written observations of over 200 lawyers who observed the moratorium activities in person.

Mr. Speaker, the report contains some highly important conclusions concerning the rights of free speech, public petition and peaceful assembly and the responsibility of those in positions of leadership to preserve, protect and encourage the exercise of these rights. Because of the important nature of its observations and conclusions, I am placing the entire report in the Record:

About the Report

As the time approached for the peace demonstrations scheduled for Washington, D.C. on November 13 through 15, 1969, increasingly strong rumors ran through the city and the nation that violent confrontations would accompany the demonstrations. During the course of a well-publicized impasse over march permits, the Department of Justice predicted "a substantial likelihood of serious violence during the mass march on November 15." This added to widespread fears that the demonstrations might be violent and that the leaders of the New Mobilization Committee to End the War in Vietnam would not or could not control them. As a consequence, many persons apparently decided not to come to Washington to participate in the demonstrations because of fear for their personal safety.

It was in this climate that the Lawyers' Task Force was conceived. On Saturday, November 8, a small group of Washington lawyers met to discuss what might be done to assure their fellow citizens the rights of free speech, peaceful assembly and petition; to reduce the risk of violence; and to ameliorate the chilling effect which the threat of violence appeared to be having on those wishing to take part in the Moratorium. The group decided to organize a task force of lawyers to act as neutral observers. The objectives would be to measure the fulfillment of the rights of free speech and assembly, and to enhance the potential for their fulfillment by helping, through the announced presence of the observers, to deter individual acts of violence on the part of either demonstrators or the police.

The lawyers who organized the Task Force represented a broad spectrum of the profession. Most were associates in prestigious Washington law firms. Several were practitioners in new public service organizations. Others were serving on congressional staffs or in Government agencies. The lawyers saw the Task Force less as a device to help a particular group of people express a particular point of view, than as a means to assist large numbers of their fellow citizens to exercise their constitutional rights to speak, to assemble and to petition their government.

To perform their role, the organizers needed to involve a large number of lawyers. Ramsey Clark, formerly Attorney General of the United States, Clinton Bamberger, Dean of the Catholic University Law School, and Adrian Fisher, Dean of the Georgetown Law School, were invited to serve as Chairmen of the Lawyers' Task Force. On the Wednesday evening preceding the march, a public meeting was held at the George Washington University Law School; it drew more than 100 attorneys from Government and private practice. By Saturday, November 15, more than 300 lawyers had joined the Task Force.

The assignment was not an easy one.

The young lawyers[*] who participated brought at least three valuable qualifications. They shared a deep concern that the Nation live up to the Constitution by assuring the right of peaceful assembly, and that the ideas of ordinary people with relatively restricted opportunities to communicate might thus be tested in the free marketplace of public opinion. Second, if any among us do, they knew the dimensions of the rights of free speech and petition and assembly and were sensitive to their infringement—whether direct or through subtle intimidation. Finally, they were trained in the difficult art of finding and presenting the facts.

The Task Force was, however, handicapped in many other ways. It was a pioneer venture, hastily organized, with no money, organization, or equipment, and neither experience nor time for training. The Task Force had not been privy to the various negotiations between the authorities and the demonstration planners; it had little personal contact with the leadership of either side.

The handicaps did not prove insurmountable. All parties involved in official demonstrations cooperated with the Task Force. Mayor Walter Washington and Chief of Police Jerry Wilson made it possible for several Task Force members to monitor the city's communications center and to cover the demonstrations in vehicles manned by the police and Mayor's aides. The Attorney General of the United States communicated his approval of the Task Force concept to one of its chairmen, and presumably to Justice Department officials. New mobilization leaders permitted Task Force members to audit the communications center for the Mobilization's own marshals, who were to act as crowd controllers. The National Council of Churches and other concerned local clergy, who independently had decided to provide neutral observers, added their forces to those of the Task Force, thus expanding its capacity, and furnishing it with many of its most useful written reports.

Finally, the Center for Law and Social Policy, a new Washington-based public service organization, provided the indispensable logistical base for the Task Force's organization and functioning, and the Lawyers' Committee for Civil Rights Under Law made available the use of its conveniently located offices on Friday night and Saturday.

The Task Force was able to place clearly identified observers at the scene of all major activities. All lawyers wore light blue tags pinned to their coat pockets, which read "Lawyer Observer." The Task Force observers submitted approximately 200 written reports, describing what they had witnessed. The narration of events which follows was prepared from their written reports. Inevitably, some reports conflict with others with respect to the substance and sequence of events, and our observers were themselves scattered by tear gas and by crowd movement. But from careful analysis of the many reports at hand, a factual outline can be established with reasonable accuracy. A more difficult problem is presented by those observations founded on subjective judgments. It is relatively easy to parse the reports to determine when canisters of tear gas were thrown, or when policemen moved. Changes in the mood of a crowd and the causes are more speculative matters.

The narrative which follows thus draws upon the numerous reported observations, and harmonizes them in an effort to describe what actualy happened during the major events of the November demonstrations in Washington. A subsequent section of this report offers conclusions which the chairmen and organizers have drawn from the narration and their own experience. The conclusions rely upon the underlying data provided by the observers. However, the conclusions themselves are solely the responsibility of the Task Force organizers and chairmen, not of all the individual observers who participated.

WHAT HAPPENED

A. The "March Against Death"

The November demonstrations began with the "March Against Death," an event sponsored by the New Mobilization Committee. The March began on Thursday evening, November 13, and continued around the clock until Saturday morning, November 15. Nearly 40,000 persons walked single file from Arlington Cemetery, past the White House, to the foot of Capitol Hill, despite unusually cold temperatures and one heavy rainfall. Each participant carried a candle and a placard bearing either the name of an American serviceman killed in Vietnam or, in a few instances, of villages allegedy destroyed there. At the end of each marcher's trip, the placards were deposited in wooden caskets, which were later borne at the head of Saturday's massive march down Pennsylavnia Avenue.

Only a few mobile observers were placed along the march route; the format seemed sufficient insurance against trouble. No incidents were reported. Observers of the "March Against Death" reported it to be an unusually impressive example of peaceful symbolic protest, which required of the community only the placing of a few policemen at traffic intersections crossed by the marchers.

B. Friday at Justice

The next major event[1] was the demonstration organized by a group called "The Committee to Defend the Conspiracy" at the Justice Department. Several thousand persons gathered on the Mall southeast of the Justice Department at noon Friday, some to meet one another, to renew friendships begun at Berkeley, or the Pentagon, or Chicago, and to listen, with varying degrees of inattention, to speeches by Marcus Raskin, Arthur Waskow and others against the war and the then-current trial of the "Chicago Eight." The crowd was peaceful, the police hardly in evidence.

Dr. Benjamin Spock was the last speaker, and the only one to whom the crowd seemed to respond. As scheduled, he led the group in well-ordered double file[2] around the Justice Department to the 10th Street entrance. The marchers there sought an audience with Justice Department officials. The group then returned quietly to the Mall, led by Dr. Spock. Observers characterized the mood of both marchers and police as unusually friendly, reporting good-natured banter between individual marchers and the policemen who were busy photographing them.

At this point, events threatened to spoil what had otherwise been a peaceful demonstration. When the marchers returned to the Mall, journalist Dwight MacDonald took the microphone to announce that he had missed the earlier march and the opportunity it presented to deliver a batch of draft cards to Justice Department officials. He proposed that the group return to the Department so that he could turn in the draft cards. They did and he led an unscheduled and less organized march back to the 10th Street entrance.

After abortive discussions at the entrance, MacDonald left the scene, succeeding in taking only one-third of his followers back to the Mall. The remaining demonstrators continued their rally at Justice, peaceful but without purpose or plan. The marchers simply had no place to go and, at that point, no leadership. The passage of time had eroded some of the good humor which characterized the earlier demonstration.

The crowd—soon dwindled to a few hundred—was urged to disband by persons who claimed to be organizers of a demonstration scheduled that evening at Dupont Circle.[3] They promised excitement at the Circle that night, appealing to the crowd to help "liberate" the South Vietnam Embassy. The recruiters for the Dupont Circle rally distributed literature which included an appeal to support the "provisional Revolutionary Government" in South Vietnam and, more pointedly, a man showing the route from Dupont Circle to the South Vietnamese Embassy.

At 2:40, just as the remaining demonstrators were beginning to disperse, a squad of 20 to 30 policemen marched into position on 10th Street. Apparently they had instructions to disperse the crowd. This show of authority came at a moment when it was no longer needed. It was followed by the appearance, presumably coincidental, of soldiers in jeeps, who drove past the demonstrators. The presence of the police and the jeeps seemed to create resentment among the demonstrators, who immediately ceased disbanding. Fortunately, a sudden chilling rain sent everybody running for cover, and thus relieved a potentially unpleasant scene.

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[*] Although most of the Task Force members were under 40, a not insignificant number were more senior members of the bar.

[1] Throughout the Moratorium period, groups held more specialized events which received little publicity but which appear to have been held without incident. To cite only a few, these included a Memorial Service at National Cathedral on Friday night, attended by several thousand persons; meetings of various professional groups; services at many places of worship; and quite large public meetings at virtually every area university.

[2] Although the Friday rally was not a function of the New Mobilization Committee, it lent many of its marshals to help control the crowd and insure compliance with the rally permit.

[3] The crowd was also urged to disband by the New Mobilization marshals, and others

C. Dupont Circle and the march on the embassy

Several groups not part of the New Mobilization Committee (which sponsored the "March Against Death" as well as Saturday's mass march) had come to Washington with plans for two events of their own: the Friday evening rally at Dupont Circle and a Saturday afternoon rally at the Justice Department. Both events were preceded by widespread rumors, given credence in official Justice Department statements and in handbills announcing the rallies, that violence would occur.

Both events did in fact lead to confrontations in which some demonstrators threw objects at the police, who attempted to disperse demonstrators with tear gas, and some retreating demonstrators indulged in window-smashing and other vandalism. Because these were the only events during the weekend to precipitate clashes between demonstrators and police, this Report will discuss them in some detail. It should be noted, however, that these two events involved relatively small numbers of people, were not sponsored by the New Mobilization Committee, and seem vastly less significant in assaying the weekend than the peaceful but less colorful "March Against Death" and the huge Saturday March.

A permit for the Dupont Circle rally had been issued to a number of small groups, who collectively styled themselves the "Revolutionary Contingent in Solidarity with the Vietnamese People." Upon obtaining the permit, the organizers immediately proceeded to advertise their intention not to abide by its restrictions. They indicated that they would expand the rally to include an unsanctioned march from Dupont Circle to the South Vietnamese Embassy, several blocks west of the Circle. Late Friday afternoon, false rumors were current at New Mobilization headquarters—which was openly hostile to the Dupont Circle demonstration—that French students had seized the South Vietnamese Embassy in Paris that day, and that no less would happen in Washington that night.

Demonstrators began to gather at Dupont Circle about 7:45 Friday evening. By 8:15 the crowd had swelled to perhaps 700. Some 200 or so were clustered around red and black flags and a Viet Cong flag, shouting chants and slogans. The powerful lights of the news-media photographers added to the carnival-like quality of the scene.

As the crowd milled, a young man with a bull horn strode about the Circle announcing that the rally would begin shortly and "we'll then be moving out." By 8:25 the crowd exceeded 1,000. No uniformed police were visible in the immediate Circle area, although there were unmarked cars around the Circle, plainclothes police in the Circle, and a number of police vehicles on nearby streets which could not be seen from the Circle.

While the crowd gathered in Dupont Circle, police began mustering their forces at Sheridan Circle, several blocks west of Dupont Circle and in the immediate vicinity of the South Vietnamese Embassy. By 8:00 p.m., some 60 members of the Civil Disturbance Unit (S.D.U.) had been positioned on Massachusetts Avenue just east of Sheridan Circle, with another 15 or 20 officers placed west of the Circle. A spotlight set up below the equestrian statue of General Sheridian focused a bright light eastward down Massachusetts Avenue toward Dupont Circle. At 8:30, a tight line of police wearing helmets, shields, and gas masks, and holding batons in front of their chest, formed a line three or four deep across Massachusetts Avenue, east of Sheridan Circle.

Perhaps two minutes earlier, the large crowd in Dupont Circle had begun suddenly to move onto Massachusetts Avenue westward toward Sheridan Circle and the Embassy. By 8:37 a group of some 50 to 75 flag-carrying demonstrators had moved through the center of the crowd on Massachusetts Avenue and marched to within about 10 feet of the police line. Perhaps 300 members of the crowd, which by then may have numbered 2,000, began chanting, "Ho, Ho, Ho, Chi Minh, the NLF are gonna win."

At 8:40 an officer requested news photographers to take their lights off the police line because the police could not see. Simultaneously an officer with a bull horn stepped out from the police line and told the crowd that their assembly was illegal. They were told to disperse or face arrest. Crowd noises and the crackling of tear gas generating machines which were being warmed up made it almost impossible even for observers quite near the bull horn to hear the warning.

Seconds after the order to disband, four C.D.U. officers carrying tear gas generators emerged from behind the police line and moved toward demonstrators standing in front of the Irish Embassy on the south side of Massachusetts Avenue. A glass bottle flew over the police line, shattering behind it. Other objects were thrown at police. As the officers approached the crowd, clouds of gas appeared in the space between the police line and the demonstrators. At almost the same time, a demonstrator on the north side of Massachusetts Avenue stepped to within two feet of the police line and began taunting a C.D.U. officer. The officer pushed his challenger away with his left hand, raising his baton with his right. The demonstrator retreated.

Meanwhile, as the officers carrying the tear gas machines moved toward the Irish Embassy, rocks were thrown at the police line, apparently from the midst of the crowd in the middle of Massachusetts Avenue, and the officers began to move diagonally across the avenue. Brisk winds began to sweep the tear gas over the demonstrators jammed in the avenue.

When the demonstrators retreated, the police advanced to Massachusetts Avenue and 22nd Street. The demonstrators then regrouped and reconverged on the new police line, led by young people many of whom wore helmets and some of whom now wore gas masks. One masked demonstrator hurled his own canister of gas or smoke at the police. At this point loud popping sounds indicated the firing of tear gas canisters. Aided by gas, a line of police began to move the crowd back toward Dupont Circle.

The police were able easily to move the crowd, which was soon reduced to a relatively small core of demonstrators, surrounded by much larger number of curious spectators.

But the officers, working in small clusters, seemed to lack any plan as to where to move demonstrators. The Circle was repeatedly allowed to fill with people, who then were dispersed with tear gas, which drove them down the streets feeding into the Circle. When the gas cleared, the Circle would refill, and the cycle would begin again.

As the crowd ebbed and flowed, windows were smashed and vehicles stoned around the Circle and along the feeder streets. Some of the vandalism seemed to be a reaction to what the demonstrators saw as a gross overuse of tear gas. Another contributing factor was easy access to a large pile of rubble on a lot just southwest of the Circle where a building had recently been razed. This lot, which the police did not guard adequately, provided bricks and stones to a few angry demonstrators throughout the evening.

Much of the window smashing, at least that on streets other than Connecticut Avenue, followed a pattern. As demonstrators retreated south from the Circle down 18th, 19th and 20th Streets, they concentrated on the widows of offices related to financial establishments. No bank, brokerage house, title company, or mortgage lender escaped the stone throwing. Other kinds of businesses, immediately adjacent to financial institutions, generally were untouched.

By now, canisters of gas were being fired indiscriminately into any assemblage of people, including groups of middle-aged spectators watching events from the sidewalk in front of the Riggs Bank north of the Circle. Police officers were seen to arrive at the Circle, discharge their tear gas and retreat with no apparent purpose other than to expend whatever gas remained in their possession.

A substantial part of the vandalism which occurred Friday night can be attributed to the failure of the police to plan ahead, to the irritating way in which gas was used, and to the oversight in allowing angry demonstrators to arm themselves with the rubble from a convenient lot. Careful police planning might have avoided much of the damage to property. On the other hand, it seems clear that at least some of the demonstrators were determined to inflict some damage, and that no simple way of dispersing determined demonstrators so early in the evening may have been available.

As the commotion at Dupont Circle subsided, there was considerable concern that the anger generated there might spread to the George Washington University campus, less than a mile southwest of the Circle, where large student rallies were already in progress. The concern proved unwarranted.

D. Saturday's Mass March

The mass march of several hundred thousand people Saturday morning either down Pennsylvania Avenue past the Treasury, or down the Mall, and on to the Monument grounds was so overwhelmingly peaceful that the inclination is to say little about it. But the peacefulness of this major event should not obscure its importance. The Saturday march was the chief event on the Moratorium schedule, the major accomplishment of the New Mobilization Committee, and the magnet which drew most demonstrators to Washington. Its massive dignity made a success of the weekend for all those who wanted a peaceful protest against the war. It was also the largest single political demonstration in our Nation's history[4]—a fact not attested by the inexplicable decision of the television networks not to provide live coverage.

The march started from 4th Street and Pennsylvania Avenue at approximately 10:20. The vanguard reached the intersection of 15th Street and Pennsylvania Avenue, near the Treasury, about 11:00, proceeding from there to the Monument grounds. At 12:30 entry to the march was cut off at 4th Street, without incident, by a line of Mobilization marshals stretched across the street. Those demonstrators unable to march down the Avenue proceeded up the Mall to the Monument. Observer reports were unanimous in describing the march as characterized by goodwill and the absence of unpleasant incidents. This was attributed to three factors.

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[4] Police helicopter estimates of the crowd reached 292,000 at 2:30 p.m. Saturday, 232-000 on the Monument grounds and 60,000 on the Mall. Secret Service photographs taken from helicopters and analyzed at the Navy's photo lab placed the crowd size at 320,000 by mid-afternoon.

(1) Thousands of well-organized Mobilization marshals, whc were skillful both in containing the enormous number of peaceful demonstrators and in squelching the minor attempts at disruption made by several groups.

(2) The almost total invisibility of the police and the good manners and even graciousness of those police who did have contact with the crowds.

(3) A sea of marchers bent upon peaceful protest who created a spirit of goodwill that discouraged and absorbed disruptive groups.

Thus, one observer reported.

"I was particularly impressed by the tight chain of command and discipline among the [Mobe] marshals. Time and again, the marshals responded quickly and cooperatively when a problem arose. . . . As a result, I sensed that the policemen were willing to leave matters to the marshals unless a situation got out of hand."

Another observer commented:

"As the march began the effectiveness of the marshals became clear. . . . The marshals had lined the sides of the street, locked their arms, and prevented anyone from turning along the route. They would send people who wanted to march back to the Mall with the rest of the group that was waiting there for its turn to march. . . . In addition other marshals lined the side of Pennsylvania Avenue. These people served the double purpose of preventing marchers from leaving the designated route and of preventing observers from breaking the line of march. The overzealous marshals even gave Dr. Spock some difficulty when he tried to leave the parade route to visit the portable toilets which had been placed on the Monument grounds."

Regarding the mood of the crowd, one of the observers wrote that—

"A feeling of cordiality, friendliness and cooperation was marked. For example, I was several times offered coffee and sandwiches by total strangers who asked me if I was cold or if I had brought lunch. If someone bumped into me they apologized effusively. . . . If I were asked to depict one vignette that characterized this march, it would be a young girl of about 22 years, with long blond hair, the color of her cheeks quite pronounced due to the wind and cold, well dressed in slacks and an overcoat, who during the entire time I observed her was smiling quietly and peacefully, and carried a sign that said, 'Love One Another.'"

Another observer described his experiences on Saturday this way:

"As I watched and talked with these young people—the great majority were under 25—I sensed a pervasive feeling of something that can only be described as love. Despite the cold, most were in good humor, bundled together, sharing food, drink and blankets. They wanted to show that they were deeply concerned about what was happening in this country. . . ."

Another observer commented:

"The rapport between police, marshals and marchers was quite evident during our participation . . . Marchers were observed asking policemen questions typical of curious tourists; the police observed handled these questions and march participants with the utmost courtesy. It is to be noted that participants during this part of the march showed no fear or animosity toward the police . . . The conduct of police and demonstrators . . . took on an angelic atmosphere not entirely realistic. The deference given law and order and the courtesy observed were to say the least not those observed on the streets during the course of a routine day."

Observers commented most frequently on the sheer size of the march. For more than two hours at 4th Street, marchers—often after waiting in line for over an hour—started ranks abreast, moving at a steady pace that carried thousands from the staging area down Pennsylvania Avenue and south on 15th Street to the Monument grounds. Yet even this large march accommodated only a small fraction of those who came. The line of march was closed at 4th Street at about 12:30. The remaining would-be marchers simply walked down the Mall toward the Monument grounds, filling the entire width of the Mall for more than an hour. The groups which proceeded down the Mall did not march, nor did they form anything so cohesive as a parade. They walked in small clusters, as couples or individuals. Many walked with placards they had hoped to carry in the march itself. A few seemed disappointed that they had missed the principal march, but most were realistic about the capacities of Pennsylvania Avenue, and followed the route assigned them down the Mall without rancor. As on the march route, souvenir and button hawkers were in abundance, and most marchers bedecked their coats or sweaters with at least one button or another.

Like the marchers along the main route, the Mall crowd was principally young. The large majority were probably under 25; many seemed of college, even high school, age. But middle-aged or older citizens were also present in abundance; they especially seemed, for the most part, to welcome the opportunity to be a part of such a large, young, enthusiastic crowd.

Observers reported but two untoward incidents. The first was an attempt by a group of about 50 to 100 persons to break out of the line of march with the apparent intent of turning up 15th Street towards the White House. This group left the main body of marchers at some point between 6th and 9th Streets and proceeded up the north side of the avenue. They were returned to the main body of march at 15th Street without serious difficulty, although according to at least one report the group did break through the first line of marshals thrown in their path. They were contained only when the marshals regrouped, aided slightly by the police. If this incident was a group effort, the participants were neither well organized nor seriously bent upon creating a major incident.

The second incident involved a small group of counterdemonstrators who left the Washington Hotel about 1:00 to begin a march to Arlington Cemetery where they planned to place a wreath upon the Tomb of the Unknown Soldier. The Mobilization marshals were instrumental in persuading the main body of marchers to tolerate this group and to recognize their right to carry out their own demonstration.

The rally at the Monument grounds was pervaded by a picnic-like atmosphere. There was some waving of Viet Cong flags, and some shouting of obscenities in response to certain speakers. But these were largely ignored by most of the crowd. The almost total absence of policemen at the grounds may have been an important factor in preventing incidents. The only act of civil disobedience observed by any of our Task Force members was committed by one youth who flew a black kite in defiance of the well-known statute making such activities unlawful in the District.

By 3:00 there were steady streams of people leaving the Monument area, moving east on both the Mall and Constitution Avenue and north on most of the numbered streets. People went into the downtown area seeking warmth, food and coffee after the cold and exertion of the march. Some were on their way home; others wandered, sightseeing, before returning to their buses for the trip home. Restaurants were jammed.

During the latter part of the speechmaking at the Monument, a girl had announced: "At five we march on the Department of Justice." Although the Justice Department demonstration was not sponsored by the New Mobilization Committee, no announcement was made to counter the impression that the mass march leaders were now endorsing the late afternoon rally at Justice. Indeed, David Dellinger later made another reference to the Justice Department demonstration, without drawing any cautionary response.

E. The rally at Labor

As the Monument crowd dispersed, a demonstration was visibly in progress at the Department of Labor on Constitution Avenue near 14th Street. It was conducted by members of an SDS faction led by several young men who had set up a portable speaker system on the steps of the entrance to the Department. Speeches focused on the General Electric strike. Listeners were encouraged to assist working people in their "struggle" against capitalism. The crowd, which had been unusually listless and apathetic in the extreme late afternoon cold, was finally stirred to life about 3:25 when a half dozen police motorcycles inexplicably drove single file along the north side of the Avenue, forcing the crowd to split.

At about 4:05, a rock or other missile crashed through a central window over the doorway of the Department. Almost immediately the young men operating the portable speaker announced that they did not want any rocks thrown, that this was not to be a violent demonstration. They asked the crowd to disperse. A sizable number of marshals immediately began to move the crowd across the street and away from the building.

In the midst of this activity, some 30 or more C.D.U. officers emerged from the front entrance of the Department. Deputy Chief Davis used a speaker system to attempt to clear the crowd, at least to the other side of the street. Only two or three of the policemen were wearing gas masks; all, however, were wearing helmets with visors, and all displayed their batons. They ultimately formed a line along the curb edge of the Department of Labor sidewalk. This show of force seemed unnecessary to our observers; the marshals had already succeeded in quieting and moving the crowd, and their efforts at dispersal were made more difficult by the appearance of the C.D.U. men.

F. The rally at Justice

At about the time that the street was being cleared in front of the Department of Labor, a group of approximately 2,500 demonstrators gathered just to the west, at Constitution Avenue and 14th Street. A banner reading "Nat Turner Brigade" was prominently displayed, along with three papier mache heads (putatively to resemble Attorney General John Mitchell, Vice President Spiro Agnew and Judge Julius Hoffman) and a huge black judge's gavel.

The closely packed demonstrators crossed the street about 4:20 in a flurry of banners, flags, chants and effigies, and moved smartly—in the half-trot used by Japanese student demonstrators—down the now-cleared Constitution Avenue past Labor towards Justice. At 12th Street an additional group of approximately 500 more demonstrators joined the march. Upon reaching 10th Street, the parade turned north towards Pennsylvania Avenue and began the first of two circles around the Department of Justice. As the march wheeled around the building, the demonstrators were joined by a substantial number of bystanders attracted by the excitement of the marching.

The rally permit called for the marchers to southeast to the Mall after coming down 9th Street to Constitution.[5] The parade, however, turned back toward the south side of the Justice Department building, partly because of a police line which inexplicably blocked the route to the Mall.[6] The marchers finally came to rest on Constitution Avenue between 9th and 10th Streets.

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[5] Several observers spoke with police in an effort to learn the nature of the permit. Answers varied, suggesting that no effective effort had been made to apprise police of this important aspect of their duty. One officer declared that he understood the permit to be deliberately ambiguous, so as to enable police to end the demonstration at will.

Police had earlier formed lines along the north, east, and west sides of the Justice Department building. On the Constitution Avenue or south side, police were deployed across the street from the Department, against the wall of the Museum of Natural History. Despite minor rock throwing, obscene remarks and repeated attempts to lower the flags in front of the Department, those police held their ground and were not drawn into physical contacts with the demonstrators.

Illustrative of police resourcefulness in effectively keeping the peace were the tactics of one police officer in charge of a group of police which responded to several flag-lowering incidents. At 4:35, a group of demonstrators, noticing that the police were on the south side of the street, moved toward a flag pole and lowered the American flag. The officer in charge calmly walked over with a few men and took the flag from the demonstrators, who surrendered it peacefully. He then moved some 30 or 40 feet away and allowed them to raise a Viet Cong flag. When the demonstrators finished this ceremony, the police returned, lowered the Viet Cong flag, reraised the American flag and stationed a man at the flag pole. The same procedure was followed later in the demonstration when the flag on the 9th Street side of the building was lowered.

The demonstration heated up when a few bottles and rocks were thrown at the Justice Department building. In addition, demonstrators—some carrying banners, some carrying Viet Cong flags, some with "This Building is Condemned" posters—ran up to the central door and left their paraphernalia. Some climbed up onto the rail or lamp fixtures. One young girl marched up to the steps and began to cajole the crowd to come forward. Later, a number of demonstrators rushed up to the large steel doors and banged upon them for some five or ten minutes. Amidst the other missiles, several bottles of red paint or ink splattered against the wall, and several red smoke bombs went off near the corner of 9th Street. The papier mache gavel was set aflame in the middle of Constitution Avenue. A motorcycle policeman attempting to ride through the crowd was pelted with sticks, as was a white Hertz rental car carrying police which moved down the Avenue at a dangerous speed. Each event encouraged the next.

From the beginning of the rally, New Mobilization marshals[7] urged bystanders to leave. They warned of violence and tried to inform spectators that the demonstration was not a Mobilization activity. During the circling process and later, the marshals often acted as human buffers between the demonstrators and police. As the crowd grew more excited, a group of marshals, including one stationed near the Museum with a speaker system, attempted to move the crowd away—back towards the Washington Monument. They had only limited success, in part due to loud taunts from some demonstrators that the marshals were really "cops." In addition, the marshals attempted to stop the early rock and bottle throwing by standing near windows across the south side of the Justice building.

The first tear gas was used about 4:48 to sweep 9th Street on the east side of Justice. Some of the demonstrators near 9th Street and Constitution Avenue were moved west along Constitution towards the main body of demonstrators; others were moved south and east towards the Museum of Natural History and the open space east of it. Many who were forced east turned north on 7th Street, then west on Pennsylvania Avenue to observe more of the demonstration at 9th and 10th. There was some window breaking around 8th and D Streets at 5:11. Police discouraged demonstrators from entering the parking lot to the east of the Museum, apparently because its steepening sides could have trapped demonstrators. Tear gas canisters continued to be used intermittently; perhaps a dozen canisters were fired over a 15-minute period. Some 500 demonstrators gathered in the Mall and hesitated between it and Constitution. Firing of tear gas canisters became more rapid, and a small group of police began moving south from Constitution Avenue. A loose line of perhaps 15 police formed at the south of the parking lot. None of these police appeared aggressive: they were not in formation, they did not wear gas masks, they did not swing their clubs. The demonstrators in the Mall were generally moving west, but stayed as close as they could to the police and the activity on Constitution. Canisters were eventually thrown as far as the middle of the Mall, but they were not numerous, and the very brisk wind coming from the south carried the gas away from the demonstrators towards the police.

A large crowd had gathered at 12th Street and the Mall, some of whom threw missiles at vehicles in the 12th Street underpass. About 20 police ultimately swept this crowd back into the Mall.

The police made the first move to clear the crowd from the Constitution Avenue side of the Justice Department building at about 5:05. A line of C.D.U. officers had already pushed people away from 9th Street. Simultaneously, a C.D.U. contingent had barred passage north on 10th Street, while another group nearer Pennsylvania Avenue stopped movement south on 10th Street. In order to avoid physical contact between the crowd and the police moving west on Constitution Avenue, Mobe marshals locked arms and formed a buffer line several feet in front of the police. As before, a number of firecrackers were thrown from the crowd. Some tear gas was used by police. The press of the police, the sound of exploding tear gas canisters and the tear gas itself succeeded in moving the crowd away from the front of the Justice Department. The police pushed the crowd back to the west edge of 10th Street and paused there for some five to ten minutes without attempting to push the crowd further.[8] After more rocks and epithets, the police announced that the demonstration had gone on long enough.[9] Mobilization marshals were advised to disband their buffer line and they did so. The police then began to press forward with gas, somewhat hampered by the strong wind, which blew the gas back into police ranks. After a few minutes, the use of gas suddenly mushroomed. Dozens of canisters bombarded the crowd. This was in marked contrast to the earlier, more restrained use of gas. Until then the gas had been used, as at Sheridan Circle the night before, to push the crowd along—*i.e.*, it was discharged at the heels of the crowd in a manner which enabled the group to disperse in a relatively calm and orderly manner. The heavy use of gas late Saturday afternoon caused substantial disorder, since it very quickly covered a wide area. People already moving away were subjected to it. Many were momentarily blinded. Many vomited. Shoppers and employees leaving downtown stores at 5:30 were caught in the windblown gas.

The major tear gas barrage forced demonstrators north on 12th Street toward Washington's downtown business district, farther west on Constitution, or south into the Mall. Window breaking at 12th and Pennsylvania was reported at 5:32, and windows were broken in the post office between Constitution and Pennsylvania Avenues. There were further reports of scattered window breaking in the downtown area throughout the early evening. Many demonstrators wandered the streets and filled downtown restaurants, prevented by the tear gas on Constitution Avenue from returning to buses parked south of the Monument.

The heavy tear gas in the Mall scattered the demonstrators into small groups, some moving east to the railroad station or cars, some moving south to the buses, others moving west to the Monument. One observer returned down 12th Street to Constitution Avenue and found a thin line of demonstrators across Constitution confronting a line of police. The demonstrators were singing, "All we are saying is give peace a chance." The police line was removed, leaving only a few policemen standing on the corners. This apparently was done in the hope that the police withdrawal might encourage the demonstrators to disperse. But the demonstrators stayed and grew in number. The police formed a new line and finally chased the demonstrators away with tear gas.

A barrage of tear gas at 6:00 dispersed not only the demonstrators gathered near the corner of 15th Street and Constitution Avenue, but also a line of marshals and police (who had no gas masks) attempting to direct people onto the Monument grounds. The demonstrators continued to move west, blocking Constitution at 16th Street. Some attempted to build a barricade of police saw horses and picnic tables. The police threw more gas at them and the demonstrators retreated. By 6:45 the area of the Monument had been cleared of demonstrators, although a few police-demonstrator contacts continued to occur west on Constitution toward 17th and 18th Streets.

At 7:00 a lawyer-observer homeward bound from these confrontations was proceeding north on 20th Street when a group of 30 or 40 demonstrators carrying a Viet Cong flag overtook him at H Street. He followed this group north on 20th Street. Members of the group threw rocks through windows for several blocks undisturbed by police until a squad car pulled up behind them at 20th and N Streets at 7:10 p.m. Rocks were thrown at the police car as it slowed and after it stopped more rocks were thrown. One policeman managed to grab a demonstrator and appeared to be clubbing him. Several rocks were thrown at the two, perhaps to prevent police reinforcement, and the demonstrator broke free. He ran west to New Hampshire Avenue, where he rejoined the group which was scattering north towards Dupont Circle. Two or three police cars followed the two dozen or so demonstrators in the remnants of this group north to Dupont Circle and then down Connecticut Avenue. The demonstrators threw a few more rocks at windows, but few, if any, windows were broken. The police watched but did not make any further attempts to arrest.[10]

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[6] The line was belatedly removed at the urging of Mel Washington, a Mayor's aide who along with Clint Mitchell, another aide, played an extremely important role throughout the weekend in moderating police conduct and in cooling provocative situations. Attorney Philip Hirschkop, who served as counsel to the New Mobilization and led the New Mobilization's lawyer and law student marshals, played an equally valuable role in helping to avert situations which might otherwise have precipitated clashes between police and demonstrators.

[7] Marshals told observers that their services had been offered the rally sponsors, who declined them. But the marshals came anyway, in an effort to moderate events.

[8] One lawyer observer did report physical violence at this juncture. He reported seeing an officer on 10th Street clubbing a young girl. He reported also that he himself was hit in the head with a billy club as he ran over to the scene. "I was then struck again in the head, hit on other parts of my body and thrown to the ground and kicked; I attempted to explain that I was a lawyer observer and not a demonstrator but I was merely told something to the effect of 'I don't give a damn who you are buddy, get off the street'—I was grabbed up on my feet by my jacket and arm and thrown against another officer who threw me down the street a bit more and finally I was thrown against the Justice wall; I do not remember how I finally got out, . . ." Our observers also reported receiving several *second-hand* reports of beatings during the weekend.

[9] Many observers complained that the announcement was not heard. A comparison of the 51 reports received reveals that only those observers in the closer sections of the crowd were able to hear the announcement. This was one of the most serious criticisms by our task group, who rather widely felt that a serious announcement of intent to clear the street with gas would have been met with dispersal by most of the crowd, who were largely bystanders.

OUR CONCLUSIONS

The November Moratorium was a profound test of our Nation's willingness and ability to accommodate political dissent on a massive scale. Several hundred thousand Americans came to Washington to participate in meetings, rallies and demonstrations in order to express their views and to petition their government to quickly end the war in Vietnam. Their peaceful Saturday march from the foot of Capitol Hill to the Washington Monument grounds, involving well over a quarter of a million persons, was the largest single political demonstration in our Nation's history.

That a demonstration on so emotionally volatile a public issue and on such a massive scale could take place without significant violence can only be attributable to the goodwill of the vast majority of demonstrators, to careful planning by their leadership, and to the generally high professional performance of Washington's police force.

To many, for a variety of reasons, mass assembly, however peaceful, is distasteful as a means of communication. Some thoughtful persons regret the emotional, conformist pressures which characterize any crowd activity, and the frequently fallacious political inferences which proponents and opponents tend to draw from the very numbers involved. They would prefer what seems to them to be more rational modes of communication. Others fear that demonstrations on a massive scale, or the reactions to them, might spark violence, destroying property and threatening human lives. Still others would simply prefer to avoid the annoyances inevitably associated with concerted action by large numbers of people—whether political dissenters or American Legionnaires in convention. And some, hostile to the views expressed in particular demonstrations, would rather not have them voiced in so dramatic a fashion or, perhaps, at all. A few condone repression.

Every citizen has the right to formulate his own view as to the desirability of massive political demonstrations. But we must recognize that such demonstrations will continue to take place, and that the First Amendment to the Constitution of the United States accords them a protected position in our political life.

There will be more mass demonstrations. We live in a mass culture in which the wellbeing of every individual is to an unprecedented degree directly and vitally affected by the conduct and decisions of governmental bodies and of other institutions which seem often insensitive and unresponsive. A foreign policy decision made in the White House sends a Kansas farmboy and a Berkeley student to their deaths in Vietnam. Policies fashioned by the leaders of our political, economic and social life affect the level of our material prosperity, the quality of life in our cities and countryside, and indeed the prospects for the survival of our species in an age darkened by threats of nuclear holocaust and ecological disaster.

We have taught our children that they are the heirs of the American Revolution, that they live in a democratic country, that government is by and with the consent of the governed. Our children have learned these lessons well, perhaps better than did their parents and grandparents. It is not realistic to expect modern-day Americans meekly to surrender their basic rights to speak, petition, and peacefully to assemble.

We not only live in a society where the right to participate in governmental decisions and to protest unwanted ones is deeply ingrained, but also in a time when political response is likely to be massive rather than individual.

There are few ways for the average individual in mass society to effectively communicate alone.

Not every American has the opportunity, available to the President, or Cabinet officers, or celebrities, to call in the news media to communicate his thoughts to millions of television watchers, radio listeners and newspaper readers. But there are ways in which ordinary citizens, who sometimes feel their interests or even their lives in jeopardy, may seize the attention of their fellow citizens. Some resort to letters to the editor, or to signing petitions. Some—if they are old enough—patiently await the periodic opportunity to cast their ballots. Others display the flag, or attach bumper stickers to their automobiles, or wear buttons in their lapels. Still others gather together in large groups to amplify their voices.

Imaginative young Americans beginning with the civil rights movement of the 1950's have invented or rediscovered the sit-in, the teach-in, the freedom ride, and the mass march. It is a major strength of our political system that our government has never responded to expressions of dissent by powerless people by crushing the demonstrators with clubs and tanks, imprisoning their leaders, shouting them down, or subjecting them to ridicule.

This is not to say that concern over the risks of violence, or over the inconveniences and deficiencies of mass demonstrations as measurements of public opinion and influences on public policy, are totally without foundation. There is some risk of violence, and mass protest is often inarticulate. This only means we must develop effective means of preventing violence and expanding the opportunity for clear communication. Because we live in a mass society, where interdependence is so great, and are a people who treasure freedom of speech, petition and assembly, we must learn as a Nation to tolerate, to protect and to effectively facilitate these immense outpourings of attitude and political viewpoint. This we must do whether we like these demonstrations or not, agree or disagree with their purpose, or believe they are too provocative in our turbulent times.

If we fail to deal sensitively with mass protests, if we are unable to assure the fullest exercise of the rights of free speech, petition and assembly, and to protect their exercise against violence from whatever source, we shall offer no way for the desires of millions, however small a minority, to be known. No compassionate society wants to stifle the urgent pleas of part of its people, however insignificant their number and whatever they seek. A society which offers no way for its voiceless to speak will pay dearly in the loss of their wisdom and in the rage of contained emotion which will not subside.

Measured against this standard, the November demonstrations were only a partial success. The largest single political demonstration in our Nation's history was peaceful, and sensitive local authorities and a usually professional police force were successful in narrowly confining efforts to disrupt. But it cannot be said that our Nation's leaders, or the public at large, reacted to these events with tolerance, with understanding, with a scrupulous regard for what actually took place, or even with a significant awareness that freedom of speech, petition and assembly is the supreme and hallowed law of the land.

It is vital that the lessons which emerge from the November experience be learned by all Americans, for there will undoubtedly be occasions for putting the lessons into practice. And when the next test comes, it is essential for Americans to realize that the demogogue urging repression of political dissent is a greater threat to our liberty and to our safety than is the immature youth throwing a can of paint at a government building or hurling obscenities at the police.

The major lessons are clear.

First, peaceful assembly on a massive scale concerning highly emotional issues can be assured in the United States today.

Second, although few of those concerned with any major public issue have the personal capacity either to commit, or to motivate others toward violence, those few can always cause some level of disturbance if they wish to do so.

Third, professional police action can isolate and contain the level of violence likely to be associated with mass assembly with relatively little risk to persons or property, even with little risk to the participants themselves.

Fourth, persons in positions of leadership—organizers of demonstrations, the police, government officials, and those in the news media—have both the duty and the best opportunity to assure that effective communication through peaceful assembly can take place.

I. Peaceful assembly can be assured

Despite Justice Department predictions of impending holocaust, the post-Moratorium fixation of Administration spokesmen and much of the national news media on the two minor occasions where confrontations occurred, tear gas was used, and some property was damaged, the clear and overriding characteristic of the demonstrations was their peacefulness.

That massive demonstrations on one of the most emotionally volatile issues of the decade can be held in Washington without serious violence ought to encourage those who want to believe that preservation of our First Amendment freedoms is possible. Hundreds of thousands of persons came to Washington that third weekend in November to express their concern over the war in Vietnam and to petition their government with the hope that it would act. As is indicated in the detailed narrative to this Report, they participated in dozens of events. Nearly every area college and university was host to one kind of demonstration or another. Many of our churches and synagogues held special workship services. Some 40,000 persons participated in the 40-hour "March Against Death," and many times that number marched on Saturday from Capitol Hill to the Washington Monument grounds. At none of these events was property damaged or anyone injured by purposeful conduct. Many of the events required little or no police attention. At most of them, the relationship between the demonstrators and the police can only be described as courteous and friendly. Few gatherings of like num-

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[10] Incidents continued after the formal end of the demonstrations. Our observers witnessed several arrests at Dupont Circle late Saturday night where the police showed less restraint than they had the previous evening. One observer reported seeing a policeman club a women to the ground.

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bers of people could take place with less trouble. To those who say that our society is violence-prone or fragile, that our times are too turbulent, to permit large numbers of Americans to exercise their constitutional rights to speech, petition and assembly, the Moratorium weekend provides a resounding answer. Masses of people came to the Nation's capitol to demonstrate on an extremely volatile issue. And they did so in peace.

Only two minor events led to clashes. On Friday evening in the vicinity of Dupont Circle and on Saturday afternoon at the Justice Department there were relatively ugly confrontations between some demonstrators and the police. Bricks and bottles were thrown, and tear gas in excessive quantities was used to disperse the crowds. But these incidents were the work of an extremely small minority among the demonstrators, the confrontations themselves were more theatrical than "violent," and in terms of physical contact between demonstrators and police and damage to store windows, the violence quotient was quite low. Moreover, these incidents not only occurred at minor events which were not sponsored by the New Mobilization leadership, but were clearly opposed by that leadership as by the vast majority of demonstrators, and may well have been intended to embarrass the principle of peaceful protest.

II. A small minority always has the power to create trouble

Despite the determination of several hundred thousand people to protest the war in Vietnam peacefully and with dignity, the provision of thousands of trained marshals by the New Mobilization leadership to keep crowds under control and within permit limits, and the efforts of a generally well disciplined police force, a comparatively small group of demonstrators, outnumbered a hundred to one by their peaceful opposites, but bent on disruption and on kindling some form of confrontation was able to provoke two clashes with police and monopolize news coverage.

The weekend demonstrated once again that a handful of people determined to make trouble can do so. All it takes is for someone in the midst of a crowd to throw a bottle at the police, or to ignite a smoke bomb or a tear gas canister, or to smash a window, or set fire to a vehicle. Because it is so easy to create trouble, no one organizing a massive public meeting or assembly can guarantee to his followers, or to society, that there will be no violence. To require such guarantees would be to prohibit all large-scale public meetings.

Even though a small number of confrontation-seeking demonstrators were able to provoke clashes at Dupont Circle and at the Justice Department, they did not succeed in stamping the entire weekend with their handiwork. In one sense, the job was too difficult for them. During the mass march on Saturday, for example, potential troublemakers were surrounded and absorbed in a veritable sea of marchers who would not countenance violence. Attempts to break through the massive crowds and to break the lines of marshals and police failed. Moreover, these seeking to disrupt faced fiercely determined marshals and well disciplined police. The throwing of objects and epithets did not shake either the police or the marshals, and this kind of violence failed to provoke the head-smashing that a few of the demonstrators may have wanted.

III. Professional police work can sharply confine disturbances associated with mass political assembly

Events in Washington in November demonstrate that good police work can sharply reduce the violence potential. From the outset Washington's local government and police officials were determined to enforce the law, not to provoke clashes, and to avoid insofar as possible any physical contact with demonstrators.

To accomplish these goals, the police employed two principal procedures. First, whenever conditions permitted they adopted a profile of low visibility. Generally, the police were not in evidence. Where feasible, they left crowd control to the New Mobilization's own marshals. Because the crowds were generally good humored, because the marshals were well trained, and because those police who were visible seemed helpful and indeed friendly, this practice was, for the most part, a success. It is, of course, the desired practice in a free society.

Low visibility was abandoned only when the police thought a crisis imminent and a firm hand necessary. One can object to the timing of particular police moves. The show of force at the Justice Department Friday afternoon, just as the crowd was ready to disband, was untimely and counter-productive. The parade of motorcycles at Labor Saturday afternoon turned a languid demonstration into an angry one. The same can be said for the sudden emergence of a line of police at Labor just when the marshals were moving the crowd away from the building.

A more controversial tactic was the heavy use of tear gas for crowd control. In order to avoid the necessity of physical contact between police and demonstrators, and to make unnecessary the use of force, walls of gas were laid between police and demonstrators. As so used, tear gas has both advantages and disadvantages. Tear gas is obviously to be preferred to the more dangerous alternatives available to the police. Gas provided a buffer once trouble arose, and generally made physical contact unnecessary. A few demonstrators appear to have been pushed or clubbed by police, but this was not a significant aspect of what happened in November.

There is a negative side to the use of gas. First, being gassed is a searing and anger-producing experience for anyone—as many of our observers attest. It is particularly terrifying for those trapped in a crowd verging on panic. It is, therefore, not enough that tear gas may have averted the need for more drastic measures. We must also inquire how well the gas was used—whether it was released only when necessary, in only such quantities as were required, whether efforts were made to warn the innocent and provide avenues for escape, and whether the use of tear gas accomplished the broader legitimate goals of the police in crowd control and law enforcement.

There is evidence that these considerations were sometimes slighted. Many peaceful demonstrators, and even some citizens not participating in events at all, were gassed, on several occasions without warning. In some instances, gas fired into the midst of crowds in confined areas created a dangerous risk of panic and injury.

For the most part, this kind of use occurred in the course of efforts to disperse crowds rather than those to prevent contact. Thus the demonstrators who marched from Dupont Circle toward Sheridan Square and the South Vietnamese Embassy Friday night could scarcely profess surprise when they met a carefully-arrayed police line ready to repulse their unauthorized advance with gas. But many of those standing in Dupont Circle later that evening were not expecting tear gas. Even less were the bystanders northwest of the Circle, near the Riggs Bank, expecting canisters of gas to explode in their midst. There is no evidence, moreover, that any warnings were given to them by the police.

Police decisions under such circumstances are not easily made. For instance, those who stoned and threw paint at the Justice Department on Saturday might have become more and more extreme in their conduct had the police taken no action. Some few members of the crowd visibly craved a clash, would not be satisfied without one, and probably were disappointed that they could provoke no stronger reaction than tear gas.

Most persons at the scene, however, were mere curiosity-seekers, or were actively seeking to moderate the confrontation. To some extent they assumed the risk of staying to see what, if anything, the police would do, despite the entreaties of marshals (who were uninvited guests at the rally) that they leave. But the curious are always with us, taking their chances in some measure but nevertheless entitled to protection and considerate treatment.

There is little evidence on this occasion that the police attempted to distinguish between bottle throwers and bystanders when the tear gas was released. Gas was used both to clear the immediate area of the Justice Department, and in an attempt to disperse the crowd. For the first purpose, tear gas was a success; for the latter, it failed. Gas was used along Constitution Avenue, on 12th Street and upon the Mall with little consideration of where or how fast the crowd was moving. And, as with efforts to disperse crowds on Friday night, no effective warnings were broadcast.

The tactical problems encountered in carrying out the decision to rely upon tear gas suggest several lessons, although admittedly the November experience is much too limited a base upon which to posit any full fledged theory of gas use. First is the need for planning. The police anticipated the Friday night march upon the South Vietnamese Embassy, and responded well. But afterwards there was much random release of gas, driving people repeatedly into and then out of the Circle. On Saturday, little thought appeared to have been given to whether and how to disperse the crowd near Justice. Indeed, gas seems to have prevented many from getting to their buses, which were parked across the Mall from Justice. Sometimes it seems to have been used as a method of summary punishment—an impermissible purpose.

Advance planning, of course, cannot anticipate all contingencies. If tear gas is to be used wisely, provision must be made for responsible decision-making at the scene. The initial decision on when to use tear gas on Saturday was made by the Chief of Police. But it is unclear who made decisions thereafter—unless it was the unusually brisk wind. The kindest hypothesis would be that the overuse of gas, and its repeated discharge into the midst of crowds, was the result of overenthusiasm by individual policemen. Whatever the facts on Moratorium weekend, in future demonstrations provision should be made for responsible officials to decide how much gas should be fired and where—and, especially, in what direction the crowd is ultimately to be moved. Gas should be used only when necessary to enforce the law and where less harmful forms of police action are inadequate—and never in excess of the minimal amount required to accomplish a permissible enforcement policy.

There is also a need for greater effort to warn bystanders that tear gas will be used. One observer noted that the only items of police equipment that failed to function during the demonstrations were their bullhorns. Whether bullhorns were inoperative, not used, or simply not equal to the task is unclear. But it is certain that most of the crowd on Saturday heard no warnings.

The failure or inability of the police to communicate with demonstrators leads to the larger question whether tear gas is an effective tool to disperse as well as to contain crowds. On the latter issue, there is little doubt that tear gas can effectively stop marches and insulate police lines from direct contact with demonstrators. It is much less effective, however, in forcing crowds to

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disband. If no avenues for escape are provided, serious harm may occur; if movement away from the gas is possible, the crowd may simply shift place without changing size. Both on Friday night and late Saturday afternoon, wind-swept gas drove angry demonstrators into adjacent business districts, where window smashing and other vandalism occurred.

Tear gas may also be a psychological as well as a physiological irritant when used indiscriminately. Many demonstrators—and spectators—were annoyed and some infuriated by gas—particularly those who felt they had been gassed excessively, and without warning or cause.

In focusing upon the use and misuse of tear gas during the weekend, these comments have embraced the common vice of allowing noteworthy but rare incidents an undeserved prominence over the many, many events about which little can or needs to be said. Any false impressions thereby created should be corrected. The Moratorium was overwhelmingly peaceful.

IV. Leadership has a duty to assure the opportuntiy for peaceful assembly

That the November demonstrations were generally peaceful did not happen by chance. Our observers were virtually unanimous in attributing the peaceful quality of the New Mobilization-sponsored events and the sharply confined level of disturbance even at Dupont Circle and Justice to the goodwill of the vast majority of demonstrators, to careful planning by the New Mobilization leadership, and to the generally sensitive and professional performance by Washington's local government officials and the Police Department. In short, that the weekend was generally peaceful was the clear consequence of the manifest incapacity for violence of most of the participants and the effective and responsible leadership of the New Mobilization, the local government and the Metropolitan Police.

Those who undertake to organize political demonstrations on a mass scale assume a heavy responsibility. This responsibility goes beyond provision against violence. The Moratorium brought hundreds of thousands of persons to Washington. Their health, welfare, and even their safety depended in large part on the thoroughness of the planning which preceded the weekend and the skill with which those plans were executed. Providing transportation, housing, food, first aid, and sanitation for hundreds of thousands of people poses a substantial challenge. Communication among participants and coordination with the necessary government agencies is no easy task. And the weekend showed that marshals by the thousands must be selected and trained if massive numbers of demonstrators are to be guided through a complicated demonstration schedule without serious mishap.

Not only must the demonstrators themselves be planned for, cared for and looked after, but provision must also be made to deal with that minority who might wish to turn a peaceful demonstration into its opposite. Although counter-demonstrators played little part in the November Moratorium, the possibility of concerted action by persons in opposition must likewise be anticipated and provided for. The New Mobilization leadership understood these challenges and met them well. Organizers of future massive demonstrations could profit from studying their techniques and experiences.

Next to the organizers and the participants themselves, local government authorities and the police have the best opportunity and the highest duty, to assure the opportunity and to protect the right of peaceful assembly and to avoid or control the potential for violence inherent in any extremely large gathering of people. The Metropolitan Police Department under Chief of Police Jerry Wilson, closely supported by Mayor Walter Washington, set a generally high standard of professional performance. This is not to say that every tactical decision, or every action by an individual policeman was the right one, or that individual policemen did not on occasion abuse their power. But over all, and certainly in comparison with police performance elsewhere in similar circumstances, Washington's police force and local government officials met the challenge posed by the Moratorium. They brought to the task a police force whose courtesy and professional competence were usually a high order. In general, the actions of Mayor Washington, Chief Wilson and the police communicated both to the Mobilization leadership and to the demonstrators themselves that they were welcome, that their First Amendment rights would be respected, that they would be protected as far as possible against violence by others, and that the community was mobilized to assure them an opportunity to make their point and return home in safety.

This performance must be contrasted to that of spokesmen for the federal government, and coverage by the news media. While Mayor Washington and the police were striving to assure a peaceful weekend, official statements from the Department of Justice predicted—and tended to incite—violence. As though rumors of violence were something new rather than our uniform experience since before the great rally of August 1963, high federal officials used the latest set of rumors to create an atmosphere of fear. In the days preceding the Moratorium itself, our citizenry were deluged with rumors about visits by FBI agents to bus companies proposing to transport demonstrators to Washington, and with official statements that troublemakers were on their way to Washington to cause violence and bloodshed and that both demonstrators and the Nation's capital could not be assured any degree of safety.

After the event, and contrary to plain fact, official and unofficial spokesmen for the Administration sought to portray the weekend as one characterized generally by violence. Even the spectre of the Russian Revolution was raised to describe what happened here. At the very least, this was a failure of leadership, of understanding. At worse, it was a calculated effort to mislead the public, to stifle dissent and to deny constitutional rights.

The news media did little to counter the mistaken impression thus created. Although the Saturday march was the largest single demonstration in our Nation's history, the broadcast networks for reasons of their own chose to provide no live coverage, and not much of any other kind. Only one month earlier, they had given extensive coverage to pro-war demonstrations involving a few thousand persons. When questioned about their performance during the Moratorium, the networks denied having been intimated by Vice President Agnew's recent attacks. The fact remains that the story was not told in the most effective way we have—by television. Americans in Columbus, Dubuque, Duluth and Spokane, for example, saw news accounts which focused almost exclusively upon events at Dupont Circle and the Justice Department, neither of which was part of the events sponsored by the New Mobilization.

This was not simply a struggle for public support, or over the pace of withdrawal from Vietnam. At issue was whether thousands of concerned Americans could communicate to their leaders and fellow citizens. This is vastly more important than merely scoring points with this or that bloc of voters. It has to do with whether America will permit ideas to be tested in the marketplace of public opinion. Only a minute fraction of the Nation was able to witness the Moratorium in person, and few if any were given adequate accounts by the news media. Many Americans formed their impressions of what happened from misleading statements by Administration spokesmen. To the extent that those impressions were erroneous, and based on misleading accounts as to the nature of the assembly and the level of violence, the viability of the First Amendment in our society has been weakened. It would be tragic to so deceive ourselves. If, because of false notions concerning the risks, Americans believe that large numbers of their fellow citizens cannot be permitted to petition and to assemble, those who would repress political dissent will have won a dangerous victory. The next time Americans assemble to exercise their First Amendment rights, they may find fewer persons willing to participate, stiffened opposition to the exercise of their rights, and public hostility to their purpose rooted in a mistaken belief that the First Amendment has become too costly for society to bear.

Those in positions of leadership have a duty not only to refrain from violating the precious rights of free speech, public petition and peaceful assembly, but also the legal and moral obligation to affirmatively enlarge the opportunities of the people to exercise these rights. When government inhibits its citizens in their efforts to speak, it demeans the Constitution and the people.

MOPPING UP ON THE MENACE OF MUD

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. GUDE. Mr. Speaker, Montgomery County, Md., has taken the lead among local governments in the establishment of sediment-control regulations affecting the rapidly growing residential construction in this suburban Washington area. Following the county's adoption of a sediment-control ordinance in 1967, the Maryland Legislature in 1969 enacted legislation to encourage other counties to do the same.

A leading force in establishing the guidelines for the antisedimentation program over the years has been the Soil Conservation Service of the U.S. Department of Agriculture.

Mr. Speaker, I insert for my colleagues the following article from Soil Conservation describing Maryland's activity in the rapidly developing areas of the State:

MOPPING UP ON THE MENACE OF MUD

(Maryland legislature enacts sediment-control measure for urbanizing area; authorizes county ordinances.)

(By Edward R. Keil, State conservationist, SCS, College Park, Md.)

Builders and developers in the Patuxent River watershed of Maryland, including the expansive "new town" of Columbia and adjacent rapidly urbanizing areas, are subject to sediment-control regulations enacted by the 1969 General Assembly.

Besides the mandatory measures applying specifically to the seven-county Patuxent drainage area, the legislature authorized all counties to enact ordinances aimed directly at the "menace of mud," chief destroyer of water quality, in subdivisions throughout the state.

The Patuxent measure is patterned after the anti-sediment campaign launched initially in Montgomery County, a suburb of the District of Columbia (Soil Conservation, November 1966).

Four other Maryland counties have adopted similar programs, and three others are considering "stop mud" regulations.

The state's requirements for builders in the Patuxent watershed extend sediment controls beyond subdivisions for housing to include commercial and industrial facilities. The law also embraces highway construction by the state, counties, and municipalities.

Operators must file sediment-prevention plans with local land use agencies and obtain approval of the soil conservation districts involved before building permits are issued. The Patuxent legislation also provides strict controls on sewage pollution to be administered by county health agencies.

Maryland's advances in curbing sediment damage result from a unique melding of rural and urban points of view, plus related know-how. Soil conservation districts and the Soil Conservation Service have long offered skills in agricultural conservation. Enlightened builders and developers have sought damage-abating methods suitable to their operations and the economics of their trade. County planning bodies and governing officials reflect the growing communitywide interests in improved environment for family life.

A sense of responsibility toward vital natural resources has prompted cooperation among Maryland urban and suburban land operators. Home builders' associations have freely endorsed sediment-control practices even in unregulated areas. Trade spokesmen openly voice satisfaction with the more attractive, saleable properties resulting from applied conservation.

Results of the program are visible on hundreds of widely scattered sites—especially along the axis of heaviest construction between Baltimore and Washington. Techniques are adapted to the precise soil and water conditions at each location.

Basic requirements of an effective sediment-control program on building sites include: (1) Saving natural vegetation wherever possible; (2) avoiding unnecessary disturbance of soil; (3) early installation of permanent storm drains and roads; (4) planting of temporary vegetation on denuded soils; (5) installing permanent vegetation speedily after construction; (6) construction of basins to trap sediment onsite; and (7) engineering to take care of marked increases in water runoff that follows development.

Beginning with Montgomery County's pioneer program, the Soil Conservation Service has assisted conservation districts in setting standards and specifications for sediment-control measures. As experience accumulates, these are refined to fit the practicalities of construction as well as improving their effectiveness in preventing resource damages.

Tangible benefits of the effort can already be seen at a number of sites where construction proceeds with reduced problems of mud and dust. Montgomery County leaders point to two new multipurpose lakes in Rock Creek Park completed only after sediment control for the small watershed project was put into effect.

Research now being conducted by the U.S. Geological Survey in Rock Creek and Anacostia River watersheds soon will provide more exact answers as to effectiveness of sediment controls. Other studies are evaluating the effects of individual practices and testing the use of flocculant compounds as a means of desilting water and reducing turbidity in streams.

Interest in sediment control is turning to action in nearly every soil conservation district where urbanization is underway. Marylanders are heartened by the action of the 1969 legislature and in evidence of growing support for making the Patuxent sediment-control requirements statewide.

THE COSTS OF WAR

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. DENT. Mr. Speaker, the Valley Daily News and Daily Dispatch newspapers of New Kensington, Pa., posed a very provocative question in a recent article entitled "The Costs of War." I want to bring this article to the attention of all Members so that they too may stop to consider, "Has a Trillion Dollars Bought Us Security?" Publisher Eugene A. Simon and Editor George D. Stuart are to be congratulated for this timely item.

As I look around the world, I see no signs of peace, or loving hands stretching across the waters or borders of nations holding olive branches of food for the dove of peace.

One wonders whether the President's promise to pull our troops out of Vietnam will be followed by putting the troops into Laos and Thailand. I have not yet seen any troopships loaded to the gunwhales with weary but cheering boys coming home—for good. What I have seen is a growing population of U.S. troops from Vietnam being scattered in handy behind-the-lines hideouts and neighboring areas and intermediate stopping places.

This much I know: the scores of war dollars are drying up and the wars are slowing up. We are on a collision course when we spend roughly 70 percent of our exorbitant Federal tax bite for past, present, and future wars, and in preparation for war. Those of us in Congress need a refresher course every now and then on the economies of war. This is done neatly for us by this fine article.

The article follows:

THE COSTS OF WAR: "HAS A TRILLION DOLLARS BROUGHT US SECURITY?"

WHAT WE'RE SPENDING

Some figures:

Out of every tax dollar in fiscal year 1969, 70 cents went to pay for wars, past and present, as well as preparation for war.

Of this amount, 19 cents went to pay for Vietnam, 35 cents for other current military expenditures, and 16 cents for the cost of past wars.

Every man, woman and child in the U.S. is now spending an average of $400 a year on the military, an increase of 60 per cent over the last five years.

SANE VIEW

The United States is a big investor in war.

"The U.S. has poured more than one trillion dollars into the military since the end of World War II. One-tenth of this staggering amount was invested in the Vietnam war," says SANE, A Citizens Organization for a Sane World.

In its current newsletter, SANE offers some striking reminders of that huge investment.

It asks what the trillion dollars have bought.

It asks what some of those dollars could have bought, if they hadn't been spent on war.

And it asks, "What can you do about it?"

WHAT COULD IT BUY?

A lesson on priorities emerges from some examples of U.S. military spending, and what the money could buy.

In Vietnam, the U.S. lost 6,000 aircraft valued at $6 billion, as of Oct. 24, 1969.

Those $6 billion could buy a fully equipped elementary school for 1,000 children, a fully equipped junior high school for 1,300 and a fully equipped senior high school for 1,500, in each of 250 communities . . . plus a starting salary of $7,000 for each of 35,714 teachers, one teacher for every 27 children.

The administration has budgeted more money for chemical and biological weapons than it proposes to spend for vocational education.

More will be spent on the antiballistic missile (ABM), taking the military estimate at face value, than will be invested in higher education.

—Five times as much will be spent on a single nuclear aircraft carrier (we already have 15 attack carriers) as will be provided for libraries under the administration's education proposals.

And SANE quotes His Eminence John Cardinal Krol, speaking last year at the national Veterans of Foreign Wars convention in Philadelphia:

"The arms race does not insure a lasting peace. The strategic balance of power or of terror it produces does not eliminate the threat of war. It merely increases the threat of greater and more devastating wars.

"One nuclear exchange between the United States and the Soviet Union would claim as much and possibly more than 120 million American lives. Is the risk of so many lives an adequate provision for common defense?"

WHAT DID IT BUY?

Has the trillion-dollar investment bought us security?

"In 1946, no enemy could reach our shores. Today, the Soviet Union has the destructive power to wipe out much of our society in less than an hour.

"The fact that we can do the same to the Soviet Union, several times over is little consolation.

"Are we more secure than we were a generation ago? Is our nation more united? Are our cities more livable? Have we spent our resources wisely?"

WHAT CAN YOU DO?

SANE advises these as potentially fruitful courses of action open to citizens who find the war investment unacceptable:

Congress holds the purse strings. Let your congressman know how you think the federal government should spend your tax dollars, and keep telling him.

Use the organization's information for educational campaigns ranging from letters to the editor to community forums.

Join peace activities in your community.

LA FAYETTE, THE "MIRAGES" OF YESTERDAY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. FINDLEY. Mr. Speaker, an interesting commentary on the recent experience of French President Pompidou in the United States was published in the March 4 issue of the LeMonde weekly English-language edition.

Writing in his capsule style, "Passing Thoughts," Robert Escarpit had this to say:

PASSING THOUGHTS—LA FAYETTE, NO!

"Pompidou no!" All right: let's admit that Americans who have been sporting this badge have a right to their opinion of a political figure; after all, quite a few Frenchmen shared their view during the last presidential election. But "La Fayette, yes!" really beats everything.

If the idea is to pass judgment on the French President's motives in the Middle East, then it might be just as well to take a closer look at what was behind French support of the American revolutionaries.

In 1777 the Americas were the developing countries; the thirteen colonies were the Libya of the time, and La Fayette, I regret to say, was the Ancian Regime's version of today's Mirages.

ROBERT ESCARPIT.

THE STATE DEPARTMENT AND THE MIDDLE EAST

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. O'NEILL of Massachusetts. Mr. Speaker, on March 9, 1970, I received a letter and a statement from Dr. Abram Bergson, professor of economics, and Dr. Michael Walzer, professor of government, at Harvard University, representing a committee of university people in Cambridge, Mass., who are concerned about the policy of the Department of State toward peace negotiations in the Middle East.

I believe, Mr. Speaker, that this statement documents and demonstrates that if we are to have a lasting peace settlement in the Middle East, the United States must endorse face-to-face negotiations between the parties. This is the only realistic solution to the conflict. To attempt to impose a settlement from the outside, without direct negotiations, is only to increase the possibility that the peace will be broken again.

This statement is a reminder to the administration that the U.S. Government did subscribe to Resolution 242 of the Security Council, which opposes the concept that major powers can impose settlements on smaller countries. It has been and supposedly is the policy of the U.S. Government to encourage and support peaceful and direct negotiations to settle disputes.

Professors Bergson and Walzer and their committee of concerned people believe that the State Department has not honored our Government's commitment. Although the Department says that it is not seeking an imposed settlement in the Middle East, the committee feels, and I agree, that the astonishing detail that appears in the Department's proposals ignores the possibility of negotiations and encourage intransigence on the part of the Arab governments.

It is my opinion that the State Department must reaffirm our commitment to a negotiated peace. It must do all in its power to assure that the parties involved in this Middle East conflict are the ones responsible for the resolution of differences. I commend the statement of Professors Bergson and Walzer to my colleagues. The statement is as follows:

THE STATE DEPARTMENT AND THE MIDDLE EAST

We, the undersigned, concerned to vindicate the basic national purposes and interests of the United States, are perplexed by the position which the Department of State appears recently to have proclaimed in regard to the Middle East. Aware that press reports of the Department's position, which has not been officially disclosed, may be incomplete and that some reports may not be altogether accurate, we recognize abundant possibilities for misunderstanding.

From such reports as have come to our attention, however, we find it hard to see how the Department's position can serve the prime American purposes in the Middle East. We understand these purposes to be to promote the peace, and to keep the region free from domination by any power that might endanger peaceful and productive development in which all may equitably share.

First, we do not understand why the Department of State appears to be adopting a doctrine that two large states—or four—may justifiably impose a settlement of differences between small independent states. Can the Department possibly believe that such a doctrine would promote the interests and purposes of the United States throughout the world?

The procedure followed by the Department in its two-power negotiations with the Soviet Union—and in the more recent four-power negotiations—is quite different from the normal practice of consultation among members of the United Nations. It is plainly at odds with the position of the United Nations Security Council in its Resolution 242 of November 22, 1967, to which the United States fully subscribed. In that Resolution, the UN Security Council, after first setting forth five principles for settlement in the Middle East which would accord with the principles of the UN Charter, requested the Secretary General of the UN to designate a Special Representative "to proceed to the Middle East to establish and maintain contacts with the *States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement* in accordance with the provisions and principles" of the Resolution. (Italics added).

Not only did the United States adhere to this Resolution, but it has supported the same doctrine of agreement among the parties in statements of its own at the highest level. Thus President Nixon (in a news conference, March 4, 1969):

"The Four Powers . . . cannot dictate a settlement in the Middle East. The time has passed in which great nations can dictate to small nations their future where their vital interests are involved."

So also President Johnson (in a speech, September 10, 1968):

"For its part, the United States of America has fully supported the efforts of the United Nations representative, Ambassador Jarring . . . But it is in the parties themselves who must make the major effort to begin seriously this much needed peacemaking process.

"One fact is sure: The process of peacemaking will not begin until the leaders of the Middle East begin exchanging views on the hard issues . . .

"We are not the ones to say where other nations should draw lines between them that will assure each the greatest security."

The Department is reported to insist that it is not now seeking to impose a settlement. It appears, however, that the Department, going far beyond the broad principles set forth in the UN Security Council Resolution 242 of November 22, 1967, has made proposals in astonishing detail concerning the delineation of frontiers, the structure of government and administration in Jerusalem, and the demographic composition of the population of Israel. (In a marked contrast with the Department of State's proposal, the UN Security Council Resolution 242 of November 22, 1967 has affirmed the principles that "Every State in the area" has the "right to live in peace within secure and recognized boundaries free from threats or acts of force;", and left the details to be worked out by agreement among the Arab states and Israel, assisted by the mission of the UN's Special Representative, Ambassador Jarring.) In a speech of December 9, 1969, moreover, the Secretary of State is reported to have said that he would not "shrink from advocating necessary compromises, even though they may and probably will be unpalatable to both sides." If the proposals are "unpalatable to both sides", how is agreement to them by the countries directly concerned to be attained, especially since the detailed character of the proposals leaves little for the parties to work out by themselves?

Perhaps the Secretary merely happened to choose an unfortunate word, and we do not wish to make too much of it. But what are we to make of the context in which the proposals were advanced? If the Soviet Union, the United Kingdom, and France were to agree on the proposals, and yet one or another of the state directly concerned were to dare to reject them, where would that state be left? Where especially would Israel be left? With arms flowing in large volume to the Arab states from the Soviet Union, would Israel, blocked by embargos from purchasing arms in Europe, be left uncertain even as to whether she would be permitted to purchase arms from the United States?

An imposed settlement would raise other specters for the United States, even apart from its inconsistency with American interests and policies. Such a settlement would depend for its effectiveness on sustained agreement and harmony in action between the United States and the Soviet Union. Does anything in our experience offer any hope for such a prospect?

Second, in the United Nations Charter, in the Charter of the Organization of American States, and in numerous unilateral pronouncements, the United States has affirmed the principal of "the sovereign equality" of states (Article 2, paragraph 1 of the UN Charter) and the principle of "respect for the personality, sovereignty and independence of states" (Article 5, paragraph b of the Charter of the Organization of American States). Israel is a member of the United Nations. In addition, its statehood and government have been recognized directly and explicitly on a national basis by the United States, the Soviet Union, the United Kingdom, and France, as well as a hundred other states. It would be plainly contrary to the principles, purposes and interests of the United States, and unthinkable as a matter of common decency and common sense, for the United States in any way to deny Israel's right to live as an independent state; and we take it for granted that no responsible officer within the Department of State would for one moment question this elemental fact.

We are therefore at a loss to understand why the Department of State should have proposed—as it is reported to have proposed—that Israel should be obliged either (i) to accept into its tiny population an unlimited number of Arab refugees, however hostile and bent upon her destruction they might be, or (ii) by exercising an uncertain and conditional reserve right to restrict the inflow of refugees, to provide the Arab states with an excuse to torpedo the proposed settlement if and when it might suit their convenience to do so.

Here again, we also do not understand why the Department of State should have moved away from the principles set forth in the UN Security Council Resolution 242 of November 22, 1967. That Resolution affirmed "the necessity . . . (b) For achieving a just settlement of the refugee problem;" It spoke only of "a just settlement" to be worked out by agreement among the parties; and the just settlement was to apply to "the refugee problem" as a whole, not merely the Arab refugees, but including the refugees of Jewish faith who fled the Arab countries by tens of thousands after the wars of 1956 and 1967 and entered Israel. Israel by herself has been obliged to bear the full burden of receiving, feeding, housing, and rehabilitating these refugees. A kind of impromptu exchange of populations appears to have taken place. In what manner can it be thought to serve basic American principles, purposes, and interests simply to ignore all these complex ramifications?

Third, we do not understand the position in which the Department of State seems to have put itself in respect of negotiations with the Soviet Union over the Middle East. From the public record, it seems that the Department of State has allowed itself to fall into the posture of putting forward a proposal; when it is bluntly rejected by the Soviet Union, the Department apparently attempts to put forward another; and when this other proposal is rejected in its turn, the Department apparently tries to advance still another, while the Soviet Union appears to do no more than lead the Department on with vague hints of possible compromises that are subsequently withdrawn. How can this serve the basic purposes and principles of the United States? If this process should by any chance continue up to a point where a proposal of the United States should be acceptable to the Soviet Union and its Arab clients, is it not altogether likely that the Soviet Union would claim and receive full credit from its Arab clients for those features of the proposal deemed desirable by them?

Would it not be better for the United States to rest squarely on the principles and procedures contemplated by the UN Security Council Resolution of November 22, 1967; to continue to support Ambassador Jarring; to discourage any possible suggestion of armed intervention by the Soviet Union; and to refrain from attempting to formulate the detailed terms of a settlement unless and until the Middle Eastern states themselves, both Arab states and Israel, might in time request the United States to use its good offices? Such a posture, it seems to us, would be far more consonant with the dignity and vital interests of the United States as well as the realities of the situation.

CONCERN OVER AMERICAN PRISONERS IN NORTH VIETNAM ELOQUENTLY EXPRESSED

HON. E. ROSS ADAIR

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. ADAIR. Mr. Speaker, one of my constituents, Virgil C. Hornsby, has a brother who is missing in action in North Vietnam. He is not sitting idly by and hoping for his brother's return. He has become a one-man publicity crusade for the cause of his brother and the other men still missing or known to be held by Hanoi. Therefore, I commend a recent letter of his to the attention of my colleagues:

MARCH 7, 1970.

Hon. E. ROSS ADAIR,
U.S. Representative, House Office Building, Washington, D.C.

DEAR SIR: One more week has been claimed by father time and my brother is still missing in action in Southeast Asia. This makes 168 weeks or 1,196 days without any indication as to whether he is dead or alive.

There are always many terrible by-products of war, but the fact that North Vietnam refuses to give names of captured U.S. servicemen, must be the single most horrible by-product any war has ever known.

This Government must do more to free these over 1,400 men. We put a man on the moon, didn't we? Let's bomb hell out of them, if they don't resolve the prisoner issue satisfactorily within 60 days.

Please, sir, do more for these men. I want to see my brother again.

Sincerely,

VIRGIL C. HORNSBY.

A SENSIBLE ABM DEVELOPMENT

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. DICKINSON. Mr. Speaker, President Nixon's crucial responsibility for protecting this Nation against foreign attack causes him to make difficult, sometimes unpopular decisions. A case in point is the current debate over the Safeguard ABM system.

While some idealistic persons wishfully propose that the funds necessary for this project be spent to cure our Nation's domestic ills, the realities of the world situation dictate that we be prepared in our national defense, for the present and for future years, as well.

As an editorial from the Detroit News points out, we must be ready for an eventual nuclear threat from Red China, as well as for the threats that are present today, because "yesterday's plan is useless against tomorrow's potential."

I insert this editorial in the RECORD at this point:

[From the Detroit News, Feb. 3, 1970]

A SENSIBLE ABM DEVELOPMENT

It is sensible and inevitable that President Nixon should proceed with further development of the Safeguard ABM system he announced last March. He said at that time he would evaluate annually, which is the only safe way to keep open his options to Communist moves.

Apparently his foreign intelligence advisory board, a nonpartisan group of eminent citizens, has recommended further action. Defense Secretary Melvin Laird last month gave a hint when he revealed the Pentagon had underestimated production of the Soviet SS–9 missile. This is the super intercontinental weapon ranging in power up to 25 megatons which we haven't attempted to match but must counter. Laird believes the Soviet Union has about 300 on hand.

We don't know whether the SS–9 is to be developed with use of a single warhead or three. Multiple warheads (MIRVs) could give the Kremlin the capacity to annihilate our principal deterrent, which is the Minutemen 3 missiles in their underground silos. That would mean the foe had at least the potential of a dreaded first strike capability.

A year ago Mr. Nixon stressed that three considerations would be paramount in his annual review: technical developments, the threat arising to us from them and the progress of the arms control talks. If our intelligence is soundly based, the new threat to our defenses is obvious.

But there is another factor our defense planners dare not ignore. That is a nuclear attack Red China might be able to launch within this decade. We suppose that could be termed a secondary defense precaution.

Whereas Mr. Johnson's Sentinel ABM system was primarily aimed at defense of cities against Chinese attack, Mr. Nixon holds that it is not feasible to promise Americans complete protection against a major strike. What he is doing is to use the Johnson hardware but change the concept.

Our primary purpose now is to protect our land-based retaliatory force and, secondarily, to defend people. It is the secondary aim that Mr. Nixon is now also pursuing when he talks of an "area defense." What that means is protecting our bomber bases and command and control posts and also screening densely populated areas, such as Detroit, without basing defense sites in the suburbs.

The state of the nuclear arms art being what it is—nothing ever stands still—defense has to encompass a many-pronged stance in protecting all fields. What Mr. Nixon is doing is to move steadily in anticipation of what the situation may be in 1975 or 1980. Yesterday's plan is useless against tomorrow's potential.

THE HABIT OF WASTE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. UDALL. Mr. Speaker, in an article in the March 2 issue of the Nation, Malcolm Margolin, who has worked in reforestation projects and is now completing a book on the future of American forests, offers a penetrating analysis of timber management in this country. His conclusion:

> At the present rate of waste, we shall certainly have a timber crisis by the 1980s. We shall also see a large part of our forests brutalized by 'intensive cultivation.' Everyone will blame the sad state of affairs on overpopulation, but they will be wrong. The real cause of that double disaster . . . will be the current gross mismanagement.

I commend Mr. Margolin's analysis to the Members' attention:

THE HABIT OF WASTE

(By Malcolm Margolin)

(Mr. Margolin has worked in reforestation projects and is now completing a book on the future of the American forests.)

"We had better worry about wood," warns *Pulp & Paper,* a trade journal, and statistics from the U.S. Forest Service are certainly ominous. They predict: two and a half times the current demand for pulpwood by 1985; well over twice the demand for all wood products by 2000; and millions fewer forested acres to grow it on.

We could, of course, simply use less wood. We could take advantage of substitute materials for home building—materials not being used because of a reactionary building industry and a jungle of obsolete building codes that only the most preposterous overuse of wood can satisfy. "We're still building houses the same way we did in the 1890s," notes Gov. Daniel Evans of Washington.

Or we could recycle paper, thus eliminating simultaneously a good part of the garbage, air pollution and conservation problems. If *The New York Times* were de-inked and recycled instead of being burned, that would save nearly 36 square miles of mature Canadian forests each year. Add just a few more cities on the East Coast to this recycling plan, and we would save something close to a national park's worth of standing timber a year. Yet a recent conference on recycling attracted what one journal called "widespread disinterest."

It is insane to suppose that if the public sits on its hands long enough, industry will lead the way to conservation of wood. The forest products industry is the fourth largest in America; and, typically American, it thinks only one brute thought: bigger! The very companies that yell "timber shortage" the loudest spend millions of dollars to develop "disposables"—throwaway evening gowns, tuxedos, tablecloths, and the like. For every scientist seeking to save wood, there are a hundred searching for new ways to waste it. Would you believe wooden pipes for conducting liquids underground?

When the Defense Department stops ordering pinewood ammunition cases, the loggers do not rejoice at the salvation of the Southern pine forests; they demand (and get) a House Small Business Committee conference to find out why. And last year when the price of lumber suddenly jumped 30 per cent and plywood nearly 80 per cent, Congress held three separate hearings to discuss, not how to decrease the demand but how to squeeze more timber out of the forests.

Congress might have examined that 1968–69 timber famine more closely. Why, for instance, wasn't the 20 per cent restrictive tariff on plywood imports dropped? Or why, during the crisis, did the industry's profit ratio double, climbing "beyond what should reasonably be expected," according to George Romney.

There were other oddities. The industry unanimously demanded that the National Forest increase the allowable cut on public lands by 10 per cent. At the same time, industry had purchased 26.6 billion board feet of national forest timber which they were not cutting—a backlog equal to twice the annual cut. "It's beginning to look like someone here is pulling our leg," commented Bert Cole, State Land Commissioner of Washington.

Finally there was the puzzling business of exports to Japan—2.23 *billion* board feet of prime Pacific Northwest logs in 1968, 35 per cent more than was exported in 1967, ten times what was exported in 1960. Fat, healthy logs were jamming the West Coast harbors within view of sawmills that had closed down for lack of supply. Yet Japan was so glutted with wood at this time that companies like Germain Lumber of Pittsburgh were actually forced to *import* plywood from Japan.

This adds up to something worse than collusion or a deliberate manipulation of the market. (Collusion, if it existed, could have been stopped by already existing laws.) The timber crisis indicated how extensive is the mismanagement and nonmanagement of the timber supply.

Where will the wood come from? Ask a logger or a forester, and you will get a very tempting answer: from intensified forestry. Weyerhaeuser is squeezing 33 per cent more lumber out of its forests by intensive cultivation methods. International Paper, Potlatch Forests, St. Regis and others use fertilizers and genetically improved "supertrees" to get 50 per cent to 60 per cent more wood per acre. And from legislation now being pushed through Congress (The National Forest Conservation and Management Act), the national forests will soon be enjoying *intensive cultivation* to increase yield by a whopping 66 per cent. It sounds marvelous—until you get out of your car, walk through the gates of Weyerhaeuser, International Paper, or any of the others, and take a look at the "Forests of the Future." The trees are arranged in straight rows precisely the same distance apart. They are all the same species, the same age, the same height and the same shape. They were selected from genetically improved stock to remove any imperfections that might give the trees individuality. These tree farms are sometimes fertilized, sprayed for insects and fungi, and are regularly thinned. They are wildlife deserts and have no more recreational value than do cornfields. In fact, that is the first association of every one who sees them: "wheat fields," "cornfields." Yet today nearly every logged-over acre of industrial timberland in the South and Northwest is artificially reforested in this manner—more than 1 million acres last year alone, about 1,600 square miles.

If tree farms were as visible as smog there would be an enormous protest; but they are mostly on private land, as far removed from the public eye as logging itself, and they are well padded by public relations lullabies. Except for industry, only the Sierra Club, the Wilderness Society, and a few others are aware of tree farms; and they have been waging an unsuccessful battle to preserve at least the publicly owned land from such a fate.

If this is what threatens America's remaining forests, the first question to ask is: are there alternatives? I have already touched upon a few: use of substitute materials, recycling of paper, stopping exports (which now account for 10 per cent of America's timber production). There are many more. American logging, milling and home-building practices were developed during an age when forests were plentiful, even a nuisance. The attitudes and technologies from this era still cling. In its progress from forest to its ultimate destination—the dump—we find wood outrageously wasted at every step.

To begin at the beginning, logging, especially on the steep slopes of the Northwest, is still exciting; but once the chain saws have stopped whining, the engines have stopped roaring and the donkey whistle is silent, what remains are hillsides littered with slash. Ten to 20 per cent of the volume is left behind, to be burned or buried. It could all be used. Portable chippers, skylining and ballooning (lifting whole trees with balloons as they do in Russia) make it possible and according to a Wilderness Society estimate would increase the national timber supply by 10 per cent.

Next comes the sawmill, where fat logs go in one end and skinny planks emerge from the other. Bark, which is about 10 per cent of the log, is burned or sold as mulch: it could be converted into bark board. Sawdust, which accounts for about 7 per cent of the log, could be halved with thinner blades. New methods and patterns of cutting Southern pine have increased output by another 8 per cent. Few mills have special equipment to process undersized or defective logs. And finally there are the thousands of marginal, small-town sawmills that stink up the air by burning ends, edgings and slabs instead of converting them into fiberboard particle board, or pulp.

What I am describing are ways of applying *existing* technology. Why haven't they been applied? They are, unfortunately, economically marginal, or worse. Good forestry and good milling are simply not profitable—not when the price of lumber is artificially depressed by overcutting private land and by raiding the national forests. Deliberate action will be needed to bring them into harmony: perhaps a steep price rise, perhaps legislation to promote better practices, or maybe something sweeter like tax relief or subsidies to insure proper treatment of wood.

The next stage on the journey through the sawmill is past the grader. Although devices for grading accurately exist, it is still done haphazardly. A man glances at one side of a passing board and puts on the grade. The standards are set by industry, and they are entirely voluntary. Strong wood is occasionally misgraded (and misused) as weak. But a recent check by *The Washington Post* found that half the lumber bought from randomly selected dealers was "much weaker" than it was supposed to be. Architects and builders know this, and they automatically compensate, using 2-by-10s instead of 2-by-8s, etc. More accurate grading, the Western Forests Industries Association thinks, could reduce the amount of lumber used in the average house by 15 to 30 per cent. Rep. John Dingell (D., Mich.) thinks that the waste from misgrading "could amount to as much as *25 per cent of the total resource.*"

Then there is the matter of proper seasoning, to make wood last longer and reduce the rate of replacement. The antiquarian Eric Sloane has compared the suburban house which sags, rots and sports termites after a single generation with the New England barn that lasts centuries—without paint or preservatives. The difference is in the seasoning.

It is impossible to estimate how many Yellowstones could be saved by recycling, using slash and sawmill leftovers, increasing milling efficiency, halting exports, grading properly, seasoning adequately and using alternate materials. Yet there is more to the subject. I have not even touched upon the attacks by hundreds of critics against numberless stupidities: the Jones Act, for example, which in effect forces Alaska to ship nearly all of its lumber to Japan; the telephone poles which devastate forests and scenery at the same time; power transmission lines that destroy more than 30,000 acres of forest a year; flood-control dams in areas where reforestation would not only control floods but would produce commercial timber; failure to use bagasse (sugar refinery refuse) instead of pulp for certain grades of paper; failure to encourage use of groundwood paper (which uses 90 per cent of a log) over finer grades (which convert only 50 per cent).

We steadily reduce our wild varied forests to mono-cultural tree farms; yet we allow 2 million logged-over acres in Southern Florida and millions more in nearly every state to be taken over by brush. If an Oregon landowner wants to strip his land of mature firs, cedars, hemlocks and larches, and replant with colonnades of genetically improved Douglas firs, he will benefit from millions of dollars worth of research, state nurseries, and the visitations of public foresters. But if he wants to rehabilitate his brushland, there is nothing he can do but buy the one book available on the subject. "And if this represents the state of the art," comments one of them, Bruce Starker, "I could have spent my money more effectively on an ax."

At the present rate of waste, we shall certainly have a timber crisis by the 1980s. We shall also see a large part of our forests brutalized by "intensive cultivation." Every one will blame the sad state of affairs on overpopulation, but they iwll be wrong. The real cause of that double disaster, timber famine and tree farms, will be the current gross mismanagement.

Various solutions have been put forth. They include price rises, price controls, federal or state regulation, tax reforms to promote efficiency, subsidies, and others more radical. Every one who views the situation would like to take the villain by the throat, but he is not to be found. The four largest timber producers combined control less than 10 per cent of the market. There is not one hole in the barrel but a thousand.

Whenever the industry itself speaks of the approaching timber famine, it casts the entire blame on three evils: the refusal of small landowners to let their land be logged; the withdrawal of timberland for national parks and wilderness areas; and the failure of the government to cultivate the national forests more intensively. In effect they have only one solution: we must cut more, and that is ridiculous.

Many individuals and groups have looked into aspects of the timber situation—they range from the Sierra Club to Ervin Peterson, former Assistant Secretary of Agriculture and now president of Sonic Jet Processes Corp.—and they usually come to the same conclusion. We need, at this moment, a high-level commission, a sort of Hoover Commission, to study the whole seedling-to-dump timber problem, to sort out fact from public relations propaganda, to collect for the first time adequate statistics, and finally to make recommendations.

The call for "more study" always tends to sound pale and timid, yet in this case it is the first and necessary step. Without such an authoritative, comprehensive study, critics of timber mismanagement are left with nothing but the current scatter-gun attack on a gigantic, fragmented industry that doesn't care, that never responds honestly, and that wastes, wastes, wastes the very last of the wild forests.

SMOG HAS LINK WITH CANCER CELLS SYMPOSIUM TOLD

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. CARTER. Mr. Speaker, it has been brought out many times before the Subcommittee on Public Health and Welfare that the correlation between air pollution and lung cancer is significant. There are those who would place the cause of lung cancer at the door of only one substance. It becomes increasingly evident as statistics mount that air pollution is closely associated and is a probable cause of lung cancer.

I enclose for the perusal of the Members an article on the remarks of Dr. Joseph F. Boyle at the annual meeting of the California Medical Association:

SMOG HAS LINK WITH CANCER CELLS SYMPOSIUM TOLD

SAN FRANCISCO.—Cells that cannot be distinguished from cancer cells can be found in the sputum of emphysema patients during smoggy periods, a Los Angeles chest physician has said.

These cells disappear when the patient is put in a room in which the air has been filtered, Dr. Joseph F. Boyle told a symposium on environmental health at the annual meeting of the California Medical Association here.

His observation seems related to that reported by a Stanford Research Institute (SRI) scientist who said nitrogen dioxide, a component of both smog and tobacco smoke, causes serious changes in lungs of rats.

Dr. Gustav Freeman of SRI said the tiny hairs called cilia, that line the small airways in the lungs, degenerate and finally fall off when the animals breathe concentrations of nitrogen dioxide of 0.8 to two parts per million. The function of cilia is to cleanse the lungs of inhaled particles such as bacteria viruses and other substances that might induce cancer.

Therefore, it is conceivable the cancer-like cells seen by Boyle in emphysema patients may have something to do with the effect nitrogen dioxide in the smog has on the patient's cilia.

THE HUDSON RIVER ONCE CALLED "THE AMERICAN RHINE"

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. SCHEUER. Mr. Speaker, we are just beginning to realize the full extent to which we have abused our environment in the past few decades. In New York State one of the most important rivers in the East—the Hudson—is in grave danger of becoming a lifeless flow of garbage. This river has gone from being "the American Rhine," as it was once called, to the dumping ground for the untreated waste of factories and cities along its banks.

An illuminating article on this subject appeared recently in the Wall Street Journal. I insert it into the RECORD for the benefit of my colleagues:

[From the Wall Street Journal, Dec. 18, 1969]

MAJESTIC MESS: HUDSON RIVER CLEANUP TURNS OUT TO BE SLOW AND FRUSTRATING TASK—SEWAGE PLANT FUNDS RUN LOW, SOME POLLUTERS DRAG FEET; ALGAE THREAT IS FORESEEN—OIL SLICKS AND BOBBING TRASH

(By John Barnett)

GLENS FALLS, N.Y.—The view of the Hudson River from the bridge at Glens Falls may not rank among the world's scenic wonders, but it certainly is colorful.

On the left as you face downstream, a bright turquoise-colored fluid spews into the river from a waste outlet at the big Finch-Pruyn & Co. paper mill that stretches for hundreds of yards aong the river. At other times, the waste may be almost any other color, depending on what hues the company is dyeing its products on a given day.

To the right, tumbling down a bluff that rises along the opposite bank of the river, is a spillway that carries waste from the Patrician Paper Co. plant high atop the bluff. The spillway channel is deeply stained from the dyes that have coursed through it to the river over the years. It is red in some places, dark blue-green in others.

Paper makers use colors, too, to describe other, less obvious types of effluent that many plants dump into the river. There is, for instance, the "black liquor" that comes from pulp mills—a dark, smelly mixture of acids and residue from the breakdown of wood pulp into paper fibers. And then there's "white water," a discharge containing tiny fibers that escape the machines that press fibers into paper. After they are poured into the river, the waste fibers settle to the bottom and eventually rot into a putrid sludge.

SING SING AND WEST POINT

In all, there are some 20 paper plants on the Hudson, and they are far from alone in using the river as a handy means to get rid of their wastes. The New York State Health Department has identified 435 separate polluters just in the lower 150 miles of the river between Troy and New York City—cities, factories, hospitals and other institutions ranging from Sing Sing prison to the U.S. Military Academy at West Point. All together, they dump close to two billion gallons of waste water into the river every day. Most of it is inadequately treated and carries with it a staggering load of chemicals, dyes, acids, oil, silt, soap, detergents and human excrement.

The pollution of the Hudson is so gross, in fact it has made the river something of a symbol to pollution fighters—and it has inspired one of the most ambitious river cleanup efforts ever launched in this country. But it has also raised some troubling questions among conservationists, scientists and public officials who wonder if even the most ambitious of cleanup campaigns can restore the purity of a river whose ecology has been so drastically altered for so long.

In 1965, New York's Gov. Nelson Rockefeller vowed that if the state's voters would pass a $1 billion "pure waters" bond issue to help pay for sewage treatment plants throughout the state, cleanup of the Hudson would get first priority. By 1972, he said, the job should be done,

The bond issue passed by a whopping four-to-one margin, and the state plunged into the enormous task of seeing that all of New York's industrial and municipal wastes undergo treatment before they are dumped into the Hudson and the other rivers and lakes in the state. Antipollution laws were strengthened by the state legislature, and a new Pure Waters Division was created in the Health Department with orders to crack down hard on all polluters—public and private.

The state's program was buttressed by Federal programs that set water quality guidelines for the nation's waterways and promised Federal money to subsidize the cost of municipal sewage treatment.

But now, with Gov. Rockefeller's 1972 deadline little more than two years away, it's apparent that there's no chance to meet it. State officials say it will be 1975 or 1976 before all industrial and municipal waste treatment facilities are built—and they may well not be built even by then.

SMALL FEDERAL PAYOUTS

One reason: The $1 billion bond issue simply won't provide enough money to finance the state's share of municipal sewage plant costs. An unexpectedly high rate of inflation has kicked the price up sharply, for one thing, and at the same time Congress has failed to authorize enough money to buy for the promised Federal contribution to the cost. Instead of a minimum of 40%, Federal payouts in New York have been running about 7%—and the state has been obliged to pay the difference.

Industrial cleanup has lagged somewhat, too. Among the worst offenders, state officials say, are a number of paper companies that say they can't—or won't—spend the money needed to process their wastes. Though some—including Finch-Pruyn and Patrician Paper—are going ahead with treatment facilities, others have threatened to close down operations instead.

Still, conservationists and scientists who study the river say they are less worried about the delays in the timetable than about the possibility that the technical knowledge needed to clean up the river simply doesn't exist. They point, for instance, to the inability of even "modern" sewage treatment techniques to remove such nutrient materials as phosphorus and nitrogen from waste water. The nutrients could eventually cause the river to become so choked with algae that it might be far less attractive and far less able to support marine life than it is now.

A recent report by scientists studying the ecology of the Hudson for the Institute of Environmental Medicine, part of the New York University Medical Center, warns that a number of "nuisance" species of algae already exist in the Hudson. Moreover, the report says, nitrate and phosphate are already present in quantities great enough to foster disastrous algae growth under certain conditions.

"The present move to treat sewage so as to provide a liquid effluent . . . could, in fact, worsen the present situation since treated effluents provide nutrients in a more readily available form," the scientists warn.

DEVELOPING A SCUM

When explosive algae growth occurs, the water turns green and develops a scum on the surface. As algae die and rot, they use up oxygen. Eventually, the water is so robbed of dissolved oxygen that it's unable to support normal marine life. The process is known as eutrophication.

Some scientists and conservationists are particularly concerned that eutrophication could be set off in the Haverstraw Bay area about 30 miles north of New York City by a cluster of nuclear power plants being built just north of there. Such plants use millions of gallons of water a minute for cooling and return it to the river some 15 degrees hotter than the normal water temperature. There's a danger, conservationists contend, that the slight resulting rise in overall water temperature could trigger an algae population explosion; algae seem to thrive in warm water.

"All of us are aware that more power plants are going to be built, and most of us don't want to go back to darkness," says Rod Vandivert, executive director of the Scenic Hudson Preservation Conference. "But we're aware that there's a very delicate balance that's in danger of being upset, and there's a hell of a lot of us that don't feel government is doing its job in allowing these plants to be built so close together."

Consolidated Edison Co., which has one nuclear plant unit in operation in the Haverstraw Bay area and plans to build four more within a one-mile stretch, says its discharges comply with state criteria for heat. Moreover, a spokesman says the company's studies indicate that, in the Haverstraw Bay area at least, the resulting water temperature rise isn't likely to cause eutrophication.

LACK OF RESEARCH

This difference of opinion points up another problem: A lack of research on aquatic ecology. "The thing that's important and frightening is that we're working on a series of best engineering guesses with no real marine research behind them," says Mr. Vandivert.

Removal of nutrients might be accomplished by so-called tertiary treatment of waste—another step beyond the customary primary and secondary methods of treatment that are included in the sewage plants now being built. But New York State Health Department scientists say no economical and efficient method of tertiary treatment has yet been devised, though the department's research staff is working on what is described as a promising method of chemical treatment of waste water.

Another possibility is the limiting of nutrients by removing them from laundry detergents, which Health Department officials say are the chief source of nitrate and phosphate in the Hudson and many other waterways. Rep. Henry S. Reuss, a Wisconsin Democrat, has introduced a bill in Congress that would ban phosphate from detergents within two years, but its chances of passage seem dim for the present.

Conservationists' concern for the Hudson extends well beyond the question of water quality. They argue that the Hudson Valley possesses unique scenic and historic qualities that are constantly endangered by various development schemes, and they complain that government agencies have failed to move forcefully to clean up the river's often unsightly shores and to protect the natural wonders that remain.

ENRAGED GROUPS

Several times in recent years, enraged groups have stepped in to battle what they regarded as threats to the Hudson or its valley. The highly publicized fight to prevent Consolidated Edison from building a pumped-storage hydroelectric plant at Storm King Mountain, for instance, is being waged chiefly by the Scenic Hudson Preservation Conference, an amalgam of individuals and conservation groups that has spent more than $500.000 in the past five years fighting the plant. (At the moment, the battle is undecided; Con Ed has agreed to drastically alter its plans, putting the plant underground, but Scenic Hudson is trying to persuade the Federal Power Commission to block it altogether as a general threat to the area's natural environment.)

A particularly difficult problem for those who would improve conditions along the Hudson is the river's relative isolation from the people who live near its banks. Besides the railroad tracks that run up both sides of the river much of the way from New York to Albany, factories and "farms" of oil storage tanks crowd the shores in most built-up areas. Inland from the factories and railroad tracks in many old Hudson towns, moreover, are bands of slums or decaying old commercial buildings.

Altogether, of course, these conditions tend to discourage residents from seeking out the water for recreation—or from taking much interest in whether it's polluted or not. Folk singer Pete Seeger has tried to stir up more interest through a group known as Hudson River Sloop Restoration Inc., which built and sails a sloop of the type that once was common in the Hudson River trade. Mr. Seeger and other entertainers rode their sloop, the Clearwater, up and down the river last summer, stopping to give concerts and exhibit the boat as a means of attracting publicity and getting valley residents concerned about the river.

A MASTER PLAN

In 1965, Gov. Rockefeller created the Hudson River Valley Commission to draw up a proposed master plan for the valley and to review all projects along the river with an eye toward protecting the scenic, historic and cultural resources in the area. Conservationists complain that the commission lacks enforcement powers; it can only "recommend" changes in a project. But its persuasive powers have, nonetheless, managed to forestall the building of a nuclear power plant directly across the river from the Saratoga National Historic Park, get another power plant's design changed to meet aesthetic objections and save a row of historic houses that were to be torn down in Albany.

The scenic qualities of the Hudson have inspired travelers on the river for centuries. Early Dutch explorers 300 years ago rhapsodized about the great forests and mountains lining the river, the sweetness of the air, the abundance of game and the fish that teemed in the river. In the 19th century, the Hudson was a fashionable tourist spot—as well as the inspiration for the Hudson River school of painters, the first American artists to devote themselves to landscapes rather than portraits.

Such wonders as the Hudson offers are pressed into a length of merely 315 miles, making it one of the shortest of the nation's major rivers. It starts at Lake Tear of the Clouds, a pond on Mount Marcy in the Adirondack Mountains of upstate New York, and flows southward to empty into the Atlantic at New York Harbor.

FAST-FLOWING TROUT STREAM

The upper Hudson is a fast-flowing trout stream that plunges through a deep, forested gorge in the Adirondacks. Not until 150 miles downstream, after it is joined by the Mohawk River just above Troy, does the Hudson begin to resemble the broad, majestic waterway that Henry Hudson named the Great River of the Mountains when he explored its lower half in 1609.

After flowing past the Catskill Mountains to the west, the river enters the Hudson Highlands, narrowing into a gorge flanked by steep mountains with peaks called Storm King, Breakneck Mountain, Bear Mountain, Anthony's Nose and High Tor.

Then, abruptly, it widens to its broadest areas—Haverstraw Bay, some three and one-half miles across, and the Tappan Zee, almost as wide. A few miles above New York City, the river narrows again and flows past the Palisades—sheer rock cliffs that rise dramatically almost 500 feet above the west bank.

The lower 150 miles of the Hudson actually constitute a largely saltwater estuary of the Atlantic, where tides ebb and flow. Because it is at sea level, with no falls or rapids, and because it's so wide and deep (more than 100 feet in some areas), this stretch of the river is navigable to ocean-going ships all the way to Albany.

MAT ON BOTTOM

Significant pollution of the Hudson begins at Corinth, N.Y., some 60 miles above Albany. There, International Paper Co. operates the northernmost of the paper plants on the river. The effect of the plant's waste discharges is evident for miles downstream.

It's possible, for instance, to reach into shallow water along the shore below Corinth and tear chunks of thick, gray, paper-like material from the river botton. The material is part of a dense mat created by waste fibers that have settled to the bottom.

On hot summer days, when heat speeds up decomposition of the fibers, the placid surface of the river below Corinth, is periodically disrupted by the bursting of giant gas bubbles. The bursting of a bubble is typically followed by the appearance of a great chunk of matted fibers that has been loosened by the decomposition and has risen to the surface, where it bobs off like a tattered raft.

In such areas—which extend for many miles along the river in the paper-making region around Glens Falls—the river cannot support normal aquatic life, scientists say. The matted fibers covering the bottom choke off plant life, and the decomposition of the fibers and other paper mill waste robs the water of dissolved oxygen needed by fish. The only organisms that thrive in those conditions are such creatures as sludge worms and maggots that feed on the decomposing material and seemingly require almost no oxygen.

Once past the paper mills, the river's natural ability to cleanse itself has barely had a chance to function before it hits the Troy-Albany metropolitan complex, where a half-dozen cities, many of them heavily industrialized, cluster along both banks for a 10-mile stretch. This part of the river is known to river experts as the Albany pool—but sanitary engineers wryly refer to it as the "Albany cesspool."

The reason for the nickname is obvious. Scores of cities and industrial concerns dump raw or partially treated sewage into the river within the few miles on either side of Albany. Factories dump acids, drugs, dyes and chemicals. Oil barges, back in the Hudson after delivering oil up the Mohawk, furtively discharge ballast water they had taken on for the return trip down the Mohawk. Because the ballast water has been in the cargo tanks. it carries a residue of oil.

A walk along the river bank in the Troy-Albany area gives some indication of the result. The water is dark and murky-looking, the surface frequently rainbow-hued with oil slicks. Bits of trash bob along the surface, and quiet backwater coves along the shore are jammed with debris—rotting boards, empty steel drums, tires and old shoes. Rocks on the banks are coated with a black, sticky gunk, chiefly oil residue.

NOTORIOUS SEWERS

Perhaps the most notorious sewer outflows on the Hudson are at Troy. Like most river towns, Troy is built on hills that slope down to the water. Its sewers simply run under the streets leading to the Hudson. At the base of each street is an outfall—a pipe jutting through the concrete retaining wall along the river.

At low tide, the outfalls are exposed as they dump raw sewage directly into the Hudson. Even at high tide, you can stand on the retaining wall and watch the gray, filth-laden sewage water bubble to the surface.

Between Albany and New York City—a distance of some 150 miles—pollution is relatively light. Scattered towns and factories dump wastes directly into the river, but the Hudson's volume is so great that it's able to absorb them and still cleanse itself to a large extent. Public health authorities permit swimming at Senasqua Park in Croton-on-Hudson, a northern suburb of New York, and fishermen say there's no shortage of fish in the river—though some complain that they taste a bit oily.

But in the New York City area, the river once again becomes an open sewer. Manhattan still dumps practically all its sewage directly into the Hudson and the other waterways that surround the island, and a number of communities across the river in New Jersey also pour waste into the Hudson with little or no treatment. Researchers at the New York State Health Department calculate that 1.6 billion gallons of municipal and industrial waste is dumped into the Hudson daily in the New York area. More than 90% of the industrial waste and close to 70% of the municipal waste has received either no treatment or only minimal treatment.

Because of the tidal nature of the lower Hudson, sewage from New York may actually wash upstream as far as 50 or 60 miles. Then it may slosh back and forth with the tides for weeks before it finally escapes into the Atlantic.

Altogether, the Hudson's pollution load seems gigantic, but state Health Department officials contend that they will be able within the next few years to eliminate the most obvious types of filth. Though the state is running short of money to help municipalities build sewage treatment plants, the priority assigned the Hudson has assured that most sizable cities on the river will get state help nonetheless.

Similarly, officials say they are determined to force industrial concern to clean up their waste. Dwight F. Metzler, the Health Department's deputy commissioner for environmental health services, says: "Industry is told, 'We don't care how you get rid of this. You can have your employes drink it, you can put it into a tank car and ship it to Canada, you can incinerate it—that's up to you. All we care about is what comes out the discharge pipe.' "

As a practical matter, however, solutions aren't likely to be forthcoming quickly. Paper companies say, for instance, that much of the technology for treatment of their wastes is so new that extensive engineering work is necessary before they can determine what equipment is needed.

State Health Department officials contend, however, that at least some of the delays are foot-dragging. Andrew M. Weist, a Health Department water pollution control engineer whose region includes most of the Hudson's paper plants, says some paper companies have managed to postpone commitments for years by pleading that they need more time for study.

A "DRASTIC REDUCTION"

"They want six months for this, a year for that—and still nothing gets done or even firmly committed," says Mr. Weist. "You sit there and you just keep pounding your head against the wall."

Not all companies have resisted, to be sure. Finch-Pruyn has already installed some $6 million worth of new equipment that will make a "drastic reduction" in the black liquor discharge from its pulp mill when the equipment goes into full operation next month, a spokesman says. The company, meantime, is drawing up plans for cleaning up its other effluent.

Patrician Paper will have cut its effluent 80% by next February, when it's due to complete installation of a new high-efficiency filtration system, a company official says. In April, Patrician is scheduled to submit to the state its plans for processing the remainder of its waste.

International Paper says it's just now beginning work on detailed construction plans for its treatment facilities, estimated to cost $2.8 million, and a company spokesman says construction won't be completed for close to two years.

But Westvaco Corp., which operates a pulp and paper mill at Mechanicville, between Albany and Glens Falls, still hasn't worked out even a preliminary plan for waste treatment. Company officials complain that full treatment facilities would cost an estimated $3.5 million, more than the book value of the 80-year-old plant. They add, however, that they expect to meet the current deadline of March 1, 1971, for submission of a final plan.

GEORGE MYLONAS: THE PRISONER OF AMORGOS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. FRASER. Mr. Speaker, four House Members, JONATHAN BINGHAM, DON EDWARDS, OGDEN K. REID, and myself have recently invited our colleagues to attend a Dutch-treat luncheon Wednesday, March 25, at 12:15 to hear Mr. George Mylonas. Mr. Mylonas' story is a fascinating one. I insert into the RECORD at this point the September 21, 1969, New York Times Magazine article by Nicholas Gage, "The Prisoner of Amorgos," which elevated Mr. Mylonas to international fame, and Mr. Mylonas subsequent letter to the editor in which he outlines his escape from Amorgos.

The material follows:

[From the New York Times Magazine, Sept. 21, 1969]

THE PRISONER OF AMORGOS

(By Nicholas Gage)

(NOTE.—Nicholas Gage is a Greek-born American reporter who formerly wrote for The Wall Street Journal.)

AMORGOS, GREECE.—In summer, this barren, stringbean shaped Greek island at the southern tip of the Cyclades is baked to a deep brick-red by the hot Mediterranean sun. In winter, cold winds whip the Aegean against its rocky cliffs. Hardest hit by both wind and sun is the oldest town on the island, Hora Amorgos, built several centuries ago far inland and high above the sea to guard against pirates.

Near the highest point in the village is a bleak, 100-year-old whitewashed structure of three rooms, inhabited by a thin, gray-haired man who can often be seen sweeping the cement floor or carrying rainwater scooped from a hole in the basement. Every morning at 9 and each afternoon at 6 he goes to the village police station and signs his name. George Mylonas, in the registry.

Four years ago Mylonas was one of the most promising politicians in Greece, holding the key post of Minister to the Prime Minister in George Papandreou's Cabinet. Later, he helped direct a reform of Greece's educational system—perhaps the most notable achievement of the Papandreou Government.

For the past year Mylonas has lived in exile on Amorgos. Though only 50 years old, he has had two heart attacks and suffers from rheumatoid arthritis, and his children fear that he will not survive another year without the medical attention he needs.

George Mylonas is a prisoner of Greece's military regime. But he is not an ordinary one. When the colonels seized power on April 21, 1967 they rounded up some 6,000 suspected Communists and sent them to prisons on the islands of Yiaros and Leros. They later released more than 4,000 of these prisoners and gave the rest the option of obtaining their freedom by signing a promise to avoid all political activity. At the insistence of the Red Cross, the regime also moved the men and women on bleak Yiaros to more habitable prisons on Leros and Crete, and released some of the aged and ill.

But while the junta was responding to international pressures to improve the treatment of these people, it was quietly picking up others, like Mylonas and certain army officers, and dispatching them to isolated villages throughout Greece, where they were put under constant watch.

Although these political prisoners are not kept in cells like those on Leros, their fate in many ways is worse: they do not have the option of securing their freedom by signing a pledge; they do not have the protection of the Red Cross, which considers them out of its jurisdiction because they are not kept in actual prisons; and they do not have the companionship of fellow prisoners.

On Amorgos there is another political exile besides George Mylonas, but the two are not allowed to speak to each other. Mylonas is watched day and night by five policemen and a number of civilian recruits. The conditions in the village where he is kept are so lonely and so primitive that two policemen once assigned to the island suffered nervous breakdowns.

There are 150 Greeks who share the fate of George Mylonas on remote islands and villages throughout Greece. They include men whose political beliefs range from the far left, such as the composer, Mikis Theodorakis, an admitted Marxist, to the far right, such as Maj. Gen. George E. Koumanakos, a hero of the fight against the Communists in the Greek civil war of 1947–49. Hoping to draw attention to the fate of these forgotten men, Mylonas decided to risk his own safety by telling the story of his arrest and captivity.

"The colonels have isolated us because they fear us for reasons that in many cases only they know," he says. "They are going to keep us until we are so helpless they don't have to fear us anymore."

Mylonas has a thin, sensitive face. He is young-looking in spite of his deeply furrowed skin and thick gray hair, which is turning white. His expressive dark eyes are never still, dancing one minute, turning melancholy the next. Beneath them are the dark purple shadows of the insomniac. When he has a visitor he talks animatedly, using his hands, his eyes, his whole body. He can converse in English or French as easily as in Greek.

In the early hours of Aug. 13, 1968, Mylonas was asleep in his home in the fashionable Athens suburb of Psychiko, when he heard footsteps on the gravel outside. "I knew immediately what was happening," he says. "For several days a black Morris had been following my wife and me wherever we went. And the day before, the attempt on [Premier] Papadopoulos's life had taken place. Although I cetainly had nothing to do with that, I suspected there might be a general round-up."

He looked out of his window and saw three or four cars and 14 men in plain clothes, some of them jumping over the iron fence. "I knew they were the *asphalia*, the security police, but I decided to play the scene for all it was worth," he says. "I put on all the lights in the yard and ran outside, shouting, Who dares to break into my garden at this hour of the night?' The men were actually put off and informed me apologetically that they had come to arrest me."

Because he knew he had nothing to do with the bomb planted in Papadopoulos's path, Mylonas thought he would not be kept long. "I managed to whisper to my wife, Alex, 'I don't suppose you will see me for 10 days or so.' "

He was taken to the security-police station nearby. Every two or three minutes the door opened and someone new was shown in. There were several other deputies of his party, the Center Union, as well as some royalist military officers, including Maj. Gen. Koumanakos, who had all been picked up that night. "We all tried to sleep on chairs," he recalls. The next morning an officer came in and informed Mylonas that he was being taken to another detention center in the suburb of Maroussi. Other politicians and military officers were there, including Demitris Loundras, the husband of publisher Helen Vlachos.

On the third morning, Mylonas was summoned before a colonel of the gendarmerie and handed a piece of paper to sign. It said that, because he was a danger to public order, the combined ministries of Justice and Public Order had authorized his exile to the island of Amorgos for up to six months. He was told he would be taken to the island by steamer in three days, and that members of his family, whom he had not been allowed to contact, would be permitted to see him off.

On the appointed day, two plainclothesmen in a blue Vauxhall drove him to the port of Piraeus, where his family was waiting. "Anyone who might have seen me riding through Athens would have thought, "Oh, George is going down to Glyfada for a swim,' " he says.

At the port, the two plainclothesmen stood discreetly aside while he said good-by to his wife, his daughter Maria, his son Alexander and his 89-year-old mother. For her, history was repeating itself. Thirty years before, her husband had been sent into exile during the Metaxas dictatorship. "This is the second time this has happened to me," she said as she kissed her son. "I hope I'll live to see you back."

Amorgos, a 12-hour boat ride from Athens, is halfway to Rhodes. Most of it is barren and uninviting, with sheer rock cliffs rising precipitously out of the sea. Mylonas was landed on the island at 4 a.m. It was totally dark because the electricity is always shut off between 1 and 7 in the morning and again between 1 and 5 in the afternoon. Three policemen took him to the village of Hora Amorgos, where some of the houses are so old they still have stone platforms outside the windows which were used to rest the cauldrons of boiling water that was poured down on invading pirates. Above the town is a set of inactive windmills with faded inscriptions like "Long Live the King" and "Long Live the Crown Prince," which were painted in 1962 during a visit by the Greek royal family. The mills command a view of the town and the island all the way to the sea, and it is here that a policeman or a member of the security force's civilian contingent, the TEA, can be seen prowling. "They can see every move we make from there," Mylonas says.

When he was brought to Hora Amorgos, Mylonas's escorts read him the rules that were to govern his life. He was forbidden to leave the boundaries of the village or to talk to foreigners, military officers, journalists or to the other exile in the village. "I raised a question on this last point," he says, "because I remember that my father had been allowed to keep company with his fellow exiles, but the police sergeant repeated that I was not to speak to the other prisoner."

Mylonas's "home" belongs to a native Amorgan who now lives in Athens. Since it stands near the highest point in town, it can be watched from anywhere. One room of the house is inhabitable and contains a bed, writing table and radio. The second room is used by the house's owner to store cartons and boxes. This is where Mylonas keeps both his precious copies of Le Monde, which, with other newspapers, is sent to him occasionally by his brother, and the books which help him pass the time. Most dog-eared are the copies of "The Proud Tower," "Byzantine History," "A History of Cyprus" and "La Republique des Contradictions," which he reads and re-reads. In winter the books become mildewed, and cleaning their pages is a continuous chore.

The third room is also a storeroom. Mylonas calls it "the icebox" because it is so cold that even in summer perishable foods will keep there. In winter the whole house is an icebox. "I always sleep wearing a sweater under four blankets in the winter, but I can still feel the cold," he says. "I have an electric heater which my wife brought, but the electricity is off at night and in the afternoons. Even with the heater on during the day, I wear an overcoat and wrap myself in a blanket sitting at my desk. I only take a hand out to turn the pages of my book."

Mylonas takes the winter weather philosophically. "I say to myself, 'I have been obliged to live under conditions that other people have to live under of their own accord. In that sense, I am not in prison. But at the same time, of course, I am not free.' Oddly enough, I feel better in winter because the weather somehow seems more appropriate to my condition. It is the summer which makes me feel sad."

Theoretically, Mylonas is allowed to speak to the villagers, but all but the most right-wing (and therefore most secure) shy away from being seen speaking to him. Most villagers will say hello as they pass him in the street, and, if the police are far enough away, some address him as "Mr. Minister." But Mylonas knows the town is not hostile to him. A few days after his arrival, the first anonymous gifts began to appear. Everyone can see when he is sitting on the balcony of his house. When he is, he often hears the sound of a stone being thrown against his door, and, at the signal, walks downstairs as if to go to the bathroom. In the doorway he finds figs, grapes, cheese, apricots—all left by nameless friends who move by quickly so as not to be noticed by the guards. One woman even embroidered a tapestry for him. It said, "This, too, shall pass."

The townspeople are wise to avoid being seen in conversation with him. "On Christmas Day, the local priest invited me to his home for dinner," Mr. Mylonas recalls. "I went, and the next day the priest spent most of the morning at the police station, answering questions. He has not spoken to me since."

Occasionally a tourist passes by on the way to the monastery of the Virgin Hozobiotissa, which is a 45-minute walk beyond the town, perched on a ledge 1,000 feet above the sea. Once a party of French tourists stopped in the small village cafe where Mylonas was sitting alone. Without glancing toward him they raised their glasses to each other and said in French, so the police could not understand, "We have heard who you are, and although we cannot talk to you, we wish you all the best. Have patience."

Mylonas's life has evolved into a rigid daily routine. He rises at 7:30 and prepares a breakfast of coffee and toast. At 9 he walks to the police station to sign in, and then returns to the house where he reads and writes until 11, when he usually goes for a walk. At 1 he arrives at the small cafe where he, the other exile and five or six police guards eat. (The cafe owner never had so many customers.) The exiles both receive an allowance of 17 drachmas (57 cents) a day, from which they are supposed to pay for their food and rent. The menu does not provide much variety—the islands produces a few figs, grapes, tomatoes and some cheese in summer. In the winter there is only cheese. The usual main dish is beans or onion stew. Meat, usually goat, is available about once a week. Because of his heart condition, Mylonas is supposed to be following a strict diet, but of course he cannot. "I take what is available," he says. "The only time I refused to eat the food of the day was when they served goat lung."

In the afternoon he reads and writes and does the necessary chores. The rainwater collected in a primitive cistern in the basement floor is used for bathing every third or fourth day and for shaving every other day. He saves the used water to flush the crude toilet in the basement.

Every 10 days or so the package of newspapers sent by his brother arrives from Athens. Mylonas puts them in order and reads them systematically. His mail is censored and letters from Athens take as long as 60 days to get to him. Telegrams are always delayed so that they will be out of date. Every day he carefully follows the shortwave broadcasts on his radio: 1:45 p.m., London; 2:15, Paris; 9, London again; 9:30, Athens; 9:40, Cologne. At 6 he goes to sign the register again. In the evening he has some tea and a biscuit before going to bed.

Mylonas is allowed to receive visits from members of his immediate family. Though there are two or three boats a week in the summer, there is only one a week in winter, and all sailings are subject to cancellation. Last December, no boat reached the island for 27 days.

Not all the family can make the trip. Mylonas's son, Alexander, is studying in the United States. His older daughter, Maria, has infant children whom she can't leave behind. (Mylonas has never seen his youngest grandchild, born after his exile began.) His younger daughter, Eleni, was in New York when he was arrested, but she has returned to Greece and has visited him twice with her husband. Mylonas was not allowed to attend Eleni's wedding in Athens. His own wedding occurred during his father's exile, but his father was given leave to attend. Since Eleni's wedding, Mylonas has dreamed repeatedly that he is at his own wedding and that his father is there. His other dreams in captivity are always of freedom. "Usually I am in Athens, in my car, driving very fast. When I awake, it always takes me a moment to realize where I am."

His vivacious, dark-haired wife, a well-known sculptress, has visited him five times, once staying a month. "We discussed the possibility of my staying with him permanently," she says, "but we decided that both of us would become half-dead, cut off from the world. By going back and forth, I provide a link with his family, his friends. I tell him everything that's happening back in Athens, and it picks him up a little. But each time, it is so difficult when I leave that I don't know how we can go on this way."

On Amorgos, news is indeed scarce, and some of Mylonas's police guards, who dislike the island as much as their prisoner, ask his wife each time she comes, with a glimmer of hope, "What news of Athens? Any changes?"

Mylonas's family has found that his captivity affects him psychologically, as well as physically. Because his only human contact is with the police who guard him, he becomes obsessed with their moods and their attitude toward him. They are led by a sergeant with a reddish complexion, a stout bull neck and shortcropped blond hair whom Mylonas privately refers to as "the SS." "He is ideologically committed to the junta," says Mylonas. "When someone said to him that the junta is probably temporary, he said, 'What do you mean? These people are going

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to last for 20 years.' When I come in to sign the register and the sergeant is there, he does not even look up. Another fellow is sometimes there instead, and he's not so bad."

Mylonas is haunted by the memory of his father, who endured 30 months of exile with his strong nature intact. "My grandfather had not suffered heart attacks when he was exiled," says his daughter, Eleni, "and he survived because he was constantly fighting. He delighted in baiting the police assigned to him. My father is not the same kind of person. He does not like to provoke or cause trouble for anyone. In the summer he'll avoid going swimming because he knows the man assigned to him will have to follow him on the steep, three-hour walk to the beach and back. A run-in with one of the police will send him into a fit of depression for days. The loneliness he suffers is much worse than that of his father, who had other exiles for company."

In spite of his attempts to avoid trouble with the police, Mylonas inadvertently got into a fracas with "the SS." One day when he arrived to sign in at 9 A.M., the man was still asleep and the door to the signing room was locked. Mylonas said to another officer, "I'll just slip in the window and sign so that I don't wake him." After he did so, the sergeant woke up furious "You may be certain that this will be included in my report on your conduct," he shouted. Mylonas explained that he hadn't meant any harm, that it was only to avoid waking him. "But what if somebody saw you?" the sergeant replied. "How do you think it would look?"

Such an existence is in ironic contrast to the life Mylonas knew before his arrest. He was born in Paris in 1919 while his father was attending the Versailles peace conference as an aide to Greece's Prime Minister, Eleftherios Venizelos. He attended the American sponsored Athens College and the University of Athens, where he earned a law degree. During World War II he served in the Greek Army in Crete, was captured by the Germans and spent four months in a P.O.W. camp. In 1945 he attended the San Francisco Conference of the United Nations as secretary to the Greek delegation, and then returned to practice law in Athens.

Mylonas won a seat in Parliament in 1963 as a member of the Center Union party led by George Papandreou. When Papandreou's son, Andreas, resigned as Minister to the Prime Minister in 1964 under a cloud of never-proved scandal involving a government contract. Mylonas was given the delicate post. "Andreas is a good economist, but not much of an administrator, and he left things in a mess when he quit the ministry," says a former Center Union deputy "George Mylonas worked like hell to put things in order." Impressed by his performance, Papandreous appointed him Under Secretary of State for Education. Despite the title, he actually headed the ministry since Papandreou held the portfolio himself and Mylonas reported directly to him. He participated in the educational reform that saw the establishment of three new universities in Greece.

He stayed in the post until Papandreou was forced out of office by the Palace in July, 1965. In the political struggle that followed, he apparently tried to steer a middle course, remaining loyal to Papandreou but making repeated efforts to bring about a workable compromise between the Center Union leaders and King Constantine. Although he is considered a member of the left-of-center wing of his party, he was not among the leftist deputies who walked out of a party caucus in January, 1967, in support of Andreas Papandreou's call for a hard line in the dispute with the King.

Mylonas remained free for 15 months after the colonels seized power in April, 1967, despite an earlier attempt by the junta to arrest him. When Constantine attempted his ill-fated countercoup[1] in December, 1967, police went to Mylonas's house to bring him into custody as part of a general roundup. He wasn't home, and when he learned of the arrest attempt, he went into hiding. He came out a short time later when his name appeared on an amnesty list published by the Government. Why he was arrested eight months later, or why he remains in confinement today, is not clear. Although the regime says simply that he is considered a threat to public order, it doesn't say why. "Most of the exiled prisoners fall into two groups—those who are close associates of Andreas Papandreou, and those who are suspected of being involved in a resistance effort in Greece," says a United States Embassy official in Athens. "Mylonas can't really be put into the first group, so he's got to be in the second."

"I oppose all forms of dictatorship." Mylonas says, "but I hate violence as much as dictatorship. I would not support any movement that would use violence. Everyone who knows me knows that. The junta knows that." His wife believes that he was exiled because he had good relations with all Greek political groups. "The colonels are afraid that if he is free he can help to unite the various groups against them," she says. It is significant that Mylonas has not been subjected to any lengthy interrogations, as have most people suspected of being members of resistance groups. "The junta simply isolated him," says his wife.

For George Mylonas, that could amount to a death sentence. Although there is a doctor on the island, there are no facilities for the regular cardiological examinations and blood tests that he must have. "The only thing he can do is to continue taking the medicines prescribed for him before he was arrested," says his wife. "For example, he takes pills periodically that facilitate blood flow. Without an examination, his doctors in Athens can't tell him when he should start and when he should stop. So he takes them until he starts bleeding from his nose or ears. Then he knows he has taken them too long, and he stops for a while."

Several months after her husband's arrest Mrs. Mylonas petitioned the *asphalia* to allow him to return to Athens for medical attention. Her petition includes an affidavit from his heart specialist saying that Mylonas "must have a general check-up every two months (cardiologic, electrocardiographic and fluoroscopic evaluation) as well as blood tests for an institution of proper treatment." The plea also included a letter from another physician. "Mr. Mylonas," the letter says, "is suffering, addition to his heart disease, from a chronic type of pneumatic arthritis of both shoulder joints, with frequent exacerbations. Mr. Mylonas, therefore, must be under frequent medical and therapeutic supervision, as well as under favorable living conditions (dietary and climatic), which undoubtedly can influence his disease."

A few weeks after she filed the petition, Mrs. Mylonas was called to an *asphalia* office in downtown Athens. "I was taken into the office of a young functionary who asked me why I had filed such a petition when my husband had not done so himself," she says. "I told him my husband doesn't believe it would do any good. I pointed out that a former exile on Amorgos who had only one lung had asked for more medical attention and was called a troublemaker, and transferred to a place even worse than Amorgos. The *asphalia* man then said that if my husband wanted anything, he had to ask for it in writing himself. I cried out that if anything happened to my husband I would hold them directly responsible, and I walked out."

Having failed to get him the medical attention he needs, Mrs. Mylonas tried to find some way to win her husband's release. She went to an American friend of his who in turn went to the United States Embassy, where he had close connections. "Four people from the embassy met with me at our friend's house," Mrs. Mylonas says. "One of the four was someone I had heard was the key C.I.A. man in Athens. He said that nothing could be done through regular political channels for my husband, but other ways might be found, and I shouldn't worry."

A few days after the meeting, Mr. Mylonas went to Amorgos and told her nusband of her efforts. "He was furious," she says. "He said he would be grateful for any direct political efforts made by the Americans, but he was not going to allow the kind of indirect pressures he had opposed throughout his political career to be used for him now. I went back and told the people at the embassy, some of whom were upset. One of them suggested that my husband just wants to be a martyr, to use his imprisonment as political capital after the fall of the junta. So that ended that."

(The embassy did help the Mylonases' son, Alexander, get an exit visa in 1968. He had won a scholarship to Florida Presbyterian College. The regime at first refused to let him leave the country, but relented when embassy officials interceded on his behalf. Before leaving for the United States, his mother says, Alexander was called to the *asphalia* office and warned to "keep out of reach of that octopus, Melina Mercouri, whose tentacles are everywhere.")

George Mylonas believes he is going to remain in confinement as long as the junta is in power. And he sees the same fate for most of the other political exiles. "Soon after I was arrested and shipped to Amorgos, Mr. Papadopoulos announced that all the politicians in confinement would be free to vote in the referendum schedule for Sept. 29, 1968," he says. "After the announcement, amid a good deal of publicity, only about seven politicians were released. I suppose on the eve of some future NATO conference or Council of Europe meeting, another handful will be let out. But most of us are going to stay where we are."

There is no evidence to show that Mylonas is just being pessimistic. When he was first sent to Amorgos, it was for a period of "up to six months." When the six months ended, the sentence was extended for three months and then for another six months. He believes that when the present six-month period ends in mid-November, he will receive an even longer extension.

Elias Kulukundis, his daughter Eleni's husband, who has gone to Amorgos with his wife twice, says he finds Mylonas weaker each time they visit him. "The psychological pressures added to his physical condition are just too much," he says. "I don't think he can make it through another year."

Mylonas himself does not like to talk about his health, and becomes irritated when the subject is brought up. "It's pointless to discuss what is going to happen to any of us exiles unless we discuss what is going to happen to the colonels. As long as they are in power, none of our prospects are any good."

What happens to the colonels, he is convinced, depends on the United States. "I am against any politician calling for intervention in his own country," he says, "and I do not call for American intervention in Greece today. On the other hand, I believe every country must have a foreign policy, and all I ask is that American foreign policy not oppose the forces who want to restore democracy to Greece. The key to power in Greece today is the Greek officers corps who have been brought up to consider themselves NATO officers. A clear statement by the American Government against the junta would cause a serious reconsideration on the part of these officers, whose tacit support allows the junta to remain in power."

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[1] Constantine had an uneasy relationship with the junta, explaining later that he cooperated with the colonels to avoid a bloody civil war. On Dec. 13, however, after months of seeing democracy chipped away in Greece, he struck back, calling upon the Greek Army and people to rally to his side and unseat the regime. But the countercoup—ineptly planned and executed—was an immediate failure, and the king fled to Rome with his family.

Although he feels that his imprisonment will last as long as the junta, Mylonas has not given up all hope of survival. "I've only been away half as long as my father was," he says, "and he managed to survive." In optimistic moments he says he feels that "something will surely happen" before too long. Then suddenly he grows silent and his eyes search the room slowly, wearily. "This is a drafty old house," he murmurs. "I've got to make some repairs if I'm going to make it through another winter."

[From the New York Times Magazine]

LETTERS: FROM THE PRISONER OF AMORGOS

To the EDITOR:

While I was still in exile on the island of Amorgos, I sought to imagine the scene in the little village of Hora the morning after I escaped. On the square below my house, the elders would be having coffee. The cobbler would have opened his doors. Through the baker's windows you would smell the fresh bread.

By 9:30 many villagers would have noticed that I was half an hour late to sign in at the police station. By 10 the police would have sent for the plainclothes informer who usually sits in the middle of the square under a tree bearing the ironic emblem, "Long live the nation." He would say he had not seen me, that I had not appeared on my balcony. They would probably debate whether or not to send for me, and in another half an hour they would surely be at the house, knocking at first in order not to give themselves away if they should find I had innocently overslept, then beating down the door as the truth dawned on them. Within a few moments the whole village would know. I think that was what I enjoyed imagining most—the villagers exchanging silent, knowing glances all day, then, that night, gathering secretly around their short-wave radios.

For most of my first year on Amorgos, my escape was simply a dream. Gradually, I began to formulate a plan, and finally that plan became a reality. The New York Times had something to do with that, for Nicholas Gage's article, "The Prisoner of Amorgos" (Sept. 21), contributed to my final decision to make the attempt. I had given him that interview because I thought it was high time that attention should be called to those of us Greeks who have been dispersed all over the country, living in forlorn little villages, subjected to the ordeal of isolation and constant police surveillance. I believed we would stay in exile as long as the junta stayed in power, and I felt it necessary to strike back—on behalf of all of us—with the only means at my disposal.

At the same time, I was under no illusions as to what countermeasures the regime would take against me. My mail was censored, but it still provided a link—however tenuous—with the outside world. In addition, I was allowed to receive books and newspapers, and, although I had not been specifically granted permission, I listened to the short-wave radio. All these privileges could be denied, but most important of all, the burden of my isolation had been lightened by the visits of members of my family. If these were cut off, my isolation would be complete. That was why I was certain, as soon as I consented to give Nicholas Gage the interview, that I had to escape from Amorgos some time in September, or not at all.

The plan was my own, and I formulated it in cooperation with Greek associates working on my behalf, both within the country and abroad. The main problem was that I was constantly observed by the police or their informants, and after dark there were two or three people watching my house in shifts. But I thought that habitual actions would be the best camouflage. My doctor had suggested that I take long walks, and I had acquired the habit of doing so on the barren footpaths around the village. The police were understandably loathe to follow me, if, for no other reason, in order not to show that they were so concerned. They would simply see me off and wait for me to return, and, in the meantime, they would be content to ask a passing villager the direction in which I had gone.

Near the village of Hora, where I lived, the south coast of Amorgos is a sheer, almost solid piece of rock, dropping over 1,000 feet to the sea. From one point along the top of the cliff, some two miles from the village, you can see a small cove—almost the only cleft in the impenetrable coast—where a launch might possibly be put ashore. It took me about 45 minutes to reach the cliff, where another footpath led down to the sea. I never dared try it for fear of arousing suspicion, but I calculated that it would take me at least half and hour to make my way down. If I left for my walk just after my 6 o'clock sign-in, as I did every evening in the summer, I could be at the shore at roughly 7:15. At about the same, a motor yacht without lights could draw in under the cover of darkness and lower a boat.

My part of the plan depended only on me, and no one on the island was involved in it. But the others working on my behalf had to find a boat with a captain and a group of non-Greeks to pose as tourists on an Aegean holiday. This led to unforeseen eventualities, because the person who put them in touch with the owner of the boat turned out to be an Italian journalist. We had hoped to keep all of the details of the escape secret, not only to protect the people who were involved in it, but also to leave the way open for others to escape. Imagine the effect on the authorities if they should know nothing, if I should simply be there one day and gone the next, to reappear some time later in Western Europe. Imagine the effect on the morale of the other exiles. If it could be done once and the details kept secret, then it could be done again. Suppose exiles began disappearing off the Greeks islands one by one. From the point of view of resistance to the junta, the effect would be devastating.

In any case, I am grateful to my Italian friends, for they came along without motive or self-interest and with implicit faith in the direction of my Greek associate. He treated them strictly according to the rules of clandestine activity, and they did not know either his name or mine until we were already out of Greece.

For my part, when I received the signal that the plan was in operation, I did not know what arrangements had been made. When the boat arrived finally, I more or less expected the Greek to be aboard, but as to who the others would be, or even what language they would speak, I had not the faintest idea.

By that time, it was a race between the appearance of Gage's article and the appearance of the boat. To make matters more difficult, I did not have any way of knowing how either one was progressing. I knew the article had not appeared on Sunday, Sept. 14, because I had contact with the outside world after that date and I would have heard about it. As the next Sunday approached, the days became ever more crucial.

By the next Saturday, I was speculating wildly. If the article were to appear the next day, perhaps I still had a few days to go. Perhaps the consul general in New York, George Vranopoulos, who had the reputation of being the junta's watchdog on the American community, might be out of town. Perhaps, after all, he did not read The New York Times Magazine and would not see the article until someone mentioned it. At that point, I was relying on bureaucratic inefficiency.

The danger was not only that increased restrictions might be imposed and that I might simply be taken for interrogation to the police headquarters in Santorini and thus miss the rendezvous when the boat arrived. The following week, I waited each morning to overhear the villagers talking about the arrival of a yacht in the port below. By this time, I was waking up every morning hoping I would not sleep in Amorgos the following night.

Finally, to my horror, on Saturday, Sept. 27, I heard "The Prisoner of Amorgos" on the Paris radio. Now I had no doubts that the Greek authorities were aware of it. I only wondered what had taken them so long to act. Perhaps the order was already sent to the main headquarters in Santorini and would shortly be relayed to Amorgos. From that day on I could not present myself at the police station to sign the register without apprehension, and I was thankful when the officer at his desk did not lift his head to greet me.

When the day arrived, it almost took me by surprise. On the morning of Oct. 2, I heard no one talking about a yacht. I was even a little late for the rendezvous. It was after 1 o'clock when I walked into the little tavern where I had eaten every mid-day meal since coming to Amorgos over a year before. The tourists were sitting at a table in the middle of the room, three young men and a young lady with long blond hair. We hardly exchanged a glance. I suppose they recognized me from photographs they had seen. I recognized them because, according to our plan, one of them was holding a book with a black jacket. The title, in bright red lettering, which I knew before reading it was, "The Tragedy of Lyndon Johnson."

There was not a word exchanged between us. I ate quickly and went home to put my house in order. I had researched the next few hours so often. I hardly had to think. Before 6 o'clock I signed the police register for the 409th consecutive day, and then set out for my evening walk. After dark the police could see the light in my house, and they probably assumed I had returned by another path. At about 7:20, I stepped aboard the motor yacht and we were underway.

GEORGE MYLONAS.

TRUTH AND PERSPECTIVE ON INCIDENTS IN LAMAR, S.C.

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. GRIFFIN. Mr. Speaker, violence in any form is detestable, abhorrent and repulsive to decent persons everywhere.

The truth and extent of violence is most difficult to obtain by the average citizen reading newspapers and listening to news broadcasts. Moreover, we frequently find more truth and perspective on the editorial page under the "letters to the editor" than in editorials.

As an example of the above, I include as a part of my remarks letters to the editor appearing in the Sunday Star, March 15, 1970, responding to a Star editorial on incidents in Lamar, S.C.:

XUM

LAMAR, S.C.

SIR: The incident at Lamar, S.C. perpetrated by a group of concerned parents is regrettable, as all violent demonstrations are.

If one is going to be fair in condemning their actions, it should be kept in mind that other groups have used, with success, this same type of civil disobedience in seeking relief from what they, rightfully or wrongfully, considered to be oppressive.

The protesting parents in Lamar feel (1) that they have been saddled with an unfair and outrageous federal law and (2) that their governor, for purely political reasons, has left them in the lurch and capitulated to the oppressor. Under the circumstances it is not too difficult to understand their anger.

They showed no desire to harm the children. Their frustrations were aimed at window smashing and disabling the bus and taking their cause to the street. Which they did.

Before the federal authorities and bleeding hearts zero in on this one incident and make scapegoats out of the protestors, they should ask themselves: Is this any worse than the permissive hell-raising that has been going on all over the country for a long time? Much of it has been far more damaging to the security, economy and moral fiber of America. Everyone must share in the blame, not just 200 disturbed parents in Lamar.

W. A. POWER, Jr.

ADELPHI, MD.

SIR: Was Mary McGrory misinformed or simply trying to change fiction to fact in her column on the Lamar demonstration?

As I understand it, and according to TV coverage, no students were on the buses in South Carolina's little hamlet of Lamar at the time the buses were overturned.

Mrs. BESSIE P. DUBIN.

SPRINGFIELD, VA.

SIR: At 7:30 a.m. on March 7 Station WWDC broadcast an editorial citing overturning of two busloads of children. In my column in The Sunday Star on March 8, 1970, Mary McGrory reported: "Two busloads of black students had been overturned by furious whites in South Carolina."

Earlier in the week TV news reports by all three majort networks reported no children in the buses at the time they were overturned.

Somebody is lying. Sock it to 'em, Spiro.

CHARLES A. WALL.

SIR: Your editorial concerning the minor trouble at the would-be integrated school in Lamar, S. C., expressed absurd concern regarding the "blot on the national image." Not since Selma, Little Rock and Old Miss have we seen anything in the press concerning the national image. Are we to infer from this that only activities in the South reflect the national image. If so, then thanks for the unintended compliment.

In the meanwhile, newsreels and TV have shown the world the burning of our capital city, the burning of Detroit, Cleveland, Watts, Trenton and many, many others and the gasoline bombs thrown into the cars of innocent motorists, white men and women dragged from their cars and beaten in the streets and nobody being arrested. This, we understand, is quite permissible and makes no stain on the "national image" because it happens in liberal territory.

The people of South Africa, Rhodesia and South Carolina have viewed with astonishment newsreels of wall-to-wall policemen in the council chambers of Washington, D.C. They have viewed for ten years the "nation's showcase for integration"—the D.C. public school system. Obviously they care not to participate in such absurdities.

We in the Southland have a pretty good idea of what the world (that matters) thinks of us; but we are deeply concerned about what the world thinks of those outside of the South who allow murder, rape, arson, thievery and every other form of vile lawlessness to prey upon the citizens for the sole and obvious reason that this is the only way they can get the votes to them in office.

"National image" indeed!

H. B. G.

XUM

HARRY M. WOODS—A GREAT LOSS

HON. PHILIP J. PHILBIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. PHILBIN. Mr. Speaker, I was deeply saddened to learn of the tragic passing of my dear friend of college years, Mr. Harry M. Woods, which occurred in Phoenix, Ariz.

Harry Woods was one of the great, popular songwriters of our time. He was born in North Chelmsford, Mass., and lived in Pembroke, Mass., and attended public schools in Chicago. He also resided in London, Hollywood, New York City and since 1944 in Glendale, Ariz.

His career was a true Horatio Alger story, since Harry worked his way up from the bottom of the ladder to reach the top rung of his profession. He worked his way through Harvard playing the piano, and even in those days he was writing fine songs.

He had to struggle very hard for his education, but he preserved through all the obstacles, and reached his goals.

The immediate success of "When the Red Red Robin comes Bob Bob Bobbin" along lured him from farming on Cape Cod to Tin Pan Alley in New York where he continued his writing in Greenwich Village, New York City, and after many tries, he finally came up with a real, big hit, popularized over the radio by the great Kate Smith—"When the Moon Comes over the Mountain."

In succession, frequently in collaboration with other famous writers, he wrote a large number of song hits spread over a period of more than 30 years.

During the 1930's he spent a great deal of time in London with my dear friend, a very prominent musical leader and songwriter from my home town in Clinton, Mass., the late famous orchestra leader, Mr. Carroll Gibbons of "Garden in the Rain" fame, who also wrote other fine, musical compositions, and served as director of music for the British Broadcasting System. Harry also worked with Gibbons, and other famous songwriters in Hollywood, writing music for some of the great screen productions of the period.

It would be impossible to overstate the truly unbelievable contributions of Harry Woods, his superb natural talents, his irrepressible determination to use them effectively to produce music and lyrics that would appeal to the public, to strive boldly against great odds to reach his goals, and his lovable, personal qualities which endeared him to those who knew him well.

His writing career covered one of the most colorful, fruitful, artistic periods in the history of popular music, and when the story of this memorable era is told, the name of Harry Woods will occupy a very high place for the many appealing, popular song hits which he wrote, and the people loved so much, as indeed they do, as they well may, in these very days of artistic confusion.

While this gifted, creative genius had not been writing much in recent years, he was living with his lovely, gracious wife, Barbara, and his family in Phoenix, Ariz., and he lost his life in a very tragic automobile accident near his own home.

My heart goes out to his beloved wife, who played such an influential part in the career of Harry Woods, and to his three sons, of whom he was so very proud.

My heart goes out to all of them in the shocking sorrow which so suddenly came to them, and in behalf of my family and myself, I have extended to his dear ones our prayers and most heartfelt sympathy for their irreparable loss.

I sorrowfully join them in mourning an old and beloved friend, whose great talents, perseverence and unfailing courage, after much struggle, hard work, and sacrifice, enabled Harry Woods to reach the topmost rank of creative achievement and worldwide recognition in his chosen field of popular music composition.

The songwriting profession has lost one of its most brilliant members, and the writers themselves, who know better than anyone else the genius, the high quality, and the wonderful success of Harry Woods' works, are the first to recognize the great loss which their profession and the world of popular music has suffered in his passing.

I have lost a dear, esteemed friend, the musical world has lost one of its greatest talents, and the people of the Nation and the world have lost one of their very best creative talents, whose music brightened their days, and brought them memories and inspirations that will long remain with them.

A great, colorful creative artist has gone to his eternal reward. May he live in the House of the Lord forever.

Under unanimous consent to revise and extend my remarks, I include therein articles from the Worcester Telegram, Boston Globe, and the New York Times concerning the great Harry Woods, his illustrious career and a brief enumeration of some of his outstanding songs:

WORKS OF HARRY WOODS

Just an Echo in the Valley.
Little Street where Old Friends Meet.
River Stay way from my Door.
It looks like Love.
When the Moon comes over the Mountain.
Man from the South.
A little kiss each Morning, a little kiss each Night.
Heigh Ho, everybody, Heigh Ho.
My Old Man.
Since I found You.
I'm Looking Over a Four Leaf Clover.
Take in the Sun, Hang Out the Moon.
Your Flag and My Flag.
What's a Fella Gonna Do.
Where is My Old Girl Tonight.
Paddlin.
Oh, how she can love.
Spread a little Sunshine as you Go.
Who'd be Blue.
Tentin Down in Tennessee.

You're so Easy to Remember.
That lovely little Bluebird.
Darlin, Hang out the Stars in Indiana.
Loveable.
The Voice in the Old Village Choir.
I nearly let Love Go Slippin through my Fingers.
I just have Eyes for Susy.
Poor Papa.
The Whistling Waltz.
Side by Side.
I Hear Bluebirds.
We just couldn't say Good-bye.
Me, Too.
I'll Never Say Never Again.

[From the Boston Globe, Jan. 15, 1970]

HE WROTE "FOUR LEAF CLOVER"—HIT SONGS WRITER HARRY WOODS DIES

Private funeral services will be held tomorrow in Phoenix, Ariz. for Harry MacGregor Woods, 74, a native of Pembroke and the composer of some of the biggest hit songs of America's most innocent years.

He was struck and killed by a car outside his Phoenix home Tuesday night. Police said the driver, Kenneth Olsen, 39, of Phoenix, was not held.

Mr. Woods wrote many of the most popular songs of the 1920s, 1930s and 1940s. Among them were "When the Moon Comes Over the Mountain," "I'm Looking Over a Four Leaf Clover," "When the Red Red Robin Comes Bob, Bob Bobbin' Along," "Side by Side," "River Stay 'Way From My Door," and "Paddlin' Madelyn Home." During his career Mr. Woods wrote more than 360 songs.

He grew up in Pembroke and attended public school there. His father, George H. Woods, was supervisor of music in the Abington public schools.

Mr. Woods worked his way through Harvard College by playing the piano at the Mayflower Grove movie theater in Boston for $1.50 a week. He graduated from Harvard in 1921.

For a short time after graduation Mr. Woods resided in Pembroke and worked sanding cranberry bogs. He soon moved to New York city and began his song writing career. This first song he wrote was "Going South," which was popularized by Al Jolson.

In 1932 Mr. Woods moved to England, where he spent seven years writing songs for five British films and a musical show. He returned to New York in 1939, shortly after the outbreak of World War II.

Mr. Woods once said he lived every song he wrote. He said the song "Side By Side" was written about one year after he and his wife Barbara were married. He had sold several songs but the money had not yet started to come in.

"We were selling empty bottles to get bread and cigarette money," he once told a reporter. "But we were having fun. It struck me one day that I'd like to put my feeling for Barbara and our life in music." Mr. Woods and his family moved to Phoenix in 1944. The family returned to New York in 1955 and came back to Phoenix in 1962.

[From the New York Times, Jan. 15, 1970]

HARRY M. WOODS, COMPOSER, DEAD—AUTHOR OF "SIDE BY SIDE" AND "FOUR-LEAF CLOVER" WAS 74

PHOENIX, ARIZ.—Harry MacGregor Woods, composer of "When the Moon Comes Over the Mountain," "I'm Looking Over a Four-Leaf Clover" and "Side by Side," was struck and killed by a car last night. He was 74 years old.

PROLIFIC SONGWRITER

Among the best known of Mr. Wood's more than 360 songs are "River, Stay 'Way From My Door", "My Old Man", "Paddlin' Madelin' Home", "We Just Couldn't Say Good-Bye" "Little Street Where Old Friends Meet" and "Heigh-Ho Everybody, Heigh-Ho".

Mr. Woods, who was born in North Chelmsford, Mass., was educated at Harvard University, where he played piano to help work his way through school.

After college, Mr. Woods became a farmer on Cape Cod, but soon gave up that career after the success of one of his first hits, "When the Red Red Robin Comes Bob-Bob-Bobbin' Along". Many other hits were to follow in the 1920's and '30's.

As a successful songwriter, Mr. Woods was one of the first to join the staff of Hollywood producers. Among the films for which he wrote songs were: "The Vagabond Lover," "Jack Ahoy," "Evergreen" and "It's Love Again." His chief collaborators included Mort Dixon, Howard Johnson and Gus Kahn.

Mr. Woods is survived by his widow, Barbara, and three sons, Ralph, John and David.

[From the Worcester (Mass.) Telegram, Jan. 15, 1970]

HARRY WOODS, 74; SONG COMPOSER

PHOENIX, ARIZ.—Harry MacGregor Woods, 74, composer of "When the Moon Comes over the Mountain," and more than 360 other songs of the 1920s and 1930s, was struck and killed by a car Tuesday night.

Police said Woods had alighted from a taxicab and was crossing a street to his home when he was hit by a car driven by Kenneth Olsen, 39, who was not held.

Woods composed such songs as "Side by Side," "I'm Lookin over a Four Leaf Clover," and "When the Red, Red Robin Comes Bob Bobbin Along."

A native of Pembroke, Mass., he earned his way through Harvard playing the piano.

He moved to Glendale, Ariz., from New York in 1944. The family returned to New York in 1955, and came back to Phoenix in 1962.

He leaves his widow and two sons.

Private services and cremation will be on Friday.

THE NEVER-NEVER LAND OF EDUCATION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. WILLIAM D. FORD. Mr. Speaker, an ancient Greek parable, nearly 2,000 years old, relates:

> A mountain was in labor, sending forth dreadful groans, and there was in the region the highest expectation. After all, it brought forth a mouse.

For the past 13 months, Mr. Speaker, we have waited with the highest expectations for the President's education message. For 13 months, the mountain labored, and lo, once more it has brought forth a mouse.

President Nixon's proposed education program is not a program at all. It is not even an excuse for a program. It is a nonprogram, drafted by men who are admittedly and openly opposed to the entire concept of Federal aid to education.

The President's education message makes is perfectly clear that his administration considers education to be near the bottom of the priority ladder.

He proposed to postpone Federal spending for education until we once again go through the process of appointing committees, making studies, drafting reports, and making recommendations.

What about the education and the future of the children who must wait for the results of the studies and reports? They need education now, and no amount of help in later years can ever make up for lost opportunities in their formative years.

I agree that continued studies of the educational process should be made, and that new concepts and new ideas should be explored. Bt education cannot stand still while these studies are underway.

The Washington Post, in an editorial on March 7, commented on President Nixon's education message with keen insight, and I insert the editorial in the RECORD at this point:

THE NEVER-NEVER LAND OF EDUCATION

There is hardly a platitude ever uttered about education that is not contained in the President's special message to Congress on educational reform. It is as though someone snipped sentences from all the annual school reports ever written—on a basis of the frequency of their recurrence. "We now have reason to believe that young people may be learning much more outside school than they learn in school." What a discovery! "We must stop pretending that we understand the mystery of the learning process." Who's pretending? "Our schools have served us nobly for centuries." Uh huh. "When educators, school boards and government officials alike admit that we have a great deal to learn about the way we teach, we will begin to climb the up staircase toward genuine reform." Well, really!

And, finally, under the heading "The Future of Learning in America," we are informed that "the tone of this message, and the approach of this administration, is intended to be challenging." It isn't challenging. It's bromidic, soporific, deadening. It drones on and on like a sermon designed to induce slumber. Indeed, that appears to be its purpose—to postpone doing anything whatever about the country's faltering public school system until we have learned with perfect certainty and indisputable unanimity the one irreproachably wise and right thing to do. In the meantime, children of school age whose time for education moves on inexorably, never to become available to them again, will kindly wait with docility and decorum in their overcrowded, understaffed classrooms while their elders ponder the inscrutable future.

It is true, of course, that there is much that we do not now know about how to teach children—or even what to teach them. But it is not true that we know nothing. It is true that some of the teaching patterns of the past have proved imperfect. But it is not true that all of them are worthless—or that it is necessary to write on a completely clean slate in American education. We have not conducted the oldest, broadest, most successful public school system in the world for more than a hundred years without having learned a thing or two about teaching.

Here are some things the President can encourage the country's school authorities to do—encourage by federal financial aid—while they are waiting for the President's projected National Institute of Education and his Commission on School Finance to propose new and perfect programs:

1. A large part of the physical plant in which children go to school in America is antiquated, desperately overcrowded and hazardous to health and safety. It takes a long time to plan and build schools; and there is no need whatever to wait for the institutes and the commissions to tell us so.

2. It is indisputable that a high ratio of pupils to teachers impedes learning. The ratio is unconscionable in many classrooms all over the country. We desperately need to train teachers, to recruit gifted and dedicated young people into the teaching profession. While the institutes and commis-

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sions are figuring out new ways to do this, it would be well worth while to enlarge and invigorate the Teacher Corps, an admirable and effective program for bringing young teachers to inner city schools.

3. Title I of the Elementary and Secondary Education Act, designed to aid disadvantaged children in disadvantaged areas of the big cities, has abundantly proved itself in practice. It works. It has produced a real breakthrough in education. It ought to be dramatically expanded while the institutes and commissions are wagging their heads and stroking their chin whiskers.

4. School libraries are an invaluable aid to education. They stimulate children to read, a practice vastly preferable to occupying the principal's office or setting fire to city hall. It has now been proven beyond any preadventure and beyond any possibility of contradiction by an institute or a commission that books are good for you. While waiting for the institutes and the commissions, let's put some books where school children can use them. There are 40,000 elementary and secondary schools in the United States which have no school libraries at all. The lesson of this is plain to pupils: it teaches them a contempt for reading.

5. The schools are desperately in need of psychiatrists and consultants to help children find themselves and learn what is keeping them from learning. Pending any institute or commission finding to the contrary let's give the schools these vital assistances.

6. The President himself said in his message that "in the development of the mind, child's play is serious business. One of my first initiatives upon taking office was to comment this administration to an expansion of opportunities during the first five years of life. That commitment was based on new scientific knowledge about the development of intelligence—that as much of that development takes place in the first five years as in the next thirteen." Well, fine. We're not sure the President invented it. But, anyway, that's the idea behind the Head Start program. Until the institutes and commissions come up with a new name for it, there is every good reason to push on with existing programs to give children in the first five years of life a good head start on learning.

Yet these are precisely the programs which the President tried to cut down in the long hassle over the HEW appropriation bill. Instead of them, he restored to the appropriation virtually all of the money sought for impacted area aid, a form of federal assistance which, as he himself has pointed out, puts the money where it is least needed.

One thing more. "We do not yet have equal educational opportunity in America," the President said with that air of wide-eyed astonishment he might bring to a discovery that two plus two makes four. "The purpose of the National Institution of Education," he went on, "would be to begin the serious, systematic search for new knowledge needed to make educational opportunity truly equal." In point of fact, the Supreme Court of the United States told the country plainly some 16 years ago that racial segregation inevitably produces inequality in educational opportunity. So, while awaiting the serious, systematic search for new knowledge from the institute, the President might usefully promote equality by lending somewhat less encouragement—open or tacit—to segregationists.

This message is a political ploy, a stall, an evasion. It is not a program for educational reform so much as a scheme for sweeping the kiddies under the living room rug while grownups enjoy their cocktails. Children, it is true, are sometimes a nuisance and an expense. But the cost and trouble of pretending that they aren't there can be catastrophic.

ENVIRONMENTAL IMPROVEMENT REQUIRES CONTINUING EDUCATION AND LONG TERM EFFORT

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BURTON of Utah. Mr. Speaker, the Salt Lake City Deseret News, in an editorial on Tuesday, March 10, 1970, points out that after the glamor of college "teach-ins" on environmental improvement wears off, there remains the important program of continuing education and years of sustained effort in order to accomplish and maintain an improvement in the quality of our environment. The Utah Education Association is to be commended for its recognition of these hard facts and also for the work of its leaders in the area of environmental education. The editorial follows:

HOW CONSERVATION CAN MAINTAIN MOMENTUM

Is popular concern over the quality of the environment just another passing fad like miniskirts or wide neckties?

There's room for wondering in view of the suddenness of the upsurge in interest, the high degree to which young people are involved, and the fact that Americans old and young just aren't known as long-term crusaders.

Yet, without long-term attention and effort, it's hard to see how Americans can clean up pollution problems that have been decades in the making.

We raise these points in connection with the four-day environmental "teach-in" that is planned for the University of Michigan beginning Wednesday as a curtain-raiser for similar programs to be held in schools across the country April 22.

Among the activities which college and high school students are considering in connection with the teach-ins are mass phone-ins to industrial polluters, burying automobile engines in mock funeral ceremonies, and shining spotlights on polluting smokestacks. One group is even thinking about a "filth-in"—every participant would bring one day's national per capita of five pounds of garbage.

While such activities may be an exciting way of letting off steam, they make one wonder if young people's interest in fighting pollution runs no deeper than engaging in circus-like protests and if, once the fun wears off, they'll lose interest.

For instance, will students join with concerned citizens of all ages who become involved in public hearings for strong air and water quality standards? Will they get into the complexities of pollution control, of planning and zoning decisions? Will they pursue environmental quality through the often dull and tedious administrative procedures which shape many resource management decisions?

If interest is to be sustained and directed into such really productive channels, the nation's schools will have to get into the act. To its credit, the Utah Education Association is moving to meet the challenge by urging:

That individual members involve themselves in the campaign against smog-clogged air, junky streams, and junky landscapes.

That each school district offer in-service programs that will help teachers to incorporate environmental education into their subject matter.

That public schools and institutions of higher learning place more emphasis on environmental education in all courses by enrichment of subject matter.

These recommendations are in line with what Stanford University is doing in undertaking "the first undergraduate program aimed at training experts to cope with their environment—urban sprawl, pollution, and conservation."

When Stanford announced its new undertaking last fall, this page urged Utah colleges and universities to follow the California school's lead in providing the young people of today with the wide range of knowledge and skills needed to keep environmental problems from overwhelming the country tomorrow.

We repeat that suggestion now in the conviction that continuing education is essential if the campaign for a better environment is to keep from running out of steam.

SOVIET UNION: NOT-SO-SILENT MAJORITY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. DERWINSKI. Mr. Speaker, an article in the Monday, January 12 edition of Newsweek deserves I believe special attention making the point as it does, perhaps unintentionally, that the Government of the Soviet Union is indeed oppressing non-Russian nationality groups. Complications within the Soviet Union caused by the captive peoples represent an inherent weakness to the Soviet empire. The article follows:

SOVIET UNION: NOT-SO-SILENT MAJORITY

Next week, one of the world's most ambitious door-to-door canvasses will get under way when the Soviet Union embarks on its first national census in more than a decade. During its initial stage, 550,000 census-takers will go into every home in that vast country to register an estimated 240 million citizens. The raw data they gather will then be spot-checked by 100,000 controllers and fed into a central computer bank in Moscow to emerge as columns of statistics for the use of Soviet planners. But in all that jumble of information, one fact is likely to stand out dramatically: for the first time since the formation of the Soviet Union, Great Russians will find themselves a minority in their own country.

The political implications of this demographic fact are worrisome indeed to Soviet leaders. For there are unmistakable signs that the national consciousness of the Soviet Union's non-Russian majority is increasing at least as fast as its numbers. In the past few years, Crimean Tartars and Ukrainians have openly protested against the denial of their ethnic rights. And it is estimated that half the political prisoners detained in Soviet labor camps fall under the category of "bourgeois nationalists." Moreover, many observers of the Soviet scene think the intensification of ethnic conflict will be the Soviet Union's most pressing domestic problem in the remaining years of this century. "It is not inconceivable," writes Columbia University's Prof. Zbigniew Brzezinski, "that in the next several decades the nationality problem will become politically more important in the Soviet Union than the racial issue has become in the United States."

FAULT

If Brzezinski's forecast is borne out, the fault will not lie entirely with Soviet lead-

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ers—past or present. For when they carried out their revolution, the Bolsheviks inherited from Czarist Russia an unwieldy hodgepodge of 130 separate racial, ethnic and national groups, many with their own language, culture and degree of economic development. But it is also true that during their 52 years in power, Soviet leaders have only managed to make a bad situation worse through a confused series of nationality policies, which have ranged from Lenin's relative tolerance toward separate ethnic development to Stalin's ruthless practice of Russification. Even today, the Kremlin permits non-Russians little direct political expression. Those few members of the eleven-man Soviet Politburo who are non-Russian tend to be Uncle Toms. And in most of the country's fifteen republics, Great Russians wield the real power.

In theory, the Soviet Union was founded on the concept of national pluralism. Soviet propaganda continually portrays a colorful pageant of almond-eyed Tartars, fair-haired Estonians, olive-skinned Azerbaijans and ruddy-faced Russians all walking arm in arm toward the Communist millennium. In practice, of course, the various nationality groups are proceeding at vastly different paces. During the first half of 1969, only seven of the fifteen Soviet republics matched the national increase in gross industrial production. And only four of them recorded a per capital income higher than the nationwide mean of 1,070 rubles ($1.188). Moreover, there is frequently a direct correlation between economic performance and the grievances of ethnic minorities. One reason why industries east of the Urals fulfilled only 65 per cent of their quotas last year seems to be the resentment of local workers toward "imported" managers and technicians.

The Great Russians, for their part, make no effort to hide their scorn for the non-Russian peoples of the Soviet Union. From *khokhol* (topknot) for a Ukrainian to *chernozadyi* (black bottom) for an Azerbaijani and *yoldasky* (yellow men) for Central Asians, they have a pejorative nickname for each group. Then, too, most Russians are convinced that the national minorities either live better or work less than they do. Georgian farmers are resented for flying their tomatoes and peaches to Russian markets tc take advantage of higher prices; Central Asians are reputed to be getting the lion's share of new investment projects; Ukrainians are charged with grabbing too much political power in Moscow. To find out how the national minorities, in turn, view their Russian compatriots, NEWSWEEK'S Moscow bureau chief John Dornberg recently took an extensive tour of the Soviet Union. Dornberg's report:

Last week Soviet Deputy Foreign Minister Vasily Kuznetzov arrived back in Peking to continue the Sino-Soviet border talks after a three-week interruption. One of the principal sources of contention at the talks is Peking's claim that vast areas of Soviet Asia are now under Moscow's control because of "unequal treaties" imposed on China by the Russian czars in the nineteenth century. But the Soviets are not about to give up any of the disputed territory—if only because they have poured billions of rubles into Soviet Asia in order to make it a showplace for the accomplishments of Communism. Indeed, Kazakhstan now ranks third in industrial production among all Soviet republics, and Uzbekistan annually produces almost a million tons of steel.

Feudal nomads only 50 years ago, the Moslem peoples of Central Asia are now almost completely literate and the younger ones, at least, are often better versed in Russian culture than in their own. Among the older generation, however, I frequently encountered bitter resentment at the decline of ancient ways and the contempt which resident Russians display for the local populace. "When you are in the bazaar," said an Uzbek farmer who rushed to my defense as soon as an inebriated Russian tried to prevent me from taking photos, "you are *our* guests."

If Russians visit Asia for a whiff of the Orient, they travel to the three Baltic republics for a breath of the West. Independent from 1918 to 1940, the Baltic republics are still among the least Russified areas in the Soviet Union. In the Estonian capital of Tallin, "Finnish antennas" provide a TV peephole to the West, while in Riga, the capital of Latvia, art galleries display paintings far beyond the limits of socialist realism. Economically, too, the Baltic republics are advanced and specialize in the production of sophisticated industrial machinery as well as such consumer items as cars, radios, TV sets and washing machines. But even though Soviet statistics claim that industrial output has increased twentyfold since "the socialist revolution of 1940," nationalists in the Baltic republics believe they would be even better off free from Moscow's control. "We could still be socialist," one young man in Tallin told me, "but if we were not part of the Soviet Union, we'd be as rich as the Swedes."

SIZE

Despite the attachment of the Baltic republics to the West, if a confrontation ever develops between the Great Russians and a resurgent nationalist minority group, it may be most likely in the Ukraine. In part, this is due to the sheer size and population of the Ukraine. With 47 million inhabitants and a territory of 232,000 square miles, the Ukrainian Soviet Socialist Republic ranks as the fifth largest European member of the United Nations, where it has held a separate seat since the world organization was founded. But the Ukrainians' intense nationalism is also firmly rooted in cultural and economic achievements. Kiev was the center of medieval Russian civilization and Ukrainians are also the heirs to a highly refined literary culture developed in the nineteenth century. Economically, moreover, the Ukraine is self-sufficient. Besides being one of Europe's principal granaries, it is rich to the point of abundance in iron, coal, oil, manganese and titanium.

Though on paper all fifteen of the Soviet Union's republics enjoy the constitutional right of secession, the Ukraine would doubtless be the most capable of standing on its own feet as an independent nation. Perhaps it is the consciousness of this fact which makes Ukrainian nationalists so intransigent—and the Soviet authorities so quick to stymie their activities. Basically, Ukrainian nationalists object to the official distortion of the Ukraine's history and the de-emphasis of its language in urban schools—as well as the economic directives from Moscow which force the republic to concentrate on heavy industries to the neglect of the more profitable production of consumer goods. But they are not so much in favor of complete independence for their republic as a relaxation of centralized control. "We do not want separatism," one Ukrainian nationalist told me recently. "What we are looking for is greater autonomy within the union."

That, however, is something which the present crop of Soviet leaders is unlikely to grant. For in an age in which demands for separate nationalist expression are heard around the world, the Kremlin has steadfastly kept a tight lid on its own minority groups. The Soviet leaders are painfully aware, of course, that by opening avenues for legitimate ethnic expression they would court the risk of undermining the very authoritarian system on which their nation is run. Yet, by failing to heed the demands of their increasingly restive nationality groups, the men in the Kremlin are courting the equally grave risk of an eventual political explosion.

DR. CHARLES J. ZINN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. DERWINSKI. Mr. Speaker, I was saddened to hear of the death of Dr. Charles J. Zinn who was the law revision counsel of the House Judiciary Committee and a friend of long standing. Dr. Zinn was undoubtedly best known to the Members as the author of the booklet, "How Our Laws Are Made," which was the most effective of its type and a valuable addition to classroom material in schools throughout the country.

My association with Dr. Zinn was based primarily on his service with the Interparliamentary Union of which I am a member where he served as president of the Inter-Parliamentary Union Association of Secretaries General of Parliaments.

Dr. Zinn made a tremendous contribution to the international understanding of legislative law and administration within legislative and parliamentary bodies. He worked with officials of Pakistan, the Virgin Islands, and the Panama Canal Zone as well as within the Secretaries General of Parliaments to encourage the adoption in these lands of the procedures of our legislative system.

Dr. Zinn was truly devoted to his assignments and was one of the great parliamentarians on the national and international scene.

Mrs. Derwinski joins me in extending our deepest sympathy to his wife Ethel and his family.

SALT LAKE CITY TEACHER HONORED

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. BURTON of Utah. Mr. Speaker, George R. McKay, of Salt Lake City, has been chosen by his associates in Utah as Industrial Arts Teacher of the Year.

An article about this dedicated teacher appears in the March 1970 issue of the Professional, published by the Salt Lake Teachers Association. The article follows:

MCKAY ELECTED INDUSTRIAL ARTS TEACHER OF THE YEAR

George R. McKay has been chosen by a majority of the 373 Utah industrial arts teachers as the Teacher of the Year.

George was born in Salt Lake City, but grew up and was educated in the Ogden City schools, graduating from Ogden High School in 1945. After a stay in the Army he attended Weber College for two years and then went on to Utah State University. He received his B.S. degree from there in 1952.

George began his teaching career in Salt Lake City at Hillside Jr. High in the fall of 1952. In 1956 he left teaching to work as an industrial relations representative for Kennecott Copper. He returned to Hillside in 1958.

With the exception of the 10-month Berlin call-up of the Utah National Guard, George has been at Hillside since 1958.

George is a Warrant Officer in the Utah National Guard, where he has been a member for 22 years.

George is married and has five children, the oldest of whom was a Sterling Scholar from Skylin High School in industrial arts in 1964.

George has served in the local and state industrial arts associations as president. He is presently president-elect of the Salt Lake Teachers Association.

George received his M.S. degree from USU in 1967. His thesis was written on mass production as an instructional unit in industrial arts. He has used mass production or production technology as an instructional unit in ninth grade woods since 1965. He attended an eight-week NDEA institute on American Industry in 1967 and was a coinstructor in a workshop on Production Technology this past summer at USU.

Nominations for this honor are made from each of the twelve regions in the state. Qualifications follow specific criteria set by the American Industrial Arts Association.

George will be honored locally at the Industrial Arts Spring Convention at USU in Logan on May 8 and 9. He will be honored nationally at the April 6–11, 1970 convention of the American Industrial Arts Association at Louisville, Kentucky.

We are proud of our Salt Lake Teacher and Association officer. We congratulate the Industrial Arts Association for its excellent choice.

PEACE IS URGENT

HON. PHILIP J. PHILBIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. PHILBIN. Mr. Speaker, let us continue to hold out the olive branch of peace to every nation, the Soviet Union, Red China, and all the rest, that they may be prompted to respond in truth, sincerity, and good faith to our latest of many sincere overtures of peace and friendship, and our earnest pleas to stop all bloodshed and fighting forthwith, and join as human beings for the total peace, prosperity, and betterment of the human race.

Peace as soon as we can get it must be our cry and our demand. We must seek it with all our hearts and our energies.

May God grant that our pleas and our prayers for peace are heard and answered by all the nations throughout the world, especially our enemies, and those who support and encourage them here and in the world.

May the day soon come when all nations may lay down all weapons of force, violence, and destruction forever, and blessed peace, justice, and brotherhood may come to all humankind.

SENATE—*Tuesday, March 17, 1970*

The Senate, as in legislative session, met at 11 o'clock a.m. and was called to order by Hon. GEORGE McGOVERN, a Senator from the State of South Dakota.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, our Father who bids us come before Thee with clean hands and pure hearts, qualify us now to serve Thee. Cleanse us and make us new. Grant us the pure hearts of those who see God. Preserve us from the hypocrisy which magnifies evil so as to appear worse than we are; or the artificiality which pretends to be better than we are. Help us to ring true to what we really are—human beings saved by Thy redemptive love, forgiven when repentant—a people who walk and work conscious of Thy judgment, kept by Thy grace, aware of Thy guidance, ever striving for the establishment of that city whose builder and maker is God.

In the Redeemer's name. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 17, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. GEORGE McGOVERN, a Senator from the State of South Dakota, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. McGOVERN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 16, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. McGOVERN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that pursuant to the provisions of section 2(a), Public Law 91–213, the Speaker had appointed Mr. BLATNIK and Mr. ERLENBORN as members of the Commission on Population Growth and the American Future, on the part of the House.

The message also announced that the House had passed, without amendment, the bill (S. 3427) to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior.

The message further announced that the House had passed the following bills of the Senate, severally with amendments, in which it requested the concurrence of the Senate:

S. 227. An act to provide for loans to Indian tribes and tribal corporations, and for other purposes,

S. 743. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Touchet division, Walla Walla project, Oregon-Washington, and for other purposes; and

S. 2062. An act to provide for the differentiation between private and public ownership of lands in the administration of the acreage limitation provisions of Federal reclamation law, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1187. An act to amend the act of August 7, 1961, providing for the establishment of Cape Cod National Seashore;

H.R. 4145. An act to provide for disposition of estates of intestate members of the Cherokee, Chickasaw, Choctaw, and Seminole Nations of Oklahoma dying without heirs;

H.R. 12858. An act to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States;

H.R. 12878. An act to amend the act of August 9, 1955, to authorize longer term leases of Indian lands at the Yavapai-Prescott Community Reservation in Arizona;

H.R. 14855. An act to amend the act of August 31, 1954 (68 Stat. 1026), providing for the construction, maintenance, and operation of the Michaud Flats irrigation project;

H.R. 14896. An act to amend the act of October 15, 1966 (80 Stat. 915), establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes;

H.R. 15143. An act to amend title 10, United States Code, to provide the grade of lieutenant general for an officer serving as the Chief of the National Guard Bureau, and for other purposes; and

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

HOUSE BILLS REFERRED OR PLACED ON THE CALENDAR

The following bills were severally read twice by their titles and referred or placed on the calendar, as indicated:

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H.R. 1187. An act to amend the act of August 7, 1961, providing for the establishment of Cape Cod National Seashore;

H.R. 4145. An act to provide for disposition of estates of interstate members of the Cherokee, Chickasaw, Choctaw, and Seminole Nations of Oklahoma dying without heirs;

H.R. 12858. An act to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States;

H.R. 12878. An act to amend the act of August 9, 1955, to authorize longer term leases of Indian lands at the Yavapai-Prescott Community Reservation in Arizona;

H.R. 14855. An act to amend the act of August 31, 1954 (68 Stat. 1026), providing for the construction, maintenance, and operation of the Michaud Flats irrigation project; and

H.R. 14896. An act to amend the act of October 15, 1966 (80 Stat. 915), establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 15143. An act to amend title 10, United States Code, to provide the grade of lieutenant general for an officer serving as the Chief of the National Guard Bureau, and for other purposes; to the Committee on Armed Services.

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes; placed on the calendar.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, as in legislative session, and that there be a limitation of 3 minutes on remarks made by Senators during that period.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, as in legislative session, until 11 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Subsequently, this order was modified to provide for an adjournment to 10:30 a.m. tomorrow.)

SENATOR PERCY AN ADDITIONAL SIGNER OF MINORITY VIEWS ON THE CREDIT CARD BILL

Mr. PERCY. Mr. President, I ask unanimous consent that my name be added as a signer of the minority views on the bill (S. 721), to safeguard the consumer by requiring greater standards of care in the issuance of unsolicited credit cards and by limiting the liability of consumers for the unauthorized use of credit cards, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. McGovern) laid before the Senate the following letters, which were referred as indicated:

Proposed Amendment of the Federal Civil Defense Act of 1950

A letter from the Office of Emergency Preparedness, Executive Office of the President, transmitting a draft of proposed legislation to amend the provisions of title III of the Federal Civil Defense Act of 1950, as amended (with an accompanying paper); to the Committee on Armed Services.

Authorization of Appropriations To Carry Out the Fire Research and Safety Act of 1968

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations to carry out the Fire Research and Safety Act of 1968 (with accompanying papers); to the Committee on Commerce.

Renomination of Stephen S. Davis

A letter from the Mayor-Commissioner, Executive Office, Government of the District of Columbia, transmitting, pursuant to law, the renomination of Stephen S. Davis for appointment as a member of the Board of Directors of the District of Columbia Redevelopment Land Agency, effective on and after March 4, 1970; to the Committee on the District of Columbia.

Report of the Secretary of the Treasury on the State of the Finances for the Fiscal Year Ended June 30, 1969

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report on the state of the finances for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Finance.

Proposed Amendment of the Bretton Woods Agreements Act

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize an increase in the resources of the International Monetary Fund and the International Bank for Reconstruction and Development, and for other purposes (with an accompanying paper); to the Committee on Foreign Relations.

Report of Negotiated Sales Contracts for Disposal of Materials

A letter from the Director, Bureau of Land Management, U.S. Department of the Interior, transmitting, pursuant to law, a report of negotiated sales contracts for disposal of materials during the period July 1 through December 31, 1969 (with an accompanying report); to the Committee on Interior and Insular Affairs.

Third Preference and Sixth Preference Classifications for Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

Proposed Amendment of the Marine Resources and Engineering Development Act of 1966

A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development (with an accompanying paper); to the Committee on Commerce.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. McGovern):

Resolutions of the Commonwealth of Massachusetts; to the Committee on Finance:

Resolutions Memorializing the Congress of the United States To Help Preserve the Textile and Apparel Industry in the Commonwealth of Massachusetts

Whereas, The textile and apparel industry in Massachusetts provides an important segment of the industrial employment in this commonwealth totaling ninety thousand jobs with each of these jobs accounting for another job according to the studies of the New England Governors Textile Committee and other authorities; and

Whereas, The establishments of this industry provide the sole or principal source of industrial employment for many of the one hundred and forty Massachusetts communities in which they are located; and

Whereas, Textile employment in the commonwealth has declined by twenty-three thousand jobs within the last ten years substantially due to the rising flood of textile and apparel imports which are setting new records each month and which are causing job losses and plant closings resulting in economic hardship to many communities dependent upon this industry; and

Whereas, The loss of said jobs which are particularly geared to the needs of disadvantaged groups are contrary to the manpower policies and programs at every level of government; and

Whereas, We recognize and endorse the commitment by the President of the United States that he would "promptly take the steps necessary to extend the concept of international trade agreements to all textile articles involving wool, man-made fibers and blends"; and

Whereas, We recognize and deplore the intransigent attitude of foreign countries which make agreements to curtail textile and apparel trade among themselves but refuse to do the same with the United States and only now under strong United States urging have they begun to discuss the matter of negotiating an agreement; and

Whereas, That there is urgent need for action to bring the uncontrolled flood of textiles and apparel to reasonable levels either by international agreement or by legislative action of the Congress of the United States; now, therefore, be it

Resolved, That the General Court of the Commonwealth of Massachusetts respectfully requests that the Congress of the United States take immediate legislative action if the steps necessary for prompt and meaningful solution through an international agreement are not promptly initiated; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States; to the Secretary of Commerce, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

Senate, adopted, February 23, 1970.

Norman L. Pidgeon,
Clerk.

House of Representatives, adopted in concurrence, February 25, 1970.

Wallace C. Mills,
Clerk.

Attest:

John F. X. Davoren,
Secretary of the Commonwealth.

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Petitions signed by sundry citizens of the State of Alabama, relating to the appointment of qualified men to vacancies occurring on the Supreme Court and other Federal Courts; to the Committee on the Judiciary.

A resolution adopted by the City Council of East Orange, N.J., praying for the enactment of legislation providing for the use of U.S. Post Office facilities for the registration of voters; to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S.J. Res. 162. Joint resolution in recognition of the Fifth International Conference on Water Pollution Research (Rept. No. 91-742).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 366. Resolution authorizing expenditures by the Select Committee on Equal Educational Opportunity (Rept. No. 91-743).

EXECUTIVE REPORTS OF COMMITTEE ON FOREIGN RELATIONS

In executive session, Mr. Fulbright, from the Committee on Foreign Relations, made the following reports:

Executive I, 91st Congress, first session, Protocol to the International Convention for the Northwest Atlantic Fisheries relating to Panel Membership and to Regulatory measures, dated October 1, 1969, without reservation (Executive Rept. No. 91-16); and

Executive J, 91st Congress, first session, Convention on Privileges and Immunities of the United Nations, approved unanimously by the General Assembly on February 13, 1946, with reservations (Executive Rept. No. 91-17).

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

Mr. AIKEN (for himself, Mr. Allen, Mr. Allott, Mr. Anderson, Mr. Baker, Mr. Bayh, Mr. Bellmon, Mr. Bennett, Mr. Bible, Mr. Brooke, Mr. Burdick, Mr. Byrd of West Virginia, Mr. Church, Mr. Cook, Mr. Cooper, Mr. Cotton, Mr. Curtis, Mr. Dodd, Mr. Dole, Mr. Eagleton, Mr. Eastland, Mr. Ellender, Mr. Fannin, Mr. Fong, Mr. Goldwater, Mr. Gore, Mr. Griffin, Mr. Gurney, Mr. Hart, Mr. Holland, Mr. Hruska, Mr. Javits, Mr. Jordan of North Carolina, Mr. Jordan of Idaho, Mr. Magnuson, Mr. McCarthy, Mr. McGovern, Mr. McIntyre, Mr. Mansfield, Mr. Metcalf, Mr. Miller, Mr. Mondale, Mr. Montoya, Mr. Moss, Mr. Mundt, Mr. Murphy, Mr. Nelson, Mr. Packwood, Mr. Pearson, Mr. Percy, Mr. Prouty, Mr. Randolph, Mr. Saxbe, Mr. Schweiker, Mr. Scott, Mrs. Smith of Maine, Mr. Stennis, Mr. Symington, Mr. Talmadge, Mr. Yarborough, Mr. Young of North Dakota, and Mr. Williams of Delaware):

S. 3598. A bill to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes; to the Committee on Agriculture and Forestry.

(The remarks of Mr. Aiken when he introduced the bill appear later in the Record under the appropriate heading.)

By Mr. BAYH:

S. 3599. A bill for the relief of Dr. George Yao; to the Committee on the Judiciary.

By Mr. JORDAN of North Carolina:

S. 3600. A bill for the relief of Kyung Ae Oh; to the Committee on the Judiciary.

By Mr. DOMINICK (for himself, Mr. Javits, and Mr. Murphy):

S. 3601. A bill to amend section 351 of the Public Health Service Act so as to clarify the intent to include vaccines, blood, blood components, and allergenic products among the biological products which must meet the licensing requirements of this section; to the Committee on Labor and Public Welfare.

(The remarks of Mr. Dominick when he introduced the bill appear later in the Record under the appropriate heading.)

By Mr. McGEE:

S. 3602. A bill to preserve and protect the confidentiality of first class mail; to the Committee on Post Office and Civil Service.

(The remarks of Mr. McGee when he introduced the bill appear later in the Record under the appropriate heading.)

S. 3598—INTRODUCTION OF A BILL TO AUTHORIZE FEDERAL ASSISTANCE FOR FISH AND WILDLIFE AND RECREATION DEVELOPMENT

Mr. AIKEN. Mr. President, the need for a practical, overall program for rural development is a major problem of our times.

One cause for concern is the decline that is taking place in many rural communities as large-scale commercial agriculture takes over.

On the other side of the coin, thousands of city dwellers would prefer to live in rural communities but demand modern facilities in order to live comfortably.

In 1963, the resource conservation and development program was initiated to provide for cohesive planning and specific action to attract new enterprise to rural communities.

Two years later the Water Facilities Act became law, and this has proved to be one of the most important programs we have for rural development.

Administered by the Farmers Home Administration, this act provides grant and loan money to enable rural communities to establish modern water and sewer systems.

I am especially proud of the fact that the first rural water system to be established under this law is in my home State, and one of the first 10 R.C. & D. projects in the Nation is in Vermont.

The latter started as a district embracing 23 towns in three counties and now includes 41 towns in four counties.

Today, Mr. President, I introduce a bill to make the rapidly expanding resource conservation and development program even more effective than it is now.

In any new plan to improve living in rural communities, the R.C. & D. district may well be the keystone, for it is through the district setup that we obtain a real partnership of local, State, and Federal effort for progress.

This measure would strengthen the recreation and fish and wildlife aspects of resource conservation and development projects by providing Federal cost sharing.

It would enable the Department of Agriculture to provide recreation, fish and wildlife assistance in R.C. & D. projects that is comparable to its assistance in other USDA-aided programs such as small watershed projects under Public Law 566.

Specifically, the bill would authorize the Secretary of Agriculture to share part of the cost of installing public fish and wildlife or recreation developments in R.C. & D. projects and up to half of the cost of any needed land, easements, rights-of-way, and basic public facilities.

These would need to be water-based developments, and consistent with a comprehensive statewide plan adequate for purposes of the Land and Water Conservation Fund Act of 1965.

Such assistance would be limited to not more than one development per 75,000 acres, and to cost-sharing assistance that cannot be provided under other existing authorities.

There are 49 R.C. & D. projects now in operation, and they are making important contributions to rural communities.

Nineteen are in the planning stage and 60 more areas have requested assistance in planning new districts.

For 61 of my colleagues and myself, I introduce a bill which would further broaden the impact of these projects upon rural community development.

These projects, locally initiated and carried out with help from many Federal sources coordinated by the Soil Conservation Service, are located where the effective conservation use and development of the area's natural resources can make significant contributions to the economic improvement of rural communities.

Mr. President, we need a more healthy distribution of the population between rural and urban areas, and enactment of this bill would be an important step toward that goal.

Mr. President, I ask unanimous consent to have printed in the Record a statement on the need for legislation to authorize Federal assistance for fish and wildlife and recreation development in R.C. & D. projects—these are community projects—and also a copy of the bill.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the statement and bill will be printed in the Record.

The bill (S. 3598) to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes, introduced by Mr. Aiken (for himself and other Senators), was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the Record, as follows:

S. 3598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section

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32(e) of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C 1011), as amended, is amended by adding at the end thereof the following: "In providing assistance for carrying out plans developed under this title, the Secretary shall be authorized to bear such proportionate share of the costs of installing any works of improvement applicable to public water-based fish and wildlife or recreational development as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs: *Provided,* That all engineering costs relating to such works of improvement may be borne by the Secretary: *Provided further,* That when a State or other public agency or local nonprofit organization participating in a plan developed under this title agrees to operate and maintain any reservoir or other area included in a plan for public water-based fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the State or other public agency or local nonprofit organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further,* That in no event shall the Secretary share any portion of the cost of installing more than one such work of improvement for each 75,000 acres in any development area; and that any such public water-based fish and wildlife or recreational development shall be consistent with any existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897); and that such cost-sharing assistance for any such development shall be authorized only if the Secretary determines that it cannot be provided under other existing authority."

The statement, presented by Mr. AIKEN, is as follows:

NEED FOR LEGISLATION TO AUTHORIZE FINANCIAL ASSISTANCE FOR FISH AND WILDLIFE AND RECREATION DEVELOPMENT IN RC&D PROJECTS

Many RC&D projects are in low income areas and the full potential for resource development cannot be fully financed from local sources. Local sponsoring agencies fully recognize the need for and the economic impact that would result from the installation of fish and wildlife or recreational development. Despite such recognition local economic conditions and priorities for the use of local funds force project sponsors to defer considerations of installing such measures. Legislation is needed to enable the Secretary of Agriculture to provide assistance for urgently needed measures that would have significant impact in project area communities. Such legislation would:

(1) Facilitate the acceleration of installation of project measures that are truly multiple purpose, including fish and wildlife and recreational developments.

(2) Provide an opportunity for rural communities in RC&D projects to develop their recreational potentials as part of an overall package resource development plan.

(3) Provide for the inclusion of fish and wildlife and recreation in structures for far less cost during the initial planning and construction stages.

(4) Create jobs and new businesses in rural communities during and after construction.

(5) Provide rural and city residents with much needed water-based recreational opportunities.

Attached is a copy of proposed legislation which if enacted would authorize the Secretary of Agriculture to share:

1. Part of the cost of installing public water-based recreational or fish and wildlife developments.

2. Not to exceed one-half the cost of land, easements, rights-of-way, and minimum basic public facilities needed in connection with such developments.

This proposed bill would limit said cost sharing to:

1. Water-based developments.

2. Develops consistent with a comprehensive statewide plan found adequate for purposes of the Land and Water Conservation Fund Act of 1967.

3. Assistance which the Secretary of Agriculture determines cannot be provided under other existing authorities.

4. Not more than one such work of improvement for every 75,000 acres.

Question 1.—What would the proposed RC&D recreation legislation do?

1. It would enable project measures to be accelerated that are truly multiple purpose, including needed recreational and fish and wildlife developments.

2. It would provide an incentive for local sponsoring organizations to give more adequate consideration to the total management of water and the use of scarce reservoir sites for purposes of preventing floods, agricultural water management, and for recreation and fish and wildlife in a manner that will best serve the long-term interests of the community.

3. It would create jobs and new businesses in rural communities.

4. It would provide rural and city residents with much needed water-based recreational demands that are increasing much faster than the population growth.

5. It would give the Secretary of Agriculture comparable authority for installing recreational works of improvement in RC&D projects that he now has under Public Law 566, the Watershed Protection and Flood Prevention Act.

Question 2.—Would the proposed RC&D recreation legislation be compatible with the recreation provisions of PL–566?

The proposed recreation and fish and wildlife legislation would be compatible to the recreation and fish and wildlife provisions of the Small Watershed Program (PL–566). Like PL–566 the proposal would provide assistance only for water-based recreation.

The limitation in numbers of recreational developments in watershed projects, which may not exceed 250,000 acres in size, is as follows:

1. One per 0 to 75,000 acres.
2. Two per 75,000 to 150,000 acres.
3. Three per 150,000 to 250,000 acres.

The House Agriculture Committee proposed a similar limitation on recreation developments in RC&D projects. In the proposal, the developments are limited to not more than one per each 75,000 acres.

The RC&D recreation proposal also includes other restrictions not found in PL–566. These are:

1. The development must be consistent with the Land and Water Conservation Fund Act.

2. The recreation development is authorized only if the Secretary determines it cannot be provided under existing authority.

Question 3.—Why is the proposed legislation needed and where does it fit into the RC&D program?

1. Permits local communities to include recreation in their considerations for uses of land and water.

2. Multi-purpose water developments that include recreation are major features of a plan for resource development in most communities.

3. Water-based recreational developments not only fulfill local needs of outdoor enjoyment, but also provide important economic benefits to the community.

4. Provides an additional "tool" for sponsoring local organizations to use in planning for complete resource development.

5. Many communities are not financially able to meet the full costs of water-based recreational developments because of low tax base, heavy financial burdens for schools, other public facilities and services, and low income.

6. Contributes to rural development and enhancement of the rural surroundings.

S. 3601—INTRODUCTION OF BILL RELATING TO LICENSING OF VACCINES, BLOOD, BLOOD COMPONENTS, AND ALLERGENIC PRODUCTS

Mr. DOMINICK. Mr. President, I introduce for myself, Senator JAVITS, the ranking minority member of the Labor and Public Welfare Committee, and Mr. MURPHY, the administration bill to amend section 351 of the Public Health Service Act so as to clarify the intent to include vaccines, blood, blood components, and allergenic products among the biological products which must meet licensing requirements of this section.

I should like to call to the attention of my colleagues and particularly to the attention of my colleagues on the Health Subcommittee that the need for this amendment to specifically include "vaccine, blood, blood component or derivative, allergenic product," among the products in the list of licensable biologicals is in the nature of emergency legislation.

The bill is necessitated by a decision of the U.S. Court of Appeals, Fifth Circuit (*Blank* v. *United States,* 400 F. 2d 302 (Fifth Cir. 1968)) which held—reversing, in part, a conviction handed down by the U.S. District Court for the Northern District of Texas—that the products known as citrated whole blood—human—now named "whole blood—human"—and packed red blood cells—human—are not biological products within the meaning of section 351 of the Public Health Service Act and are, therefore, not subject to regulation thereunder. The rationale of the court was that, at the time the predecessor of section 351 was enacted in 1902, the product and processes involved in blood transfusion were unkown and, therefore, not within the intent of Congress. This reasoning would also cast doubt on the authority of the Secretary to issue standards for and otherwise regulate allergenic products. Unfortunately, the Department of Health, Education, and Welfare did not become aware that this specific point of the Blank decision had been affirmed until after the time for seeking review by the Supreme Court had expired.

The Blank case, while a governing precedent in the fifth circuit, is to be contrasted with an arguably similar case, involving blood plasma, in the second circuit (*United States* v. *Steinschreiber,* 218 F. 2d 426 (S.D.N.Y. 1962), 219 F. Supp. 373 (S.D.N.Y. 1963), affirmed per curiam, 326 F. 2d 759 (2d Cir. (1964)). While the Department of Health, Education, and Welfare believes their interpretation to be correct, vindication by the courts is likely to require several years, a period too long to have the authority of the Secretary to regulate under section 351 left under a cloud, and the uniform application of this section geographically impaired.

As an interim measure, the Secretary amended the manufacturing practice regulations for drugs under the Federal Food, Drug, and Cosmetic Act so as to in-

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corporate by reference the standards for manufacturing, processing, packaging, and holding these biological products that were issued under section 351 of the Public Health Service Act.

The bill I introduce here is proposed in the interest of public health protection and uniformity of the law throughout the United States, and as a legislative clarification in line with what is believed to be the correct interpretation.

In addition to blood, blood components, and allergenic products, HEW is also proposing to add "vaccine" to the list of products subject to licensing to remove any doubt as to the coverage thereof, though the Blank decision does not directly bear on vaccines. "Vaccine" is a general term which covers products intended to stimulate the body to provide its own protection. Its inclusion with the others constitutes a minor remedial clarifying modification of the list of biological products now subject to licensure, and is consistent with the intent of the original "virus-toxin law" of 1902 to protect the public health through the control of biological products.

I hope the chairman will hold early hearings on this legislative proposal. The public interest requires prompt action if vaccines, blood, blood components, and allergenic products are to be among the biological products which must meet these licensing requirements.

The PRESIDING OFFICER (Mr. Holland). The bill will be received and appropriately referred.

The bill (S. 3601) to amend section 351 of the Public Health Service Act so as to clarify the intent to include vaccines, blood, blood components, and allergenic products among the biological products which must meet the licensing requirements of this section, introduced by Mr. Dominick (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

S. 3602—INTRODUCTION OF A BILL TO PRESERVE AND PROTECT THE CONFIDENTIALITY OF FIRST-CLASS MAIL—NOTICE OF HEARINGS ON THE BILL

Mr. McGEE. Mr. President, I introduce, for appropriate reference, a bill to amend title 39, United States Code, to insure by law the absolute privacy of first-class mail unless a Federal judge has issued a search warrant under applicable Federal rules of criminal procedures to obtain the mail and provide that it be opened.

On February 2, 1970, the Postmaster General and the Secretary of the Treasury proposed changes in the present system of inspecting foreign incoming mail subject to customs inspection. Heretofore, all the Treasury Department could do under applicable postal regulations was return first-class mail to the sender, unopened. The new rule would authorize the Treasury Department to open first-class mail under certain circumstances relating to customs, searches for pornography, and searches for lottery material.

I heartily approve our Government's efforts to stamp out pornography and to enforce all other laws which may affect the postal service. However, I am convinced that enforcement of the law must stop short of opening first-class mail. That is an aspect of "big brotherism," "snooping," and "invasion of privacy" that cannot be tolerated.

My bill would put in the law a prohibition against such action unless a warrant has been issued.

Hearings have been scheduled on this bill for Friday, March 20 at 2 p.m. in room 6202 of the New Senate Office Building.

The PRESIDING OFFICER (Mr. Bellmon). The bill will be received and appropriately referred.

The bill (S. 3602) to preserve and protect the confidentiality of first-class mail, introduced by Mr. McGee, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

ADDITIONAL COSPONSOR OF A BILL

S. 3522

Mr. JAVITS. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Ohio (Mr. Saxbe) be added as a cosponsor of S. 3522, the Motor Vehicle Disposal Act.

The PRESIDING OFFICER (Mr. Bellmon). Without objection, it is so ordered.

ADDITIONAL COSPONSOR OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 147

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from West Virginia (Mr. Randolph), I ask unanimous consent, that at the next printing, the name of the Senator from Arizona (Mr. Fannin) be added as a cosponsor of Senate Joint Resolution 147, proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older.

The PRESIDING OFFICER (Mr. Hart). Without objection, it is so ordered.

PROTECTION OF THE RIGHT OF PRIVACY RELATING TO MAIL MATTER—AMENDMENTS

AMENDMENTS NOS. 554 THROUGH 556

Mr. GOLDWATER submitted three amendments, intended to be proposed by him, to the bill (S. 3220) to protect a person's right of privacy by providing for the designation of obscene or offensive mail matter by the sender and for the return of such matter at the expense of the sender, which were referred to the Committee on Post Office and Civil Service and ordered to be printed.

EXTENSION AND IMPROVEMENT OF THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM—AMENDMENT

AMENDMENT NO. 557

Mr. WILLIAMS of Delaware. Mr. President, today I wish to discuss the manner in which the small investors in savings bonds are being treated unfairly.

For the past several years I have been trying to persuade the Treasury Department to support a savings bond program which would pay to the small investors a rate of interest more nearly comparable to that received by the large investors.

The result is that the wage earner buying the series E bonds is receiving 5 percent—it was 4¼ percent until late last year—while those investing larger amounts can obtain around 8 percent on Government issues with the same 7-year maturity date.

The same discrimination prevails in the amount of interest which the banks are permitted to pay to the depositors. The small depositors are restricted to a lower rate of interest on a savings account than are the large depositors or those able to buy the large certificates of deposit.

To emphasize this latter point I ask unanimous consent to have printed in the Record an announcement dated January 21, 1970, wherein the Federal Reserve and the Federal Deposit Insurance Corporation authorized a new interest rate schedule for the time deposits of various denominations.

There being no objection, the announcement was ordered to be printed in the Record, as follows:

New Interest Rates on Savings and Time Deposits

The Federal Reserve and Federal Deposit Insurance Corporation have authorized an increase in interest rates payable on Time and Savings Deposits.

Accordingly, we are effecting the following changes as indicated:

Statement savings: 4½ percent per annum (effective Jan. 1, 1970) (time deposits—certificates of deposit)

[In percent]

UNDER $100,000*

Maturity:	*Interest*
30 to 89 days multiple	4½
90 days or more multiple	5
30 days to 1 year single	5
1 year single	5½
2 year single	5¾

$100,000 AND OVER

Maturity:	*Interest*
30 to 59 days	6¼
60 to 89 days	6½
90 to 179 days	6¾
180 days to 1 year	7
1 year or more	7½

*We are accepting C.D.'s in $1,000 multiples. Deposits insured up to $20,000 by FDIC.

Mr. WILLIAMS of Delaware. Mr. President, this schedule authorized interest on deposits below $100,000 at rates ranging from 4½ percent for 30 days to 5½ percent for 1 year as compared with 6¼ percent for 30 days and 7 percent for 1 year on deposits in excess of $100,000. This discrimination against the small investor is grossly unfair.

I was further concerned to read the recent announcement that the Treasury Department has now decided to carry this discrimination against the small investor even further.

According to a recent Treasury decision the minimum size of short-term Treasury bills was boosted to $10,000. Prior to this decision Treasury bills and notes could be bought in denominations of $1,000. These Treasury bills or notes bear interest from 7 to 8 percent, depending upon maturity.

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It is true that the investor in savings bonds does have a guarantee as to the return of the principal; however, it is also true that in order to obtain a refund of his principal at a date earlier than the 7-year maturity he must sacrifice a substantial part of his interest.

Last year I proposed an amendment to the tax bill which would have made it mandatory that in addition to the series E bonds, the Treasury Department issue and make readily available to the small investors a new type of savings bond bearing interest at a minimum rate of 6 percent with the same guarantee as to the return of principal as now prevailing for series E bonds. The amendment provided that these 6 percent bonds be limited to $3,000 in maturity value per year, thereby restricting them to the small investors.

I am submitting, on behalf of myself and the Senator from Pennsylvania (Mr. SCOTT), a similar proposal, intended to be proposed by us, jointly, as an amendment to H.R. 14705 (the bill dealing with a modification of the unemployment tax formula), which is now pending before the Senate Finance Committee.

This amendment authorizes the issuance of these new savings bonds with maturity dates of both 10 and 20 years. On the basis of 6 percent compounded semiannually they would sell at prices of around $55 and $31 respectively.

The approval of this amendment would make it mandatory that the Treasury Department establish these new savings bonds and make them available to the small investors not later than July 1, 1970.

The amendment will be offered first in the Finance Committee, but if unsuccessful in obtaining committee approval it will be re-offered in the Senate.

This situation wherein the small investors are being paid at a substantially lower rate on their savings accounts than are the large investors can no longer be tolerated or defended.

In my opinion either the Treasury Department should abolish its savings bond program and remove from the Government payroll its high-paid executives who are now operating in every State as promotional experts or it should initiate a program which is fair to the small investors.

Not only is the approval of a realistic savings bond program, such as being proposed herein, essential from the standpoint of fairness but its adoption would also act as a major deterrent to uncontrolled inflation in that it would siphon out of the spending stream money which is now finding its way into consumer markets.

I ask unanimous consent that the amendment be printed in the RECORD.

The PRESIDING OFFICER (Mr. BELLMON). The amendment will be received and appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 557) was referred to the Committee on Finance, as follows:

AMENDMENT No. 557

At the proper place insert the following new section:

"SEC. —. (a) Section 22A(b)(1) of the Second Liberty Bond Act (31 U.S.C. 757c–2) is amended to read as follows:

"'(b) (1) Retirement and savings bonds shall be issued only on a discount basis, and shall mature either ten years or twenty years from the date as of which issued, as the terms thereof may provide. Such bonds shall be sold at such price or prices and shall be redeemable before maturity upon such terms and conditions as the Secretary of the Treasury may prescribe, except that the issue price of such bonds, and the terms upon which they may be redeemed at maturity, shall be such as to afford an investment yield of 6 per centum per annum, compounded semiannually. The denominations of such bonds shall be such as the Secretary of the Treasury may from time to time determine and shall be expressed in terms of their maturity values. Not more than $3,000 in maturity value of such bonds issued in any one year may be held by any one person at any one time.'

"(b) Notwithstanding any provision of subsection (a) of section 22A of the Second Liberty Bond Act, the Secretary of the Treasury shall, beginning not later than July 1, 1970, issue United States retirement and savings bonds authorized by section 22A of such Act in such amounts (subject to the limitations imposed by section 21 of such Act) as may be necessary to permit individuals to purchase such bonds in the amounts permitted under subsection (b)(1) of section 22A of such Act (as amended by subsection (a) of this section)."

ONE-BANK HOLDING COMPANY LEGISLATION

Mr. PERCY. Mr. President, Mr. Gaylord Freeman, chairman of the board of the First National Bank of Chicago, has written me a most thought-provoking letter on the one-bank holding company legislation, H.R. 6778, currently pending before the Senate Banking and Currency Committee.

He perceptively details the problems of commercial banks in general as well as commenting specifically on this pending legislation. I believe Mr. Freeman's carefully considered views deserve wide attention.

Mr. President, I ask unanimous consent that the letter I received from Mr. Freeman be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE FIRST NATIONAL BANK OF CHICAGO,
February 13, 1970.

Hon. CHARLES H. PERCY,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Knowing your willingness to consider all sides of disputed issues, I would like to express my hope that the Senate Banking and Currency Committee will not take any action on H.R. 6778 at this time.

My position is essentially as follows:

I. The Government has caused the banks to increase their interest rates.

II. Yet, the Congress is irritated with them for having done so.

III. This irritation has caused the Congress to take a punitive attitude toward the banks.

IV. This congressional hostility is entirely unwarranted.

V. The Congress should not act on H.R. 6778 or any other bank legislation until there has been an objective review of our financial institutions and the regulation thereof.

Let me expatiate on each of these five points.

I. The Government has caused the banks to increase their interest rates.

The Congress deplores inflation. It would like to see the price rise moderated. It could achieve this in any one of five different ways.

A. Congress itself could:
1. impose wage, price and dividend controls;
2. reduce governmental expenditures;
3. increase taxes;
4. impose direct credit controls; or
5. rely on the Federal Reserve to fight inflation through monetary policy.

1. Wage, price and dividend controls would be unpopular and of uncertain effectiveness. Consequently, Congress has not elected to adopt such controls.

2. A reduction in governmental expenditures is unpopular and difficult. Congress has not reduced expenditures though it has slowed the rate of rise.

3. Increased taxes are always unpopular. Congress did impose the surcharge for a period but now has provided for its termination.

4. Direct credit controls (restricting access to credit for certain segments of the society) would be unpopular with the groups so affected, and such controls do discriminate. Congress has not taken such action.

5. Thus, Congress has elected not to take any sustained and effective anti-inflationary action itself but, instead, has relied on the Federal Reserve to take such action as it may determine is necessary.

B. The Federal Reserve has two methods of fighting inflation. The Board may:
1. Impose direct controls (on consumer credit, business credit, stock market borrowing, etc.); or
2. restrict the growth of the money supply.

1. Direct controls (whether imposed by the Board or the Congress) are resented by the segment of the public directly affected. The Board, like the Congress, has preferred to avoid this resentment.

2. Thus, the Board elected the other alternative, which was merely to restrict the growth of (or actually reduce) the money supply.

Restricting the money supply has been accomplished by reducing the overall reserves of the banking system (see Appendix A). This action has been made more effective by imposing non-competitive ceilings on the maximum rates which the banks can pay for corporate CD's and for savings deposits. The effect of this has been to reduce the funds available to the larger "money market" banks (which have felt the greatest demand for funds).

If the money supply is restricted during a period of expanding demand (as was the case during the past year and is at present), credit becomes (a) scarce and (b) expensive. This is precisely what the Federal Reserve has intended. It is what has happened.

a. Why did credit become scarce?

Because the Federal Reserve held currency and demand deposits at a static level from June, 1969, to last December and actually reduced the total of currency, demand and time deposits (see Appendix B).

b. Why did credit become more expensive? For two reasons.

(i) Demand pull. Any commercial item in great demand and short supply will experience a rise in price as those who desire the product bid up the price. This is what the Federal Reserve intended—to let the free market (price) determine the allocation of funds rather than to allocate them by direct controls.

(ii) Cost push. In 1969 the large money market banks (which lost the most corporate CD's because of the non-competitive interest rate ceilings imposed by the Federal Reserve), anxious to provide credit for the normal needs of their established customers, purchased federal funds (the excess funds of the smaller banks which did not have a large demand for loans) at continuously rising

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rates of interest. (These averaged 4.22 percent in 1967, 5.66 percent in 1968, and 8.22 percent in 1969, rising in the second half of 1969 to an average of 8.96 percent). In addition, as the total of such available funds was insufficient to satisfy the proper demands of business and the consumer, the larger banks (which experienced the greatest loan demand) sought additional funds elsewhere. Eurodollar borrowings rose steadily from $8.5 billion at the beginning of the year to a peak of $15 billion and for the year averaged about $12 billion. The borrowings were at an average rate of 8.4 percent in the first half of 1969 and an average rate of about 10.5 percent during the second half of the year.

Because of the strong demand for bank credit and the high cost of the money purchased to supply the increased demand for loans, many banks raised the rates they charged their customers. Since December, 1968, the "prime" rate has been raised from 6¾ to 7 percent (on January 8*) and then to 7½ percent (on March 17) and finally to 8½ percent (on June 9, 1969).

These increases in bank interest rates are the direct, predictable *and intended* result of of the Federal Reserve's restrictive monetary policy. The Federal Reserve felt called upon to adopt such a restrictive policy to fight excessive inflation because the Congress had not elected to adopt adequate anti-inflationary measures itself. Thus, the Government brought about conditions that caused the increase in bank interest rates. The banks were, in effect, the instruments of the Government's restrictive policy.

II. Yet, the Congress is irritated with the banks for their having raised rates.

As might be expected, the combination of tight money and markedly higher interest rates proved generally unpopular. It was discriminatory in effect as it substantially increased the overall cost of those goods (such as homes) which are bought on credit and paid for over an extended period. It, thus, slowed home construction both because of the higher cost of money—interest rates—and the uncertainty of the availability of construction financing. To a lesser extent, these same factors affected sales of other products. This was, of course, the intention of the Federal Reserve, but it was nevertheless unpopular.

This general resentment caused considerable congressional irritation with the banks.

III. This irritation has caused the Congress to take a punitive attitude toward the banks.

The Congress in HR 13270, Section 585, reduced the amount the banks can deduct from taxable income as an addition to reserves for bad debts. I asked a good friend of mine on the House Ways and Means Committee why they did this. "Because the majority of the Committee is irritated with the banks over the high interest rates and feels that they don't pay enough in taxes. There is no point in arguing that you need these reserves, for, if we didn't increase your taxes this way, we would do it in some other way."

HR 13270, Section 433, eliminated the asymmetrical treatment of gains and losses on securities. You may recall that in 1942, at the request of the Treasury (not of the banks), the Congress, in order to induce the banks to buy Treasury bonds (the proceeds of which the Government would use to finance the war, provided that gains on such bonds would be treated as capital gains but that losses could be taken against ordinary income. This was a special "break" accorded the banks in order to induce them to buy Government bonds. Induced by this favorable tax incentive, the banks did buy the bonds, in fact, tens of billions of dollars of them in the years since. Thereupon, having induced the banks to buy the bonds, the Congress withdrew this privilege. If the Congress had merely terminated the privilege in respect of future issues or even future purchases, we would have no complaint, but the Government induced a purchase by offering a benefit and then unilaterally cancelled the benefit. If a banker or a businessman did this, he would be civilly and perhaps criminally liable.

I believe that the Treasury, although in favor of the termination of the earlier treatment, is embarassed by the inequitable way it was accomplished, but Congress apparently did not feel that it was necessary to be fair to the banks.

HR 6778, which has been referred to the Senate Banking Committee, originated as an attempt to bring holding companies which own or control a single bank under the same federal regulation as those companies which own or control two or more banks. The House Banking and Currency Committee, after lengthy public hearings, reported out a carefully considered (albeit debatably unnecessary) bill which would have limited the activities of companies owning one or more banks to those activities which the Federal Reserve Board determined to be functionally related to banking.

We bankers didn't like that bill, but many felt that we could live with it.

When, on November 5, 1969, the Committee bill was considered on the floor, very few members were present, but there were present spokesmen for a variety of special interest groups. As a result, a small minority of the House rejected the Committee bill and, by amendments from the floor (the most important of which were approved by votes of 50–25 and 31–28), rewrote the entire measure.

The bill as passed by the House is a severe curtailment of the banking business. It would prevent not only holding companies and banks owned by holding companies but also, by implication, *all* banks subject to federal regulation from providing six financial services: insurance, data processing, accounting, leasing, travel services, and commingled investment trusts.

These several legislative actions reflect not only a critical but a punitive attitude.

IV. This congressional hostility is entirely unwarranted.

If the congressional irritation is analyzed objectively, it would seem to consist of two assumptions:

First, that the banks acted arbitrarily in raising interest rates; and

Second, that the large banks reaped unreasonable profits as a result.

I believe that an objective analysis would indicate that both of these assumptions are unfounded.

A. The banks did not raise interest rates arbitrarily.

Let us recall why the banks raised their interest rates. They did so in order to cover, at least partially, the high cost they had to pay for funds they were obliged to borrow if they were to meet the increased demand for loans. Why did they have to pay such high rates? Because the Federal Reserve had limited the supply which they could obtain domestically and forced them into the Eurodollar market as set forth in Section I B 2 b (ii) above. Why did the Federal Reserve force the banks to seek these expensive funds? Because it wanted to fight inflation. Why did the Federal Reserve have to fight inflation? Because the Congress failed to take adequate action.

B. The large banks did not reap unreasonable profits as a result of the increased interest rates.

1. 1969 earnings of the large money market banks were not high.

In part, the congressional criticism has been due to the fact that it is always safe and generally popular to criticize bankers. The bankers don't control many votes, and no one likes to pay high rates. This congressional bias was strengthened further by the thought that the banks were "getting rich" as a result of these high interest rates. The majority of smaller banks were able to loan their excess funds to the ten or twelve money market banks at an average of 8.22 percent, or to invest in Treasury bills paying up to 8.3 percent (on an interest bearing basis) or to buy seven-year Government notes at the rate of 8 percent as against the average return on Treasury bills of 3.8 percent as recently as May, 1967.

Although aggregate figures are not yet available, it would appear that the great majority of the smaller banks did far better than ever before and earned a fine return on their capital accounts.

But this is not true for the handful of the large money market banks (roughly the top ten banks which are the most interested in one bank holding companies). These few large banks were the hardest hit by the Federal Reserve imposed ceilings on interest rates which they could pay (they lost billions of dollars of deposits in negotiable CD's). These same few banks were also faced with the sharpest increase in demand for loans. In these circumstances, they were forced to pay the high Eurodollar rates of interest for large sums of money.

As a consequence, these large banks did not receive any unwarranted profits. Most of them experienced some increase in income (partly through fewer loan losses), but their increase was not great.

Although I do not have complete figures for all of these banks, press reports indicate the following:

	1969 income before security gains or losses (millions)	Change 1968–69 (percent)	1969 income as a return on average capital accounts (percent)
Bank of America	$153.8	12.8	13.7
First National City, New York	130.6	8.4	11.5
Chase Manhattan	114.6	(3.3)	11.2
Manufacturers Hanover	78.3	12.8	12.7
Morgan Guaranty	83.6	(1)	11.9
Chemical	68.8	(1)	11.7
Bankers Trust	46.9	(1)	10.3
Continental	52.7	4.2	10.5
First National-Chicago	52.8	10.2	9.5
Security Pacific	55.8	15.5	12.5
Average for the banks reporting		8.7	11.7
Average return on net worth of the 500 largest manufacturing corporation (1968)			12.2

[1] Not available.

These figures would suggest that for most of the large banks 1969 earnings were only modestly above 1968 and that, as a return on capital accounts, bank earnings were somewhat below recent earnings of manufacturing concerns.

Thus, the 1969 reported earnings of the large banks were not excessive.

2. Reported earnings do not fully reflect the adverse effect of higher rates on bond holdings.

If we are seeking an objective appraisal of the impact of high interest rates on bank earnings, we should consider not only reported earnings but also the effect of rising interest rates on the value of bonds held by the banks. In the case of our bank, the decline in the market value of our bonds as of the end of 1969 was greater than our entire income before security gains or losses. While I do not have figures from all of the other large banks, I believe that this is also true of most of them.

Although, if we hold these same bonds,

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*Dates relate to increases announced by The First National Bank of Chicago.

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they can be expected to appreciate when interest rates fall, the immediate impact of the higher interest rates was no blessing to the larger banks.

3. The market evaluation of bank stock reflects these facts. The price earnings ratio of the ten largest banks (as of February 11) are shown below:

Price/earnings ratio as of Feb. 11, 1970, using 1969 earnings

	Percent
Bank of America	12.8
First National City—N.Y.	13.9
Chase Manhattan	14.0
Manufacturers Hanover	11.0
Morgan Guaranty	13.8
Chemical	11.8
Bankers Trust	13.9
Continental	11.7
First National—Chicago	9.3
Security Pacific	10.8
Average for the 10 largest banks	12.3

The average price earnings ratio for the banks was 12.3 times. This compares with the average price earnings* ratio of the Dow-Jones Industrials (as of the same date) of 12.7 times and of the average price earnings ratio of Standard & Poor's 425 corporations (also as of the same date) of 15.2 times. Thus, the market reflects a relatively bearish attitude toward the profit performance of the large banks.

The foregoing figures suggest that for the large banks:

(i) the year 1969, despite a substantial increase in loans at risk, was a better year than 1968 though not remarkably so in terms of income, but a disastrous year if the bond depreciation were to be deducted from earnings;

(ii) they earned a lower return on net worth than the average for manufacturing concerns; and

(iii) the market considers bank stock as a less attractive investment than most other companies.

Thus, our one "crime" consisted in doing what the Federal Reserve required us to do (to raise rates). The Fed imposed this burden on us because it had full anti-inflationary responsibility as a result of the Congress being unwilling to assume that responsibility itself. Furthermore, the "crime" was not one which we sought, and it did not enrich us.

Thus, the current critical attitude of Congress is unjustified.

V. The Congress should not act on HR 6778 or any other bank legislation until there has been an objective review of our financial institutions and the regulation thereof.

I urge this for these reasons:

A. Some members of the Congress do not appear to be in a mood for objective analysis of the public interest in bank legislation.

The events outlined above suggest that the Congress is critical of banking, or of large banks, and quite unjustifiably so. It may also be that in 1969 Congress felt it should take some action to limit or punish conglomerates but didn't know how to do so. A one-bank holding company may have been looked upon as a sort of mini-conglomerate and was easy to attack, especially with interest rates high and banks consequently unpopular.

B. HR 6778, a so-called "one bank holding company bill," is not that but, by implication at least, a bank bill.

It implies new restrictions on *all* banks, not just those controlled by holding companies.

Representative Wright Patman emphasized the applicability of these amendments to all banks when he stated in floor debate:

"I want to make it clear that when the Congress says that the activities listed in section 4(f) of the Bank Holding Company Act as amended by this bill are neither necessary, incidental, nor related to banking, we mean just that. Therefore, the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the courts should take into consideration this statement of legislative policy when considering what is incident to banking under the banking laws."

For years, many banks have been providing insurance, travel service, etc. There has been no showing of abuse in their doing so. Yet, without regard for the public interest, but solely to eliminate bank competition in these fields, HR 6778 would prohibit banks from continuing to offer these services to the public. This would be the effect of that bill even on the small banks which had no relationship at all with any holding company.

This does not appear to be the appropriate moment for congressional enactment of objective bank legislation. There is too great a risk that any action at this time would not be in the public interest.

C. In the absence of any emergency, bank legislation should be postponed pending the outcome of the presidential commission to study banking.

The President has announced that he will appoint a Commission on Financial Structure and Regulation to conduct "a thorough examination of needed changes in our financial institutions and our regulatory structure." Presumably, this commission will consider the public interest in extending or in limiting the scope of bank (and bank holding company) activities. Some such examination is highly desirable.

In the meantime, in the absence of an emergency, it is neither necessary nor wise to enact more anti-competitive legislation in respect of which there has been no such study.

Senator Percy, I apologize for writing you at such length and on an issue on which it would be so much easier for you to take an immediately popular position of punishing the banks rather than have to study the underlying causes of high interest rates. However, I have admired your willingness to take the more difficult course of objective analysis in other cases and hope that you will do so in this case.

As I look back over this letter, I fear that I may have expressed myself too strongly, but I know that you will understand my desire to state my case as explicitly as possible.

If you have any questions on which you think I could possibly be helpful, please call upon me.

Sincerely yours,

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MONETARY POLICY SHOULD BE EASED

Mr. TALMADGE. Mr. President, probably the most serious issue of economic policy at the present time is the excessively tight monetary policy that has been pursued by the Federal Reserve System since last May. Indeed the money supply—demand deposits plus currency—differs little in February of this year from what it was last June, 8 months ago. This situation in which the money supply has not risen significantly for 8 months, and total bank reserves are no higher now than they were in late 1968, almost 1½ years ago, is intolerably tight when we consider that this Nation's ability to produce grows at least 4 to 4½ percent a year in real terms. Our labor supply is going up at least 1½ percent a year, and productivity between 2½ and 3 percent a year. Thus the demand for goods and services must rise by at least 4 to 4½ percent to keep our workers employed, and our farms, factories, and mines operating at high levels. Yet the monetary authorities have denied the economy even the most minimal increase in the supply of money with which to do business.

This is folly, but not a new development precisely, for the monetary authorities have repeatedly swung widely from excessive increases to actual declines.

The Joint Economic Committee has repeatedly warned that we need a more stable monetary policy with the money supply increasing at between 2 and 6 percent a year, holding close to the lower limit of this range in inflationary times such as we have had for several years. But 2 or 3 percent a year is a lot more than zero. As a result of the Federal Reserve System's policies, housing starts in recent months have been 30 to 40 percent below January of 1969. Unemployment has risen to about 4.2 percent of the labor force from 3½ percent a year ago, adding over three-fourths of a million to the ranks of idle workers. Industrial production has declined steadily since last July—the latest figure released yesterday showed a decline of another one-half of 1 percent, bringing the index to 169.4 percent of the 1957–59 average, a decline of 3 percent from the peak of 174.6 percent reached last July.

Last November, the Subcommittee on Fiscal Policy of the Joint Economic Committee, of which I am a member, warned of the dangers of this policy, stating:

> We cannot long endure a policy that produces almost no increase in the money supply.

Yet, almost 5 months later, the money supply is no higher than last June. Nor are the complaints against this money supply confined to a few economists, or to the Members of Congress. The administration, in its Economic Report and the Budget, advocated some easing in monetary policy and assumed in its projections that such an easing would take place. In fact, in the Economic Report—page 60—it is stated, in regard to the money supply, that:

> The appropriate rate of expansion is between that of 1967–68 and the severe restraint of the latter part of 1969.

For a while in the fourth quarter of last year and into January of this year it looked like the monetary authorities were beginning to ease their stranglehold on the financial market. The money supply once more began to rise. But a sharp cut in February of this year brought the money supply down again to the level of last June. The housing industry, small businessmen, farmers, and our State and local governments simply cannot function effectively if this tightness, now approaching chaos, is maintained in financial markets. No economic policy adopted by this Congress can be expected to work toward restoring price stability and full employment for our growing economy if the monetary authorities insist on bringing economic activity to a virtual halt by stopping the growth in the money supply. If the Federal Reserve System does not act at once to resume a moderate rate of increase in the money supply, the public and this Congress will know

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*Based on estimated 1969 earnings of $59.50 for Dow-Jones Industrials and $6.30 for Standard & Poor's 425 corporations.

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where to place the blame for the resulting high interest rates, and rising unemployment.

THE CRIME SITUATION IN THE UNITED STATES

Mr. MILLER. Mr. President, yesterday the Federal Bureau of Investigation issued a report on the crime situation in the United States and the news is heartening—although we still have a long way to go.

The year 1969, the first year of the Nixon administration, showed a sharp improvement in that the crime spiral which started back in the early 1960's has begun to slow. It is true that crime was up by 11 percent last year, but this compares with a 17-percent increase in 1968. In fact, the rise for 1969 was the smallest of any year since 1965.

Penologists and criminologists may debate the causes of crime and the reason why the crime rise last year was considerably lower. It is likely, however, that one of the underlying reasons is the change of attitude in America that crystalized on January 20, 1969.

It was obvious to all, and that includes the criminal element in our society, that Americans were no longer in a mood to tolerate the kind of lawlessness that had become the hallmark of our big cities during the 1960's. It was equally obvious that the Nixon administration was determined to do whatever lay within its power to halt the scandalous crime rise.

The President early last year submitted to the Congress a series of proposals on how to reverse the trend, not merely to slow it down. To date there has been no final action on those proposals. They still languish in the pigeonholes of congressional committees.

Democrats who run the business of this Congress and who control its committees with an iron hand have yet to give this legislation a green light and bring it to the point of final action.

Without the proper tools for law enforcement agencies to combat crime, it cannot be expected that we will see a real decline in the crime rate of the United States.

The Nixon administration has asked for those tools. Republicans in Congress have repeatedly pleaded for action to give the people the protection these tools will afford.

To date, those pleas have fallen on deaf ears.

The anticrime legislation gap should be closed now.

Mr. President, I ask unanimous consent that an article entitled "Serious Crime Up 11 Percent in 1969," published in the Washington Post of Tuesday, March 17, 1970, be printed at this point in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

SERIOUS CRIME UP 11 PERCENT IN 1969

Serious crime in the United States rose 11 per cent in 1969, but the rate of increase fell sharply in big-cities, the suburbs and the densely populated Northeast.

The 11 per cent increase recorded in the FBI's Uniform Crime Report was the lowest since 1965 and compares with a 17 per cent increase in 1968.

Increases in every category of violent crime were down in 1969, except forcible rape which was up 16 per cent.

The use of firearms in assaults last year increased only half as much as the previous year—12 per cent against 24 per cent in 1968.

Cities of 250,000 population and over reported a 9 per cent increase in crime last year. The suburban increase was 13 per cent and the rural rate was up 11 per cent. The previous year's increase was 18 per cent for big cities and the suburbs and 12 per cent for rural areas.

In 1969, the north central states recorded a 15 per cent increase, the western states 12 per cent, the South 11 per cent and the Northeast 7 per cent. This compared with an increase of 21 per cent for the Northeast in 1968, when the north central region jumped 13 per cent, the South 16 per cent and the West 18 per cent.

Previously reported figures for the District of Columbia showed increases in robberies, murders and rapes as records were set in each category during 1969. Homicides increased from 209 to 291; armed robberies from 4,640 to 7,071, and rapes from 260 to 326. Other increases were larceny, from 7,876 to 11,548, auto thefts from 11,354 to 11,364, and aggravated assault from 3,103 to 3,621.

A SIGNIFICANT DEVELOPMENT IN SOUTH VIETNAM—LAND REFORM LEGISLATION

Mr. PACKWOOD. Mr. President, a significant development occurred the other day in South Vietnam which has gone largely unnoticed by the American public. That development was land reform legislation being passed by the South Vietnam Senate and the South Vietnam Assembly.

Essentially, this legislation gives the South Vietnam peasant a piece of the action by allowing him to own his own land. Up to now, the typical peasant, who makes up 65 percent of the South Vietnam population, has been hopelessly mired in debt. Outrageous demands have been made of the peasant. The peasant has been required to pay as much as 60 percent interest on money he borrows and up to 40 percent of the crop grown to the uncompromising South Vietnam landlord.

Up to this point, the South Vietnamese peasant has had no reason to fight the enemy from the north. After all, when one does not have part of the action, as has been the case with the South Vietnamese peasant, then he does not really have anything for which to fight. One study showed that the peasant regarded land ownership as five time more important than his own physical security. That gives you some idea of why it is so essential that this land reform become a reality.

But, hopefully, a new day is on the horizon. At long last we have more than a hollow hope.

The legislation calls for an initial spending effort of $50 million, the total cost of land reform is about $470 million. This is a small price to pay when one stops to consider that the Vietnam war costs the American taxpayer $100 million per day.

It would be a drastic oversimplification to say that land reform alone is going to solve the problems of South Vietnam. It is, however, a step which must be taken if the South Vietnam Government is going to be representative and responsive to the needs of the people.

POINT REYES NATIONAL SEASHORE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, as in legislative session, the Senate now proceed to the consideration of Calendar No. 732.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 3786) to authorize the appropriation of additional funds necessary for acquisition of land at the Point Reyes National Seashore in California.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, after line 3, insert a new section, as follows:

SEC. 2. (a) Section 3(a) of the Act of September 13, 1962 (76 Stat. 538), is amended by striking out the words "Except as provided in section 4, the," in the first sentence and inserting the word "The" in lieu thereof.

(b) Section 4 is hereby repealed.

(c) The remaining sections of the Act of September 13, 1962 (76 Stat. 538), are renumbered accordingly.

Mr. BIBLE. Mr. President, the purpose of the pending bill is to increase the authorized funding for the Point Reyes National Seashore. The bill addresses a matter of some urgency. I do not anticipate that it will take too long to explain it.

I ask unanimous consent that I may be permitted to proceed for not to exceed 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BIBLE. Mr. President, the thrust of the pending bill is to increase the appropriation authorized from the present amount of $19,135,000 to $57,500,000. This is an increase of $38,365,000. And this increase is brought about by a number of factors, among them the general rise in the cost of land in that area, the tremendous pressures that are put upon the Point Reyes National Seashore by the heavily populated San Francisco Bay area. In addition, and in fairness and in frankness, Point Reyes involves an instance of poor estimating by the National Park Service. The project was badly underestimated 5, 6, or 7 years ago when the original act was passed. Since that time, I am happy to say, under the able leadership of George Hartzog, the Director of the Park Service, they have beefed up the appraisal division and the staff in the Park Service of the Department of the Interior and they are now in a position to give us a better estimate. This is a difficult job, at best.

In my judgment, they have gone a long way toward improving their estimates and I hope that hereafter, when we report bills to the floor of the Senate from the Subcommittee on Parks and Recrea-

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tion and the Committee on the Interior our estimates will be very close on target. We will have a bill before us in the next few weeks in connection with Cape Cod where there, too, at the opposite end of the continent, for almost the same reasons, namely poor original estimates, price escalation and population pressures have raised costs dramatically.

Mr. President, the bill should be passed and without delay. The purpose of the bill and the background of the bill are well set forth in the accompanying report. I ask unanimous consent that the subsections dealing with the purpose, background of Point Reyes National Seashore, need, land and water conservation fund, and cost factors be printed in the RECORD.

There being no objection the excerpts were ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 3786 is to authorize the appropriation of adequate funds to assure the acquisition of all remaining non-Federal lands needed to make the Point Reyes National Seashore a meaningful unit of the national park system. The committee held hearings on the companion bill S. 1530, sponsored by Senators George Murphy and Alan Cranston.

BACKGROUND OF POINT REYES NATIONAL SEASHORE

The Point Reyes Peninsula is very strategically located about 30 miles from downtown San Francisco. It was this location, as well as the significant amount of relatively undeveloped land with outstanding natural, recreational, historical, and scientific values, which made it a prime area for consideration when Congress began to expand the Nation's inventory of outdoor recreation resources.

During the 87th Congress, legislation was approved which authorized the acquisition of 64,546 acres of land, including 10,410 acres of submerged land, on the peninsula for the purpose of establishing the Point Reyes National Seashore (Public Law 87–657, 76 Stat. 538). To accomplish this objective, based primarily on some current sales and on land value estimates made by the local tax assessor, $14 million was authorized to be appropriated to purchase the lands deemed essential to public use and enjoyment of the area. It was not contemplated at that time that it would be necessary to acquire lands located within a 26,000-acre "pastoral zone" as long as they continued to be used for ranching and dairying purposes.

Following the authorization, funds were appropriated to make the national seashore a reality, but in a short time it became obvious that the funds authorized were going to be inadequate. Not only did the original cost estimates prove unreliable, but land values increased rapidly, lands within the "pastoral zone" were threatened with subdivision, and the use of the exchange provision in the act was frustrated. All of these factors were related to the need for increased funds which were deemed essential to the preservation and development of a meaningful and useful portion of the peninsula in perpetuity.

The matter was given further congressional attention in 1966. At that time, it was recognized in the report of the committee that there would be a "need for a very considerable increase in the present limitation on appropriations," but it was decided that full funding should not be authorized until an intensive review of the overall problem of recreation land price escalation could be completed and the alternatives considered. Consequently, Public Law 89–666 (80 Stat. 919) authorized the appropriation of an additional $5,135,000 for the acquisition of six specific tracts.

To date, the appropriation of $19,130,000 has been authorized. Of this, $17,037,073 has been appropriated to purchase 28,776 acres of land and submerged lands and the remaining $2,097,927 is committed to the settlement of existing condemnation cases involving almost 400 acres of land. Unfortunately, because it has been necessary for the National Park Service to move from crisis to crisis rather than follow a more orderly land acquisition program, the federally owned lands are scattered and not fully useful for public purposes in the absence of completion of the program.

NEED

The value of the Point Reyes National Seashore to the public remains unchanged. The pattern of demand and the population expansion in the area continue to justify its existence and to underscore the validity of the action initially taken by the Congress in 1962. While events which have followed have been somewhat disappointing, it is reassuring to note that the opportunity to make the seashore a reality still exists, only because the Congress agreed to initiate this effort.

If land price escalation had not outdistanced appropriations; if more reliable cost estimates had been available originally; if the land exchange program contemplated by the act had worked; and if lands in the "pastoral zone" had not been subject to potentially adverse developments, it would probably be unnecessary to consider legislation comparable to H.R. 3786. But now, a substantial investment has been made and the alternatives are limited. If this area is to be a useful part of the national park system, then the authorization must be increased, the appropriations must be requested and approved, and the acquisition program must move forward with dispatch.

LAND AND WATER CONSERVATION FUND

Like the moneys heretofore appropriated for the Point Reyes National Seashore, the increased expenditures will be made from funds credited to the land and water conservation fund. This fund was established as a separate fund in the Treasury in 1965. Its sole purpose is to assure the availability of adequate financial resources to expand the Nation's outdoor recreation resources. From it, matching funds can be made available to the States for their recreation programs and appropriations can be made for land acquisition activities of Federal agencies having outdoor recreation responsibilities.

Together with most of the important outdoor recreation authorizations approved by the Congress in recent years, the Land and Water Conservation Fund Act is the outgrowth of the report and recommendations of the Outdoor Recreation Resources Review Commission, which was created by the Congress to study the then present and prospective outdoor recreation needs of the Nation.

On the basis of the comprehensive studies made by the Commission, the Congress has pursued an ambitious national outdoor recreation program which has as its objective providing needed outdoor recreation areas at suitable locations as near as possible to the Nation's metropolitan areas. Unlike the past, when magnificent natural areas could be carved from the public domain without significant acquisition of privately owned lands, this redirection of the national policy inherently required the reacquisition of lands which had passed into private ownership.

This course was taken because it was a recognized fact that most of the national supply of outdoor recreation resources was concentrated in the more sparsely populated regions of the country and that it was, therefore, relatively inaccessible to the masses of people living in the metropolitan areas. To expand the recreation opportunities for these people, proposals were made to provide outdoor areas at suitable locations of national significance.

Point Reyes National Seashore was among the first of these proposals to be considered by the Congress. Others have been authorized since. All are important, because in their own way, they contribute to the inventory of outdoor resources which will have to serve not only this generation, but all generations which follow.

Because suitable resources are limited and because uses incompatible with public use and outdoor recreation are encroaching on these areas, the members of the Committee on Interior and Insular Affairs have considered this program to be urgent. Every effort has been made to consider the merits of new authorizations carefully to be sure that the investment of each Federal dollar is warranted. Furthermore the committee has endeavored to assure a reasonable program in view of the limited financial resources available. The outdoor recreation program which it has sponsored, and which the Congress has approved throughout the sixties will undoubtedly make this decade one of the most significant in the history of American conservation.

The authorization of a needed outdoor recreation area is not the end, but the beginning. It recognizes the need and the desirability of a new area, but where land acquisition is required, funds must be made available before these areas can be opened for public use and enjoyment. Adequate funds are presently available in the land and water conservation fund to make a substantial portion of the presently authorized outdoor recreation program a reality. They cannot be spent, however, unless appropriated. Needless to say, it is the province of the Congress to make appropriations, but in doing so, it acts on the budget recommendations of the President. Absent a budget request, the appropriation of funds is difficult, but more importantly, the use of an appropriation in excess of the budget request can never be assured.

It is most important that we complete the acquisition program at Point Reyes National Seashore without delay, but it is equally important that the land acquisition programs be completed at such places as Delaware Water Gap National Recreation Area, Assateague Island National Seashore, Cape Cod National Seashore, Fire Island National Seashore, Indiana Dunes National Lakeshore, Pictured Rocks National Lakeshore, and others. Undoubtedly, when funds are limited some projects will have to wait, but when moneys are available in an "earmarked" fund, as is the case with the land and water conservation fund, then they should be requested by the President, appropriated by Congress, and dispersed when such expenditures can be justified by the administering agency. Every delay is costing dollars and is jeopardizing the natural, scenic, historic, and recreational values which the Congress is seeking to protect.

The Congress indicated its willingness to fund an ambitious outdoor recreation program when it increased the annual level of the land and water conservation fund in 1968 (Public Law 90–401) to $200 million for a 5-year period. It recognized the importance of converting meritorious authorizations into realities. Point Reyes National Seashore will be assured its completion if H.R. 3786 is enacted and if the funds are forthcoming within a reasonable period of time. The members of the committee feel strongly, however, that these moneys should not be made available at the expense of some other authorized or contemplated outdoor recreation area; rather each annual budgetary request should reflect the commitment on behalf of the Nation to complete the program contemplated when the authorizations were initially approved and the land and water conservation fund expanded.

The committee understands that if this

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bill is enacted, the administration intends to submit a supplemental appropriation request to initiate further land acquisition at Point Reyes during fiscal year 1970. This procedure would not prejudice any presently planned land acquisition programs for other parks or recreation areas, since it would be supplemental to the current appropriations for this purpose. In fiscal year 1971 and subsequent years, however, Point Reyes funds will be budgeted at the same time other park funds are budgeted, and it is then that care must be exercised to insure that one is not favored at the expense of another. There is, or will be if the funds are used effectively, enough money in the land and water conservation fund to meet the needs of all authorized projects.

The House amendment is designed to assure the integrity of the seashore. During the course of the hearings, the Department revealed a plan whereby certain of the federally acquired lands within the boundaries would be sold or leased, subject to restrictive covenants, for residential and commercial purposes. While the Federal Government could conceivably recoup a substantial amount of money by such action, most of the members of the committee agreed that the problems inherent in such a plan far outweighed its merits. The amendment makes it clear that any lands purchsed for the seashore with the additional funds authorized shall not be reconveyed or leased for residential or commercial purposes, except for the purpose of providing public accommodations, facilities, and services in accordance with the provisions of the act of October 9, 1965, establishing concessions policies in areas administered by the National Park Service.

COST

Under the terms of H.R. 3786, as amended, the authorization of appropriations for land acquisition at Point Reyes National Seashore will be increased from $19,135,000 to $57,500,000—an increase of $38,365,000. The recommended ceiling exceeds the amount now estimated to be needed by the National Park Service by $5 million. In making this recommendation, the committee recognizes that such action is uncommon; however, in light of the history of errors in estimating the costs at this area, such action was deemed prudent. Of course, if the lands can be acquired at a lesser expense, the administering authority always has that responsibility. Every effort should be made to minimize these expenditures, and the Director of the National Park Service assured the committee that he has every intention of completing the project at the lowest price possible.

Attention is called to the press conference held at the White House on November 18, 1969, which included the President, Senator George Murphy, Congressman Don H. Clausen, Congressman Wayne N. Aspinall. At the conference it was emphasized that not only will the funds be available for the Point Reyes National Seashore but that the total amount of $38,365,000 is to be made available over the next 2 fiscal years. The President in his message on environment stated:

"I propose full funding in fiscal 1971 of the $327 million available through the Land and Water Conservation Fund for additional park and recreational facilities, with increased emphasis on locations that can be easily reached by the people in crowded urban areas.

"I propose that we adopt a new philosophy for the use of federally owned lands, treating them as a precious resource—like money itself—which should be made to serve the highest possible public good."

Mr. BIBLE. Mr. President, as I have stated, the increased cost is $38,365,000. The President, at a very recent conference with the California Senators—or with the senior Senator from California (Mr. MURPHY); I do not know whether it was one of them or both—showed his great interest in supporting this project.

There is money coming forth in a supplemental appropriation of some $7 million which, together with the amount we will handle in the regular Department of the Interior appropriation, will come very close to permitting the purchase of the remaining land in this seashore.

Special comment should be made about the pastoral zone, which was a zone carved out of the area at the time the park was created to protect the dairy farmers in that area. There are some 10 or 12 dairy farmers involved. Dairy farming was their livelihood. It was their desire that they have protection as long as they used this pastoral zone for dairy farming. In the original act, it was our intent that when these lands were no longer used for that purpose, the Federal Government, failing negotiation, could condemn the land rather than permit real estate speculators moving in, with high rise buildings and other commercial development, which would be a disservice to this magnificent seashore area lying just north of San Francisco.

I conducted the hearings just a short time ago. The dairy farmers were well represented by one of their spokesmen. He indicated at that time that they were now convinced, with the pressures on the seashore mounting daily, that dairy farming in that area is no longer consistent with its higher use as a national seashore.

Accordingly, the Senate added an amendment to the present bill which would repeal section 4 concerning the pastoral zone. I ask unanimous consent that a full explanation of this section be printed in the RECORD.

There being no objection the explanation was ordered to be printed in the RECORD, as follows:

AMENDMENT TO REPEAL SECTION 4 CONCERNING PASTORAL ZONE

The Committee has recommended one amendment to the bill as passed by the House. This repeals section 4 of the Point Reyes National Seashore authorization act, P.L. 87-657. The gist and purposes of section 4 were explained by the Committee's report prior to its enactment in 1962:

"By its principal amendment to section 4, the Committee has provided for the designation of a pastoral zone of 26,000 acres which shall not be acquired by the Secretary without the consent of its owners as long as the land remains in its natural state or is used exclusively for ranching or dairying purposes. Such a provision permits a reduction of land acquisition costs as well as the fostering of long-established ranching and dairying activities which, in the Committee's judgment, will not interfere with the public enjoyment and use of those areas on the Point Reyes Peninsula most suitable for recreational pursuits." (S. Rept. 807, 87th Cong., 1st Sess.; 1961).

This provision of section 4, similar to one in the authorizing legislation for Everglades National Park, was provided by the Congress at the request of the dairy ranchers who were then—and still are—the principal land owners within this portion of the national seashore. The dairy ranchers told the Congress eight years ago that they wished to continue their traditional agricultural pursuits. It was expected at the time that this would continue to be the situation.

Today, however, that situation has changed. Last February 26 a spokesman for the ranchers told the Subcommittee on Parks and Recreation that each of the owners of the 10 dairies still operating within the pastoral zone now wishes to sell his property to the National Park Service. Their spokesman, Mr. Boyd Stewart, explained that during the years since the national seashore was authorized, dairying increasingly has become a marginal operation at Point Reyes. The ranchers, their spokesman said, would rather see this beautiful area "used by the people for a park than we would see it subdivided, and this is a real feeling that we have . . ." Mr. Stewart said that the ranchers knew of the desire of the National Park Service to repeal section 4 and were not objecting.

At our subcommittee hearing February 26 we also heard testimony from Park Service Director George M. Hertzog Jr. He reported that some pastoral zone landowners in the past have sold parcels to developers who then took steps to develop or subdivide for residential or commercial purposes. In such a situation, in the pastoral zone, the Park Service has been without authority to acquire the land without the owner's consent until the adverse use has actually taken place. At that stage—after title has passed to the subdivider or speculator—the Park Service has learned by experience that it too often must pay an inflated value to the subdivider or speculator. And in some cases the subdivider's development work has compromised the natural values of the land before the government could move in to protect it by purchasing it.

For these reasons the Committee has agreed with the Department of the Interior that section 4 should be repealed in order to give the National Park Service the unconstrained land acquisition authority which its experience at Point Reyes has shown that it needs there.

Representatives of the Department have advised that they continue to believe that the purposes of the pastoral zone concept continue to be sound; that is, the Department still believes that ranching and dairying uses of the pastoral zone area can be consistent with the purpose for which the seashore was authorized. The Committee agrees.

Although we recommend repeal of section 4, I wish to make clear the legislative intent that wherever feasible the ranchers at Point Reyes should be permitted to continue their traditional, exclusively agricultural, operations as long as they wish, unless and until the Secretary finds that these operations are such as to be incompatible with the purposes for which the seashore was authorized. At the time the initial authorizing legislation for Point Reyes National Seashore was enacted the federal government in effect made a promise to the ranchers in the pastoral zone area that as long as they wanted to stay there, to make that use of it, they could do it. We must keep our word to these people.

Some Point Reyes ranchers may wish to continue ranching by permit or lease arrangement with the National Park Service after the Park Service has purchased their land. It would be within the intent of this amendment for the Secretary to lease land in the pastoral zone area for grazing by permit or leasehold, subject to provisions of section 5 of P.L. 90-401 (the Land and Water Conservation Fund Act amendments of 1968). Such an arrangement in the opinion of the Committee, would not be prohibited by the language of the House-passed bill prohibiting leasing authority for commercial purposes. We agree with the House that industrial or other commercial type business activity should not be allowed. However, we believe that agricultural pursuits such as are now being followed in the pastoral could still be permitted by the Secretary.

Mr. BIBLE. Mr. President, the provision has been put in with the clear understanding that it is the legislative intent that condemnation will not apply to those dairy farmers who continue to

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operate dairies within this pastoral zone. As I have said, only 10 or 12 dairy farmers are involved at this time. It appears that most of them are either desirous of negotiating a sale or, failing that, are willing to submit to condemnation so that the final determination may be made as to use of the area, and the price to be paid. The explanation is rather lengthy. I will not burden the Senate with it at this time other than to say we think that even though it does permit condemnation in the pastoral zone—nevertheless it is the firm intent of the committee that the amendment shall in no way operate to impair the integrity of the dairyman who wants to continue dairy farming. This explanation should make it very clear on this point.

The great interest shown by the two Senators from California has been most gratifying. We received this bill from the House of Representatives on February 10, 1970. Hearings were held on February 26; and today we report the bill with the hope that it will be passed without further delay.

I have some indication that the House will accept this amendment without the necessity of going to conference. I have touched base with the chairman of the Interior Committee, Representative Wayne Aspinall, and explained what we are attempting to do here. I believe there is an excellent possibility of having this bill and the amendment accepted when it goes back to the House so it can then go to the White House.

Both the senior Senator from California (Mr. MURPHY) and the junior Senator from California (Mr. CRANSTON) introduced a Senate bill (S. 1530) on the same subject and they have shown intense interest throughout this matter. The bill before us contains a House number. We could have reported the Senate bill because it was their bill and their project. They have contributed greatly. We reported the House bill rather than ask that the substitution be made on the floor of the Senate.

Mr. President, at this time I am happy to yield to the senior Senator from California for any statement he might wish to make concerning this legislation.

Mr. MURPHY. Mr. President, I thank the Senator. I think the chairman of the subcommittee has handled this matter in excellent form and expeditiously.

It is a great pleasure for me to speak today in behalf of the Point Reyes National Seashore and I want to take the opportunity to commend everyone—especially Senator BIBLE and his subcommittee, Senator JACKSON, Senator ALLOTT, Senator HANSEN, and the other members of the Senate Interior Committee—who helped make it possible for the Point Reyes bill to be brought to the Senate floor so soon after it had been passed by the House of Representatives.

Time is truly of the essence insofar as Point Reyes is concerned, and it is encouraging that this fact has been recognized by both the administration and the Congress.

A vote today in behalf of Point Reyes is a vote not only for the men, women, and children of the 1970's but also, in an even more important way, a vote for those untold generations to come who will be the beneficiaries of our efforts to preserve our environment.

In an effort to be as brief as possible, I shall not reiterate the many arguments in favor of preserving the Point Reyes area as a national seashore.

The Congress recognized these factors when it passed the original Point Reyes bill in 1962, and since then there is no Member of the Congress, I feel certain, who has not had his attention called to the rare beauties of the Point Reyes area and the necessity for preserving them.

For my part, I wish mainly to accent the need for a favorable vote today so that the version of the Point Reyes bill which has been reported by the Senate Interior Committee can be considered by the House and then sent along to the White House without undue delay.

When the Subcommittee on Parks and Recreation of the Senate Interior Committee held hearings on the bill before us today, I pointed out that I was not in the Congress when the original Point Reyes bill was passed but that in 1966 I had the privilege of cosponsoring a measure to authorize an increased appropriation of $5,135,000 for the purchase of land for the seashore. This appropriation was approved.

More recently I cosponsored the Senate version of the bill before us today.

As I said at the subcommittee hearing, when certain key Members of the Congress indicated last year that they felt that favorable action on this bill or on similar measures in the House of Representatives might be inadvisable because of the fiscal restraints then imposed on such projects by the administration, I wrote a letter to Congressman WAYNE N. ASPINALL, chairman of the House Committee on Interior and Insular Affairs, pledging that I would continue to use every possible means "including my friendship with the administration" to assure that the additional funds for the seashore would be provided as soon as the necessary authorization bill was passed.

I followed through on my promise by seeing President Nixon in person in behalf of Point Reyes.

Backing my efforts 100 percent in my approach to the President and his staff were Congressman DON CLAUSEN and others.

I mention my efforts because it is my policy to refrain from requesting the direct intervention of the President in any matter unless the situation in question has a top priority and has reached a critical point.

Both of these factors were clearly present when I went to the White House about Point Reyes.

Having taken the case for Point Reyes directly to the President, I was, of course, most pleased when he invited Congressman CLAUSEN, Congressman ASPINALL, and me to the White House on November 18 and informed us that he would make available the funds needed for the acquisition of the remaining land necessary to complete the seashore.

This fund, we were told, would begin with an allocation from the fiscal year 1970 budget.

This extremely gratifying pledge by the President was a fine recognition of the importance of the Point Reyes project, and I would like to add that if some individuals felt at the time that it should have been coupled with an acknowledgement of the needs of other worthy undertakings, this wider recognition of the general need for more parks and seashores was contained in the request which was subsequently made by the President for full funding under the land and water conservation fund.

My point is this: Prompt and favorable action is urgent since the land values in the area continue to escalate dramatically with each passing day.

In addition, we have a moral obligation, I feel, to put a definite end to the long period of uncertainty during which certain landowners in the Point Reyes area have been torn between the offers of developers on one hand and the pleas of conservationists on the other.

I have long urged quick and decisive action.

The administration has seen the need, too, and has acted accordingly.

I feel confident that the House of Representatives will accept the amended Point Reyes bill as passed by the Senate since the amendment added by the Senate Interior Committee is important and necessary.

The bill can then move to the White House for the President's signature. It is encouraging to anticipate that that day is not now far away.

Mr. President, I wish to congratulate the distinguished Senator, the chairman of the subcommittee, for the magnificent manner in which he has handled this most important acquisition involving this most important piece of property so that it may be preserved for the enjoyment of this great country by future generations. There is no place quite like this area in the United States. I am very pleased to have been able to play a small part in making sure this area is preserved for posterity so we will have this area of our State for the enjoyment of millions of people in years to come.

Mr. BIBLE. I thank the Senator. I yield to the junior Senator from California.

Mr. CRANSTON. Mr. President, I thank the Senator for yielding.

I want first to thank the Subcommittee on Parks and Recreation and its distinguished chairman, the senior Senator from Nevada (Mr. BIBLE), and the full Committee on Interior and Insular Affairs and its distinguished chairman, the junior Senator from Washington (Mr. JACKSON) for acting on this legislation favorably so soon after the passage by the House of H.R. 3786.

Time is of extreme importance in our actions on Point Reyes National Seashore, because of the rapidly escalating land prices along the California coastline, and because of the continuing threat that lands within the seashore still in private hands will be developed for residential or commercial purposes.

It is in the best interests both of saving the taxpayers' money and of limiting the Federal moneys going into our inflated economy that we complete acquisition of the remaining lands in Point Reyes National Seashore at the earliest possible moment.

It is thus gratifying that the Committee on Interior and Insular Affairs has

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acted so promptly to report this legislation to the Senate.

I trust that our deliberations and affirmative action on this bill can be handled with dispatch today, so that we may move promptly toward immediate completion of the Point Reyes National Seashore as it was proposed when Congress authorized it 8 years ago. In this spirit, I will keep my remarks brief.

As the author of S. 1530, the companion measure in the Senate, cosponsored by my distinguished colleague from California (Mr. MURPHY), I have already, and often, set forth the urgent need for completing Point Reyes in my remarks when I introduce the bill on March 12, 1969, in other statements for the record, in testimony before the subcommittee last month, and in other ways.

In the house, H.R. 3786 was amended by the addition of language which would prohibit the conveyance of any freehold, leasehold, or lessor interest in any lands within the Point Reyes National Seashore for residential or commercial purposes.

This action was taken in response to a sellback or leaseback plan which was proposed in the Department of the Interior testimony before the House Interior Committee.

Under Interior's plan, the Department would sell some 9,200 acres of federally acquired lands within the seashore to private interests for residential subdivision.

The Department felt that the money thus recovered might permit a decreased net expenditure from the figure which both H.R. 3786 and S. 1530 call for.

The lands involved in this Interior Department plan are an integral part of the seashore.

The northern parcel includes the rolling hills of the northern promitory between the Pacific Ocean and Tomales Bay.

The southern parcel lies along the eastern border between the Inverness Ridge and Olema Creek.

Both parcels add to the diversity, beauty, and recreational value of the seashore.

The effect of the "sellback" would be to deauthorize almost one-sixth of the seashore.

The Department proposed to carry out this plan for private subdivision development within the seashore boundaries by administrative action, without further leave of Congress, under section 5A of the act of July 15, 1968 (82 Stat. 354, 356), the Land and Water Conservation Fund Act Amendments of 1968.

However, the House found that the disadvantages of the sellback plan far outweighed any possible merits, and the Senate Interior Committee also has acted very wisely in rejecting the sellback plan by including the House-approved amendment prohibiting its implementation at Point Reyes.

I believe we can best protect the integrity of Point Reyes by adopting the bill before us containing the House language on this matter.

At the hearing on February 26, before the Subcommittee on Parks and Recreation, I urged that the committee adopt the House language; I am pleased that this has been done.

In one further amendment to the bill, the Interior Committee proposes to repeal the restriction on the Secretary of Interior's condemnation authority in the "pastoral zone," which makes up most of the northern portion of the seashore.

This action, as the distinguished Senator from Nevada has indicated, was a result of testimony by Mr. Boyd Stewart, a spokesman for the dairymen whose cattle graze on these northern hills.

I, too, was impressed by Mr. Stewart's candid and eloquent plea for the completion of Point Reyes, and by the willingness of the Point Reyes farmers to accept the exercise of condemnation authority.

I support the Senator from Nevada's wise decision on this question, and I urge the Senate to approve repeal of section 4 of the 1962 act.

Mr. President, I consider the privilege of authoring this bill as one of the high points of my first session in the Senate

I support the committee amendments, and I urge the Senate to adopt the bill as reported.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question now is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BIBLE. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JAPAN'S ANSWER TO THE POPULATION EXPLOSION

Mr. PACKWOOD. Mr. President, several weeks ago I introduced two bills having to do with the population crisis, one providing tax incentives to discourage large families and one outlawing restrictions against abortion in the District of Columbia.

In the Parade magazine section of the Washington Post for Sunday, March 15, 1970, there appeared an article entitled "Japan's Answer to the Population Explosion," by Jane Morse, which I ask unanimous consent to be included in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. PACKWOOD. In a nutshell, the article indicates that with legalized abortion, the Japanese have had a stable population over the last 21 years. The article states that 20 million abortions have been performed in the last 21 years, which were officially registered, and at least that many in addition which were not reported because of the paperwork and the onerous task reporting of those cases involved.

The effect of this has been not only population stabilization in Japan, but there are fewer than 20,000 illegitimate children of welfare mothers, with almost no illegitimate births to unmarried mothers and very little evidence of child abuse.

I think in the United States we are going to have to consider not only lifting restrictions against abortions, but other measures as well. I introduce this article merely to show one method that has been used, and that is legalized abortion, to bring population into a reasonable state of equilibrium.

EXHIBIT 1

[From Parade magazine, Mar. 15, 1970]

JAPAN'S ANSWER TO THE POPULATION EXPLOSION

(By Jane Morse)

TOKYO, JAPAN.—Last year Tokyo's Asahi Publishing Company routinely reimbursed ten employees for abortion expenses. Asahi was neither revolutionary nor alone. Under the Eugenic Protection Law adopted 21 years ago, the Japanese government and most big business concerns cover therapeutic abortion in their regular medical insurance for workers.

Given the right to a discreet, safe, simple, and sanctioned way out of having unwanted children, Japanese women have proved their regard for it in an unmistakable way: in 21 years, more than 20 million abortions have been officially registered. The true total is generally believed to be double because of the cases that go unreported by doctors evading taxes or paperwork.

When the law was passed, 82 cities, including Tokyo and Osaka, lay in ruins. Inflation was rocketing. People were edgy and wasted by near-starvation diets—and a huge new baby boom threatened to keep "reconstruction" stuck in the dictionary. The Eugenic Protection Law was the answer.

The law spelled out a woman's right to terminate a pregnancy when it's a threat to her well-being. Most significantly, it recognized that both physical and *financial* considerations can affect that well-being.

Today, more than 90 percent of the reported operations are requested because of "economic necessity," with no proof required. The case of Mrs. Watanabe (not a real name but a real person) is representative.

A slightly built, but healthy woman of 26, Mrs. Watanabe works hard as a waitress in a busy restaurant. Last year she took two days' sick leave and had an abortion.

"I went to the clinic at noon and I took the subway home three hours later," she recalls.

It was her fifth abortion—not at all unusual, says Japanese doctors.

"THE PILL" QUESTIONED

"The Pill" is officially condemned because its long-term effects are unknown, but the Watanabes claim to use a variety of other contraceptive methods. Her doctor admits, however, that he's never discussed it with her in any detail.

Japanese husbands generally regard abortion as their wife's problem, not theirs, say doctors. Mr. Watanabe, a taxi driver, was sympathetic about his wife's latest operation but scarcely upset. "He thinks the doctor charges too much," says Mrs. Watanabe. "But what else can we do? I can't stop work and we certainly don't have money for a nursery. Maybe in two or three years."

The operation cost them the equivalent of $18. Some doctors charge as little as $9, some as much as $24. An overnight or longer stay at the clinic or hospital costs more; however, over half the patients are like Mrs. Watanabe, in, out and on their feet all in the same day.

To the chagrin of the Japanese Government, the low price coupled with an ever

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increasing accumulation of professional skill has made the country a mecca for abortion seekers from abroad. To avoid the dangers of an illegal abortion in America, the father of a 14-year-old California girl brought her to an American-trained Tokyo doctor who performs hundreds of these operations in his well equipped office. Under the Eugenic Protection Law, though, abortion is only available to Japanese residents, with a husband's consent (without, if there is no husband) and at the discretion of a gynecologist licensed to perform the operation. Because of the first restriction, the American girl got the operation illegally—for $75.

In 1954, when the last survey was taken, deaths from abortion in Japan numbered only about seven in 100,000 cases. (In the U.S., roughly 28 women out of 100,000 still die in childbirth each year.) Done within the first three months of pregnancy, the Japanese contend that there are few harmful effects.

Is there a lesson in this for America? Prof. Toshio Kuroda of the Japanese Government's Institute of Population Problems thinks yes.

In 1948, he observes, Japan was faced with the same potentially disruptive situation that haunts the United States today, a population explosion imperiling the nation's ability to adequately provide for itself. In only 30 years' time we stand to have 100 million more Americans. As a Washington, D.C. newspaper put it, ". . . if this rate prevails, the United States would have to build the equivalent of a new city of 250,000 persons each month from now until the end of the century."

All this recently prompted President Nixon to point out that better birth control methods and family planning are not just the needs of underdeveloped nations. We're in trouble, too. "Unwanted or untimely childbearing is one of the several forces which are driving many families into poverty or keeping them in that condition," said the President.

Legal abortion is, of course, a controversial solution to this problem, but the Japanese have proved one thing: it works. In Japan, free choice and close-to-free abortions have brought about a phenomenal decrease in the birthrate, something sought after but achieved by no other country.

ECONOMIC FACTOR

Abortion, distasteful or not, has been the number one factor in birth control in Japan for the past two decades and a, if not *the*, major ingredient in the Japanese economic "miracle."

There are signs Japan even picked up a few fringe benefits:

"Welfare mothers" with illegitimate children are virtually non-existent, presently numbering less than 20,000.

Illegitimate births are minuscule in number.

Child abuse is rare.

Professor Kuroda additionally credits the reduced birthrate with helping Japan create a democracy:

"In a country which had no experience in democracy until after the war, the system could never have succeeded without a demographic revolution. When there are too many human beings, they fall too low, they have no value. Today a young worker can choose where he wants to work; he's not a surplus commodity. His human rights are respected.

CITE VALUE TO POOR

"You [in America] should think about it. Legal abortion is valuable mainly to the poor. The others are already practicing other kinds of birth control or can buy an abortion."

Even the harshest critics of abortion in Japan don't want to make it go undercover again, despite abuses that have included complaints to the Civil Liberties Bureau in Nagano by 17 farm women who several years ago charged that their husbands were forcing them to have abortions so that they'd be on the job during an upcoming harvest.

"We can't go backward and make abortion criminal again. What we can do is provide more sex education," says Mrs. Ichiro Ishikawa, president of The Research Institute for Better Living, who would nevertheless like to see the present law tightened.

She'd like to be sure that husbands appear in person "like at the wedding ceremony." In practice she says, too often it's a case of the woman saying to her doctor-friend, "But you know my husband agrees."

Yasuo Kon, deputy executive secretary of the Family Planning Federation of Japan, is a critic of the Eugenic Protection Law. He faults it for being "too simplified, therefore too destructive to family stability." It's the mental after-effects of abortion that he fears most. "Women become depressed and that often breaks up a marriage."

JOB FOR DOCTOR

Both Mr. Kon and Mrs. Ishikawa think it should also be compulsory for the doctor to give family planning instruction to each woman directly following her first abortion.

But despite nearly 100 percent literacy and no religious opposition, birth-control devices are almost as unpopular in Japan as in the rest of Asia and Africa. Women, particularly, are timid about buying them (although now they can order through the mail a "newlyweds kit" containing a variety of sample items); most, they say, are inconvenient to use in overcrowded homes and none are 100 percent effective anyhow.

Meanwhile, Mrs. Watanabe, having lived virtually all of her young life with a right most governments still label a wrong, accepts abortion almost as an American accepts electric light, even to wondering how people get along without it.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, as in legislative session, until 10:30 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR McGOVERN TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately after the disposition of the reading of the Journal tomorrow, the able Senator from South Dakota (Mr. McGOVERN) be recognized, as in legislative session, for not to exceed 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

PEKING ATTACKS PRESIDENT NIXON

Mr. GOLDWATER. Mr. President, before the spreading euphoria about the current Warsaw talks between the United States and Communist China becomes too thick I believe it would be useful if Senators and all others who are interested in the talks knew precisely what Peking is saying about the United States through such official information organs as its New China News Agency.

For example, on February 28, 1970, the New China News Agency commented on President Nixon's state of the world address—an address which has been well received in this country and around the world. Barely 1 week after the February meeting in Warsaw between representatives of this Government and that of Communist China, Peking—through NCNA—called President Nixon "an imperialist chieftain" and described the Nixon doctrine:

> A prescription by him for U.S. imperialism which is sick to the core and in the grip of over-all political, economic and military crisis, a prescription which is doomed to failure.

Peking's official news organ also commented on President Nixon's call for peace:

> To put it bluntly, the word "peace" in the mouth of Nixon is "peace" for U.S. imperialism to forcibly occupy the world, to suppress the people's revolutionary struggle in all countries and to plunder and slaughter the people of various countries at will.

Not content with this incendiary and insulting language, the New China News Agency reacted to President Nixon's pledge to seek better relations between Peking and Washington in this manner:

> In his report, Nixon has to admit to China's growing strength and her tremendous influence in the world. He expressed apprehensions over the fact that "China has acquired thermonuclear weapons" and had thus broken the U.S. and Soviet nuclear monopoly. While talking hypocritically about his desire to improve relations with China, Nixon asserted blatantly that he wanted to maintain the treaty commitment with the Chiang Kai-shek bandit gang in Taiwan. This has further exposed the aggressive nature of U.S. imperialism in its plot to occupy China's sacred territory Taiwan permanently, exposed its criminal scheme to create two Chinas and also exposed its feeble nature as a paper tiger.

The Peking agency concluded its undiplomatic diatribe by asserting:

> No matter what kind of "doctrine" U.S. imperialism dishes up and what new labels it puts up, none of them can save it from complete destruction.

Mr. President, I urge those who have been trumpeting the economic, social and political possibilities that might ensue from the Warsaw talks to read this dispatch of the New China News Agency and to replace their present euphoria with clear-headed realism as to what the talks can and cannot produce.

I ask unanimous consent that the February 28, 1970, commentary of the

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New China News Agency of Communist China on President Nixon's state of the world address be printed in the Record.

There being no objection the commentary was ordered to be printed in the Record, as follows:

New China News Agency Ridicules Nixon's State of the World Message

(Note.—Probably due to its length, President Nixon's "state of the world" message, delivered February 18, was not commented upon by the Peiping regime until yesterday. When Peiping did, its unyielding hostility toward President Nixon amid increasingly shrill attacks on the United States since the resumption of the Warsaw talks was plain for all to see. A New China News Agency commentary called the foreign policy report, officially entitled "United States Foreign Policy For the 1970s—A New Strategy For Peace", "a record of the over-all defeat of the U.S. imperialist's policy of aggression and self-revelation of the weakness, the waning and the drastic decline of U.S. imperialisim." President Nixon's stress on "strength", "partnership" and "negotiation"—the so-called "Nixon Doctrine"—was seen as "a prescription made by him for U.S. imperialism which is sick to the core and in the grip of over-all political, economic and military crisis." The NANA commentary concentrated on the theme that the message only betrayed the weaknesses for the United States, using the term "paper tiger" at least four times. "The 'golden age' of U.S. imperialism . . . was but a fleeting phenomenon," it noted. "Since the disastrous defeat in its aggressive war against Korea, U.S. imperialism has rapidly fallen from its zenith." It then enumerated the "crises" facing the Americans, such as the Vietnam war, the "anti-imperialist struggle" of the Asian, African and Latin America people, and the financial and monetary crisis at home. The article did not forget to play the tune that "U.S. imperialism" is intensifying "its contention and collusion" with Soviet revisionist social-imperialism." Noting smugly that "Nixon has to admit to China's growing strength and her tremendous influence in the world," NCNA rapped the U.S. president for "talking hypocritically about his desire to improve 'relations' with China." "Nixon asserted blatantly that he wanted to maintain the treaty commitment with the Chiang Kai-Shek bandit gang," it said. "This has further exposed . . . the U.S. imperialism in its plot to occupy China's sacred territory Taiwan . . . and to create 'two China's.'" It concluded that "the Nixon doctrine is nothing but a variation of the Truman doctrine, the Eisenhower doctrine and various other aggressive doctrines of U.S. imperialism under more clearly that the masters of the White House fare worse and worse from generation to generation." The NCNA commentary, entitled "New Strategy for Peace Cannot Save U.S. Imperialism From Fast Approaching Doom" and monitored in Taipei, is distributed here for the benefit of students of Chinese Communist affairs.)

Peking, February 28.—U.S. imperialist chieftain Richard Nixon submitted to the U.S. Congress on February 18 a foreign policy report entitled "United States Foreign Policy for the 1970s—A New Strategy for Peace."

This report is a record of the over-all defeat of the U.S. imperialist's policy of aggression and self-revelation of the weakness, the waning and the drastic decline of U.S. imperialism. It is another helpless confession of the U.S. imperialists that at the end of their rope, they are trying futilely to press ahead with their counterrevolutionary two-faced tactics.

Nixon packed his lengthy report with beautiful terms such as "peace", "new approach" and so on and so forth in an effort to disguise the ferocious and brutal U.S. imperialism as a peacock and cover up its aggressive and expansionist nature and the awful straits it is in.

In his report, Nixon put forth three "principles" and flaunted a tattered banner for his "new strategy for peace." The three "principles" are "partnership", "strength" and "negotiation", the essence of which is to proceed from the position of "strength", carry forward the policy of aggression and war and step up the collusion and contention with social-imperialism to control the U.S. "allies" by establishing so-called "partnership" and press them to "share in the responsibility" of military aggression by U.S. imperialism and to serve as its cats-paw; and to use "negotiation" to cover up its schemes of aggression and expansion. These three "principles" are wrapped with a tattered banner of "peace." What has been brazenly lauded by Nixon as the so-called "Nixon doctrine" is in fact a prescription made by him for U.S. imperialism which is sick to the core and in the grip of over-all political, economic and military crisis, a prescription that is foredoomed to failure.

This prescription of Nixon's fully reflects the weakness of U.S. imperialism as a paper tiger and the awkward straits in which it finds its power falling far short of its ambition in pushing the counterrevolutionary global strategy. Indulging in reminiscences of the swashbuckling arrogance of U.S. imperialism in the early post-war years and thinking of the present, Nixon was seized with mournful nostalgia in his report. He recalled "American predominance" in the past when "the United States had a monopoly . . . of nuclear weapons" and has "taken such pride" in its "leadership" of the "free world" and "talked to our allies", but he had to admit that now "the world has dramatically changed", that "American energies were absorbed in coping with a cycle of recurrent crises" for more than 20 years and that "we will exhaust our resources, both physical and moral, in a futile effort to dominate our friends and forever isolate our enemies"; meanwhile, both Japan and the West European allies of the United States "have recovered their economic strength" and the struggle to control and the struggle to resist control between U.S. imperialism and these countries have been intensified, a great number of countries in Asia, Africa and Latin America have won independence and become "a growing strength of independence"; and the nuclear monopoly of U.S. imperialism has also gone bankrupt.

"The golden age" of U.S. imperialism that Nixon yearns for so keenly was but a fleeting phenomenon. Since the disastrous defeat in its aggressive war against Korea in the early 1950s, U.S. imperialism has rapidly fallen from its "zenith." In the 1960s it has been badly battered again in its war of aggression against Vietnam and the crises besetting it at home and abroad have been greatly aggravated. The vigorously developing revolutionary armed struggle and anti-imperialist struggle of the Asian, African and Latin American people and the surging revolutionary movement of the people of Western Europe, North America and Oceania are more than U.S. imperialism can cope with and make it sit on thorns. Its baton has become less and less effective toward its "allies" and it finds itself in unprecedented isolation, opposed by the masses and deserted by its followers. In the country, the financial and monetary crisis is daily deepening and the inflation is developing viciously, the position of the dollar is tottering and the economic crisis is getting more and more serious, the social system is rotten to the core and the class contradictions have sharpened to an extent never before seen. Nixon admitted himself that the "greatest increase in inflation and the latest social unrest" had taken place "in America in 100 years." U.S. imperialism is in what Nixon admitted to be "the most difficult time in history" and its financial and economic strength cannot provide "unlimited means" for it to carry out all its plans of aggression. In a word, U.S. imperialism has declined drastically; the paper tiger has been punctured all over. Nixon himself lamented that to continue "the preponderant American influence . . . would be self-defeating." Therefore, he has to resort to political deception more and more to cover up the ambition of U.S. imperialism for military aggression and expansion. This is the very essence of Nixon's "new strategy for peace."

Nixon's report shows that though U.S. imperialism has been like the sun setting beyond the western hills, it will never give up its aggressive designs in the world and will make a deathbed struggle. U.S. imperialism is clearly a paper tiger badly battered by the people of the world, yet Nixon had the cheek to brag that the United States "occupies a special place in the world" and will continue to play a "major role" "because of its strength." He shouted himself hoarse that U.S. imperialism has "no intention of withdrawing from the world," and that it will "maintain current U.S. troop levels in Europe," "remain involved in Asia" and intensify the war of aggression against Vietnam by means of a "Vietnamization program." Moreover, it will step up its intervention in the Middle East and its penetration into Africa, further enslave Latin America and keep all its "treaty commitments" of aggression.

As U.S. imperialism is weak and on the decline with its strength unequal to its will, Nixon indicated in his report that in Europe, U.S. imperialism will use German revanchists as its hatchetman in the fight for domination over Western Europe and as its instrument for subversion in Eastern Europe. In Asia, it would make use of Japanese militarism, giving Japan "a unique and essential role to play". Nixon said: "Japan's partnership with us will be a key to the success of the Nixon doctrine in Asia." This is to say, U.S. imperialism wants to revive Japanese militarism energetically so that it will co-operate with U.S. imperialism in suppressing the Asian peoples' national liberation struggle, exploiting the independent countries in Asia and launching aggression against them, and carrying out counter-revolutionary criminal activities against China, against communism, and against the people. This should alert the people in the Asian countries to heighten vigilance.

In face of the aggression and expansion of the revisionist social-imperialism in various parts of the world, Nixon indicated in the report that U.S. imperialism would intensify its contention and collusion with Soviet revisionist social-imperialism. He said that since he came to power, U.S. imperialism and Soviet revisionism have "made a good beginning" in their collusion with each other. However, he stressed that the U.S. "overall relationship with the U.S.S.R. remains far from satisfactory." He added that on the Middle-East question, Soviet revisionism wanted to seize a position in that area which would make great power rivalry more likely so as to intensify its contention with U.S. imperialism. In East Europe, Nixon demanded that Soviet revisionism "improve situation regarding Berlin" and "normalize its own relations with Eastern Europe." In his report, Nixon made no effort to hide the U.S. imperialist ambition to penetrate into Eastern Europe and to contend with Soviet revisionism for control over Eastern Europe. Nixon openly declared that U.S. imperialism will maintain "a level of involvement sufficient to balance the powerful military position of the U.S.S.R. in Eastern Europe" and that it will engage in a still more frenzied nuclear arms race with Soviet revisionist social-imperialism so as to avoid losing its "leading" position in the nuclear field.

In his report, Nixon has to admit to China's growing strength and her tremendous influence in the world. He expressed apprehensions over the fact that "China has acquired thermonuclear weapons" and had thus broken the U.S. and Soviet nuclear monopoly. While talking hypocritically about his desire to improve "relations" with China, Nixon asserted blatantly that he wanted to "maintain" the "treaty commitment" with the Chiang Kai-shek bandit gang in Taiwan. This has further exposed the aggressive nature of U.S. imperialism in its plot to occupy China's sacred territory Taiwan permanently, exposed its criminal scheme to create "two Chinas" and also expose its feeble nature as a paper tiger.

Juggling right and left with the word "peace", Nixon said in his report that few ideas have been "so often or so loosely invoked as that of peace". However, it is precisely U.S. imperialism and social-imperialism which have loosely invoked the word "peace". To put it bluntly, the word "peace" in the mouth of Nixon is "peace" for U.S. imperialism to forcibly occupy the world, to suppress the people's revolutionary struggle in all countries and to plunder and slaughter the people of various countries at will. It is "peace" for U.S. imperialism to have its allies act according to its dictate and to have its satellites continue to be enslaved. It is also "peace" for U.S. imperialism and Soviet revisionism to collude and contend with each other for world domination and for redividing the world.

What is both ridiculous and pitiable is that Nixon himself had to come out and glorify his own report. He smugly asserted that his report had taken "a full year in preparation", that "the report is the first of its kind ever made by a president", that it is "historic" and "marks a watershed in American foreign policy" and so on and so forth. He sounded as if he had really found a panacea for U.S. imperialism which is sick to the core. But contrary to his self-glorification, even the Western press has reacted coldly, saying scornfully and sarcastically that "with its ordinary absence of substance, given its length", the report is empty and "relates nothing that is new and little that is specific" and that it "raised more questions than it answered". The Western press comments also pointed out that the report "left American foreign policy broadly unchanged", a policy that "essentially remains to be diplomacy from the position of strength." The only significant point in the report is that it has "proclaimed an end to the era of post-war American domination". Indeed, the "dominant position" of U.S. imperialism, which rots with every passing day, is gone forever.

The great leader Chairman Mao has pointed out: "The imperialist system is riddled with insuperable internal contradictions, and therefore the imperialists are plunged into deep gloom." The emergence of the "Nixon doctrine" precisely reflects the deep gloom of the U.S. imperialists who are declining drastically and are at the end of their rope. The "Nixon doctrine" is nothing but a variation of the "Truman doctrine", the "Eisenhower doctrine" and various other aggressive doctrines of U.S. imperialism under new circumstances and a new situation. It reflects still more clearly that the masters of the White House fare worse and worse from generation to generation. Ours is an era in which imperialism is heading for total collapse and socialism is advancing to world-wide victory. No matter what kind of "doctrine" U.S. imperialism dishes up and what new labels it puts up, none of them can save it from complete destruction.

LAND REFORM IN SOUTH VIETNAM

Mr. MAGNUSON. Mr. President, a very important matter occurred in the news yesterday morning, and its importance deserved much more space than it was given. That matter was the passage of the land reform program by the House of Representatives of South Vietnam. It is probably the most important story about winning the hearts and minds of the Vietnamese people in years, and I think the most important nonmilitary event to occur in Vietnam since American involvement began.

Much of the credit in initiating this measure should go to Prof. Roy Prosterman from the University of Washington law faculty. Professor Prosterman made numerous trips to South Vietnam and Washington, D.C., to argue the merits of land reform to public officials and to State Department officials. His efforts have been very substantial.

The significance of land reform is this:

About 1 million South Vietnamese families, or more than 6 million people out of the country's total population of 17 million, have been dependent for years and years for their living on tenant farming, carried out under the most onerous conditions. They form a vast majority of the rural population, and they have been an easy mark for the Communists because of their discontent. Now these 6 million people are to be the beneficiaries of the largest scale democratic land reform program of this century: bigger than similar programs embarked upon previously by Japan, South Korea, or Mexico.

Of course, this is the way to win the hearts and minds of people. This is good news for all the American people, and it is the result of what we hoped for when we introduced Senate Resolution 290, which suggested that land reform be enacted as soon as possible.

The South Vietnamese Legislature has now given final approval to the land reform bill and it has been sent to President Thieu for his signature. I hope now it will be administered properly and funded adequately by AID officials.

I read as follows from a dispatch in today's Wall Street Journal. I know Senators will be interested in this:

> In Saigon, the national assembly passed and sent to President Thieu a land-reform bill designed to make every peasant owner of the land he farms. Vietcong propagandists have been able to stir discontent in the countryside by capitalizing on the landlord-tenant situation. The bill provides that a landlord can retain all the land he personally tills, up to 37 acres. He will be compensated for the rest, which the government will take over for redistribution.

This is a dramatic step and one that will give peasant farmers a "piece of the action" without onerous rents.

I again want to stress the great amount of work done by Professor Prosterman from the University of Washington. Two Presidents were urged to do what they could about beginning this kind of land reform in Vietnam. Other Senators joined me in sponsoring Senate Resolution 290 and in sending letters to the President on this important issue—their support was greatly appreciated.

I think this is very bright news from South Vietnam—if the government will now administer the program vigorously and carry it out as written. We should make great progress with the peasant farmers. Much of the credit for this result relates to the interest and awareness of Members of the Senate to this critical issue.

MEMORIAL TO DR. ROBERT H. GODDARD, FATHER OF AMERICAN ROCKETRY

Mr. ANDERSON. Mr. President, on Monday, March 16, the Committee on Aeronautical and Space Sciences conducted a hearing on Senate Concurrent Resolution 49, providing for congressional recognition of the Goddard Rocket and Space Museum at Roswell, N. Mex., as a fitting memorial to Dr. Robert H. Goddard, known as the "father of American rocketry." During the course of the hearing, tributes were paid to Dr. Goddard by associates and other Government witnesses for his outstanding contributions to rocketry.

One of these witnesses was Mrs. Robert H. Goddard, widow of Dr. Goddard, who was not only a devoted wife, but an active assistant in his work from the time they were married in 1924 until his untimely death in 1945.

Another witness was Dr. Charles Greeley Abbot, Secretary emeritus of the Smithsonian, who on May 31, 1970, will celebrate his 98th birthday. Dr. Abbot was a close personal friend and a strong supporter of Dr. Goddard's work while serving as Assistant Secretary and Secretary of the Smithsonian Institution. Dr. Abbot retired in 1944 but has continued his work in astrophysics, in which he is an acknowledged expert, and still makes frequent trips to the Smithsonian Institution where he maintains an office.

Mr. President, I ask unanimous consent that the statements of Mrs. Goddard and Dr. Abbot be printed in the Record at the conclusion of my remarks. I urge Senators to read about this remarkable man. To quote Dr. Thomas O. Paine, Administrator of the National Aeronautics and Space Administration, who also appeared before the committee in connection with Senate Concurrent Resolution 49:

> Americans can ill afford to ignore the contributions of Robert H. Goddard in the history of the coming of the space age. Young Americans need to appreciate that what appear as unsolvable problems today are not new to man's experience. Dr. Robert H. Goddard's rocket artifacts and his lifelong labors should be an inspiration to each generation of youth as they grapple with the concerns of their day and their dreams of a better world of their tomorrows in a dynamic universe. This Nation cannot afford not to have Robert H. Goddards in the future.

There being no objection the statements were ordered to be printed in the Record, as follows:

Mrs. Goddard's Statement

Mr. Chairman and Members of the Committee: I am happy to make a short personal statement in support of Senate Concurrent Resolution 49, which proposes that the Congress recognize the Goddard Rocket and Space Museum and Art Center at Roswell, New Mexico, to be read at the Senate hearing on Monday, March 16.

Forty-four years ago, *today,* on a small farm in Auburn, Massachusetts, a small rocket took flight. It was an unusual rocket, because it used, for the first time in the world, liquid propellants more powerful than any others thus far developed. For a quiet professor at Clark University, in nearby Worcester, this flight was the culmination of a childhood dream and a ten-year laboratory quest. In 1914, after Robert Goddard had obtained his doctorate in mathematical physics, he was able to lay down firm mathematical foundations for his belief that "extreme" altitudes could be reached by efficient jet propulsion. This faith, was however, not shared by others. Even the professor under whom he had won his doctorate commented, after he had studied the mathematics, "I can't find a flaw in your work, but it just doesn't seem reasonable!" Thus, only when the mathematical theory proved to be sound, did my husband pick up metal and begin to fashion a rocket motor.

In the years after the 1926 flight, the spadework of investigation and experiment continued, financed by the Smithsonian Institution. Other small rockets became more reliable, and attained modest heights. In 1929, one of them decided to fly horizontally, spewing a long tail of flame, and was seen by a resident who assumed it was an airplane in trouble. Police and fire equipment arrived, and the newspapers had a heyday with the "moon-rocket man."

But the publicity caught a few comprehending eyes, among them those of Charles Lindbergh and Harry Guggenheim. They investigated, liked what they saw, and in the summer of 1930 announced support of expanded work in optimum surroundings. Thus the doors of seventh heaven opened for the Goddards. The new site required a climate suitable for year-round outdoor work, level terrain, few people and little property to be endangered. Professors of geography and climatology pored over maps and supplied advice. Southeastern New Mexico was selected. Never was science more fully vindicated: Roswell, in the heart of this area, met expectations in every respect. A house on the outskirts was found, which could accommodate the Goddards and two of the four employes, a neat workshop was quickly erected nearby, where privacy could be assured, and a launching site ten miles out, on lonely ranch land called Eden Valley was offered, without charge, by its owner, Oscar White. Roswell merchants, particularly the Mable-Lowrey Hardware Company, cooperated heartily. For us, Roswell was Eden indeed. Our little rockets grew in size and power and beauty. As time went on, unexpected benefits appeared. Roswell cared about beauty, and its Main Street as well as its residential streets were lined with tall cottonwoods. The townspeople came to call, and invited us to participate in club and Church activities. They soon forgave us our Eastern accents, and allowed us to become one of their own. For Eastern city dwellers, this warmth and kindness, as well as keen civic pride, was something new.

This was the era of the WPA, and one of the projects undertaken was the building of an Art Center and Museum. Prime movers in this were members of the faculty of the New Mexico Military Institute. In those days Roswell had two bright stars in the arts: Paul Horgan, who had won several prizes for his writing, and Peter Hurd, already becoming known for his paintings of the Western scene. With Robert Goddard representing the sciences, the town was unusually well supplied with talent.

After my husband's death in 1945, his launching tower was moved to the grounds of the Museum. A few years later, a rather large collection of rocket parts was given to the Museum, along with funds from The Daniel and Florence Guggenheim Foundation to help build a special wing to house it. As the years have gone by, more parts and life-sized photographic murals of the four extant Goddard rockets have found their way to Roswell. The most recent additions have been a reconstruction of the Goddard workshop, including most of the machinery he used, and a new Goddard Planetarium, generously given by Donald Anderson of Roswell. All these gifts have grown into a first-rate memorial, well qualified to be called the Goddard Rocket and Space Museum. It is a fine educational resource for all those living in this area, particularly the children, many of whom would not otherwise see machine tools, or the drama of the heavens.

My most vivid memories of New Mexico center around sunrise on the prairie. I was motion-picture photographer for my husband at most of his tests, and thus often went out with the group before dawn, before winds could rise. As we approached the 85-foot launching tower, we could first discern its tip, then more and more as we neared. This lonely sentinel, standing far out on the level prairie, pointed *straight up*, like a finger, firmly reminding us of our goal, the star-studded space above us, where we felt sure that the fulfillment of man's mind and spirit will lie.

DR. ABBOT'S STATEMENT

Mr. Chairman, Mrs. Goddard and Members of the Committee: My copy of Mr. Lehman's book, "This High Man," has this gift inscription: "For Charles G. Abbot, life-long mentor and confidant of 'This High Man,' with gratitude and affection. Esther C. Goddard, November 13, 1963."

I first met Mrs. Goddard in October 1937, when she danced with me the Merry Widow Waltz on the veranda of the ranch house at Roswell.

On October 19, 1899, Robert Goddard climbed a cherry tree on Maple Hill near Worcester to do a little trimming. There he had the waking dream of "the possibility of ascending to Mars."

That was his "Anniversary Day" as long as he lived.

Within 15 years, in July 1914, he was awarded two United States patents which will always cover any rocket journey in space, manned or unmanned.

He graduated from Worcester Tech and Clark University, and in June 1911, received his doctorate. The next year, Dr. W. F. Magie of Princeton invited Dr. Goddard to Princeton, to teach a little, and to do an intricate physical problem. This he completed, and, as a result, was able to secure a patent in 1915, covering an early form of De Forest's audion tube which became the long-distance radar.

But he had over-tired himself. Returning to Worcester an invalid, a medical examination reported that he had tuberculosis in both lungs and might hardly be expected to live over two weeks. Then Dr. Goddard summoned his strong resistance. When able to walk feebly, he would start at the street corner to climb a certain hill and would mark the farthest point he could reach. The next day, he went a little farther, and so on, until he got to be the slender, slightly stooped, handsome, hard-working friend I first met in his workshop at Clark University in 1916. I last received him on the eleventh floor of the tower of the Smithsonian brownstone building a few weeks before his death in 1945.

When the United States was about to be drawn into the First World War, Dr. Goddard at Clark University was diligently planning and making, with his own hands, laboratory test instruments to fire rockets propelled by a series of consecutive discharges of rifle powder. Dr. Goddard sent a letter to Secretary Walcott of the Smithsonian describing his work and the lack of funds to go on. With the letter came a paper in which he set forth his plans for investigating the makeup and density of the earth's highest atmosphere.

He also discussed the possibility of very long rocket flights of military value, and even of flights into space. Dr. Walcott referred the communication to me, and that same day, I reported to him that I considered it the best description of a new research that I had ever seen. The Secretary told me to get an opinion from the Bureau of Standards. I referred it to Dr. Edgar Buckingham, a mathematical physicist. He also regarded the Goddard paper very highly.

With these favorable reports in hand, Dr. Walcott sent me to Worcester to see Goddard and his work. I found a charming friend, and very clever apparatus of his own design and construction. On my return the Secretary informed Dr. Goddard that he had made a grant of $5,000 from the Hodgkins Fund and was sending $1,000 at once, with more to follow when needed.

Not many months afterward, a gruff officer of the Signal Corps called on Dr. Goddard, and demanded that his research and apparatus be turned over to the Corps for military purposes. Goddard objected. The officer said, "We are going to take it anyway. You may put that in your pipe and smoke it."

"I don't smoke," replied Goddard.

The next morning I found him in my Smithsonian office. My close friend, Dr. George E. Hale, was in town. I found him, and described Dr. Goddard and his work. He told me to tell Goddard that if he would bring everything to Pasadena he could use the facilities of the Mount Wilson Observatory.

I reported this to Goddard, who immediately went back to Worcester, packed everything, and went by truck at midnight to a station some miles off. He soon reached Pasadena.

Dr. Walcott was friendly with General Squier, head of the Signal Corps. They arranged that Goddard should develop the military uses of his rockets, and the Corps would furnish him funds throughout the war, with me as liaison officer between Goddard, the Smithsonian, and the Signal Corps.

This arrangement led me to witness the most surprising experiment I had ever seen. For after the Corps had sent two officers to see Goddard's research in Pasadena, they recommended that he bring his apparatus to Washington to show results. Goddard arrived in the first week of November, 1918. I went with two Majors of artillery to Aberdeen, Maryland, Proving Grounds.

There, on November 7, Goddard set up two music stands with Y-frames instead of music racks. Laying a three-inch tube of proper end-flare across the two Y-frames, he fired a three-inch rocket through the tube and two sandbags without disturbing the tube or the music stands. *It was the first bazooka.*

I was in correspondence with Dr. Goddard until his death in 1945. Others will tell the Committee of his association with General Lindbergh, the Guggenheims, and with others, and also of the sojourn of Dr. and Mrs. Goddard and assistants near Roswell. At all times Mrs. Goddard has entered fully into her husband's life and work. At Roswell she was active in the social life, and highly regarded.

I will conclude with brief summaries of the great pioneer's achievements:

Dr. Robert Hutchins Goddard, 1882–1945.

Basic Periods of his Researches:

At Worcester, Massachusetts, from 1914 to 1929.

At Roswell, New Mexico, from 1930 to 1941.

At Annapolis, Maryland, from 1942 to 1945.

Chief Accomplishments. Dr. Goddard the first:

1. To develop a rocket using liquid fuels.
2. To fire successfully a liquid fuel rocket.
3. To fire a liquid fuel rocket faster than sound.
4. To develop gyro steering apparatus for rockets.
5. To use vanes in the blast for steering rockets.
6. To conceive the multi-stage rocket.
7. To demonstrate mathematically the availability of rocket propulsion in vacuum.
8. To prove by actual tests that rockets may be propelled in vacuum.

Now, from the publication of the Smith-

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sonian miscellania of the Smithsonian National Physical Laboratory at Cambridge, the first homing rocket satellite for America was called Explorer I, also known as 1958 Alpha, and was predicted to re-enter the earth's atmosphere and stop, in February or March, 1970. Nelson Hayes, in his history of the early days of satellite tracking, says:

"The United States launched its first artificial satellite from Cape Canaveral . . . on January 31, 1958 . . . The Jupiter C rocket thrust Satellite 1958 Alpha into an elliptical orbit with an apogee greatest elongation of 1575 miles, perigee 224 miles. . . . period 114.8 minutes. The payload, weighing 30.8 pounds, carried instruments to measure cosmic rays and atmospheric temperatures, and to detect micrometeors.

"This first American man-made satellite made possible one of the most important discoveries of the International Geophysical Year—the existence of what is now known as the Van Allen Radiation Belt."

So now, after 12 years of making about 550,000 orbits of the earth, Explorer I, that Dr. Goddard's researches made possible, returns to earth, as a first fruit of the era of Man's visits to its other satellite, the moon, by space rockets.

HONORING OF ST. PATRICK'S DAY

Mr. WILLIAMS of New Jersey. Mr. President, St. Patrick's Day, a time of great pride and satisfaction for all Irishmen, is also a joyous celebration for Irish and non-Irish alike throughout the world. Americans are well known for their participation in various festivities honoring the religious accomplishments of this great Irish saint.

St. Patrick's actual birthdate is unknown, but it is believed to have been approximately 380 A.D. His childhood was marked by tragedy, as he was kidnapped by Irish outlaws and sold as a slave when only 16. However, his dedication to religion and his determination to help others prompted him to escape to Gaul and there become a priest.

His priesthood soon led him back to his own land where he devoted his career to the problems of the Irish people. His work in helping the spiritually lost and curing the physically ill earned him in the year 432 A.D. the position of bishop, the first such honor in Ireland's history. It was only 1 year later that St. Patrick was named the apostle to Ireland.

During his more than 20 years as bishop, St. Patrick contributed significantly to the building of a strong foundation for Christianity. A major accomplishment was the founding of 365 churches, most of whose priests he personally ordained. But his greatest accomplishment was the extending of a deep and personal concern and total devotion to the people of his land.

Today, after his death, Irishmen the world over pay tribute to him. Americans, joining in the celebration extensively, have demonstrated their enthusiasm for several centuries. The first recorded such meeting of an Irish American organization was in 1737 in Boston, and the first parade was held in 1776, in New York City. Since that time, the New York St. Patrick's Day Parade is the most thrilling display of our Nation's dedication to the Irish.

I wish, Mr. President, to add my personal best wishes to "the green" this day, and to join in voicing a "slan bheas tu".

SENATOR HARTKE DISCUSSES STUDENT CRISIS

Mr. McGOVERN. Mr. President, it has become all too easy and fashionable for public officials to condemn student unrest on our campuses without making the slightest effort to inquire into the causes of that unrest. The assumption appears to be that any young person critical of current national policies or institutions is at best irresponsible, at worst an anarchist or seditionist. In neither case, we are told, does the student deserve any response other than repression.

Fortunately, not all of us share that view—a view, I may say, far more appropriate to a dictatorship than to a democracy. Some of us believe, on the contrary, that these young people—without by any means being always justified in their criticisms—have something of value to tell us.

We have an outstanding example today of one Senator who has listened and is attempting to understand. In a speech prepared for delivery this afternoon at Indiana State University, Terre Haute, the distinguished senior Senator from Indiana (Mr. HARTKE) perceptively observes that—

> At this point in our history, the actions of students are inspired by a grave cultural pessimism.

And he argues that—

> If we can understand the nature of this cultural despair, we will recognize the character of the threat to the traditional structures of American freedom.

Mr. President, I am struck by the concept of "cultural despair" as applied to student behavior today and by the incisiveness and humanity of Senator HARTKE's analysis. So that his remarks may have the widest possible attention, I ask unanimous consent that the speech be printed in the RECORD.

There being no objection the speech was ordered to be printed in the RECORD, as follows:

THE CRISIS OF STUDENT LIFE

We are already into the second week of March; and it will not be long before this cold winter comes to its official end. The vernal equinox is generally regarded as the event that marks the beginning of the new season. But American colleges have discovered that it is possible to determine the arrival of spring without bothering to consult the Astonomers. The Administration and Faculty of numerous institutions of higher learning have observed that they need only pay attention to the vocabulary of students. The frequent use of such words as sit-in, boycott, ROTC, student power, irrelevant, and non-negotiable demands is a sure indication that spring has broken out.

Since the Berkeley Free Speech Movement and especially since the Columbia University upheaval of 1968, college administrators and faculty have dreaded the "Student Spring"; and have found themselves awkwardly wishing that winters would never end and that summers would come sooner. But each campus insurrection demonstrates that it is impossible to avoid the political storms of that tempestuous season. And those who imagine that the problem could be solved by altering the academic calendar would soon learn that a "Student Spring" can occur any time during the year.

Television has carried the images of rioting students at Harvard and gun-toting students at Cornell into the houses of millions of Americans. And it is not surprising that the rebellious actions of students have provoked an ominous response from a nation that appears to be drifting blindly to the Right. State Legislatures throughout the United States have been flooded with bills that would, if passed, establish repression as official campus policy. The Department of Justice tends to speak of students as a subversive fifth column within the country. And even inside the academic communities administrators and teachers are accusing students of destroying the process of education.

At times, when reading of the reaction to student dissent, I have the impression that the members of the over-thirty generations have declared war on youth. There appears to be little sympathy for students and even less understanding for their problems. Little effort has been made to analyze critically the student upheavals within the context of contemporary American society. It is far easier to blame college disorders upon a vague conspiracy of student anarchists who are bent on havoc for its own sake. I reject this notion of a conspiracy; for it only reinforces the complacency of those who would find it too uncomfortable to look for the deeper roots of social disorder. And I deplore the attempt to subject the student generation to vilification and threats.

By now it is obvious to you that I am inclined to defend the college generation. But defending or condemning is not important in itself. One's partisan reaction must be founded upon an intellectual understanding of the causes of the peculiar response of students to the past decade of chaos.

At this point, I wish to warn you that I do not intend to tell you what I think of boycotts and sit-ins as a political tactic. I do not wish to obscure the real issues of the student crisis with empty moralizing, either pro or con the dissenters. Furthermore, I do not think the form of protest used by students—so long as it is nonviolent—is particularly important to any discussion of the student crisis. I will go so far as to suggest that the problem that I will discuss would be important if a non-negotiable demand had never been issued, if a sit-in had never happened, and if a four-letter word had never been uttered. It is the attitudes and ideals of students that must provoke our concern.

Nearly ten years ago, the distinguished historian Fritz Stern wrote a study of nineteenth century Germany in which he coined the phrase "The politics of cultural despair." Today, I am going to borrow that phrase and apply it to the problem of student life in the United States of 1970. For I believe that at this point in our history, the actions of students are inspired by a grave cultural pessimism. It is important to understand the nature of this cultural pessimism, for it is not the exclusive perception of the left-wing student. It is felt as strongly by the growing conservative force in this country. If we can understand the nature of this cultural despair, we will recognize the character of the threat to the traditional structures of American freedom.

Stated in its most elemental sense, cultural despair is a profound dissatisfaction with the character of national life. It does not spring from economic want; indeed, affluence tends to nourish the intensity of the despair. Rather, it develops out of the belief that national life is predicated on the denial of all spiritual and humanistic values. Cultural despair is an especially angry critique of the modernized society that achieves material well-being at the expense of values that cannot be counted in dollars and cents.

Students have expressed their cultural

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despair in forms that vary from the aesthetic to the banal. It may be expressed in their appreciation of a movie such as Easy Rider, their response to Rock music, or in the use of obscenities to shout down a public speaker—the politics of cultural despair.

But it is important to realize that students see themselves as not just the critics of American society, but more importantly, its victims. Students feel oppressed by the social structure of the society in which they live. And as a result of this, they have become its enemies. They see themselves entrapped in a world from which there is no escape. They consider themselves imprisoned in a society that is impersonal and hostile, one which enforces isolation, encourages loneliness, and demands conformity. The student suffers from the fear that he may be superfluous to society; or no more than an anonymous unit within a faceless mass.

To the student, the draft and the war in Vietnam are the most flagrant examples of his victimization by society. It appears to him that society finds him most useful as cannon-fodder for a war he despises. The inability of the United States to resolve the conflict represents to the student the absolute indifference of the nation to any genuine moral concern. The political process, in which the student is probably too young to participate, has failed to solve the issue of war and peace.

One of the familiar pieces of black humor around campuses these days is that in 1964 the American people voted for Johnson and got Goldwater; in 1968 they voted for Nixon and got Johnson.

Apart from the war, contemporary American society places difficult social burdens upon the student that increase his sense of alienation. While he is in college, the student becomes especially sensitive to the possibility that there is no useful place for him in society.

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In order to gain a better perspective on the social burdens perceived by students, let us compare their college experiences to those of earlier generations.

If you were among the generation that went to college in the 1930's, then you were probably part of a small elite that was guaranteed the consideration of society. For those of us who were educated in the 1940's on the G.I. Bill, college was a place to catch up on the time and opportunities taken up by a popular war. To the generation educated in the 1950's, college was an unquestioned institution attended by those who could afford it. It was either a stepping stone to a career in business or it was a place to pass the time before sliding into comfortable America.

There is no such thing as an age without troubles, nor has there ever lived a human being without problems. But one cannot look at America before the 1960's without being struck by the impression that it was a less complicated land. Before the process of history destroyed the illusion that this was a nation of equals, there was a general faith in the ability of America to solve its difficulties. The moral questions were uncomplicated: in the forties it was Us against the fascists; in the fifties it was Us against the communists. If someone wanted to provoke a moral dilemma, he asked you what you would do if a neighbor tried to enter your bomb shelter after an atomic attack.

The student of the 1960's entered college with a more sensitive moral perspective. He saw America as a nation without ideals—the rhetoric of democracy seemed nothing more than the false tribute paid by vice to virtue. And at the same time, he began to view college as yet another continuation of compulsory education. It was no longer optional, because without a baccalaureate degree, a young man could look forward only to menial labor. And, the expectations of society are not satisfied with the completion of four years of college. Graduate school looms before the student as yet another requirement he must fulfill before he may be initiated into the harried competition of the adult world. Until that time, he remains an adolescent. He must jump through the fiery hoops set before him by a society that is not prepared to accept him until every trick is learned to their satisfaction.

This fact has a significant psychological effect upon the student. I am not speaking figuratively when I suggest that society has subjected the student to a protracted adolescence. The society in which a student lives demands that he be kept in the status of an adolescent long beyond the age when he should be capable of functioning as an adult in society. The technological evolution of society has prolonged a stage of psychological development from its usual seven years to something like fifteen.

And I must tell you frankly that I think that colleges tend to participate in the social oppression of their students. Institutions of higher learning tend to commit the same sins against their students of which society, as seen by the students, is guilty. Colleges give the impression of not really caring about the lives of their students, and they also treat them as children who are not ready to assume responsibility for their lives. From the time when students first resign themselves to college, they are treated as a kind of necessary nuisance.

Once at college, the student finds that his opinions are of little concern to the officials who run the college. An article which appeared in the Saturday Review in 1965 describes the situation very well: ". . . the faculty and the administration rarely relate to the student as an individual. He is conceived rather as an aggregate of different functions, categorically separable from each other, for the management of which different sets of machinery have been set up. Registering, advising, counseling, disciplining, lecturing, grading papers—all are handled by different people who attend strictly to the function rather than to the student."

Students must at some time wonder whether they exist for the institution or whether the institution exists for them. At the very time when a young person should be channeling his abundant energies into positive functions, college directs him to the edge of the abyss of cultural despair. To say the least, college does not excite the student to believe that he matters as an individual. The institution subjects him to the same cold stare that he encounters from the rest of society. College is not the promise of what the world might be, but rather the dreary example of what it is.

It is unlikely that colleges can persuade students that their perceptions of this country are overly pessimistic. Nor should educational institutions attempt to do so. I still believe that educational institutions should allow students to seek and find their own truths. And if cultural despair is the malaise of our times, colleges alone will not find the cure. But it should be the earnest desire of colleges not to be part of the illness . . . and certainly not its cause.

Colleges should abandon the prejudice that students are not capable of participating in the governance of the academic community. They should refrain from emulating the social structures that consider their human constituents to be superfluous.

Nearly a year ago, on March 22, 1969, President Richard Nixon declared:

"Student unrest does not exist in a vacuum but reflects a deep and growing unrest . . . self-righteous indignation will solve none of this. We must resolve the internal contradictions of our communities. There must be university reform including new experimentation in curricula such as ethnic studies, student involvement in the decision making process . . ."

It is to these suggestions that I give my willing bi-partisan support. Colleges must reform themselves so that they serve the interests of students as well as those of the Establishment. If they do so conscientiously, colleges may not raise their students from the depths of cultural despair. But perhaps the fury of their politics will be tempered; and perhaps find constructive application outside the "community of scholars."

ARMY REPORT ON SONG MY AND MY LAI

Mr. STENNIS. Mr. President, the Peers-MacCrate inquiry established by the Department of the Army to investigate the nature, scope, and adequacy of the original Army investigations into the Song My and My Lai incidents has now completed its work and submitted its report. The Department of the Army today released portions of the report and it is expected that the remainder of the report, except for portions classified for national security reasons, can be released at a later date when there would be no prejudice to the trials of those who have been charged with criminal offenses.

The Senate Committee on Armed Services has followed this entire matter very closely since the first report was made to us last summer. We have required the Department of the Army to furnish periodic reports and we held a special hearing on the matter on November 26, 1969, which was followed by a committee news release. The committee will continue to exercise its special jurisdiction over this entire matter and will continue its surveillance both of the alleged occurrences and the question of whether the Department of the Army has properly discharged its duties and responsibilities in investigating this tragic affair and in dealing with those who are allegedly guilty of criminal acts and violations of Army regulations.

Several Army officers and enlisted men have previously been charged with crimes such as murder, assault with intent to commit murder, and similar offenses. As a result of the Peers-MacCrate report, charges have now been preferred against 14 command and staff officers for offenses ranging from dereliction of duty and/or failure to comply with applicable regulations and directives, false swearing and misprison of a felony. All men charged with crimes of whatever nature are, of course, entitled to a fair trial in accordance with the applicable military processes. Under the circumstances, and in order not to prejudice or interfere with the military trials, the committee has not made plans to hold hearings on this matter at this time.

All of us recognize that this unhappy matter has serious and unfortunate consequences, both to the Army and to the country as a whole. The committee will see that the maximum amount of information is released to the public to the extent that it can be without infringing on the right to a fair trial. The Committee on Armed Services has a special responsibility with respect to this matter and intends to carry it out fully.

In this affair it is crucial that justice be administered in accordance with our military processes and without any prejudicial publicity. While there is a special responsibility on the Armed Services Committee, the entire Congress, and the news media as well, has a responsibility to see that all those who are charged with criminal offenses receive a fair and impartial trial. It appears to me that this is an occasion which requires self-restraint by all of us.

As far as I know at this time, it appears that the Peers-MacCrate panel did a good job and performed well in making the investigation into the adequacy of prior investigations or inquiries about this matter, their subsequent reviews and reports within the chain of command, and possible suppression or withholding of information by persons involved in the incident. The Peers-MacCrate report alleges that there were serious deficiencies in the actions of a number of officers holding command and staff positions, and these are the officers who have been charged with additional criminal offenses.

With the filing of the report, and with the criminal charges having been preferred as a result, this entire matter is in the judicial stage and care must be taken that there be no action which would interfere with the judicial process or prejudice unduly the rights of either the defendants or the Government. After these trials are completed, the committee will then take another look at the entire picture and all of the facts for the purposes of making a further determination as to the Army's responsibility and duty with respect to this matter and whether or not they were discharged satisfactorily and in a proper manner.

NEW JERSEY REGION, NATIONAL JEWISH WELFARE BOARD, URGES DIRECT NEGOTIATIONS IN THE MIDDLE EAST

Mr. WILLIAMS of New Jersey. Mr. President, I have received a copy of a resolution of the New Jersey region of the National Jewish Welfare Board urging that peace in the Middle East be pursued through direct negotiations between the Arab States and Israel. I wholeheartedly agree.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION BY THE NEW JERSEY REGION, NATIONAL JEWISH WELFARE BOARD

Whereas over the past year the Four Power talks on the Middle East have resulted in a serious erosion of the American Government position regarding Israel, and

Whereas it is our considered judgment that the relationship between Israel and the United States should be strengthened, and

Whereas the balance of power in the Middle East must be maintained to assure peace,

Now therefore be it resolved that the United States should implement a program to strengthen the relationship with Israel and adopt a policy to pursue the establishment of peace in the Middle East through direct negotiations between the Arab States and Israel.

Adopted at a meeting of the board of directors of the New Jersey Federation of YM-YWHA's the New Jersey Region, National Jewish Welfare Board, January 25, 1970.

HENRY M. RAFF,
President.
MITCHELL JAFFE,
Executive Secretary.

ADDRESS BY SECRETARY OF COMMERCE STANS BEFORE ECONOMIC CLUB OF NEW YORK

Mr. MILLER. Mr. President, Secretary of Commerce Maurice Stans in a recent address before the Economic Club of New York looked forward to the year 1990 and raised some questions about the future of our American free enterprise system.

As the Secretary pointed out, there are around the country today some of the young who place no confidence in our economic system, the irresponsibles who would destroy it without any idea of what is to follow, and the frustrated and bitter who challenge its right to survive.

There are also, he pointed out, the proliferating public critics who indiscriminately attack business in the guise of protecting the consumer, who blame business for committing all the sins of pollution, who find it a convenient whipping boy for all the errors of commission in our society.

If the Gallup poll figures cited by the Secretary are representative, only 6 percent of our college students look forward to a career in business.

While business ought rightfully to be concerned about its public image, at least on our college campuses, the critics of American business might also wonder whether they are not guilty of overkill and negativism. Would they, for example, replace a system where one farmworker produces enough to feed 42 people with the Chinese system where the ratio is one for one? Or would they replace it with the Russian system where it takes 183 hours of work to buy a suit of clothes compared to only 24 hours of work in the United States? What do they propose to replace our economic system with if not Chinese or Russian socialism?

Secretary Stans raises questions concerning the future outlook in taxation, business-labor relations, access to minerals, urban growth, minorities, international trade, business opportunities, and consumer affairs.

I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE MAURICE H. STANS

It is a pleasure to be here tonight—good to be back with so many old friends, good to have the opportunity to speak before this distinguished audience.

Whenever a Cabinet officer with responsibilities for economic affairs comes to New York for an occasion of this kind, he always generates an air of expectancy.

Does he bring glad tidings that will lift tomorrow's stock averages up? Or will a gloomy statement move them down?

I hope that what I say tonight will have a salutary effect on all financial markets. But it certainly won't affect tomorrow's average; not even this year's. Believe it or not, I'm going to wonder tonight about the health of the Dow Jones industrials and all they represent in 1990.

LONG RANGE FUTURE

As important as today's averages are to the ample portfolios represented in this room, I want to talk about something with much longer term consequences for the business community as a whole. I would like to suggest that we undertake tonight, within business and government, a new dialogue whose echo will influence the entire American economy 20 years from now. I want to raise some of the major questions that I think we should be answering in order to assure the progress of our great free enterprise system between now and 1990.

OUR SYSTEM

What I have to say tonight stems from a bias—a strong bias of faith in what we veriously call free enterprise, competitive enterprise, the free market system, or the American way of private capitalism.

There are today around the country the young who place no confidence in our business system; the irresponsibles who would destroy it without any idea of what is to follow; and the frustrated and bitter who challenge its right to survive.

There are the proliferating public critics who indiscriminately attack business in the guise of protecting the consumer, who blame business for committing all the sins of pollution, who find it a convenient whipping boy for all the errors of commission in our society.

I do not exaggerate when I say this. Only six percent of our college students tell Gallup that they look to a career in business. The anarchists milling on our streets admit that they have no plan beyond destruction of today's institutions.

There are those who question the desirability of market building, of advertising, of promotion; who predict the demise of the business world as we know it; who suggest that somewhere around 1990 or 2000 we will all be serfs of an industrial state.

Who is speaking out today in defense of the American business system? Where is the voice of its beneficiaries? Where are those who participate in it and reap its extensive rewards? Why did the Columbia Journalism Review cite as one of the ten least covered stories of American journalism in the 1960's the story of American industry? In short, why are there not more people recognizing and extolling the magnificent effectiveness of American competitive enterprise?

COMPARISONS

Travel around the world and you will see it. Compare ours with the living standards of any other nation. Compare the way in which they live, eat, and travel. Compare their free time for diversion and the use which they can make of it. Compare their limited conveniences of life and the extent of their comforts.

Look at the hard evidence, developed by the Department of Labor: To buy a suit of clothes in Soviet Russia takes 183 hours of work. In France a comparable suit takes 75 hours; in Great Britain 40 hours; and in the United States only 24 hours of work is needed for the same item.

Here's another gauge: In the United States one farm worker now produces enough to feed 42 people. In France one worker can feed only about 6. The figure is about 5 in Italy, and it is one farm worker for only one other person in China.

We're not boasting when we cite these figures. They are simple illustrations that what we have works better than what anyone else has.

With so many cynics nipping at our heels, disparaging the system, ignoring its values, what will we have 10, 20 or 50 years from now? Will we have been overtaken through lack of foresight, planning and diligence, or failure to defend and support its principles?

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MOTIVATION

I've said many times and believe strongly that the superiority of American life is due to the fact that our business system is built upon the most fundamental instincts that motivate people—beyond those of family affection and survival. They are instincts to compete and to acquire and own: Backed by a society and a government that stand for equality of opportunity and freedom of choice, these instincts are the basic incentives that fuel progress. The heart of the American economy, and what makes it so uniquely effective, is its ability to encourage and channel these characteristics into constructive endeavors.

True, there are imperfections. There is inequity in the distribution of our mass products. Business has its malefactors and its shysters. There are many reasons for the consumers to be dissatisfied, for conservationists to be critical, for underprivileged to be unhappy. But we are gaining on all that. There is a will today to give everyone an equal chance at the starting line, and to help those who falter, or those who face obstacles which are not common to all of us. There is a growing recognition by business of the need to become more involved in solving social problems.

1990

1990, a distant horizon that once seemed a long way off, is only 20 years away. The year 2000, which opens a new millenium, is only 30 years away.

Think back to 1950—it was almost yesterday. Yet it was 20 years ago. In that perspective, 1990 is almost tomorrow, and the way the future seems to be approaching faster every day, it will be tomorrow—and then George Orwell's 1984 will be six years old.

In the face of the attacks on the business system and in the face of our failure to defend it adequately, what kind of economy will we have in 1990?

Will we take this system that has given us everything we have and perfect it into one that can give us everything we want?

Or will we let it go by default because we fail to recognize its superiority and build upon it?

Let's vault over the twenty years ahead to the first Tuesday in March 1990. The Economic Club of New York already has a meeting scheduled for that date—March 6, 1990. What will those who gather here wish we had done in the meantime?

MUST PREPARE

The answer to this general question can lie entirely in how well we raise our sights to take a longer view of all the problems that face is, of all the criticisms that threaten us. It lies in whether we will meet every social and economic crisis on an ad hoc basis, and be caught off balance on each unfolding issue and thereby become only half effective in our response.

It depends on whether we have the foresight to marshal forces to enable us to repel unwarranted attacks, but at the same time be honest enough to admit shortcomings and proceed to strengthen the system, to keep it healthy, viable, and responsive to the needs of the Nation in all the years ahead.

Let's consider some of the individual questions that ought to command long range consideration.

TAXATION

What about taxation? Will we have a tax structure that will allow adequate private capital accumulation to permit industry to satisfy the tremendous growth needs ahead? How can we mould taxes to provide the revenues required for realistic public needs, but not so high that they become confiscatory? President Nixon warned recently that the economy would lose its private character and become a state controlled economy, if taxes took a substantially larger portion than the present 37 percent of the national income. Are those people who advocate spending countless billions more on government programs fully alert to the capital requirements of a productive economy? Will we be able to prevent taxes from growing to levels which destroy individual incentives to expand income? Can we build into our system some kind of a check, some kind of a formula, for the proper allocation of national income between the private and public sectors?

BUSINESS-LABOR RELATIONS

What about the relations between business and labor? Isn't it about time that someone came up with a more rational way to settle disputes than through strikes and lockouts? Such head-knocking methods may have been the only recourse to the two parties in the brutal beginnings of the Industrial Revolution in the Nineteenth Century. But must we suffer through more of the same for the next twenty years? In the computerized society of 1990, can't some programming genius devise formulas for apportioning a fair division of profits and wages, based on principles acceptable to both labor and management? Is this more difficult than getting to the moon? Maybe it would blow every transistor that IBM owns, but I'd like to see it tried.

ACCESS TO MINERALS

To provide our standard of living, our economy demands vast quantities of raw materials.

What about our access to world supplies of minerals in order to meet the needs of a dynamic economy 20 years from now?

Recently we've experienced shortages in such critical raw materials as copper, nickel, chromite, antimony, platinum, silver, and other metals. There's a lag in coal mine investment at home, and there are problems of acquiring new deposits of other minerals abroad. There is potentially a world maldistribution of oil and gas, both vital substances for a future economy.

We are living in a world of limited natural resources but unlimited expansion of requirements. Are we heading toward material shortages that will stymie our growth?

Shouldn't business and government be taking more positive steps together to assure sufficient access to critical materials and products in the decades ahead?

URBAN GROWTH

What about the problems of urban growth? Our population will increase by 100 million during the next 30 years. This is equal to more than 250,000 a month—a city the size of Tulsa every thirty days. Where is industry going to locate its new facilities in order to avoid the anthill society of megalopolis? Can business maintain a rising level of productivity in the face of increasing diseconomies that will result from further concentrations in our present metropolitan areas? Wouldn't everybody gain by the building of new, well planned cities from the ground up and by expansion of our present small cities that are some distance from today's overcrowded areas? Won't we be a healthier country if our people and our businesses are spread more broadly across the landscape? And what kind of government—national, regional and local—is business going to advocate and support to deal with problems we have not yet even imagined, when we have those 100 million new people just 30 years from now?

President Nixon has proposed a national growth policy to help guide urbanization in order to raise the quality of American life and avoid the counter-productive results of chaotic industrial expansion. Again, shouldn't business and government at all levels—national, state and local—be planning and working together to assure successful patterns of urban growth in the long term future? Other major industrial nations in the world are guiding their urban development. Shouldn't we, the most industrialized of all, be the one to show the way?

MINORITIES

What will we have done to bring the underprivileged American minorities into the mainstream of the economy? Will the prommise of the American dream become a reality for this 15 percent of the population as it is for the rest of us—not only the security of equal employment but also the equal opportunity to be an owner, an employer, a capitalist? So long as only 85 percent of our people can participate in our system, we will never have full understanding of it, full respect for it, and full assurance that it will survive. How can government and business best combine to guarantee an equal place at the starting line for everyone?

INTERNATIONAL ECONOMY

What about our position in the international economy? The trend toward a one-world market is gathering momentum every year. Regional trading blocs will likely be merging, common currencies are under active discussion, direct overseas investment is erasing traditional trading patterns. Where does this leave the United States, the greatest trading nation in the world, but the one with the highest wages and the highest standard of living? Will we continue to be competitive?

With our military research on the decline, can we maintain the scientific and technological lead that enabled us in the past to compete with low-wage countries in civilian markets? Will we be able to continue our innovative advantage? We know that we have no corner on knowledge; knowledge knows no boundaries. Not only do we freely export our most sophisticated machines; the scientists and engineers of other countries are generally as capable as our own. And in many other industrial countries, a far greater proportion of their research and development than ours goes into improving civilian goods which they export. Some of their governments also are far more aggressive in promoting international trade. In the face of all this, how are going to restore and maintain the healthy merchandise trade surplus that has been the mainstay of our balance of payments and the footing for our dollar?

BUSINESS OPPORTUNITIES

In the midst of considering the hard questions that will affect us all, what is to happen to the individual businessman in a nation increasingly overcrowded? In our country, it is traditional that businesses start small and grow. Twenty years from now, will the opportunity still exist for anyone with an idea to start his own venture and capitalize on it? How do we maintain an environment that helps small business to succeed and grow and become big?

If the merger wave of the last few years continues, for good or for bad, what will the economy be like in 1990? Can we define more effectively the point at which agglomerations of capital or of enterprises are most efficient? And what is the right balance between government regulation and freedom for business operations—and how do we get there?

CONSUMER AFFAIRS

Consumerism is a growing issue—and rightly so.

How do we provide the consumer of 1990 with improved quality, safety, and value—and still at a price he can afford?

How do we give the housewife the simplicity she wants in the supermarket and at the same time not deprive her of the variety of choice that competition brings?

How do we provide the consumer with reasonable product standards without destroying the incentive for someone to build a better mousetrap?

CONCLUSION

These, then are some of the critical matters that I believe the leaders of government and business must begin addressing themselves to jointly, if we are to meet our responsibilities to the future. There are many more: the long term problems of inflation, the environment, multi-national corporations, communications, the needs of less developed nations, and so on.

If 1990 is to be what we want it to be, business organizations and their leaders must raise their eyes more often from the profit and loss statements to take a long look down the road. They will have to rise above the problems of their own individual enterprises and help to seek solutions to broad problems of the whole society.

In short, we need more effort to seek sound answers to long range questions:

More dialogue, more open debate about the future;

A stronger defense of the system;

More statesmanship on the part of business, labor and government;

A reduction of class antagonism and an end to demagogic abuse of business;

A weeding out of the few who thrive on shoddy practices and thus discredit the many;

A willingness by business to become more involved in evolving social problems;

A fresh, forward-looking approach to tomorrow, as though our very survival depended on the right solutions—as indeed it does!

EPILOGUE

Let's travel ahead in the time machine to 1990 for a moment. Your club members have assembled for their March 6 meeting. There are only four survivors. The others have joined an outfit called GOOP, Government Organization of Officials in Production.

A veteran member gets to his feet. He recalls the meeting of 20 years before at which some government official whose name he had long since forgotten suggested action on the long term problems of the future.

"As we all know," he says, "it was just a lot of empty rhetoric. Nothing ever came of it. We lost our place."

The other three club members then open their box lunches and start munching on fish meal sandwiches and cold potato salad.

The speaker feels a drop of water on his head and looks up.

"I move that we don't meet here anymore," he says. "This old barn is leaking."

Now turn the dial on the time machine to another channel, again in 1990:

The speaker this time is another government official whose name also will be forgotten in a few years. He has a report to make:

The Gross National Product has just passed $4 trillion.

The unemployment figure stands at 162—all in Alaska.

There have been no strikes for 3 years.

Literacy is at 99.44 percent.

Average family income is $40,000.

The work week is 30 hours.

The Dow Jones industrials are at 2800!

Our national life is vibrant, free, stimulating and at peace.

If we achieve all of this, there will be only one reason.

It will not be because government managed it.

It will not be because an entirely new system has taken over.

It will not be because extremists and defeatists have had their way.

It will be because we found the right answers to the long questions, and continued to build and perfect the greatest machine for abundance the world has ever known.

NATIONAL OPERA COMPANY

Mr. JORDAN of North Carolina. Mr. President, teenage tastes are generally not thought of as running to culture and the rock and roll music they favor is usually a far cry from opera.

So it may come as something of a surprise when I report that last year in North Carolina the one-millionth student attended a performance of live opera in the State in a series that has been running since 1950.

It was started by Mr. A. J. Fletcher, a Raleigh attorney and businessman, whose own love for opera was born when he heard his first aria from Faust as a boy of 12 in his hometown of North Wilkesboro before the turn of the century.

He decided to form a group of singers to present operatic scenes which he hoped would provide training for young musicians and at the same time create an appreciation for the art among youthful audiences.

The idea caught on. First known as the Grass Roots Opera Company and later renamed the National Opera Company, the troupe has presented more than 1,900 performances in North Carolina and other States since its establishment and has given practical experience to more than 200 performers, some of whom have gone on to take leading roles with the Metropolitan and other opera companies in this country and Europe.

While the project has never been completely self-supporting from box office receipts, it has operated without use of any tax funds—a source of pride to its backer, who has made sizable personal contributions every year to keep it going.

The opera company and its sponsor are the subject of a feature article published in Music Journal for October 1969. I ask unanimous consent that the story be printed in the RECORD, to acquaint readers with more details about this unusual venture.

There being no objection the article was ordered to be printed in the RECORD, as follows:

OPERA IN THE SCHOOLS

(By David H. Witherspoon, general manager, National Opera Co.)

"I liked the opera in many ways. It was funny in some ways, dramatic in some ways and full of romance. I once thought it was just a lot of phony screaming that was supposed to present foreign languages. Going in I heard one boy say he wished he had his earmuffs. When we were coming out, I heard the same body say he would never miss another opera."

Such was the impression of Bill Winters, Grade 6, Edgemont School in Rocky Mount, North Carolina, after having seen opera for the first time. On October 1, 1951, the National Opera Company, then known as Grass Roots Opera, initiated a program of opera appreciation in the schools of North Carolina. The attraction was Mozart's *Cosi fan tutte*, which gained more attention when billed as *School for Lovers*. It was sung in English, as have been all of 1900 subsequent performances.

Since that autumn afternoon, a large percentage of the performances by the various troupes have been given in the state, from the westernmost town of Murphy in the Great Smokies, to Manto, an island on the east coast.

On May 1, 1969, the current group of singers played to the one-millionth in attendance at North Carolina school performances in Rutherfordton, N.C. Steve Oates, an eighth grader who was attending his eighth opera performance, was designated to receive the honor. The attraction was *The Italian Girl in Algiers*, a comedy by Rossini.

This unique experiment in opera was conceived by an attorney and businessman of Raleigh, A. J. Fletcher. A life-long lover of the arts and an actor and singer of considerable ability, Fletcher realized the uninitiated must be exposed to art in order to appreciate it.

Accordingly, he formed an opera troupe of avocational singers to present performances sponsored by music clubs and civic organizations. The performance sites varied from plush hotel ballrooms to drafty school gymnasiums.

The next step was a collaboration with the public schools in matinee performances. For this a group of full-time singers was recruited. The constant polishing of roles before live audiences proved to be a boon to the young singer. Also, hearing an opera performed in our own native language opened up a new vista of entertainment and cultural appreciation to thousands!

Great care is taken in choosing opera for student consumption. Experience has proved that young audiences will not sit through static works, no matter how beautiful the melodies. Action, color and humor are looked for in selecting the repertory. Attention is given to securing the best English translations available.

Classroom teachers and music supervisors are furnished a teaching guide which outlines the story of the composer's life together with a resume of the opera plot. Taped excerpts with narration are furnished along with action photographs of scenes. In instances where music supervisors are not available, the National Opera Company will schedule a representative to brief student assemblies on the opera by the use of sound movie film and slide presentations. The running time of the matinee does not exceed one hour and thirty minutes.

Imaginative teachers carry the study still farther. In art classes model sets are constructed and painted; glee clubs are taught choruses and principal arias; English classes are assigned essays on the life of the composer and reviews of the performance; drama classes work out the action of the plot; and one enterprising music teacher presented a fifth-grade version of Carmen after a visit by the opera company with that popular work.

In productions of Hansel and Gretel, Carmen, and Martha, local student choruses have been used. Assigned music is sent to the school music department well in advance of the performance. When the students have memorized the work, a company representative visits the school to map out the limited stage action. On the day of the performance, a few rehearsals with the cast complete the preparation. Of necessity the chorus passages are brief, but the lack of polish is compensated for by the enthusiasm of the participants. Supers from the schools are used in other works, provided they fit into the costumes furnished by the Company.

The musical innovation in North Carolina has resulted in an invaluable training ground for hundreds of young singing aspirants. Two such performers, Jeanette Scovotti and Elfego Esparza, went on to the Metropolitan where they appeared in leading roles; Arlene Saunders is one of Europe's leading lyric sopranos, based at Hamburg State Opera; William Beck and Mary Jennings starred this summer at the Central City, Colorado Opera; Kay Creed, Judith Anthony and Patricia Wise will sing leading roles this coming season with the New York City Opera; Glade Peterson is a leading tenor with the Zurich Opera; others are appearing with companies in both this country and in Europe.

The National Opera Company's activities are by no means limited to appearances in North Carolina. During the 1955–56 season, a regional tour of the southeastern United States was arranged by Alkahest Attractions, Inc., of Atlanta. The Company has been booked each succeeding season by that

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agency, as well as by other agencies in different parts of the country. In one season, the young singers travelled from Bangor, Maine, to Santa Fe, and from North Dakota to Miami.

Singers come to the Company from college music departments and conservatories. Other more experienced singers find the North Carolina company an ideal place to perfect different type roles. For example, Arlene Saunders toured two seasons as Carmen and Dorabella. After a year's study with a different teacher, she returned to sing the soprano roles of Rosalinda and Fiordiligi. The same is true of Delores White, who later sang with the Chicago Lyric. And this past season, a veteran baritone who had become "typed" with buffo parts jumped at the chance to sing lyric baritone roles in *Don Pasquale* and *The Italian Girl*. He is now singing the elder Germont in Europe.

In planning the twenty-first consecutive season, Fletcher has not deviated from his original aims: To give experience and employment to young singers; and, to give the public an opportunity to hear opera performed in the native tongue of the audience. He continues to audition singers, plan repertoire and experiment with innovations in the promotion of opera. Last season, in preparation for performances for blind students, the story of the opera was produced in braille in order that the youngsters might follow the story as the action unfolded. His television station and radio station are used to publicize performances in the viewing and listening area.

Productions for the 1969–70 season will include *La Perichole*, Offenbach; *The Italian Girl in Algiers*, Rossini; and *The Marriage of Figaro*, Mozart. The Musical Director for the season is Don Wilder, a musician well-versed in opera, symphony and musical comedy.

BOARD OF TRUSTEES, HAR SINAI TEMPLE, TRENTON, N.J., URGES CONTINUED U.S. SUPPORT FOR ISRAEL

Mr. WILLIAMS of New Jersey. Mr. President, on January 19, 1970, the board of trustees of Har Sinai Temple, in Trenton, N.J., adopted a resolution urging continued U.S. support for Israel. The resolution urges direct negotiations between the parties to the Middle East dispute and continued U.S. military and economic assistance to Israel.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection the resolution was ordered to be printed in the RECORD, as follows:

JANUARY 29, 1970.

Hon. HARRISON C. WILLIAMS,
U.S. Senator,
Washington, D.C.:

The Har Sinai Temple Board of Trustees at its regular meeting on Monday evening, Jan. 19, 1970, unanimously passed the following resolution:

1. Are appreciative of our Government's statement consistently identifying United States Policy as one which seeks to attain a lasting peace with secure and agreed boundaries, through direct negotiations by the state of the Midle East followed by their binding agreements. This has been the position consistently declared by our Government and we urge that there be no deviation from it.

2. Any concessions regarding the cease fire lines without direct negotiation between Israel and the Arab countries will increase the military imbalance within that area and will reduce the base for genuine peace negotiations.

3. We welcome the action taken by our Government in the past year to strengthen Israel's capacity and to deter aggression. We also urge that this assistance be broadened to assure the economic requirements of Israel's security.

4. We urge our Government to do all in its power to bring the governments of the Middle East to the peace table without limiting pre-conditions.

EDWARD M. LEVIE,
President, Har Sinai Temple.

ROUGH TIMES FOR THE SMALL INVESTOR

Mr. BIBLE. Mr. President, as chairman of the Small Business Committee, I feel that I should point out to the Senate that we have apparently entered an increasing rough era for the small investor.

During the past month, we passed two landmarks along this path. At the end of February, it was announced that the U.S. Treasury would no longer sell its short-term Treasury bills in $1,000 lots, which had become popular with small savers, and that the minimum purchase would be $10,000.

Thus, so far as the Department of the Treasury is concerned, anyone having less than $10,000 in liquid savings should purchase a savings bond or make a deposit in a bank, savings and loan association, or credit union where the rates of return are as much as 2½ percent lower.[*] Hobart Rowen of the Washington Post concluded:

> The small saver and investor is taking it on the chin . . .

Another dramatic sign of these new times was the proposal by the New York Stock Exchange which emerged during the week of Friday, February 13, an unfortunate period for any young investor who may be tempted to believe securities industry advertising that he can still "buy his share of American industry." The exchange declared that it wants to raise commissions as much as 116 percent for small stock transactions, while at the same time lowering them as much as 60 percent on the largest transactions.

The stock exchange launched this proposal with great fanfare, complete with a computer study which purported to show that such a new commission schedule would be "cost-related." Actually, the income against which these costs were matched was understated by $1 billion a year when this supposedly objective report failed to mention any brokers earnings from underwriting, mutual funds, investment, and advisory services. These are significant omissions since it would be impossible for these firms to bring in this $1 billion without the large network of small customers which has been built upon the basis of commission sales business.

This proposal prompted columnist Philip Greer to state that the Stock Exchange is seeking to raise its overall rates "all on the back of small investors."

There is certainly a relationship between private proposals and public policy. It is natural that Wall Street brokers and bankers and giant corporations will seek to advance their own interests. These industries are well organized and well represented in the Government. The small investors, small savers, and small businessmen in contrast are fragmented, and underrepresented. They must be defended in the councils of Government if any kind of balance is to be maintained.

It is quite clear that public policy or the absence of policy sets the climate for and encourages private action. I recall a statement of 1968 to the effect that there should be less heavy-handed regulation of the securities business. We are now seeing some of the consequences of how this philosophy works out in practice. It is boiling down to additional pressure, including legal restraints on the small investor, in favor of large corporate investors which are pushing for higher profits as the small investments are forced into institutional channels. Wealth and stockownership are already highly concentrated in this country. Probably as few as 2,500 institutions currently account for more than half of all stock transactions. What happened in February will accelerate these trends and constitute further major pressures in the direction of cutting down individual judgment, individual risk taking, initiative, capital accumulation, and enterprise by people of limited means in the 50 States.

As I have noted on previous occasions, these developments come on the heels of a year when interest rates set by private banks, without objection from the administration, rose to the highest peaks since the Civil War, when small business loans from the Federal Government were cut 58½ percent, and where the tax law was changed unfavorably to small business at several key points. All of these public policies make it seriously more difficult to begin a business, to make a small firm profitable, and to allow it to compete and retain its independence.

I suppose that, as compensation, we will now hear a series of speeches from administration officials with noble rhetoric about how small enterprise is truly the backbone of the Nation, as the Congress declared in the Small Business Act of 1953.

However, the actions of this administration are flying in the face of these values. The truth is that its policies favor the large corporate and financial corporations and are strangling small centers of enterprise across the country.

Mr. President, I ask unanimous consent that the two articles from the Washington Post be printed in the RECORD.

There being no objection the items were ordered to be printed in the RECORD, as follows:

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[*] On January 20, the Federal Reserve System announced increases on maximum interest rates payable on savings and time deposits, of which the following are a sample:

	Percent
Bank passbook	4.5
Less than 100,000, up to 1 year	5.0
Less than 100,000, 1 to 2 years	5.75

See *Federal Reserve Bulletin*; January 1970, pp. 105–106.

As of February 27, although "Treasury bill yields have declined spectacularly . . . about 115 points (since the beginning of the year)," 3-month Treasury bills were yielding 6.85%, and 6-month bills 6.78%. *Comments on Credit*, Saloman Brothers & Hutzler, Feb. 27, 1970.

NYSE Proves Cynics Correct in Data Game

(By Philip Greer)

New York, February 22.—Cynics are given to say that statistics can be twisted to demonstrate anything. The New York Stock Exchange has just proven the point.

The exchange's proposed new commission rate schedule, which has now been scaled down to nothing more than a collection of computer data that must be refined into a schedule, is an exercise in statistics that, unfortunately, bears little relation to reality.

The plan, which the exchange presented to the Securities & Exchange Commission 10 days ago—amid a veil of secrecy that would warm a CIA agent's heart—is so full of holes that Big Board President Robert Haack has downgraded the proposal to raw data. The plan drew even more flak than was expected in Wall Street and it is obvious that changes will have to be made.

Judging by members' reactions, the final schedule will have to call for smaller, but still hefty, increases for small investors and higher but still reduced charges for institutions.

While the final numbers shown in the proposal no longer have any validity, the basis for the recommendations—a $500,000 study of the costs of executing and processing orders—is still very much alive. And that part, too, has a number of holes.

As part of the campaign to sell the rates, the exchange sent out two 100-page volumes which it says contain the economic justifications. Stripped of all the wasted matter, such as copies of transmittal letters and totally useless statistics, there are about 40 or 50 pages of good solid figures.

One section discusses the various components of brokers' income and explains how National Economic Research Associates, which conducted the study, decided which elements should be counted as securities commission income and which are other activities which brokers just happen to be involved with. In a word, the conclusions are incredible.

The report blithely rules out income from such sources as underwriting, mutual fund sales, investments, advisory services and a few others. In all, these areas represented $999.7 million in revenue for the brokers in 1968 and $538.6 million in the first half of 1969. The report also largely ignores profits and losses from block positioning, which is confined to institutional firms and generally produces small profits. For the first half of 1969, the "untouchable" income amounted to nearly 50 percent of the revenues from commissions.

Now that's a bit of surgery to make Christian Barnard proud. All they've done is remove all the benefits of the exchange membership from consideration as a source of broker income.

Take an example. At the larger retail firms, the underwriting and commission businesses are inseparable, even by NERA. The main reason why Bache & Co., for one, does as many underwritings as it does is that the firm's vast retail network—built up on the commission business—can pump out virtually any number of shares virtually overnight. A company needing investment banking services goes to a banking firm—Lehman Brothers or Morgan Stanley or many others. When it goes to Bache or F. J. Du Pont, it's because the company wants distribution—through a network whose prime function is the commission business. So NERA is saying, in effect, that the retail customer—that's the little guy—has to pay the bill of that network so that the brokers can use it—gratis—for stock distribution.

Much the same argument can be made for retail firms that are heavy sellers of mutual funds. Bache, in fact, sells more fund shares than any other member firm and gets a lot of stock exchange business in return. It's those same retail salesmen who do the selling and NERA wants the small investor to pick up the tab there, too.

For years—as the exchange knows, even if NERA doesn't—brokers have operated on the principle that, if the sales force produces the money to cover the overhead, the partners can take care of the gravy. Now the gravy is being reserved as an exclusive right, not to be counted when toting up the bill for brokerage services. Personally, I'm amazed that the exchange had the nerve to present that kind of package.

There are other places where the proposal runs into trouble. The primary function of a stock exchange is to provide continuous and orderly markets. Exchanges are specifically exempted from anti-trust prosecution, but only so long as it is necessary to provide those markets.

The NYSE's proposals, however, are aimed at protecting the brokers, not the market. By definition, that's what a "cost-related" commission schedule does. The schedule takes money away from the institutional, block-trading firms whose help and capital are needed almost daily to absorb the giant blocks of stock that come in from mutual funds, banks and the others. It showers money on the retail firms whose help is not needed on the exchange floor and who have shown that the first thing they do with money is stick it in their pockets. If that's maintaining the market, I better get a new dictionary.

I buy the argument that commissions should be increased. Not by the over-all 10 per cent the exchange is asking for and certainly not all on the back of small investors, but brokers have higher costs and they should be able to raise the tab a little. But on the basis of a so-called "cost study" that carves out all the white meat and leaves only the bones? Out of sight, man.

The Small Investor Gets a Rough Deal

(By Hobart Rowen)

The small saver and investor is taking it on the chin these days. Like the big boys, he suffers as the dollar depreciates through inflation: the consumer price increase of nearly 6 per cent in 1969 was no less for him than anyone else.

But when he places his dollar bill out for lending or investing, it doesn't seem to go as far. Even the New York Stock Exchange, which once prattled about "investing in a share of America," now wants to jack up commissions as much as 116 per cent for small trades and lower them as much as 60 per cent on the biggest transactions.

The latest step in this discriminatory process was taken by the United States Government itself by reserving the attractive interest rates paid on Treasury bills for larger investors.

Last week, after a battle inside the administration, the Treasury announced it would no longer sell Treasury bills in $1,000 lots—which had become popular with smaller savers—and that the minimum denomination would be $10,000.

The Treasury's plea was that the cost of processing a $1,000 bill was excessive, and that the small saver paying a fee to a banker or broker was losing part of his "real" return anyway.

"Treasury bills are a money market instrument," Secretary David Kennedy told the Joint Economic Committee. Better, the implication was, buy U.S. Savings Bonds which pay 5 per cent, than bother the Treasury for bills which recently have been paying 7 per cent, and paid as high as 8 per cent earlier this year.

Many experts think that the Treasury's plaintive note just doesn't wash. If it uses horse-and-buggy methods of issuing bills, each piece of paper may be costing too much money; but presumably, if computers can be used to trace a path for a rocket to the moon, they could be used to lower the administrative costs of borrowing money from the public.

The real reason for the change, as Secretary Kennedy has admitted privately, is that the savings and loan lobby brought terrific pressure for it. Much of the flood of orders for Treasury bills in $1,000 and $2,000 lots came from people who took their money out of the S & Ls.

That was tough on the S & Ls, which have been the backbone of mortgage support for the housing industry. But it made sense for depositors, who were limited for most of last year to 4¾ per cent on regular accounts and 5¼ per cent on savings certificates.

Recently, the rate structure was adjusted so that the S & Ls can pay 5 per cent on regular savings. And to get as much as 6 per cent, you have to have a minimum of $10,000, and leave it for 2 years. But if you can part with $100,000 for one year, 7½ per cent is now available at S & Ls.

It is little wonder, therefore, that Treasury bills proved so attractive: they paid more, for modest amounts, than available elsewhere. Large banks in this city used to buy them for regular customers as part of their service; more recently, they have put a $5, then a $10 charge on each transaction.

Investors who have direct access to Federal Reserve banks have been able to buy bills without any charges. It is also possible to buy bills directly on a mail-order basis; there is some red tape involved which the Treasury could simplify but doesn't choose to do.

Outside of the Treasury, the discrimination is readily recognized. "This issue is a live one," Economic Council Chairman Paul W. McCracken agrees. The problem as he sees it traces back to the artificiality of interest-rate ceilings at banks, originally intended to prevent the payment of interest higher than "sound" practices would warrant.

But then the ceilings became a device to help protect S & Ls from a massive loss of funds. That worked until it dawned on the small investor that he could "beat" the ceiling limitation by investing directly in Mr. Kennedy's "market instruments."

Apparently, only the fatter cats are supposed to deal in these. In fact, just three weeks ago, the Farmers Home Administration (a government agency) sold $200 million worth of 8⅞ per cent 5-year notes and $150 million of 8.90 per cent 10-year notes. And guess the minimum unit? It was a cool $1 million each.

In New York the other day at a meeting of the National Industrial Conference Board, Federal Reserve Board adviser J. Charles Partee, asked whether the small investor was being treated unfairly in view of the new Treasury bill minimum, said:

"I think clearly we're discriminating against the small saver, and I think it's terrible. I think there's some logic for a difference (in rates) based on costs (of the transaction) and liquidity."

But the differentials between what is available to the large investor, and the smaller man have become excessive, Partee said, adding: "I would hope that we're moving toward (a situation) where the market would determine the differentials."

This ideal system, however, is a long way off: we are so locked into the system of ceiling rates that if they were removed entirely, the S & L industry would collapse while savers sought better returns.

For the moment, McCracken says, the government should be working "on something that will give the little saver a better break," perhaps through an instrument "more appropriate" than Treasury bills.

Clearly, something like this ought to be done. If the Farm Credit people can pay around 9 per cent for 5- and 10-year money, why should the average citizen accept 5 per cent for a 10-year U.S. Savings Bond? He shouldn't. Given the pattern of interest rates today, he's entitled to more. The return on savings bonds doesn't even match the rate of inflation.

If bills aren't the "right instrument" for the smaller investor, Secretary Kennedy ought to put his boys to work to find one.

THE IMPORTANCE OF COAL

Mr. WILLIAMS of New Jersey. Mr. President, as most Senators know, I have been concerned for some time with conditions affecting the coal industry, particularly with relation to the well-being of coal miners. Most recently, I have sponsored the most comprehensive coal miners health and safety act ever passed and the Senate Labor Subcommittee, which I chair, is conducting hearings into the United Mine Workers election of 1969. Those hearings are continuing this week and we are directing our inquiry specifically at the handling of the mine workers' pension fund.

Since my State of New Jersey is not exactly a leader in coal production—as a matter of fact, we do not produce any—it may seem strange to some people that I have taken such an interest in the coal industry. There is a good reason for my interest, because what happens within the coal industry could very well have an impact on millions of people in New Jersey and elsewhere in the Nation who live hundreds of miles from the nearest coal mine.

Most people have very little idea of how dependent this country is on coal. They realize vaguely that many industries, such as the steel industry which is basic to our economy, rely heavily on coal. But for the most part it would come as a surprise to most people to find out that millions of Americans are directly dependent on coal for the electricity which is an essential part of their daily lives.

Last year more than 310 million tons of coal was consumed in this country in the production of electricity. That represents nearly 55 percent of our total coal consumption. In my own State alone, more than 4 million tons of coal were used to produce electric power.

It is true that utility companies are converting increasingly to use of hydroelectric or nuclear power to produce electricity, but they still rely to a very large degree on coal. Last year, nearly half of all electricity consumed in this country was produced by coal-burning generators. In New Jersey, utility companies rely on coal to produce 33 percent of the electricity used in the State.

In many parts of the country, utilities are taking advantage of power generating stations located right at the mouths of coal mines. For instance, in central Pennsylvania there are eight mine-mouth power stations which make up what is known as the Chestnut Ridge energy center. It has a power output of some 6.7 million kilowatts which is more than the combined output of the giant hydroelectric installations at Niagara Falls, Grand Coulee, and Hoover Dams.

The image of the coal industry in this country has been one of an industry which is declining because of declining demand for its product. A few years ago this may have been accurate, and it may well prove to be accurate over the long-haul in the years ahead. But the fact of the matter is that at the present time the demand for coal has increased substantially and the supply has not kept pace, creating a potentially dangerous situation.

Between 1967 and 1969, while coal production remained stationary at about 550 million tons a year, consumption increased from 530 million tons to 564 million tons. Because production lagged behind needs, coal consumers used up 19 million tons out of their reserve stockpiles. As a result, reserves are now well below normal levels. Utility companies, which like to keep enough coal on hand to operate for 90 days, are now down, on the average, to only enough to last them for 64 days.

In some places reserves are well below that level. The power manager of the Tennessee Valley Authority reports that nine of his plants have only enough coal on hand to operate for a maximum of 2 weeks.

What all this means is that this summer, when use of electricity goes up in direct relation to the temperature, this country could face a critical power shortage. The Federal Bureau of Mines tells me that to be sure of avoiding an electrical shortage our coal mines must produce an average of 11 million tons a week. Last year they produced an average of only 10.6 million tons a week and the bureau says that similar production figures this year could cause serious problems.

There are many reasons for the coal shortage, but one important one is labor unrest. I believe our coal miners have legitimate grievances which have gone unanswered far too long. They sometimes are forced to strike in order to make any gains at all, and strikes have a dramatic effect on coal production. Last year, when miners in West Virginia walked off the job for 3 weeks to dramatize their demands for economic protection from the incurable "black lung" disease, their strike resulted in loss of about 9 million tons of coal production.

According to the Bureau of Mines, a similar work stoppage this year could be very serious in the effect it would have on the supply of coal to electric utilities.

It is clear that what happens in the coal fields is of great importance to the entire country. That is why I have devoted so much attention to this area even though there is not a single mine in my own State.

I hope that through attention to the serious problems facing coal miners we can avoid any crippling walkouts. I believe that if we demonstrate to the men in the mines that we are sensitive and responsive to their problems they will not feel compelled to resort to strikes which could cause a critical loss of electric power for much of the Nation.

SOUTH KOREAN THREAT TO NORTH PACIFIC SALMON RESOURCES

Mr. MAGNUSON. Mr. President, as many Members of this body are well aware, I have long been concerned with the conservation and future of the North Pacific fishery resources. Most often, my remarks have dealt with the salmon fisheries, but problems with halibut, king crab, and other species have been a regular subject of discussion as well.

In recent years I and others have devoted considerable time and effort toward pursuading the Japanese to reexamine the International North Pacific Fisheries Convention and the spirit and intent of that tripartite treaty so that our anadromous salmon fisheries might continue as a valuable renewable resource to the commercial and recreation interests on the west coast of the United States.

During the past 2 years, a new threat has arisen to this important resource, and if not halted could well bring about the abrogation of the entire North Pacific Treaty regime.

Three nations are signatory to this convention: Japan, Canada, and the United States. It has been in force since June 12, 1953, and though there has been considerable interpretive debate between the parties, it has served to protect and conserve a high percentage of the Pacific salmon resource. Although the Soviet Union has developed a tremendous harvest of other stocks of fish in the North Pacific area and along the Pacific States, she has consistently pledged abstinence in the matter of salmon. This is understandable for the Soviets have salmon resources of their own and well recognize the inherent danger of a high seas net fishery on a specie which must return in good quantity to its stream of origin so that the escapement needs are properly met for spawning and continuance of the runs.

The new threat which I mention to the Pacific salmon resource comes from South Korean fishermen. Although these fleets have departed their home ports destined to harvest other species, it is a recorded fact that substantial quantities of Pacific salmon have been taken in net fishing activity off the coast of Alaska during the 1969 season.

Although the South Korean Government assured us the 1969 fleet was not authorized to fish for salmon, documented evidence including photographs of the fleet actually operating demonstrate that salmon was taken and eventually marketed by a Korean-owned Japanese trading company.

In November of last year, the three parties to the North Pacific Convention, meeting at Vancouver, British Columbia, unanimously adopted a resolution calling attention to the dangers of the South Korean entry into the salmon fishery.

Following the 1969 season, I have received increasing information, both formal and informal, of the intent of South Koreans against participating in the salmon runs. Early this year it became very apparent to me that, despite the Korean Government assurances that their vessels would not be licensed or instructed to fish salmon, that not only was such a fishery contemplated by the operating fishing company, but that it would be on a much larger scale than that of last year.

As a result of this information, I met on March 10, along with my colleague from Washington (Mr. JACKSON), and some of our colleagues from the House of Representatives, with His Excellency, the Ambassador of Korea Don Jo Kim. Our own fisheries Ambassador from the Department of State, Donald McKernan, and Deputy Assistant Secreatry Charles Meacham from the Department of the Interior, were also present.

I was impressed with Ambassador Kim's understanding of the problem and convinced that the Korean Government wants to work out a formula which might prevent problems in the good relations now existing between our two countries. I felt that he sincerely desired to assist in halting any harvest of salmon of North American origin on the high seas by South Korean nets.

On the following day, March 11, Senator Jackson and I, along with Senators and Representatives from all of the Pacific States, met with representatives of the concerned agencies and departments of our Government, including State, Interior, and the U.S. Coast Guard. Also present and presenting very critical concern were representatives from the west coast industry and State officials. I felt that the meeting was fruitful.

In opening the second meeting, I presented a brief statement which included a four-point understanding of direction arrived at in the meeting with Ambassador Kim.

I would like to include at this point my opening remarks at that meeting which give a general summary report of the situation together with the four points which hopefully could solve this difficult problem.

Mr. President, I ask unanimous consent that the material be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Opening Statement by Senator Warren G. Magnuson for Meeting To Discuss Problems Associated With the South Korean Fishery for Salmon and Other Species in the North Pacific

Yesterday several of my colleagues from the State of Washington, including Senator Jackson, Congressman Pelly and Congressman Meeds, met with the Ambassador of Korea Don Jo Kim, who was accompanied by Mr. Choi (Chay), economic counselor for the Embassy. Our own fisheries Ambassador Donald McKernan from the Department of State, and Deputy Assistant Secretary for Fish and Wildlife and Parks and Natural Resources from the Department of the Interior, Charles H. Meacham were present.

This problem of Korea fishing in the North Pacific and the critical danger to our present International North Pacific Fisheries Convention and, indeed, the entire West Coast salmon resource was not a new one to anyone present. Our Government has held numerous talks with Korean officials both here in Washington and in Seoul on this problem but have been unsuccessful in attaining much more in the way of assurance than we had for last year's season. As you all know, the Koreans, despite lack of license and reported pressure from their own Government, did take a substantial quantity of salmon in the North Pacific very close to the Coast of Alaska.

At yesterday's meeting we reached a four-point understanding. It is not a final or satisfactory answer to any of us, but it is a hopeful sign and a step toward the kind of assurances we need to continue a kind of orderly harvest of the important West Coast salmon stocks, not only those from Bristol Bay, Alaska, but from every salmon-producing stream of the Pacific States.

We have been advised that the Director of the Korean Department of Fisheries, Mr. Koo, will be coming to the United States later this month. Our Government, together with the Korean Ambassador, will discuss the following four points:

1. Try to reach agreement on the location of the species which the Korean vessels will be licensed to harvest and also agree on those times and locations where North American salmon runs may be present and thus subject to their fishing effort.

2. Try to agree on the kind of gear that will be used by the Korean vessels so that there will not be salmon gear aboard.

3. Determine the kinds of observation and enforcement to be carried out by the Korean Government to assure that the vessels will abide by any agreement reached.

4. Reiterate the necessity for settling this issue at the earliest possible moment, not only in light of the need for early departure of the Korean fleets to the North Pacific, but also to assist in the necessary planning for our own industry and scientists so that conservation needs can best be served.

Obviously, other activities will continue both here in Washington and in Korea toward a resolution of this problem, not only for the 1970 season but for future years so that we will not be faced with unusual ad hoc solutions to this fishing threat.

Mr. President, as I clearly stated in both of these meetings it does not seem to me that it would be in the interest of South Korea to endanger the present good relationships we both enjoy over a matter as minimal to her overall economy, particularly in view of the fact that continuation of this fishery could spell disaster to the sixteen-year-old North Pacific Treaty and put an end to the valuable Pacific salmon resource which provides a vital commercial fishing industry as well as a growing and important recreational fishery for the West Coast States.

This nation has spent millions upon millions of dollars for hatcheries, spawning channels, power dam fishways, biological research and other facilities that these salmon runs might be saved.

Our own commercial fishermen have made untold sacrifices in the inshore fisheries to assure adequate escapement to the respective streams so that the salmon may spawn and the young return to sea, thus maintaining and hopefully, enhancing this splendid renewable resource.

Mr. President, a high seas net fishery is indiscriminate in its capture. There is no way to determine where these salmon are headed until they actually reach the bays and rivers. In addition, the high seas net fishery is wasteful, not only because many of the fish have not reached full maturity, but many drop out and die due to the heavy seas offshore; nets are lost and continue to fish with no benefit to fishermen or the resource.

Under the terms of the North Pacific Treaty, Japan abstains from fishing salmon East of the 175 Meridian West. U.S. and Canadian fishermen are banned by domestic law from conducting net fishing on the high seas. The Soviet Union has voluntarily abstained from the fishery.

Mr. President, it is fairly obvious to me that it will be utterly impossible to maintain any orderly management or conservation of the West Coast salmon stocks if the South Koreans mount a net fishery in the 1970 season. I do not think we can allow this to happen.

Later this month the Director of South Korea's Department of Fisheries, Mr. Koo, will be in the United States to discuss this problem with our Government. I am hopeful that specific steps providing enforceable safeguards can then be officially established so that this matter can be resolved not only in the interests of fishery conservation, but for the continuance and furtherance of the good relations this nation now enjoys with the Republic of Korea.

SHORE LODGE, B'NAI B'RITH, ASBURY PARK, N.J., URGES CONTINUED U.S. SUPPORT FOR ISRAEL

Mr. WILLIAMS of New Jersey. Mr. President, on January 11, 1970, the Shore Lodge of B'nai B'rith, Asbury Park, N.J., adopted a resolution urging the United States to "continue its efforts to compel the Arab countries to negotiate directly with the Israeli Government, toward effecting a peace treaty," and to continue U.S. military and economic aid to Israel. The Shore Lodge also opposes any change in the status in the Middle East unless it is in the context of a peace treaty.

I ask unanimous consent that the resolution be printed in the Record.

There being no objection the resolution was ordered to be printed in the Record, as follows:

Resolution

(Adopted by Shore Lodge, B'nai Brith, Asbury Park, New Jersey, at its meeting held on January 11, 1970, in Wanamassa, New Jersey.)

Whereas, William Rogers, Secretary of State of the United States, recently declared that the United States Government favored restoration of the original borders between Israel and Egypt, as they were prior to 1967, the withdrawal of Israel to the west bank of the Jordan River, and the withdrawal of Israel from the Old City of Jerusalem; and

Whereas, such action would place Israel in a dangerous position from future attacks by the Arab countries;

Now, therefore, be it

Resolved: That Shore Lodge, B'nai Brith, express its opposition to the aforesaid recommendations, and requests the Secretary of State, and our Government, to continue its efforts to compel the Arab Countries to negotiate directly with the Israeli Government, towards effecting a peace treaty; and be it further

Resolved: that until such a treaty is finally achieved, the defensive lines which Israel now controls along the Suez Canal, the Jordan River and the Golan Heights, be maintained; and be it further

Resolved: that the Shore Lodge, B'nai Brith, favors continuance by the United States of both military and economic aid to Israel, so that she may continue to defend herself against aggression by neighboring Arab countries; and be it further

Resolved: that copies of this Resolution be forwarded to Secretary of State William Rogers, Senator Clifford P. Case, Senator Harrison A. Williams, Jr., and Representative James J. Howard.

CANADIAN OIL AND NATIONAL SECURITY

Mr. PROXMIRE. Mr. President, yesterday the distinguished junior Senator from Kansas (Mr. Dole) attempted to defend the President's action imposing quotas on the importation of Canadian oil by implying that the Canadians were abusing their "special treatment."

Unfortunately, in our attempts to defend a position we sometimes lose sight of the real issues involved.

XUM

The only—I repeat, the only—justification for limiting imports is national security, and I would hope it too obvious to bear repeating that protecting the structure of an industry is not the same as protecting our national security.

Canadian oil is secure—more secure, in fact, than Alaskan oil. That is the only issue. Does the importation of secure Canadian oil impair our national security? The answer is clear: it does not, unless, of course, one postulates another War of 1812. I think this is clearly shown by the fact that the Chairman of the Federal Power Commission, who dissented from the majority of the task force report, just approved a big pipeline to bring in Canadian natural gas. Is gas any different from oil?

The agreement to which the junior Senator from Kansas referred was a secret exchange of notes between the United States and Canada. Why a secret exchange of notes to limit Canadian oil imports? The reason is clear: there was no justification for limiting Canadian oil aside from the fact it might impair the profit level of some oil companies supplying the upper Midwest with oil. As a matter of fact, the legality of this agreement is now under attack before the ICC.

Although I am not a lawyer, I, too, believe that this agreement was illegal. If this secret agreement is upheld, it means that the President can make secret agreements with foreign nations without consulting the Senate. He can effectively make treaties without the necessity of having the rationale of the treaty examined by the Senate as was intended by our forefathers when they drafted the Constitution. It means that the President could sign a secret agreement with the Government of Laos and bind this country to that agreement without consulting the Senate. Is that a result which impairs or enhances the Senate's duty to advise and consent?

XUM

Second, let me examine the levels of Canadian oil imports. Although the secret and illegal agreement set the level of permissible imports at 332,000 barrels of oil a day, imports were running at about 559,000 barrels a day. Did this level impair our national security? The answer I think is "No." The Presidential proclamation was very carefully worded. It did not say these imports were impairing our national security; what it said was these imports do "not effectively serve our national security interests and leads to inequities with the United States." There is a big difference between impairing and not effectively serving. I asked the Director of the Office of Emergency Preparedness whether this level of oil imports impaired our national security. To this date, I have not received an answer. When I do you may be sure that I will let the Senate know.

The one point that did intrigue me in President Nixon's proclamation was that Canadian imports were creating "inequities." I wonder what "inequities." The only inequity that I can think of is that every barrel of Canadian oil that comes in subtracts from the amount of oil that can be allocated under the 12.2 percent limitation on oil imports. This means that every barrel of Canadian oil that comes in costs the holders of import tickets about $1.50. Doing some rough arithmetic, by multiplying $1.50 times the number of barrels now available for import quota allocations because of President Nixon's cutback on Canadian oil imports we arrive at a windfall for the big oil companies of about $85 million a year; $85 million is a lot of money and well worth fighting for. I gather President Nixon feels that the big oil companies have an inalienable right to these subsidies.

If President Nixon were worried about our national security and cared about the consumers, rather than the health of the oil industry, he would have excluded Canadian oil from the 12.2-percent limitation. That would have allowed secure Canadian oil to flow into the United States and, at the same time, would have allowed the consumers to benefit by the cheaper Canadian oil.

That brings me to my third point: Canadian oil is about 50 to 60 cents a barrel cheaper than similar American oil. Although one might question why that is so because drilling costs in Canada and the United States are about the same, let us put that aside for the moment as just another example of the inequities of the oil import program.

A barrel of oil, as my good friend from Kansas knows, contains 42 gallons. With a price of 50 to 60 cents less a barrel for raw material, this means that the refineries, if they operate in a competitive market, should sell their gasoline for a cent to a cent and a half less a gallon. If this is not true, then the conclusion must be that the oil industry is not competitive, that it is a monopoly and that something, like changing the entire oil import program, as suggested by the President's own Cabinet task force, must be done.

Finally, as it comes to the "secret government of oil," I think I need only point to the article by Erwin Knoll, which I placed in the Record at page 6485. It details brilliantly the secret government of oil and how it operates. Although I know the junior Senator from Kansas disagrees with its conclusions, I have not seen any rebuttal of the points Mr. Knoll made.

In conclusion, I should like to point once again to the fact that our Nation's security is at issue, not the particular structure of an industry. The President's own task force unanimously agreed that the present oil import program was not responsive to our Nation's needs, although they differed as to what to do. Yet, today, we still see the American consumer being milked by the oil industry to the tune of about $5 billion a year with a program that does not work. How absurd.

If the oil industry needs incentives to go exploring, let us give them the incentives openly, not through the back door; let us pass an appropriation so that we can have some idea of the cost benefit ratio. I guarantee that we can design the necessary incentives which would cost the American consumer and taxpayer a lot less than the $5 billion they are now paying.

SENATOR McGOVERN SPEAKS OUT ON THE POPULATION EXPLOSION

Mr. TYDINGS. Mr. President, last month during hearings of the Senate Health Subcommittee on S. 2108, a bill to expand and improve our domestic population and family planning programs, the distinguished Senator from South Dakota (Mr. McGovern) delivered an excellent statement on the population explosion. His remarks revealed both insight into our pressing population problem and an awareness of the urgent need for a solution.

The Senator from South Dakota was one of the first Members of this body to recognize the dangers posed by unchecked population growth, and one of the first to sound the call for action. He was also an original cosponsor of S. 2108 when it was introduced last May.

Mr. President, this was important testimony. I ask unanimous consent that it be printed in the Record.

There being no objection the statement was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR McGOVERN

America today faces the most serious issue ever to confront mankind. It is not overly dramatic to say that on the resolution of that issue may depend the continued existence of mankind itself. That issue is the population explosion.

Our hopes for mankind—the quest for a peaceful world, the elimination of poverty and hunger, the cleansing of our polluted environment, every effort we make to improve the quality of life—all depend to a significant degree on our willingness to come to grips with the question of limiting population growth. It is not our generation, but the generations of our children and grandchildren, who will pay for our folly should we fail. A child born into a nation of 150 million in 1950 may find himself crowded into a country twice as populous by his 50th birthday. Unless we wish to consign our children to a standing room only environment we must act now.

But the recent past is not encouraging. Leaders in American government have been aware of the existence of the population problem for over a decade. President Eisenhower was the Honorary Chairman of the Planned Parenthood movement. President Kennedy authorized, for the first time, the use of American resources to help foreign nations come to grips with their population questions. President Johnson spoke of the need for American leadership in the field of population control many times. And, President Nixon sent a special message to Congress, in which he asked that family planning facilities be made available to all who desired them within five years. In the Congress, former Senator Ernest Gruening pioneered the authorization of funds for family planning facilities.

I am proud to have been a cosponsor of the legislation which Senator Gruening introduced in 1965 to initiate federal government support for family planning. I testified before his subcommittee then, pointing out that rapid population growth was a threat to economic development, adequate food and nutrition, and hopes for individual advancement.

But five years have passed, and despite considerable rhetoric, the action taken by our government to provide safe, effective, and acceptable family planning for all Americans has been half-hearted, largely rhetorical, and wholly insufficient.

Perhaps because it was viewed as a foreign problem the decade of sixties has been largely one of procrastination in the area of population control.

Many will say, "the planning of a family is an intensely personal matter," and they are correct. At the same time, the question of population growth is an urgent public matter. The issue, is as former Secretary of Defense Robert McNamara said only last month, "at once, intolerant of government pressure—and yet endangered by government procrastination."

Today the measures being offered in Congress to deal with the population problem are neither compulsory nor destructive of family privacy. If we wish them to stay that way, it is imperative that we move now to insure that these measures are put into effect on the broadest, most effective scale possible. Should we fail, future generations may be compelled to undertake more drastic steps whose consequences would inevitably be abhorrent and destructive of the rights we consider central to a free society.

Through S. 2108 the distinguished Senior Senator from Maryland, Senator Tydings, seeks to render such drastic future measures unnecessary. His legislation, which I am proud to cosponsor, would vastly expand voluntary family planning services, coordinate the disjointed bureaucracy now maladministering what U.S. family planning programs we already have, and increase research efforts directed toward discovery and dissemination of safer, cheaper, more effective methods of contraception.

Many who share my belief in the urgency of the population problem might argue that the Tydings bill does not go far enough. With one important exception, I cannot agree. It is held that family planning is ineffective because many Americans still want families of three or more children. Yet it is a fact that about half of the gap between present average family size and the size needed to control population is due to unwanted pregnancies. According to Dr. Charles Westoff, of the Office of Population Research at Princeton University, each succeeding child in a family is increasingly likely to be unwanted, to the point where over one-fourth of third births, and over one-half of sixth births, are not desired by the parents.

By making easy access to family planning services the universal human right that it should be, we will have taken a giant step toward controlling our population without coercion of any kind.

When this step is coupled with a widespread public effort to inform Americans of the dangers of overpopulation, to lower family size preferences, and to encourage adoption for those families who continue to hope for a large family, I think there is a good chance that we will be able to arrest our population growth without being forced to resort to less desirable measures.

The one area in which I believe Senator Tydings' carefully drafted measure might be further strengthened is in the area of funding. While S. 2108 far exceeds anything now available, it seems to me that the urgency of the problem in question demands an open ended authorization which would say to our appropriations committees, to the the executive, and to the American people, that the Congress is ready to spend such sums as may be necessary to defuse the population bomb.

The funds provided in the Tydings bill should be regarded as a floor, not a ceiling for expenditures on family planning and population. Perhaps it would be wise for the Congress to *earmark* funds for HEW family planning programs, as has been done for AID family planning work, to insure that the Department of HEW will treat the target figures as a minimum, not a maximum, for carrying out these essential programs.

The hearings recently held by Senator Gaylord Nelson of Wisconsin have focused nationwide attention on what is perhaps the greatest gap in the U.S. family planning effort—research.

The National Institutes of Health have, rightly in my judgment, spent many billions of dollars on measures to control death and to permit healthier happier lives for our citizens. But NIH has spent less than $100 million over the last decade on measures to control births and to ensure that safe, effective, and acceptable measures of family planning were available for those here and overseas who want to be responsible parents and plan their families in accordance with their wishes and resources. More research for better birth control methods should have a high priority in health research programs because the results of such research will determine the quality of life for many generations to come.

Ultimately, I believe, the United States should seek as a national goal the achievement of zero population growth at the earliest possible date. In other words we should recognize as I believe many people now do, that "Bigger does not necessarily mean better" and that 500 million people in the United States in the 21st century might very well be poorer, not richer than 200 million are today.

To preserve the quality of our environment where we now have clean air, pure water, livable cities, and to improve and upgrade those areas where pollution has already made scars, we will have to check our present fertility. Surely if the U.S. population continues to double every 50 years, we will never solve the pressing problems of education, employment opportunities, nutrition, housing, and all the other needs that our children and our children's children face.

As a population control device, hunger and poverty are an ineffective, grossly unjust substitute for responsible planned parenthood. It would be a great tragedy if, in our zeal to curb the population explosion, we were to forget this fact. Senator Tydings' bill does not make that mistake. Instead, it provides for expansion of voluntary, proven, effective methods of population control. There could be no better omen for our future than the achievement of the goal of zero population growth in time for our nation's 200th birthday, in 1976. I urge the Congress to move now toward that goal by enacting S. 2108 into law before the close of this session. The quality of our future—perhaps even our future itself—depends on it.

HUNGARY AND HUMAN RIGHTS CONVENTION

Mr. PROXMIRE. Mr. President, the battle for human rights has taken many forms throughout history. The United Nations has passed the human rights convention to place these essential rights of all men under the protection of international law. At the present time, however, three important human rights conventions still have not been ratified by the U.S. Senate: the Genocide, Women's Rights, and Slavery Conventions.

Mr. President, the cause to which we today must unceasingly direct our efforts—human rights protection through Senate ratification of the United Nations conventions—is eloquently stated in past events. Twice in the past 125 years of Hungarian history, the struggle for human rights and national independence has boiled over into revolution. The Hungarian people demonstrated to the world in 1848 and 1956 that they would stand firm, and alone if necessary, in their drive to insure freedom and human rights.

It is particularly fitting at this time that we pay tribute to the unfailing courage of the Hungarians, as March 15 is celebrated by Hungarians around the world as "Kossuth Day," in commemoration of the 1849 revolution against the Hapsburg dynasty of Austria.

Louis Kossuth, an editor and public leader, was instrumental in the political reform of the Hungarian Government through the proclamation on March 15, 1848, of the "March Laws" by the Hungarian Parliament. These decrees began the evolution of a democratic order. The people of Hungary had taken a giant step toward insuring their freedom and human rights. On April 11, the King of Austria signed the March laws and Hungary became a virtually independent state in the Hapsburg Empire.

Under a new king who did not recognize the March laws as valid, the Austrian Government launched a military invasion of Hungary in December of 1848. The invaders were repulsed by the freedom fighters, but Hungary had won only an uneasy peace. Finally, on April 14, 1849, the Hungarian Parliament formally declared Hungary to be a free and independent state, with Louis Kossuth as President. The nation's new leaders committed themselves to unfailing protection of the rights and liberties denied to their people for so long by the Austrians.

From its inception the new government was faced with military difficulties. The Hapsburg Empire escalated its efforts at regaining control, and in the summer of 1849 enlisted the aid of the Czar of Russia in crushing the revolution. The overwhelming strength of the reactionary forces proved to be too much even for the valiant Hungarian freedom fighters and patriots. On August 13, the new government fell. Tyranny had returned to Hungary, and the dreams and hopes of the Hungarian revolutionaries were dashed by the iron hand of the House of Hapsburg.

Over 100 years later, in October of 1956, Hungarian students and workers overthrew the oppressive dictatorship of the Soviet puppet ruler, Enro Gero. For a few glorious days it appeared that the long-hoped-for freedom and dignity of Hungary had been restored. But on November 4, while the rest of the world again stood by, the dreams of the Hungarian people were ruthlessly crushed by the military might of the Soviet Army. As in 1849, human rights and liberties had been effectively eliminated.

Today, few political and human freedoms exist in Hungary. The observance of "Kossuth Day" serves as a powerful reminder to the free world of the importance of guaranteeing protection of human rights for people throughout the world. The United States can demonstrate its sincerity, good faith, and resolve in this most crucial matter by ratifying the three human rights treaties now before the Senate.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

SUPREME COURT OF THE UNITED STATES

The ACTING PRESIDENT pro tempore (Mr. McGOVERN). The Chair lays before the Senate the pending question, which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. The question is, Will the Senate advise and consent to the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLOTT. Mr. President, the Senate has once again taken up the task of advising and consenting with regard to the President's nomination of an Associate Justice of the Supreme Court.

I am pleased to have this opportunity to outline some of the reasons why I support the nomination of G. Harrold Carswell, and why I am confident he deserves, and will receive, prompt confirmation.

Let me begin where the controversy surrounding this nomination began—with the facts about Judge Carswell's judicial philosophy.

Judge Carswell is a strict constructionist. That is one of the reasons the President has nominated him. That is entirely proper.

No one doubts that the President must consider the judicial philosophy of his nominees. Presidents have done so throughout our history.

President Lincoln did this when he appointed Salmon Chase as Chief Justice. President Theodore Roosevelt did when he appointed Oliver Wendell Holmes as Associate Justice. President Wilson did when he appointed Louis D. Brandeis as Associate Justice.

These are just a few examples from past generations. The list could be greatly expanded. In fact, it would be a strong indictment of any President to suggest that his examination of a prospective nominee was so cursory that it excluded a consideration of the nominee's judicial philosophy.

President Nixon has approached the nomination process in the same way Lincoln, Theodore Roosevelt, Wilson, and others approached it. He has considered the judicial philosophy of his nominees. Indeed, President Nixon has been uncommonly forthright about this.

Even before he was elected, President Nixon explained to the American people his thinking with regard to judicial philosophy. He explained that he favored the philosophy of "strict construction," a philosophy which translates into a policy of judicial restraint.

It is odd that the philosophy of strict construction should be an embattled philosophy today.

It is odd that it should require such patient and extensive defense in a century that has benefited from the thinking of such strict constructionists as Oliver Wendell Holmes and Felix Frankfurter.

Nevertheless, it seems that strict construction does need explaining and defending today. I welcome the task.

Strict construction, and the policy of judicial restraint, has two features.

On the one hand, it accepts the Court's responsibility to rule on the constitutionality of challenged laws and procedures. On the other hand, a judge who accepts the policy of judicial restraint will be very sensitive to the fact that every judicial determination of the unconstitutionality of a law nullifies an action taken by the duly constituted legislators who represent the people.

There is nothing inherently wrong with this. Americans have long believed that judicial review is not incompatible with a general commitment to majority rule. Indeed, judicial review of our laws is vital to the whole fabric of American constitutionalism.

But a "strict constructionist"—a constitutional conservative, if you will—is very sensitive to the responsibility to exercise such judicial review with the utmost respect for the principles of popular government.

A strict constructionist believes in a presumption of constitutionality that is, in judicial review, the equivalent of the presumption of innocence in criminal proceedings. He believes that laws passed by duly constituted legislators are constitutional until decided otherwise.

And he thinks that proof of unconstitutionality must be supported by the clear language of the Constitution, construed—to the fullest extent possible—in accordance with the intentions of the framers.

A strict constructionist is wary lest, in the guise of simply interpreting the words of the Constitution, he unconsciously reads personal predilections into the subtle language of the Constitution. He is wary lest his own principles lead him to artificially expand constitutional provisions until the will of the majority is frustrated, and the will of the judge is satisfied—and, I might add, until the will of the various legislative bodies also is frustrated.

A strict constructionist will be especially wary of attempts to allow current sociological hypotheses to determine the meaning of constitutional language. And he will be wary of all attempts to give constitutional standing to every notion of substantive due process.

In short, a strict constructionist believes that laws come before the courts with a momentum of respect, and that respect for the Constitution often requires the judge to respect views other than his own.

Mr. President, strict construction has always been an admirable persuasion with a respectable following. As a result of recent Court decisions, it may be national necessity, as well as a respectable option.

We can illustrate this point, and document Judge Carswell's qualifications, by examining just one facet of this constitutional process.

Many competent observers of the Court believe that some Court decisions recently handed down in the field of criminal law have greatly expanded the constitutional rights of criminal defendants beyond what the original drafters of the Constitution intended. I would go one step further, and say that some of these have gone beyond the realm of commonsense in light of the realities of the nature of law enforcement activities today.

Others, not necessarily close students of the Supreme Court's opinions, have felt that in the face of rising crime rates throughout the Nation, it was a serious mistake to push to their ultimate logic those legal doctrines which result in making it far more difficult for society to apprehend and punish the guilty, but which in no way realistically added to the protection surrounding the innocent.

Again, it is a question of degree, and not of kind. Many of the doctrines adopted by the Warren court in the field of criminal law—such as the right to counsel in the case of felony prosecutions—are sufficiently sound in policy so that there is little disposition to argue as to their constitutional derivation. But others have not received the same wide approbation.

I confess that when I view the repeated reversal of criminal convictions because of matters entirely independent of the guilt or innocence of the defendant, I am occasionally reminded of Lincoln's famous, though perhaps aprocryphal, comment respecting the suspension of the writ of habeas corpus during the Civil War—"Shall all the laws go unenforced save one?"

I do not need to dwell upon the grim details of the Nation's soaring crime problem. The FBI statistics are readily available. Between 1960 and 1969, while the population was growing by 13 percent, violent crime increased by 131 percent; that is, during the last decade violent crime increased 10 times as fast as the population.

Murders were up 66 percent. Forcible rapes were up 115 percent. Robberies were up 180 percent. Aggravated assaults were up 103 percent. In 1960 there were 285,200 violent crimes. In 1969 there were approximately 660,000 violent crimes.

Senator McCLELLAN has stated:

> The fact is that the chance of being apprehended, convicted and punished for a serious crime is less than one out of twenty.

Another statistic which dramatizes the situation is this: If you committed a burglary in Chicago in 1968, the odds were 23 to 1 that you would never go to jail. Those are better odds for success than a person faces when he opens a new business. Consider that fact. The odds against failing as a burglar are less intimidating than the odds against successfully launching a new business.

Mr. President, I know that there are often complex social causes of violent behavior. Thus I do not want to oversimplify the significance of these crime statistics. But four things are clear:

First, crime has reached epidemic proportions.

Second, there are enormous inadequacies in the entire law enforcement system, from apprehension of suspects through the prison systems.

Third, recent Supreme Court decisions have had an influence on this system.

Fourth, a large body of learned opinion holds that it would be constructive to redress the balance in Court thinking on the matter of criminal defendants' rights.

Chief Justice Warren E. Burger offered this warning against imbalance in the criminal law:

> Our system of criminal justice was based on a strikingly fair balance between the needs of society and the rights of the individual. To maintain this ordered liberty requires a periodic examination of the balancing process, as an engineer checks the pressure gauges of his boilers.

Mr. President, crime is growing six times as fast as the population. Violent crime is growing 10 times as fast as the population. The administration of justice is intolerably delayed by court backlogs resulting from lengthening trials and soaring rates of appeal. These facts reveal a striking rise in crime and a disconcerting decline in society's ability to punish it. Thus, Mr. President, it is time, in the words of Justice Warren Burger, to re-examine the balancing process by which we maintain ordered liberty.

We had better reexamine this balance because we are in danger of losing the fight for ordered liberty.

We had better check the pressure gages on our society's boilers before there is an explosion. For surely an explosion is coming when the majority of Americans, white and black, and brown and red, are afraid to venture at night into the streets of their communities.

An explosion is coming when the downtown commercial areas of our great cities—and Washington, D.C., is a prime example—become deserted at sundown, when the citizens retreat to the relative safety of their homes.

To help prevent an explosion, and to help correct the imbalance between the rights of the individual and the rights of society, it will be useful to add some leavening thinking to the current Court.

The President, in nominating Judge Carswell, has expressed his concern that the Court not lose sight of the vital interest of society in convicting the guilty criminal, or keeping the peace in public places, at the expense of according hitherto unknown "rights" to criminal defendants.

Judge Carswell's record as a Federal judge shows that the President has picked an able and balanced proponent of such a view. Heedful of the plea of the indigent defendant, he is likewise heedful of the plea of the public prosecutor; the interests of neither one will be sacrificed to those of the other.

I suspect that a strict constructionist might feel that the time has come for a consideration as to whether an imbalance has not developed in the construction of the relevant constitutional language.

It is instructive to examine some details of Judge Carswell's record in the vitally important area of the criminal law.

Since a district judge is bound by the law as laid down by the court of appeals, whose jurisdiction he is subject to, and by the Supreme Court of the United States, he is generally not in a position to express his own legal preferences for one type of rule as opposed to another.

However, the decisions to which I will refer demonstrate that Judge Carswell, as a Federal district judge and as a circuit judge, faithfully followed precedent where he felt it was applicable, and when there was no applicable precedent, he refused to sacrifice the right of society to apprehend and punish the offender to still a further extension of the rights of defendants.

For example, in *United States* v. *Levy*, 232 F. Supp. 661 (1964), he rejected a defendant's double jeopardy claim. Analysis of the facts of that case indicate the soundness of his decision.

The defendant had been brought to trial. During his opening statement, defendant's counsel alleged that the defendant was incompetent to stand trial. Considering the gravity of this allegation, the trial judge declared a mistrial for the purpose of inquiring into its truth.

The defendant then moved to dismiss his indictment on the ground that a second trial was prohibited because it would place him in jeopardy again. The defendant placed principal reliance on the Supreme Court's decision in *Downum* v. *United States* 372 U.S. 734. In Downum, a mistrial had been declared at the request of the prosecutor, who had failed to secure the presence of a material witness at the trial.

Judge Carswell, in an opinion which I find eminently sensible, distinguished Downum as a case involving the "unexcused negligence" of the prosecutor while the case before him involved a mistrial which was dictated by the serious nature of the defense counsel's allegation that his client was incompetent to stand trial.

I think that every Senator would agree that the mistrial in the Levy case, decided by Judge Carswell, was fair and necessary. Surely Judge Carswell was correct in holding that that mistrial did not bar a second trial of the defendant.

There is other evidence of Judge Carswell's prudent concern that Supreme Court pronouncements not be extended to situations in which they were not intended to apply. Consider the matter of *Agius* v. *United States*, 413 F. 2d 915 (5th Cir., 1969).

In that case, a three-judge panel, which did not include Judge Carswell, held that a conviction for bank robbery would be reversed on the ground that proper Miranda warnings had not been given.

The Miranda case applies only in cases of "custodial interrogation." The issue before the fifth circuit was whether on-the-street interrogation at the defendant's home constituted custodial interrogation requiring application of the Miranda rules. The Government asked the fifth circuit to reconsider its position.

This request was denied, but Judge Carswell noted for the record that he would have granted a rehearing en banc to review the application of the Miranda principle to that case (417 F. 2d 635).

We see then that Judge Carswell has attempted to apply the Supreme Court's pronouncements in a manner consistent with the rights of society to punish those guilty of crime. At the same time, however, Judge Carswell's record is a balanced one. Recently, in *Bell* v. *Wainwright*, 299 F. Supp. 521 (1969), Judge Carswell was called upon to rule upon the contention of an indigent defendant that his poverty had worked to his disadvantage during the trial of his case.

The Supreme Court has stated many times, as we all know, that the Constitution recognizes no distinction between the poor and the rich. In Bell against Wainwright the defendant contended that the judge who had tried his case had denied him equal protection of the laws by refusing to authorize transcription by the court reporter of the closing arguments of counsel.

The defendant's theory was that he had been denied an effective appellate review by the trial judge's action. The State disputed this contention, arguing that the petitioner had not shown that prejudice resulted from the trial judge's refusal.

Judge Carswell flatly rejected the State's argument in these terms—and these are important words:

> To deny petitioner relief on the grounds that the record does not show prejudicial comments and objections, when it is necessary to have a full transcript of the argument in order to determine prejudice in the first place and that transcript does not exist due to the order of the trial court is a complete nonsequitur * * * the respondent's position places an undue burden upon the petitioner and his counsel to attempt to reconstruct an argument in order to show that what might otherwise be isolated remarks by the prosecution were prejudicial. This burden would not have been placed upon petitioner had he been able to purchase the reporter's time himself. Such a burden is in direct conflict with the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States as interpreted in *Griffin* v. *Illinois, supra.*

I applaud Judge Carswell for this decision. Judge Carswell applied a basic constitutional principle in enunciating his ruling. While upholding the right of society to punish the guilty, Judge Carswell recognizes that fundamental guarantees must also be upheld.

Clearly Judge Carswell's record in the area of the criminal law is one of balance. It evinces a learned and conscientious attempt to apply the pronouncements of higher courts in a sensible and constructive manner. Nothing could be more illustrative of that than the case I have just quoted from.

Mr. President, I am convinced that an examination of Judge Carswell's record confirms the wisdom of President Nixon's choice. Indeed, it is interesting that many of the objections to the choice have no basis in the record.

Mr. President, I think some of the objections voiced concerning this nomination do not require much confuting. But I do want to mention a few in passing.

It has been said that Judge Carswell has had too little experience. This is not a weighty objection.

G. Harrold Carswell served for 5 years

as a U.S. attorney in the northern district of Florida. After that he served for 11 years as a Federal district judge.

Last spring the President nominated him to be a judge of the court of appeals for the fifth circuit. Just a year ago those same Members of the Senate who now raise a hue and cry about his nomination—and some of them were members of the Judiciary Committee and reported and recommended him to the Senate—at that time had no qualms at all about confirming him to this sensitive and responsible position.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. ALLOTT. Mr. President, I yield.

Mr. BYRD of West Virginia. Mr. President, has not the name of Judge Carswell been before the Senate twice for confirmation to important office?

Mr. ALLOTT. I believe that his name has been before the Senate for confirmation three times prior to this occasion—once as U.S. attorney, once as a Federal district judge, and once as a judge of the court of appeals.

Mr. BYRD of West Virginia. Mr. President, has not the Senate upon each of those three occasions favorably acted upon the nomination of Judge Carswell?

Mr. ALLOTT. This is entirely true, and I will go further than that. In all three of those instances, I do not recall a single dissenting voice being raised against his confirmation, nor was there a dissenting vote.

Mr. BYRD of West Virginia. Has not the Senate three times unanimously confirmed Judge G. Harrold Carswell for important posts to which he was nominated by the President.

Mr. ALLOTT. The Senator is entirely correct. And I appreciate his reminding me of that fact.

I am about to get into the matter of reversals, and I cannot help indulging in a personal observation and experience at this point.

When I was a young man, I practiced law, and for obvious reasons I will not name the district or the judges that were involved. However, there were two judges in this district, both of whom were honorable men.

One was very seriously lacking in the law. The other was undoubtedly one of the most brilliant judges in the State of Colorado. The facts are that when a lawyer was discussing a point of law before one of the judges, the lawyer always had to draw pictures for him. However, when one was discussing a point of law before the other judge, the lawyer soon found that that judge already knew all there was to know about the law and was always on top of the question and on top of the argument and discussion.

Yet, the fact is that the brilliant jurist was reversed many times before the Supreme Court of Colorado, while the jurist who did not have the same eminent qualifications was reversed hardly at all by the Supreme Court of Colorado.

So, in my opinion, it does not make any difference. The argument about reversals actually carries no weight with me.

XUM

I am reminded of what one of my law professors said to me one day when I was answering a question. He said:

> I agree with your analysis. And that is fine, but, according to the last guess of the Supreme Court, both you and I are wrong.

Many times those of us who have watched the Supreme Court over the years have felt it was the last guess of the Supreme Court.

Mr. President, one of the most confused and unconvincing complaints about Judge Carswell concerns the fact that a number of his decisions have been reversed by a higher court.

Without attempting to reopen and reevaluate each case, I would just point out one thing. It is not surprising or alarming that some decisions of a strict constructionist should be reversed in an age when the high Federal judiciary is practicing what might be called "loose construction" or "constitutional liberalism."

Thus there is nothing necessarily alarming about the fact that some of Judge Carswell's opinions have not coincided with the opinion prevailing on other courts.

It is curious to note the semantic gymnastics involved in discussions such as these. When someone whose views we favor is in a minority, we say that his views testify to his integrity, steadfastness and courage in the face of opposition.

But when someone whose views we do not share finds himself in a minority, we argue that he is recklessly out of step with the times.

Mr. President, I for one do not think the voice of the majority is always right. Nor do I think the voice of the higher court is necessarily the voice of inspired and correct jurisprudence.

It is worth recalling that one of the most revered justices in the history of the Supreme Court was known as the "Great Dissenter."

Of course I am referring to Mr. Justice Oliver Wendell Holmes. His nickname as "the Great Dissenter" was a token of the affection and respect of the legal profession and an admiring public.

The nickname—and the admiration it indicated—reflected the traditional American respect for a man who is not afraid to stand against a fashionable tide of opinion.

I do not think this traditional American respect has become a thing of the past. On the contrary, I think the American people are anxious to find men in public life who are not governed by the conventions of fashionable dogma.

There is something very odd about the protestations of some of Judge Carswell's critics.

On the one hand they claim that their opposition to the judge is not a reflection of any general prejudice against strict constructionists. But on the other hand, they link their opposition to the fact that a number of his opinions have been reversed by higher courts where the philosophy of loose construction is dominant.

Perhaps what these critics are saying is that they have nothing against a strict constructionist, so long as his strict construction is not strict enough to offend any loose constructionists who review his decisions.

This sort of thinking is small comfort to strict constructionists.

Mr. President, I would like to say one more thing in this regard.

I, and other Senators who share my views, have on more than one occasion voted to confirm nominees whose views were not congruent with our own.

I think it is time for some reciprocity in this matter of tolerance. I hope Senators who do not favor strict construction, and who have enjoyed nearly two decades of ascendant judicial liberalism, will be as tolerant of our preferences as we have been to theirs.

At any rate, Senators need not worry about this nomination resulting in any judicial earthquake. There may be a tempering of the prevailing philosophy. But that is hardly unprecedented.

The history of the Supreme Court is replete with examples of such temperings and shifts of philosophy.

These are not dramatic, 90° turns. They are lesser changes which preserve the best of a preceding era, but also contribute something of their own.

Chief Justice John Marshall presided over the Supreme Court for 34 years, and during his tenure the power of the Federal Government to act effectively was thoroughly established. He was then succeeded by Chief Justice Taney, who came from a States rights school of judicial thought.

However, the Court under Taney left standing virtually all of the constitutional structure which Marshall and his associates had bequeathed. The Taney court declined to further expand the Marshall federalism doctrines in most fields, and developed its own doctrine of State police power.

Similar transitions in the membership of the Court have taken place in more recent times, and resulted in some shifting of constitutional doctrine. These changes are not destructive revolutions in constitutional law. They are shifts in emphasis, different variations on the same basic theme.

Mr. President, allow me to sum up.

I believe Judge Carswell will and should be confirmed. The case for Judge Carswell rests on three powerful arguments.

First, Judge Carswell's 17-year record of public service is a record of his proven competence.

Second, the President has nominated Judge Carswell, and the Senate's thorough examination of his record has revealed nothing that would justify the Senate in withholding approval from this nomination.

Third, conditions on the Supreme Court, and in the country at large, are such that there is a clear and present need for a redress of judicial balance in the direction of the philosophy of strict construction.

Mr. President, this is the case for Judge Carswell. It is a strong case that has not been scathed or in any way jeopardized by the flurry of opposition.

The opposition to Judge Carswell has

been, from the start, an opposition in search of an argument.

The opposition has been given ample time to come up with such an argument. It has not succeeded.

The time has come to act with dispatch.

It is well-known that many important cases are pending before the Supreme Court. The Court is understandably and wisely reluctant to consider these important cases until it has a full complement of Justices.

It has been a long time since the Court was at full strength. In the intervening months the Senate has exercised its right to withhold consent from a nomination. While I regret the Senate's having made that decision, I am sure the Senate will not allow refusal to become a senseless habit.

I am confident the Senate will consider the needs of the Court, the interests of the Nation and the constitutional rights of the President. I am sure that these considerations will insure a prompt and overwhelming confirmation of Judge Carswell.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. ALLOTT. I would be very happy to yield to the distinguished Senator from Mississippi.

Mr. EASTLAND. Of course, the distinguished Senator has heard raised the question of mediocrity and that Judge Carswell does not measure up to the job. Does the Senator realize that Judge John J. Parker was one of the great judges in the history of this country?

Mr. ALLOTT. I do. I am well aware of that gentleman's name.

Mr. EASTLAND. He was appointed to the Supreme Court and Senate refused confirmation. I would like to read to the Senator what the newspapers at that time said about Judge Parker. He was one of the most distinguished judges in the country, as is Judge Carswell, when his name reached the Senate. The statement I am about to read was published in the New York World on April 23, 1930. They summed up the entire case against Judge Parker to be an Associate Justice of the Supreme Court and this is the way they summed it up:

> It is Judge Parker's total lack of a distinguished record of public service and the total lack of proof that he has any distinction as a jurist which seems to us above all else to justify the Senate in saying that his nomination does not measure up to the standards which the American public rightly expects to see obtained in the nomination of a Supreme Court Justice.

They were totally wrong then and this cry now is totally wrong.

Mr. ALLOTT. The subsequent career of Judge Parker, as I recall it, of course, utterly belies the comments of that newspaper because he did have a brilliant and successful career after that.

Mr. EASTLAND. And he did before.

Mr. ALLOTT. And he did before, too. The Senator is correct.

I thank the distinguished Senator. I thank the distinguished Senator from West Virginia for his contributions to this discussion.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. ALLOTT. I am happy to yield to the distinguished Senator from West Virginia.

Mr. BYRD of West Virginia. The question of mediocrity has been injected into the discussion. I suppose one could look at the present Court and make a judgment that some of the sitting justices are perhaps mediocre justices, as compared with some of the great justices who have sat on that great Court in the past.

Mediocrity cuts across senatorial lines as well as judicial lines. I would assume that, depending on who is doing the judging, probably there are Members of the Senate now and there have been in the past and will be in the future who might not measure up well against the high standards of other Members of this body. So I think we should be careful about how we toss around this term mediocrity. I have not heard of any Senators turning back their paychecks because of mediocrity. I wonder if the Senator from Colorado knows of any.

Mr. ALLOTT. No. I must confess I am sure there are none.

With respect to the Senator's comments about the Supreme Court, I must say in some decisions that have come out in the last few years, in the last 10 to 15 years, I find many of them mediocre because they are expositions of sociological doctrines of the writer of the opinion rather than any exposition of the law interpreting the Constitution.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield further?

Mr. ALLOTT. I am happy to yield.

Mr. BYRD of West Virginia. Was there anything in the background of the previous Chief Justice of the United States which would have indicated that he would make more than a mediocre Chief Justice of the Court? He had had no previous judicial experience, had he, before being appointed to the Court?

Mr. ALLOTT. I do not recall all of his experience. He had, of course, been a district attorney, or the equivalent of that, in California.

Mr. BYRD of West Virginia. He was an outstanding politician.

Mr. ALLOTT. And an attorney general, but he had no judicial experience that I can recall at this time.

I may say this to my good friend, and I appreciate his intervention: I think in any instance such as this we have a situation in which people rise to their position; they exceed themselves. Many capable Members of this body, for example, could only be described as mediocre when they came here, and many whom nobody had tapped as being great Senators became great Senators.

I am not sure that when our late good friend, Everett Dirksen, first went to the House of Representatives anyone would ever have thought that Everett Dirksen would become the great parliamentarian and the literal treasure house of information about the Government that he became. In this reference, and leaving aside our friendship for him, he was fantastic.

As the Senator has said, it is strange that a man could be nominated three times by Presidents, go through a Judiciary Committee hearing, have his name submitted to the Senate, not have a voice raised even in question, be confirmed unanimously, and then, at this critical point, he suddenly becomes a bad guy with a black hat. I believe the people who knew him and who know him now are better judges of him than anyone else.

I thank the distinguished Senator for intervening, and I yield the floor.

Mr. EASTLAND. Mr. President, as chairman of the Senate Judiciary Committee, it is my distinct honor and privilege to address the Senate on the nomination of George Harrold Carswell to be Associate Justice of the U.S. Supreme Court and recommend his early confirmation. I would like to preface my remarks with a review of certain facts which will, I believe, place the consideration of this nomination in clearer prespective.

The seat we are being called upon to fill has been vacant since May 6 of last year, throughout the greater part of an entire term of the Supreme Court. This nomination has been before the Senate now since January 19 of this year. Opponents of the nomination, as is their right, have availed themselves of the time-honored rules of the committee and the Senate to win lengthy delays in bringing this nomination before the Senate.

But what effect has this long delay had upon the administration of justice, the rights of litigants, and the prestige of the Court?

Mr. President, I ask unanimous consent that the following compilation of postponed cases be inserted in the RECORD at this point.

There being no objection, the compilation was ordered to be printed in the RECORD, as follows:

COMPILATION OF POSTPONED CASES BEFORE U.S. SUPREME COURT

[Docket No., case, and subject matter]

4. Younger v. Harris (California): Criminal Law and Procedure, Constitutionality of California Syndicalism Statute.

6. Boyle v. Lanry (Illinois): Criminal Law and Procedure, Constitutionality of Illinois State Statute, Overbroadness.

7. Gunn v. University Committee To End War in Vietnam (Texas): Criminal Law and Procedure, Constitutionality of Texas Breach of Peace Status, Disorderly Conduct, Vagueness.

8. U.S. v. U.S. Coin & Currency in the Amount of $8,674.00: Criminal Law and Procedure, Federal Wagering Tax Prosecution, Fifth Amendment, Self Incrimination.

11. Samuels v. Mackell (New York): Criminal Law and Procedure, Constitutionality of New York State Anarchy Statute, Vagueness and Overbreadth.

13. Maxwell v. Bishop (Arkansas): Criminal Law and Procedure, Capital Punishment, Discrimination in Imposition of Sentences by Juries in Interracial Rape Cases.

20. Fernandez v. Mackell (New York): Criminal Law and Procedure, Constitutionality of New York State Anarchy Statute, Vagueness and Overbreadth.

46. U.S. v. White: Criminal Law and Procedure, Electronic Eavesdropping, Admissibility of Defendant's Conversation with Government Informer Wired for Sound.

53. Baird v. Arizona (Arizona): Civil Law and Procedure, Communism, Denial of Admittance to Bar because of Refusal to Answer Questions Concerning Membership in Subversive Organizations.

75. Matter of Stolar (Ohio): Civil Law and Procedure, Denial of Application to Take

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State Bar Examination, Refusal to Answer Questions Concerning Membership in Subversive Organizations, Self Incrimination, Due Process.

267. Moon v. Maryland (Maryland): Criminal Law and Procedure, Double Jeopardy, Increased Punishment After Retrial.

269. Price v. Georgia (Georgia): Criminal Law and Procedure, Retrial for Murder After Conviction for Voluntary Manslaughter.

529. Mackey v. U.S.: Criminal Law and Procedure, Federal Income Tax Evasion, Self-Incrimination Privilege as Defense to Prosecution.

565. Batchelor v. Stein (Texas): Criminal Law and Procedure, Constitutionality of Texas Obscenity Statute, Possession of Obscene Materials, Overbreadth.

696. Law Students Civil Rights Council, Inc. v. Wadmond (New York): Civil Law and Procedure, Constitutionality of New York State Rules and Procedures for Admittance to Bar.

1142. Elkanich v. U.S.: Criminal Law and Procedure, Searches and Seizures, Narcotics, Arrest, Probable Cause, Nexus of Offense.

Mr. EASTLAND. It is astounding the number of cases which the Supreme Court cannot decide until another member is placed upon the Court.

Mr. President, I ask unanimous consent that the letter received from Prof. Charles Alan Wright of the University of Texas Law School on February 6, 1970, be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF TEXAS,
SCHOOL OF LAW,
Austin, Tex., February 6, 1970.

Hon. JAMES O. EASTLAND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: I support the nomination of Judge Carswell, as I did that of Judge Haynsworth. The purpose of this letter is to urge not only that the Senate confirm Judge Carswell but that it do so promptly.

Justice Fortas resigned on May 14th of last year. For nearly nine months there has been a vacancy on the Supreme Court. This is an extremely unfortunate situation that greatly handicaps the Court in its work.

There are seven cases that were argued last term that the Court set for reargument early this term. Reargument has had to be postponed until there is a full Court. The cases are:

No. 5, Younger v. Harris.
No. 6, Boyle v. Landry,.
No. 7, Gunn v. University Committee to End the War in Vietnam.
No. 8, U.S. v. United States Coin and Currency.
No. 11, Samuels v. Mackell.
No. 13, Maxwell v. Bishop.
No. 20, Fernandez v. Mackell.

These are either cases in which the Court, with only eight members, found itself equally divided on cases that the Court considered to be so important that they should be heard by a full bench. It is impossible to to say how many other cases there may be, never yet argued, in which argument has been postponed awaiting the confirmation of a ninth Justice.

It is important for the Court and for the country that the Senate act promptly in its constitutional role of giving advice and consent to presidential nominations so that an important branch of government is not left shorthanded.

Respectfully yours,
CHARLES ALAN WRIGHT,
McCormick Professor of Law.

Mr. EASTLAND. Mr. President, this is not, by any means, the first time the President has nominated and the Senate of the United States has been called upon to consider the qualifications of this nominee for service in our highest public offices.

As early as 1958, at the age of 34, having served his Nation in war as a deck officer with Admiral Halsey in the Pacific, having established an outstanding reputation in the private practice of law, George Harrold Carswell was nominated for the position of U.S. attorney for the northern district of Florida by President Eisenhower.

In addition to the consideration given to this nomination by the President of the United States, his nomination was approved by both Senators from the State of Florida, considered by the Senate Judiciary Committee, reported favorably to and confirmed by the Senate. Upon his appointment by the President the nominee became the youngest U.S. attorney in the country.

In 1959, having established a notable reputation as a trial attorney and prosecutor in the Federal courts, the nominee was again considered and nominated by President Eisenhower for the position of U.S. district judge for the northern district of Florida. His nomination to this office was again approved by both Senators from his native State.

His nomination was further considered by the American Bar Association's Standing Committee on the Federal Judiciary, which notified the committee that upon investigation and consideration, the nominee was "well qualified" for the position.

Once again his nomination was considered by the Senate Judiciary Committee, which, after public hearings and due consideration in executive session, reported the nomination to the Senate with the recommendation that it be confirmed. Once again Harrold Carswell was confirmed by the Senate. Upon appointment by the President, the nominee became the youngest U.S. district judge.

Last year another President and another administration, having considered the public record and qualifications of this nominee, elevated Harrold Carswell to the Fifth Circuit Court of Appeals. Once again the President's choice was ratified by the American Bar Association's Standing Committee on the Federal Judiciary, which, after investigation and consideration of his record as a district judge, found the nominee "well qualified."

That term "well qualified" means something, Mr. President. Judges are rated in several ways. They gave him, not just a "qualified" rating, but a "well-qualified" rating.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. EASTLAND. For a question.

Mr. BAYH. I do not like to interrupt the Senator's remarks. I am listening with a great deal of interest, but is it not true that Judge Carswell received a rating of "well qualified" to the appellate court when "exceptionally well qualified" was the highest qualification he could have received?

Mr. EASTLAND. Prior to the nomination of Arthur J. Goldberg to be Associate Justice of the Supreme Court, the American Bar Association's Standing Committee on the Federal Judiciary had one system for rating all nominees to the district and circuit courts, as well as nominees to be Chief Justice of the United States and Associate Justice of the Supreme Court of the United States. All nominees for lifetime judicial positions were rated as follows:

First, "exceptionally well qualified."
Second, "well qualified."
Third, "qualified."
Fourth, "not qualified."

In 1962, with the nomination of Arthur Goldberg to be Associate Justice, the ABA decided to discontinue the use of this rating system as to nominations to the Supreme Court.

The reasons for this change are stated in a letter I received on September 7, 1962, from Robert W. Meserve, chairman of the ABA Standing Committee on the Federal Judiciary. The letter speaks for itself and states as follows:

AMERICAN BAR ASSOCIATION, STANDING COMMITTEE ON FEDERAL JUDICIARY,
September 7, 1962.

Hon. JAMES O. EASTLAND,
Chairman, United States Senate Judiciary Committee, Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: Thank you for your telegram affording this committee an opportunity to express an opinion or recommendation on the nomination of Arthur J. Goldberg of Illinois to be an Associate Justice of the Supreme Court of the United States.

Our committee, as constituted at the time of the nomination, is of the view that Mr. Goldberg is highly acceptable from the viewpoint of professional qualification.

Since the form of this opinion differs from that previously used with regard to judicial nominations, a few words of explanation may be in order.

This committee has conceived its responsibility to be to express its opinion only on the question of professional qualification, which includes, of course, consideration of age and health, and of such matters as temperament, integrity, trial and other experience, education, and demonstrated legal ability. We intend to express no opinion at any time with regard to any other consideration, not related to such professional qualification, which may properly be considered by the appointing or confirming authority. This position is, of course, not in any way confined to Secretary Goldberg's case, or prompted by his nomination.

Furthermore, the committee is now of the opinion that, as to nominations for the office of Justice of the Supreme Court it would be unwise for the committee to continue to attempt to give comparative ratings such as "qualified," "well qualified," "exceptionally well qualified," which we use generally in our reports to your committee. As to nominations to this Court, we wish to confine ourselves to a statement that the candidate is, or is not, acceptable from the viewpoint of professional qualification without, in the future, the use of any adjective which might suggest a comparative rating. Once again, this is a matter which has been the subject of discussion in the committee for some time, and the decision to limit ourselves in this fashion is not related in any way to this particular nomination.

I trust that this explanation is adequate

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and am gratified that your committee continues to ask for our opinion on such matters.

With kind regards.

Sincerely,

ROBERT W. MESERVE,
Chairman.

Thus, from the Goldberg nomination through the Haynsworth nomination the ABA had only two ratings for nominees to the Supreme Court: "highly acceptable from the viewpoint of professional qualification" or "not acceptable from the viewpoint of professional qualification."

During and following the Haynsworth nomination, but prior to the Carswell nomination, I understand there was some dissatisfaction among members of the Standing Committee on the Federal Judiciary as to the rating "highly acceptable from the viewpoint of professional qualification." It is my understanding that some members believed that rating to be too vague and meaningless.

Because of that dissatisfaction it was agreed that the committee would change its rating to "qualified" and "not qualified" as to nominees to the Supreme Court.

Following that decision the first nominee to the Supreme Court to be rated as such was Judge George Harrold Carswell to be Associate Justice of the Supreme Court, who was found to be "qualified" by letter to the committee of January 26, 1970, from Judge Lawrence E. Walsh, chairman, American Bar Association Standing Committee on the Federal Judiciary. I read that letter earlier in my remarks, and it appears on page 1-2 of the transcript.

Mr. BAYH. I appreciate the chairman's clarification of that point.

Mr. EASTLAND. At this time the Leadership Conference on Civil Rights notified the committee of its opposition to the nomination and requested to be heard. A public hearing was scheduled but no adverse witnesses appeared. At that time the committee extended to the Leadership Conference on Civil Rights additional time to file their objections. This was later done in the form of a letter accompanied by a memorandum concerning the nominee's civil rights decisions, prepared by Joe Rauh, and the so-called Curzan report, a doctoral dissertation prepared by a graduate student at Yale University which purported to show that the nominee was not pro-Negro or procivil rights.

The nomination was considered by the Judiciary Committee on June 18 and ordered favorably reported to and was subsequently confirmed by the Senate.

In January of this year, for the fourth time, this nominee was nominated by a President of the United States for a high position in our judicial system. The President, after due consideration, nominated George Harrold Carswell to be Associate Justice of the U.S. Supreme Court.

Notice of public hearings was placed in the CONGRESSIONAL RECORD on January 19 of this year notifying any interested citizen of the time, place, and date of the hearings and notifying the public that any witness desiring to be heard should notify the committee in writing prior to the opening of these hearings. Every citizen who gave timely notice, regardless of their standing or status in life, whether they spoke only for themselves or as representatives of a group or organization, was heard.

Other witnesses were called as the hearings progressed at the request of various Senators supporting and opposing the nomination.

Hearings were held on the 27th, 28th, and 29th of January and on the 2d and 3d of February. During this time 23 witnesses, including the nominee, were heard, and numerous letters, statements, and exhibits were admitted into the record.

Every courtesy and consideration was extended to each witness who testified. On a number of occasions committee rules requiring written statements of testimony were waived for witnesses opposing this nomination. No effort was made to limit the testimony of any witness no matter how irrelevant, immaterial, or disinteresting it might have been. Furthermore, the hearings were not closed until all members of the committee were satisfied that the record was complete and that all relevant and material testimony had been heard.

In addition to this, the committee afforded still another accommodation to those who still desired to express themselves for the record. In order to do so, the official transcript was left open for several days in order that additional statements and/or exhibits might be filed and printed in the body of the record. A number of statements, letters, and exhibits were accepted and printed during this extension of time.

Nor was this nomination taken up by the Judiciary Committee until the official printed record had been delivered to each Senator several days in advance, in addition to the fact that unofficial printed transcripts had been furnished to each member of the committee the morning following each day's testimony.

It should be noted here that prior to the opening of these hearings, Judge Carswell, without hesitation or complaint, submitted, in response to a request from the senior Senator from Indiana, joint income tax returns for himself and his wife for the entire period during which he has served in public office. In addition to that Judge Carswell filed with the committee a full financial statement as to his current assets and liabilities. With the nominee's consent these tax returns and financial records were made available for inspection by any Senator on the committee or his designated representative. A number of Senators availed themselves of this opportunity and obviously found nothing to the detriment of this nominee. I can say without fear of contradiction that the nominee completely cooperated with the committee in every way and promptly complied with every official request made of him.

In his testimony before the committee the nominee was subjected to a lengthy and gruelling interrogation. His response was open, forthright, and candid. His testimony was persuasive and articulate, making a favorable impression on the overwhelming majority of our Members. He was responsive to all questions put to him and his answers were clear, concise, and to the point.

Thus, Mr. President, this is the fourth time that George Harrold Carswell has been before the Senate of the United States. It is the fourth time that he has been nominated for high office by the President of the United States, and investigated and cleared by the FBI.

Let me emphasis that: Investigated and cleared by the FBI. Because when there is a full field investigation of any person who is about to be nominated, the FBI not only investigates the whole life of the man about to be nominated, but those of members of his family; and the investigation is full and complete. He was approved by the American Bar Association, approved by the Senators from his native State, approved by the Senate Judiciary Committee, and recommended for favorable consideration by the Senate.

It is not enough to say that this is the fourth time this nominee's public and private life has been scrutinized and his qualifications for high office considered by the Senate. This does not take into account the fact that this nominee, as was another recent nominee to the Court, has been faced from the day of his nomination with a hostile press.

This is not to say that the press viewed this nomination in an objective light and was turned hostile by subsequent revelations adverse to the nominee. Rather, he was faced with a press that started out with both the motive and intention "to get" this nominee. Immediately following the announcement of his nomination, scores of reporters were sent South to investigate with a vengeance every detail of his public and private life. They flooded the courthouse in Tallahassee and the record center in Atlanta, where every file of every case Judge Carswell sat on was studied for some evidence with which to discredit him.

Newspapers and records of real estate transactions were searched for some evidence to use against his confirmation. Every friend, associate, and casual acquaintance of the nominee was interviewed by professional hatchetmen whose only objective was to find some example of wrongdoing upon which to build a case of impropriety or insensitivity to the statutes or the American Bar Association's canons of judicial ethics.

They found nothing. Frustrated at this stratagem, they had no alternative but to look for other causes, other reasons upon which a case could be justified for rejecting this nomination. Thus the line was taken that the nominee was mediocre, as well as insensitive to the rights of minorities and convicted felons.

Now, Mr. President, this brings us to the question: Aside from the public clamor created by those determined to prevent the President from giving balance to the Supreme Court as he pledged to the American people in his campaign for the Presidency, what kind of man does the record show George Harrold Carswell to be?

First, let us inquire as to the opinion of the American Bar Association's Standing Committee on the Federal Judiciary and determine upon what criteria their recommendation is based. Judge Walsh's letter to the committee of January 26 of this year, expressed to the chairman, speaks for itself. It states as follows:

> Dear Senator: Thank you for your telegram of January 21, 1970, inviting the comments of the American Bar Association Standing Committee on the Federal Judiciary with respect to Judge G. Harrold Carswell, who has been nominated for the office of Associate Justice of the Supreme Court of the United States. The Committee is unanimously of the opinion that Judge Carswell is qualified for this appointment.
>
> This committee has previously investigated Judge Carswell for appointment to the District Court in 1958 and for appointment to the Court of Appeals for the Fifth Circuit in 1969. On each occasion Judge Carswell was reported favorably for these appointments.
>
> The Committee has now supplemented these investigations within the time limits fixed by your telegram.
>
> With respect to nominations for the Supreme Court, the Committee has traditionally limited its investigation to the opinions of a cross-section of the best informed judges and lawyers as to the integrity, judicial temperament and professional competence of the proposed nominee. It has always recognized that the selection of a member of the Supreme Court involves many other factors of a broad political and ideological nature within the discretion of the President and the Senate but beyond the special competence of this Committee. Accordingly, the opinion of this Committee is limited to the areas of its investigation.
>
> In the present case the Committee has solicited the views of a substantial number of judges and lawyers who are familiar with Judge Carswell's work, and it has also surveyed his published opinions. On the basis of its investigation the Committee has concluded, unanimously, that Judge Carswell is qualified for appointment as Associate Justice of the Supreme Court of the United States.
>
> Respectfully yours,
>
> Lawrence E. Walsh,
> *Chairman.*

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Now, it is true that the opponents of the nomination have, by inference, questioned the integrity and sincerity of Judge Walsh and his distinguished colleagues who serve on the American Bar Association's standing committee on the Federal judiciary. For example, Stephen Schlossberg, general counsel for the UAW told the committee:

> Predictably Judge Walsh and his blue ribbon panel have stamped their approval on this undistinguished nominee.

Mr. Schlossberg and others would have us believe that Judge Walsh and the members of the committee are no more than rubberstamps for the President. Yet Mr. Schlossberg, Mr. Rauh, and other spokesmen for organizations which make up the Leadership Conference on Civil Rights filed with, vouched for, and have quoted with approval the so-called Curzan report, a doctoral dissertation by a graduate student at Yale which on its face purports to be "A Case Study in the Selection of Federal Judges, the Fifth Circuit, 1953–63".

Certainly no objective reader of the Curzan report would question her credentials as a civil rights zealot. Any scholar who has reviewed the decisions of the district judges in the fifth circuit and ranks Frank Johnson of Alabama a "segregationist" can hardly be impeached by anyone as a rabid advocate of minority rights. Yet, even Miss Curzan pays tribute to Judge Walsh in her report. As stated by Miss Curzan:

> Indeed, Judge Walsh, who replaced Rogers as Deputy Attorney General in 1958, had been a district judge in the Second Circuit when he was persuaded to leave the bench to come to the Department of Justice to oversee the recruitment of judges. He left the bench only because he felt that selecting competent federal judges was one of the few jobs more important than sitting on a federal court.

This is the same Judge Lawrence Walsh who was Deputy Attorney General when President Eisenhower nominated George Harrold Carswell to the district court of northern Florida and, might I add, the same Lawrence Walsh who was Deputy Attorney General when President Eisenhower nominated the most liberal judges, both district and appellate, in the fifth circuit today.

This is the same Judge Walsh whose standing committee on the Federal judiciary has within the past year found Judge Carswell "well qualified" for elevation to the Firth Circuit Court of Appeals, and in January of this year approved his nomination as Associate Justice of the U.S. Supreme Court.

We have considered the opinion of the American Bar Association's Standing Committee on the Federal Judiciary reached after obtaining "the opinions of a cross-section of the best informed judges and lawyers as to the integrity, judicial temperament, and professional competence of the proposed nominee" and "having solicited the views of a substantial number of judges and lawyers who are familiar with Judge Carswell's work" and having themselves surveyed "his published opinions."

Now, Mr. President, let us consider the views of those who know Judge Carswell best, his colleagues on the Fifth Circuit Court of Appeals. Perhaps they are in the best position of anyone to judge the nominee because they have reviewed his decisions during his tenure as a district judge and have served with him as a fellow member of the Fifth Circuit Court of Appeals.

These are independent men of different philosophies, with lifetime appointments to the second highest court in the land. They are financially secure for life and can expect no further elevation within our system of Federal courts other than elevation to the Supreme Court itself. They have no reason or motive to mislead us.

To the contrary, these are men who share a common respect and concern for the prestige of the Supreme Court of the United States. They have no ax to grind, no cause to advance, no reward to gain by any statement they might make for or against this nominee.

Now I call the Senate's attention to a speech delivered on the Senate floor on February 16 by the distinguished senior Senator from Maryland wherein he named a number of judges on the Fifth Circuit Court of Appeals, who are, in his own words, "imminent constitutional lawyers and who have demonstrated that they are judicious men, able to give any man a fair and impartial hearing."

Two of Judge Carswell's colleagues named by the distinguished senior Senator from Maryland were Judge Bryan Simpson and Judge Robert A. Ainsworth.

I agree with the senior Senator from Maryland when he describes these two eminent jurists, regardless of their legal philosophies, as "judicious men, able to give any man a fair and impartial hearing," and might I add that they are willing to give Judge Carswell "fair and impartial" consideration as nominee for Associate Justice of the Supreme Court.

Now what do these two judges say about George Harrold Carswell as a nominee for Associate Justice of the United States? Judge Bryan Simpson, in a letter to the committee of January 22, states as follows:

> My Dear Senator Eastland: The purpose of this letter is to attest to you and the members of your committee, for whatever value it may have, my personal judgment of the qualifications of U.S. Circuit Judge G. Harrold Carswell to become an Associate Justice of the United States Supreme Court.
>
> I have been closely associated with Judge Carswell as a brother Florida Federal judge since he became a district judge in the spring of 1958. We worked closely together over the years. In recent months that association has continued on the Court of Appeals. I knew him slightly, but mainly by reputation, in the early fifties when he was U.S. Attorney for the Northern District of Florida.
>
> He possesses and uses well the requisite working tools of the judge's trade: industry, promptness, learning, attentiveness and writing skills. He is a competent and capable judicial craftsman, experienced in the diverse and complex areas of federal law as well as the almost limitless variety of cases coming to us under the diversity jurisdiction. In the six or seven months he has been a member of our Court and in extensive service thereon as a visiting judge over the prior years, he has shown a steady capacity for high productivity without the sacrifice of top quality in his work.
>
> More important even than the fine skill as a judicial craftsman possessed by Judge Carswell are his qualities as a man: superior intelligence, patience, a warm and generous interest in his fellow man of all races and creeds, judgment and an open-minded disposition to hear, consider and decide important matters without preconceptions, predilections or prejudices. I have always found him to be completely objective and detached in his approach to his judicial duties.
>
> "In every sense, Judge Carswell measures up to the rigorous demands of the high position for which he has been nominated. I hope that the Judiciary Committee will act promptly and favorably upon his nomination. It is a privilege to recommend him to you without reservation.
>
> With kind personal regards, I am,
> Sincerely,
>
> Bryan Simpson.

Mr. President (Mr. Byrd of West Virginia), let me say here that Judge Simpson, by those who judge the philosophy of a man, is considered to be a liberal judge.

Judge Robert A. Ainsworth, Jr., in a letter of January 23, says:

> Gentlemen: I submit for your favorable consideration the recommendation for confirmation of Judge G. Harrold Carswell to be

a Justice of the Supreme Court of the United States. Judge Carswell is my colleague on the United States Fifth Circuit Court of Appeals. I have known him prior to this time as a Federal District Judge. He has served as a member of the Judiciary for more than eleven years. He is a person of the highest integrity, a capable and experienced judge, an excellent writer and scholar, of agreeable personality, excellent personal habits, fine family, a devoted wife and children, and relatively young, as judges go, for the position to which he has been nominated.

In my view, Judge Carswell is well deserving of the high position of Supreme Court Justice and will demean himself always in a manner that will reflect credit upon those who have favorably considered his qualifications. Undoubtedly he will be an outstanding Justice of the Supreme Court and will bring distinction, credit and honor to our highest court.

Those of us who have known him for so many years as a capable and efficient Federal Judge feel an obligation to inform you of the high opinion which we entertain of his ability and qualifications. I am very glad to give him the highest possible recommendation and sincerely trust that the Senate will look favorably upon him and grant him confirmation.

Sincerely,

ROBERT A. AINSWORTH, Jr.,
U.S. Circuit Judge.

The committee also heard from Judge Elbert B. Tuttle concerning this nomination. One could hardly name on one hand the most liberal judicial activists in our Federal system of courts without including Judge Tuttle.

Even Joe Rauh named Judge Tuttle, along with Wisdom and Brown, as men he considers "wonderful Southern judges . . . who would have been heroic additions to the Court" and judges "I could stand and cheer for."

Yet even Judge Tuttle, in a letter to the committee of January 22, said:

> My purpose in writing is that I wish to make myself available to appear before the subcommittee at its hearing on the nomination of Judge Carswell, in support of his confirmation, if the committee would care to have me appear.
>
> I have been intimately acquainted with Judge Carswell during the entire time of his service on the Federal bench, and am particularly aware of his valuable service as an appellate judge, during the many weeks he has sat on the Court of Appeals both before and after his appointment to our court last summer. I would like to express my great confidence in him as a person and as a judge.
>
> My particular reason for writing you at this time is that I am fully convinced that the recent reporting of a speech he made in 1948 may give an erroneous impression of his personal and judicial philosophy, and I would be prepared to express this conviction of mine based upon my observation of him during the years I was privileged to serve as Chief Judge of the Court of Appeals for the Fifth Circuit.

The committee also received unsolicited endorsements for the nominee from Judges Dyer, Bell, Thornberry, and Jones, all colleagues of Judge Carswell on the Fifth Circuit Court of Appeals. These letters speak for themselves and I ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. COURT OF APPEALS,
FIFTH JUDICIAL CIRCUIT,
Miami, Fla., January 26, 1970.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR EASTLAND: I commend to you and to your Committee Judge G. Harrold Carswell for confirmation as an Associate Justice to the Supreme Court of the United States.

I have enjoyed the privilege of serving with Judge Carswell on the Court of Appeals for the Fifth Circuit since he was appointed to our Court last June. He has discharged his judicial responsibilities with dispatch but always with painstaking concern that his approach to a case was impartial and that the decision he reached was the result of exhaustive research, analytical reasoning, and a careful consideration of the precedents.

Judge Carswell has exemplified these outstanding judicial characteristics during his long career as a district judge. His many attributes as a judge and as an individual are too numerous to attempt to chronicle. Suffice it to say that his election by all of the judges in the Fifth Judicial Circuit as their representative to the Judicial Conference of the United States is evident of the high respect in which he is held.

While the Fifth Circuit will sorely miss Judge Carswell, the Supreme Court and the country will be the beneficiaries of his great judicial talent and vigor.

With my continued high esteem,

Sincerely,

DAVID W. DYER.

U.S. COURT OF APPEALS,
FIFTH JUDICIAL CIRCUIT,
Jacksonville, Fla., January 23, 1970.

Hon. JAMES O. EASTLAND,
Chairman of the Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: I regard Harrold Carswell as eminently qualified in every way—personality, integrity, legal learning and judicial temperament—for the Supreme Court of the United States.

With regards, I am

Sincerely yours,

WARREN L. JONES.

U.S. COURT OF APPEALS
FOR THE FIFTH CIRCUIT,
Austin, Tex., January 22, 1970.

Hon. JAMES O. EASTLAND,
Chairman, Committee on Judiciary,
U.S. Senate,
Washington, D.C.

MY DEAR MR. CHAIRMAN: I trust that it is not presumptuous of me to express the hope that the Senate of the United States will advise and consent to the appointment of Honorable G. Harrold Carswell to be Associate Justice of the Supreme Court of the United States.

I have known Judge Carswell from the time I began to serve as United States District Judge. The first time I sat as Circuit Judge, Judge Carswell, as an invited District Judge, was a member of the same panel. Since he became a member of the Fifth Circuit Court of Appeals, he and I have been members of the same Administrative and Screening Panel of our Court. During these years, I have had an opportunity to observe and know him as a Judge and as a man.

Judge Carswell is a man of impeccable character. He is dedicated in his work and vigorous in its application. As a member of our Court, his volume and quality of opinions is extremely high. He has had an experience which adds to his numerous qualifications to be Associate Justice, as a lawyer, as United States Attorney, as United States District Judge and, now, as a Circuit Judge. As the record shows, he has had considerable experience on the Court of Appeals, having sat with our Court as an invited District Judge for eleven weeks before he was appointed to the Fifth Circuit. Judge Carswell has the compassion which is so important in a judge.

I believe Judge Carswell possesses the professional and judicial qualifications to be a distinguished Associate Justice of the Supreme Court of the United States.

Respectfully yours,

HOMER THORNBERRY,
U.S. Circuit Judge.

U.S. COURT OF APPEALS,
FIFTH JUDICIAL CIRCUIT,
Atlanta, Ga., January 26, 1970.

Re Hon. G. Harrold Carswell.
COMMITTEE ON THE JUDICIARY,
U.S. Senate,
Washington, D.C.

DEAR SIRS: This statement is in support of Hon. G. Harrold Carswell whom you are now considering for confirmation as an Associate Justice of the Supreme Court.

I have known Judge Carswell for 24 years and have frequently visited in his home as he has in mine. I am familiar with his career as a lawyer and a judge, and with his personal life. His character and integrity including intellectual honesty, is of the highest order. His intellect and ability are also of the highest order.

Judge Carswell will take a standard of excellence to the Supreme Court, based on many years of experience as a trial judge and the equivalent of two years as a circuit judge (considering sittings with the Fifth Circuit as a district judge), which will substantially contribute from the inception to that court. His particular experience cannot be matched by anyone presently on the court and will fill a need now existing on that court.

I recommend Judge Carswell for confirmation without any hesitation or reservation whatever.

Yours sincerely,

GRIFFIN B. BELL

Mr. EASTLAND. Mr. President, might I ask, Mr. President, what finer endorsement could the nominee have received from his colleagues than his election in April 1969 by the circuit and district judges of the fifth circuit as their representative to the Judicial Conference of the United States. This group of distinguished lawyers and judges includes every shade of judicial philosophy, from the most conservative view of strict construction and judicial restraint to the most liberal judicial activist in the Federal system of courts.

Yet, when they were called upon to select a man to represent them at the very judicial conference which would consider new rules of judicial ethics, financial disclosure, and permissible income from off-the-bench employment, they chose Judge George Harrold Carswell. These are men, most of whom have known the nominee both personally and professionally, and have judged him on that basis.

The committee also heard from several distinguished members of the Florida Bar Association. Mr. Mark Hulsey addressed the committee on behalf of the Florida Bar Association and informed us that the nominee had been unanimously endorsed by a written poll of the 41 members of their board of governors. Not only did Mr. Hulsey testify as the president and official representative of the Florida Bar Association, but on the basis of having known Judge Carswell "personally for over 17 years—on my observations of him as U.S. attorney when I was an assistant U.S. attorney—as a trial lawyer, practicing before him in his court."

In addition to praising Judge Carswell's integrity and professional ability as a lawyer and judge, Mr. Hulsey directed the following remarks to the charge of racism which had been raised earlier in the hearings. As stated by Mr. Hulsey:

> And, Mr. Chairman, may I make just one last comment. If this were not so serious, this charge of racism against Judge Carswell, it would almost be funny. By that I mean it is certainly ironic, because you know in Florida many people regard certain parts of the northern district of Florida as a little bit to the right of Louis the 14th, and I can tell this committee in all sincerity and honesty that Harrold Carswell has displayed unusual courage I think and faithfulness to the law that he serves in his civil rights rulings, in an altogether hostile climate.
>
> I think he is a very strong man. I was shocked to read the speech, the young man's speech he made, because in all of my dealings with Harrold Carswell including the *Brooks* case I would have thought he was just the opposite, and I would think most lawyers and most people who had dealings with him in Tallahassee feel that he is indeed a fine judge. He believes in liberty and justice for all, and there is no two ways about it.

Mr. Hulsey also directed his attention to several other charges which have been raised against Judge Carswell and I will refer to those remarks at a later point.

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The committee also heard from the Honorable Leroy Collins, distinguished Florida attorney, former Governor of Florida, and former Director of the Community Relations Service, and later Under Secretary of Commerce in the Kennedy administration. Governor Collins brought with him impeccable liberal credentials in the field of civil rights.

The senior Senator from Maryland introduced this witness with the following remarks:

> The first witness I would like to make reference to is Gov. Leroy Collins of Florida, in my judgment one of the great public servants of this generation. I would like for the record to make that comment for my brother members of this committee, and to formally welcome him to testify before this committee.
>
> It has been my privilege to know Governor Collins since I first worked for Senator Jack Kennedy in the Florida campaign for the Presidency in 1960. Since then, my every experience with Governor Collins has shown me that he is a man of the highest integrity and, a great American.

Senator Bayh noted:

> Mr. Chairman, I would like to say for the record what I previously did not have the good fortune to say in this forum, that of all the public servants I have had the good fortune to become familiar with, I know of no man I respect more than the witness who is presently before us.

Governor Collins' appearance before the committee in support of the nominee was unsolicited and his testimony based upon a lifetime acquaintance with Judge Carswell both personally and professionally.

Governor Collins told the committee that he had hired the nominee right out of law school as an associate in his Tallahasee firm and of his early conviction that Harrold Carswell was destined to become an outstanding lawyer. Governor Collins' words speak best for themselves, and this is what he said:

> I knew this man well as a lawyer, both while he was associated with our firm and also after he had organized this new firm of his own. I knew him then as I have continued to know him since, as a man of untarnished integrity, a man with an extraordinary keen mind, and very importantly, a man who works prodigiously. And on top of all that, he has one of the finest and keenest senses of humor of any man I have never known. He is a delightful man to be around in every sense. * * *
>
> As you know from the record here, Judge Carswell moved through three Federal posts of duty in the succeeding 16 years after his private law practice and he stands now with this Presidential appointment you have under consideration. I feel strongly that Judge Carswell's appointment deserves confirmation. I feel this way on the basis of my personal knowledge of the man, first of all, but, more importantly, on the basis of the overwhelming judgment of the bar of my State, on the basis of the judgment of his peers on the bench, and I think this is most important, on the basis of the judgment of the Members of the Senate and of this distinguished committee based upon your prior hearings and investigations.
>
> Now, I listened to most of the questions and the testimony yesterday, Mr. Chairman, and in precious little of it did I feel that there was any substantive challenge of Judge Carswell's actual fitness and competence to serve on our highest court.

Not only was the testimony of these two distinguished Florida attorneys unsolicited and based upon personal and professional association with the nominee, but it stands uncontradicted by any member of the Florida Bar Association or by any attorney who has regularly practiced in Judge Carswell's court.

The committee was obviously impressed by the foregoing testimony and endorsements from these distinguished Federal judges and lawyers. Not only do they know the nominee, but they are in a position to understand the criteria by which the ability of a trial judge should be measured.

Since most, if not all, of the criticism by Judge Carswell's opponents has been directed to his service as U.S. district judge, I am compelled to here interject a few remarks which might place the consideration of the nomination in clearer perspective and perhaps explain, in part, the different judgment passed upon his record by judges and lawyers on the one hand and certain law professors on the other.

Most of Judge Carswell's professional life has been spent as U.S. district judge for the northern district of Florida. His duties and responsibilities have been those of a trial judge.

As a trial judge the nominee has been called upon day after day, week after week, month after month, and year after year to preside over trial after trial. We have in this country an adversary system of law in which the trial judge bears the heavy burden and responsibility for seeing justice done.

Unlike appellate judges or professors of law, his work is done in open court, before adversary litigants who are usually supercharged emotionally, convinced of the justice of their cause and often hostile toward the court as well as toward each other. The conduct of the trial judge is open to careful scrutiny by lawyers professionally committed to exhaust every legal remedy and employ every legal stratagem to win for their clients. It is commonplace for disappointed litigants and even lawyers to place blame for failure upon the trial judge.

As we have seen clearly demonstrated in the hearings upon the nomination of Judge Carswell and as I have seen demonstrated in the consideration of hundreds of nominations where trial judges are elevated to the appellate courts, disappointed litigants and immature lawyers often leave the courtroom in a bitter and vengeful mood. It is easier to cover up professional incompetence or lack of merit in a case by blaming the judge.

The Judiciary Committee seldom considers the elevation of a trial judge to a higher court without receiving impassioned and embittered letters of protest from lawyers and parties who have lost cases before him.

It is irrelevant that the trial judge possess the scholarship to find the law; he must know the law applicable to the facts and case at hand. During the course of a trial he is called upon to rule instantly on countless motions and objections. Once a motion is granted, an objection sustained, a jury instruction given from the bench, he cannot erase or second guess. Any mistake or combination of misjudgments along the long and tortuous road from a suit filed to a verdict rendered may prove reversible error, aborting and delaying justice as well as increasing the expense to litigants.

Not only must the trial judge rule, he must preside as well. He must possess the character, impartiality, patience, and leadership to keep a trial moving along in order and on the track. He must be in control of his court. He must maintain the respect and attention of lawyers, litigants, jurors, and even spectators, all the while balancing the scales of justice in order to protect the rights of all parties concerned.

Judge Carswell, as a trial judge, could not share the heavy strain, burden, and responsibility with fellow members of a panel or en banc court.

Those who have known Judge Carswell best, the lawyers who practice in his court, the appellate judges who reviewed his trial records, have shown the nominee to be a lawyers' lawyer, a judges' judge, a man of the law who has labored tirelessly in the vineyards of our judicial system.

Judge Carswell's record reveals a clear and accurate mind, a well-reasoned, plain spoken approach to the law. His decisions reflect more concern for immediate relevance than coining a cliche, more concern for resolving the rights of the litigants at hand than turning a clever phrase, more concerned with seeing justice done and announcing his decisions in a manner clear, concise, and to the point than flights into literary elegance.

Mr. President, a review of Judge Carswell's record, far from reflecting a mediocre man, reveals a trial judge in the best tradition of our adversary system of litigation. If Judge Carswell's record on the trial bench reflects a reluctance to enunciate new and novel legal concepts, to break new constitutional ground, or to anticipate new directions which may be taken by the appellate courts or legislative bodies, it is to his credit.

Strict construction and judicial restraint are qualities which should be demanded of any trial judge, whatever his judicial philosophy. Judge Carswell's decisions reflect these qualities, they reveal a jurist more concerned with the law as a fact than phrase, more interested in substance than form or style or manner.

Disraeli once described Gladstone as a "sophisticated rhetorician, inebriated with the exuberance of his own verbosity, and gifted with an egotistical imagination" whose main purpose was "to glorify himself."

Judge Carswell is not that man.

And while his decisions are unappreciated by Dean Pollak, they are appreciated by learned lawyers, judges, and legal scholars who really understand the role of a trial judge in our system of justice.

While Judge Carswell has been dismissed as mediocre by Dean Pollak, who by his own testimony based his opinion upon newspaper accounts of the hearing and requested to testify against the nomineee before, not after, he thumbed through some of his printed opinions, other legal scholars who based their testimony on a personal and professional acquaintance with the nominee gave another view.

The committee heard, for instance, from a truly distinguised law professor from Yale, James William Moore. Professor Moore's testimony was also unsolicited and based upon personal as well as professional knowledge of the nominee. I ask unanimous consent that a short biography of Professor Moore be inserted in the RECORD at this point:

James William Moore. Born Condon, Oregon Sept. 22, 1905; grew up in Montana; higher degrees—J.D., University of Chicago, J.S.D., Yale University, L.L.D., Montana State University; taught at the law schools of Utah, Minnesota, Chicago, Texas, and Yale, and holds a named Chair, Sterling Professor of Law, at Yale.

First recipient of Learned Hand medal, 1962.

Presently a member of the Supreme Court's standing Committee on Practice and Procedure. Prior thereto was chief research assistant for the Supreme Court's original Advisory Committee on Civil Rules and then later a member of that Committee. From 1944–48 was consultant on the revision of the Judicial Code.

Co-reporter in 1937 on bankruptcy and reorganization to the International Academy of Comparative Law, The Hague.

Author of: Moore's Federal Practice; Moore's Commentary on the Judicial Code; Collier on Bankruptcy (14th edition); Moore's Bankruptcy Manual; and other treatises and casebooks in the federal field of judicial administration, bankruptcy, jurisdiction and practice.

Of counsel for the State of Texas in the Texas 'Tidelands' oil litigation; counsel for the reorganization Trustees (now a single Trustee) of The New York, New Haven & Hartford Rail Co. since mid-1961; legal consultant for public groups and private lawyers.

Member of the bars of: the State of Montana; Supreme Court of the United States; Court of Apepals for the Second Circuit; United States District Courts for the states of Montana, Connecticut, and Southern District of New York, Interstate Commerce Commission.

Professor Moore told the committee:

I testify on behalf of Judge Carswell on the basis of both personal and professional knowledge.

About 5 years ago a small group of jurists, educators, and lawyers consulted me, without compensation, in connection with the establishment of a law school at Florida State University at Tallahassee. Judge Carswell was a very active member of that group. I was impressed with his views on legal education and the type of school that he desired to establish: a law school free of all racial discrimination—he was very clear about that; one offering both basic and higher legal theoretical training; and one that would attract students of all races and creeds and from all walks of life and sections of the country. Judge Carswell and his group succeeded admirably. Taking a national approach they chose, as their first dean, Mason Ladd, who for a generation had been dean of the college of law at the University of Iowa and one of the most respected and successful deans in the field of American legal education. And from the vision and support of the Carswell group has emerged, within the span of a few years, an excellent, vigorous law school.

For example, every member of the first graduating class of Florida State University Law School of about 100 passed the bar examination on the first go round. That makes my law school look like a member of the bush league.

From those and subsequent contracts I have formed the personal opinion that Judge Carswell is a vigorous young man of great sincerity and scholarly attainments, a good listener who wants to hear all sides, moderate but forward looking, and one of growth potential.

I have a firm and abiding conviction that Judge Carswell is not a racist, but a judge who has and will deal fairly with all races, creeds, and classes. If I had doubts, I would not be testifying in support, for during all my teaching life over 34 years on the faculty of the Yale Law School I have championed and still champion the rights of all minorities.

From the contacts I have had with Judge Carswell, and the general familiarity with the Federal judicial literature, I conclude that he is both a good lawyer and a fine jurist. Called to the bar about 20 years ago he has the background of private practice, public practice as a U. S. district attorney, and that of both district and circuit judge.

And while Judge Carswell has not been a circuit judge for a long time, he has Federal appellate experience since he has sat on the court of appeals as a district judge by designation, that goes back long before he become circuit judge. In fact I recall an example of an opinion written by him as early as 1961.

Having been in each of the 50 States, and having taught in most sections of this country, I have long been impressed with this country's diversity—economic, social, moral, and ideological. In my opinion the Supreme Court should be representative of that great diversity. And I believe at this time it is highly desirable that the next Justice should come from the section where Judge Carswell was born and has lived; and that Judge Carswell should be that justice.

Professor Moore's evaluation of the nomination was endorsed by Mason Ladd, visiting professor and former dean, Florida State University, and dean emeritus, University of Iowa. As was the case of Professor Moore, Professor Ladd did not base his opinion upon newspaper clippings or a sampling of Judge Carswell's published opinions. As a matter of fact, I do not believe either of these gentlemen would have been so presumptuous. In a letter of January 21, Professor Ladd told the committee:

MY DEAR SENATOR EASTLAND: I was much pleased when I heard of the nomination of Judge G. Harrold Carswell to the position on the Supreme Court, and I wish to urge early confirmation by the Senate.

I hold Judge Carswell in the highest respect and regard him as well qualified in every way for this highest position in the law. In one sense no one is fully qualified to assume the great responsibilities of a member of the Supreme Court but I believe Harrold Carswell will come as close to filling the needs as any who will be found. The Judge is the right age to grow into this position and to become a truly great Supreme Court Justice. He has an innate sense of fairness and has an open mind in considering the problems presented to him. He is a good listener and does not approach issues with predetermined conclusions. He is a careful student of the law, is a very hard worker. He is both scholarly and practical minded. He sees issues quickly but carefully explores the authorities and legal materials involved in reaching a decision. I regard Judge Carswell as free from prejudice upon the current issues of the day and feel that he will search for the right solution based upon the law and the facts.

The experience which Judge Carswell has had upon the Federal District Court and the Circuit Court of Appeals will be invaluable background for the responsibilities upon the Supreme Court. His active interest in the work of the Judicial Conference of the United States is also important. The Judge has been much interested in legal education and had an important part in the establishment of the new College of Law at Florida State University.

Judge Carswell's interests have been primarily in the law and in his family. It is fortunate that his other activities are free from objectionable conflicts of interest.

Judge Carswell is a delightful person, he has an ideal home life, and he has a wonderful wife and family. They spend a great deal of time together. It is a pleasure to visit at their home because you both see and feel the fine quality of these people.

I have come to know Judge Carswell very well in the last four years. I had been Dean of the College of Law at the University of Iowa for twenty-seven years and upon retirement came to Florida State University to establish a new College of Law. This brought me into close contact with the Judge; I liked him and we became good friends. I hold him in the highest respect as do the members of the legal profession in the State of Florida and I think quite widely in the south. I am sure he will do well and grow in national respect as a member of the Supreme Court. I recommend his early confirmation.

Most respectfully yours,

MASON LADD,
Visiting Professor and Former Dean, Florida State University; Dean Emeritus of Iowa.

The committee further considered the statement filed by Prof. William Vandercreek of Southern Methodist University. In a letter of February 3 Professor Van-

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dercreek gave this evaluation of Judge Carswell:

> An examination of Judge Carswell's decisions in civil rights cases demonstrate a fair and reasoned approach in keeping with the highest standards of judicial integrity. This is a significant accomplishment particularly because, as the committee is well aware, emotionalism and fervor so pervade the sensitive area of civil rights that many well meaning persons become totally intolerant of any view other than their own. . . .
>
> It is my firm belief that Judge Carswell's rulings are not based or influenced by race, creed, or color in any way. Judge Carswell merely rules upon the facts and issues of the cases before him.
>
> His record unequivocally shows that he rules fairly and without regard to the fervor and emotion of those on either side. Judge Carswell's records of over 4,500 civil and criminal cases clearly demonstrates an unusual skill of addressing his ruling to the issues at hand. He emphasizes the total picture. It seems that those who criticize his rulings are merely disappointed litigants who cannot evaluate Judge Carswell fairly in the light of their zeal for their cause.

It is not important to Professor Vandercreek that Judge Carswell's record show a "zeal for civil rights" as required by Dean Pollak. What seems important to Professor Vandercreek is that "he rules fairly and without regard to the fervor and emotion of those on either side." I agree with Professor Vandercreek and I believe the Senate will likewise agree.

In every law suit, and that includes civil rights litigation there are at least two parties. It is improper for a judge to show zeal for civil rights litigants as demanded by Dean Pollak. It is proper for him to be fair and impartial to everyone regardless of what he considers to be the moral justification or legal standing of the respective parties.

I ask unanimous consent to have Professor Vandercreek's letter printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TALLAHASSEE, FLA.,
February 3, 1970.

Re confirmation of G. Harrold Carswell.
Senator JAMES EASTLAND,
Chairman, Senate Judiciary Committee, U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: Judge Carswell should be confirmed as an associate Justice of the Supreme Court. I have been a law professor at Southern Methodist University since 1959 and have been a visiting professor at Florida State University since 1968. With deference to Lowenthal, Von Alystyne and Orfield, their statements as reported in the news media, do not present a rational basis for opposing or delaying Judge Carswell's confirmation.

An examination of Judge Carswell's decisions in civil rights cases demonstrate a fair and reasoned approach in keeping with the highest standards of judicial integrity. This is a significant accomplishment particularly because, as the committee is well aware, emotionalism and fervor so pervade the sensitive area of civil rights that many well meaning persons become totally intolerant of any view other than their own.

For example, on jurisdictional grounds Judge Carswell should be praised not condemned for his ruling in *Wescher* v. *Gadsden County*. The only issue therein properly before the court involved the construction of a removal statute. The 5th circuit remanded the case for further consideration because after the district court had ruled, the 5th circuit in two cases, *Rachel* v. *State of Georgia*, 347 F2 679, gave a broad interpretation of removal jurisdiction. Subsequently in line with Judge Carswell's earlier decision the Supreme Court reversed the 5th circuit in *Greenwood*, 384 U.S. 808, and on narrower grounds affirmed *Rachel*, 384 U.S. 780.

For the Supreme Court's decision in *Greenwood*, it would be absurd to say the Supreme Court justices are racial bigots and it would be equally absurd to apply the same type of fallacious reasoning to any other jurist.

It is my firm belief that Judge Carswell's rulings are not based or influenced by race, creed or color in any way. Judge Carswell merely rules upon the facts and issues of the cases before him.

His record unequivocally shows that he rules fairly and without regard to the fervor and emotion of those on either side. Judge Carswell's records of over 4,500 civil and criminal cases clearly demonstrates an unusual skill of addressing his ruling to the issues at hand. He emphasizes the total picture. It seems that those who criticize his rulings are merely disappointed litigants who cannot evaluate Judge Carswell fairly in the light of their zeal for their cause.

The civil rights of all men must be protected and I respectfully submit that Judge Carswell's record when properly viewed is highly commendable. I say this not only as legal educator but as an attorney who has appeared in cases before the 5th circuit and the Supreme Court. (For example see habeas corpus appeal in *Brooks* v. *Beto* 366 F2d, involving the issue of whether purposeful inclusion as distinguished from purposeful exclusion of blacks on a grand jury violated many clients constitutional rights.)

Judge Carswell would bring humility and skill, which coupled with his outstanding judicial experience will provide a basis for his making a significant contribution to our highest court.

I would be pleased to testify under oath in support of Judge Carswell if the committee would be so inclined.

Respectfully,
WILLIAM VANDERCREEK.

Mr. EASTLAND. Mr. President, the committee further received letters from Joshua M. Morse III, dean of Florida State University Law School, and Frank E. Maloney, dean of University of Florida Law School. I ask unanimous consent that these letters likewise be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE FLORIDA STATE UNIVERSITY,
Tallahassee, January 22, 1970.

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I write in support of the nomination of Judge G. Harrold Carswell to the position of Associate Justice of the Supreme Court of the United States.

While I have known Judge Carswell personally for only six months, I am impressed with his ability, energy, enthusiasm and dedication to duty. I feel that he approaches every case without pre-judgment, prejudice or bias. I would give him the highest recommendation for the position.

The experience as United States Attorney, United States District Judge, and United States Court of Appeals Judge will be invaluable in the duties of the new office.

I recommend highly his early confirmation.

Very truly yours,
JOSHUA M. MORSE III.

UNIVERSITY OF FLORIDA,
Gainesville, January 21, 1970.

Hon. JAMES O. EASTLAND,
U.S. Senator, Chairman, Committee on the Judiciary, New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: It was with extreme pleasure that I read of the nomination of Judge G. Harold Carswell to the Supreme Court. Judge Carswell is not a graduate of this school, however, it has been my pleasure to be acquainted with the Judge for about twenty years. During that time I have observed him distinguish himself in private practice and public duties in a manner which has always reflected credit on the entire bench and the Bar of this state.

Because of the high esteem I have for the Judge's personal and professional characteristics, as I know them, I would like to add my voice of support to the many others which I am sure you have already heard favoring this confirmation.

Sincerely yours,
FRANK E. MALONEY, *Dean.*

Mr. EASTLAND. Mr. President, we have now considered the opinion of the American Bar Association's Standing Committee on the Federal Judiciary which, might I add, was unanimously reconfirmed after all of the testimony was in and after each member of the committee had an opportunity to study the full printed record.

We have now reviewed the opinions of distinguished attorneys such as Mark Hulsey and Leroy Collins, as well as the studied opinions of legal scholars and law professors whose testimony was based on both personal and professional acquaintance with Judge Carswell.

We have considered the views of those men who are perhaps best suited to judge the nominee, his colleagues on the Fifth Circuit Court of Appeals who know him both as a lawyer and a judge.

I have made some observations of my own concerning Judge Carswell's record in light of his responsibilities and duties as a trial judge.

Having done so, I believe that any fair-minded man who considers the foregoing aspects of this nomination will be compelled to conclude that the charges that have been raised against Judge Carswell are no more than diversionary tactics which their authors hope will confuse the public and the Senate as to the real issue involved. But it is not my intention to dismiss these charges out of hand, but to analyze and thus reveal them for what they are.

Now this cannot be done without some difficulty. It is difficult to determine which of these charges should be given priority because Judge Carswell's opponents cannot even agree among themselves. It is difficult to determine which of these charges they are willing to stand by and vouch for since they are unable to do so themselves.

As a matter of fact, trying to come to grips with the case which has purportedly been made against Judge Carswell is somewhat like viewing a kaleidoscope. Every time you look at it—it appears in a different pattern.

According to Time magazine of March 2, 1970, having reviewed all of the testimony and charges which have been raised, the issue boils down to "the mediocrity factor," dismissing the charge of racism as acts which "only conform to

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the unfortunate facts of life in the old South" and pointing out that "Earl Warren, after all, once helped put thousands of Japanese-Americans into detention camps." Time magazine sums up the issue this way:

> While much of the argument over Carswell's nomination has centered on his questionable civil rights record, an increasing number of legal scholars and Senators are asking whether he has the kind of legal mind that would enhance the nation's highest court.
>
> A more troublesome aspect of Carswell's career is his lack of distinction on the federal bench.

Time magazine proceeds to reinforce this view by referring to an often repeated quote of Dean Pollak of Yale Law School who told the committee:

> I don't begin to suggest that I have read the entire range of his work or indeed his opinions on the court of appeals, there is nothing in these opinions that suggests more than at very best a level of modest competence . . .

Dean Pollak further told the committee:

> I submit to the committee that in nothing that I have read of the judicial work of the nominee are there any signs, and I say this with great deliberation, aware of the importance of what I am saying, are there any signs of real professional distinction which would arise one iota out of the ordinary.
>
> On the basis of the nominee's public record, together with what I have read of his work product, I am forced to conclude that the nominee has not demonstrated the professional skills and the larger constitutional wisdom which fits a lawyer for elevation to our highest court.
>
> I am impelled to conclude, with all deference, I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth in this century; and this century began, as I remind this committee, with the elevation to the Supreme Court of the United States of the Chief Justice of Massachusetts, Oliver Wendell Holmes.

This issue was also raised by Mr. Schlossberg, general counsel of the UAW, wherein he testified:

> I know he has written some very pedestrian court opinions, because I have read them. I know he helped to write an application for a club, for a country club which would subvert the bill of rights of the U.S. Constitution. He has not written a law review article. He has not written a book . . .
>
> This man, who graduated from the third best law school in Georgia, I believe there are four, has not grown. To read his opinions is not to read opinions by a scholar, by a jurist, or by one who loves the law and follows the law. It is to read the opinions of a pedestrian man . . .

This is testimony which has been widely repeated and referred to with approval by the New York Times and Washington Post.

Now let us discuss for a moment the testimony of Dean Louis H. Pollak. Let me preface my remarks by recalling that Dean Pollak apologetically began his testimony saying:

> Arrogant as perhaps this seems, I wanted to come before this Committee and express my deep concern.

And having reviewed Dean Pollak's testimony, I must agree that it does indeed seem arrogant and presumptuous.

To begin with let us determine the depth and scope of Dean Pollak's knowledge in regard to the nominee.

Unlike the other witnesses who testified in Judge Carswell's behalf, lawyers, professors, and distinguished judges, Dean Pollak's testimony was not based upon his personal or professional acquaintance with the nominee. Then upon what was his harsh denunciation based?

First of all, Dean Pollak says he decided to oppose the nomination after "reading press accounts of the testimony." At this point Dean Pollak felt compelled to notify the committee of his desire to testify against the nominee. It is interesting to note that Dean Pollak requested to testify prior to the time, according to his own testimony, that he had even made a summary review of any of Judge Carswell's opinions. According to his testimony he began reading Judge Carswell's opinions on the evening that he asked to testify. Even upon his appearance before the committee it is to his credit that he admitted:

> I don't begin to suggest that I have read the entire range of his work or indeed his opinions on the court of appeals . . .

So we start off with a witness who was opposed to the nomination prior to reading any of his opinions, who did not read any of his opinions on the court of appeals, and who admits he briefly reviewed some of his opinions on the district court which were published in the Federal Supplement.

Now I understand that Dean Pollak's colleagues and proteges at Yale University consider him to be a brilliant man and I would not quarrel with that for one moment. But his testimony reminds me of an observation made by Louis Nizer in the introduction to his book, "My Life in Court." Mr. Nizer, as I recall, observed, from his lifetime as a lawyer, that preparation makes the dull appear bright and the bright brilliant.

Dean Pollak has demonstrated to us that lack of preparation makes the brilliant appear ridiculous. So even though his testimony has little bearing upon the merits of this nomination, it does contain a lesson for students of the law which may be beneficial to them, and in that light perhaps his testimony has served some purpose.

Dean Pollak has also given us an interesting lesson, an insight into the workings of the news media. If Dean Pollak has shown himself to be a poor witness, he has revealed himself as a skillful propagandist. He understands not only how to use the prestige of his title, but also undertsands the headline value of a rash, though unsupported, accusation.

Thus the careful, deliberate, and considered judgment of other witnesses who testified on the basis of their personal and professional knowledge of the nominee, and even those who testified against the nominee on the basis of having studied his record, did not receive the same attention from the news media that was paid Dean Pollak.

It is an unfortnuate fact of life, I suppose, that the actions of a zealot and the words of a demagog are more newsworthy than those of other acknowledged men of worth.

Now I do not want to belabor the testimony of Dean Pollak. Even though it has been widely quoted, it can hardly bear upon the judgment of any fair-minded man who takes the time to carefully consider it. But Dean Pollak's testimony is interesting in that it gives us some insight into the mind and motive of an extremist—in this case a man with extreme or, to use Dean Pollak's term, zealous concern for the expansion of civil rights or, in Dean Pollak's case, minority rights and criminal rights.

His quick decision to oppose the nominee and testify against him before reading a single case gives us a clearer insight into the compulsive and emotional reaction of Dean Pollak and others like him to any man or issue that can be identified along liberal-conservative lines. He reveals to us a state of mind which is shared among those within the philosophical orbit of the Washington Post-New York Times axis.

I think it is revealing, for instance, to consider Dean Pollak's attitude when questioned by Senator HRUSKA concerning the nomination fight over Judge John Parker. In reply to Senator HRUSKA, Dean Pollak refers to, "the adjectives you use in referring to Judge Parker, the brilliance, the excellence, the ability that you properly ascribe to him." Dean Pollak admits that, in regard to Judge Parker, "I thought him indeed a very able judge." Again, in reference to Judge Parker, Dean Pollak says:

> He was a very able judge, of very considerable distinction.

It is interesting to note Dean Pollak's acknowledgment of Judge Parker as a great jurist, but not surprising. Even Chief Justice Earl Warren said, in 1958:

> No judge in the land was more truly distinguished or more sincerely loved. His contemporaries appreciated and honored this man's qualities, and in the judicial history of the Nation his great reputation will endure.

In view of those acknowledged tributes, one would obviously conclude that Dean Pollak, a self-styled historian of the Court, would view his rejection as a mistake. But even in view of all this, Dean Pollak will not admit that Judge Parker's rejection was a mistake. He will only begrudgingly acknowledge that, "it has been to my mind a very real question as to whether the Senate was not in error in declining to consent to his nomination."

Again when pressed upon this subject, Dean Pollak says:

> I have long entertained doubts whether it was not a great mistake to fail to confirm Judge Parker's nomination.

But Dean Pollak cannot bring himself to admit or acknowledge that it was, in fact, a mistake.

Why?

Dean Pollak gives us a clue when he says:

> He wrote a number of opinions with which I disagree.

That is the truth of the matter. Even in the case of an acknowledged jurist of true greatness like Judge Parker, Dean Pollak and those like him simply will not admit that they have a place on the Supreme Court of the United States.

And this is the heart of the matter with regard to this nominee, "he wrote a number of opinions with which I disagree," therefore there is "a real question in my mind" whether he should hold any office of authority within our system of government.

And to show that they learn nothing and never change, consider the editorial of April 23, 1930, wherein the New York World summed up the case against John J. Parker to be Associate Justice of the Supreme Court:

> It is Judge Parker's total lack of a distinguished record of public service and the total lack of proof that he has any distinction as a jurist which seems to us above all else to justify the Senate in saying that his nomination does not measure up to the standards which the American public rightly exepcts to see attained in the nomination of a Supreme Court justice.

Now they begrudgingly admit this man they called mediocre to be, along with Learned Hand and a handful of others, to be among the truly great jurists of our time.

And it is further revealing to note that Judge Carswell is not even the first nominee they have blamed with this charge of mediocrity within the past year. When the Haynsworth nomination was sent to the Senate, the Washington Post said the President "has not distinguished himself in his first two opportunities to name judges to the Supreme Court," and called for men who were "truly distinguished."

So now we have it laid out. According to the Washington Post, Chief Justice Warren Burger was not distinguished. According to the Washington Post Judge Clement Haynsworth was not distinguished. And now, we are told that Judge Carswell is not distinguished.

If only they had the courage and simple honesty to admit that they do not regard anyone distinguished until they have adopted their views.

Thus, District Judge Frank Johnson of Alabama becomes a "truly distinguished judge" on no other basis than the fact he has followed "the line," has not written any opinions with which Dean Pollak and his friends can disagree.

Of course, the charge of mediocrity is so transparent and absurd when viewed in the light of other testimony and in light of Judge Carswell's duties and responsibilities as a trial judge that any fairminded man without an ax to grind, cross to bear, or a cause to champion, will dismiss it out of hand.

Mr. President, I will speak again later in the debate on Judge Carswell.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPONG). Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, may I ask the distinguished Senator from Indiana if at this moment he has any other speakers in mind? We have had a quorum call that has been going on for 15 minutes. I wonder whether or not any Senator in opposition is ready to speak.

Mr. BAYH. Mr. President, we have a colleague who wishes to speak but who has had difficulty getting here from a luncheon appointment. I trust he will arrive in short order. In his absence, if I may seek recognition, I might make one or two observations with respect to the remarks made earlier by two of our colleagues.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I listened with a considerable amount of interest to the comments made by our distinguished colleagues from Colorado (Mr. ALLOTT) and Mississippi (Mr. EASTLAND), the distinguished chairman of the Committee on the Judiciary, in support of the nominee. I must say those two colleagues of ours make worthy advocates and strong supporters of any nomination.

I thought perhaps, on behalf of some of us who are concerned about this nomination, it might be helpful to try to put some of the points that were raised in a little different perspective, at least from the standpoint of some of us who are not in complete agreement with the points raised by the two previous speakers this morning.

Our distinguished colleague from Colorado kept discussing the fact that during the presidential campaign the now President of the United States stressed repeatedly, the need to provide a strict constructionist, someone who would provide balance to the Court. In reviewing some of the Court's decisions, I suppose it is within the realm of reason to suggest that a bit of balance is needed.

I have not yet determined in my own mind how one defines the term "strict constructionist," but I think it would not do the President justice to let his campaign speeches, and indeed the pledge that he made upon being elected, stand with just the term "strict constructionist," because he went further, and I think accurately so, and suggested that he was going to nominate strict constructionists who were men of distinction.

I would hope that the boyhood ideals of the President to whom he referred repeatedly, men like Justice Cardozo, Justice Brandeis, and Justice Holmes, would be more in the stature of men of distinction than the nominee presently before us.

I personally do not quarrel with the President's right to choose a strict constructionist, but I think there must be strict constructionists who would not arouse the deep concern of literally hundreds of learned lawyers, law school deans and faculty members of our institutions of higher learning across the country. That has been the result of the present nomination—deep and dedicated concern that often has not been easy for those who have signed various letters and petitions, and indeed, some advertisements that have been brought to my attention.

In fact, it has been brought to the attention of the Senator from Indiana that some persons who have signed the various documents expressing concern have been personally threatened with punitive measures, and that even one or two institutions at which they taught had been threatened with certain punitive measures, if the names were not removed and a denial were not forthcoming from the professors who had expressed their concern.

I think it is important for us to recognize that we are choosing one of nine members of the Supreme Court of this country. I would hope it would be possible for the President of the United States to find a man who was a strict constructionist, who was a man of distinction, worthy to sit on this High Bench with eight of his colleagues.

As one looks at the record of the present nominee, I wonder in my own mind whether in fact he even fits the criterion ascribed to him by our distinguished colleague from Colorado as a strict constructionist. A strict constructionist is one who does indeed try to strictly apply the law and apply the constitutional provisions involved to the facts of each case. It seems that, instead of following that principle, the nominee has tried to set out on a course of his own, not to sit passively and determine what he feels the Constitution should be, but actively to pursue his own basic philosophy as applied to the cases in question. Why else would he have been reversed as many times by the Fifth Circuit Court of Appeals—two and one-half times the rate of other southern Federal district judges—as has been the case?

Very distinguished adversaries, if I may categorize them as that, the Senator from Colorado and the Senator from Mississippi, made much of the fact that this nominee had been before our Judiciary Committee and before the Senate on three previous occasions. I think that is accurate.

But I call attention to the fact that on the first occasion, when the nominee was nominated as a Federal district attorney, there were no hearings at all held by any committee. The second time, when the then district attorney was nominated to the post of district court judge, the record of the hearings, which I have before me, discloses that the committee met at 10:40 and adjourned at 10:55 the same day. In other words, there were 15 minutes of hearings held. The same is true of the record at the time the nominee was proposed for the circuit court of appeals.

I think it is fair to say that, rightly or wrongly, the only time the Senate of the United States has had the opportunity thoroughly to explore the qualifications of the present nominee is now. And when a man is nominated for a position on the Supreme Court, it is only fair to suggest that his record on the bench, his past life, and what he stands for should be subject to closer scrutiny than when he is nominated for a lower post. I think that, to be consistent, he should have been held to the same standards; and perhaps the Senate erred in not finding earlier some of the information which was disclosed only after the nomination to the High Court was made.

The Senator from Mississippi, the distinguished chairman of the Committee

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on the Judiciary, has provided for the RECORD the number of cases which have been postponed as a result of one judgeship being vacant. Mr. President, this is also a matter that concerns the Senator from Indiana. But I wonder if the the Senate is the body totally responsible for that; because, indeed, if the President had sent down the name of a different nominee on the first occasion, or even this time, I think our experience with the confirmation of the nomination of present Chief Justice Burger would reasonably lead one to believe that another nomination might well have been confirmed a long time ago.

Although I am concerned about the number of cases that have been postponed, and the fact that it is incumbent upon us, as quickly as we can consistent with the responsibility we bear, to fill this vacancy, we must recognize that whom we appoint is at least as important as when we appoint him; and that the present nominee, if confirmed, will probably sit on that Court for 25 years, long after the man who nominates him leaves the White House, and long after those of us who support him or oppose him will no longer be privileged to serve in this body. If history has taught us anything over the past decade or so, it has certainly taught us that the decisions of the Supreme Court have had a more far reaching and lasting effect on the course of our history and on the lives of our people than perhaps all the activities of the other branches put together. For that reason, I think it is absolutely imperative, although it is important that we fill the vacancy as rapidly as we can consistent with our responsibility, that we do not overlook the fact that this is an appointment for life. It is important that we get the best man we can to put on that great bench.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, on January 27 of this year I announced in this Chamber that "I will vote against Judge Carswell for the Supreme Court, because Supreme Court appointees should meet a standard of excellence, and Carswell does not."

I pointed out then, Mr. President, that the Supreme Court is one of the three coequal branches of the Federal Government, enjoying enormous power, importance, and prestige. The Supreme Court is the final voice in the interpretation of the Constitution of the United States. As such, it has the power to invalidate acts of both Congress and the President.

The Supreme Court of the United States epitomizes the country's dedication to the concept of the "rule of law." In times of severe stress and upheaval, the court has stood for orderly change within the existing legal framework. The strength of the Supreme Court comes from its remarkable flexibility, which allows for expansion and development in the interpretation of the Constitution of the United States, as demanded by changing political, social, and economic values.

The Constitution of the United States has managed to serve as a framework for our form of government longer than any other similar document in the history of mankind. And why? Mr. President, I think in large part the answer is because of the role of the Supreme Court. The Court has served to accommodate the existing system to change—placing the emphasis on evolution rather than revolution.

The Supreme Court has been the mainstay of hope for those Americans who felt left out of American life but who, because of the very existence of the Court, decided to try to make the system more responsive to their needs; these people looked to the Court for protection; they turned to the Court to redress legitimate grievances against outmoded philosophies in all areas from the political sphere, to economic relationships, to social customs.

In recent times the Supreme Court as well as the entire legal structure has come under sharp attack from extremist elements on both the political right and left. For this reason alone, a new appointee to the Supreme Court of the United States must have within him a quality which inspires trust and confidence. His background should not be such as to make him unacceptable to significant segments of our society.

Mr. President, I regret that Judge G. Harrold Carswell is not such a man. As I said in January:

> In my view it is not enough for a Supreme Court Justice to have no strikes against him. He must have a positive record of distinction. He must be among the very top in the legal profession. He must have demonstrably high intellect and understanding.

While we may not necessarily agree with his judicial views in a particular case, when it comes to a Justice of the Supreme Court, we should at the very least be able to respect his judgment, integrity, and intellect. We must be able to respect his reasoning processes. Above all, we must have confidence in his legal ability.

In examining Judge Carswell's credentials I found them to be "distinguished by their mediocrity. They show the heights to which an average intellect can reach by riding the coattails of political favoritism." His blatantly racist political speech in 1948, together with his continued inability to overcome his racial beliefs in reaching judicial decisions, as well as his general lack of distinction, demonstrate a shallowness in the judicial temperament so necessary for a Justice of the Supreme Court if he is to interpret and refine the Constitution as demanded by the rapid evolution of political, social, and economic values.

As I stated previously, Mr. President:

> I have regretfully come to the conclusion that Judge Carswell does not have the means or the vision to serve effectively on the Supreme Court. . . . Supreme Court nominees should meet a standard of excellence, and Carswell does not.

Though no one has argued that Harrold Carswell's record as a judge indicates any particular legal competence or brilliance, it has been said that his record indicates Carswell has some technical understanding of the law. But to become an Associate Justice of the Supreme Court of the United States, mere technical competence in the law is not enough. It is not enough to be free from moral or ethical conflicts in one's business ventures. It is not even enough to share the President's view of constitutional construction. All of these may be important, but they are not enough. An Associate Justice of the Supreme Court must have something more.

I think all of us know that with the overwhelming majority of lawyers and judges, the greatest distinction they aspire to is to be a Justice of the Supreme Court. The number of people who would like to be on the Court is very great. There are scholars representing every kind of viewpoint—conservative, liberal. There are scholars in all parts of the country. There are able lawyers and judges who would be brilliantly qualified—and I mean hundreds of them. That is why this nomination by President Nixon—who, incidentally, has made some very distinguished appointments in other areas—is so disappointing.

The appointments which a President makes to the Supreme Court can and often do affect American life long after that President's term in office expires. Two of the present members of the Court were appointed by a President who died in office 25 years ago. In making his Supreme Court selections, then, a President must look beyond the immediate political battlefield and project his vision years, even decades, ahead. What is President Nixon's attitude with regard to the Court? What role does he expect it to play?

On the question of whether the Supreme Court should interpret or make law, President Nixon said:

> Now it is true that every decision to some extent makes law; however, under our Constitution the true responsibility for writing the law is with the Congress. The responsibility for executing the law is with the Executive and the responsibility for interpreting the law resides in the Supreme Court. I believe in a strict interpretation of the Supreme Court's functions. In essence this means I believe we need a Court which looks upon its function as being that of interpretation rather than of breaking through into new areas that are really the prerogative of the Congress of the United States.

In discussing appointments to the Court, the President made it clear that it is important to get extremely qualified men on the Court. He said:

> The President cannot and should not control the decisions of the Supreme Court. On the other hand, the President does have some effect on the future of the Court because of his prerogative to appoint its members. In addition to getting an extremely qualified man, there are two important things I would consider in selecting a replacement to the Court. First, since I believe in a strict interpretation of the Supreme Court's role, I would appoint a man of similar philosophical persuasion. Second, recent Court decisions

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> have tended to weaken the peace forces, as against the criminal forces, in this country. I would, therefore, want to select a man who was thoroughly experienced and versed in the criminal laws and its problems.

When running for Governor of California in 1962, Richard Nixon further expanded his views of judicial appointments saying:

> I think judicial appointments first should be made on the basis of the qualifications of the potential appointee. I think the recommendations of the Bar Association should be given great weight. There should also be a thorough check on the part of the Governor's staff itself supplementing the Bar Association because lawyers are not, I find, the best judges in this instance. They are good judges on technical grounds and technical qualifications but they sometimes miss other factors that can have a great bearing on the judge's appointment.
>
> The other point that I feel very strongly about is that judicial appointments, above all others, should be made on the basis of legal qualifications rather than on the basis of party. If I have two people that are equally qualified, I obviously would hope to appoint a Republican. But there will be Democrats as well as Republicans appointed.

And again in 1968 Richard Nixon the presidential candidate said:

> But my general standard I will lay out for . . . the appointment of justices, and this is going to surprise you. I think Felix Frankfurter perhaps stated it best. Felix Frankfurter was a liberal in his thinking . . . during the 1930's, and yet in his last 10 years on the Court was a strict constructionist.
>
> It was his view that the Congress had the right and responsibility to write the laws and it was the court's responsibility to interpret the laws . . . I believe in that kind of appointment.
>
> I'm not so concerned about whether a man is a liberal or a conservative. I am more concerned about his attitude toward the Constitution.

When President Nixon selected Chief Justice Warren Burger in May 1969, the Washington Post complimented him for not naming a personal or political friend and for setting high judicial standards for his appointees. The Post commented editorially May 25, 1969:

> Aside from its self-righteous overtones, President Nixon's explanation of his appointment of Judge Burger to the chief justiceship may have an important influence on executive-judicial relations in the years immediately ahead. The President appears to have committed himself to the principle of not naming close personal or political friends or associates to the Supreme Bench. It is clear that the avoidance of cronyism in the choice of a chief justice was directly related to the Fortas case. But Mr. Nixon also said that Attorney General Mitchell and other close personal and political friends are not under consideration for the Fortas seat.
>
> All in all, the President has set high standards for his own appointments to the bench. These standards will have fresh currency every time he has an important judgeship to fill. But the proof of high qualifications—and the ultimate test of the President's intentions—will lie not in words but in the demonstrable experience, the proven integrity, the self-evident mental capacity and the actual judicial attitudes of the President's nominees.

In an off the record interview given to reporters after the Burger appointment was announced, President Nixon said he felt it was vitally important to nominate a man to the Court who, if possible, could be approved by the Senate without violent controversy—hopefully with a strong vote of approval. In the same interview the President went on to say that of all Supreme Court Justices he most admired Justices Holmes, Brandeis, Cardoza, and Frankfurter; and that he agreed most with the famous Holmes-Brandeis dissents.

On the basis of his statements we can conclude that President Nixon would appoint men to the Supreme Court who are "strict constructionists, thoroughly experienced and versed in criminal law, and extremely well qualified." He feels strongly that judicial appointments "should be made on the basis of legal qualifications rather than on the basis of party." He is "not so concerned whether a man is a liberal or a conservative" but he is concerned about his attitude toward the Constitution. The President also finds it desirable to nominate, if possible, someone whom the Senate can approve without violent controversy.

Now in the matter of G. Harrold Carswell it can possibly be said, if a reading of his opinions reveals any legal philosophy, that he tends to be a strict constructionist. But he is far from being well versed in criminal law and he is certainly not extremely well qualified. If anything can be said of Carswell, it is that he was chosen on the basis of party rather than on the basis of legal qualifications, thus inverting the President's prescription. Since the President does not care if his nominee is liberal or conservative, Carswell's conservative racist background is no disqualification. But, unfortunately, the President's nomination does not seem to have avoided violent Senate controversy.

I am puzzled though as to why a President of the United States who chooses as his judicial idols such giants as Justices Holmes, Brandeis, Cardozo, and Frankfurter should nominate a man of the caliber of G. Harrold Carswell to the Supreme Court. In suggesting Carswell as a Supreme Court nominee, clearly the President's chief political and legal advisors failed to consider the President's own views on judicial appointments.

In August 1948, Harrold Carswell as a candidate for political office delivered a speech. In his speech, Carswell said, in part:

> In the midst of all this, we look to the land of the U.S., great, prosperous, the richest and most powerful nation on earth, and ask, 'America, are you ready to resume your leadership? Are you prepared to defend it if need be your birthright?' It is a sad picture.
>
> Foremost among the raging controversies in America today is the great crisis over the so-called Civil Rights Program. Better be called, 'Civil-Wrongs Program.'
>
> As part and parcel of this same rotten vote-getting scheme, the F.E.P.C., the so-called Fair Employment Practices Committee, is a sham. Every businessman should realize the serious implications of such a piece of preposterous legislation. It would mean that here in Gordon, if we are hiring two telephone operators, both white, and some Negro girl applies for the job, we may get in court with the Federal Government because we have supposedly 'discriminated'. It would take thousands of Federal agents to enforce such foolish measures and we shall not tolerate it.
>
> I am a Southerner by ancestry, birth, training, inclination, belief and practice. I believe that segregation of the races is proper and the only practical and correct way of life in our states. I have always so believed, and I shall always so act. I shall be the last to submit to any attempt on the part of anyone to break down and to weaken this firmly established policy of our people.
>
> If my own brother were to advocate such a program, I would be compelled to take issue with and to oppose him to the limits of my ability.
>
> I yield to no man as a fellow candidate, or as a fellow citizen, in the firm, vigorous belief in the principles of white supremacy, and I shall always be so governed.

Though he now specifically renounces and rejects these words which he finds abhorrent, the fact that remains that G. Harrold Carswell gave that speech.

Many people have attempted to pass the speech off as the speech of a youthful politician. But as Louis Pollak, dean of the Yale Law School, observed, had Carswell's speech attacked Jews or Catholics, Carswell's name would have been withdrawn as soon as this speech had been unearthed. I would like to quote from Dean Pollak's testimony before the Judiciary Committee dealing with the 1948 speech in which he not only points out that the Carswell nomination would have been withdrawn had he attacked any group other than Negroes but also shows why the analogy between Carswell and Justice Black is weak and falls flat.

> I would ask the committee to address once again the significance of the nominee's now notorious speech of 1948, a speech which he, I am happy to say, has forthrightly repudiated. I do not think, I would add that I have never thought, that the 1948 speech standing alone irretrievably disqualified the nominee, but what that speech did do was to sharpen the question which this committee and the Senate faces with respect to every nominee for the Supreme Court. Has the nominee given evidence of the highest level of professional and public responsibility save only the Presidency, which lies within the gift of the American people? That is the question which is sharpened, put in sharper focus by the 1948 speech.
>
> Here the question is sharpened in the sense that, confessedly, this nominee began his professional career with a set of beliefs wholly antithetic to the central purposes of our constitutional democracy. It might be possible to surmount such a handicap. There has been discussion by prior witnesses and by members of this committee of the example of Mr. Justice Black. Certainly a complete analogy does not lie. The Justice did have a connection with the Klan, but at very much the same time he was himself a lawyer emphatically and vigorously representing black citizens of his own State. More to the point, of course, before Justice Black was called to the Supreme Court of the United States, he had become a well-known figure of national consequence. There could hardly be doubt of what his basic principles were when he was appointed to the U.S. Supreme Court 33 years ago.
>
> One might, I suppose, go back to the elder Justice Harlan. That distinguished Justice was, it is hard to remember it but he was, an outspoken foe of the 13th amendment to the Constitution, and yet before the Justice came to the Court he too had become a figure, a great public figure of distinction, and one whose own public views were clearly transformed into commitment to and support of the fundamental principles of the post-Civil War amendments, and so he lived to be the Justice who dissented with such distinction in the civil rights cases in Plessy vs. Fergeson.

> Can we find in the present nominee any comparable demonstration? To ask the question, as Mr. Chief Justice White was wont to say, is to answer it.
>
> I wish the committee to understand that I do not question Judge Carswell's good faith in repudiating a speech of which he and of which all of us I am sure are ashamed. What I ask is, What symbolism would attach to Senate confirmation as Associate Justice of the Supreme Court of the United States of a lawyer whose later career offers so meager a basis for predicting that he possesses judicial capacity and constitutional insight of the first rank? What symbolism, I ask, and in answering the question I remind you of the dictum of the late Mr. Justice Jackson: One takes from a symbol what one brings to it.
>
> I put it to this committee that if the nominee's unfortunate speech, and I say this advisedly, if that speech had been an attack on Jews or an attack on Catholics, his name would have been withdrawn within 5 minutes after the speech came to light. We are asked to ignore the speech he actually gave, a speech declaring in effect that America is a whites-only country. We are asked to ignore it as a youthful indiscretion, just the kind of thing one had to say if one wanted to get ahead in Florida politics vintage 1948.
>
> I submit with all respect that to confirm the nominee on this record is to make a statement of a different sort. That lukewarmness to the rights embodied in the Constitution, and most especially rights of black people, is not just Georgia politics vintage 1948 but American politics vintage 1970, and on that reckoning it is not Judge Carswell who is accountable, not his good faith which is in question. What is called into account is the constitutional commitment of the American people today, and most particularly on the U.S. Senate, because it is in your hands, you as Senators of the United States. It is you who must choose whether to consent to this nomination.
>
> One gets out of a symbol what one brings to it even if that symbol is our highest court, even if that symbol is the constitution of the United States to which we all owe true faith and allegiance.

Many prominent lawyers, both practicing and teaching have come out in strong opposition to Carswell. In another part of his testimony before the Judiciary Committee, Dean Pollak said:

> I submit to the committee that in nothing that I have read of the judicial work of the nominee are there any signs, and I say this with great deliberation, aware of the importance of what I am saying, are there any signs of real professional distinction which would arise one iota out of the ordinary.
>
> On the basis of the nominee's public record, together with what I have read of his work product, I am forced to conclude that the nominee has not demonstrated the professional skills and the larger constitutional wisdom which fits a lawyer for elevation to our highest court. I am impelled to conclude, with all deference, I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth in this country; and this century began, as I remind this committee, with the elevation to the Supreme Court of the United States of the Chief Justice of Massachusetts, Oliver Wendell Holmes.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. LONG. Mr. President, is the Senator aware of the fact that any time a judge says he finds the law to be clear and holds it to be what the Founding Fathers always intended it to be and follows legislative history, there is nothing out of the ordinary involved. He will not be famous for doing what is obviously right.

It is when some upside down thinker upsets the law and tries to be a usurper that he does something out of the ordinary.

So, when we get down to it, when a judge is hearing cases where the law is established and clear, it should not be considered to be out of the ordinary or to appear to be out of the ordinary, having just to carry out his job.

It is when a judge seeks to change things that he attracts a great amount of attention.

Mr. PROXMIRE. Mr. President, I read the colloquy the Senator from Louisiana had yesterday with the Senator from Indiana and others. And the Senator from Louisiana is, I think, without peer in the Senate for his eloquence and persuasiveness. I have said that a number of times and I feel it. But I simply cannot understand how the Senator with his eloquence can say that we ought to confirm a man's nomination for the Supreme Court because he is an ordinary fellow, a C student instead of an A student. Rather than obtain a man with distinguished ability, intellect, and capacity, the Senator says, "Let us get the ordinary fellows and put them on the Supreme Court."

I think the Senator knows far better than I—and I am not a lawyer—that the Supreme Court has tremendously complex and demanding problems to solve.

It is not a matter of whether a man is a strict constructionist or a liberal constructionist of the Constitution. It is a matter of whether a man possesses clear intellectual distinction.

Mr. LONG. Mr. President, is the Senator a lawyer?

Mr. PROXMIRE. I am not a lawyer—one of my few clear qualifications for the Senate.

Mr. LONG. Mr. President, I want to have it clear in my mind because I want to address the Senator in one capacity or another.

Is the Senator aware of the quotation from Washington's Farewell Address in which that great President and leader of this Nation said that if one wishes to change the law, he should do it in the manner provided in the Constitution and the law, and he should not do it by usurpation? Is the Senator aware of that?

Mr. PROXMIRE. I am not aware of that specific quotation. But I think there is a very strong argument to be made in favor of that kind of construction of the Constitution. And, indeed, President Nixon has indicated his support for that, as many others have. I have no particular argument with that view. I think it is desirable that the Constitution be used as a vehicle that can accommodate change.

I think this is one of the reasons why it has been preserved for so many years and is the only Constitution that has lasted as long as it has. But I think the Senator can make a good case for strict construction. But that is not my argument.

The fact that this man is a strict constructionist is all right. I argue with him on the ground that he is not a distinguished attorney or judge. And I think that the Supreme Court deserves men of distinction and outstanding, intellectual capacity.

Mr. LONG. Mr. President, if the Senator will be kind enough, may I try to make the point I intended to make?

Fundamental to a government under the law and to law and order in this Nation is the fact that no branch of this Government should engage in usurpation.

I have always felt that it is very bad for the Court to engage in legislation. The Court should not invade the legislative branch, just as Congress should not invade the judicial branch.

Is the Senator aware of the fact that the Constitution forbids us to issue a bill of attainder?

Mr. PROXMIRE. Yes, indeed.

Mr. LONG. Mr. President, does the Senator know what a bill of attainder is?

Mr. PROXMIRE. Yes, indeed.

Mr. LONG. What is it?

Mr. PROXMIRE. Mr. President, the Senator from Louisiana always comes on the floor and does this to me—usually when I am dealing with the subject of oil. However, I welcome it on this occasion, too.

A bill of attainder is an attempt by legislative action to affect a particular, specific individual on the basis of the legislative action—for example, to punish an individual or to penalize an individual for some action he has taken rather than to pass a law which would have general application to all citizens. And the law would therefore have to be enforced by the executive branch and perhaps interpreted for its constitutionality by the courts.

Mr. LONG. Mr. President, if we sought to do that, we would be invading the role of the judiciary in its job of saying whether someone is guilty of committing a crime. That is not our job. We would be doing something evil. We would be engaged in an act of usurpation.

When one goes on that Supreme Court and proceeds to hold that the Constitution says something that it does not say, or proceeds to rule that it does not mean what the Founding Fathers intended, he is guilty of an act of usurpation.

Whether the Senator wants to admit it or not, men have been put on that Court for the express purpose of reversing prior decisions. And in my judgment, that is an act of usurpation.

Some of our liberal friends have happily supported men of that sort.

In my case, when the name of Judge Fortas was submitted to the Senate for his confirmation as Chief Justice of the United Sttaes, even though I was one of the party leaders for the Democrats, I had to inform the President—who was a very dear friend of mine and also a very dear friend of Judge Fortas—that I could not support him. Justice Fortas came up with some innovative ideas that played a major part in the judgment of this Senate; that helped to increase murder, armed robbery, and rape by 100 percent in this country for over a 10-year period. According to your statement, he was the sort we need on the court. I

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made the statement to my people that I could not vote to make a man Chief Justice or even to continue a man on the court if one were guilty of that kind of intellectual mischief, brilliant and intellectual conduct though it might be.

I might say to the Senator that all we are talking about here is confirming a man who has a way of saying, "Here is what the law is although some people may not like it. If that is not what the laws is, Congress should change it." I must applaud that lack of distinction.

Mr. PROXMIRE. May I say to the Senator from Louisiana that I applaud his ingenuity in getting away from the point. I am not talking about Justice Fortas or Justice Holmes; I am talking about Judge Carswell. I am not criticizing him for being a strict constructionist. I would support a strict constructionist if he were qualified. I said nothing about his being a strict constructionist.

What I am opposing him for are his blatantly conspicuous racist attitudes; and I am opposing him because he is a man who, on the basis of his record, is not qualified.

Mr. LONG. Was the Senator talking about that country club episode?

Mr. PROXMIRE. I am talking about a whole series of episodes.

Mr. LONG. The country club episode is one I find to be somewhat amusing. That episode was about 1955.

Mr. CASE. It was 1956.

Mr. LONG. 1956. In 1964, 8 years after that, we had the Civil Rights Act of 1964, which was the big one, on the floor of the Senate. I personally offered an amendment to make crystal clear that a private club could discriminate in its membership in any fashion it felt like, if it were truly a private club, and that amendment was agreed to by the unanimous vote of the Senate.

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Mr. PROXMIRE. But in that episode they took a public facility and made it private.

Mr. LONG. And you voted to make it 100 percent legal to do that. You voted for that. Explain why you should be voted back in the Senate when you say a man should not be on the Court for doing what you voted to do. You voted for that. How do you contend you should be a Senator and he should not be a judge?

Mr. PROXMIRE. The Senator could not be more wrong. I did not vote that we should turn public facilities into private clubs for the purpose of preserving segregation of the races and to keep black members from enjoying the public facilities.

Mr. LONG. Senator, you had a bill on this floor now known as the Civil Rights Act of 1964. It was managed by Hubert Humphrey who stood in this place and managed it. I remember the language. It said: "This does not affect bona fide private clubs."

It was said someone might question whether a club was in good faith if one of its purposes was to maintain segregated facilities, and I substituted the words "in fact" for the words "bona fide" with the advice of the same people who were advising Mr. Humphrey. Hubert Humphrey agreed, and the Senate voted for it unanimously. Why did you vote for it?

Mr. PROXMIRE. I did not vote for that at all.

Mr. LONG. It was unanimous. Would you like to stand here and say you did not know what you were doing?

Mr. PROXMIRE. I think the Senator knows perfectly well that when I voted for the Civil Rights Act of 1964 I did not vote to take a specific public golf course and make it a private club so that he could exclude blacks from membership in that golf course.

Mr. LONG. You voted to make legal in 1964 what that man did in 1955.

Mr. CASE. Mr. President, will the Senator yield?

Mr. LONG. It absolutely is beyond my comprehension why a man would take the floor now and say someone should not be confirmed to be on the bench because he did what you voted for.

Mr. CASE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HOLLAND). Does the Senator yield?

Mr. PROXMIRE. I yield.

Mr. CASE. Almost the only happy aspect of this unhappy episode is the ability that his colleagues have to observe the extraordinary mental agility of the Senator from Louisiana. It takes a situation as difficult as this to bring him to his full power. And yet even he is not capable of handling this job.

It is obvious that to have voted or not to have voted for language which was intended from the beginning to make it clear that a really true private club was not within the reach of the Civil Rights Act has nothing whatever to do with the question of whether public facilities should be taken by people deliberately and turned into a private club for the purpose of excluding blacks who formerly by law had the right to use those facilities.

This is perfectly clear to my friend from Louisiana as his benign countenance already indicates. I do not think that saying it 10 times is going to make it more true than saying it one time. I think I will stop.

Mr. PROXMIRE. I think the Senator is saying what I was trying to say and that he said it better.

Mr. CASE. Not as well, but I wanted to rest the Senator's vocal cords for a moment.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PROXMIRE. If the Senator is going to say it again, he may say it again but I will say what the Senator from New Jersey and I have been saying. What Mr. Carswell did was to take a public facility that was open to Negro citizens to use, and by making it into a private club denied them using it. That is different than voting for the Civil Rights Act; and all the eloquence of the Senator from Louisiana—and he can talk many days on it and I expect he will—will not make that equivalent to voting for the Civil Rights Act.

Mr. LONG. Seeing the Senator from Washington present in the Chamber reminds me of an occasion when one of our friends took the floor to proclaim his outrage about the fact that someone made a speech. A labor leader—and I believe it was Walter Reuther—was visiting on Capitol Hill at the time. The man held a press conference to make a statement and a Senator demanded to know who authorized that man to go into that room to make that statement. At that particular time the distinguished chairman of the Committee on Commerce leaned over to me and said, "It is just a room. People can do all sorts of things in a room. How do you know what a man is going to do when he goes into a room?"

The Senator is talking about a piece of property; somebody sells the property. At one time all the property in this country belonged to the Government once we captured it from the Indians and when we successfully revolted against the Crown. Perhaps the Senator would hold that the U.S. Government is responsible for all the mischief that people have conducted on property that was once part of the United States in all history. I would hate to think that. People sell property; people do what they want with property. Sometimes they obey the law and sometimes they do not.

What the Senator was talking about was within the law and the Senator voted to make it clear it was legal 8 years after it happened. Now he wants to condemn somebody else for doing what he endorsed. I find it difficult to follow that rationale.

Mr. CASE. I do not want to paint this lily, or carry coals to Newcastle, or do any other exaggeration, but I am reminded of the remark of the Duke of Wellington, who was a very unpleasant fellow when he wanted to be, and who, when a preposterous statement was made in his presence would say, "Well, if you believe that, you can believe anything."

Mr. PROXMIRE. I thank the Senator for that conclusion to our part of the colloquy.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MILLER. I believe the Senator a moment ago said something to the effect that Judge Carswell and his group organized a corporation to take over a public facility and transform it into a private, segregated facility. Is that about what the Senator said?

Mr. PROXMIRE. He organized a private club to take over the public facility. That is right.

Mr. MILLER. And to make it into a segregated facility?

Mr. PROXMIRE. He was one of those who took part in that.

Mr. MILLER. And in that operation, I think the Senator said, to make it into a segregated, private facility?

Mr. PROXMIRE. It was widespread public knowledge at that time that that was his purpose.

Mr. MILLER. I would appreciate it if the Senator would refer to the evidence he has as the basis for that statement.

Mr. PROXMIRE. I will be happy to do that. I do that later in my speech. I will be happy to accommodate the distinguished Senator from Iowa.

Mr. MILLER. Well, the Senator from Iowa can hardly wait for the evidence. The Senator from Iowa does not want to disturb the continuity of my colleague's speech, but I am interested in where in the printed record this evidence will be found.

Mr. PROXMIRE. I will be very happy to supply it to the Senator. I am working on it now.

Mr. MILLER. I will be waiting.

Mr. PROXMIRE. Mr. President, I will say to the Senator from Iowa that the appendix of the hearing is replete with documentation of the connection of the nominee with the Capital City Country Club, the purpose of which was to segregate the golfing facilities to prevent blacks from using it. Let me give the precise pages, pages 333 through 373. That is 40 pages of documentation in the appendix.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. BAYH. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield first to the Senator from Indiana, because he has worked closely on this.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. PROXMIRE. Before I yield to the Senator from Iowa, I think the Senator from Indiana may help clarify the situation.

Mr. BAYH. Mr. President, I thought the question of our distinguished colleague from Iowa went to the question of whether this was public knowledge or not. If the matter that concerns the Senator is the real intent and purpose of the change in status of the golf course, I will be glad to help because I know he is a real stickler for not getting anything out of perspective, and I compliment him for that. The Senator from Indiana listened to the evidence on the deed to which the nominee added his name as a subscriber, and had the opportunity to read the front-page story in the Tallahassee newspaper, which described in some detail the confrontation that had gone on within the city council, and in which the first time the city council took this matter up, I think one of the councilmen—I think a Mr. Easterwood—objected to it, and they put it over. In that interim, Mr. Easterwood left the city council and was elected a county commissioner. Then, when he was no longer on the city council, the city council went ahead and passed this act. Mr. Easterwood was quoted as saying the city council should recognize the fact that the reason for this was to try to provide a segregated facility for a public facility which, by Supreme Court edict, could no longer be maintained.

Mr. MILLER. Mr. President, will the Senator from Wisconsin yield so I can ask the Senator from Indiana a question?

Mr. PROXMIRE. I yield.

Mr. MILLER. Is the Senator from Indiana referring to that newspaper account on page 261 of the hearings record?

Mr. BAYH. Yes, that is one of the stories to which I referred.

Mr. MILLER. May I say to my colleague from Indiana that I am familiar with that story, but I do not see the relevance of the story on page 261 to the statement made by the Senator from Wisconsin, as to which I asked for evidence to support his statement that Judge Carswell's corporation had organized a private club for the purpose of obtaining from the city a public facility, to transform it into a segregated private facility.

I do not believe that the Senator has been helpful by citing the story on page 261, because that story relates to a lease for $1 a year from the city of Tallahassee to a private corporation to which Harrold Carswell had no relationship at all.

Mr. PROXMIRE. Mr. President, may I say to the Senator from Iowa that all he has to do is read the first four sentences of that newspaper article. Here is what it says:

> For the price of $1 greens fee the city commission yesterday leased the municipal golf course—

The municipal golf course—

> to the Tallahassee Country Club, a private corporation.
>
> The vote was 4 to 1, with Mayor J. T. Williams registering the objection.
>
> On a motion by Commissioner Fred Winterle, the commission also agreed to make the same deal on a Negro golf course—

A Negro golf course, Mr. President—

> now under construction to "any responsible group" that wants to take it over.
>
> Asked if the course would be open to the public, Robert Parker, who represented the country club group, said "any acceptable person will be allowed to play."

This is the front page of the Tallahassee newspaper. If it was not public knowledge that the purpose of this corporation was to provide segregated facilities for white persons to use to play golf, I would like to know what that article means.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MILLER. The Senator might be right in his interpretation of that. Of course, he is reading something into it. But it is all irrelevant, unless the Senator is claiming that Harrold Carswell was a member of the Tallahassee Country Club.

Mr. BAYH. He was a director of the corporation.

Mr. MILLER. I am sorry, but the Senator's statement on that point is not supported by the record at all.

Mr. PROXMIRE. I am sure it is.

Mr. BAYH. He was a subscriber.

Mr. MILLER. He was not even a subscriber. The Tallahassee Country Club was the original old corporation, organized back in 1924, which did, indeed, get a lease of the golf course, for $1 a year. But Carswell was never a member of that. Carswell was a member of the Capital City Country Club, Inc.

Mr. BAYH. Which was designed to take over that other corporation.

Mr. MILLER. I grant it did take over the other corporation, but that is not what this newspaper article is about at all.

Mr. BAYH. May I go through this from A to E, F, or G, so that perhaps I can make it clear?

Mr. PROXMIRE. I yield to the Senator from Indiana for that purpose.

Mr. MILLER. I believe the Senator from Wisconsin is confusing corporations.

Mr. BAYH. I do not think he is doing so intentionally.

Mr. MILLER. I do not think he is, either.

Mr. BAYH. I think it is easy to look at the record and become confused. But I think what we need to keep in mind is what was sought to be accomplished here, which I think is very clear.

Mr. MILLER. This article on page 261 talked about the Tallahassee Country Club. That has nothing to do with any corporation of which Harrold Carswell was a member. If the Senators will look at page 260, they will find an article relating to the corporation of which Judge Carswell was, indeed, a subscriber. We are talking now about the Capital City Country Club. The Senator will find that about a year after this article appearing on page 261, there appeared another article, which appears on page 260, which talks about the fact that the public can play:

> Although the new club is now a private organization, the golf course facilities are open to the public at daily, monthly or yearly green fees.

There are no cute words or phraseology such as in the other article the Senator from Indiana has talked about—which is not relevant—cute phrases such as "Any acceptable person will be allowed to play."

That is a phrase relating to that private corporation of which Judge Carswell was not a member.

Mr. BAYH. I think the Senator from Iowa should look a little bit more carefully at the whole thrust of what was sought to be accomplished, and put it all in perspective. At the time the Supreme Court of the United States had said that public facilities could no longer be segregated, and this was at the time a Pensacola case, I think it was, was decided in Florida. That was the time that this effort was made right there in Tallahassee.

Mr. MILLER. When was that?

Mr. BAYH. I call the Senator's attention to two affidavits that are contained in the hearing record on page 274, one by Christene Ford Knowles, and the other by Mr. and Mrs. Clifton Van Brunt Lewis, in which they express their feeling that it was general public knowledge that the purpose of this corporation was to provide segregated facilities.

There was a fellow by the name of Smith, I think it was Julian Smith—I cannot put my finger on it, but at some place in this record, I recall, during the hearings it was pointed out that Julian Smith said that he was one of the cosubscribers with Judge Carswell and Smith said that this was in the back of his mind, that he knew this was what it was for, and he was one of the fellows who signed the document to which the Senator from Wisconsin referred.

Mr. MILLER. Did the affidavits on page 274 relate to the Tallahassee Country Club Corp., which obtained the $1-a-year lease from the city, or did they relate to the corporation of which Carswell was a member?

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Mr. BAYH. They relate to the general feeling in the community that the whole thrust of this venture was to try to create a facility that black people could not participate in.

Mr. MILLER. Recognizing the affidavits for what the Senator from Indiana suggests they say, it seems to me that a point should be made that when the Tallahassee Country Club got this course for a dollar a year from the city on February 15, 1956, the statement was made, in answer to a question as to whether or not the public would be permitted to take advantage of these facilities, by a representative of the Tallahassee Country Club—which Carswell had no membership in at all; he was not a subscriber, and he had no relationship to it at all—that "Any acceptable person will be allowed to play."

I think that most of us know that "any acceptable person" can be interpreted many ways. But I am wiling to suggest that the proper interpretation to be placed on it is in the same light as that suggested by the Senator from Indiana.

But that is not what we are talking about here. We are not talking about the corporation at all. We are talking about another corporation, to which Carswell was a subscriber, and that corporation was known as the Capital City Country Club, Inc.

The article in the newspaper that referred to this corporation came along on September 5, 1956. The other article, of February 15, 1956, related to the Tallahassee Country Club. But on September 5, 1956, we have an article that relates to the corporation Carswell was in. And what do we find, after Carswell gets into the corporation and that corporation gets into the picture? We find an article on the front page of the Tallahassee newspaper, that says:

> Facilities are open to the public at daily, monthly, or yearly green fees.

And no cute phraseology about "any acceptable person" being allowed to play.

It looks to me as though quite a change in attitude has taken place between the time the Tallahassee Country Club took over, to which that article on page 261 refers, and the time that the Capital City Country Club, took over, which is Carswell's corporation, and to which the article appearing on page 260 relates. I would suggest to my friend from Indiana that if, in fact, Judge Caswell had anything to do with any of the policies relating to the club, it looks to me as though he had a very affirmative effect, because of the change in terminology relating to the public's ability to play in this course.

But here, again, all I can find from the record is that he had no activity in the club at all. He was so inactive that after they organized this Capital City Country Club, Inc., they proposed 42 names from whom the members were going to select 21 as "original incorporators," and he was not even selected as one of those 21, because he had been so completely inactive.

So I do not see how we can impute any policy or any ideas to him with respect to the way this club is going to operate, except that I do invite the attention of my colleagues to the fact that there was quite a change in the front page stories regarding the public's ability to play. I think the article appearing on page 261 shows—when you talk about acceptable people—that in the setting you could very well be talking about whites only. But there is no equivocation on the new club in the article appearing on page 260.

(At this point Mr. SPONG took the chair as Presiding Officer.)

Mr. BAYH. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. BAYH. I think that if we examine the record carefully, we will find that we are talking about the same general transaction. The first corporation was established as a profitmaking corporation; and since they had been operating as a public facility prior to that time, they soon found out—I think it was in about a year's time—that they could not make a go of it as a profitmaking corporation. Then they tried to incorporate, and did incorporate, as a not-for-profit corporation.

The whole proof of the pudding is in the eating.

If the Senator from Iowa knows anything contrary to this, I wish he would tell me, because I certainly do not want to put anything over on him or anybody else.

The fact was that black people were not permitted to play on this golf course at any time, except in the early mornings, when they did permit the Florida A&M golf team to practice. Black people were not permitted to use the facilities.

I do not care whether it is for profit or not. It is only recently that black people were permitted to be a part of that golf course.

I think this is what the Senator from Iowa would be concerned about: What, indeed, was the practice of this institution?

Mr. MILLER. The Senator from Iowa is very definitely interested in that aspect of it. He is interested in looking at the evidence. If there are inferences to be drawn from the evidence one way or the other, the Senator wants to know what those inferences are. But when a statement is made that Judge Carswell and his group did this and this and this, the Senator just wants to know what the evidence is.

I know that the Senator from Indiana is also conscientiously trying to evaluate the evidence, but when he talks about a profitmaking corporation going into a nonprofit corporation, I must tell him that he is not talking about anything that is responsive to the Senator from Iowa's problem. The nonprofit corporation was organized after Judge Carswell got out of the profit corporation. I think that some of the opponents are not following the record very carefully.

Let me point this out to my friend from Indiana. There was a profit corporation which was the old Tallahassee Country Club, organized back in 1925. Then in 1935 it turned the course over to the city, during the depression. Later on, in 1954, 1955, or 1956, they said to the city, "The course is rundown. We want it back."

Finally, after the city council had met on it, they said, "Okay. Take it back for a dollar a year. We're losing $14,000 a year in the operation of this thing. It is rundown; and nobody likes the way it is going. Take it on for a dollar a year. You save us $14,000 out of the city budget."

So this private corporation took it on. Later on, another private corporation, for profit, known as the Capital City Club, Inc., of which Judge Carswell was a subscriber, came along and took it over from the previous private corporation for profit. Two private corporations for profit are in the picture so far—Tallahassee Country Club and Capital City Club, Inc.

Judge Carswell, of course, was only in this thing for a few months, put a hundred dollars in, and asked for his refund the following February. Then along came the third corporation, after he was long gone, known as Capital City Country Club, a nonprofit organization.

So when the Senator starts talking about a nonprofit country club, he is talking about stuff that has nothing to do with what we are talking about.

Mr. BAYH. If the Senator from Wisconsin will yield—I hate to try his patience like this—I share the concern of the Senator from Iowa that we not leave any misrepresentation here.

As I said yesterday in my remarks, I do not think we ever dealt with this particular item. But with respect to the covenant, the transfer of the property, I think the same thing can be said for that as can be said for this. I speak for myself and no one else. If we take one of these instances as an isolated instance, it is relatively inconsequential. But what some of us are struggling with is to try to find evidence to support the fact that Judge Carswell no longer shares the thoughts that he shared and expressed, most unfortunately, back in 1948. In that context, as a Federal district attorney, he participated in this corporation for a short period of time, and in which I think we have ample evidence, whether it is a profit or not-for-profit corporation, to prove the fact to the satisfaction of the Senator from Indiana, that the purpose of this incorporation, the whole thrust of this action was designed to maintain separate facilities. I think the fact that black people were not given equal access to this facility is ample proof of their motives relating to the incorporation.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. PROXMIRE. May I say to the Senators that I think we have gone over this enough now, so that the situation is pretty clear. The Senator from Iowa takes the position, as I understand it, that Judge Carswell was not one of the original incorporators or subscribers of the Tallahassee Country Club, that he was a subscriber of the Capital City Club.

Mr. MILLER. That is correct.

Mr. PROXMIRE. The Senator from Indiana points out that, regardless of when Judge Carswell came into the act, this device was used to create a private club that excluded blacks from playing golf, except under extraordinary circumstances. They were allowed to play early in the morning, and they were

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allowed to play only in the last few years. But they were not allowed to play in 1956, 1957, and so forth. Judge Carswell was a subscriber to the golf club.

I think the contribution of the Senator from Iowa is useful. It does give me a clearer and better picture than I had before of the country club situation. Frankly, I do consider this to be a very minor element here, and I want to tell the Senator from Iowa——

Mr. MILLER. The Senator from Iowa does not consider it minor.

Mr. PROXMIRE. If Judge Carswell had never made a speech in 1948, if he had never indicated any racist bias, if he was a swinging liberal from the standpoint of civil rights, I would not vote for him under any circumstances, because he is not qualified to serve on the Supreme Court. That is the brunt of my position. This man does not have the legal distinction, he does not have the ability, the brains, the capacity to serve this country on the highest court we have. That is the thrust of my position.

If the Senator wants to talk on this matter on his time, fine; but I really do not think I should yield much further.

Mr. MILLER. Mr. President, will the Senator yield for a comment?

Mr. PROXMIRE. On this issue, yes.

Mr. MILLER. The point I am making is this. I do not think we should leave the Senator from Indiana's statement hanging in the air, when he says that whatever you call it, regardless of what corporations they are, they were in there for a purpose, and that was to segregate a private facility.

Assuming that that is exactly what went on in Judge Carswell's mind at the time he paid $100 for a share of stock—assuming that—it would seem to me that in fairness we should say that after he found out what the situation was, he got out in a matter of 4 or 5 months. Why not give him credit for that? Certainly, if that was exactly what went on in his mind, give him credit for getting out of the thing; whereas, many other people stayed in it. I think we might give him credit as well. If you want to blame him, blame him; but give him credit where credit is due.

I think we are trying to read a person's mind here too much. But if we are going to indulge in mindreading, let us give both sides, so that the people will know there are two sides and two interpretations. Give him a black mark here and a white mark here.

But let us keep a balance. What I am trying to bring into this discussion is some perspective. May I say to my friend from Wisconsin that so far as Judge Carswell's competence and all that is concerned, I read the testimony of some of the witnesses who appeared and I read the testimony of others. There is no group of lawyers that cannot get into a difference of opinion over who is competent and who is not to serve as a Supreme Court Justice. I do suggest to my friend from Wisconsin that I do not believe there are very many Members of the Senate who are qualified by their own background to stand up here and say that that judge is not competent to be on the Supreme Court.

Mr. PROXMIRE. We have to vote on this nomination. It will be up to us. We cannot evade our responsibility. We cannot say, "I am not qualified, so I will not vote, so I will delegate my vote to JACK MILLER who is better qualified." We have to make up our own minds on the best way to solve our problems. We have to do it. That is our job. That is why we are discussing this now.

Mr. MILLER. Competence can be based on what someone else says, someone who is in a better position to know more about it than we are.

Mr. PROXMIRE. I do not believe the Senator thinks that we have such weak minds and that——

Mr. MILLER. Is it not better to have the testimony from practicing lawyers, from law schools, and deans and professors, in the record?

Mr. PROXMIRE. That is part of it, but I think it is only one part of it. Frankly, Mr. President, I think we have to take many things into consideration. The fundamental point is that President Nixon stated he would appoint extremely qualified men to the Supreme Court, and that is right. He should. Especially when we consider the thousands and thousands of lawyers and judges who would give their eyeteeth to serve on the Supreme Court. Thus, the President has a great opportunity here in such an appointment to demonstrate that, whether a man be a strict constructionist, a liberal—whatever—he should be a man with outstanding intellect and distinction. There is no question that this man is not.

Now, Mr. President, the Senator from Florida (Mr. HOLLAND) has been waiting patiently to discuss this subject. As we have been discussing Florida for some time now, I am happy to yield to him.

(At this point, Mr. BELLMON took the chair as Presiding Officer.)

Mr. HOLLAND. I thank the Senator very much for yielding to me.

Mr. President, in the first place, I know a good deal about this country club. I served 8 years in the State Senate, which meant that I was in Tallahassee for a good many months, with my wife, and we attended social affairs there. The country club at that time was the center of such social affairs. It was an old wooden building which looked like a bungalow which had been moved there and it was completely inadequate. It was the subject of frequent conversation not only among the people of Tallahassee, whom we knew well, but also among the visitors to the country club. I suppose I have attended 30 or 40 receptions at that old country club, along with Mrs. Holland, receptions given by the President of the Senate, and the Speaker of the House, and various others, during the course of the 4 sessions of the State legislature that I attended.

Later, as the Senator from Wisconsin knows, I served as Governor of the State of Florida and thus lived in Tallahassee for 4 years. That old wooden building was still there, even more decrepit than it had been before. There was much talk of having a better country club building created there. The site was a beautiful one. But the club had run down very badly, not just the building itself, but the golf course as well. Although I am not a golfer, I heard this repeatedly, as we took a house that fronted the golf course, and I saw what was going on, that the club was run down terribly.

Now, Mr. President, first, I ask unanimous consent that the testimony of Julian Proctor of Tallahassee, Fla., which begins on page 107 of the hearings be printed in the RECORD at this time.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF JULIAN PROCTOR, OF TALLAHASSEE, FLA.

Mr. PROCTOR. Mr. Chairman, I am Julian Proctor. I am from Tallahassee, Fla. I have lived in Tallahassee all of my life with the exception of the time when I was away at the university—for 2 years I lived in Hartford, Conn.—and the time I spent in the Navy.

I am married. I have six children. I am an automobile dealer. I am not a lawyer. This is all new to me. I came here for some records on the Capital City Country Club, which I think speak for themselves. I will be happy to turn the records over.

The CHAIRMAN. As I understand it, there was a country club organized in 1924, is that correct?

Mr. PROCTOR. The original Country Club of Tallahassee was, yes, a private country club organized in February of 1924.

The CHAIRMAN. What was the name of it?

Mr. PROCTOR. Tallahassee Country Club.

The CHAIRMAN. All right, and what became of that?

Mr. PROCTOR. On August 27, 1935, the Tallahassee Country Club deeded the property to the city of Tallahassee for financial reasons. They were having a hard time operating the club. There were few members, very few people, citizens playing golf. It was a financial burden, so they turned it over to the city for a very small, nominal sum to operate.

The CHAIRMAN. And the city did not operate it satisfactorily, is that correct?

Mr. PROCTOR. Well, that is correct.

The CHAIRMAN. Senator Holland tells me that when he was Governor it was more like a big barn there.

Mr. PROCTOR. The country club itself, the house, was an old frame building. It was run down. Termites were in it; it needed rebuilding. This was one of the few places in Tallahassee that was large enough to have parties when the legislature used to come to Tallahassee.

The CHAIRMAN. State whether or not there was a provision in the deed that it could be sold to another group.

Mr. PROCTOR. In the deed transferring the property there was a clause that stated that if at any time the ctiy of Tallahassee decided to lease the property to others, or dispose of the property, that the original stockholders would have the right of reacquiring the property on a lease basis.

The CHAIRMAN. All right. Now, was that exercised?

Mr. PROCTOR. Yes, sir. It was exercised on February 14, 1956.

The CHAIRMAN. What was the reason it was exercised?

Mr. PROCTOR. The reason for it, the members of the country club had been unhappy with the operation of the old club. As I previously stated, the country club itself was run down. The golf course needed work. The city was not willing to spend money either to renovate or rebuild the country club because it had been a losing proposition with the city, and so the——

The CHAIRMAN. The city refused to rebuild it?

Mr. PROCTOR. To build a new club?

The CHAIRMAN. Yes.

Mr. PROCTOR. Yes, sir. They refused to build. They wanted a swimming pool, and the city

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said that they could not afford to do it or would not do it, so for that reason the original stockholders went to the city and requested that they lease the club and the golf course back to the original stockholders.

The CHAIRMAN. All right. Now was another charter taken out then?

Mr. PROCTOR. Yes. At that time the members who were active, the golfers—I would not say members of the club because they actually got together and formed a new country club. That was on April 24, 1956, the Capital City Country Club filed a certificate for a charter with the secretary of state of the State of Florida.

The CHAIRMAN. How did you finance it?

Mr. PROCTOR. We went around to the citizens of Tallahassee who were interested in the growth and the development of Tallahassee. We told them that we needed a new golf course or at least to rebuild the golf course and develop it. We also needed a country club. So a group of I guess about 25 citizens went around to probably 350 or 400 citizens of Tallahassee, asking if they would subscribe to the country club, and if they would subscribe to the club if we could get it off the ground.

The CHAIRMAN. You got $100 out of Judge Carswell and Governor Collins?

Mr. PROCTOR. That is right. At that time we were asking for a $300 membership fee with $100 of it paid. We went to Judge Carswell, we went to Governor Collins, all the prominent citizens of Tallahassee, including the Supreme Court, the Cabinet, and everyone interested, and signed them up to join the country club, with a guarantee of the payment of $300 over a period of time. At the time when we had got the club started, they would pay the first $100. Judge Carswell was one of those, one of the persons that we went to, and who agreed to subscribe to the stock.

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The CHAIRMAN. All right. Now then what happened.

Mr. PROCTOR. Then we began operating on May 4 of 1956. The old Tallahassee Country Club assigned its lease from the city to the Capital City Country Club, Inc. On August 23, we mailed out the notice of the first annual meeting of the Capital City Country Club. During the time before that, or at least prior to that time, we picked out 21 subscribers, and asked these subscribers to go ahead and pay the $100, and we wanted, when we petitioned, that we name them as the original subscribing board of directors. Judge Carswell's name was on this list.

Judge Carswell himself was not active. He never attended a meeting to my knowledge. I happened to be one of the original founders of the club. I attended all of the meetings, and I don't think Judge Carswell ever attended a meeting of the founders of the country club.

In September of 1956 we took over the course. On September 4 we had the first annual meeting. We elected the first board of directors of the Capital City Country Club. We submitted 42 names—of those 42 names, to select 21. Judge Carswell's name was on the 42, that is on the list of 42 names. He was not elected to the board of directors of the country club. We elected seven directors for 3 years, seven for 2 years, and seven for 1 year. On January 29, we petitioned the court, the local court, to change the Capital City Country Club from a profit organization to a nonprofit organization.

The CHAIRMAN. That was the second charter, was it not?

Mr. PROCTOR. Yes; we petitioned the change.

The CHAIRMAN. Yes.

Mr. PROCTOR. Of the second charter. It of course was not granted on that date. The second charter was acknowledged in August, on August 6, 1957. On February 1, 1957 Judge Carswell requested that his name be withdrawn from the club, and asked that his original subscription or payment of $100 be refunded. I believe the record shows that he was refunded $76, and that was on February 12 of 1957.

As I mentioned, on August 6, 1957 the Capital City Country Club became a nonprofit corporation, and the name was changed from Capital City Country Club, Inc., to Capital City Country Club.

The CHAIRMAN. And that is the corporation?

Mr. PROCTOR. Right.

The CHAIRMAN. Any questions?

Senator BURDICK. To get the chronology straight here, this country club was established in 1924?

Mr. PROCTOR. 1924, yes, sir; by a small group of interested citizens.

Senator BURDICK. In 1935 you had money difficulties?

Mr. PROCTOR. Right.

Senator BURDICK. Because of the depression, I presume?

Mr. PROCTOR. The depression.

Senator BURDICK. Then in 1956 the city had money troubles?

Mr. PROCTOR. Well, in 1956, Senator, yes, I guess you might say the city had financial troubles, but they were not willing to spend money on a golf course. They were not willing to build a new golf club or house.

Senator BURDICK. Then by 1956 they were a little more affluent than they were in 1935 and they took it over in 1956 again?

Mr. PROCTOR. Right.

Senator BURDICK. And that has been the continuity?

Mr. PROCTOR. And of course Tallahassee has grown. Back in the days of 1935 I would say there were probably less than 50 interested citizens. At the time that they formed the country club, I do not know how many.

The CHAIRMAN. This corporation, to which there was subscribed $100, relinquished its charter and you got another charter?

Mr. PROCTOR. That is right.

The CHAIRMAN. And that is the equivalent operation.

Senator BURDICK. That was in August 1957?

Mr. PROCTOR. That is right. We petitioned in January.

Senator BURDICK. Is that corporation still in being?

Mr. PROCTOR. I beg your pardon?

Senator BURDICK. Is that in being today?

Mr. PROCTOR. Yes, in being today, and we have, approximately, between 450 and 500 members.

Senator BURDICK. Did Judge Carswell have any further interest after his stock was picked up in February of 1957?

Mr. PROCTOR. Yes. Let's see. August the 29th of 1963 Judge Carswell became a member, and he remained a member of the club until September 7 of 1966, at which time we accepted his resignation.

Senator BURDICK. But all during these years from 1924 on, this club was located in the same property, and had the same name except that it was changed to Capital City from Tallahassee in 1957?

Mr. PROCTOR. Right.

Senator BURDICK. Located in the same place?

Mr. PROCTOR. The same place.

The CHAIRMAN. You did build a swimming pool and you added 9 holes to your golf links, is that correct?

Mr. PROCTOR. Yes, we built the swimming pool later, as soon as we got the club. That was one of the first things that we did. It took a little time to get it.

The CHAIRMAN. And you enlarged the golf course?

Mr. PROCTOR. Well, we rebuilt the golf course. We put in a watering system, and we have replanted our fairways, and of course, we built a very nice new country club, for which we are heavily in debt.

The CHAIRMAN. Are there any further questions? [No response.]

Thank you, sir.

Mr. PROCTOR. Thank you, sir.

The CHAIRMAN. Prof. James W. Moore.

(At this point in the hearing a short recess was taken.)

The CHAIRMAN. The committee will come to order. Prof. James W. Moore.

Do you solemnly swear the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MOORE. I do.

The CHAIRMAN. You may sit down. Please identify yourself for the record and give us your background.

Mr. HOLLAND. Mr. President, I have known Julian Proctor since he was a small boy. He is a highly reputable citizen. He came here as an officer of the present country club to testify, with the records of the club, and did testify before the committee. I was not able to stay to hear his testimony, although I did introduce him to the committee, as will be shown from the record.

His testimony, I think, is completely correct and bears out the recent statements of the Senator from Iowa (Mr. MILLER), as to the fact that there were three different country clubs. As to the chronology of those clubs, the testimony will speak for itself, so I am not going to go into that in detail. But I do know that eventually the place became further run down, so that something had to be done about it. When the original Tallahassee Country Club had deeded its property to the city, hoping for a better situation there, it included in the deed, as Mr. Proctor told me—I have not seen the deed, but I believe him implicitly—a provision that in the event the city sought to lease it, or convey it to someone else, it should come back to the members of the original club, which was done. As the testimony will show, it came back. I know nothing about the racial problem that was involved but I do know something about the club and about the golf course.

Mr. PROXMIRE. May I say to the Senator from Florida that——

Mr. HOLLAND. Mr. Proctor makes it clear that it came back among other things first as to the need for a representative building, which they did build. It is a very fine country club, which I have frequently visited since that time. Also, for the purpose of reconditioning the golf course; and Mr. Proctor states in his testimony that that was one of the first things that was done. The Senator will find that at the bottom of page 110 of the printed hearings. It also came back to them because of the need for a swimming pool. They did all these things with contributions, as Mr. Proctor states in his testimony, and so I believe from having talked with numerous people, including my own relatives, who live in Tallahassee, that this was done by contributions also of many people, during which time Judge Carswell was district attorney.

Governor Collins, who is certainly anything but a racist, and many other people, including the people of my kinship there by marriage, and whom I completely believe, say that this was done with contributions of some 300 or 400 of the outstanding people of Tallahassee, to get a really representative country club built there, and to get a swimming pool, and a golf course put back in reasonable condition, all of which things were done.

I shall not comment further on the testimony because I think it is very clear. It completely bears out the statement of the Senator from Iowa (Mr. Miller). I believe that this point has been badly misunderstood and badly overplayed. I just want to say that. I also want to say that I, as one who still has some of his own living relatives right there in Tallahassee, both by blood and by marriage, and who has kept in close touch with the situation there, cannot conceive of Governor Collins' coming here to tell us about his good faith participation in this effort, and his contribution of $100, and have any thought in my mind that this was all a conspiracy simply to carry these assets away from use by colored people.

I remember it, because I was present when Judge Carswell testified that he said he had seen people of color there on occasions when he had attended receptions there. The Senator will find that in his testimony.

All the Senator from Florida can say now is that he believes implicitly the testimony of Julian Proctor, whom I consider to be a good and decent man and a public-minded citizen. I do not see how anyone can read that testimony and fail to believe it.

I thank the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator from Florida. I think his statement is especially useful because, as he says, while he has firsthand personal knowledge over many years of the club situation, he did say that he is not indicating whether he has any specific knowledge about the racial element involved, which is the heart of it.

I call to his attention once again an article from the front page of the Tallahassee Democrat which pertains to this—and I want to make it clear that this pertains to the Tallahassee Country Club, not to the Capital City Country Club—which states:

> For the price of $1 greens fee the city commission yesterday leased the municipal golf course to the Tallahassee Country Club, a private corporation.
>
> The vote was 4 to 1, with Mayor J. T. Williams registering the objection.
>
> On a motion by Commissioner Fred Winterle, the commission also agreed to make the same deal on a Negro golf course now under construction to "any responsible group" that wants to take it over.
>
> Asked if the course would be open to the public, Robert Parker, who represented the country club group, said "any acceptable person will be allowed to play."
>
> The action came after a two-month cooling off period following the proposal's first introduction. At that time Former City Commissioner H. G. Easterwood, now a county commissioner, blasted the lease agreement.
>
> He said racial factors were hinted as the reason for the move.

When we get this kind of a frank statement in a front page article in the Tallahassee paper, I think it is proper to take notice that this was an element that we should consider.

At that point I think it is fair to say, as the Senator from Iowa properly emphasized, that Carswell was not in it. He came in later as a subscriber to a successor corporation. And it is not as obvious and blatant as some of us thought. However, it nevertheless has a connection.

Mr. HOLLAND. The fact is that that later organization, as shown by the record, was formed to promote the interest of the good citizens who wanted to have a decent clubhouse built there. And it was built there. I was later present in the new edifice, which is a fine one. I have not swum in the swimming pool, but I have seen it. It was not there before.

I do not play golf, but I am told by my relatives who do that the golf course has been reconditioned and is now a good golf course. I cannot support that statement from personal knowledge by having played there. But I do know that the place was as run down as anything I have ever seen in the city of Tallahassee at the time these remedial measures were taken.

I thank the Senator for yielding. I thought that I should contribute these things which are of my own knowledge.

Mr. PROXMIRE. Mr. President, I thank the senior Senator from Florida.

I yield now 2 minutes to the junior Senator from Florida.

Mr. GURNEY. Mr. President, I have never been too impressed with playing the numbers game concerning Judge Carswell and saying that he is good because 500 lawyers say so or that he is bad because 501 lawyers say he is.

It is like those people who in deciding a case say that the party with the largest number of attesting witnesses should prevail.

I do not think it would be fair in judging Judge Carswell to have him bear the weight of so many unfair criticisms from those who do not know him without making a part of the Record the many endorsements he has received from the bench and bar.

In light of unfavorable statements from lawyers who do not know Judge Carswell, I ask unanimous consent that there be printed at this point in the Record some of the many telegrams I received yesterday and this morning from Florida judges and attorneys who do know Judge Carswell personally and have a high regard for his judicial ability.

There being no objection the telegrams were ordered to be printed in the Record, as follows:

Tallahassee, Fla.,
March 16, 1970.

Senator Gurney,
Senate Office Building,
Washington, D.C.:

As a lawyer who is a member of the Tallahassee and Florida Bar Associations who has practiced before the Hon. Harrold Carswell both in my capacity as a private attorney and previously as an assistant United States attorney in which capacity I practiced for 2½ years I wish to make known my very strong support on behalf of Judge Carswell and urge the Senate to confirm his nomination to the Supreme Court. He is known to me as a brilliant jurist whose integrities and capabilities could never be accurately attacked.

Murray M. Wadswoth.

Tallahassee, Fla.,
March 16, 1970.

Senator Edward Gurney,
Washington, D.C.:

As a practicing attorney and one who has for the past decade been very active in local bar affairs I am personally aware that Harrold Carswell possesses all of the necessary qualities to serve with distinction on the U.S. Supreme Court. This opinion is shared by all of the qualified practicing members of this bar.

Marion D. Lamb, Jr.,
Vice President, Tallahassee Bar Association.

Tallahassee, Fla.,
March 16, 1970.

Senator Edward Gurney,
Washington, D.C.:

As a practicing attorney before Judge G. Harrold Carswell I unequivocally endorse him for the United States Supreme Court.

Steve M. Watkins.

Sarasota, Fla.,
March 16, 1970.

Senator Edward Gurney,
Washington, D.C.:

We the undersigned circuit judges of twelfth judge circuit, Florida join with the many other Floridians urging confirmation of Honorable Harrold Carswell to Supreme Court bench.

John D. Justice,
Lynn N. Silvertooth,
Robert E. Willis,
Robert E. Hensley.

Sanford, Fla.,
March 16, 1970.

Edward J. Gurney,
New Senate Office Building,
Washington, D.C.:

As practicing attorneys we urge confirmation of Hon. G. Harrold Carswell to Supreme Court.

Philip H. Logan,
A. Edwain Shinholser.

Tallahassee, Fla.,
March 16, 1970.

Senator Edward J. Gurney,
Washington, D.C.

As a practicing attorney before Judge G. Harrold Carswell I unequivocally endorse him for the United States Supreme Court.

Steve M. Watkins.

Gainesville, Fla.,
March 16, 1970.

Hon. Edward J. Gurney,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

I urge the confirmation of Judge Harrold Carswell as Justice of the Supreme Court. I have known him for many years. It is my considered judgment that he possses the intellectual capacity, the moral fiber, and innate sense of justice that would fit him for this high position.

John A. H. Murphree,
Presiding Judge,
Eighth Judicial Court of Florida.

Titusville, Fla.,
March 16, 1970.

Senator Edward J. Gurney,
Senate Office Building,
Washington, D.C.:

As a member of Florida and Federal Bar I urge your continued support of Judge Carswell.

Stanley R. Andrews.

Miami, Fla.,
March 16, 1970.

Senator Edward J. Gurney,
Senate Office Building,
Washington, D.C.:

As a member of the American Florida and Dade County Bar Associations I heartily endorse the nomination of Judge G. Harrold Carswell to fill the existing vacancy in the United States Supreme Court.

Thomas D. Wood.

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TALLAHASSEE, FLA.,
March 16, 1970.

Senator GURNEY,
Washington, D.C.:

As an attorney I unequivocally endorse Judge G. Harrold Carswell for the United States Supreme Court.

JOHN F. MILLER, Jr.

MELBOURNE, FLA.,
March 16, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

As a member of the Florida Bar and American Bar Association urge your continued support of Judge Harrold Carswell and your best efforts at securing senatorial confirmation from fellow Senators. As a law clerk for Judge Carswell for two and a half years I can attest to his competence, fairness and integrity.

KIKE KRASNY.

ORLANDO, FLA.,
March 16, 1970.

Senator ED GURNEY,
Senate Office Building,
Washington, D.C.:

Urge your confirmation of Justice Carswell.

Very truly yours,

ROBERT EAGAN,
State Attorney.

ORLANDO, FLA.,
March 16, 1970.

Hon. EDWARD GURNEY,
U.S. Senator,
Washington, D.C.:

Request your affirmative vote for Judge Carswell appointment Supreme Court United States.

B. C. MUSYNSKI,
Circuit Judge.

EAU GALLIE, FLA.,
March 16, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I wholeheartedly approve of the nomination of Harrold Carswell to the United States Supreme Court.

E. TOM RUMBERGER,
Circuit Judge,
18th Judicial Circuit of Florida.

CORAL GABLES, FLA.,
March 15, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

After sixteen years of observing the career of Judge Carswell I strongly urge his confirmation as Supreme Court Justice.

Judge TOM BARKDULL.

PANAMA CITY, FLA.,
March 17, 1970.

Hon. ED GURNEY,
U.S. Senate,
Washington, D.C.:

I wholeheartedly indorse and recommend Honorable G. Harrold Carswell for the position of Justice of the Supreme Court of the United States. I am a member of the American Bar Association and have been a member for more than 15 years. I have been engaged in the private practice of law for more than 20 years in the Northern District of Florida and practiced before Judge Carswell all during the time he was U.S. District Judge. I am a former member of the board of governors of the Florida bar and a former member and former chairman of the Florida board of bar examiners. I know Judge Carswell has the legal ability, temperment, experience, integrity and energy necessary to be an outstanding member of the Supreme Court of the United States.

ERNEST W. WELCH.

JACKSONVILLE, FLA.,
March 17, 1970.

Senator EDWARD GURNEY,
Washington, D.C.:

You have our unqualified endorsement in urging the confirmation of Judge Carswell.

MARTIN SACK,
GERALD TJOFLAT,
LAMAR WINEGEART,
CHARLES LUCKIE,
ALBERT GRAESSLE,
HENRY MARTIN,
MARION GOODING,
THOMAS LARKIN,
Judges.

FT. LAUDERDALE, FLA.,
March 17, 1970.

Senator EWARD J. GURNEY, Jr.,
Washington, D.C.:

I urgently and respectfully request your favorable consideration and affirmative vote for confirmation of Judge Carswell's nomination.

H. JOHN MOORE,
Circuit Judge.

FORT MYERS, FLA.,
March 16, 1970.

Hon. EDWARD J. GURNEY,
New Senate Office Building,
Washington, D.C.:

We sincerely endorse Judge G. Harrold Carswell for Associate Justice of the United States Supreme Court.

LYN GERALD,
Circuit Judge.
ARCHIE M. ODOM,
Circuit Judge.

TALLAHASSEE, FLA.,
March 17, 1970.

Senator GURNEY,
Washington, D.C.:

I have practiced law for six years in Judge Carswell's court here in Tallahassee, Florida. I know him to be a fair and impartial judge eminently well qualified by judicial temperament, education, and experience to serve as Associate Justice of the Supreme Court of the United States. I urge you to vote for and support his confirmation.

F. PERRY ODOM.

ORLANDO, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate
Washington, D.C.:

I respectfully solicit your continued support for the nomination of Judge Carswell now in debate.

KEITH YOUNG MATEER,
Frey Young and Harbert.

PANAMA CITY, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate
Washington, D.C.:

By way of identification I've practiced law in Florida for approximately thirty two years and am a member of the Florida bar and American Bar Association. Thirty one years of this practice has been in the United States District Court for the northern district of Florida. I was previledged to try numerous cases while the Honorable G. Harrold Carswell presided. I can attest to his honesty, integrity, and legal ability. He has the knack for understanding the legal points involved and litigation before him more rapidly than most judges before whom I have appeared. His elevation to the Supreme Court is highly desirable to me. As I am sure that he would serve with honor, distinction and fairness.

CHARLES F. ISLER, Jr.

EAU GALLIE, FLA.,
March 16, 1970.

Senator EDWARD GURNEY,
Senator Office Building,
Washington, D.C.

DEAR SENATOR: As a member of the American and Fla. Bar Assoc. I whole heartedly endorse Judge Carswell.

Sincerely,

JAMES A. NANCE.

EAU GALLIE, FLA.,
March 16, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: As a member of the American and Florida Bar Assoc. I whole heartedly endorse Judge Carswell.

Sincerely,

SAMMY CACCIATORE.

PANAMA CITY, FLA.,
March 16, 1970.

Re Nomination of Judge G. Harrold Carswell
U.S. Supreme Court

Hon. EDWARD J. GURNEY,
U.S. Senate, Washington, D.C.

DEAR SIRS: This is to advise of my wholehearted support to the confirmation of the nomination of Judge Carswell to the United States Supreme Court. I am a relatively young attorney admitted to practice in the States of Georgia and Florida and have been so engaged for the last nine years. I am likewise a member of the American Bar Assn. and have been priviledged to practice before Judge Carswell in the United States District Court for the Northern District of Florida for the past five years. I have found Judge Carswell to be able, abundantly fair and possessed with superior judicial accumen. Our Federal judicial system will be the ultimate benefactor by his investiture as justice of the United States Supreme Court.

LYNN C. HIGBY.

WINTER PARK, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate, Washington, D.C.

Judge G. Harrold Carswell has the support of every member of the Florida Bar I am acquainted with. I know you will do all you can to assure Senate confirmation of his appointment.

DAVID W. CUNNINGHAM.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I have been very interested in the colloquy which has transpired. We are all trying to make certain that everything is in the record so that we may each make a final determination on this matter.

I thought it might be helpful—and I have never seen a more patient soul than the distinguished Senator from Wisconsin—to point out that it was on November 7, 1955, that the U.S. Supreme Court ruled that the city of Atlanta in refusing to permit Negroes to use the municipal golf course was a direct violation of the equal protection clause of the Constitution and ordered that the golf course be integrated. This was in the case of Holmes against the City of Atlanta.

Shortly thereafter, another suit entitled Augustus against the City of Pensacola was filed in the northern district of Florida. That is the same district represented by our nominee.

It seems to me there was ample evidence at that particular time, late in 1955, before the story of February 16,

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1966—as the Senator from Wisconsin points out—that there was public knowledge of what was going on.

I would like to read excerpts from one affidavit which appears on page 274, and I ask unanimous consent that the affidavit of Clifton Van Brunt Lewis, because I think it goes directly to the case in question, as well as the previous affidavit of Christene Ford Knowles be printed in the RECORD, as it also deals with the same subject.

There being no objection the article was ordered to be printed in the RECORD, as follows:

AFFIDAVIT

STATE OF FLORIDA,
County of Leon:

Before me the undersigned came and appeared on 1 February, 1970 who after being duly sworn, did depose and say that:

I am an adult White citizen who has been a life-long resident of Tallahassee and whose family has domiciled in the city for several generations. I am the wife of the Chairman of Florida's oldest bank, The Lewis State Bank of Tallahassee.

My interest in the Tallahassee Golf Course goes back to my early childhood, as my father was one of the early golfers of Tallahassee and had, in fact, helped to plan the course itself.

When the original club deeded the course to the City of Tallahassee it was known as the Municipal Golf Course—for some 21 years. The city acquired the spendid 205 acres through an agreement whereby the city paid off a 6,500 dollar note and agreed to obtain funds to improve the property. The agreement stipulated that the funds should be 35,000 dollars of WPA money! The 1935 agreement also gave the club first option to lease the land, which it did in 1956 at the rate of one dollar a year for 99 years!

My husband and I were invited to join the Capital City Country Club at its inception. We refused the invitation because we wanted no part in converting public property to private use without just compensation to the public—and because of the obvious racial subterfuge which was evident to the general public.

My husband and I have been members of the interracial Tallahassee Council on Human Relations since its inception several years before the Country Club fiasco. In this Council I knew first hand from Charles U. Smith, Professor of Sociology at Florida A&M University of the desire of specific Tallahassee black citizens to play on the city golf course.

This discussion with Mr. Smith was one of many that I had with a variety of parties during that period on the subject of the golf course, the issue being of wide civic concern. I would have been surprised if there was any knowledgeable member of the community who was unaware of the racial aspect of the golf course transaction. The controversy appeared in the local newspaper of the time, and a city commissioner was known to have raised questions about the racial implications involved.

CLIFTON VAN BRUNT LEWIS.

Subscribed and sworn to before me this 1st day of February 1970.

AFFIDAVIT

STATE OF FLORIDA,
County of Leon, SS:

Before me the undersigned authority came and appeared on 1 February 1970, who after being duty sworn, did depose and say that:

I am an adult Black citizen residing in Tallahassee, Florida, who has worked as an Administrative Assistant to the Reserve Officers Training Corps for 5½ years, ten years public high school teacher, ½ year Business Manager of Tallahassee A and M Hospital, and at the present 2 years and 10 months as Educational Specialist, Federal Correctional Institution, all of Tallahassee, Florida. (I reside at 819 Taylor Street, Tallahassee, Florida).

I remember in 1956, deeply resenting the transfer whereby 205 acres of what was formerly municipal property converted to private ownership. At the time, Reverend C. K. Steele, myself, and other members of the Local SCLC chapter were disturbed at what was clearly an attempt to bar Black people from using the golf course. It was evident to us that the transaction, that is the leasing of the course to a private group, had but one real intent. Tallahassee was in a racial uproar over the bus boycott and other protests—bringing a reaction of fear to the white community. The word "private" had increasingly become a code name for segregation.

The Capital City Country Club incorporation proceedings were well publicized and the racial overtones were necessarily clear to every knowledgeable citizen in the area, and it would have been surprising to me if an intelligent man, particularly an incorporator was not aware of the repeatedly emphasized racial aspects of this case.

We did discuss this corporation widely at the time, and had we not been so preoccupied with other protests, we would have undoubtedly moved against the corporation in civil suit.

CHRISTENE FORD KNOWLES.

Subscribed and sworn to before me this 1st day of February 1970.

DULUTH H. BAKER, Jr.

Mr. BAYH. Mr. President, I am particularly impressed by the affidavit of Clifton Van Brunt Lewis. It says in part as follows:

> I am an adult White citizen who has been a life-long resident of Tallahassee and whose family has domiciled in the city for several generations. I am the wife of the Chairman of Florida's oldest bank, The Lewis Bank of Tallahassee.

This lady is no insignificant citizen in the community.

She said further:

> My husband and I were invited to join the Capital City Country Club at its inception. We refused the invitation because we wanted no part in converting public property to private use without just compensation to the public—and because of the obvious racial subterfuge which was evident to the general public.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. PROXMIRE. Mr. President, was the Capital City Country Club the club that was formed with Judge Carswell as one of the subscribers?

Mr. BAYH. The Senator is correct.

There has been some concern expressed about whether there was discrimination. I do not know. I have never played on that course. But I thought the closing remarks of Mrs. Van Brunt Lewis would be appropriate to read. She closes by saying:

> I would have been surprised if there was any knowledgeable member of the community who was unaware of the racial aspect of the golf course transaction. The controversy appeared in the local newspaper of the time, and a city commissioner was known to have raised questions about the racial implications involved.

Mr. PROXMIRE. Mr. President, I thank the Senator from Indiana. I think that is an excellent and very helpful clarification.

Mr. President, I ask unanimous consent that I may yield to the Senator from Michigan without losing my right to the floor.

Mr. GRIFFIN. Mr. President, I thank the Senator from Wisconsin. He certainly is very patient. I appreciate the opportunity to deliver my statement at this time.

Mr. President, some of the arguments leveled against the nomination of G. Harrold Carswell to be an Associate Justice of the Supreme Court bring to mind a passage from Alice in Wonderland, which goes like this:

> "He's in prison now, being punished," said the White Queen, "and the trial doesn't even begin 'til next Wednesday; and of course the crime comes last of all."
>
> "Suppose he never commits the crime?" asked Alice.
>
> "That would be all the better, wouldn't it?" the Queen replied.—Alice in Wonderland by Lewis Carroll.

Of course, as a Senator, I respect the sincerity of those colleagues who argue that the nominee is not qualified. But, in all candor, I must say that most of the criticism simply presupposes something which no one can predict—that he will not be a great Justice of the Supreme Court.

Such a prejudgment not only runs counter to fundamental concepts of fairness, but it does a great disservice to the historical role of the Senate in the exercise of its advice and consent responsibility.

That is not to say, of course, that the Senate has never judged a nominee unfairly. It has.

But, in general, when the Senate has worked its will with respect to Supreme Court nominations, it has proceeded with a sense of balance and fairness.

Perhaps no nominee suffered more abuse than did Justice Louis D. Brandeis. Among the numerous witnesses to protest his nomination were seven former presidents of the American Bar Association, who stated that:

> Taking into view the reputation, character and professional career of Mr. Louis D. Brandeis, he is not a fit person to be a member of the Supreme Court of the United States.

Nevertheless, in its wisdom, the Senate saw fit to confirm that nomination and, needless to say, Justice Brandeis went on to serve the Nation and the Court with great distinction.

Chief Justice Charles Evans Hughes was bitterly opposed by some who felt that his prior legal representation of large corporations had committed him to their philosophy. As the noted scholar, Joseph P. Harris, has observed:

> It was anomalous that most of the arguments against him dealt with decisions of the Supreme Court in which he had no part, on the unsupported assumption that had he been a member he would have sided with the conservative majority of the Court. The opposition served a useful purpose, though had it prevailed the country would have been deprived of the services of a Chief Justice who now ranks with Marshall and Taney.

No one in this Chamber could be more pleased than this speaker to observe that the Senate is once again taking very seriously its advice and consent power. But history tells us that we should proceed

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with caution—that a nominee subjected to intense criticism may well prove to be a distinguished selection.

In 1930, the Senate rejected President Hoover's nomination of Judge John J. Parker. Union leaders opposed the nominee on the ground that he harbored an antilabor bias. Negro groups opposed the nominee because of a statement he had made 10 years before in the heat of a political campaign. As a candidate for Governor of North Carolina in 1920, Parker had said:

> The participation of the Negro in politics is a source of evil and danger to both races and is not desired by wise men in either race or by the Republican Party of North Carolina.

Significantly, despite those unfortunate remarks, the judgment of history now is that:

> In retrospect, it is generally agreed that both organized labor and Negroes were mistaken in their opposition and defeated a nominee who was liberal in outlook and sympathetic both to organized labor and to Negroes.

The role of the Senate in passing upon such a nomination was aptly described in 1945 by Senator AIKEN during the debate on President Roosevelt's nomination of Aubrey Williams to be the REA Administrator. At that time, the distinguished Senator from Vermont said:

> The main issue involved in the vote which we are soon to take is whether a man can come before this Senate for approval and have that approval granted or refused on the basis of the evidence presented, or whether such judgment will be influenced by policies, prejudice, racial and religious discrimination, and all the other evils which Members of the United States Senate should rise above.

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The pending nomination has been the target of much criticism. Charges have been made that the nominee is not sympathetic to civil rights causes; some assert that he is openly hostile to such causes.

In my opinion, the record of hearings and the evidence simply do not fairly support such conclusions.

It is well known that the nominee did make a speech in the course of a campaign for public office in 1948—a speech that contained racist comment.

But some critics who seem determined to portray the nominee as a racist ignore the nominee's statement that—

> When this was first brought to my attention and found upon the records of the little Irwinton Bulletin paper, I really was a little aghast that I had made such a statement . . . I state now as fully and completely as I possibly can, that those words themselves are obnoxious and abhorrent to me. I am not a racist. I have no notions, secretive, open, or otherwise, of racial superiority. That is an insulting term in itself and I reject it out of hand. (Hearings, page 10.)

A former Justice Department official advised the Judiciary Committee that—

> Shortly following the controversial *Brown* decision (in 1954) on segregation I held a conference in Washington of all the Southern U.S. attorneys to help the Department of Justice to implement the decision. Harrold Carswell was the only (Southern) U.S. attorney who was helpful to me and the department in this respect. (Hearings, p. 327.)

Of particular interest, I believe, is a telegram in the hearing record from Mike Krasny, a former law clerk of the nominee. I reads in part:

> I was Judge Harrold Carswell's law clerk from February 1960 to June 1962, a period of approximately two and a half years. I believe I was his law clerk longer than any other law clerk he had before or since . . .
>
> As a member of the Jewish faith and consequently a member of a minority, I sincerely believe that the day to day association which I had with Judge Carswell, both in and out of the courtroom, would have revealed any racist tendencies or inclinations, had there been any. Without the slightest hesitation, I can assure you and the members of your committee that the litigants in the United States Federal District Court in Tallahassee were not judged by their race, creed or color. Judge Carswell's integrity and honesty is beyond question in this regard
>
> He dealt fairly, honestly and respectfully with all those who came before him. His judicial manner was not altered by the race or color of those who appeared before him. I believe that I am more qualified to judge this man than are his accusers. I would be willing, at my own expense, to testify under oath that none of the decisions rendered by him during my tenure of office were tainted in any manner with a so-called racist philosophy, nor were civil rights lawyers or litigants treated in any manner other than the respectful manner accorded to all litigants and attorneys appearing before him.

Although I do not necessarily agree with all of the nominee's decisions as a judge, I share the view expressed by the distinguished columnist, Carl Rowan. Mr. Rowan comment in part as follows:

> I am far more impressed by Judge Carswell's frank and unambiguous repudiation of white supremacy in 1970 than by his endorsement of racism as a 28-year-old law school graduate struggling to defeat an uncompromising white supremacist.
>
> At age 28 or 38 you could find Lyndon B. Johnson endorsing segregation and making the racist noises expected of a Texas politician. But at age 58 Johnson was the greatest friend of civil rights and the black man ever to occupy the White House. That says a lot about human redemption.

As a Senator who has had the privilege of voting for every civil rights law passed by the Congress in the past 14 years, quite frankly, I am very conscious of the civil rights concern of some who oppose this nomination.

But a Senator has the obligation to assess equitably the evidence which is presented. Although I would have preferred a nominee with a more distinguished civil rights record, I do not believe Judge Carswell can fairly be considered an extremist or racist.

Some people have asked how I can support the pending nomination in light of my prior opposition to the nominations of Justice Fortas and Judge Haynsworth.

My views on the Fortas and Haynsworth nominations have been publicized. In those cases, my position related to questions of ethics—and did not relate to the very different philosophies of the nominees.

Although an individual Senator is free, of course, to oppose a nomination for any reason, the Senate, as a whole, has been reluctant to reject nominations for the Supreme Court on the grounds of philosophy alone.

But opponents also challenge the credentials of this nomineee.

During the Senate's consideration of the nomination by President Truman of Tom Clark, the Washington Post stated editorially that the selection did not meet the highest judicial standards and that Clark's name would not have appeared on any "list of distinguished jurists such as a conscientious President usually assembles before making an appointment to the Supreme Court."

The Richmond Times-Dispatch characterized Clark as a "political partisan and a legal lightweight" who "would reflect no credit upon that tribunal."

As we know now, Justice Clark served admirably on the High Court.

Quite frankly, it is difficult, if not impossible, to answer or to rebut charges such as those leveled against Justice Clark—and presently leveled against the nominee.

A charge of mediocrity, by its very nature, is incapable of close analysis. By what standard does an individual Senator evaluate such a nebulus concept as potential for greatness?

Would the public interest have been better served by the Senate's rejection of the nomination of Justice Clark on such grounds? Obviously not.

As the Washington Daily News, a Scripps-Howard newspaper, has commented:

> As for measuring what a man will do once on the Supreme Court, we recall Justice Felix Frankfurter, the darling of the liberals who wound up as the strictest constructionist of modern times. And think of Justice Hugo Black, now regarded as a great justice, who began his Supreme Court career under the cloud of having once been a member of the Ku Klux Klan . . .

Mr. President, history has a way of putting things in perspective. Even those who do the nominating may misjudge a nominee. At one point, President Theodore Roosevelt was so disappointed in the performance of one of his appointees to the Supreme Court, Justice Oliver Wendell Holmes, that he commented:

> I could carve a judge with more backbone out of a banana.

Mr. President, the pending nomination has been of deep personal concern. As a member of the Judiciary Committee, I have carefully followed the hearings and have carefully reviewed his record as a Federal judge.

As one Senator, I do not believe the record justifies opposing the nomination.

Accordingly, I shall vote to confirm G. Harrold Carswell to be an Associate Justice of the Supreme Court.

Mr. PROXMIRE. Mr. President, William Van Alystyne, a professor of law at Duke University, opposed Carswell's confirmation in testimony before the Judiciary Committee. Van Alystyne told the committee that he supported the nomination of Judge Haynsworth but strongly opposed the Carswell nomination. I would like to present to you, Mr. President, some parts of Professor Van Alystyne's testimony:

> A short time ago, as you gentlemen recall, this committee was asked to report to the Senate its recommendations as to whether the Senate should consent to the nomination of Judge Clement Haynsworth as Associate Justice of the Supreme Court. At that time, I felt some obligation to file a

statement because of a profesional familiarity with Judge Haynsworth's judicial record which I believe might be of assistance to the Senate. I was prompted to appear as well because of a substantial belief, formed after a review of Judge Haynsworth's opinions and decisions during 12 years on the court of appeals, that the extent of the criticism then being made by others was not in fact justified. While it was not possible to review and to report on any large number of Judge Haynsworth's decisions in my filed statement, I did attempt to examine a sufficient number fairly to reflect in my statement what I believed to be of principal interest to this committee and to the Senate. On that basis, I concluded that Judge Haynsworth was an able and conscientious judge, that his decisions manifested a greater degree of judicial compassion within the allowable constraints of proper discretion than others had taken the care to acknowledge, and that even in instances where I could not personally find agreement, private or professional, with a particular result, I could, nonetheless see from the quality of the opinion that that result had been arrived at with reassuring care and reason.

In the little time available prior to this hearing, I have sought to review Judge Carswell's work in an equivalent fashion. My impressions are sharply different from those I held of Judge Haynsworth, however, even without regard to additional circumstances which have made this an extraordinary case.

Reference has been made to an earlier published statement by Judge Carswell in 1948. I would agree with those who believe that unless that statement can be significantly discounted by clear and reassuring events since that time, 20 years ago, it would be uniquely inappropriate for the Senate to consent to his nomination as an Associate Justice of the Supreme Court. But an examination of his decisions and opinions as a district judge since that time, even laying his earlier statement entirely aside, provides no feeling for a basis of reassurance whatever. Again, without beginning to exhaust all that might be mentioned in this regard, a brief review of several particular cases may illustrate the lack of any reassuring quality in the opinions or results.

In the case of *Due* v. *Tallahassee Theatres, Inc.*, for instance, several Negro plaintiffs sued to enjoin an alleged conspiracy by the local sheriff and others to perpetuate segregation in public facilities by means of harassment and discriminatory law enforcement against blacks. The decision by Judge Carswell granting summary judgment in favor of the sheriff without a hearing was reversed in the court of appeals on grounds that it was "clearly in error," that the allegations readily supported a cause of action under various civil rights acts and preexisting Supreme Court decisions, and that a hearing should have been held.

In *Singleton* v. *Board of Commissioners of State Institutions*, suit was brought by four Negro children sent to a segregated institution after conviction for participation in a sit-in, to enjoin that segregation and to have the State statute requiring such segregation declared unconstitutional. The suit was dismissed as allegedly being moot by Judge Carswell, but the court of appeals reversed in an opinion further indicating that relief on the merits should have been granted to the plaintiffs.

In *Dawkins* v. *Green*, Negro plaintiffs sought to enjoin police and municipal officers from seeking to enforce certain statutes on a discriminatory basis to intimidate and harass Negroes, and to prevent them from exercising certain constitutional rights. Without holding any hearing to provide the plaintiffs an opportunity to establish that the officials were in fact acting maliciously and in bad faith, Judge Carswell granted summary judgment against the plaintiffs based only on conclusory affidavits submitted by the officers. Again the court of appeals reversed, holding that this preemptory use of summary judgment was in error, and remanding the case for a hearing on the merits.

In *Steele* v. *Board of Public Instruction*, Judge Carswell accepted an extremely grudging desegregation plan submitted by the county in 1963 and approved its continuing operation in 1965, to be reversed by the court of appeals on the basis that the plan was constitutionally inadequate.

In *Augustus* v. *Board of Public Instruction of Escambia County*, suit was brought on behalf of Negro children to enjoin segregation in the county schools and racial assignment of the teachers. Judge Carswell's opinion manifested a severely restricted interpretation of the Supreme Court's opinion in *Brown* v. *Board of Education*, concluding that it applied only to the segregation of children, not the teachers, finding no basis at all for the proposition that the racial assignment of teachers may also violate equal protection owing the students, and he denied them an opportunity to establish that systematic racial assignment of teachers may obviously bear on the quality of the student's own education. In reversing, the court of appeals held that it was error not to allow the plaintiffs an opportunity to show to what extent they may be injured by racial segregation of teachers.

Let me interrupt my prepared statement at this point to point out that when the identical issue came before Judge Haynsworth he, as the fifth circuit judge, of course recognized that the students were in a suitable position to contest that issue and granted full relief on the merits.

In a companion case brought before Federal district court Judge Simpson in the middle district of Florida on the same issue Judge Simpson also recognized that that was the point.

In short, gentlemen, Judge Carswell's opinion on this issue stands unique as a severe and restrictive and subsequently reversed interpretation on a principal point of constitutional law.

It is correct also, of course, that there are several cases in which relief was not denied to plaintiffs suffering injury from unlawful racial discrimination (see, for example, *Brooks* v. *City of Tallahassee*, 202 F. Supp. 56 N.D. Fla. 1961, *Pinkney* v. *Meloy*, 241 F. Supp. 933 N.D. Fla. 1965). They have been repeatedly mentioned here as the *Air Terminal* and *Barber Shop* cases.

Senator BAYH. Are there others that have come to your attention?

Mr. VAN ALYSTYNE. Respectfully, Senator, those were the only two that I was able to find in 72 hours of research. It is also possible that opinions were overlooked in that these cases are nowhere indexed by judges names.

Senator BAYH. If you find others—I do not speak for the whole committee—I would hope you would bring those to our attention as well.

Mr. VAN ALYSTYNE. I would wish to do so in any case from a private sense of responsibility to this committee. Respectfully however, while relief was not denied in these cases, it was only in circumstances where heavily settled higher court decision and incontestably clear acts of Congress virtually compelled the result, leaving clearly no leeway for judicial discretion to operate in any other direction. I would respectfully invite the committee's particular attention to the particular opinions to establish that conclusion.

More disturbing in the cases generally, and by generally I mean not to restrict myself to the area of race relations at all, although intrinsically far more difficult to illustrate in the nature of the shortcoming, there is simply a lack of reasoning, care, or judicial sensitivity overall, in the nominee's opinions.

There is, in candor, nothing in the quality of the nominee's work to warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States.

It is, moreover, in this context and on the basis of this subsequent record that the Senate must resolve fair doubts in assessing the significance of an acknowledged statement made by the nominee under public circumstances, as a mature man of 28 years, with a graduate education in the law and experience in business affairs, now to be considered for the highest judicial office in the United States. This is not the time, in this public room, for any of us to weigh these words for all their impact. Rather, it is for each of you to go to some private place, to these words again, slowly and aloud, listening again, then to decide the future of the Supreme Court and the advice of the Senate:

"I yield to no man, as a fellow candidate or as a fellow citizen, in the firm vigorous belief in the principles of white supremacy and I shall always be so governed." (G. Harrold Carswell)

I have not come here to damn Judge Carswell. I do not know him personally.

I merely wish to volunteer this observation if I could. It was really after a great deal of personal agonizing that I decided to appear at all. I was concerned, however, that with the relative brevity of time for others to make some systematic and professionally responsible review of the judge's decision there might be no one else who could attempt to advise members of this committee in terms of your own question, Senator, whether there were reassuring events in this 20-year hiatus of time, so that one could honorably, as I should want to do as well, wholly dismiss and discount the utterance of 1948.

Discussing the dissimilarity between the nominations of Justice Black and Judge Carswell, Professor Van Alystyne goes on to say this:

As county prosecutor of Bessemer County in Alabama, Hugo Black prosecuted the mayor and chief of police for extorting confessions from Negroes. That is a reassuring event in my mind. As a U.S. Senator, he had ample opportunity to take a political position under very public circumstances on a variety of constitutional and civil liberties issues. In one case, for instance, he voted against the Smoot-Hawley tariff, a very complicated bill, and primarily on the basis that it gave a certain power to one of the customs masters to screen out certain forms of writing from the United States; that is to say, his was the first amendment objection.

This matter was carefully reviewed by people of politically liberal persuasion at the time, and they did find a repeated series of reassuring events at this time, so to indicate that at the very worst then Hugo Black's affiliation with the KKK was one of convenience, given their overwhelming political control of the area, but neither by public utterance nor by private conduct nor by subsequent participation in the U.S. Senate or otherwise in public or private life was there lacking the presence of reassuring events or any presence of things more detrimental.

There is, however, a different distinction as well, Senator; 1948 is not 1933. The race issue was not a major issue in 1933. The affiliation of convenience may not speak particularly well of a man, but this was by no means so serious a matter in 1933 as in 1948. In 1948 civil rights legislation was before Congress. This was in the context of all the political controversy. The President had just desegregated the military in which Mr. Carswell himself had been matured in part. The Nation had just then read President Truman's special report "To Secure These Rights." The issue was now central, the oc-

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casion to reflect was far better provided than in 1933.

We have to look at the situation in terms of distinction in point of time: When Senator Black was before the Senate for confirmation to the Supreme Court, and the relative unimportance, although I say that with regret, the relative public unimportance of the race issue, and the posture of the Supreme Court, and the difference in quality today.

If the Warren court will be historically a monument, it will probably be principally because it at least gave that initial push to the momentum of concern in the United States dating from 1954. There has been in my view a unique and admirable unanimity on this crucial question since that time.

I can think of no more regrettable insult to the Warren court, unless the committee is virtually reassured that this was merely a forgivable incident, and can find those reassuring events, in the absence of that kind of evidence I tell you in all respect that it will be a major insult to the legacy of the Warren court if this nomination is confirmed.

I find no similar situation in the circumstances of the confirmation of Senator Black.

And just last week a group of almost 500 prominent lawyers, including Democrats and Republicans, liberals and conservatives, as well as the deans of the law schools at Harvard, Yale, and the University of Pennsylvania, and the president of the Association of the Bar of New York City—and incidentally also the president of a bar association from the State of the distinguished Senator from Michigan, the Detroit Bar Association—signed a statement asking the Senate to reject the Carswell nomination and at the very least to reopen hearings.

These outstanding lawyers feel that Carswell has neither the legal nor mental qualifications necessary for service on the Supreme Court, or for that matter on any high court. Their analysis of his record indicates that Harrold Carswell still believes in the separation of the races as the proper way of life.

In a letter to Senators accompanying the statement these lawyers write:

> We respectfully urge that, although this is a second nominee for the vacancy, the Senate has a greater constitutional duty to exercise independent judgment in judicial appointments than it has in executive appointments. We believe that, in the exercise of that duty, the Senate should confirm an appointment to the Supreme Court only if the nominee is of outstanding competence and superior ability. Judge Carswell does not, in our opinion, meet that test.
>
> The Senate has recognized this obligation in repeated instances. For example, the 71 Supreme Court nominations sent to the Senate during the nineteenth century by the Presidents, more than one-fourth were denied Senate approval (Charles Warren: The Supreme Court in United States History, Vol. II, pp. 758–762).

In my view, Mr. President, this group of outstanding lawyers has developed powerful and cogent arguments why the nomination of G. Harrold Carswell should be rejected. Considerable study is given to Carswell's role in leasing a public golf course to a private club in an obvious attempt to exclude Negroes from using the facilities. The statement in question is so significant and so convincing that I would like to read it to the Senate.

The understigned members of the Bar, in various sections of the United States, and of differing political affiliations, are deeply concerned about the evidence in the hearings of the United States Senate Judiciary Committee on the confirmation of Judge G. Harrold Carswell as an Associate Justice of the Supreme Court of the United States.

The testimony indicates quite clearly that the nominee possesses a mental attitude which would deny to the black citizens of the United States—and to their lawyers, black or white—the privileges and immunities which the Constitution guarantees. It has shown, also, that quite apart from any ideas of white supremacy and ugly racism, he does not have the legal or mental qualifications essential for service on the Supreme Court or on any high court in the land, including the one where he now sits.

The testimony has shown no express or implied repudiation of his 1948 campaign declarations in favor of "white supremacy" and of his expressed belief that "segregation of the races is proper and the only correct way of life in our State"—until his confirmation for the United States Supreme Court was put in jeopardy by their disclosure. On the contrary, it shows a continuing pattern of reassertion of his early prejudices.

That pattern is most clearly indicated by his activities in 1956 in connection with the leasing of a public golf course in his city to a private club, for the purpose of evading the Constitution of the United States and excluding blacks from its golf course.

We are most deeply concerned about this part of the testimony. He was then no longer the youthful, enthusiastic campaign orator of 1948 running on a platform of "white supremacy" and "segregation as a way of life." He was then a mature man, holding high Federal office.

Unfortunately, insufficient public attention has been paid by the media of public information and by the public in general to this episode.

The testimony as to the golf club is particularly devastating, not only because of the nominee's lack of candor and frankness before the Senate Committee in attempting to explain it, but because his explanation, if true, shows him to be lacking the intelligence of a reasonable man and to be utterly callous to the implications of the scheme to which he was lending himself.

The circumstances surrounding this golf club incident are extremely important, and should be made clear. By 1955, the Supreme Court of the United States had declared that it was unconstitutional for a city or state to segregate any of its public recreational facilities, such as golf courses. As a result of this decision, a common and well-publicized practice had grown up in the South, in order to keep blacks off municipal golf courses, by which the cities would transfer or lease the public facilities to a private corporation, which would then establish rules for exclusive use by whites. This was, of course, a palpable evasion—and universally understood so to be.

By 1956, many cases had already been filed in various cities of the South to invalidate these obvious subterfuges. Several lower United States Courts had already struck them down as unconstitutional. These cases were well publicized at the time when United States Attorney Carswell, who had been, of course, sworn as a United States Attorney to uphold the Constitution and laws of the United States, became involved in the matter of the municipal golf club in Tallahassee, Florida, where he lived.

By the date the Tallahassee incident occurred, five lawsuits had already been started in different cities in the State of Florida to desegregate municipal recreation facilities, including, among others, golf clubs; and it was clearly evident that Tallahassee and its municipal golf club would soon be the target of such a suit.

Therefore, to circumvent the results of such a suit, some white citizens of Tallahassee incorporated a private club, to which the municipal golf course was thereupon leased for a nominal consideration. Affidavits, dated in February 1970, were submitted and read to the Senate Committee, signed by both blacks and whites who were residents of Tallahassee at the time, showing that it was generally understood that this transfer was being made solely for the purpose of keeping black citizens off the course.

One of these affidavits (TR 610)* was by a Negro lady, a public high school teacher for ten years, the business manager of Tallahassee's A&M Hospital for one-half year, and presently an Educational Specialist at the Federal Correctional Institution in Tallahassee. It said in part:

"Tallahassee was in a racial uproar over the bus boycott and other protests—bringing a reaction of fear to the white community. The word 'private' had increasingly become a code name for segregation.

"The Capital City Country Club incorporation proceedings were well-publicized and the racial overtones were necessarily clear to every knowledgeable citizen in the areas, and it would have been surprising to me if an intelligent man, particularly an incorporator was not aware of the repeatedly emphasized racial aspects of this case.

"We did discuss this corporation widely at the time; had we not been so preoccupied with other protests, we would have undoubtedly moved against the Corporation in civil suit."

Another affidavit (TR 611) was signed by a white lady, "a life-long resident of Tallahassee whose family has been domiciled in the city for several generations," "the wife of the chairman of Florida's oldest bank, the Lewis State Bank of Tallahassee." It stated that: (1) the golf course had been developed and improved by a grant of $35,000 of WPA funds; (2) she refused to join in the new club "because we wanted no part in converting public property to private use without just compensation to the public, and because of the obvious racial subterfuge which was evident to the general public"; (3) that she had discussions at the time of the lease "with a variety of parties during that period on the subject of a golf course, the issue being of wide civic concern." She stated:

"I would have been surprised if there was any knowledgeable member of the community who was unaware of the racial aspect of the golf course transaction. The controversy appeared in the local newspaper of the time and a city commissioner was known to have raised questions about the racial implications involved."

There was then received in evidence (TR 613), a clipping from page 1 of the local newspaper referred to, the Tallahassee Democrat, for February 15, 1956. This contemporaneous clipping corroborated the affidavits in showing the community discussion of the racial purpose of the lease. Reporting the fact that the lease had been entered into by the City Commission with the private club, it stated:

"The action came after a two-month cooling off period following the proposal's first introduction. At that time former City Commissioner H. G. Easterwood, now a county commissioner, blasted the lease agreement.

"He said racial factors were hinted as the reason for the move.

"Under the arrangement, the country club group would take over the operation of the course September 1. The lease is for 99 years, running through 2055, and calls for a $1.00 a year payment."

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*References are to the transcript of the hearings on the nomination before the Senate Committee on the Judiciary.

The then United States Attorney, now seeking to become an Associate Justice of the Supreme Court of the United States, became an incorporator and director of that private club to which the golf club was to be leased. Here was a high Federal public official, thoroughly cognizant of the decisions of the Federal courts, participating in a scheme to evade the Constitution.

The answer of Judge Carswell to the disclosure of this was that: (1) he thought that the papers he signed (with a subscription of $100) were for the purpose of fixing up the old golf club house; (2) that he at no time discussed the matter with anyone; and (3) that he never believed that the purpose of this transaction had anything to do with racial discrimination or keeping blacks off the course.

Some of the Senators at the hearings were as incredulous as we are. We think that a few short extracts of the Judge's testimony on this matter will give a clearer picture of the man who now seeks a seat on the Supreme Court of the United States—the final guardian of the individual rights of all of us:

Judge Carswell (In answer to a question by Senator Kennedy as to whether the Judge was testifying that the transaction was principally an effort to build a club house): "That is my sole connection with that. I have never had any discussion or never heard anyone discuss anything that this might be an effort to take public lands and turn them into private lands for a discriminatory purpose. I have not been privy to it in any manner whatsoever." (TR 65)

Senator Kennedy (TR 149): Mr. Nominee, I think the document speaks for itself in terms of the incorporation of a club, a private club . . . I think, given the set of circumstances, the fact that they were closing down all recreational facilities in that community at that time because of various integration orders, I suppose the point that Senator Bayh is getting to and some of us asked you about yesterday is whether the formation of this club had it in its own purpose to be a private club which would, in fact, exclude blacks. The point that I think he was mentioning and driving at, and Senator Hart talked to, and I did in terms of questions, is whether, in fact, you were just contributing some $100 to repair of a wooden house, club house, or whether, in fact, this was an incorporation of a private club, the purpose of which was to avoid the various court orders which had required integration of municipal facilities. . . .

"Now, I think this is really what, I suppose is one of the basic questions which is of some interest to some of the members and that we are looking for some response on."

Judge Carswell: "Yes sir, and I hope I have responded, Senator Kennedy. I state again unequivocally and as flatly as I can, that I have never had any discussions with anyone, I never heard any discussions about this."

Senator Bayh: "You had no personal knowledge that some of the incorporators might have had an intention to use this for that purpose?" (TR 150)

Judge Carswell: "I certainly could not speak for what anybody might have thought, Senator. I know that I positively didn't have any discussions about it at all. It was never mentioned to me. I didn't have it in my mind, that is for sure. I can speak for that." (TR 150)

Senator Bayh then asked whether there were then any problems in Florida relating to the use of public facilities and having them moved into private corporations. Judge Carswell answered:

"As far as I know, there were none there and then in this particular property."

Senator Bayh then asked whether Judge Carswell was not aware of other cases in Florida?

Judge Carswell: "Oh, certainly, certainly. There were cases all over the country at that time, everywhere. Certainly I was aware of the problems, yes. But I am telling you that I had no discussions about it, it was never mentioned to me in this context and the $100 I put in for that was not for any purpose of taking property for racial purposes or discriminatory purposes." (TR 151)

Senator Kennedy: "Did you have any idea that that private club was going to be opened or closed?

Judge Carswell: "The matter was never discussed."

Senator Kennedy: "What did you assume?"

Judge Carswell: "I didn't assume anything. I assumed that they wanted the $100 to build a club house and related facilities if we could do it. . . ." (TR 153)

Senator Kennedy: "When you sent this and you put up the money, and you became a subscriber, did you think it was possible for blacks to use that club or become a member?"

Judge Carswell: "Sir, the matter was never discussed at all."

Senator Kennedy: "What did you assume, not what was discussed?"

Judge Carswell: "I didn't assume anything. I didn't assume anything at all. It was never mentioned."

Senator Kennedy: "Did you in fact sign the letter of incorporation?"

Judge Carswell: "Yes, sir. I recall that. . . ."

Senator Kennedy: "Did you generally read the nature of your business or incorporation before you signed the notes of incorporation?"

Judge Carswell: "Certainly I read it, Senator. I'm sure I must have. I would read anything before I put my signature on it, I think [sic]."

We cannot escape the conclusion that a man, in the context of what was publicly happening in Florida and in many parts of the South—which the nominee says he knew—and what was being discussed locally about this very golf club, would have to be rather dull not to recognize this evasion at once; and also fundamentally callous not to appreciate and reject the implications of becoming a moving factor in it. Certainly it shows more clearly than anything else the pattern of the Judge's thinking from his early avowal of "white supremacy" down to the present.

Particularly telling—as showing the continuing pattern of his mind which by the time of the golf club incident, if not before, had become clearly frozen—are the testimony and discussion of fifteen specific decisions in civil and individual rights cases by the nominee as a United States District Judge (TR 629, et seq.). These fifteen were, of course, only a few of the decisions by the nominee. A study of a much fuller record of his opinions led two eminent legal scholars and law professors to testify before the Senate Committee that they could find therein no indication that the nominee was qualified—by standards of pure legal capacity and scholarship, as distinguished from any consideration of racial prejudices—to be a Supreme Court Justice.

These specific fifteen cases are all of similar pattern: they involve eight strictly civil rights cases on behalf of blacks which were *all* decided by him against the blacks and all *unanimously* reversed by the appellate courts; and seven proceedings based on alleged violations of other legal rights of defendants which were all decided by him against the defendants and all *unanimously* reversed by the appellate court. Five of these fifteen occurred in one year—1968.

These fifteen cases indicate to us a closed mind on the subject—a mind impervious to repeated appellate rebuke. In some of the fifteen he was reversed more than once. In many of them he was reversed because he decided the cases without even granting a hearing, although judicial precedents clearly required a hearing.

We do not dispute the Constitutional power or right of any President to nominate, if he chooses, a racist or segregationist to the Supreme Court—or anyone else who fills the bare legal requirements. All that we urge is that the nominee reveal himself, or be revealed by others, for what he actually is. Only in this way can the Senate fulfill its own Constitutional power to confirm or reject; only in this way can the people of the United States—the ultimate authority—exercise an informed judgment. That is the basic reason for our signing this statement, as lawyers, who have a somewhat special duty to inform the community of the facts.

We agree with Judge Carswell that a nominee for the Court should not ordinarily be compelled to impair his judicial independence by explaining his decisions to a Senate Committee. But this was no ordinary situation. It involved a consistent and persistent course of judicial conduct in the face of continual reversals, showing a well-defined and deeply ingrained pattern of thought.

We believe that—at the very least—the hearings should be reopened so that an official investigation can be made by independent counsel for the Committee, empowered as it is to subpoena all pertinent records, including the files of the Department of Justice and the records of Judge Carswell's court. So far, the evidence in opposition—compelling as it is—has been dug up solely by the energy and efforts of private citizens or groups, without power of subpoena. For example, the episodes of the 1948 pledge to "white supremacy" and the country club lease were both dug up by independent reporters.

Are there any other incidents like the golf club, or other public or private statements about "white supremacy"? Are there additional, but unreported, decisions in the files of Judge Carswell's court, not readily available to lawyers who can search only through the law books for cases which have been formally reported and printed? What information can be found in the files of the Department of Justice, unavailable, of course, to the opposition but readily subject to a Committee subpoena?

One vote out of nine on the Supreme Court is too important to rely on a volunteer investigation, on the efforts of private, public-spirited lawyers and reporters, although they have already uncovered evidence clearly indicating, in the absence of a more credible explanation, rejection of the nomination.

The future decisions of the Supreme Court will affect the lives, welfare and happiness of every man, woman and child in the United States, the effectiveness of every institution of education or health or research, the prosperity of every trade, profession and industry. Those decisions will continue to be a decisive factor in determining whether or not ours will, in the days to come, truly be "a more perfect Union," where we can "establish Justice, insure domestic Tranquility, . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity."

We urge that the present record clearly calls for a refusal to confirm by the Senate of the United States.

Signed:

BRUCE BROMLEY,
Former Judge, Court of Appeals, State of New York.

FRANCIS T. P. PLIMPTON,
President, the Association of the Bar of the City of New York.

SAMUEL I. ROSENMAN,
Former President, the Association of the Bar of the City of New York.

BETHUEL M. WEBSTER,
Former President, the Association of the Bar of the City of New York.

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Mr. CASE. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I am happy to yield to the Senator from New Jersey.

Mr. CASE. I asked the Senator to yield only to underscore the fact that these four principal signers of the statement he has just read are, indeed, among the most distinguished, able, and well-known lawyers in the country. Except for Judge Rosenman, they are all Republicans. All of them, perhaps including Judge Rosenman, are conservative people—certainly very solid people.

We do not get a Bruce Bromley, leader of the New York Bar, or a Webster, or a Judge Rosenman, or a Plimpton—he is presently president of the Association of the Bar of the City of New York, and active in all good works, among other things, a longtime trustee of Columbia University—we do not get people like that making statements of this sort lightly.

Their consciences were outraged by this appointment. I must confess that mine was outraged, too.

Appointments of this sort are never good or acceptable. They are especially unacceptable now, if the Senator would yield further, if I am not interrupting him——

Mr. PROXMIRE. No. This is a very good time for me to yield——

Mr. CASE. I did not wish to interrupt the flow of the Senator's thoughts. I thought this might be a good time to say something since he has finished reading the rather long statement by these lawyers.

Mr. PROXMIRE. I thank the distinguished Senator. His point is most useful because there is an assumption that people opposing the nominee are wild-eyed liberals——

Mr. CASE. That they are long-haired liberals and——

Mr. PROXMIRE. But these are solid members, as the Senator from New Jersey has stated, of the President's own party who are men, I am sure, who would not take a position lightly. They would like very much, as would the Senator from New Jersey and the Senator from Wisconsin, to support a nomination for the Supreme Court if they could possibly do so.

Mr. CASE. Mr. President, I appreciate the Senator's giving me this chance to say this. Since I have interrupted, there is one other point that I would like to underscore, if I may, at this time.

Many arguments have been made that less than wholly distinguished people have been appointed and in some cases have come to be acceptable or even good judges. The thought has been expressed that this might be true in the instant case.

I think we have to go a little on the law of averages. And we will get a better Court if we do the best we can. No selection process is perfect. Even with the best of intentions and with the highest criteria and the highest intelligence, one can make a mistake sometimes on how a person will turn out. But certainly the chances are greater that a selection from the top drawer will be more successful as far as the outcome is ultimately concerned than if the selection were made as our friend, the Senator from Louisiana suggested, from A, B, and C groups, with some idea that we need a representation across the board.

Even if this were so, let us leave everything else aside and let us assume that this man, having been appointed and seated on this Court, has a whole change in his views about race and develops an unusual diligence and surprises all of us with latent powers that he has not yet shown. Still, we would be taking a chance on that.

Let us assume that he worked out. It would still be a most unfortunate appointment, because it represents something wholly unnecessary. There are many other conservative people from the South that could be selected. It represents wholly unnecessarily a slap in the face to the black community of this country.

It represents a most unfortunate repudiation of those black moderate leaders who have been doing their best to help this country stay on an even keel.

It is irresponsible to do this at this time, and the argument that this man might change his mind on these matters would not correct the deep wound that would be caused in this area at a time when this country needs no further wounds, but, rather, a healing, an understanding, and an encouragement to the members of the black and white communities who are doing their best to help us over this most difficult period.

Mr. PROXMIRE. Mr. President, I thank the Senator. I am honored to have been on the floor when he made this extremely eloquent and moving statement. I think it is one that we ought to dwell on.

This is a wholly unnecessary insult and wound to the black community, as the Senator has said.

I think a point that we should consider is that the great need in our country is to persuade those who have been denied justice. And certainly all of us know that the blacks in this country have been denied justice.

They have been told that they should work within the system for change. How can they work for a change? One way is to blow up a courthouse. Another is to start a riot. Another is to work through the Supreme Court of the United States. And that way has been found to be enormously effective.

We have made great progress in civil rights in the last 16 years, since 1954.

But what kind of hope for progress by working within the system can we hold up to the American blackman when people like Carswell are nominated, men with his background?

As the New York Times said when the nomination was announced by President Nixon:

> It may well be that an appointment to the Supreme Court will do G. Harrold Carswell a world of good.

Maybe it will. But this is an incredible justification for appointing a man to the highest court of our land.

We can only judge him on the basis of what he has been, what he has done, and what he has stood for.

We cannot get a more distinguished group of lawyers and jurists than the 500 who have appealed to the Senate not to confirm Judge Carswell.

And these eminent men point out that not only has he acted and spoken in favor of segregation, but also his court opinions clearly reflect this again and again. He has decided against black persons who have appeared before his court again and again. And he has been reversed, and reversed in many cases unanimously.

I should like to document further the point made by the Senator from New Jersey by pointing out some of the many distinguished men who have signed this appeal to the Senate that it should not under any circumstances confirm the nomination of Judge Carswell.

Charles S. Desmond, former chief judge, New York State court of appeals, Buffalo, N.Y.

John G. Buchanan, first chairman, American Bar Association committee on the judiciary; former president, Allegheny County Bar Association, and Pennsylvania Bar Association, Pittsburgh, Pa.

Dean Robert F. Drinan, S. J., Boston College Law School, Boston, Mass. He is a man who we have had testify before many Senate commitees with great distinction. He is recognized as a legal scholar and an expert.

Cyrus Vance, partner, Simpson, Thacher & Bartlett, New York, N.Y.

Simon H. Rifkind, former judge, U.S. district court, New York, N.Y.

Chauncey Belknap, former president of the New York State Bar Association, New York, N.Y.

Haskell Cohn, president of the Boston Bar Association, Boston, Mass.

Warren Christopher, partner in O'Melveny & Meyers, Los Angeles, Calif.

We then have a number of distinguished professors and the dean and faculty of Yale University Law School. Yale University Law School is certainly one of the most eminent law schools in our country. Many people feel it is the best. The dean and a number of the members of the faculty have supported this statement.

John W. Douglas, former U.S. Assistant Attorney General, Washington, D.C. Mr. Douglas is a son of former Senator Douglas.

Robert M. Morgenthau, former U.S. attorney for the southern district of New York, N.Y. He recently submitted his resignation.

Sumner T. Bernstein, past president of the Maine State Bar Association, Portland, Maine.

We have the dean and a number of the faculty members of the Notre Dame Law School, Notre Dame, Ind.

We have a number of distinguished men from California, New Jersey, and Montana, and a number of distinguished members of the faculty of Ohio State University at Columbus, Ohio.

We have the dean and a large number of the faculty members of Columbia University. The dean is William C. Warren.

Professor Harold Havighurst, certainly one of the most distinguished legal scholars in the country.

Theodore Chase, former president of

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the Boston Bar Association, Boston, Mass.

We have distinguished lawyers from Chicago, Ill., and Detroit, Mich., and many other parts of the country.

Mr. President, I ask unanimous consent that the entire list be printed at this point in the Record.

There being no objection the list was ordered to be printed in the Record, as follows:

List of Lawyers Opposing Nomination of G. Harrold Carswell

Charles S. Desmond, Former Chief Judge, New York State Court of Appeals, Buffalo, New York.

John G. Buchanan, First Chairman, American Bar Association Committee on the Judiciary; Former President, Allegheny County Bar Association and Pennsylvania Bar Association, Pittsburgh, Pennsylvania.

Dean Robert F. Drinan, S.J., Boston College Law School, Boston, Massachusetts.

Cyrus Vance, Partner, Simpson, Thacher & Bartlett, New York, New York.

Simon H. Rifkind, Former Judge, U.S. District Court, New York, New York.

Chauncey Belknap, Former President, New York State Bar Association, New York, New York.

Haskell Cohn, President, Boston Bar Association, Boston, Massachusetts.

Warren Christopher, Partner, O'Melveny & Myers, Los Angeles, California.

Dean and Faculty, Yale University Law School, New Haven, Connecticut: Louis H. Pollak, Dean; Boris I. Bittker; Ralph S. Brown, Jr., Associate Dean; Arthur A. Charpentier; Thomas I. Emerson; William L. F. Felstiner, Associate Dean; Daniel J. Freed; Abraham S. Goldstein, Dean Designate; Joseph Goldstein; Friedrich Kessler; Ellen A. Peters; Charles A. Reich; Eugene V. Rostow; Robert B. Stevens; Clyde W. Summers; Harry H. Wellington.

John W. Douglas, Former U.S. Assistant Attorney General, Washington, D.C.

Robert M. Morgenthau, Former U.S. Attorney for the Southern District of New York, New York, New York.

Sumner T. Bernstein, Past President, Maine State Bar Association, Portland, Maine.

Dean and Faculty, Notre Dame Law School, Notre Dame, Indiana: William B. Lawless, Dean; Frank E. Booker; Leslie A. Foschio, Assistant Dean; Godfrey C. Henry; Charles W. Murdock; Thomas L. Shaffer, Associate Dean.

Robert H. Fabian, San Francisco, California.

Burrell Ives Humphreys, Former Deputy Attorney General, State of New Jersey, Wayne, New Jersey.

Richard A. Bancroft, San Francisco, California.

Gardner Cromwell and Lester R. Rusoff; Professors, University of Montana School of Law, Missoula, Montana.

Samuel H. Hofstadter, Former Justice, Supreme Court, State of New York, New York, New York.

Walter S. Hoffmann, Wayne, New Jersey.

Faculty, Ohio State University College of Law, Columbus, Ohio: Merton C. Bernstein, Mary Ellen Caldwell, Howard P. Fink, Michael Geltner, Lawrence Herman, Michael Kindred, P. J. Kozyris, Stanley K. Laughlin, Jr., Richard S. Miller, John B. Quigley, Jr., Keith Rosenn, Peter Simmons, Roland J. Stanger, R. Wayne Walker.

Harold E. Kohn, Partner, Dilworth, Paxson, Kalish, Kohn & Levy, Philadelphia, Pennsylvania.

Ramsey Clark, Former Attorney General of the United States, Washington, D.C.

Eli Frank, Jr., President, Maryland State Bar Association, Baltimore, Maryland.

Harold C. Havighurst, Professor, Arizona State University College of Law, Tempe, Arizona.

Robert M. Landis, Partner, Dechert, Price & Rhoads, Philadelphia, Pennsylvania.

Theodore Chase, Former President, Boston Bar Association, Boston, Massachusetts.

Dean and Faculty, Columbia University School of Law, New York, New York: William C. Warren, Dean; Harlan M. Blake; William L. Cary; George Cooper; Robert M. Cover; Henry de Vries; Harold S. H. Edgar; Sheldon H. Elsen; Tom J. Farer; E. Allan Farnsworth; Wolfgang G. Friedmann.

William R. Fry, Assistant Dean; Mrs. Nina M. Galston; Richard N. Gardner; Walter Gellhorn; Frank P. Grad; R. Kent Greenawalt; Milton Handler; Robbert Hellawell; Louis Henkin; Alfred Hill; N. William Hines; William Kenneth Jones.

Harold J. Rothwax; John M. Kernochan; Victor Li; Louis Lusky; Willis L. M. Reese; Albert J. Rosenthal; Benno C. Schmidt, Jr.; Edwin G. Schuck; Hans Smit; Abraham D. Sofaer; Michael I. Sovern; Telford Taylor; H. Richard Uviller; Herbert Wechsler; Walter Werner.

John Ritchie, Chicago, Illinois.

Clifford L. Alexander, Jr., Partner, Arnold & Porter, Washington D.C.

David Goldstein, Former President, Connecticut Bar Association, Bridgeport, Connecticut.

Dean and Faculty, Columbus School of Law, Catholic University of America, Washington, D.C.: E. Clinton Bamberger, Jr., Dean; Brian M. Barnard; Kendall M. Barnes; L. Graeme Bell, III; Marilyn Cohen, Assistant Dean; Fernand N. Dutile; Carson G. Frailey; Arthur John Keeffe; Vernon X. Miller; Michael D. O'Keefe; Ralph J. Rohner; John R. Valeri; Matthew Zwerling.

Morris Abram, Member of the Georgia and New York Bars; Former President, Brandeis University, New York, New York.

Addison M. Parker, Partner, Dickinson, Throckmorton, Parker, Mannheimer & Raife, Des Moines, Iowa.

Faculty, School of Law, University of California, Los Angeles, California: Reginald H. Alleyne; Michael R. Asimow; Roger L. Cossack, Assistant Dean; Kenneth W. Graham, Jr.; Donald G. Hagman; Harold W. Horowitz; William A. Klein; Leon Letwin; Henry W. McGee, Jr.; Herbert Morris; Addison Mueller; Melville B. Nimmer; Monroe E. Price; Barbara B. Rintala; Arthur I. Rosett; Lawrence Sager; Gary T. Schwartz; Herbert E. Schwartz; Luis Schuchinski; Robert A. Stein; Michael E. Tigar; Richard A. Wasserstrom.

G. D'Andelot Belin, Partner, Choate, Hall & Stewart, Boston, Massachusetts.

Charles F. Houghton, Partner, Reardon, Thoma & Cunningham, Yonkers, New York.

Donald E. Freedman, Partner, Berman & Tomaselli, Freeport, New York.

Nathaniel Colley, Partner, Colley & McGhee, Sacramento, California.

Dean and Faculty, Valparaiso University School of Law, Valparaiso, Indiana: Louis F. Bartelt, Jr., Dean; Charles R. Gromley; Jack A. Hiller; Alfred W. Meyer; Seymour Moscowitz; Richard Stevenson; Michael Swygert; Fredrich Thomforde; Burton Wechsler.

Louis Garcia, San Francisco, California.

Dale A. Whitman, Professor, University of North Carolina School of Law, Chapel Hill, North Carolina.

Graham B. Moody, Jr., Partner, McCutchen, Doyle, Brown & Enersen, San Francisco, California.

Dean and Faculty, Georgetown University Law Center, Washington, D.C.: Adrian S. Fisher, Dean; Addison Bowman, III; Richard F. Broude; Paul R. Dean; Frank J. Dugan; Stanley D. Metzger; John G. Murphy, Jr.; Donald E. Schwartz; Don Wallace, Jr.

Dean David H. Vernon, University of Iowa College of Law, Iowa City, Iowa.

Lloyd K. Garrison, Former Member, Executive Committee of the Association of the Bar of the City of New York and Former President, Board of Education of the City of New York, New York, New York.

Sadie T. M. Alexander, Secretary, Philadelphia Bar Assoication Foundation, Philadelphia, Pennsylvania.

Dean Jefferson B. Fordham, University of Pennsylvania Law School, Philadelphia, Pennsylvania (embracing basic objection to confirmation, but uncommitted as to factual details).

Edwin P. Rome, Partner, Blank, Rome, Klaus & Comisky, Philadelphia, Pennsylvania.

Faculty, Loyola University School of Law, Los Angeles, California: Richard A. Bachon, S. J.; George C. Garbesi; Frederick J. Lower, Jr.; Walter R. Trinkaus; Martin F. Yerkes.

Faculty, University of Maine School of Law, Portland, Maine: Orlando E. Delogu; Harry P. Glassman; David J. Halperin; Pierce B. Hasler; Edwin A. Heisler; William F. Julavits, Assistant Dean; Gerald F. Petruccelli, Jr.

Irving M. Engel, Partner, Engel, Judge & Miller, New York, New York.

Henry W. Sawyer, III, Partner, Drinker, Biddle & Reath, Philadelphia, Pennsylvania.

Morris Gitlitz, Former President, Broome County Bar Association, Binghamton, New York.

J. A. Darwin, Treasurer, San Francisco Council for Civic Unity, San Francisco, California.

Dean and Faculty, Indiana University School of Law, Bloomington, Indiana: William Burnett Harvey, Dean; Joseph Brodley; Edwin Greenebaum; Dan Hopson; Val Nolan; William Popkin; Thomas Schornhorst; Alan Schwartz; Philip Thorpe.

Jacob D. Zeldes, Chairman, Committee on Administration of Criminal Justice, Connecticut Bar Association and Bridgeport Bar Association, Bridgeport, Connecticut.

Bernard Wolfman, Dean Designate, University of Pennsylvania Law School, Philadelphia, Pennsylvania.

Dean and Faculty, Rutgers University School of Law, Newark, New Jersey: Willard Heckel, Dean; Frank Askin; Alfred W. Blumrosen; Victor Brudney; Norman L. Cantor; Richard M. Chused; Julius Cohen; Vincent E. Fiordalisi; Steven Gifis; Eva H. Hanks; John Lowenthal; Saul H. Mendlovitz; Sidney L. Posel; J. Allen Smith.

David M. Heilbron, Partner, McCutchen, Doyle, Brown & Enersen, San Francisco, California.

Faculty, State University of New York at Buffalo, School of Law, Buffalo, New York: James Atleson; Thomas Buergenthal; Kenneth M. Davidson; Louis Del Cotto; Mitchell Franklin; Daniel J Gifford; Paul Goldstein; William R. Greiner; John H. Hollands; Jacob D. Hyman; Kenneth F. Joyce; David R. Kochery; Steven Larson; Joseph Laufer; W. Howard Mann; Albert R. Mugel; Wade J. Newhouse, Jr.; Robert Reis; Herman Schwartz; Louis H. Swartz; Lance Tibbles.

F. W. H. Adams, Former Police Commissioner of New York City, New York, New York.

Dean and Faculty, University of Illinois College of Law, Champaign, Illinois: John E. Cribbet, Dean; Marion Benfield; Robert W. Brown; Michael O. Dooley; Roger W. Findley; Stephen B. Goldberg; Peter Hay; Edward J. Kionka; Wayne R. La Fave; Prentice H. Marshall; Thomas D. Morgan; Jeffrey O'Connell; Sheldon J. Plager; Charles Quick; Ralph Reisner; Warren F. Schwartz; Herbert Semmel; Victor J. Stone; Lawrence Waggoner; J. Nelson Young.

George N. Lindsay, Partner, Debevoise, Plimpton, Lyons & Gates, New York, New York.

Dean David M. Helfeld, University of Puerto Rico, School of Law, San Juan, Puerto Rico.

Ted Foster, Associate Dean, Oklahoma City University Law School, Oklahoma City, Oklahoma.

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Ernest Angell, Former Vice-President, Association of the Bar of the City of New York, New York, New York.

Faculty, The University of Chicago Law School, Chicago, Illinois: David P. Currie; Kenneth C. Davis; Allison Dunham; Grant Gilmore; Geoffrey C. Hazard; Harry Kalven, Jr.; Edmund W. Kitch; Franklin Zimbring.

William T. Coleman, Jr., Member, Board of Governors, Philadelphia Bar Association, Philadelphia, Pennsylvania.

D'Army Bailey, Former Director, Law Student Civil Rights Research Council, San Francisco, California.

Dean and Faculty, New York University School of Law, New York, New York: Robert B. McKay, Dean; Edward J. Bander; Thomas G. S. Christensen; Leroy D. Clark; Daniel G. Collins; Norman Dorsen; James S. Eustice; M. Carr Ferguson, Jr.; Albert H. Garretson; Gidon A. G. Gottlieb; Howard L. Greenberger; Roland L. Hjorth; William T. Hutton; J. D. Johnston, Jr.; Delmar Karlen; Lawrence P. King; James C. Kirby, Jr.; Charles L. Knapp; Harold L. Korn; Andreas F. Lowenfeld; Charles S. Lyon; Julius J. Marke; Guy B. Maxfield; Robert Pitofsky; Bert S. Prunty, Associate Dean; C. Delos Putz, Jr.; Norman Redlich; Michael Schwartz; Michael A. Schwind; Charles Seligson; Harry Subin; John Y. Taggart; Peter A. Winograd; Victor Zonana.

Breck P. McAllister, Partner, Donovan Leisure Newton & Irvine, New York, New York.

Noel F. George, Partner, George, Greek, King, McMahon & McConnaughey, Columbus, Ohio.

Justin Doyle, Partner, Nixon, Hargrave, Devans & Doyle, Rochester, New York.

Manly Fleischmann, Partner, Jaeckle, Fleischmann, Kelly, Swart & Augspurger, Buffalo, New York.

Ely M. Aaron, Partner, Aaron, Aaron, Schimberg & Hess, Chicago, Illinois.

Hugh McM. Russ, Former President, Bar Association of Erie County, Buffalo, New York.

Jerome E. Hyman, Partner, Cleary, Gottlieb, Steen & Hamilton, New York, New York.

Norman Harris, Partner, Nogi O'Malley & Harris, Scranton, Pennsylvania.

Jack D. Harvey, Albany, New York.

Dean and Faculty, The University of Connecticut, School of Law, West Hartford, Connecticut: Howard R. Sacks, Dean; Robert Bard, Joseph D. Harbaugh, Lewis S. Kurlantzick, Judith Lahey, Neil O. Littlefield, Elliott Milstein, Leonard Orland, Louis I. Parley, Craig Shea, Philip Shuchman, Lester B. Snyder, Alvin C. Warren, Jr., Donald T. Weckstein, Robert Whitman.

Harold Cramer, Vice-Chancellor, Philadelphia Bar Association, Philadelphia, Pennsylvania.

John O. Stewart, Coordinator, Neighborhood Legal Assistance Foundation, San Francisco, California.

Ralph F. Fuchs, Bloomington, Indiana.

Dean Malchy T. Mahon, Hofstra University School of Law, Hempstead, New York.

Harold Evans, Partner, MacCoy, Evans & Lewis, Philadelphia, Pennsylvania.

H. Greig Fowler, Member, Steering Committee, San Francisco Lawyers Committee for Urban Affairs, San Francisco, California.

George R. Davis, Lowville, New York.

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Jonathan P. Harvey, Member, Membership Committee, New York State Bar Association, Albany, New York.

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Dean and Faculty, University of Toledo, College of Law, Toledo, Ohio: Karl Krastin, Dean; Edward Dauer, J. Kirkland Grant, Judith Jackson, Vincent M. Nathan, Assistant Dean, Martin Rogoff, John W. Stoepler, Janet L. Wallin, Thomas Willging.

John P. Frank, Partner, Lewis Roca Beauchamp & Linton, Phoenix, Arizona.

Benjamin E. Shove, Past President, Onondaga County Bar Association, Syracuse, New York.

Arthur J. Freund, Former Member House of Delegates of American Bar Association, St. Louis, Missouri.

Alfred M. Saperston, Partner, Saperston, Wiltse, Duke, Day & Wilson, Buffalo, New York.

Charles W. Allen, Former Chairman, Portland Maine City Council, Portland, Maine.

Victor H. Kramer, Partner, Arnold & Porter, Washington, D.C.

William Lee Akers, Philadelphia, Pennsylvania.

William L. Lynch, Partner, Cleary, Gottlieb, Steen & Hamilton, New York, New York.

Theodore Sachs, Detroit, Michigan.

Reuben E. Cohen, Partner, Cohen, Shapiro, Berger, Polisher and Cohen, Philadelphia, Pennsylvania.

Faculty, University of Arizona College of Law, Tucson, Arizona: Arthur Andrews, James J. Graham, Junius Hoffman, David Wexler, Winton Woods.

Edward E. Kallgren, Partner, Brobeck, Phlegler & Harrison, San Francisco, California.

Thomas M. Cooley, II, Professor, University of Pittsburgh School of Law, Pittsburgh, Pennsylvania.

Dean Louis A. Toepfer, Case Western Reserve University, Franklin J. Backus Law School, Cleveland, Ohio.

A. Crawford Greene, Partner, McCutchen, Doyle, Brown & Enerson, San Francisco, California.

Herbert B. Ehrman, of Counsel, Goulston & Storrs, Boston, Massachusetts.

John J. Barcelo, Professor, Cornell Law School, Ithaca, New York.

Louis B. Schwartz, Professor, University of Pennsylvania Law School, Philadelphia, Pennsylvania.

Faculty, Syracuse University College of Law, Syracuse, New York: George J. Alexander, Robert M. Anderson, Samuel J. M. Donnelly, Samuel M. Fetters, Martin L. Fried, Peter E. Herzog, William J. Hicks, Robert F. Koretz.

Dale Swihart, Professor, Washington University School of Law, St. Louis, Missourt.

Maurice H. Merrill, Professor, University of Oklahoma College of Law, Norman, Oklahoma.

Robert F. Henson, President, Hennepin County Bar Association, Minneapolis, Minnesota.

William L. Marbury, Former President, Maryland State Bar Association, Baltimore, Maryland.

Community Action for Legal Services, Inc., New York, New York: Joshua H. Brooks, Jr.; Oscar G. Chase, Lawrence J. Fox, John C. Gray, Jr.; Manuel Herman; Marcia Lowry; Cornelia McDougald; Gerald Rivera; Robert Roberts; Richard A. Seid; Alfred L. Toombs; Napoleon B. Williams.

Arthur J. Harvey, Former President, Board of Directors, Legal Aid Society, Albany, New York.

Alfred A. Benesch, Partner, Benesch, Friedlander, Mendelson & Coplan, Cleveland, Ohio.

Frank T. Read, Assistant Dean, Duke University School of Law, Durham, North Carolina.

Francis H. Anderson, Professor, Albany Law School, Union University, Albany, New York.

Dean Russell N. Fairbanks, Rutgers University School of Law, Camden, New Jersey.

David L. Cole, Former President, The National Academy of Arbitrators, Paterson, New Jersey.

Asa D. Sokolow, Partner, Rosenman Colin Kaye Petschek Freund & Emil, New York, New York.

Archie Katcher, President, Detroit Bar Association, Detroit, Michigan.

Vincent R. FitzPatrick, Partner, Willkie Farr & Gallagher, New York, New York.

Joseph L. Rauh, Jr., Partner, Rauh and Silard, Washington, D.C.

Michael V. Forrestal, New York, New York.

Boris Kostelanetz, Former Special Assistant to the Attorney General of the United States, New York, New York.

Charles Denby, Partner, Reed, Smith, Shaw & McClay, Pittsburgh, Pennsylvania.

Hugh A. Burns, Partner, Dawson, Nagel, Sherman & Howard, Denver, Colorado.

Faculty, College of Law, Willamette University, Salem, Oregon: Courtney Arthur, Edwin Butler, Edwin Hood, Dallas Isom, John Paulus, John Reuling, Ross Runkel, Robert Stoyles.

Wayne B. Wright, Former President, Bar Association of Metropolitan St. Louis, St. Louis, Missouri.

Ross, Stevens, Pick & Sophn (all eleven partners), Madison, Wisconsin.

Melvin G. Shimm, Professor, Duke University, School of Law, Durham, North Carolina.

Leonard M. Nelson, Chairman, Judiciary Committee, Maine State Bar Association, Portland, Maine.

Lloyd N. Cutler, Washington, D.C.

Lyman M. Tondel, Jr., Former President, New York State Bar Association, New York, New York.

Dean and Faculty, University of Kansas School of Law, Lawrence, Kansas: Lawrence E. Blades, Dean; Jonathan M. Landers; John F. Murphy; Arthur H. Travers.

Dean and Faculty, Harvard University Law School, Cambridge, Massachusetts (Subscribe to the conclusions expressed herein concerning the qualifications of Judge Carswell for appointment to the Supreme Court); Derek C. Bok, Dean; Paul M. Bator; Stephen G. Breyer; Abram Chayes; Jerome A. Cohen; Charles Fried; Livingston Hall; Louis L. Jaffe; Benjamin Kaplan; Robert E. Keeton; Louis Loss; Frank I. Michelman; Albert M. Sacks; Frank E. Sander; David L. Shapiro; Henry J. Steiner; Donald T. Trautman; Adam Yarmolinsky.

Carroll J. Donohue, Former President, Bar Association of St. Louis, Former Member, Board of Governors of Missouri Bar Association, St. Louis, Missouri.

James W. Lamberton, Partner, Cleary, Gottlieb, Steen & Hamilton, New York, New York.

Joseph A. Califano, Jr., Washington, D.C.

Edwin B. Mishkin, Partner, Cleary, Gottlieb, Steen & Hamilton, New York, New York.

R. Walston Chubb, Partner, Lewis, Rice, Tucker, Allen and Chubb, St. Louis, Missouri.

Shedd, Gladstone & Kronenberg (all three partners), Hackensack, New Jersey.

Mr. JAVITS. Mr. President, I shall be speaking at great length tomorrow on this nomination. I notice the Senator has gone over a list of law school deans and distinguished lawyers and their views on this matter. I, too, have heard a little of the very eloquent explanation by the Senator from New York (Mr. CASE) of the impact on that segment of the community which is extremely important, because it emphasizes what we all know; there is a deep suspicion of national regression in this regard. I do not wish to discuss this point in great detail at this moment. It should stand on its own. I think this is critically important and I shall be speaking with regard to it.

It is important in this case to consider the names of the parties involved. I know the Senator agrees with me that we are not just dealing with men making up their minds as we do. We are the ones who must decide by looking over the record and then voting yea or nay.

However, one of the things bothering us about Judge Carswell, without in any way denigrating the man or reflecting on him as a man, is that he is just not up to Supreme Court caliber. I think that on this point the Senator's reference becomes extremely pertinent. After all, who judges the qualifications of a judge if it is not the men who make and devote their lives to teaching and to the practice of law?

I might add to what the Senator said on that score by stating one of the things that impresses me very deeply. I do not practice law every day, as I used to. I used to try cases every day of the week. I do not do that now although I try to keep reasonably in touch. However, these are the views of men who are active at the bar and active all the time.

When three former presidents of the Association of the Bar of the City of New York, including traditionalists such as Judge Bromley, Francis T. P. Plimpton, and Sam Rosenman come out against Judge Carswell, it seems to me it is singularly impressive. Certainly Judge Bromley is not going to be against a nominee of the President unless his qualifications as a lawyer are suspect. Judge Bromley headed the list. It might be interesting to the Senators to keep in mind why it is important to go over the views of these eminent authorities in this case.

Mr. PROXMIRE. I think the Senator makes a very, very helpful point. It is not as if all the lawyers in America were polled and asked to vote yes or no on the nomination of Judge Carswell. They voluntarily take this extraordinary and emphatic public position which they have taken in this case, in which they go into a great deal of detail and insist on being counted. We know how reluctant Senators are—and these men are every bit as eminent and distinguished as Senators—we know how reluctant we are to stand up and be counted. It is our job, but these men felt so deeply they took a most extraordinary action, as the Senator said, in agreeing that they would make this very emphatic and very well reasoned document available to the Senate and they do plead with the Senate to reject the nomination.

Mr. JAVITS. I would like to observe as to myself that I had a fairly good idea what I would do about this nomination very early in the game. I generally say what I am going to do right away on a matter, if it is appropriate. However, I did not do so in this instance. I read the decisions because I was aware that I had turned down the President once with my vote. I did not want to do it again. However, I have arrived at my decision after careful consideration and thought and after reading the record; and I decided I could not vote for the nominee. I hope very much the White House will understand this is not any ideological opinion arrived at because it is Carswell, a southern judge—not at all. I would like to be able to vote for a southern judge as a member of the Supreme Court if I could in conscience; but I cannot in this case. Yet I know there are judges for whom I could vote and I am sorry about the fact that one of those was not nominated. I would rather have been for than against.

Mr. PROXMIRE. I thank the Senator.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. GURNEY. Mr. President, I have been in the Chamber listening to the colloquy between the distinguished Senator from Wisconsin and the distinguished Senator from New York. I also heard the list of names of certain lawyers who oppose the nomination which the Senator read.

I was admitted to practice law in the State of New York. I practiced there for some years before World War II, before I went to Florida after World War II. As a matter of fact, I used to know many of the young lawyers in the firms of some of the senior members of the bar who are mentioned by the Senator from Wisconsin as opposing the nomination.

I also heard some of the colloquy by the Senator from New Jersey about the fact that some of these men were conservatives and Republicans. I do not know whether they are or not.

My impression of the bar of New York from my own personal experience as a young lawyer is that it is a lot more liberal than most other parts of the country. I think this may have had something to do with the decision and attitude of these lawyers in opposing this Southern judge, who is a conservative and a strict constructionist.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. GURNEY. I wish the Senator would permit me to finish this thought because I am now coming to the part I think is important.

None of these lawyers, to my knowledge, unless the Senator from Wisconsin can correct me, knows anything about Judge Carswell personally, did not practice before his court or, for that matter, have had any contact or association with him.

On the contrary, the State of Florida is now the eighth State in size in the Union. It does have a distinguished bar and bench. I was a member of the bar there and I still am. I know many of these lawyers personally and I know many of these judges personally.

The bar in the State of Florida cannot be all that bad. Yet, I do not know a single voice in the entire bar and bench of the State of Florida that has opposed this nomination, Democrat, Republican, liberal, or conservative. As a matter of fact, they have unanimously supported it. These are men who know him, men who practice in his court. They are judges who know him as a judge and a colleague.

I must say this kind of evidence impresses me much more than evidence of lawyers in New York or in any other city who never practiced in this man's court and who did not know him.

I wish to make one further comment which I think is rather interesting. The statement was made that the dean of the Yale Law School opposed this nominee. The record also shows Prof. James W. Moore, who is still a professor of law at Yale, one of the distinguished professors in the Yale Law School, had personal knowledge of Judge Carswell. As a matter of fact, he worked with him in the establishment of one of the distinguished law schools in the State of Florida, the law school at the Florida State University. I am impressed by this professor—the Senator from Wisconsin referred to it as the most distinguished law school in the country, but I might argue that since I am a graduate of Harvard, but it is distinguished—and his work with Judge Carswell in the very important project of establishing a very great law school in this country; and his impression of this man and his views on legal education, the type law school he desired to establish, free of all racial discrimination—and he was clear about that—one offering basic and higher legal training, and one to attract students of all races and creeds, from all walks of life and sections of the country.

This kind of personal working relationship with Judge Carswell impresses me far more than Bruce Bromley and Francis Plimpton and a lot of other attorneys in New York who have had no personal association with or knowledge of the nominee.

Mr. PROXMIRE. May I say to the distinguished Senator from Florida that, of course, he makes a telling point, or seems to make a telling point, but does the Senator from Florida really expect that there would be a list of opposing lawyers from Wisconsin if the President had nominated somebody from Wisconsin to the Supreme Court? I think the Senator knows how those things operate and work. I certainly would not want to rely upon the opinion of a person who was a friend of his, or was intimately associated with him, or had worked closely with him as a partner. I would far prefer to rely upon the independent judgment of competent legal scholars; and these are competent legal scholars.

There is no indication that these men have any ax to grind. The only implication—and I am sure the Senator from Florida did not mean it invidiously as far as prejudice is concerned—is that, somehow, he merely feels that the bar association of New York and the faculties of these great law schools oppose a strict constructionist and would favor a liberal constructionist.

They do not oppose Judge Carswell on grounds that he would be a strict constructionist on the Court, not at all. In fact, they indicate Judge Carswell has been reversed frequently because he does not keep up with interpretations of judicial authority, but there is no indication that they feel this man should be rejected because he feels the law should be interpreted strictly. That was the first point made by the distinguished Senator from Florida. It seems to me he has made no case against these very distinguished scholars on those grounds.

Mr. GURNEY. Mr. President, if I may reply to some of the points the Senator from Wisconsin made, first of all, while I think it is true there would be no great outpouring of opposition from people in the State of Florida as far as his nomination is concerned, neither could we expect a tremendous display of enthusiasm if the nominee were of the mediocre va-

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riety that the Senator from Wisconsin and other Senators have claimed that he is. The point I make is that, as far as the bar and the bench of the State of Florida are concerned, there has been a vast outpouring of support in favor of this nomination.

Incidentally, on that score, I might also bring to the attention of the Senator from Wisconsin, and also the Senate, at this time the fact that earlier in the year, before the name was presented to the Senate by the President, I was attending an investiture of a Federal district judge in Florida, actually the man who replaced Judge Carswell on the Federal district bench. There was some speculation at that time that Judge Carswell's name might be presented to the Senate by the President, and I was very curious. I did not actually know of it myself. I had been away on a few days' vacation at that time—it was during the recess—and this was the first I had heard of it.

The interesting thing to me was that many of his colleagues, both on the circuit court of appeals and on the district court in Florida—and all the members of the Federal district court in Florida were there at the ceremony, as well as a number of the circuit court judges—urged that I do what I could in favor of this appointment, stating that here would be indeed an outstanding judge on the Supreme Court if the President would see fit to nominate him.

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I bring this point out because it occurred before the nomination was made, and it was voluntary on the part of these Federal judges in Florida, showing the worth and esteem in which they held their colleague.

I simply say that the point I was trying to make was that to me it is far more impressive to have the opinion of men who know a man, who work with him, who see him day after day, who are able to judge his merit, his worth, and his ability in terms of personal contact, than to have the opinion of some corporation lawyer in New York who sees on the surface a southern judge who is a known conservative and who probably does not want him for that reason.

Mr. PROXMIRE. May I say to the Senator from Florida that, of course, most of us are not only tolerant, but we like to be enthusiastic about people we know and work with. I do not think we would be human or tolerant people if we did not say the best that could be said of people with whom we work. I think the best way to evaluate a person is not to rely on people who come from the same State or have gone to the same law school or have worked with him in the same office or in the same fields.

I think more reliable is the evidence that Judge Carswell was reversed on 58.8 percent of the appeals from all his printed decisions, which is practically three times the 20.2 percent average for all Federal district judges and 2½ times the 24 percent for district judges in the fifth circuit.

As a percentage of all his printed decisions, Judge Carswell's rate of reversal was still twice as high as both the national and fifth circuit district judge average, 11.9 percent as against 5.3 percent and 6 percent, respectively.

Throughout the period Judge Carswell sat, his decisions were accorded relatively little authoritative weight by other judges. Each of his opinions was cited by all other U.S. judges less than half as often, on the average, as those of all district judges and fifth circuit district judges.

In other words, Judge Carswell was reversed more frequently and more continuously than were other comparable judges. His opinions were cited rarely as authoritative. Judge Carswell's opinions were about two-fifths as thoroughly documented with case authority, and less than one-third with secondary source authority, as the average of all district judges.

Judge Carswell's average opinion was less than half as extensive as the average for all other district judges.

All these are facts—objective facts and relevant facts.

To have somebody say a man is of good character, has a fine character, has a good attitude, means very little when we are trying to evaluate the legal capacity of a nominee for the Supreme Court.

I do not say that a man has to be qualified in all kinds of ways, but it seems to me it would have been helpful if Judge Carswell, for example, had written a number of articles for legal publications. When he was asked how many articles or what articles he had written for bar publications or law journals, his answer was, "None." He had not written any. So there is no demonstration of any record of Judge Carswell as a legal scholar at all. On the other hand, we have this very convincing record, which has not been challenged, that he is a judge who has been continually reversed and his opinions are without distinction.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HOLLAND. I think the Senator is dealing largely with decisions in civil rights cases. I think the Senator from Mississippi made it very clear yesterday that many of them were reversed by the circuit court of appeals because of an opinion that they had rendered between the time of the trials of those particular civil rights cases—I think five of them—and the time that they heard the appeal.

However, the record of the attitude of the circuit court of appeals on his criminal cases is a very impressive one, and I hope the Senator has looked at that. It is printed in the RECORD. I do not remember the number of appeals—it seems to me it was over 40—and practically all of them were affirmed.

Then I hope the Senator will permit me to state of my own knowledge something he did which did not get to the circuit court of appeals.

The largest civil case that had been heard in Florida before a jury in my lifetime—or in my professional lifetime, let us put it that way, which began in 1916—was the so-called Crummer against Ball and others case, of which I am sure the Senator has heard. I cannot say how long that trial lasted; certainly for weeks.

The Senator from Florida was summonsed down there, and agreed to go down and testify provided he could base his testimony wholly on the records of the Governor's office and the records of the State board of administration, of which the Governor was chairman, and of which I served as chairman while I was Governor.

On that basis, I went down and testified all day long, from early in the morning, let us say 10 o'clock, until perhaps 6 in the evening, except for a short time off for lunch. In that courtroom were a dozen or more of the leading attorneys of Florida and some of the leading attorneys of the Nation, one of them having been the former Attorney General of the United States, Mr. McGramery; and if there ever was a hard fought case, that was. Judge Carswell was called upon, as presiding judge, to make many rulings during the course of that day, and I am sure that was the case also during the whole course of the trial, though I attended only the one day.

I was exceedingly impressed by the dignity, the demeanor, and the high state of acceptance of Judge Carswell which was evident among those distinguished lawyers on both sides of the table. Notwithstanding the fact that there were many objections to the evidence, his rulings, if I may say so, coincided with my own views as to what they should have been all during the day; and, as the Senator knows, I have practiced law actively since 1916.

The point of my making this remark, though, is this: That was the biggest trial in Florida in my professional lifetime. I think it involved a claim for $39 million in damages. When the jury returned its verdict, which it did, after all the rulings, and all that trial, no appeal was taken from their verdict. To my mind, the fact that a judge could have presided over a case of that long duration, and with the exceeding bitterness that prevailed in the controversy that was tried there, and with the necessity of having to rule on, I suspect, hundreds of objections during the course of the trial, and then have no appeal taken at the end of the trial, in spite of all the controversy and all the bitterness, I think speaks eloquently for the ability of the presiding judge. Certainly I was greatly impressed with his ability. I have made that statement before, and I make it now.

I think no other Senator here today has had any opportunity to see Judge Carswell function. My own feeling is—and I would never support a judge who I thought was inadequate or was immoral or unethical, or was biased—that I thought he did a fine job, and I commend the type of job he did. It is inconceivable to me, with all those lawyers there participating, and all the bitterness in that trial, that there should have been no appeal, unless the case had been handled with the greatest of skill, the greatest of fairness, and the greatest of justice.

I wanted this statement to appear in the RECORD because I do not believe any other lawyer here had a chance to see Judge Carswell in action as a judge in a bitterly fought matter, as did I on that occasion.

Mr. PROXMIRE. Mr. President, may I say to the Senator from Florida that that is a very useful observation, because it is a personal observation, and I have great faith in the judgment and fairness of the Senator from Florida.

Mr. HOLLAND. I thank the Senator. The Senator will remember that in the Fortas case, I was fair enough to say, at the beginning of my statement, that while I had had cordial personal relations with Judge Fortas, I had had two matters against him in previous years, and had found him highly ethical, exceedingly able, and exceedingly resourceful. My objection at that time was not based at all on any inadequacy of Judge Fortas as a lawyer, but upon other reasons which appear in my argument.

I do not visit personal feelings into a matter of this kind. Judge Carswell was recommended and appointed, every time I have voted to confirm him, by a Republican President: as a U.S. district attorney, as a district judge, and as judge of the circuit court of appeals. He was not my nominee, but I thought that he measured up, and I think that his performance shows that he measured up. I was greatly impressed when I had that one chance to observe his performance. I thought I had done the right thing. I still think so, and I think I am doing the right thing now, particularly when I have in my file—and shall produce later—letters from such men as former Gov. Millard Caldwell, who served later as chief justice of our Florida Supreme Court, and other justices of our State supreme court, who had the chance to observe him, living there in the same city with him, and the many circuit judges and justices of the district court of appeals of Florida whose communications I placed in the RECORD yesterday.

I state again what I stated the other day: I have yet to receive, on all of these nominations and in all of this controversy this year, the first expression from any lawyer or any judge in the State of Florida other than in recommendation of Judge Carswell and approving him as to his judicial competence, his fairness, and his performance; and I think that those people who see him every day, as did I, who sat there and listened to him a whole day in that very difficult case I have mentioned, have some right to speak of his ability. I doubt if many of the people from other parts of the country who object to his philosophy have had anything like the chance to observe and to form their own analysis of his character and his qualities as have I; and, as I have stated, as have the other judges of the State of Florida.

Mr. PROXMIRE. Mr. President, may I simply say to the Senator from Florida that I was not talking only about civil rights decisions. I was talking about all—every one—of his 84 printed decisions.

Judge Carswell was reversed on 58.8 percent of the appeals from all his printed decisions, which is three times the average for all Federal district judges, and twice the average for Federal district judges in the Fifth Circuit.

So I was not talking about just one or two, three, five, eight or 10, or 15 or 20 decisions. I was talking about every decision he had ever made that had been printed.

Mr. HOLLAND. The point of my remark was twofold. I wanted the Senator to know that I felt the nominee to be competent in the criminal field—and criminal trials are very difficult, as the Senator probably knows; the Senator from Florida knows, having at one time presided over criminal trials in lesser offenses—and also I wanted the RECORD to show something about my own observation in this very difficult civil case, the largest one ever tried in Florida during my professional life.

His performance was impressive, and from my point of view, as nearly perfect as it could be, and evidently opposing counsel in the case, who lost the decision when the jury came in, must have thought the same thing, because they made no appeal.

I thank the Senator.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I yield to the junior Senator from Florida, and then I shall yield the floor.

Mr. GURNEY. I thank the Senator from Wisconsin.

I merely wanted to comment on the Crummer case, which my distinguished colleague discussed. I was not present, as he was, at the trial held before Judge Carswell. However, as a young lawyer, when I first went to Florida, I worked on the Crummer case as one of the several counsel for Mr. Crummer.

I want to attest to what my senior colleague has said. To my knowledge, this was the largest civil suit in the history of Florida, and also one of the largest antitrust suits in the history of the Sherman Antitrust Act in the United States, involving, as my senior colleague stated, many, many millions of dollars. There were brilliant counsel on both sides, both for the plaintiff and for the defendant. As a matter of fact, the counsel came and went in the preparation of the lawsuit, and it encompassed a period of many years before it came to trial before Judge Carswell.

So when my senior colleague makes the point that this Federal judge—then quite young in terms of service on the Federal bench in Florida—Judge Carswell, the nominee now before the Senate, had this case in his court, what better test can there be of his judicial ability and the fact that he was not a mediocre judge than the very able handling, witnessed by the senior Senator from Florida, of one of the largest Sherman antitrust cases in the history of this country?

Again, my senior colleague has brought out the point I made a short time ago. What we are talking about and referring to are personal experiences, the personal experiences of lawyers in the judge's court. I think they are far better able to judge the merit and worth of this nominee to the Supreme Court of the United States than a few lawyers in New York or some of the other larger cities in the country who have had no personal knowledge or acquaintance with this man at all.

Mr. PROXMIRE. Mr. President, I would not expect the two able Senators from Florida to oppose this nominee. They support him with great sincerity. They support him because they believe in him. They are two of the ablest Members of the Senate.

At the same time, I say that personal observation and personal knowledge and personal friendship usually are not the best sources for a recommendation. We know that from people we hire.

In determining my own position on a Supreme Court nominee, I would greatly prefer to have access to a statistical analysis of a judge's decisions, to have access to the affidavits, and so forth, which are in the hearing record, to determine exactly what this nominee did, to determine what his record was, to determine whether his opinions were distinguished, whether they were cited, whether he has a record of legal scholarship of any kind.

While I have great respect and admiration for the Senators from Florida, I think I would prefer to make up my mind on the basis of the objective record, to the extent I could get it, rather than two warm supporters of his.

I yield the floor.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 3427) to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior.

PHILADELPHIA PLAN UPHELD BY COURT

Mr. JAVITS. Mr. President, I wish to call to the attention of the Senate the fact that when we debated very strongly here on the Philadelphia plan, the plan endeavoring to find some opportunity for blacks and other minorities in the building trades, I strongly supported the plan proposed by the Department of Labor on the ground that it was in accordance with the Constitution.

Mr. President, I am pleased to announce that Federal Judge Charles R. Weiner of the U.S. District Court for the Eastern District of Pennsylvania has issued an opinion sustaining the legality of the Philadelphia plan. Judge Weiner ruled that the plan did not violate title VII of the Civil Rights Act of 1964, and was constitutional.

Mr. President, this decision vindicates the opinion of the Attorney General, with respect to the legality of the Philadelphia plan, and the refusal of the Department of Labor to follow the contrary opinion of the Comptroller General concerning the plan.

The decision sustaining the Philadelphia plan is predicated upon the fact that the plan, contrary to some of the allegations which have been made by those opposed to it, does not impose rigid quotas on employers. It requires only that employers make good faith efforts to achieve stated goals, and such good faith

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efforts do not include "reverse discrimination." It is, of course, unfortunate that the Government must resort to Philadelphia plans to insure equal employment opportunity, and it is true that plans which are agreed upon by all of the parties concerned are far preferable to any governmentally imposed plan. The Department of Labor has continually stated its preference for "hometown solutions" such as the Pittsburgh plan and the Chicago plan. The fact is, however, that without the Philadelphia plan, there might not have been any Pittsburgh plan or Chicago plan.

As Judge Weiner stated in his opinion:

> Present employment practices have fostered and perpetrated a system that has effectively maintained a segregated class. That concept, if I may use the strong language it deserves, is repugnant, unworthy and contrary to present national policy.

Mr. President, I ask unanimous consent that an article concerning Judge Weiner's opinion which appeared in the New York Times, Sunday, March 15, be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

U.S. JUDGE UPHOLDS CONTROVERSIAL PHILADELPHIA PLAN TO INCREASE HIRING OF MINORITIES IN BUILDING INDUSTRY

(By Donald Janson)

PHILADELPHIA, March 14.—The controversial Philadelphia Plan to increase minority employment in construction trades has cleared its first court hurdle.

Federal District Judge Charles R. Weiner upheld its constitutionality yesterday and ruled that it did not violate the Civil Rights Act of 1964.

"It is fundamental," he said in the 22-page decision, "that civil rights without economic rights are mere shadows."

The plan, promulgated last year by the Department of Labor, requires contractors to make good-faith efforts to hire specified percentages of blacks in federally aided projects costing $500,000 or more.

The Contractors Association of Eastern Pennsylvania, in a suit filed Jan. 6, sought an injunction against the plan and a declaration that it was unconstitutional.

CONTRACTORS' PLEA

The contractors said the plan denied them equal protection of the laws because it was being applied only here. But in February, Secretary of Labor George P. Shultz announced that it would be extended to 18 other cities, including New York, unless those cities devised satisfactory plans of their own.

The main argument in opposition to the plan was that it required racial "quotas" in hiring. The Civil Rights Act of 1964 forbade this in order to protect nonwhite workers against low quotas set by some employers.

The Philadelphia Plan, when first tried under the Johnson Administration in 1967, set quotas that unions and contractors held to be discrimination in reverse. Under the Nixon Administration, the quotas become more flexible "goals" within percentage ranges and the only requirement was a good-faith effort to meet the goals.

Elmer B. Staats, United States Controller General, said the plan violated the Civil Rights Act and declared he would not approve payment to contractors using the plan.

In December, the Senate supported the Staats view, then reversed itself under pressure from the Administration and civil rights forces and joined the House in rejecting an appropriations bill amendment that would have killed the plan.

The contractors' test suit followed. Robert J. Bray Jr., attorney for the 80 contracting companies in the association, said today it had not been determined whether the decision would be appealed.

Judge Weiner said the plan did not violate the civil rights act because it "does not require the contractor to hire a definite percentage of a minority group."

The plan's ground rules for Philadelphia, where more than a third of the population is black, call for contractors to pledge to try to hire blacks at a rate of at least 4 per cent of their new employes for projects undertaken this year, 9 per cent next year, 14 in 1972 and a top range of 19 to 26 per cent after that. Some of the trade unions involved have no more than 1 per cent now and have long excluded Negroes.

Judge Weiner noted that the contractor was required only to "make every good faith effort" to achieve specified percentages. The Government has said that tests of this would include whether a contractor relied solely on unions to assign workers to him or, if necessary, participated in federally funded training programs and went to community organizations that had agreed to supply blacks.

The Philadelphia Plan has not gotten off the ground here, in large part because of the dispute over its legality.

"It is beyond question," Judge Weiner said, "that present employment practices have fostered and perpetrated a system that has effectively maintained a segregated class. That concept, if I may use the strong language it deserves, is repugnant, unworthy and contrary to present national policy."

He said the Philadelphia Plan would provide "an unpolluted breath of fresh air to ventilate this unpalatable situation."

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. FANNIN. Mr. President, under our Constitution, both the President and the Senate are responsible for insuring the integrity and superiority of nominees to the Supreme Court. Because of this responsibility and because of recent controversies over both nominees to the Supreme Court as well as sitting Justices, the question of confirmation is a matter of vital importance.

I have decided to vote in favor of the confirmation of Judge Carswell. In making this decision, I have relied to a large extent upon the numerous endorsements Judge Carswell's nomination received from a wide variety of people. It is just a matter of commonsense to know that it is easier to fool people at a distance than it is at close range. For this reason, I believe that the statements of those lawyers and judges who have known and worked with Judge Carswell over the years are much more reliable than the opinions of some of the weekend experts that this nomination has produced.

The opponents of Judge Carswell have argued that he is biased against the civil rights movement. However, the testimony of those who know Judge Carswell best demonstrates that this argument is totally unfounded.

If the objection to Judge Carswell is that he is a racist who is biased against the civil rights movement, then it does not take much sense to realize that the people who would know the most about this bias would be Negro attorneys who appeared before Judge Carswell during his 12 years on the bench. It is for this reason that I was particularly impressed by a letter the committee received from a Negro attorney named Charles F. Wilson. Part of the letter he sent to the Judiciary Committee is quoted in the committee report. The entire letter and two newspaper articles describing the nature of Mr. Wilson's activities can be found on pages 328–330 of the hearings. Because they are such an eloquent refutation of the charges against Judge Carswell, I commend them to every Senator's attention.

Mr. Wilson is certainly not a Negro who was satisfied with Negro rights in the South. Nor is he the kind of man who would let others do the fighting. An article appearing in the Baltimore Afro-American, a Negro newspaper, gives an excellent idea of his activities. The headline states: "If it's integrated in Florida, Atty. C. Wilson helped to do it." I would like to read to the Senate the first line of that article. Under a Pensacola, Fla., dateline, it says:

> According to national and local observers on the civil rights scenes, one of the most impressive records of civil rights and human relations legal activity in the Southeast is that of Atty. Charles F. Wilson of this city, a member of the Florida bar.

The article then goes on to describe the impressive number of civil rights cases which Mr. Wilson handled. Indeed, he handled many of the most important civil rights cases which appeared before Judge Carswell. He represented the Negroes in the school desegregation case of Augustus against the Board of Public Instruction of Escambia County, in which the public schools were desegregated from the elementary grades through junior college. He also represented the civil rights litigants in the case of Steele against the Board of Public Instruction. He was the Negro attorney who appeared on behalf of the civil rights litigants before Judge Carswell in seeking to desegregate the schools of Leon County, Fla., and, in a separate case, the schools of Bay County, Fla. He represented the Negro litigants in seeking to desegregate the municipal golf course at Pensacola, Fla. As a service to his alma mater, Mr. Wilson represented numerous Negro Florida A&M University students in picketing and civil rights demonstration cases in Tallahassee. He represented the Pensacola NAACP Youth Council and the Council of Ministers in desegregating lunch counters and other places of public accommodation in Florida. As anyone can see, Mr. Wilson has compiled an impressive record in representing the cause of civil rights in Florida. In addition to this impressive list of civil rights cases in which Mr. Wilson appeared before Judge Carswell, Mr. Wilson had known Judge Carswell earlier when he opposed Judge Carswell as defense counsel in criminal prosecutions brought by Judge Carswell when he was U.S. attorney.

It seems self-evident to me that in

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evaluating the charge that Judge Carswell is biased in the civil rights movement, the first place the Senate should turn is to the Negro lawyers who argued before Judge Carswell. I would like to read to the Senate part of the letter that Mr. Wilson wrote to the Senate Judiciary Committee.

> DEAR MR. CHAIRMAN, I am writing to the Committee at this time because for a period of five years, from 1958 to 1963, I represented plaintiffs in civil rights cases in the Federal Court for the Northern District of Florida, which was then presided over by Judge G. Harrold Carswell. I also represented criminal defendants and other civil clients in his court during this period of time. Previous to his taking the bench in 1958, I had opposed him as defense counsel in criminal prosecutions brought by the United States when he was United States Attorney. I am certain that during the five-year period from 1958 to 1963, I appeared before Judge Carswell on a minimum of not less than thirty separate days in connection with litigation which I had pending in his court.
>
> As a black lawyer frequently involved with representation of plaintiffs in civil rights cases in his court, there was not a single instance in which he was ever rude or discourteous to me, and I received fair and courteous treatment from him on all such occasions. I represented the plaintiffs in three of the major school desegregation cases filed in his district. He invariably granted the plaintiffs favorable judgments in these cases, and the only disagreement I had with him in any of them was over the extent of the relief to be granted.

It is true that some witnesses appeared before the Senate Judiciary Committee and testified that Judge Carswell was biased and prejudiced against civil rights litigants. However, none of these witnesses had nearly as much experience in dealing with Judge Carswell as Mr. Wilson. For example, a white professor from Rutgers University had only appeared before Judge Carswell in one case. Another witness flew down from New York and was only in Florida for 2 weeks. Consequently, he was only involved in a part of a case. Another witness was a recent law school graduate who sat in Judge Carswell's courtroom on one occasion.

When I balance the testimony of these northern lawyers with very limited experience before Judge Carswell against the impressive testimony of a black lawyer who argued against Judge Carswell when he was a U.S. attorney and who appeared before Judge Carswell in most of his major civil rights litigation—indeed, enough times so that a Negro newspaper could say, "If its integrated in Florida, Attorney C. Wilson helped to do it."—it is not difficult for me to make my decision.

The endorsements Judge Carswell has received from his fellow judges are worthy of the consideration of every Senator. As I said earlier, I think that a man can best be judged by those with whom he regularly and constantly associates in his field of work. The judges who voluntarily informed the committee of their views on Judge Carswell were unanimous in their support of him.

I was most impressed by the opinions of the other Federal district judges and circuit judges who voluntarily wrote the Senate Judiciary Committee to express their support of Judge Carswell. Here is what Circuit Judge Robert Ainsworth of the Fifth Circuit Court of Appeals had to say about Judge Carswell:

> He is a person of the highest integrity, a capable and experienced judge, an excellent writer and scholar, of agreeable personality, excellent personal habits, fine family, a devoted wife and children, and relatively young, as judges go, for the position to which he has been nominated.
>
> In my view, Judge Carswell is well deserving of the high position of the Supreme Court Justice and will demean himself always in a manner that will reflect credit upon those who have favorably considered his qualifications. Undoubtedly he will be an outstandng Justice of the Supreme Court and will bring distinction, credit and honor to our highest Court.

Another of his fellow judges, on the fifth circuit court of appeals, Circuit Judge Bryan Simpson, has written as follows:

> More important even than the fine skill as a judicial craftsman possessed by Judge Carswell are his qualities as a man: superior intelligence, patience, a warm and generous interest in his fellow man of all races and creeds, judgment and an openminded disposition to hear, consider and decide important matters without preconceptions, predilections or prejudices. I have always found him to be completely objective and detached in his approach to his judicial duties.
>
> In every sense, Judge Carswell measures up to the rigorous demands of the high position for which he has been nominated. I hope that the Judiciary Committee will act promptly and favorably upon his nomination. It is a privilege to recommend him to you without reservation.

Another circuit judge, Warren Jones, made these comments about Judge Carswell:

> I regard Harrold Carswell as eminently qualified in every way—personality, integrity, legal learning and judicial temperament—for the Supreme Court of the United States.

These ringing endorsements of Judge Carswell from his fellow appellate judges should be entitled to great weight in determining whether he shall be confirmed. The opinion of these distinguished judges fortifies my own conclusion that Judge Carswell will serve his country well as an Associate Justice of the Supreme Court. These endorsements stand as a complete refutation of the argument that Judge Carswell is mediocre and unqualified—an argument advanced by people who only have a fleeting familiarity with Judge Carswell's work.

Judge Carswell has, of course, been highly recommended by the prestigious American Bar Association Committee on Judicial Selection. This committee is made up of 12 distinguished lawyers from various parts of the country. These lawyers are by no means members of one political party, nor do they subscribe to one particular ideology or judicial philosophy. Their duty, as members of this distinguished committee, is to evaluate the qualifications of a nominee to the Supreme Court of the United States—not in terms of whether they agree with his judicial philosophy, but in terms of whether he possesses the necessary "integrity, judicial temperament, and professional competence," to quote from the letter written by the chairman of the committee to the chairman of the Senate Judiciary Committee.

This committee goes about its work by interviewing a substantial number of judges and lawyers who are familiar with the nominee's work, and also surveys his published opinions. They thereby are able to formulate a balanced judgment as to a nominee's professional qualifications. They found Judge Carswell to be qualified in all of these respects to assume a seat on the Supreme Court of the United States.

One of Judge Carswell's principal opponents, the dean of the Yale Law School, also happens to be a member of the board of directors of the NAACP legal defense fund. The NAACP, of course, has come out in opposition to Judge Carswell. Dean Pollak at the time of Judge Carswell's nomination was apparently completely unfamiliar with the judge's opinions, and had never even appeared before the judge as an attorney. Nonetheless, he made the trip to Washington to appear in opposition to the judge, stating that "arrogant as perhaps this seems, I wanted to come before this committee and express my deep concern."

It seems that Dean Pollak spent a part of one weekend reading some opinions that Judge Carswell had written, and that this was the basis on which he criticized the nominee as being undistinguished.

The plain truth of the matter, of course, is that most of us in the Senate—and certainly most of the Senators who are not lawyers—do not have the time or disposition to thumb through the opinions that any particular nominee to high judicial office has written in order to evaluate them for ourselves. Of necessity, we must take someone else's word as to whether these opinions bespeak judicial temperament and professional competence.

I have no hesitation, in a situation such as this, in choosing the advice of the distinguished Committee of the American Bar Association, which has systematically interviewed judges and lawyers acquainted with the nominee and familiar with his work. When the bar association's evaluation is buttressed by the endorsements of the judges on the Fifth Circuit Court of Appeals, and when the black lawyer who represented many civil rights litigants before Judge Carswell states that he is unbiased, I have little difficulty in making my decision. Mr. President, I shall vote to confirm the nomination of Judge Carswell and trust the vote will not be unduly delayed.

Mr. TYDINGS. Mr. President (Mr. FANNIN), Judge Elbert Tuttle is one of the Nation's most respected jurists. As a member of the Fifth Circuit Court of Appeals from 1954 to the present, and as the circuit's chief judge from 1961 to 1967, Judge Tuttle has developed a reputation for competence, fairmindedness, and courage that has served to reinforce the respect in which the American people hold the Federal judicial system and to enhance the strength of that system.

Consequently it was a matter of sig-

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nificance when on the first day of hearings on the Carswell nomination a letter from Judge Tuttle requesting the opportunity to testify in Judge Carswell's behalf was introduced in to the record.

That letter now appears on page 6 of the record of the hearings before the Committee on the Judiciary on the nomination of Judge G. Harrold Carswell for the Supreme Court.

Judge Carswell's supporters have relied heavily on that letter, and rightly so, for Judge Tuttle's support cannot be lightly dismissed.

That letter as I have indicated is still in the record.

Gov. Leroy Collins of Florida testified before the Judiciary Committee and indicated the weight given to Judge Tuttle's support for Judge Carswell.

After discussing the doubts that had risen about Judge Carswell, Governor Collins said the following, which can be found in the record on page 76:

> Now, if there are any lingering doubts with any of you, I would urge you to consider carefully the judgment of the judges who have worked on case after case involving civil rights with Judge Carswell. Surely Judge Tuttle would know all about this. Judge Tuttle wanted to be here and to testify personally in this hearing in support of Judge Carswell. He couldn't come for reasons he explained in a handwritten note to the chairman.
>
> * * * * *
>
> Now, I think most of you know who Judge Tuttle is. He has served as chief judge of the Fifth Circuit Court of Appeals, and this man has made more judgments, and he has written more opinions, upholding civil rights matters, I think, than any judge in all the land. And it is inconceivable to me that he would have served alongside Judge Carswell and make a statement of support like he has made here, and like he feels deeply, if he had the slightest feeling that there was any racial bias or prejudice within this man.

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Mr. President, what Governor Collins did not know, what the members of the Judiciary Committee did not know, and what the American people did not know was that Judge Tuttle had called Judge Carswell on the telephone the night before Governor Collins testified and told him he would not testify in his support.

Between the day Judge Tuttle sent his letter of Janurary 22 to the committee and his call to Judge Carswell, he decided to withdraw his offer to testify.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. TYDINGS. I would be happy to yield.

Mr. EASTLAND. Mr. President, I would like to set the Senator straight. We received, as the Senator knows, letters from a number of Judge Carswell's fellow members of the fifth circuit. Those were all put in the record.

At the conclusion of the hearings that day, I told Judge Carswell that I did not think we could call any of the judges unless we called all of them. I did not see any point in calling all of them in. I said that I did not think we would use Judge Tuttle or any other judge as a witness.

Judge Carswell got to his room late at night and found a call from Judge Tuttle. He telephoned Judge Tuttle the next morning to tell him that we would not need Judge Tuttle's testimony or the testimony of any other judge from the fifth circuit.

Judge Tuttle told him this, as I understand the matter, "I cannot come to testify for reasons that I will tell you when I see you."

We have a handwritten letter that was submitted for Judge Carswell from New York City, under date of January 22. He was going from there to Boston to see his daughter. There was no retraction of this support. There was certainly no retraction of this letter, because the place to retract that would have been within the Judiciary Committee.

Mr. TYDINGS. Mr. President, is it the position of the Senator that Judge Carswell called Judge Tuttle the morning of the 28th of January to tell Judge Tuttle that it would not be necessary for him to testify?

Mr. EASTLAND. That is correct. That is absolutely correct. And Judge Tuttle broke into the conversation and told Judge Carswell, "I will not testify, anyway, for reasons that I will tell you when I see you."

Mr. TYDINGS. Mr. President, I think perhaps to complete the record I will first finish my statement, and then we can have a discussion.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. HRUSKA. Mr. President, I thought the Senator read the date of January 27. It should have been the early morning of the 28th.

Mr. TYDINGS. The Senator is correct.

Mr. EASTLAND. At 7 a.m.

Mr. TYDINGS. The Senator is correct. Between the time Judge Tuttle had written the handwritten letter which Senator EASTLAND has referred to, and which is still in the record, and his call to Judge Carswell on the morning of the 28th withdrawing his offer to testify, Judge Tuttle had learned, as indeed some others had, additional facts far more pertinent than the speech made in 1948, which cast serious doubts on Judge Carswell's present attitude toward according equal justice to all.

On the basis of these facts, Judge Tuttle concluded that he could not in good conscience testify in support of Judge Carswell's elevation to the Supreme Court.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. EASTLAND. Mr. President, I want to correct one statement. The telephone call that Judge Carswell made to Judge Tuttle was in reply to the call that he had received late the night before.

He began the conversation as I have described and in line with the decisions which were made the night before.

Mr. TYDINGS. The first inkling of this situation was the article that appeared in the March 3, 1970, edition of the Atlanta Constitution, written by Bill Shipp, entitled, "Tuttle Cuts Carswell Off."

I ask unanimous consent that that article be printed in the RECORD at this point.

There being no objection the article was ordered to be printed in the RECORD, as follows:

WOULD NOT TESTIFY: TUTTLE CUTS CARSWELL OFFER

(By Bill Shipp)

> Judge Elbert P. Tuttle Sr., retired chief judge of the U.S. Fifth Circuit Court of Appeals, has withdrawn his support of Judge G. Harrold Carswell's nomination to the U.S. Supreme Court, The Atlanta Constitution learned Monday.
>
> Judge Tuttle, who handed down some of the most far-reaching desegregation decisions in the South in the past decades, was asked by Carswell to endorse him for the position, a reliable source reported.
>
> Tuttle, who was in Washington at the time in early January, agreed and wrote a letter to the Senate Judiciary Committee offering to testify in Carswell's behalf and saying, in effect, that this Harrold Carswell "is not the same Harrold Carswell I used to know," apparently meaning that Carswell's hardline position on segregation had changed over the years.
>
> On Jan. 29, former Gov. Leroy Collins, testifying in Carswell's behalf, read Judge Tuttle's letter of endorsement to the Senate Judiciary Committee.
>
> But Tuttle already had decided he could not support Carswell. Tuttle, who was appointed by President Eisenhower to the appeals court in 1954, phoned Carswell earlier at his lodging place in Washington and told him that "under the circumstances" he was withdrawing his offer to testify.
>
> Tuttle reportedly was upset because of Carswell's involvement in a Florida club and a land development that barred Negroes.
>
> "I'm sorry but, under the circumstances, I can not testify for you," Tuttle reportedly told Carswell. "Come and see me when you can. I would like to talk to you."
>
> Carswell replied: "You don't have to explain."
>
> However, Tuttle did not withdraw the letter from the Judiciary Committee. He told close associates that although he could not testify for Carswell, he still did not want to hurt his colleague on the fifth circuit bench.

Mr. TYDINGS. Mr. President, in that article the reporter from the Atlanta Constitution stated basically the facts that I have now enumerated on the floor of the Senate.

I was concerned about the matter because if that article was accurate, it meant that the letter in the record in support of Judge G. Harrold Carswell to be a Justice of the Supreme Court had no business being in the record and that Judge Carswell knew it.

So last Friday, which was when I first saw a copy of the article, I called Judge Tuttle.

I read the article to him and asked him basically whether the facts it contained were accurate.

He told me that the article was basically accurate.

At that point, I discussed this telephone conversation with one of my colleagues, the Senator from New York (Mr. JAVITS), and told him that I was deeply disturbed that that letter of support was still in the record.

On the suggestion of the Senator from New York (Mr. JAVITS), I wired Judge Tuttle to get the facts on paper.

Prior to doing so I called Judge Tuttle on the telephone and asked him if he would be willing to respond to a telegram from me, using that article as a basis, and whether he would mind if I put his response in the record of the debate. He said he would not mind, and he would respond.

First, I will read the article published in the Atlanta Constitution and then the telegrams. This is the Atlanta Constitution article which I saw last Friday which triggered the sequence of events. The article has a dateline of Monday, March 3. I did not see it until last Friday.

WOULD NOT TESTIFY: TUTTLE CUTS CARSWELL OFFER

(By Bill Shipp)

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>
> Carswell replied: "You don't have to explain."
>
> However, Tuttle did not withdraw the letter from the Judiciary Committee. He told close associates that although he could not testify for Carswell, he still did not want to hurt his colleague on the fifth circuit bench.

I sent this telegram last Friday evening to Judge Tuttle:

> MARCH 13, 1970.
>
> Hon. ELBERT W. TUTTLE, SR.
>
> DEAR JUDGE TUTTLE: I have read with interest the Article in the Atlanta Constitution of March 3, by Bill Shipp, Political Editor which states that you declined to testify in support of G. Harrold Carswell after initially writing a letter to the effect that this G. Harrold Carswell is not the same Harrold Carswell I used to know. Apparently meaning that Carswell's hard line position on segregation had changed over the years. As you know your letter was read into the record at the Judicial Hearings as an endorsement of Judge Carswell. I would appreciate it if you would clarify the record for myself, the Judicial Committee and the U.S. Senate.
>
> JOSEPH D. TYDINGS,
> *U.S. Senator, Chairman.*

I sent that telegram last Friday. Last Saturday I received the following telegram in response:

> MARCH 14, 1970.
>
> Hon. JOSEPH D. TYDINGS,
> *Senate Office Building,*
> *Washington, D.C.:*
>
> Reply your telegram inquiring about Atlanta Constitution article March 3. I telephoned Judge Carswell at seven AM January 28 that I had concluded that I could not testify in support of his nomination. My previous letter to the committee was an offer to testify if called after notifying Judge Carswell that I would not do so. It did not occur to me that it was necessary also to notify the committee. I was surprised to learn later that the letter was used for a purpose inconsistent with my decision not to testify as communicated directly to Judge Carswell.
>
> ELBERT P. TUTTLE.

Sunday passed. Monday I received another telegram from Judge Tuttle which I shall now read into the RECORD:

> MARCH 15, 1970.
>
> JOSEPH D. TYDINGS,
> *Senate Office Building,*
> *Washington, D.C.*
>
> This is a more accurate answer, your telegram about Atlanta Constitution article since I have now talked to Governor Collins, I telephoned Judge Carswell at 7AM January 28 that I had concluded that I could not testify in support of his nomination. My previous letter was an offer to testify if called. After notifying Judge Carswell I would not do so it did not occur to me that it was also necessary to notify the committee. I was surprised to learn later that my letter was introduced into the record and referred to in the hearings on January 28. I now find that my letter along with others had been introduced the first day of hearings before my telephone call and before any evidence was taken and that Governor Collins did not know of my call to Judge Carswell when he referred to my letter. I have also learned that he did not discuss his proposed testimony with Judge Carswell and that the Judge was not present at this hearing on January 28.
>
> ELBERT P. TUTTLE.

Today I received a third telegram from Judge Tuttle which states:

> MARCH 17, 1970.
>
> Hon. JOSEPH D. TYDINGS,
> *Senate Office Building,*
> *Washington, D.C.*
>
> Please add to my wire of yesterday under the circumstances state in my telegram I do not believe that Judge Carswell had any intention to or did deceive the committee respect to the matter of my letter to the chairman.
>
> ELBERT P. TUTTLE.

I had never raised the issue of Judge Carswell attempting to deceive the committee. The telegrams speak for themselves. A man is going to be elevated to the Supreme Court, standing on a record and testimony ostensibly in support of his nomination from the former chief judge of his circuit, a distinguished jurist, and the nominee never said one word to my knowledge to any Senator that Judge Tuttle had called him up and said he would not testify in support of his nomination.

In view of the telegrams I have here, the letter which was introduced in the hearing record on page 6 cannot be cited from this point forward as evidence that Judge Tuttle supports the nomination of Judge Carswell for the Supreme Court.

As to why Judge Carswell did not clarify the record and remove the letter, I draw no conclusions. I will let Senators draw their own conclusions as to this man who is nominated to the Nation's highest judicial position.

(At this point, Mr. HART assumed the chair.)

Mr. EASTLAND. If this puts anyone in a bad light, certainly it is not Judge Carswell. It would be Judge Tuttle. Now, these gentlemen have known each other for many years. The Committee on the Judiciary did not solicit anything from Judge Tuttle, but here is a handwritten letter in his own handwriting from New York City where he solicits the right to testify and where he says this:

> I have been intimately acquainted with Judge Carswell during the entire time of his service on the Federal bench, and am particularly aware of his valuable services as an appellate judge, during the many weeks he has sat on the Court of Appeals both before and after his appointment to our court last summer.

Now get this:

> I would like to express my great confidence—

My great confidence—

> in him as a person and as a judge.

He knew all about these charges about racism because he wanted to come down to refute it.

> My particular reason for writing you at this time is that I am fully convinced that the recent reporting of a speech he made in 1948 may give an erroneous impression of his personal and judicial philosophy, and I—

What is that word?

Mr. HOLLAND. I would be prepared.

Mr. EASTLAND. Yes.

> I would be prepared to express this conviction of mine—

Now get this:

> based upon my observation of him during the years—

I emphasize, during the years—

> I was privileged to serve as Chief Judge of the Court of Appeals for the Fifth Circuit.

Written on the 22d of January. This telephone call—there is another error there; I do not think it means anything——

Mr. TYDINGS. At 7 a.m., January 28.

Mr. EASTLAND. Yes. It says he called Judge Carswell. The fact is that Judge Carswell telephoned him. There is his statement, written in his own handwriting.

Mr. TYDINGS. While the Senator is on his feet, could I get a couple of facts into the RECORD? Did Judge Carswell, either directly or indirectly tell the Senator, in writing, on the telephone, or in person, that Judge Tuttle told him he would not testify in support of his nomination prior to the time this incident arose this weekend——

Mr. EASTLAND. That is correct.

Mr. TYDINGS. I did not——

Mr. EASTLAND. Wait a minute.

Mr. TYDINGS. This is important.

Mr. EASTLAND I want to clarify it. There were two gentlemen with him who told me that Judge Tuttle said that he would not testify for reasons that he would tell Judge Carswell when he saw him.

Mr. TYDINGS. There were two men who were with Judge Carswell——

Mr. EASTLAND. The two men with him told me that, but the committee heard nothing from them.

Mr. TYDINGS. Did Judge Carswell ever tell you, Mr. Chairman——

Mr. EASTLAND. No, sir.

Mr. TYDINGS. Did he ever raise the point with the Senator from Mississippi whether or not it was proper to leave the letter in after he had been advised by Judge Tuttle that he would not testify?

Mr. EASTLAND. It was very proper to leave the letter in.

Mr. TYDINGS. I am not asking the Senator whether it was very proper to leave the letter in. I am asking the Senator whether Judge Carswell ever raised the question.

Mr. EASTLAND. No, and he should not have.

Mr. TYDINGS. All I asked was the simple question——

Mr. EASTLAND. I know what the Senator asked, but here is a blanket endorsement of him. It goes far beyond any civil rights question. It is a blanket endorsement of him as a judge.

Mr. TYDINGS. The Senator made two points. The date of the letter is January 22. As the Senator well knows, and I think those in this Chamber know, most persons are not going to hold a speech made 20 or 30 years ago against a person, if it is obvious that over the years his positions have changed and he has developed and he has matured. I think in all the minority comments the speech is given little emphasis. At least, I knew it was not emphasized in my views.

Mr. EASTLAND. Let me say——

Mr. TYDINGS. Let me point out that the letter relates to Judge Carswell's service as an appellate judge. As the Senator knows, his nomination as an appellate judge was confirmed last year. The issues which arose in the committee hearings were not based on his conduct as an appellate judge, but were on whether it was possible to receive a fair trial from him if a person were poor——

Mr. EASTLAND. Now, wait a minute——

Mr. TYDINGS. Or black——

Mr. EASTLAND. Wait a minute——

Mr. TYDINGS. In a civil rights matter——

Mr. EASTLAND. Wait a minute. I have the floor. The Senator asked a question.

Mr. TYDINGS. I have the floor. I yielded to the Senator from Mississippi, and I will be happy to let him continue.

The PRESIDING OFFICER. Let the Chair state that although the Senator from Maryland did not take his seat, it was the Chair's understanding that he had concluded his remarks, and the Chair recognized the Senator from Mississippi.

Mr. EASTLAND. It is all right with me for the Senator to go on.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. EASTLAND. I want the record to show that this letter, which was unsolicited, speaks for itself. The Senator asked me if Judge Carswell had ever asked to withdraw this letter. Was that the question?

Mr. TYDINGS. That was the question.

Mr. EASTLAND. I will tell the Senator now, if he had requested it, I would not have permitted it.

Mr. TYDINGS. I did not ask the Senator that.

Mr. EASTLAND. I know. But I have answered.

Mr. TYDINGS. I asked the Senator whether Judge Carswell ever asked to withdraw it.

Mr. EASTLAND. I have the floor. If he had, I would not have permitted it.

Mr. TYDINGS. That is all I wanted to know.

Mr. EASTLAND. This was a letter that was unsolicited, that came to me as chairman of the Judiciary Committee.

Mr. TYDINGS. Did Judge Carswell tell the Senator from Mississippi that this letter was unsolicited from Judge Tuttle?

Mr. EASTLAND. I said I did not solicit it.

Mr. TYDINGS. No, but did Judge Carswell tell the Senator that? The Senator from Mississippi has used the term "unsolicited" three times during the debate. Did Judge Carswell tell the Senator from Mississippi this letter was unsolicited?

Mr. EASTLAND. Referring to myself; I have received no letter from anybody and did not know the witness was not going to testify——

Mr. TYDINGS. It is not the Senator's function to solicit letters.

Mr. EASTLAND. That is correct, but I would not have permitted the withdrawal of the letter from the record. This letter goes much further than these telegrams, because it is a blanket endorsement of Judge Carswell as a judge and a man.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. HRUSKA. Did the chairman of the Judiciary Committee ever get a request from Judge Tuttle to withdraw that letter?

Mr. EASTLAND. No; we never got a request. That would have been the proper way. If he had requested it, yes, we would have withdrawn the letter.

Mr. HRUSKA. It would have been in the transcript, and the later transcript would have shown the request was made to withdraw it?

Mr. EASTLAND. That is correct.

Mr. HRUSKA. It would have to, because the hearing was not 30 minutes old when the letter was placed in the record, in good faith.

Mr. EASTLAND. That is correct, and to this day we have heard nothing from Judge Tuttle.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. GURNEY. As I understand it—and this is extremely important in this colloquy—at 7 in the morning of the 28th of January, in a telephone conversation between Judge Carswell and Judge Tuttle, the gist of it was he advised Judge Carswell he could not come down to testify and would tell Judge Carswell later why. Judge Carswell interpreted the statement to mean his inability to come down for some reason he was not telling Judge Carswell over the phone and had nothing to do with the substance of the letter and his endorsement of Judge Carswell for this position.

Am I correct in that understanding?

Mr. EASTLAND. That is the impression I got, and that is the information I received. I did not know anything about it.

Mr. GURNEY. The reason why it is important to clarify this version on one side as contrasted to the version of the Senator from Maryland is that the latter indicates the telephone conversation had something to do with, "I can't testify because I am withdrawing it."

Mr. EASTLAND. I was informed by the two gentlemen who were with Judge Carswell that Judge Tuttle could not testify or would not testify for reasons that he would tell Judge Carswell when he saw him. I say this in justice to them—that they had no earthly idea why he had withdrawn his support.

Of course, Judge Tuttle is a very intelligent man, and he would be intelligent enough to know that the only way he could withdraw this endorsement would be through the committee itself. If it throws anybody in a bad light, it certainly is not Judge Carswell.

Mr. GURNEY. If the Senator will yield further, I must say my own impression of this, after listening very carefully, reading the articles and then the telegrams, is that this is much ado about nothing and a very confused judge—Judge Tuttle.

Mr. EASTLAND. Correct. It is confused and it is much ado about nothing. The last telegram that my good friend, the distinguished Senator from Maryland, read from Judge Tuttle was that Judge Carswell had not attempted to deceive him or the Judiciary Committee.

Mr. GURNEY. If I may further complete the thought, it is quite obvious that Judge Tuttle was very confused about what Governor Collins testified to and when he testified to it and whether there was knowledge on Governor Collins' part of the telephone conversation between Judge Tuttle and Judge Carswell. There obviously was a great state of confusion in Judge Tuttle's mind. So we have here a letter of complete endorsement, we have three telegrams, we have a sketchy newsstory, and no one has said anything, including the Senator from Mississippi, about what changed Judge Tuttle's mind.

Mr. EASTLAND. My good friend from Maryland has since said—and he has a perfect right—and I am going to say this now:

The thrust of his speech was that there was some questionable conduct on Judge Carswell's part in not letting us know about the conversation.

But right in the face of it, the Senator has a telegram from Judge Tuttle saying that Judge Carswell has not attempted to deceive the committee or anyone else—just a blanket denial.

Several Senators addressed the Chair.

Mr. EASTLAND. I yield to the Senator from Maryland.

Mr. TYDINGS. Mr. President, just to get the record clear for the Senator from Florida and others as far as I am concerned, the Senate has to decide from the facts as shown by the telegrams, which are in the record.

The facts are that we have a letter ostensibly endorsing a man for the Supreme Court of the United States, written 6 or 7 days before the letter was put into the record.

Mr. EASTLAND. Four days.

XUM

Mr. TYDINGS. Well, it was dated January 22.

Mr. EASTLAND. And, of course, the 28th was when the Senator said the call came, which is correct.

Mr. TYDINGS. Which letter is still in the record, and when Senators get up on their feet and speak in favor of the nomination, they refer to the support of distinguished jurists in the fifth circuit.

Mr. EASTLAND. Do we not have that support?

Mr. TYDINGS. No, you do not have the support.

Mr. EASTLAND. I do not know about that.

Mr. TYDINGS. The former chief judge of the fifth circuit——

Mr. EASTLAND. He says:

> I have been intimately acquainted with Judge Carswell during the entire time of his service on the Federal bench, and am particularly aware of his valuable service as an appellate judge, during the many weeks he has sat on the Court of Appeals both before and after his appointment to our court last summer. I would like to express my great confidence in him as a person and as a judge.

Then he goes on and says that the racial attitude is wrong, that that is one reason he wants to testify, and he winds up:

> I would be prepared to express this conviction of mine based upon my observation of him during the years I was . . .

I cannot read his writing, he is getting so old.

Mr. TYDINGS. It says:

> I was privileged to serve as Chief Judge of the Court of Appeals for the Fifth Circuit.

Mr. EASTLAND. Let me read it in print:

> . . . and I would be prepared to express this conviction of mine based upon my observation of him during the years I was privileged to serve as Chief Judge of the Court of Appeals for the Fifth Circuit.

Which was about 10 years.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. HRUSKA. An attempt is made to put the burden on Judge Carswell at that point; that he was supposed to advise the committee; and that he was supposed to withdraw that letter.

Mr. EASTLAND. I would not permit him to withdraw it.

Mr. HRUSKA. The chairman correctly observed that it was not for Judge Carswell to withdraw the letter; and, in view of the tenor of the telephone call, the conversation from Judge Tuttle was that he simply would not appear to testify, and that he would give an explanation to Judge Carswell when he saw him personally.

Mr. EASTLAND. That is correct.

Mr. HRUSKA. Under those facts, any disclosure of that telephone talk by Judge Carswell to the committee would simply be something the committee already knew—to wit, that Judge Tuttle was not going to testify, and that is the sum and substance of it.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. HRUSKA. Yes.

Mr. GRIFFIN. And the last telegram from Judge Tuttle confirms that interpretation by Judge Carswell.

Mr. EASTLAND. Of course it confirms it.

Mr. TYDINGS. Mr. President, let us get the record clear. The Senator from Mississippi has a handwritten letter of endorsement—solicited by Judge Carswell from Judge Tuttle.

Mr. EASTLAND. Now the Senator is making a statement I know nothing about. He said it was solicited. I know nothing about that.

Mr. TYDINGS. All right. My position is that it was solicited.

Mr. EASTLAND. All right.

Mr. TYDINGS. The letter was placed in the record at a time when Judge Carswell was present in the committee room. The letter was dated the 22d of January, 5 days before the hearings began—before, indeed, a great deal of information involving Judge Carswell was known to the Nation, to the Senate, to the Committee on the Judiciary, and I am sure to Judge Tuttle; and we have here the telegram from Judge Tuttle stating what happened.

Let me read again the telegram by which he responded to me. This is Judge Tuttle, not Senator Tydings, not Senator Gurney, or Senator Eastland.

Mr. EASTLAND. Read all of the telegram.

Mr. TYDINGS. It is already in the Record, but if the Senator wishes I will do so:

> Reply your telegram inquiring about Atlanta constitution article March 3. I telephoned Judge Carswell at seven am January 28 that I had concluded that I could not testify in support of his nomination. My previous letter to the committee was an offer to testify if called after notifying Judge Carswell that I would not do so. It did not occur to me that it was necessary also to notify the committee. I was surprised to learn later that the letter was used for a purpose inconsistent with my decision not to testify as communicated directly to Judge Carswell.

Mr. GURNEY. Mr. President, will the Senator yield at that point?

Mr. TYDINGS. The Senator from Mississippi has the floor.

Mr. EASTLAND. I have the floor.

Mr. GURNEY. Will the Senator from Mississippi yield?

Mr. EASTLAND. If I do not lose my right to the floor.

Mr. TYDINGS. I will respond to the question, then.

Mr. EASTLAND. I am not engaging in this filibuster, now. We are ready to vote.

Mr. GURNEY. So am I, but let me ask the Senator from Maryland this question: Is there anywhere in that telegram that Judge Tuttle says why he is not going to come and testify? That is the whole point of this matter.

Mr. TYDINGS. The fact of the matter is that any way you look at it, Judge Tuttle will not testify in support of G. Harrold Carswell's nomination to the Supreme Court. He will not testify in support of a judge from his own circuit.

Mr. GURNEY. That may be true——

Mr. TYDINGS. And until today, until we put these telegrams—in the Record—it was held forth to the Members of the Senate, the member of the Committee on the Judiciary, and the American people that Judge Tuttle, a judge of his own circuit, was in support of Judge Carswell.

Mr. GURNEY. Will the Senator yield?

Mr. EASTLAND. And he has never withdrawn it. I could not conceive that that is his purpose.

Mr. TYDINGS. Mr. President, I have put these telegrams in the Record, but to clear up once and for all——

Mr. EASTLAND. I cannot conceive of a stronger endorsement than this, written in his own handwriting. He did not have a copy of the letter. As I understand——

Mr. GURNEY. That may be why he called up Judge Carswell.

Mr. EASTLAND. As I understand, he said he had not read the Record, and, not having the copy of the letter, he did not know how strongly he went at that time.

Mr. GURNEY. But the whole point of these telegrams, as I understand it, brought forth here by the Senator from Maryland, is to impugn the integrity of Judge Carswell into an attempt to deceive the committee. That is why I ask if there is anything in that telegram where Judge Tuttle said why he was not going to come down to testify, because that is the nub of the whole thing.

Mr. TYDINGS. I specifically stated——

The PRESIDING OFFICER (Mr. Hart). The Senate will be in order. The Record will be much clearer if Senators will speak one at a time, and permit the official reporter to report what is being said.

Mr. TYDINGS. I specifically stated, Mr. President, that the telegrams I introduced would speak for themselves, that the Members of the Senate would have to draw their own conclusions on why Judge Carswell, after receiving a call from the former chief judge of his own circuit that he would not testify in support of him, made no statement to the chairman or to anyone else, and why the letter is still in the record. If the Senator wants to draw a conclusion, he can. I think it is up to each of the Members of the Senate of the United States to draw his own conclusion. I am not making any charges; I am merely putting the telegrams in the Record to get the facts clear.

The facts are that Judge Tuttle communicated to G. Harrold Carswell on the morning of January 28 that he would not testify in support of his nomination.

Mr. EASTLAND. For a reason.

Mr. TYDINGS. The facts are that that letter is still in the record, and the facts are that Judge Carswell never communicated to Senator Eastland his conversation with Judge Tuttle. Those are facts. Just facts. Senators may draw their own inferences from the facts.

Mr. EASTLAND. Yes, but in simple justice to Judge Carswell, now, the thrust of my friend's statement is that Judge Carswell has done something wrong.

Mr. TYDINGS. No, the facts speak for themselves.

Mr. EASTLAND. Well, that is my interpretation.

Mr. GURNEY. Mr. President, I think the facts very eloquently speak for themselves, and best of all, in the language of Judge Tuttle, who said Judge Carswell——

Mr. EASTLAND. I know, but the last telegram from Judge Tuttle completely exonerates Judge Carswell of any wrongdoing.

Mr. GURNEY. That is the eloquent part about the whole matter.

Mr. TYDINGS. Mr. President, that is one of the reasons I do not state any conclusions myself. I let my colleagues draw their own conclusions.

Mr. GRIFFIN. The Senator from Maryland is not accepting the statement of Judge Tuttle, as I understand it. Is that correct?

Mr. TYDINGS. I am accepting all the statements of Judge Tuttle.

Mr. GRIFFIN. He is accepting some, but not all.

Mr. TYDINGS. I accept each and every one, including his last telegram, of which Senator Eastland has a copy. All of them go into the RECORD together. It is up to the Members of the Senate to draw the conclusions. It is not for me to tell the Senator from Michigan or anyone else what conclusion to draw from the telegrams and the facts. The Senator will draw his own conclusions. But the facts are there.

Mr. GRIFFIN. The Senator leaves the impression that he still tries to suggest there is some question about the integrity of Judge Carswell.

Mr. TYDINGS. I did not mention the word "integrity." The only suggestions of it come from the other side of the aisle. I merely put the records in about the facts and say that the Members of the Senate should draw their own conclusions.

Mr. GRIFFIN. We will see how the newspapers write it.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. HOLLAND. I have only two comments to make.

The first is that, apparently, the distinguished Senator from Maryland has overlooked the fact that Judge Carswell has served on the appellate bench in the fifth circuit not just since his appointment but many times before. This is indicated, I think, rather clearly by the letter from Judge Tuttle, because he speaks of his service on the appellate bench both before and since his appointment. My information is that he served many times. My information is that he was selected by the district judges of the whole circuit to represent them on the judicial conference here in Washington. He was repeatedly here, and I understood he was here for that purpose. So he was called by the circuit court of appeals frequently to serve on the appellate court, and did so. That is my first point.

My second point is based on a conversation I had with Judge Carswell. On Sunday, for the first time, I learned about this Atlanta Constitution article. I called Judge Carswell. I talked with him on the telephone in the presence of the Senator from Mississippi and the Senator from Nebraska (Mr. HRUSKA). Judge Carswell said to me:

> When he told me—

Meaning Judge Tuttle—

> over the phone that he could not appear for me, I had not the slightest idea that he was meaning that he was withdrawing his support and his friendship and his confidence, because he did not so indicate. I was shocked when someone from Atlanta called about this article in the Constitution. And I called him later, and he admitted that he just told me that he felt that under the circumstances he could not appear and testify.

I have read these three telegrams and understand that they were all answers to the telegraphic inquiry of the distinguished Senator from Maryland. The first one simply says:

> I telephoned Judge Carswell at 7 a.m. January 28 that I had concluded that I could not testify in support of his nomination. My previous letter to the committee was an offer to testify if called.

He does not say there that he notified Judge Carswell that he was withdrawing his support, and that he decided that he could not support him. He just says——

Mr. TYDINGS. I ask the Senator to read the next sentence.

Mr. HOLLAND. I will read it:

> I could not testify in support of his nomination. My previous letter to the committee was an offer to testify if called. After notifying Judge Carswell that I would not do so, it did not occur to me that it was necessary also to notify the committee.

The thing that seems to have gotten Judge Tuttle upset was that he understood somehow that this letter was put into the record after the time that he had had this telephone conversation with Judge Carswell indicating that he could not come down and testify.

Judge Carswell, in talking with me, said:

> I had no intimation that he was instead turning against me, and I was never more shocked than when I heard the article in The Constitution read to me. And I called Judge Tuttle, and he told me, "No, I didn't tell you that I wouldn't support you. I just said that I could not come down and testify."

He states exactly the same thing in the first wire to Senator TYDINGS, and I read again:

> I had concluded that I could not testify in support of his nomination. My previous letter was an offer to testify if called. After notifying Judge Carswell I would not do so, it did not occur to me it was also necessary to notify the committee.

The later wires carry out exactly the same idea. Nowhere does he say, in any of the three wires, that he had turned against Judge Carswell and would oppose him. The second wire says:

> I telephoned Judge Carswell at 7 a.m., January 28, that I had concluded that I could not testify in support of his nomination.

That certainly is a very different thing from saying, "I telephoned him to say that from what I had heard, I had decided that he was wrong instead of right, and that I would not support him further."

The last wire goes even further and says:

> Under the circumstances stated in my telegram, I do not believe that Judge Carswell had any intention or did deceive the committee with respect to the matter of my letter to the chairman.

Mr. President, I think we are asked to conclude some things that at least Judge Tuttle has not yet seen fit to state—at least, in his telegrams and in his telephone conversation to Judge Carswell as reported to me.

I know human nature pretty well, and when I talked with Judge Carswell, I could tell he was very much upset at the article in the Constitution, and that he had called Judge Tuttle to see what was wrong, and again simply received the information that Judge Tuttle decided he could not come down and testify. That is repeated a couple of times in the wires to the Senator from Maryland.

My own feeling is that we are asked to infer a great many things involving implications of bad faith which, for one, I cannot agree to; and, furthermore, that the letter written in Judge Tuttle's longhand expresses what I think is his verdict on Judge Carswell, based on his years of association—and they had been many years of association—and based on the service that Judge Carswell had rendered not just since his appointment to the appellate court, on that court, but in many instances previously, when he had been called to serve on the appellate court.

I think the distinguished Senator from Maryland has tried to make a mountain out of a molehill.

So far as the Senator from Florida is concerned, he completely approves the fact that the Senator from Mississippi, as chairman of the committee, placed in the record the first morning, as soon as the two Senators from Florida and the Congressman from Judge Carswell's district had testified, not just the Tuttle letter, but also all the letters from distinguished judges, including Judge Tuttle's letter, which he had received as chairman of the committee. I think he should have done that; I am glad he did it.

Without drawing any conclusions that are disparaging to anybody, I think that letter comes nearer to stating Judge Tuttle's attitude based on his years of association with Judge Carswell.

I think this matter has been maximized, so far as the Senator from Florida is concerned. He attaches little importance to it. He is more concerned about the reaction of Judge Carswell to the article in the Atlanta Constitution. Incidentally, in reading that article, it will be noticed that even it does not say that Judge Tuttle said he had changed his ideas entirely, but instead says much the same thing:

> Tuttle phoned Carswell earlier at his lodging place in Washington and told him that "under the circumstances," he was withdrawing his offer to testify.

That is a very different thing, even as quoted in the Constitution, from saying he had decided he was going to oppose Judge Carswell's nomination.

Mr. HRUSKA. Mr. President, will the Senator from Mississippi yield briefly, so that I may ask a question of the Senator from Florida?

Mr. EASTLAND. I yield.

XUM

Mr. HRUSKA. The telegram also stated that it did not occur to Judge Tuttle that it was also necessary to notify the committee. No blame is attached to Judge Tuttle for not notifying the committee. But somehow or other it is considered necessary that Judge Carswell should have notified the committee. The two ideas do not match. What could Judge Carswell have said to the committee about the conversation, except to affirm the fact that Judge Tuttle was not going to testify. The committee already knew that.

Mr. EASTLAND. We already knew it, and we decided not to use any of those gentlemen.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. HOLLAND. I call attention to the fact that letters appear, I think, in the record—I have seen them all—from the two active circuit judges from Florida, Judge David Dyer, of Miami, and Judge Bryan Simpson, of Jacksonville; from the retired circuit judge from Florida, Judge Warren Jones; as well as from the two active circuit judges from Georgia, Judge Morgan and Judge Bell; and from Judge Ainsworth who, I believe, is from Alabama——

Mr. EASTLAND. No; Judge Ainsworth is from Louisiana.

Mr. HOLLAND. Yes.

Mr. EASTLAND. And from Judge Thornberry, of Texas.

Mr. HOLLAND. And Judge Thornberry, who was nominated to the Supreme Court by President Johnson.

My feeling is that if there ever was substantial unanimity in the analysis of Judge Carswell and his service on the circuit court of appeals, it appears in the record.

Mr. EASTLAND. That is the reason we decided—Judge Carswell asked—I mean asked to come to testify, but we had the others, and it was my decision not to call any of them. I told Judge Carswell that, late in the afternoon of the first day of the hearings.

Mr. HOLLAND. I think that was a very proper decision, and I approve it.

Mr. President, I yield the floor at this time.

Mr. TYDINGS. Mr. President, has the Senator from Florida yielded the floor? I have one statement to make. Does the Chair recognize me?

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. TYDINGS. Mr. President, finally, let me state the chronology of events on which this debate has rested this afternoon.

On January 22, Judge Carswell received a handwritten letter from Judge Albert B. Tuttle. The letter was dated——

Mr. EASTLAND. The Senator is mistaken. He said Judge Carswell received a letter. The committee received that letter. It was mailed on the 22d and evidently got down here a day or two later.

Mr. TYDINGS. Did the Senator receive that letter from Judge Carswell?

Mr. EASTLAND. Did Judge Tuttle hand the Senator the letter? It came through the mail from New York City.

Mr. TYDINGS. A letter came through the mail?

Mr. EASTLAND. There is the man that handed me the letter, Mr. Holloman, who is now in the Chamber.

Mr. TYDINGS. I am merely stating chronological order of events.

On January 22—a letter dated January 22 from Judge Elbert P. Tuttle was sent to Senator EASTLAND, endorsing or, at least on the surface of it, for the purpose of endorsing the nomination of Judge Carswell. The letter appears in the record on page 6.

On January 27, Judge Carswell sat in the hearing room, in front of the chairman, when the chairman placed Judge Tuttle's letter in the record.

The following morning, January 28, Judge Carswell had a telephone conversation with Judge Tuttle, at which time he told Judge Carswell that he could not testify in support of his nomination.

That morning, Governor Collins read the letter which had been put into the record the prior day. Governor Collins' testimony appears in the record of the hearings on page 76. Since that time, Senators——

Mr. GURNEY. At that point, Judge Carswell was not present at the hearing, was he?

Mr. EASTLAND. No, sir; he was not present.

Mr. TYDINGS. There is no evidence that Judge Carswell was present that day of the hearings.

Mr. EASTLAND. He was not present when former Governor Collins testified.

Mr. TYDINGS. That is correct.

Mr. EASTLAND. In fact, he stayed in my office during the rest of the hearing.

Mr. TYDINGS. That is my understanding of the facts.

Mr. EASTLAND. He was to be available. He stayed there, solely to be available in case they wanted him.

Mr. TYDINGS. After the hearings were completed, the Judiciary Committee, by the chairman, invited Judge Carswell, or asked him if there were any statements he wished to make to correct the record or add to the record, and he responded with the statement which appears in the record on page 320. That statement mentioned in no way the letter from Judge Tuttle.

I believe that Senators have risen on the floor of the Senate and referred to the Tuttle letter as the reason to support the nomination of Judge Carswell. The majority report of the committee uses that letter in support of Judge Carswell. Senators have written letters to constituents using the Tuttle letter as a reason for their support. Judge Carswell has not seen necessary to tell anyone, the chairman, Governor Collins, or any other Senator, that the letter from Judge Tuttle, at least in Judge Tuttle's mind, had been countermanded when Judge Tuttle called him up and told him he could not testify.

Those are just the points——

Mr. EASTLAND. I know, but the Senator wants a complete record, does he not? The Senator wants a complete record, in all fairness to Judge Carswell, does he not? Why does the Senator not put it in there, that Judge Tuttle at no time has withdrawn his endorsement of Judge Carswell or contacted the committee in any way?

Mr. TYDINGS. I cannot say. The telegrams are in the record——

Mr. EASTLAND. I know.

Mr. TYDINGS. Which specifically state that Judge Tuttle had withdrawn his support and was not willing to testify in favor of Judge Carswell.

Mr. EASTLAND. No, no——

Mr. TYDINGS. If the Senator does not wish to draw that from the telegram——

Mr. HRUSKA. Are there words to show withdrawal?

Mr. TYDINGS. I quote the telegram:

> Reply your telegram inquiring about Atlanta Constitution article March 3. I telephoned Judge Carswell at 7 a.m. January 28 that I had concluded that I could not testify in support of his nomination. My previous letter to the committee was an offer to testify if called, after notifying Judge Carswell that I would not do so it did not occur to me that it was necessary also to notify the committee. I was surprised to learn later that the letter was used for a purpose inconsistent with my decision not to testify as communicated directly to Judge Carswell.
>
> ELBERT P. TUTTLE.

I do not know how much clearer one can be than that.

Mr. HRUSKA. I would ask the Senator, where are the words saying that he withdrew his support? There is a simple statement that he would not testify:

> I had concluded that I could not testify in support of his nomination. My previous letter to the committee was an offer to testify . . .

He does not say he is withdrawing his support.

He can say that he wants to review the letter and revise it. If he does, God bless him. It is a wise man that changes his mind. Fools never do. But at any rate, they were predicating a base for saying that Judge Carswell faulted the committee and was to blame because he did not notify the committee that the testimony and the endorsement was withdrawn, when, in fact, it has never been withdrawn.

It seems to me that this is an unwarranted conclusion. In my judgment there is a very nebulous foundation here for that very conclusion.

Mr. TYDINGS. The telegrams speak for themselves.

Mr. HRUSKA. Indeed, they do, and they do not contain any withdrawal of the endorsement by Judge Tuttle.

Mr. TYDINGS. Mr. President, the Senator can fence with words from now until doomsday. But if these telegrams are not explicit, I have never seen any that were.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. GRIFFIN. Mr. President, if the only purpose of the Senator from Maryland was to convince the Senate that Judge Tuttle no longer supports the nomination of Judge Carswell, I can speak for no other Senator, but I am convinced on the basis of the telegrams that that is the case.

Mr. TYDINGS. Mr. President, I thank the Senator. That is the gist of the telegram.

XUM

Mr. GRIFFIN. What bothers me about the presentation of the Senator from Maryland is pointed up by the fact that he referred to the letter which Judge Carswell wrote to the committee after the hearings were completed; a letter which he was given an opportunity by the committee to provide after reviewing the record.

The very fact that the Senator from Maryland refers to that letter implies that Judge Carswell somehow deceived the committee by not saying in his letter something which he did not know; namely, the reason that Judge Tuttle was not going to testify. Leaving that implication is very unfair, I submit, and is directly contrary to, and in conflict with, the last telegram which Judge Tuttle sent.

Mr. HRUSKA. Mr. President, if the Senator will yield, the telegram reads, in part, as follows:

> Under the circumstances stated in my telegram, I do not believe that Judge Carswell had any intent to, or did, deceive the committee with respect to the matter of my letter to the Chairman.

Mr. GRIFFIN. Mr. President, may I ask the Senator from Maryland what other purpose he had in mind when he referred to the letter from Judge Carswell at the end of the record?

Mr. TYDINGS. Mr. President, I think it is very important that the Members of the Senate have all of the facts possibly relating to the conduct of Judge Carswell during his service on the bench.

I think that his handling of the call from Judge Tuttle indicates the type judge he is.

I make no charges. I do, however, feel that the Members of the Senate should consider them. Let each Senator draw what conclusions he wishes. The facts speak for themselves.

I yield the floor.

Mr. HRUSKA. Mr. President, I want to corroborate the account of the telephone call referred to by the Senator from Florida on Sunday. In that conversation, Judge Carswell stated that Judge Tuttle, on the telephone January 28, did not reveal any reason withdrawing his support, nor, did he even say he would. He simply said that he could not come to testify and that at a later date when they could visit personally, he would tell him about it.

Now, that is the fact. And I think that is borne out by the language of the telegram.

The Senator from Nebraska repeats that there was nothing that Judge Carswell could have told the committee that would be a disclosure different from what the committee already knew; namely that Judge Tuttle would not testify before the committee.

Somehow, something sinister is tried to be imputed to Judge Carswell for not having told the committee about the Tuttle telephone call. But nothing is said here about the real cause of this discussion today. That is the failure on the part of Judge Tuttle, for not having called the committee and said, "I withdraw my support. I withdraw my letter and repudiate it." He has never done it. No fault is imputed to him. But an unwarranted effort is being made to place the blame on Judge Carswell. This is not right.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. EASTLAND. Mr. President, was it not Judge Tuttle's duty to contact the committee?

Mr. HRUSKA. It was, indeed. There was no one else who could have withdrawn that letter except Judge Tuttle.

He has never done it. Not to this minute has he ever communicated with the Judiciary Committee.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. TYDINGS. Mr. President, I have the greatest respect and affection for the Senator from Nebraska, as he knows.

Mr. HRUSKA. And it is fully reciprocated, I want the Senator to know.

Mr. TYDINGS. We are frequently on the other side. But we have frequently worked together in constructive efforts.

I have the greatest respect for the deputy minority leader, the Senator from Michigan (Mr. GRIFFIN), and also for my colleague, the senior Senator from Florida (Mr. HOLLAND), and also for the junior Senator from Florida (Mr. GURNEY), who has made a fine record since he has been here.

Having listened to the debate during the last 20 or 30 minutes, I am reminded of the famous play "Hamlet," and the line which says:

> The lady doth protest too much methinks.

Mr. HRUSKA. And my observation would be that it is a wise saying and the statement is highly apropos. And I am glad that the Senator characterizes his position in this fashion.

THE OPERATION OF THE GENERAL SERVICES ADMINISTRATION

Mr. GRIFFIN. Mr. President, I ask unanimous consent, as in legislative session, that a statement by the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), on the operation of the General Service Administration under its able Administrator Robert Kunzig be printed at this point in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR SCOTT

Mr. President, today marks the first anniversary of the unanimous confirmation by the Senate of Robert L. Kunzig of Pennsylvania as the Administrator of the General Services.

On this anniversary of his appointment, I want to pay a special tribute to Bob Kunzig. I am proud of my long association and friendship with Bob. He has served as my Administrative Assistant, close personal advisor, campaign manager, and is my trusted friend. Over the years, Bob has devoted his unusually dynamic talents to serving the people of the United States. He has served as a member of Governor Raymond P. Shafer's cabinet, as an Eisenhower appointee to the Foreign Claims Settlement Commission, and as executive head of the Civil Aeronautics Board.

The Nixon Administration, and in fact, the Nation is fortunate to have Bob Kunzig at the helm of the agency which is the multibillion dollar business manager of the Federal Government—the largest agency of its kind in the world.

Some have felt that in past years the General Services Administration has been a slow-moving, stodgy, unglamorous organization. Mr. President, I can assure you that this is no longer the case. Under Bob Kunzig's leadership, GSA is now a people-oriented agency committed to creative and innovative change, It is also a "can do" agency which has achieved a reputation of working hard and of solving problems.

The record of accomplishments since Bob Kunzig was named Administrator of General Services is a record which emphasizes the needs of the general public. Highlighting this record are actions ranging from the appointment of a National Public Advisory Council comprised of 16 distinguished American citizens—the first time such a council has been appointed in the history of the General Services Administration—to the establishment of Federal Information Centers where private citizens can present ideas or ask questions and be guaranteed attention from responsible Federal authorities, to making GSA a leader in equal employment opportunity so that every employee may advance without regard to race, creed, sex, age or national origin.

Mr. President, Bob Kunzig has made the General Services Administration a new forward-looking agency which serves to improve the lives of the American people.

I extend my sincere congratulations to Bob Kunzig after his first year of successful service and wish him many future years of equal success.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on the completion of the remarks on tomorrow of the able Senator from South Dakota (Mr. MCGOVERN), there be a brief period for the transaction of routine morning business, as in legislative session.

The PRESIDING OFFICER. Does the Chair understand that the statements made in the morning hour are to be limited to 3 minutes?

Mr. BYRD of West Virginia. Mr. President, I did not so state. However, I will add that to my request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, for the benefit of the Senate, I would like to give a short resume of the orders for Wednesday, March 18.

We shall adjourn, as in legislative session, until 10:30 a.m. tomorrow.

Following the disposition of the reading of the Journal, the Senator from South Dakota (Mr. MCGOVERN) is to be recognized for a period not to exceed 30 minutes, following which there will be a brief period for the transaction of routine morning business, as in legislative session.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the previous order, as in legislative session, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 17 minutes p.m.) the Senate adjourned, as in legislative session, until tomorrow, Wednesday, March 18, 1970, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 17, 1970:

U.S. Tax Court

The following to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office; reappointments:

Howard A. Dawson, Jr., of Arkansas.
Bruce M. Forrester, of Missouri.
Leo H. Irwin, of North Carolina.
Samuel B. Sterrett, of Maryland.

In the Air Force

The following Air Force officers for reappointment to the active list of the Regular Air Force, in the grade of captain, from the temporary disability retired list, under the provisions of sections 1210 and 1211, title 10, United States Code:

Johnson, Lawrence M., 520365564.
Trupp, Eric F., 265442717.

The following Air Force officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duty indicated, and with dates of rank to be determined by the Secretary of the Air Force:

To be first lieutenants (medical)

Breihan, James H., 330344954.
Burgess, James G., 432768091.
Burgfechtel, Robert F., 478465473.
Campbell, Lewis V., Jr., 261389418.
Claflin, Dale G., 440407914.
Cowley, Larry A., 433622690.
Cunningham, Lynn A., 479445717.
Dean, Gilbert O., Jr., 430786616.
Desmond, Patrick P., Jr., 271364487.
Dotson, James A., 455564984.
Filippone, Marion V., 467609001.
Foerster, Robert J., 503380306.
Galbert, Michael W., 104328697.
Gebhart, Robert N., 298360594.
Giller, Walter J., Jr., 430661239.
Guyer, Gerald L., 430781099.
Harris, Gary D., 505488028.
Haushalter, Robert A., 395406691.
Hunkeler, John D., 500429310.
Koehn, Gerald G., 398405286.
Lacy, Robert T., 199326980.
McCoy, Ralph C., 257605716.
Mitchell, Don Q., 425748888.
Richards, Phillip, 293361158.
Schmidt, Jimmy D., 463648743.
Schwab, James M., 407681838.
Schwartz, Edward S., 053343091.
Warren, Maurice C., Jr., 056322977.
Weinberg, Richard J., 291342713.

The following Air Force officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be majors

Fischer, George F., 088221464.
Jackson, Donald P., 455304228.
King, George D., Jr., 181180261.
Liner, Thomas W., 237405954.
Schmarr, Daniel W., 316288985.

To be captains

Ague, Walter N., 441368188.
Alexander, Hugh H., 424489713.
Althoff, Arthur R., 520423657.
Amor, Jean P., 568545679.
Anderson, Eric E., Jr., 033301526.
Anderson, James C., 398389002.
Andrews, Wendell F., 503507226.
Baker, Joe B., 410461129.
Banks, Donald E., 266525462.
Bannon, James L., 307381446.
Barnocky, John A., 264543859.
Baschnagel, William R., 105325525.
Baxley, Douglas D., 251601495.
Belden, John M., 478503820.
Berry, William E., 533366625.
Bestgen, Robert F., 515344833.
Bluett, James J., 194323323.
Bostur, Phillip L., 162326299.
Brockman, Charles D., 160301022.
Brown, Phillip W., 350322980.
Burns, Hugh J., Jr., 219348247.
Buzard, Nancy H., 169309921.
Campbell, James T., III, 136307704.
Carrigan, Larry E., 527505322.
Ciminero, John, 290322173.
Clements, Philip W., 313385526.
Collier, Eugene T., 242503374.
Corley, Thomas L., 439542144.
Craw, Kenneth W., Jr., 317404896.
Crooks, Thomas L., Jr., 251640915.
Crozier, Joseph A., Jr., 431663582.
Cruz, Carlos R., 500466176.
Davis, Darol D., 301341016.
Donnelly, Richard, Jr., 101322750.
Drew, Ronald L., 273345783.
Dueker, James A., 494424157.
Ellis, Jeffrey T., 150304609.
Ennes, Richard C., 542429213.
Evans, Leslie T., 482468423.
Ezzell, Jack L., Jr., 237606035.
Feldman, Perry R., 251529527.
Ferrell, James T., 240600531.
Field, Cortland D., 046305524.
Flasch, James O., 440427214.
Flegal, Robert R., 190305122.
Floyd, Victor M., 239608742.
Frazier, Herbert G., 246582138.
Frensley, William F., 506421805.
Galluzzi, James R., 043283667.
Gaudette, Norman F., 262563586.
Gauthier, Francis P., 435568182.
Granlund, Barry J., 516446987.
Greer, Jack H., 445327747.
Halberstadt, Fred M., 027300490.
Halloran, Paul D., 508423308.
Hannagan, Frederick A., Jr., 029305570.
Harris, Martin S., 251625755.
Harris, William K., 265568420.
Hassall, Don C., 144246883.
Helber, Kent L., 284325028.
Hendrickx, Charles L., 539324860.
Hopper, Gerald D., 489409028.
Horan, Gerald, 193303800.
Johnson, Bruce W., 199309766.
Jones, Stanley F. G., 143267522.
Jones, William E., 456567228.
Kane, Bernard S., 251525674.
Kaufman, Martin L., 521465053.
Kessell, Jerome W., 537286003.
Kimzey, Reed T., 411627565.
Knudsen, Benny L., 525720490.
Krimmel, William E., 377388669.
Lane, Benjamin H., Jr., 222220803.
Lazaroff, Eugene N., 172341911.
Lerro, Pasquale A., 185326855.
Luciani, Frank J., 127305615.
Lukovics, Ronald, 286308973.
Lynch, James J., 196309000.
Madre, Edward L., 237607963.
Martin, Joseph I., Jr., 435620535.
Marvin Edward L., 163326709.
McIntosh, Raymond P., 234621216.
Molter, Donald W., 176247271.
Monroe, Joseph, 244527446.
Moses, Roderic W., 398384632.
Nishihara, Melvin T., 575380510.
Oliver, Carl R., 542464682.
Padgett, Thomas C., 258602665.
Pare, Robert W., 024261460.
Pekkola, Conrad E., 540427405.
Petersen, Robert A., 043301101.
Peterson, Franklin R., 555428994.
Phillips, James B., 261605992.
Pierce, Robert T., 160329157.
Raffaele, Nicholas W., 122287417.
Rand, William C., 549560233.
Rodman, Don, 542429785.
Russell, Perry W., Jr., 441369864.
Sans, Richard J., 182281921.
Schilling, Larry E., 547502497.
Simons, Paul M., 374400998.
Simpson, Joseph M., Jr., 423485140.
Smith, George C., 495424207.
Smoot, Edgar W., 346262815.
South, David J., 518442746.
Spencer, Isaac, 432686088.
Spin, Paul J., 181282508.
Stephen, William, 457669508.
Stewart, Herbert W., 260606253.
Tameris, Gavin E., 543447369.
Thomas, James S., 302286527.
Vandeven, Leroy A., 493448977.
Vanhorn, Stanley E., 008267080.
Votaw, David R., 287345138.
Whisenant, Charles L., 246587160.
Williamson, Gary T., 359360379.
Willson, Herbert D., 497440201.
Wojciechowski, William A., 165269968.
Wolf, Patrick H., 449665565.
Yokum, Allen, 227488421.

The following distinguished graduates of the Air Force Officer Training School for appointment in the Regular Air Force, in the grade of second lieutenant, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

Accetta, Joseph S., Jr., 356303333.
Anderson, Richard C., 540521194.
Andrews, Larry A., 511448062.
Asher, Robert B., 562529061.
Autrey, Charles T., 257608231.
Bacon, Larry S., 489480422.
Beehler, Ronald A., 311487309.
Bell, William E., 163347539.
Bernard, James L., 145361589.
Bos, Gary D., 384421475.
Boyack, Kenneth G., 476548296.
Brandt, Thomas R., 369444991.
Bridgman, Howard A., 020325284.
Brockmeier, James D., 547701131.
Brunkow, Roger V., 394440524.
Bryant, Fred L., 398381219.
Caister, Daniel C., 284424545.
Carter, Chris A., 441465288.
Casamayou, Louis J., 556649722.
Chapman, Jack W., Jr., 432783649.
Clark, Albert L., 526505755.
Cornell, Gregg L., 378480434.
Curley, Michael E., 512464472.
Doty, Robert A., 304486130.
Eberly, Raymond C., 219465362.
Eplett, Richard J., 270429727.
Ezzell, Joseph L., Jr., 240684869.
Fischer, Richard F., 069345156.
Fitzgerald, Paul G., 541503252.
Flanagan, Thomas P., 436741397.
Fry, Stanley D., 398407655.
Garrett, Bowman S., Jr., 180367525.
Gilchrist, John E., 086363237.
Hall, Charles M., 213488018.
Hamilton, Thomas M., 063406095.
Hollan, William E., Jr., 240721057.
Holland, Robert W., 427763494.
Johnson, Richard A., 420627595.
Johnson, Richard F., 223660502.
Kalish, Marc, 142380841.
Kelly, Edward H., 432664925.
Kelly, Marsden G., Jr., 559627959.
Klosterman, Robert J., 367460703.
Landon, Steven F., 459802446.
Larsen, Keith I., 533403410.
Lashley, Baird A., 170320437.
Ledwell, David T., 524563490.
Leopard, Stanley L., 256688661.
Macey, James R., 180347713.
Malone, Thomas A., 313444326.
Maruska, Gary W., 451746404.
Mason, Aubrey G., 227542151.
Maturi, Jon A, 468529406.
McCallin, Donald R., 199325034.
McIntire, Carl A. III, 427761527.
McNeil, John C., 400664496.
Medler, Andrew P., 105405052.
Mehan, Ronald G., 181389589.

Merchant, George S., 081368949.
Milam, Jerry W., 454726426.
Miller, Bowman H., 485524588.
Modell, Edward G., 046364035.
Montgomery, Jimmie R., 567587529.
Morris, Richard P., 357326446.
Nelson, Freddie W., Jr., 426946012.
Nichols, Jerry L., 499486586.
Pellegrini, Joseph, 163426690.
Pendergrass, Nixon A., 356388607.
Piddington, Terry J., 377442221.
Pittman, Robert G., 311508349.
Pope, Eugene J., Jr., 225685602.
Potekhen, Richard P., 254707066.
Reed, Gary I., 073369823.
Reinfurt, Frederick L., 100382264.
Reuss, James E., 507581860.
Rhoades, Robert W., 545740324.
Rizzotti, Joseph A., Jr., 138367659.
Rosenhammer, Franz G., 457706407.
Rubenstein, Stanley, 056367048.
Russell, Raymond B., Jr., 192324153.
Rylander, Roger B., 445468220.
Sampsell, Robert E., 180348284.
Sarabun, Charles C., Jr., 166384905.
Schlick, James M., 469589893.
Schnorr, Dennis R., 127323134.
Shaffer, William A., 046349471.
Sheets, Robert W., 499506131.
Sigler, Stephen A., 112343291.
Silvis, Daniel J., III, 263809376.
Simmons, Barry C., 239587736.
Spencer, Melvin L., 569485896.
Stegman, Gary C., 406527358.
Stevens, David R., 487467852.
Swift, Jonathan G., 048327616.
Tittle, John G., Jr., 452745692.
Torgeson, Michael G., 477527840.
Trefethen, Michael W., 006349932.
Turman, Bobby N., 455700791.
Tysdal, Craig S., 546627779.
Verholek, Michael G., 206346304.
Voshell, Keith A., 476506306.
Wagnitz, John C., 294381216.
Walker, Wendall L., 438587885.
Wall, Deonn M., 529563593.
Watson, George R., 511467451.
Watson, Richard B., 436663071.
Wesloh, Thomas J., 497480668.
Winn, Joseph E., 226621836.
Zukatis, Albert W., 045304413.

HOUSE OF REPRESENTATIVES—*Tuesday, March 17, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Blessed is the man who endures trial, for when he has stood the test he will receive the crown of life which God has promised to those who love Him.—James 1: 12.

O God our Father, who opens the gates of the morning and calls us to a new day, we commit our lives and our work unto Thee in the glad assurance that Thou art with us within the shadows and behind them working out Thy purpose for mankind.

In these trying times when our souls are troubled as we seek the good of man, when so much is demanded of us who would serve this present age, grant unto us insight and inspiration together with courage and confidence that we may prove ourselves worthy of the tasks our country has placed in our hands.

Confronted by problems too great for us to solve by ourselves we are driven to Thee for wisdom to see what must be done, for courage to set out to do it, and for strength to complete it.

O God, make us great enough and good enough for these challenging days. In the spirit of Christ we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

SCHEDULE FOR REPORTING AND FLOOR CONSIDERATION OF APPROPRIATION BILLS

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, I was in the Speaker's office this morning when the Speaker made some remarks about the general legislative program schedule of the House of Representatives for the coming weeks and months. It was my privilege to present the schedule of the Committee on Appropriations for reporting the various appropriation bills which must be considered at this session.

The schedule, if adhered to, will see all the regular bills for fiscal 1971—which begins next July 1—clear the House and be sent to the other body no later than the 15th of June. This would mean that many of the bills would pass much earlier. For example, a bill for the Office of Education, which is being split off from the Labor-HEW appropriation bill, would be considered by the House during the week of April 13.

So, Mr. Speaker, we are undertaking to move the bills along. There is a spirit of cooperation between the two Houses, and I believe the prospects are good that we will be able to make progress of which we can be proud. If the House sticks to the schedule—and we have every hope of doing so—it will, I believe, thereby lay the basis for a substantial contribution to better management and efficiency in the Government generally.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the Extensions of Remarks of the RECORD and place therein the proposed schedule with a supporting explanatory statement.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING AND CURRENCY TO SIT DURING GENERAL DEBATE TODAY

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Currency may meet this afternoon at 2 o'clock and remain in session while the House is engaged in general debate.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON MINES AND MINING, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, TO SIT DURING GENERAL DEBATE TODAY

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Mines and Mining of the Committee on Interior and Insular Affairs be permitted to sit during general debate this afternoon.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

REPUBLICAN MEMBERS OF THE PRIVATE CALENDAR OBJECTORS COMMITTEE

The SPEAKER. The Chair recognizes the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, I announce that the Republican members of the Private Calendar objectors committee for the remainder of the second session of the 91st Congress will be: The gentleman from Tennessee (Mr. DUNCAN), the gentleman from Ohio (Mr. BROWN), and the gentleman from Michigan (Mr. BROWN).

PROPOSAL FOR AN IRISH-AMERICAN INTERPARLIAMENTARY GROUP

(Mr. STRATTON asked and was given permission to address the House for 1 minute.)

Mr. STRATTON. Mr. Speaker, I want to join the gentleman from Missouri in paying tribute today to our colleagues of Irish ancestry, and to all Americans of Irish ancestry.

St. Patrick's Day is always a joyous occasion. But I would like to make one serious proposal today—and I have just introduced legislation to achieve it—which I think is needed to promote greater understanding between ourselves and the people of Ireland, and that is the creation of a United States-Ireland Interparliamentary Group, similar to the one we have with Canada and Mexico. For while we Americans are always friendly on St. Patrick's Day, as well as the rest of the year, toward Ireland, the ancestral home of so many great Americans—and I have just come back myself from a trip to Ireland—the fact is that the official attitude of the Irish Government is not nearly as warm toward us as ours is toward them.

American warships cannot call at her ports. American planes cannot land in her capital city. American servicemen are fined if they wear American uniforms inside her borders.

The cool reception that Senator KENNEDY, for example, received the other day in Dublin, points up the difference between feelings over there and the warm glow that most of us feel back here toward Ireland.

The fact is that for far too long we have taken Ireland for granted. As a result, Ireland is bound more closely today, both economically and militarily with Britain, her traditional enemy, than she is with the United States, her traditional friend.

Creation of the kind of interparliamentary group I am proposing today will change that situation, and I hope the legislation I have introduced will be speedily and overwhelmingly approved.

THE 48TH ANNIVERSARY OF WSB RADIO

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLYNT. Mr. Speaker, on Sunday, March 15, 1970, radio station WSB, Atlanta, Ga., celebrated the 48th anniversary of its entry in American broadcasting.

During these 48 years WSB has performed outstanding public service, and has presented excellent programs and superior news coverage to the people of Georgia and nearby States.

As a clear channel station operating on assigned frequency of 750 kilocycles it has a signal strength sufficiently strong to come in loud and clear in many parts of the United States.

The original license to operate radio station WSB was issued to the Atlanta Journal Co. As the ownership of the Journal passed into the hands of the James M. Cox family, the ownership and management of WSB was transferred to that new ownership as a part of the assets of the Journal holdings.

In 1964 when the Atlanta Newspapers, Inc., divested itself of its broadcast facilities the radio and television properties were transferred to the Cox Broadcasting Corp. under which management WSB operates today.

Along with many listeners and friends who thoroughly enjoy the 24-hour service of WSB, I extend my congratulations to President J. Leonard Reinsch and Vice President-General Manager Elmo Ellis and the entire WSB family. I wish for them and for their successors many more years of wonderful service and operation in the public interest.

Happy birthday, WSB.

THE 18-YEAR-OLD VOTING PROVISION SHOULD BE APPROVED

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, this House faces not so much a constitutional issue as a question of faith—faith in the great majority of American youth—in its prospective consideration of a Senate bill allowing 18-year-olds to vote.

I support such legislation. We in this House should demonstrate to our young people that we have the faith in them that we want them to have in us and that we realize that those who rant and riot represent only a minute minority of their number.

My support is not based so much on the argument sometimes used that if they are old enough to fight, they are old enough to vote. Nor do I support it mainly because it would be good for our youth but because it would be good for our country.

From my own observations of them, on campus and off, I believe they are willing and able to assume the responsibilities that go with helping govern this country.

We must, I believe, make our youth full participating partners on the basic questions of our national life and we must relieve the present acute frustration they feel from being left outside.

The issue is not so much whether we should do it by formal constitutional amendment or by simple statute. The important thing is that we do it.

We will on this question either give our youth a vote of confidence or we will continue to libel the great majority of them on the basis of the irritating antics of a minute minority. I think it is time this House joined with the Senate and voted to welcome these young people into full partnership in our Government.

INCREASE IRISH IMMIGRATION

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLFF. Mr. Speaker, I have joined with a number of Members in sponsoring legislation to correct an unintended consequence of the 1965 Immigration Act. The purpose of that legislation is to provide more equitable treatment of immigration from countries discriminated against because of the labor certification provisions of the 1965 law.

I sponsored that amendment to the 1965 law because Ireland and the other affected countries that have provided us with so many fine people should not now be the unintended victims of unfair immigration requirements.

This amendment has not been acted upon and I feel it is now imperative that overdue relief be provided to the people of Ireland seeking to come to the United States.

I have thus chosen St. Patrick's Day to introduce legislation that recognizes the grave inequity which exists with reference to immigration from Ireland. I propose that we immediately authorize 2,000 emergency immigrant visas for Ireland because the 1965 law has virtually shut off Irish immigration.

It is indeed ironic and unfortunate that we would limit immigration from Ireland. The contributions of Irish Americans to the United States reach into every facet of our lives; our growth has been aided fundamentally by the contributions of Irish immigrants, their children and their grandchildren.

We do not seek special treatment for the Irish. But we do seek fair treatment—anything less would be a denial of our creed. When we needed strong hands and willing men to build this country; to build our railroads; to build our canals; we welcomed the Irish. How can we now permit the perpetuation of an unintentional discriminatory practice toward Irish immigration.

I hope that permanent corrections in the 1965 law can be accomplished as soon as possible.

In the meantime I believe we should authorize additional immigration from Ireland. What I propose is just, fair, and overdue.

BLIND DIPLOMACY

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, it is regrettable that the United States has turned its back on Rhodesia, and that plans have been announced to close the U.S. consulate there and to withhold recognition of Rhodesia as a nation. Apparently we have no consistent policy in these matters. Rightly or wrongly, our country worked for an end of colonization throughout much of Africa when the result was in many instances chaotic misgovernment with the United States footing the bill. We helped crowd the Dutch out of Indonesia before that nation was prepared to govern itself. A former British colony ourselves, we have stood with people worldwide who sought freedom—up to a point.

Now, with strange reasoning, we draw the line on independence for Rhodesia, a country with a stable economy and a capable government; a country which is non-Communist and friendly to the United States. Presumably, this is part of an effort to curry favor with other African governments, some of which already are alined with Russia or are working both sides of the street.

Rhodesia should be recognized as an independent country. They seek to manage their own internal affairs, as we did at the time of the American Revolution. To me, it appears poor policy—even blind diplomacy—to turn against this friendly country as we have done.

DISPENSING WITH CALL OF PRIVATE CALENDAR TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today because, under the agreement of the objectors' committee, none of the bills is eligible.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PRESIDENT'S FAMILY ASSISTANCE ACT

(Mr. CHAMBERLAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBERLAIN. Mr. Speaker, the problems of the present work incentive program, arising from unintended deficiencies in present law, have severely interfered with its effective operation. These problems have been remedied by the President's Family Assistance Act as reported by the Committee on Ways and Means.

Under WIN, the States were required

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to make substantial dollar contributions for both training and child care. These steep matching requirements slowed the entry of the States into this program. The Family Assistance Act reduces the State matching requirements for training and eliminates child care matching.

There have been gaps and lax enforcement in the referral of clients from welfare agencies to employment agencies. Some welfare agencies have held back on referrals while others have inundated the employment agencies. H.R. 14173 eliminates this discretionary and variable referral pattern by requiring that every able-bodied member of a family receiving assistance must register for work or training. The only exceptions are clearly specified in the bill.

Finally, the Family Assistance Act seeks to eliminate the confusion and conflict that has often resulted from dual agency responsibility between HEW and Labor by clearly specifying responsibility with respect to registration, training, and work.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 50]

Andrews, Ala.
Annunzio
Baring
Bell, Calif.
Biaggi
Brasco
Brown, Calif.
Burton, Utah
Button
Byrne, Pa.
Cederberg
Celler
Chappell
Clay
Conyers
Cramer
Crane
Daddario
Dawson
de la Garza
Derwinski
Diggs
Dorn
Dwyer
Erlenborn
Evans, Colo.
Fallon
Fascell
Feighan
Ford, William D.
Garmatz
Gaydos
Goldwater
Gray
Green, Oreg.
Hagan
Hanley
Hansen, Idaho
Hansen, Wash.
Hébert
Jarman
Kirwan
Lennon
Lukens
McCarthy
McEwen
Macdonald, Mass.
Meeds
Michel
Mikva
Miller, Calif.
Moorhead
Murphy, Ill.
Nix
O'Neill, Mass.
Ottinger
Patman
Powell
Pryor, Ark.
Pucinski
Reid, Ill.
Reid, N.Y.
Reuss
Rostenkowski
Roudebush
Ryan
Scheuer
Steiger, Wis.
Stubblefield
Stuckey
Symington
Taft
Teague, Tex.
Tiernan
Tunney
Ullman
Vanik
Waldie
Watson

The SPEAKER. On this rollcall, 351 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

UNREGULATED IMPORTS FROM ASIAN COUNTRIES

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. BARRETT. Mr. Speaker, the members of the Philadelphia congressional delegation have today voiced their concern to the President of the threat posed to the American men and women working in the apparel industry by the unregulated imports from Asian countries.

The members of the Amalgamated Clothing Workers of America, across the country, will leave their jobs on Thursday, March 19, to protest the threat to their jobs and working conditions and demonstrate their determination to protect those jobs.

The following is a copy of a telegram from the Philadelphia congressional delegation to the President voicing our concern:

> DEAR MR. PRESIDENT: Many industries and the people working in them are threatened by unregulated imports of foreign products. This is particularly true today in the apparel industry, where unregulated imports from Asian countries pose a serious threat to jobs and working conditions of those American men and women working in that industry. Apparel imports from Asian countries has increased greatly in the past few years.
>
> The ease with which one can acquire Asian manufactured apparel is illustrated by the fact that here in the District of Columbia, a suit made in an Asian country can be purchased for as little as $55.00 plus mailing and duty. A suit made under sweatshop conditions.
>
> We respectfully request that you take immediate action, using your authority and discretion, to protect the jobs and working conditions of the hundreds of thousands of Americans employed in the apparel industry.
>
> Respectfully,
>
> WILLIAM A. BARRETT,
> ROBERT N. C. NIX,
> JAMES A. BYRNE,
> JOSHUA EILBERG,
> WILLIAM J. GREEN,
> *Members of Congress.*

BUSINESS INVESTMENTS IN PLANT AND EQUIPMENT PROVIDE STRONG EVIDENCE THAT A RECESSION IS UNLIKELY IN 1970

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Speaker, since this session was convened on January 19, hardly a day has gone by that a Democratic Member has not predicted that a recession is just around the corner. These forecasts are probably welcome news to the Democratic National Committee because of the potential political benefits that party would derive from a downturn in the economy. As this constant parade of speeches warning of a recession has continued, I have become increasingly concerned that my Democratic colleagues might help talk the Nation into a recession.

A recent survey by the Department of Commerce and the Securities and Exchange Commission, however, provides strong evidence against the likelihood of any serious recession this year and of business confidence in the economy. Businessmen reporting to the Commerce Department and the SEC projected an increase in investment of 10.6 percent to $83 billion. This increase in investment in plant and equipment of $8 billion is nearly as large as that in 1969.

As Edwin L. Dale, Jr., of the New York Times reported on March 12, it is important to note:

> There has not been a recession in modern times that was not accompanied by, and partly caused by, a downturn in this kind of investment.

Mr. Dale reported further:

> There was no sign of any actual slump in this important sector of the economy, even allowing for the inflationary factor. What is more, the survey projected the level of outlays would rise as the year proceeded, with the second half spending sharply above the first.

This survey demonstrates clearly that investors have confidence in the Nixon administration's economic policy and that they do not expect a recession. I hope this encouraging report will receive the attention it deserves.

The true import of the Commerce Department-SEC study, however, was omitted from the remarks of the distinguished majority leader last Thursday. I, therefore, have taken this occasion to set the record straight.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

COAST GUARD AUTHORIZATION, 1971

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 875 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 875

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15694) to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Indiana (Mr. MADDEN) is recognized for 1 hour.

Mr. MADDEN. Mr. Speaker, House

Resolution 875 provides an open rule with 1 hour of general debate for consideration of H.R. 15694, the Coast Guard authorization for fiscal year 1971.

The purpose of H.R. 15694 is to authorize appropriations for the Coast Guard for ships, planes, shore facilities, aids to navigation, and pollution control for fiscal year 1971. The total authorization is $100 million—$62,295,000 is for vessels; $12,865,000 is for aircraft; $24,840,000 is for construction.

The largest single unit item in the bill and the largest ever placed in this particular type of authorization is an amount of $59 million for the construction of the first of a series of polar icebreakers to replace the *Wind*-class icebreakers. The Coast Guard's existing fleet of icebreakers consists of seven *Wind*-class breakers which were constructed between 1943 and 1947—only six of which are in commission—and the *Glacier* which was constructed in 1955.

Mr. Speaker, I urge the adoption of House Resolution 875 in order that H.R. 15694 may be considered.

Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. Anderson) and I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Indiana (Mr. Madden), has indicated, this is the bill which would authorize $100 million during fiscal year 1971 to fund the operations of the U.S. Coast Guard. Testimony before the Committee on Rules was that this bill was reported unanimously. The gentleman from Indiana has correctly described the various categories in the bill as far as the authorizations are concerned. I see no need to repeat those facts and figures at this time, but I include at this point for printing in the Record the following figures:

The authorization totals $100,000,000. This figure is broken down as follows: $62,295,000, procurement and upgrading of vessels; $12,865,000, procurement and upgrading of aircraft; and $24,840,000, development and establishment of installations.

The largest item in the bill is $59,000,000 to construct the first of a series of new polar icebreakers. Existing icebreakers are over 20 years old. The new type will have diesel engines for regular cruising and gas turbines for maximum power situations.

The bill contains authorizations totaling $3,145,000 for modernization of existing vessels.

Six medium-range helicopters are authorized by the bill, totaling $12,500,000. They will replace short-range models. Also authorized is $815,000 to replace wing beams on seven C–130 long-range search planes which is necessitated because of aircraft fatigue problems.

With respect to installations, the bill authorizes $780,000 to develop communications stations near San Francisco and in Hawaii, the initial steps in the formulation of an integrated control system in the Pacific maritime area.

The sum of $1,760,000 is authorized for construction of waterway and navigation aids such as buoys, light and sound markers, and so forth, in connection with Corps of Engineers projects.

The sum of $1,390,000 is authorized for the purchase of a transportable pumping and storage system for oil pollution control which can remove up to 20,000 tons of oil from a distressed vessel and temporarily store it.

Finally, the bill authorizes $2,750,000 for family quarters at a number of Coast Guard facilities.

The administration supports the bill.

Mr. Speaker, I would advise the Members that although the bill was reported unanimously, there were additional views by the gentleman from Massachusetts (Mr. Keith). In these views, which I would certainly commend to the reading of the House, because I think they do discuss a very important problem—the problem of pollution as it is affected by the oil spills that have taken place off the various coasts of our country—the gentleman from Massachusetts has indicated some dissatisfaction with the fact that in reporting this bill the committee authorized only $1.3 million for the purchase of what is called an oil containment system, something that can be flown to the site of a spill and used to confine the spill within a given area.

The gentleman suggested that what should be done is that we authorize the procurement of at least two such systems, one for the Atlantic coast and one for the Pacific coast. He also indicates a view that the Budget Bureau had been unduly conservative in reducing the requests of the Department of Transportation for helicopters from eight to six.

His report indicates that these helicopters are useful in connection with the pollution problem and that therefore he intends to offer an amendment to restore the original request of the Department of Transportation in that respect.

Mr. Speaker, I know of no objection to the adoption of the rule. I would urge its support by the Members.

Mr. MADDEN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CLARK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15694) to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15694, with Mr. Flynt in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. Clark) will be recognized for 30 minutes, and the gentleman from California (Mr. Mailliard) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. Clark).

Mr. CLARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to voice my strong support for H.R. 15694, which would provide funds for the Coast Guard to operate within the wide range of its responsibilities.

This bill, H.R. 15694, "to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard" is generally referred to as the Coast Guard authorization bill.

This measure was reported by our committee in House Report No. 91–879 on March 5, 1970, with no amendments, but with additional views of one member concerning the oil pollution cleanup problem.

As presented to the committee and reported out, the total amount was $100 million covering the needs of the Coast Guard with respect to the equipment and projects I just mentioned. The $100 million authorization is broken down as follows: $62,295,000 for vessels, $12,865,000 for aircraft, and $24,840,000 for construction.

In summary, the more important projects to be funded in this bill are as follows:

First, construction of a polar icebreaker which I shall discuss in a few minutes.

Second, high endurance cutters—improvements to 327-foot class.

The Coast Guard's six 327-foot HEC's will be operated for about 10 more years. Although old, they retain excellent seakeeping qualities. The total cost of the project is $2,150,000.

Third, USCG cutter *Storis*—WAGB–38—habitability and shop improvements.

Storis is a 230-foot icebreaker built in 1942. As such, the habitability of her living spaces is far below modern standards. The total cost of the project is $175,000.

Fourth, buoy tenders—habitability improvements on four tenders.

The Coast Guard is operating 38 seagoing and 12 coastal buoy tenders which are over 26 years old and beyond normal service life. The total cost of the project is $820,000.

Fifth, procure six medium-range helicopters.

Procure six twin-turbine, rotary-wing aircraft to replace obsolescent aircraft. The total cost of the project is $12,050,000.

Sixth, replace center wing section on seven C–130 aircraft.

Extensive corrosion and impending structural repair problems associated with fatigue cracking necessitate center wing replacement. The total cost of the project is $815,000.

There are a number of critical projects set forth in this year's Coast Guard authorization. Foremost among these, is the authorization of $59 million for the construction of the first of a series of polar icebreakers to replace the old *Wind* class icebreakers. It is interesting to note that this is the largest single unit item in the bill and the largest ever placed in this particular type of authorization. The

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failure last summer of the Coast Guard icebreaker, *Northwind*, to complete the transit of the Northwest Passage with the tanker, *Manhattan*, brought home forcibly the necessity of initiating a polar icebreaker replacement program.

This is especially so in view of the commercial activities which may develop in the polar regions in the next several years. I say polar rather than arctic to point out that these vessels are for use in all polar regions and not just in the Northwest Passage. It should be recognized, however, that the main purpose of this program is to begin the replacement of the Coast Guard's aging icebreaker fleet which operates in the Arctic, the Antarctic and the Great Lakes region. The Coast Guard keeps one of its best icebreakers, the *Mackinaw*, on station in Sheboygan to service the Great Lakes.

Another item of primary importance in this authorization bill is that of pollution control equipment. As the members of this committee know, we have had a rash of tragic oil spills in our own waters in the last several months. I personally led a delegation last month to inspect the serious spill in the Tampa/St. Petersburg area and right now the Coast Guard is mobilizing every available resource to combat a spill in the Gulf of Mexico which gives every indication of being as severe as that off Santa Barbara.

Thus, the item in this bill of $1,390,000 for the first transportable pumping and storage system is of primary importance. The inspection of the Tampa/St. Petersburg spill pointed out the almost total lack of equipment available to deal with these spills. In addition to this piece of equipment just mentioned, it is noted that the aircraft items in the bill are crucial since they are all important cogs in the oil pollution fight.

I do not think it necessary for me to take the time to point out to this Committee the vast range of Coast Guard activities, nor do I feel it necessary to call your attention in a lengthy discourse to the efficiency and competence of the Coast Guard.

I believe that this bill speaks for itself and we strongly urge the House to support this reasonable Coast Guard appropriation authorization.

There are members of both the majority and minority of our committee who are present and who may wish to speak in behalf of this bill.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. CLARK. I am happy to yield to the gentleman from Iowa.

Mr. KYL. I would be most pleased if the gentleman could expand on the antipollution operations of the bill, for example, the transportable pumping and storage facilities. What kind of equipment is this; how does it perform?

Mr. CLARK. This is a transportable piece of equipment that is really made of a plastic material, a piping material, and along with the plastic piping material is an apron that goes down into the water. And what it does is to keep the oil spill from going to the beaches or into other areas where you do not want it to go.

Mr. KYL. Am I correct, then, in saying that the apron or envelope as the gentleman calls it is intended to capture the oil slick and then the pumping operation follows to pick the oil from the water?

Mr. CLARK. The pumping operation proceeds after the plastic pipe material has been put in place.

Mr. KYL. This is the most interesting aspect of the entire discussion.

How much pilot operation experience have we had with this particular device, this technique?

Mr. CLARK. Well, we have not had very much experience in this area. Right now we have one in operation. We have in the bill a request for one more of these. It is a prototype. It is really not completely perfected. We might have to make some changes in the test operation, perhaps, after the Gulf of Mexico operation is studied further.

Mr. KYL. Mr. Chairman, if the gentleman will yield further, is the gentleman saying that the probability of success is so imminent that this is obviously the best thing we can be doing in the particular field?

Mr. CLARK. I believe this is correct.

Mr. KYL. I thank the gentleman very much.

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. CLARK. I yield to the gentleman from Oregon.

Mr. DELLENBACK. Mr. Chairman, along the lines of the inquiry of the gentleman from Iowa (Mr. KYL), is it true that this system with which we are hoping to stop pollution is also designed to permit the transfer of oil from a tanker which shows signs of trouble to some sort of temporary storage containers so that it will not be spilled upon the water?

Mr. CLARK. I think our biggest problem at least on the Atlantic coast is the fact that so many ships—and, perhaps, I am not answering the gentleman's question in the manner that he wants it answered—are emptying their bilges into the water. In other words, they are taking it and dumping it into the sea. Of course, as a result of that operation we are getting pretty good results.

Mr. DELLENBACK. Mr. Chairman, if the gentleman will yield further. As the gentleman in the well knows—and I raise the question only so that we may have it clearly in the RECORD—a part of the functioning of this particular system as I understand it is to assist a tanker when it is in trouble to offload its cargo of oil before it is spilled on the sea.

Mr. CLARK. That is correct.

Mr. DELLENBACK. The proposed system includes a temporary pumping system and containers which will permit taking the oil out of the vessel before the oil is spilled on the sea and putting it in temporary storage containers; am I correct?

Mr. CLARK. The gentleman is absolutely correct.

Mr. DELLENBACK. So here again we are reaching for an attempt to stop pollution, a critically important thing, before it gets beyond our ability to control it?

Mr. CLARK. That is correct.

Mr. DELLENBACK. I thank the gentleman very much.

Mr. GARMATZ. Mr. Chairman, I rise in strong support of H.R. 15694, a bill to authorize appropriations for the procurement of vessels and aircraft and the construction of installations for the Coast Guard.

This bill would allow the Coast Guard to acquire a needed mix of hardware, communications systems, installations and pollution equipment in order to continue to meet its worldwide duties and commitments.

I was especially pleased to note the presence of a large line item for the first of a series of replacement polar icebreakers. For quite a few years now, my committee in hearings has been talking about the necessity of getting a replacement icebreaker program underway. We were especially interested in the possibilities of nuclear propulsion for these icebreakers. The craft under consideration in this bill will have a combination diesel-gas engine propulsion system because this system is much less complicated than a nuclear unit, less expensive and can do the job. I understand, however, that the Coast Guard has not ruled out nuclear propulsion in this area for the future.

I would also like to make the point that these polar icebreakers are for use in all the polar regions of the world, not just the recently well-publicized Northwest Passage which may or may not be used to carry oil from the north slope of Alaska to the Northeastern U.S. markets. In addition, I would like to point out that the ancient Coast Guard icebreaking fleet serves such waters as the Great Lakes.

I would like to comment on another pertinent piece of equipment covered in this authorization bill. I am referring to an item of $1,390,000 to provide for a portable pumping and storage system which can be flown to the site of an oil spill. At the present, the Coast Guard has no facilities which would provide such a capability. If this prototype is successful, they will move forward in this area.

I feel that the amount of $100 million in this bill is really a modest sum when considered in the context of the varied and farflung responsibilities of the Coast Guard and its contributions to the Nation. Thus, I urge the passage of this important authorization bill.

Mr. FEIGHAN. Mr. Chairman, I know that I need not devote any time to calling the attention of this body to the activities of the Coast Guard. We know that they range from minimizing the effect of oil spills, through protection of our shipping from icebergs; from Operation Market Time off the coast of Vietnam to protecting the vast number of small-boat users in our country.

Over the years, not only has the number of missions assigned to the Coast Guard grown but virtually all of them have increased in size and importance.

During the past year, we have seen the Coast Guard coping with major oil spills in Florida, Louisiana, and California. Within the past 3 years, they have taken over the responsibility for removal of bridge obstructions which impede navigation on our inland navigable waters.

I submit too you, Mr. Chairman, that

it is not necessary to be expert in the field of Coast Guard activities to recognize the need for expenditures set out in this bill. I think that the necessity of the amount is best shown by the figures on Coast Guard equipment contained in the hearings before the Committee and supporting papers. The Coast Guard is presently operating six high endurance cutters, average age 34 years; nine high endurance cutters, average 27 years; 12 high endurance cutters, average 24 years; eight medium endurance cutters averaging 26 years in age; and seven icebreakers, the newest of which was built in 1954. Its buoy tenders are as old as 37 years.

Any of us would hesitate to travel aboard any vessel as old as these so why should we require our Coast Guard engaged in our protection to use such vessels?

With respect to shoreside installations, the same situation prevails. We are woefully short of accommodations for Coast Guard men and their families and the organization suffers by comparison with quarters furnished to men of the other armed services.

I think that it is important that we provide sufficient funds for this dedicated organization to do its job. After all, we are talking about the safety of lives and property. We are talking about providing sufficient equipment to rescue us if through bad luck or bad judgment in the operation of our small boats we get in trouble. We are talking about protecting our people and our resources from the consequences of an oil spill and we are talking about rescuing us from the consequences of major floods. These are not unusual—they are things that can happen to us any day and it is important that we provide sufficient tools to the organization devoted to protecting us from such emergencies.

I am painfully aware of the many demands on our financial resources. However, we must not ignore the needs of this useful organization so that the time can come when our failure to supply adequate equipment can result in a very serious tragedy. We must prevent this by providing sufficient money for at least the minimum needs of this lifesaving organization. I hope that all the Members will join with me in supporting H.R. 15694.

Mrs. SULLIVAN. Mr. Chairman, we have before us today, H.R. 15694, a bill to authorize appropriations for the Coast Guard for vessels, airplanes, shore installations, and such other important matters as navigation aids and oil pollution control.

It is interesting to note that of the $62,295,000 for vessels, $59,000,000 is allocated for the construction of the first of a series of polar icebreakers to replace the old *Wind* class icebreakers. This $59,000,000 is the largest unit item in the bill, and the largest ever placed in this particular type authorization. The Coast Guard's present fleet of polar icebreakers consists of seven *Wind* class breakers constructed between 1943 and 1947—only six of which are in commission—and the *Glacier*, constructed in 1955. The proposed vessel will replace the equivalent of almost two of the old *Wind* class vessels since the new icebreaker will be much more modern with a vastly improved performance capability.

This replacement vessel will embody a concept new to this class of ship and new to the arctic marine environment. It will have conventional diesel engines for normal cruising and gas turbines for maximum power situations. The Coast Guard indicates that this new propulsion system will provide available shaft horsepower which will exceed that of any icebreaker afloat, including Russia's nuclear-powered *Lenin*.

The necessity of getting on with the replacement of the Coast Guard's icebreaker fleet was brought sharply into focus by the failure of the Coast Guard icebreaker *Northwind* to complete its escort duties with the tanker *Manhattan* in its well-publicized transit of the Northwest Passage last summer. It might be noted that the Canadian icebreaker *McDonald* completed the escort of the *Manhattan* to the north slope of Alaska.

We have certainly had mounting evidence in recent years of the deterioration of American maritime capability, both military and commercial. I submit to the Members of this great body, that this humiliating incident is the latest in the tragic catalog of U.S. maritime decline. Imagine a nation with our maritime history and marine orientation being forced to rely on a foreign-flag icebreaker for the completion of the *Manhattan* project. We appear to be on the threshold of a dramatic breakthrough for commercial carriage in the polar regions, thus it is imperative that we establish and maintain a responsive icebreaking capability.

I have chosen this one item to comment on because it is the single largest expenditure and because of the critical nature of the project. Of course all the Coast Guard's work is significant since it is aimed at protecting lives and property. I will not take the time now to draw this body's attention to all the projects in this bill since the Members are aware of the Coast Guard's vast range of responsibilities.

I am fully aware of the many demands on our financial resources and of the necessity of establishing fiscal priorities. I feel, however, that the efficiency, expertise, and competence of the Coast Guard speaks for itself and fully justifies the authorizations set out in this bill. Thus, I ask the support of all the Members of this body for the passage of H.R. 15694.

Mr. MAILLIARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 15694, the bill to authorize appropriations for the procurement of vessels and aircraft and the construction of shore and offshore establishments for the Coast Guard. I am sure I do not need to remind my colleagues of the vital work which the Coast Guard performs. Nevertheless, it may be well to recall the primary duties of the Coast Guard as set forth in title 14 of the United States Code. It states:

> The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws upon the high seas and waters subject to the jurisdiction of the United States; shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on the high seas and on waters subject to the jurisdiction of the United States covering all matters not specifically delegated by law to some other executive department; shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, icebreaking facilities, and rescue facilities for the promotion of safety on and over the high seas and waters subject to the jurisdiction of the United States; and shall maintain a state of readiness to function as a specialized service in the Navy in time of war.

This is indeed an impressive list of responsibilities.

In order to carry out these far-ranging duties, the Coast Guard employs approximately 38,000 uniformed personnel and over 6,000 civilian employees. Its fleet consists of 37 high endurance cutters with three additional cutters now under construction, a variety of medium endurance cutters, 38 sea-going and 12 coastal buoy tenders, and assorted harbor craft. In the air, the Coast Guard operates a fleet of C–130 long-range search aircraft and amphibian helicopters for search and rescue missions. The icebreaker fleet consists of six commissioned *Wind* class vessels and one vessel of the *Glacier* class. Afloat and ashore, the Coast Guard maintains an infinite variety of aids to navigation and rescue stations.

To a far greater extent than any other branch of our Government, the role of the Coast Guard demands constant readiness to answer the call of those in distress whether it involves a ship on the high seas, a drowning seaman, or the victims of floods and hurricanes.

While the responsibilities of the Coast Guard have been steadily expanded, the facilities available to carry out these duties have not been augmented to the same degree. Nevertheless, in spite of the shortage of modern ships and in spite of the hazards which the personnel of the Coast Guard daily face, they have done their job.

The Coast Guard budget for fiscal year 1971 totals $625 million, an increase of $46 million over the 1970 budget, and an increase of $81 million over the 1969 budget. Of this $625 million, $100 million is for acquisition of ships and aircraft and construction of facilities. It is this $100 million segment of the Coast Guard budget which we are concerned with today in H.R. 15694. This represents an increase of $32 million over the 1970 acquisition and construction budget.

Mr. Chairman, our Committee on Merchant Marine and Fisheries is heartened by this substantial increase in the Coast Guard budget. We sincerely hope that this reflects a new awareness of the tremendous responsibilities which have been placed on the Coast Guard. As you recall, last year your committee increased the budget authorization for the Coast Guard by $60 million. However, in view of the substantially improved budget submitted this year by the Department of Transportation, the committee has not recommended any further increases.

The committee's action, Mr. Chairman, should not be construed, however, as an

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indication that we are satisfied with the present state of readiness of the Coast Guard for we are indeed not satisfied. For example, the fleet of 38 high endurance cutters, which I previously mentioned, includes 10 former Navy seaplane tenders constructed during World War II. These vessels were originally designed to operate in sheltered waters to service the flying boats which were used for patrol and antisubmarine warfare during World War II.

They were not built with the thought that they would be employed for station-patrolling on the high seas. This fleet also includes six high endurance cutters constructed during 1936 and 1937. Although these ships were built to Coast Guard specifications and are far superior to the relatively newer Navy seaplane tenders, they cannot be expected to remain in service many more years. The 1971 budget contains funds to complete habitability and seakeeping improvements on these ships. With these improvements, they can be expected to remain in operation no more than 10 additional years. At that point, they will be approximately 45 years old.

The nine 378-foot class high endurance cutters now in operation and the three vessels of this class under construction form the backbone of the Coast Guard's fleet. These ships, which were begun in 1964, are excellent vessels, ideally suited to the Coast Guard's role. No funds are included in this year's budget to continue construction of these 378-foot class ships. Ultimately, 15 vessels of this class will be built. Your Committee on Merchant Marine and Fisheries anticipates that construction of these vessels will be resumed next year. Mr. Chairman, the high endurance cutter fleet is only one example of the Coast Guard's need to continually upgrade the equipment to keep pace with its responsibilities. Nevertheless, as I have indicated, in view of the substantial increase in the budget for fiscal year 1971, as compared with last year, your committee has not recommended any further additions to the budget. I wish to assure my colleagues, however, that we will again scrutinize the budget with great care next year, and take appropriate action should it not continue to reflect this new awareness of the Coast Guard's need.

H.R. 15694 contains an authorization for the construction of one polar icebreaker to begin the replacement of the *Wind* class, which have been in continuous service for an average of 25 years in the harsh polar environment. These vessels are overage and have deteriorated. Habitability and operational improvements which have been made to this class will enable them to continue in operation no later than the mid-1970's. It is expected that four of the new icebreakers will provide the equivalent capability of the entire *Wind* class. How many of these ships will be needed, however, will depend to a large extent upon marine transportation developments in the Arctic regions and upon the future of exploration in the South Polar regions.

As the distinguished chairman of the Subcommittee on Coast Guard, the gentleman from Pennsylvania (Mr. Clark), has indicated these vessels will employ a new power concept for icebreakers, conventional diesel engines for cruising and gas turbines for maximum power situations. This concept has been employed successfully in the 378-foot class high endurance cutters. Power combinations utilizing gas turbines are also being introduced in the Navy. The Coast Guard has given the construction of this vessel the highest priority. Your Committee on Merchant Marine and Fisheries has been working for a number of years to secure funding for such a program.

In conclusion, Mr. Chairman, I wish to reiterate the fact that the funds authorized to be appropriated in H.R. 15694 as reported by your Committee on Merchant Marine and Fisheries reflect a substantial increase over the budget request for the Coast Guard of last year. This increase will enable the Coast Guard to construct one polar icebreaker, a matter of urgent priority. We are aware that this bill does not reflect the total budget request of the Coast Guard, and as I have indicated there are many other areas where funds are urgently needed. We anticipate that the Coast Guard's procurement and construction budget for next year will again show a substantial increase to keep pace with the need for replacement of over-age ships and equipment. This authorization bill is certainly not an austere measure by past standards, and it will enable the Coast Guard to continue to meet its existing responsibilities. I urge my colleagues to support its passage.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I want to take this time to indicate my support for the legislation and certainly to express my appreciation to the gentleman in the well the gentleman from California (Mr. Mailliard), the chairman, the gentleman from Pennsylvania (Mr. Clark), and the entire committee for the consideration they gave to the radio station for the Coast Guard to be relocated at the Point Reyes-Bolinas area.

Also, I believe it would be appropriate that I pay my respects to the Coast Guard for the manner in which they have handled a very delicate situation because a number of Marin County and San Francisco Bay area conservation groups were very concerned about placing this facility in the Inverness area. I believe we have worked out a very satisfactory compromise, and I do want to compliment and thank the gentleman in the well, the gentleman from California (Mr. Mailliard), for his excellent cooperation and assistance in advancing the authorization of the communications facility at Point Reyes and Point Reyes Station.

It is always very gratifying when we can work out an acceptable compromise that satisfies all parties—this appears to be one of those rare cases.

Mr. CLARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. Downing).

Mr. DOWNING. Mr. Chairman, I would like to say a few words in support of H.R. 15694, the bill to authorize appropriations for vessels, aircraft and shore installations for the Coast Guard. The total amount authorized under this bill is $100 million to supply what are the minimum needs for this agency which serves the people of the United States so well.

There is no need at this time to run through the responsibilities and accomplishments of this old and dedicated agency. I would, however, like to take this opportunity to comment on several factors affecting the Coast Guard which are a cause for concern.

In the present administration budget there is a move to phase out the Coast Guard Selected Reserve, allegedly because it will result in a saving of $25 million. I submit that this is a shortsighted view and that such an attitude is pennywise and pound foolish. My colleagues know that the mail is very, very heavy on this subject, almost all of it being in opposition to this phaseout. I hope the appropriate committees of Congress having jurisdiction over the Armed Forces Reserve components will see fit to authorize appropriations for the continuation of the Coast Guard Selected Reserve. I am confident that this will be the case.

One way we can manifest our support for the Coast Guard is to pass this authorization bill now under consideration. It does not involve an inordinate expenditure, especially when considered in terms of the return to the American people. Thus, I urge passage of the 1971 Coast Guard authorization bill.

Mr. MAILLIARD. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. Dellenback).

Mr. DELLENBACK. Mr. Chairman, I want to say just a brief word in support of H.R. 15694. More than half of the coast line of the State of Oregon is within my district. As a result of this, as well as my service on the Merchant Marine and Fisheries Committee, I have had an opportunity to see in actual operation, as well as to learn in broad scope, the operation of the Coast Guard. I have the highest regard for its personnel and what I consider to be the exceptionally fine job they do. We cannot, however, expect the men in this fine service to perform into the future as they have performed in the past without giving them the equipment they need with which to perform.

This bill has some areas that I would see personally increased even further. I speak particularly to the remarks that the gentleman from Pennsylvania (Mr. Clark) made from the well earlier about the equipment to control pollution. Certainly the broad thrust of the bill is in the right direction. I earnestly hope that the House will pass this bill today and give this service the equipment it needs to go forward in doing a vitally important job, vitally important to this Nation.

Mr. MAILLIARD. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. Keith).

Mr. KEITH. I thank the gentleman.

Mr. Chairman, at the appropriate time I plan to offer an amendment that would provide for an additional transportable oil pollution control containment system.

In order to acquaint the Committee with that motion and to shorten the debate that will take place at that time, I am now going to read my statement in connection with the need for this.

Mr. Chairman, even since the *Torrey Canyon* broke up off the coast of Great Britain in 1967, spilling oil over hundreds of miles of coastline, the prospect of similar disasters had been very real for the millions of people who live near our Nation's coastlines.

In large measure, their fears have become fact, as the total number of major oil spills in U.S. waters rose from 371 in 1966 to 714 last year. No State with a coastline has been immune from this menace, and the damage caused by spilled oil has mounted into many millions of dollars.

Prime recreation areas from Cape Cod to St. Petersburg have been scarred by spilled oil; the delicate ecological balance of our coastal areas has been violated time and time again, from Santa Barbara to Tampa; birds by the thousands have died in tragedies stretching from Maine to Martha's Vineyard; and rich shellfishing areas have been closed for years, from Falmouth, Mass., to Louisiana, and most recently in Texas, largely because of our inability to prevent and clean up oil spills.

The Coast Guard, ever since the national multiagency oil and hazardous materials contingency plan was drawn up in 1968, has been given the immediate operational responsibility for controlling such oil spills.

Even under the Water Quality Act on which my colleagues on the Public Works Committee have reached agreement the Coast Guard still retains this responsibility, in the absence of immediate and effective action by the shipper involved.

To better implement this responsibility, the Coast Guard has developed a major oil containment system, which can be flown to the site of an oil spill. They have held extensive tests on this system, and are satisfied with its performance to the extent that they have requested—and the committee has authorized—$1.4 million for the purchase of one such system.

In its original request, the Coast Guard had asked for funds to purchase two of these systems, but the Budget Bureau had cut it back to one. In my view, the problem of oil spills is too great for such timidity. I am offering an amendment to this bill, restoring the original Coast Guard request for two such systems—one for each coast.

The committee will recall that earlier in my remarks I pointed out that last year we had 714 of these oil spills. The chances are very, very good, of course, that there will be two or three of them at the same time. Hence the need for the additional system.

These systems are designed to be flown to the site of a disabled tanker in danger of leaking oil. They can be quickly rigged up to transfer the tanker's oil into several collapsible plastic bags. In this manner, 140,000 gallons of oil can be removed—before it has a chance to seep into the sea and endanger nearby coastlines.

The additional cost of acquiring one more such system is approximately $1.5 million. As I said in my additional views published in the committee report on this bill:

> This is a small price to pay for the ends such added equipment would produce: If even one major oil spill is prevented from reaching our shores, these added expenses will have been more than justified.

All of our country's coastline is vulnerable—and unless we do more, and do it soon, the time will inevitably arrive when nearly all our country's coastline will have experienced the devastation of oil spills.

Mr. Chairman, I might point out that these oil spills also take place on inland waterways, and therefore it is a nationwide need to which my amendment will speak.

I hope the committee will act favorably on the amendment at the time it is offered.

Mr. MAILLIARD. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. PELLY).

Mr. PELLY. Mr. Chairman, I also rise in support of the bill, H.R. 15694, the Coast Guard authorization bill for fiscal year 1971. This bill, as reported by your Committee on Merchant Marine and Fisheries, will enable the Coast Guard to begin replacement of its aging polar icebreakers with a new class of ships which will be superior to those now in the fleet in every respect. It is indeed unfortunate that mechanical breakdown on board one of the Windclass icebreakers in the Coast Guard compelled that ship to turn back while accompanying the tanker *Manhattan* through the Northwest Passage late last year. That breakdown received widespread attention in the press and highlighted the fact that these ships have reached the limits of their endurance. They have aged to the point where it is foolhardy to invest funds in them, and only the most essential work to keep them operating until the first of the new class of icebreakers comes in service will be undertaken. This discovery of oil on the Alaska North Slope, and the possibility that there will be large vessels navigating the Northwest Passage in the future will indeed impose greater burdens upon the Coast Guard in this part of the world.

Even if we do not, however, transport Alaska's oil through the Northwest Passage, the need for a new class of icebreakers will continue to be urgent. Polar exploration in the Arctic and Antarctic is increasing year by year. We cannot send ships to these regions nor expect our scientists to live in these regions without the prospect that they can be adequately supplied by ship. A fleet of at least four modern polar icebreakers will be necessary to meet these basic needs regardless of the future of the Northwest Passage for commercial transportation purposes.

The Coast Guard's high endurance cutter program hopefully will be resumed next year, along with continued funding of the icebreaker program. As a Representative from an area which is deeply concerned over fisheries and the protection of our fisheries zone, I am acutely aware of the great need to expand our Coast Guard's capability to patrol our fisheries zone, and to insure that the various conventions which the United States has signed are adhered to by the other parties. This budget does provide funds for six additional modern turbine-powered helicopters which will substantially augment our patrol capability. While it is somewhat short of the Coast Guard's budget request, it will be borne in mind that this budget is a vast improvement over that which was submitted last year, and I fully expect that this improvement will continue in the years to come so that ultimately the full capability in fisheries surveillance work which the Coast Guard seeks will be funded by the Congress as rapidly as possible, consistent with the other needs of the service.

Mr. Chairman, the Coast Guard deserves the praise and support of this Nation. I urge the passage of this authorization bill.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, is it proposed to provide icebreakers as escorts for tankers running through the polar regions?

Mr. PELLY. I would say to my friend, the gentleman from Iowa, that in the pioneering of the possible use of the Northwest Passage, of course, we did use our icebreaker. It did break down. Thanks to the Canadians, we were able to have a successful experiment. But in general in the development of the areas in the north where they are icebound part of the year, yes, we will have to have icebreakers now as we have had in the past.

I am not indicating by this that it is my opinion we should subsidize this particular industry, what I think is that the Coast Guard has a responsibility to assist our merchant ships when they need help, and, as in the case of the tanker *Mauballeu*, to cooperate in a research project and voyage of exploration.

Mr. GROSS. Mr. Chairman, I can understand an icebreaker accompanying the tanker *Manhattan* on the exploration trip it made, but I cannot understand the Federal Government and American taxpayers subsidizing the oil companies to get their tankers through the Northwest Passage to the oilfields and back again as a steady diet.

Mr. PELLY. I know what the gentleman feels. I think probably the private company put in approximately $40 million at least in this experiment. I do think, as once we aided our railroads in developing the West, we have some responsibilities as a government in doing the same thing in the Northwest Passage; but I doubt whether this may be economically feasible, and I do not know that on a regular basis we are going to utilize any icebreakers to subsidize private industry. I doubt that very much.

Mr. POLLOCK. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from Alaska.

Mr. POLLOCK. Mr. Chairman, I would like to respond to the inquiry made by the gentleman from Iowa by saying the request for new funding for icebreakers for the Coast Guard has nothing to do with the *Manhattan* or any other tanker which would be plowing through the Arctic waters. The original escort service provided by the Coast Guard was done primarily to make sure the operation of icebreaker-tanker was feasible. When we have multiyear ice that has not been broken and that salt has gone out of over the years, it is extremely compact and a difficult thing to plow through.

First- and second-year ice breaks apart quite easily by comparison, and could be negotiated by the icebreaker-tankers without need for Coast Guard icebreaker escort. The Coast Guard request is for other purposes.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. MAILLIARD. Mr. Chairman, I yield 3 additional minutes to the gentleman from Washington.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from Iowa.

Mr. GROSS. I would say to the gentleman from Alaska that I cannot read the committee report without coming to the conclusion that the necessity for a polar icebreaker is for the purpose of providing some kind of service to the oil companies transiting the passage through the ice fields to the newly opened oil fields.

Mr. POLLOCK. Mr. Chairman, if the gentleman will yield, I should like to respond by saying very briefly that the Coast Guard does have a function and a responsibility for rescue work. If there are tankers going through that area and get into trouble, the Coast Guard would be needed and would be there to perform the rescue. They would not be accompanying them on the trips to break ice for them or anything of that nature.

Mr. PELLY. Mr. Chairman, may I add to what I said before. I understand the position of the gentleman from Iowa.

So far as I am concerned and my district is concerned, we should like to see this oil brought down the west coast and available at Puget Sound. I am not for subsidizing any transportation of oil to the Atlantic coast. At least, I have a preference for utilizing a pipeline and then bringing it down to our refineries on the west coast.

I do believe, on the other hand, that we do need, as we have traditionally, icebreakers to provide for our merchant ships, our private enterprise privately owned ships, in the event that ice intervenes in the course of their transportation efforts.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from Iowa.

Mr. GROSS. The gentleman will recall that I served on the committee a good many years ago when we went through this discussion of replacement of icebreakers. There is no question in my mind that the Coast Guard and this country need some new icebreakers. But I am unalterably opposed to the construction of an icebreaker or icebreakers for the purpose of sending them through the polar ice fields to help bring out oil. It seems to me that the oil companies, if they want that kind of help, can construct their own icebreakers.

Mr. PELLY. I assure the gentleman that is not the purpose of the construction of these icebreakers.

Mr. CLARK. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to my friend from Pennsylvania.

Mr. CLARK. To answer the gentleman from Iowa, these polar icebreakers today support the following requirements:

First, DOD logistic support in Canada, Greenland, and the Antarctic.

Second, classified DOD support.

Third, DOD oceanographic research in polar regions.

Fourth, SAR assistance along the Alaskan coast.

Fifth, support to science in polar regions, for the NSF, the ONR, Navoceano, universities, State agencies, and museums.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

Mr. CLARK. Mr. Chairman, I yield the gentleman from Washington an additional 5 minutes.

The CHAIRMAN. The gentleman from Washington is recognized for an additional 5 minutes.

Mr. CLARK. To continue, Mr. Chairman, I wish to read from page 2 of the committee report:

> In view of the probability of greatly increased polar operations in the next decade and the continued deterioration of the present icebreaker fleet, it is abundantly clear that this replacement program is extremely urgent.

This is true not only in respect to oil but in respect to maritime activities and our merchant marine fleet.

Mr. PELLY. Mr. Chairman, I agree with the gentleman from Pennsylvania. I would say further that the Coast Guard has a worldwide responsibility which, of course, includes the northern waters where there is ice, but it is certainly not the intent of this authorization bill to provide any special benefits to the oil industry, which I think can look after itself.

Mr. CLARK. Mr. Chairman, I have no further requests for time.

Mr. MAILLIARD. Mr. Chairman, I have no further request for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 15694

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated for fiscal year 1971 for the use of the Coast Guard as follows:

VESSELS

For procurement and increasing capability of vessels, $62,295,000.

A. Procurement:

(1) one replacement polar icebreaker.

(2) design of vessels.

B. Increasing capability:

(1) increase fuel capacity and improve habitability on high endurance cutters of the three hundred and twenty-seven foot class.

(2) improve habitability on cutter Storis and selected buoy tenders.

AIRCRAFT

For procurement and extension of service life of aircraft, $12,865,000.

A. Procurement:

(1) six medium range helicopters.

B. Extension of service life:

(1) replace center wing box beam on seven HC–130 aircraft.

CONSTRUCTION

For establishment or development of installations and facilities by acquisition, construction, conversion, extension, or installation of permanent or temporary public works, including the preparation of sites and furnishing of appurtenances, utilities, and equipment for the following, $24,840,000:

(1) San Francisco, California: complete radio station construction;

(2) Washington and Oregon: relocate and improve communications facilities;

(3) Portsmouth, Virginia: consolidate and improve facilities;

(4) Neah Bay, Washington: improve station facilities;

(5) Barnegat, New Jersey: improve station facilities;

(6) Barbers Point, Hawaii: improve air station facilities;

(7) Governor's Island, New York: improve base facilities;

(8) Western Long Island, Connecticut and New York: improve station facilities;

(9) Curtis Bay, Maryland: modernize and replace yard equipment and utilities;

(10) Various locations: transportable pollution control equipment;

(11) Various locations: aids to navigation projects on selected waterways;

(12) Various locations: automate light stations;

(13) Various locations: modernize Loran C equipment;

(14) Various locations: modernize Loran A equipment;

(15) Alaska: improve and rehabilitate selected Loran stations;

(16) Various locations: public family quarters; and

(17) Various locations: advance planning, survey, design, and architectural services; project administration costs; acquire sites in connection with projects not otherwise authorized by law.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DINGELL: On page 2, line 9, strike out "$12,865,000" and insert "$29,765,000".
>
> On page 2, line 11, strike out "six" and insert "eight".
>
> On page 2, between lines 11 and 12, insert the following:
>
> "(2) three long range aircraft.

Mr. DINGELL. Mr. Chairman, this amendment will not do anything for the district I have the privilege of serving. It will do a great deal for the Coast Guard of the United States. It will do a tremendous amount for those living in coastal areas. It will do an enormous amount to help protect the commercial fisheries and fishermen from foreign encroachments into our coastal fishery zone which are by law reserved to the fishermen of the United States inside the 12-mile limit. It will also do a great deal for our concern with oil spills. As my colleagues will recall, the Coast Guard originally wanted something like $190 million for fiscal year 1971.

This bill provides $100 million for the Coast Guard of which something like

$59 million is for the construction of an icebreaker.

Mr. Chairman, my amendments to the bill, H.R. 15694, would increase the amount authorized to be appropriated for the procurement of aircraft for fiscal year 1971 by $16.9 million. My amendments would have the effect of providing the Coast Guard with two additional medium-range helicopters at a cost of $2 million each and three long-range aircraft at a cost of $4.3 million each.

Mr. Chairman, I would like to point out to my colleagues that the aircraft I am requesting were included in the proposal originally submitted by the Coast Guard to meet minimum needs for fiscal year 1971, but were subsequently denied by the Bureau of the Budget.

Mr. Chairman, based on information furnished me by the Coast Guard at my request, there is an immediate need for one additional long-range aircraft to meet the present deficiency in flight time and an urgent need for two additional long-range aircraft and two medium-range helicopters to improve operational capability and provide some flexibility to respond to fluctuations of demand, such as for the Tuna patrol surveillance of our 12-mile fishery zone, oil spill detection and transporting of oil pollution control set, and other similar needs.

Mr. Chairman, my Subcommittee on Fisheries and Wildlife Conservation held 2 days of hearings in Alaska last year and witness after witness expressed great concern over the increased violations of our 12-mile fishery zone. In fact, one witness testified that he had observed a Japanese fishing vessel fishing off the end of one of the runways just before my subcommittee arrived in Alaska.

Mr. Chairman, it is very obvious that violations of the 12-mile fishery zone are on the increase and violators are going undetected. Coast Guard witnesses at the Alaska hearings admitted that only about 10 percent—or perhaps less—of foreign vessels that illegally fish Alaskan waters are apprehended.

Mr. Chairman, in Alaska for example, to cover its entire coastline consisting of approximately 20,000 miles, the Coast Guard has three long-range aircraft stationed in the area. When I was there last year, one was on the ground for general repairs, another was grounded because a prop had been damaged on a landing, and the other aircraft was out working trying to cover the entire Alaskan coast.

The aircraft now provided to cover this area is woefully inadequate. It is my understanding that one of the long-range aircraft that would be authorized by my amendments would be assigned to the Alaskan area. Increased surveillance requirements associated with the commencement of a high seas salmon fishery by South Korea in the Bering Sea are expected to create even greater needs beginning this summer. Ice reconnaissance patrols of the Northwest Passage will undoubtedly compete for the available aircraft time. It will be impossible to meet even minimum requirements in this area without this additional long-range aircraft.

One of the other long-range aircraft would be assigned to the Atlantic Coast where the need is equally as urgent. A full-time vessel patrol is conducted off the New England coast to enforce regulations implementing the International Convention for Northwest Atlantic Fisheries. The vessel's activities are complimented with a weekly aircraft flight over areas of known vessel concentrations. Recent agreements with the Soviet Union and Poland are the subject of three vessel and one aircraft patrols per week between New York and Cape Hatteras, N.C. These units cover the high seas abstention area established by these agreements along with areas within the fisheries zone in which loading and fishing by foreigners are allowed from time to time. Mr. Chairman, foreign fishing activities off these coastal waters also are on the increase. Just for the month of August of last year, the Bureau of Commercial Fisheries reported a total of 325 foreign vessels observed fishing off the coast of New England. These included ships belonging to the Soviet Union, Poland, East Germany, Rumania, Bulgaria, Israel, Iceland, Spain, and Norway. These statistics make it quite obvious that we must have additional aircraft, such as that authorized by my amendments, if we expect to protect our valuable fishery resources.

Mr. Chairman, there is a major deficiency in one other area—the Pacific coast and extending into the eastern tropical Pacific. In 1969, the Coast Guard was called upon for the first time to enforce regulations implementing the Inter-American Tropical Tuna Convention. The convention area, covering millions of square miles of the eastern tropical Pacific, is so vast that it can be efficiently covered only with long-range aircraft. This recent and impromptu demand requires 480 flight hours to meet minimum requirements of the Bureau of Commercial Fisheries, nearing the yearly limit of 520 mission hours that are available from one long-range aircraft. This additional aircraft would probably be stationed in San Francisco where it would assist in meeting enforcement requirements centered in the area of Clipperton Island, off the Pacific coast of Mexico, and off the Washington-Oregon coast enforcing our conservation agreements with Japan and the Soviet Union.

Mr. Chairman, as previously stated, my amendments also call for two medium-range helicopters. These helicopters are mostly needed to respond to complaints of violations of our fisheries zone, particularly around the New York and New England coast. It is most essential that the Coast Guard be able to respond immediately to information received from U.S. citizens that a violation of our fisheries zone is in progress. These helicopters could, of course, be used in other law-enforcement missions—as well as rescue missions—when not needed for the fisheries.

It is also anticipated that these helicopters will be used in areas with a high oil spill potential, such as the gulf and southern California coasts. Offshore pollution patrols could also be run in conjunction with scheduled patrols of the fisheries zone.

Mr. Chairman, my amendments to H.R. 15694 would supply the aircraft that the Coast Guard has indicated there is an urgent need for and I urge their adoption.

Mr. CLARK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, much as I hate to do this as chairman of the subcommittee, I rise in opposition to the amendment.

The DOT has asked for an austere program. The Budget Bureau has asked for an austere program. And our committee felt that it would be wise this year to keep this authorization down in order to get this authorization through as quickly as possible.

Mr. MAILLIARD. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I do not quarrel at all with the motives of my good friend, the gentleman from Michigan, and obviously these additional aircraft could be usefully employed. But let me point out that while it is true that originally the Coast Guard asked for eight medium-range helicopters, which the Bureau of the Budget reduced to six, and the two that are contained in the amendment offered by the gentleman from Michigan, would bring that back to the original Coast Guard request, they did not request the three long-range aircraft. When the overall budget was reduced, the Coast Guard was given opportunity to establish the priority of items. Also I would like to point out that three of the six helicopters which are contained in the bill are intended for the very use which my friend, the gentleman from Michigan, alluded to, primarily in Alaska.

We could add a great many things, as I said during general debate. The Coast Guard has some very critical needs, and it is stretched pretty thin, but let us face up to the fact that this represents almost a 30 percent increase over similar budgetary requests last year. And in this day of very stringent budgetary competition everyone has had to sacrifice its less urgent requirements during this fiscal year.

This was never offered to the committee as an amendment. We discussed these matters, but it was never presented as an amendment in committee.

Mr. Chairman, I urge the amendment be defeated.

Mr. POLLOCK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment, and would like to associate myself with the remarks made by the gentleman from Michigan (Mr. DINGELL).

We have critical problems and massive responsibilities that we place upon the U.S. Coast Guard, and then refuse to adequately provide them with the tools to do the job.

As the gentleman from Michigan indicated earlier, the hearings we had in Alaska pointed out a situation which is almost intolerable. That is, we have some 34,000 miles of Alaskan coastline that is the responsibility of the U.S. Coast Guard to protect, and they have absolutely inadequate aircraft and surface craft available in order to do the job.

This is a matter of international im-

XUM

port. We have fishing incursions by the Russians, the Japanese, and the Koreans. We are given to understand that soon we will have the same problem from Red China.

What happens is that these vessels sail illegally into the territorial waters of the contiguous fishing zone of U.S. waters and when they spot a Coast Guard aircraft or vessel in the area, they weigh anchor and hastily head out to sea. The equipment that the Coast Guard has today is simply inadequate to perform those responsibilities which devolve upon the Coast Guard to protect the shorelines of this country.

I know that we have a very serious fiscal and monetary problem in the United States today. But somewhere we have got to begin to reorient our priorities and put first things first.

Thus, it would seem to me, from a national and international point of view, this is a very significant area in which we should be providing support to the Coast Guard which they so desperately need.

I dislike very much to oppose the chairman of the committee and the ranking minority member. I think that this does not happen very frequently in our Committee on Merchant Marine and Fisheries, and I want them to know, and I think they do know, that we have an honest difference of opinion here. I have great respect both for their integrity and their interest in the Coast Guard, but I do urge that the amendment be adopted. I want to compliment the gentleman from Michigan for his very astute observations and for his learned remarks.

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Mr. KEITH. Mr. Chairman, I move to strike out the last word, and rise in support of the amendment offered by the gentleman from Michigan.

Mr. Chairman, the experience I have had off the fishing coasts of New England corroborates all that has been said by the gentleman from Alaska and the gentleman from the Great Lakes region. We have a desperate need for these helicopters. They are not only for recreational safety, but for surveillance of oil slicks, for search and rescue work, and for transporting oil pollution containment systems—all of which we must have if we are going to have the capability to protect our ocean environment.

So, Mr. Chairman, I respectfully differ with the report of the committee and support these amendments.

Mr. HATHAWAY. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, the need for these amendments is undeniable. The facts and figures regarding oil spills are really appalling. The Corps of Engineers has estimated that there were 2,000 oil spills in the U.S. waters in 1966, and the Coast Guard recently estimated that we may be experiencing a spillage of polluting materials to U.S. waters approaching 10,000 incidents annually, with oil leading all other categories by a ratio of about three to one.

Needless to say, oil pollution has not been confined to any one geographic area. Of course, due to the major leak in the Santa Barbara Channel last year, attention has been focused on the west coast. But both coasts of the Nation have felt the devastating effects of oil pollution. Huge oil slicks have recently washed ashore on the eastern and gulf coasts, and the Federal Water Pollution Control Administration reported more than 42 sizable spillages on the New England coast alone in the first 5 months of 1969. The additional aircraft, and particularly the two helicopters authorized under the amendment of the gentleman from Michigan (Mr. DINGELL) are really needed, and were requested by the Coast Guard to patrol the coasts, watching for oil and other pollution.

You know it is not just the tankers that spill oil. The ships that empty their bilges as they come into our ports are really the worst offenders. They are the ones that are doing a great deal of damage to our beaches and many go undetected. If we have additional aircraft, coupled with the law that is now in conference, and which I am sure will pass, which will make the ships absolutely liable for these oil spillages, then I think we will have a more effective policing agency and we will be able to cut down the amount of damage to our coast due to oil spillage considerably.

Mr. Chairman, for these reasons, in addition to the fact that the helicopters will serve a useful function in watching the contiguous fishing zones for violations of fishing laws by foreign nations and, of course, they can be used for search and rescue operations—for all these reasons, despite the fact that this authorization would be greater than the authorization recommended by the Bureau of the Budget, I think that we need to have this amendment to this bill.

Mr. GIBBONS. Mr. Chairman, I rise in support of the amendment.

I live in the coastal area of the United States where we have a lot of people who go to sea for pleasure purposes, and for fishing, where they harvest some of the great fishing resources of this country and of the open seas. I have had a personal opportunity to observe the work of the Coast Guard. I know from having observed them that they need additional air support. It was only last year that two or three very fine coast guardsmen were killed in my own district, or right off the coast of my district because a helicopter literally fell apart on them, it was so old and dilapidated. I have seen the equipment that they use, and I know that they need more equipment. I am often on the sea coast in the evening sometimes during the summer when Congress is in recess and there is not an afternoon that goes by that you do not see those helicopters out working to save lives, to save property, and to do the kind of things that are so necessary to make this country more attractive.

I am constantly aware that fishermen from my district go great distances to harvest the shrimp crop of the oceans. They often call upon the Coast Guard to be of service to them in search and rescue missions, in fighting the terrors of nature that lurk at sea. Helicopters, the long-range planes and the patrol vessels that we have now in the Coast Guard are not sufficient. I think this amendment should be supported. A large amount of money is not involved, but the additional money would certainly serve a whole lot of people in a very constructive way.

Mr. KYL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 51]

Annunzio
Ashley
Aspinall
Baring
Bell, Calif.
Biaggi
Broomfield
Brown, Calif.
Button
Byrne, Pa.
Carey
Cederberg
Clay
Conyers
Corman
Coughlin
Cramer
Crane
Cunningham
Daddario
Davis, Ga.
Dawson
de la Garza
Derwinski
Diggs
Dorn
Dwyer
Eckhardt
Erlenborn
Evans, Colo.
Fallon
Feighan
Ford, William D.
Garmatz
Gaydos
Gilbert
Gray
Green, Oreg.
Gubser
Hagan
Hanley
Hanna
Hansen, Wash.
Harsha
Hastings
Hébert
Holifield
Kirwan
Leggett
Lennon
Long, La.
Lukens
McCarthy
McEwen
McMillan
Macdonald, Mass.
Martin
Meeds
Meskill
Michel
Mikva
Mollohan
Morton
Murphy, Ill.
Nix
O'Neill, Mass.
Ottinger
Pepper
Pike
Pirnie
Powell
Preyer, N.C.
Pryor, Ark.
Pucinski
Rees
Reid, Ill.
Reid, N.Y.
Riegle
Rivers
Rostenkowski
Roudebush
Ryan
Satterfield
Scheuer
Smith, Calif.
Springer
Steiger, Wis.
Stubblefield
Stuckey
Taft
Teague, Tex.
Tiernan
Tunney
Ullman
Vander Jagt
Vanik
Waldie
Watson

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLYNT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 15694, and finding itself without a quorum, he had directed the roll to be called, when 332 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I take this time to ask the gentleman from Michigan to briefly review his amendment for the edification of some of those who were not here before the quorum call. Do I understand that this amendment would add $17 million to the bill?

Mr. DINGELL. It is $16.9 million.

Mr. GROSS. Well, $16.9 million.

Mr. DINGELL. That is correct. It would authorize the procurement by the Coast Guard of three additional long-range aircraft and two additional medium-range helicopters for research, rescue, fisheries patrol, and for carrying out our responsibilities under a number of treaties and for protecting our coast against intrusions and incursions by unauthorized vessels.

Mr. GROSS. Are the aircraft in question not procurable through the military?

Mr. DINGELL. I have explored that question. At this time there are no aircraft of the kind desired which can be secured by the Coast Guard from the military. I very much wish I could tell my good friend that there were. We have explored those questions in our effort to try to get the Coast Guard the equipment they need to do the job for which they are responsible.

Mr. GROSS. What would the amendment add by way of antipollution expenditure?

Mr. DINGELL. It would not add anything directly as such but my good friend, the gentleman from Massachusetts (Mr. KEITH) intends to offer an amendment which would make available one more of the big rubber bags that they use to unload oil from a sinking vessel in our coastal waters. One of the aircraft would be available to carry the bag around the country, and it would add to the capacity of this country to handle major oil spills that are now beginning to afflict our coasts.

Mr. GROSS. So in that one respect it would have something to do with pollution?

Mr. DINGELL. It would, indeed.

Mr. GROSS. Would the polluter—say the oil company that polluted the water—would it be charged for the expense of operating these planes to get the rubber or plastic contraption, or whatever it is, to the scene of the pollution?

Mr. DINGELL. We shall shortly be having legislation before the House of the kind to which the gentleman alludes, which would require that persons who are responsible for oil spills of this kind pay the cost of cleaning up. I cannot tell my good friend precisely the form of the language, because the report on this subject has not yet been made available. But if facilities are made available for the Government to remove pollutants of this kind, I feel that those responsible for the pollution could be assessed the costs of removal.

Mr. GROSS. I understand that this bill calls for $100 million.

Mr. DINGELL. That is correct. That is $42 million less than last year.

Mr. GROSS. Is this approved by the Bureau of the Budget?

Mr. DINGELL. The amount that is in the bill now is approved by the Bureau of the Budget, but the amount that would be included through adoption of the amendment, the $16.9 million, was not approved by the Bureau of the Budget, though most of it was originally requested by the Coast Guard.

Mr. GROSS. Now I would like to ask some member of the committee, not necessarily the gentleman from Michigan—and I thank the gentleman for his responses—how many icebreakers it is proposed to obtain through expenditure of the funds authorized, and how much money would be set aside for the construction of the icebreakers?

Mr. CLARK. One icebreaker. $59 million.

Mr. GROSS. One icebreaker, for $59 million?

Mr. CLARK. Yes.

Mr. GROSS. The icebreaker would not be nuclear-powered, would it?

Mr. CLARK. No.

Mr. GROSS. One icebreaker?

Mr. CLARK. The vessel has a combination diesel-gas-turbine-powered propulsion system.

Mr. GROSS. What else is put into an incebreaker to make it cost $59 million?

Mr. CLARK. It is a large vessel with a displacement of 11,000 tons which is needed to break up ice in the polar regions.

Mr. GROSS. Is it planned to do as they did with that yacht that was given to Emperor Haile Selassie: paper it with gold wallpaper, or whatever it was?

Mr. CLARK. No, I am sure that would not be done.

Mr. GROSS. Is that not a lot of money for one icebreaker? Is it proposed to use a $60,000,000 icebreaker on the Great Lakes or where?

Mr. CLARK. The icebreaker will be used wherever it is deemed necessary by the Coast Guard—the polar regions, off the coast of Greenland, the Arctic, and Antarctic regions. The Coast Guard keeps an icebreaker permanently stationed in Sheboygan for use in the Great Lakes.

Mr. GROSS. Do you mean if there was a ship iced in over in the North Sea, around Finland, for instance, we would send this icebreaker over to liberate it?

Mr. CLARK. It would be better to liberate it than to lose many lives.

Mr. GROSS. I do not argue about that, but I do not understand one icebreaker costing $59 million.

Mr. CLARK. I am sure they would be using an icebreaker in the vicinity of a ship was in trouble, but they would not necessarily be using this one particular icebreaker.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, this stops me. One icebreaker costing $59 million, and not even nuclear powered.

Mr. CLARK. Mr. Chairman, if the gentleman will yield further, this is the first one of its class, and the cost breaks down as follows: The housing and superstructure will be $18,780,000; the propulsion system will be $11,460,000; the auxiliary systems will be $11,300,000; and the outfitting and equipment and furnishing will be $11,405,000; and indirect shipyard costs will be $6,055,000. This is the breakdown. I would also like to add that the combustion propulsion icebreaker under consideration is much less expensive than one with nuclear propulsion.

Mr. GROSS. Mr. Chairman, if we are going to spend $59 million for one icebreaker for the Coast Guard, there will be no money left to buy icecrushers for the State Department.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 26, noes 40.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BOW

Mr. BOW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bow: On page 1, immediately after line 10, insert the following: "None of the vessels authorized herein shall be procured from other than shipyards and facilities within the United States."

The CHAIRMAN. The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

Mr. CLARK. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman from Pennsylvania.

Mr. CLARK. Mr. Chairman, we will accept the amendment for this side of the aisle.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman from California.

Mr. MAILLIARD. Mr. Chairman, we will accept the amendment offered by the gentleman from Ohio for this side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Bow).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KEITH

Mr. KEITH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KEITH: On page 2, line 21, strike out "$24,840,000" and insert "$26,340,000"; and

On page 3, line 15, immediately before "transportable" insert the following: "two complete sets of".

Mr. KEITH. Mr. Chairman, as I said earlier in general debate, this amendment would increase the authorization by an additional $1.5 million.

As Members will recall, the cost of the transportable pollution control system is $1.39 million. The difference between that amount and the $1.5 million increase is allotted to administrative costs.

Mr. Chairman, ever since the *Torrey Canyon* broke up off the coast of Great Britain in 1967, spilling oil over hundreds of miles of coastline, the prospect of similar disasters has been very real to millions of people who live near our Nation's shorelines.

In large measure, their fears have become fact, as the total number of major oil spills in U.S. waters rose from 371 in 1966 to 714 last year. No State with a coastline has been immune from this menace, and the damage caused by spilled oil has mounted into many millions of dollars.

Prime recreation areas from Cape Cod to St. Petersburg have been scarred by spilled oil; the delicate ecological balance of coastal areas has been violated time and time again, from Santa Barbara to Tampa; birds by the thousands have died in tragedies stretching from Maine to Martha's Vineyard; and rich shellfishing areas have been closed for years from Falmouth, Mass., to Louisiana—all because of our inability to prevent and clean up oil spills.

The Coast Guard, ever since the National multi-agency oil and hazardous materials contingency plan was drawn up in 1968, has been given immediate operational responsibility for controlling such oil spills.

Even under the Water Quality Act, on which my colleagues on the Public

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Works Committee have reached agreement, the Coast Guard still has the immediate operational responsibility for cleanup in the absence of effective action by the shipper involved. To meet this responsibility, the Coast Guard has developed a transportable oil pollution control system that will make it possible for us to cope with such major oil spills that have been inflicted upon our coastlines over the past few years.

The Bureau of the Budget turned down the Coast Guard request for two of these systems, allowing only one. As I pointed out, we have had over 700 major spills in a year, and the chances are very good that two or three of them will be taking place at the same time. We must have two of these systems in order to more adequately protect our marine ecology, our marine environment and our shore recreational areas.

Mr. Chairman, I move my amendment, which will provide an additional one of these transportable systems so that we can better cope with this problem.

Mr. CLARK. Mr. Chairman, I rise in opposition to the amendment.

I oppose the amendment of the gentleman from Massachusetts. I believe the answer to the gentleman's amendment is that an operational prototype of this system is scheduled to be tested in fiscal year 1970. The Coast Guard has tested this type system on February 5 and also March 11, 1970, and is scheduled to test it again in April. Thus, it is plain that they are just now gaining some knowledge as to how effective this system will be.

It was felt it would be premature to include funds in the authorization bill for the purchase of more than one such system at this time under these circumstances. Therefore, I oppose the amendment of the gentleman from Massachusetts.

Mr. HATHAWAY. Mr. Chairman, will the gentleman yield for a question?

Mr. CLARK. I yield to the gentleman from Maine.

Mr. HATHAWAY. If this is proposed to be tested before this fiscal year is over, would we not be wise in authorizing the additional funds? If something should happen before June, before we get the appropriation on it, we could knock it out. We do have two coasts to patrol. We cannot fly one of these from one coast to the other in time to do any good.

It would seem to me it would be sensible to authorize both at this time, since the prototype the gentleman mentions will be fully tested before the end of the fiscal year and we would have ample opportunity to strike it from the appropriation bill.

Mr. CLARK. To answer you, there is one now in the bill and they have one that they are testing at the present time. So another one is not necessary. One is now in the bill.

Mr. HATHAWAY. But that is the prototype you are talking about that is in the bill, if the gentleman will yield further, and that will be fully tested before the 1st of July. Undoubtedly we will not make appropriations for it until that time and we will have ample opportunity at that time to see whether or not we want actually to fund it. However, if we do not authorize it now, we will not have the opportunity until later on, and if they are good, we will certainly need them on both coasts.

Mr. CLARK. If the prototype is good, there is money in here for another one. The money is in here now for one more of these prototypes, if that is what you want to call it.

Mr. HATHAWAY. If the gentleman will yield further, you mean an additional $1.3 million to cover another one, if this turns out to be all right, and you say it will be tested before the 1st of July?

Mr. CLARK. There is one being tested now, and they will have that one. There is one in the bill, also. So that means there will be two.

Mr. KEITH. Mr. Chairman, will the gentleman yield?

Mr. CLARK. Yes. I yield to the gentleman from Massachusetts.

Mr. KEITH. It is my understanding the prototype that is being tested is not the entire unit but its component parts. It is not the 20,000-ton type as provided for in the items in the authorization.

Mr. MAILLIARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to join the subcommittee chairman, the gentleman from Pennsylvania, in recommending that this amendment not be adopted. It was offered in the committee, and at that time it was defeated overwhelmingly not because we disagreed with the gentleman from Massachusetts, because there is a critical need, but as the gentleman from Pennsylvania pointed out, testing is only partly complete. We do not have any assurance that there will be complete testing before the end of the fiscal year.

As the gentleman from Massachusetts has properly said, the first production item will be something different from the prototype. The majority of the committee felt that with something new such as this there was a very substantial probability that a second set would be a much improved set. The gentleman from Massachusetts said there were 700 oil spills. Let me make it perfectly clear that this equipment is not for the purpose of cleaning up oil spills but, rather, for pumping out up to 20,000 tons of oil from a distressed tanker so that the danger of leakage will be far less, because it will reduce the stress and strain on the ship by reducing the cargo it is carrying. If the spillage is occuring at a certain level of the ship's hold, the oil can be pumped down to that level so that it will not spill. However, this is not for the purpose of cleaning up spilled oil but, rather, for the purpose of minimizing the spill.

What we are providing in the bill, for a new scheme like this, is one set, which is quite adequate, I believe. I hope by the time we find how well it works we will have an improved model available. I feel confident that we will order the necessary number of units if it works successfully.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. Mr. Chairman, I thank the gentleman from Iowa for yielding to me.

Admittedly this transportable system is not for the purpose of cleaning up oil spills, but a spill invariably follows when a vessel runs aground, and it takes some time—3 or 4 days—to break up. As the oil starts to spill, in the process of the ship's breaking up, something can be done, and that is why we have this system. This system would be used to unload the oil from the ship that is breaking up so that we will not have an oil spill.

For examples, we had the disasters of the *Torrey Canyon* and the *Ocean Eagle*. These were caused by ships running aground and gradually breaking up. By transloading the oil from ships that have run aground, you can then prevent the oil spill. Had this system been available at the time of the *Torrey Canyon* disaster, it would have been a godsend to those people.

It took weeks for all that oil to leak from that vessel and the same applies to the other vessels in Puerto Rico, in Florida, and in Cape Cod.

Mr. KYL. Mr. Chairman, as long as we are still in the experimental stage on this proposition, I think it is folly to approve more than one unit. Therefore, I oppose the amendment which has been offered by the gentleman from Massachusetts.

Mr. HATHAWAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I would like to address a question to the gentleman from California (Mr. MAILLIARD) and ask the gentleman if it is true, as the gentleman stated—at least as I recall he stated—that the prototype will be tested this fiscal year which ends on the 1st of July, and why should we authorize more money until we are sure the prototype worked and why would it not be wise to wait until the prototype is proven. As I understand the situation from talking with people of the Coast Guard, we should have one for each coast which could be built without any great difficulty.

Mr. MAILLIARD. Mr. Chairman, if the gentleman will yield, I think we have a perfectly honest disagreement as to the prudent manner in which to proceed. My best information is that we do not have a guarantee that the testing will be completed by the end of the fiscal year. But I still think that is not the point, whether it goes into the next fiscal year. I think we should still hope that the Committee on Appropriations would provide the money that would permit one complete set or a prototype to be ordered, and if it is successful—and, hopefully, perhaps improved—you could order more. But at this stage—this experimental stage—it would be my personal judgment that ordering one set to be actually put into operation would be prudent because in my opinion we could vastly improve the amount of oil that this set is prepared to take off a tanker, 20,000 tons.

The gentleman from Massachusetts (Mr. KEITH) is more of an expert on this than am I. However, I am not at all sure that a capacity like that would have been of any major assistance in something like the *Torrey Canyon* case and that they would have been able to pump with this gadget the oil into another tanker. Otherwise, I feel the damage would be done which would be well beyond the capacity of this system.

Mr. HATHAWAY. If the gentleman will respond to one additional question, Does the gentleman know how long it takes to construct one of these so-called systems?

Mr. MAILLIARD. No, I am sorry to say I do not really know. But I do not think it is a terribly complicated process insofar as design is concerned. As I understand, it is made of plastic which is usually not a very difficult material with which to carry out a construction job.

Mr. HATHAWAY. Mr. Chairman, one further thing is this: It bothers me as to whether the amendment is accepted. As I understand it the Coast Guard previously requested two such systems as they were confident they would work, but that the Department of Transportation would not approve the construction of two systems and that the Bureau of the Budget for budgetary reasons cut out one because of inflation.

Mr. MAILLIARD. Mr. Chairman, if the gentleman will yield further, I do not think that is quite the sequence of events, if I understand them correctly. It is my understanding that the testing of the prototype fell quite a bit behind what they originally contemplated and the Bureau of the Budget did not cut out this relatively minor item. The Coast Guard itself cut it out not because of the general budgetary situation but because they have not moved as fast as they had anticipated.

The representatives of the Coast Guard, as I remember their testimony before the committee, stated that with the progress that had been made this was not the ideal end result of the program.

Mr. HATHAWAY. Mr. Chairman, all I can say in conclusion is that it is too bad that there is a dispute as to the facts, because I understand the facts to be different than does the gentleman from California and that is that the Coast Guard does want both of them.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. In my opinion, the committee has already gone one step too far in the matter of providing for one system of this equipment. I know of no obligation on the part of the taxpayers of this country to clean up oil spills that are the responsibility of private interests. Why should not the oil companies or the shipping companies that are responsible for oil spills take care of their own mess? Why should this be saddled on the taxpayers of the State of Iowa and elsewhere?

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from California.

Mr. MAILLIARD. Mr. Chairman, in reply to the gentleman from Iowa, I would state that this is a very important point, and one that our committee has been struggling with. There is no question but that whoever actually causes the spill, whoever it is, is responsible for it, and is legally responsible for it, and financially responsible for it, but if for some reason they are unable to gather the necessary equipment or take the necessary steps to protect our coastline and our fish and wildlife, then the present responsibility for coordinating and cleaning up and billing the responsible people, if necessary, has been placed in the hands of the Coast Guard. Because it does not make any difference what the cause is, it is the damage that is done, and if that is not immediately controlled in some way then that damage can be tremendous, as we know from what happened in England, and as we know from what happened at Santa Barbara, and recently in Alaska, and so forth. So we and clean it up, and we will bill the responsibilities for the U.S. Government, but we are telling the agency that if nobody else cleans it up, then get out there and clean it up, and we will bill the responsible parties for it later.

Mr. GROSS. But if it is not the taxpayers who are paying for this first control system, then who is paying for it?

Mr. MAILLIARD. The gentleman is correct, but we are trying to have the equipment available to protect our fishing and wildlife.

Mr. GROSS. Why do not the oil companies have such equipment?

Mr. MAILLIARD. They should have it, but supposing they do not? Supposing it is a tanker company that has tankers moving around the world. It cannot have equipment at every beach.

Mr. GROSS. Neither do I think the taxpayers of the entire country should have to assume the responsibility of providing protection for every beach. Nor do I think we should provide assistance all over the world to back up the operators of tankers.

Mr. MAILLIARD. We are not proposing to do that.

Mr. GROSS. What are you proposing to do?

Mr. MAILLIARD. We are proposing to protect our own beaches, to the extent we can, and to see that whoever is responsible for the damage pays the bill.

Mr. GROSS. Well, I do not see why private interests should not take care of such a system themselves. They should have the equipment and have it on standby basis if they are going to drill oil wells in the Gulf of Mexico. Incidentally, there has been much talk about two coasts. There are more than two coasts to be taken into consideration in connection with oil pollution. But for the life of me I cannot understand why those who pollute—and I understand that there is more than one way to pollute the waters off our coasts—cannot be held responsible for the damage and the cleanup.

Why should not the companies that are involved in the transportation of oil or the drilling for oil take care of these situations without coming to the Congress for assistance?

Mr. MAILLIARD. If the gentleman will yield further——

Mr. GROSS. Yes, I will yield further to the gentleman.

Mr. MAILLIARD. I would think that where it is within the control of the U.S. Government, such as where we make the oil leases and give them the authority to drill, I would think they should be required to have the necessary equipment. But I do not quite see how we can get an international oil tanker that flies a foreign flag and that might not even be intending to come into one of our own ports, but passes near Florida and possibly goes on a reef, I do not see how you can compel them to have the necessary equipment available.

Mr. GROSS. Well, we could assess damages against them. We could prohibit them from coming into our ports, which could have quite an effect on them.

Mr. MAILLIARD. But the very largest tankers in the world for the most part do not come into our ports, but they still come by our coasts, and they are quite a great risk to us.

Mr. GROSS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. KEITH).

The amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLYNT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 15694, to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard, pursuant to House Resolution 875, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLARK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

TULELAKE AREA DURUM WHEAT ALLOTMENTS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 874 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

XUM

H. Res. 874

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The **SPEAKER**. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 874 provides an open rule with 1 hour of general debate for consideration of S. 858 to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

The purpose of S. 858 is to increase permanently from 8,000 to 12,000 acres the aggregate wheat allotments in the irrigable portion of the Tulelake area of California. Increased allotments would be available only to privately owned farms which agreed to plant their entire allotment to Durum wheat.

Durum wheat is commonly utilized in making pasta products and quality manufacturers have steadfastly refused to substitute other types of wheat in these products. There is a great demand for Durum on the west coast and if its production in the Tulelake area was terminated, it would have to be shipped from the Dakotas, Montana, or Minnesota at prohibitive rates and the consuming public would, of course, bear the brunt of the cost increase.

The Durum wheat in the area is milled domestically, subject to a processing tax of 75 cents per bushel, which would result in a savings of $16,300.50 for fiscal year 1971.

Mr. Speaker, I urge the adoption of House Resolution 874 in order that S. 858 may be considered.

The **SPEAKER**. The Chair recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, the purpose of the bill is to make permanent the wheat acreage in the irrigable part of the Tulelake, Calif., area.

The acre increase would be from 8,000 to 12,000 acres and would be available only to privately owned farms which agree to plant their entire allotment in Durum wheat.

Previous Congresses have recognized the special circumstances of the area and passed legislation to provide such wheat allotments on a temporary basis. This will make the allotments permanent and set the acreage at 12,000 acres.

The committee report points out that this type of wheat is needed on the west coast and that the farms in the area are small and that most of the farm owners have a total income of less than $4,000 per year. The report also notes that the Department of Agriculture will save $16,300 in fiscal 1971, if the legislation passes.

The Department of Agriculture opposes the bill because it gives favored treatment to a few producers. It points out that national production of Durum wheat is sufficient to meet both domestic and export requirements.

My only regret about this bill, Mr. Speaker, is that there are no benefits to our Soft Red Winter wheat producers. I have many of these producers in my district and they are in dire need of some additional help and it cannot come too soon.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER**. Pursuant to House Resolution 874, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 858, with Mr. FLYNT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The **CHAIRMAN**. Under the rule, the gentleman from Texas (Mr. PURCELL) will be recognized for 30 minutes, and the gentleman from North Dakota (Mr. KLEPPE) will be recognzied for 30 minutes.

Mr. KLEPPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I only want to say I think the gentleman from Washington has explained the bill. I may add just one point. The United States Durum Growers Association has as its president a resident of my State of North Dakota. He is not from my district, but he is from North Dakota. That organization has sponsored and does approve and support this legislation. I think it is important for the Members to know that this legislation has their support.

Mr. Chairman, I rise in support of S. 858. This bill would extend to a deserving group of wheat farmers in California the opportunity to grow more high quality Durum wheat for a localized market.

It would not add any Government expense to the wheat program. There is no authority in the bill for certificate payments or for diversion payments on the additional acreage granted to these California producers.

Now, it might seem strange to some of my colleagues to hear me advocate the passage of this bill, in that I have the privilege of representing America's No. 1 Durum State. But I say that as a representative from a great Durum wheat area, my constituency has raised no objection to California growers expanding their production to reach a market which at this point is inaccesible to North Dakota Durum.

Under this bill the Tulelake growers could plant up to 12,000 acres of wheat—or approximately 4,000 acres more than presently allowed. The extra production on this increased acreage will be marketed without subsidy from the Government and with jeopardizing the Tulelake's farmers' eligibility for the program benefits they enjoyed in the absence of this privilege to increase their production.

As I said, the Government cannot lose on this bill. It may, in fact, even profit from the bill. It will, to the extent that increased consumption of Durum wheat as food occurs. You see, the Government collects 75 cents from processors for each bushel of wheat changed into human food. Thus, the estimated production of 543,000 bushels will yield some $408,000, all of which will be retained by CCC.

In summary, Mr. Chairman, this is a bill which gives wheat farmers in the Tulelake area of California a choice—a choice to grow more wheat for the market and without Government assistance.

It is a good bill and it deserves the support of the House.

Mr. Chairman, I reserve the balance of my time.

Mr. PURCELL. Mr. Chairman, I yield to the gentleman from California (Mr. JOHNSON) such time as he may consume.

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 485, a bill to increase Durum wheat allotments in a limited area of Siskiyou and Modoc Counties of California, both of which I represent here in Congress. This bill applies only to these areas and does not affect any other region, either in California or throughout the Nation. The Tulelake Basin, of which we are concerned, is the only area in California in which Durum wheat suitable for milling is produced. All of the Durum wheat grown here goes into macaroni production, and the Pacific coast producers of pasta products can use whatever Durum can be grown in Tulelake. It should be emphasized that this market for Durum was developed largely by the growers themselves over the years, but acreage allotments have not kept pace with consumer demand.

For those of you who are not familiar with our area, we are located in the northeast corner of California where Siskiyou and Modoc Counties join the State of Oregon. This is a high—slightly over 4,000 feet—desert area surrounded entirely by mountains. Frosts can, and all too often do, occur any month of the year. The soil is highly productive but due to climatic conditions and distance from markets, only the hardy type crops such as malting barley, Durum wheat, alfalfa hay, and potatoes can be raised.

Prior to the time we started growing Durum wheat in 1953, the Tulelake Basin farmers were famous for growing malting barley which was marketed throughout the United States, England, and South America. But with the advent of acreage allotment controls on cotton, rice, and wheat the acres previously pro-

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ducing these crops in the Midwest started raising malting barley on the diverted acres. We lost our Midwest malting barley markets. Today the market for what malting barley we do produce is limited exclusively to the west coast.

In H.R. 485, we seek a permanent Durum wheat allotment of 12,000 acres. Much of the land in the basin is publicly owned, but this legislation deals only with some 40,800 acres of land under private ownership, land acquired largely by ex-GI homesteading after World War II. No other land in this area can be brought under cultivation.

In 1956 and 1957, Congress granted a 2–1 acreage increase in Durum wheat to North Dakota, South Dakota, Montana, Minnesota, and the Tulelake Basin. In 1958, Congress approved special legislation granting a minimum of 8,000 acres of Durum wheat to the Tulelake Basin. Subsequently, other special, temporary legislation was enacted for the purpose of building up permanent wheat allotments in Tulelake. Unfortunately, this has not be accomplished.

Instead of obtaining permanent allotments of up to 12,000 acres as Congress had intended, Tulelake farmers have only 4,698.5 acres of allotments on private-owned land.

West coast consumption of pasta products is 2,099,064 hundredweight. Planting the entire acreage allotment and assuming a high yield of 4,800 pounds per acre will produce 225,528 pounds of Durum. On the basis of 71.5 pounds of Semolina from 100 pounds of Durum we need 2,600,000 hundredweight of Durum to meet the west coast need alone.

It should be emphasized that Tulelake Durum wheat has never been put under loan. Actually, this Durum is always sold within 4 months of harvest.

The Department of Agriculture mentions that the wheat program is a voluntary one and the growers can forgo program benefits and plant unlimited acreages. This restricts the raising of Durum to only allotted acreages. The profit made by farmers now is reflected in the price paid by millers for the domestic milling certificates which will not be issued on the increased acreage, according to the provisions of the bill before us. This means that the U.S. Government makes a profit on all of the Durum that is milled under existing programs and I estimate it will make an additional $360,000 a year under the program as extended.

With small Tulelake homesteads of 70 acres or less the barley substitution program is profitable. Most farmers in Tulelake have only a small barley base and they cannot afford to leave 20 percent of their farms fallow to qualify under the barley substitution program.

The Southwest Miller reports that Durum acreage planted in 1969 was 9 percent less than in 1968. The U.S. Durum Wheat Growers also report on July 1, 1969, record exports of Durum for the past 12 months. Exports exceeded 50 million bushels compared to 31 million bushels last year. This is 163 percent of last year compared to 110 percent for Hard Red Spring wheat, 62 percent for Hard Red Winter wheat, 33 percent for Soft Red Winter wheat, and 57 percent for White wheat.

Mr. Chairman, it should be emphasized again that the demand for Durum wheat to meet the needs of the manufacturers on the Pacific coast is such that the entire area could be planted to Durum wheat without satisfying the complete demand and, therefore, a 12,000 acre allotment is not unreasonable in that there will be a permanent market for this product.

I feel that the earlier legislation, the most recent of which is found in Public Law 88–64 approved by the House of Representatives on July 8, 1963, and signed into law 9 days later, establishes the precedent which we base our hopes on today. The 1964 crop, by that legislation, was increased to 12,000 acres, but for that year only.

In conclusion, Mr. Chairman, I want to say that the National Durum Wheat Growers Association have gone on record approving H.R. 485. This association is comprised of midwest Durum farmers. They can see the need for this legislation which will not hurt their sales of Durum due to freight rates from the Midwest to the west coast. There is no surplus of Durum wheat on the west coast, in fact there is a shortage.

This bill will not cost the Government a dollar—in fact, the Government will make a profit.

Since there is a need for additional west coast Durum wheat, there is no cost involved for the United States and no other area will be hurt by H.R. 485, I respectfully ask for your approval of this legislation.

Mr. PURCELL. Mr. Chairman, I have no further requests for time.

Mr. KLEPPE. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

S. 858

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That subsection (j) of section 334 of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1334), is amended to read as follows:

Mr. PURCELL. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. HALL. Mr. Chairman, reserving the right to object, may I ask if the Clerk read the bill, H.R. 485, or the bill, S. 858, which was made in order by the rule?

The CHAIRMAN. The Chair will respond to the gentleman from Missouri that the Clerk is reading from the bill, S. 858.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Chairman, further reserving the right to object, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HALL. How long is the Senate bill?

The CHAIRMAN. The Chair will state to the gentleman from Missouri that the Senate bill, S. 858, is approximately two and a half pages long.

Mr. HALL. Under the circumstances, not having it before us, I ask that the Clerk read it. I object to the unanimous-consent request, Mr. Chairman.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk read as follows:

"(j) Notwithstanding any other provision of this Act, the Secretary shall increase the acreage allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tulelake division of the Klamath project of California located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, and hereinafter referred to as the area. The increase for the area for each such crop shall be determined by adding, to the extent applications are made therefor, to the total allotments established for privately owned farms in the area for the particular crop without regard to this subsection (hereinafter referred to as the original allotments) an acreage sufficient to make available for each such crop a total allotment of twelve thousand acres for the area. The additional allotments made available by this subsection shall be in addition to the National, State, and county allotments otherwise established under this section, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this subsection for the production of Durum wheat. The Secretary shall apportion the additional allotment acreage made available under this subsection between Modoc and Siskiyou Counties on the basis of the relative needs for additional allotments for the portion of the area in each county. The Secretary shall allot such additional acreage to individual farms in the area for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm, if any. The increase in the wheat acreage allotment for any farm under this subsection (1) shall not be taken into account in computing the farm wheat marketing allocation under section 379b, and (2) shall be conditioned upon the production of Durum wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 339."

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. Flynt, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill S. 858, to amend the Agricultural Adjustment Act of 1938 with respect to wheat, pursuant to House Resolution 874, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 485) was laid on the table.

GENERAL LEAVE

Mr. PURCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GILBERT BILL TO ESTABLISH A SENIOR CITIZENS SKILL AND TALENT UTILIZATION PROGRAM

(Mr. GILBERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILBERT. Mr. Speaker, the Congress and the executive branch last year went part of the way toward relieving the unfair burdens on senior citizens when it passed the 15-percent increase in social security benefits.

There is much more yet to be done and I would hope that my bill to increase social security benefits by 50 percent would receive consideration by the Congress this year.

Nevertheless, there are other actions we can take to ease the financial plight of our elderly who live on fixed incomes, while at the same time providing means by which these skilled and talented people can perform a vital service to the communities in which they live.

I have today introduced a bill, the Senior Citizens Skill and Talent Utilization Act, which I believe will go a long way toward making better use of our senior citizens in communities all over our Nation.

My bill would provide Federal grants to local community groups to employ senior citizens to perform community improvement projects. Those of us who have been actively working on behalf of senior citizens in the past have been amazed at the wealth of talent available. We have been equally amazed at how underutilized it is in so many communities.

If by utilizing the talents of people whose skills have been sharpened, over decades of experience, we can at the same time lift these citizens above the poverty level, I see no reason why Congress should not act immediately.

My bill proposes that Congress appropriate $50 million in fiscal 1971 to begin this program, and within 2 years, increase the level of funding to $125 million. I would hope by then that the benefits of this program, to the communities as well as to the senior citizen participants, would be so well documented that we could fund the program at a much higher rate.

Mr. Speaker, we in Congress too many times have had to consider programs against something. My program is perhaps unique in that it is for something. It is an enrichment program for the young and for local communities. And at the same time it allows our older citizens to perform needed valuable services within their communities. These people have worked for years and deserve to spend their golden years in dignity and useful service.

ST. PATRICK'S DAY

(Mr. HUNGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUNGATE. Mr. Speaker. This seems an appropriate time to pay tribute to one of the finest Members and most complete Irishman this body ever had, our good friend MIKE KIRWAN. It seems to me St. Patrick's Day would be a good time, and a tribute to the Irish the best way, to show MIKE our esteem for him.

St. Patrick was a gentleman,
Who through strategy and stealth,
Drove all the snakes from Ireland—
Here's a bumper to his health.
But not too many bumpers,
Lest we lose ourselves and then
Forget the good St. Patrick
And see the snakes again.

Pure water is the best of gifts that man to man can bring.
But who am I that I should have the best of everything?
Let princes revel at the pump, let peers with ponds make free,
Whiskey or wine, or even beer, is good enough for me.

—Neaves.

O'SLATTERY'S LIGHT DRAGOONS

You have heard of Julius Caesar and of great Napoleon, too,
And how the Cork militia beat the Turks at Waterloo.
But there's a page of glory that as yet remains uncut,
'Tis the immortal story of O'Slattery's mounted foot.

This gallant corps was organized by O'Slattery's oldest son,
A noble minded poacher with a double-breasted gun,
And many a head was broken, aye, and many an eye was shut
In learning to maneuver with O'Slattery's mounted foot.

Then down the mountains came the squadrons and platoons,
Those four and twenty fighting men and a couple of stout gossoons.
The band was playing merrily those patriotic tunes
Secure that fame would gild the name of O'Slattery's light dragoons.

First they'd reconnoiter 'round Shanahan's old shebeen;
It used to be a chop-house, but we called it the canteen,
And there we saw a notice that the bravest heart unnerved:
All liquor must be settled for before the drinks are served.

So on we marched but again soon each warrior's heart turned pale.
For rising high forninst us we beheld the county jail.
And when the army faced about 'twas in time to find
A couple of policemen had surrounded it from behind.

"Across the ditch," our leader cried, "and take the foe in flank,"
But yells of consternation then arose from every rank;
For posted high upon a tree we very plainly saw:
Trespassers prosecuted in accordance with the law.

"Foiled again," cried O'Slattery, "here ends our grand campaign,
'Tis merely throwing life away to cross yon raging drain;
I'm not so bold as lions but I'm braver nor a hen,
And he who fights and runs away will live to fight again."

So back to the mountains went the squadrons and platoons,
Those four and twenty fighting men and a couple of stout gossoons,
The band was playing cautiously those patriotic tunes,
To gild the fame, tho' rather lame, of Slattery's light dragoons.

We reached the mountains safely tho' all stiff and sore with cramp,
Each took a neat of whiskey straight to dissipate the damp;
And when their pipes were loaded up O'Slattery up and said:
Today's immortal fight will be remembered by the dead.

"I never will forget," said he, "while this brave heart shall beat,
The eager way ye followed when I headed the retreat,
Ye've heard the soldier's maxim when desisting from the fight;
'Best be a coward for five minutes than a dead man all your life.' "

So there in the mountains rest the squadrons and platoons,
The four and twenty fighting men and a couple of stout gossoons.
They march no more so martially to patriotic tunes,
But all the same they sing the fame of O'Slattery's light dragoons.

SHANAHAN'S OULD SHEBEEN

(By Gerald Brennan)

This is the tale that Cassidy told
In his halls a-sheen with purple and gold;
—Told as he sprawled in an easy chair.
Chewing cigars at a dollar a pair.
—Told with a sigh and perchance a tear
As the rough soul showed through the cracked veneer;
—Told as he gazed on the walls near by,
Where a Greuze and a Millet were hung on high,
With a rude little print in a frame between—
A picture of Shanahan's old shebeen.

"I'm drinkin' me mornin's mornin'—but it doesn't taste the same;
Though the glass is iv finest crystal, an' the liquor slips down like crame;
An' me cockney footman brings it on a soort of a silver plate,—
Sherry and bitters it is; whiskey is out iv date.
In me bran' new brownstone manshin'—Fift' av'noo over th' way,
Th' Cathedral round th' corner, an' the Lord Archbishop to tay,
Sure I ought to be sthiff with grandeur, but me tastes are mighty mean,
An' I'd rather a mornin's mornin' at Shanahan's ould shebeen.

"Oh! well do I mind th' shanty—th' rocks, an' the field beyant,
The dirt floor yellow wid sawdust, an' th' walls on a three-inch shlant.
There's a twelve-story 'flat' on th' site now—('twas meself that builded the same),
An' they called it "The Mont-morincy'—though I wanted the good ould name.
Me dinner-pail under me oxther, before th' whistled blew,
I'd banish th' drames from me eyelids wid a noggin', or maybe two;
An' oh! 'twas th' illigant whiskey—its like I have never seen
Since I went for me mornin's mornin' to Shanahan's ould shebeen.

"I disremember the' makers—I couldn't tell you th' brand;
But it smiled like the golden sunlight, an' it looked an' tasted gr-rand.
When me throat was caked with morthar an' me head was cracked wid a blast,
One drink o' Shanahan's dewdrops an' all me troubles was past.

That's why, as I squat on th' cushins, wid divil a hap'orth to do,
In a mornin' coat lined wid velvit, an' a champagne lunch at two,
The' mem'ry comes like a banshee meself an' me wealth between;
An' I long for a mornin's mornin' in Shanahan's ould shebeen.

"A morin' coat lined wid velvit—an' me ould coat used to do
Alike for mornin' an' evenin' (an' sometimes I slep' in it, too),
An' 'twas divil a sup iv sherry that Shanahan kept—no fear;
If you couldn't afford good whisky, he'd take you on trust for beer.

Th' dacintest gang I knew there—McCarthy (Sinathor since),
An' Murphy that mixed th' morthar (sure th' Pope has made him a Prince),
You should see 'em, avic, o' Sundays, wid faces scraped an' clean,
When th' boss stood a mornin's mornin' round Shanahan's ould shebeen.

"Whist!—here comes his Grace's carriage; 'twill be lunchtime by an' by;
An' I dasn't drink another, though me throat is powerful dry;
For I've got to meet th' Archbishop—I'm a laborer now no more,
—But, ohone! those were fine times, then, lad, an' to talk o' 'em makes me sore.
An' whisper—there's times, I tell you, when I'd swap this easy chair,
An' the velvit coat, an' th' footman, wid his Sassenach nose in th' air,
—An th' Lord Archbishop himself, too, for a drink o' th' days that ha' been,
For th' taste o' a mornin's mornin' in Shanahan's ould shebeen."

MIGRANT HOUSING

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUTCHINSON. Mr. Speaker, migrant labor housing standards promulgated by the Department of Labor are being rigidly enforced in the fruit- and vegetable-producing areas of southwestern Michigan. The unrealistic and impractical application of the standards, from the growers' point of view, has resulted in an organization intent on obtaining Federal aid in the construction of migrant housing. Their position is that if the Government requires housing for migrants beyond the financial ability of the grower to provide, the Government should bear a part of the burden. Illustrative of the manner in which the standards are being applied is the reported case of a grower who just completed a new house for his family, but found that if the house had been built for migrants it would not pass inspection—the windows were not properly spaced. In other cases, shower facilities which passed the requirements of distance from the dwellings at the time of construction now are declared too far away.

There is a growing opinion that the Government seeks to discourage the use of migrant labor in the area, though such labor is presently essential to the harvesting of crops.

A principal complaint of the growers is that they need to obtain individually and annually the housing permit required before they can utilize the services of the U.S. Employment Service in obtaining essential farm labor.

A year ago I was asked to come to their assistance and I arranged to have a Labor Department official, armed with authority, go into the area and there act upon individual applications.

Today these growers are faced with the same problems they experienced last spring. The following editorial, from the March 10, 1970, issue of the Benton Harbor, Mich., News-Palladium describes the present situation:

CURING A HEADACHE BY CHOPPING OFF HEAD

Southwestern Michigan bankers are joining forces with the area's fruit and vegetable growers to pry off a housing lid imposed by the U.S. Labor Department on migrant facilities.

Before a grower can recruit outstate migrant workers, he must now obtain a license from the Department specifying the housing to be provided for the work crews.

If the reader might ask why should a farmer seek out a labor force from the southern states where there is a large available employment pool in the county's welfare rolls, the answer is simple.

The growers gave up on that one years ago. Michigan's unemployed are not interested in the farm.

The complaint is that the Labor Department is imposing unrealistic housing requirements as a round about means to phase out all migrant work in the U.S.

Ostensibly the regulations on minimum housing are to eradicate the pig pen accommodations which in the past have all too frequently characterized the rural living scene.

In practice, say the bankers and their farm customers, the costs for the upgraded housing in relation to farm prices are becoming unbearable.

Last week, the growers proposed a solution: let the federal government assume some financial responsibility for migrant housing.

It's unlikely either the growers or their bankers really want the U.S. to set up a bunch of Hilton hotels for migrants. More probably they just want to jolt the bureaucrats and the public into a realization of how serious the local situation really is. Possibly, thereby, the Labor department will ease its headlong rush to abolish migrant labor.

Fruit growers are turning increasingly to mechanical harvesting as a replacement for scarce farm workers. But the mechanical harvesting technology is far from being so advanced it can replace human harvesters now.

Many growers say without migrants, they'd have to give up growing strawberries here. The fresh market outlet for peaches, apples and other tree fruit could be erased, too.

This could spell catastrophe for the entire Fruit Belt, coming on top of what two local bankers say is a 50 per cent drop during the past five years in the net value of farming in Southwestern Michigan.

Judging by the fact that migrants still want to come here, local conditions can't be too bad. It's questionable whether the Labor department is helping anyone by substituting overnight social action for reasonable regulation of migrant housing.

The migrants will sit all summer on welfare with no jobs. The growers will suffer, perhaps catastrophically. And the housewife will pay more for fruit.

On the other hand, adjustments by all parties involved could be made painlessly if the Labor department would simply set a realistic time schedule allowing improved housing, technology and social philosophy to mesh smoothly during conversion.

REINSTATING RESPONSIBILITY IN OUR JUDICIAL SYSTEM

(Mr. MIZELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MIZELL. Mr. Speaker, yesterday's decision by the U.S. Supreme Court to uphold a stay of a lower court desegregation plan in Charlotte, N.C., must be recognized as a move toward reinstating responsibility in our judicial system. The decision will relieve the city of Charlotte from complying with a ridiculous court order until the judicial process has been completed.

The city of Charlotte is faced with an order that, if enforced, will almost assuredly destroy its school system. The school board in that city has been ordered by a Federal judge to carry out a plan that would require the busing of more than 15,000 students daily in order to meet certain standards. The cost of compliance would be astronomical. The city of Charlotte simply cannot afford such a financial burden.

The Charlotte situation is not unique, however. The same type of irresponsible decisions are facing many major cities across the Nation. The best known case is in Los Angeles, Calif., where the courts have required the busing of more than 150,000 students per day and at a phenomenal cost. Under these orders, the neighborhood school concept is totally destroyed, and those who should benefit the most from our educational system suffer the most; those being the students, the young people who have to face the brunt of our problems.

Yesterday's decision by the High Court is an indication that a more rational approach is being taken toward our school problems by our courts. The decision was a complete reversal from one made by the Supreme Court last fall requiring immediate, complete desegregation, no matter what the judicial status of the case may be. It is now time for the Congress to take action that will assure that no more of these ridiculous, irresponsible decisions are imposed by our lower courts. We must have nondiscriminatory education, but it must be accomplished in a responsible and rational way. Three weeks ago, I introduced a bill that I feel will accomplish this goal. I would like to take the opportunity to call on the chairman of the Education and Labor Committee to take immediate steps to bring to the floor for action by the House, a bill that will preserve our public school system.

ST. PATRICK

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, on this day when we all share in the great tradition of the Irish, it is fitting that we pause to remember some facts about St. Patrick whose day this is.

I bring to the attention of my colleagues an editorial in today's Washington Post on the subject of St. Patrick's life and insert the text of the editorial at this point in the Record:

St. Patrick

We really do not know so much about Saint Patrick when legend and ebullient afterthought have been winnowed out of the chronicle. We do know, or can safely assume anyhow, that he did not wear a green hat or march in parades, and there is also grave doubt among scholars as to his banishment of the serpents from Ireland. Still, in this day of the paper shamrock and the vegetable-dyed commemorative green bagel, we think we could all do worse than to consider the few facts that are known about Saint Patrick and that make his life so well worth celebrating.

He was born toward the end of the fourth century and grew up on the west coast of Roman Britain. His family were Christians—his father a medium-ranking civil servant and deacon—and he was provided with a modest education. He lived in a time of great disorder, uncertainty, danger and change; the Imperial army was disengaging, as we should now say, from Britain and western Gaul to defend Rome against the invasions; increasingly independent and ambitious Roman military leaders, local despots and brutal raiding tribes presented a constant threat to life and livelihood. When he was 16, Patrick was kidnaped by Irish pirates in a coastal raid and sold into slavery in County Antrim. It was during the six desperately lonely slave years as a herdsman, by Patrick's own recorded account, that his faith came first to sustain him and then to consume his feelings and his thoughts. He escaped when he was 22, hired on to a ship (tending a cargo of ferocious Irish hounds) that took him to Gaul, and at some point appears to have gone home to Britain for a brief sojourn and decided that he wished to return to Ireland in a missionary role.

His apprenticeship was, to put it mildly, prolonged. He went back to Gaul and studied and served at the famous bishopric of Auxerre where he was ordained a deacon, but he did not acquire the mission to Ireland he sought until he was nearly 50 years old. Impudent snobbery, so as to say, on the part of his colleagues and superiors appears to have had something to do with it, proceeding from a weakness that Patrick, with his rustic training, was quick to acknowledge: "I am despised by many. I have been afraid to put what I want to say into writing, for Latin is still to me a foreign tongue; anyone can see that, from the way I speak and write it. I am still seeking that skill which should have been mine long ago."

In the year 432, Patrick was finally sent to Ireland to preach, teach, convert, and to organize the church. It was his life's goal, but it was anything but a comfortable or easy lot ("Daily, I expect for myself either murder or capture or slavery"). Unlike the great lonely, wayfaring Celtic saints who were to follow and whose mission—back to continental Europe—did so much to preserve and enhance both learning and faith during Europe's subsequent agony, Patrick was heir to a more bureaucratic role. But it was largely his effort and his passion that produced the original conversions and, ultimately, the generations of wandering Celtic saints. And although he was not, in their sense, *peregrinus*—the exile, the stranger—in another sense his mission made him one. "I live among untaught clansmen," he writes, "a stranger and exile for the love of God."

We bring all this up for no other reason than that it is Saint Patrick's feast day, and we think he must have been a splendid man.

NEWS PRESENTATION

(Mr. ROONEY of Pennsylvania asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. ROONEY of Pennsylvania. Mr. Speaker, much has been said about Vice President Spiro T. Agnew's criticisms of news presentation by virtually all media.

Whether or not one agrees with the Vice President may depend on the individual's past personal encounters with reporters, his political philosophies, his employment, social status or any of a myriad of factors which consciously or subconsciously influence his views.

What is news to the small rural weekly often is not news to the large metropolitan daily. Subjects that are explored in depth by the broadbased urban dailies often must be relegated to distant observations by the smaller publications with limited staff and resources.

Thus, many factors may contribute to the identification of any given event as newsworthy. Similarly, many personal characteristics of the individual reader or viewer will prompt him to conclude that the report did or did not warrant the coverage it received, or was or was not distorted by the presentation.

In the final analysis, for any event or situation to warrant substantial attention from the media, it must stand on its own two feet as a matter which is newsworthy. Once it has attracted attention of the media, whether the news is good or bad, appropriate or inappropriate is determined largely by the vantage point of the reader, listener, or viewer.

Frank Mankiewicz and Tom Braden very effectively made this point during a recent radio commentary on the subject of "good news and bad." For those of my colleagues who may not have heard the dialog, I insert a transcript in the Record:

Mankiewicz-Braden Dialog

Tom. Frank, I have been worrying lately about good news and bad news. The reason is that VP Agnew seems to have struck a popular chord with his denunciation of the media. It seems clear that a lot of people don't like what they're seeing, or hearing or reading.

Frank. But that's not the fault of the media, Tom. That's the fault of the world or the times. And even so, how can you tell what's good news and what's bad. Take for example the story about some demonstrators. That's good news for people who don't approve of demonstrators. It's bad news for the demonstrators or for those who agree with them. Or take a story about a 12 year old child hooked on heroin. That's bad news for everybody in the country, but in one sense, it's good news because the publication of it may wake up parents and teenagers to the dangers of drugs and the government to the job of getting after the people who supply them.

Tom. Aristotle once said that the word "good" had two meanings: that which is good absolutely and that which is good for somebody. News which is good absolutely is extremely rare. So perhaps news which is good for somebody is given to us as a kind of consolation for the fact that this is not the best of all possible worlds.

Frank. Sometimes, it's hard to tell the difference between good news and bad news. For example, most of us were brought up to think that unemployment was bad news but over at the Treasury Dept. unemployment is a sign that the administration's anti-inflation measures are taking hold. For that reason, it is regarded as good news. To illustrate the point, Tom and I thought we'd try to show you how an "over the coffee" conversation might go one of these mornings among the administration's anti-inflation fighters.

Frank. "Chief, what's the news?"

Tom. "Housing starts are down again. That's a good sign—and the rate of bankruptcies is up for the 4th straight month. I think we've turned the corner."

Frank. "Well, that's good news, Chief. I was out in Detroit and the Chrysler people announced that they're making plans to lay off more men."

Tom. "Yes, but you have to watch those fellows. They tell you that to your face and then the minute you get out of town they hire them back. Anybody can get a headline by laying off a few thousand people in one day. But that's not real progress. We want that steady day-to-day increase in unemployment. None of these seasonal layoffs. We've seen that before. What's the rest of the news?"

Frank. "Well, gross carloadings are down. Bethlehem says 4th quarter profits will be off and you'll be happy to know that department store sales continue soft. That's pretty good."

Tom. "Straws in the wind, you can't rely on them. Some clown will come along and talk about lowering the interest rates—and all our work is undone. Try as we will, we'll have prosperity again. What's your press release say today?"

Frank. "I think you'll like it, Chief. I borrowed a phrase from Herbert Hoover: 'Depression is just around the corner.' And another from Robert MacNamara. It says 'We think we see darkness at the end of the tunnel.' "

PLANNING FOR SURFACE TRANSPORTATION IN A NATIONAL GROWTH POLICY

(Mr. BROTZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROTZMAN. Mr. Speaker, as concern about the quality of life has intensified in recent years, thoughtful Americans have been urging that both the public and private sectors must begin preparations to meet the problems, challenges, and threats the future will present. These concerns of thoughtful Americans found eloquent expression in the President's state of the Union message. The President said:

> Between now and the year 2000, over one-hundred-million children will be born in the United States. Where they grow up—and how—will, more than any one thing, measure the quality of American life in these years ahead.
>
> This should be a warning to us.
>
> For the past thirty years our population has also been growing and shifting. The result is exemplified in the vast areas of rural America emptying out of people and of promise—a third of our counties lost population in the 1960s.
>
> The violent and decayed central cities of our great metropolitan complexes are the most conspicuous area of failure in American life.
>
> I propose that before these problems become insoluble, the nation develop a national growth policy. Our purpose will be to find those means by which Federal, state and local government can influence the course of urban settlement and growth so as positively to affect the quality of American life.

A national growth policy is vitally needed if we are to escape being engulfed in any one of a number of massive megalopoli stretching, for example, from from Boston to Washington or Chicago to Pittsburgh. Such gigantic clusters of urban areas will be unbroken areas of people, homes, factories, highways, shopping centers, railroads, and powerlines—hundreds of square miles of urban sprawl.

Because of the threat such a state of affairs will pose for the quality of life, I am particularly pleased that this Republican administration has been the first to place the priority on a national growth policy that it deserves. The President's concern about the need to act in this area has already been clearly demonstrated by his actions—creating a national goals staff in the White House to help generate the data needed for intelligent policymaking; and recommending a Commission on Population Growth and America's Future.

It was highly appropriate that the House of Representatives' first major act of the new decade was the passage of H.R. 15165 establishing the Commission on Population Growth and America's Future. By the year 2000, the United States will have a population of 300 million compared to our present 204 million. Population growth of that magnitude is going to place a tremendous strain on our social and governmental institutions and on our physical environment. Coping with these strains will require comprehensive data on trends and future conditions. The Commission on Population and America's Future will be a tremendous help to providing the comprehensive information needed to make effective public policy between now and the year 1980.

PROVIDING FOR TRANSPORTATION IN A NATIONAL GROWTH POLICY

As chairman of the House Republican task force on transportation, I believe that one of the most critical aspects of any national growth policy is its transportation component. Transportation is not an end in itself—but it is a means with tremendous potential for improving the quality of life. A balanced and well planned transportation system can have a tremendous impact on the distribution of population within the country. The right kind of transportation system may hold the key to reversing the trend toward overcrowding in our largest urban centers, the beginning of a dispersal of population, and the growth of the new cities President Nixon called for in his state of the Union message.

As this Congress looks to the future and begins to think in terms of a national growth policy, I believe it must give a high priority to transportation. Certainly, the administration has given transportation a prominent place in its legislative program. Congress is presently considering two important initiatives of the President—the $10 billion public transit bill and the 10-year program to improve air transportation. All indications are that these important measures will become law before the end of this session.

I am, however, concerned about what I see as an imbalance in our current transportation programs. Post-World War II programs in the highway and air transportation fields stand out as legislative landmarks in terms of the improvements they have achieved. But, while spending vast sums improving these modes of travel, we have allowed surface transportation—particularly rail passenger service—to deteriorate to a state where we are now threatened with the elimination of rail passenger service in most areas of the Nation.

The balanced transportation system which experts and laymen say the Nation requires cannot be achieved so long as we have unbalanced Federal programs which provide aid to two important modes of transportation and ignore rail passenger service. In short, I believe that as we plan for a national growth policy, special attention should be given to rail transportation.

TRANSPORTATION NEEDS FOR 1980

There are serious potential transportation crises just around the corner unless we begin now to prevent them. By 1980 our transportation needs will have doubled. The transportation requirements of the rail industry alone will be 50 percent greater than today. In the developing population corridors of the Nation more and more people will turn to rail transit as a safe, efficient, and reliable form of transportation. Government programs should be geared to helping provide the safe, reliable and efficient transportation that these people will need.

RESEARCH NEEDS

Special priority should be given to the contemplated test facility to be located in Pueblo, Colo., which will serve as a proving ground for both conventional rail and advanced systems. Research should also be accelerated to improve rail equipment since the present high incidence of derailments is due in substantial degree to equipment failures. We need urgently research in wheels, suspension systems, brake systems, and improved automatic couplers. This research should involve joint industry and Government communication, direction, and leadership to prevent accidents especially where they involve transportation of hazardous materials.

ADDITIONAL METROLINER-TYPE PROJECTS

The public response to the Metroliner in the crowded northeastern corridor demonstrates that good trains can provide a third alternative mode of corridor transportation. Given the success which this program has had, even though it is not yet operating at the speed and efficiency envisioned for it, I believe that it is time plans were made for additional Metroliner-type programs in other crowded transportation corridors. Under such a program, the Government could provide the necessary startup cost and purchase the equipment. During the demonstration period the railroad would collect the revenue and deduct its operating expenses. The Government and the railroad would then share the remaining revenue. At the end of the demonstration period, should it prove successful, the railroad would be able to purchase the equipment at the purchase price, less depreciation. Such a program would not only provide a mechanism to improve rail passenger service, but would also serve to alleviate our existing transportation problem.

ENVIRONMENTAL PROBLEMS ASSOCIATED WITH TRANSPORTATION

In our desire to restore and reclaim our environment attention should be given to the environmental quality problems resulting from the scattering of rail facilities—shops, stations, yards, and so forth—within urban areas. Rail corridors dissect city core areas and cause serious problems for the safe and efficient mobility of the public especially at grade crossings. Urban renewal programs are often stymied and must await rail relocation or centralization of routes and facilities. In many smaller cities, the scattering of rail facilities results in the necessity of maintaining duplicative emergency and hospital services.

Currently, there is no Federal program to deal effectively with rail relocation and consolidation. I think communities should be able to participate in a program that will allow them to improve the quality of life in their communities through the consolidation and relocation of rail facilities.

As we start this decade and begin the development of a national growth policy, I hope that transportation development will be given a high priority. The time is at hand when we must really follow through on our past rhetoric about having balanced transportation systems and actually develop the Federal programs that will make balanced transportation a reality.

THE WASHINGTON POST'S DOUBLE STANDARD

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, it was quite interesting to read the Washington Post's lead editorial in Sunday's paper indicating their oh-so-self-righteous concern for the plight of children under President Nixon's education program.

Rather than exploring a bit slowly how we, as a nation, can get the most of our dollars spent on education, the Washington Post would have us continue pouring countless billions into past programs dreamt up by social manipulators who feel the only solution to the world's problems is to spend money. The fact is, these programs have not produced the results desired, nor have they guaranteed that money would be spent where Congress intended.

The Post editors make the very accurate statement that there is an inequality of spending per child in the country. Middle and upper class areas—particularly in suburbia—spend in some cases twice or three times as much as urban or rural areas.

Title I of the Elementary and Secondary Act was designed to remove this inequity, but it has failed. Even the Post admits that. But rather than finding a better way to correct the inequity, they argue, let us go right on spending more billions of the taxpayer's money.

As victims of the spend syndrome, the

Post editors only measure success in terms of dollar value—the more money spent, the better off we are. How utterly absurd.

But, the greatest comment in the editorial bears marked resemblance to the refrain of many southern school administrators. In justifying continued reckless spending rather than finding out what we are spending our money for, the Washington Post stated:

> To say we cannot do anything at all about this situation because we do not yet know everything about the learning process—and to say it to inner city children *whose learning time and opportunity are irrecoverable*—seems to us an unconscionable irresponsibility. (Emphasis added.)

Where, I ask, was the Washington Post when massive disruption of southern school systems, through mid-term, court-ordered redistricting, caused great loss of the children's "irrecoverable learning time and opportunity?" Where were they then? I will tell you. They were sitting in their pristine offices contemplating the state of the world and national affairs and applauding the Supreme Court order in their typical holier-than-thou fashion. Never mind the loss of irrecoverable learning time and opportunity where southern children are concerned. Apparently the Washington Post feels that is entirely justified.

Mr. Speaker, I think this is just another example of the Washington Post's double standard of viewing things through a one-track corporate mind.

THE FOREIGN TRADE POLICY OF THIS COUNTRY HAS BEEN RUNNING ON A SINGLE ONE-WAY TRACK FOR 35 YEARS

The SPEAKER pro tempore (Mr. FLYNT). Under a previous order of the House the gentleman from Pennsylvania (Mr. DENT) is recognized for 60 minutes.

Mr. DENT. Mr. Speaker, the foreign trade policy of this country has been running on a single one-way track for 35 years. The so-called reciprocal trade program was first enacted in 1934. Under it our average tariff level has been reduced upward of 80 percent.

Far-reaching economic changes have occurred in this country and in other parts of the world during this long period of time. Yet the national trade policy continues with very little change, thus ignoring the altered conditions that have in the meantime greatly affected international competition.

The President seeks further tariff-cutting authority even though our average staff is less than 20 percent of what it was 35 years ago, when the tariff cutting was inaugurated. The full cuts agreed to under the Kennedy round still have 60 percent of the way to go before their final installment is completed. Therefore the full effects of these cuts have not made themselves felt. Why then extend further authority now to cut what will be left of the tariff in 1972?

The principal economic changes that have transformed the competitive standing of this country in point of both imports and exports in recent years can no longer be successfully concealed, as they have been over the years by false governmental reporting of trade statistics. The competitive tide has been running so strongly against us in recent years that efforts to conceal our weak international competitive standing have come a cropper. Today the handsome trade surplus that measured from $4 to $7 billion annually until the past 2 years has all but disappeared despite the padded statistical device used by the Department of Commerce under which it included foreign aid shipments as exports.

The inclusion of goods paid for by the American taxpayer as exports made it possible to point to our trade policy as a great success whereas we were falling increasingly behind in our competitive exports. At the same time the official statistics showed our imports at their foreign value without including ocean freight and other charges. This practice is contrary to that of nearly all the other leading trading nations. The practice understates the actual costs of our imports by some 10 percent.

Today what appears to be a trade surplus of the magnitude of about a billion dollars is really a deficit in terms of competitive goods. This deficit is in the magnitude of $4 to $5 billion.

By hiding or ignoring these uncomfortable facts, the present administration is able, no less than the preceding administration was able, to propose further tariff reductions, as if other countries needed further inducement to increase their sales in this country. That no such inducement was or is necessary may be concluded from the upward surge of imports in recent years, especially in the form of manufactured goods.

One of our heaviest export items consists of machinery. From 1960–68 our exports of this item doubled—moving from $4.4 billion in 1960 to $8.8 billion in 1968. Imports of machinery, by contrast, increased over fivefold—moving from $0.7 billion in 1960 to $3.7 billion in 1968. This still left a high margin in favor of exports, but the trend is unmistakable, and it has been running very rapidly. Indeed machinery, including the sophisticated products of electronic origin, together with chemicals and aircraft, represent the only important surplus items in exports. An astoundingly wide variety of other products are incurring deficits in varying degrees. The public is little aware of our very weak competitive position.

Such buoyancy as our exports show today is virtually confined to the narrow sector just mentioned. In 1968 we enjoyed an export surplus in these few products of $9.3 billion. Little wonder that some of these industries support the continuing tariff-cutting program.

Compare this record with that of the products classified by the Bureau of the Census as "other manufactured goods." In that group, which includes iron and steel mill products, textiles, clothing, paper and manufactures, rubber manufactures, metal manufactures, photographic supplies, glassware, pottery, boots and shoes, clocks and watches, bicycles, toys, sporting goods, motorcycles, and so forth, a deficit instead of a surplus was shown in 1968. This deficit was one of $5.473 billion. As recently as 1960 this deficit was only $760 million, or about one-seventh of its 1968 magnitude.—Source: Statistical Abstract of the United States, 1969.

At the same time our surplus in the machinery, chemicals, aircraft exports grew only a little over 60 percent from 1960 to 1968.

This simply means that while we had a moderate increase in our trade surplus in the front-running group we suffered a disastrous increase in our trade deficit in the much broader group of "other manufactured goods."

These realities of our changing trade trends are wholly ignored by the thrust of our continuing trade policy.

In 1968 the number of workers employed in turning out the "other manufactured goods" was nearly 2 million higher than those engaged in manufacturing machinery, chemicals, and aircraft. Yet it was in the former group that we suffered the heavy trade deficit. A deficit of this magnitude—that is, of over $5.4 billion—having widened since 1960 so dramatically—sevenfold—reflects a sharp deterioration of our competitive position.

Evidently the trade advisers of the White House have failed to bring these facts to the President's attention. Otherwise the President could not propose further tariff reductions.

Beyond the trade trend in recent years represented by the statistics cited here, which pose a threat of disaster to industries that employ over 7½ million workers, another shift in our trade mix has taken place. It too carries ominous implications. In 1950 only 27½ percent of our imports consisted of manufactured goods. During the 1936–40 period the share was 32.8 percent. In 1968 the share was approximately 65 percent. In other words, our imports have shifted heavily toward goods incorporating a full complement of labor application. The impact on unemployment is therefore twice as great as formerly. In this country employment in manufacturing is of a ratio of about 3½ to 1 in relation to employment in agriculture, mining, fishing, and lumbering, which produce our raw materials. Our imports today therefore offer a sharper threat to our employment than in the past.

Measured in relation to exports of all other countries, American exports, including foreign aid, have lost ground in recent years. This means simply that exports of other countries have expanded more rapidly than U.S. exports. In turn this suggests that their goods are more competitively priced in world markets. In 1960 our share of world exports was 15 percent; in 1967 it was 14.5 percent. Had our exports in 1967 enjoyed the same proportion of world exports as in 1960 we would have exported $4.6 billion more in 1967 than we did export, or $35.8 billion instead of $31.2 billion—see United Nations Statistical Yearbook, 1968.

The irrebuttable fact is that we are in a weak competitive position in world markets and in our own market vis-a-vis imports.

The trend since 1960 is unmistakable.

A trade policy that was based on competitive conditions as they existed before 1960 is no longer in focus. It is unrealistic.

What does our weak competitive position suggest with respect to our trade policy?

The problem of import competition would be more acute than it is were it not for the $30 billion annual boost to our economy provided by our Vietnam involvement. Since our tariff has been cut to an ineffective level without present hope of reversal some other instrument for control of our market-and-employment erosion attributable to imports must be provided.

The establishment of import ceilings with a backstop of import quotas as provided in the fair international trade bill, represents one. That bill provides for expansion of imports in proportion to domestic consumption, and in most instances, calls for acceptance of the attained level of imports. However, this is a useless exercise unless the level of imports is measured by individual industries and products. No foreign product must be allowed more than 10 percent of U.S. market—or less for some definite type.

It has been introduced in the Senate by the chairman of the Senate Finance Committee and in the House by over 45 Members, including four committee chairmen.

Enactment of this legislation would provide assurance that imports, despite their cost advantage resulting from lower wages, will not be allowed to run wild and thus disrupt industry after industy. Instead of relying on first-aid administration in the form of adjustment assistance, the injury to our employment and industrial expansion would be controlled ahead of time. Imports would not be awarded the right of eminent domain in our market but would be given the opportunity to grow in proportion to domestic consumption.

We face an opportunity to adopt a trade policy that would achieve the undoubted benefits of world trade without incurring its unfair and destructive impact on a widening front.

The weakness in this lies, of course, in surrendering our presently crippled industries to a nongrowth future if we allow further percent inroads in the U.S. market.

This phase must be tailored to individual industries and products rather than on an across-the-board formula.

OIL IMPORT CONTROLS VITAL TO PENNSYLVANIA ECONOMY

A warning that unlimited foreign oil imports could deal a "crushing blow" not only to Pennsylvania oil producers but to the State's coal industry as well has been voiced by Dr. H. Beecher Charmbury, State secretary of mines and mineral industries.

In a letter addressed to Interior Secretary Walter J. Hickel, as a member of President Nixon's Cabinet Task Force on Oil Import Controls, which is currently reexamining the mandatory oil import control program established by President Eisenhower in 1959, Dr. Charmbury stressed the economic importance of the import quota program to Pennsylvania. He said:

> As you know, Pennsylvania in 1859 became the world's first major oil-producing area, and today—after 110 years—this state is still known for the high quality, if not the quantity, of the oil it produces.
>
> A characteristic of Pennsylvania's oil production today is that 83 percent of its present volume comes from 43,925 of the so-called stripper type of wells, each averaging less than a barrel a day.
>
> These, like the 377,000 such wells in the nation, which collectively produce one-fifth of this nation's domestic crude, are marginal operations which would be the first to feel the impact of unrestricted foreign imports. Many of them would undoubtedly be forced to close down, never to be reopened again, since their future depends largely upon uninterrupted operations for as long as they continue to produce.
>
> One classic example of long-time survival of an ancient Pennsylvania well in old "McClintock No. 1," near Oil City, Pa., which is still pumping oil today, after 108 years of continuous operation.
>
> In the Pennsylvania Grade oil region in District 1, comprising portions of four states, there are over 2,000 independent producers operating over 100,000 producing wells whose output averages less than 1/3 barrel per day. Collectively their average daily output in 1968 was 33,000 barrels per day, with recoverable reserves estimated at upwards of 200 million barrels.
>
> The crude oil from this four-state area is processed by nine small refineries with thruput capacities ranging from 1,000 to 10,000 barrels per day. These refineries, especially designed to process Pennsylvania Grade crude oil, which is noted for its high lubricating content and quality, are part owners of the pipe lines and gathering systems used for transporting this particular type of crude.
>
> There are no other special markets for this type of oil, and if there were, it undoubtedly would have to compete with other domestic or foreign crudes selling for considerably less than the $3.76 to $4.63 a barrel Pennsylvania Grade crude commands.
>
> Although high quality lubricating oil is the bread and butter product of these refineries, about three-quarters of each barrel refined by them consists of gasoline and distillate fuels, by-products which do have to compete on the market with the gasoline and distillate fuels refined from crude from other sources, foreign or domestic.
>
> Pennsylvania's lube oil refiners today are said to be marketing these other products largely at a loss. But there is a limit, of course, to how much loss on gasoline and distillate fuels they can absorb. The import quotas allocated to them is an important factor in keeping them alive. Without it, they could very well cease to exist. And without these special type refineries, not only would the Pennsylvania producers lose their market but the nation would lose a valuable natural resource.
>
> The Mandatory Oil Import Control Program has not really been costly to the American consumer, as some of its critics assert. It has achieved its purpose of providing a reasonable balance between imports and the levels of domestic production necessary to keep this nation from becoming dependent upon foreign sources of oil—either by wantonly exhausting its own domestic reserves on the one hand, or by drying up its own productive capacity through actions tending to render it unprofitable.
>
> Unlimited foreign oil imports would immediately deal a crushing blow, first, to Pennsylvania's dwindling anthracite coal industry and eventually to the bituminous industry, too.
>
> The argument that foreign crude is today slightly cheaper than oil produced in the United States loses much of its appeal when one realizes that this is a condition which could quickly change. Only for so long as the United States continues to maintain its own productive capacity at a high level does it pay those foreign nations to offer their oil for less.
>
> Foreign oil can be expected to remain cheap only for so long as we do not need it. Once we let ourselves become dependent upon foreign nations, many of them not particularly friendly to the United States, not only will the costs rise but the availability may become less certain.
>
> Under those circumstances, the United States could one day learn to its sorrow that it has paid the price—both economically and in terms of national security—for its own shortsightedness in abandoning an import policy which has well served the best interests of the national as a whole.

COAL THREATENED BY OIL AFTER MAKING GREATEST COMEBACK IN INDUSTRIAL HISTORY

"King Coal" may again feel the impact of oil imports after giving up over 300,000 jobs by automation to meet oil competition.

For the first time in history, foreign residual oil is attempting to penetrate the Midwestern part of the United States, thereby threatening major markets for coal. Also in this area utilities, industry, and others consume nearly a hundred million barrels annually of domestic residual oil.

This could be the opening effort toward bringing foreign residual oil into the whole midcontinent area accessible to the Mississippi and tributary streams as well as to the other Gulf of Mexico ports stretching from Alabama to Texas. In this area, composing districts II, III, and IV, residual oil is considered a product and currently can be imported only by special permit from the Oil Import Appeals Board together with a supplemental application in the amount to be permitted by the Secretary of the Interior. Such a supplemental application presumably would have to be over and above present limitations on the imports of crude oil and products which are 12.2 percent of domestic production of crude oil—overland shipments from Canada and Mexico are exempt.

The applications now pending are for total imports of 21,862,500 barrels of low-sulfur foreign residual annually into areas served by the Mississippi River system. Up to now, only the petition of Commonwealth Edison Co. of Chicago for a 6-million-barrel-per-year allocation has been heard, and a decision is expected soon. The Commonwealth petition was tied to the alleged need of the company to burn the imported oil in its Ridgeland station in place of coal as an air pollution control measure.

The four other petitions, filed by oil distributors and involving a minimum of 15,862,500 barrels of imported oil per year, are also tied to the alleged need for more low-sulfur fuel in the geographic area involved. If the Commonwealth petition is approved, it is difficult to see how the Oil Import Appeals Board can turn down the other four petitions and the many others which would undoubtedly follow.

Deeper and more fundamental issues than the need to make more low-sulfur fuel available to meet air pollution requirements are involved. These include:

First. Approval of the petitions would set a precedent that could open the heartland of the country to a foreign fuel to compete directly with indigenous domestic fuel. The amount of domestic fuel which could be threatened by widespread imports of foreign residual are indicated by the table on the following page. This shows that in 1968 districts II and III, which would be accessible to foreign shipments, consumed about 288 million tons of coal and about 90 million barrels of domestic residual oil. With the anticipated tremendous growth in demand for power, however, principally electricity, the billions of tons of coal reserves in many of the Western and Midwestern States have been expected to provide substantial new amounts of energy and major boosts to the economy of these States. A substantial shift to foreign residual oil, however, could have a serious impact on the degree in which the development of these western coals takes place.

Experience on the east coast has demonstrated the degree to which imported residual fuel can replace domestic fuels in a relatively short time. In 1969, residual imports totaled more than 400 million barrels and constituted about 85 percent of all residual consumed in the area.

CONSUMPTION OF COAL AND RESIDUAL OIL IN 1968 IN DISTRICTS II & III

	Electric utilities	Industrial	All other	Total
COAL (1,000 tons):				
District II	157,423	54,576	46,479	258,478
District III	17,666	2,027	8,518	28,211
RESIDUAL OIL (1000's barrels):				
District II	3,256	21,901	37,159	62,316
District III	330	2,578	25,076	27,984

XUM

Second. Permitting electric utilities and other industrial plants in districts II to IV to become dependent upon imported fuel would create serious national security problems. The Nation would be hard pressed to supply east coast utilities and other essential industries with fuel in the event developments outside the control of this country should cut off foreign sources of supply. If utilities and other industries in the middle of the Nation become dependent upon fuel from these same foreign sources, the problem of assuring uninterrupted power and industrial production would be greatly compounded.

Third. The Nation's already serious balance-of-payments problems would be further distorted. In 1968, this Nation suffered a deficit of $1.8 billion in its foreign trade account for energy—despite a contribution of half a billion dollars to a favorable trade balance by coal exports. This unfavorable situation will deteriorate even further if we permit the interior of the Nation to become substantially dependent upon imported fuel, as is the case of the east coast. This proves the point that all industries must be compared on an individual basis and not as part of total picture.

Fourth. Imported fuel is not the answer to any fuel problem which might be created by air pollution control regulations. As far as utilities are concerned, the ultimate answer is the installation of processes to remove the pollutants from the stack gases. A number of reputable companies say the technology is presently available for installation. Other processes are in the late development stage. They can achieve the same result with domestic coal as would be achieved with imported fuel, without further complicating national security of our balance-of-payments situation. If plants needing low-sulfur fuel are now permitted to import this fuel, the incentive to try available technology or to complete the development of new technology will be destroyed. In the long run, the Nation's clean air program would be retarded or set back.

Fifth. Granting of quotas to import residual fuel oil would mean: the 12.2 ratio of imports to production in districts II to IV would have to be breached; or the amount of crude oil or other products imported would have to be reduced by an amount equal to residual imports. In the first instance, approval would amount to a significant deterioration of the oil import program. In the second instance, while the total amount of fuel available would not be affected, traditional marketing patterns for domestic residual and coal would be disturbed, causing serious economic dislocation in many areas.

For these and other reasons, there is no justification for breaking with precedent and permitting residual fuel oil to be imported into districts II to IV. Certainly, where air pollution problems exist, we must all work to find solutions to them. However, these solutions would not have to come through the importation of low-sulfur foreign fuel. Alternatives include desulfurizing domestic residual, utilization of domestic low-sulfur coal where available—and it is known that Commonwealth Edison, for example, has been offered low-sulfur coal from both Wyoming and eastern Kentucky—or the development and installation of stack emission control devices. Several companies now have such devices commercially available, and in very few situations does an immediate emergency exist which would preclude the granting of sufficient time for the installation of such devices to control pollutant emissions.

Either or several of these alternatives would avoid the serious national security and balance-of-payments implications which a precedent-setting decision opening up the Midwest to an insecure foreign source of energy fuel would involve.

TRIBUTE TO HENRY PAYNE IBA

The **SPEAKER** pro tempore. Under a previous order of the House the gentleman from Oklahoma (Mr. CAMP) is recognized for 60 minutes.

Mr. CAMP. Mr. Speaker, recently retired as athletic director and basketball coach of Oklahoma State University is one of the Nation's towering figures in intercollegiate athletics, Henry Payne Iba, a leader in his profession for 43 years, the last 36 years at Oklahoma State University.

Iba's international stature is based primarily on his achievement of coaching the U.S.A. Olympic basketball team to all-victorious championships in the Tokyo Olympic games of 1964 and 4 years later to the Mexico City Olympic games title, an unblemished series of 18 victories in world competition. He is the first coach of the U.S.A. team to be called back for a second time to direct the Nation's basketball representatives in the Olympic games.

Over the years, Iba-coached intercollegiate teams scored 767 victories, third highest total to be recorded by any coach of his sport, but more important has been his contribution to American athletics and to the youths who have been associated with him who have known him as coach.

Iba has served as president of the National Association of Basketball Coaches and worked in committee for the improvement of the athletic structure of the colleges and universities of the Nation. Honors bestowed upon him attest the acclaim and admiration that has been his, including his inclusion in the National Basketball Hall of Fame at Springfield, Mass., the National Helms Foundation alltime Hall of Fame in Los Angeles, twice National Coach of the Year honor, and his inclusion, also, in both the State of Missouri and the State of Oklahoma alltime Halls of Fame for outstanding citizenship.

Iba was native to the small town of Easton, Mo., attended Westminster College of Missouri, coached 2 years at Classen High School of Oklahoma City, 4 years at Maryville College of Missouri, 1 year at University of Colorado, and the last 36 years at Oklahoma State. His Oklahoma State teams of 1945 and 1946 were the first to win national championships consecutively. Just before starting his long coaching career, he was married to Doyne Williams, then a student at University of Missouri, a daughter of the late Congressman Clyde Williams and Mrs. Williams of Missouri. The Iba's have one son, Henry W. Iba, who played for his famous father, and now coaches.

Iba's greatest moments in a tremendous career came at the Olympics for, as he so well expressed it, "those victories were for the country." The great Midland area has known great men in the coaching profession for many years but none ever was held in higher esteem for his qualities of honor, integrity, and sportsmanship, and his ability to inspire youth than Henry Payne Iba.

Mr. ALBERT. Mr. Speaker, it is an honor for me to join with my distinguished colleague, Mr. CAMP, in paying a well-deserved tribute to one of the most outstanding basketball coaches and finest men in the business, Coach Henry Iba, who is retiring as head basketball coach and athletic director at Oklahoma State University after 36 years of service.

"Mr. Iba," as he is fondly known to basketball fans throughout Oklahoma and the Nation, has had a magnificent coaching career. Among his many accomplishments, he was the first coach ever to achieve the distinction of leading a team in winning two consecutive National Collegiate Basketball championships. He was also the first to coach back-to-back winning U.S.A. Olympic basketball teams, in 1964 and 1968. In 1968, it was thought that the U.S. team could not possibly win. Several of our top basketball players signed professional contracts before the Olympics and it was generally agreed that the United States did not have a chance in basketball. But Henry Iba was the coach. In only a short time, with the skill of a master at his trade, Iba molded the small, relatively inexperienced U.S. team into champions, who brought home the Olympic medals for our country.

With a record of over 750 wins, Henry Iba will go down in basketball history as one of the best. I am proud to salute Henry Iba. I am proud of him; Oklahoma is proud of him; and his country is proud of him.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to insert into the RECORD an excellent article on Coach Iba which appeared in the March 2 Christian Science Monitor:

[From the Christian Science Monitor, Mar. 2, 1970]

"MR." IBA'S PRINCIPLES INTACT

(By Nick Seitz)

STILLWATER, OKLA.—Mr. Iba is retiring.

Henry Payne Iba has been head basketball coach and athletic director at Oklahoma State University for 36 years. He was the first to coach back-to-back national collegiate champions, in 1945 and '46, and the first to coach back-to-back Olympic champions, in 1964 and '68. His teams here have won more than 750 games.

And in those 36 years, he has been Mr. Iba to his players, who completely respect his strict, disciplined methods, and give him credit for putting their lives on a more meaningful plane.

"I know him pretty well—I played and coached for him," says John Floyd, the city recreation director in Stillwater, "but I would never call him anything but Mr. Iba, and I can't to this day light a cigarette in front of him and not feel guilty about it." Floyd is in his 40's.

It started early in Iba's career, when a flip young player asked Iba, "Is this the way to release that shot, Hank?" Iba glared as only he can glare, and said, "Son, you don't know me well enough to call me Hank. Give me the ball and go on in." He has been Mr. Iba ever since.

A standing joke among Iba's former players concerns two of them who were reunited after several years and were catching up on each other's progress. "We've just had a son and we named him after Mr. Iba," said one.

"Named him Henry, eh?" said the other.

"Nope. Named him Mister."

Iba is a tall, no-foolishness man of impeachable fairness and manners. He parts his hair straight down the middle, and approaches life in the same way.

"A boy must develop self-discipline and eliminate selfishness," he says in a voice now perpetually hoarse from the decades of rasping instructions at his teams. "We're all happier and live a better life if we do."

Iba's teams have always been among the most tightly disciplined in the game. Offensively they pass the ball snappily until they gain a close-in, unguarded shot even if it takes five minutes. Defensively they play a conservative, aggressive man-for-man style with rare switching, because individual responsibility is easy to assign.

"You should never let a boy get beaten badly," says Iba. "That's why we use this system. When a boy is beaten badly he has a long hill to climb before he's ready to play well. The idea is to eliminate mistakes."

The patience of his clubs has always irritated opponents, who frequently—and unjustly—have accused him of stalling.

The 65-year-old Iba's career is heavily laced with highlights. His Bob Kurland, a seven-footer, was the first mobile really big man, and led the Cowboys to the two straight national titles, in New York City.

There were 13 Missouri Valley Conference championships, then a Big Eight crown. The greatest rivalry in the Midlands for a long time was Henry Iba against Dr. F. C. (Phog) Allen of Kansas.

Twice Iba has been national college coach of the year, and he has been inducted into every basketball hall of fame deserving of the name.

His son, Moe, played for him and then became head coach at Memphis State.

Iba worked hard to build other sports at OSU as athletic director, and the school has one of the best-rounded programs in the nation, with top teams in everything from riflery to wrestling.

But the biggest thrill of Iba's life came in 1968 in Mexico City, when his United States Olympic squad won when it was generally agreed that it was not good enough. Players like Lew Alcindor and Neal Walk had decided not to go to Mexico. The team was generally small.

But it was, ultimately, a typical Iba product; crisply efficient, confident, an aesthetic pleasure to watch interworking so smoothly. "This was just an overwhelming thing," Iba said, "to win for your country."

It would be nice if Iba could retire to his hobbies of fishing, hunting, and golf with another, last championship. Unfortunately, Oklahoma State is rather an ordinary team, only playing .500 ball and no better than a spoiler in its league.

Oklahoma State has not been a national power in some time, and the main reason is Iba's principled stubbornness. He refuses to subscribe to the oppressive pressure of modern recruiting on a broad scale, and, with high-school basketball talent in Oklahoma mediocre at best, has been left behind by more aggressive and younger coaches who do not mind avidly pursuing prep players in all 50 states and a few foreign countries.

It must, though, be a great satisfaction to him to leave the game he loves with his principles intact, with a magnificent overall record, and with the hundreds of men who played for him for all those years still respectfully addressing him as "Mr. Iba."

Mr. JARMAN. Mr. Speaker, it is an honor and privilege to join with the other Members of our Oklahoma congressional delegation today in paying tribute to Mr. Henry P. Iba, the outstanding director of athletics and basketball coach at Oklahoma State University.

Mr. Iba has had a long and distinguished career in athletics, with a brilliant record of well over 700 victories, two national championships, 15 conference championships, and has twice led the U.S. basketball team to victory in the Olympics. His skillful coaching, intense patriotism, and his high sense of loyalty to his school and his friends have won him the respect and admiration of all. The "Iron Duke" has been a fine example to the young men he has coached—expecting the best from them and in turn giving the best of himself to those who have played for him. His integrity has never been challenged, and his fine character and influence in sports in Oklahoma over the past 36 years will long be remembered. Henry Iba has been a true champ in every sense of the word. He will be missed and will long be remembered as "the finest basketball coach—or friend—his former players have ever known." We salute him for a job well done and wish him the best in his eminently deserved retirement.

Mr. STEED. Mr. Speaker, I am happy to join in paying tribute to one of the legendary figures of sports history, Coach Henry P. Iba, whose teams have made Oklahoma State a basketball power for 36 years.

His remarkable coaching record will always stand among the best—836 victories in 1,179 games during a career of 43 years. In his 36 seasons at Stillwater his teams won 655 games while losing only 316.

Back-to-back national championships, Olympic successes—list of his accomplishments is lengthy and impressive. His name has long since become synonymous with athletics at Oklahoma State. It is hard to imagine basketball without him.

Many press tributes have appeared within the last few weeks. Among the most interesting was a series by sports columnist Volney Meece, of the Oklahoma City Times, to whom Coach Iba gave these characteristic comments:

> I've always figured this way: For a moment when I get beat, I probably get as low as anybody in the world. But I've been able to bounce back in the next three hours.
>
> I hate to lose. But if I can just figure out why we lost I can get our from under it pretty quick. I imagine what bothers most coaches the most is not being able to shake off a loss. I've been able to.
>
> I don't know who taught me, but I've always had a policy: When you lose, forget that one. When you win, tell your friends about it and forget it, too. You're not going to get either one back, that's for sure.
>
> I think you learn something from losing. I think you do a better job with the next group of boys you get. Of course, the name of the sports world is winning. There's not any question about that.

A lot of people have learned from Henry Iba. We all congratulate him and wish him the best.

Mr. BELCHER. Mr. Speaker, I am most grateful for this opportunity to pay tribute to an outstanding Oklahoman and one of the coaching giants of this Nation.

Hank Iba put Oklahoma State University on the sports map as one of the winningest basketball coaches in the country during his long career as coach and athletic director there. I have known Hank ever since he came to Oklahoma, and I know that he is not only one of the winningest coaches around, but one of the winningest people I have ever met.

As is common with successful coaches, one of the things that made Hank successful was that his players genuinely loved and respected him. And so does everybody who knows him.

It has been a great privilege to share Hank's friendship. He and I were inducted into the Oklahoma Hall of Fame on the same night several years ago, and he has been a fine personal friend. I am truly sorry to see him leave, and I want to wish him the very best of everything now and in the future.

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He has brought honor and glory to himself and to Oklahoma, and all Oklahomans bask in that reflected glory.

Good luck, Hank.

Mr. EDMONDSON. Mr. Speaker, the retirement of Henry Iba as head coach at Oklahoma State University marks the close of the greatest amateur basketball coaching career ever.

The record compiled by "The Iron Duke" of basketball during his 36 years as head coach at OSU speaks for itself. The many conference, tournament, and national championships, the seemingly endless list of All-Americans that he coached to greatness, the victorious 1964 and 1968 American Olympic teams which he assembled, all stand as proof of Henry Iba's unmatched record in the amateur basketball world.

Aside from his great abilities on the court, Henry Iba served as counselor, father, and friend to countless numbers of young men. The things that were taught on Henry Iba's court—perseverance, honesty, and above all else, the selfless camaraderie of team effort—produced not only great athletes, but great Americans.

I want to join my colleagues from Oklahoma, as well as the millions of other Americans who have followed the "Aggies" these many years under Coach Iba, in wishing him and his wife the very best of happiness and good fortune in their retirement. His dedication and unselfish contributions to the university and the game of basketball will long be remembered by us all.

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GENERAL LEAVE

Mr. CAMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the retirement of Henry Payne Iba and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

THE NATION'S ECONOMY IS SKATING ON THIN ICE TODAY

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 30 minutes.

Mr. GAYDOS. Mr. Speaker, it is no military secret the Nation's economy is skating on thin ice today. There are a number of reasons for this but one, I believe, is our policy concerning the importation of foreign products.

For many years after Word War II it was thought there was room enough for all in the world market of fair competition. The effect of imports on the American worker and the American economy were not discernible.

But now, the picture has changed. Our own industrial giants are struggling and if they fall through the thin ice, the resulting splash could drown the Nation, economically.

In recent years we have seen a pattern traced in the fancy figure skating performed by our foreign import policymakers. It resembles a figure 8, a double circle, and both of them vicious.

Going around the top loop, Mr. Speaker, is the American tax dollar, chasing itself toward its own destruction. It was the American tax dollar which was spent to crush our enemies in World War II. It was the American tax dollar which was spent to rebuild those devastated nations, and their industries, to make them competitive again.

Just how successful our dollars were in this endeavor can be illustrated by the fact that the world's largest blast furnace now is located in Japan. So is the largest steel-rolling mill. Two Japanese firms are merging to create a company which will replace United States Steel Corp. as the world's largest steel manufacturer.

It also was American tax dollars which helped build American plants overseas where the manufacturer could take advantage of the cheap labor and low production costs. The product then was sold at a lower cost here than a similar article produced at home.

It is the American tax dollar now being spent in increasing amounts to pay soaring salaries on the home front as a life preserver to keep our workers afloat in the rising flood of foreign imports.

It will be the American tax dollar which will have to support Americans who go under in the flood and find their jobs eliminated and themselves in the pool of the unemployed.

That is the top circle, Mr. Speaker; now let us look at the bottom half of the vicious figure 8.

Numerous articles in the RECORDS have proven imports are costing Americans jobs now, today. They may not be the sole reason for our climbing unemployment rate but, certainly, they are a major contributing factor.

The more foreign products we import to this country, the fewer we build at home. The fewer we build at home, the less need we have for our factories. The less need for the factories means the less need for the workers to run them. The less the factories run, the less American goods are turned out for the domestic market. The less American goods produced for our market, the more we import to fill the gap.

It is ironic, Mr. Speaker, that some of the nations who are reaping the benefit of this fancy figure skating were our military enemies three decades ago. It appears they are accomplishing today with manufactured goods what they could not do with guns—gaining worldwide dominance—and bringing our country to its knees economically.

REPAIR AND PROTECT THE NATURAL ENVIRONMENT FOR ALL GENERATIONS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Connecticut (Mr. MONAGAN) is recognized for 30 minutes.

Mr. MONAGAN. Mr. Speaker, the new decade that we have embarked upon is certain to be the pivotal period in the ecological history of the Nation. The United States has attained its status as the pinnacle of economic power by a thorough and frequently ruthless exploitation of our natural resources. Only recently has the Nation recognized that our natural resources exist in finite quantities, and that we have already seriously depleted existing sources for raw materials. We are just now comprehending that the physical well-being of our people is inextricably related to the ecological integrity of the Nation. The industrial prowess which has so ably guided our economy to its great position of strength has left the environment a casualty to the extent that we enjoy our high standard of living in the midst of polluted water, toxic air, and ravaged forests. In the name of technological advancement, we have contaminated the natural environment with lethal chemicals which, if left unchecked, threaten to replace the balance of nature with a timetable for certain destruction.

The country is caught up in an unlimited depletion, unlimited consumption, and unlimited pollution cycle. Concommitant with the unrestrained exploitation of our natural resources has been the creation of a source for disposal of the resultant commodities. The industrial community, frequently acting in concert with the Federal Government, has succeeded in educating the American public with a consumer-waste philosophy to the extent that our present high standard of living is dependent upon the capacity of the public to consume products and generate wastes.

Industry has educated the consumer public to use and discard, and has almost made one-way nonreturnable containers a way of life. This consumer philosophy is in fact a pollution philosophy and if allowed to continue to its logical, albeit absurd conclusion, will finally succeed in creating the disposable, one-way, nonreturnable consumer, who buys and expends more products than any other person in the world, pollutes his environment more than any other person in the world and eventually succeeds in extinguishing himself much before his time.

The inability of the communities to cope with the consumer-waste philosophy fostered by industry and government is graphically illustrated by statistics contained in a recent report on solid wastes problems by the President's Office of Science and Technology. The report recites that urban and industrial wastes generated in the United States average 10 pounds per capita per day, whereas collected wastes average only 5.12 pounds per capita per day, or only 51 percent of the total amount produced. The report identified the uncollected 49 percent as "an unknown factor in urban life." That means that no one knows where virtually half of the wastes generated in this country go. We are learning that it rapidly finds its way into our air, water and soil, and that this "unknown" factor is an uncontrolled lethal agent. The same report also states that a recent literature search by the Public Health Service indicated association between solid wastes and 22 human diseases. These facts alone demand that our present policies be reexamined, if only to assure the continued survival of the populace.

The assault perpetrated upon our natural resources, although only a byproduct of our industrial achievements, could not have been more destructive if the Nation had set out intentionally to destroy the environment. We find ourselves in a positon of either turning the corner in the direction of a healthy environment or of confronting much of the plant and animal life in this country with destruction and possible extinction.

My interest in preserving the natural environment is not new. In 1963, in carrying out the objectives of the pioneering Jones Commission, I chaired hearings on the pollution of the national water supply for the Natural Resources and Power Subcommittee of the House Government Operations Committee. The hearings concerned the increasing water pollution in the Connecticut River Basin, the Delaware River Basin, lower Lake Michigan, Texas, the Southwest, and the Midwest. I am grateful that at the hearings held in Hartford, Conn., the committee had the benefit of the observations and comments of Gov. John N. Dempsey, William S. Wise, then director of the Connecticut Water Resources Commission, Mrs. Elizabeth K. Roper, chairman of the New England League of Women Voters ad hoc committee on water resources, and Dr. Franklin M. Foote, the Connecticut State Commissioner of Health, and many others who have joined in the common effort to combat pollution.

The hearings created a heightened awareness of the overall problem on the part of Government officials, both State and Federal, who are responsible for heading up and formulating water pollution control programs. The startling evidence of a deteriorating water supply that was gathered by the hearings served as a mandate for pollution control legislation and action.

In 1963 I proposed an amendment to the Federal Water Pollution Control Act to substantially increase grants for construction of municipal sewage treatment works. At the time that I introduced my amendment I noted that the national interest required a tremendous stepping up of research and construction of pollution abatement facilities and, above all, of increased enforcement of pollution control laws if the Nation's resources were to remain equal to the tremendous demands to be made upon them in the future. My forewarning in 1963 has proved to be all too true, and now at the start of the seventies we are faced with a "now or never" situation where we must act effectively and quickly, or forgo the luxury of a healthy environment. My bill to increase grants for the construction of pollution abatement facilities was not acted upon in 1963, but the need remained and I reintroduced the bill in the next Congress. Fortunately, in 1965, my recommendation was accepted. In 1965, I noted that the principal solution to the evils of pollution was money, and that statement stands true today. I have never hesitated to support substantial appropriations for pollution control legislation, and I continue to believe that this is one area where we can afford sizable appropriations. In the first session of the 91st Congress, I supported the full funding for programs under the Clean Water Restoration Act. The final amount approved was substantially above the figure which the Nixon administration requested for these programs.

The Federal Government has spearheaded the movement for contruction of pollution abatement facilities, and I am proud to have been an early advocate for the necessary Federal spending in this area. I recall that in 1963–64, while my own State of Connecticut appropriated only $99,950 for the operation of the State water resources commission, which had the major responsibility for implementing the water pollution control program in the State, and the State health department was operating on a budget of only $65,000 for its water pollution control activities, I was recommending in Congress that existing grant limitations for sewage treatment works be raised from $600,000 and $2.4 million, respectively, for a single and combined sewage project, to $1.2 million and $4.8 million in 1965.

In 1964 I introduced a bill to amend the Refuse Act of 1899 to provide penalties against boatowners in instances of negligence substantially endangering desirable marine, aquatic, or other plant and animal life of the navigable waters of the United States. Since 1964 when I first introduced the bill, occurrences of the environmental tragedies toward which the bill is directed have increased at an alarming rate. My bill, by setting forth in clear and precise terms the liability for causing an environmental disaster would insure that wrongdoers pay for their negligence and damage. The bill, if enacted, will be a great step toward protecting the environmental rights of communities contiguous to navigable waters from careless and willful pollution by boats and ships. I am hopeful that action on my bill will be taken in this session of the Congress.

In 1965 I introduced legislation to encourage the construction and installation of air and water pollution control equipment by providing tax writeoffs to businesses and industries for that purpose. Upon introducing the bill I expressed my belief that the enactment of the bill would be a good supplement to other proposals and would be another step in bringing all possible resources into the effort to curb and correct the critical natural resources problem.

In the first session of this Congress, in addition to supporting the full funding for programs under the Clean Water Restoration Act, a measure which I cosponsored, and introducing my bill fixing the responsibility for polluting navigable waters of the United States, I gave my full support to the Water Quality Act of 1969 and introduced H.R. 13826, a bill to provide for the creation of a Council on Environmental Quality to develop a comprehensive national program to improve the environment. I was pleased that the substance of H.R. 13826 was included in the bill to provide for the establishment of a permanent Presidential Council on the Environment which passed the House with my support on November 23, 1969, and was signed into law on January 1, 1970.

Upon introducing H.R. 13826 I stated the basic premise for my initial and continuing activity in the area of pollution control, which is that human beings have environmental rights as much as social and economic rights. The environmental rights of man include, but are not limited to: First, the right to breath uncontaminated air; second, the right to have clean, healthy water for both consumption and pleasure; third the right to enjoy nature in an untrammeled state; fourth, the right to insist upon the maintenance of nature in a condition reasonably conducive to the continued existence of all forms of plant and animal life. Just as in the case of social and economic rights, duties flow from the assertion of environmental rights. It is to insure that citizens and the Nation fulfill their duties to each other and to the land that I will continue to initiate and support all necessary antipollution legislation. Our antipollution laws must be as stringent as our environment is ravaged.

In October 1964 I had the honor to give the keynote address at the fourth annual bioenvironmental engineering symposium at the U.S. Air Force School of Aerospace Medicine, Brooks Air Force Base, Tex., and at that time I insisted that everyone has the responsibility to deal with the problem of pollution. I stated that while we are conducting research on pollution control we must always keep aware that endeavors to halt pollution cannot wait upon the development of all the answers. We must proceed to implement solutions with what we have. The statement has even more validity today than it did 6 years ago. To date we have not fully applied existing technical know-how to environmental problems. If we had dealt with the problems as they developed, we would not be attempting to deal with the 1970 pollution crisis with techniques which were available in the 1950's. We now find ourselves not only dealing with the more subtle though no less devastating threat caused by the most recent technological advancement, but also the cumulative threat of decades of mismanagement.

To date, the Nation's pollution control efforts have consisted of programs which divide the environment into separate components of air, water, and land, and others which are geared to specific environmental crisis. While programs dealing with land, water, and air as several components of the total environment were good starts in combating pollution, we must develop programs which approach the environment as one integrated unit. Pouring money and programs into combating water pollution will do little good if the land and air are neglected. Why create forest preserves if polluted air and water will reduce the areas to wastelands? As an adjunct to existing crisis orientated programs we must develop an anticipatory capability

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to prevent environmental tragedies before they get started and to treat effectively a pollution hazard before it develops into a pollution disaster.

While I was gratified that a Presidential council on the environment, as recommended both by my bill and the bill considered by the House, has now been established, I am hopeful that sections of my own bill which were tailored to developing an anticipatory capability will be the subject of future legislation. To achieve this anticipatory capability I recommend that that Secretary of the Interior be authorized to conduct studies of natural environmental systems in the United States, to document and define changes in these systems, and to develop and maintain an inventory of natural resource development projects which may make significant modifications in the natural environment. Further, I recommend that the Secretary of the Interior be directed to establish a clearinghouse for information on ecological problems and to disseminate information about programs related to those problems. Also, I recommend that the Secretary of Health, Education, and Welfare be authorized to establish a comprehensive solid waste management program which would coordinate all such research now being done under a number of different Federal programs. Another recommendation of mine directed the Secretary of Health, Education, and Welfare to compile a national inventory of solid waste management needs and problems of solid waste management technology. In addition, I recommend that the Secretary of Health, Education, and Welfare establish a clearinghouse for information on all aspects of air, water and soil pollution and solid waste disposal. This information would be made available to business, industry, municipalities, and the general public. These are the kinds of provisions which would help to develop an anticipatory capability.

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In the last session of Congress I also spoke out on the threat of pesticide contamination.

Unless constructive action is taken to reduce the environmental contamination a very large percentage of the world's remaining plant and animal life faces extinction during the next 20 years, and human life may be endangered. Much of this wanton destruction has been attributed to pesticide contamination and misuse. It is chilling to realize that certain food additives and residues which we ingest may kill, cause cancer, create fetal deformities in animal-mammalian life and also be hazardous to humans.

I have criticized the Department of Agriculture for consistently ignoring potential health hazards in freely allowing the use of pesticide compounds dangerous to human health. I recommended that the Secretary of Health, Education, and Welfare be given the legal authority to ban or limit the use of pesticides wherever the use of such substances is hazardous to public health. I also recommended that the Secretary of the Interior be given greater statutory authority to participate in decisions regarding pesticide compounds which constitute a danger to fish and wildlife and contaminate the environment.

It is my firm position that the highest priority in the registration and reregistration of pesticide compounds should be the potential hazard to human life and the environment rather than the Department of Agriculture's priority on the benefit to food and fiber. There must be a balancing of risks and the potential hazard to health cannot be continually ignored as the Department of Agriculture consistently has done.

On December 10, 1969, I cosponsored H.R. 15191, a bill to establish a Commission on Population Growth and the American Future. The proposed Commission will conduct studies and research, and will make recommendations to all levels of government in the United States regarding a broad range of problems associated with population growth and their implications for America's future. One of the major objectives of the Commission will be to determine the impact on population growth on environmental pollution and on the depletion of our natural resources. This type of long-range planning is vital, and I was pleased that on February 18, 1970, the House passed H.R. 15165, a bill identical to my own H.R. 15191. The bill is now in conference, and I am hopeful that it will be signed into law this year.

Environmental pollution recognizes no political boundaries, and the problems now confronting us do not admit of political solutions. Of course, the cost of this immense task is formidable and we would do well not to expect overnight miracles or anything more than a gradual turn in the right direction. In addition we must balance the cost to our industries and the effect that added abnormal expense would have on their viability and their capacity to provide jobs and pay taxes.

I stand ready to support all necessary and proper legislation which will repair and protect the natural environment for the present population and for all generations to come.

NORTHERN IRELAND

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. LOWENSTEIN) is recognized for 30 minutes.

Mr. LOWENSTEIN. Mr. Speaker, the renewed disturbances in Northern Ireland remind me that prospects are not good for a just and lasting settlement of the problems that have clouded the future of this lovely and troubled place.

I do not wish to dwell on the tensions and divisions that exist in Ulster and that are well known here. Nor is there much point in recapitulating the troubled and tragic events that led to the partition of Ireland and the establishment in the south of an independent state, the Republic of Ireland, composed mainly of Catholics; and to the adhesion to the United Kingdom of the six counties in the north, Northern Ireland, populated mainly by Protestants.

What I do want to emphasize is the responsibility of the Government of Great Britain for bringing justice and peace to the people of Northern Ireland. Constitutionally, Northern Ireland has a character unlike any other part of the United Kingdom, and the problems of making the writ of the Central Government run in a province with wide powers of self-government is not unknown to Americans. Indeed, our own difficulties in implementing Federal law throughout the Union make it clear how unfair it would be to blame Westminster for injustice and violence in Northern Ireland.

But despite constitutional problems, nothing can excuse the failure of the British Government to do much more, much sooner. That Government bears a large measure of responsibility for allowing the injustices inflicted on the Catholic minority to have festered for so long.

In the past few months, following the recommendations of various commissions, the British Government has exerted pressure on the Government of Northern Ireland to institute some reforms and to attempt to redress some of the major grievances of the Catholic minority. A major problem arises, not with the theory of these reforms, but with their actual implementation in the face of dogged opposition from those who are determined to maintain the status quo with all that that implies.

The following is a brief review of the reforms proposed or instituted so far.

Under pressure from Westminster, the Government of Northern Ireland transformed the Royal Ulster Constabulary—RUC—formerly the paramilitary bastion of Protestant control in Ulster, into a civilian force. More important, the RUC is no longer subject to political control.

Future recruiting for the RUC is to include Catholics.

All arms and weapons, previously under the control of the police, are now under the jurisdiction of an English inspector-general and are to be issued only at his discretion.

The "B Specials"—a political police force that has aroused especially bitter resentment among the Catholic population—are to be disbanded by March 31.

Catholics have been promised a fairer deal in regard to housing. The Central Government will henceforth be charged with allocating available housing on the basis of need rather than religion, a criterion that has been dominant with the local governments which have until now exercised this authority.

The problem with these reforms, laudable in theory, is that there is little indication so far of how they will work in practice in the face of determined opposition.

I am especially disturbed about the situation as it pertains to a major grievance of the Catholic minority; namely, the question of voting rights. The ostensible purpose of the reform in question, the "Electoral Act No. 2 of 1969," is to eliminate weighted votes for property holders and to give everyone over 18 the right to vote in local elections. In practice, however, it does something less than this, since the local elections scheduled for 1970 have been indefinitely suspended by Government decree. In the meantime, the Government of Northern Ireland will have completed its redefinition of ward boundaries, as permitted under the Local Government Act of 1969, redefinitions that may well result in a manipulation of electoral boundaries on a scale unique even to Northern Ireland. The voting power of the Catholic minority will be diminished, rigged elections will continue, and one-party government will be maintained as in the past.

A right to vote in elections that have been canceled can hardly be described as a right. A voting right that cannot be exercised is no voting right at all. As long as local elections remain canceled by Government decree, there is a suspension of the democratic process. Local government still remains, and apparently will remain, in the hands of those who were elected under the old inequitable system that gave businessmen six votes for each business they owned, while one-third of the electorate was in effect voteless.

It has been said that the British Government has done more for Northern Ireland in the past 5 months than in the 50 years since partition; and I do not mean to belittle these efforts by noting that they are the least that can and should be done, and that they should have been undertaken many years ago. Only time will tell whether they are enough to help heal the divisions in Ulster. What a paradox, what a tragedy if it should turn out that there is just too much religion in Northern Ireland for Christianity to prevail.

But no degree of religious intolerance can justify the retention by the British Government of the Special Powers Act. The effect of this act can be appreciated by quoting the then Minister of Justice of South Africa, now the Prime Minister, who said in 1963, when introducing a new coercion bill in the South African Parliament, that he would—and I quote—"be willing to exchange all the legislation of that sort for one clause of the Northern Ireland Special Powers Act."

This act, which has been in existence since 1920, empowers the authorities to—

First, arrest without warrant;

Second, imprison without charge and deny recourse to habeas corpus;

Third, forcibly enter and search homes without a warrant at any hour of the day or night;

Fourth, declare curfews and prohibit meetings, assemblies, and marches;

Fifth, punish by flogging;

Sixth, deny right to trial by jury;

Seventh, forcibly detain witnesses and compel them to answer questions, even if their answers incriminate them;

Eighth, violate the right of private property;

Ninth, deny prisoners contact with relatives or lawyers;

Tenth, prohibit the holding of an inquest after a prisoner's death;

Eleventh, arrest a person who "by word of mouth" criticizes the Government;

Twelfth, close down newspapers offensive to the Government;

Thirteenth, prohibit the possession of films or tape recordings; and

Fourteenth, arrest anyone who commits an act judged to be "prejudicial to the preservation of peace or the maintenance of order in Northern Ireland, and not specifically provided for in the regulations."

This act is surely an enormous irritant and an almost insuperable barrier to reconciliation and an effective settlement of the difficulties that pockmark Northern Ireland. The original intent of the act was to "deal with" Catholics and Nationalists. The Special Police Force—the hated "B" Specials—were recruited on an entirely sectarian, Protestant, basis specifically to enforce this act. These "B" Specials carried out their duties with absolute ruthlessness on countless occasions; and during the Belfast riots last August, this force, instead of impartially maintaining peace, participated in the persecution of Catholics. It was as a result of these actions that the "B" Specials were disarmed on direct orders from London. It is ironic that the Special Powers Act is now being used against its greatest proponents, but that does not change its essential injustice.

Both the Government of Northern Ireland and Westminster will have to take more decisive action than they have thus far if the overall situation is to be improved on a lasting basis. The time has passed when it could be handled locally. Westminster must finally accept its full responsibility for establishing justice and maintaining law and order; for assuring equality of opportunity in jobs and housing; and for abolishing sectarian discrimination. Above all, there can be no case for the retention of the uniquely oppressive Special Powers Act.

It is not enough for Britain to send in troops and armored cars to maintain, at best, an uneasy truce. She must also seek to alleviate the root causes of the discontent by rooting out the inequalities that still exist. An effort must be made at last to bring democracy to Northern Ireland.

At a minimum, the following steps should be taken:

First, restore civil rights and liberties, which can only be achieved by repealing the Special Powers Act and the Public Order Act;

Second, proclaim a bill of rights to guarantee individual liberties;

Third, outlaw discrimination on grounds of race, color, or creed, a goal that can be achieved simply by extending the Race Relations Act to Northern Ireland;

Fourth, end gerrymandering of election districts;

Fifth, call early elections based on the one-man, one-vote principle;

Sixth, legislate to give aggrieved parties the right to sue for damages when their civil rights are violated; and

Seventh, restructure and overhaul enforcement procedures against housing, job, and legal discrimination.

This is, in one sense, an internal matter for Britain to handle. But the renewed rise in tensions and the terrorist bomb attacks on Catholic Members of Parliament in Northern Ireland in recent weeks suggest that the reforms have been inadequate or have been inadequately implemented. Fiery speeches will not ease the situation, nor will further resort to arms. Firm, impartial, and decisive action by Britain is essential this week when the Northern Ireland Parliament must act one way or another on these problems. I cannot believe that Britain will fail to insure that the reforms already promised and theoretically instituted, as well as those additional reforms so long overdue, will be speedily and effectively implemented. Surely it is clear that time is very short if lasting disaster is to be averted.

There is a temptation to regard confrontations between Catholics and Protestants as an almost comical anachronism. But the strife and hardship resulting from confrontations between Catholics and Protestants is no less bitter for its archaic overtones, and persecution of Catholics by Protestants—or of Protestants by Catholics, as in Spain—is not made less objectionable because it has gone on for such a long time.

What is wrong in Northern Ireland is of course not unique. Racial and religious bigotry continue to inflame and pollute the human situation almost everywhere. Americans can speak with authority and shame on these matters. So can Russians, Indians, Africans, Malaysians, as, in sad fact, who cannot. But no one who has visited this lovely island, and whose heart beats gladder for this opportunity, can fail to feel distress about the sad turn of events there that threatens to destroy for decades to come the high hopes of so many gifted people for the chance to live in security and freedom in their own land.

CONSTITUTIONAL AMENDMENT TO PROVIDE FOR ELECTED SCHOOL BOARDS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Mississippi (Mr. GRIFFIN) is recognized for 10 minutes.

Mr. GRIFFIN. Mr. Speaker, I am today introducing a proposed constitutional amendment to provide for the establishment of public schools.

Nowhere in the Constitution, nor in the amendments adopted to it, are there references to public education. However, there are numerous court decisions on the operation of public schools, many of which are contradictory.

Hundreds of school districts throughout the United States are under court order requiring school boards to make particular student and teacher assignments and nearly every court order is different. There is no uniformity, nor has the Supreme Court laid down any standards under which school districts should operate.

My proposed constitutional amendment would require each State to create public school districts in such number as is necessary to provide public education at the elementary and secondary school level. Further, it would provide that the population and geographic limits of each school district shall be such as to insure the most efficient operation of schools and to provide for the highest quality of education possible.

I propose that the Constitution require that each school district shall be governed by a board of education, consisting of five members, elected by the residents of the school district.

I feel that my proposal is elementary democracy. Each school district would be operated by an elected board; consequently, the parents of the school district would be the ultimate decisionmakers in regard to school matters.

My amendment would give exclusive authority to the board of education in the matter of employment and assignment of teachers and the assignment of pupils.

Under my proposal, no child may be denied admission to a public school because of his race, creed, color, religion, or national origin; and no child may be compelled to attend a school because of his race, creed, color, religion, or national origin.

Everyone is aware that there are conflicts and tensions in our public schools. I feel that much of this is caused by the fact that demands and requirements are made on local school districts by State and Federal agencies and courts.

In my considered opinion, an amendment to the Constitution of this nature is imperative if we are to preserve the neighborhood school concept, eliminate existing confusion and maintain a high level of quality education for the children of America who deserve our full efforts toward achieving that goal.

The proposed amendment reads as follows:

JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES WITH RESPECT TO THE ESTABLISHMENT OF PUBLIC SCHOOLS

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by Congress:

"ARTICLE —

"Each State shall create public school districts in such number as is necessary to provide public education at the elementary and secondary school levels. The geographic and population limits of each school district shall be such as to insure the most efficient operation of schools and to provide for the highest quality of education possible. Each such school district shall be governed by a board of education consisting of five members elected by the residents of the school district who have attained the age of twenty-one. The term of office of each member of a board of education shall be two years. The employment and assignment of teachers within a school district shall be within the exclusive authority of the appropriate board of education; and each such board shall have exclusive authority to assign pupils: *Provided*, That no child may be denied admission to a public school because of his race, creed, color, religion, or national origin; and no child may be compelled to attend a school because of his race, creed, color, religion, or national origin."

WAGE AND HOUR STANDARDS FOR POLICE AND FIREMEN

The **SPEAKER** pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. O'HARA) is recognized for 15 minutes.

Mr. O'HARA. Mr. Speaker, today three of us, the gentlemen from Michigan (Mr. NEDZI and Mr. WILLIAM D. FORD) and myself, are introducing legislation to amend the Fair Labor Standards Act to bring policemen and firefighters under its terms, both as respects minimum wages and overtime.

These defenders of the public safety, who are often required to work long hours, whose jobs are among the most hazardous conceivable, cannot, by any stretch of the imagination, be considered overpaid—or even adequately paid. They should not, in all fairness, be excluded from the wage and hour standards protection which Federal legislation has long extended to private employees, and recently has begun to extend to public employees.

There is legislation pending, specifically H.R. 10948, introduced by the distinguished gentleman from Pennsylvania (Mr. DENT) which would have the effect of bringing these hard-working people under the Fair Labor Standards Act, and would indeed, do much more for many other segments of the American people.

Since this bill has been referred to the General Subcommittee on Labor, which is chaired by the able gentleman from Pennsylvania, I know that the proposal will receive sympathetic and knowledgeable handling.

The bill my colleagues and I introduce today will, however, serve to highlight the importance of paying special attention to the very difficult economic situation faced by a group of men whom we could not possibly compensate adequately, but whom we should at least relieve of the occasional necessity of moonlighting to make ends meet.

At the conclusion of these remarks, Mr. Speaker, I include a table taken from the Law Enforcement Journal of the Police Officers Association of Michigan, showing police salary ranges—from minimum to maximum, in a number of American cities.

A word is in order about the origin of this legislation.

Several days ago, Mr. Carl Parsell, president of the Police Officers' Association of Michigan, wrote to several members of the Michigan delegation.

He did not demand, he did not denounce, he did not excoriate.

He simply asked if we could not amend the Fair Labor Standards Act to include law enforcement officers—citing in particular the desirability of letting them collect at least time and a half for overtime.

I receive a lot of letters urging the enactment of this or that piece of legislation, Mr. Speaker.

But there was something about Mr. Parsell's quiet and reasonable communication which compelled me to think about what could be done above and beyond simply indicating my support of the pending broader legislation.

After discussing the letter with some other members of the Michigan delegation, the bill we are introducing today was prepared.

It is my understanding that Fair Labor Standards Act hearings may be scheduled in the near future, and I commend this legislation to the earnest consideration of the able chairman of the subcommittee and his colleagues.

The material referred to follows:

POLICE SALARY SURVEY

A survey of police salaries conducted by the DPOA shows Chicago in first place with the highest maximum salary scale of $12,120. Pontiac is a close second with $11,915. Detroit is fifth with $10,800.

The chart below shows the salary ranges for a number of cities in the United States and Canada. The columns show the minimum and maximum salaries and the number of years it takes to attain the maximum.

City	Maximum salary	Number of years to attain	Minimum salary
Chicago	$12,120	4	$9,600.00
Pontiac	11,915	5	9,665.00
San Francisco	11,796	4	11,019.60
New York	10,950	3	9,499.00
Detroit	10,800	4	8,000.00
Los Angeles	10,668	4	9,060.00
San Diego	10,644	3	8,772.00
St. Louis	10,010	----------	7,800.00
Minneapolis	9,660	6	7,800.00
Cleveland	9,426	2	8,430.00
Baltimore	9,252	5	7,452.00
Buffalo	9,225	4–5	7,015.00
Milwaukee	9,200	4	7,700.00
Philadelphia	9,000	2	8,478.00
Washington D.C	8,940	5	8,000.00
Cincinnati	8,807	3	7,744.00
Houston	8,712	5	7,800.00
Pittsburgh	8,700	3	7,763.00
Dallas	8,400	3	7,356.00
Boston	8,320	3	6,344.00
San Antonio	7,560	2	6,000.00
New Orleans	7,320	6	6,600.00
Montreal	7,300	2½	5,000.00

ABM—SECURITY OR ABSURDITY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 15 minutes.

Mr. GIAIMO. Mr. Speaker, administration plans to expand the Safeguard ABM system should come as no surprise. For years, the Defense Department has had only to mention "security" to answer all questions and eliminate all concern about specific weapons systems. For years the Pentagon has cried, "Damn the torpedoes, the cost, the research, and the reliability. Full speed ahead." For years anyone who has dared to question Defense Department spending practices has been branded "unpatriotic" or worse.

We have seen the results of this self-righteous attitude, Mr. Speaker. We have watched the unnecessary waste and misuse of billions of tax dollars for "cost overruns." We have seen countless sophisticated weapons systems, supposedly "vital" to our national defense, rushed into premature production before all research questions have been answered. We have seen a long line of weapons meant to provide us with "ultimate security" become obsolete before production is completed. I have only to mention the F-11 airplane as an example. Most tragically, we have seen the American people lose confidence in our Defense Establishment and create a new wave of antimilitarism which rivals that of isolationist times.

There are many of us in Congress, Mr. Speaker, and our numbers are growing, who have become disillusioned with the annual blank check appropriation which the Defense Department requests each year. If this Government is to invest billions of dollars in weapons systems, we

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believe that Congress has a duty to determine if such investments are justified. We can no longer accept promises of "ultimate security" instead of proper research and development. We can no longer condone the waste of billions of dollars on cost overruns because we are told it is in the national interest to waste money on defense. We can no longer tolerate the premise that the Pentagon budget is untouchable while all other budgets are subject to the most intensive scrutiny.

None of us are "enemies of the military" or unpatriotic. On the contrary, we believe that the safety and security of every citizen must be our first priority. We want to provide the best possible defense for this Nation, but we do not think that unlimited appropriations, insufficient research and hurry-up production will provide us with that defense.

All of the errors, the waste and the arrogance which have typified the Pentagon approach to national defense in recent years are exemplified by the continuing attempts of this administration to ram the ABM system down our throats. The Pentagon wants to expand the ABM system now, regardless of the tactical justification for such a step, regardless of its possible adverse effect on the arms race and the strategic arms limitation talks, and, most importantly, regardless of the progress of the vital research work which is necessary to perfect the system.

Fortunately for this Nation, Mr. Speaker, many Members of Congress are no longer willing to accept Pentagon pronouncements at face value. My colleagues and I will no longer accept "because" as an answer to our questions about national defense. We demand to know why certain weapons systems are necessary, where they will go, when they will be ready and how much they will cost. No longer are we willing to wait for these answers until after the weapons become obsolete, after they fail because of lack of proper research, or after billions of dollars are wasted and misused. This is our responsibility and our duty, Mr. Speaker, and we can no longer ignore it.

To push forward with expansion of the ABM system at a time when the Pentagon itself admits to the need for millions of dollars in additional research is totally irresponsible. I do not believe that Congress will approve this expansion and I do not believe that the American people, once they become aware of the real issues involved, will support it.

Mr. Speaker, the New York newspaper Newsday recently published an outstanding editorial on ABM, an editorial which refutes many of the generalities and myths which the Pentagon has used to justify the expansion of ABM. In a few concise phrases, Newsday underscores the basic fallacy of the ABM proposal:

> It would be totally unrealistic to argue that the U.S. can ignore the need for a strong defense posture in the face of two such powerful rivals as Soviet Russia and Red China. But it is in the matter of the "sufficiency" of this defense that a fundamental irrationality begins to overwhelm all pretense of logic in the program. . . .
>
> In order to be credible, the enormously complex ABM system of defense—which depends on a precise, chain-reaction sequence of detection and destruction of attacking missiles—must function at 100 per cent efficiency, with no margin for error. It is no use to talk of knocking out, say, five of eight enemy ICBM's, because the thermonuclear warheads of the other three would wreak death and damage of catastrophic proportions. The ABM is thus unlikely to deter a fanatic enemy unless he is convinced he cannot possibly penetrate its defenses. There is a deep division of opinion within the scientific community over whether the ABM can ever provide such a guarantee. Yet we continue to posit that guarantee as our goal.

Mr. Speaker, I urge those who seek to fight inflation and those who seek to provide the United States with a truly effective defense to take note of this editorial, which I am inserting at this point in the RECORD:

[From Newsday, Mar. 3, 1970]

ABM: THE FAR SIDE OF MADNESS

"In my view, the President's decision to go forward with a modified Phase II of the defensive Safeguard program will, in the long run, enhance the prospects for the success of SALT because, in the short run, it allows us to exercise greater restraint in matching a continued Soviet buildup of offensive systems with actions involving our own offensive systems . . ."

"Communist China has continued to test nuclear weapons in the megaton range and could test its first ICBM within the next year. However, the earliest estimated date that they could have an operational ICBM capability now appears to be 1973, or about one year later than last year's projection."—Secretary of Defense Melvin Laird in his annual defense report to Congress.

Heaven help us, it is here again: the perennial missile madness, with its exquisitely wrought doublethink ("will, in the long run, enhance the prospects for the success of SALT because, in the short run . . ."), its methodical alternation of the Soviet and Chinese threats, its automatically updated estimates of enemy potential (". . . about one year later than last year's projection"). Soon we will have those familiar learned debates in the political journals, bandying terms like "first strike capacity," "weapons sufficiency," "number of kills," and the rest of that second rate sports argot so dear to the ABM aficionados.

For over a decade the scenario has replayed itself with little variation—ABM decisions marked by shifting rationales, outright duplicity, swiftly obsolescent "CIA intelligence estimates," overt and covert political pressures. The result has been a self-canceling multi-billion dollar collection of heroic project names—Nike-Ajax, Nike-Hercules, Nike-X, Bomarc, Nike-Zeus, Sentinel, Safeguard—some of which inadvertently suggested the mythic aspects of the whole program and none of which, evidently, has brought us measurably closer to the promised land of "weapons sufficiency."

From the beginning, the defense establishment and its congressional allies have lobbied fiercely for deployment of a sophisticated ABM system on the seductive premise that ultimate security from enemy attack lay just beyond the next missile silo. The apparatus of persuasion has been trundled out so often that it has begun to creak: the scare stories leaked to certain newspapers, in which "high Pentagon sources" reveal some startling new development in Soviet or Chinese strength; the closed-door testimony of Defense Dept. officials informing a congressional committee of the newest "grave new threat" to the nation's defenses; and so forth. (The Chinese threat, or "yellow peril" as it was once known, is the Pentagon's ace in the hole these days; it can loosen appropriations committee pockets almost without a question being asked.)

RESISTANCE COLLAPSES

Presidents Eisenhower and Kennedy resisted the pressure for deployment, first of a Nike-Zeus and then of a Nike-X system. President Johnson, heeding his scientific advisers, resisted until September, 1967, when Defense Secretary McNamara reluctantly announced the administration's decision to deploy an ABM system. At the time, McNamara took pains to acknowledge the fallacies of an ABM defense, but then added that it would be "marginally useful" against the Red Chinese threat of 20 to 30 ICBMs expected to materialize by the mid-1970s.

And so Sentinel was born, a 17-site system designed to protect major U.S. cities from obliteration by Red Chinese missiles yet unborn. Unfortunately, the city fathers whose legions had thereby been spared not only failed to express any gratitude but were distinctly hostile to the notion of accommodating missile complexes on their borders. This prompted incoming President Richard Nixon to halt the Sentinel program pending a review.

It was just over a year ago that Sentinel re-surfaced, with a new name and a whole new reason for being. Now it was to be a "thin" system, called Safeguard, to be deployed not near cities but near missile sites, to protect not the lives of civilian populations but the retaliatory capacity of U.S. minuteman ICBMs, not from the distant Chinese potential but from the immediate Soviet threat, which, President Nixon explained, had suddenly grown "larger than was envisaged in 1967."

So we had entered the era of missiles to protect missiles. But the special virtue of the new system, it seemed, was that Safeguard was not merely a weapon; it was a diplomatic coup. As the President put it: "The program it not provocative. The Soviet retaliatory capacity is not affected by our decision . . . In other words, our program provides an incentive for a responsible Soviet weapons policy." Thus, to the arsenal of clean hydrogen bombs was added a new instrument for harmony among the nations—the unprovocative antiballistics missile. And lest the logic of this unique claim be lost on the general public, "White House sources" offered this illumination through the obliging medium of the New York Times:

"It was not, they insisted, cause for concern to the Russian leaders because, by not protecting the cities, it would do nothing to diminish Soviet capability of a counterattack on the cities; and because it would not diminish this capability, there was no reason for the Soviet Union to embark on new efforts to improve their retaliatory capacity."

THE NEWEST PLOY

There, in a single paragraph, was a fair paraphrase of all the shamming, misleading rationales foisted on a credulous and excitable public over the long course of the ABM's existence. If this intelligence could be accepted at face value, it appeared that now we were to be handed over to the Russians as a burnt offering to gain their indulgence for our desire to protect our missile sites. But in truth, it looked like nothing more than a ploy, a vast wink from our side signalling the other side that we were merely reinvesting the growth stock of our Pentagon portfolio—nothing, really, to be alarmed about, fellows.

And like so many other Pentagon ploys, it was serviceable for only a year. Two weeks ago, the President unveiled the new, expanded, dual purpose 1970 Safeguard system, a versatile number that will not only afford protection to both civilian population and missile sites but will deter both the Soviet and Chinese threats. As Defense Secretary

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Laird urgently explained to Congress: "In view of the continued growth of the Soviet threat and the prospect of Chinese deployment of an ICBM force in the mid-1970's, we could not justify delaying a further step to protect ourselves against these dangers."

This sounds very much like the clear and present danger that has sent us rushing to the barricades every time an ABM I.O.U. has fallen due in the past 10 years or so. The administration nevertheless plans to spend $920,000,000, just for openers, on the Safeguard expansion. Aside from protection of two additional missile sites, the new wrinkle is "area defense"—advance preparation work on missile installations in five regions of the country, "without a commitment to deployment"—which, it can be assumed, leaves wide latitude for next year's Pentagon maneuvers.

The total costs of this missile-mania to date are not merely staggering. They induce the sort of "psychic numbing" that according to psychiatrist Robert Jay Lifton has dehumanized many of our combat soldiers in Vietnam. Stuart Symington, a veteran member of the Senate Foreign Relations Committee, reported last March, for example, that up to that point the Pentagon had invested over $23 billion on "what are now acknowledged to be unworkable or obsolete missiles." This presumably included some $6 billion lavished on the old Sentinel before it was finally junked in 1968.

Safeguard already stands on a plateau by itself. When it was first announced a year ago, the total cost was estimated at $6 to $7 billion. A few months later, this was raised to $10.3 billion, on the basis of "additional costs" omitted from the original estimate. When the current expansion was announced last month, Deputy Defense Secretary Packard upped the ante to $11.9 billion, an increase of $1.6 billion which he attributed to inflation, delay of the program, and "certain design changes found necessary and advisable during the year"—no doubt, the same sort of necessary and advisable changes that ultimately deposited Sentinel and its predecessors on the scrap heap.

Nothing in the past history of the ABM encourages a belief that the spending will stop there. By authoritative estimates, the "thick system" toward which Safeguard is steadily evolving will cost something beyond $30 to $40 billion.

Any range of billions is a no-man's land for most men. Who can grasp the meaning of such figures? They begin to have significance only in the simplistic, but legitimate exercise of placing them alongside more palatable realities. The fact, for instance, that President Nixon dramatically vetoed an education bill a few weeks ago because he regarded the appropriation of $1.2 billion more than he had requested as "inflationary." The fact that five days before the President announced his new program for a cleaner environment, a federal agency denied a fund request from New York City to demonstrate pollution-free cars because, "there will not be sufficient funds available to meet our commitments for the continuation of existing demonstration projects." Or the fact that the entire, loudly trumpeted war on pollution calls for Federal expenditure of only $4 billion over a four-year period. Or all the facts of underplanned, underfunded environment, transit, poverty, health and welfare programs in America.

But more basic than how much is being spent on ABM is the question of why it is being spent at all. It would be totally unrealistic to argue that the U.S. can ignore the need for a strong defense posture in the face of two such powerful rivals as Soviet Russia and Red China. But it is in the matter of the "sufficiency" of this defense that a fundamental irrationality begins to overwhelm all pretense of logic in the program.

RULES OF THE GAME

In the realm of missilery, the arms race is a deterrence race, a flaunting of plumage by hostile peacocks. One must understand to begin with that nuclear missiles are weapons of phantom warfare, calculated, that is, to insure that they will never be used. It is not what they can do, but what they are capable of avoiding that makes them mighty. If the enemy trusts in that capability, then the missiles become an effective deterrent to warfare, and they will not be used otherwise if the enemy has a comparable deterrent.

In order to be credible, the enormously complex ABM system of defense—which depends on a precise, chain-reaction sequence of detection and destruction of attacking missiles—must function at 100 per cent efficiency, with no margin for error. It is no use to talk of knocking out, say, five of eight enemy ICBMs, because the thermonuclear warheads of the other three would wreak death and damage of catastrophic proportions. The ABM is thus unlikely to deter a fanatic enemy unless he is convinced he cannot possibly penetrate its defenses. There is a deep division of opinion within the scientific community over whether the ABM can ever provide such a guarantee. Yet we continue to posit that guarantee as our goal. It is presently estimated that the U.S. has about 1,700 "deliverable" nuclear warheads, as against Russia's 950. These totals do not include the rapid development in converting warheads to MIRV use (Multiple Independently Targeted Re-entry Vehicle), which permits a single missile to carry multiple warheads. When MIRV is completed late in this decade, we will have over 8,000 nuclear warheads at the ready.

The arithmetic of destructive power becomes as awesome as the sums of dollar cost. McNamara once estimated that a mere 400 warheads of one megaton each (a megaton being equal to 1,000,000 tons of TNT) would kill 74,000,000 people in the Soviet Union and destroy 76 per cent of that nation's industrial capacity. Within a few years we will have a missile arsenal of 20 times that potential—enough, surely, to wipe out any moving or breathing object west of Hawaii and east of Bermuda.

But will it be sufficient? If the present script runs true to form, the Chinese will be spurred by the Safeguard expansion to step up their budding nuclear arms development program; the Russians, perhaps unconvinced by our reassurances about long range expansion for short term restraint, will redouble their development of offensive systems in an attempt to overmatch it. (Indeed, they have just declared that they now have the ability to knock down any ballistics missile we may send their way.) The U.S. defense establishment will then ask for more weapons to balance the Soviet development, and so on, to the far side of madness.

This is the dynamism that fuels the nuclear arms race. It is the underlying absurdity of a game whose only operable rule is that if it is once commenced it is instantly forfeited. Even as they prepare to resume their Strategic Arms Limitations Talks, the United States and Soviet Russia continue their cost accounting for Armageddon. And in our own country at least, one no longer hears any effective voice or chorus of voices raised to demand an audit of that account.

SPEECH BY RAY GALLAGHER OF VFW BEFORE COMMITTEE ON VETERANS' AFFAIRS

(Mr. BERRY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BERRY. Mr. Speaker, it was my privilege last week to introduce my very distinguished constituent, Ray Gallagher, of Redfield, S. Dak., commander in chief of the Veterans of Foreign Wars of the United States, when he appeared before the House Veterans Affairs Committee on March 10.

I would like to share with my colleagues his very meaningful presentation to the committee. His testimony follows:

STATEMENT OF RAY GALLAGHER, COMMANDER IN CHIEF VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and members of the committee: Permit me to express my deep appreciation, as well as that of my fellow officers, and all the members of the Veterans of Foreign Wars, for this opportunity to meet with your Committee.

As veterans we are especially grateful to this Committee for the programs it has initiated through the years. We are grateful to the Congress for the legislation it has enacted in recognition of the unique status and the specific needs of those who fight this nation's wars. As members of the Veterans of Foreign Wars we are equally grateful to this Committee for the cooperation it has given to our organization in our mutual efforts to assist all veterans.

This is the Seventieth Anniversary of the organization I have the honor to represent. Seventy years of service to America and to her people is the proud tradition we bring with us today.

For seven decades of American history—through wars and rumors of wars—the Veterans of Foreign Wars has grown and prospered through its dedicated service to this nation in both peace and war. Through all those years our members have extended the hand of comradeship to the American veterans who return from war. We have been their advocate and the watchdog of their rights. We have been the guardian of their widows and orphans—the helping hand to their dependents. We are proud of that record. We are equally proud of our long association with this Committee.

We are also proud of our many patriotic and youth programs. Accompanying me this morning, just a few rows back, are the 53 winners of the V.F.W. Voice of Democracy Contest from the 50 States, the District of Columbia, Panama Canal Zone, and the Far East. These young Americans represent the future leaders of this nation. They are here today because of one of our patriotic youth programs. Five of them will receive college scholarships totaling $13,500, with the first place winner delivering his or her speech at the Congressional Banquet tonight.

Mr. Chairman, we all have hoped that wars would become a thing of the past. We still do. We all cherish the ways of peace. But the security of this nation must always be more important to loyal Americans than peace. We as veterans realize that nothing suffices as a military victory, and for that reason we must insist that in the future no American should ever be fielded upon foreign soil burdened with a "no win" policy. The whimpering, unrealistic rationalization of those who cry out for "peace at any price" is to us akin to treason. On the repeated record of human history it is the inevitable dogma of national destruction. It is the submissive philosophy of slavery. We in the Veterans of Foreign Wars cannot accept this shameful compromise with the realities of life. Most of us are here today because appeasement was the reigning philosophy thirty years ago. It is the greatest ally the dictators of the world have ever known. Today we hear it once again.

We are at war in Vietnam. Scaled down, Vietnamized, or ignored by those who choose to bury their heads in the sands of fantasy, this nation is at war. More than forty thousand Americans have died on the battlefield. Hundreds of thousands more have been wounded in actual combat. Disabled young men are returning from that war to every state in this great nation. One million veterans come back to us each year. And yet, there are times when it appears that only you, and we, and those young men and their families are aware of that unhappy fact. It is our continuing obligation to make certain that they receive prompt and efficient service in the processing of their claims for all of the benefits to which they are entitled as a result of their military service.

We in the Veterans of Foreign Wars are dedicated to that goal. We will close this year with the largest membership we have ever had. We will continue to grow, and presently are over 100,000 members ahead of last year. We know that this year we will exceed the largest membership that this organization has ever attained. We will continue our service to the American veteran.

Each of our more than two million men and women and their families keep our V.F.W. work apart from partisan politics. We know that the veterans program is traditionally bi-partisan. That is as it should be. But each of us was extremely disappointed that there was no mention of the American veteran in the "State of the Union Message" this year. There was no reference whatever to veterans programs, veterans rights, or veterans benefits. We hope that President Nixon will heed our earlier request for a special message to Congress setting forth Administration guidelines on veterans programs.

There are many urgent needs for liberalizing and improving existing programs for older veterans, and establishing new ones for those who are returning from Vietnam. We must remember that some of our comrades are returning with bad disabling injuries which deprive them of the ability to earn a first class living. At this point I would like to remind this committee that any man who has served his country and suffers a disabling disability is entitled to preferential citizenship.

Because of this there should be no budgetary or personnel restrictions on the Veterans Administration. It is unfortunate that the Administrator of Veterans Affairs has not seen fit to join in the public clamor to update the hospitals and to update other veterans programs. We are not unmindful of the negative testimony of the Administration before this Committee. It disturbs us greatly. We also recognize that this Committee has repeatedly approved legislation in spite of such testimony for which we thank you. It is our hope that this session of Congress will view this need with sympathy and understanding. It is our fervent hope that you will meet that need with specific legislation which will meet the problems of veterans in the "changing seventies." Even the best program in the world loses its value if it is permitted to remain static.

As you know, the legislative goals of the Veterans of Foreign Wars are established by the delegates at our annual National Conventions. At our most recent Convention, which was held in Philadelphia last August, more than 300 separate resolutions were approved. The great majority of these resolutions address themselves to veterans rights, benefits, and programs administered by the Veterans Administration. The activities of that important agency come under the watchful eye of this Committee. To us it is your most important responsibility. It is also one of the most important responsibilities of the American people—to "care for those who have borne the brunt of battle."

Each year our Legislative and Security Committees meet here in Washington to review our Convention resolutions for the purpose of recommending a Priority Legislative Program. This year our Committees recommended a nine-point program, which is a representative list of the majority of the problems which are of intense concern to the members of the Veterans of Foreign Wars. This list has been presented to each member of Congress.

With your permission, I would like to review some of these veterans problems and other developments which have taken place since October 1, 1969:

The V.F.W. is deeply disturbed over the funding and personnel shortages in VA hospitals. Undoubtedly this is the number one problem with respect to veterans programs today.

The quality of medical care has drastically changed during the last decade. The necessary number of personnel needs to be increased and the type of personnel required to do the job calls for much more training and professional ability.

During the past five years the Veterans Administration has been required to absorb a portion of the cost of four salary increases, and is being required to absorb part of another this fiscal year.

Inflation has taken its toll. Cost of equipment, medicines, drugs, and other necessary items essential to medical care have mounted steadily in recent years.

As a result, even though the VA budget has been increased to some extent each year, it has fallen far behind with respect to medical care being provided by most private and public hospitals. It is disturbing to the Veterans of Foreign Wars that the Administration has failed to recognize this even though it has been dramatically called to their attention.

Another development which the VA has not always kept up with are the so-called new services. I refer to intensive care units, cardiac care, alcoholic clinics, kidney units, and other similar services which are now a regular part of first class medical care in any hospital.

We were shocked to learn that many of these units, although constructed and ready to go, are not being operated due to lack of personnel. I am referring to the list of VA facilities which you, Mr. Chairman, placed in the Congressional Record of October 9, as they existed at that time.

Mr. Chairman, we are aware of the fact that in recent days the Budget Bureau approved a VA supplemental request for $15 million with $9.8 million allocated for the dental program, $3 million for special medical units, $1 million for home kidney dialysis units, $1 million for extra drugs, and $200 thousand for spinal cord injury units.

We are pleased by this development as we feel we played a significant role in making this become a reality. You may be assured the Veterans of Foreign Wars of the United States will continue to battle for more funds.

Closely related to new services is the VA construction, modernization, and renovation program. This program, which was intended to be carried out over a 15-year period, has suffered deep cuts over the last four years. Now it has come under the Presidential freeze order, which has eliminated 75% of all new construction.

We are deeply disappointed that the Administration did not agree with the position of the Veterans of Foreign Wars and Congress that the VA programs should be exempt from budgetary and personnel limitations. Despite the rising number of cases from the Vietnam War, and the resulting workload, the VA is expected to do its job with the same number of people that it had over three years ago. We are not unmindful that the proposed 1971 budget includes a nominal increase of approximately 2,000 employees. Administration spokesmen contend the VA received special consideration in this regard. The truth is that the Department of Agriculture will gain 2,300, the Department of Health, Education and Welfare will gain 2,600, the Department of Transportation will gain 6,700, and the Treasury Department will gain 6,800. All of these agencies have a substantial lower employee ceiling than the VA, and therefore, their employee percentage increases are substantially higher. For instance, if the VA were allowed the same percentage increase as the Department of Transportation, the VA would be permitted 15,000 additional employees rather than 2,000. It looks like these other agencies are favored ones. Certainly, there is no proof of special generosity in the meager 2,000 total employee increase authorized for the Veterans Administration.

The Congress has authorized the benefits, and the V.F.W. wants the veteran coming home from Vietnam to receive the services and the care which Congress has authorized, and to which these veterans are entitled. We agree with you, Mr. Chairman, that these men that have borne their country's battle in Vietnam should not be required to return home and battle the inflation here in this country.

Mr. Chairman, I have mentioned inflation. Inflation hits hardest those who are existing on a fixed income. This is especially true of a large group of disabled veterans and widows. The V.F.W. has noted with appreciation the prompt action of this Committee and the Congress in taking care of the more than 60,000 widows by your enactment of P.L. 91–96. We are encouraged by the fact that this Committee is also considering a cost-of-living increase for service connected disabled veterans. This is one of the legislative goals which has the highest priority and interest of our membership.

In the same category are veterans, widows, and dependent parents of veterans who are forced to exist on a very modest VA pension. Most of these persons will receive a 15% social Security increase next month. Because Social Security and other retirement income are counted in determining entitlement to a VA pension, and the size of the pension check, many of these people are worried that their VA pension payments will be drastically reduced, or even stopped.

We commend the Chairman and the members of this Committee who are co-sponsoring and supporting a bill which will carry out the V.F.W. position that none will lose his VA pension as the result of a Social Security increase.

The V.F.W. has been deeply involved in seeking an increase in the GI Bill education and training allowances. The Senate version of HR 11959 is in keeping with our mandates. We hope that the differences over the controversial provisions in that bill can be reconciled. We want an increase, not a veto. It is our contention that the reason why more Vietnam veterans are not participating in the GI Bill is the inadequate educational and training allowances.

The Veterans of Foreign Wars commends this Committee for the comprehensive study which is being made respecting the needs of VA hospitals to continue to provide first class care. We know that first class medical care cannot be provided on a second class budget.

There are other bills which this Committee is actively considering, or has already sent to the Senate for approval. All of this legislation carries out resolutions approved by the delegates to our National Conventions. Two National Conventions, for example, advocated that which is contained within HR 372, and is now before the Senate. This would remove the requirement for an annual report of income for a veteran or widow at age 72 or older.

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The other would also be most welcome to our World War I comrades. It is the provision in HR 693, which would eliminate the requirement that a veteran, 72 or older, swear that he is unable to pay for his hospital expenses or domiciliary care for non-service connected disability. We call this the "pauper's oath". And we in the Veterans of Foreign Wars have long supported demands for the elimination of this demeaning requirement as the price of hospitalization or domiciliary care for American veterans. We believe that it should be eliminated regardless of the age of the veteran.

The shortage of housing is a national crisis. The V.F.W. is painfully aware that the veteran returning from Vietnam is unable to purchase a new or existing home because of the high cost of mortgage money and the shortage of funds for long term financing. For this reason, the V.F.W. strongly supports action by this Committee which would use up to $5 billion in assets of the National Service Life Insurance Fund for investment in VA home loans as provided in HR 9476. Since the National Service Life Insurance Fund is a totally owned veterans fund, it would seem fair and logical that this money be invested to help veterans purchase a home and sharply increase the earnings of the trust fund, which will result in more dividends for veterans holding National Service Life Insurance policies.

The V.F.W. deeply appreciates the favorable consideration and advancement of other legislation by this Committee which will increase the time limit for community nursing home care by the VA from six to nine months, remove the prohibition against duplication of benefits which discriminates against those taking VA education and training courses, recognizing the service of a small group of veterans for entitlement to VA hospital and pension assistance, who served in the Mexican Border campaign just prior to World War I, and additional assistance to veterans who are suffering from serious health problems. This legislation is of intense interest to the V.F.W. membership and is receiving the vigorous support of our organization.

These are but a few of the most important areas of concern to the membership of the Veterans of Foreign Wars. Time does not permit me to discuss others. As I mentioned previously, we have approximately 300 mandates from our Philadelphia Convention. It will be greatly appreciated, Mr. Chairman, if a Digest of these resolutions, together with a list of our Priority Legislative Goals for 1970, may be made a part of my remarks at the conclusion of my statement. I request that a press release, dated March 4, 1970, containing my statement respecting the failure of the Veterans Administration to use available hospital beds and my letter of January 26, 1970, to the President in which, among other things, it is requested that he transmit messages to the Congress respecting veterans programs, be included.

In summation, the Veterans of Foreign Wars is alarmed over the general attitude of this Administration toward our nation's veterans. This means the membership of the Veterans of Foreign Wars is going to have to work harder than ever and that this Committee and the Congress are going to have to work harder than ever. If we don't do it, no one else will.

May I again express my sincere gratitude for this privilege of appearing before this distinguished Committee. Many of us will be visiting with you personally throughout the remainder of the day.

We hope that all of you will be able to attend our annual Congressional Banquet tonight at the Sheraton Park Hotel. All members of Congress are cordially invited to a reception at 6:00 p.m., and to the dinner, which will begin promptly at 7:00 p.m.

Thank you.

FREEDOM'S CHALLENGE

(Mr. BELCHER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BELCHER. Mr. Speaker, the Veterans of Foreign Wars each year conducts an essay contest entitled the "Voice of Democracy." This year over 400,000 school students participated in the contest competing for the five scholarships which are awarded as the top prizes.

The winning contestant from each State will be brought to Washington, D.C., for the final judging as a guest of the VFW.

I am very proud that this year's winner from Oklahoma is Roger T. Manus, of 4708 South Evanston Place, Tulsa—a resident of my congressional district. There is real food for thought in this young man's speech and there is real hope for the future of America with young citizens like this willing and able to exercise the responsibilities of citizenship in a free society.

I am honored to include Roger's speech in the CONGRESSIONAL RECORD following my remarks:

FREEDOM'S CHALLENGE

It is the tenre summer of 1776. Thomas Jefferson, Benjamin Franklin, and John Adams, all prominent men, are gathered in Philadelphia. Together, they ponder the wording of the Declaration of Independence from tyranny. But the covenant means more for these men. It is their declaration of courage, a declaration of the dignity of man and his free conscience.

The work itself may have been a cooperative venture, but the participation of each man was an act of individuality. Each man staked his life on the democratic search for truth.

It is now early 1970. Skyscrapers tower over Independence Hall where our forefathers labored. 200 million Americans prosper in the most powerful nation on earth. Still, the orderly search for truth, within a democratic framework, continues. But for the American citizen, this courage and individuality of thought and expression remains freedom's challenge.

How can this individuality exist? Through freedom.

Freedom of speech.

Freedom of the press.

Freedom of peaceable assembly.

Freedom of religion.

Freedom from arbitrary government, fear or want.

This freedom and the individuality of American character have cultivated a rich heritage of courage.

President Washington exhibited courage when he gave his unwavering support to the Jay treaty with England to save the newly United States from a war it could not hope to win. He was accused of being a traitor, a hypocrite, but he had a legal freedom to speak and an obligation to do so. The verbal abuse was scathing; nevertheless, our first President was vindicated by his conscience and by history.

In the same manner, historic acts and words have charted the course of America's greatness.

But the challenge we have assumed insists that individuality not be confined to our leaders. Senator John F. Kennedy wrote in his book, Profiles in Courage:

"In a Democracy, every citizen, regardless of his interest in politics, "holds office"; every one of us is in a position of responsibility, and in the final analysis, the kind of government we get depends on how we fulfill those responsibilities."

The individuality of the common man is the basis of American culture.

Our forefathers knew that men are not perfect, but they had a deep faith in what the common man might become.

It is precisely because men cannot always be right that we have democracy.

The food of thought would spoil if not constantly digested by men of varying dispositions.

This demands a free flow of different ideas.

I don't advocate being radical so that no one will take you seriously.

Indeed, it is often necessary to be courageous in compromise.

As a consequence of urging compromise in the great debate of 1850, Daniel Webster earned a condemnation unequaled in political history.

In fact, this practice of compromising your policies to further your principles is upheld by America's courageous tradition of moderation.

The whole American system is designed to accommodate various ideas. Abraham Lincoln explained why: "There are few things", he said, "wholly evil, or wholly good. Almost everything, especially of government policy, is an inseparable compound of the two, so that our best judgment of the preponderance between them is continually demanded".

It has been nearly 200 years since Thomas Jefferson issued his declaration of courage, a challenge for men to free their consciences by exposing their ideas to the dangers of controversy and by protecting their ideas from the tyranny of apathy. To maintain our nation of courageous and independent thinkers is freedom's challenge.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a Nation. In 1967 the United States produced 2,966,000 metric tons of aluminum. This was three times more than produced by the second leading nation, the Soviet Union.

CONGRESS IS CONCERNED ABOUT FIGHTING CRIME

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, yesterday the FBI's Uniform Crime Report showed that serious crime in the United States rose by 11 percent in 1969 over the previous year. This report highlights the failure of the Attorney General when appearing before the House Committee on the Judiciary last week to support the efforts of many in Congress to provide the necessary funds to successfully prosecute the war on crime which President Nixon called for in his state of the Union message. Every sane and law-abiding American of both political parties wants to stem the rising tide of crime, but the testimony of the Attorney General has cast great doubt on the motives of this administration and its continued "law and order" posturing. The Nation is willing to pay what it costs to get results.

Attorney General John N. Mitchell made the amazing request for only half the funds which many in Congress want to provide for the fight against crime. He refused to support congressional initiatives for additional funds needed to fight mounting crime.

Not surprisingly, committee members of both parties reflected disappointment at the Attorney General's proposal for halfway measures in the urgent battle against increasing crime in the streets. The question is raised: Are the administration and Mr. Mitchell seriously interested in fighting crime, or in headlines and political expediency?

It requires only a short memory to recall the political capital Mr. Nixon, as a candidate, sought by repeatedly raising crime in the streets to a national issue in 1968. We recall his promise to curb crime with the appointment of a new Attorney General. The campaign promises were the stuff of headlines.

We also recall the posturing of a new Attorney General who sought the title of "Mr. Law and Order." Although he was reluctant to appear for testimony when requested, he found time to travel around the country to trumpet what he labeled as an administration program to fight crime, although most of the listed proposals were in bills already before Congress. Mr. Mitchell found it politically expedient to be super critical of Congress.

Last week's performance makes it understandable why Mr. Mitchell did not choose to appear previously to testify, for it is now fully revealed that he, nor the administration, has no program to combat the growing rate of crime. They refuse to fund fully and support the agency which can best do the job of Federal aid.

Further, with the tiger of crime prowling the streets and alleys of the Nation's cities, Mr. Mitchell came to Congress not to propound a positive program but to oppose efforts of concerned Congressmen to try to meet the needs of the frontline troops in the fight against the robbers, the muggers, the rapists, and the murderers.

Mr. Mitchell's contention that $750 million or $1 billion for the Law Enforcement Assistance Act is too much is an amazing position for the Cabinet officer responsible for law enforcement. Mr. Mitchell said that the agency can use only $480 million; that more could not be properly used by States and cities.

Does he seriously believe that a northern city of 200,000 which received only $188 in Federal funds for its police and courts in 1969 cannot effectively use 10 times that much? Does he seriously believe that a major midwestern city of almost 700,000 which will receive only $350,000 in 1970 cannot use four or five times as much Federal assistance? Does Mr. Mitchell seriously believe that a major northeastern city of 2 million people and a police budget of $70 million cannot use several fold the $207,000 it received from LEAA in 1969?

Does he seriously believe that its share of $1 billion cannot be fully utilized by the city of over 500,000 which last year received only $21,000? I know of no single urban area which cannot effectively utilize a full share of Federal funds.

One would hope that Mr. Mitchell has learned well the lesson that his own chickens come home to roost, that all of his headline hunting pronouncements aside, he has learned the real battle against crime must be waged in the streets and alleys, where most crimes are committed. One would hope Mr. Mitchell has learned that the root causes of crime must be attacked. The Safe Streets Act, passed before Mr. Mitchell became Attorney General, remains this Nation's best legislative vehicle to provide needed Federal assistance to local law enforcement officials and local courts. Mr. Mitchell's opposition to providing minimum needs funds for this program is inconsistent with his public posturing against crime. The Attorney General muffed his chance to back his rhetoric with action. Congress, I am confident, will be more concerned about fighting crime than in any political rhetoric.

HON. MICHAEL J. HARRINGTON ON THE SUBJECT OF THE HOUSE SENIORITY SYSTEM

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record, and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, our colleague, Michael J. Harrington, delivered a speech on the state of the House and in particular how the seniority system affects what has and is taking place in this body. The statement is both scholarly and pragmatic in its analysis and observations.

I offer his statement at this time for the consideration of our colleagues since the Democratic Members of this House will be considering changes in the seniority system:

Text of the Speech of the Honorable Michael J. Harrington to the Massachusetts Chapter, Americans for Democratic Action

Ladies and gentlemen: I appear to you tonight as a new Congressman. I have served five months. But if I address myself to some aspects of the question of congressional leadership, I hope you will recognize that I am abundantly free from the danger of being accused of damaging my vested interests, and free of course from the associations which a more senior member inevitably might develop.

In short, I come to you with the open eyes of a freshman, reinforced in my pre-congressional views by my new experience, and convinced that Congress today is not meeting the challenges of our times.

At a time when the public is uneasy and afraid as it attempts to cope with the difficulties of modern living, and at a time when there are great numbers of Americans uncertain if government can resolve the problems which now frustrate large segments of the population, the Congress of the United States has drifted further and further from a role of leadership.

Congress no longer fulfills its proper public role, nor commands the public respect that once characterized this legislative branch of the government.

It is time to look candidly at the institution and determine whether we are willing to make the commitment necessary to help it relate to modern America.

Today the House of Representatives is governed by a council of elders who weld and wield inordinate power, and, who by their prolonged control and opposition to reform, have deadened the creative and innovative potential of Congress.

It was not always so.

The House was designed to be that body of government most responsive to our national electorate, most sensitive to national changes of interest and direction.

The Founding Fathers, by providing for the election of all the Members of the House of Representatives every two years, sought to establish an institution which would remain closely attuned to the current aspirations and current concerns of the public.

In James Madison's words, it was essential that the House of Representatives should have an "immediate dependence on, and an intimate sympathy with the people."

To the degree that Congress reflected this intention, the House of Representatives has historically been a significant force in the government of the Republic.

For over a century of our national life the House of Representatives played a full role in the delicate balance of government so wisely devised by the Constitution. Members of Congress were giants in the land, leaders of government and architects of national policy.

But the absolute reliance in recent years by the House of Representatives upon the seniority system has taken its toll of the vigor with which this body responds to the needs of modern society.

I speak of an almost total reliance upon a system which names committee chairmen on the basis of the number of years which they have served on their committee.

In 1960 President John F. Kennedy proclaimed that the torch of leadership had been passed to a new generation of Americans. The late President could not have been speaking of the House of Representatives. Here, to the contrary, leadership has been restricted to a senior generation of Americans. Congress selects men as committee chairmen who may or may not have leadership capacity, who may or may not reflect the current views of our country, who may or may not have the confidence of their committees. Congress selects men who have been there a long time; that is why they are committee chairmen. Yet they exercise control over our most fundamental powers, namely the initiation and consideration of legislation.

One hundred years ago committee chairmen had served an average of six years in the House. Today the average committee chairman has served 28 years.

One hundred years ago the average age of Representatives was 46; today the average age is 52. Not really so great a difference. But one hundred years ago the average age of a committee chairman was 49 and today he is almost 70.

Seventy years old is the average age of congressional leadership, while in private business the average age for retirement is 65. If

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retirement rules were followed by the House of Representatives all but five of the present committee chairmen would be forced to retire.

Congress has itself passed rules requiring civil servants to step down at age 70. If Congress followed the rules it laid down for others, half the committee chairmen would have to retire.

Only Congress has institutionalized age and length of service.

In the Executive branch, the average age of cabinet members under President Nixon is 55. Under President Johnson, it was 50. And under President Kennedy it was 48. While in Congress, the average age of committee chairmen is 70.

What other institution requires that its members serve for 28 years before being elevated to positions of responsibility and direction?

Can we imagine either the Ford Motor Company, the University of California, or the United Auto Workers stipulating that its executives be on the payroll for 28 consecutive years before being eligible for a position of authority?

And 28 years is merely the average length of service among our chairmen. It took longer for some. One chairman—the chairman of the powerful Rules Committee—served 35 years before being named chairman of his committee three years ago. In other words he was 77 years old when he *began* his term as an executive in Congress.

The tradition of seniority is a far greater evil than merely one which assigns prominence to age. It also distorts congressional representation and control of our legislation. The rural and safe congressman becomes a commanding force. 88 per cent of all committee chairmen in the past two decades have come from virtually one-party districts. Inevitably the urban areas, where 80 per cent of the Nation's population lives, are misrepresented. And, it is the urban crisis which to a great extent is *the* crisis of our nation. When we talk about crime—it is crime in our cities. When we talk about pollution—it is the industries and automobiles in our cities to which we refer. When we talk about housing—it is in our cities where the critical need is.

Yet the Congress gives authority to rural districts.

While we observe the dictum of the Supreme Court in terms of one man-one vote districts, we nonetheless continue by indirection to distort the meaning of equal representation as long as we assign rank to the congressman longest in office.

The power accruing to rural members means that 13 out of 21 committee chairmen in today's Congress come from rural areas. Two come from suburban areas. Only six come from the major population centers of the United States, our urban areas.

And of the 10 most important committees in the House of Representatives, only one is chaired by a member from an urban district. Eight of these ten powerful committee chairmen come from one section of the Nation, the South.

These are the men who decide what legislation will be considered, these are the men who conduct hearings on legislation, these are the men whose leadership describes the role and scope of the House of Representatives.

What this has meant for the nation as a whole is that Congress is less attuned to national needs than either the Supreme Court or Executive Branch of government. In terms of congressional action, military might has taken precedence over domestic needs; rural areas are favored over urban areas; regional interests are fostered to the detriment of the national interest; the needs of the American black population have been ignored to the point of crisis; and the Nation's Capitol suffers under archaic rule which withholds that basic American right, the right to self-government.

Congress deliberates on a stage created for another time about matters relevant to yesterday's world.

It is without criticism of individual chairman that I list these facts. I do not and would not suggest that rural members with long years of service do not work hard and conscientiously. But it is in the natural order of things that a member with a rural background brings to bear less capacity and concern for urban problems than a member with an urban background.

And it is also in the natural order of things that representatives from safe districts are less responsive to the current problems facing the nation.

It does not seem surprising, therefore, that Congress has not been able to develop for the nation a rational and comprehensive federal policy for urban areas.

Nor does it seem surprising that there is no committee for Urban Affairs in the Congress and that 14 separate committees each deal with the splintered pieces of urban problems.

There is no lack of information testifying to the need for programs and policies to assist urban areas.

In 1967, the Senate Subcommittee on Government Reorganization held extensive hearings on the "Federal Role in Urban Affairs" which resulted in 20 volumes of information on the specific problems of the urban crisis and on what the Federal government must do to alleviate the crisis. Since 1967, four national commissions—the Eisenhower Commission on the Causes and Prevention of Violence, the President's Committee on Urban Housing, the Kerner Advisory Commission on Civil Disorders, and the National Commission on Urban Problems—have issued massive reports dealing with specific aspects of the crisis.

Neither has there been a lack of specific recommendations for legislative action.

Following congressional hearings in 1967, 20 bills were introduced. But few even reached the floor of either chamber.

Similarly, one year after the Kerner report was issued, urban America and the Urban Coalition said:

"A year later, we are a year closer to being two societies, black and white, increasingly separate and scarcely less unequal."

Even in the vital field of housing, the numerous recommendations of the President's Committee on Urban Housing have been largely ignored.

Despite this availability of detailed and expert knowledge and of specific proposals, Congress has failed to respond to the urban crisis. This failure results from its own unwillingness to reorganize to handle urban matters and the under-representation of urban interests in Congress—as well, of course, from the overwhelming dimensions of the the problem.

It does not seem surprising also that the Nation's Capitol, a class urban area, has been for 22 years under the control of a member who comes from a 100 per cent rural district. Without derogating the chairman of that committee, I submit that the consistent failure of the committee to approve home rule bills for the past two decades relates directly to a system which gives authority to members who cannot be and will never be responsive to the urban problems that fall within the scope of their committee.

The District of Columbia Committee has consistently failed to pass bills from its committee which had been previously passed by the Senate and which would provide a modicum of self-government for our decaying Capitol.

It would appear that the Committee fears that the city, more than 50 per cent black, will fall into the hands of its citizens.

A history of the quest for District self-government from 1950 to 1960 sounds like the first few years of the New York Mets.

In 1949 hearings were held but no further action was taken on the Senate passed council-manager bill.

In 1951 the Committee failed to approve the Senate passed home rule bill.

In 1953 the Senate passed bill providing a non-voting delegation to the House was tabled by the committee.

In 1955 the Senate passed home-rule bill died in committee.

In 1958 the bill establishing D.C. territorial government was passed by the Senate but received no action by the D.C. Committee.

In 1959 the committee failed to report the Senate passed home-rule bill.

I need not remind you that home rule has still not come to Washington, a city of a million population.

The seniority system has developed of course some excellent chairmen; but it has also pushed many a misfit into a position of inordinate power.

When a former Senator from Kansas became chairman of the Committee on Agriculture and Forestry at the age of 81, it was said of him that he could hear no one and no one could hear him.

Carl Vinson, former chairman of the Armed Services Committee, once remarked that if the present chairman, put any more military installations in his district, the district would sink from the pure weight.

Howard W. Smith, chairman of the Rules Committee from 1955 to 1966, certainly was not incapacitated physically. Though the Rules Committee is generally considered to be an administrative committee that has as its function the facilitation of the legislative process, Smith used his position to thwart the attempts of a majority of the Congress to pass civil rights legislation. He was known to disappear rather than call a meeting if the pressure was on him to pass along a bill he didn't like.

Let me detail the kind of obstructionist control which Chairman Smith was able to exercise and which exemplifies why Congress is following the Nation into the 1970's instead of leading it.

In one session alone, it is estimated that the Rules Committee failed to grant rules to 34 significant measures. In at least six instances, it voted to deny a rule or to table; in the remaining 28, it apparently took no action, leaving the measures still pending at adjournment.

Among the bills thus delayed were nine major bills dealing with education; six concerning labor; three dealing with migrant workers; two significant measures involving discrimination; a bill to set up an advisory council on the arts; and a constitutional amendment abolishing the poll tax.

One might retort that the leadership is for change: that the preceding Democratic President took great strides in domestic affairs and was supported by a Democratic Congress.

But the leaders of the Congress, the committee chairman who came to power through the seniority system, were often the strongest opponents the President faced in bringing about needed reform.

The Democratic Study Group did a study of 30 key votes which reflected the "National Democratic position" in the 90th Congress. The National Democratic position prevailed on only 13 of the votes. The Democratic committee and subcommittee chairmen alone,

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our leaders in the House, were responsible for half of the 17 defeats.

Of the 75 House Democrats who voted in opposition more often than in support of the national Democratic position, 42 were committee or subcommittee chairmen. These chairmen voted an average of 87 per cent in opposition to the Democratic programs and policies.

Most of these 42 chairmen were from the South. But, let it be noted, most of the votes were on issues other than civil rights.

And in the 89th Congress, 75 per cent of the 42 committee chairmen voted against such basic national Democratic programs as Medicare, aid to education, model cities, antipoverty, rent supplement, and minimum wage increases.

This tendency of the congressional leaders of the party to obstruct party priorities has been steadily increasing over the past 16 years.

This week at the meeting of the Democratic Caucus, a resolution will be offered by members of the Democratic Study Group, a coalition of House liberals, which would create a committee to report in April the ways in which Democrats might select effective committee chairmen. I intend to vote for that resolution.

But we have to go further. The crisis in Congress must be met to enable us to confront the crisis in the nation. Ten million Americans are chronically malnourished; 30 million Americans live at the poverty line; the Mississippi River, by the time it reaches St. Louis, is so dirty that a fish placed in water concentrated 10 times dies in 60 seconds. One-third of all Americans over 65 are poor.

Therefore we cannot be surprised when some of our citizens charge Congress with criminal neglect of the welfare of the nation.

The House of Representatives is on trial. Time is short and our only defense will be our ability to reform an institution which has been for too long irrelevant.

Thank you.

COPING WITH DISRUPTIVE TRIAL DEFENDANTS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, all of us, and particularly those of us who have practiced law, must be concerned about the attempts on the part of defendants in the State and Federal courts to disrupt trial proceedings. We have seen that disruptive activity take place in Chicago and in New York City. The question is how should one deal with that vexatious problem. The actions of Judge Julius Hoffman in Chicago, in my judgment, set back the cause of justice. The actions of Justice John M. Murtagh of New York City were more reasoned and temperate but still did not adequately cope with this problem.

Prior to my election to Congress, I was a member of a law firm in the city of New York. Upon taking office, I terminated the private practice of law. One of my distinguished former partners was Allen G. Schwartz, who recently authored an article in which he discussed the actions of Justice John M. Murtagh and proposed how to better deal with these court disturbances. I am setting forth that article which appeared in the Village Voice of March 5, 1970, with the thought that it would be of interest to all of our colleagues.

The article follows:

THE PRESS OF FREEDOM: THE JUDGE AND THE PANTHERS: A FORMULA FOR INJUSTICE

(By Allen G. Schwartz)

On the Washington's Birthday weekend, a bomb exploded at the home of Supreme Court Justice John M. Murtagh, trial judge in the case of the 13 Black Panthers. On the same weekend the judge apparently solved the problem that had been plaguing him, and upon the resumption of pre-trial proceedings on Tuesday two events occurred. The Panthers and their attorneys offered their sympathy to the judge and their regrets over the bombing, and the judge announced that he had finally devised "a formula for firmly maintaining the dignity of the court without in any way sacrificing the rights of the accused" but that he intended to delay invoking the formula "for a week or two."

Notwithstanding, the following day, while a police officer testified and the defendants raged in clear contempt of court, Justice Murtagh directed that the defendants be removed from the courtroom and returned to prison where they have been since April, 1969, and he invoked the formula which he promised would be as effective as it was simple: an indefinite recess of the hearings. "That, in essence, is the formula," he stated, adding that the proceedings will be resumed only after a motion to resume had been made by the attorney for the defendants and only if the motion is supported by an unequivocal assurance and a statement "signed by each and every one of the defendants" that "each defendant will give complete respect to the Court during the continuance of the hearing and the continuance of the trial to follow, and an assurance that the defendants are now prepared to participate in a trial conducted under the American system of criminal justice."

The formula, the judge had promised, would firmly maintain "the dignity of the court without in any way sacrificing the rights of the accused." The court referred to the right to a speedy trial, but the Panthers were held in prison for 10 months waiting trial. They are accused of conspiring to bomb public places, possession of illegal weapons, attempted murder, and attempted arson. To them, the only right of consequence is the presumption of innocence. But the formula conflicts. The formula requires that the defendant be in prison during the pendency of the proceedings—and who puts people presumed to be innocent in prison? The formula, by implication, depends for its success upon the defendant's having virtually no chance of raising bail and freeing himself during the indefinite recess. Thirteen Panthers, each held in $100,000 bail, are not likely to raise $1,300,000. And if they did, is there any assurance that they would be freed? In a non-Panther bombing case in the federal court recently, when someone came forward willing to post a defendant's high bail, the judge increased the amount of the bail. To the Panthers, the formula can only be applied to them, or others similarly situated—those who cannot raise the bail.

The Panthers' contention has been from the beginning that this case is being handled in an unusual way; in a way that indicates to them that they are not going to get a fair trial and that extraordinary measures have been taken and will continue to be taken by the authorities. Is that belief just another piece of Panther paranoia? Before the proceedings ever began, the attorneys for the Panthers requested that Justice Murtagh, who they charged was hand-picked by the District Attorney, disqualify himself. Murtagh refused and the Panthers appealed to the Appellate Division, arguing that Murtagh was (1) hand-picked and (2) prejudiced. The Appellate Division rejected the appeal.

Was Murtagh hand-picked by the District Attorney? The answer is clearly that he was. The Appellate Division knew, as every lawyer in the city knows, that in every case the D.A.'s office in New York County selects the judge before whom a case will be moved for trial. The defendant has no say whatever. The selection resides solely with the assistant district attorney who has the case for trial. In the Panther case the assistant is Joseph Phillips who, as it happens, was the assistant district attorney who prosecuted William Epton in 1965 for incitement to riot and anarchy. Phillips takes a hard line in political cases, but then Phillips' view in this regard is the view of a substantial segment of society. The question is: should Phillips be the one to select the judge?

Or more pointedly: is the judge prejudiced? Before the proceedings began, who knew? The Panthers say they knew, and that the proceedings to date bear them out. But disinterested observers, including attorneys with little affection for the judge, will tell you just the opposite: that he has done masterfully, that the extent to which he has been provoked is unprecedented and yet the judge has not lost his patience or his cool and has persistently confirmed his intent to grant the Panthers a full and fair hearing.

On the other side of the coin, besides the fact that the judge was hand-picked by the District Attorney and hand-picked by a particular assistant district attorney, add the fact that the judge has a well-established reputation for maintaining strict control of his courtroom, being uncommonly severe on sentencing, and has had a close working relationship with the D.A.'s office, developed over a span of years while he was presiding judge of the Criminal Court and chief magistrate.

Is it relevant that the judge is white? If you think not, you're probably white. Is it relevant that the judge is a devout Catholic, Irish, a reserve colonel, Jesuit trained? But what do the Panthers think? Their windwill is a monolithic white conspiracy and here they are on trial before a white Irish Catholic judge selected by a white Irish Catholic assistant D.A. to hear the testimony of white police officers from a police department historically controlled and disproportionately populated by white Irish Catholics. And if we're concerned with avoiding contempt in the courtroom, isn't it critical what the Panthers think?

On the day Justice Murtagh announced his formula, he stated that he "and the District Attorney" stood ready to "grant the defendants a fair trial to which they are entitled, but which they continue to reject." A simple enough statement, except for this element: the judge represented that he was speaking not only for himself but for the District Attorney as well. Perhaps that is an unduly sensitive interpretation of the judge's remarks, but it is common knowledge in the criminal courts that not only do assistant district attorneys select the judges, but they discuss the cases with the judges outside the presence of defendants and their counsel regularly and without restraint. Hence, when a judge purports to speak for the District Attorney it is not unfair, because of the widespread practice, to assume that the judge may have discussed the matter privately with the prosecution. What is more freighting, if true, is the statement in the New York Times that the judge in invoking his formula may "have cleared his action in advance with the Appellate Division, if not with still higher-ranking judicial officials."

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Whether cleared with higher authority or not, the formula received wide and immediate acceptance. The New York Post, the following day, reported that such as Bernard Botein, former presiding justice of the Appellate Division, Edward Bennett Williams, the well-known Washington criminal lawyer, Herbert Wechsler, Columbia Law School professor and leading legal scholar, and an unnamed nationally recognized authority on constitutional law who teaches at Harvard all agreed that the Panthers' right to a speedy trial was in no way abridged by the formula and that the right to a "speedy trial" means a speedy and orderly trial. None suggested that the formula depends for its success upon the indigence of the defendants or that the Panthers ought to have an equal say in the selection of the trial judge or that a political trial demands that an effort be made to persuade the defendants of the court's integrity and impartiality.

All of which is not to suggest that the Panthers wouldn't behave in exactly the same way regardless of the court's posture or integrity; only that the formula is unconstitutional and tailor-made for the Panther fantasy. But if not the formula, what then? Judge Hoffman's massive contempt citations including separate sentences for being disrespectful to the prosecution or for accusing the court of being wrong when it wasn't or for embracing Reverend Abernathy in front of the jury are not likely to be sustained on appeal or to enhance the stature of the court. Neither is binding and gagging the defendants, although that practice has gone on for years.

The formula beats glass booths, plastic walls, closed-circuit television to jail cells, chains, gags, and handcuffs, it has been argued. And it doesn't discriminate against the poor and the black either. After all, a defendant who could raise bail and who wasn't already in prison would surely be immediately incarcerated for contempt anyway and keeping the Panthers in prison is not really any different. Except for the fact that this is a political trial and that what the court does in this trial will touch a great many more people than the defendants.

And the fact that this is a political trial accentuates the essential defect in Murtagh's formula. The Panthers are not likely to give the court any such signed statement. And if the Panthers do not, what then? Will the courts allow the Panthers to remain in prison indefinitely or for their lifetimes? Could the Panthers have constructed a better situation to make their point? The white establishment is only too willing to put the black man aside, out of sight and out of mind, and if the black man won't cooperate, then do as we've always done, ——— him.

HE HAD A JOB TO DO—CONGRESSIONAL MEDAL OF HONOR WINNER GARY WETZEL

(Mr. ZABLOCKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, periodically one comes upon an essay or a story that he wishes he had written himself because it so eloquently expresses what one feels inside.

Such is the case regarding "He Had A Job To Do," an essay by Mr. Donald E. Turek, executive director of the Milwaukee County War Memorial Center. It is about a young constituent of mine, Mr. Gary Wetzel, who lives in South Milwaukee, Wis. Gary served his country well in Vietnam. Because he carried out his duties so well, Gary was awarded our Nation's highest tribute for bravery—the Congressional Medal of Honor.

Mr. Speaker, I wish to pay tribute not only to Gary Wetzel but to Mr. Turek as well. The essay "He Had A Job To Do" received the highest award in its category in a contest sponsored by the Freedoms Foundation at Valley Forge, Pa.

I recommend this essay to the reading of my colleagues. I know they will join me in sincere congratulations to two fine Americans.

The essay follows:

HE HAD A JOB TO DO

(By Donald E. Turek)

A young man, twenty-one years old, saluted the American flag, and I cried. Standing before five thousand proud Americans, I cried.

At that moment I knew there was no generation gap.

The occasion was "Salute to the Armed Forces Night," part of our community observance of Summerfest. It was the serious moment of a fun week. As honorary chairman, I was to lead the young man across a baseball diamond while bands from the five branches of military service in mass formation played "America, the Beautiful."

We stood at third base. I told him we would walk directly to the pitcher's mound where he would be introduced.

He said he was sorry but he couldn't do that because there were five American flags in formation and he must salute each of them.

I hadn't noticed.

But this young man had.

He pointed with the hook that replaces the arm he left in Vietnam. The arm he left before pulling four fellow soldiers from a helicopter under heavy enemy fire.

He met his crisis—his moment of decision—and his nation thanked him with its highest award for bravery—the Congressional Medal of Honor.

He marched briefly to each of five American flags—came smartly to attention, and proudly saluted.

I cried.

I knew at that moment I was of another generation. I also knew at that moment there was no gap between our generations.

We proceeded to the pitcher's mound. His citation for bravery was read. The massed bands played the "Star Spangled Banner."

Five thousand people standing at attention, applauded in an unusual manner. It was a proud grateful sound—like they too realized there was no generation gap.

Once I almost drowned. The suspension of time seemed the same. Many thoughts can race across the blackboard of the mind in a very short space of time.

First came a thank you to God and a prayer in gratitude for birth in America.

Then a thought of the persons in our community that should be exposed to this emotionally moving moment.

They would be those who repeatedly shout out evidence of their negative frame of mind.

Those who would call the young hero at my side a naive cog in the establishment.

Those who would say he is a victim of capitalistic imperialism.

Those who shout peace and freedom, but prefer to promote a negative attitude that does not allow for heroism.

Those who would consider George Washington a victim of the establishment for coming from an aristocratic way of life to lead his men through ice and mud to prove he personally understood, honored, maintained, and wanted to pass on to future generations the American way of life.

Those who have no appreciation for a president who died in a pool of blood, with a bullet in his brain, doing what he could for his country.

As I stood next this young hero, these were the emotionally charged thoughts on my mind.

I realized that this young man, with a high school education, presently holding a job that we call working with his hands—excuse me, his hand—he knew that a moral fibre in most Americans keeps this country great and good.

I realized at that moment it is a continuing, but rewarding, struggle to make certain each succeeding generation develops the necessary respect for the American way of life that allows for heroism.

The young man standing next to me had only one statement regarding his heroism in Vietnam—"I had a job to do, and I did it. I'm glad to be home."

That is all we want from any American.

But that is what we want from every American.

To those who can burn an American flag and call it a piece of silk, hiding behind the word freedom—I join my heroic friend and pity you.

To those who can attend our great colleges and universities and desecrate them by your obnoxious presence—I join my heroic friend and pity you.

To those who refuse to serve their nation, because in their immature minds they feel a war is unjust—I join my heroic friend and pity you.

Kindness is putting a little of one's self into the lives of others. With my young heroic friend, I ask you negatives to become positive.

The suspension of time ended.

The National Anthem concluded—tears were in the eyes of two generations. I seized the hand of my young friend and said, "God bless you—your flag—and your country."

I knew at that moment the inner emotional feeling is Americanism.

I cried only once that night, although tears were in my eyes once more. But words did not come from my lips.

As I drove this young hero home with his bride of two weeks we passed through the downtown area.

Slovenly strolling along the sidewalk we saw several hundred young people with their negative hate signs. They were shoutng "Hell No, We Won't Go."

People on the sidewalk fearfully stepped to the street.

I looked at my young friend. No visible reaction.

But I remembered—he had a job to do and he did it.

Best you and I find a job to do for this country and do it!

INTERNATIONAL IMPLICATIONS OF THE NEW GERMAN GOVERNMENT

(Mr. ZABLOCKI asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, Dr. Eric Waldman, professor of political science at the University of Calgary and recognized German scholar, expressed in a recent article his analysis of the new "Eastern" policy of the West German Government.

His penetrating appraisal of the international implications of this policy

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originally appeared as a four-part series in the Albertan.

In order to share with my colleagues Dr. Waldman's views I am pleased to place his article in its entirety in the CONGRESSIONAL RECORD at this point.

The article follows:

GERMANY TODAY—INTERNATIONAL IMPLICATIONS OF THE NEW GERMAN GOVERNMENT

(By Eric Waldman)

In October 1969 a new German coalition government came into power. This new government was formed by the Social Democrat Party (SPD) and the Free Democraatic Party (FDP). The elections on September 28 which preceded the formation of the new government still returned the Christian Democrats (CDU/CSU) as the strongest party, however, the combined strength of SPD and FDP has a slight majority in the German lower house (*Bundestag*). The Christian Democrats find themselves for the first time in the role of the opposition since the founding of the Federal Republic of Germany in May 1949.

In the present coalition government, the SPD occupies by far the senior position, having 224 seats in the *Bundestag* as compared to the 30 seats of the FDP. (The Christian Democrats hold 242 seats). The Social Democrats assumed government control as a result of a well-thought-out strategy. It is generally believed that Herbert Wehner, one of the party's top leaders, was primarily responsible for the policy which brought his party into power after a long and strenuous period in perennial opposition (1949 to 1966). From December 1966 until 1969, the SPD participated with the Christian Democrats in the Grand Coalition after a previous coalition government, comprised of CDU/CSU and FDP had fallen apart. The two years of the Grand Coalition was Wehner's "policy of embracement" of the Christian Democrats. SPD party leader Willy Brandt became Vice-Chancellor and Minister of Foreign Affairs. Several other Social Democrats served as ministers in the government. One of the main purposes for the participation of the SPD in this coalition was to change its image from an opposition party to a responsible governing party.

The SPD, however, would never have been able to form the government in 1969 if the Free Democrats would not have dramatically changed their basic political orientation and de facto moved from the political right to a position on the left of the political spectrum. The election of a Social Democrat as Federal President in March of 1969 with the assistance of the FDP vote was probably the dress rehearsal for the later coalition agreement between the two parties. The change of the FDP's political orientation has caused the party a considerable loss of votes. The percentage of the votes for the FDP went down from 9.5 per cent in 1965 to 5.8 per cent in 1969. Correspondingly the number of seats changed from 49 to 30. The conservative voters moved in increasing numbers to the Christian Democrats.

As could have been expected, the new government quickly embarked on domestic and foreign policies which in many respects might mark the beginning of a new era for the Federal Republic. Our discussion will not include the contemplated internal changes which for better or worse reflect the left-liberal attitudes of the coalition partners. They will include long overdue re-evaluation of the educational and certain aspects of the judicial systems, but also will foster so-called progressive and controversial concepts such as a further enlargement of employers' or rather trade unions' codetermination in the affairs of economic enterprises and a further watering-down of laws protecting society from the effects of left-wing political radicalism. Our purpose is to analyze and to evaluate to what extent the policies and attitudes represented by the new policy-makers will in all probability bring about changes in West Germany's relationship with her allies and her Eastern neighbours, in particular with the German Democratic Republic.

Even though the new government has been only a little over 100 days in existence, enough indications seem to be available to arrive at some tentative conclusions. The first and perhaps the most important one, in the opinion of this observer, is that Bonn's Western allies are not fully aware of the possible developments which Chancelor Brandt's "new Eastern orientation" entails because they still see in him the courageous mayor of West Berlin who symbolized that city's stubborn resistance to Communist pressure. Furthermore, they do not realize to what extent other personalities belonging to the coalition parties such as Herbert Wehner, presently the leader of the SPD parliamentary group, or Professor Carlo Schmid, a Vice-President of the *Bundestag*, exercise a considerable influence in the formulation of foreign policy and on its implementation. In addition, it is also possible to recognize a left, in part left-wing socialist, political climate surrounding the new coalition government. Influential publicists and several news media not only lend full support to the government's overtures to the East, but also encourage the making of more concessions to Soviet demands. In this type of political atmosphere it is understandable that anybody who advocates a more cautious policy towards the East, is immediately denounced as a "cold warrior." It also might explain the governmental attitude to go ahead with the new policies in spite of the very narrow margin their parties have in the *Bundestag*.

Before attempting to evaluate the international implications of the foreign policy orientation of the present West German government, this writer believes that it is necessary to point out that any evaluation of these policies must be undertaken in conjunction with an understanding of Soviet long- and short-range foreign policy objectives with regard to Europe and Germany, and their methods of implementation. It is precisely at this point that the opinions of political analysts have a tendency to move in different directions. It appears therefore advisable to present briefly the views held by this writer concerning the nature of the Soviet challenge.

In this author's judgment there are at least four major elements related to Soviet foreign policy objectives which must be taken into account:

(1) Soviet long-range foreign policy objectives have remained unchanged and aim at Soviet hegemony over Europe as a vital transitory development for the establishment of a "world under communism" led and controlled by Moscow. The most recent confirmation of the continuing adherence to these objectives by the Communist leadership, as an integral part of their acceptance of Marxist determinism of historic developments, can be found in the "Tasks at the present stage of the struggle against imperialism and united action of Communist and workers' parties and all anti-imperialist forces" adopted by the international meeting of Communist and workers' parties in Moscow, on June 17, 1969 and in the 21 Theses published by *Pravda* on December 23, 1969 under the title "Our General Perspective—the Build-up of Communism," intended to introduce the "Lenin year," celebrating the 100th anniversary of Lenin's birth.

(2) The Soviet leadership, irrespective of the changes which have taken place and in all probability will also occur in the future, recognizes the fact that the key to the control of Europe is the control of Germany. This in turn implies the notion of a unified Germany under Communist auspices.

(3) In order to establish control over Germany it is essential either to break-up the NATO alliance or to weaken it to an extent that it has no meaningful deterrent effective upon Soviet actions. For years the Soviet Union has attempted to reach these objectives by trying to create disunity among the Western allies, especially by driving a wedge between the allies and the Federal Republic of Germany, and by endeavouring to substantially reduce the American influence and presence in Europe with the ultimate goal of the complete expulsion of the "non-Europeans."

(4) The existence of these long-range objectives does not prevent Moscow from pursuing short-range goals in Europe and elsewhere which under superficial examination might even appear to be contradictory to the Soviet Union's final aim. The implementation of these objectives primarily serve two purposes: the consolidation of the Soviet power within its own orbit and the improvement of the operational basis for further expansion of control. Under this heading come such efforts as:

(a) The Soviet determination to maintain complete ideological control over the "socialist countries" in order to safeguard their own political and economic systems. "Revisionist" and decentralizing tendencies have been suppressed long before the so-called "Brezhnev Doctrine" was presented as the official "brotherly" policy of the Soviet Union in relation to other "socialist countries."

(b) The "finalization" of the division of Europe and Germany. This situation is to be achieved through the recognition of the German Democratic Republic under international law, the provisions of a multilateral security treaty accepting the European status quo or the so-called "present realities," and the recognition of the "independent political status" of West Berlin. Closer examination of these objectives reveals that the alleged "finalization" is, as far as the Soviet leaders are concerned, only a transitory arrangement, to be used, for example to subvert the domestic conditions in the Federal Republic and to remove step by step U.S. influence and American protection from Western Europe.

(c) The interrelation of "peace in Europe" and other Soviet activities. The temporary consolidation of the European situation also is supposed to strengthen the Soviet position in the Soviet-Sino conflict and in other theatres of Soviet operations, e.g. in the Middle East and in the developing world.

Provided that this evaluation of Soviet strategy is accurate, and this is, of course, the view of this observer, then there are at least three major consequences to be drawn by all of the Western nations, including, of course, the Federal Republic of Germany:

(1) The continuation of the containment policy in Europe, i.e. the prevention of further Soviet expansion towards the West.

(2) The preservation of the means to implement the containment policy, i.e. the continuation of the Western defense alliance as an effective deterrent both within the fields of conventional forces and nuclear protective power.

(3) The maintenance or even improvement of Western unity of purpose in political, economic, and military matters.

It should also be kept in mind that in spite of this evaluation of the over-all situation, there still remains the possibility and even usefulness of negotiations with the governments of the Soviet Union and the other countries ruled by Communists. Agreements on specific matters of mutual interest have been concluded and can also be reached in the future. The subjects susceptible to negotiation and the scope of maneuverability are limited but are nevertheless of significance, as illustrated for example by the limited nuclear test-ban treaty or the many foreign trade agreements. In spite of recent

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optimistic views expressed by leading statesmen in the West, and the Canadian Minister of External Affairs also belongs to the group of optimists, effective arrangements intended to halt the nuclear arms' race have a far lesser chance of success than, for example, arrangements dealing with more or less nonpolitical or non-military matters.

From the many possible topics of contemporary German foreign policy perhaps the following three areas might exert the greatest impact upon the future relations of the Federal Republic with her allies and the countries of the European East:

(1) The "new Eastern policies" aimed at improving relations with the Soviet Union and the other countries of the Soviet bloc.

(2) The West German policies with regard to the German Democratic Republic.

(3) The German attitude toward the Soviet sponsored European Security Conference.

GERMAN-SOVIET RELATIONS

German-Soviet relations prior to October 1969, the time when the new left-liberal government was formed in Bonn, showed all the signs that at least in this sector of Europe the Cold War was still flourishing. Soviet propaganda continuously accused the West German government of pursuing a "revanchitic" foreign policy with the aim of regaining the territories in the East lost after the defeat of Hitler. The Federal Government also was denounced for supporting the emergence of militarism and Neo-Nazism, for providing an operational basis for American imperialism, and for participating in the "aggressive" and "imperialistic" North Atlantic Treaty Organization. The "German danger" was one of the means employed by Moscow to maintain cohesion within the Soviet orbit. Even after the government of the Grand Coalition renewed the attempts to improve West Germany's economic and political relations with East European countries, the Soviet Union insisted that this was done merely for the purpose of undermining the Soviet influence in Eastern Europe. The occasional exchanges of notes between Moscow and Bonn ended in deadlocks because it was impossible for Bonn to accept the demands made by the Soviets without eventually accepting Moscow's hegemony. The Soviet leaders realized that as long as the Christian Democrats controlled government policies, unilateral concessions could not be secured through negotiations.

The German offer to the Soviet Union to conclude agreements on the reciprocal renunciation of the use or threat of force remained as unsuccessful as the approaches made to Poland or the German Democratic Republic.[1]

Moscow's hope for a decisive change in the composition of the German government was fulfilled. It could be noted that during the German election campaign the Soviet Union was careful not to create tensions with the Federal Republic in order to facilitate a Social Democratic victory. In the past, Soviet intransigence was of substantial aid to the Christian Democrats' "hard" position in their foreign policy election platform.

Of course the Soviet leaders could hardly expect that a government dominated by Social Democrats would be pro-Communist in outlook. However, as seen from the Soviet point of view, there were a number of factors which would greatly benefit the Soviet Union. The new government's inexperience in dealing with the Soviets, its greater willingness to accept the so-called "post-war realities" and its anxiety to get into the Western spirit of negotiation rather than confrontation are among them. Left-wing intellectuals, publicists, and union leaders could also be of significant influence upon the new government and assist in providing a better opportunity and political climate for the implementation of some of the short-range Soviet foreign policy objectives in Germany and Europe.

Prior to the elections in September 1969, a number of SD and FDP leaders were invited to visit Moscow. It so happened that almost half of the new Cabinet enjoyed this Soviet hospitality while the Christian Democrats waited in vain for a similar invitation.

Chancellor Brandt in his Government Declaration of October 28, 1969 announced the basic changes of his government's *Ostpolitik* and policies toward the German Democratic Republic. He suggested again a treaty to Moscow renunciating the use or the threat of force as a beginning for discussions of other issues of concern to both countries. It also became quite apparent that the new government was ready to make certain "advance concessions" which the previous German chancellors were not willing to do. One of the "advance concessions" was the acceptance of the permanency of the division of Germany which Chancellor Brandt had made with his formulation of the "existence of two states in Germany." He also made it quite clear on several occasions that he no longer believed in the feasibility of German re-unification. The Soviets were further pleased when the Brandt government signed the Non-Proliferation Treaty which the Christian Democrats intended to oppose as long as the Soviet Union insisted on her right to intervene in the domestic affairs of the Federal Republic on the basis of Articles 53 and 107 of the Charter of the United Nations.

German-Soviet discussions actually commenced in Moscow in December 1969. Soviet Foreign Minister Gromyko met at least on three occasions with the ambassador of the Federal Republic. These discussions apparently did not indicate if the Soviets had changed some of their well-known basic positions which included the demands of Bonn's recognition of the Oder-Neisse border, the recognition under international law of the German Democratic Republic, the acceptance of the status of West Berlin as an "independent political entity," and the Soviet right to intervene in the domestic affairs of the Federal Republic if Bonn should fail to take "effective measures" for the prevention of the rise of German militarism and Nazism. In order to clarify the basis for the continuation of the German-Soviet talks, Chancellor Brandt sent his long-time associate and confidant Secretary of State Egon Bahr to Moscow. Bahr's attitude toward the East is well known. He has demonstrated in the past his willingness to explain Soviet demands as legitimate security interests. According to Bahr, Bonn's relationship to the German Democratic Republic was to be the upshot of reciprocal "changes through convergence." If one realizes the rigid orthodoxy of the Communist regime, Bahr's "convergence" theory could only mean a course to the left for the Federal Republic, incidentally also one of Ulbricht's pre-requisites for German re-unification. It is also known that Egon Bahr had maintained secret contacts with the Soviet in East Berlin. It is for these reasons that many Germans are concerned about the negotiations conducted in Moscow. According to Egon Bahr, the saboteurs of the West German efforts in reaching agreements with the Soviet Union belong to the East German Socialist Unity Party and to the Christian Democrats of the Federal Republic.

Moscow has nothing to lose. Even if the negotiations with Bonn do not lead to concrete agreements, Bonn's "Advance concessions" constitute in any case a marked success.

The new left-liberal government has also recently started direct negotiations with Warsaw. It is generally anticipated that these talks will extend over a very long period of time and probably will place Bonn in serious difficulties, since Poland also demands "advance concessions" such as the recognition of the Oder-Neisse border and the recognition of the German Democratic Republic under international law.

If the government in Bonn believes that certain existing differences of interest among the Warsaw Pact nations can be exploited, it will soon find out that the Soviet leaders have successfully coordinated the countries of the Soviet bloc and assigned them specific roles in their negotiations with the Federal Republic. Not even the generous West German loans, approved by the Cabinet in December 1969 as proposed by Minister of Economy Schiller, and designed to assist the states ruled by Communists in solving their economic problems, will change their insistence that the Federal Republic has to meet their basic political demands. (Rumania and Poland each received loans of about 125 million dollars. An even larger amount has been made available to the Soviet Union for acquiring steel pipes from the Federal Republic for the expansion of her natural gas pipe line system).

WEST GERMAN RELATIONS WITH THE GERMAN DEMOCRATIC REPUBLIC

Possibly the most dramatic illustration of the new German government's foreign policy outlook is the *de facto* recognition of the German Democratic Republic. It is, as mentioned before, one of the important "advance concessions" which the left-liberal government has made since coming to power. Chancellor Brandt's formulation of "the existence of two states in Germany" in his Government Declaration of October 28, 1969 and his invitation to the Ulbricht regime to commence "negotiations at Government level without discrimination on either side, which should lead to contractually agreed cooperation" leaves hardly any doubt that a kind of recognition has taken place.

Only one position held also by past West German administrations was retained. Chancellor Brandt declared: "International recognition of the German Democratic Republic is out of the question." There is considerable doubt in the mind of this observer if this refusal of a *de jure* recognition can and be maintained. Ulbricht's determination to enter into negotiations with Bonn only after receiving recognition under international law for his state, a demand for which he has received full support from the Soviet Union and from the other Soviet bloc countries, as well as various statements made by leading SPD and FDP officials, seem to indicate that Bonn might also give in in this issue.

This decisive change of the official West German attitude toward the German Democratic Republic allegedly serves a twofold purpose. In the first place, it is an attempt to facilitate the process of relaxation of tensions by recognizing the so-called "realities" as demanded by Moscow. Secondly it is an effort to find a *modus vivendi* for the two German states in the hope that this also will improve the political environment for the 17 million Germans living in East Germany. To what extent this notion is based upon realities as seen by the West or upon illusions, only the future will tell.

The following is a brief account of the events which have transpired since Chancellor Brandt's declaration on October 28, 1969. The Soviet leaders recognized the improved possibilities to implement their European objectives as a result of the "realistic" attitude of the new government in Bonn. The Moscow Conference of the Warsaw Pact leaders which took place on December 3 and 4, 1969, opened the way for the member states to negotiate with the Federal Republic on a bilateral basis. Soviet Foreign Minister Gromyko actually began discussions with the German ambassador in Moscow about the

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[1] Former Chancellor Kiesinger's Declaration of the Grand Coalition on December 13, 1966.

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"possibility" of commencing negotiations concerning an agreement on the renunciation of the use of the threat of force. Ulbricht's alleged demand that these bilateral negotiations should be preceded by Bonn's recognition of the German Democratic Republic under international law was rejected only in procedure and not in substance. It was decided that negotiations might well start prior to the recognition of the GDR but recognition would have to be given before any other agreement could be signed.

On December 13, 1969 on the occasion of the 12th meeting of the Central Committee of the Socialist Unity Party (SED), Ulbricht also officially noticed the changed situation. He gave Chancellor Brandt credit for his positive attitude toward the Moscow sponsored European Security Conference and for his reference to the existence of two German states. On the other hand, he strongly attacked the participation of the Federal Republic on the "global strategy of the United States" and charged Bonn with pursuing "a dangerous revanchistic course."[3]

On December 21, 1969, the SED Party organ *Neues Deutschland* published the text of a letter and of a draft treaty which Ulbricht had sent on December 18 to the President of the Federal Republic, Mr. Gustav Heinemann. This move was immediately interpreted in some of the newspapers in the West, that East Germany wishes to normalize her relations with Bonn and would like to commence talks to this effect. A closer examination of the draft treaty however indicates that East Berlin had rather increased its demands as a price for the establishment of formal relations with the Federal Republic. These demands included the recognition under international law, the exchange of ambassadors, and the recognition of the border between East and West Germany as a state border. The draft treaty also calls on Bonn to expunge all laws "discriminating" against East Germany, to recognize West Berlin as "an independent political entity" with no ties to West Germany, to renounce any participation in the employment of nuclear weapons, and to prohibit the stationing of nuclear weapons on German soil. In other words, the Federal Republic would have to renounce the Paris treaties, the very basis of her security. It requires indeed a great deal of optimism to see in these proposals any indication of Ulbricht's willingness to arrive at some reasonable agreement with Bonn.

Chancelor Brandt's reply to Ulbricht's "offer" which some members of the governing parties found interesting and readily interpreted as a sign that East Berlin did not close the door to negotiations, came in his "Report on the State of the Nation" on January 14, 1970. He repeated his position that the relations of the two states in Germany must not be the relations between two foreign states, i.e. no recognition under international law is possible, and that both sides must obligate themselves to respect the social structure on the territory of the other state and not attempt to change it by force.

At a press conference held on January 19, 1970, attended by over 400 journalists from all parts of the world, Ulbricht not only repeated that the demand made in his draft treaty are prerequisites and must be accepted before talks with Bonn could even be started, but he also rejected the entire Brandt-formula of the continuation of the "German nation" in the form of two equal states. He accused the "ruling circles" of the Federal Republic of pursuing a "policy of revanchism aimed at the incorporation of the German Democratic Republic into NATO." The purpose of East Germany's initiative is, so he claimed, to curb Bonn's nuclear and war policies and "to help the population of West Germany, the West German workers, and the West German youth in the creation of a peaceful and secure future." This can hardly mean anything else than the continuation of the Communist efforts to subvert the political, economic, and social system in the Federal Republic. This is of course a long standing objective of Moscow. For example, at the Meeting of 24 Communist Parties at Karlsbad in April 1967, it was decided to give all possible support to the struggle of the progressive forces in the Federal Republic. Ulbricht in his address on the occasion of the 20th anniversary of the German Democratic Republic on October 6, 1969 referred to the demands of the "forces of peace" which existed within West Germany. It has become quite obvious that Moscow wishes to create a "mass movement" in the Federal Republic and has assigned this important role to East Berlin. Ulbricht therefore appeals to the left forces within the SPD, within the trade unions, within the intelligentsia, and to the "peace camp" in his effort to create an anti-Western, anti-American, and anti-democratic "left nationalism". Moscow expects that the mobilization of these forces will place the Federal Government under considerable pressure and will thereby facilitate the implementation of Soviet objectives in Europe. Ulbricht appeared very sure of himself at the press conference, probably because he had received all necessary assurances of support from the Soviet ambassador in East Berlin, Abrassimov, whom he met just prior to the meeting with the journalists.

On January 22, 1970, Chancellor Brandt sent a letter to the Minister President of the German Democratic Republic, Willi Stoph, in which he repeated Bonn's offer to "open negotiations on the exchange of declarations on the renunciation of force." He also proposed that these negotiations should "provide an opportunity for a wide-ranging exchange of views on the settlement of all outstanding questions between our two states."

Perhaps the harrassment of the traffic to Berlin which commenced on January 21 and is East Berlin's way of expressing its displeasure at the meeting of several committees of the Bundestag in West Berlin, might also be an indication of Ulbricht's attitude toward negotiations with Bonn. Chancellor Brandt with his "advance concessions" has gone as far as the West Germans can be pressured to go at this time. Further concessions might have to wait until the impact of the undermining activities of various left-wing groups, confused politicians, and publicists of the kind of Rudolf Augstein, the publisher of *Der Spiegel*, have had more time to exert their influence.

THE ATTITUDE OF THE FEDERAL GOVERNMENT TOWARD A EUROPEAN SECURITY CONFERENCE

The Soviet proposal of a European collective security system intended to supersede the precarious balance of power of the two military blocs, has as its primary purpose the elimination of the American involvement in Europe, Moscow is aware that as long as the U.S. remains as the guarantor of West Europe's security, Communist plans of Western expansion will be effectively blocked. As has been pointed out earlier in this paper, the control of Germany and of Europe are considered essentials for Moscow's global aims.

The history of Soviet or Soviet sponsored proposals for a European Security Conference goes back to a note, of November 15, 1954, sent to 34 states suggesting a collective security system. The Soviet Union intended then to prevent West Germany's re-armament and the inclusion of the Federal Republic into the Western defense alliance. 1958 and 1964 witnessed three proposals made by the former Polish Foreign Minister Rapacki. All of them were variations on the concept of disengagement, again with the purpose in mind of reducing or removing American influence from the European continent. Communist Party Chief Brezhniev and Soviet Foreign Minister Gromyko made it quite clear at the XXIII Party Congress of the C.P.S.U. in 1966 that the impact of the non-European powers must be eliminated and that the Europeans can and must bring their own house into order.

The Bucharest Declaration of July 8, 1966 suggested the removal of all foreign troops, the creation of a nuclear free zone, and a discontinuation of both military blocs.

At the Conference at Karlsbad on April 25, 1967, Brezhnev called attention to the fact that the American military presence in Europe endangers the peace. The Communiqué of the Conference appealed to the working class and socialist and workers' parties to fight on a continental basis in broad mass actions for the collective security of Europe.

The next appeal was made at Budapest on March 18, 1968. The Karlsbad decisions were endorsed and again the European states were called upon to solve their own security problem.

The Main Document of the Moscow Conference of June 17, 1969 calls for the intensification of the struggle against imperialism and referred to "the basic right of the European states to be masters in their own house without interference from the U.S.A."

The most recent declaration was made at Prague on October 31, 1969. The Budapest statements were endorsed, the possibility of U.S. participation in a security conference was considered, and the following two items were recommended as proper issues for a European Security Conference which was to be held as early as possible in 1970:

(1) Guaranteeing European security, and the renunciation of the use of force or the threat of force in relations between European states.

(2) The extension of trade, economic and scientific-technical relations on the basis of equality, with the aim of developing the political cooperation between the European states.

As far as the Soviet Union is concerned, the objectives to be achieved by this conference range from the obvious advantages for the economies of the Warsaw Pact states, the multi-national recognition of the division of Germany, and of the existence of the German Democratic Republic to the elimination of U.S. influence in order to remove the greatest obstacle for the expansion of Communist control.

Polish Communist Party leader Gomulka stated this ultimate objective very clearly at the Karlsbad Conference on April 27, 1967:

> We Communists are convinced that in Europe which is organized in a collective security system, the class struggle will continue. This process will eventually lead to the complete victory of the socialist order on our continent.

It appears that this evaluation of the purpose of a Soviet sponsored European Security conference is not shared by the present left-liberal government in Bonn. Statements made by SPD and FDP politicians emphasize the "positive attitude" of the Federal Republic toward this proposal. Of course the West Europeans still insist that the U.S. and Canada might also be included at the conference.

The issue of the European Security Conference was also on the agenda of the NATO Ministerial Meeting at Brussels in December 1969. U.S. Secretary of State William P. Rogers referred to the Soviet proposal as "nebulous, unrealistic, and premature." He openly accused the Soviet Union of attempting to utilize this conference to finalize the division of Europe and to cover up the suppression of Czechoslovakia. Mr.

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[3] *Aussenpolitische Korrespondenz*, 13. Jahrg., Nr. 51, East Berlin 22. December 1969, p. 397.

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Rogers also stated that the U.S. would not participate in a conference which would *de facto* endorse the Brezhnev Doctrine.

For the Americans it is difficult to understand that of all countries the Federal Republic does not seem to grasp the real purpose of the psychologically very cleverly worked out Soviet maneuver.

CONCLUSIONS

Chancellor Brandt's policy of "overtures to the East" has found severe criticism within and outside the Federal Republic. To this observer, the critics' concern about the impact of the new foreign policy orientation upon the entire Western position vis-a-vis the Soviet bloc, is largely justified.

The practice of making "advance concessions" to totalitarian regimes has in the past *not* contributed toward an improvement of the political climate. It had always failed because totalitarian rulers tend to interpret concessions not as signs of goodwill but rather as indications of the weakness of the opponent. The reason that Western statesmen have repeatedly made this error, is that they superimpose Western concepts and Western values upon an entirely different ideological environment. Stalin was apparently not impressed by the "spiritual" influence of the Pope when he inquired about the number of divisions the Pope had at his disposal. American concessions to the Soviet Union during and after the end of World War II also failed to convince the Soviets of Washington's good intentions and hopes for a future peaceful world.

It is possible that the Communist leaders of the Warsaw Pact states will only be encouraged in their aggressive designs while at the same time the Western position might be seriously weakened in terms of military and psychological immunities to Soviet expansion.

There is ample reason to believe that out of all the prolonged so-called negotiations nothing will be accomplished and no meaningful reciprocal agreements will be reached. The result then might be a great disillusionment among the West Germans both in their left-liberal government but also in their Western allies. Even now certain alibis are being prepared which could be used to shift the blame for the lack of success of Chancellor Brandt's efforts to the allies, in particular to the U.S. Countess Doenhoff, Chief Editor of *Die Zeit,* and a great supporter of the new approach, has already mentioned that all really depends on the dialogues between Washington and Moscow. If they break down, she maintains, there is also no possibility for Bonn to carry on an Eastern policy.[3]

Indeed, there is no possibility for a unilateral policy of any of the Western countries without endangering the entire Western alliance.

DISTRICT COURT UPHOLDS PHILADELPHIA PLAN

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

> It is fundamental that civil rights without economic rights are mere shadows.

Mr. ANDERSON of Illinois. Mr. Speaker, with those words Federal District Judge Charles R. Weiner upheld the constitutionality of the Philadelphia plan in Federal district court in Philadelphia on March 13.

During House debate on the Philadelphia plan, those of us who strongly supported it stressed that we were more than willing to allow the courts to rule upon its constitutionality. The Federal district court has now spoken and, as we predicted, has upheld the Philadelphia plan as not being in violation of the Civil Rights Act of 1964. In upholding the plan, Judge Weiner stated that the Civil Rights Act was not violated because the plan "does not require the contractor to hire a definite percentage of a minority group." Rather, the contractor is required only to make every good faith effort to achieve a definite percentage of minority employment. In his opinion, Judge Weiner stated:

> It is beyond question, that present employment practices have fostered and perpetrated a system that has effectively maintained a segregated class. That concept, if I may use the strong language it deserves, is repugnant, unworthy and contrary to present national policy.

The judge further noted that the Philadelphia plan would provide an "unpolluted breath of fresh air to ventilate this unpalatable situation."

I am hopeful that this decision will help speed up the implementation of the Philadelphia plan or similar plans across the country. As President Nixon has stated:

> Nothing is more unfair than that the same Americans who pay taxes should by any pattern of discriminatory practices be deprived equal opportunity to work on federal construction contracts.

WE MUST PERSEVERINGLY HONOR OUR NATIONAL MORAL COMMITMENT "TO CARE FOR THOSE WHO HAVE BORNE THE BURDEN OF BATTLE"

(Mr. DONOHUE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DONOHUE. Mr. Speaker, I am sure that all Members of this House, and particularly those of us from Massachusetts, are deeply gratified by the recent announcement of the distinguished chairman of the House Veterans Affairs Committee, the gentleman from Texas, Congressman OLIN E. TEAGUE, that his committee would undertake extended hearings on the operation of Veterans' Administration hospitals because of our separate requests and his own serious concern that the VA hospital system is gravely impaired and the veterans medical programs undermined because of the lack of proportionally higher funding and staffing allocations necessitated by rising workloads and medical costs.

The chairman stated that, following his committees' preliminary inquiries:

> Some curtailment of VA funding and staffing has been blamed on the war on inflation.

The chairman went on to indicate his own position and reflected my conviction as well, I am sure, as the great majority of the membership here, when he emphasized his belief that:

> The Vietnam veteran has contributed enough when he fights the shooting war and that he should not be expected to fight the inflation war also at the expense of his health. This Nation has prided itself in its service to those who have borne the burden of battle. A bi-partisan attitude has long prevailed in Congress in the funding of an adequate medical program for America's veterans. . . . We in Congress of both parties have always acted in the belief that the finest medical care should be made available to those who served their country, in uniform, and especially to those who returned home suffering wounds and service-connected disabilities. I do not intend to sit idly by and allow shortsighted policies to destroy a medical program that is absolutely necessary to care for America's veterans and that's why we're conducting this survey so we can make a determination if we are doing all that needs to be done to properly and promptly serve America's ex-servicemen.

Mr. Speaker, these statements of the dedicated chairman of the House Veterans' Affairs Committee truly represent, I think, the consensus of the Congress and the people of this country.

Just a few weeks ago officials of our Massachusetts Veterans' Administration hospital said that they had funding deficiencies in fiscal year 1970 of over $1.7 million in December of 1969 in their operation of some 4,000 hospital beds serving approximately 300,000 Massachusetts veterans. Although these hospitals and others received some supplemental funding for fiscal 1970 the hospital officials unanimously agreed that substantially increased funding will be necessary to adequately provide complete hospital treatment and medical services to Massachusetts veterans particularly those disabled veterans returning from the Vietnam war.

Mr. Speaker, I have stated here many times before and I will state it again now, my conviction that the extension of complete and competent hospital and medical treatment and services to our veterans is a vitally important factor in sustaining the high morale of our people, essential for the accomplishment of our own domestic tranquillity and world leadership for peace. This is obviously a matter of special concern to the young people in this Nation today as well as the disabled veterans, and their families, of all wars.

In my judgment, any reduction or deterioration in the medical care of our veterans would be a major disaster to this country. It would represent an incredible and intolerable neglect of our disabled Vietnam veterans who are, tragically, held to be the most unwept, unhonored, and unsung" war heroes in all our history. The tragedy of their courageous war service would be compounded by any national betrayal of our moral commitment to them. We can never permit it to come to pass that those Vietnam war veterans who have been the least honored also be the most neglected.

Along with the distinguished chairman of the House Veterans Affairs Committee I, and I am certain all other Members also, do not intend to stand idly by and allow shortsighted policies to destroy a medical program that is absolutely necessary to care for America's veterans. I know that we will all join with our devoted chairman in urging the President of the United States to place the proper and complete modern hospital treatment and medical care of our veterans among the very highest priorities of our national budget in order that this country shall fulfill its moral commitment to care for those who have borne the burden of battle.

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[3] *Die Zeit,* 25. Jahrg., Nr. 3. Hamburg, Jan. 20, 1970.

Mr. Speaker, in particular concern for and particular reference to our Vietnam veterans I wish to include a very timely and thought-provoking article by John S. Knight, editorial chairman of the Knight Newspapers, that appeared in the March 16, 1970, issue of the Worcester, Mass., Telegram. The article follows:

THE HOME FRONT'S SHAME—FOR VIET VETERANS, NO BAND, NO PARADE

(By John S. Knight)

Are the people of America failing to honor our servicemen returning from Vietnam?

Do they appreciate the sacrifices of these young men who fought in a war brought on by the miscalculations of their Nation's leaders?

Is adequate tribute being paid to those who have suffered so much while we at home make no sacrifices whatsoever?

Plain-spoken Lt. Gen. Herman Nickerson Jr., retiring Marine commander in Vietnam, says he is "disappointed in the silent majority" for not honoring Americans who have lost life and limb in Vietnam.

"There are relatively few places," the general added, "where they waved flags and honored our servicemen as they did in the great days when the boys came home as heroes. They're not interested in the exploits of our young men. Maybe we're getting to be pretty blase about the whole thing."

The general's indignation is shared by others. As one Veterans Administration official remarked, "The guys who fought in World Wars I and II found gratitude and the traditional hero's welcome when they came home. These guys get no bands, no parades, not even a flicker of interest."

This shabby lack of attention is bad enough. But a more severe indictment can be drawn against the treatment of wounded veterans in government hospitals.

NOT DUPLICATED AT HOME

Prompt use of the helicopter, intensive battlefield medical care and the Army's modern evacuation procedures save thousands of wounded men who would have died in an earlier war.

Unhappily, this superb medical treatment on the field of battle is not duplicated on the home front. When wounded veterans are ultimately assigned to Veterans Administration hospitals for long-term treatment, the story changes.

In Miami, doctors have charged that veterans suffer a "tragic lack of care" because the VA hospital is "grossly understaffed."

Dr. Stewart Wolf of the University of Oklahoma says "There is real danger that the administration and Congress are about to see veterans hospitals revert to mediocre status of the 1920s and 1930s when tired physicians and political jobholders provided the care for the defenders of our country."

And Dr. Ernest H. J. Bors of the VA hospital in Long Beach, Calif., blames lack of people for the deterioration in the care of paraplegics. "We don't have the hands to do the job," says Bors. "It boils down to a matter of the budget."

EVIDENCE TO THE CONTRARY

Donald E. Johnson, newly appointed head of the VA, insists that veterans still receive top quality care—"Care second to none."

Yet most of the evidence is to the contrary.

The cruel nature of the Vietnam war—booby traps, jungle ambushes, mines and hidden spikes—has taken a gruesome toll of combat troops. More than a quarter of a million Americans have been wounded in Vietnam, with about half of them requiring hospitalization.

Correspondent Don Oberdorfer reports that an Army study of 1,000 men separated from the service for disability discloses that 28 per cent were amputees, 25 per cent suffer from paralysis of extremities and 14 per cent have "impairment of sense organs."

These are much higher percentages than in previous wars. The rate of blindness is triple that of World War II.

President Nixon and the Congress have an imperative responsibility to upgrade the quality of care being given to wounded veterans in government hospitals.

WORDS STRIKE DISCORDANT NOTE

Words such as "economy" and "budgetary considerations" strike a discordant note when applied to the obligation we owe to young men whose lives and bodies have been shattered in the service of their country.

The fortunate ones—those who returned sound of mind and body—can abide the neglects as they move almost invisibly through civilian life.

They don't talk much, but the distrust within them runs strong and the bitterness lies deep.

As 25-year-old Wally McKay, a much-decorated Marine veteran, has remarked: "I just keep my mouth shut about the war. If anybody asks me about Vietnam, I just refer them to the library."

Mike Sergieff, an ex-sailor, put it this way: "I didn't expect to be treated like a hero when I got home. But I didn't expect to be ignored."

The tragic neglect of our Vietnam veterans is a sad commentary on present-day society, steeped in greed and devoid of compassion.

We should hang our heads in shame.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Gaydos (at the request of Mr. Albert), for Monday, March 16, through Thursday, March 19, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Monagan, for 30 minutes, today; to revise and extend his remarks and include extraneous matter.

Mr. Gubser (at the request of Mr. Eshleman), for 15 minutes, on March 23; to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Melcher) and to revise and extend their remarks and include extraneous matter:)

Mr. Lowenstein, for 30 minutes, today.
Mr. Griffin, for 10 minutes, today.
Mr. O'Hara, for 15 minutes, today.
Mr. Hébert, for 10 minutes, today.
Mr. Giaimo, for 15 minutes, today.
Mr. Gonzalez, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mahon and to include extraneous material.

Mr. Sikes in five instances and to include extraneous matter.

(The following Members (at the request of Mr. Clark) to extend their remarks immediately following Mr. Clark's opening statement on H.R. 15694:)

Mr. Garmatz.
Mr. Feighan.
Mrs. Sullivan.

(The following Members (at the request of Mr. Eshelman) and to include extraneous matter:)

Mr. Crane in two instances.
Mr. Hastings.
Mr. Steiger of Wisconsin.
Mr. McClory.
Mr. Langen.
Mr. Ashbrook in two instances.
Mr. Shriver.
Mr. Wyman in three instances.
Mr. Schneebeli.
Mr. Fish.
Mr. Scherle.
Mr. Scott.
Mrs. May.
Mr. Derwinski in two instances.
Mr. Bush in two instances.
Mr. Hansen of Idaho.
Mr. Anderson of Illinois.

(The following Members (at the request of Mr. Melcher) and to include extraneous matter:)

Mr. Long of Maryland.
Mr. Rooney of New York.
Mr. Bolling.
Mr. Dent.
Mr. Charles H. Wilson.
Mr. Ryan in three instances.
Mr. Thompson of New Jersey in two instances.
Mr. Hathaway in two instances.
Mr. Harrington in two instances.
Mr. Bingham.
Mr. Casey in two instances.
Mr. Hungate in two instances.
Mr. Shipley.
Mr. Fraser in five instances.
Mr. Patten in two instances.
Mr. Gaydos.
Mr. Podell.
Mr. Gallagher.
Mr. Hébert.
Mr. Clay in six instances.
Mr. McFall.
Mr. Carey.
Mr. Pickle in five instances.
Mr. Gonzalez.
Mr. Rarick in five instances.
Mr. O'Hara in two instances.
Mr. Murphy of New York in two instances.
Mr. Rodino.
Mr. O'Neill of Massachusetts.
Mr. Philbin.

SENATE-ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3427. An act to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior.

BILL PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on March 16, 1970, present to the President, for his approval, a bill of the House of the following title:

H.R. 1497. An act to permit the vessel *Marpole* to be documented for use in the coastwide trade.

ADJOURNMENT

Mr. ALBERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 18, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1790. A letter from the Secretary of the Treasury, transmitting the annual report of the Secretary on the state of finances for the fiscal year ended June 30, 1969, pursuant to the provisions of 31 U.S.C. 1027 (H. Doc. No. 91–228); to the Committee on Ways and Means and ordered to be printed, with illustrations.

1791. A letter from the Secretary of the Interior, transmitting a report summarizing the 1969 activities in the desalting of sea and brackish waters, together with legislative recommendations for the 1971 fiscal year, pursuant to the provisions of Public Law 448, 82d Congress; to the Committee on Interior and Insular Affairs.

1792. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations to carry out the Fire Research and Safety Act of 1968; to the Committee on Science and Astronautics.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELANEY: Committee on Rules. House Resolution 881. Resolution for consideration of H.R. 16196, a bill to reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes (Rept. No. 91–914). Referred to the House Calendar.

Mr. MEEDS: Committee on Education and Labor. H.R. 15361. A bill to establish a pilot program designated as the Youth Conservation Corps, and for other purposes (Rept. No. 91–915). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABBITT:

H.R. 16503. A bill to authorize the Secretary of the Interior to convey certain lands at the Petersburg National Battlefield, Va., and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 16504. A bill to provide for a training program for organized crime prosecutors, an annual conference of Federal, State, and local officials in the field of organized crime, and annual report by the Attorney General on organized crime, and for other purposes; to the Committee on the Judiciary.

By Mr. BLANTON (for himself, Mr. Alexander, Mr. Anderson of Tennessee, Mr. Davis of Georgia, Mr. Edwards of Alabama, Mr. Flowers, Mr. Jones of North Carolina, and Mr. Nichols):

H.R. 16505. A bill to provide loans to assist local educational agencies in constructing school facilities needed to meet the requirements of Federal law; to the Committee on Education and Labor.

By Mr. CONABLE:

H.R. 16506. A bill to amend the Internal Revenue Code of 1954 to clarify the applicability of the exemption from income taxation of cemetery corporations; to the Committee on Ways and Means.

By Mr. DELLENBACK:

H.R. 16507. A bill to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes; to the Committee on Agriculture.

By Mr. FASCELL:

H.R. 16508. A bill to meet the school financing emergency facing school districts which must meet requirements imposed by Federal judicial decisions; to the Committee on Education and Labor.

By Mr. DENT:

H.R. 16509. A bill to share Federal revenues with State and local governments for purposes of assisting public education and reducing the State and local tax burden of individuals; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 16510. A bill to share Federal revenues with State and local governments for purposes of assisting public education and reducing the State and local tax burden of individuals; to the Committee on Ways and Means.

By Mr. FLYNT:

H.R. 16511. A bill to extend through December 31, 1972, the suspension of duty on electrodes for use in producing aluminum; to the Committee on Ways and Means.

By Mr. FRASER:

H.R. 16512. A bill to provide supplemental appropriations to fully fund the section 235 low-income homeownership program for the fiscal year 1970; to the Committee on Appropriations.

H.R. 16513. A bill to reduce mortgage interest rates charged middle-income families, and for other purposes; to the Committee on Banking and Currency.

By Mr. GILBERT:

H.R. 16514. A bill to establish a senior citizens skill and talent utilization program; to the Committee on Education and Labor.

By Mr. HUTCHINSON:

H.R. 16515. A bill to provide that ports on the Great Lakes shall be included in the ports described in section 809 of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

By Mr. MILLER of California (for himself, Mr. Fulton of Pennsylvania, Mr. Teague of Texas, Mr. Roudebush, Mr. Bell of California, Mr. Daddario, Mr. Pelly, Mr. Davis of Georgia, Mr. Wydler, Mr. Vander Jagt, Mr. Waggonner, Mr. Winn, Mr. Fuqua, Mr. Pettis, Mr. Brown of California, Mr. Cabell, Mr. Price of Texas, Mr. Podell, Mr. Weicker, Mr. Aspinall, Mr. Frey, Mr. Goldwater, Mr. Biaggi, and Mr. Symington):

H.R. 16516. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Astronautics.

By Mr. O'HARA (for himself, Mr. William D. Ford, and Mr. Nedzi):

H.R. 16517. A bill to amend the Fair Labor Standards Act of 1938, as amended, by extending its coverage to persons employed by States or political subdivisions thereof in the provision of fire or police protection, and for other purposes; to the Committee on Education and Labor.

By Mr. PASSMAN:

H.R. 16518. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. PELLY:

H.R. 16519. A bill to exclude from gross income the first $750 of interest received on deposits in thrift institutions; to the Committee on Ways and Means.

By Mr. RYAN (for himself, Mr. Addabbo, Mr. Biaggi, Mr. Bingham, Mr. Brown of California, Mr. Button, Mr. Farbstein, Mr. Halpern, Mr. Hungate, Mr. Koch, Mr. Lowenstein, Mr. Mikva, Mr. Moorhead, Mr. Nix, Mr. Olsen, Mr. Powell, Mr. Rees, Mr. Rosenthal, Mr. Scheuer, Mr. Tunney, and Mr. Charles H. Wilson):

H.R. 16520. A bill to provide for a comprehensive program for the control of noise; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF:

H.R. 16521. A bill to authorize the emergency issuance of 2,000 special immigrant visas to nationals of Ireland; to the Committee on the Judiciary.

By Mr. MACDONALD of Massachusetts:

H.R. 16524. A bill to incorporate the Italian Heritage Society of America, and for other purposes; to the Committee on the Judiciary.

By Mr. CONABLE:

H.J. Res. 1135. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. FREY:

H.J. Res. 1136. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. GRIFFIN:

H.J. Res. 1137. Joint resolution proposing an amendment to the Constitution of the United States with respect to the establishment of public schools; to the Committee on the Judiciary.

By Mr. STRATTON:

H.J. Res. 1138. Joint resolution to authorize participation by the United States in parliamentary conferences with the Republic of Ireland; to the Committee on Foreign Affairs.

By Mr. ADAMS:

H. Con. Res. 548. Concurrent resolution relating to an Atlantic Union delegation; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of California:

H.R. 16522. A bill for the relief of Tong Yee Kam Po; to the Committee on the Judiciary.

By Mr. GUBSER:

H.R. 16523. A bill authorizing the President to award the Medal of Honor to Maj. Gen. Robert T. Frederick; to the Committee on Armed Services.

PETITIONS, ETC.

Under clause 1 of rule XXII,

418. The SPEAKER presented a petition of the city council of Philadelphia, Pa., relative to terrorism against travelers to Israel, which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

SUPPRESSION OF THE PRESS IN GREECE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. FRASER. Mr. Speaker, along with well documented accounts of political repression under the military junta in Greece, allegations of government control over mass media are also beginning to surface. Representatives of the Greek regime claim complete freedom of the press exists. I insert into the RECORD at this point an article from the February 26, 1970, edition of the Christian Science Monitor which raises serious doubts about the junta's assertions. I urge my colleagues to read this article carefully, and consider its implications for the potential rebirth of a democratic society in Greece.

The article follows:

IPI SEES "MUZZLING"—GREEK PRESS THREATENED

(By Peter S. Mellas)

The press, as an independent institution in Greece, has gone through some rough waters both before and since a new press law went into effect at the beginning of the year.

This situation prompted an investigation by the International Press Institute, which was conducted in Greece during the latter part of January.

In its recent report, the institute maintains the independent press in Greece is in serious danger as a result of the provisions of the new press law, economic pressure from the government, and the frequent banning of sales of some papers in certain parts of the country.

RULES "EASED" LAST OCTOBER

The report concludes, "It is as though the government, or rather the military authority on which it rests, is out to muzzle the nonconformist press . . . to crush the remaining enterprises which are still sufficiently strong not to be at the government's mercy. . . . The life or death of several papers is at stake. Their closing down would mean, for readers, the end of the last ties with democracy."

Public and publishers breathed easily for a while when the government announced, last October, the restoration of press freedom. Even though the heralded liberalization was in fact dashed by some stifling rules and regulations, the country's papers nonetheless were quickly filled with lively criticism and comments while quite a number of meaningful cartoons made a timid appearance.

However, the government obviously concluded some control was still required for nonconformist papers. Abandoning the old method of preventive censorship, it chose instead to launch a two-pronged attack: economic pressure and obstruction of circulation in the provinces.

DIRECT PRESSURE APPLIED

It achieved the first by withholding advertising revenue from such sources as the government itself, public corporations, semi-official concerns, and some private business.

In its editorial of Dec. 3, 1969, entitled "The Whisperers," the economic daily Naftemboriki said it was denied advertising revenue through mysterious intimidation and pressure. It strongly denounced such boycott methods.

The obstruction of provincial circulation took various forms. But it was predominantly a matter of unabashed pressure from security or military personnel who simply ordered distributors in various parts of the country not to sell certain papers.

The papers which have suffered most from this are the proroyalist conservative dailies Akropolis and Apogevmatini belonging to the Botsis brothers, the liberal dailies To Vima and Ta Nea of the Lambrakis organization, and the independent center daily Ethnos. If unhindered, the above papers would account for about 70 percent of the total newspaper circulation in Greece.

The cities also were affected by this tampering with the distribution of the so-called independent newspapers. But the frequency of interference was much lower in the urban centers.

Contrary to general expectation, the application of the new press law at the beginning of the year did not change the situation. If anything, it increased the government's economic pressure leverage through the imposition of customs duty on newsprint—all of which is imported.

The Greek publishers took it for granted that the tariff to be imposed on the previously duty-free newsprint would fall within the limits set by GATT (General Agreement on Tariffs and Trade) and the Common Market, since Greece has signed both agreements.

This led them to the conclusion that the tariff on newsprint would not exceed 17 percent of its value. They therefore raised the price of newspapers from five cents to about seven to absorb the additional cost in customs duty.

But the government had different ideas. Without any warning or the required formal legislation, the Ministry of Finance directed the Customs Service to impose and collect a tariff on newsprint of more than 100 percent of its value. This in effect put newsprint on the level of luxury items or foreign manufactured goods with a high tariff to protect local manufacturers.

There is no local production of newsprint and it is not a luxury item by any stretch of the imagination.

ADVANCE PAYMENT ASKED

Furthermore, customs argued that publishers should pay duties in advance, as is done with other merchandise bearing such high tariffs. The publishers simply did not have that much cash in hand, close to a million dollars, and threatened to suspend publication.

Finally, the government ruled that duty payments could be postponed since such payments will vary with circulation. A circulation of up to 25,000 per day exempts the newspaper from paying customs duty. After that there is a graduated scale of rebates until there is no exemption for a daily circulation of over 100,000.

The end result has been for the publishers to raise the price of newspapers by another two cents in order to absorb the additional cost. Only the three progovernment low-circulation newspapers have retained the seven cents price. Obviously they are not much affected since their low circulation either exempts them from paying duty or they pay only a small fraction.

CIRCULATION DROP NOTED

Although it is too soon to attempt any statistical conclusions, some clear-cut indications already are emerging.

The high-circulation antigovernment newspapers which raised their price have suffered a combined daily circulation drop in the Athens-Piraeus area of about 95,000. Of this total loss, the low-circulation, progovernment newspapers, which did not raise their price, have only picked up 5,000 per day.

Obviously there is a net daily loss of about 90,000 in the area. An antigovernment publisher stated, "The government plainly wants to drive the popular papers out of the market but the people are demonstrating their opposition to the regime."

TIME TO STOP CODDLING OUR YOUTHFUL CRIMINALS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. DERWINSKI. Mr. Speaker, an article in the Tuesday, March 10, Chicago Today by Judge Samuel S. Leibowitz, of the New York Criminal Court, speaks for itself by its title and emphasis. The article follows:

TIME TO STOP CODDLING OUR YOUTHFUL CRIMINALS

(By Judge Samuel S. Leibowitz)

NEW YORK.—As evening falls in the great cities thruout our land, grown men cower in their homes with their wives and children about them.

Our residential streets are nighttime challenges for only the bravest. Lurking in the shadows, miserable human beings wait for someone to come along so that they can rob, murder and rape.

The most tragic fact, however, is that an ever increasing number of these crimes are being committed by juveniles.

When I was a youngster on Manhattan's lower east side, juvenile delinquency consisted of a youngster playing hookey, throwing a ball thru a shopkeeper's window, stealing a banana from a pushcart, engaging in a fist-fight with the kid on the next block, or ripping boards out of fences to feed bonfires on election night.

THE CRIMES OF JUVENILES ARE "DEADLY SERIOUS"

Today, our juvenile courts are confronted not with the pranksters of yesterday, but with the mugger, the holdup man, the switchblade artist, the gunman, the rapist—youngsters who have committed the most blood-curdling crimes.

In 1966, nineteen per cent more youngsters between 10 and 17 were arrested in the United States than in 1960, according to the FBI.

In that same period, the number of juveniles arrested for serious crimes rose 54 percent.

When I say "serious crimes," I mean serious—deadly serious. Analyzing the statistics, we find that 115 per cent more youngsters under 18 were arrested in 1966 for aggravated assault than in 1960. The percentage of juveniles arrested in 1966 for robbery increased 55 per cent. Those arrested for murder or non-negligent homicide jumped 45 per cent. And the number of "children" arrested for forcible rape in 1966 rose 34 per cent over 1960.

These are criminals in every sense of the word except one—by reason of their ages, they are children. So, they wind up in our juvenile courts to be pampered, coddled, "understood" and too often given "another chance."

The juvenile courts [they may be known as family or adolescent courts] are a noble dream—and it is worth working toward realization of this dream. Certainly, we would rather rehabilitate our young than stigmatize them for life as criminals.

But one reaches a point, after seeing enough of these young offenders, where one stops thinking so much of the "rehabilitation" of the youngster and starts considering the protection of society.

The 14-year-old who douses a drunk with gasoline and sets him on fire; the young rat pack that grabs a terror-struck young girl in the subway and gang-rapes her; the "kids" who torture the candy store owner before killing him. Do we rehabilitate monsters?

We ask ourselves why juvenile crime has risen so frighteningly. Deep down, however, we know the truth—it is we, the adult society, who are at fault. For they were born into our world, not we into theirs. They learn from us, they follow our examples, they rebel against our hypocrisies.

What is a youngster to think when, after the assassination of Martin Luther King, he turns on the television and sees adults running wild thru the streets, looting stores while policemen stand on the sidelines watching helplessly—having been ordered by their superiors to "cool it"?

What is a youngster to think when he hears that those students responsible for turning a Columbia university into a charnel house, who held a dean captive for a full day, were released from custody without any punishment whatsoever?

There are those who would argue that poverty is responsible for the rise in juvenile crime. That's nonsense. This country has never been more prosperous—and, what's more, some of our finest sons were bred in unspeakable slums.

Until we know all the answers—and that won't be for a long time—there is nothing to take the place of the cop on the beat. He is a greater crime preventer than a whole college of sociologists. When I was a boy, he was the man you turned to when you got into trouble, often combining parent, father confessor, teacher and pal.

"JUDGES MUST STOP BEING SO LENIENT"

One thing he was not was a patsy. If he told a youngster, "C'mon, move on," that child would not dare put his fingers to his nose or call the officer "pig!" It would have been unthinkable.

Today, a policeman must keep his hands in his pockets. And so must principals and teachers, who live in dread of the students. Parents must bribe the children with cars and plenty of cash to stay on speaking terms with them.

Little wonder that these children have contempt for us all. They have been reared in a world of marshmallow morality in which any code can be made to stretch. Perhaps what they are seeking is a strong hand, a belated discipline.

Whatever their problems, however, the time has come for society—and that includes the millions of law-abiding youngsters—to protect itself against this terror.

The primary area of our concern must be juvenile court system in the United States. On May 15, 1967, the United States Supreme Court ruled that juveniles accused of crimes have the right to notice of charges, to counsel, to confrontation, and cross-examination of witnesses.

In short, juveniles are entitled to the full benefits of the adversary system of justice as adults.

Earlier in that year, in February, the President's Commission on Law Enforcement suggested that same thing.

I agree with this decision. If there is anywhere authority ought to be shown in all its awesome glory, it should be in juvenile court.

And judges must stop being so lenient in passing out sentences to these juvenile criminals. They must be made to understand that, if they commit adult crimes, they will be treated with adult justice.

I am not advocating that every youngster brought into juvenile court should be sent to a reformatory or training center. I am only saying the judges must be extra careful in passing on each individual case.

We must fight for more qualified probation officers. And we must see to it that each officer is given the lightest possible case load. Otherwise, probation will remain an empty eggshell.

JOBLESS RATE ROSE TO HIGHEST SINCE LATE 1965

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 16, 1970

Mr. WILLIAM D. FORD. Mr. Speaker, inflation is a hardship for the working man as for everyone else; but for a man without a job it is a disaster. Concern over high prices fades when you have no money to buy food for your family at any price.

Unemployment statistics have been growing at an alarming rate for some months now. In the 15th Congressional District in Michigan we have known for some time that when the February statistics on unemployment came out they were going to be ominous. Statistics on unemployment are only reflections of real flesh and blood people. Statistics may not show until several months after the fact that your neighbor and your sister's husband and your father-in-law were laid off; but the people who are laid off know and all their friends and relatives know right away. They know because the bills are still there to be paid and the cost of the barest necessities of life do not go down just because one no longer has a job. They know because they worry that they may be the next one to reach up for his time sheet and find that as of tomorrow they are no longer employed. This kind of worry pervades whole communities.

It is time that the administration also started worrying about this rising level of unemployment and did something to counter it. A 4-percent unemployment rate may be "acceptable" to the administration but it is not acceptable to me and it is not acceptable to the constituents I represent in Congress.

Lest anyone doubt how high the unemployment rate has risen I insert in the RECORD at this point an article from the Wall Street Journal of March 9, 1970, which details the figures for February of this year:

[From the Wall Street Journal, Mar. 9, 1970]

JOBLESS RATE ROSE TO HIGHEST SINCE LATE 1965; FEBRUARY GAIN 0.3 POINT TO 4.2 PERCENT; FACTORY WORKWEEK SLID TO 8-YEAR LOW; REAL ECONOMIC SLOWING SEEN

WASHINGTON.—Fed chiefly by rising layoffs among adult workers, the February unemployment rate jumped 0.3 percentage point to a seasonally adjusted 4.2% of the nation's labor force, its highest level since October 1965.

The increase followed a January surge of 0.4 percentage point, the largest month-to-month rise in the jobless rate in nine years.

Together, the 0.7 percentage point spurt reported by the Labor Department was the sharpest for any two-month period since October-December 1957, when the country was mired in a recession.

February's jobless-rate increase, along with most other employment statistics for last month, reflected a widespread weakening of the demand for labor as the Nixon Administration pressed its efforts to slow the economy.

Administration officials have estimated that their attack on inflation will push this year's average jobless rate to about 4.3% from last year's 3.5%, with the monthly rate likely to hit 5% by December.

The Labor Department's Bureau of Labor Statistics noted that both total employment and nonfarm payroll employment declined last month on a seasonally adjusted basis, and the widely watched average manufacturing work-week dropped to its lowest level since January 1962.

"We're continuing to be very cautious about reading too much into the monthly figures," said one Administration economist when asked to comment on the February jobless rate increase.

But even skeptics among the Administration's analysts conceded that the February data "are more conclusive" of real economic softness than previous monthly information "Taken at face value, these figures certainly indicate a significant weakness in the manufacturing sector," said one.

Labor Department analysts agreed that "a slowdown for labor has become particularly evident in the manufacturing industries." They noted that manufacturing payroll employment "has been declining steadily" since last August, and that the jobless rate for factory workers climbed to a seasonally adjusted 4.6% last month from 3.8% in January and 2.9% a year earlier.

Seasonally adjusted unemployment spurted to 3,427,000 persons in February from 3,172,000 the previous month, the department said. All of the 255,000 increase in jobelessness occurred among adults—most of them full-time workers. About a third of the rise was due to temporary closedowns of auto-production plants, department analysts explained.

They took pains to point out, however, that there is "every reason to believe that a lot of these auto workers went back to work" the week after the one the department checked. The report measures unemployment and employment in the week in which the 12th of the month occurs.

During the past year, they said, seasonally adjusted unemployment has increased by 875,000—comprising about 550,000 adult men, 175,000 adult women and 150,000 teen-agers.

Though manufacturing employes were clearly the "hardest hit" by the February increase in joblessness, the department analysts said there were "pervasive increases in unemployment" among all kinds of workers.

BREAKDOWN OF FIGURES

The department said the adjusted February unemployment rate for adult men over 20 years old rose to 2.8% from 2.5% in January. The increase was particularly sharp among men between ages 20 and 24, moving up to 6.7% from 6.1%. The rate for married men climbed to 2% from 1.8%.

For adult women over 20 years old, the seasonally adjusted rate climbed to 4.1% from January's 3.6%. For those between ages 20 and 24, it shot up to 7.6% from 6.2%.

The department said the adjusted jobless rate for teen-agers—persons between 16 and 19—declined to 13.4% in February from 13.8% the previous month.

The jobless rate for full-time workers jumped to 3.7% from January's 3.4%, the department reported. Among part-time workers, the February rate fell to 6.9% from 7.3.

The department's racial breakdown of the unemployment data showed that the rate for whites moved up to 3.8% last month from 3.6%, while the volatile Negro rate rose to 7% from 6.3%. Department analyists noted that since last fall the jobless rate for blacks has remained less than double the white rate—the ratio that had been the traditional pattern.

Harold Goldstein, assistant Bureau of Labor Statistics commissioner for manpower and employment, termed this "a hopeful sign" that unemployment is being borne more equally by whites and blacks. But he cautioned that the Negro jobless rate has typically been slower to rise than the rate for whites during the early part of recessionary periods.

BLUE- AND WHITE-COLLAR WORKERS

The department said the unemployment rate for blue-collar workers jumped to 5% last month from 4.6%. The white-collar jobless rate climbed to 2.3% from 2.1%.

While the jobless rate among manufacturing workers rose sharply, the department's February report showed that the rates for workers in transportation, utilities, trade, finance and service industries and government continued to increase more slowly. Employment in these industries has generally "held up better" in recessionary periods, Mr. Goldstein noted.

Total February employment declined to a seasonally adjusted 78,822,000 persons from 79,041,000 the previous month, the department said. These figures include agricultural workers, self-employed persons and certain other workers who aren't counted in the non-farm statistics.

Nonfarm payroll employment amounted to 70,766,000 last month after seasonal adjustment, compared with 70,778,000 in January. The department noted that payroll employment would have shown a greater decline except for the more than 100,000 workers who returned to their jobs after strikes at General Electric Co. and other concerns last month. Workers on strike are counted as unemployed in the payroll employment statistics, but they are classified as "employed—but not at work" in the total employment figures.

PAYROLL EMPLOYMENT GROWTH EBBS

A special analysis prepared by the department showed that payroll employment has been growing "very slowly." Month-to-month increases in seasonally adjusted payroll employment have averaged only 29,000 between October 1969 and last month. This contrasts sharply with the period from October 1968 to October 1969 when the average gain was 185,000.

Manufacturing payroll employment dropped 158,000 to 19,806,000 on a seasonally adjusted basis last month. Most of the decrease was in the durable-goods sector where payrolls declined by 120,000 to 11,544,000.

The decline in manufacturing payrolls countered gains of 81,000 in contract construction and 65,000 in wholesale and retail trade, the department said. The strength in construction employment reflected, in part, the return of workers to projects halted by unusually bad weather in January, department analysts noted.

The department said the average workweek for factory workers dropped to a seasonally adjusted 39.9 hours in February, down 0.4 hour from January. But the average workweek for all rank-and-file workers edged up 0.1 hour to 37.5 hours.

Factory workers' average weekly overtime declined to 3.2 hours last month from 3.3 hours the month before. This closely watched leading indicator has slipped a half hour since last September, department analysts noted.

Average hourly earnings for all rank-and-file workers on private payrolls rose two cents last month to $3.15. The hourly earnings were up 19 cents from a year earlier, a 6.4% increase. The rank-and-filers' average weekly earnings in February were $117.18, up $1.06 from January and up $7.07 from a year earlier.

The average hourly earnings of nonsupervisory factory workers declined one cent to to $3.28 last month, but they were still up 16 cents from February 1969. Weekly earnings of manufacturing workers averaged $130.54 last month, down $1.39 from the previous month, but up $5.74 from a year earlier.

FEDERAL SPENDING REVISITED

HON. ODIN LANGEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. LANGEN. Mr. Speaker, today we hear a great deal about cost overruns, deficit spending, and the like, all of which must give cause for concern to the Members of the Congress. And understandably so, for we are facing a 1970 Federal budget of unprecedented size. Our National Government has grown so large and unwieldy in recent years, so that there is much truth to the charges of waste, duplication of efforts, and inefficiency. This problem has become particularly acute in the past couple of years as the American people have grown sensitive to impending domestic social needs—better education, health care, pollution control, and so forth.

In the face of these charges of insensitivity and extravagance being lofted from many quarters at the various agencies of Government, it is perhaps good to take the time to commend these same agencies when responsible actions are taken. Such an example deserving of attention is a recent decision by the National Aeronautics and Space Administration to change a policy of incentive contracting as applied to the delivery of space hardware.

A recent report by the General Accounting Office states that NASA in its Saturn rocket program had awarded contracts containing incentive provisions amounting to about $6.7 billion. However, such incentives were of questionable merit, since in fact early delivery of certain components could have been achieved without additional payments to contractors. Also, delivery of the stages for certain vehicles ahead of schedule was in fact inconsistent with other decisions to delay or slow down the program, and so forth.

Such incentives if improperly applied could result in the unnecessary expenditure of millions of extra tax dollars, without the achievement of results commensurate with the cost. I applaud the decision by NASA to discontinue such incentives, and to instead make use of penalty-only incentives as a more appropriate means of insuring delivery on schedule.

As a final thought, I would hope that we in the Congress as well as all those employed by the Federal bureaucracy will take seriously the admonition by President Nixon in the handling of public funds. Said Mr. Nixon:

> Every dollar was sent to the Treasury by some taxpayer who has a right to demand that it be well spent.

A YANKEE IRISHMAN IN MAINE

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. HATHAWAY. Mr. Speaker, today, as a tribute to St. Patrick, Ireland's patron saint and apostle, to the great land of Erin, and to the millions of its proud sons and daughters in the United States and elsewhere around the globe, I would like to recall the daring exploits of an Irish American from my own State of Maine—one of the true heroes of the American Revolution.

Like his more widely known contemporary, Commodore John Barry, the father of the American Navy, Capt. Jeremiah O'Brien was both an Irishman and a sailor. O'Brien's story was recounted recently in the February issue of the U.S. Naval Institute Proceedings by Lt. Comdr. M. D. Giambattista, U.S. Navy. I insert at this point the narrative in the CONGRESSIONAL RECORD.

Erin go bragh.

CAPTAIN JEREMIAH O'BRIEN AND THE MACHIAS LIBERTY

Captain Jeremiah O'Brien and a crew of 35 colonial "haymakers" in 1775 presented and won the first challenge by the fledgling American navy to the colossal naval power of Great Britain. This brilliant victory by a Yankee settler represented the first of the soon-to-be-numerous naval victories of the Revolutionary War. The exploits of this sailor-soldier-privateer are, however, little known today. Jeremiah O'Brien of Machias, Maine, captained six privateers at sea between 1775 and 1781, and during his only time ashore, he was the captain of a company of militia defending against British-inspired hostile Indians.

Reports of the battles at Lexington and Concord reached the isolated settlement of Machias in early May 1775. Under the auspices of the village's bolder citizens, a "liberty pole" was erected to symbolize the independence of the colony. The pole consisted of a tall Maine pine tree denuded of foliage except for the very top. After installing the pole prominently on high ground in the village, the townsfolk gathered about it and solemnly pledged themselves to resist British oppression and, if necessary, to sacrifice their property and blood in defense of the settlement.

For over ten years, the residents of Machias had exchanged lumber from the town's mills for provisions brought in by ship. On Friday, 2 June 1775, two sloops of about 80 tons each, the *Unity* and the *Polly*, arrived at Machias from Boston. The cargoes consisted of the household goods of families fleeing Boston and most important, provisions for the inhabitants. Escorting the sloops was the British armed vessel *Margaretta* (100 tons, crew of 40, and four 4-pounders). The following day, 3 June 1775, Captain Ichabod Jones, owner of the *Unity* and the *Polly*, circulated a contract for the townspeople to sign. The contract gaves Jones permission to load his ships with lumber for Boston and committed the villagers to protect the ships during the loading. Signing of the contract was made a condition for receipt of the badly needed provisions. At the time, the estimated level of provisions in Machias was adequate for three weeks. The settlers correctly surmised that the type of lumber desired was destined for use by the British army of occupation in Boston and that providing it would give aid and encouragement to the enemy. Accordingly, only a few signed the contract.

Captain Jones arranged a town meeting and submitted his proposal to a vote. Jones expounded that the British had allowed his departure from Boston only on the condition that he would return with cargoes of lumber and that the *Margaretta* had been sent to ensure his proper execution of the condition. The pressing need for provisions and the presence of the *Margaretta's* guns just a few rods from their homes forced the expedient acceptance of Captain Jones's "contract." The *Unity* and the *Polly* were thereupon moored to the village wharf, but distribution of provisions was made only to those who had not opposed the "contract."

From his vantage point in the Machias River, Captain Moore of the *Margaretta* was taunted by the sight of the liberty pole. Captain Moore subsequently landed and demanded from the assembled villagers that the pole be removed. John O'Brien, a younger brother of Jeremiah, is recorded as having replied, "Must come down! Those words are very easily spoken. You will find, I apprehend, that it is easier to make than it will be to enforce a demand of this kind." The astonished Moore replied, ". . . my orders are pre-emptory and must be obeyed. That liberty pole must come down, or it will be my painful duty to fire upon the town." Stephen Jones, a resident merchant and nephew of Captain Jones, on two separate occasions was able to dissuade Moore from the execution of his threat. Patriotic settlers, including Jeremiah O'Brien and his five younger brothers, thoroughly aroused the smoldering indignation of even the most conservative villagers. In subsequent town meetings, the settlers spontaneously resolved not to allow Captain Jones's sloops to return to Boston.

On Sunday, 10 June 1775, a local conference was held secretly for planning operations against the foe. Surprisingly, the suggestion to capture Jones and the *Margaretta's* officers while they attended church the following day met with opposition from Morris O'Brien the 60-year-old father of the O'Briens. Morris O'Brien's reluctance probably stemmed from his understanding of the local situation—scarcity of provisions and the difficulty of obtaining additional supplies, coupled with the defenseless condition of the village. Nonetheless, at a secret meeting the next morning, the stirring oratory of Benjamin Foster moved the group to follow through on the plan to capture the British officers. An advance party of armed villagers attended the Protestant service. (Machias had been chartered by Massachusetts Colony in 1770 with the stipulation that the settlers be Protestant.) Concurrently, another armed party started crossing the river on logs. Unfortunately, the church was so situated that London Atus, the pastor's negro servant, saw the second group of men and assumed that they were British troops bent on attacking the village. With a single bound, London Atus leaped screaming through an open window in the church, and fled into the nearby woods. The ensuing confusion permitted the alert Captain Moore and his officers to escape from the intended trap. Moore hastily boarded a waiting gig and was rowed to the *Margaretta* and immediately got her underway. After firing a few warning shots over the village and at the settlers pursuing in small boats and canoes, Captain Moore anchored downriver. He then sent back word to Machias that if harm came to Captain Jones or his sloops, the *Margaretta* would return to burn the village.

Flushed with new confidence, the villagers vowed they would capture the *Margaretta*. An armed party set out to the river bank near the British anchorage and upon arrival opened fire with small arms. Fortuitously for the eager Yankees, the *Margaretta* was unable to raise her guns to return the fire, owing to the elevation of the surrounding river bank. In the haste to withdraw further downstream to avoid the harassing fire, the *Margaretta's* main boom snapped, and she was then seriously crippled. She did, however, manage to withdraw and re-anchor out of gunshot from the settlers.

Early Monday, 12 June 1775, four young men (including Dennis O'Brien) spontaneously agreed to capture the *Unity* then anchored in the river just off the village wharf. The intrepid boarding party rowed out to the *Unity*, took possession without firing a shot, and brought her to the wharf. The enthusiastic "prize crew" drew a crowd at dockside with their cheering. Almost immediately the leaders in the crowd—principally Jeremiah O'Brien—realized the potential that lay at their disposal to capture the *Margaretta*. Arms and ammunition were hurriedly placed on board the *Unity*. Amid the cheers of the town's men, women, and children, the *Unity* sailed, half-laden with lumber, to seek the enemy. The loading and complement of the single masted vessel consisted of 20 fowling pieces (shotguns) with three rounds of powder and ball each, a small cannon, 30 hay forks, a few axes, a loaf of bread, a few pieces of pork, a barrel of water, and 35 volunteers solicited from the dockside crowd. Among the crew were the six O'Brien brothers. It is curious to note that Morris O'Brien was deterred from joining the "boys" only by their earnest remonstrances.

Captain Moore had witnessed the entire episode through his spy-glass and correctly deduced the intentions of the *Unity* and her crew. Moore got underway and fell further downriver to Holme's Bay. As chance would have it, an American schooner out of Norwich, Connecticut, happened to be anchored there. Her mast boom was transferred and fitted to the *Margaretta* and her captain, Robert Avery, was impressed as a pilot. Moore then put to sea, a full hour ahead of the *Unity*'s departure.

In her haste to join the enemy in battle, the *Unity* had somehow managed to sail without the benefit of a duly appointed commanding officer. Jeremiah O'Brien was nominated and unanimously elected as captain by the crew. His first official act was to allow three of the crew, who in the cold light of day had decided not to see the adventure to conclusion, to depart for shore in a small boat.

"Now, my brave fellows, having got rid of those white-livered cowards, our first business will be to get alongside of the schooner yonder: and the first man who boards her shall be entitled to the palm of honor," exclaimed the 30-year old skipper. O'Brien next directed that the lumber on board be placed as breastworks to protect the crew from hostile fire.

For reasons that remain forever unknown, the *Margaretta* endeavored to avoid contact with the *Unity*, and when first sighted was headed for sea. To increase his speed, O'Brien cast off the small boats from his stern. The *Unity* was apparently a better sailer, as she steadily reduced the distance of an hour's headstart by her opponent. Once within hailing distance, Moore demanded that O'Brien keep off, and threatened to fire. O'Brien replied, "In America's name, I demand you surrender!" The *Margaretta* then opened fire with a stern swivel gun and killed two of the *Unity's* crew, McNeil and Coolbroth. A backwoods moosehunter by the name of Knight manned the small gun and picked off the *Margaretta's* helmsman with a ball through the head. This rapidly cleared the enemy's quarterdeck leaving the *Margaretta* not under command. She broached under the *Unity's* bow and the latter's bowsprit caught the mainsail of her opponent and caused the two vessels to be held together. At this juncture, John O'Brien sprang to the *Margaretta's* deck only to see the vessels part, leaving him alone and stranded in the enemy's camp. A bayonet charge, however, convinced John O'Brien that he should abandon his precariour post for the relative safety of the sea. In a hail of balls, he swam the intervening 30 yards to the *Unity*. After retrieving and congratulating his brother for setting foot on the foe's deck, Jeremiah O'Brien maneuvered the *Unity* alongside the foe and lashed the two ships together through the efforts of a team of Yankee sailors.

Captain Moore bravely rallied his men and personally threw hand grenades on the deck of the American ship. Recognizing that Jeremiah O'Brien was the motive force behind the bold attack. Moore directed the fire and grenades at the audacious skipper. Fortunately, O'Brien remained unscratched, and ironically Captain Moore was felled by two shots from a Yankee marksman who had witnessed the personal attempt on O'Brien's life.

"To your feet lads! The schooner is ours! Follow me! Board!" Twenty men, previously selected and armed with pitchforks, clambered over the rails. After nearly an hour of battle including hand-to-hand, the leaderless and frightened British crew surrendered. Captain O'Brien personally hauled down the British ensign in triumph.

Subsequent to her exultant return to Machias, the *Unity* was fitted out as an armed cruiser with the captured weapons from the *Margaretta*. Her name was changed by O'Brien to the *Machias Liberty*, and she was employed by the settlement as the first American armed cruiser of the Revolution.

The chronicle of O'Brien and his ship could have well stopped here and been complete; however, fate was to bring new contact with the foe in exactly one month. The British sent out the armed cruiser *Diligent* and her tender *Tapnaquish* from Halifax, Nova Scotia, ". . . to bring the obstreperous Irish Yankee in for trial." On 12 July 1775, acting in concert with Benjamin Foster (in an East Machias schooner), Jeremiah O'Brien in the *Machias Liberty* captured both the *Diligent* and the *Tapnaquish* off Machias.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

STATEMENT OF INCOME

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. HUNGATE. Mr. Speaker, in accord with my regular practice since coming to Congress, I again disclose my income as shown by my most recent income tax return for the year 1969, due and filed in the year 1970.

My joint personal income tax return, form 1040, line 11, shows my congressional salary of $39,374.98. Lines 13 and 14 lists other income of $6,654.43, for a total income on line 15a of $46,029.41, less line 15b, adjustments for allowed congressional living expenses attending Congress in Washington, D.C., $3,000. Total income, line 15c, is $43,029.41.

Itemized deductions, schedule T, line 2, are $5,156.32, consisting primarily of State and local real estate and personal property taxes of $2,192.25, and interest payments of $1,938.41.

The total income tax and surtax, schedule T, line 10, is $11,130.57, plus a self-employment tax of $142.36, schedule T, line 15. The total tax, schedule T, line 18, is $11,272.93, which is reflected in line 18, form 1040. The total Federal income tax withheld, line 19, is $9,945.75, plus Federal income tax paid on estimate, line 22, $800.

Total tax payments are $10,745.75 as indicated on line 23. This constitutes a balance of $527.18 due and payable in the year 1970.

The principal sources of income, aside from congressional salary, were interest on savings and loan deposits, speaking fees in excess of travel expenses incurred in connection therewith, and income from law partnership. The gross amount of ordinary income received from the law partnership—Hungate & Grewach, Troy, Mo., was $3,449.18, which was substantially reduced by depreciation and partnership expenses chargeable to me. The partnership was terminated on June 30, 1969.

Schedule D, filed with said return and included in the income figures aforesaid, shows a recognizable capital gain of $3,250.75, representing the proceeds of the sale of my mother's home acquired by inheritance in 1961, and my former interest in the office building and equipment of the Hungate & Grewach law partnership, 219 West College, Troy, Mo.

Neither my wife nor I own any stocks or bonds, and the funds received from the sale of my partnership interest and my mother's home were invested in a U.S. Treasury note.

Campaign funds raised for me are handled by committees, and held in trust so that I have no direct control over such funds.

PRETRIAL DETENTION IN NEW YORK

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. SMITH of New York. Mr. Speaker, last week Judge Irving Lang, of the criminal court of the city of New York, issued an important opinion supporting his denial of bail to a dangerous defendant.

The opinion could hardly be more timley or more relevant to the question of pretrial detention, which the House will consider this week.

In his discussion, Judge Lang takes up section 553 of the New York Code of Criminal Procedure. That section provides that bail before conviction in all felonies is a matter of discretion with the court. This has been the law in New York since colonial times.

When Judge Lang announced his decision, the New York Times reported the event on its front page. Reporter Lesley Oelsner wrote that legal experts thought his ruling to be the first of its kind.

This is clearly not the case. On March 2, 1970, for example, the New York Daily News carried a story that Judge Louis Fusco of the Bronx criminal court had denied bail to David Critchlow, an alleged member of a major narcotics ring. According to the News:

> David Critchlow, 40, of 279 Hancock st., Brooklyn, was held without bail because of a long previous record.

Several years ago, the New York Times reported:

> William Sylvester Cole, companion of a hold-up man shot by a policeman at a Madison Avenue Jewelry store Friday evening, was held without bail yesterday.

Cole had a record of eight previous arrests.

On another occasion, the Times reported that Herman Gross, 59, was held without bail by Magistrate Charles Soloman after he was accused of a $400,000 jewelry holdup. Gross had previously been arrested 16 times.

These examples illustrate a practice which has existed in New York for years. I insert in full Judge Lang's impressive opinion on the legitimacy and constitutionality of pretrial detention and three articles from the New York Times:

[From the Criminal Court of the City of New York, County of New York, Docket No. NA 18275]

PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF, v. SAMUEL JOSEPH MELVILLE, DEFENDANT

William Crain for defendant-applicant; Frank S. Hogan, District Attorney, New York County for the People (Lawrence Hochheiser, of Counsel).

IRVING LANG, J.

This is an application to fix bail on a complaint issued from this court charging the defendant with multiple bombings in New York City. In order to understand the nature of the case and the application involved herein, it is important to set out a chronology of events.

On November 13, 1969, the defendant was arrested by federal and city officials in possession of two dynamite bombs each equipped with a timing device and blasting cap and a fully loaded .38 caliber pistol. He was arraigned on that day before a United States Commissioner on a complaint of a violation of Title 18 U.S.C. Sec. 371, charging him and George Demmerle, John David Hughey III, Jane Lauren Alpert, and Pat Swinton with conspiracy to violate Title 18 U.S.C. 1361. All the above alleged conspirators, with the exception of Pat Swinton, were before the U.S. Commissioner. Miss Swinton was then and is still a fugitive. After a hearing before the Commissioner, bail was set in the sum of $500,000 for each defendant.

On November 14, 1969, the Commissioner reduced the bail on Melville to $300,000, on Demmerle to $200,000, on Hughey to $150,000, and on Alpert to $100,000.

On November 15, 1969, United States District Judge Frankel on an appeal from the bail determination of the U.S. Commissioner, reduced the bail on Melville and Demmerle to $50,000, on Hughey to $25,000, and on Alpert to $20,000. Judge Frankel, in analyzing the nature of the case and the defendants' roots in the community, pointed out that the evidence appeared to be "substantial" in the case of the defendants Melville and Demmerle and "far less" against the defendants Hughey and Alpert. He pointed out that the pending charge at that stage was "a serious one though its 5 years maximum term is by no means in the highest range of those on which the court sets moderate bail, or allows release on personal recognizance, everyday."

On November 19, 1969, a conspiracy indictment was filed by United States Attorney Robert M. Morgenthau against defendants Melville, Demmerle, Hughey, and Alpert.

On January 5, 1970, United States District Court Judge Pollack filed an opinion in which he increased the bail on Melville to $100,000 after full evidentiary and adversary hearings which were held on December 29, 30 and 31, 1969, with respect to the crime and "presented for the first time tangible convincing adversary tested proof of crimes of enormous import and gravity".

On January 14, 1970, a superseding indictment was filed by U.S. Attorney Robert M. Morgenthau charging the defendants Melville, Hughey, Alpert, and Swinton with 23 counts of conspiracy and various substantive violations of the U.S. Code. Consequently, instead of facing a maximum 5 year term of imprisonment, the defendants now faced terms in excess of 200 years.[1]

George Demmerle was not a defendant in the superseding indictment, it having been revealed that he, at all times, was an undercover government agent.

On January 15, 1970, the defendant Melville pleaded to the superseding indictment and bail was set in respect to that indictment not only in the fiscal sum of $100,000 but additional conditions were imposed. The defendant was required to return to the custody of the United States Marshal at 6:00 p.m. everyday to remain in custody until 9:00 a.m. of each succeeding morning; his travel was restricted to the borough of Manhattan and he was prohibited from entering any facilities of a general nature leading out of the area such as railroad stations, airports, etc.

The defendant is now prepared to post the $100,000 bail on the federal indictment and to agree to the other nonfinancial conditions. He now seeks to have bail fixed on a related case in New York County wherein he is charged in a complaint dated November 14, 1969, with the bombing of six occupied buildings and possession of two dynamite bombs and a fully loaded .38 caliber pistol.

At oral argument before this court on

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[1] Subsequent to this writing, Judge Pollack dismissed 4 counts of the indictment reducing by 40 years the maximum that Melville would face. It is now 195 years.

February 26 and 27, counsel for the defendant urges this court to either release the defendant on his own recognizance or, in the alternative to set a "nominal" bail. He asserts that the Federal Bail Reform Act of 1966 (18 U.S.C. sec. 3141, 3152) contains substantially the same criteria for the setting of bail as do the pronouncements of the New York Court of Appeals in *People ex rel Lobell* v. *McDonnell,* 296 N.Y. 109, and *People ex rel Gonzalez* v. *Warden* 21, N.Y. 2d 18. These factors are:

1. The nature of the offense.
2. The penalty which may be imposed.
3. The probability of the willing appearance of the defendant or his flight to avoid punishment.
4. The pecuniary and social condition of the defendant.
5. The general reputation and character of the defendant.
6. The apparent nature and strength of the proof as bearing on the probability of his conviction.

With commendable candor, counsel for the defendant concedes that the offenses charged are extremely serious (although he also characterizes them as "political") and the penalty faced is quite grave; as he puts it, "more than two lifetimes". He also concedes that the proof in the case is, on its face, quite strong. In this connection, the evidentiary hearing before Judge Pollack revealed that the defendant made a full confession to law enforcement officials after being fully advised of his constitutional rights. Further, the evidence adduced the fact that Melville was apprehended with two bombs and a loaded gun in his possession and in addition, his co-conspirator Demmerle is now revealed as a special employee of the Federal Bureau of Investigation.

However, counsel for the defendant indicates that these factors were clearly taken into consideration by Judge Pollack and resulted not only in substantial bail of $100,000 but also in extremely stringent non-financial conditions mentioned above. Since the defendant faces more than 200 years imprisonment on the federal charge, he would not be likely to fear an additional 200 years on the state charges, all of which are encompassed, albeit under different statutes, in the federal indictment. He also asserts that the defendant has no prior criminal record, except for an arrest in connection with a demonstration at Columbia University. He produced an offer of employment for the defendant as a plumber and stated that a Reverend had indicated a willingness to associate himself with the defendant's post-institutional adjustment. Indeed, counsel himself maintained a desire to assume a more than attorney-client supervisory role to ensure Melville's appearance.

The defendant also points out that his co-defendants on the same federal indictment, and, presumably, facing the same potential punishment, are currently on bail in a much lesser amount and under much less severe non-financial conditions.

In response to this court's inquiry, counsel for the defendant indicated that the government was prepared to proceed to trial immediately.

The District Attorney of New York County asks that no bail be set. He requests remand without bail on two theories. He argues that no bail should be set, because he believes that the defendant, in light of all the circumstances of this case, will jump whatever bail is posted. He claims that Judge Pollack's findings leave no doubt that the defendant has no roots in the law abiding community. He believes that a reading of Judge Pollack's findings of fact clearly suggest that the district court would have denied bail in the exercise of sound discretion, given the statutory authority which he lacked. He also says that Demmerle revealed that Melville claimed he had contacts with Canadian terrorist bombers, who were fugitives and for whom Melville arranged transportation to Cuba.

The thrust of the People's second argument for no bail is that the defendant's being free on bail would constitute a grave danger to society. The Federal Bail Reform Act mandates the fixation of bail in non-capital cases and can consider no factors other than a defendant's likelihood to return for trial. However, the District Attorney contends that neither the federal nor state constitutions, nor any judicial or legislative enactments of the State of New York, prohibit a state court from denying bail because of the threat of the defendant at liberty to the community at large. In this connection, he alerts the court to the heinous nature of the crimes involved. In each of the six instances between July 26, 1969, and November 12, 1969, recited in the complaint, high explosive devices were detonated with two timing mechanisms, in buildings which were occupied at the time of the bombing. The buildings, in various parts of the city, were the United Fruit Pier, the Marine Midland Grace Company, the Chase Manhattan Bank, the RCA Building, the General Motors Building and the Criminal Courts Buildings. In the Marine Midland bombing, nineteen persons were injured and, according to the District Attorney, were it not for a steel partition, he would undoubtedly be facing multiple murder charges. The District Attorney also contends that the defendant (through the statement of Demmerle) was involved in the theft of a large quantity (150 pounds) of dynamite and the largest portion of these explosives is still unaccounted for. He claims that even under the rigid conditions imposed by Judge Pollack, the defendant could avoid surveillance and strike again. Indeed, he maintains that Melville had evaded a surveillance prior to his bombing of the Criminal Court building.

Finally, the District Attorney asserts that there is a clear distinction between the codefendants who are out on bail and Melville. He claims that Melville is the "engineer" who not only made and planted the bombs but is the only one of the conspirators capable of such action.

But the United States and New York State constitutions have substantially the same requirements with respect to bail. The 8th amendment to the U.S. Constitution and article 1, section 5 of the Constitution of the State of New York provide that "excessive bail shall not be required. . . ."

Both the opinions of the U.S. Supreme Court and the New York Court of Appeals indicate that the constitutional provisions require that, if bail is set, it not be excessive, but that there is no absolute right to bail. As the Supreme Court said in *Carlson* v. *Landon,* 342 U.S. 524, 545 (1952), "the bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept."

And the New York Court of Appeals has said in *People ex rel Shapiro* v. *Keeper of City Prison et al.,* 290 N.Y. 393, 398 that New York's Constitution, by prohibiting excessive bail, ". . . accords no accused any right to bail but serves only to forbid excessiveness." The court went on further to say that "as a matter of logic it might seem that a prohibition against excessive bail should imply a right to bail in appropriate amount in all cases but the history of the law of bail negatives such an implication. At common law the courts had discretion in all cases after indictment to grant or deny the application although they ordinarily did grant it in all except capital cases. . . The reference in our Constitution to excessive 'bail,' however, referred only to amount of bail."

Indeed, denial of pretrial release is consistent with the practice in other countries. "Sweden, Norway, Denmark and West Germany deny pretrial release as a matter of course, because of the danger to society and the risk of flight. More importantly, in England, the source and foundation of the development of our system of law, the English Bill of Rights did not grant 'a right to bail in all cases.' Prior to 1789, bail was either not authorized or within the discretion of English courts in serious felony cases. Even after the addition of the 8th amendment in the United States, England has continued to grant discretion to its judges and magistrates to deny pretrial release to offenders charged with felonies or, in some circumstances, with misdemeanors." Mitchell, *Bail Reform and the Constitutionality of Pretrial Detention.* Va L. Rev. Nov. 1969, reprinted in CONGRESSIONAL RECORD, February 9, 1970, pages 2963, 2964 [55 Va. L. Rev. 1223, 1231 (1969)].

Though the right to bail is by no means absolute, of course the discretion may not be abused, and if bail is fixed it may not be so high as to be arbitrarily and unreasonable; i.e., "excessive". For there is a strong judicial and public policy against unnecessary pretrial detention. State and federal statutes have imposed limitations upon the right to deny bail. Under federal law since 1789 a person has had a right to bail in a non-capital case. As the Supreme Court of the U.S. said in dictum *Stack* v. *Boyle,* 342 U.S. 1 "this traditional right to freedom before conviction permits the unhampered preparation of a defense and serves to prevent the infliction of punishment prior to conviction". The court pointed out that our traditional presumption of innocence would lose its meaning unless the right to bail before trial were preserved and pointed out that a bail bond ". . . subject to forfeiture serves as additional assurance of the presence of the accused. Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is "excessive" under the 8th amendment."

Of course the presumption of innocence applies equally to capital cases where bail cannot be set and where it is traditionally denied under both federal and state law. There is no real conflict between *Carlson* v. *Landon* cited by the People and *Stack* v. *Boyle* cited by the defendant. In fact, they compliment each other. While *Carlson* v. *Landon* reaffirms the principle that bail is not an absolute right, *Stack* v. *Boyle* indicates that the power to deny bail should be used sparingly.

New York State Law on the subject derives from Section 553 of the Code of Criminal Procedure which states that a defendant may be admitted to bail before conviction as follows, "1. as a matter of right, in cases of misdemeanor, violation and traffic infraction; 2. as a matter of discretion, in all felony cases; the court may revoke bail at any time where such bail is discretionary with the court." In *People ex rel Shapiro* v. *Keeper* cited above, the Court of Appeals thoroughly analyzed the statutory and constitutional bail provisions and held that the denial of bail in a non-capital felony case may be proper in certain circumstances. The court, however, in promulgating the rule issued the following caution, "we are by no means holding that this grant by the legislature to the courts of discretionary power to deny bail in felony cases can be exercised arbitrarily. Denial of bail is no light matter and needs to be buttressed by a real showing of the reasons therefor. . . ." 290 N.Y. 393, 398.

Under what circumstances then may bail be denied?[2] It is this court's view that bail

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[2] In this regard it should be noted that N.Y. law permits the detention of persons alleged to be mentally ill or narcotic addicts prior to commitment proceedings without bail. See Article 5 and 9 of the Mental Hygiene Law.

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may be denied for two reasons. First, where it is reasonable to assume that the defendant will flee the jurisdiction and avoid trial if admitted to bail. Secondly, if his release on bail poses a threat to the welfare and safety of the community. As indicated above, the Court of Appeals established six criteria for fixing bail in *People ex rel Lobell* v *McDonald*. Interestingly enough in the *Lobell* case the Court of Appeals held that bail set by the nisi prius court of $250,000 on an indictment charging forgeries and grand larcenies was constitutionally excessive and using the 6 criteria set forth reduced bail to $100,000. But the court clearly indicated that "whether or not this relator was to be admitted to bail at all was a matter of discretion for the county court". (296 N.Y. 109, 111)

In *People ex rel Fraser* v *Britt*, 289 N.Y. 614, the defendant had been indicted by a grand jury on February 14, 1941, on a charge of abortion and was admitted to bail February 20, 1941. On November 28, 1941, she was again indicted by the grand jury at Erie County on a charge of abortion and manslaughter first degree. Bail was denied on an application for a Writ of Habeas Corpus and the defendant appealed to the Court of Appeals claiming that the refusal to fix bail violated the New York State Constitution. The Court of Appeals unanimously affirmed the denial of bail.

The criteria set forth in *Lobell* and subsequent cases make no reference to the question of the potential danger of the defendant if given pretrial release. It would seem strange that the question of the threat which the defendant poses to the community should not be considered in the determination of bail. However, logic dictates that a defendant's potential danger to the community is not considered as a factor in the designation of bail is because it is irrelevant to the question of the amount of bail. If a defendant would present a clear and present danger if free in the community then it would not matter whether he had posted $100.000 bail or was released on his own recognizance. Danger to the community has no relationship to the ability of a defendant to post a bond. Therefore, if a court determines that a defendant would be a threat if released prior to trial its duty is to remand him rather than set an extremely high bail.

The recent case of People ex rel *Klein* v. *Kruger*, 25 N.Y. 2nd 497, contains, for the first time, an explicit discussion of criteria for the denial of bail other than possible flight. Judge Breitel, speaking for the majority, ruled that the "only critical support actually offered for the denial of bail is not danger of flight . . ., but rather the danger to potential witnesses". While rejecting the ground under the specific circumstances of that case Judge Breitel pointed out "this is not to say that in other cases, differently circumstanced, the risk of witness tampering by the prison relator is not reasonably inferable."

I conclude, therefore, that pretrial detention for the safety of the community, as well as to avoid flight from prosecution, is constitutionally justifiable in extraordinary cases.

The question remains as to whether this court should deny bail on either or both of the above grounds in the instant case.

This court is not a reviewing court of the action of Judge Pollack. Were Judge Pollack's opinion predicated upon statutory powers and limitations similar to that of the State of New York I would feel persuaded by it. Since he was aware of the instant case, I would fix nominal bail or release the defendant on his own recognizance *on the issue of availability for trial*. But as Judge Pollack stated in his opinion filed January 5, 1970, "the law plainly is that before a conviction a person arrested for a non-capital offense shall be admitted to bail and a defendant should not needlessly be detained. . . . [A]n order of release on proper terms is, in my opinion, an absolute right prior to conviction." Judge Pollack, of course, was interpreting federal statutory law and this is clearly not the law of New York State. *People ex rel Shapiro* v. *Keeper*, etc., cited above. See also *U.S. ex rel Covington* v. *Coparo*, 297 F. Supp. 203 (S.D.N.Y. 1969).

Furthermore, Judge Pollack found "the defendant has no tangible or intangible roots in the law-abiding community. He has no employer. He is separated from his wife and 8 year old child. He claims indigency. In short, there are no moral, social or financial principles or ties which could act as a reasonable assurance or influence in having him observe the obligation to appear in court as required or for trial. The obvious incentive for this defendant without roots or other influencing factors would be to flee the jurisdiction or hide and fail to appear for trial under the circumstances of such a strong case against him".

The People also point out that the defendant has little, if any, ties with the persons who are posting the bail. The Assistant District Attorney attempted to show this court that the guarantors or sureties were members of or connected with certain "groups" who might be interested in having the defendant flee. This is irrelevant. Whether or not the sureties are revolutionaries or sincerely motivated from a civil liberties point of view is immaterial. What is relevant, however, is the fact that, unlike the usual situation with respect to the posting of the bail, neither the defendant nor his family or close personal friends would suffer any financial loss if he jumped bail. Therefore the money guarantee, although substantial in terms of amount, is not of as great consequence as it would ordinarily be. While the defendant faces extremely rigorous non-financial conditions with respect to his mobility if released under the terms of the federal order, it is my belief that no amount of surveillance could prevent the defendant from fleeing the jurisdiction of this court. It is my further belief that under the circumstances of this case, the compulsion to jump bail would be irresistible. The defendant faces extremely serious punishment under both state and federal charges. His admitted connections to other countries (according to the FBI special employee), the wanton and callous nature of the acts with which he is charged and the proof of which is apparently so strong, all indicate that he would have no respect for the processes of either this or the federal court.

Of even greater concern to this court is the anger of this defendant to the community. There is no indication whatsoever that the course of conduct upon which the defendant apparently embarked and which created such fear, turmoil, and terror among our citizens has been rerouted to more socially responsible directions. It should be reemphasized that there is a large amount of missing dynamite from the theft attributed to the defendant.

Denial of bail because of the dangerous potential of a defendant if let at large in the community should only be imposed in rare and extraordinary cases. In those cases the evidence must be clear and convincing, the peril must be apparent. Further the prosecutor must be prepared to proceed as is the present posture of this case.

As Justice Jackson stated in *Williamson* v. *United States*, sitting as a circuit justice, in 184 F 2d, 282, 283, "imprisonment to protect society from predicated but unconsummated offenses is so unprecedented in this country and so fraught with danger of excess and injustice that I am loathe to resort to it. . . ." This court is also loathe to resort to the denial of bail on such grounds but reluctance does not imply either the lack of authority or obligation to do so in the proper case. In the words of Supreme Court Justice William O. Douglas: "If, for example, the safety of the community would be jeopardized it would be irresponsible judicial action to grant bail." *Carbo* v. *U.S.*, 7 L Ed 2d 769, 774.[3] This court cannot ignore this defendant's manifest threat to safety and welfare of this community.

This court finds that the defendant would not appear for trial if admitted to bail and further finds that he would constitute a danger if admitted to bail pending trial. The defendant is held without bail with leave to renew his application if the prosecuting agency is not prepared to afford him a speedy trial.

[From the New York Times, Mar. 11, 1970]

City Judge Denies Bail in Bomb Case—Rules Preventive Detention Legal in Holding Suspect in Six Blasts Last Year

(By Lesley Oelsner)

Preventive detention—the controversial technique of denying bail to a defendant considered dangerous by a judge—was declared legal under state law yesterday by a city Criminal Court judge.

In what is believed by legal experts to be the first ruling of its kind, the judge, Irving Lang, departed from the usual method by which judges deal with defendants they consider threatening: setting such high bail that, in effect, the defendant has no bail at all. Such a practice, Judge Lang indicated in his opinion, is not only a mistake but also an unnecessary fiction.

"Danger to the community has no relationship to the ability of a defendant to post a bond," he said. "If a court determines that a defendant would be a threat if released prior to trial, its duty is to remand him rather than set an extremely high bail."

The judge's ruling came in the case of Samuel Joseph Melville, the suspected "engineer" of the bombings in 1969 of six buildings in Manhattan. Four others were named in the original indictment, but one turned out to be an agent of the Federal Bureau of Investigation and another is still a fugitive. Mr. Melville, however, brought this suit alone.

His attorney, William Crain, had argued that Judge Lang could not consider the defendant's potential "danger to the community" in setting bail. He was not available yesterday to comment on the decision, in which Judge Lang rejected Mr. Crain's argument in favor of the position presented by Assistant District Attorney Lawrence Hochheiser.

Mr. Melville was indicted last fall by both a Federal and a state grand jury for his alleged part in the bombings—of the United Fruit Pier, the Marine Midland Grace Company, the Chase Manhattan Bank, the RCA Building, the General Motors Building and the Criminal Courts Building—and was originally held by a United States Commissioner on $500,000 bail.

This bail was subsequently reduced to $300,000 and later to $50,000, and then, on Jan. 5 raised to $100,000. A few weeks ago Mr. Melville was able to raise the $100,000, largely through a contribution drive by the radical newspaper Rat. Before paying it, though, he asked that bail also be set in the Criminal Court on the state's charges against him.

It was on this request that Judge Lang ruled yesterday.

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[3] Both Williamson and Carbo related to bail applications subsequent to conviction pending appeal. Justice Jackson granted bail and Justice Douglas denied bail. The Williamson was a so-called "communist" case and involved substantial first amendment questions. Carbo was an extortion case.

In his decision, Judge Lang explained that Federal law had permitted United States District Court Judge Milton Pollack to set the $100,000 bail on the Federal charges, but that state law barred a similar bail on the state charges.

Under Federal law, he said, defendants have had the right to bail in all noncapital cases since 1799. This right was challenged last year by President Nixon when he proposed a law that would permit preventive detention, but as the measure has not yet been passed, the right to bail still exists.

But in New York, the Code of Criminal Procedure gives a right to bail only when the defendant is charged with a misdemeanor, a violation or a traffic infraction. In all felony cases, the code says, bail is "a matter of discretion" for the judge.

Despite the difference between Federal and state law, though, New York judges have generally refrained from outright denial of bail. For the United States Constitution (as well as the New York Constitution) says that "excessive bail shall not be required"—and though neither the Supreme Court nor New York's Court of Appeals has ever held that there is an absolute, constitutional right to bail, many judges and lawyers think that such a right exists.

Moreover, bail has generally been held to be nothing more than a guarantee that the defendant will show up at his trial. The Federal Bail Reform Act, in fact, says that the only consideration allowed in deciding on the amount of bail is the defendant's likelihood to return to trial.

Other judges and lawyers, of course, believe that there is no such absolute right. Rulings of both the Supreme Court and the Court of Appeals have said that the Constitution's language means only that where bail is granted, it must not be excessive.

Yet these judges and lawyers too have been wary of proposals that would allow preventive detention. For one thing, they say, a preventive detention statute could easily be abused.

As a result, President Nixon's proposal met with much opposition from large segments of the legal community. And in New York, the State Penal Law Revision Commission decided last fall not to suggest a preventive detention statute to the Legislature.

But judges have also been concerned with the number of men who on being released on bail pending trial for a crime, commit another crime.

So, they have come up with a compromise—setting high bail whenever they are faced with a defendant who they consider a potential repeat-criminal.

It is this conflict between what judges say (that bail is available) and what judges do (place the defendant in preventive detention) that Judge Lang attempted to change is his decision yesterday. As one observer noted: "He isn't really doing anything different from what any other judge does. What he's doing is just being honest about it."

[From the New York Times, Jan. 16, 1955]

Bail Refused in Hold Up

William Sylvester Cole, companion of a hold-up man shot by a policeman at a Madison Avenue jewelry store Friday evening, was held without bail yesterday.

Cole, who is 30 years old and lives at 220 West 114th Street, was arraigned before Magistrate Hyman Korn in Felony Court on charges of robbery and unlawful possession of a revolver. He has a record of eight previous arrests. The wounded man, Ernest Peterson, 31, who was shot attempting to hold up the store at 563 Madison Avenue, remained in serious condition at Roosevelt Hospital.

Magistrate Korn commended the police officers who made the arrest and Max Le Vine, 70-year old proprietor of the store, who sounded the hold-up alarm.

"If we had more of this type of action," the Magistrate said, "our crime wave would be reduced considerably."

[From the New York Times, June 27, 1955]

Held in Jewel Robbery—Man Seized in $400,000 Theft Spent 22 Years in Jail

Accused of a $400,000 jewelry holdup Saturday, Herman Gross, 59 year old, of 1032 Ocean Parkway, Brooklyn, was held without bail yesterday by Magistrate Charles Soloman in Felony Court.

The police said Gross had been arrested sixteen times since 1909, had spent twenty-two years in prison and faced, if convicted, a life sentence as a fourth offender. Clues were being sought yesterday to the identity of his accomplice in the hold-up of the F. Stoal & Co. Jewelry Shop, 548 Madison Avenue, at Fifty-fifth Street.

Gross, the police said, had $15,000 to $20,000 worth of the loot in his pockets when he was arrested. The remainder of the jewels were found in a pouch at the Madison Avenue curb.

FOREIGN AFFAIRS: A GAME OF DOMINOES BEGINS

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BOLLING. Mr. Speaker the support of men and money for our expensive and sometimes dangerous commitments in foreign lands is not a popular cause. But what is the alternative?

C. L. Sulzberger in the following article in the New York Times of March 15 provides some answers as he reports how Southeast Asian leaders, doubting our staying power, are moving toward the Soviet Union. The article follows:

Foreign Affairs: A Game of Dominoes Begins

(By C. L. Sulzberger)

Paris.—The most unpopular phrase in the United States nowadays is "domino theory"—a metaphor describing what might happen if South Vietnam is overrun by Hanoi's Armies. Ever since the Eisenhower Presidency, when the phrase was first used, it has been employed to warn that if one Southeast Asian land is forcibly communized all the rest will follow.

The U.S. mood is such that this theory is currently unacceptable in polite American society, but it has been less easily forgotten in the area affected. It was no surprise when President Thieu said in Saigon last week: "I maintain that the domino theory still applies. If South Vietnam falls into the hands of the Communists, Laos, Cambodia, Thailand and the other countries in this part of the world also fall."

Many Americans, fed up with war an eager to accelerate "Vietnamization," regard Thieu as an unsavory character, more repressive and less benevolent than the late Ho Chi Minh. But another man, who is chic with those same Americans, happens to agree with Thieu.

He is Prince Norodom Sihanouk, Cambodian Chief of State and former King, a shrewd statesman who has done his best to preserve his country by cottoning up to Hanoi and Peking while blasting Washington. Sihanouk says that if U.S. withdraws completely from South Vietnam:

"In all Asia this departure would be interpreted, without exception, as a defeat, an avowal of the weakness of the American giant. And all Asia remains persuaded that the domino theory would come into play against the Americans . . . If the Americans quit Vietnam, Asia will stir, first the Philippines and Thailand; already the U.S.S.R. is installing itself in India more solidly than America; Pakistan still plays neutralist but becomes more and more friendly to China."

SIHANOUK'S ANALYSIS

Although Vietnamization has barely begun, Sihanouk's analysis already shows hints of confirmation. Laos has been more than usually ravaged in the regular Communist pre-monsoon offensive and, as the weary U.S. public and its legislators warn against involvement in another battlefield, Hanoi edges toward control of this strategically placed little land.

Thailand, which finds the Laotian buffer getting thinner every day, has asked Washington for more arms. Singapore, further down the line of dominoes, announces that Soviet warships may for the first time use its enormous naval dockyards. Cambodia itself, shielded from war only by allowing Hanoi to use its territory as a military base, now teeters. Anti-Communist riots in Pnompenh could herald chaos.

ORIENTAL YUGOSLAVIA

Sihanouk, who can certainly not be called either hawk or pro-American, says flatly that if Nixon ever withdraws completely—which he doubts—Cambodia "would be obliged to opt for China" and become a "satellite." He hopes that North Vietnam will prove itself an Oriental Yugoslavia, standing up to China.

But he fears a deal between Hanoi and Peking in which the Vietnamese would take over Laos and Cambodia while China grabs Burma. Hanoi could easily devour both Cambodia and what is left of Laos if it were not faced with U.S. opposition. There are enough North Vietnamese and Vietcong troops in Cambodia today to seize that country.

Just how Peking plans to play the game is unpredictable and may depend on when Mao Tse-tung dies. It can easily exert pressure through Chinese minority colonies and also via strategic roads.

One such highway, maintained by perhaps 30,000 Chinese troops and laborers extends deep into North Vietnam. Another, constructed by Chinese Army engineers, is moving from Yunnan across northwestern Laos to Pak Beng on the Mekong River which flows down through Thailand, Cambodia and South Vietnam.

As indicated by Singapore's latest move, many Southeast Asians doubt long-term U.S. resolution and have started to reinsure themselves with the Soviet Union. Last year Brezhnev suggested organization of a regional defensive coalition in which the U.S.S.R. would play a leading part. Sihanouk says: "It is because the Soviets fear a Sino-Vietnamese collusion [Peking and Hanoi] that they propose the formal security system so badly received in China."

How far any of these tendencies will develop remains conjectural. American public opinion urges the President to withdraw and, athough he has the constitutional right to postulate our foreign policy, this must be funded by a Congress subject to emotional pressures.

Confucious once wrote: "The people can be made to follow a course, but they cannot be made to understand it." The first half of the statement can be challenged. In any case, the dominoes game has started.

HAPPY ST. PATRICK'S DAY

HON. BERTRAM L. PODELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. PODELL. Mr. Speaker, the observance of St. Patrick's Day has a moving significance for many of us, but it has

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special significance for our Irish American colleagues and friends. The stories surrounding the patron saint of the Emerald Isle have become a blend of the historic and the lengendary, and our appreciation of the venerable St. Patrick is a product of both myth and fact.

It matters little that we do not know the precise date of St. Patrick's birth. It is sufficient that generation after generation of the sons and daughters of Erin have gloried in the legends which have surrounded him during his life of devoted service to the people of Ireland. These stories have increased in scope—century after century.

Historians agree that he was captured at the age of 16 by Irish raiders and sold into slavery in Ireland. They concur that Patrick tended his master's herds and flocks during his servitude. Most of them agree that as a result of a dream, young Patrick fled over 200 miles braving hardship and danger to reach the sea. There he prevailed upon a boat's captain to take him to France.

At this point, biographers and historians cannot agree as to how Patrick spent the ensuing years. Some say he found his way back to his kinfolk in Britain where he heard "The Voice of Irish." This "Voice" so haunted his thoughts and his dreams that he returned to Gaul to study for the priesthood, in order to return again to Ireland.

Other historians maintain that he stayed in Gaul and got his education at Auxerre. Most agree he studied first under the famed Bishop Amator, and then under the spiritual direction of St. Germanus. All agree that after St. Germanus consecrated Patrick, he went back to Ireland in 432 as a missionary bishop.

All historians agree that Patrick had phenomenal success in evangelizing the druids, particularly after his initial triumph in the presence of their King Loigaire at Tara. There is general agreement upon the date of the death of St. Patrick at Saul in Ulster in his own feast day, March 17, 161.

Today it is not important whether or not the many legends have any basis in fact. What matters is that millions of Irish celebrate St. Patricks Day as a day for prayer and festivities, and to them I say, "Happy St. Patrick's Day."

SCHEDULE FOR REPORTING AND FLOOR CONSIDERATION OF APPROPRIATION BILLS

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. MAHON. Mr. Speaker, as I indicated during the 1-minute period in the House earlier today, we have developed in cooperation with the House leadership a schedule for processing the appropriation bills of the session which provides for the first bills to be on the House floor the week of April 13 and the last bill the week of June 15.

If the House sticks to the schedule—and we have every hope of doing so—it will, I believe, thereby lay the basis for a substantial contribution to better management and efficiency in the government generally.

Mr. Speaker, under leave granted, I include the schedule and an accompanying explanatory statement:

COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES—SCHEDULE FOR REPORTING AND FLOOR CONSIDERATION OF APPROPRIATION BILLS

Bill	Report in full committee	Floor consideration[1]
Education	Thursday, April 9	Week of April 13.
Legislative	Friday, April 10	Do.
Treasury-Post Office	do	Do.
2d supplemental, 1970	([2]).	([2]).
Ind. Offices-HUD	Thursday, May 7	Week of May 11.
Interior	Thursday, May 14	Week of May 18.
State-Justice-Commerce-Judiciary.	Friday, May 15	Do.
District of Columbia	Thursday, May 21	Week of May 25.
Transportation	do	Do.
Agriculture	Late May	Late May.
Foreign Operations	Monday, June 1	Week of June 1.
Defense	Wednesday, June 3	Week of June 8.
Public Works	Thursday, June 4	Do.
Military Construction	Monday, June 8	Do.
Labor-HEW-OEO	Thursday, June 11	Week of June 15.

[1] Exact floor dates to be worked out in cooperation with House leadership.

[2] Probably sometime during period mid-April/mid-May.

Statement by George Mahon of Texas on the Reporting Schedule for the Appropriation Bills

Working in cooperation with the House leadership, we have developed a schedule for processing the appropriation bills of the session which if adhered to will see all the regular bills for fiscal 1971 sent to the other body by June 15.

It lays the basis for a very considerable improvement in timely dispatch of the important appropriations business of the Congress.

It is realistic insofar as the status of the work of the Committee on Appropriations is concerned. We began our hearings on a number of the bills in mid-February; we have recently had as many as 11 subcommittees holding appropriation hearings on a single day. A heavy hearings schedule is continuing.

We expect to report three bills very shortly after the forth-coming Easter recess.

As we announced last year when the interminable delay in the Labor-HEW bill caused such uncertainty and disruption to planning in school districts and educational programs generally around the country, there will be a separate education appropriation bill this year. It will be the first bill reported, with the hope that this will assist in expediting final congressional enactment so that the educational community generally will have a much more definite idea of the approved Federal funding levels well in advance of the coming school year.

Of course, expeditious disposition of the appropriation bills will require the active cooperation of both bodies. The Senate Committee on Appropriations has already begun hearings on, I believe, 5 or 6 of the bills. I wound up last year's appropriations business of the appropriation bills will be signed into law by the beginning of the new fiscal year on July 1 next.

In the session last year, we processed a total of 21 bills and resolutions, and finally would up last year's appropriations business this session with adoption of an additional continuing resolution and the new Labor-HEW bill which the President signed on March 5.

Neither the new administration nor the House or Senate did an adequate job in processing the authorization and appropriation bills last year. But neither was last year's record as bad as it would seem on the surface. There were delays inherent in setting up the new administration. The bulk of the budget revisions of the new administration did not come to us until April 15. Some were received May 5. The foreign assistance budget amendments were received on June 19 and July 22. The request for the supersonic transport plane—the SST—was received on October 8.

Delays in enactment of several of the annual authorization bills were major stumbling blocks for the appropriation bills last year. Orderly achievement of the schedule for the appropriation bills this session requires timely consideration of the related authorization bills. The House has already processed some of the annual authorizations for fiscal 1971 and a number of the legislative committees are busy with consideration of additional ones. Insofar as reasonably possible, we have scheduled several major bills—for example, Defense, Military Construction, Public Works-AEC, Labor-HEW—late in the priority reporting order so as to allow maximum time for timely processing of the several authorizations on which those appropriation bills to one degree or another significantly depend.

In conclusion, I believe the fiscal and economic situation is such that, in my judgment, we must make an all-out effort to proceed with restraint and caution and hold the authorizations and appropriations as low as reasonably possible. There will be many opportunities to practice fiscal prudence. Processing the budget is the work of many hands.

The new budget for fiscal 1971 contains about $10.9 billion of new legislative proposals which will be before the legislative committees and the House.

Some $35 billion of the new appropriations for going programs are first subject to annual authorizations through a number of legislative committees.

The Commitee on Appropriations will carefully screen all of the items in the budget over which it has jurisdiction, recommending reductions wherever reasonably possible. No doubt there may be some increases in certain programs.

LITHUANIAN INDEPENDENCE

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 17, 1970

Mr. FANNIN. Mr. President, this year marks the 719th anniversary of the formation of Lithuania.

This territory went behind the Iron Curtain some years ago, when these fiercely free people were subjugated against their will.

Mr. President, I ask unanimous consent that a resolution commemorating the anniversary of the proclamation of Lithuania's independence be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution

Whereas, this year marks the 719th anniversary of the formation of the Lithuanian state when Mindaugas the Great unified all Lithuanian principalities into one kingdom in 1251 and the 52nd anniversary of the establishment of the Republic of Lithuania on February 16, 1918, commemorated by Americans of Lithuanian origin or descent and their friends in all parts of our great nation; and

Whereas, the Communist regime did not come to power in Lithuania, Latvia, and Estonia by legal or democratic process; and

Whereas, The Soviet Union took over Lithuania, Latvia, and Estonia by force of arms; and

Whereas, the Soviets have deported or killed over 25 percent of the Lithuanian population since June 15, 1940; and

Whereas, the government of the United States maintains diplomatic relations with the governments of the free Baltic Republics of Lithuania, Latvia, and Estonia and consistently has refused to recognize their seizure and forced incorporation into the Soviet Union; and

Whereas, the Committee of the House of Representatives, created by H. Res. 346 of the 83rd Congress to investigate the incorporation of the Baltic States into the Soviet Union, found that the incorporation of Lithuania, Latvia and Estonia was contrary to established principles of international law; and

Whereas, the House of Representatives of the United States Senate of the 89th Congress unanimously passed *House concurrent Resolution 416* urging the President of the United States to direct the attention of world opinion at the United Nations and other appropriate international forums by such means as he deems appropriate, to the denial of the rights of self-determination for the peoples of Lithuania, Latvia, and Estonia, and to bring the force of world opinion to bear on behalf of the restoration of these rights to the Baltic peoples:

Now, therefore, be it resolved that the Americans of Lithuanian descent, and their friends, residing in Arizona, respectfully urge the President of the United States to bring the question of liberation of the Baltic States before the United Nations and ask that body to request the Soviet Union withdrawal of its troops and release its control of Lithuania, Latvia, and Estonia, and return to their homes all Baltic exiles and deportees from prison camps in the Soviet Union; and

Be it further resolved that a copy of this resolution be forwarded to the President of the United States, Secretary of State William P. Rogers, United States Ambassador to the United Nations Charles W. Yost, and the Senators B. Goldwater and P. Fannin.

Adopted on February 15, 1970 at the mass meeting commemorating the anniversary of the proclamation of Lithuania's Independence, Phoenix, Arizona.

Emily Josen,
Teofree Saulys,
Nepchias Miezekis,
Bronnis Uzenus,
Committee.

LANDIS WINS GOLD DEED AWARD

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. PATTEN. Mr. Speaker, one of my most respected, active and distinguished constituents, Samuel I. Landis, of Highland Park, recently was selected this year's recipient of the "Book of Golden Deeds."

I have known Sam Landis for many years, and he has been practicing golden deeds all his life, so it was gratifying to me and to all who know him to read that Sam received the award.

I am proud that a man of his high ideals, outstanding ability, and strong interest in civic and governmental affairs, is one of my constituents. But it is also an honor to have him as a friend.

An article in the Home News—New Brunswick, N.J.—of March 11, 1970, entitled "S. I. Landis Earns Gold Deed Prize," is inserted:

S. I. Landis Earns Gold Deed Prize

Highland Park.—Samuel I. Landis, president of Landis Ford, North Brunswick, has been chosen by the Exchange Club as this year's recipient of the "Book of Golden Deeds."

The "Book of Golden Deeds" is awarded to men considered to have rendered service "above and beyond the call of duty." It will be presented March 23 at the Brunswick Inn.

TO GET PLAQUE

The book is retained in the Highland Park Library. The recipient receives a plaque commemorating the occasion.

Landis, a native of New Brunswick, attended Lafayette School and later Roosevelt Junior High School and New Brunswick High School. After graduating in 1941 he attended New York University which he left when called into active duty April 1943.

During the war he served in the Pacific Theatre of operations on Saipan and Okinawa as a technician in a portable surgical hospital. He was awarded the Bronze Star for his service on Okinawa and was discharged from the Army in 1946.

After the war he attended Rutgers University, graduating in 1953. During that period he also worked for his father-in-law, Morris Rosenfeld, at Nathan's Department Store in New Brunswick.

When the business was sold Landis bought the Ford franchise for New Brunswick and has been in this business ever since.

Active in automobile dealer associations in New Jersey, he has been a member of the board of the N.J. Automobile Association and has been zone chairman of the Ford-Newark district.

OTHER SERVICE

For many years he has worked on the boards of United Fund, Jewish Federation; Easter Seals, Israel Bond Appeal, YM&YWHA, Girl Scouts and the YMCA. He also organized the Raritan Valley Workshop to assist handicapped children.

Landis is also a member of the Kiwanis Club of New Brunswick, Raritan Valley Regional Chamber of Commerce, Society for Advancement of Management and the American Field Service.

He is also a member of the board of trustees of the Peoples National Bank.

Receiving the book in the past were W. Harold Hamilton, retired high school teacher; Alvah Cole and Dr. George Leonard, former mayors; Frederick Scheidig, retired police captain; and Ferd Denhart, former president of the First Aid Squad.

Landis and his wife, the former Connie Rosenfeld, have three children, and live at 250 S. Adelaide Ave.

WELFARE REFORM

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. ANDERSON of Illinois. Mr. Speaker, the House will soon be considering H.R. 16311, known as the family assistance plan. The purpose of this legislation is to effect fundamental welfare reform by coupling income maintenance with work incentives.

When President Nixon unveiled his welfare reform plan last August, he made the following observation:

> The present welfare system has failed us—it has fostered family breakup, has provided very little help in many States and has even deepened dependency by all-too-often making it more attractive to go on welfare than to go to work.

The bill recently reported out of the House Ways and Means Committee goes a long way toward correcting these abuses, and, with certain exceptions, is patterned after the administration's recommendations. I want to take this opportunity to commend the Ways and Means Committee on the excellent work it has done, and to give special praise to the committee's distinguished chairman (Mr. Mills) and my friend and colleague the ranking minority member (Mr. Byrnes).

At this point in the Record, Mr. Speaker, I would like to include two editorials written in support of the administration's family assistance plan, one from the March 8 New York Times, and the other from the March 10 Washington Daily News. The editorials follow:

Breakthrough on Welfare

The most fundamental welfare reform in nearly four decades has now been cleared for swift passage in the House. The overwhelming approval given to President Nixon's plan by the Ways and Means Committee virtually assures that the full House will authorize a guaranteed income floor for all American families.

The plan comes out of committee better than it went in as a result of effective teamwork by Congressmen of both parties, Administration officials and spokesmen for New York and other major cities and states. That is fortunate since under the decidedly undemocratic practice that governs bills of such magnitude—bills that can reshape the American future—the House has no power to amend the Ways and Means report; it must vote it up or down, no matter how much room there is for improvement in detail.

Under the plan every family of four would be assured of an annual income of at least $1,600. All of that money would come from Federal funds if the family had no wages or other resources. Washington would also supply 30 per cent of all welfare allowances above that amount up to the newly revised poverty level of $3,720 a year—a figure that would be revised periodically to keep abreast of higher living costs.

The new formula would transfer to the Federal Government $62 million a year in costs now borne by the city and state, a $20-million improvement over the original draft. The state would also have the option of contracting with Washington to take over all administration of eligibility determination and other phases of income distribution. If it did, the Federal Government would pay the full administrative bill, not just half.

Beneficial as all these modifications are, they fall short of full equity for the states that now provide some measure of adequacy for their dependent families. When the Nixon plan gets to the Senate, the 30 per cent reimbursement ratio should be raised to reflect more fully the reality that welfare is a national problem.

But the desirability of such modifications does not diminish the importance of the Presidents' original proposal or of the excellent changes the House committee has made. The nation is on its way to a vastly improved program for combating the cycle of inherited dependency.

Welfare Reform Takes a Step

When he first proposed his new welfare program last August, President Nixon got

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about the same reaction from Congress as he might have had from reading his message to a man turning over in his sleep.

Even as recently as January, Health, Education and Welfare Secretary Robert H. Finch was dismayed by fears that Congress, while showing no signs of opposition, might just let the welfare plan die with an overdose of neglect.

Now, suddenly, the House Ways and Means Committee has approved, with slight changes, this sweeping proposal to recast the whole basis of Government assistance to people who can't (or don't) manage for themselves.

The vote in the committee was a decisive 21 to 3, and the highly influential chairman, Wilbur D. Mills of Arkansas, has become a chief backer of this reform. All this bodes well for the bill—in the House.

But now we must hope the Senate, after doing its homework as the Mills Committee has done, will come to the same conclusions:

That the welfare system we have is too wasteful, too costly, too lacking in results to justify keeping it.

That the President's plan offers the most promise of getting people off the welfare rolls and into self-sufficient employment—as compared to the present system which effectively discourages such independence and self-reliance.

That the President's plan will reach a good many people not now on welfare but just as needy, or more so, than those who are.

That while the costs at the outset will be higher (because more people will be involved) the plan can lead in the long run to a substantial decrease in the outlay of tax dollars.

One thing is for sure. The system we have is achieving nothing constructive. It does not encourage "clients" to get off the rolls. Since the beginning, costs have been doubling about every four years, even though job opportunities and the general prosperity of the country have been on the rapid rise.

The President's plan may not be sure-fire. Its success will depend on its administration. But the system we have is a flop, and at least the plan just approved by the House Ways and Means Committee will treat those who need its help much more fairly and uniformly, and it will stimulate those who are able toward a self-betterment sufficient to get them off public subsistence.

COMMENDING THE NATIONAL ORDER OF DeMOLAY

HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. SCOTT. Mr. Speaker, there are a number of DeMolay chapters in my congressional district as well as throughout the country and we can all be proud of the young men who make up the membership of these bodies.

The current week honors the performance of this outstanding body of conscientious young Americans: the National Order of DeMolay is open to all teenage boys, is sponsored by members of the Masonic fraternity. Founded 51 years ago in Kansas City, the order has served the country ever since, by encouraging and developing good citizenship and sound character among the youth of our land, teaching clean, upright living by inculcating and practicing the virtues of comradeship, reverence, love of parents, patriotism, courtesy, cleanliness, and fidelity.

At the same time there are more than 2,500 active chapters in the United States, Mexico, Canada, and West Germany. Some of the activities of the organization are to sponsor teenage safety contests, anticommunism programs, antinarcotics forums, and oratorical contests. Local chapters are sponsored by the Masonic Order or some appendant order such as the Scottish Rite bodies, Royal Arch chapters or commanderies of Knights Templar. The order is named for Jacques de Molai, grand master of the Medieval Knights Templar, who was martyred at Paris in 1314. The governing officers are members of a grand council which outlines plans and promulgates the programs and activities for the entire movement.

Nine degrees are available to members of DeMolay, ranging from Initiation to the Founder's Cross. The sound principles and purposes of the order have captured the respect of Americans in general and the accomplishments of individual members have clearly revealed the significance and importance of its teachings.

I would take this occasion to extend congratulations to a body of Americans deeply concerned for the future of the country and the world at large.

UNCLE SAM AND EDUCATION

HON. GEORGE E. SHIPLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. SHIPLEY. Mr. Speaker, I would like to take this opportunity to share with my colleagues, the following speech on "Uncle Sam and Education" by Dr. George Reuter of my congressional district:

UNCLE SAM AND EDUCATION

(By Dr. George S. Reuter, Jr.)

INTRODUCTION

Education in America, it is generally conceded, first developed in the Massachusetts Bay Colony as exemplified by the Massachusetts Bay Law of 1642 and the "Old Deluder Act" of 1647. These acts attempted through education, and more specifically through the reading of the Bible, to prevent the Old Deluder, Satan, from corrupting the minds and hearts of the good men of New England.

Many events have been recorded since then. One recent example was the Christmas letter of Dr. Billy Graham. He said: "We are about to celebrate Christmas, 1969. Our celebration will be in the midst of war, racial strife, unprecedented crime and lawlessness, drug taking, pornography on a scale that would have made the people of the days of Sodom and Gomorrah blush, a student rebellion that threatens the educational process, and in the midst of dress rehearsals for revolution and the overthrow of established governments." As one reflects the laws of 1642 and 1647 in today's setting, he is confused at best. Perhaps, Tennyson should be considered here, as he viewed the Christian view of history in majestic cadences in the final stanza of "In Memorium":

> "That God, which ever lives and loves,
> One God, one law, one element,
> And one far-off divine event,
> To which the whole creation moves."

SOME CURRENT CHALLENGES

Winston Churchill once said: "We shape our buildings and afterward our buildings shape us." This means that everything we create, good or bad, affects our development and, more importantly, affects the development of children. In his notes of a Native Son, James Baldwin expressed even more vividly the influence of our environment on our biological and mental characteristics, by saying: "We cannot escape our origins however hard we try, those origins which contain the key could we but find it, to all that we later become." With the above philosophy in mind, let us reflect some of the current challenges:

1. The issue of being a good person in trying times. Sir Walter Scott was perhaps our greatest novelist and, in addition, a man who could talk to everybody, poor and rich, as if he were a blood brother, and was perhaps the best beloved figure in British literature. As he lay dying within the sound of the murmur of the Tweed River, he said to his son-in-law, who was kneeling by his side, "Be a good man, Lockhart, for nothing else can bring you any consolation at such a time as mine."

2. The issue of expanding knowledge. Knowledge is increasing so fast, a recent ad said, that the problem of education is to find better ways "to pack it into your heads." This popular belief is wrong, and causes much of what is so wrong with our schools. For years, it is true, learned men used their brains to store and retrieve information. Today, the child who has been taught in school to stuff his head with facts, recipes, this-is-how-you-do-it, is obsolete, even before he leaves the building. Anything he can do, or be taught to do, a machine can do, and soon will do, better and cheaper. What children need, even just to make a living, are qualities that can never be trained into a machine—inventiveness, flexibility, resourcefulness, curiosity and, above all, judgment.

3. The issue of dissent in higher education. The colleges and universities, too, have always been torn between the conflicting mission to conserve and to pioneer. In the first half of this century, they struggled hard to revive the concept of the Renaissance and to pull together the fragmented backgrounds and values of a frontier civilization that was running out of frontier. The greatest risk today is in polarization, on campus and off. Concern for humanity thrives best in a society that is not polarized. Human values become brutalized when people live under the pressure either of survival of the fittest or of confrontation.

4. The issue of the urban areas. We should have Horace Walpole's phrase in mind when we look at what is being done in our large cities toward creating parks and gardens. Just as the climate in France cannot produce the green magnificence of the English parks, so in general the atmosphere in most of our large cities is unable to support most plant species. This does not mean that plant life is out of place in our cities, only that much more effort should be made to identify and propagate for each particular city the kinds of trees, flowers, and ground cover that can best thrive under its own particular set of climatic and other constraints.

5. The issue of the disillusioned. If the myriad problems that are tearing our society asunder are to be resolved, we must listen to the disillusioned lower-middle-class white

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worker who lives in the midst of our urban crisis. The largest and most strategically located group of white workers in America is found in our industrial Midwestern and Northeastern cities. The most prominent segment of this group is some 40,000,000 ethnics who include the foreign born and the first-, second-, and third-generation Americans of European ancestry. Although a majority of the ethnics enjoy a higher standard of living than their parents, a significant number, especially the older ones, earn only a few thousand dollars above Office of Economic Opportunity poverty guidelines. Many of the elderly, to make ends meet, receive help from their children. Others live off welfare, Social Security or retirement benefits.

A SAMPLE OF CURRENT GOVERNMENTAL PROGRAMS

There are many federal programs in education, but the supplementary educational centers and services of E.S.E.A., Title III, are representative. The figures below tell the story. For 1969, the figures follow:

State	Actual title III	Total to State
Alabama	$2,893,354	$80,563,941
Alaska	547,744	21,175,776
Arizona	1,514,678	37,605,584
Arkansas	1,713,497	47,012,311
California	14,180,196	332,288,501
Colorado	1,767,120	49,401,521
Connecticut	2,331,546	37,070,614
Delaware	714,568	10,061,695
Florida	4,389,257	100,009,602
Georgia	3,623,910	96,721,548
Hawaii	556,489	21,753,891
Idaho	857,190	15,376,457
Illinois	8,235,338	145,785,726
Indiana	3,974,139	64,612,811
Iowa	2,292,488	48,074,901
Kansas	1,942,094	44,793,412
Kentucky	2,622,860	71,720,041
Louisiana	3,074,668	70,286,377
Maine	964,066	15,429,867
Maryland	2,887,002	69,471,953
Massachusetts	4,108,964	90,746,904
Michigan	6,790,000	110,687,718
Minnesota	2,976,699	61,560,150
Mississippi	2,101,942	62,920,265
Missouri	3,556,732	78,058,591
Montana	888,162	19,082,211
Nebraska	1,353,663	27,422,592
Nevada	646,767	9,268,215
New Hampshire	815,216	11,716,629
New Jersey	5,233,177	80,925,818
New Mexico	1,112,240	35,721,788
New York	13,221,927	288,179,697
North Carolina	4,019,265	118,418,407
North Dakota	815,806	16,417,958
Ohio	8,124,232	127,695,563
Oklahoma	2,108,726	55,919,805
Oregon	1,723,019	39,482,997
Pennsylvania	8,692,138	152,451,053
Rhode Island	950,666	17,527,768
South Carolina	2,876,411	63,919,869
South Dakota	209,789	17,897,636
Tennessee	3,110,281	80,196,878
Texas	8,478,686	206,732,508
Utah	1,088,519	24,929,551
Vermont	637,800	8,650,666
Virginia	3,568,334	102,400,196
Washington	2,503,013	55,468,856
West Virginia	1,615,010	36,786,990
Wisconsin	3,403,351	59,758,463
Wyoming	580,075	8,437,674

A SAMPLE OF CURRENT TITLE III PROGRAMS

It would seem that the 1969 Title III Projects in Illinois are representative of federal ones throughout America. These are:

1. "Complete Communication Development Program"—This Calumet Park project is designed to identify those children who have learning disabilities in the areas of auditory-vocal language skills, visual motor language skills, and social development and remediate them on the kindergarten and first-grade levels.

2. "Residential Program for Seriously Emotionally Disturbed"—The purpose of the Chicago project is to establish a demonstration educational rehabilitation program in the Chicago Parental School for boys.

3. "Prescriptive Individual Instruction"—The basic objective of the Edwardsville proposal is to retain in the regular classroom certain mentally handicapped and disabled learners, to meet the needs of such children by an identification program designed to pinpoint specific learning deficits, and to develop individualized programs of instruction for those students.

4. "Model Program for Emotionally Disturbed"—This operational grant for Jacksonville allows for the development of a model program wherein community schools are cooperating with a State hospital to provide special educational and psychological services for emotionally disturbed pupils and their parents, while providing in-service education for classroom and special education teachers.

5. "Center for Children with Learning Disabilities"—The purpose of the Kane County operational project is the establishment of a Center for Children with Learning Disabilities.

6. "Evaluation Planning for Special Education"—The purpose of the Lincolnwood project is to develop an evaluation paradigm which can be used to evaluate all or part of any special education program.

7. "Hearing and Language Center of the West Suburban Schools"—This Lombard project is designed to diagnose and treat hearing handicapped children of preschool age.

8. "Teacher Training for Behavioral Management"—This Marengo project provides for the training of selected classroom teachers in behavioral management techniques.

9. "Project Adjustment"—This Marion project has established a county-wide special education program and psychological clinic for handicapped children that is designed to serve as a model.

10. "Child Development Program"—This operational Northbrook project is providing a program for four- and five-year-old children with learning problems.

11. "Maine Township Diagnostic and Remedial Learning Centers"—This Park Ridge operational program utilized a multi-disciplinary diagnostic approach to remedial reading and communication weakness in children, ages four through twenty-one.

12. "Midway Teaching and Treatment Program"—The Peoria program is designed to save seriously emotionally disturbed students from full-time institutionalization by offering a combined teaching and treatment program.

13. "Alton Area Supplementary Educational Center"—This project is designed to provide in-service education for professional educators in the areas of instructional materials, reading, and research.

14. "A Center for Upgrading Educational Services"—This Champaign project is designed to provide 96 school districts with a coordinating Center which will assist the districts in developing cooperative programs.

15. "Eastern Illinois Development and Service Unit"—The basic objective of the Charleston proposal is to demonstrate the manner in which a team of educational specialists with multi-media resources at their command work with local school districts to bring about meaningful educational change through expanded and enriched programs and greater utilization of existing resources.

16. "South Cook County Educational Development Cooperative"—The Educational Development Cooperative of Palos Hills is specifically designed to provide services which are designed to improve education in a large number of districts in southern Cook County.

17. "A School-Community Outdoor Education Project"—Through the cooperative efforts of the local school and park districts of Crystal Lake, this project has established an Outdoor Education Center. The major emphasis during the academic year is upon cognitive learning and education in and about the out-of-doors.

18. "Natural Resources Education Demonstration Center"—This Genoa Operational grant has provided funds for a Natural Resources Education and Demonstration Center which provides a program of natural resources and conservation education.

19. "Regional Cooperative Outdoor Education Program"—The purpose of this Marion project is to provide outdoor academic experiences which will help make classroom studies more meaningful in all subject areas, and to provide outdoor education, instructional materials, etc. for Williamson and Jackson Counties.

20. "Educational and Cultural Enrichment Project of Hancock County"—This Carthage planning grant which mobilized a massive involvement of administrators, teachers, consultants, and lay citizens surveyed and analyzed the educational and cultural needs of the residents of the County.

21. "Project SHARE-20"—In cooperation with the Southtown branch of the Metropolitan Y.M.C.A., the Chicago Board of Education through District No. 20, established interdisciplinary counseling and social work services for underachievers.

22. "Sequential Approach to Readiness and Language Development"—This Chicago Ridge project provides a non-graded primary program through the utilization of multisensory learning laboratories.

23. "Evaluation for Individualized Instruction"—There are three major objectives of the Downers Grove project. The first is to provide teachers with improved skills in the construction, development, and use of classroom tests. The second is to demonstrate that such improvement in teacher skill will lead to the improvement of programs of individualization of instruction to promote mastery of essential objectives. The third is to provide a model for the use of continuous information in both improving instruction and in giving information to communities regarding the progress of students in their schools.

24. "Development and Dissemination of Independent Work Materials in an Educational Park and an Extension of Effort Nationally"—This Evanston project is developing and disseminating multi-media instructional materials for teacher and student use in a variety of educational settings.

25. "Language Development of Pre-School Children"—This Freeport operational project resulted from a planning grant. The operational phase of the program is establishing a district-wide model program which will foster increased linguistic development of pre-kindergarten children.

26. "Science Experience as a Motivational Vehicle to Improved Written Communication Skills in the Intermediate Grades"—This Homewood project establishes a summer workshop to develop materials and methods which can be used by students in expository writing.

27. "Operation Bridge"—The chief objective of the Hopkins Park project is to offer school children an opportunity for a unity of experience between the home and school life.

28. "Project Quest"—This Joliet project is designed to improve the quality of education by the introduction of various educational innovations. These innovations will act as a catalyst to mobilize local resources to meet area needs.

29. "Library-Located Audio and Video Random Access Information Retrieval System"—This Oak Park operational grant is a follow-up of a pilot program. The purpose is the establishment of a library-located instructional resource center which utilizes an electronically stored information process.

30. "Center for Ethnic Studies"—This Park Forest project has established an educational planning center which combines curriculum materials and community resources in a planned program to improve human

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relationships through improved and enriched ethnic studies and understandings.

31. "Supplementary Safety Education Center"—The basic purpose of the Peoria project is to assist school districts in coordinating and disseminating exemplary safety education practices throughout a large four-county area.

32. "Individualized Instruction Demonstration Project"—The purpose of this Urbana operational project is to develop demonstration classes to show how behavioral principles and current technology can be applied to individualized instruction and overcome common motivational problems in the elementary classroom.

33. "Worth Curriculum Development Center"—Inherent in the Worth proposal are development of special subject matter curricula, development of appropriate instructional materials, in-service training and education, research, and consultant services.

34. "A Feasibility Study and Pilot Project to Train Para-Professionals to Assist Elementary School Guidance Personnel"—This Deerfield project is testing the feasibility of the use of para-professionals to aid elementary guidance workers in providing comprehensive service to all children.

35. "Metropolitan Supplementary Educational Center in the Arts"—This Belleville project is a cooperative venture between two states. The purpose is to establish bit-state metropolitan supplementary educational centers and services and to conduct pilot projects in the fine arts.

36. "Fine Arts Educational Improvement Project"—This Bloomington project provides supplementary educational services in a five-county area and in four areas.

37. "Cultural Enrichment Project"—This Chicago project is designed as a cultural enrichment program through children's attendance at live performances in the performing arts.

38. "Community Theatre in the Streets"—This Chicago project sponsors late afternoon and early evening summer street concerts and dramatic presentations presented by students.

39. "I/D/E/A National Demonstration School Project"—The chief function of the Decatur project is to enable the applicant to participate in a national demonstration schools project in order to increase communication among educational institutions dealing with innovations.

40. "Evanston-Skokie Laboratory School"—The purpose of this Evanston project is to conduct planning, establish a pilot project, and to disseminate information about a public experimental laboratory school.

41. "Teaching, Thinking and Clarifying Values"—This La Grange project is designated to assist children to learn how to think and to help them clarify their values.

42. "Bootstrap-Interweave"—This Niles project is structuring the program for increased teaching competence in social studies, mathematics, and science instruction.

43. "Teacher Development Center and Demonstration School"—This Rockford project provides a Center in an elementary school for professional advancement and educational innovation.

44. "Program for Beginning Teachers"—This Wilmette project is providing beginning teachers with the professional assistance needed in their first year of teaching.

45. "Chicago Comprehensive Project"—The Woodlawn Experimental Schools Project" comprises an important thrust in education in the inner city.

46. "Computer Control System and Service Facility to Enhance Quality Education and to Evolve Optimal Distribution Patterns for Large Urban Centers"—This Chicago project has established a computerized service facility for effective booking and distribution of educational media throughout the Chicago Public School System.

47. "A Comprehensive Recreational and Service Program"—This Wheeling project presents a Comprehensive Recreational and Service Program which expands the effectiveness of the school through a greater utilization of school and community facilities.

DESIRABLE FUTURE GOALS

1. The curriculum must accomplish the following objectives:

a. The curriculum will be based upon a careful assessment of needs of learners.

b. The curriculum design will deal with the needs of the learners.

c. The curriculum will provide for cognitive and affective improvements.

d. The curriculum objectives will be stated in behavioral and measurable terms.

e. Continuous evaluation will be an integral component of curriculum development and implementation.

f. Curriculum development will result from procedures for involvement.

2. The program in the need area will accomplish the following objectives:

a. Cognitive and affective problems of potential dropouts will be identified and remedied at the elementary level.

b. Pupils who have already dropped out of school will be retrieved.

c. The dropout rate will be reduced.

3. The proposals will be encouraged to accomplish the following objectives:

a. Disadvantaged pupils will achieve and demonstrate greater readiness.

b. Disadvantaged students already in school will demonstrate a more favorable attitude toward school.

c. The dropout rate in schools of high disadvantaged concentration will be reduced.

d. Curriculum will be restructured according to the needs, interests, etc.

e. Parents of the disadvantaged will demonstrate a greater interest in their child's performance.

f. Parents of the disadvantaged will provide more academic encouragement.

4. Pupil personnel services will accomplish one or more of the following:

a. Students will indicate an improved self-concept.

b. Parents will demonstrate a better understanding of pupil abilities, interests, and aptitudes.

c. Planning ana implementation of comprehensive pupil personnel services will result in an observable improvement in the working relationships between home and school.

d. Professional staff will demonstrate an increased awareness and understanding of the role of pupil personnel services in the total educational program.

5. Proposals attacking critical needs of handicapped children should be designed to accomplish one or more of the following objectives:

a. Academic achievement of handicapped children will be improved.

b. Social and emotional attitudes of handicapped children will be improved.

c. Attitudes of parents of handicapped children will improve.

d. Skills and attitudes of the teachers of the handicapped will improve.

e. Skills of regular classroom teachers in dealing with children with handicaps will improve.

f. Attitudes of regular classroom teachers toward handicapped children will improve.

g. The community will indicate a greater knowledge of and receptivity to the needs of handicapped children.

h. Evaluation designs will be developed which will provide direction in planning, developing, and revising programs for handicapped children.

i. Preschool handicapped children will develop improved readiness for school.

6. Proposals designed to attack the needs of preschool children should be centered around one or more of the following objectives:

a. The self-concept of the preschool child will be improved.

b. Academic readiness of preschool children will be improved.

c. Parents of preschool children will demonstrate an improved attitude toward preschool education.

d. Parents of preschool children will provide a more favorable home environment which encourages and assists the readiness of their children.

e. Teachers will demonstrate skills in working with preschool children.

Finally, after decades of silence, both social scientists and educators are at last explicitly examining and re-examining all the options regarding the relationship between the political system and the schools. The challenge is not new. It is not to accept a bland and dismal picture of the future, but to make something happen via Uncle Sam—to shape a future which is progressive and sound.

MARCELLUS M. MURDOCK, 1883–1970

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. SHRIVER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following editorials from the Wichita, Kans., Eagle, and the Hutchinson, Kans., News which eloquently eulogize the life and accomplishments of Marcellus M. Murdock, of Wichita, who died on March 10, 1970. The editorials follow:

[The Wichita (Kans.) Eagle]

MARCELLUS M. MURDOCK, 1883–1970

Marcellus M. Murdock lived so long and did so many things that any catalog of his contributions to his city and his state and nation is bound to be full of omissions.

He was forever accomplishing things at an advanced age that would have been remarkable in a youngster. He ignored age. He refused to acknowledge it or be cowed by it. To a remarkable degree he overcame it, as he overcame other adversaries in his 87 years.

Mr. Murdock was interested in a wide range of things, but two major enthusiasms were most conspicuous in him. The first was the newspaper business, which was his principal occupation for 67 years. The second was aviation, in which he was a pioneer and a lively practitioner until the day before his final illness struck.

Under his guiding hand The Eagle became the largest newspaper in Kansas. The acumen and professionalism with which he made it so won him many an honor from his colleagues in professional societies in Kansas and elsewhere. He accepted these with humility, and with much credit to his father, who established The Eagle, and his brother, Victor, who edited it before he was elected to Congress. But though each of these is entitled to his share of credit, it was Marcellus Murdock who stayed with The Eagle and made it his life, and guided it through bad times and good to its present eminence in its area.

As to aviation, he was ardent in his enthusiasm for it when most people thought flying machines were mere playthings. He, along with a handful of other men who at the time were regarded as hopeless visionaries, should have the credit for making Wichita the Air Capital of the world. Without their faith and courage and determination this vast manufacturing complex un-

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doubtedly would have had its center elsewhere.

In 1929, when Mr. Murdock was 45, Walter Beech told him he was too old to fly. This provided the impetus he needed, and he soon was handling his own craft with an expertise admired by other pilots. His many adventures in the air amused and diverted him. If he ever was frightened he never admitted it, and his early interest in airplanes developed into an enduring fascination that prompted him to back the aircraft industry, airlines, and airports.

But he was tireless in support of everything he thought would be good for Wichita or Kansas. Scarcely a civic or government or educational improvement but had his help over a period of more than 60 years. One of his first acts as an editor was to attempt to clean up city hall. In his 87th year he still took a lively interest in any evidences of wrongdoing at any level of government.

During his long and active life in Wichita he served at one time or another on almost every one of the many civic and charitable and service boards. He was generous of his time and his resources in behalf of whatever he believed to be good.

His pleasure in recreation was great and all his life he was an outdoorsman. He liked to hunt, and did so to a very advanced age. He traveled enthusiastically and wrote incisively of the things he saw and persons he interviewed.

He was a diverting companion, whose conversation ranged over a wide variety of subjects with a courtliness that emphasized his age and a wit that belied it.

Wichita wasn't much more than a dusty cow-trail town when he was born here. When he left it, it had become a dynamic, growing metropolitan center that bears his imprint in a multitude of places and always will. He would forbid this tribute if he could. In life he rarely took credit for his accomplishments. In death he cannot escape the acknowledgement of a grateful community.

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[The Hutchinson (Kans.) News]

MARCELLUS M. MURDOCK

The story of Marcellus M. Murdock, who died Tuesday night at the age of 87, is also the story of much of Kansas, spanning the decades from shirt-tail type to electronics, from horseback to jet travel.

Marcellus, his mother named him, and Sen. John J. Ingalls, the most illustrious Kansan of the last century, declared that for distinction, he must be known as Markellus Murdock.

And Mark Murdock it was, through three generations of newspapermen.

He achieved success by a simple formula: steady work, and dedication to the reporting of all the news Kansans might need, or could absorb. Under his guidance, The Wichita Eagle found a firm footing, so firm that at his death his papers had reached dominance in the state, as the city he loved also reached dominance.

But it was not only the newspaper. Mr. Murdock embraced the world of finance, promoted aviation, helped develop colleges, and fought for better government. Always with the notion that Kansas held the seed of greatness, and that Wichita was the proper leader of Kansas.

The old order of Kansas newspapermen is fast fading. The new, younger breed, preoccupied with the accounting office, beset with publishing problems, hesitant to risk offense, hardly seems up to the task of replacing that generation of White, Harris, Allen, or Murdock.

But the inspiration is there. Kansans will remember Mr. Murdock for many things. Newspapermen will remember him for his integrity as both a publisher and editor, and for his simple conviction that people should be told the news regardless of the consequences.

OPENING UP THE HOUSE

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. HARRINGTON. Mr. Speaker, an article entitled "Opening Up the House" appears today in the Boston Herald. In his article, Tom Wicker discusses the problems of the seniority system and the pending Democratic caucus' proposal that a study be made of this system. I have spoken out twice in the past week on the need for a change in the seniority system—a change which will reinvigorate the House and make it more responsive to the needs of our times. In the belief that the ideas contained in this article would be of interest to my colleagues I insert the following article in the RECORD at this point:

[From the Boston Herald, Mar. 17, 1970]

OPENING UP THE HOUSE

(By Tom Wicker)

WASHINGTON.—Having overwhelmed a direct challenge to his leadership last month, Speaker John McCormack is generally expected to go along when House Democrats propose a study of the seniority system at their caucus on Wednesday. Already under fire from critics of his leadership, facing certain challenge if he seeks re-election as Speaker, and shadowed by conflict-of-interest charges against some of his aides, the elderly McCormack would only damage himself further with an adamant stand against a mere study of seniority.

Besides, the group that would make the study would be appointed by the Speaker, a strong supporter of seniority; so it is not hard to predict what its report would be.

"They'll decide that seniority is lovely," says one backer of the resolution.

So why pass it? As one more step in "drawing the issue a little tighter," making cautious House members a little more aware of growing sentiment—in and out of Congress—for a change, focusing public attention on the problem. It is a slow way to proceed, but it is at least possible that something of a showdown could come next January, as the 92d Congress organizes itself.

In the first place, there already is considerable public impatience with a Congress dominated by elderly men, many of whom are seldom even challenged for re-election. In a society the median age of whose population is 27.7 years, it strikes many people as incongruous that—for instance—the most important members of Congress on the issue of voting at 18 should be Rep. Celler of New York, who will be 82 years old in May.

That is not an isolated case. McCormack is 78 and there are 13 Senate and House committee chairmen over 70, six over 75 and two over 80. Some of these, of course, are alert and able men but the point is that seniority brings indiscriminately to committee chairs anybody who can hang on long enough—both the quick and the dead, as it were.

In the second place, this public impatience and their own political frustrations are turning more and more of the younger members of Congress away from the seniority system as in so many other instances, a reform which only a few years ago was regarded as the wild dream of far-out visionaries has steadily gained respectability. Some Republicans even want their party to campaign this fall on a pledge to reform the seniority system.

There is an interesting linkage between the issue of seniority and the Speaker's plan to seek another term next January.

If, for instance, Majority Leader Carl Albert of Oklahoma, who is 62, decided to run for Speaker against McCormack, not a few of the younger Democrats and some liberals would see the choice as six of one and a half-dozen of the other. But if Albert supported at the same time some modification of the seniority system, he might well pick up strong backing from these members; he might also lose votes among the older members, but their alternative would have to be McCormack, who can hardly be kept in office for more than another term, if that.

Even senior members, whose reason for supporting the seniority system is obvious, might therefore be made to see the political utility of reform. It is not, after all, a question of "all seniority" or "no seniority." One feasible plan would empower the Speaker to appoint committee chairmen at the beginning of each Congress, with the normal expectation that he would appoint the senior men; but his nominees would be subject to approval by the Democratic caucus. Any able and cooperative chairman could retain the post that seniority had brought him; but the way would be opened for the Speaker or the caucus or both to remove obstreperous, inept, senile, or party-bolting chairmen, all of whom are now virtually immune—not by rule but by custom—from reprisal or discipline.

Such a reform would retain seniority rights in most cases, enhance the Speaker's ability to lead, and focus on him the responsibility for the performance of the party controlling he House. It might also mollify a public that appears impatient with an anachronistic Congress, and even produce some legislative results.

INVESTORS MUST BE PAID, TOO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. DERWINSKI. Mr. Speaker, a very concise editorial in the Polish American, Chicago, Saturday, March 14, discusses a truism of our free enterprise system that is often forgotten; namely, the right of investors in an enterprise to expect a profit.

The editorial follows:

INVESTORS MUST BE PAID, TOO

People who want something for nothing eventually wind up getting nothing. Currently a popular political pastime is to deny the hard realities of inflation and condemn such things as utility rate increases which have in many cases become a sheer necessity to meet the rising costs of operation and expansion. In the case of the electric industry, the soapbox crusaders have chosen as their victim one of the basic services that has come closer to holding the line against inflation than nearly anything else you can name. The soapboxers should begin worrying about where the money is going to come from to produce the kilowatts that will be needed to meet soaring public demand for energy.

An eminent analyst of public utility securities, in an analysis of the capital needs of the entire utility industry, points out that the requirements of the electric industry alone will be over $10 billion this year—that is new capital for expansion of generating capacity. He compares electric utility capital needs with estimated total personal savings of some $40 billion in 1968. The investor-owned electric industry depends on these savings for much of the capital that has to go into new plants and facilities each year if there is to be an abundance of electric energy.

The fallacy that rates can be held down

and the public still have all the power it needs was punctured in a few words by the financial analyst when he said, "If the public is to get the kind of service it obviously wants and expects . . . it simply is going to have to pay more for it." Investors who put their savings to work in the utility industry have to be paid a living wage the same as anyone else.

THE STUDENT IN THE UNIVERSITY AND SOCIETY OF TODAY—NO. 2

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. McCLORY. Mr. Speaker, yesterday I inserted in the CONGRESSIONAL RECORD the first two parts of a report by Mr. Nishimura of the Japanese delegation of the Interparliamentary Union on "The Student in the University and Society of Today." As a part of my remarks today, I include in the RECORD the remaining portion of that report, comprising parts 3, 4, and 5:

VIEWS EXPRESSED BY CHIEFS OF STATES, CABINET MINISTERS AND PARLIAMENTARIANS ON THE STUDENT UNREST

PART 3

1. America (The United States of):

(1) President Nixon: President Nixon has made several statements on student dissent and has expressed grave concern over the future of intellectual freedom in America, due to the violent tactics a number of demonstrators have taken. In a statement made March 22, 1969 the President mentioned some "first principles" in American education. One, he said, is that:

"Universities and colleges are places of excellence in which men are judged by achievement and merit in defined areas. The independence and competence of the faculty, the commitment, and equally the competence of the student body, are matters not to be compromised."

President Nixon goes on to discuss student unrest in a national perspective and to offer some suggestions for dealing with the problem:

Students today point to many wrongs which must be made right. We have seen a depersonalization of the educational experience. Our institutions must reshape themselves lest this turns to total alienation.

Student unrest does not exist in a vacuum but reflects a deep and growing social unrest affecting much of our world today. Self-righteous indignation by society will solve none of this. We must resolve the internal contradictions of our communities.

There must be university reform including new experimentation in curricula such as ethnic studies, student involvement in the decision-making process and a new emphasis on faculty teaching.

In a speech before the United States Chamber of Commerce in April of 1969, Mr. Nixon again spoke on the subject of American education. Dissent on the college and university campuses is a very healthy force, President Nixon believes, and he expressed the hope that our educational system will not become in-grown, stultified, or without the ability to develop new ideas to keep pace with the changes in our very fast-changing society.

In discussing the methods that legitimate dissent may take, President Nixon set forth the following principles:

There are those who believe that any means are justified, if the end is worthwhile. And all of us, again, if we remember the past, will, of course, agree that we can never adopt that principle, because when we adopt that principle of any means to the end, the end eventually becomes the means.

We do not want to have the Federal Government of this country running our institutions. We do not want them interfering with our colleges and our universities. It is their responsibility to provide education in an independent, free way in the American tradition.

When we find situations in numbers of colleges and universities which reach the point where students in the name of dissent and in the name of change terrorize other students and faculty members, when they rifle files, when they engage in violence, when they carry guns and knives in the classrooms, then I say it is time for faculties, boards of trustees, and school administrators to have the backbone to stand up against this kind of situation.

(2) Attorney General John N. Mitchell: Attorney General John N. Mitchell has also made a number of statements on student unrest and its relation to law enforcement. While offering suggestions for handling the legal problems involved in student demonstrations, Attorney General Mitchell also recommended that there should be full participation by sudents, faculty, and administration officials in the decision-making process on campuses:

What this means, at a minimum, is that university adminstrators must offer a serious forum for responsible student criticism—and more than that, it must be clear to the students that their grievances will be honestly considered and will not be lightly dismissed under the procedural ruse of an artificial dialogue.

As one alternative to dealing with student disturbances, Mr. Mitchell suggested that university officials consider applying to court for injunctions to remove the demonstrators.

This tactic has proved fairly successful in the past. It takes the university out of the law enforcement business, where it does not belong, and gives it to the courts, which are better suited for this purpose:

(3) On-the-spot Study of Colleges and Universities by a Group of Twenty-two Republican House Members and Their Report and Proposals to President Nixon:

A group of twenty-two Republican House members made a on-the-spot study of colleges and universities during the spring of 1968, and on June 17, 1969, they submitted a report on campus unrest. In the report, they state the purpose of their tour as follows:

"A deep concern about today's problem of unrest among our youth, and the realization that we possessed little reliable information about events on the American campus prompted us to go out to a variety of colleges and universities to talk with students, administrators, and other officials on their own ground. We had nothing to sell, no speeches to make, and offered only a desire to know and understand the factors which appear to threaten the destruction of many of our most respected institutions and the alienation of many of this nation's finest students."

And as a general impression they gained through the tour, they say:

"We came away from our campus tour both alarmed and encouraged. We were alarmed to discover that this problem is far deeper and far more urgent than most realize, and that it goes far beyond the efforts of organized revolutionaries. By the same token, we were encouraged by the candor, sincerity and basic decency of the vast majority of students we met."

The report, then, referring to the problem of violence, says that:

"Too often, however, we saw their idealism and concern vented in aimless or destructive ways. If one point is to be emphasized in this report it is that violence in any form, in any measure, under any circumstances, is not a legitimate means of protest or mode of expression and that it can no more be tolerated in the university community than in the community at large. If there is to be orderly progress and a redress of legitimate student grievances, student violence must be averted."

On the political and social aspects of the student unrest, the observation is made in the report that:

There is on the campus today a new awareness of potential student power and the emergence of a large group, probably the vast majority of student leaders and substantial number of intelligent, concerned and perplexed young people, which has genuine concern over what it feels is the difference between the promise and performance of America. While these students have no monolithic leadership or single set of goals, they are fairly united in questioning many of the values of our system. The revolutionaries on campus who desire to destroy our system are few in number. The vast majority of students are not poised on the edge of revolution and have not lost faith in our system. However, many students can be radicalized when violence or confrontation on campus occurs. Also disillusionment in our system by students can grow, even without violence, if we place one label on all students and fail to understand that they raise many areas of legitimate concern.

On the above understandings, the report set forth to President Nixon:

To the extent that our universities can foster an environment of trust, participation, involvement and interaction, we believe that the danger of violent confrontation (and the emotional climate which is its prelude) can be reduced. To the extent that this nation can foster an environment of quality, excitement and challenge throughout its total educational system, creative leadership can be developed. We can envision no greater tragedy for this nation and the free world than for us to allow our educational system to slowly settle into obsolescence, losing touch with reality and becoming incapable of responding to the needs of students and society.

And finally, they submitted in the report the following 10 proposals at aiming the implementation of these goals:

(a) No repressive legislation: Any action by the Congress or others which would, for example, penalize innocent and guilty alike by cutting off all aid to an institution which has experienced difficulty would only serve to confirm the cry of the revolutionaries and compound the problem for each university. In our opinion, the fundamental responsibility for order and conduct on the campus lies with the university community.

(b) Establish a commission on higher education: In light of our findings we believe that a Presidential Commission on Higher Education would be a valuable step. Running through our report are examples of problems which students, faculty, and administrators have raised and which deserve further exploration. What is the role of the Federal government in research? What has this contributed to creating priorities within the university? How best can communication be opened and maintained? How well does this report reflect the reality of the American college scene? These and more would be appropriate questions for such a Commission which we believe should include a thoroughly representative selection of students, faculty, and administrators together with the general public. We do not foresee an investigative body but rather one which can help to create understanding among members of the academic community, as well as the general public.

(c) Open communication to university community: We have found that many were surprised by our visit and by our willingness

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to listen and learn. There is a need to expand lines of communication. We urge that Cabinet officers, Members of Congress, the White House staff, and others in the Executive Branch begin an increasing effort for this kind of two-way street of listening, learning and responding. Once our communication has become established it will be important to sustain it. Some of the questions raised by students were truly the kind which deserve and demand answers. Some of the viewpoints expressed by students deserve understanding. And some of the misconceptions of the system of government within which we operate desperately need correction. This can best be done, we believe, through an ongoing program of communication.

(d) Lower the voting age: We feel that active involvement in the political process can constructively focus the American college student's idealism on the most effective means of change in a free society. The right to vote will give Young Americans the chance to become a responsible, participating part of our system. In essence they will have the chance to put their performance where their words are.

(e) Draft reform: In line with your own recommendations for reform of the Selective Service System, we believe Congress should move to act promptly on this important issue.

(f) Encourage student participation in politics: We found that the overwhelming majority of students with whom we visited hold little regard for either political party. The questioning of our system of government points to a loss of confidence in established institutions and that includes political parties. An increase in this loss of confidence poses a serious danger to the viable functioning of American government.

(g) Expand opportunities for involvement: We found an encouraging desire on the part of many students to do something to help overcome the problems of our society. This dedication or commitment to help others is a hopeful, important area which should be encouraged. Specifically, we recommend establishing a National Youth Foundation. We believe this concept should be initiated in order to better utilize the energy and resources of student groups.

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We also recommend establishing a Student Teacher Corps. Many more students are considering entering the teaching profession and this idea is one which we feel should be encouraged.

Further, we recommend increasing our support of the College Work-Study Program, National Defense Student Loan Program. These three Federal programs would be beneficial in meeting the needs of students and the institutions in responding to student concern.

(h) Coordinate youth programs: We think it would be helpful if an effort were made to coordinate all the present youth programs of the Federal government through one central office. In order to more effectively use the present resources of the Federal government we urge your consideration of a mechanism to coordinate and follow-through the work of our numerous programs and agencies.

(i) Perspective: There is a need to mobilize opinion and resources. A sense of perspective is lacking on the part of the students and on the part of the public. What students are saying is, in some cases, the same as what the average American is saying regarding priorities, responsiveness, and humanization. Presidential leadership, governmental concern, and communication are all a part of the necessary work which must be undertaken if we are to replace revolution with reform, and despair with hope. Clearly we have found that violence is no answer, and that violence as a means to achieve an end is counterproductive. The crucial factor in the widening gap between students and others is the student's perception of reality. That must be undertood by all who seek solution. This requires of us, comprehension, and of the student, understanding.

(j) Balance: We must remember that the average college freshman has already undergone a dozen years of formal education before he enters the gates of the university. Obviously, he is going to reflect, at least in some measure, the strengths and weaknesses of the training he has already received. Many of his attitudes and many of the factors which may lead him into difficulties on campus, have already been implanted.

Therefore, a sweeping change in campus conditions alone is no guarantee of a return to orderly progress in our universities. There exist imperfections in our educational system from pre-school programs to graduate studies. These flaws in American education deserve the immediate and thorough attention of the nation. The problems which have already surfaced on the college campus exist in various dormant forms in our secondary schools, and the inadequacies which foster them can often be traced back even further. Until consistent, challenging, quality education becomes a reality, the problem will remain.

(4) Interim Statement on Campus Disorder Submitted by the President's National Commission on the Causes and Prevention of Violence: The President's National Commission on the Causes and Prevention of Violence, chaired by Dr. Milton S. Eisenhower, issued an "Interim Statement on Campus Disorder" in June 1969. The Statement precisely analyzes campus disorder and offers to the campus community four suggestions as guidelines for handling student disturbances. The Statement is prefaced by this comment:

The members of this Commission, along with most Americans are deeply disturbed by the violence and disorder that have swept the nation's campuses. Our colleges and universities cannot perform their vital functions in an atmosphere that exalts the struggle for power over the search for truth, the rule of passion over the rule of reason, physical confrontation over rational discourse.

The problem of campus unrest is more than a campus problem. Its roots lie deep in the larger society. There is no single cause, no single solution. We urge all Americans to reject hasty and simplistic answers. We urge them to distinguish between peaceful protest and violent disruption, between the nonconformity of youth and the terror tactics of the extremists. We counsel patience, understanding and support for those in the university community who are trying to preserve freedom and order on the campus. We are beginning to learn how to achieve change without disorder or coercion.

The Statement goes on to describe some of the reasons behind campus unrest and offer some explanations as to the motives of today's students:

Students are unwilling to accept the gaps between professed ideals and actual performance. They see afresh the injustices that remain unremedied. They are not impressed by the dangers that previous generations have solved. It means little to them that the present adult generation found the way out of a major depression to unparalleled heights of economic abundance or that it defeated a massive wave of vicious totalitarianism and preserved the essential elements of freedom for the youth of today. To students, these triumphs over serious dangers serve primarily to emphasize other problems we are just beginning to solve.

Today's intelligent, idealistic students see a nation which has achieved the physical ability to provide food, shelter and education for all, but has not yet devised social institutions that do so. They see a society, built on the principles that all men are created equal, that has not yet assured equal opportunity in life. They see a world of nation-states with the technical brilliance to harness the ultimate energy but without the common sense to agree on methods of preventing mutual destruction.

In assessing the causes of student unrest, it would be a mistake to assume that all causes are external. There are undoubtedly internal emotional pressures and internal value conflicts in many students which contribute to their own dissatisfaction and thus to the tension and turmoil of campus life.

The Commission is particularly concerned with the irrational and violent aspects of campus disorders and the Statement makes the distinction between legitimate protest against university policies and the determined destruction of the institution itself.

A small but determined minority, however, aims not at reform but at the destruction of existing institutions. These are the nihilists. They resort to violent disruption as the means best suited to achieve their ends. By dramatic tactics of terror, they have often induced university authorities either to surrender or to meet force with force. When they have managed on occasion to provoke counterforce to an excessive degree, they succeeded in enlisting the sympathies of the more moderate campus majority.

There is also a minority of students who are not nihilists, but who feel that violence and disruption may be the only effective way of achieving social and university reform.

In concluding their Statement, the Commission offers to the campus community four suggestions which may be used as guidelines for handling student disturbances or preventing such confrontations in the future. The Commission suggests that explicit codes of student conduct and procedures for student discipline should be adopted; that advance plans should be made by the universities for dealing with campus disorders; that procedures for campus governance and constructive reform should be developed to permit more effective decision-making; and that faculty leaders and administrative officers need to make greater efforts to improve communications both on the campus and with the general public.

2. Australia: In the Australian Parliament, many issues concerning the student unrest were discussed in the plenary sitting (in discussion of Matter of Public Importance) of May 27, 1969.

Throughout the debate, a particular attention was drawn to the universal nature of the problems (similarity of student actions, international solidarity among them, common reaction to international events such as the Vietnam War), as well as to the political character (resistance to the establishment, criticism against the present institutions or political parties, activism) and to the cultural character (common mode, cultural revolution oriented element) of student movements, and also to the violence of minority. The generation gap has been eagerly discussed, and a drastic reform of the obsolescent system of university and the necessity of restoring the confidence between students and university authority have been stressed.

In the debate, a member explained the specific features of students of today as follows:

The students of today not only question the purposes and functions of the university but also are deeply concerned about the world. They look beyond the campus to the wider community of which they are a part. Some are trying to develop a style of life that combines high personal values and activism with scholarship. The university is where they express their social concern. Vietnam and conscription, aboriginal rights, poverty in an outwardly affluent community such as Australia, and the individual's lack of control over his life are all the concern of this generation of students.

In the year 1969 we have the first university students who saw television before they could read—the visual generation. Their questioning of authority and often outdated tradition is in the spirit of the age. One student leader has said that in his view the old forms of politics are no longer relevant. We need, he suggests, "a new politics . . . a politics of commitment in which people starts responding again as human being rather than shadows in the long reaches of bureaucracy."

3. Great Britain:

(1) Mrs. Shirley Williams, Minister of State for Education and Science; On March 15, 1968 and January 29, 1969, the British Parliament discussed the problems of students and universities in its plenary sittings. In these two debates, Minister of State for Education and Science Mrs. Shirley Williams expressed the following views:

(a) On the student's protest—in the debate of March 15, 1968: This is, in a sense, a form of revolution—one which, as has been pointed out, has swept the world from Cambridge to Cracow and from Berkeley to Berlin. It lies partly in the broadening of education itself, in the fact that higher education in particular no longer draws from a group which shares common standards and values and which is, to a great extent, homogeneous. When we have introduced a more democratic system of higher education, much flows from it in terms of the questioning of society itself.

The unrest stems also from something else—for which the House will have some sympathy—the sense that some issues are out of the control of students and, for that matter, of elected politicians. I am thinking of issues concerning scientific advance, technology, the development of new societies, and, of course, the arms race.

Yet what is clear from the nature of student protests is that no system offers them an ideal solution, not the system in the Soviet Union, not the system in Poland, not the system in India, not the system in Britain, not the system in West Germany, not the system in the United States. It is fair to say that students are questioning every system put before them.

I shall try to distinguish between two types of protest. One type, as some of my hon. Friends have pointed out, is of the essence of a democratic society, the protest which questions the presuppositions of that society and questions its values yet is always seeking in a sense to make it more genuinely democratic. This is a type of protest which all of us, be we targets of it or be we not, must accept. But there is something else to be said. Students must be very careful—this is particularly true of the small minority—not to destroy the system which enables the questioning itself to take place. It is not enough to be in favour of protest however violent they become, which are along the lines which we ourselves support, and yet be utterly against any protests along lines which other people support politically, however violent they may become. We cannot, on the one side, condone violence from the Left Wing because we have sympathy for it and, on the other, be unwilling to condemn violence from the extreme Right Wing because we lack sympathy for them.

I believe that much of what we are seeing flows directly from decisions which we ourselves have made about the shape and nature of higher education. We should make a grave mistake if we did not recognize that in the future development of our higher education we shall see not less, but more, argument, discussion and protest. But, provided that we and the students and the responsible student bodies, recognize the distinction which I and other hon. and right hon. Members have tried to draw, we can benefit immensely from the questioning attitude of students without risking the possibility of the destruction of all that they themselves are educated to value most.

(b) On the difficulties of student participation and the student militants—in the debate of 29 January, 1969: We would be less than honest if we did not recognize three difficulties. One has been mentioned. It is out-of-date constitutions, of which it must be said the London School of Economics is an example. Secondly, there is the problem of the time-scale of the student, as against the time-scale of the academic. The student who participates wants results quickly. The decision-making machinery of most of our universities, although very broad, in the sense that participation is possible, is also often extremely slow—like the mills of God, it grinds exceeding slow, but grinds exceeding fine. Very often the student of one generation has passed through the university before he gets any response to the appeal that he began by making.

So the universities have to work at the speed at which this decision-making machinery works. Let us say bluntly that participation will not make it work quicker; if anything it will make it work yet more slowly.

The third point is the extreme need for universities, not only to accept the participation of students, but the crucial need for the recognition of full participation of junior and middle-grade staff. We simply cannot say that students should have the degree of participation not extended to the younger, senior members of the university. Here again, we have to make sure that they are fully represented at every level of the university.

In conclusion, I want to say a word about the question of the student militants.

We have to recognize that the student militants very often regard themselves as being engaged in a mission against the hypocrisy of society. We regard them as, and they are, ruthless. They regard us often as being hypocritical. What we have to try to get across, and Members of Parliament are as much engaged in this as anyone, is the willingness to discuss, to debate, to face up to what they have to say and to do that with courage.

We also have to make sure that we constantly make plain the distinction between violence on the line which has just been crossed by some of the minority at the London School of Economics, and the basic right to express one's views by demonstration, statement and argument. My right hon. Friend, and I have been asked to clarify this, made it very clear that local authorities should not act, except in consultation with academic authority, in a case of misconduct or in any case of student discipline.

If that is adhered to, if the academic and local authorities work together, and if we maintain the division between violence and the free expression of thought, it is possible that the great mass of students, as of university staff, will see that this House has made the division in the way that this House should always make it—between tolerance and freedom on the one side and anarchy and destruction on the other.

(2) Report of the Select Committee on Education and Science of the House of Commons: On October 15, 1969, the Select Committee on Education and Science of the House of Commons submitted a report on "Students and their relations with universities and colleges", and made fifty-eight recommendations on the reform of higher education system. Among them, the establishment of a Higher Education Commission is regarded as of the greatest importance. The committee, at the same time, indicated the following eleven tasks which the commission could perform.

(a) Supervise student union constitutions.

(b) Collect, examine and disseminate informations about the development of student involvement in discussion of academic matters.

(c) Collect informations and advise institutions on action to be taken in disciplinary matters, as well as approve individual institution's disciplinary arrangements.

(d) Advise on the problems of obtaining student opinion on Council for National Academic Awards courses.

(e) Sponsor research and experiment on examinations.

(f) Act as the clearing house for information on careers and appointments.

(g) Hold responsibility for promoting experiment and research on methods of teaching and disseminate informations about the results.

(h) Make a comparative study of staff-student social relations in the new universities.

(i) Collect, examine and disseminate informations about what other institution are doing to improve staff-student relations.

(j) Have powers to conduct inquiries into institutions of higher education.

(k) Collect information about the operation of counselling services.

4. Japan: In the administrative policy speech delivered before both Houses of the Diet, on December 1, 1969, Prime Minister Eisaku Sato, referring to the problem of the reform of education system, stated as follows:

The factor that decides the fate of a nation in our age is the over-all ability of its people, especially the ability to create culture and technology. Our present prosperity is due in large measure to the high level of our national education. It must be said that the 1970s is the age of international competition in education.

In order to meet this situation wisely, and to stay ahead of the changing times, the most important thing is the heart of the people. In order to raise good children and good descendants, we must be in the school, in the home and in society, at times severe and on the other hand gentle in our discipline, and we must foster warm and generous sentiments in the hearts of our youth so that we can shape personalities that have the urge to strive constructively for improvement in the welfare of the state and mankind.

In order to achieve this, each one of us must think of this problem as his own, and I urge that both teachers and parents, as one body with the rest of the nation, seriously consider this problem of youth together.

Furthermore, after more than 20 years since the postwar reform of the educational system, it is important to plan for the training of the youth that will shoulder the Japan of the 21st century by carrying out a fundamental study, not only of the university system but also of the educational structure in general, to cope with the remarkable changes in society and possible future developments.

From this point of view, I am determined to devote my utmost efforts to get together the opinions from all circles concerning the way the new university should be and the question of education in general, and to build up an educational environment where children can be safely entrusted.

In any age, the abundant energy of the youth is the source of the life and development of a national society. However, among the irrational destructive activities by a small group of students, we are unable to find the qualities important for the youth such as good sense, self-discipline or warm sentiments. I again appeal strongly to the good sense and self-discipline of our students, and at the same time, am determined to take firm action against antisocial destructive activities, to secure public peace for the people.

In conclusion, Prime Minister, pointing out the economic and social changes which

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should be challenged to in 1970s said that—

Furthermore, we are faced with unprecedented advances in technology such as the development of outer space, the ocean bed and so forth, and we are also facing situations unknown in the past such as the development of an information-oriented society, economic and social changes as exemplified in over- and under-concentration of population, etc.

I am convinced that the talents and the energy of the Japanese people, rich in wisdom and creativeness, will overcome many obstacles in the 1970s as well, and make an unlimited contribution to our own country's prosperity and for the maintenance of world peace.

I am determined to devote my full power to build up a shining future, hand in hand with you, the people of Japan. I deeply desire your full cooperation.

5. Yugoslavia: On June 9, 1968 President of the Republic Josip Broz Tito made the following appeal to the students in action of resistance:

I wish to express my own opinion vis-a-vis what has happened recently—the student demonstrations. Thinking during the demonstrations of everything that preceded them, I came to the conclusion that the revolt of these young people—the students—came spontaneously. Gradually, however, as the demonstrations were developing and transferred to the streets, to faculty halls and premises, there was a certain infiltration of various alien elements to us which are not on socialist positions, which are not on the positions adopted at the Eighth Congress of the League of Communists of Yugoslavia, and which are not in favour of the implementation of the economic reform. In a word, there was an infiltration of those elements who wanted to take advantage of the situation for their own purposes. And, there are various trends and various elements, from the most reactionary to extremist, quasi-radical elements with some admixtures of Mao Tse-tung theories. However, I came to the conviction that the vast majority, 90 per cent of the students, are honest young people whom we did not take care of sufficiently, whom we regarded only as school youth, pupils, who are not yet mature to take part in the social life of our socialist community. This was erroneous. We left them alone. We are now aware of this fault of ours. . . .

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A very difficult situation has been created, this is true; our prestige in the world has been injured, not to speak of the material damage that has been done. Workers addressed themselves to me and protested. However, there has not been a single letter—not a single letter from any part of our country—in which the workers did not agree with the demand that the student's material position should be improved, that they must be given the right to develop self-management, at the university, and not be there just formally, while the others manage their affairs and not the students whose direct interests are at stake. There has not been a single letter from workers in this sense.

That is why I must say here today that I am happy we have such a working class. And I may add also, I am happy that we have such a youth which has proved to be mature. The latest development at universities has shown that 90 per cent of the students are our socialist young people, who will not allow to be intoxicated by various followers of Djilas, Rankovic, Mao Tse-tung and the similar, who would like to attempt to realize their own aims under the pretext of helping the students.

Our youth is good, but we must give more attention to the young people. It is our great fault, especially of the League of the Communists, which has not exerted adequate efforts for solution of the students problems. And it is such a bad situation that has come about, so that we see now, at last, how slow we have been, how much we hesitated and how grave are consequences.

We pointed out, comrades, so many times that care should be taken of the human individual, ordinary man. But, I think we were dazzled with various investments and various fictions about them, and we forget the human being. We must not forget that we cannot realize projects without people. We cannot. Some are apt to think that what has happened here is a reflection of what is going on in France, Germany, Czechoslovakia. This is not correct. This is not a reflection of these events. This is a reflection of our own weaknesses which have been piling up and which we must eliminate. This, consequently, should not be explained as the result of the outside influence . . .

As far as the students are concerned who have manifested very strongly their revolt, this is not a point which we should enter into right now, because the revolt which is the result partly of the fact that the students knew that I myself often raised these questions and they, nevertheless, were not solved. This time I promise our students that I shall do my utmost for solving these questions and they should help me. Moreover, if I am not capable of solving these questions, then I should no longer occupy this position. I think that not a single old member of the League of Communists should insist on keeping his post, but should give way to those people who are capable of solving problems.

And, finally, I address myself once again to our students: it is time they should set to work and study; it is now the period of examinations and I wish them much success in their studies. Because, it would be a pity indeed if you lost much more time.

Concrete Steps Taken in Various Countries Against Student Disorders and the Extent to Which the Student Participation System Has Been Put Into Practice

PART 4

With a few exceptions the measures taken against student disorders by university authorities and by the executive and legislative branches of governments have been moderate and flexible. And in most cases, these measures have been accompanied by serious efforts to find a way to solve the problem at its roots and to establish a long-term policy in keeping with the fast moving developments of today's fluid society.

The singular atmosphere and forms of the violent demonstrations of the New Left and the uniforms and tactics of the police assigned to control these demonstrations have become so universal that they are now regarded at a global cultural phenomena. Because of the danger that this situation would become chronic and because of the damage suffered by innocent citizens, the general public has begun to demand strong action to control the violent action of the students.

This section of the report deals with the concrete measures taken by responsible authorities in response to the wishes of the people and with the progress made in adopting the student participation system which will have an important bearing on the solution of campus disputes.

1. America (The States of):

(1) On The State Level: On the state level in the U.S., a number of proposals have been introduced in legislatures across the country designed to curb violence and the disruption of orderly educational processes. By the spring of 1969, at least eight states had enacted laws designed to handle campus demonstrations. Several other states were expected to act on proposed bills.

The new laws are similar in purpose but range in their severity and the type of control they offer. A sampling of enacted laws follows:

(a) Colorado. The state legislature enacted a law which prohibits the willful violation by students, school officials, employees, and invitees of the lawful freedom of the campus (US News and World Report, April 7, 1969).

(b) Idaho. A law was passed providing for up to one year of imprisonment for certain convicted campus demonstrators (Washington Post, June 2, 1969).

(c) Minnesota. The law enacted in this state forbids demonstrators from blocking sidewalks, streets, staging sit-ins in buildings, or otherwise disrupting public colleges or the state and local governments (Washington Post, June 2, 1969).

(d) New York. Governor Nelson A. Rockefeller of New York has signed a bill which requires all colleges in that state to adopt rules for keeping order on their campuses. The trustees of all colleges and universities of New York must submit to the State Board of Regents their rules for the maintenance of order and the penalties that would result for violators. If the officials fail to comply with the law, their school could lose state financial aid (Washington Post, April 23, 1969). Governor Rockefeller also signed bills outlawing unauthorized firearms on the campus, and creating a state commission to study the causes of college unrest (Time Magazine, June 13, 1969).

(e) Texas. Governor Preston Smith of Texas signed a law which makes "disruptive activities" on any public or private campus punishable by a $200 fine and six months in jail. (Higher Education and National Affairs, May 2, 1969).

(f) West Virginia. West Virginia's new laws on campus demonstrations have been termed the most stringent of any passed before June, 1969. The law empowers state troopers, sheriffs, or mayors to invoke riot-control procedures, bypassing the old requirement that a judge or justice of peace must declare that a civil disturbance is a riot (Time, June 13, 1969). Further, anyone refusing to aid the police shall be deemed a rioter, and the police shall be guiltless if anyone is killed or wounded in the attempt to put down a campus disturbance.

If any official is injured, all persons engaged in the assemblage shall be deemed guilty. The police also have the right to enter private homes without a search warrant if they are looking for rioters (Higher Education and National Affairs, May 2, 1969).

Bills which were under consideration in other state legislatures included:

(a) California. The resolutions under consideration would make it a misdemeanor to disturb the peace of any campus; command additional campus disciplinary action against convicted students; cancel the state financial aid of dissident students for two years; and require all public campuses to develop specific codes of student behavior (Time, June 13, 1969).

(b) Wisconsin. Governor Warren P. Knowles has proposed four bills which the Wall Street Journal (March 18, 1968) felt would probably be enacted. One of them prohibits the use of sound amplifying equipment on campus without the university administration's approval.

(c) Oklahoma. The Oklahoma legislature has enacted a law which specifies that persons convicted of inciting riots can be imprisoned for 10 years (Time, June 13, 1969).

(d) Tennessee. The law makes it a felony for non-students to enter school property "to incite, participate in, aid or assist a riot." The violation of this law carries a possible penalty of five years in a state penitentiary (Time, June 13, 1969).

(e) Oregon and Ohio. The legislatures of both these states passed bills enabling them to deal better with troubled campuses. In Oregon, it has been proposed that the governor be permitted to declare an emergency when violence threatens any public property (Washington Post, June 2, 1969). The Ohio legislature passed a bill which empowers the board of trustees to expel campus rioters (Washington Post, June 2, 1969).

(f) Maryland. It has been proposed that college officials be empowered to ban from the campus anyone who is not a student or has no apparent lawful business to pursue (Washington Post, February 6, 1969).

(g) Indiana. Indiana proposed a measure along lines similar to that of Maryland, providing that a person ordered by college officials to leave the campus and who refuses to do so may be sent to jail for six months and fined $500.

(2) Governors' and Mayors' Reactions: In a statement released after the National Governors Conference in 1969, the majority of participants rejected a "hard line" on colleges. The statement said the governors' conference extended its "full support" to President Nixon.

The United States Conference of Mayors, held in June, 1969, resulted in a division of opinion on the subject of police presence on university campuses. On the issue of campus dissent, Mayor Joseph Alioto of San Francisco recommended combining "tough law enforcement against violence" with a guarantee of adequate opportunities for students and faculty members to express their views and have them negotiated. Mayor Alioto insisted that mayors must retain the right to decide when to move police on to campuses. Mayor Sam Yorty of Los Angeles observed that the "citizen's right to be protected in his person and property" applies as much to students as to anyone else. "If the university administration does not call in police to protect that right, we (as mayors) have a duty" to do so.

(3) Federal Proposals and Legislation: The number of bills which have been introduced in both houses of Congress during the past year clearly illustrate the extent of Congressional concern with the problem of campus unrest.

Hearings were held in 1969 by the Subcommittee on Education of the House Education and Labor Committee, and the Senate Subcommittee on Investigations of the Committee on Government Operations. Testimonies were given before these Committees by spokesmen in the fields of education, psychology, and university administration, etc. A number of students have also testified before the committees, and inquiries have been made concerning the radical and possibly subversive nature of the militant student groups.

Bills which would prohibit the disruption of administration of federally assisted institutions of higher education, and which would make such interference punishable by imprisonment and/or a fine have been referred to the Senate Judiciary Committee. A bill which would make it unlawful for anyone to carry a weapon on a Federally assisted college and university campus while acting in violation of a law, and another which would make it a Federal offense to obstruct military recruitment or enlistment service in time of war or national emergency have been referred to the House Judiciary Committee.

Proposals which would directly affect the institutions rather than the students attending them have been referred to the Senate Labor and Public Welfare Committee. Generally, these bills would require the withholding of Federal Assistance to colleges and universities which fail to maintain a reasonable degree of discipline upon their campuses, and which fail to cooperate either in the defense effort or in support of Reserve Officers Training Corps.

The House Education and Labor Committee has received a number of bills which range in their objectives from suspension of Federal funds to disrupted institutions to the creation of a Federal Higher Education Mediation and Conciliation Service. One proposal would deny Federal grants and contracts to those institutions which refuse to undertake research important to the national security. Several others have been introduced which would encourage institutions of higher education to adopt rules and regulations to govern the conduct of students and faculty, to assure the right of free expression, and to assist the institutions in their efforts to prevent and control campus disorders.

All of these proposals are in addition to legislation passed in 1968 which was intended to discourage students from violent demonstrations which disrupted the operations of the institution.

Section 504 of the Higher Education Amendments of 1968 provides that any student convicted by a court of willfully refusing to obey a lawful regulation of the institution of higher education shall be denied, for a period of two years, the benefit of specified Federal financial aid programs. In addition to section 504, reference to restriction on aid to student demonstrators was included in the appropriations bill for fiscal year 1969 for the Departments of Labor and Health, Education and Welfare, Independent Offices and the Department of Housing and Urban Development, the Department of Defense and the Second Supplemental Appropriation Bill.

Similar restrictions have been attached to the following House-passed appropriation bills for Fiscal Year 1970:

H.R. 12964 (Appropriations for Departments of States, Justice, and Commerce, the judiciary, and related agencies).

H.R. 12307 (Appropriations for Independent Offices—HUD).

H.R. 13111 (Appropriations for the Departments of Labor, and Health, Education, and Welfare).

H.R. 11271 (Appropriations for the National Aeronautics and Space Administration).

Several other bills were introduced in the 91st Congress which were designed to increase the role for youth in America. It is believed that increased opportunity for young people to participate in national and community affairs will give them a greater sense of purpose and effectiveness. Some consider that if greater opportunities for constructive social action existed for our youth, the pervasive disillusionment and discontent they seem to be experiencing would be lessened.

One suggestion is the Youth Power Act, introduced by Senator Mark Hatfield April 22, 1969. This proposal includes the establishment of a National Youth Service Foundation and a Youth Service Council, all of which are intended to lessen the gap between the potential service and learning roles and the actual service and learning roles of youth in our society (Congressional Record, volume 115, part 8, page 9855).

Representative Claude Pepper introduced legislation on February 5, 1969 to set up a department of youth affairs at the Cabinet Level. This bill is designed to involve young Americans directly in the affairs and responsibilities of government by creating an Office of Youth Participation. This Office would seek to direct young Americans to paid and volunteer work in their local communities. Representative Pepper also has introduced legislation to lower the voting age in the United States to eighteen, due to his belief that "today's generation of young Americans is better educated and has accepted civic responsibility at a much earlier age" (Congressional Record, volume 115, part 3, page 2185).

(4) Reactions of University Authorities:

(a) The initial shock received by the university authorities when campus disorders erupted and the subsequent actions they took are described by Edwin Diamond, senior editor of Newsweek as follows (Newsweek, June 23, 1969):

Columbia's Grayson Kirk and Harvard's Nathan Pusey failed because they called in the police; Cornell's James Perkins erred because he didn't grasp the impact of the news pictures showing black students brandishing guns on campus. Chicago's Edwin Levi and Brandeis' Morris Abram, on the other hand, were good tacticians. When student radicals took over Levi's office, Levi simply let them have the building. He mobilized moderate opinion and let the faculty (a body too diffuse to become a target) deal with the nettlesome task of discipline.

Diamond goes on to touch upon the dissatisfaction harbored by the university authorities who have been burdened with a political problem.

University administrators may protest that they are not responsible for all of society's ills, that they are—like the students—just passengers aboard the sinking ship of authority. They blame the political leaders at the controls for the troubles. The continuing unrest on the campus, Amherst president Calving Plimpton concluded in an extraordinary "all campus" statement addressed to President Nixon, "results from a shared sense that the nation has no adequate plans to meet the crisis of our society." Equally to the point, many on campus now share a sense of horrifying helplessness. They fear the holders of political powers have lost the will to do anything about this crisis—except to call out the full forces of law and order to suppress those who protested.

The writer points out that concessions made to the students did not always bring success.

These concessions, however, cannot satisfy the essentially moral principles being put forth under the student slogans of "community," "co-control," "relevance," and "legitimacy." There is only so much that the university administration can yield, for example, to satisfy the cry to get "war research" off campus. The point is eventually reached when to meet these claims means diminishing other principles which may not only be moral too, but also rooted in the tradition and the law.

Looking into the future, the writer takes the following pessimistic viewpoint:

There are alternative futures, some not much better. The state and Federal government can push through legislation increasing the penalties for campus disruption and cutting off funds to the universities involved. University administrators may decide to control admission to eliminate "troublemakers." Officially, admissions officers say there is no reliable political test that can be applied to high-school seniors; but, privately, they acknowledge that they have studied the picture of campus dissent long enough now to detect some demographic patterns:

The students may emulate the faculty and flee the campus too. Student-run "counter-universities" now exist in a score of U.S. cities alongside the straight campuses. The Free University of Berkeley catalogue provides a clue to what students attempt when they do their own thing. The description of "Liberation Now" reads: "A leaderless encounter group to which we all must contribute our love and concern."

The student doesn't want any more of the past. He wants the future. But it is extraordinarily difficult for the university to be futural, to remake the age according to a vision of spontaneity, love and an immediate end to all injustices. The university's ideals of scholarship link it to the past, and its finances have tied it to government, industry and the established order. Students—black and white—are trying to break these ties.

Writing about the harder policies and the more liberal policies of university authorities, US News and World Report in its issue of September 1, 1969 reported:

(a) Amnesty, often granted to student troublemakers last year, is to be a thing

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of the past at many colleges. Instead of being forgiven for misconduct, more students are to be suspended or expelled. Campus radicals have been served notice that universities will not negotiate under threats of force this year. Rules of discipline have been tightened everywhere. Civil authorities have been asked to increase the penalties for trespass. Some colleges indicate they will not wait so long this year to call on off-campus police for help. But others say calling in police will still be "the last resort." Campus security forces are being augmented at many schools, etc. . . . .

(b) A study by the American Council on Education indicates that more than half of the American colleges and universities have adopted more-liberal policies on student power, minority-group programs, war-related activities and other thorny issues.

The same magazine also reported as follows:

The Harvard University Faculty of Arts and Sciences adopted a resolution on June 9 of this year which is designed to allow student dissent without permitting violence. The Faculty states that "all individuals or groups within the university community have the right to express, advocate and publicize their opinion. They also have the right to press by appropriate means for action on any matter on which they believe the university can and should act, and they have the right to be given a full and fair hearing and prompt response." (US News and World Report, June 23, 1969)

2. Australia: The Australian Government is studying improvements of the student participation system. The Australian Parliamentary Group sent in the following newspaper reports as reference.

(1) Reaction of the Government (from the Canberra Times, May 23, 1969) The Federal Government has reaffirmed the autonomy of Australian universities, but has qualified this by adding that universities today had a greater responsibility to "account to the community."

Official government policy on universities—given in the context of present-day university financial indebtedness and student pressure—was outlined by the Federal Minister for Education and Science, Mr. Fraser, in Canberra yesterday.

Government policy was clarified in the Minister's paper entitled "Governments, Universities and the Community" delivered to the Australian National University's conference on the "Role and Responsibilities of Government Bodies", which was attended by members of Universities governing bodies.

Mr. Fraser advocated greater student participation in the governing of universities, but stressed that they should not be given a controlling place in university management.

Mr. Fraser said: "I want to emphasize that the Commonwealth Government has neither the intention nor the wish to dictate to the universities.

Nevertheless, however determined the Government may be to preserve the autonomy of the universities, it cannot shed its own accountability to the people of Australia, for, among other things, the use to which all public funds are put.

If autonomy is to be maintained in our universities, they need to accept the responsibility of regarding themselves as accountable.

In the knowledge that universities for the most part know what they are about, governments aim to provide them with the means to achieve their objects, to play their proper role within the limit required by balanced development . . ."

But he added "That form of autonomy carries with it the responsibility for maintaining discipline within the university, for if authority outside the university has to intervene, then one important exercise of autonomy is threatened."

(2) Reform in the Australian National University (from The Australian, July 23, 1969: If the Federal Government approves, students will soon have a bigger role in the running of the Australian National University. Plans announced by the vice-chancellor, Sir John Crawford, will put the ANU's power structure ahead of all other Australian universities in student participation.

The modern university no longer functions primarily as a training ground for those destined to rule society. A graduate's degree today does not take him automatically in to the ranks of the top elite; rather, it stamps him as a highly skilled worker with a certain specialized knowledge.

One important contradiction in this process is that degree courses are featured by intense specialization, while the types of skill required by technological society are more and more inter-disciplinary. The need for a humanized education is becoming increasingly obvious.

The need for university autonomy, with staff-student governing bodies, increases as the conflict sharpens between the needs of a human education and the narrow grasp of the present conservative controllers.

The key words to look for here are "the improvement of communications," "consultations," "participation." These offers must be seen for what they are: attempts to sidetrack and "buy-off" the movement for economic reform, autonomy and self-management.

A move towards university self-management cannot be properly conceived as an isolated change in the functioning of capitalist society. This would result in the creation of a new kind of privileged-enclave position for academics, while the rest of the population remained "at their posts," unable to exercise control over their work place. Self-management of universities goes hand in hand with a general movement to extend the principle of self-management throughout society.

Financial affairs do not need to be handed over to "children just out of school." This argument is a red herring. The new academic senate of staff and students can employ its own economic, statistical and accounting experts.

Alternative courses and/or (friendly) "counter-lectures" could be run by students and staff, open to all interested members of university.

3. Denmark:

(1) Reaction of the Government: New charters have been drafted for all institutes of advanced education. An Executive Order covering six of these institutes was promulgated by the Ministry of Education on August 25, 1969, and will probably be followed by similar Orders for the other institutes in the very near future. All the charters proposed have undoubtedly been influenced by student claims for participation in decision-making processes: Provision is made for representation of students and non-professional teaching staff on all academic bodies, but the proportion of this representation varies from one body to the other and from one institute to the other. Apart from study (planning) committees, the claim for 50 per cent representation has not been met in the proposed charters.

All the proposed charters give formal recognition to the study (planning) committees which have existed for some time; they are to be composed of equal numbers of teachers and students, but their competence varies: in some cases they are to have decision-making powers but some of their decisions may be referred to a higher-ranking body; in other cases they will derive their powers by way of delegation from faculty councils or the senate.

In addition, more attention is now devoted to the need for modernization of teaching methods. This move is inspired partly by the need to cope with modern exigencies and probably also in part by student unrest.

One matter, which may appear to be of minor importance but which students have regarded as significant, is the form of and the traditions followed in celebrations of annual commemoration days at universities. Students are now being allowed more opportunities to make their views heard on such occasions.

(2) Study Committees in the University of Copenhagen: Under the faculties a number of so-called *studienaevn*, Study Committees, are already functioning without having received formal recognition. These Study Committees are composed of 50% professors and other staff and 50% students, elected by the faculties and the Students' Council respectively. The main function of this as yet not formalized authority is to discuss all important questions relating to the instruction (syllabus, curricula, examinations, possibly the appointment of junior staff). In some faculties these bodies have functioned informally for some years, in others they are being set up as a tentative measure.

A re-ordering of any administrative body should, however, always be closely related to and if possible concurrent with fluctuating requirements. A new charter has been prepared and has been forwarded to the Ministry of Education and subsequently to Parliament. One of the proposals contained therein is that all important problems concerning the actual instruction should be dealt with in study committees with a 50–50 representation of university teachers (professor and non-professorial teachers) and students, and that the students should be given a one-third representation in all other authoritative bodies in the University.

4. Finland: In July 1968 the Cabinet appointed a committee to prepare propositions for the development of the universities' internal administration. The report of this committee was published in June 1969.

The committee proposed that in a university the supreme power of decision should be vested in a Council with 30–60 members. The members of the Council would be elected so that every member of the university community—professors, teachers, other staff as well as students—would have one vote. Anyone who is entitled to vote could run for membership in the council and be elected too.

In its report the committee has proposed that the Parliament pass an act concerning the development of the internal administration of universities. This act was being prepared and it was likely to have been given as a government bill to the Parliament during the fall session of 1969.

In this act the central university administration—Council and Board—and their tasks are defined. As to lower administration, exact provisions cannot be given since the act will cover universities of different kinds.

In its report the state committee suggests that a committee should be appointed in every university to prepare a detailed proposition for the reform of the university concerned. It has been proposed that such committees would be formed by three students, one professor, one assistant professor and one assistant. In addition there would be a chairman who has to be approved by both university and the student union.

5. Federal Republic of Germany:

(1) Measures against Student Disturbances: The government and leading politicians in the Federal Republic are of the opinion that the existing provisions of criminal law are sufficient to guarantee order at the universities. They urgently demanded a rapid and strict application of the relevant laws to prevent breaches of domestic peace, wilful destructions, bodily injuries, breach of public peace, and rioting.

Moreover, especially in the big cities as the centers of conflicts with students, the police force has adopted new and more flexible tactics, which are mainly intended to prevent acts of violence between students and the police. During most of the recent conflicts these tactics were fully successful. The refusal of permission for demonstrations and the stricter application of the regulations for public meetings provide for additional restrictive means. Because of the federalist structure of the Federal Republic it has so far not been possible to set up uniform rules of order at the different universities, but rectors and deans have more widely made use of their domestic authority and of their respective rights to maintain discipline and order, rights which, however, vary from one university to the other. The most rigorous measures admitted according to the valid laws to maintain order and discipline at the universities are: exclusion from the university for a limited time; exclusion from the respective university; and finally, exclusion from all universities of the Federal "Land" in question.

(2) Reform of Higher Educational System and Problems to Be Considered in Future Disturbances: Apart from the measures mentioned in the previous paragraph, governments and political parties are determined to promote all university and educational reforms in a vigorous way. While so far only the different Lander were competent in matters of legislation concerning the universities, today the Federal government has been accorded general competence regarding the universities, as a result of the repeated cases of unrest during the past years. This general competence should facilitate extensive measures aiming at reforms.

At present it would hardly be possible to evaluate the development of radical tendencies in a fairly accurate way. We will try, however, to outline some of the essential factors:

It will be of decisive importance that the educational and university reforms can be carried out rapidly and, as to their practical aspects, can be set up in a way to meet the demands of the masses of students at the universities and improve working conditions. Efforts must be made to integrate the students in our society and in professional life.

One condition for the realization of the reforms consists in securing a "space exempt from violence" at the universities. The resolute but well controlled engagement of the police during actions of violence has already shown its subduing effect on the aggressiveness of radical groups. It seems as if the closing down of departments and institutes, by which students who were not involved, were likewise affected, have already led to certain counter actions. The wave of wide solidarity noticed in the beginning, now seems to be on the decline. The energetic actions by university and judicial authorities also contributed to this development.

To an ever increasing extent, a wide-ranging literature has been dealing with the radical SDS ideology from a critical point of view; these publications aiming at objectivity and doing away with certain mythos, have more and more found access to student circles, so that today broad layers of student society are becoming increasingly aware of the utopian character of those radical aims.

Moderate student groups are beginning to take a much firmer stand against radical groups, and to organize themselves in the elections for student self-government.

However, it should not be ignored that the radical ideology contains a certain amount of thoughts and conceptions which find some echo in the general social conception of our time, especially among the younger generation. The attitude towards "authority", the improvement of democratic co-operation, the transparency and the possible control of democratic methods of influencing public opinion or reaching decisions, the necessity of adapting oneself in the feeling of "manipulation" and of a repressing of the elementary human desire for freedom caused by the "efficiency principle", all these are problems that enter increasingly into the social perceptions and meet with more and more attention in scientific and political circles. It has to be expected that these viewpoints will increasingly find response, the more in modern society man will feel oppressed by technical and labor dividing mechanisms in his professional life. The progressing emancipation of man in the pluralist social and political system will arouse a steadily growing desire for freedom and co-determination. In the long run it will therefore be of vital importance to know how these social impulses can be grasped and be converted into reform plans in good time.

6. Great Britain:

(1) Joint Statement from The Committee of Vice-Chancellors and Principals and The National Union of Students: Given below is an extract from the joint statement made by the National Union of Students and the university authorities on the points on which they reached agreement following the 10-point demand made by the National Union of Students (c.f. Part 1, 7 of this report). In addition to the three sections quoted below, the joint statement contained sections B on course contents and teaching methods, C on the examinations, F on carriers advice, and G on freedom of speech.

(a) *Student Participation in University Decision-making*: It was generally accepted that the problem of how students can make their views effectively felt within the decision-making processes in an individual university is not a simple one. Constitutionally, the power to make decisions in a university is widely dispersed. Most of the charters and statutes under which the universities operate, though differing from one another a good deal in detail, are in part guarantees of intellectual freedom and independence, and in part careful allocations of responsibility among the various elements of the university. The resulting structure may be complex, and students recognize that in view of the fact that the period during which they can play an effective role in university government is limited, it is important that they should inform themselves fully and at an early stage of the directions and manner in which their influence can be most effectively applied.

The National Union of Students seeks effective student presence on all relevant committees. Our discussions identified three broad areas of operation of such committees: (a) the whole field of student welfare—for example health services—catering facilities and the provision of accommodation—where there should in our view be varying degrees of participation of students in the decision-making process. Apart from this, there is the area which covers for example the operation of student unions and the management of a wide range of extra-curricular activities, in which most university student organizations rightly have long had complete responsibility, (b) that relating for example to curriculum and courses, teaching methods, major organizational matters, and issues concerning the planning and development of the university—where the ultimate decision must be that of the statutorily responsible body. In this area, we would regard it as essential that student's views should be properly taken into account, and (c) that involving for example decisions on appointments, promotions and other matters affecting the personal position members of staff, the admissions of individuals and their academic assesements—where student presence would be inappropriate. Students should, however, have opportunities to discuss the general principles involved in such decisions and have their view properly considered.

We have no doubt that the machinery of student participation can and should be extended and improved. The means of doing this are likely to vary from one university to another. In those few cases where there is student membership of Council or even in effect of Senate, these will be watched with interest. The National Union of Students itself, seeks student representation on these bodies. Frequently there is student membership of committees of Council and of Senate, and in the view of both parties there is scope for these practices to be extended. Not as an alternative but to supplement this we would welcome the development of joint staff/student committees in new and more effective forms, with substantial student membership and with a status equivalent to that of other committees of Senate and Council. These joint committees may operate not only at university level, but also, where appropriate, at faculty and to work well, the rules under which they operate must be the same as those which apply to any other university committee. All members must be on terms of equality, serving as representatives and not as delegates specifically mandated by the body which nominated them. They should be free to exercise their individual judgements in the light of committee discussion and be identified with its corporate decisions. If a recommendation of such a committee is not accepted, or is referred back by the parent body, the committee must be satisfied that its arguments were properly presented to that body and be informed of the reasons for their rejection.

All such measures of student participation depend for their effectiveness on the willingness of students to take part on these lines. When all facets of university life are taken into account, the numbers of students called upon to participate become quite large. They should, we believe, be student representatives in the real sense, understanding student needs and in sympathy with the aspirations of their fellow students. If the student organizations continue to be able to find representatives from a wide range of interest groups (e.g. departments, societies, etc.) and in the necessary numbers, we have no doubt their influence in the universities will continue to increase. We hope that our discussions may prove to be a landmark on that road.

(d) *Discipline:* One question which has inevitably arisen in our discussions, has been that of the operation of university disciplinary procedures in respect of the action of any student which has already been the subject of legal proceedings in the courts. The National Union of Students recognizes the considerable difficulty of setting down the circumstances in which it would be appropriate for a university to take cognizance of such proceedings, and accepted that certain offences, although already punished in law, were such that it would be inappropriate for the student concerned to continue as a member of a university community. We agreed however that the area within which such issues arise should be the subject of discussion between university authorities and student bodies.

What is needed, we believe, is a general understanding between individual universities and their students of the limits of the various possible disciplinary procedures, and an examination by universities of the areas within which it would be appropriate for disciplinary responsibility to be delegated to the student body. We hope that universities will be willing, in close consultation with their students, to review their existing arrangements in the light of these observations, and taking note for example of the National Union of Students publication "A Code of Discipline".

(e) *The Age of Majority:* The Vice-Chancellors' Committee joins with the National

Union of Students in welcoming the Government's decision to accept the recommendation of the Latey Committee that the legal age of majority be lowered to 18.

It is recognized that this change alters in certain respects the responsibilities which the universities have so far carried in relation to the welfare of students, and in particular their responsibilities towards parents. It is therefore appropriate that universities should review, in consultation with their student bodies, the regulations which have been made to enable them to discharge these responsibilities. In general, the criterion on which regulations should be based is the need to maintain the university as an ordered working community.

(2) Suspension Awards to Students at Universities under Dispute: If a university could not function effectively as a result of student disturbances, the question of the continued payment of Exchequer grant would arise. All that can be said on this is that it would be a matter for consideration, in consultation with the UGC (University Grants Committee) in the light of circumstances at the time.

Conditions governing the tenure of awards are laid down in statutory regulations (the University and Other Awards Regulations). The relevant regulations are:

22(2). An authority shall not make payments under an award in respect of any period during which the holder is either absent from a course without the permission of the academic authorities, or is not permitted by the authorities to attend the course.

(3) If, after consultation with the academic authorities, an authority is satisfied that the holder of an award has shown himself by his conduct to be unfitted to hold it, it may terminate the award, or suspend it.

If the university academic authorities were to suspend a student for misbehavior, suspension of his award by the local education authority would automatically follow. Similarly, the award could be terminated after consultation with the academic authorities. The university authorities and the local education authority must keep closely in touch on any case that arises. So far as LEAs are concerned, they are free in law within the limits of the regulations to decide their own policy towards militant students. In all cases of misconduct consultation with the academic authorities must precede termination of the award.

(3) Progress in Student Participation (University and Progress in this field):

York: A staff-student working party report recommended the setting up of a committee with 50 per cent student membership; the students to be involved in Boards of Studies and other university bodies.

East Anglia: A student welfare committee has been formed with strong student representation.

Bradford: The Senate is to sit as a general purposes committee—with 9 student representatives—handling about 95 per cent of Senate business; the rest (examination results, staffing matters) are to be reserved for the Senate proper.

Sheffield: A working party is to be set up with a student majority to examine the University's lodgings regulations.

New University of Exeter: The draft Charter and Statutes provide for student representation on the University Court and ex-officio membership of the Council by the President of the Students Council.

Birmingham: The University agreed on student representation on the University Council and 5 Council committees as well as representations to the Senate on special subjects and representation on 8 Senate committees. The students, however, would have no voting powers on the Council.

Warwick: Students have won 2 places on the University Council.

Southampton: Students have won 2 places on the University Council, the Statutes are to be amended to make them full members. Four students invited to join certain Senate meetings.

(NOTE—None of the above have yet reached Charter/Statute amendment stage.)

7. Italy: On April 17, 1969, the University Bill was submitted to the Italian Parliament. The bill provides for student participation under Article 7 (Organization of the Department), Article 15 (Deliberative Organization of the University), Article 30 (Organization of Students), and Article 32 (Composition of the National Council of Universities). The pertinent articles were as follows:

Art. 7. (Organization of the Department):

The direction of the Department is given to the Council of Department. The Council of Department is composed of—

(a) professors of the Department

(b) a representation of students registered to courses of doctorate of researches, equal to one-fifth of the number of professors,

(c) a representation of other students registered to courses of education who advanced in the Department, equal to one-fifth of the number of professors, and

(d) a representation of licensed technicians equal to one-tenth of the number of professors.

Art. 15. (Deliberative organization of the University):

The function of the propulsion and coordination of each University belongs to the Council of University.

The Council of University is constituted of representation of lecturers, students, technical and administrative persons of the University, this is distributed:

30 per cent, ordinary professors;

30 percent, extraordinary professors;

10 per cent, students registered to the doctorate of researches;

25 per cent, students registered to the courses of the degree of bachelor;

5 per cent, technical and administrative persons.

The representation elected from the students registered to courses of bachelor can be constituted with deliberation adopted by the absolute majority of its components in students Section, to:

(a) propose the rules of students;

(b) formulate wishes and elaborate, and submit propositions to the Council of University in the matter of competence of the latter.

In such a case, remains unchanged the participation of the representation of the students in the Council of University for the election of the dean and the approval of the budget and the account.

Art. 30. (Organization of students):

Students examined themselves the right to gather in assembly and to organize not only the free activities of study, but also, cultural, sporting and recreative activities, in the framework of the stable procedure of the Deliberative Organization of the University.

The exercise of such right yields to the rules of students.

In the rules of students shall be provided the revocation of the representations of student in deliberative organizations of the University apart from the body qualified for the elections, on demand of at least one-third of the qualified to vote.

Art. 32. (Composition of the National Council of Universities):

The National Council of Universities is composed of:

(a) twenty-five ordinary professors;

(b) twenty-five extraordinary professors;

(c) ten registered to the doctorate of researches;

(d) thirty students in courses;

(e) President of the National Council of Researches;

(f) President of the National Academy of Lincei;

(g) Secretary General of the program of the Ministry of Budget and Economic Planning;

(h) General Director of the University instruction of the Ministry of the Republic Instruction.

8. Japan:

(1) Measure To Bring Campus Disputes Under Control: Japan was one of the countries where campus disputes took the most violent form. At the beginning of 1969, the situation developed into one of the greatest concern as the number of universities involved in disorders increased rapidly and the violence of the protest activities of the various Zengakuren factions increased in intensity. The government submitted to Parliament the University Management Emergency Measures Bill as a means to control the situation. The bill aimed to provide government aid to universities making autonomous efforts to control the disputes and to restore normal educational and research activities in the schools. The bill was passed and became law in August, 1969. Immediately before and after the law went into effect, student disorders reached their peak but quickly started to die down. As of December 1969, the number of schools with unsettled disputes had dwindled to one-third of the peak.

The situation as it stands now is being evaluated differently by different people. Some place great value on the law, saying that it had great effect in controlling the campus disputes. Others say that the present relative peace on the student front is merely the result of forcible police action and the attitude of those concerned to achieve a state of truce for the time being. These people say that the problem has been only temporarily averted and not solved basically. Whichever may be the case, the situation is now such that the spring university entrance examinations (the school year in Japan normally begins in April) could be conducted normally at practically all the schools.

(2) Reform of the Higher Education System: Efforts among the government, political parties and universities to reform the country's higher educational system are gaining momentum.

The most important and indispensable factor in achieving reform of the higher education system is mutual understanding and co-operation between the government and the universities, between society, including the business and labor communities, and the universities, and between the professors and students in the universities themselves. But this mutual understanding and co-operation is not being promoted. Moreover, within the universities mutual distrust and feeling of inadequacy pervades among the various strata of university personnel. As a consequence, some quarters fear that university reform will not make much progress.

This pessimistic viewpoint deepens apprehension with respect to two points. The first is that the efforts to reform the various systems in the universities which are based on authoritarianism are not achieving the desired results at the present stage. Authoritarian systems in the universities included the inflexible lecture system which was tied to the status of professors, the unsuited treatment of able young researchers, and the bureaucratic management system. The campus disputes served to bring these authoritarian practices to public attention. The second point is that the universities are falling behind in tackling many important tasks with which they are confronted. These include the establishment of an inter-disciplinary research set-up which is being demanded by society, dealing with the dualism of the universities seen in such issues as general education versus specialized education and basic research versus applied research, and formulating a system for the production and distribution of knowledge and information to keep up with the increasingly important role played by information in society. Before these tasks can be tackled, it would be necessary first of all to carry out drastic reforms.

Because of these circumstances, the desire is mounting in all circles for the university authorities to set the stage themselves to conduct a vigorous reform. At the same time, all the political parties, which are vitally interested in educational reform, and all sorts of educational organizations are making efforts from their own standpoints to map out concrete plans for immediately necessary measures based on their respective forecasts of future social and economic changes and on what they consider to be the desirable direction which university reform should take from a long-range viewpoint.

For instance, the ruling Liberal Democratic Party is advocating the improvement of the treatment of teachers with the aim of achieving a qualitative improvement of the entire educational structure, the establishment of universities of a new concept which could respond to the demands of present-day and future society, and the establishment of educational broadcasting organs by making use of the highly developed information transmission technology. The opposition Japan Socialist Party is advocating the adoption of a university committee system for the purpose of drastically improving the university management structure and the establishment of a life-time education system which is expected to become a world-wide phenomena in the 1970s. The Komeito Party is advocating the establishment of a Campus Democratic Consultative Council in order to build up a relationship of mutual trust between students and school authorities. The Democratic Socialist Party is advocating the establishment of a University Basic Law. The Communist Party is advocating the establishment of an All Universities Consultative Council to promote the democratization of university management.

9. Rumania: The importance of higher education has begun to be particularly stressed in Rumania as a result of recent social changes. At the same time, the relationship between students and universities, between universities and society, and between society and students is being reviewed from a fresh angle.

A new Education Law was established to improve the contents, program and teaching methods of higher education.

The new law sets the framework for the modernization of education. It gives priority to the duty of training in schools. It places importance on scientific training which promotes the development of creativity of students.

With respect to the question of student participation, students in Rumania have representatives on department consutlative committees and on university directors committees.

In the cultural field peculiar to students, wide-ranging activities are organized through student unions.

10. Republic of Korea:

(1) Government Measures:

(a) Establishment of student quota is intended to secure one faculty member per an average of 20 students.

(b) Registration of all bachelor's and master's degree holders is being enforced to enhance the authority of the university and also to obtain exact figures on potential manpower resources of high caliber needed for economic development; all degree holders and nondegree graduates are required to register with the Ministry of Education.

(c) Preliminary test for university admission was introduced in 1969 as a qualifying test for all perspective university applicants. It was designed to upgrade to quality of students and to normalize high school education.

(d) Declaration of the Education Charter:

The second World War and the Korean war caused social dislocation, and the surging wave of westernization brought about a basic change in the value system. In order to help preserve good old tradition and reorient the deteriorating national attitude in the right direction, the Education Charter was adopted and promulgated December 5, 1968.

Qualitative betterment of the faculty

(f) Loan scholarship programs

(g) Promotion of vocational education

(2) University student guidance organizations:

(a) The national workshop for university students guidance advisors is devoted to exploring new ways and better directions for improving student life.

(b) Student counselling services (at 68 universities and colleges excluding junior colleges) and the office of academic administration are engaged in: psychological tests, aid in part-time job placement, advice on intramural group activity, freshmen orientation, counselling on individual adaptation, instruction and guidance in curricular activity, employment of graduates and student housing.

11. Yugoslavia:

(1) Reaction of University Authorities: It should be noted that the student action obtained the support of the teaching and other university staff. The University Council in Belgrade, supported the students' action already at the very beginning. The rector of the Belgrade University and, in his absence, the pro-rectors, publicly supported students.

In the period before the June 1968 events, the university authorities held the position that a more rapid development of self-management at the universities and schools of higher education was necessary, as well as the reform of the teaching and improvement of the material position of the students.

(2) Government Reaction: The Government of the Republic of Serbia, and the governments of the other republics, devoted more attention in the preceding year to the problems of universities, with special emphasis on the standard of living of students and their material position in general. The efforts of the Government in this respect were oriented to a long-term period which was regarded among students and at universities as much too slow.

Taken on the whole, the republic Government and other responsible factors devoted serious attention to both concrete and broader problems of the university and, in this context, to the specific questions of the standard of students and their material position. For various reasons, however, all this was not implemented with necessary dynamics and, on the eve of the outbreak of the demonstrations, there was obvious discrepancy between what the Government factors actually did and could have done, on the one hand, and the needs and demands of the students and university, on the other. This was one of the main immediate causes for such a strong form of student actions.

As regards the Government and political factors of the Socialist Republic of Servia, the outbreak of the June 1968 events did not motivate them to take an antagonistic attitude vis-a-vis the students action and their demands. However, the responsible factors insisted on the attitude that the method used by the students was unacceptable in a democratic society based on the principles of self-management. The Government of Serbia remained firm in this respect. The students, by withdrawing from the streets and maintaining order in the occupied buildings, contributed to the creation of an atmosphere propitious for starting discussions, and, later on, for the normalization of the situation.

In this context, the republic Government of the SR of Serbia went quite a distance to meet student demands. Thus, a joint commission was set up, composed of representatives of students and the Government, headed by the Prime Minister of Serbia, with the task of establishing the responsibility for the clash between students and organs of public order which took place on 2 and 3 June 1968.

The Federal Assembly did not consider the students' actions directly. However, the political atmosphere which was created as a consequence, acted as a stimulous accelerating the pace of the enactment of certain regulations which had been under consideration for some time already. The same applies to the republic Assembly of the SR of Serbia, with the difference, however, that the republic Government was in a position to deal with the situation more intensively.

In the last eighteen months much has been done in the field of students' standards: new student dormitories have been built; the number of scholarships substantially increased; the same applies to the funds out of which loans are extended to students, etc.

INTERNATIONAL COOPERATION ON THE PROBLEMS OF STUDENTS AND REFORM OF HIGHER EDUCATION SYSTEM

PART 5

1. International Cooperation among Universities: The problems of students and reform of higher education system have individual characters in each country or university, but, at the same time, have a universal nature in many aspects. From this point of view, the necessity of international cooperation among universities has been stressed for a long time. The higher education law which recently came into effect in France also recommends the international cooperation among universities. And Minister of National Education Edgar Faure stressed, in the explanation of the law, the hope that intelligent products should circulate freely in Europe.

There are several organizations for the international cooperation among universities, for example, the International Association of Universities and such regional organizations of universities as Council of South East Asia Universities, Union of Latin America Universities, New Council of African Universities, Council on Higher Education in the American Republics, etc., and they have already produced results in their activities. In this connection, the research report made by Sir H. Heatherington at 1965 Tokyo Conference of the International Association of Universities on the international comparative study of the legal composition of universities and the report on "The University in the Modern World" submitted by Lord Robbins before the 1964 Conference of European Rectors and Vice-Chancellors are the valuable results of cooperative activities among the universities. Especially, in the latter, are properly pointed out the present-day problems such as relationship between university and society, integration of education and research, diversification of contents of education, cultivation of critical spirit and cultural universality.

2. Regional Cooperation:

(1) Council of Europe: The regional cooperation has always been undertaken actively on the initiative of UNESCO, and its importance can not be over emphasized. In this field, the Council of Europe has been bearing a lot of fruits. For instance, at the meeting of the Study Committee of University System of the Council of Europe in 1965, a German delegate made a report which included many suggestions such as promotion of inter-disciplinary studies, keeping of an over-all balance in arrangement of courses in special fields, organization of teams of researchers, creation of newly-conceived campus universities. And, the recent activities of the Council are referred to also in

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the following document, provided by the Danish Inter-Parliamentary Group, which concerns the cooperation among the Nordic Countries.

(2) Nordic Cultural Commission: In pursuance of a decision taken by the Nordic ministers of education and cultural affairs at a meeting held on July 12, 1968, the Nordic Cultural Commission has taken up for consideration the question of co-operation of students, teachers and other staff of universities and other institutes of advanced education in the Nordic countries. The first result of the Nordic Cultural Commission's considerations is a report "University Democracy in the Nordic Countries", dated May 1969, which was transmitted to the ministers by letter of June 6, 1969. The ministers have asked the Commission to continue its work and to extend its scope to cover youth democracy in the whole sector of education.

For its discussions of this matter, the Nordic Cultural Commission used a background document on a study sponsored by the Council of Europe's Committee for Higher Education and Research, entitled "Secretariat Note on the Present Crisis in Higher Education with Particular Regard to Student Unrest" (Strasbourg, July 12, 1968).

3. UNESCO's Activities: Since 1967, as the depth and extent of student unrest have become more apparent in a world wide scale, Unesco has payed increased attention to higher education and has taken various actions to cope with the grave situations. The serious attitude of Unesco towards the problem can well be evinced from the following:

(1) In October 1967, at the conference organized by Cornell University on the subject of "the World Crisis in Education", Mr. René Maheu, Director General of Unesco, expressed his grave concern for higher education in his address, saying that:

"The crisis in education is in fact a reflection of the world crisis as we see it affecting the actual contexts in which the human personality must be considered: the individual, the family, the class or profession, the nation." (Unesco Chronicle XIII No. 11)

The Conference of Ministers of Education of European Member States of UNESCO which was held in November 1967 in Vienna, adopted a recommendation requesting the Unesco to take a variety of concrete actions in the domain of higher education, especially placing emphasis on the improvement in the comparability of international data through the standardizations of statistics, terminology and definitions in the field of education. (Unesco Chronicle XIV No. 1)

(2) In 1968: In the education sector of Unesco's Programme and Budget for 1969–1970, the Organization placed particular emphasis on higher education as well as out-of-school education for youth, lifelong education for adults and other subjects.

At its fifteenth session which was held in Oct.-Nov. 1968, the Conference of Unesco adopted the "Report on Youth" submitted on the item 21.3 of the the Provisional Agenda. The report takes up the following problems in the Part One, "Youth in Contemporary Society,":

(a) Youth phenomena.

(b) Aims and claims.

(c) How are the present-day phenomena to be interpreted?

(d) The practical approach to youth problems and in the item "C", it comments as follows:

The forms and the scope of the youth movement have taken many adults by surprise. Looking back, we blame ourselves for not having paid enough attention to the young and their demands; we give serious consideration to the causes of their dissatisfaction and attempt an honest answer to their indictment. We then perceive that the young of our day are playing their part in identifying new social and moral values; that they are right to lay bare the blemishes, evils and basenesses of a civilization they refuse to accept as it stands; that they are contributing new and in many respects healthy types of behaviour; that they are helping to reformulate the rejection of obsolete social and political structures; and, in particular, that we need to associate them with us in rethinking and reforming our educational systems.

The "serious" explanations, while agreed in diagnosing a crisis in or of society, differ widely as to the nature of the causes: the crisis of youth integration in the context of modern societies; the urgency of particular changes in the different types of societies; the need to break with conservatism in a given situation; the "consumer society's" approach to crisis point; crisis of established ways of life and values, crisis of civilization.

In all these interpretations, it is implicitly assumed that youth is especially sensitive to the ills of society. And this notion of clear-eyed youth in a blind and aged world is crucial to the most dramatic hypothesis: that for the world as we know it the present phase is the prelude either to inescapable decay and death or to a rebirth.

As regards the question whether the youth crisis is national or international in its dimensions, interpretations vary between the following two basic theses:

The first is that, because of the essentially national character of the youth phenomenon, the problems differ so much from country to country that no similarity, analogy or correlation exists between them; the second thesis is that, on the contrary, the phenomenon is a general one, whose universality is chaos and menace, dimly felt by young people everywhere, and secondly on a youth culture, which is international in fact, and thus facilitates mutual influence and contagion among the various youth movements.

(3) Unesco and Its Programme for International Education year (1970): The 23rd session of the United Nations General Assembly has unanimously decided to designate 1970 as International Education Year. In a message issued on this occasion, the Director-General of Unesco declared: (Unesco Chronicle XV No. 1)

"International Education Year must be more than a mere celebration. . . . Unesco will do all within its power, in collaboration with other organizations of the United Nations system and interested international bodies and associations, to make the International Education Year a solemn occasion for the governments and peoples of the world to rededicate themselves to the cause of constructing in the minds of men the defenses of peace and social progress."

Mr. Malcolm S. Adiseshiah, Deputy Director-General of Unesco, gave his views in the beginning of 1969 on the lifelong education and higher education as follows: (Unesco Chronicle XV No. 2)

Thus, the concept of lifelong education breaks through the established compartmentalization of the educational system. There can no longer be antimony between science and arts, the humanities and technology, general and vocational learning, utilitarian and non-utilitarian education, primary versus secondary, school versus adult literacy.

The implications for higher education as the domain no longer of an elite but of the masses are even more drastic and far reaching.

The development of such a programme requires long and sustained interdisciplinary research and the collaboration of pedagogues, economists, sociologists, psychologists, philosophers, administrators, scientists, engineers, architects, communication and management specialists.

Director General René Maheu's following statement, which explained more generally the Unesco's positive and manifold approaches to the problems of education, seems to be very suggestive: (Unesco Chronicle XV No. 5)

I spoke of a crisis in education, using an expression that is commonly heard today, but I ought rather to have said a crisis of civilization. We may deplore the fact that, in many countries, adults, and especially the leaders, have been unprepared for the speed with which situations have changed, and that it has taken the most spectacular yet least constructive demonstrations of the opposition of the young to bring home to them the historical dimension of the phenomenon. This is in fact of little importance. What does matter is that the community of mankind should now realize that it is involved in a process of demographic, technological intellectual and moral change of unprecedented magnitude, at the heart of which lies the problem of the radical reform of education. . . . It is evident that the crisis is likely to last for years, if not generations, and that those responsible for education and those engaged in it have an enormous collective task before them. What is new about the situation is that, today, nearly everybody knows this.

This task offers Unesco great opportunities and, therefore, lays on it great responsibilities. Collection and distribution of objective documentary material, comparative analysis of data, comparison of interpretations and attempts to find a solution, experiments in spear head sectors of elucidatory research or practical application, critical reflection on aims and results—where the reform of education is concerned, these measures, essential to any accurate appreciation and any systematic action are required on a worldwide scale which necessarily implies recourse to an international organization like Unesco, that has consistently used such methods for many years past.

The crisis of youth brings out the urgency and the extent of the reappraisal that is needed with regard to the ends and means of education. . . . Rightly or wrongly, youth does not recognize its ideal of humanity in the facts and standards of the adult world.

That is what is so serious and calls for radical action.

It must be understood, however, that the crisis betokened by the protests of youth is not, as has too often been said—and as I myself wrote at the beginning of these developments—a crisis of youth but a moral crisis of society. The challenge to education is, naturally, central to this crisis, since it is in the educational context that the young discover society, its mechanisms and its ideals. Hence it would be a grave error to think that all we have to do is to improve understanding and co-operation between adults and the young, which is, when all is said and done, all that any policy or programme, national or international, for or with youth, can hope to achieve. Such an improvement is certainly necessary, even essential in present circumstances, as a means of promoting the work of educational and social reform which needs to be undertaken and which, if it is to be carried out in the best conditions, calls for combined efforts by the older and the younger generations; but, however useful and important this improvement may be, it is only a means, a preparation. What is essential is the reform of society's model of humanity, of which education is at once the expression and the most conscious, deliberate mode of elaboration.

International Education Year which the United Nations General Assembly, on the advice of the General Conference, decided would be solemnly celebrated in 1970, should be an opportunity for the world to merge comprehensively, both in general understanding and in a common purpose, all the various aspects of these necessary chances. The resolution adopted by the General Conference on this question has the merit of setting out the main lines and objectives of a

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concerted campaign in which the governments of Member States and their institutions and movements, whether public or private, and the governmental and non-governmental international organizations are invited to take part, and which involves not only ceremonies but organized, collective thinking and action. Unesco obviously has a great responsibility to discharge in this respect, having quite naturally been accepted by the United Nations system as the coordinating and organizing agent for the whole effort. It is in duty bound to ensure that everyone becomes aware of the full scope, the true significance which circumstances lend to this enterprise: the scope and significance of a worldwide appraisal of the model of humanity that informs today's education against the needs, aspirations and potentialities of tomorrow's man. If it can do this, whatever the result, Unesco will emerge with inspiration for many years to come.

There are two spheres in which it must be admitted that Unesco's programme and activities are still not commensurate with the importance of the problems. The first of these is higher education and the second is lifelong education. In respect of higher education much has been done, notably in the science sector, to develop and improve the training of teachers and research workers in their respective disciplines. An endeavor is also being made to help in the establishment and strengthening of university institutions in the developing countries. On the other hand, no systematic effort has yet been made to tackle, in general and in detail, the crisis of the university in the modern world, despite the fact that this is clearly obviously one of the most important questions of our time. This crisis is distinct from the revolt of student youth to which I alluded earlier, though in actual fact they do of course meet and became interwoven. The question is whether the needs of modern man are met by the institution set up in the Middle Ages and partially modernized at the end of the last century, an institution devoted to creating the universality of minds and of knowledge in a secluded place and an ideal atmosphere, withdrawn from society while at the same time preparing the future leaders of that society, a world of academic thought existing side by side with the world of action, a world in which intellectual freedom is all the greater in that its exercises have no direct influence on current events. Of what significance is the ideal of epistemological universality in an age of increasing specialization? Of what significance is academic freedom outside the current of history? What privileges do they deserve, these academics who apply themselves to training the leaders which society says it needs, but who refuse to inquire and decline all responsibility converning the value of that society? Lastly, can the university community be content with the traditional hierarchical organization? What teachers are these who are condemned by the ever faster obsolescence of knowledge to be perpetual students? Is not the university the abode of those who are learning rather than of those who "know"? It would be desirable for Unesco to take a more active part in this questioning which is in many ways vital for the future of education and of society itself. It is not enough to compile documents on the equivalance of university degrees and diplomas—a vain and never ending labour.

With regard to lifelong education, it is now a matter of common knowledge that this is the concept which explains the real meaning of modern education and which should inspire and sum up all efforts directed towards reform. Education is no longer confined to a particular age, that is, only a part of life; coexistent throughout its length, it represents an attitude and a dimension of life. It is an attitude enabling us to keep in touch with realities and not simply a preparation for work and responsibilities. This radical change in outlook ruthlessly reveals all the difficulties encountered, which spring up on every side, and at the same time provides the only path to their solution. But lifelong education must not remain a mere slogan, indeed, no reconversion requires so vast and complex a forward planning. For what is involved is no less than a merging of school and university education in a global system within which out-of-school education and the so-called adult education, now generally regarded as marginal, are destined to appear as the very core of the discipline of the mind.

In this connection Unesco has hitherto contended itself with a few meetings and a few publications which have kept alive interest in the subject without adding greatly to an understanding of it. In the period following International Education Year, which, we have reason to hope, will give an impetus to global thinking and the will to reform, this ought to be the main line along which should be planned, over the next decade, Unesco's activities in all matters pertaining to education.

FEDERAL FAMILY PLANNING PROGRAMS

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BUSH. Mr. Speaker, last December I sent a copy of the report of the House Republican Task Force on Earth Resources and Population entitled "Federal Government Family Planning Programs—Domestic and International" to the Honorable Ellsworth Bunker, U.S. Ambassador to the Republic of Vietnam. Ambassador Bunker is one of this country's most highly respected and well traveled diplomats, so his comments on it are most significant. I would like to share them with the Members of this body at this time:

SAIGON, REPUBLIC OF VIETNAM,
March 2, 1970.

Hon. GEORGE BUSH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BUSH: It was good of you to send me a copy of the House Republican Task Force's report and recommendations on Federal family planning programs. It is a most thoughtful document and I studied it with interest. During my service in both India and Viet Nam I have become personally familiar with the magnitude of the population problem. I have seen how soaring birth rates erode the gains modern technology and external assistance bring to developing societies. As your report makes clear, the population problem is now becoming as critical—if not yet as evident—even in highly developed areas like the United States.

You and your colleagues have my best wishes for success in your effort to alert the nation to the problem and gear our free society to cope with it successfully. I fervently hope that as your report implies family planning is now "an idea whose time has come."

With warm regards.
Sincerely,
ELLSWORTH BUNKER,
Ambassador.

PLIGHT OF THE CATHOLIC MINORITY IN NORTHERN IRELAND

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. O'NEILL of Massachusetts. Mr. Speaker, I commend my colleague, the gentleman from New York (Mr. LOWENSTEIN), for taking this time in order to bring the attention of the House to a very serious and tragic situation.

Since June 25 of last year, when I took time to discuss the situation in Northern Ireland, conditions there have not greatly improved. The Governments of Great Britain and Northern Ireland have taken some steps to diminish the repressive laws that have kept the Catholic minority oppressed for 50 years.

But many of these steps give only the appearance of change and do not have any effect in actuality. The Electoral Act is a case in point. What good will be accomplished by granting each man the right to vote when elections are not held and when districts are further gerrymandered? It is the appearance of good and the continuation of great evil.

If the Government of Northern Ireland was sincerely interested in according to all its citizens equal protection and equal rights under the law, its first act would be to repeal the Special Powers Act. This law, which allows the Parliament to suspend all civil liberties, including those most precious—freedom of speech, access to the courts, freedom of the press, and the right of privacy—is as powerful today as it was in 1920, when it was first enacted. With this law hanging over the heads of every dissenter, there can be no real freedom for anyone opposed to the present policy and present system of government.

Unfortunately, what I said on June 25 is still true; and that is intolerance and discrimination are encouraged by, and rooted in, the laws of Northern Ireland. Individual prejudice is tragic and destructive in itself, but when discrimination is founded in law, which is the case in Northern Ireland, intolerance is nourished and must spread. Only by assuring the same rights to all citizens can a government ever hope to be truly democratic, and only by ending government-sanctioned discrimination can a people hope to end private and personal intolerance.

My colleague is to be commended for drawing the attention of this body and the Nation to the situation in Northern Irelanl. Tomorrow is a holy and festive day for many of us, and it is a day perhaps when the whole world is Irish. It is a good time to think about the plight of the Catholic minority in Northern Ireland.

But it seems to me that the governments of both Britain and Northern Ireland are unwilling to think about the seriousness of this problem until there are riots and civil disorders. That is a foolish and unthinking attitude. Often by the time a people resorts to violence, it has exhausted all peaceful means or no

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longer trusts the avenues of peaceful change.

I sincerely hope that another St. Patrick's Day does not pass before all people in all of Ireland are assured their civil rights and that liberty and justice will be a reality in the Emerald Isle.

DISTRICT OF COLUMBIA CRIME

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. HOGAN. Mr. Speaker, during the past several months I have worked closely with the House District Committee on the District of Columbia Court Reform and Criminal Procedure Act of 1970, which the House will be considering this week.

My desire to see this sound legislation passed by the House without being weakened in any respect, stems in large part from the many letters I receive from those who have been the victims of robbery, rape, serious bodily injury, and other crimes in or near our Nation's Capital.

Now, on the eve of our consideration of this legislation, I have received another letter which I feel compelled to bring to your attention. Mrs. George Hanlin of Hillcrest Heights, Md., in the following letter, expresses feelings which I am sure are shared by all law-abiding citizens of the Washington metropolitan area:

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MARCH 12, 1970.

Hon. LARRY HOGAN,
House of Representatives,
Washington, D.C.

HONORABLE SIR: Though I have never felt that I would have occasion or the need to openly express my outrage, I now have personal reason to speak out against the laws that give the criminal such leniency that they are actually encouraged in their heinous crimes while the innocent sit meekly by with no rights and can only trust to the Almighty that they may be spared.

I have never felt that I could kill anything larger than a fly, but at this writing I am murderously upset over the existing trend. A criminal maims and kills and *their rights* are cited to them before arrest even if caught in the crime.

As I write this my elderly husband lies in the hospital beaten within an inch of his life; his head beaten and cut beyond imagination with bones fractured in his face requiring surgery, bones broken in his hand and wrist, and other and numerous bruises and cuts over his entire head. This all happened last Sunday evening within 100 feet of our residence in nearby Maryland. Thanks to God and wonderful doctors, he will live; but will he ever be the same? Robbery was the issue.

Though the culprit had escaped, the Prince Georges police and detectives were wonderful and on the job within minutes of the report and hopefully, the attacker will be apprehended. Now, should he be, will I have any rights? Would I be permitted to deal with him in my way or even have any say as to his punishment? Oh no, I must sit by and see him dealt with in a most lenient way and hear again what *his rights* are.

I think it is time the decent people of America; black, white, yellow, pink or green, band together and demand martial law that will do away with this wickedness and the removal of the law-makers who make laws for the protection of the criminal.

If this world becomes any more wicked, a greater force will surely take over and end it as it was once before, and we may soon witness the second coming of Christ. Perhaps this is our only hope—a new beginning.

Respectfully yours,
MRS. GEORGE HANLIN.

THE GATES COMMISSION REPORT ON ALL-VOLUNTEER ARMED FORCES—PART II, CHAPTERS 13, 14, AND 15

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, today I am inserting into the RECORD the final three chapters of the Gates Commission report. For the benefit of my colleagues who have not yet had a chance to read the entire report, I want to indicate where other chapters can be found. Chapter 1 appeared on February 24 on page 4611; chapter 2 on February 25 on page 4739; chapter 3 on February 26 on page 5130; chapter 4 on March 4 on page 5905; chapter 5 on March 5 on page 6263; chapter 6 on March 10 on page 6751; chapters 7 and 8 on March 11 on page 7065; chapters 9 and 10 on March 12 on page 7226; chapters 11 and 12 on March 16 on page 7553.

The final chapters are 13, which deals with conscription; 14, which goes into recent foreign experience in volunteerism; and 15, which is concerned with possible alternatives to an all-volunteer force. The texts of these final chapters follow:

PART II

CHAPTER 13—CONSCRIPTION IN AMERICA

Throughout our nation's history, state and federal governments have compelled service to meet emergencies. Nevertheless, a permanent and comprehensive peacetime draft, such as we have known since 1948, is a recent departure.

During the colonial period, hundreds of conscription laws dealt with specific requirements for service, provided exemptions and penalties, and laid down procedures. Induction into the local militia generally entailed the obligations that are imposed on a reservist today. A militiaman was required to attend drills and was available for call-up to repel Indian attacks or invaders. The maximum term of active service was usually three months, and in some instances the militia could not be used beyond the borders of its colony. Despite the existence of such draft laws, colonial militias were primarily made up of volunteers.

The colonies were opposed to the idea of a common defense establishment. Memories were still fresh of oppressive acts by standing armies under Cromwell, Charles II, and James II of England. The colonists' fear that a large standing army might result in loss of religious and political freedom denied General Washington access to a centralized and compulsory system of procuring men and supplies. Hence, the War of Independence was fought almost entirely by volunteers who were attracted by bounties either to the state militia or the Continental Army. To the limited extent that state militias resorted to the draft, its effect was mitigated by the exemptions available to men who were married, who paid a commutation fee, or who offered a substitute. The militia draft was more a means of taxation than of compulsory procurement of manpower.

Setting a pattern of rapid post-war demobilization which has recurred throughout our history until World War II, the Continental Congress reduced the standing army almost literally to a corporal's guard—some 80 men—soon after the War of Independence. Such weakness left the Confederation unable to suppress Shays' Rebellion and protect against the continued threat of foreign invasion and Indian attacks. To remedy the defects of the Confederation, the Constitutional Convention was called in 1787.

The new Constitution was ultimately a compromise between two fears: (1) that the federal government would remain too weak to maintain order or prevent invasion, and (2) that the federal government might misuse its newly granted power to curb the rights and relative independence of the former colonies. In the field of military affairs, the compromise took the form of balancing the independence of state militias against the need for both a standing army and some centralized control over the state militias. The Constitution gave the federal government the powers to tax, to raise and maintain an army and navy, and to declare war. The states retained the right to raise the militia, to appoint its officers, and to supervise its training in accordance with federal directives. The Constitution explicitly provided that the militia could be placed under federal control only to "execute the Laws of the Union, Suppress Insurrections and repel Invasions." And the Second Amendment identified the state militia as a bulwark of freedom.

In 1790 Congress rejected Secretary of War Knox's proposal for a combination of universal militia service and a federal draft. The question of conscription next arose during the War of 1812. After war was declared, President Madison and Congress approved creation of a 166,000-man army composed primarily of militiamen. However, three New England states were opposed to the war and refused to conscript militia forces. In addition, the regular army had difficulty recruiting. As a result, the armed forces never reached the desired size and sustained an almost unbroken series of defeats, culminating in the burning of the nation's capital in 1814.

To reverse this tide of events, the President requested that Congress conscript 40,000 men. The proposal was fiercely debated. Finally, both the Senate and the House passed bills that would have instituted a modified draft. Before the houses of Congress could resolve their differences, however, the war had ended.

The threat of conscription had created a real danger that New England would secede from the Union. Interestingly, the draft contemplated by both the Senate and the House was more a recruiting vehicle than a comprehensive system of conscription. Both the House and Senate bills divided the population either by state or nationwide into groups, each representing a cross-section of socioeconomic classes. Each group would be compelled either to provide money or "volunteers." The volunteer would be induced to serve by a bounty raised among that group, or, if necessary, would be selected from among its members. Thus both the House and the Senate bills explicitly recognized that everyone should be taxed according to his ability to pay in order to compensate the men who actually did serve.

Once again, the end of the War of 1812 saw a rapid decrease in the size of the standing army. After 1815, a small army was maintained until 1846 and the outbreak of the Mexican War. Although it lasted more than two years, neither conscripts nor the state militia were used to fight this war.

The Civil War, the greatest conflict ever waged on this continent, was largely fought by volunteers on both sides. When war was declared, the Union Army had fewer than 16,000 officers and men. Within the first two years, more than one million men answered the call to arms. Nevertheless, President Lincoln proposed a national draft in early 1863 to ensure that the necessary troops would be forthcoming. When it was enacted in March the draft immediately aroused widespread resistance, which reached a bloody climax in the New York draft riots. The street fighting left more than 1,000 dead.

Like the draft proposed during the War of 1812, the Civil War draft was not a "pure" system of conscription. A draftee could provide a substitute or initially purchase an exemption for $300. Although conscription accounted for about 250,000 of the 2,667,000 men who served in the Union Army, only some 46,000 were actually drafted into personal service. Of the balance of those subject to the draft, almost 87,000 purchased an exemption and more than 116,000 provided substitutes. True draftees accounted for only 2.3 percent of the military manpower raised by the North.

In theory, the South had universal conscription. Because of a wide range of exemptions, however, only 170,000 men were conscripts out of the 1.2 million who served in the Confederate Army.

In the South and the North alike, therefore, the draft was not a true system of conscription or a comprehensive system of military manpower recruitment. Even so, the unpopularity of the draft was apparent not only in the riots it touched off but also in the widespread and disruptive draft resistance which caused the suspension of *habeas corpus* in many areas. Surprisingly, the constitutionality of the 1863 Conscription Act was never tested in the federal courts. One fairly obvious reason was the suspension of *habeas corpus*, which eliminated the primary means of raising the constitutionality issue.

Still, there was an important state case—*Kneedler v. Lane*—in which a divided Pennsylvania court upheld the constitutionality of the 1863 Conscription Act. The court held that the draft represented a valid recognition of, on the one hand, the Government's need to be able to wage a war and, on the other, the individual citizen's obligation to serve his country.

Kneedler v. Lane was the first case upholding the constitutionality of a wartime federal draft. The constitutional question was not reconsidered until World War I. (In the meantime, the United States used only volunteers to fight the brief war against Spain in 1898.) In 1917, a comprehensive draft law was passed immediately after the declaration of war and precluded primary reliance on volunteers. Men were drafted into federalized National Guard units and the constitutional distinction between the army and the militia virtually disappeared.

All enlistments were forbidden in 1918 so as not to upset "the orderly process of selection" established by the preceding year's Act. Basically it evaluated the contribution of each registrant to the war effort and made the least "valuable" the most eligible. The effect of this procedure was certainly inequitable. It meant that, as in the Civil War, the poor inevitably bore a disproportionate share of the burden of service. For example, Negroes represented 13 percent of those inducted although they accounted for only 9.6 percent of total registrants. Another unique aspect of the draft was its effect on military pay. In the past, military pay had risen during a war and had always exceeded comparable manufacturing earnings. In World War I, almost total reliance on the draft relieved Congress of the necessity for providing pay increases or enlistment bonuses, even though the cost of living rose during the war. For the first time, a soldier's pay was less than that of his civilian counterpart.

Opposition to the 1917 Act was less violent than the response to the Civil War draft even though this was the first measure that conscripted men for foreign service. Evasion replaced open resistance, and more than 250,000 draftees failed to appear for induction.

In contrast to the Civil War experience, the constitutionality of the 1917 Selective Draft Law was immediately challenged in the federal courts. A number of cases were consolidated by the Supreme Court and decided unanimously in the *Selective Draft Law Cases*. The significance of this case has been magnified over time because the Supreme Court has never again formally reconsidered the draft's constitutionality.

The Court upheld the law, citing as the only precedents *Kneedler* v. *Lane* and several Confederate cases. The Court noted that the Constitution granted Congress the power to "raise and support armies"; "to declare wars"; and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." The Court argued that these powers would be rendered ineffectual if any limit were imposed upon their use. On that theory Congress had the power to conscript men for war or any other legitimate purpose.

The *Selective Draft Law Cases* hold that the effective exercise of the war power may require a wartime draft. After World War I the draft expired and the nation again seemed content with a small standing army. Meanwhile, however, the National Guard was brought into closer association with the Regular Army through an amendment to the 1916 National Defense Act. By that amendment, enacted in 1933, units which met federal standards were paid by the Federal Government and redesignated as units of the National Guard of the United States. Thus, distinctions carefully drawn in the Constitution were first blurred by Civil War conscription, then nearly eradicated in World War I, and finally made to disappear completely in 1933. Only those units not up to federal standards would retain the status of a separate state militia.

In 1940, with war in progress in Europe, Congress passed a draft law on September 14, 1940. The constitutionality of this new law was at once challenged. Relying almost entirely on the *Selective Draft Law Cases*, district courts in four major cases rejected the argument that a peacetime draft was unconstitutional. Essentially, the courts reasoned that it was unrealistic to construe the Constitution and the *Selective Draft Law Cases* to mean that an actual war must be declared before a draft could be instituted. They pointed out that military technology permitted the launching of massive surprise attacks with devastating effect and concluded that it was essential for the nation to be able to prepare adequately for war, as well as to wage it. On the grounds that military necessity required a broader construction of Congress' power under the Constitution, the district courts decided that the power to raise armies by conscription was no longer dependent upon the power to declare war.

Legal challenges and general opposition to the draft virtually ceased when Pearl Harbor plunged the United States into war. As in World War I, the draft was the principal source of military manpower, inducing many men to enlist and providing directly more than 10 million, or 61 percent, of the 16.5 million men who donned uniform.

The draft again enabled the Government to keep military pay at levels significantly lower than comparable civilian pay. The World War II Selective Service System established a structure of deferments and exemptions which has remained relatively unchanged down to the present day. The World War II draft was the first genuinely popular system of conscription.

The draft law was allowed to expire on March 31, 1947 as part of the rapid demobilization typical of the nation's behavior in postwar periods. The military soon expressed concern that it would not be able to obtain the necessary number of volunteers which might, in part, have reflected a 23 percent decrease in the Army's recruiting budget. Simultaneously, President Truman was vigorously promoting universal military training, which Congress rejected in June, 1948. Instead, Congress passed a draft act which was extended for short periods until the Korean War. In January, 1949, the Army ended the two-year enlistment, raised standards higher, and refused to accept volunteers with dependents. Nevertheless, young men continued to enlist. Only 30,000 men were inducted during the period from June, 1948, until the outbreak of the Korean War.

During the Korean War itself the draft provided 27 percent of those in uniform. The Korean War caused Congress to extend the 1948 draft law; and in 1951 it continued the draft authority for a four-year period. This four-year enactment completed the evolution of the draft into a permanent part of the military manpower procurement structure even though the nation was not fighting either a major or a declared war.

Until the United States' commitment in Vietnam rose sharply in 1965, the draft seemed to be generally accepted as a necessary means of military manpower procurement. There was virtually no debate or opposition to the extension of the Universal Military Service and Training Act in 1955, 1959, and 1963. This was not too surprising. Following the Korean War, military force levels decreased and the impact of the draft declined while the number of draft age youth increased.

During the early 1960's, 95 percent of those between the ages of 18 and 35 were excluded from the I-A and I-A-O pool. The Selective Service System found itself faced with the problem of allocating an excess supply of eligible youth. Its solution was to create new deferments or expand the scope of existing ones. In addition, induction standards were raised and rejection rates increased during the early 1960's. Meanwhile, pay for first-term enlisted men remained below civilian levels. Even so, young men continued to volunteer and the draft call-ups remained relatively small. By 1964–65 only 5,000–10,000 men were being inducted each month, and the average age of induction was almost 23.

The escalation of the Vietnam War in 1965 once again focused attention on the draft. Monthly calls rose sharply to 20,000–30,000. Deferment criteria were tightened, and the average age of inductees declined to 19. Of the 6 million men who have served in the Armed Forces during the Vietnam war, 25 percent have been draftees. In the past few years numerous articles and books have been written about th draft and both a Congressional panel and a Presidential commission have been created to study the Selective Service System. The Marshall Commission, appointed by President Johnson in 1966, published an extensive analysis of how the draft works and concluded that the primary age of draft liability should be 19. The Marshall Commission also urged a random system of selection similar to the one that has been adopted.

Both before and during the Korean War, there were cases in which inductees questioned the draft's legality. In general, the federal courts either refused to reconsider the constitutionality question or explicitly upheld peacetime conscription as a legitimate and necessary measure to maintain readiness for war. They usually took judicial notice of the threatening international situation which has characterized the cold war period and noted the need for a high degree of military preparedness.

The Supreme Court has increasingly treated the constitutional question as settled. Although the issue has not been di-

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rectly reconsidered, the Supreme Court has commented in passing on the draft's constitutionality. In a 1953 case the Court said that the draft was a valid exercise of the war power and must function in times of peril as well as during declared wars. In 1968 the Supreme Court said in *U.S.* v. *O'Brien:*

"The Constitutional power of Congress to raise and support armies and to make all laws necessary and proper to that end is broad and sweeping . . . The power of Congress to classify and conscript manpower for military service is beyond question."

The only citation in support of this firm conclusion was the *Selective Draft Law Cases* which dealt with a *wartime* draft.

The Founding Fathers feared conscription by the central government would lead to unnecessary abridgement of personal freedoms. Until the Civil War there was no draft; the system of compulsory service instituted in 1863 was born of necessity and was, in any event, far short of being comprehensive. In both 1917 and 1940 the draft emerged again as a wartime expedient. In 1948 the Selective Service System was revived to maintain preparedness for cold war crises. After the Korean War, it remained in existence and was once again an important source of manpower when the nation became deeply involved in Vietnam in 1965. Given the nation's legal and political traditions, the relatively recent phenomenon of a continuing peacetime draft should be re-evaluated.

CHAPTER 14—RECENT FOREIGN EXPERIENCE WITH VOLUNTARISM

Great Britain, Canada, and, until 1965, Australia have all manned their armed forces on a completely voluntary basis in the recent past. Because the United States shares with these countries a common cultural heritage, we have examined their experiences with all-volunteer forces to anticipate problems which might arise once the draft was ended in the United States. Of course, due allowance must be made for differences as well as similarities in evaluating the impact of ending the draft in other societies.

The British experience is most helpful because they maintain relatively larger forces than the other two countries. Also their comparatively recent decision to abandon conscription sheds light on the transition process as well as the steady state experience.

Britain's decision in 1957 to end conscription coincided with a new defense policy emphasizing nuclear deterrence, withdrawal from positions east of Suez, and a cutback in force levels to 400,000 from 700,000. By 1960 the transition was virtually completed, and all inductions ceased.

The elimination of conscription increased the average length of service per man by approximately 200 percent, from less than three years under the draft to roughly eight. While this increase reflects in part use of long initial terms of service (6 or 9 years) it also shows that true volunteers were more likely to stay in the service than conscripts.

Another important effect of ending conscription was the decline in the proportion of troops in training from 21 percent to 14 percent despite an increase in the average length of training per man. Thus, an all-volunteer force has enabled the British to maintain a higher proportion of troops in an effective status.

British officials have said that the fully volunteer force is more productive than a mixed force because of lower turnover and the superior performance of more experienced servicemen. A precise measure of this improved productivity is not possible, but the British are able to assess any changes in the quality of their armed forces by such measures as educational attainment and aptitude scores. These show that the Royal Navy and Air Force have experienced no decline in quality since conscription ended, and that the quality of Army recruits has slipped slightly—the proportion of volunteers falling in the lowest 30 percent aptitude category increasing by perhaps 2 percent. Some British Army officers assert that improved motivation and morale in the enlisted ranks since the end of conscription far outweigh the loss of a relatively small number of high quality draftees.

During the past several years the British have experienced a decline in enlistments which is beginning to threaten the achievement of target force levels. There appear to be four reasons for this shortfall. First, more young men are staying in school. Second, new government policies expanding the availability of both apprentice and advanced training have made civilian employment relatively more attractive to youth. The latter factor is especially important in Britain because 15–17 year olds enlist primarily to get training. Third, British youths are less willing to undertake long initial minimum tours of duty ranging from five to twelve years. Fourth, there has been a decline in the number of youths aged 16 to 24 in the population.

To increase enlistments, the British Army introduced in April, 1969 a shorter minimum enlistment of three years. The initial response has been good and this shorter option has not significantly reduced the number enlisting for longer terms. Thus, relatively short-term enlistments, perhaps supplemented by pay increases, could provide an adequate number of British recruits in the foreseeable future.

Conscription in Australia ceased after World War II. During the Korean War a system of Universal Military Training was introduced requiring every qualified male to complete three months of training and then serve in the Australian reserves. The active duty forces never used these conscripts and only volunteers fought in Korea and Malaya. This system ceased in 1958 and the Australian forces were manned exclusively by volunteers. But, in October of 1964, the Australian government decided to raise force levels from 49,000 to 76,000 by instituting a draft by lottery.

Some have cited the Australian decision to return to a draft as evidence that an all-volunteer force is not feasible for the United States. There are several reasons why this argument by analogy is inappropriate. First, the Australians have not made a concerted effort to attract additional recruits on a voluntary basis. Once the decision was made to use conscription to raise force levels, no serious effort was made to increase voluntary enlistments either by raising pay or redoubling recruiting efforts. Second, the Australian economy is heavily unionized and apprenticeship programs requiring four or more years deplete the pool of men available for military service. Third, Australia has enjoyed a rapid growth in its economy (the unemployment rate is about 1 percent) which makes civilian jobs relatively more attractive than military service. Finally, civilian earnings significantly exceed military pay rates. Civilians receive over-time and other supplementary compensation in excess of the common wage rates set by the government for both the military and the civilian economy.

The Australians could have expanded the size of the Armed Forces on a voluntary basis by raising pay and reorganizing recruiting. Given the important differences between the two countries, one cannot conclude that the Australian experience shows that the United States would be unable to attract enough recruits on a voluntary basis if energetic and efficient recruiting were combined with competitive rates of pay.

The Canadian Armed forces have always been entirely voluntary except for the period from 1940 to early 1945. The Canadian forces presently number slightly less than 100,000 men, supported by an annual inflow of about 12,000 men. The quality of the entrants is remarkably high; almost all fall within the upper half of the population as measured by mental aptitude. Military pay more nearly approximates civilian earnings—the monthly pay for privates is $225. Attracting recruits has posed no problem in Canada, and recruiting officers suggest that the number of enlistments could be doubled or tripled with no difficulty.

The Canadian armed force is relatively small; it is roughly equivalent, on a population basis, to an American force of one million men. However, budgetary constraints rather than recruiting difficulties are responsible for the size of Canada's forces.

The recent experiences of the British, Australian, and Canadian Armed Forces suggest that competitive wages will attract an adequate quantity and quality of volunteers. There is no evidence in any of these countries that all-volunteer forces are alienated from the rest of society.

CHAPTER 15—ALTERNATIVES TO AN ALL-VOLUNTEER FORCE

What are the alternatives both to the present system of conscription and to an all-volunteer armed force? In this chapter the Commission weighs various suggestions which have been raised.

One proposed alternative is National Service. Many National Service proposals involve purely voluntary service. Such proposals are actually supplements, rather than alternatives, to an all-volunteer armed force. Other proposals would require service on the part of all those eligible. In our analysis of alternatives to an all-volunteer force, we have considered only the mandatory proposals. While these mandatory National Service proposals differ in detail, they would generally require service of all youth, though not necessarily in the military. Most would permit individuals to choose how they would serve from among a limited set of alternatives.

Advocates of National Service have suggested a variety of approaches. Some have urged that literally everyone, male and female, be required to serve, even those who are physically or mentally disabled or morally unfit. Because of the high cost of formal and on-the-job training, National Service on a one-year basis would be prohibitively expensive. National Service for two years would mean employing almost 8,000,000 young people, or 4,000,000 if females are excluded. If longer terms of service were instituted for more attractive types of duty, these numbers would be even larger. Assuming a very modest annual cost for each participant of $4,000 to $5,000, the cost of such a program would be a minimum of $16 billion, and perhaps as much as $40 billion—an amount equal to the entire current manpower budget of the Department of Defense. In short, the numbers of men and cost of mandatory National Service are staggering.

Advocates of other proposals argue that some individuals should be excused from serving. If that were the case, deferments and exemptions would proliferate just as they have under the draft. A new Selective Service System would be required to administer a non-universal National Service program.

Regardless of the administrative procedure used, a National Service program would not be able to prevent glaring inequities among those who served. Not all National Service would be equally desirable (or repugnant), and those with higher qualifications would probably find their way into the more desirable positions. If this inequity were minimized by introducing a system of differential terms of service, the ranks of those engaged in National Service and its cost would increase further.

The appeal of mandatory National Service, in large measure, arises from the manifest inequities in the present system of conscription. It promises to eliminate these inequities by forcing a larger proportion of the populace to serve in some capacity—and hence to pay a tax-in-kind. In practice it not only perpetuates such an inequitable tax, but extends it to a larger segment of the population. The cure for inequity is not its extension.

Above all, mandatory National Service is coercive and involuntary. Such a system of universal conscription would require all those eligible to serve within a specified period of time. If insufficient numbers proved willing to enlist in the military or volunteer for other onerous types of government service, some would be compelled to serve in these less desirable capacities. In essence, mandatory National Service requires forced labor. Although motivated by a genuine interest in the nation's welfare, advocates of mandatory National Service are suggesting a compulsory system which is more consistent with a totalitarian than a democratic heritage. If the service that youth would render is important and valuable enough to merit public support, it can and should be financed through general taxation like other government programs.

Universal Military Training resembles mandatory National Service, for it contemplates conscription of all those eligible. It is undesirable for generally the same reasons as mandatory National Service. For one thing, it would impose on the military more untrained personnel than can be productively employed. A one-year tour of duty—the usual term proposed—is prohibitively expensive in view of the very short period an individual would serve after receiving costly training. Assuming current eligibility standards, a two-year tour would force on the services more than 2,000,000 non-career persons at any given time. Whether or not UMT is unconstitutional, it would definitely represent a sharp break with the nation's traditional respect for individual freedom.

The lottery draft recently adopted is at best an expedient. It is important to recognize that the tax inequity implicit in the draft is not eliminated by substituting a lottery for present methods of selection. In theory, the lottery makes it equally probable than any individual might be selected from those eligible to serve. It thus aims at equity in selection. But equity in selection is not equity in service. Those few who are selected to serve, whether at random or otherwise, still pay a large tax-in-kind in order to reduce taxes for the majority. Moreover, it is by no means clear that the lottery achieves greater equity even in selection. No doubt one can find many instances of inequitable treatment of draftees under Selective Service. Even so; it does not logically follow that the system as a whole is more unjust than a random system. Many local draft boards and some of the general rules of deferments and exemptions actually do more to achieve equity than the system of random selection. Local boards can and do take into account an individual's particular circumstances.

The lottery reduces the number of draft induced volunteers and thereby necessitates an increase in the number of draftees. Because draftees serve two-year terms and volunteers three, personnel turnover and the attendant costs are increased.

The lottery offers one advantage over Selective Service. When it it combined with the proposal to expose potential draftees to a one-time jeopardy at age 19, it reduces the uncertainty confronting an individual about whether he will be required to serve, and thereby mitigates the distortion in career and personal planning endured under Selective Service.

BIAFRAN TRAGEDY

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BROYHILL of Virginia. Mr. Speaker, I am inserting in the RECORD a copy of a letter to the editor of a newspaper in my district sent by the chairman of the Organization for the Defense of Four Freedoms for Ukraine, Inc., regarding the Biafran tragedy and its relationship to the Soviet Union:

ORGANIZATION FOR THE DEFENSE OF FOUR FREEDOMS FOR UKRAINE, INC.
Washington, D.C., February 28, 1970.

Mr. HERMAN OBERMAYER,
Editor, Northern Virginia Sun,
Arlington, Va.

DEAR MR. OBERMAYER: While the Free World news media has been clamoring loudly over the genocide, through starvation, of the Biafran people, and while Western governments have freely expressed their sympathy and given medical and food support to the starving Biafrans, it might surprise many readers to learn that the Soviet press and the Soviet government have maintained almost complete silence concerning this human tragedy.

Despite its self-proclaimed solidarity with all liberation movements of nations struggling to attain independence, Moscow has once again proven itself less concerned with humanity than with its own narrow imperio-national interests. By a typically-warped definition, a legitimate Soviet-approved NLF can exist only where Russian power is enhanced.

The fact is that Moscow finds Biafra a rather embarrassing factor in its comradely support of Nigerian military aggression.

It must remain silent about the suffering and extinction of over 2,000,000 Biafrans, more than half of them children, since it was the Soviet government who supplied the Nigerian government most of the war tools and know-how required to subjugate the Biafran people—hardly an enviable position to maintain for the benefit of world opinion. However, in accordance with the teaching of Lenin, the advantages of seducing (or is it rape) a major African power such as Nigeria are too great to allow the mere death of a nation to interfere.

A second motive—one which, unfortunately, is rarely recognized by Western analysts—is the huge pile of skeletons in Russia's own closet.

For despite the sophistication of Soviet propaganda, it can hardly risk renewed international and domestic interest in its own famine of 1932–33.

At that time, Soviet Russia initiated and successfully concluded an elaborately-planned famine in Ukraine that was intended to allay, once-and-for-all, traditional Russian fear of Ukrainian national separatism.

Svetlana Stalin, in one of her books, depicts her father as a Ukrainophobe, dreading the revolutionary force that 45 million horribly bloodied and persecuted Ukrainians could unleash in pursuing their own national destiny.

By the physical destruction of 7 million innocent men, women, and children, Soviet Russia succeeded in terrorizing a whole generation into passive acceptance of Russian colonial measures.

Only within the last five to eight years, reports have been filtering through with increasing frequency of a revised Ukrainian national consciousness and renewed ferment among all classes of Ukrainians . . . . followed by a wave of arrests and repression.

Hence, Moscow would risk exposing itself as the 20th century's master charlatan if it were to tsk-tsk along with the rest of humanity the Biafran tragedy.

The memory of the Ukrainian famine is still very much alive behind the iron curtain, and similarly, the memory of the Biafran tragedy will stay with us for a very long time.

Sincerely yours,
VOLODYMYR Y. MAYEWSKY,
Chairman.

SAINT PATRICK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. RODINO. Mr. Speaker, few stories in the vast literature of saints are more dramatic or compelling than that which tells of the calling of Patrick when, obedient to the heavenly vision, he set forth to evangelize Ireland. Again the yearly round brings us to the commemoration of the Apostle to the Irish people, a feast which unites all who are Irish, whether by birth or descent or in spirit, throughout the world.

It was a great modern scholar, J. B. Bury, who some 65 years ago turned the critical scrutiny of an unbeliever on the accumulated legend and lore with which Irish tradition had clothed St. Patrick through the ages—only gloriously to vindicate for once and all time the historical truth of the great missioner's life and achievement. Born into a turbulent time not unlike our own, during Western Europe's "Dark Ages" which marked the decline of Roman power in the fourth and fifth centuries; carried away as a slave to pagan Ireland from his home in Britain or Gaul; returning later by free choice to preach the saving power of the Gospel in the land of his former captivity; gradually converting both kings and peasants, challenging the established authority of the ancient Druidic religion; brilliantly adapting the Christian faith to the tradition and customs of a proud and honorable people—in all of this, St. Patrick laid the foundations for the future of the Irish nation as a political and spiritual reality. The cultural flowering which illuminated the Celtic Church and helped in the conversion of Europe gave to Ireland the happy title "Isle of Saints and Scholars," for here learning and piety flourished in a time of general darkness.

The memory of St. Patrick is ever green in Irish hearts. The contribution of the Irish to America has surely been the fulfillment of his spirit in this land wherein over 5 million souls have come, seeking refuge from unbearable conditions imposed by a ruling power able neither to subdue nor to placate. From the 17th century to the present day, Irish-Americans have played a crucial role in the ongoing development of America. They have strengthened the integrity of home and family life; they have helped to keep religion as an integral part of that life. The pride and vitality of the Irish were crucial in their overcoming of every form of prejudice and bigotry. Thomas Wentworth Higginson wrote:

> In all the records of the Civil War there was no such thing as an Irish coward.

Today that same valiant Irish spirit is summoned to the task of healing and reconciliation in the name of St. Patrick. The tragic events of the recent past in Northern Ireland are the concern of all men of good will everywhere. In saluting the Irish people on the feast of Patrick, we pray for that troubled island a new birth of unity and peace. We honor

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the fierce loyalty of Irish-Americans to America and the deep cultural and religious ties which they hold for Ireland. We pray that the future may realize the joyful vision of Ireland's greatest poet—Yeats:

> I am of Ireland . . .
> the Holy Land of Ireland.

THE COMPETITIVE SITUATION IN SULPHUR

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. HÉBERT. Mr. Speaker, I should like to call your attention to an international problem which is doing serious harm to an industry of great importance to the State of Louisiana. I refer to the sulphur industry.

This industry is not only a substantial provider of jobs and revenues in my State, but also a major attraction for other industries seeking a place to build or expand. Our sulphur—like our abundant water, natural gas, and oil—is a key resource in our economic development; it is an element essential in the processing of nearly everything that is eaten, worn, or used.

The problem facing our sulphur people is cut-rate Canadian sulphur, now being dumped on U.S. markets that are already fully supplied. Unlike Louisiana producers, for which sulphur is the only product, the producers in Canada produce their sulphur as a byproduct or coproduct with natural gas.

The sulphur has to be removed before the gas can be sold, and they are unloading this recovered sulphur at almost any price they can get for it in order to force their way further into U.S. and overseas markets. In 1969 alone, I am told they reduced their prices by two-thirds, and they have made more reductions in 1970.

Our Louisiana producers have had to meet these drastic price cuts to stay in business. The result has been severe declines in earnings, shutdowns of mines in Louisiana and elsewhere, and curtailment of exploration. Canada is losing royalty and tax revenues, too, on every ton of valuable sulphur that goes at giveaway prices.

There was a similar problem with Canadian potash, which was also being dumped in this country. The Tariff Commission and the Treasury Department did something about that, and the Canadians did something as well—controlling production as is done with oil here in the United States and putting a stop to unreasonably low prices which, if not stopped, will drive many producers out of business and eventually bring on a shortage. The potash problem is now straightened out, too—before one of our vital industries is jeopardized.

The facts about the competitive situation in sulphur are described fully in a recent report to stockholders of Freeport Sulphur Co., and I insert this statement in the CONGRESSIONAL RECORD:

THE COMPETITIVE SITUATION IN SULPHUR

(*Sulphur is now in oversupply. Prices have fallen. Mines have been shut down. Exploration is being curtailed.*)

The sulphur problem today is similar to that of the late 1950's and early 1960's. At that time the development of new sulphur mines in Mexico, accompanied by the recovery of sulphur from sour natural gas in France and Canada, created substantial oversupply. Producer stockpiles of mined sulphur mounted, and inventories reached a peak of nearly a year's supply. Prices everywhere were driven down by over-eager sellers seeking to enlarge their market positions and by overzealous buyers seeking short-term bargains. In the United States, where virtually all of the production was brimstone (elemental sulphur) mined by the Frasch process on the Gulf Coast, prices f.o.b. Gulf ports declined by about one-third over a period of eight years.

The price cutting in the late 1950's and early 1960's had many harmful effects. Unless the output of a sulphur mine can be sold at a profit, the mine cannot long be operated even though it may still contain sulphur. As a consequence of the low prices, a number of mines closed down, leaving sulphur in the ground all or most of which would never be recovered, or if recovered at all only at exceptionally high cost. Of still greater importance, exploration for new reserves was curtailed or terminated. Even when success attends exploration efforts and sulphur is discovered in commercial quantities, it takes years to bring a deposit into production. In view of the continuing growth in the demand, a sulphur shortage was clearly in the making but prices were too low to encourage either new exploration or new production.

The shortage came, and for five successive years—1963 through 1967—demand exceeded production. What had happened was that the consumption of brimstone, particularly by the expanding fertilizer industry, had grown at an above-average rate of 10 percent per year for the years 1962 through 1966, and had caught up with and passed productive capacity, stalled by the unattractive prices.

Only the aboveground stockpiles of mined sulphur which had been maintained by large producers prevented a disastrous curtailment of agriculture and industry. The stockpiles were drawn upon heavily, and eventually fell to 12 weeks' supply (which, considering the amount of sulphur in transit and the necessity for maintaining sizeable quantities of sulphur as "bin-bottoms"—foundations for the stockpiles—was probably no more than six to eight weeks' supply sulphur available for shipment to consumers). The stockpiles of sulphur built during the period of oversupply, together with large increases in current production which Freeport and some other producers were able to achieve, enabled most of the requirements to be met. Even so, sulphur had to be allocated and plans for new plants which would use sulphur in their processes had to be shelved.

Thus, the unremitting pressure for ever-lower prices proved to be very harmful to producers and consumers alike. About one half of all the sulphur consumed goes into the manufacture of fertilizer so necessary for production of food for the world's increasing population. The remaining half is required by industry; sulphur is consumed directly or indirectly in the making of almost everything we eat, wear or use. It is no overstatement to say that a major sulphur shortage would seriously threaten the entire economy of the world.

Freeport took the position, both in published statements and in discussions in Washington and elsewhere, that the cure for the shortage lay in higher prices. Higher prices, we said, would stimulate exploration for and development of new sources of supply, which in turn would bring supply and demand back into balance. Eventually prices did rise. The price of Gulf Coast sulphur increased to its pre-shortage level and then rose by another two fifths. Prices of sulphur from other areas rose very much more.

Exploration was resumed on a large scale by sulphur producers, consumers and others and many new projects to add to the supply were initiated. In 1968, sulphur production exceeded demand for the first time in five years. In 1969, the excess became much larger.

Today, notwithstanding the fact that production exceeds consumption, production of brimstone continues to rise. The main source of the additional sulphur is the sour natural gas produced in Alberta in western Canada, principally by oil and gas companies. There, brimstone is recovered as a by-product (or co-product) in the production of the gas. The hydrogen sulphide in the gas must be removed to make the gas salable. The cost of recovering the brimstone from this hydrogen sulphide may be considered by producers either as a cost of producing the gas or as a cost of producing the brimstone. A recovered brimstone producer may therefore ascribe to his brimstone any cost he wishes—or indeed none at all—because, the argument goes, his brimstone must be produced in order to sell the gas and therefore regardless of market considerations.

From the start of 1968—the first recent year of oversupply—to the end of 1969, the daily production rate of recovered brimstone in Alberta increased by more than 60 percent. This additional production of recovered brimstone, large as it is, had an impact on sulphur prices out of proportion to the quantity involved. It nevertheless has occurred because some producers (and their brokers), in their efforts to force ever-increasing quantities of their sulphur into markets already fully supplied, have progressively initiated reductions in prices. Alberta brimstone is now being offered in the upper Midwest of the United States and elsewhere at prices that, on the basis of net realization in Alberta, are approximately one-third of the average obtained from all sales of Alberta sulphur at the start of 1969! *It is believed that much of the Alberta sulphur is now being sold below its actual cost determined in accordance with good accounting practice and on the basis of any reasonable distribution of total costs between gas and sulphur.*

United States brimstone producers have had no choice but to meet the insistently lower competitive sulphur prices. During 1969 and in early 1970 price "allowances" or discounts became widespread and increasingly large.

Much harm is being done by the excessively low prices at which sulphur is now being dumped into world markets. Already mines have shut down; others are believed near termination. Exploration for new supplies is being curtailed. We do not think these results are in the best interest of anyone in the industry or of the public generally.

This pricing problem in the sulphur industry has been caused by factors similar to those which existed in the potash industry. Well before oversupply came about in sulphur, the development of large new potash mines in Saskatchewan in western Canada created substantial oversupply in potash. As this new supply forced its way—on a price basis—into the United States, the domestic potash industry became increasingly imperiled; some mines shut down, and unemployment followed. Bills were introduced in Congress for the imposition of import quotas and duties on imports of potash. In 1969 the U. S. Tariff Commission ruled that Canadian potash which was being dumped into this country was injuring the domestic potash industry, and the U. S. Treasury Department commenced assessing damages against the Canadian sellers. In an effort to remedy this situation, the provincial government of Saskatchewan recently adopted a production control program which has resulted in higher prices and export quantities much more in line with actual market requirements.

Whether a somewhat similar program—or some other remedy—for the Canadian sulphur problem will be put forth remains to be seen. There are good reasons for a program similar to that adopted for potash. The very low prices at which Canadian brimstone is being forced into the markets are adversely affecting the Province of Alberta and also the Canadian economy. The prices are resulting in lower royalties to the Province and lower tax revenue to the Dominion. A program for sulphur would need to control only the *export* of sulphur and not its *production;* unlike potash, sulphur can be stored easily and for long periods above ground without being under cover, with no deterioration and at almost no cost.

As the demand increases—and it will surely do so—the stockpiles of sulphur, together with then-current production, would be shipped to fill the requirements of industry and agriculture. This course of action is the one followed by individual sulphur producers during the period of oversupply in the late 1950's and early 1960's. *Had Freeport and other sulphur producers not stockpiled sulphur during those "years of abundance," the shortage during the five "lean years"—1963 through 1967—would have had severe consequences for sulphur consumers and for the economy of this country and the rest of the Free World.*

From 1950 through 1967 brimstone consumption in the Free World grew at an average annual rate of about 5½ percent per year due in good part to the large growth in the fertilizer industry. In 1968 the rate of growth in brimstone consumption dropped sharply to about 1½ percent; in 1969 it rose to about 3 percent, which, of course, was still far below the historical growth rate.

The decline in the growth of brimstone consumption in 1968 and 1969 was caused mainly by the slowdown in the *manufacture of new supplies of fertilizer in the United States*. This slowdown occurred because of the very high level of inventories of finished fertilizer at the end of 1967. To compound the problem, bad weather in the United States retarded application of fertilizer to the soil, and in addition the U.S. Government cut back its AID program for shipment of fertilizer overseas. Significantly, however, *consumption* of phosphate fertilizer (the largest brimstone-consuming market) continued to grow during each of the two years by more than 3 percent in the United States, and by more than 5 percent in the entire Free World. It is believed that the excessive inventories of finished fertilizer have now been reduced to normal or near-normal levels, and that production of new fertilizer (and therefore consumption of sulphur) should again approach their historical growth rates.

The food needs of the expanding world population must inevitably bring great growth in fertilizer use and therefore in the use of sulphur. The Food and Agriculture Organization of the United Nations, in a recently announced plan for world agricultural development, estimated that use of fertilizer in all forms in developing countries would double in 1975 over 1968–69 and would more than quadruple by 1985. In another recent study The Sulphur Institute projected an average annual increase of 6 percent in sulphur requirements for phosphate fertilizers between 1970 and 1975 for the Free World. In the non-fertilizer segment of the market, sulphur consumption tends to follow industrial output and is therefore also expected to increase.

Sulphur demand thus will in time equal—and probably again exceed—the supply.

TAX REFORM ACT POSES PROBLEMS FOR LARGER FOUNDATIONS

HON. HERMAN T. SCHNEEBELI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. SCHNEEBELI. Mr. Speaker, Mr. Dana Creel, president of the Rockefeller Brothers Fund, made a very enlightened contribution to the dialog being conducted throughout the country on the impact of the recently enacted Tax Reform Act on the Nation's thousands of foundations.

The new tax approach caused a violent shock among the foundations' managers and directors, particularly of the larger foundations, and with his expertise, experience, and responsibility, Mr. Creel has given us an accurate appraisal of this reaction to the proposed changes in the traditional conduct of foundation affairs. His observations are contained in a speech which he gave at a conference of nonprofit organizations last month and I submit it for inclusion in the RECORD:

PROBLEMS POSED FOR LARGER FOUNDATIONS

(By Dana S. Creel)

There is so much to be said about how the Tax Reform Act affects foundations that it is hard to know where to begin or what additional can be said, in a brief time, that would be of interest to this group.

You have already heard—or will hear—detailed discussions by experts of the various specific provisions of the Act, and it is experts such as these to whom foundation managers are turning for specific answers. It would be foolhardy for me to attempt to recapitulate or anticipate specifics covered by them. What I think might be of interest, and appropriate at this point, would be for me to try to sum up some of the reactions of foundation managers of the larger foundations to the Tax Reform Act.

First, I think we are still in a state of shock as to what has happened, the implications of the Act, and what lies behind it. Without question, foundation managers—trustees and staff—have been aware of accusations of abuses in the foundation field. Because of the great dispersion and disparity of organizations coming under the general head of "foundation" and the tradition of separateness, we failed to develop any means for effective self-regulation or the weeding out of those who might abuse the special status which over the years has been built into the law regarding foundations and other philanthropic organizations. For several years now, there has been among foundation managers the expectation that Congress at some time would act to pass legislation that would rule out the possibility of abuses in the foundation field.

The last year or so leading up to the Reform Act has been an eye-opener as it became apparent that there was an all-too-prevalent lack of understanding of the nature and role of foundations and, in fact, in many quarters a deep-seated hostility to foundations stemming from many different causes. Over the years foundations have been attacked, or at least subjected to scrutiny for a variety of reasons—being too liberal, being too conservative, representing the privileged rich, being somewhat esoteric little kingdoms beyond the control of Congress and the Executive Branch, an all-too-pervasive feeling that since the government has gotten into so many areas of public concern the role or actual existence of foundations is a matter of questionable merit and funds now in the hands of foundations, or which might go into the hands of foundations, could best go directly to operating organizations or to the government to be applied as a part of general governmental revenues. Until all of these things came to the surface in the hearings before the House and Senate Committees, few if any expected legislation of a punitive nature going beyond the prevention of abuses.

The situation reminds me a bit of a person who has suffered a coronary and who, after years of being warned that he was too fat, over-indulgent and leading a life inviting trouble, suddenly suffers the inevitable. Like coronary patients, some may have taken a Pollyanna approach that this is only a warning and that life can go on as usual with little change. Others are inclined, at least temporarily, to retreat to the tried and uncontroversial field of grants to educational institutions, hospitals, churches, etc., but all, deep down, realize that something very significant has happened and that life will never be the same in the future.

The Act, taken as a whole—not just as related to activities of foundations—represents a definite move toward curbing the flow and application of philanthropic funds, not alone to foundations but to the innumerable organizations in the voluntary or private sector of our society. The Act reduces traditional incentives which have encouraged the flow of funds to the private sector.

Further, in imposing an excise tax on income, it has breached another tradition—the tax-exempt status accorded to philanthropic endeavors. Where this breaching of tradition may lead in terms of federal, state, and local taxation is anybody's guess. At a time when all private voluntary organizations—schools, hospitals, churches, social welfare services—are in frantic need of additional funds merely to keep alive, one can only decry any measure or trend that withdraws or diminshes funds which would otherwise be available to them.

Turning more specifically to foundations, we are facing an extraordinarily complicated piece of legislation. Despite being enacted with unusual speed, it is expertly drawn. The great difficulty is that legislative language can be quite clear in theory but quite unclear as it applies to individual cases, which can vary to an unimaginable degree. For instance, in the context of a particular situation, what is meant by influencing legislation or governmental action? What is a public organization? What is a private operating foundation? What is a private nonoperating foundation? These are basic determinations that must be reached in order to know whether a particular grant is or is not a taxable expenditure for which there might be severe penalties against not only the foundation itself but the foundation managers as well, whether a grant is a qualifying distribution, and what the responsibilities of the foundation are in terms of expenditure responsibility or compliance by the grantee with a required payout provision.

There is urgent need for clarification of these questions before foundations can function with any certainty. In this connection, I would like to compliment IRS on the dispatch with which it issued clarifying temporary regulations on grants to individuals. These regulations, while simple in character, resolved uncertainties and gave practical guidelines under which foundations can function with some degree of confidence. I stress the need for clarifying of additional areas of uncertainty and the need for cooperation between IRS and foundation managers in developing with dispatch workable regulations regarding them.

Until there are clarifying regulations and rulings by the IRS on specific organizations and until there is a publication by IRS with a breakdown between public organizations and private foundations, there will be questions on a great many organizations on which each foundation, in one way or another, will have to make its own determination and establish procedures for compliance not only by the foundation but by each grantee organization. Even when such a two-part list is made available by IRS, there is still the matter of determining in the private foundation category which is an operating foundation and which a non-operating foundation. So really, what will ultimately be needed is a three-part listing by the IRS of public organizations, operating foundations, and non-operating foundations. I fear that even that would not necessarily be a complete or final solution because facets of an individual organization might change in the course of a year to the point that the organization's classification might be altered. There will be additional need for good firm rulings that can be applied to any particular organization without peril.

In fairness, it should be said that anything new or unknown always tends to loom ominously, and as one becomes more familiar with the situation many of the problems disappear. I think this is the case with the present legislation. At this point and for the foreseeable future the unresolved problems of foundation administration are such that I know of no foundation which is not still in the groping stage, trying to work its way through the interpretation of the Act and getting geared to its application internally and in its relationship with grantees. This groping and accommodation to the Act varies with each foundation according to its size and type of program, but basically—and particularly in the larger foundations—it is taking the form of an added staff function with a compliance section or at least a compliance officer who must literally pass on every grant as to whether it is a taxable or non-taxable transaction, whether it is a qualifying distribution, and what in the way of expenditure responsibility or pass-through requirements must be met. Every staff member processing a request must obtain the necessary detailed information from the grantee organization to enable the compliance officer to make this judgment. I will not attempt to go into the ramifications of the detailed information that must be obtained from a grantee organization. They are extensive and in many cases, particularly in dealing with new orgnizations, require a good crystal-ball guess as to what the pattern of support will be, which in turn will be a major factor in determining whether the proposed recipient is a public organization or an operating or nonoperating foundation. In short, there has to be a new layering of administration which is expensive in terms of not only the salary for additional personnel but the time of regular program personnel in obtaining the necessary information and in following through on cases involving expenditure responsibility and pass-through requirements. It is much too soon to have any clear idea as to just what this additional expense will amount to, but looking at the situation with which I am familiar, it is my estimate that this expense, certainly until the smog clears, will add a good 10 per cent, or more probably 15 per cent, to administrative costs.

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It follows, with no need to elaborate, that foundation grants have come to a screeching slowdown. A lawyer's opinion as to the status of a contemplated grant may be of some consolation, but there is no assurance that a legal opinion is a sure protection to foundation managers, and lawyers typically and properly run to conservative opinions, particularly when substantial punitive sanctions are involved. This is a miasma which one finds within foundations and which will continue until in one way or another there are clarifications. The frustration is compounded by the fact that foundations must now make qualifying distributions of all income, and in later years qualifying distributions of specific percentages of the value of their assets. The effect, as I foresee it, is that in order to meet the qualifying distributions requirement, and still steer clear of the treacherous waters of borderline cases, foundations are going to be driven to very conservative grants, venturing most cautiously into new and innovative areas which might fall afoul of lobbying, or influencing legislation or governmental action.

It seems to me that the role of foundations, with the wisdom and expertise of boards and professional staffs, is to direct their funds—in substantial measure at least—to new and innovative programs not subject to a wide or popular base of philanthropic support. If the Tax Reform Act turns out to have the effect of preventing foundations from experimenting, from innovating, and from offering multiple alternatives in dealing with the crying issues of today, foundations will have lost what I think is their basic raison d'être.

Change is in the wind, and I think the great question of the seventies is whether or not change may be effected rapidly enough in an orderly way to avoid a breakdown of the social and economic fabric of the country. Logically, foundations belong in the lead in dealing with the problems of today and tomorrow. Here is the irony. The crucial problems to some degree invariably involve governmental concern, either federal, state, or local. If the net of the Tax Reform Act is to curb and make hazardous and uncertain foundation ventures into these areas, there will be a tragic loss to our society.

I do not want to seem entirely gloomy in summing up reaction to the Act. There are favorable aspects and these should be recognized. The legislation promises to help correct and prevent abuses in the foundation field. This is to be applauded as it constitutes a first and very necessary step in restoring public confidence in foundations and eliminating the accusation that they are instruments for self-serving and tax avoidance. The legislative progress of the Act, as it was considered in the House and debated and amended in the Senate, put a spotlight on foundations and, albeit in a rather negative way, did reflect a recognition of the usefulness of foundations. The legislation—through effective enforcement and through the requirement for full reporting not only to IRS but to the public-at-large—will assist in clearing the air.

During testimony before the Senate Finance Committee, the point was repeatedly made that it would be desirable to have a thorough audit of all foundation activities before passing legislation to determine what really needed to be done to regulate them. The temper of the Congress—which in the final analysis is the temper of the public—was such that it was not feasible to defer legislation. While the cart may have been put before the horse, foundations—now that more detailed accountability by all is a legislative requirement—have the means, through full disclosure, to build the record which will justify and confirm their usefulness. This can be made the basis for building public confidence in them. I say build rather than restore confidence because foundations for years have hidden their light under a bushel with little attention to public understanding and acceptance.

Thus, while on one hand foundations may lament the additional administrative and reporting procedures imposed on them, there is a bright side. It is only through a better public knowledge and understanding of what foundations are doing that a favorable public attitude can be developed. And only through experience of living with the legislation can it be shown whether there should be further restrictions on foundations or—possibly just the opposite—a relaxing of some of the more stringent and troublesome provisions of the present legislation which may prevent foundations from making their best contribution to the major issues of today and tomorrow.

BLACK AMERICA AND FOREIGN POLICY

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. MIKVA. Mr. Speaker, America's relationships with distant countries are often colored by old bonds—the subtle ethnic, racial, and historic identities which help determine how this country will deal with her neighbors.

Unfortunately, that is not the case in our policy toward Africa. We have not cultivated an identification with the black masses of Africa, and in many cases this has turned ours into a nonforeign policy.

Prof. Gary Gappert of the University of Wisconsin at Milwaukee, has written insightfully on this situation in his recent paper, "The Absence of Black America in U.S. African Policy." Professor Gappert is a former Washington director of the American Committee on Africa, and in 1967–68 served as a research economist with the Tanzanian Government on a Ford Foundation grant. His remarks bear careful thought and I commend them to the attention of my colleagues.

His text follows:

THE ABSENCE OF BLACK AMERICA IN U.S. AFRICAN POLICY

(By Gary Gappert)

INTRODUCTION

Let me begin by drawing attention to the fact that I refer to the absence of *Black America* and not to the absence of black Ameri*cans*. A token number of black Americans have indeed been involved in US foreign policy. There have been since 1960 a handful of Black Americans appointed as ambassadors to African States. There have been several handfuls of black Americans involved in the African divisions of Peace Corps, AID and USIA. Indeed AID—Africa is now directed by a black American; but, as is well known elsewhere, this kind of token representation does not lead to any kind of influence on basic policy formation.

EXAMPLES OF THE ABSENCE

There are several examples of my conclusion that black America has indeed been absent from American African foreign policy.

First, we cannot just note the absence of Black America but the absolute lack of an African foreign policy itself. In February 1969 Chelsa House publishers announced a five volume series on the "Documentary History of American Foreign Policy" from 1945–70. The series is to be edited by Arthur Schleisinger, Jr. The five volumes were to be entitled: East Europe and the Soviet Union, Asia, Western Europe, United Nations, and Latin America. There was to be no volume on Africa.

Afro-American Franklin Williams, formerly Ambassador to Ghana, now at Columbia University, has written describing this condition:

"Ralph Ellison has characterized the plight of the Black Man in America as that of the 'invisible' Man. He is simply ignored as a living, breathing, sentient person. This tendency to treat Black People as if they weren't there also seems to apply to Africa and to the problems of race in international affairs generally."

He goes on to point out:

"In eleven foreign policy texts published in America since 1960, the entry 'race' or its equivalent can be found in only five of their indexes, and in three of the five the index refers the reader to less than three paragraphs of text."

Black America, Africa and race, it seems, are non-starters in the area of US foreign policy.

Further, let us note that in a collection of speeches by President Nixon from the 1968 campaign, Africa is cited in the index only once, and that reference was to the crisis in Nigeria-Biafra. It is true that in 1960 John F. Kennedy did mention Africa 479 times. But we now know that the Kennedy administration represented an interlude in our foreign policy from 1945–70. The Kennedys have always had a knack for creating an existential reality out of their own particular view of the world. Moreover, President Kennedy would not have been an Irish politician if he had not recognized the importance of ethnic considerations in foreign policy. But even Kennedy had to allow European considerations to determine some of the directions of his African policy. For instance, his policy against the continuation of Portugese colonialism in Africa was blunted by the demands of the NATO Alliance, and our need for the Air Force Base in the Azores.

Yet another easy way to demonstrate the absence of Black America as a foreign policy consideration is to cite our heavy involvement, both official and private on the wrong side of the Colour Curtain in southern Africa. Although Americans of conscience may disagree as to exactly what policy initiatives can be taken with respect to the attainment of majority rule in Namibia, Zimbabwe, South Africa, Angola and Mozambique, it is true that at the very least unilateral American initiative could reduce the level of American entanglement with the white minority regimes.

TWO SPECIAL REASONS

There are various reasons why there is this absence of Black America from our US foreign policy. Two special reasons however might be stressed.

One is the failure of concerned white America to develop a relation to Africa similar to that with Ireland. Our policy with Ireland, because of the historical associations with many Irish-Americans, is replete with symbolic gestures which have become part of the ritual of Statecraft.

We have failed to embrace Africa in the way in which we have embraced Ireland. The importance of such an embrace has recently been cited by Peter Edelman, former aide to Robert F. Kennedy:

"We would do well, just in our own self interest, to be nurturing black self-respect in America by embracing black nations abroad."

Second is the failure of Black America to develop support for African independence in a fashion similar to that of the American Jewish Community for the independence and survival of Israel. Why is this so?

On the one hand, many of the African state achieved independence without a bitter struggle. There was no need for a sizable amount of external support. On the other hand there is the serious problem that black Americans do not have a secure power base from which to exercise Black Power in defense or in support of Africa. This condition might be changing as the struggle in Southern Africa intensifies and requires more external support, and as the American Black Community does in fact strengthen itself through new forms of unity. But as it is it is easy and common for the State Department to dismiss the Southern Africa situation from domestic politics by noting: "Oh, Black Americans have no interest in that situation."

EXISTING INFLUENCES

What in fact are some of the existing influences which might have been used to build a more moral African policy, weak though it might have been. A number of groups can be cited.

We won't pretend to do a full institutional analysis of these groups. Instead we will discuss them in terms of the syndrome surrounding each.

The African-American Institute syndrome: The African-American Institute, with offices in New York and Washington, publishes Africa Report and run a number of scholarship programs for the State Department through AID.

AAI represents an attempt to relate with the emerging African elite through educational programs. According to Jet Magazine—

"The institute was started by the late Howard University Professor Leo Hansberry but representatives of industry and business not only took the idea away from the blacks but chased away such black board members as New York City Judge Edward Dudley and Dr. John Davis, former president of West Virginia State College."

Be that as it may, AAI has become concerned with the problems of educating more Americans, especially black, about Africa and is attempting to develop teaching materials at the secondary school level.

The CIA Syndrome: As reported in Ramparts Magazine, AMSAC and other black American cultural enterprises, both in Africa and the United States, received substantial funds from the Central Intelligence Agency. This kind of funding was described as intellectual subversion which, by supporting a Black cultural nationalism, would prevent a more radical and militant political and economic nationalism from emerging.

The American Negro Leadership Conference on Africa Syndrome: This organization set up by the principle Civil Rights groups in the early 1960's has held three conferences and continues to maintain an Executive Director. They have done some useful things but have not had the time or resources to really develop Africa as a political issue in the Black Community. This syndrome also reflects the difficulties that arise when one group of leaders attempts to maintain a monopoly position on all issues affecting its community. Such a monopoly retards the development of other secondary leadership.

The American Committee on Africa Syndrome: The group, headed by co-chairman Donald Harrington and A. Philip Randolph, represents the non-establishmentarian liberal community in the Greater New York area. It has been described as the African-related arm of the early Civil Rights Movement. It has had substantial Black leadership, including such Black leaders on its Board as Bayard Rustin and James Farmer. Unfortunately, however, the New York base of this Civil Rights-Liberal-Labor Coalition has restricted its effectiveness on a national basis.

None of these groups, and the syndromes around them, have as of 1969, been able to either create or deliver or support a consolidated Black American position on Africa. The black American interest in Africa is there but remains unarticulated, unorganized and unconsolidated.

BEYOND 1969

What is happening in late 1969, and early 1970, if anything, that might lead to a consolidated Afro-American interest in Africa which would enable "Black America" to become a determinate in US African foreign policy?

First, let us note that two prominent Establishmentarian Negroes have been evolving a "White Hands-Off policy" with the respect to the current Nigerian-Biafran crisis. Senator Edward Brooke (R-Mass.) testified before the African-Affairs Subcommittee of the senate on October 4 to the effect:

"We are faced with a question of the ability of African states to deal with internal conflict. Our aim must be to bolster their capacity . . . No one else can find the solution".

Dr. C. Clyde Ferguson Jr., Special Coordinator on Relief, testified before the House Sub-Committee on Africa to similar effect:

"I think that perhaps it is too late in the day for any white-developed nation or predominately white-developed nation to attempt to dictate the political future of the continent of black Africa."

These remarks represent, if nothing else, a growing Black American claim that white liberal paternalism has no place in the affairs of Black nations.

Charles C. Diggs Jr. (D–Michigan) became Chairman of Subcommittee on African Affairs at the beginning of the 91st Congress. This Black Congressman from Detroit, as the new chairman of the Sub-Committee, has already been more active in the first year of his chairmanship than he was as an ordinary Congressman for 15 years. He led a fact finding trip to Nigeria in February and has resumed the dormant 1966 hearings on South Africa; he held special hearings on Rhodesia in November. He led a second trip to Africa in August 1969. For the first time the Committee on African Affairs will hold special and separate hearings on the AID proposals for Africa. He plans more hearings and more trips in 1970. His leadership in these areas have a reinforcing effect on Black American interest in Africa as the black press publicizing his general activities also publicizes African issues.

One of the few areas in which the white radicals of the New Left and the Blacks of the Black Student Union might find a program of joint action is on the South Africa issue. At least three campuses have already been activated around the South African issue. One of the largest articles in the *New York Times* on Africa in 1969 concerned the attempts of the students at Princeton to get the Board of Trustees to divest themselves of investments in corporations with large operations in South Africa. This alliance will no doubt continue and spread to more campuses.

There is agitation of growing agitation about the southern Africa issue in the black street community. Several groups in New York have established Liberation Relief Committees. They are beginning to send support to various of the liberation groups in Southern Africa. Another group, located in an eastern city, is attempting to organize returning black veterans from Viet Nam to fight in Angola.

Further, the African Studies Association, the academic based body which has provided substantial inputs in the US foreign policy network, was challenged at its annual meeting in October 1969 to provide parity for black members at all levels.

Also, The American Committee on Africa has reorganized itself substantially. With more than 50% black membership on its Executive Board, it has recently appointed Charles Hightower, a black journalist, as director of its Congressional office and has deployed field organizers in several cities.

Another new body has been established in Washington called the Washington Task Force on African Affairs. This is a black organized research group which will monitor UE foreign policy from an ethnic point of view. Their first research effort, Black Paper No. 1, documents the workings of "institutional racism" in US African policy.

Given these developments and given the improbable prospects of a comprehensive revolution in American foreign policy towards the Third World, can we assume that a consolidated Black position on Africa will be able, in the context of traditional coalition politics, to influence a new and dynamic policy towards Africa?

The answer is murky. Those who favor the rhetoric of despair will wring their hands and claim a negative answer. Those who see a more optimistic answer must depend upon the future of the black unity movement.

CONCLUSION

Let me note two things in conclusion: One directed towards Black America and one directed towards White America.

As far as Black America is concerned, Black Americans must see that Black freedom is indivisible. Because of the unique historical conditions surrounding the black man's role in history, one enslaved black man anywhere restricts the freedom of Black men everywhere. Black American support of the Black man's open struggle for freedom in Southern Africa is an important part of the struggle for cultural, social and political liberation in this country. It may well be that the Black struggle in the US for full freedom will only be won when the Black American community has successfully rendered effective assistance to the Black Man's struggle in Africa.

As far as concerned White America goes, and if we are committed to the struggle against imperialism, neo-imperialism and all other forms of Western oppression in the Third World, we should note that the US neo-imperialist stake in Africa is less than anywhere else and is perhaps more tractable to combat. If it is true that the strength of neo-imperialism is less where its stake is least, we must see that Southern Africa offers the most propitious arena for effecting a few victories in the war against neo-imperialism. Even when we cannot directly participate in such victories, our support for such efforts contributes to the well being of the community of mankind, both white and non-white, everywhere.

ST. BONA IS NO. 1 BASKETBALL TEAM

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. HASTINGS. Mr. Speaker, last Saturday St. Bonaventure University's basketball team defeated Villanova 97 to 74 in the quarter finals of the National Collegiate Championship playoffs at Columbia, S.C., before millions of fans who viewed the game on television.

For St. Bonaventure, which I am proud to say is located in my hometown of Allegany, N.Y., it was a bittersweet victory. Villanova was the only team to beat them during regular season play which saw the Brown Indians compile a 23-1 record and achieve a No. 3 ranking among college basketball teams throughout the Nation.

But 9 minutes before the game ended, Bob Lanier, St. Bona's giant center and everybody's selection for All-American this year, fell with a torn ligament in his leg.

The 6-foot, 11-inch, 275-pound Lanier was operated on Sunday at Buffalo General Hospital. I am happy to say that he will be fully recovered in 6 weeks and able to launch, next year, a professional basketball career equally as sensational as the one he leaves behind him in college basketball.

But St. Bona will be without the services of Lanier for their semifinal game against Jacksonville University Thursday night at College Park, Md., in their quest for the national college basketball championship. Sports experts say loss of Lanier, who, by the way, also was named the outstanding player of the regional games just finished, makes the outlook bleak for the Bonnies. They fail to reckon with the spirit engendered by their coach, Larry Weise, who for years has been producing top-notch basketball teams in the foothills of the Allegheny Mountains.

As Coach Weise says: "My kids won't give up." The starting team for Thursday's game of Mike Gantt, Greg Gary, Bill Kalbaugh, Mike Kull, and Paul Hoffman will have no thought of defeat when they take to the floor Thursday night.

Bob Lanier may not be in uniform, but he will be there in spirit giving added incentive to win this big one for the big man.

It has been a long season. The championship is just two games away for the Bonnies. But win or lose, the team and its coach will always rank No. 1.

BYELORUSSIAN CONGRESS COMMITTEE OF AMERICA

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. MURPHY of New York. Mr. Speaker, the valiant people of Byelorussia are living today under a cruel burden of slavery imposed on them by Soviet Russia. On March 25, 1970, these people will celebrate the 52d anniversary of the proclamation of independence of the Byelorussian Democratic Republic. However, they will celebrate only in their hearts, because the central Soviet Government has decreed that Byelorussians will celebrate instead the 100th anniversary of the birth of Lenin.

I have long been acquainted with the Byelorussian Congress Committee of America, an association of Byelorussians living in this country who deeply desire the liberation from Soviet slavery of the Byelorussian Republic and the restoration of an independent Byelorussian state.

The following letter was sent by John Kosiak, president of the Congress Committee. It is an eloquent appeal for understanding and support and I commend it to the Members of this body:

BYELORUSSIAN CONGRESS
COMMITTEE OF AMERICA,
Queens, N.Y., March 9, 1970.

Hon. JOHN M. MURPHY,
House of Representatives,
Washington, D.C.

DEAR SIR: March 25, 1970 marks an anniversary of great significance for American citizens of Byelorussian origin, for on that day Byelorussians everywhere in the countries of the free world will celebrate the 52nd anniversary of the proclamation of independence of the Byelorussian Democratic Republic. In Byelorussia, however, a national celebration of independence is replaced by the observance of 100th anniversary of the birth of Vladimir Ulianoff (Lenin), former leader of the Russian Bolshevik Party and former head of Soviet Russian Government, glorified as the alleged benefactor of the Byelorussian people.

The United Nations' Commission on Human Rights on March 13, 1969 adopted a resolution to commemorate the 100th year since the birth of Vladimir Ulianoff (Lenin), former leader of the Russian Bolshevik Party and former head of Soviet Russian Government, as a great humanitarian. This celebration will take place on April 20, 1970.

Byelorussian people are today enslaved by Soviet Russia and are unable to express freely their past and present experiences under communism and their opinion on the humanitarianism of Lenin. Therefore, we would like to present an opinion on the humanitarianism of Lenin with respect to the Byelorussian people and its country.

As a theorist of Russian Bolshevism, Lenin appeared as a decisive defender of the integrity of the Russian Empire, many years before usurping power in Russia. In his program, for the Russian Social-Democratic Workers' Party (Bolsheviks), Lenin acknowledged the right of non-Russian nations for self-determination down to separation from Russia. However, he was granting only the right of separation, but not real separation. Lenin was against separation of non-Russian nations from Russia. His position was for holding them inside the borders of the Russian state and to convince his own party members to take the same attitude (Letter, by Lenin, from Krakau to S. Shaumian, November 23, 1913).

After usurpation of power in Russia on November 7, 1917 Lenin showed utmost hostility toward the liberation of all non-Russian nations, dominated by the Russian Empire. The Declaration of Rights for nations of Russia, accepted by the Bolshevik Government, was a repetition of the national policy as it was formulated previously in the program of the Bolshevik Party by Lenin.

The treatment of Byelorussia, headed by the Lenin government was—as follows. The First All-Byelorussian Congress consisting of 1,872 representatives convened in Miensk on December 15, 1917. This was a national Byelorussian assembly, whose aim was to decide the future statehood of Byelorussia. Bolshevik-Russian delegates were in a small minority. They were not able to influence the Congressional decisions. The Congress has chosen independence for the Byelorussian state. On December 17, 1917 the Red Russian Army dispersed the Congress by order of the Soviet Russian Government.

During the continuing war, at a favorable situation, the Council of the First All-Byelorussian Congress proclaimed independence of the Byelorussian Democratic Republic on March 25, 1918. In opposition to this independent Byelorussian state Lenin ordered the creation of the Byelorussian Soviet Socialist Republic (BSSR). This fictitious state, as well as its government, were created by the Soviet Government in Moscow. Proclamation of the BSSR took place on January 1, 1919 in the city of Smalensk which was conquered by Russia.

Later, the Soviet Russian Army conquered most of Byelorussia. Concluding peace treaty with Poland in Riga in 1921, Lenin without representatives from the BSSR divided the territory of Byelorussia as follows: The BSSR was alloted a territory of six counties of the Miensk district only, with a population of approximately 1.2 million. Poland was given approximately 100,000 sq. km. of Byelorussia with a population of approximately 4 millions. Directly to Russian SFSR there was annexed approximately 250,000 sq. km. of Byelorussian territory with a population of over 9 millions. This partition of Byelorussia and subjugation of her people existed until the death of Lenin. In this way Lenin brutally suppressed the aims of the Byelorussian people for self-determination and independence, and turned into a colonial people of Soviet Russia.

By introduction of his own totalitarian communist regime in Byelorussia, Lenin deprived Byelorussian people of all its human rights and freedoms, the rights recognized by the Western World at this time, and proclaimed earlier by the Byelorussian Democratic Republic. Those rights being: freedom of speech, freedom of assembly, freedom of press, freedom of association, freedom of worship, freedom of economical activity, freedom to elect one's own government, freedom to choose one's habitat and travel abroad, immunity of home, independence of judiciary, etc. Freedom of activity was given to the Bolshevik Party only, which was executing orders from the central government in Moscow. The leadership of this party in Byelorussia was composed of non-Byelorussians. It was a reliable instrument for domination over the Byelorussian nation.

The constitution of the BSSR, as well as the USSR, guaranteed in writing most of the above mentioned freedoms. However, these constitutions exist on paper only to mislead the foreign opinion. In reality the Bolshevik Party is using such policies which are suiting her aims. Ignoring completely existing constitutions.

Lenin introduced a very brutal tyranny by governing Bolshevik Party superiors. Called by him, hypocritically, "workers' and peasants' government", as well as a Central Committee of Bolshevik Party, included neither a single worker, not a peasant. The Communist Party occupied a privileged place, that which was previously held by nobility in czarist era.

The Bolshevik Party represented a new ruling class of fascist type. It used a limitless and merciless exploitation of working people. Starvation and hunger, shortage of all necessary articles existed in reality during Lenin's rule. Only the members of the Communist Party were supplied through special exclusive distribution stores, unaccessible to the rest of the population.

This oppression of people was possible only by the use of mass and ruthless terror. In this field Lenin showed extraordinary ability. He organized Cheka (Extraordinary Committee—Secret Police) headed by the notorious F. Derzhynsky. This mill of death had no other predecessor in modern history. The infamous czarist security service (okhranka) in comparison with Cheka was a very liberal institution. The surveillance by police was raised to systematic denunciation of each person. The Cheka kept an accumulative personal file on all. A new crime was discovered in which each person became a suspect—the potential enemy of the Soviet Government. The arrests of innocent people in mass as those potential enemies; the relentless savage abuse and torture of imprisoned people, who were admitting the non-committed crimes; the shooting of people en masse without trial—all this, as a sword of Damocles, was hanging over a defenseless people, murdered by Lenin's bureaucrats, immune to any responsibility.

Lenin is the father of Russian Bolshevism, that which is oppressing Byelorussian people for over 50 years. This period is the most severe and tragic of all Byelorussian history. During this time the Bolshevik Moscow annihilated over 6 million of Byelorussians. But, at the present time, using systematic Russianization, deportations of Byelorussians to Siberia, and colonization of Byelorussia by Russians, the Moscow Government is attempting a complete removal from the globe of the separate Byelorussian nation and transforming it into a part of Russia. This genocide is a direct result of the Leninist national policies applied towards non-Russian nations of the USSR.

Miss Svetlana Alliluyeva, daughter of J. Stalin, recently made this public statement, ". . . all of this did not begin with my father. So many people think that he invented the system, the dictatorship, the police, the spying. But he didn't. He inherited it all from Lenin."

Lenin projected conquest of the entire globe by Bolshevism. He designed a universal USSR, of course, under the hegemony of Soviet Russia. This design is used by the present government of Moscow as a current program of realization. Soviet Russia is giving top priority to the development of her own military power, and is gradually realizing the testament of Lenin on the conquest and enslavement of the remaining independent countries. This subjugation of nations of central Europe after the 2nd World War, communist expansion in Greece, Korea and Vietnam, the recent military invasion into Czechoslovakia, all these are the concurrent steps leading towards the realization of the expansionist plan designed by Lenin.

We are assuming, that proposal to commemorate the birthday of Lenin in the United Nations was initiated by the representatives from Soviet Russia, or by their subservient countries-satellites. The real aim behind this diversionist maneuver is to disorient nations of the free world, and to make them more vulnerable to gradual absorption by Moscow.

We would like to call your kind attention to the fact that this commemoration would be a most cynical humiliation of the idea of humanism. It would be a public mockery of human rights as defined by the Universal Declaration of Human Rights, adopted by the United Nations. It will demonstrate a flagrant injustice expressed by the free countries towards the Byelorussian nation, which was conquered, oppressed and suffered heavily under Lenin's terrorist rule, as well as under the rule, inspired by him, of the present Government of Soviet Russia. We would like to ask you for decisive rejection of this celebration as completely inappropriate for people honoring freedom and justice for all.

At this time, the Byelorussians living in their native country do not have any opportunity to defend their national interests. Therefore, we take liberty to ask you for support of the desires of the Byelorussian people for liberation from Soviet Russian slavery, and for restoration of an independent Byelorussian state.

Very respectfully yours,
JOHN KOSIAK,
President.

PATTERNS OF DISCRIMINATION

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. CLAY. Mr. Speaker, last week the Reverend Theodore M. Hesburgh, C.S.C., Chairman of the U.S. Civil Rights Commission, said that the racial division of St. Louis was supported by a broad network of institutional systems whose leaders disclaim responsibility for them. He noted that "the suburbs are white and the city is 50 percent black" and that "St. Louis County maintains a noose around the city."

Mr. Speaker, I agree wholeheartedly with the conclusions that the attitude of the majority of the people in St. Louis, including its leaders, is racist. I am inserting in the RECORD for consideration by my colleagues the following report which documents the manipulation of the housing market in St. Louis, Mo., by members of the real estate community. Thirteen black and white checkers visited 15 white real estate companies for purposes of purchasing or selling a home. Blatant and subtle methods and techniques of manipulation and discrimination against blacks and whites are described in the report. The result of this manipulation is the containment of blacks in areas designated by the white real estate community.

Mr. Speaker, the report was prepared by Hedy Epstein of the Greater St. Louis Committee for Freedom of Residence, in February 1970, and is included herewith:

REPORT ON ST. LOUIS

I. INTRODUCTION

The population distribution in the metropolitan St. Louis area is a study in contrast. The core city's population with every passing day increasingly becomes more black, losing at the same time more of its white members to all white enclaves in the suburbs. A quick glance at the metropolitan St. Louis area might give the appearance that the population distribution is a result of a choice of the individuals involved. But not so. For over a year and a half now, fair housing has been the law of the land. Not only has the general public not yet grasped the significance of this fact, but more importantly, this fact has not been put into practice by members of the real estate community.

Racial manipulation of St. Louis housing patterns by real estate dealers was widespread prior to the 1968 Federal Fair Housing Law and the June 1968 Jones vs. Alfred H. Mayer Co. U.S. Supreme Court Decision and has continued since that time. Both white and black home buyers, sellers and renters were and have continued to be victimized. (The Jones vs. Alfred H. Mayer Co. U.S. Supreme Court Decision ruled that discrimination in the sale or rental of *all* housing is illegal under the Civil Rights Act of 1866. The Civil Rights Law of 1968 also outlaws most such discrimination.)

II. DESCRIPTION OF PROJECT: "PATTERNS OF DISCRIMINATION"

Freedom of Residence receives an average of three complaints of racial discrimination in housing per day. This represents only a fraction of the overall picture of discrimination. Inspired (or better said) "depressed" by this knowledge, Freedom of Residence set out to investigate the "Patterns of Discrimination" as put into operation by the white real estate community. The project began in May 1969 and lasted about eight months. The material collected reveals that discriminatory practices of white real estate companies in attempting to show blacks only property in all black or integrated areas, and avoiding showing them properties in all white areas. The whites were referred only to properties in all white areas. All black or integrated areas were not mentioned to the white prospective customers. When these whites asked about properties in integrated areas, or about an integrated area in general, they were discouraged or urged not to consider such areas. For purposes of this project thirteen (13) black and white checkers presented themselves as prospective clients to fifteen (15) white real estate companies, sometimes to buy a home, at other times to sell a home. In all, a total of eighty-nine (89) visits were made. (See Table No. 1.) When a real estate company had more than one office, the branch offices were also visited. While we were prepared to find widespread violations of the civil rights laws, we were amazed at how easy it was to compile the evidence. In many cases realtors volunteered information and methods to avoid compliance with civil rights laws with no prompting from checkers.

TABLE NO. 1

Realtor	Visits to realtors by black checker, No.—				Visits to realtors by white checker, No.—									Total number of visits by black checkers	Total number of visits by white checkers	Total number of visits by all checkers (black and white)
	1	2	3	4	1	2	3	4	5	6	7	8	9			
I	2				4	1	1	1						2	7	9
II	3	1			2	1	1	1	1	1	2			4	9	13
III	3	1			3	1								4	4	8
IV												1		0	1	1
V	2		1	1	2	2	1				1		1	4	7	11
VI	1				3					1				1	4	5
VII	2	1			3									3	3	6
VIII	2				2	1								2	3	5
IX							1							0	1	1
X	1				1								1	1	2	3
XI	2				3	1								2	4	6
XII			1			1	2						1	1	4	5
XIII	2		1		2		1						1	3	4	7
XIV	1				1		1						1	1	3	4
XV	1	2			2									3	2	5
Total number of visits by each checker	22	5	3	1	28	8	8	2	1	2	3	1	5	31	58	89

III. OBSERVATIONS AND FINDINGS OF THE INVESTIGATION OBTAINED BY CHECKERS

The statement by white checkers "I'm concerned about my neighborhood" was universally interpreted by realtors as a reference to race. Instead of inquiring what the concern for the neighborhood was, realtors universally replied, "You mean colored," and then went ahead to tell of their techniques for keeping blacks out of white neighborhoods and steering whites away from all black or integrated neighborhoods.

Despite repeatedly expressed wishes of black checkers that "I don't wish to live in this (integrated) area," these black checkers were over and over again referred only to properties in those areas they expressed no interest in. In addition, these black checkers were told by the realtors "these are the only listings we have at this time." It should be noted here that the realtors visited, all had access to a multiple listing service, which lists properties for sale by realtors who subscribe to this service. Some of the realtors visited also had access to a computer listing service. A random check by Freedom of Residence of the multiple listing service and the computer listing indicated that at the same time both white and black checkers visited the real estate companies:

(1) the particular real estate company visited had their own listings of houses which they did not share with the

(a) black checkers apparently because the homes were located in white areas

(b) white checkers apparently because the homes were located in integrated areas.

This random check also indicates that houses listed by other realtors also were not shared. We assume the reason was the same as above.

To illustrate the afore-mentioned, we relate some excerpts from conversations by black and white checkers and the realtors visited by them.

A black checker visited Real Estate Company "A" for the purpose of purchasing a 3 bedroom $25–30,000 house. The agent immediately suggested University City (an integrated area). The checker indicated that she was not particularly interested in University City. The agent countered this with "There are some lovely homes in that area." The checker repeated that she was not interested in this area and then listed seven (7) areas she would like to live in. To this the agent responded: "Well, we don't have anything just now."

A white checker visited the same real estate company about two weeks later also for the purpose of purchasing a home, a 3 bedroom $18–22,000 home. The checker specified a geographical area of interest. Included in this area was University City, an integrated area though not specifically mentioned by name. The agent at first suggested four (4) areas well outside the area described by the checker, two (2) of them considerably south, and two (2) of them west. It should be noted here that one of the communities within the boundaries described by this checker has homes that are above the price range indicated. University City has homes in that price range. Near the agent's desk was a bulletin board with some listings. One of them was a home in University City (integrated area) for $21,900. When the checker inquired about it, the agent said: "It's a lovely house, but there are colored next door. And wouldn't you know it they have the biggest house on the block. I know you wouldn't want to live next door to colored." When the checker said "I had never given this any thought" the agent said: "Take my advice, you would not want to." The checker then asked about other University City listings. Reluctantly the agent looked through a couple of pages of University City listings, pointing to one or two and then adding: "These are no good, the houses are too old (Note: Checker had never indicated age of home interested in.) and the area is not nice." With that the agent shut the book and suggested another white suburb. This one, too, was outside of the area of interest expressed by the checker.

About two and a half months later the same white checker visited the same real estate company again. This time it was for the purpose of listing a home for sale. On this occasion the checker spoke to the president of this company, who at that time also was president of the Metropolitan St. Louis Real Estate Board. After the checker had answered some questions about the house to be sold, she mentioned that she was "concerned about her neighborhood." This was understood to mean "you don't want to sell your house to colored." The president of the company then launched into an hour and a half long discourse espousing his views on integration, prejudice and what he called "social do-gooders." He admitted to being prejudiced, in fact "since watching TV and reading all about the terrible violence and lack of regard for law and order of the 'colored' people. I am now more prejudiced than I have ever been."

Later in the monologue, he said that "schools in University City are 40% integrated, when you have 40% you no longer have integration, you have a problem. What happened in University City is the result of some 'social do-gooders' who felt that integration is a good thing." He compared social do-gooders to college students who have their heads crammed full of all kinds of theories, but know nothing about the practicality of things. "Now those people have learned the hard way that it just doesn't work. We refused to take a listing in University City and turned back another one just a few days ago. You just can't expect to sell a house to a white family in that area." He warned against trying to sell a house without the assistance of a real estate company because "your doorbell might ring, you open it and some great big 'buck nigger' might stand there and want to see your house." He related to the checker "we never break an area, i.e. we never sell to a 'colored' person unless there are already some 'colored' people living there. It would be bad business to do this. After all we must consider our reputation. We can usually screen out Negro voices on the telephone." In response to the checker's question what would they do if a black family wanted to buy her home, he replied: "We would not share your listing with them. In fact, we share only about one fifth of our listings with them. If they specifically asked for your house, we would have to show it because of the law." He used this to illustrate how the federal government is running his business for him and is depriving him of his rights. He shared with this checker that he was then President of the Metropolitan St. Louis Real Estate Board. In view of "my prejudices I often have to talk out of both sides of my mouth and wear two hats as President of the Metropolitan Real Estate Board."

A black checker visited Real Estate Company "B" for the purpose of purchasing a three bedroom home in the $22–25,000 price range or slightly higher. The checker was asked if she was interested in a specific area. The checker stated that she had no preference, that she was new in town and not familiar enough with the area to be able to indicate a preference. The agent gave her three listings in University City (integrated area) and one in Pasadena Hills (another area to which blacks are frequently referred to by realtors), and added: "That's about all we have in your price range."

About two weeks later the same black checker visited another branch office of the same real estate company, again for the purpose of purchasing a 3 bedroom house. This time she gave as her price range $24–28,000—could stretch to $30,000. The agent told checker about two homes in University City (integrated area). When the agent continued to show the checker University City listings, the checker indicated that she was from out of town, but had heard some unfavorable remarks about University City and was skeptical about the area. The agent told her: "I can't imagine any difficulty in University City. . . . Look at these homes. I'm sure you would like them and the area."

A white checker visited the same two branch offices of Real Estate Company "B", one of them on the same day as the black checker's first visit, the other branch office one day earlier than the black checker's first visit. In both instances the purpose of the checker's visits was to purchase a 3 bedroom $18–22,000 house. The checker specified a geographical area of interest. Included in this area was University City, an integrated area, though not specifically mentioned by name.

In the white checker's first visit the agent found only one house within the specified geographical area in a white area and then told checker he had nothing else. Homes in the white area are higher priced than checker indicated she could pay. Checker then asked if they listed homes all over. In response, agent said "yes". Checker then asked how about something further east than Olivette (a white area)? The agent hesitated and when the checker questioned his hesitation, he replied: "The are lots of colored in University City (this area is adjacent to Olivette) and I want to be honest with you. Just like I don't like to sell somebody a house with a flaw in it, I want you to know that, because I'm sure you wouldn't want to live next to colored." Later in the conversation the agent told the checker: "They, the colored, are moving into several areas, on Cadillac in Berkeley, Frostwood, Northwoods. . . . They put them in white areas where they want them to live. They, the NAACP, buy houses for them. . . . In the past we didn't have to sell them a house unless there were three colored families on the block. That was the Real Estate Board's law."

In her second visit the following day to one of Real Estate Company "B's" branch offices the checker was told by the agent that he had nothing in her price range in Olivette (a white area in specified geographical area). "You would have to go to University City (integrated area) and that's colored. You have to be real careful there." Checker asked: "How come it's all 'colored'?" Agent: "It's because they, the City (of University City) told the colored a few years ago they're welcome there and they won't be discriminated against and now it's backfired on them. They've realized this and have started to do something about it. They no longer allow 'for sale' signs and they have an occupancy permit law. This occupancy law makes it real hard for the seller because he has to fix up his property, often to the tune of $2,000 or more before he can sell it. If he can't afford it, he has to stay, or if he has to move, he has to sell at a loss." The checker then asked him: "As an expert in the real estate business, would you recommend a move to University City?" The agent's reply was: "I really wouldn't. I don't think you'd be happy there . . ."

Ten days after this office visit, this Checker received a telephone call from the above agent. He told her about a house in Olivette (a white area within specified geographical area). He then added: "I got this listing from a friend, who is a real estate speculator. The house is his daughter's and she is moving out of town. For fear colored will want to see it or buy it, there'll be no 'for sale' sign up. This man (the speculator) is calling his friends in the real estate business and we're all co-operating. The house is in a lovely neighborhood and there are no colored there."

About four months later the same white checker visited the president of Real Estate Company "B" for the purpose of listing a house for sale. She told the president: "We want to sell our house. We are concerned about the neighborhood. I would like to discuss this with you." His response was: "I understand your concern. This is a tough world we live in. There is a law and it's pretty hard to do anything about that. We have to watch ourselves too, because they are always checking us . . . We'll do all we can to help. One of the things you can do is not put a 'for sale' sign up in front of your house, this way they'll never know that your house is for sale. We'd advertise in the paper, but there is always so much advertised in the paper that it's hard to remember and figure out all the houses that are being sold . . . If they'd ask for your particular house, we'd call you and then you could always use excuses for not being able to show it to them. You could say you're going to be out of town, or that the time is not convenient, that you're not going to be home then, and so on. By the time you have run out of excuses, you hope they will have gone elsewhere." After he ascertained where checker's home was located he told checker: "You would not really have any problems, because your house would be more than the colored usually spend. They usually buy in the $13–$18,000 bracket. If they buy more expensive homes, they have trouble getting a loan or making the monthly payments . . . The colored usually have to buy through FHA." He added that his company "places many transfers of an international company located near your (checker's) residence. Our salespeople always know the race of people this company refers to us. If they're colored, we direct them to other areas." Still later in the conversation, the president of Company "B" told the checker: "We've had white women come in to make arrangements to see a house and then they turn up with their husbands who are as big and as black as the ace of spades. I'm 59 years old. If I'm going to lose my hair or become grey, it's because of those mixed marriages."

All of the aforementioned describes some of the very blatant and overt methods of discrimination as practiced by members of the real estate community. Among the 15 real estate companies visited, we found one company whose discrimination methods are not always as blatant as those described before. The subtle nature can best be described by relating an actual situation of their discrimination methods. The family, the McC.'s, were not checkers, but genuinely interested in renting a home.

IV. ACTUAL CASE HISTORY

On November 3, 1969, the McC.'s were shown a home for rent, owned by the F. family and listed with the B. Real Estate Company. After seeing the house they made application for it and left a deposit for two weeks rent with B. Real Estate Company. Since they did not hear from the B. Real Estate Company, Mrs. McC. phoned B. Real Estate Company and was told the house is not on the market anymore, because owner learned it was zoned commercially and wanted to rent it for commercial use. Later on the same day, Mrs. McC. picked up the money. On December 19, the day the McC. family was in contact with Freedom of Residence, this house was still empty.

On November 30, 1969, the McC.'s saw another house for rent by the B. Real Estate Company. They were shown this house, filled out an application for this house and left a deposit of two months rent, $270.00, with Mr. K., manager of one of the branch offices of B. Real Estate Company. The following day, December 1, Mr. K. told the McC.'s that he could not get in touch with the owner of the house, Mr. G., to determine how soon they could get in. Shortly thereafter the McC.'s were told that this owner had taken the house off the market because he wanted to redecorate, prior to renting the house.

On December 19 a Freedom of Residence staff member phoned Mr. G., owner of the second house and asked why he had refused to rent to the McC.'s. Mr. G.: "Because we need to make repairs and redecorate the house. We will list the house with B. Real Estate Company again when that is done—it'll take us a while." When Freedom of Residence staff member asked: "Where does that leave the McC.'s?" Mr. G. responded: "I don't know." Freedom of Residence staff person: "What did you tell B. Real Estate Company why you were not renting to McCs.?" Mr. G.: "That the house was not tenable." Freedom of Residence staff person: "The McCs. have seen the house, know its condition and are willing to rent it as is. Why did you decide the house is not tenable after listing it with B. Real Estate Company?" Mr. G.: "I had not seen the house for one year and only saw what it looked like after listing it with B. Real Estate Company." The Freedom of Residence staff person then shared with Mr. G. that it appears to the McCs. as though they have been discriminated against. Mr. G. was also told that a Justice Department attorney had been in the Freedom of Residence office that day and we had discussed this situation with him and that he might be looking into it. Mr. G. was also told that Mr. McC. had indicated he wished to pursue the matter legally. Mr. G. replied: "Keep your shirt on. We'll list house with B. Real Estate Company again after it's redecorated." When he was asked whether he would rent it to McCs. then, he replied: "We'll cross that bridge when we get there."

On December 20, 1969 a white male checker phoned the B. Real Estate Company branch office (the same one the McCs. had dealt with) and asked about the G. home. He was told that they no longer had that listing. On December 20, 1969 another white male checker phoned the same office, expressing interest in the first house the McCs. wanted to rent. He said he wanted to use it commercially. The checker was told that the property was leased. It could not be used commercially anyhow, because it was zoned residential.

On December 21, 1969 a Freedom of Residence staff person spoke to Mr. K., manager of the B. Real Estate Company branch office and asked him to explain what happened. Mr. K. related the following: "Shortly after the 'for rent' sign went up at the G. home (second house) the McCs. came to their office. After they had seen the house, I drafted the lease in the absence of the listing agent. Then the owner, Mr. G., took the listing away from B. Real Estate Company because he wanted to redecorate house. I told him he might have trouble because the McCs. are colored. They are nice quiet people, but they might sue since they are colored. They might get an injunction on house for one year and since this was to be investment property, that's not what you want. (Mr. G. had bought this home from B. Real Estate Company about one year ago.) The McCs. might be particularly suspicious since within the month a similar situation happened to them with another house." The Freedom of Residence staff person asked him to explain what happened there. Mr. K.: "After that house was listed with B. Real Estate Company and after McCs. had seen it and put down a deposit, the owner, Mr. F., called B. Real Estate Company to remove house from market. The owner said it is zoned commercial and they can get more money from it that way."

On December 22, 1969 the master zoning plan was checked and it stated that the above house, owned by Mr. F., was zoned for multiple or single dwelling and shall *never* be zoned commercial.

On December 22, 1969 a Freedom of Residence staff person phoned another branch office of B. Real Estate Company and spoke to an agent, indicating that she wanted to rent her house and wanted to know how this was done. After some basic information was given, the Freedom of Residence staff person asked if and under what conditions a contract could be broken. The agent suggested that it would be best to ask Mr. L., manager of this office about this.

Later the Freedom of Residence staff person talked to Mr. L., manager of this branch of B. Real Estate Company. He too explained the basics first. When he was asked about breaking the contract, he referred to the federal law briefly and then added: "First of all we don't advertise for quite a while, we pass the information around the office, and usually can find someone that way. Then you could specify if or when you would want us to advertise." When Mr. L.

was asked what options were as far as refusing to rent, he replied, chuckling: "Just the other day we had a situation on property owned by someone who lives (and he mentioned area where Mr. G., owner of second house lives). . . . The owner just said he wants to redecorate." When Mr. L. was asked: "Wouldn't we be bound by our contract with you?" his answer was: "We'd be willing to cancel your contract if it's because of something like this, if it's because of race."

Still later the Freedom of Residence staff person phoned Mr. B., a high officer of B. Real Estate Company, relating all of the aforementioned information to him. He suggested that the staff person come in to meet with him and other officers of the company. He added that his company was not responsible for attitudes of their clients. It was pointed out to him that we were talking about an attitude suggested by Mr. L., manager.

About three hours later, a phone call was received from Mr. K., manager of one of the B. Real Estate Company branch offices. He said that Mr. G. (owner of second house) had changed his mind and would lease house to McCs. and would contract to do repairs with McCs. in the house and therefore it would not be necessary to have a meeting. It should be noted that to date the McCs. have not been told directly that they may lease the house.

On December 23, 1969 a meeting was held in B. Real Estate office as arranged the previous day. Present: Mr. B., Mr. L., and two other officers of B. Real Estate Company and two Freedom of Residence staff members.

Upon Mr. B.'s request a Freedom of Residence staff member related the entire situation by reading from case history.

One of the B. Real Estate Company officers went into a long explanation about the upkeep of rental property. Another officer stated that the McCs. could rent the G. home, that Mr. G. had no objection to their renting it.

One Freedom of Residence staff person asked Mr. L. to explain the statement he made on the phone to her ". . . Just the other day we had a situation on property owned by someone who lives . . . The owner just said they want to redecorate." Mr. L. said: "That's a lie," whereupon the other Freedom of Residence staff person got up and said: "That's all, we're leaving. We didn't come here to be called liars. We'll have to settle this in court." Before we left we told Mr. B. that all the information has been shared with an attorney from the U.S. Department of Justice, and that he could expect to hear from him.

We predict that the subtle methods used in the McC. case (or similar subtle methods) will be used by real estate companies once the case has been prosecuted in court.

V. APPLICATION OF FINDING

(*A*) *Testimony at January 16, 1970, hearings of U.S. Civil Rights Commission in St. Louis, Mo.*

On January 16, 1970 a Freedom of Residence staff member testified at hearings of the U.S. Civil Rights Commission held in St. Louis, Mo. Most of the afore-mentioned material was covered during this testimony. (Transcripts of the testimony can be obtained from the Civil Rights Commission.)

(*B*) *Disclosure of findings to U.S. Department of Justice*

All of the material uncovered in the "Patterns of Discrimination" project was presented to the U.S. Department of Justice on November 25, 1969. Since then some individual discrimination case material has been forwarded to the Justice Department. At that time Freedom of Residence requested that the Department of Justice file suit in the U.S. District Court, naming the fifteen (15) white real estate companies as defendants.

At the time of this writing we are still hoping that the Justice Department will prosecute and thus help put an end to practices such as evidenced in the afore-mentioned material.

VI. RESULTS OF INVESTIGATION

The findings of this investigation show that the result of this manipulation of the St. Louis, Mo. housing market is to contain the black population in areas designated by white realtors. There is evidence indicating that the banks and other money lending institutions actively participate in this manipulation and the subsequent patterns that are developed.

The reasons for this containment will be subjects of other reports. We list here, without comment, those reasons we suspect to be valid. This list is not necessarily complete.

Reasons for containment of black population:

1. To purposely deteriorate an area to induce Urban Renewal, Code Enforcement, etc.
2. To induce real estate sales ("panic peddling, blockbusting, etc.").
3. As a result of a false "moral commitment" to "maintain the integrity" of communities.

VII. CONCLUSION—AUTHOR'S NOTE

We are well aware that this report does not have a customary conclusion. There are two reasons for this:

1. To date no suit has been filed against the realtors.
2. At the time of writing we see no end in sight for the discriminatory practices of the realtors.

VIII. APPENDIX NO. 1

The following is a copy of a report on the activities of McDonnell-Douglas Corporation's Housing Office. This report was mailed on February 6, 1970, to:

Secretary of the Defense Melvin R. Laird with copies to:

1. Senator Edward Kennedy.
2. Representative William Clay.
3. Mr. J. S. McDonnell, McDonnell-Douglas Corporation, Brown Road, St. Louis, Missouri 63166.
4. Mr. Orrie Duerringer, Housing Department, McDonnell-Douglas Corporation, Brown Road, St. Louis, Missouri 63166.

Freedom of Residential operations began in 1961. Until Freedom of Residence was funded by the Danforth Foundation in May 1969, the organization operated financially on a shoestring and with the help of volunteers.

As a result of this, records were not always kept properly. However, in going through our files we found that from 1966 until the present time forty-three (43) families, of which at least one member of the family was a McDonnell-Douglas Corporation employee, met with discrimination in their search for suitable housing.

To document this, we relate the following:

In 1964 McDonnell-Douglas Corporation hired a black man in their Data Processing Department. The family (wife and one child) came from out of town. The McDonnell-Douglas Corporation Housing Department gave him a list of housing located in Kinloch, Meecham Park (black enclaves) and black areas of the city of St. Louis. He had not indicated that this was his preference. A white friend, employed at McDonnell-Douglas Corporation, went to the Housing Department at that time and received a totally different list of housing in white areas. The black family eventually found suitable housing without the assistance of McDonnell-Douglas Corporation's Housing Department.

After our office became aware of this, we called McDonnell-Douglas Corporation's Housing Department, suggesting that Freedom of Residence might assist in finding housing for their black employees. We were told that no assistance was necessary. It was also denied that McDonnell-Douglas Corporation kept dual lists, one for white and another for black employees.

In May 1967 a recently returned Viet Nam veteran and his wife visited the Freedom of Residence office. He had just been hired by McDonnell-Douglas Corporation in their Production Department. He had been given a housing list by McDonnell-Douglas Corporation's Housing Department, with housing suitable for himself and his wife, marked in red ink. All of the housing marked in red ink was in all black areas.

In March 1969 McDonnell-Douglas Corporation hired a single black man from another state as a Trainee/Technical Illustrator. Until he found suitable housing in mid-September 1969, almost six months later, he stayed at the YMCA. McDonnell-Douglas Corporation's Housing Department provided him with a lengthy list of rental housing located both in the city and the county. He contacted many of the apartment complexes on this list, and also followed up on newspaper advertisements. Place after place advised him there was no vacancy. On several occasions he shared this with McDonnell-Douglas Corporation's Housing Department, asking them for assistance. Repeatedly he was told that all they could do for him is give him an updated list and suggested that he keep on trying. Finally, early in September 1969, in utter despair, he went door to door, asking if an apartment is available, and found an apartment that was vacant and that he liked. When he called the Real Estate Company who was leasing this unit, he was told the apartment was rented. A white checker from the Freedom of Residence office then phoned the Real Estate Company and was told the apartment was available. The following morning the McDonnell-Douglas Corporation employee personally went to the Real Estate office to inquire about the apartment and again was told the apartment was rented. Five minutes later a white checker from Freedom of Residence entered the Real Estate office and asked about the same apartment and was told it was available. Two hours later another white checker from Freedom of Residence was told this same apartment was still available. When Freedom of Residence confronted the Real Estate Company with all of this and shared with them that our client had indicated to us his intention to file suit to enforce his rights, the apartment became suddenly available to him. He has been living there since.

We cited this last situation in detail because it illustrates well what McDonnell-Douglas Corporation's Housing Department could have and should have done. Had they intervened early, it would have prevented much frustration for one of their employees. It also would have shown some manner of "affirmative action" on the part of the McDonnell-Douglas Corporation.

IX. APPENDIX NO. 2

In the eighty-nine (89) visits made to the fifteen (15) white realtors the thirteen (13) black and white checkers found: 67 different methods and techniques of discriminating against blacks and 41 different methods and techniques of discriminating against whites.

In the following pages we have listed some of these methods and techniques. Others have also been included.

Discrimination against whites

1. By word (the general attitude is that living in an integrated area is not desirable):

A. You don't want to live there, that's colored.

B. The property values are dropping.

C. The schools are "bad" (meaning integrated).

D. Crime rate is up . . . break-ins . . . etc.

E. Area deteriorated, blighted, unkept.

F. Integrated areas will be all black eventually.

G. We're (real estate company) not social pioneers.

XUM

H. Property in black and/or integrated areas is not a good investment.

I. I (real estate agent) would recommend against purchasing in that (integrated) area.

2. By lack of word (excluding black and/or integrated areas from the range of choices):

A. Not offering listings of property in black and/or integrated areas.

B. Not noting positive aspects of integrated and/or black areas.

C. Assuming that whites should not or would not want to live in integrated and/or black areas.

3. By deed:

A. Refusal to accept listings in integrated and/or black areas.

B. Ignoring specific requests for listings in integrated areas.

C. Giving lists of specific areas to be avoided (integrated and/or black).

D. Lying about availability of property in integrated and/or black areas.

Discrimination against blacks

1. Ways of not showing and/or selling:

A. Seller is out of town.

B. Time is not convenient for seller.

C. Seller not at home.

D. We already have a contract on house.

E. Pointing out only bad features of house.

F. The house is suddenly off the market.

G. Client discouraged from purchase because the unit is "too far away."

H. Real estate company screens out "black" voices over the telephone.

(1) Terms (price, loan, FHA, conventional, G.I., down payment, interest, etc.) keep changing so that no contract is ever accepted.

(2) Real estate companies exert sanctions (will not share listings and/or customers, etc.) against companies cooperating with black clients.

I. Requiring unnecessary detailed financial disclosures.

J. Requiring financial qualifications higher than necessary.

K. Loan applications turned down in spite of qualifications. (False claims of "bad credit", insufficient income, etc.)

L. Black buyer encouraged to make offer below minimum so that contract is rejected.

2. Attitudes and ignorance.

Generally speaking, the black customer is often not offered the same courtesies as whites. In some cases black checkers were:

A. Not asked to be seated.

B. Were assumed to be "poor" and unable to meet financial qualifications.

C. Were not asked their names and/or other data.

D. Promised follow-up calls were not made.

E. Were offered less expensive and less desirable housing than that requested.

F. Assumed to need housing near bus lines ("since most blacks are domestics").

3. Inaccessibility to listings.

A. Blacks not made aware of some listings in white areas.

B. Blacks offered listings in integrated and/or black areas only, often despite repeated requests for listings in other areas.

C. Some listings in white areas are never made public . . . are passed around to other brokers who have agreed to share them with "select clientele", the so-called "underground market".

D. No "for sale" sign laws limit blacks' accessibility because one method of finding houses (for sale signs) is eliminated.

E. Company policy declines listings from black and/or integrated areas.

F. Company policy is to tell blacks nothing is available.

G. Representative of real estate company will claim "nothing is available in that price range".

H. One real estate company refers blacks to another company which handles property in black and/or integrated areas.

ECONOMIC CONVERSION AND THE AEROSPACE INDUSTRY

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. CHARLES H. WILSON. Mr. Speaker, deep concern about the future of the aerospace industry in California is growing. This concern is founded on the fact that all recent procurements have gone elsewhere. Fort Worth received the F–111, Atlanta has the C–5A, for better or worse, Seattle has the SST, New York has the F–14, and St. Louis now has the F–15. In 1969, the entire aerospace industry had nationwide sales of $28.3 billion. That sum, of course, was apportioned to commercial aircraft, utility and executive aircraft, missile and space vehicles, helicopters and military aircraft. The last category alone, military aircraft sales, amounted to $10 billion. However, since 40 percent or 548,000 of this Nation's aerospace workers live and work in California, the lack of recent major procurements portends serious economic problems for these individuals and their families as well as to the industry in general. The ripple effect caused by a substantial reduction in a $5 billion payroll and the loss of numerous subcontracts will effect four to five times the number of aerospace workers who are directly hit.

The importance of awarding the B–1 strategic bomber development and construction to a California company—North American Rockwell to be specific—is needed not only for the welfare of the people and the State of California but for the Nation as a whole. The vitally needed defense capability of the fine work force assembled by North American should not be allowed to dissipate. As Henry Lacayo, president of local 887, United Aerospace Workers stated before the Joint Legislative Committee on Economic Conversion:

> During the period from January 1964 to the end of 1969 over 16,000 workers in the bargaining unit have been laid off. In January 1964 over 29,000 were employed . . . in December of last year less than 12,500 were at work. This represents an obviously major reduction in the North American workforce and doesn't take into account those laid off outside the bargaining unit—that is, managerial personnel.

This statement was buttressed by the recent comments of Mr. Richard F. Walker, president of North American Rockwell's Los Angeles Division. Mr. Walker, in discussing the present state of the aerospace industry in California, indicated that—

> Also in jeopardy is an irreplaceable pool of technological skills . . . the greatest concentration of experienced, talented aerospace manpower in the nation.

Mr. Speaker, we cannot allow this resource to be lost, to the Nation.

I am including in the CONGRESSIONAL RECORD the testimony delivered by Mr. Lacayo and the policy statement entitled "National Priorities and National Security—A Call to Conscience and Action by Aerospace Workers," adopted by the Joint Council of North American-Rockwell Local 887. In addition, I am inserting for my colleagues attention an article by Mr. George E. Berkley that appeared in the New Republic called "The Myth of War Profiteering."

These statements strongly intimate that defense contracting, rather than helping corporations, is relatively unprofitable and undesirable. Mr. Lacayo and the UAW forcefully speak out for economic conversion of aerospace activities. He states that "national security" includes more than a military definition and that meeting human needs will create healthy, sustained economic growth. In calling for conversion, the union leader declared that—

> We are convinced that meeting civilian requirements assures a more stable, secure employment market. We are convinced that a civilian-oriented economy would assure aerospace workers with a greater continuity of employment. Indeed, all workers.

Labor, management, and government would do well to consider the economic ramifications that an end to the war in Vietnam will have and that continuing reductions in military expenditures may portend. The insertions follow:

STATEMENT OF HENRY L. LACAYO

Mr. Chairman, Members of the Committee, my name is Henry Lacayo. I appear before you as a rank and file union member who is privileged to serve as president of a local union: Local 887, United Aerospace Workers. Our members work at all divisions of North American Rockwell Corporation in Los Angeles and Orange Counties.

Those serving on our union's Executive Board, present here today, join me in commending you for providing an official public forum—long needed in California—on the pervasive issue of economic conversion. Economic conversion has particular meaning in this state which, in fiscal 1967, had nearly 18% of the Defense Department's military prime contract awards of $10,000 or more.

In bread and butter terms, we commend you for your concern about the economic and human plight of the unemployed. While economists haggle over cold, impersonal statistics to prove or disprove the existence of a "recession," we have thousands of members on layoff . . . members who, without other employment possibilities, are experiencing a "depression." To give you the depth of the dilemma, layoffs include members with 20 years or more of credited service at North American Rockwell.

During the period from January 1964 to the end of 1969 over 16,000 workers in the bargaining unit have been laid off. In January 1964 over 29,000 were employed . . . in December of last year less than 12,500 were at work. This represents an obviously major reduction in the North American workforce and doesn't take into account those laid off outside the bargaining unit—that is, managerial personnel. And as of today, there is no promise of an appreciable employment upswing.

We come before you not as arm chair social critics but as those who live with day-to-day realities. Therefore, we profoundly hope that what we say in behalf of Local 887 members will be accepted in this light.

The layoffs at North American Rockwell and elsewhere merit more attention than a mere entry on unemployment statistical records and charts. And certainly merit more insight than presently reflected in policy-making attitudes and decisions that unemployment is a way to ease inflation, especially at a time when high interest rates, housing shortages and population rise help to assure

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a continuation of inflationary pressures, not to mention Vietnam.

We at Local 887 are not economists. But we simply cannot comprehend how an abundance of unemployment coupled with a scarcity of products and services is the way to manage our national economic health. This is a defeatist approach . . . it is a damaging aproach . . . it is a disastrous approach.

An America demonstrably capable of producing in quantity should stress high employment and abundance. In short, our choice is unemployment and scarcity or employment and abundance. Sheer common sense, if not compasion for wage earners, should dictate national choice.

Therefore, we must vigorously fault the direction the national executive leadership has chosen. We must also fault those corporations for failure to diversify more rapidly, realistically and with greater dedication.

A case in point is the recent loss of the F–15 contract by North American Rockwell. Additional layoffs followed. Should not a company have options? Does not a company plan just in case an existing government contract is cancelled? Is not a loss of a contract bid tantamount to a cancellation?

While North American Rockwell is seeking and is already in some areas of commercial or civilian production, the fact of the matter is that up to now, it is not an in-depth, all-out effort that will assure a high, stable work force. This brings us to the subject of corporate responsibility about which we want to speak at a subsequent point in our testimony.

For the moment, we want to preclude any misinterpretation of our position regarding space and defense programs per se. We are on record in the Halls of Congress in an official 1967 statement, for example. We said, and I quote:

"When America's fighting forces during World War II needed a highly maneuverable, high speed, dependable fighter plane, North American Aviation and its workers responded with the venerable P–51 Mustang, one of the greatest planes of its type in the entire history of manned flight.

"And when the need during the same war became apparent for a medium sized bomber with long range capabilfties, North American and its workers answered the call with the Majestic B–25 which, even today, is being used by American fighting forces in Vietnam . . ."

This 1967 statement of intent, made following the Apollo tragedy in which 3 astronauts lost their lives, also said:

"We know these are difficult times for North American with their managerial and engineering problems. And it is because of this we offer our cooperation in any way possible to help ensure the ultimate success of the Apollo Space Project. North American workers have performed in this spirit both in time of war and in time of peace, and they have done a superior job in time of war and in time of peace."

Mr. Chairman, I have quoted at some length to develop two fundamental positions which we take:

First, while we are opponents of unbridled military spending, and particularly of military waste, which costs the American taxpayer between $20 and $30 billion a year, we are not suggesting that we are opposed to military preparedness and planning for our "national security." What we are saying is that "national security" includes much more than a military definition. We are convinced that meeting human needs creates healthy, sustained economic growth. We are convinced that meeting civilian requirements assures a more stable, secure employment market. We are convinced that a civilian-oriented economy would assure aerospace workers with a greater continuity of employment. Indeed, all workers.

Second, the cooperative hand we offered to North American Rockwell when its future and reputation were on the firing line should now be met by this corporation's cooperative hand in sitting across the table with us in planning future employment possibilities. Further, it is our hope that North American and similar industrial giants that have benefited, in great measure, from public funds will participate in public discussions and decision-making efforts such as this committee offers.

Our union is officially on record in urging the "formation within the aerospace community of a labor-management committee" to help formulate civilian-oriented projects and programs. Our thinking leading up to this specific proposal is found in our policy statement called "National Priorities and National Security—A Call to Conscience and Action by Aerospace Workers." A copy is attached to our testimony which is before you. (Exhibit A) We respectfully urge your readership and particularly draw your attention to page 5 in which we offer specfic suggestions as to the type of civilian work North American Rockwell is set up to handle. We have no hesitancy in saying that our members are capable of performing the task.

For more than two decades the UAW has spoken out in favor of economic conversion, of economic diversification, often being accused of "pie-in-the-sky" thinking. The discussions that are taking place in this country today are testimony to the practicality of the UAW position.

For far too long we have been lulled into a feeling of security because our Gross National Product increases yearly. While there are arguments as to whether the rate of growth is fast enough, the real focus should be centered on the *quality* of growth. Are we really making progress, for instance, if chemists are in the laboratories of cosmetic firms discovering a new, better tasting lipstick, rather than in medical or hospital labs? Are we really making progress when scientists devote their vast talents to chemical and biological warfare rather than disease prevention?

So, the subject of economic conversion is not new to us. After World War II the UAW recognized the need to produce for the common good . . . to produce for a growing domestic consumer demand . . . to produce for peacetime living . . . to erase from our economic life the attitude that workers are "expendable."

Permit me to offer a bit of UAW history to make this point more meaningful.

Nearly 25 years ago—on May 4, 1945—the Army and Navy Departments and the Ford Motor Company summoned thousands of workers at the Willow Run Bomber plant to a meeting on the plant grounds. The occasion was the presentation to the workers and company of the Navy-Army "E" for excellence in production. A heavy bomber had been rolling from the plant every hour for more than a year. Mr. Henry Ford II took the occasion of this celebration to inform the Willow Run workers that they were no longer needed. The plant was to be abandoned. The word he applied to the plant was "expendable."

At that time, the UAW took issue with Ford on behalf of the workers of Willow Run, including 11,000 who at that time were in the Armed Forces. UAW challenged the contention that this powerful $90 million war-time unit of destruction could not also be used as an effective peace-time producer of the goods of plenty. Specifically, the UAW documented its case by pointing to the need for more housing and for updating the railroads.

We have come full circle. Housing needs are yet to be met. The plight of the railroads is on record. And today we find workers—and we might add, including many in management—who have contributed to both space and defense programs, but are now "expendable." Expendable at a time when technology, managerial know-how and a labor source of semi-skilled and skilled workers are available to do battle to meet domestic needs of our citizens. What a waste of human resources! What a waste of gigantic public investment that has made possible both the physical plants and profits enjoyed by aerospace and defense industries!

It is to the last point we wish to address ourselves. Long overdue is the need to acknowledge openly the myth that companies such as North American Rockell, Lockheed, McDonnell-Douglas, etc. are *private corporations* in the traditional capitalistic meaning of that term. This just isn't so. No one has better stated the proposition that Harvard economist John Kenneth Galbraith who said in testimony last year before a joint Senate-House economic subcommittee, and we quote:

"We must, as a grownup people, abandon now the myth that the big defense contractors are something separate from the public bureaucracy. They must be recognized for what they are—a part of the public establishment."

The facts support this view. In 1968, large defense contractors were using an estimated $13.3 billion worth of already nationalized plant and equipment and in June 1969 were using $9.5 billion of public working capital in the form of progress payments on contracts, the payments depending, broadly speaking, on the need for capital, not the progress toward completion of the contract.

To state the matter in another way: "Typically, aerospace companies do not spend their own money to build plants; they lease factories constructed by the Government. . . . Much of the elaborate equipment in aerospace factories is also government-financed. . . . Defense contracts . . . provide liberal allowances if the cost of a weapons system exceeds the estimated price—and it usually does—by a substantial margin. . . . Finally, the Government finances the production line itself." These are not our words but those of *Washington Post* reporter Bernard D. Nossiter, taken from his two award-winning reports last December.

Once we, including the corporations, become grownup enough to admit this national condition of economic life, then it logically follows that these corporations—and even smaller companies that have benefited from public spending in space and defense—have a public responsibility to perform in behalf of domestic consumer needs. Consumer needs should be defined more broadly than in products alone. It should include a consideration of environmental needs, health needs, educational needs, etc. What a breath of fresh air would blow over this nation when companies are bidding on HEW contracts, on public health contracts, on transportation contracts, and the like.

While we see some movement in the right direction, to date the net result is shallow when lined up against need. Sure, it's encouraging to read the *Los Angeles Times* headline "Aerospace Men See Peace Profits" and to see in the text of the reporter's story that "Aerospace companies also see a big future market in the applications of the systems approach and electronic capabilities, which it acquired from Government contracts, to solving urban problems. The industry believes that aerospace technology has markets in air and water pollution abatement, crime control, marine sciences and urban transportation." (January 15, 1970)

This still puts things in the future. We need to act here and now. Walter Reuther, the President of our International Union, has pinpointed the hard reality that the large industrial combines will only be motivated by the pocketbook nerve. Hence his proposal, the full content of which is at your disposal, makes sense. Since this proposal has already been publicly aired, I shall not burden you

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with a repetition, but would urge most strongly that you give his suggestions your full and careful consideration.

We find a paradox in the aerospace/defense establishment. Undoubtedly, profit has come to space-oriented, defense-oriented firms. Yet, the data at hand shows that those companies that have diversified are making more profit on civilian goods than military.

An overview of defense spending shows that the highly specialized aerospace and electronic firms, though still important defense contractors, have found their shares of defense business declining. In fiscal 1968 the 10 firms with the largest amount of defense contracts received 29.9% of the total awards—this was down from their pre-Vietnam share of 32.2%. Interestingly, 9 of these 10 giants of the military market are aerospace and electronic firms. The 10 firms are: North American Rockwell, General Dynamics, Lockheed, General Electric, United Aircraft, McDonnell-Douglas, AT & T, Boeing, Ling-Temco-Vought and General Motors.

Rather than reciting to you a detailed account of profit data and a related explanation, we have appended to our remarks an article titled "The Myth of War Profiteering" which appeared in the December 20, 1969 issue of The New Republic. (Exhibit B) However, we would like to take note of a reference to North American Rockwell. It is written and we quote ". . . Value Line Investment service in appraising North American Rockwell on July 25, 1969, notes that the company's commercial business was expected to reach 40 percent of its gross revenues in 1969, while accounting for over 50 percent of profits."

Also we wish to point out that the business-oriented magazine *Forbes* ranked the top 500 corporations in terms of revenues, assets, profits, etc. North American Rockwell was listed among the top ten war suppliers. Its rank based on total revenue was 6; however, its rank based on total profit was 94.

All of the this by way of substantiating our contention that civilian business is more profitable than military. This notwithstanding, we do find an inertia on the part of corporate enterprise. Herein lies the paradox. Only public policy, democratically arrived at, can displace pockets of corporate inertia with active corporate participation in the mainstream of economic growth.

We cannot drift into peace. We must have a *delivery system* that will meet the urban crises, that will meet our 1946 national policy goal of full employment, that will halt spoilage of our environment, that will meet our educational needs in plant, teachers and curricula, that will meet the total spectrum of human needs that involve the quality of life.

It is not an easy task. But we are optimistic in believing that our advanced technology, know-how and skills in this age of electronic revolution can produce for and can serve domestic and peaceful purposes. We in the UAW, in a time of supreme national peril, were the ones who said, "yes, we auto workers can produce 500 planes a day." The auto industrialists said it couldn't be done. They were 100% wrong. We did it. There is no reason we can't reverse the coin and push as steadily and devotedly for goods and services geared to constructive, rather than destructive, purpose.

We laymen and elected officials should not be intimidated by our electronic age. We should not be intimidated by our technology. We should not be intimidated into thinking that electronic and technological advances can best be applied to tools of war or to conquer outer space. A professor of history has said that "it is recognition that technology and science are, and always have been, integral to the human adventure, and not things curiously alien from the concerns of our race."

It has been said that following the ceremonies dedicating the great telescope on Mt. Palomar, somebody remarked to an astronomer: "Modern astronomy certainly makes man look insignificant, doesn't it?" To which the astonomer replied, "But man is the astronomer!"

When Ralph Nader was here in Los Angeles under the sponsorship of our union he spoke to this point when he said we have had an "aristocratic" application of our technology, and that it is high time we applied it to the needs of working Americans.

Now bringing the issue closer to home: that of employment of our members and indeed all working men and women. What we are attempting to say is that we must view a healthy employment picture in terms of building a *democratic culture*.

While our reaching out for a democratic culture is national in scope, you and other elected officials have a singular opportunity to bring the State of California into a pace-setting role. We do not take lightly our policy position, set forth in our Joint Council's statement to which I have previously referred, that there should be a "push for state government contracts to aerospace industries to research and develop answers to environmental pollution. . . . A state contract to look into the feasibility of the automobile steam engine is a case in point." As you know, the previous administration made a start in this direction, but the impact has been a scratch on the surface of the problems. More money and more State official push is mandated.

And we can bring the issue even closer to home for members of Local 887. We have said and I quote: "We are convinced that the aerospace industry can make a meaningful long-range contribution in pre-fabricated housing field, especially in the electrical, water and air cooling systems for such homes . . . aerospace management and workers who can build 30 engines for Apollo 11 most certainly have the work experience and required skills to move in the direction of providing a new power source for automobiles . . . a power source that is cheap, effective and clean. And certainly a team that can 'house' astronauts can come up with a mass rapid transit vehicle to 'house' commuters, especially for those who lack job opportunities because of no serviceable public transportation."

We are attempting to say that we must view a healthy employment picture in terms of a balanced, diversified economy, recognizing that national security is an all encompassing concept. We must bring balance and reason into economic growth . . . we must bring enlightenment and imagination into our policy decisions.

Perhaps a young 17th Century French philosopher and mathematician said it all when he observed: "We do not display greatness by going to one extreme, but in touching both at once, and filling all the intervening space."

Mr. Chairman and members of the committee, we appreciate your kind attention to our remarks and again wish to commend you for holding hearings on the most vital issue of the day.

Thank you.

National Priorities and National Security—A Call to Conscience and Action by Aerospace Workers

(Adopted by Joint Council of North American Rockwell Local 887, June 1969)

THE PREMISE AND THE PROMISE

A democratic society withers without flexible response to the surge of rapid change and without grass roots vigor to channel change in the direction of the public good . . . in the direction of elevating the quality of life.

We Americans, not given to rigid ideologies or doctrines, have an understandable pride in our willingness to face and effect change.

Our present national dilemma, our national uneasiness, is not our inability to change, but whether we change rapidly enough and in what direction we move; whether we grasp rapidly enough that our sophisticated, pervasive technology must be used to improve the human condition . . . that this technology, if left to its own momentum, will mushroom into a way of life that stifles the human spirit and condition. Social challenge came during the Industrial Revolution. Today's Technological and Electronic Revolution offers even greater challenges as its impact reaches into every aspect of national and personal existence.

The issue: "Where are we going?"

Recognizing this, we must push away side issues and diversionary debate and get to the heart of the real issue.

What is the deep-seated issue? The ABM? Not really. The ABM serves to crystallize the root issue which can be stated by a simple question with complex life and death implications: "Where are we going?"

The question is not new. It is as old as modern man. Down through the ages it has been man's courageous question. The open-ended challenge comes in finding courageous answers.

Meaning of "national security"

Today we are witnessing courageous questions and answers to where this nation is going with the ABM debate as to focal point for this all-important national search for the right path to take.

While we are opponents of unbridled military spending, and particularly of military waste, which costs the American taxpayer between $20 and $30 billion a year, we are not suggesting that we are opposed to military preparedness and planning for our "national security." What we are claiming is that "national security" includes much more than a military definition.

We are pushing for a rational, rather than a fear-ridden, approach to military spending; we are pushing for a balance so that explosive domestic social needs are given priority on our national agenda of action.

We are in effect saying that "national security" in a broader and more realistic sense means more than military capabilities . . . national security is dependent also on solving or lessening internal stresses. These stresses have already caused dangerous cracks in our national foundation.

Our internal stresses comes from a top-heavy drain on human and dollar resources in behalf of the military-industrial combine. By comparison, a trickle is unleashed to handle superficially, and all too casually, the host of domestic needs.

The tide of discontent is rising. No longer can we point to the "few"—to the malcontents, to the born troublemakers, to the radical extremists. We can point, with ample proof, that the middle-aged, middle-class and generally middle-of-the-roaders are expressing "deepening despair over the country's mounting stockpile of unsolved problems and unfilled promises." For the first time in recent memory, Congressional members of both political parties refuse to give a blank check to the budget sought by the Pentagon and backed by those civilian officials who, without question, go along with an ever-fattening defense budget.

National priorities/tax dollars

Fundamental dollars and cents decisions must be made by all Americans. How do we want our tax dollars spent? How do we best create full employment, a declared national goal since 1946?

We are taxed heavily by federal, state, and local levies. Even with added sales taxes, gasoline taxes, surtaxes, not enough money is available, we are told, to provide for schools, public transportation, parks, aid and water pollution control, low-and-moderate-cost housing and more health facilities and care. The pattern is nationwide.

It is startling to realize that the ingenuity that placed man on the moon, a landmark in the history of mankind and a cause for

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national pride, is not being applied to a larger degree to man's earthly needs. This is not to suggest that space programs are extraneous. Local 887 is proud of its membership's contribution to this singular endeavor and of its role in defending the Apollo program when its future looked bleak.

What we are saying is that domestic social needs cannot be neglected. Good economic sense dictates our opening up new job-producing programs which benefit the pocketbooks of workers and alleviate the pressing demands to house, clothe, feed and educate each person, thereby giving credibility to our proclaimed belief that everyone is entitled to "life, liberty and the pursuit of happiness," and to our Constitutional mandate to provide for the "general welfare."

National needs: A matter of values

Unmet human needs are as staggering to comprehend as the costs of a continuing, spiraling arms race.

It would be shortsighted merely to measure the cost of the arms race strictly in dollars spent out of our total national income known as the Gross National Product.

In the final analysis, it is a matter of choices . . . a matter of priorities . . . a matter of values. For instance, do we spend this year's Safeguard ABM funds or train 510,000 more hard-core unemployed?

What have our values been in the past decade? The answer is found in such facts as these:

From 1959 to 1968, direct defense outlays came to more than $551 billion, twice the amount spent for new private and public housing during the same period, and nearly twice as much as federal, state, and local governments allocated to education, and

In 1967 alone, a conservative estimate of military-related spending was $100 billion, more than all federal, state and local expenditures on health, hospitals, education, old age benefits, welfare, unemployment and agriculture.

This order of priorities prevails at a time when 20 million fellow Americans live in dilapidated, rat-infested houses while the building industry cannot even keep up with the population increase . . . in fact, it is declining in productivity.

We are convinced that the aerospace industry can make a meaningful, long-range contribution in the pre-fabricated housing field, especially in the electrical, water and air cooling systems for such homes.

To go a step further: aerospace management and workers who can build 30 engines for Apollo 11 most certainly have the work experience and required skills to move in the direction of providing a new power source for automobiles . . . a power source that is cheap, effective and clean.

And certainly a team that can "house" astronauts can come up with a mass rapid transit vehicle to "house" commuters, especially for those who lack job opportunities because of no serviceable public transportation.

Aerospace workers' skills adaptable

No worker is in a better position to know the job insecurity that comes to one employed in a defense-oriented or a missile-oriented, or a space-oriented firm, dependent on government contracts from a limited number of agencies for a limited number of projects. No worker is in a better position to appreciate the need for a company to diversify. No worker is in a better position to adapt to new job assignments that require skills, technological understanding and a disciplined approach to production.

The aerospace companies, beneficiaries of the public treasury, most definitely have an obligation to join with organized labor and government, at all levels, in moving in the direction of diversification. It is pointless for men of industry and labor and those in public life to proclaim on the Fourth of July or at a veteran's affair that devotion to and love of country are the mark of a red-blooded patriot if they lack a willingness to jointly act in common purpose. Patriotism must be practiced and applied, as well as preached.

Long-range economic/job security

Apart from the moral-ethical imperatives, we are convinced that meeting human needs creates healthy, sustained economic growth. We are convinced that meeting civilian requirements assures a more stable, secure employment market. We are convinced that aerospace workers will have greater continuity of employment.

We are likewise convinced that the public interest is best served and protected with a proper balance between military (and paramilitary) spending and home-front spending in behalf of social solutions to deep-rooted problems.

RECOMMENDATIONS

Having stated our premise, it is incumbent upon us to act to bring to life a potential promise of what can and should be done.

Therefore, as first steps, we recommend the following:

(1) Formation within the aerospace community of a *labor-management committee* to grapple with the points to which we have alluded. Such a committee could avail itself of the easily accessible pool of scientific, engineering, and technical consultants. To be effective in planning, this committee must touch base with government at all levels. This interchange is obviously essential, since government participation is as fundamental in resolving the crisis of city decay as it is in handling military matters and outer space programs.

(2) Formation by the National Aerospace Department of a *Task Force*, properly funded; such U.A.W. Task Force to come up with specific programs adaptable to existing aerospace work-force skills and experience and aimed at broadening job opportunities within the industry.

(3) Presentation of the Task Force proposals at a national conference called by the Aerospace Department; such conference to be held in Washington, D.C. to give added impetus to congressional action, including the passage of the U.A.W.-supported McGovern-Hatfield bill, "The National Economic Conversion Act."

(4) Push for state government contracts to aerospace industries to research and develop answers to environmental pollution, for example. A state contract to look into the feasibility of the automobile steam engine is a case in point.

CONCLUSION

We are convinced that by placing our national needs in proper perspective and in a proper order of priorities, we will give a renewed spirit and vitality to this nation.

A judicious deployment of our resources . . . human, natural, and economic . . . will be the real "safeguard" to our "national security."

THE MYTH OF WAR PROFITEERING

(By George E. Berkley)

Although America's munition makers are thought to be reaping a financial bonanza from the Vietnam War, the facts indicate otherwise. In 1965, the top five defense contractors were General Dynamics, Lockheed, Douglas, General Electric and United Aircraft. By the beginning of 1969, one of the big five, Douglas, had been squeezed out of existence; a second one, Lockheed, was in trouble. Of the three remaining, two were under severe financial pressure. For many war contractors, Vietnam has been a headache; for others it has been disaster.

Look at the balance sheets. General Dynamics earned $4.48 a share in 1965, the year the Vietnam build-up got underway. By 1968, its per share earnings had dropped to $2.83. Lockheed netted $4.89 a share in 1965. By 1968, its per share earnings, computed on the same basis as those of 1965, came to only $1.64. General Electric's profits were running at $3.93 a share in 1965. In 1968, they amounted to $3.95, a miniscule gain of 2 cents. United Aircraft scored the only earnings improvement during these war years. Its profits rose from $4.57 to $5.05, an increase of about ten percent.

Even these figures overstate the munition makers' war "prosperity" for they fail to allow for inflation. If we assess their earnings records in terms of constant, 1965 dollars, we find that United Aircraft marked time during these years, General Electric's earnings went down by nearly ten percent, General Dynamic's decreased by almost one-half and Lockheed's plummeted by more than two-thirds.

On January 1, 1969, *Forbes* published a summary of how the top 500 American corporations had fared in earnings growth during the previous five years. How did the prime war contractors place in this comparative ranking? General Dynamics, the biggest defense supplier, ended up almost at the bottom of the list, placing 481. The other three held the following rankings on the earnings growth list: Lockheed 390, General Electric 371, United Aircraft 243. In other words, during the war buildup, those companies furnishing the sinews of that war were faring a good deal less well financially than most of those firms denied such opportunities. Statistics such as these lead us to ask a further question: Were the blotched earnings record of the big war contractors representative of those war contractors generally? Did small defense suppliers make out as poorly as their larger colleagues?

Generally speaking, they did. Grumman Aircraft for example, is number 11 on the list of defense suppliers, but since it is smaller than some of the others its government contracts make up over 80 percent of its gross revenues. The company earned $3.03 a share in 1965, and $2.68 a share in 1968. AVCO, another corporation that does nearly four-fifths of its business with the Defense Department, listed its earnings as $2.88 a share for the 12-month period ending November 1965. For the same period ending November, 1968, the figure was $2.54. Both these companies experienced better than ten percent declines as measured in inflationary dollars. Measured in constant dollars, the declines were closer to 20 percent.

Some companies turning out war products fared much better. Raytheon's earnings more than doubled, leaping from $1.03 in 1965, to $2.07 in 1968. McDonnell Aircraft, which took over the financially tottering Douglas in 1967, managed to log an earnings record of $3.38 in 1968 compared to $2.62 per share three years earlier. Boeing succeeded about as well as General Electric, its per share earnings inching up from $3.82 to $3.84 during the three-year period.

However, these brighter spots are largely explained by special factors. Wall Street analysts attribute Raytheon's increase to an earnings turnaround brought about by new management, reorganization and a multi-pronged drive into such nondefense activity as textbook publishing and home appliance manufacturing. McDonnell-Douglas' sudden upsurge in profits in 1968—it had run deficits for 1966 and 1967—was attributed by a Standard and Poor investment letter to stepped-up deliveries of DC–8 and DC–9 commercial jets. The same investment letter claimed that Boeing's ability to at least mark time during the war years was based on its success with its commercial planes, primarily the 707 and 727.

As one combs through investment letters, designed solely to help stock market speculators make decisions on their investments, one finds recurring evidence of the discrepancy between the amount of revenue that companies derive from war contracts and the amount of *profit* they obtain from such orders. Thus, in reporting on Boeing on March 13, 1969, Standard and Poor notes

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that "over *half* of billings and the *bulk* of profits now come from commercial jetliners." (Emphasis added.) In appraising AVCO on September 15, 1969, Standard and Poor says, at one place, that "in 1967–8 about 77 percent of earnings came from commercial operations with the balance from government billings." Some paragraphs later, we find the sentence, "The Government Products Group accounts for the major portion of revenues." Similarly, Value Line investment service, in appraising North American Rockwell on July 25, 1969, notes that the company's commercial business was expected to reach 40 percent of its gross revenues in 1969, while accounting for over 50 percent of profits. In the same investment letter, Value Line noted that Ling-Temco-Vought had reduced its aerospace business to less than 20 percent of its gross revenue. In commenting on this, the service pointed out that the company's aerospace division had generated after tax profits of less than 0.3 percent last year.

Common sense tells us that such figures are wrong. After all, who should benefit from a war if not those who furnish its weapons? And haven't the defense contractors always been hungry for government business. Common sense told the Italians of the sixteenth century that if two unequal weights were dropped to the ground, the heavier would hit the ground first. But Galileo dropped two unequal weights from the top of the Tower of Pisa to prove that common sense was wrong.

Early this year, the Logistics Management Institute released a study showing that the average profit margin for all US industry was 8.7 percent of sales, but that the average profit margin on defense work was only 4.2 percent of sales. Since the all-industry average included the low-profit defense work, the actual profitability gap between defense and nondefense orders may be even greater than the better-than-two-to-one ratio that the figures suggest. The study was attacked in some quarters because it was based on data supplied by the defense contractors themselves. However, for reasons having to do with the stock market, which we will examine shortly, there is more of a tendency for defense manufacturers to overstate rather than undertake their profits on war contracts. Furthermore, there are additional data to show that, if anything, defense work is even less remunerative than the LMI study indicates.

Once again let us turn to *Forbes*. Every year it publishes separate listings, ranking the top 500 corporations in terms of revenues, assets, profits, etc. If we extract the rankings of the top ten war contractors in 1968 from the list of revenues, and similarly take their rankings from the list of profits, we obtain a graphic picture of the return on defense work:

Top 10 war suppliers	Rank based on total revenue	Rank based on total profit
General Dynamics	34	220
Lockheed	43	190
General Electric	5	13
United Aircraft	41	118
McDonnell-Douglas	17	60
A.T. & T	2	1
Boeing	22	74
Ling-Temco-Vought	31	232
North American Rockwell	6	94
General Motors	1	2

Now, in examining this list, let's first exclude American Telephone and Telegraph and General Motors. These corporation are so large that even though they are among the top ten, their defense business comes to only one or two percent of their gross revenues. In every single instance, the ranking of the remaining eight companies in terms of total profits earned is far, far below their rank in terms of total gross revenues. Moreover, all these companies have at least some non-defense business and, as already seen, such commercial business earns them much more, proportionally, than do their defense orders. Without their commercial business, the gap between their revenue position and their profit position would widen further.

Why are profit margins so poor and why, anomaly of anomalies, do they seem to be even poorer in war time than in peace time?

To answer this we should first note that defense orders were not always the mixed blessing for armaments makers that they are today. During the 1950s, many firms flourished on such business. It was the advent of Robert McNamara as Secretary of Defense that made the difference. McNamara changed the Defense Department's purchasing policy from a cost-plus to a fixed fee basis. The old cost-plus arrangement had allowed the military suppliers to charge the Pentagon whatever the project cost with a guaranteed profit added on. Furthermore, crafty contractors often found ways of including in costs, work that would benefit them in other areas. The fixed fee arrangement did away with blank checks. Contractors now have to stay within the bounds of the predetermined price if they expect to make a profit. Modern munitions-making is a complex business, however, and frequently unforeseen problems lie in wait for even the shrewdest. Lockheed's heavily publicized troubles with its C-4 Air Force Transport is one of many such instances.

Another problem besetting the defense industry is that its outlets for civilian business have grown markedly during the past decade. The economic lethargy of the Eisenhower years is behind us; the New Economics is established policy. The American economy picked up a startling momentum in the 1960s. In addition, various technological breakthroughs have given many aerospace companies considerable nonwar-related business. When the war buildup began in 1965, many of them suddenly found themselves with too much business. The influx of war orders piled on top of civilian billings, forced them into uneconomic practices. These included giving employees extensive overtime work, which means paying them 50 or 100 percent more for work which, because of increasing fatigue, becomes increasingly less satisfactory. Too many orders may also mean hiring less skilled employees, overutilizing plant and machinery and doing other things that can narrow profits and even turn them into losses.

It was precisely such factors which drove Douglas to the wall, transforming its $14.6 million of profits in 1965 into a $27.6 million loss in 1966. A *New York Times* financial writer noted in late 1968 that Boeing was beginning to experience a similar situation: "There were signs . . . that Boeing's tremendous commercial backlog [added to "low return government work"] was producing some of the strains that ruined the Douglas Aircraft Corporation—too rapid a buildup of business, a squeeze on plant and manpower capacity and, in the case of Douglas . . . production problems and deficits." Boeing in the first six months of this year earned $1.03 per share compared to $1.85 in the first half of 1965. In constant dollars, this would constitute an earnings drop of over 50 percent. The firm was expected to do less well in the second half of '69.

As noted earlier, AVCO's earnings declined from 1965 to 1968. In February 1969, a New York stock brokerage house, Goodbody and Company, issued an investment appraisal of the firm, assessing its prospects if peace should come. Although nearly 80 percent of AVCO's business comes from the Defense Department, the brokerage house found that peace would actually enhance AVCO's investment appeal. Its letter noted, for example, that ". . . profit margins on helicopter engine business . . . have been adversely affected by uneconomic production schedules created by the heavy demands of the Vietnam War. With a slowdown in hostilities, which would probably bring a more even flow of production, profit margins should improve."

A final factor must be considered in explaining the wilting profit margins of so many munitions makers during recent years: inflation. The Keynsian-oriented, welfare-state capitalism that has characterized European economies since World War II, and which began to take hold in the United States during the 1960s, has reversed the normal capitalist imbalance. Where at one time capitalism tended to suffer from too much supply in relation to demand, it now tends to enjoy the opposite. I say enjoy because this situation keeps up employment and wages and encourages growth. However it makes inflation a persistent threat. Thus, war which was once an elixir to capitalism has become anathema instead. Lack of military spending has brought many blessings to Japanese capitalism in recent decades. Too much military spending in the United States is reducing 1969 business profits, adjusted for inflation, to a level below that of 1965. And 1970 will probably be worse.

The military suppliers are, if anything, more susceptible than other branches of American industry to these ravages of inflation. Not only do they find their costs rising, but often they have a harder time passing such costs on to the consumer—in this case, the government. Inflation for a full-throttle economy is not a boon but a bane, and for a defense contractor, working under a deluge of orders on a fixed fee basis, and requiring a high proportion of scarce skilled labor to meet them, it can prove a disaster.

There is yet another problem that plagues munitions makers—the impact of Wall Street.

Stocks do not sell on profits alone. The auction market, which is the American securities industry, takes into account a variety of factors in determining what price a company's share will command. In 1969, the stocks of military suppliers were selling, on an average, at about 8 to 9 times their earnings. The average stock on the New York Stock Exchange, meanwhile, was selling at about 16 times earnings. (The average price-earnings ratio on the American Stock Exchange was higher still.) Thus, firms with a high defense component in their production operations have not only tended to make less money but have also been less able to capitalize on such earnings as they do make. This discrepancy between marketability of defense company stock compared to those of other companies is not simply a result of the prospective end of the Vietnam war. The gap between what their earnings can command in the financial markets vis-a-vis what other companies can obtain has existed for years.

A good price for its stock offers many desirable advantages for a business firm and its managers. First, it increases the managers' personal wealth. Much has been said in recent years about the separation of ownership from management in American industry but this should not obscure the fact that managers usually own some stock in the firms they run. If Wall Street chose to give armament industries the same price-earnings multiple that it gives other technological companies, the men who run America's armaments would realize a windfall of personal profit.

The managers of munitions industries have other reasons for wanting to see their stock priced at the levels of nondefense firms. The higher price increases management prestige and stockholder satisfaction. The latter factor can be quite important. There are many individuals and companies on the prowl in Wall Street these days, seeking firms with disgruntled stockholders who might be receptive to an acquisition offer. At the same

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time, a host of stock brokerage firms and investment counselors are constantly checking out reports, comparing company performances and suggesting ways in which the private investor can best put his money to work. Such elements put increasing pressure on those who run defense industries to appease their stockholders with better prices for their shares.

Meanwhile, war contractors are on the lookout themselves for tempting acquisition possibilities. They too have been showing an increasing predilection for taking over other firms and this makes an attractive price for their stock almost mandatory. Most mergers are based on an exchange of securities between the merger and the merged, and the higher the evaluation that Wall Street places on the shares of the former, the better the terms he can offer to the latter. Thus, the heavy discount which defense contractors' stock sells for these days is putting a severe crimp in their expansion plans, and making them vulnerable to raids by Wall Street predators. This helps explain why they are more apt to overstate rather than understate the profitability of their war contracts. Lockheed, for example, sought to minimize its losses on the C–4 air cargo plane for the Air Force.

One may wonder why business firms want defense contracts at all. Some industries *are* avoiding them. In January, 1967, *Iron Age*, the steel industry magazine, reported that steel makers were refusing to bid on defense work. Despite the fact that the Vietnam War was choking off steel orders in such areas as construction and auto production, the companies were showing little desire to compensate by going after defense contracts.

Those industries specifically geared for defense contracting do remain in the armaments-making race and often bid zealously on such work. Despite the flood of defense orders which the Vietnam War has brought them, however, most munitions makers have succeeded in gradually increasing their commercial business. The industrial end of the military-industrial complex is seeking to extricate itself from the dubious and often dismal fortunes of war.

Many such firms are finding expanded opportunities in the commercial aircraft sector. In 1968, such private business accounted for 47 percent of McDonnell-Douglas total sales. By the start of 1969, its commercial orders had increased to 68 percent of the company's backlog. Today, it is engaged in heavy competition with Lockheed for the coming wave of air bus production. It claims to have signed up 184 customers for its DC–10 which will carry about 300 passengers and will gross the company about $14.5 million each. Lockheed claims to have 181 orders for its L–1011 Tristar air bus, which will sell at the same price, and is counting on a total market of 1400 planes during the 1970s. (Its backlog of orders for these planes by the end of last year had a dollar value of 2.5 billion, 15 percent more than its entire billing for all work in 1968.) Boeing, meanwhile, says it has orders for 183 of its still larger air buses, the 747, which will be priced at $20 million each. Boeing's commercial orders had already reached 86 percent of its backlog by the end of last year, as compared to only 50 percent of its sales during the year, and the proportion of such backlog orders will undoubtedly cross the 90 percent mark at the end of 1969.

The aerospace industry has assembled the greatest pool of technological manpower in the world, and our ever increasingly technological society is beckoning them into newer civilian fields. United Aircraft's Sikorsky Division, long associated with helicopters, has built the experimental turbo trains that now run between Boston and New York. The apparent success of these trains offers the division numerous opportunities to transfer its energies to peacetime uses. Lockheed, in addition to its commercial aircraft business; is moving heavily into underseas technology, computers and medical information retrieval systems. LTV Aerospace is developing and marketing new systems for controlling automobile traffic. The aerospace industry is tooling up for a peacetime world of the 1970s that will in all probability earn it much more money than the war years of the late sixties.

Some munitions makers are even stepping outside their accustomed areas of competence to strengthen their tie-in with more profitable civilian activity. AVCO has taken over finance and insurance companies and is planning to build an entire community in California. Such endeavors will receive a great boost once the Vietnam War ends and the expected housing boom, long stifled by war-caused high interest rates, gets underway. Raytheon is counting on a post-war housing boom to provide opportunities to sell its new home heating system, as well as to increase orders for its home appliances division. The company's newly acquired textbook division also stands to benefit considerably from a shift of the country's resources to non-military purposes.

These promising developments will not take most of the munition makers out of munitions-making completely. Despite the low profitability of such work and the existence of more profitable opportunities in the civilian sector, any new contracts that arise for defense work will probably find at least some suppliers ready to bid. As they diversify into the civilian sector, however, they should become a less troublesome element in American society. Improbable though it may seem, many defense suppliers, motivated by sheer greed, may eventually join other industry leaders, Wall Street speculators and such business-oriented magazines as *Fortune* and *Forbes* in calling for a curtailment in defense spending and a shift to the more lucrative pursuits of peace.

UTAH JAYCEES NAME OGDENITE "OUTSTANDING YOUNG MAN OF THE YEAR"

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BURTON of Utah. Mr. Speaker, Donald V. Peterson, a tax examiner for the Western Service Center in Ogden, Utah, has overcome great physical handicaps to lead a busy, useful life. His achievements were recognized recently when he was named one of Utah's "Three Outstanding Young Men of the Year" by the Utah Jaycees organization. The following background story about Mr. Peterson appeared in the March 6, 1970, issue of Newscope, the unofficial newspaper of the Western Service Center Employees Association:

OGDENITE TAKES HIGH HONORS IN STATE JAYCEE CONTEST

Donald V. Peterson, a BMF Tax Examiner of Output Review Section, has been named as one of Utah's "Three Outstanding Young Men of the Year" by the Utah Jaycees organization.

Ogden's "Outstanding Young Man of the Year," the 34-year-old winner is president and founder of the United Cerebral Palsy Chapters of Weber and Davis counties and was twice chosen as the Handicapped Person of the Year by his former State of Idaho.

He is also active in the Weber County Sheltered Workshop which finds employment for the handicapped, and the Golden Spike Housing Development Corp. which locates homes for the low income families. At the Western Service Center, Mr. Peterson serves as a member of the Equal Employment Opportunity Committee.

As a winner in the Utah State Jaycee competition, Mr. Peterson will now enter the U.S. "10 Outstanding Young Men of America" program along with Franklin D. Johnson of Salt Lake City, and E. Jay Christopherson of Providence, Utah, who were also selected as state winners.

Though confined to a wheelchair, Mr. Peterson is completely independent in his private life, living in a house trailer in Ogden, doing his own household chores and traveling about (as far away as Roy, Utah, on sunshiny days) in his motorized wheelchair. Born with cerebral palsy, which has required 33 major operations over the years, Mr. Peterson has overcome his handicap through his involvement in the projects which provide advancement and opportunities for the less fortunate.

Last year he traveled to Washington, D.C., for the National Cerebral Palsy convention. In 1968, the former president, Lyndon B. Johnson, presented him with an honor citation for his outstanding record in civic responsibility and public service.

Friends and co-workers report that he is not only an "involved" citizen, but he is a cheerful and expert tax examiner. His supervisor in the BMF Notice Review Unit, Marge Stephenson, notes that "I've never seen Don grumpy—not even on Mondays. His industry and independence make him a valued friend and co-worker at the Service Center."

EXPANSION OF ABM

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. KEITH. Mr. Speaker, one of the issues of greatest concern to my district and State is the proposed expansion of the ABM. Recently two newspapers in my district have published perceptive and thought-provoking editorials on this subject.

The first editorial, from the March 5 edition of the Old Colony Memorial of Plymouth, Mass., describes the philosophical irony of the nuclear age which the ABM underlines. In the view of this newspaper, the development of nuclear weaponry for defensive purposes constitutes a "death wish." As the Old Colony Memorial states:

> There is no end to the evils that have been released from the nuclear Pandora's box. We resolutely shut our eyes and ears to them. But they dog our every step: as unshakeable as our very shadow.

The other editorial is from the New Bedford Standard Times of March 5. In this newspaper's opinion it is inadvisable to proceed with Safeguard expansion at this time. In citing the views of several distinguished Members of the other body, the Standard-Times sums up the most telling arguments against ABM expansion at this time:

> An anti-Chinese defense is not strategically justifiable; expansion of Safeguard should await testing and evaluation of the two sites presently authorized.

Mr. Speaker, under unanimous consent, I insert the two editorials at this point in the RECORD:

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The ABM Argument Again

As widely predicted, having got its foot in the door the Defense Department is monotonously asking for more and more billions for anti-ballistic missile sites.

Yet few people seriously believe that defensive measures of this nature can ever be effective, for the reason it is so very much easier to improve delivery systems than systems designed for intervention before targets are reached.

Just as an avalanche, once it begins to move, gathers mass and velocity, so too the obsession with nuclear weaponry. It is by no means limited to the United States, this gigantic death-wish. The Russians and Chinese are similarly committed to a lemming reaction.

Meanwhile a little publicized factor has entered the picture, a development of particular interest to smaller nations previously denied participation in the nuclear arms race.

Hydrogen bombs, which are theoretically unlimited in size, hitherto have had to be triggered by great concentrations of energy provided by uranium-235 fission bombs. But technology has now reached a point where it will not be long before adequate concentrations can be provided by means of lasers. These lasers will be chemical in nature, therefore relatively cheap to produce.

What does this mean?

It means that smaller countries, earlier excluded from the H-bomb club, can now form their own fraternity. For to produce uranium-235 requires tremendous amounts of electricity, whereas this is not the case at all with chemical lasers.

Of course the newcomers will lack what you might call vectorial potential. That is, they will never be able, for economic reasons, to create a rocket industry. But, as it happens, this is not necessary. Enormously devastating effects can be secured by simpler methods.

One of these methods would be to explode the H-bomb at the bottom of the sea close to shore. One appropriately designed H-bomb exploded six miles off the Battery in New York Harbor would create a sunami-like wave nearly 700 feet high. This gigantic wave would sweep inland for many miles, drowning say, three-quarters of the 12 million people in the Greater New York area.

The bomb could be so arranged as to be set off from a safe distance, and whenever desired. A perfectly obscure small vessel in the dark of night could let it slide to the bottom for future use. By placing perhaps 20 of these underwater bombs at appropriate sites a small nation the size of Denmark could bring a United States to its knees. In such a situation the balance of terror on which American H-bomb policy currently depends would become meaningless.

Further undermining the balance of terror concept is rapidly growing Chinese competence in nuclear power. If we are alarmed by this, imagine how much more alarmed the Soviets, prime target of Chinese fear and hatred must be.

There is no end to the evils that have been released from the nuclear Pandora's box. We resolutely shut our eyes and ears to them. But they dog our every step, as unshakable as our very shadow.

If you stop to think, the effort spent on aggression by all sides compared to the effort spent on promoting peace is as Mt. Everest to a grain of sand.

You would think our presidents would strive with all their might to learn to speak the most perfect Russian and Chinese, in order most eloquently to persuade our adversaries to desist. You would think the leaders in Moscow and Peking would be responding in kind.

But not a sign of such national behavior. We all seem bewitched, in the grip of a death-wish so powerful as to be felt as irreversible. The prospect of universal destruction is real and immediate. No matter. Man shows no sign of being able to rise above his habitual self, his cliches and stereotypes and superficialities.

ABM Opposition Broadens

There are growing indications, happily so, that the administration may have miscalculated the strength of the antiballistic missile opposition in the Senate in pressing ahead with what it calls a "modified Phase II" of the Safeguard program.

Noteworthy is the switch of Sen. Henry M. Jackson, Washington Democrat, who last year managed the Safeguard legislation for the administration and who recently expressed "grave doubts" about "the wisdom of moving now to the thin anti-Chinese area defense."

Sen. Jackson always has had doubts about the feasibility or necessity of an anti-Chinese system. Four of the five additional sites proposed by the administration would be designed to provide area defense against Red China.

The foundation for growing opposition to ABM in principle and its deployment and expansion in particular is based on the following arguments:

Serious doubts remain about the effectiveness of the Safeguard system. Two of the main technical arguments against Safeguard made by American scientists last year are admitted indirectly now by Defense Secretary Laird.

He acknowledges that there are cheaper ways to defend Minuteman missiles unless "the full area defense" against China is being built anyway. He also admits that the Soviet threat could actually turn out to be considerably larger than the Safeguard system is designed to handle.

As for the "full area defense" against China, Sen. Mansfield, majority leader, has noted the administration seems to be caught up in its own inconsistencies in now urging a city-defense mission for ABM which only last year it discarded as impractical.

This point—the fact that many knowledgeable people are convinced ABM will not work, will not fulfill its mission whatever that is—is the best reason for Senate rejection of the administration's proposal and this is now recognized even by many who voted for the program.

Sen. John O. Pastore, the most eloquent defender of Safeguard last year, now agrees it would be technically foolish to expand the ABM system until the two sites approved in 1969 have been "built and proven out."

This also brings up the point that the radar and computer systems needed to coordinate target locating and firing devices of an ABM battery are incredibly complex; easily upset by explosions, and that there is no way to test them fully short of nuclear war.

Even ABM's proponents acknowledge the validity of the challenge to Safeguard's radars and missiles. Last month, in testimony before the Senate Armed Services Committee, Dr. John S. Foster Jr., the Pentagon's research chief, admitted that changes are necessary in Safeguard. Specifically, he indicated that a new Spartan (long-range) missile would be needed to supplement the ABM defense and that more missiles and new radars would be needed for Phase I of the program.

Arguing against ABM expansion, Dr. Ralph E. Lapp, former assistant director of the Argonne National Laboratory, commented, "Modern weapons often fail to live up to their notices." As an example, he cited the Soviet SAM (surface-to-air missile), a radio-controlled interceptor whose technology and task are many times simpler than those of Safeguard. SAM has scored only 2 per cent "kills" on aircraft over North Vietnam.

Drs. G. W. Rathjens and G. B. Kistiakowsky, both former presidential science advisers, concluded in January, "We believe that, for the foreseeable future, technological considerations will continue to make nuclear offensive forces dominant over nuclear defensive forces."

The Senate should reject Safeguard; and certainly not expand it.

THE NLRB VERSUS EMPLOYERS AND EMPLOYEES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. ASHBROOK. Mr. Speaker, a recent report by the Subcommittee on Separation of Powers of the Senate Judiciary Committee confirms the charges that a number of us here in Congress have raised over the years concerning the National Labor Relations Board. Beginning in March 1968, the subcommittee held hearings for a period of 3 months and received testimony from 3 dozen witnesses, including professors of constitutional government, administrative law, and labor relations.

Attorneys familiar with the NLRB who represented both labor and management presented their views. The Chairman of the NLRB and his general counsel were heard. At the conclusion of the hearings, a respected Federal judge who is a student of administrative law gave his assessments of the roles of the agency, the courts, and the Congress. The subcommittee's findings, with one dissenting view, should prove interesting to the Board's chief victims—employers and employees.

Although supposedly independent, the NLRB demonstrated a consistent bias in its decisions. The report states:

> The National Labor Relations Board has of late unreasonably emphasized the establishment and maintenance of collective bargaining and strong unions to the exclusion of other important statutory purposes *which often involve the rights of individual employees.* (Emphasis added.)

The findings of the subcommittee also found that—

> Unions unable to persuade a majority of employees to opt for collective bargaining have been able to get the Board to impose it for them. And the Board has been able to do this by a freewheeling interpretation of the statute's more general provisions, by applying double standards, and by ignoring plain legislative mandates.

And again emphasizing the dual target of both employer and individual employees, the report states:

> The Board has also, we find, in matters going beyond recognition and the establishment of bargaining, given interpretations to the statute which reflects an overemphasis on helping unions impose their will on employers and individual employees. The Board clearly believes that it knows what is best for employees and all too frequently subordinates individual rights to the interests of organized labor.

The courts, and especially the U.S. Supreme Court, receive their share of criticism in the report:

Judicial review has failed to check the Board's misuse of its power. In some ways, the Board's failures are not susceptible to correction by judicial review. Beyond that, the evidence shows that, if anything, the courts, and especially the Supreme Court, have to some extent taken advantage of the delegation of broad powers to the Board and have written their own notions of labor policy into the act.

The subcommittee's report continues:

These courts intrude upon the legitimate area of discretion assigned by Congress to the agency. They give nothing more than lip service to congressional expressions of policy and to the Board applications of that policy founded upon experience and familiar with the subject matter.

With relation to the courts, the findings conclude:

Moreover, just as Board exercise of delegated power has changed with the political climate, so some courts, again primarily the Supreme Court, tend to favor one "Board" over another and to emphasize one purpose—the maintenance of strong unions—over other congressionally endorsed goals.

Briefly, the main thrust of the report was spelled out by Chairman Sam J. Ervin in these words:

The fact that reasonable men may differ as to the proper outcome of particular cases hardly explains why the National Labor Relations Board consistently decides such cases in the way most favorable to organized labor, even at the cost of subordinating the rights of individual employees; the fact that such cases are resolved consistently in one direction, however, justifies the inference that the tribunal is not fairly weighing all the considerations involved.

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In the appendix to the majority report there is included a summary of the decisions and doctrines of the NLRB specifically relied upon as the basis for the report. The appendix follows:

Appendix

(*a*) Unions may call upon employees for individual discussions. If employers do so, the election will be upset.

(*b*) Unions may promise increased benefits as a result of their efforts, but an employer may not point out the elementary fact that adverse economic effects may result from aggressive unionism without committing an unfair labor practice.

(*c*) An employer's statement that unions have played an important role in the struggle for racial integration has upset an election. A union, however, has analogized its campaign for representation to the civil rights struggle in the South, depicted those who oppose unions as racist and pictured the employer in question as an analogue to brutal police, firehoses and dogs: the symbols of southern racism. The Board treated that merely as an appeal to racial pride and did not upset the elections.

(*d*) A union may proceed to an election without waiving pre-election unfair labor practices.

(*e*) The admittedly unreliable device of a card check may support a bargaining order.

(*f*) Authorization cards may be solicited by misleading tactics.

(*g*) Authorization cards from 51 percent of the employees will support a bargaining order even though Board statistics indicate this is not nearly enough—because of the unreliability of cards—to prove the union ever had a majority.

(*h*) Even though Congress sought to procure industrial stability by forbidding valid elections within 1 year of each other, the Board forces employers to recognize unions on the basis of a bare majority of cards a few months after an election lost by the union. This creates industrial instability by encouraging continuous representation campaigns, deprives employees and employers of their right to a secret election, and compels employers to recognize unions which likely do not have majority status.

(*i*) Authorization cards are "notoriously unreliable" and may not be relied upon when two unions are competing for recognition.

(*j*) Decertification elections are discouraged by a number of rules.

(*k*) A number of Board decisions are not published and, in at least one case, the published and unpublished opinions were inconsistent, to the detriment of the employer involved.

(*l*) Even though the act prohibits "restraint or coercion" of employees by unions except through rules relating to the acquisition or retention of membership, the Board permits unions to bring suit to enforce union fines imposed on employees who cross picket lines.

(*m*) In spite of the statutory provision mentioned in (*l*), unions may fine members who exceed union-imposed production ceilings.

(*n*) The Board permits unions to discipline members who invoke the Board's own processes to obtain decertification elections.

(*o*) By favoring small election units where there is no organization and by disfavoring them where unionization already exists, the Board permits the extent of organization to control unit determination in violation of section 9(c) (5) of the act.

(*p*) The Board construes the employer's duty to bargain over "terms and conditions of employment" in the broadest possible way.

(*q*) Employers must in effect grant a checkoff clause to a union if they know the lack of one will harm the union. This directly violates section 8(d) which says that the duty to bargain does not require the making of a concession.

(*r*) Even though an agreement contains a freely bargained arbitration clause which says it must be used to resolve all disputes arising under the contract, the Board forces employers to bargain to an impasse outside the grievance procedure over issues arising during the contract.

(*s*) The rule in (*r*) applies even though the contract has a "zipper" clause which states the contract is the complete agreement of the parties.

(*t*) The Board has held that "informational" picketing is not covered by section 8(b) (7).

(*u*) The Board shows great tolerance for the language of picket signs in interpreting "truthful" in section 8(b) (7).

(*v*) The Board has chosen to create its own rule as to the degree of disruption necessary to lift the protection of the section 8(b) (7) (c) proviso rather than follow the language of that proviso.

(*w*) The Board has held that the sham of "area standards" picketing avoids 8(b) (7).

(*x*) The Board has held that boycotts aimed at work preservation do not violate section 8(e) in spite of the clear, precise language of that section.

HOW MICROCIRCUITS WILL BE USED IN CARS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. EDWARDS of California. Mr. Speaker, these days, everyone is jumping on the bandwagon against pollution, consumer protection, and product safety. Thanks to the efforts of Ralph Nader and men like him, the country has finally realized it must face these problems squarely and do something about them. But 3 years ago, in 1967, when these issues were not fashionable or politically expedient, there were men who were already thinking of ways to improve upon a technology which had brought with it dangerous side effects. One such man is Dr. William B. Hugle, president of Hugle Industries in Sunnyvale, Calif., who, in a paper presented before the Institute of Electrical and Electronics Engineers held in Detroit in 1967 was already talking of the future and of the use of microelectronics in automobiles which would provide built-in safety in our automobiles, reduce pollution, and generally bring about a revolution in automobile technology at a cost everyone could afford.

Mr. Speaker, I would like to have Mr. Hugle's remarks included and made a permanent part of the Record so that people may be made aware of the possibilities of the future, which is in the hands of men like William Hugle who have the foresight and the dedication to see a better world and work for it. His remarks follow:

How Microcircuits Will Be Used in Cars

(By Dr. William B. Hugle)

[Figures and slides not shown in Record]

By 1975, owners of U.S.-made cars will be driving in a wonderful new world made possible by microelectronics. The long-range goal of an automatically-piloted vehicle traveling care-free and safely down electronically-policed highways is not likely to have been achieved by then. However, the 1975 model U.S. automobile will be loaded with electronic devices making life simpler and safer for its driver.

These devices will sense and control the temperature inside his car, keep the volume of his radio-entertainment system at a level just high enough above the noise level, tell him when he is low on fuel, oil or water, warn him when he is traveling too fast, or when another object is too close, and even sense the moisture level on his windshield and automatically turn on the wipers, keeping them at the right speed for the rate of precipitation.

All these electronic devices, and many more, (see slide 1) are possible by 1975 or earlier with microcircuits because they reduce electronics to a size and cost per function that the Detroit auto makers, and the buying public, can appreciate.

How fast the applications catch up with the potentials depends upon Detroit, a place where engineers believe in taking their revolutions one step, and one model at a time. Before the new 1967 model automobiles were even on the showroom floors, Detroit engineers were looking to 1968 and beyond. One of the questions they wanted answered was whether integrated circuits (IC's), which had previously revolutionized the computer and military electronics fields, might produce a salable revolution for them.

At the same time, engineers and marketing experts for the leading manufacturers of IC's were working just as eagerly to determine whether the automobile industry represented a profitable business to them, or whether Detroit would insist on prices so low, and performance so high, that market entry would become impractical.

MODEST BEGINNING IN 1968

Both groups found enough favorable evidence to warrant a development effort aimed at a modest beginning in the 1968 and 1969 models, on which some integrated options will be offered, with a much wider application of IC's to standard features on automobiles for 1970 and 1971.

In the 1972 model year, it can be reliably estimated that between 10 and 20 IC's will be used in each car. With an estimated 10 million-plus automobiles produced, this will mean a total consumption of between 100 million and 200 million IC's that year, without including the inevitable application of IC's to car radios.

Not everyone, of course, reached agreement on the same questions at the same time. Among the automobile manufacturers, Ford and Chrysler have been the most active, and Ford seems likely to be first to introduce equipment making use of microelectronic technology—a voltage regulator expected to be optional on the 1968 model Lincolns, Thunderbirds and Mercurys. Ford's plans are to make this item standard on all its 1969 cars, assuming the price is right.

Chrysler got off to a slower start, but is now actively engaged in the development of a similar voltage regulator. General Motors turned its first efforts to an integrated regulator for heavy-duty vehicles, through a development effort at its Delco-Remy division. GMC engineers are now working on application of this and other devices to passenger automobiles.

The initial application of microcircuits to General Motors' automobiles will be through the radio. It is planned that three to five thick-film hybrid circuits on epoxy covered ceramic packages will be introduced. The production of these packages is being automated at Delco. The initial quantity is 15 to 25 million circuits for 1969, which will be stepped up close to 100 million as microcircuits are expanded into other applications in GMC cars.

American Motors has heard presentations from IC makers, but has not yet committed itself to a pilot program.

In addition to direct action by Detroit, two major suppliers of equipment for automobiles, Stewart-Warner Corp. and Leece-Neville, are actively investigating IC's for their product lines. Stewart-Warner has been working through its own S–W Microcircuits operation while Leece-Neville has issued specifications on its possible needs to the major manufacturers of circuits.

Among the IC makers themselves, Westinghouse Electric Corp., and Motorola Semiconductor Products, Inc. were active in early work as far back as 1959, with Fairchild semiconductor coming in a short time later, but in a big way. Motorola now appears to be the major contender for the Ford and Chrysler business, following break-up of the Westinghouse team responsible for that company's early efforts, and some recent change in direction at Fairchild.

Texas Instruments, Inc., despite its capability in low-priced IC's, has thus far not been active in the auto market, except for its activity in anti-skid system. T.I. says that it will concentrate most of its efforts on the computer and military markets. Other efforts will be made by Philco-Ford Microelectronics. However, this organization's efforts, like those of Stewart-Warner Microcircuits, have been centered primarily on developmental work on microelectronic speedometer-odometers and tachometers, which initially will be low-volume, optional items.

INTEGRATED VOLTAGE REGULATOR

It is clear by now that the first application of IC's as standard equipment in cars will be the integrated voltage regulator. The IC version will be very similar to the previously published transistor version, except that a Darlington output will be used and additional current-carrying capacity is provided to accommodate the needs of the next five years. After that time a switch to 24-volt systems will be made.

The output change was made on consideration of the trade-off dissipation versus saturation voltage associated with the Darlington and cascade configurations. The Darlington is considered more desirable since it has a lower dissipation and saturation voltage can be held below 1.2 volts at 5 amperes.

ALTERNATOR-REGULATOR, TOTAL ESTIMATED MARKET $9,000,000

Less than one percent are now sold as an optional item. Preliminary sales as an optional item are directed towards making this a standard unit. The electronic discrete alternator-regulator is felt to be at least three times the cost of the electromechanical version. The regulator for the alternator will eventually go inside the alternator. In the meantime a temporary module has been designed to mount externally, but directly on the alternator.

The regulator circuit controls the current through the field of the alternator, senses the voltage of the battery terminals, and varies the charge rate of the alternator. (See slide 2.)

As the voltage of the zener diode increases (1), the zener diode will breakdown and saturate the transistor prior to the Darlington pair (2). The Darlington pair (3) will be turned off, thus turning off the field current in the alternator (4). At this time the alternator output drops and the zener (1) snaps back unsaturating the first transistor (2) and thus turning on the Darlington pair (3). The full current is then applied to the alternator (4).

Without the feedback loop the circuit would go into oscillation. The feedback gives pulse width modulation for finer control.

Regulation of the 100 mv is typical for an integrated circuit version of the regulator in comparison with 1.5 volts for the electromechanical version.

A negative temperature coefficient is preferred for the regulator. The unit will sell between $1 and $2. A typical price schedule for the regulator would be 15,000 at $7, 50,000 at $3.35, 15,000 per day $1

The Fairchild regulator was to be a module with gradual phasing in of thick film hybrids. The Westinghouse approach was monolithic. The feeling is that eventually this unit will go monolithic at least at Ford and Chrysler.

The companies most likely to be candidates as suppliers include Westinghouse, Fairchild, Motorola, Philco, Delco, General Electric and Bendix.

The users will be Ford, General Motors, Chrysler, and Prestolite. Resistors and diodes can be used to provide the necessary temperature compensation.

It will probably be mounted on the alternator in the form of a block approximately 1.8 x 0.4 inches in size, which bolts against a flat machined surface of the alternator. Three alternator terminals pass through the block and are connected to the regulator circuit within. The bottom of the block is formed by a flat metal plate on which the silicon chip is mounted, conducting heat away from the chip to the alternator casting.

At this point, however, Detroit engineers are still considering possible alternative approaches to mounting the package.

Although the Ford and Chrysler specifications are similar in many ways, they differ enough to create headaches for IC manufacturers going after both customers.

Ford's engineering specification for the voltage regulator states that the maximum field current is 5 amps at 75 degrees and 7 amps at minus 40 degrees F., whereas Chrysler specifies a maximum field current of 3.5 amps across the environmental temperature range of −20° F to 230° F.

Chrysler specifies frequency at 2500 rpm, whereas Ford's figure is 50 to 5000 cps. Maximum allowable voltage variation is the same for both specs, 0.3 v.

Differences in temperature compensation and voltage requirements can be seen by studying the voltage curve from Chrysler's specification and comparing it with details from Ford's requirements, as shown:

Chrysler

14.35±.20V at 40° F.
14.1±.1V at 80° F.
12.9±.45V at 220° F.

Ford

15±.3V at −40° to 120° F.
13.2±.3V at 200° to 275° F.
14.15±1.15V at 120° to 200° F.

Delco-Remy's work on a similar voltage regulator for heavy duty trucks, coaches and off-road equipment is of great interest to the IC manufacturers. Even though it represents a smaller market in terms of volume, pricing is not considered as critical as it will be on passenger car design and, therefore, the profit potential may be higher on a per unit basis.

Delco-Remy has indicated it would like to have the voltage regulator on 1968 models of General Motors' heavy duty vehicles, and can use a minimum of 40,000 2.8 ohm field circuits, and 25,000 1.4 ohm field, 12 and 24 volt units next year. Delco-Remy estimates go as high as 130,000 maximum for such circuits.

Delco-Remy has told potential suppliers that IC prices need to equal the cost of present discrete components and labor which suppliers consider a much easier objective than that set by Ford and Chrysler.

ELECTRONIC TACHOMETER

Another function likely to appear as an optional feature on some 1968 automobiles is an electronic tachometer utilizing IC's.

Tachometers made with IC's have already been built using a direct-coupled-input, high-drive monostable multivibrator, such as the Stewart-Warner circuit (in Slide 3). Units of this type have already been produced by both Stewart-Warner and Westinghouse and operated experimentally in the Chrysler and Ford families of cars. (The IC block is shown in Slide 3a.)

In the tachometers application, the multivibrator receives its input pulse from the automobile's distributor. The multivibrator output sends a current pulse through the tachometer. The more often it is pulsed, the higher will be the average current flow through the tachometer.

The original equipment tachometer market is now estimated at less than one percent. One of the larger applications for tachometers will be in sports cars. Sales for the Mustang "rally pack", which includes a tachometer, are estimated at 100,000 for this model year.

IGNITION SYSTEM, TOTAL ESTIMATED MARKET $30,000,000

Ford has already developed and approved a variable coupling contactless ignition using discrete germanium devices. It will, probably be offered as an option on '68 or '69 models, replacing the contact-actuated transistorized ignition system offered as an option since '63.

The pickup used in the newer Ford system for timing and triggering is the variable reluctance type, although other mechanisms, such as Hall, generators, lamps and capacitive pickups have been considered.

The portions of this system that hold greatest promise for application of microcircuits are the power circuit and the preamp section that amplifies and processes the signal available from the pickup, and furnishes the proper drive current to the series switch. The latter trigger circuit is most likely to find acceptance in integrated form by Ford and Chrysler. The latter is also working on a contactless system. Indications are the power circuit cannot be produced at a low enough price at this point. (This drive circuit is shown as a block diagram with some of its characteristics in Slide 4.)

Ford and Chrysler seem to place similar requirements on their contactless system circuitry, with some tough specs including:

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operate in the 255°F area on the high side, but also operate at sufficiently low temperature to permit cold weather starts; withstand vibration at 10g from 0 to 1000 cps; be mounted inside the distributor, and operate so that distributor speed does not affect its firing.

As for price, both companies have indicated a willingness to pay a $5 price penalty over conventional systems, a difficult objective to meet using IC's for both the power and drive circuits. The logical compromise, at this price premium, would be procurement of a trigger mechanism in an integrated package with an output of 0.5 amp to drive a transistor which could be rated at 400 volts and 4 amps.

The preamplifier will start as either a thick film hybrid or a monolithic circuit. Cost estimates for the thick film, hybrid portion range from $.75 to $1.50. There is a high probability that the preamplifier will eventually become monolithic. The zener may remain discrete, or it may be incorporated into the integrated circuit.

This electronic system presently costs $10 more than their standard system. Even at $5 more, it will be attractive to Detroit. If the power transistor could be produced for $2 or $3, this objective could be met. It is felt that the electronic ignition system will eventually cost $3 with the power transistor at $1. Delco is the only manufacturer of a power transistor that comes close to meeting the cost and performance.

COMPLETE ENTERTAINMENT SYSTEM

One prospect representing a large field of application in itself is a complete audio entertainment system, including AM and FM radio and a stereo tape recorder, which could be accomplished with eight packages. A ninth would make possible a volume level control, keeping the sound system a pre-set db level above the noise level of the car. For such a system to be considered by Detroit requires a considerable breakthrough in the price of linear IC's. But, Detroit finds the concept a good potential sales feature, and is willing to listen to any reasonable proposals.

General Motors is gearing up to produce 20 million integrated circuits per year at their Delco-Remy division for the entertainment system. These circuits will be thick film hybrids. One circuit, the audio-amplifier, has been offered to outside producers, if they will give GM a price of $1.35.

MULTIFUNCTION PACKAGES

Another prospect is the combining of a number of functions into one complex package, which could cut costs. Control of the turn indicator, for example, is in many cases only practical as an integrated function if it can be combined with other functions in a single IC package. The flasher in the Thunderbird and Cougar is a notable exception. Discrete integrated circuits using RTL will be introduced by Ford in 1968 or 1969 models for the turn signal flasher. These are now made from relays. Eventually this module will be replaced by a single chip device possibly using MOS. (The RTL version is shown in Slide 5)

The logic diagram in this slide illustrates the use of proven, low-cost RTL circuitry to generate a turn signal sequence. Because of the logic flexibility inherent in RTL, a minimum amount of circuitry is needed to interface the logic portion of the flasher with its lamp drivers.

The desired turning sequence is shown in the timing diagram. Also shown is the emergency sequence, which flashes only the front parking lights and outside rear brake lights.

Many of the sensing functions considered desirable on an automobile could be performed by the development of a new microcircuit solid-state relay (of the type shown in Slide 6a).

This type of static relay would permit the use of a wide variety of sensors, and be stable with line voltage and temperature variations. (See slide 6b)

A typical application for such a circuit would be in a combined control for air conditioner and heater (see slide 7).

The systems could be used for a variety of other control functions in which RA and RB could be thermistors, photocells, etc. (See slides 6a and 6b)

SAFETY AND PANEL INDICATION FEATURES

There is a strong desire on the part of the automotive companies to provide an indication scheme to show whether seat belts are fastened, doors are locked, the hood is firmly latched, etc. There might be an indicator light that would show trouble if the safety conditions were not met. An even more satisfactory approach from the car manufacturers point of view would be a specific indication of where the trouble existed.

Similarly, indication of engine temperature, fuel level, water level, battery charge, etc., could be handled in the same way. The automotive companies appear willing to pay $1 per feature. The total number of features might be 8 to 10. (One such scheme is shown in Slide 8.)

At the present time Ford has road tested in company executive cars, a system using a positioning motor which holds a display of the possible trouble areas. When the signal is received from the trouble spot, the motor is stopped at the proper display.

SPEEDOMETER-ODOMETER ESTIMATED MARKET $20,000,000 AND UP

The speedometer-odometer is one of the major devices being pushed by Detroit for early adoption in the automobile. Several complex systems including MOS arrays with Nixie tube displays are being considered. The more complex systems may incorporate safety features such as anti-skid systems or speed warning systems.

It is felt that a simpler electronic subsystem will be adopted initially since a $5 cost figure will have to be met for any substantial market penetration. Market estimates indicate that at $5, 2,000,000 speedometer-odometers would be sold. At $2, the item would be standard, thus sales would climb to 9,000,000 or more.

Simple counter systems have been proposed for the odometer. The speedometer circuit would be based on the use of a monostable multivibrator, and be similar to the tachometer circuit attached. If a standard unit is produced for all models, difficulties arise in both cases in connection with adjustments to the different wheel sizes. Consideration would be given to systems in which either an electronic speedometer would be combined with a non-electronic odometer, or vice versa. Ford has recently decided to purchase an odometer composed of an electromechanical pick-off for the standard mechanical cable. This odometer is produced by Bendix and will be mounted on the 1968 Fords.

FUEL INJECTION SYSTEM

The fuel injection system is considered important in terms of better control over the carburetor and carburetor fumes. However, in the views of the Hugle experts, such a system will not be adopted within the next five years.

WINDSHIELD WIPER

Most windshield wiper activity is directed toward obtaining a satisfactory speed control. In this application, a discrete power transistor for the motor with a continuously variable or pulse control system.

RAIN SENSOR

The principal interest in rain sensors is for application to convertibles. However, an additional market may exist for cars using electric or electronic window controls.

AUTOMATIC HEADLIGHT DIMMER

There is a need for improved performance in headlight dimmers. The present photocells which are generally CdSe or CdS are far less stable than Silicon photocells. It is believed feasible to build a Si photocell into the preamplifier block thus improving performance at a minimum increase in cost. Such a development program does not carry a high priority at this time.

ANTI-SKID SYSTEM

A logic system has been designed to detect when the automobile will go into skid mode and then to make suitable adjustments to bring the automobile out of it. This system may be tied in with the speedometer-odometer. In this system, a differential speed on the two wheels is detected and fed to the braking system.

Such systems have already been developed for aircraft landing gear and for heavy duty vehicles. In these systems they use a sensing system which feeds into SCR's. The Anti-Skid system has gone out for bids from most automobile companies, and will be introduced into 1969 models as an important safety feature. Texas Instruments is now building prototypes of one model.

ADDITIONAL SAFETY FEATURES

A safety application now receiving considerable attention by the auto industry is that of communicating with the automobile driver via car radio. The initial version is likely to consist of a tone signal on one of the four authorized FM subcarrier channels allowed commercial stations operating in the FM band. The detected subcarrier tone causes the flashing of an indicator lamp on the car dash informing the driver road hazard information is being transmitted. The driver then pushes a special (in that it is reserved for this use) push button on his car radio which tunes in the warning. Since the warning signal is on a low power FM multiplex channel on commercial frequencies, little additional cost is involved in added parts to a conventional automobile AM/FM radio in this system. A cost in volume production of less than $5 is predicted. This system is likely to be followed by a system where the driver can, by push button, interrogate two or more subcarrier channels for road information, weather, directions, etc. This latter system is now technically practical and economic from the automakers point of view, but is not likely to be developed until the late 70's because of the high cost of installing the communication and transmitting equipment which requires public funds. The funds are not yet available for the implementation of a system such as this.

Linkage between the accelerator and the speedometer is available as an option on the 1967 Thunderbird. This system limits car speed to a maximum speedometer speed which is set by the driver. The car speed can equal, but not exceed, this maximum rate until reset by the driver. Future additions of electric odometers and precision electronic gas gauge/gas metering system will allow read out of gas consumption in terms of miles per gallon as an option. This option along with the electronic engine tachometer may force not only a change of driver habits, but also force engine and transmission designers to seek more efficient gas consumption since vehicle performance will be continuously available to the driver.

TRANSMISSION

General Motors is planning to introduce an automatic transmission using integrated circuits in 1971 which will use 4.5 to 5 million integrated circuits in 1971 to replace the present hydraulic system. This would be a simplified version of the Chaparral type electronic transmission system. In the Chaparral system the computer determines optimum gearshift conditions, after integrating information on speed, tachometer rpm, manifold pressure, torque, tire pressure, and other factors.

General Motors believes it leads the way to a safer and better transmission, and that

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a scaled down version will offer economy as well.

The Chaparral version is accomplished with 22 devices, such as gates and flip-flops. The circuitry now costs about $35, but GM/Delco hopes to get the cost down by 1971 to about $4 per unit, and will put it into production models when the price range is reached.

WARRANTY AND FIELD FAILURE RATES

The automotive companies are willing to pay a temporary price premium in order to improve field failure rates. For example, the automotive regulator has $.07 added to cover field repairs. If field failures can be reduced or eliminated, all or part of this can be added to the purchase price of the electronic component.

In case of higher reliability parts, the automotive companies are willing to pay a premium during the first year if the projected cost by the third year is at least as good as the part being replaced.

HEAVY DUTY VEHICLE MARKET

Some items that cannot be introduced immediately into the passenger car market may be introduced first into trucks and busses. The maintenance cost in this area is high. While the speedometer-odometer is being pushed very hard for passenger car application, it is being pushed even harder for use in heavy duty vehicles.

DIAGNOSTIC FACILITIES AND COMPONENTS

The recent introduction of the "Automobile Diagnostic Center" by Ford Motor Company heralds a new era in automotive repair. The economic success of these centers is already proven although these centers are only able to accurately analyze a small portion of the faults encountered in modern automobile sub-systems. As 1968, and later model cars include sub-systems such as electronic voltage regulators, fuel warning systems, anti-skid control, speedometer-odometers and other electronic devices, these centers must become very complex. A computer of some sort will obviously be used to analyze and diagnose automotive ills, including the tronic devices.

The principal problem faced by tomorrow's center will be in the time required to connect the computer to the automobile subsystems. It seems logical to expect that manufacturers will be forced to build in plugs wired to monitor points of the electronic sub-systems. The manufacturer will also permanently install transducers, such as pressure to voltage, in the transmission and perhaps the cylinder walls and wire the transducer to a plug, if the transducers can be obtained sufficiently inexpensively.

The manufacturers will be forced to this additional expense because (1) the additional complexity cannot be handled economically, even by an up-graded service facility, (2) a diagnostic computer can be easily and speedily connected via plugs to monitor the entire automotive system. The economics may be such that the manufacturer will recover the additional costs and make money on the service system.

In summary, there is a substantial market for wire harness plugs, and inmonitor type transducers in future models cars.

There will be systems for traffic control, systems for law enforcement, possibly even an automatic computer system to control the speed of a car based on actual conditions, and take such complete charge that it will calculate the proper speed at which to take curves based on inputs provided from the road itself.

All of these offer much wider application of IC's.

Last year (1966) Raytheon Co. began to develop electronic devices which will measure such things as the gap between cars in traffic. The project is funded by the Federal Bureau of Public Roads and calls for a highly precise optical rangefinder and associated data-handling equipment. The potential for expanded systems of this type would appear to include law enforcement. Results of the experiment could stimulate the design of electronic control systems for traffic.

Both the Bureau and Raytheon insist the purpose is not for law enforcement, but merely to attempt to study and record normal driving habits. "The rangefinder will be used to study how the driver locates himself in time and space, and what the processes are by which he controls his vehicle," according to Raytheon spokesman.

The project will encompass, for example, car speeds, brake and gas pedal use, traffic density, tailgating habits and gas consumption, all from inputs fed into the data handler through an optical rangefinder disguised as a headlight of the test car.

AUTOMATIC VEHICLE GUIDANCE

Still further down the road, but already a project at General Motors, working with Baldwin Electronics, is the complete automatic control system which includes automatic vehicle guidance, speed control and obstacle detection.

The system was first proposed by General Motors about seven years ago, but has been mostly a dream since then. The expense would have been enormous as orginally conceived, with one lane on every super highway specially equipped as the control lane and control equipment every few miles along the road.

The roadside control equipment included obstacle primary and steering signal, 30 and 60 mph command signal equipment, light signal amplifiers and obstacle amplifiers, all of which were bulky. The control package designed for the vehicle itself, even with transistorization, was still too large for mounting on cars, and too expensive on a cost-per-function basis.

But, all of this equipment can now be integrated, and becomes much more feasible in view of the cost and size reductions made possible by microcircuits. GMC has stated, in fact, that in its original concept, equipment on the car itself had to be held to a minimum because of the lack of adequate sensing equipment to fill the need. It is likely that development of integrated sensing units will, therefore, bring about some new thinking by both the automakers and the Bureau of Public Roads.

Even motorcycles can be a potential market for IC's. (In Slide 14, a motorcyclist is photographed from the rear showing helmet-mounted sequential directional signals controlled by a thumb switch on the handlebars. The connections to the helmet are quick-break for ease in dismounting. General Electric, whose engineers developed this prototype, do not expect the market for two-wheeled vehicles to be half as big as the one for four-wheeled vehicles, but they obviously are not missing any opportunity to apply microcircuits in the automotive industry.)

It is reasonable to wonder, if the potential use of IC's in cars is so vast, why the automakers themselves do not enter the IC business in a bigger way. Ford's purchase of the General Microelectronics operation was a recognition of the requirement for an in-house IC capability. Unfortunately, the integration of General Microelectronics into the existing Philco Semiconductor organization has resulted in the loss of a number of key people. It will be sometime before the Microelectronics Division of Philco-Ford is in a position to supply all of the IC requirements of the Ford Motor Company.

General Motors, through its Delco Division at Kokomo, is active in establishing product capability for thick film circuits for the car radio. It will be at least two years before this capability can be brought on stream. In the meantime, GM is attempting to buy these very same components on the outside.

That leaves the major potential at this point solely in the hands of the few major suppliers who have actively pursued the market: Fairchild, Motorola and Westinghouse, all of whom have received actual orders from either Ford or Chrysler, or both, for as many as 150,000 units.

Recently Texas Instruments and General Instrument have become more actively involved in this market. In certain applications, such as the ignition system where power devices are required, other companies such as Bendix may enter more strongly. Fairchild, while deeply involved, has begun to back off due to the comparativaly low prices in the automotive field. It is believed that they are not seriously planning to reenter the market for one to two years. Motorola is the clear leader for the automotive IC business at this time. If they can see the possibility of making a profit, however modest, they will pursue the market very actively. The automobile manufacturers, for their part, are prepared to accept an increased price during the first year of as much as 50 to 100% for an IC replacement over its electromechanical predecessor, if they can come out even the second year, and the cost is projected to be lower in the third year. Their experience with the automobile rectifier, which had this type of price history, gives them sufficient confidence in this type of price decrease with quantity.

Despite the confidence of all three IC suppliers, recent studies indicate that they and their competitors will have their hands full by 1970, just meeting the demands of the military, computer, industrial and consumer goods market.

THE ELECTRIC CAR

Many of the products described above would be equally applicable to the electric car. Many others would be made obsolete by the advent of the electric car, such as the voltage regulator or the contactless ignition.

No discussion of electronics in automobiles would be complete without consideration of the electric car. Considerable activity is going on in this field at the present time, and much of it is overseas. (Slide 15 illustrates some of the electric cars under development in Japan where the motivations for its development are very high.) The single most important Solid State device that will be used in the electric car will be silicon controlled rectifiers.

A COMPLETE CIRCUIT

(Figure 16 shows the complete circuit of a DC motor vehicle including reversing function and a fail safe feature.)

The reversing function i.e., reversing of current through the field is shown using switches. Contactors can, of course, be used instead. Current limiting can readily be added by sensing the amplitude of the current pulses and backing off the "on" time of the SCR accordingly. A "fail safe" contactor is shown and should be a part of every DC motor drive because of the fact that when in unlikely, isolated cases transistors and SCR's fail, they do so by shorting, i.e., full speed ahead. The "ignition" switch and the "accelerator" variable resistor are the only external controls needed.

(Slide 16 shows the turn-off circuitry as a part of the control block into which it can very easily fit. This illustrates one of the great merits of the SCR controller: it consists of three components, the SCR, the capacitor, and a plug in, easily changed box containing all the rest of the components. Thus, servicing is easy and components can be placed in any convenient corner of the vehicle. This simplicity, combined with high efficiency, smooth control and the low inherent cost, places the SCR controller well ahead in the progress of the electric vehicle.)

The present belief is that the electric car has a high probability of becoming a second car for the average American family. It does not yet seem to have the capability of having the long range required for a first car. System considerations permitting easy charging,

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such as in the StaRR car, or the suggested use of parking meters for recharging could change these considerations somewhat.

Finally, the success in controlling the smog output of the internal combustion engine may be a major factor in some areas, such as California, in the ultimate decision between the electric car, and the gasoline car.

CONCLUSION

Only one conclusion can be reached. Unless new sources of supply are developed, price-conscious Detroit automakers will continue to insist on paying low prices, and will find themselves the first to be cut off the priority list when supply cannot meet the demand.

WHAT DOES ALL THIS MEAN TO YOU

Several significant conclusions of general application to the electronic industry can be gleaned from the coming widespread application of microelectronics to automobiles.

1. The automotive industry represents one of the major fields of use of microcircuits, but it is by no means the only large one. It is typical of several fields generally overlooked by those who have been predicting 800 million to 1 billion circuit output by 1970. Based on the estimated application of IC's, this overall estimate is conservative.

2. One of the major opportunities for introducing IC's in industrial products, and competing in cost, is to perform functions in the equipment through one package as exemplified by the use of the same packages for the speedometer, tachometer, odometer and electronic clock functions. (The circuit shown in Slide 6a and 6b is a prime example of a circuit that can be used repetitively in many industrial and commercial applications outside of the automotive field. Several packages of this type with a number of these relays contained inside of them, could find very wide application in equipment controls, home controls, etc.)

3. With a sizable industrial and commercial market being added to the already large military use of IC's, the ability of the industry to produce enough and maintain reasonable quality, is questioned. Indeed, even with the doubling of capacity each year, it is felt that suppliers may not be able to meet the demand for microcircuits in the early 1970's.

CAMPAIGN GM—III

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. ROSENTHAL. Mr. Speaker, in earlier extensions I have outlined the goals of the Project on Corporate Responsibility in its Campaign GM. Briefly, these goals are to ask from the Nation's largest corporation a positive response to the question: "Are you willing to devote a reasonable proportion of your resources and time to the urgent problems of auto safety, air pollution, consumer protection, and corporate justice which your corporation's predominate position and specific responsibilities demand?"

Last week, I included in the RECORD the statement of Campaign GM organizers which they issued when General Motors Corp. rejected the initial requests to include matters on corporate responsibility at the annual stockholders' meeting to be held on May 22, 1970.

Today I include below a letter recently submitted by Campaign GM to the Securities and Exchange Commission which takes exception to General Motors' totally negative response. This letter cites, in detail, the errors of the GM position and asks the SEC to require General Motors to put these matters before its stockholders:

MARCH 10, 1970.

Re: General Motors Corporation.
SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C.

DEAR SIR: This letter is sent in opposition to the documents delivered to the Securities and Exchange Commission by the Management of General Motors Corporation, dated February 27, 1970, with respect to nine shareholders' proposals submitted by the Project on Corporate Responsibility to General Motors. We request that the Staff inform General Motors' Management that the S.E.C. proxy rules require General Motors to include the proposals in Management's proxy statement. It is respectfully requested, further, that if the Staff disagrees with this position, we be given the opportunity to personally discuss this matter with the Staff and, if necessary, with the Commission.[1]

Initially we observed that the questions involved in these shareholders' proposals are important and novel issues. This is noted by General Motors, as seen in the letter from Ross Malone to General Motors Corporation in which he states (on page 27) with regard to one of the proposals, "the proposed committee, its composition, appointment, purpose and functions, is no more than a concept, without precedent, that I know of, in corporate law." It is acknowledged that this proposal and some of the others lack precedent in corporation law; this does not diminish their importance or their appropriations for consideration by shareholders, nor the fact in our opinion, that their inclusion in Management's proxy statement is acquired. There has been a crescendo of concern expressed by thoughtful businessmen and scholars in recent years concerning some of the issues that are raised in the shareholder proposals. Doubtless, other companies will face demands from their shareholders that the corporation take constructive measures to deal with the particular problems of those companies, even though it is a departure from normal behavior and may be a step without precedent.

It should be borne in mind that what is requested at this time by the Project on Corporate Responsibility is only that the shareholders have the opportunity to consider the various proposals and to vote upon them. If General Motors Management loses the argument now presented to the Commission, they will still have the opportunity to persuade the shareholders that the arguments made by the Project on Corporate Responsibility are without merit. If, on the other hand, General Motors Management prevails in their arguments, they will prevent the shareholders from having an opportunity to even consider the questions. It was in recognition of that fact that the Commission stated, when it released amendments to the rules in 1954, that the burden of proof was on Management when it sought to exclude shareholder proposals. S.E.C. Release 34–4979, February 6, 1954. Chairman J. Sinclair Armstrong told a Senate Committee in 1957 that "doubts are resolved in favor of the stockholder and the Management is required to include the proposal in the proxy material." S.E.C. Enforcement Problems, Hearings before Subcommittee of Senate Committee on Banking and Currency, 85th Congress, 1st Sess. 118 (1957).

It must be recognized that Management's proxy statement is the only effective vehicle through which all of the shareholders can have an opportunity to express themselves, and even to hear any arguments on the questions involved. It is too glib to say that the proponents of the resolutions can undertake their own proxy solicitations. As Management well knows, the cost is virtually prohibitive except to extremely well heeled shareholders; postage alone of a single one ounce mailing is approximately $100,000. This is no ordinary dispute with Management; it is not an effort by insurgent shareholders to seize control of the corporation. If it were so, one could justify large expenditures because the individual rewards are great and because, if successful, the insurgents could obtain reimbursement of their expenses from the company. The issues here lack that personal pecuniary bias. Denial of access to the shareholders through Management's proxy solicitation, practically speaking, is total denial. To prevent shareholders from communicating with other shareholders through this most and, indeed only practical method, comes close to denying the proponents of the resolution their Constitutional rights of free speech.

COMPLIANCE WITH PROXY RULES

General Motors Management asserts that there has been, and threatens to continue to be, an unlawful solicitation of proxies on behalf of these resolutions and that appropriate remedy for such unlawful behavior is the denial of inclusion of these resolutions in Management's proxy. The suggestion, on page 11 of Mr. Malone's letter, that there will be further violations, is without any foundation. It is true that the proponents of the resolution intend to communicate further with respect to the proposals, but any communication which constitutes a "solicitation" will be in compliance with the proxy rules. The Commission Staff was so advised on February 17. Proof of this intention was clearly furnished when a proxy statement was filed on March 6.

Management's documents argue, on page 11 of Mr. Malone's letter and page 5 of the letter from Davis, Polk & Wardell, that the proxy rules permit stockholders the choice between either soliciting proxies on the basis of their own proxy material or exercising the privilege under Rule 14a–8 to include their proposals in Management's proxy statement and to forgo any other solicitation. There is no authority for this position. Certainly there is no reason for any such policy. This interpretation could restrict proponents of a resolution to a total of 100 words in support of a resolution, regardless of its complexity, importance or interest to shareholders, while not restricting the extent of the campaign which Management could wage against the proposition. Of course, if the idea of a rule permitting shareholders to make a proposal through Management's proxy statement is intended to be nothing more than a sugar pill without any real substance to it, then perhaps it is appropriate to say that having chosen to speak in *that* way, the proponents of a resolution are prohibited from saying anything else. But, it appears that the rule is intended to have real substance, and to be a device whereby ordinary shareholders can communicate with their fellow shareholders in situations, such as the instant one, when the extraordinary expense would prevent them from doing so. However, the use of this device does not suggest that additional communications may not also be made, so long as there is compliance with the proxy rules.

Neither *S.E.C.* v. *Dyer*, 180 F. Supp. 903 (E.D. Mo. 1959), *rev'd* on other grounds, 291 F 2d 774 (8th Cir. 1961), nor Professor Loss supports Management's contention. In *Dyer*, the shareholder succeeded in placing several proposals in Management's proxy statement and then attempted to solicit in support. He was advised by the Director of the Division of Corporate Regulation to refrain from doing so "without prior compliance" of a Commission order, 180 F. Supp. 903, at 906. This explicitly acknowledges that solicitation in support of a proposal in Management's

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Footnotes at end of speech.

proxy statement can be carried on. Clearly, that is all Professor Loss says on p. 901 of his treatise.

However, we recognize what may be construed to be a problem. The proponents of the resolution will engage in lawful solicitations by means of a proxy statement and supplementary material, including advertisements. Any proxies they furnish will be accompanied by a proxy statement. Since funds are inadequate to mail to each shareholder a copy of a proxy statement, some shareholders might see supplementary statements without having seen the proxy statement, but they would, nonetheless, be furnished with a proxy through Management's proxy statement. Hence, one could be inclined to argue that inclusion of proposals in Management's proxy statement must preclude any solicitation on their behalf.

In our view, the sound administration of the proxy rules which has characterized the Commission's enforcement will militate against construing this combination of solicitation routes to be in violation of the rules. No proxy form will be furnished by the proponents except when accompanied by a proxy statement. Advertisements will invite readers to request a proxy statement. A broad dissemination of the proxy statement will be attempted by giving copies to brokers, bankers and others. It is true that the proponents' proxy statement will not accompany Management's proxy, but shareholders will see only a short statement in support of the proposal alongside Management's fuller statement in opposition. There is no possibility that the proponents will be able to use this situation to their unfair advantage. Rather, the additional solicitation can clarify the issues on matters of considerable importance, while allowing the maximum number of shareholders to vote.

Too many reasons favoring widespread communication with shareholders point to an interpretation permitting the proposed solicitation route. Further, the policy favoring this view may have limited applicability because of the enormity of General Motors, rendering a general solicitation prohibitively expensive, and the fact that this is not a contest for control. The Commission would not be opening the doors to a widespread use of a new method of solicitation.

We submit that Management is wrong in its contention that there has already been a solicitation. There are, of course, communications which are "solicitations" and those which are not. We contend that no communication made with respect to the proposals has been in violation of the proxy rules. Three communications are mentioned by Management's documents: a press conference by Mr. Ralph Nader on February 7, an appearance on the television program "Face the Nation" by Mr. Nader on February 15, and a press conference by the Project on Corporate Responsibility on February 21. No solicitation was involved in any of these communications.

The supporting legal opinions attached by General Motors fail to mention *Brown* v. *Chicago Rock Island Pacific Railroad Company*, 328 F. 2d 122 (7th Cir. 1964). This is the only case on the issue of "solicitation" which bears factual resemblance to the issues here. Under its objective test, no "solicitation" occurred here. See Aranow & Einhorn, *Proxy Contest for Corporate Control*, 103–4 (2d Ed. 1968).

No votes were sought from shareholders; the remarks were addressed to a constituency far broader than shareholders but who, like the general public in this matter, had an interest in the outcome of the questions presented; the meeting at which these questions would be decided was more than three months in the future, and it was not intended to obtain votes at that time, although votes were to be sought later. It should be noted that the Commission submitted an *amicus* brief in *Rock Island* arguing for a broader reading so as to label *any* communication linked in some way to a proxy request as a solicitation, but that view was not accepted. While in principle the broad reading given "solicitation" by *Studebaker Corporation* v. *Gittlin*, 360 F. 2d 692 (2d Cir. 1966) may be sound, closer factual links are necessary than found here to come within the ambit of the rules. The Commission, itself, retreated from a broader reading of "solicitation" when it adopted the present definition. An earlier proposed definition would have included speeches addressed to the general public, but this was deleted from the final rule. S.E.C. Release 34–5212, August 23, 1955.

S.E.C. v. *Henwood*, CCH Fed. Sec. C Rep. ¶91,125 (S.D. Calif. 1961), modified and aff'd sub nom *Henwood* v. *S.E.C.*, 298 F. 2d 64 (9th Cir. 1962), is not at all analagous, as suggested by Mr. Malone (p. 9) because the case involved a clearly dishonest attempt by the real participants, seeking personal control of a company, to conceal their identity. All that is charged here is a failure to file the documents attached by General Motors to its exhibits.

Moreover, the remarks on two of the occasions were made by Mr. Ralph Nader, who is not a coordinator of the campaign. Mr. Nader is a long standing critic of the Management of General Motors Corporation and, to some extent, there is a natural alliance between Campaign GM and Mr. Nader. Mr. Nader commands a national audience when he speaks about General Motors, and he has for a long time, and that fact has nothing to do with any proxy solicitation. However, the suggestion made in the opinion of Mr. Ross Malone on page 12 of his letter that the purposes of *this campaign* is to redress a personal claim or redress a personal grievance is patently ludicrous. The text of the remarks and of the radio broadcast, furnished by General Motors, do not support any of Management's conclusions about the past or future conduct of the campaign. We further note that the Face the Nation comments were in response to questions, and that type of communication is clearly not required to be filed under Rule 14a–6.

Even if one assumes that an unlawful solicitation has been made, then the remedy of exclusion of the proposal from Management's proxy statement is a wildly inappropriate remedy. In essence, Management argues that because the proponents spoke too soon, the remedy is to cut out their tongues.

When a campaign has been launched by a press conference, the Commission's usual approach is to advise the interested persons that the Staff is watching developments, and to note the possible applicability of the proxy rules to their activities. Curtailment of solicitation is not called for in this instance. See Memorandum by Harvey Thorson, *Note on Conduct of Proxy Contests*, April 1, 1963.

It is interesting to note that the violation of the proxy rules alleged by Management concerns only Rule 14a–6, a failure to file the materials. There is no suggestion in any of the documents furnished by Management that the material violated Rule 14a–9 which prohibits the use of false or misleading statements. Consequently the imposition of an extreme sanction, for which no authority is cited, if ever appropriate would certainly not be suitable for this instance.

The Courts recognize that restrictions on solicitation is "stiff medicine" to be used only where the solicitation involved a materially false or misleading statement. *General Time Corporation* v. *Talley Industries*, 403 F. 2d 159 (2d Cir. 1969). A reading of the cases, generally, supports the view that injunctions have been issued not as a result of failure to file soliciting material under Rule 14a–6, but only when a materially false or misleading statement violated Rule 14a–9. The remedy sought by Management is comparable to the injunction; in any event, it is hard to imagine a stricter remedy which could be advocated. Indeed, Management seeks to impose this sanction on its own motion by announcing its intention to deny to the proponents the use of Management's proxy statement.

PURPOSE OF SOLICITATION

With respect to all of the proposals, Management argues that they were submitted primarily for a purpose which permits their exclusion. It is our understanding that Rule 14a–8(c)(2), which permits the exclusion of shareholder proposals when "it *clearly* appears" that they are submitted "*primarily* for the purpose" of promoting "*general* economic, political, racial, religious or similar causes," is designed to keep out of the forum of a shareholders' meeting those matters which are beyond the scope of proper corporate action. Thus, one may not use Management's proxy material to urge shareholders to express themselves with regard to the antitrust, tax or labor laws. See S.E.C. Release 34–3638, January 3, 1945. However, the particular proposals submitted to General Motors are raised in the proper forum since they deal with activities of great importance to General Motors and its shareholders, bearing directly on the long range future of the corporation.

The clearest indication of the appropriateness of discussion and resolution concerning these activities is the fact that Management has gone to great lengths to set forth the company's activities in these areas. The proponents of the resolutions believe General Motors' activities in these areas are entirely inadequate, and the resolutions proposed best serve the long range profitability of the company. However, we will not argue these points now, since that deals with the wisdom of the resolutions and should be settled by a vote of the shareholders. Much of Management's argument tries to demonstrate the lack of need for adoption of the resolutions rather than whether they should be submitted to the shareholders. Their argument should, instead, be made to the shareholders at the annual meeting.

Presumably, Management is pursuing the activities described in its Exhibits I–VIII, and on pages 17–26 of Mr. Coombe's letter because it believes they are a necessary part of the company's operations. It is astonishing, then for Management to conclude (page 17 of Mr. Coombe's letter) that when the Project on Corporate Responsibility requests that these same concerns be submitted to the shareholders for action, that it is doing so not for any corporate purpose but out of concern for *general* problems. Whether Management should expend time and resources, for example, to build a safer automobile is not a question of *general* economic or social policy, but it is a matter of social and business concern directly related to the activities of this company. Resolutions dealing with these questions which are to be presented to the shareholders at their annual meeting are brought in the right forum, since the shareholders are empowered to take action and to direct and implore Management to take action in areas where the corporation has power to act and to be effective. Nothing in the S.E.C. proxy rules adopted pursuant to a statute which instructs the S.E.C. to adopt rules: "in the public interest," as well as for the protection of investors, alters this, but rather facilitates it.

It is significant that Management has not challenged the right of shareholders to question whether the management should *curtail* its social involvement. Both the 1967 and 1968 proxy statements contained proposals by Mrs. Evelyn Davis to limit charitable contributions, and Management opposed them. We have more to say about these interesting resolutions later.

XUM

Management cites *Peck.* v. *Greyhound Corp.*, 97 F. Supp. 679 (S.D.N.Y. 1951) and the disposition of the proposals submitted by the Medical Committee on Human Rights to Dow Chemical Company in support of its position, but neither of these instances properly supports their view. The *Greyhound* case concerned a plan to alter segregated seating "in the South" and not just segregation on the company's buses. (Emerson & Latham, *The S.E.C. Proxy Proposal Rule: The Corporate Gadfly,* 19 U. Chi. Law Rev. 807, 832–3, 1952) which is too ambitious a proposal to properly come before the shareholders of a single company. Moreover, the proposal asked the company to adopt a course of action in violation of state law. Note, *Rule X–14A–8 of the S.E.C.*, 47 Nw. U. Law Rev. 718 (1952). Even at that, the case has been sharply criticized as "flatly out of order." (See Bayne, *The Basic Rationale of Proper Subject*, 34 Det. L.J. 575, 602 (1957). Significantly, the nineteen years since that case have seen an unparalleled awakening by corporations to their social impact, so as to cast great doubt on the wisdom of that case. Clearly, the case does not bind the Commission, and if it is a false guide, it should not be followed.

Dow presents a very different issue. A shareholder's vote on the issue presented could be interpreted as conflicting with a decision already made by the Management. Although presented as a question dealing with future conduct by the company, it may be viewed more clearly as a vote on on a specific decision—the sale of a product—which traditionally falls within Management's scope. The issues presented here do not conflict with specific decisions of Management. The shareholder committee, for example, merely seeks a report to enable basic policy on the role of the corporation to be set. Clearly, the resolution to amend the by-laws bears no resemblance to the *Greyhound* or *Dow* cases. The proposed charter amendment looks only to the future and deals with general policy. The resolution calling for a policy and program on mass transportation asks Management to act and does not conflict with any prior decisions. Proposals 5–9 are also distinguishable because their slant is a future one, rather than a challenge to a Management decision already made.

HUX

The history of Rule 14a–8 supports the contention that these resolutions are properly submitted. The pertinent paragraph is Rule 14a–8(c)(2), whose lineage dates to 1945 when the Commission formally issued Release 34–3638 permitting the exclusion of resolutions which asked for shareholder action on Federal income tax, antitrust and labor law. The Commission observed that the proposals did not relate directly to the affairs of the corporation and that they were an attempt to engage the corporation in political activity—which was improper for a corporation. A better forum existed to test the views expressed. The Commission relied upon this release when it upheld Greyhound's refusal to include the segregated seating proposal in 1951.

The 1952 amendment which gives rise to the existing language in the Rule was an attempt to codify Release 34–3638. That position was expressed by Baldwin Bane, Director of the Division of Corporation Finance, in a letter to the vice president of the American Society of Corporate Secretaries on February 1, 1952. S.E.C. Docket File No. S7–35–6–2.

To appreciate properly the thrust of the campaign and to perceive its current relevance to Management, it is important to examine, at least cursorily, the important and far-reaching changes in attitudes about the nature of the modern American corporation, and their recent behavior.

Concern for corporate social responsibility has developed over the years, but has greatly intensified in recent months. As Arjay Miller, former president of Ford Motor Company and now Dean of Stanford Business School, wrote in the New York Times Book Review on January 18, 1970, "At no time in our history have more voices been raised supporting the view that business must break out of its conventional preoccupation with profit and do more to meet pressing social needs. The chorus has been joined by leaders from government, education, labor and all minority groups. Business leadership has acknowledged the demand for enlarged corporate responsibility in ways which can only reflect a profound attitudinal change, individually and collectively."

In the 1930's, Professors E. Merrick Dodd and Adolf A. Berle, one of the most astute observers of corporations, debated over whether corporate managers held their powers in trust for shareholders alone, as Berle urged, or for the larger community, as Dodd contended. Twenty years later, Berle conceded that he had lost the debate. (The Twentieth Century Capitalist Revolution 169 (1954)).

The courts have recognized and permitted the expansion of the corporation's role. In sustaining the validity of a corporate charitable contribution, the New Jersey Supreme Court declared in what has been hailed as the major case, that "modern conditions require that corporations acknowledge and discharge social as well as private responsibilities as members of the communities within which they operate." *A. P. Smith Mfg. Co.* v. *Barlow,* 13 N.J. 145, 98 A. 2nd 581, 586 (1953). Significantly, the court spurned the opportunity to decide the case narrowly.

Recently, the Delaware Court of Chancery followed the *Smith* case. The court found that "contemporary courts recognize that unless corporations carry an increasing share of the burden of supporting charitable and educational causes that the business advantages now reposed in corporations by law well prove to be unacceptable to the representatives of an aroused public." *Theodora Holding Corporation* v. *Henderson*, 257 A. 2nd 398, 404 (Del. Ch. 1969).

The result of recent developments, writes Professor Berle, is that the "Transition of the large corporation from a private enterprise to a social institution has now been accomplished and is generally recognized." He adds that the legal concerns have changed so that "preoccupation today is with the extent of [the corporation's] social and political and economic responsibility for the health of the American economic machine, and for the employment and welfare of its citizens." Berle, *Corporate Decision-Making and Social Control,* 24 Bus. Law 149 (1968).

Corporate executives have expressed the same concern as their counsel that social responsibility is an obligation of their companies. Dean Joseph W. McGuire of the University of Kansas Business School observes that the concept of social responsibility "results in a tempered profit motive. Businessmen today do not ordinarily operate coldly in blind pursuit of the dollar. It is not the thought of managers to make maximum profits above all else. I don't think it ever was." McGuire, *Business and Society,* 145, McGraw Hill, 1963.

One businessman who questioned whether maximizing of profits was ever the sole goal of large business was Owen D. Young, chairman of General Electric, who, in 1929, answering his question: To whom does the business executive owe his duties? said, "My conception of it is this: That there are three groups of people who have an interest in that institution. One is the group of fifty-odd thousand people who have their capital in the company, namely, its stockholders. Another is a group of well toward one hundred thousand people who are putting their labor and their lives into the business of the company. This third group is of consumer and the general public. Customers have a right to demand that a concern so large shall not only do its business honestly and properly, but further, that it shall meet its public obligations and perform its public duties—in a word, vast as it is, that it should be a good citizen." (Quoted in Cary, *Corporations,* 240 (4th Ed. Foundation Press, 1970)

After World War II, major business leaders recognized the need for their corporations to assist the larger community, particularly by aid to education. Frank Abrams of Standard Oil of New Jersey and Irving Olds of U.S. Steel both took strong stands in favor of corporations providing such financial assistance. Perhaps most important, the man known as "Mr. General Motors," Alfred E. Sloan, urged *shareholders to take the lead* in enlarging corporation responsibilities in the light of changing social conditions. Walton, *Corporate Social Responsibilities,* 48–9 (Wadsworth, 1967).

Clearly, the modern view favors the broader perspective of the role of the corporation. Joseph C. Wilson, of Xerox Corporation, declared that "gain is no longer thought to be the sole motivating force of businessmen . . . The kind of escape from responsibility prescribed by Adam Smith is now considered by many businessmen as unrealistic, a concept of utmost sterility." Speech at Westminster College, November 16, 1965, quoted in Walton, *Corporate Social Responsibilities,* 92. And a speech by Mr. Gaylord A. Freemar, Jr., chairman of the First National Bank of Chicago, entitled "For Business, a Call to Commitment" appearing in the January 22, 1970 issue of the Wall Street Journal, concluded with, "Thus, the message is: Let's get committed. This is our country. This is our society. Let's improve it and, by improving it for all of the people, we can preserve it not only for ourselves, but for all citizens. The job is expected of us, and its accomplishment will be deeply rewarding."

In its 1967 proxy statement, General Motors' Management opposed a resolution which would limit the charitable activities of the corporation by declaring it to be the board's belief "that the Corporation has an obligation to be a good corporate citizen and to assure the availability of highly trained people for the future well being of the company *and the economy of the country as a whole.*" [Emphasis added.]

The need for this attitude, at least insofar as major businesses are concerned, is perhaps summarized by Peter Drucker who in 1945 completed a classic work on the General Motors Corporation at the request of Management, in which he labeled it as "nonsense" to consider any other yardstick of a corporation except profitability. (The Concept of the Corporation, p. 193) But in 1962, he wrote that big business "is not a private affair and the concern only of its stockholders, executives, and employees. It is an autonomous institution—but a community asset and public in its conduct, in its mores, and its impacts." Drucker, *Big Business and the National Purpose,* Harv. Bus. Rev., March–April, 1962, p. 48, at p. 59.

No one summed it up more succinctly than Charles E. Wilson, former General Motors president, who told a Senate Committee, "I thought what was good for our country was good for General Motors and vice versa. The difference did not exist. Our company is too big. It goes with the welfare of the country." *New York Times,* January 24, 1953, p. 8, col. 8.

One reason for the necessity of the corporation, and for its managers and owners especially, to be concerned with the social responsibility and the social impact of their corporations is to be sure that they avoid an antisocial impact which will redound to their detriment.

Professor Berle elaborated on the self-interest business has in responding to the community need. After stating what he views to be business' proper goals to furnish safe and reliable products and, at least, to keep up with the "state of the act," he observes: "The grist of news in this field suggests standards have been badly slackened. My own conviction is that the directors of every substantial corporation ought at once to appoint an 'internal review committee,' ought to examine its operations, ought to find remedies or change policies where they are found wanting. Had such a practice been adopted by the motor car companies a few years ago, they might have been spared the embarrassment of a Congressional review and the passage of a Federal safety standard act imposing on them standards they should long since have imposed on themselves. In fact, they failed to live up to one of the standard rules of inchoate corporation law—keep up with the state of their industrial art. Violation caused the law to become explicit—this time in the form of a Federal statute." Berle, *Corporate Decision Making and Social Control,* 24 Bus. Law, 149, 152–3 (1968).

Berle concludes with the hope that "corporations will themselves be aware of the areas of reaction, and in that awareness will reconsider some of their policies before government intervenes." (p. 157)

Dean Walton, of Columbia University School of General Studies, sounds the same note: "One thing is certain. If the life or safety of consumers is involved—as it is intimately with the use of drugs and perhaps less so with cigarettes and automobiles—any dereliction of obligations to consumers inevitably invites regulation. . . . Commitment to the vendor concept of social responsibility has, therefore, many very attractive and sensible features." (*Corporate Social Responsibility,* 134)

Clear proof of the effects of neglect of the public concern in the automobile industry was provided by the Federal Trade Commission on February 19, 1970, when it announced that the industry should be regulated by the Federal government in the manner of a public utility. The Commission wrote that such regulation is required because the industry has "failed to meet its obligation to provide the public with defect-free cars."

Following this, one cannot accept the notion that the questions presented in the shareholder proposals under consideration manifests a concern with *general* economic or social issues. They are concerned with precisely those questions which could cause General Motors, as a result of governmental fiat, to become a substantially less profitable company.

One of the clearest expressions of modern thinking about the role of the corporation came from Manuel F. Cohen, then chairman of the Securities and Exchange Commission, in a speech in Detroit, January 27, 1969. Chairman Cohen said:

"Individuals are increasingly dependent upon membership and participation in organizations such as labor and business corporations to practice their trades or influence their working conditions. Doesn't such power carry with it the duty to act in full recognition of the responsibility of these corporations to all of society—to their suppliers, their employees, to the communities within which they operate, to the taxpayer and to the needs of the nation as a whole, as well as to their security holders?"

"The corporation has responsibility to the communities in which it resides, or in which its products will be used, not to pollute the air and the streams with industrial waste or to deface streets, public places and the countryside for commercial purposes."

"The consumer has a right to expect that the goods he buys will be safe and reasonably well constructed. The sale of a defective automobile is not just a danger to the purchaser, it is a grave threat to every member of the community. It is surely an area in which the community has a legitimate interest. The sale of shoddy merchandise, misrepresentations and high pressure sales techniques can have a tremendous adverse impact on the community, especially on the economically disadvantaged. As is so often the case, the persons least equipped to gather, or to insist upon, relevant information, to recognize the alternatives and to make informed decisions, are the most likely victims. The Attorney General of the State of New York recently reported that 75% of all persons who complained of consumer fraud during 1968 were ghetto residents.

"We have ample proof that such abuses create smoldering resentments which explode into violence, affecting the whole community. If further evidence of the responsibility of the business community is required, the past several years, a period of incomparable prosperity, have nevertheless spawned tragedy and violence on a scale that boggles the minds of those who believe that our civilization is an advanced one and that we share a common ethical and religious heritage. There can be little doubt of the political nature of the power of the business community."

A still more powerful example of the attitude of the business community towards the responsibility of corporations to the community, and hence the inseparability of business and social concerns of major corporations, has been the *action* of numerous companies. Thus, the business publications have not just written of the changing attitudes, but of the actions of business leaders. Chase Manhattan Bank publishes a "digest of corporate approaches to public problems" entitled Action Report. Fortune, Business Week and the Wall Street Journal report frequently on significant corporate involvement.

Thus, Aeroject General expended $1,300,000 to build a subsidiary in the Watts area of Los Angeles, and placed it under Negro management with Negro employees. Mattel, Inc. set up a competitor corporation to manufacture dolls in Watts, owned and managed by blacks, and employing blacks. The insurance industry was reported to be devoting $1 billion for slum area mortgages, to encourage buying and building, and incurring greater risks. See *Mortgages for the Slums,* Fortune, January, 1968. Thomas Murray, of Equitable, said "we must conclude that industry and business have a responsibility above and beyond strictly economic concerns (though this alone may be compelling) to solve the problems of our city and core areas." Demaree, *Business Picks up the Urban Challenge,* Fortune, April 1969. Many companies, General Motors included, have spent money to help in job retraining.

Legislation has been proposed which capitalizes on the growing feelings of social consciousness by businessmen. H.R. 9033, 91st Cong., 1st Sess. would create incentives for business to provide employment opportunities in urban areas, while H.R. 9031, 91st Cong., 1st Sess. would enroll private enterprise in efforts to provide low cost urban housing. President Nixon has sought to enlist the private sector in dealing with the problems of the day.

APPROPRIATE QUESTIONS FOR SHAREHOLDERS

We believe it is clear from earlier discussion that the questions involved in the shareholder proposals under consideration are within the scope of concern for General Motors, and are not merely questions going to a more *general* social or economic domain. Therefore, no supposedly irrelevant motive can be ascribed to its proponents, so as to exclude the proposals from Management's proxy statement. We also believe that these proposals cannot be excluded from Management's proxy statement on the grounds that "are not proper subject for action by security holders" (Rule 14a–8(c)(1)) nor recommendations or requests that "management take action with respect to a matter relating to the conduct of the ordinary business operations of the issuer." (Rule 14a–8(c)(5))[8]

The rules have been broadly interpreted; Management bears the burden of demonstrating why exclusion is required. This is an effort to adapt the tool of shareholder democracy for the less pecuniary side of stock ownership. Owners reap rewards from their property—but they are also responsible for the use of their property. No one seriously challenges the use of the proxy machinery when it is employed to seek greater rewards for their ownership (*e.g.*, proposals to limit charitable contributions); the same permissiveness should prevail when proxy machinery is sought to be used to assert the responsibility of ownership. Just as the first is not the exclusive domain of Management; neither is the second.

The need to permit shareholder participation in social decisions is heightened by the fact that while important checks prevail to prevent Management from misusing the great power they possess in dealing with day to day business decisions, largely through the force of competition, it is only self-restraint which prevents the misuse of that power when used in areas where competition does not operate, as for example the socially responsible areas. After a while, the policy and image of companies comes to reflect the viewpoint of Management, and not the owners of the property. See Galbraith, *The New Industrial State* (1967). Certainly, it should not be beyond the scope of shareholders to try to reshape the policies, priorities, goals and the personality of their companies. To accomplish the goals desired, institutional changes within the See Kaysen, firm may be necessary to achieve effective social participation. *The Corporation: How Much Power? What Scope in the Corporation in Modern Society?* 103–4 (Mason, Ed. 1966).

Moreover, while the modern structure of the corporation, centralizing power in the board of directors, is designed to protect the interests of shareholders by arranging for the management of property by skilled persons, this assumption is somewhat based on the fact that the managers know more about the business than the shareholders. The same expertise is much less evident when it comes to making the kind of decisions involved in the resolutions under consideration. And, of course, it is not so much specific implementation of decisions that is involved here; it is policy to act according to certain goals. These goals are a shareholder concern, as Mr. Sloan recognized when he urged that the shareholders take the lead in stimulating their companies towards great social involvement.

While the question of what is an appropriate subject matter for shareholders is a question of state law (*S.E.C.* v. *Transamerica Corporation,* 163 F. 2d 511 (3d Cir. 1947), the S.E.C. and the Federal courts bear a heavy responsibility. As Professor Loss states, "This is an area in which policy should negate a higgling approach." 2 Loss, *Securities Regulation,* 910 (2d Ed. 1961).

The recent decision in *Brooks* v. *Standard Oil Company* (*New Jersey*), CCH Fed. Sec. L. Rep. ¶92,545 (S.D.N.Y. 1969), does suggest that these resolutions are inappropriate matters for the shareholders. The shareholder in Standard did not try to affect corporation policy; he did not disagree in any way with the policies being pursued by Management in seeking to exploit oil from all sources. He was concerned with the proper implementation of that policy, clearly a matter which state law places within the exclusion jurisdiction of the directors. The General Motors proposals seek to challenge

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Footnotes at end of speech.

basic tenets Management holds, while no such challenge was made of Standard.

Each of the proposals submitted is a proper subject for shareholders; none of them are concerned with the conduct of *ordinary* business operations nor are they objectionable on any other ground advanced by Management. Proposal 1 would place the shareholders on record as favoring an amendment to the certificate of incorporation. Certainly no amendment is effective until the board has acted. Although the Delaware statute indicates that the directors shall act and then recommend to the shareholders that they then vote on the proposal, no violence is done to the statutory scheme by reversing the order in which the action occurs, so long as both bodies act.

The rules should be read with sufficient flexibility so that if it is not proper to submit an amendment, it is proper to submit a *request* that the board adopt an amendment. That type of proposal has been held to be proper. See *Union Electric Co.*, 38 S.E.C. 921 (1959).

Moreover, Management has accepted for inclusion in its proxy material proposals in the same form to which it now objects. In 1967 and 1968, Mrs. Davis submitted a resolution which read: "Resolved: That the Corporation's Certificate of Incorporation be amended by adding thereto the following provisions . . ." Management cannot pick and choose which resolutions it will permit; this is a matter of shareholder right. If Mrs. Davis had a right, the Project on Corporate Recponsibility has a right. Management's prior attitude is certainly evidence of the fact that they thought she had a right, and they should be barred from making that objection now. Certainly, if Management is to overcome the burden it has to demonstrate the inappropriateness of the Project's resolution, it must clearly show why this shareholders' resolution is not entitled to the same treatment as one Management allows the shareholders to see.

Proposal 2 would amend the by-laws, and this is subjected to the spurious objection that it is a resolution relating to an election for office. It is true that this proposal would increase the size of the board and would enable the nomination and election of additional directors by the shareholders. Moreover, Campaign GM has specific candidates in mind for these spots. However, it is clear that this by-law proposal does not challenge any nominees of Management. Any by-law which fixes the size of the board has a relationship to an election, but it is clear that General Motors' by-laws permit the shareholders to amend the by-laws, including the one which fixes the size of the board. Management's argument would, as a practical matter render a nullity of the shareholders' power to use Management's proxy statement to carry out their rights under the by-laws, since the usual reason for wanting a change would be to vote for a new candidate. The Commission's decision in *Union Electric Co.*, 38 S.E.C. 921 (1959) involved a very different kind of proposal. The proposal by the shareholder challenged the fitness of Management's nominees, and, as the Commission found, the shareholder could not logically vote for Management's nominees if he supported the resolution. Hence, the resolution was a clear challenge to candidates. A proposal to add more directors, only if the by-law passes, presents no such challenge, and the statement in support emphasizes that fact. The situation described on page 9 in Mr. Malone's letter simply does not exist in this case.

Proposal 3 is attacked by Management as "being a concept without precedent," (p. 27 of Mr. Malone's letter) and a challenge "to what its authors conceive to be the traditional role of corporations in society." (p. 7, Davis, Polk & Wardwell letter) The opinion of Davis, Polk & Wardwell does not challenge this proposal, nor Proposal 2, as not constituting proper subjects for action by security holders. (p. 11) However, Mr. Malone's objection seems to extend to this, although it is vague and unclear as to precisely what he protests.

Mr. Malone says that the Committee would examine areas which lie within the scope of ordinary business operations. This is only partially true. The Committee would examine basic questions of the role of the corporation in modern society and the proper allocation of competing interests in the corporation. The Committee would also explore the fundamental decision-making process of the corporation, including methods for election and nomination of directors. The result of recommendations here could be proposals to amend the charter and by-laws, since Delaware law permits any governing structure the basic documents provide. See *Delaware Gen. Corporation Law*, § 141(a) and the comment by Professor Folk, its principal draftsman, that "the Delaware corporation enjoys the broadest grant of power in the English-speaking world to establish the most appropriate internal organization and structure for the enterprise." *Amendments to the Delaware General Corporation Law, Corporation Service Company*, p. 19, (1969) There *are* some questions of ordinary business operation which would be examined, in order to assess the overall impact of the company's policies and practices, but there is no effort in this resolution to take away the board's power to continue to deal with these areas. The shareholders do not seek to usurp board functions.

Management's documents suggest that shareholders can consider matters in which they have an interest *qua* shareholders, but not otherwise. We have tried to show that where General Motors is concerned, as Mr. Wilson noted, no real distinction is possible. At least, it is not possible with the range of activities—auto safety, pollution, minority employment, mass transportation, and the like—which are asked to be considered in this resolution.

Shareholders are entitled to have an audit conducted of the affairs of the corporation, even though this is mainly a management function. Nevertheless, the courts recognize the interest of the owners in this field. *S.E.C.* v. *Transamerica Corp.*, 163 F. 2d 511 (1954) (ED. Cir. 1947); *Auer* v. *Dressel*, 306 N.Y. 427, 118 N.E. 2d 590 (1954); *Dyer* v. *S.E.C.*, 266 F. 2d 33 (8th Cir. 1959). What is asked here is in the nature of a *social audit* of the corporation's performance.

The owners of property are entitled to express as to how their property has been used, and how their property affects others. This proposal would give shareholders the ability to make judgments and exercise their prerogatives and their duties as owners of property.

It is true, as suggested by Management, that this proposal would consider whether a basic restructure of the corporation is appropriate. It is quite likely that Management conceives its duties more narrowly than the proponents of the resolution. It is clear that others disagree with the notion that the shareholders are the only legitimate interest group in the company. There is nothing in the law which dictates that this is the only way of viewing a corporation. Whether Management has the right or the power to affect basic changes with regard to the priorities and the relative interests in the corporation is not clear; it should be clear that this is something the shareholders can do. Moreover, the "radication" of a proposal is no bar to requiring its conclusion, as Mr. Bane told the House Committee in 1943. House Hearings before Interstate and Foreign Commerce Committee on H.R. 1493, 78th Cong., 1st Sess. p. 225 (1943).

The resolution is predicated upon a belief that there are shareholders in the company who are similarly concerned with whether the company may be adversely affecting the community. This is no general concern for social and economic policies, but rather whether the particular policies of the company may be harmful. Among other things, it is felt that it is best to study and to act, rather than wait for the community to compel action which may be harsher.

Mr. Malone's letter attacks the proposal of being "replete with vague, indefinite and theoretical phrases and concepts." Mr. Malone is clearly bothered by "concepts." Vagueness can be cured by amendment, if necessary, and this has been regularly practiced by the Commission. As to the other objection, does Mr. Malone mean that shareholders cannot consider theoretical concepts? What scope *does* Mr. Malone allow to shareholders' proposals? He condemns both prosaic daily matters and basic inquiries about the nature of the corporation and its role in the community as not proper matters. And, of course, the proposal is not so vague as suggested, since it is doubtful that Management has missed the furor which Arjay Miller noted that has occurred among observers and critics of the corporate scene.

Proposal 4 is in the nature of a precatory resolution, which commends to the board the shareholders' concern with a matter of important social policy—the question of mass transportation. It does not attempt to usurp the functions of the board in a matter of ordinary business matters. It stems from a concern that General Motors will be an important and relevant company in the years ahead. To be so, Management must consider the developing transportation needs of our country. The proponents feel that mass transportation is an urgent need, and that Management should undertake a positive program. On this basic question, the shareholders should be entitled to express their concern.

It should be noted that when shareholders request the board to consider their views on issues close to the shareholders' pocketbook, a permissive attitude prevails. See S.E.C. Minute re *Crown Corp & Seal Co., Inc.* (1964), excerpted in Cary, *Corporations* 327 (4th Ed. 1970).

Proposals 5–9 would require the company to take action on matters of large importance, involving, in some cases, large sums of money. These cannot be condemned *both* as matters of general economic and social policy, and as matters within the ordinary conduct of the business. In truth, they are neither. They are important new steps for the company, and the views of the shareholders should be permitted to emerge.

Interestingly, although the burden of proving inappropriateness is clearly on Management, but not a single Delaware case is cited to show that these questions are beyond the shareholders' scope. We submit that Management has failed its burden.

One would hope we could conclude about the General Motors' Management in the same terms that Chairman Cohen closed his important Detroit address:

"It has been said that the admirable man is the man with the courage of his convictions. Among those who hold great power, the truly admirable man is the man with the courage to question his convictions, or at the least, to allow others to do so."

Very truly yours,
DONALD E. SCHWARTZ,
(For the Project on Corporate Responsibility).

FOOTNOTES

[1] Mr. Coombe's letter to the Commission contends that the last six proposals were not submitted timely, in accordance with Rule 14a–8(a). We believe he is in error. The date corresponding to the date last

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year's material was released is April 17, as noted by Mr. Coombe. Counting that as the first day, and then moving backwards, the 60th day, and hence the last upon which a proposal could be submitted, was February 17, which is the day he acknowledges the material was submitted. It is possible to compute the time by another fashion, but the rules do not specifically provide. No policy supports a more restrictive interpretation of the rules.

Moreover, the Project on Corporate Responsibility was a beneficial owner of General Motors stock on January 29, 1970, although it did not become a record owner until a later date. The pertinent facts were set forth in a letter to Mr. Coombe, on February 25, from Jeffrey D. Bauman, Esq., secretary of the Project on Corporate Responsibility.

[2] Management objects to every proposal except Number 2 under Rule 14a–8(c)(1), although the opinion of Davis, Polk & Wardwell did not raise this objection with Proposal 3 (as well as Proposal 2) and the opinion of Mr. Ross Malone failed to object to Proposal 1 on these grounds.

Management also objects to Proposals 3–9 on grounds of Rule 14–8(5), although the opinion of Davis, Polk & Wardwell raised no such objections as to Proposals 3 and 4.

It would seem that Management has selected from each of its opinion of counsel those portions most favorable to it, while rejecting other conclusions.

FARLEY SCANS DEMO 1972 HOPEFULS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. ROONEY of New York. Mr. Speaker, the pundits around the country are trying to bury the Democratic Party without even a decent wake. The party, they say, is leaderless, out of touch with the people and broke; it cannot win in 1970 or 1972 and in fact may not even be in existence by then. This, I think, like most punditing, is just pure junk. The party owes money, to be sure. But it can win in 1970 and 1972 and once again prove that it is the party of the people. Recently veteran reporter James Kilgallen sought out former Postmaster General and Democratic leader James A. Farley to get his opinions on tne party's future. Jim Farley, certainly no newcomer to politics or wild-eyed optimist, was far from being dismayed about the future. I include in the RECORD at this point the interview with Mr. Farley:

[From the Times-Union, Mar. 1, 1970]

FARLEY SCANS DEMO 1972 HOPEFULS

(By James L. Kilgallen)

NEW YORK.—James A. Farley, one of the nation's keenest political observers, is not selling the Democratic Party short in 1972—nor is he counting Lyndon B. Johnson out as a possible presidential contender.

In an hour-long interview with this reporter, Farley said he is confident the Democratic party will surmount its present problems and be in tip-top condition to wage a strong campaign in the presidential race two years from now.

"I hear it said that the Democratic Party is in bad shape and maybe it is," declared Farley. "But you can't get away from the fact that the basic Democratic voting strength is still there and can make itself felt in 1972."

Currently, things are not going too well with the Democratic Party. Among other difficulties, the national organization is about $8 million in debt, mostly from the 1968 presidential campaign, and is struggling to raise finances. Also, the party is looking for a new national chairman to succeed Sen. Fred Harris of Oklahoma, who resigned recently.

Farley who, as Democratic National Chairman in the 1930s successfully master-minded Franklin D. Roosevelt's first two campaigns for the presidency, was interviewed at his desk at Coca-Cola Export Corp., where he holds the title of chairman of the board. He joined the company Sept. 1, 1940, after resigning as postmaster general.

Though 81 years of age, he is in good health and has no intention of retiring.

"It's too early to make weighty observations about 1972," he said. "But I'm confident the Democratic Party will come up with a good national ticket.

"Right now two most popular Democrats talked of as possibilities for the presidential nomination are former Vice President Hubert H. Humphrey, and Sen. Edmund S. Muskie of Maine.

"I don't know what Humphrey's attitude will be about 1972. Apparently he's going to run for senator in Minnesota this year and that will give him a forum. Humphrey narrowly missed beating Mr. Nixon in 1968. If he had had another week or so longer to campaign, he would have won the election.

"Sen. Muskie is a strong possibility for the presidency. He made an extremely good impression on the electorate in '68 and no doubt has since enhanced his reputation considerably . . . He is knowledgeable and a good public speaker. He makes a favorable impression on TV panel shows and handles himself well at press conferences. He never makes extravagant statements."

Suddenly (and rather unexpectedly) he mentioned another name: Lyndon B. Johnson.

"I have no idea what former President Johnson has in mind for 1972," Farley said. "But speaking as an observer without any inside information, I don't think you can pass him out of the picture.

"In my judgment, if LBJ indicated that he had an interest in seeking the presidential nomination he would be a formidable contender in '72—and would be nominated. And he'd be a strong contender against Mr. Nixon."

Farley remarked that Johnson has been "most fair" in his public utterances regarding President Nixon's policies and programs."

"President Johnson," he said, "has great respect for the office of President. He has never said anything critical of the present occupant of the White House."

"Mr. Johnson was never given the credit he was entitled to for the legislative support he and speaker of the House Sam Rayburn gave the Eisenhower administration. I'm sure 'Ike' understood and appreciated this non-partisan support."

Asked if he thought Sen. Edward M. Kennedy of Massachusetts would try for the presidency in '72, Farley replied:

"It is apparent that Sen. Kennedy has taken himself out of the running. Some months ago he said that under no circumstances would he be a contender for the nomination and he has reiterated this a number of times."

Responding to another question, the one-time Democratic leader said there is no doubt in his mind that President Nixon will be a candidate for reelection and that he "will run on his record."

Asked if he thought New York City's politically ambitious Mayor John V. Lindsay would be in the presidential picture in 1972, Farley replied:

"I doubt it very much. If Lindsay doesn't make a better record of accomplishment in the next four years than he did in his first term, his political future will be seriously affected."

Concerning reports that Lindsay, nominally, a Republican might switch his party affiliation to that of a Democrat, he said:

"In my opinion that wouldn't help the Democratic Party at all. There are plenty of Democrats capable of filling any position to which Lindsey might aspire."

Expressing his confidence that the Democratic Party will have good leadership and an attractive national ticket in '72, Farley pointed out that Humphrey came close to winning over Nixon in 1968.

"If the Kennedy and McCarthy forces had thrown their support to the Humphrey-Muskie ticket it would have helped a lot, and if HHH had another week or so to campaign, he would have won the election," he said.

"The Democratic Party has the basic voting strength and is capable of winning in any presidential year. After Al Smith was defeated for the presidency in 1928, the news media reported that the Democratic Party was at such a low ebb and lacking in leadership that it wouldn't return to power for 25 years or more.

"Yet in 1932, with Mr. Roosevelt as the presidential candidate, the Democratic Party swept to its greatest victory up to that year. And then, in 1936, FDR rang up the greatest victory in the country's history, winning every state in the union except Maine and Vermont."

Farley was asked: should the democratic national chairmanship be a full-time job, now that the party is seeking a successor to Sen. Harris?

Smiling, he replied:

"I'm not the person to answer that question because in the 1930s I held three jobs at the same time Democratic national chairman, Democratic state chairman and Postmaster General—and the Republican press referred to me as 'Three-Job Farley.' FDR wanted it that way and I enjoyed the three jobs. I had good assistants and was able to know exactly what was happening all those years.

"As for who should be picked to be the new chairman, there are democrats fully familiar with the national scene who would be able to handle the job.

"I have no one in mind—I'm not close enough to the picture."

POPULATION GROWTH

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BUSH. Mr. Speaker, the Republican Task Force on Earth Resources and Population of which I am chairman, spent most of last year studying the population growth problem. We released our family planning report, the result of our research and hearings, on December 22, 1969. Although we are presently conducting hearings on the problems of mineral and energy shortages, we are keeping ourselves informed of any developments in population matters. On March 18, we will be privileged to have Dr. Jack Lippes appear before our task force to discuss the international outlook on population control.

The Nixon administration has been deeply concerned with this problem as was evident in the President's state of the Union message. In his message the President called for a national growth policy in order to find those means by

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which government at all levels could influence the course of urban growth and improve the quality of American life. Yesterday, Monday, March 16, the President signed into law a bill to establish a National Commission on Population Growth and the American Future.

We can see further interest in this problem by the Nixon administration evidenced in an article which appeared in the New York Times on Wednesday, February 25, 1970, by Mr. Jack Rosenthal. In Mr. Rosenthal's article, he mentions a lecture delivered by Secretary of Commerce, Maurice H. Stans, in which the Secretary said that by the year 2000 Americans will be jammed together in an anthill society unless government and business join in a coherent national growth policy. Mr. Rosenthal mentions:

> Mr. Stans' proposal is the most detailed expression of the Nixon administration's already evident concern over urban growth.

For the benefit of my colleagues I am having this article reprinted in the RECORD, as follows:

STANS WARNS OF "ANTHILL SOCIETY"—HE URGES COHERENT GROWTH POLICY FOR BUILDING CENTER

(By Jack Rosenthal)

WASHINGTON, February 24.—By the year 2000, Americans will be jammed together in an "anthill society" unless government and business join in a coherent national growth policy, Secretary of Commerce Maurice H. Stans said in a lecture prepared for delivery tonight.

Mr. Stans proposed such a policy in the first development of a theme expressed by President Nixon in his State of the Union Message.

Mr. Stans said the following steps were required:

Discouragement of further growth in megalopolises—urban corridors already dense with population.

Planned expansion of smaller cities.

Construction of entirely new cities, away from present urban concentrations.

Mr. Stans said such a policy was essential if the nation was to solve two urban crises. One is the present crisis of race, space and pollution in tax-poor cities.

The other, which he described as an ominous time bomb, is the addition of more than 100 million people to the population.

While Mr. Stan's lecture was described by an aide as "a personal statement" a White House source said it had been clearly understood that Mr. Stans and his department would play a central role in the Administration's activity concerning population growth.

The lecture was scheduled in one of a series on "private enterprise and the Urban Crisis" at the American University here.

The nation's population will total 300 million by the year 2000, Mr. Stans said, and 85 percent will be urban.

FOUR GIGANTIC CLUSTERS

He called on his audience to imagine the following four gigantic clusters:

BosWash, an unbroken stretch of people, homes, factories, highways, railroads and power lines from Boston to Washington.

"ChiPitts, a solid belt of heavy industry from Chicago to Pittsburgh.

"SanSan, from San Francisco to San Diego.

"JaMi, the fourth megalopolis, along Florida's east coast from Jacksonville to Miami."

Mr. Stans said the problems of "these vast megalopoli" might well dwarf present urban worries. "It is not very pleasant to contemplate what such an anthill society would mean to this nation."

He suggested that sharp increase were likely in congestion, pollution, crimes and youthful alienation and then asked:

"What quality will the pressures, frustrations and congestion of megalopolis impart to the character of future Americans?"

Mr. Stans also intimated that local governments would become increasingly unable to deliver services and perhaps would even disintegrate, leading to "a megalopolitan government with sweeping power approaching those of a police state."

And he said that skyrocketing costs of public services could drain so much tax revenue as to produce virtually a state-controlled economy.

The sensible alternative is an urban growth policy based on the concept of "cities of viable, manageable size," Mr. Stans said.

These could avoid the mammoth problems of scale already facing megalopolises, he said, while still providing the intellectual, cultural and material opportunities that underlie the historic concept of the city.

Mr. Stans did not closely define "viable, manageable size" but made it clear that he regarded dense megalopolitan corridors as outside the definition.

There are three ways to achieve the goal of "viable, manageable size," he said. One is to build new cities from the ground up. To accommodate the 100 million projected population increase in this way alone, however, would require building a city the size of Tulsa, Okla., every month until the year 2000, he explained.

"We will not only [need to] build new cities from the ground up, but also undertake to expand our present small cities into much larger entities," Mr. Stans said.

The third solution is to discourage further growth of present large cities, he said, "so that they can be modernized to meet the needs of the next century."

This would not be negative discouragement, but would result from positive incentives to encourage growth of present small cities and establishment of new ones.

Government can contribute, Mr. Stans said, through such incentives as investment tax credits, liberalized depreciation allowances, highways that help disperse population, planned decentralization of government facilities and continued assistance to new communities.

At the same time, business has responsibilities, too, Mr. Stans said. He urged private construction of new cities, development of "civilian technology, concentrating on systems and products that will be required for quality in urban living," pollution control and longer-range planning.

Mr. Stans's proposal is the most detailed expression of the Nixon Administration's already evident concern over urban growth.

Last year, Vice President Agnew contributed an introduction to "new city," the report of a bipartisan private National Committee on Urban Growth Policy.

"The constant growth of our population confronts us with a desperate race against time," Mr. Agnew said, "if we are to preserve our environment and keep our culture from disintegrating."

The President also has asked Congress to establish a National Commission on Population Growth and the American Future in a bill expected to be enacted next year.

Last month, in his State of the Union Message, the growth policy—to find those means by which Government at all levels can influence the course of urban growth and "positively to affect the quality of American life."

SENATOR KENNEDY'S ADDRESS, TRINITY COLLEGE, DUBLIN, IRELAND, MARCH 3, 1970

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. CAREY. Mr. Speaker, I know of no more fitting way in which to mark the Feast of St. Patrick than to call to the attention of our colleagues the address given by Senator EDWARD M. KENNEDY before the College Historical Society Bicentenary, Trinity College, Dublin, Ireland, on March 3, 1970.

Senator KENNEDY's speech is an excellent review of the political situation which exists in Ireland and appraisal of the discontent in our own country as expressed in civil disorders and unrest.

I am pleased to offer it for the consideration of the other Members of the House:

ADDRESS BY SENATOR EDWARD M. KENNEDY BEFORE THE COLLEGE HISTORICAL SOCIETY BICENTENARY, TRINITY COLLEGE, DUBLIN, IRELAND, MARCH 3, 1970

I was most pleased to receive the invitation to deliver the Bicentenary Address of the College Historical Society. I consider this occasion one of the greatest honors of my public life, as well as an opportunity to express myself on matters that I feel are vital to our time.

The College Historical Society has been called the greatest of all the schools of the orators. Fitting, then, that Edmund Burke was instrumental in its founding.

And this Society carries the tradition of open debate—barring no point of view, a center of controversy and discussion. It has heard the voices of Irish nationalists, Wolfe Tone, Robert Emmet, John Blake Dillon and Thomas Davis, as well as those who opposed their thoughts and actions. Men of letters, science, and government passed through this Society, as light through a prism, to go on to form their own colors and patterns in life. This too is fitting, for Burke was not so committed to his own thoughts and pursuits that he could not delight in, or learn from, the voices of others.

At first glance the public career of Edmund Burke seems laced with inconsistencies. He was dedicated to the established order and institutions of his time, yet was sympathetic to the demands and complaints of the colonies that formed my nation. He was devoted to the wisdom of the past, yet he was a leader in reforming the basic structures of government. He was an intensely pragmatic realist who heeded the facts of political life when proposing policies, yet he was dominated by powerful moral values and the hopes which flow from such values.

Still Edmund Burke was not an inconsistent man. Rather he reflected the inconsistency of society itself. What appeared to be Burke's conflicts of views and temperament were, in reality, the product of his unwavering human skepticism, the great gift of your experience to Western political thought, and to my own country in particular.

For every society is a mixture of stability and change, an irrevocable history and an uncertain future. We are both what we have been and what we desire to be. We are creatures of memory and hope, struggling with uncertainty as we try to fulfill the promises that we know we must keep.

Thus our society is constantly in flux—

different today from what it was yesterday—a continuation of the past, part of an organic process with roots deep in the history of our nations and of our common ancestors. Societies are like rivers, flowing from fixed and ancient sources through channels cut over the centuries—yet no man can ever step into the same water in which he stood only a moment before.

This view of society as a process, the new growth sustained by ancient roots, was the essence of Burke.

Burke the conservative believed that values and existing institutions reflected the accumulated wisdom and experience of a people, and could not be discarded to satisfy every transient impulse without rending the fabric of society. Burke the skeptic believed that no one man or group of men could claim a monopoly on revealed truth, and, so armed, undertake the destruction of what generations had built in order to impose their personal vision of a utopia. Burke the moralist believed it was man's first duty to defend the values of decency, tolerance, reason, and respect for freedom against all onslaughts. And Burke the realist understood that we could only hope to preserve tested values and institutions if we were willing to undergo sometimes painful adaptation to new facts and relationships in a constantly changing world.

Edmund Burke was a complex man and he was a moderate man. His moderation did not consist in automatically taking the middle position between left and right, radical and reactionary, one extreme and the other. He was a moderate, not because he lacked passion or conviction, but because he combined an acute sense of human limitation with a deep reverence for the moral values essential to human liberation. To him a lifetime of thought and action consumed by the slow labor of improving the human condition was more valuable than all the rhetoric of destruction and impossible visions. He was not in the market of human and political affairs for the windfall or the notoriety that history soon buries under its chronicle of real achievements.

Thus Burke sets an example for all of us in an age when, in all our countries, the forces of moderation are on the defensive. We live in a time of change, huge and tumultuous and filled with danger. Any society that is rigid or entrenched in the face of this change, or that heeds those who constrict liberty by calling upon fear, mistrust and hate, will shortly be overwhelmed. That would threaten the destruction of everything worthwhile that prior generations had managed to create that was good. Any society that yields to those who in some mindless fury seek to tear down completely the old structures will also lose the values and wisdom accumulated over the centuries.

Western society is in ferment. If my own country appears to be more tumultuous and dangerous than others, it is only because we are further advanced along the course of modern life; and we have less of a common heritage to guide us, or to help absorb the blows. Our travails are also more visible because we are large in numbers, varied as a people. In addition, a nation as rich and powerful as my own, and so fortunate in its history, is tempted to believe that all problems, no matter how complex, can be solved by pulling on the levers of power or pushing the buttons of solution.

But the truth is that the problems of men cannot be resolved so mechanically. For the human condition has changed less than the world we have created. We are frail, limited and plodding in constructing the relationships between men and nations despite the comforting and boastful facade of speed, chrome and capsules on the moon. Yet all the nations which can call themselves advanced or developed are menaced by the clash between the sustaining past and the troubled future. For all of us, the institutions and ideas of the old age are buckling under the drive of new concepts and relationships.

The challenge to men in Burke's tradition of moderation is to find the strength to lead the drive for change and adaptation, to satisfy the real discontents and just grievances of our time, so that we may conserve the reasoned and humane legacy of our past.

I wish to suggest to you this evening that the two greatest dangers to peace and the future existence of mankind in this age are the continuation of human oppression, whether conscious or unconscious, and the toleration of weapons that can destroy our earth. These basic problems must submit to the control of humane and reasonable men if we are ever to be optimistic about the future of the world.

And so I feel this is no time for moderate men to be in retreat. The successful charting of human affairs is too important a matter, failure too ghastly a matter, to be left in the hands of those who discard reason for passion.

What follows will be limited in large measure to conditions of my own country. This is the only land I know and my doubts and criticism can be tempered by love. Still, some of our problems of today are also yours—the others will be upon you tomorrow.

The greatest threat to a progressive and peaceful society anywhere is the existence of oppression. For the conscious oppression of one group by another within the family of a nation, or of one nation by another, produces abuses and rages that strike at the heart of the nation itself. The immorality of the act is so pervasive that no part of the society escapes it, and the continued existence of oppression and its mentality cannot help but foul any attempt of a people to be great.

This ancient form of tyranny exists between nations openly—as in the political situation of Eastern Europe—or subtly, as in the economic situation of many of the underdeveloped countries. Oppression exists internally in a blatant fashion, as in South Africa, or with greater sophistication as in Northern Ireland. However it exists, it is detrimental to all men and peace.

In my country black people are oppressed. We live with this fact despite the effect it has had upon them, our history, and modern life. Rebellions, uprisings, civil war, the degrading effect of this suppression on blacks and whites alike—all this has been suffered rather than adjustments that would rid us of this stain.

Some advances have been made—but that is faint praise at this late hour and in a nation that prides itself as the light of democracy. "Liberty," said Burke, "is a general principle and the clear right of all . . . or of none. Partial freedom seems to me a most invidious form of slavery."

In America we live with a form of partial freedom.

Over the past twenty years there have been assaults on racial oppression with the initiative coming mainly from the black community. As they worked through the institutions of our land—the courts, the legislature, and Presidential leadership—it appeared as though one barrier to equality after another was falling. Men of concern from the white population joined the surging effort, anxious to participate, inspired by their instincts for good, and by the courage and selfless dedication of black men in the front of the movement.

But the changes did not come so rapidly, the barriers only appeared to fall, giving the illusion of progress. In matters of minority housing, employment and public education, reasonable expectations were far from realized. Passage of laws was one thing, their execution quite another. Delays, exceptions, studies, administrative apathy—all sapped the hope of the waiting minority. The resulting frustrations and impatience gave rise to a new militancy and a harsh rhetoric fearful to many, and these fears were played upon by forces of reaction.

Over the last few years of decline in the civil rights momentum the voice of the moderate man was not clear. Though many such men remained, many others left the field. The attention of some was diverted by war. In the heat of the struggle some were afraid to speak out against the excesses of the extremes, and many leaders upon whom we depended, both black and white, were lost to violence. Whatever the cause, the tide has shifted in America away from progress and equity.

Change causes disruption and discomfort. The lessening of the intensity of that change brings back the warm security of the past. So it is that for the moment many may find comfort in this turn of events. But this sense of well-being is false; the mine has merely been closed, the fire still rages within. Burke's warning that ". . . nothing is security to any individual but the common interest of all" still holds.

Whenever oppression exists, those who truly love their land, its history and values, will press endlessly for its elimination. Men of reason, men of Burke's moderation, have no choice but to persist—if not for moral reasons, then simply to guarantee the future.

Yet oppression is not always a conscious act—people pitted against each other out of twisted racial or religious views. We have found that society itself can oppress, unconsciously, blindly, but with equal cruelty.

So do the sources of man's discontent change with time. When this Historic Society was founded the great majority of people in the Western World was concerned with mere subsistence. Daily life was phiysically more difficult, the elements were harsh, and the rewards for a life of work meager. These conditions created the problems and affected the institutions of the day. Revolutions, civil strife and discord resulted when societies and nations were slow to adjust.

Within Western society today perhaps the universal and overwhelming source of discontent arises from the increasing dehumanization of life. There is a sense of powerlessness, not simply among the young, but among all who feel their lives are spent impersonally in modern societies. More and more, the things that vitally affect us do not submit to control. The institutions created to support us in meeting the responsibilities of our lives—whether religious, political, or educational—no longer respond to the individual's changing needs. There is no feedback. The machines of society take on a life of their own. They run themselves, perhaps efficiently, perhaps productively, but seemingly with less and less concern for the desires of the individual human being they were designed to serve.

Our large cities, totally impersonal, crank human being through their daily activities. Our large universities, totally impersonal, stamp our people with fixed credentials. Our large industries, totally impersonal, employ people in repetitive tasks seemingly devoid of some sense of social value. Our large units of government function more for their own sake than for the people they serve. And all these institutions seem unresponsive to the individual complaint or desire. This creates a general sense of helplessness, a feeling of uselessness that can result in unchecked national or institutional behavior, or in individual aimless rage that seeks to destroy.

It is responsiveness that the new voices, the oppressed and the powerless, seek—governmental systems capable of growth and adaptation; an opening of the channels to participation and elective office; and political units close enough to the people to reflect their concerns and aspirations.

The political forces of such change have been most apparent in my land, as they have been on this side of the Atlantic. But whether or not they will be successful depends on their ability to release their frustrations with the restraint necessary to bring the majority with them. If the position of established interests is viewed as rigid, if the arguments of the militarists are considered radical and abstract, if governments and institutions are unresponsive, then those seeking change surely should not be rigid, radical or abstract. Unfortunately, this is not always the case. The young have their own harsh rhetoric, they often consider the compromise position to be a "sell-out", and their ability to be disruptive and take to the street—no longer an ability in question—is now becoming a mechanical act. The result is less and less effectiveness. And as one who shares many of their hopes and aspirations for the future, I feel constrained to warn that history is a harsh judge of those so caught up with revolution that they forget reformation.

As Burke said to the French: "You possessed in some parts the walls, and, in all, the foundations of a noble and venerable castle. You might have repaired those walls; you might have built on those old foundations." But if we have the sense of being overwhelmed by the institutions and machines we have built, is it not even more incredible that we have the premonition we could be destroyed by them? From the threat of nuclear weapons there is no safe haven. To the individual this represents the ultimate in total lack of control over his life and environment. The presence of these weapons, and the will to use them removes the essence of life. Why seek to perfect, why struggle for orderly change, why look for the meaning of life, when without any consultation, all life can be immediately ended?

In America we know what our weapons can do to another country and the world. And we know that the same can happen to us. But, as in some mad chess game, the continued expansion of such strength goes on. Men considered reasonable can cooly calculate and compare millions of deaths with millions of deaths, megatons are matched against megatons in the earnest debates over national security, and overkills of four to nine times the population of a country are discussed as though there is some sense to it all.

The new generation has been raised in this atmosphere. To them, having the ability to destroy the world, and at the same time not treating this ability day and night as the first matter to be solved among nations, goes beyond the limits of the human mind. Can any society view their visions and thoughts as radical or extreme, when the visions and thoughts of men in power include the real possibility of final destruction?

How did our world get swept into this position? What future was so dismal that rather than face it we elected to hold open the final option of ending everything, and taking everyone with us? And if we have arrived at this point through the failure of moderation, what faith can we put in the power of reason to now rescue us?

There will have to be some other way for nations in the last quarter of this century to resolve the problems of the planet without reliance on arsenals that could obliterate it. For too long this position has been considered naive, for too long men in public life have feared risking their reputations as realistic men by avoiding this conclusion. If the world is to continue it must not only control nuclear weapons but eventually destroy them. How much and when are matters that can be solved once real agreement is reached in reversing the trend. To date, I do not believe that any real attempt has been made to reach this basic agreement.

It will take men like Burke, moral but realistic, committed to their own nation but responsible for the condition of all men. When he spoke of meeting the challenge of the American colonies, he was not matching the first strike capability of George III against the retaliatory power of the Lexington farmers. He was measuring the future possibility of colonialism in the new world against the continued existence of a community of men known as the Empire. Burke argued for the latter.

Who today will measure the future possibility of international relationships built on arms against the continued existence of the community of the world—and argue for the latter?

Must we wait for the newer generations to assume their places in power, indeed, can we wait? Or must we exercise the responsibility that falls to moderate men? Clearly it is our task, and we had better be about it.

So we live in a time demanding great change, and a time when survival is a real question. How we will succeed cannot be predicted. But we will never succeed if men of reason abdicate to those consumed by passion or by fear. Change within Western nations will not come about through random acts of violence and disruption, for sheer violence cannot compel fundamental change. Rather it helps defeat those who are serious about change—the forces of humane moderation. So I fear that the present reactions—the words of law and order, the trials and jailings, the public statements and name-calling by men in high places—are only the touch of a giant. Aimless and frivolous acts will turn the millions of citizens, whose fears spring from shared anxieties, frustrations and discontents, against progress and reform. Some argue that intolerance and violence are justified because modern society is violent and intolerant. Even if that were true, the argument is purest demagoguery. The objective of the discontented should not be revenge, but change. The only question for the serious man is whether these acts are effective tools of liberating change. They are not effective. They are not moral. And thus the use of violent acts is self-indulgent and, worse, the unwitting instrument of those who seek to impose oppression from the right.

And in the world, war can no longer be considered an instrument for change. We are too close to the edge of oblivion for that—and the final realization of this fact will demand adjustments and innovations in the affairs of men unparalleled in history.

We are, then, engaged in a profound struggle for the future of our common civilization. The discontent and the ferment are realities. Only by reasoned change amid a changing world can we hope to preserve those human values which Burke struggled to protect and which were summarized by the founders of my own nation in the phrase: "pursuit of happiness." We may ont yet understand the complexities of our dilemma. We do know that the future will either be one of increasing justice for our fellow man and the liberation of the individual to enrich his own destiny—or it will be a future of increasing repression and control, if a future at all. Discontent must either be met or suppressed. To meet it is liberation. To suppress it is the end of liberty. It was my genius countryman, Benjamin Franklin, who said "They that give up liberty to obtain a little temporary safety deserve neither liberty nor safety." Nor, may I add, will they have them.

What will the outcome be? No man knows, and Burke first of all would scorn one who tried to predict the future rather than shape it.

It is now almost seven years since the President of the United States came to this city—not to the land of his birth, as he said, but the land for which he held such great affection.

John Kennedy referred to the age in which we live—an age when history moves with the tramp of earthquake feet, an age when a handful of men and nations have the power literally to devastate mankind. But he did not speak in despair or with a sense of hopelessness—those feelings had no place in his Irish heart.

". . . across the gulfs and barriers that now divide us," he said, "we must remember that there are no permanent enemies. Hostility today is a fact, but it is not a ruling law. The supreme reality of our time is our indivisibility as children of God and our common vulnerability on this planet."

I choose to believe that Burke would have agreed with that view of reality. I can only hope that we who remain will choose to work from it.

BIBLIOGRAPHY ON DRUG USE

HON. JEFFERY COHELAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. COHELAN. Mr. Speaker, I submit for the Record the following selected bibliography on drug use, abuse, experimentation, and effects, both behavioral and psychological.

I hope this information will be helpful to my colleagues in their efforts to deal constructively and responsibly with the drug abuse problem.

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Mental Health Digest. For requests for issues and information regarding subscriptions to the Mental Health Digest, write the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Subscription price, $3.50 a year; single copy 30¢.

Wojciechowska, M. (1968) Tuned Out, Harper & Row, New York and Coles, R. (1969) The Grass Pipe Blower, Little, Brown & Co., Boston (These two novels were written especially for young teenagers, but may be of particular interest to parents.)

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Films—For information regarding films and film rentals, write University of California Extension Media Center Distribution, Berkeley, California 94720. Also write Professional Arts, Inc., P.O. Box 8484, Universal City, California 91608 for information regarding "Escape to Nowhere", "Pot's a Put-On" (a brief satirical put-down of pot), "The Ballad of Mary Jane," and other films.

Recording—"Talking Drug Store Rag" by Hank Mindlin and Carol-Leigh Jensen on S. & S. Records—album "Inquire Within" Available through Sufism Reoriented, Inc. 1290 Sutter St., S.F., Calif. 94109. $4.98 plus 25¢ handling. (California residents add 25¢ sales tax.)

AGENCY REFERRAL AND PROGRAM INFORMATION

For referrals in the San Francisco Bay Area contact the Bay Area Social Planning Council; 577 14th St., Oakland, Calif. 94612. 835–2440.

In California, a listing by county of Drug Abuse Treatment and Referral Facilities Facilities may be obtained by writing to Mr. Chester Roberts, Jr., Division of Research, Department of the Youth Authority, 915 Capitol Mall, Sacramento, Calif. 95814.

For information regarding an experimental prevention program stressing positive alternatives to drug use, write awareness House, Bryce Brooks, Director, P. O. Box 515, Fort Bragg, Ga. 95437. Also see Life Magazine, "A Town in Trouble", March 21, 1969, for further information regarding this program.

For information regarding a successful educational program for young, first time drug offenders and their parents, write San Diego County Probation Department, William M. Sergent, Supervising Probation Officer, 2901 Meadow Lark Drive, San Diego, Calif. 92123. (Participation in an entire series of educational programs is in lieu of prosecution.) (Copies of a program summary are also available through C.P.D.I.* Please include 25¢ to cover costs of printing and handling.)

For a 19-page booklet entitled "Program Objectives-Narcotics, Drug & Alcoholic Abuse Task Force", write California Council on Criminal Justice, Satte Capitol, Sacramento, Ca. 95814.

FOOTNOTE

*Please enclose a large, self-addressed, stamped envelope with all requests. Financial contributions are essential to the expansion of the work of the Committee. For all requests and for further information regarding the activities of the Committee, please write: Committee for Psychedelic Drug Information, P. O. Box 851, Berkeley, California 94701.

CREDIBILITY AND LAOS

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. MATSUNAGA. Mr. Speaker, more and more Americans are becoming concerned over the credibility gap which is becoming increasingly evident in the declarations of the present administration.

The Honolulu Star-Bulletin, normally a Republican-oriented daily newspaper in Hawaii, has joined those who are beginning to raise questions about what President Nixon says and does. It warns the President of the dangers of widening the credibility gap with reference to Laos.

The Star-Bulletin editorial of March 9, 1970, is submitted at this point for the CONGRESSIONAL RECORD:

CREDIBILITY AND LAOS

Almost from the beginning of our involvement in South Vietnam, the Johnson administration suffered from a credibility gap. Partly it could not be helped; the military commanders of a nation at war do not telegraph their punches. But it resulted also in large part because of President Johnson's penchant for secrecy and because he did not take Congress into his confidence.

This latter lack was perhaps most productive of all in stretching the gap so far as the general public was concerned. Even some members of Congress who voted for the 1964 Gulf of Tonkin Resolution, preeminently among them Sen. J. William Fulbright of Arkansas, chairman of the Senate Foreign Relations Committee, claimed they had been duped.

Since leaving office Johnson has claimed that the reason he asked for the Resolution which authorized him to take all steps necessary to prevent "aggression," was that he feared a declaration of war might project Red China into the conflict. He has pointed out that certain treaties between China and North Vietnam might have automatically made China a combatant, whether it wished to be or not.

But, taking the former President at his word, the fact remains that the country as a whole did not realize the extent to which it had been committed until it had become an accomplished fact. Then the din of protest rose louder and louder until finally Johnson was forced from office and his party lost the presidential election.

It would seem that, with his predecessor's disaster so freshly before him, and because of his own undisputed sagacity, President Nixon would take all steps necessary to avoid a credibility gap of his own with respect to Laos. Yet in some respects the Laos situation is worse than Vietnam was in the beginning, some five years ago.

In a 3,000-word statement issued Friday, Mr. Nixon said reports that Americans are engaged in ground fighting and that increased U.S. air combat in Laos is escalating that conflict are "grossly inaccurate." Yet the fact is that, regardless of the degree of fighting or escalation, the President was officially confirming for the first time what has been an open secret for months—that Americans are fighting in Laos.

In a further obvious contradiction, Mr. Nixon declared that, as evidence that Americans are not "directly" involved in combat operations, "no American stationed in Laos has ever been killed" in six years by the enemy.

But at the same time the White House confirmed that American casualties in the air over Laos have risen to about 400 over the six years, including 193 individuals presumed captured or listed as missing.

Furthermore, said Mr. Nixon, and these are his words, he has "no plans for introducing ground combat forces into Laos."

This resort to technicalities of language in an effort to stay within the framework of fact may in the end set the same kind of trap for Mr. Nixon as his predecessor set for himself. If what we are doing in Laos is the concern of the American people—and of course it is—why are American newsmen barred from entering the combat zones?

The American involvement, the CIA's army of mercenaries hired to fight the Communist Pathet Lao and now, presumably, the invading North Vietnamese, who are supposed to have 67,000 troops in the country, has been going on for a long time. But under the terms of the Geneva agreement we were not supposed to be there, so it was not admitted in Washington that we were.

In his message Mr. Nixon appealed to the Soviet Union to use its good offices with Hanoi to refrain from aggravating the situation. The record of such appeals with respect to South Vietnam is such that we can hardly rely on the Russians to help us now. Are we or are we not going to fight to save Laos from the Communists, as we did in South Vietnam? That is the question that the President, sooner or later, must answer.

THE COMMUNICATIONS EXPLOSION IN CONNECTICUT

HON. WILLIAM L. ST. ONGE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. ST. ONGE. Mr. Speaker, our country today is experiencing what may rightfully be described as a communications explosion. In recent years there has been considerable growth in the field of communications, and from all indications the years ahead hold promise for even greater growth and development in this field.

I have recently received the annual report for 1969 of the Southern New England Telephone Co., which contains many facts and figures attesting to the tremendous growth of telephone service in Connecticut. To cite only one figure: The company's construction program in 1969 totaled $99 million, and its construction plans for 1970 call for an expenditure of $106 million. It is not surprising to find that the telephone service in Connecticut is rated among the best in the country. Contrasted with the excellent service we have in Connecticut is the rather poor telephone service in New York City.

At the conclusion of the report of the Southern New England Telephone Co., there is a brief article, "Looking Ahead," by John Craig, vice president for engineering. This article is most enlightening in that it gives us a picture of the developments in the field of communications in the next 5 years. Although Mr. Craig's article deals specifically with Connecticut, I am sure it applies in many respects to the situation in many other areas throughout the country.

Because of its technological importance, I am inserting the article into the RECORD and commend it to all my colleagues. It reads as follows:

LOOKING AHEAD

(By John Craig)

Connecticut is one of the fastest growing states in the Northeast. In looking ahead just five short years, we expect the population to rise to 3½ million with the number of households increasing at a rate of more than 27,000 a year. We anticipate that the total number of telephones in service will increase by 87,000 in 1970, and that the rate of annual increase will grow to more than 100,000 by 1975. Long distance calling is expected to grow about ten per cent per year over the next five years.

This continuing growth in demand for telephone service is reflected in our planned construction expenditures for 1970–75. We expect the expenditures for new telephone plant in the six-year period to approach the amount of all previous plant investment accumulated through 1969.

To connect the telephones with central office switching equipment will require substantial amounts of outside plant, such as cables, poles and conduit. More than six million lines of copper wire will be placed in service between now and 1975—60 percent of it underground and out of sight. Improvements in cable design and placement techniques, and the computerization of cable inventories, will enable us to hold the line on costs here.

To meet growth, we must also add significantly to interchange circuits and central office switching equipment. To house this additional equipment we will undertake a sizeable building program.

During 1970–75, we will start 62 additions to existing buildings and make alterations in numerous locations. We have planned five new buildings, including an electronic equipment building and a garage in Hartford, to complete in 1972; an electronic equipment building in New Haven, to complete in 1973; a new switching center in Salem, for 1972; and another in Madison to complete this year.

We plan to continue the introduction of electronic switching systems. By the end of 1975, electronic switching equipment will be working in 26 offices around the state.

Traffic service positions, the operator consoles that are replacing conventional toll switchboards, will be in service in Norwalk, Hartford, Bridgeport, Stamford and Danbury in 1971. Our goal is to have this equipment serving all of Connecticut by 1974.

Touch-tone calling will be available to 38 per cent of Connecticut customers by year's end, and to 75 per cent by 1975.

These plans, along with various service and transmission improvement programs we have scheduled, mean that we will be investing a tremendous amount of money between now and the end of 1975, but, large as these expenditures are, they may not be large enough.

Many new developments in technology and concepts will come about in the next five years—such as Picturephone and a new electronic telephone; the increased use of the nationwide network for data and computer services; and—with new regulations permitting the attachment of cuctomer-owned equipment to our lines—and yet unknown uses of our network that may be generated by this change.

The effects of these developments cannot be so readily foreseen as some of the needs outlined above. Yet any of these could create additional capital requirements unanticipated at the start of the 'seventies.

And even as we contend with technological and social change, we must continue to extend ourselves in the areas of maintenance and replacement of existing plant, transmission improvement, recruiting, training, and re-training the men and women who keep the network working. To attain these ends we have to maintain a competitive position in relation to other industries—in terms of earnings, attracting new capital, marketing new services and finding the kind of people who will stay with us and grow with us in the decade ahead.

We are living in the first wave of a communications explosion. Already, we have encountered hard problems associated with growth and customer needs. Looking ahead to a period of even greater growth, coupled with a tremendous increase in the volume and sophistication of communications, we can see our work cut out for us. We will need huge quantities of complex equipment, great amounts of new capital, and—just as important—we will need the very best people we can get, to help us respond effectively to the forces of growth and change.

CIVIL RIGHTS FOR NORTHERN IRELAND CATHOLICS

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. RYAN. Mr. Speaker, discrimination against the Roman Catholic populace of Northern Ireland by their Protestant countrymen is of longstanding. The tragic consequence of this discrimination—which is reflected in discriminatory public housing allotments and voting rights practices, including gerrymandering and voting weighted in favor of Protestants, and preferential job hiring of Protestants—has been religious and political conflict, culminating in the riots of last summer. Eight lives were lost; hundreds were injured.

To the credit of all who seek peace—Protestants and Catholics alike—efforts have been made to eradicate this discrimination. On August 29, the British and Northern Ireland Governments announced agreement on a series of civil rights reforms. Clearly, such reforms are essential, for, as the report of September 11 released by an official commission of inquiry confirmed, the ruling Unionist Party had gerrymandered districts, "manipulated" public housing allocations, and showed hiring partiality to Protestants.

Certainly much remains yet to be done. Religious animosity still sparks violence, such as that of last October 12, when a policeman and civilian were killed when British troops fired on rioting Protestants in Belfast. But, at least, the efforts for reform have begun.

On Wednesday, March 18, a vote of confidence will be taken to determine whether the reforms thus far instituted by the Northern Irish Government, under Prime Minister Chichester-Clarke, are to be supported by his party—the Unionists. Failure of passage may bring the Government down and thereby signal a victory for the Protestant extremists.

It is with sincere concern for all the parties to the strife in Northern Ireland that I express the hope that the reforms will be supported and effectively implemented, and that further necessary reforms will be enacted.

As 104 of us said in our letter to President Nixon last June 24, when we expressed our distress over the discrimination against Roman Catholics in Northern Ireland:

> As we strive to strengthen the common bond that unites all members of our society, we urge the people and Government of Northern Ireland to do the same. It is only in such a climate of shared humanity that concern for historic differences can give way to concern for the real and pressing problems of today.

To our own shame, the tragedies of discrimination have been all too amply demonstrated in our own country. Certainly, as we struggle to fight and overcome the inequalities of men within our own society, we can do no less than urge others to learn from our own bitter history and to act more wisely and more generously than have too many of our own countrymen.

EFFORT CONTINUES TO MEET SOCIAL NEEDS OF PEOPLE

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. McFALL. Mr. Speaker, the House Ways and Means Committee has devoted many hours since the second session of the 91st Congress convened in the continuing effort to develop programs to meet the needs of a wide strata of our society.

Members of the committee deserve the thanks of the Nation for the dedicated concern they always express for the elderly, the disabled, and those forced by circumstances to accept public assistance.

Millions of Americans have benefitted by introduction of such programs as medicare, retirement and survivors' insurance—federally administered—and cooperative programs administered at the community level using funds from Federal, State, and local sources. Congress has looked to, and received, recommendations from the formulating legislative committees which have worked diligently for the past 35 years to meet the social needs of the people. They have been assisted by many representatives of the public who have come forward with ideas and suggestions which have been helped immeasureably in formulation of new programs that have advanced the cause of human dignity and led us away from highly unsatisfactory conditions faced by previous generations.

The Townsend Movement, founded and led so many years by the late Dr. Francis Townsend, deserves great credit for the initiation of and improvements to the social insurance program. The Movement is continuing its efforts.

Two statements were presented recently to the House Ways and Means Committee by a representative of the Townsend Foundation which I believe deserve the attention of all Members. They follow:

STATEMENT BY JOHN DOYLE ELLIOTT, SECRETARY OF THE TOWNSEND FOUNDATION TO THE COMMITTEE ON WAYS AND MEANS, JANUARY 28, 1970

It's preposterous to expect telling combat against ecology's pyramiding problems unless dominant confusions and confrontations in our country are replaced by a faith and harmony only social justice enthroned as unanswerable reality can make possible.

Otherwise, greed and waste, extravagance and corruption will go on destroying our material and corroding our spiritual resources and values ordaining doom.

Our skyrocketing ability to produce must foster perfecting freedom, health and wisdom not support "inflating" greed, waste, extravagance and corruption.

Census Bureau's annual reports on money-income distribution show how badly our Social Security and welfare policies have failed to support this necessity.

Median income

MEN	
Over 65:	
1947	$956
1968	2,652
From 55 to 64:	
1947	2,344
1968	6,717
Inferiority:	
1947	1,388
1968	4,065
WOMEN	
Over 65:	
1947	551
1968	1,311
From 55 to 64:	
1947	962
1968	2,576
Inferiority:	
1947	441
1968	1,265

There is the problem—measured not being overcome constantly growing greater!

Add this fact: Persons over 65 increased in numbers 3.6 times faster than those aged 25 to 64, in those same years.

All our works, policies and programs, public and private, have failed to prevent elders' economic plight from worsening never mind betterment. Specifically, median income for men over 65 increased 177% but their inferiority to men 55 to 64 increased 193%. For women the respective figures are 138% and 208%! The inferiority of elders to still younger adults is even more marked.

Our present Social Security system has totally failed. It and welfare, so-called, must promptly be superseded by a program which will wipe out that outrageous inferiority of the elderly and other unjustly misfortuned Americans. Any less is now excuseless.

While life's final reward for Americans remains financial failure and dependency, so long will our other works and glories stand vain and mocked!

For the disabled, families and children bereaved of their natural breadwinners and those unemployable (though physically and mentally competent) because the changes of history and progress make their skills unworthy of hire for them, too, the financial misfortune of the aged is duplicated. By now, all surely know they are unjustly misfortuned by the very progress which so wondrously benefits the rest of us.

The just enacted 15% benefit-raise will make but a passing ripple, like its predecessors. Proposed national standards for welfare are commendable in themselves, but 30 years late; It's ironic tragedy that every delinquently mean penny of such overdue "improvements" is avidly precious to the poor victims of our feeble policies and no man of decent heart can deny them now.

But they can in no sense contribute to the full justice on which the faith and harmony we must establish depends. For that they are no more competent than were the original enactments and chain of amendments, in their times.

The needed plan exists. You need only examine what the difference would be if somehow, we had never encountered the problem. No elderly, disabled and bereaved families would be in poverty. Those whose skills technology's changes make unworthy of hire would be financially protected pending their acquiring new skills.

In that case, their well-being would be "costing" just what any plan wiping out this evil wrong will cost. Cost? No incomparably profitable investment!

That difference meticulously defines, measures and spells out the gap between the incomparably happy, unchallengeably strong America which could and should exist and the faltering society now around us. No project, or investment can profit us and all mankind so much as filling that gap! The priceless prize of peace requires it.

Only one thing can wipe out that gap, a great, national pension sufficient to bar poverty even for those caught with no other resource as the equal, inherent right of every American at retirement age, or encountering any other of the misfortunes noted above. Today, to wipe out the inferiority-gap specifically measured by the Census Bureau data above, that pension would have to be about $300 a month.

It's the one thing which could have made the difference. It's the one thing which ever can. Without it the inferiority of the old and others will remain and grow—the forebodings of the Violence Commission become ruining reality.

I have to take issue with certain current proposals and ideas, like the $3,500 a year, per-family-of-four poverty-ceiling. Averaged, that is under $900 a year, $75 a month, $2.50 a day, per person—to finance the life of a human being in the United States in 1970.

It costs us $2 a day to board our cat when we have to be away!

I note President Nixon's proposal of a maximum welfare standard of $1,600 a year aid, to taper off as the family has over $1,000 a year additional. While, shame to say, it will better many poor in many states, it is fantastically obsolete, by 30 years!

By contrast, there is the Federal minimum wage, $1.60 per hour, nearly $275 a month for a 40-hour work-week. Updated, it reflects a standard of about $300 a month, to keep an individual worker fit to work in the conscience of Congress $3,600 per person a year! The least for which we can conscientiously use the time, life of any other for our own benefit or profit, according to the conscience of Congress itself.

Per capita income—average cost per human life from cradle to grave—is the same. How can we condone less for retired and disabled adults? How brutal it is!

Sadly, we have people so poor the proposals will help them; but, they will not calm the storm of crises descending upon us. They will continue the injustices and discriminations generating those storms.

All the platitudes about nationally standardizing welfare—in view of these obsolete amounts—are sin-stenched hypocrisy in face of the 75 cent-on-the-dollar discount of justice they propose.

Raising the payroll tax-base—in steps up to $15,000—is positively wrong. We have the Social Security and welfare problem because of the financially misfortuned people, not because of well-employed and prospering people.

To obligate the public purse to match retirement contributions for the prosperous is excuseless. Every objection raised wrongly against this aid to the well-to-do and even rich.

Equally wrong is to use so-called "general revenue" in lieu of raising the payroll tax-rates and base. To tax progressively for the cost of general government is time-honored and fair. To apply the same progressive rates to finance benefits is heaping progression on progression. You can't be right in both cases.

Under a flat-rate tax, the poor pay less, benefit more. The prosperous pay most, but the benefit means less to them. The benefit-impact progressively favors the poor.

The very least justly to do now is very vigorously to start transition from present unjust Social Security and welfare to a system which will wipe out the cruel financial inferiority and discrimination against the elderly and other unemployables.

H.R. 1205—the Pay-As-You-Go Social Security and Prosperity Insurance Act in Section 1, 212, 214 (c), (d) and Section 2, defines the direct, most prompt transition to the great, national pension for all Americans alike. By amendment of the present system there is one possible, indirect approach to the same ultimate goal of ending discrimination and unjust, punishing, economic inferiority.

Vest in every person equally an assumed wage in covered employment sufficient to dictate a retirement-benefit of $150 a month. Put all Americans in the same program. This will automatically wipe out almost all present welfare and public assistance operations and replace most Social Security benefits for adult dependents. Thus it will leave welfare and public assistance intact for extreme and unusual cases.

In terms of actually doing the job, it will cost not a dime more than present discriminatory programs, if they could do the job at all—or what our economy would be doing if, somehow, people had successfully avoided the problem altogether; Nothing else, or less, is a solution worthy of the name American!

Adjust benefits annually in step with advancing per capita income—not just advancing living costs—because per capita income reflects all monetary and financial adjustments and changes meticulously in up-to-date dollars.

Totally suspend earnings limitations except as benefits seriously approach sufficiency to bar poverty even for those caught with no other resource.

Lower retirement age with full benefits to 60 years.

Remove medicare limitations, including deductibles. Apply it to all Social Security beneficiaries, not just the aged.

Finance this program of transition—not by payroll-tax hikes, or stupid pyramiding of general-revenue tax-rates, but by the gross income (gross receipts) tax defined and provided in Sections 214 and 229 (in the first section) of H.R. 1205. Virtually wipe out the burdens of welfare and public assistance on state and local government.

Consider seriously U.S. Retirement and Disability Bonds, to appreciate in proportion to per capita income, for those able and desiring to amplify their retirement status without traditional investment risks.

This is not just a plan, it's the plan. Without it we will never overcome poverty and social injustice—never establish the faith and harmony necessary to cope with the gathering catastrophies of ecology. For example, without it trillions will be spent to rebuild our rotted cities only to inhabit them with paupered people ordaining doom—future slums beyond the most nightmarish possible imagining.

The faulty, excuselessly immoral prosperity we now have foments ever-growing rebellion by its frustrations of honest human hopes and rights. This must be remedied.

The time for easy tolerance of things wrong, callously gradual and too often fictitious progress toward corrections—that time's run out. The great, massive stroke of swift, decisive, achieving action is looming as our unanswerable necessity. I respectfully admonish my Countrymen and the Congress that this plan is to that end the primary essential.

To what end do we save cities, or any other things, unless we save the people for whose freedom and health all things economic exist?

Statement on Medicare to the Committee on Finance of the U.S. Senate, by John Doyle Elliott, Secretary of the Townsend Foundation, February 26, 1970

It's senseless to expect success against our pyramiding problems unless dominant confusions and confrontations in our country are replaced by the faith and harmony only social justice enthroned as unanswerable reality can make possible.

We consider Medicare the best and only right thing yet done by Congress about Social Security and poverty problems. Medicare vests in every American, equally and alike, exactly the same benefits on the single basis of attained age 65. Its benefits aren't mere tokens, but effectively meet the problem unlike those of Social Security.

Precisely opposite to Title II, Medicare doesn't ridiculously tell an American, "Your low earnings entitle you to only half an appendectomy, not a whole one like your prosperous neighbor who is far abler financially to provide for his own care."

However, splendid Medicare is not faultless. First, it should insure the total duration of every illness; not be limited. Financially catastrophic illness whose duration and costs wipe our peoples' resources need insurance most, not less!

Second, all deductions and premiums should be abolished. They are but nuisance to $1,000 a month persons; but for those with $100, or $75, to say nothing of millions with less, premiums and deductions come right out of their hides! Remember, the problem is because of the misfortuned, not the fortunate. Abolish these cruelties.

Third, deductions and premiums cruelly enmesh many who are unable to pay them in the discriminations and humiliations of public assistance and misnamed "welfare." For 35 years, we have urged that there must be one program for all, equally and alike. Not endlessly varying discriminations from state to state and from county to county, locality to locality, within the states. Premiums and deductions are excuseless.

Fourth, all should automatically become entitled to full Medicare benefits at age 60. For decades, authentic surveys of money-income distribution, the very license to live, have shown financial disability setting in long before age 65.

Fifth, the disabled, families bereaved of their proper breadwinners, and those whose employability is terminated by the incidents of progress (pending their acquiring new skills worthy of hire), they all bear the same financial disability as the elderly. They, too, must be covered by Medicare, as the only workable remedy.

Sixth, overcharging by the health industry and medical professions must be stopped.

To those who decry the "costs," I respectfully admonish we must discard mistaken fear about the money necessary genuinely to substitute healthy, prospering human life for these vital losses. We must intelligently recognize our true losses stem from our failures financially to wipe out social injustice and fully to promote the best possible human health, plus appropriately educating every person so as to realize his potentials as fully as possible. We must throw off the handicap of scarcity-age, obsolete, economic views and policies now as useful as a Model-T Ford!

To finance these perfections of Medicare, I respectfully recommend closest scrutiny of "Section 214" and "Section 229" of the first section of the enclosed bill, H.R. 1205—the Pay-As-You-Go Social Security and Prosperity Insurance Act. It therein provides and defines a "financial technology" based on the gross receipts of all persons and companies. This broadest possible base entails the lowest possible contribution-rates and the most equitable possible incidence of responsibility. It abridges the crushing effects of further skyrocketing payroll tax-rates and of fantastic raises in "general revenue" rates, both already critically stretched.

To what end all our progress, if we don't save the people for whom it is all meant?

CONGRESSMAN EDWARD I. KOCH—A MAN FOR AMNESTY

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. MIKVA. Mr. Speaker, few would contend that America's recent past has been without irresponsible protest and lawless dissent. But reasonable men will also recognize the value of responsible dissent in moving our Nation toward peace and justice. Some who have so dissented have paid dearly—to the point of dying or leaving their own country.

In the case of Vietnam, a war that has been so foolishly fought and so poorly supported, it seems reasonable to provide channels to unite Americans, rather than divide them. I am pleased to see that one of our distinguished colleagues, the gentleman from New York (Mr. KOCH) has seized the initiative in reconciling some of our outcast Americans.

The gentleman has undertaken to speak with numerous Americans, now residing in Canada for disgust with our

Vietnam adventure, and to propose a discussion of options for eventual amnesty for such men. A recent editorial in the St. Louis Post-Dispatch praises the Congressman for opening this vital dialog. I commend the editorial to the attention of all my colleagues.

The editorial, which appeared in the February 25 issue of the Dispatch, follows:

A Man for Amnesty

Representative Koch of New York is taking a courageous stand in proposing to open a national discussion of options for eventual amnesty for young Americans who have gone into exile rather than fight in a Vietnam war which they feel "is not in the defense of our country and sullies our country's good name."

He shares neither the views nor the information gap of the automatic flag-wavers who brand these youths sight-unseen as cowards and good riddance. Taking the trouble to know whom he is talking about, the New Yorker met with draft exiles in Toronto, Montreal and Ottawa—the first member of Congress, they told him, to do so.

He found them "first-rate young men," for the most part "sensitive and mature, talented and educated" and "doing their best to uphold the finest traditions of this country," he told a press conference on his return. Some of them had fought in Vietnam. But all, he reported, had been "outraged by our prosecution of the Vietnam war, victimized by the brutality of military training and alienated by what they see as intolerance and hypocrisy in American society."

There are an estimated 50,000 draft exiles in Canada (still others have gone to Sweden and France) and more are expected there. Five members of Parliament with whom Mr. Koch spoke expressed themselves as "delighted" that young Americans of their caliber had chosen to pursue their careers and raise their families in Canada. The Representative sees this as a tragic drain of youth and brains from our country, "a shame and a disgrace."

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He points out that the United States has historically been a haven for youths fleeing impressment into the military—from Germany under the Kaiser and Russia under the Czar. He sees no reason why these young Americans should be offered after the Vietnam war any less than the amnesty offered to Confederate soldiers even before the Civil War was over.

In the two months since his press conference on returning from Canada Representative Koch has received "an enormous amount" of mail, much of it critical and some of it abusive. He has discovered, however, that the most violent objectors to amnesty are receptive to requiring the exiles to return to perform some alternative service, such as work in the ghettos.

If this is the case generally, Mr. Koch's hopes for constructive dialogue are firmly based, and we think he is right in holding that it should be started now.

NEW BENEFITS FROM BUREAU OF MINES RESEARCH

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BURTON of Utah. Mr. Speaker, recently the Interior Department's Bureau of Mines issued a news release pertaining to experiments being conducted to find uses for wastes associated with the production and utilization of minerals and mineral fuels. I would like to bring this interesting release to the attention of my colleagues who may have missed it at the time of issuance.

The release follows:

See New Benefits From Bureau Waste Research

A novel way to use ashes for safer winter driving—putting them in the tire tread instead of on the icy roadway—is the subject of experiments by the Interior Department's Bureau of Mines.

In laboratory tests at the Bureau's Morgantown (W. Va.) Coal Research Center, scientists found that rubber samples formulated like tire treads and containing coal fly ash showed significantly improved traction and skid resistance. Preliminary tests indicated that as much as two pounds of ash per tire could be added without noticeably affecting the wear properties of the rubber. Next, the Bureau plans to have a manufacturer produce test tires with ash-impregnated treads and to evaluate their performance against that of conventional winter tires.

The experiments are part of a broad Bureau program to discover better methods for disposing of wastes associated with the production and use of minerals and mineral fuels. Finding uses for wastes is the best disposal method, the Bureau believes, and the 20 million tons of fly ash produced each year in the U.S. by coal-fired electric generators is a particularly attractive target for waste disposal research.

BATON ROUGE PEACE OFFICERS PROUDLY WEAR THE FLAG

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. RARICK. Mr. Speaker, last October it was my privilege to introduce H.R. 14337, a bill to require that the uniform of officers and members of the uniformed police forces of the District of Columbia bear a distinctive shoulder patch showing the flag of the United States.

The experience of the forward-looking police and sheriff's departments throughout the country indicated that identification of the local police officer with the flag of our country enabled him to do a better job, with considerable reduction in hardship to himself. It is particularly appropriate that the police officers of our Nation's Capital be identified with the emblem of our land.

In Baton Rouge, our police and sheriff's officers have joined the large and growing number of peace officers who are proudly wearing the flag symbol. In view of the impending outbreak on the Washington scene of the minions who prefer the Red flag, or the flag of the Vietcong, to the Stars and Stripes, the identification of our local police with our national heritage of freedom and liberty under law is more and more appropriate. I invite our colleagues to join in the sponsorship of the pending measure, to support our local police.

I include in my remarks an editorial comment from the Baton Rouge newspaper in connection with the adoption of the flag by the peace officers there:

The Policeman and the Flag

Members of the City Police Department and the East Baton Rouge Parish sheriff's office have joined a large and growing company of peace officers in wearing miniature American flags as part of their insignia. They will wear the flags just above their uniform shirt pockets. Police in more than 1,000 cities and towns across the country recently have added the flag to their uniforms and more members of more of the nation's 18,000 uniformed police departments may be expected to do so.

The idea for this is credited to Mayor Ronnie Thompson, Macon, Ga., who says he developed it because so many policemen were being attacked while on duty. It was his hope wearing of the flag would reinforce the psychological position of the policeman and give potential lawbreakers some thought of the policeman's role as defender of the law, without which there can be no justice, and the order without which there can be no law and nor any government.

Mayor Thompson reports a very sharp drop in the number of assaults on officers since the flag patch was added to their uniforms. Police departments in some other cities are hopeful of a similar effect. But whether or not the results actually are so salutary, we agree with President Nixon, who wrote as follows to the American Federation of Police:

"In my view, the display of the United States flag on the uniforms worn by law enforcement officers is appropriate both as an indication of respect for the flag itself and as a reminder that our flag symbolizes the American freedoms which the peace officers of our country have dedicated their lives and their energies to preserve."

Heretofore most of the cities where the flag is being worn have been small to medium-sized. But Detroit police cars now carry flag decals as do highway patrol cars in Minnesota and Montana. And New York police now have been given permission to wear a one-inch square metal flag above their badges.

Some observers, of course, object to all this. They say, in brief, that the abuse of the flag by the New Left "has encouraged the right-wing to appropriate the national flag and all its symbolism as its exclusive property." Old Glory, they add, is being used by all sides to bring about "still more political polarization in an already divided nation."

Public resentment of abuse of the flag by kooks and radicals is, indeed, deep and great. But it hardly follows that all who feel this resentment or choose to display their respect for the flag belong to some kind of equally radical "right wing." Neither does it follow that the proper policy for the rest of us is one of neutrality and noncommitment.

GEORGE A. SNELL

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BROYHILL of Virginia. Mr. Speaker, under leave granted, I insert in the Record a copy of a letter addressed to the Assistant Regional Administrator for Equal Opportunity, Department of Housing and Urban Development, by my constituent, Mr. George A. Snell, president of the Snell Construction Corp. The letter describes a ridiculous charge made by the northern Virginia fair housing unit and the rubberstamp given the charge by the Department of Housing and Urban Development.

The manner in which we are spending taxpayers' money to appease a racially prejudiced group who charge discrimination at every opportunity goes beyond being silly. Apparently the silent majority in this Nation has remained silent a little too long, and does not even now realize how much they are being pushed around by a minority demanding and getting appeasement.

Mr. Snell is an honorable man, who does not discriminate against anyone. And he is one of the most successful businessmen in our northern Virginia community. Mr. Snell has now caught both the agitators and the Government's meddlers at the phony game they are playing. Let us all watch now to see how quick they run for cover only to pop up again with a phony charge somewhere else.

The letter follows:

SNELL CONSTRUCTION CORP.,
Arlington, Va., March 11, 1970.

Re: 2 EH: 851–37, Northern Virginia Fair Housing Inc. vs. Southern Towers Apartments.

Mr. WAGNER D. JACKSON,
Assistant Regional Administrator for Equal Opportunity, Department of Housing and Urban Development, Philadelphia, Pa.

DEAR SIR: This will acknowledge your letter of March 2, 1970 with regard to the above reference. We are most disappointed with your handling of this matter.

The facts of this case as determined by your investigator are quite simple: that is, two separate inquiries were made regarding an apartment for rent at Southern Towers by representatives of the Northern Virginia Fair Housing, Inc.; one was advised an apartment was available; one was advised none were available. Both statements were true at the time given, due to a cancellation of a notice to vacate. In neither case was there any intention to rent an apartment by the representative of Northern Virginia Fair Housing, nor in either case was an application made to rent an apartment at Southern Towers.

Your investigator made four trips to this area on this case, expended a great deal of our time and the staff at Southern Towers, as well as some of the tenants. We cooperated fully and made all records and personnel available to him. However, in the words of one of the tenants, it amounted to an inquisition.

The owners of Southern Towers have been the leaders in integration of apartments in the Northern Virginia area, not only at Southern Towers but at other projects we also own, some of which have been integrated for over five years. Southern Towers has been integrated for over four years which was when the first application by a colored tenant was received. Policy existed well before that.

The settlement proposed by your investigator was completely unreasonable and amounted to finding us guilty of discrimination without due cause.

It would appear to us in this case that your office is either the willing tool of what appears to us as a radical group or you are simply making work for yourselves at the taxpayers' expense. Progress in the civil rights area will not be furthered by unwarranted harassment of private enterprise.

We welcome any legal test that either you or they care to start in this case. In fact, by copy of this letter we are calling the matter to the attention of the Secreary for possible action with regard to your office.

Very truly yours,
GEORGE A. SNELL,
President.

THE NAVY CROSS FOR WILLIAM BRENT BARBER

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. PICKLE. Mr. Speaker, this weekend, a young man from Austin will receive the highest possible decoration from the U.S. Marine Corps.

Hosp3c. William Brent Barber will be presented the Navy Cross.

His deliberate action under heavy enemy fire saved the lives of at least four men and caused his unit to rally when lesser men would have wavered under such intensive assault.

Mr. Speaker, William Barber is 21 years old now and the world knows he is a man. This man was once a boy who was plagued with troubles. Part of his childhood was spent in Buckners Boys Ranch, near Austin. Obviously, however, from his early sorrows, he found strength; he became an inspiration for the Nation to emulate.

Now, this Nation—through the U.S. Marines—offers its tribute to Hospitalman Third Class Barber.

The citation reads:

The President of the United States takes pleasure in presenting the Navy Cross for service as set forth in the following:

For extraordinary heroism 25 November 1968 while serving as a corpsman with Company "I", Third Battalion, Fourth Marines, Third Marine Division in connection with combat operations against enemy aggressor forces in the Republic of Vietnam. During the afternoon hours, Petty Officer (then Hospitalman) Barber was accompanying a platoon engaged in patrol activities in Quang Tri Province. While crossing an abandoned landing zone, the unit was attacked by a well-entrenched North Vietnamese Army force employing command-detonated mines, rocket-propelled grenades, and automatic weapons which wounded four Marines and forced the others to seek cover in a nearby wooded area. Observing that the four casualties were lying dangerously exposed to hostile fire, Petty Officer Barber disregarded his own safety to reach one of the fallen men. After administering first aid, Petty Officer Barber moved the man to a safer position, and, undaunted by the extremely heavy volume of enemy fire, boldly maneuvered across the area on two more occasions to provide medical care and assist the second and third casualties to covered positions. He then braved the intense fire for a fourth time, placing himself between the last of the wounded Marines and the enemy fire during the fifteen minutes required to administer first aid. With the supporting fire of helicopters on station and the concentrated fire of his platoon, Petty Officer Barber was able to remove the wounded Marine to the relative safety of the wooded area. He then skillfully rendered medical aid and comforted all four casualties, directing their movement to a medical evacuation helicopter for embarkation and extraction. By his superb professional skill, outstanding valor and unwavering devotion to duty in the face of great personal danger, Petty Officer Barber inspired all who observed him and was instrumental in saving four lives. His daring initiative was in keeping with the highest traditions of the United States Naval Service.

Mr. Speaker, I would introduce more into the RECORD in tribute to William Barber. On Sunday, March 15, the Austin American Statesman published an article written by Nat Henderson which captures the life of this man in print. I include excerpts of that article at this time in the RECORD:

NAVY'S HIGHEST AWARD GOES TO TRAVIS HIGH GRADUATE

(By Nat Henderson)

The Marine Corps announced Saturday that the President has awarded the Navy's highest decoration for valor to 21-year-old William Brent Barber, a former resident of Buckner Boys Ranch and a Travis High School graduate.

The Navy Cross will be presented to Hospitalman Third Class Barber at a public review and ceremony at the Navy and Marine Corps Reserve Training Center at 1110 Barton Springs Rd. on March 21 at 10 a.m.

The young Navy petty officer has been serving reserve duty with "B" Company, First Battalion, 23rd Marines, Fourth Marine Division, since he was released from active duty last June 8th.

He is a medical corpsman with the Austin Marine Reserve Company and was assigned as a corpsman to the Marines in Vietnam at the time of the battle in which he won the Navy Cross.

Born in Austin on Dec. 16, 1948, Barber attended school in Burnet from 1954–63. He lived at Buckner Boys Ranch near Burnet from December in 1963 to December 1964.

Barber entered Travis High School in Austin in 1964 and graduated in 1967. While still in high school, in 1966, he joined the Navy Reserve here.

Shortly after graduation from high school, Barber went on active duty with the Navy on June 14, 1967. He completed Hospital Corps School and Field Medical School and was assigned to the Marines.

Barber participated in five major operations against enemy forces while serving as a corpsman. Only six days after the battle for which he received the Navy Cross, he was wounded in action and received the Purple Heart.

In December, of 1968, he meritoriously was promoted to hospital third class for performance of duty in combat.

The Navy Cross is the highest decoration awarded by the Navy and Marine Corps. Only the Medal of Honor awarded by Congress is higher.

After returning home, Barber attended Concordia College here. He now is working in Houston.

Barber is married to the former Dona Gwyn Seeber. He is the son of Mr. and Mrs. Anton Mathern of 4603 Goliad Lane.

Mr. Speaker, I know that each Member of Congress joins me in saluting William Barber. To his comrades in arms, Barber is a hero of magnificent proportions; to the Nation, Barber is the very symbol of duty and honor; to himself, Barber knows he is true.

POWER AND THE PENTAGON

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. RYAN. Mr. Speaker, the February 20 statement of Defense Secretary Laird on the fiscal year 1971 defense program and budget has been printed in a book which runs 167 pages. This is merely his statement and provides no deep analysis of the meat, so to speak, of the military budget. It will now be the heavy task

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of the Senate and House committees to penetrate the labyrinth of this $71 billion budget. Moreover, those of us in the Congress who do not sit on the House committee, or who question its analyses, must attempt, with limited staff available, to bring enlightenment into a program which is running a misbegotten war in Vietnam, spurring another such conflict in Laos, and diverting urgently needed billions from our pressing domestic needs.

To enable Congress and the public to better and more effectively focus on the military budget, I introduced H.R. 14323 and H.R. 14324 last October 13, to establish a temporary National Security Commission. Twenty-eight of my colleagues joined me in cosponsoring creation of this Commission. I want to call particular attention to section 3(1) (B) and (C) of these two identical bills, which, in establishing the duties of the temporary National Security Commission, provide:

> SEC. 3. It shall be the duty of the Commission—
>
> (1) to make a full and complete study and investigation of all activities with respect to national security and defense, including, but not limited to, the operation of all agencies established in the National Security Act of 1947, and any legislation subsequent thereto providing for the coordination for national security or constituting the military establishment, with a view to determining—
>
> (B) whether existing and projected weapons systems, military installations, management procedures, and fiscal performance of such agencies conform to national policy in the area of defense;
>
> (C) to what extent the Defense Establishment as an institution affects individual judgment in the making and execution of policy; . . .

Clearly, creation of the Temporary National Security Commission is a step in the right direction. Another step would be enactment of H.R. 14319, in which I joined with my distinguished colleague from Illinois (Mr. Mikva) and 26 other colleagues, and which establishes an Office of Defense Review. This Office would provide a source of independent, technically qualified evaluation of Defense Department programs, as presented in the Department of Defense budget request to Congress.

I wish to commend to my colleagues Marquis Childs' article which appeared in the March 13 issue of the Washington Post, and which is aptly titled, "Legislators Don't Have Power to Buck Well-Funded Pentagon." Mr. Childs is all too correct when he states:

> Those in Congress seeking to put some restraint on the arms race are seen in this light to be impotent.

The present institutional arrangement, whereby we are forced to compete in expertise with an enormous military establishment—which has a civilian work force of 1.1 million, not to even mention the military personnel who really run the show, and which funds some 20,000 prime contractors and their 100,000 subcontractors—is a major obstacle. Congress has had too few successes in braking this power.

Moreover, the system of executive dictate which has operated—a system so aptly characterized by President Nixon's statement at his December 8 news conference that he did not think "the public interest would be served by any further discussion" of U.S. involvement in Laos—further curtails congressional effectiveness and, further, even engenders Congress' unwilling ignorance.

Mr. Child's persuasively written column follows. I have only one cavil—I am sure that he was unintentioned in doing so, but he fails to take sufficient note of the efforts of some Members of the House responsibly and successfully to challenge the Pentagon's power. In any event, his article is further evidence to support the creation of the temporary National Security Commission and the Office of Defense Review.

Marquis Childs' column follows:

LEGISLATORS DON'T HAVE POWER TO BUCK WELL-FUNDED PENTAGON

Anyone looking for a classic case of how weapons technology becomes an irresistible force can stop right now. The announcement by the Pentagon that deployment of multiple independently targeted re-entry warheads on the Minuteman III missile is no more than confirmation of what has been the clear intention of the scientist weaponeers from the start.

For that matter, you could start with the announcement even as the brilliant researchers begin to put together the incredibly complex formulae for this latest step-up in the kill ratio of the nuclear force. To suggest to these men that there might be a pause to take a reading on the possibility of a moratorium with the Soviet Union is, as this reporter discovered a year ago, to meet with blank incredulity. The galloping horses of technology are on course and there was no staying them.

Those in Congress seeking to put some restraint on the arms race are seen in this light to be impotent. Sen. Edward W. Brooke (R-Mass.) had 43 signers on his resolution calling for a mortorium on the testing of MIRV pending an attempt to reach agreement with the Soviet Union at the Strategic Arms Limitation Talks (SALT). The new SALT round is only a month away, opening in Vienna on April 16.

However well-intentioned they may be, members of Congress simply do not have the time, the expert knowledge or the concentrated power to resist the Pentagon with its annual budget of $70 billion to $80 billion.

On the eve of the resumed SALT talks not one but two critical decisions have been taken. The President announced at his January press conference a start with funds in the 1971 budget on phase II of the Safeguard antiballistic missile. This, he said, was to protect additional Minuteman missiles in their bases and to begin thin continental protection against Chinese missiles in the late '70s.

Since then there has been some waffling on motivation. Yet the intention is to go forward on a project eventually costing $12 billion and probably a great deal more. Opponents in the Senate who came within one vote a year ago of knocking out the appropriation for ABM will try again. In the view of this observer, their chances are somewhat less now that the weaponeers have made a start on a defensive system that is nevertheless shadowed by serious doubts on capability and performance.

One line of reasoning behind the ABM decision—and MIRV, too—is that the United States at Vienna will be "negotiating from strength." In light of the huge ratio of overkill on both sides of the nuclear divide this hardly holds water. The Poseidon-Polaris submarines are an indisputable force capable of destroying a half to one-third of the Soviet Union's industrial capacity and at least a third of the population if every U.S. land based missile were knocked out.

Something must be said about the politics of the arms race and the effort to achieve a pause. Senators such as Brooke and many like him resisting new advanced weaponry take a risk in a time of tension and growing polarization between extremes of left and right. Don't you want to defend America? Aren't you a patriot? Do you want the Soviet Union to get ahead of us?

Sufficiently thawed out, with tensions increasing at home and abroad, the crippling smog of the Cold War could again dominate the scene. A bitter controversy over ABM phase II with senators and scientists on opposing sides might do it. This is a hazard that the advocates of a pause in the race are taking.

Senator Brooke has written an urgent personal letter to President Nixon asking him to hold up deployment of MIRV until there can be at least an exploratory beginning at the Vienna talks. He also is urging that his resolution on testing be approved by the Senate Foreign Relations Committee. which has shown a curious reluctance to consider it. Brooke argues that while MIRV may be established as a city-destroying weapon extended testing is essential to prove it out as a missile destroyer. He clings earnestly to this last hope—slim as he knows it to be—to keep the genie from escaping the bottle once and for all.

HOUSTON BOY NAMED ONE OF TEXAS' TOP 4-H'ERS

HON. BOB CASEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. CASEY. Mr. Speaker, in a few weeks, our Nation's Capital will be the host city for the outstanding 4-H Club members in our Nation.

It is a matter of great pride for me to know that one of my young constituents has been chosen for this great honor in Texas. It is especially heartwarming to read of the achievements of this young man during his 9 years of participation in 4-H activities.

To John Cherry, son of Mr. and Mrs. Carl J. Cherry, 4006 Fuqua, Houston, Tex., I extend my heartiest and sincere congratulations on this signal honor, for myself, and on behalf of the people of the 22d Congressional District. Because of our great pride in John's achievement, I take the liberty of bringing to the attention of my colleagues the following news story on this outstanding young man:

[From the Houston Post, Mar. 8, 1970]

TWO 4-H'ERS WIN STATE AWARD—TO ATTEND NATIONAL CONGRESS

John Cherry of Houston, "Mr. 4-H in Harris County," and Linda Ander, a 10-year Wharton County 4-H'er, will be members of the Texas delegation to the 1970 National 4-H Conference, April 19-24, in Washington, D.C.

The two area 4-H clubbers will join two others for the trip as a top state award. During the trip, which is sponsored by Pennzoil United, Inc., of Houston, they will meet with delegates from 49 other states, Puerto Rico and Canada.

The conference will feature tours of the White House, Congress and historical sites, and visits with congressmen.

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John, son of Mr. and Mrs. Carl J. Cherry, 4006 Fuqua, is a member of the Minnetex 4–H Club and a senior at Ross Sterling High School.

During his 9 years in the 4–H Club he compiled one of the state's top competitive records, showing achievement in leadership, citizenship and personal growth.

He has exhibited livestock in 46 shows and has collected many trophies, banners and ribbons. He was named the 1969 recipient of the D. T. Simons award from the Texas Jersey Cattle Club and American Jersey Cattle Club's National Jersey Youth Achievement award.

In 1966, John was named Harris County Gold Star boy and was a state and national winner in the Dog Care and Training Awards program. He was a delegate to the national congress and won a $500 college scholarship. He was also the state winner in achievement in 1967 and the winner in citizenship in 1968.

The past two summers he has worked as a counselor in a camp for underprivileged children and has made almost 70 speeches, including radio and television appearances, to promote worthwhile projects and activities for youth in Harris County. He has served in many offices in his local club, as well as chairman of the county council, and has completed projects in 15 different areas of club work.

John is active in his church, school, Future Farmers of America and community affairs. Mrs. M. H. Hereford, his local adult leader, said, "Club members look to John for help and guidance with their many projects. His proficiency with a diversified 4–H program has enabled him to become a junior leader of the highest caliber. His ability to work with adults as well as youth has made him a joy and blessing to his 4–H leaders."

SUPPLEMENTAL APPROPRIATIONS FOR THE SECTION 235 HOMEOWNERSHIP PROGRAM

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. FRASER. Mr. Speaker, I am introducing legislation today to provide a $40 million supplemental appropriation for the section 235 homeownership program.

Section 235, authorized by the 1968 Housing Act, enables low-income families to obtain federally subsidized home mortgages. The Federal subsidies cover the difference between 20 percent of the family's income and total monthly mortgage costs.

This program has been very well received in Minnesota and I am sure that section 235 has received an equally enthusiastic reception in other parts of the country. Unfortunately, funding limitations have prevented the program from having the major impact intended in the 1968 act. Minnesota has only received enough funds to provide subsidies for 1,300 families. All funds for used housing in Minnesota have been obligated and funds for new housing are rapidly being committed. Unless new funds are available within the next few months, the program will be inoperable during the busy summer home-buying period.

Now that the housing industry is faced with increasingly severe financing problems, it is more important than ever that we provide full funding for section 235 and the other low- and moderate-income housing programs.

The following article from the Minneapolis Tribune describes the severity of the housing shortage in Minnesota. I am sure that this situation can be duplicated in most States:

MANY HOUSES ARE NOT HOMES IN MINNESOTA

(By Joe Rigert)

Across the railroad tracks in north Detroit Lakes, an old man listens to a radio in a cramped and cluttered house that he calls home. His wife, 71, a diabetic, is sleeping on a davenport. The unpainted, two-room house lacks insulation, running water or a toilet. The roof leaks.

Frank Wendt, 76, a one-time farmer, cuts wood in the country for the kitchen stove that provides heat, gets water from a neighbor and uses an outdoor toilet—as does his wife—regardless of weather. "It isn't too bad," says Wendt. "Of course, it could be a lot better."

Out Hwy. 34 east of Detroit Lakes, Elmer Tucker, 77, still unsteady from a bout with the flu, walks through the snow to check his mailbox. A highway-widening project soon will take away his property and force him to move the tiny trailer that serves as his home.

"I don't know where I'll go," he says, "but I'll get by."

Farther north at Ponsford on the White Earth Indian reservation, Lyle Thompson, 29, tells how he has to stoke up the wood stove all night to keep warm in the three-room home for his family of four. Thompson was burned out of his last house and would like to live in the new housing project at Ponsford but there are no vacancies.

Then, down in the Twin Cities suburb of Blaine, Mrs. Thomas Suhl, wife of a pipefitter, says the front door is frozen shut and water leaks into the kitchen of their two-bedroom house. "We just let 'em drip because we can't afford to fix 'em." And up the street, Mrs. Knute Johnson, wife of a custodian, mother of two teenagers, describes the overcrowding in their two-bedroom home, without basement. They would like to move but can't afford to.

TOWNS SET UP HOUSING AGENCIES

Rundown housing, lack of even the basic necessities, dislocation because of highway projects, low-income families priced out of the housing market—they are problems in the small towns and rural areas and, yes, the suburbs as well as the central cities of Minnesota. They are problems that have been largely ignored or minimized in the past. They are problems that are not being ignored today.

Housing authorities have been formed in 125 cities and small towns outside the Twin Cities area in recent years. Twin Cities suburbs are looking into the need for low- and moderate-income housing. The Minneapolis Urban Coalition has established a nonprofit housing corporation. The Metropolitan Council and the State Planning Agency have undertaken housing studies.

The activity has been generated partly by a gradual awakening to the fact that much housing in Minnesota is grossly inadequate for the old and the poor. The activity has been accelerated by the fact that housing now is a problem also for the non-poor.

Inflation and high interest rates have sent home costs almost beyond the reach of families on low or moderate incomes. A Metropolitan Council study found that a third of the Twin Cities-area families have insufficient incomes to buy or rent the least expensive new housing, and a fifth of the families have insufficient incomes to afford good used housing. Home loans are difficult to obtain and require large down payments.

"Our own police patrolmen can't afford to live in this city," said a suburban planner.

In short, HOUSING is in today, across the state.

It should not have taken so long. The 1960 census showed that nearly a third of the housing units in Minnesota were substandard. Almost half of the substandard units were located outside the Twin Cities area.

REALLY IN BAD SHAPE NOW

Despite the construction of new homes and demolition of old houses since then, the Federal Housing Administration estimated in 1967 that 20 percent of the rental units in Minneapolis and St. Paul were dilapidated or lacked one or more plumbing facilities. In fact, demolitions added to the problem. In Minneapolis, where a fourth of the families are at or near the poverty line, urban renewal, freeways and code-enforcement wiped out 12,500 mostly low-cost housing units in 10 years, while only 2,000 new low-cost units, primarily for elderly couples and individuals, were added.

As a result, the Minneapolis Housing Authority has a list of 500 families and 3,000 elderly persons waiting for public housing. The backlog of families is five times the number two years ago.

The outstate housing problem has received far less attention, but rivals the urban problem in some counties. Many of the houses, says Minnesota Housing Director Allan Anderson, were built, and built poorly, around the turn of the century in towns or rural areas with no building codes. They are "really in bad shape now." A migration from the farms to the small towns—similar to the movement from outstate to the Twin Cities—increases the need for adequate low-income housing.

The Detroit Lakes area demonstrates the problem in microcosm.

The prosperous-looking tourist center has an area population of more than 9,000, a meat-processing plant, sheet-metal works, a municipal beach which the mayor compares with Coney Island, and a sense of pride. In promoting the city's national championship snowmobile races recently, the Chamber of Commerce declared, "Detroit Lakes Has Everything."

Including poverty and poor housing.

More than a fourth of the Becker County families are below the poverty line. Some of them live in Detroit Lakes and others live in the smaller communities and rural areas—subsisting on marginal farms, odd jobs or welfare.

More than half of the Becker County housing was listed as substandard in the 1960 census. The census obviously is outdated, but an Office of Economic Opportunity study in Detroit Lakes showed that time has made some bad housing worse, although construction of new dwellings in the city and on the Indian reservation is a sign of progress.

FIVE TENANTS, ONE TOILET

The survey found houses still without indoor toilets, running water, insulation, foundations or central heating. One family with five children was living in a one-bedroom house with no bathing facilities and with a frozen toilet in the basement. Two elderly persons had only an icy outdoor wooden stairway to reach their second-story apartment rooms. Five elderly tenants shared one toilet in one apartment building. In all, more than half the 146 dwelling units of families and elderly persons covered in the survey were substandard.

The same housing problems are found in other parts of the area. An OEO committee on aging discovered that many old people, some in isolated areas and lacking transportation, are living in inadequate houses. OEO

XUM

officials tell of large families crowded into small farm homes. A visitor finds Indians on the White Earth Reservation jammed into tarpaper shacks scattered around the landscape.

The Rev. Alex Ramos, pastor the United Methodist Church and chairman of the housing authority in Detroit Lakes, remembers some of the homes he visited while serving three rural congregations in the area. "I saw a family living in a one-room house on two-by-fours, with no basement. The floor was cold and the kids were barefooted. They had no bed, just a couch and a lot of Army blankets. The toilet was outside and a water pump was inside. I don't know how they supported themselves.

"I also remember a man with seven children living on a gross income of $2,800 a year. He drove a school bus and did carpenter work out in the country. He said, 'Mr. Ramos, there are times I want to go out shoot a deer to get meat.' Another family ate bread and potatoes all winter."

OUT OF SIGHT FOR TOURISTS

Warren Heisler, an Indian, manager of a credit union at White Earth, described some of the housing in a tour of that community. "This one here, Charlie Foster, seven or eight kids in three rooms . . . There's about 17 in this house and only three rooms . . . The kid there moved to Minneapolis and came back to nothing. There are no jobs this time of year . . . Here's a little chicken farmer . . . A widow on ADC and her three kids live in that one." It was difficult to believe that many of the buildings were occupied until thin wisps of smoke were seen coming from stovepipes.

Such housing conditions are out of sight and out of mind of the tourists who flock to the Detroit Lakes area in the summers. They were not fully realized by local officials either until recently.

XUM

"It took me two years to become convinced that we needed a housing authority," admitted Mayor Kent Freedman of Detroit Lakes. The city planning committee, says Freeman, reported that a housing agency was not needed after being asked by the mayor to conduct a survey. An observer recalled that only a few people showed up at meetings at first to consider the matter. But the poverty-agency survey changed some minds. City businessmen saw that other towns were setting up housing authorities. And elderly residents were asking for better housing.

Now the housing authority is organized and planning to seek federal funds for 120 public-housing units for the elderly and 40 units for families. The look to Uncle Sam is somewhat out of character for a city that prides itself in having spent $500,000 of its own on the municipal beach and an indoor arena. But the city did get federal money for an industrial park and for sewage treatment works. "We still have an old-fashioned pride—we do as much as we can, and what we can't do, we ask for help," says Freeman.

FAMILY HOUSING "NOT SO POPULAR"

The plan to build family housing also is somewhat unusual for an outstate community. Most of the housing authorities are planning or putting up units for the elderly. "There is a feeling that building housing for the elderly is an exercise in good government," says Anderson. "They are taking care of people who had a part in founding the community." Family housing has not been so popular. "The predominant feeling on family housing, up until the last year, has been that it is a welfare-subsidized program that most communities do not want a part of . . . But in the last year, many of the small housing authorities are coming back, saying, 'What about building five units? They don't want to build a colossus. But they recognize that housing is inadequate for some families and they want to do something about it."

The plans for family housing in Detroit Lakes, say local officials, have not yet attracted any opposition. Mr. Ramos maintains that small-town residents, for all their reputed independence, will support such programs if they are shown the need. It is true, says Mr. Ramos, that farmers are independent-minded because of the nature of their work, and may appear unsympathetic outwardly, but they "have a concern for neighbors without showing they are sympathetic."

Detroit Lakes is a latecomer in outstate Minnesota in the remarkable proliferation of housing programs in the past few years. The state had only 14 housing authorities in 1965 and no state housing director. Anderson was named to the job in 1966 and was told that outstate residents wanted public housing. Indeed they did.

The 124 outstate housing authorities, excluding central-city Duluth, now have 3,778 units for the elderly in planning, 1,125 units under construction and 1,646 units completed. The agencies have 642 family units in planning, 248 under construction and 527 completed. (The nearly 8,000 public housing units listed for outstate agencies compare with 14,400 units planned, under construction or completed in Minneapolis, St. Paul and Duluth, and 630 units in the Twin Cities suburbs.)

NO STATE HOUSING PROGRAMS

Anderson attributes the rapid outstate increase in public housing to a tendency to view the federal funds as "free money," the promotion work of several architectural firms, intense rivalries between towns—if one has a public housing project, the next town wants one, too—and the technical assistance provided by his office.

Although public housing helps serve the needs of some of the poor, it falls short of meeting all the housing requirements of the poor, and it is not available to the near-poor or those on moderate incomes. The Minnesota State Planning Agency estimates that the state will need an additional 785,000 housing units by 1980 to accommodate population growth, replace substandard dwellings and make up for housing losses since 1960. That would require a production of 39,000 units a year in the 1960–1980 period. Actual production has averaged about 25,000 units a year, leaving an annual deficit of 14,000 units.

Minnesota has no state programs now to fill the gap.

This is the reason for the housing studies now being conducted by the State Planning Agency for the Urban Affairs Council. The planners are looking at every possible alternative in developing proposals for the governor and the 1971 Legislature.

The objectives, as outlined in a discussion paper, are to increase the availability of money for low- and moderate-income housing, reduce the cost of borrowing money, assure adequate subdivision developments, improve the quality of the housing supply and encourage new approaches on construction and large-scale community projects.

PRIVATE SECTOR SHOWING INTEREST

Congress has enacted in recent years a number of programs to help meet housing needs, including interest subsidies for homebuyers and renters, rent supplements, tax incentives for private builders, and aid to nonprofit housing corporations. The federal government also has taken steps to increase the supply of mortgage financing. And the Department of Housing and Urban Development is sponsoring an Operation Breakthrough to encourage production of factory-built housing.

Cities are acting through their housing authorities. The private sector is beginning to show more interest in low- and moderate-income housing because of the federal programs and the growing demand for such housing.

What is needed now, according to a report by the National Urban Coalition, is for the states to apply their authority and abilities to "enhance the effectiveness of the other partners."

The coalition's report, "Agenda for Positive Action," offers a host of possibilities for state action. So does the report of National Commission on Urban Problems. So does the example of many states, not including Minnesota, yet.

Possibilities under review by the Minnesota Planning Agency range from proposals for county housing authorities to a state development corporation, from state financial assistance to tax incentives, from statewide zoning standards to methods of assuring an economic mix in communities, from a uniform state building code to state land banks.

The planning agency's discussion paper, says director Raymond T. Olsen, "shows the range of things the state could do if it was concerned about housing as a function, as it is concerned about highways."

WHILE BOYCOTTING RHODESIA, WE COURT RED CHINA

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. RARICK. Mr. Speaker, from time to time I have taken the opportunity to address myself to the subject of the Republic of Rhodesia, and more particularly to the best interests of the United States in our relations with that civilized nation of southern Africa, like our own country, an offshoot of the British system of law and order.

Last week, when, for no apparent reason whatsoever, we announced our intention to withdraw our consul and close our consulate in Salisbury, I spoke at length on the subject, pointing out the self-defeating nature of our very strange double standard in dealing with the nations of the continent of Africa. Loss of the anchors of civilization there will avail us nothing, no matter how friendly we may believe the uncivilized puppet regimes to be.

I have insisted that the United States utilize the veto to terminate the foolishness now taking place in the Security Council of the United Nations Organization. To again emphasize our bewildering inability to distinguish between our friends and our foes—between peaceful Rhodesia and aggressive Red China—I include in my remarks a current news item reporting the further relaxation of curbs on American travel to Communist China, a land with which we are still in a state of undeclared war—one of the no-win United Nations Organization wars.

The article follows:

[From the Atlanta Constitution, Mar. 17, 1970]

UNITED STATES AGAIN EASE CURBS ON VISITING RED CHINA

WASHINGTON.—The State Department said Monday it would validate passports to travel to Communist China for everybody with a "legitimate purpose."

By doing so, the administration drew a

line between Cuba, North Vietnam and North Korea, on the one hand, and mainland China on the other. The four were lumped together in earlier travel regulations.

"The conditions existing in each of the four areas, including dangers that U.S. citizens traveling there might face, vary somewhat and so accordingly does our policy regarding validation of passports," department press officer Robert J. McCloskey told a news conference.

LIBERAL POLICY

Regarding Communist China, he said, "we follow a more liberal policy of passport validation and give validation for any legitimate purpose."

McCloskey made this statement in announcing the administration's third six-month extension of restrictions on travel to Communist China, Cuba, North Korea and North Vietnam.

Under the law, as interpreted by U.S. courts, American citizens are free to travel to any area of the world, McCloskey noted. But he added, "the courts have held that the government has authority to control the validity and use of U.S. passports."

Despite the court ruling, McCloskey noted, "it would not be advisable at this time for the government to appear to be encouraging unlimited travel to these areas by removing the restrictions."

On July 21, 1969, the State Departmnt announced as easing of regulations concerning Communist China, removing the travel restriction of passports of members of Congress, journalists, teachers, scholars and students, scientists and medical doctors, and representatives of the American Red Cross.

The new easing of restrictions regarding mainland China will appear in the Federal Register later this week. It also includes athletes, businessmen and anybody working in the field of education or culture if his travel is considered to be in the national interest.

President Nixon spelled out U.S. policy concerning Communist China in his Feb. 18 foreign policy message to Congress when he said that the Chinese "are a great and vital people who should not remain isolated from the international community."

SPIRIT OF MESSAGE

The present second easing of travel regulations were issued in the spirit of Nixon's message, officials said.

They said, however, that virtually no visas were issued by the Chinese thus far and there was no way of predicting whether Peking will change its attitude in this respect.

FRANKLIN AND ELEANOR ROOSEVELT

HON. ALLARD K. LOWENSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. LOWENSTEIN. Mr. Speaker, today, in addition to being the anniversary of the birth of the man who drove the snakes out of Ireland, is also another happy anniversary. It is 65 years today since one of our greatest Presidents married the greatest of our First Ladies.

We send our greetings to the children, grandchildren, and great grandchildren of Franklin and Eleanor Roosevelt and wish the family well as we rejoice on this happy anniversary.

What a miracle to have had two such extraordinary people in the White House at the same time, and especially at a time when the Nation and the world needed their leadership and inspiration so desperately. We are indeed fortunate that they got married and we miss them more than ever.

ROMANIANS WILL OBSERVE SAD 25TH ANNIVERSARY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. DERWINSKI. Mr. Speaker, there has been a great deal of interest in the situation in Romania since President Nixon's visit there last August and it is important that conditions within that Communist-controlled nation be accurately noted. An objective observer of the Romanian scene is the distinguished international correspondent of the Copley News Service, Dumitru Danielopol, a former member of the Romanian diplomatic corps. Knowing the Romanian situation as only a man of his experience can, Mr. Danielopol's remarks are quite timely and are included as follows:

[From the San Diego (Calif.) Union, Feb. 25, 1970]

ROMANIANS WILL OBSERVE SAD 25TH ANNIVERSARY

(By Dumitru Danielopol)

This is a year when many countries will be marking significant 25th anniversaries.

March 6 will be a sad day for Romanians. It was on that day in 1945 that the Soviet Union, breaking every promise and violating every agreement, installed a puppet regime and made the country a satellite.

At a time when "negotiations" are replacing "confrontations," it is perhaps pertinent to recall the events that took place.

In June 1941, Romania, under the military regime of Marshal Ion Antonescu, entered the war on the side of the Axis to recover the province of Bessarabia which the Russians had seized a year earlier.

At that time Western Europe had been conquered, Britain was fighting with its back to the wall and the United States was neutral.

By 1944, as the tide turned, leaders of Romania's democratic opposition were maneuvering for a separate peace. They sent emissaries to Cairo to negotiate. The great fear was occupation and communization by Soviet troops.

The vast majority of the Romanian population, composed of landed peasants, despised communism.

The Kremlin tried to allay these fears when on April 3, 1944, Foreign Minister V. M. Molotov said: "The Soviet government declares it does not pursue the aim . . . of changing in whatever manner the existing social order in Romania."

Similar promises were made by the United States and the United Kingdom.

On Aug. 23, 1944, King Michael of Romania overthrew Antonescu, ordered a cease-fire and formed a coalition government which included some Communists as a courtesy to the approaching Russians. The Communist Party was insignificant with some 800 members in a population of 20 millions.

Romania switched sides, entered the war against Germany, collapsed the Nazi front in the Carpathians and maintained between 16 and 20 divisions. It was the fourth largest allied army in Europe.

It soon became evident, however, that the Kremlin had no intentions to keep its promises. Under the Armistice Agreement, which gave the Soviet Union a major voice in Romania, they began a campaign of systematic exploitation, chicanery and sabotage.

The situation was discussed at Yalta where President Roosevelt, Prime Minister Winston Churchill and Marshal Stalin met in February 1945 and it was agreed that the major Allied Powers would "assume a common responsibility in helping establish in the liberated and satellite nations of Europe governments broadly representative of democratic elements in the populations."

The ink was hardly dry on the Yalta agreement before Stalin violated it.

March 6, Deputy Foreign Commissar Andreyi Vishinsky flew into Bucharest and amid threats, blustering and thumping of the table, forced King Michael to sack his cabinet and accept one selected by Moscow under the leadership of Petru Groza.

With little or no support from the other great powers Michael found resistance impossible.

It was a non-representative undemocratic cabinet made up of Communists and hastily-organized splinter groups that were working hand-in-hand with the Reds.

This was recognized at the Potsdam conference in August 1945.

British Foreign Minister Ernest Bevin complained that in Romania "one kind of totalitarianism was replaced by another."

The rest is history.

The Soviet Union and its puppets violated every agreement every treaty and promise and transformed Romania into a Stalinist colony. A savage regime sent millions to prisons and labor camps, where they died like flies.

The rights granted by the 1947 Peace Treaty and the United Nations Charter were and still are denied the Romanian people. The economy was ransacked by the Russians and grossly mismanaged by their Communist stooges.

Today much is heard about Romania's "independent" foreign policy, but the country is still in the grip of the most ruthless police state in the Balkans.

Lest we forget.

VIETNAM ACCIDENT FATAL TO AREA GI

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. GAYDOS. Mr. Speaker, it is with deep regret that I announce the death of another of our brave fighting men, Army Sp4c. Walter T. Smith, of West Mifflin, Pa., who was killed in Vietnam.

We owe a profound debt of gratitude and appreciation to our dedicated servicemen who sacrified their lives for this great country. In tribute to Sp4c. Smith for his heroic actions, I wish to honor his memory and commend his courage and valor, by placing in the RECORD the following article:

VIETNAM ACCIDENT FATAL TO AREA GI

The accidental death of an area soldier in Vietnam was disclosed today by the Defense Department.

The victim, Army Spec. 4 Walter T. Smith, 19, son of Harry Smith of 1620 Route 885, West Mifflin, was crushed to death under a tank, according to the Defense Department report.

Young Smith reportedly was scheduled for discharge from the service in five months. His father said he had volunteered for overseas duty.

A native of West Scranton, Smith attended public schools there prior to enlisting in the Army in 1967.

THE MANPOWER ACT

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. THOMPSON of New Jersey. Mr. Speaker, a subcommittee of the House today took testimony from Mr. Andrew J. Biemiller, director of legislation for the AFL–CIO, in which he urged the Congress to enact the O'Hara bill, H.R. 11620, the Manpower Act, a bill cosponsored by some 112 Members of this House, to improve the Nation's manpower system, and to create a major new program of public service employment.

Mr. Biemiller's testimony, presented to the Select Subcommittee on Labor, declared that ranking among the major domestic issues which will come before this Congress is the issue of unemployment, and that the creation of new employment opportunities in the public service field is essential to the solution of that problem.

Our former colleague from Wisconsin said:

> Manpower legislation that does not include job creation is not manpower legislation at all. It serves no other purpose than to delude the public.

Mr. Biemiller's testimony also described in some detail—some rather discouraging detail—Mr. Speaker, the magnitude of the unemployment which has been brought about by this administration's policies of economic restraint.

Under unanimous consent, Mr. Speaker, I insert the full text of Mr. Biemiller's penetrating analyiss of the manpower situation in full at this point in the RECORD:

STATEMENT BY ANDREW J. BIEMILLER, BEFORE THE SELECT LABOR SUBCOMMITTEE OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR ON PROPOSED MANPOWER LEGISLATION, MARCH 17, 1970

My name is Andrew J. Biemiller. I am the director of the Department of Legislation of the American Federation of Labor and Congress of Industrial Organizations.

At the outset let me make it clear that we in the AFL–CIO believe that the problem with which this Committee is wrestling ranks with the major domestic issues that will come before this Congress.

In essence, that problem is jobs—good jobs, at decent wage levels, for every American able to work—in order to achieve full employment in America.

That's how we view manpower legislation, and we quite frankly say to you: Manpower legislation that does not include job creation is not manpower legislation at all. It serves no other purpose than to delude the public.

So we are here to urge you to enact manpower legislation, that does create jobs, without any further delay. If you will pardon the cliche: The hour is already late.

This goal is best met by H.R. 11620, otherwise known as the O'Hara bill, which is cosponsored by 111 Congressmen. We urge adoption of this bill.

A Federal program to create public-service jobs for the long-term unemployed and seriously under-employed was needed in 1968 and 1969. It is even more essential today.

This nation is now faced by both an economic slump and rapidly rising prices, after more than a year of the Administration's policy of severe economic restraint, imposed in the name of combating inflation.

Residential construction is now in a deepening recession, which started in February 1969. Industrial production is in a declining trend since last August. Sales of autos and other consumer hard-goods are moving down. Layoffs and cutbacks in working hours are spreading in numerous industries. Unemployment is increasing. Industry is operating at less than 82% of productive capacity; new plants and equipment are being installed at a rapid pace, while industrial production is declining and the operating rate is continuing to head down. But the rise in consumer prices accelerated from 4.2% in 1968 to 5.4% in 1969, as a whole, and a yearly rate of approximately 7.2% in the past three months.

The aggravate squeeze on the economy tightened during the course of 1969. The Nation's money supply hardly increased at all in the past nine months; interest rates skyrocketed to peaks never before reached in the memory of living Americans; Federal construction projects were cut.

The real volume of total national production declined slightly in the fourth quarter of 1969 and the President's Council of Economic Advisers forecasts little, if any, rise of real national output in the first half of 1970, with merely a small improvement in the second-half and a modestly slower rise in the price level.

However, the spread of downward trends in many parts of the economy indicates that even this rather pessimistic statement of the Administration's official forecast may be overly optimistic. Declining sales in the coming weeks may set off further cutbacks of production, if business decides to reduce inventories rapidly.

Increasing slack, with cuts in working hours and workers' weekly earnings, layoffs and a lack of sufficient job opportunities for a growing labor force are the inevitable results of the Administration's economic squeeze.

In January, unemployment soared from 2.8 million at 3.5% of the labor force to 3.2 million at 3.9%—the largest month-to-month increase in 9 years—and the factory workweek dropped to its lowest level in two years.

In February, the number of jobless shot up again—to 4.2% of the labor force or 3.4 million unemployed—and the factory workweek declined again.

Already, unemployment is within a hair's breadth of the 4.3% unemployment rate which the chairman of the Council of Economic Advisers projected for the entire year, 1970, and unemployment is continuing to rise.

Much of the weight of this burden of rising unemployment will fall on blue collar workers, particularly those with the least work-experience, the least skill and education, the most recently hired—and this especially includes Negroes, members of other minorities and young people. Government and private programs to encourage employment of the hard-core jobless, especially minority-group workers, are being undermined and threatened with destruction.

That's the dimension of the problems. Now how do we solve it? In our opinion, an effective manpower policy must include:

1. Massive job creation based largely on a public service employment program.

2. Consolidation and coordination of the varied manpower programs under the Department of Labor with overall responsibility for the direction and development of programs vested in the Secretary of Labor.

3. Training programs that emphasize upgrading rather than simply preparing the hard-core for entry-level jobs.

By these standards the Administration manpower bill is no policy at all. Simply put, it is merely a mechanism for consolidating and coordinating varied manpower programs. It is a housekeeping device designed solely to produce a measure of administrative order.

Everyone agrees with the need for coordination of manpower programs. However, coordination is a mechanism, not a policy. In our view the need for an effective manpower policy is the top priority need.

Of the bills before you, only the O'Hara bill provides subsidized public service employment as an essential component. We completely support this concept. It is the most practical and realistic way to create jobs in large numbers for the long-term unemployed and seriously underemployed.

We are shocked by the Secretary of Labor's statement that the Administration has no "intent to create jobs in the public sector, especially for the hardcore unemployed." We cannot agree with the Secretary of Labor's view that the basic responsibility of government is to "commit itself to preparing people to fill those jobs" that will presumably materialize out of thin air in the private sector of the economy that has no major expansionistic opportunities because of the current economic slowdown policies being pursued by the Administration.

While no one would deny the importance of training in helping the disadvantaged to adjust to society, training in and of itself is not enough. It would compound the problem to give training and hope to the disadvantaged and then throw them back into the morass from which they came. We must not make this mistake.

Basic to solving the problems of poverty in America's work-oriented society, is a national economy that is growing rapidly enough to provide job opportunities for all persons who are able to work and seeking employment. Under such conditions—linked with an expanded manpower training program—the vast majority of workers will be employed in the normal channels of private and public employment.

For those who remain unemployed or seriously underemployed, a federally-financed public-service employment program is the only logical answer. The government should be the employer of last resort. Such a program would create jobs and it would provide badly needed public services in hospitals, schools, parks, recreation centers and other public and private non-profit facilities. Linked with training and guidance, such a program would make it possible for these workers to move into regular employment.

Private employers, no matter how lofty their goals and how hard they work to achieve them, cannot realistically do more than make a dent in the ranks of the hard-core unemployed.

Private enterprise is profit-making enterprise. It would be naive to assume that business will hire, much less train, the disadvantaged at the expense of its profit structure. To the extent that private enterprise can hire and train the disadvantaged within the framework of its profit-structure, it can and has been making a contribution that is worthwhile. Such efforts should be applauded and encouraged but their limitations should be recognized.

In the two years that Job Opportunities in the Business Sector (JOBS) has been operating, hard-core unemployed hired by business totaled 380,000. While this is a significant number, it hardly takes care of the millions in need. It should be noted too that the retention rate was 53%. Since November, reflecting the economic slow-down, terminations have risen according to Paul Kayser, former NAB president.

In periods of economic downturn, hiring of hard-core jobless by private employers comes to a practical standstill, despite the best intentions of employers.

Two weeks ago Chrysler withdrew from its government manpower contract to train 4,450 hard-core unemployed. This followed a series of layoffs including 1,100 trained in the JOBS program. Chrysler's withdrawal occurred about the same time Lynn Townsend, chairman of Chrysler, became chairman of NOB and Byron Nichols, a Chrysler vice president became president of NAB.

Massive job creation must derive mainly from the public sector.

The people are available; the potential jobs are there, and the public need for these kinds of services has been established.

The Tripartite National Commission on Technology, Automation and Economic Progress (1966) reported a potential of 5.3 million jobs in the public sector in such areas as medical and health services, education, day care, libraries, recreation, prisons, etc.

More recently Harold Sheppard of the Upjohn Institute, in a survey covering 130 cities, each with a population exceeding 100,000 and limited to only certain existing functions of the city, found the need for 280,000 jobs, of which more than half were of a non-professional and non-technical category. As the author points out, however, the study sharply understates the total number of job vacancies due in part to the inclusion of only certain municipal functions and to the fact that the urban areas surveyed encompassed only one-third of the U.S. population.

We support the O'Hara bill in its proposal that the Federal government subsidize jobs in the public service. Some people may say that we cannot afford the cost. We say that we cannot afford not to embark on this kind of a program.

President George Meany in testimony before this Subcommittee on May 7, 1968, commented on this concept in these words:

"Let me deal for a moment with the reaction of those who talk only about the cost.

"They are the ones who never discuss how costly it is to do nothing. They are the ones who fail to realize that a jobless man is a liability to this nation while an employed man is an asset. There is an even greater cost—the decay of this nation's moral fibre."

We are under no illusions as to cost. It will not be cheap. But it will be a capital investment in the people and institutions of this country. Whatever the dollar costs may be, they will at least be partly offset by the savings in welfare costs and the economic benefits generated by the employment of otherwise idle people and the expansion of public services for urban and rural areas.

Manpower legislation that does not provide for job creation in the public sector, in addition to programs in the private sector dangles false hopes before the eyes of the disadvantaged.

The emphasis in the Administration bill is on a mechanism for improving delivery of manpower services and nothing else.

But even as a mechanism, the Administration bill misses the mark. As part of the so-called New Federalism it would decentralize manpower activities and vest responsibility for development and administration of manpower programs in the hands of each of the 50 states. The implications of manpower programs are national in scope. This is too important an area to allow it to be fragmented into 50 different parts, each going its own way and dispensing federal funds in a manner that may or may not be in line with national goals.

This is a national, inter-dependent economy. Americans are a mobile people, not hemmed in by geographic limitations. Employers operate across state and local lines. Labor markets, as well as product markets, cross state lines.

The top 200 corporations control about two-thirds of all assets held by corporations engaged primarily in manufacturing, as documented in the "Economic Report on Corporate Mergers" prepared for the Federal Trade Commission.

As part of the Administration's mechanism to decentralize manpower activities, the state employment services would act as the key agency in the delivery of manpower services.

In general, state employment services in the past have demonstrated neither the machinery nor the compassion to appropriately administer programs dealing with the disadvantaged. By and large, state employment services are simply not oriented to handling the problems of the disadvantaged. They are employer-oriented. They are geared to finding an applicant for a job, rather than a job for an applicant. So the state employment services are just not geared to taking care of the hard-core unemployed, the dropouts, the disillusioned youth, the aged, the seriously underemployed, the minorities. We question whether this employer-oriented agency has the patience and the expertise to deal with this group. To make the state employment services the focal point of manpower administration, as the Administration bill would do, would be a genuine disservice to Americans.

Not everyone needs training. For large numbers of the unemployed—probably the majority—the primary need is for jobs. Experience during World War II demonstrated the facility of absorbing persons into the productive processes. Millions of previously unemployed manned the factories and shipyards to contribute to one of the most remarkable production achievements of all time. Much of the training was on the job.

But for the disadvantaged, training is an important and necessary component of manpower programs. Despite the speed and inexperience with which the manpower training programs of the 1960's were put together, they have given meaning and substance to the lives of hundreds of thousands of disadvantaged persons.

We strongly urge the continuance and the expansion of training programs for the unemployed, the hard-to-employ and the underemployed. We see merit in both on-the-job training and institutional training or a combination of both.

In addition, the "hard-core" need personal guidance and supportive services.

However, we would like to register a few caveats with respect to training programs. They should not be used to subsidize wages. They should not be used for low-wage, low-level jobs that require little or no training whatsoever. They should not be an end in themselves but rather the road to worthwhile remunerative employment.

Of paramount importance are those training programs directed toward upgrading people into higher-level jobs. A person should have an opportunity not only for a job but for a good job—one that will utilize a person's skills at their highest level. Our view was summed up by AFL–CIO Secretary-Treasurer Lane Kirkland in an address to the National Alliance of Businessmen on March 7, 1970, when he said:

"We want hard-core trainees to have a crack at better jobs through upgrading. We do not believe it is enough to just bring a worker in off the street, give him an entry-level job and keep him there. We have to demonstrate to him that he can move up the job and income ladder. For the success of any of our programs, in the final analysis, will be determined by the way in which we move people from entry-level jobs into much more secure positions within the company or enterprise."

Of the bills before you, only the O'Hara bill emphasizes the importance of upgrading.

Now let me turn to the urgency of the problem. Frankly, we don't think the Administration is aware of what's happening.

Statistical averages camouflage the real unemployment story. In 1968, 11.3 million people were unemployed at one time or another, according to the Labor Department's most recent report. Of this total, 2.4 million were unemployed for 15 weeks or more during the course of the year. It is reasonable to suppose that for the year 1969, when average unemployment was about the same as in 1968, somewhere between 11 and 11.5 million people were unemployed at one time or another during the year.

And even the reported unemployment figure understates the problem. The reported figure fails to count the number of people who withdrew from the labor market because of frustration in finding a job. The number of "discouraged workers" can now be identified. According to the Labor Department, discouraged workers averaged about 700,000 in 1967 and 1968 and 600,000 in 1969.

The reported figure also fails to count the tens of thousands of poor and transient persons—who did not appear in the 1960 census, which is the basis of the Labor Department's labor force survey. As we all know by now, the 1960 census was badly undercounted so there is an undercount of unemployed.

Some would estimate the total undercount in these categories as high as 3 million or more. Since these categories overlap, the AFL–CIO Research Department estimated about 1.5 million should be added to the reported number of unemployed. In addition, another 1.8 million people were reported as working part-time in 1969 because full-time work was not available.

In terms of people rather than statistical averages, it means that there were about 3 to 4 million long-term unemployed in 1969. With the addition of the seriously underemployed, there were approximately 3 million to 5 million workers who suffered. Many of these could have been helped to move into the mainstream of American society only through a government subsidized program of job creation.

Nor does the incidence of unemployment fall equally on all segments of society. In 1969 unemployment was concentrated among blue-collar workers, blacks and youths.

In poverty neighborhoods, the unemployment rate in 1969 was 5.5 percent compared to 3.1 percent in other urban neighborhoods. Teenagers had a high national average unemployment rate of 13.8 percent, but in poverty neighborhoods the unemployment rate for teenagers was 19.9 percent. And even here there was a sharp difference as between white and Negro teenagers. The unemployment rate for Negro teenagers was 27.9 percent compared to 13.8 percent for whites.

It is not true, of course, that the poor are largely Negroes and other minority groups. In 1968 there were 1.4 million Negro families and 3.6 million white families below the government defined poverty level. But the impact was more widespread among Negro families. They accounted for almost 3 out of 10 poor families but only one out of ten of the population.

Nor is it true that the poor are concentrated in the cities. Of the five million families below that poverty level, slightly less than half lived in the cities and their suburbs and slightly more than half in farm and non-farm rural areas. In contrast, only one-third of the total population lived in non-metropolitan areas.

One of the attractions of the O'Hara bill is that it does not diffuse responsibility. It points a finger at the Secretary of Labor and says, "you're it." There is no hiding behind skirts; there is no shrugging of shoulders on the part of local officials in ascribing the fault to the states and the states ascribing the fault to the federal government and the federal government ascribing the fault to state and local officials. If things go wrong, the Secretary of Labor is responsible and he should shoulder the blame.

In summary, Mr. Chairman, we cannot emphasize too strongly the need for action now. The kind of legislation we envision would be a major instrument for tackling the poverty problem; a major instrument for easing civil

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rights tensions; a major instrument for resolving the problems of cities; a major instrument in the fight against crime and a major instrument in bettering the social and economic life of this country.

The AFL-CIO is aware that there is no simplistic solution to the varied and complex manpower problems. We are convinced, however, that the Administration's approach does not begin to cope with the massive complexities of the manpower situation. As a result, the AFL-CIO supports H.R. 11620, sponsored by Congressman O'Hara and 111 other members.

PRETRIAL DETENTION

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BROYHILL of Virginia. Mr. Speaker, an increasing number of the Nation's great newspapers are expressing support for pretrial detention.

Across the United States, many editors who are familiar with local crime problems find it inconceivable that present Federal law in the District of Columbia should require the pretrial release of virtually all noncapital offenders. In the District, these defendants include men charged with forcible rape, armed robbery, kidnaping, burglary, mayhem, and assault with intent to kill. Many editors understand the fear and danger that would result in their communities if local judges were compelled by law to disregard danger and to release all these defendants before trial.

No one questions the desirability of releasing most defendants prior to trial. Most defendants can be trusted not to engage in additional lawlessness. Pretrial release of these men facilitates the preparation of their defense and eliminates the expense of unnecessary custody.

But there are other defendants who should be detained because of the danger they pose to the community:

First. Narcotics addicts who do not operate with a free will and must rob and steal to support their habits.

Second. Incorrigible recidivists with long records of criminal activity.

Third. Sex offenders who act from compulsion.

Fourth. Hardcore troublemakers with propensities for violence.

When evidence of their guilt is great, men of this nature should be retained in custody to preserve and protect the public safety.

Washington newspapers are well aware of the problems which have arisen under the present law. The Washington Evening Star has argued persuasively that the Bail Reform Act should be amended:

> As matters stand, a federal judge can consider only one thing in passing upon a request for bail in a non-capital case—whether an accused person is likely to show up for his trial or whether he is expected to flee to avoid trial. This limited discretion, we think, should be enlarged to permit a judge to take into consideration the danger to the community that could be created if a suspect were released prior to his trial.

The Washington Post describes the Bail Reform Act as "a constant irritant in the judicial process" and declares that—

> Congress ought to decide whether the judges should have power to detain a man pending trial because they believe he is too dangerous to release.

The Cincinnati Enquirer makes the point that—

> Washington ought to represent a laboratory in which the Federal government introduces new techniques to combat crime for imitation by cities across the nation.

The crime bill authored by the House District Committee may prove a model for other localities. This has certainly been one of our objectives.

More important, however, is the urgent necessity of restoring a decent sense of order to the Nation's Capital. Pretrial detention should contribute to this end.

I quote in full several editorials on the issue of pretrial detention:

[From The Washington Evening Star, Oct. 22, 1969]

PREVENTIVE DETENTION

A House Judiciary Subcommittee has tackled the difficult and much debated question of what to do about a 1966 law which requires that criminal suspects must be released on bond—personal or monetary—even though there is a high probability that they will commit additional serious crimes while free.

It is our belief that the 1966 law should be changed. As matters stand, a federal judge can consider only one thing in passing upon a request for bail in a non-capital case—whether an accused person is likely to show up for his trial or whether he can be expected to flee to avoid trial. This limited discretion, we think, should be enlarged to permit a judge to take into consideration the danger to the community that could be created if a particular suspect were to be released prior to his trial. This is what is known as preventive detention.

Under a bill proposed by the Nixon administration, this additional discretion would be subject to tight restrictions. Preventive detention would apply only in the case of very serious felonies. The period of detention could not exceed 60 days. The judge must hold a hearing at which the accused person could present evidence and cross-examine witnesses. Before denying bail, the judge must find that there would be a high risk to the public in releasing the accused. He must spell out his reasons in writing, and the accused has the right of appeal.

Sen. Ervin, who is chairman of the Senate Judiciary Committee, is a principal opponent of the bill. He says it "smacks of a police state" and that it "protects no one." We disagree on both counts. The senator also said the true rate of crime committed while on bail in the District is only about 5 percent.

Again, disagreement is strong. Maryland's Representative Gude disputed this vigorously in his testimony before the subcommittee. Police Chief Jerry V. Wilson in a speech last month told of a survey in Washington of persons released on personal bond before trial, but after indictment, on robbery charges. The survey covered the period from July 1, 1966, to June 30, 1967, and it showed that 35 percent of the released individuals were rearrested and reindicted for subsequent felonies, mostly armed robberies, before being brought to trial. Some were rearrested and reindicted as often as three times in one year.

This condition can be and should be remedied. Chief Wilson and U.S. Attorney Flannery have said that the preventive detention of no more than 300 persons would go a long way toward cleaning up the problem of street crime in Washington. And, generally speaking, they know who these people are. One of them, certainly, is the heroin addict indicted for a robbery staged to get money to feed his habit. To release him pending a trial six months or a year in the future virtually guarantees that he will commit new robberies to get the money he needs. What kind of justice is this?

Perhaps the main argument against preventive detention, aside from the constitutional question which the Supreme Court would have resolved, is that a judge cannot read a suspect's mind to determine whether he is likely to commit another crime if released. But this same judge is authorized by the 1966 law to read a suspect's mind to determine whether he is likely to skip the jurisdiction to avoid trial. If a judge can do the latter, why is he not equally competent to make the former determination?

[From the Washington Post, Aug. 24, 1969]

HYPOCRISY AND THE LAW

The case of Damon Alston Jr. provides a superb illustration of what the acrimonious debate over bail and preventive detention is all about. The case involves a sharp dispute between the United States Court of Appeals and Chief Judge Curran of District Court. It demonstrates that the Bail Reform Act, as it now stands, is a constant irritant in the judicial process. And it provides a sound factual basis for Congress to consider the amendments to that Act proposed by the Nixon Administration.

Mr. Alston, it appears, is not one of the District of Columbia's more upright citizens. He has been convicted of various things seven times in the last 12 years and now stands charged with armed robbery. He was on parole at the time of that robbery last December and he has been in jail ever since, unable to obtain a $5000 bail bond. What makes his case particularly unusual is the following set of facts: his employer at the time he was arrested has promised to give him his job back if he is released pending trial; the Bail Agency has recommended he be released in someone's custody; Bonabond is willing to be that someone; the Offender Rehabilitation project has worked out a plan of release for him; and the Shaw Residence has assured him of living quarters.

Despite these arrangements, Judge Curran has refused twice to release Alston without bond or to reduce the bond from $5000. He contends that Alston's prior criminal record and the facts of this robbery indicate that the only thing that might keep Alston from fleeing if released is the posting of bail. This rationale, it seems clear, is phony. What Judge Curran really fears is that if Alston is released he will commit another crime. And that is where the rub of the Bail Reform Act comes in. Under it, and indeed under the whole history of bail procedures in the nation, the standard for pretrial release is the probability of flight, not the probability that another crime will be committed.

Applying that law as it is written, the Court of Appeals last week ordered Alston's release under a tough set of conditions. It specified that he must be employed, that his employer must report if he fails to appear for work, that he must live at Shaw Residence, that an official there must report if he breaks the curfew time or any other rules, that he must re-enroll in the Alcoholic Rehabilitation Clinic, and that he must deposit 10 per cent of his net earnings with the Court as security for his appearance for trial until the fund reaches $500.

It is hard to believe that Alston is more likely to flee if he is released under those conditions than if he were released because he could raise the $280 to buy a $5000 bond. But that merely underlines the problem. Since the law is cast in terms of fleeing, the trial judges talk of flight when they mean

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danger and the real question—will Alston be a threat to the community before his trial?—is never faced.

Even without answering that question, it is clear why the Bail act should be reconsidered. Congress ought to decide whether the judges should have power to detain a man pending trial because they believe he is too dangerous to release. This newspaper has argued in the past that judges should have that power in certain clearly defined situations and with substantial restrictions on its use. Whether Congress agrees or not, it ought to clarify the situation. One of the worst evils of the law is hypocrisy, and the bail procedures are full of it.

One other fact in this case is relevant. Alston was arrested on December 16, 1968. He has been in jail eight months and he has not yet been tried. Even if the Nixon Administration's proposals were now law, Alston would be released automatically; those proposals limit pre-trial detention to 60 days and Alston has been in jail 250 days. A system of criminal justice that permits this kind of delay is uncivilized and the whole problem of court reform ought to get the highest kind of priority when Congress returns.

[From the St. Louis (Mo.) Globe-Democrat, Feb. 10, 1970]

Hold Dangerous Defendants

Before anyone, even a speed reader, can complete this editorial, someone in the United States will have been the victim of a horrible crime.

Such is the frequency of crime and violence in the land that traveling to the moon is safer than walking the streets at night.

When Richard Nixon campaigned for President he promised to do something about the dreadful crime crisis, obviously one of the major concerns of voters.

One of the most reasonable and protective proposals put forth by the Nixon Administration, in its fight against crime, asks authority for pretrial detention of dangerous defendants.

As President Nixon observed, in asking Congress to amend the Bail Reform Act of 1966, "Increasing numbers of crimes are being committed by persons already indicted for earlier crimes, but free on pretrial release. Many are being arrested two, three, even seven times for new offenses while awaiting trials."

No one needs to draw St. Louisans a picture of a dangerous defendant.

Milton Brookins, who has been found guilty of an armed robbery attack on a young woman while out on bond on two rape charges, answers the description.

Under a system authorizing pretrial detention, Brookins could have been denied bail because of the substantial probability that his release posed a danger to the community.

At present a court must ignore a defendant's danger to the community and release him on bond if he is not considered likely to flee.

Precise statistics on the number of crimes committed by those out on bond while awaiting trial for other offenses are not available, because until recently no attempt was made to tabulate them.

Available figures, however, are shocking. In Washington, D.C., nearly 60 per cent of defendants indicted for robbery, and released prior to trial, were re-arrested and charged with subsequent offenses.

As requested by the Justice Department, pretrial detention would be authorized in all federal courts, but would have its greatest impact in the District of Columbia, where these courts have full jurisdiction.

Adoption by states would have a most beneficial effect in crime-infested cities everywhere.

Detention is no presumption that the accused is guilty of the offense charged, any more than a person charged with murder is presumed guilty because he need not be granted bail on a capital offense.

Rather than cripple anyone's constitutional rights, pretrial detention of dangerous defendants could make it practical to do away with the hypocrisy of setting high bonds in situations where the defendants are not considered a threat to the whole community.

The aim of pretrial detention is simple and clear. The welfare of the majority requires that the community be protected against the menace of known offenders running loose, piling crime upon crime to the ruination of us all.

[From the Wisconsin State Journal, Feb. 5, 1970]

Merit of Pretrial Detention

Back in 1967 Madison was shocked when three armed bandits, who were virtually caught in the act of robbing employes of the Kohl's Food Store at gunpoint, were permitted to be released on bail.

And the shock and indignation was compounded a few months later when these same bandits who jumped bail killed a Louisville, Ky., policeman during a supermarket robbery.

You could reasonably conclude that if these bandits, with long criminal records, had been held in jail here pending trial, the Louisville policeman might be alive today.

Judges should have the power to protect the public against known criminals. The records show that increasing numbers of crimes are being committed by persons already charged with earlier crimes, but free on pretrial release.

ATTACK BY CRITICS

The Nixon Administration is trying to remedy this situation. It has proposed to Congress certain amendments to the federal bail reform act to give judges some discretion in dangerous crimes to deny release on bail if this is deemed necessary to protect the public.

The President and the Department of Justice were immediately attacked by a host of critics with some arguing that it is wrong and immoral to hold an accused without bail until trial, or to set bond at a prohibitively high figure. Because he is innocent until proved guilty, they argue, he should remain free until he comes to trial.

The pretrial detention proposed by the Nixon Administration is designed to accomplish two objectives. First, it is an effort to reduce violent crime, a significant percentage of which may be attributed to persons released prior to trial.

The second objective is to eliminate from the bail system the hypocrisy of locking up defendants, without fixed standards, through the device of requiring unattainably high bail money.

Preventive detention would place special obligations on the court to give the accused a trial within 60 days, a prompt trial guarantee not provided for other defendants.

BALANCING INTERESTS

Balancing the interests of the individual and the public is a dilemma inherent in a free society. As Deputy Atty. Gen. Richard G. Kleindienst said in a speech to the American Trial Lawyers Assn. last week:

"Today, as we reconcile the tensions between order and liberty, crime and fear weigh heavily in the balance. For they threaten important liberties as well as our lives. The time has come to afford protection to all of our people. We can no longer neglect the security of our citizens. We must reassert their liberty to live without fear. Pretrial detention is not the whole answer; but it is part of the answer in this time of crisis."

Pretrial detention of the armed bandits who raided the Kohl's store here was the whole answer for Louisville Policeman William F. Meyer, slain Sept. 1, 1967.

The long list of officers like Policeman Meyer and the public generally have rights, too, and the courts should have reasonable power to protect them.

[From the Oakland (Calif.) Sunday Tribune, Mar. 1, 1970]

Pre-Trial Detention: Practical Way to Combat Crime

The do-gooders, bleeding hearts and nicely-nicely apologists for much of the nation's criminal element are beclouding the question of pre-trial detention to the point where public attention is diverted from the true issues.

As a result, a serious and practical proposal to reduce crime is denied enactment, much to the consternation of those responsible for protecting society.

Last July, Attorney General John Mitchell proposed to Congress that the Bail Reform Act of 1966 be amended to prevent certain dangerous defendants from being easily and automatically freed on bail while awaiting trial.

Appropriate and effective safeguards against abuse or misuse of such powers were detailed in the proposed legislation, and in a practical and logical sense, every anticipated criticism was realistically answered.

The answers, however, have been coldly ignored by an assortment of self-anointed civil libertarians, who allege that denying bail to an accused rapist, with a record of prior convictions for similar offenses for example, would somehow violate his rights.

These nay-sayers suggest that somehow bail is an unqualified "right," but such a position finds little support in the Constitution.

The Eighth Amendment forbids imposing "excessive bail," but nowhere does it require that all those accused of any and all crimes be freed on bail. From the earliest days of this nation, accused murderers have been kept locked up without any protests about their constitutional rights.

If indeed the Eighth Amendment actually established a "right" to bail, by what authority have states regularly and consistently taken away that alleged right when defendants were accused of capital offenses—those punishable by death?

Murderers, however, are not the only ones who pose a direct threat to society if permitted freedom. In Washington, D.C. in 1968, nearly 70 percent of the persons indicted for robbery and released prior to trial eventually were rearrested and charged with a subsequent offense.

That is precisely the crime problem the Justice Department proposal is designed to diminish. Under the plan, an accused person would be kept in jail only after a hearing before a judge and only after his attorney had had ample opportunity to rebut the government's case for retention.

A judge could keep such a person locked up when he was convinced by the accused's past performance that release would literally endanger the community and public safety.

The suggestion that pre-trial detention presumes guilt and thus violates the protection that a defendant is "innocent until proved guilty" simply reflects ignorance of this time-honored canon of American law.

Presumption of innocence is merely a rule of court procedure during trial and is unrelated to a separate hearing as proposed to determine pre-trial detention. If such were truly the case, judges would be forced to grant accused murderers pre-trial release, for we certainly do not deny them the presumption of innocence.

Suggestions that due process protections of the Constitution would be denied defendants by pre-trial detention are refuted by the very wording of the proposed statute.

Every word of the proposal reflects the fairness and reasonableness of the procedures by which detention would be achieved, and therein lies the basic test of due process.

The Mitchell plan would apply only in federal cases, particularly in the District of Columbia where crimes of violence are a priority problem. There is little question, however, that it could serve as a model for legislators concerned about the incidence of crime by repeaters in their own states.

Indeed, the validity of the attorney general's arguments should inspire Sacramento solons to apply Mitchell's logical, reasoned position to California law.

Action in both capitols to permit pre-trial detention of known felons in non-capital cases would provide positive steps in controlling vicious and irresponsible actions by all manner of dangerous, hard-core criminals.

[From the Cincinnati (Ohio) Enquirer, Oct. 21, 1969]

THE PRESIDENT'S PROPOSALS FOR PRETRIAL DETENTION

One of the distressing aspects of the nation's already appalling crime rate, especially in the so-called street crimes such as robbery, burglary, rape and traffic in narcotics, is the high incidence of crimes committed by persons out on bond and awaiting trial for a crime previously committed.

A major point of President Nixon's anticrime program is an effort at reducing this activity, which understandably infuriates a large segment of the public. The administration has introduced identical bills in both the House and Senate to provide for pretrial detention in noncapital cases of Federal prisoners, for periods up to 60 days and under certain conditions and procedures.

Last week, a subcommittee of the House Judiciary Committee began hearings on Mr. Nixon's bail-reform proposals. So far, Congress has moved hardly at all on other of the 20 bills submitted or supported by the administration to help launch a nationwide attack, on a number of fronts, against crime.

The President has asked Congress for omnibus antinarcotics legislation; for increased appropriations to the existing National Law Enforcement Assistance Administration, which provides monetary and administrative help to the states for a concerted anticrime effort; for better legislation to protect minors from receiving obscene materials through the mails; for funds for a national crime program—as yet with little success.

In this light, it is gratifying to a nation which has seen its major-crime rate more than double in the last eight years that Congress has begun moving on the President's pretrial-detention bill, a recommendation that patently is designed to enhance public safety.

Although the thrust of the bill is toward fighting the incidence of street crimes in Washington, D.C., the only place where such crimes come under Federal jurisdiction, the proposal has nationwide implications. For if the measure—which already has stirred considerable controversy—becomes law and then survives challenges as to its constitutionality, it could provide a framework for similar action of the part of states and municipalities plagued by criminal recidivism from persons already under indictment and awaiting trial.

The legislation the President has requested would allow courts to consider danger to the community in setting nonfinancial conditions of pretrial release; provide pretrial detention for up to 60 days of defendants of certain categories who are found, after a hearing, to be "dangerous to the community." The categories of persons who may be detained until trial are listed by the bill as repeated offenders in crimes of violence, persons charged with offenses that have a high risk of repeated public danger (robbery and drug-pushing, for example); narcotics addicts charged with a crime of violence; any defendant who threatens witnesses or jurors.

The bill additionally authorizes sanctions against those defendants who, having secured a pretrial release, violate the conditions of their bond or commit a crime.

Some of the present dilemma arises from failures of the Bail Reform Act of 1966, intended to protect the rights of Federal prisoners who found themselves unable to obtain bail money, while other defendants similarly charged were able to obtain pretrial release.

As a consequence of this act, there has been steadily decreasing reliance on money bail in the nation's capital, with releases on personal recognizance becoming almost the order of the day.

Last month, the District of Columbia police chief said his department has found that 35% of the defendants indicted on armed-robbery charges who were released on personal recognizance were rearrested and reindicted on subsequent felonies—mostly armed robberies—before coming to trial.

Under these conditions, a community needlessly suffers and already overcrowded court dockets become more jammed.

Hopefully, the President's corrective recommendations will win congressional approval, and thus provide a guideline for action throughout the nation.

[From the San Francisco (Calif.) Chronicle, Sept. 15, 1969]

HOW THE BRITISH DEAL WITH CRIME

When a suspect is arrested in Britain for murder, rape or other violent crimes, Lord Alfred Denning told the State Bar convention here last week, "we keep him in prison pending his trial; we do not allow that man out on bail . . . if there is reason to believe he may commit another offense while awaiting trial."

This amounts to saying that the British already employ the system of "preventive detention" which the Nixon Administration is proposing to employ in certain criminal situations over which the Federal courts have jurisdiction.

Last July the Justice Department asked Congress for authority to detain dangerous suspects in specified classes of crimes for up to 60 days without bail if a judge, having found a "substantial probability" of guilt, determines that the defendant's release on bail would be a danger to the community.

Civil libertarians and strict constitutionalists are bitterly opposed. Senator Sam Ervin Jr. of North Carolina said the request is "unconstitutional and smacks of a police state." In his address to the bar, Lord Denning, a leading jurist of his country, took note of this opposition. "I have heard here that this is regarded as an unfair procedure because it amounts to imprisonment without trial," he said. "In England, we make sure he (the accused) is tried speedily—within eight weeks."

That is the big difference. The English provide a speedy trial; under the Sixth Amendment to the Constitution we guarantee a speedy trial but seldom make good on the guarantee. The reasons for this are many. Defense lawyers customarily play for delays, rather than for speedy disposition of their client's case, and this practice itself becomes a self-serving argument for release on bail as opposed to detention pending trial. Courts are slow-moving and usually clogged with backlogs of cases. Most jails are crowded and would feel the strain of any substantial number of suspects being preventively detained.

In the face of these hindrances to speedy trials, all of which are frequently cited as discreditable to American justice, the opponents of the preventive-detention proposal of the Administration are making considerable headway.

Still, in any deliberation about how to control crime in this country, it is a good idea to begin by inquiring how the British do it. Our system, with its rights and safeguards, developed from theirs, and it is generally acknowledged that they have on the whole a much better record than we have of protecting society from the criminal and the criminal from injustice. And it is highly relevant to learn that preventive detention not only is customary in the homeland of Anglo-Saxon law but is no great subject of complaint because justice is swift there.

[From the Tulsa (Okla.) World, Nov. 30, 1969]

NEED FOR BAIL REFORM

The Justice Department's efforts to tighten up permissive legal practices which are held contributory to worsening crime conditions have run afoul of opposition in and out of Congress.

One of the prime targets of the Department's clampdown is the widespread use of bail-bond practices which permit criminal elements to continue their depredations while awaiting trial.

A celebrated example of the problem occurred just a week ago in the nation's capital. A suspect under charge in two murders was released on bail of $500—reduced at the request of his attorney from an original $50,000 figure. While out on bail, the defendant was re-arrested in connection with another killing. He now stands charged in three murders.

The exposure of the ludicrous aspects of the bail policy followed in some of Washington's courts prompted local General Sessions Judge Tim Murphy to reignite public interest in bail reform legislation. The Nixon Administration, through Attorney General John Mitchell, has proposed a system of "preventive detention" to protect society from constant criminal repeaters. Mitchell's plan has met frigid stares from legal lights not only in Congress but outside.

Sessions Judge Murphy says, however, that a sterner method of admitting to bail must be devised. He reports that in personal interviews with enforcement officials and jailed criminals, there is no compunction by those admitted to bail against continuing their crimes.

Violators tend to feel "duty bound," said the Judge, to continue their pursuits if for no other reason than to "bankroll" their families. They are inclined to go out on a "last fling," on the theory they will be tried for only one violation and the others mean nothing.

Attorney General Mitchell seeks legislation granting the courts more rigid authority to withhold bail from those whose records indicate freedom awaiting trial serves no other purpose than to permit them to commit more crimes.

He has a valid point, but one which has created adverse reaction in the legal profession. Since the right to bail for most crimes is guaranteed under the Constitution, strict legalists question the propriety of laws recommended by the Attorney General.

Still, there is a point beyond which a law-abiding society cannot stand helpless while criminals use the protection offered by the Constitution against it. Mr. Mitchell is not asking that arbitrary powers of incarceration be given courts; his purpose is to obtain stiffer guidelines under which the courts may act. We think he is on the right track and that Congress, while properly wary of overdoing the legal tightening-up process, should take a most careful and sympathetic look at the basic if drastic goal he is seeking.

Certainly there is reason to suspect the American judicial system has become flabby and overly permissive, and its slowness scandalous.

[From the Richmond (Va.) News Leader, Nov. 24, 1969]

WHILE FREE ON PROBATION . . .

Some of the talk these days around Capitol Hill centers on the thorny question of preventive detention. Is it constitutional to deprive a suspected criminal of his liberty until he can be tried, when probable doubt exists that he will commit no more crimes before his trial? Or is the right of society to be protected from further criminal acts the overriding consideration? It is an issue on which reasonably minded men can disagree.

Perhaps those who doubt the need for preventive detention, pending trial, of suspected criminals might want to study a textbook case of what can happen without preventive detention. This case was headlined on the front page of *The Washington Post* last week. It involves a 30-year-old unemployed truck driver, Walter C. Powell, who was charged last week with a third count of murder within a six-month period. (On the same day, incidentally, *The Post* carried six ads for truck drivers in its help-wanted columns).

In May, Powell was arrested and charged with robbery, but the case was not prosecuted. On June 18, a 28-year-old woman was shot to death in her Washington apartment. On June 30, Powell appeared before a U.S. District Court judge to be sentenced on a conviction of attempted auto theft last year. The judge placed Powell on probation for three years.

Then on August 25, an elderly man was shot to death as he ran from a robbery attempt. The next day, Powell was charged with murder, not for the killing the day before, but in the June 18 case. Bail was set at $10,000 at first: Powell could not raise this amount. His lawyer petitioned for a reduction in bail, and the judge complied, setting it at $5,000 with the stipulation that, if $500 could be put up in cash, Powell could be released. A friend of Powell's posted the $500, and Powell went free, after being in jail one week.

In September, a judge conducting a preliminary hearing into the June 18 slaying concluded that the charge against Powell in the June 18 slaying was justified. He recommended that Powell's bond be increased, but he had no authority to increase it himself. Powell stayed free.

On November 3, a grand jury instructed Powell to appear for arraignment on the charge of murder in the August 25 killing. He didn't show up, and a warrant for his arrest was issued. On November 15, a 42-year-old man was killed by a robber who entered his apartment. On November 19, police arrested Powell, and charged him with murder in this most recent slaying. He now is being held without bond.

So during a six-month period, Powell managed to rack up three charges of murder, two of them committed while on probation for another crime. Even the most determined opponent of preventive detention should be able to learn something from this case, and the many others like it that have occurred in the nation's capital. If they refuse to believe that preventive detention has any positive factors at all, it says a great deal more about their sympathy for criminal suspects than about their concern for society's right to protect itself from being further victimized.

WHILE FREE ON BAIL

The liberal coterie holding firm to a sentimental view of the nature of man, insists on promoting the view that it is wrong and immoral to hold an accused suspect without bail until trial, or to set his bond at a prohibitively high figure. But in a case where a suspect has been charged with one or more crimes of physical violence, critics of this view argue, wouldn't it be more in the interest of society to protect itself from possible subsequent acts of violence by isolating the suspect? Not at all, the liberals reply, he is innocent until proved guilty, and he should remain free until he comes to trial.

Well, that may be nice in theory, but in practice last week it proved close to disastrous in St. Louis. The case involved a series of more than 20 assaults against women committed by the "Phantom Rapist," although the rapist boasted of committing close to 60 assaults in notes he left behind for the police. In these notes, he also poked some jibes at the police, calling them "stupid coppers," and "slow-witted cops." He also referred to some of them by name in his notes, and members of the St. Louis police force began to wonder if the rapist might not be one of their fellow policemen.

The rapist finally made a mistake when he used a credit card stolen from one of his victims, and the police arrested a four-year veteran of the St. Louis police force. One judge thought the suspect's bail ought to be set at $51,000, but he later was freed on $12,000 bail. Then last week, a 22-year-old St. Louis newspaper reporter and her teenaged girl friend were attacked in the reporter's apartment by a man who tore their clothes and swore to rape them. He brandished a gun; when the reporter continued to resist, he shot her in the face and fled. The bullet wound was not fatal, and both girls later identified the policeman charged with the previous assaults as their assailant.

So the suspect is in jail, where he is being held without bond. Had he been held without bond when first arrested, two young girls might have been spared a traumatic and terrifying experience. But the liberals have a theory for that too: The rights of the suspect take priority over the rights of his possible future victims, and society has few rights at all, especially when it comes to rational acts of self-protection.

[From the Oakland (Calif.) Tribune, Sept. 12, 1969]

BAIL: INVITATION TO RECIDIVISM

In the lexicon of sociologists, lawyers and law enforcement officials, "recidivist" is a much-used word of growing importance to a general public which is just beginning to fully understand its meaning.

The word identifies those who return to a life of crime, usually after arrest, jailing, etc.

Latest FBI statistics show that 82 per cent of all persons arrested in 1968 had a previous arrest, 70 per cent were previously convicted and 56 per cent had been imprisoned under a prior sentence.

Further, police officials are increasingly convinced that many of these repetitive crimes are committed while the criminals are out on bail awaiting trial for earlier felonies.

It's almost a treadmill condition as a man is arrested for armed robbery, posts bail and then goes out to commit another robbery to pay the bail bondsman. He gets caught again, pays a new bail fee, and so on, more or less forever.

Federal court rules governing such activity have set a far more progressive pattern than have most individual states or local courts. There are, however, many examples of states following federal examples to judicial reform.

Frequently cited in this respect is the 1966 Bail Reform Act, which established new federal bail bond rules for the first time in 175 years. It permits suspects accused of noncapital crimes to be released pending trial unless authorities believe they might attempt to flee, in which case bail must be set.

The Justice Department now wants to amend the procedure to permit pretrial detention of dangerous criminals—those accused of major (but not capital) crimes such as rape, armed robbery, arson, etc. The Justice proposal offers balancing safeguards calling for trial within 60 days, for instance, to protect those accused from arbitrary, lengthy imprisonment without trial.

Society, in natural self-protection, has long denied release, with or without bail, to accused sexual psychopaths and murderers. Thus what can be provided via the Administration proposals are safeguards to society against attacks from other dangerous criminals who continue in a life of crime while free on bail.

These so-called lesser crimes, which are still quite "major" as viewed by the victims, have now become so prevalent and are being committed with such frequency by the repeaters—the "recidivists"—that added public protection is needed.

As we continue to satisfy all the requirements for fairness and due process for accused defendants, it is also necessary to meet the needs for maximum public safety.

The Justice Department proposal deserves adoption for federal offenses, and the entire reform plan, with the proposed amendments, deserves consideration for more localized judicial reform.

[From the New York Daily News, Sept. 4, 1969]

WHY NO PREVENTIVE DETENTION?

The State Penal Law Revision Commission, working on a proposed new code of criminal procedure, has decided not to include a provision permitting judges to refuse bail to defendants they feel are menaces to society.

Preventive detention, as it is called, looks good to us—and to President Richard M. Nixon on a nationwide basis for some classes of criminal defendants.

We think the commission made a mistake in ruling against preventive detention, and we hope the Legislature will restore it before voting on the proposed new code at the 1970 session.

This device could keep out of circulation a lot of dangerous characters who otherwise would be free, between time of arrest and time of trial, to let their criminal instincts be their guides, to society's grave detriment.

Why not at least give preventive detention a fair tryout?

[From the Cincinnati (Ohio) Enquirer, Dec. 12, 1969]

CONGRESS' TROUBLED DOORSTEP

Rudimentary law enforcement in the United States is essentially the responsibility of the states and cities—with one notable exception: Washington, D.C., as the nation's capital and a city that belongs to the entire nation, is a federally governed city; its major officials are appointed by the President, and Congress functions as something of a city council.

The fact, accordingly, that crime continues to mount in Washington ought to be a matter of significant concern to both Congress and the administration.

Police for the District of Columbia reported a few days ago that serious crime in Washington during October had shown an increase of 35.4% over October of last year and that, for the 12 months ended September 30, the number of robberies in the district had climbed 59% over the preceding 12 months. Burglaries were up 20%.

As U.S. News & World Report observed in its December 8 issue: "Downtown Washington at night is almost deserted . . . Store clerks, filling-station attendants and deliverymen work in constant fear."

Yet Congress has evidenced none of the urgency the problem seems to warrant. Perhaps Mr. Nixon waited longer than he should have—July 11—to send a "model anticrime program" to Congress. But Congress has

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shown no disposition to act on it. Indeed, the prospects for action at this session seem virtually nil.

The proposals the President put before Congress included a series of recommendations reflecting, as Attorney General John N. Mitchell put it, the administration's "firm, even-handed" approach to crime control.

The most controversial aspect of the administration's program is an amendment to the Bail Reform Act of 1966 to permit a judge to set strict conditions on the release of suspects awaiting trial in noncapital cases and to detain without bail certain categories of suspects who are found, after a hearing, to pose a threat to the safety of society.

This proposal—the so-called preventive-detention bill—has been bitterly assailed by, among others, Sen. Sam J. Ervin, Jr. (D. N.C.), who called it a "repudiation of centuries of Anglo-American traditions of fairness, due process and common standards of justice."

Another phase of the program would reorganize the court system of the District of Columbia. Yet another would convert Washington's Legal Aid Society into a public-defender service.

Two months ago, Mr. Nixon reminded Congress of its responsibilities in connection with Washington's crime problem and declared that crime in the city had reached the crisis point.

Washington ought to represent a laboratory in which the Federal government introduces new techniques to combat crime for imitation by cities across the nation. Instead, it has been allowed to acquire the highest rate of robberies and burglaries of any city of comparable size in the United States—despite the significant fact that it has the highest per capita income and the lowest unemployment rate of any major city.

Congress should not allow the problem to grow even more acute.

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[From the Washington Evening Star, Dec. 29, 1969]

RESTRICTING THE BAIL RIGHT

It is often said and widely believed that a criminal defendant has an "absolute" right to bail unless he is likely to flee to avoid trial. But this is not true in all cases.

A few days ago the U.S. Court of Appeals acted in the case of Kermit N. Gilbert, Jr., charged with assault with intent to kill. Gilbert had been denied bail in the lower courts because of a claim that his friends and possibly the defendant himself had threatened witnesses with a view to so intimidating them that they would be afraid to testify at the trial.

The appellate court stated the controlling principle in these words: "We are satisfied that courts have the inherent power to confine the defendant in order to protect future witnesses at the pretrial stage as well as during trial." And this despite the language of the Bail Reform Act of 1966 which supposedly establishes an absolute right to bail in noncapital cases if the accused can be expected to show up for his trial. Of this, the court said: "The necessities of judicial administration prevail, and the right to bail is not literally absolute."

Surely no one will quarrel with this view of the law. It would be absurd to contend that a suspect must be released on bail if, while on liberty, he uses the opportunity to coerce witnesses so that when his trial is held there will be no one present to testify against him. It is difficult enough at best to get witnesses to appear and testify. If they could be threatened and intimidated, the administration of criminal justice would soon break down.

But if judges have the inherent power to protect witnesses, why should they not also have the power to protect the public. In our opinion they should have, and this is what the debate over preventive detention is all about.

Police Chief Jerry V. Wilson recently told the International Association of Police Chiefs of a study made by his department of individuals released in this city on personal bond, which means no bond, after being indicted on charges of armed robbery. The study covered the period July 1, 1966, to June 30, 1967.

The key finding was that "35 percent of these individuals released in one year were rearrested and reindicted on subsequent felonies, mostly armed robberies, before coming to trial. Some were rearrested and reindicted as many as three times in one year." This is a state of affairs which certainly has not improved since 1967, and which bears impressive witness to the extent to which the right of the public to be protected against criminals is trampled upon under the bail reform act.

The Nixon administration is trying to remedy this situation. It has proposed to Congress certain amendments to the bail reform act to give judges some discretion to deny release on bail if this is deemed necessary to protect the public.

This proposed discretion is not unlimited. Before denying bail the judge must hold a hearing at which the accused would be represented by counsel. Bail could be refused for these types of suspects: (1) Those charged with committing a "dangerous crime" in which there would be a high risk of additional public danger should the suspect be released. Included would be such offenses as bank robbedy and the sale of narcotics. (2) Repeat offenders who have been charged with at least two crimes of violence. (3) Narcotic addicts charged with any crime of violence. (4) Defendants who try to obstruct justice by threatening witnesses or jurors.

There also are safeguards for the accused, chief among these being that a suspect must be released unless he is brought to trial within 60 days, or unless additional delay is at his own request.

Competent officials have stated that crime in Washington could be very substantially reduced if only 300 hardened criminals and narcotics users could be taken off the streets pending trial. But Congress has been dragging its feet on preventive detention despite the strong case that has been made for this law-enforcement tool.

Perhaps the ruling by the Court of Appeals will help bring action at the next session of the legislators. For if judges have the power to protect their courts, no persuasive argument can be made against authorizing some similar protection for the long-suffering public.

ST. PATRICK'S DAY

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BOLAND. Mr. Speaker, today millions of Americans pay tribute to the Irish by honoring their patron, St. Patrick.

This legendary figure died over 15 centuries ago, but his day continues to be celebrated with enthusiastic devotion by the Irish and their friends throughout the world.

The legend of St. Patrick, however, transcends that of mere myth; Patrick was, is, and will continue to be an inspiration to all men.

Patrick, the liberator of Ireland, had a profound love of freedom, learning, and justice. He was perhaps the first modern Irishman—a man of pride, a man deeply concerned for his fellow man. The spirit of Patrick is the spirit of the Irish; his legacy is as alive today as it was 15 centuries ago. Thus, by joining with our fellow Irish citizens and paying tribute to St. Patrick, we are honoring the Irish themselves.

The Irish have a deep feeling for language, an innate sensitivity for art, a keen wit, and a proud regard for their Gaelic heritage.

These qualities, when fused with a tenacious desire for freedom and independence, have made the Irish leaders in all fields. The Irish have given the United States some of our greatest political leaders, scientists, educators, artists, and patriots. These men took great pride in being Americans, yet continued to maintain their cultural identity.

Perhaps the most universal of the achievements of the Irish has been in the fields of literature. The artistic creation of the Irish renaissance, in particular, have contributed vastly to the understanding and appreciation of humanity. It is a sign of literacy to be familiar with the Irish literature of the early 20th century. But, more important than these works themselves, are the spirit from which they were created. They were the products of creative individuals, individuals whose independence was expressed in their writing, just as the independence of the American Irish was expressed in their pioneering spirit.

Today the Irishman's independence has won him the respect of a nation founded on this very principle. I take great personal pleasure in observing St. Patrick's Day and in paying tribute to the great men of Ireland who have followed in his path.

BALTIMORE AND HARFORD COUNTY NEWSPAPERS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. LONG of Maryland. Mr. Speaker, since January 2, 1970, Baltimore City newspapers have been on strike—a strike which ended today after more than 2 months with no large newspapers. However, Baltimore and Harford County local newspapers met the news crisis head on with expanded coverage of national and local events, entertainment schedules, sports, want ads, and consistently high-quality editorials. I know that Baltimore area residents join me in extending our thanks and our praise to these small but fine papers for their outstanding performances during the strike. I should like to honor these papers today by including their names and the names of their editors in the RECORD:

BALTIMORE AND HARFORD COUNTY NEWSPAPERS

BALTIMORE COUNTY

Mr. John Blitz, Managing Editor of Stromberg publications.

The Essex Times, Editor, Wayne Garner.
The Dundalk Times, Editor, Ella Kirby.
The Towson Times, Editor, David Colley.
The Arbutus Times, Editor, John Martin.

The Community Times, Editor, David Barklay.

The Catonsville Times, Editor, Jean Walsh.

The Jeffersonian, Editor, August Maher.

The Dundalk Eagle, Editor, Kimbel Oelke.

The Northwest Star, Editor, Gustav Berle.

The Baltimore Daily, Publisher, Advertising Design Press, Inc.

HARFORD COUNTY

The Aegis, Editor, Mr. John D. Worthington.

The Harford Democrat, Editor, Mr. J. Wilmer Cronin.

The Havre de Grace Record, Editor, Mr. J. Clark Samuels.

The Joppatowne Journal, Editor, Mr. William C. Ryan.

GALLAGHER ANNOUNCES SUPPORT FOR HOUSE CREDIT INDUSTRY CONTROL BILL

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. GALLAGHER. Mr. Speaker, before I turn my attention to why I am now firmly committed to almost all provisions of H.R. 16340, the credit bill recently introduced by my distinguished colleague, Congresswoman SULLIVAN, let me try to put what we are talking about here in the Congress into its deeply human dimension.

I will attempt to do that by inserting, at this point in my remarks, a short poem from the March 1970 issue of the the Atlantic:

THE DATA BANKERS

(By Celia Gilbert)

who are the men with hats
who go to my neighbor
who tells them I drink with
whoever comes along and
where I go between the hours of . . . and
where I was when they said it was a rest
where really my husband sent me
where I could sober up
when after all his debts
when he played the horses once too many
when I told him we'd be broke
like they are polite but she hates me
like I hate her, she's real nosy
like; and her kid, too, who's a peeping tom
like I found him up our fire escape
how he got there they don't care
how is not their business or why
how to get it all down and in the bank that's
how those guys spend their time: saving us up.

Mr. Speaker, a more succinct definition of a growing feeling on the part of many Americans would be hard to find. For, in a very real sense, "saving us up" is exactly what many investigative credit reporters are doing. And, of course, even if the very act of being "saved up" does not adversely affect one's capacity to think creatively and feel spontaneously, the question remains: Saving us up for whom?

When my Special Subcommittee on Invasion of Privacy initiated formal congressional consideration of this industry in March and May of 1968, very little was known about a very pervasive activity. Our hearings helped to highlight many arbitrary practices and the Associated Credit Bureaus, Inc. responded by formulating their credit bureau policies to protect consumer privacy. This January 1969 step was promising for it showed that one segment of the industry was not opposed to constructive change in order to meet altered social conditions.

Subsequently Senate hearings laid out additional evidence that the industry, unregulated at a national level and almost equally untouched at a State or local level, has a sufficient impact on the American economy and the American society to warrant legislation. The Senate passed S. 823 in November 1969, thus accelerating the movement toward control.

Each of these steps was both hopeful and helpful, for it was obvious that privacy was about to be cloaked in some kind of formal procedure, at least as it relates to the credit industry.

But our efforts made what could be defined as a quantum jump when Mrs. SULLIVAN, chairman of the Consumers Affairs Subcommittee, introduced H.R. 16340. While there are still areas of controversy in this bill, as my attached testimony before the subcommittee this morning demonstrates, this is the bill I believe the Congress should pass. Both Dr. Alan Westin and witnesses from the Consumers Federation of America who followed me in testifying this morning, stated that this bill was vastly superior to the Senate-passed version. I concur in that judgment.

Mr. Speaker, at this point in the RECORD, I am pleased to insert the testimony I gave this morning before Mrs. SULLIVAN's Consumer Affairs Subcommittee:

TESTIMONY OF CONGRESSMAN CORNELIUS E. GALLAGHER

I am delighted to be here this morning, Madame Chairman, for many reasons. First, I am glad to see the credit bill come before your committee here in the House because, in a very real sense, the House saw the birth of the attempt to control the credit industry. You have acknowledged the pioneering efforts of my distinguished colleague Congressman Zablocki, who testified earlier, for it was he who introduced the first legislation as an amendment when the Truth in Lending bill originally passed the House.

In March and May of 1968, my privacy subcommittee held four days of hearings and it can fairly be said that we unearthed a body of evidence which strongly supports the necessity for legislative action.

Second, I am delighted that the concept of privacy is going to be cloaked, at long last, in solid and effective legislation. The hearings which you open this morning are the beginning of the end of the long road to controlling the activities of credit bureaus and credit reporting agencies. But equally important, they are the end of the beginning in finding ways to have national policy come down hard on the side of personal privacy in the age of the computer.

Indeed, I think that someday we may be debating a bill very similar to the ones under discussion this morning which will not say: "To enable *consumers* to protect themselves against arbitrary, erroneous, and malicious *credit* information, but will instead read: "To enable *citizens* to protect themselves against arbitrary, erroneous, and malicious information," no matter who holds it. And in the body of the bill it will substitute the words "any repository of information, including Federal agencies, for the words, consumer reporting agency."

As visionary and utopian as that may sound this morning, Madame Chairman, I believe it is the direction we must move if we are to make the word "citizen" mean anything and rescue the unique American experience from slow and steady erosion.

The third reason why I am delighted to testify before this subcommittee, which is chaired by one of the most able women in the country and which also has, as members, my good friend and fellow Representative of the great State of New Jersey, Mrs. Dwyer, and the effective Congresswoman from Massachusetts, Mrs. Heckler, is that the industry under consideration here has not exactly been a pioneer in asserting women's rights. Let me illustrate this by a discussion which I had with Mr. Robert Pinger, Manager of the Credit Bureau of Greater Houston, when he testified before my privacy subcommittee.

I had become curious about the level of competence of the six full-time people he had counseling the public. These six made a total of $22,000, and I questioned him closely about the kind of people he could get to perform this valuable service if he paid them an average of merely $3,500 a year. As his ultimate justification, he responded, and I quote:

"These are mature women who perform this service. These are not males."

I suspect that this subcommittee, particularly, may question the credit bureau representatives to discover if that "enlightened" attitude is pervasive throughout the whole industry.

The majority of my testimony this morning will focus on several areas in your bill, Madame Chairman, which I feel should be clarified. Let me say, that with one or two exceptions, I support H.R. 16340, because it is stronger and generally better than the Senate passed version. Your work has considerably improved the bill I introduced on November 12, which was very similar to S. 823. And I introduced that bill solely as a means to assist in the movement toward these hearings and not because I endorsed it totally.

The central point of all the bills under consideration is that the individual must be able to make sure his own records are correct, that legal responsibility must fall on those who can damage a man's chance for deserved credit, insurance or employment, and that information must be used solely for the purpose for which it was given. These were the points we made in our investigative hearings in 1968 and I am pleased they are about to be translated into effective legislation.

And of course they are dealt with in the Associated Credit Bureau sponsored "Credit Bureau Policies to Protect Consumer Privacy," which I released on January 13, 1969, as a response to practices surfaced by my privacy subcommittee.

The most important part of any credit control bill is to shred the shroud of secrecy by which the practices of the industry have for so long been shielded. The major thrust of my hearings on May 16, 1968 was to convince Retail Credit Company to remove from its basic contract the emphasized clause:

"All reports, whether oral or written will be kept strictly confidential. Except as required by law, no information from reports *nor your identity as the reporting agency* will be revealed to the person reported on or to any other person . . ."

I am pleased to report that the new agreement for services, dated June 1968, eliminated "nor your identity as the reporting agency. But it is important to note that Retail Credit does not require that such an absolutely necessary disclosure be made. I refer to a letter of explanation Retail Credit Company sent to its customers shortly after that repugnant phrase was deleted:

"We have eliminated from our Agreement for Service that phrase which prohibits identifying us as the reporting agency. We, of course, are not suggesting any substantial departure from established business practices. If people were sent to us indiscriminately, this would impose a considerable problem and the need of additional time."

Mr. W. Lee Burge, President of Retail Credit, put it considerably more bluntly when he testified before the privacy subcommittee:

"We cannot for the prices charged render our services and be plagued by legal problems or privacy problems even in having hordes of people raising questions or in legal action."

This kind of attitude, which is not confined solely to Retail Credit Company let me hasten to add, makes it imperative that a bill legally require creditors to inform the individual where the damaging information has come from. The most difficult question is whether or not the consumer must waive his legal rights in return for being granted the opportunity to know what has been reported.

I believe that your bill, Madame Chairman, takes the right approach. Privilege against any future legal action is not a privilege that is consonant with fair play. In addition, the damage to the individual may often be done before he knows what erroneous information has been disseminated. Since the privacy subcommittee hearings, many outraged letters to me have pointed out that once you lose an opportunity, it is lost, no matter what ameliorating evidence may later emerge.

At the same time, however, other features of your bill may make such an absolute waiver of immunity unnecessary. The very fact that an individual will have the right to know everything in his file and your extremely wise provision against creditors reporting disputed accounts as delinquent may obviate the necessity to make the credit reporter liable for inaccurate reporting in the past. Further, if your bill retains its provision that corrected reports be sent immediately to those who have received an erroneous one, much of the basis for punishing the agency for past error may be negated.

I believe you should carefully consider all sides of this thorny question, Madame Chairman, and I would not like to see a dispute over this area threaten the success of our efforts, especially now that we are so close to having legislation enacted.

I fully support the remainder of the provisions of H.R. 16340, with the exception of the access allowed for noncredit-granting, nonregulatory Federal agencies without subpoena. I believe that all information yielded should be subjected to due process of law. Chapter 3, Sec. 35 repeats the provision in S. 823, the only provision I removed when I introduced H.R. 14765 on November 12, 1969. This clause states that a consumer reporting agency may furnish identifying information without requiring that a subpoena be presented. I would like to see that provision rewritten to say that *only* identifying information can be given in response to a subpoena. If the Federal agency wants anything else in a credit repository, the individual concerned must be informed and be able to contest the action.

Credit Data Corporation adheres to a policy which flatly denies access for any noncredit purpose. They have been vigorous in protecting the integrity of the data and have brought personal privacy into their corporate practices. But I do not note a similar dedication to legal process in other segments of the credit industry.

I strongly oppose dissolving the distinction between public and private files: a distinction which seems to be disappearing everywhere we look. By weaving a web of data representing all an individual's past experiences, we create a suffocating sense of surveillance. We permit a sword of Damocles to hang over every man's head. We turn this Nation from its historical role as the home of the second chance into a one-chance society.

The Judeo Christian foundation stone of human renewal or redemption may be programmed out of our society. Perhaps this is why the young fight as hard to stay out of a society as our generation fought to get in.

Further, the courts are the source of our greatest protection for our civil rights, for it is their role to stand between the individual and the State. For an adversary proceeding to be truly fair, the party with the most interest in the data must be able to defend his position, if he chooses.

I realize that this access to private data repositories has been helpful to Federal employees in the past. But I would suggest that the Magna Carta was not written for the King's men; rather it makes every man a king.

So I believe that due process of law must be followed in all cases where private repositories are visited by anyone with no credit or regulatory purpose.

For we are past the time when information in any system can be regarded as the sole property of those who manage the system. The individual to whom the data refer must be permitted formal mechanisms to correct and amplify the reports which affect him so deeply. In addition, he must be able to restrict unwelcome access to information he has provided for the conveniences or necessities of modern life.

As I am sure both Dr. Westin and Professor Miller will amply demonstrate, the credit industry is clearly moving toward an almost total computerization. Files which are economically unfeasible to computerize now will undoubtedly yield to future generations of computing machines and a vast nationwide, even worldwide, network of information is no longer science fiction. A great public utility, dealing solely in data on individually identifiable Americans, is looming on the horizon and it is up to the Congress to assure that such a data-rich society does not become privacy-poor. We can do that by assessing problems before they become crises—although candor compels me to admit that the Congress has not excelled in the past in creating such early warning systems. Far too often, the Dew Line is quickly breached and we are deluged with a flood of angry letters.

In the case of the credit industry, however, I believe we have moved promptly and effectively to deal with an industry which touches every single American home.

I would like to conclude this morning by emphasizing what I feel is the most important single point in dealing with credit bureaus and credit reporting agencies in their present form or in whatever form they will take in the future. The individual must be able to enter the system. Rather than wiping their feet on personal rights, the industry must have a welcome mat out for the person about whom they know so much. I am convinced that at least one of the causes of the serious malaise that grips our society now and threatens our soon-to-be cybernated State is that the individual feels manipulated by forces he scarcely knows exist, much less can control.

A great computerized flow of dossiers with information from both public and private files can drown human rights and make the current flood of disenchantment with the so-called Establishment seem like a transitory trickle. By their very nature, computerized information systems centralize control and appear to the technologically unsophisticated individual to be but another roadblock which an indifferent power structure has placed in his path.

I think it is extraordinarily significant, Madame Chairman, that four people connected with the recently announced National Academy of Sciences' Project on Computer Data Banks are scheduled to testify in these hearings. Later this morning you will hear from the Project's director, Dr. Alan Westin. I am very proud to number Ralph Nader and Professor Arthur Miller among my copanelists.

For I believe that it is in the area of information policy that one of the great struggles for the survival of human values and political liberty will be contested in the decade of the 70s. In a very real sense, data are to society what DNA is to the growth of the individual, and computerized information systems may be accurately described as the Double Helixes of Mankind's future.

One way in which civilization can survive is to create new ways for the individual to deal with impersonal and seemingly hostile computerized systems. As is the case in so many other areas, the computer is essential in assembling the information upon which credit, employment, and insurance decisions are made.

I am grateful for the opportunity to present my views in this rather limited version this morning and I ask permission to submit several relevant documents for the record of your subcommittee.

Let me close by saying that the individual needs credit, insurance and employment, but that we cannot allow such necessities to be purchased at the price of privacy.

N. V. "SWEDE" NELSON AWARD

HON. PHILIP J. PHILBIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. PHILBIN. Mr. Speaker, I am privileged and proud to address the House concerning the 24th annual "Swede" Nelson Award Dinner sponsored by the Gridiron Club of Boston which was held this year at the Sheraton-Boston Hotel, Boston, Mass., on January 17, 1970.

The occasion was attended by a large and enthusiastic audience of outstanding sports figures of the Boston Gridiron Club and other groups from various parts of the country, who came to pay tribute to one of the truly great of all college football players honored by their selection for the annual Nelson Award, Steve Smear of Penn State University.

This cherished award, which has taken its place as one of the premier awards of its kind in the Nation, is named in honor of the incomparable "Swede" Nelson, one of the immortals of American football, a great businessman, a peerless after-dinner speaker and raconteur, a courageous leader of the fight for civil rights and equal justice, and one of the great humanitarians of our times.

The fact that the award should be named after such an outstanding American, and the soundness, wisdom, and admirable selections through the years of the talented selection committee from the Boston Gridiron Club in honoring the finest and best young athlete in the Nation for this award, and the fact that the award embraces more than physical expertise on the gridiron and also includes character postures, evaluations, and overall high selection standards with respect to character, leadership, toleration, and concern for others, are indicative of the distinguished qualities of the man who has made the Nelson Award possible down through the years—N. V. "Swede" Nelson.

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The choice this year of Steve Smear from Penn State, like those which preceded it, demonstrates the attainment of the highest level of merit known to collegiate athletics.

By general agreement, Steve Smear is recognized as one of the finest young college athletes in the country. His record as a player is second to none in his position and field.

His broad interests, his loyalities, his enthusiasm, his competitive spirit, his humility, and human qualities mark him as an extraordinary young man.

Steve Smear came from humble beginnings and worked his way to the top of athletic and collegiate competition. He won the confidence of his teammates, the admiration of his coaches and the football public, and the great respect of all who know him for his warm, beaming personality, his friendly approach, his good manners, his consideration for others and his unalterable attachment to the best values of our American society.

Young college leaders like Steve Smear, endowed with love of God, love of country and love of their fellow man, are in the finest traditions of our colleges and the Nation. Such young men are destined to be the leaders of tomorrow, because they bring to American life in these modern days the strength, stamina, and courage to face all problems, the brains, intelligence and determination to solve them, and the compassion to understand and hold out the willing hand of help and assistance to those who are not always able to help themselves.

By character, dedication, and leadership, these young men will perpetuate and build into the future of this great Nation down through the years, not only their own ideals, high purposes and spirit of uplift, but those extraordinary qualities as human beings and as resolute, high-minded leaders, which have inspired the indomitable "Swede" Nelson in his great achievements for community, country and the cause of the socially deprived.

Young men like Steve Smear are the proudest boast and greatest hope of this country because they have proved their mettle. They have shown that no generation gap separates them from anyone, either the leaders or the people of this Nation, because, like most of the young generation, they can be relied upon to preserve the strength and enhance the growth and prosperity of the country, and also enrich the commitment of young American leadership to respect and to serve human needs, and to preserve the freedom, security and safety of this great land and its free institutions.

I was highly honored to attend this very impressive event, and it was a pleasure for me to congratulate Steve Smear and his lovely mother, family, and spiritual leader, and to wish for him and them every success, prosperity, and happiness in his future life.

It is also a high privilege for me heartily to congratulate my dear, valued friend, "Swede" Nelson, his lovely wife, Esther, charming daughter Natalie, distinguished son-in-law, George Hill and family, and all the distinguished officers and members of the Boston Gridiron Club who have worked so hard through the years to make the Nelson Award one of America's most striking symbols of American youth at its best.

"Swede" Nelson is one of our greatest Americans and the Nelson Award a rare tribute to his genius and his humanity.

I extend my heartiest congratulations also to the leaders and members of the Boston Gridiron Club who are in a class by themselves as great Americans.

Under unanimous consent, I include background information about the award, the remarks of "Swede" Nelson and pertinent newspaper accounts about this outstanding affair:

The "Swede" Nelson Award

"The Nils V. Nelson Award for Sportsmanship" is presented annually by the Gridiron Club of Boston on a basis of the following requirements:

"To the player who, by his conduct on or off the gridiron, demonstrates a high esteem for the football code and exemplifies sportsmanship to an outstanding degree."

In selecting a committee to decide the winner of the "Nelson Award" great emphasis is placed on the knowledge and experience of its members with respect to the American game of football over the years. Numbered among our committee this year are men who have played in both college and professional ranks. Others are presently engaged in collegiate or professional officiating, coaching and physical education pursuits at the college level. The serious manner in which all nominations are studied, combined with the wealth of experience possessed by the individual members of the committee, insures a selection which may readily be accepted as the best.

The Nelson Award for Sportsmanship has aroused the interest of leaders in the World of Sports throughout the entire nation. Nominations for the Award have been received from every state in the Union, having been contributed by college coaches, sports writers, radio announcers and others. This widespread source of information and the enthusiasm expressed by the contributors points to the Nelson Trophy as being firmly established as one of the nation's outstanding football awards.

We of the Gridiron Club of Boston are confident that the objectives of the Award will ever serve as an inspiration for all that is praiseworthy and good wherever the game of football is played.

Nils V. "Swede" Nelson 1969 Sportsmanship Award

Steve Smear, Pennsylvania State University; age, 21; height 6 feet 1 inch, weight 227; senior; defensive tackle.

Grantland Rice, never to be forgotten sports columnist, in his only book "The Tumult and the Shouting," proclaimed that the first, last and the only commandment should be "the rules of sport are founded on fair play."

If ever a sporting pronouncement had a true meaning and deep significance it applies with force and clarity to the life, exploits and philosophy of Steve Smear.

Threaded through every recommendation coming from coaches, teammates, opposing players, newspaper men, and all identified with football, this concept of fair play is highlighted in an infinite variety of ways, giving book and verse, dates and witnesses, all attesting to Steve's overriding and instinctive sense of fair play.

Joe Paterno, his coach at Penn. State, and familiar to football fans hereabouts, said, "He is one of the unspectacular type players who does a great job play in and play out. He's become a superior player with a fine attitude toward the game. He is one of the finest sportsmen I have ever encountered because of his deep commitment to the ideals for which the Swede Nelson award stands. I cannot say enough about Steve Smear, a deeply religious, totally unselfish young man, he depicts everything that is good and wholesome in intercollegiate football."

While specific instances of his sportsmanlike conduct could be extensively quoted here, this year we are leaving the winner's exploits in the hands of the galaxy of speaking luminaries who will expand on those characteristics which prompted the Committee to choose Steve from among 51 candidates—and it must be noted that this year's recommendations are unsurpassed in quality and form.

Remarks of N. V. "Swede" Nelson

President Bob McCabe, Chairman Smokey Kelleher, reverend clergy, guests of honor, Steve Smear, your dear mother, your pastor, Coach Joe Paterno, our Penn State friends, distinguished head table guests, our own Gridiron Club family, beautiful ladies and neighbors, gentlemen, friends.

Somebody said I was an optimist, an optimist is a guy who falls from a 20 story building and at each story, he yells, "I'm all right so far."

This year I have my fine red headed son-in-law, Red Hill, lovely Natalie, their six children who are mostly red heads and all right handers. One of the little girls said: "Mummy, shall we start the applause for grandfather?" Natalie said: "No, just see that it doesn't die down."

We are proud to welcome all of you nice folks to our Gridiron Club family, all these outstanding honor guests from Penn State, Steve Smear who is simply great, his dear devoted mother, the incomparable Joe Paterno, the nationally famous coach—a winner of 30 games, Steve's pastor, Father Joseph W. Fleming, a real friend. Father—I am not one of those Episcopalians who never forget, you know—and as I have often said, an Episcopalian is just an Irishman who flunked Latin.

This is my 24th year up here and I was only 16 years old when we started, of course. I don't know how old I am now, but medicare knows better.

My recipe for eternal youth is live honestly, eat well, sleep often, work occasionally, and lie about your age.

For all these years, we have gathered together to honor all of our old friends of blessed memory, starting with the days of the immortal Bulger Lowe. We never forget any of them and they will forever be in our memory.

The award could be named for many men in this room and, with true humility, let all of us share it together.

I am sure all our old friends would be thrilled with the dedication, determination, and leadership of Steve Smear.

There is truly dignity and distinction to this dinner and surrounding me and all around you are men and ladies too who have helped to make this great Nation the finest country in all the world.

These are college days. Yale's fondly remembered William Lyon Phelps gave an English class a very tough examination—just before the Christmas holidays. One unprepared student turned in a blank paper with this notation: "God knows the answer to these questions. Merry Christmas." Phelps returned the paper with another notation: "God gets an A. You get an F. Happy New Year."

Meanwhile, I would like to thank everyone who helped in this outstanding dinner, the press, the TV, all the speakers who were great, wonderful Bob Coyne, our own cartoonist who sent us 700 cartons, Sam Cohen and Mark Finlay.

Moreover, our appreciative thanks to Smokey Kelleher, our general chairman—competent, kindly and a great organizer, John Cavanagh, Mr. Gridiron Club—no details too much for him, Joe Blumsack who works night and day on our tickets, a fine lawyer—all Joe needs is a couple of good

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witnesses—thanks to all his secretaries—John Carver who is not only erudite but is also very bright and writes our statistical history—that is a Harvard word meaning he knows how to run a slide rule.

Also Murray Lewis, a great guy and publicity chairman, Arthur Barry, a tremendous gentleman whose scholarly, friendly helpful advice is absolutely necessary to our great team, my own red head, George Hill who is my right arm and his help to me has no limit, Charlie Fitzgerald, another great member who finally came up from Florida and it pleased all of us.

I don't care to take much more time. It would be like the coach who after losing the big game received this wire: There is a train leaving town tonight at 9:00 p.m. be under it.

Welcome to the purpose of the dinner, to honor the outstanding young gentleman, Steve Smear, his dear devoted mother, his nationally famous coach, Joe Paterno, and his parish priest, Father Joseph Fleming, and our Penn State friends.

Steve asked if he could please include his dear mother and his parish priest to share this award with him.

They are now, as are all of you, sharing the warm sincere welcome of this gridiron club family.

Joe Paterno is a perfect gentleman and his championship Penn State team has won 30 games. His coaching has been incomparable. He has developed in his team a fierce pride in performance, a love of the game they play, and real football dignity.

There is more to football than the stadium clock. Behind the scene are men like Steve Smear who has a tremendous capacity for inspirational leadership and love of his country and a recognition of friendship with his teammates and opponents that is far reaching.

Joe Paterno says this young man is among the finest young men he ever coached. Let me say, humbly, to win 30 games in this kind of competition that Penn State had is almost unbelievable. They must have men with unsurpassable qualities of leadership and skill. One of the greatest is Steve Smear. Steve is very mild, but he hits you so hard—it makes your whole family sick.

Steve Smear speaks of the defensive unit with a sort of primitive passion. I quote:

"Three years we have played together with never a voice raised in anger. It is no fake. The Celtics and the Packers did it. It is boiled down to team pride. Give your most honest best. And this is what Coach Paterno has tried to instill in us."

Does it work? Seven interceptions in a bowl game is very close to a college record. Moreover, Steve had consideration for his opponents. The quarterback with the bad knee was assured they would never hurt his knee. And they never did.

This is just one of many things this kind of a young man does and thinks about.

Steve, it is not only your glamorous athletic achievements which endeavor you to us. Rather, it is your humility, your honesty, your sense of real values, your consideration and your sportsmanship. You are a credit to Penn State, your family, your church, coach and teammates.

You not only lead, but you inspire in such a way that your teammates have unbounded confidence in your ability and unlimited trust in your judgment.

You stand as a worthy symbol of young America who in the years to come will preserve the integrity and reputation of the greatest country in all the world—these United States. Love of God, love of family, love of country will never be old fashioned. It will live foreover. May our maker continue to bless you and your family.

Steve, we of the gridiron club are tremendously proud of you. We think you are the outstanding sportsman in intercollegiate football for 1969. Ladies and gentlemen, Steve Smear.

[From the Boston Herald-Traveler]

THE SWEET SWEDE—NELSON HITS HIGH C ON STEVE SMEAR

(By Tim Horgan)

Now that the Super Bowl and Variety Hour is over, let's get back to fundamentals. Swede Nelson wishes to say a word or 12 about the sportsmanship award dinner of the same name at the Sheraton Plaza Saturday evening. Clear the dessert dishes, please.

This has always been my favorite award, and I only wish there were 1000 more like it, and its namesake, too.

The winner this year is a 226-pound defensive tackle from Penn State out of Johnstown, Pa. with the likely name of Steve Smear.

Nelson has nothing whatsoever to do with the selection, but he has an understandable interest in the choice made by Tom Lynch, Jr and his Gridiron Club committee.

"And the more I find out about this boy," said Swede, "the more I'm convinced he's one of the best winners we've had."

That's sensational, because past recipients included such star-spangled types as Doak Walker, Johnny Bright, the late Lt. Don Holleder, Floyd Little, Brian Dowling and Vic Gatto.

In fact, nobody wins this honor unless he's true blue and a yard wide. But Swede figures that it's never been tougher for a college football player to live up to the basic idea of the game than it is today.

"And this boy," he said, "personifies everything a college football player should be."

You mean he wears his hair above his ears?

"I have nothing against long hair," Swede said. "If I could have hair, I'd wear it down to my knees. What this boy has is a genuine love of God, his family and his country, and that's the first goal of any game."

Underneath that jolly exterior beats a heart of pure marshmallow, you know. Even though he just turned 30 himself, Swede has great sympathy for today's youth.

He gets very worried when he sees them running power traps on the Board of Trustees and flying wedges through the Dean's office.

"They have no respect for law and order," he said. "They have no concept of fair play. And the younger people will copy them. That's why we have to hold up examples like Steve Smear, who can be as tough as anyone but always within the rules."

"Steve," reports his coach, Joe Paterno, "is totally unselfish, and deeply religious."

What impressed Swede the most, in fact, was an incident that occurred after Smear won the award.

"The boy's father is dead," he said, "so we invited his mother, Mrs. Anna Ditko, to the dinner. Then the boy wrote back and asked if he could also bring along his parish priest, the Rev. Joseph Fleming of Johnstown. How many boys today would think of that?"

Smear has a full dossier of unselfish acts to his credit. The one I favor concerns a meeting he and his running mate, Mike Reid, held with Ohio University quarterback, Cleve Bryant before their game last season.

Bryant had an injured knee. "So we told him," said Smear, "that we would see to it his knee wasn't injured any more, if possible. What we meant was that nobody was going to go for his knee to put him out of the game. That's done, you know, but we don't believe in it. Bryant looked kind of surprised but he said, 'Thank you.' "

P.S. Bryant didn't suffer so much as a dent on his fender in the game. Given a healthy target, however, Paterno reports there was no harder hitter on State's undefeated team than S. Smear.

"Tough?" said S. Nelson. "They tell me that when he hits you, your whole family aches."

Swede will explain this fully Saturday night.

[From the Boston Herald Traveler, Jan. 17, 1970]

PENN STATE STAR FETED TONIGHT—SMEAR HERE TO COLLECT SWEDE NELSON AWARD

(By Tom Monahan)

Exam breaks have curtailed much of the college activity in this area tonight but there still are several attractions worthy of mention.

Probably tops is the Swede Nelson Sportsman Award Dinner for Penn State's Steve Smear tonight at the Sheraton Plaza.

This annually is one of the top events of the season and certainly one of the most significant awards in the country.

Smear, a 226-pound defensive tackle will be the recipient. Smear would tear the legs off a Texas Longhorn, but told Ohio University's bad-legged quarterback, Cleve Bryant, before the game, "Don't worry about anything. No one on this team will be going for that knee."

Bryant came out of the game without a scratch and Smear came out as the best sportsman in the country and justly deserves the honor that will be given him tonight.

[From the Boston Herald-Traveler, Jan. 18, 1970]

PENN STATE COACH LAUDS SMEAR: PATERNO PROUD OF NELSON AWARD WINNER

"Steve Smear is the type youngster who despite the flavor of the times proves that love of God, family and country is never out of style—that it will never die, but instead live forever.

"With that kind of integrity, our country cannot fail."

That's how Swede Nelson toasted the 24th recipient of his annual prize—the Nils v. Nelson Award for Sportsmanship—as Smear was honored by more than 500 last night at the Gridiron Club of Boston's spectacular at the Sheraton-Plaza.

Smear is the second-team All-America defensive tackle who has co-captained Penn State the past two seasons to its 30-game unbeaten streak, college football's longest.

The 6-1, 233-pounder was selected for the national award—among 51 candidates from 18 states—for a galaxy of sportsmanship instances, no one single fair-play act.

"Completely overwhelmed," the Johnstown, Pa., resident who was flanked by two people he insisted upon accompanying him to Boston to share the award—his widowed mother, Anna, and his parish pastor, Rev. Joseph Fleming.

"When all is said and done in our school's history," said Penn State coach Joe Paterno, the former Brown star in the late-1940s, "Steve is the ony boy who may just have meant most to putting Penn State at the football level it enjoys.

"I've never had another boy of his quality in my 20 years at Penn State—nor do I expect another. He is so completely unselfish, so extraordinary a leader. The fact that Steve was elected captain his junior year as well as his senior season reflects that his teammates have the same respect.

"I don't know what I'm going to do without him. As I said a year ago when there was talk about me joining the Pittsburgh Steelers as coach, "As long as Steve Smear is around, I'm going to stay.

"He's this kind of kid. Our last loss was 17–15 to UCLA during Steve's sophomore year. It was a frustrating loss—chasing Gary Beban all over the field and finally losing on a blocked punt late in the game. Yet when it was over, Steve sought out Beban to congratulate him and tell him what a thrill it had been to have played on the same field with him.

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"And I could give so many other examples.

"So, I'm proud and honored that Steve has been selected recipient of the Swede Nelson Award. I've always felt it was a great honor—none more important in the country."

Smear—who hopes to play pro as a middle linebacker—agreed.

"I'm completely overwhelmed and I feel there are others in the country more deserving of this great honor than I," said the 21-year-old education major, who was described by Fr. Fleming as the "epitome of courage, sportsmanship and unselfishness."

"So, my thanks to everyone responsible for it. And my thanks also to everyone for making me feel so completely at home in Boston, too."

Smear—who'll be honored with a testimonial dinner in his hometown March 16, when it's expected to be proclaimed "Steve Smear Day" in Johnstown—spotlighted his mother and Fr. Fleming.

"Whenever an athlete receives such a prestigious award, he is remiss if he doesn't give his teammates credit, for no man achieves alone," he said. "So I share this award in particular with two people from my 'team of life'—my mother and Fr. Fleming.

"I can't say enough for both of them—and how they've been so responsible for what success I've been fortunate enough to have had."

Smear—who has two older sisters, both married—added on his mother:

"She has had such a hard life and sacrificed so much for me. She was both father and mother to me. My father died when I was two months old. And when my mother remarried years later, she was widowed again after less than a year when my stepfather died.

"So my mother worked hard all my life. She owns a bar, and made it go where others couldn't. Although she has two capable bartenders, she'd always be there closing the place at 1 or 2 a.m., then back again to set up for the next day at 7 a.m.

"So I owe her so much."

Smear—of Croatian descent—doesn't know what to expect in the upcoming pro draft.

"I want to play pro very much, but have no idea what's going to happen in the draft—although I'm a bit pessimistic about being chosen high," said the youngster, who helped Penn State to a 30-2-1 record in his three varsity seasons—missing an undefeated career by a total of three points: a one-point loss to Navy along with the two-point defeat by UCLA.

"Part of the puzzle is that I'll have to convert from tackle to linebacker, and the question is how well the pros think I can make the transition.

"I think I can make the switch, and I am looking forward to the challenge. I think I have speed enough to be a linebacker, and size enough—pro scouts telling me 225 is big enough. And I don't feel being the defensive signal-caller would present a real problem.

"I have no preference in teams. I just hope the team that drafts me needs linebackers so I won't get buried or lost in the shuffle."

Smear added that it was "frustrating" playing for Penn State this season—"not duly recognized nationally and often belittled" despite its record and unbeaten streak.

Who would have won in a showdown—Penn State or top-rated Texas?

"It would have been a great game," Smear grinned.

[From the Boston Globe, Jan. 18, 1970]

Paterno Rejected Pros To Stay With Smear

(By Clif Keane)

They made tackle Steve Smear of Penn State sound like an old fashioned kid that you'd like to take home with you.

Smear was awarded the annual Nils V. (Swede) Nelson trophy last night at the Sheraton Plaza by the Gridiron Club of Boston, for outstanding sportsmanship.

What took the greatest grip on the selection committee was the two-time Penn State captain's request to have his parish priest, Rev. Joseph V. Fleming of Johnstown, Penna., and his widowed mother along with him at the dinner attended by 500.

Clean-shaven and short-haired, Steve was called by his outstanding coach, Joe Paterno, "a lad we've never had the likes of at Penn State. No man of his quality in my 20 years there. We have never had a better captain, and he is the only man ever to be captain two years.

"Will he be a good pro? He will be the next Sam Huff in a couple of years, a great linebacker in the making. He played this game with class, to win and not to injure anyone.

"I was offered the job as a coach at Pittsburgh with the pros a year ago, and my answer was 'I want to stay at Penn State as long as Steve Smear stays there' and I meant it."

Fr. Fleming remembered Steve since the fourth grade at St. Andrews in Johnstown. "He was our first great athlete," said Fr. Fleming. "He won the American Legion medal and was the outstanding athlete around, and the boy has been without a father since he was two months old.

"He has great courage, sportsmanship, unselfishness and gratitude," said Fr. Fleming.

Steve, with hands like pitchforks, wants to be a pro and has heard from many clubs, with emphasis from Dallas and Los Angeles. "I think the Patriots got in touch with me," he said. "But I want to be a linebacker in the pros, and I will give 150 percent.

"After the pros, I would like to go into public relations," he said, and he seemed to fit the bill since he never stopped smiling all evening.

Steve was the 24th pick over the years for the Gridiron Club."

Joe Zapustas was toastmaster of the dinner. Also at the head table were: past presidents John Kelleher, Thomas E. Lynch, Jr., Dr. William Ohrenberger, Paterno, President Robert V. McCabe, Nelson, David Lucey, Dick O'Connell of the Red Sox, Edward Powers of the Garden, Mike Holovak, Secretary Joe Blumsack, Joe Yukica, B.C., John Barry of The Globe sports staff, treasurer John J. Cavanagh, Rev. Fleming, Rev. Vaughn Shedd, George "Red" Hill, football official.

[From the Boston Globe]

Smear's Trademark: He's "Totally Uselfish"

(By Marvin Pave)

Last December 8, Penn State football coach Joe Paterno wrote a letter to the Gridiron Club of Boston.

"I have been familiar with and admired what your club has done to promote a good sportsmanship," he said. "Because of Steve Smear's complete commitment to the ideals from which the Swede Nelson Award stands, I am submitting his name for consideration by your committee."

Smear's name was one of 51 from 18 states eventually presented to the committee. The rest is recent history. Smear was honored before a gathering of 500 at the Sheraton Plaza last Saturday night. He was the 24th recipient of the Swede Nelson Award for Sportsmanship.

At his side were his mother, Anna, and Parish Priest, Rev. Joseph Fleming. Paterno was also there to honor his co-captain of the past two seasons, and he said of his 6-1, 233 pound tackle, "He's deeply religious, totally unselfish and typifies everything that is good in intercollegiate football."

Much of the Steve Smear story can be traced through Paterno's words—"deeply religious, totally unselfish"—and further told through the presence of his mother and Rev. Fleming.

Nothing came easily to Smear. His father died when he was two months old and his mother worked many late hours in her Johnstown, Pa. tavern to help her family.

"She sacrified a great deal for me," said Smear Saturday, "and I'll never be able to repay her completely for it."

Growing up under those circumstances along with two older sisters gave Smear an early sense of responsibility. His unselfishness was later realized by his college teammates.

Smear is the first man in Penn State football history to be elected captain for two seasons. Paterno knew he had a good football player in Smear, but as he said Saturday, "Steve made a tremendous improvement after his sophomore year. He worked very hard to become even better. That's his attitude. I've never had another boy of his quality in all my years (20) at Penn State—and I don't really expect another."

The next step for Smear is pro ball, probably as a linebacker, and Paterno wasted little time in predicting that Steve would "become another Sam Huff in a couple of seasons."

Joe didn't rule himself out of a professional post either. He said he's interested in a couple of clubs (not mentioning them specifically) and might sign as a pro coach in the future.

Paterno had a chance to coach the Pittsburgh Steelers a year ago. He declined the offer. "I told them I wanted to stay at Penn State as long as Steve was there—and I was sincere," said Joe.

H. RAP BROWN VICTIM OF THE JUDICIAL DOUBLE STANDARD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. CLAY. Mr. Speaker, there is much confusion, controversy and dialog surrounding the trial of H. Rap Brown now taking place in Bel Air, Md. Mr. Brown who has spoken out against racial injustices with the revolutionary fervor of other great American Patriots as Thomas Paine, and so forth finds himself threatened with imprisonment not because of an overt illegal act but because in a speech he was accused of inciting to riot.

Mr. Speaker, let us assume just for the sake of argument that Mr. Brown did advocate and encourage others to violate the law. Let us further assume that such statements are not protected by constitutional guarantees of free speech. Then we would have to assume that it would be proper to arrest and prosecute Mr. Brown to the full extent of the law. I hope that all law-abiding and conscientious citizens agree with these assumptions.

So, Mr. Speaker, now that we are all in agreement about the seriousness of such an act and the need to severely deal with those who violate the laws, then perhaps all of us would agree that in order for laws to be just and fair they must be uniformly applied and prosecuted. Certainly no law-abiding citizen

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committed to and understanding justice could object to this.

Mr. Speaker, if this is the case, my conscience compels me to pose questions of a more searching nature. I must now ask the $64.000 question: If Mr. Brown has committed a crime which merits prosecution, why is the Congressman from South Carolina not being prosecuted? Are we to believe that his inflamatory speech, inciting a mob at Lamar, S.C. to riot not a violation of the law? Or should we believe what everyone in this country knows to be the truth—that a double standard of justice exists—one for whites and one for blacks?

Mr. Speaker, I commend to my colleagues the following article which was written by Clarence Hodges and appeared in the St. Louis Argus, March 13, 1970:

JUST A WEEK

(By Clarence E. Hodges)

On Monday of this week, H. Rap Brown, the militant former head of SNCC was brought before a "court of justice" for allegedly committing arson and inciting to riot. History will underscore the events of this trial as a near-sighted system seeks to discourage vocalization among thinking blacks. Brown, who wears the kind of natural that Frederick Douglas wore, has been discredited by those who wish to keep blacks in the "disadvantaged" ranks the same as those who wanted to keep blacks in slavery discredited Douglas.

It is almost ironic that this week marks the birth of other black leaders like Dr. Ralph D. Abernathy, the head of SCLC, Floyd McKissick, the former head of CORE, J. B. DeSable, the founder of Chicago and Harriet Tubman, the black female abolitionist. When asked the secret to her success after leading over 300 blacks from slavery in the South to freedom in the North, she pulled a loaded revolver. When a freedom seeker grew scared and wanted to turn back, she placed the barrel between his eyes and ordered "forward march'. It was clear to Miss Tubman and all the slaves that violence was as American as "apple pie". She and the blacks were not, however, responsible for this violence but the "white racism was responsible."

The Warren Commission stated Brown was not responsible for the violence in Cambridge, Maryland, but the police chief was at fault. Why then is Rap in Court instead of the chief. Who was responsible for the white mob attacking the bus load of black students in opposition to bussing in Lamar, South Carolina. Vice President Spiro Agnew, who has made many speeches about busing said, "It's a shame." Perhaps H. Rap Brown should have said, "it's a shame", regarding the burning in Cambridge, Maryland.

SENATE—*Wednesday, March 18, 1970*

The Senate, as in legislative session, met at 10:30 o'clock a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Lord of men and nations, giver of every good and perfect gift, with thankful hearts for Thy providential care over us and this Nation, we lift our morning prayer to Thee. May we hear Thy voice above all other voices, see Thy word above all other words, perceive Thy truth above all falsehood, and walk with Thee in our daily duties.

As stewards of the Nation's welfare, may we have light to find the means of plenty for all, light to find the way to liberty and justice for all, light for the pathway to peace for all.

In simple trust and reverence may we be found steadfast, always abounding in the work of the Lord, knowing that in Him and with Him our labor is not in vain. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 18, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, March 17, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR YOUNG OF OHIO TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Ohio (Mr. YOUNG) be recognized at the conclusion of the remarks of the distinguished Senator from South Dakota (Mr. MCGOVERN) for not to exceed 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the Senator from Ohio (Mr. YOUNG), there be a time limitation on statements of 3 minutes in relation to the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Chair recognizes the Senator from South Dakota (Mr. MCGOVERN) for 30 minutes.

A NEW OPENING FOR PEACE IN SOUTHEAST ASIA

Mr. McGOVERN. Mr. President, the recent Pathet Lao peace proposal offers a new opportunity for working toward a negotiated settlement of the conflict in Southeast Asia.

The American people's clear unwillingness to become enmeshed in another major military campaign in Laos makes all the more evident the folly of downgrading negotiations at Paris. The Pathet Lao proposal could be the first item on a new and serious agenda for moving toward a peaceful settlement in both Laos and Vietnam.

There should be no mistaking the urgency of the situation. In this country the policy of Vietnamization may have succeeded in achieving a temporary respite from sharp discord and division, but we are headed for even greater disillusionment as the futility of the policy becomes clear.

We have new signs of such futility in Vietnam now. The people of that embattled country are accumulating the agonies of heavy bombardment and intensive conflict. Ironically, to the extent that Vietnamization is practiced, the damage is done more by their own countrymen armed, of course, on one side by Russia and China and on the other side by the United States. If Vietnamization "works," it means a long and bloody war by proxy with outside powers arming and financing the Vietnamese people to kill each other. Simultaneously, as the American presence is reduced, the Thieu-Ky government becomes more repressive, even arresting and sentencing elected members of the South Vietnamese Assembly who dare to express independent views. The myth of the Thieu-Ky regime as the embodiment of self-determination becomes less and less viable even as a myth.

Events in Laos compound my concern. It is only slightly less appropriate today than before President Nixon's recent statement on Laos to question the clandestine nature of U.S. operations in that country. But if we have less reason for objections to secrecy, we have all the more cause for dismay over the policy and its meaning.

The President informed us that the explicit instructions of Congress on the use of combat forces in Laos have not been violated. Yet he confirmed the presence

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of American personnel involved in military training, advisory and logistic assignments, and he confirmed bombing by U.S. aircraft in areas which have no direct connection to the interdiction of infiltration routes into South Vietnam. He described an American role which imperils the independence of another Asian country, and he listed actions and reactions in such a manner as to recall the seemingly restrained steps that drew us into a major war in Vietnam.

The return to the Plain of Jars region by Communist forces has been read as part of a plan to take over or at least threaten Vientiane, the Laotian capital. Some sources have presumed that the next step would be a demand from Laos that we end our bombardment of Laotian territory. And they assert that if we must comply with such a demand the process of Vietnamization must end because Vietnamese forces cannot do effective battle with an enemy which has free use of the Ho Chi Minh Trail network.

So the President specifically did not rule out the possibility that American ground forces may ultimately be needed in Laos if our objectives there are to be accomplished.

His statement raises two deeply disturbing prospects.

The first is that our own actions have served to reveal that Souvanna Phouma's government survives not because we are standing firm next door in Vietnam or because we are involved in Laos but because North Vietnam is willing to restrain a land force that could take Laos anytime it wishes unless we are willing to send in a large force of ground troops.

The process got its start last September when General Vang Pao, with guerrillas supported and assisted by the Central Intelligence Agency and with regular forces backed by the U.S. Army and Air Force, pushed across the Plain of Jars region and retook territory held by the Pathet Lao for some 5 years. It will, of course, be asserted that by their presence the North Vietnamese had never respected the 1962 Geneva declaration on the neutrality of Laos, yet there was relative stability and safety for the Laotian Government for all of those years—until General Pao's offensive.

He was encouraged in this venture by U.S. advisers, and he was given massive amounts of logistical support. Presumably we saw it as a method of harassing Hanoi's use of the trails into South Vietnam. We had found our adventurous, indigenous general. But by most accounts he was unrepresentative of the overall Laotian attitude toward Hanoi, as indicated by the fact that last year Souvanna Phouma offered the North Vietnamese free use of the trails if they would withdraw their forces from elsewhere in the country. So, under political strictures against expanding our own side of the Vietnam war into other countries, we expanded it by proxy.

It was a foolish step for many reasons; certainly because of the inadequacy of Laotian forces to defend against any serious response from the other side. Thus far that response has gone no further than recapture of the Plain of Jars, but we are painfully aware that if Hanoi regards the likelihood of more harassment as serious enough they can quite easily overrun the whole of Laos—unless the United States sends in ground forces on a significant scale.

We have no commitment to defend the Laotian Government, nor are we the unilateral guarantors of its neutrality. Yet we have placed its safety on the line for the sake of our own position in Vietnam. Again we have, through the secret activities of a secret American agents, advanced to a war environment without the knowledge or approval of Congress or of the American people. We have traveled this route before, with tragic results, yet we are apparently still unable to keep close control over our advisers and military personnel in Laos.

The second revelation prompted by events in Laos concerns the Vietnam war itself. It is the supposition that the process of Vietnamization is not only affected by but actually depends upon our ability to check the flow of men and supplies along the Ho Chi Minh Trail. I think it is fair to say that that was the thrust of the President's message—that we are in Laos because of our desire to protect our forces in South Vietnam.

Let us recognize that this is a new precondition for ending U.S. involvement in Vietnam. It lends decisive support to those of us who have contended that Vietnamization is, not a formula for removing our forces, but a posture to improve the appearance and alleviate some of the pain of an open-ended commitment to defend the Thieu-Ky government with American blood and treasure. It assures that Americans will be required to fight and to pay so long as our client in Saigon needs help. It will need massive help for many years into the future.

Surely we cannot, at this late date, have illusions about the actual military worth of aerial bombardment as a means of checking the movement of troops and supplies in a jungle war.

It is true that bombing brings relatively few casualties, and therefore appeals to those who count the cost of war only by looking at the comparative body count. Yet the incredibly intensive bombing of North Vietnam before it was stopped had little military effect—in fact, the flow of troops to the south mushroomed while the bombing was at its heaviest. There is strong evidence that our heavy bombardments, while costing the United States hundreds of pilots and billions of dollars, served only to unite the people of North Vietnam while turning world opinion against our policy. The entire North Vietnam bombing campaign was a military flop.

Now, according to the President's own statement, we know that our heavy bombing of the trails in Laos has failed to prevent the flow of some 500,000 men over those routes into South Vietnam—100,000 came in the last 15 months alone. I suspect that one reason why the level of bombing was not disclosed in the President's statement was a fear that to do so would have exposed the futility of this tactic, despite its fantastic cost.

There is but one means of seriously interfering with Hanoi's use of the trails, and that is to attack them with ground forces on a very heavy and bloody scale. This is a policy which I would earnestly hope we are not even considering.

If Vietnamization depends upon having a meaningful effect on infiltration, therefore, the true import of President Nixon's statement is that we must get into Laos in order to stay in Vietnam or enable President Thieu to stay in power.

Thus the domino theory is working, but in reverse. We said we went into South Vietnam to prevent the threat there from upsetting the dominos next door. Now we say we must bomb Laos to hold the line in South Vietnam, because we are in South Vietnam, and the next step—if we pursue our present course logically—will be to send ground forces, and that I cannot believe American public opinion would sustain.

Thus is exposed the folly of the administration's Vietnamization policy. It is shown up in the capacity of the North Vietnamese to marshal so large a force in Laos; for if Hanoi can so rapidly augment its military power there, it clearly has the capacity for equivalent augmentation in South Vietnam whenever the time seems propitious to meet their timetable. It is shown up in the need for extensive operations in Laos to protect our position in South Vietnam, even when South Vietnamese forces have the help of some 460,000 Americans and Vietnamization is not even really underway.

The domino theory and other obsolete strategies have done enough damage in Southeast Asia. The danger from our increased military involvement in Laos makes it even more imperative that, in accordance with the expectations of the American public that elected President Nixon to office, the administration give priority to negotiations ahead of military strategies in trying to reach a settlement in Vietnam.

Clearly any Laotian settlement requires agreement between Hanoi and Washington. The 1962 Geneva settlement negotiated by Ambassador Harriman was, to be sure, not a perfect document, but it was far wiser than sending an American army into Laos, but neither that agreement nor any other can guarantee the stability and independence of Laos so long as the war in Vietnam rages next door. For so long as American or Saigon military forces are being supplied by sea and air lanes controlled by the United States, just so long will Hanoi feel obligated to maintain a sufficient military presence in eastern Laos to keep open a major supply route there in order to arm its forces in South Vietnam. Adherence to the policy of Vietnamization and downgrading of the Paris talks is, therefore, clearly incompatible with extricating ourselves from the Vietnamese war and preventing a deeper involvement in Laos.

President Nixon has taken what could be a first hopeful step in moving back toward negotiations by stating that it in his policy to restore the 1962 Geneva agreements on Laos. I applaud him

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for his statement on that score. It may not be possible to get Britain and Russia to resume their roles as cochairmen in reconvening that conference or in reaffirming it, but the Pathet Lao has made it clear that it wishes a settlement in accordance with those same Geneva Accords, and Hanoi has endorsed its proposal.

This provides the United States with a major diplomatic opening for resuming high level negotiations in Paris. I think we should grasp it quickly.

The Pathet Lao's five-point peace plan proposed on March 6, is, in general, consistent with the provisions of the 1962 Geneva accords on Laos which the United States has fully endorsed. In its formula for a political settlement, it is also strikingly close to that advanced in May 1969, by the NLF for South Vietnam. It calls for the formation of a coalition government and the eventual election of a neutralist government. It asks that the United States end its military operations in Laos which, in any event, have been largely ineffectual and highly embarrassing to us.

Mr. President, I suspect that, without regard to the Pathet Lao proposal, many Americans, perhaps the majority of Americans, wish that we would end our military operations in Laos. It further calls upon all nations to respect the independence, neutrality and territorial integrity of Laos as provided by the 1962 Geneva settlement.

But it introduces a promising new feature found in neither the 1962 agreement nor the NLF's proposal. The new provision helps overcome one of the weaknesses of the coalition government provided for in the Geneva accords—the lack of protection for all participants in the coalition. It calls for the establishment of a so-called security zone that is free from all attempts at sabotage and pressure by forces inside or outside Laos designed to insure the normal functioning of both a new provisional coalition government and the transitional consultative political conference which is to organize it. Application of this provision in Laos might well increase the possibility that a reconstituted Geneva formulation for a political settlement could work more satisfactorily than before.

Acceptance of this principle could also provide new openings for negotiation of a Vietnam settlement. It might help remove some of the doubts and worries of those in Saigon and in the United States who oppose the idea of a coalition government, by increasing security for all participating elements and reducing the likelihood of physical reprisal. At the same time, it might help overcome the NLF's unwillingness to consider the present formula advanced by the United States and Saigon, in which it is invited to serve on an electoral commission based in a city controlled by the police and army of its opponents.

I suggest, therefore, that we inform the Pathet Lao, Hanoi, and the National Liberation Front that we find enough of value in their peace proposals to make them a worthwhile basis for negotiations designed to end the war in Southeast Asia.

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Let me say, Mr. President, that I do not imply by that that we need to accept out of hand all of these proposals in advance, but simply that we are willing to accept them as an agenda to get negotiations started in which each of those points and other matters could be the subject of discussion. The President should, of course, elevate those negotiations to appropriate stature by sending a chief negotiator with full ambassadorial rank.

It is time we stopped approaching the negotiations from the standpoint of a nation still convinced that it can achieve military victory or even part of which thinks we can achieve a military victory. I think we cannot and will not achieve that goal.

Nor should we look at them through the eyes of a narrowly based South Vietnamese Government seeking to perpetuate its power at our expense. The interests of the Thieu-Ky government are, I believe, increasingly at variance with our own. If it is our national honor we seek to preserve, and that being the case, then let us recognize that our honor is battered and sullied by our embrace of that regime, at a time when they are engaged in such outright repression against their own people.

If there is a new Nixon Doctrine for Southeast Asia—a doctrine which foresees balances struck by local forces without the guarantee of American involvement at the first faltering of an anti-Communist government—then let us reflect it in practice.

Let us move seriously toward a settlement now, before the simple lives of still more Asians are disrupted and destroyed, and before still more American lives are lost in a futile cause.

Mr. President, in the past several hours a new element has been raised with the deposition of Prince Sihanouk of Cambodia, another nation bordering South Vietnam. The United States has maintained uneasy relations with Sihanouk's government since last year.

The fragmentary reports I have heard indicate that he has been overthrown from the right. No doubt more information will be forthcoming.

I hope that as the situation develops we will learn more about the U.S. role in what has occurred. It has been reported to me that we have, through the Central Intelligence Agency or other covert operations, been involved in training the rightist Khmer Serai, which is probably among the groups participating in Sihanouk's overthrow. If our aim has been to obtain in Cambodia a more hostile attitude toward North Vietnam's alleged use of that country as a staging area for its efforts in South Vietnam, then quite possibly there is a parallel with our encouragement of General Vang Pao's offensive in Laos last year. Is this another proxy expansion of the Vietnam war?

Mr. President, I yield the floor.

APPOINTMENTS BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. ALLEN). The Chair, on behalf of the Vice President, in accordance with Public Law 91-213, appoints the Senator from Maryland (Mr. TYDINGS) and the Senator from Oregon (Mr. PACKWOOD) to the Commission on Population Growth and the American Future.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, notwithstanding the order under which the Senator from Ohio (Mr. YOUNG) would be recognized immediately following the remarks of the Senator from South Dakota, I ask unanimous consent that there be a brief quorum call.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. YOUNG of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Chair recognizes the Senator from Ohio for not to exceed 10 minutes.

USE OF DEFOLIANTS IN VIETNAM—A STAIN ON OUR NATIONAL CONSCIENCE

Mr. YOUNG of Ohio. Mr. President, President Nixon has on several occasions indicated his concern over a possible massacre in South Vietnam following withdrawal of our forces. The President and those who share his concern and fear would also do well to consider the fact that hundreds of Vietnamese civilians are being killed or deformed daily by our continued involvement in that ugly civil war.

Millions of acres of arable land in South Vietnam have been ruined by poison gas sprayed since 1961 by American warplanes and helicopters. As of December 31, 1969, enough chemical defoliants have been sprayed to ruin almost 5 million acres of land in South Vietnam, an area about the size of Massachusetts—12 percent of the entire area of South Vietnam. By the end of this year, an additional 10 million gallons will have been sprayed, enough to cause a total of 7½ million acres to be polluted with deadly chemicals.

Now, we learn that large areas of Laos are also being systematically destroyed by defoliants sprayed by our warplanes. Where will this madness end?

Often lost amid the statistics of our war dead and wounded and those of the Vietcong and North Vietnamese is the fact that more than half a million Vietnamese civilians—women, children, and old men—have been killed or maimed for life by our artillery, our napalm bombing, and our use of chemical defoliants.

In South Vietnam during the past 7 years we have sprayed or dumped defoliants on the countryside, on villages and on the homes of peasant families in staggering amounts. Pregnant Vietnamese women have been ingesting in drinking water as much as 600 times the rate of concentration of pesticide poisons officially considered safe for Americans. Furthermore, where these chemicals have been used in the United States, the population has been relatively healthy and well fed. However, where they have been sprayed in lethal doses in Vietnam, great numbers of civilians are half-starved, ravaged by disease, and racked by the innumerable horrors of war. It may seem unimportant that one-twelfth of the land of South Vietnam has been poisoned for perhaps the coming 50 years. What is terrifying is that horribly deformed infants are being born due to this unhumanity.

Since defoliation began, no American or civilian official has ever publicly characterized it as chemical or biological warfare. However, there is no doubt that it is biological warfare aimed at a deliberate disruption of the biological conditions prevailing in a given area of Vietnam and Laos.

Defoliation operations in Vietnam are carried out by special squadrons of specially equipped C–123 cargo planes, each with tanks capable of holding a thousand gallons of herbicides. The official code name for the program is Operation Hades, but a more friendly code name, Operation Ranch Hand, is commonly used.

Similarly, Pentagon propagandists refer to herbicidal spraying of crops as a "food-denial program" for VC troops. This is deliberately misleading as VC soldiers in sprayed areas will receive the largest share of whatever food there is. Those who suffer and starve are the women, children, and the elderly. Dr. Jean Mayer, President Nixon's special adviser on nutrition, asserted in an article in Science and Citizen in 1967 that the ultimate target of herbicidal operations against rice and other crops in Vietnam was the weakest element of the civilian population. Dr. Mayer pointed out that in wartime South Vietnam where diseases associated with malnutrition are extremely widespread, there can be no doubt that continuing the crop destruction program will very seriously aggravate an already tragic situation.

We are spraying enormous quantities of an anticrop chemical throughout South Vietnam which for 3 years has been known to cause deformed births in test animals at a rate of almost 100 percent. It has recently been reported that at least four newspapers in South Vietnam printed stories and pictures last summer of deformed babies born in villages sprayed with the chemical called 2,4,5-T. These newspapers were promptly shut down by the Saigon militarist regime for "interfering with the war effort."

The use of this chemical has been banned in populated areas and on or near food products in the United States. Nevertheless, Pentagon officials recently announced that they would continue to use it in Vietnam, regardless of the fact that in doing so they are perpetrating a monstrous act that can result in a generation of deformed children.

This chemical is used widely in areas where the local population obtains its drinking water from rain collected in roof gutters and barrels, and where wells are sunk into soil saturated with the deadly chemical. Troops are instructed to spray it on mangrove and other trees, broadleafed crops, such as beans, corn, bananas and tomatoes, and rice to deny the VC food by rendering the soil sterile. In the process we are not only denying food to the enemy but starving innocent civilians and deforming yet unborn babies.

When a dose of this chemical given rats in laboratory tests was increased to the level a Vietnamese woman might consume in a few days in her drinking water the rate of fetal malformation rose to 90 percent and beyond. Whether the rate of human malformation from contact with this chemical is greater or less than with rats is unknown at this time. We do know that in the case of thalidomide it turned out to be greater.

Mr. President, the continued use of such deadly poisons that affect civilians as well as enemy soldiers is in my view a crime of fantastic proportions. It constitutes a stain on our national conscience that may well haunt our Nation for years to come.

More than 23 million gallons of defoliant have been sprayed in Vietnam from our warplanes and helicopters, enough to cover more than 7½ million acres or nearly one-fifth of the land area of South Vietnam. The fact that these herbicides cost taxpayers more than $160 million is inconsequential when compared with the evil wrought by them.

Mr. President, when I was in South Vietnam in early 1968 as a representative of the Senate Committee on Armed Services, I personally witnessed the horrible effects of our defoliation program and of our napalm bombing of villages and hamlets in South Vietnam. I saw in hospitals and elsewhere little children without arms or legs or horribly burned or in any one of many other ways tragically maimed for life.

Near An Khe in South Vietnam extending for a long distance in front of the barracks, headquarters, and artillery positions of our armed forces I beheld what is meant by defoliation. Miles, length and width, of what had been beautiful green forestland with humble homes of peasants were defoliated as our forces burned, destroyed, and poisoned the trees and foliage in the entire area. The land itself has been poisoned. Men, women, and children have been forcibly removed from their homes and most of them taken against their will, to miserable refugee camps, so-called. Some of our refugee camps with thousands of old men, women, and children herded together may not be as terrible as this gutted, seared, destroyed, land bereft of bushes and trees, but all except one refugee camp I saw were in exceedingly deplorable condition.

Defoliation results in destroying crops and even foliage supplying food for water buffalo so greatly needed by Vietnamese farmers. Of course, many water buffalo and other livestock have been destroyed. We are not only destroying the meager food supply of Vietnamese civilians, but also leaving the earth sterile for future generations. Vietnam, once a beautiful green paradise, is being stripped of vegetation and crops.

Unfortunately, men, women, and children trying to stay alive are being pushed closer to starvation or herded like animals into American refugee camps. It is difficult to visualize this burned-out, devastated land.

The Saigon militarist regime shows little or no concern for the hundreds of thousands of civilians who have been wounded and maimed. They are more concerned with maintaining themselves in power than in helping their own people who have become victims of the war. They treat the mass of the Vietnamese in the countryside in the same manner as the French and Japanese colonial masters who preceded them.

Mr. President, on April 22, 1915, the German Army launched a chlorine gas attack against the French Army at Ypres, Belgium, killing 5,000 and causing permanent lung damage to 10,000 others. More than a half a century later civilization seems to be so advanced that no one knows how many Vietnamese women, children, and men have died from the lethal cloud our planes and our helicopters have sprayed over the South Vietnamese countryside.

Mr. President, all Americans are hopeful that we will end our involvement in that immoral, undeclared war in Vietnam at the earliest possible date. My view that our forces should be withdrawn immediately in the same manner in which they were sent there—by ships and planes—is well known. However, it appears that the administration is determined to continue to send young Americans to fight and die in Vietnam. The President has made much of the fact that in recent months our casualties have dropped to the lowest level in 2 years. I urge him to take similar action to reduce the number of casualties suffered by the innocent civilian population of South Vietnam. I urge him to order a complete halt to the use of chemical defoliants that are poisoning the land of South Vietnam and endangering the lives of generations yet unborn.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of routine morning business with a time limitation of 3 minutes.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, as in legislative session, until 11 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. ALLEN) announced that on today, March 18, 1970, he signed the enrolled bill (S. 3427) to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior, which had previously been signed by the Speaker of the House of Representatives.

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BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. MATHIAS:

S. 3603. A bill to amend the Federal Meat Inspection Act to provide that Sta' inspected facilities after meeting the inspection requirements shall be eligible for distribution in establishments on the same basis as plants inspected under title I; to the Committee on Agriculture and Forestry.

By Mr. KENNEDY (for himself, Mr. Williams of New Jersey, Mr. Randolph, Mr. Bible, Mr. Church, Mr. Cranston, Mr. Eagleton, Mr. Fong, Mr. Hartke, Mr. Hughes, Mr. Miller, Mr. Mondale, Mr. Moss, Mr. Muskie, Mr. Pell, Mr. Yarborough, and Mr. Young of Ohio):

S. 3604. A bill to authorize the establishment of an older worker community service program; to the Committee on Labor and Public Welfare.

(The remarks of Mr. Kennedy when he introduced the bill appear later in the Record under the appropriate heading.)

By Mr. YARBOROUGH:

S. 3605. A bill to confer certain benefits under subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement; to the Committee on Post Office and Civil Service.

S. 3604—INTRODUCTION OF THE OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT ACT

Mr. KENNEDY. Mr. President, on behalf of myself, the Senator from New Jersey (Mr. Williams) and a bipartisan group of 15 other cosponsors, I introduce for appropriate reference the "Older American Community Service Employment Act."

Although our society is work oriented, the talents and skills of older persons are still frequently overlooked or ignored. There are now more than 1.4 million men aged 55 to 64 who are not in the labor force. In addition, a substantial number of persons 65 and older who would prefer part-time employment are unable to find it.

In the United States as a whole, 20 million persons are 65 or over. In my own State of Massachusetts, there are 620,000 such individuals—more than 11 percent of the population. For many of these senior citizens, retirement leads to a sense of alienation, a deterioration of their hopes, and a loss of their former feeling of importance. In terms of working contribution, retirement is not only a loss of valuable manpower, it is a loss as well of experience and talent that could help the economy in general, and older persons and their families in particular.

Several pilot programs providing part-time work for low-income elderly persons have demonstrated that they can make major contributions in their communities. Workers in the green thumb program, for example, have improved or built more than 350 roadside parks; planted more than 1 million trees, flowers, and shrubbery; and helped to restore and develop several historical sites.

The senior aides program, conducted by the National Council of Senior Citizens, has also demonstrated the appeal of part-time community service employment for low-income older persons. It has attracted over seven applicants for each of the 1,150 jobs available. In New Bedford, Mass., there were 400 applicants for 40 jobs within 48 hours after announcement of the program.

A similar enthusiastic response is also evident in Fall River, Mass., where the ratio of applicants to positions available as senior aides is 10 to 1. In Fall River, participants work at the Earle E. Hussey Hospital, St. Anne's Hospital, a Headstart program, the Marine Museum, public schools, and a local community action agency, Citizens for Citizens. Their services include work as non-instructional school aides, child-care assistants, exhibit attendants, hospital and clinical aides, and assistants in food preparation and service.

Edward J. Sullivan, executive director of Citizens for Citizens, Inc., has stated:

> For those who have been involved with this program from the very beginning and for those of us who are convinced that the term "meaningful employment" can be more than a mere concept, it is a simple matter to conclude that the program has been a success.

The enthusiastic acceptance of these programs—as well as those sponsored by the National Council on the Aging—strongly suggests that there are many low-income older persons and retirees in virtually every community willing and able to perform services. Greater utilization of their talents, experience, and knowledge would benefit not only the elderly job seeker, but the general public as well.

Present programs, however, are still very limited. A more comprehensive approach is needed to provide increased opportunities for community service by older persons.

Under the bill which I introduce today, the Secretary of Labor would be authorized to establish and administer a community senior service program for persons 55 and older who lack opportunities for other suitably paid employment. The Secretary would provide assistance to national voluntary agencies and State and local agencies in developing such programs. He could pay up to 90 percent of the cost of a State or local program, and up to 100 percent for emergency or disaster projects.

Last year, as chairman of the Senate Subcommittee on Aging, I cosponsored and worked on the Older Americans Act Amendments of 1969—which included authorization for an important new retired senior volunteer program—RSVP. RSVP is designed to encourage communities to use the talents and skills of persons 60 and over who would like to work for community betterment, and have the resources to do so for free. These individuals would serve in a variety of useful activities. They would receive no compensation except reimbursement for transportation, meals, and other out-of-pocket expenses incident to their service.

At the hearings which I conducted on the 1969 amendments, witnesses estimated that as many as 1 million older Americans might be interested in participating in RSVP. However, there are many other older persons who would like to work in needed community-service activities but are not financially able to do so gratuitously.

For many needy individuals, a program offering part-time work in the community would provide temporary employment until full-time work can be obtained. For others who do not wish to work full time, such a program would give an opportunity to remain active during their later years. For retired individuals, it can help supplement retirement benefits, which are frequently inadequate.

During hearings before the Senate Special Committee on Aging in 1968, Miss Eleanor Fait of the California State Employment Service emphasized that greater utilization of older workers can help to meet the demand for increased community services.

> The amount of work and the number of jobs are not a fixed quantity. Consider the needs of the American people, their sophisticated demands, the services they will use and don't get, their comfort and recreational standards and the amount of machinery needed to maintain these standards. There is literally no end in sight to the services the American people want and will pay for.

Later she added:

> Perhaps, if the time, money and effort now spent in trying to sideline these workers were spent in developing employment opportunities for them, the enormous problems of this group might be removed considerably.

Mr. President, my proposed program is also in harmony with the goals advanced by the distinguished Senator from New Jersey (Mr. Williams) to provide increased employment opportunities for older persons in a broad range of purposeful activities.

As chairman of the Senate Special Committee on Aging, he has demonstrated outstanding leadership in providing concrete information about the numerous employment problems confronting older workers, and has offered far-sighted proposals to meet their urgent needs.

One of the tests of a great nation is the compassion and opportunities which it provides for its older persons. Today, far too many senior citizens believe that advancing years limit their usefulness. Far too often, old age brings loneliness and frustration—causing emotional, health, and other related problems that purposeful activity might eliminate. In fact, the later years can indeed be a time for continued self-development and contribution to the community. We have an obligation, both to ourselves and to our senior citizens, to offer the opportunity.

Enactment of the bill which I introduce today would mean significant progress in taking advantage of the experience and skills of older Americans. I urge prompt and favorable consideration.

Mr. President, I ask unanimous consent that the text of the bill, which is cosponsored by Harrison A. Williams, Jr., of New Jersey, Ralph Yarborough of Texas, Jennings Randolph of West Virginia, Claiborne Pell of Rhode Island, Walter F. Mondale of Minnesota, Thomas F. Eagleton of Missouri, Alan Cranston of California, Harold E. Hughes of Iowa, Alan Bible of Nevada, Frank Church of Idaho, Edmund S. Muskie of Maine, Frank E. Moss of Utah, Stephen M. Young of Ohio, Vance Hartke of Indiana, Hiram L. Fong of Hawaii, and Jack Miller of Iowa, be printed at this point in the Record.

The PRESIDING OFFICER (Mr. Church). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 3604) to authorize the establishment of an older worker community service program, introduced by Mr. Kennedy (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the Record, as follows:

S. 3604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older American Community Service Employment Act".

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

Sec. 2. (a) In order to foster and promote useful part-time work opportunities in community service activities for unemployed low income persons who are 55 years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter referred to as the "Secretary") is authorized to establish an Older American Community Service Employment Program (hereinafter referred to as the "Program").

(b) In order to carry out the provisions of this Act, the Secretary is authorized—

(1) to enter into agreements with public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, in order to further the purposes and goals of the Program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the Program effective or to supplement it. No payments shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals who do not have opportunities for other suitable public or private paid employment, other than projects supported under the Economic Opportunity Act of 1964, or under this Act;

(F) will result in an increase in employment opportunities for eligible individuals, and will not result in the displacement of employed workers or impair existing contracts;

(G) will utilize methods of recruitment and selection (including, but not limited to, listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(H) will include such short term training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(I) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed under such programs will be paid at rates comparable to the rates of pay prevailing in the same labor market area for persons employed in similar occupations, but in no event shall any person employed under such programs be paid at a rate less than that prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(J) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons; and

(K) will authorize pay for transportation costs of eligible individuals which may be incurred in employment in any project funded under this Act in accordance with regulations promulgated by the Secretary; and

(2) to make, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this Act.

(c)(1) The Secretary is authorized to pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area as determined in consultation with the Secretary of Commerce and the Director of the Office of Economic Opportunity.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

ADMINISTRATION

Sec. 3. (a) In order to effectively carry out the purposes of this Act, the Secretary is authorized to consult with agencies of States and their political subdivisions with regard to—

(1) the localities in which community service projects of the type authorized by this Act are most needed;

(2) consideration of the employment situation and the types of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b) The Secretary shall encourage those agencies and organizations administering community service projects which are eligible for payment under section 2(b) to coordinate their activities with agencies and organizations which are conducting existing programs of a related nature which are being carried out under a grant or contract made under the Economic Opportunity Act of 1964. The Secretary may make arrangements to include such projects and programs within a common agreement.

(c) In carrying out the provisions of this Act, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(d) The Secretary shall establish criteria designed to assure equitable participation in the administration of community service projects by agencies and organizations eligible for payment under section 2(b).

(e) The Secretary shall not delegate his functions and duties under this Act to any other department or agency of government.

PARTICIPANTS NOT FEDERAL EMPLOYEES

Sec. 4. (a) Eligible individuals who are employed in any project funded under this Act shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this Act with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self insurance, as allowed by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment. The Secretary may establish standards for severance benefits, in lieu of unemployment insurance coverage, for eligible individuals who have participated in qualifying programs and who have become unemployed.

INTERAGENCY COOPERATION

Sec. 5. The Secretary shall consult and cooperate with the Office of Economic Opportunity, the Administration on Aging, and any other related Federal agency administering related programs, with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this Act with other public and private programs or projects of a similar nature. Such Federal agencies shall cooperate with the Secretary in disseminating information about the availability of assistance under this Act and in promoting the identification and interests of individuals eligible for employment in projects funded under this Act.

EQUITABLE DISTRIBUTION OF ASSISTANCE

Sec. 6. The Secretary shall establish criteria designed to achieve an equitable distribution of assistance under this Act among the States and between urban and rural areas, but no State shall receive more than 12 percent of any money appropriated in any fiscal year to carry out the provisions of this Act.

DEFINITIONS

Sec. 7. As used in this Act—

(a) "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(b) "eligible individual" means an individual who is 55 years old or older, who has a low income, and who has or would have difficulty in securing employment;

(c) "community service" means social, health, welfare, educational, library, recreational, and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; anti-pollution and environmental quality efforts; economic development; and such other services which are essential and necessary to the community as the Secretary, by regulation, may prescribe.

AUTHORIZATION OF APPROPRIATIONS

Sec. 8. There are hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1971, and $60,000,000 for fiscal year ending June 30, 1972.

Mr. FONG. Mr. President, I ask unanimous consent that the remarks of the Senator from New Jersey (Mr. WILLIAMS), on the Older American Community Service Employment Act, be printed in the RECORD following the statement made this morning by the Senator from Massachusetts (Mr. KENNEDY).

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR WILLIAMS OF NEW JERSEY

Mr. WILLIAMS of New Jersey. I wish to associate myself with the comments made by the Senator from Massachusetts (Mr. KENNEDY) concerning the introduction of the "Older American Community Service Employment Act."

Hearings conducted by the Senate Special Committee on Aging, of which I am Chairman, have forcefully pointed out that many older individuals feel the impact of their age regarding employment opportunities several years before they reach normal retirement age. For example, during the 1968 hearings concerning the "Adequacy of Services for Older Americans," Professor Louis Levine of Pennsylvania State University stated:

". . . the older worker is caught in a 'no man's land.' He is caught in a psychological attitude that 'older' means no longer a part of society or that 'older' means some form of income not related to work, a form of retirement benefits or social security income. That is one extreme.

"At the other extreme, the older worker is caught in the crossfire of the great priority and the great premium which is placed on youth in our present-day society. It is a rather interesting commentary that we are living in a period when experience is not an asset; indeed, in many instances, is regarded as a liability."

Many of these older workers have been forced into involuntary retirement, usually at substantially reduced retirement benefits. For example, in 1968 approximately one half of all men who began to receive Social Security benefits were less than 65 years old, although 1968 was regarded as a high employment year. Generally, these early retirees are more apt to have low lifetime earnings, sporadic work, or greater unemployment in the years preceding their entitlement to Social Security than men who retire at age 65.

Most older individuals, however, would like to have more reasonable options, such as to work part-time or full time or to work for pay or as a volunteer. This bill that I am cosponsoring will help to give these senior citizens a wider range of alternatives, depending upon their desires and needs.

Employment not only provides income for older workers and their families; it means much more. A job is also something to do; a place to engage in productive activity; and a place for association.

Moreover, several studies have established that employment and productive activity can be a principal source of good health for many older persons. In addition, in a period of growing needs for expanded commmunity services, the experience and skills of older workers can be effectively utilized to meet this demand.

However, in our busy and productive Nation, there are still too many older persons who are isolated and frustrated. For many of these individuals, later years can offer a second career, such as constructive service work in their own commmunity. This would undoubtedly have great appeal for many older Americans who still feel young, although they are approaching retirement age. For retired individuals, opportunities for commmunity service can be a time to develop new interests, acquire new knowledge, and find more productive means to use their leisure hours.

In economic terms such employment can help many of these disadvantaged workers and their families to escape from poverty. In noneconomic terms there is no way to estimate the value of a job, which can replace frustration and despair with hope and opportunity.

Therefore, I also strongly urge prompt and favorable consideration of this proposal.

Mr. FONG. Mr. President, I rise to support the Older American Community Service Employment Act of 1970.

This legislation is designed to make two meaningful contributions toward bettering the lives of Americans 55 years and older.

First, it would make it possible for those in this age group to supplement their income by providing services needed in their communities, and thus improve themselves economically.

Second, it would satisfy the desire of many senior citizens to continue as active members of society and to engage in useful and satisfying endeavors.

Mr. President, for too many of our fellow Americans, reaching the golden years of their lives has resulted in a slump into dire poverty. For some of them, grinding poverty is all they have ever known. Others may have lived under moderate circumstances while working, but find it impossible to make ends meet when forced into retirement by advancing years. By any standard it would be difficult to determine which is worse: to be poor in the later years, after having been poor all one's life; or to be poor in old age after having experienced better days. They are both bad.

The most widely accepted standard used for measuring adequacy of income is that set up by the Bureau of Labor Statistics in 1960. Under that standard, it is estimated that the minimum annual income needed by an elderly couple to achieve a "modest but adequate living" is $3,000 in a large city and $2,500 in a smaller community. In 1962, half of the 5,400,000 couples headed by a person aged 65 or more had incomes of less than $2,875, and 30 percent had less than $2,000.

Passage of this bill to establish the older American community service employment program would make it possible for many of these older Americans to bring their incomes up to the level of adequacy.

In addition to helping many of our elderly citizens meet their financial obligations, this program would also help meet their psychological needs and benefit their physical and mental health. Psychologically, it would help meet the need for interesting and satisfying activities, the need to earn the respect of others, and the need to be worthy of one's own self-respect. Unfortunately, it is difficult for the younger generation, which is very preoccupied with earning a living and raising families, to fully appreciate what many of our elders go through during the long, empty days of retirement.

The bill that is being introduced today is designed to help meet that problem. It would give the elderly of our country something to do—something considerably more than a make-work or handout program. It would give them an opportunity to earn and maintain the respect of the younger people in their communities, and, at the same time, keep their own self-respect.

Mr. President, some observers have referred to the United States as a work-centered society. In addition, the traditional American point of view is that only he who works and makes a contribution is entitled to the respect of others. In the early days of our country's history, when all able-bodied men were needed to clear and till the land, there was no such thing as enforced idleness or early retirement of our elders. Thus, this outlook and way of life did not work to the disadvantage of our forefathers. However, in recent years, as compulsory retirement has become general the old lack of respect for nonworkers has carried over. Too many younger persons look upon the retired as a burden upon society. And as they in turn become old, their attitude eventually works to their own disadvantage.

Because the elderly themselves have spent a lifetime developing lack of respect for nonworkers, enforced idleness in old age can be psychologically devastating to their self-respect and self-image. In fact, since their attitude toward nonworkers were formulated many years ago, when scorn for nonworkers was stronger than it is today, their judgment of themselves may be much harsher than that of their younger compatriots.

The older American community service employment program would give older people the opportunity they need and desire to engage in service to others, and thereby to maintain their own self-respect. In addition to improving the psychological well-being of the elderly, this program could benefit their physical and mental health as well.

Studies have shown that working, at least part-time, benefits the senior citizen not only financially but in many other ways as well. It prevents a feeling of uselessness and futility. It takes him out of his loneliness and isolation and puts him into the mainstream of life. It benefits both his psychological outlook and his physical health.

An authority in the field of geriatrics, Dr. Edward F. Bortz, has said:

> Older citizens who are actively employed will be more healthy and better adjusted and consequently a less likely drain on the Public Treasury. Instead of being consumers, they will be producers and taxpayers. They will take pride in being self-supporting and in being able to provide for their own needs. It can be predicted that healthy and alert senior citizens, well utilized by the community, will make far fewer demands for medical services.

In this connection, Dr. Robert F. Powers expressed the consensus among physicians when he testified as follows:

> We feel that the key to positive health lies in struggle rather than retreat, in enjoyment rather than avoidance of stress of living. It might be said that the "wounds of combat" are definitely preferable to the decay of idleness, both from a biological and moral standpoint.

The older American community service employment program could contribute not only to the physical health of elderly participants but also to their mental health. Dr. R. H. Felix, a leader in the field of mental health and former Director of the National Institute of Mental Health, has stated:

> From the point of view of mental health, the central problem is to give the older people a sense of participation and continued purpose in life.

Mr. President, in view of the great good that this program can do not only for our senior citizens but for the Nation as a whole, I think the authorization proposed for this new program is a comparatively modest one. The act would authorize $35,000,000 for fiscal year 1971 and $60,000,000 for fiscal year 1972. With this small investment we can help our country's senior citizens improve their economic position; we can benefit this age group psychologically; we can improve their physical and mental health; and we can meet needs in every community of the Nation which would otherwise go unmet. As a matter of fact, it is not too much to hope that this small expenditure will pay for itself, at least partially, by improving the health of the elderly and reducing their need for health care under medicare, and by turning many of them into productive taxpayers.

Mr. President, if we give our country's elderly the opportunities represented by the Older American Community Service Employment Act, we will be able to say with the Poet Longfellow:

> Age is opportunity no less than youth itself, though in another dress.

ADDITIONAL COSPONSORS OF BILLS

S. 3541

Mr. HRUSKA. Mr. President, I ask unanimous consent that, at the next printing, the names of the junior Senator from Florida (Mr. GURNEY), and the junior Senator from Oregon (Mr. PACKWOOD) be added as cosponsors of S. 3541, the amendments to the Omnibus Crime and Safe Streets Act of 1968.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

S. 3552

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Hampshire (Mr. MCINTYRE), I ask unanimous consent that, at the next printing, the names of the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Nevada (Mr. BIBLE), the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mr. MONDALE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Maryland (Mr. TYDINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Missouri (Mr. EAGLETON), and the Senator from Illinois (Mr. PERCY), be added as cosponsors of S. 3552, to provide certain privileges against disclosure of confidential information obtained by newsmen.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

S. 3565

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Hampshire (Mr. MCINTYRE), I ask unanimous consent that, at the next printing, the names of the Senator from Nevada (Mr. BIBLE), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. YOUNG), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Oregon (Mr. HATFIELD) be added as cosponsors of S. 3565, to provide for the establishment of national standards for warranties made with respect to consumer goods distributed in or affecting interstate commerce, and for other purposes.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

S. 3595

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Nevada (Mr. BIBLE) I ask unanimous consent that, at the next printing, the name of the Senator from New York (Mr. JAVITS) be added as a cosponsor of S. 3595, to establish a Commission on Security and Safety of Cargo.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Without objection, it is so ordered.

SENATE RESOLUTION 369—RESOLUTION SUBMITTED RELATING TO PRINTING AS A SENATE DOCUMENT THE REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE ENTITLED "THE COST OF CLEAN AIR"

Mr. RANDOLPH submitted the following resolution (S. Res. 369); which was referred to the Committee on Rules and Administration:

S. RES. 369

Resolved, That there be printed as a Senate Document, with illustrations, the second report of the Secretary of Health, Education, and Welfare, entitled "The Cost of Clean Air", submitted to the Congress in accordance with section 305(a), Public Law 90–148, the Air Quality Act of 1967, and that there be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

SENATE RESOLUTION 370—RESOLUTION SUBMITTED RELATING TO PRINTING AS A SENATE DOCUMENT A REPORT FROM THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE ENTITLED "PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION"

Mr. RANDOLPH submitted the following resolution (S. Res. 370); which was referred to the Committee on Rules and Administration:

S. RES. 370

Resolved, That there be printed with illustrations as a Senate document the third report of the Secretary of Health, Education, and Welfare, entitled "Progress in the Prevention and Control of Air Pollution", submitted to the Congress in accordance with section 306, Public Law 90–148, the Air Quality Act of 1967, and that there be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

SENATE RESOLUTION 371—RESOLUTION SUBMITTED TO PRINT AS A SENATE DOCUMENT A REPORT FROM THE SECRETARY OF TRANSPORTATION ENTITLED "TERRITORIAL HIGHWAY STUDY—GUAM, AMERICAN SAMOA, VIRGIN ISLANDS"

Mr. RANDOLPH submitted the following resolution (S. Res. 371); which was referred to the Committee on Rules and Administration:

S. RES. 371

Resolved, That there be printed with illustrations as a Senate document a report, "Territorial Highway Study—Guam, American Samoa, Virgin Islands", submitted to the Congress by the Secretary of Transportation, in accordance with the requirements of Section 29(b), of the Federal-Aid Highway Act of 1968, Public Law 90–495, and that there be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

SENATE RESOLUTION 372—RESOLUTION SUBMITTED TO PRINT AS A SENATE DOCUMENT THE REPORT OF HEALTH, EDUCATION, AND WELFARE ENTITLED "NATIONAL EMISSION STANDARDS STUDY"

Mr. RANDOLPH submitted the following resolution (S. Res. 372); which was referred to the Committee on Rules and Administration:

S. RES 372

Resolved, That there be printed as a Senate document, with illustrations, a report of the Secretary of Health, Education, and Welfare, entitled "National Emission Standards Study", submitted to the Congress in accordance with section 211(a), Public Law 90–148, the Air Quality Act of 1967, and that there be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

DISCHARGE OF THE COMMITTEE ON RULES AND ADMINISTRATION FROM FURTHER CONSIDERATION OF S. 3594, AND REFERRAL OF THE BILL TO THE COMMITTEE ON PUBLIC WORKS

Mr. RANDOLPH. Mr. President, I ask unanimous consent, on behalf of the Senator from North Carolina (Mr. JORDAN), chairman of the Committee on Rules and Administration and chairman of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works, that the Committee on Rules and Administration be discharged from the further consideration of the bill (S. 3594), to authorize acquisition of certain property known as Square 724, in the District of Columbia, for the purpose of extension of the site of the additional office building for the U.S. Senate, and for the purpose of addition to the U.S. Capitol Grounds, and that the bill be referred to the Committee on Public Works, which considered similar legislation in previous Congresses.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 18, 1970, he presented to the President of the United States the enrolled bill (S. 3427) to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior.

NOTICE OF HEARINGS ON FINANCIAL SUPPORT TO PUBLIC TRANSPORTATION SYSTEMS

Mr. **SPARKMAN**. Mr. President, I should like to announce that the Subcommittee on Housing and Urban Affairs of the Committee on Banking and Currency will hold hearings on S. 676 and S. 3499, bills to provide financial assistance to public transportation systems to assure adequate commuter service in urban areas.

These hearings will be held on April 8 and 9, 1970, in room 5302, New Senate Office Building.

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

THE BALTIMORE SUN

Mr. **HANSEN**. Mr. President, it was with a great deal of pleasure this morning that I walked into a newsstand and found an old and very dear friend waiting for me. The Baltimore Sun is publishing again.

After 74 days of being strikebound, the Sun is once more available. Again we are able to read the truly objective and fine reporting that appears in the Sun daily. Once more we are able to peruse what must be one of the finest newspapers of the 20th century.

It is a delight and a joy to be able to say to this good friend: "Welcome back."

SCHEDULE OF APPROPRIATION BILLS

Mr. **MANSFIELD**. Mr. President, I have received a letter from Chairman Mahon of the House Appropriations Committee together with his statement and a table concerning the expeditious disposition scheduled by the House for appropriations measures during this session of Congress. I think it is clear from these materials that the able chairman is committed to a swift and efficient appropriations process with a projected timetable on all such bills, and the Senate will endeavor to do the same. If adhered to it will enable the Congress to adjourn at a reasonably early date.

I ask unanimous consent that the materials be printed in the Record.

There being no objection the material was ordered to be printed in the Record, as follows:

House of Representatives,
Committee on Appropriations,
Washington, D.C., March 17, 1970.

Hon. Mike Mansfield,
Majority Leader,
U.S. Senate,
Washington, D.C.

Dear Senator: I enclose copies of our schedule for House floor consideration of the appropriation bills of the session, with an accompanying explanatory statement.

If we can stick to it and get a lot of the bills on the books by July 1—and we have every hope of doing so—the Congress will, I believe, thereby make a substantial contribution to better management and efficiency in the Government generally.

With every good wish.

Cordially,

George Mahon,
Chairman.

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES—SCHEDULE FOR REPORTING AND FLOOR CONSIDERATION OF APPROPRIATION BILLS

Bill	Report in full committee	Floor consideration[1]
Education	Thursday Apr. 9	Week of Apr. 13.
Legislative	Friday, Apr. 10	Do.
Treasury-Post Office	do	Do.
2d supplemental, 1970	(2)	(2).
Ind. Offices-HUD	Thursday, May 7	Week of May 11.
Interior	Thursday, May 14	Week of May 18.
State-Justice-Commerce-Judiciary.	Friday, May 15	Do.
District of Columbia	Thursday, May 21	Week of May 25.
Transportation	do	Do.
Agriculture	Late May	Late May.
Foreign operations	Monday, June 1	Week of June 1.
Defense	Wednesday, June 3.	Week of June 8.
Public works	Thursday, June 4	Do.
Military construction	Monday, June 8	Do.
Labor-HEW-OEO	Thursday, June 11	Week of June 15.

[1] Exact floor dates to be worked out in cooperation with House leadership.

[2] Probably sometime during period mid-April/mid-May.

Statement by George Mahon of Texas on the Reporting Schedule for the Appropriate Bills

Working in cooperation with the House leadership, we have developed a schedule for processing the appropriation bills of the session which if adhered to will see all the regular bills for fiscal 1971 sent to the other body by June 15.

It lays the basis for a very considerable improvement in timely dispatch of the important appropriations business of the Congress.

It is realistic insofar as the status of the work of the Committee on Appropriations is concerned. We began our hearings on a number of the bills in mid-February; we have recently had as many as 11 subcommittees holding appropriation hearings on a single day. A heavy hearings schedule is continuing.

We expect to report three bills very shortly after the forth-coming Easter recess.

As we announced last year when the interminable delay in the Labor-HEW bill caused such uncertainty and disruption to planning in school districts and educational programs generally around the country, there will be a separate education appropriation bill this year. It will be the first bill reported, with the hope that this will assist in expediting final congressional enactment so that the educational community generally will have a much more definite idea of the approved Federal funding levels well in advance of the coming school year.

Of course, expeditious disposition of the appropriation bills will require the active cooperation of both bodies. The Senate Committee on Appropriations has already begun hearings on, I believe, 5 or 6 of the bills. I would hope that a very substantial number of the appropriation bills will be signed into law by the beginning of the new fiscal year on July 1 next.

In the session last year, we processed a total of 21 bills and resolutions, and finally wound up last year's appropriations business this session with adoption of an additional continuing resolution and the new Labor-HEW bill which the President signed on March 5.

Neither the new administration nor the House or Senate did an adequate job in processing the authorization and appropriation bills last year. But neither was last year's record as bad as it would seem on the surface. There were delays inherent in setting up the new administration. The bulk of the budget revisions of the new administration did not come to us until April 15. Some were received May 5. The foreign assistance budget amendments were received on June 19 and July 22. The request for the supersonic transport plane—the SST—was received on October 8.

Delays in enactment of several of the annual authorization bills were major stumbling blocks for the appropriation bills last year. Orderly achievement of the schedule for the appropriation bills this session requires timely consideration of the related authorization bills. The House has already processed some of the annual authorizations for fiscal 1971 and a number of the legislative committees are busy with consideration of additional ones. Insofar as reasonably possible, we have scheduled several major bills—for example, Defense, Military Construction, Public Works-AEC, Labor-HEW—late in the priority reporting order so as to allow maximum time for timely processing of the several authorizations on which those appropriation bills to one degree or another significantly depend.

In conclusion, I believe the fiscal and economic situation is such that, in my judgment, we must make an all-out effort to proceed with restraint and caution and hold the authorizations and appropriations as low as reasonably possible. There will be many opportunities to practice fiscal prudence. Processing the budget is the work of many hands.

The new budget for fiscal 1971 contains about $10.9 billion of new legislative proposals which will be before the legislative committees and the House.

Some $35 billion of the new appropriations for going programs are first subject to annual authorizations through a number of legislative committees.

The Committee on Appropriations will carefully screen all of the items in the budget over which it has jurisdiction, recommending reductions wherever reasonably possible. No doubt there may be some increases in certain programs.

THE MIGRATION TO THE CITIES

Mr. **TALMADGE**. Mr. President, the tremendous population shift in recent decades from rural to urban America has created problems in our cities that today cost billions of dollars and untold human suffering.

Over the years, millions of people have migrated to the city. Most of them went to metropolitan areas undereducated and ill-equipped to cope with city life, and unable to meet employment demands. Now the problem has become so frustrating, so complex, and so costly that cities lack the resources to effectively deal with it.

There is increasing recognition of the fact that urban problems and rural problems are directly interrelated. I am convinced that we will not find meaningful and permanent solutions to the crises in our cities until we secure the ways and means for alleviating conditions in rural areas that drive people to the big city in the first place.

The Atlanta Journal of March 12 contains an excellent discussion of the urban-rural situation, written by Editor Jack Spalding. He points out that one important solution can be found in the

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inducement of more industry and jobs to rural areas.

The revitalization of rural America requires an all-out effort on the part of government at all levels, Federal, State, and local. Urban interests have as much a stake in it as their rural counterparts. Unless these problems are solved, in rural areas where most of them get their start, the urban crisis will be compounded in the years ahead at even greater cost to cities and their inhabitants.

I bring Mr. Spalding's interesting column to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

[From the Atlanta Journal, Mar. 12, 1970]

REVERSE THE MIGRATION: BACK TO THE FARM

(By Jack Spalding)

The major domestic problem facing the country is the urban problem. The cities are overcrowded. They are uncomfortable. They give rise to frustrations which lead to violence.

The cities are crowded because of a flight from the country. People leave the country for many reasons. A major reason is economic. The pattern of agriculture has changed and there are fewer jobs for farmers. There also are fewer farms.

We have changed from a rural to an urban society, even in Georgia.

The rural people have moved to the urban areas. They have sacrificed space and air and sun for a slim chance at a job. A lot of them cannot hold these jobs because they do not have the skills.

The cities have been wrestling with this problem of unemployables, the slums and resultant crime for a long time. The trend really set in nearly half a century ago. It reached major proportions during World War II. When it stabilizes, it will be because there aren't many people left on the land.

The cities have not found effective ways to help these migrants. Neither have the states. The federal government has spent billions here, without much success.

Now we hear more and more of plans to keep people out of the cities by making the country more attractive. This is possible. It also may be possible to make country living so enticing that it will drain the cities of some of their surplus citizens.

This is an end to be desired.

Georgia has the beginnings of such a program. It is centered in Tifton and is under the auspices of the University System. Part of the program is to induce payrolls to rural localities. There are plenty of farm related manufacturing processes, and perhaps special concessions can lure them into lonely underdeveloped areas.

This would be a great stabilizing influence for the nation.

Rural people have roots. They are for God, home and country. The urban masses have no particular use for this trinity, having little satisfaction from any or all.

A redistribution of population would restore some balance to the nation. Currently we have little as so much of the electorate feels it has no stake in this nation's future or much say in the way its affairs are conducted.

Get people out of the slums. Restore individual dignity and perhaps this attitude will change.

Georgia is working at this problem.

Now comes word of a White House report on the same subject.

A presidential study group has recommended that the nation provide job opportunities and a better life in rural areas as a way to relieve pressure on the cities.

There seems to be more enthusiasm for this in Georgia than in Washington.

Press reports indicate that implementing this report is low on the White House priority list.

Too bad.

It is a good idea. We'd like to see it succeed in Georgia and the other urban states.

It means providing economic opportunity.

It also means providing equal justice, for many of the migrants to the cities are refugees from a system which allows brutalization of both the poor and black and particularly the combination of the two.

People come to the cities for jobs and hoping for better schooling and opportunities for their children. They're also escaping a system which reserves justice for those who run this system.

Back to the farm? Back to the country? Sure. But it is going to take a little bit more than a payroll to lure people back and even to prevent the leaving of those who are yet to make their escape.

OFFICERS' BONANZA

Mr. YOUNG of Ohio. Mr. President, in 1966 officials from the Pentagon brought before the Senate Armed Services Committee a proposal to establish a uniform services savings deposit program to replace the little used Soldiers', Sailors', and Airmen's Deposit System which had been established in 1872. That former deposit system was for the purpose of encouraging soldiers, sailors, and airmen who were not commissioned officers to deposit a portion of their monthly pay and receive interest on the sums deposited. That was not a golden haven for officers. They were not included in that program.

Then the uniform services savings deposit program which was enacted included officers from generals right down the line to enlisted men and draftees alike. The reason stated at that time was to encourage officers and men to save money instead of spending it and helping the economies of the countries in which they were located.

The program sounded good, but it was not a good, sound program. With the inclusion of officers in this new law, it was provided that interest at the rate of 10 percent compounded quarterly would be paid on deposits of up to $10,000.

The brass wasted no time in taking full advantage of the overseas savings program. My inquiry showed that a large number of officers took advantage of the $10,000 maximum, but few, it any, GI's.

I report on the basis of my information that many officers in Vietnam and elsewhere have deposited month after month the total unallotted pay received by them just as if they spent nothing whatever of their pay. It is stated that members of some officer's families and other relatives back in the United States have forwarded money which the overseas officer then deposits. If this is true and is practiced on quite a large scale, that is most unfortunate.

I have in mind drafting an amendment to this law reducing the interest paid to officers and men from 10 percent compounded quarterly on the average balance in the account. I consider this excessive. It would appear that 7 percent, at the most, compounded quarterly should be an attractive interest to be paid on such deposits.

Mr. President, I report that officers have deposited since the inception of this 10-percent-interest program a sum total of more than $387,500,000 whereas all of the enlisted men and draftees overseas have deposited a sum of money approximately $25 million less. On the average, each participating officer has deposited three times as much money as each draftee or enlisted man. In theory, this program is for officers and enlisted men. In practice, the rich harvest of benefits has been reaped by officers only.

THE PHILIPPINES FACES A MAJOR CRISIS

Mr. MANSFIELD. Mr. President, the Los Angeles Times of March 18 contains an article entitled "Philippines Faces a Major Crisis," written by Edward W. Mill. It is a timely piece by a well-informed educator and specialist in Southeast Asian affairs who has a firsthand knowledge of the situation in the Philippines.

The article helps to put the present unfortunate events in that country into more accurate perspective. What Dr. Mill is saying is that the difficulties which are occurring are not to be taken lightly even though they do not presage any immediate collapse of the Philippine Republic. However misguided the twists and turns which the demonstrations may take, however deplorable the violence, there is, nevertheless, a real problem of the social and economic ills of Philippines society which have been accumulating for many decades.

In that respect, what is happening in the Philippines is not unlike what has been occurring in this country for the past several years. Neglect or indifference or even the foreclosing of the demonstrations will not end the basic problems in the Philippines anymore than at home.

In my judgment, the present Philippine Government has no intention of neglecting or ignoring the social and economic difficulties which confront that nation. With an unprecedented popular mandate, it would be my expectation that President Marcos will do all within the power of his office to try to alleviate ills such as those to which Dr. Mill refers in his article. It would be my further expectation that policies and actions which we may pursue with respect to the Philippines will be designed and coordinated to assist and to sustain any such efforts by the Philippine Government. The Filipino people have a historic association with this Nation. It is worth trying to bring that relationship up to date and to preserve it on the basis of restraint and understanding and complete equality and mutuality.

I ask unanimous consent, that the article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

PHILIPPINES FACES A MAJOR CRISIS

(By Edward W. Mill)

Despite difficulties the Republic of the Philippines has held on to its framework of democratic institutions for the past 35 years, something of a record among the developing nations. Yet, today, this oldest constitutional democracy in Asia appears to be in its most serious crisis since the advent of the republic.

The present tensions were sparked in the last week of January when President and Mrs. Marcos were almost assaulted on leaving the National Congress where Marcos had just delivered his state of the union message. On Jan. 30, an estimated 2,000 persons attempted to storm the presidential palace.

Elements of various student, labor, and farmers' groups took part in the violence. In February and March, the American embassy became a particular target of the demonstrators, and Ambassador Henry A. Byroade presented sharp protests to the Philippine government over the lack of protection given the embassy.

In the aftermath of the attack on Jan. 31, the president bitterly denounced the disorders as Communist-inspired and said that the aim of the rioters was "the destruction and seizure of the seat of government." While the president's statement deserves careful heed, it would be superficial to write off all the difficulties in Manila as being due simply to this one cause.

PROBLEMS ARE SURFACING

There are more fundamental, long-standing ills and grievances in the Philippine society and body politic, which are being brought to the fore more strikingly than ever before. Moreover, the recent elections, with the huge landslide victory for Marcos and the massive spending involved, stirred resentments which have been slow to subside. At least nine particular problems may be cited to indicate why there is restlessness and disorder today.

Poverty

As in so many of the new nations of Asia and Africa, most of the people are extremely poor. Perhaps 70% of the population subsists on less than $200 a year. There is a wide gulf between the elite business, landlord, and government group at the top and the great mass of people below.

In the provinces and in the barrios, the people, cut off from influence with the decision-making groups in Manila, have in the past been slow to react to their status. But in an age of vastly better communications, hey are now stirring and responding to various leaders who promise them a better day. In the cities, particularly Manila, the poor have become much more militant, and many of them have taken to demonstrations and forceful actions to achieve their goals.

Population pressures

The problem of poverty goes hand in hand with the problem of the population boom; the Philippines continues to have one of the highest birth rates in the world. In 1950, the population was 20 million; in 1960, it was 27 million; now it is about 37 million, and by the end of the 1970s, it will probably be about 50 million. The current, annual 3.5% increase in population imperils the economic growth rate, now down to about 2.7% a year per capita.

Unemployment

The Philippines for years has had a serious unemployment problem. Among the most seriously affected are the graduates of the numerous Philippine colleges and universities. In the past decade, the number of college students has doubled to about 550,000.

Many of these students will, upon graduation, find themselves jobless or unable to find jobs suited to their years of training. They will often run into all sorts of favoritism or petty graft in getting an appropriate job. Obviously, some of them become receptive targets of elements seeking to bring about sweeping change in the society.

Corruption

No one facet of Philippine life has probably been more publicized and agonized over than the actual and alleged forms of corruption that exist. Most Philippine leaders in the past have been highly sensitive to discussions of this subject in the Western press. Yet, any careful observer of the Philippines can hardly fail to concede that this is a social evil of the worst sort.

Politics

The national game of the Philippines has, over the years, been politics. Hardly does one election end when maneuvering and preparation for the next one starts.

Party loyalties are loose and flexible, with shifts from one party to the other commonplace. The danger with the present brand of Philippine politics is that it often degenerates into personal wars which utterly fail to come to grips with the outstanding problems of the day. This is not to say that all politicians have this approach; many of them are dedicated to the issues, but too often personalities carry the day to the neglect of all else.

Dishonest election practices

Since 1946, when the Philippines formally achieved its independence from the United States, six presidential elections have been held, and the Philippines has been looked to by many as a leader in the struggle for democracy in Asia.

Yet, as time has gone on, much of this worthy record has been steadily compromised and undermined by the growth of dishonest election practices. These include buying of votes, the intimidation of voters and candidates, and fraud in the counting of the ballots. Violence has marred almost all major Philippine elections. Massive spending has become an ominous feature of recent Philippine elections, notably the last one.

GROWTH OF NATIONALISM

The ills of any society provide rich fodder for those who would seek to bring about change, either peaceful or violent. In the Philippines, there has been a marked growth in so-called nationalistic activities during the past decade. Much of this activity has come from the campuses of the country. Also active in the cause are some labor and farmer groups.

Significant in the largely Catholic Philippines is a growing reform movement within the church. The head of the well regarded Ateneo University, Pacifico Ortiz, has spoken out strongly for change. Former Sen. Raul Manglapus, who for years has sought meaningful land reform, heads the Christian Social Movement, a more moderate "enlightened middle class" group, which seeks to build a reform-minded Christian democracy comparable to those in Western Europe at the end of World War II.

The forms of action these different groups have taken and advocate vary. The one thing they all seem united on is the desire for change and improvement in social and political. But there is hardly any unity of opinion on the specific actions to be taken. Many of them seek change through peaceful action in the halls of Congress and through executive action. Others are far more impatient and demand militant action now. Some of them seem bent on saddling the United States, and its symbol, the American embassy in Manila, with responsibility for most of the evils of Philippine society.

Special ties with the United States

Since independence, the Philippines and the United States have been linked together in a number of special agreements, chiefly in the economic and military fields. A 1946 agreement between the two counties provided for continued free trade but under a system of declining preferences over a 28-year period; it also provided for special parity rights for Americans in the Philippines. It was modified to some extent by the Laurel-Langley agreement of 1956. The Bases Agreement of 1947 provided for the retention of certain U.S. military bases in the Islands, the purpose being to enhance the security of both the Philippines and the United States.

From the beginning, there was uneasiness about these agreements in the Philippines. To many, they seemed an infringement on the country's independent, sovereign status.

In particular, there were sharp differences over how to treat American servicemen accused of crimes against Filipinos. Today, the agreements are prime targets of the demonstrators in the streets. How much the demonstrators actually represent mass Filipino opinion, particularly on the bases question, may be debatable, but the Marcos administration, which has already called for major changes in the agreements, may be forced ultimately to ask for their complete abrogation.

A new constitution

The oldest constitution in Asia was proclaimed in 1935 when the Filipinos were moving toward independence but were still under the American Flag. It was continued by the Filipinos in 1946 when independence came, and it has functioned with varying degrees of success since that time. But with the growth of a more nationalistic feeling, many Filipinos came to feel that it would be more consonant with their independent standing to have a constitution drafted strictly on their own.

Accordingly, in 1969, the Philippine Congress provided for the election of delegates to frame a new Philippine constitution; the election of these delegates is slated for Nov. 10, 1970, with the Constitution Convention due to begin its deliberations on June 1, 1971.

With the election of delegates only a matter of months away, various pressures have developed for the election of delegates deemed friendly to this or that constitutional approach. In the recent demonstrations, one of the main demands made was that the delegates to the convention be selected on a non-partisan basis rather than as representatives of the two dominant political parties.

It must be stressed that the ills outlined here have been in existence a long time. Every presidential administration from Quezon on down has sworn to do battle against them. Political and economic forces beyond their control apparently stymied them in their efforts to achieve major reforms.

COURSE IS UNCLEAR

How can President Marcos and his government meet what may be the greatest challenge facing any president since independence?

The president has made clear his intention to bring about meaningful social and economic reforms during his second term. From all indications, he was deeply committed to such reforms before any of the recent violence broke out, but the tempo for action has been measurably stepped up. Very likely, if he is to make any headway, he will have to pursue a policy of firmness towards the left while strongly seeking support for his reforms from the middle and the right.

Failure on the part of the Marcos administration to meet the challenge successfully almost inevitably means that the armed forces of the Philippines will be called upon to enter the picture. Though the armed forces have a singular record of respecting the constitutional authority of the civil power, it is doubtful that they would permit a takeover of the country by forces they consider disloyal and under the influence, if not the direction, of a foreign power.

America and the Philippines have in the past been close friends. Despite present tensions, they are still good friends and are bound together in a host of ways, both formal and informal. The nature of events in the Philippines is bound to be of major significance to the United States.

Clearly, the sun has hardly set in the Philippine skies, but there are dark and ominous shadows in them, and only clear and forthright action by the government and the people can dissipate those shadows and help to bring a better day for the Republic.

AIR POLLUTION

Mr. ALLOTT. Mr. President, for a few days in October, 1948, the small steel town of Donora, Pa., was smothered by a choking fog of air pollution. Nineteen persons died and 6,000 of the town's 14,000 residents suffered one or more of the many illnesses that are associated with severe air pollution.

Twenty years ago the Donora incident was looked upon as a freak occurrence. Today there are some serious men who suggest that unless we act promptly, 20 years from now such incidents may be commonplace.

Whether or not that grim prediction comes true, one thing is already clear. The American people have decided that air pollution is at an intolerable level, and are backing the administration fight against it.

Mr. President, air pollution is the most democratic problem imaginable. All Americans contribute to it. And it afflicts all Americans, regardless of race, color, creed, or national origin.

Aside from being nondiscriminatory, the only other virtue of air pollution is that it is the most visible and constantly aggravating form of environmental decay. As such, it gets considerable credit for the current interest in environmental improvement.

Some Americans have been living with air pollution for so long they now consider it a natural part of their region's life. One easterner, recently returned from the mountainous West, exclaimed:

> It's like getting your glasses cleaned, going out West.

But increasingly Americans realize that no region, no city is immune from the bane of air pollution. It is a problem in Denver, in Phoenix and in other cities famous for their natural beauty and enviable climates.

Further, as a result of the boom in construction of suburban apartments, with the resulting concentration of small incinerators, air pollution is moving to the suburbs.

Air pollution is the all-American problem. What can we do about it?

The first thing to do is to be clear about what it is, where it comes from and what it is doing to us.

The average American has strontium-90 in his bones and DDT in his fat tissues. But it is his lungs that are in most serious danger.

Consider the following:

It is well known that one way of commiting suicide is to sit in a closed garage with your car motor running. What kills is breathing a large dose of carbon monoxide. This substance is odorless and colorless. But it kills. In the middle of the last decade 94.4 million tons of carbon monoxide were released into the American atmosphere in 1 year. Of these 94.4 million tons, 91.3 million came from transportation processes, and most of that from the private automobile.

Of course even if we give up the horseless carriage and went back to the horse, other air pollution problems would remain. Five years ago 31.2 million tons of sulfur oxides were released into America's air in 1 year. This came primarily from the combustion of coal and oil fuels for generating electric power and for space heating—the heating of homes, offices, and factories. It also came from waste disposal practices such as incinerators. Sulfur oxides contribute heavily to various pulmonary diseases.

The National Air Pollution Control Administration officially keeps track of nine pollutants. It is now preparing to study 30 more.

A checklist of major pollutants, and their potential for harm, would look something like this:

Carbon monoxide: It impairs response time, cognition, and vision.

Sulfur dioxide, sulfur trioxide: These irritate the nose, throat, and upper lungs, aggravate existing respiratory ailments, and cause cardiovascular suffering in the elderly.

Ozone: This causes coughing, choking, severe fatigue, recurrent headaches, and chest pains, interferes with lung function and impairs visual acuity.

Nitrogen dioxide: This causes eyes and nose irritation, and may increase susceptibility to infection.

Hydrocarbons: This may be major contributing factor to increased death rate from lung cancer among urban population.

Arsenic: This is associated with cancer.

Asbestos fibers: This induces lung disease.

Berylium: This has produced malignant tumors in laboratory experiments involving animals.

Cadmium: This contributes to high blood pressure and increased susceptibility to heart disease.

Lead: This is a cumulative poison which may cause brain damage and death among small children. It also impairs the functioning of the nervous system in adults.

Particulates: These are tiny particles of solids which irritate the nose, throat, and lungs. They also become coated with toxics from gases and, since they penetrate deep into the lungs, they take other poisons with them. Without the presence of particulates the vaporous toxics in most instances lodge in the upper respiratory tract, not penetrating deep into lungs, and are therefore less damaging.

What is all this air pollution doing to us?

Dr. Jesse L. Steinfeld, Deputy Assistant Secretary in the Department of Health, Education, and Welfare, says this:

> It's full impact on our health is not known, but there is abundant scientific evidence that exposure to polluted air is associated with the occurrence and worsening of chronic respiratory diseases, such as emphysema, bronchitis, asthma, and even lung cancer.

According to Dr. John R. Goldsmith of the California Department of Public Health:

> In Los Angeles at times there is enough carbon monoxide in the air to reduce the blood's oxygen-carrying capacity by 20 percent.

Things may be worse than we now know. According to Rene Dubos, professor of environmental biomedicine at Rockefeller University, some 70 percent of the particulate contaminants in urban air are still unidentified, and thus their biological effects are unknown.

Further, American industry produces an astonishing number of new chemical compounds every year, and it is impossible to anticipate all the possible consequences they can have for air, water, and soil.

Every year various sources release 173 million tons of pollutants into the American air. That is approximately 1,700 pounds of airborne pollution for every man, woman, and child.

Dust and soot rain down on Manhattan's east side at a rate of 80 tons per month per square mile.

Thirteen thousand tons of air pollutants descend on Los Angeles every day. That amounts to approximately 4,750,000 tons in a year.

At times Chicago's sunlight is reduced 40 percent by air pollution.

It is said that breathing the air in our most polluted cities is like smoking two packs of cigarettes a day. Perhaps the day will come when we will be reading an ominous Surgeon General's report on breathing in America. And we will label the Nation the way we now label packs of cigarettes: we will post signs that say, "Caution: Breathing the American Air May Be Hazardous to Health."

Since 1900 Tulsa, Okla., has become a city. As it grew, the dust particles in the air increased. And so did the annual rainfall. In Louisville, Pittsburgh, and Buffalo, precipitation is higher when the factories are functioning. Thus industrialism can result in inadvertent cloud seeding.

Sunlight reacts on carbon monoxide, hydrocarbons and nitrogen oxides and the result is photochemical smog, a major component of which is ozone. The Forest Service blames ozone for the damage of ponderosa pines growing in the hills above the Los Angeles Basin.

The air in New York City is the dirtiest in America, and is second only to London in the world.

It has recently been reported that the fastest-growing cause of death in New York City is pulmonary emphysema, a disease closely linked to breathing filthy air. The mortality rate from this dreadful disease has risen 500 percent in the last 10 years. In that same period, deaths from chronic bronchitis—also associated with air pollution—have increased 200 percent.

As one New York medical examiner explained:

> On the autopsy table it is unmistakable. The person who spent his life in the Adirondacks has nice pink lungs. The city dweller's are black as coal.

This is generally true nationwide. The Public Health Service reports that deaths from lung cancer occur in large metropolitan areas at twice the rate of rural areas.

Even when allowance is made for differences in smoking habits among rural and urban populations it is clear that air pollution is a major factor in the high urban cancer rate.

These are the grim facts about what air pollution is and what it is doing.

What causes it?

Transportation—primarily the automobile—produces 60 percent of the air pollutant emissions. The rest come from

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four main sources which are—in descending order of importance—industry, powerplants, space heating, refuse disposal.

Hence there are really two kinds of air pollution problems requiring two sets of antipollution policies—one for transportation-related pollution, and one for stationary source pollution.

Both kinds of environment problems are inextricably entwined with America's energy problems. This is so because the use of energy producing materials often produces air pollution, and because we cannot plan to fight pollution by adopting cleaner alternative energy sources unless those alternative sources really exist. If they do not exist, we may face a nasty choice between continuing pollution and diminishing our use of energy.

In the remainder of my remarks today I will consider only the problem of air pollution from transportation sources. In a subsequent statement I will consider stationary source pollution.

Mr. President, it is shocking to think that this country, which owes so much to the automobile, might someday want to be liberated from this machine. But, increasingly, we hear the internal combustion engine described as the "infernal combustion engine" and it is indisputable that in many parts of America automobiles are making travel difficult and breathing hazardous.

Five years ago it was known that north-south traffic in Manhattan moved at an average speed of 11 miles per hour, while east-west traffic moved at eight miles per hour. A man's normal walking pace is four miles per hour.

Of course what makes this automobile congestion especially serious is the pollution that arises from it.

While it varies from region to region, on average the automobile accounts for approximately 60 percent of the Nation's air pollution. Automobiles put upwards of 90 million tons of pollutants into the air each year.

More than 200 chemicals have been found in automobile exhaust.

When one drives a car from New York to Los Angeles one puts into the air 576 pounds of carbon monoxide; 73 pounds of hydrocarbons; 13.5 pounds of nitrogen oxides; and a host of other elements, ranging from ammonia through zinc.

If we are going to improve the air we breathe, we must plan for three kinds of improvements in the cars we drive.

First, we need to lower the pollution potential of the fuel that enters the internal combustion engine.

Second, we need to lower the pollution potential of the fuel that enters the internal combustion engine.

Second, we need to lower the pollution content of the exhaust that leaves this engine.

Third, we need to prepare for the worst. We must be ready for the day when these first two steps become inadequate for protection of our air, and we need to find a replacement for the internal combustion engine.

IMPROVING FUEL

With regard to lowering the pollution potential of fuels, we can do two things. we can improve regular gasoline, and we can find ways of using natural gas in internal combustion engines.

We need to consider new standards governing the composition and volatility of gasoline.

By 1972 the automobile industry will be marketing cars which will require lead-free gasoline. The petroleum industry is responding to see that such fuel is widely available in time.

Oil companies should be encouraged to continue experimenting with new chemical compositions of their gasolines, especially with regard to olefins.

Further, natural gas may be a feasible fuel for automobiles. It produces 90 percent less pollution than regular gasoline.

The U.S. General Services Administration has tested such gas on 12 cars at a veterans hospital in Santa Monica, Calif. A GSA official reports that such gas may cost 40 percent less than the equivalent amount of regular gasoline, and that it is especially economical in stop-and-go driving. In this kind of driving the 12 test cars got an equivalent of 10.4 miles per gallon while cars burning regular fuel got only 7.1 miles per gallon. The tests also indicate that the usable life of spark plugs and motor oil may be double in cars which convert to natural gas.

Yesterday GSA Administrator Robert L. Kunzig announced that 43 vehicles in the Washington interagency motor pool are being converted to a dual fuel system that will permit them to run on either regular gas or natural gas. The conversion will cost approximately $350 per vehicle. GSA hopes to convert 1,200 vehicles across the country by the end of this year. Similar vehicle conversions are planned at the NASA test facility in Mississippi.

State and local governments can also experiment with natural gas fuel on their large fleets of vehicles. New York City, for example, operates 13,000 vehicles. California has begun converting some State-owned vehicles to a dual fuel system which will enable them to operate on either regular gas or compressed natural gas.

Further, Governor Reagan has proposed an incentive to get private fleet operators to follow suit. He has proposed lowering the fuel tax on natural gas from 7 to 3 cents per 100 cubic feet, that being the amount comparable to a gallon of regular gas.

But even if we can master the technological problems involved in converting automobiles to natural gas, we would still have to solve a supply problem.

If we were able to convert our more than 100 million cars to natural gas overnight, we would put unbearable pressures on the natural gas industry.

Proven U.S. reserves of natural gas in 1969 were approximately 287 trillion cubic feet.

This year we will use 20 trillion cubic feet of natural gas in 37 million homes, and in more than 3 million stores and factories.

Natural gas now supplies about 30 percent of U.S. energy use. And even without the conversion of automobiles, the demand for natural gas is growing at a rate of 5 percent a year.

Thus for a variety of reasons it is unlikely that we can solve the automobile pollution problem simply by improving fuels. We must also continue to improve emission control devices.

PURIFYING EXHAUST

Steps are being taken at the Federal and State levels to reduce the pollution content of automobile exhaust.

This year, for the first time, Federal emission control standards have been extended to cover buses and heavy-duty trucks. All such standards will be progressively raised, so that 1973 models will limit emissions of nitrogen oxides, and 1975 models will limit particulate emissions.

The President has introduced new legislation which will require sample testing of emission control devices as new cars come off the assembly line throughout the model year.

This will be an improvement over current procedures whereby manufacturers voluntarily submit prototype vehicles to tests of emission control devices. This new testing policy is a good Federal response to the problem.

But there is strong evidence that we also need State laws requiring periodic tests of emission control devices after the cars have been sold and driven for a while. An independent organization of scientists in New York recently conducted tests which revealed that on 63 percent of tested cars the pollution devices were not performing properly, and this after only 2,000 miles on the road. The devices are supposed to function for 50,000 miles.

All car sales should be contingent upon the dealer's certification that the emission control device is functioning properly. This should hold for sales of new and used cars.

It is interesting that the California Air Resources Board is working with the highway patrol to develop a workable quick-test device which can be used along the roadside to measure the effectiveness of pollution-control devices that have been in operation for some time. This will permit random testing. Perhaps on future Saturday nights we will see patrolmen testing the breaths of both cars and drivers.

Air pollution from automobiles, which causes 90 percent of Los Angeles' air pollution, is expected to decline as cars sold with required antipollution devices gradually replace older cars.

It is also encouraging to learn that we may not have to wait for all these older cars to wear out before we are free from their pollution. Just 8 days ago the General Motors Corp. announced that it will soon be marketing an antipollution system for cars sold before 1966, when pollution control systems became standard equipment.

This system will cost no more than $35 and will be sold first where cars are most numerous and pollution is most serious—in California.

This and related developments make it possible to expect that by 1980 in Los Angeles this kind of air pollution may be down to levels experienced in 1940—a year which Los Angeles residents recall as a golden age of—relatively—clean air.

Dr. Lee A. DuBridge, Science Adviser

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to the President estimates that within 5 years the emission on pollutants from automobiles will be down to one-fifth—or less—of current levels.

As one Detroit executive recently confessed:

> For over half a century, emission control wasn't even among our criteria in making cars. Now it has become the number one criterion.

Edward N. Cole, president of General Motors Corp., thinks a fume-free car is in the offing. He says:

> We have already demonstrated in our laboratories that these improvements are technically feasible. As a result, it is my opinion that the gasoline internal combustion engine can be made essentially pollution free.

Accordingly, GM is devoting considerable resources to this project.

Mr. Cole's optimistic view may be accurate. It may not be, and the Government must look ahead to the possibility that Mr. Cole is not accurate.

The Government must not neglect the real good that can come from improved fuels and emission control devices. But the really troubling possibility is that if the automobile is not made virtually pollution free, then the gains from such improvements may be erased by the inexorable growth in the number of automobiles. This may happen even if we have the good sense to start driving smaller cars equipped with less powerful engines.

The number of automobiles is growing faster than the population. Detroit is producing 22,000 cars a day, and the rate may increase to 41,000 by the end of the decade. By 1985 there will be 170 million cars, buses, and trucks on the road—over 60 percent more than there are today. By 1995 there will be twice as many automobiles on the road than there are at present. State highway officials say we will need an additional 40,000 more miles of highways to handle the burden. But even if we can spare the land, and can afford the cost of putting 40,000 more miles of highway on the land, we will only be aggravating the air pollution problem.

We should bear in mind the President's solemn warning, contained in his environment message to Congress:

> Our responsibility now is also to look beyond the Seventies, and the prospects then are uncertain. Based on present trends, it is quite possible that by 1980 the increase in the sheer number of cars in densely populated areas will begin outrunning the technological limits of our capacity to reduce pollution from the internal combustion engine. I hope this will not happen. I hope the automobile industry's present determined effort to make the internal combustion engine sufficiently pollution-free succeeds. But if it does not, then unless motor vehicles with an alternative, low-pollution power source are available, vehicle-caused pollution will once again begin an inexorable increase.

NEW POWER SOURCES

Clearly we must press ahead with research on modifications, or even replacements, for the internal combustion engine. We must not allow memories of the ill-fated Stanley steamer, or a host of electric cars, to convince us that the current engine is the only possible power source for modern automobiles.

The President's Council of Environmental Quality has $45 million to spend on investigation of a new power source for automobiles. Similar investigations are underway with the State governments of New York and California.

As an incentive to private developers, the President has ordered the Federal Government to purchase privately produced unconventional vehicles for testing.

The only frequently mentioned alternative power source is an electric motor operated by advanced batteries. At present we do not have batteries that could be marketed at a suitable price.

And even if suitable batteries were developed and marketed, new environment problems would result.

If the electric car were to make a comeback every filling station would need to be equipped to charge batteries. They would have to use power supply outlets from the utility companies, and this would require an enormous increase in the generation of electric power. But such generation will involve burning coal or oil and this will result in air pollution. Or it will involve nuclear power which creates problems of disposal of nuclear waste, as well as disposal of heated water which causes thermal pollution.

Of course one way of easing the pollution problems caused by the growing number of automobiles powered by normal engines is to find a substitute means of transportation. Urban and interurban rapid transit systems are one form of substitute.

In this regard I want to recur to two ideas from one of my previous statements in this series on the environment. These are the ideas of "hidden policies" and of "cross-commitment."

A government has a "hidden policy" when a policy designed for one kind of problem has unintended and unnoticed effects on another kind of problem.

A government is practicing "cross-commitment" when it designs two programs which aim at different goals, but which interact in such a way that each program promotes the achievement of the other program's goal.

In the inescapable interrelation between the problems of urban transportation and air pollution we are confronted with the danger of detrimental hidden policies. But we are also presented with the opportunity for creative cross commitment.

If we neglect to provide mass transit facilities in our urban areas our negative policy in this regard will inevitably result in even more automobile traffic in and around our congested cities.

Thus our policy of neglecting mass transit will be a not very hidden—and very detrimental—environment policy.

If, in contrast, we recognize the virtues of mass transit—virtues that are manifold and manifest—we can begin a meaningful commitment to improved transportation. And this commitment will serve as a cross commitment to an improved environment.

It is true that many rapid transit systems will operate on electric power. But this does not mean that an increase in rapid transit passenger service will just transfer the source of pollution from the engines of automobiles to the generating plants of electric power companies.

Obviously an increase in electric railroad service would result in some increase in the total amount of electric power used in America. But the additional air pollution that would result—even assuming that nuclear powerplants would not take on this burden—would not be anything like the amount of pollution that would be eliminated by removing large numbers of cars from the roads, and especially from the highways leading into our great cities.

A few statistics will make clear why this is so. A single track of rapid transit line, using 100-passenger vehicles in 10 car trains operating on 90-second headways, can carry 40,000 persons per hour at speeds up to 80 miles per hour.

In contrast, a single lane of express highway can carry a maximum of 2,000 cars an hour at top speed of 50 miles per hour. When traffic moves faster than 50 miles per hour the highway capacity for cars begins to decline because safe driving requires greater distances between the cars.

Figuring an average of 1.5 persons per car, a freeway lane can accommodate 3,000 persons per lane per hour, as compared with the 40,000 persons carried—and carried faster and safer—on a single track of rapid transit.

Clearly the improvement in transportation efficiency is enough to recommend rapid transit systems. But the case for rapid transit becomes overwhelming when we remember how this will function as a beneficial "hidden" environment policy, and as an instance of "cross-commitment" in our efforts to improve our transportation and our environment.

Remember that automobiles produce, on average, 60 percent of the air pollution now plaguing our metropolitan areas. If we get people out of cars and on to safe, swift, pollution-free trains, then urban air pollution is going to fall dramatically.

In fact, this has already happened—briefly—in Sweden.

When Stockholm switched from left hand to right hand driving, cars were banned from the center of the city for 1 day while rapid transit trains continued to operate.

In spite of the fact that this put an added burden on the powerplants, and in spite of the fact that these plants are located near the center of Stockholm, air pollution in Stockholm fell by 50 percent during the automobile ban.

Mr. President, I hope all Americans understand the close relation between transportation policies and environment policies. I am proud to note that the Department of Transportation will soon construct a test center near Pueblo, Colo. Tests at this center will involve rail transportation at speeds up to 300 miles per hour. If such rail travel becomes a reality, and I hope it will, then passenger trains will become competitive with regional air service. And we will all benefit, as travelers and persons who breathe the threatened American air.

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Mr. President, as I have indicated, there are many problems to be faced and solved. As I have emphasized, the relation between our transportation and environment policies is complicated by the fact that these two policies are re-related to all our energy policies, and especially to the growing need for electric power. This is an important facet of the problem of air pollution from stationary sources. That problem will be my topic in my next statement on environment problems.

INCREASE IN COST OF LIVING

Mr. CANNON. Mr. President, the 6 percent rate of increase in the cost of living reported at the end of 1969 makes it difficult to oppose publicly any measures regarded as anti-inflationary. It is particularly difficult for one such as myself, who is not an economist, not a banker and not associated as much as some of my Senate colleagues with economic issues to make statements which seem not to recognize the perils of inflation. Yet, both because of my personal views and because my State, more than most others, depends heavily on growth, prosperity and the progressive realization of our national objectives in defense, space and nuclear development, I must make some direct and blunt statements concerning inflation and its cure.

First, I am not willing to see unemployment increase by even a small amount, even though the conventional wisdom seems to be that such an increase is essential to stable prices.

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Second, I do not intend to cringe in fear of the high rates of economic growth which our marvelous technology should bring in the 1970's. I do not accept the conclusion that a growth rate of 4 to 6 percent, which still puts us far below that of many other nations, is not sustainable in our Nation.

Third, I believe in jobs as the ultimate solution, and the most effective means of immediate relief, of the many problems of our disadvantaged minorities, our inner cities and our rural poor, both black and white. In my view a 3 percent unemployment rate, rather than a 5 to 6 percent rate is far more effective sociologically than an army of social workers and government poverty workers in improving the status—and the hope—of America's less fortunate people.

Fourth, I cannot join those who fear a high level of spending by business on new plant and equipment on the grounds of its inflationary potential. Such investment is in fact essential to a reduction, through higher efficiency, in the real prices we pay for our goods. If our financial system does not function well, there may be temporary price problems from high levels of business investment, but incomes also will rise and quickly will overtake price increases derived from rapid business investment.

Fifth, I believe that if we do not have an adequate private investment in our future in terms of new industry and other business developments, then there must be Federal or State and local government expenditure on social capital improvements to help keep our work force employed. Whatever financial or fiscal problem we may have, there can be no justification for allowing to stand in sickening idleness the manpower which could have built the factories, tools, roads and other resources capable of reducing the real cost to us of the things we want. I would also reiterate my belief that most Americans prefer the dignity of work to the charity of the dole.

Finally, I believe that special attention must be given to housing. For financial and fiscal reasons, our housing starts are but a fraction of those needed. At the start of this year, more than 2,000 housing units are desperately needed in Nevada which present policies cannot supply. We have the productive capability to rebuild our cities, and to begin solving the neglected pollution problems that beset our State and Nation. Better housing is equally important in the drive against crime as other elements of the anticrime program.

My justifications for the beliefs I have stated are basically uncomplicated. In the first place, money and price systems must be kept in their proper role as tools of the economy, not as ends in themselves. Our financial system should permit us to achieve our true economic potential in terms of real output of goods and services. If it does not do so, then it is ailing or crippled, and should be redesigned or repaired where necessary. If we adopt the more usual view that we must cripple our real economy in the hope that a crippled financial system can handle it—a course which the administration seems to have charted—we still may fail to achieve price stability. In fact, the lesson of the past year seems to point precisely to such results, as prices increase at their most rapid rate even though real growth is stifled and unemployment increases steadily.

If we are to repair our financial system rather than settle for stagnation in a vain hope for price stability, I suggest that we look first at all sources of artificially high pricing. Some price supports and some sources of prices above those of a totally free market undoubtedly are justified. However, our present situation demands that each be reexamined and rejustified. The list of artificial price situations is too long to include here, but I can mention some metal prices in the face of softening demand and the need to exclude much foreign steel and titanium sponge. Automobile prices also were raised this year and remain at their higher levels despite many layoffs in the industry, and Government-induced shortages in agricultural goods which are deliberately designed to keep prices from falling. We have good reason to believe from past recessions and depressions that reduction of demand through unemployment and income reduction will do little to lower many prices in our economy. Instead, the result is simply more unemployment, as managers cut back production rather than prices, as indeed the automobile example shows today.

Just as our industrial technology is the source of our general economic potential, so our failure adequately to make technical progress in homebuilding and an adequate investment in housing fabrication is the source of our housing problems. It is housing costs, borne of inefficient methods in addition to the high interest rate which is pricing housing beyond those who need it. I am convinced that we need an imaginative program of Federal developmental spending in housing. I am encouraged to see some of our aerospace firms, who are now developing some unused capacity, turn their magnificent capabilities to the housing problem.

I oppose inflation. But unless artificial prices in certain elements of the economy can be adjusted, hopefully on a voluntary basis, and unless there is more chance that prices which should be lowered can be lowered, then I must admit to a willingness to accept a manageably small amount of inflation as the cost of keeping the country moving ahead and avoiding economic stagnation.

Nevada's economic destiny has always been tied to its ability to attract venture capital. A favorable investment climate, which historically produced several mining bonanzas and the more recent recreation—tourist industry boom, must be continually encouraged so that the State's prosperity may continue.

THE ECONOMIC SITUATION

Mr. HANSEN. Mr. President, I think the President's actions yesterday concerning the present economic situation in the United States demonstrate clearly and without question one aspect of President Nixon's character—his flexibility.

He is willing to meet changed situations as they arise. He is willing to change course when the need is apparent.

He is not so deeply committed to one set of economic programs that he cannot back out or move in another direction.

Frankly, this is a welcome relief. For 8 years men sat in the White House surrounded by advisers who simply could not change. Once they had launched the Nation on a course of action, their own egos or their own ideologies would not permit them to change their minds.

The result has been disastrous to our economy.

The present inflation which has so eroded the buying power of the dollar can be traced to just such stubborn insistence by the Johnson administration that their course was the only course the Nation could follow.

The former Chairman of the Council of Economic Advisers, Arthur Okun, has written that as early as 1965 President Johnson and his top advisers were being warned that they had launched an inflationary policy and that time was fast running out on them if they were to stop it.

But the Johnson administration was so totally inflexible that it could not change course. It was so dedicated to the economic policies it had adopted that it could not reverse its field.

Senators will recall that it was not until 2 years later that the administration finally realized the mistakes it had made and tried to change. By then it was too late. Inflation had already turned from a fire into a roaring conflagration.

Even when he did change, President Johnson suggested only half-measures and steadfastly refused to curb the inflationary trends within his own administration. He not only allowed enormous deficits, he encouraged them at every stage. He felt it was politically unappetizing to cut back any of the Federal programs that his administration had advocated. We just kept spending and spending and spending.

President Nixon, the moment he entered the White House in 1969, moved to curb the voracious appetite of the Federal bureaucracy. He is still keeping a tight lid on spending where that spending can be harmful to the economy as a whole, no matter how appealing to any particular pressure group or voter group.

The President realized from the start it would take strong medicine to cure the disease so insidiously implanted in the American economic life by the previous administration. He was willing to administer that strong medicine.

Now, with the realization that there are economic problems that could lead to recession, President Nixon has changed his attack and is directing his attention squarely to these new problems. In doing so he shows clearly that his administration is willing to accept change, and to change its own approach to meet new circumstances. This is the kind of approach the Nation needs in its leadership in this complex and complicated age in which we live.

I just hope the leadership of Congress is equally flexible and equally willing to accept the responsibilities we all must shoulder.

THE ENVIRONMENT

Mr. FULBRIGHT. Mr. President, I have been much encouraged in recent months to see the emphasis which the administration has put on the need to expand our national effort to halt the decline in the quality of our environment—the land, the water, and the air.

There is increasing evidence that we are beginning to restructure our priorities—even to the extent of limiting the inordinate proportion of the national budget which has been devoted either to obsolete or to peripheral military expenditures.

I have recently read several articles suggesting that pollution of the air is reaching the point where our society is moving rapidly in the direction of using the oxygen in the air more rapidly than nature is able to replace it. An article published in the New York Times of March 12 reports a 500-percent rise in deaths in New York City from emphysema during the last decade. It is "unmistakable," reported the city medical examiner, that "the person who spent his life in the Adirondacks has nice pink lungs. The city dweller's are black as coal."

How ironic it would be if we managed to make the Nation absolutely safe from nuclear attack by multiplying our nuclear weapons, only to find that no one was left to push the ABM button.

I ask unanimous consent that the article be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

500 Percent Rise in Emphysema Deaths in Last Decade Reported for City

(By John Sibley)

The fastest-growing cause of death among New Yorkers is pulmonary emphysema, a mortality rate that has risen 500 per cent in the last 10 years. During the same period, deaths from chronic bronchitis have increased 200 percent.

A city medical examiner, talking of the health effects of air pollution, puts it more pungently.

"On the autopsy table it's unmistakable," he remarked the other day. "The person who spent his life in the Adirondacks has nice pink lungs. The city dweller's are black as coal."

But despite such anatomical displays, and despite the overwhelming statistical evidence that air pollution sickens and kills, there is little solid medical proof that specific pollutants cause specific diseases.

This generality holds true not only for air pollution, but for the effects on human health of contaminated water and excess noise.

The Public Health Service reports, for instance, that deaths from lung cancer occur in large metropolitan areas at twice the rural rate, even when allowance is made for differences in smoking habits.

Yet Dr. Ernest Wynder of the Sloan-Kettering Institute for Cancer Research doubts that air pollution plays a major role in the growing incidence of lung cancer. Dr. Wynder notes for one thing that lung cancer is six times as prevalent among men as among women, though both are exposed equally to air pollution.

Some of the most intensive research into the health effects of air pollution has been undertaken by Dr. Stephen H. Ayres, director of the Cardio-Pulmonary Laboratory at St. Vincent's Hospital here. But in an article soon to be published in a professional journal, Dr. Ayres acknowledges:

"Ideally, one would like to identify the body burden of a given pollutant and be in a position to measure the physiologic effects of that particular body burden. With most pollutants, neither the body burden nor the quantitative relationships between burden and health effects is known."

No tidy set of symptoms acts as a signpost for the diagnosing physician, for in fact there is no "air pollution disease" as such. Among the experts, however, there is general agreement that pollution's primary effect on health is to exacerbate a variety of existing diseases.

A FORMIDABLE HAZARD

Yet despite the lack of precise knowledge, experts have no doubt that air pollution is indeed a formidable hazard and that vigorous remedial measures are called for. Dr. Robert Horton, chief of the government's Health Efforts Research Program, told the New Yorker in an interview a year ago:

"The British reduced cholera and typhoid in the nineteenth century before they knew bacteria existed, and we may have to regulate our air supply before we have complete knowledge about air pollution.

"The methods we have for detecting excess deaths are so crude that there has to be a pretty big excess for us to realize that it's there at all. What we do know is that people get killed by air pollution, and I don't see any excuse for there being enough air pollution to kill people. Do you?"

Those "excess deaths" occur most often in New York, whose air is the dirtiest in the United States and second only to London's in the world. New York's average level of sulphur dioxide, for instance, is half again as high as that of Chicago, its nearest American competitor.

During the Thanksgiving weekend of 1966, severe smog caused by a temperature inversion resulted in the deaths of 168 more New Yorkers than normally die in the same length of time.

This figure was calculated by Dr. Leonard Greenburg, who was the city's first Commissioner of Air Pollution Control and is now chairman of the Department of Environmental and Preventive Medicine at the Albert Einstein College of Medicine.

Perhaps this country's most widely publicized episode came in 1948, when an inversion over Donora, Pa., a mill town of 14,000, made half the inhabitants sick with a four-day fog filled with sulfur dioxide and other pollutants from chemical and steel plants.

Twenty Donora residents died during the siege. And a study made 10 years later showed that those who had been acutely ill during the episode were having a higher rate of sickness and were dying at an earlier age than other townspeople.

WATER PROBLEM STUDIED

In water pollution, public health officials are concerned with three types of contamination: microbiological, chemical and radioactive. Generally, separate standards of purity are set for drinking water, shell-fish waters and bathing beach water.

The standard measure of microbiological contamination is the concentration of coliform bacteria. These are not a health hazard in themselves, but they are relatively easy to count and usually indicate the presence of pathogens, which are disease-causing organisms.

The New York City Health Department will not approve drinking water that contains more than 1 coliform bacillus per 100 milliliters (about 3 ounces). A concentration of 700 is the maximum allowed for shellfish waters, and swimming beaches are closed when the concentration exceeds 2,400.

The city's standard for swimming water is the most lenient in the United States. The standard for shellfish waters is an academic one; all sea water within New York City contains more than the permissible concentration, and shellfishing has been prohibited here for years.

The problem with shellfish is that their filtration systems collect contaminants and store them in much greater concentrations than exist in the surrounding water. One study of oysters, for instance, showed them capable of storing radio-activity in concentrations 1,000 times as great as the water's.

The most common health hazard in contamined shellfish is infectious hepatitis, whose virus is carried in human feces. Huge quantities of untreated sewage are pumped into New York Harbor continually.

Years ago, typhoid fever was a major threat from polluted water, and though the disease is rarely heard of in this country today, Deputy Health Commissioner Frederick S. Kent said the other day: "I still don't rule out typhoid as a hazard."

The Health Department is currently keeping track of about 200 typhoid carriers in the metropolitan area. They are not permitted to work in food industries.

About 25 new typhoid cases are reported here each year. About one-third of the victims contract the disease elsewhere (usually overseas) and another one-third get it from a carrier in the family.

A type of "pollution" that is relatively new to public health officials is excessive noise. In a report earlier this year, Mayor Lindsay's Task Force on Noise Control stated:

"Noise has reached a level intense, continuous and persistent enough to threaten basic community life."

The report added: "More than at any time in the city's past, there seems to be no es-

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cape for city residents and workers from daily accoustical assaults on the senses. Vehicular traffic, jet aircraft, subway trains, construction equipment and air conditioners, as major noise sources, degrade the health and well-being of New York residents."

A medical subcommittee of the task force, headed by Dr. Wilbur James Gould, reported that subway motormen and conductors may suffer permanent hearing loss. Other health effects are psychological and not precisely measurable: "annoyance, anxiety, constrained and explosive rage, disturbed sleep, irritability, concentration and energy draining tensions."

At more than 140 decibels, acute pain is experienced. A moving subway train produces 100 decibles, a jet airplane at close range 150.

Mr. Kent has classified environmental pollution into a priority system of four categories: (1) concentrations that cause death, (2) amounts that cause illness or injury, (3) levels that permit "effective living" at work and play and (4) levels that permit "esthetic enjoyment."

"The first two categories obviously can't be tolerated," says Mr. Kent. "They are the responsibility of the Health Department, and so—to a large extent—is the third category. The fourth category is largely a matter of economics, and must be weighed against other city needs that require taxpayers' money."

NEW TOOLS NEEDED

Mr. HARTKE. Mr. President, our chance of building a better America rests largely on the caliber of the education we offer our youth today. At present, too little is done to insure that slow learners in economically deprived areas receive the educational tools they need to compete in a country which prizes learning so highly.

In his "Potomac Watch" column in the Washington Post of March 16, William Raspberry points to the promising results attended by Dr. Douglas G. Ellson, of Indiana University, in the field of developmental reading. Called programed tutoring, this new technique to improve reading skills would appear to have much to recommend it.

I ask unanimous consent that Mr. Raspberry's column be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

School Research Isolated

(By William Raspberry)

One reason why educational experiments have produced so little improvement in public education is that the word of successful experiments does not get around.

Let a Stanford scientist make an important discovery in, say, endocrinology, and his fellow scientists at Johns Hopkins soon know all about it, and their own work is influenced as a result.

But if the St. Louis public school system develops a superior way of teaching math, it may be years before the Washington school system learns anything about it.

It may take years, in fact, for word of a successful experiment in a Northwest Washington school to filter down to teachers in Anacostia—unless it happens to be sufficiently dramatic to make a good news story.

Thus, the local school system is deriving no benefit from an interesting program that has been under way in Indianapolis since 1964.

Dr. Douglas G. Ellson of Indiana University (Bloomington), where he formerly headed the psychology department, claims encouraging success with a new technique for teaching reading to slow learners in the black slums.

He pretends no miracles for his "programmed tutoring" technique, but he has recorded gains of as much as 17 points among the slowest learners compared with their control group counterparts.

Basically, programmed tutoring involves 15 minutes a day of specialized help for slow learners, with each step so clearly spelled out that Dr. Ellson has been able to use high school graduates and dropouts as tutors.

One example of how the technique works: A poor reader is asked to read a simple sentence. The tutor has been instructed on exactly what to do for every possible response.

If the child reads the sentence correctly, he is praised (reinforced) and moved on to the next unit. Missed words are first isolated physically (in a word list) then psychologically (in the sentence). If the child still cannot read them, he is taught those words, then taken back to the original sentence until he can read it.

Success is emphasized; failure is not. It simply serves as a signal to the tutor for the next step.

In many ways, the Ellson approach sounds rather ordinary. Its results, however, are not.

Dr. Ellson was careful to find out just how successful the technique is.

"Whenever we try the program for the first time," he said, "we pick two groups—from the bottom third of the class—as exactly matched as possible. We then tutor one group but not the other.

"We found that the poorer the pupil is (scholastically), the greater the gain."

This is especially interesting. In most special teaching programs, the brighter pupils show the greater gains. Dr. Ellson says his technique doesn't help at all with a child who is average or above.

For reasons of which he is not certain, it also seems to work better with city children, he said.

Another bonus, he said, is that in the schools where the technique has been employed for as much as three or four years, the children in the control groups appear to be showing more progress that would normally be expected.

He thinks one reason his technique works so well is that it demands a good deal of verbal communication between pupil and tutor, communication that is based on printed words.

"This is important," he said. "That's one reason I am opposed to the kind of storytelling hours that the public libraries often do. You shouldn't tell stories to children; you should read them stories. It's terribly important for them to learn that all these interesting things come from books. That makes them want to read."

BALTIMORE SUN RESUMES PUBLICATION

Mr. ALLOTT. Mr. President, this morning the weather was uncommonly nasty, and the news was as depressing as usual. But there was one pleasing bit of news this gloomy March day.

The Baltimore Sun, one of the Nation's great newspapers, is back on the newsstands.

A 74-day strike—the longest strike against a publisher in Baltimore history—had kept the Sun shut down since January, depriving all of a source of news and lively commentary from their highly respected newspaper.

We are delighted that labor and management have resolved their differences, and that the Sun is back where it belongs—on the newsstands and in the hands of its loyal readers.

SENATOR FOR ZPG

Mr. DOLE. Mr. President, the junior Senator from Oregon (Mr. Packwood) was the subject of a column written by Kenneth Crawford and published in Newsweek magazine for March 23, 1970. Entitled "Senator for ZPG," Mr. Crawford's article focuses on a dramatic proposal which is best characterized by the slogan "Zero Population Growth." Believing that this country is faced by a severe problem of population control, the Senator from Oregon has demonstrated significant initiative in developing a comprehensive program which should receive serious consideration by Congress. In only his second year in the Senate, the junior Senator from Oregon is establishing a remarkable record with his innovative approaches to complex national problems.

Mr. President, I commend Mr. Crawford's article to the Senate and ask unanimous consent that it be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

Senator for ZPG

(By Kenneth Crawford)

Sen. Robert Packwood, freshman Oregon Republican, is breaking some of the most rigid taboos of politics. He is opposing population growth both in his state and in the nation, thus defying traditional American boosterism. He is advocating contraception, abortion and family planning, thus outraging fundamentalist religious belief. And he is pre-empting a cause bound to be high on the agenda of the '70's, thus stealing a march on his elders, who have been hesitant about grasping this nettle.

The young Senator out of the West seemed an unlikely taboo smasher when he arrived in Washington after defeating the flamboyant Democrat Wayne Morse, in a campaign notable for lack of flamboyance. He settled quietly into the Republican minority, conforming to the unwritten rule that a new senator should be seen but not heard. Sometimes he voted for Nixon Administration bills, sometimes not. Unless they were soliciting his vote, Packwood's colleagues took him for granted as an able lawyer and politician who, if he were re-elected often enough, might sometime be admitted to the club.

Packwood ceased to be just another backbencher the day he introduced two bills of startling boldness and explained them in a speech so lowkeyed that it might have been in defense of Mother's Day. One of the bills would legalize abortion on request, no questions asked, in the District of Columbia, where Congress has unquestioned jurisdiction. The other bill would revise the income-tax laws to create a financial incentive for limiting the size of families—for holding them down to three children at most.

EXAMPLE

The senator said he would like to legalize abortion nationwide but doubted the authority of Congress to do so. In any case, he hoped a District law would set an example for the states, encouraging them to do what Hawaii already has done. As for taxes, he proposed that, as of Jan. 1, 1973, families be granted a $1,000 income exemption for the first child, $750 for the second, $500 for the third and none thereafter. This would not apply to children born before the operative date. Since Packwood drafted his tax bill, a

Treasury study has shown that its cost would be high. So he is considering modifications.

In addition to his own two bills, Packwood is co-sponsor of a third to set up a Federal family-planning center, which would conduct research on contraception and make the best information about birth control available to all who want it.

Touchy and politically dangerous as the cause of population control still is, Packwood took it on with his eyes wide open. He regards himself not as a knight in shining armor but as a practical politician looking for practical results. He thinks his abortion bill has a chance in this Congress and that his tax incentives will eventually win acceptance. His mail from Oregon, where he has made five speeches expressing the hope that this sparsely populated state will never have more people than it has now, is running 2 to 1 in his favor. From the country, where his ideal is expresssed by the slogan, "Zero Population Growth," the favorable ratio is 9 to 2.

DECISION

However, the mail against Packwood's project makes up in intensity what it lacks in volume. The burden of it is that no decent man can be for the unmentionable things Packwood is mentioning. It comes not only from Catholics loyal to the Pope but from shocked Protestants as well.

Packwood arrived at his decision to devote himself to population control by way of conventional conservationism, derived from his Western boyhood, and a kind of social claustrophobia, developed during the three years he studied law at New York University. The crowding of Greenwich Village, where he lived as a student, and of the Washington-to-Boston corridor, where he traveled to see the sights, appalled him. What would it be by the year 2000, when at the current rate of growth there would be 300 million Americans instead of present 200 million? And shortly thereafter 400 million to 500 million? They could be fed and clothed, no doubt, but could they live good lives in such limited space?

Agreeing with the ecologist who see population stability as central to the preservation of habitable environment, Packwood argues that the only choice this country has is between voluntary restraint now and compulsory control later. He favors voluntarism now. In this cause he is willing to be the senator for ZPG.

DUMPING MUST BE STOPPED

Mr. HARTKE. Mr. President, the recent request of Westinghouse Electric Corp., for an investigation of the dumping of large power transformers into the United States by manufacturers in Europe and Japan charges the kind of unfair foreign competition I have been pointing to for many years, and I have again urged the U.S. Treasury Department to spare no effort in the dumping investigation which is vital to the welfare of this important U.S. industry.

I and other members of the Committee on Finance were successful a couple of years ago in preventing the U.S. representatives at the Kennedy round of trade negotiations from unlawfully amending U.S. antidumping procedures. Again this year I have asked Congress to overhaul our Antidumping Act to be sure that American industries will not be injured by this unfair trade practice. Meanwhile, we shall be watching carefully to see whether the Treasury Department pursues this matter under our present law with the vigor and objectivity which it urgently requires.

It is ironic that the dumping of large power transformers into the United States from foreign countries has been aided and abetted by agencies of the U.S. Government, such as the Bonneville Power Administration, the Bureau of Reclamation of the Interior Department, and the Tennessee Valley Authority. These Government agencies have led the way, using public money, to buy low-priced foreign equipment in their determination to provide low-cost electricity to the people they serve. Meanwhile, working men at Muncie are being deprived of employment in manufacturing large power transformers for these Government agencies. This situation makes it all the more urgent that the Treasury Department conduct this dumping investigation vigorously and as rapidly as possible.

Power transformer manufacturers in Great Britain have sold their products to the U.S. Government agencies at discriminatory export prices longer than the manufacturers of nearly any other foreign country. Yet last week, an official of the British Electrical and Allied Manufacturers Association denied to a Wall Street Journal reporter in London that British manufacturers are dumping large power transformers into the United States.

A thorough and well-documented 1969 study by Horace J. DePodwin, dean of the graduate school of business administration at Rutgers University, points out in great detail that British manufacturers have repeatedly dumped this type of product into the United States in recent years.

Furthermore, a 1969 report made in Great Britain by Prof. G. B. Richardson, Oxford fellow and economist for the British Transformer Manufacturers Association, clearly acknowledges that British transformer manufacturers engage in cut-price selling overseas and even defends this practice as essential to the welfare of the power transformer manufacturing industry in Great Britain.

These two studies by outstanding educators in the United States and Britain should help to persuade our Treasury Department not to be misled by self-serving denials of spokesmen for British transformer manufacturers.

OIL AND INTERIOR

Mr. PROXMIRE. Mr. President, Evans and Novak have detailed Chevron Oil Co.'s "willful disregard of Secretary of the Interior Walter Hickel's tightened antipollution regulations, which is symptomatic of the oil buccaneers operating in the dirty-dirty gulf coast offshore drilling areas."

As a result of these blatant violations, the beautiful coast of Louisiana, its wildlife, and its shrimp and oyster industries are now threatened by serious oil pollution.

I sincerely hope that the oil industry will wake up to the fact that the days of "public be damned" are over. I would also urge Secretary of the Interior Hickel to take whatever steps are necessary to make sure that another such disaster does not occur, including making an example of those who are responsible for this disaster.

I ask unanimous consent that the Evans and Novak column be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

Chevron Oil Co. Disregarded Hickel's Tightened Pollution Rules

Exactly five days before fire broke out on Feb. 10 in drilling Platform Charlie of Chevron Oil's massive Gulf Coast oil operations, a confidential letter from the Interior Department's regional oil and gas supervisor warned the company to get busy and install official ordered safety equipment.

"There appears to be a certain hesitancy among some company field personnel to rely on such (safety) equipment," the letter said.

In fact, the phrase "certain hesitancy" was an extraordinarily mild form of official rebuke for suspected violations. The specific equipment that might have prevented the fire—a downhold storm choke—had been surreptitiously removed from the offending well several months ago, a clear violation of Interior Department regulations.

Had the choke been in place, the sudden release of pressure produced by the outbreak of fire probably would have choked off the flow of oil far beneath the surface of the water. As it is, after the fire was put out last week, the well started cascading an estimated 1,000 barrels of crude oil a day into the gulf, threatening serious damage to the untold riches in oyster beds, fisheries, and wild life sanctuaries in coastal areas.

Chevron's willful disregard of Secretary of the Interior Walter Hickel's tightened antipollution regulations (resulting from the Santa Barbara blow-out last summer) is symptomatic of the oil buccaneers operating in the dirty-dirty gulf coast offshore drilling areas. So blatant have these violations been since the new regulations were issued last August that Hickel now has a prima facie case to collect millions of dollars in penalties if he chooses, and the Justice Department agrees, to invoke them.

Hickel is moving in that direction. He's drafting a report now that will claim a total of at least 137 downhold storm choke violations in Bloc 41 alone—the bloc of wells that includes Platform Charlie. The penalty can be as high as $2,000 a day for each violation, and Hickel's report is certain to allege violations that go well beyond storm chokes—for instance, rusting fire-control equipment, lying on the tops of platforms, that was never installed.

Thus, Chevron, which is wholly owned by Standard Oil of California, may become the government's first real test case of toughening government control, riding the wings of the national antipollution binge, over offshore oil companies that operate only by sufferance of Uncle Sam on federally owned lands.

Hickel's report, moreover, will show that part of the blame for the oil bust on Platform Charlie lies right in the lap of the Nixon administration. For years, Interior has failed to build its enforcement machinery anywhere close to the manpower levels needed to keep the oil operators honest.

Last spring, in his budget for fiscal 1970 (the year ending next June 30), Hickel asked Budget Bureau approval to more than double the pitifully inadequate number of federal inspectors of offshore drilling operations—from 34 to 86. The Budget Bureau cut him back to a force of 45 inspectors at a mere $1 million savings.

Now Hickel will ask Congress, with or without Budget Bureau approval, to give Interior 21 more inspectors under a supplemental money bill. For the new fiscal year starting July 1, he'll insist on his original request of 86. Considering the public fury over industrial pollution today, it is unthinkable that Congress won't give them to him, with or without the consent of the Budget Bureau.

But what is more inexplicable than this shortsighted, pennywise policy of the Budget Bureau are the shortsighted pound-foolish policies of some of the offshore oil companies. Chevron, for example, started losing money at the rate of $1 million a day, at a conservative estimate, in cleanup operations and loss of oil production the day the fire started on Platform Charlie.

If the government decides to invoke the maximum penalty for violations and charges the company for the federal revenues lost as a result of the production cutoff of all Bloc 41 wells (a total of 67,000 barrels a day), the total loss to stockholders could easily run into tens of millions of dollars.

That's what Hickel wants to recommend to the Justice Department. If he persists, the offshore oil operators may wake up, as they did not wake up after the Santa Barbara disaster, to the surprising fact that the days of "public be damned" are over.

COMMUNISTS ARE REAL CAUSE OF LAOTIAN MESS

Mr. CURTIS. Mr. President, so many people never take time to praise their own country. There are many people, unfortunately some of them in public life, who never have any words of praise for their own country, the United States of America.

Some of these same people also fail to mention the wrongdoing of the Communists. Wittingly or unwittingly, they leave the impression that the United States is the real culprit in the world and that the Communists are really the good guys.

Mr. President, while I realize that these people constitute a very tiny minority of the American public, they are a noisy minority. They create a great deal of confusion. They mislead people at home and abroad.

Mr. President, the Indianapolis News for Saturday, March 14, contains a story entitled "Communists Are Real Cause of Laotian Mess." It was written by Mr. Lou Hiner, Jr. Mr. Hiner should be commended for his forthright statement and his dedication to truth. I ask the unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMMUNISTS ARE REAL CAUSE OF LAOTIAN MESS

(By Lou Kiner, Jr.)

So much is being distorted about what the U.S. is doing in Laos that the American people again are engulfed in confusion.

Sen. Barry M. Goldwater, R-Ariz., recently discussed the situation on the Senate floor and reminded his fellow senators that the U.S. is not the "real culprit" in the Laotian mess.

The Arizona senator placed the entire "Declaration on the Neutrality of Laos," dated July 23, 1962, in the Congressional Record, and made a few pointed remarks about it.

"Russia is given a responsibility to maintain peace in Laos, both as a signer of the 1963 declaration and as a co-chairman of the 1962 conference," Goldwater said.

"This may come as s surprise to some senators . . . but the Russians, and let us add to them the People's Republic of China and the Democratic Republic of Vietnam, all pledged themselves to respect the neutrality of Laos."

Goldwater then quoted from the Declaration the pledge of the signatory countries that they "will not introduce into the kingdom of Laos foreign troops or military personnel in any form whatsoever, nor will they in any way facilitate or connive at the introduction of any foreign troops or military personnel."

Now, who is causing the trouble in Laos today, and for that matter in South Vietnam and Northwest Thailand, Goldwater asked, and answered, "the Communists, whether they be Russian, North Vietnamese or Red Chinese."

The United States has been trying to live up to its responsibilities outlined in the declaration. This has involved giving the Laotian Army U.S. support on the Plain of Jars, Goldwater said, and commented:

"I have a feeling that this is the least we can do for that country which is allowing us to bombard unmercifully at the Ho Chi Minh trails and the three major passes by which access is gained from North Vietnam and into Laos and then into Cambodia and South Vietnam."

The 1964 Republican presidential candidate suggested that those senators who are criticizing the United States for its actions in Laos should take time to point their fingers at Russia, Red China and North Vietnam and ask, "What are you doing upsetting the neutrality of Laos?"

The Declaration cited by Goldwater spells out the independence of the Laotian people and promises they will make no military alliances or agreements with any other country.

The document also prohibits any foreign troops, regulars or guerrillas, in Laos. To help Laos adhere to this provision, the Declaration says the International Commission for the Supervision and Control of Laos, Canada, India and Poland shall "lend proper assistance."

Thus far, the commission has done nothing to kick out the North Vietnamese and their sordid Russian and Red Chinese advisers.

But the Communists never respect such scraps of paper as the Declaration.

SUPPORT FOR THE VICE PRESIDENT

Mr. DOLE. Mr. President, countless articles and editorials from great metropolitan newspapers are printed in the CONGRESSIONAL RECORD each year. It is well to remember, however, that the small daily or weekly paper is still a powerful and vital force in America. Thousands of these papers are published in every section of the country and serve rural as well as urban and suburban populations.

The quality and vigor of these smaller newspapers' editorial columns match that of any giant's. In many cases they display a clarity of vision and freedom from ingrained pomposity which their "great" counterparts would be well advised to emulate.

The State of Kansas has a great tradition of quality local journalism dating back before the days of Ed Howe and William Allen White.

An editorial published in the Baxter Spring Citizen was written by Clelland Cole, editor of the St. John News. Both these newspapers have a long history of service to their communities, and this editorial exemplifies the continuing high standards of Kansas journalism.

Mr. President, I ask unanimous consent that Mr. Cole's article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

THIS MAN HAS RUNG THE BELL

(By Clelland Cole, St. John News)

The television networks, some radio commentators, liberal newspaper and magazine reporters, riot sympathizers and others whose toes have been crunched by Spiro Agnew in recent months can go right ahead with their frantic efforts to belittle the man, but they might just as well learn immediately that they are paddling clumsily against the tide.

America has waited for many years for some nationally known person to call a spade a spade and a radical a radical, and Spiro has done that. He has, with the man in the street, the housewife in the home, the taxpayer digging in his pockets and the patriot standing in awe of the flag, said what was in their hearts and he has endeared himself with that vast so-called "silent majority."

Too long have the network experts "opinionated" with clever throat cutting on anybody whom they dislike; too long have they avoided the facts in favor of interpretative diatribes; too long have some huge newspapers and magazines presented information colored in their favorite tints.

Too long have those who hold law in contempt been treated with deference instead of being labeled honestly; too long have enemies within the nation's borders been immune to proper description, using the measure of patriotism. Too long have too many accepted the blessings of freedom while carrying on vicious campaigns to destroy it.

Spiro has laid the truth on the line and he has stood his ground in the face of the inevitable fury of those at whom he pointed the finger of truth. Meanwhile, plain old loyal, patriotic, freedom loving, law abiding Americans love it and say: Hooray for Spiro.

THE GENOCIDE CONVENTION—AN EDITORIAL IN THE ATLANTA CONSTITUTION

Mr. PROXMIRE. Mr. President, I invite the attention of Senators to an interesting and forceful editorial published in the Atlanta Constitution of February 25, 1970. The editorial put this fine newspaper on record as strongly supporting Senate ratification of the United Nations Genocide Convention. In a powerful and succinct style, the editorial summarizes many of the basic points that have been raised by the proponents of the convention.

As the editorial has pointed out so well, genocide is not a crime from which Americans are excepted. The principle behind international law is that it applies equally to all nations, large and small, rich and poor, powerful and weak. The Senate must correct the impression that many may have now that this country feels it is above laws that apply to all other nations. This can be accomplished through the prompt ratification of the Genocide Convention.

I ask unanimous consent that the editorial entitled "The Genocide Convention" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

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The Genocide Convention

Genocide is an ugly word defined as "the deliberate and systematic destruction of a racial, political or cultural group."

The word came into common usage after World War II when Nazi extermination of some six million Jews and gypsies staggered the conscience of mankind. In 1948 the U.N. General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide. This made mass murder of a people a matter of international concern. The United States signed the convention but has never ratified it, and it has no effect in our country.

Surely Americans are not indifferent to the deliberate mass slaughter of innocents.

Then why haven't we taken a stand with 74 other nations by ratifying the convention?

For a long time it was held that treaties of this sort would supersede our constitution or interfere with sovereignty. But President Nixon, backed up by Secretary of State Rogers and Attorney General Mitchell, says there is no constitutional obstacle and has urged the Senate to approve the Convention.

One influential organization has opposed ratification from the beginning. The American Bar Association, meeting in Atlanta, has once again gone on record as opposed to ratification, though the vote was close—130 to 126. They argue that Americans could be tried in foreign courts, or that our troops in Vietnam might be accused and tried on charges of genocide.

This attitude, we'd guess, is greatly appreciated by those employed in the propaganda bureaus of America's enemies. It seems to suggest that genocide is a terrible crime unless Americans are committing it. One delegate said quite bluntly: "I wouldn't be in this country if it weren't for genocide. It was either the white man or the Indian and the Indian went down the drain." This memorable quotation is probably framed on the office walls in Hanoi and Moscow right now.

Rational Americans know well enough that we intend no genocide in Vietnam or any where. But we're being accused of it. This is unjust, but perhaps it is behind the President's desire to place the nation firmly on record. "I believe we should delay no longer," he told the Senate, "in taking the final convincing step which would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever."

The enormity of the crime, it seems to us, makes the objections look like petty quibbling over technicalities. We support the President wholeheartedly.

GROWING MENACE OF POLLUTION IN NEW YORK CITY

Mr. JAVITS. Mr. President, it was very disheartening to read that deaths from pulmonary emphysema have dramatically increased in New York City over the last 10 years. This is only the latest evidence that air pollution is one of the great dangers to the health of the American people. An article published in the New York Times, of March 12, fully discusses the air pollution, the water pollution, and the noise pollution problems. The noise problem is one which has not received adequate attention and is rapidly becoming also a great threat to the life of the city dweller. I ask unanimous consent that the article be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

Five-Hundred-Percent Rise in Emphysema Deaths in Last Decade Reported for City

(By John Sibley)

The fastest-growing cause of death among New Yorkers is pulmonary emphysema, a mortality rate that has risen 500 per cent in the last 10 years. During the same period, deaths from chronic bronchitis have increased 200 per cent.

A city medical examiner, talking of the health effects of air pollution, puts it more pungently.

"On the autopsy table it's unmistakable," he remarked the other day. "The person who spent his life in the Adirondacks has nice pink lungs. The city dweller's are black as coal."

But despite such anatomical displays, and despite the overwhelming statistical evidence that air pollution sickens and kills, there is little solid medical proof that specific pollutants cause specific diseases.

This generality holds true not only for air pollution, but for the effects on human health of contaminated water and excess noise.

The Public Health Service reports, for instance, that deaths from lung cancer occur in large metropolitan areas at twice the rural rate, even when allowance is made for differences in smoking habits.

Yet Dr. Ernest Wynder of the Sloan-Kettering Institute for Cancer Research doubts that air pollution plays a major role in the growing incidence of lung cancer. Dr. Wynder notes for one thing that lung cancer is six times as prevalent among men as among women, though both are exposed equally to air pollution.

Some of the most intensive research into the health effects of air pollution has been undertaken by Dr. Stephen H. Ayres, director of the Cardio-Pulmonary Laboratory at St. Vincent's Hospital here. But in an article soon to be published in a professional journal, Dr. Ayres acknowledges:

"Ideally, one would like to identify the body burden of a given pollutant and be in a position to measure the physiologic effects of that particular body burden. With most pollutants, neither the body burden nor the quantitative relationships between burden and health effects is known."

No tidy set of symptoms acts as a signpost for the diagnosing physician, for in fact there is no "air pollution disease" as such. Among the experts, however, there is general agreement that pollution's primary effect on health is to exacerbate a variety of existing diseases.

A FORMIDABLE HAZARD

Yet despite the lack of precise knowledge, experts have no doubt that air pollution is indeed a formidable hazard and that vigorous remedial measures are called for. Dr. Robert Horton, chief of the government's Health Effects Research Program, told the New Yorker in an interview a year ago:

"The British reduced cholera and typhoid in the nineteenth century before they knew bacteria existed, and we may have to regulate our air supply before we have complete knowledge about air pollution.

"The methods we have for detecting excess deaths are so crude that there has to be a pretty big excess for us to realize that it's there at all. What we do know is that people get killed by air pollution, and I don't see any excuse for there being enough air pollution to kill people. Do you?"

Those "excess deaths" occur most often in New York, whose air is the dirtiest in the United States and second only to London's in the world. New York's average level of sulphur dioxide, for instance, is half again as high as that of Chicago, its nearest American competitor.

During the Thanksgiving weekend of 1966, severe smog caused by a temperature inversion resulted in the deaths of 168 more New Yorkers than normally die in the same length of time.

This figure was calculated by Dr. Leonard Greenburg, who was the city's first Commissioner of Air Pollution Control and is now chairman of the Department of Environmental and Preventive Medicine at the Albert Einstein College of Medicine.

Perhaps this country's most widely publicized episode came in 1948, when an inversion over Donora, Pa., a mill town of 14,000 made half the inhabitants sick with a four-day fog filled with sulfur dioxide and other pollutants from chemical and steel plants.

Twenty Donora residents died during the siege. And a study made 10 years later showed that those who had been acutely ill during the episode were having a higher rate of sickness and were dying at an earlier age than other townspeople.

WATER PROBLEM STUDIED

In water pollution, public health officials are concerned with three types of contamination: microbiological, chemical and radioactive. Generally, separate standards of purity are set for drinking water, shellfish waters and bathing beach water.

The standards measure of microbiological contamination is the concentration of coliform bacteria. These are not a health hazard in themselves, but they are relatively easy to count and usually indicate the presence of pathogens, which are disease-causing organisms.

The New York City Health Department will not approve drinking water that contains more than 1 coliform bacillus per 100 milliliters (about 3 ounces). A concentration of 700 is the maximum allowed for shellfish waters, and swimming beaches are closed when the concentration exceeds 2,400.

The city's standard for swimming water is the most lenient in the United States. The standard for shellfish waters is an academic one; all sea water within New York City contains more than the permissible concentration, and shellfish has been prohibited here for years.

The problem with shellfish is that their filtration systems collect contaminants and store them in much greater concentrations than exist in the surrounding water. One study of oysters, for instance, showed them capable of storing radioactivity in concentrations 1,000 times as great as the water's.

The most common health hazard in contaminated shellfish is infectious hepatitis, whose virus is carried in human feces. Huge quantities of untreated sewage are pumped into New York Harbor continually.

Years ago, typhoid fever was a major threat from polluted water, and though the disease is rarely heard of in this country today, Deputy Health Commisioner Frederick S. Kent said the other day: "I still don't rule out typhoid as a hazard."

The Health Department is currently keeping track of about 200 typhoid carriers in the metropolitan area. They are not permitted to work in food industries.

About 25 new typhoid cases are reported here each year. About one-third of the victims contract the disease elsewhere (usually overseas) and another one-third get it from a carrier in the family.

A type of "pollution" that is relatively new to public health officials is excessive noise. In a report earlier this year, Mayor Lindsay's Task Force on Noise Control stated:

"Noise has reached a level intense, contin-

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uous and persistent enough to threaten basic community life."

The report added: "More than at any time in the city's past, there seems to be no escape for city residents and workers from daily accoustical assaults on the senses. Vehicular traffic, jet aircraft, subway trains, construction equipment and air conditioners, as major noise sources, degrade the health and well-being of New York residents."

A medical subcommittee of the task force, headed by Dr. Wilbur James Gould, reported that subway motormen and conductors may suffer permanent hearing loss. Other health effects are psychological and not precisely measurable: "annoyance, anxiety, constrained and explosive rage, disrupted sleep, irritability, concentration and energy draining tensions."

At more than 140 decibels, acute pain is experienced. A moving subway train produces 100 decibels, a jet airplane at close range 150.

Mr. Kent has classified environmental pollution into a priority system of four categories: (1) concentrations that cause death, (2) amounts that cause illness or injury, (3) levels that permit "effective living" at work and play and (4) levels that permit "esthetic enjoyment."

"The first two categories obviously can't be tolerated," says Mr. Kent. "They are the responsibility of the Health Department, and so—to a large extent—is the third category. The fourth category is largely a matter of economics, and must be weighed against other city needs that require taxpayers' money."

FEDERAL PUBLIC WORKS PROGRAM REQUIRES COMPLETE OVERHAUL

Mr. PROXMIRE. Mr. President, one of the most inefficient and wasteful programs in the Federal budget is the public works program of the Army Corps of Engineers. In spending over $1 billion per year of taxpayers' money, this program provides enormous subsidies to a limited number of people who in turn use their largess to lobby for an ever-increasing flow of taxpayers' money into corps projects.

We who have followed this program as it erects its enormous structures on the Nation's rivers have come to understand the tactics used by the corps and its supporters to maintain and increase the flow of Federal largess. These tactics include the consistent overestimation of the economic benefits which are claimed for proposed projects, through the tacking on of secondary effects, and the development of other evaluation procedures which are strongly biased upward. They include the use of very low interest rates to evaluate the present worth of the future impacts of these projects, a practice which artificially bloats the benefit-cost ratio. They include the neglect, indeed disdain, of the environmental disbenefits which appear as side effects to the manipulation of natural rivers. They include the understatement of the cost of these projects, both construction and future operation and maintenance costs. They include the establishment and maintenance of a close and congenial hand-in-glove working arrangement with the lobbies and vested interest groups who are subsidized by water resources development.

Although those of us who have long followed the Corps of Engineers have been aware of these tactics, it has been difficult to bring them to the attention of the American people. In the current issue of the Atlantic, Miss Elizabeth B. Drew has performed a major service by bringing out into the open, the nature of the corps program and the inefficiency which characterizes it. Because of the importance and timeliness of this important article, I wish to bring it to the attention of the full Senate.

In her article entitled, "Dam Outrage: The Story of the Army Engineers," Miss Drew analyzes the corps program and puts the spotlight on its inefficiency and on the adverse environmental side effects which it creates. She states that the Corps of Engineers "is a prime example of a bureaucracy that is outliving its rationale, and that is what is getting it into trouble. As the corps impelled by bureaucracic momentum and political accommodation has gone about its damning and dredging and 'straightening' of rivers and streams, it has brought down upon itself the wrath of more and more people disturbed about the effects on the environment."

As Miss Drew so closely points out, in this period in which budgets are limited and in which national priorities are shifting radically, it is essential that we ferret out and expose the wasteful, outdated, and ineffective programs in the budget and either modify them so that they serve the public interest or abandon them. She states:

> In a period of great needs and limited resources, a high proportion of public works program amounts to inefficient expenditures and long-range commitments of money on behalf of those who make the most noise and pull the most strings. Despite all the talk amout "reordering priorities," the Nixon administration's budget for the next year increases the money for the Corps at a time when a number of our domestic arrangements are coming under reexamination, this one is a prime candidate for reform.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

DAM OUTRAGE: THE STORY OF THE ARMY ENGINEERS

(By Elizabeth B. Drew)

As times change so do the nation's needs and priorities. But the Army Corps of Engineers just keeps rolling along as it has for decades, working one of the most powerful lobbies in Washington, winning more than $1 billion a year from the Congress to straighten rivers, build dams, and dig canals that frequently serve only narrow interests and too often inflict the wrong kinds of change on the environment. Here the *Atlantic's* Washington editor tells how the Engineers do it, and suggests that a changing public opinion may at last force a change in their habits.

The St. Croix River, one of the few remaining wild rivers in the nation, forms a stretch of the border between Wisconsin and Minnesota before it runs into the Mississippi below Minneapolis. Not long ago, Senator Gaylord Nelson of Wisconsin discovered that the Army Corps of Engineers was considering the construction of a hundred-foot-high dam on the St. Croix. At the same time, Nelson and Senator Walter Mondale of Minnesota were trying to win legislation that would preserve the river in its natural state. Nelson took the unusual step of going before a congressional committee to oppose a Corps project in his own state. "The Corps of Engineers," he said, "is like that marvelous little creature, the beaver, whose instinct tells him every fall to build a dam wherever he finds a trickle of water. But at least he has a purpose—to store up some food underwater and create a livable habitat for the long winter. Like the Corps, this little animal frequently builds dams he doesn't need, but at least he doesn't ask the taxpayer to foot the bill."

Few politicians publicly criticize the Corps, because almost all of them want something from it at some point—a dam, a harbor, a flood-control project. A combination of Corps diplomacy and congressional mutuality keeps most of the politicians content, and quiet. The overwhemling majority of Corps projects are attractive federal bonuses, given free of charge to communities—some local contributions may be involved in small flood-control or municipal-water-supply projects—and therefore they are highly prized. "They take care of all of the states," said one Senate aide. "If there's water in a faucet in one of them, they'll go in there and build a dam."

There is no question that the civil works program of the Army Corps of Engineers, viewed over its long history, has benefited the country. It has made waterways navigable and provided hydroelectric power and flood control. Communities to which it has brought help have been genuinely grateful. Now, however, it is a prime example of a bureaucracy that is outliving its rationale, and that is what is getting it into trouble. As the Corps, impelled by bureaucratic momentum and political accommodation, has gone about its damming and dredging and "straightening" of rivers and streams, it has brought down upon itself the wrath of more and more people disturbed about the effects on the environment. A secret poll taken by the White House last year showed environmental concerns to be second only to Vietnam in the public mind. This rather sudden general awareness of the science of ecology—the interrelationships between organisms and their environment—has brought projects which disturb the environment and the ecology, as Corps projects do, under unprecedented attack. The Corps' philosophy, on the other hand, was recently expressed in a speech by its chief, Lieutenant General F. J. Clarke. "With our country growing the way it is," he said, "we cannot simply sit back and let nature take its course."

Criticism of the Corps and what its programs are all about is not based solely on environmental issues. The broader question, given the claims on our national resources, is whether it makes sense to continue to wink at traditional public works programs, and the self-serving politics which sustain them. The nation is now committed, for example, to making Tulsa, Oklahoma, and Fort Worth, Texas, into seaports, although each is about 400 miles from the sea, at costs of at least $1.2 billion and $1 billion respectively. There are other questions that might be raised at this point, such as whether subsidizing the barge industry should be a national priority; or whether we want to continue to dredge and fill estuaries and build flood-control projects for the benefit of real estate developers and wealthy farmers. The Army Corps of Engineers and its work have been a very important force in American life, with a few questions asked. Yet it is not fair simply to castigate the Corps, for the politicians have made the decisions and the public has gone along. General Clarke has made a point when he said that the Corps is being put "in the unhappy and, I can't help feeling, rather unfair position of being blamed for presenting a bill by people who have forgotten that they ate the dinner."

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The Corps is part of a growing hodgepodge of federal bureaucracies and programs that work at cross-purposes. The Department of Agriculture drains wetlands while the Department of Interior tries to preserve them. The Corps dams wild rivers while the Department of Interior tries to save them. The Corps and the Bureau of Reclamation in Interior provide farmlands for crops which farmers are paid not to produce. The government spent $77 million to build the Glen Elder Dam in Kansas, a Bureau of Reclamation project which provided land to produce feed grains, for which the government pays out hundreds of millions of dollars a year to retire. The Tennessee Valley Authority is also still building dams, and it does strip-mining.

But of these water programs, the Corps' is by far the largest. Each year Congress gives it more than a billion dollars, and each year's budget represents commitments to large spending in the future. In a deliberate effort to spread the money around, new projects are begun and ones already under way are permitted to take longer to complete, in the end driving up the costs of all of them.

The annual Public Works appropriations bill provides money for, among others, the Panama Canal, the Water Pollution Control Administration and the Bureau of Reclamation in the Interior Department, and various public power administrations, as well as the Corps of Engineers. This year it came to $2.5 billion, of which the Corps received $1.1 billion. The Corps is now at work on 275 projects. The total future cost of these will be $13.5 billion, not accounting for the customary price increases. Another 452 projects have been authorized by Congress, but have not yet been started. The Corps says that the total cost of these would be another $10 billion, clearly an underestimation of some magnitude. For every project to which the country is already committed, the Corps, the politicians, and the local interests who stand to gain have many, many more in mind.

DESTINY

The Corps' official history traces its beginnings to a colonel who dug trenches "in the darkness of the morning" during the Battle of Bunker Hill, and the subsequent orders of President Washington to establish a corps of military engineers and a school to train them. In 1802, the Corps was established, and West Point was designated to provide its members. The history of the Corps is interwoven with that of the country and its frontier ethic. It is a very proud agency. "They led the way," its history says, "in exploring the great West. They were the pathfinders sent out by a determined government at Washington. They guided, surveyed, mapped, and fought Indians and nature across the continent. . . . They made surveys for work on the early canals and railroads. They extended the National Road from Cumberland to the Ohio and beyond. They made the Ohio, Missouri, and Mississippi safe for navigation in the Middle West. They opened up harbors for steamships on the Great Lakes." After the war with Mexico, in which "the part played by the Army Engineer officers was impressive . . . the last segment of the great Western Empire was soon annexed. These things were all accomplished by the application of America's greatest power. That is the power of Engineering Character, Engineering Leadership, and Engineering Knowledge. All employed to fulfill our destiny." Following the Civil War, the civil works program of the Corps "was revived to benefit all sections of the reunited nation," and that is how the Corps has been fulfilling our destiny ever since. In 1936 the Corps was given major responsibility for flood control (until then largely a local function).

The major activities of the Corps are the damming, widening, straightening, and deepening of rivers for barge navigation, building harbors for shipping, and construction of dams and levees and reservoirs for flood control. It also works on disaster relief and tries to prevent beach erosion. A project can serve several purposes: building waterways, providing flood control, hydroelectric power, or water supply. As the Corps completed the most clearly needed projects in these categories, it found new purposes, or rationales, for its dams. The newer justifications are recreation and pollution treatment.

Pollution treatment (the government calls it "low-flow augmentation") is provided by releasing water from a dam to wash the wastes downstream. But there are now more effective and less expensive ways of dealing with pollution.

Recreation is provided in the form of still-water lakes behind the dam, for speedboating, swimming, and fishing. But the fish that were previously there often do not continue to breed in the stilled water. And the recreation, not to mention the scenery, of the natural river that used to be there, is gone. A flood-control channel is usually surrounded by cement banks, and the trees are cut down when a levee is built. When the water in a reservoir is let out during the dry months, or for "low-flow augmentation," the "recreation" area can become a mud flat.

These problems arise because the Corps of Engineers' mission has been narrowly defined. Other ways of dealing with transportation, power, and pollution are not in the Corps' jurisdiction, so the Corps is left to justifying what it is permitted to do. What hydroelectric power is left to be developed will make a very small contribution to the nation's power needs. The Corps builds its projects on sound engineering principals. If a highway cuts through a park or a city, or a dam floods more land than it protects, those are the breaks. A "straight" river is an engineer's idea of what a river ought to be. A talk with a Corps man will bring out a phrase like, "When we built the Ohio River . . ."

The Corps argues that having military men conduct civil works "is an advantage of outstanding importance to national defense." Actually, the military men in the civil works section of the Army Corps of Engineers represent only a thin superstructure over a large civilian bureaucracy. Most of the 1100-man uniformed Corps work solely on military construction. The civil works section of the Corps, in contrast, comprises about 200 military men, and under their direction, 32,000 civilians.

Generally, the career military engineers come from the top of their class at West Point, or from engineering schools. Once they join the Corps, they rotate between military and civil work, usually serving in the civil works division for three-year tours, the civil work is sought after, because it offers unusual responsibility and independence in the military system, and the experience is necessary for reaching the high ranks of the Corps. Through the civil work, a Corps officer can gain a sharpening of political acumen that is necessary for getting to the top. And there is the tradition: "The Corps built the Panama Canal," one officer said, "and every Corps man knows that Robert E. Lee worked on flood control on the Mississippi." It is a secure life, and when he retires, a military corps officer can get a good job with a large engineering firm or become a director of a port authority.

The civilian bureaucracy is something else. The Corps, like other government agencies, does not attract the brightest civilian engineering graduates, for it does not offer either the most lucrative or the most interesting engineering careers. The Corps work is largely what is known in the trade as "cookbook engineering." A ready-made formula is on hand for each problem. The Corps' bureaucracy draws heavily from the South, where the engineers who built the first dams and controlled the floods are still heroes.

The military patina gives the Corps its professional aura, its local popularity, its political success, and its independence. The military engineers are, as a group, polite, calm. and efficient, and their uniforms impress the politicians and the local citizens. The engineer who heads one of the Corps' forty district offices, usually a colonel, is a big man in his area; the newspapers herald his coming, and he is a star speaker at the Chamber of Commerce and Rotary lunches. But the military man gets transferred, so smart money also befriends the civilian officials in the district office. These men stay in the area, and want to see it progress. The Tulsa office of the Corps, for example, has about 1500 employees, of whom only three are military. The local offices are highly autonomous, for the Corps operates by the military principles that you never give a man an order he can't carry out, and that you trust your field commanders. If a district engineer believes strongly in a project, it is likely to get Corps endorsement. The Corps has mastered the art of convincing people that its projects are desirable, and so the projects are not examined very closely. Corps engineers are impressive in their command of details that non-engineers cannot understand, assiduous in publishing books that show what the Corps has done for each state, and punctilious about seeing that all the right politicians are invited to each dedication of a dam.

And so the Army Corps of Engineers has become one of the most independent bureaucracies in the federal government. The Corps' civil works section is neither of great interest to the Pentagon nor answerable to more relevant civilian bureaucarcies. It makes its own living arrangements with the Congress, and deals not with the Armed Services Committees of the House and Senate, but with the Public Works Committees. Theoretically, the Corps reports to the appointed civilian chiefs of the Department of the Army, but these men are usually preoccupied with more urgent matters than Corps projects, and after a spell of trying to figure out what the Corps is doing, or even to control it, the civilians usually give up. "It was," said one man who tried not long ago, "like trying to round up the Viet Cong for an appearance on the *Lawrence Welk Show*."

I THINK I UNDERSTAND

The power of the Corps stems from its relationships with Congress. It is the pet of the men from the areas it has helped the most, who also usually happen to be among the most senior and powerful members, and the ones on the committees which give the Corps its authority and its money. Thus, when the late Senator Robert Kerr of Oklahoma was a key member of the Senate Public Works Committee as well as the Senate Finance Committee, he devoted his considerable swashbuckling talents to winning final approval of a plan to build a navigation system stretching 450 miles from the Mississippi, up the Arkansas River, to Catoosa, Oklahoma, giving nearby Tulsa an outlet to the sea. The $1.2 billion project is said to be the largest since the Tennessee Valley Authority was built. The entire Oklahoma and Arkansas delegations, quarterbacked by a member of Kerr's staff, carried it through. The story goes that President Kennedy, having been advised to oppose the Arkansas River project, met with Kerr to seek his help on a tax bill. Kerr, not a very subtle man, told the President "I hope you understand how difficult I will find it to move the tax bill with the people of Oklahoma needing this river transportation." "You know, Bob," the President is said to have replied, "I think I understand the Arkansas River project for the first time." After Kerr's death, Senator John McClellan

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inherited the mantle of chief protector of the project, which reached the Arkansas-Oklahoma border last December, an event that was marked by a grand dedication.

The legislation that authorizes and appropriates the money for Corps projects encourages manipulation and swapping because of the unusual way in which it parcels out the money on a project-by-project basis. It is as if a housing bill had designated X dollars for a development here and Y dollars for a development there.

A very formal document—known around Capitol Hill as "eighteen steps to glory"—explains the procedures by which a project is initiated. In actuality, what happens is that local interests who stands to gain from a Corps project—barge companies, industrialists, contractors, real estate speculators—get together, often through the Chamber of Commerce, with the district engineer and ask for a project. The Corps literature is quite explicit about this: "When local interests feel that a need exists for any type of flood control, navigation, or other improvement, it will be most profitable for them to consult at the outset with the District Engineer. He will provide full information as to what might be done to solve their particular problem, the authorities under which it might be accomplished, and the procedures necessary to initiate the action desired." Then the local groups ask their congressman, who is responsive to this particular segment of his constituency, to secure legislation authorizing the Corps to make a study of the project. Usually the Corps man is already aboard, but if not, he is not very far behind. "Sometimes," said a congressman who, like most of his colleagues, declined to be named when talking about the Corps, "the Chamber of Commerce will call me, and I'll say get in touch with Colonel So-and-so in the district office and he's over there like a shot; or the Corps will make an area survey and go to the community and drop hints that they might have a dam if they work on it." Frequently the project's promoters will form a group—the Mississippi Valley Association, the Tennessee-Tombigbee Association, the Arkansas Basin Development Association, and so on. The Florida Waterways Association, for example, boosters of the controversial Cross-Florida Barge Canal, has among its directors a realtor, representatives of a consulting engineering company, a dredging company, chambers of commerce, port authorities, newspapers, and a construction company. The associations meet and entertain and lobby. The Lower Mississippi Valley Association is noted for its days-long barge parties. Some twenty- to thirty-odd people from an association descend on Washington from time to time, to testify and to see the right people in Congress and the Executive Branch.

The power to authorize the study of a project, then to initiate it, and to appropriate the money for it is held by the Senate and House Public Works Committees, and by the Public Works Subcommittees of the Appropriations Committees of the two bodies. This is a total of seventy-one men; as is usual with congressional committees, a very few of the most senior men wield the key influence. It all comes down to a chess game played by the same players over the years—the committees, their staffs, and the Corps. There are always demands for more projects than can be studied, authorized, or financed, and so the Corps and the politicians are always in a position to do each other favors. One study can be moved ahead of another by the Corps if a man votes correctly. One project can get priority in the authorizing or appropriating stages. "Everyone is in everyone else's thrall," said a man who has been involved in the process, "unless he never wants a project."

The Corps has managed to arbitrate the demands for more projects than its budget can include through its highly developed sense of the relative political strengths within the Congress, and by making sure that each region of the country gets a little something each time. "We try to satisfy 10 percent of the needs of each region," said a Corps official. From time to time, the Corps has been pressed by the Budget Bureau to recommend instead the most feasible projects in the nation as a whole, but the Corps has resisted the impolitic approach. The Secretary of the Army rarely changes the Corps' proposals. The Budget Bureau does examine the Corps' proposals on a project-by-project basis, but it runs a poor third to the Corps and Capitol Hill in deciding what the Corps program should be. The President, who is but a passerby, cannot establish control over the public works process unless he decides to make the kind of major political fight that Presidents usually do not think is worth it. On occasion, the White House will oppose a particularly outrageous project—or, out of political exigency, support one. Outsiders are unable to penetrate the continuing feedback between the Corps and the congressional committees, and are insufficiently informed to examine the rationale, the nature, and the alternatives of each project.

There may have been a Corps of Engineers project that was rejected on the floor of Congress, but no one can recall it. Every two years—in election years—a rivers and harbors and flood-control authorization bill is passed by Congress, and every year, money is appropriated. It has been calculated that, on the average, the authorization bills have provided something for 113 congressional districts (or more than one-fourth of the House of Representatives) at a time, and the appropriations bills for 91 districts. "We used to say," said a man involved in the process, "that we could put our mortgage in that bill and no one would notice, and then the appropriations committees would cut it by 15 percent." The most recent appropriation carried something for 48 states. On occasion, a senator, Paul Douglas of Illinois for one, or William Proxmire of Wisconsin for another, has spoken out against a particular Corps project, or the "pork-barrel" technique of legislating Corps projects, but they have not been taken seriously. "One hundred fifty-five million dollars has been spent as a starter," Proxmire once argued on the Senate floor in futile opposition to the Cross-Florida Barge Canal, "that is what it is, a starter—to make many more jobs, to make a great deal of money, and a great deal of profit. That is the essence of pork. That is why senators and congressmen fight for it and win re-election on it. Of course people who will benefit from these tens of millions of pork profit and jobs are in favor of it. That is perfectly natural and understandable. It will snow in Washington in July when a member of Congress arises and says spare my district the pork. What a day that will be."

Douglas fought rivers and harbors projects for years and then, in 1956, made a speech saying that he was giving up. "I think it is almost hopeless," he said, "for any senator to try to do what I tried to do when I first came to this body, namely, to consider these projects one by one. The bill is built up out of a whole system of mutual accommodations, in which the favors are widely distributed, with the implicit promise that no one will kick over the applecart; that if senators do not object to the bill as a whole, they will 'get theirs.' It is a process, if I may use an inelegant expression, of mutual back scratching and mutual logrolling. Any member who tries to buck the system is confronted with an impossible amount of work in trying to ascertain the relative merits of a given project."

GROWING BANANAS

The difficulty in understanding what a given Corps project will do, and what its merits are, comes not from a lack of material supplied by the Corps, but from an overabundance of it. A Corps report on a proposed project—the result of a survey that may take three to five years—is a shelf-long collection of volumes of technical material. Opponents of the project are on the defensive and unequipped to respond in kind.

Most of the projects that Congress asks the Corps to survey are, of course, turned down, because a congressman will pass along a request for a survey of almost anything. By the time a project moves through the Corps' bureaucracy to the Board of Engineers for Rivers and Harbors in Washington—what the Corps calls an "independent review group"—it has a promising future. The Board is made up of the Corps' various division engineers, who present their own projects and have learned to trust each other's judgment.

The supposedly objective standard for deciding whether a project is worthy of approval is the "benefit-to-cost" ratio. The potential benefits of a project are measured against the estimated costs, and the resulting ratio must be at least one-to-one—that is, one dollar of benefit for each dollar spent (the Corps prefers the term "invested")—to qualify. There is, however, considerable flexibility in the process, and at times the benefit-cost ratios of controversial projects are recomputed until they come out right. This was true of the Trinity River project to make Fort Worth a seaport, the Cross-Florida Barge Canal, and projects along the Potomac River. "There is enough room in the benefit-cost ratio," said a man who has worked with the Corps on Capitol Hill, "for the Corps to be responsive to strong members of Congress who really want a project." It has been remarked that the measurements are pliant enough to prove the feasibility of growing bananas on Pikes Peak.

There is much argument over the Corps' method of arriving at prospective benefits. For example, business that might be drawn by a project is considered among the benefits, even though there is no real way of knowing what business the project will attract and what the effects will be. The lower prices to a shipper of sending his goods by barge rather than by rail is also considered a national benefit; such a benefit may involve the fact that a wheat farmer is growing and shipping more wheat because of the lower prices, even though we do not need the wheat. The windfalls to real estate investors who have been lucky or clever enough to have bought inexpensive land—some of it underwater—in the path of a future project can turn up as a boon to us all in the form of "enhanced land values." The land, which can then be sold and developed for industrial, housing, or resort development, undergoes extraordinary value increases.

There are serious questions about how to estimate future benefits of flood control; the 1955 Hoover Commission report said that they are often "considerably overstated." In any event, in the three decades since the Flood Control Act was passed, annual losses due to floods have increased (in real prices). The apparent explanation is that the construction of flood-control dams, which cannot be built to guarantee protection against all manner of floods, do nevertheless encourage developers to build expensive properties on lands that will still be hit by floods. The protection of buildings which a flood-control dam attracts is counted as a national benefit, even though the buildings might have been built in a safer place, and there are less expensive ways to protect them. Antipollution treatment and hydroelectric power are counted as benefits even though there are cheaper ways of cleaning water and providing power. The benefits and costs are

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not compared with the benefits and costs of doing these things any other way. Promised benefits appear higher than they will turn out to be because of an unrealistic way of projecting the decline of the value of the dollar. Projected recreation benefits, which have accounted for an increasing proportion of the benefit to the nation from building these projects, are based on an assumption of how much people would be willing to pay for recreation privileges, even though they don't. The Corps lobbies to keep its parks free, in contrast to other national parks. The life of a project used to be estimated at 50 years in adding up the benefits; as fewer projects qualified, the Corps has simply shifted to a basis of 100 years. The cost of the loss of a wilderness, or a quiet river valley, is not deducted, there being no market value for that.

Since more projects are authorized than are given money to be begun, hundreds of them lie around for years, forgotten by all but the sponsors, or the sponsors' sons, and the Corps. If a project becomes too controversial, its backers can simply outwait the opponents. When old projects, sometimes thirty years old, are dusted off, they may be started without reconsideration of either the original purposes or the benefits and costs.

Once a project is begun, its costs almost invariably outrun the estimates. Project proponents, on the other hand, argue that the benefits are consistently underestimated. The Corps is very sensitive about cost "overruns." They say that one must keep inflation in mind, and that such projects get changed and enlarged as they go along. Such changes, undermining the original benefit-cost rationale, do not seem to trouble the Congress. The Trinity River project, estimated at $790 million when it was authorized in 1962, is now expected to cost a little over $1 billion, and construction has not yet begun. The increases are not limited to the controversial projects. A look at project costs in a 1967 Corps report, the most recent one available, shows "overruns" of over 300 percent.

THE WILDEST SCHEME

Last year, despite a tight budget policy against "new starts," money to begin the Trinity River project was included in Lyndon Johnson's final budget, and was approved by the Congress. During most of his White House years, Mr. Johnson was sensitive about bestowing federal rewards upon Texas, which had benefited so handsomely from his congressional career. Nonetheless, in the end, he overcame his scruples. The fact that he did can be credited to the persistence, and the excellent connections, of the Texas lobbyists for the project.

The major purpose of the Trinity project is to build a navigable channel from the Fort Worth-Dallas area 370 miles to the Gulf of Mexico. Like many other projects, this one has been boosted for a long, long time. It is said that Will Rogers was brought down to Texas once to make a speech in behalf of the Trinity, which is barely wet during some of the year. "I think you're right," Rogers told the Trinity Improvement Association, "I think you ought to go ahead and pave it." There have been a number of restudies of the feasibility of the Trinity project. At first it was justified on the basis of the shipping of wheat. The current justification assures a great deal of shipping of gravel, although there is some question as to the need to ship gravel from one end of Texas to the other. "It's the wildest scheme I ever saw," said a Texas politician who dared not be quoted. "They have to dig every foot of it. Then they have to put expensive locks in. You could put five railroads in for that price. I'm not carrying any brief for the railroads. You could put in a railroad and make the government pay for every inch of it and call it the United States Short Line and save a hell of a lot of money."

The Trinity River will feed barge traffic into another Texas-based waterways scheme, the Gulf Intracoastal Canal, which, when completed, will run from Brownsville, Texas, on the Mexican border, to the west coast of Florida. From there it will link up with the Cross-Florida Barge Canal, and then another channel all the way to Trenton, New Jersey. This has given the whole network a great deal of backing, which comes together in Washington through the efforts of Dale Miller, a long-time representative of a number of Texas interests. Miller, a white-haired, soft-spoken Texan came to town in 1941 with his ambitious, ebullient wife, Scooter, and took up his father's work in promoting projects for Texas. Miller represents the Gulf Intracoastal Canal Association, the Port of Corpus Christi, the Texas Gulf Sulphur Company, and the Chamber of Commerce of Dallas, for which the Trinity project is "the number-one program." He is also the vice president of the Trinity Improvement Association. ("So I have a direct interest in the Trinity at both ends.")

From the time they arrived in Washington, Dale and Scooter Miller played bridge almost every weekend with the young Corps lieutenants who lived at Fort Belvoir, just outside Washington, and now they are "good friends" with the important members of the Corps. "We move in military social circles," says Miller. "We have them to our parties, and they have us to theirs." The Millers also moved in Washington's political circles, and were close friends of Lyndon and Lady Bird Johnson, and other powerful Washingtonians. Miller was the chairman of Johnson's inauguration in 1965. But he and his wife had the good sense to maintain bipartisan contacts. Last year they gave a large party that was described in the social pages as "50-50 Democrats and Republicans." Miller says that the coming of a Republican Administration has not hindered his work: "I just put on a more conservative tie, and I'm still in business." He works out of a suite in the Mayflower Hotel, its rooms filled with photographs of Johnson and Sam Rayburn, a harp, and a painting of the Dale Miller Bridge over the Intracoastal Canal in Corpus Christi. "It gives me an opportunity for that wonderful line," says Miller, "'I'm not too big for my bridges.'"

COST INCREASES ON CORPS PROJECTS

Name of project	Cost estimate at time project was authorized	Amount spent through fiscal year 1966	Percentage overrun
Whitney (Texas)	$8,350,000	$41,000,000	391
John H. Kerr (North Carolina and Virginia).	30,900,000	87,733,000	185
Blakely Mountain (Arkansas).	11,080,000	31,500,000	184
Oahe Reservoir (North and South Dakota).	72,800,000	334,000,000	359
Jim Woodruff (Florida).	24,139,000	46,400,000	92
Chief Joseph (Washington).	104,050,000	144,734,000	39
Fort Peck (Montana)	86,000,000	156,859,000	82
Clark Hill (Georgia and South Carolina).	28,000,000	79,695,000	185
Bull Shoals (Arkansas).	40,000,000	88,824,000	122

Miller is also president and chairman of the board of the National Rivers and Harbors Congress, an unusual lobbying organization made up of politicians and private interests who support federal water projects. The chairman emeritus of the Rivers and Harbors Congress is Senator John McClellan. Among its directors are Senators Allen Ellender of Louisiana (chairman of the Public Works Appropriations Subcommittee) and Ralph Yarborough of Texas, and Congressmen Hale Boggs of Louisiana and Robert Sikes of Florida. Other officers of the group represent industries which use water transportation for their bulk cargo—such as Ashland Oil, farmers, and the coal business—and the Detroit Harbor and dredging companies. The resident executive director in Washington is George Gettinger, an elderly Indianan who has been in and out of a number of businesses and was a founder of the Wabash Valley Association, and "learned from my cash register" the value of federal water projects. "Your directors of your churches have businesses," says Gettinger, "your trustees of your universities have businesses. Sure our people make a living in water resources, just like other people. So help me, it's time we sat down and started looking at the benefits that have derived from this program. It's one of the bright spots in solving the population problem. It has settled people along rivers so they don't have to live in the inner city. The ghettos in this country are something it's not good to live with."

In its pursuit of a solution to the urban crisis, the Rivers and Harbors Congress meets every year in Washington, at the Mayflower Hotel. Its members discuss their mutual interests and then fan out about town to talk to politicians and government officials. There is a projects committee which chooses priorities among the various proposed projects. "It asks the federal agencies about the projects," explains Gettinger. "Until the Rivers and Harbors Congress there was no kind of national clearance. Their endorsement has meant so much because it comes from a group that serves without pay." The project committee holds hearings at each convention, and then it adjourns to Dale Miller's suite to decide the public works priorities. As it turns out, the projects that are mainly for navigation receive the most support. "We have no axes to grind," says Miller. "We're just in favor of development of water resources."

The nationwide coalition of interested groups keeps the momentum behind the public works program, and gives the barge industry, probably the program's largest single beneficiary, and an important national industry some seventy-five years ago, the strength to continue to win its federal largess. Besides working with the Rivers and Harbors Congress, the barge companies have their own trade associations, which have warded off tolls for the use of the federally constructed waterways.

The only major group that opposes most Corps projects is the railroad industry, which inevitably resists federally subsidized competition. On occasion, it succeeds. It is generally believed, for example, that the railroads, working through the Pennsylvania state government, blocked "Kirwan's ditch," a controversial project named after Mike Kirwan of Ohio, the chairman of the House Public Works Appropriations Subcommittee. At a cost of almost $1 billion, "Kirwan's ditch" was to link Lake Erie and the Ohio River.

The railroads also opposed the Trinity River project, but they did not succeed. Trinity had too much going for it: Jim Wright, a congressman from Fort Worth and a friend of President Johnson's, is a senior member of the House Public Works Committee. Dale Miller, with valuable assistance from Marvin Watson when Watson was the President's appointments secretary and later when he was the Postmaster General, was able to help the representatives of the Trinity Improvement Association get a sympathetic hearing from all the important people, including the President. Balky officials were called into Postmaster General Watson's office to be persuaded of the value of the Trinity project.

Watson, as Miller put it, had "great familiarity with water projects in the Southwest." He had worked for the Red River Valley Association, and the Chamber of Commerce of Daingerfield, Texas, and then Lone Star

Steel, which is located just outside Daingerfield. Watson had been a major force in securing, with the help of then Senator Johnson, a Corps water project which left Lone Star Steel with water and several of the surrounding little towns with higher taxes to pay off bonds which they had approved, in the mistaken impression that they too could draw water from the project. (It was later determined that they were too far away, and Watson became a very controversial figure in East Texas.) Watson maintained his efforts on behalf of the Red River Valley projects after he took up official positions in Washington. The Red River navigation project, to build a waterway from Daingerfield, Texas, to the Mississippi River, was authorized in 1968 to go as far as Shreveport.

After many years of success, Dale Miller's projects, like so many others, are now coming under fire because of what they will do to the environment. There is a "missing link" between the Gulf Intracoastal Canal and the Cross-Florida Barge Canal on the long way from Brownsville, Texas, to Trenton, New Jersey. The link has been authorized, but construction is being opposed. A navigation channel from Miami to Trenton already exists. "That doesn't carry a tremendous amount of tonnage," Miller says, "but it carries a tremendous amount of recreational traffic, people in their yachts and everything.

"The problem which all developers—which we are—now face is the growing awareness of environmental problems. I mean ecological change. It's a very difficult area because we don't know too much about it—what effects dredging will have on baby shrimp, or marine life. It cuts both ways. We had developed that whole Gulf part of it before anyone raised the question of the effects. Nature is much more resilient than people think it is. In dredging, you may disturb an estuary where baby shrimp and marine life were, but it didn't mean permanent destruction, just change. They were breeding somewhere else in a year. In this missing link we're going to have to satisfy the ecologists in advance, and it's going to be very difficult. I'm convinced that the developers and the preservationists are not as far apart as people think. I think the difference can be reconciled and then we can move even faster. The problem a lot of us have, paraphrasing the little-old-ladies-in-tennis-shoes approach, is that we're not dealing with the knowledgeable and experienced people in ecology, but the bird watchers and butterfly-net people who don't want anything changed anywhere, and you can't deal with them."

CONTROVERSIAL CORPS OF ENGINEERS PROJECTS

Cross-Florida Barge Canal

The Oklawaha River in northern Florida is—or was—one of the few remaining wild rivers in the nation. A fast-moving clear river, the Oklawaha runs through cypress swamps and wilderness. The river itself holds bass, sunfish, and other fish, and the woods contain deer, bear, and wild turkey; this was the country of *The Yearling*. But it was also in the path of the Cross-Florida Barge Canal, whose dams will turn some 45 miles of the Oklawaha into shallow lakes, and flood 27,000 acres of the surrounding forests.

The Cross-Florida Barge Canal was talked about as a possibility as far back as the early 1800s, at that point as a way of protecting shipping from pirates. The idea was revived in the 1930s as a job-producing program, and then again in the 1940s as a way of defending shipping from enemy submarines. It is now under way. Work on it finally began in 1964 as a navigation and recreation project. A Florida legislator who is taking the unusual posture of opposition to the project says, "The villain in the case of the barge canal is like an octopus. One of the tentacles is the Corps of Engineers and its blundering construction. Another consists of self-serving politicians, and still another is made up of the special interests, such as the phosphate, transportation, and paper industries. And finally, there are the state agencies, which from the start ignored the conservationists' warnings."

The benefit-cost ratio of the project has been a thing of change. From time to time new "benefits" have been added—flood control, "land-enhancement benefits" from the improved real estate around the reservoirs, and recreation. The interest rate charged against benefits is unusually low. Still, the benefits are to be only $1.50 for every $1.00 "invested."

At one time the U.S. Fish and Wildlife Service wrote a report on the project predicting that the dredging and damming and flooding of the area would destroy the game, the fishing, and the land; that the habitats supporting waterfowl, deer, and squirrel would be ruined. The Florida Board of Conservation, however, said that "it is inaccurate to think of the river as being destroyed or despoiled. Instead, a different set of wildlife and esthetic values will emerge. . . . The river in its original form is admittedly a stream of great beauty, but its retention in its original state would become a preservationist ideal involving enjoyment by a comparatively small group of elite purists rather than fuller use and greater enjoyment by a broad segment of the people. The economic benefits that would be foregone by a failure to complete the canal would place an extraordinarily high premium and economic burden on a less elite but overwhelming majority." The Florida Board of Conservation (now with a new title) contains the Division of Waterways Development. The head of the division was the Corps' district engineer for the project at the time it was revived in 1962.

One dam on the Oklawaha has already been completed. Behind it was created a giant, shallow, still pool filled with debris, logs, and weeds. The Corps has been trying to clear the pool; it sprayed the weeds with chemicals, which led to rotting weeds. This is expected to lead to algae and dead fish. The pool caused a new outcry over the project, and conservationists and ecologists from around the country have joined to try to stop it or move it. In a new approach a suit has been filed against the Corps to stop the canal. The grounds are that the Corps committed the people of the United States to expenditures "far in excess of the amounts contemplated" and that it denies "the rights of the people . . . to the full benefit, use and enjoyment of the economic, recreational, educational, social, cultural and historic values of the *Oklawaha Regional Ecosystem*."

The project's defenders suggest that the railroads are behind the uproar. The canal's supporters have been holding meetings and ceremonies and fish fries to drum up enthusiasm for the project. They stress that the canal will provide business growth and add to the national defense.

Everglades National Park

To the south of the canal, the Everglades National Park has been endangered by Corps projects. The park's plant life, fish, alligators, and birds are linked in a complicated state of mutual dependence, all dependent in turn on a steady flow of fresh water from the North. A good part of that water has been diverted by the Corps for the benefit of farmers and developers in South Florida, and during a drought a few years ago, the park did not receive the necessary water from the flood-control project. This led to the death of thousands of birds and fish, and turned grassy areas into cracked, lifeless flatlands. The park has not yet recovered.

Now the Corps proposes to expand the South Florida water project. Yet it refuses to guarantee that in times of water shortages the park would receive the necessary water. It says that it cannot impose such a requirement on the state of Florida. Senator Nelson, who had been leading the fight in Washington to protect the park, charges that "the Corps is playing the game with the industrial development of Florida, and not protecting the other constituency, the Everglades, a park that belongs to the country."

The controversial plan to build a jetport in the Everglades does not involve the Corps. The plan has now been scaled down to one for a temporary training strip, which some predict will still have serious consequences for the park. There are yet other schemes for developing South Florida that would change the flow of the water in the park. Without some national protection, the Everglades could well be doomed.

The Oakley Dam

In Illinois, a dam to supply water to the city of Decatur, population 100,000, has been filling with silt, and so the city's Chamber of Commerce and the Corps dusted off a 1939 plan for a larger dam, the Oakley Dam. The new dam is to provide water, flood control, and recreation, with the water supply being the smallest component of the project. When the benefit-cost ratio came out negative, the Corps added "low-flow augmentation" as a purpose. Decatur real estate developers have formed the Oakley Land Owners Association in anticipation of the real estate profits—they expect the price to go from $300 to $3000 an acre—from the land near the new dam. The opposition to the dam arose when it was realized that the reservoir would flood Allerton Park, a 1500-acre nature area maintained by the University of Illinois.

The Allerton Park opposition was better equipped than opponents in the usual Corps controversy because the university hired an engineering consultant. The engineering report showed that there was an underground supply of water for Decatur, and that advanced waste treatment was more efficient than "low-flow augmentation." But both are alternatives which the Corps, by the definition of its job, does not consider. And both would cost Decatur, as opposed to the federal government, more money.

Other dams

In Indiana, conservationists are fighting a dam on a Wabash River tributary, Big Walnut Creek, which would flood one of the few virgin forests remaining in the Midwest.

In Arkansas, Corps plans to dam the free-flowing Buffalo River raised so much controversy that even the state's senators are proposing that it be preserved as a wild river.

There are disputes over proposals by the Corps to place some dams along the Potomac River, at one time justified on the basis of hydroelectric power, then on pollution treatment, and then on water supply and recreation. The basis of the opposition is that it would destroy a beautiful valley and the natural life that lies within it.

Opponents of the project retained a consulting engineer, who reported that there were more feasible methods of obtaining both a water supply and pollution abatement.

The Corps has plans to place a dam on the last remaining natural stretch of the Columbia River in the Northwest, a breeding ground for salmon, bass, and other fish as well as birds; the main purpose is water navigation.

As the country runs out of choice land near the cities, the solution has been to fill in the adjacent waterways. Besides what such schemes do to the scenery, it is now beginning to be understood what they do to natural life. Estuaries, or those places where rivers meet the sea, provide a special balance of salt and fresh water that is essential to certain fish, such as oysters and shrimp. They also provide food and habitats for waterfowl. The damming of rivers has also damaged estuarine life. Local governments are often willing to have the estuaries dredged and filled, for this raises the real estate values, and hence the local tax base. One-third of San Francisco Bay, for example, has already been filled in, most of it for airport runways, industrial parks, and areas proposed for residential subdivisions. "It is conceivable," said Congressman Paul McCloskey, who had fought for conservation as a lawyer before coming to Congress in 1967, "that by 1990 the filling of shallow waters of the Bay could reduce it to the status of a river across which our grandchildren will be skipping rocks."

In response to criticism of its easiness with granting land-fill permits, and to a recent federal requirement that the Corps consider the effects on fish and wildlife, the Corps has begun to deny some permits. One such denial, however, was challenged in court, and a district judge in Florida ruled that the Corps did not have discretion to deny a permit on any grounds other than that it would impede navigation. The case is still in the courts. The Corps argues, with some validity, that it should not be making zoning decisions for local governments. "This points up the fact," said McCloskey, "that some new national land-use authority must be created which will have the power to put federal zoning on waterways, historic sites, and land areas of partcular national significance." Such a policy would protect such areas as the Everglades. Congressman Richard Ottinger of New York, also a man interested in conservation before it became fashionable has been pushing legislation to require that the effects on the environment must be taken into account in any federal program which contributes to construction or issues licenses—the Corps, airport and highway programs, and so on.

LUXURIOUS AREAS

The Corps of Engineers public works program has been, among other things, an income-transfer program, and this is a good time to look more closely at who has been transferring what to whom. The federal government has been paying for the Corps program—or rather, all of the taxpayers have. And the Corps program consists in the main of subsidies for irrigation, navigation, and flood control. Some projects have been for the benefit of only one particular industry. Former Senator Douglas has charged, for example, that a project to deepen the Detroit River was for the benefit of the Detroit Edison Company alone, and that a project to deepen the Delaware River from Philadelphia to Trenton was to serve one mill of the United States Steel Corporation, which was quite able to pay for the project itself. An industry or developer builds on a flood plain and then asks the federal government to save it from floods. A wild river is converted for use by an industry; subsequently a federal subsidy is given to clean up the industry's pollution of the river. The barge industry is kept afloat because it is there.

Robert Haveman, an economist and author of *Water Resource Investment and the Public Interest*, has shown that the preponderance of Corps projects has gone to three regions: the South and Southwest, the Far West, and North and South Dakota, but mainly to the South, in particular the lower Mississippi River area. Within an area, the rewards are not evenly spread. The major beneficiaries of the flood-control projects which also provide water for irrigation have been the large landholders—in particular, in the Mississippi Delta and San Joaquin Valley. These are the same landowners who are paid the largest federal farm subsidies for not growing the crops which the federal water projects make it possible for them to grow. The Corps is still preparing to produce more farmland, in the name of flood control, in the Mississippi Delta region.

The Corps, in a publication called "The Army Engineers' Contributions to American Beauty," notes: "In Dallas, the flood-control project for channeling the flood waters of the Trinity River through the center of town (once some of the least desirable real estate in the city) is being made into a long, winding stretch of parkway. In Los Angeles and other Pacific Coast cities built below mountain slopes, the development of attractive and sometimes luxurious residential areas has been made possible by Army Engineer projects which curb flash floods."

AN IDEA

The Corps established an environmental division a few years ago, to advise on the environmental effects of its projects. This summer it is sponsoring a seminar on how it can better "communicate" with the public. Corps officials have been urging greater environmental concerns on the Corps members, and on their clientele, appealing, among other things, to their self-interest. In a recent speech, Major General F. P. Koisch, director of the Corps' Civil Works Division, told the Gulf Intracoastal Canal Association to listen to "the voice of the so-called 'New Conservation.' "

"By and large," he said, "it's advocates oppose the old concepts of expansion and development. Yet they are not merely negative, for they are willing to lavish huge sums on programs which embody their own conceptions of natural resource management. Their theories and concepts are not always consistent nor fully worked out. They are less concerned with means than with ends and goals—their vision of a better America. But they do seem to represent an idea whose time has come. So it grows clearer every day that it is up to us, who like to think of ourselves as scientific, practical men who know how to get things done, to make this new idea our own and make it work. . . . This can open a whole new career for the Gulf Intracoastal Canal Association. . . . This business of ecology," says General Koisch, "we're concerned, but people don't know enough about it to give good advice. You have to stand still and study life cycles and we don't have time. We have to develop before 1980 as much water resource development as has taken place in the whole history of the nation."

"It is a fact," said General Richard H. Groves, his deputy, in a speech, "that our nation is engaged in a struggle to survive its technology and its habits. It is a fact, too, that we are defiling our waters, polluting our air, littering our land, and infecting our soil and ourselves with the wastes which our civilization produces. These are serious problems, but we cannot permit ourselves to yield to an emotional impulse that would make their cure the central purpose of our society. Nor is there any reason why we should feel guilty about the alterations which we have to make in the natural environment as we meet our water-related needs."

In an interview, General Groves said he did not believe that the basic rule of the Corps would change. "Certainly, parts of it will. One part that is obvious is control of pollution, control of the ecology, which is more or less the same. There are very heavy pressures that have developed, and nobody in this business can ignore them. We would hope that in responding to these pressures we don't lose sight of the need to keep everything in perspective. The program keeps growing. The program as you know is tied to people, and the people double every forty years. . . . We build the program," he said—and here is the heart of it all—"on the notion that people want an ever-increasing standard of living, and the standard of living is tied to water programs. If you conserve undeveloped areas, you're not going to be able to do it. If you double the population and they double their standard of living, you have to keep going. It's not as simple as the people who take an extreme view say."

Clearly, no rational settlement of the conflict between "progress" and the environment is going to come from dam-by-dam fights between the Corps and the conservationists. The conservationists have been out there all alone all these years and they have worked hard, but they have lacked a national strategy. In some instances, they have tried to have it all ways: opposing not only hydroelectric projects but also alternatives such as generating power through burning fuels (air pollution) or building a nuclear plant (thermal pollution and radiation hazards). Some conservationists have been interested in "preserving" the wildlife so that they could shoot it. Where engineers have been pitted against engineers as in the case of the Oakley and Potomac dams, the opponents have been more successful. "The only way to resist," says Representative John Saylor of Pennsylvania, a critic of the Corps for years, "is to know a little more about the Corps than the Chambers of Commerce do." The new approach of trying to build a body of law on the basis of the "rights of the people" against public works projects could be of profound importance.

Some water economists have suggested quite seriously a ten-year moratorium on water projects. There is an ample supply of water, they say. Problems arise where industries use it inefficiently because it is provided so cheaply, and pollute much of it. The answer for the pollution, the experts say, is sewage treatment at the point where the pollution originates.

So one solution to the problems the Corps program creates would be simply to stop it. The Corps and the Public Works Committees and the river associations could give themselves a grand testimonial dinner, congratulate themselves on their good works, and go out of business. There are more effective ways of transferring money—for instance, directly—if that is what we want to do; there are others who need the money more. But such suggestions are not, of course, "practical."

For as long as anyone can remember, there have been proposals for removing the public works program from the military, and transferring the Corps' civil functions, or at least the planning functions, to the Interior Department or a new department dealing with natural resources. President Nixon considered similar ideas, but rejected them in preparing his message on the environment. The Corps likes being where it is, and the powerful Forest Service and Soil Conservation Service, which are secure in the Agriculture Department, and the congressional committees whose power derives from the present arrangements, have habitually and successfully resisted up to now. "The two most powerful intragovernmental lobbies in Washington are the Forest Service and the Army Engineers," wrote FDR's Interior Secretary Harold Ickes in his diary in 1937, in the midst of a vain effort to reorganize them and Interior into a new Department of Conservation. Whatever the chances for reform, it has never been clear who would be swallowing whom as a result of such a change. The closed-circuit system by which public works decisions are made should be opened to other interested parties. Certainly a federal program that is more than a century old should be overhauled. The Corps is now at work on some internal improvements, but bureaucracies are not notably rigorous about self-change, and the water interests do not want change.

If there are to be a Corps and a Corps public works program, then proposals to expand the Corps' functions make sense. Making the Corps responsible for sewage treatment, for example, would give it a task that needs to be done, local governments a benefit which they really need and which would be widely shared, and politicians a new form of largesse to hand around. Antipollution could be spared the pork barrel through a

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combination of requirements for local action and federal incentives, and through adequate financing. Yet making antipollution part of the pork barrel may be just what it needs. Programs which appeal to greed are notably more politicaly successful than those that do not. The Corps' engineering expertise, in any event, could be put to use for something other than building dams and straightening rivers. It is the judgment of just about every economist who has studied the public works program that there should be cost-sharing and user charges. There have been proposals for making the beneficiaries of flood-control and navigation projects and harbors pay for them, or at least part of them.

In a period of great needs and limited resources, a high proportion of the public works program amounts to inefficient expenditures and long-range commitments of money on behalf of those who make the most noise and pull the most strings. Despite all the talk about "reordering priorities," the Nixon Administration's budget for the next year increases the money for the Corps. Even if the nation should want to double its standard of living (leaving aside for the moment the question of whose standard of living) and even if the public works programs really could help bring that about, it would be good to know more about the nature and price of such a commitment. At a time when a number of our domestic arrangements are coming under re-examination, this one is a prime candidate for reform. Meanwhile, the changes it is making in the nation are irreversible.

DIRECT POPULAR VOTE

Mr. GRIFFIN. Mr. President, in view of the Senate debate on electoral reform expected in the near future, I wish to focus attention on a well-reasoned article supporting the direct election of the President which appears in the current issue of the American Bar Association Journal.

The author, Mr. William T. Gossett, is a distinguished scholar and past president of the American Bar Association, who now practices law in Detroit, Mich.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

DIRECT POPULAR ELECTION OF THE PRESIDENT

(By William T. Gossett)

One of the most vital issues facing our nation is reform of the process by which the President and Vice President of the United States are elected. The House of Representatives has given an overwhelming 339-to-70 approval to a constitutional amendment embodying the recommendations of the American Bar Association's Commission on Electoral College Reform, which were adopted by the Association's House of Delegates in 1967 and which provide for the direct popular election of the President and Vice President.[1]

President Nixon, who favored the direct election reform but considered it politically unachievable, now has said, "It is clear that unless the Senate follows the lead of the House, all opportunity for reform will be lost this year and possibly for years to come." The direct election amendment now is before the Senate, where action is needed to send it to the states for ratification.

The Presidential election of 1968 demonstrated the potential hazards of our present electoral college system and confirmed the conclusion of the Association's commission that the "electoral college method of electing a President of the United States is archaic, undemocratic, complex, ambiguous, indirect, and dangerous".

If there had been a shift of a relatively few popular votes in Ohio and Missouri, or if President Nixon had lost California, or if George G. Wallace had carried three border states, no Presidential candidate would have had a majority of the electoral votes. The electors pledged to Mr. Wallace would have held the balance of power, and he would have been tempted to play the role of President-maker. If he had decided against that role and his electors had voted for him, then the choice of President would have shifted to the House of Representatives under an inequitable one-state, one-vote formula susceptible to political wheeling and dealing and frustration of the popular will. The twenty-six least populated states, representing 16 per cent of the nation's total population, would have had the power to elect the President. It is conceivable that no candidate might have been able to obtain the votes of twenty-six states by inauguration day and that a Vice President selected by the Senate would have had to assume the powers and duties of the President. It is also conceivable that the House and Senate might have selected a split ticket by inauguration day. It is also conceivable that neither house might have been able to make a choice, in which event the Speaker of the House of Representatives would have become the Acting President.

The subject of electoral reform is not new. No sooner was the Constitution adopted than proposals were introduced in Congress to reform the electoral college. The first was introduced in 1797, and since then more than 500 proposals have been offered.[2] The major plans of reform—the district, proportional, automatic and direct-vote plans—have their roots in proposals introduced in Congress during the nineteenth century.

The workings of the electoral college over the past 190 years show that it is something completely different from the institution envisioned by the Framers. Not until the final weeks of the Constitutional Convention was the electoral college adopted. Election by Congress was rejected because it was believed that the President would be subservient to the legislative branch and it opened the door for "intrigue, cabal or faction".[3] A direct vote by the people was criticized on the grounds that the people were too "uninformed" and would be "misled by a few designing men". One delegate said that an election by the people would be like referring a "trial of colours to a blind man".[4] What seemed to move the delegates to accept the electoral system were certain practical considerations, dictated not by political ideals but by the social realities of the time—realities that no longer exist.

The electoral college was envisoned by the Framers as a kind of elite gathering in which the most distinguished and talented persons in the various states would participate. These electors would deliberate and cast an informed and independent vote for President.[5] Because the large states would have considerable influence in the electoral voting, the Framers, in an effort to allay the fears of the small states, provided for the House of Representatives to choose the President, with each state having the same influence, when no candidate received a majority of the electoral votes. The convention debates indicate that many of the Framers were of the view that most elections would be thrown into Congress.

The design of the Framers in creating the electoral college was not fulfilled. Political parties appeared and the electors' role became a purely mechanical one of voting for their party's candidate. As they became partisan functionaries, their names and reputations became far less known to the citizens than those of the candidates. The Constitution having left to the states the right to determine the manner of selecting the electors, in the first elections a number of states gave the right of choice to the members of their legislatures rather than to the people. It was not until late in the nineteenth century that every state had entrusted the right of choice to the people. Today, of course, due to state law, the people choose the electors, who are expected to register the will of their constituents in the electoral college.

DEFECTS OF PRESENT SYSTEM SHOWN BY EXPERIENCE

Experience has shown that the electoral college is riddled with defects that could operate to frustrate the will of the people.

First, the popular will of the majority of the nation can be defeated by mathematical flukes. Under the winner-take-all or unit-vote rule for allocating a state's electoral votes, a candidate could win an electoral victory and yet receive fewer popular votes than his opponent. Success in twelve key states alone will give a candidate an electoral majority, regardless of his margin of victory in those states and regardless of whether he has received any votes in the other thirty-eight states. Three times in our history—1824, 1876 and 1888—the popular vote loser was elected President.[6] In fifteen elections a shift of less than 1 per cent of the national vote cast would have made the popular-vote loser President.

Second, the choice of the President can be thrown into the House of Representatives, where each state has but a single vote. While it has been 144 years since the House of Representatives has had to choose a President, we have had seven narrow escapes since then, including the elections of 1948, 1960 and 1968. A shift of less than 1 percent of the popular vote in a few key states would have thrown those elections into Congress, with the consequent risk of political deals and possibly the election of a President who was rejected by a majority of the voters. This feature of our system is clearly a political monstrosity, fully distorting the most elementary principles of self-government.

Third, Presidential electors can take matters into their own hands and reject the will of the people who chose them. The so-called constitutional independence of electors can take various forms. It can take the form of pledged electors defecting, as in our most recent election, and in 1956 and 1960; of unpledged elector movement, as in 1960; or third-party electors being instructed by their Presidential candidate to vote for one of the major candidates. Under the electoral college system, the decision of the people is meaningless unless it is approved by, in effect, another body of government. Such a barrier between the people and their President is both anachronistic and abhorrent.

The electoral college system violates fundamental democratic principles in other ways:

The winner-take-all feature of the system suppresses at an intermediate stage all minority votes cast in a state. The winner of the most popular votes in a state, regardless of his percentage of the votes cast, receives all of that state's electoral votes.[7] The votes for the losing candidates are in effect discarded, while those for the winner are multiplied in value.

The present system discriminates among voters on the basis of residence. While a small state voter might seem to enjoy an electoral vote advantage because his state receives two electoral votes regardless of size, a large state voter is able to influence more electoral votes, and it is in the large industrial states that Presidential elections are usually won or lost. There is no sound reason why every citizen should not have an equal vote in the election of our one official who serves as the symbol and spokesman for all the people.

Footnotes at end of article.

The electoral college system fails to reflect the actual strength of the voter turnout in each state. Under the system each state casts its assigned electoral votes regardless of voter turnout. Thus, voters in states where the turnout is small are given a premium. It is not uncommon to find a great disparity in the voter turnout in states having the same number of electoral votes.[8]

DIRECT POPULAR ELECTION IS RECOMMENDED

To remedy these evils, the American Bar Association's Commission on Electoral College Reform proposed a system of direct popular election of the President and Vice President, and the House of Delegates of the Association endorsed the commission's recommendations at its Midyear Meeting in February of 1967. Here are the major features of the proposal:

A candidate must obtain at least 40 per cent of the popular vote to be elected Presdent or Vice President. The commission concluded that a majority vote requirement was not desirable because it would frequently happen that no candidate had a majority and therefore a second election would be required to decide the outcome. In this regard, it should be noted that one third of our Presidents received less than a majority of the total popular vote cast.[9] Additionally, the commission feared that a majority-vote requirement might encourage proliferation of the parties, since a small group might have the potential to cause the election to be resolved under the machinery established for a contingent election. In arriving at a 40 per cent plurality, the commission was of the view that it was high enough to furnish a sufficient mandate for the President and low enough so that the first election probably would decide the contest.

The Association recommends that in the event no candidate receives at least 40 per cent of the popular vote, a national runoff election should be held between the top two candidates. The commission believed that a runoff was preferable to an election by Congress because it would avoid the possibility of political wheeling and dealing and assure the election of the popular vote winner. The commission also believed that a national runoff, together with a 40 per cent plurality requirement, would operate to discourage proliferation of the parties. The commission reasoned that it would rarely occur that no major candidate had at least 40 per cent, even with minor party candidates in the field. However, if that happened, the people would choose between the top two.

We recommend that the President and Vice President be elected jointly by a single vote applicable to both offices. The purpose of this recommendation is to eliminate the possibility of a split ticket.

Congress should be empowered to establish the days for the original election and any runoff election, which should be uniform throughout the United States. Under our recommendation, Congress would set the date for the election by statute, as it does at present. This recommendation is similar to what now appears in the Constitution with respect to Congress' establishing the day on which the electors shall vote for President and Vice President.

Under the Association's proposal the places and manner of holding Presidential elections and the inclusion of the names of candidates on the ballot would be prescribed by the state legislatures, subject to a reserve power in Congress to make or alter such regulations. This is similar to provisions now in the Constitution governing elections for representatives and senators. The reason for giving Congress the residual power to legislate on the question of appearances on the ballot is to insure that the people of every state have the right to vote for major party candidates.

We recommend also that the qualifications for voting in a Presidential election be the same as those for voting in a Congressional election. The qualifications for voting for members of Congress being defined by state law and tied in with the qualifications for voting for members of the most numerous branch of the state legislature, the commission concluded that this would make substantially uniform the voting qualifications in both federal and state elections. Under the recommendation, states would be specifically authorized to establish special residence qualifications for voting in Presidential elections. This recommendation is premised on the fact that a majority of the states already have passed laws relaxing the residence requirement and that these laws are desirable in this day of great mobility among our people.[10] The commission also recommended in the area of voting qualifications that Congress be given the reserve power to establish uniform age and residence qualifications.[11]

Finally, we recommend that a constitutional amendment on direct election embody the necessary provisions for remedying gaps caused by the death of a candidate.

ADVANTAGES OF DIRECT ELECTION OVER OTHER PROPOSALS

The advantages of direct popular election over other proposals are numerous. It is the only method that can assure that the candidate with the largest number of popular votes will be elected President. It is the only method that would eliminate once and for all the principal defects of our system: the "winner-take-all" feature and its cancellation of votes, the inequities arising from the formula for allocating electoral votes among the states, the anachronistic and dangerous office of Presidential elector, and the archaic method by which contingent elections are handled. There would no longer be "sure states" or "pivotal states" or "swing voters", because votes would not be cast in accordance with a unit rule and because campaign efforts would be directed at people regardless of residence. Factors such as fraud and accident could not decide the disposition of all a state's votes. Direct election would bring to Presidential elections the principle that is used and has worked well in elections for senators, representatives, governors, state legislators, mayors and thousands of other officials at all levels of government. Under a popular vote system, Presidential elections would operate the way most people think they operate and expect them to operate.

Objections to the proposed reforms have arisen, however. Any suggestion to change old ways of doing things always invites vigorous objections—a healthy enough tendency in matters calling for constitutional amendment.

ANSWERING THE ARGUMENTS AGAINST DIRECT ELECTION

The main arguments raised against direct election may be grouped under three headings: (1) large or small-state advantage, (2) threats to the two-party system, and (3) vote counting procedures.

1. *Will either large or small states lose a present advantage?*

(*a*) *The Small State Advantage Argument*—In the past, too many have dismissed direct election proposals without reaching their merits, claiming that such an amendment could not possibly be ratified by three fourths of the states, because thirty-six of them have added weight in the election of the President by reason of the electoral college system.

Behind this is a deceptively simple mathematical view of relative voter strength in Presidential elections. Based on the 1960 census, Alaska has one elector for each 75,389 persons; at the other extreme, California has only one electoral vote for each 392,930 persons. The easy inference is that an Alaskan has five times the weight of a Californian. By the same method, each Nevadan (one elector per 95,093 persons) has four times the weight of each New Yorker (one elector per 390,286 persons). Thirty-five states and the District of Columbia have a more favorable ratio than the national average of one elector per 333,314 persons.

In a law journal article inserted in the *Congressional Record*, direct election was opposed recently on the theory that it will deprive small states of a present advantage.[12] It was noted that Alabama cast 2 per cent of the nation's electoral votes, while casting less than .9 per cent of the national popular vote; and the writer concluded that New York had only four times the electoral power of Alabama, even though it had ten times as many voters. Similar figures were shown for the twenty-five least populated states, and it was concluded that the American Bar Association's proposal "will not sell" to the less populated states. Reserving for a moment the mathematical issue, let us examine the view that the citizens of small states cannot be sold on the principle of voter equality in Presidential elections.

First, this prophecy is not justified by the positions of their elected leaders. No public official has a higher duty to represent the interests of a state in national politics than does its United States senator. It is noteworthy, therefore, that senators from smaller states are increasingly prominent among those who are sponsoring direct election proposals. They include Senators Gravel of Alaska, Inouye of Hawaii, Magnuson and Jackson of Washington, Hatfield and Packwood of Oregon, Bible of Nevada, Church of Idaho, Mansfield and Metcalf of Montana, Burdick of North Dakota, McGovern of South Dakota, Pearson of Kansas, Bellmon of Oklahoma, Randolph and Byrd of West Virginia, Ribicoff of Connecticut, Pell of Rhode Island, Aiken of Vermont, McIntyre of New Hampshire, and Smith and Muskie of Maine.

But what of the legislatures of these small states? Here, too, we are not left to speculation. In 1966 Senator Burdick of North Dakota polled state legislators on their preferences among the various proposals for electoral college reform.[13] A suprisingly high return, 2,500 of 8,000 polled, showed 58.8 per cent in favor of direct election. It was supported by 50 per cent or more of the legislators replying from forty-four states. Most significantly, there was little variation between large and small states. Among the most heavily populated states, California legislators voted 73.5 per cent for direct election; New York legislators, 70.0 per cent; Pennsylvania, 55.8 per cent; Michigan, 52.4 per cent; and Ohio, 57.1 per cent. In the five smallest states—those with only three electoral votes—Vermont voted 60.9 per cent for direct election; Nevada, 62.5 per cent; Wyoming, 55.5 per cent; Delaware, 53.8 per cent; and Alaska 50.0 per cent.

The House of Delegates of the American Bar Association, a cross-section of American lawyers, approved its commission's recommendations by a three-to-one margin. Direct election has also been endorsed by other organizations representing wide segments and sections of American life, including the AFL–CIO, the United States Chamber of Commerce, the United Auto Workers and the National Federation of Independent Business. Public opinion polls show that 79 to 81 per cent of people throughout the country favor our proposal. Thus, those who accept the principle of popular election of the President should not assume that citizens of small states do not accept it.

The small state advantage argument is diametrically opposed by a plausible theory that it is large states who profit from the present system.

Footnotes at end of article.

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(b) *The Large State Advantage Argument*—In a curious cross fire, direct election is also opposed by some champions of large states' interests. They claim that the small state advantage in ratio of electors to population is more than offset by the advantages accruing to large states from the winner-take-all laws. One such observer recently wrote that the features of the present system have bred in modern times the decisive influence in Presidential elections of the large, populous, heterogeneous states, where bloc voting, as by ethnic or racial minorities or other interest groups, often determines the result. Much of the popular vote in the smaller, relatively homogeneous states, is simply wasted. Politicians and political scientists have at any rate long assumed that the Presidency is won or lost in the large states . . . we can now establish mathematically why modern Presidents have been particularly sensitive to urban and minority interests. . . . And only men who can be so responsive are generally nominated and elected.[14]

The mathematical proof referred to is John Banzhaf's analysis of voter power,[15] which calculated by computer the individual voter's chances of affecting the outcomes in both his state and the national totals. This is a functional view of voting power; it is defined simply as "the ability to affect decisions through the process of voting". Mr. Banzhaf found that an individual voter in states such as New York and California has more than two and a half times as much chance to affect the ultimate Presidential outcome as a resident of a smaller state. This results from the fact that the large state voter influences a much larger unit of electoral votes. Each New Yorker now votes for forty-three electors and thus participates in casting fourteen times as many electoral votes as does a Nevadan.

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This analysis confirmed what scholars and national politicians had sensed for many years. The historical record was updated recently when Delaware, joined by twelve other states, unsuccessfully sought United States Supreme Court relief to invalidate the state general ticket laws. Delaware alleged:

> Sixteen of the two parties' 50 nominations for the Presidency from 1868 through 1964 have gone to New Yorkers. Of the total of 100 nominations for President and Vice-President, citizens of New York have been nominated in 24 instances. Six large states (New York, California, Illinois, Indiana, Massachusetts and Ohio) account for 68 of the total of 100 nominations, while the citizens of 26 states, including Plaintiff, have been totally excluded from the nominations. Plaintiff is one of eight of the original 13 states (Connecticut, Delaware, Georgia, Maryland, North Carolina, Rhode Island, South Carolina and Vermont) which has never elected one of its citizens President in the 45 elections conducted in our 177-year history and these citizens have been totally excluded from nomination for either President or Vice President during the past century. . . . Plaintiff and other small states as virtual bystanders do little more than watch while the large states serve as the field of contest in national elections.[16]

The present system obviously cannot favor both large and small states. But it is impossible to justify any system on the ground of voter inequality. Both arguments are unsound in principle. As a matter of constitutional structure, surely no citizen's influence upon his President should depend upon his geographical location within the United States. Only direct election will achieve this voter equality.

2. *Effects Upon the Two-Party System*—This question of parties occupied much of the commission's attention, and it adopted its position with confidence that direct election carries no risk of producing a multiparty system. Nonetheless, such objections have been raised. They are difficult to answer to the opposition's satisfaction because none of us can prophesy future political events with absolute certainty—including those who predict dire consequences to the two-party system. We can, however, project probabilities upon the basis of relevant experience and expert opinion. This we did in 1967; and recent reappraisals in light of the 1968 election only strengthen our position.

Those who oppose direct election on third-party grounds labor a hard oar after the 1968 election, which demonstrated most dramatically the potential for third-party leverage under our present system. I have mentioned three contingencies which in 1968 could have prevented any candidate from winning a majority of the electoral votes. Direct election would fully cure the defects in our system that the Wallace candidacy sought to exploit. It also would remedy other faults that could magnify third-party efforts. Close analysis proves that direct election will actually strengthen the two-party system—not weaken it—by removing special incentives to third parties and equalizing all voters throughout the nation.

Analytically, there are three distinct types of third-party efforts—local, regional and national. The first two would undoubtedly be weakened by direct election. Local, or intrastate, parties now may sometimes have a pivotal power to tip a state's electoral bloc for or against one of the major candidates. Under direct election the votes of a splinter group would count only for what they are worth in numbers of persons; and votes for major candidates would always count nationally.

Regional or sectional parties may generate a plurality of popular votes in a few states, deliver large blocs of electoral votes and possibly produce a balance-of-power position in the electoral college. Under direct election all votes would be counted as cast, and a third candidate could receive no disappointing leverage from being able to carry a few states.

The final type of third-party effort, the national one, is more difficult to analyze. Some argue that national third-party efforts would be encouraged by direct election merely because all state popular vote totals would be reflected in the national totals, whether or not any states were carried. This question was studied in depth by our commission. We found little evidence that elimination of the electoral college would harm the two-party system and concluded that direct election is more likely to strengthen it.

Among the voluminous materials studied by the commission was a collection entitled "Why Two Parties?" which was furnished us by the commission's adviser, John D. Feerick of the New York Bar. After personally exhausting the literature on the subject, Mr. Feerick selected for study by the entire commission excerpts from the writings of ten political scientists who have given special attention to the causes and functioning of political party systems. We learned that no single factor accounts for the two-party system and that there is considerable disagreement as to its major causes.

Among the causes listed as accounting for our American commitment to the two-party system are: persistence of initial form; election of officials from single-member districts by plurality votes; the normal presence of a central consensus on national goals; cultural homogeneity; political maturity; and a general tendency towards dualism. Some of the experts list the electoral college as a factor that may contribute; others ignore it; and some suggest that it is functionally opposed to two partyism and that our party system may have survived despite the electoral college rather than because of it.

The experts are virtually in agreement on one point, however. It is that election of legislators and executives by plurality votes from single-member districts is the chief cause of two-partyism. This is the one element that all two-party systems have in common. No one proposes to alter our practice of electing members of Congress and state legislators, governors and mayors on this basis. To the extent that these elections undergird our two-party system, that support will continue. Furthermore, our proposal essentially places Persidential elections on the same basis and thus perfects and extends that feature which best serves the two-party system.

This has been apparent to the great majority of political scientists who have analyzed the American Bar Association recommendations. We concur in the following conclusions of Hugh LeBlanc of George Washington University:

> The present system does discourage the rise of minor parties, but not because of its electoral college features. It is because the President runs for all intents and purposes in a single-member, national constituency in which minor party candidates have little hopes of winning.
>
> The assertion that a national plebiscite would contribute to the development of minor parties . . . will not withstand analysis. Parties are most likely to offer candidates when they have some hope of electoral victory. Thus under a system of proportional representation, minor parties have an inducement to compete because they are rewarded by representation proportionate to their strength. Under single-member, plurality elections, no such incentives are present. This is precisely the system that would apply if the President were directly elected from a nationwide constituency. It is of no matter that the votes collected in all States contribute to a total. The mere accumulation of votes is meaningless except insofar as it cuts into the support that otherwise might have gone to support a major party candidate. In this regard, it might influence an election outcome. But is this threat any greater than that which now eixsts from a minor party whose electoral strength is geographically concentrated? I think not.[17]

Other political scientists who have reached similar conclusions include Paul David of the University of Virginia, David R. Derge of Indiana University, Joseph Kallenbach of the University of Michigan, Paul Piccard of Florida State University, and Robert S. Rankin of Duke University. Two elements of their analysis deserve emphasis:

First, the two-party system is not served by the electoral college as it is constitutionally structured but as the two national parties have caused it to function by extra constitutional devices. If present methods serve the two-party system, it is because they normally are expected to function as equivalent to national popular election. In this respect the direct election proposal will perfect, not damage, the electoral device that serves the two-party system.

The second point is that the functioning of a real two-party system in Presidential elections actually should be strengthened by direct election. By eliminating the disfranchisement of state minorities, it will prevent any votes from being written off as worthless. The result will be genuine two-party competition in every state.

Nonetheless, we were sufficiently concerned by the possibility of weakening the two-party system that a major provision of our proposal is directed largely at supporting it. This is the provision requiring runoff elections when no candidate obtains 40 per cent of the popular vote. This avoids peculiar evils of both majority and simple plurality requirements. A majority requirement would make runoffs the rule rather than the exception and postively encourage splinter can-

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Footnotes at end of article.

didacies. A simple plurality rule would enable a candidate to win with as little as one fourth or one third of the total vote—hardly a sufficient mandate to govern. This might encourage third and fourth parties. The 40 per cent rule incorporates our historical experience as a future norm.

Somewhat ironically, the runoff provision has been used to oppose the direct election proposal through an argument that runoff provisions encourage multiple candidacies and make runoffs more likely. Studies of nominating primaries in some Southern states are cited as proof. These were considered by the commission. Analysis shows that they are not comparable to national Presidential elections for three important reasons:

A. The Southern primaries involved competition within a one-party system, which is hardly equivalent to elections occurring against the backdrop of an established two-party system.

B. The Southern primary campaigns involve mutiple candidacies of individuals, not parties. We always have a few individuals who seek personal expression as nominal Presidential candidates, but individuals without party organizations are no threat to the system.

C. Most important, the Southern primary experiences are caused mainly by majority requirements for nomination. The commission profited from these examples when it chose a plurality, rather than a majority, requirement. True, the plurality must reach a certain level; but it is one likely of attainment, and the tendency of majority requirements to cause third-party efforts is eleminated.

3. *Vote-Counting Procedure*—Another objection made to direct popular election is that it could delay the certification of a President for a long period of time due to vote-counting procedures. This objection is addressed to the mechanics of a system of direct election and not to the principle. The vote-counting problems that are likely to be encountered under such a system, such as recounts, fraud, challenged ballots and the like, are really no different in kind from those that exist in the election of a governor or United States senator. Any system of direct election requires an accurate, rapid and final vote count. These requirements have been satisfied in the direct election of officials at other levels of government, and we see no reason why they cannot be satisfied in a direct election for President. In the larger states millions of votes are now cast and counted in state-wide elections held in areas of thousands of square miles.

There are now procedures in the various states for certifying the results of popular elections for other offices that could be adapted to a system of direct election of the President. Under the direct election recommendations, the operation and regulation of Presidential elections would be left to the states, with a reserve power in Congress to legislate in the field. The states thus would have the flexibility to adopt and change election procedures in the light of experience. It is foreseeable that the states might adopt a uniform state law standardizing the procedures for handling recounts and challenged ballots and that Congress might create an election commission with responsibilities in the vote-counting area.

The trend toward better regulated and more scientific vote counting has reduced and will continue to reduce the possibilities of irregularities while expediting the final outcome. With a co-operative effort on the part of the states and Federal Government, we are confident that procedures and methods can be adopted to assure an effective system of direct popular election of the President.

DEMOCRATIC PARTICIPATION SHOULD BE ENLARGED

The trend of our political system is toward direct democratic participation of the people at every level. That trend has been reflected in the Fifteenth, Seventeenth and Nineteenth Amendments to the Constitution. It should now be reflected in an amendment providing for popular election of the President.

FOOTNOTES

[1] AMERICAN BAR ASSOCIATION, REPORT OF THE COMMISSION ON ELECTORAL COLLEGE REFORM, *Electing the President,* 3–4 (1967). See also *Electing the President,* 53 A.B.A.J. 219 (1967).

[2] See Tienken, "Proposals To Reform Our Electoral System", *Library of Congress Legislative Reference Service* 20 (1966).

[3] See 1 FARRAND, RECORDS OF THE FEDERAL CONVENTION OF 1787, at 175 (1937 ed.); 2 FARRAND 29, 34, 500.

[4] 2 FARRAND 31, 114.

[5] THE FEDERALIST No. 68 (Hamilton).

[6] John Quincy Adams, with fewer popular and electoral votes than Andrew Jackson, was chosen President by the House of Representatives in the election of 1824. In the election of 1876, Samuel J. Tilden lost the Presidency by one electoral vote, although he had over 250,000 popular votes more than Rutherford B. Hayes. In 1888, Benjamin Harrison defeated Grover Cleveland, who had 100,000 more popular votes.

[7] In the 1968 Presidential election, for example, the winning percentage of the popular vote was less than 50 per cent in twenty-eight states with a total of 388 electoral votes and less than 40 per cent in four of those states.

[8] In the election of 1968 (1) in Illinois, over 668,000 more people voted than in Ohio although both states have twenty-six electoral votes; (2) almost 590,000 more people voted in Connecticut than in South Carolina, and yet each had eight electoral votes, nullifying each other in the election; (3) Utah went Republican and cast 186,000 more votes than Hawaii, which went Democratic; but each had the same electoral votes; (4) almost 125,000 more votes were cast in Virginia than in Georgia, although each had twelve electoral votes; and (5) Californians cast almost 360,000 more votes than New Yorkers, yet New York had three more electoral votes than California.

[9] These Presidents and their popular vote percentages are: John Quincy Adams (31.9); Polk (49.6); Taylor (47.3); Buchanan (45.6); Lincoln (39.8); Hayes (47.9); Garfield (48.3); Cleveland in 1884 (48.5); Harrison (47.8); Cleveland in 1892 (46.0); Wilson in 1912 (41.9); Wilson in 1916 (49.3); Truman (49.6); Kennedy (49.5); and Nixon (43.4).

[10] HUPMAN & TIENKEN, NOMINATION AND ELECTION OF THE PRESIDENT OF THE UNITED STATES 252–259 (Gov't Printing Office Pub. No. 3671, 1968).

[11] This recommendation was intended to be in addition to the powers Congress now has under the Constitution with respect to voting qualifications. See, *e.g., Katzenback* v. *Morgan,* 384 U.S. 641 (1966).

[12] Thornton, *An Analysis of Electoral College Reform,* 29 THE ALABAMA LAWYER 398 (1968); reprinted in the CONGRESSIONAL RECORD, vol. 115, pt. 2, p. 1795.

[13] PIERCE, THE PEOPLE'S PRESIDENT 265 (1968).

[14] BICKEL, THE NEW AGE OF POLITICAL REFORM 5–7 (1968).

[15] Banzhaf, *One Man, 3.312 Votes: A Mathematical Analysis of the Electoral College,* 13 VILL. L. REV. 303 (1968).

[16] *Delaware* v. *New York,* 385 U.S. 895 (1966) (complaint, pages 12–13).

[17] *Hearings on Election of the President Before Subcom. on Constitutional Amendments of the Senate Com. on the Judiciary,* 89th Cong., 2d Sess.; 90th Cong., 1st Sess. at 623.

HEW SEEKS CONTROL OF JUNIOR COLLEGES IN ALABAMA

Mr. ALLEN. Mr. President, Congress had no sooner stopped demonstrating the absurdity of subordinating sound education considerations to arbitrary racial ratios and "racial balance" doctrines in primary and secondary grade schools than this administration started imposing racial ratios and the racial balance doctrine in institutions of higher education.

This administration, and specifically the Department of Health, Education, and Welfare and the U.S. Attorney General kept this plan to impose racial ratios in institutions of higher education a carefully guarded secret until after Congress concluded debate on the appropriation bill for the Department.

Mr. President, the U.S. Attorney General and the Department of Health, Education, and Welfare have since launched out into what is clearly an attempt to establish a legal basis for Federal control of higher education.

I have in hand a set of detailed Federal regulations governing the administration of junior colleges in Alabama. These regulations are in the form of recommendations submitted by the U.S. Department of Education to a Federal district court in Alabama for the purpose of having such regulations adopted by the Federal court and implemented by judicial decree and enforced by mandatory injunction under threat of fine and imprisonment of local education officials without benefit of trial by jury. This action was initiated by the U.S. Attorney General.

Because of the revolutionary innovations set out in these regulations, I ask unanimous consent that they be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, junior colleges in Alabama, as in most of the States, are under supervision and control of State boards of education. Therefore, any regulations which can be prescribed by the Federal Government for junior colleges can also be prescribed for 4-year colleges and universities which are likewise under control of State boards of education.

The fact that regulations which apply to junior colleges are included with regulations which apply to technical colleges and trade schools cannot obscure the main thrust and purpose of the regulations which is to establish a legal basis for imposing Federal control of institutions of higher education including a power to impose racial ratios as the controlling consideration in accepting pupils for enrollment in institutions of higher education.

Some of the regulations recommended by this administration are nothing short of shocking. Among other things, the administration asserts a power to regulate employment of college faculties; promotion, demotion, transfer, and arbitrary exchange of faculty members; to prescribe curriculums; to close schools; to consolidate schools and faculty; to order abandonment of facilities; and to establish priorities for use of tax funds including capital outlay expenditures for new construction and for improvements and expansion of existing facilities.

This administration asserts a power to prescribe attendance areas for junior colleges and to confine pupil enrollment in such institutions to those who reside in prescribed geographic reservation; to regulate the transfer, exchange, and busing of pupils attending such institutions. I must repeat that the asserted authority to impose such regulations for junior colleges is an authority to impose the same regulations for 4-year colleges and universities under State control.

Mr. President, this is indeed a shocking development. However, the most ominous and potentially dangerous assertion of power is in a proposed regulation by this administration to establish by judicial decree a new administrative agency in State government—an agency empowered to fix policies, coordinate programs, and provide supervision of education in separate areas of the States.

This is a fantastic departure from fundamental tenets of constitutional government. It simply defies belief. Education agencies are created by State legislatures. Duties and responsibilities of the officers of these agencies are prescribed by State legislatures. State legislatures appropriate funds for operation of such agencies. How, in the name of commonsense can it be supposed that a completely new agency of State government can be created by Federal court decree? Are we to believe that State legislatures can be compelled by injunction to appropriate tax funds to pay the salaries and otherwise fund a new agency over which a State legislature has no control?

XUM

This administration, through the agencies of the Department of Health, Education, and Welfare and the U.S. Attorney General has come into Federal court in Alabama and insisted on such regulations as matters required by the Constitution. It has insisted on the reservation concept for enrollment of students in junior colleges as a concept required by the Constitution. In several instances, the Department drew Berlin Walls, so to speak, around counties and seeks by judicial decree to deny pupils residing in the remaining 55 counties of the State the right to attend the tax-supported junior college of their choice. This, too, according to the administration is required by the Constitution.

In another instance, the Department of Health, Education, and Welfare regulations threaten a junior college with bankruptcy. This particular junior college has been confined to a two-county reservation for enrollment of students but heretofore has drawn 90 percent of its resident students from outside the area assigned to it. If this reservation concept for enrollment is established by judicial decree as recommended by the administration, the college will be left with resident halls and $1.5 million mortgage and annual payments of $106,000 without any means of paying the obligation. This action too is defended by the administration as required by the Constitution.

Mr. President, it must be clear that every institution of higher education in the Nation is threatened by this new "reservation" concept of pupil enrollment. It is junior colleges today—tomorrow it will be 4-year colleges and universities.

This reservation concept is the result of a decision by the administration that it is the quickest means of establishing pupil and faculty racial ratios and racial balance in such institutions. And, of course, the administration insists that such racial ratios in institutions of higher education are required by the U.S. Constitution.

Thus, "new federalism" under this administration means, among other things, monolithic Federal control of education from kindergarten to graduate school.

And, in the words of the distinguished minority leader, "as required by the Constitution."

Mr. President, I suggest that we add the term "new federalism" to the junk heap of deceptive political slogans labeled, "good for political campaigns only."

With political considerations out of the way, I think Congress ought either to affirm or repudiate the administration's racial ratio doctrine for higher education. It is my intention to submit a resolution which will give Senators an opportunity to go on record on this issue.

Exhibit 1

Plan for Desegregation of Alabama State Trade Schools and Junior Colleges

1. Mobile State Junior College and William L. Yancey State Junior College:

a. The attendance area for Mobile State Junior College will comprise Mobile and Washington Counties. Students from Mobile and Washington Counties will not be permitted to attend the William L. Yancey State Junior College except for programs that presently do not exist at Mobile State. Yancey State College will draw its students from Baldwin County and adjacent areas to the north and east. Yancey State Junior College will not send buses into Mobile County and Mobile State Junior College will not send buses into Baldwin County. Mobile State Junior College will henceforth be considered the community college for Mobile, its county, and Washington County. Students from Mobile and Washington Counties wishing to enroll in programs not yet offered by Mobile State, will register for these programs at Mobile State prior to enrolling at Yancey State. Students from the Yancey State attendance area who may wish to enroll in any program offered by Mobile State not offered by Yancey State will register at Yancey State prior to enrolling at Mobile State.

b. Since Mobile State Junior College has the most limited facilities of the state junior colleges, a complete curriculum enabling Mobile State to compete with Yancey State is not yet possible. Therefore, facilities will be constructed and curriculum developed so as to greatly expand the program at Mobile State. Facilities construction and curriculum development will be designed to attract a large proportion of white students as well as Negro students. No further capital outlay project will be undertaken at any college (not including trade schools) under jurisdiction of the State Board of Education until Mobile State Junior College has been transformed into a fully desegregated, two-year institution serving, primarily, Mobile County, and designed to serve the special needs of Mobile County, and is equal in physical facilities to Yancey State Junior College. Construction at Mobile State will receive priority so that the first phase of expansion as provided for in the Mobile State master plan is fulfilled.

c. Immediate curriculum improvements to be undertaken at Mobile State include acquisition of a computer needed to develop a computer science and data processing program; associate degree programs in nursing, medical technology, and other health-related areas.

d. When the construction and curriculum development programs described above have been completed, students from Mobile and Washington Counties will no longer be permitted to enroll at Yancey State Junior College.

2. Wenonah State Junior College and Jefferson State Junior College:

a. To take advantage of the proximity of the medical and nursing schools and hospitals of the University of Alabama, all nursing, medical technology, and other health-related programs will be transferred from Jefferson State Junior College to Wenonah State Junior College. The nursing program will be operated in conjunction with the medical and nursing schools of the University, and the school of nursing at the University will aid Wenonah in the orderly transfer and establishment of these programs. The school of nursing at the University will then be able to arrange a transfer program for those students who complete the two-year nursing program at Wenonah and who wish to transfer to the baccalaureate program in nursing at the University. Shuttle buses between Wenonah State and the University clinics will be operated. Transfer of these programs will include faculty, students, and moveable equipment. Space for these programs will be provided by closing the trade school at Wenonah.

b. The computer sciences and other data processing programs at Jefferson State will be closed and moved to Wenonah State. This will include faculty, students, computers, and other data processing equipment. (Any administrative data processing needs of Jefferson State now done on their own equipment will be processed by the program to be established at Wenonah State).

c. Since Jefferson State is operating at capacity, transfer of these programs to Wenonah State will permit expansion of other programs at Jefferson State.

d. Any building or renovation program at Wenonah State needed to accomplish these transfers of programs will be undertaken as rapidly as possible, and will take priority over all other construction or renovation projects except those at Mobile State Junior College.

3. Dual Trade Schools:

a. Since Bessemer State Technical Institute (479 students) is operating at about half capacity, and since its facilities are superior to those of Wenonah State Technical School (280 students), the latter institution will be closed and its program, students, faculty, and movable equipment transferred to Bessemer State Technical Institute. Since Bessemer is operating at about half capacity, transferring of the Wenonah technical school to Bessemer will not require additional construction, although some alteration may be necessary.

b. When the transfer of Wenonah State Technical School to Bessemer State is completed, bus service will be provided throughout the attendance areas formerly assigned to Wenonah State Technical School and Bessemer State Technical Institute.

c. In Mobile, Montgomery, Tuscaloosa, and Gadsden, no new courses will be offered at any trade school if the other school in that city offers that course and it could be expanded. Courses and programs will be expanded or newly instituted on the basis of need for them by all students in the area, both white and Negro.

d. J. F. Drake and Calhoun trade schools will have separate attendance areas. Drake Trade School in Huntsville will not send buses into Morgan County and John C. Calhoun Trade School in Decatur will not send buses into Madison County.

e. The State Department of Education's Division of Vocational and Technical Education, in cooperation with local trade school directors, should re-examine the population characteristics and employment opportunities in the area served by the schools in each of the four remaining dual trade school areas (Montgomery, Gadsden, Mobile, Tuscaloosa), based on information supplied by the State Employment Service Agencies, Economic Development Agencies, universities or other sources. From such information, the present extent of facilities utilization should be assessed, and plans made for immediate and long-range programs to be offered under a unified system in each dual trade school area.

f. The Alabama State Board for Vocational Education, through its Executive Officer, the State Superintendent of Schools, will establish a single administrative unit headed by a coordinator for each area, Gadsden, Mobile, Montgomery, and Tuscaloosa, where dual systems now exist. The coordinator, under the general supervision of the State Director of Vocational and Technical Education, will develop policies to meet the occupational needs of all students in the area served by the two schools, and he will coordinate the programs of the two schools to fully utilize the facilities of both schools in providing needed occupational training for all eligible students in the area to be served. The present position of director of each school should remain. The area coordinator will serve as an integral part of the unified system by coordinating activities of each campus. The newly appointed coordinator, in cooperation with directors of the two trade schools, will formulate a program whereby the duplication of courses within these schools will be substantially reduced or eliminated. The State Superintendent will report to the Court on the steps taken, and plans to implement the recommendations for eliminating duplication, by 30 days after an order is entered into this matter. It is recommended that all action be implemented not later than September 1, 1970.

g. The coordinator, in cooperation with the directors of the two schools, will review all programs and enrollments and where feasible specific courses would be offered in only one of the two trade schools. Where enrollments now fully utilize the work stations in the facilities provided in both schools, or where combining the courses in one facility would require extensive remodeling or adding new facilities, the initial phase of the instructional program should be offered in one school with the advanced phase of instruction in the other school. For example, the first year of an auto mechanics program should be offered in school A and the second year in school B. The following recommendations are made either to eliminate duplicate programs or to provide initial and advanced phases of programs in the two schools where conditions warrant:

TUSCALOOSA

Tuscaloosa State Trade School and Shelton State Technical Institute: The Barbering program now offered in both schools would be discontinued at Tuscaloosa State Trade School and offered only in the Shelton State Technical Institute. The Upholstery program will be closed at Tuscaloosa State and moved to Shelton State. Mechanical Drafting and Design Technology will be closed at Shelton State and transferred to Tuscaloosa State. The Refrigeration and Air Conditioning program now offered in both schools would be discontinued at the Shelton State Technical Institute and offered only in Tuscaloosa State Trade School. The cosmetology program will be closed at Tuscaloosa State and transferred to Shelton State. The Practical Nursing program at Shelton State will be closed and moved to Tuscaloosa State.

Auto body repair

Initial Phase: Tuscaloosa State Trade School.

Advanced Phase: Shelton State Technical Institute.

Auto mechanics

Initial Phase: Shelton State Technical Institute.

Advanced Phase: Tuscaloosa State Trade School.

Industrial electricity

Initial Phase: Tuscaloosa State Trade School.

Advanced Phase: Shelton State Technical Institute.

Business education (Secretarial course)

Initial Phase: Shelton State Technical Institute.

Advanced Phase: Tuscaloosa State Trade School.

Radio and television

Initial Phase: Shelton State Technical Institute.

Advanced Phase: Tuscaloosa State Trade School.

GADSDEN

Alabama School of Trades and Gadsden State Technical Trade School: Enrollments and work stations indicate that the following programs offered at both institutions would be continued:

Auto body repair

Initial Phase: Alabama School of Trades.

Advanced Phase: Gadsden State Technical Trade School.

Auto mechanics

Initial Phase: Gadsden State Technical Trade School.

Advanced Phase: Alabama School of Trades.

Cabinetmaking

Initial Phase: Gadsden State Technical Trade School.

Advanced Phase: Alabama School of Trades.

Drafting

Initial Phase: Alabama School of Trades.

Advanced Phase: Gadsden State Technical Trade School.

Radio and television

Initial Phase: Alabama School of Trades.

Advanced Phase: Gadsden State Technical Trade School.

Business education

Initial Phase: Gadsden State Technical Trade School.

Advanced Phase: Alabama School of Trades.

MONTGOMERY

John Patterson State Vocational Technical School and Councill Trenholm State Trade School: Basic Electricity, now offered in both schools, would be discontinued at John Patterson State Vocational Technical School and offered only in Councill Trenholm State Trade School. Cosmetology will be closed at the Councill Trenholm School and transferred to the Patterson School, and Practical Nursing will be closed at the Patterson School and transferred to Councill Trenholm State Trade School.

Auto mechanics

Initial Phase: Councill Trenholm State Trade School.

Advanced Phase: Patterson State Vocational Technical School.

Auto body repair

Initial Phase: Councill Trenholm State Trade School.

Advanced Phase: Patterson State Vocational Technical School.

Air conditioning and refrigeration

Initial Phase: Patterson State Vocational Technical School.

Advanced Phase: Councill Trenholm State Trade School.

Radio and television

Initial Phase: Patterson State Vocational Technical School.

Advanced Phase: Councill Trenholm State Trade School.

Electronics

Initial Phase: Patterson State Vocational Technical School.

Advanced Phase: Councill Trenholm State Trade School.

Business education

Initial Phase: Councill Trenholm State Trade School.

Advanced Phase: Patterson State Vocational Technical School.

Data processing and computer programing

Initial Phase: Patterson State Vocational Technical School.

Advanced Phase: Councill Trenholm State Trade School.

MOBILE

Carver State Technical Trade School and Southwest State Technical Institute: The Data Processing program at Southwest State will be closed and transferred to Carver State; the Barbering, Cosmetology, and Practical Nursing programs at Carver State will be closed and transferred to Southwest State.

Auto body repair

Initial Phase: Southwest State Technical Institute.

Advanced Phase: Carver State Technical Trade School.

Auto mechanics

Initial Phase: Carver State Technical Trade School.

Advanced Phase: Southwest State Technical Institute.

Business education

Initial Phase: Southwest State Technical Institute.

Advanced Phase: Carver State Technical Trade School.

Technical drafting

Initial Phase: Southwest State Technical Institute.

Advanced Phase: Carver State Technical Trade School.

Electronics technology

Initial Phase: Carver State Technical Trade School.

Advanced Phase: Southwest State Technical Institute.

Welding

Initial Phase: Southwest State Technical Institute.

Advanced Phase: Carver State Technical Trade School.

h. In each case of a program transferred from one trade school to another, the faculty, students, and equipment will be reassigned to the trade school receiving the program. Programs having their initial phase in one trade school and advanced phase in the other school of the duality will reassign faculty as needed to bring about a racial balance of faculty.

i. Any alteration or remodeling of facilities in the dual trade schools needed to accomplish the program changes under part 3 will be accomplished without regard to the construction priorities established above for Mobile State and Wenonah State junior colleges. Alteration or remodeling of facilities will be done so as to permit implementation of these program changes in the dual trade schools by September 1970.

j. When course duplication is substantially eliminated in the dual trade schools of Gadsden, Mobile, Montgomery, and Tuscaloosa, these schools may be given the same attendance and transportation areas.

4. Transportation: Transportation will be provided only in the designated attendance areas to the institution serving that area, except that, where feasible, students who wish to enroll in a course not offered at the facility serving his area may be transported from his area to a facility where the course is offered.

5. Recruiting of Students:

a. Officials responsible for recruiting of students at each institution will make special efforts to recruit students who are of the race different from that of the students for which the institution was originally designed to serve.

b. Any recruiting team which visits high schools to discuss their institution with students will be composed of members of both races. Consideration should be given to using students as members of recruiting teams along with faculty or administrators. When this is done such student teams should represent both races to show the multiracial character of the institution.

c. All promotional literature and catalogs sent to high schools or to prospective students will state clearly that students are accepted without regard to race or color.

d. Recruiting teams from each institution will contact every high school in their assigned attendance areas to attempt to recruit students but will not contact high schools outside of their assigned area. Recruiting teams will be responsible for acquainting students in their area with programs and courses available at other schools which may be accessible to them, but which are not offered at the recruiting team's school.

e. The State Department of Education will prepare a brochure describing in detail all of the trade schools and junior colleges, the courses offered at each, and the attendance areas which these schools serve. A map showing these areas will be shown in the brochure along with the bus routes serving these areas. This brochure will state that it is the policy of the State for students to attend the school serving the area in which they live unless they wish to pursue a course not offered at their area school.

This brochure will be sent to every high school principal, and every city and county school superintendent, every trade school director and every junior college president in the State of Alabama, and copies will be made available to recruiting teams for use in recruiting and to members of the public upon request.

f. Group photographs used in catalogs or other promotional literature, or student yearbooks or other annuals, must show the multiracial character of the junior college or trade school.

6. Faculty and Administrative Staff Desegregation:

a. The director of each trade school and the president of each junior college will be notified that he has a legal and affirmative responsibility to recruit in good faith for faculty and administrative staff of all races.

b. The State Superintendent of Education will establish a central recruiting and referral service for faculty and staff employment in the trade schools and junior colleges. The State Superintendent will be responsible for maintaining a list of all vacancies, or new positions to be established, and a file of eligible applications. The State Superintendent will refer these applications to the trade schools or junior colleges whenever a vacancy occurs. Applications for faculty and staff employment received by the trade schools and junior colleges will be sent to the State Superintendent's office to be kept on file in the central referral service. Prior to filling any vacancies at their institutions the trade school directors and junior college presidents must consult the applications on file at the central referral service.

c. The State Superintendent of Education, through the referral service, and as overseer of the trade schools and junior colleges, will be responsible that the trade schools and junior colleges recruit faculty and administrative staff as described in part 6(a) above.

d. Jefferson State Junior College and Wenonah State Junior College will exchange faculty on part-time, temporary assignments until an integrated, racially balanced faculty is attained by these two institutions. For the 1970–71 academic year, and for future years until a racially balanced faculty is achieved, Jefferson State and Wenonah State will exchange faculty in curricula that overlap both institutions. Curricula where faculty may be exchanged are: Business and Accounting; Secretarial Science; Mathematics, Physical, and Natural Sciences; Education; Pre-engineering; Economics, History, and other Social Sciences; English, Foreign Languages, and the Fine Arts; Health, Physical Education, and Recreation.

e. Mobile State Junior College and Yancey State Junior College will exchange faculty on part-time, temporary assignments until an integrated, racially balanced faculty is attained by these two institutions. For the 1970–71 academic year, and for future years until a racially balanced faculty is achieved, Mobile State and Yancey State will exchange faculty in curricula that overlap both institutions. Curricula where faculty may be exchanged are: Business and Accounting; Secretarial Science; Data Processing; Mathematics, Physical and Natural Sciences; Education; Pre-engineering; Economics, History, and other Social Sciences; Health, Physical Education, and Recreation; English, Foreign Languages, and Fine Arts.

f. To the extent necessary to carry out this desegregation plan, the junior colleges and trade schools as designated in this plan shall direct members of their faculty and staff to accept new assignments or part-time exchange assignments as a condition of continued employment.

g. So long as the racial identity of a trade school or junior college by reason of the racial composition of its faculty has not been effectively removed by the employment or assignment of white and Negro faculty in such school or college in the approximate ratio that whites bear to Negroes in the general population of the geographic area served by the school or college, priority shall be given to recruiting staff and faculty members of the race which will tend to achieve that ratio.

h. If there is to be a reduction in the number of faculty, staff or other professional staff employed by the schools which will result in a dismissal or demotion of any such staff members, the staff member to be dismissed or demoted must be selected on the basis of objective and reasonable non-discriminatory standards from among all the staff of the schools concerned. In addition if there is any such dismissal or demotion, no staff vacancy may be filled through recruitment of a person of a race, color or national origin different from that of the individual dismissed or demoted, until each displaced staff member who is qualified has had an opportunity to fill the vacancy and has failed to accept an offer to do so.

Prior to such a reduction, the State Superintendent will develop or require the development of non-racial objective criteria to be used in selecting the staff member who is to be dismissed or demoted. These criteria shall be available for public inspection and shall be retained by the State Superintendent. The State Superintendent also shall record and preserve the evaluation of staff members under the criteria. Such evaluation shall be made available upon request to the dismissed or demoted employee.

"Demotion" as used above includes any reassignment (1) under which the staff member receives less pay or has less responsibility than under the assignment he held previously, (2) which requires a lesser degree of skill than did the assignment he held previously or (3) under which the staff member is asked to teach a course other than one for which he is certified or for which he has had substantial experience within a reasonably current period. In general and depending upon the subject matter involved, five years is such a reasonable period.

7. Committee on Comprehensive Planning for Trade Schools and Junior Colleges: Within 30 days from the date of an order in this matter, the State Superintendent will appoint a committee to be composed of the presidents of Mobile State Junior College, Yancey State Junior College, Wenonah State Junior College and Jefferson State Junior College, two employees of the State Department of Education, area coordinators of the trade schools in Mobile, Gadsden, Tuscaloosa, and Montgomery and any additional recognized educational experts or other professional educators in the field of post-secondary education from inside or outside the state who may be designated to serve by the State Superintendent. This committee will study in depth the dual system of trade schools and junior colleges based on race in Alabama and will devise additional specific measures necessary to carry out the requirements of this plan. They will report to the Court no later than 90 days after their appointment on the specific steps which they propose; this report will include, but not be limited to:

a. a schedule of priorities for construction projects at all junior colleges and trade schools under the State Board of Education over the next five years;

b. the specific courses and programs which will be offered for the 1970–71 school year at each institution in the State and the changes which will be made for future years;

c. plans for programs designed to attract students whose race is in the minority at each institution;

d. specific proposals for further construction and for any additional changes in the curricula and programs at Mobile State and Wenonah State junior colleges;

e. proposals for changes in the administrative organization of the trade schools and junior colleges necessary to facilitate the changes required by this plan;

f. plans to create comprehensive junior college districts in Birmingham and Mobile, and plans for the establishment of career education programs for students in the area trade schools who may wish to transfer to degree-credit programs in the junior colleges in their areas.

8. Effective Date: All stipulations under this plan will be implemented for the 1970–71 academic year except where necessary construction may cause delays.

VETERINARY MEDICINE: EFFORTS OF ADMINISTRATION TO PHASE OUT SUPPORT A TRAGIC MISTAKE

Mr. YARBOROUGH. Mr. President, I understand that President Nixon in an attempt to reduce the Federal budget is proposing to phase out Federal grants to schools of veterinary medicine. This, I submit, would be most unfortunate. Veterinary medicine plays too important a role in the health and well-being of our Nation for the Congress to permit this to happen. And I do not say this in terms of the Nation's pets but in terms of our entire population. All too often it seems, the general public equates veterinary medicine with pet care. This is unfortunate for nothing could be further from the truth. Veterinarians, for example, play a vital role in human nutrition

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through their attention to food-producing animals.

They are responsible for protecting the health of the public against some 100 diseases transmittable to man from animals. They safeguard the wholesomeness of meat and meat products, poultry and milk and milk products. They prevent the introduction of animal diseases from foreign countries. They enforce health regulations in interstate and intrastate traffic in animal and animal products. They do all this and so much more, Mr. President, for the benefit of the entire Nation. And they are doing this under a severe handicap. There are not enough veterinarians to take care of our full needs. So long as this is so we have an obligation to provide Federal assistance to encourage careers in veterinary medicine.

Mr. President, I recently received a letter from Alvin A. Price, D.V.M., dean, College of Veterinary Medicine, Texas A. & M. University, which does a very fine job of describing the role of veterinary medicine in our society. I am sure my Senate colleagues would be interested in seeing it. I ask unanimous consent, therefore, that Dr. Price's letter dated March 9, 1970, be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

TEXAS A. & M. UNIVERSITY,
COLLEGE OF VETERINARY MEDICINE,
College Station, Tex., March 9, 1970.

Hon. RALPH YARBOROUGH,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I was sorry to have missed you on March 5 but pleased to have the opportunity to visit with Mr. James Babin and Mr. Henry Rodriguez with my veterinary medical colleagues, Dean W. T. S. Thorp of the University of Minnesota, Dean Clarence R. Cole of Ohio State University, Dean T. S. Williams of Tuskegee Institute. and Dr. Frank Todd of the AVMA Washington Office.

The group of five was representing the Association of American Veterinary Medical Colleges, the membership of which includes all of the colleges of veterinary medicine in the United States.

I wanted to express to you, personally, my profound thanks for your consistent stand on federal assistance to the colleges of veterinary medicine which constitute a national health resource and which are such an important part of the national health and public welfare team. Thank you, Senator, for your voting record on the HEW appropriation bill which was recently sent to the President and which contained assistance for colleges of veterinary medicine under P.L. 90–490 as authorized by Congress and in which you played such a vital role.

On February 26, 1970, there appeared an article in the Evening Star (Washington, D.C.) by Garnett D. Horner and titled "Nixon Seeking to Cut or End 57 Programs" in which the President was quoted as saying ". . . $3 million would be saved by phasing out federal grants to schools of veterinary medicine. . . ."

It is my understanding that, under questioning by Senator Bible, personnel of NIH have declared that $2.7 million is scheduled in FY 1970 for institutional grants to the 18 colleges of veterinary medicine by statutory formula. Our concern is that, in the light of the President's apparent concepts quoted above and in his exercise of the "2% clause," veterinary medicine may be cut out altogether in the appropriations for FY 1970.

Further, I understand that the appropriations plan of the Executive Branch for FY 1971 does, in fact, exclude veterinary medicine from the authorizations of The Health Manpower Act of 1968. This, obviously, is disturbing in the light of the documented contributions which veterinary medicine makes to the human health welfare of this country. It is being said that veterinary medicine could be excluded logically because veterinarians only take care of animals and not man. I submit the hard truth that the ultimate target of veterinary medicine is the welfare of man himself.

It appears on a superficial basis to superficially thinking people that pet care in the home is not very important. Many Americans seek the companionship of animals and these animals contribute to the social and psychological welfare of the people of this country at a level which has never been evaluated, much less understood. There are 68.5 million pets in American homes. Americans spend $3 billion each year for pet care. The sale of cat and dog food exceeds $500 million per year and almost as much is spent on supplies. Pets, like all animals, have diseases. Some of the diseases are transmissible to man. In the close confines of the apartment, the living room or the baby's nursery, disease transmission is particularly significant unless the health care for the animal is properly tended. Health conscious Americans rightly demand a high state of health care for the entire family, including the companion animals with which they live.

Although important, pet care is far from the major thrust of veterinary medicine in the welfare of man. Only 25 percent of the veterinarians of this country are engaged in small animal practices. Three-fourths of the professional manpower is pursuing a variety of endeavors directly related to man's health and welfare other than companion animal medicine.

Human health preventive medicine would be far from the advanced state it enjoys in America today were it not for that branch of medicine dealing with animal life below man. The epidemiologic considerations are vastly important to man's health, especially in our environment which is undergoing increasing pollution.

The world food shortage threatens the lives of millions of people daily. Protein starvation is real and America is not immune. The contributions of veterinary medicine to animal protein food production for human consumption are well documented. The costs of animal diseases vary from 15 percent of potential yield in the developed countries where veterinary medicine is an advanced science to as high as 50 percent in the developing countries where veterinary medicine has not been developed as a health resource. These great losses have been endured through the ages, but there is now a new and pressing urgency to limit this unnecessary toll. The world has now undergone great and unprecedented changes which require more effective disease control and more emphasis on livestock health if the livestock industry is to thrive and fulfill its potential in the production of food for man.

The federal government is the largest single employer of veterinary medical manpower, being engaged in a variety of endeavors for the health welfare of man. The regulatory forces of the U.S.D.A. are vital to this country, not only in economic considerations but in human health welfare as well. On every continent of this earth there exists reservoirs of pathogens capable of breaking into sweeping epidemics should the host-environment relationship be disturbed. Many of these pathogens have never found their way into the United States. Others have been eradicated after finding their way to our shores. History records the futility of man's efforts until there has been control of the diseases which plague him and the animals over which he has dominion. Veterinary medicine is very much an essential part of the nation's health team.

Biomedical research justly has had federal "infusion" during the past as the great thrust for improved health of our people has drawn national attention and imagination. The large measure of this important research has been done on animals lower than man for obvious and adequate reasons. This being the case, the veterinary medical manpower pool has supplied an increasing number of researchers to this gigantic national endeavor. Uncounted millions of dollars have been saved because the research data have been made valid by people—the veterinarians—who know and understand the physiologic and pathologic functions of these subhuman animals as they have answered the health questions so important to man. If veterinarians are eliminated from this health research input through curtailment of federal support for manpower development, this nation will have taken a blinded step into the past.

America's dramatic space program of the 60's was not without veterinary medical support. Six veterinarians have been engaged with the Manned Spacecraft Center in Houston, Texas, and many others have been employed elsewhere.

As man has looked to outer space, he also is looking to the seas of the earth where there is a vast resource of animal life subject to disease. Marine animal medicine is a province and responsibility of the veterinary medical profession and the colleges must train people for this growing endeavor in man's welfare.

The growing needs in veterinary medical college teaching and research, in industrial veterinary medicine, in the U.S. armed forces, in environmental control, in municipal and state health departments, in consumer protection, in animal care laws, in public health and many other programs, gives testimony to the essentiality of further development of veterinary medical manpower in this great country.

If veterinary medicine is "phased out" of the federal support to colleges of veterinary medicine, under the erroneous idea and despicable illusion that "veterinarians only treat pets," we effectively will have rendered great and irreparable damage to this nation's great health team.

Again, I express my appreciation and gratitude for your enlightened support of the past in the interest of the health and welfare of the people of this country and seek your strategic assistance in the current crisis we face in veterinary medicine.

Sincerely yours,
ALVIN A. PRICE, D.V.M.,
Dean.

POSTAL REGULATION FOR MAIL FROM ABROAD

Mr. McGEE. Mr. President, an extremely perceptive article by Marquis Childs appeared in today's Washington Post. Entitled "Further Inroad on Privacy Is Seen in New Postal Order," the article underscores the danger to the citizen's right of privacy, which is being daily chipped away.

The most recent inroad into our individual rights, according to the article, is the proposed rule change announced by the Postmaster General and the Secretary of the Treasury to permit the Bureau of the Customs to open first-class foreign mail believed to contain prohibited or dutiable material.

I commend Mr. Childs for giving this

serious matter his attention and the publicity which his column will bring to it. Yesterday, I introduced S. 3602, a bill to stop by law the proposed rule change. This bill would preserve and protect the confidentiality of first-class mail.

Mr. Childs' article poses pertinent questions about the proposed rule change. The article concludes with the view that an alert Congress committee should get some revealing answers.

In the hearing on S. 3602, scheduled for Friday, March 20, I am sure that the Post Office and Civil Service Committee will be able to compile useful information on this important matter.

Mr. President, I ask unanimous consent that the Marquis Childs column referred to be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

Further Inroad on Privacy Is Seen in New Postal Order

(By Marquis Childs)

The citizen's right of privacy is steadily chipped away with the reason that the virulent tide of mounting violence and crime justifies any action from wiretapping to "no knock" police entry. The rise of violence and crime is undeniable. Yet, whether the cure is a cure and whether the remedy may not be more of a threat to free Americans than the disease is surely debatable.

The latest chip to be knocked off is comparatively small and yet it is revealing of the steady trend and toward a Big-Brother-Is-Watching-Your-Way-of-Life. A new regulation issued by the Post Office Department, which went virtually unnoticed when it was published in the Federal Register is a form of "no knock" applied to the mails.

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Any postal clerk is given the authority to refer any piece of mail, whether a sealed first-class envelope or an unsealed envelope, arriving from overseas to the Treasury Department's Customs Bureau. The Treasury is drafting new rules to put envelopes in the same category with packages and parcels. Therefore, they must be opened and inspected.

Merchandise entering the country has, of course, always been subject to Customs inspection. But those with authoritative background who have studied the new ruling believe that this never applied to first-class mail containing nothing but correspondence. The only law cited to justify this latest invasion of privacy is an 1866 tariff act allowing Customs officers to "board and search vessels," to "stop, search and examine . . . any vehicle, beast or person, on which or whom he shall suspect there is merchandise which is subject to duty," and "to search any trunk or envelope . . . in which he may have a reasonable cause to suspect there is merchandise which was imported contrary to law."

The new regulation is a broad net capable of sweeping in the big fish that may be suspect and myriad little fish as well. The mail from Mafia agents operating abroad and helping to frame the syndicates that smuggle in heroin is a source of invaluable information except that these agents are not so naive as to write down their plans in a letter to be sent through the international mails. Letters from one's children traveling abroad or from relatives overseas fall into the same net and are just likely to be read by Customs officials. While the regulation does not apply to domestic mail the powers of the Post Office Department are such that a stroke of the pen—as in the instance of overseas mail—could bring all mail under Big Brother's eye.

A department spokesman gives as the reason for the new ruling the attempt to check what is described as a flood of pornography from abroad. Martin Wolf, with the public information office working with the chief postal inspector, describes this flood in awesome terms. He says it comes from Denmark, Sweden, Ireland, the Middle East and South America. Mailing lists purchased by the purveyors of this hardcore pornography are used to distribute teasers in large numbers to addresses of individuals across the country. And the individuals, in turn, enter angry protests to the Post Office Department.

If the flood is on this scale it will take the work of a number of Customs officers to halt it and whether even with a large force there can be any effective check is doubtful. Pornography wholesalers in this country flood the mails with teasers sent to indiscriminate mailing lists, according to the department. Curtailing the domestic operation of the merchants of smut has proved difficult to downright impossible. Virtually every newsstand today has literature that stops just short of being hardcore pornography and that a few years ago would have been on the banned list.

The Post Office Department has long been concerned over the commercial exploitation of pornography through the mails. President Eisenhower's Postmaster General, Arthur Summerfield, put together a "chamber of horrors" of marginal and hardcore stuff, including several films. He gave members of Congress guided tours of his collection. There is little evidence that his campaign resulted in any slowdown in the pornography market.

Only a congressional committee can put the searching questions as to the motivation and the consequences of the new ruling. What about the Universal Postal Union and our postal treaties—do they authorize this invasion or prohibit it? Who initiated the changes? Was there a rush order from above? An alert committee should get some revealing answers.

FINANCING THE RIGHT TO READ

Mr. YARBOROUGH. Mr. President, the story "Financing the Right To Read" in the Washington Post of March 18 is a poignant account of how the education needs of American children are submerged in budgetary rhetoric.

The "right to read" is the only significant objective the administration has set for American education. Yet it is not unlike the objectives we had in mind when we enacted title I of the Elementary and Secondary Education Act to upgrade the instruction of children from disadvantaged homes.

Although title I has received scarcely half the money intended for it, its value is being downgraded by many in the administration as unproved. We can take notice now that unless "the right to read" receives ample financial backing, its value, too, will remain unproved.

As the budget figures in this article show, the vetoed appropriation bill for fiscal 1970 would have provided the $200 million for this effort which the President now says he will request of Congress.

Mr. President, raising the educational standard for American children will not be cheap, whether we call them disadvantaged or reading retardates. I ask unanimous consent to have this article by Mr. Robert Hartman printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Financing "The Right To Read"

(By Robert W. Hartman)

In October, 1969, U.S. Commissioner of Education James E. Allen Jr., speaking before the Citizens Schools Committee of Chicago, announced a new educational target: The "Right To Read" was to become for the 1970s what the pledge to land a man on the moon was to the 1960s. In his speech, which marked the first positive statement about the federal role in education to come from the new administration, Allen pointed to the "10 million American children and teen-agers [who] have some significant reading difficulty" and who were thus "denied a right—a right as fundamental as the right to life, liberty and the pursuit of happiness."

The significance of Allen's remarks was that they committed the Nixon administration to a program of education support for disadvantaged youngsters who comprise an indecent proportion of the 10 million reading-retardates and whose whole education cannot very well be separated from the acquisition of reading skills.

Allen said curiously little about what the "Right To Read" program was going to do for money, but the administration's budget message could be expected to fill in the dollars. In February, the budget was released. Here are all the mentions of "Right To Read" in the combined 1,973 pages of the Budget, the Budget Appendix and the Special Analyses of the Budget.

"An increase of $5 million in grants to States will fund additional adult basic education projects and contribute to the 'Right To Read' effort." (Budget p. 143.)

"In 1971, States will be encouraged to use these grants [for supplementary services, school libraries, guidance, counseling, and testing and equipment] to fund 'start-up' costs associated with new educational models, especially in connection with the 'Right to Read' program." (Budget Appendix, p. 423.)

It was not until March 3 that the administration spelled out fully its goals in elementary and secondary education. In a "Message on Education Reform," the President explained that, generally, he would hold off spending for education until "we gain . . . confidence that our education dollars are being wisely invested." The "Right To Read" was singled out, however, as being a "critical area" in which "we already know how to work toward achieving" the goal. Given all this knowledge, the President moved right up to the front of the message (for the newspapers to copy), his pledge.

"I propose new steps to help states and communities to achieve the Right to Read for every young American. I will shortly request that funds totaling $200 million be devoted to this objective during Fiscal 1971."

It sure looked to some reporters like the President was talking about putting $200 million into this new program. The New York Times, in an otherwise brutal editorial, said:

"Yet only the $200 million funding of the reading compaign can be considered a realistic pledge." (March 4, 1970).

Buried deep down in the education message was the detail on the President's pledge

"In the coming year, I will ask Congress to appropriate substantial resources for two programs that can most readily serve to achieve this new commitment—[school libraries and supplementary services].

"I will shortly ask Congress to increase the funds for these two programs . . . to $200 million. I shall direct the Commissioner of Education to work with State and local officials to assist them in using these programs to teach children to read."

In case the subtlety is beginning to overwhelm the reader and in case he is having trouble finding out exactly what is being promised under the "Right to Read," I will now present a short budget history and description of the programs being designated for "Right to Read" yeomanship.

First of all, the administration has been trying to consolidate several so-called "categorical" programs in elementary and secondary education "to give states more choice in use of funds" (Special Analyses of the Budget, p. 113). As the second column of the table below shows, the administration wouldn't mind if, in the process of giving the states greater choice, it could save a few dollars. In the spring of 1969, the new administration cut back these state-grant programs by about two thirds.

The last Congress, in its euphoric mood, tripled the President's request to over $300 million, a sum which was vetoed in January by Mr. Nixon (See column 3).

APPROPRIATIONS

[Millions of dollars]

		Nixon vetoed		Final Nixon	
	Fiscal 1969	Fiscal 1970	Fiscal 1970	Fiscal 1970	Fiscal 1971
Title III (Supplementary centers)	165	116	165	116	116
Title II (school libraries)	50	0	50	43	0
Guidance, etc	17	0	17	15	0
Equipment, etc	79	0	79	37	0
Total	311	116	311	211	116

On the very day that the President was announcing his enthusiasm about the "Right to Read" and promising to raise the 1971 budget request for Titles II and III to $200 million, his representatives in HEW were agreeing to support a level of expenditure for the categoricals in *1970 of $211 million*. In short, there is no question that the administration was going to have to raise its $116 million request for 1971 in any event. Why not say the increase is for the "Right to Read?"

Now we ask how does a cut of $11 million finance the "Right to Read" program? To answer this one requires that we look into the Title III and Title II programs that will carry the burden.

Both of these programs allot federal funds to state education authorities. These authorities, in turn, establish criteria for the reallotment of the funds to school districts. In any given year most of the Title III funds are used to continue the financing of projects begun in an earlier year. For example, in 1968, only one third of the funds appropriated were discretionary—the rest continued funding old projects. Given the slowdown in this program in 1969–70, it might be expected that half of the funds will be available for new projects. The commissioner will be doing well if he can persuade state boards to allocate half of these new funds to "Right to Read." Thus, "Right to Read" might reasonably be expected to get one-quarter (half of half) or all Title III funds in 1971.

The library assistance program is also a state-grant program. Funds are allotted within states according to need, but the states' interpretation of need varies widely and there are enormous pressures to spread the funds around among all school districts. What share would go to the children having trouble reading? No one knows, but if one-quarter of Title II redounded to their benefit, that would be an achievement.

The President will raise his request for Title II and Title III together to $200 million. About one quarter of those funds might be for the benefit of the needy readers. That's $50 million. There are 10 million needy children, according to Commissioner Allen. So we promise the "Right to Read at $5 per child per year.

Two or three years from now, some high administration official will take the podium, point his pointer, and announce gravely that after pouring one-half billion dollars into the "Right to Read" program the federal government, sadly, has little to show for its efforts (this is precisely the line now taken on Head Start and Compensatory Education) and that the administration must reluctantly conclude that further research is necessary before any more money is poured down the rat-hole.

This scenario is absurd—but all too likely to happen. Commissioner Allen's idea—the creation of a symbol of the failure of our educational system and the embodiment of "a target which unites rather than divides"—was a good idea. If the federal government means business, it should be talking about providing at least the monetary equivalent of one reading specialist costing about $9,000 per 30-child classroom (i.e., $300 per student). If there are, in fact, 10 million reading-retardates, we should be talking about a program of $3 billion to achieve—or move toward—the "Right to Read." Perhaps this sum of money cannot be spent fruitfully in 1971, but at the administration's spending rate it will be 60 years before $3 billion is reached. High rhetoric and low budgets failed American education in the past—can we live with an encore?

STUDENTS PETITION FOR A CLEAN ENVIRONMENT

Mr. BOGGS. Mr. President, earlier this week four students from Hanby Junior High School, near Wilmington, Del., paid a visit to my office.

They brought with them a petition bearing 673 names collected from the faculty and student body and pertaining to the quality of our environment.

Earlier the same day it was my privilege to participate in a Washington television program, during which the hostess expressed doubts about the sincerity of public concern with the environment. She said—and I must paraphrase—that if the public really were concerned about pollution, our environment soon would be cleaned up.

The job, of course, is a little more complicated than that. But I am convinced that there is a groundswell of opinion about pollution and that young people are in the vanguard.

The petition delivered to me by the Hanby students, Miss Marian McNeill, Miss Linda Sipala, Mark Foshee, and Jim Trueblood, said, in part:

> We . . . feel that not enough is being done by our government to stop the environmental destruction of our delicate ecological systems. Therefore, we petition our government officials to increase their concern and legislative action in matters dealing with environmental problems.

It was evident in talking to those young people that they were sincerely concerned about the problems and anxious to do what they could to resolve it.

Other young people feel much the same way. On April 22 college students and others throughout the country will celebrate "Earth Day," the launching of a national antipollution drive. Antipollution groups are active throughout the land.

While their activities range from the bizarre to the practical, they are evidence of great national interest and hold great hope for the future.

While it is fashionable to bewail the problems confronting us—and they are many and serious—I believe a concerned Congress and administration, an increasingly enlightened industry, and an aroused public provide us the necessary tools for the long and difficult job of restoring our environment.

MALNUTRITION AND HEALTH

Mr. YARBOROUGH. Mr. President, certainly one of America's greatest problems is the shocking nutrition gap in this the world's wealthiest Nation. There are literally millions of Americans—black and white—who are not getting adequate diets. This is a problem which we cannot permit to exist. As a member of the Select Committee on Nutrition and Human Needs and as chairman of the Health Subcommittee of the Labor and Public Welfare Committee, I have heard lengthy testimony on the relationship between hunger and malnutrition and health problems. Recently the Medical World News printed a very thorough article on this problem.

Mr. President, I ask unanimous consent that the article entitled "The Great American Paradox" from the November 28, 1969 edition of the Medical World News be printed in its entirety at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GREAT AMERICAN PARADOX

The young West Virginia GP enjoyed listening to his new patient's whimsical tales of kin and neighbors up in the hills. She was a rosy-cheeked 35-year-old woman with eight living children, and despite her lack of book learning (her father's death had ended her schooling some time before she finshed the fourth grade), she took—and gave—much pleasure in the wit and style of her Elizabethan-flavored anecdotes. Like her father and grandfather before her, she had been endowed with the storytelling art that has enriched nonliterate societies since the dawn of man.

Physically, she seemed a bit more lethargic than one would expect from her blue-eyed sparkle and quick mind, and she had mentioned that she no longer seemed to have quite enough energy to keep up with children—several of whom, she was sorry to report, were doing poorly in school. But as an explanation for lethargy, the 40 extra pounds on her five-foot-four frame might easily have been accepted as adequate.

Unfortunately, however, obesity was only part of her problem. Her rosy cheeks bespoke not health but hypertension. Her dental problems—for which she had never seen a dentist—were real enough, but her bleeding gums were due less to them than to a lack of vitamin C. After finding a low hemoglobin, her physician took the trouble to have extra laboratory studies done. Serum levels of vitamins A and C were both well below normal. Money, always scarce in the patient's family, had been scarcer than ever since her husband's death in a mine accident six years before. Her tight budget and bad teeth had almost eliminated fresh fruits and vegetables, as well as meat, from her diet, and her overconsumption of starchy foods gave her far more calories than her body would burn.

As a result, this patient, descended from some of America's oldest non-Indian settlers, embodies both sides of America's present-day paradox of nutrition. Like at least ten million other Americans, she doesn't have enough to eat. Like 40 million more, she eats too much. Her conscientious physician quite rightly refrained from simply telling her to eat less and exercise more.

Both malnutrition and "overnutrition" decrease life expectancy and increase the risk—and severity—of disease. And on the eve of the first White House Conference on Food, Nutrition, and Health, more and more scientists, health officials, and physicians are coming to fear that undernutrition, especially before birth and in early childhood, may be putting an unremovable physiologic damper not only on energy and physical health, but also on full development of the inherited mental capacity of millions of Americans. Even William Buckley, the *National Review* editor, former Conservative Party candidate for office in New York, and nationally syndicated columnist whose non-"liberal" credentials are in good order, has suggested that grocery stores across the land be supplied, for free distribution to all, with basic foods—bulgur wheat and dried beans, for example—that would guarantee an adequate, if not elegant, diet for every American.

The unexpected rediscovery of American malnutrition and hunger—which was greeted, especially in the South, by an initial official skepticism that has now largely receded—has held the spotlight for 2½ years since Dr. Raymond Wheeler of Charlotte, N.C., shocked a Senate subcommittee with evidence of starvation among hundreds of Mississippi Delta preschool children. U.S. overnutrition, on the other hand, has been a nagging concern of American medicine at least since World War II. Oddly, much of the interest in overnutrition in this country was touched off by forced undernutrition in war-torn Europe. There was, for example, a marked decline in hospital admissions for cardiovascular disease during the 900-day siege of Leningrad, followed by a resurgence of these diseases after the siege was broken and Leningraders returned to a more normal diet. At the same time, statistics gathered by life insurance companies in this country showed a correlation between excess death and excess weight.

Since then it has become a medical commonplace that obesity and overweight are related to an increased risk of death from hepatic disease, diabetes mellitus, surgical and postsurgical complications, cardiovascular disease, and even accidents. Of all the conditions linked to obesity or overweight (the clearest single criterion of overnutrition), it is generally conceded that cardiovascular disease, now responsible for more than half of the nation's deaths, is the most important. A recent National Heart Institute survey of 50,000 college students showed that obesity increased the risk of fatal heart disease by 33%. And an American Cancer Society study of 800,000 persons has shown that obese patients have 1½ to 3½ times as many fatal heart attacks and strokes as the nonobese.

One offshoot of the obesity-cardiovascular disease link is the still lively controversy concerning the relative influence of dietary cholesterol and of the ratio of saturated to unsaturated fats in the disease process. The position of the American Heart Association is that increased use of polyunsaturated fats should decrease the risks of cardiovascular and cerebrovascular disease. The association's Committee on Nutrition has urged that vegetable oils, particularly, be labeled as to polyunsaturate content.

Adverse psychological effects have also been linked to obesity. Dr. Jean Mayer, the famed Harvard nutritionist and special consultant to the President, who has spent the past six months organizing the White House nutrition conference, observes that the obese youngster sees himself as a member of a "minority group." Further, he notes, the obese may face many subtle types of discrimination, in college admissions, in employment. Sometimes the deprecatory self-image of the obese adolescent may be reinforced by parents and others to the point that he develops anorexia nervosa and literally starves to death.

Like many other aspects of American nutrition, the true dimensions of overnutrition have never been defined. The reason, says Dr. Carl C. Seltzer of the Harvard School of Public Health, is that the size of the problem depends on whether overweight or obese persons are counted. "Obesity," he explains, "is simply the presence of excess fat in body tissues; overweight is simply weight exceeding a value given by a particular 'average' or 'desirable' weight table."

How many Americans are overnourished? Estimates range from 20% to 25%. Preliminary results of the first national nutrition survey have convinced Dr. Arnold Schaefer, the trim HEW nutritionist who directs the survey, that the 25% is closer. Harvard's Dr. Frederick J. Stare believes that the recently reduced recommended daily dietary allowances are still 200 to 300 calories too high. To get the best break on the mortality statistics, Dr. Stare believes a typical 45-year-old man ought to weigh no more than five pounds more than he should have at 25, and should consume about 2,500 calories daily—10% less than the typical 25-year-old needs.

At least in some instances, Harvard pediatrician John D. Crawford suggests, physicians themselves may be partly responsible for the propensity of some adults to overeat. As can be demonstrated in animals, man also may have certain imprints—such as a "need" for a high food intake—"engraved" during the first 12 months of life. Children on artificial formulas and early solid foods, he notes, regularly exceed the old rule-of-thumb doubling of birth weight by six months and tripling it at one year. He points to "the lean, wiry physique of adolescents and adults whose early nutrition has been limited," and observes that "unusually rapid weight gain in the first year of life is strongly correlated with adolescent obesity."

Despite a series of citizens' and medical inquiries, countless articles, special television programs, and more than 60 days of congressional investigation which amassed a record that now exceeds 4,000 pages, data on malnourished Americans are even scantier than on the overnourished. In part, some suggest, this may stem from the fact that the undernourished have been far less visible to the medical profession than are the overfed, for undernourishment tends to be associated with poverty and all that goes with it—poor housing, poor education, poor access to medical care. The overweight, by contrast, tend to have better medical care and their problems have had greater attention from the profession.

The figure commonly given for the malnourished in this country—ten million or roughly a quarter of the number of overfed—was put forth by the Citizens' Board of Inquiry into Hunger and Malnutrition in the U.S. in their now-famous report issued in 1968. The total was derived from the fact that the board found that about a third of the poor people they surveyed were malnourished. The total of poor (those officially below the poverty line) was then estimated at 29 million.

The number of Americans with one or more indications of malnourishment, however, may be as high as 20 million, according to Dr. Schaefer. Preliminary results from the national nutrition survey, he says, are alarming. About 10% of the U.S. population—regardless of income—is apparently anemic. Vitamin A deficiency ranges from 8% to 20%, but "in one group of Head Start children we found 92% with vitamin A deficiency."

Covered in the survey, to be completed early next year, are serum vitamin A and C levels, as well as hemoglobin, plasma protein, serum albumin, urinary riboflavin, and thiamine. Percentages of the population having less than acceptable levels of these nutrients ranged from 19% in the case of riboflavin to a low of 9% for thiamine.

Dr. Schaefer's survey also turned up cases of kwashiorkor, marasmus, rickets, and Bitot's spots (reflecting vitamin A deficiency). Other startling findings: indications of growth retardation in 10% of children in preliminary samples, enlarged thyroid associated with low iodine intake in 5% of the entire populace, winged scapula and/or potbelly in 4.5%.

Strongly upholding the preliminary results of the national nutrition survey is a review of recent studies of vitamin and mineral nutrition in this country, just completed by Dr. Thomas R. A. Davis (Arthur D. Little, Inc.), Dr. Stanley N. Gershoff (Harvard School of Public Health), and Dr. Jean F. Gamble (Miles Laboratories). From a comprehensive review of studies done from 1950 to 1968, these investigators conclude that "dietary habits of the American public have become worse, especially since 1960." Notably deficient, they report, are infant diets: "For all nutrients, intakes were poorest in the earliest period of infancy and improvement with age was progressive. Infant nutrition appeared to be least adequate in the higher socioeconomic groups."

But, in general, Dr. Davis and his colleagues conclude, the studies show that "to one degree or another, there are nutritional problems in the U.S. affecting virtually all age groups and segments of the population."

The statistical dimensions, and to some extent the causes, of American malnutrition are still debatable, but the existence of the problem is not. Application to particular patients, however, is difficult. As Vanderbilt University nutritionist William J. Darby observes: "Most of the studies are epidemiologic in approach. There exists a critical need for the evaluation of the nutritional status of an individual. At the moment, such useful methods as exist are not readily available to the physician—a fact which handicaps the practitioner in the total care of his patients."

Negroes, Indians, Appalachian whites, and the Spanish-speaking peoples of the Southwest are especially hard hit by malnutrition. But the once common assumption that the problem of hunger is largely confined to discrete pockets across the country has been demolished. One of the earliest studies to suggest that malnutrition was widely distributed geographically was a 1968 Department of Agriculture survey. Covering 7,500 families across the nation, it showed that diets of 20% of the populace were nutritionally poor, i.e., lacking recommended allowances of seven important nutrients. The dietary lack, the survey indicated, cut across economic lines. Leading nutritionists, including Dr. Shaefer, were critical of the study, however, on the grounds that the recommended amounts of certain nutrients should not be expected to serve as an adequate measurement of the true nutritional status of individuals.

Yet another survey attesting the wide distribution of malnutrition found that 73.2% of children in six Manhattan schools had poor diets, while only 6.6% had diets that could be classed as excellent. Moreover, the study found that many children missed at least two meals on the days they were queried. Children from families on welfare had a slightly higher incidence of poor diets than others, and a decidedly lower incidence of excellent diets.

A study by the Harvard School of Public Health found that 55% of children (mostly black) in three grades in a school having no lunch program failed to get nutritionally satisfactory breakfasts, while 60% did not receive satisfactory lunches and less than 40% had satisfactory evening meals. In Berkeley,

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Calif., another study revealed that intake of all nutrients fell with socioeconomic status and that Negro children ate more poorly than did their counterparts in other ethnic groups.

All men may or may not be created equal. But every intern and resident who has malnourished obstetrical patients becomes aware that all gestations, and all births, are not equal. Poor maternal nutrition is clearly one of the factors that can contribute to toxemia of late pregnancy, abruptio placentae, severe maternal infections, severe anemia, and low birth weights—all of which give the newborn child a less-than-equal chance for survival and optimal growth.

Both animal studies and epidemiologic data strongly suggest that protein deficiencies before birth and in early childhood may impede the growth and functioning of the brain—a contribution to the long-standing heredity-vs-environment dispute that one writer has labeled "biological Freudianism." At birth, the human brain is normally gaining weight at the rate of 1 mg or 2 mg per minute, and it achieves 80% of its adult weight by age three, compared to 20% for the body as a whole. Animal studies going back to the 1920s have shown that rats, pigs, and other animals showed marked retardation in brain development if subjected to malnutrition during the critical period of rapid brain development.

In human epidemiologic studies, however, it is difficult to separate the influence of nutrition from cultural, social, psychological, and other factors affecting intelligence. A study done in South Africa, for example, showed that malnourished children scored consistently lower on intelligence tests than did better fed controls. But the study also indicated that poor housing and sanitary facilities, as well as other social and economic liabilities, were also widespread among those who tested poorly.

A number of more recent studies strongly imply a connection between nutrition and mental development in man even if they do not spell out the nature of the relationship. One shows the EEG patterns in protein-malnourished children are regularly abnormal in form, frequency, and amplitude, but return to a normal-like picture if the protein deficit is made good. Another bit of inferential evidence: Children treated for kwashiorkor or marasmus never catch up to the average for head circumference.

Drs. Heinz F. Eichenwald and Peggy Crooke Fry, both of the University of Texas Southwestern Medical School, Dallas, observe that such evidence "suggests that less severe but more chronic forms of malnutrition, which do not result in dramatic and life-threatening nutritional disease, may contribute to the small stature universally observed among economically poorer families and might be correlated with a decrease in intellectual development."

Dr. Charles Lowe, chairman of the Committee on Nutrition of the American Academy of Pediatrics, sums up what appears to be a widespread opinion concerning the relationship of nutrition to mental development: "When malnutrition is coupled with a constellation of adverse environmental factors that are characteristic of life in poverty, it is clear that intellectual growth will be jeopardized. There is no evidence that feeding people makes them smart, but it is indisputable that hunger makes them dull."

Drs. Eichenwald and Fry suggest that infection and malnutrition, themselves interrelated, may "act synergistically to produce a chronically and recurrently sick child less likely to react to sensory stimuli from his already inadequate social environment." Like many others, the two Texas investigators indicate that it matters little whether malnutrition can be unequivocally linked to impaired learning and behavior. "If adequate nutrition in early childhood diminishes the incidence of infection as well as the opportunity for sensory and cultural deprivation, the end results might be the same."

Unequivocal proof is thus scanty or impossible, and IQ tests, notoriously culture-bound, give scores that are difficult to carry meaningfully across boundaries of social, educational, and economic background. Nevertheless, it seems likely that in any society or group where mothers and small children are severely malnourished, at least a few children who would otherwise be considered unusually talented grow up merely average, and some who would be average are turned into mild retardates.

Programs that provide food assistance to the poor have proceeded from piecemeal to hodgepodge. The two main elements, the commodity distribution program and the food stamp law, critics aver, were designed primarily to support farm prices, rather than to feed the poor or correct undernutrition. The food stamp plan, enacted in 1964, enables the poor family to stretch its food dollar by surrendering the amount it would normally spend for food and receiving coupons worth more than that amount. A family that normally spends $40 a month for food, for example, might be entitled to purchase food stamps valued at $60 for the same amount.

Commodities available for distribution, once wholly limited to those the government had bought to support prices, have been extended to a list of 22 since the problem of hunger was "discovered" in 1967–1968. The expanded list includes higher amounts of such items as dried eggs, canned meats, and canned vegetables.

"All 22 items would furnish an adequate diet," says Dr. Schaefer, "but so far in the nutrition survey we have yet to find a family that receives more than 11. In fact, we have found that people on food stamps or commodities are no better off nutritionally than the poor who receive neither." Both programs together reach only about a third of the nation's poor.

The Senate has passed a measure that would allocate $1.25 billion for food stamps in this fiscal year instead of the $610 million proposed by President Nixon. The Senate bill provides that families below the official poverty line would receive stamps without charge and mandates national eligibility standards that would make them less costly to other families. In addition, it would authorize the federal government to establish plans in counties needing them but where local officials refuse to do so.

The fate of the measure in the House is in doubt. Rep. W. R. Poage (D-Tex.), chairman of the House Agriculture Committee which must report out the measure, said recently: "If you give them this food, the money they're now spending for food is going to go for beer and marijuana and worse." Further, Representative Poage has proposed that the current food stamp program and the Food and Agricultural Act of 1965, authorizing general farm aid, be combined and given permanent status. Dr. Mayer has commented that if Representative Poage does attach the food stamp plan to a general agriculture measure, it would amount to "blackmail." If any program for aiding the hungry is to succeed, Dr. Mayer believes, "it must be entirely divorced from considerations of agricultural policy and integrated into a national nutrition and distribution policy based on need."

Selling these basic premises to farm state congressmen long accustomed to consider aid to the poor only in connection with farm price supports and to Southern legislators resentful of suggestions that their area does not look after its own, will be difficult. The conference Dr. Mayer has organized will consider proposals submitted by 26 panels, each composed of from 12 to 15 physicians, nutritionists, food producers and processors, and spokesmen from consumer and social action groups, plus state and local officials.

Another problem facing the conference is the development of a more systematic means of gathering and utilizing nutrition data that will be of practical use to physicians and other health workers. "We need information not just for the nation as a whole," Dr. Mayer believes, "but county by county and neighborhood by neighborhood. Much of the raw data could come from annual school physicals and it should furnish a basis for action. If there are two cases of encephalitis in a school in Texas, it's front page news, but if an entire school is below average weight and height, no one cares or even knows about it."

Another task for the conference is to consider means of providing nutritional information not just to the poor, but also to the better-off. "Ignorance about nutrition is not limited to the poor," he says. "One of the most vulnerable groups in our affluent society is middle-aged people on high-cholesterol diets, overeating and under-exercising." Improved teaching at the college and professional school level is also on the agenda. "Most medical and nursing schools don't even teach nutrition. It was 'do-gooders,' not professionals, who turned up the problem of hunger."

The conference is also taking up problems relating to new foods, new food trends, so that nutritionally inferior foods are not foisted upon the public. Products that look and taste like meat, for example, are being developed, Dr. Mayer notes, but they may not have the nutritional value of the real thing.

Dr. Schaefer points out that some 3,000 new food products are introduced annually and that not all are adequately policed for nutrient value. "The use of enriched flour (thiamine, riboflavin, niacin, and iron) has declined since World War II," he notes, "when nearly all flour was enriched simply because the Armed Forces, the biggest single customer, specified it."

The whole question of what foods to fortify and with what, says Dr. Schaefer, must be carefully re-examined in the light of accumulating data on malnutrition. Some way must be found to ensure that pregnant women and very young children, in particular, receive adequate nutrition.

How much is a rounded, integrated program designed to banish hunger and malnutrition likely to cost? For the initial outlay, Dr. Mayer estimates, $1.5 billion would be needed; thereafter the program could be kept going for approximately $2.5 billion a year. Dr. Mayer believes that the outlay might save as much as $50 billion a year in medical-hospital expenses for the nation.

"Just as decades ago child labor became a public question, then was eventually outlawed, so now the question of malnutrition must be viewed as a public health problem," Dr. Mayer believes. "It is time to establish as national policy the right of every child—indeed, of every person—in this country to an adequate diet."

Some of the sharpest criticism of the upcoming conference, paradoxically, has come from the National Council on Hunger and Malnutrition in the U.S., which Dr. Mayer created and which he chaired until he resigned to organize the White House meeting. Says attorney John Kramer, executive director of the group: "The main criticism relates to the switch in the conference focus—veering sharply away from the problems of feeding the poor to the problems of the professionals. The recommendations we have seen seem aimed more at guaranteeing job protection for the nutritionist, the dietitian, and the doctors than they are toward guaranteeing an income for the poor. All panels save one, for instance, have been told to steer clear of discussion of a minimum income for the poor on the grounds that it is outside their jurisdiction."

Also deplorable, Kramer believes, is the emphasis on nutritional education: "This is the last refuge of the nutritional conservative. There should really be no need for all the nutritional education that appears to be wanted—if hot dogs were properly labeled as to fat content, and other foods were labeled as to nutrients."

In what may prove to be quite an understatement, Dr. Mayer has observed: "The real challenges to the White House conference are economic, social, and political."

But if Dr. Mayer's hopes for the White House conference are fulfilled, it will mean that the nation will have moved from shocked discovery that hunger is widespread, through nagging concern and indecision, to commitment to end malnourishment—all in a little more than two years. Perhaps overnutrition, a more common, though less devastating, problem among most physicians' patients—and among physicians themselves—will come next.

THE TIME HAS COME TO REMEMBER OUR WORLD WAR I VETERANS; DALLAS NEWS ARTICLE POINTS OUT THEIR PLIGHT

Mr. YARBOROUGH. Mr. President, a tragic example of the problems that many of our World War I veterans face is dramatically presented in an article which appeared in the March 10 edition of the Dallas Morning News. This article describes the difficulty encountered by Mr. John Jenkins, of Whitewright, Tex. Mr. Jenkins served as orderly to Gen. John Pershing during World War I. During his service, Mr. Jenkins saw action on five fronts.

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After the war, Mr. Jenkins returned to Grayson County, Tex., where he farmed for many years until his health forced him to stop. During recent years, Mr. Jenkins' only source of income has been his veterans pension. Recently his pension was reduced from $106 to $75 a month. Although Mr. Jenkins has no other income but his small pension, he is unable to receive welfare. At present Mr. Jenkins is living in a $10-a-month room with no plumbing.

Mr. Jenkins' case is not an exceptional situation. On the contrary, many World War I veterans and their widows are experiencing similar difficulties in making ends meet. The time has come for Congress to concern itself with these people's plight.

In order to provide some measure of relief to these neglected veterans and their widows, I have introduced S. 2658 which would grant to the veterans of World War I and their widows the same general pension as is presently paid to veterans of the Spanish-American War. Never has the need for this legislation been greater. The average age of the World War I veteran is 73 and most of these men are living on small fixed incomes. Consequently, they are the ones who are suffering the effects of runaway inflation the most.

Mr. President, the story of Mr. John Jenkins is one that every Member of this body should read. Therefore, I ask unanimous consent that this article entitled "Vet Makes It on $75 a Month" by Maryln Schwartz which appeared in the March 10 edition of the Dallas Morning News be printed in its entirety at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Memories Only Luxury—Vet Makes It on $75 Month

(By Maryln Schwartz)

Whitewright, Tex.—About the only luxuries in John Jenkins' $10-a-month room are his memories.

A World War I veteran, he once was orderly to Gen. John Pershing.

"I fought on five fronts, but I was a kid. I didn't know much about being scared. I figured the future would take care of itself," he reminisced Monday.

Jenkins was 21 when he joined the Army. He met Gen. Pershing in France.

"The General collected antiques. One night we were in Italy, and he discovered his bedroll was missing. He had put about $500 worth of antiques in it. My job was to find it."

Private Jenkins' search took him back to France.

I discovered an Italian soldier had stolen it and sold it to a French soldier. I was in Paris two hours when I spotted the bedroll. It went back to Gen. Pershing the next day. The antiques were still intact."

After the war, the general gave Jenkins an even bigger chore.

"I was supposed to look after his 15-year-old son, make sure no harm came to him. We were back in France. It was kind of nice and restful after all the fighting."

Then Jenkins returned home to Grayson County.

"I started farming and did OK until 24 years ago. That's when my wife died. I moved to Whitewright then and because of my health could do only odd jobs around town."

As Jenkins grew older, his health declined steadily.

"I discovered I couldn't get Social Security because I had been a farmer and didn't know anything about putting money in all along. I had an Army pension of $106 a month and hoped that would get me by with the odd jobs I was doing."

At the time Jenkins was living in a $24-a-month 4-room apartment.

"Then about two months ago, I was told my pension was being cut to $75 a month. I tried applying for welfare but they said my pension was enough to live on.

Jenkins was forced to move to a $10-a-month room with no plumbing facilities.

"If I want a bath, I go down to the Veterans of Foreign Wars building."

The bare room has a bed and a small heater. The windows are covered with cardboard.

"I been doing OK so far, I guess I will as long as I keep my health. If no more cold weather comes back this year, I'm not too afraid."

Jenkins spends much of his time drinking coffee in a drugstore in the middle of town, talking to old friends.

There's not too many of us World War I veterans left. I remember when we had at least 100. Today there're just two or three."

Jenkins is no longer sure the future will "take care of itself.

"I don't understand the welfare system. They told all us veterans we'd be taken care of. It doesn't look like we will. But Gen. Pershing once told us 'good soldiers never stop fighting!'

"And," he explained, "I very much consider myself a good soldier."

THE UNITED STATES AND CHINA IN THE 1970'S

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the Record an address which I delivered to a conference on International Affairs entitled: "China in Perspective" sponsored by the University of Illinois Extension in International Affairs, Bradley University, Illinois Central College and the World Affairs Council of Central Illinois at the Hotel Pere Marquette, Peoria, Ill., on March 14, 1970.

There being no objection, the address was ordered to be printed in the Record, as follows:

March 14, 1970, at a Conference on the United States and China in the 1970's

In his inaugural address last year President Nixon said his highest aspiration was to be known in history as a peacemaker. As a U.S. Senator I want to help him make good this pledge. And, if the President is to achieve that goal, particular attention must be devoted to the situation in Asia, where the U.S. has had to fight a major war in each of the past three decades—the Japanese war of the 1940's; the Korean war of the 1950's; and the Vietnam war of the 1960's.

U.S. policy in Asia in the 1950's and the 1960's was largely determined by our perception of Communist China as an implacably hostile state posing an immediate threat to the interests of the United States and its allies. The key to making progress in U.S.-China relations in the 1970's is to "cool it."

The time has come for a major reassessment of existing policies, based on the fundamentally changing situation of the 1970's.

One element of the reappraisal should be a recognition of what actually happened in Asia in the 1960's—as opposed to what U.S. policy assumptions expected would happen. Here, of course, the lessons of Vietnam will be paramount. Fortunately, in Vietnam our fear of possible massive Chinese intervention, and Peking's fear of an American military threat to its southern border, did not lead to a repetition of the bitter military struggle between U.S. and Chinese forces in Korea. Prophecies based on extreme mutual hostility and distrust often become self-fulfilling as the overreaction of each side feeds the worst suspicions of the other. But, with respect to China policy, the most important lesson of Vietnam was the caution and restraint showed by Peking in carefully avoiding a direct military role in that conflict, despite all of Peking's verbal intemperance and arms supply and other aid.

Even more importantly, a policy reassessment is necessitated by the major changes in the Asian situation which can be expected in the 1970's.

In my judgment, there will be four major developments in Asia in the 1970's—all of which could help to ease tensions between the United States and China. Cumulatively, these changes could provide an opportunity for the United States to normalize its relations with Communist China and help lay the foundations for a peaceful Asia and a more prosperous Asia. There will, of course, continue to be great ferment and even turmoil in Asia and the prospects for peace there are by no means assured. But skillful U.S. diplomacy throughout the transitional years of the 1970's could produce major results.

These are the four major developments which I foresee in Asia in the 1970's which will fundamentally change the policy situation there for the United States.

First, in the 1970's the strategic situation in Asia will be essentially a four-power or quadrilateral equation—involving the Soviet Union and Japan, as well as the United States and the Chinese People's Republic (CPR). This situation, as well as our perception of it, could be inherently much more stable than the "power vacuum" situation of the 1950's in which U.S. policy was based on the belief that post-colonial Asia lay helplessly at the doorstep of an aggressive Communist

China. The introduction of "countervailing" U.S. military strength along China's periphery was the policy we followed based on our perception of the strategic equation in the 1950's. Specifically, the United States adopted a policy of "close-in" military containment of mainland China, augmented by a tactical nuclear capability as well as our global strategic nuclear capability.

However, Peking has shown caution and restraint militarily throughout the Vietnam war, and the view that Hanoi is Peking's puppet—a cat's paw on a string—is no longer accepted even in the Pentagon. Even the "domino theory" has come in for serious reevaluation after the failure of the Communist attempt to seize power in Indonesia in 1966.

The emergence of Japan as a major economic power—its GNP is expected to surpass that of all the rest of Asia by the 1980's—and Japan's increasingly active role in Asian regional arrangements should add an important new dimension to the overall strategic equation in Asia in the 1970's. Japan has the potential gradually to become an alternate focus of Asian leadership to Communist China. It provides a compelling example of purely Asian economic development success. Moreover, Japan may be able to play an important role in the gradual normalization of mainland China's relations with its Asian neighbors—and we should encourage Japan to play such a role.

The Soviet Union's inherent geographic role as an Asian great power has been dramatized by the severe border tensions and military skirmishes which have developed between Russia and China, but the Soviet Union has been an important diplomatic factor in Asia throughout the 1960's—and can be expected to play an increasing strategic role in Asia during the 1970's. Moscow's eyes have again been turned eastward and a major drive to develop the sparsely-populated regions of the USSR's "far east" provinces is underway. Popular Soviet literature is full of references these days to the threat of a new "Mongol horde," and the Peking Daily seldom misses an opportunity to attack the Kremlin leadership in lurid terms. Behind the emotion-laden propaganda, both sides seem to be deploying their forces for a long and harsh geopolitical confrontation.

A deepening of the Sino-Soviet strategic confrontation in north central Asia will be a major factor shaping the Asian scene in the 1970's. Some experts have even predicted nuclear war between Russia and China in the 1970's, but all of us must hope those two vast nations will avoid any such catastrophe.

The principal importance for the United States of the Sino-Soviet confrontation of the 1970's is that it should ease the security situation of our principal Asian allies and friends, providing a needed respite to the smaller non-Communist nations of southeast Asia, in particular, to develop their economies and political systems and a favorable atmosphere for greater regional development.

However, the United States must be very wary of any effort to seem to be trying to manipulate the course of the Sino-Soviet impasse for our advantage. Rather, over the long haul we should pursue a strategy of correctness and non-intervention while using the opportunities the situation will provide in our own relations with non-Communist Asia to make a success of the Guam Doctrine.

How profound a strategic change in Asia has been wrought by the tense Sino-Soviet strategic confrontation is apparent when we compare it to the situation prevailing at the time of the Korean war when there was at least a facade of a monolithic Stalinist Sino-Soviet bloc and when there was close military collaboration between Peking and Moscow in waging the Korean war.

Thus, the 1970's will see a quadrilateral strategic equation in Asia, in place of the two-dimensional U.S.-China confrontation in the "power Vacuum" situation of the 1950's and 1960's.

Second, the 1970's should bring an end to the Vietnam war and a reduced U.S. military role in Asia, in accordance with President Nixon's Guam Doctrine.

An end to the Vietnam war and a consequent lowering of the U.S. military profile in Asia could have a profound impact on the evolution of U.S.-China relations in the 1970's. In accordance with the Guam Doctrine and its disavowal of any more Vietnam-style interventions, those "close-in" deployments of U.S. military striking power positioned along China's periphery in the 1950's and 1960's—which Peking has considered so threatening and provocative—will be reduced. Moreover, recent developments in weapons technology will enable the U.S. to continue to provide a nuclear shield for our Asian allies which does not have to be based on existing U.S. military bases in southeast Asia, Okinawa or Taiwan.

A lowering of the U.S. military profile in Asia in accordance with the Guam Doctrine and a shifting of the center of focus of U.S. policy actions there to support of regional and multilateral development institutions is more likely, in my judgment, to induce a favorable Chinese response than any attempt to resolve by frontal assault the major diplomatic issues of recognition and UN admission. This will be helped, too, by what I consider to be the likely outcome of the Pentagon's "anti-China" ABM proposal. There is great skepticism in the Senate on this matter, and if there is any further expansion of the ABM—which is open to question—I believe it will be a general anti-missile defense system, not a specialized defense against a threat of nuclear attack from mainland China.

Third, a major leadership transition, perhaps involving a serious succession crisis, can be expected within Communist China in the 1970's. Chairman Mao is already 77 and his principal associates in power are all of comparable age. Thus, a generation of Chinese leadership is destined to pass from the scene in the 1970's—a "revolutionary" leadership tempered by the "long march" of the 1930's and the long internal struggle for power against a U.S.-supported regime.

Most experts anticipate that China's next generation of leadership will be drawn heavily from the ranks of the military and will be more pragmatic and managerial in its approach and less ideological and revolutionary. It would be natural for such leadership gradually to move toward more normalized relations with the outside world.

It is worth noting that a change of leadership in Taiwan can also be anticipated, for Generalissimo Chiang Kai-shek is about the same age as his old rival Mao Tse-tung. The passing of Chiang will provide an opportunity to review the status of Taiwan in world affairs. I have already made known my own view that the people of Taiwan are entitled at some stage to self-determination exercised through a plebiscite which would envisage an independent Taiwan as one of the options.

Fourth, the 1970's could witness an important strengthening of constructive regional growth in non-Communist Asia. Wise policies and adequate resources can bring important economic growth even in those areas of non-Communist Asia which have not shared the impressive growth rates achieved in the 1960's by Korea, Thailand, Taiwan, Malaysia and even the Philippines. These latter nations, along with an economically bounding Japan, are positioned to achieve a sustained high rate economic advance throughout the 1970's.

I do not believe that the United States can or should withdraw from an active role in Asia. Regional economic development can become a reality only with an important input of U.S. capital and know-how. Moreover, the vital contribution which Japan must make will be acceptable to other Asian nations only if it is administered multilaterally in cooperation with the United States. If the United States were to withdraw, and seek to push Japan into the kind of role we have played in the 1950's and 1960's, there would be a strong reaction of fear and mistrust—based on World War II memories—which could drive the non-Communist nations of southeast Asia toward Peking.

But it will be in the strengthening and development of regional institutions, both economic and political, that there will be the real opportunity. Regionalism alone can provide security and self-reliance for the small nations of Asia in the long run. U.S. policy in the 1970's should emphasize a regional and multilateral approach. President Nixon's Guam Doctrine and his Administration's pronouncements with respect to foreign assistance, including the Peterson Report, indicate that U.S. policy in the 1970's will have the kind of regional, multilateral development focus appropriate to the changed circumstances and new opportunities of this decade.

In the broadest sense, a continuing active U.S. role in Asia will be needed to maintain the new kind of progressive balance which will be possible as a result of the four major changes which I see developing over the 1970's. Mainland China, because of its size, location, demography and cultural heritage, will continue to be the hub of Asia. Mainland China must play an important role in the affairs of Asia, if there is to be any permanence and stability to the arrangements developed there.

I do not wish to convey an impression of false optimism about Asia in the 1970's, or to leave the impression that I believe that clear weather is an assured forecast for U.S.-Communist China relations in the decade ahead. Rather, I see ahead a decade of reassessment and readjustment on both sides which—given the momentum of the developments I foresee—will provide an environment for evolving a new kind of Sino-American relationship based on mutual respect, normal relations and an absence of military confrontation.

Many contingencies could upset the favorable prognosis I have offered. The Vietnam war has not yet been ended, and recent developments in Laos indicate the kind of difficulties which remain before a stable arrangement to end the long war in Indo-China can be achieved.

In conclusion, I would like to offer a few specific recommendations about improving relations between the United States and mainland China within the conditions I have outlined.

First, I do not think the U.S. should attempt to "solve" the problems of diplomatic recognition and United Nations representation for Communist China by early direct negotiations. Under present circumstances, these issues, as well as the question of the ultimate status of Taiwan, are not susceptible to direct solutions. Rather, we should concentrate on ameliorating the underlying situation and conditions which have caused the acute tensions between Washington and Pekings since 1949. These conditions are now uniquely amenable to improvement. When, and if, such improvement does take place, the issues of diplomatic recognition and UN representation will take care of themselves naturally.

Second, the United States should look for opportunities to assist the Chinese people to achieve a higher standard of living by exploitation of the technological breakthroughs underlying the "green revolution" now transforming many parts of non-Communist Asia. If mainland China is left to fester as a great central ghetto of poverty and discontent in the center of Asia, while the nations all along its outer rim succeed in breaking the old Asian bonds of economic stagnation and fatalism, a dangerous new imbalance will develop jeopardizing all progress to achieve a progressive stability.

Again, this matter is not likely to yield results if tackled directly. Chinese suspicion and considerations of national pride would lead to an out-of-hand rebuff to any direct offers of assistance under present circumstances. However, a gradual normalization of trade, travel and informational exchange relations between the U.S. and Communist China will provide many opportunities to encourage and indirectly assist the kind of sound economic advance in mainland China which alone can prevent ultimate famine there, given the demographic projections. A China in turmoil means an Asia in turmoil.

Third, the United States must have the perception and sophistication to recognize that all the turmoil and disruptions which occur in Asia are not the result of Chinese instigations—however much Peking may at times seek to claim credit. There are many deep-seated, historically-based ethnic tensions and rivalries in Asia which have nothing to do with Peking and which will inevitably find expression during the 1970's. For example, the Malay-Chinese tensions which are present in Indonesia, Malaysia and the Philippines do not derive from the policies or the actions of Peking. Similarly, the animosities among the Thais, Khmers, Laotions and Vietnamese of southeast Asia exist quite independently of Chinese policy. And the struggle between the dominant plainsmen and the more primitive hill tribes in the whole submountainous arch stretching from India to Vietnam will continue throughout the 1970's, independently of Peking's will.

Fourth, the U.S. must pay close attention to the Chinese and broader Asian implications of any nuclear arms control agreement it reaches with the Soviet Union in the SALT negotiations. In particular, we must be careful not to create the impression that we are joining Moscow in a mutual "nuclear ganging-up" against China. We must also avoid creating the impression in either Moscow or Peking that we would look on with no concern should the USSR attempt a pre-emptive strike at China's infant nuclear facilities, or if either nation felt it could employ nuclear weapons against the other and that this would be of no concern to the interest of the U.S. and the free world. The pressure of world opinion is a potent force but it can be effective only if it makes itself felt in advance of the contingency it seeks to effect.

The end of the Vietnam war, the Guam Doctrine, the economic success of Japan and the aftermath of Communist China's domestic trauma offer us a unique opportunity to begin to normalize our relations with mainland China. It is an opportunity to be developed as an opening for peace in Asia and the world through wise U.S. statesmanship.

BIG THICKET RESOLUTION

Mr. YARBOROUGH. Mr. President, many concerned citizens and organizations have contacted me to urge passage of S. 4, to establish the Big Thicket National Park.

The Big Thicket is a heavily forested area in east Texas, recognized by the luxuriance of its vegitation, dominated in its climatic form by a splendid loblolly pine hardwood forest type. These hardwood species, with their associated understory species define the Big Thicket forest type. The location, size, and great natural beauty of this virgin forest area makes it one of the most interesting and attractive areas remaining in the State.

The members of the Sadler Study Club of Corpus Christi, Tex., are concerned about preservation of this beautiful area, and have forwarded a resolution to me expressing their concern for the preservation of at least 100,000 acres of the Big Thicket for a national park.

Mr. President, I ask unanimous consent that the resolution from the Sadler Study Club of Corpus Christi, Tex., be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution

Whereas, the Big Thicket of Texas is a meeting place for eastern, western and northern ecological elements and

Whereas, this is the last stand in Texas of the nearly extinct Ivory-billed Woodpecker; and

Whereas, this beautiful and unique area is rapidly being destroyed by bulldozer and chain saw; therefore

Be it resolved that the Sadler Study Club of Corpus Christi, Texas, urges the preservation of at least 100,000 acres containing the most unique areas of the Big Thicket, these areas to be connected by environmental corridors; and

Be it further resolved that the Interior and Insular Affairs Committee of the Senate of the United States by requested to set immediate hearings on S4 which would create a Big Thicket National Area.

Mrs. Vinson Morris,
President.

ANNOUNCEMENT OF SUPPORT OF AMENDMENT 549 TO SUBSTITUTE AMENDMENT 544 OF THE VOTING RIGHTS ACT

Mr. YARBOROUGH. Mr. President, at the time that the vote on the Cooper amendment, No. 549, was taken on March 10, 1970, I was necessarily absent and I wish the Record to show that if I had been present, I would have voted "yea."

Mr. President, I ask unanimous consent that I be recorded as for amendment No. 549 in the Congressional Record of March 10, 1970.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISLABELING OF DEFENSE RESEARCH PROJECTS

Mr. FULBRIGHT. Mr. President, last year the Senate, for the first time since I became a Member, carefully scrutinized the defense research program and took important steps to bring it under more effective control by the Congress. One of the most significant actions taken was the adoption of the proposal, originated by the distinguished Majority Leader, to require that all defense research projects have "a direct and apparent relationship to a specific military function or operation." Whether or not the Department of Defense plans to live up to the spirit of that restriction remains to be seen. I have asked the Department for budget information on this and other research areas in which I have a special interest.

There are signs, however, that the Department may attempt to evade the congressional mandate by some sleight-of-hand on project labels. The Providence Evening Bulletin of February 23 contains an article entitled "Pentagon-Science Alliance Under Mounting Attack," written by Douglas C. Wilson. The article reported the comments of a number of scientists performing research for the Defense Department. One, who had composed debatable statements of military relevancy to insure that his projects would continue, was quoted as saying:

> I may be a prostitute, but at least I can tell myself I'm a million-dollar-a-year prostitute.

The article also reports that "projects have been given titles indicating a military aspect to nonmilitary research supported in the Defense budget," and goes on to quote a number of scientists who have questioned the accuracy of titles assigned to their projects by the Pentagon. One project by Prof. Guenter Lewy of the University of Massachusetts was entitled by the Pentagon: "Religion and Revolution: A Study in Comparative Politics" and was officially described as an effort to "provide empirically derived conclusions about ideological movements which support insurgency." One of the studies was "The Ataturk Revolution in Turkey," which I referred to last year during the debate on the defense authorization bill. Professor Lewy, when asked about the Defense Department's label for the project, was quoted as saying:

> That's completely off. This description is misleading, to put it mildly. If this is Department of Defense language, I can say flatly, I don't like it.

A Canadian scientist, Dr. Harold I. Schiff, of York University, was quoted as saying that the title the Army gave his research project was "extremely far-fetched," a "misrepresentation," and that it was "probably an artifice."

If the findings of this one reporter are a fair indication of the prevailing attitude within the defense research establishment, the Armed Services and Appropriations Committees will have to dig much deeper than merely examining titles and descriptions to determine whether or not the spirit of the Mansfield amendment is being followed. I hope that both committees will give careful study to the problem described in the article by Mr. Wilson.

I ask unanimous consent that the article be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

[From the Evening Bulletin, Providence, Feb. 23, 1970]

Pentagon-Science Alliance Under Mounting Attack

(By Douglas C. Wilson)

Washington.—American science today is shaken by a national controversy that could alter the main thrust of technology in this country for many years.

The scientific community and one of its biggest allies, the U.S. Military Establishment, are being charged with too great a complicity in each others' affairs.

Each is accused of having feathered—and shared—the other's nest for so long that the Pentagon's influence is overextended and science is now distorted and misdirected.

Forces are at work that could reduce science's role as handmaiden to military tech-

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nology and turn more of its attention to the country's domestic problems.

These forces are coming from two powerful groups—the anti-establishment young people at the universities and the liberal establishment in Congress, where the Pentagon's prevasive activities are under increasing attack.

Both groups regard today's "military-scientific complex" as an unholy alliance, either in whole or in part.

Congress is putting new limits on this consortium. Young activists are out to downgrade it, or even destroy it.

Both groups have made gains in the last year, cutting back the Pentagon's authority and forcing the universities to consider reforms in their scientific activities.

But the Defense Department has no intention of seriously reducing its basic ties to the scientific community. And the universities are anxious to avoid drastic change.

As a result, scientists, the government and the universities are now in a struggle of cross-purposes that is laced with uncertainty and at times with bitterness and hyprocisy. These may be inevitable, for the issues involve political pressures, questions of academic honor, and hundreds of millions of dollars.

The Defense Department has been one of the chief patrons of American science for a quarter of a century. It is now spending 500 to 600 million dollars a year for scientific research.

This exceeds the entire annual budget of the National Science Foundation.

It is twice as big as the budget of the Federal Water Pollution Control Agency, and three times that of the National Cancer Institute.

Pentagon money, in short, is a lifeblood element in American science. It helps to pay scientists' salaries, buy their equipment, and hire their research assistants.

This bond is an outgrowth of World War II and the subsequent Cold War era. Military leaders cultivated the science and technology they needed to develop sophisticated weapons in a tense and threatening world.

In the process, they also came to support science in more and more areas without direct connection to the Defense Department's immediate needs.

Scientists have been glad to get this extra support, but it has led to tenuous relationships and potential stresses in some areas, since the interests of science and those of the military are often dissimilar.

The Journal-Bulletin has learned, for example, that the Pentagon has put military titles on nonmilitary research projects, without the knowledge of the scientists involved. Informed of these titles, some scientists say they are misleading and potentially embarrassing, both here and abroad.

The wider, public debate over Pentagon spending has international aspects because the U.S. military spends several million dollars a year for research activities in foreign areas.

Interviews with scientists who engage in this activity showed that it carries political hazards. A biologist said that, because he went to Asia with Army support for his medical research, he got a poor reception there and was "automatically suspected of being an intelligence agent." Other defense supported projects abroad have sparked serious international incidents embarrassing to the United States.

In addition to supporting American research abroad, the Pentagon also gives support to many foreign scientists who share their knowledge freely with the rest of the world's scientists.

A Canadian scientist emphasized this point, saying that if his Army-supported work is "of any use to the (U.S.) military then it's equally available to the Viet Cong." He proposed this as an answer to any of his fellow countrymen who might charge him with "selling out for the war effort" of another country—the United States.

Meanwhile, at home, critics in Congress attack this Pentagon "foreign aid" to science as a dangerous form of U.S. military interference in other nations' institutions.

But the centers of greatest controversy are the troubled universities and colleges in the United States.

The military spends 250-million-dollars of its annual research money to support more than 5,000 scientific projects at 260 campuses—including more than four million dollars at Brown University of Rhode Island.

At leading universities, the Pentagon pays between a quarter and a third of all the federal money for scientific research. It outspent the National Science Foundation in this field by roughly 75-million-dollars last year.

Congress, on one side, has passed a new law to get the military out of the business of subsidizing nonmilitary research.

Campus activists, attacking the "military-scientific complex" from another side, have demanded that university scientists reduce or stop altogether their work for the military. Much of this dissent arises from their opposition to the war in Vietnam.

The law passed by Congress, called the Mansfield amendment, stipulates that the Pentagon cannot spend money for science unless the research has "a direct and apparent relationship to a specific military function or operation."

The law was enacted three months ago, and efforts to apply it already are agitating many university scientists.

In one recent interview, a scientist said the amendment could mean "anything from zero to catastrophe" to his own work and that of his colleagues.

Another scientist charged the leaders of Congress with "legislative blackmail."

Still another indicated that he had composed debatable statements of military "relevancy" to ensure that his projects will continue to receive Pentagon support:

"I may be a prostitute," he said, "but at least I can tell myself I'm a million-dollar-a-year prostitute."

Student activities have stirred the ire of other professors who defend their Pentagon subsidies openly and say the critics pose the greatest threat to their academic integrity.

"We fought long and hard in this country for academic freedom," said Prof. Guenter. Lewy, a political scientist at the University of Massachusetts, "and I deeply resent self-appointed vigilantes coming to tell me what I can and cannot do, I will fight it."

On-campus criticism has been destructive at some institutions and constructive at others.

At Stanford University, militants last year seized a building at the Stanford Research Institute, a major defense contractor, and so embittered relations there that the university and the institute finally agreed to end their affiliation.

The laboratory complex is now the university's loss and the Pentagon's gain, joining the ranks of many other independent research centers and "think tanks" controlled largely by the military—another research realm that also has come under the pruning shears of Congress.

The Independent Research Laboratories and think tanks now nourished chiefly by the Pentagon are another great source of scientific and technological know-how.

Sixteen of these centers alone received a total of 263-million dollars from the Defense Department in fiscal 1969, more than all the Pentagon research money spent at colleges and universities.

But in the independent laboratory area, too, Congress is imposing new controls on Pentagon spending. To cushion themselves against the increasing military budget constraints, some of these centers plan to diversify their activities.

An example of this is the Research Analysis Corp. (RAC) in McLean, Va., where all but 10 percent of the current research is devoted to military contracts.

"In another year," reports Frank A. Parker, the corporation's president, "we would like to see about 20 per cent of our effort applied in nonmilitary lines. People at RAC do have social motivation."

In Congress, even Sen. George Murphy, R-Calif., an outspoken defender of military contract centers, has suggested that these institutions "could, in fact, be our most important national resource when we turn them to the problems of pollution, waste disposal, communications, crime, delinquency, transportation, urban renewal, and the eradication of poverty, all of which are approaching crisis proportions."

Change appears likely to occur more rapidly at the Massachusetts Institute of Technology, now the center for more than 120-million-dollars a year in military research and development spending.

Unlike Stanford, M.I.T. intends to retain control over its prestigious military research laboratories. And there is growing talk, at the university's highest policy levels, of partially "converting" these centers into tools for attacking domestic problems.

Defense Department officials have put misleading titles on some of the Pentagon's costly scientific research projects in an effort to justify their support.

Certain titles supplied to Congress a year ago were found to be misleading in recent interviews with researchers at U.S. and foreign universities. Most scientists have not even heard of the Pentagon titles, and in some cases they call them potentially embarrassing.

Projects have been given titles indicating a military aspect to nonmilitary research support in the Defense budget. A scientist at York University in Toronto, for example, complains that an Army title linking his work to "missile reentry" is "a misrepresentation," and says his work does not have "any military applications that I know of."

A scientist at Brown University, surprised to hear that his Navy project was listed as a study related to "missile technology," said "if it has anything to do with missiles, I'm not aware of it." Similar cases were discovered at other universities.

While Defense officials acknowledged writing military titles for research studies, and say it is done to justify military funding, they maintain that the titles are not misleading.

A Navy research official said the special titles are "not intended to be descriptive of what the scientist is doing." Rather, they are supposed to be "descriptive of our interest in what he's doing," he said, "and that's quite another matter." No distinction of this kind has been made in title lists which the Pentagon sends to Congress, however.

Titles for projects supported by the Office of Naval Research, the official said, are written "to avoid scientific jargon and to express the Navy's interest in the particular work being supported."

He said he has to "justify these projects in terms of their potential relevance to the Navy," in order to make this relevance "clear to the people who are going to provide the dollars."

There is no clear pattern in the way the titles appear. The nonmilitary title for a project has sometimes appeared in Pentagon lists obtained by Sen. J. William Fulbright, D-Ark, who has put them in the Congressional Record, while a different, military title for the same project may appear in the separate catalogues that were sent to Congress a year ago. The reverse also has occurred—with a military title appearing in lists used by Senator Fulbright and a nonmilitary title appearing in the catalogs.

But the military titles are there, and the effect of some can only be misleading.

A political scientist at the Massachusetts Institute of Technology, Prof. Frederick W. Frey, said he was "furious" when he learned that a major research effort he directed with Navy support totalling $700,000 had been labeled the "Impact of Modernization Upon Future Military Operations." His own title was "Human Factors in Modernization."

Because the project involved foreign countries, "we had to show no military applications, he said, "and preferably there were none."

More than 12,000 projects are supported by the Pentagon, and titles have been a principal guide used by Congress in debating the military relevance of these activities. Last Aug. 12, for instance, it was on the basis of picking out project titles in the social and behavioral sciences that Sen. Mike Mansfield, D-Mont., the majority leader, questioned the relevance of certain studies "to the military needs of the nation." This was during a lengthy floor debate on the involvement of the Pentagon in many research activities.

Pentagon officials have said the titles were intended for internal, government use only. Yet they are unclassified, and—as noted—some have been published in the Congressional Record, available to all.

Since the titles give a military cast to university studies, they can make school officials even more hard-pressed by those who want to sever campus ties with the Pentagon.

Since the titles also tie scientific work outside the U.S. to the Pentagon's "mission," they can make this work an easy target for anti-American feelings. They can even create such feelings.

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And since the effect of the titles, here in Washington, is to misinform Congress, they hamper its ability to judge the nature and merits or research activities supported by the Pentagon, and reduce the likelihood that Congress will exercise intelligent control over such activities.

The Defense Department requested authority to spend more than $630 million in support of scientific studies in the current fiscal year, but Congress reduced this authority by $95 million, or 15 percent, two months ago. In an effort to restrict military involvement in science, it also passed a new law, the Mansfield amendment, saying that the Pentagon may not spend money for research unless the work has a "direct and apparent relationship to a specific military function or operation."

With this, David Packard, the deputy defense secretary, told Defense research officials in a memorandum Dec. 3 that "insufficient attention has been given to making clear to the Congress the basis for deciding to support work in the particular field, and particularly the connections between relatively basic research and the long-range Defense problems and missions which require such research."

To comply with the new law, he directed the officials to take another look at all Pentagon-supported projects and provide "a written statement which describes, as clearly and simply as possible, the project or study and its purpose, together with its direct and apparent relationship to one or more designated military functions or operations." The review will be completed this month. Projects which are not relevant to the military must be terminated, he said.

Past results in the Pentagon's practice of writing military titles for research projects show that a new, in-house effort to stress the military nature of projects may have dubious value.

Senator Mansfield, an outspoken critic of the Pentagon's nonmilitary research, hailed Mr. Packard's directive at the time and noted approvingly that the Defense Department also was asking an outside agency, the National Academy of Sciences, to make an independent review. But the Academy has decided to stand aside for the time being and let the Pentagon make the "first pass" at projects, according to Dr. Philip Handler, the academy's president.

The high-ranking Defense official, mentioned earlier, who allowed himself to be interviewed but did not want his name used, said Pentagon experts, rather than outside scientists, can best determine the military relevance of the projects. Pentagon research directors do not expect university scientists to be aware of military problem areas, he said.

Echoing this argument, the Navy research official said "it's assumed that we have better knowledge of the Navy's interest than he (the scientist) does."

The clear implication of these arguments is that the Pentagon officials are supporting the work for reasons best known to themselves, and not always fully understood by the scientists.

The York University professor tried to speculate about possible "missile reentry" applications of his work. Such a connection has "never occurred" to him he said, adding: "If I thought that was what it was being used for, I think I'd quit."

Another scientist said "it could be that somebody honestly thinks" his research has an application to missiles. "After all," he said, "the technical competence of military officers is not the same as the technical competence of fulltime scientists."

What these scientists are saying suggests that if Pentagon officials buy this research as a contribution to missilry, they are fooling either themselves—or scientist. And if they are not really supporting the work in the interest of missilry, then somebody else is being fooled.

The York University scientist is Dr. Harold I. Schiff, a Canadian chemist and dean of the sciences faculty, who has conducted a three-year study called "Kinetics of Atmosphere Constituents" with U.S. Army support totaling $33,480. The three year period ends this April.

He said his project is "absolutely fundamental research" into the daily and seasonal variations of "naturally-occurring chemical reactions" in the upper atmosphere—phenomena such as the aurora and "night airglow," he said.

He had never heard of the Army title for his project: "Study of Upper Atmosphere Reactions Involving Energy Transfer Between Species of Importance in Missile Reentry." This title appears in a catalog of Army projects prepared in January, 1969, and sent to Congress.

Dean Schiff called it "an extremely far-fetched title" and "a misrepresentation," and said it was "probably an article."

He said it was "certainly not a title which I have given my approval to." The chemist added that he would never sign a contract if it carried that label. He also felt that the title was potentially embarrassing, If a student editor discovered it and asked him about it, "I'd have to do some fast talking," he said.

The scientist at Brown is Dr. Joseph H. Clarke of the engineering department, who has received Navy support for a study of "Radiating and Reacting Gas Dynamics for Entry of Bodies Into Atmospheres."

The work has to do with Mars and the planets," Dr. Clarke explained. The research would apply to "meteors and spacecraft," but not to missiles, he said, "because the temperatures and velocities I use are too high."

He had never heard the Navy title, "Thermally Induced Radiation Fields in Missile Technology."

Professor Frey, the political scientist at MIT's Center for International Studies, said he discovered inadvertently that the Navy was calling his ambitious, long-term research project a study of the "Impact of Modernization upon Future Military Operations."

We were furious when, on their own hook, they came up with that title, he said. The project, originally called "Human Factors in Modernization," was supposed to be a study of "the dynamics of developing societies," using comparative data from seven countries: the United States, India, Brazil, Italy, Sweden, the Philippines, and Tanzania.

Professor Frey had hoped to enlist teams of specialists, both American and foreign, to work on the project in each of these countries. They would gather, interpret and compare information about attitudes and behavior relating to such matters as illiteracy, urban migration, the mass media and government. In view of these plans, a title linking the work to "future military operations" of the United States "would have killed us abroad," he said.

Detailed information of this kind is "urgently required," he believes, "if many vital development policies are to succeed."

Professor Frey said the project was touchy enough without the money coming from the Defense Department. The estimated cost of the five-year project was $4.2 million, and the only source for that kind of research money was the Pentagon, he found. To get foreign participation, however, "we had to show no military applications," he said, "and preferably there were none."

Professor Frey supposes that the Pentagon simply "wanted an in-house title that looked more relevant to military operations. I think it's the kind of thing they do fairly routinely," he said.

The project is ending prematurely, after an expenditure of $700,000, because the Defense Department has reduced its support of foreign studies in recent years.

"I don't know that what we've produced is worth $700,000," the political scientist said frankly. The cut-off means "a lot of waste" because "there are other things we were tooling up to do," he explained, "and they've fallen by the wayside." This included a large investment in training people to use computers for the project.

Another political scientist, Professor Guenter Lewy of the University of Massachusetts, was surprised to hear that his project, entitled "Religion and Revolution: A Study in Comparative Politics," was officially described as an effort to "provide empirically derived conclusions about ideolgical movements which support insurgency."

"That's completely off," he said when he saw this description in the Congressional Record. "This description is misleading, to put it mildly. If this is Department of Defense language, I can say flatly, I don't like it."

Professor Lewy said he did not believe the Advanced Research Projects Agency (ARPA) which sponsors his work, "could think or hope that this kind of research could help solve any kind of current problems," and he added that "counterinsurgency is not my cup of tea—not that I have anything against it."

Later he stressed that he did not want to make a major issue of the Pentagon's language; the description might be justified if the word "revolution" had been used in place of "insurgency," he said.

Professor Lewy, a scholar and author whose special interest is in the field of religiously motivated political behavior, is in the fourth year of the project—a four-year, $69,800 research effort involving several studies financed by ARPA. The studies are historical analyses of "revolutionary situations in which religion has played a central role."

Much of the funding in this project, as in others supported by the Defense Department, is divided between the university, the principal researcher, graduate assistants, overhead costs, and other expenses.

One of Professor Lewy's studies, "The Attaturk Revolution in Turkey," has been a favorite target in Senator Fulbright's criticism of defense-sponsored research. He has cited the study frequently as an example of projects having little connection to the Pentagon's needs.

Other scientists were less disturbed by the Pentagon titles on their projects.

Both "interaction of Drugs with Other Factors Determining Human Performance," and "Assessment of Military Performance Enhancement by Drugs" are titles given to a completed, $139,000 Navy study directed by a McGill University psychologist in Montreal. The investigator, Dr. Dalbir Bindra, knew of the second title.

Since he was studying human faculties of attention, memory and decision-making, he considered that "enhancement" of military performance was "one possible application" of his research. He said the work was "not related to the military in any immediate sense," however. As for the title—"I think it doesn't represent the facts," he said, "but I don't think it is an embarrassment to me."

The Navy title for a political science study by Prof. George Guthrie of Pennsylvania State University is "Military Implications of Modernization in the Far East." A telephone call to Professor Guthrie disclosed that he had never heard of this title for his $330,000 study, which covered a three-year period ending last June.

His own title was "Impact of Modernization in the Philippines." The part about "military implications" was "not part of the title," he said. "It never was. I don't know where that title came from."

He called his study "the kind of thing that people in all phases of government, including the military, should look at. And I think it has implications for the Defense Department," he said, "otherwise, they wouldn't support it." But he added: "I haven't written a report that would bear that title."

Professor Guthrie said he had done much of his research in the Philippines. Asked if the Pentagon's military title for the project would have been an embarrassment there, he said, "Yes, it would have been. Some of my Philippine colleagues would have been reluctant to participate."

These examples came in light in a check of relatively few projects, based mostly in New England and Canada. The Defense Department supports hundreds upon hundreds of projects at universities in all parts of the United States, and in 44 other countries. There is no telling how many more titles are at variance with the scientists' own definition of their research—or how much the variance would be a source of their embarrassment and dismay.

SENATOR TYDINGS SPEAKS OUT FOR THE CONSUMER

Mr. YARBOROUGH. Mr. President, the February/March issue of Trial magazine, the national legal news magazine of the American Trial Lawyers Association, contains an excellent article entitled "Fair Play for Consumers," written by the distinguished senior Senator from Maryland (Mr. TYDINGS). In this timely and penetrating article, Senator TYDINGS outlines the difficulties that the average consumer faces in trying to enforce his legal rights against those unprincipled companies and individuals who engage in unfair and deceptive practices at the expense of the innocent consumer. Senator TYDINGS stresses the need for legislation which would authorize large groups of consumers who have been victimized by unscrupulous dealers to bring class actions to obtain legal relief. As a remedy to this problem, Senator TYDINGS discusses the bill that he introduced, S. 3092, and the one Congressman BOB ECKHARDT of Houston, Tex., introduced, H.R. 14585, which would authorize such consumer class actions. The American consumer is fortunate to have two such strong and dedicated advocates of consumer legislation as Senator TYDINGS and Congressman ECKHARDT.

Mr. President, because of the importance of this subject, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FAIR PLAY FOR CONSUMERS

(By U.S. Senator JOSEPH D. TYDINGS)

For most of Anglo-American legal history, the law has uncompassionately insisted: "Caveat emptor—the buyer beware!" [1]

Whatever justification there may have been for such a policy in the early stages of our economic development, its chief effect in today's complex market is to place an undue burden on the contractual party least capable of carrying it. Too often the modern consumer is unable to assess the technical qualities of the product he purchases, to resist sophisticated sales campaigns, or to comprehend the multitude of credit plans and financial "deals" that he may be offered. Every year billions of dollars are wasted by consumers through the purchase of misrepresented goods.

Although the least educated and the more impoverished segments of society—those who can least afford it—suffer the most, all levels of society are affected. Commissioner Mary Gardiner Jones of the Federal Trade Commission characterized the situation this way:

"No matter how informed and sophisticated the consumer, deception will take its toll and the very morality of the community is at stake when there is no effective legal action to be taken against such dishonest merchants." [2]

Fortunately, in the last few years private groups, legislatures and law enforcement officers have begun to recognize the importance of protecting consumer interests.

Campaigns against those who defraud and deceive consumers have intensified. Consumer councils have developed on state and local levels across the country, and the voice of the consumer has begun to receive a hearing in legislative halls.[3]

Public awareness of the need for consumer-protection programs has had some salutory effects, but has not significantly reduced the incidence of fraud. False advertisers, loan sharks and others of their ilk are still making exorbitant profits at the expense of the unwary consumer.

In sum, despite good intentions and the proliferation of consumer protection laws and agencies, our society continues to require that the "buyer beware."

Ralph Nader estimates that "at least 95% of illegal consumer abuses are never adjudged to be such by our legal system. The arm of the law . . . never reaches, these abuses, thereby permitting an 'overworld' of corporate crime which reaps billions yearly from the defenseless consumer." [4]

The activities of the Federal Trade Commission indicate the weaknesses of the "agency" approach to the prevention of consumer frauds. Commissioner Ralph Elman, of the Federal Trade Commission, recently charged that his agency is marked by "waste, inefficiency and indifference to public interest." [5]

The 29 years it took the FTC to bring the Holland Furnace Company to task demonstrates clearly the ineffectiveness of administrative agencies in providing consumer remedies.

Complaints about high pressure tactics were made against the company as long ago as the early 1930's.[6] In December 1936, the company agreed to an FTC consent order against certain misleading advertising claims.[7] Although complaints against the company continued,[8] a second proceeding was not initiated by the FTC until 1954.[9]

Four years later, a cease and desist order was issued prohibiting Holland "from engaging in a sales scheme . . . whereby its salesmen gain access to homes by misrepresenting themselves as official 'inspectors' and 'heating engineers' and thereafter dismantling furnaces on the pretext that this is necessary to determine the extent of necessary repairs." [10] For seven years, Holland Furnace Company ignored the court decree enforcing the cease and desist order. Finally in 1965, the company was heavily fined for contempt of court.[11]

The danger of overdependence on public enforcement agencies is obvious:

Delay is inherent in a bureaucracy.

Administrative budgets and personnel are limited and in some cases the statutory structure or powers of an agency may inhibit its effectiveness.

More often than not, such agencies lack effective sanctions to enforce their decrees.[12]

The consumer may, of course, initiate a private action for fraud or for rescission of a sales contract on the basis of misrepresentation. In most cases, however, this ability is more theoretical than real. Law suits are costly. The financial loss to a single consumer is not usually large enough to make individual litigation practicable. His court costs and attorney's fees may far exceed the restitution he is likely to receive even if he prevails in his suit.

But while administrative agencies may be ineffective and the cost of an individual suit may be prohibitive, many persons acting together as a defrauded class could afford to enforce their individual rights.[13] A consumer class action compensates for the inability of individual consumers to litigate small individual losses by enabling one or more representatives of a group of consumers with similar injuries to place group injury in issue.

The aggregate group claim is generally large enough to warrant the outlay of the necessary expenses and, more significantly, to make it possible to obtain private counsel on reasonable terms.

In addition to being economically infeasible, individual suits, even if their success is assumed, are unlikely to prove an effective deterrent to the dishonest company. In fact, many irresponsible companies probably treat the loss of an occasional small judgment as one of the risks of the trade; a risk made worthwhile by their continued high profits through misrepresentation or other deceit.

It is noteworthy that Holland Furnace Company continued its depredations notwithstanding a number of instances in which it was successfully sued for common law fraud by individual home owners [14] and a number of other instances in which individual home owners successfully defended contract actions by Holland Furnace Company on the grounds that their contracts had been induced by fraud.[15]

The consumer class action, on the other hand, has beneficial effects that extend beyond the restitution of individual damages to the injured consumers. The mere existence of an effective class action remedy will deter improper conduct. The potential defendant is forced to consider not only the

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Footnotes at end of article.

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possible direct economic loss from a class action, but also the potential visibility, publicity, and public reaction and the resulting loss of good will.[16]

Although the dishonest merchant may be able to safely ignore the separate complaints of many individuals, he cannot afford to disregard the public criticism of many voices in unison.

Experience in states whose courts are amenable to consumer class actions reveals the potential protection for consumer rights that this procedural device can provide.

In California, for example, the courts permitted an action to be brought by a taxicab customer on behalf of himself and others similarly situated to recover allegedly excessive charges by a taxicab company accumulating over a four-year period.[17] The court ruled that the action could properly be brought as a class action since the complaint showed the existence of an ascertainable class as well as a defined community of interest in the questions of law and fact affecting the parties to be represented.

Although the plaintiffs' individual claims were relatively negligible, the aggregate claim of over $100,000 made litigation feasible. The court, recognizing that fact, stated:

"[A]bsent a class suit, recovery by any of the individual taxicab users is unlikely. The complaint alleges that there is a relatively small loss to each individual class member. In such a case separate actions would be economically infeasible. Joinder of plaintiffs would be virtually impossible in this case. It is more likely that, absent a class suit, defendant will retain the benefits from its alleged wrongs. A procedure that would permit the alleged injured parties to recover the amount of their overpayments is to be preferred over the foregoing alternative.[18]

An Illinois court has similarly ruled proper a class action brought on behalf of an estimated six million Montgomery Ward charge-account holders who claim to have unwittingly subscribed to a credit life, disability and dismembership insurance plan on their accounts with Ward.[19]

A class action brought on behalf of the charge account holders was held to be a proper form of action by the court on the ground that the plaintiff had stated a good cause of action, that he adequately represented the class involved and that the class action was "singularly appropriate to the controversy presented by the complaint."[20] The class action was the only practicable way to litigate the claims, as the Illinois court saw.

Class actions would appear to be an invaluable weapon in the consumer's arsenal, but the class action procedure of many of the states is outmoded and archaic. All states provide some form of class actions, but the manner in which they define the procedure often makes it unavailable in the usual consumer-fraud situation.

The New York cases, for example, require a unity of interest among the members of a class that approximates the test for compulsory joinder of parties.[21] They also require that class members desire identical remedies.[22] The result of this view is that to date consumer class actions are summarily dismissed in New York.[23]

Similarly, in *Spear v. H. V. Greene Co.*,[24] a Massachusetts court refused to allow 40 plaintiffs to bring a suit on behalf of 60,000 others although the alleged facts indicated that the defendant company had employed similar fraudulent methods to swindle many individuals out of sums aggregating to a substantial amount.

The court recognized that "the frauds charged in the bill are great in magnitude and peculiarly vicious in their nature in that they were designed chiefly to victimize the ignorant and frugal poor."[25] Nevertheless, the court dismissed the class action, the only feasible means of suit, on the ground that the common interest required for a common-law class action was not satisfied. The court interpreted that requirement to mean that the plaintiffs must have suffered virtually identical wrongs. Fortunately for the citizens of Massachusetts, that state has recently enacted strong consumer class action legislation,[26] but the climate for such actions remains inhospitable in most other states.

Moreover, as a result of a recent U.S. Supreme Court decision, *Snyder v. Harris*,[27] the federal courts appear to be even less hospitable to consumer class actions than state courts. Prior to *Snyder v. Harris* the provisions of Rule 23 of the Federal Rules of Civil Procedure, as amended in 1966,[28] appeared to establish a procedural basis for the maintenance of consumer class actions in those cases where a basis for federal jurisdiction existed.[29] But in that decision the Supreme Court ruled that separate and distinct claims cannot be aggregated to meet the required $10,000 jurisdictional amount.

This ruling in effect makes the Rule 23 action, in itself the most modern class action procedure in the United States, unavailable to the defrauded consumer who has a claim of less than $10,000, even if he can satisfy the necessary diversity of citizenship or federal question requirements for federal jurisdiction.

It has been suggested that, except for the effects of *Snyder* v. *Harris*, diversity forms a sufficient basis for bringing most instances of mass fraud into federal court.

I cannot agree that a reversal of *Snyder* v. *Harris* would in itself be sufficient.

First, much mass fraud is perpetrated in localized urban areas and may not involve any diversity of citizenship. A usurious finance company operating in Cleveland may never loan money to anyone who is not domiciled in Ohio. Moreover, even if a borrower from another state could conceivably be located, a lawyer both practically and ethically must work with the client who enters his office. He cannot finance a search for such a borrower or solicit his business.

In the spring of 1969, I introduced legislation to establish a meaningful private consumer remedy. S. 1980 provided for consumer class actions in federal courts in cases where state consumer protection laws have been violated. Similar legislation was introduced in the House by Congressman Bob Eckhardt of Texas with whom I have worked closely.

The bill was designed to reverse the effects of *Snyder* v. *Harris* and, in addition, to broaden the basis for federal jurisdiction over consumer fraud. By doing so, it would afford the liberal machinery of federal Rule 23 for joinder of all persons in like situations involving deception, fraud or other illegal overreaching of consumers.

In July, the Senate Subcommittee on Improvements in Judicial Machinery, of which I am chairman, held hearings to consider the merits of this legislation. Each of the witnesses—including Virginia Knauer, Special Assistant to the President for Consumer Affairs; Ralph Nader, the "consumer watchdog;" and Bess Myerson Grant, Commissioner of the Department of Consumer Affairs for the City of New York—called for increased consumer access to the broad class action rule available in the federal courts.

In her testimony, Mrs. Knauer presented a somewhat different approach than S. 1980, suggesting legislation to permit consumer class action suits for the broad range of practices condemned as "unfair or deceptive" under the Federal Trade Commission Act. After close study of Mrs. Knauer's testimony and in depth discussion between Mrs. Knauer's staff and our own, I introduced S. 3092 combining Mrs. Knauer's complimentary proposal with that contained in S. 1980; Congressman Eckhardt introduced the same bill in the House of Representatives.

Basically, S. 3092 makes unlawful and subject to class suits, acts in defraud of consumers that affect commerce, without regard to the amount in controversy.

An act in defraud of consumers is defined as including two distinct things: (1) an unfair or deceptive act or practice as condemned in section 5(a) Federal Trade Commission Act, and (2) an act that gives rise to a civil action by a consumer or consumers under state, statutory or decisional law for the benefit of consumers. Diversity of citizenship is not required. Federal jurisdiction is premised upon the commerce power.

Such a suit in federal court would apply the laws of the state in exactly the same manner that the federal courts apply such law in a diversity of citizenship cases. Thus, the court in any suit would be dealing with a definite body of law in a manner in which it is accustomed to deal with such law.

Perhaps the most significant provision of S. 3092 is section 4(d) which governs the award of attorneys fees. If an action has been successful, the attorney will receive an award of a reasonable fee, based on the value of his services to the class. A 10% guideline is set, subject to adjustment. The guideline has received some criticism and will certainly be subjected to further study.

I have become increasingly convinced that the private bar is the untapped reservoir of consumer power. S. 3092 is designed to insure the ready availability of competent well-compensated counsel. By doing so, it guarantees a major increase in legal muscle for the consumer.

Significantly, that muscle will be in the form of private legal actions, the traditional method of effectively redressing grievances in this country. The bill does not require the creation of any new agencies with the accompanying bureaucratic expenses. It depends only on existing legal processes.

The bill has therefore been attacked as "an ambulance chasing" bill, which, in my opinion, is slandering the bar, casting disrepute on our legal system, and bringing no credit upon the critics.

Unfortunately that attack and other pressures have induced the Administration to retreat from the strong proposal originally advocated by Mrs. Knauer. The bill that the President finally sent to Congress on October 30 offered a sorry substitute for meaningful consumer class action protection: a private remedy that is not self-starting but must be triggered by successful determination of a government suit.

Not only will this make for excessive delay, but it leaves to a government agency rather than an injured party the power to determine which consumers are to be protected. Moreover, even the government suits would be limited to a series of defined forms of fraud, forms that unscrupulous merchants can change as rapidly as the legislation can be enacted. The Administration's proposal will not provide the American public with meaningful protection. S. 3092 will.

It is my hope that a perfected version of the Consumer Class Action Protection Act will be enacted and will operate to provide the consumer with the meaningful remedy that has too long been denied him. The time has come to redress the imbalance of commerical power that puts the consumer at the mercy of the over-reaching merchant.

FOOTNOTES

[1] See *Kellogg Bridge Co. v. Hamilton*, 110 U.S. 108, 116 (1884).

[2] Quoted in Magnuson, *The Dark Side of the Market Place*, 59 (1968).

[3] For example the Uniform Consumer Credit Code (Rev. Final Draft, 1968), a comprehensive effort to revise state regulation of loans, credit sales, and leases was introduced in a number of state legislatures in 1969 and enacted in Utah.

[4] *Hearings on S. 1980 Before the Subcom. on Improvements in Judicial Machinery of*

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the Senate Com. on the Judiciary, 91st Cong., 1st Sess.

[5] *The Washington Post*, September 11, 1969, at A2, Col. 1–2.

[6] *Consumer Bulletin* at 26 (April 1965).

[7] 24 F.T.C. 1413–14 (1936).

[8] *Consumer Bulletin* at 25–26 (April 1965).

[9] See 55 F.T.C. 55 (1958).

[10] *Id.* at 91, *aff'd*, 295 F. 2d. 302 (7th Cir. 1961).

[11] In Re Holland Furnace Co., 241 F. 2d. 548 (7th Cir.), *cert. den*, 381 U.S. 924 (1965).

[12] See Dixon, *Federal State Cooperatives to Combat Unfair Trade Practices*, 30 State Gov't 37 (1966); Mendell, *N.Y. Bureau of Consumer Frauds and Protection*, 11 N.Y.L.J. 603 (1965); O'Connell, *Consumer Protection in the State of Washington*, 39 State Gov't 230 (1966); Rice, *Remedies, Enforcement Procedures and the Quality of Consumer Transaction Problems*, 48 B.U.L. Rev. 559 (1968).

[13] See Dole, *Consumer Class Actions under Recent Consumer Credit Legislation*, 44 N.Y.U.L. Rev. 80 (1969); Staars, *The Consumer Class Action*, 49 B.U.L. Rev. 211 (1969).

[14] E.g., *Holland Furnace Co.* v. *Robson*, 157 Colo. 378, 402 P. 2d. 628 (1965).

[15] E.g., *Holland Furnace Co.* v. *Korth*, 43 Wash. 2d. 618, 262 P. 2d. 772 (1953).

[16] See *Dolgow* v. *Anderson*, 43 F.R.D. 472, 485–88 (E.D.N.Y. 1968); Dole, *Consumer Class Actions Under the Uniform Deceptive Trade Practices Act*, 1968, Duke L.J. 1101, 1103.

[17] Daar v. Yellow Cab Co., 63 Cal Rptr. 724, 433 P. 2d. 732 (1967).

[18] *Id.* at 746; accord, *Eisen* v. *Carlisle & Jacquelin*, 391 F. 2d. 555, 563 (2d Cir. 1968).

[19] *Holstein* v. *Montgomery Ward & Co.*, No. 68, CH 275 (Ill. Cir. Ct., Cook County, 1969).

[20] *Holstein* v. *Montgomery Ward & Co.* at 27.

[21] E.g., *Society Milion Athena, Inc.* v. *National Bank of Greece*, 281 N.Y. 282, 22 N.E. 2d. 374 (1939); *Brenner* v. *Title Guarantee & Trust Co.*, 276 N.Y. 230, 11 N.E. 2d. 890 (1937).

[22] E.g., *Gaynor* v. *Rockefeller*, 15 N.Y. 2d. 120, 204 N.E. 2d. 627, 256 N.Y.S. 2d. 584 (1965).

[23] *Hall* v. *Coburn Corp.*, 160 N.Y.L.J., No. 28, at 2 (Sup. Ct. Bronx County, 1968), *aff'd mem.* (1st Dept. 1969), appeal pending.

[24] 246 Mass. 259, 140 N.E. 795 (1923).

[25] *Id.* at 797.

[26] Ch. 690, 814, 1969 Acts, Commonwealth of Massachusetts, amending Ch 93A, General Laws of Massachusetts.

[27] 394 U.S. 332 (1969).

[28] See Donelan, *Prerequisites to a Class Action Under New Rule 23*, 10 B.C.L. Rev. 527 (1969); Kaplan, *Continuing Work of the Civil Committee: 1966 Amendments of the Federal Rules of Civil Procedure I*, 81 Harv. L. Rev. 356, 375–400, 414–16 (1967).

[29] *The Class Action—A Symposium*, 10 B.C. Ind. & Com. L. Rev., Spring (1969).

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

SUPREME COURT OF THE UNITED STATES

The ACTING PRESIDENT pro tempore (Mr. ALLEN). The Chair lays before the Senate the pending question, in executive session, which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. The question is, Will the Senate advise and consent to the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, as we enter the continuance of the debate on the Carswell nomination, I would like to refer the Senate, especially because of the discussion that took place here late yesterday on the question of who is for and who is against the confirmation—which I think is an important point—to a rather extensive statement on the confirmation of Judge Carswell, the distribution of which was initiated by four members of the bar of New York, among its most eminent, and which has such unique qualification in terms of this particular line of inquiry, that I think it bears very important scrutiny by the Senate.

This statement was subscribed to and initiated by three former presidents of that association and one present president of the Association of the Bar of the City of New York, probably as well known and highly reputed a bar association as we have in this country. I do not claim it to be superior, but I think it certainly is the equal in quality of any bar association.

The list is headed by:

Bruce Bromley, former judge of the Court of Appeals of the State of New York, a man of most unusual reputation, and I do not think he would mind my saying that he is generally regarded as a conservative in his political orientation and in his attitude toward the law and jurisprudence generally.

Samuel I. Rosenman, adviser to President Franklin D. Roosevelt and a very distinguished lawyer in his own right.

Francis T. P. Plimpton, who is president of the Association of the Bar of the City of New York. I emphasize, naturally, that he speaks for himself, and not the association, though that is not a factor either way, as the association has not acted, but many of its members have expressed themselves, generally speaking, on this subject, and many have signed this declaration.

And Bethuel M. Webster, a most distinguished New York lawyer, a former president of the Association of the Bar of the City of New York.

I will go into this in more detail later, but I would like now to briefly discuss the significance of this statement, which was joined in by over 400 lawyers, and other statements which have been made upon this subject, including the statements which are recited in some detail in the committee report upon this nomination, which were referred to in the debate here yesterday, including the very eloquent statements of both the senior Senator from Florida (Mr. HOLLAND) and the junior Senator from Florida (Mr. GURNEY) relating directly to this subject.

First, we must consider the general issue of ability, which is pertinent and important to the point of view of lawyers and judges with respect to a judge and his qualification to be a Justice of the Supreme Court of the United States. I think this goes to an interesting point which has been made on the floor of the Senate time and again, and that is the quality and character of the decisionmaking process in Senate confirmation of the nomination of a high official of Government of this kind to the judiciary. The question really posed, on the part of at least some of the proponents of confirmation, is that the President having made the appointment of Judge Carswell, he bears the responsibility for Judge Carswell's capability as a judge to perform the office, and that the Senate is restricted only to questions of really personal disqualification, disqualification on the grounds of ethical conduct—something of that kind is an echo of the struggle over the nomination of Judge Haynsworth; questions of impropriety, which a man might have been guilty of as a judge, if any were discovered; the fact that he is a member in good standing of a bar; or anything which may have occurred in his personal life which would not be suitable and fitting for a Justice of the Supreme Court of the United States.

On the other hand, there is a body of opinion, with which I identify myself, that says that this is not the only function of the Senate. Certainly it is to be included, but it is not to be the only function of the Senate. The Senate's function is always to appraise whether or not a nominee can carry out the responsibilities of being a Justice of the Supreme Court of the United States on the basis of his professional attainments as well as the other facts, and the question is not to be decided solely, to use an aphorism to express it, on the ground of name, rank, and serial number. I identify myself with that group. It seems to me that the debate, as it goes pro and con on who is for and who is against Judge Carswell, reflects, certainly by clear implication, the acceptance of that view.

It seems to me that a Senator of the United States has broadly the same function as the President at the given moment of confirmation; to wit, in his conscience he must feel and vote that this is the man to be a justice of the Supreme Court of the United States. The President has the right to nominate him; we have the right to confirm or reject the nomination. Ours is a composite judgment; the President's is a single judgment. But I do not consider the elements of that judgment to be any different for the President than it is for us. I think that is the way in which this particular nomination, or any such nomination to very high office, must be regarded.

If it is not so regarded, what is our purpose? Are we merely a reviewing agency, or do we have a substantive right to consent and confirm or to deny confirmation? I believe that the history of confirmations of nominations by the Senate bears out my view and the view taken by the large group of lawyers, law school deans, and others who have subscribed to the statement I referred to when I opened, rather than to the name, rank, and serial number view, which I do not think is constitutionally consistent with the role allocated to the Senate in respect to this appointment. That is very important in this matter, because I respect, and I think every Member of the Senate would respect, not alone the statements to which I am referring—and there are many of them in opposition to Judge Carswell—but also the representation, which we certainly have a right to accept completely, made by the Senators from Florida (Mr. HOLLAND and Mr. GURNEY) with respect to the attitude toward the nominee, both as a citizen and as a judge, by the bench and bar of that State, and the various situations, set forth in the committee report, of others, including a distinguished professor of law at Yale University, concerning Judge Carswell's capability as a judge.

Also, I think it bears on the evaluation of legal distinction which is shown by his opinions. This, too, has been called into question by the general allegations that have been made that if we confirm a nomination that is before us, we follow, in a sense, our own ideology or philosophy, which then makes it a partisan operation.

But I do not think that that extends to the question of professional capacity. There I think we have a right to say, "This is an able judge. I do not agree with him, but certainly he is an able man, well able to analyze a legal problem and to write a good opinion on it."

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Mr. President, I think that represents something of the ambit of the considerations which represent the principle upon which this matter must be judged.

I know that the Senator from Maryland last night made certain references to the position of Judge Elbert B. Tuttle of the Circuit Court of Appeals in which Judge Carswell serves. There, too, the pertinence of Judge Tuttle's attitude, however Members may analyze that attitude in terms of confirmation or denial of confirmation, is important also from the point of view of whatever it reflects in terms of Judge Tuttle's views as to competence and professional attainment.

So that I believe that both on the part of the proponents and the opponents, this kind of evidence is very germane to the issue; and I believe that Members have a duty to weigh it as an important aspect on the issue of confirmation.

For myself, I feel that the conclusion I have reached—and again I wish to repeat every moment I make that statement that it is without any reflection on the particular nominee as a man and as a citizen—that I cannot vote to confirm, is based upon the ground that it is my honest judgment that the nominee is not equipped, based upon all the evidence I have mentioned, to perform this very high role in our national life in the way that one needs to be equipped to be a Justice of the U.S. Supreme Court.

I reject the idea that this is to be decided on the basis solely of the technical qualifications of the nominee, but believe that at this particular juncture the Members of the Senate have a right—indeed, a duty—to evaluate the quality of the ability of the nominee to be a Justice of the Highest Court, where the decision is final and nonappealable. I rest that argument also very heavily upon the fact that we are confirming a Justice of the U.S. Supreme Court for life. To me, this is a very important consideration. This is the only time we have a chance to do anything about it. From this point on, we are ruled by the man whose nomination we have confirmed. Especially is this true in the case of Judge Carswell, who has the opportunity to sit on the bench for many, many years, long after we have had this opportunity to confirm, probably long after I and many other Members will be in the Senate.

So, it adds a particular poignancy to our role in exercising the authority we shall exercise in the near future with respect to this matter.

From that point of view, Mr. President, I would now like to undertake some analysis of this statement, as well as those who subscribed to it, because I believe that it represents great pertinence to the issue, just—I repeat—as the deeply held views of the Senators from Florida and the members of the bench and bar, whom they have an absolute duty to quote, have a real pertinence and real importance to the decision. They, for example, argued that many of the members of the bar who have subscribed to this statement have not appeared personally before Judge Carswell or are not personally acquainted with him.

I think that is a point properly made. I wish to point out, however, that there have been lawyers who personally appeared before him and came away with an adverse reaction, who have appeared before the committee and testified in opposition to confirmation. At the same time, I do not feel that we can dismiss the opposition to confirmation by the outstandingly fine lawyers who base their opinion upon the opinions of Judge Carswell and the legal distinction and scholarship which he has shown in his decisionmaking as a judge.

I think that is also an important evidentiary factor which should be weighed affirmatively in the case against confirmation, just as I feel that the fact that they have not appeared before Judge Carswell personally and do not know him personally is an evidentiary factor that should be considered in evaluating their views. I do not believe that we have to appear before a judge to know his views or to have an opinion of his ability, but that we can study his record carefully and come to a conclusion as to his professional attainments based upon his record. Indeed, because of the size of our country and the complexity of our life, that is the way in which the reputation of most judges is established. Relatively few members of the bar or of the public or of the press have actual exposure to the man as a person, but the whole country can certainly learn and read exactly what he stands for as a judge.

It is in that respect that I think the statement made in the letter of transmittal by former Judges Bromley and Rosenman and Mr. Plimpton, and Mr. Webster is very important. They say:

> We respectfully urge that, although this is a second nominee for the vacancy, the Senate has a greater constitutional duty to exercise independent judgment in judicial appointments than it has in executive appointments.

This refers to an independent appointment. It is not the appointment of an aid to the President, with whom the President would have to work, and on whom Congress would have all kinds of handles other than impeachment if he turns out to be unsatisfactory. Congress can deny him money and make life pretty miserable for an administration if they do not like the Secretary or some other high official of a department or feel he is not performing. But Congress can do no such thing concerning a Justice of the Supreme Court. We want him to be independent. On the contrary, we would not want to put strings on him and would not want him subject to being overweened by whatever we may think, even if we expressed it in a formal resolution. That is his courage and capacity as a judge. This is a one-shot operation, decisive in its application.

These eminent lawyers go on to say:

> We believe that, in the exercise of that duty, the Senate should confirm an appointment to the Supreme Court only if the nominee is of outstanding competence and superior ability. Judge Carswell does not, in our opinion, meet that test.

They also cite in that regard Charles Warren, leading authority on the subject:

> The Senate has recognized this obligation in repeated instances. For example, of the 71 Supreme Court nominations sent to the Senate during the 19th century by the Presidents, more than one-fourth were denied Senate approval.

I think this is a very important point, because I do not think anyone would wish to hurt Judge Carswell as an American and as a citizen. I point out that Judge Haynsworth, whose nomination was rejected in the very recent past, serves in an entirely honorable way on the Circuit Court of Appeals, on which he served before.

Let me point out again, in terms of reasonably modern history, not contemporary but modern, that one of the most distinguished chief judges of any circuit court of appeals, Judge Parker, was also rejected as a Supreme Court Justice nominee and went on to build a reputation of great distinction in our country because he served so nobly and well as a chief judge. Indeed, maybe, one can only speculate that the adverse turn of events which he encountered as an individual had a good deal to do with broadening, maturing, and deepening his insights which had an effect upon the quality with which he served from that point on.

Now, the other aspect of the case respecting Judge Carswell, which is dealt with in this statement to which I refer again, is the question of the mental outlook of the nominee respecting the basic racial issues which have faced us with grave problems in our Nation with respect to justice, enforcement, and the assurances and guarantees of the Constitution, and of public order.

On this subject, the statement says:

> The testimony indicates quite clearly that the nominee possesses a mental attitude which would deny to the black citizens of the United States and to their lawyers, black and white, the privileges and immunities which the Constitution guarantees.

Now, that is a very serious finding, Mr. President, considering the high character and quality of the lawyers who are making this statement, which I think is entitled to a considerable amount of interest and concern by the Senate; for although I do not expect that any judge who is going to be named to this slot will be an ardent advocate of the most advanced concepts of civil rights as they are developed by judicial decision, I do not believe, on the other hand, that such a person is very likely to be, whether Judge Carswell or someone else the President names, other than a strict constructionist, as the saying goes, taking a conservative view of the powers of the Supreme Court to interpret the Constitution, being far more bound by precedents than other members of the court may be, both precedents in body of law and tradition, and precedents in specific cases. We cannot expect anything else, considering the position which President Nixon has taken with respect to this appointment.

But, I do not believe that that includes a nominee who possesses a mental attitude, as this statement concludes, which would deny to our black citizens in the United States the privileges and immunities which the Constitution guarantees.

I think it is not a question of being liberal or conservative, a strict or a liberal constructionist of the Constitution. That is a matter of obeying the law and adjudicating according to the law of the land which has now been clearly delineated not only by the Judiciary but by Congress in the landmark civil rights acts it has passed, and by the President, as seeking to serve, protect, and grant the privileges and immunities which the Constitution guarantees to the black citizens of the United States.

Now, Mr. President, in analyzing this latter point, the statement traces it from an admitted beginning. There is no question about the fact that in 1948 the nominee declared the most explicit conviction in favor of segregation of the races, which is directly contrary to the Constitution when it deals with the enormous range of human activity, from attending school to buying a hamburger in a restaurant and "he expressed his belief that segregation of the races is proper and the only correct way of life in our State."

That is a long time ago, 22 years. Judge Carswell, when he testified within the last few weeks, deplored that statement and said he did no longer subscribe to it and had not for years. We can understand that and, indeed, I would almost say that the presumption is in favor of accepting that statement. Normally, it would have been accepted, being within his frame of reference, where he was born, his education, where he lived, and the so-called social order of the South for so long, at least that part of the South. It is entirely understandable that a man would grow, would mature, and from his learning accept those tenets and be completely indoctrinated by them.

The only difficulty is that the pattern did not stop there but the pattern continued. This is where the very hot controversy comes in. It is understandable that Judge Carswell would make the statement he did in 1970 as contrasted with the experience of 1948.

But this is a moment of tremendous importance to the nominee himself. Indeed, I do not challenge the sincerity of his statement, but I think we still have to realize that we have a duty beyond the person and go to what he will be as a judge, as a vessel, so to speak, through which the United States expresses its power and, in the case of the U.S. Supreme Court, a very decisive power.

We still have to examine his conduct following 1948 in order to determine whether this is or is not his sentiment today and is at the root of his personality and the basis of his thinking.

Of course, there we have pieces of evidence which are extremely worrying. Again, one cannot say that they are conclusive, or that they are proved beyond a reasonable doubt, but they are extremely worrying, and it would seem to me to indicate a continuing pattern which, considering the unbelievable size of the responsibility, I do not wish to take a chance on. That is what it comes down to.

If a man wants to be a Supreme Court Justice, we have a right to feel that we have to be satisfied that there is in him no vestige of this kind of thinking and no reservation of this kind respecting the segregation of the races, or that "segregation of the races is proper and the only correct way of life in our State" in the thinking of a man whom we are going to vest with all this power.

The evidence to support these concerns and these questions arises in the so-called golf club incident where, at best, the testimony is hazy, having occurred in 1956. At that time the nominee was already a U.S. attorney and certainly must be presumed to be following the state of the law as decided by the U.S. Supreme Court; this occurring a year after the Supreme Court expressly declared that it was unconstitutional for a State or a city, directly or indirectly, and was a denial of governmental power, to segregate, specifically, a golf course. Nothing could be more precise than that. Yet 1 year later we find the nominee engaged in that kind of activity; and, for a lawyer, we cannot assume that he was engaged in that kind of activity without knowing the decision of the courts and what was the current state of the law, and without knowing the legal effect of what he was doing himself as being a party to the organization of what is called a "lily white" golf course and converting what was a municipal golf course into that kind of golf course. In addition, we have the affidavit submitted in February 1970 by local citizens, both black and white who were residents of the area, showing that they understood what the purpose of this transfer was to, as the statement says, "keep the black citizens off the course."

It is almost inconceivable—and I emphasize this because it shows evidence of a continuing course of conduct—that 8 years after the 1948 segregationist speech of the nominee, this attempt took place. It certainly is entitled to be received as evidence that there was really no basic change of mind in the nominee. And let us remember that at that time we had a right to believe that there was already a change of mind.

Mr. President, I have little doubt if these facts had been known the confirmation of Judge Carswell to be U.S. attorney in Florida in 1953 would have been very sharply challenged at the time of confirmation in the Senate by some Senators. I was not a Member of the Senate then; however, there were plenty of other Senators who were very sensitive to this issue. And I cannot conceive of that nomination not having been challenged then and there by some Senator if the 1948 speech had been revealed at that time.

I think that is just as true also of the 1956 incident, when Judge Carswell was confirmed as a district judge a few years later and when he was confirmed very recently as a judge of the circuit court of appeals.

So, I do not believe there is any sleeping on rights, or laches as we say in the law, on the part of Members of the Senate raising these issues now as fundamental reasons for inhibiting a negative vote on confirmation.

I will not go into the details which are spelled out in the statement elaborately in terms of the explanation given by Judge Carswell for this golf course deal. They are spelled out in the record that has been debated time and time again by the very Senators who participated in the debate and in the questioning. I refer to the Senator from Massachusetts (Mr. KENNEDY), the Senator from Indiana (Mr. BAYH), and others.

It seems to me that at the very least it leaves a question inconclusive—certainly, as it does in 1956—on an issue on which we cannot be inconclusive, in the granting of such power and authority as we give to a Judge of the Supreme Court.

The statement makes further reference, and I again refer to the statement of the four leading members of the New York bar, subscribed to by more than 400 other very distinguished lawyers:

> We cannot escape the conclusion that a man, in the context of what was publicly happening in Florida and in many parts of the South—which the nominee says he knew—and what was being discussed locally about this very golf club, would have to be rather dull not to recognize this evasion at once; and also fundamentally callous not to appreciate and reject the implications of becoming a moving factor in it. Certainly, it shows more clearly than anything else the pattern of the Judge's thinking from his early avowal of "white supremacy" down to the present.

The statement then proceeds to analyze the state of mind of the judge as represented by his decisions. And I think, having laid the basis in the way that these two events have done—the 1948

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highly segregationist speech and the 1956 golf club incident—having laid the basis by those facts up to 1956, I think it is then just to continue, based upon that statement of facts, an analysis of the judge's outlook upon this question in his subsequent decisions, which takes us right through step by step, from 1958, when he became a district judge, right up to roughly the present time.

Mr. President, the base which has been laid certainly raises a serious question about the outlook of the nominee on this crucial question concerning which the Supreme Court will be deciding cases vitally affecting the Constitution and justice in our country and public order and tranquillity for years to come. And if we have any doubt about it, Chief Justice Burger has already laid on the table the area of decisions involved. For instance, Judge Burger said they will have to be deciding cases in the Supreme Court on what has been called here de facto segregation, with its enormous complications of materially direct control of education within the States.

It is hard to think of a domestic issue which is more emotionally laden and which could confer more benefit or cause more trouble to our country than that kind of decision.

And if we confirm Judge Carswell, since President Nixon has indicated his appointments will make the Court more of a strict constructionist one, within a very few years Judge Carswell's vote could easily be the decisive vote on such very deeply pressing and very consequential issues, issues such as the one I have described respecting de facto segregation in the public schools and the effect of such a decision upon public control of Federal education.

So, I think it is fair, considering the exigencies which will face the newly confirmed Judge, if he is confirmed, that we consider the matter.

Mr. President, I think therefore that it is fair under those circumstances, and with a factual basis having been laid, to go into what the decisions reveal about his state of mind on this very vital issue.

I have described why it is so vital.

That is what this statement does.

I would like to deal with another matter before I pass on to the cases. And I emphasize that it seems to me that, having laid a factual basis up to 1956 on the outlook on the part of this individual which at least leaves a troubling question in the minds of many Senators—at least, it does in mine, and also in the minds of many other Senators who oppose the nomination—having given that basis in fact, we then have a right to look at the decisions from that point of view, quite apart from the other question which relates to the fitness of the nominee in professional terms to occupy the highest of all judicial offices.

And the incident to which I refer occurred in 1966, which is quite contemporaneous. It dealt with a restrictive covenant in a deed, which type of covenant long prior thereto, in 1948 to be precise, had been decided to be nonenforceable by the U.S. Supreme Court.

Certainly, the case of Shelley against Kramer is familiar to any law school student, let alone a former U.S. attorney and judge.

Again we are asked to say that it was unthinking and unwitting. Nevertheless, the judge himself signed the deed which reincorporated this unconstitutional covenant from a deed first written in 1963. I only mention that not because it is, in my judgment, entitled to the same probative force as the 1948 speech on segregation and the 1956 golf club incident where there was active participation, but as indicating perhaps what the statement of the New York attorneys and other attorneys throughout the country concludes: "would have to be rather dull not to recognize this evasion at once."

They apply that to the 1956 incident. I think it applies, as well, to the very recent incident after the nominee was for quite a few years a judge and sat quite a few times en banc on the circuit court of appeals by appointment. I think the same thing applies not to have recognized that in respect to a covenant in a deed which he signed.

Now, to go to the case proper, and I wish to emphasize this because I think it is an important element in the structure of the opposition to this confirmation. Having laid the basis, in fact, for a condition of mind which is open to challenge, I believe that those who oppose the confirmation have a right to go on to see if that same outlook and that same state of mind, which is closed to the existing state of the law, is continued. The only evidence we can possibly get is in the decisions and the course of conduct which the nominee then followed in cases in this particular field. Fifteen cases have been taken as the standard by which this question may be judged, as these cases were decided by Judge Carswell. Obviously, the 15 cases were only a few, relatively speaking, of the total decisions by the nominee, but a study of a much fuller record of his opinions would not help him any more because there was actual testimony by outstanding legal scholars before the Senate committee with respect to the body of these other opinions as not showing the legal capacity and scholarship which these particular authorities felt was appropriate for a U.S. Supreme Court judge.

The statement which I am referring to and analyzing goes on to deal with the 15 cases to which I have referred:

> These specific 15 cases are all of similar pattern: They involve 8 strictly civil rights cases on behalf of blacks which were all decided by him against the blacks and all unanimously reversed by the appellate courts; and 7 proceedings based on alleged violations of other legal rights of defendants which were all decided by him against the defendants and all unanimously reversed by the appellate court. Five of these 15 occurred in one year—1968.

Certainly, it would be hard to allege that this is not pertinent here both to the state of mind of the judge respecting a constitutional inhibition against segregation of the races and the various fields in which that inhibition exists, and in respect of legal ability and scholarship.

> These 15 cases indicate to us a closed mind on the subject—a mind impervious to repeated appellate rebuke. In some of the 15 he was reversed more than once. In many of them he was reversed because he decided the cases without even granting a hearing, although judicial precedents clearly required a hearing.

I would like to insert at that point something I felt in respect of the other nominee we rejected, Judge Haynsworth. I said there my opposition was based primarily on Judge Haynsworth's insensitivity to the real meaning of equal protection when it comes to racial segregation and also to Judge Haynsworth's persistence in error. I find the same thing in Judge Carswell. Judge Carswell is insensitive and has shown persistence in error.

It is the latter to which I would like to devote a few moments. The genius of the judicial system of the United States is its decisiveness. It has many protections, it has many delays; but at the end there is a final decision, something is done or not done after all the action of the courts.

This is an enormous power. It is a greater power even than we exercise in Congress because theoretically anything we do might be upset by the courts. The courts throw out an enormous number of cases in which they feel no constitutional question is involved and they decide a great preponderance of cases on the ground we do have constitutional authority to do what we do. But a runaway Court—indeed, President Franklin D. Roosevelt felt he had found one—could wreak havoc with the Constitution and with our capability to run the country. It is early in American history. We are but a little under 200 years old and related to the history of other great countries and nations we are children at this stage of our national development.

We may find in some distant day—although I hope and I pray it does not occur—some grave constitutional confrontation between the power of the Supreme Court to strike down our enactments and our power to enact.

The validity, therefore, of the system and the way in which it works best is that it hangs together and that it at least speaks with a relatively common voice after all the dissidence and contradictions have been resolved; and they are resolvable by the Supreme Court which is truly as decisive a voice as we have in our land and probably as exists in the world.

Now, Mr. President, this means that judges—lower court judges, intermediate judges, and appellate judges—whatever may be their personal views, and many judges, I am sure, have personal views diametrically opposed to what they consider to be the law that must be reflected in the judicial decisions, must have a sense of accord with the system and the state of the law.

Therefore, the question of persistence in error becomes, in my judgment, a very important aspect of the development of a judge. I think that this statement alone, this conclusion by such an eminent section of the bar that "These 15 cases indicate to us a closed mind on the subject—a mind impervious to repeated appellate rebuke" would be a decisive

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reason for me to vote "no" on confirmation.

Mr. President, they go on to analyze this whole subject to which I have been referring in some detail, but I think that for an analysis of the cases with respect to Judge Carswell's decisions and the dynamics of how they work, I would like to refer to a very detailed, and what I consider to be thorough, analysis of the line of these decisions made under the auspices of the Washington Research Action Council of Washington, D.C. I will not increase the size of the RECORD by including it—indeed, it may have been included heretofore—but I refer to it by title. The author is Richard T. Seymour. It is available in my office, and I am sure in many other offices, for any Senator to consult.

That is what is shown by these cases, as I see it, and I shall deal primarily with the leading cases, and in this field, in over ten years preceding the issue which we now face.

The first of these cases is Augustus against the Board of Public Instruction of Escambia County, which is the well-known Escambia case. Judge Carswell first dismissed that case for lack of standing of the plaintiff. He dismissed it on the ground that Negro pupils had no right to sue to desegregate faculties, which was the issue there.

He was unanimously reversed by the fifth circuit, which held that whether or not the pupils could be hurt by being taught by a segregated faculty was a question of such importance as should not be settled on a motion to strike, without a hearing.

Although the suit was originally filed in the spring of 1960, it was not until January of the following year that a hearing was held. Two months later—that is, a year after the suit was filed—an order was issued requiring the school board to formulate a desegregation plan, a task for which they were given another 3 months.

A hearing on the plan was not held until August 1961, and it was not accepted until September 1961, incidentally too late to be implemented during that new school year.

The following July—to wit, July of 1962—the court of appeals again reversed Judge Carswell, finding the plan that he had accepted after such a long delay to be ineffective, and remanded the case to the district court, to wit, Judge Carswell's court, with instructions to devise and implement a new plan before September—that September would have been 3 years after the suit was filed—if possible. Apparently ignoring the concern expressed by the circuit court of appeals, Judge Carswell did not even set a hearing on the new plan until November of that year, and thereby postponed the possibility of its taking effect until the 1963–64 school year.

That is the history in Augustus against Escambia County.

Soon thereafter, when a suit was filed in Leon County, which contains Judge Carswell's home city of Tallahassee, the judge accepted a school desegregation plan almost identical to the one in which he had just been reversed by the Fifth Circuit Court of Appeals in Escambia.

Indeed, in Steele against the Board of Public Instruction of Leon County, he employed a weak plan, allowing the automatic reassignment of all pupils to previously segregated schools and putting the burden on black students to apply for transfers. Affirmative desegregation, according to this plan, was to be accomplished on a grade-a-year basis, and this notwithstanding the Circuit Court of Appeals' direction in the Escambia case that unless complete desegregation could be accomplished by 1963 in a given public school system in a given district, plans should provide for at least two grades per year of desegregation. And inevitably, as Judge Carswell certainly should have known, once again he was reversed by the Fifth Circuit Court of Appeals.

Here were two reversals on the same grounds, which were made within a space of 3 years. Certainly, one would think that a district court judge would be impressed with what was the existing State of law—or perhaps a district court judge would have been impressed, but not Judge Carswell, because he accepted an identical plan from yet a third school district a year later, to wit, in 1964, in the case of Youngblood against the Board of Public Instruction of Dade County.

In that case he accepted a plan which would not have brought about complete desegregation of the district until the fall of 1976. That was 12 years. And it was not until an exasperated—and I use that word advisedly—Fifth Circuit Court of Appeals set a deadline of 1967—only 3 years after 1964—for complete desegregation throughout the circuit—and that they did in Stout against the Jefferson County Board of Education; it was only after they had set an iron rule for the whole circuit—that Judge Carswell amended the Dade County plan and other weak plans which he had theretofore accepted notwithstanding two previous reversals on precisely the same grounds within the 2-year period before 1964 by the circuit court of appeals.

It is exactly that kind of persistence in error, more than the failure to initiate changes in law, which had characterized Judge Haynsworth's decisions and which I also find unacceptable in this nominee.

It seems to me that the judge would have read the fifth circuit's remand in the Escambia case, which was long before, 2 to 3 years before, 1964, as requiring more than a token freedom-of-choice plan, which he accepted as late as 1964, which would take 12 years to implement; but Judge Carswell chose to ignore that aspect of the decision of the circuit court of appeals and continued to accept plans in violation of the remand in the Escambia case.

It seems to me that is an item of importance for indicating his insensitivity to race problems which I find scattered throughout his decisions.

Another one, for example, that bears on the same question, decided in 1961, is that he held, in the case of Brookes against City of Tallahassee, that a restaurant in a municipal airport could not maintain segregated facilities for blacks and whites.

But in making that decision, he added a final paragraph which, I submit, subtly suggested an evasion of the decision which he was himself making. That final paragraph read as follows:

> Nothing contained in this order shall be construed as requiring the City of Tallahassee to operate, under lease or otherwise, restaurant facilities at the Tallahassee Municipal Airport.

It is very interesting that this sentence, which appears in the opinion as it is reprinted in a specialized publication seeking to ferret out just such attitudes on the part of judges—6 Race Relations Reporter 1099—was deleted from the same opinion as later published in the Federal Supplement.

Another item of evidence. In the case of Due against Tallahassee Theater, decided in 1963, Judge Carswell was quick to dismiss without any hearing a very serious constitutional question. He dismissed for failure to state a cause of action a suit filed by black citizens alleging a conspiracy on the part of private business and public officials to maintain segregated facilities.

Nonetheless, Mr. President, 5 months before that, before he made this decision without a hearing, the Supreme Court had decided the identical question of law in reversing convictions of black citizens seeking desegregated public facilities. The U.S. Supreme Court case which I refer to is *Lombard* v. *Louisiana*, reported in 374 U.S.

So naturally, Mr. President, the Supreme Court found Judge Carswell's decision in the Due case clearly erroneous, and reversed it.

Mr. President, I again refer back to the statement made by the distinguished lawyers to whose statement I have been referring rather consistently in this discussion of Judge Carswell's record, citing these 15 specific cases, in which they said:

> These specific fifteen cases are all of similar pattern: they involve eight strictly civil rights cases on behalf of blacks which were *all* decided by him against the blacks and all *unanimously* reversed by the appellate courts; and seven proceedings based on alleged violations of other legal rights of defendants which were all decided by him against the defendants and all *unanimously* reversed by the appellate court.

We continue to trace this record, Mr. President. In 1964, Judge Carswell dismissed for lack of standing a suit to desegregate the State reform schools in Florida which had been filed by former inmates who were, at the time of filing, on probation. The case is Singleton against the Board of Commissioners of State Institutions. There again, and very predictably, Judge Carswell was reversed by the circuit court.

Finally, as recently as 1968, Judge Carswell granted summary judgment in favor of defendants in a suit alleging bad faith in the initiation of prosecutions of civil rights workers. That case is Dawkins against Green. Again predictably, in 1968, there was still the persistence in error, still the same outlook; and Judge

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Carswell was reversed by the Circuit Court of Appeals.

In addition, Mr. President, there is this record showing a continuing outlook for 20 years, from 1948 to 1968, on this critically important issue to our country and probably most important single constitutional question, which will come before the U.S. Supreme Court again and again and again if Judge Carswell sits on that Court as a Justice. We have shown what I believe is a continuing outlook which is precisely contradictory to the constitutional guarantees of equal rights and equal opportunity.

In addition to that, Mr. President, the hearing record on this nominee includes even charges and countercharges as to the Judge's attitude toward civil rights litigants and their attorneys—including some very serious charges respecting people who were arraigned, dismissed, and then rearrested, though they had previously been freed by Judge Carswell's own order.

I wish to point out that in the report on this nomination, the committee takes cognizance of those charges, and seeks to rebut them with the testimony of Judge Carswell's court clerks and court bailiffs, other judges, and other practicing attorneys; but, Mr. President, the evidence in a matter of this character—because we are trying to ascertain a man's state of mind in the face of probably the greatest inducement in his life to give himself the benefit of the doubt in explaining his own attitude and his own course of conduct—must be cumulative. I believe we must add together the many items of evidence which I have described, which have their origin, admittedly—Judge Carswell himself admits it—in a position which, within the context of the law which he will be passing upon as a judge, is absolutely inadmissible and absolutely contrary to everything which our country now stands for in terms of segregation of the races and the various fields to which it applies.

Now, Mr. President, I come finally to an analysis of the list of very distinguished judges and lawyers who have subscribed to this statement which I have described, interpreted, and developed for the Senate today.

I think, Mr. President, we have to understand that lawyers must appear before the U.S. Supreme Court, and this applies with a special impact to very distinguished lawyers. They are far more likely to argue before the Supreme Court than lawyers of less experience at the bar and less distinction; and therefore, such lawyers are not likely, unless they are really impressed in the most profound sense by the situation, to come out against the confirmation of a justice for the U.S. Supreme Court, especially—and all of us understand that, we are not children—in the face of the widespread predictions which we hear all over, including in the press, that Judge Carswell's nomination will in fact be confirmed. I think that lends all the more point to the impact of the position which has been taken by these very distinguished lawyers.

Therefore, Mr. President, I believe that the detailing of who they are is very important, as it is very unlikely that they would be volunteers except for the deepest cause of conscience in a matter of this kind.

I point out that among them are some of the most distinguished lawyers in our country, including Cyrus Vance, a former Under Secretary of Defense whom many of us know, of the very distinguished New York firm of Simpson, Thacher & Bartlett.

It includes Simon Rifkind, again one of New York's most distinguished lawyers, a former judge of the U.S. district court.

It includes Chauncey Belknap, former president of the New York State Bar Association.

Haskel Cohn, president of the Boston Bar Association, Boston, Mass.

A partner in one of the most important law firms in California, O'Melveny & Meyers, of Los Angeles, Mr. Warren Christopher, former Deputy Attorney General of the United States.

It includes Robert Morgenthau, who just resigned as U.S. attorney for the southern district of New York, and was immediately snapped up by Mayor Lindsay, and is presently deputy mayor of New York.

It includes Sumner Bernstein, past president of the Maine State Bar Association.

Samuel Hofstadter, former justice of the Supreme Court of New York.

Ramsey Clark, former Attorney General of the United States, who is now in practice here in Washington.

Eli Frank, president of the Maryland State Bar Association. Theodore Chase, former president of the Bar Association of Boston. Clifford Alexander, a partner in the Washington firm of Arnold & Porter, former chairman of the Equal Employment Opportunities Commission.

They include Addison Parker, a partner in one of the leading firms in Des Moines, Iowa—Dickenson, Throcknorton, Parker, Mannheimer and Raise.

They include G. D'Anaelot Belin, a partner in the very distinguished Boston law firm of Choate, Hall & Stewart, which is well known to many of us here.

They include a partner in one of the leading firms in San Francisco, Graham Moody, a partner in the firm of McCutchen, Doyle, Brown & Enersen, which is very well known to many of us here. They include Sadie T. M. Alexander, the secretary of the Philadelphia Bar Association.

They include, also, again to range around the country, because that is a very important consideration in matters of this kind, Noel F. George, a partner in the very distinguished firm of George, Greek, King, McMahon & McConnaughey of Columbus, Ohio.

Manly Fleishman, a very well known lawyer, a partner in the firm of Jaeckle, Fleischmann, Kelly, Swart & Augspurger Buffalo, New York. Eli Aaron, a partner in the firm of Aaron, Aaron, Schimberg & Hess of Chicago.

Mr. President, it is very important to understand that this is not some establishment opposition, but is very widely dispersed, by very distinguished lawyers throughout every part of the United States.

I come across the name of Norman Harris, a partner in the distinguished firm of Nogi, O'Malley & Harris of Scranton, Pa. George R. Davis, of Lowville, N.Y., in upstate New York.

I will mention a very few more which illustrate a trend of judgment that I think is critically important.

Here is Robert F. Henson, President of Hennepin County Bar Association, of Minneapolis.

William L. Marbury, former president of the Maryland State Bar Association, of Baltimore, Md. A partner in a firm in Cleveland, Ohio, Alfred A. Benesch, of Benesch, Friedlander, Mendelson & Coplan.

A partner in a firm in Denver, Colorado, Hugh A. Burns, a partner in Dawson, Nagel, Sherman & Howard.

Wayne B. Wright, former president of the Bar Association of Metropolitan St. Louis.

All 11 partners of Roth, Stevens, Pick & Spohn of Madison, Wis. Leonard M. Nelson, chairman of the judiciary committee of the Maine State Bar Association.

In addition, there are some very outstanding law school professors and deans and faculties of law schools throughout the United States. These are some:

The dean and faculty of Yale University Law School, at New Haven, led by Louis H. Pollack, its dean, with a list of those who teach there, including such eminent professors of law as Eugene B. Rostow, who served here for a long time and whom we know very well.

The dean and faculty of Notre Dame Law School, led by its dean, William B. Lawless.

The faculty of the Ohio State University School of Law.

The dean and faculty of Columbia University Law School, led by William C. Warren, its dean, with a list of some of the most eminent professors in the United States. I will not name any, for fear of omitting some who are equally important, as this is such a distinguished list.

The dean and faculty of Columbus School of Law of Catholic University, in Washington, led by E. Clinton Bamberger, its dean.

A large number of members of the faculty of the School of Law at the University of California in Los Angeles.

The dean and faculty of the Val Paraiso, University School of Law, Val Paraiso, led by Louis F. Bartlet, its dean.

The dean and faculty of Georgetown University, Washington, led by Adrian S. Fisher, its dean.

The dean and faculty of the Indiana University School of Law at Bloomington, Indiana, led by William Burnett Harvey, its dean.

The dean and faculty of Rutgers University School of Law, Newark, New Jersey, led by Willard Heckel, its dean.

The dean and faculty of the University of Illinois College of Law, led by John E. Cribbet, its dean.

The dean and faculty of the New York University School of Law, led by Robert McKay, its dean.

The dean and faculty of the Univer-

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sity of Connecticut School of Law, led by Howard Sacks, its dean.

The dean and faculty of the University of Toledo College of Law, Toledo, Ohio, led by Karl Krastin, its dean.

In addition to the law schools whose deans join in this statement of opposition, we have members of the faculty. From Loyola University School of Law, Los Angeles; the University of Maine School of Law, Portland, Maine; State University of New York at Buffalo—a very large number of faculty members of the School of Law; the University of Chicago Law School, Chicago, Ill.; the University of Arizona College of Law, Tucson, Ariz.; the faculty of the Syracuse University College of Law, Syracuse, N.Y.; also quite a few members of the faculty of the College of Law at Willamette University, Salem, Oreg.

Mr. President, such an outpouring of opposition and of protest is not lightly to come by in a given situation, especially supporting as strong a statement as I have just described.

I hope very much that the Senate will evaluate, as it deserves to be evaluated, so weighty a case as this one and so heavily premised upon fact and a continuous history—I respectfully submit that the evidence beginning with 1948, the speech, and going right on through to almost the latest decided cases bears that out—which demonstrate an insensitivity at the very least, if not a mental attitude, which denies the rights under the Constitution to which black citizens in the United States are now conclusively demonstrated to be entitled as a matter of law, plus an inadequacy of scholarship and professional attainment which it seems to me are both bars to our confirmation of Judge Carswell to be a Justice of the U.S. Supreme Court.

Again I repeat, without any reflection on him as a man, and I think that he would be a loyal enough American himself to feel, were he a Senator of the United States, that people like myself and others in this Chamber can have no alternative but to vote "no," based upon what we consider to be so strong a case and when we are dealing with so critical an office, an office for life, in which this is our one and only opportunity to pass judgment on a nominee to be a Justice of the U.S. Supreme Court.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUGHES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Gravel). Without objection, it is so ordered.

VISIT TO THE SENATE BY DR. FRANZ JOSEF RÖDER, PRESIDENT OF THE FEDERAL COUNCIL OF THE FEDERAL REPUBLIC OF GERMANY, AND DR. ALBERT PFITZER, DIRECTOR OF THE FEDERAL COUNCIL OF FEDERAL REPUBLIC OF GERMANY

Mr. SYMINGTON. Mr. President, I have the honor of introducing to the Senate Dr. Franz Josef Röder, president of the Federal Council of the Federal Republic of Germany.

[Applause, Senators rising.]

Mr. President, I ask unanimous consent that a biography of Dr. Röder be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the biography was ordered to be printed in the Record, as follows:

Dr Franz Josepf Röder, President of the Federal Council

Dr. Franz Josef Röder was born in Merzig (Saar) on 22 July 1909. He is married and has five children. He obtained his senior leaving certificate in 1928 and studied philology. After his studies he entered the teaching profession, his last appointment having been that of headmasteer of the Dillingen Realgymnasium. Since 18 December 1955 he has been a member of the Saarland Diet (Landtag). Until the political integration of the Saar into the Federal Republic of Germany he was a deputy member of the Consultative Assembly of the Council of Europe. From 4 January 1957 to 6 October 1957 he was a member of the German Bundestag; from 4 June 1957 till 19 July 1965 he was the Saarland Minister of Education and since 30 April 1959 has been the Premier of that Land. On 18 October 1959 he was elected chairman of the Saar CDU Land association. He has been decorated with the Grand Cross of the Order of Merit of the Federal Republic of Germany. Since 4 June 1957 he has been a member of the Federal Council (Bundesrat) and on 24 October 1969 was elected for his second term (1 November 1969 to 31 October 1970) as President of that Council, his first term having been from 1 November 1959 to 31 October 1960.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that a biographical sketch of Dr. Albert Pfitzer, Director of the German Bundesrat, who is accompanying Dr. Franz Josef Röder, be printed in the Record.

There being no objection, the biography was ordered to be printed in the Record, as follows:

Dr. Albert Pfitzer, Director of the Federal Council

Born at Kirchen on 22 August 1912, district of Ehingen (Donau); is married and has two children. Obtained senior leaving certificate and studied law and political science at the universities of Tübingen, Munich and Berlin from 1931 to 1934. Passed the second State examination at law in 1938 at Stuttgart.

Has held appointments in the administration (executive service) since 1939. From 1946 to 1949, deputy president of the district of Wangen (Allgäu). 1950 to 1951, plenipotentiary of Land Württemberg-Hohenzollern in Bonn.

In the summer of 1951, appointed Director of the Federal Council by the Plenary Assembly of the Federal Council.

1953, visited the United States at the invitation of the U.S. Government to study U.S. parliamentary institutions.

1961, attended a conference of Governors of U.S. states in Salt Lake City and visited the legislative bodies of several states.

1966, visited Brazil at the invitation of the Brazilian Congress; delivered lectures on the federative system of the Federal Republic and the work of the Federal Council (Bundesrat).

Member of the Association of Secretaries-General of the Interparliamentary Union.

Publications: "Der Bundesrat" (The Federal Council), Series of Publications by the Federal Centre for Political Education, No. 11, 17th ed. 1969; "Organisation und Arbeit des Bundesrates" (Organization and Work of the Federal Council), in "10 Jahre Bundesrat" published by the Federal Council; essays and speeches on constitutional and parliamentary subjects.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 11959) to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance and special training allowance paid to eligible veterans and persons under such chapters.

The message further announced that the House had passed a bill (H.R. 15694) to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

HOUSE BILL REFERRED

The bill (H.R. 15694) to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard, was read twice by its title and referred to the Committee on Commerce.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that the President had approved and signed the following acts:

On March 12, 1970:

S. 2809. An act to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health, project grants for graduate training in public health and traineeships for professional public health personnel.

On March 13, 1970:

S. 2523. An act to amend the Community Mental Health Centers Act to extend and improve the program of assistance under that act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts, to establish programs for mental health of children, and for other purposes.

On March 17, 1970:

S. 2701. An act to establish a Commission

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on Population Growth and the American Future; and

S. 2910. An act to amend Public Law 89–260 to authorize additional funds for the Library of Congress James Madison Memorial Building.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. CHURCH) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Commerce.

(For nominations received today, see the end of Senate proceedings.)

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. HUGHES. Mr. President, the case against confirmation of Judge Carswell rests on two arguments so compelling to me that I am astonished at the necessity for our standing here in debate.

I cannot understand how the President has allowed himself to be so ill-advised as to nominate this man, or why, once made aware of the facts, he has not seen fit to withdraw the nomination.

In his search for a man from the South and for a "strict constructionist," whatever that term may mean, the President has found a man who has, on too many occasions, chosen to disregard the rights of individuals coming before his court, and who has repeatedly demonstrated blindness toward, if not outright disapproval of, the major developments in American society and in constitutional law over the past 22 years.

It cannot even be urged that he has distinguished himself in those areas of the law that are not so directly and urgently related to contemporary social pressures. The fact is that he has not distinguished himself as a judge in any way as yet illuminated.

As a result we find ourselves here today, Mr. President, debating whether a man has adequate intellectual qualifications for the job. His supporters cannot claim seriously that he is "outstanding," or that he is the best qualified among several men who might have been nominated. They can only argue that he is "good enough."

Surely, Mr. President, this kind of argument is demeaning to the South, which has many better men to offer. And it is demeaning to the many Federal and State judges throughout the Nation who are conservatives in the traditional sense of that word, but are also great scholars of the law, while the present nominee is not.

We are urged to confirm this nominee on the principle that the Supreme Court should be balanced. This is certainly an acceptable point of view for the President to hold, and I am inclined to agree with it. It may be better for the country to have a Supreme Court whose members hold varying views of the role of the law as an instrument of individual and social justice, rather than a Court whose members hold identical judicial philosophies.

In this case, however, we are not being asked to balance the philosophies of the Court. We are being asked to balance excellence with mediocrity, and to balance sound principles of justice for all with the principle that justice is only for some Americans.

The present Supreme Court may or may not be unbalanced. I leave that argument to those of this great body who are members of the legal profession. The President has expressed the view that the Court does lack balance, and it is his right to hold this conviction. My objection is only to the nature of the balance he will achieve if this nominee is confirmed.

The present members of the Supreme Court reflect a wide range of age, legal experience, and philosophy, but each individual member is highly respected in his profession. We may disagree with particular decisions of the Court. Yet we do not doubt the intellect and sense of high judicial principle brought to bear on each case coming before the Court.

The confirmation of this nominee would damage that confidence in the most serious way. At a time when the Court is under attack by extremist elements of various hues, and by those who are resisting the inevitable changes in our society, we cannot afford to strike at this great institution, whose wisdom and prestige is essential to our eternal search for a just and orderly society.

The case against confirming Judge Carswell must begin with his speech delivered during a 1948 campaign for a seat in the Georgia Legislature. At that time the nominee was 28 years old, a member of the bar, and a veteran of a world war in which one of our chief enemies had given expression to its repulsive racist theories in the most monstrous campaign to annihilate a whole race of people. The nominee was not too immature, not too uneducated, not too inexperienced to understand the terrible impact of inflammatory words. He had become a member of a profession trained to understand the meaning and impact of words on people, and it can only be presumed that he used words with full knowledge of their impact.

Mr. President, on January 23 of this year the New York Times printed what is labeled as excerpts from that speech. As far as I know, Judge Carswell has not denied the accuracy of these excerpts. He did deny that he now holds the views he expressed then.

For those who may not have read and pondered Judge Carswell's opinion of the law, morality, the Constitution, and the Federal Government, which he expressed at the age of 28, I will read the latter portion of that speech here:

> Foremost among the raging controversies in America today is the great crisis over the so-called Civil Right Program. Better be called, "Civil-Wrongs Program."
>
> An attempt to regulate the internal affairs of a state is an open abrogation of states' rights as provided by the 10th Amendment. These amendments disclosed a widespread fear that the Federal Government might (under the pressure of proposed general welfare) attempt to exercise powers that had not been granted to it.
>
> "Civil Wrongs Program," is just such an attempt.
>
> Thomas Jefferson wrote in 1823, "I believe that the states can best govern over home affairs and the Federal Government over foreign ones. I wish, therefore, to see maintained the wholesome distribution of powers established by the Constitution for the limitation of both and never to see all offices transferred to Washington."
>
> The statement by one who actively participated in the drawing of the Constitution shows that the original framers never intended for the Federal Government to control every phase of American life.
>
> By this "Civil Wrongs Program" the Federal Government is asked to go beyond its constitutional powers and usurp the powers of the individual states. This attempt to control the internal affairs of a state is an attempt to complete the federalization of American life. It is an attempt to provide more power to the Federal Government and unbalance the check and balance system.
>
> It doesn't take too much imagination to realize the ultimate outcome of having all power in Washington.
>
> The South has proved it can manage its own affairs. We who live here are the judges. This is a political football, obvious on its face as an attempt to corral the bloc voting in Harlem.
>
> As part and parcel of this same rotten vote-getting scheme, the F.E.P.C., the so-called Fair Employment Practices Committee, is a sham. Every businessman should realize the serious implications of such a piece of preposterous legislation. It would mean that here in Gordon, if we are hiring two telephone operators, both white, and some Negro girl applies for the job, we may get in court with the Federal Government because we have supposedly "discriminated." It would take thousands of Federal agents to enforce such foolish measures and we shall not tolerate it.
>
> I am a Southerner by ancestry, birth, training, inclination, belief and practice. I believe that segregation of the races is proper and the only practical and correct way of life in our states. I have always so believed, and I shall always so act. I shall be the last to submit to any attempt on the part of anyone to break down and to weaken this firmly established policy of our people.
>
> If my own brother were to advocate such a program, I would be compelled to take issue with and to oppose him to the limits of my ability.
>
> I yield to no man as a fellow candidate, or as a fellow citizen, in the firm, vigorous belief in the principles of white supremacy, and I shall always be so governed.

Mr. President, in fairness to the nominee, it is noted that he now renounces the sentiments expressed in that speech. In fact, he has managed to disclaim any understanding of his mental processes and motives in making the speech.

When asked by Senator HART to explain whether he did or did not believe the statement when he made it or whether his position had changed since making it, he replied:

> Senator, I said it. I suppose I believed it at the time. But trying to reach back into the recesses of one's mind and say what motivated you to do anything 22 years ago on that subject or anything else would be an exercise in psychology and psychiatry that I don't believe I am qualified to answer or explore.

I suggest, Mr. President, that if we were to judge the man solely on the basis of that speech, it would matter little

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whether he spoke out of personal conviction or out of political expediency. If he spoke from conviction, he was at least sincere, but he was terribly wrong. Mere political expediency from a man who knew better, although not unheard of, is probably worse, particularly on a subject as critical as this one was then and is now.

We are urged to concede that many of us have recovered from the errors of 20 years ago, that we have seen the light, and that events have altered our opinions. This is true, of course. Few of us who make public speeches have not lived to regret some of our words. And most of us like to believe that we are a little better and a little smarter than we were 20 years ago.

I hope I would be the last to suggest that a man cannot reform. I know he can. But I believe that his reform can only be measured by his record. Words alone will not do. In searching that record for evidence of reform, we find a number of incidents, which, taken individually, might seem relatively unimportant, but become crucial in proving that the nominee's position did not actually change.

Shortly after losing his 1948 campaign for the Georgia Legislature, he moved to Florida and entered the practice of law. Possibly this move did soften his rhetoric. At least we could assume that President Eisenhower would not have appointed to the position of U.S. attorney a man who had continued to make similar speeches until the time of his appointment in 1953. Yet, nothing in the record presented to the Senate Judiciary Committee suggests affirmatively that his convictions had altered during his few years in the private practice of law. Nor does such evidence appear from his record as a U.S. attorney.

Members recall that it was during these years of the middle 1950's that the Supreme Court handed down its decision on the desegregation of public schools in the landmark case of Brown against Board of Education. It was during these years that suits were begun in many Southern States looking toward the desegregation of many kinds of public facilities and institutions. It was a time of fundamental change, and certainly it must have been clear to most lawyers that the Supreme Court would no longer uphold the old rule of "separate but equal" as a tool for maintaining racially segregated public institutions.

In any event, regardless of his personal preferences, a U.S. attorney must have been sharply aware of these controversies and of the legal issues involved. It would seem that he could hardly help recognizing the various plans devised for avoiding desegregation, including methods for transferring facilities previously owned by the public into private hands.

Yet, we find that U.S. Attorney Carswell in 1956 lent his name to one of these plans. It entailed the transfer of a publicly owned golf course into the hands of a private club, where its use could be and was limited to white golfers. Information furnished to the Senate Judiciary Committee indicated that this result was not only intended, but was well known at the time. However, Judge Carswell now tells us that he was not aware that there was any racial issue involved.

Mr. President, a talent for isolating one's self from the social and legal issues of one's community is not a quality we hope to find in a nominee for the Supreme Court.

Obviously, this incident in the personal life of Judge Carswell reveals no change in the attitudes expressed in his 1948 speech. It was a relatively minor incident. It could be overlooked more easily if the nominee had not held an official position in which he should have been more acutely aware of oncoming issues. But it is evident that his point of view had not changed by 1956.

Mr. President, I leave to the lawyers among us the analysis of the legal issues in the cases decided by Judge Carswell after his ascent to the Federal bench in 1958. I am satisfied to accept the judgment of legal scholars; and I have read with interest not only the discussions of this aspect of the matter which appeared in the majority and minority views of our Judiciary Committee, but some of the analyses from other responsible professional sources. I was particularly impressed by the following passage from the statement prepared by members of the Association of the Bar of the City of New York:

> Particularly telling—as showing the continung pattern of his mind which by the time of the golf club incident, if not before, had become clearly frozen—are the testimony and discussion of fifteen specific decisions in civil and individual rights cases by the nominee as a United States District Judge. These fifteen were, of course, only a few of the decisions by the nominee. A study of a much fuller record of his opinions led two eminent legal scholars and law professors to testify before the Senate Committee that they could find therein no indication that the nominee was qualified—by standards of pure legal capacity and scholarship, as distinguished from any consideration of racial prejudice—to be a Supreme Court Justice.
>
> These specific fifteen cases are all of similar pattern: they involve eight strictly civil rights cases on behalf of blacks which were *all* decided by him against the blacks and all *unanimously* reversed by the appellate courts; and seven proceedings based on alleged violations of other legal rights of defendants which were all decided by him against the defendants and all unanimously reversed by the appellate court. Five of these fifteen occurred in one year—1968.
>
> These fifteen cases indicate to us a closed mind on the subject—a mind impervious to repeated appellate rebuke. In some of the 15 cases he was reversed more than once. In many of them he was reversed because he decided the cases without even granting a hearing, although judicial precedents clearly required a hearing.

Mr. President, this was not a statement signed by a few law students or professors who might be charged with a somewhat limited or impractical point of view. It was signed by 457 lawyers and law professors, in communities throughout the Nation, including some in my own State of Iowa. Some of these men are deans and faculty members of our leading law schools. Others are partners in eminent law firms in the country's major cities. I am sure that it required courage and great strength of character for some, who must be responsible not only for their personal positions but for the positions and fortunes of the firms they represent.

Perhaps equally compelling from my point of view as a layman were the accounts of Judge Carswell's behavior toward persons arrested and brought before his court for alleged offenses committed during the course of their activities on a voter registration drive. These were not defendants who were charged with committing violent acts, which might understandably provoke a judge. Nor were they accused of misbehavior in the courtroom.

Moreover, his incivility was directed not only toward the defendants, but toward their attorneys, several of whom testified before the Judiciary Committee. One of these attorneys was, when he appeared before the committee, a Justice Department employee, who testified under subpena. I understand that he is no longer with the Justice Department.

This young man corroborated the statements of other attorneys who appeared as witnesses in these words, as they appear unedited in the print of the committee hearings:

> It is relatively clear in my mind. I remember this. This was my first courtroom experience, really, out of law school, and I remember quite clearly Judge Carswell. He didn't talk to me directly. He addressed himself to the lawyer, of course, Mr. Lowenthal, who explained what the habeas corpus writ was about, and I can only say that there was extreme hostility between the judge and Mr. Lowenthal. Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on and he was especially critical of Mr. Lowenthal in fact he lectured him for a long time in a high voice that made me start thinking I was glad I filed a bond for protection in case I got thrown in jail. I really thought we were all going to be held in contempt of court. It was a very long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people against—rather just arousing the local people, and he in effect didn't want any part of this, and he made it quite clear that he was going to deny all relief that we requested. At that point, Mr. Lowenthal argued that the judge had no choice but to grant habeas as the statute made it mandatory.

The young man then went on to describe the judge's call for law books and his final reluctant admission that the statute did, in fact, require him to grant the relief requested. The defendants, incidentally, had just been illegally tried in a State court by a judge who refused to admit that his court had no jurisdiction over the case and who insisted on trying the case while the defendants were without counsel.

Prof. Leroy Clark of New York University, who supervised the NAACP legal defense fund litigation in Florida for 6 years, testified that Judge Carswell was the "most hostile Federal district court judge" that he had ever encountered on civil rights matters. Professor Clark testified as follows:

> Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his

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> chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible. It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him while using a civil tone to opposing counsel.

At another point in his testimony Professor Clark reported to the committee:

> Whenever I took a young lawyer into the State, and he or she was to appear before Carswell, I usually spent the evening before making them go through their argument while I harassed them, as preparation for what they would meet the following day.

Mr. President, it is clear from the testimony of his friends, and perhaps indeed from Judge Carswell's demeanor before the Senate Judiciary Committee, that he is not considered to be naturally or habitually irascible. On the contrary, he seems to be pleasant and affable. Yet, several witnesses testified that, in their experience as attorneys before Judge Carswell, he treated them and their clients rudely, and even more important, he had to be forced to grant them the rights guaranteed both by the Constitution and by statute.

These witnesses had one thing in common: They had all appeared before Judge Carswell in the course of representing clients in cases involving civil and other individual rights. It is this kind of case which seems to bring out the worst in the nominee. And if we are to judge from the record of reversals by his Circuit Court of Appeals, it is this kind of case which found him the least willing, or the least able, to understand and follow the law as determined by the Supreme Court and the Federal appellate courts.

Senators will all agree that these are areas of the law still in evolution. In matters of equal opportunity for education, employment, housing, and voting many issues are not yet decided. There will be further legislative action in these fields during the coming months and years, and our courts will be faced with many crucial decisions.

As in the past, there will be those who will disagree with some of the decisions of the Supreme Court, and emotions will rise. I urge the Members of this great body to consider whether, regardless of private views on the particular issues, we can afford to have on the Supreme Court a justice who has already demonstrated his incapacity to suppress his own private feelings and to maintain a properly judicious approach in such cases. What kind of balance will this man give to the Court?

The nominee's attitude has been unbalanced over a period of many years. It is asking too much of the Supreme Court to hope that it can work some magic over emotions as well as intellect. Like the Presidency, the Supreme Court is reputed to change a man. However, it cannot be expected to work a complete transformation. To confirm this man will not give the Court balance; it will give it a burden. This is asking too much of the Court at so critical a time in our history.

I am concerned, also, over the lack of frankness with which the Senate has been dealt. Apparently, much of the information which the Senate must consider relevant was not furnished to the Senate by the Department of Justice, the White House, or any other source within the administration. Instead, it was obtained from independent sources such as the press and the various organizations concerned with civil rights and individual liberties. These sources are the first to admit that their resources have been limited, and that other information might be obtained from more thorough official investigation.

Judge Carswell himself has not chosen to answer his critics directly, and apparently, the President has not felt that it was his duty to encourage the nominee to do so. Instead, the nominee and his supporters have preferred to rely heavily on the endorsements of his colleagues on the Fifth Circuit Court of Appeals. It now appears that one of the most important of such endorsements, that of the distinguished retired member of that court, Judge Elbert Tuttle, may be questionable.

At this point, I wish to read into the RECORD Joseph Kraft's column from the Washington Post of March 17, in which Mr. Kraft asserts that Judge Tuttle actually withdrew his offer to testify on Judge Carswell's behalf after he learned of the material concerning the Carswell record on civil rights matters:

A QUESTION OF GOOD FAITH RAISED ABOUT JUDGE CARSWELL

As the Senate opens floor debate on the Supreme Court nomination of Judge G. Harrold Carswell, his supporters assert that there are only two adverse charges—racism and lack of distinction. But even as these claims are advanced, a third question is surfacing.

The third question involves good faith, perhaps even deliberate deception. Specifically, it is a question whether the judge did not mislead the Senate in allowing it to think that his nomination enjoyed the support of a distinguished Southern jurist—Elbert Tuttle.

Judge Tuttle has been a leading member of the Atlanta bar for more than 20 years. In 1954, after a year's service in the Eisenhower' administration, he was appointed by President Eisenhower to the Fifth Circuit Court of Appeals—Judge Carswell's present court. From 1961 through 1967, when he reached the mandatory retirement age, Judge Tuttle was chief judge for the Fifth Circuit. In that position, he established among lawyers and judges a rare reputation as a man of integrity.

When Judge Carswell was nominated for the Supreme Court he sought out Judge Tuttle and asked him to support the nomination. Judge Tuttle agreed. On January 22, Judge Tuttle wrote the chairman of the Senate Judiciary Committee, James Eastland, that he was prepared to testify on behalf of Judge Carswell. He gave as a "particular reason" for wanting to testify "recent reporting" on a statement made by Judge Carswell when he was running for office in Georgia back in 1948. That statement was the original source of the racist charge against Judge Carswell. Judge Tuttle, in his letter, said he felt that the impression created by the 1948 statement was "erroneous."

In the next few days, however, there emerged more recent material on Judge Carswell and his attitudes on race questions. The new information apparently caused Judge Tuttle to have some second thoughts about testifying. On January 28, he telephoned Judge Carswell to say that, in the circumstances, he felt he could not testify. Judge Carswell said he understood. But that understanding was buried. For the official record of the Carswell hearing—the record read by senators in making up their minds—includes two references to the supposed support of the nomination by Judge Tuttle.

On the very first day of the hearing, January 27, Chairman Eastland placed in the record five "letters endorsing the nominee" from his fellow judges on the Fifth Circuit. One of those was the letter in which Judge Tuttle offered to testify.

Next day, hours after the telephone call, the committee heard the most (one is tempted to say, the only) impressive witness to testify on behalf of Judge Carswell—former Governor Leroy Collins of Florida. Governor Collins testified he had known Judge Carswell and Mrs. Carswell for many years. He alluded to the charges of race prejudice. And in rebutting them, he rested his case on the letter from Judge Tuttle. He told the Senate committee:

"Now if there are any lingering doubts with any of you, I would urge you to consider carefully the judgment of the judges who have worked on case after case involving civil rights with Judge Carswell. Surely Judge Tuttle would know all about this. Judge Tuttle was to be here and to testify personally in this hearing in support of Judge Carswell. He couldn't come for reasons he explained in a handwritten note to the chairman. Let me read you briefly from what Judge Tuttle said . . ." And then Governor Collins read excerpts from the Tuttle letter.

The Collins testimony compounded the misrepresentation. Not only did it cite a letter whose major thrust had been specifically disowned by Judge Tuttle. But it also asserted that the letter explained why Judge Tuttle wasn't on hand to testify. In fact, the letter said nothing about why Judge Tuttle hadn't come to testify.

Judge Carswell, of course, knew why Judge Tuttle wasn't on hand. But he hasn't been talking about the matter in public, despite numerous opportunities to set the record straight. He did not talk about the matter in January after Governor Collins testified. He did not talk about it on February 5 though he addressed that day a letter to Chairman Eastland based on a "full and careful reading of the entire transcript of the testimony." He said nothing on March 3 when the political editor of the Atlanta Constitution, William Shipp, printed the basic story of Judge Tuttle's change of mind and refusal to testify. And as of March 14, when this column began looking into the matter, he still had not said anything—not even, apparently, to Governor Collins.

Fortunately, that is not where the issue is going to stay. Senator Joseph Tydings, a Maryland Democrat on the Judiciary Committee, has become aware of the March 3 article in the Atlanta Constitution. He has been in touch with Judge Tuttle. And Judge Tuttle has agreed to set the record straight. It remains to be seen what explanation Judge Carswell gives of his curious reluctance to correct an obvious error in both the letter and spirit of the record. Perhaps there is a very good explanation. But perhaps not.

In any case, the question of whether Judge Carswell dealt with the Senate in good faith needs to be considered carefully, along with the other issues. It needs in particular to be considered by the many Republicans restrained by party discipline from voting against Carswell on what they know in their hearts to be the truly critical charge against him—the charge that he is just not up to the job.

Mr. President, on February 14 in Des Moines, Iowa, I announced that I would oppose the confirmation of Judge Carswell to the Supreme Court and summarized the reasons for my opposition.

I would like to share with you a few paragraphs of that announcement:

> I have thus far voted for confirmation of all of Mr. Nixon's nominees except one. My decisions in both of these cases were arrived at only after long study and consideration.
>
> In our office, we have examined every shred of evidence and testimony about Judge Carswell we have been able to obtain, including the full transcript of the hearings before the Senate Judiciary Committee.
>
> At the outset, before examining any of the record, I took the position that a speech the nominee had made more than 20 years in the past and which he subsequently renounced should not in itself be regarded as a disqualifying factor, unless, in the context of the facts, an extraordinary point was involved relating to the nominee's fitness for the office.
>
> In this case, having considered the entire record, I believe a critical point is involved.

I then outlined the various points from Judge Carswell's record that seemed to me to bear in an important way on his fitness for this high office.

Here are the concluding paragraphs of the statement:

> At this stage, I hope it is clear that I do not oppose Judge Carswell on the basis of his being a Southerner or a strict constructionist. Obviously, there are many qualified jurists in America who answer this description.
>
> It should be borne in mind that we are not considering a minor appointment, but one to the highest court of the land.
>
> In evaluating the nominee's record, my legal advisors are in full agreement—that Judge Carswell's record reflects neither the high professional qualifications nor the freedom from bias that are expected from an appointee to the nation's highest tribunal.
>
> As a Supreme Court Justice, Judge Carswell would be involved in decisions affecting the lives and rights of millions of non-white Americans.
>
> Sometimes a simple analogy will put a picture quickly into focus.
>
> Suppose Judge Carswell had delivered that racist speech he delivered in 1948 not against black citizens, but against the Catholics, the Methodists, the Mormons, the Jews, the Quakers, or any other white minority.
>
> Do you seriously believe that such a man would be nominated, or if nominated, would be seriously considered for the Supreme Court of the United States?

Mr. President, I do not question the good and honorable intentions of my colleagues on both sides of the aisle who support the confirmation of Judge Carswell.

Nor do I purport to be an expert with regard to his professional qualifications. I did seek and receive the best legal advice available to me.

I believe I am one of many Americans of like background and temperament who wanted very much to approve the President's nomination, but who, when all of the facts on the record had been examined, were compelled to oppose it.

As I have pointed out, a cruical point involved was whether or not the nominee would be capable, as a Justice of the high tribunal, or acting without bias in matters affecting the lives and rights of 23 million black American citizens.

It is basically a matter of conscience.

I believe my southern colleagues have a right to ask: Is this a matter of northern conscience?

Do I condemn practices of racial discrimination in other States, but condone them in my own?

It is one thing to preach the gospel of racial equality for a State a thousand miles away.

What about my own State, where the black minority is only a fraction of what it is in many other States?

They are fair questions, and I will try to answer them in some degree from the record of my statements and actions as a three-term Governor of my native State.

One of my first actions in the area of minority relations was to issue an executive order, the first of its kind in Iowa, outlawing racial discrimination in State employment, as well as in contracting for work for the State government.

Subsequently, we enacted legislation providing for the first State civil rights commission, and I might add that it was endowed with enforcement powers. This was followed by the passage of a fair housing law for the State.

In 1967, when civil unrest was sweeping the great cities of the country, I made unannounced visits to the poor and black districts of several Iowa cities.

I did this not to pry in anyone's community, but simply to get some firsthand knowledge of the causes of the discontent which had not yet erupted in violence but which I knew must be there.

As I told the people of the State at the time, my findings made me appalled by my own ignorance and ashamed that I had not realized the need to make this kind of firsthand investigation before.

I talked with many black and poor people in their own homes and without others around.

I got an eyeful and an earful and, in all frankness, a noseful of the living conditions that had made these citizens deeply resentful.

In the summer of 1967, I met with the mayors, councilmen, and other municipal officials of the larger cities of the State in which our minority citizens are located.

In this and other meetings, I pledged the support of the State government to the municipalities in the event of violence. But the bulk of our discussion was directed toward what we could do to get at the root causes of the unrest.

I quote from my August 1967 speech to municipal officials:

> Only in the framework of law can there be a better order of life for all citizens, regardless of race, creed or color.
>
> In the meantime, we have a profound responsibility to do everything within our power, working together, to change the conditions that have produced unrest.
>
> There are those who say that the racial problem in America is beyond solution. In my view, this just isn't true. Moreover, this philosophy of despair is disloyal to the ideals on which this nation was created.
>
> We will meet this problem for the simple reason that we *must* meet it to preserve our union, our freedom and all that we hold dear.
>
> We will meet it not with melodrama and glowing manifestos, but with hard work, patience, reason, practical common sense and, above all, faith in God.

I went on to tell the city officials that the grievances that have produced civil unrest in America have been abundantly documented, as follows:

> They have been laid out in books; voluminous, revealing reports; and an endless succession of speeches, documentaries, magazine articles and newspaper editorials.
>
> Much of this—

I said:

> seems remote and abstract to the rank and file of us. Many of the real causes of racial discontent we have not seen, because we have not wanted to see them.
>
> We can't go on in the dark. We must face the facts as they are, the conditions as they actually exist in our own communities.
>
> We can't go on walking on eggshells, delicately bypassing the ugly realities. We need to call things by the right words.
>
> The root causes of the racial tensions that have rocked the nation in recent months are well known to most of us, but I think it might be well to list some of them and take a fresh look at them.
>
> At the top of anyone's list, of course, is poverty—not simply lack of money, but cultural and spiritual poverty as well—the kind of poverty that makes men lose hope for a better world.
>
> Unemployment is obviously a big factor. Despite some progress toward eliminating job discrimination, Negro unemployment is growing, nationwide. It is easy to say that opportunity exists for those who have the incentive—but the fact is that the incentive, the hope, has been lost.
>
> Earlier this week, I spoke of the urgent need to provide jobs for black citizens. Admittedly, I overstated the point, but I felt it was crucial to get the point across that whatever our rationalizations are, there is color discrimination in employment, and we need to lean over backwards to make up for the century of denying Negro citizens equal opportunity in employment. And we know in our hearts that while some progress has been made, there *is* discrimination in employment.
>
> The breakdown of the black families in the ghettos is attributable in large part to the fact that men are unemployed and have lost hope for employment. And without a bread-winner, the family structure has neither stability nor meaning.
>
> Housing is a major problem, and it should be clear by this time to any thoughtful person that segregating the ghetto—even if the ghettos were completely rebuilt—is not the answer.
>
> As long as there is a "black community" and a "white community" in our cities, we will live in a divided land. The disquiet will not be ended until there is just one community—neither white nor black, but American.
>
> One of the most tragic causes of minority resentment is the double-standard law enforcement that exists in some cities. There is a feeling on the part of officials in some communities that it is better to let the Negro section of town get along with a minimum of law enforcement. "We keep good track of them," these officials say, "and we know what is going on, and this is better than making them go underground in breaking the law. If they stray from the law a bit, they're among themselves."
>
> But how does this make the majority of black citizens—the responsible, law-abiding Negro citizens feel?
>
> The black citizen wants freedom from discrimination in public accommodations, housing, employment, education and all the other things that our society offers. And if we believe in equality of citizenship, we cannot deny this.
>
> Contrary to the malicious misconception, he does not want to be white—he wants to be free and equal. And this is the birthright of citizenship in this land.
>
> I do not pretend to you that the way is

> easy. The injustices and deprivations of centuries cannot be overcome in a day.
>
> But time has run out. The crisis is now. It isn't going to go away like the hula hoop craze. It will fester and grow unless we do the constructive things that must be done.
>
> Many people of good will are ignorant of these facts, just as I was. Many people have let discrimination imbed itself in their lives without realizing it. Many people haven't the foggiest notion of what goes on in parts of town only a short distance from their homes and businesses.
>
> Now it is time that we *should* know, and *must* know, in order to strengthen our society for the trials ahead.
>
> We have a job to do—a job of rebuilding. It is not just a matter of tearing down buildings. It is a complex matter of reconstructing our society along the lines that it was always intended to be.
>
> It can only be accomplished by the majority of our citizens, of all races and colors, working patiently together.
>
> There is no doubt in my mind that our people, and their duly elected officials, are strong enough for the task. It requires some changing of long-held positions and attitudes. But we will be the better for it.
>
> You know and I know that the conditions in our society that have been at the root of the disturbances exist in Iowa as well as in other states. The fact that the percentage of black citizens in our cities is small by comparison with some other urban areas does not excuse or lessen our obligation to meet their legitimate grievances.
>
> To the contrary, I think here in Iowa we have an obligation and an opportunity to make Iowa a template among the states of a society where the people had the courage and the wisdom to make the big, necessary moves to assure equality for all citizens.

In acting to meet the immediate crisis, the No. 1 action needed was to provide jobs in our cities for unemployed young people.

The response of public officials and of private enterprise in various communities in setting up work programs to get these young people off the streets and to give them the self-respect and hope that come with employment was one of the greatest things that has happened in my State in my lifetime.

The genuine interest on the part of Iowa businessmen in these work programs, and their willingness to contribute substantial amounts of money for this purpose, exploded the allegation we sometimes hear—that the business community is too busy making money to care about human needs in the community.

In the meantime, the municipal officials from the larger cities, with whom I had met, set up a State task force for community interracial relations. I would not say that any wonders were accomplished by this group, with whom I met on a number of occasions. But for the first time, on a State level, we saw the decisionmakers of local government meeting across the table from representatives of minority groups and bluntly communicating. An interracial dialog in the interests of the various communities was initiated.

In early January of the following year, religious leaders of the major denominations in Iowa came to me with a unique request. They asked me to speak to a series of interfaith meetings of lay church people through the State on the crisis of American society as it applied to the lives of the people in Iowa.

In admiration, I can only say that these religious leaders meant business. They knew that the crux of the message would be the need to eliminate racial discrimination. They knew that there would be a backlash from an unknown percentage of the congregations. But they were determined to go ahead.

In a series of six regional meetings, covering the entire State, the lay people turned out in droves.

Here, from a transcript of my remarks, are a few excerpts of what they were told:

> If we don't believe in the Golden Rule enough to follow it in our daily lives, it is time to change our religious professions or to brand ourselves hypocrites.
>
> If we don't believe in a society of equality and justice for all—to the extent that we are willing to work for it, to plan for it, and to sacrifice for it—then we no longer have any right to quote the Gettysburg Address and the Bill of Rights as true expressions of our political creed.
>
> We have a job—an incredibly massive job—of rebuilding to do. It is not just a matter of tearing down decayed buildings and erecting new ones. It is a complex matter of rebuilding the basic structure of our society along the lines it was originally intended to have.
>
> It can only be accomplished by a majority of our citizens of all races and colors working patiently together.
>
> The eye of the hurricane is the racial issue, although it must be recognized that this is just one aspect of the over-all crisis.
>
> From a practical standpoint, the race relations problem is a logical focus of our attention; for if we face up to this part of our problem, it will mean that we are facing up to the entire problem of the disadvantaged and disinherited in our society.
>
> Many of you people may be saying to yourselves, as I used to say a number of years ago: "My home town is Ida Grove, Iowa, a town of 2,300 people. The first time I ever saw a black man, I wanted to drive around the block and take another look, because I had never seen one in my youth." In many vast rural areas of Iowa, it is the same yet today.
>
> I want to point out that the problems of Iowa belong to the citizens of Iowa, regardless of where they may dwell. What happens in Cedar Rapids, Davenport, Waterloo, Des Moines, Sioux City, and Council Bluffs belong to all Iowans, rural and urban.
>
> At the same time, we're a fiftieth part of the union of states. What happens to any other state or city, or any citizen of this union, affects you and affects me.
>
> In Iowa, we have, of course, a smaller percentage of minority citizens than other states. . . .
>
> The very fact that the percentage of minority races in our state is small, by comparison with other areas, places all the greater responsibility upon us to make Iowa a template among the states of a society where the people had the vision and the moral courage to make the big, necessary moves to assure equality for all citizens.
>
> If, in this atmosphere of strength, prosperity and God-given abundance, you and I can't find these answers, what hope is there for the rest of America?
>
> And how long do you think the peoples on this earth will listen to the leadership of a nation which cannot solve these internal problems of its own society?
>
> We have an opportunity in Iowa that few people in America have. We can come to grips with these problems much easier than many other areas of this country. We can find these solutions but it is not a solution that is to be found on the Potomac or under the gold dome in Des Moines, Iowa.
>
> It begins in your own heart . . .
>
> Together we sit, perhaps feeling that we are innocent and bear no responsibility for these great problems of our nation and our state. But I ask you to consider for a moment, as a nation, dedicated as ours is, to believing in God—one nation under God with liberty and justice for all—what our individual responsibilities are . . .
>
> The big fact that we must grasp is that we have a profound moral and practical responsibility to do everything in our power, working together, to change the conditions in our society that have produced the discontent of minorities and other deprived citizens.
>
> I believe that the vast majority of the people of this state have a deep desire to eliminate discrimination from our society. I sincerely hope that our black citizens, so often disappointed, will recognize the good faith effort when it comes.
>
> What is the solution? people keep asking.
>
> In the final analysis, there are only two ways to go—the way of discrimination or the way of equality for all citizens.
>
> In the light of our religious convictions and our political ideals, it will be quickly seen that there is only one way to go.

I went on, Mr. President, in these long and serious talks to the church lay groups in Iowa, to detail minority problems in our State in specific terms and what I felt needed to be done about them.

I tried to get these people to put themselves in the places of those who were poor and black and in many ways discriminated against in their own communities.

A little later, we organized a resource panel of State officials who had responsibilities in such areas as welfare, recreation, employment, health, and education.

I took this panel to the larger communities of the State, and we discussed with local officials and interested citizens what could be done to alleviate the plight of blacks, the impoverished, and the deprived.

In justice to my esteemed colleagues from other parts of the country, where there are greater concentrations of minority populations, poverty, and unemployment, I want to make it clear that we admit that we have problems in our own State, as well.

We also are not lily white so far as racial discrimination is concerned.

And when, as a matter of conscience, I oppose the nomination of Judge Carswell because I believe he would not be unbiased toward 23 million of my fellow citizens, I am not pointing a finger of accusation at other States.

I am acknowledging that we, in my own State, are not free from the taint of discriminatory practices.

And I am acting to protect the rights of my own minority citizens in Iowa as well as the rights of minority citizens throughout this land.

Mr. President, I came to the Senate a little more than a year ago. I did not expect that in so short a time I would find myself standing on this floor opposing a President's nominee for the Supreme Court. Yet, the constitutional responsibility of the Senate falls alike on all Senators, junior and senior. It requires us to consider the nominations sent to us by the President, not merely to ratify the President's choices.

The care given to this task will necessarily be greater when the position to be filled is one that will intensely affect the life of the Nation. The position of a Justice of the Supreme Court is one of these. Moreover, its impact is likely to extend far beyond the tenure of the President and many of us here in the Senate.

Recognizing the significance of our decision, I am sure that every Member here has examined his own conscience first. We have also looked to the views of the citizens whom we represent. We cannot surrender conscience to popularity, nor can we hope to satisfy every voter. Perhaps at best we can merely hope for understanding.

In this instance, Mr. President, my own position is somewhat eased by the overwhelmingly favorable letters and telegrams I have received from Iowans during the past several weeks. Unlike my experience during the debate on the previous nomination, I could see little evidence of an organized letter-writing campaign on either side. Nearly every letter I have received from Iowa as well as from other States has been a personal expression of opinion, not inspired by an organizational affiliation of the writer.

At this point I would like to read some of these letters and telegrams. Listeners will note that, with varying degrees of skill and intensity of feeling, the writers express fear that confirmation of Judge Carswell will damage the prestige of the Supreme Court and will impede progress toward equal justice and good order in our society.

A citizen from Iowa City writes:

I would like to commend you for your opposing the nomination of G. Harrold Carswell to the United States Supreme Court. As a law student, I think that it is important to have a justice on the court who understands the problems and issues that he will be confronted with while on the court and who is progressive rather than resistant to change. It is my feeling that Mr. Carswell is not such a man.

A citizen from Davenport writes:

I am writing in regard to the nomination of Judge G. Harrold Carswell to be a member of the U.S. Supreme Court.

I am opposed to this nomination.

Any nominee to the Supreme Court should be an outstanding member of the judiciary. He should be a leader of men. One who is highly regarded by his peers. His personal conduct and judicial career should be above reproach. Surely there is one such person in our land.

I do not believe Judge Carswell is this man.

A man from Davenport writes:

I would urge you to vote against the confirmation of Judge G. Harrold Carswell's nomination to the Supreme Court. The candidate's record in Civil Rights Cases is a disgrace, and he has not displayed sufficient judicial competence to be worthy to sit on the bench of the highest court in the land. It is frightening to think that he is the best conservative, strict-constructionist Judge available.

A man from Iowa City writes:

Please accept my support of your position on the confirmation of G. Harrold Carswell as a justice on the nation's highest court. Surely we as a people can do much better than this.

A man from Iowa City writes:

At this time I am writing to express my opinion that Judge Carswell not be confirmed by the Senate as a Justice of the United States Supreme Court. His appointment will not strengthen the image of the Supreme Court and he will not be fully accepted and respected by a large segment of the citizens of our nation. As you know, the information available about Judge Carswell indicates that he is not an outstanding man in his achievements and not particularly experienced in terms of time spent on the bench of higher courts. His decisions from the bench have been other than profound but rather perfunctory, narrow and concrete. There is the history of his being a prejudiced person in respect to Negroes which at this time, particularly, cannot make him fully acceptable to serve on the United States Supreme Court.

But more importantly I am concerned that President Nixon after receiving a mandate from the people in respect to Judge Haynesworth would be so insensitive and contrary as to recommend the appointment of a man with no more qualities than Judge Carswell. I am concerned that the President would do so after his earlier statement expressing his interest in finding "the most outstanding men" for the high position of Justice of the Supreme Court. I am concerned that the President may persist in suggesting less than acceptable nominees for high office in the manner that the patience of the Senators and citizens alike will wear, that they will give in and condescendingly accept his appointees.

I know that you will give the matter of Judge Carswell as careful thought as you did the recommendation for the appointment of Judge Haynsworth.

A woman from Cedar Rapids writes:

I am writing because of my concern over the Supreme Court nomination of Judge G. Harrold Carswell. I agree with Senator Tydings that this appointment should not be steamrolled through for confirmation.

I do not believe President Nixon should be allowed to use the U.S. Supreme Court as a political football. He has chosen Judges only from the South, not even considering a very large number of well-qualified judges, just because he wants to win support of the Southern states and pay his election debts.

I am a white woman and this nomination of Judge Carswell infuriated me. If it would upset me, a white woman, so much how must the black people feel about it.

From everything I have read Judge Carswell is just giving lip service to the statement that his ideas on white supremacy have changed.

Senator Scott talks about a delay in the appointment interfering with the work of the Supreme Court. If this 50 year old anti-civil rights Judge is appointed to the Supreme Court, I feel it will interfere, not only with the work of the court, but with the unity of the country, and the respect of the highest court in the nation, for the 20 or 30 years he will be serving on the bench. If delay in this appointment is slowing the work of the court, the blame should be put on President Nixon for using political appointments to his own advantage.

I strongly urge you to vote *against* the appointment of Judge G. Harrold Carswell for U.S. Supreme Court judge. Let's let President Nixon know he is responsible to *all* the people in his court appointments, not his unpaid debts.

I believe the reason the civil rights movement has come along as far as it has is because the majority of Americans know that superiority comes from within a man, not from the color of his skin.

I think what really makes me mad is the thought that President Nixon (and the Senate too, if this man is accepted) has no concern for the feelings of an entire segment of our country's population.

A man from Iowa City writes:

We applaud your expressed stand against the confirmation of the nomination of Judge G. H. Carswell to the Supreme Court.

President Nixon's choice casts further shadow on the administration's attempts to face integration in this country.

It is particularly appropriate at this time to fill the vacancy with a judge whose lack of bias is unquestionable, and whose professional qualifications are the highest.

We wholeheartedly will support your vote against the Carswell confirmation.

A man from Des Moines writes:

I wish to express my approval of your announcement that you will vote against Judge Carswell's appointment to the Supreme Court.

Judge Carswell's nomination was an insult to our colored citizens and was contemptuous of all of us.

God save the Republic.

A man from Iowa City writes:

Although you have already expressed your opposition to Judge Carswell's nomination to the Supreme Court, I want to express my disapproval of the nomination.

A Supreme Court Justice who is appointed for life must be above reproach. This is clearly *not* the case with Mr. Carswell.

I encourage you to oppose all nominations which are made as political payoffs.

A man from Alvord writes:

Twenty-two years ago, Judge G. Harrold Carswell publicly announced that he would forever embrace the principle of "white supremacy." He has since demonstrated in his public and private life that he has not abandoned that principle.

Speculate with us for a moment, Senator.

If I were Catholic or Jewish . . . and if a Supreme Court nominee had once proclaimed that Catholics or Jews were inferior beings, and still appeared to believe it . . . and if I heard that the United States Senate had confirmed such a man for the Supreme Court . . . How would I feel?

If I were of Mexican or Puerto Rican heritage . . . and if a Supreme Court nominee had once announced his belief that Mexicans or Puerto Ricans were inferior people, and gave every indication that he still believed it . . . and if I heard that the United States Senate had agreed that such a man could sit on the Supreme Court . . . How would I feel?

If I were young . . . and my disillusionment with the American system of justice had reached low ebb . . . and if I heard about the confirmation of such a man . . . How would I feel?

If I were black . . . .

If I were an American of any age, race, creed or religion, committed to democratic and moral principles, and I learned that a man whose principles are completely alien to those beliefs had been named to my country's highest court, what questions would you expect me to start asking?

We who are white and black, young and old, and of different religions, believe that every Senator must ask himself these questions in searching his conscience about the Carswell nomination. We also believe that no Senator could thereafter conscientiously vote for Judge Carswell's confirmation.

A woman from Richland, Iowa, writes:

Those of us concerned with the extension of human rights commend your position against the appointment of Judge Carswell

Thank you.

A man from Lake Mills writes:

I urge you to vote against the confirmation of Judge G. Harrold Carswell to the United States Supreme Court, on the basis of his marginal civil-rights record. The problems we have today imperatively underscore the importance of relentlessly seeking perfection in ethics in the area of civil rights.

A woman writes:

I am an Iowa-girl living now in Kansas, but I am so concerned about the pending confirmation vote on the appointment of Judge Carswell that I am writing to you as well as my present Senators. The appointment of this man makes me very uneasy. He has shown himself on occasion to be openly prejudiced. I refer to several of his civil rights decisions and to Congresswoman Patsy Mink's charges. If this man is appointed to the Supreme Court, there will be no one to overturn his prejudices should he choose to exercise them.

I am a voting Republican (yes, one of those) and as such I would like to see President Nixon's appointments confirmed, but I feel deeply that he has made a mistake this time.

Please give your decision on this vote careful consideration. There are better men available and it seems a shame to accept a man whose qualifications are that he is less controversial than his predecessor and that his finances are in better condition.

A woman from Omaha, Nebr., writes:

This is just a letter to tell you how I feel about the nomination of Judge Carswell the racist to the Supreme Court.

I am totally against the nomination of Carswell, since there is ample evidence that he has racist, segregationist views. I think these views and attitudes are more than enough to have him disregarded as a nominee for the Supreme Court. He's worse than Haynesworth in the fact that I never heard that Haynsworth was a racist, although I knew he was a conservative.

I read in the newspaper today that you would vote against his nomination. I hope more senators will come out as being against him. It would be a great setback for justice in the United States if a man of Carswell's caliber is elected (or appointed) to the Supreme Court. Thank you. (By the way, I'm 18).

A man from Clinton, Iowa writes:

I note it is reported you plan to vote against confirming the appointment of G. Harrold Carswell as an Associate Justice of the United States Supreme Court.

This letter is to concur in your decision. For a number of years the United States Supreme Court has been a secure focal point in the evolution of an orderly society under law in a new era.

While the nature of changes thus emerging is in turn bound to change in the future even as has been true in past years, nevertheless the nature of this development requires that our high court remain a dependable exponent of equality, effective justice and working democracy.

A man from Des Moines writes:

I am against the confirmation of G. Harrold Carswell for the Supreme Court.

A man from Orient, Iowa writes:

I doubt if this letter is really necessary for I feel sure you have already decided to vote against Judge G. Harrold Carswell for the Supreme Court. However, I have not seen any announcement yet of your intent, and do want to make my voice heard in the negative category.

A woman from Iowa City writes:

I would like to register my strong opposition to the nomination of Judge Carswell in light of his private and public racial bias and his lack of distinction in judicial matters.

A man from Coralville writes:

I think there is cause for voting against Judge Carswell.

He made the racist speech in the 1940's;

He collaborated on the whites-only country club deal in the 1950's;

He passed on a whites-only deed covenant in the 1960's.

I don't want to be worrying about his Supreme Court decisions in the 1970's.

A couple from Iowa City writes:

We wish to commend you for your decision to oppose the Supreme Court nomination of Judge Carswell. We are in agreement with you in your evaluation of his qualifications.

A man from Iowa City writes:

As a citizen of Iowa and as a supporter of yours, I urge you to vote against the nomination of Harrold Carswell to the U.S. Supreme Court. I believe his personal convictions are contrary to the meaning of the Constitution and Declaration of Independence.

A man from Clinton, Iowa writes:

I am writing to state that I am opposed to confirmation to the United States Supreme Court of Judge Harrold Carswell. I am now a student at the University of Michigan Law School but am a resident of Clinton, Iowa.

After reading many of Judge Carswell's opinions, I do not feel that he is qualified to sit on the court. It is unfortunate that the Nixon Administration has chosen to nominate an individual, lacking in the necessary credentials, as a political pawn. I urge the Senate to exercise its Constitutional duty and give its advice and consent to the President on all nominations.

Thank you for considering these views.

A couple from St. Louis, Mo., writes:

Because Judge Carswell's record disqualified him for the Supreme Court, we trust you will vote against his appointment.

A native of Waterloo, Iowa, now living in California writes:

Just add one more protest to your list on confirmation of the present nominee to the Supreme Court. When a man's own profession points to his mediocrity, I'm certainly inclined to believe it. The present nomination is so obviously purely political that its hard to stomach—"for the silent majority." While I live in what is definitely a sophisticated area, I am in no sense a "supercilious sophisticate." My feet are rather firmly planted in my legal and voting residence in Waterloo.

A woman from Medford Lakes, N.J., writes:

I am strongly opposed to the confirmation of Judge G. Harrold Carswell's nomination to the position of Justice of the Supreme Court. I feel that because of his record of anti-Negro actions, he will have a disastrous effect on the Negro population of this country and further divide the black and white elements of our society. We certainly cannot afford this at this time.

As a voter of New Jersey, I strongly urge you to vote *against* the confirmation of Judge Carswell's nomination to the Supreme Court.

A woman from Iowa City writes:

I ask you to vote against the confirmation of Judge Carswell to the United States Supreme Court. His judicial decisions and his courtroom performance are of an earlier day. America can not and will not tolerate its government drifting further away from the realities of this day and the days yet to come. Judge Carswell would be a step backward to government sanctioned racism.

A man from Davenport writes:

I trust that you will be voting against the nomination of Judge Carswell to the Supreme Court. His personal life, and his record as a judge prove him to be unfit for the Supreme Court. His nomination is an insult to 23 million black Americans.

A man from Iowa City writes:

I am writing in regard to the possible appointment of Judge Carswell to the United States Supreme Court. As a constituent of yours, I write with candor. We should not approve of Mr. Nixon's choice in this matter. The Court is in need of persons of more democratic persuasions than has been shown on the part of Judge Carswell. Furthermore, this nominee does not reflect the excellence of mind that we have traditionally sought to fill such a coveted position.

A woman from West Des Moines writes:

I am writing this to strongly urge you to do all that is in your power to reject the nomination of G. Harrold Carswell to the Supreme Court. Further, I hope you will, in the interest of racial equality in this country, urge your fellow Senators to do the same.

A woman from Marion writes:

I am writing to urge your vote against the confirmation of Judge Harrold Carswell as a Supreme Court Justice. Because of his attitude toward both blacks and women, I am sure it is in the best interests of the country not to have this man on the Supreme Court.

I urge you to vote against the Carswell confirmation and influence other Senators to do the same.

A telegram from Dubuque reads:

Gravely concerned about civil rights record of Associate Justice Carswell. Judicial record does not substantiate recent disavowal. Request opposition to nomination to U.S. Supreme Court.

A telegram from Burlington says:

I am strongly opposed to Judge Carswell's nomination to the Supreme Court.

A man from Des Moines writes:

Our Des Moines paper says that 15 of Judge Carswell's recent decisions have been unanimously overruled by the U.S. Circuit Court of New Orleans.

Is Judge Carswell a potential Oliver Wendell Holmes or merely a pay off to Strom Thurmond?

A couple from Iowa City writes:

Enclosed is an editorial taken from the Jan. 23, 1970 issue of The Denver Post. It succinctly expresses our views concerning President Nixon's nomination of Judge G. H. Carswell to fill the vacancy existing on the Supreme Court. In a time when our Society is undergoing such a moral upheaval and, Thank God, questioning its use of minority groups as an ego-building device, we feel it is inappropriate to place a man on the Court who has advocated "White Supremacy" and who has consequently shown little action to disavow that statement.

We hope that you and the Senate will not give its consent to this nomination.

The editorial from the Denver Post of January 23, 1970, reads as follows:

SENATE SHOULD REJECT CARSWELL

Sadly we feel compelled to urge the Senate to reject President Nixon's nomination of Judge G. Harrold Carswell to fill the vacancy on the bench of the U.S. Supreme Court.

Up to the disclosure this week of comments attributed to Carswell in a campaign speech made in 1948 we were prepared to endorse his appointment. But that vigorous embracement of the doctrine of white supremacy and his avowal in the same speech to remain faithful to it in the future leads this newspaper to challenge his fitness for the high court appointment.

His repudiation, in which he renounced his previous comments "specifically and categorically," was logical and predictable for a man in his painful predicament. And we have no reason to doubt that he was as sincere in his latter as in his former statement.

But we worry about the decision-making problems and are reminded of Alexander Pope's couplet:

"Some praise at morning what they blame at night,
But always think the last opinion right."

The unfortunate fact is that Carswell is on record not only as formerly an ardent segregationist but also as a man who is capable of making a diametrical switch in his basic, personal philosophy. Now that he apparently has purged himself of the old and discredited doctrine of racial superiority, might he not "lean over backwards" in certain future decisions to support his passionate disclaimer of this week?

We are not contending that a man in public life should be criticized necessarily for changing his mind. We are saying that there could be legitimate questioning of any court decision in the area of civil rights in which Carswell participated, and in these critically sensitive times that kind of doubt ought to be avoided.

We feel personal sympathy for the judge. There must be many people like him in the South today who would like to take back the "praise at morning" they spoke at a time when the segregation tide was running strong and respectable. Most of them don't have to endure the crucible of securing Senate approval. And we have no reason to question his professional record, his legal background.

But his nomination now has suddenly spelled strife and controversy for the Nixon Administration. Neither the President nor the country can afford that. Its "Southern strategy" aside, the administration surely should exercise more thoroughness in examining a candidate's political fitness for a place on the Supreme Court.

If Carswell is approved, which now seems doubtful, he might turn out to have qualifications of the highest order. The history of Supreme Court appointments has several instances of controversial nominees who became outstanding justices. But we have grave fears that this nominee's old words would haunt his new career and jeopardize his effectiveness.

A lady from Des Moines writes:

I am appealing to you to please veto the Judge Carswell nomination. My opinions are not only because of his 1948 speech, but also recent court rulings. For instance—he dismissed a case in 1963 when blacks protested theater segregation in Tallahassee.

He is obviously *not* a fair man. He is a bigot. If his nomination goes through—he is jeopardizing the American Negro.

Another lady from Des Moines writes:

This is in regard to the nomination of Harrold Carswell for the Supreme Court. I oppose this appointment and urge you to vote against his nomination.

I give Mr. Carswell credit; he may have changed his racial attitudes. But the slim chance that he has not changed cannot be taken in such an important matter. It would be truly an insult to Black Americans and an embarrassment to the U.S. in the eyes of other countries if he was seated on the High Court.

A man from Ames writes:

I am writing to encourage you to vote against the nomination of Judge Harrold Carswell to the Supreme Court. The Supreme Court must be free of any taint or even suggestion of racial or ethnic prejudice. Even though Judge Carswell's statement in support of white supremacy was made twenty-two years ago, it cannot be overlooked. If this statement reflects his true beliefs, he is totally unqualified to be a Supreme Court Justice; if it was made to enhance his chances for election in a prejudiced area, his integrity comes into question. And the possibility, even if it is only a possibility, that some of his rulings as a judge reflect the views of his 1948 statement makes him a very poor choice for the Supreme Court.

A man from Dubuque writes:

I was pleased that you opposed the confirmation of Justice Haynsworth to the Supreme Court last November. I sincerely believe that it is just as important to prevent Justice Carswell's appointment to the bench and I urge you to vote against his confirmation. I believe that he should be defeated for the following reasons:

First, Justice Carswell has had an undistinguished career as a jurist. This was the prime prerequisite of the President for a position on the court. Carswell's supporters simply gratuitously label him as a distinguished jurist while citing no evidence of an outstanding career.

Second, Justice Carswell has not had another career of solid accomplishment in public or in private life which would denote personal excellence and would give promise of future growth to honor the position on the court.

Third, he was at one time in his life a "dyed in the wool" segregationist. Granted that it is true that he made the racist utterances in the heat of a "white supremacy" primary contest, he has had twenty-two years to demonstrate by word and deed that he has really changed. I am sure that we all believe that men may change over a period of years, and perhaps Carswell has, but an alteration of belief is not evident in decisions he has handed down over the years.

Fourth, his appointment would further divide our nation. Although Carswell has publicly recanted racist statements he uttered, his appointment would encourage people who are presently defying integration; it would discourage those who have been struggling peacefully to obtain their rights as Americans citizens.

The appointment of Justice Carswell clearly demonstrates that the present incumbent of the White House is using court appointments as political strategy. The President says that he wishes to appoint a strict constructionist who has an outstanding record as a jurist. Justice Carswell may be a strict constructionist in the eyes of ardent states righters but he has failed to evoke any enthusiasm in any of the leading law schools of the country. There must be some justices in the United States who would possess the characteristics the President is seeking without the obvious disabilities of the present nominee.

These are some of the reasons why I hope that you oppose the confirmation of Mr. Carswell. Unless there are some facts to refute the points I raised, I am sure that you will vote against the elevation of Mr. Carswell to the highest court in our land.

A couple from Grundy Center writes:

We are most concerned about the possible appointment of Harrold Carswell to the U.S. Supreme Court. We strongly urge you not to support his nomination.

The president of the Des Moines Branch of the National Association for the Advancement of Colored People writes:

At its January 27, 1970 meeting, the Executive Board of the Des Moines Branch N.A.A.C.P. voted unanimously to support the position of the National N.A.A.C.P. in its opposition to the appointment of Judge G. Harrold Carswell to the United States Supreme Court.

We have not taken this position because Judge Carswell is from the South, but because of his record on Civil Rights matters, which has not been favorable. Without meaning to question his current sincerity and integrity, the Executive Board felt it is doubtful that black citizens would get justice from him on Supreme Court cases.

The Executive Board of the Des Moines Branch N.A.A.C.P, therefore, urge you to reject the confirmation of Judge Carswell to the U.S. Supreme Court

A man from Dubuque writes:

I write this letter to urge you to *oppose* the confirmation of Judge George Harrold Carswell to the United States Supreme Court.

I have recently been in conversation with a number of Black youth—both students and non-students. The effect of a Carswell confirmation on these youth can only result in further alienation and embitterment.

I am sure we would all like to avoid another Haynsworth episode. If Carswell were a man with a brilliant record we could perhaps risk the reaction to his confirmation. But he has a lackluster record and his confirmation will cost us more in further polarization than we can afford to pay.

I urge you most strongly to oppose the confirmation.

A Cedar Rapids constituent writes:

As you are well aware, one of our major problems today is respect for the law and the people who carry out the laws. At this time we cannot afford to select a Supreme Court Justice who does not command the full respect of all the people. Whether the selected individual is from the North or South, he must meet the highest standards for service, not the minimum.

While I have nothing personal against either of the Presidential nominees, I feel that we should be able to find an appointee at this time who is above any hint of either any wrong-doing or incompetence.

A woman from Washington, Iowa, writes:

I want to register my opposition to the nomination of Judge G. Harrold Carswell to the Supreme Court.

In no way do I consider Judge Carswell to be the caliber of man the Supreme Court needs. His racist stands as recently as a few years ago undermines the confidence thinking Americans have in him. As explosive as the racial situation is in our country today, it is no time to fan the flames.

I urge you to oppose the nomination of Judge Carswell to the Supreme Court.

A professor from Portola Valley, Calif., writes:

Some Senators who have announced their opposition to the Supreme Court nomination of Judge Carswell doubt openly they can block it. Public discussion of a filibuster has surfaced recently—but this is said to be premised on the existence of 30 firm votes against confirmation.

Please help dramatize the appalling nature of this nomination. A filibuster against it—even if it fails—is little enough in the name of decency. This is not just another vote—it is perhaps a last chance to keep faith with a large but politically underrep-

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resented racial minority in this country. Given the course of recent events, black Americans can only view Judge Carswell's nomination as the death knell for "Equal Justice Under Law." Is there any chance whatever that a man who had behaved similarly toward Catholics or Jews (or any white minority) would be seriously considered for the Court? How many Senators could sit comfortably and listen to a public retelling of Judge Carswell's offensive—and recent—dialect joke? It is time to sacrifice some of the genteel tone of the Senate, if need be, to show the callousness of this nominee—apart from his complete mediocrity as a jurist.

Your vote is needed, but it will not be enough. Please speak bluntly and act forcefully against this nomination. A filibuster will speak for those Americans of all races who though politically weak, are distressed by this nomination.

An Army lieutenant writes:

In following the hearings of the United States Senate Judiciary Committee on the confirmation of Judge G. Harrold Carswell as an Associate Justice of the Supreme Court of the United States, it is my wish, and you have my full support in refusing this man one of the most consequential positions in our Federal government.

The testimony of Judge Carswell certainly indicates to me that a man as blind and naive about his personal affairs is not competent to make decisions of the magnitude of those made in the Supreme Court as to interpretation of the law affecting the lives of everyone in this country. Furthermore, this man does not hold any credentials justifying his even being nominated to this position and certainly has not distinguished himself as an outstanding legal mind.

Please, Senator Hughes, cast your vote no!

A man from Gainesville, Fla., writes:

As a Floridian and university administrator, I urge you to vote against the nomination of G. Harrold Carswell to the U.S. Supreme Court on the grounds that his credentials are mediocre and his views on racial equality questionable. Certainly our highest Court deserves a man with impeccable credentials. This man's qualifications leave much to be desired.

A professor from South Orange, N.J., writes:

Again and again I hear people commenting negatively on the qualifications of Judge Carswell for the Supreme Court followed by the statement that there isn't enough fight left to keep him from being confirmed by the Senate.

This is appalling. If he has shown himself to be so little qualified for the highest judicial position in the country, you and your fellow Senators must work not only to keep him from being confirmed but to make clear to the Attorney General and the President that we will not tolerate such an abuse of their nominating power.

What is against his nomination? First, his adherence to some of the fundamental viewpoints of the Constitution and the Bill of Rights seems doubtful. Second, he has demonstrated his lack of a first-rate judicial mind by the quality of his opinions in the cases tried before him, in the absence of any contribution to scholarly journals, and more importantly in the number of instances in which his decisions have been overturned at the Appellate level.

I cannot believe that there isn't a first-rate candidate who is Southern and holds a viewpoint different from that of the present Court. Perhaps Mitchell and the President are demonstrating, although unwittingly, that a first-rate judicial mind is incompatible with the views they would like to impose on the Court. Thus, they are forced to select men of third-rate qualifications.

I urge you to use your influence to defeat this nomination and any future ones of similar candidates.

A constituent from Cedar Falls writes:

Make your vote count. Stop Carswell.

A man from Iowa City writes:

I feel recent events in Chicago have seriously questioned the fairness of our judicial process. What is perhaps more disturbing however is the pending appointment to the Supreme Court.

Anthropologically, law is not that written by the legislatures, but that interpreted by our courts. When so many of our imperfect laws are being challenged, we need a high court whose motives will be above questions of fairness. The assurance of a fair trial for all is the last stronghold of national order.

Mr. Carswell's previous racial statements and court decisions indicate at best lack of vision, while his land dealings would question his impartiality on any case involving civil rights.

Therefore in order that we may settle our problems of justice and freedom in unquestionable courts, I urge you to reject the nomination of Harrold Carswell to the Supreme Court.

A woman from Des Moines writes:

I am writing this letter in support of your intention to vote against the nomination of G. Harrold Carswell. If Judge Carswell's nomination is confirmed this will be a crushing blow to racial equality in America. Carswell's record demonstrates his long standing racial biases that would probably slant any decision he would make. A belief in racial inequality should certainly disqualify one for a seat on the Supreme Court.

I know you will do all you can to prevent Carswell from obtaining the nomination.

A woman from Sumter, S.C., writes:

Today, not only black Americans but white Americans, as well, are concerned about Nixon Administration policy. I am one such person.

My purpose in writing you is to urge you to vote *against* Judge Carswell's nomination to the Supreme Court.

Mr. Nixon's "Southern Strategy" will not stop with the naming of inferior and racist men like Judge Carswell, but will continue on, only to eventually turn back the clock on all the social progress already made in this country.

Please, sir, I urge you and your constituents *not* to let a self-spoken racist be seated on the Supreme Court.

If the U.S. Senate goes along with Mr. Nixon's choice (in Judge Carswell), it will be giving its blessing to a very dangerous trend.

Thank you for your attention.

A man from Ithaca, N.Y. writes:

Very shortly the Senate will be voting on the nomination of Harrold Carswell. Even though I am not part of your constituency, I felt you would be most sympathetic to the reasoning I will put forth for rejecting Judge Carswell.

The young people of this nation will be watching the balloting on this issue very closely, just as we did on the Haynsworth nomination. If your vote is not a 'right' one, you may be assured that when it comes time for your re-election, we will mobilize all our people in an attempt to defeat you, as we did a certain individual in 1968!

It should be obvious what the correct vote is. Although Judge Carswell has not made any obnoxious statements or decisions on labor issues, his view on racial matters is quite clear. Columnist James A. Wechsler pointed out that during Carswell's tenure as district judge, 60% of his 23 civil rights decisions were upset.

A man who believes that a law is bad for judicial reasons is an asset to the Court. However, a man who votes for or against something merely on the basis of his own personal beliefs without any judicial reasoning involved is quite harmful. I believe Harrold Carswell to be such a man and await patiently your reply when the roll is called.

A woman from Denver, Colo. writes:

Although I am no longer one of your direct constituents, (my husband and I moved from Iowa in 1968), I am following your senatorial career with great interest. I am quite proud that Iowa chose you to represent them. I have been impressed with your courage and action in supporting your views and I hope you will be an active voice in our government for some time to come.

My specific reasons for writing is to urge you to do everything you can to defeat the nomination of Harrold Carswell to the Supreme Court. It is terribly important that we show the black community every indication that we are striving to make justice available through the courts. Even if Judge Carswell has repudiated his racist views, (and I am well aware of the ability to change one's ideas), his nomination will appear to be a deliberate attempt on the part of the Administration to reverse the progress made in the field of civil rights.

I am curious to know what the feeling about Mr. Carswell would be if he has espoused communist philosophy in his youth instead of his racist views. I personally feel that the attitude toward the Negro in the past has been far more dangerous and threatening to the true values of a democracy than any external political force.

A man from Temple, Tex., writes:

I am most concerned about the nomination of Judge G. Harrold Carswell to the Supreme Court. I don't think the basic and crucial issues in his record and attitude have been investigated nor considered sufficiently to this point.

I hope you agree with me and will insist on a complete examination, before permitting his confirmation to come to a Senate vote. You know better than I do how imperative it is to have a Supreme Court that understands the "needs for flexibility and change" in these times of rapid social transition. The great Abraham Lincoln opposed the Dred Scott decision and other positions of the Court 120 years ago for the reason that it was stand-pat, without either sensitivity for or understanding of the requirement for change under the "American Way" of life.

The attached copy of a news column by Clayton Fritchey spells out my objections to Carswell in a very forceful and objective way. If you have already read Fritchey's column, I urge you to read it again.

"CARSWELL'S INVESTIGATION INADEQUATE

"(By Clayton Fritchey)

"WASHINGTON.—Suppose Associate Justice Thurgood Marshall, the only Negro member of the Supreme Court, had once said: 'I yield to no man . . . in the firm, vigorous belief in the principles of black supremacy, and I shall always be so governed.' Is is conceivable that the U.S. Senate ever would have confirmed him, regardless of how he tried to explain it away?

"Judge G. Harrold Carswell, Nixon's latest appointee to the Supreme Court, who made the above statement in reverse (substitute white for black) while running for public office on a white supremacy platform, seeks to justify himself on the grounds that it was merely a youthful indiscretion.

"Well, he was not a callow youth, but a callow adult of 28 when, in cold calculation,

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he deliberately tried to exploit racial prejudice to advance himself politically. He was a university graduate, he had gone to law school, and he was the editor of a weekly newspaper.

"Men have won the Pulitzer and even the Nobel prizes before they were 28. Pitt was prime minister of England at 24. Robert Hutchins was president of Chicago University at 28. In any case, even teen-age dropouts should know the doctrine of white supremacy is un-Christian, un-American, and repugnant to everything America stands for.

"Attorney General John Mitchell, who is becoming an expert at whitewashing the delinquencies of the men he recommends for the highest court, is not disturbed at Carswell having said, 'I believe that segregation of the races is proper, and the only practical and correct way of life in our states. I have always so believed, and I shall always so act.'

"Mitchell, like Carswell himself, now wants the public to believe that the judge has repented and mended his ways. But there is no record of his ever having recanted or even regretted his statement, until he was confronted with it a few days ago after it was uncovered by an enterprising Southern journalist.

"Although Carswell has been on the federal bench for 11 years, there is nothing in his judicial record to suggest that he has had a change of heart on racial matters. In a number of civil rights cases the higher courts reversed his decisions, usually because they found that Carswell had wrongly denied Negroes' claims. The Senate Judiciary Committee owes it to itself to find out when and how Carswell's claimed conversion took place. Let us have the proof.

"Another extenuation advanced for the judge's anti-Negro speech is that he didn't really mean it, but in order to get elected he had to fool the voters in a white supremacy county. 'Ol' Harrold was just playing the game,' explains an old friend of the judge.

"Even assuming this is true, do Americans want a man on the Supreme Court who would violate their own principles so as to deceive voters into thinking he shared their racial prejudices? The passive reaction to the Carswell appointment suggests that the Senate has come to expect nothing better from Nixon. If Eisenhower, Kennedy, or Johnson had nominated a man with Carswell's lackluster record and bigoted outlook, there would have been general shock.

"After what the judge has so cruelly said about Negroes, how can these 23 million Americans ever believe they will get justice from him on Supreme Court cases involving their rights? To the blacks, it is all too obvious what 'strict construction' means.

"There are scores, perhaps hundreds, of able and distinguished men, both Republican and Democratic, whose appointment to the highest court would reassure the public and reflect credit on the President. Surely there are considerations superior to paying a political debt to Southern conservatives.

"For his own protection, the President at least ought to rely on somebody other than Mitchell to investigate future appointees, The FBI, it appears, somehow overlooked Carswell's white supremacy record. Or maybe, like Mitchell, they didn't think it was important."

A woman from the Bronx, N.Y., writes:

It is my opinion, and the opinion of many of my colleagues, that the central issue around the nomination of Judge Carswell has been blurred. We think that whether or not a man should be held responsible for something he said 22 years ago is *not* the critical issue here. On these matters, liberals, moderates, and conservatives alike can reach agreement.

The crucial point, it seems to us, is the fact that political acts and events have obvious and profound symbolic dimensions, and Carswell's nomination is a case in point.

It is regrettable, that the clear and probable repercussions of these symbolic assertions, are being ignored, or worse still, not even recognized. Our country is suffering under the strain of a number of "gaps": why introduce or reinforce another?

I would hope that you gentlemen would somehow find the strength to face this issue squarely with more recalcitrant colleagues as well as friends and try to address yourselves to the inevitable, (it seems to me) negative symbolic consequences of this appointment.

A woman from Boston, Mass., writes:

I urge you to do all you can to oppose the appointment of Judge Carswell to the Supreme Court. It seems to me far worse than the Haynesworth appointment, bad as that was.

A man from Jersey City, N.J., writes:

The Constitution of the United States *wisely* provides for checks and balances between the judicial, legislative and executive branches of our government, which makes our country truly representative of the peoples' wishes and therefore truly a democracy. At the present time, a perfect example of the applicability of this provision has come about (in the nomination of Judge Carswell), as it clearly provides for the *responsibility* and *duty* of the majority vote of the *entire* Senate to either confirm or reject the nomination to the highest court in our land.

In a dictatorship, the Premier (or party boss) nominates or appoints anyone he wishes (to any office) and that person is automatically installed to that office (or is removed or shot at the Premier's whim). That is the difference between a dictatorship and a true democracy, where the *majority* of its people and/or its elected representatives have the final say on practically all of the important offices, such as the Supreme Court.

I believe that President Nixon is dedicated, sincere and loves his country, just as I do (as well as millions of others). I also believe that had he known all the details of Judge Carswell's background and rulings, he would not have nominated him to the highest court of our land. However, as shown in the past (even if he won't admit it), the President seems to feel that once a candidate is nominated he cannot or will not withdraw it for whatever reason, and that is a mistake.

I don't believe the only question as to Judge Carswell's confirmation is purely ideological, *nor should* it be a question of *North* v. *South*. What should be of paramount importance is the *future progress* of this great country of ours, where a Supreme Court justice has the *power* and *authority* to shape and mold this Country's destiny in the *just* interpretation and judicial rulings of our Constitution. This is a *lifetime appointment* and should not be treated casually as any other minor appointment.

Although Judge Carswell refuted his 1948 racist speech, he has consistently *delayed, refused to hear,* or circumvented civil rights cases. Furthermore, his decisions have frequently been *reversed* by higher courts.

Are there any indications whereby any of Judge Carswell's previous rulings and actions have changed his 1948 racist views? Was it changed when he signed, contributed (and in all probability drew up) the incorporation document of the golf club? Was it changed when he consistently delayed, refused to hear or circumvented civil rights cases? Was it changed in his attitude and treatment toward Negro lawyers who appeared before him?

It is incomprehensible for anyone to confirm such a nomination (which is full of doubts and questions) to the highest court of our land, unless that Senator also shares the same views of Judge Carswell. In that case nothing that anyone can prove will alter their opinion or vote.

Judge Carswell's record indicates that he has not kept his oath of office to *defend* and *protect* the Constitution of the United States (*with justice for all*), as all public officials have sworn to do, and therefore his name should be rejected."

Another man from Madison, N.J., writes:

Although I am not a resident of Iowa, I strongly urge that you veto President Nixon's appointee for the Supreme Court. Judge G. Harrold Carswell has done various questionable items which have raised serious doubts to his credentials and character to serve as a Justice on the august Supreme Court. Various statements and incidents have been revealed concerning the conduct of Carswell as you probably are aware of. The Senate Judiciary hearings revealed those matters.

Members of the Senate are aware of the fact that some 450 lawyers recently signed a statement opposing the confirmation of Judge Carswell. In addition, a great many law students, faculties, and other professional people have written to express their concern. I will read some of these very fine statements:

Statement of Professors of Law, Harvard University, Cambridge, Mass.

To the Members of the United States Senate:

The events that have come to light through the Senate Hearings and the press persuade us to oppose the appointment of Judge G. Harrold Carswell to the Supreme Court of the United States.

We start with Judge Carswell's speech in 1948 expressing his belief in white supremacy. At a minimum, such a statement should require its author to evidence a rejection of his earlier views, a present commitment to uphold principles of equality which not only have a foundation in morality but also have come to form part of the law of our land. If we now recognize with a painful sense of relevance that respect for law by our ordinary citizens is a condition to the health of our society, can we make less exacting demands upon judges charged with administration of that law? Should not these demands be most rigorous when appointment to our highest court is at issue?

We believe the record to show that Judge Carswell lacks these minimum qualifications. His history bears no trace of commitment to those moral and legal principles which can now serve to bind our nation together. Rather, we find continuing evidence of his adherence to the racist views expressed in 1948.

The facts are too well known to need lengthy restatement. We refer principally to (1) Judge Carswell's involvement in 1956 (while serving as United States Attorney) with the leasing of a municipal golf course to a private club for the apparent purpose of maintaining segregated facilities in evasion of the Constitution; (2) the large number of his decisions against blacks in civil rights cases which were unanimously reversed by the appellate courts; and (3) the testimony by members of the Bar of his abusive conduct towards civil rights lawyers. We should add that we find unconvincing Judge Carswell's explanation to the Senate Judiciary Committee of the country-club incident. Confirmation of Judge Carswell would place on the Supreme Court a man of, at very best, shaky commitment to Constitutional principles which are of the gravest importance to our country. Such an act would serve neither the goal of a "balanced" Supreme Court, nor our larger national interest. Rather, it might prejudice the ability of our judiciary to hold the respect of all parts of our population, and exacerbate tensions in the country at large. For these reasons, we urge that the Senate refuse confirmation of Judge Carswell.

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Statement of Faculty and Administrators, Stanford Law School, Stanford, Calif.

Dear Senator: It is my pleasure to enclose a petition, signed by 21 members of the faculty and administration of the Stanford School of Law, opposing the appointment of Judge G. Harrold Carswell to the Supreme Court of the United States. We respectfully urge you to oppose Judge Carswell's nomination.

The petition reads as follows:

"We, the undersigned faculty and administrators of the Stanford School of Law, oppose the appointment of Judge G. Harrold Carswell to the Supreme Court of the United States.

"Judge Carswell retracted his open espousal of the doctrine of white supremacy only when it became self-serving to do so. His conduct in the intervening years—his active participation in the formation of a segregated golf course, his rulings in school desegregation cases, his shockingly discourteous treatment of civil rights lawyers and their clients in his courtroom—make plain Judge Carswell's continued antagonism to the principle of racial equality.

"A man who had spoken and acted in this manner against Catholics or Jews would not even be considered, let alone nominated, for a position on the High Court. We cannot make an exception for Judge Carswell's conduct without breaking faith with the fundamental principles and commitments of our Nation.

"We respectfully urge all Senators of good will to vote against the confirmation of Judge Carswell."

Policy Statement of the California Law Review, University of California Berkeley, Calif.

The members of the *California Law Review* strongly oppose the nomination of Judge G. Harrold Carswell to the United States Supreme Court.

We recognize the President's prerogative of effecting a balance on the Court of competent men of varying schools of judicial philosophy. We are deeply concerned, however, about this nominee's early statement of undying belief in White Supremacy. His professed renunciation of this statement is belied by his intolerant behavior toward civil rights petitioners and their lawyers, his conduct in personally drafting a charter for a university booster club which prohibted membership by non-whites, his incorporation of a segregated country club to thwart integration, his sale of property subject to an unconstitutional racially restrictive covenant, and the disturbingly high rate of reversals of his civil rights decisions.

Of even greater concern, Judge Carswell's legal record and judicial opinions are devoid of any trace of distinction or contribution to the law which might set him apart from other judges and lawyers. Judge Carswell simply fails to meet the minimum standards of judicial competence necessary for service on the nation's highest court.

We therefore strongly urge the Senate, in exercising its duty of independent review, to withhold confirmation of Judge G. Harrold Carswell's nomination to the United States Supreme Court.

Statement of the Student Bar Association, The National Law Center, George Washington University, Washington, D.C.

Dear Senator: The following resolution was unanimously passed March 4, 1970:

"*Resolved*, That the Student Bar Association of the National Law Center urges each and every Senator of the United States to reject President Nixon's irresponsible nomination of Judge Carswell to the United States Supreme Court."

The Student Bar Association is the duly elected representative of 1600 law students of the National Law Center of The George Washington University.

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Statement of Committee of Attorneys and Accountants Against Confirmation of Judge Carswell, Portland, Oreg.

Dear Senator: Soon you will be performing one of the most important functions of your job as United States Senator—confirming or denying the latest nominee to the United States Supreme Court, Judge G. Harrold Carswell of Tallahassee, Florida. Our Committee feels Judge Carswell should not be confirmed.

In 1948 Judge Carswell said that he would always be governed by the principles of White Supremacy. Of course talk is cheap and comment was made during an election campaign against a sworn segregationist. Judge Carswell's renouncement of that statement seems to lay to rest fears of his White Supremacy feelings. But that renouncement also came during a time he is being considered in a campaign for appointment to the Supreme Court. Again, talk may be cheap.

Our Committee's concern is that actions speak louder than words. Judge Carswell's actions since 1948 tend to confirm his White Supremist statement. As a District Court Judge, Carswell continued to interpret cases involving Negroes from a segregationist point of view even though the United States Supreme Court and his immediate Court of Appeals, the Fifth Circuit, had reversed him and others on cases on that very point. As a private citizen Judge Carswell gave legal advice to operators of a public golf course helping them to convert it into a private club so that Negroes could not be admitted.

Finally as recently as 1966, Carswell, while a Judge of the United States District Court, signed a Deed surrendering his courtesy rights. That Deed contained a covenant providing that the property involved would never be sold to a non-caucasian, a covenant contrary to the very laws he interpreted as a District Court Judge!

It is the fear of this Committee that racism has been nominated to a high place where it does not belong. You, as a United States Senator, cannot and should not allow a White Supremist by Self-proclamation and by actions to become a Justice on the United States Supreme Court. You, our Committee and our nation cannot withstand such a terrible thing to occur at this stage of our societal development.

Please vote against confirmation of Judge G. Harrold Carswell's nomination to the United States Supreme Court.

Statement of Board of Christian Education of the United Presbyterian Church, Philadelphia, Pa.

Dear Senator Hughes: I am writing to express my strong hope that you will vote against the confirmation of Harrold Carswell as a justice of the Supreme Court. In two ways he seems to me inadequate. The first is because of a lack of competence for this high post. You are surely aware of the judgement of the Dean of The Yale Law School who describes Judge Carswell as having "more slender credentials than any nominee for the Supreme Court put forth in this century."

The second reason is that all evidence points to Judge Carswell's having the same white supremacist attitude which he avowed 22 years ago. It is not appropriate to place on our highest court a man who prejudices run against the Constitution and the laws of the land. I urge you to vote against Judge Carswell's confirmation.

Statement of Industrial Union Department, AFL–CIO, Washington, D.C.

Dear Senator Hughes: On behalf of the Industrial Union Department, AFL–CIO, I wish to express our opposition to the nomination of Judge G. Harrold Carswell to the U.S. Supreme Court. It is not my nature to speak harshly of a person who I do not know in a personal way for fear that I may do an injustice, but the importance of the issue in this situation overrides my native reluctance.

The record of this nominee, as it has emerged from newspaper stories and from testimony before the Senate Judiciary Committee, is most disquieting. It raises, for us, two basic objections to the appointment. First, a number of Judge Carswell's activities over the years—his drafting of the charter for an all-white booster club for Florida State University in 1953; his participation, as an incorporator and director, in the formation of a racially-segregated golf course in 1956; his concurrence in the sale of personal real estate, in 1966, that used a deed barring non-Caucasians from buying or occupying the property; his hostile treatment of Negro lawyers and civil rights defenders who appeared in his court—all indicate to us that he has had no change of heart since his know-nothing avowal of white supremacy in 1948.

Second, analyses of his decisions by distinguished lawyers, law professors and deans of law schools, reveal, according to a statement more than 400 of them have signed, that "quite apart from any ideas of white supremacy and ugly racism, he does not have the legal or mental qualifications essential for service on the Supreme Court or on any high court in the land, including the one where he now sits."

On November 21, 1969, the Senate rightly rejected the nomination of Clement F. Haynsworth, Jr. to the U.S. Supreme Court for the most part because he had failed to avoid the appearance of unethical behavior. If Judge Carswell is confirmed for the Court, what can we citizens conclude? That the *appearance* of misconduct disqualifies a man for service on the Court but that serious evidence of bigotry and incompetence do *not*?

To those of us in the Industrial Union Department and to millions of Americans who find white supremacy repugnant and the Supreme Court bench a place only for the most morally and intellectually fit, the answer is obvious. This shocking appointment must be rejected. We respectfully urge you to save the good name of the U.S. Supreme Court—as well as that of the U.S. Senate itself—by voting against the nomination of G. Harrold Carswell.

Statement of American Federation of Teachers, AFL–CIO, Washington, D.C.

Dear Senator: The Executive Council of the American Federation of Teachers meeting at Pittsburgh, Pennsylvania on Sunday, March 8, 1970 unanimously supported a resolution opposing the appointment of George Harrold Carswell to the Supreme Court of the United States.

In its statement, the Council regarded "the appointment of George Harrold Carswell as a threat to the integrity of the U.S. Supreme Court and the American system of jurisprudence." The Executive Council amplifies its position when it states that "we have exceptional reasons relating to our own role in public life to recommend that the U.S. Senate reject President Nixon's proposed appointment of Mr. Carswell."

Accordingly, as representatives of the more than 200,000 classroom teachers in the AFT, I respectfully urge that you vote "No" on the confirmation of George H. Carswell.

Statement of International Union of Electrical, Radio and Machine Workers, Washington, D.C.

Dear Senator Hughes: On behalf of the membership of the International Union of Electrical, Radio and Machine Workers, a union dedicated to equality for all citizens, I urge you to publicly oppose and to vote against confirmation of the nomination of G. Harrold Carswell as an Associate Justice of the Supreme Court.

Testimony before the Judiciary Committee has demonstrated that Judge Carswell's record as a Federal judge, as a United States

> Attorney and as a citizen seeking public office contains unmistakable evidence of bias against members of minority groups. Neither in his own oral testimony nor in his written reply has the nominee provided an adequate answer. On the contrary, by confining himself to protestations of fair-mindedness and by refusing to go beyond generalities, he has reinforced, rather than answered, the charges.
>
> Civil rights is and has been for years the most crucial domestic issue in the United States. It is primarily to the Supreme Court that our minority group members have had to look for protection of their rights as citizens. Regardless of judicial philosophy, no judge should serve on that court whose record is tainted by evidence of bias in word and in deed.
>
> This high standard, no less than high standards in conduct of financial affairs, must be maintained on the Supreme Court. Men—and women—who meet these and all other important criteria for Court service are available.
>
> Only by voting against Judge Carswell's confirmation can you make it possible that the present vacancy on the Court will be filled by such a person. To do otherwise is to do worse than insult some of our citizens; it is to downgrade the court and endanger the rights of all citizens.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, further continuing our discussion of the situation involving Judge Carswell, I would like to offer some statistics which relate to the record of the judge as a sitting judge in respect of the judgment of the Senate regarding his qualifications to occupy the highest judicial position in our land.

Mr. President, this information has been gathered together and published by the Ripon Society, an organzation of younger and more progressive members of my party, in which publication they have urged Republican Senators to reject this nomination.

One of the categories analyzed is reversals on appeal.

Their compilation shows—and I will define it accurately—that during the 11 years 1958 to 1969 in which Judge Carswell sat on the Federal District Court in Tallahassee, 58.8 percent of all those cases in which he wrote printed opinions, as reported by the Digest of West Publishing Co., and which were appealed, resulted ultimately in reversals by higher courts.

They purported to take a random sample of 400 other district court opinions by other judges. They find that the average rate of reversals among all Federal district judges, extrapolated from the random sample of 400 during the same period, was 20.2 percent of all printed opinions—that is, cases in which opinions were printed when taken up on appeal.

And in the circuit in which Judge Carswell served, where they also purport to have taken a random sample of 100 district court cases emanating from the fifth circuit during the 1958–69 time period, the average rate of reversals was 24 percent of all cases in which there were printed opinions. They define a reversal to include an outright reversal, a vacation, a remand, and an affirmance with major modifications.

An affirmance is defined to include an outright affirmance, an affirmance with minor modifications, a dismissal of an appeal, and a denial of certiorari. The ultimate disposition of the case, rather than action alone in an intermediate higher court determined whether the result was to be classified as a reversal or affirmance.

It should be noted that these figures are based on 84 of Judge Carswell's reported decisions. They are believed by this group of researchers to be all of his printed court opinions.

They analyzed Judge Carswell's total rate of reversals for all his printed cases as 11.9 percent, compared, according to these researchers, to a rate of 5.3 percent for all Federal district court cases, and 6 percent for all district court cases within the fifth circuit during the same time period.

The majority of the cases, they say in their report, before any Federal district judge ordinarily do not result in appeals, hence precluding the possibility of reversals in those cases.

It is significant, however, that Judge Carswell's overall reversal rate for his printed cases is more than twice the average of Federal district judges. When additional unprinted opinions revealed in testimony before the Senate Judiciary Committee by Joseph L. Rauh, Jr., a lawyer, and by the memorandum of the Senator from Nebraska (Mr. HRUSKA) are included, they find that Judge Carswell has an overall reversal rate of 21.6 percent.

Mr. President, I yield the floor.

THE ANNOUNCEMENT OF SENATOR BYRD OF VIRGINIA THAT HE WILL SEEK REELECTION AS AN INDEPENDENT

Mr. ALLEN. Mr. President, I noted in the newspaper this morning a statement to the effect that the distinguished senior Senator from Virginia, the Honorable HARRY F. BYRD, will run for the U.S. Senate this year as an independent. The Junior Senator from Alabama wishes to congratulate the distinguished senior Senator from Virginia for his bold, his courageous, and his statesmanlike position in this matter, and he wishes him well in the coming election.

The junior Senator from Alabama noted that the distinguished senior Senator from Virginia made the point that the State Democratic Executive Committee in the State of Virginia is imposing the requirement on all candidates in the Democratic primary in that State that they agree in advance to support the national nominees of the national Democratic Party in order to be able to run in the State primary.

In the State of Alabama at one time we had a similar requirement. It was necessary that a candidate in the Democratic primary pledge in advance that he would support the national nominees of the Democratic Party. That requirement has been repudiated in the State of Alabama. That requirement is one of the principal reasons why there is an effective two-party system in the State of Alabama, because it caused people not to go into the Democratic primary. It repelled new adherents. Since the new voters had no other place to go, they would go to the Republican Party.

So it occurs to the junior Senator from Alabama that there is a similar situation in the State of Virginia in this regard; and he feels that the distinguished senior Senator from Virginia has made a bold and dramatic gesture indicating his great independence, indicating his nonpartisanship and nonpolitical approach to the problems of the Nation as they are considered in this great body.

The junior Senator from Alabama has long been a great admirer of the senior Senator from Virginia, as he was of his great and distinguished father, the late Senator Harry Flood Byrd; and he feels that the father of the present senior Senator from Virginia would certainly be proud of the action that his able son has taken in this regard.

It is the desire of the junior Senator from Alabama to commend the senior Senator from Virginia, because he has observed, during the short time he has been in the Senate, that the senior Senator from Virginia has voted for or against the President as his convictions dictated. He has voted for or against the policies of the national Democratic Party as his conscience and his convictions dictated. He has always put principle above politics. So it is the opinion of the junior Senator from Alabama that the loyal sons of Virginia will, in resounding terms, at the first opportunity they have to voice their opinions, give the distinguished senior Senator from Virginia a strong and overwhelming vote of confidence.

TV AND THE VOTE

Mr. PASTORE. Mr. President, in today's Washington Star appears an editorial entitled "TV and the Vote." This editorial deals with a plan I am now discussing with the Committee on Commerce with reference to the matter of the tremendous cost of campaign TV time and radio time in our elective process.

The editorial is rather complimentary and states:

> There is nothing wrong, either, with the other major provisions of the bill that would abolish, the "equal time" rule. This restrictive yoke serves only to keep the nominees of major parties off major talk shows because of the possibility that a score of dingbat candidates will demand—and get—equal time.

The editorial then goes on, and here there is an error, which I should like to point out for the assurance of Members of the Senate who might be disturbed by the interpretation given in the editorial:

> But the intent of Pastore's bill is not merely to let the networks decide which candidates are to be taken seriously. The idea is to clear the decks for TV debates between presidential candidates, and to make such political sideshows fixed features of the political scene. It is an abysmal notion. Debating skill—particularly under the artificial and arbitrary limitations of the TV format—is no true test of judgment, executive ability or intelligence, which are more reasonable presidential qualities than verbal agility.

Mr. President, let me say here that the "abysmal notion" is no part of the bill to be proposed. I share the sentiments of the editorial commentator—and there is no intent in the measure to dictate to broadcaster or to candidate the format to be followed.

As proof of that, I should like to point

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out that in 1968, when I reported an amendment to section 315 of the Communications Act, in the report I was very explicit—and I read now from that report at page 5:

> Encouraged by the results of the 1960 suspension, your committee believes that similar action with respect to nominees for the offices of President and Vice President will provide the opportunity for the major party nominees in cooperation with the broadcasters to present their views without the inhibitions presently contained in section 315.

Mr. President, I want to underscore this, because this is the important part of the report, in connection with the format discussed in the editorial.

I quote further from the report:

> This committee wishes to point out that in urging the adoption of this legislation suspending section 315 as it applies to presidential and vice presidential nominees, it is not endorsing any particular format for the appearances of the nominees. Rather, complete freedom is being given to the broadcaster and nominees to develop specific program formats for the appearance of the nominees. The committee feels that the flexibility being given in this legislation will permit the broadcaster and nominees to innovate and experiment with various program formats, including joint appearances. Whatever is done, should be done as a result of discussion, negotiations, and cooperation between the nominees and the broadcasters.

Now, as a result of this, I have had a number of conversations with three presidents of the major networks.

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Mr. Goodman, who is president of NBC, in appearing before our committee on the pending legislation had this to say:

> To advance this purpose, 3 years ago, I pledged that the NBC Television Network would make available a designated number of prime-time half hours for appearances by the presidential and vice presidential candidates of the major parties in the 1968 campaign. We proposed to offer the time without charge, for the candidates to use as they saw fit, if section 315 could be amended to enable us to do this. We regretted that the offer failed because there was no legislative sanction that would protect us from having to offer the same number of evening half hours to at least 10 other presidential candidates, ranging from the Theocratic to the National Hamiltonian parties.

Mr. President, I want to make it abundantly clear that the plan we are discussing does not tie the hands of the broadcasters or the nominees for the office of President or Vice President. It does not bind them to any particular format, especially that of debates. The networks have promised that they would make available free, as the candidates saw fit to use, a number of half-hour programs which, I guess, would be a fine attack on these expanding costs.

The Republican Party spent over $12 million last year for presidential TV time. The Democratic Party spent about $6 million. Six years ago, I think it was just the reverse.

This whole matter is getting out of hand. There have been a lot of gimmicks suggested. For instance, one of the committees investigating this suggested that the cost be cut in half and that the Government pay that half.

I tell you very frankly, Mr. President, that sounds good but I am afraid it will be a long time before Congress will begin to underwrite that kind of bill.

But the networks realize their responsibility and their pledge to render public service. Realizing the costs involved, they have agreed that if we relieve them of the responsibility under section 315, they will give equal time, free time, and a format to the choosing of the nominees themselves without any restrictions, without any inhibitions.

We want to do away with this empty chair gimmick to embarrass anyone.

I just want to make that clear because, according to the editorial, there could be a misunderstanding.

For the convenience of the Senate I ask unanimous consent that the Washington Star editorial in full be entered in the Record at the conclusion of my remarks.

There being no objection, the editorial was order to be printed in the Record, as follows:

TV and the Vote

The Senate's number one television watcher, Senator John O. Pastore, has produced a bill aimed at holding the political activity of the electronic Cyclops within reasonable bounds. Unfortunately, the blessings of the bill are considerably diluted by a proposal that the political monstrosity known as TV debates should be adopted as a permanent part of the elective process.

Certainly something has to be done to stop the wildly escalating cost of running for office. Any candidate, from dog catcher to president, is compelled to pour every cent he can lay his hands on into television and radio promotion. The increasingly common result is that the victory goes not to the candidate with the issues and the answers but to the man with the money, the sex appeal and the slogans.

The Pastore bill would limit the amount that can be spent to five cents for every vote cast for a given office in the preceding election. This ceiling, which would apply to all state-wide and national offices, would mean that presidential candidates in 1972 would be limited to $3.6 million each. Last time out, the Democrats shelled out $6.1 million and the Republicans $12.6 million for broadcast advertising.

There is nothing wrong, either, with the other major provisions of the bill that would abolish, the "equal time" rule. This restrictive yoke serves only to keep the nominees of major parties off major talk shows because of the possibility that a score of dingbat candidates will demand—and get—equal time.

But the intent of Pastore's bill is not merely to let the networks decide which candidates are to be taken seriously. The idea is to clear the decks for TV debates between presidential candidates, and to make such political sideshows fixed features of the political scene. It is an abysmal notion. Debating skill—particularly under the artificial and arbitrary limitations of the TV format—is no true test of judgment, executive ability or intelligence, which are more reasonable presidential qualities than verbal agility. In addition, it is unwise to hold such debates if one of the candidates is an incumbent president—which is the case roughly 50 percent of the time—because of the danger that in the heat of debate a president might produce a major disaster in diplomacy or national security.

The bill is expected to clear the Commerce Committee this week. When Congress starts chewing it over, two factors should be considered. First, those Republicans who might hesitate to limit campaign expenditures on the theory that it would help the impoverished Democrats, should remember that, not so very long ago, the tin cups were in their hands. Second, if Congress does anything at all about TV debates, it should outlaw them.

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. CRANSTON. Mr. President, on February 23, I announced my intention to vote against the confirmation of Judge G. Harrold Carswell as an Associate Justice of the U.S. Supreme Court. It is my intention to explain my opposition to the Members of this body, and it is my hope that what I have to say may move Senators favoring the confirmation of Judge Carswell to reconsider their position, and those who have not yet taken a position to take one against him.

Although I am opposed to this nominee, I do not desire my opposition to be construed as a denial of the constitutional power of the President to make judicial appointments. Under our Constitution, the President is given the power to make appointments to the Supreme Court. That power, however, is not unlimited, for article II explicitly makes these appointments subject to the advice and consent of the Senate.

As has been pointed out, the power of any President to nominate constitutes only one-half of the appointing process. The other half of this process lies within the jurisdiction of the Senate, which has the constitutional power and the solemn obligation to determine whether or not to confirm a particular nominee.

In an article written for Prospectus, a University of Michigan Law School publication, Senator Griffin, the distinguished assistant minority leader, reviewed the history of the powers to nominate and to confirm Supreme Court nominees. He found that conflicting views on this matter existed at the time of the constitutional convention, and that they were resolved through a compromise dividing the powers between the President and the Senate.

Those Founding Fathers who favored a strong executive favored giving the President unlimited powers in making appointments with one important exception: They feared giving him unlimited power over Supreme Court appointments. They thought such power might tend toward a monarchy. So they favored giving the Senate the unlimited power to make Supreme Court appointments. Others opposed giving the Senate this blanket power. The compromise embodied in the Constitution provides that the President shall nominate Justices to the Supreme Court and certain officers of the United States by and with the consent of the Senate. It gives to the President the prerogative to nominate individuals to Federal appointive positions. It gives to the Senate the right to pass upon the qualifications of certain of these individuals.

Mr. President, because of the importance of the issues involving Presidential prerogative and Senate rights in the appointing process, I would like to read selected parts from the article written by Senator Griffin:

Much of the controversy revolves around the appropriate functions of the President and of the Senate in the circumstances of a nomination to the Supreme Court. There are some who suggest that the Senate's role is limited merely to ascertaining whether a nominee is qualified in the sense that he possesses some minimum measure of academic background or experience. It should be emphasized at the outset that any such view of the Senate's function with respect to nominations for the separate judicial branch of the government is wrong and simply does not square with the precedents or with the intention of those who conferred the "advice and consent" power upon the Senate.

To assure the independence of the judiciary as a separate and coordinate branch. . . . it is important to recognize that this power of the Senate with respect to the judiciary is not only real, but it is at least as important as the power of the President to nominate.

No one denies the constitutional power of the President to make an appointment to the Supreme Court, technically even at a time when he is only a few months from leaving office. But, of course, that is *not* the point. Some have not understood, or will not recognize, that under our Constitution the power of any President to nominate constitutes only *one-half* of the appointing process. The *other* half of the appointing process lies within the jurisdiction of the Senate, which has not only the constitutional power but the solemn obligation to determine whether to confirm such a nomination. Because the Senate has not used its power of "advice and consent," there is a widespread belief that it is almost a rubber-stamp.

However, against the backdrop of history we must recognize that the Senate has not only the right but the responsibility to consider more than the mere qualifications of a nominee to the Supreme Court of the United States, the highest tribunal in a separate, independent and coordinate branch of the government. The Senate has a duty to look beyond the question: "Is he qualified?" The Senate must not be satisfied with anything less than application of the highest standards, not only as to professional competence but also as to such necessary qualities of character as a sense of restraint and propriety. A distinguished former colleague, Senator Paul Douglas of Illinois, put it this way:

"The 'advice and consent' of the Senate required by the Constitution for such appointments (to the Judiciary) was intended to be *real*, and *not* nominal. A large proportion of the members of the (Constitutional) Convention were fearful that if judges owed their appointments solely to the President the Judiciary, even with life tenure, would then become dependent upon the executive and the powers of the latter would become overwhelming. By requiring joint action of the legislature and the executive, it is believed that the Judiciary would be made more independent."

Illuminating the appropriateness of these views is the clear history of the formulation of constitutional obligations built into the structure of our government to realize such objectives as an independent judiciary and checks and balances on respective centers of power. In the Federalist Papers, Alexander Hamilton wrote that the requirement of Senate approval in the appointing process would ". . . be *an excellent check upon a spirit of favoritism of the President*, and would tend greatly to prevent the appointment of unfit characters from state prejudice, from family connection, from personal attachments, or from a view to popularity."

In the Constitutional Convention of 1787, James Madison generally favored the creation of a strong executive; he advocated giving the President an absolute power of appointment within the executive branch of the government. Madison stood with Alexander Hamilton against Benjamin Franklin and others who were concerned about granting the President such power on the ground that it might tend toward a monarchy. While he argued for the power of the President to appoint within the executive branch, it is very important to note that Madison drew sharp distinction with respect to appointments to the Supreme Court, the judicial branch. Madison did not believe that judges should be appointed by the President; he was inclined to give this power to "a senatorial branch as numerous enough to be confided in—and not so numerous as to be governed by the motives of the other branch; as being sufficiently stable and independent to follow clear, deliberate judgments."

At one point during the convention, after considerable debate and delay, the Committee on Detail reported a draft which provided for the appointment of judges of the Supreme Court by the Senate. Gouverneur Morris and others would not agree, and the matter was put aside. It was not resolved until the next to last day of the Constitutional Convention. The compromise language agreed upon provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint judges of the Supreme Court and all other officers of the United States." Clearly, the compromise language neither confers upon the President an unlimited power to appoint within the executive branch nor confers upon the Senate a similar power of appointment with respect to the judiciary. * * *

I believe that history demonstrates that the Senate has generally viewed the appointment of a cabinet official in a different light than an appointment of a Supreme Court Justice. * * *

The reasons for a limited Senate role with respect to executive branch appointments, however, do *not* apply when the nomination is for a *lifetime* position on the Supreme Court, the highest tribunal in the *independent*, third branch of government (footnote omitted). No less a spokesman than former Justice Felix Frankfurter has emphasized one of the chief reasons for the higher responsibility of the Senate to look beyond mere qualifications in the case of a Supreme Court nominee:

> The meaning of "due process" and the content of terms like "liberty" are not revealed by the Constitution. It is the Justices who make the meaning. They read into the neutral language of the Constitution their own economic and social views . . . Let us face the fact that five justices of the Supreme Court are the molders of policy rather than the impersonal vehicles of revealed truth.

In an oft-quoted statement Chief Justice Charles Evans Hughes noted wrly: "We are under a Constitution, but the Constitution is what the judges say it is."

Thus, when the Senate considers a nomination to one of the nine lifetime positions of the Supreme Court of the United States, particularly a nomination to the position of Chief Justice, the importance of its determinations cannot be compared in any sense to the consideration of a bill for enactment into law. If Congress makes a mistake in the enactment of legislation, it can always return at a later date to correct the error. But once the Senate gives its advice and consent to a lifetime appointment to the Supreme Court, there is no such convenient way to correct an error since the nominee is not answerable thereafter to either the Senate or to the American people.

Throughout our history as a nation, until the pending nominations were submitted, one hundred and twenty-five persons have been nominated as Justices of the Supreme Court. Of that number, twenty-one, or one-sixth, failed to receive confirmation by the Senate. The question of qualifications or fitness was an issue on only four of these twenty-one occasions. In debating nominations for the Supreme Court, the Senate has never hesitated to take into account a nominee's political views, philosophy, writings, and attitude on particular issues.

The Senate's responsibility to weigh these factors is not diminished by the fact that such professional organizations as the American Bar Association limit their own inquiries. The ABA committee on the federal judiciary has acknowledged limitations on its role. For example, letters from the chairman of the committee, Albert E. Jenner, to Senator James Eastland which transmitted the committee's recommendations with respect to the nominations of Abe Fortas and Homer Thornberry contained this statement:

> Our responsibility (is) to express our opinion *only on the question of professional qualification*, which includes, of course, consideration of age, and health, and of such matters as temperament, integrity, trial and other experience, education and demonstrated legal ability. *It is our practice to express no opinion at any time with regard to any other consideration not related to such professional qualifications which may properly be considered by the appointing or confirmed authority.* (Emphasis added).

Mr. President, Senator GRIFFIN's excellent article needs updating in one important respect. Since the time of its publication, three additional Supreme Court nominees have been submitted to the Senate. Of these, one Chief Justice Burger, was confirmed, and another, Judge Haynsworth, was rejected.

Mr. President, I am prepared to give special consideration to the President's wishes on matters relating to appointments to the executive branch. I recognize that unless he is given a strong hand in the choice of his associates, and the benefit of the doubt in cases where the merits or demerits of his nominees are not clear, he cannot be held accountable by the Congress or the people for the administration of the executive branch of Government.

I am not, however, willing to defer quite so easily to Presidential prerogative on matters relating to judicial appointments. It is true that Supreme Court justices are subject to impeachment proceedings. Unlike most other nominees, however, once judicial nominees are confirmed by the Senate, they are not directly accountable to either Congress, the Executive, or the people.

Federal judges serve for life and continue to affect the course of American history long after the President who nominated them has left the White House. This is particularly true of Supreme Court Justices who, as the final arbiters of our Constitution, set standards which are binding on both lower Federal judges and State judges.

Mr. President, before I outline my reasons for opposing the Carswell nomination, I want to clarify two additional points. I am not opposed to this nomination because Judge Carswell is a southerner. In my view, geographical factors should be irrelevant considerations in selecting Supreme Court nominees. President Nixon expressed this view in his 1968 campaign. But in picking first Haynsworth and now Carswell, the President obviously made geography his prime consideration. Their selections are an affront to the South, since the implication is that this section of the country has no distinguished jurists. I believe that the South possesses its full share of outstanding jurists—some of them "liberals" and some of them "conservatives"—whose capacity and character would grace our Nation's highest Court.

Neither am I opposed to the Carswell nomination because Judge Carswell is considered a "strict constructionist" on matters involving constitutional interpretation. I can respect the Presidential prerogative of nominating strict constructionists to the Supreme Court. In the case of this nominee, however, the President has chosen a man whose judicial capabilities are so limited that it is doubtful that he could perform capably even as a strict constructionist.

The evidence adduced by the hearings on the nominee casts grave doubts on his basic intellectual qualifications to sit on the Court. His record as a jurist, lawyer, and U.S. attorney is totally devoid of professional eminence or distinction.

I believe, and the President led the country to believe, that professional eminence must be an indispensable qualification to those who are privileged to be considered to positions on our Nation's highest Court. Both in his campaign speeches and Presidential pronouncements, President Nixon assured the American people that he would consider for the position of Chief Justice only men possessing the "highest qualifications." Surely, the American people are entitled to the same consideration in nominations for Associate Justices.

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Judge Carswell does not possess these qualifications. There is nothing distinguished in his record; on the contrary, his talents are permeated by a ubiquitous mediocrity.

Some have recently stated that mediocrity should be valued, rather than downgraded, and that it is essential to have a mediocre Associate Justice to represent those Americans who presumably are mediocre.

I cannot support this reasoning.

Who in America would want a mediocre Justice to sit upon our highest Court to pass upon his constitutional claims?

Clearly, there is no room for mediocrity in our courtrooms, especially in the Supreme Court which is the final arbiter of our constitutional rights. Those who have suggested that a mediocre Justice is necessary to represent mediocre Americans are not coming to grips with the real issue before the Senate. And, above all, they have grossly underestimated the intelligence and wishes of the American people.

I do not believe that the common man is mediocre or that he is entitled to mediocre justice. Every American, regardless of intellectual attainment, is entitled to have his complaint heard before a competent judge, whether at the trial of appellate levels.

I believe that the American people not only want, but are entitled to, the most highly qualified individuals to fill our Nation's highest and most responsible offices. This is particularly true in the case of Supreme Court positions, for, once Supreme Court nominees are confirmed, they cease to be directly accountable to the American people. As I have stated, Federal judges serve for life and continue to affect the course of American history long after the President who nominated them has left the White House. This unique feature alone requires the confirmation of only the most highly qualified nominees.

Mr. President, central to the question of mediocrity is the responsibility of constitutional interpretation. As today's Washington Post points out, perhaps the late Learned Hand, whose work is hailed almost universally as that of a great judge, explained best what qualifications a man needs for such fateful challenges:

> I venture to believe that it is as important to a judge called upon to pass on a question of constitutional law, to have at least a bowing acquaintance with Acton and Maitland, with Thucydides, Gibbon and Carlye, with Homer, Dante, Shakespeare and Milton, with Machiavelli, Montaigne and Rabelais, with Plato, Bacon, Hume and Kant, as with the books which have been specifically written on the subject. For in such matters everything turns upon the spirit in which he approaches the questions before him. The words he must construe are empty vessels into which he can pour nearly anything he will. Men do not gather figs of thistles, nor supply institutions from judges whose outlook is limited by parish or class.

Much has been said about Judge Carswell's insensitivity to civil rights. This stems in part from a white supremacy speech which he delivered over 20 years ago and in which he asserted that he would yield to no man in the firm vigorous belief in the principles of white supremacy and that he would always be so governed.

Though men do undergo changes of heart, Judge Carswell's record does not dispel lingering and disturbing doubts concerning the true nature of his present position on civil rights.

In 1956, at a time when he was a U.S. attorney sworn to uphold the Federal Constitution, he participated in a plan to convert a publicly owned golf course into a racially segregated club in an apparent attempt to avoid the Supreme Court's decision in *Holmes* v. *City of Atlanta*, 350 U.S. 879 (1955). In that case, the Supreme Court held that racially segregated municipal golf courses violated the equal protection clause of the 14th amendment.

Judge Carswell denied any knowledge of the discriminatory motives which prompted the conversion of the municipal golf course into a racially segregated private club.

Yet, he acknowledged that, at the time the conversion took place, he was aware of the fact that many lawsuits had been instituted in many places to prevent the type of subterfuge to which he claims not to have been a knowing party. Moreover, at the time of the conversion, a Tallahassee newspaper carried a front-page story in which the city commissioner stated that racial factors were hinted as the reason for the club's conversion into a private club.

After the hearings on the nominee had closed, it was reported that Judge Carswell joined in conveying a deed which contained a racially restrictive covenant. The property involved was acquired by Mrs. Carswell from her brother who had earlier acquired it from the Federal Government under a deed which did not contain such a covenant. The racially restrictive covenant was added by Mrs. Carswell's brother, and it was retained in the deed which was conveyed by Judge Carswell and his wife.

I am greatly troubled by Judge Carswell's participation in this transaction. Surely, a Federal judge who is sworn to uphold the Constitution of the United States knows or should have known that enforcement of racially restrictive covenants has been deemed to violate the rights guaranteed by the 14th amendment since 1948. *Shelley* v. *Kraemer*, 334 U.S. 1 (1948). Although I have no way of knowing whether or not Judge Carswell actually read the deed carefully and was aware of this restrictive covenant, I have yet to hear him say one word about this matter.

There is no evidence in Judge Carswell's record that he ever changed the white supremacy views which he held as a young political candidate. The hearings show that he first disavowed these invidious views 22 years after their espousal, and then only when he was nominated to the Supreme Court and was publicly confronted with his own past.

I am convinced that the Senate would resoundingly reject a nominee who in the past advocated black supremacy, whose life record was consistent with that view, and who finally renounced his black supremacy philosophy only when nominated for the Supreme Court.

Mr. President, questions concerning Judge Carswell's candor to one side, I believe that Judge Carswell's position on civil rights will put America's morality to the test.

Two Washington columnists, Frank Mankiewicz and Tom Braden, stated it this way in an article which appeared in the Washington Post on March 17:

> The practical test of how the country feels about its race problem will be made in the next few weeks. Senators opposed to the Supreme Court nomination of G. Harrold Carswell plan—in effect—to test the national morality.

They go on to state:

> If the country doesn't care, Carswell is in, with perhaps 40 votes against him from senators who make equality of race a matter of personal morality. In putting the Carswell issue before the nation, they are not so much asking others to adopt their view as they are saying in effect, "Do you want a man of the extreme opposite view so dignified as to participate in the deliberations of the nation's highest court?

They believe that the answer to this question depends on the degree of national commitment to the principle of equality. They couch this answer in the following terms:

> If Mr. Nixon is right in his earlier suggestion that those who want permanent segregation of the races constitute an acceptable part of the spectrum of public opinion, there is no reason why Carswell shouldn't make the court. On the other hand, if the nation really believes that the law is color blind, and that black citizens are entitled to the privileges and immunities of the Constitution, it cannot have a Carswell in the position of interpreting that Constitution.

> The strategy of the opposition is to ask the country to decide.

In concluding, Mr. Mankiewicz and Mr. Braden made the following observations:

> In other years and in other times it might have been thought that a president was asking too much of his party to go down the line for a man who helped to re-segregate a public golf course after the Supreme Court had ruled it was unconstitutional, who did not repudiate his statement that "segregation of the race is only proper and correct way of life" until he was nominated, and who bullied civil rights attorneys in his court.
>
> But after the events of the last few months, Carswell's views may reflect an emerging national standard. The debate—and the public reaction to it—will tell.

Mr. President, I turn now to the matter of ethics.

Last Friday the distinguished assistant minority leader of the Senate stated on the floor that, unlike the Haynsworth nomination, the Carswell situation involves "no significant challenge or significant question raised in the record involving ethical considerations."

It seems to me, however, that ethical questions are not restricted to cases involving financial considerations and conflicts. And I believe that the hearing testimony about Judge Carswell's hostile and nonimpartial demeanor and attitude on the bench toward lawyers raising civil rights contentions before him raises grave ethical questions.

I have read the hearing record, and I have read the Canons of Judicial Ethics. And again, it seems to me, as a layman, placing the two documents side by side, that Judge Carswell's judicial behavior raises most serious questions of violation of Canons 5, 10, and 34. These canons are as follows:

> 5. ESSENTIAL CONDUCT
>
> A judge should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavoring to ascertain the facts.
>
> * * * * *
>
> 10. COURTESY AND CIVILITY
>
> A judge should be courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court.
>
> He should also require, and, so far as his power extends, enforce on the part of clerks, court officers and counsel civility and courtesy to the court and to jurors, witnesses, litigants and others having business in the court.
>
> * * * * *
>
> 34. A SUMMARY OF JUDICIAL OBLIGATION
>
> In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, *courteous, patient,* punctual, *just, impartial,* fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influences; he should administer justice according to law, and deal with his appointment as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

I am not a lawyer, but the responsibility for making judgments and decisions in our Nation in these matters is not limited to lawyers. The President, empowered by the Constitution to nominate Justices of the Supreme Court, need not be an attorney. Members of the U.S. Senate, empowered by the Constitution to advise and consent in Supreme Court appointments, need not be lawyers. Actually, under the Constitution, Supreme Court Justices themselves do not have to be attorneys.

So I, a layman, chosen by the people of California to represent them in the Senate, must exercise my own judgment in the matter of the Carswell nomination, and all facts, issues and testimony relating to it.

I would like to read one brief extract from the report of the Judiciary Committee on the nomination of Judge Harrold Carswell, these being the separate views set forth by Senators HART, KENNEDY, and TYDINGS. They said, in a part of their statement:

> Our judicial system must accord litigants a fair hearing. Justice is not dispensed when a judge's personal views and biases invade the judicial process. In Judge Carswell's court, the poor, the unpopular and the black were all too frequently denied the basic right to be treated fairly and equitably.
>
> Judge Carswell was simply unable or unwilling to divorce his judicial functions from his personal prejudices. His hostility towards particular causes, lawyers, and litigants was manifest not only in his decisions but in his demeanor in the courtroom.

The record of the hearings held by the Judiciary Committee on Judge Carswell contain charges of behavior by him, both in his court and in his chambers, that violates Canons 5, 10, and 34. I have personally talked with four civil rights attorneys, white and black, who have appeared before Judge Carswell. They make the same sort of charges. Let me say that before charging Judge Carswell with violating the Canons of Ethics, I wanted to talk personally with attorneys who appeared before him.

It is most evident that there is a consistent pattern in his behavior of bias and hostility toward anyone arguing a civil rights case, of emotionalism, intemperance, and anger, and a close-minded determination to prejudge the cases before him even without listening to them.

Judge Carswell showed his antagonism toward all civil rights attorneys, including U.S. attorneys, and regardless of whether they were black or white.

This conduct violates Canons 5, 10, and 34. This conduct constitutes overwhelming evidence that Judge Carswell is not capable of the evenhanded justice Americans are entitled to in every court, high or low.

Of the four attorneys with whom I talked, two had not testified before the Judiciary Committee. One of these is Theodore Bowers. The other asked not to be identified. John Lowenthal and LeRoy D. Clark, with whom I talked, had testified.

I refer now to notes that I made during the course of my conversations with these attorneys. I refer first to notes of my conversation with Theodore Bowers, an attorney in Panama City, Fla.

He said of his experiences in Judge Carswell's court that the judge was hostile, even in regard to routine procedural matters.

He stated that civil rights cases seemed to affect him emotionally, that he would get excited in the course of such trials in his court.

Bowers told me that Judge Carswell turned away from him, looking off to the side, turning his body to the side, when he was presenting an argument. He stated that Judge Carswell stayed turned aside throughout half of his total argument. He argued for 10 minutes, and for 5 of those minutes Judge Carswell was looking away, had turned bodily away, seemed to be totally ignoring the case he was seeking to make.

He stated that Judge Carswell would appear especially hostile when he, Theodore Bowers, or others cited decisions of the Supreme Court. Judge Carswell attacked Supreme Court decisions while he was sitting on the bench of a lower court.

All this, said Bowers, was a consistent pattern of behavior by Judge Carswell from 1964 until 1968, when he left the court where these observations were made.

Theodore Bowers added that the judge would attack attorneys appearing in desegregation cases, and all this, he said, constituted what he would term to be "totally improper judicial posture."

Mr. President, another attorney, who did not wish me to name him, recalls also Judge Carswell turning away when he was making his argument, ignoring what he was seeking to say, the statements he was making in arguing his case.

He said:

> I always felt there was an apparent burden on me in civil rights cases, beyond the normal burden of an attorney to prove his case in a normal case. In fact, he seemed to assume from the start that my side was wrong.

This attorney, too, stated that Judge Carswell would get excited in his courtroom, that he would lose his temper, and that he seemed to prejudge civil rights cases, adopting a hostile attitude before the first word was said **by** attorneys in civil rights matters. In one case, he said, Judge Carswell advised him, "Go ahead and talk if you want to talk, but you are wasting your time."

He also stated that Judge Carswell was impatient with him when he was seeking to present his case.

Another attorney, Leroy D. Clark, who is an associate professor of law at New York University, told me that Carswell would listen intently to the opposing counsel; then, when he would start his testimony on the other side in a civil rights matter, the judge would turn away, appearing bored and indifferent, as if what this attorney might say would be totally unimportant to the proceedings in the courtroom.

Clark also told me that Judge Carswell would get "angry and excited" in the course of civil rights cases in his court; he would be disrespectful to attorneys, he would be brusque, he would be abrupt, he would be impatient. Clark said, "It was just outrageous."

Clark told the committee, and also told me, that he literally had to coach attorneys before they appeared before Judge Carswell. They would act out how things would be expected to happen in his court. He would have to warn young attorneys, before they appeared before Judge Carswell that Judge Carswell would not let them complete an argument, that he would cut them off in the middle of a sentence, and they would practice this; they would practice with these young attorneys speaking to someone acting the part of a judge who would turn his back in the midst of an argument.

Clark said that he thought much of this was deliberate—the cutting off of the attorneys in the middle of a sentence—because such action would make the record, on appeal unclear, and muddy, thus make it more difficult to win the case on appeal.

Mr. President, I was quoting from statements made to me by Leroy D. Clark, associate professor of law at New York University, concerning the behavior of Judge Carswell as he had witnessed and experienced it in his court. He spoke of what he called "antics" by Judge Carswell which he felt were designed to intimidate and confuse the attorneys in his court. Some of these antics were grimaces, others consisted of turning his body, including his face, away from the lawyers, of constant interruptions, and of ignoring the words of the attorneys in his court. While these acts cannot really be made a part of the trial record, they serve to confuse the lawyers, and reduce the chances of winning on appeal.

He said that the judge would be extremely impatient with certain attorneys, including Mr. Clark. He said, "Rarely could you complete an argument in his courtroom." In his opinion, Judge Carswell was not an impartial mediator; in fact, he would take up the argument of the other side. For example, if opposing counsel failed to make their points, Judge Carswell would make them for them, and he would suggest the kind of questions which he wanted opposing counsel to raise. Clark said, "It was rather embarrassing to be there, up against two attorneys without a judge in the court."

He stated that Judge Carswell would make it plain that nothing that an unfavored attorney could say would affect him in any way. Signficantly, Mr. Clark told me that he was representing not only his views of Judge Carswell, but also those of several civil rights lawyers, who also practiced before Judge Carswell and who independently voiced the same complaints.

Professor Clark said that he had argued civil rights cases before judges in Alabama and Mississippi, and even though the judges may have been opposed philosophically to the interests of his clients, each of them, "acted like southern gentlemen" and presided fairly over the proceedings.

At this point, I would like to quote from statements made to me by Prof. John Lowenthal, a full professor of law at Rutgers University, on the matter of Judge Carswell's judicial temperament.

He said that, from the outset of proceedings, Judge Carswell would always evidence a predisposed view and a closed mind. This was apparent even before any testimony had been presented.

Professor Lowenthal described one incident which occurred in Judge Carswell's chambers, which is particularly distressing.

Judge Carswell remarked to Professor Lowenthal that he was "predisposed to do my clients in."

According to Professor Lowenthal, Judge Carswell's total lack of interests in the legal arguments led him to conclude, "If I ever saw a lack of judicial temperament, there it was."

Professor Lowenthal reiterated observations made by other lawyers with regard to Judge Carswell's propensity to become excited when civil rights cases were before him. He stated that Judge Carswell's voice would rise to a high pitch and that he would become quite hostile toward the civil rights attorneys.

He said, "I have never practiced before a judge more overly hostile than Judge Carswell."

Finally, John Lowenthal said, "Judge Carswell displayed a threatening attitude toward me."

Today, I also received a statement from still another attorney, who practiced before Judge Carswell.

I refer to Mr. Knopf and refer specifically to the transcript of a TV interview which he gave last Thursday, March 12, 1970, to Carol Lewis, Capital news correspondent of WTOP News, in Washington.

Mr. Knopf testified before the Senate Judiciary Committee under a subpena. At that time he was an attorney at the Justice Department.

After leaving the Justice Department and entering private practice, he said in an interview on WTOP News with Carol Lewis that he felt he could say more. He in fact added considerably more depth to his testimony given before the Senate Judiciary Committee.

I would like to read some excerpts from the TV interview:

> KNOPF. When we first started out by asking the attorney where he was from and whether he was a member of the Florida bar and the attorney explained that they could not get members of the Florida bar to work in this controversial area of civil rights . . . that he had volunteered. And Judge Carswell then went on . . . delivered to him a lecture in a very loud voice and a very angry tone . . . telling him that he had no business coming down to Florida he didn't approve of lawyers meddling in local affairs and stirring up the local people with regard to civil rights I distinctly remember this because we had been trained . . . the little training we had received . . . at how to get civil rights workers out of jail. And I was listening to this lecture and listening to the judge getting angrier and angrier I began to wonder what do you do to get a lawyer out of jail. And then as the judge continued and got further angry I started to worry about what I would do to get myself out of jail because I expected that all of us would have been thrown in on some charge for contempt of court or something like that. He was that angry and that upset about our presence in Florida.
>
> LEWIS. You said Judge Carswell lectured the lawyer. In what way did he lecture him? *What was the gist of his argument there in the courtroom?*
>
> KNOPF. Essentially, that we had no business coming down to Florida and helping out other persons because we were just making trouble, that everything was peaceful before we had come down and that we were just stirring up trouble. The lawyer explained to him that we were trying to have these black people exercise their constitutional right to vote but this made no impression with the judge. And he also explained that every day these students stayed in jail . . . these voter registration workers . . . there was a danger that they would be beat . . . by other prisoners or by the guard officials and we seriously were concerned for their safety. This again had effect on him. We also said that the arrest was totally illegal and he had no choice but to release them.
>
> And he said there must be some way that he could keep them in jail . . . even though the law was clear that he could not.
>
> LEWIS. Would you say that he showed a certain insensitivity toward the role of the lawyers in the civil rights struggle. How would you characterize his attitude towards the whole struggle that you were involved in?
>
> KNOPF. It was quite clear to me that he was totally opposed to all of our efforts. He implicitly or explicitly stated that he wanted to in no way help the civil rights efforts going on in Northern Florida at that time.
>
> LEWIS. Mr. Knopf, you were a young lawyer who went to down to Florida feeling quite strongly about civil rights obviously. Is it possible that you yourself felt hostile toward the judge because he was a white Southern judge?
>
> KNOPF. As a matter of fact, what I have learned in law school which proved false in this case was that we could expect hostility from the local state judges. But at least in federal court we thought we could get an impartial judge, and by impartial as lawyers as I guess the general public knows we meant someone who would listen to both sides and arrive at a conclusion based upon the evidence presented to him by competing sides. Here I found a judge who had no other side before him. There were only the civil rights side presented, who needed no other side because he took that position. He was the advocate for the anti-civil rights forces. He made all the arguments and had the attitude that there should be no relief granted civil rights attorneys. So instead of an impartial judge we were faced by his actions, I'd say . . . we were faced with a judge who already had his mind made up and he had said bluntly that he would do everything he could to make sure we were denied the relief that we requested.
>
> LEWIS. During the hearings on Judge Carswell a statement he'd made in 1948 . . . a political statement clearly showed him to have some racist opinions. This was in 1948. From your experience of him in 1964 do you think he had changed from that position?
>
> KNOPF. Well, any judge in my opinion who states that he will do everything he can to keep civil rights workers in jail, even though the law clearly favored their release, would seem to favor anti-civil rights actions and would be in accordance with his original speech.
>
> LEWIS. Going back to your testimony . . . you were under subpena, Mr. Knopf. You were then working for the Justice Department and you no longer are working for the Justice Department. Did you . . . Was any pressure put on you from the department not to give total evidence before the committee?
>
> KNOPF. No. The department was quite concerned about my presence there but they also went out of their way to make sure that nothing was said to me in the way of

pressures that could be later interpreted as pressure being put on me.

Lewis. You were very very careful during the testimony not to express your opinions . . .

Knopf. Well, it was suggested to me by various department officials that I was subpenaed to give the facts and not to give my opinions and I took those suggestions . . .

Lewis. Who suggested that?

Knopf. Well, I'd say they were from persons I regarded as trying to help me, rather than persons that were trying to get me in any difficulty.

Lewis. Well, during the testimony you gave, Senator Tydings said . . . "Do you think that Judge Carswell gave a fair and unbiased hearing to persons in his courtroom" . . . and at that time you said . . . "Senator, if I may duck that question." Now, you're no longer with the Justice Department. Mr. Knopf, don't duck the question now.

Knopf. I would say that civil rights . . . my civil rights clients . . . did not receive a fair and impartial hearing at all. They were met with a judge who had made up his mind in advance that he would deny them all relief if he possibly could.

Lewis. One of the arguments put forward in favor of Judge Carswell is that he is a strict constructionist and therefore we should forgive some of the decisions that he made. From your experience with Judge Carswell would you say that he is a strict constructionist . . . or is there another way you could describe him as a Judge?

Knopf. Well, any judge who says to a lawyer as he did to us that he doesn't care what the law says, but there must be some way he can get around it, in my view is not a strict constructionist . . .

In summary on this matter of ethics and in relationship to my view that Judge Carswell has violated Canons 5, 10, and 34 of the Canons of Judicial Ethics, I refer to the language in those canons:

5. ESSENTIAL CONDUCT

A judge should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavoring to ascertain the facts.

* * * * *

10. COURTESY AND CIVILITY

A judge should be courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court.

He should also require, and, so far as his power extends, enforce on the part of clerks, court officers and counsel civility and courtesy to the court and to jurors, witnesses, litigants and others having business in the court.

* * * * *

34. A SUMMARY OF JUDICIAL OBLIGATIONS

In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influences; he should administer justice according to law, and deal with his appointments as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

The evidence in the transcript of the hearings of the Judiciary Committee and the evidence that I today placed before the Senate from several attorneys, one of whom did not appear before the Judiciary Committee, and one of whom lately had more freedom to express his views, clearly shows that Judge Carswell's behavior in his court was, indeed, violative of Canons 5, 10, and 34 of the Canons of Judicial Ethics.

Mr. President, I now would like to turn to the views of those whom I represent here, the citizens of the State of California. They have taken the time to communicate to me their views concerning Judge Carswell. To date, I have received approximately 2,000 letters, and they are running 40 to 1 against the confirmation of the nomination of Judge Carswell. I wish to read extracts from some of these letters.

First, I would like to read a letter which is not from a constituent. I do so because I have received many letters from individuals outside California who oppose confirmation of Judge Carswell. This letter is from the Community Legal Assistance Office in Cambridge, Mass.:

Community Legal Assistance Office,
Cambridge, Mass., March 11, 1970.

Senator Cranston,
Senate Office Building,
Washington, D.C.

Dear Senator: As a concerned citizen and as an attorney who represents the have-nots in this country, I feel compelled to write you urging that you vote against President Nixon's appointment of Judge Carswell to the Supreme Court.

In my work as a legal services lawyer in a number of communities, I have been in constant contact with the poor. A great many of them are black or Puerto Rican. In large measure, the goal of our program is to demonstrate to these oppressed groups that through use of our legal institutions, great strides can be made to end the cycle of racism and poverty in America. However, such a promise of help through the law becomes both illusory and hypocritical when the President appoints a man whose background would hardly justify confidence on the part of our clients. A judge who has had an undistinguished career on the bench, who has achieved no great distinction as a scholar or writer, who made that infamous speech over twenty years ago, who reinforced his lack of understanding and sensitivity to racial problems by participating in a scheme for the purchase of a municipal golf course, who has a record of antagonism toward civil rights lawyers, and who participated as recently as three years ago in the sale of property with a restrictive clause (violating a Supreme Court decision) is certainly not the type of candidate worthy of Supreme Court appointment.

I understand the natural hesitancy of a Senator to question the judgment of the President. However, the nomination of Judge Carswell represents such a slap in the face to all of those with whom we constantly work to encourage participation in the "system" that you must oppose it. Much of the work thousands of dedicated young attorneys and others are performing will be undone if Judge Carswell is permitted to join the Supreme Court.

I hope these thoughts will help persuade you that there is only one course of action you can take in good conscience.

Cordially,

Louise Gruner Gans,
Staff Attorney.

Then, here is a letter which states:

March 10, 1970.

Re Senate confirmation of Judge Carswell.

Senator Alan Cranston,
Senate Office Building,
Washington, D.C.

Dear Senator Cranston: As an individual deeply concerned with the fight for dignity and human rights for all Americans I must register my complete dismay and dissatisfaction with the prospective confirmation of Judge Carswell to the United States Supreme Court. Judge Carswell's record in matters relating to human rights and equal rights for minorities indicates that he has a "passionate disrespect" for racial equality or understanding. His appointment to the Supreme Court would have an extremely damaging affect upon the faith that all people have in both the ethics and credibility of our nation's highest court.

I fervantly urge that you and your colleagues in the Senate reject this blatant attempt to introduce racism to the Supreme Court.

Sincerely,

Gene C. Johnson.

Here is another letter:

February 16, 1970.

Hon. Allan Cranston: As a veteran of the Vietnam conflict, I served in the defense of all Americans, regardless of their color or religion. I firmly believe, as I'm sure you and all other responsible Americans do, in the principle of equality for *all* Americans. I feel that the nomination of G. Harrold Carswell to the Supreme Court would be an appalling blow to civil rights and human dignity in this country. Therefore, I strongly urge you to vote against this nomination.

Sincerely,

Mark Katzman,
Ensign, USNR.

A group of law students wrote me the following letter:

Dear Senator Cranston: As law students, our professional training helps us perceive the gravity of the issues raised by the nomination of G. Harrold Carswell to the Supreme Court. Even a cursory study of constitutional history makes clear the lasting imprint on the nation for good or for ill of each appointment to the Court. Our sober recognition of what is now at stake in filling the seat once held by Holmes, Cardozo and Frankfurter—jurists of wisdom and intellect—requires us to record our deep dismay at the nomination of a man whose lack of qualification for elevation to the Supreme Court is plain.

It is argued that the present nominee is a "strict constructionist" whose confirmation would bring "balance" to the Court.

We know something, however, of the difficulty of resolving legal questions. We know the fallacy of believing that the words by which the Constitution guarantees our scheme of ordered liberty and justice can be construed as if they contained, as Holmes put it, "only the axioms and corollaries of a book of mathematics." "Due process of law," Justice Frankfurter has written, "conveys neither found nor fixed nor narrow requirements. . . . It is of the very nature of a free society to advance in its standards of what is deemed reasonable and right." It is precisely because, as Holmes has taught us, "judges are called upon to exercise the sovereign prerogative of choice" that we ask what accomplishments of Judge Carswell suggest that he deserves a place in this tradition.

We do not deny the President's prerogative of effecting a balance on the Court of men of highest distinction from different schools of judicial philosophy within the contemporary tradition whose rational discourse may advance constitutional jurisprudence, or even of effecting a geographical balance. Our concern over the present nomination, therefore, in no way derives from Judge Carswell's Southern background. We know of many Southerners who, as outstanding judges, lawyers and legislators, have contributed their wisdom, compassion, perspective and courage to the development of our laws. The confirmation of a nominee of little distinction would be no monument to Southern jurisprudence. What view of the Supreme Court, we wonder, other than sheer contempt, requires "balance" by mediocrity?

Judge Carswell's record concerns us both for the presence of just the prejudice and fitfulness which Cardozo cautioned against and for the absence of excellent deserving of the highest reward.

We are concerned over his early statement of undying adherence to white supremacy beliefs, perpetuated by his intolerant behaviour toward civil rights petitioners and their lawyers, his incorporation of a club to thwart integration, his sale of property subject to a racially restrictive covenant, his "darky joke", and his disturbing rate of reversal in civil rights cases. Such evidence does not demonstrate the growth of Judge Carswell's decency and maturity—a minimal requisite for a judge called upon to interpret constitutional language which must draw its meaning from "the evolving standards of decency that mark the progress of a maturing society."

We are even more concerned, however, that Judge Carswell's record is devoid of any trace of distinction or contribution to the law which might set him apart from other judges and lawyers. It has been recognized that Judge Carswell even falls well below the average of the more than 500 federal judges in both his scholarship and craftsmanship and in his perception and articulation of issues in his opinions.

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We thus urge the Senate fully and faithfully to exercise its constitutional trust of independent review of this most important appointment: not to presume qualification in the absence of its disproof (although much disproof there be). Rather, we urge the Senate to require an affirmative showing that Judge Carswell possesses some special qualities of spirit and achievements of intellect for which he deserves elevation to the highest office of a co-equal branch of government. In their absence, we submit, confirmation must be withheld.

This letter is from Sacramento, Calif., my State capital:

SACRAMENTO, CALIF.,
March 13, 1970.

Hon. ALAN CRANSTON,
U.S. Senate
Washington, D.C.

DEAR SENATOR CRANSTON: My wife and I have generally been members of the "silent majority", taking few opportunities to state our opinions on political issues and priding ourselves on analyzing political issues and government representatives. However, we feel the time has come to speak out on the nomination of Judge Carswell to the United States Supreme Court.

We strongly urge you to vote *against* his approval. The Supreme Court is the highest body of men in the country—in some respects outranking the President; to approve a member of this court demands the closest of scrutiny before approval and a maximum of ability from the nominee. In my opinion—hopefully yours also—Mr. Carswell falls far short. His background is that of a racial bigot and he has done little to indicate his views have changed. In addition the legal intellect demanded of a Supreme Court Justice is lacking in Mr. Carswell. Review of appeals from his court indicates approximately 50% reversal by the same Supreme Court to which he has been appointed by President Nixon. Many of the foremost leaders in jurisprudence have spoken out against approval despite the American Bar Association vote.

We're sure it is not necessary to recite the specific instances in the case against Mr. Carswell as you know them well. We hope you will vote against approval; however, if you are in favor of approval, we would appreciate hearing of your reasons. We shall eagerly await the confirmation vote.

Thank you for your time; we hope hearing from your electorate helps you reach a decision.

Sincerely yours,
JOHN W. YOUNG, M.D.
KAREN C. YOUNG.

The next letter is from a Republican campaign worker in San Carlos, Calif.:

JANUARY 28, 1970.

Senator ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: As a registered Republican and campaign worker, I am asking you not to vote for the Supreme Court confirmation of George Harrold Carswell. I am sure that Justice Carswell meets the needs of the judicial system of the United States Court of Appeals. I am also sure that Justice Carswell's views of our world is not one that we want as a national standard.

I do not believe that statements attributed to Justice Carswell reflect the type of character of an individual that will so greatly influence our national manners. If we are truly interested in law and order, I suggest that those who set the national standards such as the President and The Congress begin by demonstrating the type of law and order intended in the Constitution and not the type of law and order that serves political needs.

Very truly yours.
WILLIAM D. GOODELL.
SAN CARLOS, CALIF.

The next is a letter from a committee of attorneys and accountants who also oppose the confirmation of Judge Carswell:

COMMITTEE OF ATTORNEYS AND ACCOUNTANTS AGAINST CONFIRMATION OF JUDGE CARSWELL,
Portland, Oreg., March 13, 1970.

Re: Judge Carswell.
Honorable ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: Soon you will be performing one of the most important functions of your job as United States Senator—confirming or denying the latest nominee to the United States Supreme Court, Judge G. Harrold Carswell of Tallahassee, Florida. Our Committee feels Judge Carswell should not be confirmed.

In 1948 Judge Carswell said that he would always be governed by the principles of White Supremacy. Of course talk is cheap and the comment was made during an election campaign against a sworn segregationist. Judge Carswell's renouncement of that statement seems to lay to rest fears of his White Supremacy feelings. But that renouncement also came during a time he is being considered in a campaign for appointment to the Supreme Court. Again, talk may be cheap.

Our Committee's concern is that actions speak louder than words. Judge Carswell's actions since 1948 tend to confirm his White Supremist statement. As a District Court Judge, Carswell continued to interpret cases involving Negroes from a segregationist point of view even though the United States Supreme Court and his immediate Court of Appeals, the Fifth Circuit, had reversed him and others on cases on that very point. As a private citizen Judge Carswell gave legal advice to operators of a public golf course helping them to convert it into a private club so that Negroes could not be admitted.

Finally as recently as 1966, Carswell, while a Judge of the United States District Court, signed a Deed surrendering his curtsey rights. That Deed contained a convenant providing that the property involved would never be sold to a non-caucasian, a convenant contrary to the very laws he interpreted as a District Court Judge!

It is the fear of this Committee that racism has been nominated to a high place where it does not belong. You, as a United States Senator, cannot and should not allow a White Supremist by Self-proclamation and by actions to become a Justice on the United States Supreme Court. You, our Committee and our nation cannot withstand such a terrible thing to occur at this stage of our societal development.

Please vote against confirmation of Judge G. Harrold Carswell's nomination to the United States Supreme Court.

Very truly yours,
GEORGE WITTEMYER,
Chairman.

The next letter is from a large number of law professors at UCLA:

FEBRUARY 20, 1970.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Surely no one who values the unique role of the United States Supreme Court as both a symbol and as a vital instrument of liberty can relish the spectacle of yet another struggle in the effort to maintain high standards and judicial integrity on the nation's highest tribunal. Exhausted from a struggle to save the Court from the damage it would have suffered from the appointment of a judge who demonstrated a singular insensitivity to accepted norms of behavior in conflict of interest situations, the legal profession must now protect the court from a one-time self-professed white supremacist whose undistinguished career on the bench has contributed to the fulfillment of the vows he made more than twenty years ago to uphold the "ideals" of racial segregation.

The Supreme Court is as threatened now by racism as it was by impropriety two months ago. A judge whose career has all too frequently been marred by evasion of the letter and spirit of Supreme Court decisions, who has repeatedly been reversed by the Court of Appeals for his decisions in racial cases, and who has demonstrated a callous indifference to the constitutional rights of America's black citizens can hardly be gauged the right man for the Supreme Court at this turning point in American history.

For these reasons, as law professors who view the law as an instrument of peaceful and orderly social change, we feel a special responsibility to oppose the elevation of G. Harrold Carswell to the Supreme Court.

Respectfully,
Benjamin Aaron, Reginald H. Alleyne, Michael R. Asimow, Robert C. Casad, George P. Fletcher, Kenneth W. Graham, Jr., Donald G. Hagman, Martin H. Kahn, Kenneth L. Karst, William A. Klein, James E. Krier, Leon Letwin, Henry W. McGee, Jr., Melville B. Nimmer, Monroe E. Price, Paul O. Proehl, Joel Rabinovitz, Ralph S. Rice, Barbara B. Rintala, Gary T. Schwartz, Herbert E. Schwartz, Henry J. Silberberg, Frederick E. Smith, William D. Warren, Richard A. Wasserstrom, Professors of Law.

Mr. and Mrs. Lawrence G. Mohr, Jr., of Menlo Park, Calif., wrote the following letter:

MENLO PARK, CALIF.,
March 15, 1970.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: This letter is to protest the nomination of Judge Carswell to the Supreme Court.

It is totally reprehensible to me, a young white man, that the nomination may have a possibility of being ratified. My wife and I, as well as many of our friends, feel this selection not only runs counter to the obvious trend of requiring actions to demonstrate sincerity on matters such as race and equal rights. Any individual nominated to this highest bench must have total credibility with at least one tenth of our nation.

Most importantly, the judge does not meet the standards which we feel are minimal. The recent protest from eminent laws schools clearly demonstrates the judge's inadequacies.

Please vote against this nomination.

Very truly yours,

LAWRENCE G. MOHR, Jr.
NANCY H. MOHR.

Mr. George T. Caplan, from Los Angeles, Calif., wrote me as follows:

LOS ANGELES, CALIF.,
March 12, 1970.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: I am writing to you to urge you in the most forceful terms to oppose the nomination of Judge Carswell to the United States Supreme Court. As a lawyer and as a constituent of yours I feel most strongly and earnestly that the caliber of the highest bench will be substantially demeaned should Judge Carswell be confirmed. Certainly, there must be lawyers and judges in the South who are also Republicans and Conservatives who have significantly greater intellectual qualifications than Judge Carswell who, I can only conclude, can fairly be characterized as mediocre at best. As a lawyer I am reluctant to use these words to describe a judge but I believe that the magnitude of the error which would be committed should the Senate confirm his nomination requires vigorous opposition.

Respectfully yours,

GEORGE T. CAPLAN.

Rev. Edwin C. Lingberg, pastor of the Temple City Christian Church of Temple City, Calif., wrote me the following letter:

TEMPLE CITY CHRISTIAN CHURCH,
Temple City, Calif., March 11, 1970.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: I am writing to protest the nomination of Judge G. Harrold Carswell to the United States Supreme Court.

I urge you to vote against confirmation on these grounds.

First, the public statements and actions of Judge Carswell, together with his record of past decision, indicate to me that he is not as sensitive as he needs to be in the area of civil rights. Our nation is polarizing more and more on this issue. The Supreme Court has been a key institution in support of more sane civil rights for all persons. Its members should be outstanding examples of persons committted to civil rights for all men.

Second, the Supreme Court has, in recent years, given more emphasis to human rights than to property rights. As I read the Constitution, and especially the Bill of Rights, it seems to be most concerned with these precious human rights. I would not want to see the Court move away from this concern. I feel that Judge Carswell is more concerned with property rights than with human rights.

Again, I urge you to vote against the confirmation of Judge G. Harrold Carswell to the United States Supreme Court.

Sincerely yours,

EDWIN C. LINBERG.

Mr. Peter Haberfield, an attorney with California Rural Legal Assistance, wrote me the following letter:

CALIFORNIA RURAL LEGAL ASSISTANCE,
Marysville, Calif., March 12, 1970.

Senator ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: I am a legal service attorney in Marysville, California. My clients are poor whites, poor browns, and poor blacks. As one who sees his role as channeling conflict into legal mechanisms, and who sees as the necessary requirement for this task that poor people maintain some hope in legal processes, I wish to voice my very strong objections to the nomination of Judge Carswell to the Supreme Court. The combination of his now infamous speech, his involvement in the purchase of the municipal golf course, the antagonism which he demonstrated toward civil rights lawyers (some of whom I practiced with while in the civil rights movement in the south), and the recent disclosure of his involvement in the sale of property with the restrictive covenant makes him a man that cannot maintain the confidence of the poverty communities of our country. How can a black person give a man the benefit of the doubt with this record? I assure you that I have not met a black person who could venture such questionable "understanding".

This nomination, coupled with that of Haynsworth, and combined with the present administrations' role in trying to forestall integration of schools has, in my mind, panicked the members of black communities around the country. Black people are being driven more and more to the position of the Panthers, who they regard as their sole source of protection against the racism which they recognize in the white community. More and more black people are defining their problem as one of "fighting for survival".

I urge you with all my heart to oppose this nomination and to encourage as many other of your colleagues.

Sincerely,

PETER HABERFIELD.

Mr. President, I think these people have spoken eloquently for my State. I think they have also spoken eloquently for our Nation.

I now yield the floor.

DEEPER INTO THE SOUTHEAST ASIAN QUICKSAND

Mr. MONTOYA. Mr. President, Americans across the political spectrum have watched with growing apprehension the slowly lifting curtain on a new drama in Southeast Asia. Our obviously growing involvement in the remainder of what was French Indochina is becoming increasingly evident. Such a policy is ill-conceived, and can only lead to catastrophe of staggering dimensions.

Already, we are told by administration sources that more Americans have perished in Laos as a result of ground action than has previously been revealed. Separate reports are now being issued regarding our losses in Laos. Our casualties there in lives, aircraft, and dollars certainly are anything but insignificant.

In addition, an ominous new trend is developing, gaining terrifying momentum of its own. We could never have gotten involved in Vietnam without becoming committed in Laos. And we cannot become entangled in Laos without plunging eventually into Cambodia. Here is our next Laos, just as Laos is becoming our most recent Vietnam.

In spite of the President's efforts to withdraw from Vietnam, we are inexorably becoming more deeply committed in Southeast Asia, generally. Our profile is rising there, instead of becoming less visible.

It is obvious to all but the most myopic observer that the Government of Cambodia had a hand in organizing and encouraging recent demonstrations there against Communist troop presence in that nation. Official statements issued by the Cambodian Government tear away any remaining shreds of concealment on this particular matter.

The Communists may embarrassingly reject these demands, which curiously have not been made previously by Cambodia in such a strenuous manner. In such a case, the Government of Cambodia has a perfect excuse to appeal to our Government for assistance in removing the Reds.

In turn, our military on the scene in Saigon will have another lever to utilize against the President's commitment to inexorably extricate our forces from Southeast Asia. Here is a handmade excuse with which to broaden our involvement in another area of that segment of the globe. For years, some have called for major punitive action against Communist sanctuaries in Cambodia. It all goes far to show us the real extent of the macabre web we have become enmeshed in. Several options are available. We might enter Cambodia with major armed incursions of up to battalion size. Or we could edge into it in the form of another Laos-type commitment. Nonetheless, whichever route we travel, our destination is disaster. Whether it be special forces in mufti with air support or openly maneuvering and fighting regiments, only tragedy and frustration can result.

Let us understand that we cannot separate Vietnam from Indochina. If we are totally involved in one, we must inevitably become inextricably intertwined in the other. Throughout a thousand years of recorded history, this geographical area has been treated as a cohesive unit by every conqueror and each colonial power. It is considered one unit by the Communists. In order to effectively respond to them, we will have to become involved on the same level, or get out entirely. Are we ready for major, protracted war over all Indochina?

Do we want to become involved in a conflict that will rage indefinitely over an area immeasurably larger than the present involvement? Are we prepared to fight another Vietnam, and another, and yet another? Will we commit ourselves to setting up another regime that will be viable or in our favor in Cambodia and Laos? How long would that take? How many lives? How many billions?

Mr. President, I commend the study of Indo-Chinese geography to the distinguished Members of this body. We have thus far mainly struggled on the ocean littoral of Indo-China. Yet this is modest compared to what awaits us in the interior.

Jungle-covered mountains, tropical streams, impassable vegetation, unknown diseases, bleak highlands inhabited by primitive tribesmen with little if any concept of ideology or the fever of cultural nationalism. Mile after mile of terrain that could swallow a million troops. Ask the Japanese who learned painfully and sorrowfully what such landscapes can do to the workings of a major military command.

The leaders of Cambodia now find it convenient, after several years of allowing major Communist military activity within their borders, to come weeping to the American Government. They ask us to enforce their political demands upon the Communists, playing their ace—American military power. They have long felt that on request we could be played off against those who might seek to swallow them. Cambodia has no permanent allies. She has only permanent interests. In this case, they involved a sacrifice on our part. Yet if we make that sacrifice, all withdrawals from Vietnam, all lowering of our profile, all past assurances go down the drain in an instant.

Sihanouk has allowed clandestine American military operations within his borders, just as he has allowed and now allows Communist operations. Presently a struggle for power within the Cambodian Government is being turned into a lever with which to bring into being a major American commitment in Cambodia. The takeover this morning is the catalyst for this plan to get us officially involved.

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Mr. President, in the past we have followed a geopolitical standard roughly stating that whatever is on the periphery of our zone of special interest is worth protecting against other comers. This has been carried forth, even to the point of committing American military personnel. Once we have a military presence, they become a fine target for everything from palace intrigue and guerrilla warfare to local nationalisms and intergovernmental blackmail. The worst example of how such an extension of commitments of this type can bring us to terrible harm is the Vietnam situation. Now we are turning things around, with worse potential for damage to our Nation. How?

We are bringing a peripheral involvement into actual being by allowing geopolitical initiative to pass to the Cambodian ruling groups. We are allowing them to decide where we shall be involved and whether we shall be involved. We are allowing them to set a time schedule for our involvement. We are allowing them to actually create an involvement on the periphery of a situation where we already acknowledge our presence to be a mistake. We are creating another domino which, of course, once set up in the minds of our leaders and public, must not be allowed to tumble over. This is utterly senseless. Other dominoes border on the Cambodian frontiers. It is ultimate political and military folly to commit ourselves to such adventure.

Even with the best of intentions, the administration can be and actually is being drawn into such a situation. It is not a whole-hog jump overboard. Instead, we are edging into it just as a salami is sliced. No single slice constitutes the end of our sausage and a complete meal. But eventually the salami is gone.

First, a few helicopters. Second, a few bombers or a small base. Then some "advisers" on the ground. Or a few thousand guerrillas who happen to be anti-something-or-other tribesmen. Then a thousand advisers and stepped-up bombing raids. And eventually, lo and behold, a full-fledged involvement, complete with credibility gap, dead Americans, shot-down planes, and separate casualty lists.

It is obvious we are edging into the quicksand again. Once in, we could be stuck in something that might prove impossible to extricate ourselves from easily or quickly. The greater our commitment, the greater our loss of prestige if we suffer losses or seek withdrawal.

What does it profit us to remain in that area? These nations are not viable political entities. Their leaders would not know democracy if they tripped over it in their bathrooms. Jailing anti-Communists and trampling upon civil liberties seem to be their favorite weapons. If they fought the Communists as hard as they fight their own internal political opponents we would see real progress there.

Leaders of non-Communist regimes in Indochina have a vested interest in maintaining a permanent American presence there. They want troops to fight their wars and keep them in power—American money to steal in carloads and stash away in Swiss banks. They want American boys to do their dying and American goods to peddle on their black markets. And now, in the name of democracy, we are thigh deep in the cesspool of Asia. Further expansion of such an involvement is insanity. It is the ultimate commitment of the American Nation to the wrong conflict.

We have no business there. We have no interests there. We have no basic requirements or presence or economic investments there which demand major military protection. It is a backyard of the world. Europe, Latin America, and other areas require our interest and dollars. Domestic requirements now veritably shriek for attention.

Russia's naval challenge, growing anger of Latin America toward our ignoring of their needs, our growing unemployment and social ferment at home, these are our basic interests. Indochina? There lies catastrophe, madness, and death. Douglas MacArthur warned us time and again against involvement in a land war in Asia.

There is a limit to the power of any great nation-state. History has proved this amply in the past. Greece met disaster in her expedition against Syracuse. Rome could never completely conquer the Germanic tribes and wisely ceased attempting to do so.

Charlemagne understood the limits of military powers. Certainly the city states of Italy during the later Middle Ages were utterly practical. They used others rather than allowing themselves to be used as we are being utilized now.

Those who would not understand the limits of their power were themselves destroyed, and their nations and societies with them. How many of Napoleon Bonaparte's Grande Armeé returned from the wastes and snows of Czarist Russia? How many of Hitler's 6th Army beheld the sights, sounds, and feelings of home again? How many of Nasser's troops walked in triumph down the streets of Tel Aviv?

Every military establishment and the economic base behind it lives under basic limitations. There is a limit to money to be expended, young lives and bodies available and their willingness to sacrifice and perhaps perish.

This is an unworthy cause. It is a useless cause. It is a cause that will not triumph in any meaningful manner nor bring credit to those who champion it. To extend ourselves further into the tangle of Indochina's jungles is perhaps ultimate folly.

Mr. GRIFFIN. Mr. President, will the Senator from New Mexico yield?

The PRESIDING OFFICER (Mr. FANNIN). Does the Senator from New Mexico yield to the Senator from Michigan?

Mr. MONTOYA. I yield.

Mr. GRIFFIN. I listened with great interest to the Senator's statement. I must say, in all candor, that many of the phrases which he uses I find no evidence or facts to support. I want to remind him that the number of Americans in Laos today is essentially and substantially the same number that were there when this administration took office.

Mr. MONTOYA. May I state to my friend from Michigan at that point that it was wrong, when this administration took over, to have them there and it is wrong today.

Mr. GRIFFIN. And that that number is in the neighborhood of 1,000 total personnel, that since this administration has been in office, North Vietnam has poured in some 18,000 troops into Laos, bringing the total of North Vietnamese in Laos to the neighborhood of 67,000.

I listened and waited for the distinguished Senator to heap some criticism upon the North Vietnamese. He certainly criticized the administration for doing nothing more than keeping the same number in Laos that was there when this administration took over.

Mr. MONTOYA. May I inform the Senator from Michigan that I am rising here to protect the lives of American boys and to try to exhort this national administration not to increase our involvement but to diminish it, and to take us out of any involvement in Cambodia.

Mr. GRIFFIN. Let me make the point that what little presence we have in Laos today is primarily to save the lives of American boys which are at stake in Vietnam.

I thank the Senator from New Mexico for yielding to me.

THE CALENDAR

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the consideration of the Calendar Nos. 735 and 736.

The PRESIDING OFFICER. Without objection, it is so ordered.

YUMA MESA IRRIGATION DISTRICT, ARIZ.

The bill (S. 2882) to amend Public Law 394, 84th Congress, to authorize the construction of supplemental irrigation facilities for the Yuma Mesa Irrigation District, Ariz., was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of January 28, 1956 (70 Stat. 5, Public Law 394, Eighty-fourth Congress), is amended by inserting after the word "buildings" the words "and irrigation works and facilities".

Sec. 2. Section 4 of the Act of January 28, 1956, is amended by changing the period at the end thereof to a comma and adding "but the contract executed on or prior to such date may be amended to include works authorized after such date by amendments to section 2."

SALINE WATER CONVERSION PROGRAM, 1971

The bill (H.R. 15700) to authorize appropriations for the saline water conservation program for the fiscal year 1971, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 734, S. 3426, be indefinitely postponed. It is the counterpart to H.R. 15700.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTOCOL TO THE NORTHWEST ATLANTIC FISHERIES CONVENTION

Mr. MANSFIELD. Mr. President, continuing in executive session, I ask unanimous consent that the Chair lay before the Senate Executive I, 91st Congress, first session.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in committee of the whole, proceeded to consider Executive I, 91st Congress, first session, the Protocol to the Northwest Atlantic Fisheries Convention, which was read the second time, as follows:

PROTOCOL TO THE INTERNATIONAL CONVENTION FOR THE NORTHWEST ATLANTIC FISHERIES RELATING TO PANEL MEMBERSHIP AND TO REGULATORY MEASURES

The Governments parties to the International Convention for the Northwest Atlantic Fisheries signed at Washington under date of 8 February 1949, which Convention as amended is hereinafter referred to as the Convention, desiring to establish a more appropriate basis for the determination of representation on the Panels established under the Convention, and desiring to provide for greater flexibility in the types of fisheries regulatory measures which may be proposed by the International Commission for the Northwest Atlantic Fisheries, agree as follows:

Article I

Paragraph 2 of Article IV of the Convention shall be amended to read as follows:

"2. Panel representation shall be reviewed annually by the Commission, which shall have the power, subject to consultation with the Panel concerned, to determine representation on each Panel on the basis of current substantial exploitation of the stocks of fish in the subarea concerned or on the basis of current substantial exploitation of harp and hood seals in the Convention Area, except that each Contracting Government with coastline adjacent to a subarea shall have the right of representation on the Panel for the subarea."

Article II

Paragraph 2 of Article VII of the Convention shall be amended to read as follows:

"2. Each Panel, upon the basis of scientific investigations, and economic and technical considerations, may make recommendations to the Commission for joint action by the Contracting Governments within the scope of paragraph 1 of Article VIII."

Article III

Paragraph 1 of Article VIII of the Convention shall be amended to read as follows:

"1. The Commission may, on the recommendations of one or more Panels, and on the basis of scientific investigations, and economic and technical considerations, transmit to the Depositary Government appropriate proposals, for joint action by the Contracting Governments, designed to achieve the optimum utilization of the stocks of those species of fish which support international fisheries in the Convention area."

Article IV

1. This Protocol shall be open for signature and ratification or approval or for adherence on behalf of any Government party to the Convention.

2. This Protocol shall enter into force on the date on which instruments of ratification or approval have been deposited with, or written notifications of adherence have been received by, the Government of the United States of America, on behalf of all the Government parties to the Convention.

3. Any Government which adheres to the Convention after this Protocol has been opened for signature shall at the same time adhere to this Protocol.

4. The Government of the United States of America shall inform all Governments signatory of adhering to the Convention of all ratifications or approvals deposited and adherences received and of the date this Protocol enters into force.

Article V

1. The original of this Protocol shall be deposited with the Government of the United States of America, which Government shall communicate certified copies thereof to all the Governments signatory or adhering to the Convention.

2. This Protocol shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter, following which period it shall be open for adherence.

In witness whereof the undersigned, having deposited their respective full powers, have signed this Protocol.

Done at Washington this first day of October 1969, in the English language.

For Canada:
A. E. Ritchie, October 10, 1969
For Denmark:
Torben Ronne, October 15, 1969
For the Federal Republic of Germany:
Rolf Pauls, October 3, 1969
For France:
Charles Lucet, October 13th, 1969
For Iceland:
For Italy:
Egidio Ortona, October 14th, 1969
For Norway:
Arne Gunneng, October 14, 1969
For Poland:
Jerzy Michalowski, October 14th 1969
For Portugal:
For Romania:
For Spain:
Merry del Val, 15th October 1969
For the Union of Soviet Socialist Republics:
For the United Kingdom of Great Britain and Northern Ireland:
Edward E. Tomkins, October 6, 1969.
For the United States of America:
Donald L. McKenna, October 10, 1969

Mr. MANSFIELD. Mr. President, the Committee on Foreign Relations unanimously reported this protocol to the 1949 Northwest Atlantic Fisheries Convention, and so far as the committee is aware, there is no opposition to it.

The purpose of the protocol is twofold: First, as exploitation of nontraditional fisheries within the convention area increases, the protocol provides that membership on the subarea panels can be expanded accordingly; and second, the protocol removes the present restriction on the kinds of regulatory/conservation measures which the International Commission for the Northwest Atlantic Fisheries can recommend for the purpose of achieving optimum utilization of the area's fisheries.

In order to provide further background and detail on the changes called for by the protocol, I ask unanimous consent that a portion of the committee's report be printed at this point in the Record, including the prepared statement of Mr. Donald L. McKernan, the Secretary of State's Special Assistant for Fisheries and Wildlife.

There being no objection, the excerpts from the committee report (Executive Report No. 91–16) were ordered to be printed in the Record, as follows:

MAIN PURPOSE

This protocol to the 1949 Northwest Atlantic Fisheries Convention provides for the removal of the convention's current restrictions relating to (1) the number of commissioners on each of the special panels established by the convention; and (2) the kinds of measures which the International Commission for the Northwest Atlantic Fisheries may propose in order to achieve optimum utilization of fish stocks in the convention area.

BACKGROUND

The purpose of the 1949 Northwest Atlantic Fisheries Convention is to investigate, protect, and conserve the fisheries of the Northwest Atlantic Ocean (39°N, 42°W) so that the maximum sustained catch from those fisheries is maintained. The 14 parties to the convention are Canada, Denmark, the Federal Republic of Germany, France, Iceland, Italy, Norway, Poland, Portugal, Roumania, Spain, the U.S.S.R., the United Kingdom, and the United States. The territorial waters and exclusive fishery zones of the contracting parties are not subject to the convention's provisions.

The attainment of the convention's purpose is the task of the International Commission for the Northwest Atlantic Fisheries and the six special panels of commissioners for the five subareas into which the convention area is divided, plus the special panel on sealing for the entire area. The International Commission, in which each participating government has one vote, coordinates the work of the panels and, based on their findings and suggestions, makes recommen-

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dations to the contracting parties. The principal types of fish found in the convention area are rosefish, cod, haddock, and flounder.

EXPLANATION OF THE PROTOCOL

1. Membership on the special panels is presently restricted to those governments having an interest in one or more of the fisheries designtaed by the convention. Thus, under this provision panel membership is not open to those governments directly concerned with stocks of fish not specified in the convention. Accordingly, those with an interest in these fisheries do not have a voice in the regulatory proposals recommended for adoption by the International Commission. The protocol removes the restriction on panel membership by permitting it to be based on "current substantial exploitation" of any fishery in one of the convention's subareas.

2. In trying to achieve the purpose of the convention, the International Commission is restricted to five types of fishery conservation measures which it may recommend to the contracting governments. All five measures are based on scientific criteria alone, and only one has proven useful—minimum mesh size for nets. At the present time, the Commission is considering the need to recommend a general quota system for specific fisheries in the convention area; however, in view of the present restriction, the Commission is not authorized to make such a recommendation. The protocol removes such restriction, and "would permit the Commission to propose any appropriate fisheries regulations designed to achieve the optimum utilization of stocks of fish * * * taking into account economic and technical considerations as well as scientific investigations."

The United States initiated the proposal to remove the restriction of the types of regulatory measures which the Commission can recommend. It believes the acceptance of this proposal is very important in terms of maintaining the well-being of our own fishing industry operating in the convention area and "is necessary to achieve an adequate regime for the rational exploitation of the Northwest Atlantic fisheries * * *." Moreover, "The United States has urged all governments parties to the Convention to act promptly on the Protocol in order that the Commission might consider necessary action thereunder at its June 1970 annual meeting."

As of March 11, 1970, none of the parties to the Northwest Atlantic Fisheries Convention had ratified the protocol; all must do so before it can enter into force.

COMMITTEE ACTION

The Protocol to the Northwest Atlantic Fisheries was submitted to the Senate on December 12, 1969 and was referred to the Committee on Foreign Relations. On March 11, 1970, pursuant to notice, the committee held a public hearing at which Donald L. McKernan, Special Assistant to the Secretary of State for Fisheries and Wildlife, presented the administration's favorable recommendations. Mr. McKernan testified that the United States is anxious to have a quota arrangement for the area covered by the Northwest Atlantic Fisheries Convention and that acceptance of this protocol would permit the International Commission to recommend such an arrangement to the contracting parties. Mr. McKernan also stated that the Department of State knows of no opposition to the protocol. The transcript of this hearing is printed in the appendix for the information of the Senate.

On March 12, 1970 the committee met in executive session and ordered that this protocol be favorably reported.

The Protocol to the Northwest Atlantic Fisheries Convention, by providing for greater flexibility in terms of both panel membership and regulatory/conservation measures, should help to achieve the convention's objective of maintaining the maximum sustained catch from the fisheries in the convention area.

The Committee on Foreign Relations recommends that the Senate give its advice and consent to this protocol at an early date.

STATEMENT OF THE HONORABLE DONALD L. MCKERNAN BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, MARCH 11, 1970

On December 12, 1969, the President submitted to the Senate with a view to receiving its advice and consent to ratification a protocol to the 1949 International Convention for the Northwest Atlantic Fisheries (ICNAF). The protocol relates to Panel membership and to regulatory measures.

Purpose of 1949 convention

The 1949 Convention has as its purpose the investigation, protection, and conservation of the fisheries of the northwest Atlantic Ocean in order to make possible the maintenance of a maximum sustained catch from those fisheries. It established the International Commission for the Northwest Atlantic Fisheries (ICNAF), in which each contracting government has one vote and to which each contracting government may appoint not more than three Commissioners, assisted by experts and advisors. The northwest Atlantic area to which the Convention applies is divided into five sub-areas, separated more or less geographically and biologically, the boundaries of which are defined in the annex to the Convention. Each sub-area has a special Panel of Commissioners drawn from member nations of the Commission which participate in the particular fisheries in the sub-area, as well as a Panel on seals which is not limited geographically.

Panel membership

Panel membership is reviewed at each Annual Meeting of the Commission, which has the power, subject to consultation with the Panel concerned, to determine representation on each Panel on the basis of current substantial exploitation in the sub-area concerned, or of seals in the Convention area. A nation with coast adjoining a sub-area may always be a member of the Panel for that sub-area, regardless of its level of exploitation in the sub-area. On a practical basis, Panel membership is generally accorded on the basis of the interest of a particular government to be represented on a Panel.

Importance of the panels

The importance of the Panels is two-fold. First, proposals for conservation regulations may originate only in the Panel for the sub-area concerned, and, after approval by the Commission, are subject to acceptance or rejection only by those governments which are members of the Panel concerned. Once a regulatory proposal has entered into force in accordance with the approval procedure laid down in the Convention as amended, however, all other contracting governments are bound to enforce the regulation with reference to its vessels fishing in the sub-area concerned.

Second, annual contributions are based primarily on the number of Panel memberships, so that each government assumes a significant financial obligation in becoming a member of a Panel, approximately $2,000.

Change in basis for panel membership

The Convention presently provides (Article IV, paragraph 2) that Panel membership is determined on the basis of current substantial exploitation in the sub-area concerned of fishes of the cod group, of flatfishes, and of rosefish. These were the species of primary concern when the Convention was signed in 1949. Since then, however, significant fisheries have developed with regard to other species in the Convention area, and the Commission has the authority to regulate them. However, they do not form a basis for Panel membership, and thus it is possible for a Panel to consider regulation of a significant fishery within its sub-area without the nations primarily interested in that particular fishery necessarily being a member of the Panel or even eligible to be a member. The protocol would remedy this deficiency in the Convention by establishing current substantial exploitation of any stocks of fish in the sub-area concerned as the basis of membership in the Panel for that sub-area. Thus any contracting government would be entitled to become a member of the Panel for any sub-area in which it conducts substantial fisheries, regardless of species. It is considered that such a basis of Panel memberships would be more rational than the present provisions of the Convention.

U.S. membership

The United States is presently a member of the three Panels for the sub-areas in which the United States fishes. We do not anticipate becoming a member of any other Panel, on the basis of this protocol or otherwise, and thus there are no adverse financial implications for the United States in approving the protocol. In fact, because the protocol establishes a basis for other governments to become members of additional Panels for sub-areas where they conduct substantial fisheries for species other than those now specified in the Convention, the relative financial contribution of the United States could decline through the protocol. Nor does the protocol hold any adverse implications for the United States with regard to conservation regulations. Since we presently hold memberships in all Panels for sub-areas in which we fish, we have the authority to accept or reject any regulatory proposal which might apply to American fishing vessels. It is considered extremely unlikely that American fisheries will develop in the other two sub-areas (Labrador-Greenland) or with regard to seals.

Change in regulatory measures

The change in the provisions governing Panel memberships, proposed by Canada, was merged in this protocol with a proposal by the United States for a protocol regarding regulatory measures, and we regard this portion of the protocol, amending paragraph 2 of Article VII and paragraph 1 of Article VIII, as its most important feature. In fact, it provides a broad new approach to fisheries regulatory measures in this small portion of the world ocean which we hope will be adopted more generally around the world. The protocol would permit the Commission to propose any appropriate fisheries regulations designed to achieve the optimum utilization of the stocks of fish which support international fisheries in the Convention area, and to take into account technical and economic considerations as well as scientific investigations in formulating these proposals. The Convention presently limits the Commission to five specified types of regulations, which may be based on scientific investigations only. Experience has taught us, in the face of growing complexity in the international management of fisheries, that such limitations do not permit us to do a completely adequate job of managing these important fisheries.

We have learned a great deal about the international management of fisheries in the two decades since the Convention was concluded. At the same time, the world fisheries have grown tremendously, and are continuing to grow at a rapid rate. Many new, larger, and more sophisticated fishing vessels have been built, and they operate in more parts of the world ocean and at greater distances from home than they previously did. Gear and fishing techniques have continuously been improved. Thus the situation we are facing today in the management of international fisheries is far different from what we were facing when the Convention

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was prepared. It was an admirable instrument in its time, but it did not provide sufficient flexibility to cope with the growing demands which have been placed on it, demands which could not have realistically been foreseen at the time. Over the years we have modified the Convention through a number of protocols, so that it is today more suitable to deal with today's situation than when first drawn. We consider the present protocol as a major step in remaking the Convention into a modern instrument fully capable of dealing with today's international fisheries situation, and flexible enough to deal with new problems which develop in the future.

Of the five types of regulations presently allowed by the Convention, only one had been utilized up until last year, although the Commission's scientists had recognized several years ago that the one type of regulation in use was inadequate. The overall catch quotas, closed areas, and closed seasons proposed at last June's ICNAF meeting with regard to the depleted haddock and hake stocks off New England, and presently in force, were regarded as stop-gap measures in the face of the limitations imposed by the Convention and the situation we were facing. hopefully, during the next few years they will allow a restoration of these important species to their former levels, but in the long term they cannot ensure both that the stocks are maintained and that American fishermen catch an adequate share of them in the face of competition from large, modern, highly mobile, and often subsidized foreign fleets.

The Convention simply does not grant authority to the Commission to consider such matters as the latter and it is questionable whether the conservation provisions are adequate to maintain the stocks in the face of the continually growing fishing effort to which they are being subjected. By removing the limitations on the types of regulations which the Commission may propose, and by allowing it to consider economic and technical considerations as well as scientific investigations, the protocol would permit the Commission to propose such regulations as it deems necessary in any circumstances to maintain the resource, and to ensure that the interests of particular groups of fishermen are protected. Thus, it would be possible to establish an overall quota for a particular stock, and to assign portions of the quota to particular national groups of fishermen. This would be done in the Commission by taking into account all relevant factors, not just some of them as at present, including the relative immobility of small-boat coastal fishing fleets such as the United States maintains in the area and their competitive disadvantage with regard to large distant water fleets.

Example of haddock fishery on Georges Bank

The haddock fishery on Georges Bank might be cited as an example. American fishermen for decades have depended on this stock, and have traditionally taken almost the entire maximum sustained yield. Their vessels and gear have been developed with particular reference to this fishery, and are ill adapted to engage in many other fisheries or to travel long distances to other fishing grounds. Because the ICNAF regulatory authority was not sufficiently flexible to cope with a vast increase in effort by large distant water vessels on this stock, and with a natural disaster in the fishery, the stock has been severely depleted. The emergency quota established for the stock is only about one-quarter of the tonnage normally taken by American fishing vessels alone, and is available to all fishermen.

Consequently, the American haddock fishery is in a severe state of depression. Hopefully, the American haddock fleet will survive these difficult years, and will be able to take the bulk of the allowable quota. Hopefully, also, the emergency measures which have been taken will restore the stock to its former level of abundance in a few years, and the American fishermen will once again regain their former levels of prosperity. But the Convention cannot prevent a similar situation developing once the stock has been restored. The protocol can. It will allow the Commission to take into account the economic dependence of the American small-boat fishery on this stock, and that American vessels and gear are designed to operate on this stock close to their home ports, but on few others. It will allow the Commission to consider the traditional catch of the American haddock fleet. It will allow the Commission, after considering these factors, to establish a national haddock quota on Georges Bank for the American fishermen which will ensure that they will continue to catch the bulk of the catch on which they are dependent, and that foreign fleets will not be able to clean out the haddock stocks, or even simply take the allowable catch for the year in a few weeks and then move on to other fishing grounds. At the same time, foreign and American fishermen can continue to compete for other species in the same areas, where the traditional fisheries situation is different, and where the economic and technical factors are different.

Protocol serves U.S. interests

The protocol, of course, would permit other regulatory measures to be proposed as well. It is entirely flexible in this regard. Experience has shown us that our national interests in international fisheries management cannot be served if bodies such as ICNAF are constrained in the types of proposals which they may make. The interests of the United States will continue to be protected, however, regardless of what action the Commission might take under this broad authority, by the provisions of the Convention which permit the United States to accept or reject any proposal which would apply to American fisheries. The United States may object to any Commission proposal which pertains to the ICNAF area in which Americans fish, and thereby relieve itself of any obligation to observe the regulation regardless of whether it may become binding on other governments. Thus the protocol will serve the fisheries interests of the United States in the ICNAF area, but will not provide for any measure which is inimical to those interests.

In addition, adoption of the protocol will make international cooperative management of high seas fisheries resources more effective, and thus contribute to the maintenance of the freedoms of the seas which are so important to the United States by relieving pressures to cope with fisheries problems by extension of national jurisdiction over broad expanses of the oceans.

Prompt action urged

The United States has urged in the Commission that all contracting governments take prompt action to ratify the protocol, in hopes that the authority can be accorded the Commission to commence dealing with these problems at its June 1970 Annual Meeting. The Department of State recommends that the Senate give early and favorable consideration to the protocol. It will contribute both to the solution of pressing problems affecting the American fishing industry in the northwest Atlantic and to broader interests of the United States in the oceans.

The **PRESIDING OFFICER** (Mr. FANNIN). If there be no objection, exhibit I, 91st Congress, first session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which will be read for the information of the Senate.

The bill clerk read as follows:

Resolved, (two thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol to the International Convention for the Northwest Atlantic Fisheries relating to Panel Membership and to Regulatory Measures, Dated October 1, 1969. (Executive I, Ninety-first Congress, first session.)

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive J, 91st Congress, first session, the Convention on the Privileges and Immunities of the United Nations.

The **PRESIDING OFFICER**. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive J, 91st Congress, 1st session, the Convention on the Privileges and Immunities of the United Nations, which was read for the second time, as follows:

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

(Adopted by the General Assembly of the United Nations on 13 February 1946)

Whereas Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes and

Whereas Article 105 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similiarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

Consequently the General Assembly by a Rresolution adopted on the 13 February 1946, approved the following Convention and proposed it for assession by each Member of the United Nations.

ARTICLE I

JURIDICAL PERSONALITY

Section 1. The United Nations shall possess juridical personality. It shall have the capacity:

(*a*) to contract;

(*b*) to acquire and dispose of immovable and movable property;

(*c*) to institute legal proceedings.

ARTICLE II

PROPERTY, FUNDS AND ASSET

Section 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

Section 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 4. The archives of the United Nation, and in general all documents belonging to it or held by it, shall be inviolable wherever located.

Section 5. Without being restricted by

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financial controls, regulations or moratoria of any kind—

(*a*) the United States may hold funds, gold or currency of any kind and operate accounts in any currency;

(*b*) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

Section 6. In exercising its rights under Section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member insofar as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

Section 7. The United Nations, its assets, income and other property shall be:

(*a*) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(*b*) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;

(*c*) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

Section 8. While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE III

FACILITIES IN RESPECT OF COMMUNICATIONS

Section 9. The United Nations shall enjoy in the territory of each Member for its official communications treatment not less favourable than that accorded by the Government of that Member to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

Section 10. The United Nations shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

THE REPRESENTATIVES OF MEMBERS

Section 11. Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(*a*) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;

(*b*) inviolability for all papers and documents;

(*c*) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(*d*) exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions;

(*e*) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(*f*) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys, and also

(*g*) such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

Section 12. In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

Section 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations are present in a state for the discharge of their duties shall not be considered as periods of residence.

Section 14. Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

Section 15. The provisions of Sections 11, 12 and 13 are not applicable as between a representative and the authorities of the state of which he is a national or of which he is or has been the representative.

Section 16. In this article the expression "representatives" shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

OFFICIALS

Section 17. The Secretary-General will specify the categories of officials to which the provisions of this Article and Article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

Section 18. Officials of the United Nations shall:

(*a*) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(*b*) be exempt from taxation on the salaries and emoluments paid to them by the United Nations;

(*c*) be immune from national service obligations;

(*d*) be immune, together with their spouses and relative dependent on them, from immigration restrictions and alien registration;

(*e*) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;

(*f*) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(*g*) have the right to import free of duty their furniture and effects at the time of first taking up post in the country in question.

Section 19. In addition to the immunities and privileges specified in Section 18, the Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law

Section 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

Section 21. The United Nations shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE VI

EXPERTS ON MISSIONS FOR THE UNITED NATIONS

Section 22. Experts (other than officials coming within the scope of Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

(*a*) immunity from personal arrest or detention and from seizure of their personal baggage;

(*b*) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;

(*c*) inviolability for all papers and documents;

(*d*) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(*e*) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(*f*) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

Section 23. Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations.

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Article VII

UNITED NATIONS LAISSEZ-PASSER

Section 24. The United Nations may issue United Nations laissez-passer to its officials. These laissez-passer shall be recognized and accepted as valid travel documents by the authorities of Members, taking into account the provisions of Section 25.

Section 25. Applications for visas (where required) from the holders of United Nations laissez-passer, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

Section 26. Similar facilities to those specified in Section 25 shall be accorded to experts and other persons who, though not the holders of United Nations laissez-passer, have a certificate that they are travelling on the business of the United Nations.

Section 27. The Secretary-General, Assistant Secretaries-General and Directors traveling on United Nations laissez-passer on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

Section 28. The provisions of this article may be applied to the comparable officials of specialized agencies if the agreements for relationship made under Article 63 of the Charter so provide.

Article VIII

SETTLEMENT OF DISPUTES

Section 29. The United Nations shall make provisions for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party;

(b) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

Section 30. All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties.

Final Article

Section 31. This convention is submitted to every Member of the United Nations for accession.

Section 32. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations and the convention shall come into force as regards each Member on the date of deposit of each instrument of accession.

Section 33. The Secretary-General shall inform all Members of the United Nations of the deposit of each accession.

Section 34. It is understood that, when an instrument of accession is deposited on behalf of any Member, the Member will be in a position under its own law to give effect to the terms of this convention.

Section 35. This convention shall continue in force as between the United Nations and every Member which has deposited an instrument of accession for so long as that Member remains a Member of the United Nations, or until a revised general convention has been approved by the General Assembly and that Member has become a party to this revised convention.

Section 36. The Secretary-General may conclude with any Member or Members supplementary agreements adjusting the provisions of this convention so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the General Assembly.

Mr. MANSFIELD. Mr. President, discussion of this convention should not long detain the Senate. As a matter of fact, the Senate has already once approved it in 1947, by passing a joint resolution authorizing the President to accept it on behalf of the United States, but for essentially irrelevant reasons the joint resolution did not pass the House. Now, some 20 years later, the matter is back for approval in the form of a treaty.

During this time, the provisions of the International Organization Immunities Act of 1945 and of the Headquarters Agreement Act of 1947 have provided the necessary privileges and immunities for most of the officials covered by the convention. Apparently, the executive branch was satisfied with this situation, but the United Nations was not. One hundred and one of its members have become parties to the convention, but the United States, the principal host government, did not. The anomaly of this situation has not escaped other United Nations members, which cite it as a reflection of the lack of U.S. interest in the United Nations.

Briefly, the convention provides for certain privileges and immunities to the United Nations as an organization, to the representatives of member states, to United Nations officials, and to experts on missions for the United Nations.

While the convention largely represents the existing practice with regard to privileges and immunities, it does enlarge upon them in three relatively minor respects. Under present laws, only resident representatives to the United Nations enjoy full diplomatic immunities. Nonresident representatives, such as the approximately 1,000 who come for the annual sessions of the General Assembly, are granted only functional immunities—that is, immunities only with respect to their official acts. Under the convention, they would now also enjoy full diplomatic privileges and immunities, and the committee finds this fair. Many distinguished foreign officials, parliamentarians, and other outstanding citizens of other nations yearly come to New York for important meetings and should be treated like their permanent colleagues.

United Nations officials now enjoy only functional immunities and for the most part this will remain as is. However, under the convention, the Secretary General, Under Secretaries and Assistant Secretaries of the United Nations—which number about 40 persons at the present time—would be granted full diplomatic privileges and immunities. Again it seems only fair to the committee that the Secretary General should enjoy the same rights as a third secretary in a ministate's permanent mission.

Experts on United Nations missions are the last group whose position would be improved by the convention. They now have no privileges and immunities other than limited transit privileges. The convention would grant them functional immunities, not full diplomatic immunities. It is estimated that this would affect about 100 persons a year.

These are the highlights of the treaty. The committee's report discusses them and other matters in greater detail.

I want to touch briefly on the two reservations recommended by the executive branch. The first one applies to American citizens and resident aliens employed by the United Nations and provides that in their case the immunity from taxation and from national service obligations does not apply. All this reservation does is to preserve the status quo.

The other reservation also preserves the status quo by continuing to make it possible for the United States to compel the departure from the United States of any of the persons to whom the convention applies if they have abused their privileges and immunities. This question of abuses, which would include espionage, is of some importance and I want to stress the fact that the United States is fully protected. From a national security standpoint there is no objection to the convention. As a matter of fact, the committee knows of no objection from any quarter.

To sum up, the Committee on Foreign Relations believes that it is in our national interest to accede to the convention. We are the host country and while we seem to have been content to drift along under present laws, the United Nations has not.

Mr. President, I urge that the Senate give its advice and consent to accession to the Convention on Privileges and Immunities of the United Nations, subject to the reservations.

The PRESIDING OFFICER (Mr. FANNIN). If there be no objection, Executive J, 91st Congress, first session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which will be read for the information of the Senate.

The bill clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Convention on Privileges and Immunities of the United Nations approved unanimously by the General Assembly on February 13, 1946, (Executive J. Ninety-first Congress, first session) subject to the following reservations:

(1) Paragraph (b) of section 18 regarding immunity from taxation and paragraph (c) of section 18 regarding immunity from national service obligations shall not apply with respect to United States nationals and aliens admitted for permanent residence.

(2) Nothing in Article IV, regarding the privileges and immunities of representatives of Members, in Article V, regarding the privileges and immunities of United Nations officials, or in Article VI, regarding the privileges and immunities of experts on missions for the United Nations, shall be construed to grant any person who has abused his privileges of residence by activities in the United States outside his official capacity exemption from the laws and regulations of the United States regarding the continued residence of aliens, provided that:

(a) No proceedings shall be instituted under such laws or regulations to require any such person to leave the United States ex-

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cept with the prior approval of the Secretary of State of the United States. Such approval shall be given only after consultation with the appropriate member in the case of a representative of a Member (or a member of his family) or with the Secretary General in the case of any person referred to in articles V and VI:

(b) A representative of the member concerned or the Secretary General, as the case may be, shall have the right to appear in any such proceedings on behalf of the person against whom they are instituted;

(c) Persons who are entitled to diplomatic privileges and immunities under the Convention shall not be required to leave the United States otherwise than in accordance with the customary procedure applicable to members of diplomatic missions accredited or notified to the United States.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to vote on Executive I commencing tomorrow at 12 o'clock noon; that immediately following its disposition, the Senate vote on Executive J; and that immediately following the disposition of the vote on Executive J, the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. The votes on the treaties will be record votes. The yeas and nays will be obtained. I make this statement only so that Members of the Senate will be aware that there will be two record votes tomorrow on two separate treaties, one right after the other.

The unanimous-consent agreement was subsequently reduced to writing, as follows:

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Ordered, That the Senate vote at 12 noon on Thursday, March 19, 1970, on the resolution of ratification to the Protocol to the International Convention for the Northwest Atlantic Fisheries (Ex. I, 91st Cong., 1st sess.); to be immediately followed by a vote on the resolution of ratification, with the two reservations, to the Convention on the Privileges and Immunities of the United Nations (Ex. J, 91st Cong., 1st sess.); following which the nomination of George Harrold Carswell will be the pending business before the Senate.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HANSEN TOMORROW

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that, at the conclusion of the prayer and the disposition of the reading of the Journal tomorrow, the distinguished Senator from Wyoming (Mr. HANSEN) be recognized for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIRGINIA STATE GRANGE OPPOSES DIVERSION OF HIGHWAY TRUST FUNDS

Mr. BYRD of Virginia. Mr. President, I have a communication from the Virginia State Grange. It is a resolution concerning Federal highway policy. The resolution urges a consistent fiscal policy in the area of highway construction. It also discusses the Federal highway trust fund.

This resolution by the Grange says that the highway trust fund has been the target of various groups interested in seizing and taking from that fund money for other purposes, and it urges Congress to protect the integrity of the highway trust fund.

Mr. President, I want to say a few words about the highway trust fund. I feel that without this trust fund the great interstate highway system which has been developed in the last 15 years would not have come about.

I am going to do something today that I have never done before on the floor of the Senate, and it is a little sentimental, I must admit. I feel that the dominant factor, the dominant person, in the establishment of the trust fund and the safeguarding of that trust fund for so many years was my immediate predecessor in the U.S. Senate. I hesitate to say a great deal about him, because not only was he my closest and dearest friend, but he also was my father. In reading this resolution adopted by the Virginia State Grange, it brought back to my memory just what a strong and determined fight he made to establish this trust fund and then, after its establishment, to protect it.

So while I have some hesitancy, because of our relationship, in expressing my views on it, I do feel today that I want to commend the former senior Senator from Virginia for the part he played in this vitally important matter.

Mr. President, I ask unanimous consent to have the text of the resolution printed at this point in the RECORD.

There being no objection the resolution was ordered to be printed in the RECORD, as follows:

Whereas, the Virginia State Grange is vitally concerned with rising costs and spiraling inflation in every quarter; and

Whereas, highway transportation is one of the essential elements in modern agricultural production; and

Whereas, speedy completion of the Interstate Highway System and the upgrading of other roads and highways is vital to rural people's struggle for economic parity; and

Whereas, the Federal Highway Trust Fund has been the target of various groups interested in seizing the monies thereof for construction of rapid transit systems in large urban areas as well as for other non-highway purposes; moreover, said Fund has been the subject of various cutbacks for the stated purpose of fighting inflation but which in actuality served to create surpluses in the Fund from which revenues could be borrowed to finance other agencies of the federal government causing greatly increased costs in the highway program due to the resulting delays; and

Whereas, said Fund is entirely Self-liquidating, debt free and funded exclusively by taxes on motor vehicles and their owners and users thereby affecting no other federal program in any adverse way; Now, Therefore, Be it

Resolved, that the Virginia State Grange states its opposition to the diversion of highway trust funds for any non-highway purposes and the manipulation of the Highway Trust Fund revenues by the Executive Branch; moreover, we favor the enactment of legislation that would effectively suspend the numerous federal taxes providing revenues for the Highway Trust Fund during times in which the Executive Branches finds it necessary to cut back the highway program by withholding highway fund allocations to the States; and, Be it Further

Resolved, that we urge the speedy restoration of revenues borrowed from the Highway Trust Fund during the various stoppages of the highway program over the past few years in order that the present Interstate Highway System may be completed at the earliest possible date; and, Be it Further

Resolved, that copies of this resolution be sent to the members of Congress from Virginia, the Governor and the Master of the National Grange.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking, and for other purposes; that the House receded from its disagreement to the amendment of the Senate numbered 13 to the bill and concurred therein, with an amendment, in which it requests the concurrence of the Senate.

SUPREME COURT OF THE UNITED STATES

The Senate resumed the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. HRUSKA. Mr. President, it would appear that the debate regarding the confirmation of Judge Carswell has entered—to paraphrase the late Justice Frankfurter—a semantic thicket.

This morning's Washington Post editorial page took me to task for suggesting—at least in view of the Post's editorial department—that Presidential appointments to the Supreme Court be placed under a quota system. The Post editorial was a reaction—almost precisely an overreaction—to remarks made by me in a television interview this past Monday regarding the President's power and right to nominate the man he deems fit and qualified to serve on the Court. In response to a question by the television interviewer I sought to reply to those political and editorial voices who, having failed to develop substantive arguments to the Carswell nomination, are now reduced to making general, broad-gauged and unsubstantiated charges regarding the nominee's abilities.

Is he, these opponents have asked, a man of sufficient intellectual powers and talents to sit on the Supreme Court? The adjective—and let me stress it was not I but these opponents who first used it—"mediocre" has been applied in this case.

The point that I tried to make in the television interview—which I confess I made in a rather mediocre way—was that the measure of any man's intellectual powers and talents to hold a position depends more often than not on whether the persons giving out the grade are for or against the nominee. I have no doubt for example that some of the men sitting on the bench today, though considered by Judge Carswell's editorial and political critics to be brilliant, might be considered otherwise by other Americans.

I am reminded, too, of the aspersions cast on the qualifications of previous Supreme Court nominees in Senate debate of years gone by. In this regard, I invite the Post editorial writers, and other critics of the Carswell nomination, to examine the debates and editorial controversy surrounding President Roosevelt's nomination of Justice—then Senator—Hugo L. Black, August 12 to 17, 1937.

It was alleged of Senator Black at that time that he was unqualified to serve on the U.S. Supreme Court, inasmuch as his only prior judicial experience had been limited to having served for a brief period as a municipal night court recorder in Birmingham, Ala.

It was also charged that Senator Black lacked not only judicial experience but also judicial temperment.

Or, perhaps these oracles at the Post might want to examine the CONGRESSIONAL RECORD for February 3, 1965, when Senator Smathers presented a detailed analysis of the judicial experience of the then sitting members of the Court. His conclusion was that six of the nine—and this counted Justice Black—had no judicial experience.

As to whether Judge Carswell will be a brilliant judge, only history can decide. History is replete with men whose preconfirmation critics were silenced by their brilliant performance on the Court. That Judge Carswell possesses here and now the capability of being such a Supreme Court Justice is, in my opinion, beyond question.

As for the question of semantics, the word "mediocre," if my dictionary serves me well, derives from the word "medio" or "medi," meaning middle. And while I certainly do not favor any quota system for the Supreme Court regardless of what the Post editorial says, if the question is raised as to whether that great body of citizens whom the editorial writers have come to call middle Americans, are entitled to a voice on the Supreme Court, my answer is a resounding yes.

In brief, I believe there is room on the Supreme Court of the United States even for a man not approved by those in charge of the grading system at the Washington Post, or any other newspapers of like mind, or who fails to meet the peculiarly biased demands of Judge Carswell's opponents.

Mr. President, in the television interview to which I referred, I said, as best I can recall, and here I am paraphrasing, but I will stand on the substance and the thrust of it:

> Let no one leave this room with the idea that I accept for a moment the charge that Judge Carswell's record is mediocre.

I had just gone to the radio-television gallery after spending more than an hour on the floor of the Senate presenting the case for Judge Carswell. In that speech I said:

> Judge Carswell's nomination is sound, logical, and desirable.
>
> He is well qualified and well suited for the post.
>
> He is learned in the law.
>
> He is experienced.
>
> He is a man of integrity.
>
> He is possessed of proper judicial demeanor which he has displayed and exercised during his years of public service.
>
> He enjoys the approbation and the respect of bench, bar and community.
>
> All of these attributes appear affirmatively in his personal, professional and judicial acts and doings.
>
> His elevation to the Supreme Court will serve to better balance the Court philosophically.
>
> He should be confirmed.

In discussing the speech with reporters in the gallery, I sought to express the idea that whether a man is mediocre or distinguished, might like beauty be in the eye of the beholder. I suggested that whether a nominee is mediocre or not might depend on whether you are using the definition of his friends or his enemies. Theoretical legal scholars, I was trying to suggest, do not always make the best judges. A good judge, as I noted in my floor speech, needs practical courtroom experience. He needs commonsense—or, as we say in Nebraska, "horsesense."

Then, Mr. President, in dismissing the idea that the charge of mediocrity was really worth considering, I unfortunately asked the rhetorical question, "Even if he were mediocre."

That was clumsy of me, and I confess it candidly and in all good spirit. What I am about to say conveys the idea I failed to make in the press gallery.

Mr. President, here I ask unanimous consent to have the editorial printed in the RECORD at the conclusion of my remarks, I am vain enough to think someone will read them sometime, and will have the editorial I am discussing ready at hand.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, there is more than one criterion for requisite qualifications of a member of the Supreme Court. Next to integrity, comes at least average intelligence and what I just referred to as commonsense, both of which Carswell has demonstrated by working his way through college and up to his present position. These, of course, are basic requirements, necessary for future development after assuming the position and being confronted with complex judicial issues which will come before the Court.

Ideally, the Court would be composed of men of diverse backgrounds, representing the principal areas of the far flung Nation and the various philosophies of the citizens. Ideally, also, it would be at least principally composed of lawyers of substantial experience in the general practice of law who had, in addition, substantial experience as trial judges.

Commonsense, experience as a trial lawyer and experience as a trial judge are far more important than legal scholarship which too often is the only qualification an outstanding legal scholar has. Legal scholarship alone is woefully inadequate to qualify a lawyer for any bench, trial or appellate. Substantial experience as a lawyer in the general practice and especially a minimum of 10 years experience as a trial judge is the education and background needed to make it possible for a lawyer to become an effective appellate judge. A lawyer so equipped naturally becomes a legal scholar after appointment—elevation is an inaccurate term because the trial judge is at the least equally important in our judicial system—to an appellate bench by the very nature of the appellate duties. He should become a far superior scholar to one who has not had trial experience as a lawyer and judge because he understands the trial process and knows how to apply the law properly in specific factual situations in a practical and just manner. He does not get lost in the technicalities of the law as does a pure scholar who knows only theory.

It is a false basis to say that Judge Carswell has not shown legal scholarship in the written opinions rendered by him as a trial judge. Busy trial judges do not have time to indulge in the niceties of legal scholarship. They must decide most questions instantly while sitting in the trial of cases without opportunity for leisurely research in their library with the assistance of their law clerk. Those who cite the reversal of his decisions by appellate courts are not using a valid criterion. Appellate judges are not all blessed with divine wisdom, either.

The demands of the trial bench are great but very rewarding for one who wishes to understand the judicial process from the ground up. He acquires in the trial process, in the disposition of hundreds of cases a year—and that was the experience of Judge Carswell during his 11 years on the district court—broad experience that can be acquired in no other way and that is vital for an ideal appellate judge. He learns to evaluate evidence, he observes the tactics of lawyers appearing before him, learns why they do the things they do. When he becomes an appellate judge, he knows how to read the record meaningfully because he can read between the lines where the vital part of the record is contained. The records which come before the appellate courts, which are the basis of appellate decisions, are made by trial judges. In the trial process he acquires an insight that can be acquired in no other way. He knows the problems of the litigants and approaches the appellate bench with a vast knowledge that contributes to what we call commonsense, which is a rare quality far too often lacking in our appellate judges.

It is so manifestly unfair to say that a lawyer with 10 years' experience on the trial bench is unqualified to sit on the Supreme Court because he has just average intelligence and has not demonstrated great ability as a scholar, when the fact is that he has acquired necessary experience that cannot be obtained anywhere else and has been involved in the merits of as many actual legal controversies as an appellate judge will review in an entire lifetime. A trial judge is the factfinder which is the most important step in the judicial decisional process. As a trial judge he has learned and will not forget as an appellate judge that under our judicial system it is the province of an appellate court to review the record for errors of law and not to try the case de novo from a cold record, and he will not be avid to substitute his judgment for that of the trial judge and jury who heard the evidence at firsthand.

Whether a judge is a good judge is not a justiciable issue. It is a matter of opinion which is usually based upon whether the litigant or lawyer expressing the opinion has been successful or unsuccessful when appearing before him and whether his political ideals are the same as the person expressing the gratuitous opinion.

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It would seem that the principal objection to Judge Carswell is that he has just average intelligence and is not a profound legal scholar. Geniuses are rare. Many of our greatest men have possessed just average talents. That this is the principal objection to Judge Carswell speaks well for him since it proves that there is no valid deficiency in his qualifications and his detractors must rely on their opinion, based on incomplete knowledge since only those who have known Judge Carswell intimately for a long period of time know and are qualified to express a valid opinion as to his innate qualifications. It is manifestly unfair that a man carefully chosen by our President and Attorney General, both astute lawyers, both good men, both unquestionably having the ardent desire to choose a Justice for the Court who will do them honor in the years to come, should be submitted to the indignity of repeated press dispatches impugning his God-given talents as being only average.

Historically, our Justices have developed into either great Justices or those not so great after ascending the Bench. No one can prophesy accurately whether an appointee will become great. But no one has dared to attack Judge Carswell's integrity and most of his detractors have at least given him credit for average intelligence. None that I have heard have mentioned the value of his experience as a trial judge.

I venture to say that if he had had no experience at all as a judge, the opponents would have made their principal objection to his nomination that he lacked experience as a trial judge.

My opinion is that his rise in life from an obscure country boy who worked his way through college to his present position speaks well for him. The fact that he is from the southern part of our country should not condemn him. After all that is part of America and some of our greatest men who arrived at the point of true greatness began their careers with that apparent handicap. I predict that time will prove Judge Carswell's greatness and the good judgment of the President in choosing him.

EXHIBIT 1

THE SUPREME COURT: A QUOTA FOR MEDIOCRITY?

Until Senator Hruska brought it up Monday, we had never given much thought to selecting justices of the Supreme Court on the quota system. But now that he has suggested it—"There are a lot of mediocre judges and people and lawyers," he said, "and they are entitled to a little representation, aren't they?"—it raises all kinds of possibilities. For one thing, it would simplify the life of the President. He could limit his search for a nominee when a seat fell vacant to the group that was then underrepresented. And it would greatly simplify the life of those in the Senate who must now defend the President's nomination of G. Harrold Carswell.

Of course, the quota system would create a few problems. If the mediocre judges are entitled to have one of their own kind on the court, what about the bad judges? Heaven knows, there are enough of them to make up a sizable constituency. Or what about one to represent the old judges? Or the unethical judges or, as Senator Long suggested, how about some judges who were C students instead of just ones who were A students? Or, for that matter, what about the non-lawyers, aren't they entitled to some justices all their own?

We are not sure how far Senator Hruska would want this idea of quota representation to spread. We rather doubt that the body in which he sits would acknowledge a system under which a senator was selected because it was time for the mediocre people to be represented by a mediocre man.

Be that as it may, if Senator Hruska is serious, he'd better tell the President. Mr. Nixon, after all, has talked all along about appointing "extremely qualified" men to the court, stressing that he wasn't interested in quotas except one for "strict constructionists." Somehow, we doubt that Mr. Nixon would want to concede that he was departing from the standard of excellence all Presidents have clung to publicly in nominating justices—even when they departed from it in practice.

The problem of mediocrity and the court, however, is not a laughing matter for two quite different reasons. One is the fact that there is no tougher nor more responsible job in government, save for the presidency itself, than that of a Supreme Court justice. He must cast a vote on more than 3,000 cases each year; listen to arguments on more than 120 cases; write at least a dozen full-dress opinions if he is to bear his share of the load. This is not a job for a man of mediocre talents. The court's work suffers any time it is done by men of run-of-the-mill abilities.

Even more important is the burden of constitutional interpretation. Perhaps the late Learned Hand, whose work is hailed almost universally as that of a great judge, explained best what qualifications a man needs for such fateful challenges:

"I venture to believe that it is as important to a judge called upon to pass on a question of constitutional law, to have at least a bowing acquaintance with Acton and Maitland, with Thucydides, Gibbon and Carlyle, with Homer, Dante, Shakespeare and Milton, with Machiavelli, Montaigne and Rabelais, with Plato, Bacon, Hume and Kant, as with the books which have been specifically written on the subject. For in such matters everything turns upon the spirit in which he approaches the questions before him. The words he must construe are empty vessels into which he can pour nearly anything he will. Men do not gather figs of thistles, nor supply institutions from judges whose outlook is limited by parish or class."

Somehow this doesn't strike us as work for mediocre men, for students with nothing more to recommend them than a gentleman's C, or even as far as that goes, B-plus. Although this country has been obliged to accept mediocrity upon occasion in presidents and senators—and even Supreme Court justices—it has never been public policy to the best of our recollection to go out actively in search of it. Certainly this is not the time, and the Supreme Court is not the place, to start.

Mr. DOLE. Mr. President, will the Sentator yield?

Mr. HRUSKA. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I was privileged to hear the Senator from Nebraska make his statement with reference to Judge Carswell. Let me emphasize again, as I understand the statement of the Senator, Judge Carswell's nomination is, first of all, sound, logical, and desirable; that he was and is well qualified; that he is learned in the law; that he is experienced; that he is a man of integrity; that he does possess the proper judicial demeanor. He has displayed and exercised the proper demeanor for a number of years as a U.S. attorney, as a Federal district judge, and now as a Federal circuit judge, and that he does enjoy and continues to enjoy the approbation and respect of the bench, the bar, and the community.

This I understand is the position of the Senator from Nebraska. To this I would add another source. I have in my hand a statement prepared by Prof. James William Moore, who, as we know, is the Sterling Professor of Law at Yale University.

This statement was prepared for a nationwide television program. It was not used. But let me read from a portion of the statement with reference to his consideration of Judge Carswell.

The part I read appears on pages 4 and 5 and is as follows:

We of the Ivy League—the big, prestigious law schools such as Yale, Harvard and Columbia—are often intellectual snobs. Any lawyer, judge or professor who does not have an Ivy League degree or has not taught at one of our schools and written a law review article or a book is almost by hypothesis blessed with mediocrity. We seldom go west of Yankee Stadium or south of the Potomac, except to jet in the clouds over America en route to an association or business conference.

Having been in each of the fifty states, and having taught in most sections of this country, I have long been impressed with this country's diversity—economic, social, moral, and ideological. In my opinion the Supreme Court should be representative of that great diversity. That diversity will undoubtedly produce difference of outlook and, among judges, difference of judicial philosophy. But it adds nothing to intelligent discussion of the issues to use such "code words" as "mediocrity" and "insensitivity" when what the critics really mean is that they disagree with the nominee's philosophy.

I think the Senator from Nebraska will agree that this professor of law who, as I indicated, is the Sterling Professor of Law at Yale University and who has been teaching for 34 years, says it very well. I think there is a certain amount of intellectual snobism about those who would say the nominee is insensitive in one case, and in the very next case that the nominee is mediocre.

I would guess that the Washington Post should be expert on what may or may not be mediocre.

I would place my emphasis where the distinguished Senator from Nebraska did, on the positive fact surrounding the nomination made by a President learned in the law, and suggested to the President by an Attorney General who is also learned in the law.

Certainly no one questions Judge Carswell integrity, or his honesty, or ability or the respect he receives from the bar and the community.

I share the views expressed in the first instance by the Senator from Nebraska and restated on the floor of the Senate.

Mr. HRUSKA. I thank the Senator very much. It is noteworthy that Professor Moore has been on the faculty of an ivy league school for more than one-third of a century and he should know what he is talking about. As we all know, he is highly regarded at the bar.

I would make this further observation. No one has dared attack Judge Carswell's integrity, and most of his distractors at least give him credit for average intelligence. We must remember that there is ample evidence in the record from people who have spoken highly of him, who call him an excellent trial judge and appellate judge, and state that he not only possesses many fine attributes which would make him an outstanding member of the Supreme Court, but that he has a definite capacity for greatness.

It is interesting to observe that the witnesses who called him mediocre do not and have never known him. They base their conclusions upon the printed word with regard to his juristic attainments.

Those who have come out with these high opinions as to his future, have known him well. They have appeared before him and tried lawsuits in his court. These are the people who should know of his qualifications. Professor Moore is in an excellent position to make such a judgment.

Mr. DOLE. Mr. President, will the Senator yield further?

Mr. HRUSKA. I am happy to yield to the Senator from Kansas.

Mr. DOLE. I ask unanimous consent at this time to have printed in the RECORD the biographical sketch of Prof. James William Moore and the entire statement which I indicated was prepared for a network television program but was not used. It indicates the great work Judge Carswell did in connection with the establishment of a law school at the Florida State University.

There being no objection the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH OF PROF. JAMES WILLIAM MOORE

Professor Moore is the holder of a named chair—Sterling Professor of Law—at Yale University. He has been a member of the faculty of Yale Law School for more than thirty years, and is a member of the Standing Committee on Practice and Procedure of the Supreme Court of the United States. He is the author of many legal articles and books, chief among which are the authoritative "Moore's Federal Practice", and "Collier on Bankruptcy". In addition to his teaching duties, he is presently counsel to the trustee of the New York, New Haven and Hartford Railroad, and has been since the beginning of its reorganization in mid-1961. Professor Moore was born in Oregon, grew up in Montana, and has lived for nearly a third of a century in Connecticut. En route to becoming a distinguished authority on federal procedure, he worked as a cowpoke and as a professional prize fighter.

REMARKS OF PROFESSOR MOORE

Some who oppose confirmation of Judge Carswell as an Associate Justice of the Supreme Court have said that he is a "racist" or a "segregationist". I know differently, from extended personal contact with Judge Carswell in connection with a matter in which both he and I were interested. I have a firm and abiding conviction that Judge Carswell is not a racist, but a judge who has and will deal fairly with all races, creed, and classes. If I had doubts, I would not be here, for I have a minority ethnic strain, that of an American Indian, and during all my teaching life, over 34 years on the faculty of the Yale Law School, I have championed the rights of all minorities. About five years ago a small group of jurists, educators, and lawyers asked my help in connection with the establishment of a law school at Florida State University at Tallahassee. Judge Carswell was a very active member of that group. As I came to know him in working with them, I was impressed with his views on legal education and the type of law school that he desired to establish. He was very clear about the fact that he wanted a law school free of all racial discrimination—one offering both basic and higher legal theoretical training, and one that would attract students of all races and creeds and from all walks of life and sections of the country.

Judge Carswell and his group succeeded admirably. Taking a national approach they chose, as their first dean, Mason Ladd, who for a generation had been Dean of the College of Law at the University of Iowa and one of the most respected and successful deans in the field of American legal education. Dean Ladd, too, was impressed with Judge Carswell, both as a man and as a judge. He has written the Senate Judiciary Committee a letter to that effect, stating:

"Carswell has an innate sense of fairness . . . is a careful student of the law, is a very hard worker. He is both scholarly and practical minded. He sees issues quickly but carefully explores the authority and legal materials involved in reaching a decision. I regard Judge Carswell as free from prejudice upon the current issues of the day and feel that he will search for the right solution based upon the law and the facts."

Dean Ladd concluded his letter by urging confirmation of Judge Carswell.

From the vision and support of the Carswell group has emerged, within the span of a few years, an excellent, vigorous law school. For example, every member of the first graduating class of Florida State University—consisting of about 100 students—passed the bar examination on the first go-round. This is a hallmark of distinction for any law school.

We of the Ivy League—the big, prestigious law schools such as Yale, Harvard and Columbia—are often intellectual snobs. Any lawyer, judge or professor who does not have an Ivy League degree or has not taught at one of our schools and written a law review article or a book is almost by hypothesis blessed with mediocrity. We seldom go west of Yankee Stadium or south of the Potomac, except to jet in the clouds over America en route to an association or business conference.

Having been in each of the fifty states, and having taught in most sections of the country, I have long been impressed with this country's diversity—economic, social, moral, and ideological. In my opinion the Supreme Court should be representative of that great diversity. That diversity will undoubtedly produce difference of outlook and, among judges, difference of judicial philosophy. But it adds nothing to intelligent discussion of the issues to use such "code words" as "mediocrity" and "insensitivity" when what the critics really mean is that they disagree with the nominee's philosophy.

I note the testimony before the Senate Judiciary Committee of the General Counsel for the United Automobile Workers, who criticized Judge Carswell as having "graduated from the third best law school in Georgia, I believe there are four . . ." I do not personally subscribe, and I certainly hope that the President, the United States Senate, and the Nation as a whole will never subscribe to the notion that only graduates of Ivy League law schools may be confirmed as Justices of the Supreme Court of the United States.

Indeed, I would go further and say that one of the reasons why I feel strongly that Judge Carswell should be confirmed is the fact that he will restore balance to the Supreme Court of the United States. Balance may be of different kinds—for example, the factor of geographical balance is one that numerous Presidents have considered in the past, and which certainly merits consideration here. Florida is the most populous state of the Union never to have had a Supreme Court Justice, and the South as a whole can fairly be described as having been underrepresented on the Supreme Court in the last generation. Ethnic, religious and racial considerations have undoubtedly played a part in nominations in the past and will do so in the future.

Judge Carswell will bring to the Court not only balance, but ability and experience as well. His experience encompasses both private and public practice, and he has served both as a trial and an appellate judge. I am generally familiar with his written opinions, and especially in the areas of the law with which I am particularly knowledgeable—federal practice, bankruptcy, and creditors' rights—I find them to be of excellent quality.

The President has chosen well. It is my belief and hope that Judge Carswell will be confirmed by the Senate.

Mr. DOLE. Mr. President, I might add that Professor Moore speaks as a member of a minority group since he is part American Indian. He knows, of course, about championing causes for the rights of minorities because he is a member of a minority group himself. Furthermore, as the Senator from Nebraska did today, the professor also notes that we are talking about the nomination of a man qualified by experience as a Federal district attorney and Federal district judge, and now as a circuit judge.

Certainly no one in this Chamber suggests that this experience disqualifies the nominee from sitting on the Court.

Mr. HRUSKA. I happen to be familiar with the document you describe. The manuscript was prepared by Professor

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Moore for use on a television show. After having written it, he was advised that the format of the program would not allow him to read any prepared statement, but he drew from it and certainly supports it. Those are his views, as he expressed them.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. HRUSKA. I am delighted to yield to the distinguished Senator from Wyoming.

Mr. HANSEN. I am happy to have an opportunity to speak in support of Judge Carswell and to underscore the very basic and sensible points that have been made by my distinguished colleague, the Senator from Nebraska.

The Senator from Nebraska, speaking earlier in this Chamber, said, with reference to the speech that he had made when talking to reporters in the gallery:

> I sought to express the idea that whether a man is mediocre or distinguished, might, like beauty, be in the eye of the beholder.

The distinguished Senator from Nebraska continued:

> A good judge, as I noted in my floor speech, needs practical courtroom experience. He needs commonsense—or as we say in Nebraska, "horse sense."

He continued by saying:

> There is one more criterion for requisite qualifications of a member of the Supreme Court. Next to integrity, comes at least average intelligence and what I just referred to as common horse sense, both of which Carswell has demonstrated by working his way through college and up to his present position.

I think what the distinguished Senator from Nebraska, who is the ranking minority member of the Committee on the Judiciary, has said needs to be pondered by all Americans. We have been debating, and likely will continue to debate for some days in the future, the qualifications of Judge Carswell. We are discussing whether he measures up to those tests that may be imposed on him by each Member of this body, for so far as I can determine the Constitution imposes a very broad standard which I am sure everyone would have to agree Judge Carswell eminently meets.

But beyond that what may qualify Judge Carswell in the eyes of the Members of this body will be determined by the self-imposed qualifications that each Member of the body may want to impose upon the judge.

Actually, he measures up very well. For those who contend he is mediocre—and that was not the word of my distinguished colleague from Nebraska as he pointed out; those words were used by others, not by him—I wish to call attention to what has been said of some other distinguished jurists.

When the distinguished minority whip spoke in support of Judge Carswell yesterday, he called attention to the fact that:

> Chief Justice Charles Evans Hughes was bitterly opposed by some who felt that his prior legal representation of large corporations had committed him to their philosophy. As the noted scholar, Joseph P. Harris, has observed:
>
> "It was anomalous that most of the arguments against him dealt with decisions of the Supreme Court in which he had no part, on the unsupported assumption that had he been a member he would have sided with the conservative majority of the Court. The opposition served a useful purpose, though had it prevailed the country would have been deprived of the services of a Chief Justice who now ranks with Marshall and Taney."

I would call to the attention of the detractors of Judge Carswell what was said by the distinguished columnist, Carl Rowan.

Mr. Rowan in his column said:

> I am far more impressed by Judge Carswell's frank and unambiguous repudiation of white supremacy in 1970 than by his endorsement of racism as a 28-year-old law school graduate struggling to defeat an uncompromising white supremacist.
>
> At age 28 or 38 you could find Lyndon B. Johnson endorsing segregation and making the racist noises expected of a Texan politician. But at age 58 Johnson was the greatest friend of civil rights and the black man ever to occupy the White House.
>
> That says a lot about human redemption.

I would add that I think it says also a great deal about Judge Carswell.

As I interpret Mr. Rowan's remarks, he says, quite frankly, that he likes the straightforward manner in which Judge Carswell has responded to questions. He likes his lack of ambiguity.

I think it does all of us good to see people in prominent positions who readily admit that what they may have said earlier in their lives should not have been said. Judge Carswell has renounced what he said at age 28.

I would only gather, from what Mr. Rowan says, that he finds Judge Carswell most acceptable by this measure.

I ask my distinguished friend from Nebraska if, in his opinion, I am correctly interpreting what Carl Rowan said.

Mr. HRUSKA. I would think so. I have not read the entire article, but certainly the fashion in which he judges the episode of the 1948 speech and his drawing of the parallel with former President Lyndon B. Johnson is a candid appraisal of the Judge's remarks.

Mr. HANSEN. I admit the Washington Post is entitled to its bias. It has demonstrated that bias on many, many occasions. It does not always concern itself consistently. In yesterday's Wall Street Journal, the following inconsistency was pointed out.

I ask unanimous consent that, at the conclusion of my remarks, there be included in the RECORD the editorial from the March 17 issue of the Wall Street Journal, entitled "Playing With Fire."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HANSEN. That is simply to underscore the fact that the Washington Post gets on both sides of an argument and is not a bit concerned about consistency.

I am pleased that the distinguished Senator from Nebraska has taken this occasion to get back into context the thread that ran throughout his very worthwhile speech on the floor of the Senate. Now all of us might understand more clearly the interesting and extremely worthwhile background of Judge Carswell. He has had the sort of experience in the past which I feel will enable him to be a very fine jurist, in fact an outstanding jurist.

I can recall, in the years I have watched the behavior of members of the Supreme Court, that it is very easy indeed to misjudge what a man may be. It has been said that while one can attempt to categorize a person, and while he may attempt to predict what he will be when he becomes a member of the Court, no one really knows. I say that about Justice White, who I think is a most distinguished member of the Supreme Court, a man who, in my judgment, has earned the respect of most Americans.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. HRUSKA. How much judicial experience did Justice White have before he was named to the Supreme Court?

Mr. HANSEN. I think the Senator can answer that question better than I can, but it is my understanding that he had absolutely none.

Mr. HRUSKA. That is correct.

Mr. HANSEN. I think it is also a fact that a number of members of the Court who stand out as examples of the very finest of this coequal branch of Government were elevated to the Court without any prior judicial experience, experience that would have been invaluable.

What I think is important to understand is that each man must make his own way on the Court. It certainly cannot be said, as I was attempting to point out, that one can identify where a person will be philosophically. I spoke about Justice White. I know at the time of his appointment it was believed by many that he would be a very liberal member of the Court. I suspect that today most lawyers would not so categorize him. He is an outstanding jurist. I compliment the late President Kennedy upon his selection of Justice White for the Court. I have every confidence that when the nomination of Judge Carswell is confirmed, as I believe indeed it will be, he will write his own record on the Court, and he will eminently preserve the confidence that has been reposed in him by the President, and he will justify and merit the high regard for him that has been epitomized by the remarks of the Senator from Nebraska.

EXHIBIT 1

PLAYING WITH FIRE

The editorial page of the Washington Post, which we read every day and recommend for its clarity and style, ran a couple of items side by side last week on the general subject of disobeying the law.

The first was an editorial about the white violence against black school children in Lamar, South Carolina. It suggested the blame for such demented acts must be shared by our national leaders, especially those who have been talking equivocally about the Government's commitment to the equality of all its citizens. The editorial singled out Senator Thurmond and Vice President Agnew, who, it said, "have been playing with matches in public for some time now, and yet they want us to know immediately and for the record that if there is one thing they deplore its fire."

Beside it was an article entitled "One Way of Saying 'No More Deaths'," which ap-

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plauded, with reservations, the anti-war protesters who have invaded draft centers and ransacked defense-companies' offices to dramatize their conviction that when life is at stake, marching is not enough. The article approvingly quoted Howard Zinn, a professor of political science at Boston University: ". . . And it is the mark of enlightened citizens in a democracy that they know the difference between law and justice, between what is legal and what is right . . ."

These two items are not remarkable; you can hear approximately the same two arguments almost anywhere these days. We single out the Post only because this juxtaposition presents us with the opportunity to say that we find the two statements utterly irreconciliable.

It is unfortunately true enough that Mr. Agnew and Senator Thurmond, though we wouldn't equate them, may have said things that encouraged some of their listeners to violence. Such people are easily encouraged. They are, after all, every bit as self-righteously zealous as the people who rip up draft offices. They believe *they* know the difference "between what is legal and what is right."

Which has always been our difficulty understanding how anyone can advocate setting the individual conscience above the law. We don't say the law is always wise, just or moral, but if you excuse the office-ransackers then you must also pardon the race warriors, and after them the people who set bombs in public buildings, and eventually anyone else who can claim a veneer of morality for his whims.

We appreciate that what the Post article condones is not a ventilating of whims but an expression of deeply felt conviction. The difficulty is drawing the line, being able to ensure that what begins in a limited, more or less harmless way doesn't get out of control.

Like playing with fire.

Mr. HRUSKA. I thank the Senator from Wyoming very much. He may be interested to know that, in addition to the examples cited by the Senator from Michigan, the distinguished minority whip, there was the historical instance of Judge Brandeis, highly beloved and greatly respected by all liberal groups and by all scholars and by all professors of the law. Yet when he was nominated in 1916 by President Wilson, there was severe and very bitter opposition to his confirmation.

Mr. President, seven past presidents of the American Bar Association opposed him; 55 prominent Bostonians, led by Harvard President Lowell, opposed him; and what do you suppose, Mr. President, their objection was? In writing, they put it, that he lacked proper "judicial temperament."

In light of the history which he compiled and the fashion in which he had conducted himself before confirmation of his nomination, as well as when he became a member of the Court, the seven past presidents of the American Bar Association and the 55 prominent Bostonians, led by President Lowell, could not have been more wrong. There again, what we call beauty is that which is being seen by the eye of the man who sees it. They did not want to see the virtue or merit in the appointment, so they let their emotions get away from them.

Mr. HANSEN. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I am happy to yield.

Mr. HANSEN. The Senator has referred to the actions of the seven former presidents of the American Bar Association when the nomination of the late Justice Brandeis was before the Senate for confirmation. It might be worth noting, as I believe indeed it is, that they said, in addition to the statement that has just been read by the Senator from Nebraska:

> Taking into view the reputation, character, and professional career of Mr. Louis D. Brandeis, he is not a fit person to be a member of the Supreme Court of the United States.

I suspect that the persons who uttered those words must have had many, many occasions to regret such an unwarranted indictment of a great jurist. I think that most of us would agree that Justice Brandeis indeed looms large as one of the great men on the Supreme Court. Does the distinguished Senator from Nebraska suspect that it must have been a source of continuing embarrassment to those seven former presidents of the American Bar Association that they ever said a thing about the reputation, character, and professional career of Mr. Brandeis as making him unfit to be a member of the Supreme Court of the United States?

Mr. HRUSKA. There would be ample ground to feel a little embarrassed about it and perhaps bothered about it in later years.

Mr. HANSEN. I should think so.

Mr. HRUSKA. I thank the Senator from Wyoming, as I do again the Senator from Kansas (Mr. DOLE), for having engaged in this colloquy.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. HRUSKA. I am happy to yield.

Mr. GRIFFIN. I regret that I was not in the Chamber throughout the presentation made by the distinguished Senator from Nebraska, but I have had an opportunity to scan the text of his remarks. I commend him on another outstanding contribution to the debate on this nomination.

It is my belief that his statement puts in perspective the issue that has developed concerning the qualifications of Judge Carswell.

As a member of the Judiciary Committee, I listened and watched the nominee testify during the hearings. As one judge of his performance, I concluded—and it is in the record—that he handled himself and answered the questions in a manner that was anything but mediocre. In my view he was an outstanding and an excellent witness.

I was impressed with his demonstration of an excellent background in the law and in legal history, and his acquaintance with the history of the Supreme Court.

Certainly, I would not presume to be an adequate judge of another man's potential for greatness. Who am I to make such an assessment? Yet, as Senators, we have to try to pass on such nominations and, as best we can, we must decide whether such a nomination should be confirmed.

I have noticed the argument of some that Judge Carswell's decisions are not voluminous and wordy; so far as I am concerned, that is no argument at all. Certainly, I would not accept the contention that those in the Senate who make the longest speeches necessarily make the greatest contribution to the deliberations of this body. Indeed, I rather admire a Senator or a judge who can express his thoughts succinctly and get to the point. Needless to say, one of the greatest speeches ever made, and one of those which will be remembered the longest was a very short speech by Abraham Lincoln. I refer, of course, to the Gettysburg Address.

Mr. President, I have also noticed the argument of some who say that Judge Carswell has not authored many articles.

Of course, a review of his biography reflects that when he was out of law school only a few years he began working for the Government as a U.S. district attorney. Then he went on the bench and served as a district judge for 10 years, and finally went to the circuit court of appeals.

I realize that there may be a justice or judge here or there who busies himself writing articles. But it is my impression that most sitting judges, the outstanding ones, are very busy handling the business of the court. Furthermore, I believe a good judge is reluctant—and with good reason—to write articles and engage in extrajudicial writing which would tend to put him on record concerning issues as to which he might later be called upon in a case to decide.

I really do not see any merit at all to that criticism, which I have heard and read from time to time.

Mr. HRUSKA. What the Senator says is true. During his 11 years as a trial judge, Judge Carswell presided over and disposed of 4,500 cases. For all but a year, or maybe 18 months, of that career he was the sole judge in that district. The last year or 18 months he had added to his district another district judge.

So during that long period of time, he carried a heavy burden. In addition to his trial that he actually sat in judgment on and presided over, responsibilities he had to manage the district. He had to make the arrangements for the jury terms and the grand juries, and do all the other administrative work that is involved in a busy court.

It would tax one's imagination to understand where a man having on the average about 500 cases a year—would find time to do the research and creative work of writing a book. I must commend those who carry the heavy burden of being judges and still find time for literary work.

Mr. GRIFFIN. The Senate is, and should be, interested in excellence. We should strive to join in the appointment, if possible and to the extent possible, of outstanding Supreme Court Justices. It would be my view that, while no one can predict with certainty whether any nominee will become a great Justice of the Supreme Court, I would say that this nominee has credentials and experience which give him a much better start, and indicate a greater likelihood, that he might achieve greatness as a member of the court, than has been the case with respect to a number of nominees in the past, who have been confirmed by the Senate, and who are now recognized by history as having been great justices of the Supreme Court.

So once again I commend the Senator from Nebraska.

Mr. HRUSKA. I thank the Senator. It might interest him to know that in this commentary of Prof. James William Moore, a man who has been teaching law school and who has practiced also, and had a tremendously fine career in the practice and the teaching of law, there is this language:

> Having been in each of the 50 States, and having taught in most sections of the country, I have long been impressed with this Court's diversity—economic, social, moral, and ideological. In my opinion, the Supreme Court should be representative of that great diversity—

Mr. President, that includes the middle America that we hear so much about these days—

> that diversity will undoubtedly produce difference of outlook and, among judges, difference of judicial philosophy; but it adds nothing of intelligent discussion of the issues to use such code words as "mediocrity" and "insensitivity," when what the critics really mean is that they disagree with the nominee's philosophy.

It is language like that which, it seems to me, should be very well considered in connection with the subject about which I have undertaken to make remarks during the course of this afternoon.

Mr. President, I yield the floor.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the completion of the remarks by the able Senator from Wyoming (Mr. HANSEN) on tomorrow, there be a period for the transaction of routine morning business, that Senators be permitted to make speeches therein, and that there be a limitation on those speeches of 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECAPITULATION OF SENATE ORDERS FOR TOMORROW

Mr. BYRD of West Virginia. Mr. President, for the information of the Senate, I would like to recapitulate briefly the orders for tomorrow.

The Senate will adjourn shortly, as in legislative session, until 11 o'clock tomorrow morning. Following the disposition of the reading of the Journal, the able Senator from Wyoming (Mr. HANSEN) will be recognized for 20 minutes; following which there will be a period for the transaction of routine morning business, with statements therein limited to 3 minutes; following which, at 12 o'clock noon, there will be a rollcall vote on Executive I, 91st Congress, first session, to be followed by another rollcall vote on Executive J, 91st Congress, first session; following which the unfinished business will be laid before the Senate by the distinguished Presiding Officer.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment, as in legislative session, until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 52 minutes p.m.) the Senate adjourned until tomorrow, Thursday, March 19, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 18, 1970:

U.S. COAST GUARD

The following-named graduates of the Coast Guard Academy to be permanent commissioned officers in the Coast Guard in the grade of ensign:

Michael Ray Adams
Michael Duane Allen
William Howson Anderson
Samuel Janison Apple
John Holland Baker, III
Timothy Glenn Balunis
Donald George Bandzak
James Ronald Beach
John Lawrence Beales
William Lawrence Beason, Jr.
Edward Joseph Beder, Jr.
David Stephen Belz
Thomas Edward Bernard
David George Sidney Binns
Ernest Joseph Blanchard, IV
Allen Kenneth Boetig
Richard Walter Brandes
Lawson Walter Brigham
Charles Richmond Brown
James Stuart Brown
Joseph Lance Bryson
James Steven Carmichael
Roy James Casto
John Davis Clark, Jr.
James Byrne Clarke
Jeffrey Nathaniel Compton
Rodney Longhurst Cook
Roger Charles Cook
Richard Marshall Cool
Michael Dillon Cooley
Richard Dail Crane
Robert George Cross
Terry Michael Cross
David Dahlinger
Thomas Lee Davis
Edward John Dennehy
Christopher Desmond
Donald Robert Dickmann
Terrance Martin Edwards
John Haley Fearnow
Gale Wayne Fisk
Michael Francis Flessner
James Black Friderici
Gerald Alan Gallion
Melvin Wayne Garver
John Anthony Gaughan
Michael Don Gentile
Guy Turner Goodwin
Victor Joseph Guarino
Paul Leonard Hagstrom
Terrance Patrick Hart
Harold Wayne Henderson
John Edward Hodukavich
Thomas Michael Howard
John Francis Hughes
Conrad Richard Huss
David Bruce Irvine
Paul Chandler Jackson
George Francis Johnson
Horton Winfield Johnson
David Timothy Jones
Richie McMillan Keig
Harold Gregory Ketchen
Michael John Kirby
John Kent Kirkpatrick
David Bruce Klos
Glenn Gene Kolk
William Edward Kozak
Kenneth Charles Kreutter
Lawrence Vincent Kumjian
Edmund Francis Labuda, Jr.
Larry Franklin Lanier
Kim "I" MacCartney
Steven Andrew Macey, Jr.
Andrew Malenki III
David John Maloney, Jr.
Ronald Anthony Marcolini
James Gordon Marthaler
William Anthony McDonough, Jr.
John Francis McGrath, Jr.
Gary Robert McGuffin
Edward Allen McKenzie
Dennis Robert McLean
Thomas Lee Mills
Anthony Thomas Mink
John Ross Mitchell
Theophilus Honiz III
David Richard Moore
Richard Stephen Muller
John Michael Murphy
Spencer Michael Neal
James Quentin Neas, Jr.
Mark Andrew O'Hara
Peter Carlton Olsen
James Clifford Olson
Donald Burnham Parsons, Jr.
Michael Mariano Pawlik
Marc Pettingill
Douglas Craig Phillips
Peter Quido Pichini
William Wilbert Pickrum
Dennis Michael Pittman
Robert Lee Pray
Thomas William Purtell
John Edward Quill
Kevin Lawrence Ray
David John Reichl
Stephen Michael Riddle
Thomas Bernard Rodino
Henry John Rohrs, Jr.
Stephen Richard Rottier
Albert Joseph Sabol
Julius Benjamin Sadilek, Jr.
Steven Edward Sanderson
Fredrick Henry Sellers, Jr.
Philip Edward Sherer
Robert Dennis Sirois
Anthony Raymond Souza
Alan Edward Spackman
Frederick Norman Miner Squires III
Douglas Bruce Stevenson
Bruce Beverly Stubbs
Anthony Stanislaus Tangeman
Thomas Brogden Tayor
Timothy Lenox Terriberry
Myron Frank Tethal
William Brinker Thomas
Joel Alan Thuma
Frank James Tintera, Jr
Ralph Dean Utley
Jonathan Michael Vaughn
Robert Julius Vollbrecht
Gregory Steven Voyik
Alan Frank Walker
Chester John Walter
George Paul Waselus
Charles Rodney Weir
Robert John Williamson, Jr.
David Edward Wilson
Thomas Xavier Worley
Ralph Arner Yates
Thomas Joseph Zieziulewicz
Kenneth Michael Zobel

The following-named officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

Philip K. Hauenstein
Donald A. Kirkham
Jerry E. Bowersox
Robert B. Millson
James L. O'Brien
Robert M. McAllister
James L. Jones
Gary A. Bird
Theodore C. Scheeser
Paul E. Hill
John E. Steve
Richard L. Youdal
Robert L. Hoyt
William J. Hamilton
Michael T. Burnett
Ronnie T. Wheeler
John H. Burger
Paul D. Huffman
Miller R. Chappell
Curtis J. Olds, Jr.
Douglas R. Peterson
Carl R. Sosna
Michael J. Arnold
Richard D. Carmack

The following-named members of the permanent commissioned teaching staff of the Coast Guard Academy for promotion to the grade of commander:

Harlan D. Hanson	Frank S. Kapral
Louis K. Bragaw, Jr.	Thomas D. Combs, Jr.
John S. Mahon	

The following-named Reserve officers to be permanent commissioned officers of the Coast Guard in the grades indicated:

Lieutenant commander

Hugh J. Milloy

Commander

Charles A. Biondo

Lieutenant

Arthur D. Hoppe
Harold C. Messenheimer

The following-named officer to be a permanent commissioned officer of the Coast Guard in the grade of commander, having been recalled to active duty from the temporary disability retired list:

Hugh J. LeBlanc

The following-named officer to be a permanent commissioned warrant officer in the Coast Guard in the grade of chief warrant officer, W4, having been recalled to active duty from the temporary disability retired list:

Merle L. Cochran

DISTRICT OF COLUMBIA COMMISSIONER NOMINATION

Nomination received by the Senate March 18, 1970, from the Commissioner of the District of Columbia:

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

Stephen S. Davis for reappointment as a member of the Board of Directors of the District of Columbia Redevelopment Land Agency for a term of 5 years, effective on and after March 4, 1970, pursuant to the provisions of section 4(a) of Public Law 592, 79th Congress, approved August 2, 1946, as amended.

HOUSE OF REPRESENTATIVES—*Wednesday, March 18, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Behold, God is my salvation; I will trust and not be afraid—Isaiah 12: 2.

Eternal Spirit, who art the hope of the world and the help of all who put their trust in Thee, be Thou our hope and our help as we come to Thee in this our morning prayer. Lead us to the rock that is higher than we, and there may we find strength for each day, courage for each hour, confidence for each minute, and faith for each second. Thus may we defeat the foes that would conquer our spirits by being strong in Thee.

Our prayer leaps across the boundaries of color, creed, and culture to include the world in which we live. In spite of differences, bind us together in a common obedience to the moral law and make our faith real enough and strong enough to unite mankind in a fellowship of kindred minds. While it is yet day may we choose light and not darkness, love and not hate, truth and not falsehood, peace and not war—to the glory of Thy holy name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3786. An act to authorize the appropriation of additional funds necessary for acquisition of land at the Point Reyes National Seashore in California.

The message also announced that the Vice President, pursuant to Public Law 84–372, appointed Mr. GOODELL to the Franklin Delano Roosevelt Memorial Commission in lieu of Mr. BROOKE, resigned.

The message also announced that the Vice President, pursuant to Public Law 91–129, appointed Mr. JACKSON and Mr. GURNEY as members on the part of the Senate and Mr. Richard E. Horner as a member from outside of the Federal Government to the Commission on Government Procurement.

ORT DAY—WOMEN'S ORGANIZATION FOR VOCATIONAL REHABILITATION THROUGH TRAINING

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, today marks the observance of ORT day across the country by chapters of Women's American ORT—Organization for Rehabilitation Through Training. This is the vocational training program for Jewish people which has helped more than 1 million persons of the Jewish faith since it was established in 1880.

During the month of March ORT chapters across the Nation will sponsor rallies, telethons, and other activities to publicize and bring public attention to these important civic programs.

Mr. Speaker, this membership drive by ORT deserves special recognition which is why I am raising this subject for discussion in the House at this time. I wish Women's American ORT every success in recruiting new members to strengthen the organization and enable it to continue the fine community work which has earned it an outstanding reputation.

I especially commend all the dedicated members of ORT in my district.

JAPAN REJECTS TEXTILE AGREEMENT

(Mr. DORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORN. Mr. Speaker, the time has come when the Congress should pass legislation to save our textile industry from excessive low-wage imports. Such legislation will be introduced, and I predict its early consideration and passage. Time has indeed run out and action will be taken by the Congress. Thirteen months of discussions and negotiations with our Japanese friends have proven to be fruitless. No concrete proposal to relieve the unfair pressure of imports on our industry has been advanced by Japan. The situation is growing daily worse with unemployment, curtailment, and part-time employment. We much preferred a voluntary comprehensive agreement with Japan covering all categories of imports including manmade fiber, staple, and filament yarn.

In view of Japan's favorable trade balance of more than $1 billion and the injurious effects of skyrocketing textile imports on the future of our industry, we believed that Japan would be receptive to an agreement holding her imports to the present level plus a fair share of our annual market growth. This type of agreement would not cause Japan to lose one single textile job but, on the other hand, would guarantee the health of her textile industry and guarantee its reasonable growth. This fair, honest, and sincere proposal has been rejected by Japan.

The leaders of our informal textile committee met here in Washington with the Members of the Japanese Diet. We welcomed Mr. Sato to the United States. We did not press textile issues while elections were underway in Japan. We did not insist that relief for our industry be tied to the Okinawa question. We have waited patiently and long—still no agreement or definite proposal from Japan to help preserve our industry and the jobs of its employees. Now, we must proceed with the legislation which would save our textile industry, the jobs of its more than 2 million employees, and preserve its vital role in the defense and security of our Nation and the free world.

JETS FOR ISRAEL

(Mr. FARBSTEIN asked and was given permission to address the House for 1 minute.)

Mr. FARBSTEIN. Mr. Speaker, I am shocked and concerned at what I believe are authentic radio reports this morning that the President has decided not to make jet aircraft available to Israel at this critical time in the life of that small, brave country.

I know that the President has said on a number of occasions that he would help Israel when needed and that Israel must and will survive as a nation. These are mere words. Unfortunately, actions speak louder than words.

Mr. Speaker, Israel needs those airplanes. She needs them to survive. And irrespective of pious phrases and good intentions, the fact remains that unless the Soviet Union agrees to suspend the shipment of defense articles and services to the Arab States, the military balance in the Middle East will tilt in favor of the Arab States. The result will be the destruction of Israel and, most of all, the

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genocidal eradication of its Jewish population.

The world stood by in the 1930's and permitted Hitler to murder 6 million Jews. Does the United States intend to stand by again and wash its hands of the whole thing?

The President has led us to believe that he would support Israel—that he would not permit its destruction. Now this refusal to provide needed military equipment. Is this an example of concern for the territorial integrity and independence of Israel? Or is it another example where the President has sacrificed principle for politics or shall I say material gain.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. FARBSTEIN. I am happy to yield to the gentleman from New York.

Mr. RYAN. I join the gentleman from New York in expressing dismay at the anticipated action of the President of the United States in rejecting Israel's request to purchase planes which are necessary for the security and defense of Israel. This will be a signal to the Arab States to continue their war of attrition and their refusal to enter into direct negotiations. Since the 6-day war Egypt has been resupplied—and then some—by the Soviet Union. The United States has an obligation to help Israel defend herself.

Mr. FARBSTEIN. Let me also sugest to the gentleman that the refusal to furnish jets to Israel will put the United States in a position where there may be lost the entire Middle East, to the West because Israel has been the bulwark of democracy in that area.

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PERSONAL ANNOUNCEMENT

Mr. DULSKI. Mr. Speaker, I missed two rollcall votes on Monday because of a prior commitment. Had I been present and voting, I would have voted "aye" on rollcall No. 48 and "aye" on rollcall No. 49. Previously, also due to a conflict, I missed rollcall No. 31. Had I been present and voting I would have voted "nay" on rollcall No. 31.

RE-REFERRAL OF H.R. 13217 FROM COMMITTEE ON GOVERNMENT OPERATIONS TO COMMITTEE ON BANKING AND CURRENCY

Mr. PATMAN. I ask unanimous consent that the bill (H.R. 13217) to provide for the balanced urban development and growth of the United States be rereferred from the Committee on Government Operations to the Committee on Banking and Currency.

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, I would like to ask the distinguished chairman of the Committee on Banking and Currency if a representative, the chairman, or some other member, from the Committee on Government Operations is in accord with the request.

Mr. PATMAN. I have a letter from the gentleman from Illinois (Mr. DAWSON), the chairman, that he is in agreement with it. The gentleman from California (Mr. HOLIFIELD) is present, as is also the gentleman from North Carolina (Mr. FOUNTAIN) who is chairman of the Intergovernmental Relations Committee. He is in agreement with it, and also the author of the bill.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from California.

Mr. HOLIFIELD. I would like to affirm what the chairman has said. We feel that this re-referral is proper. We feel that it is a substantive matter which ought to be considered by the Committee on Banking and Currency.

Mr. GERALD R. FORD. Will the chairman of the Committee on Banking and Currency read the title of the bill again, please.

Mr. PATMAN. Yes. The title of the bill is "to provide for the balanced urban development and growth of the United States."

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PREVENTING ACCESS BY PASSENGERS TO PILOT'S COCKPIT

(Mr. WYMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WYMAN. Mr. Speaker, precisely what I have warned about for the last 6 years took place last night on an Eastern Airlines jet bound for Boston, Mass. A passenger with a gun got into the pilot's compartment, killed the copilot and almost killed the pilot. If he had, the plane would have crashed and 73 passengers killed.

Fortunately the wounded pilot was able to land the plane. He deserves public commendation for this heroic action.

But, Mr. Speaker, I have had a bill pending in the House Committee on Interstate and Foreign Commerce for 6 years now—currently H.R. 721—that had it been law would have made it impossible for criminals to get into the pilot's compartment. This would not have happened nor could many other similar instances of the hijacking or attempted hijacking of commercial aircraft have taken place.

Some one of these days—any time now for that matter—we are going to lose an airplane in this way with all its passengers. Last night was too near a miss.

This is an inexcusable situation of continuing great danger to millions of traveling Americans for which the chairman of the House Committee on Interstate and Foreign Commerce cannot avoid public responsibility. Action should be taken to implement this legislation on a crash basis—even before the Easter recess.

If we do not there is going to be a terrible tragedy in the air—and who knows, Mr. Speaker, it might be you or me or the friend across the street who is in that position of helpless peril as a passenger. I urge action now before there's a terrible tragedy in the air.

CALIFORNIA PRODUCES FINEST OF EVERYTHING

(Mr. BELL of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and inclule extraneous matter.)

Mr. BELL of California. Mr. Speaker, I would like to ask my colleagues to join me in welcoming to Washington the Firehouse West Coast Johnny Wooden basketball team—and to call to their attention an event of great moment occuring tomorrow night at Cole Field House.

I am sure that my distinguished colleagues from New Mexico will forgive me if I point out that the UCLA basketball team is about to prove again that my home State of California produces the finest of everything.

I do not underestimate the power of New Mexico State's Amazin' Aggies. It is just that, as a Washington Post columnist put it:

> The main reason the Aggies have not been more amazin' the last two years is that they kept bumping into UCLA in the regionals.

UCLA, which I am delighted to represent in this body, is the only school in the history of college basketball to win the NCAA championship five times.

It is the only one ever to win it three times in a row.

And it will be the first team in history to win it four times, breaking its own record.

Coach Johnny Wooden, not one to relinquish his leadership example, has been named coach of the year three times and looks like he has a good shot at a fourth.

He already has the title in the view of UPI and AP.

I do want to advise my colleagues that the Government will not be home tomorrow night. Everyone including top White House officials, Cabinet members and agency heads will be at the game.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. BELL of California. I yield to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, has the gentleman in the well ever heard of the Jacksonville Dolphins?

CALL OF THE HOUSE

Mr. FUQUA. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. PATTEN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 52]

Alexander
Ashley
Baring
Biaggi
Brock
Brooks
Brown, Calif.
Carey
Cederberg
Chisholm
Clark
Clay
Conyers
Cramer
Davis, Ga.
Dawson
de la Garza
Dent
Diggs
Dingell
Edwards, Calif.
Erlenborn
Evans, Colo.
Fascell
Feighan
Findley
Fish
Fulton, Pa.
Galifianakis
Gaydos
Green, Oreg.
Hansen, Wash.
Hébert
Heckler, Mass.
Helstoski
Kirwan
Leggett
McEwen
Meeds

Meskill
Michel
Mills
Minshall
Moorhead
Murphy, Ill.
Nichols
O'Neal, Ga.
O'Neill, Mass.
Ottinger
Patman
Powell
Pucinski
Rees
Reid, Ill.
Reid, N.Y.
Rooney, N.Y.
Rosenthal
St Germain
Shipley
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Taft
Tunney

The **SPEAKER**. On this rollcall, 364 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

INTRODUCING BILL ON SECRETARY OF TRANSPORTATION BECOMING MEMBER OF NATIONAL AERONAUTICS AND SPACE COUNCIL

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, today I am introducing a bill to amend the National Aeronautics and Space Act of 1958 to provide that the Secretary of Transportation shall be a member of the National Aeronautics and Space Council. The gentleman from Pennsylvania (Mr. FULTON), and the gentleman from West Virginia (Mr. HECHLER), join with me as cosponsors.

The National Aeronautics and Space Council, which is chaired by the Vice President, presently includes as members the Secretary of State, the Secretary of Defense, and Administrator of NASA, and the Chairman of the AEC. During hearings held by the Committee on Science and Astronautics in both 1968 and 1969, evidence was provided that the National Aeronautics and Space Council is increasingly involved with aeronautics and aviation policies and problems. It has been recognized that the Council is in an excellent position to provide a forum for dealing with national aviation problems—both for military and civil purposes.

Because the Council will be increasingly involved in civil aviation, the Department of Transportation obviously will be affected by the Council's deliberations and recommendations to the President. It has been made clear that the Council will become actively involved in aeronautics far beyond aircraft alone. It will be deeply engaged in considering the environment in which the aircraft operates. Such areas are also the operating province of the Department of Transportation.

While it is true that the Department of Transportation sits with the Council as an observer on occasion, I believe that a defect in Government organization is the exclusion from the Council of the Department of Transportation—the agency in Government which has principal responsiblity for civil aviation. All available resources for formulating national policy and determining major courses of action in solving critical aviation problems should be used. It is, therefore, considered logical and essential that the Secretary of Transportation be made a statutory member of the National Aeronautics and Space Council.

RELEASING OF CONSTRUCTION FUNDS

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of Alabama. Mr. Speaker, President Nixon has taken the first step toward easing the economic pressure on the Nation that was designed to cut inflation. His releasing of construction funds was a prudent move to help that sector of the economy most affected by the administration anti-inflation efforts.

But more important was his urging that those who control the interest rates in this country ease up a little. The effects of high interest rates fall directly on those who can least afford the pinch—the average wage earner, those living on fixed incomes and the poor.

Business can pass on to the consumer the cost of higher capital financing through raising prices. Likewise banks receive their income through keeping the interest rates they charge borrowers higher than the rates they must pay for money. These groups cannot be denied their rights to make a profit. This is how the American system of free enterprise operates.

However, the only one who cannot recoup his costs is the average wage earner and the consumer. And, of course, this group gets doubly hit when Uncle Sam wants an increase in taxes to cover his increased costs.

There are better ways of spreading the burden, and many of these ways have been proposed in this body. However, perhaps our economic situation was so critical last year that there was no chance for experimentation. And many of those tools needed for experimentation were not available to the Executive.

But now that the situation is easing, let us give the average American, who has been bearing the greatest share of the anti-inflation burden, the first break. If private institutions and their regulatory agencies fail to respond to the President's timely urging, Congress may have to step in to insure that every American gets a fair shake. The time for that fair shake is now.

CONFERENCE REPORT ON H.R. 11959, VETERANS EDUCATION AND TRAINING AMENDMENTS ACT OF 1970

Mr. TEAGUE of Texas submitted the following conference report and statement on the bill (H.R. 11959) to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons under such chapters:

CONFERENCE REPORT (H. REPT. 91–918)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11959) to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons under such chapters, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That this Act may be cited as the "Veterans Education and Training Amendments Act of 1970".

TITLE I—INCREASE IN EDUCATIONAL AND VOCATIONAL REHABILITATION SUBSISTENCE ALLOWANCES

SEC. 101. Section 1504(b) of title 38, United States Code, is amended to read as follows:

"(b) The subsistence allowance of a veteran-trainee is to be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, or IV (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of training as specified in column I:

"Column I	Column II	Column III	Column IV
Type of training	No dependents	One dependent	Two or more dependents
Institutional:			
Full-time	$135	$181	$210
Three-quarter-time	98	133	156
Half-time	67	91	102
Institutional on-farm, apprentice, or other on-job training: Full-time	118	153	181".

Where any full-time trainee has more than two dependents and is not eligible to receive additional compensation as provided by section 315 or section 335 (whichever is applicable) of this title, the subsistence allowance prescribed in column IV of the foregoing table shall be increased by an additional $6 per month for each dependent in excess of two."

SEC. 102. The last sentence of section 1677 (b) of title 38, United States Code, is amended by striking out in the last sentence thereof "$130" and inserting in lieu thereof "$175".

SEC. 103. (a) The table (prescribing educational assistance allowance rates for eligible veterans pursuing educational programs on half-time or more basis) contained in paragraph (1) of section 1682(a) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$175	$205	$230	$13
Three-quarter time	128	152	177	10
Half-time	81	100	114	7
Cooperative	141	167	192	10".

(b) Section 1682(b) of such title is amended by striking out "$130" and inserting in lieu thereof "$175".

(c) Section 1682(c)(2) of such title is amended by striking out "$130" and inserting in lieu thereof "$175".

(d) The table (prescribing educational assistance allowance rates for eligible veterans pursuing a farm cooperative program) contained in section 1682(d)(2) of such title is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$141	$165	$190	$10
Three-quarter-time	101	119	138	7
Half-time	67	79	92	4".

(e) The table (prescribing educational assistance allowance rates for eligible veterans pursuing an apprenticeship or other on-job training) contained in section 1683(b) of such title is amended to read as follows:

"Periods of training	No dependents	One dependent	Two or more dependents
1st 6 months	$108	$120	$133
2d 6 months	81	92	105
3d 6 months	54	66	79
4th and any succeeding 6-month periods	27	39	52".

SEC. 104. (a) Section 1732(a) of title 38, United States Code, is amended to read as follows:

"(a)(1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of (A) $175 per month if pursued on a full-time basis, (B) $128 per month if pursued on a three-quarter-time basis, and (C) $81 per month if pursued on a half-time basis.

"(2) The educational assistance allowance on behalf of an eligible person pursuing a program of education on less than a half-time basis shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires other individuals enrolled in the same program to pay, or (B) $175 per month for a full-time course, whichever is the lesser."

(b) Section 1732(b) of such title is amended by striking out "$105" and inserting in lieu thereof "$141".

(c) Section 1742(a) of such title is amended to read as follows:

"(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on his behalf a special training allowance computed at the basic rate of $175 per month. If the charges for tuition and fees applicable to any such course are more than $55 per calendar month the basic monthly allowance may be increased by the amount that such charges exceed $55 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $6.80 that the special training allowance paid exceeds the basic monthly allowance."

TITLE II—MISCELLANEOUS AMENDMENTS TO VETERANS' AND DEPENDENTS' EDUCATION PROGRAMS

SEC. 201. (a) Subsection (b) of section 1652 of title 38, United States Code, is amended by adding at the end thereof a new sentence as follows: "Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field."

(b) Subsection (c) of section 1652 of such title is amended to read as follows:

"(c) The term 'educational institution' means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults."

SEC. 202. (a) Section 1673(a) of title 38, United States Code, is amended to read as follows:

"(a) The Administrator shall not approve the enrollment of an eligible veteran in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field, unless the eligible veteran or the institution offering such course submits justification showing that at least one-half of the persons completing such course over the preceding two-year period have been employed in the sales or sales management field; or

"(3) any type of course which the Administrator finds to be avocational or recreational in character unless the veteran submits justification showing that the course will be of a bona fide use in the pursuit of his present or contemplated business or occupation."

(b) Section 1673 of such title is further amended by adding at the end thereof a new subsection as follows:

"(e) The Administrator shall not approve the enrollment of any eligible veteran in an apprentice, or other on-job training program where he finds that by reason of prior training or experience such veteran is performing or is capable of performing the job operations of his objective at the same performance level as the journeyman in the occupation."

SEC. 203. (a) Subsection (a) of section 1677 of title 38, United States Code, is amended by striking out the material preceding clause (1) and inserting in lieu thereof the following:

"(a) The Administrator may approve the pursuit by an eligible veteran of flight training where such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation or where generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation, subject to the following conditions:".

(b) Section 1677(a)(1) of such title is amended by deleting "or must have satisfactorily completed the number of hours of flight training instruction required for a private pilot's license,".

SEC. 204. (a) Chapter 34 of title 38, United States Code, is amended by—

(1) striking out "section 1678 of this title" in section 1661(c) and inserting "subchapters V and VI of this chapter";

(2) striking out section 1678;

(3) inserting immediately after the period at the end of section 1682(b) the following: "Notwithstanding provisions of section 1681 of this title, payment of the educational assistance allowance provided by this subsection may, and the educational assistance allowance provided by section 1696(b) shall, be made to an eligible veteran in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that the veteran has enrolled in and is pursuing a program at such institution."; and

(4) adding at the end of chapter 34 the following new subchapters:

"Subchapter V—Special Assistance for the Educationally Disadvantaged

"§ 1690. Purpose

"It is the purpose of this subchapter (1) to encourage and assist veterans who have academic deficiencies to attain a high school education or its equivalent and to qualify for and pursue courses of higher education, (2) to assist eligible veterans to pursue post-secondary education through tutorial assistance where required, and (3) to encourage educational institutions to develop programs which provide special tutorial, remedial, preparatory, or other educational or supplementary assistance to such veterans.

"§ 1691. Elementary and secondary education and preparatory educational assistance

"(a) In the case of any eligible veteran not on active duty who—

"(1) has not received a secondary school diploma (or an equivalency certificate) at the time of his discharge or release from active duty, or

"(2) in order to pursue a program of education for which he would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Administrator may, without regard to so much of the provisions of section 1671 as prohibit the enrollment of an eligible veteran in a program of education in which he is 'already qualified', approve the enrollment of such veteran in an appropriate course or courses or other special educational assistance program.

"(b) The Administrator shall pay to an eligible veteran pursuing a course or courses or program pursuant to subsection (a) of this section, an educational assistance allowance as provided in sections 1681 and 1682 (a) or (b) of this title; except that no enrollment in adult evening secondary school courses shall be approved in excess of half-time training as defined pursuant to section 1684 of this title.

"§ 1692. Special supplementary assistance

"(a) In the case of any eligible veteran who—

"(1) is enrolled in and pursuing a post-secondary course of education on a half-time or more basis at an educational institution; and

"(2) has a marked deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education,

the Administrator may approve individualized tutorial assistance for such veteran if such assistance is necessary for the veteran to complete such program successfully.

"(b) The Administrator shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 1682 of this title, the cost of such tutorial assistance in an amount not to exceed $50 per month for a maximum of nine months, upon certification by the educational institution that—

"(1) the individualized tutorial assistance is essential to correct a marked deficiency of the eligible veteran in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

"(2) the tutor chosen to perform such assistance is qualified; and

"(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

"§ 1693. Effect on educational entitlement

"The educational assistance allowance or cost of individualized tutorial assistance authorized by this subchapter shall be paid without charge to any period of entitlement the veteran may have earned pursuant to section 1661(a) of this title.

"Subchapter VI—Predischarge Education Program

"§ 1695. Purpose: definition

"(a) The purpose of this subchapter is to encourage and assist veterans in preparing for their future education, training, or vocation by providing them with an opportunity to enroll in and pursue a program of education or training prior to their discharge or release from active duty with the Armed Forces. The program provided for under this subchapter shall be known as the Predischarge Education Program (PREP).

"(b) For the purposes of this subchapter, the term 'eligible person' means any person serving on active duty with the Armed Forces who has completed more than 180 consecutive days of such active duty service as certified to the Administrator by the Secretary concerned.

"§ 1696. Payment of educational assistance allowance

"(a) The Administrator shall, under such regulations as he shall prescribe after consultation with the Secretary of Defense, pay the educational assistance allowance as computed in section 1682(b) of this title to an eligible person enrolled in and pursuing (1) a course or courses offered by an educational institution (other than by correspondence) and required to receive a secondary school diploma, or (2) any deficiency, remedial, or refresher course or courses offered by an educational institution and required for or preparatory to the pursuit of an appropriate course or training program in an approved educational institution or training establishment.

"(b) The educational assistance allowance of an eligible person pursuing education or training under this subchapter shall be computed at the rate of (1) the established charges for tuition and fees which the educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to pay, and the cost of books and supplies peculiar to the course which such educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to have, or (2) $175 per month for a full-time course, whichever is the lesser.

"(c) The educational assistance allowance authorized by this section shall be paid without charge to any period of entitlement earned pursuant to section 1661(a) of this title.

"§ 1697. Educational and vocational guidance

"The Administrator shall, to the extent that professional counselors are available, provide, by contract or otherwise, educational and vocational guidance to persons eligible for educational assistance under this subchapter."

(b) The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by striking out

"1678. Special training for the educationally disadvantaged.";

and by adding at the end thereof the following:

"SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

"1690. Purpose.

"1691. Elementary and secondary education and preparatory educational assistance.

"1692. Special supplementary assistance.

"1693. Effect on educational entitlement.

"SUBCHAPTER VI—PREDISCHARGE EDUCATION PROGRAM

"1695. Purpose: definition.

"1696. Payment of educational assistance allowance.

"1697. Educational and vocational guidance."

SEC. 205. Section 1681(d) of title 38, United States Code, is amended by inserting below clause (2) the following: "Notwithstanding the foregoing, the Administrator may pay an educational assistance allowance representing the initial payment of an enrollment period, not exceeding one full month, upon receipt of a certificate of enrollment."

SEC. 206. (a) Section 1684(a) of title 38, United States Code, is amended by—

(1) striking out "and" after the semicolon in clause (2); and

(2) striking out clause (3) and inserting in lieu thereof the following:

"(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when a minimum of four units per year is required. For the purpose of this clause, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year; and

"(4) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required; except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of semester hours, for which credit is granted toward a standard college degree, shall be considered a full-time course, but in the event such minimum number of semester hours under (B) is less than twelve hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course.

Notwithstanding the provisions of clause (4), a veteran shall be considered to be pursuing a full-time course at a junior college, college, or university if (A) he is carrying a number of semester hours, or the equivalent thereof, necessary to be considered a full-time course under clause (4), (B) credit is granted toward a standard college degree for not less than half the number of those hours, and (C) he is carrying one or more courses for which no credit is granted toward such a degree but which he is required to take because of a deficiency in his education."

(b) Section 1733(a)(3) of such title is amended to read as follows: "(3) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required; except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof are considered to be pursuing a full-time course or other administrative purposes, then such an institutional undergraduate course offered by such a college or university with such minimum number of semester hours, for which credit is granted toward a standard college degree, shall be considered a full-time course, but in the event such minimum number of semester hours under clause (B) is less than twelve hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course."

SEC. 207. (a) Chapter 35 of title 38, United States Code, is amended by adding at the end of subchapter VI thereof a new section as follows:

"§ 1763. Notification of eligibility

"The Administrator shall notify the parent or guardian of each eligible person defined in section 1701(a)(1)(A) of this chapter of the educational assistance available to such person under this chapter. Such notification shall be provided not later than the month in which such eligible person attains his thirteenth birthday or as soon thereafter as feasible."

(b) The table of sections at the beginning of chapter 35 of such title is amended by inserting immediately below

"1762. Nonduplication of benefits."

the following:

"1763, Notification of eligibility.".

SEC. 208. Section 1712 of title 38, United States Code, is amended by—

(1) deleting in subsection (a)(3) the words "first occurs" immediately preceding "(A)" and inserting in lieu thereof "last occurs"; and

(2) adding at the end thereof a new subsection as follows:

"(e) The term 'first finds' as used in this section means the effective date of the rating or date of notification to the veteran from whom eligibility is derived establishing a service-connected total disability permanent in nature whichever is more advantageous to the eligible person.

SEC. 209. Section 1723(a) of title 38, United States Code, is amended to read as follows:

"(a) The Administrator shall not approve the enrollment of an eligible person in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field, unless the eligible person or the institution offering such course submits justification showing that at least one-half of the persons completing such course over the preceding two-year period have been employed in the sales or sales management field; or

"(3) any type of course which the Administrator finds to be avocational or recreational in character unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation."

SEC. 210. Section 1732(c) of title 38, United States Code, is amended to read as follows:

"(c) If a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines, the educational assistance allowance computed for such person under this section shall be paid at a rate in Philippine pesos equivalent to $0.50 for each dollar."

SEC. 211. Section 1772 of title 38, United States Code, is amended by adding at the end thereof a new subsection (c) as follows:

"(c) In the case of programs of apprenticeship where—

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"(1) the standards have been approved by the Secretary of Labor pursuant to section 50a of title 29 as a national apprenticeship program for operation in more than one State, and

"(2) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Administrator shall act as a 'State approving agency' as such term is used in section 1683(a)(1) of this title and shall be responsible for the approval of all such programs."

SEC. 212. Section 1777(a) of title 38, United States Code, is amended by inserting "and supervised" immediately after "organized".

SEC. 213. Chapter 36 of title 38, United States Code, is amended as follows:

(1) by deleting section 1781 of subchapter II in its entirety and inserting in lieu thereof the following:

"§ 181. Limitations on educational assistance

"No educational assistance allowance or special training allowance granted under chapter 34 or 35 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health, Education, and Welfare in the case of the Public Health Service); or (2) who is attending a course of education or training paid for under the Government Employees' Training Act and whose full salary is being paid to him while so training."; and

(2) by deleting in the table of sections at the beginning of such chapter the following:

"1781. Nonduplication of benefits."

and inserting in lieu thereof the following:

"1781. Limitations on educational assistance."

SEC. 214. (a) Chapter 3 of title 38, United States Code, is amended by adding at the end thereof a new subchapter as follows:

"Subchapter IV—Veterans Outreach Services Program

"§ 240. Purpose: definitions

"(a) The Congress declares that the outreach services program authorized by this subchapter is for the purpose of insuring that all veterans, especially those who have been recently discharged or released from active military, naval, or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Veterans' Administration are provided timely and appropriate assistance to aid them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents. The Congress further declares that the outreach services program authorized by this subchapter is for the purpose of charging the Veterans' Administration with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

"(b) For the purposes of this subchapter, (1) the term 'other governmental programs' shall include all programs under State and local laws as well as all programs under Federal law other than those authorized by this title, and (2) the term 'eligible dependent' means an 'eligible person' as defined in section 1701(a)(1) of this title.

"§ 241. Outreach services

"The Administrator shall provide the following outreach services:

"(1) by letter advise each veteran at the time of his discharge or release from active military, naval, or air service, or as soon as possible thereafter, of all benefits and services under laws administered by the Veterans' Administration for which the veteran may be eligible and, in carrying out this paragraph, the Administrator shall give priority to so advising those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release;

"(2) distribute full information regarding all benefits and services to which they may be entitled under laws administered by the Veterans' Administration and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) which he determines would be beneficial to veterans; and

"(3) provide, to the maximum extent possible, aid and assistance (including personal interviews) to members of the Armed Forces, veterans, and eligible dependents in respect to clauses (1) and (2) above and in the preparation and presentation of claims under laws administered by the Veterans' Administration.

"§ 242. Veterans assistance offices

"(a) The Administrator shall establish and maintain veterans assistance offices at such places throughout the United States and its territories and possessions, and the Commonwealth of Puerto Rico, as he determines to be necessary to carry out the purposes of this subchapter, with due regard for the geographical distribution of veterans recently discharged or released from active military, naval, or air service, the special needs of educationally disadvantaged veterans (including their accessibility of outreach services), and the necessity of providing appropriate outreach services in less populated areas.

"(b) The Administrator may implement such special telephone service as may be necessary to make the outreach services provided for under this subchapter as widely available as possible.

"§ 243. Utilization of other agencies

"In carrying out the purposes of this subchapter, the Administrator may—

"(1) arrange with the Secretary of Labor for the State employment service to match the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, to include where possible, arrangements for outstationing the State employment personnel who provide such assistance at appropriate facilities of the Veterans' Administration;

"(2) cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization;

"(3) where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization;

"(4) at his discretion, furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services; and

"(5) conduct studies in consultation with appropriate Federal departments and agencies to determine the most effective program design to carry out the purposes of this subchapter.

"§ 214. Report to Congress

"(a) The Administrator shall include in the annual report to the Congress required by section 214 of this title a report on the activities carried out under this subchapter, each report to include an appraisal of the effectiveness of the programs authorized herein and recommendations for the improvement or more effective administration of such programs."

(b) The table of sections at the beginning of chapter 3 of such title is amended by inserting immediately after

"236. Administrative settlement of tort claims arising in foreign countries."

the following:

"SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

"240. Purpose: definitions.
"241. Outreach services.
"242. Veterans assistance offices.
"243. Utilization of other agencies.
"244. Report to Congress."

SEC. 215. (a) Section 504 of the Act of October 15, 1968, entitled "An Act to amend the Public Health Service Act so as to extend and improve the provisions relating to regional medical programs, to extend the authorization of grants for health of migratory agricultural workers, to provide for specialized facilities for alcoholics and narcotic addicts, and for other purposes" is hereby repealed.

(b) Section 506 of the Act of October 16, 1968, entitled "An Act to amend the Higher Education Act of 1965, the National Defense Education Act of 1958, the National Vocational Student Loan Insurance Act of 1965, the Higher Education Facilities Act of 1963, and related Acts" is hereby repealed.

TITLE III—EFFECTIVE DATE

SEC. 301. Title I of this Act takes effect February 1, 1970.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill.

Mr. TEAGUE of Texas,
Mr. DORN,
Mr. HALEY,
Mr. BARING,
Mr. BROWN of California,
Mr. TEAGUE of California,
Mr. AYRES,
Mr. ADAIR,
Mr. SAYLOR,
Managers on the Part of the House.

Mr. CRANSTON,
Mr. YARBOROUGH,
Mr. RANDOLPH,
Mr. KENNEDY,
Mr. MONDALE,
Mr. HUGHES,
Mr. SCHWEIKER,
Mr. JAVITS,
Mr. DOMINICK,
Mr. SAXBE,
Mr. SMITH of Illinois,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 11959) to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance and special training allowance paid to eligible veterans and persons under such chapters, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report.

The Senate amendment to the text of the bill struck out all after the enacting clause and inserted a substitute text. The House agreed to the amendment of the Senate to the text of the bill with an amendment which was a substitute for both the text of the Senate amendment and the House bill, and the Senate disagreed to the House amendment.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House, with an amendment which is a substitute for the text of the House amendment, the text of the Senate amendment, and the text of the House bill.

XUM

The differences between the substitute agreed to in conference and the House amendment to the Senate amendment to the text of the House bill, and between the substitute and the House bill are noted below, except for clerical corrections, incidental changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

SUBCHAPTER IV.—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

This subchapter provides for special supplementary assistance to a veteran enrolled in a post secondary course in education on a half-time or more basis where that veteran has a marked deficiency in a subject which is a part of or prerequisite to the particular pursuit and completion of an approved program of education. When this condition is found, the Administrator of Veterans Affairs may pay to an eligible veteran an amount not to exceed $50 a month for a maximum of nine months in order that the veteran may obtain needed tutorial assistance. The language of the law makes it clear that this tutorial assistance is to be individualized, that the tutor is to be qualified, charges for such tutoring service do not exceed customary charges. This section provides that the educational institution in which the veteran is enrolled must make certification as to these facts and circumstances in the individual veteran's case. It is the intent of this section to provide for the courses of academic deficiencies which threaten to prevent the the cost of tuition, fees, books and supplies. veteran from successfully pursuing a course. It is intended that a distinction be made between veterans who must be tutored to avoid failure and those veterans who might desire tutoring simply to improve their academic standing. It is expected that the Veterans Administration will surround this section with specific regulations and monitor it carefully to determine whether the program is functioning satisfactorily. The provision as modified in conference would require certification by the educational institution of the essentiality of the tutorial assistance, the qualification of the tutor selected, and the reasonableness of the charges. Supplementary assistance would be available for a veteran needing tutoring in a subject prerequisite to taking a college credit course needed for graduation; needing tutoring in such a credit course itself; or needing tutoring in language skills, such as for a veteran of Mexican-American descent, in order to pursue satisfactorily any college level work taught in the English language.

SUBCHAPTER VI. PRE-DISCHARGE EDUCATION PROGRAM

It is the purpose of this new program to assist active duty servicemen in preparing for their future education and training by providing certain remedial and refresher type training prior to the servicemen's discharge from service. This program permits the Administrator of Veterans Affairs to make necessary payments directly to the serviceman, these payments being intended for reimbursement to the educational institution for The educational institution is not permitted to make charges of the serviceman in excess of established and customary charges for similarly circumstanced non-veterans. On the other hand, the program contemplates that participating educational institutions will be able to recoup the full, reasonable costs entailed in providing predischarge education or training. Although it is recognized that some institutions may not generally charge tuition or fees for regular courses, it seems unreasonable that such institutions would be expected to provide special programs, such as PREP, without charging enrolled students appropriately.

SUBCHAPTER IV. VETERANS OUTREACH SERVICES PROGRAM

The veterans outreach services program which would be established by this subchapter represents a clear Congressional determination that a more extensive and intensive program of veterans benefits counseling, contact and outreach effort is badly needed. Such a program can be of great service, not only to the educationally disadvantaged veteran, but also to any veteran who is unclear about the extent of his entitlement and where his future lies. This subchapter provides clear authority for the use of special telephone tielines to provide outreach services to cities and communities removed from Veterans Administration offices and contact centers. This subchapter also encourages the expansion of Veterans Administration contact offices into major communities and population centers where Veterans Administration offices and services are not readily available or where there are large concentrations of veterans, such as disadvantaged veterans with specialized problems. It is expected that the Veterans Administration will immediately proceed to survey its contact and outreach facilities and develop plans for expanding these services in line with the provisions of this subchapter. It is expected that Veterans Administration will develop these plans promptly for submission to appropriate Committees of Congress in order that this expanded program may receive appropriate budgetary support in Fiscal Year 1971 budget.

The agreed-on Conference language eliminated the provisions for a relocation assistance allowance for veterans in need of job assistance. The removal of this provision by the Conferees should not be construed to imply a lack of interest on the part of the Conferees in job placement assistance for returning veterans. It may be that some of these provisions are appropriate for insertion in general manpower and training legislation. On the other hand, the veterans' employment service is presently operated on a very modest scale and should be supported to the extent necessary to give effective assistance to returning veterans in need of job placement assistance. Additional support of the veterans employment service and identification of the veterans special needs through general manpower and training legislation could greatly improve the prospects for returning servicemen obtaining jobs.

A more detailed description of the provisions in this proposal at the various stages of its legislative consideration are shown in the chart which follows:

COMPARATIVE PRINT OF H.R. 11959 AS PASSED HOUSE; AS PASSED SENATE; HOUSE SUBSTITUTE AMENDMENT; CONFERENCE AGREEMENT; AND CURRENT LAW

Provision	Present law			House-passed version			Senate-passed version			House substitute amendment			Conference agreement		
Vocational rehabilitation subsistence rates:															
Col. I: Type of training	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 or more dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 or more dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 or more dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 or more dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 or more dependents
Institutional:															
Full-time	$110	$150	$175	$127	$173	$201	$160	$219	$255	$130	$176	$205	$135	$181	$210
Three-quarter-time	80	110	130	92	127	150	116	160	189	95	130	153	98	133	156
Half-time	55	75	85	63	86	98	80	109	124	65	89	100	67	91	102
Institutional on-farm, apprenticeship or other on-job training:															
Full-time	95	125	150	109	144	173	138	182	219	113	148	176	118	153	181
Additional amount for dependents in excess of 2	$5			$6			$7.30			$6			$6.		
Flight training program:															
Ancillary flight training	No provision			No provision			Provision made			Provision made			Senate provision.		
Monthly rate of charge against entitlement.	$130			$165			$190			$170			$175.		
Loans for pursuit of private pilot's license.	No provision			No provision			Provision made			No provision			No provision.		
Repeat of equivalency alternative	Alternative presently contained in current law.			Identical to provision of H.R. 6808			do			Provision made			Provision made.		

XUM

COMPARATIVE PRINT OF H.R. 11959 AS PASSED HOUSE; AS PASSED SENATE; HOUSE SUBSTITUTE AMENDMENT; CONFERENCE AGREEMENT; AND CURRENT LAW—Continued

Provision	Present law				House-passed version				Senate-passed version				House substitute amendment				Conference agreement			
Educational assistance allowance rates																				
Col. I: Type of program	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col. V: More than 2 dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col. V: More than 2 dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col. V: More than 2 dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col. V: More than 2 dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col. V: More than 2 dependents
				The amount in col. IV, plus the following for each dependent in excess of 2:				The amount in col. IV, plus the following for each dependent in excess of 2:				The amount in col. IV, plus the following for each dependent in excess of 2:				The amount in col. IV, plus the following for each dependent in excess of 2:				The amount in col. IV, plus the following for each dependent in excess of 2:
Institutional:																				
Full-time	$130	$155	$175	$10	$165	$197	$222	$13	$190	$218	$240	$15	$170	$200	$225	$13	$175	$205	$230	$13
Three-quarter-time	95	115	135	7	121	147	170	9	140	162	184	70	125	149	174	10	128	152	177	10
Half-time	60	75	85	5	78	96	109	7	90	107	119	7	79	97	110	7	81	100	114	7
Cooperative	105	125	145	7	133	150	184	9	155	177	199	10	138	162	187	10	141	167	192	10
Active duty; less than half-time	Tuition cost, not to exceed full-time rate of $130.				Tuition cost, not to exceed full-time rate of $165.				Tuition cost, not to exceed full-time rate of $190.				Tuition cost, not to exceed full-time rate of $170.				Tuition cost, not to exceed full-time rate of $175.			
Correspondence course monthly entitlement charge.	$130				$165				$190				$170				$175.			
Farm cooperative training:																				
Col. I: Basis	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col. V: More than 2 dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col. V: More than 2 dependents	Eliminates existing program with savings clause.				Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col. V: More than 2 dependents	Col. II: No dependents	Col. III: 1 dependent	Col. IV: 2 dependents	Col V: More than 2 dependents
				The amount in col. IV, plus the following for each dependent in excess of 2:				The amount in col. IV, plus the following for each dependent in excess of 2:								The amount in col. IV, plus the following for each dependent in excess of 2:				The amount in col. IV, plus the following for each dependent in excess of 2:
Full-time	$105	$125	$145	$7	$133	$159	$184	$9					$138	$162	$187	$10	$141	$165	$190	$10
Three-quarter-time	75	90	105	5	96	116	134	6					99	117	136	7	101	119	138	7
Half-time	50	60	70	3	64	77	90	4					66	78	91	4	67	79	92	4
Korean conflict type on-farm program.	No provision				No provision				Provision made (rates): $153, no dependents; $182, 1 dependent; $211 ,2 dependents; $10 each dependent in excess of 2.				No provision				No provision.			
Apprenticeship and other on-job training:																				
Periods of training	No dependents	1 dependent	2 or more dependents		No dependents	1 dependent	2 or more dependents		No dependents	1 dependent	2 or more dependents		No dependents	1 dependent	2 or more dependents		No dependents	1 dependent	2 or more dependents	
1st 6 months	$80	$90	$100		$102	$114	$127		$116	$131	$146		$105	$117	$129		$108	$120	$133	
2d 6 months	60	70	80		76	89	102		87	102	116		79	91	103		81	92	105	
3d 6 months	40	50	60		51	64	76		58	73	87		53	65	78		54	66	79	
4th and any succeeding 6-month periods	20	30	40		25	38	51		29	43	58		27	39	52		27	39	52	
War orphans, widows, and wives education rates:																				
Institutional:																				
Full-time	$130				$165				$190				$170				$175.			
Three-quarter-time	$95				$121				$140				$125				$128.			
Half-time	$60				$76				$90				$79				$81.			
Less than half-time	No provision				No provision				No provision				Tuition cost not to exceed full-time rate of $170.				Tuition cost' not to exceed full-time rate of $175.			
Cooperative	$105				$133				$155				$138				$141.			
Special restorative training	$130				$165				$190				$170				$175.			
Increased allowances with reduction in entitlement.	Reduced 1 day for each $4.25 on tuition amount over $41 per month.				Reduced 1 day for each $5.30 on tuition amount over $50 per month.				Reduced 1 day for each $6.20 on tuition amount over $59 per month.				Reduced 1 day for each $5.60 on tuition amount over $54 per month.				Reduced 1 day for each $5.80 on tuition amount over $55 per month.			
Permits dual educational-vocational objectives.	No provision				No provision				Provision made				Provision made				Provision made.			
Elementary level education	do				do				do				do				Do.			
Special assistance for educationally disadvantaged veterans.	More limited program (358 U.S.C. 1678)				do				do				No provision				Modification of Senate provisions.			
Predischarge education program	No provision				do				do				do				Do.			
Veterans outreach services program	Limited program under authority of sec. 231 and 3311 of title 38, U.S.C.				do				do				do				Do.			

Footnotes at end of table.

COMPARATIVE PRINT OF H.R. 11959 AS PASSED HOUSE; AS PASSED SENATE; HOUSE SUBSTITUTE AMENDMENT; CONFERENCE AGREEMENT; AND CURRENT LAW—Continued

Provision	Present law	House-passed version	Senate-passed version	House substitute amendment	Conference agreement
Full-time academic high school course defined.	Measured on clock-hour basis (38 U.S.C. 1684).	Provision made	do	Provision made	Provision.
Measurement of full-time college undergraduate course under chs. 34 and 35.	Requires 14-hour minimum	No provision	Liberalizes 14-hour requirement	No provision	Liberalizes 14-hour requirement.
Notwithstanding clause—Non-credit-deficiency course counted toward full-time pursuit.	No provision	do	Provision made	Provision made	Provision made.
Earlier initial payment for below college training.	do	Provision made in H.R. 6808	do	do	Do.
Liberalization of periods of eligibility for children under ch. 35 and certain widows and wives.	do	Provision made in H.R. 6808	Provision made	Provision made	Provision made.
Notification of eligibility of children under ch. 35.	do	No provision	do	No provision	Do.
Approval of interstate transportation apprenticeship programs.	do	Provision made in H.R. 6808	do	Provision made	Do.
Modification of nonduplication of Federal benefits bar.	More stringent requirements (38 U.S.C. 1781).	do	do	do	Do.
Avocational-Recreational Curb:[1]					
Applicable to veterans	Provides certain limitations	Provided only in H.R. 6808	No provision	do	Do.
Applicable to dependents	do	do	do	do	Do.
Apprenticeship limitation[1]	More liberal provision	do	do	do	Do.
Philippine Education Payment:[1]					
Applicable to veterans	do	do	do	do	No provision.
Applicable to dependents	do	do	do	do	Provision made.
Nonduplication law repeals:[1]					
Public Health Service	Not applicable	do	do	do	Do.
Higher Education Act	do	do	do	do	Do.
Effective dates:					
Rates	do	1st day of 2d calendar month beginning after date of enactment.	Sept. 1, 1969	1st day of 2d calendar month beginning after date of enactment.	Feb. 1, 1970.
Notification of children's eligibility.	do	Not applicable	July 1, 1970	No provision	1st day of 2d calendar month beginning after date of enactment.
All other provisions	do	1st day of 2d calendar month beginning after date of enactment.	1st day of 2d calendar month beginning after date of enactment.	1st day of 2d calendar month beginning after date of enactment.	Do.
Farm cooperative: Savings	do	Not applicable	Provision made	No provision	No provision.
Total 1st year cost		($208 million)	($400 million)	($226.25 million)	($275.5 million).

[1] These provisions were contained only in H.R. 6808 as passed by the House and were not included in either the House or Senate passed version of H.R. 11959. The savings which would result from inclusion of the Philippine "peso rate" formula are not reflected in the total 1st-year cost figures on H.R. 11959, except in the House substitute amendment and conference agreement.

Note.—(1) H.R. 6808 was passed by the House of Representatives May 19, 1969. (2) The costs of all items (except conference agreement column) through the War orphans, widows, and wives education rates column are costed on a 1st-year basis and therefore are not identical with those shown for fiscal year 1970 on page 69 of Senate Report No. 91-487. All items below that category are for fiscal year 1970 except the nonduplication provision which reflects an effective date of Jan. 1 1970. (3) The cost of all items in the Conference agreement column are based upon a full year cost for fiscal year 1971.

CHANGES IN EXISTING LAW MADE BY H.R. 11959 AS AGREED TO IN CONFERENCE

For the information of the Members of the House of Representatives, changes in existing law made by the bill (H.R. 11959) as agreed to in conference, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

SUBCHAPTER I—VETERANS' ADMINISTRATION

Sec.
201. Veterans' Administration an independent agency.
202. Seal of the Veterans' Administration.

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

210. Appointment and general authority of Administrator; Deputy Administrator.
211. Decisions by Administrator; opinions of Attorney General.
212. Delegation of authority and assignment of duties.
213. Contracts and personal services.
214. Reports to the Congress.
215. Publication of laws relating to veterans.
216. Research by Administrator; indemnification of contractors.
217. Studies of rehabilitation of disabled persons.

SUBCHAPTER III—VETERANS' ADMINISTRATION REGIONAL OFFICES; EMPLOYEES

230. Central and regional offices.
231. Placement of employees in military installations.
232. Employment of translators.
233. Employees' apparel; school transportation; recreational equipment; visual exhibits; personal property; emergency transportation of employees.
234. Telephone service for medical officers.
235. Benefits to employees at oversea offices who are United States citizens.
236. Administrative settlement of tort claims arising in foreign countries.

Subchapter IV—Veterans Outreach Services Program

240. Purpose; definitions.
241. Outreach services.
242. Veterans assistance offices.
243. Utilization of other agencies.
244. Report to Congress.

* * * * *

SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

§ 240. Purpose; definitions

(a) The Congress declares that the outreach services program authorized by this subchapter is for the purpose of insuring that all veterans, especially those who have been recently discharged or released from active military, naval, or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Veterans' Administration are provided timely and appropriate assistance to aid them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents. The Congress further declares that the outreach services program authorized by this subchapter is for the purpose of charging the Veterans' Administration with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

(b) For the purposes of this subchapter, (1) the term "other governmental programs" shall include all programs under State or local laws as well as all programs under Federal law other than those authorized by this title, and (2) the term "eligible dependent" means an "eligible person" as defined in section 1701(a)(1) of this title.

§ 241. Outreach services

The Administrator shall provide the following outreach services:

(1) by letter advise each veteran at the time of his discharge or release from active military, naval, or air service, or as soon as possible thereafter, of all benefits and services under laws administered by the Veterans' Administration for which the veteran may be eligible and, in carrying out this paragraph, the Administrator shall give priority to so advising those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release;

(2) distribute full information regarding all benefits and services to which they may be entitled under laws administered by the Veterans' Administration and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) which he determines would be beneficial to veterans; and

(3) provide, to the maximum extent possible, aid and assistance (including personal interviews) to members of the Armed Forces, veterans, and eligible dependents in respect to clauses (1) and (2) above and in the preparation and presentation of claims under laws administered by the Veterans' Administration.

§ 242. Veterans assistance offices

(a) The Administrator shall establish and maintain veterans assistance offices at such places throughout the United States and its territories and possessions, and the Commonwealth of Puerto Rico, as he determines to be necessary to carry out the purposes of this subchapter, with due regard for the geographical distribution of veterans recently discharged or released from active military, naval, or air service, the special needs of educationally disadvantaged veterans (including their accessibility of outreach services), and the necessity of providing appropriate outreach services in less populated areas.

(b) The Administrator may implement such special telephone service as may be necessary to make the outreach services provided for under this subchapter as widely available as possible.

§243. Utilization of other agencies

In carrying out the purposes of this subchapter, the Administrator may—

(1) arrange with the Secretary of Labor for the State employment service to match the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, to include where possible, arrangements for outstationing the State employment personnel who provide such assistance at appropriate facilities of the Veterans' Administration;

(2) cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization;

(3) where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization;

(4) at his discretion, furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services; and

(5) conduct studies in consultation with appropriate Federal departments and agencies to determine the most effective program design to carry out the purposes of this subchapter.

§ 244. Report to Congress

(a) The Administrator shall include in the annual report to the Congress required by section 214 of this title a report on the activities carried out under this subchapter, each report to include an appraisal of the effectiveness of the programs authorized herein and recommendations for the improvement or more effective administration of such programs.

CHAPTER 31—VOCATIONAL REHABILITATION

* * * * *

§ 1504. Subsistence allowances

(a) While pursuing a course of vocational rehabilitation training and for two months after his employability is determined, each veteran shall be paid a subsistence allowance as prescribed in this section.

(b) The subsistence allowance of a veteran-trainee is to be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, or IV (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of training as specified in column I:

[

Col. I Type of training	Col.II No dependents	Col.III 1 dependent	Col.IV 2 or more dependents
Institutional:			
Full-time	$110	$150	$175
Three-quarters-time	80	110	130
Half-time	55	75	85
Institutional on-farm, apprentice or other on-job training: Full-time	95	125	150

]

Col. I Type of training	*Col. II No dependents*	*Col. III 1 dependent*	*Col. IV 2 or more dependents*
Institutional:			
Full-time	*$135*	*$181*	*$210*
Three-quarter-time	*98*	*133*	*156*
Half-time	*67*	*91*	*102*
Institutional on-farm, apprentice, or other on-job training: Full-time	*118*	*153*	*181*

Where any full-time trainee has more than two dependents and is not eligible to receive additional compensation as provided by section 315 or section 335 (whichever is applicable) of this title, the subsistence allowance prescribed in column IV of the foregoing table shall be increased by an additional [$5] *$6* per month for each dependent in excess of two.

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CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER I—PURPOSE—DEFINITIONS

* * * * *

§ 1652. Definitions

For the purposes of this chapter—

* * * * *

(b) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. *Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field.*

(c) The term "educational institution" means any public or private *elementary school*, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or [any other institution if it furnishes education at the secondary school level or above] *other institution furnishing education for adults.*

* * * * *

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

§ 1661. Eligibility; entitlement; duration

Entitlement

(a) Except as provided in subsection (c) and in the second sentence of this subsection, each eligible veteran shall be entitled to educational assistance under this chapter for a period of one and one-half months (or the equivalent thereof in part-time educational assistance) for each month or fraction thereof of his service on active duty after January 31, 1955. If an eligible veteran has served a period of 18 months or more on active duty after January 31, 1955, and has been released from such service under conditions that would satisfy his active duty obligation, he shall be entitled to educational assistance under this chapter for a period of 36 months (or the equivalent thereof in part-time educational assistance).

(b) Whenever the period of entitlement under this section of an eligible veteran who is enrolled in an educational institution regularly operated on the quarter or semester system ends during a quarter or semester, such period shall be extended to the termination of such unexpired quarter or semester. In educational institutions not operated on the quarter or semester system, whenever the period of eligibility ends after a major portion of the course is completed such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period.

(c) Except as provided in subsection (b) and in [section 1678 of this title] *subchapters V and VI of this chapter,* no eligible veteran shall receive educational assistance

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under this chapter in excess of thirty-six months.

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SUBCHAPTER III—ENROLLMENT

* * * * *

§ 1673. Disapproval of enrollment in certain courses

[(a) The Administrator shall not approve the enrollment of an eligible veteran in any type of course which the Administrator finds to be avocational or recreational in character unless the eligible veteran submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.]

(a) The Administrator shall not approve the enrollment of an eligible veteran in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field, unless the eligible veteran or the institution offering such course submits justification showing that at least one-half of the persons completing such course over the preceding two-year period have been employed in the sales or sales management field; or

(3) any type of course which the Administrator finds to be avocational or recreational in character unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.

(b) Except as provided in section 1677 of this title, the Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by open circuit television (except as herein provided) or radio. The Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through the medium of open circuit television, if the major portion of the course requires conventional classroom or laboratory attendance.

(d) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any nonaccredited course below the college level offered by a proprietary profit or proprietary nonprofit educational institution for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or the Veterans' Administration under this chapter or chapter 31 or 35 of this title.

(e) The Administrator shall not approve the enrollment of any eligible veteran in an apprentice or other on-job training program where he finds that by reason of prior training or experience such veteran is performing or is capable of performing the job operations of his objective at the same performance level as the journeyman in the occupation.

* * * * *

§ 1677. Flight training

[(a) The Administrator may approve the pursuit by an eligible veteran of flight training generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation, subject to the following conditions:]

(a) The Administrator may approve the pursuit by an eligible veteran of flight training where such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation or where generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation, subject to the following conditions:

(1) the eligible veteran must possess a valid private pilot's license [or must have satisfactorily completed the number of hours of flight training instruction required for a private pilot's license,] and meet the medical requirements necessary for a commercial pilot's license; and

(2) the flight school courses must meet the Federal Aviation Administration standards and be approved both by that Agency and the appropriate State approving agency.

(b) Each eligible veteran who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of subsection (a) hereof, shall be paid an educational assistance allowance to be computed at the rate of 90 per centum of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay. Such allowance shall be paid monthly upon receipt of a certification from the eligible veteran and the institution as to the actual flight training received by, and the cost hereof to, the veteran during such month. In each such case the eligible veteran's period of entitlement shall be charged with one month for each [$130] *$175* which is paid to the veteran as an educational assistance allowance for such course.

[§ 1678. Special training for the educationally disadvantaged

[(a) In the case of any eligible veteran who—

[(1) has not received a secondary school diploma (or an equivalency certificate) at the time of his discharge from active duty, or

[(2) in order to pursue a program of education for which he would otherwise be eligible, needs additional secondary school training, either refresher courses or deficiency courses, to qualify for admission to an appropriate educational institution,

the Administrator may, without regard to so much of the provisions of section 1671 as prohibit the enrollment of an eligible veteran in a program of education in which he is "already qualified", approve the enrollment of such veteran in an appropriate course or courses; except that no enrollment in adult evening secondary school courses shall be approved in excess of half-time training as defined pursuant to section 1684 of this title.

[(b) The Administrator shall pay to an eligible veteran pursuing a course or courses pursuant to subsection (a) of this section, an educational assistance allowance as provided in sections 1681 and 1682 of this chapter.

[(c) The educational assistance allowance authorized by this section shall be paid without charge to any period of entitlement the veteran may have earned pursuant to section 1661(a) of this chapter.]

SUBCOMMITTEE IV—PAYMENTS TO ELIGIBLE VETERANS

§ 1681. Educational assistance allowance

* * * * *

(d) No educational assistance allowance shall be paid to an eligible veteran enrolled in a course in an educational institution which does not lead to a standard college degree for any period until the Administrator shall have received—

(1) from the eligible veteran a certification as to his actual attendance during such period or where the progarm is pursued by correspondence a certificate as to the number of lessons actually completed by the veteran and serviced by the institution; and

(2) from the educational institution, a certification, or an endorsement on the veteran's certificate, that such veteran was enrolled in and pursuing a course of education during such period and, in the case of an institution furnishing education to a veteran exclusively by correspondence, a certificate, or an endorsement on the veteran's certificate, as to the number of lessons completed by the veteran and serviced by the institution.

Notwithstanding the foregoing, the Administrator may pay an educational assistance allowance representing the initial payment of an enrollment period, not exceeding one full month, upon receipt of a certificate of enrollment.

* * * * *

§ 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), (c)(1), or (d) of this section, or section 1677 or 1683 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column I, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

[

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in Column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$130	$155	$175	$10
Three-quarter-time	95	115	135	7
Half-time	60	75	85	5
Cooperative	105	125	145	7

]

Column I	*Column II*	*Column III*	*Column IV*	*Column V*
Type of program	*No dependents*	*One dependent*	*Two dependents*	*More than two dependents*
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	*$175*	*$205*	*$230*	*$13*
Three-quarter-time	*128*	*152*	*177*	*10*
Half-time	*81*	*100*	*114*	*7*
Cooperative	*141*	*167*	*192*	*10*

(2) A "cooperative" program, other than a "farm cooperative" programs, means a full-time program of education which consists of institutional courses and alternate phases of training in the business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

(b) The educational assistance allowance of an individual pursuing a program of education—

(1) while on active duty, or

(2) on less than a half-time basis,

shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires similarly circumstanced nonveterans enrolled in the same program to pay, or (B) **[**$130**]** *$175* per month for a full-time course, whichever is the lesser. *Notwithstanding provisions of section 1681 of this title, payment of the educational assistance allowance provided by this subsection may, and the educational assistance allowance provided by section 1696(b) shall, be made to an eligible veteran in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that the veteran has enrolled in and is pursuing a program at such institution.*

(c)(1) The educational assistance allowance of an eligible veteran pursuing a program of education exclusively by correspondence shall be computed on the basis of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veterans. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veterans and serviced by the institution, as certified by the institution.

(2) The period of entitlement of any eligible veteran who is pursuing any program of education exclusively by correspondence shall be charged with one month for each **[**$130**]** *$175* which is paid to the veteran as an educational assistance allowance for such course.

(d)(1) An eligible veteran who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of 12 clock hours a week),

(B) a three-quarter-time basis (a minimum of 9 clock hours per week), or

(C) a half-time basis (a minimum of 6 clock hours per week) shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator.

(2) The monthly educational assistance allowance of an eligible veteran pursuing a farm cooperative program under this chapter shall be paid as set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependecy status) opposite the basis shown in column I:

[

Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in Column IV, plus the following for each dependent in excess of two:
Full-time	$105	$125	$145	$7
Three-quarter-time	75	90	105	5
Half-time	50	60	70	3

]

Column I	*Column II*	*Column III*	*Column IV*	*Column V*
Basis	*No dependents*	*One dependent*	*Two dependents*	*More than two dependents*
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	*$141*	*$165*	*$190*	*$10*
Three-quarter-time	*101*	*119*	*138*	*7*
Half-time	*67*	*79*	*92*	*4*

§ 1683. Apprenticeship or other on-job training

(a) Any eligible veteran may receive the benefits of this chapter while pursuing a full-time—

(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 50a of title 29, United States Code, or

(2) program of other training on the job approved under the provisions of section 1777 of this title,

subject to the conditions and limitations of this chapter with respect to educational assistance.

(b) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

[

Periods of training	No dependents	One dependent	Two or more dependents
First 6 months	$80	$90	$100
Second 6 months	60	70	80
Third 6 months	40	50	60
Fourth and any succeeding 6-month periods	20	30	40

]

Periods of training	*No dependents*	*One dependent*	*Two or more dependents*
First 6 months	*$108*	*$120*	*$133*
Second 6 months	*81*	*92*	*105*
Third 6 months	*54*	*66*	*79*
Fourth and any succeeding 6-month periods	*27*	*39*	*52*

§ 1684. Measurement of courses

(a) For the purposes of this chapter—

(1) an institutional trade or technical course offered on a clock-hour basis below the college level involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed;

(2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction (which may include customary intervals not to exceed ten minutes between hours of instruction) is required; **[**and**]**

(3) *an academic high school course requiring sixteen units for a full course shall be considered a full-time course when a minimum of four units per year is required. For the purpose of this clause, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year;* and

[(3)**]** *(4)* an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required*; except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of semester hours, for which credit is granted toward a standard college degree, shall be considered a full-time course, but in the event such minimum number of semester hours under (B) is less than twelve hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-item course.*

Notwithstanding the provisions of clause (4), a veteran shall be considered to be pursuing a full-time course at a junior college, college, or university if (A) he is carrying a number of semester hours, or the equivalent thereof, necessary to be considered a full-time course under clause (4), (B) credit is granted toward a standard college degree for not less than half the number of those hours, and (C) he is carrying one or more courses for which no credit is granted toward such a degree but which he is required to take because of a deficiency in his education.

* * * * *

Subchapter V—Special assistance for the educationally disadvantaged

§ 1690. Purpose

It is the purpose of this subchapter (1) to encourage and assist veterans who have academic deficiencies to attain a high school education or its equivalent and to qualify for and pursue courses of higher education, (2) to assist eligible veterans to pursue postsecondary education through tutorial assistance where required, and (3) to encourage educational institutions to develop programs which provide special tutorial, remedial, preparatory, or other educational or supplementary assistance to such veterans.

§ 1691. Elementary and secondary education and preparatory educational assistance

(a) In the case of any eligible veteran not on active duty who—

(1) has not received a secondary school diploma (or an equivalency certificate) at the time of his discharge or release from active duty, or

(2) in order to pursue a program of education for which he would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Administrator may, without regard to so much of the provisions of section 1671 as prohibit the enrollment of an eligible veteran in a program of education in which he is "already qualified", approve the enrollment of such veteran in an appropriate course or courses or other special educational assistance program.

(b) The Administrator shall pay to an eligible veteran pursuing a course or courses or program pursuant to subsection (a) of this section, an educational assistance allowance as provided in sections 1681 and 1682 (a) or (b) of this title; except that no en-

rollment in adult evening secondary school courses shall be approved in excess of half-time training as defined pursuant to section 1684 of this title.

§ 1692. Special supplementary assistance

(a) In the case of any eligible veteran who—

(1) is enrolled in and pursuing a post-secondary course of education on a half-time or more basis at an educational institution; and

(2) has a marked deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education,

the Administrator may approve individualized tutorial assistance for such veteran if such assistance is necessary for the veteran to complete such program successfully.

(b) The Administrator shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 1682 of this title, the cost of such tutorial assistance in an amount not to exceed $50 per month for a maximum of nine months, upon certification by the educational institution that—

(1) the individualized tutorial assistance is essential to correct a marked deficiency of the eligible veteran in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

(2) the tutor chosen to perform such assistance is qualified; and

(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

§ 1693. Effect on educational entitlement

The educational assistance allowance or cost of individualized tutorial assistance authorized by this subchapter shall be paid without charge to any period of entitlement the veteran may have earned pursuant to section 1661(a) of this title.

SUBCHAPTER VI—PREDISCHARGE EDUCATION PROGRAM

§ 1695. Purpose; definition

(a) The purpose of this subchapter is to encourage and assist veterans in preparing for their future education, training, or vocation by providing them with an opportunity to enroll in and pursue a program of education or training prior to their discharge or release from active duty with the Armed Forces. The program provided for under this subchapter shall be known as the Predischarge Education Program (PREP).

(b) For the purposes of this subchapter, the term "eligible person" means any person serving on active duty with the Armed Forces who has completed more than 180 consecutive days of such active duty service as certified to the Administrator by the Secretary concerned.

§ 1696. Payment of educational assistance allowance

(a) The Administrator shall, under such regulations as he shall prescribe after consultation with the Secretary of Defense, pay the educational assistance allowance as computed in section 1682(b) of this title to an eligible person enrolled in and pursuing (1) a course or courses offered by an educational institution (other than by correspondence) and required to receive a secondary school diploma, or (2) any deficiency, remedial, or refresher course or courses offered by an educational institution and required for or preparatory to the pursuit of an appropriate course or training program in an approved educational institution or training establishment.

(b) The educational assistance allowance of an eligible person pursuing education or training under this subchapter shall be computed at the rate of (1) the established charges for tuition and fees which the educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to pay, and the cost of books and supplies peculiar to the course which such educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to have, or (2) $175 per month for a full-time course, whichever is the lesser.

(c) The educational assistance allowance authorized by this section shall be paid without charge to any period of entitlement earned pursuant to section 1661(a) of this title.

§ 1697. Educational and vocational guidance

The Administrator shall, to the extent that professional counselors are available, provide, by contract or otherwise, educational and vocational guidance to persons eligible for educational assistance under this subchapter.

CHAPTER 35—WAR ORPHANS' AND WIDOWS' EDUCATIONAL ASSISTANCE ACT

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SUBCHAPTER VII—PHILIPPINE COMMONWEALTH ARMY AND PHILIPPINE SCOUTS

1765. Children of certain Philippine veterans.
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SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

* * * * *

§ 1712. Periods of eligibility

(a) The educational assistance to which an eligible person (within the meaning of section 1701(a)(1)(A)) is entitled under section 1711 of this title or subchapter V of this chapter may be afforded him during the period beginning on his eighteenth birthday, or on the successful completion of his secondary schooling, whichever first occurs, and ending on his twenty-sixth birthday, except that—

(1) if he is above the age of compulsory school attendance under applicable State law, and the Administrator determines that his best interests will be served thereby, such period may begin before his eighteenth birthday;

(2) if he has a mental or physical handicap, and the Administrator determines that his best interests will be served by pursuing a program of special restorative training or a specialized course of vocational training approved under section 1737 of this title, such period may begin before his eighteenth birthday, but not before his fourteenth birthday;

(3) if the Administrator first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or if the death of the parent from whom eligibility is derived occurs, after the eligible person's eighteenth birthday but before his twenty-sixth birthday, then (unless paragraph (4) applies) such period shall end five years after, whichever date [first] *last* occurs (A) the date on which the Administrator first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or (B) the date of death of the parent from whom eligibility is derived;

(4) if he serves on duty with the Armed Forces as an eligible person after his eighteenth birthday but before his twenty-sixth birthday, then such period shall end five years after his first discharge or release from such duty with the Armed Forces (excluding from such five years all periods during which the eligible person served on active duty before August 1, 1962, pursuant to (A) a call or order thereto issued to him as a Reserve after July 30, 1961, or (B) an extension of an enlistment, appointment, or period of duty with the Armed Forces pursuant to section 2 of Public Law 87–117); however, in no event shall such period be extended beyond his thirty-first birthday by reason of this paragraph; and

(5)(A) if he is enrolled in an educational institution regularly operated on a quarter or semester system and such period ends during the last half of a quarter or semester, such period shall be extended to the end of the quarter or semester; or

(B) if he is enrolled in an educational institution operated other than on a quarter or semester system and such period ends during the last half of the course, such period shall be extended to the end of the course, or until nine weeks have expired, whichever first occurs.

(b) No person made eligible by section 1701(a)(1)(B) or (C) of this chapter may be afforded educational assistance under this chapter beyond eight years after whichever last occurs:

(1) The date on which the Administrator first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature, or

(2) The date of death of the spouse from whom eligibility is derived.

(c) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance beyond the age limitation applicable to him under such subsection if (1) he suspends pursuit of his program of education after having enrolled in such program within the time period applicable to him under such subsection, (2) he is unable to complete such program after the period of suspension and before attaining the age limitation applicable to him under such subsection, and (3) the Administrator finds that the suspension was due to conditions beyond the control of such person; but in no event shall educational assistance be afforded such person by reason of this subsection beyond the age limitation applicable to him under subsection (a) of this section plus a period of time equal to the period he was required to suspend the pursuit of his program, or beyond his thirty-first birthday, whichever is earlier.

(d) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance be-

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yond the age limitation applicable to him under such subsection by a period of time equivalent to any period of time which elapses between the eighteenth birthday of such eligible person or the date on which an application for benefits of this chapter is filed on behalf of such eligible person, whichever is later, and the date of final approval of such application by the Administrator; but in no event shall educational assistance under this chapter be afforded an eligible person beyond his thirty-first birthday by reason of this subsection.

(*e*) *The term "first finds" as used in this section means the effective date of the rating or date of notification to the veteran from whom eligibility is derived establishing a service-connected total disability permanent in nature, whichever is more advantageous to the eligible person.*

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SUBCHAPTER III—PROGRAM OF EDUCATION

* * * * *

§ 1723. Disapproval of enrollment in certain courses

[(a) (1) The Administrator shall not approve the enrollment of an eligible person in any bartending course, dancing course, or personality development course.

[(2) The Administrator shall not approve the enrollment of an eligible person—

[(A) in any photography course or entertainment course; or

[(B) in any music course—instrumental or vocal—public speaking course, or course in sports or athletics such as horseback riding, swimming, fishing, skiing, golf, baseball, tennis, bowling, sports officiating, or other sport or athletic courses except courses of applied music, physical education, or public speaking which are offered by institutions of higher learning for credit as an integral part of a program leading to an educational objective; or

[(C) in any other type of course which the Administrator finds to be avocational or recreational in character;

unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.]

(*a*) *The administrator shall not approve the enrollment of an eligible person in—*

(*1*) *any bartending course or personality development course;*

(*2*) *any sales or sales management course which does not provide specialized training within a specific vocational field, unless the eligible person or the institution offering such course submits justification showing that at least one-half of the persons completing such course over the preceding two-year period have been employed in the sales or sales management field; or*

(*3*) *any type of course which the Administrator finds to be avocational or recreational in character unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation.*

* * * * *

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE PERSONS

* * * * *

§ 1732. Computation of educational assistance allowance

[(a) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of (1) $130 per month if pursued on a full-time basis, (2) $95 per month if pursued on a three-quarters time basis, and (3) $60 per month if pursued on a half-time basis.]

(*a*) (*1*) *The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of* (*A*) *$175 per month if pursued on a full-time basis,* (*B*) *$128 per month if pursued on a three-quarter-time basis, and* (*C*) *$81 per month if pursued on a half-time basis.*

(*2*) *The educational assistance allowance on behalf of an eligible person pursuing a program of education on less than a half-time basis shall be computed at the rate of* (*A*) *the established charges for tuition and fees which the institution requires other individuals enrolled in the same program to pay, or* (*B*) *$175 per month for a full-time course, whichever is the lesser.*

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of [$105] *$141* per month.

[(c) No educational assistance allowance shall be paid on behalf of an eligible person for any period during which he is enrolled in and pursuing an institutional course on a less than half-time basis, or any course described in subsection (b), on a less than full-time basis.]

(*c*) *If a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines, the educational assistance allowance computed for such person under this section shall be paid at a rate in Philippine pesos equivalent to $0.50 for each dollar.*

§ 1733. Measurement of Courses

(a) For the purposes of this chapter, (1) an institutional trade or technical course offered on a clock-hour basis below the college level involving shop practice as an integral part thereof shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed, (2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction is required, and (3) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required; *except that where such college or university certifies, upon the request of the Administrator, that* (*A*) *full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof, or* (*B*) *all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such a college or university with such minimum number of semester hours, for which credit is granted toward a standard college degree, shall be considered a full-time course, but in the event such minimum number of semester hours under clause* (*B*) *is less than twelve hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course.*

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SUBCHAPTER V—SPECIAL RESTORATIVE TRAINING

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§ 1742. Special training allowance

(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on his behalf a special training allowance computed at the basic rate of [$130] *$175* per month. If the charges for tuition and fees applicable to any such course are more than [$41] *$55* per calendar month the basic monthly allowance may be increased by the amount that such charges exceed [$41] *$55* a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each [$4.25] *$5.80* that the special training allowance paid exceeds the basic monthly allowance.

(b) No payments of a special training allowance shall be made for the same period for which the payment of an educational assistance allowance is made or for any period during which the training is pursued on less than a full-time basis.

(c) Full-time training for the purpose of this section shall be determined by the Administrator with respect to the capacities of the individual trainee.

* * * * *

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

* * * * *

§ 1763. Notification of eligibility

The Administrator shall notify the parent or guardian of each eligible person defined in section 1701(*a*) (*1*) (*A*) *of this chapter of the educational assistance available to such person under this chapter. Such notification shall be provided not later than the month in which such eligible person attains his thirteenth birthday or as soon thereafter as feasible.*

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

SUBCHAPTER I—STATE APPROVING AGENCIES

Sec.
1770. Scope of approval.
1771. Designation.
1772. Approval of courses.
1773. Cooperation.
1774. Reimbursement of expenses.
1775. Approval of accredited courses.
1776. Approval of nonaccredited courses.
1777. Approval of training on the job.
1778. Notice of approval of courses.
1779. Disapproval of courses.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

[1781. Nonduplication of benefits.]
1781. Limitations on educational assistance.
1782. Control by agencies of the United States.
1783. Conflicting interests.
1784. Reports by institutions; reporting fee.
1785. Overpayments to eligible persons or veterans.
1786. Examination of records.
1787. False or misleading statements.
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1789. Institutions listed by Attorney General.
1790. Use of other Federal agencies.
1791. Limitation on period of assistance under two or more programs.

SUBCHAPTER I—STATE APPROVING AGENCIES

* * * * *

§ 1772. Approval of courses

(a) An eligible person or veteran shall receive the benefits of chapters 34 and 35 while enrolled in a course of education offered by an educational institution only if (1) such course is approved as provided in chapters 34 and 35 by the State approving agency for the State where such educational institution is located, or by the Administrator, or (2) such course is approved (A) for the enrollment of the particular individual under the provisions of section 1737 of this title or (B) for special restorative training under subchapter V of chapter 35 of this title. Approval of courses by State approving agencies shall be in accordance with the provisions of chapters 34 and 35 and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the Administrator with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Administrator as it and the Administrator may determine to be necessary to carry out the purposes of chapters 34 and 35. Each State approving agency shall notify the Administrator of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(b) The Administrator shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The Administrator may approve any course in any other educational institution in accordance with the provisions of chapters 34 and 35.

(c) In the case of programs of apprenticeship where—

(1) the standards have been approved by the Secretary of Labor pursuant to section 50a of title 29 as a national apprenticeship program for operation in more than one State, and

(2) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Administrator shall act as a "State approving agency" as such term is used in section 1683(a)(1) of this title and shall be responsible for the approval of all such programs.

* * * * *

§ 1777. Approval of training on the job

(a) Any State approving agency may approve a program of training on the job (other than a program of apprenticeship) only when it finds that the job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not on such factors as length of service and normal turnover, and that the provisions of subsections (b) and (c) of this section are met.

* * * * *

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

[§ 1781. *Nonduplication of benefits*

[No educational assistance allowance or special training allowance shall be paid on behalf of any eligible person or veteran under chapter 34 or 35 of this title for any period during which such person or veteran is enrolled in and pursuing a program of education or course paid for by the United States under any provision of law other than such chapters, where the payment of an allowance would constitute a duplication of benefits paid from the Federal Treasury to the eligible person or veteran or to his parent or guardian in his behalf.]

§1781. Limitations on educational assistance

No educational assistance allowance or special training allowance granted under chapter 34 or 35 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health, Education, and Welfare in the case of the Public Health Service); or (2) who is attending a course of education or training paid for under the Government Employees' Training Act and whose full salary is being paid to him while so training.

* * * * *

Section 504 of the Act of October 15, 1968, entitled "An Act to amend the Public Health Service Act so as to extend and improve the provisions relating to regional medical programs, to extend the authorization of grants for health of migratory agricultural workers, to provide for specialized facilities for alcoholics and narcotic addicts, and for other purposes".

[DUPLICATION OF BENEFITS

[SEC. 504. No grant, award, or loan of assistance to any student under any Act amended by this Act shall be considered a duplication of benefits for the purposes of section 1781 of title 38, United States Code.]

Section 506 of the Act of October 16, 1968, entitled "An Act to amend the Higher Education Act of 1965, the National Defense Education Act of 1958, the National Vocational Student Loan Insurance Act of 1965, the Higher Education Facilities Act of 1963, and related Acts".

[DUPLICATION OF BENEFITS

[SEC. 506. No grant, award, or loan of assistance to any student under any Act amended by this Act shall be considered a duplication of benefits for the purposes of section 1781 of title 38, United States Code.]

Mr. TEAGUE of Texas,
Mr. DORN,
Mr. HALEY,
Mr. BARING,
Mr. BROWN of California,
Mr. TEAGUE of California,
Mr. AYRES,
Mr. ADAIR,
Mr. SAYLOR,
Managers on the Part of the House.

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 11959) to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons under such chapters.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

Mr. TEAGUE of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the statement of the managers be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, the conference version of the bill (H.R. 11959) is, as is true of most bills sent to conference, a compromise between the versions presented by the two Chambers. In this instance, I believe that we have a bill that we can all support, and which I hope the President will approve. It seems to me that on balance most of the House provisions prevailed.

This bill, H.R. 11959, was the subject of hearings before our Subcommittee on Education and was reported to the House on July 10, 1969, thereafter it passed the House on August 4, was reported in the Senate on October 21, and passed the other body on October 23. On December 18, the House concurred in the Senate amendments with amendments. The Senate thereafter, on the same date, disagreed to the House amendments and requested a conference.

Three sessions of the conference committee were held; February 5, 1970, March 10, and the final one on March 17, at which time agreement was reached.

The bill that originally passed the House authorized a 27-percent increase in the basic rates of educational assistance. The Senate-approved increase was approximately 46 percent. The counteroffer which the House made on December 18 was 32 percent, and the conference agreement is approximately 35 percent.

The fiscal year 1970 cost of this bill is estimated by the Veterans' Administration to be $132.4 million; for fiscal year 1971 the estimate is $275,500,000.

The flight loan provisions included in the Senate bill, as well as the proposal for an institutional on-the-farm training similar to that provided during the Korean conflict, were rejected by the conferees, but I have agreed, as chairman of the Committee on Veterans' Affairs, to hold hearings on the latter subject.

With regard to the Outreach and PREP programs, included in the Senate bill a modified version of both of these proposals was agreed upon by the conferees. An expanded Veterans' Administration contact service was authorized, as well as tutorial assistance program of $50 a month for a 9-month period. This is to be paid to a student at an institution of higher learning who is experiencing severe difficulty in meeting the minimum academic standards set by the school, and is payable only in those cases where the student is in danger of failing a course if he does not receive such added assurance. The House conferees agreed to this provision with misgivings and expect this section to be administered in a very "tight" manner so that abuse may be kept to the barest minimum.

The bill is effective February 1, 1970; the House bill had provided for an effective date of the first day of the second calendar month following the date of enactment. The Senate had a date of September 1, 1969.

I want to take this opportunity, Mr. Speaker, to express my appreciation to the managers on the part of the House who were diligent in the performance of their duties and who have spent long hours and engaged in considerable tedious discussions to arrive at this compromise version. In each instance, our managers strove to obtain the House provisions and only compromised as a last resort. The members of the conference committee were the gentleman from South Carolina (Mr. DORN), the gentleman from Florida (Mr. HALEY), the gentleman from Nevada (Mr. BARING), the gentleman from California (Mr. BROWN), the gentleman from California (Mr. CHARLES TEAGUE), the gentleman from Ohio (Mr. AYRES), the gentleman from Indiana (Mr. ADAIR), and the gentleman from Pennsylvania (Mr. SAYLOR). My thanks and appreciation go to each one of them.

I have heard it said, Mr. Speaker, that in the Legislative Counsels' Offices in the two Houses of Congress there is the greatest concentration of legal talent on technical subjects of any place in the United States. I can readily believe this to be true, which leads me to a word of thanks to Roger Young, of the House Legislative Counsel's Office, and his counterpart in the Senate, Hugh Evans. These individuals performed in their usual quiet and efficient manner which does great credit to their offices and to the Congress.

I would be derelict if I did not express my thanks, too, to individuals in the Veterans' Administration who have worked so diligently and so closely on this legislation. I refer to Mr. A. T. Brouaugh, Assistant General Counsel of the Veterans' Administration, and his associates, Mr. Charles Johnston and Robert Dysland, and Mr. Louis A. Townsend of the Compensation and Pension Service. The latter individual has been particularly helpful in the estimates field.

I would also like to express appreciation for the cooperation extended by Senator CRANSTON, chairman of the Veterans' Subcommittee, and Jonathan Steinberg, the subcommittee counsel.

The chart which appears in the conference report on pages H1895–H1897 shows the summary and legislative history of the measure.

Mr. ADAIR. Mr. Speaker, I am pleased to support the conference report on H.R. 11959, a bill to increase the monthly rates of educational assistance allowances paid to veterans, widows, and war orphans attending school or participating in other training programs under the GI bill and related legislation. Because tuition costs have increased at an even more rapid rate than the increased cost of living, the increases provided by this legislation are merited.

XUM

The conference report agreed to by both House and Senate conferees and before you today authorizes a 34.6-percent increase in the monthly allowances provided under existing law for veterans participating in education and training programs under the GI bill. The same percentage increase is provided for widows and children of men who were killed in action or died from service-connected disabilities. The wives and children of totally disabled service connected veterans will also receive this increase if they are enrolled in programs of education or training.

A disabled veteran participating in programs of education and training under the veterans' vocational rehabilitation training program will also receive a substantial increase under the terms of the bill as agreed to by the conferees.

Mr. Speaker, I am proud to have participated in the consideration of this legislation, both as a member of the House Committee on Veterans' Affairs and as a House conferee. I believe that the report before you today contains a well-deserved and justifiable increase in monthly allowances for veterans on college campuses throughout the Nation as well as the widows and orphans of their departed comrades who are also participating in these programs.

I urge that the conference report be adopted.

Mr. SAYLOR. Mr. Speaker, I rise in support of the conference report on H.R. 11959. This report represents an effective compromise on the differences between the House and Senate passed versions of the bill. The bill, as recommended by the conferees, authorizes a 34.6-percent increase in the monthly educational allowances for veterans participating in education or training programs under the GI bill and for widows, wives, and children attending school under the War Orphans' Educational Assistance Act. Under the proposal, a veteran without dependents attending school full time will receive $175 monthly compared with his present payment of $130 monthly. The disabled veteran attending school or training under the vocational rehabilitation program for veterans would also receive a substantial increase in monthly benefits.

Mr. Speaker, when the conferees first met to resolve differences in the House and Senate versions, there was a sizable gulf in the position of the two bodies. After much time and effort and productive negotiation, the gulf has been eliminated and the conferees have reached an accord which approaches the original House position as nearly as possible. We have eliminated the new and novel experiments which the other body had added to the bill and upon which the House committee had never held hearings. Proposals such as placing the Veterans' Administration in the employment business in competition with the Veterans' Employment Service of the Department of Labor; paying the transportation expenses for veterans seeking employment in other parts of the country and then paying the family relocation expenses if he was successful in obtaining such employment, were some of the controversial proposals that were eliminated from the bill in the true spirit of compromise by conferees from both bodies.

Mr. Speaker, I believe this compromise provides a fair and reasonable increase to those veterans and survivors of veterans who are participating in the education and training programs of the GI bill and related legislation. It reflects a high degree of fiscal responsibility and I hope it will be approved. I am pleased that the impasse which has delayed this legislation has been resolved, and I will support it.

Mr. TEAGUE of California. Mr. Speaker, it was my good fortune to be one of the House conferees in ironing out the differences in the House and Senate versions of this important piece of legislation, H.R. 11959. The conferees worked long and hard to resolve what appeared to be irreconcilable differences in the bill. I want to extend my personal congratulations to the conferees of both bodies for the diligent manner in which they applied themselves in the true spirit of compromise to the task before them.

The conference report before you today represents a compromise that reflects our fiscal responsibility to the Nation's taxpayer and at the same time provides an equitable increase in monthly benefits for the veteran participating in a program of education or training under the GI bill.

I support the conference report and urge that it be adopted.

Mr. CARTER. Mr. Speaker, with prices escalating as they are, it is very difficult for our Vietnam veterans to pay their way to colleges or technical schools.

The minimum monthly stipend of $130 is only 67 percent of what it costs to get a college education in this country. Korean veterans received $110 minimum monthly, which represented 98 percent of the prevailing cost of education.

World War II veterans' benefits paid 100 percent of educational or technical training costs.

So it seems that the amount allocated to our Vietnam veterans should be increased. It is my feeling that the men who have served in Vietnam deserve our unwavering support. It is true that they are sons of the less affluent.

I have always supported the men in Vietnam, but never the policies which put them there.

Mr. LOWENSTEIN. Mr. Speaker, men will differ on the justice and wisdom of war and of particular wars, and in this country differences on these questions have never been so pronounced as they are now. What we do not differ about, however, is the debt incurred by the Government to the men whose lives and limbs it risks in pursuit of the military and political objectives that led it to go to war.

The United States has recognized its responsibility to its military veterans since the Second Continental Congress passed the first national pension law on August 26, 1776. The history of Government policy toward veterans since the Revolution has been a gradual and proper enlargement of that responsibility. Since 1925, when the first Government-sponsored veterans hospital was established, we have accepted the obligation of providing medical care for wounded war veterans. After World War II, at the same time we began to provide financial and educational benefits for returning GI's, Congress appropriated more than a billion dollars to construct the largest public hospital system in history. By 1962, there were 120,945 beds in veterans hospitals around the country.

But since 1962, despite our deepening involvement in Vietnam, the number of beds in VA hospitals has decreased by over 7 percent, while there has been a 19-percent increase in the number of patients in them. The ratio of hospital personnel to patients in veterans hospitals is 1.5 to 1 compared to 3.5 to 1 in university hospitals. There is roughly one psychiatrist for every 250 patients in a veterans hospital, resulting, among other things, in an inordinate use of chemical tranquilizers. A UCLA psychiatrist testified before Senator CRANSTON's Subcommittee on Veterans' Affairs that we are putting mentally disturbed veterans in "chemical cocoons" because we are not spending the money necessary to give them adequate psychiatric care.

As Chairman TEAGUE has pointed out, over $20 million in new equipment already installed in VA hospitals stands idle for lack of personnel, a state of affairs that has resulted in unnecessary deaths, according to VA hospital officials who have testified before the Cranston subcommittee. These officials have also testified that conditions in our veterans hospitals are continuing to deteriorate and may soon drop to a level that will disgrace the country and leave many helpless and disabled veterans without even minimum standards of medical attention.

Army Capt. Max Cleland, a triple amputee, told Senator CRANSTON's subcommittee that he did not receive a wheelchair for 1 year after he returned from Vietnam without his legs and with one arm. He went without a paycheck for 2 months because of bureaucratic snarls, and received virtually no advice about his future therapeutic care.

Is it any wonder that many wounded war veterans feel that, in Captain Cleland's words:

> The war may have been a cruel hoax, an American tragedy, that left a small minority of young American's holding the bag.

It is incomprehensible that the administration continues the war and discontinue funds and programs to help those who must fight it.

Because of medical advances and improvements in evacuation techniques, more wounded servicemen are surviving in Vietnam than in any other war. Technology makes it possible now to provide immediate medical aid for seriously wounded soldiers and then to fly them for special care to hospitals in Japan and even in the United States, within 16 hours, if necessary. These remarkable achievements save thousands of lives, and we are grateful for that.

But our obligation to brave men like Captain Cleland does not end with evacuation and quick medical care. It is wrong to consign men like these to veterans hospitals that are understaffed, overcrowded, and poorly equipped, or to ignore their needs if they are to find a suitable place in society when they are able to leave the hospital. As an urgent beginning, new medical facilities must be constructed and old ones modernized. They must be staffed with however many top-flight personnel are necessary to accommodate the thousands of disabled veterans who are coming back from Vietnam.

The administration has been trying to obscure the fact that it is callously and senselessly cutting back on veterans programs at precisely the time they are needed most. Last June, the President announced that "veterans benefits programs have become more than a recognition for services performed in the past. They have become an investment in the future of the veteran and his country." One could only wonder how seriously the President regarded this "investment" when he then proceeded to slash the 1970 VA budget by nearly $90 million, $78.5 million of it for hospital construction and operating expenses. Perhaps even more astonishing was the President's request that Congress restore funds for the same 4,000 new VA personnel that he had earlier cut out of President Johnson's 1970 budget—a request he followed in quick order with a decision to drop the jobs again after signing the supplemental appropriations bill for 1969.

Furthermore the administration's 1971 budget shows neither the intention nor the capacity to begin to correct the sorry conditions of the veterans hospitals, or even to boost educational benefits for returning veterans faced by skyrocketing costs. The requests in the new budget for most veterans programs will barely keep pace with inflation. For example, an additional $69 million requested for VA hospitals will largely go to defray an estimated $40 million salary hike for blue-collar workers. And cost-of-living and other salary increases, together with rises in general medical costs, will consume the balance of the $69 million.

The President's action on the GI bill provides another example of performance failing to match promises. Despite numerous official statements urging discharged servicemen to return to school, and in the face of all the documentation that is available to show that the inadequate education allowance is the major obstacle discouraging or preventing servicemen from doing so, the President has said that a 13-percent increase in GI bill benefits is all he will countenance. He has threatened to veto the $40-a-month increase we are considering here today. I cannot believe that kind of threat will dissuade us from standing firm for the kind of program that justice and commonsense so clearly demand. Both Houses of Congress recognize the legitimate needs of veterans, and have supported necessary and good programs even when this administration has opposed or refused to implement them. In fact, a very curious situation is developing in which the President spends billions to pursue the war while he grows deafer to the needs of those who are fighting it.

That is a good example of what we mean when we talk about the mixed-up priorities that threaten America's balance and achievement, and that soon may threaten her survival. We must go on with the effort to set these things right, but meanwhile there can be no excuse for penalizing our veterans, of all people. They have already given more to America than most of their fellow citizens—more, in some cases, than should have been asked. It is wrong to ask them to give more now, when so little is being asked of so many others.

I include at this point in the RECORD the text of a letter from Mr. William F. Ward, the legislative officer of the Nassau County Council of the Veterans of Foreign Wars, and I commend it for study to Members of the House:

MERRICK, N.Y.

DEAR COMRADES: Your Legislative Committee has adopted the following program geared to the times and for the ever-changing needs of our veteran, his widow and dependents. Our program this year is divided into three parts: National, State, and County and Town levels:

NATIONAL PROGRAM

H.R. 693: Provide medical benefits to veterans of the Mexican Border Campaign.

H.R. 692: Extend from the present six months to nine months the period of time that seriously disabled veterans may be cared for in a private nursing home at VA's expense.

H.R. 693: Provide that VA furnish outpatient treatment and any medical services necessary for seriously disabled veterans who are in receipt of the special housebound or aid-and-attendance allowance for service connected or non-service causes.

H.R. 693: Eliminate the so-called "pauper's oath", or statement of inability to defray hospital expenses, for a veteran 72 years of age or older to be admitted to a VA hospital.

H.R. 693: Authorize VA to furnish drugs prescribed by a physician for all disabilities, service-connected or non-service connected, for seriously disabled veterans receiving the special house-bound disability rate.

H.R. 2768: Eliminate the six months' time limitation for veterans who are furnished nursing care for service connected disabilities.

H.R. 3130: Furnish outpatient treatment for nonservice connected disababilities as well as for service connected disabilities for war veterans rated as permanently and totally disabled for service connected disabilities.

H.R. 9334: Increase the per diem rate to $7.50 where a veteran is receiving hospital care in a State home and liberalize the program generally

H.R. 11959: Amend the education provisions of the GI Bill to allow receipt of certain additional Federal educational assistance benefits for children and widows, of deceased veterans who died of service connected causes as well as children and wives of totally disabled service connected veterans.

It has come to our attention because of Personnel cutbacks, National Cemeteries, the final resting place of our comrades, are fast turning into slums for the want of possibly five or six maintenance personnel; we are told that cultivation of grave sites cannot be continued at Government expense and families of our deceased comrades must, when visiting these graves, perform menial clean-up details.

Under the existing G.I. Benefit Bills, the G.I. Home Loan program is a farce because of:

(a) Exorbitant interest rates.

(b) Continued apathy on the part of banks who enjoy tax exempt privileges in refusing and discouraging potential veteran home buyers to finance under the Veterans Administration. We find, too often, that banks push FHA mortgages and other types of conventional mortgages, thus increasing the cost to our newer veterans in closing payments, points, etc.

NEGATIVE ATTITUDE OF ADMINISTRATION

The Administration has recommended that action be deferred on the following legislation pending further study:

Increase dependency and indemnity compensation rates for service connected widows.

Provide additional monthly payments for each child for widows in receipt of DIC benefits.

Increase insurance for those serving in the Armed Forces from $10,000 to $15,000.

Provide double indemnity coverage for Armed Forces personnel assigned to duty in a combat zone or for extrahazardous duty.

Provide dismemberment indemnity coverage for loss of or loss of use of limbs and eyes.

Establish a Vietnam era Veterans Life Insurance Program for a permanent plan of insurance for those discharged from the Armed Forces.

Increase education and training allowance for all VA educational programs by a sufficient amount to offset the cost of living and cost of education since the latest increase in education training benefits.

STATE PROGRAM

1. Resolve that rumors emanating from study groups of the New York Legislature, have suggested the possible curtailing of N.Y. State Veterans Tax Exempt Benefits.

The Veterans of Foreign Wars, Nassau County, unanimously support opposition to any proposal that would deny veterans currently receiving monetary benefits based on service. The VFW further recommends that the current formulas be liberalized to include veterans of Viet Nam era and the later part of the Korean War Police Action. In the latter two categories, *no* muster out payments, insurance dividends and other monetary benefits were, and are available.

2. To amend the State Constitution so

as to provide the payment of a Korean and Viet Nam Bonus, similar to that paid to veterans of WW II.

3. To seek the establishment of a JOINT LEGISLATIVE COMMITTEE ON VETERANS AFFAIRS

4. With the establishment of the Oxford Home as the N.Y.S. Veterans Home, the current capacity of 80 beds be increased to a minimum of not less than 160.

5. Throughout the State of New York work load and rendered services to veterans, their survivors and dependents, have been increasing. The work efforts of the County Regional offices reduces much of the work load of the two existing V.A. regional offices. The service agencies, mandated by State Law, still receives minimal state subsidies established in 1946. Because it is apparent that State subsidies formulas have increased, the Welfare Department, hospitals, parks, roads, etc., we believe that, the formulas increasing state aid by amending Article 17, Section 359 of the Executive Law by substituting $10,000 for $5,000; to substitute $5,000 for the present $2,500 and to substitute 75% for the State's reimbursement share which is now 50%.

6. Under the guise of "Academic Freedom" we seem to be financing our own destruction. We seek to absolutely prohibit the utilization of any and all buildings, schools, colleges, or other facilities that receive subsidy in whole, or in part from the State of New York, by individual or organization who is known to advocate the overthrow of our government, or wilfully encourages acts akin to treason.

7. We urge the withdrawal of any and all forms of State Assistance granted to students who knowingly direct, lead or are involved in any manner in acts of violence against the administration or plant facility of public or private institutions of higher learning.

LOCAL LEVEL—COUNTY, TOWN

1. Resolve that rumors emanating from study groups of the New York Legislature, have suggested the possible curtailing of N.Y. State Veterans Tax Exempt Benefits.

The Veterans of Foreign Wars, Nassau County, unanimously support opposition of any proposal that would deny veterans currently receiving monetary benefits based on war service. The VFW further recommends that the current formulas be liberalized to include veterans of the Viet Nam era and the later part of the Korean War Police Action. In the latter two categories, no muster out payments, insurance dividends and other monetary benefits were, and are available. We urge our local officials to support our State representatives on this matter.

2. VFW (Nassau County) supports limited middle income housing program, financed through Federal Urban Renewal Program and that veterans and returning Viet Nam Veterans be given priority.

3. That the existing townships within the County of Nassau take immediate steps to increase partial subsidies paid to veterans organizations for the observance of Memorial Day; that the subsidies should conform to the authorized allowances paid to veterans groups in the Incorporated Villages.

Respectfully submitted.

WILLIAM F. WARD,
Legislative Officer.

Mr. TEAGUE of Texas. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. SAYLOR. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks and include extraneous matter on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

FEDERAL COURTS AND JUDGES

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 880 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 880

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 952) to provide for the appointment of additional district judges, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommenced by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from New York is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 880 provides an open rule with 2 hours of general debate for consideration of S. 952 to provide for the appointment of additional district judges, and for other purposes. The resolution also provides that it shall be in order to consider the committee substitute as an original bill for the purpose of amendment.

The purpose of S. 952, as amended by the House Committee on the Judiciary, is to provide for the creation of additional district judgeships throughout the United States and to make amendments to the Judicial Code to enable the Federal courts to handle their business more efficiently and expeditiously.

The bill embodies recommendations of the Judicial Conference of the United States in September 1968 and reiterated in March and September 1969.

Fifty-four new permanent judgeships and three temporary judgeships would be created and four existing temporary judgeships would be made permanent.

The cost of establishing a new district judgeship, excluding the cost for space, furniture and furnishings is $112,000 the initial years, with an annual recurring cost of $102,000. GSA budgets approximately $14,000 to each district judge for furniture and furnishings. The Department of Justice estimates that the annual cost for additional U.S. attorneys and marshals for each new judge is approximately $117,000. This includes the ensuing clerical support, equipment, telephone, and supplies.

Thus, the approximate cost for 54 new permanent positions and three temporary judgeships would be $13,851,000 the first year and $13,281,000 in subsequent years.

The bill authorizes the court of claims to contract for the reporting of proceedings; it authorizes the holding of court in several additional locations; it redefines the western district of Tennessee and the eastern district of Texas.

Mr. Speaker, I urge the adoption of House Resolution 880 in order that S. 952 may be considered.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, as stated by the distinguished gentleman from New York (Mr. DELANEY) House Resolution 880 does provide for 2 hours of general debate with an open rule for the consideration of S. 952, to provide for the appointment of additional district judges, and for other purposes. It makes it in order to consider the amendment in the nature of a substitute recommended by the committee as an original bill for the purpose of amendment under the 5-minute rule.

Mr. Speaker, the purpose of the bills is to provide for additional Federal district judges throughout the United States.

In 1968, after an extensive study of the caseload situation in our Federal district courts, the Judicial Conference recommended the creation of 62 judges throughout the United States.

The bill as reported authorizes the creation of 57 new permanent judgeships at the district court level. The original Senate-passed bill created 70 new judgeships; 13 were deleted by the Judiciary Committee after a study of the statistical information concerning caseload problems in each individual area. Of the 13 deleted, six had not been approved or recommended by the Judicial Conference and do not appear to be justified. Another five were deleted in districts where the bill still proposes that one or more new judgeships be created. The bill creates one new judgeship in the Virgin Islands district.

In addition to the Judicial Conference, the bill is supported by the American Bar Association and the Justice Department.

The bill contains other provisions. It authorizes Federal district courts to sit in six new locations throughout the country and redefines the boundary lines between the eastern and western divisions of the western district of the State of Tennessee and the Marshall and Tyler divisions of the eastern district of Texas.

The bill is a committee substitute.

Mr. Speaker, I urge the adoption of the rule.

Mr. DELANEY. Mr. Speaker, I yield 10 minutes to the chairman of the Committee on Rules, the distinguished gentleman from Mississippi (Mr. Colmer).

(By unanimous consent, Mr. Colmer was allowed to speak out of order.)

ALL STATES SHOULD BE TREATED EQUAL UNDER THE LAW

Mr. COLMER. Mr. Speaker, I dislike very much to address the House upon the matter that I feel compelled to so do on this occasion. But I think it is very timely that I should call attention to this important matter, and I am sure there are many others who feel as I do about the necessity for all peoples and all States of this Union being treated equal under the law. And in this connection I would particularly like the attention of the conferees who are to be appointed on the voting rights extension bill as well as the conferees on the elementary and secondary education bill. These are very important matters and also very controversial bills. I want to emphasize again not only the desirability but the necessity for all of our people to be treated equally and fairly regardless of geographical residence. Remembering what happened to the so-called Whitten and Jonas amendments which were endorsed by this House on freedom-of-choice and busing in our schools, I am, I must confess, apprehensive about what will happen to the Stennis amendment adopted in the other body and the President's version of the voting rights bill as passed by this House.

Mr. Speaker, I am a southerner. I am a Democrat. Above all of that, Mr. Speaker, I am an American. I pride myself that I am a southerner and make no apologies for it. I want to be a part of this Congress. But above that I want to see my section of the country, which has contributed so much to the foundation and the preservation of those ideals of this young Republic, be recognized as equal States of the Union and not be treated as provinces or colonies.

Now, Mr. Speaker, I want to talk particularly and briefly about two bills, now in conference, of a punitive nature against my section of our great common country.

First, I want to touch briefly upon the bill sponsored by the distinguished minority leader, the gentleman from Michigan (Mr. Gerald R. Ford), and the President of these United States, the voting rights bill.

Mr. Speaker, there is a basic principle of law that all laws should be applicable to all of the people of these United States and to all 50 States of the Union; and all should be treated equally under the law. But in 1965 those who claimed to be great liberals, great friends of the minority races of this country, went back into the dark days of reconstruction following that unfortunate, fratricidal strife for precedents enacted the 1965 Voting Rights Act which was triggered by a device or gimmick that would make that law applicable to only seven States which happen to be a part of the original Confederacy.

Mr. Speaker, that 1965 act violates all the principles of law, equity and fairness. The President of the United States, Mr. Nixon, recognized this and sent a message to the Congress asking that the law be revised and made applicable to the 50 States of the Union, all of them—and not merely to seven. The distinguished minority leader, Mr. Gerald R. Ford, introduced the bill embodying the President's recommendations.

This House in its wisdom saw fit to follow the President's recommendation and passed the Ford bill, recognizing the justice of the principles that I have enunciated here by making it applicable to all States.

When it got over to the other body—which was set up as a conservative body originally, by the Founding Fathers, but which has now become of course the more liberal of the two bodies—they emasculated the Nixon-Ford bill and brought in their own version with a minor provision part of the House bill extending the abolition of literacy to all of the States but continuing all other provisions of the punitive measures against these Southern States.

I talked to at least 100 Members of this body privately, and I have not found the first one to disagree with the principle that all provisions should be applicable to all of the States if such a law is enacted.

It is going to be interesting to see how they vote on the conference report.

Now, concurrently with this, the House passed the elementary and secondary education bill. It went over to the other body and the other body enacted its version of that bill. During the debate over there the very able and distinguished and outstanding Senator from my State, the Honorable John Stennis, offered an amendment to that bill which was adopted. I would like to take the time to read it, because it is very brief. All it says is this—and follow me, now:

> It is the policy of the United States that guidelines and criteria established pursuant to Title VI of the Civil Rights Act of 1964 and Section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applicable uniformly in all regions of the United States in dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any States without regard to the origin and the cause of such segregation.

As a matter of fact—and maybe my colleague, the author of this amendment, would not agree and would not appreciate my saying so—it has no power of enforcement, it has no teeth in it, it is simply a declaration of policy on the uniformity of administering the act, as I have tried to say about the other law, the voting rights law.

Now, I do not know what the conferees are going to do with that declaration. I do not know whether they are going to turn it down, even though the other and, as I said, more liberal body—and that is my opinion—approved the amendment.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DELANEY. Mr. Speaker, I yield 5 additional minutes to the gentleman from Mississippi.

Mr. COLMER. Mr. Speaker, I appreciate the gentleman from New York yielding me the additional 5 minutes.

But I say to you that regardless of whether it has teeth in it or not, it provides a policy of equity in the enforcement of the law.

Who is there sitting here now who would deny the fairness of that declaration—and that is what it is. Why should not the law apply to all the States of the Union? Oh, yes—there are those who say that the leadership of the minority groups do not want this. Well, I would like to say to the leadership of the minority groups that they are doing a disservice to their people by opposing this uniformity and fairness. Why should not a black man have the same protection under the law in the so-called North as he should in the South? Well, the argument is that they do not need it as badly up there—although the statistics do not bear that out. Well, whether they need it or not, why deny them that protection of the law. They want to be equal—I am sure they do. So, I say, it is a disservice.

Now I want to say something further in this instance and I am absolutely convinced from my knowledge of the thinking of the American people that they are way ahead of the politicians in this field. The great majority of the people of America, both black and white, are fair-minded. But they are misled in many instances by their own leadership and by the politicians.

Mr. Speaker, the other body put another little provision in the Voting Rights Act also as a kind of a palliative in which they said that in the North, they would use the 1968 election statistics as the triggering device—at the same time denying the right of the so-called Southern States to the 1968 figures in the 1968 election.

As was brought out here and as was brought out over in the other body, if the triggering device of the 1968 election were used, there would be practically no States in the South involved.

So, if in the 1965 act the purpose was to bring these seven States into line, and now that six of the Southern States have come into line with their theories, why should not they be brought under the 1968 provision like the other States? Is that not fair? Again we come back to the ugly word—discrimination—discrimination again, on a sectional basis.

Mr. Speaker, my people are a proud people. My people are a patriotic people. My people are a fair people. Again, I repeat, no section of the country has contributed more to the foundation and the preservation of the principles upon which this young Republic was founded. All I am asking here today—expressing the pious hope maybe it will be—is that these seven Southern States be taken back into the Union and given the same treatment at the hands of the Congress of the United States that all other sections of the country receive.

Mr. Speaker, I use this occasion, first, because it is an opportunity to get the time; second, I thought it was appropriate to make this statement on this occasion because the bill under consideration provides for 54 new judges, and

XUM

we are now going to get them. They would not be necessary if some of these laws had not been enacted; for example, if the courts had not taken the running of the schools upon themselves.

So what we are going to have, in effect, if I may say so, are 54 more school administrators.

AMENDMENT OFFERED BY MR. DELANEY

Mr. DELANEY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DELANEY: On page 1, line 12, strike out "recommenced" and insert "recommended".

The SPEAKER pro tempore (Mr. HOLIFIELD). The question is on the amendment offered by the gentleman from New York.

The amendment was agreed to.

Mr. DELANEY. Mr. Speaker, I have no further requests for time. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CELLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 952) to provide for the appointment of additional district judges, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

XUM

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 952, with Mr. OLSEN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. CELLER) will be recognized for 1 hour and the gentleman from Ohio (Mr. MCCULLOCH) will be recognized for 1 hour.

The Chair recognizes the gentleman from New York.

Mr. CELLER. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, S. 952 embodies recommendations made by the Judicial Conference of the United States at its meeting September 20, 1968, pursuant to a quadrennial systematic review of the needs of the U.S. district courts. In preparing its recommendations, two committees of the Judicial Conference, the Committee on Judicial Statistics and the Committee on Court Administration, studied the nature and extent of case accumulation, the rate of attrition in case backlog, the trends in case filings, as well as a comparative weighted caseload per judgeship. In many districts, the statistics document delay and congestion. There has been a qualitative as well as a quantitative change in the business of many district courts. Not only is there a greater flow of litigation, but there has also been an increase in the number of cases raising complex issues which place heavier demands on the time of each trial judge. For example, motions and hearings have proliferated. As of June 30, 1969, approximately 5,000 criminal cases, excluding cases of fugitive defendants, had been pending longer than 6 months in the district courts. The median time interval from issue to trial of civil cases rose from 12 to 13 months in 1969. Delay has been particularly acute in several metropolitan district courts. For example, it rose to 41 months in the eastern district of Pennsylvania, 27 months in the eastern district of Michigan, and 23 months in the northern district of California. S. 952, as amended, would provide additional permanent judgeships in each of these districts.

S. 952, AS AMENDED, PROVIDES FOR ADDITIONAL JUDGESHIPS IN THE DISTRICT COURTS AS FOLLOWS

Circuit and district	Additional district judgeships	New total permanent authorized judgeships
1st circuit: Puerto Rico	1	3
2d circuit:		
New York eastern	1	9
New York southern	3	27
3d circuit:		
New Jersey	[1] 1	9
Pennsylvania eastern	[2] 6	19
Pennsylvania western	2	10
Pennsylvania middle	(3)	
Virgin Islands	[4] 1	2
4th circuit:		
Maryland	1	6
North Carolina, eastern	(3)	
South Carolina	1	5
Virginia, eastern	1	6
5th circuit:		
Alabama, northern	1	4
Alabama, middle	1	2
Alabama, southern	(5)	2
Florida, southern	2	7
Georgia, northern	3	6
Georgia, southern	1	2
Louisiana eastern	2	10
Louisiana western	1	4
Texas, northern	1	6
Texas, eastern	1	3
Texas, southern	1	8
Texas, western	1	5
6th circuit:		
Kentucky, eastern	1	2
Kentucky, western	1	3
Michigan, eastern	2	10
Ohio, northern	1	8
Ohio, southern	1	5
Tennessee, western	1	3
7th circuit:		
Illinois, northern	2	13
Wisconsin, eastern	(6)	3
8th circuit: Missouri, Eastern	1	3
9th circuit:		
Arizona	1	5
California, northern	2	11
California, central	3	16
California, southern	3	5
10th circuit:		
Colorado	1	4
New Mexico	1	3
Kansas	(6)	4
Permanent new judgeships		54
Temporary judgeships		3
Existing temporary judgeships to be made permanent		4

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[1] 1 temporary judgeship also authorized.

[2] 2 temporary judgeships to be made permanent.

[3] 1 temporary judgeship authorized.

[4] 8-year term.

[5] The roving judgeship for Alabama, middle and southern, to be made a judgeship for the southern district only.

[6] 1 temporary judgeship to be made permanent.

We dare not, we cannot be deaf to the voices of justice. That voice demands more judges—more judges properly to man our courts and relieve our crowded dockets. It has been said, and I have repeated it on a number of occasions, that justice is the bread of the Nation because all people hunger for it. Do not therefore, withhold the bread of justice from the people by failure to create the necessary judgeships. A nation with insufficient judges is as helpless as a turtle on its back. Where there is a decided paucity of judges, justice is delayed and thus denied, and any boast of justice is hollow—hollow as a base drum. Jefferson said:

> The most sacred of the duties of a government is to do equal and impartial justice to all its citizens.

This Nation shirks its duty when it fails to supply the means of dispensing equal and impartial justice.

We have the courts; there are just too few judges. Let us grace these courts; otherwise, we have but a scabbard without a sword.

Furthermore, crime is rampant, all sorts of crime, and criminal cases have outstripped the judicial personnel. Criminal dockets have grown far beyond the capacity and control of the present members of the courts. Thus punishment and deterrence of crime is not swift and decisive. Society suffers. The devil, very likely, laughs at our mischief, the mischief that we have created ourselves. More judges should help, indeed, in the drive against crime.

In 1961, we created 63 new judges; in 1966, we created 33 new judges—a total of 99 in those years. We now create 57 more judges in this year, 1970, making a total of new judges since 1963 of 153 new judges if this bill passes.

These additional judges are necessary to keep pace with the almost geometric acceleration of Federal, civil, and criminal cases. We pass an avalanche of bills. They set up wave upon wave of cases that inundate the courts, cases concerning the draft, civil rights, immigration, housing, labor, education, transportation, narcotics, auto thefts, and antitrust cases, criminal suits, plus prisoners' petitions.

The burst of population exacerbates the difficulties. The issues often are complex and are bedeviled with depositions, motions, cross-motions, pretrail hearings, appeals, and cross-appeals.

The committee amendment deletes authorization for 13 judgeships from the 67 new permanent positions authorized in the Senate bill. As amended, S. 952 would create 54 permanent additional district judgeships in 38 judicial districts throughout the United States. In addition, the bill would make the existing district judgeship for the middle and southern districts of Alabama a district judgeship for the southern district only. It would make permanent the existing temporary judgeships for the district of Kansas, one; the eastern district of Pennsylvania, two; and the eastern district of Wisconsin, one. The bill also creates one temporary judgeship for the district of New Jersey; one temporary judgeship for the middle district of Pennsylvania, and one temporary judgeship for the eastern district of North Carolina.

Other major changes made by the committee amendment can be summarized as follows:

First. The committee amendment deletes provisions authorizing the use of electronic sound recordings in the absence of a court reporter in the district courts.

Second. The committee amendment deletes provisions establishing the office of court executive at the circuit court level and in certain multijudge district courts. It also strikes a provision conferring subpena power on the judicial councils.

I should add that the committee's deletion of provisions creating court administrators or so-called executors in the circuit courts and in certain district courts does not reflect an insensitivity to the proposition that the Federal courts need or would profit from improved management techniques. Rather, the committee was persuaded that this omnibus judgeship bill, providing a substantial increase in the number of Federal judges, should not be permitted to become a vehicle for matters extraneous to its general purpose.

And data concerning the duties and functions and the nature of appointment of these "executives" were made manifest to enable the Judiciary Committee to formulate adequate judgment. Hence it was determined to consider the setting up of this new position as executive in separate legislation.

Third. The committee amendment authorizes the holding of Federal court at the following additional locations: Allentown, Pa., section 6; Coquille, Oreg., section 7; Rockville, Ill., section 8; Richmond, Ind., section 9; Fort Lauderdale, Fla., section 10; and Traverse City, Mich., section 11.

The committee amendment also redefines the eastern and western divisions of the western district of Tennessee, section 12, and the Marshall and Tyler divisions of the Eastern District of Texas, section 13.

Fourth. The committee amendment exempts the court reporter contracting authority section 13(b) from the general requirement of advertising for bids which is applicable to Government contracts. It also permits the U.S. court of claims to contract for its court reporter services.

Fifth. Finally, the committee amendment makes a technical amendment to the Revised Organic Act of the Virgin Islands to implement the provisions of the bill creating one additional judgeship for the district court of the Virgin Islands.

COST

The Administrative Office of the U.S. Courts advised the committee that the cost to the judiciary of establishing a new district judgeship, exclusive of the cost for providing space, furniture and furnishings, is $112,000 in the initial year, with an annual recurring cost of $102,000. The General Services Administration budgets approximately $14,000 to each district judge for furniture and furnishings. The Department of Justice estimates that the yearly cost to it for additional U.S. attorneys and marshals, clerical support, equipment, telephone, and supplies is approximately $117,000 for each new district judge.

Based on this data, the approximate cost for 54 new permanent positions and three temporary Federal court judgeships created by the bill, as amended, would be $13,851,000 for the first year and $13,281,000 in subsequent years.

Mr. Chairman, S. 952 provides a sizable increase in the number of U.S. district judgeships—54 permanent and three temporary positions. The committee believes that this increase should be adequate to assure reasonably prompt consideration of all cases filed in the district courts and enable steady progress toward reducing existing backlogs. In its evaluation of each new judgeship proposed, the committee considered the impact of the Federal Magistrates Act, Public Law 90–575, and the Federal Judicial Center Act, Public Law 90–219, in providing additional specialized manpower and expanded technical resources to assist the Federal courts to cope with the burgeoning caseload. In addition, the committee considered the individual calendar assignment system recently inaugurated in several metropolitan Federal courts. This method, the committee believes, promises to prove effective in substantially reducing the heavy caseload of protracted and complex legislation.

In summary, Mr. Chairman, the committee believes that S. 952, as amended, provides essential increases in the number of trial judges in the Federal courts to deal adequately and effectively with the growing and complex caseload.

Mr. McCULLOCH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am happy to join the chairman of the Judiciary Committee, the gentleman from New York, in support of S. 952, the omnibus district judgeship bill.

The bill received full and careful consideration in 5 days of public hearings before Subcommittee No. 5. At the hearings, the subcommittee heard testimony and received, for the record, statements and communications from approximately 60 interested parties, including Members of the House, representatives of the Judicial Conference, the Department of Justice, and the American Bar Association.

All agree that we must promptly meet the pressing needs of justice or the Federal judiciary will not long be one of the three coordinate branches of our Government. Our Federal district courts are the workhouses of justice and additional, qualified, dedicated judgepower is the most important ingredient to effectively establish and uphold justice in our country.

To be sure, the creation of additional judgeships alone will not solve the problems. However, these problems cannot begin to be solved unless our Federal courts have adequate judgepower to assure prompt, careful, and judicious consideration of all cases in such courts.

Prof. James William Moore, a noted American scholar and author of "Moore's Federal Practice" and "Moore's Commentary on the U.S. Judicial Code," wrote:

> As to judicial personnel, I venture to suggest that the number of Federal judges should be promptly increased whenever and wherever warranted. I respectfully submit . . . that the judicial plant must be enlarged to keep pace with an expanding nation; . . . .

Our Nation is expanding. The gross national product in 1954 when Congress created 30 new permanent judgeships was $364 billion. The gross national product in 1960, when Congress created 61 new judgeships had advanced to $503 billion. The gross national product in 1966, when Congress created 30 new permanent judgeships was approaching the $700 billion mark. Since 1966, we have developed in this country a gross national product that is now in excess of $900 billion; which is nearly triple that of 1954. We have large and ever larger growing corporations and Federal criminal offenses are increasing at an alarming rate. These are all sources of increasing litigation now and in the future.

Since the last increase in the number of Federal judges in 1966, Congress has passed 1,659 public laws. These laws give rise to new rights, involve new obligations, all of which create more diversities and differences of opinion and generate more controversy and create more litigation. These laws run the gamut. We have passed the Civil Rights Acts. Those acts have generated all kinds of controversies, both civil and criminal. We have passed antitrust laws, gun control legislation, laws affecting criminal procedure, organized crime, admiralty, patents, trademarks, immigration, foreign trade and shipping, oil, gas pipelines, radio, television, space, treaties and State compacts. There is the explosion of population, the shifting of population. All of these factors give rise to more and more litigation and, consequently, the need for more and more judges.

In fiscal year 1969, 110,778 civil and criminal cases were commenced in the district courts, an increase of 8.4 percent over the previous year. The number of civil and criminal cases pending in our Federal district courts in fiscal 1969 rose to 104,091, the highest pending case figure on record. The median time interval from issue to trial for civil cases was 13 months, an increase of one month over 1968. For non-jury trials the interval was 11 months, an increase of 1 month, and for jury trials it remained 15 months. The national weighted caseload per judgeship for fiscal 1969 was 289 compared to 265 for fiscal 1968.

S. 952 embodies, for the most part, the recommendations of the Judicial Conference of the United States. At its session in September 1968 and March 1969, the Conference recommended 61 permanent district judgeships and one temporary district judgeship. The Senate-passed bill, S. 952, provided for 67 permanent district judgeships and three temporary district judgeships. The House Judiciary Committee's version of S. 952 provides for 54 permanent district judgeships and three temporary district judgeships. The House Judiciary Committee deleted seven judgeships recommended by the Judicial Conference and the six additional judgeships recommended by the Senate for a total deletion of 13. I opposed the deletion in subcommittee and in the full committee of any judgeships recommended by the Judicial Conference.

The basis for the recommendation of the Conference was a systematic and comprehensive statistical study and review of the judicial business of the district courts undertaken by two Conference committees with the assistance of the Administrative Office of the U.S. Courts. The study was made in light of the policy adopted by the Conference in 1964 of making a quadrennial survey of the need for additional district and circuit judgeships. Under this policy, the committees of the Conference survey the needs of the district and circuit courts separately, and present requests for new district and circuit judgeships separately. It should be noted, however, that this request is not only to meet the pressing current needs but also the anticipated needs of the next 4 years ending at the end of 1972.

Before this new policy was adopted by the Conference, it made annual recommendations and numerous bills piled up until the committee was ready to act. Now the Judicial Conference makes the study every 4 years and in the interim, considers requests for recommending additional judgeships only on an emergency basis. Since 1966, the Conference, although reviewing numerous requests found none of the situations so critical as to require such emergency action. All requests were, therefore, deferred for considerations until 1968.

For these reasons, among others, I support the Judicial Conference's recommendations. These recommendations were arrived at after long and careful study and for the first time contain an element of projected need. No modern business would think of ignoring future needs. The impartially marshaled facts show that all these judgeships are clearly required, if the Federal courts are to do their work efficiently and with dispatch, and if the quality of process is to continue to be the hallmark of the Federal judicial system. I believe that the recommendations of the Judicial Conference is the best considered and certainly the least political. The need for all of the additional judges, as recommended by the Judicial Conference, was emphasized by Deputy Attorney General Kleindienst in these words:

> On the civil side, parties to litigation have become increasingly frustrated over their inability to secure prompt judicial determination of their rights and liabilities. On the crininal side, delays occurring between indictment and trial have had several undesirable effects: innocent persons must wait many painful months to clear their names; the general public is subjected to the risk of repeated criminal offenses committed by guilty persons free while awaiting adjudication of their cases.

In my opinion, a partial solution to the problem of persons out on bail committing additional crimes would be an adequately staffed judiciary. This would quicken the pace of justice without impairing the quality of judicial output.

In making its recommendation for judgeships to the Congress in September, the Judicial Conference projected its need through 1972. Eighteen months have elapsed since their request was made. Final enactment of this legislation still lies in the future.

There will also be some time expended in the filling of these judgeships. The failure to fill with reasonable promptness the new judgeships which Congress has created, or to fill vacancies that have existed by reason of retirement or death of judges, has long been of serious concern to all of us. In hearings before the Senate Judiciary Subcommittee on Improvements in Judicial Machinery, Judge Biggs testified that from July 1, 1958, to March 31, 1969, the delays in filling vacancies in U.S. district courts, the trial courts of this country, if you please, exceeded 143 judge-years. The record shows that it takes from 6 to 18 months to nominate and have confirmed a judge for the Federal trial court. I am of the opinion that such delay in many cases is inexcusable. I said as much in committee at hearings on S. 952 and that a much shorter time is expected to be used in the future, if we are to have swift justice. I must caution that such a delay in filling these judgeships will effectively thwart the intent and purpose of this legislation.

Finally, Mr. Chairman, I must strenuously urge that appointments to the Federal judiciary be removed from the category of pure party politics.

I recognize that, in the past, many able Presidents of both parties have been extremely partisan in their appointments. Those of you who have been here for any length of time will recall when President Eisenhower asked, in 1959, the Congress for 35 additional judges he stated his intention to fill them in a bipartisan manner. It is to his credit that the late President Kennedy made at least a small start in this direction: 11 out of the 91 district judges he appointed were Republicans.

However, on the other hand, President Johnson appointed to lifetime judgeships 111 Democrats and six Republicans. In 1969, President Nixon appointed 15 Republicans and one Democrat as Federal judges. As I have said over and over, an appointment to the Federal bench should be recognition of merit and achievement, of legal scholarship, ability and excellence, not merely reward for the party faithful.

I earnestly urge President Nixon, as I did former Presidents Eisenhower, Kennedy, and Johnson, to take the opportunity afforded by the passage of S. 952 to make a real effort to advance the ideal of a balanced, truly nonpolitical judiciary. Thus the image of the Federal courts and the public confidence in them will be accordingy brightened and the preamble to our Constitution will again be as meaningful as in the early days of our great country.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. McCULLOCH. I yield for one question to the gentleman from Iowa.

Mr. GROSS. Only one question?

Mr. McCULLOCH. I yield for one question to the gentleman from Iowa. We have only 1 hour on our side.

Mr. GROSS. Mr. Chairman, I will get my time later if I have to move to strike the enacting clause in order to ask more than one question.

Mr. CELLER. Mr. Chairman, I have no further requests for time.

Mr. McCULLOCH. Mr. Chairman, I yield to the gentleman from Texas (Mr. Price) such time as he may consume.

Mr. GROSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 53]

Ashley
Baring
Biaggi
Blatnik
Brock
Brown, Calif.
Carey
Cederberg
Chamberlain
Clark
Conyers
Corbett
Cramer
Davis, Ga.
Dawson
de la Garza
Diggs
Dingell
Dwyer
Erlenborn
Evans, Colo.
Fallon
Fascell
Fish
Fulton, Pa.
Gaydos
Gibbons
Goldwater
Green, Oreg.
Gude
Harsha
Hébert
Kirwan
Kluczynski
Long, La.
McEwen
Meeds
Meskill
Michel
Mills
Murphy, Ill.
Murphy, N.Y.
Nichols
Ottinger
Reid, Ill.
Reid, N.Y.
St. Onge
Sikes
Smith, Calif.
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Taft
Teague, Tex.
Thompson, N.J.
Tunney
Wiggins
Young

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Olsen, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, S. 952, and finding itself without a quorum, he had directed the roll to be called, when 371 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair has recognized the gentleman from Texas for such time as he may consume.

Mr. PRICE of Texas. Mr. Chairman, we are all acutely aware of the fact that crime of all types constitutes a problem of major proportions. All of us have dedicated ourselves to the task of reducing this crime and stamping out the causes of criminality insofar as is humanly possible.

One way in which crime can be reduced is through improving the effectiveness of the judicial process. There is agreement among experts and laymen alike on this point.

When S. 952 passed the Senate it contained two judgeships for the northern district of Texas, both of which were recommended by the Judicial Conference of the United States.

In the opinion of the individuals charged with administering justice in the northern district of Texas, their task would be facilitated by the establishment of two additional judgeships. They are closest to the problem of the northern district and they are more informed on our needs than anyone in Congress and anyone on the House Judiciary Committee.

In my judgment, their considered views should be controlling on this issue; I urge my colleagues to comply with their request in conference to create two, rather than one, additional judgeships for the northern district of Texas.

In my judgment there are some very compelling reasons why the increase should be granted. Some of the most notable reasons are:

The northern district of Texas en-

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compasses an area of 95,000 square miles—three times the size of the State of Indiana—and includes 100 counties. Its seven divisions in which court is held—Dallas, Fort Worth, Amarillo, Lubbock, Wichita Falls, Abilene, and San Angelo—are situated hundreds of miles apart.

Population of the district is now approximately 5,000,000, increasing approximately 60,000 a year. The Dallas metropolitan area alone has a population of approximately 1,480,000. The Fort Worth metropolitan area alone has a population of approximately 668,000.

The district has only five judgeships. The last two were created in 1960. Since that time, the 1966 amendment to 28 U.S.C. 2241 gave this district jurisdiction of writs of habeas corpus by State prisoners. This district ranks among the top in the Nation in number of prisoner petitions handled; 163 such cases were docketed during the past fiscal year, and a unique system has been used in this district which enabled the judges to handle approximately 600 additional cases without a formal docketing of each case and without a judicial statistical record. Of all State prisoners incarcerated in Texas in 1968, 40.3 percent were convicted in the northern district of Texas, 28.7 percent in the southern district, 21 percent in the western district, and 10 percent in the eastern district.

Since 1960, when the last judgeships for the district were created, the civil caseload has increased from 739 to 1,261, aside from the nondocketed prisoner petitions.

The bankruptcy caseload has increased from 212 to 583. Criminal cases have increased from 396 to 553.

Since our latest judicial appointee, Judge Halbert O. Woodward, succeeded the late Judge Joe B. Dooley, on June 28, 1968, there has been a marked increase in the judicial activity in the Amarillo and Lubbock divisions. Prior to his appointment, there was a lengthy period when, due to Judge Dooley's illness and death, we had no resident judge in those divisions.

From the rapid increase in population, business, industry, and so forth, the chief justice's statement that litigation in Federal court has become much more sophisticated is especially applicable in this district, which is a business, finance, insurance, and industrial complex, and which is a leading oil and gas, farming and ranching area, having the largest airport in the world now under construction, the Dallas-Fort Worth International Airport, to provide air transportation for 16,000,000 people annually by 1975.

As examples, as of October 1969 there were pending in the district 39 antitrust cases, 440 civil cases involving multiple parties, 91 cases for injunctive relief, 45 patent, trademark, and copyright cases, 30 common disaster cases, 10 stockholders suits, 25 products liability cases, 21 class actions, 57 criminal multiple-party cases, 84 complicated multiple-issue mail fraud, conspiracy, fraudulent claims and racketeering cases.

Indexed crimes in the city of Dallas alone reported for the month of September 1969, "show a 70-percent jump" over the same month in 1968.

It is submitted that there is no district in the United States of comparable judicial responsibility with as few judges as the northern district of Texas will have even with the two additional judgeships provided for in the omnibus bill. The five judges we have simply cannot carry this burden.

If we are to achieve the just, speedy and inexpensive determination of cases coming before our judges, two additional judgeships must be created for the northern district of Texas immediately.

This increase has been requested by those closest to the problems of administering justice in the northern district, the district judges themselves. Chief District Judge Joe E. Estes, and District Judges Sarah T. Hughes, Leo Brewster, William M. Taylor, Jr., and Halbert O. Woodward, have all joined in petitioning Congress for judicial assistance. I believe the cause of justice demands we respond to this petition.

Mr. PURCELL. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman from Texas.

Mr. PURCELL. Mr. Chairman, I compliment the gentleman from Texas (Mr. PRICE) on the statement he is making and associate myself with the remarks he is making.

I will not take all the time I would like, but I do wish to point out especially in regard to the increased crime rate that we find it difficult to handle the cases expeditiously, and that only with the additional judgeships mentioned by the gentleman from Texas will we have adequate judgeships with which we hope to curtail this alarming increase in the rate of crime.

Again I compliment the gentleman for the study he has given this and for the very meaningful statement he has made.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I would first point out in response to my colleague from Texas I have received the same suggestion from the distinguished chief judge of the northern district of Texas, the Honorable Joe Ewing Estes. I wrote him as follows on March 10, 1970:

DEAR JUDGE ESTES: I have your recent letter urging support for the creation of two additional permanent judgeships in the Northern District of Texas.

As you know, I serve as a member of Subcommittee No. 5 of the House Committee on the Judiciary which held hearings on October 29, 30; November 5, 12, 25, 1969, on S. 952, the Omnibus Judgeship Bill, and numerous other bills relating to the organization and administration of the Federal courts. Members of this Subcommittee, as well as the full Commitee on the Judiciary, painstakingly reviewed each and every new judgeship proposed in the Senate bill. In the case of the Northern District of Texas, the Subcommittee and the full Committee determined that on the basis of the judicial business of the Northern District of Texas only one additional permanent position was warranted.

Among other factors, the Committee examined the comparative weighted caseload per judgeship of those districts in which S. 952 proposed to add more than one judgeship. This table, which is set forth at page 411 of the hearings, indicated that two additional judgeships in the Northern District of Texas would reduce the weighted caseload to 240 as compared to a national average of 289 for 1969; whereas, one additional judgeship would reduce the weighted caseload to 280.

Perhaps more significantly, however, statistical data submitted to the Committee by the Administrative Office of the United States Courts show that the total number of criminal cases commenced in fiscal 1969 decreased to 552 from 603 the preceding year. Similarly, the number of criminal cases pending was down to 239 from a previous high of 302 in fiscal year 1968. The data also indicate that the median time interval from issue to trial of civil cases was five months in the Northern District, whereas, the national median interval was thirteen months. In summary, the decrease in the number of criminal filings in 1969 as well as the reduction in the number of pending criminal cases, and the fact that only one additional judgeship would be necessary to reduce the weighted caseload per judge in the district below the national average, all combined in the Committee's view to justify the creation of one new permanent position rather than two. Similar consideration led the Committee to authorize only one new position in the Eastern District of Texas, rather than the two positions provided for in the Senate bill.

The Committee report on S. 952 was filed with the House of Representatives, Tuesday, March 10. Rather than wait for a copy to be available, I have written you today. However, I shall be sending you under separate cover a copy of the Committee report as well as a copy of the Committee's hearings.

I do appreciate receiving your views and want you to know that I gave this matter deep and careful thought before supporting amendments to the bill which would decrease the number of judgeships in Texas.

With every good wish, I am

Sincerely yours,

JACK BROOKS,
Member of Congress.

The Congress has enacted the Federal Magistrates Act—Public Law 90–578—which will provide magistrates in the northern district of Texas.

It has been recommended that the northern district of Texas receive the following number of magistrates: One full-time in Dallas, $22,500; one part-time in Fort Worth, $4,000; one part-time in Amarillo, Lubbock, Wichita Falls, San Angelo, and Abilene.

These magistrates, are going to perform many functions to assist Federal judges in the exercise of their duties. The Magistrates Act which has already been enacted, will allow U.S. magistrates to be assigned duties by the judges of the U.S. district courts in addition to those normally undertaken by U.S. commissioners today. These additional duties may include but are not limited to service as special masters, supervision of pretrial or discovery proceedings, and preliminary consideration of petitions for post conviction relief.

Mr. CELLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. FEIGHAN).

Mr. FEIGHAN. Mr. Chairman, in fiscal year 1969 there was a drastic increase in the number of civil and criminal cases filed in the Federal court system. In 1968, for example, there were 102,162 cases filed in Federal courts, while in

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1969 the number of cases rose to 110,778. This increased caseload has overburdened the Federal courts. Additional Federal judgeships are necessary now if expeditious handling of these cases is to be achieved.

S. 952, as amended, provides for the creation of 54 permanent and three temporary judgeships. With these additional Federal judgeships, all cases filed in the district courts will be assured of consideration within a reasonable amount of time and the existing backlog will eventually be exhausted.

Enactment of this bill is important to the city of Cleveland and to the State of Ohio. The bill would increase from seven to eight the number of permanent judgeships for the U.S. District Court for the Northern District of Ohio and increase from four to five the number of judgeships for the southern district of Ohio.

In the northern district of Ohio there has been a substantial increase in both the civil and criminal court caseload. At the end of 1962, there were 1,188 civil cases pending. By the end of fiscal year 1969, this number had increased to 1,734 cases. The median time interval from issue to trial in civil cases increased from 14 months in 1962 to 20 months in 1969. The national average for 1969 was 13 months.

At the end of 1966, 195 criminal cases were pending and by 1969 this number had increased to 437.

The appointment of additional judgeships is imperative to meet the growing demands of judicial business in northern and southern Ohio as well as the Nation as a whole.

I urge favorable action on S. 952, as amended.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, I regret that S. 952, as reported by the Judiciary Committee, does not include the provision that the U.S. District Court for the District of Maryland shall sit at one additional place, at a suitable site not more than 5 miles from the boundary of Montgomery and Prince Georges Counties. Last May, I testified before the Subcommittee on Improvements in Judicial Machinery regarding the pressing need for an additional location to serve rapidly growing suburban Maryland. At present, attorneys and litigants are faced with a time-consuming trip to Baltimore or with the prospect of long delays in the congested courts of the District of Columbia. I proposed that several alternative sites merited consideration.

It is my understanding that the Judicial Conference recommended against the establishment of an additional location at Hyattsville, Md., because this site received a negative report from the judicial council of the fourth circuit. The rejection of the Hyattsville site did not mean, however, that the judges of the fourth circuit denied any need for an additional facility to serve suburban Maryland. As I pointed out in my letter to the committee in January, Judge Edward Northrup, representing the judges of the U.S. District Court for the District of Maryland, testified before the Judiciary Committee of the other body that the judges favored an additional facility, but were unwilling to endorse a particular site.

The need for a court facility in suburban Maryland is undeniable, and it is most unfortunate that this fact has been ignored in the midst of apparent confusion or disagreement on a site.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, this is a good bill. Our Federal courts, like all of our courts, have a backlog of work; we rightly hear today, as we have down through the years, of "the law's delay," probably the one, out of all the common layman's complaints regarding the law, which is well justified by the facts. One obvious way to meet this complaint is to provide an adequate number of judges to do the work of our courts—and that is a prime objective of this bill.

This objective ought not to be approached in any sort of a partisan manner because it is too fundamental, and the appointment of judges is something to be approached on a long-term basis. Therefore, when a nonpartisan and professional body, such as the Judicial Conference of the United States recommends the creation of a certain number of judgeships, it would seem that the Congress ought to follow that recommendation, in the absence of most persuasive evidence to the contrary.

Our committee, unfortunately, has not entirely done this. We have eliminated from the bill some 13 judgeships, seven of which were recommended by the Judicial Conference, and we have done so without any persuasive testimony being offered before our committee which would justify the action. Among the judges which were recommended by the Judicial Conference and which were so improvidently eliminated were two from my own State of Indiana.

In these courts the caseload has been gradually increasing and, for example, in the southern district of Indiana—with which I am most familiar—the number of pending civil cases has increased from 596 at the end of 1967 to 810 at the end of 1969. The number of criminal cases filed is also increasing; in 1969, 325 criminal cases were filed in the southern district, the highest number during the period 1959–69. In 1969 the weighted caseload per judge in the southern district was, as I understand it, well ahead of the national averages, both as to civil cases and as to total cases, including both civil and criminal. The situation in the northern district is generally similar. The Indiana State Bar Association and the present Federal judges in Indiana, both Democrats and Republicans, favor the two proposed additional judgeships.

For these reasons I have given serious consideration to offering a floor amendment seeking to restore the judgeships eliminated in committee, and particularly those originally provided for Indiana. An appraisal of the parliamentary situation has, however, led me to decide, on balance, not to offer such a motion. It is my desire to cooperate in the securing of the expeditious passage of what is, basically, a meritorious and an important bill. I remain of the opinion that at least the judges recommended by the Judicial Conference—and particularly those from Indiana—certainly ought, from any point of view, to be restored to the bill; and I express the strong hope that during the course of the parliamentary process, this may yet be done.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from West Virginia (Mr. KEE).

Mr. KEE. Thank you very much, Mr. Chairman, for your courtesy.

Mr. Chairman, we do need an additional Federal district judge in southern West Virginia which was included in S. 952 as passed by the U.S. Senate. It is now imperative that the U.S. Congress take necessary action to correct this inequity by establishing an additional Federal district judgeship in southern West Virginia—the need having been fully justified.

In this connection—it is my understanding that the Honorable Clement F. Haynsworth, Jr., chief judge of the fourth circuit—did not originally recommend this additional Federal district judgeship post to the Judicial Conference in 1968. However—upon subsequent investigation—the chief judge did on May 7, 1969, subsequently recommend that this additional judgeship be established in Charleston, W. Va.

At this point, Mr. Chairman, it is my pleasure to read a telegram which I received yesterday from Chief Judge Clement F. Haynsworth, Jr.

Hon. JAMES KEE,
Cannon House Office Building,
Washington, D.C.

In May 1969 I appeared before the Senate Subcommittee on Improvements in Judicial Machinery in support of an additional judge for the southern district of West Virginia to be stationed at Charleston. The need of such an additional judge is greater now than it was then. Extraordinary efforts of the present judges in West Virginia are insufficient to stem the alarming growth of backlogs. I strongly adhere to my recommendation. A more detailed letter will follow.

CLEMENT F. HAYNSWORTH, Jr.

In view of the methods under which the Judicial Conference operates, unnecessary delay until 1972 will cause a continued undue hardship on Federal courts, especially in southern West Virginia. The southern district of West Virginia has the ninth heaviest caseload in the Federal judicial system out of a total of 89 districts. Because of this fact, the chief judge of the fourth circuit, in testimony presented before the Senate Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, did substantiate that an additional judgeship was needed.

Our Federal judges in my home State have experienced a buildup in the backlog throughout the State and the worst place is in Charleston, where they have a substantial buildup in the backlog. Due to the mountainous terrain in my home State, the fact remains quite evident that our three Federal judges are extremely hard pressed in their duties of rendering sacred public service, and it is clearly demonstrated that they require an additional judge in southern West Virginia.

I urgently plead to the chairman of the Judiciary Committee for serious consideration to the current and pressing needs of the Southern District Court of West Virginia in the conference committee which will ensue.

Mr. Chairman, at this point I respectfully ask the chairman of the Committee on the Judiciary this question: In view of these additional facts and additional information, plus the letter in depth that is coming to me, I ask the gentleman if he will grant this request which I respectfully make?

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. KEE. Yes, I yield to the gentleman from New York.

Mr. CELLER. Yes, we shall do so.

Mr. KEE. I thank the chairman very much.

Mr. SLACK. Mr. Chairman, there is a most serious need for an additional West Virginia Federal judgeship and the case in support is very strong.

During the last 10 years every other State in the fourth circuit has had an increase in Federal judgeships except West Virginia.

In consequence, the number of pending cases has grown in southern West Virginia and the totals far exceed those found in other fourth circuit judgeships in proportion to the number of judges assigned.

West Virginia is served by three Federal judges—one for the northern jurisdiction, one for the southern jurisdiction, and a third who divides his time between the two.

As of December 31, 1969, in the southern West Virginia jurisdiction, there was a total of 730 pending civil actions. The cases must be handled by one and a half judges.

I ask you to consider this situation by comparison with other nearby Federal jurisdictions.

In 1969, the records revealed that there were only half this many pending civil actions in the western Virginia jurisdiction which is served by two full-time judges.

In South Carolina there were 940 pending cases, but four judges are assigned to the work.

In western North Carolina there were 345 cases with two judges.

In middle North Carolina there were 227 cases with two judges.

In eastern North Carolina there were 315 pending cases with two judges.

In Maryland there were 1,600 pending cases, but there were also five judges.

These comparative figures underscore the disproportionate workload assigned presently to the one and a half Federal judges in the southern West Virginia jurisdiction.

No matter how strenuous the effort put forth, there seems to be no way to reduce the backlog unless an additional judgeship is authorized.

Mr. McCULLOCH. Mr. Chairman, insofar as I know we have no further requests for time.

Mr. CELLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. Jacobs).

Mr. JACOBS. Mr. Chairman, because of U.S. Judicial Conference statistics which show manageable caseloads for Federal district courts in Indiana, two unnecessary judgeships for Indiana have been deleted from the omnibus judgeship bill by the Judiciary Committee.

I endorse the action of the committee for the following reasons:

IN THE SOUTHERN DISTRICT OF INDIANA

Civil cases commenced in 1969 were nearly 12 percent below the number of cases filed in 1964.

The median time interval from issue to trial has been consistently below the national average. In 1969 the interval was 7 months, compared with a national median interval of 13 months. The median time interval from issue to trial has declined by more than 36 percent since 1964.

The U.S. plaintiff caseload has declined by more than 26 percent since 1966.

In 1969 the criminal caseload per Federal judge was 36 percent lower than in 1959.

IN THE NORTHERN DISTRICT OF INDIANA

Civil cases filed in 1969 were nearly 10 percent below the number of civil cases filed in 1966. The pending civil caseload in December 1969, was nearly 10 percent below the number pending in December 1967.

The median time interval from issue to trial in civil cases has decreased by 30 percent over the past 6 years, from 23 months in 1963 to 16 months in 1969.

In 1969 the criminal caseload per Federal judge in the northern district of Indiana was 42.7 percent lower in 1959.

New magistrates for both northern and southern Indiana districts have been approved by Congress and will shortly begin work in Indiana to make the present bearable caseload in Federal courts even more bearable. Several district judges have recently found time to help out at the Seventh Circuit Court of Appeals, where three vacancies now exist.

Adding new Federal judges in Indiana at this time would clearly be a waste of the taxpayer's money.

According to President Nixon's Bureau of the Budget, "the heaviest burden of enforcing our criminal laws rests upon State and local governments."

For example, Marion County—Indianapolis—criminal court judges have more than 10 times the criminal case load of Indiana Federal judges.

The money which is saved on the Federal level by not adding unnecessary Federal judges from Indiana should be channeled back to our State for use in creating new local judgeships which are badly needed.

The clamor for creating more and more Federal jobs is typical of bureaucrats. But Parkinson's law has no place in the Federal code, especially at a time of soaring inflation.

Mr. DELLENBACK. Mr. Chairman, I rise in support of S. 952, as amended by the House Committee on the Judiciary, and in particular section 7 of the committee substitute which would amend section 117 of title 28, United States Code, to provide that the U.S. District Court for the District of Oregon shall also hold terms of court in the city of Coquille, Oreg.

This portion of the bill now under consideration is identical to the provisions of H.R. 777 which I introduced on January 3, 1969, and which was cosponsored by Representatives Wyatt, Green, and Ullman of the State of Oregon. This provision also has the support and endorsement of Senators Hatfield and Packwood of Oregon. Both of these distinguished Senators have cosponsored an identical measure, S. 707, introduced in the Senate on January 31, 1969.

The provision for holding terms of court in Coquille has received the support and approval of the judicial council of the ninth circuit and the Judicial Conference of the United States. The measure has also been endorsed by the three Federal judges serving in the district of Oregon, and by the Coos-Curry County Bar Association.

Coquille, Oreg., is the center of a developing major seaport area. There is a pressing need for a Federal court to handle maritime and admiralty cases in this southwestern coastal region. Because there is no Federal court in this area, these cases must be tried primarily in Portland, Oreg., resulting in costly dislocations for litigants, witnesses, and attorneys.

Holding court in Coquille, Oreg., will be of distinct benefit to the administration of justice and result in no significant expense to the Federal Government. I urge passage of this bill as embodied in the committee substitute.

Mr. ROGERS of Florida. Mr. Chairman, I rise in support of S. 952, which would provide for the appointment of additional district judges.

I wish to express my appreciation to the distinguished chairman and the members of the Judiciary Committee for their decision to permit the U.S. District Court for the Southern District of Florida to sit in Fort Lauderdale. This decision is most welcome in light of the heavy caseload generated by the Fort Lauderdale area and the difficulty of getting attorneys, parties, and witnesses from Fort Lauderdale to Miami where the court now sits. I am hopeful that the decision of the House will prevail in the forthcoming conference committee and that the U.S. District Court for the Southern District of Florida will soon begin hearing cases in Fort Lauderdale.

While I am delighted at the decision of the Judiciary Committee insofar as the Fort Lauderdale problem is concerned, I am equally concerned over the committee's decision to reduce the number of U.S. district judges for the central and southern districts of Florida.

The Senate authorized two additional judgeships for the central district of Florida and three additional judgeships for the southern district of Florida.

The House committee has eliminated the two judgeships for the central district and has reduced from three to two the number of new judgeships authorized for the southern district of Florida.

Mr. Chairman, the State of Florida is one of the fastest growing States of the Union, and some statistics say it is the fastest growing State. The caseload on the U.S. district courts for the central and southern districts of Florida have been and continue to remain heavy. And, with the projected increases in population, these caseloads are not likely to diminish.

By refusing to recognize the growth of Florida and the caseloads of these courts, we are inviting a continued delay in the administration of justice in the courts.

I am hopeful that the conference committee, when it meets on this legislation, will recognize the wisdom of the Senate in this matter, and authorize the three additional judgeships for the southern district of Florida and the two additional judgeships for the U.S. District Court for the Central District of Florida.

Mr. BOB WILSON. Mr. Chairman, the bill, S. 952, we are considering today will bring much-needed relief to the overworked Federal bench in San Diego. Through this legislation three additional judgeships would be authorized for the southern judicial district of California—the busiest Federal court in the country.

The need for these additional judges is critical. Presently this district is operating with only one full-time judge because of the untimely death of Judge Fred Kunzel earlier this year. Because his successor is awaiting Senate confirmation, he is unable to lend a hand as yet.

We are all aware of the need to combat the ever-increasing crime rate in our country and have discussed the need for legislation to assist local and State police forces in the rapid detention of offenders. This is, however, only half the story. Indicted offenders must also be brought to trial and convicted so they are no longer a menace to society. The wheels of justice grind far more slowly when judicial caseloads are highly unrealistic for the number of judges.

To be more specific, according to figures in the annual report of the Administrative Office of the U.S. Courts, the southern district of California had a weighted caseload per judgeship of 826 in 1967, compared to a national average of 252; in other words, more than three times the national average. Next highest caseload per judge was in the southern district of Georgia with 500, or 326 fewer cases than handled by each judge in the southern district of California.

The reason for the staggering difference in number of cases can easily be seen by the fact that our judicial district adjoins the Mexican border, where a substantial number of narcotics and illegal entry cases result.

Some assistance is achieved through the use of one or occasionally two visiting judges. However, the assignment of visiting judges on a regular basis is far more costly than the appointment of permanent judges in the long run.

I respectfully request my colleagues' favorable consideration of S. 952.

Mr. BURKE of Florida. Mr. Chairman, I previously introduced an amendment (H.R. 2066) to S. 952, the omnibus judiciary bill, which authorizes three additional Federal judges for the southern district of Florida.

In effect, the amendment I introduced amends the second paragraph of subsection (c) of section 89, title 28 of the United States Code, in order to authorize a judge of the U.S. District Court for the Southern District of Florida to sit and conduct hearings in Fort Lauderdale, Fla.

I feel that I can speak for this authorization with deep feeling of its need. Prior to being elected a Member of Congress, I was an attorney actively engaged in the practice of law in Broward County, Fla., and was so engaged for a period of almost 20 years.

Thus, I am familiar with the great need for additional Federal judgeships for the southern district of Florida and also for the need to authorize at least one or more Federal judges to sit and conduct hearings in Fort Lauderdale, this being the county seat of Broward County.

I am sure that many of my colleagues here have been in southern Florida and are familiar with its rapid growth during the last 15 to 20 years. This growth has not been restricted, however, only to the southern part of the State but has occurred throughout Florida.

The U.S. Census Bureau has pinpointed both the cities of Fort Lauderdale and Hollywood, which are located in Broward County, as the two fastest growing cities in the United States. In fact, all population reports show that the growth is not only in these cities, but to the county, as well, it being one of the fastest growing counties in the entire United States. It is estimated that in the past year alone, Broward County has gained approximately 50,000 new residents. The growth of the county according to the official Standard Metropolitan Statistical Area Guide issued by the U.S. Census Bureau shows that it has almost doubled itself since 1960 when it had an official population of 333,946.

Fort Lauderdale's population jumped from 83,648 in 1960 to 142,100 today.

The city of Hollywood, where I reside, has jumped from 35,270 in 1960 to 104,200, while the other cities in the area, such as Hallandale, Miramar, Dania, Pompano Beach, Margate, Plantation, Pembroke Pines, and others, doubled their 1960 population figures.

A brief look at the population growth figures for Broward County, Fla., proves beyond any doubt that it is the fastest growing standard metropolitan statistical area in the United States.

The population in 1950 was approximately 83,000. In 1960, it was 333,946. In the year 1969, the Broward County area planning board pinpoints the population at 609,000.

The growth figures developed by the Metropolitan Dade County Planning Department further substantiate Broward's figures in that they estimate Broward County's population as of June 30, 1969, to be 615,450 people, or an increase of 51,580 from the period December 31, 1968, to June 30, 1969.

In addition to this growth, I want you to know that these figures alone do not tell the story, since many people who are not citizens of the area but live in the Miami-Broward County areas are not listed in census figures as residents of the county.

The population for the southern district of Florida has increased 600 percent during the past 36 years and it is expected to increase at a high steady rate over the years.

With this population increase there has unfortunately been an increase in automobile accidents, crime and lawsuits—both criminal and civil—all of which have tended to increase the caseload both for the State courts and the Federal courts. Broward County, the cities of Hollywood, Fort Lauderdale, Pompano, Miramar, and other cities have built new city halls and courtrooms.

In 1931, there were approximately 400 Federal cases filed in what is now the southern district of Florida. In 1967 there were 1,969 cases filed and, although there are no complete study figures available at this time for the years 1968 and 1969, I can without any question state that Federal court litigation has continued to increase during both of these years.

The cases filed in the Federal district court located in Miami are varied. In addition to the general civil, criminal, and patent cases, there are numerous bankruptcy cases filed. Also, since Port Everglades is located in the Hollywood-Fort Lauderdale area, there occur many admiralty and customs cases. Both the port and the airport are ports of foreign entry which give rise to other cases requiring Federal jurisdiction.

According to the records of the Broward county tax collector, the total number of automobile tags for the county in 1950 was 40,936.

In 1960, the figure had increased to 201,709.

The total number of automobile tags had increased to 391,781 in 1968 and it is estimated that there will be 425,000 automobile tags sold for the county vehicles in 1970.

It is true that these vehicle tags include other than passenger vehicle registrations, but passenger vehicle registrations alone had increased from 166,431 in 1960 to 287,351 in 1967, and has exceeded 325,000 by now.

When I commenced practicing law in Hollywood, Fla., in 1949, the total number of lawyers in the Hollywood area was 14, and there were no lawyers practicing in the Dania, Hallandale, or in the West Hollywood area. There were approximately 80 lawyers practicing in Fort Lauderdale and none were practicing in the Plantation or Pompano area. Cities such as Miramar and Margate were nonexistent.

Thus, the total amount of lawyers in the entire county was less than 100.

The population growth of the county has brought an increase in the amount of lawyers now practicing within Broward County.

Today, the total number of practicing attorneys within Broward County is 727, an increase of more than 700 percent in the last 20 years.

One of the great problems for not only the attorneys but the litigants from the Broward County area is that of having

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to travel many miles to the Federal district court in Miami, and this not only involves the time element but also traffic problems.

Unfortunately, the public transportation in southern Florida, particularly from the various cities in Broward County, is limited and, as a result, most travel is done by private automobile. This entails problems for Dade County, too, since lawyers and witnesses from the Pompano-Fort Lauderdale-Hollywood area going into the Federal court in Miami not only lose time and money, but they create additional traffic and parking problems in the already congested Miami area.

I am sure you who are attorneys know that a case is not completed by merely one trip to court. Thus, the attorneys from Broward County who must practice before the Federal court must not only file litigation in Miami, but must travel to and from there in order to attend hearings and argue motions.

I know from personal experience that often a trip involving a simple motion would take the better part of a morning and sometimes even the greater part of a day. Often a case might require as many as 10 or 15 trips prior to trial and in setting an hourly rate of charge, the client incurs additional costs, an unnecessary financial burden which the attorney and the client would like, if at all possible, to avoid.

The Broward County Bar Association, as well as the Hollywood, Fort Lauderdale, and Pompano Beach Bar Associations, have endorsed and support this request that a Federal judge be authorized to sit in Fort Lauderdale.

The Board of County Commissioners of Broward County, Fla., and the city of Fort Lauderdale have both passed resolutions offering space for the use of a Federal judge should one be authorized by law to sit in Fort Lauderdale, Fla.

The request has been endorsed also by the downtown development authority of Fort Lauderdale and by the various local chambers of commerce.

It is my sincere hope that the Members of the House will join with the unanimous action of the Judiciary Committee and give its support to the aims and purposes of the amendment to authorize a Federal judge to sit in Fort Lauderdale, Fla.

Should you do this, you will have the everlasting thanks of not only the members of the legal profession in my community, but also the business community and the average citizen, who feels that he is called upon with great inconvenience to go into Miami at great loss of time and money, when this matter can be adjusted should the House desire to do so.

I give you my personal assurance that I would not make this request that you support the aims of the amendment referred to, if I did not honestly feel it was justified.

Mr. ROONEY of Pennsylvania. Mr. Chairman, I rise in support of S. 952 as a measure which will provide vital relief for an overburdened Federal court system.

I endorse the provisions of this measure designed to provide relief for all parties awaiting disposition of pending court cases by providing additional judges and designating additional localities in which district courts can be convened.

One of these additional Federal courts will be established in Allentown, Pa., where facilities of the abandoned Lehigh County Court House are immediately available. It, and another new court location provided for in this measure in Reading, will enable the U.S. District Court for the Eastern District of Pennsylvania to get on with disposition of a susbtantial backlog of cases.

At present, this district court sits only in Philadelphia and in Easton, Pa. The two additional sites will greatly facilitate an assault on undesirable litigation delays.

As a cosponsor of the provision which designates Allentown as a court site for the eastern district, with a colleague across the aisle, the gentleman from Pennsylvania (Mr. BIESTER), I urge passage of this measure.

Allentown is the fourth largest city of Pennsylvania and is part of the rapidly growing Lehigh Valley—an urban area of a half-million persons and numerous businesses and industries. Further, the eastern district, exclusive of Philadelphia, is expected to register a population of some 3½ million during the current census. Thus, it is readily apparent that a great deal of Federal court activity is generated within this district and that relief in the form of additional court facilities is vitally necessary.

Mr. CRAMER. Mr. Chairman, I wish to take this opportunity to voice my strong objections to the action of the House committee in reducing the number of additional district judges recommended for the State of Florida. As we know, the Senate-passed bill would authorize two additional judges for the middle district of Florida and three additional judges for the southern district. Unfortunately, however, the House committee bill which is before us today recommends only two additional judges for the southern district, and no additional judges for the middle district.

This reduction in the number of additional judges recommended for Florida comes at a most inappropriate time in view of the increasingly heavy workload of the courts, the direct result of which is a deplorably large backlog of important cases waiting to be heard. And, at this particular time, the courts' workload has been further increased by the impending school desegregation cases. In fact, it is this latter situation—the threatened court-ordered busing of students—which is responsible for my absence from Washington today. I am today presenting my oral argument before the Fifth Circuit Court of Appeals in Atlanta in opposition to the forced busing of schoolchildren to accomplish specific racial balances; and, in particular, am arguing in support of the intent of the U.S. Congress in unanimously adopting my antibusing amendment to the 1964 Civil Rights Act.

It is incomprehensible to me that just when our judicial system is attempting to cope with some of the most critical problems in the history of this country, the House would recommend a reduction in the number of additional judges needed, when in fact an increase is fully justified and long overdue. My hope is that when this legislation is considered in conference, the House will then agree to support the Senate's recommendations for additional district judges in the State of Florida.

Mr. FULTON of Pennsylvania. Mr. Chairman, as Representative for the 27th Congressional District of Pennsylvania covering the southern portion of Allegheny County in western Pennsylvania, I wish to join with my colleagues in supporting S. 952 to provide for the appointment of additional district judges. In the western Pennsylvania district courts there is a tremendous volume of backlog and overload of cases which can only be resolved by adding judges to the bench. S. 952 will provide two additional judges to the western Pennsylvania district, a necessary step toward efficient judicial procedure in the area.

Pittsburgh Attorney Louis H. Artuso, immediate past president of the Allegheny County Bar Association, comments that:

> The backlog in the Federal Court has increased rapidly due to vacancies. We are pushing for additional judges to handle the bulk of cases arising in Allegheny County.

Two judges who are now past retirement age, Judge Wallace Gourley and Judge Joseph Wilson, have volunteered to take cases to help clear the volume of cases. They are fine, competent, and able judges.

An example of the workload confronting the overtaxed western Pennsylvania district court is the overload of habeas corpus petitions. Since November 1969 an excess of 400 such petitions have confronted the court, making it impossible to requisition time for a proper and full hearing for each, according to the Allegheny County Bar Association.

Therefore I strongly urge the passage of S. 952 to provide the western Pennsylvania district court with two additional judges which it so urgently needs to handle efficiently the workload of cases and the increasing backlog in the Federal court. Justice delayed is justice denied. These hard-working district judges should have full support of Congress to provide our people with necessary judges and courtrooms in order that respect for the American judicial process be maintained in our high tradition. This is the reason I strongly favor passage of S. 952 to provide for the appointment of additional district judges for U.S. courts.

I am speaking to the Canadian Club in Hamilton, Ontario, on United States and Canadian cooperation in space, today, Wednesday, March 18, 1970. As the weather is bad, with low ceiling, the arrival of the private plane may be delayed, so I do want my views and strong support on record.

Mr. RARICK. Mr. Chairman, during the course of this debate I have heard it said repeatedly that Federal judges are appointed for life. This is a catch phrase, which just is not so, and I think it important that we set the record straight at once.

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The judicial article of the Constitution clearly establishes the judicial tenure to be "during good behavior"—a period which is not necessarily synonymous with life. Indeed, commencing with William O. Douglas, our Federal bench is replete with examples of misbehaving by living judges. Learned opinions were written in the conviction of a Federal judge who was successfully impeached in the early days of the New Deal—and men are serving in the Congress today who participated in those proceedings—setting forth the power of the Senate to convict and remove by reason of failure on the part of an incumbent judge to maintain good behavior.

As one of the Members of this House who has had the opportunity to serve as judge of a court of record, I am well aware of what is and what is not necessary for the fair and efficient administration of justice. In addition to the dockets of the courts of my own district, it was my privilege to sit repeatedly, by order of the Louisiana Supreme Court, in the adjoining districts.

In handling at least one case before me, I know to my own personal knowledge of the activities of an incumbent Federal judge who wilfully and knowingly violated a specific prohibitory Federal statute, for the sole purpose of usurping jurisdiction over litigation pending in the courts of the State. I am sure that this case wound up reported in all of the pertinent workload reports for the years in question.

That particular case was handled, and the particular action taken in concert with an attorney by the name of Kunstler, who is currently making more work for more judges—merely by following past suggestions from the bench.

The mass of statistics with which we are dealing are quite impressive, but what it all amounts to is that the judges themselves, evaluating their own performance, attempt to excuse their deficiencies by the plaintive cry of overwork. We are then told that we must add an additional number of Federal judges to the already imposing judicial army—because the judges themselves say so. I am not impressed with this tale.

Mr. Chairman, we have heard that we must combat crime by giving the criminals what they want so that they will not take it. We have heard that we can reduce crime by repealing the criminal laws in selective cases, so that the continuing acts of the miscreants will not be crimes. Now we are told that we must appoint an ever increasing number of Federal judges as a necessary tool to combat crime.

All of these arguments are but oratorical dicta, including any idea that more judges of the same caliber now sitting, operating under the same delusions as to their functions, will reduce crime. Additions will not deter but rather increase crime, unless someone jars into the heads of the judiciary that the function of a judge is to declare the law—not to make it.

The abandonment by some judges of the Federal bench of this fundamental precept of judicial responsibility is in large measure the very reason for the increase in crime which we all deplore. Time and again, at all levels of the Federal bench, judges and justices have arrogated unto themselves the right to rewrite the law—and the Constitution—to accord with their own ideas of what the Congress—and the Founders of the Republic—should have done.

Crime is encouraged by a sick concern for the criminal and a callous disregard for the safety and welfare of the law-abiding portion of our community. Crime is encouraged when men are guilty beyond a doubt of the most vile offenses, and are freed to prey on other innocents because some officious judge or justice has taken it upon himself to rewrite the Constitution, or to confuse and twist the plain words of a statute into such shape that it will do what he desires, not what the lawmakers intended.

We have seen Federal judges—who are said to be overworked—go out of their way to involve themselves unbelievably in the proliferation of crime. Vagrancy laws which for decades have been good are suddenly found to be vague, through some clarity of vision accorded to the present judge, but denied all of his predecessors. Confessions, searches, warrants, arrests, good for decades are suddenly bad. Military justice, operating since the days of George Washington, is suddenly found to offend the Constitution.

I know from my own personal experience, for the Louisiana State Penitentiary was located in my judicial district, the manner in which the Federal bench accomplished wholesale release of convicted felons—although the laws nor the Constitution had not been changed.

I have seen in Louisiana today these Federal judges enjoin the peace officers from enforcing the law. I have seen them usurp raw power to spend their superior intellect and idle time posing as super school boards, even as super principals in our public schools. I have seen them become the managers of labor unions, and the arbiter of labor contract negotiations.

I have seen them in Washington, sitting in equity, hear pleas by Government lawyers for the aid of a court of equity in the more comfortable violation of the criminal adultery law which the Congress saw fit to enact in the District of Columbia. Some of our appellate judges here appear to be prepared to even supervise abortions. I am not impressed by the workload argument.

The entire Department of Justice must share some of the responsibility for this deplorable situation. Despite the plain provisions of the Civil Rights Act of 1964, we see Government attorneys engaging in litigation designed to do in our schools exactly what we forbade. Indeed, as I made known to the House in the CONGRESSIONAL RECORD, volume 115, part 28, page 37790, Justice Department attorneys were guilty of grossly unethical conduct in their donation of funds to finance the NAACP arm against which they were supposed to be litigating.

Nevertheless, we are told that more and more Federal judges are needed. It is quite apparent that if we continue to permit the judiciary to take over the functions of the legislature—to usurp the powers of the States—to rewrite the Constitution to its own satisfaction—we will always need more and more Federal judges. Again, this is wholly unacceptable, and it should stop right here in this House today.

We cannot constitutionally provide for the appointment of constitutional judges for a period of years, nor can we provide for their election by the people, or their retirement by the people—yet. We can, and we have, provided for nonjudicial or quasi-judicial offices and bodies for the transaction of nonjudicial or quasi-judicial business. These offices can be filled by appointment for a term of years, or by election, or by some other method to make their occupants responsible to the people. We should do so.

Rather than provide for the proliferation of the Federal judiciary, engaged as it is in ever-escalating nonjudicial functions, we should take a long hard look at just what is going on in our courts—at just what is taking up the time of these judges. Where we find that their efforts are devoted to the day-to-day administration of schools, or of police departments, or of labor contracts, or of labor unions, or of the penal institutions of the States, or the supervision of elected State judges, or of hospitals, or of construction contracts, or of any of the other myriad of nonjudicial jobs which have been assumed by the judiciary, we should do something.

We should decide—because we are the branch of Government constitutionally charged with the responsibility for making such a decision—whether or not these nonjudicial functions are properly performed by judges. And if they are not, we should create a class of hearing examiners, or administrators, or boards, to do administrative work.

In a day when judges were content to be judges, and when the Supreme Court consisted of jurists, the judges themselves refused to demean their office by the performance of nonjudicial and administrative functions, and they refused to violate the Constitution by performing legislative functions, and ever-increasing numbers of judges were not required. With the deterioration of the judiciary to the point where the judges seek, rather than resist, such improper assignments, it is our responsibility to our constituents to take appropriate corrective action to halt the growth of the runaway judicial complex.

No case can be made for the proposed increase in the numbers of judges, and I find myself unable to support the proposed legislation. On the contrary, I must oppose it as unwise, unnecessary, inflationary, and contrary to the best interests of the American people.

Mr. CELLER. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

Mr. CELLER. Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to

the request of the gentleman from New York?

Mr. GROSS. Well, Mr. Chairman, reserving the right to object, why does the gentleman not have the bill read down through the first section, or ask that it be considered as read down through the first section?

Mr. CELLER. Mr. Chairman, if the gentleman will yield, I am willing to do that. I revise my unanimous-consent request.

Mr. GROSS. That is, down to page 20, or section 2.

Mr. CELLER. Mr. Chairman, I, therefore, ask unanimous consent that after the reading of the first section, the balance of the bill be considered as read and printed in the RECORD.

The **CHAIRMAN.** Is there objection to the request of the gentleman from New York?

Mr. GROSS. Oh, no, Mr. Chairman. Further reserving the right to object, I said to restrict the unanimous-consent request as the bill having been read down through the first section.

Mr. CELLER. Mr. Chairman, I then make the unanimous-consent request consistent with the statement of the gentleman from Iowa.

The **CHAIRMAN.** Is there objection to the request of the gentleman from New York?

Mr. McCLORY. Mr. Chairman, reserving the right to object, may I ask the chairman whether there is any intention to limit time insofar as the offering of amendments is concerned?

Mr. CELLER. Mr. Chairman, if the gentleman will yield, the usual time is 5 minutes. I have no desire to limit the time.

Mr. McCLORY. But the chairman of the committee is not going to urge the cutting off of debate with regard to amendments?

Mr. CELLER. Oh, no; I have no such intention.

Mr. McCLORY. Mr. Chairman, I withdraw my reservation of objection.

The **CHAIRMAN.** Is there objection to the modified unanimous-consent request of the gentleman from New York?

There was no objection.

The section referred to is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the middle district of Alabama, one additional district judge for the district of Arizona, two additional district judges for the northern district of California, three additional district judges for the central district of California, three additional district judges for the southern district of California, one additional district judge for the district of Colorado, two additional district judges for the southern district of Florida, three additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, two additional district judges for the northern district of Illinois, one additional district judge for the eastern district of Kentucky, one additional district judge for the western district of Kentucky, two additional district judges for the eastern district of Louisiana, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maryland, two additional district judges for the eastern district of Michigan, one additional district judge for the eastern district of Missouri, one additional district judge for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the eastern district of New York, three additional district judges for the southern district of New York, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, six additional district judges for the eastern district of Pennsylvania, two additional district judges for the western district of Pennsylvania, one additional district judge for the district of Puerto Rico, one additional district judge for the district of South Carolina, one additional district judge for the western district of Tennessee, one additional district judge for the northern district of Texas, one additional district judge for the eastern district of Texas, one additional district judge for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the eastern district of Virginia.

(b) The existing district judgeship for the middle and southern districts of Alabama, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the southern district of Alabama only, and the present incumbent of such judgeship shall henceforth hold his office under section 133 as amended by this Act.

(c) The existing district judgeship for the district of Kansas, the existing district judgeships for the eastern district of Pennsylvania and the existing district judgeship for the eastern district of Wisconsin created by section 5 of the Act entitled "An Act to provide for the appointment of additional circuit and district judges, and for other purposes," approved March 18, 1966 (80 Stat. 78), and amended by the Act of September 23, 1967 (81 Stat. 228), shall be permanent judgeships and the present incumbents of such judgeships shall henceforth hold their offices under section 133 of title 28, United States Code, as amended by this Act. The Act of September 23, 1967 (81 Stat. 228), and section 5 of the Act of March 18, 1966 (80 Stat. 78), are hereby repealed.

(d) In order that the table contained in section 133 of title 28 of the United States Code will reflect the changes made by this Act in the number of permanent district judgeships for said districts and combinations of districts, such table is amended to read as follows with respect to these districts:

District	*Judges*
Alabama:	
Northern	4
Middle	2
Southern	2
Arizona	5
* * * * *	
California:	
Northern	11
* * * * *	
Central	16
Southern	5
Colorado	4
* * * * *	
Florida:	
* * * * *	
Southern	7
Georgia:	
Northern	6
* * * * *	
Southern	2
* * * * *	
Illinois:	
Northern	13
* * * * *	
Kansas	4
Kentucky:	
Eastern	2
Western	3
* * * * *	
Louisiana:	
Eastern	10
Western	4
* * * * *	
Maryland	6
* * * * *	
Michigan:	
Eastern	10
* * * * *	
Missouri:	
Eastern	3
* * * * *	
New Jersey	9
New Mexico	3
New York:	
* * * * *	
Southern	27
Eastern	9
* * * * *	
Ohio:	
Northern	8
Southern	5
* * * * *	
Pennsylvania:	
Eastern	19
* * * * *	
Western	10
Puerto Rico	3
* * * * *	
South Carolina	5
* * * * *	
Tennessee:	
Western	3
* * * * *	
Texas:	
Northern	6
Southern	8
Eastern	3
Western	5
* * * * *	
Virginia:	
Eastern	6
* * * * *	
Wisconsin:	
Eastern	3

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

I might say, Mr. Chairman, that I served on the subcommittee and the full committee both with regard to the prior judgeship bill and this judgeship bill. I have prepared and filed additional views in which a number of my colleagues have joined. I do not believe this is a perfect bill.

Nor do I believe that this bill meets the necessities of the hour insofar as the civil and criminal caseloads are concerned. It does not respond to the recommendations of the Judicial Conference. The subcommittee undertook to eliminate 16 judges that were in the bill that came over here from the other body. Of those, 10 of the judges had been recommended by the Judicial Conference. May I say that during consideration of the prior two judgeship bills that this House acceded to the recommendations of the Judicial Conference. Their recommendations were respected in each and every case. The Judicial Conference undertakes to make the studies, compile the statistics, and to make the determination as to what the judiciary needs are.

May I say that in the districts of Texas, the eastern and northern districts of Texas, they have among the highest weighted caseloads of any districts in the country. These facts are borne out by the statistics which were prepared by the Administrative Office of the U.S. Courts.

Mr. Chairman, in the first place, let me commend the chairman, Mr. CELLER, and the ranking member, Mr. MCCULLOCH, for acting with expedition in bringing this measure to the floor of the House.

My additional views are not intended to be critical of the bill insofar as it goes, but my complaint is that the bill does not go far enough.

In other words, there is an urgent need for additional judges to handle the record number of civil and criminal cases. Traditionally, the Congress has respected the recommendations of the Judicial Conference in providing at least that number of judges which that esteemed body has recommended. This was the practice in 1961 when new judges were added, and again in 1966 when 29 new district judgeships were created.

This year, the number of civil and criminal cases commenced in the district courts rose to a record 110,778, an increase of 8.4 percent over the previous year—the volume of pending civil and criminal cases increased to 104,091, the highest pending case figure on record for the district court. This year the Judicial Conference's recommendation for the first time contains an element of projection as opposed to earlier requests for current needs. However, majority of the committee has declined to follow the Judicial Conference's recommendations.

The need for all of the additional judges as recommended by the Judicial Conference was emphasized by Deputy Attorney General Kleindienst in these words:

> On the civil side, parties to litigation have become increasingly frustrated over their inability to secure prompt judicial determination of their rights and liabilities. On the criminal side, delays occurring between indictment and trial have had several undesirable effects: innocent persons must wait many painful months to clear their names; the general public is subjected to the risk of repeated criminal offenses committed by guilty persons free while awaiting adjudication of their cases.

In my opinion, a partial solution to the problem of persons out on bail committing additional crimes would be an adequately staffed judiciary. This would quicken the pace of justice without impairing the quality of judicial output. In the southern district of New York, for example, the median time interval for dismissal in a criminal case is 36.8 months and for completion of a jury trial 11.4 months. This is not to mention the 1,334 criminal cases and 11,816 civil cases pending in that district as of June 30, 1969. To assist that court, the Judicial Conference, after a thorough examination of the problem, recommended five new judgeships. The House Judiciary Committee reported a bill that deleted two of the recommended five.

The basis for the recommendation of the conference was a systematic and comprehensive statistical study and review of the judicial business of the district courts undertaken by two conference committees with the assistance of the Administrative Office of the U.S. Courts. The study was made in the light of the policy adopted by the conference in 1964 of making a quadrennial survey of the need for additional district and circuit judgeships. Under this policy, the committees of the conference survey the needs of the district and circuit courts separately, and present requests for new district and circuit judgeships separately.

The Judicial Conference made the same thorough and comprehensive study it made in 1960 and 1965 except their recommendations then were for current needs rather than current plus future needs. Before this new policy was adopted by the conference, it made annual recommendations and numerous bills piled up until the committee was ready to act. Now the conference makes the study every 4 years and in the interim, considers requests for recommending additional judgeships only on an emergency basis. Since 1966, the conference, although reviewing numerous requests, found none of the situations so critical as to require such emergency action. All requests were therefore deferred for consideration until 1968.

Subcommittee No. 5 held hearings on October 29 and 30, and November 5, 12, and 25, 1969. At these hearings, the subcommittee heard testimony from witnesses representing the Judicial Conference of the United States, the Department of Justice, the American Bar Association, and other interested parties, all urging that we adhere to the recommendations of the Judicial Conference.

Other than the administration, what has changed in the past decade to necessitate the House Judiciary Committee's reversal in its policy toward the needs of our Federal courts? Indeed, the fashion in which the present bill was disposed of suggests consideration other than the need for adequate judge power have been taken into account.

Judges which were deleted from this measure in what I regard as an arbitrary fashion include: One district judge for the southern district of Florida; one district judge for the northern district of Indiana and one for the southern district of Indiana; two district judges for the southern district of New York; one district judge for the eastern district of Texas, and one district judge for the northern district of Texas.

While it is my hope and expectation that these judges will be added when the differences between the Senate bill and the House amendments are reconciled, it seems most unfortunate that they should not now be included in the bill which is about to be acted upon by this House.

Another part of this measure which is disappointing to me is the deletion of all the provisions relative to court executives.

In giving attention to the efficient management and operation of our Federal court system, we should recognize that a great deal of the time of our judges is devoted to managerial burdens relating to caseload, courtrooms, equipment, personnel, statistical data, and other subjects essential to a businesslike operation of the courts.

The Judicial Conference, the American Bar Association, the American Judicature Society, and the Administrative Office of the U.S. Courts, all have recommended creation of the Office of the Court Executive. These court executives or managers, if authorized, would serve in districts where six or more judges serve, as well as in all of the 11 judicial circuits.

In anticipation of the creation of these offices, the American Bar Association, through a foundation grant, has established a comprehensive training program for preparing these court executives. Twenty of these will be graduated by the middle of December and will be available to fill these highly important positions. However, unless authority is granted by this legislation, the trained and much-needed court executives will not be available for service.

I understand that additional hearings will be held with the expectation that a separate bill will be reported later. Personally, I see no occasion for any such delay. The recommendation has been made; the need has been established; the backlog of criminal and civil cases continues; and the time to act on this subject is now.

Again, it is my hope that in reconciling the differences between the House and Senate versions such statutory authority may be provided. May I say, in closing, that this is part of the administration program in the fight against crime, and it seems to me most unwise to deny to an administration the tools which it requires on this high priority subject.

I will support this bill, but I am disappointed in its deficiencies of, first, an inadequate number of additional judges and second, a failure to authorize court executives.

Again I say that this is not a perfect bill in that it does not meet the needs and requirements of the administration. The administration wants this bill substantially the way it came over from the Senate. And when we charge this administration with the obligation to undertake to fight the war against crime, it seems to me we should give it the tools with which to fulfill that obligation. Adequate judge power is an essential element. The responsibility for authorizing a sufficient number of judges is ours. We are not meeting that responsibility adequately in this bill.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let the RECORD show that the gentleman from Ohio (Mr. MCCULLOCH) yielded back 29 minutes of time. Yet when I asked the gentleman to yield for a question or two during general debate he said he could only answer one question—one question—for reasons of time limitation. I say again let the RECORD show that the gentleman yielded back 29 minutes.

I wanted to ask the gentleman from Ohio, among other things, as to the cost of this bill. I will address my question now, since the gentleman from Ohio apparently does not want to answer questions, to the gentleman from New York,

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the distinguished chairman of the committee.

Do I understand that the first-year costs of this bill will be approximately $14 million?

Mr. CELLER. Mr. Chairman, would the gentleman from Iowa restate his question, please?

Mr. GROSS. Mr. Chairman, I would ask the gentleman from New York, do I understand correctly that the first-year costs of this bill will be approximately $14 million?

Mr. CELLER. That is correct.

Mr. GROSS. Does this include space that will be occupied by the additional courts?

Mr. CELLER. It will not include that.

Mr. GROSS. This figure, then, is at the rate of about $245,000 per new judge for the first year; is that correct?

Mr. CELLER. That is correct.

Mr. GROSS. This does not include anything for the costs of retirement of these Federal judges,

Mr. CELLER. No; it does not.

Mr. GROSS. Then what would the gentleman say would be the real first year's cost of the 57 judges?

Mr. CELLER. I think the figures, as they were given, and they can be found on page 212 of the report, are $13,851,000.

Mr. GROSS. But the gentleman just admitted there is nothing in that cost pertaining to space for the holding of the additional courts and there is nothing in those figures for retirement. I do not know what else—but at least those two items, which are not inconsequential—are not accounted for in the cost of this bill.

Mr. CELLER. That is correct.

Mr. GROSS. Does the gentleman think we can begin some day to get 40 hours of work per week out of our Federal judges?

Mr. CELLER. That is a difficult question to answer. The judges that I know of are hard-working judges and they are dedicated to their tasks. I think in this country, I would say, that our judges do a very good job and I think our judiciary is the finest in the whole world.

I do think, aside from the criticism that may be made as against a few judges who might be derelict, I think we have an excellent judiciary.

Further, I do not think you can measure the worthwhileness of a judge by a precision formula; namely, as to time. Some cases take an inordinately long time. Some cases are of short duration. Many judges take their papers home at night and have to ponder concerning them and to formulate their conclusions. Some of the decisions they make are decisions that are very tragic in nature.

There are all manner and kinds of cases—they run the gamut. But I would say to the gentleman from Iowa that by and large, we can take great pride in our judiciary.

Mr. GROSS. Does the gentleman not think there ought to be a shorter tenure for the judges.

Mr. CELLER. No; I do not. I think one of the reasons why we have such an exemplary judiciary is their independence. Their independence in part stems from the fact that they are appointed for life, and they do not have to face the electorate; they are not elected. They do not have a tenure for a fixed time, but they are there until the good Lord takes them away.

Mr. GROSS. I disagree with the gentleman as to tenure. Does the gentleman not think that there ought to be a 6-year or 8-year probationary period for these judges so that there could be a demonstration of qualifications and deportment? And does the gentleman not think they ought to make some contribution toward their retirements as do Members of Congress and virtually all other Federal employees?

Mr. CELLER. I do not think so. If we appoint them for life, that would be inconsistent to have any such provision.

We do have provisions, for example, if a judge becomes senile or decrepit or physically or mentally incapacitated then he may be compelled to leave the bench under those conditions.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. GROSS) has expired.

(Mr. GROSS asked and was given permission to proceed for 2 additional minutes.)

Mr. GROSS. That could be true of any other Government official.Yet, we do not treat other Government officials on that basis, do we?

Mr. CELLER. No; because the Constitution prescribes that judges shall be appointed for life and that is not the case with other Government employees, even the President—they are not appointed for life.

Mr. GROSS. Well, what has that to do with their failure to pay anything into a retirement fund? Why have they been singled out for this kind of special and preferential treatment in the matter of retirement?

Mr. CELLER. Because if they are appointed and hold tenure for life, there is no need for a retirement fund. They get paid until the good Lord takes them away from us.

Mr. GROSS. But they may become disabled and, if so, they would draw half of their pay if they served less than 10 years, and if I remember correctly, having served more than 10 years and if then retired for disability, they are paid their full salary; are they not?

Mr. CELLER. I am afraid that I must be in disagreement with the gentleman, and I say that most respectfully.

Mr. GROSS. What is the situation then?

Mr. CELLER. They make no contribution because they are appointed for life and they get their salaries until they die.

Mr. GROSS. Oh, I think the gentleman will find that if they become disabled before a certain period of service, they can draw half their salaries and their full salaries after a minimum period has been served.

Mr. CELLER. That is true, by congressional enactment.

Mr. GROSS. Yes. That is what we are talking about here today, congressional enactment. We are being asked to add 57 judges at a cost to the taxpayers of $14 million, exclusive of retirement pay and other costs.

Mr. CELLER. Will the gentleman answer a question for me?

Mr. GROSS. If I can.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for 2 additional minutes.)

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New York.

Mr. CELLER. What are we going to do with the criminal dockets? "Justice delayed, justice denied" makes crime more rampant, adding to the number of criminal cases in the courts. What are we going to do with them? Are we just going to forfeit our rights, including the right to have a speedy trial, because of a paucity of judges? You do not want that, sir, do you?

Mr. GROSS. I have heard that same statement repeatedly. I have been here a few years, not nearly as long as has the gentleman from New York, but I have heard that statement every time an increase in the Federal judiciary has been proposed in the House—"Justice delayed is justice denied." I do not think you can justify this bill merely on a repetition of that slogan, or whatever you want to call it. "Justice delayed" cannot always be ascribed to a shortage of judges.

Mr. CELLER. I have heard the gentleman sing the song of economy and pinchpenny economics for many, many years.

Mr. GROSS. And the gentleman from New York has never failed to disagree with me either. I will say to the gentleman that he is one of the best spenders in the House of other people's money.

Mr. CELLER. Will the gentleman bear with me? Though the colloquy is interesting, it may not be too enlightening. I have heard this argument expressed by the gentleman when our population was probably only about 150 million. Our population has now gone to over 200 million, the tremendous burst of population generating wave after wave of cases, and the proliferation of laws that we have passed here have in turn made for more and more cases. What are we going to do about them?

Mr. GROSS. The gentleman from Ohio (Mr. MCCULLOCH) raised that old saw about the gross national income being $900 billion a year as a justification for this spending. I wish some of you who are trying to justify expenditure on the basis of the gross national product would tell us about the net national income. I wish somebody, someday would produce the figures showing the net national income. That would be a horse of a far different color.

Mr. CELLER. I would hate to live in a society which would be standing still and not making any progress at all.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. McCULLOCH. Mr. Chairman, I move to strike the requisite number of words.

In view of the fact that we have been discussing the cost of this legislation, I should like to make this unequivocal statement: There should be no price tag on establishing and dispensing justice in America.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 2. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the district of New Jersey. The first vacancy occurring in the office of district judge in said district shall not be filled.

(b) The President shal: appoint, by and with the advice and consent of the Senate, one additional district judge for the middle district of Pennsylvania. The first vacancy occurring in the office of district judge in said district shall not be filled.

(c) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of North Carolina. The first vacancy occurring in the office of district judge in said district shall not be filled.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 3. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause.

(b) In order to reflect and implement the changes made by subsection (a) of this section, section 24 of the Revised Organic Act of the Virgin Islands is amended to read as follows:

"Sec. 24. (a) The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of eight years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of the municipal court of the Virgin Islands or a circuit or district judge of the Third Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge of the District Court of the Virgin Islands. The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States.

"(b) The judge of the district court who is senior in continuous service and under seventy years of age shall be the chief judge of the court and shall have power to appoint officers of the court when and as provided in section 756 of title 28, United States Code. The division of the business of the court among the judges shall be made as prescribed in section 137 of that title.

"(c) The Attorney General shall appoint a United States marshal for the Virgin Islands, to whose office the provisions of chapter 33 of title 28, United States Code, shall apply."

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 4. (a) Section 128(a) of title 28, United States Code, is hereby amended to read as follows:

"EASTERN DISTRICT

"(a) The Eastern District comprises the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima.

"Court for the Eastern District shall be held at Spokane, Yakima, Walla Walla, and Richland."

(b) Section 128(b) of title 28, United States Code, is hereby amended to read as follows:

"WESTERN DISTRICT

"(b) The Western District comprises the counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania Snohomish, Thurston, Wahkiakum, and Whatcom.

"Court for the Western District shall be held at Bellingham, Seattle, and Tacoma."

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read and printed in the Record.

The CHAIRMAN. Is there any objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 5. Section 92 of title 28, United States Code, is hereby amended to read as follows:

"§ 92. Idaho

"Idaho, exclusive of Yellowstone National Park, constitutes one judicial district.

"Court shall be held at Boise, Coeur d'Alene, Moscow, and Pocatello."

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read and printed in the Record.

Mr. GROSS. Mr. Chairman, reserving the right to object, I neglected to ask one question that I intended to ask. It is indicated that South Carolina will get one additional judge for a new total of five Federal judges in that State.

On page 166 of the report it is indicated that there will be four Federal judges authorized for the State of South Carolina. Which is correct?

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. Mr. Chairman, the explanation may be made that in South Carolina there are now four judgeships authorized. The bill would create one additional permanent judgeship raising the total to five.

Mr. GROSS. For a total of five?

Mr. ROGERS of Colorado. Yes, for a total of five.

Mr. GROSS. What is the population of the State of South Carolina?

Mr. ROGERS of Colorado. I do not know.

Mr. GROSS. Would it be about 2.5 million?

Mr. CELLER. Mr. Chairman, if the gentleman will yield, there are four judges now authorized in that district, and the bill adds one, making a total of five judges. That is exactly what the table states.

Mr. GROSS. But on page 166, almost at the bottom of that page, it says: "Authorized judgeships, four."

Mr. CELLER. That statement refers to the present situation. The table indicates the situation after this bill is enacted.

Mr. GROSS. All right. I see.

Now what again is the population of the State of South Carolina? Can anyone volunteer?

Mr. CELLER. I can give the district population.

Mr. GROSS. I am talking about the State of South Carolina, because the judges may move beyond their districts under certain conditions.

Mr. CELLER. We have a population by districts.

Mr. GROSS. No.

Mr. CELLER. We can add it easily.

Mr. GROSS. I have the population for the district. I want it for the State.

Mr. CELLER. In the entire State there is only one district in South Carolina, and the population of the district and the State in 1960 was 2,382,594.

Mr. GROSS. Then what makes South Carolina deserving of five Federal judges? I know they are not all outlaws down there.

Mr. CELLER. That is because of the caseload.

Mr. GROSS. What makes the caseload that requires five Federal judges in South Carolina? There are only three in Iowa with a similar population.

Mr. CELLER. The Judicial Conference made the recommendation for additional judges. The Judiciary Committee reviewed the caseload and the types of cases, the quality of cases as well as their quantity, and determined that the Conference recommendation should be accepted in a large number of instances.

Mr. GROSS. That is hardly a justification for five judges for a population of 2½ million.

Mr. CELLER. Why is it not?

What more does the gentleman want to consider than the quality of caseload and the quality of cases, and the recommendation of the Judicial Conference behind it? What does the gentleman want?

Mr. GROSS. Real justification.

Mr. CELLER. The gentleman wants nothing. That is all. He wants no judgeships, no increases. He just wants to stand still. Well, that is retrogression since nothing about him moves forward.

Mr. GROSS. Let us take another statistic, which shows the comparable population of 2.5 million for the State of Arkansas. How many Federal judges are there in Arkansas? There are either four or five down there.

Mr. CELLER. There is no recommendation for Arkansas.

Mr. GROSS. I understand that is the situation under this bill, but in days gone by you added some, and there are now four or five. Why? I am trying to get at the reason for the number of judges in some of the States.

Mr. CELLER. When two men ride a horse, one man must ride behind. We are riding a horse, and the gentleman must ride behind.

XUM

Mr. GROSS. I am just trying to get up on the front of this horse the gentleman has galloping around. I am trying to get to the pommel of the saddle.

Mr. CELLER. We have 35 members in the Judiciary Committee, and they go through these figures with a fine comb, and then the gentleman comes at the very end and tries to upset that for which all these 35 men voted.

These men have trained minds. They understand the nature of the cases in these various courts. They understand the nuances there are. They make these recommendations.

We did not follow all the recommendations of the Judicial Conference. We used different standards, additional standards, to determine whether there was need or no need.

What in the world does the gentleman want us to do?

Mr. GROSS. I just do not want you to spend money on Federal judges that is not necessary to be spent. It is just that simple.

Mr. CELLER. We have not.

Mr. GROSS. I am trying to find out why some States of equal population have four or five Federal judges when we have only three in the State of Iowa. and we seem to be getting along reasonably well. Is that a bad question to ask? Why not give me a little help once in a while, instead of trying to behead me every time I ask a question.

Mr. CELLER. I will tell the gentleman from Iowa he probably does not know what we were up against. We eliminated 13 judges from the Senate bill. We took out 13 judges. Does the gentleman not give us credit for that at all?

Mr. GROSS. Oh, of course. I am always thankful for small favors.

But I still cannot understand why it is necessary to have five Federal judges in South Carolina, and I think there are four or five in Arkansas, with populations comparable to that of the State of Iowa. Are we missing out on something in Iowa, when we do not have two or three more Federal judges? Is it fashionable to have four or five with a 2½ million population? What is the story?

Mr. CELLER. One cannot judge merely by population standards. For example, in the State of New York one could not judge by population alone, because New York is the financial center of the United States. It is not the question of population that determines the need for the number of judges in New York; it is the type of business and industry and the economy of New York which determines that, which in turn determines the nature of the cases that gravitate to New York. We have to consider those factors.

Mr. GROSS. I know the city of New York has $6 billion of debt; that it is hopelessly mired in debt, and I can understand some of the problems generated by the spendthrifts there.

I thank the gentleman for the lack of information I have gotten as to why the need for some of the Federal judges the committee has authorized in the past and is proposing today.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

I merely suggest that the possible answer to the question just asked concerning the five justices in South Carolina is perhaps this is an area for trainees for Supreme Court appointment under the southern strategy.

Mr. McCULLOCH. Mr. Chairman, I move to strike the requisite number of words.

I believe the records upon which we proceeded to make our determination in the Judiciary Committee show that the weighted caseload per judgeship in the United States for fiscal year 1969 was 289. Last year in South Carolina the weighted caseload per judgeship was 328, and the indications are that the caseload for the ensuing year or years is going to continue to be above the national average unless a new judgeship is created.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 6. Section 118(a) of title 28, United States Code, is hereby amended to read as follows:

"EASTERN DISTRICT

"The Eastern District comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, and Schuylkill.

"Court for the Eastern District shall be held at Allentown, Easton, Reading, and Philadelphia."

Sec. 7. The second sentence of section 117 of title 28, United States Code, is amended to read as follows:

"Court shall be held at Coquille, Eugene, Klamath Falls, Medford, Pendleton, and Portland."

Sec. 8. Section 93(a) of title 28, United States Code, is amended by striking out "Court for the Western Division shall be held at Freeport." and inserting in lieu thereof "Court for the Western Division shall be held at Freeport and Rockford.".

Sec. 9. The third sentence of section 94(b) of title 28, United States Code, is amended to read as follows:

"Court for the Indianapolis Division shall be held at Indianapolis and Richmond.".

Sec. 10. The second paragraph of subsection (c) of section 89 of title 28, United States Code, is amended by inserting "Fort Lauderdale," immediately after "shall be held at".

Sec. 11. Section 102(b)(1) of title 28, United States Code, is hereby amended by striking out at the end thereof "and Lansing" and inserting in lieu thereof "Lansing and Traverse City".

Sec. 12. (a) Paragraph 1 of section 123(c) of title 28, United States Code, is amended by inserting "Haywood," immediately after "Hardin,".

(b) Paragraph (2) of such section is amended by striking out "Haywood,".

Sec. 13. (a) Paragraph (5) of section 124(c) of title 28, United States Code, is amended to read as follows:

"(5) The Marshall Division comprises the counties of Camp, Cass, Harrison, Marion, Morris, Panola, Shelby, and Upshur.

"Court for the Marshall Division shall be held at Marshall."

(b) Paragraph (1) of such section is amended by striking out "Panola," and "Shelby,".

Sec. 14. Section 41 of the Act of March 2, 1917 (ch. 145, 39 Stat. 965), as amended (48 U.S.C. 863), be and hereby is repealed.

Sec. 15. Section 753 of title 28, United States Code, is hereby amended as follows:

(a) The first sentence of subsection (e) is amended by striking and eliminating the words "at not less than $3,000 nor more than $7,630 per annum".

(b) A new subsection (g) is added to read as follows:

"(g) If, upon the advice of the chief judge of any district court within the circuit, the judicial council of any circuit determines that the number of court reporters provided such district court pursuant to subsection (a) of this section is insufficient to meet temporary demands and needs and that the services of additional court reporters for such district court should be provided the judges of such district court (including the senior judges thereof when such senior judges are performing substantial judicial services for such court) on a contract basis, rather than by appointment of court reporters as otherwise provided in this section, and such judicial council notifies the Director of the Administrative Office, in writing, of such determination, the Director of the Administrative Office is authorized to and shall contract, without regard to section 3709 of the Revised Statutes of the United States, as amended (41 U.S.C. 5), with any suitable person, firm, association or corporation for the providing of court reporters to serve such district court under such terms and conditions as the Director of the Administrative Office finds, after consultation with the chief judge of the district court, will best serve the needs of such district court."

Sec. 16. (a) Chapter 51 of title 28, United States Code, is amended by adding after section 795 thereof the following new section:

§ 796. Reporting of court proceedings

"The Court of Claims is authorized to contract for the reporting of all proceedings had in open court, and in such contract to fix the terms and conditions under which such reporting services shall be performed, including the terms and conditions under which transcripts shall be supplied by the contractor to the court and to other persons, departments, and agencies."

(b) The analysis of chapter 51 of title 28, United States Code, is amended by adding at the end thereof the following new item: "796. Reporting of court proceedings."

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, much has been said in approval of the Judicial Conference which made the recommendation for these additional judges to the committee. I suspect that every member of the Judicial Conference is a lawyer, and I have nothing against lawyers, but I suspect that every member is a lawyer and you can bet your last scrap metal dollar that all have their lightning rods up and hope that sooner or later the lightning of a Federal judgeship will strike.

The CHAIRMAN. The question is on the substitute committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

XUM

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Olsen, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill S. 952, to provide for the appointment of additional district judges, and for other purposes, pursuant to House Resolution 880, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 367, nays 81, not voting 45, as follows:

[Roll No. 54]

YEAS—367

Abbitt
Abernethy
Adair
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Aspinall
Ayres
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Berry
Betts
Biester
Bingham
Blackburn
Blanton
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Calif.
Burton, Utah
Bush
Button
Byrne, Pa.
Byrnes, Wis.
Cabell
Caffery
Camp
Carter
Casey
Celler
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cohelan
Collier
Collins
Conable
Conte
Conyers
Corbett
Corman
Coughlin
Cowger
Crane
Culver
Cunningham
Daddario
Daniel, Va.
Daniels, N.J.
Davis, Wis.
Delaney
Dellenback
Denney
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dowdy
Downing
Dulski
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Edwards, La.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fallon
Farbstein
Fascell
Feighan
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Foreman
Fountain
Fraser
Frelinghuysen
Frey
Friedel
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Garmatz
Gettys
Giaimo
Gibbons
Gilbert
Goldwater
Gonzalez
Goodling
Gray
Green, Pa.
Griffin
Grover
Gubser
Gude
Haley
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Keith
King
Kleppe
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Landgrebe
Landrum
Langen
Latta
Lennon
Lloyd
Long, Md.
Lowenstein
Lujan
Lukens
McCarthy
McClory
McCloskey
McClure
McCulloch
McDade
McDonald, Mich.
McFall
McKneally
McMillan
Macdonald, Mass.
MacGregor
Madden
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
Matsunaga
May
Mayne
Melcher
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mink
Minshall
Mize
Mizell
Mollohan
Monagan
Moorhead
Morgan
Morse
Morton
Mosher
Moss
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
Olsen
O'Neill, Mass.
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Philbin
Pickle
Pike
Pirnie
Podell
Poff
Pollock
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rees
Reifel
Reuss
Rhodes
Riegle
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roth
Roudebush
Roybal
Ruppe
Ruth
Ryan
St Germain
St. Onge
Sandman
Satterfield
Saylor
Schadeberg
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Stephens
Stokes
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Watkins
Watson
Watts
Weicker
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wold
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young
Zablocki
Zion
Zwach

NAYS—18

Andrews, Ala.
Bevill
Brinkley
Dorn
Gross
Hagan
Hall
Henderson
Jones, N.C.
Long, La.
Montgomery
O'Konski
O'Neal, Ga.
Passman
Poage
Rarick
Rivers
Scheuer

NOT VOTING—45

Adams
Ashley
Baring
Biaggi
Blatnik
Brock
Brown, Calif.
Broyhill, Va.
Carey
Cederberg
Chisholm
Cleveland
Colmer
Cramer
Davis, Ga.
Dawson
de la Garza
Diggs
Fish
Fulton, Pa.
Gaydos
Green, Oreg.
Griffiths
Hawkins
Kirwan
Leggett
McEwen
Meeds
Meskill
Michel
Mills
Murphy, Ill.
Nichols
Ottinger
Reid, Ill.
Reid, N.Y.
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Taft
Teague, Tex.
Thompson, N.J.
Tunney
Wyman

So the bill was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Cleveland.
Mr. Teague of Texas with Mr. Cederberg.
Mr. Biaggi with Mr. Fulton of Pennsylvania.
Mr. Hawkins with Mr. Kirwan.
Mr. Murphy of New York with Mr. Cramer.
Mr. Stubblefield with Mr. Brock.
Mr. Carey with Mr. Fish.
Mr. Colmer with Mr. Broyhill of Virginia.
Mr. Stratton with Mr. McEwen.
Mr. Mills with Mr. Meskill.
Mr. Davis of Georgia with Mr. Michel.
Mrs. Griffiths with Mrs. Reid of Illinois.
Mr. Blatnik with Mr. Steiger of Wisconsin.
Mr. Adams with Mr. Reid of New York.
Mr. Gaydos with Mr. Wyman.
Mr. Ottinger with Mr. Taft.
Mr. Stuckey with Mr. Nichols.
Mr. Brown of California with Mrs. Chisholm.
Mr. Baring with Mr. de la Garza.
Mr. Ashley with Mr. Diggs.
Mr. Meeds with Mrs. Green of Oregon.
Mr. Tunney with Mr. Dawson.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 6543, PUBLIC HEALTH CIGARETTE SMOKING ACT

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of March 11, 1970.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, the conference agreement on H.R. 6543 which the House now has before it, differs in some important respects from the bill passed by the House.

The House passed the bill in June of last year, Mr. Speaker, about 9 months ago. Because of the long period of time that has elapsed since the House acted, and so that Members of the House can place the conference report in proper perspective, I would like to review the history of this legislation.

The Federal Cigarette Labeling and

Advertising Act was passed by the Congress in 1965 and made effective January 1, 1966. Under the act:

First. Cigarette packages were required to bear a label stating: "Caution: Cigarette Smoking May Be Hazardous to Your Health";

Second. Other statements relating to smoking and health could not be required on cigarette packages bearing that label;

Third. Until July 1, 1969, no statement relating to smoking and health could be required in any advertisement of cigarettes, the package of which bore the required label; and

Fourth. The Secretary of Health, Education, and Welfare and the Federal Trade Commission were required to submit reports to the Congress with respect to matters of concern to them under the act by July 1 of each year.

With July 1, 1969, approaching and the termination of preemption of regulation of cigarette advertising, the Federal Communications Commission, in February 1969, issued a notice of proposed rulemaking under which cigarette advertisements would have been banned from radio and television.

In May 1969, the Federal Trade Commission issued notice of a proposed trade regulation rule which would have required that cigarette advertising bear a health warning. This was a proceeding which the FTC had originally instituted in 1964 but which was superceded by enactment of section 5(b) of the Federal Cigarette Labeling and Advertising Act.

Mr. Speaker, since enactment of the legislation in 1965 it has been my strong feeling that matters such as these involve broad public policies not within the authority of any nonelective body. They are matters which the Congress must decide. Consequently the House Committee on Interstate and Foreign Commerce held hearings from April 15 to May 1, 1969, on H.R. 6543, and other bills relating to cigarette labeling and advertising. H.R. 6543 was then reported to the House and passed by the House on June 18, 1969. As reported to, and passed by, the House, the bill would have made two changes in the original act. It would have provided for a new warning on cigarette packages to read: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health and May Cause Lung Cancer or Other Diseases," and, it would also have postponed the termination date on preemption of regulation of cigarette advertising from July 1, 1969, to July 1, 1975.

On July 22, 1969, hearings on this legislation were begun in the other body, but it did not act on H.R. 6543 until December 12, 1969. By that time both the broadcasting and cigarette industries had acquiesced to banning cigarette advertising from radio and television. As passed by the other body the act would have been amended to provide:

First, a new warning which would read, "Warning: Cigarette smoking is dangerous to your health";

Second, a preemption of States and political subdivisions from imposing any requirement or prohibition based on smoking and health with respect to the advertising or promotion of cigarettes, the packages of which were labeled in accordance with the legislation;

Third, a total ban on cigarette advertising from radio, television, and cable television on or after January 1, 1971; and

Fourth, that the Federal Trade Commission could resume its trade regulation rule proceeding relating to cigarette advertising after July 1, 1971, or earlier, if advertising practices of the cigarette industry were found to be a gross abuse of the nonbroadcasting media.

We went to conference with the other body on the two differing versions of H.R. 6543 and have an agreement which I think the Members of the House should adopt. Under the conference agreement, the warning is a shortened version of that provided for in the House bill. It would read: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health."

The agreement contains the preemption applicable to States and their political subdivisions in recognition of the fact that the labeling, advertising, promotion, and sale of cigarettes insofar as they are related to smoking and health are matters of national concern. The legislation makes clear that in order to make the legislation effective, States and their local divisions are not to interfere with the scheme of regulation provided for in the legislation.

The conference agreement also provides that after January 1, 1971, there can be no advertising of cigarettes on radio, television, or cable television, or any other medium of electronic communication subject to the jurisdiction of the Federal Communications Commission.

The Federal Trade Commission, on or after July 1, 1971, would be permitted to resume its proposed trade regulation rule relating to cigarette advertisements if it determined that to be necessary. I should like to reiterate what is stated in the statement of the managers on the part of the House, Mr. Speaker, that we expect that this trade regulation rule proceeding will be the only basis on which any Federal department or agency will attempt to require any statement relating to smoking and health in cigarette advertising.

The conference agreement also provides that the reports which have heretofore been submitted by the Department of Health, Education, and Welfare and the Federal Trade Commission by June 30 of each year, shall be submitted by January 1, 1971, and annually thereafter. This will permit more experience to be had under the act as amended before the first of these reports must be submitted.

As noted in the conference report, amendment No. 13 of the Senate, which provided for an effective date, was not within the scope of the conference because of a technicality. If the House adopts the conference report, I shall propose an amendment establishing effective dates for the legislation. This would give cigarette manufacturers about 7 months to get cigarette package imprinted with the new warning and label into the channels of commerce.

Mr. Speaker, this legislation is very different from the bill passed by the House in June of last year. Nevertheless, I am satisfied that it should be adopted by the House because the Congress—the body elected by the people—must make the policy determinations involved in this legislation—and not some agency made up of appointed officials.

And, Mr. Speaker, I might say in the conference the full Subcommittee on Health—which included nine members—plus the ranking minority member on the House side, the gentleman from Illinois (Mr. SPRINGER), and I took part in the conference with the other body. The conference report was adopted unanimously by all those on the House side and the Senate side.

Mr. Speaker, I urge the adoption of the conference report.

Mr. SPRINGER. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I am happy to yield to the distinguished gentleman from Illinois.

Mr. SPRINGER. Mr. Speaker, at long last we have a bill concerning cigarette advertising agreed upon by your conferees and the other body. It is hardly what left here many months ago and is more nearly the bill which was developed after the House action. It is an involved tale of changing positions by those most closely concerned with the situation. Without pointing fingers or claiming who did what to whom we should remember that the broadcasters suddenly agreed to voluntarily phase out cigarette advertising over a 4-year period, whereupon the cigarette manufacturers asked to be relieved of all such contracts within a few months. The result is a compromise which takes all such advertising off the air at the close of New Year's Day, 1971. That is the most dramatic change coming to us today for approval.

The warning on the cigarette pack has been discussed from all sides in both bodies. No slogan has been entirely satisfactory. Personally I do not feel that any printing on the package acts as a useful deterrent to smoking. The final agreement provides for language as follows:

> The Surgeon General has determined that cigarette smoking is dangerous to your health.

One major question remains. Should the Federal Trade Commission require that the health warning be included in printed advertising? The conference report restricts action on such a rulemaking until July 1, 1971. After that it may proceed but Congress must be informed as to the contents of such a proposed rule.

Hoping that this may be the last legislation needed on this subject, I recommend the conference report to the House.

Mr. SATTERFIELD. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I am happy to yield to the gentleman from Virginia, a member of the committee.

Mr. SATTERFIELD. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, as a patron of this measure and one of the House conferees I rise at this time to comment upon two aspects of this bill as agreed to by the conferees.

XUM

First of all, it would confirm and reemphasize that the labeling, advertising, promotion, and sale of cigarettes, insofar as they relate to smoking and health are matters of national concern. In order to preserve the effectiveness of Federal legislation, State and local jurisdictions are not by regulation or prohibition to expand, duplicate, change Federal regulation in any way or to reduced the legal or practical effectiveness of the warning statement imposed by section 4, or to otherwise interfere with this legislation.

The second aspect of the measure, about which I wish to comment, deals with the key issue of the relationship between Congress and the Federal Trade Commission.

First, the conference agreed to preempt the Federal Trade Commission from proposing a trade regulation rule regarding cigarette advertising until July 1, 1971.

Second, the conferees have provided a system, a "safeguard system," to protect and preserve the authority of Congress to dispose of this question. The bill as agreed to by the conferees will require the Commission to do certain things after July 1, 1971, should it attempt to promulgate a trade regulation rule.

First, it must notify Congress of its intention to propose a specific trade regulation rule;

Second, it must furnish Congress with a full statement of its reason for suggesting such a rule, and, finally, it must give Congress a period of 6 months thereafter in which to act before that proposed rule is promulgated.

XUM

It should be stressed that this system will neither affirm nor deny the contention of the Federal Trade Commission that it has the authority to issue trade regulation rules.

Third, the bill as recommended by the conferees would not interfere in any way with the Trade Commission's authority to issue cease-and-desist orders against unfair and deceptive advertising practices. However, the measure will prohibit the Commission, until July 1, 1971, from requiring any affirmative statement on cigarette advertising.

In this regard the record should be made clear about the listing of tar and nicotine content in cigarettes.

It should be recalled that this bill as it passed the House had no provision dealing with tar and nicotine. In the other body, the committee reported a bill which did contain such a provision. But that provision was eliminated by a floor amendment. Since neither the House nor Senate versions of this bill contained a tar and nicotine content provision, that matter was not before the conferees and thus such a question is clearly outside the sphere of action by the Federal Trade Commission until July 1, 1971.

All in all there can be no doubt that the bill embraced by the conference committee sets definite limits of time and scope of action of a regulatory agency.

It is seriously hoped that this interval will provide a cooling-off period during which scientific cooperation will replace emotional confrontation in the cigarette controversy.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. So the adoption of the conference report will not deprive me of the ability to continue to smoke cigarettes.

Mr. STAGGERS. No, sir.

Mr. GROSS. I thank the gentleman. Only the good die young.

Mr. PREYER of North Carolina. Mr. Speaker, this act is a good example of the wise exercise of legislative power because of both what it does and what it does not attempt to do.

First of all, the act is intelligent in what it does—that is, it prohibits a form of advertising that inevitably reaches youthful audiences, and it provides an adequate warning to protect the public health. Both bodies of Congress in their respective hearings were thoroughly advised of the pervasive power of the electronic media in reaching young people.

All parties to the cigarette controversy were in agreement on this point. Indeed, the cigarette industry took the initiative in July 1969 at the Senate Commerce Committee hearings of voluntarily going off of the airwaves when their existing contracts with the broadcasters expired in September of 1970 if antitrust law immunity were granted to them by the Congress. In fact, the cigarette manufacturers offered to cease all broadcast advertising as early as January 1, 1970 if the networks would release them from their contracts and, as we all know, the majority of the networks refused to make this accommodation. If the cigarette manufacturers had had their way, there would be no cigarette advertising on radio and television today. Be that as it may, the Senate amendment permits cigarette advertising until January 2, 1971 and the House conferees concurred in the Senate amendment. It appeared that prohibition was the only practical way to achieve this objective in this session of the Congress.

Second, the Public Health Cigarette Smoking Act of 1969 is modest in what it does not attempt to do—that is, it does not legislate the causes of human disease. Only qualified scientists conducting objective research can add to the state of knowledge about cigarette smoking and human disease. Only they can determine by research the causes of disease and discover their cures.

Mr. Speaker, there are gaps in scientific knowledge regarding smoking and health. The Secretary of Health, Education, and Welfare recognized this fact when he notified the Congress that discussions have been held between his department and the cigarette industry for the purpose of identifying these gaps in knowledge. The Secretary should be urged to continue this cooperative effort between the Government and the cigarette industry and to expedite the identification of the gaps in scientific knowledge in order that priorities may be set for closing them through appropriate research. Our duty to protect the public welfare dictates that we should encourage and support the scientific effort to discover the cause and cure of lung cancer, heart disease, and emphysema.

There is growing evidence that it is at least as likely that environmental and constitutional factors other than cigarette smoking are the causes of these diseases. However, the antismoking bandwagon effect prevents objective consideration of all the evidence.

In the meantime, the warning label required by the 1965 act and this act speak for themselves. They are without hidden meaning. The declared policy and purpose of the Congress in enacting this legislation remains unchanged, that is, "to inform the public that cigarette smoking may be hazardous to health." The warning label required in the 1965 act and the one required in this act are intended to carry out this policy and purpose. This policy has been and is successful in that reliable surveys indicate that 97 percent of the population of the Nation is aware of the warning notice on cigarette packages.

The members of the House Interstate and Foreign Commerce Committee, shortly before the expiration of the 1965 act listened to many scientists and medical experts and had before them much data including the 1967, 1968, and 1969 HEW reports. After hearing the evidence they concluded "that nothing new had been determined with respect to the relationship between cigarette smoking and human health," although there are more statistics than in 1965. The hearing before the Commerce Committee of the other body dealt only with the advertising and marketing of cigarettes.

I believe the Members representing both bodies acted responsibly and wisely.

They did those things that are the fitting and proper exercise of legislative authority. They protected the public by an adequate warning and by a necessary ban on electronic advertising. At the same time, they refused to arrogate unto themselves the role of medical expert by legislating a solution to the as-yet-unsolved problem of the causation of human disease.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

AMENDMENT IN DISAGREEMENT

The SPEAKER. The Clerk will report the amendment in disagreement.

The Clerk read as follows:

Senate amendment numbered 13: On page 7, strike out lines 9 and 10 and insert:

"EFFECTIVE DATE

"SEC. 3. Section 5 of the amendment made by this Act shall take effect as of July 1, 1969. All other provisions of the amendment made by this Act shall take effect on January 1, 1970."

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"SEC. 3. Section 5 of the amendment made by this Act shall take effect as of July 1, 1969. Section 4 of the amendment made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of this Act. All other provisions of the amendment made

by this Act except where otherwise specified shall take effect on January 1, 1970."

Mr. STAGGERS. Mr. Speaker, the amendment which I have just offered establishes an effective date for the legislation. The original House version had a July 1, 1969, effective date. The other body provided an effective date of January 1, 1970, for all but section 5 of the legislation. Both of these dates were of course past when the conferees of the two Houses met on this legislation and therefore, technically speaking, the matter was not within the scope of the conference.

The amendment which I have offered was considered informally in the course of the conference and I have every assurance that it will be adopted by the other body.

Under the amendment, section 5 of the act would be effective from July 1, 1969. Section 5 relates to preemption of statements with respect to smoking and health on cigarette packages and preempts the States and their political divisions from imposing any requirement or prohibition based on smoking and health with respect to the advertising or promotion of cigarettes which are labeled in accordance with the legislation. This retroactive effective date is being adopted just to be certain that no State or local law which might have escaped our attention and which establishes any requirement or prohibition based on smoking and health with respect to cigarette advertising could be held to be valid for the period between July 1, 1969, and the date the legislation finally becomes law, or any portion thereof.

Section 4 of the legislation, which provides for the warning label on cigarette packages, would be made effective the first day of the seventh calendar month which begins after the enactment of this legislation, or I think it's safe to say, on October 1 of this year. This is to allow time to get cigarettes in packages with the old caution label off the market and to permit the new warning label to be imprinted on cigarette packages, and to get cigarettes so packaged into the channels of commerce.

All other provisions of the legislation would be effective from January 1, 1970, under the amendment.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the motion was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 16196, DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 881 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 881

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16196) to reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes, and all points of order against the bill pursuant to the requirements of clause 3 of rule XIII are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the District of Columbia, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 16196, the Committee on the District of Columbia shall be discharged from the further consideration of the bill S. 2601, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 16196 as passed by the House.

The SPEAKER. The gentleman from New York (Mr. DELANEY) is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 881 provides an open rule with 2 hours of general debate for consideration of H.R. 16196, the District of Columbia Court Reform and Criminal Procedure Act of 1970. The resolution also provides that all points of order against the bill are waived pursuant to clause 3 of rule XIII—Ramseyer rule—that the bill shall be read for amendment by titles instead of by sections, and that, after passage, the District of Columbia Committee shall be discharged from further consideration of S. 2601 and it shall be in order to move to strike all after the enacting clause of the Senate bill and amend it with the House-passed language.

The purpose of H.R. 16196 is to give to the people in Washington some measure of surcease from the ever-growing criminal element which too long has been a threat of life, limb, and property in the District of Columbia.

The bill is a comprehensive, much-needed, interrelated tool for the administration of justice in the District.

Title I of H.R. 16196 is made up of five parts:

Part A is a revision of title II of the District of Columbia Code, by which the court system of the District is reorganized.

Part B is a revision of chapter 23, title 16 of the code to update proceedings relating to juveniles and paternity cases.

Part C covers three areas: a new chapter in the code relating to procedures regarding intrafamily offenses, modification to local jurisdiction outside the District, and amended provisions as to the competency of witnesses.

Part D generally conforms present law to amendments in the bill.

Part E covers transition provisions, appointment of personnel, and the effective date of this title.

Title II has two parts: First, amendments to certain criminal laws and new law making conspiracy to commit a non-Federal offense in the District a crime; and second, amendments to and codification of title 23 of the District of Columbia Code, "Criminal Procedure."

Title III abolishes the present Legal Aid Agency and replaces it with an Office of Public Defender, with enlarged services and staff.

Title IV provides for the payment of attorney's fees in actions for wrongful arrest when such charges are brought against officers or members of the Metropolitan Police Department.

Title V transfers to the Bureau of Prisons the facilities of the District of Columbia Department of Corrections at Lorton, Va., and the custody of persons committed therein.

Title VI abolishes the Commission on the Revision of the Criminal Laws of the District, properly leaving that function with the respective committees of the Congress.

Title VII contains effective date provisions not provided separately for title I of the bill.

Mr. Speaker, I urge the adoption of House Resolution 881 in order that H.R. 16196 may be considered.

The SPEAKER pro tempore (Mr. BROOKS). The gentleman from Ohio (Mr. LATTA) is recognized.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this rule and I wholeheartedly support the bill. I think the people in the District of Columbia and the many millions of visitors who come to our Nation's Capital have long awaited the day when the House and the Senate would take effective action to combat crime in this city. I think, as the District of Columbia Committee did, that this bill is a tremendous step forward in this direction. As one Member of the House, I wish to commend the chairman of the District of Columbia Committee and the members of this committee for the outstanding job they have done on this very important and comprehensive piece of legislation.

It is my understanding that many, many bills pertaining to crime in the District of Columbia have been submitted to this great committee from time to time over the past several months by the Nixon administration and that the committee has consolidated them into the omnibus crime bill now before us. Notwithstanding the tremendous service this committee has performed and notwithstanding the fact that this Congress will pass this legislation, more will need to be done to wipe out our crime problem. I call your attention to the statement which appears on page 3 of the report:

> Congress, police, prosecutors, the defense counsel, the courts and the community all have a joint as well as an individual responsibility to assist one another not only to ameliorate crime conditions but also to eradicate the very festers in society from whence criminal acts originate.

All Members of Congress have hung their heads in shame at the mention of the soaring crime rate in our Nation's Capital. Our Capital City is fast becoming known around the world for its muggings, rapes, burglaries, murders, auto thefts, and so forth, rather than as the seat of government of this great land of ours. Certainly when the administration set as one of its goals the making of safe streets, it could not have set for itself a better nor more vital goal. I think all Americans are awaiting the passage of this legislation as the beginning of the end of our constantly rising crime rate.

In 1969, we had 289 homicides in the District of Columbia; we had 336 forcible rapes in the District of Columbia; we had 12,423 robberies; we had 3,621 aggravated assault cases; we had 22,992 burglaries; we had 11,548 larcenies of over $50 or more; we had 11,366 auto thefts—making a grand total in 1 year in the District of Columbia, our Nation's Capital, of 62,575 crimes committed. At this point, I wish to submit three charts which tell a more complete story.

[Chart II not printed in RECORD]

CRIME IN THE DISTRICT OF COLUMBIA

Offense	January through December—Calendar year— 1958	1962	1966	1969
Homicide	79	91	144	289
Forcible rape	65	82	134	336
Robbery	709	1,572	3,703	12,423
Aggravated assault	2,535	3,005	3,177	3,621
Burglary	3,642	5,022	10,267	22,992
Larceny ($50 and over)	1,683	2,666	5,261	11,548
Auto theft	1,899	2,581	6,565	11,366
Total	10,612	15,019	29,251	62,575

CRIME INDEX OFFENSES, JANUARY THROUGH SEPTEMBER 1969, CITIES 500,000 TO 1,000,000 POPULATION

City	Population	Offenses: Total offenses	Offenses: Ranking per 1,000 population	Murder	Rape	Robbery	Aggravated assault	Burglary	Larceny	Auto theft
Baltimore	939,024	48,220	3	174	521	6,679	8,408	14,970	9,473	7,995
Boston	697,197	25,924	9	74	180	2,298	1,184	6,565	4,716	10,907
Buffalo	532,759	11,504	13	32	102	699	587	3,963	3,506	2,615
Cincinnati	502,550	9,656	14	43	129	606	536	3,760	3,244	1,338
Cleveland	876,050	36,069	7	179	210	3,939	1,556	8,854	5,174	16,157
Dallas	679,684	29,451	6	161	319	1,563	2,800	14,150	4,613	5,845
Houston	938,219	41,983	5	193	311	3,484	2,110	18,040	8,948	8,897
Milwaukee	741,324	13,413	15	30	60	428	523	2,994	5,970	3,408
New Orleans	627,525	20,962	11	52	231	1,732	1,734	6,343	6,285	4,585
Pittsburgh	604,332	24,583	8	43	181	2,215	1,364	7,625	6,023	7,132
St. Louis	750,026	35,218	4	189	470	3,571	2,738	14,306	3,282	10,662
San Antonio	587,718	20,144	10	70	123	656	1,596	8,511	5,192	3,996
San Diego	573,224	14,096	12	25	113	517	565	3,649	6,716	2,511
San Francisco	740,316	39,632	2	100	437	4,825	2,266	13,795	5,156	12,053
Washington, D.C	763,956	44,629	1	200	259	8,656	2,687	16,367	8,345	8,115
District of Columbia ranking in actual number of offenses		2		1	6	1	4	2	3	6
District of Columbia ranking per 1,000 population		1		1	6	1	4	2	2	6

This is a record of which we must be ashamed. It is a record which needs to be corrected, and I for one believe that this legislation will go far in correcting it. I also believe, as the Committee on the District of Columbia believes, that it will take more than just the passage of this legislation to correct it. It is going to take the cooperation of all of us to see that this crime rate comes down.

Much has been said and much has been written about the fear of individuals to walk the streets of our Nation's Capital, not only in the night season but during the daytime as well. Much has been written of the crime around Capitol Hill itself. Yes, and many people working on Capitol Hill have been victimized by this criminal element. We are not proud of what has been said and what has been written about our Nation's Capital. We need this legislation without crippling amendments to reduce this crime, to make our streets safe again, and to make it the model city it should be.

I heard the Attorney General of the United States state that we must have this bill without crippling amendments to do the job which must be done. A few years ago we passed the Bail Reform Act. Since that time we have had a tremendous increase in criminal acts by second, third, and fourth offenders who were out on their own recognizance.

The legislation before us today will give the courts some needed authority to protect society from these habitual criminals. They will not be turned loose on society to repeat their offenses again and again before they are brought to the bar of justice for the first offense.

This is one of many sections of this bill that should not be riddled by crippling amendments. I hope and pray this House will act responsibly, and I know that it will, to see to it that we give the District of Columbia the tools to do the job that needs to be done.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield tc the majority leader.

Mr. GERALD R. FORD. Mr. Speaker, would the distinguished member of the Committee on Rules explain to me and to others interested the reason for the sentence that begins on page 2, line 9, and running through line 14, which reads as follows:

> After the passage of H.R. 16196, the Committee on the District of Columbia shall be discharged from the further consideration of the bill S. 2601, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 16196 as passed by the House.

Mr. LATTA. Yes. This bill which is referred to on line 11, S. 2601, which has already passed the House, is not as comprehensive as the bill now before us and this authority is needed to send it to conference.

Mr. DELANEY. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York.

Mr. DELANEY. Mr. Speaker, we have six separate bills in the Senate, and in order to go to conference with the six bills, this language is necessary.

Mr. GERALD R. FORD. Mr. Speaker, in other words, by the inclusion of this language in the bill, all of the bills that have already passed the other body in this general area can go to conference with this version of the House bill?

Mr. DELANEY. That is exactly correct.

Mr. LATTA. Mr. Speaker, I might say, further, on page 5 of this report there is a list of the various bills that have been put together to make up the omnibus crime bill we have before us. The administration sent many bills to the great Committee on the District of Columbia and it put these bills together—and I think rightfully so—to make this 439 page omnibus bill. A tremendous effort has been put forth by this Committee. I conclude by again commending it along with the Nixon administration which requested it.

Mr. DELANEY. Mr. Speaker, I have no further requests for time.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. DELANEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING TOMORROW

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 o'clock tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

BALTIMORE CITY COUNCIL ENDORSES ANNUNZIO INSURANCE BILL

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, on February 16, the City Council of Baltimore, Md., became the second city to endorse my bill, H.R. 13666, which would beef-up the so-called FAIR plan insurance program and provide insurance coverage to businessmen and residents of our inner cities. Previously, the bill had been endorsed by the City Council of Cleveland.

Homeowners and businessmen in the downtown section of Baltimore are facing the same problem that is occurring throughout our major cities. The businessmen and homeowners find it difficult to obtain insurance and if they are able to obtain the insurance, the costs are so high that premium payments cannot be met. This problem has forced many businesses to close their doors or move to other areas and is resulting in the abandonment of many residential areas.

In supporting my bill, the Baltimore City Council, in a resolution, quite properly stated the problem when it wrote:

> Whereas, as soon as the insurance companies refuse to write coverage in particular areas, the condition of the neighborhood deteriorates more rapidly since the small businessman or homeowner is not equipped financially to cope with problems of vandalism.

Mr. Speaker, we cannot live in an age where billions of dollars are spent to explore outer space and millions of dollars are spent to subsidize farmers, while at the same time, the problems of our inner cities are neglected.

Therefore, I hope that after hearings are held on H.R. 13666, hopefully before the end of the spring, that this body will overwhelmingly pass the legislation so that the future of our inner cities is not ruined.

Mr. Speaker, I am including in my remarks a copy of the Baltimore City Council resolution. I greatly appreciate this measure of support from such an outstanding city as that of Baltimore.

The resolution follows:

RESOLUTION

City Council Resolution requesting the United States House of Representatives to enact legislation authorizing the Federal Government to write direct insurance for home owners and small business men in urban areas where insurance is unobtainable or where the premiums are unreasonable.

Whereas, one of the more pressing problems in the Urban area and more especially in certain deteriorating areas of the City is the inability of the home owner or small business man to secure property insurance at a reasonable rate; and

Whereas, as soon as the insurance companies refuse to write coverage in particular areas, the condition of the neighborhood deteriorates more rapidly since the small businessman or homeowner is not equipped financially to cope with problems of vandalism; and

Whereas, each homeowner or small businessman must be given every opportunity to retain and protect his home or business so that these may remain as a stabilizing influence and a deterrent to slum and blight which would run rampant through any section of a community where the homeowner or small businessman has given up hope and lost incentive; and

Whereas, there are deficiencies in the present government assistance plans which can be corrected by authorizing the Federal Government to write direct insurance in cases where the premiums of the private companies are unreasonable or where no insurance is available at any price; and

Whereas, this Council feels that this type of legislation is necessary to stem the tide of slum and blight before a neighborhood becomes hopelessly deteriorated; now, therefore, be it

Resolved by the City Council of Baltimore, That the United States House of Representatives is hereby requested to enact legislation that would authorize the Federal Government to write direct insurance for homeowners and small businessmen in urban areas where insurance is unavailable, or where the premiums are unreasonable; and be it further

Resolved, That the City Council of Baltimore supports H.R. 13666 introduced by Representative Frank Annunzio which would correct deficiencies in the Fair Access to Insurance Requirements Plans; and be it further

Resolved, That a copy of this Resolution be sent to Representative Frank Annunzio and to the members of the Congress of the United States for Maryland.

TRIBUTE TO THE LATE DR. J. WILLIAM HILLMAN

(Mr. FULTON of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FULTON of Tennessee. Mr. Speaker, my community, Nashville-Davidson County, Tenn., our medical community throughout the Nation, and thousands of individuals, children, and adults suffering from physical handicaps, have lost a source of help and compassion in the death of Dr. J. William Hillman.

Dr. Hillman's dedicated service to those in need and his contributions to the medical field will stand as a living tribute to his life and his work.

Our sympathies go out to his family and to all those who knew and loved him.

Perhaps the most moving tribute to this outstanding healer was made in the following editorial carried by the Nashville Banner on Monday, March 9:

DR. J. WILLIAM HILLMAN

Heart and mind and hand combined, in the person and profession of Dr. J. William Hillman, to make him the extraordinary servant of mankind he became in the realm of healing science that was his in a career of practice and teaching that was all too short. His life was full; overflowing with friendship, and service, and achievement . . . for others.

Rarely do these multiple gifts reside in one life so abundantly; or on the part of their possessor, give of themselves so liberally when duty calls or opportunity affords. In both areas of the healing arts—great instructor—great surgeon, great and understanding friend, Dr. Hillman excelled.

He was a young man when he came to Vanderbilt University from Johns Hopkins University School of Medicine in 1952 as an assistant professor of orthopedic surgery. In 1962 he became chairman of the department—and through the years across that esteemed association, he has grown into the professional stature nationally recognized, and in the heart of those blessed in personal acquaintance with the man.

No man in either category knew him better than did Dr. Randolph Batson, dean of the Vanderbilt School of Medicine—nor could have better expressed the estimate held by colleagues: "He was a leader of leaders," said Dr. Batson, "a man more dedicated and in turn as loved and respected as any man I have ever known."

He was that in personality, a strength of character commanding instinctive trust; a genial man, who radiated sunshine, and yet a gentle soul responding to the needs around him and within the categories of his special gifts. So it was that in vast addition to the tasks he bore in teaching and practice—themselves immeasurable in their ultimate reach—his labor of love embraced such areas of kindness as humanitarian enterprise provided.

As patron and benefactor he participated fully in these. He was a member of the board of directors of the Tennessee Council for Handicapped Children, and a member of the Governor's Committee on Employment of the Handicapped. He also served on the board of the Bill Wilkerson Hearing and Speech Center. He was chief of orthopedic surgery for the Junior League Home for Crippled Children, and a consultant for the state in that work throughout Tennessee.

His concern was for service to those around him, not personal aggrandizement.

In his untimely passing an inexpressible loss has been sustained, by his family, by Vanderbilt University, by his community and by his profession. It is keenly felt, too, by every friend.

EFFICIENT AND HEALTHY FARM ECONOMY FOR THE FUTURE

(Mrs. MAY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MAY. Mr. Speaker, this Nation must maintain an efficient and healthy farm economy—capable of producing big crops at low cost—if we are to meet our goal of eliminating hunger among all Americans.

Until now, agriculture has met the test.

But we must be concerned about the future, and I am glad to know that farmers have created the National Educational Institute for Agriculture to help remind the public about the role of agriculture in meeting our national needs.

The hunger problem we have today is basically one of distribution. We have enough food in this country to give every American a healthy diet because farmers have increased their productive efficiency to an amazing degree. The problem lies in getting the food—or the purchasing power to buy it—into the hands of the needy.

What we do not have and do not want in the future is the kind of hunger problem we have seen abroad—a hunger

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stemming from the inability of local farmers to produce enough to meet local needs.

By providing insight into this and related issues, the National Educational Institute for Agriculture can improve congressional and public understanding of the role American agriculture plays in meeting the needs of a growing population.

Production per man-hour on farms jumped 82 percent from the late 1950's to 1968, when each farmer was supplying food and fiber for 43 persons compared with 23 a decade earlier.

Farmers must be able to continue this kind of progress in the future if we are to fill the needs both of our poor and the rest of our people.

For the average American, the farmer has done a good job. Between the late 1950's and 1968, for example, consumer incomes rose 66 percent while the retail price of food at supermarkets rose only 22 percent. The proportion of the average man's paycheck spent on food will be down to an alltime low of under 16.5 percent of after-tax income in 1970. Progress of this kind must be continued.

AMENDMENT OF TITLE III OF BANKHEAD-JONES FARM TENANT ACT

(Mr. POAGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. POAGE. Mr. Speaker, I introduce, for appropriate reference, a bill to amend title III of the Bankhead-Jones Farm Tenant Act to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization and for other purposes.

This bill would substantially increase the opportunities for employment and income in rural areas through the development of recreation potentials in resource conservation and development projects.

This bill would give the Secretary of Agriculture the same authority in administering recreation and fish and wildlife improvement in resource conservation and development projects that is now available to him under Public Law 566, the Watershed Protection and Flood Prevention Act.

Resource conservation and development projects, made possible by Congress through the Food and Agriculture Act of 1962, are proving to be an extremely effective method through which people in rural America can develop their natural resources in ways that contribute to economic growth.

There are presently 68 resource conservation and development projects in the planning and operation stages in 45 States. The 12 most recent ones were authorized by the Secretary of Agriculture in January of 1970. One of these, the Leon-Bosque resource conservation and development project, is in the 11th Congressional District of Texas.

The Leon-Bosque resource conservation and development project area has a favorable climate. Streams and lakes invite unlimited recreation developments. There are undeveloped facilities around major reservoirs of Lake Protector, Lake Whitney, Lake Leon, and Lake Cisco. They offer fishing and water sports of all kinds. There is need for a great expansion in fishing facilities and water sports.

This bill would authorize financial assistance for such public water-based recreational developments. Under present authorities, the Secretary of Agriculture is not permitted to cost share for recreation or fish and wildlife developments with resource conservation and development funds. This proposed amendment to the Bankhead-Jones Farm Tenant Act would permit the use of resource conservation and development funds for recreational developments.

I am joined in cosponsoring this legislation by the following Members of this House who also have resource conservation and development project sponsors among their constituency.

The list of cosponsors are as follows:

Honorable Harold T. "Bizz" Johnson, March 11, 1970, 4:30 p.m.

Honorable Frank Evans, March 12, 1970, 9:25 a.m.

Honorable Phil Landrum, March 12, 1970, 9:30 a.m.

Honorable Bill Burlison, March 12, 1970, 9:35 a.m.

Honorable Carl Albert, March 12, 1970, 9:38 a.m.

Honorable William J. Scherle, March 12, 1970, 9:46 a.m.

Honorable William Nichols, March 12, 1970, 9:47 a.m.

Honorable Omar Burleson, March 12, 1970, 10:37 a.m.

Honorable Ed Edmondson, March 12, 1970, 12:15 p.m.

Honorable O. C. Fisher, March 12, 1970, 2:24 p.m.

Honorable Joe Skubitz, March 12, 1970, 2:35 p.m.

Honorable Bill Alexander, March 12, 1970, 3:00 p.m.

Honorable William L. Dickinson, March 12, 1970, 3:02 p.m.

Honorable Joseph M. McDade, March 12, 1970, 3:55 p.m.

Honorable Joe L. Evins, March 12, 1970, 4:20 p.m.

Honorable Roger H. Zion, March 12, 1970, 4:25 p.m.

Honorable Samuel S. Stratton, March 12, 1970, 4:55 p.m.

Honorable John Melcher, March 13, 1970, 9:27 a.m.

Honorable Wayne L. Hayes, March 13, 1970, 10:30 a.m.

Honorable John Wold, March 13, 1970, 11:40 a.m.

Honorable Jamie Whitten, March 13, 1970, 3:05 p.m.

Honorable John A. Blatnik, March 14, 1970, 8:35 a.m.

Honorable Garner E. Shriver, March 16, 1970, 9:00 a.m.

Honorable Orval Hansen, March 16, 1970, 9:05 a.m.

Honorable Spark M. Matsunaga, March 16, 1970, 9:55 a.m.

Honorable John R. Kyle, March 16, 1970, 10:40 a.m.

Honorable Laurence J. Burton, March 16, 1970, 10:50 a.m.

Honorable Richardson Preyer, March 16, 1970, 11:10 a.m.

Honorable Walter S. Baring, March 16, 1970, 11:10 a.m.

Honorable Peter Kyros, March 16, 1970, 3:10 p.m.

Honorable Lee H. Hamilton, March 16, 1970, 3:15 p.m.

Honorable Sam Steiger, March 16, 1970, 3:30 p.m.

Honorable Joseph P. Vigorito, March 16, 1970, 4:50 p.m.

Honorable Harley O. Staggers, March 16, 1970, 5:05 p.m.

Honorable Al Ullman, March 17, 1970, 9:55 a.m.

Honorable Silvio O. Conte, March 17, 1970, 11:10 a.m.

Honorable Wilbur Mills, March 17, 1970, 12:20 a.m.

Honorable J. J. Pickle, March 17, 1970.

Honorable John W. Byrnes, March 17, 1970, 4:50 p.m.

Honorable Thomas S. Foley, March 17, 1970, 5:10 p.m.

Honorable David R. Obey, March 18, 1970, 9:05 a.m.

Honorable Howard Robison, March 18, 1970, 11:45 a.m.

NATHANIEL S. COLLEY

(Mr. MOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOSS. Mr. Speaker, Mr. Nathaniel S. Colley, an attorney and leader of the black community in my district, delivered a well-reasoned address before the 10th annual Negro Leadership Conference in California. Mr. Colley seeks a well-balanced solution to the racial tensions in this Nation.

As one who also feels a middle ground must be found, I commend the speech to my colleagues:

INTEGRATION VERSUS BLACK NATIONALISM

(By Nathaniel S. Colley)

It was initially suggested to me that the subject of this part of the symposium would be integration vs. black pride. Such a title would have given me great problems, because I do not see them as being antithetical. In fact, my strong preference and belief is that men should work both for the creation of an integrated society in which white is no advantage and black is no detriment. Each person would have natural pride in his heritage, but would sense no need to low-rate or oppress others because they look or act differently.

At the outset, let us set the record straight. No black man in America need be told or reminded that in this country his blackness has been a curse upon him. Nor is this a mere allusion to the ancient past. All of us know that even now, over a hundred years after the Emancipation Proclamation and the three freedom amendments to the constitution, in our society, blackness is in fact, if not in theory, a badge of servitude of one kind or another.

Our essential question is now, and always has been the same. How do we throw the chains which imprison us as black people in a land of freedom? We must continue the dialogue on the subject of our condition. We must not, however, fall into subtle traps, fashioned out of sophisticated rhetoric, which brainwash us into believing that there are easy, instant total solutions to our problems. While we must continue to demand "freedom now", we must also identify and define that for which we ask. Do we mean freedom to rise and fall on our merits or demerits as human beings, in existing American society, or do we mean freedom to create a new black society here or somewhere else?

It is but a truism to say that the blood, sweat and tears of black men have been an essential ingredient in the formula which has made America the most powerful and the richest nation on earth. I belong to that school of thought which holds that it would be treason to our exploited ancestors for black men to cop out and walk away from all this wealth and power they helped to create.

We want some of it. We are prepared to fight for it in our way. We have no intention of accommodating the white racists who would rejoice to see us removed as a thorn in their sides and a pain in the breasts of their guilty consciences. Nor do we intend to make prophets and philosophers out of the Cotton Ed Smiths and Bilbos of the past or the Lester Maddoxes of today who have asserted, and still insist, that racial segregation is good for the black man, and that he can never function effectively as part and parcel of American society.

Educated black men ought really be ashamed for joining in the personal assaults upon some of their brothers just because they hold divergent views. In some quarters, we defame the name of the late, and immeasurably great, Dr. Martin Luther King largely because he had a dream for an America in which black and white could live together in peace and harmony. He dared dream that his "four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character." Yet none of his detractors has had, and perhaps never will have, an equal impact upon the lives of black men in this country. While he did not create the black protest movement, he certainly was its most articulate spokesman. In the third of the Massey Lectures broadcast over the Canadian Network in 1967 he assessed its impact as follows:

"The Negro freedom movement would have been historic and worthy even if it had only served the cause of civil rights. But its laurels are greater because it stimulated a broader social movement that elevated the moral level of the nation. In the struggle against the preponderant evils of society, decent values were preserved. Moreover, a significant body of young people learned that in opposing the tyrannical forces that were crushing them they added stature and meaning to their lives."

Roy Wilkins and Whitney Young and the organizations they represent are often defamed in many circles allegedly because they are too closely allied with white people, middle class black people, and in general, the so-called establishment or power structure. These men fought for black equality when it was not fashionable to do so, and while you may not presently agree with their approach, their reward for a life time of labor in the struggle for freedom should not be a frustrated chorus of ignorant prattle by lesser black men whose trademark is a sign of destruction rather than upward reach.

It would be idle for anyone to claim that there is no substantial justification for the widespread frustration and disillusion which has swept like a smothering smoke over much of black America. Most of us spend our lives knowing we are constantly pressed to the wall. There is nothing new in this. Many a young black man has hurled at the whole white race an ego satisfying—"to the wall incestuous son"—does not realize that he is not being creative, but is only adding obscenity to the last two lines of the poem of defiance written by the black poet, Claude McKay, in 1919 entitled "If We Must Die," in which he wrote:

"Like men we'll face the murderous cowardly pack
Pressed to the wall, dying, but fighting back."

With those lines Claude McKay may well have put his pen on the very essence of black culture, especially if we define culture of an ethnic group as commonly shared experiences and attitudes. It is entirely possible, and maybe even probable, that the only commonly shared experience and attitude among black people in America is the feeling that we are eternally pressed to the wall, and as a result of it we must spend a major portion of our time fighting back. Since I am only a country boy elevated to the high status of a very successful small town lawyer, the social scientists will naturally tear into my theory of black culture on the ground that my credentials do not shine with sufficient academic brilliance. My answer is that I do not have the impediment of academic training in the social science disciplines of Robert E. Park or William F. Ogburn of the University of Chicago School of Sociology, and am hence free to think for myself in this field. I am both ignorant and brazen enough to advance a thesis of my own.

Protest has been the common threat which has bound black people together from Chrispus Attucks to Frederick Douglass to W. E. B. DuBois, to Martin Luther King to Nathan Hare. Sever that common thread and you then must identify us only by rich and beautiful skin color or full, warm inviting lips.

This constant thread which I call a culture of protest may be documented. Phillis Wheatly, a talented black woman whose American life was largely lived in the protective custody of a nice white Boston family wrote in 1776 to the Earl of Dartmouth as follows:

"Should you, my lord, while you pursue my song,
Wonder from whence my love of freedom sprung,
Whence flow these wishes for the common good,
By feeling hearts best understood."

Certainly, no one could call Miss Wheatly a black militant or a revolutionary. She was more nearly a true Black Anglo-Saxon. Yet protest and a desire for freedom sprang from her, which by her, was understood. Later in the same poem she expressed the sorrow and pain her parents must have experienced when she, as a mere baby, was cruelly snatched from the breast of her mother in Africa by greedy white men bent upon the rape of that fair land and its people.

Frances E. Harper, another black woman of talent, wrote a poem to her white sisters ten years before emancipation which contains this stanza:

"Weep not, oh, my well sheltered sisters,
Weep not for the Negro alone,
But weep for your sons who must gather
The crops which their fathers have sown."

A black man was so shocked by the taking of the territory of the Seminole Indians in Florida that he wrote a poem which he entitled "The Rape of Florida". Since he was black, and had always felt pressed to the wall by white racism, even his Indian poem was filled with flashes of black concern and pride. He asked:

"Is manhood less because man's face is black?" In the same poem he replied:

"Oh, let me see the Negro night and morn,
Pressing and fighting for place and power!
All earth is peace—all time the auspicious hour.
While earth leans forth to look, oh, will he
Quale or cower?"

W. E. B. DuBois, one of America's truly great thinkers, though trained as a Ph. D. at Harvard, found that his, too, was ordained to be a life of protest. During the Atlanta race riots in 1906, he wrote in his "A Litany of Atlanta":

"Sit no longer blind, Lord God,
Deaf to our prayer and
Dumb to our suffering."

With characteristic skepticism of the true intellectual he then meditatingly asked:

"Surely Thou too art not white,
O Lord, a pale, bloodless, heartless thing."

When pressed to the wall by the violent excesses of white racism against his people, Dr. DuBois not only lost faith in man's ability to restrain his animal instincts, but he also began to doubt God, and to doubt the validity of the American Dream.

Even Booker T. Washington, one of the most maligned of all black leaders of the past, also protested against injustices of his people. In the New Republic in 1915 he wrote that racial segregation was not only morally wrong, but that it did actual harm to both races. His suggested compromise in his earlier Atlanta Exposition speech was carefully limited in its apparent endorsement of racial segregation to "things purely social." What, in effect, he said was that black people should place a high priority upon economic advancement and education, and give little concern about mixing with white people in the social amenities. There is no immeasurable gulf between what he said and what the late great Malcolm X taught. While I do not believe that either of them was completely right, I believe each was great and deserves accolades rather than hoots because each was black and each left us monuments of value which will be beacon lights for struggling black youth long after their detractors are dead, gone, rotten and forgotten.

What, you may well ask, has all this got to do with Integration vs. Black Nationalism. I say it has everything to do with it, because too many black nationalists now claim that black pride, black protest and a recognition of self-worth and black beauty are their newly discovered values. It just is not so. From the time of their first enslavement, black people, being pressed to the wall, have been a people of protest. Our singular culture has been our uniform historical response to protest of this feeling of being forever pressed to the wall. It is truly our only commonly shared experience, and it is the only common denominator shaping all our attitudes about everything we say or do. It affects the Black Bourgeoisie which came to obsess E. Franklin Frazier; it concerns the Black Anglo-Saxons about whom Dr. Nathan Hare has so skillfully but scornfully written; it haunted Claude McKay, W. E. B. DuBois, Booker T. Washington, Walter White, J. Weldon Johnson, Roy Wilkins and Martin Luther King. It drove the black masses in Watts to riot, and now occupies almost the full time and efforts of our brightest intellectual symbols such as Hare, Killens, McWorter, Cobbs and Goodlett.

The involvement in the culture of protest knows no class lines among black people. When a Proposition 14 in California threatened to relegate all black people to residential reservations and preserves, the boundaries of which are fixed by white people, it was the late black champion Loren Miller and myself who first shouldered armor to thrust back this threat. We gave not only our talents and our time, but we even personally paid the costs of filing complaints and printing briefs.

Upper middle class doctors like Carlton Goodlett and Price Cobb have literally poured their life blood into the struggle for black freedom. Nearly 400,000 ordinary black citizens have joined in support of the NAACP, while thousands of others have been, or are affiliated with hundreds of organizations with lesser numbers. The God fearing blacks still hear sermons of pride, civil and social uplift, and protest in their churches. Black elected officials, be they pitifully small in number, are expected to, and by and large do, wage the war against racism in the Congress, state legislatures, boards of supervisors and city councils of this nation. Black garbage men protest and strike in Memphis, black hospital workers in South Carolina expose the racist oppression of those who assist those more highly skilled and paid, and the poor protest their inability to eat regularly in a nation so rich and unwise that it can squander billions in support of a corrupt regime in South Viet Nam and a fascist one in Spain, while its own people remain poor, hungry, frustrated and disillusioned.

Yes, black lips sing a unified song of freedom in America. They differ only in how it shall be achieved. Most of us agree that our ancient condition of virtual human bondage must cease without further delay. In this respect we are one and all revolutionaries, even though we differ widely in our methods of waging the war.

Some of us have been taught and believe that the way to the promised land of freedom and opportunity is through integration of black people into the mainstream of American life. We characterize our view as equality of opportunity for all people, without regard to race or color. Nevertheless, we recognize that our lofty goal has not been reached. For that reason, we too continue to feel pressed to the wall, dying, but always fighting as black men with pride and honor.

The case for integration is very simple. White people have the power and the money. Because they have largely kept us on the outside looking in, they also have most of the technological know-how so necessary for survival in this modern age. We helped them get rich. In a real sense they have our money and we do not intend to walk away poverty stricken, with the money earned by our labor drawing interest for them in their banks, and the power attained by our blood resting exclusively in their hands. America is our nation and our destiny is inexorably entwined with hers. When she is wrong as in Viet Nam, or in her relationship with us, we protest, but we strive to change but not destroy her, to improve her but preserve the unquestioned good she already manifests.

Again, let the poet of protest, Claude McKay, speak for us in his poem entitled simply, "America":

"Although she feeds me bread of bitterness,
And sinks into my throat her tiger's tooth,
Stealing my breath of life, I will confess
I love this cultured hell that tests my youth!
Her vigor flows like tides into my blood,
Giving me strength erect against her hate.
Her bigness sweeps my being like a flood,
Yet as a rebel fronts a king in a state,
I stand within her walls with not a shred
Of terror, malice, not a word of jeer.
Darkly I gaze into the days ahead,
And see her might and granite wonders there,
Beneath the touch of time's unerring hand,
Lie priceless treasures sinking in the sand."

Black nationalists may scorn our approach and claim with much justification that it has not freed us. Our answer is that all things are relative, and a more accurate statement would be that it has not wholly freed us because it has never been fully tried. Only those blind to our history in this country could seriously claim that significant strides toward freedom have not been made. All of us agree that these steps have been too feeble and too slow, but they have, nevertheless, left their footprints upon the sands of time.

As a little black boy in Snow Hill, Alabama, I saw the public school bus loaded with white kids whiz by me and splash mud on me as the white youngsters threw spit balls and yelled nigger! nigger! Now the public school bus must remain in the garage unless it is willing to carry black children also. Thirty years ago I rode the back of the bus to visit my mother in Alabama, but when I went to her funeral a few years ago I flew into Montgomery, refused to stay in the once lily-white Jeff Davis Hotel because it was dilapidated for my newly acquired taste, and rode around Montgomery in the front of the bus for the hell of it. The University of Alabama is open to my son if he wants that kind of education, yet my application there twenty-five years ago was revolutionary indeed. In voting, black lethargy is a far greater threat than any white primary ever was. A black man has been in the Cabinet and one sits on the Supreme Court. White men have been refused their seats there because we objected.

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We are not disciples of the status quo, nor even moderation. We advocate instant change, and to that extent we are revolutionary. Yet we still have faith because of what the past has taught us. We have hope because we still believe in the viability of the American dream, and expect to make it come true for us and our posterity.

America is our nation. We have helped to make it what it is today. Some of its greatness is our greatness. Much of its wealth is our wealth. Likewise, many of its sins are our sins, and much of its sickness is ours as well.

While in many respects it has been tragic that for over a hundred years black men have had to turn their best efforts and thoughts to protest of their condition, America has benefited from this situation immensely. Black men are primarily responsible for America making most of its feeble steps toward political and social democracy.

When the fourth of July orators give forth with their eloquent tributes to this land of the free and home of the brave, they conveniently forget, or in ignorance do not know, that prior to the advent of the black man as a political concern in American life, this was truly a republican federation of independent states. The cherished Bill of Rights had practically no meaning in the lives of the American people. They only meant that Congress could not curb free speech. Congress could not exercise prior censorship on the press. Federal authorities could not engage in unreasonable searches and seizures. But how state and local authorities censored the press or gathered evidence was not a national concern. The right to a fair trial in state courts, by a jury of one's peers, the right to be free from coerced confessions, to have a lawyer of one's own choosing, the right not to have the hell beat out of you by a state or local policeman, are all rights placed into the Constitution by the 14th Amendment to protect black people, and refined and given validity by cases brought by black men. Even the concept of equal protection of the law is as black as the ace of spades. It does not appear in the Bill of Rights, but rather is an innovation injected into the body of our law by the 14th Amendment.

At great sacrifice to our lives and our development in other arenas, black men taught America the true meaning of democracy. Nine black Scottsboro boys taught her the need for the right to counsel. We showed her the dangers in mob violence by the sacrifice of our blood, and in general, infused life into the Bill of Rights by making them applicable to state and local governments, from whence the threat of oppression so often comes. Because of us, equal protection became a cornerstone of our jurisprudence, and by reason of our persistence, insights and legal creativity, that principal now stands as a bulwark between each individual and every group of every race or color, interdicting invidious classifications which governmental laws and functionaries might otherwise make among our citizens. Whatever legal restraints exist in this country against police brutality are the result of laws designed primarily for the protection of black people. In short, our presence and our protests have given to, or forced upon, America those attributes which distinguish it, in philosophy and law at least, from all the powerful governments which have been born and died before, and also from most of those which exist contemporaneously with it.

We, then, are integrationists because our beloved country is deeply indebted to us and we do not wish to disengage with this great obligation hanging over her head. We also believe in integration because while it has never been given a fair trial, segregation certainly has. Separatism failed us and it failed America. There is no reason to believe that some new nobility has been accorded the old doctrine of separate but equal which so readily accommodated to our enslavement at a time when we should have long been free.

Some black nationalists urge a separate black nation for us in the southeast corner of Dixie. Why they chose an American wasteland of worn-out soil, depleted forests and mines and minimum industrial development, and tobacco roads, is a mystery to me. It could be that they felt that white America would never give them any territory worth very much. One trouble with that plan is that most black Americans were born there and have left for good. Quite seriously, such a separate state idea seems impossible of attainment, and fraught with all the dangers any small satellite nation has with reference to a giant neighbor. An independent foreign policy would be impossible, and unless domestic policy would be geared to the American economy tall fences and thick walls would be required to keep people in or out.

Another possible form of black nationalism is some form of black hegemony within specified enclaves throughout the states and cities of America. An effort could be made to have our own institutions, officials and economy. I just do not believe it will happen. Perhaps Dr. Hare will tell us the kind of black nationalism he has in mind. If he means maximum unity among black people for the achievement of common goals arrived at by a democratic exchange of views and votes, we wish him Godspeed. Otherwise we must go our separate ways, but we too shall remember that all of us must heed and repeat again and again the charge given us by Claude McKay when he wrote:

"Like men we'll face the murderous cowardly pack,
Pressed to the wall, dying but fighting back."

No matter which route we take to freedom all of us must believe in ourselves and our people. We must repeat and live by the refrain of Langston Hughes who wrote of his black people:

"The night is beautiful
So the faces of my people
The stars are beautiful
So the eyes of my people
Beautiful, also, is the sun
Beautiful, also, are the souls of my people."

Let me conclude by saying that those of us who really know and love our people, need not run, need not hide, need not separate, need not crawl, but will walk like Langston Hughes' new Black Joe. We'll be walking proud, talking loud, announcing to the world that we are the new Black Joe.

FAIR IMMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RYAN) is recognized for 30 minutes.

Mr. RYAN. Mr. Speaker, yesterday, March 17, was St. Patrick's Day and the Nation wore green. In New York City alone, 125,000 marched up Fifth Avenue, lead by John Kerry O'Donnell, the grand marshal of the parade. As the counsul general of Ireland, Charles V. Whelan, said in pointing to Judge James J. Comerford, the parade chairman:

> Indeed, they had Judge Comerford come over from New York to Dublin as the expert on this kind of thing.

For one day, America was the auld sod.

Again this year the American Irish National Immigration Committee marched behind a banner reading "Fair Immigration Laws for Ireland. Write Your Congressman."

The significance of that banner was illustrated by a story which appeared on St. Patrick's Day in the Washington Post and headlined: "Irish Woman in Jail Still Chooses U.S." As the story begins:

> Caitriona Nessa Lane, 37, Irish, alone and out of work, heard the gate of an Alexandria jail clang shut yesterday on what may be the end of her dreams.
>
> The United States Immigration Service has charged Miss Lane, who came here in 1966, with overstaying her three week visa.

Miss Lane was quoted as saying:

> As far as I'm concerned, there's only one country—the United States.

Miss Lane's sentiments are shared by many of her Irish brethren. Yet, under present law, opportunities for her countrymen to emigrate to America are practically nonexistent.

Since 1820, more than 44 million people have immigrated to the United States. More than 10 percent of these—4,711,113—have come from Ireland. Yet last year, only 960 Irish immigrants were allowed to enter this country. These figures are not just numbers—they represent human beings, seeking to better themselves, looking to America as a country where they can do so, and offering the contributions of their minds and their labor.

The cause for this severe limitation in immigration—a limitation which I want to emphasize has similarly affected several other nations—lies in the unanticipated inequities consequent upon enactment of the Immigration and Nationality Act of 1965.

Although the 1965 act eliminated—and properly so—the inequitable national origins quota system, it set up a system of preferences and a labor certificate requirement which have had the unexpected effect of barring the entrance of "new seed" immigrants.

Allocations of numbers for persons born in areas other than the independent countries of the Western Hemisphere are governed by 8 U.S.C. 1153(a), which prescribes categories as follows:

First preference—unmarried sons and daughters of U.S. citizens: not to exceed 20 percent of the overall limitation of 170,000 in any fiscal year;

Second preference—spouses and unmarried sons and daughters of aliens lawfully admitted for permanent residence: not to exceed 20 percent of the overall limitation plus any numbers not required for first preference;

Third preference—members of the professions or persons of exceptional ability in the sciences and arts: not to exceed 10 percent of the overall limitation;

Fourth preference—married sons or daughters of U.S. citizens: not to exceed 10 percent of the overall limitation, plus any numbers not required by the first three preference categories;

Fifth preference—brothers and sisters of U.S. citizens: not to exceed 24 percent of the overall limitation, plus any numbers not required by the first four preference categories;

Sixth preference—skilled and unskilled workers in short supply: not to exceed 10 percent of the overall limitation;

Seventh preference—refugees: not to exceed 6 percent of the overall limitation;

Nonpreference—other immigrants: numbers not used by the seven preference categories.

A prerequisite for nonpreference classification is a labor certification under 8 U.S.C. 1182(a)(14), or satisfactory evidence that provisions of that section do not apply to the alien's case.

Unfortunately, good intentions have had bad results. Aimed at ending the obnoxious national origins system which was really a disguise for barring eastern Europeans by keying immigration quotas to the number of members of their national group in this country in 1920—the new system, which took full effect on July 1, 1968, has severely limited Irish immigration, as well as that of other western European groups.

In fiscal year 1966, preference and nonpreference visas issued in Dublin—the only place in Ireland where visas are issued—totaled only 2,130. In fiscal year 1967, this number dropped to 1,625. In fiscal year 1968, the total was 2,167.

And in fiscal year 1969, ending on June 30, 1969, the first fiscal year in which the Immigration and Nationality Act of 1965 was fully in effect, the decline was even more drastic. The total number of preference and nonpreference visas issued in Dublin amounted to 538. The past 8 months show no improvement in this picture; the figure from July 1969 through February 1970 stands at 363.

Needless to say, this situation has been of great concern to many Members of the House. In 1965, when the new Immigration and Nationality Act was being considered by the Congress, we were assured by the Department of State that under its provisions Ireland would be able to qualify for approximately 5,200 places per year. As the statistics all too clearly show, this prediction missed the mark by far. The number of immigrants from Ireland has fallen far below the yearly average of 7,000 which existed for the decade prior to 1965.

Two years ago, I introduced legislation to make additional visas available to nationals of those countries where the average immigration has declined sharply as a result of the 1965 Immigration and Nationality Act. This past year, on the opening day of the first session of the 91st Congress, I again introduced this legislation as H.R. 165. Seventy-seven Members of the House have either cosponsored this bill, or its companion bills—H.R. 166, H.R. 3841, and H.R. 6540—or have introduced identical bills. A list of these Representatives will be appended at the end of my remarks.

Thus far, there has been no action on these bills by the Immigration and Nationality Subcommittee of the Committee on the Judiciary. That such action is necessary does not need my recitation alone; the subcommittee last December 10 heard the testimony of John P. Collins, national chairman of the American Irish National Immigration Committee, whose remarks, which I inserted in the CONGRESSIONAL RECORD, volume 15, part 29, at pages 38896 through 38899, amply portrayed the problem. Mr. Collins had testified previously on July 3, 1968, at which time he stressed the urgent need for action. What Mr. Collins said last December to that subcommittee is equally well addressed to all of us:

> Mr. Chairman, Members of the Congress, we believe we're entitled to a better day and a better law. We regard each of you distinguished members of the Congress as being sympathetic to the plight of the prospective Irish immigrant. We beg you now to channel that sympathy into an effective solution.

That solution is offered by H.R. 165, which I will detail briefly.

H.R. 165 assures that no nation would suffer a severe reduction in its level of immigration to the United States as a result of the provisions of the Immigration and Nationality Act of 1965.

The bill provides that a "floor" would be established for every nation, based on its average level of immigration to the United States during the decade prior to the enactment of the 1965 act—that is, during the years 1956 through 1965. This "floor" would in no way be based on the former quota, but only on the actual numbers which came in during these years. It is equivalent to 75 percent of the annual average level of immigration during the 1956–65 base period, or 10,000 individuals, whichever is less.

To the extent that immigration falls below the "floor" for a given fiscal year, extra numbers of visa spaces—above and independent of the worldwide quota—would be provided the following year, so that total immigration reaches the established "floor."

One point should be very clear—H.R. 165 is not in any way a return to the old national origins quota system, abolished in 1965. But it is an attempt to correct the inequities of the new law. Reform which, in turn, creates inequity must, in turn, be reformed.

In the case of Ireland, which sent an average of 7,000 individuals during the base period 1956–65, about 5,300 places—that is, 75 percent of 7,000—would be established as the floor for Irish immigration. Clearly, this reform would, therefore, be of benefit to Irish citizens seeking to emigrate to the United States. On the other hand, the bill insures that no country whose immigration levels had improved as a result of the 1965 act—the contrary case to that of Ireland—would be adversely affected.

H.R. 165 also resolves the problem created by 8 U.S.C. 1182(a)(14), which establishes the labor certificate requirement. This resolution is achieved by providing that the provisions of section 1182(a)(14) shall not apply to immigrants entering under the category established by the bill.

An explanation of section 1182(a)(14) shows the need for this reform. Until December 1965, an unskilled immigrant could enter the United States unless the Secretary of Labor refused to approve his entry and made a specific finding that there were sufficient workers available at the alien's proposed destination, or that the wages and working conditions of workers in this country would be adversely affected. The burden was, therefore, on the Secretary of Labor to foreclose entry.

Under the revised section 1182(a)(14),

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the immigrant now shoulders the burden. He or she must demonstrate why his petition for entry should be approved. The difficulty presented an unskilled young man or woman, situated in Dublin or in some small Irish village, in making his case, acts as a significant bar to emigration.

And yet this bar is really unnecessary, since it applies to only a comparative few. Comparative by our standards, that is. To the potential immigrant seeking entry, the bar is a very personal one, foreclosing his opportunity for a new life.

According to the Department of Labor, immigration accounts for about one-eighth of the annual additions to the total labor force. So, the effect of immigration on our labor market is not overwhelming in any event. Moreover, more than 150,000 immigrants in the preference categories can enter the United States each year, free of any labor restrictions. Only the small remainder of immigrants in the third preference, sixth preference, and nonpreference categories must pass the barrier erected by section 1182(a)(14). Clearly, the hurdle set up to bar these immigrants—few in number, but each one an eager individual intent on reaching our shores and creating a new life for himself—is unnecessary, given the small number it bars.

Thus, by virtue of H.R. 165's lifting the bar of section 1182(a)(14), many more young men and women will be able to take advantage of available visa spaces. Thereby, new seed immigration—beneficial to our own country—will be enabled from every nation which has suffered a decline in emigrants as a result of the 1965 act.

Mr. Speaker, I again urge, as I have done in the past, that the Subcommittee on Immigration and Nationality of the Judiciary Committee give highest priority to this reform of the 1965 act, and that it take immediate and effective action to deal equitably with the unanticipated, but all too real, effects of the 1965 act.

At this point, I include in the RECORD the list of 77 Representatives who have sponsored H.R. 165 and companion bills:

Joseph P. Addabbo of New York.
Frank Annunzio of Illinois.
William A. Barrett of Pennsylvania.
Mario Biaggi of New York.
Jonathan Bingham of New York.
Edward P. Boland of Massachusetts.
Frank T. Bow of Ohio.
Frank J. Brasco of New York.
James A. Burke of Massachusetts.
Phillip Burton of California.
Daniel E. Button of New York.
James A. Byrne of Pennsylvania.
Hugh L. Carey of New York.
Jeffrey Cohelan of California.
Harold R. Collier of Illinois.
Dominick V. Daniels of New Jersey.
James J. Delaney of New York.
John H. Dent of Pennsylvania.
Edward Derwinski of Illinois.
Harold Donohue of Massachusetts.
Thaddeus Dulski of New York.
Leonard Farbstein of New York.
Peter H. B. Frelinghuysen of New Jersey.
Samuel N. Friedel of Maryland.
James G. Fulton of Pennsylvania.
Cornelius E. Gallagher of New Jersey.
Robert N. Giaimo of Connecticut.
Jacob Gilbert of New York.
Henry Gonzalez of Texas.
William Green of Pennsylvania.
James R. Grover of New York.
Seymour Halpern of New York.
Margaret M. Heckler of Massachusetts.
Henry Helstoski of New Jersey.
Charles S. Joelson of New Jersey.
John C. Kluczynski of Illinois.
Edward I. Koch of New York.
Clarence D. Long of Maryland.
Allard K. Lowenstein of New York.
Torbert Macdonald of Massachusetts.
Richard McCarthy of New York.
Joseph McDade of Pennsylvania.
Martin B. McKneally of New York.
Ray J. Madden of Indiana.
Thomas J. Meskill of Connecticut.
Abner Mikva of Illinois.
Joseph G. Minish of New Jersey.
John S. Monagan of Connecticut.
John M. Murphy of New York.
William T. Murphy of Illinois.
Robert N. C. Nix of Pennsylvania.
Thomas P. O'Neill of Massachusetts.
Richard L. Ottinger of New York.
Edward J. Patten of New Jersey.
Philip J. Philbin of Massachusetts.
Otis Pike of New York.
Bertram Podell of New York.
Adam C. Powell of New York.
Roman Pucinski of Illinois.
Henry S. Reuss of Wisconsin.
Ogden Reid of New York.
Daniel J. Ronan of Illinois.
Benjamin S. Rosenthal of New York.
William F. Ryan of New York.
Fernand St Germain of Rhode Island.
William St. Onge of Connecticut.
Charles W. Sandman, Jr., of New Jersey.
William Stanton of Ohio.
Robert Taft of Ohio.
Frank J. Thompson of New Jersey.
Robert O. Tiernan of Rhode Island.
Joseph Vigorito of Pennsylvania.
Lowell P. Weicker of Connecticut.
Charles W. Whalen, Jr., of Ohio.
Lester L. Wolff of New York.
John W. Wydler of New York.
Gus Yatron of Pennsylvania.

I include at this point in the RECORD a table prepared by the Department of State showing visas issued, conditional entries, and adjustments of status granted immigrants born in Ireland for fiscal years 1965, 1966, 1967, and 1968. It includes month-by-month statistics for fiscal year 1968 and for fiscal year 1969 through December 1969:

VISAS ISSUED, CONDITIONAL ENTRIES, AND ADJUSTMENTS OF STATUS GRANTED IMMIGRANTS BORN IN IRELAND

Year and place issued	Preference							Nonpreference	Nonquota	Immediate relative	Special immigrant	Special legislation	Total
	1st	2d	3d	4th	5th	6th	7th						
Fiscal year 1965:													
Dublin			3	8				3,825	13				3,849
Elsewhere			1	3	(1)	(1)	(1)	1,481	44	(1)	(1)		1,529
Adjustments of status	1		1					183					185
Total	1		5	11				5,489	57				5,563
Fiscal year 1966 (July to November):[2]													
Dublin				11				1,781	4				1,796
Elsewhere				1	(1)	(1)	(1)	557	21	(1)	(1)		579
Adjustments of status								72					72
Subtotal (July to November)				12				2,410	25				2,447
Fiscal year 1966 (December–June):[2]													
Dublin	1	12	4		93			238		39	56		433
Elsewhere	1	6	1	1	44			142	(1)	48	20		263
Adjustments of status		1	1	1	21			21					45
Subtotal (December–June)	2	19	6	2	158			401		77	76		741
Total													3,188
Fiscal year 1967:													
Dublin	7	52	3	2	333	6		1,222		124	111		1,860
Elsewhere		7		5	108	2		561	(1)	77	45		805
Adjustments of status		9		1	59	4		78					151
Total	7	68	3	8	500	12		1,861		201	156		2,816
Fiscal year 1968:													
Dublin	4	40			464	1		1,658		117	92		2,376
Elsewhere	1	16		5	178			897	(1)	94	52		1,243
Adjustments of status	1	14			108	1		175					297
Total	6	70		5	748	2		2,730		211	144		3,916

Footnotes at end of tables.

VISAS ISSUED, CONDITIONAL ENTRIES, AND ADJUSTMENTS OF STATUS GRANTED IMMIGRANTS BORN IN IRELAND—Continued

Year and place issued	Preference							Nonpreference	Nonquota	Immediate relative	Special immigrant	Special legislation	Total
	1st	2d	3d	4th	5th	6th	7th						
Fiscal year 1968:													
July:													
Dublin		1	2			15			127	12	4		161
Elsewhere						4			56	7	3		70
Total		1	2			19			183	19	7		231
August:													
Dublin			2			14			124	9	13		162
Elsewhere			1			10			56	10	4		81
Total			3			24			180	19	17		243
September:													
Dublin			1			28			121	6	11		167
Elsewhere			1			8			38	5	5		57
Total			2			36			159	11	16		224
October:													
Dublin			5			37			108	11	9		170
Elsewhere			2		1	14			59	8	1		85
Total			7		1	51			167	19	10		255
November:													
Dublin			7			20			81	7	7		122
Elsewhere						7			59	5	2		73
Total			7			27			140	12	9		195
December:													
Dublin		1	1			14			33	7	5		61
Elsewhere		1	2		3	6			66	14	7		99
Total		2	3		3	20			99	21	22		160
January:													
Dublin			3			32			99	14	11		159
Elsewhere			3			11			49	9	5		77
Total			6			43			148	23	16		236
February:													
Dublin						43			77	10	8		138
Elsewhere					1	6			64	4	1		76
Total					1	49			141	14	9		214
March:													
Dublin		1	4			39			62	12	4		122
Elsewhere			3			17			51	5	4		80
Total		1	7			56			113	17	8		202
April:													
Dublin			1			41			119	17	8		186
Elsewhere			2			29			57	10	3		101
Total			3			70			176	27	11		287
May:													
Dublin			3			46			230	5	4		288
Elsewhere			1			34			153	14	7		209
Total			4			80			383	19	11		497
June:													
Dublin		1	11			135	1		477	7	8		640
Elsewhere			1			32			189	3	10		235
Total		1	12			167	1		666	10	18		875
Total:													
Dublin		4	40			464	1		1,658	117	92		2,376
Elsewhere		1	16		5	178			897	94	52		1,243
Adjustments of status		1	14			106	1		175				297
Grand total		6	70		5	748	2		2,730	211	144		3,916
Fiscal year 1969:													
July:													
Dublin										10	13		23
Elsewhere			1			5				17	3		26
Total			1			5				27	16		49
August:													
Dublin		1	2							6	10		19
Elsewhere		1	2							10	5		18
Total		2	4							16	15		37
September:													
Dublin		1	1							11	17		30
Elsewhere			11	1		8	2			7	1		30
Total		1	12	1		8	2			18	18		60
October:													
Dublin			2			22				27	16		67
Elsewhere			7		2	46				9	5		69
Total			9		2	68				36	21		136

Footnotes at end of table.

Year and place issued	Preference							Nonpreference	Nonquota	Immediate relative	Special immigrant	Special legislation	Total
	1st	2d	3d	4th	5th	6th	7th						
Fiscal year 1969—Continued													
November:													
Dublin			4			27				13	19		63
Elsewhere			4			35	2			8	4		53
Total			8			62	2			21	23		116
December:													
Dublin		1	2			9				7	6		25
Elsewhere			6	1	1	30	13		8	16	2		77
Total		1	8	1	1	39	13		8	23	8		102
One-half year totals:													
Dublin		3	11			58				74	81		227
Elsewhere			17	2	3	62	5		5	67	20		181
Adjustments		1	14			62	12		3				92
Total		4	42	2	3	182	17		8	141	101		500

[1] Not applicable.

[2] Prior to amendment of Oct. 3 1965 (Public Law 89-236).

I include at this point in the RECORD tables for immigrant visas issued at Dublin to applicants born in Ireland for the period January 1969 through December 1969, and for January and February 1970:

IMMIGRANT VISAS ISSUED AT DUBLIN TO APPLICANTS BORN IN IRELAND JAN. 1, 1969, THROUGH DEC. 31, 1969

	January	February	March	April	May	June	July	Aug. 1 to Nov. 31	December	Total
1st preference			1			2		3	1	7
2d preference	8	3	12	12	7	5	1	33	4	85
3d preference										
4th preference		1	6	3	1		1	9		21
5th preference	16	8	17	24	24	41	29	73	26	258
6th preference	2	8	19	17		9		47		102
7th preference										
Nonpreference			1	20	44	155	11	32	3	266
Subtotal	26	20	56	76	76	212	42	197	34	738
Immediate relatives	5	9	7	9	16	10	9	45	7	117
Special immigrants	9	7	6	8	8	8	12	38	8	104
Total	40	36	69	93	100	230	63	280	49	960

IMMIGRANT VISAS ISSUED AT DUBLIN TO APPLICANTS BORN IN IRELAND, JAN. 1, 1969, THROUGH FEB. 28, 1970

	January	February	Total
1st preference	2		2
2d preference	4	1	5
3d preference			
4th preference			
5th preference	20	27	47
6th preference	17	13	30
Nonpreference	4	2	6
Subtotal	47	43	90
Immediate relatives	5	4	9
Special immigrants	5	4	9
Total	57	51	108

I also wish to include the advertisement of the American Irish National Immigration Committee which appeared in the New York Times on March 17, 1970:

IRISH NEED NOT APPLY

In the old days that meant anti-Irish discrimination in jobs. Today it means immigration policy that lets only a trickle of Irishmen qualify for U.S. visas in Dublin. Consider the figures: Before the 1965 law was passed 5,000 to 7,000 Irish emigrated to America each year. Projections for this year show that less than 700 will receive U.S. visas.

There is a bill before Congress now that could help correct this injustice. It is H.R. 165, co-sponsored by 78 concerned Congressmen. And, of course, warmly endorsed by the American Irish Immigration Committee—Protestants, Catholics and Jews working together for a fairer immigration policy.

You can help the Irish, and other nationalities suffering from the 1965 law. Write to:

Your Congressman, House Office Building, Washington, D.C., or

Rep. Michael Feighan, House Immigration Subcommittee, House Office Building, Washington, D.C., or

Sen. Edward Kennedy, Senate Office Building, Washington, D.C.

Tell them the Irish need not apply policy must be changed.

AMERICAN IRISH NATIONAL IMMIGRATION COMMITTEE.
NEW YORK, N.Y.
JOHN P. COLLINS, *National Chairman.*

GENERAL LEAVE TO EXTEND

Mr. RYAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO ROBERT P. HOWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. McCLORY) is recognized for 60 minutes.

Mr. McCLORY. Mr. Speaker, a well-beloved and highly respected newspaperman, Robert P. Howard of the Chicago Tribune, is retiring in Springfield, Ill., on March 31.

Bob Howard, who joined the Tribune as a reporter in 1944, has been the Tribune's State capitol correspondent in Springfield since 1957.

It is not always easy for one in public life to comment objectively on the career and work of a political correspondent. However, in the case of Bob Howard, I have no hesitancy in acknowledging that he has been painstaking in his search for truth and accuracy, fair in his political judgments, and articulate in his description of political events and personalities as he found them at the State capitol in Springfield, Ill.

I have had the privilege of knowing Bob Howard since 1950 when I first became a member of the Illinois General Assembly. A short time later, I was introduced to his devoted wife, Eleanor, who was also formerly a newspaperwoman and whom he met when he worked with the Associated Press in Sioux Falls, S. Dak.

Following his work with the Associated Press, Bob Howard joined the editorial staff of the Chicago Sun before establishing his long tenure with the Chicago Tribune in 1944.

While Bob Howard has devoted his principal newspaper work to political reporting, he has been an avid student of history, collecting a substantial library of Illinois history. He served formerly as president of the Sangamon County Historical Society and is a member of the Civil War Round Table as well as other history oriented organizations. He contributed substantially to the work of the Illinois Sesquicentennial in 1968.

Bob Howard's reputation among his fellow newspapermen is evidenced by the fact that he is president of the Illinois Legislative Correspondents Association composed of newspapermen from all parts of the State assigned to Springfield.

I am proud to call these facts surrounding the life and work of Bob Howard to the attention of my colleagues in the House of Representatives, and to all throughout the Nation by whom the CONGRESSIONAL RECORD will be read.

In addition, I extend to Bob Howard my sincere congratulations and convey to him and his wife, Eleanor, as well as to their two daughters—Mrs. David Condon of Decatur, Ill., and Miss Jane Howard of New York City—my good wishes.

It is my further expectation that Bob Howard will enjoy many more useful years, and I shall look forward to special features, and perhaps a historical volume in which he records recent history in the Land of Lincoln.

Mr. MIKVA. Mr. Speaker, those of us who served in the Illinois General Assembly were lucky enough to have with us in Springfield an ex officio historian of Illinois legislative activities and of Illinois events generally. Bob Howard, who is winding up his active career in the newspaper field, did more than just cover his beat, although the way he covered his beat was not a minor happening. When any of us had difficulty remembering the precise facts of some past days, or had that legislative habit of recalling events not quite the way they had occurred, Bob Howard could be counted on to bring events into sharper focus, for which we were sometimes not too grateful, I might add.

I understand he is planning to put some of his Illinoisan knowledge together in a book. I am looking forward to reading some more of the sharp Howard prose, and hope we do not have to wait too long to learn more about Illinois. In the meantime, I join everyone who knows him in saluting the kind and generous Bob Howard, and wishing him a happy and active retirement.

Mr. ANNUNZIO. Mr. Speaker, I am delighted to join my distinguished colleague from Illinois, Hon. ROBERT McCLORY, in paying tribute to Bob Howard, the Springfield correspondent for the Chicago Tribune.

I met Bob Howard in 1948 in Springfield when I was appointed director of the Illinois Department of Labor in January of 1949, and during the ensuing 4 years that I spent in Springfield, I saw Bob almost daily and admired him for his honesty and integrity as a newspaperman.

Bob is a native of Iowa and graduated from Cornell College in Mount Vernon, Iowa. He first went to work for the Associated Press in the Sioux Falls, S. Dak., office and transferred to the Springfield, Ill., bureau in 1935. In addition to working for the Associated Press both in Springfield and Chicago and for the Chicago Tribune, he also held an editorial post with the Chicago Sun for several years.

Bob Howard has covered the national conventions of both major political parties since 1948 and is an outstanding political reporter. He is without peer in his field and is highly regarded by his fellow journalists, by the people in the news about whom he wrote, and by all those who had the opportunity to know him.

Because he is an expert on Illinois history, and flowers and trees native to the Illinois area, I know Bob is looking forward to his retirement on March 31, 1970, so that he can devote more time to pursuing his hobbies and perhaps some time to writing books.

On the occasion of his retirement, I want to express to Bob Howard my gratitude for his many years of service as a newspaper correspondent to our State and community and I want to wish him, his wife, and children abundant good health and much happiness in the years ahead.

Mr. DERWINSKI. Mr. Speaker, I join the other Illinois members of the House who served in Springfield and thus came to know, respect, and appreciate Bob Howard, the Chicago Tribune's outstanding reporter who is retiring at the end of this month.

. Bob Howard earned a well-deserved reputation for integrity, objectivity, and fairness in reporting issues relating to Illinois State government. In addition, he earned universal respect from the members of the press corps and the many members of the Illinois Legislature.

Knowing Bob, I believe that he will be extremely active in his retirement pursuing his hobbies and finding time perhaps to publish his recollections of the 40 years of Illinois legislative history that he has helped cover.

Mr. ROSTENKOWSKI. Mr. Speaker, no function is more vital to the survival of our free society than that performed by the distinguished members of the fourth estate. From the very beginning of our Nation's national life, newsmen and journalists have informed both the public and those who represent them in government about the critical issues confronting the country.

With the retirement of my long-time friend Bob Howard as Springfield correspondent for the Chicago Tribune, the people of the State of Illinois and the Tribune readers across the country will be losing the talents of a truly outstanding reporter. For Bob was not only a fair and honest newsman but he was always a man who tried to influence the best side of a legislator. From a personal point of view, I shall always be grateful for his sage counsel in those days when I was a young man and a newly elected member of the State Legislature.

In closing may I say that in the many years ahead I wish Bob the best of luck and the greatest happiness.

Mr. RAILSBACK. Mr. Speaker, on March 31, one of the most able and hardworking and dedicated reporters I have ever known will hang up his gloves. After years of covering the battles in the political wars—and in Illinois there are some full-scale conflicts—Bob Howard of the Chicago Tribune retires.

I remember when I was in Springfield as a legislator in the Illinois General Assembly I and my colleagues considered Bob clean of prejudice and unsullied with bias. Above all, Bob was a friend when I was in the legislature and I consider him to this day as close a friend as when I ventured forth into statewide politics years ago.

Bob, whose chief hobby has been the study of Illinois history and visiting historic shrines and areas throughout the Land of Lincoln, began his newspaper career in 1927. A veteran of the Associated Press and the Chicago Sun, Bob has covered politics since 1948. In 1957, Bob began his second stint covering politics in Springfield.

He is president of the Illinois Legislative Correspondents Association and president of the Sangamon County Historical Society.

Bob's talent and his reputation are being marked by the reporters and the politicians who worked closely with him on March 31 who will gather in the State's capital for a $20-a-plate dinner in his honor. Such a gathering of the State's highest ranking politicians and the most respected newspapermen and correspondents is eloquent testimony to the esteem this able reporter has garnered through the years.

Because of this, Mr. Speaker, I want to take this opportunity to commend my good friend. He has shown himself not only as my friend however, but as a true friend of Illinois.

Mr. MURPHY of Illinois. Mr. Speaker, I rise to join with my colleague, ROBERT McCLORY, in paying tribute to Mr. Robert P. Howard of Springfield, Ill. Mr. Howard, a reporter for the Chicago Tribune since 1944 and its State capital correspondent since 1957, announced recently that he is retiring on March 31.

It has been my privilege for the past 25 years to call Robert Howard a friend and I consider him to be one of the outstanding newspapermen with whom I have come into contact. I first met Bob Howard in 1944 when he joined the editorial staff of the Chicago Tribune and I served as a member of the Chicago City Council. As our friendship developed through the years, we discovered a mutual interest and enthusiasm in such diverse fields as State, local, and national politics, Illinois history especially relating to Abraham Lincoln, and flower gardening.

Not only is the Chicago Tribune losing one of its top reporters, but the citizens of the city of Chicago and the State of Illinois are losing one of their most incisive political and legislative analysts. As one who recently announced his own retirement, I know how much Bob Howard must be looking forward to pursuing his hobbies and special interests. Mrs. Murphy joins me in wishing both Mr. and Mrs. Howard much happiness in their new endeavors.

Mr. KLUCZYNSKI. Mr. Speaker, there is more than a strong likelihood that Bob Howard's retirement years will be richly active and productive ones. His energy, political acumen, and journalistic ability, shown during a newspaperman's career that began in 1927 and is to end on March 31, will find new outlets, new goals, and new achievements.

He has forgotten more about Illinois politics than most of us elected to office in Illinois are ever likely to learn. His mastery of Illinois history is not unrelated to his distinguished career as a newsman, and the book that he plans to write about Illinois history will undoubtedly be the best window ever opened on the Illinois political scene of the recent and distant past.

Over the years, Bob has proved that printer's ink does not impair the functioning of a green thumb. The flowers and trees that he has grown on his rural acres south of Springfield will now be given the full attention they require, if only he will take his nose out of the books of his unique collection of Illinoisiana.

This prodigy of the lobster-trick and the bulldog edition had his early lessons in public affairs from his father, the late James Raley Howard, who was the first president of the American Farm Bureau.

Bob's first job was with the Associated Press, in its Sioux Falls, S. Dak., office, where he put to the test of experience what he had been taught while earning a degree at Cornell College, Mt. Vernon, Iowa.

Moving to greater responsibilities in the Associated Press, Bob was transferred in 1935 to the Springfield, Ill., bureau and to the Chicago office in 1938. He went to the Chicago Sun in 1941 and then to the Tribune in 1944.

He has covered the national conventions of both parties for the Tribune since 1948, and he began his superlative reporting of the Illinois Legislature when he was assigned by his paper to Springfield in 1957. The wide respect and admiration in which he has been held for so long by his peers, resulted in his election as president of the Illinois Legislative Correspondents' Association.

Bob married his lovely wife, Eleanor, in 1934. They are the parents of two daughters, Mrs. David Condon of Decatur, and Miss Jane Howard, a feature writer for Life magazine in New York.

Bob glories in his duties as president of the Sangamon County Historical Society. May those duties, along with his horticultural and auctorial ones, increase and multiply to help keep his many great abilities fully employed during the golden time of his impending retirement years. I am proud to have been his friend for so long, and I am happy to have had this opportunity to express my high regard for his career and his character.

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GENERAL LEAVE TO EXTEND

Mr. McCLORY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the retirement of Robert P. Howard.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

RIEGLE SPEAKS OUT AGAINST CARSWELL NOMINATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. RIEGLE) is recognized for 15 minutes.

Mr. RIEGLE. Mr. Speaker, under normal circumstances the Senate alone concerns itself with the factors relating to Supreme Court nominations. In times as troubled as ours, however, consideration of Supreme Court nominees has urgent national meaning which goes far beyond the narrow issues of Senate, Supreme Court, or Presidential prerogatives.

The larger issues at stake today with the Carswell nomination are those of human rights, judicial excellence, and national unity—urgent issues of overriding national priority. As these issues bear directly and importantly on the 500,000 constituents I represent, and the country as a whole, I feel a responsibility to speak out against this sad nomination. In my judgment, the elevation of Judge Carswell to the Supreme Court does not serve the interests of the Nation or my constituents, and I believe the national interest would best be served if his name were either withdrawn or rejected by the Senate.

The situation we face today is different from that when Judge Carswell's name was first proposed by the President. In the weeks that have passed since that nomination, public evaluation of his record has produced the conclusion that Judge Carswell is lacking in even one distinguishing characteristic that would identify him as one of the top judicial minds in our Nation. On the contrary, evaluation of his record indicates that over 50 percent of his published opinions have been reversed by higher courts.

With a judicial record that is mediocre at best, most people who have followed this nomination closely believe that if Judge Carswell were from Michigan, Oregon, Massachusetts, or any other State outside the South, he would not have been seriously considered for nomination. Reluctantly, I have come to the same conclusion.

Like most others, I do not quarrel with the President's right to select a Supreme Court nominee from the South—or one who is a strict constructionist—if such a candidate can be found with exceptional judicial competence and achievement—someone who would strengthen the Court rather than weaken it.

It is discouraging to note that at a time when our entire judicial system—and most particularly the Supreme Court—suffers from a lack of public confidence and respect, that a man would be nominated who would diminish the image of the Supreme Court even further.

But the most urgent reason for opposing Judge Carswell does not relate to his lack of distinguishing qualifications, but rather to the negative symbolic meaning his confirmation would convey to the country at this time.

To blacks, and many other thoughtful Americans, the Carswell nomination is viewed as part of a larger strategy to reverse recent progress toward achieving equal rights for all Americans. Whether this is the intent or not, when the Carswell nomination is considered in the context of such things as the slowdown on school desegregation, the effort to diffuse the Voting Rights Act, the strident rhetoric of the Vice President, and the generally "low profile" of the administration on issues of racial equality—there is created an overwhelming body of circumstantial evidence which tends to confirm this theory and thus which further polarizes and divides the Nation. We need look no further than Lamar, S.C., for evidence of what these increasingly inflamed passions and divisions within our society can produce—or closer to home, we can share the shame of the Governor of Georgia passing out ax handles in the dining room of the U.S. Capitol.

It is clear to me that the No. 1 moral imperative in the United States today is to finally insure the full and equal rights of all our citizens. And, sadly, on even so fundamental a point as this, Judge Carswell's personal history is marred by instances concerning racial discrimination and denial. As a nation, we should insist, with one voice, that there is no room on the Supreme Court, or any other court, for anything less than full and vigorous support for insuring the constitutionally guaranteed equal rights for all Americans.

Going further, the younger people in our society are today urged to excel, to strive for excellence, and to believe in our institutions and work within them to achieve constructive change. But what kind of incentive for excellence do we provide when the top lawyers and most distinguished judicial minds are passed over in favor of Judge Carswell? The young people see this nomination as further evidence of what they consider to be an overt "southern strategy." Thus, many of the young sense a certain hypocrisy in calls for law and order when they look at the judicial system and conclude that Supreme Court appointments are made on the basis of partisan political calculation. The young have little respect for, or faith in, a system of law operated in this manner.

Finally, many middle Americans of all races, ages, and backgrounds are dismayed because they want a Supreme Court they can once again have faith and confidence in. They want fair, able men on that Court who possess integrity and the finest legal minds available. We do not act to enhance the stature and image of the Court, in the eyes of our people, when we appoint mediocre men for obscure reasons.

So for these reasons I feel compelled to speak out against the Carswell nomination. Should Judge Carswell's name be withdrawn or voted down it would be my hope that any new nominee would be a man who could truly help to bring the country together.

EMPRISE: LABELED BAD FOR RACING BY STATE OF NEW MEXICO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. STEIGER) is recognized for 15 minutes.

Mr. STEIGER of Arizona. Mr. Speaker, the New Mexico Racing Commission issued the following order as the result of an 11-hour-long hearing held on February 21, 1970, in Albuquerque, N. Mex.

The action has not been contested to this date.

In the New Mexico State Racing Commission, State of New Mexico

(Newco Industries, Inc. and Its Subsidiary, Ruidoso Racing Association, Inc., for Racing License)

ORDER

This matter coming on for final hearing before the New Mexico State Racing Commission in Albuquerque, New Mexico, on February 21, 1970, and the Commission having heard the testimony, considered all the evidence, together with the arguments and statements of counsel, and otherwise being fully advised in the premises, finds and concludes:

FINDINGS

1. The appellant was required by the Commission to disclose its financial condition, its financing arrangements and agreements, and its financial and contractual relationship to

the concessionaire, New Mexico Sportservice, Inc.

2. The applicant was required by the Commission to show that all persons to be connected with the race track, including, but not limited to, the concessionaire, would not be detrimental to the best interests of racing.

3. The applicant was required to conform to all pertinent New Mexico Statutes, together with all rules and regulations of the State Racing Commission, including, but not limited to, Rules 3.02(A) and 3.02(B).

4. The applicant failed to make a full disclosure of its financial condition, its financing arrangements and agreements, and its financial and contractual relationship to the concessionaire, New Mexico Sportservice, Inc.

5. The applicant misrepresented to the Commission the applicant's financial condition, its financing arrangements and agreements, and its financial and contractual relationship to the concessionaire, New Mexico Sportservice, Inc.

6. The applicant is now insolvent, in the sense that it cannot meet its financial obligations as they become due.

7. The control by the lender, Emprise Corporation, and its subsidiary, New Mexico Sportservice, Inc., by reason of the concession agreement and related agreements and financing arrangements, is such as to render New Mexico Sportservice, Inc. and Emprise Corporation the real party in interest in the application, is such as to render the applicant financially not responsible, and financially unable to successfully operate the track and also discharge its duties to the public; is such as to render the applicant, track owner, unable to properly police the concessionaire and otherwise to discharge its duties to the public; and, is such as to render the Commission unable to properly police the concessionaire and otherwise discharge its duties to the public.

8. In the racing community, Emprise Corporation and its subsidiaries have a bad general reputation for honesty and fair dealing.

9. It would not be in the best interests of racing, and it would be detrimental to racing, for Emprise Corporation to own or control the track at Ruidoso, by reason of the number of race tracks in the country that are owned and controlled by the said corporation.

10. The methods of operation of Emprise Corporation and its subsidiaries in the race track business, are detrimental to the best interests of racing and are not in the best interest of the public; and, it would not be in the best interests of racing and the public for Emprise Corporation and its subsidiary to have any control over the operation of the track at Ruidoso.

CONCLUSIONS

1. The applicant is not eligible to receive the license applied for.

2. It would not be in the best interests of racing for the application to be granted.

3. It would not be in the best interests of the general public for the application to be granted.

4. It would be detrimental to racing for the application to be granted.

Now, therefore, it is hereby ordered:

That the application filed by Newco Industries, Inc. and its Subsidiary, Ruidoso Racing Association, Inc., be and the same hereby is denied.

ROBERT M. LEE,
Chairman.
JOHN AUGUSTINE, Jr.
Member.
Dr. L. E. FARRELL,
Member.

THE OMNIBUS CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN), is recognized for 60 minutes.

Mr. HOGAN. Mr. Speaker, it is anticipated that the House will act tomorrow on one of the most important pieces of legislation ever considered for the District of Columbia. I refer to H.R. 16196, the so-called omnibus crime bill.

The President has given this legislation the highest priority and officials in the Department of Justice have been working on it intensely for over a year. Because of its complexity and its great importance, I have requested this time today to discuss some of the bill's features.

In his message of January 31, 1969, relating to the District of Columbia, President Nixon called for legislation providing for a reorganization and restructuring of the local court system and tools of criminal procedure to help in the war on crime in Washington. H.R. 16196 contains the administration's proposals to implement the program called for by the President.

Under the proposed legislation, all "local" jurisdiction will—over a 3-year period—be transferred from the Federal courts to a new superior court for the District of Columbia and the District of Columbia Court of Appeals. At the present time the Federal judges in the U.S. district courts and in the U.S. Court of Appeals are required to devote their time and energy to matters of a merely local nature. This legislation will also eliminate the confusion resulting from the present disagreement between the Federal and local courts as to whether certain criminal acts should be tried in the Federal courts as a felony or in the local general sessions court as a misdemeanor. Under H.R. 16196 all local offenses—felonies or misdeameanors—will be tried in the newly created superior court. In other words this legislation would give the District of Columbia a court system comparable to those of the States and other large municipalities. It will also provide additional judges and supportive personnel to help expedite the judicial process in Washington.

This new court system will also be unified. The expanded District of Columbia Court of Appeals will be the highest court in the jurisdiction, similar to a State supreme court. At the present time, the U.S. Court of Appeals for the District of Columbia circuit can overrule the District of Columbia Court of Appeals on purely local matters. Under H.R. 16196 this will be eliminated. The three existing trial courts—general sessions, juvenile, and tax—will be consolidated into one trial court of general local jurisdiction called the superior court.

To be effective, court reorganization must also include new and improved procedures to enable the courts to perform their function more effectively and efficiently.

The bill will create the position of executive officer. This is envisioned as a position of stature. His salary will be the same as that of an associate judge. The executive officer appointed by the President will be a highly trained administrator with extensive authority. He will be responsible for providing the court system with a unified and expert management, thereby significantly enhancing the administration of justice. This will also relieve the judges of unwanted administrative tasks, alien to their own expertise, and permit them to devote their full time and attention to their primary responsibility—the judging of cases.

The proposed bills also equip the new court system with a revised criminal procedure. Anyone familiar with the existing criminal procedure of the District of Columbia Code must also be aware of how outmoded and inadequate it is. Accordingly, there is included a criminal procedure designed to improve significantly the effective and fair administration of criminal justice.

The court reorganization section establishes a complete court system, providing for the merger of all local trial courts into one unified trial court called the Superior Court of the District of Columbia. It includes transfer of all, not some, "local" jurisdiction to the new court. Equally important, the Court Reorganization Act makes provisions for appellate jurisdiction. As superior court jurisdiction increases, the act would eliminate the double level of appeals from the District of Columbia Court of Appeals to the U.S. Court of Appeals.

Some of the delaying steps in the trial and appellate processes will be avoided; overlapping jurisdiction is minimized and the way is clear for more effective administration of justice.

The transfer of jurisdiction to the new superior court takes place over a 3 year period. The details of the transfer are set forth in title I which completely recodifies title 11 of the District of Columbia Code.

In summary, the transfer is as follows:

First stage—6 months after enactment:

Consolidation of all general sessions, tax court, and juvenile court jurisdiction in the superior court.

Civil controversies up to $50,000 and all purely local personal injury cases.

Land condemnation, real property actions, quo warranto, habeas corpus, and so forth.

District of Columbia felonies with penalties up to 15 years.

Second stage—2 years after enactment:

Probate, mental health, and other guardianships.

Remaining District of Columbia felonies are transferred and, at this time, the superior court ceases to be a committing magistrate for Federal courts.

Third stage—3 years after enactment:

Remaining local jurisdiction including civil cases over $50,000.

COURT ADMINISTRATION

The new court system plainly needs a new type of court administration. The new system in H.R. 16196 should be a model of administrative effectiveness. It should show the way for other urban courts where the major problem has been one of unbelievable administrative breakdown.

In an effort to provide appropriate administration, the Court Reorganization Act includes detailed provisions creating

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a court executive officer and outlining his duties.

The court executive created under the administration's proposal is responsible for all nonjudicial functions in the new superior court and in the expanded District of Columbia Court of Appeals. He will be appointed by the President.

The executive will serve on matters affecting the entire system such as facilities, procurement, and so forth. In matters affecting the separate courts, such as calendaring and internal operation, he will serve each chief judge.

The Court Reorganization Act offers a unique administrative arrangement. This arrangement appears to be well suited to a two-court system. It offers the advantages of, first, independence from any one person or court; and, second, unified management of both the trial and appellate court, avoiding administrative duplication.

JUDICIAL APPOINTMENTS, TENURE, AND REMOVAL

In presenting its proposal to Congress, the administration sought to schedule increases in judicial manpower at a rate which is commensurate with increases in jurisdiction. The schedule asked for is as follows:

Date of enactment: 10 additional judgeships for the superior court bringing it to a total of 37—10 new, 23 general session, three juvenile court, and one tax court. Three additional judgeships for the District of Columbia Court of Appeals.

Two years after enactment: Nine additional judgeships for the superior court.

Three years after enactment: Four additional judgeships for the superior court, for a total of 50.

The bill approved by the committee authorizes the first increment of 10 judges immediately but requires that the additional judgeships be justified at a later date.

The new judges of the superior court and the District of Columbia Court of Appeals will be appointed by the President wtih the advice and consent of the Senate for a term of 10 years.

As a check on the quality of judicial service; the bill calls for a Commission on Disabilities and Tenure. This Commission finds its precedent in the laws of New York and California. It is recommended by the American Bar Association and by the Judicial Council Committee on the Administration of Justice.

JUVENILE MATTERS

Turning to juvenile matters, the bill will create a family division within the superior court. This division would have the jurisdiction which was previously found in the juvenile court and in the domestic relations branch. In addition, it would receive all mental health jurisdiction and will have intrafamily offense jurisdiction including a provision for a civil protective order.

Juvenile waiver procedures are spelled out in the bill to clarify the procedure and set standards to guide the court in transferring from the family division to the superior court juveniles 15 years of age or over who are charged with felonies. The bill lowers to 15 the general age for which juveniles charged with felonies may be transferred. This is based on the experience in recent years that certain 15-year-olds who commit felonies are not likely to be rehabilitated by the time of their majority. It would also correct defects in the existing procedure for transferring juveniles by requiring transfer, as requested by the Corporation Counsel, unless the court affirmatively finds the juvenile can be rehabilitated. This proposal is necessary because recent court decisions have placed unwarranted and severe restrictions on transfer by the juvenile court—for example, *Haziel* v. *United States*, 404 F.2d 1275 (D.C. Cir. 1968); *Kent* v. *United States*, 401 F.2d 408 (D.C. Cir. 1968)—which have caused the sharp decrease in the number of juveniles transferred during a period of rising juvenile crime. In fiscal 1969, only 10 juveniles were transferred as compared to 49 juveniles transferred in 1965.

Some statistics showing crimes for which in the District of Columbia juveniles of 15 years of age were arrested in fiscal 1969 are as follows:

Homicide, four; rape, 19; robbery holdups, 39; other robberies or attempts, 140; burglary, 193.

Number of times certain juveniles were arrested in fiscal 1968: 682 arrested twice; 250 arrested three times; 159 arrested four times; 51 arrested five times; 27 arrested six times; 13 arrested seven times; three arrested eight times; one arrested nine times; one arrested 10 times; one arrested 11 times.

This constitutes a significant number of 15-year-olds and I feel that the court should have the authority in those cases where it is wise to transfer 15-year-olds for adult prosecution.

In fiscal 1965, 725 juveniles were arrested for robbery; 1,136 for burglary, and 54 for rape. In fiscal 1969, the number of juveniles arrested for robbery increased by over 50 percent to 1,178; for burglary, nearly 20 percent, to 1,353; and for rape, nearly 25 percent, to 67. Despite the significant increases in arrests of juveniles for serious violent crimes, transfers of juveniles for criminal prosecution in adult court decreased from 49 in fiscal 1965 to only 10 in fiscal 1969. This sharp decrease in the number of juveniles transferred during a period of significantly rising juvenile crime is directly attributable to some recent court decisions by the U.S. Court of Appeals for this circuit, which has placed unwarranted restrictions on the transfer power of the juvenile court.

In view of the increasing commission of very serious crimes by juveniles, many of whom are sophisticated repeat offenders, the highly restricted transfer for criminal prosecution under existing law cannot be permitted to continue. The forced retention within the juvenile system of such juveniles, who cannot be rehabilitated by the time of their majority, not only subjects society to the harm caused by their subsequent criminal conduct, but also interferes with and harms the potential rehabilitation of other juveniles with whom they may be commingled. If transferred and convicted, however, these juveniles may receive, in the discretion of the sentencing judge, the treatment and supervision afforded by the Federal Youth Corrections Act under which the record of conviction is automatically set aside upon unconditional discharge.

Furthermore, I wish to call your attention to other provisions in the bill requiring record confidentiality, vacating adjudications, and sealing records.

JUDICIAL PROCEDURES

Creation of a new court system also necessitated modification of many of the adult judicial procedures. These are contained in titles II and III of the Reorganization Act.

The significant changes in judicial procedure are as follows:

First. The Reorganization Act leaves the local courts free to adopt either the Federal rules or their own rules by repealing existing provisions which now require the District of Columbia court to apply the Federal rules—District of Columbia Code, section 13-101.

Second. Special procedures are created for handling intrafamily offenses similar in most respects to H.R. 8781—District of Columbia Code, section 16–1001 and the following.

Third. Courts are given authority to appoint counsel for children in custody proceedings as provided in H.R. 8781—District of Columbia Code, section 16–918.

Fourth. Separate judicial procedures for handling District government land condemnation cases are created, with parallel Federal procedures retained—District of Columbia Code, section 16–1301 and the following.

Fifth. Quo warranto provisions are altered to separate the Federal from the local proceedings—District of Columbia Code, section 16–2051 and the following.

Sixth. The statutory rules of evidence are modified to permit psychiatric testimony in juvenile cases and adult criminal cases without regard to who raises the insanity defense—District of Columbia Code, section 14–307.

Seventh. Judicial procedures in criminal cases are amended to accommodate the new felony jurisdiction by providing for indictment, jury trial, and so forth, in the superior court—District of Columbia Code, section 16–1701 and the following.

Eighth. Procedures in mental health cases are also modified to revise commitment procedures and to make a statutory procedure, rather than habeas corpus, the method of challenging commitment—District of Columbia Code, section 21–501 and the following.

CRIMINAL LAW AND PROCEDURE

If the local courts are to have the capability of handling felony cases of the most serious nature—murder, rape, robbery, and burglary—if they are to provide an efficient, prompt, and fair administration of justice, it is vitally important that these local courts be equipped with a progressive, effective criminal procedure. I would like to discuss the more important provisions.

1. INCREASED PENALTIES FOR RECIDIVISTS

At the present time, there is no statute in the District of Columbia that directly deals with the habitual criminal who has been convicted of three separate felonies. The bill's provision realistically tackles the problem of the particularly dangerous and repeat offender who has not been rehabilitated by two or more sentences

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or terms of imprisonment. It places in the trial court discretion to impose an indeterminate term of imprisonment up to life for the three-time convicted felon, if the court "is of the opinion that the history and character of the defendant and the nature and circumstances of his criminal conduct indicate that extended incarceration and lifetime supervision will best serve the public interest." It recognizes, what is already well known, that for such dangerous criminals, the criminal court is a revolving door and successive prosecutions of such criminals is a waste of law enforcement and court resources. This provision, which is substantially modeled after the New York Penal Code, is simple and direct in its application and supplements the District of Columbia Code, section 22-3202, which was passed by Congress in 1967 to provide the trial court with discretion to sentence up to life imprisonment persons convicted of committing crimes of violence while armed. The bill would also establish a definite, uniform procedure for informing the court and defendant of the possible applicability of the District of Columbia recidivist-penalty statute and for determining whether the statute actually applies.

2. DISTRICT OF COLUMBIA CONSPIRACY LAW

There is no local conspiracy law. Presently, conspiracy in the District of Columbia is prosecuted only under Federal law. In order that important non-Federal conspiracy cases can be prosecuted in the superior court, it is necessary that a local conspiracy law be enacted. The bill would provide a local conspiracy law with a maximum penalty of 5 years or $10,000, or both.

3. RIGHT OF GOVERNMENT TO BE HEARD AT SENTENCING

The Federal Rules of Criminal Procedure are silent on the Government's right of allocation prior to sentence, and the practice varies from district to district. It seems to me that the Government has a definite role to play in the sentencing process, and that it should be able to refute any misstatements made by the defendant or his counsel, and to make recommendations concerning sentencing.

4. APPEALS BY UNITED STATES AND DISTRICT OF COLUMBIA

H.R. 16196 provides a comprehensive format for appeal by the prosecution in a criminal case. It is designed to give the prosecution an equal opportunity to obtain review of trial court rulings which otherwise might deprive the public of a fair trial. The provisions, which have been drafted to avoid double jeopardy problems, provide for both pretrial and interlocutory appeals by the Government.

If, prior to trial, a trial judge cuts the heart out of the prosecution's case by suppressing evidence of the defendant's guilt, such as a murder weapon, a confession or a lineup identification, the Government will have the right to an appeal whenever "substantial proof" of the criminal charge is suppressed. Likewise, if during trial, a defendant makes a motion to suppress evidence as invalidly obtained and the trial judge entertains the motion and excludes evidence which is "substantial proof" of defendant's guilt, the Government will have the right to appeal. This interlocutory appeal provision is necessary to prevent a defendant from destroying the prosecution's pretrial right of appeal by waiting until trial to make his motion to suppress evidence. Expedited appeals have been provided for.

The bill also provides for interlocutory appeals by the Government where the prosecution certifies that a trial court ruling involved "a substantial and recurring question of law which requires appellate resolution" and the trial court grants leave to appeal. Allowing interlocutory appeals of this nature in the few exceptional cases where it would be necessary is important in guaranteeing the public its right to a fair trial.

5. NIGHTTIME SEARCH WARRANTS

Present Federal practice permits nighttime searches only when the affiant is "positive that the property is on the person or in the place to be searched." This test for permitting nighttime searches is followed in the District of Columbia. This positivity test is essentially unrealistic because there are very few cases where the affiant—usually a law-enforcement officer—can be positive that the property is on the premises—for example, an undercover officer sees the property on the premises shortly before applying for the warrant—and in many of these cases there may be no immediate need to intrude at night on the privacy of the home to seize property that will be found at daylight. These weaknesses in the positivity test probably explain why less than one-fourth of the States have followed the Federal rule.

The proposed sections which eliminate the positivity test are in line with commonsense and limit nighttime searches essentially to those situations where there is probable cause to believe that the property can only be found at certain times in the night or that the property will be removed or destroyed if not seized forthwith. It makes no sense to prevent nighttime execution of an otherwise valid search warrant solely for lack of positivity when it is known that the property sought will not be found at daylight.

6. JUDICIAL AUTHORIZATION TO DISPENSE WITH ANNOUNCING AUTHORITY AND PURPOSE

The administration's proposals provide for the judicial officer issuing the search warrant to authorize the executing officer to enter the premises to be searched without giving notice of authority and purpose when first, there is probable cause to believe that, if notice is given, the property sought is likely to be disposed of or destroyed; or second, there is probable cause to believe that the giving of such notice is likely to endanger the safety of the executing officer or others. It makes no sense to require the executing officer to announce his authority and purpose when the circumstances are such that to give notice would probably endanger the life of the executing officer or cause the destruction of the property sought to be seized.

The present District of Columbia Code contains no provision relating to when law enforcement officers entering a home must announce their identify and purpose and when they need not. The law in the District is controlled by 18 U.S.C. 3109. It provides as follows:

> The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant.

This section has two major drawbacks:

First, its requirement of announcing authority and purpose is limited by its express language only to executions of search warrants and not to those situations in which a police officer is authorized by law to make an arrest.

Second, it fails to specify those circumstances under which the requirement for announcement prior to entry may be dispensed with.

Both of these omissions in existing 18 U.S.C. 3109 have been filled in to some extent by court decisions. In *Miller* v. *United States,* 357 U.S. 301 (1958), the Supreme Court applied the rerequirement of announcement of authority and purpose to arrest. In both *Ker* v. *California,* 374 U.S. 23 (1963) and *Sabbath* v. *United States,* 391 U.S. 585 (1968), the Supreme Court recognized the existence of exceptions to the requirement of announcement of authority and purpose and the constitutionality of these exceptions. Numerous other decisions of the lower Federal courts have applied this requirement to arrest situations and also have recognized exceptions to the general rule. The vast majority of States, though they require announcement of authority and purpose prior to entry, also recognize, either by statute or case law, a number of exceptions to the general rule.

The purpose of the proposed no-knock amendment is to provide the District of Columbia with comprehensive statutory language to make clear those situations in which officers must announce before entering and when they need not announce. If the purpose of this rule is to serve as an effective deterrent to police officers breaking down doors before entering premises, it is vitally important and only fair that the Congress specify, for the benefit of both the citizens and law enforcement officials, when the latter must announce and when they need not. Requiring the latter to rely on an uncertain and shifting case law instead of providing them with an ascertainable standard of conduct hardly supports the deterrent purpose of the law. It must be remembered that even if a law enforcement official commits only a technical violation of this law, all evidence obtained will be suppressed and not allowed at trial, under the rule in the Supreme Court Miller case, with the result that obviously guilty criminals will be allowed to go free.

For example, in a case decided only last year by the local U.S. court of appeals, McRae against United States, police, looking for a person who only 3 hours before had raped and slashed with a knife a 39-year-old woman, identified themselves to an 11-year-old boy and asked for the defendant. The boy pointed out someone sitting in a chair only a few feet away, apparently asleep. The police officer entered, seized a bloody knife from the arm of the chair, and arrested the defendant. Because the officer failed to inform the 11-year-old boy at 2:40 in the morning his precise reason for wanting to see the defendant notwithstanding the obviously exigent circumstances, the bloody knife, the defendant's bloody clothing, and fibers from his undershirts matching the victim's red sweater, virtually conclusive evidence of his guilt, were ordered suppressed.

The no-knock provision, therefore, makes the general requirement of announcement applicable not only to search warrants but also to arrest situations. It also lists five specific circumstances in which officers are not required to announce their authority and purpose. These five situations are derived from the existing case law, both State and Federal.

They do not result in an unreasonable invasion of private premises since the invasion—entry into the premises—has already been sanctioned by a judicial officer in a warrant or by the law of arrest on the basis of reasonable grounds to believe that criminals or evidence of criminal activity is secreted in those premises. These following exceptions involve only the method of entry, entry itself having already been approved.

First. The announcement is not required if it would result in the destruction or concealment of the evidence sought. This is the exception to the general rule specifically applied by the Supreme Court in the case of Ker against California. This exception has been recognized in prior cases and is needed today, principally in the areas of narcotics and gambling because of the easy destructibility of the evidence. The Ker case incidentally involved narcotics. Certainly it makes little sense to extend to those involved in these areas of organized crime the opportunity to destroy the evidence of their guilt by requiring announcement of authority and purpose together with a refusal of admittance. In 1962, for example, it was reported in the Senate that less than 30 seconds are necessary to destroy all of the evidence of a wire-service headquarters. McClellan, *Gambling and Organized Crime,* S. Rept. No. 1310, 87th Cong., 2d sess. II.

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In this regard to deter such attempted destruction, the proposed amendment includes a provision making it a felony punishable by 5 years imprisonment to destroy property after the police give notice of authority and purpose or enter without announcement under an exception.

Second. Announcement need not be made if it would endanger the safety of the police officers or third parties. This exception, long recognized in the law, needs no explanation. Clearly the law cannot require law enforcement officials to give announcement of authority and purpose if doing so would unreasonably expose them to gunfire or other forms of assault from within the premises to be entered.

As an appellate court in California recently stated, announcement by the officer "could have been the equivalent of an invitation to be shot. Reasonable conduct on the part of a police officer does not require that he extend such an invitation." *People* v. *Batres,* 75 Cal. Rpt. 397 (1969).

Third. Nor is announcement required if giving it and waiting long enough to justify the conclusion that admittance has been refused would give a person sought inside opportunity to escape.

Fourth and fifth. Finally the announcement need not be given if it would be a useless gesture, an exception recognized by the Supreme Court in the Miller case, or for obvious reasons, if the identity or purpose of the officer is already known by those within.

The no-knock proposal is designed to insure that absent exigent circumstances officers will not enter private premises without first announcing their authority and purpose in both search and arrest situations. At the same time, however, the bill includes the exceptions to this general rule, exceptions generally long recognized in prior court decisions, exceptions whose purpose is to prevent unreasonable interference with legitimate needs of law enforcement in situations when a judicial officer by warrant or the law in general has already sanctioned entrance into private premises and the only question is the manner or method of such entry.

Ker against California, a 1963 Supreme Court case, involved a challenge to the constitutionality of an unannounced entry to effectuate an arrest without a warrant for narcotic violations, an entry made to prevent the destruction of evidence. The Supreme Court upheld the legality of this entry.

In the most recent Supreme Court decision involving no-knock—*Sabbath* v. *United States,* 391 U.S. 585 (1968)—the Court recognized the existence and constitutionality of exceptions to the rule requiring announcement. It said:

> Exceptions to any possible constitutional rule relating to announcement and entry have been recognized, see *Ker* v. *California, supra,* at 47 (opinion of Brennan, J.), and there is little reason why those limited exceptions might not also apply to #3109 since they existed at common law, of which the statute is a codification.

New York has enacted legislation providing statutory exceptions to the announcement rule. Its statute, followed in three other States—North Dakota, Nebraska, and Utah—received the approval of a distinguished committee consisting of judges, lawyers, and professors of law, which in section 365.503 of the 1968 proposed New York Criminal Law Procedure, recommended reenactment of the existing statute.

In *People* v. *Delago,* 16 N.Y. 2d 289, 113 N.E. 2d 659 (1965), *cert. denied,* 383 U.S. 963 (1966), a no-knock entry, pursuant to this statute, was authorized to search for gambling paraphernalia based wholly on the general experience of police officers that such material is frequently quickly destroyed if announcement is required. No particular facts were provided singling out the likelihood of destruction in this case. Nevertheless, the New York Court of Appeals, the State's highest court, upheld this no-knock entry against constitutional attack and in 1966 the U.S. Supreme Court denied certiorari. A stronger case in support of no-knock would be difficult to find.

7. DISTRICT OF COLUMBIA WIRETAP LAW

After exhaustive study, debate and consideration, Congress enacted a Federal wiretap law in the Omnibus Crime Control and Safe Streets Act of 1968. This statute also authorized local jurisdictions to enact wiretap statutes provided they contained at a minimum the procedural safeguards, protections, and restrictions imposed by the Federal statute. The kinds of crimes for which a local jurisdiction could authorize wiretaps were listed in the statute. The proposed sections of the wiretap law for the District of Columbia conform virtually word for word with the corresponding sections of the Federal wiretap law. Wiretaps are authorized only for those crimes approved by Congress which are the kind for which wiretapping or electronic eavesdropping is most needed by law enforcement officials as an investigative tool to fight crime, particularly organized crime. Accordingly, the proposed wiretap provisions only implement the policy of Congress reflected in legislation enacted in 1968.

8. IMPEACHMENT BY PRIOR CONVICTION

Existing section 14–305 of the District of Columbia Code permits the credibility of a witness to be impeached by proof of a prior conviction. However, in 1965 in *Luck* v. *United States* (348 F. 2d 763), the U.S. Court of Appeals for the District of Columbia circuit engrafted an interpretation upon this section which gave the trial court discretion to permit defendants in criminal cases to testify without being impeached. This interpretation was contrary to the congressional purpose for which this section was enacted in 1901, to the clear import of prior case law, to the long accepted judicial practice in this jurisdiction since the statute was enacted, and to the practice, statute and case law in the vast majority of States under which the cross-examining party decides whether or not to impeach a witness by proof of conviction of a crime. The proposal in H.R. 16196 restores the law which existed prior to the Luck decision and makes it clear that the court lacks authority to exclude proof of prior criminal convictions.

The Luck decision has three major weaknesses:

First. Excluding prior convictions of a defendant-witness does not serve the goal of truth. It prohibits the jury from hearing probative evidence reflecting on the defendant's willingness to disregard the law and engage in dishonest or untruthful conduct which can be translated into his willingness to disregard the witness' oath and give false testimony.

Second. It also gives the jury a false impression by enabling a defendant to appear as a person whose character entitles him to credence; a defendant is universally allowed to inform the jury about his wife and children, his education, his job and his background generally. The only harm to the defendant in having a prior conviction used to impeach him is that which any defendant incurs when the prosecution introduces probative evidence tending to show guilt or lack of credibility.

Third. No meaningful criteria exist to guide the trial court in determining whether to admit or exclude prior convictions. The result is chaos. Some judges never permit impeachment of an accused. Other judges vary among themselves in applying the rule and even individually vary from case to case.

These weaknesses in the Luck rule were fully appreciated by the Advisory Committee on Rules of Evidence to the Judicial Conference of the United States. This prestigious advisory committee, consisting of judges, lawyers, and academicians appointed by former Chief Justice Warren, submitted in March of 1969, after 3½ years of study and consultation, a draft of proposed rules of evidence, including "the rule which adheres to the traditional practice of allowing the witness-accused to be impeached by evidence of conviction of crime, like other witnesses." The advisory committee recommended the traditional rule after specifically considering and rejecting the Luck doctrine.

9. ARRESTS WITH AND WITHOUT A WARRANT

Proposed sections 23-561 and 23-562 in H.R. 16196 provide for the issuance and execution of arrest warrants. These provisions are intended to establish clear procedures for the issuance and execution of arrest warrants. Proposed section 23-561 also provides for the issuance of a summons instead of an arrest warrant at the request of the prosecutor. Proposed section 23-563 sets out the territorial limits for service of an arrest warrant. This section would permit service of a superior court felony arrest warrant at any place within the jurisdiction of the United States.

Proposed section 23-581 codifies the law of arrest without a warrant by law enforcement officers. Under this section a law enforcement officer may arrest without a warrant a person whom he has probable cause to believe has committed or is committing a felony, a person whom he has probable cause to believe has committed or is committing an offense in his presence, and a person whom he has probable cause to believe has committed or is about to commit certain misdemeanors—such as petit larceny, assault, and attempted burglary—when an immediate need to make the arrest is present.

The omnibus bill incorporates one of my bills prohibiting the forcible resistance of an arrest. The provisions states:

> A person may not use force to resist an arrest by one he has reason to believe is a law enforcement officer, whether or not the arrest is lawful.

This represents the modern view of the law which has recently been enacted by California, Illinois, and New York. It is also supported by the Uniform Arrest Act—written by the Interstate Commission on Crime in the early 1940's—and the Model Penal Code—official draft 1962.

There is no valid reason for the outdated rule allowing the use of force to resist an unlawful arrest. The issue of the legality of an arrest in a civilized and urbanized society should be decided in the courts and not on the streets. One arrested and accused of a crime is taken immediately before a commissioner or judge. The person arrested is assured of a hearing with the advice of counsel.

Society's interest in protecting the entire community from the threat of physical harm also demands that an individual peacefully submit to an arrest, regardless of its legality. It is the street altercation between the police officer who is attempting to perform his duties and the individual who forcibly resists that, in our urban society, increasingly becomes the springboard to general rioting. As the late Judge Learned Hand stated:

> The idea that you may resist peaceful arrest . . . [is] not a blow for liberty but, on the contrary, a blow for attempted anarchy—1958 Proceedings, American Law Institute, p. 254, cited in *United States* v. *Helicizer*, 373 F. 2d 241, 246 n. 3 (2d Cir.), *cert. denied*, 388 U.S. 917 (1967).

In addition, there are a number of other provisions in the bill necessary to a new court, such as provisions on service of process, selection of jurors, payment of witnesses, extradition, fugitivity, and indictment by grand jury. The bill also provides for a modern medical examiner to replace the outmoded coroner's jury.

DISTRICT OF COLUMBIA PUBLIC DEFENDER SERVICE

H.R. 16196 also includes a public defender section. Developments in the criminal law have made it increasingly difficult for the private practitioner to effectively and adequately handle criminal cases on an ad hoc basis. This growing complexity of the criminal law means that the ad hoc practitioner must spend time learning the law and thus proceed slowly and cautiously. This circumstance plus the dramatic rise in the number of criminal cases has placed an intolerable burden on the private bar. Further, it has impeded expeditious disposition of cases.

A public defender service offers a solution which provides effective representation in a more expeditious manner. Experience across the Nation shows that lawyers who deal exclusively with the criminal law can better evaluate their cases more quickly and can more readily negotiate just settlements without trial. In such cases court time is saved and justice is done.

The District of Columbia Legal Aid Agency, an experiment in Federal public defender services, proves the point. Judges, prosecutors, and private practitioners in the District of Columbia have learned the value of a defender service. Almost without exception, they support creation of a public defender service which will represent the majority of the criminal defendants.

The bill converts the District of Columbia Legal Aid Agency into a full-fledged public defender service with authority to represent up to 60 percent of the eligible adult and juvenile defendants, and a role in developing a system of adequate representation for the remaining 40 percent. The bill also has provisions which will improve and upgrade the administration and management of this important adjunct to criminal justice.

AMENDMENTS TO THE DISTRICT OF COLUMBIA BAIL AGENCY ACT

H.R. 16196 also would expand the District of Columbia Bail Agency and increase its responsibilities.

At present, the Bail Agency plays a vital role in supplying the court with the information upon which it can make bail decisions and by notifying defendants about their court appearances. The facts found by the Bail Agency aid in determining who shall be released and who shall be detained pending trial. The notification service is essential to effective utilization of court time.

The Bail Agency, however, is greatly in need of additional resources to perform these minimal functions. Its $130,000 appropriation ceiling is unrealistic in a court system whose criminal caseload has nearly doubled since the ceiling was imposed. We recommend the removal of this ceiling to permit expansion and flexibility in this agency.

Further, the Bail Agency should take on additional functions. Among all units in our criminal justice system, it is ideally suited for supervising defendants during pretrial release. H.R. 16196, therefore, directs the agency to:

Supervise all persons on nonsurety release;

Notify all persons of each required court appearance;

Serve as coordinator of third party custodians;

Aid in securing employment and other services for defendants;

Inform judicial officers of a defendant's failure to comply with conditions; and

Prepare Federal rule 46(H) lists concerning detained persons.

The bill also calls for the transfer of the reformatory at Lorton, Va., from the District of Columbia Department of Corrections to the U.S. Bureau of Prisons. A select subcommittee of the House District Committee in lengthy hearings uncovered astounding administrative shortcomings in the management of this facility. The District Committee concluded that rehabilitation of the inmates would be enhanced if this facility were under the supervision of the U.S. Bureau of Prisons.

It should be noted that a number of studies of the Lorton facility from 1965 to last year repeatedly called attention to the same inadequacies and there appeared to be no grounds for optimism that these deficiencies would be corrected under the current administration of the District of Columbia Department of Corrections. In addition, the Bureau of Narcotics and Dangerous Drugs testified before the other body that its recommendations in regard to Lorton had not been implemented.

I would like to point out that every prisoner in custody in the District of Columbia is in the technical custody of the Attorney General of the United States. Since the activities of the U.S. Bureau of Prisons, this bill will put these prisoners in the actual, as well as the technical, custody of the Attorney General.

The bill also calls for abolition of the Commission on Revision of the Criminal

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Laws of the District of Columbia. This Commission will automatically die on June 30 anyway unless Congress acts to extend its life. I was appointed to this Commission early last year but it has never met.

The feeling of the committee is that, since Congress has the legislative responsibility for the Capital City under the Constitution, the District of Columbia Committees of both bodies should undertake such revision.

H.R. 16196 includes provisions permitting preventive detention, also known as pretrial detention. Pretrial detention is designed to accomplish two objectives. First, it is an effort to reduce violent crime, a significant percentage of which may be attributed to persons released prior to trial.

The second objective is to eliminate from the bail system the hypocrisy of locking up defendants, without fixed standards, through the device of requiring a high money bond. This second objective, of removing the practice of detaining defendants arbitrarily by setting a bond which they cannot meet, is too often overlooked when considering this question.

Pretrial detention of selected defendants, in categories of offenses characterized by violence, is made necessary by the indisputable fact that many defendants are committing additional crimes during the period of their pretrial release. Precise statistics on the number of these crimes are not available because, until recently, no attempt was made to tabulate the incidence of crime on bail. Also, accurate statistics are simply not possible when many crimes go unreported and most crimes remain unsolved.

Nonetheless, the statistics we have are quite revealing. During the period between July 1966 and June 1967, 35 percent of the defendants indicted for robbery and released prior to trial in the District of Columbia were reindicted for subsequent felonies. In 1968, when 557 persons were indicted for robbery, nearly 70 percent of those released prior to trial were rearrested and charged with a subsequent offense.

Who are the people who commit these crimes? Some are desperate narcotics addicts with an irresistible need to support their habits. Some are incorrigibles, with long records of antisocial violence. Some commit crimes to pay a bondsman or an attorney. And some are out for a "last fling." While speeding up the trial process—which is the heart and soul of court reorganization—will probably reduce the volume of offenses, none of the defendants here described will be particularly motivated to obey the law during the period of pretrial release. In the 50 to 60 days between arrest and trial—which is probably the minimum for serious offenses—the addict's habit will not disappear; the lifelong incorrigible will not be reformed; and the "last fling" phenomenon will still be present.

To protect the public, the bill gives the judge authority to retain in custody the most dangerous of these defendants, but only after an adversary hearing in which the court determines, in written findings, that no condition or combination of conditions of release will reasonably assure the safety of the community. The Government's burden at such a hearing is twofold; to show by a "substantial probability" that the defendant in fact committed the violent crime with which he is charged, and to convince the court that the defendant presently constitutes a danger to the community. If this burden is not met, the defendant will not be detained.

Under the standards thus established, there is no alternative to the detention except a release which threatens the public safety. There is no alternative to the detention except a rejection of the purpose of the criminal law.

For centuries, courts have been detaining persons charged with crime by the simple expedient of setting high bond. This sham frequently served the purpose of protecting the community from dangerous defendants, but it also imprisoned people who posed no threat. When the issue of dangerousness silently appeared, there were no set standards or due process safeguards to protect the defendant under suspicion; and since there was no visible determination of dangerousness, there was little or nothing for a court to review.

This hypocritical procedure, which most often victimized the indigent defendant, was the evil to which the Bail Reform Act was directed. In place of money bail, the act substituted personal bond and personal recognizance; financial conditions were to be imposed only when necessary to assure the defendant's presence at trial. In striving to eliminate money as a barrier to release, the 1966 legislation was a great step forward, which more than justified its label of reform. At the same time, however, by totally eliminating dangerousness as a criterion to be considered in setting conditions for pretrial release, the Bail Reform Act ignored the rationale behind 700 years of legal practice. Today, Federal judges are faced with an agonizing decision when an obviously dangerous defendant stands before them. They must either disregard the compelling mandate of the new law by setting bail beyond the defendant's means, or they must shut their eyes to community danger. One course perpetuates hypocrisy; the other course is irrational.

The Bail Reform Act has not been copied in the States because it makes no provision whatever for protecting the community from the dangerous but noncapital offender. The act has been criticized because it ignores an imperative necessity of our law. The Government of the United States is presently powerless to assure the detention of a dangerous armed felon or rapist, unless it violates the command of the law. It is even powerless under the statute to revoke conditions of release to assure detention when a defendant commits a new crime.

Ironically, the Bail Reform Act is responsible for the detention of hundreds of defendants who might be released under new procedures. H.R. 16196 would free these defendants, under some reasonable conditions, if they do not pose a threat to the community.

These issues are of critical importance when we relate them to vital trends in the law. Ten years from now, court decisions based on equal protection of the law may give the indigent defendant the means to force his release before trial if money is the barrier between jail and freedom. Such a development could not be welcomed by a society besieged with crime unless that society were empowered to protect itself against the truly dangerous defendant. The only effective means of protection is pretrial detention.

This is one of the most important features of H.R. 16196. I hope the House will pass it intact.

Mr. Speaker, H.R. 16196 is a real milestone in criminal law. If enacted, it will go a long way toward eradicating the cancer of crime in the Capital City which has become the shame of the Nation.

I am confident that the provisions of this legislation will effectively reduce crime in Washington, and in so doing, this legislation may well become a model for the entire Nation.

I urge my colleagues to be present on the floor while H.R. 16196 is being debated to prevent adoption of the weakening amendments which will be offered.

Mr. Speaker, the time to be talking about crime in Washington is now past. The opportunity for action is at hand—by supporting enactment of H.R. 16196.

IMPROVING THE QUALITY OF OUR ENVIRONMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 20 minutes.

Mr. HAMILTON. Mr. Speaker, the Congress has produced in recent years a cascade of legislation expressing its commitment to clean up our water and air. Even so, I believe the American public is ahead of the politicians on the issue of pollution. Those of us in public life have not adequately, or accurately, assessed the public's mood.

A growing concern about our environmental crisis is sweeping the Nation. State and local governments are increasing their pollution control activities. Corporations are announcing new devices to combat pollution. Members of Congress are finding that increasing amounts of time are needed to deal with the problems of pollution in their districts and States.

The Nation is stirring itself, and none too soon. Some experts believe that the point of no return on pollution control is a decade or less away. We must increase our efforts to avoid that point now. Consider some of the chilling statistics:

Water: Today, every river system in America suffers from some degree of pollution. One recent study indicated that about 30 percent of the Nation's water sources and systems may fall below Federal health standards.

By 1975, we are told that our growing population and our increasing urbanization will require us to spend from $30 to $50 billion for municipal sewage systems, for industrial waste treatment facilities, for the separation of combined storm and sanitary sewers, and for research and development of pollution controls.

Air: Industrial chimneys in the United States spew 37 million tons of sulfur dioxide into the air each year. More than

90 million cars add 66 million tons of carbon monoxide. Our incinerators produce another 5 million tons of debris. These aerial effluents kill or stunt plants and trees, affect the health of humans, damage property, and leave a depressing—sometimes fatal—pall over our cities.

Since 1860, the carbon dioxide content of the atmosphere has increased by 14 percent, reducing the cycle of oxygen regeneration and adversely affecting plant growth.

Solid wastes: This Nation produces and discards enough solid wastes each year to fill up the Panama Canal four times over. The average American discards about 1,800 pounds of trash each year, and that amount is increasing. The cost of disposing of our trash and garbage now runs about $4.5 billion a year.

We must realize that we are all polluters, and an effort to find someone else to blame only delays a solution. We know now that our land, water, and air are irreplaceable and interrelated elements. The pollution of any one of the elements upsets the delicate chemical and climatic balances upon which life depends.

So we stand at a critical juncture in our fight against pollution. The direction we take now will move us rapidly along the path toward control of pollution, or possible extinction. The crisis is upon us. As Congressman MORRIS UDALL of Arizona says:

> In the pursuit of progress, man has put strontium 90 in his bones, iodine 131 in his thyroid, DDT in his fat, and asbestos in his lungs. That kind of progress can kill us.

To understand the seriousness of the problem and the magnitude of the challenge before us, a closer look is in order.

I. AIR POLLUTION

Sources: More than half of the contamination in the air over the United States consists of carbon monoxide, most of it from cars, trucks, and buses. The second most plentiful gas pollutant consists of oxides of sulfur, produced by home and factory combustion of coal and oil.

In 1967, these, and other sources, hurled 133 million tons of contaminates into the atmosphere. In 1969, the annual rate of aerial pollutants had increased to 142 tons—more than our annual tonnage of steel.

Effects: We are not dealing merely with a suffocating haze which offends our senses, soils our laundry, damages our buildings and crops, or corrodes metal. We are dealing with a killer. The primary reason for controlling air pollution is that it threatens human health.

Government activities: The Department of Health, Education, and Welfare was authorized in 1955 to conduct research and to provide technical support to State and local governments to attack air pollution.

By 1963, it was apparent that the efforts were obsolete and inadequate and the Clean Air Act was passed. The new legislation authorized HEW to undertake new and expanded research and to be of more direct assistance to State and local efforts. The act was amended in 1965 to require motor vehicles, beginning with the 1968 models, to have emission controls. In 1966, increased grants to State and local pollution control units were allocated.

A blueprint for a nationwide, systematic effort to deal with air pollution was approved by Congress in 1967. The Air Quality Act of 1967 designated air quality control regions in which a coordinated effort by all levels of government was authorized. Currently there are 32 regions in operation, including ones in Indianapolis, Cincinnati, and Louisville, under the supervision of the National Air Pollution Control Administration at HEW.

In brief, the Air Quality Act of 1967 does these things:

It expands and improves research programs.

It provides for planning and control programs on a regional basis.

It requires standards and enforcement plans by the States.

It requires the registration of fuel additives.

Solutions: The primary needs are for adequate funding of existing programs and for a stronger Federal-State-local government partnership to attack the problem. In addition to Federal and State research and technical assistance to local and regional programs, every State should provide regulatory protection for those communities which cannot feasibly protect themselves. Trained manpower is also a critical problem.

The control and abatement of air pollution is going to require a search for alternatives as well. We need to develop pollution-free sources of power, transportation, and heating. This, too, will require an expanded research program.

The outlook: There are heartening signs of concern among business and industrial leaders, but the progress in the fight against air pollution allows us little optimism. Some say we are actually losing ground.

The public is growing more concerned, however, and hopefully that concern will result in stricter penalties for air pollution, a more concerted effort by all levels of government to correct the problem, and greater individual responsibility in reducing pollution.

Some scientists say that if we reach the point at which the rate of oxygen combustion exceeds the rate of oxygen production we will be running out of that life-sustaining element of the atmosphere. Then, it will be too late. We will have made our choice.

Clearly, there is no room for complacency.

II. WATER POLLUTION

Sources: The principal sources of water pollution are inadequate municipal sewage systems, inadequate treatment of industrial wastes—twice the problem of municipal systems—inefficient septic tanks, pesticides, detergents and fertilizers, silt runoff into our rivers, wastes from ships and marine terminals, and heated water from atomic reactors. An obvious recent addition to this list would be spillage from offshore oil-drilling rigs.

Effects: Water pollution can upset the delicate processes of nature—for example, changing the reproductive cycles of birds and fish. These effects, however, are complicated and not yet well understood.

The effect on human health is better documented. One HEW estimate states about 8 million persons are drinking from municipal water systems which contain more bacteria than is considered "safe" under Federal standards. In addition to this bacteriological danger, there is a growing concern about the residues of pesticides and fertilizers in our waterways. The concentration of these chemicals do not abate, but build up geometrically as they progress through the food chain—water to seaweed to fish to birds to mammals and man.

Government activities: The Federal Water Pollution and Control Act of 1956 established the Federal-State responsibilities in combating the problems of water pollution. It designated the States as the primary administrators and enforcers of water pollution control. It sets the standards of water quality which should be required by the States in policing municipal and industrial waste treatment facilities. It also provides technical and financial assistance to the States in carrying out their programs and it authorizes research into the causes and treatments of water pollution.

The act was strengthened by amendments in 1961, in 1965, and by the 1966 Clean Water Restoration Act. The Congress is currently completing action on the Water Quality Improvement Act of 1969, which places new restrictions on offshore oil-drilling rigs and on the discharge of liquid and solid wastes from marine facilities.

Under the allocation formula of the Clean Water Restoration Act, Federal, State and local funds are jointly channeled into the efforts to clean up our waters. Currently, only 14 States, including Indiana, have established matching fund programs. Since 1957, Federal programs have provided more than 9,500 grants to assist in the construction of treatment works, generating the spending of $3.50 in local and State funds for each $1 of Federal money. As a result, waste treatment facilities serving about 75 million persons have been upgraded, and 74,000 miles of waterways have been purified to varying degrees.

Solutions: As with air pollution, the single most urgent need is higher funding levels for Federal programs. The outlook for substantial fund increases remains clouded, however, and Congress is becoming more receptive to other types of antipollution proposals based on effluent tax systems and pay-as-you-go finance plans.

Outlook: Whether or not we can control pollution is still in doubt, although there are signs of hope from several sources. Indications of a long-overdue get-tough policy on the part of the Federal Government are appearing in the form of lawsuits and stricter regulations. The oil-slick disasters of recent months have raised the public's ire, and mounting pressure from conservationist and citizen groups is being brought to bear on cleaning up our waterways.

The hope is that this public concern will soon translate into fiscal and organizational efforts to adequately meet the problems.

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III. SOLID WASTE DISPOSAL

Sources: Since 1950, the Nation's population has risen 30 percent, but the solid waste load has increased 60 percent and will increase by another 50 percent in the next 10 years. Some 200 million tons of solid wastes are accumulated each year. The increase comes from first, more people; second, from greater consumption of commodities; and third, from affluence—we throw away items we used to save.

Effects: There is a diminishing amount of disposal space. A year's rubbish from 10,000 persons covers an acre of ground 7 feet deep. Costs of refuse collection and disposal are increasing rapidly. The average cost for community collection and disposal is now $7 per person each year and that cost is expected to go up.

Facilities are becoming inadequate. The Public Health Service estimates that 94 percent of the dumps and 75 percent of the incinerators already are inadequate. Another Federal official estimates that half of the Nation's communities numbering more than 2,500 residents are not even doing a "minimally acceptable" job of collection and disposal.

Government activities: The Solid Waste Disposal Act of 1965 was the first substantial effort in this field. It gives the Federal Government responsibility for research and technical assistance in this field and provides matching grants to States and local units to develop disposal processes. Appropriations under the Act have been minimal, however.

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Solutions: It has been estimated that we need to spend $2 million a day—or $835 million a year—for the next 5 years, just to achieve a satisfactory method of dealing with our solid wastes.

The problem is growing to such proportions that the traditional "burn it or bury it" approach no longer is applicable. A new system of "use and salvage, reprocess and reuse" is called for and may soon be necessary. Changes in funding levels, attitudes and techniques will do little good, however, if their benefits cannot be applied at the critical local and State levels. To assist in local application of techniques, we need information centers to distribute current materials, demonstration projects, improved manpower training, and coordinated planning efforts.

The outlook: An ad hoc committee at the National Academy of Sciences foresees no dramatic breakthrough in this area, but rather step-by-step efforts to reduce or solve one problem at a time. A number of small improvements and innovations systematically applied can bring about substantial progress, they believe.

WHAT MUST BE DONE

By the individual: There is much that the individual can do, including work for community-wide planning; good zoning ordinances strongly enforced, effective conservation agencies, modern methods of solid waste disposal, adequate open space for playgrounds and recreational areas, downtown malls, protection of waterways and wildlife, conservation education in our schools, and, perhaps most importantly, a code of conservation ethics for everyone.

In beginning with ourselves, we must make conservation prevalent in the legislative halls of city, county, State and Federal Governments; in the mass news media; at public meetings, in the service clubs, and in the Nation's schoolrooms.

The individual approach should recognize that, in our environment, the plants help to renew the air, the air helps purify the water, and the water irrigates the plants. Damage to one facet of this system throws everything off balance. We must become discriminating critics, asking hard questions about local public works projects, real estate development, and even camping sites. We must ask ourselves whether our efforts bring beauty and quiet or clutter and pollution.

By the private sector: The private sector of the Nation must become aggressively involved in pollution control. These are not easy decisions for American business, and some of the expenditures might raise eyebrows among stockholders. But without the active involvement of business, the chances for success against pollution are not encouraging.

I agree with former HEW Secretary John Gardner, who said recently:

> It (industry) has lied to the public and to itself about the seriousness of the problem. We are just beginning to grasp the immense complexity—and danger—of environmental pollution. It is not wholly an industrial problem, but industry has a crucial role in it and could contribute enormously to its solution.

By government: Without doubt, government will have to bear the major burden in the efforts to control pollution. All levels of government must place it high on their agendas for action.

Specific steps can be taken, including:

First. The establishment of a joint congressional committee to help generate changes in national attitudes and to maintain a systematic oversight of our environment.

Second. A concerted effort to promote environmental education in our schools. I have cosponsored legislation which provides for environmental curriculums in colleges and universities, teacher training, pilot projects, and support for environmental courses in local schools and in communities.

Third. Increase funding levels for pollution control at all levels of government. If we are to solve our environmental problems, a commitment from government and from the citizenry similar to that required by war will be required.

To date, we have fallen far below that kind of commitment. Congress traditionally recognizes the cost of environmental quality when it authorizes programs, but shies away when it comes time to appropriate the funds for those programs. In 1969, an enormous appropriation gap—the difference between authorizations and appropriations—of $534.2 million existed for pollution control programs. For fiscal year 1971, the President has allotted only .56 percent, or $1.11 billion of his budget to the major environmental quality programs. This is a dangerously low amount.

State and local efforts are as bad, if not worse. In fiscal year 1970, Ohio appropriated $500,000 for water pollution and $150,000 for air pollution. In Indiana, $481,000 was appropriated for water pollution and $88,000 for air pollution. Low State appropriations bring about low Federal matching funds.

Fourth. New legislation is needed to put more of the burden on those who violate antipollution regulations. I have introduced legislation which would establish an effluent tax system for water polluters. The principle is simply this: he who pollutes must pay the cost of purification.

This approach to pollution control is supported by a recent General Accounting Office report which indicates that industry, not now covered effectively by water pollution legislation, not municipalities, is the primary villain in water pollution.

New tax legislation also should be considered to put the cost of developing new methods of solid waste disposal on the manufacturer and the user of bottles, cans, and the like, so as to encourage the development of disposable containers.

Fifth. State and local units must forge stronger partnership efforts to combat pollution. Cooperation is the key—among Federal and State governments, and among State and local governments. Pollution does not begin or end at the city limits, the county line, or the State line, so regional and interstate cooperation must be expanded.

Sixth. More research is needed to seek new alternatives to those procedures and products which contribute to our pollution problems. And, just as importantly, expanded application of the know-how we now have is called for.

CONCLUSION

The threat to our environment is apparent. We stand at the crossroads with a clear choice: that of improving the quality of our environment or ignoring the problems of pollution.

If the greatest thing since creation—the Apollo 11 moon landing—was worth $25 billion, how much is the creation worth?

RHODESIA SHOULD BE PROMPTLY RECOGNIZED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. RARICK) is recognized for 30 minutes.

Mr. RARICK. Mr. Speaker, those of us who believe that the foreign policy of the United States should be designed to serve the best interests of the American people are delighted that a little bit of sanity about the Rhodesian situation seems to have crept into the State Department from somewhere.

The veto by the United States of the "Alice in Wonderland" proposal submitted to the Security Council of the United Nations Organization was correct—a proper recognition that the stooges of the Soviet were aiming at us as much as at Rhodesia.

Our action should be followed forthwith by the logical and proper step of extending full diplomatic recognition to an established and civilized nation. Our own national interests dictate this course, common decency demands it, and the future and welfare of Western civilization and Christianity could very well depend on the wisdom with which we act now.

The Washington Evening Star of Friday the 13 may well have the most important clue to our African conduct on the society page, where Mrs. William P. Rogers, the wife of our Secretary of State, discusses his rapport with the tribesmen, recalling that he represented Martin Luther King for nothing in the Sullivan case, which makes other Americans recall just who it was who rendered the very peculiar legal opinions which led Dwight D. Eisenhower to invade and attack Little Rock in violation of the Posse Comitatus Act in the first of our school crises.

Prime Minister John Vorster of the Republic of South Africa stated the position of his nation succinctly, when he said that Rhodesia's course was Rhodesia's affair.

The Prime Minister stated:

> I say there can be no misunderstanding. Just as South African relations with Rhodesia continued normally after the declaration of independence, in the same way South Africa's relations will continue normally with Rhodesia as a Republic.
>
> If Rhodesia wishes to become a Republic it is Rhodesia's affair. It would be the greatest foolishness for one Republic to become angry if another country also became one.

We would do well to carefully consider whether, in addition to spitefully harming ourselves, we wish to stand indicted before future generations of Americans as the ones guilty of the great foolishness of which Mr. Vorster spoke.

I include in my remarks pertinent newsclippings and editorial comment from newspapers large and small, as well as a transcript of the remarks of Mr. Fulton Lewis III, relating some of the truths about Africa, on March 11, 1970:

[From the Washington Star, Mar. 13, 1970]

Missing Engine in Cameroon: Cabinet Wife Fearless in Africa

(By Donnie Radcliffe)

In Cameroon, she rode fearlessly in a rickety United States embassy plane that was missing one engine.

At a "diffa" (a tent feast) in Morocco, she dug in finger-style to eat like her hosts, never batting an eye.

But when it came to joining the Clean Plate Club by finishing off some exotic, if personally unpalatable African cuisine, Mrs. William P. Rogers found the solution.

"You eat as little as possible and sort of mess things up on your plate."

Yesterday, the wife of the secretary of state became the latest administration wife to review for reporters her impressions of a trip she recently took with her husband.

The trip lasted 15 days, coverered 10 African countries and left her thoroughly convinced that the notions some people have about the Dark Continent are "out-of-date, to put it mildly."

She said she found that not only men are "up on things" but so are their wives, though she called it "fascinating" that two subjects seldom if ever brought up around her were Israel and Vietnam.

"I don't think they are interested in Vietnam," she said at a morning coffee in her attractive Bethesda home where four of her traveling companions, Mrs. David Newsome, wife of the assistant secretary of state for African affairs; Peggy McKay of USIA, Ethel Payne of Sengstacke Publications and State's Virginia Wallace also were present.

Mrs. Rogers said her African hostesses were curious about almost everything American but in discussions were inclined to talk about problems "they are worried about—or are about to be."

She learned that volunteer work is growing in some countries, is "almost nil in others."

She noted that younger women are entering professions and that some married women yearn for paying jobs.

"When one wife told her husband she wanted a job, he asked if she was starving. She said 'no' and he said 'then don't work'."

She said she was proud of U.S. Embassy wives in the countries she visited. In the Congo, one American wife had learned French and was starting on a tribal tongue. In Togo, another had organized Togo-a-Gogo, a cottage industry for the Togolese government.

"They are not only encouraging the people in crafts, but helping out in clinics and schools. I'm sure it wasn't a put-on."

Of African misconceptions about the United States, she said people "are more sophisticated than you think."

"They knew Bill represented Martin Luther King in 1963 (Sullivan vs. The York Times). He represented all the black people in that—not The New York Times which had its own lawyers—for nothing. It was something he was always interested in, and he won."

Like any tourist with family back home, she could not return empty-handed.

She brought home several drums and one xylophone.

The xylophone was for son Jeff, who is unmarried.

"The others (Rogers' sons) have wives who might not have wanted it—but a drum can be stuck in a corner.'

[From the Washington Star, Mar. 15, 1970]

Nixon Commits a Rhodesian Blunder

(By James J. Kilpatrick)

At a time when foreign news is dominated by a deepening involvement in Laos and by continuing tension in the Middle East, the decision of the Nixon administration to close the U.S. consulate in Rhodesia will attract small attention.

Yet this was a disgraceful act by the President, a weak and pusillanimous act, rooted in hypocrisy, having nothing in its favor but political expedience. The best that can be said is that the decision is consistent, at least, with all that has gone before: It is one more blunder.

The decision is wrong on its merits. For better or for worse, American industry retains large investments in Rhodesia. Many American nationals live there. Hundreds of American tourists visit Rhodesia every year. To close the small but useful consulate is an affront to common sense.

This is the least of the wrongness. Abandonment of the U.S. consulate is a symbolic act, a political and diplomatic gesture. It is a way of saying, to quote Secretary Rogers, that the United States "continues to regard Great Britain as the lawful sovereign in Rhodesia."

Such a posture is pure sham of course, and Rogers knows it. The proposition is as spurious as the palpable lie, solemnly propounded by the United Nations, that Rhodesia has threatened international peace and security since November of 1965. The blunt fact is that Britain holds no sovereignty whatever in Rhodesia today.

Why is this fact not accepted philosophically? Why do we persist, as to Rhodesia, in pursuing a foreign policy violative of every principle of law, history, and self interest?

The rule of non-intervention in the internal affairs of other nations is a principle explicitly stated in the charter of the United Nations. By going along with the Afro-Asian lynch mob in the imposition of sanctions against Rhodesia, the United States has closed its eyes to this principle.

Our course of action makes a mockery of our own history. What is the great event we shall celebrate in 1976? Why, sir, it is the 200th anniversary of our own independence from the British Crown. It was we who provided the high example for Rhodesia; our own founding fathers, renouncing colonial status, dissolved the political bands which had connected them with another. We call them patriots. And what an irony it is for the United States, thus born, to assert the illegitimacy of Rhodesia! What sanctimony, to denounce Ian Smith and his colleagues as rebels!

Diplomacy ought to be based, if not in principle, if not on law, if not on history, at least upon self-interest. Even this homely rule has been lost in the chain of blunders. As one consequence, the United States now finds itself in this imbecile position, that we must purchase vitally needed chrome at high price from the Soviet Union, our avowed enemy, rather than at low cost from Rhodesia, whose only offense is to adhere to the West.

Dean Acheson, former Secretary of State, summed up the travesty in a speech to the American Bar Association two years ago. In its course of conduct against Rhodesia, he said, "the United States is engaged in an international conspiracy, instigated by Britain, and blessed by the United Nations, to overthrow the government of a country that has done us no harm and threatens no one. This is bare-faced aggression, unprovoked and unjustified by a single legal or moral principle."

Nothing has changed since Acheson delivered that stinging reproach. Rhodesia has overcome the UN's sanctions. She has resisted the Communist-trained terrorists, based in Zambia, who in fact constitute a threat to African peace. She has proclaimed her status as a wholly independent republic. She will triumph over those peace-loving members of the UN who would wage war upon her. And she surely will survive the mean, needless and contemptible act of the Nixon administration in destroying the last small symbol of a friendship far better than we ever deserved.

[From the Chicago Tribune, Mar. 16, 1970]

Down With Rhodesia, Long Live Mao

When the United States announced the closing of its consulate general in Salisbury, Rhodesia, Prime Minister Ian Smith's government expressed regret that the Nixon administration had "allowed itself to be forced into this decision by the British government."

Whether it was intended to placate the British or the communist-supported black Africans in the United Nations or black extremists in this country—or all of these interests—is not clear, but the decision is an ironic example of Mr. Nixon's "new era" diplomacy.

In a 43,000-word report proclaiming a "historic watershed in American foreign policy," Mr. Nixon said the United States "will not intervene in the internal affairs of African nations." Now he is attempting, by severing the last vestige of diplomatic relations with Rhodesia and by cooperating with Britain's policy of economic sanctions against that country, to bring down its government. Britain with no reason to expect success, wants to topple the Smith government because it unilaterally declared Rhodesia's independence and later put into effect a new constitution establishing a republic. Both the United States and Britain are trying to strangle Rhodesia because its constitution limits the franchise to income tax payers and thus assures a parliamentary majority for the white minority. To a man of ordinary understanding this would seem to be an internal matter.

Mr. Nixon said the United States seeks "freer trade among all nations," particularly including the communist countries. Altho he has relaxed restrictions on trade with Red China, he has continued the Johnson administration's embargo on trade with Rhodesia, formerly our main source of strategically vital chrome ore. This has compromised our national security by putting us at the mercy of the Soviet Union for chrome ore, the price of which the Russians have doubled.

While attempting to ostracize Rhodesia on moral grounds, Mr. Nixon tells the American people that our national interest demands steps toward "improved practical relations with Peking." The Chinese, he says, are "a great and vital people and should not remain isolated from the international community." He proposes to build bridges over the "gulf of ideology" that separates us from a regime which has murdered more of its own people than any government in history, not excepting the Soviet Union; which has carried out a systematic policy of genocide against the people of Tibet; and which even now is building a road across northwest Laos to facilitate its aggression against our ally, Thailand.

The President's report descanted on "new approaches" and new "action programs for progress" in Latin America, without even mentioning communist Cuba, the source of revolutionary infection thruout Latin America and a training base for black and white guerrilla warriors from the United States. The American Castroites freely travel to Cuba and back while everybody in the state department sleeps, presumably dreaming about what Mr. Nixon calls "changes in communist purposes."

In a significant interview the other day, Sen. Barry Goldwater remarked that, with the exception of the defense and justice departments, Mr. Nixon has "failed to get hold of the government." Certainly he has failed to "get hold" of the state department. In foreign affairs, it's about time for the President to get hold of himself.

MALICE TO RHODESIA

(By Katherine Jansen)

CHICAGO, March 10.—I don't believe the state department's action in regard to Rhodesia can be attributed to stupidity as suggested by your editorial "British Impudence" [March 7]. I believe it to be malicious intent to discredit our country as well as Rhodesia.

Why should we capitulate to Britain's desire that we close our consulate when Britain retains diplomatic relations with our enemies, such as North Viet Nam and Red China? Rhodesia is not our enemy, and there is no reason for us to close our consulate. Neither is there reason for us to boycott Rhodesia's chrome ore and buy from our enemy, Russia, at double the price.

We fought for our independence, and I see no reason why we should cooperate with Britain in a policy of sanctions against Rhodesia. We have been meddling in Rhodesia's internal affairs too long. What goes on in her country is none of our business as long as it doesn't affect other countries.

My main reason for voting for President Nixon was that he promised to clean out our state department. We haven't gotten any further with Secretary Rogers than we did with Secretary Rusk.

[From the Top of the News, Washington, D.C., Mar. 11, 1970]

Europe follows suit on Rhodesia: Prior to Monday's announcement by the *Nixon Administration* that it was closing the U.S. consulate in Rhodesia, ten European nations and South Africa had some form of consular representation in Salisbury. The action by our government, however, has triggered the expected chain reaction, and within the next few days it is likely that the number of consulate offices in Rhodesia's capital city will be reduced to one, that belonging to South Africa.

In the meantime, the Administration's action has prompted warm responses from both the British government of Prime Minister *Harold Wilson* and from Emperor *Haile Selassie* of Ethiopia. Officials in London have taken the attitude that the United States has "done its duty" in completing severing its last remaining diplomatic relationships with what Britain views as the "illegal" regime of Prime Minister *Ian Smith* in Salisbury. Emperor Selassie today expressed pleasure with the Nixon Administration's attitude toward Africa in general. He said the President's statement on Africa in his State of the World message was both "promising and encouraging."

In light of the developments of the past few days, it might be well to review some pertinent parts of that Nixon message which was sent to the Congress on February 18. Regarding Africa, he stated: "We [the United States] will not intervene in the internal affairs of African nations. We strongly support ther right to be independent, and we will observe their right to deal with their own problems independently. We believe that the national integrity of African states must be respected." Later, Mr. Nixon stated: "Consulting our own interests, we will help our friends in Africa to help themselves when they are threatened by outside forces attempting to subvert their independent development. It is another lesson of the 1960's, however, that African defense against subversion, like African development, must be borne most directly by Africans rather than by outsiders."

Think about those two paragraphs for a minute. "We will not intervene in the internal affairs of African nations." Which African nations? The answer, quite obviously, does not include those in the southern sixth of the African continent which are still governed by predominantly white governments. The answer, specifically, does not include Rhodesia. With no supporting evidence whatsoever, the Nixon Administration, like its predecessor, has just assumed that the government of Ian Smith is a racist regime which does not represent the choice or the best interests of Rhodesia's predominantly black population. Any suggestion is a bold-faced lie as anyone who is personally familiar with the situation inside Rhodesia will verify. In the first place, the Rhodesian government, unlike that in the other white-dominated nations of southern Africa, is not exclusively white. It is bi-racial. The Africans, the blacks, occupy more than 30 percent of the seats in the Rhodesian parliament. That might not seem a lot considering the fact that the Africans constitute 95 percent of Rhodesia's population but, remember, some 20 percent of our own American population is non-white, and yet the non-white representation in our Congress amounts to less than 3 percent. In the Senate, there is only one Negro.

One-man, one-vote tribalism? Yes, but there is a difference, you might say. In this country, there are no barriers to black people participating in the democratic processes; in Rhodesia, there are. The answer to that is that the difference is not as great as has been suggested. The only barriers to black participation in the electoral processes of Rhodesia are in the form of minimal educational or earning requirements—and I stress the word "minimal." Anyone with a third-grade education can vote, for example. The explanation for these standards is quite understandable when you stop to realize that a large percentage of Rhodesia's African population still lives a tribal existence.

Under some tribal laws, for example, if a woman gives birth to twins that fact in itself proves that she is guilty of having had an affair and the children are considered illegitimate. Fortunately, the Rhodesian government does not force these tribal groups to abide by its European morals and by its European code of justice. When the mother of twins is executed, as tribal customs mandate, the executioners are not tried under European standards for murder. Slowly, Rhodesian authorities are trying to bring this tribal element of their country's population into the 20th Century, but it is a tedious process which requires much education and even more patience. Until the project is accomplished, there must be two or three or more codes of justice in Rhodesia, each taking into account the moral codes of the groups or factions involved. Needless to say, Rhodesia's African tribesmen appreciate this system of law. Conversely, we should appreciate the fact that it would be totally unrealistic, perhaps even disastrous, to impose upon Rhodesia a one-man, one-vote form of government. In the first place, we have no right to make such an imposition. In the second place, there is every reason to believe that the course which Rhodesia is pursuing in achieving black control and that, incidentally, is the ultimate objective of the Ian Smith regime (black control achieved as African standards are raised). There is every reason to believe that this will be a far more productive and far more successful course than that which has been pursued in the now black-dominated African countries which have been plagued with chaos, economic bankruptcy, and internal upheaval.

The "Democracies" of Africa: The only truly stable black African nations of any size and importance, you might note, are those in which there is a form of totalitarian tribal rule. The term "democracy" cannot be applied to any but a few of Africa's many nations. In Kenya, *Jomo Kenyatta* was elected a decade ago when the British granted that country its independence. He greeted the elections as a major triumph of democracy and promptly decreed that it wouldn't be necessary to have any more elections since the people's will had been spoken and he hasn't had to face the voting process since then. In Tanzania, one of Rhodesia's most bitter enemies, President Nyerere rules with an iron hand. Opposition parties and individuals have, in effect, been placed in a criminal status. The same holds true for another of Rhodesia's enemies, Zambia, which is ruled by President *Kenneth Kaunda*. Nigeria tried the course of democracy but, within months, the majority tribal groups realized that they could use their majority status in the government as a means of conducting brutal reprisals against old tribal enemies. The result was the tragic Nigerian-Biafran war. A similar situation broke up the Congo in the early 1960's.

The record of black Africa's so-called "democracies" has been a farce. During the last decade, there were no less than 25 successful military coups in black African states—successful military coups; so I'm not counting the unsuccessful ones which number in the hundreds. The countries affected are ones which our State Department constantly refer to as the great, "newly emerging democracies" of the African continent. It all started in Congo-Kinshasa in 1960. Then Togo, Congo-Brazzaville, Dahomey (1963). Then Congo-Kinshasa, Dahomey, and Dahomey again (1965). Then Central African Republic, Upper Volta, Nigeria, Ghana, Nigeria again and Burundi (1966). Then Togo, Sierra Leone twice, and Dahomey (1967). Then Sierra Leone, Congo-Brazzaville and Mali (1968). And finally, Libya, Somalia, the Sudan and Dahomey in 1969. That's quite a record for "democracies."

In Rhodesia there has been political stability. There has not been any repression or oppression by one tribal group against another and, let me underscore this, no in-

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tolerance or oppression by the whites against the blacks. Unlike South Africa, where blacks and whites are forcibly separated in an "apartheid" system, Rhodesia has operated on a non-racial basis. A man is treated according to what he is and not according to the color of his skin.

Is the Rhodesian government popular? The best answer to that, I think, comes in the fact that all of the tribal chiefs have warmly embraced Ian Smith's policies of nonracialism. They have also applauded his programs of land and educational development of tribal areas. More significantly, if there were opposition of any significance to the Ian Smith government, it would have been toppled long ago. Five percent white population could not possibly have withstood a rebellion of 95 percent black population. Significantly, the Smith government is defended by a combined army-police force of only 25,000 men and two-thirds of these are Africans. Three-fourths of the entire armed force is actually unarmed. And yet Rhodesia has been peaceful. The only problems it has had have come from guerrilla bands based in Zambia and Tanzania.

What is the state of our State Department? Mr. Nixon's State of the World message asserts that the United States will consult its own interests in attacking the problem of "subversion" in Africa. Well, in past years before the U.N. boycott, Rhodesia supplied the United States with 85 percent of our chrome ore, vital not just to our commercial but also our defense interests. Since the boycott of Rhodesian goods, we have had to purchase 85 percent of our chrome from the Soviet Union. Beyond that, an attempt is being made to subvert Rhodesia. The guerrilla bands in Zambia and Tanzania, in addition, are being trained and supplied by Red China. In short, why has the Nixon Administration decided to join in the campaign to crush Rhodesia? What happened to American "interests"? The State of the World message is headed in the right direction, but it is a shame that neither Mr. Nixon nor his State Department meant a word they said.

[From the Signal Mountain (Tenn.) News, Feb. 23, 1970]

Our Mistake in Rhodesia

The farce of sanctions against Rhodesia has failed. They should never have been imposed. The United Nations, including the United States, must release Rhodesia from illegal treatment.

I can think of only one thing more ludicrous than the ill-conceived United Nations sanctions against Rhodesia. That would be the tiresome charge that Rhodesia is a threat to peace.

George Orwell once described political language as being "designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind."

The best example of the truth of that statement is in the political verbiage used to accuse Rhodesia of being a threat to world peace. It was on that precise view that the United Nations rallied its inefficient forces to so condemn tiny Rhodesia. When the African republic of Rhodesia declared its independence from Great Britain in 1965. Arthur Goldberg, the American ambassador to the UN, and the United States Assistant Secretary of Sate for African Affairs, Joseph Palmer, threw the entire weight of the United States behind this unbelievably false charge.

Goldberg, Palmer, UN Secretary General U Thant, and a host of prominent voices publicly stated that enraged black states would hurl their armies at white-ruled Rhodesia. They saw Ghana, Kenya, Zambia, and other African nations launching an all-out attack on Rhodesia. But only President Nasser in Cairo, still four thousand miles safely to the north of Rhodesia, ever declared war on the beleaguered country. Other African nations talked tough, but the Rhodesians were fully aware of the limitations of their black neighbor states and even more conscious of the war record of Nasser's Egypt.

Four years have passed and the fertile imaginations of Goldberg and Palmer are no longer shaping American policy, and Kwame Nkrumah, the rough-and-tumble dictator of Ghana, is in exile writing his memoirs. Prime Minister Ian Smith is still in office in Salisbury, Rhodesia's attractive capital. There have been some minor guerrilla activities but the last was in August, 1968, and that much heralded "threat to world peace" just never did materialize.

Professor Edward G. McGlynn of Salem State College, Massachusetts, teaches African area studies to graduate and undergraduate students. He recently made a trip to South Africa and Rhodesia. When he came back he published his reactions for the press, and he made this significant statement:

"The widespread belief in the United States that Rhodesia and South Africa are on the brink of revolution is quite unfounded. If internal disorder should materialize, the efficient police of both lands seem quite capable of handling matters. Invasion may be ruled out altogether as the military capacity of South Africa and Rhodesia is quite formidable in the African context."

The foolish and unfounded accusations leveled against Rhodesia by high ranking Americans, frequently reported on earlier Life Line broadcasts, are coming home to roost in a very hard and important way.

Recently Kenneth N. Davis, Jr., Assistant Secretary of Commerce for Domestic and International Business, testified before the House Foreign Affairs Subcommittee on Africa. On October 17, Mr. Davis called the attention of the subcommittee to:

"Growing dependence by the United States on Russian chromite with an increase in price of about 50 per cent.

"Denial of applications to import Rhodesian chromite already paid for by United States companies.

"Depletion of stocks of petalite used in the glass and ceramics industry, which if allowed to continue will force curtailment of essential production in civilian glass and ceramic manufacture.

"Reduction of United States exports to Rhodesia from $29.9 million in 1965 to $2.1 million in 1968."

The previous Washington administration implemented the United Nations call for sanctions and issued regulations on both March 2, 1967, and August 13, 1968, that included automatic penalties against any American business or industry trading with Rhodesia.

American investment in Rhodesian chromite mines has been sizable, and American-owned firms were producing most of the chromite ore imported into the United States. Union Carbide Corporation and Foote Mineral Company owned these mines. The Treasury Department was made responsible for enforcing the executive orders that spelled out sanctions against trade with Rhodesia.

The two companies have petitioned the Treasury Department to at least permit them to bring into the United States that chromite ore already mined, paid for, and stockpiled in Rhodesia. Union Carbide has over 150,000 tons paid for and Foote Mineral has 57,000 tons. Both companies are investing sizable amounts of money to keep the mines operating in order to avoid possible flooding.

The second major element, petalite, is even more critical. Rhodesia is the only commercial source of this ore which is used in civilian glass and ceramic manufacture.

What is even worse, we are now buying 60 per cent of our total chromite imports from the U.S.S.R., which has steadily increased prices to us since we stopped importing Rhodesian ores. Moscow has raised the cost of chromite 50 per cent and has no petalite for us to buy. At least we can be grateful for that.

Russia was a major supplier of chromite before the Korean War, but we stopped buying its ore after 1950 and did not resume until 1958. Even then, Rhodesia was providing the major supply of chromite and Russia sold only small quantities.

The official double-talk that keeps on trying to make Rhodesia an enemy to freedom and an enemy to this country is totally unworthy even of people who guessed wrong and don't want to admit it. We should release Rhodesia from the restrictions of trade between our two countries. It is something of a minor miracle that Prime Minister Ian Smith has led the Rhodesians to continue a high regard for American principles, the American people, and our symbol as the world's leader for freedom. The least we can do is to repay that loyalty by recognizing Rhodesia as our friend and the friend of true liberty for all of mankind.

LEGISLATION TO STRENGTHEN THE ROLE OF PRIVATE CONSUMER SUITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Farbstein) is recognized for 30 minutes.

Mr. FARBSTEIN. Mr. Speaker, I have today introduced for myself, Mr. Mikva, and Mr. Brown of California, H.R. 16551, legislation to put a new weapon into the hands of consumers fighting corporate abuses through court action. The bill would permit both local governments and private citizens access to evidence obtained by the Federal Government in antitrust suits that end in consent decrees.

With the Federal Government cozying up to private industry, remedies to consumer problems are increasingly being forced to rely on private court action.

The collection of evidence for such actions is costly and frequently duplicates Federal collection of evidence for antitrust suits. The Justice Department spent $3 million in gathering evidence for use in the auto smog suit, employed eight full-time staff members, conducted an 18-month grand jury probe and subpenaed scores of witnesses from across the country. That suit ended in a consent decree.

On Monday, the Supreme Court upheld that decree. The appeal which came from New York, Philadelphia, and other cities, contended that the public is entitled to greater access to the evidence collected with Government funds.

Were all antitrust suits to go to trial, the evidence would be a matter of public record and thus available to private litigants. But the Federal Government has been short circuiting the process by obtaining consent decrees, out-of-court agreements with defendant companies. This terminates the proceedings before the trial and thus makes the evidence inaccessible to private parties and other Government jurisdictions.

Approximately 75 percent of all antitrust suits initiated by the Federal Government have terminated in consent decrees.

There evidently is a "silent conspiracy" between the Federal Government and large corporations to circumvent the intent of the antitrust laws and weaken the position of the consumer by using consent decrees to cut off followup private damage suits.

The corporation counsels of the city of New York and the county of Los Angeles have endorsed the portion of my legislation applying to governmental jurisdictions.

For many years "consumer protection" has been the stated purpose of that body of law which serves to provide guidelines to American business for its proper operation. Protecting the customer from financial harm has always served in large part as the justification for court decisions in which members of industry have been held in violation of antitrust laws. See *Standard Brands, Inc.* v. *Smidler*, 151 F. 2d 34 (2d Cir. 1945) (Frank J., concurring); *Federal Trade Commission* v. *Mary Carter Paint Co. et al.*, 382 U.S. 46, 86 S. Ct. 219 (1965). Strong enforcement of the antitrust laws continues to be the stated policy of the U.S. Government. Atty. Gen. Natl. Comm. Antitrust Rep. 378. Yet the vast majority of antitrust suits and trials which reach judgment are not brought or initiated by consumers. They are instead a result of the heat of friction within industry itself as unlawful advantage taken by one member of the business community creates a present or threatened financial loss to another and causes him to seek injunction and redress, or arise because the Government discovers alleged violations of law which, if left unchecked, would set precedent that would ultimately destroy the stability and freedom of the economy.

XUM

In a large sense the protection which results serves to promote the general welfare and to preserve an essential faith in fair dealing at the marketplace. But while the consumer may enjoy the effect of his National Government's vigilance in the antitrust field at the perimeters of his economic life and may owe a great deal to that protection—something more is required. The consumer needs greater power to give him the standing and the capacity to strike back at economic policies and practices which unlawfully harm him as an individual. Where such a potential cause of action lies submerged and immasculated in the individual citizen the larger protection has, a fortiori, broken down.

The treble damage suit provided private litigants by section 7 of the Sherman Antitrust Act—July 2, 1890, chapter 647, 26 statute 209, as amended—verifies the reality of the threat to the consumer and substantiates the fact of his individual weakness in the face of industry. But to successfully prosecute the antitrust lawbreaker the consumer requires an abundance of solid evidence which, because of its usually devious and complex effect upon him personally, and because of the great difficulties which he encounters in gathering it, is generally beyond his reach. Still more difficult is his burden in proving the existence and extent of his damages. He is very much in need of Government evidence in substantiating the depth, or even the existence of his cause of action.

Adding to the consumer's difficulty in this regard have been court decisions which have stated the belief that the primary purpose of section 5(a) of the Clayton Act is not to encourage and aid private litigants in treble damage actions, but is rather, to encourage defendants to enter into consent decrees with the Government. *United States* v. *Brunswick-Balke-Collender Co.*, 203 F. Supp. 657 (E. D. Wis. 1962); *cf. United States* v. *Ward Baking Co.*, 163 Trade Cas. 77, 499 (n. D. Fla. 1963), (held not conclusive). It has been estimated that 70 to 75 percent of all cases in which evidence is gathered by the Justice Department against antitrust law violators are not brought to trial but are settled by consent decree. A significant portion of antitrust criminal actions are brought under pleas of nolo contendre. The nolo contendre plea in an antitrust criminal action is considered the equivalent of a consent decree in its evidentiary effect upon private litigants. *City of Burbank* v. *General Electric Co.*, 329 F. 2d 825 (9 Cir. 1964). When a consent decree is entered into, as when a plea of nolo contendre is accepted, the evidence which was collected and utilized by the Government in bringing about the plea or decree—and which would have been used to more fully prosecute the case in court—is lost to the use of all other potential claimants, governmental and private. As a result, industry is granted an immunity against suit which must be seen as being in direct contravention of the spirit, if not the letter of the Sherman Act's treble damage provisions, and which mocks the avowed principal reason for the existence of the Federal Trade Commission—that of consumer protection. See *United States* v. *Standard Ultramarine and Color Co.*, 137 F. Supp. 167 (1955), at 171, 172.

But there are these reasons frequently given to justify the use of consent decrees: That the Government is unable to take to court all those against whom it has evidence of antitrust violations due to limited time and resources; that consent decrees are obtainable more easily and speedily than are court decisions; that industry's genuine cooperation in stopping questionable or unlawful business practices will more readily result if consent decrees are available, as opposed to perhaps harsher court decisions; and, that in many cases evidence obtained might not sustain a court judgment in favor of the Government while the same evidence may be sufficient to provide the bargaining power necessary to obtain a consent decree.

I believe there is merit in each of these reasons, but particularly in the last, is adequate to justify limited continuation of the consent decree "program." However, the Justice Department's asserted inability to handle prosecution of all potentially strong antitrust cases due to its limited resources speaks more clearly and urgently to the need for more adequate enforcement of the law to cope with a problem of this magnitude than it does to excuse continuation of a basically weak procedure. A temporary increase in lawsuits by Government at all levels and by private citizens would proably achieve the beneficial results which such action is thought to obtain in most every other area of the law.

The slow movement of the wheels of formal justice is a recognized fact, but it would be tragic if that problem, itself high on the current list of priority problems, should serve to further excuse the court's inadequate functioning.

Once industry becomes aware of a willingness in the Justice Department to take and assist cases to court, and of the courts' increasing ability to handle them with reasonable speed, its more thorough and willing cooperation can fairly be expected in preventing a greater number of abuses before they occur. This concept is at the heart of our system of punishment for the lawbreaker as a lesson for the morrow.

When a consent decree is entered or a plea of nolo contendre made for all intents and purposes the matter is terminated. At the time that the evidence compiled by the Government is marked inaccessible, investigatory activities generally come to an end as well. This sequence of events often presents the appearance of a silent conspiracy between the Government and the defendants to conceal and suppress evidence necessary for the establishment of guilt. Realization of this fact has gained governmental recognition in the form of "asphalt clauses" included in some consent decrees to facilitate an admission of specific wrongdoing. These have generally not met with much success however. See *United States* v. *Allied Chem. Corp.*, Trade Reg. Rep. (1961 Trade Cas. No. 69,923); see generally Kaplan, "The Asphalt Clause—A New Weapon in Antitrust Enforcement," 3 Boston College Indus. & Comm. L. Rev. (1962).

The machinery of Government is no more able to supervise enforcement of consent decrees than it is to bring antitrust suits to court. The large number of new complaints brought against industry, versus the number of contempt charges filed for violation of the terms of consent decrees suggests that either the Justice Department is not geared to follow up consent decree compliance or that industry cooperation is near perfect. The latter alternative appears less likely than the former.

The fear of treble-damage action is one of the most potent influences in securing compliance with antitrust laws. Neale, "The Antitrust Laws of the U.S.A.," 388 (1960). The greatest threat to monopolistic practice is the threat to the offender's pocketbook. This is inherently true when dealing with impersonal corporations. Hence, financial loss provides the strongest deterrent to a violation of the antitrust laws. *Bruce Juices, Inc.* v. *American Can Co.*, 330 U.S. 743 (1947).

Recovery of damages by private parties serves the additional function of canceling any illegal gain derived by the company from an antitrust violation. Loevinger, "Private Action—The Strongest Pillar of Antitrust," 3 Antitrust Bull. 167, 168 (1958). "The motivation for a conspiracy in restraint of trade is essentially financial. A financial penalty would thus seem to be an essential deterrent and, in some circumstances, afford a stronger therapeutic effect than criminal penalty or injunctive relief." Kaplan, "The Asphalt Clause—A New Weapon in Antitrust Enforcement," 3 Boston College Indus. & Comm. L. Rev. (1962).

Additionally the States and cities have an undeniable vital interest in the welfare and financial security of each citizen which is not at all in conflict with the higher order interest of the National Government in its concentric citizenry. Consequently, the States and cities have a stake in antitrust law enforcement which goes to the punishment of antitrust violators.

If treble damages are thought too harsh to permit widespread, feasible use as a tool of deterrence, perhaps the solution lies in reducing or creating a sliding scale of multiple damages. The answer is not, however, to reduce Government suit and prosecution and to imprison much-needed evidence.

The bill I have introduced preserves consent decrees and pleas of nolo contendere as means of enforcement where evidence of antitrust violation is incomplete or subject to a real possibility of insufficiency in a court of law, while at the same time making available all evidence collected and utilized in bringing them about. If evidence is truly insufficient to warrant either, then of course the Government has the duty to drop its charges and to withhold that evidence from the public.

The States and cities, as well as the individual victims of antitrust law violations should be assisted, not hindered, by the Federal Government in seeking their proper and lawful remedies.

I insert the text of the bill as well as letters from the corporation counsels of the county of Los Angeles and the city of New York and from Mayor John Lindsay endorsing the objective of the legislation.

The text of the bill and letters follows:

H.R. 16551

A bill to amend the Clayton Antitrust Act to provide accessibility to documentary evidence gathered in connection with certain antitrust actions brought on the behalf of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 5 of the Clayton Antitrust Act (28 Stat. 731; 15 U.S.C. 16) is amended by adding the following new subsection at the end thereof:

"(c) Upon the entry of a consent decree in any civil antitrust proceeding or the entry of final judgment after a plea of nolo contendere in any criminal antitrust proceeding, the Attorney General shall assemble all documentary evidence, in whatever form, gathered by the United States for possible use in the proceeding. In accordance with such reasonable procedures as he may prescribe, and notwithstanding any restrictions otherwise imposed by section 552 of title 5, United States Code, the Attorney General shall make the material assembled pursuant to this subsection available for inspection and copying

"(1) by any person duly authorized to act on behalf of any State or local governmental body, and

"(2) by any person."

COUNTY OF LOS ANGELES, OFFICE
OF THE COUNTY COUNSEL,
Los Angeles, Calif., February 5, 1970.

Hon. LEONARD FARBSTEIN,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. FARBSTEIN: This will acknowledge receipt of your inquiry of January 22, 1970, wherein you indicated a most understandable dissatisfaction with the order of Judge Curtis in the recent federal anti-trust suit against the automobile industry.

I most wholeheartedly agree with your reaction and approve of your intention to amend the Clayton Anti-Trust Act to provide access to governmental bodies to Justice Department evidence following a *nolo contendere* or consent decree order.

Please be assured that my reaction is reflective of the belief of members of the Board of Supervisors of this County and of those attorneys representing public entities seeking recoupment in civil anti-trust cases.

If this office may be of any assistance to you in processing this matter through the legislature we would be most happy to oblige.

With kind regards, I am

Sincerely yours,

JOHN D. MAHARG,
County Counsel.

THE CITY OF NEW YORK,
LAW DEPARTMENT,
January 14, 1970.

Hon. LEONARD FARBSTEIN,
Rayburn House Office Building,
Washington, D.C.
Attention Mr. Ellis Levin.

DEAR MR. LEVIN: Thank you for consulting us on your proposed amendment to § 5a of the Clayton Act. As you know, the City's hands have been tied on more than one occasion by the failure to obtain documents used by the Department of Justice in antitrust suits where consent decrees or pleas of *Nolo Contendere* have been entered.

For your information, I am enclosing copies of several papers related to the impounding of documents in cases in which the City was a party. In chronological order these are the order in the library editions of children's books suit which just impounded documents but did not allow us access to the materials; Judge Travia's order giving us access to similar materials in the maple flooring suit without resort to further court action, and our petition and memorandum in support thereof; and, the opinion in the automobile air pollution case which, on page 6, refers to the order denying us access to materials impounded until "good cause therefore can be shown." As you can see, the latter opinion was a backward step in the City's efforts in the antitrust field.

If I can be of any further help, please do not hesitate to call me.

Sincerely yours,

J. LEE RANKIN,
Corporation Counsel.
By EUGENE MARGOLIS,
Assistant Corporation Counsel.

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, N.Y., October 3, 1969.

Hon. LEONARD FARBSTEIN,
Congress of the United States,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN FARBSTEIN: This is in response to your letter of September 17, 1969, with respect to antitrust litigation attacking the conspiracy by automotive manufacturers to restrict development of pollution controls.

Your suggestion that the City of New York intervene in the pending suit by the Federal Government is well founded. The City's Corporation Counsel, J. Lee Rankin, and Commissioner of Air Resources, Austin N. Heller, were following this litigation closely, even before the Justice Department announced on September 11, 1969 that it had negotiated and filed a proposed consent decree. Study of the proposed terms convinced Mr. Rankin that the decree, at least in its present form and on the basis of the limited information revealed by the Department, does not adequately serve the public interest. Accordingly, he decided (1) to intervene in the Government suit, for the purpose of objecting to the decree, and (2) unless further study should reveal some legal obstacle, to file an independent treble-damage suit against the defendants.

Today the City filed its motion for leave to intervene and a supporting memorandum with Federal District Judge Jesse W. Curtis in Los Angeles. In its moving papers, the City asks the Court to require the Government to produce a detailed statement and analysis of the evidence it has gathered and to demonstrate, if it can, that the proposed decree is indeed in the public interest. Alternatively, it asks the Court to require renegotiation of the decree to include admissions which will assist state and local governments in any treble-damage actions they may bring. The City is also asking the Court to order the Department of Justice to retain custody and control of all of the documentary evidence assembled for the grand jury which first considered the conspiracy and to make copies available to all state and local governments which file treble-damage actions.

This automotive pollution case illustrates some major weaknesses of the antitrust laws and the need for assistance from you and your colleagues in Congress. Because of your interest, I will outline below the gist of recent experience by this and other state and local governments.

New York City has been vigorously prosecuting treble-damage antitrust actions during my administration. The City's Corporation Counsel has successfully concluded seven such suits since early in 1966. These provide for refunds totalling more than $9,000,000 from companies which have conspired to overcharge the City and public authorities operating here. Seven other cases are in various stages of pretrial discovery and settlement discussions, and several more are in preparation. As far as we know, the special antitrust unit which we set up in the City's Law Department in 1967 is the only such unit in any municipality.

The Supreme Court has on numerous occasions stressed the importance of treble-damage litigation in carrying out the Congressional policy underlying the antitrust laws. To that end, it has said, "Congress meant to assist private litigants in utilizing any benefits they might cull from government antitrust actions." (*Emich Motors Corp.* v. *General Motors Corp.*) The theory is that the most meaningful deterrent to monopolistic practices is a threat to the offender's pocketbook.

Unfortunately, other considerations have led the Government to subordinate this purpose and to accept consent decrees which deny injured persons, including state and local governments, important benefits potentially available from Government cases. Such consent decrees, like the proposed automatic decree, typically omit any admission of wrongdoing. Under the Clayton Act, as now worded, state and local governments can then recover damages only by building their own cases *de novo*. Moreover, the Government does not make available the evidence it has gathered by interviews, FBI investigation, grand jury subpoenas, civil investigative demands and expert analysis. State and local governments are therefore forced to rely on laborious and time-consuming discovery procedures.

The admissions the City is seeking to have incorporated in the automotive decree as alternative relief are patterned on provisions the Department of Justice did insist on for a short period of time in the early 1960's. This type of provision is popularly known as the "asphalt clause." See *United States* v. *Lake Asphalt & Petroleum Co. of Mass., United States* v. *Bituminous Concrete Assn.*, and *United States* v. *Allied Chemical Corp*. The effect of the asphalt clause would be to give treble-damage plaintiffs a *prima facie* case on the key issue of whether there had been a violation of the antitrust laws.

Decisions in the more recent *children's* *books* and *maple flooring* cases are precedents for the impounding and copying of documents obtained in the course of a Government investigation. In *children's books*, a consent decree much like the automotive decree was proposed in the Northern District of Illinois in 1967. New York City and others sought unsuccessfully to intervene and to secure an asphalt clause. On appeal, the Supreme Court upheld a denial of intervention and therefore did not reach issues relating to the proper relief. However, in the trial court and by subsequent motions in separate treble-damage actions, the City and its associated plaintiffs did ultimately succeed in obtaining documents which had been presented to the grand jury. But a great deal of time, effort and persistence was required. In *maple flooring*, the City was unsuccessful in opposing the acceptance of *nolo contendere* pleas, which have the same legal effect in criminal cases as consent decrees do in Government civil cases, but was allowed to inspect and copy all grand jury documents.

You may wish to consider several legislative remedies which have been suggested from time to time.

Senate No. 2137, now pending, would make *nolo contendere* pleas in criminal cases *prima facie* evidence in private treble-damage suits. The Antitrust Division went on record last year as favoring such an amendment.

In the 85th Congress, the House Antitrust Subcommittee conducted an intensive investigation into the antitrust consent decree program of the Department of Justice and reported:

"During the waiting period, private parties, who may be affected by the terms of the decree, *should be given an opportunity to intervene in the Government's case* in order to present their objections to the court for its consideration." (Italics added.)

As indicated by the *children's books* case, an injured state or local government presently faces serious difficulties in attempting to intervene in a Government case. That means, of course, that if the District Court does not heed its requests for modification or rejection of a consent decree, no further redress is open.

Another very useful legislative step would be clarification or confirmation of a state or local government's right to have prompt access (without the necessity of an adversary proceeding) to documentary and other evidence assembled by the Department of Justice—once the federal government's case is concluded. Protracted discovery and the opportunity for dilatory maneuvers by defendants in treble-damage actions would thereby be appreciably curtailed.

Mr. Rankin and I will be happy to place at your disposal any additional background material which may be requested in pursuing our joint interest in effective antitrust enforcement.

I am sending copies of this letter to your colleagues whose names appeared in your letter under your signature.

Sincerely,

JOHN V. LINDSAY,
Mayor.

WOMEN STRIKE FOR PEACE CALL FOR NEW PRIORITIES

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, today members of Women Strike for Peace from throughout the Nation are in the Nation's Capital to present signatures which they have collected opposing the spending of American tax dollars for the war in Vietnam and Laos and urging the Congress to reallocate these funds for our Nation's desperate domestic needs—education, housing, jobs, health, environment, and the rebuilding of our cities.

Women Strike for Peace has continually expressed opposition to our involvement in Vietnam.

Unfortunately, voices of concerned citizens have been virtually ignored—first during the Johnson administration, and now by President Nixon, who said of the October 15 Vietnam moratorium:

> Under no circumstances will I be affected by it.

Although he promised a change of Vietnam policy during his campaign, the President has done little to change America's posture in the war.

The Nixon "Vietnamization" program is merely a rehash of what prompted massive American involvement in the first place—we were to train and arm the South Vietnamese, but it was their war, and they were going to do the fighting.

The new Nixon plan of Vietnamization, as described during the President's November 3 speech, is nothing more than the old Johnson policy.

As a result of this policy, some 40,758 Americans have died in hostile action as of February 28, 1970. Those who have been injured and maimed number 268,296.

The number of South Vietnamese who have been killed or wounded number in the thousands. These casualties include women, old people, and children. Those who have not been killed or wounded have often become refugees after their villages have been burnt to the ground.

How many more lives must be lost, how many more people must be maimed, how many more villages must be burnt before we realize that the policy of Vietnamization has left a plundered, barren nation which will never again be the same?

How long before we realize that a policy aimed at protecting democracy the right to self-determination based upon support of a government which is undemocratic cannot succeed?

The President has asked that his plan be given a chance. In October and November, several hundred thousands of Americans peacefully expressed their concern about the war. They are still concerned; especially concerned that their feelings have fallen on deaf ears. All they are asking is to give peace a chance.

Congress can give peace a chance. Congress has the power to deal effectively with foreign policy, but it has abdicated that responsibility. Congress should be able to learn from its mistakes. Look at where abdication of this responsibility led in Vietnam. Where is it going to lead in Laos?

Once again, the American people are being told that Americans are serving in Laos merely in an advisory capacity. We are told there have been no deaths as a result of our involvement in Laos. Then we are told there have been deaths, but that they did not result from combat activity.

The intervention in Laos had occurred without the approval or consideration of Congress. Although the Congress is receiving some information on our activities there, the President has refused to reveal the true extent of U.S. military operations. If Congress does not exercise its control over foreign policy, we well may be on the road to another war in Southeast Asia.

Because of my deep concern about Congress' abdication of its foreign policy responsibility, I have introduced House Concurrent Resolution 531, with 16 cosponsors which would create a Joint Congressional Committee on Foreign Policy. This committee would have the authority to make continuing studies and investigations of all foreign policy problems and then report back to the House and the Senate its recommendations on foreign policy.

Another area in which Congress has abdicated, or merely ignored, its responsibility is its power of the purse, refusing to assign priorities and to appropriate American tax dollars accordingly.

Fiscal year 1970 funds for defense total $69,640,568,000. In comparison, only $2,631,356,000 went for housing; only $1,929,738,630 went for transportation; and only $17,861,936,200 went for health, education, welfare, and poverty—as a result of the Presidential veto. This amount is lower than the original congressional appropriation and in addition, can be and will be cut back 2 percent by the President.

Thus, fiscal year 1970 appropriations for our domestic needs such as education, health, welfare, poverty, housing, and transportation was $22,423,030,830; less than one-third of our defense expenditures.

The Americans whose signatures are being presented by Women Strike for Peace are tired of having their tax dollars misspent. Their flyer states:

> Today—our Congress wastes 66% of our taxes on war while hunger, sickness, crime, slums, and unemployment go unattended . . . and taxes and prices keep rising.

The Congress has the power to change this. It has the power to divert money into feeding the hungry, housing the homeless, providing jobs and security, healing the sick, eradicating misery and crime, cleaning up our environment, and turning our cities from centers of deterioration and decay to useful and desirable places to live.

In this decade of the 1970's, in this most technologically advanced nation in the world—we have the choice of using our vast resources and moneys for the creative use of rebuilding our society rather than using them for the materials of death and destruction.

Today, Congress is being summoned by the voices of Americans who want to see such a change. They are asking Congress to use their taxes for our many needs at home.

We must listen. We must not allow their voices to fall upon deaf ears. For in the end, we will be responsible for what happens in this country in this decade. We must fulfill our role. We must live up to our responsibilities.

LEGISLATION TO END MOTOR VEHICLE POLLUTION OF AIR

(Mrs. MINK asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, today I am introducing legislation to end motor vehicle pollution of our air.

According to reliable estimates, motor vehicle emissions cause 60 percent of the ground-level air pollution in metropolitan areas. Part of this pollution is the introduction of millions of pounds of poisonous lead into our atmosphere each year.

There has been considerable discussion by automobile manufacturers and the petroleum industry concerning possible steps to remove lead from gasoline and also end other forms of pollution by the internal combustion engine. My bill would encourage these efforts by private industry.

The essential provisions are as follows:

First. After December 31, 1975, no leaded gasoline will be manufactured in or imported into the United States.

Second. After December 31, 1972, no vehicle with an internal combustion engine may be manufactured in the United States unless it operates on unleaded gasoline.

Third. After June 30, 1972, no new motor vehicle will be manufactured, sold, or imported unless it is equipped with proper antipollution devices.

Fourth. After December 31, 1975, no motor vehicle will be allowed to operate in the United States—except transient vehicles—unless it fulfills the existing antipollution standards.

To provide inducement for car owners to have their old cars adjusted to use unleaded gasoline, my bill increases the tax on leaded gasoline progressively from 4 cents in 1970 to 6 cents after September 30, 1972. In addition, it provides a Federal payment of 20 percent of the cost of State inspection programs to enforce exhaust emission standards.

In view of the danger to our health posed by motor vehicle emissions and consequent air pollution, I think it is imperative for Government and industry to begin at once to implement the program provided for in my bill. I am including with my remarks a position statement by an oil company outlining its concept of the best solution to the transition from leaded to unleaded gasoline:

THE TRANSITION FROM LEADED TO UNLEADED GASOLINE

THE SITUATION

Most of the nation's major refineries presently have the facilities and are capable of producing and distributing two grades of gasoline. In total these gasolines have an average research octane number (R.O.N.) of about 90 before the addition of tetraethyl lead. This "pool" of 90 R.O.N. gasoline is usually split at the refinery into two groups of about equal volume:

Regular Grade "Pool": 86 R.O.N., without lead.

Premium Grade "Pool": 94 R.O.N., without lead.

By the addition of an average of about 2.4 cc's of lead to the regular grade pool and about 2.8 cc's to the premium grade pool, these gasolines are converted to the following:

Regular Grade "Pool": 94 R.O.N., with lead.

Premium Grade "Pool": 100 R.O.N., with lead.

These leaded gasolines are necessary to meet the R.O.N requirements of the automobiles currently on the road. The nationwide percent "satisfied" by various R.O.N.'s is about as follows:

R.O.N.	*Percent "satisfied"*
88	10
90	20
92	40
94	60
96	80
98	90
100	98

As noted above, the addition of lead adds about 7 "numbers" to each gasoline's rating. The cost of the lead is about 6¢ to 7¢ per gallon. More severe refining processes can also add 7 octane numbers, but at an additional cost that is estimated to be 2¢–3¢ per gallon. In addition, several years will be required to construct the needed new refining equipment. The total capital cost of installing refining equipment nationwide to add 7 octane numbers is estimated to be between $5 billion and $6 billion. Because of limited construction capability, it is impossible for all major refineries to add such needed equipment in a time schedule that may be required by law.

THE BEST SOLUTION

A lead-free regular gasoline and a leaded premium gasoline could be provided immediately without increasing the average cost to the consuming public and without imposing extreme financial requirements and impossible construction schedules on the petroleum industry if the following procedure were adopted:

(a) Refiners could divide the existing octane pool into two groups, about as follows:

Lead-free "pool": 90–91 R.O.N.

Leaded "pool": 89–90 R.O.N., without lead, plus lead, 97 R.O.N., with lead.

These two gasolines would then replace the existing regular (94 R.O.N. leaded) and premium (100 R.O.N. leaded).

(b) Detroit's auto manufacturers have indicated that the 1971 models can be designed with compression ratios and other adjustments so that the R.O.N. requirements of the new models would not generally exceed 91. Further, it has been indicated that simple adjustments at low cost can be made to most existing automobiles (during a regular tuneup) so that a car's R.O.N. requirement can be lowered by about 3 R.O.N. By this procedure the automobile population percent "satisfied" curve could be shifted to the following:

R.O.N.	*Percent "satisfied"*
85	10
87	20
89	40
91	60
93	80
95	90
97	98

Thus, the 90–91 R.O.N. lead-free gasoline and the 97 R.O.N. leaded gasoline would adequately satisfy the current automotive population and also provide a lead-free gasoline for all 1971 and later models. As shown by the above data, about 50 to 60% of all cars could immediately shift to a lead-free gasoline. As the 1972, 1973 and later models (all holding to 90–91 R.O.N. requirements) replaced the high R.O.N. requirement cars of the 1960's, the percent "satisfied" by 91 R.O.N. and below would increase steadily. As this happened, the production of the 97 R.O.N. leaded gasoline would decline every year as the pre 1971 automobiles, through accidents and the junking process, disappeared. So, by about 1980, the need for a leaded 97 octane preminum gasoline would have about disappeared. This procedure could enable the petroleum industry to shift eventually to a single grade unleaded gasoline.

However, it seems reasonable to believe that as the percentage of premium gasoline sold approached 5 to 10% of total gasoline sales, and the 90–91 unleaded gasoline sales approached 90 to 95%, the petroleum industry could start to take the lead out of premium, (say not later than 1978), as a result of refinery technology evolution, making high octane components available at a relatively reasonable cost. At that time a leadless 96–97 octane premium could become available and thus Detroit would have a choice of making low and high octane requirement engines again.

THE ALTERNATIVE SOLUTION

Another alternative currently being discussed by trade papers and pump suppliers is to immediately install a third pump and third tank in service stations in order to provide a special lead-free fuel for the 1971 automobiles. Presumably, this is being proposed in order to meet the new model gasoline requirements (e.g., 91 R.O.N. unleaded), without disturbing the existing pattern for the cars on the road (94 R.O.N. leaded and 100 R.O.N. leaded). Assuming that 200,000 stations need such conversion (out of some 300,000 total) the capital cost for this "temporary" third grade system, including necessary additional terminal tankage, is between $1 billion and $2 billion. This is obviously an extremely unwise use of the nation's (and the petroleum industry's) resources and should be avoided. As can be seen above, the trend is toward virtually a single R.O.N. grade of gasoline by the end of the decade. Installing a third grade system on a crash basis (or any other basis) makes no sense whatever. And, most important, only the 1971 and later model year cars would use leadless gasoline. This is in contrast with 50 to 60% of the existing cars going immediately to a leadless fuel made possible by modifying existing cars.

THE WRAP-UP

Through legislation or otherwise adopting the "Best Solution" as outlined above, the transition from two grades of leaded gasoline to two grades of unleaded gasoline would have been accomplished smoothly, with minimum cost to the public and with a sudden major reduction in lead pollution. Unwarranted, resource-wasting investments in facilities to distribute a third grade of unleaded gasoline and crash refining facilities to make high octane components by destructive resource-wasting techniques would have been avoided. Further, all new cars starting in 1971 would be using lead-free gasoline and a most rapid phase-out of existing cars using leaded gasoline would have been accomplished. The public, playing its role by having its existing cars derated in octane requirement in accordance with procedures established by Detroit and enforced through national legislation, would quickly enjoy less pollution in the atmosphere at minimum cost.

STUDY OF PENNSYLVANIA AVENUE PLAN FOUND "UNWORKABLE" AND "NOT ECONOMICALLY FEASIBLE"

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, perhaps at long last the final nail is to be driven into the coffin of the ill-conceived Pennsylvania Avenue plan. A recent study of the plan found among other things that—

Some of this negative response (on the part of architects) was directed toward the design features of the Plan *per se*, but a greater part of this reaction, we believe, stems from a serious study of the restrictions imposed by the Plan and judgments on the impact of those restrictions both from a design and an economic feasibility standpoint. To generalize, their reaction seems to be one of rejection of the scheme as wholly unwork-

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able—at best, "a nice idea but not economically feasible."

The report also notes that the Pennsylvania Avenue plan seems to have been conceived without attention to the economics of development which typically attract the private developer. On this point, the report states:

> Our analysis has shown that if more developers had investigated in detail the development implications of the Plan, they would have determined what perhaps they already strongly surmised, that the Plan as written precluded feasible general office development. However, it seems obvious that sophisticated local developers never took the Pennsylvania Avenue Plan seriously as a development opportunity.

The newest study of the plan was made by Development Research Associates, with offices at 1900 L Street NW. The study was conducted under a contract for the District of Columbia government, the District Redevelopment Land Agency, and the National Capital Planning Commission.

The study strengthens my long-held contention that the President should drop the plan altogether; he should also abolish the Temporary Pennsylvania Avenue Commission. Additionally, the President should make a full report to the Congress and the Nation on the amount of money that has been poured into the Temporary Commission during the years of its "temporary" life. As an aside, I might suggest to some enterprising student of government to investigate the life of the Commission as a beautiful example of "boondogglism" at its best.

Congress cannot escape its share of the blame for the unnecessary expenditure of the public's money for the plan; happily, the Congress began a long overdue clampdown last year and it is my hope that the issue is forever buried as far as Congress is concerned.

As originally proposed, the Pennsylvania Avenue plan would have the taxpayers pay for destroying such expensive properties as the Willard, Washington, and Occidental buildings to create a so-called national square. At one point, the National Press Building was also designed for demolition but that "hot potato" was quickly dropped. The Willard Hotel has been forced to close as a result of the machinations of the authors of the plan. Unless the plan pushers are stopped now, other businesses will be forced to close their doors.

Knowing of the interest of many Members of Congress in the economic life of the District of Columbia, I am attaching to my remarks portions of the study made by Development Associates pertaining to the Pennsylvania Avenue plan. Following that is an article from the February 17 edition of the Washington Star concerning the long-range economic outlook for the District as revealed by the total study:

IMPACT OF LAND USE CONTROLS AND OTHER FACTORS UPON THE DOWNTOWN URBAN RENEWAL AREA

IMPACT OF MAJOR PUBLIC DEVELOPMENT PROPOSALS

In this section we treat the present and expected impact on downtown development of major public projects or development plans. In this connection we have considered in varying detail the following existing or proposed programs:

1. Southwest Renewal Area.
2. Pennsylvania Avenue Plan.
3. Downtown Urban Renewal Plan.
4. Planned freeway system.
5. Federal City College.
6. Municipal Center at Judiciary Square.
7. Federal office construction or office leasing.
8. The rapid rail transit system (Metro).
9. The John F. Kennedy Center for the Performing Arts.

AN OVERALL VIEW

In an effort to get an overall view of the impact of certain of these programs, we solicited the opinions of our retailer respondents. It was felt that retailers would have a more direct measure of the impact of these programs than either developers or financial institutions. The response of the retailers is shown in Table 9.

As can be seen in Table 9, the rapid rail transit system, the Downtown Urban Renewal Plan and the program of Federal office construction in the downtown received the most favorable response. The Pennsylvania Avenue Plan, the Southwest urban renewal area, Federal City College and planned freeway system were considered to have the least impact on downtown development. In all cases, with the exception of the Pennsylvania Avenue Plan, the retailers were not expressing a negative reaction towards these developments, but simply a lack of *favorable* impact either by reason of distance from their operations or function.

Pennsylvania Avenue Plan: Of all the public programs discussed, the Pennsylvania Avenue Plan received the greatest amount of negative attention. Because the Plan was a special requirement of our analysis, we prepared and delivered a special interim report on this subject. At this point, however, we reproduce excerpts from that report:

"Retailers expressed mixed reactions to the Pennsylvania Avenue Plan. Many felt that from a design standpoint the Plan provided an area of interest and quality which is lacking along the north side of Pennsylvania Avenue at the present time. Thus, from this standpoint, retailers tend to favor the current plans for Pennsylvania Avenue. However, in terms of the specific uses planned and their impact on downtown retailing, the retailer response was not so favorable. For the most part retailers feel that the specific plans would have little or no impact upon their retailing establishments. This, of course, does not include those stores which are faced with relocation as a result of the implementation of the plan.

"In response to a direct question as to the development impact the Pennsylvania Avenue Plan might have upon retail operations, some 62 percent of the retailers indicated that it would have a favorable impact. This response, however, must be compared with responses to a similar inquiry about other proposed developments. Retailers generally feel that *any* major development would have an impact more favorable than unfavorable upon their retailing operations. Therefore, of particular importance in this connection is the relatively large number of responses which considered the impact of the Pennsylvania Avenue Plan to be unfavorable or insignificant. Over 37 percent held such an opinion.

"Questions similar to those posed to retailers were asked of developers, architects and lenders. These questions elicited a response similar to that of the retailer group. Specifically, approximately 58 percent of all representatives of the local development industry indicated a favorable response to the question:

"Could space demand be strengthened by implementation of the Pennsylvania Avenue Plan?

"However, these survey respondents reacted positively to *all* the development possibilities put to them. Thus, again the point of differentiation becomes the percentage of negative reactions recorded against the various possibilities.

"By this measure it can be seen that the Pennsylvania Avenue Plan elicited a percentage of unfavorable reaction exceeded only by the question regarding possible compaction of downtown development areas. Accordingly, from this statistical analysis it can be inferred that the local development industry is less favorably disposed towards the Pennsylvania Avenue Plan than it is to other development programs for the downtown area."

TABLE 9.—RETAILER REACTION TO PROPOSED PUBLIC PROGRAMS

	Favorable impact		Unfavorable impact		No impact		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
A number of major improvements have been introduced or discussed. In your opinion what impact will the following have on downtown retailing?								
Rapid rail transit	17	100.0					17	100
Downtown urban renewal plan	15	88.2			2	11.8	17	100
Federal office construction	15	88.2	1	5.9	1	5.9	17	100
Municipal center expansion	12	75.0			4	25.0	16	100
Freeway system	11	68.7			5	31.3	16	100
Federal City College	11	64.7			6	35.3	17	100
Pennsylvania Ave. plan	10	62.5	2	12.5	4	25.0	16	100
Southwest residential development	8	50.0			8	50.0	16	100

Source: Development Research Associates.

For purposes of financial testing of the Plan, we conducted cash flow analyses of hypothetical developments constructed under the regulations of the Pennsylvania Avenue Plan. The conclusions of these tests are pertinent here.

"Under realistic present day cost and revenue factors, projects built under the Pennsylvania Avenue Plan fall far short of breaking even on a cash flow basis, to say nothing of return on equity requirements. Thus, assuming making a profit on real estate development is a motivating factor, it is not realistic to expect private speculative investment along Pennsylvania Avenue.

"Doubtless, any restrictions such as those contained in the Pennsylvania Avenue Plan render feasible development even more difficult. Certainly, developers who cannot achieve their accustomed return under optimum land control conditions are not going to consider speculative investments where land coverage is reduced, and where building costs are increased, and where there is little possibility of increasing rents to offset these costs.

"Towards the objective of understanding the apathy shown by the private sector towards the Pennsylvania Avenue Plan, we can draw the following general conclusions from our discussions with the representatives of the local development industry.

"Some of this negative response (on the part of architects) was directed toward the design features of the Plan *per se*, but a greater part of this reaction, we believe,

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stems from a serious study of the restrictions imposed by the Plan and judgments on the impact of those restrictions both from a design and an economic feasibility standpoint. To generalize, their reaction seems to be one of rejection of the scheme as wholly unworkable—at best, 'a nice idea but not economically feasible'.

"Developers and lenders are more favorably disposed toward the Plan. However, this would appear to reflect more of an attitude of community interest than one of pragmatic development economics.

"The reasons for this lack of interest (on the part of developers) seem to lie primarily in a complete absence of a community of interest between the planners and the presumed implementers. This does not seem to be just another example of poor communication between the public and the private sides. Rather the Plan seems to have been conceived without attention to the economics of development which typically attract the private developer. This, in effect, precluded developer participation.

"Our analysis has shown that if more developers had investigated in detail the development implications of the Plan, they would have determined what perhaps they already strongly surmised, that the Plan as written precluded feasible general office development. However, it seems obvious that sophisticated local developers never took the Pennsylvania Avenue Plan seriously as a development opportunity."

METRO IS ONLY HOPE IN DOWNTOWN STUDY

(By Christopher Wright)

Even a new subway system running under downtown Washington will not, by itself, be enough to halt the landslide deterioration of the city's once-prosperous retail center, says a special study being prepared for the District's Redevelopment Land Agency.

If the prevalent lack of confidence voiced by developers, architects, bankers and merchants continues to grow, and if nothing is done to solve current problems of poor image, rising crime, inadequate parking and staggering land prices, then the city will fail in its efforts to renew downtown, says the draft report being compiled by Development Research Associates, a local consulting firm.

"LITTLE CONFIDENCE"

"Retailing and private development industries have little confidence in the downtown renewal area as a location for future investment. Lack of confidence is expressed in particular by local lenders, retailers and office tenants," says the report.

The one bright spot, however, is the rapid transit system, which might be capable of helping turn around the downhill trend. The Metro, says the study, is "the one development which may be big enough and exciting enough to stimulate the revitalization of downtown if appropriate complementary programs are undertaken quickly and effectively."

The report strongly suggests a special Metro-oriented transit district to encourage building by giving zoning incentives for the downtown area around the two subway interchanges.

BONUSES OUTLINED

The report outlines a complicated series of "intensity bonuses" to encourage a return to the inner city. The principal item would be increased floor space allowed the developer for certain concessions, including choice of his site and design of the building.

The report concedes that the peculiar nature of Washington as the seat of government makes the downtown here "a uniquely dynamic area."

"Development patterns, which in other major cities can take years to form, can emerge and change very quickly here."

AVENUE PLAN IGNORED

However, the researchers found that at least one grand plan for development—the Pennsylvania Avenue Plan—had almost no effect on the makeup of downtown. The Kennedy-era design for a monumental avenue has been greeted with almost no interest on the part of developers, says the report.

"Their reaction seems to be one of rejection of the scheme as wholly unworkable—at best, 'a nice idea but not economically feasible.' "

On the other hand, such development as the Kennedy Center and the new Southwest have received high marks from downtown interests, who see any new construction as better than nothing.

The report traces the history of the demise of downtown, showing how cheaper land along Connecticut Avenue and K Street NW during the 1960's drew developers away from the congested, fragmented real estate market in the city's center.

VIEWED AS PROGRESS

At the time, says the report zoning officials saw the development to the west as progress and the ensuing slump in downtown as temporary. However, the decline in development east of the White House was accompanied by serious problems not related just to the price of buildings.

The decline brought a collapse of the area's image. "Suburban matrons," says the report, experience "a feeling of discomfort in the downtown shopping environment."

Rising crime has forced employers to seek offices in safer areas of the city. "Fear of crime makes it difficult for employers to recruit secretarial and stenographic help in the downtown area (and) office users are increasingly obliged to choose their location from the relatively crime-safe areas."

Congestion and lack of parking have compounded the well-heeled suburbanite's unwillingness to brave the trials of downtown. Merchants are increasingly catering to a 9-to-5 crowd which goes home at sundown and doesn't return.

Land ownership, says the report, is enormously fragmented in the downtown core, much of it held tightly by trusts and out-of-towners which makes it extremely difficult and costly to assemble enough land to build an economic building by today's standards.

TRANSITION PROGRAM SUCCESSFUL IN KANSAS

(Mr. MIZE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIZE. Mr. Speaker, it was my privilege on March 13 to see firsthand how well the transition program is helping our servicemen obtain the skills they will need to get and hold a job when they return to civilian life. I spent the entire day in Manhattan, Kans. in company with educators, city and State officials and Army personnel, seeing how Federal and local agencies are working together to produce results in a program designed to ease the transition from military to civilian life.

The program there is a joint effort: The Manpower Development and Training Act under the U.S. Department of Labor provides the funds; the Manhattan Area Vocational-Technical School furnishes the instructors, curriculum, and equipment; and the office of supervisory guidance at nearby Fort Riley is the source of guidance and counseling, in addition to selecting the men.

We saw classes in auto body, auto tuneup, appliance repair, and welding. These are all 6-week classes. There is a 1-week class in postal work and two 10-week classes: One in radio and TV repair and the other in data processing.

To be eligible for the classes, the servicemen must be within 6 months of retirement or discharge. Presently there are 160 men enrolled in the classes, but all in all, 1,644 have taken the courses since the program started.

A checkup on last year's graduates shows that out of 174 who completed the class in air conditioning and electrical appliance repair, 54 percent received jobs related to their training. Out of 74 graduates in auto mechanics, 87 percent received jobs. There were 106 graduates in data processing and 88 percent of them had jobs. In welding, 70 percent had taken jobs related to their training.

This training gives the men the status of apprentices but when they complete the classes, they have taken that major first step toward a profitable career. They immediately enter the labor market after they leave the service and they are prepared for gainful employment.

I was impressed with what I saw and wish to commend everyone who is contributing to the success of this transition program, especially Darrell Brensing, director of the Manhattan Area Vocational-Technical School and Raymond W. Swanson, supervisory guidance specialist at Fort Riley.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a Nation. The United States is the largest producer of sulfur in the world. In 1967 the United States produced 8,416,000 metric tons of sulfur or four times more than produced by Canada, the second ranking nation.

GATEWAY NATIONAL RECREATIONAL AREA IN NEW YORK

(Mr. ADDABBO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, the Department of the Interior has proposed the establishment of Gateway National Recreational Area in New York as part of the administration program to improve the quality of life.

I welcome this desire to establish new programs in the area of environmental control, particularly since I have advocated Federal protection of Jamaica Bay for several years. I have recently asked the Secretary of the Interior to broaden the scope of the proposed Gateway Park to include all of the bay in order to fight the pollution which has already destroyed parts of this unique recreational complex.

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Mr. Speaker, I insert in the RECORD the text of an editorial which appeared in the March 9, 1970, edition of the Long Island Press on this most important subject:

GATEWAY PARK MUST BE EXPANDED

Rep. Joseph Addabbo, Ozone Park Democrat, wants the Interior Department to enlarge the portion of the Jamaica Bay complex to be included in the proposed Gateway National Recreational Area.

His advice should be followed.

Interior rejected similar recommendations for enlargement of the bay and shorefront areas to be included in the park on the grounds that the Gateway park is to be non-urban, water-oriented and unencumbered. These are old criteria since many of the areas already included are as urban and non-urban as those rejected, all are water-oriented, and all are presently encumbered in one way or another.

But the strongest argument to include the entire bay in the park was made by Rep. Addabbo who pointed out to Interior the folly in cleaning up one area of the bay for the park and ignoring the pollution in contiguous areas. What poisons one portion of interconnected waterways poisons all.

REVERSAL OF ADMINISTRATION'S FAILING ECONOMIC POLICIES IS NEEDED

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ALBERT. Mr. Speaker, President Nixon's construction statement, issued yesterday, is obviously an acknowledgment of the desperate straits in which this Nation's homebuilding industry now finds itself. Our current housing depression was foisted upon the industry by the Republican administration's maladroit economic policies. It resulted in a 40-percent drop in housing starts last year. This, at a time when the Nation's unmet housing needs were never greater. Tuesday's Wall Street Journal reported that nonresidential construction is also expected to suffer a marked decline in the months ahead.

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I note, however, the total absence from yesterday's statement of any intention on the President's part to reverse the high interest rate, restrictive monetary policy which has been the paramount cause of our present tragic housing situation.

The President's announcement that he is releasing congressionally appropriated funds on Federal construction projects, clearly an effort to soften the recessionary slide of the economy, is most welcome. It is a small step in reversal of administration policy which has brought on increasing unemployment, shorter workweeks, a depressed housing industry, declining production, and disregard for the human effects of these failing policies. We believe the President's action resulted from the attention which we, in Congress, have focused on the administration's failures.

What is needed is further reversal of the administration's failing economic policies. The President needs to use the powers of his office more in the fight to bring into line the exorbitant increases in prices which are major contributors to the unusual increase in the cost of living under this administraiton.

Mr. Speaker, other interesting statements on the state of the economy emanated from the White House yesterday. Those attending a meeting with the President declared that the chances for a recession are nil. This must come as something of a surprise to the almost 4 millions of Americans out of jobs, and to the many millions more who are getting smaller paychecks because of shorter workweeks.

The administration spokesmen further said that the problem of inflation has been defeated. This must be something of a shock to the housewife whose grocery bill is up over 7 percent in the past year, and to the small businessman who has to give away a part of his business merely to get funds to continue operating.

We must put their statements in some perspective. Most significantly, I believe, is the believability of the statements. I must remind these same gentlemen that while their memory seems fuzzy, there are records which show them expressing much the same predictions as long as a year ago, and we all know how wrong these proved to be. These spokesmen said in March 1969 that the "high water mark" of inflation had been reached. And another predicting the rate of inflation was to be sharply reduced in 1969, without significant increase in unemployment was equally invalid.

As has so unfortunately been true in the past, the Republican record has failed to match Republican rhetoric. This Nation now holds the dubious distinction of simultaneously experiencing a deepening recession and rampant inflation.

NOISE CONTROL ACT OF 1970

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. RYAN. Mr. Speaker, yesterday, I was joined by 20 of my colleagues in introducing H.R. 16520, the Noise Control Act of 1970, which I originally introduced on January 20.

The cosponsors are Congressmen ADDABBO, BIAGGI, BINGHAM, BROWN of California, BUTTON, FARBSTEIN, HALPERN, HUNGATE, KOCH, LOWENSTEIN, MIKVA, MOORHEAD, NIX, OLSEN, POWELL, REES, ROSENTHAL, SCHEUER, TUNNEY, and CHARLES WILSON.

Every day the ears of Americans are buffeted with the noises which technological progress has generated.

Some Americans are exposed to noise each day in their jobs.

Others are exposed to noise each day on their way to work and in their everyday living.

Some cannot even escape noise during their hours of sleep. When we talk of the need to end pollution in this decade, the word pollution makes us think of the air, the water, and the land.

But somehow, we seem to forget about the noise pollution which plagues us daily. The cumulative effect of noise is as dangerous, if not more so, than the noise produced from a single source of noise, such as an explosion. The rate of noise has been rapidly increasing in this country—at the rate of 1 decibel a year.

We are beginning to reach the danger point of 85 decibels. At this point, ears can sustain damage.

As with the other types of pollution, noise pollution affects us physically and psychologically, and economically.

Physically, it can cause temporary or even permanent hearing loss, as well as serve as a serious interference with sleep.

In many jobs, noise is an occupational hazard directly affecting those working in jobs such as construction, powerplants, factories, driving trucks, buses, or large fire equipment, working in subways, or serving as flight mechanic.

In everyday living, traffic noise, subways, aircraft, construction, and emergency vehicles interfere with communication and are a strain upon citizens' ears.

At night, the assault of noise is not completely ended. Often, sleep is interrupted during the night by the sirens of emergency vehicles, jet noise, traffic, and garbage collection. In the future, sleepers will be subjected to sonic booms.

Psychologically this noise is also detrimental. In addition to the noise from outside, there is often noise from the inside, especially in apartment houses or in areas where houses are close together. These outside noises include television, stereos, radios, air conditioners, appliances, and so forth.

The younger generation has become a generation of noise. It has been reported that rock and roll bands, which have electric amplified instruments, are becoming responsible for a considerable loss of hearing in those persons who play them and for those who listen.

Noise pollution has its detrimental effects on the economy also. Noise serves as a negative influence on workers, who find it a distraction which keeps them from paying attention to their work. Employers find it difficult to hire perspective workers, who will have to work in a noisy environment and many businesses are moving to the more quiet suburbs.

Noise also affects the housing market. Many people are finding it intolerable to live in the flight pattern of jets coming into major airports. Eventually, they have no alternative to the noise than to move.

The questions are: How much longer can our ears take this constant bombardment of sound? And how much longer can we psychologically put up with the constant noise?

I feel that the problem is so serious that we must act now to preserve the hearing and the sanity of our citizens.

This is the reason why H.R. 16250 is needed. The purpose of this legislation is to provide for a comprehensive program for the control of noise in our environment.

The bill would establish an Office of Noise Control within the Office of the Surgeon General of the United States. The main function of the office would be to act as a clearinghouse for all information on noise—its causes and effects, its prevention, control, and abatement. On request, it could then make this material available to the States, local governments, and private groups interested in the problem of noise and its abatement.

In addition, the bill would provide grants to deal with the problem of noise.

It would provide grants to the States, local governments, commissions, and councils for programs of noise control—research into the causes and effects of noise—and programs for the investigation of existing causes of excessive noise in our society and research into new ways of controlling, preventing, and abating noise.

It would provide grants to any public or nonprofit private agency, organization, or institution, or would provide for a contractual agreement with any of these to conduct research into the causes and effects of noise, means for prevention and abatement, and study and evaluation of the factors significant to the causes, effects, and abatement of noise.

These grants would also be provided for training of professional and technical personnel in ways to effect proper control, prevention, and abatement of noise.

Also, the grants would be provided to establish and conduct demonstration projects to develop new techniques, approaches, and methods in noise control, prevention, and abatement.

My bill would also provide for a Noise Control Advisory Council, which would advise the director of the Office of Noise Control on his responsibilities and the reviewing of all proposed project grants.

This council will be made up of nine individuals appointed by the Secretary of Health, Education, and Welfare who are interested in the problems of noise and its control and are skilled in the fields of medicine, psychology, government, law or law enforcement, social work, public health, or education.

The problem of noise pollution is going to become progressively worse. We have the opportunity to do something before the level in noise in this country does us all irreparable damage.

We have the opportunity to stop noise pollution from reaching this dangerous level. My bill will comprehensively work to this end.

ST. PATRICK'S DAY REMARKS BY THE HONORABLE G. ELLIOTT HAGAN AT THE SINN FEIN SOCIETY BREAKFAST

(Mr. PHILBIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PHILBIN. Mr. Speaker, I include in the RECORD, a very inspiring, brilliant speech delievered by my esteemed and beloved friend and colleague in the House, and our Armed Services Committee, Hon. G. ELLIOTT HAGAN, before the historic Sinn Fein Society's St. Patrick's Day celebration in Savannah, March 17, 1970.

Congressman HAGAN is one of the most highly respected, dedicated and efficient Members of this House.

He serves his district and our Nation with outstanding ability, devotion, diligence, and concern for his constituency, the security defense of our country, and the cause of freedom in the world.

His speech is uniquely adapted to the cause of the great Sinn Fein Society which throughout many years has made such memorable contributions to the struggle for Irish independence and freedom, which lasted for more than 700 years, and ended in the glorious establishment of the Irish Free State.

It is noteworthy that our very able, distinguished colleague, the gentleman from Georgia (Mr. HAGAN), should have addressed Sinn Fein on the occasion of the anniversary celebration of our blessed Irish patron saint.

I want to join the Sinn Fein Society in complimenting him upon his eloquent remarks, and his touch of humor, that so enlivened its effect and enthusiastic reception by this renowned, Irish Sinn Fein, famed in history for its fighting spirit, indomnitable will and allegiance to human freedom and the Divine Maker.

REMARKS OF REPRESENTATIVE G. ELLIOTT HAGAN

Participating in this Sinn Fein Society Breakfast and all the other wonderful St. Patrick's Day festivities here in Savannah has always been a prime highlight of each year.

Every year that I've attended the St. Patrick's Day affairs, I have marveled at the magnitude and scope of the various activities.

And I have remarked at the seemingly staggering logistics of the whole day. I was reminded of this recently, when I was doing some research for a maritime speech I was to make.

I came across some records from the USS Constitution, a frigate that played such a vital role in the naval aspects of the American Revolutionary War. I discovered that the Supply Officer of the USS Constitution had no small job when it came to logistics.

The Constitution sailed out of Boston Harbor on August 23, 1779. Her log shows she was loaded for a mission to harass and destroy shipping in the English Channel area.

She departed Boston with 475 officers and men, (at least a third of whom had Irish forebears) 48,600 gallons of fresh water, 7400 rounds of cannon shot, 11,000 pounds of black powder and 79,400 gallons of rum on board.

Making Jamaica on October 6, she took on 826 pounds of flour, and 68,300 gallons of rum.

Then she headed for the Azores, arriving there on November 12.

She provisioned with 550 pounds of beef and 64,300 gallons of Portuguese wine.

On November 18, she set sail for England.

In the ensuing days, she defeated five British Men-of-War and captured and scuttled twelve English merchantmen, salvaging only their rum.

By January 27, the Constitution's powder and shot were exhausted. Unarmed, she made a raid up the Firth of Clyde.

Her landing party captured a whiskey distillery and transferred 40,000 gallons of the product aboard by dawn. Then she headed home.

The USS Constitution arrived in Boston Harbor on February 20, 1780, with no cannon shot, no powder, no food, no rum, no whiskey . . . but 48,600 gallons of stagnant water. . . .

So you can see why that ship's log reminded me of St. Patrick's Day in Savannah. That's all . . . Erin Go Braugh!

GEORGE A. WALTON

(Mr. BIESTER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BIESTER. Mr. Speaker, one of America's distinguished educators, George A. Walton, died in Newton, Bucks County, Pa., on November 26, 1969. I knew George Walton from the time I was a young student during his last year as headmaster at George School until the time of his passing. Most recently we corresponded over many subjects as his concerns embraced many of our world's problems. Principal among the objectives he sought was a spirit of reconciliation among nations, people, and races. At a time when such a spirit is so sorely needed, his passing, even when rich in years, is a particular loss. Many articles have been written since his death about his achievements, but this one written by his close friend, William Hubben, for the Friend's Journal, I found summed up many of my thoughts on his passing and I commend it to my colleagues:

GEORGE A. WALTON, 1883–1969

The educator, more than most of us, lives in the realm of imperfection. That is especially true of life in a boarding school where drafts from the windy corridors of the adolescent mind are unceasing. What, or who, could be more unfinished than the adolescent—so painfully conscious of his, or her, resentments and longings?

Yet the tensions in a school community are also full of promise. An educator has to live with the young in the future while moulding with them the present for the goals of maturity. His students project themselves forward. What in later life is vaguely called hope tends for them to be certainty. And theirs is a faith beyond personal reaches. It encompasses nothing less than human totality. Faith, for the young, is a habit of the heart. That is no small matter in a world as unauthentic as ours.

George Walton spent his entire life in this exciting climate. There were moments of discouragement, but the focus on growth was never absent. Each year at commencement when he called each one of the graduates by his full name the audience and the students became once more aware of the symbolism in this gesture. The principal of George School knew them as well as he had known many of their parents or even grandparents.

He came to their homes, attended weddings and funerals, shared their meals at Quarterly Meetings, and was truly the "pope" (father) to the generations. His leadership in Philadelphia Yearly Meeting and Friends General Conference injected a note of spirituality into these assemblies that was the fruit of silent contemplation. The authority that carried George Walton's presence never created the pontifical aloofness often associated with high office. He loved nothing more than a spirited decision to which others might give more than he pretended to contribute. His vocabulary employed the question mark more frequently than the exclamation point.

The most significant period of George Walton's headmastership of George School (1912–1948) was, I believe, the eight-year experiment from 1932–1940, when a large group of independent and a few public high schools embarked on the attempt to explore the needs of academic life beyond the confines of college requirements. A group of colleges collaborated, and there was a stimulating interchange of experiences and experiments; there were successes, failures, and hopes. It was a mind-stretching exercise for all participants; it also was a season demanding patience, labor, and tolerance. Freedom, this concept so dear to Americans, was there—the freedom to teach and learn. But it was harnessed to self-discipline and devotion. Energy and time

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were made accountable, and teachers and students worked as much as ever.

George Walton, too, never tired of new jobs to be done. Only those who knew that the realm of imperfection is at the same time also the promise of growth were able to move forward on the rough terrain of this enterprise. The kids loved it, although many were as bewildered as some of their teachers. George Walton had to interpret again and again methods and objectives to a board unaccustomed to the lingo of change. He succeeded.

This demand of always "remembering the future" dominated most of George Walton's years. When he took the risk of inviting a sizable number of foreign teachers from Europe to his faculty, it was more than the calculated risk of which he used to speak. It was an act of faith to give an opening to untried strangers, and his vision of the unity of all men everywhere moved him to do so. We who came from disturbed conditions must have been as awkward in speech and action as some of the students. George Walton and his wife Emily were tactful and sensitive guides in this strange milieu and we newcomers soon realized that we could not have found a better school community to let us grow into American life.

When George Walton died in an accident, he had set out to attend an ecumenical meeting and lost his way. The unity of all churches was a concern close to his heart. Here, again, he lived in the realm of faith . . . convert to the ecumenical cause.

One more facet of his personality must be mentioned: his sense of planning and timing, both of which are the fruit of psychological economy. We saw it functioning over the years when curriculum changes were initiated and on other occasions as well; finally, we saw it at his retirement. There have been headmasters of rare virtue, but resignation was not always one of their virtues. George Walton could have stayed on in service, yet he knew when it was right to retire.

He felt his remaining years should be given to other concerns. He remained close to the school where life was holding its vigorous sway.

As long as he had been in service, he had the happy faculty of switching off school worries when going home to join his wife, Emily. After her death, he lived alone in his apartment at the Newtown Friends Home with a few of his books, his photographs, visitors, and the rich memories of the past. There, on his desk, his daughters found after his death the Christmas cards ready to go that some of his friends received almost like a greeting from the great beyond.

Critical he could be at times, George Walton did not have much patience with faultfinders. There was so much to be thankful for; so much to be done; and new life always rushed by like a view from a train window. There was beauty and truth, and the intimations of the higher life were abundant for those willing to perceive them. George Walton invested his faith in the young and those who served them. He knew that faith must aim at more than insurance and safety. Faith implies the taking of risks. Faith lives in the realm of tomorrow and of a future whose ultimate design is eternity itself.

George Walton had a richer vision of it than is granted to most of us.

THE PRESIDENT'S CONTINUING EFFORTS IN THE WAR AGAINST CRIME

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. GERALD R. FORD. Mr. Speaker, the distinguished House majority leader is continuing to play the oldest of political games—setting up strawmen and knocking them down.

That can be the only explanation for the absurd attack made by the majority leader Tuesday on the Nixon administration's crime-fighting record and the President's continuing efforts in the war against crime.

I am amazed that the majority leader would have the temerity to seek to exploit the crime issue in 1970. Since he has done so, we will let the facts—particularly the facts he omitted from his statement of Tuesday—speak for themselves. They will be answer enough.

The majority leader cited the fact that crime rose 11 percent nationwide in 1969, according to the FBI's Uniform Crime Report.

What the majority leader failed to mention is that the 11-percent rise in crime in 1969 represented a sharp drop in the rate of crime increase—a sharp drop that took place during the first year of the new Republican administration. This is Republican progress, and we expect to do better.

The majority leader also naturally forgot to mention that the 11-percent increase in crime in 1969 was the lowest increase in the last 4 years.

He forgot to mention that the rate of increase under the Democrats in 1968 was 17 percent, as compared with 11 percent in the Republican year of 1969.

He forgot to mention that with one exception increases in every category of violent crime were down in 1969 under the Republicans.

The majority leader flatly asserts that neither Attorney General John N. Mitchell nor the administration has a program to combat the growing rate of crime, and yet big-city crime was down throughout the country in 1969 under Republicans. The FBI reported only a 9-percent increase in crime in cities of over 250,000 population in 1969, as compared with an 18-percent rise in 1968. For suburbs the rise in 1969 was 13 percent as against 18 percent in 1968; and for the rural areas, it was 11 percent in 1969 as against 12 percent in 1968.

In light of the facts, it is ridiculous for the majority leader to accuse the Nixon administration of failing to have an anticrime program. After all, it is his party which controls the Congress and let the entire first session slip by without enacting even one of the 17 Nixon anticrime bills into law. Only now is that Democrat-controlled Congress belatedly bestirring itself with regard to the administration's sorely needed anticrime bills.

The majority leader would have the Congress and the people believe that the Nixon administration seeks to seriously underfund the war against crime in fiscal 1971.

The facts are that in fiscal 1971 Federal anticrime outlays proposed by the President total more than $1.257 billion. This is the first time in history that any administration has sought more than $1 billion in new obligational authority for the Justice Department. The total of $1.257 billion compares with $947 million estimated to be spent in fiscal 1970 and is 91 percent more than the outlays for fiscal 1969.

Major emphasis will go to programs for improving State and local criminal justice systems and for assisting anticrime efforts in local communities.

Of the $1.257 billion for fiscal 1971, $518 million or 41 percent will be for programs or projects which help State and local governments fight crime.

Outlays of the Law Enforcement Assistance Administration, set at $368 million, would be more than double the 1970 outlay of $177.5 million and nearly seven times as great as LEAA expenditures in fiscal 1969.

Apart from its direct assistance to local communities through LEAA, the Nixon administration is greatly abetting their anticrime efforts with its highly effective war against organized crime. Whether or not the majority leader recognizes it, violent, individual street crime often results from the machinations of organized crime. Many street crimes flow from drug addiction, for instance, and, of course, the flow of addictive drugs is a consequence of organized crime along with such evils as prostitution, gambling and loansharking. Unless we root out and destroy organized crime, we will never succeed in controlling the aimless crimes of violence which tear at our society. As organized crime is curbed, so also will mindless street crimes of violence be reduced, and our people will be safer on the streets and in their homes.

The Democrat-controlled Congress has an obligation to the American people to approve President Nixon's legislation which would give the Attorney General more tools to fight organized crime and the narcotics traffic.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MESKILL (at the request of Mr. GERALD R. FORD), for today and tomorrow, on account of influenza.

Mr. MILLS (at the request of Mr. BOGGS), for today and the remainder of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BIESTER), to revise and extend their remarks and include extraneous matter:)

Mr. RIEGLE, for 15 minutes, today.

Mr. STEIGER of Arizona, for 15 minutes today.

Mr. HOGAN, for 1 hour, today.

(The following Members (at the request of Mr. PREYER of North Carolina) to revise and extend their remarks and include extraneous matter:)

Mr. HAMILTON, for 20 minutes, today.

Mr. RARICK, for 30 minutes, today.

Mr. FARBSTEIN, for 30 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. HARRINGTON, for 60 minutes, on March 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Ryan, to revise and extend his remarks in the Record on March 16 prior to the passage of H.R. 15700 and that these remarks appear in the Extension of Remarks today.

Mr. Edmondson in three instances and to include extraneous matter.

Mr. Madden and to include extraneous matter.

Mr. Slack to extend his remarks following those of Mr. Kee today on the bill S. 952.

(The following Members (at the request of Mr. Biester) and to include extraneous matter:)

Mr. Berry.
Mr. Burton of Utah in five instances.
Mr. Gubser.
Mr. Frelinghuysen.
Mr. Zion.
Mr. Hall.
Mr. Ashbrook in two instances.
Mr. Roudebush in three instances.
Mr. Cramer.
Mr. Morse.
Mr. Scherle.
Mr. Hosmer.
Mr. Brotzman.
Mr. Carter in three instances.
Mr. Horton.
Mr. McClory.
Mr. Wyman in two instances.
Mr. Bob Wilson in two instances.
Mr. Reid of New York.
Mr. Railsback in two instances.
Mr. Scott.
Mr. Quillen.
Mr. Nelsen.

(The following Members (at the request of Mr. Preyer of North Carolina) and to include extraneous matter:)

Mr. Boland in five instances.
Mr. Patten.
Mr. Bolling.
Mr. Jacobs in three instances.
Mr. Rarick in four instances.
Mr. Fraser in two instances.
Mr. Dowdy in two instances.
Mr. Scheuer in three instances.
Mr. Farbstein in two instances.
Mr. Stokes.
Mr. Eilberg.
Mr. Long of Maryland.
Mr. Dingell.
Mr. Gonzalez in two instances.
Mr. Mann.
Mr. Lowenstein in five instances.
Mr. Kyros in two instances.
Mr. Tiernan in two instances.
Mr. O'Hara in two instances.
Mr. Fountain.
Mr. Nix.
Mr. Holifield.
Mr. Daddario in five instances.
Mr. Miller of California in five instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 858. An act to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

ADJOURNMENT

Mr. PREYER of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 25 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, March 19, 1970, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1793. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize an increase in the resources of the International Monetary Fund and the International Bank for Reconstruction and Development, and for other purposes; together with a report of the National Advisory Council on International Monetary and Financial Policies (H. Doc. No. 91–281); to the Committee on Banking and Currency and ordered to be printed, with illustrations.

1794. A letter from the Chairman, National Labor Relations Board, transmitting a list of employees, a list of cases heard or decided, and the financial statement of the Board for the fiscal year ended June 30, 1969, pursuant to the provisions of section 3(c) of the Labor Management Relations Act of 1947; to the Committee on Education and Labor.

1795. A letter from the Secretary of Defense, transmitting notification of certain transfers of amounts appropriated to the Department in the Defense Appropriation Act, 1970, pursuant to the provisions of section 6363 of the act; to the Committee on Appropriations.

1796. A letter from the Deputy Assistant Secretary of the Interior, transmitting copies of the public laws enacted by the 10th Guam Legislature, pursuant to the provisions of section 19 of the Organic Act of Guam; to the Committee on Interior and Insular Affairs.

1797. A letter from the Comptroller General of the United States, transmitting a report on the opportunity for benefits through the increased use of competitive bidding to award oil and gas leases on Federal lands, Department of the Interior; to the Committee on Government Operations.

1798. A letter from the Comptroller General of the United States, transmitting a report relating to management improvements needed in U.S. financial participation in the United Nations Development Program, Department of State; to the Committee on Government Operations.

1799. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to the provisions of section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1800. A letter from the Postmaster General, transmitting a draft of proposed legislation to authorize the Postmaster General to enter into certain service contracts for periods not exceeding 4 years, and for other purposes; to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DAWSON: Committee on Government Operations. Report on unauthorized Bureau of Land Management subpena regulations (Rept. No. 91–916). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. Our waters and wetlands, how the Corps of Engineers can help prevent their destruction and pollution (Rept. No. 91–917). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee of conference. Conference report on H.R. 11959 (Rept. No. 91–918). Ordered to be printed.

Mr. PHILBIN: Committee on Armed Services. H.R. 15998. A bill to authorize the disposal of Surinam-type metallurgical grade bauxite from the national stockpile and the supplemental stockpile (Rept. No. 91–919). Referred to the Committee of the Whole House on the State of the Union.

Mr. PHILBIN: Committee on Armed Services. H.R. 16289. A bill to authorize the disposal of natural Ceylon amorphous lump graphite from the national stockpile and the supplemental stockpile (Rept. No. 91–920). Referred to the Committee of the Whole House on the State of the Union.

Mr. PHILBIN: Committee on Armed Services. H.R. 16290. A bill to authorize the disposal of refractory grade chromite from the national stockpile and the supplemental stockpile (Rept. No. 91–921). Referred to the Committee of the Whole House on the State of the Union.

Mr. PHILBIN: Committee on Armed Services. H.R. 16291. A bill to authorize the disposal of chrysotile asbestos from the national stockpile and the supplementary stockpile (Rept. No. 91–922). Referred to the Committee of the Whole House on the State of the Union.

Mr. PHILBIN: Committee on Armed Services. H.R. 16292. A bill to authorize the disposal of corundum from the national stockpile (Rept. No. 91–923). Referred to the Committee of the Whole House on the State of the Union.

Mr. PHILBIN: Committee on Armed Services. H.R. 16295. A bill to authorize the disposal of natural battery grade manganese ore from the national stockpile and the supplemental stockpile (Rept. No. 91–924). Referred to the Committee of the Whole House on the State of the Union.

Mr. PHILBIN: Committee on Armed Services. H.R. 16297. A bill to authorize the disposal of molybdenum from the national stockpile (Rept. No. 91–925). Referred to the Committee on the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. H.R. 4599. A bill to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments; with an amendment (Rept. No. 91–926). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROGERS: Committee on the Judiciary. S.J. Res. 88. Joint resolution to create a commission to study the bankruptcy laws of the United States; with amendments (Rept. No. 91–927). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 8673. A bill to protect consumers by providing a civil remedy for misrepresentation of the quality of articles composed in whole or in part of gold or silver, and for other purposes; with an amendment (Rept. No. 91–928). Referred to the Committee of the Whole House on the State of the Union.

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PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROTZMAN:

H.R. 16525. A bill to increase the penalties for the illegal use or possession of explosives; to the Committee on the Judiciary.

By Mr. BROWN of California:

H.R. 16526. A bill to amend the Wagner-O'Day Act to extend the provisions thereof to severely handicapped individuals who are not blind, and for other purposes; to the Committee on Government Operations.

H.R. 16527. A bill to create a comprehensive Federal system for determining the ownership of and amount of compensation to be paid for inventions and proposals for technical improvement made by employed persons; to the Committee on the Judiciary.

H.R. 16528. A bill to create a body corporate known as Daughters of Union Veterans of the Civil War, 1861–1865; to the Committee on the Judiciary.

H.R. 16529. A bill to amend title 38 of the United States Code to increase the rates and income limitations relating to payment of pension and parents' dependency and indemnity compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CARTER:

H.R. 16530. A bill to establish a diversion program for burley tobacco and for other purposes; to the Committee on Agriculture.

By Mr. COLLIER:

H.R. 16531. A bill to amend the Gun Control Act of 1968 to require certain records to be kept relating to the sale or delivery of explosives; to the Committee on the Judiciary.

By Mr. DIGGS:

H.R. 16532. A bill to provide for improved employee-management relations in the postal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself, Mr. Broyhill of North Carolina, Mr. Derwinski, Mr. Flynt, Mr. William D. Ford, Mr. Halpern, Mr. Horton, Mr. Sikes, and Mr. Wolff):

H.R. 16533. A bill to provide for a training program for organized crime prosecutors, an annual conference of Federal, State, and local officials in the field of organized crime, an annual report by the Attorney General on organized crime, and for other purposes; to the Committee on the Judiciary.

By Mr FULTON of Tennessee:

H.R. 16534. A bill to amend title 10 of the United States Code in order to eliminate the requirement that a person must be 60 years of age or older in order to receive retired pay for nonregular service in the Armed Forces; to the Committee on Armed Services.

By Mr. HELSTOSKI:

H.R. 16535. A bill to provide a program to improve the opportunity of students in elementary and secondary schools to study cultural heritages of the major ethnic groups in the Nation; to the Committee on Education and Labor.

By Mr. JARMAN:

H.R. 16536. A bill to amend the Public Health Service Act to include marine biomedical sciences within the research and research training functions of the Institute of General Medical Sciences; to the Committee on Interstate and Foreign Commerce.

By Mr. LUJAN:

H.R. 16537. A bill to provide that members of all commissions, councils, and similar bodies in the executive branch of the Government appointed from private life shall serve without any remuneration for their services other than travel, subsistence, and other necessary expenses; to the Committee on Post Office and Civil Services.

By Mr. MILLER of California:

H.R. 16538. A bill to authorize appropriations to carry out the Fire Research and Safety Act of 1968; to the Committee on Science and Astronautics.

By Mr. MILLER of California (for himself, Mr. Fulton of Pennsylvania, and Mr. Hechler of West Virginia):

H.R. 16539. A bill to amend the National Aeronautics and Space Act of 1958 to provide that the Secretary of Transportation shall be a member of the National Aeronautics and Space Council; to the Committee on Science and Astronautics.

By Mrs. MINK:

H.R. 16540. A bill to provide for the elimination of the use of lead in motor vehicle fuel and the installation of adequate antipollution devices on motor vehicles, and for other purposes; to the Committee on Ways and Means.

By Mr. MOSS:

H.R. 16541. A bill to amend the Federal Hazardous Substances Act to provide for child-resistant packaging to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting any hazardous substance, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. NIX (for himself, Mr. Daniels of New Jersey, Mr. Dulski, Mr. William D. Ford, Mr. Hanley, Mr. Olsen, Mr. Charles H. Wilson, Mr. Cunningham, and Mr. Scott):

H.R. 16542. A bill to amend title 39, United States Code, to regulate the mailing of unsolicited credit cards, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. POAGE (for himself, and Messrs. Johnson of California, Evans of Colorado, Landrum, Burlison of Missouri, Albert, Scherle, Nichols, Burleson of Texas, Edmondson, Fisher, Skubitz, Alexander, Dickinson, McDade, Evins of Tennessee, Zion, Stratton, Melcher, Hays, Wold, Whitten, Blatnik, Shriver, and Hansen of Idaho):

H.R. 16543. A bill to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriuculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes; to the Committee on Agriculture.

By Mr. POAGE (for himself, and Messrs. Matsunaga, Kyl, Burton of Utah, Preyer of North Carolina, Baring, Kyros, Hamilton, Steiger of Arizona, Vigorito, Staggers, Ullman, Conte, Mills, Pickle, Byrnes of Wisconsin, Foley, Obey, and Robison):

H.R. 16544. A bill to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes; to the Committee on Agriculture.

By Mr. QUILLEN:

H.R. 16545. A bill to exclude from gross income the first $750 of interest received on deposits in thrift institutions; to the Committee on Ways and Means.

By Mr. SEBELIUS (for himself, Mr. Shriver, Mr. Hansen of Idaho, Mr. Brock, and Mr. Hall):

H.R. 16546. A bill to amend the Uniform Time Act of 1966 in order to provide that daylight saving time shall be observed in the United States from the first Sunday following Memorial Day to the first Sunday following Labor Day; to the Committee on Interstate and Foreign Commerce.

By Mr. RARICK:

H.R. 16547. A bill to amend title II of the Social Security Act to provide that a woman may become entitled to full old-age insurance benefits at age 62 (or to reduced benefits at age 60); to the Committee on Ways and Means.

H.R. 16548. A bill to amend the Internal Revenue Code of 1954 to exempt from income tax retirement benefits received under a public retirement system; to the Committee on Ways and Means.

By Mr. ABBITT:

H.R. 16549. A bill to amend title II of the Social Security Act to increase from 22 to 23 the age at which an individual otherwise qualified for child's insurance benefits on the basis of school attendance can no longer be entitled to such benefits; to the Committee on Ways and Means.

By Mr. BROOMFIELD:

H.R. 16550. A bill to provide more efficient and convenient passport services to citizens of the United States of America; to the Committee on Foreign Affairs.

By Mr. FARBSTEIN (for himself, Mr. Mikva, and Mr. Brown of California):

H.R 16551. A bill to amend the Clayton Antitrust Act to provide accessibility to documentary evidence gathered in connection with certain antitrust actions brought on the behalf of the United States; to the Committee on the Judiciary.

By Mr. NELSEN:

H.R. 16552. A bill to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes; to the Committee on Agriculture.

By Mr. RYAN:

H.R. 16553. A bill to provide a supplemental appropriation to fully fund bilingual education programs under title VII of the Elementary and Secondary Education Act of 1965 for the fiscal year 1970; to the Committee on Appropriations.

By Mr. SCHEUER (for himself, Mr. Perkins, Mr. O'Hara, Mr. Dent, Mr. Esch, Mr. William D. Ford, Mr. Hansen of Idaho, Mr. Hathaway, Mr. Hawkins, Mr. Meeds, Mr. Clay, Mr. Powell, Mr Pucinski, and Mr Thompson of New Jersey):

H.R. 16554. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

By Mr. FISHER:

H.J. Res. 1139. Joint resolution proposing an amendment to the Constitution of the United States relating to powers reserved to the several States; to the Committee on the Judiciary.

By Mr. HOLIFIELD:

H.J. Res. 1140. Joint resolution establishing the Commission on U.S. Participation in the United Nations, and for other purposes; to the Committee on Foreign Affairs.

By Mr. KING:

H.J. Res. 1141. Joint resolution authorizing the President to proclaim the last Friday in September as American Indian Day; to the Committee on the Judiciary.

By Mr. HOLIFIELD:

H. Con. Res. 549. Concurrent resolution relating to an Atlantic Union delegation; to the Committee on Foreign Affairs.

By Mr. KYROS:

H. Con. Res. 550. Concurrent resolution relating to an Atlantic Union delegation; to the Committee on Foreign Affairs.

By Mr. RYAN (for himself, Mr. Burton of California, Mr. Fraser, Mr. Gude, Mr. Halpern, Mr. Horton, Mr. Hosmer, Mr. Koch, Mr. Kyros, Mr. Morse, Mr. Ottinger, Mr. Powell, Mr. Robison, Mr. Rosenthal, Mr. St

Germain, Mr. Vigorito, Mr. Whitehurst, and Mr. Wolff):

H. Con. Res. 551. Concurrent resolution expressing the sense of Congress that the Secretary of the Interior prescribe and implement regulations for the harvesting of Northern fur seals to insure quick and painless death before skinning; to the Committee on Merchant Marine and Fisheries.

By Mr. DIGGS (for himself, Mr. Dent, Mr. Harrington, Mr. Button, Mr. Gilbert, Mr. Van Deerlin, Mr. Ryan, Mr. Jacobs, Mr. Vanik, Mr. Tunney, Mr. Roybal, Mr. Leggett, Mr. Waldie, Mr. Mikva, Mr. Moorhead, Mr. Reid of New York, Mr. Brademas, and Mr. Hechler of West Virginia):

H. Res. 882. Resolution restricting Governor Maddox as a guest in the House of Representatives dining room; to the Committee on House Administration.

By Mr. MORGAN:

H. Res. 883. Resolution providing for expenses of conducting studies and investigations authorized by House Resolution 143; to the Committee on House Administration.

By Mr. SMITH of New York:

H. Res. 884. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on the Environment; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MURPHY of New York introduced a bill (H.R. 16555) for the relief of Antonio Accardo, which was referred to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

334. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to continuing Penn Central rail service, which was referred to the Committee on Interstate and Foreign Commerce.

PETITIONS, ETC.

Under clause 1 of rule XXII,

419. The SPEAKER presented a petition of the common council of the City of Mount Vernon, N.Y., relative to a national holiday in honor of the memory of Dr. Martin Luther King, Jr., which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

DR. EDMUND B. BOATNER AND THE AMERICAN SCHOOL FOR THE DEAF

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. DADDARIO. Mr. Speaker, the American School for the Deaf in West Hartford, Conn.—the oldest such school in the Nation—was founded in 1817 by the famous Thomas Gallaudet. During the past 153 years it has provided broad educational, recreational, and specialized training programs for many thousands of young deaf children. Moreover, it has supplied the type of pioneer leadership that has led to the establishment of other schools for the deaf throughout the country.

This week in Hartford, community leaders and educators of the deaf gathered for a testimonial dinner to honor the retiring Superintendent of the American School for the Deaf—Dr. Edmund B. Boatner. Dr. Boatner came to the American School in 1935. Spearheaded by his driving initiative and boundless energy, the school has grown and flourished during these past 35 years of his leadership. Wide community and public support has been mobilized and directed toward the improvement of the quality of education for the deaf at the American School. The physical plant has more than doubled. New staff, courses, and educational techniques have been added. Dr. Boatner pioneered with the late Walt Disney the use of captioned cartoons in deaf education. With his wife he collaborated to produce an idiom dictionary that has been used in deaf educational programs everywhere.

Dr. Boatner has also been a national leader among deaf educators, appearing as a frequent and persuasive witness for the Convention of American Instructors of the Deaf at hearings over the past decade that have resulted in new Federal programs for the deaf such as the Captioned Films Act, the National Technical Institute for the Deaf, and other measures.

Mr. Speaker, Dr. Boatner has not only rendered long, faithful, and distinguished service in our community and State, but has also helped to make possible a better, more productive life for countless young people with hearing difficulties. I join in saluting him for his significant achievements in his profession and wish Dr. Boatner and his wife, Maxine, much happiness in their retirement years ahead.

A WORLD SALES TAX

HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. ROUDEBUSH. Mr. Speaker, I was critical recently of reports that the United Nations was considering a world sales tax.

Mr. Bob Ward, a highly skilled and informed columnist for Howard County News & Observer, in Greentown, Ind., has written a column on this subject which should be read by all Members of Congress.

Bob makes some excellent points in this article and I offer it for the Record. The article follows:

[From the Howard County News & Observer, Feb. 26–27, 1970]

LOOKING AROUND

(By Bob Ward)

UN WANTS TO TAX YOU

A couple of items in the news recently suggest that the United Nations may soon become something a bit more onerous than the expensive and impractical joke it has been for 25 years.

One of these is a proposal due to go before the international organization soon, for a world sales tax on certain items.

By some easily explained irony, most of these items are things which are produced, distributed and purchased chiefly in the United States.

Suggested for a one-half per cent sales levy are automobiles, power boats, television sets, dishwashers, washing machines and other large ticket household gadgets.

The overwhelming bulk of these items are American made and bought so this so-called sales tax amounts to nothing more than Uncle Sam—that's you—to bankroll even more heavily than now the useless and wasteful projects dreamed up by that highly unrepresentational world body.

There are things calling themselves nations in the UN that don't have enough souls to make a medium-sized city in America. Yet each of them has one vote, which is all the 200 million Americans have.

Yet the Liberals—who would cram one man-one vote down the throats of state legislatures—object not at all to this inequity.

Americans once fought a war about taxation without representation yet we will be asked now to accept a tax imposed by a minority on the goods produced for the majority and the proceeds to be used for the benefit of the minority.

Aside from the blatant theft involved here there is the matter of American citizens being taxed by a body other than their own government. Under this plan Americans would be asked to yield power to a body wherein they have virtually no representation and whose members they do not elect.

Most important at all, no limits have been established on the amount of authority the U. N. would have over individual American citizens. This sales tax would be the first instance of the UN acting on individuals instead of dealing with the member governments. How far and to what areas of life would this authority extend?

This issue of UN authority within the borders of a nation has been spotlighted by the revival of the antigenocide pact.

This misnamed treaty which the U. S. signed in 1949 but the Senate failed to ratify, brings the police power of the United Nations into every small town of the nation.

Its definition of genocide is so broad as to create the crime of group libel so that to insult or degrade any nation, ethnic, racial or religious group would be punishable by law.

If a signing nation fails to enact the appropriate laws, the accused could be tried by the UN itself.

It is clearly time to take a look at what this international bauble is up to. When the freedoms that you and I enjoy as individuals under our Constitution may be voted away by people you never heard of, you didn't vote for, and represent a tiny minority of humanity, it seems that more than just talk is called for.

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RESPONSIBLE PROTEST SHOULD NOT BE SUPPRESSED

HON. FRANK CHURCH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Wednesday, March 18, 1970

Mr. CHURCH. Mr. President, in his customary level-headed manner, R. J. Bruning, editor of the North Idaho Press, has dealt with the twin menaces of revolution and reaction—each of which tends to pull the country apart.

In his column entitled "Stream of Thought," published in the Boise, Idaho, Statesman of March 8, 1970, Mr. Bruning discusses these menaces and the proper response to them. His strictures about avowed revolutionaries and those who react to them unwisely constitute good advice to all who wish to preserve a free land.

I ask unanimous consent that Mr. Bruning's column be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STREAM OF THOUGHT

(By R. J. Bruning)

Last week this column said that today's self styled revolutionaries "have on all counts proved themselves irresponsible in their judgment of history, incapable of governing if they should attain power, and lacking in justification" for their revolutionary aims.

This may or may not represent majority opinion in this nation.

If it does, the opinion does not justify moving aggressively against such activists, as Vice President Spiro Agnew seemed to suggest in an address to the National Conference of Governors.

The first duty of any government, free or authoritarian, is to protect its existence. A corollary duty of free government is to protect the rights, lives and property of its citizens from unlawful acts. To carry out these responsibilities, governments should use such force as is necessary.

But to move aggressively against protestors before any such acts of violence, are committed puts in jeopardy the most sacred freedom of our form of government—the right to protest and dissent.

Agnew, it seems to us, is deliberately, and with increasing tempo, striving to set the majority of Americans against those who protest and dissent. In doing so, he takes the risk of provoking violence and counter violence, and he endangers freedom of thought.

If this is his intent, and if he should attain any degree of success, he will drive many people to the defense of the protestors—for the freedom to protest must be protected against efforts to stifle that freedom. Freedom is not divisible.

Legal governments have the duty and responsibility to protect their subdivisions and their citizens from violence, but not from the opinions of minority groups or from unpopular opinions.

Nor can we agree with Agnew that today's activists will simply disappear if television and the newspapers ignore them. This was another suggestion the vice president made. The violent protests are not new to American history, nor to the history of any nation. Certainly we should know that in this district, where federal troops have been called in to put down armed insurrection of miners, where pitched battles have been fought, and mills blown up.

Violence has not been a stranger to other efforts of workers to organize into unions, or in protest against draft laws; and the worst race riots in our history did not occur in this century.

That does not justify violence.

Neither does it justify governmental or vigilante efforts to put an end to legitimate protest.

William O. Douglas, associate justice of the Supreme Court, has written a controversial book, "Points of Rebellion," in which he says:

"We must realize that today's Establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also revolution."

It must be emphasized that Justice Douglas is predicting, not expressing support for a revolution such as George Washington led against King George III.

The so-called Establishment has in the past met the challenge of new ideas, of new demands, of changing times sometimes, admittedly, when forced to by violence, but most often without such pressures.

The most recent example has been the change of government policy in the conduct of the war in South Vietnam. Protests of anti-war groups played a major part in President Johnson's decision not to run for reelection, in the defeat of Vice President Humphrey by Richard M. Nixon, and in President Nixon's decision to begin withdrawal from South Vietnam. It must be remembered that as vice president, Nixon was the most hawkish of the hawks.

Protests beginning in Selma, Ala., led to granting of civil rights to Negroes, and protests have led to the current emphasis on protection of the environment.

Vice President Agnew has said he does not want government in the streets.

When established government is unresponsive, that is where government is made.

When it is no longer possible to make government in the streets, then government is no longer free.

The problems are not corrected by ignoring them on television or in the newspapers. The problems are not corrected by mounting an attack against those who protest.

The problems are corrected only by a responsive and a responsible government. This has been the basis of this government's success for nearly 200 years.

We can not defend the irresponsibility of protesters, but it is far more difficult to defend the suppression of protest. Freedom is endangered not so much by the irresponsibility of the few, but by the narrow, self-righteousness of the many.

CALIFORNIA ZEPHYR

HON. JEFFERY COHELAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. COHELAN. Mr. Speaker, the ICC, after long months of deliberation and controversy, has ruled in favor of the discontinuance of the California Zephyr on the grounds that its cost does not warrant its need.

This is the climax of a long and complicated series of hearings and debate. I know the ICC's decision is a disappointment to many people. Not only does it mark the end of an important mode of transportation to a certain segment of our population, but it also marks the end of an era—railroad passenger service, once a flourishing and popular means of transportation is now a dying entity. How long before all such service will be relegated to a page in the history books?

This action coming at a time when we are focusing in on environmental crises and population crises should give us much to think about. Why, when our highways and skys are continually being overcrowded, why, when air pollution resulting from automobile emission is reaching critical proportions, why, when our urban planners are crying for modern and more efficient mass transit systems, are we eliminating rail passenger service?

I know that under the present circumstances, the railroad companies are suffering great economic losses, but I am not convinced that all alternatives to discontinuance have been fully investigated. I understand that this decision has already been appealed and that the case is now pending in court. I also understand that the railroad companies involved will try to work out some sort of compromise between the Zephyr and the City of San Francisco by combining these trains so that one train will run at least three times a week between Chicago and San Francisco. I sincerely hope that a more reasonable and responsible decision regarding the Zephyr will be reached.

Mr. Speaker, I recommend for the attention of my colleagues a recent editorial from the Washington Post on the Zephyr case, as follows:

R.I.P., CALIFORNIA ZEPHYR

Now that the California Zephyr is about to become a fond memory, perhaps the administration and Congress will get down to work on the problem of what to do about passenger trains. There is not much life left in long-distance passenger service and perhaps that service ought to die on the grounds it is no longer needed and is an uneconomic use of resources. But it ought not to be allowed to die by default; there should be a national policy—one way or the other, a policy either of abolishing non-commuter passenger trains except in one or two heavily populated corridors or of saving this means of transportation as one of the alternatives to the automobile.

The death warrant for the California Zephyr, signed last week by the Interstate Commerce Commission, is symbolic of what has happened to the passenger trains. The Zephyr went on the rails in 1949 to compete with the City of San Francisco for traffic between Chicago and San Francisco. The Zephyr had the scenic route, the City of San Francisco, which had gone into service in 1936 and switched from a three day a week to a daily schedule in 1947, had the faster route. They were joined in 1954 on the long run to the Coast by the Santa Fe's Chief. Now, the Zephyr has been killed west of Salt Lake City and cut to three days a week west of Denver. The City of San Francisco is going back to a three-day-a-week schedule west of Salt Lake City and the Santa Fe hopes to abolish the Chief soon.

The direct cause of the deaths of these trains, and dozens of others around the nation, is economic; they lost money heavily. The indirect causes are, perhaps in this order: automobiles, airplanes, bad management, and outdated labor rules. Unless the

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federal government acts, those causes are going to lead to the end of non-commuter passenger service, except in the East Coast corridor and perhaps in a similar Midwestern corridor, within a few years. We think that this should not be allowed to happen until after a substantial effort has been made to save the trains; it makes no sense for the country to be discarding a basic means of transportation because of its current love of automobiles and airplanes at a time when substantial overcrowding of both highways and skyways is easily foreseeable.

What is needed are revolutionary changes in the railroad passenger business—changes that provide a mechanism through which new equipment, better schedules, new management, new labor contracts, and new reservation systems can be injected into one of the most old-fashioned businesses in existence. The Railpax plan put forward by the Department of Transportation has run into heavy criticism at the ICC largely because it isn't revolutionary enough. If inter-city passenger trains are to survive, more will be required than just $100 million of federal money and a device that lets current railroad management largely determine the fate of the trains.

Maybe this administration and this Congress aren't bold enough to take the drastic steps that are needed. Or maybe they think these steps will cost more than saving the passenger trains will be worth. Nevertheless, the railroads and the public are entitled to know what national policy is going to be. The death of each crack train, like the California Zephyr, speeds the day when the next one will die and before long there will be nothing to save. We were saddened to see the Zephyr go under, although we cannot blame the railroads for asking that it be discontinued or the ICC for granting their requests. But we do hope that its death will spur the kind of action that the deaths of other great trains leading up to it—the Twentieth Century Limited and the Royal Blue, for example—never did.

WAR AND THE CHRISTIAN CONSCIENCE

HON. VANCE HARTKE

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 18, 1970

Mr. HARTKE. Mr. President, no philosophical problem is more agonizing to civilized men than the problem of what, if anything, constitutes a "just" war. Particularly is this true for the professing Christian, who faces a wealth of sometimes contradictory teaching in Holy Scripture and in the pronouncements of church authority on this very question.

A distinguished Lutheran scholar and pastor, Dr. Martin L. Cole, recently addressed himself to an aspect of the dilemma in a short, incisive article entitled "The Enigma of War," published in the Lutheran Standard of March 3, 1970. A former president of Texas Lutheran College, Dr. Cole concludes that "Our survival may depend on getting rid of the 'great illusion' that war is at times a positive good."

I ask unanimous consent that this thoughtful and provocative article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

THE ENIGMA OF WAR

(By Martin L. Cole)

The Mylai incident demands that we examine boldly the enigma of war. War has been always an agonizing problem for the sensitive and the intelligent. It is especially so for the Christian, and perhaps more intensely so for the Lutheran Christian.

The Lutheran has accepted Holy Scripture as the norm for life and faith given to him by God through the enlightenment of the Holy Spirit working in and through the Word. The Lutheran has also accepted the Augsburg Confession as a valid interpretation of Scripture as it relates to the Christian life. Article XVI proclaims that "civil ordinances as are lawful are good works of God." It implies that government is of God and not only exhorts the Christian to obey and do his duty as a citizen, but also to participate actively in government. He may "engage in just wars, act as soldiers, etc." Article XVI concludes: "Christians therefore must necessarily obey their magistrates and the laws, save only when they command any sin; for then they must obey God rather than men."

Is there a Lutheran who has not sweat over this clause about a just war? Horror and brutality is the bitter fruit of all wars, and on both sides. The historian knows that all wars are "just" if you accept the sources and documents of both sides. Never in man's experience has there been a war of aggression according to the official declaration of both sides. No doubt many of the German officers in World War II believed the *God with Us* on their helmets; and on both sides people sincerely prayed to the same God for victory and peace.

Paul, in the 13th chapter of Romans, states: "Let every person be subject to the governing authorities. For there is no authority except from God. Therefore, you must be subject, not only to avoid God's wrath, but for the sake of conscience." So there can be conscientious obeyers as well as conscientious objectors! This, indeed, poses the enigma of war to the Christian.

A sentence should not be pulled out of context in this inspired and moving description of what is the true Christian life, which Paul summarizes in these words: "Owe no one anything, except to love one another; for he who loves his neighbor has fulfilled the law." The neighbor to Paul or to Christ was not only a Jew or a Roman, but any human being in need of help, understanding, and love. Aren't we all tortured with the haunting thought that the murdered old men, women and children in Mylai are our neighbors, needing love, understanding, and food—not bullets.

There is not much evidence in history that governments are of God or that they operate in the spirit of love and compassion. Yet Paul was eager to have his beloved Christians in Rome obedient to their government for the sake of Christ.

Shortly before the outbreak of World War I (1914) Normal Angell published his amazing book, *The Great Illusion*. Neither Europe nor America was ready for his concept that war was man's most costly illusion; costly in wealth, costly in death (the survival of the unfit), a cancer eating at the vitality of man's attempt to live better and happier lives.

This scholarly volume, representing a lifetime of intense historical study and research, was pounced upon by the critics, abused and misunderstood, frequently misqouted or quoted out of context. The more scathing the reviews, the more the book was desired by the masses. Sold in manv editions, translated into all the principal languages of the world, the thesis of this remarkable book has had wide influence. Perhaps it is no mere coincidence that Norman Angell's conclusions are shouted loudly and fiercely by the more intelligent student leaders of the "Moratorium."

After the four awful years of bloodshed, terror, and waste of World War I he wrote two other books which were in a sense, "I told you so, but you wouldn't listen."

He analyzed and sifted the vast war propaganda on both sides and then wrote *The Unseen Assassins*. The unseen assassins were not the kaiser of Germany or the war lords of France and Britain, but the average men and women, who were too lazy or too stupid to know and think for themselves, and who accepted the slogans and half-truths without critical analysis. It is a haunting thought at this moment that perhaps we also are unseen assassins and unaware of it.

This book was followed with *The Fruits of Victory* in which he argued that war was not a solution to any economic problem. He found in the smoking ruins of Europe ample evidence to prove the utter futility of war. A defeated Germany was not a blessing to a victorious and hateful France or England. It soon became apparent that the prosperity and economy of Europe was dependent on a restoration of Germany to a position of production and consequent purchasing power and economic health.

The United States came out of World War II victorious, only slightly scarred, and prosperous. Europe was chaos. Germany was a smoking ruin. Noted economists were again agreed that a prosperous Germany was the key to the economic recovery of Europe. The war-stimulated economy of the United States needed the markets of a prosperous Europe. We poured billions of dollars into Germany and loaned them our technical experts. From an economic point of view, it is better to be the loser than a winner in modern war.

We sent billions to Europe to restore what we had helped to destroy. We had, as now, our rat-infested slums of which we seemed unaware. The economic justification of war, any war, would be funny, if it were not so tragic.

Our 300,000 casualties in Vietnam will not be entirely in vain if we have learned the utter futility of war. Is there ever a *just* war, At this moment when man's power to destroy is so awesome that it is incomprehensible to the unscientific mind, the next war may be the last. Our survival may depend on getting rid of the "great illusion" that war is at times a positive good. Jesus said, "Blessed are the peacemakers, for they are called the sons of God."

UNDERSTAND ME

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. HANSEN of Idaho. Mr. Speaker, Idaho State University which is located in the district I am privileged to represent in Congress has not experienced the trouble that has afflicted many other universities across the country. Credit for this success belongs to the students, the faculty, and the university administration. The lines of communication are kept open.

Idaho State University is blessed with one of the ablest university presidents in America. Dr. William E. Davis combines the talents of a great educator and a skilled administrator with a deep insight into the needs of students.

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During my recent visit to the Idaho State University campus at Pocatello, President Davis called my attention to an example of the responsible leadership within the ranks of the students. On March 8, 1970, the Idaho State Journal at Pocatello published an editorial by Clayton Vann, a black student at ISU. Mr. Vann is an 8-year Army veteran, which includes service in Vietnam. He is a football player and member of the student senate. He makes an eloquent plea for understanding.

Mr. Speaker, in order to bring my colleagues' attention to Mr. Vann's timely message, I include the editorial from the Idaho State Journal as a part of my remarks:

Understand Me

(Editor's Note.—The following guest editorial is written by Clayton Vann, a black student at Idaho State University who is a member of the Student Council and a football player at ISU for the past two seasons. Mr. Vann comments upon the black demonstration at a recent ISU basketball game.)

Understand me and hear my black voice.

I am the black man who has been pleading to the white world to hear me for over 300 years. Before you condemn me for my actions, understand me. Understand why I act like I do, be interested, "give a damn!" I am black, not white, I have my own way of doing things. Maybe it's not the way you think is right, but if you check yourself out, you will see we have that right to think for ourselves.

Realize that, that everybody is not the same, all people are different but they are still people. We are all human beings that God has made in His own image, and likeness. Understand that we are all the same: no one is any better than anyone else—just as good, but no better.

Realize that I, too, have something to be proud of, that I have a history. I have a heart, I have a culture, I am black and proud. Stop and think that I have worked, and built this country right along you. I have fought and died right by your side. I have been instrumental in making America strong. Understand that I have wants, and needs, just like you. Understand that although I am black, I am still an American. Understand that this is my home. I have no other, I want no other, I need no other. Understand that America is my home, my land, and that I'm here to stay. I am proud to be here in this great land of ours.

But there is one thing that you don't understand. And you must start to understand that in America, the black man is not free. The black man can't understand why when there are such famous documents as the Declaration of Independence and the Constitution, and the American Flag, that state that "all men are created equal and have certain inalienable rights . . . liberty and justice for all."

So whenever the black man reads the Constitution, and looks at the Flag that stands for all of these things and sees that he is still not free, how is the black supposed to feel? What is he to do? How is he supposed to act? I'll tell you what we do. We unify, come closer together. We come up with symbols, and sayings, such as "Black Power" signs, and the clenched fist. That means that we as a people are finally together, strong and proud. We have our own thing, after so many years of having nothing.

The clenched fist stands for the oppressed black America. It means to the black man that he must unify, and be strong. It is a sign of welcome, pride victory over oppression of any kind.

We must understand each other. So I feel that I should tell what happened pertaining to Black Liberation Week. Black students wearing the black band signifies a symbolic protest, or a gesture to the world that the blacks are observing something important to blacks. And the blacks want it known. At the game with Montana State, the black students were observing Black Liberation Week, and the commemoration of slain black leaders. It meant that, and only that, and no more.

Also we want the world to know that the black man will not be satisfied as long as his basic mobility is from a smaller ghetto to a larger one, and we will not be content until Justice rolls down like waters, and Freedom like a mighty stream.

And when we raise the clenched fist toward the Flag with our heads down, we are paying the highest respect a black man can pay to anything. It means that we are saluting the Flag and giving it the respect that it is due. It means that the black man is proud to be an American, and the Flag stands for freedom for all. But what gets us up tight is that we are still not free. So we blacks raise our fists toward the Flag as a unified and proud people, still striving in America for freedom. The black man of America wants the world to know that he is still in an oppressed position, but proud and together. We want liberty and justice for all mankind. And when we get this, there won't be a need for the black power sign.

As the black man sees it, whenever he does do something as a protest against our oppression the white man gets shook, or upset. Why? Because in his heart and mind he knows the black man is right. And that long ago, his forefathers fought, and died for the same kind of freedom that the blacks want now.

On July 4, 1776, the Declaration of Independence gave us a right as Americans: "We hold these truths to be self-evident: That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of the government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government laying its foundations on such principals and organizing its powers in such form as to them shall seem most likely to affect their safety and happiness."

These lines were written for all Americans, and are kept and treasured by all of the white Americans. All the black man wants is that white Americans stand by their sacred promise and live up to the words that their forefathers made history so many years ago. If this is done and the black man has his freedom and rights that he so richly deserves, then together we'll stand, one nation for all.

RESOLUTIONS ON ENVIRONMENT

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. DENT. Mr. Speaker, the communications workers are showing the way for all of us to participate in the clean up of the environment.

Nothing can be more important for the salvation of national and natural heritage.

I compliment Joseph A. Beirne, president and the entire membership of the Communications Workers of America for getting into the battle full force.

I submit the letter of transmittal as well as the meaningful resolution adopted by the organization:

Communications Workers of America,
Washington, D.C., March 6, 1970.

Hon. John H. Dent,
U.S. House of Representatives,
Washington, D.C.

My Dear Mr. Dent: For some time, we have been aware of the great need for the Nation to revise its basic attitude of toleration toward pollution, if an environmental catastrophe is to be averted. Consequently, the Communications Workers of America is determined to become involved in efforts to both bring about a revision of attitude and a knowledge of what is needed to regain environmental purity.

As initial steps, we have adopted two Resolutions on environment. The first urges our nearly 900 Locals to participate in the campus Teach-Ins which will be held on April 22. The second specifies a series of substantive environmental goals. I am enclosing them.

I am aware of the context of responsibilities you have as a national legislator, but I would like to emphasize the great need for real action in the environmental area.

A shooting war can be stopped instantly with a cease-fire. The war pollution is waging against the people cannot be halted quickly by any known means, so real solutions of the most stringent and effective nature must be devised and put in effect as soon as possible. I hope you can participate meaningfully in this.

Sincerely yours,

Joseph A. Beirne,
President.

Environmental Quality—More Than Slogans Needed

The United States is encountering severe problems in the quality of its environment. The problems are largely due to the tremendous success of our mass production-high consumption economy.

Concepts currently prominent in the thinking of government and other public bodies and the information media include "ecology," "total environment," "quality of life," "urban decay" and "pollution." The magnitude of these concepts is at long last being recognized.

The scope of the problem has not been adequately defined. It must include air and water pollution, the ever-growing masses of solid wastes, the abuse of natural resources, and the inability of the individual citizen to do more than protest.

Advances in technology and increases in the Gross National Product have not been accompanied by sufficient efforts to ensure that they are truly forward steps.

For instance, the coming of a paper mill or chemical plant is an event often welcomed by a community, because of the many financial benefits. But the price subsequently exacted on the community can be high—in ravaging of the landscape and waters, in noxious discharges into the air, in congestion.

DDT and other toxic chemicals have greatly reduced the number of insects which have plagued mankind through history. However, these substances are not selective: Bees, birds, fish and other animal life also have been threatened, and there is medical evidence that human health may be harmed by the continued use of these chemicals.

A drilling accident in the Santa Barbara Channel and the wreck of the tanker *Torrey Canyon* in the last two years fully illustrated the dangers inherent in the petroleum industry, and the substantial economic losses by individuals and businesses not directly involved.

For a final instance, the installation of a nuclear power plant can be a source of ade-

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quate electricity for a large area. But the price paid by the area can be hazardous radiation, thermal pollution of large expanses of publicly owned waters and difficulty in disposing of radioactive nuclear wastes.

Heretofore, the individual or local group alarmed at water and air pollution by local industries has been in danger of being an outcast because of "anti-business" attitudes. Opposition to strip-mining has been viewed as somehow "anti-American," because the protester would be denying a company the use of its own minerals. Questioning the "unquestionable assumptions" of the use of nuclear energy has been equated to impeding progress. Open advocacy of modern and adequate mass-transit systems can be offensive to the gigantic automotive industry and its natural allies—the oil industry, tire makers and paving contractors.

In his first State of the Union Message, President Nixon focused attention on the goal of "a new quality of life in America." While the message lacked specific steps to reach that goal, the President promised to send the Congress "the most costly and comprehensive program in this field in the Nation's history.

If the Nation's goal is to become more than another set of slogans coined for political purposes, full commitment must be made—and honored.

While it is impossible to find anywhere in this land a single individual who says he prefers polluted air and water, junkyards on the streets, traffic congestion, ravage of the natural resources, and any of the other indices of a breakdown of the environment, there are natural and artificial sources of inertia which would prevent action. Therefore, be it

Resolved: That the Executive Board of Communications Workers of America wholeheartedly endorse efforts by the Administration and the Congress to take all needed steps to achieve "a new quality of life in America"; and be it further

Resolved: That this Executive Board express this Union's sense of urgency in the following aspects of the National goal:

1. Definition of the problems of the environment, especially those which require legislative action.
2. Enactment of the most stringent of Federal laws with clear standards, providing adequate funds for the strictest enforcement, and setting criminal penalties against individuals who refuse to obey the law.
3. Permitting the public at large by "class actions" in Federal courts of competent jurisdiction, to secure its rights to an unpolluted and otherwise undefiled environment.
4. Unification of the jurisdiction of Federal agencies and Committees of the Congress in environmental matters.
5. Establishment of a policy that city streets are to be used primarily for the movement of traffic, not vehicle storage.
6. Taxation of slum properties on a formula that favors maintenance and penalizes those who traffic on misery.
7. Expenditure of Federal and other public funds for more useful and practical purposes than up to the present.
8. "Open Spaces" programs meaning more than shopping centers and parking lots.

ENVIRONMENT TEACH-INS RESOLUTION

The era of indifference which saw the pollution of our air and water and the defiling of our cities and countryside can be brought to an end if the people of the nation join together in pushing good environmental programs to the forefront of our national priorities. We, the Communications Workers of America, acting as citizens and as Unionists, accept our responsibility to participate in this effort for the betterment of our lives and the lives of our children.

A method of participation for CWA has become available through the announcement that a nationwide program of teach-ins on environment will be held on many college campuses on April 22. Sponsored by Senator Gaylord Nelson, a Democrat, and Rep. Paul McCloskey, a Republican, the teach-ins are non-partisan, and are designed to develop community awareness of the great risks and great costs of continued lack of improvement in the environment. Those participating in the teach-ins will select issues which are of importance in their particular area, and devise procedures to implement correction of area environmental problems. Therefore, be it

Resolved: That the Executive Board of the Communications Workers of America endorse the teach-ins to be held on college campuses, and urge all Locals to participate in the teach-ins. And be it further

Resolved: That Locals participate in helping organize the teach-ins, conduct the teach-ins, follow through on necessary post-teach-in programs to secure environmental improvements, and publicize their participation. And be it further

Resolved: That Locals not located near a campus which is the site of a teach-in aid in this effort for a better environment by informing elected officials in their communities and states, members of the Congress, and the news media, of their support for measures to improve the environment, by noting situations in their areas which need correction. And be it further

Resolved: That the President's office endeavor to obtain and distribute a list of the campuses where teach-ins are being held so that contact may be facilitated by the Locals. And be it further

Resolved: That Local officers call the membership's attention to the extensive coverage of environment in the March issue of the CWA News, and that Local officers use this information as the basis for developing arguments on behalf of environmental improvements.

IS TIME RUNNING OUT FOR PRESIDENT NIXON?

HON. VANCE HARTKE

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Wednesday, March 18, 1970

Mr. HARTKE. Mr. President, the most precious resource President Nixon possesses is public patience. His scarcest resource is time. The question that must surely agitate Mr. Nixon and his advisers is: Has he begun to dissipate his resources more quickly than he dare?

This is the underlying point of an article written by Prof. Harvey A. Stegemoeller for the student magazine of Concordia College, Indiana. I believe it will repay the careful attention of all those who are concerned with the quality of leadership in America.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

PRESIDENT NIXON

(By Prof. Harvey A. Stegemoeller)

One wonders, "Did Richard Nixon become President because the people rejected the Democrat legacy of LBJ?" Acceptance of Nixon might well have been an acceptance of a desired antithesis to what was believed to be the record of history under President Johnson—war, overextended foreign policy, crime, chaotic episodes of racial explosions and student demonstrations, loose ends and uncertainties of unfilled Utopianism, overheated economy, and inflation. Priorities were judged to be wrong, or at least confused. But, "Nixon's the one, he can provide new priorities, the new Nixon."

As President, Mr. Nixon has let the first year go by on the strength of what elected him—public assumptions about the Nixon antithesis to the Johnson record. With calm and pious mood, and with the help of some very capable p.r. and advertising men, he has helped to make the assumptions believable. He has not ended the war, but he has slowed it down in a number of ways. He has not really changed our foreign policy, but he has given assurance that his Nixon doctrine will not let it get any worse. He has not decreased crime nor ushered in an era of law and order, but he has quieted fear and criticism by saying things firmly and in the semantics of traditional morality. He has not promised much nor programmed much, but he has kept the aura of positive thinking and expectation. He has not stopped inflation, but somehow he has kept confidence that, since there has been no serious recession, he must be succeeding. All this has made the first year a good year for President Nixon.

Where is President Nixon at the beginning of his second year, where as related to priorities and expectations of the public? Will he try to continue with priorities which are inarticulate Nixon antitheses to what people have not liked? Will he try to continue his success built on a euphoria which is dependent on his keeping things quieted down?

The first year record and the recent State of the Union address did not include much in the way of priorities—a reassessing of our resources as they are to be rededicated to the needs of the nation which believes in an improved quality of life. Some of the rhetoric is there, including "the quality of life." But the reassessing and rededicating are not there in tangible programs and passionate leadership. The most tangible and most passionate would be the preferred "generation of uninterrupted peace." Yet the only plan (remember, there was a plan for peace promised by Mr. Nixon almost two years ago) is a Vietnamization which is what we were there for in the first place. On the domestic scene the most tangible and most passionate would be the antipollution campaign. Yet the mechanics are dependent on overburdened local bonding capacity and unknown levels of bureaucracies.

Priorities which are essential to an improved quality of life must involve allocating national resources to the "sore spots." Before making the well-to-do more affluent, before increasing the comfort margin of the already comfortable, priority must be given to the voids in our quality pattern. The hungry, the sick, the aged, the disenfranchised, the unskilled and ill-educated, the homeless, the badly housed—these are the voids. To shape, increase, and renew quality in American life effects changes of varying degree for all. Transportation efficiency, safety standards, consumer reliability, pollution control, crime control, good housing—these and others in the scheme of human interaction are essential to any meaningful use of the term "quality." The rhetoric of intention must be followed by priority decision. So far even the talk has not been too promising.

The above paragraph sound typically negative for a cynical Democrat reviewing Republican Nixon's priorities. Yet I hear faint sounds and see glimmers of light that are more hopeful for the future of the Nixon administration. Mr. Nixon is Mr. President, and he may be getting used to the title and aware of the power. In spite of both the pub-

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lic's reaction and the vested interests' backing which made him a president, Mr. Nixon is the President of the United States. He knows that euphoria is not productive in the history books. He knows that euphoria is not dependable through the election of 1972. He knows that euphoria is not the base of motivation for celebration in 1976. He knows. He knows that priorities have always been prerequisites for greatness. He knows that he must determine, state, program, and execute in such a way that progress can be measured.

If the office makes the man, then these demanding days for the President of the United States can make much of Richard Nixon. But what if the man makes the office? To know what is happening, keep listening and watching. Listen to hear whether the President appeals for acceptance rooted in euphoria or whether he appeals for following based on his priorities for America. Watch for program proposals to see whether the President is soft-stepping over and around the realities of our needs or whether he is leading us with our resources into direct action for solutions and improvements demanded by his stated priorities.

One year is only one-fourth of one term, one-eighth of two terms. Granted, there is time for the President to decide priorities and to determine his leadership. But in American politics today the virtue of patience is fragile. Non-leaders talking about non-issues are quickly pushed aside.

MAINE'S 150TH BIRTHDAY

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

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Mr. KYROS. Mr. Speaker, as of this past Monday, Maine has officially been admitted into the Union for 150 years "on equal footing with the original States," according to act of Congress and proclamation issued by our State's first Governor, William King.

It is with great pride that my State's citizens celebrate Maine's sesquicentennial this year. I hope that many Members of the Congress will have the opportunity to visit Maine this year, to join the people of my State and from other areas of our Nation in the sesquicentennial observations and the matchless recreational opportunities that Maine offers.

As Maine pauses to recognize the contributions which our State's citizens have made to State and Nation, so we also reflect on those measures through which our State motto—"Dirigo," or "I direct" may become more meaningful.

I think that my State is going to direct, through example, our renewed national commitment to the preservation of our natural environment. Maine's 104th State Legislature has recently attracted national attention in passing two measures which we believe will be very effective in this regard. Our Governor, Kenneth Curtis, is similarly committed to programs which will alleviate pollution. I would like to bring to the attention of my colleagues an article which appeared in this morning's Washington Post, which reads as follows:

Maine Plans Pollution Drive

(By George C. Wilson)

Millinocket, Maine, March 17.—Gov. Kenneth M. Curtis said here today that Maine "is about to embark on the greatest antipollution drive in our history."

The two-year drive, to be detailed in two weeks is designed to alleviate "almost half of the municipal pollution problems in the state," the governor said.

Maine voters last year voted a record $50 million for this cleanup, an amount to be supplemented by federal grants.

The Democratic governor, who is emphasizing environmental reform in his re-election bid this year, made the pledge as the Great Northern Paper Co. dedicated an advanced waste treatment plant.

MAJOR IMPACT

The process is likely to have a major impact on other paper companies as enforcement agencies press for cleanups all over the country.

Great Northern's new facility will cost between $10 million and $17 million, but company executives here said the cleanup will pay for itself in recovered chemicals.

Curtis praised the company's step toward a cleaner environment, and said that "pollution problems can only be solved by a partnership effort" that includes industry as well as government.

"An elementary truth," Curtis said, is that "pollution control can be good business."

Great Northern is the biggest paper company in the state. The new process is known as magnesium oxide chemical recovery. The waste sulfite liquor, toxic to marine life, is cooked in the advanced process here to remove most of the harmful chemicals.

EIGHTY FIVE PERCENT

Paper company officials said that their recovery plant would cleanse 85 per cent of the waste going into the Penobscot River here.

Magnesium and sulfite compounds are transformed in the process to oxide dust and sulphur dioxide gas—most of which is recovered within the cleansing cycle and used over again.

The company's huge boiler, a key part of the cleansing process, is the biggest in the world. Its temperatures of over 2,000 degrees burn some of the waste as well as convert chemical compounds.

The new plant can handle 600 tons of waste per day. If it works as well as Great Northern executives assert it will, many other paper companies in the United States and other nations are likely to be pressed to try the same system to reduce pollution from waste sulfite liquor.

Also, if the magnesium oxide system does indeed pay for itself, rather than lead to an increase in paper prices, enforcement pollution officials will have an added argument for insisting on such advanced treatment of wastes from mills.

MODULAR HOUSING UNITS EASE URBAN RENEWAL PROBLEMS

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. NIX. Mr. Speaker, the enormous problem of rebuilding decaying communities within the cities has been recognized; and proper legislation, budgetary provisions, and manpower have been made available as a starting point in assuring decent habitation for all. While progress has been made in the implementation of programs directed to this end, it is apparent that the pace must be quickened by broadening the methods now being employed by municipal planners and the construction industry.

The complexities of urban renewal are centered in the logistics of the orderly replacement of buildings and people. The magnitude of this task is enlarged by the factors of space and time. Construction is an uncertain area, at best one might estimate within a broad time span the actual date that a building might be completed as a replacement for another. Housing the occupants of the old building until this completion date is costly. And until this transition is completed, others who are awaiting their turn to be phased out of slum dwellings continue to rot within old walls.

A solution to many of these problems have been offered by a manufacturer of modular housing units, United Research Homes, Inc., of Hazleton, Pa. Their concept is based upon a two-part program. Utilizing a series of "relocator units" which are modular apartments that can be placed upon vacant or public land, the company has made provision for comfortable transient housing for the tenants of the buildings which will be demolished. Clearing the old building from the land is a comparatively short chore, even shorter is the time required to install modular residences or townhouses as the second step in the program. In mere hours after the permanent modular units have arrived at the site displaced families can move from their comfortable "relocator" into fully equipped domiciles which are ready for occupancy in every manner. The "relocator" units are then easily moved to another sector to serve its purpose as often as needed.

To demonstrate this capability, United Research Homes, Inc., has erected a model house at the corner of Maine Avenue at L Street here in Washington, D.C. The house was set in less than 2 hours. All appliances and fixtures were installed at the factory.

Mass production of modular homes through assembly line techniques is the most efficient approach yet to meet the Nation's housing needs. Of equal importance is the structural integrity and traditional design which make this appropriately named "Now House" a welcome addition to any community. I believe a visit to this exhibit would be time well spent by all.

Attached are some remarks made by my colleague, the Honorable Dan Flood, in whose district these homes are made. I believe you will find them of interest.

Remarks by Hon. Dan Flood

Our sociologists keep reminding us—and how well we can plainly see—that by the year 2000 our nation will be so tragically short of adequate housing—that an urban crisis may well develop in America which could weaken our society, smash our existing health standards, and give rise to continued discontent within the ghettos.

It is most encouraging to witness today the example of a revolutionary method of fabricated, reasonable cost, almost instant home building which may mark the first vital step in attacking the monstrous problems of adequate housing for middle and low income Americans.

It is likewise gratifying to realize that there is an organization which has recognized the enormity of our housing crisis—and made an obvious determined effort to do something about it. Realizing that conventional housing was not the answer, United Research Homes, Inc., designed, developed, and produced a modular home that maintains the quality standards of traditional builders, and exceeds F.H.A. minimum requirements.

I salute United Research for their innovative attempt to do something concrete in coping with our society's problems. I think it is a great example of bringing the mountain to Mohammed.

While we observe here today the chartering of a bold, new course on the road to better and more adequate housing for all Americans—I see within the framework of our endeavors an even greater challenge—for really our task has just begun.

The challenge is to our President—to make our government and the great American institutions realize that this housing crisis will get much worse before it gets better; to the Congress, as our committment and costs in Vietnam decline, to make additional billions over the next 10 years available for federal construction cost participation and an intense study of the conditions that led to this crisis; to construction firms and designers, who must hold in the forefront our national priorities in housing, to exert a determined effort to keep staggering costs down, and prevent continuing inflation; and the challenge, lastly, is with the banking fraternity, since it is becoming impossible for an American earning less than $15,000 a year to even think about purchasing suitable housing.

It is most gratifying to witness this great moment my dear friends, because nearly 50 percent of the "now" houses will be manufactured in Hazleton, Pennsylvania, a thriving industrial city which I have represented for over 25 years.

I know well the fine people of this organization, and I wish them every success in their future endeavors.

HORTON CONGRATULATES 29 CARDOZO RESIDENTS WHO GRADUATE FROM PARAMEDICAL TRAINING COURSE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. HORTON. Mr. Speaker, the poverty programs of the Office of Economic Opportunity are, unfortunately, the subject of controversy simply because they are not fully understood. Or they just are not known about.

Job training and providing medical assistance to the poor are just two of the many endeavors of OEO. Sometimes both of these activities are fruitfully combined.

Recently 29 residents of the District of Columbia participated in a commencement exercise that concluded months of intensive study and training. If this does not seem usual to my colleagues, I invite them to look into this graduating class more closely. Just 1 year ago these 29 residents of upper Cardozo were hard-core unemployed, underemployed, or welfare recipients. Today they have completed an 11-month paramedical training course which will enable them to become health aides, laboratory technicians, dental assistants, or medical clerks. Technicians of this nature are in seriously short supply.

The training program which they attended was sponsored by Community Group Health Foundation, Inc., a community medical and dental center—a clinic for the poor—funded by the Office of Economic Opportunity. There is no doubt that medical and health facilities are urgently needed by the urban poor. But this OEO project has carried this service one step further by also offering useful job training to hard core unemployed in a field in which there will always be a demand. The members of the community are being given an opportunity to become educated, employable people with the ability to use their skills to help meet the community's health needs.

I insert into the RECORD an article from the Washington Evening Star which discusses this training program. And I would like to offer my personal congratulations to these fine people who have walked off the welfare rolls and into paying jobs. The article follows:

[From the Washington Star, Mar. 9, 1970]

PARAMEDICAL COURSE A CARDOZO SUCCESS—29 ARE GRADUATED

The graduates passed no written exams, there were no grade sheets and there was no valedictorian. And instead of white gowns and mortar boards, the graduates wore blue hospital uniforms.

But then, it's not every day that hard-core unemployed, underemployed or welfare recipients get a degree. But that's what happened yesterday afternoon when commencement exercises were held for 29 Upper Cardozo residents who graduated from an 11-month paramedical training course.

The training program was given by Community Group Health Foundation, Inc., at 14th Street and Park Road NW, a community medical and dental center.

A $1.5 MILLION GRANT

The clinic started more than a year ago with five people, a $1.5 million grant from the Office of Economic Opportunity, and an idea—to give useful jobs to the hard-core unemployed. In April the clinic advertised for community residents who were interested in being trained as medical aides and technicians. The only qualification required was that the trainee present evidence that he or she was disadvantaged—underemployed, unemployed or on welfare.

The office was inundated with 250 responses. "I guess that's evidence of the size of the need for a program like this in this neighborhood," Dr. James D. Shepperd Jr. commented. Shepperd, the director of the project, said 42 applicants were selected.

The average age of the trainees was 29, and their average schooling was Grade 10—although one was a qualified nurse and one man partially qualified as a physician.

During the course, the students were paid $2 an hour for training as health workers, laboratory technicians, dental assistants or clerks.

"It was an idea whose time had come. It resulted from a community's desire to do something for itself—to give something to the community and do for itself," one enthusiastic community resident said.

Freedmens Hospital and the College of Medicine at Howard University were among area participants in the training project, along with Change, Inc., and Group Health Association.

Dr. Shepperd admitted that relations with OEO were not always cordial: "We caught a little hell now and then," he said. But in spite of critics, mistakes and program changes, the project managed to continue dropping 13 trainees along the way for a variety of reasons ranging from personal problems to better job offers.

"It took dedication for them to carry through," Shepperd said of the 29 graduates. "And commitment and will to make a success."

GET GS-3 JOBS

The project's first graduating class walked down the aisle to receive their certificates to the strains of Mendelssohn's "War March of the Priests." Their graduation was based on approval by clinic personnel, and they were not required to pass written exams, nor were they given grade sheets.

As they proudly accepted their diplomas yesterday in the basement of the Shrine of the Sacred Heart Church, 16th Street and Park Road NW., the paramedical graduates walked off the welfare rolls and into $4,900-a-year GS-3 positions.

The medical clinic's project—which now handles 80 patients a day—has recently been refunded with $1.8 million OEO grant, Shepperd said.

"It's been one of the more successful of OEO projects, and it's been a big success," he reflected. "We've just had an increase in money and we'll continue for at least another two years."

STATEMENT OF EUGENE P. CONNOLLY

HON. LEONARD FARBSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FARBSTEIN. Mr. Speaker, the Tamawa Democratic Club, located in my congressional district, recently issued a reply to an editorial broadcast by station WNBC in connection with the need to provide meeting places for American Indians.

The statement was issued on behalf of the organization by Mr. Eugene P. Connolly, a well-known, public-spirited citizen of the area who has long interested himself in causes beneficial to the citizens of this country, regardless of race, creed, or color. I commend both Mr. Connolly and his organization on the offer of their premises to our Indian brothers. The statement follows:

STATEMENT OF EUGENE CONNOLLY

In response to an WNBC editorial urging interested organizations to provide meeting places for American Indians, the Tamawa Democratic Club has offered the use of its facilities at selected times for such use.

The offer was made to Mrs. Willard Hines, a leader of the American Indian Community House, Inc.

The plight of the American Indian who inhabited our land before the advent of the white man should arouse the sympathy of all those pledged to remove the inequities in our democratic society. This group of our people has probably suffered more discrimination than any other in our society and, together with the fight for all minorities, it should be aided in its valiant struggle.

Unfortunately the American Indian was too often the victim of the greed of those who sought his land to enrich themselves at the Indians' expense. Our government which sustained for long years a system of so-called Indian Agents, many of whom should have been called White Man's Agents, is much to blame.

It is not too late to give the American Indian his rights and aid him in preserving in a viable way his culture which has much to give us all. Let us never forget that one of the four men who planted our flag on the top of Iwo Jima was an American Indian. We are proud that our club bears an Indian name and to offer them use of our headquarters.

LAKE COUNTY, IND., TURKEY CREEK DEVELOPMENT

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. MADDEN. Mr. Speaker, I wish to commend the Soil Conservation Service for the special interest they are taking in the development of the long delayed needs for soil and water conservation throughout the Nation. In the Calumet Region of Indiana, the department has made surveys which will bring about many needed installations when funds are provided for the project.

I have today submitted the following statement to the Subcommitee on Appropriations of the House Agriculture Committee. The statement follows:

LAKE COUNTY, IND., TURKEY CREEK DEVELOPMENT

Mr. Chairman: Two years ago I personally presented a statement to this Committee in behalf of the Soil Conservation Service. My remarks made at that time are even more appropos today. The following sentences are a direct quote from a portion of my previous testimony: "The amount of technical assistance to Soil and Water Conservation Districts throughout our Nation has continued to decline over the years until today there are 600 man-years less technical help available to them than in 1959. This regression must stop. Let us move forward in a forthright manner and give our constituents the technical help they need by appropriating $140 million for assistance to Soil and Water Conservation Districts."

Now here we are, two years later, in even worse shape for man-years of technical assistance than we were at the time I made my statement. Two years ago the metropolitan areas of my own Congressional District were not included within the boundaries of the Lake County Soil and Water Conservation District. Today, by act of the Indiana State Legislature, all of my District is included. This Act recognizes that the conservation of soil and water, and good land use is just as important in urban and suburban areas as in rural areas.

All of this is to the good, but it merely provides the mechanism through which technical assistance can be provided. The current meager staff of SCS personnel in Lake County was already overwhelmed with requests for technical assistance prior to the addition of this new acreage into the Lake County SWCD. This same situation exists in numerous other Indiana Counties. Recently, two new Soil and Water Conservation Districts were created in Indiana—Hamilton and Marion. There were no funds provided for technical assistance to new SWCD's formed in fiscal year 1969, 1970, nor are there any in the proposed budget for fiscal year 1971. This same situation exists in many other states in our great Nation. Couple this together with the increased cost of salaries and operating expenses of today's world, and you come up with overwhelming evidence that the technical assistance provided by the Soil Conservation Service through local Districts is becoming diluted more drastically every year, and this in the fact of more and more demands from an ever increasing population.

If we are to reverse the trend of a deterioration of the quality of our environment, the Soil Conservation Service, working through local Districts can help us do it. I urgently request you to favorably consider a budget of $140 million for the SCS to assist Soil and Water Conservation Districts in fiscal year 1971, and to designate an additional $2 million for new Districts created in 1969, 1970, and 1971.

I would be derelict in my responsibilities to my constituents if I did not take up the matter of funding for both planning and construction of small watershed projects. In the southern part of my District there is considerable interest in the Deep River—Turkey Creek Watershed. The people want and need a Watershed Work Plan so they can move forward into construction. Funds for watershed planning are so limited that the SCS could not make the necessary field surveys. The local people were so anxious to move forward with this project that they have actually made these surveys themselves. Even with this, the SCS is operating on such a frugal amount of funds that planning cannot move ahead as it should.

Yet, to my utter amazement, the budget estimates for fiscal year 1971 not only reflect a $1.3 million reduction in watershed planning funds, but also propose a limit of 60 new planning starts over the entire nation or slightly over one per state. This is ridiculous! In my own great State of Indiana, the Soil Conservation Service receives approximately eight applications a year for Watershed Work Plans.

Mr. Chairman, I urge you and the other forward looking member of your astute committee to remove the numerical limitations for new starts in both watershed planning and construction and permit the funding to be the limiting factor. But at the same time, we need to provide realistic funding for watershed planning to the sum of $7.5 million and $75 million for watershed works of improvement. I feel confident the Indiana delegation will support you in all of the positions I have outlined, and you have my assurance that I will.

THE RICK MOUNT STORY

HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. ROUDEBUSH. Mr. Speaker, Indiana has long enjoyed a national reputation as the producer of outstanding backetball players, but the close of the collegiate season this year signals perhaps the finest 4 years of any Hoosier court product.

I refer to the incomparable Rick Mount, of Lebanon, Ind. Rick has racked up every scoring record in the history of Purdue University and the Big 10 Conference.

His feats at Lebanon High School and with the Boilermakers will be the measure of performance for many, many years to come.

All Hoosiers are delighted that Rick's career will be continued with the Indiana Pacers of American Basketball Association, and I am sure that we can safely anticipate new heights of achievement for Rick.

An editorial recalling Rick's career at Lebanon and Purdue has appeared in the Lebanon, Ind., Reporter which explains why all of Indiana is proud of Rick the Rocket.

The editorial follows:

THE RICK MOUNT STORY

One of the finest chapters in Lebanon's history has just been closed out . . . that which involves the Rick Mount Story."

Mount has just ended a marvelous basketball career at Purdue University which began in the schools of Lebanon 12 years ago. During that time he has brought many thrills to those who have followed him either in person or via television during the carrying of Purdue games.

Each fan has his favorite moment to recall. For one it may be the afternoon game in 'the Semi-state against Logansport when Rick took charge and personally rallied the Tigers from 12 points back to eventually win by a point. In that he scored 47 and many have described The Rocket's feat as the greatest single effort ever to be witnessed in Indiana High School basketball.

Others will remember their favorite moment as being that split second when Mount let fly a last ditch effort to swish the nets for an NCAA regional win over Marquette.

Still again there was the 61 points he scored in a losing cause against Iowa this year which broke a single game mark in the Big Ten.

We could go on and on about Mount's accomplishments. He has set a new Tuesday evening and Saturday afternoon pattern for Lebanon residents and his magnetism has spread throughout the entire state.

But, like all good things, Rick's college career must come to an end. Much too quickly, it seems to us, but not soon enough his opponents would say.

We congratulate Mr. Mount for not only his basketball exploits but also the refined way he carried himself off and on the court during his collegiate career. In the face of continued harrassment and much jealous abuse both from opposing fans and players, Rick has kept his cool. He has been courteous and above all a gentleman. This his family and friends can respect.

We wish him well in the pro ranks. We have no doubt he will prove equally at home on the pro floor as he has on the college scene. And certainly his signing with the Indiana Pacers is welcome news for Boone County fans who have kept their fingers crossed that they just might be able to personally follow their hero.

Mount's signing by the Pacers is a wise investment for that ball club, we believe. And it shows the zeal that professional basketball has for the young man from Lebanon.

Another chapter in the Rick Mount story is about to be written and we hope even more unbelievable than those before.

THE STUDENT IN THE UNIVERSITY AND SOCIETY OF TODAY, NO. 3

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. McCLORY. Mr. Speaker, apparently, not everyone is aware that the year 1970 has been designated by the United Nations as International Education Year. As a part of my remarks today, I call attention to the following items: First, IEY Bulletin No. 2, September 1969, containing an interview with Mr. Raymond Rodriguez, chief of the special unit set

up by UNESCO to stimulate and coordinate action for International Education Year, together with a list of some plans and projects already in progress, the text of U.N. General Assembly Resolution 2412, and the text of the resolution adopted by UNESCO; second, an article in National Business Women entitled "Why International Education Year?" by Richard Greenough of the press division of UNESCO's Office of Public Information in Paris; third, U.S. Education Commissioner James Allen's news release of October 6, 1969; fourth, President Nixon's proclamation of February 12, 1970; and fifth, a message on IEY by UNESCO's Director-General, Mr. Rene Maheu, in the UNESCO Courier of February 1970.

International Education Year and After—IEY Bulletin No. 2, September 1969

(Interview with Mr. Raymond Rodriguez)

Question. Perhaps you could first begin with some comments on the 12 priority themes for International Education Year set out by Unesco in the resolution of the General Conference?

Answer. First of all, I should say that while each of the priority areas speaks for itself, together, they open up a wide field of possible action. What is more important than simply redefining these themes is what they represent to people at this point. Certainly in the months to come, as Member States and organizations concerned with education and IEY prepare their plans and programmes, we shall assist and guide them with position papers on each of the 12 priority areas in question. We shall try to make these papers a valid summing-up of the problems involved. At this stage our primary aim is to alert everybody to the importance of these objectives. Another point, and it is not unrelated, is the fact that IEY must be an occasion for stocktaking on the one hand and creation on the other. To merely indulge in academic exercises with such issues as functional literacy, or democratization of learning, would be quite insufficient and would lead to a sterilization of the real aims for IEY.

Q. After the 82nd session of the Unesco Executive Board, in April last, two points became clear. First, Member States are vitally interested in IEY. Second, its success will depend upon action taken at the national level. Could you comment on what your Unit hopes Member States will do?

A. This was in fact suggested in concrete terms in the second or two letters sent by Unesco's Director-General to Member States on 23 June. It ranges from legislative action aiming at the eradiction of discrimination in education, to television programmes geared to greater public involvement in educational matters. Two observations in this regard: neither the IEY Unit, nor the Unesco Secretariat as such, intend to preach at Member States. We shall not preach on the significance of an International Education Year they themselves have decided to mark in 1970. But we certainly hope and believe that 1970 will be significant and useful. We believe that if each nation clearly and fully takes stock of the present situation with respect to education, then IEY will have been worthwhile, because a truly conscientious reappraisal is bound to bring about new answers to old problems, as well as radical new departures.

Q. What would you say to those who—either in government or in the fields of education itself—might claim that they are already doing all that is needed for education at national and international levels?

A. Even those who devote an impressive and sometimes overwhelming part of their resources to education could in all frankness consider the following questions: Are we spending our money properly? Should we not explore new systems of education on which investments would prove fully 100% productive? Shouldn't we listen more to what youth is saying about inadequacies in education in relation to everyday life? Need one add the appalling and frequently cited comparison made between what nations spend on education and what they allocate to military purposes.

Q. How do you see the role of the United Nations agencies vis-a-vis that of Member States, intergovernmental and nongovernmental organizations in relation to IEY?

A. As no fresh resources have been made available to organizations within the United Nations system, we cannot promote new international undertakings—to implement specific IEY projects. The role of Unesco and its sister United Nations agencies must be to inspire and stimulate activities at the national level. We also must organize an adequate system which will enable us to inform all active in IEY what Member States and organizations are doing. Also, because of our special and central position, Unesco must detect the most useful directions to be followed.

Q. Much of Unesco's work in education at present is devoted to helping developing countries. What about the developed countries and their existing educational programmes? Speaking generally, what might be some of their particular priorities for IEY?

A. In the context of IEY, the priorities for the developed countries are not substantially very different from those of developing ones. In no country can it be said that educational systems are perfect. It is imperative that a new definition of the aims of education be found. What forms, structures, content and end-product, should the educational process have in the decade to come? Change in education is not only a question of more of the same and better, or of money, but also a question of more imagination and courage. Unesco believes that the concept of lifelong education offers the right working hypothesis on which to base continuing efforts. This concept I would like to return to later.

Q. The crisis in education throughout the world is bringing into question the quality even more than the quantity of education. This is especially so in the developed countries. What account should be taken of this crisis during IEY?

A. Full account. Actually my belief is that if all countries represented at the United Nations General Assembly decide to have an International Education Year, it is precisely because of the existence of what has been called "the world crisis in education". This decision has come at an opportune moment. Opportune, because to focus attention on education in 1970 is not an arbitrary or lightly taken decision. It is indeed in line with history itself.

Q. At this point would you comment on what is meant exactly by education in the term International Education Year? Unesco has stated that education should be taken in its broadeast sense to include all forms of instruction and training.

A. This again raises the difficult game of definitions. You are right, however, that we must be clear about what we mean by education. It will be one of the purposes of IEY to bring to light not only new approaches and policies for education, but perhaps even a new definition of what education is or should be all about. In this regard I would like to quote part of a statement made by the Director-General of Unesco:

"With regard to life-long education, it is now a matter of common knowledge that this is a concept which explains the real meaning of modern education and which should inspire and sum up all efforts directed towards reform. Education is no longer confined to a particular age, that is, only a part of life; coexistent throughout its length, it represents an attitude and a dimension of life. This radical change in outlook ruthlessly reveals all the difficulties encountered, which spring up on every side, and at the same time provides the only path to their solution. But life-long education must not remain a mere slogan. Indeed, no reconversion requires so vast and complex a forward planning. For what is involved is no less than a merging of school and university education in a global system within which out-of-school education and so called adult education, now generally regarded as marginal, are destined to appear as the very core of the discipline of the mind. . . . In the period following International Education Year, which we have reason to hope will give an impetus to global thinking and the will to reform, this ought to be the main line along which should be planned, over the next decade, Unesco's activities in all matters pertaining to education".

NON-GOVERNMENTAL ORGANIZATIONS

Some plans and projects already announced for 1970.

International Association of Universities.—Fifth General Conference in August–September 1970 at Montreal, Canada. Two items related to IEY on agenda: "International University Cooperation" and "The University and Society's Immediate Needs". These items are expected to lead the Conference to discuss the themes and objectives which have been drawn up for International Education Year.

International Federation of University Women.—National associations are being urged to cooperate for IEY. Regional Conference from 20 to 22 April 1970 organized by Turkish branch. Theme chosen for this conference, in regard to IEY, is "Literacy, means of education". This theme will be developed under three headings: 1. What is a developing country? 2. The status and problems of illiteracy in developing countries and adult education in developing countries. 3. The evolution of family life in relation to education in developing countries and children's elementary education.

Women's International Democratic Federation.—Regional seminar in Sudan planned for 1970. Subject: "Functional Literacy and the Professional Training of Women". It is hoped that libraries and educational centres will be set up in Africa, Asia and Latin America. Also, that functional literacy and professional training seminars for women in the framework of IEY will be held in Africa and Asia.

International Council of Jewish Women.—IEY, including the work of Unesco, will be the major programme emphasis for its approaching triennial period.

Q. A real and continuing dialogue between educators and policy-makers on the one hand, and those receiving education or training on the other, is needed. To what extent do you think this might begin in earnest during IEY?

A. Well, it has in fact begun already. This should really make the IEY a veritable "bridgeyear", in that on the basis of what has already begun and should continue we shall be able to build a new meaning for education. With regard to the dialogue, we will only achieve that if, to begin with, we stop talking of those who "give" and those who "receive" education, and talk more of an "educative society" where everyone is in fact engaged in both operations.

Q. As a result of the studies and stocktaking carried out during IEY by the United Nations agencies, to what extent is it likely that Member States will be further guided or influenced in matters of education for the decade to come?

A. The United Nations agencies will certainly help prepare the frame for the future orientation of world educational programmes.

XUM

But the framework for action is one thing; even more important is the concrete aciton to be taken by Member States themselves. That is what really matters.

Q. More than two thousand years ago, the sage Kuan-Tsu is reputed to have said: "When planning for a year . . . sow corn. When planning for a decade . . . plant trees. When planning for life . . . train and educate people". Does this saying sum up United Nations and Unesco philsophy for International Education Year?

A. Yes, apart from the fact that we must get things moving during the year itself and not, as it were, during an International Education Lifetime. The departure point is now. So far, we have mostly heard of trees being planted and corn being sown. In other words, we are still very much at the appeal stage. Apart from this, Kuan-Tsu and Twentieth-century Unesco agree on the fact that education is a life-long process, which calls for adequate, continuing and imaginative deeds rather than mere words.

World Association of World Federalists.—Education workshops in Canada during August 1970, to prepare ground for large international congress in 1971, on the Introduction of a global perspective into syllabuses everywhere.

World Federation of Democratic Youth.—To contribute to IEY with seminars and conferences on: 1. Access of rural youth to education) a regional conference is to be held at Dahomey, Africa). 2. Study research on the rights and responsibilities of Youth. 3. Children and international education. 4. Young workers.

Association for Supervision and Curriculum Development.—March 1970 Conference at Asilomar, California. Topics: "In the minds of men: educating the young people of the world" and "Men for tomorrow": a challenge to education."

XUM

World Education Fellowship.—Among activities planned for IEY are several concerned with primary education and the role counselling plays in education. In honour of the centenary of the birth of Maria Montessori, a conference will be held in July 1970 in London. This conference will be concerned with the primary stages of education.

World ORT Union.—Studies and courses for 1970 and IEY include; studies on the relationship between general and technical education through the introduction of technology and practical work in general education and the guidance of students towards further technical studies. Courses: experiments in courses for secondary education, and the issuing of materials developed experimentally. Two IEY objectives to receive special attention: 1. Middle and high-level manpower for development. 2. Transition from selection to guidance in secondary and higher education.

World Union of Catholic Teacher.—Congress to be held from 3 to 8 August 1970 in Montreal. Theme "The school and the teacher in this changing world." During this congress special emphasis will be given to IEY.

UNITED NATIONS AND INTERNATIONAL EDUCATION YEAR

The Resolution 2412 on the International Education Year adopted unanimously by the general assembly on December 17, 1968 reads:

The General Assembly,

Recalling its resolution 2306 (XXII) of 13 December 1967, by which it decided to observe an International Education Year and provisionally designated the year 1970 for this purpose,

Noting with satisfaction Economic and Social Council resolution 1355 (XLV) of 2 August 1968, particularly the invitation to all the United Nations agencies, bodies and organs to participate in the preparation of programmes of concerted action within the context of an overall strategy for development during the next decade and in close co-operation with the United Nations Educational, Scientific and Cultural Organization,

Noting with appreciation that consultations between the United Nations Educational, Scientific and Cultural Organization and the interested Specialized Agencies have taken place and that the International Education Year was reviewed at a meeting of the Administrative Committee on Co-ordination in October 1968,

Noting with appreciation the resolution on the International Education Year adopted on 19 November 1968 by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its fifteenth session, and in particular the fact that the Organization would assume primary responsibility for the preparation and execution of an international concerted programme,

Recognizing that education in a broad sense is an indispensable factor in the development of human resources which is essential to ensure the attainment of the goals of the Second United Nations Development Decade.

1. Decides to designate 1970 as International Education Year;

2. Endorses the programme of action for the International Education Year set out in the resolution adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization and described in the reports submitted by the Secretary-General to the Economic and Social Council and the General Assembly;

3. Recommends States members of the United Nations and members of the Specialized Agencies and of the International Atomic Energy Agency to take stock of the situation with respect to education and training in their countries and to plan and initiate or stimulate action and studies linked to the objectives and themes of the International Education Year in the context of their preparation for the Second United Nations Development Decade;

4. Requests the United Nations Educational, Scientific and Cultural Organization and the organizations of the United Nations system concerned to provide within available resources all possible assistance to governments, especially those of the developing countries, in their efforts to pursue the objectives formulated by the United Nations Educational, Scientific and Cultural Organization for the International Education Year;

5. Further requests the Secretary-General, with the assistance of the United Nations Educational, Scientific and Cultural Organization, to report to the General Assembly at its twenty-fourth session, through the Economic and Social Council at its forty-seventh session, on the progress achieved by the organizations of the United Nations family in the preparations for the International Education Year.

UNESCO AND INTERNATIONAL EDUCATION YEAR

Resolution on the International Education Year, adopted by a unanimous vote of the general conference of UNESCO at its 15th session in November 1968

1.111 Member States are invited, should the General Assembly of the United Nations declare 1970 as International Education Year:

(a) to take stock of the existing situation in their respective countries with respect to education in its broad sense;

(b) to initiate or stimulate studies on problems relating to improving the situation with particular reference to the objectives and themes which will have been adopted for special attention under the International Education Year;

(c) to encourage educational authorities, public and private, to initiate such new activities as may be needed for the same purpose;

(d) to make a special effort in order to increase financial resources for educational development;

(e) to participate effectively in the international programmes to be conducted by the United Nations system under the auspices of the International Education Year;

(f) to launch a programme of action comprising practical measures for the elimination of all forms of discrimination and for the promotion of equality of opportunity and treatment in education, and to integrate it in their educational development plans.

1.112 The Director-General is authorized:

(a) to assume primary responsibility, in collaboration with the other organizations of the United Nations system and taking into account the suggestions presented by them, for the preparation and execution of an international concerted programme;

(b) to advise Member States, in co-operation as appropriate, with other agencies, bodies and organs of the United Nations system, on the principal objectives on which they should focus their attention and concentrate their efforts, so as to contribute to the framing of a global strategy for education for the Second Development Decade;

(c) to propose for this purpose to Member States, the International organizations of the United Nations system and the other governmental and non-governmental international organizations concerned, the following objectives, concepts and practices:

Objectives

(i) functional literacy for adults;

(ii) equal access of girls and women to education;

(iii) training of middle and higher level personnel for development;

(iv) democratization of secondary and higher education;

(v) transition from selection to guided choice in secondary and higher education;

(vi) adaptation of education (both general and technical) to the needs of the modern world, especially in rural areas;

(vii) development of educational research;

(viii) pre-service and in-service training of teachers.

General concepts and practices

(ix) educational technology—the new methods and media;

(x) life-long integrated education;

(xi) reconciliation in education of a spirit of tradition and preservation of the intellectual and moral heritage with a spirit of renewal;

(xii) promotion of ethical principles in education, especially through the moral and civic education of youth, with a view to promoting international understanding and peace;

(d) to orientate specific projects provided for in the Programme and Budget for 1969–1970, such as studies, operational programmes, regional and international conference and public information activities, so as to make them contribute fully towards the realization of the above-mentioned objectives of the International Education Year;

(e) to turn to account the studies conducted on the occasion of the International Education Year for defining the principles of long-term educational planning;

(f) to transmit to the General Assembly of the United Nations the text of the present resolution;

(g) to report to the General Conference, at its sixteenth session, on Unesco's participation in the International Eduction Year and the general outcome of the activities undertaken in that connexion.

WHY INTERNATIONAL EDUCATION YEAR?

(By Richard Greenough)

The year 1970 has been officially designated "International Education Year" by the United Nations.

Why another special Year? We've just had International Human Rights Year; we've had International Geophysical Year, International Years of the Quiet Sun, International Co-operation Year, International Tourist Year, International Mental Health Year and a number of others. Why, then, International Education Year?

One main reason goes back to just over ten years ago when UNESCO—the United Nations Educational, Scientific and Cultural Organization—published a historic study: "World Illiteracy at Mid-Century."

This was the most comprehensive global view of the status of education, or lack of it, ever undertaken. The study covered 198 countries and territories. It showed that a little over 44 per cent of the world adult population of over age 15—then estimated at some 700,000,000—were totally illiterate, the great majority in developing countries.

Using the higher yardstick of functional literacy that, more than simply the ability to read and write, is also to play some useful role in today's society, UNESCO's survey then estimated that 65 per cent of this adult population was illiterate. For good measure, it was further calculated that 250 million children were not even attending school.

The survey helped to focus world attention on the status of the education situation three years before the UN's first Development Decade was launched in 1960. It led to a series of efforts in which UNESCO and the UN's then Special Fund and Technical Assistance Programs, as well as inter-governmental and non-governmental organizations, helped states launch their own national programs seeking to close the education gap.

One reason was an increase of 10,000,000 children attending primary school in Latin America, and Mexico started a major drive, creating new schools at the rate of 90 a week, and training over 10,000 primary teachers annually.

The survey led, too, to regional conferences and, subsequently, a World Congress, of ministers of education, held by UNESCO.

In all its activities toward expanding and improving education in the new states of the world, UNESCO laid great stress on help in teacher training and educational planning. Planning missions of UNESCO experts have helped set up in all the developing countries—at their request—education systems, educational planning machinery geared to local needs, education budgets and literacy programs. Help is currently being provided to seven states for selective projects in an experimental world literacy program—in which 52 other countries have already asked to participate—and nearly 30 more countries are now receiving technical aid in their literacy activities.

Some immediate results of this first gentle pressure on the panic button of a world education emergency were impressive. Between 1960 and 1965, school enrollments rose by 27 per cent in primary, 22 per cent in secondary and 40 per cent at the higher level. Education expenditures also rose at an impressive rate.

Why then is there need for an International Education Year? Because, despite all these strides, education in both the industrialized and the developing worlds is in a crisis, as was fully recognized at the Conference of European ministers of education convened by UNESCO in Vienna in 1967.

Reasons for this start perhaps with the population explosion which, especially in developing countries where orderly growth of education is so vital for economic and social expansion, has made it almost impossible to build enough schools, train enough qualified teachers, produce the necessary textbooks and other materials in order to hold one's own, let alone grow. While the 44 per cent figure (world's totally illiterate) has declined in just over a decade to 33 per cent, the actual number of illiterates has increased from 700 million to between 740 to 750 million and rises steadily each year.

Add to this the lack of good jobs, the information "explosion" (new ideas, new concepts and new uses for the old, being churned out in floodlike indigestible quantity) and the "credibility gap" between what the young are taught in school and what society practices, all of which have created tensions, dissent, often disorder. The sum is further reason why education is now in a crisis.

Some of the underlying causes of student unrest help to explain this crisis even more. Again, there is an unprecedented growth in the number of young people. Those under the age of 24 are in an absolute numerical majority today, forming 54 per cent of the world's population.

Furthermore, the head of the family, or the average teacher, is no longer an accepted fountainhead of knowledge—unless he is a very exceptional parent or teacher. The chances are that a university student of today, or even an ordinary computer, knows more than they do. Finally, there is the "credibility" or morality gap facing the student who is urged to look deeply and honestly into such things, as, for example, the causes of war and injustice, only to graduate into a world where such problems are all too often veiled in hyprocisy, or at least in dubious reasoning.

That the international community is acutely aware of the necessity of focusing world attention on this crisis in education was seen when the UN General Assembly of December 17, 1968 unanimously adopted a resolution proclaiming 1970 "International Education Year."

Therefore, in view of the UN's long concern over the situation and its determination to work out a remedy, it is hardly surprising that Mr. René Maheu, Director-General of UNESCO, warned that "International Education Year must be more than a mere celebration. Its purpose should be to promote concerted action by Member States and by the international community toward four main objectives: to take stock of the present situation throughout the world; to focus attention on a number of major requirements for both the expansion and the improvement of education; to make greater resources available for education, and to strengthen international cooperation."

Three principles underlie the proposal for I.E.Y. First, education should be taken in its broadest sense to include all forms of training and the giving of the learning experience to all ages and for all purposes, emphasizing the concept that education is not just an end in itself, terminating with the final school year, but is a lifelong process. Second, though action programs will be nationally executed, I.E.Y. should be conceived as a concerted activity by the whole United Nations system and with the idea of the essential contribution of education to economic and social development. Third, I.E.Y. should have a practical focus on promoting reflection and action by governments themselves as well as by the international community at large.

Generally speaking, the goal of I.E.Y. is to foster national education in the training and education field so as to produce a new, dynamic approach to the development of human resources at the outset of the second Development Decade.

Objectives and fields of activity proposed for attention during the I.E.Y. include: functional literacy for adults; equal access of girls and women to education; the training of middle and higher level personnel for development; the adaptation of all education, both general and technical, to the needs of the modern world especially in rural areas; the pre-service and in-service training of teachers.

Action will be along three lines: (1) study and stock-taking through expert UN surveys to assist countries in assessing their education and training system; (2) an operations phase, in which specified pilot projects, related in one way or another to some of the above-mentioned objectives, will be developed, and (3) information, vital to the success of the I.E.Y., will be dispensed through coordinated efforts of mass media, national and international non-governmental organizations.

Finally, policy making. The real goal of I.E.Y. is to bring about changes in policies and practices in respect to education and training. Regional and international conferences held during I.E.Y. will provide one means of bringing forward some of the policy consequences of I.E.Y. These include the Food and Agriculture Organization's World Conference on Agricultural Education and UNESCO's International Conference on Public Education, both to be in the summer of 1970. In addition, in a more general form, the 16th session of UNESCO's General Conference at the end of the year may be expected to address itself to a critical reappraisal of modern education, and to adopt a report for submission to the UN General Assembly.

However often it may have been used, H. G. Wells' statement that human history is a "race between education and catastrophe" well applies to the crisis today. But education *can* win the race if educational resources are mobilized to meet the pressing needs of a better world all are trying to create. And that is the aim of I.E.Y.

NEWS RELEASE

U.S. Education Commissioner James E. Allen, Jr., today issued the following statement on International Education Year:

The United Nations has designated 1970 as International Education Year and has placed upon UNESCO (United Nations Educational, Scientific, and Cultural Organization) responsibility for guiding its implementation at the international level. UNESCO in turn has invited each Member State to reflect on the status of its own education. It has called for an examination of both past achievements and present problems, and for intensification of domestic efforts to plan the expansion and improvement of their educational systems.

International Education Year affords us a splendid opportunity, and in fact imposes upon us an obligation to join with other Nations of the world in making a careful assessment of the condition and the objectives of education. For our part, I solicit the participation of every member of the educational community in this self-analysis. I urge that activities be planned that will focus the attention of all citizens on the state of education in their community, engage them in a thoughtful review of its successes and failures, and enlist their energy and support in pursuing the highest standards of educational excellence. In this way we in this country will be working in concert with people in other countries in pursuit of improved education opportunity for all, a university valued goal.

I hope that the following issues will be given high priority in both plans and actions:

1. Making our educational system truly responsive to the individual needs and aspirations of every young person and truly relevant to the realities of the society in which they will live their lives.

2. Expanding educational opportunity to insure that all our children—rich and poor, black and white, urban, suburban, and rural—receive the best education we can possibly give them.

3. Increasing the scope of experimentation, planning, and evaluation and placing greater emphasis on the rapid dissemination of information so that the fruits of our education-

al research will be readily available to all educators and will be applied in our educational programs.

Our responsibility in support of International Education Year is a serious one. By meeting its challenge, we can take long strides toward the creation of an educational system which will provide the best possible preparation to all Americans for full and productive lives in the modern world.

INTERNATIONAL EDUCATION YEAR

PROCLAMATION 3962, DATED FEBRUARY 12, 1970, RELEASED FEBRUARY 13, 1970

By the President of the United States of America a Proclamation:

The United Nations Charter expresses the determination of the peoples of the United Nations "to reaffirm faith in fundamental human rights," and "in the dignity and worth of the human persons. . . ."

Education is a fundamental human right, one that recognizes and helps to preserve the dignity and the worth of human beings. With this in mind, the United Nations has designated 1970 as International Education Year and has called upon each member state to intensify its domestic educational efforts.

It is to that end that I, Richard Nixon, President of the United States of America, do hereby proclaim 1970 to be International Education Year in the United States.

I call upon all Americans to join our fellow citizens of the world in making this year one of reflection on the state of education as it exists and of action directed toward making education what it should be.

In witness whereof, I have hereunto set my hand this twelfth day of February in the year of our Lord nineteen hundred seventy, and of the Independence of the United States of America the one hundred ninety-fourth.

RICHARD NIXON.

1970 INTERNATIONAL EDUCATION YEAR

(Message From Mr. René Maheu, Director-General of Unesco)

At the beginning of the New Year, I should like to remind all the countries of the world that, at the suggestion of Unesco, the General Assembly of the United Nations has designated 1970 as International Education Year; and I would ask them to do everything in their power from now on to make this a year of significant achievement, both qualitative and quantitative, in the field of education.

In many countries, at the present time, both the forms and the content of education are being seriously challenged. Instead of indulging the illusion that controversies and passions will eventually die down, we shall do better to make a bold attempt to understand and grapple with the crisis—a crisis in which we should, moreover, discern not so much the threat of some unthinkable collapse as the promise of a necessary renaissance.

We live in a world that is changing before our very eyes—a world in which the population explosion, decolonization and the profound economic and social transformations resulting from technological development are so many forces making for the democratization of education. At the same time the acceleration of scientific progress is resulting in the more and more rapid obsolescence of knowledge, while the development of mass communication techniques and audio-visual methods is revolutionizing the traditional bases of communication. With all this it is out of the question for education to be confined, as in the past, to training the leaders of tomorrow's society in accordance with some predetermined scheme of structures, needs and ideas, or to preparing the young, once and for all, for a given type of existence. Education is no longer the privilege of an elite or the task of a particular age; to an increasing extent, it is reaching out to embrace the whole of society and the entire lifespan of the individual. This means that it must be continuous and omnipresent. It must no longer be thought of as preparation for life, but as a dimension of life, characterized by continual acquisition of knowledge and ceaseless re-examination of ideas.

But how is education to broaden its bounds in this way if it remains divided in its internal organization and isolated as a whole from life and society? Not only are the various elements involved in the educational process often poorly integrated, but education as such is still all too often cut off from the rest of human activity. In too many cases, the school, the college and the university, far from living at one with the community, constitute worlds of their own.

That an electronic engineer—for example—should have no properly organized means of sharing his knowledge with those of his colleagues, friends and neighbours who would like to bring their information up to date; that an educational establishment should be used for a maximum of only two hundred days in the year, and then for eight hours a day at the very most; that young people who have studied for several years at school or university should be unable to turn the skills they have acquired to account on the labour market because they have failed in some competitive or other examination: all this is waste—waste of material resources, waste of human potential—which must no longer be tolerated anywhere, and least of all in the developing countries.

And since I have referred to those countries, how can I pass over in silence the most scandalous of all the many instances of wasted human potential: namely, illiteracy, which still, at the present time, keeps more than one-third of the human race in a state of helplessness, below the level of modern civilization? When shall we make up our minds to eliminate this scourge from the face of the earth?

These are the sort of problems to which the world community is invited to address itself on the occasion of International Education Year, in order that bold and inventive solutions may be found and applied. And it is towards the universal and life-long education I have referred to that Unesco asks governments, institutions and individuals to direct the necessary effort of reflection and promotion.

No one can be blind to the immense difficulties of the structural and intellectual conversion that this idea of life-long education implies if it is not to be allowed to sink in a bog of empty verbiage. For what is needed is nothing less than the organic integration of school and university education with out-of-school education and adult education—two branches which, even today, are all too often regarded as peripheral when it is obvious, if we take an overall view, that they are bound to play an essential part in the continuing and many-sided moulding of the human mind. Naturally, no one supposes that all this can be achieved, anywhere, in the course of a single year. But the time has come for all of us to advance boldly together along this path, which is the path of the future of mankind.

The great crises of education have always coincided with profound changes in society and in civilization. I believe that we are approaching one of those moments in history. The need for new human models, both for society and for the individual, is making itself felt almost everywhere. And while inventions of such complexity are beyond the power of education alone, we all realize that without education they would be quite impossible. For, when all is said and done, no progress has reality or meaning for man except in so far as it is projected and reflected in his education.

It is therefore in the name of the right of every human being to education, as a right to progress and renewal, that I declare International Education Year open and appeal to peoples for that generous emulation and to States for that beneficient co-operation on which its success depends.

UP WITH THE COUNTRYSIDE

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. RAILSBACK. Mr. Speaker, in the March 1970 issue of the Farm Journal, there appeared an editorial which I would like to call to the attention of my colleagues. There is no question but what the rural areas of this country are going to become increasingly important in our everyday life, not only because of their role in providing the food we eat, but because of their projected role in what President Nixon has called a "national growth policy." I think that "Up With the Countryside" is a fitting description of the future of our rural America. The editorial follows:

UP WITH THE COUNTRYSIDE

Take a good look at the 1970s, and you can't help but feel that farmers are going to be "where the action is" during the coming 10 years.

If we do nothing more than duplicate the changes of the 1960s, that will be something. Although you might not feel it in your own billfold, farmers' cash income from farming climbed 49% between 1959 and 1969; income from off-farm sources jumped 79%; total production expenditures increased 48%; and net for family spending rose 56%.

This pie was cut into fewer pieces as the result of a 27% decline in the number of farms. This helped hike the average gross income per farm by 108%, the average production outlays per farm 103%, and the average net per farm for family living 115%.

Surprising to some people, commercial "economic-sized" farms actually grew in number. The farms selling $10,000 or more of products per year increased 22% between 1960 and 1968.

Farming is clearly a growing business—and one which is undergoing enormous changes.

But, as the man said, "You haven't seen anything yet." The 1970s promise even greater changes.

For one thing, farmers will enjoy nearly a one-fifth increase in U.S. customers during the '70s—along with who-knows-how-many-more overseas. Farther down the road, the U.S. population is expected to increase 50% and the world's population is expected to double by the year 2000—and the 1970s will take us a third of the way.

Here at home, exciting changes are coming for rural areas. The President signaled them in his State of the Union message the other day. He said we needed a national growth policy. He announced a campaign to clean up the environment. And he spoke of a quest "for a new quality of life in America" that would carry this concern "to the farm as well as the suburb, and to the village as well as to the city."

"We must create a new rural environment which will not only stem the migration to urban centers but reverse it," the President said. And he promised a "new kind of assistance" for rural America.

Farm and rural life haven't been treated so importantly, and at such length, in a Presidential State of the Union message in a long while.

As events unfold, it will become clearer how much our national goals for the '70s intimately involve farms and rural areas. Take a national growth policy, for instance: About 70% of the nation's people are presently packed onto only 2% of the nation's land. A growth policy will certainly involve spreading out the nation's people and its industries. And where do you spread to? To the nation's rural areas—the small towns, villages, communities and farms.

That means that more of the nation's industry, jobs and activity are headed toward countryside rural America. The President clearly aims to move that along. He said: "In the future, government decisions as to where to build highways, locate airports, acquire land or sell land should be made with the clear objective of aiding a balanced growth for America."

A national growth policy will have all of America looking toward rural areas during the 1970s.

If we are going to clean up the nation's air and water, this, too, turns to the countryside. First, it is much easier and cheaper to maintain and conserve the clean air and clear water that already exists in the countryside than it is to clean up dirty water and dirty air.

The environment also has a better chance to clean and restore itself when people are spread out instead of being jam-packed into central cities. Any farmer who has raised livestock on pasture and in a drylot understands the difference. When it comes to waste, livestock and people have some similarities—except that people create more total pollution than livestock do.

People will also be clamoring for more room to roam, see nature and have recreation out-of-doors in the '70s. That, again, is out in the country.

The quality of living that the President spoke about embraces the mutual respect, tranquility, and good living that you find in farm areas and rural towns. There, you don't have to be afraid to walk about at night. Neighbor helps neighbor when in trouble. You can count on a man's word, and you don't have to hire a pack of lawyers to go around enforcing every agreement. People do things together quietly and with a purpose—building churches, schools and libraries; and teaching values to young people.

Stick around. The 1970s in farm and rural areas are going to be exciting—with a new kind of country living.

NOT BY YEARS ALONE

HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. SCOTT. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following thoughtful editorial in a newspaper published in my congressional district which endeavors to put the merits of ideas by youth and adults on the same basis and may be of interest to the membership.

The editorial follows:

[From the Fredericksburg (Va.)
Free Lance-Star, Mar. 16, 1970]

NOT BY YEARS ALONE

It is fashionable in some quarters to carry an uncritical torch for the young. Those so minded seem to feel that the mere circumstance of being under 25 gives one a tail-hold on the truth.

We are not among these torch bearers; we feel that when the young spout foolish thoughts they deserve their comeuppance, just like the rest of us. This does not mean, contrariwise, that in our judgment people of middle age and beyond are always right. In fact, on balance the young generally come off better than their elders, if only because the latter tend to be so inflexible in their outlook.

We are moved to quote from a letter printed by a Southwestern newspaper. The writer, who acknowledged being "what is vulgarly called a senior citizen," said this in comment on the question of giving 18-year-olds the vote: "I am beginning to think the country might benefit if all of us at ages 45, 50, 55 and 60 should have to give evidence of having acquired at least one new or discarded at least one old idea in the preceding five years in order to retain the privilege of voting."

That puts the matter neatly. It hurts to discard a long cherished idea; it may hurt even more to take on a new one. But maturity involves more than carrying the weight of a certain number of years.

AID AND COMFORT TO THE ENEMY

HON. E. Y. BERRY

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. BERRY. Mr. Speaker, it is getting a little late to condemn those who have been giving aid and comfort to the enemy in Laos. It must be apparent to those people, however, that they have done a good job in strengthening the position of the enemy on their drive against another free country.

Columnists William S. White and David Lawrence have articles in this connection which are of interest to all Americans which follow:

AID AND COMFORT TO THE ENEMY

(By David Lawrence)

There are two ways for members of Congress to conduct themselves during a war. One is to seek answers to their criticisms privately from the executive branch of the government, and the other is to denounce policies openly and, in effect, give "aid and comfort" to the enemy.

Unfortunately, too many examples of the latter method—presumably a means of seeking popularity with uninformed citizens—have occurred recently in connection with America's alleged entry into "another war" in Laos.

President Nixon found it necessary to issue a 3,000-word statement giving the facts. But most newspapers printed only a summary, and the critics already had created disturbing impressions with fragmentary charges.

Why is it that some members of Congress consider their political speeches more important than the effect these utterances may have on the enemy, who has obviously been encouraged to believe that the United States will surrender in Southeast Asia? Military problems are not readily explained to the general public. Nor are the risks and dangers of letting the Communists believe the United States will throw in the sponge fully realized.

Nixon in his statement an Laos made these significant points:

1. North Vietnam in the last few months has raised the number of its troops in Laos to more than 67,000.

2. The North Vietnamese have been involved in Laos since 1961, when President Kennedy said:

"Laos is far away from America, but the world is small . . . the security of all Southeast Asia will be endangered if Laos loses its neutral independence."

3. In 1962, fourteen nations—including North Vietnam—signed the Geneva accords providing for the neutralization of Laos, but Hanoi has steadily violated the agreement.

4. Since 1964, over half a million North Vietnamese troops have moved down the Ho Chi Minh Trail in Laos to invade South Vietnam. This infiltration route "provides the great bulk of men and supplies for the war in South Vietnam."

5. The Nixon administration, on coming into office after six years of seasonal Communist attacks in Laos, continued the assistance program which dated back to 1963 and the air operations which began in 1964.

The President reiterated that the United States "has no ground combat forces in Laos," and that "we have used air power for the purpose of interdicting the flow of North Vietnamese troops and supplies on that part of the Ho Chi Minh Trail which runs through Laos."

The President made it clear that he has "no plans for introducing ground combat forces into Laos." He declared the total number of Americans directly employed by the U.S. government in Laos is 616. On the subject of air operations, the President asserted:

"As Commander-in-Chief of our armed forces, I consider it my responsibility to use our air power to interdict this flow of supplies and men (through Laos) into South Vietnam and thereby avoid a heavy toll of American and allied lives. . .

"In every instance our combat air operations have taken place only over those parts of Laos occupied and contested by North Vietnamese and other Communist forces. They have been flown only when requested by the Laotian government."

Nixon stated that he is continuing "the purposes and operations of two previous administrations," and that this has been necessary "to protect American lives in Vietnam and to preserve a precarious but important balance in Laos."

Certainly every member of Congress, irrespective of party, has a responsibility to use his influence to prevent what he thinks is an unnecessary American participation in a war. But there is a right way and a wrong way to do it. Each house of Congress has a foreign affairs committee. When a majority of a committee thinks a resolution should be adopted limiting the power of the executive branch of the government to carry on any military operation, this can be adopted by a majority vote of Congress.

Under present practices, a small number of members of the House and Senate attack defense policies and give the enemy the impression that American public opinion is not supporting the executive. This encourages the Communists to prolong their warfare against American troops in Southeast Asia.

NEW DOVE CAMPAIGN ON LAOS PERILS WAR POSITION OF UNITED STATES

(By William S. White)

The hour of maximum peril to any possibility of effective American prosecutive of even a limited war in Vietnam is now at hand.

The long and short of it is that here at home the all-out anti-war doves have opened a campaign whose real and ultimate aim is to force a halt to all American bombing operations over Laos. End this bombing and you make a privileged sanctuary of the most vital of all the supply lines of the North Vietnamese Communist enemy—the Ho Chi Minh trail running southward from Red China.

And, as so often before, the Communists themselves are simultaneously exploiting these domestic political pressures upon President Nixon toward the same end—"halt the bombing." The Communist Pathet Lao, the fifth-column Laotian equivalent of the Communist Vietcong in South Vietnam itself, is extending "peace proposals" to the neutralist government of Laos—provided, that is, that first of all the American air arm is withdrawn.

Nobody is suggesting that the Senate doves are consciously cooperating with the enemy for what would amount to a catastrophe to the American and allied military position in all Southeast Asia. Nevertheless, the fact is that this drumfire from the more extreme doves over Laos is the most damaging of all their endless clamors over all the years in which they have so doggedly fought to bring about what would amount to American surrender in Vietnam.

For if all the bombing action over Laos should be foreclosed—and all this bombing is done with the consent and request of a Laotian government to which the Communists themselves once agreed and helped set up—it would mean the beginning of the end. It would mean, specifically, the beginning of the end of any hope, however remote, for any negotiated settlement that would not come down to an American defeat.

If the President should be forced into this action of folly and disaster, he might as well bring the troops home from South Vietnam on a far faster schedule than any heretofore ever contemplated.

The precariously neutral state of Laos would become Communist within 30 days. Already, and quite apart from the Pathet Lao fifth column, at least 50,000 North Vietnamese troops are in Laos.

"Stop the bombing" was, of course, the cry for years, and at last the successful cry, of the American doves when they spoke of North Vietnam. This concession by the United States was in itself deeply dangerous; but it could be borne, if barely, because of the presence in nearby Laos of American air power. If our pilots could no longer attack our enemies in North Vietnam, they could at least interrupt their line of men and guns coming down the Ho Chi Minh trail. If "stop the bombing" in Laos is also to be a successful cry—and this columnist hopes and believes it will not be—that, as the saying goes, will be the ball game so far as Vietnam is concerned.

The form of "criticism" now coming from the floor of the Senate is all but unexampled in that repeatedly it compels the disclosure of strictly military information.

Mr. Nixon, in summary, faces as to Laos a suddenly and vastly escalated dove attack just when it had begun to appear that his policy of gradual but honorable disengagement from Vietnam was going to be given some chance to work itself out.

LAKE CRYSTAL JAYCEES OPPOSE DAM

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. NELSEN. Mr. Speaker, Donald R. Mennenga, president of the Lake Crystal Jaycees, Lake Crystal, Minn., has provided me with a resolution which was unanimously passed by his chapter and which expresses firm opposition to the dam on the Blue Earth River proposed by the U.S. Army Corps of Engineers. The chapter has requested that its resolution be brought to public attention through inclusion in the CONGRESSIONAL RECORD, and I am pleased to honor its request.

The Lake Crystal Jaycees believes other alternates for flood control are available, and they oppose the proposed high dam project for the following reasons:

RESOLUTION

Whereas it will diminish—not increase the recreational value of the Blue Earth River Valley.

Whereas it will destroy the wildlife habitat and natural beauty now existing within the Blue Earth River Valley.

Whereas it will destroy countless homes and farms, and substantially lessen the income of merchants, businesses and others within the county.

Whereas it will cause disruption and destruction of school districts, railroads and highways within the county.

Whereas it will inundate the town of Garden City, Minnesota.

Whereas it is a temporary solution in terms of years which does not solve the problem of water runoff, erosion and siltation.

Whereas it will substantially reduce the tax revenue of Blue Earth County for the benefit of downstream flood plain occupants.

Whereas it has not been proven that studies have been exhausted concerning other flood control methods and appears to be another typical U.S. Army Corps of Engineers project to justify their existence.

THE WATER AND WASTEWATER TECHNICAL SCHOOL

HON. DURWARD G. HALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. HALL. Mr. Speaker, the President's recent message to the Congress calling for an all-out attack on air and water pollution has brought to the fore companies, and organizations, as well as individuls who have already been working at this problem for years.

I cite as one example, the Water and Wastewater Technical School, located in Neosho, Mo.

To my knowledge, this is the only nonprofit school in the world, whose single objective is to provide training to water and wastewater utility technical personnel.

To those who would desire more information about this unique school I offer the following:

WATER AND WASTEWATER TECHNICAL SCHOOL

NEOSHO, MISSOURI.—The Water & Wastewater Technical School of Neosho, Mo. has inaugurated a policy of accepting students four times a year for 36-week intensified training in the water and wastewater industries Rollin J. Benton, newly elected president of the school, announced today. An additional 16-week training will continue to be offered to graduates of the 36-week course. Special short courses will also be held throughout the year for the benefit of those already in the water and wastewater industries.

Study programs in water supply and water pollution control will begin in January, April, July and October. The programs had previously been scheduled to begin monthly.

President Benton said, "The new schedule is a part of a total reorganization program at the Water & Wastewater Technical School. It will permit us to make more efficient and economic use of our faculty and facilities and permit us to better serve industry's need for qualified technicians."

Benton also said that Lloyd Caughran, former president, will continue to serve as a member of the school's board of directors, along with Charles P. Brooks, president, Brooks and Associates, St. Louis, Mo.; Harold Ensley, television and radio personality, Kansas City, Mo.; Wendell H. Flanery, manager, Jackson County Water District No. 1, Grandview, Mo.; Dr. M. L. Gentry, director, Medical Care Section, Missouri Division of Health, Jefferson City, Mo.; Dr. Riley N. Kinman, professor of environmental health engineering, University of Cincinnati, Ohio; Bill Lee, president, First National Bank of Neosho, Mo.; James R. Nichols, partner, Nichols Bros., Southwest City, Mo.; and Charles R. Wolfe, engineer, Levitt & Sons, Chicago.

In other developments, Benton announced the appointment of Robert J. Illidge, a 1958 graduate of the University of Missouri School of Journalism, who was advertising and public relations manager for a major company in the water pollution control industry. Prior to that he was associated with one of the largest advertising and public relations agencies in the Midwest.

Since January 1, Illidge has assumed responsibility for student recruitment, job placement, and community, government and industry relations. He is a member of the Association of Industrial Advertisers.

President Benton also announced several new faculty appointments. Robert R. Wright has been named chairman of the water department. Wright was awarded a master's degree in sanitary engineering from Washington University, St. Louis, in 1962, and a master's degree in civil engineering from the Georgia Institute of Technology, Atlanta. He is a member of the American Society of Civil Engineers, The American Water Works Association, and the Water Pollution Control Federation.

Newly appointed chairman of the wastewater department is Ronald Layton, a Ph. D. candidate in environmental health engineering at the University of Cincinnati, Ohio. He has been a chemist with the Union Carbide Corporation, Charleston, W. Va., and with Emery Industries, Inc., Cincinnati. He is a member of the American Chemical Society, American Water Works Association, and the Water Pollution Control Federation.

Dr. Darshan Sarai, a 1966 doctoral graduate of the University of Alberta, Canada, was appointed to the faculty to teach microbiology and chemistry. Dr. Sarai joins the school with extensive experience in industry and education, including seven years with the Bombay Chemical Company, India; six years as assistant professor at Khalsa College, Amritsar, Punjab, India; and two years with the Missouri State Division of Higher Education. Dr. Sarai is a member of the American Association for the Advancement of Sciences and the Entomological Society of America.

Also appointed to the faculty is Wayne L. Booe, a bachelor of science candidate at Missouri Southern State College, Joplin. Booe, an instructor in the water department, had been associated with the Joplin Water Works Company since 1959.

Other faculty members at the school are Wilborn N. Massey, a graduate of Missouri Southern State College, and Wisdom H. Stewart, who attended the University of Nebraska, Lincoln.

President Benton attended Finlay Engineering College, Kansas City. He has been an engineer with the consulting firms of Haskins, Riddle & Sharp, then Riddle & Associates, both of Kansas City, before becoming regional manager with Smith & Loveless, manufacturer of sewage transfer and treatment equipment of Lenexa, Kansas. He is a member of the Missouri Water and Sewerage Conference.

The Water & Wastewater Technical School was organized in 1959 as a private, non-profit educational institution to meet the need for formal instruction in water supply management and wastewater control. The curricula includes on-campus courses in mathematics, chemistry, microbiology, hydraulics, water distribution and treatment, wastewater collection and treatment, stream sanitation, surveying, plant management, safety, industrial waste and electricity.

Located in southwestern Missouri, 20 miles south of Joplin, the 37-acre campus includes administrative offices, lecture halls and classrooms, laboratories, housing accommodations, cafeteria and library.

OWENS-ILLINOIS GIVEN GOLD MEDAL FOR OUTSTANDING WATER POLLUTION CONTROL

HON. JOHN DOWDY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. DOWDY. Mr. Speaker, Owens-Illinois, Inc., was the recipient of the annual Gold Medal Award given by Sports Foundation, Inc., for water pollution control. One of the Owens-Illinois mills is in my district, at Orange, Tex., in which is incorporated the latest systems for control of air and water pollution. We are proud of this recognition received by this company.

I am pleased to incorporate in the Extensions of Remarks, the following news item, as a part of my remarks:

OWENS-ILLINOIS GIVEN GOLD MEDAL FOR OUTSTANDING WATER POLLUTION CONTROL

Its pioneering and continuing efforts in the development of company-wide water pollution control systems won Owens-Illinois, Inc., the annual Gold Medal Award given by the Sports Foundation, Inc., for water pollution control.

The award was presented by Dr. Leslie L. Glasgow, assistant secretary of the U.S. Department of the Interior, at the Sports Foundation's annual awards breakfast in the Palmer House in Chicago, February 3, 1970.

Established in 1968, two Gold Medal Awards for water pollution control are presented annually to members of American industry who have made outstanding achievements in that field. Owens-Illinois' award was in the multi-plant category while the other award, won this year by the Paris, Texas, plant of the Campbell Soup Company, is in the single plant field.

Owens-Illinois was cited by judges for the extent and development of its company-wide water pollution control systems and for its additional improvement of reclaimed water and land for conservation and recreational use. Of special technological interest was the company's method of eliminating odor from kraft wastes.

Judges also commented on the initiative and foresight of management at Owens-Illinois in establishing a corporate policy and program of water pollution control several years ago.

The Sports Foundation, Inc., is a non-profit membership organization designed to encourage and expand interest and participation in sports and sports-related activities.

In presenting the award, Dr. Glasgow complimented "Owens-Illinois for its recognition of the fact that man deserves a good environment and for giving as much attention to quality control of effluents as to company products leaving the shipping room." The assistant interior secretary said he was especially impressed because it was a multi-plant award.

A major manufacturer of glass, plastic, paper and glass-ceramic products, Owens-Illinois has pursued a policy of installing new or improving existing air and water pollution abatement systems as new technologies develop. In keeping with this policy, a multimillion-dollar recovery boiler has just been completed at the Valdosta, Ga., containerboard plant. This unit, along with an accompanying electrostatic precipitator, significantly improves control of emissions to the atmosphere.

Owens-Illinois included an advanced system for control of air and water pollution in its new Orange, Texas, mill. Major items include two electrostatic precipitators to control emissions to the atmosphere, as well as a mechanical clarifier, a 37-acre aeration basin (where oxygen removed during the manufacturing process is put back into the water by mechanical aerators), and a 1.7 billion gallon holding pond to insure proper treatment of mill effluent.

Another outstanding example of the company's pollution control program is at one of the oldest paper mills in the country—its Big Island, Va., integrated pulp and paper mill. Owens-Illinois installed a new waste water treatment plant which substantially cuts waste discharges, and recovers, in usable form, more than 80 percent of the wood fibers that are normally waste material in conventional treatment equipment.

Owens-Illinois presently has more than $15 million invested in air and water pollution control systems at its four containerboard mills. A continuing program of modification and improvement of existing systems is being implemented to insure compliance with current as well as anticipated future air and water pollution regulations.

Some of the latest developments are listed below:

Forest Products—At one of the oldest paper mills in the country, Owens-Illinois' Big Island, Va., integrated pulp and paper mill, the company has adopted European technology with the installation of a waste water treatment plant which substantially cuts waste discharges and can recover, in usable form, more than 80 percent of the wood fibers that are normally waste material in conventional treatment plants.

To improve air and water quality at its Valdosta, Ga., containerboard mill, Owens-Illinois has just completed installation of a recovery boiler and an accompanying electrostatic precipitator.

At the company's newest containerboard mill in Orange, Tex., an advanced air and water pollution control system has been installed including two electrostatic precipitators, a 37-acre aeration basin, and a 1.7 billion gallon holding pond.

Glass Containers—Research is underway to determine how effectively used glass containers can be substituted for standard paving materials now mixed with asphalt. The company has already paved a test street at its Technical Center in Toledo utilizing the technique. The crushed glass might even be more economical for municipalities than paying for the disposal of used glass plus the purchase of paving materials. Owens-Illinois also is doing extensive research on other means of reclaiming or recycling glass containers from municipal waste systems.

The company has converted from coal to gas-fired boilers all of its 18 glass container manufacturing plants to improve emissions.

At its new Pittston, Pa., glass television bulb plant Owens-Illinois installed a closed system for treating industrial waste water so it can be reused in the manufacturing process instead of being discharged into a nearby stream.

At Pittston and at its Levis Development Park near Toledo, Ohio, the company also has installed tertiary sanitary sewer systems which exceed the degree of treatment usually provided by municipal sewer systems.

Mr. Speaker, I was gratified to learn that Kevin Roberts, a student at Nacogdoches, Tex., High School, was the State winner of the Veterans of Foreign Wars latest Voice of Democracy contest. Mr. Roberts is a fine young man; I join his many friends in commending and congratulating him for his success. The theme of the contest was "Freedom's Challenge." I take pleasure in including a copy of his winning speech as a part of my remarks:

FREEDOM'S CHALLENGE

Freedom's Challenge. What is it? What does it mean? It's two unrelated and yet inseparable words. Alone, they seem rather cold and impersonal. Yet, together, they constitute a thought. Freedom's Challenge is an expression which must be assimilated as words, but which must be digested as a thought . . . as two unimposing words reflecting each other to bring some picture, some feeling to the individual mind.

Take the first word . . . freedom. It's an idea, a conception of Utopian life, a cause, but a very small and impersonal word. And for it to have real meaning, it must mean something personal to the individual. Since freedom is a personal thing, I can't tell you what it is; but, perhaps, I can give you some idea of it's value, it's worth, in very personal terms.

Imagine this. Gently swelling grassy hills . . . sun shinning brightly on moist green grass . . . air, so fresh you can almost reach out and take hold of it. Nice picture . . . right? Now, picture this. On those same rolling hills, every ten feet there's a funny little white cross. The symmetry is perfect. From any point, in any direction you turn, every ten feet a small white cross stands. Three feet tall and eighteen inches wide. All laid out in row upon row, line upon line . . . for as far as you can see. You're in a national cemetery.

And each of the crosses will have something on it: a name, or maybe just a single word . . . unknown. And it will have a date, and maybe an inscription like KIA or DOW. A simple and painless way of saying . . . killed in action . . . or, died of wounds. But think of what each of those crosses was at one time. Because each of *those* represents a life. Each of those was a man. Some were old; most were young.

They didn't ask for life; but they didn't want to die. They tasted life, lived it, enjoyed it, hated it, loved it, and had it taken. *They,* were like you and me. They sweated in summer and shivered on cold winter mornings. They had wives and lovers and children and parents. And they laughed and cried and felt pity and compassion and happiness and loneliness. Just like you and me.

And regardless of what anyone says, they didn't die for freedom or democracy. They might have gone to war for *principles,* but they didn't *die* for them. They *died* because of . . . fate . . . or God . . . or whatever rules such matters But they didn't *die* for you, and they didn't die thinking of me. They just died.

Death didn't find them thinking of future generations and the gift they were giving them; it found them thinking of home and family and what they were losing. And they didn't all die like heroes. They died scared. And lonely. And most were dirty and hungry and miserable and some were in pain. They didn't want to be where they were . . . and they didn't want to die. But they did. And some died swearing . . . a few prayed . . . a lot of them cried.

And today, it's impossible to point to a single grave and say *I'm free* because *he* died. But we are. At an immeasurable cost, we *are* a free people. All those men resting beneath those plain white crosses in national cemeteries throughout the world, didn't *give* their lives for freedom, they had them *taken*, in the name of freedom. And for that which we've taken from them, there can be no payment in return.

And this is where the second word of the thought comes into play. *Challenge.* What's been done is history now. Our freedom's been paid for . . . but at a price known only to those who paid it. And the *challenge* is ours. Those who came before us fixed a price and paid it. And the only challenge given us is to hold possession of that which is *inherited.*

Freedom's Challenge. Two unrelated and yet inseparable words.

U.S. DISTRICT COURT OF COLORADO DECISION ON PROJECT RULISON CASE

HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. HOLIFIELD. Mr. Speaker, I commend to the attention of everyone interested in the health and safety aspects of peaceful uses of atomic energy the decision by Chief Judge Alfred A. Arraj of the U.S. District Court of Colorado, on March 16, 1970, on Project Rulison.

The background of this case is, briefly, as follows:

Several plaintiffs brought suit against the Atomic Energy Commission, Austral Oil Co., Inc., and CER Geonuclear Corp. to stop Project Rulison. The plaintiffs were comprised of a number of individuals, the Colorado Open Space Coordinating Council, Inc.—a nonprofit public benefit Colorado corporation—and a Colorado district attorney.

Project Rulison is an AEC experiment. It is being conducted with the cooperation of the Department of the Interior and Austral Oil Co. CER Geonuclear Corp. is the program manager. Project Rulison is part of AEC's plowshare program, a research and development effort to develop peaceful uses of nuclear explosive technology.

Project Rulison is essentially a study of the economic and technical feasibility of nuclear stimulation of the low permeability gas bearing Mesaverde sandstone formation in the Rulison area of Colorado. Nuclear stimulation is accompanied by the detonation of a nuclear device to create a cavity and a fracture system to stimulate the production of natural gas. Because of its low permeability, the Mesaverde formation does not produce natural gas in commercial quantities, although it does contain a significant gas reserve.

Before the nuclear device was detonated at a depth of 8,431 feet on September 1969, suit was brought to prevent the shot; however, the court denied the request for an injunction and the denial was sustained by the 10th Circuit Court of Appeals. Plaintiffs then sought a permanent injunction to prohibit the planned flaring of the gas contained within the cavity created by the nuclear detonation. The general purpose of the proposed flaring is to determine the extent of stimulation of production, the dimensions and configuration of the cavity and fracture system, and the feasibility of the entire project.

The court's decision on March 16, 1970, was essentially in favor of the Atomic Energy Commission's position, and will permit Project Rulison to proceed. The judge found AEC's project plans to be reasonable and adequate from health and safety standpoints.

In ruling that the Atomic Energy Commission was proceeding in accordance with its statutory responsibilities and with due regard for the health and safety of human, plant, and animal life, Judge Arraj, in his more than 60-page decision, delved deeply into the technological aspects of the project and the elaborate procedural and substantive measures that were built into the Rulison project plans. His findings and conclusions are carefully focalized and then expressed with unusual clarity and incisiveness. To my eye and mind—as a deeply interested, nonlawyer, legislator—the quality of the court's written product in this case is of an exceptionally high order. I greatly admire reason in man—which St. Thomas Aquinas centuries ago said—"is rather like God in the world." One can predict, unfortunately, that the court's careful analysis of the nuclear health and safety implications—though so well reasoned, clearly stated and supported by the weight of evidence—will not be widely circulated by the communications media. The rate of environmental degradation we all decry continues on a broad front to be matched or exceeded by the spoken and written—sometimes sophisticatedly cool, sometimes emotionally thermal—pollution of falsehood or misinformation. Judge Arraj's decision is like a breath of fresh air that I wish everyone could inhale.

THE YOUTH PARTICIPATION ACT

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. PATTEN. Mr. Speaker, recently I introduced a bill that would provide opportunities for American youth to serve in policymaking positions and to participate in National, State, and local programs of social and economic benefit to the country. I urge my colleagues to cosponsor this measure, because it would help the youth of our Nation—and the Nation, as well. The bill is H.R. 16017.

American youth today are maturing—physically and intellectually—at earlier ages than ever before, yet technological and other advances have eliminated opportunities of work for an increasing proportion of the young, while requiring them to continue their education in order to acquire the skills and knowledge demanded by a sophisticated economy.

The extension of the period during which youth are waiting to enter society, the unprecedented rapidity of recent technological and social change and the emergence of huge, impersonal institutions, have helped to produce social cleavages between older and younger Americans that are wider than the distances which separated past generations. These cleavages may grow unless the Nation deliberately creates a forum for a mutually respectful and meaningful exchange of opinions between old and young and develops viable means by which the young can participate more directly in American life in decision-making processes.

The purpose of the bill, which was introduced in the Senate by that dynamic and progressive gentleman from Oklahoma, FRED R. HARRIS, is to create a new program to help direct the resources of youth to the solution of critical needs of the country and encourage their fuller participation in American public life by offering them chances to take part in the planning, administration, and operation of programs which benefit our society and economy and by establishing National and State forums for the discussion and resolution of problems concerning youth.

Under the measure, the foundation on youth participation would be created in the executive branch of the Government. It would make grants to public agencies and nonprofit private organizations for developing programs involving persons under 25 years old who would be trained and employed in activities like education, health, welfare, and related fields.

Private industry would be encouraged to invest in youth participation programs and technical assistance would be provided to States. An Advisory Commission on Youth would be created to investigate issues of concern to American youth and to provide greater opportunities for them.

Mr. Speaker, the young people of America deserve this chance.

PENALTIES FOR TRANSPORTING EXPLOSIVE DEVICES IN INTERSTATE COMMERCE

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. BROTZMAN. Mr. Speaker, today I am introducing legislation to increase the penalties which can be imposed on those who cross a State line with explosive devices, including dynamite, with the intent of unlawfully destroying property or risking injury to another person.

The outbreak of bombings throughout the land has been alarming. Certain insidious individuals and groups have realized that they have the power to paralyze the daily activities of countless persons and businesses and the government by senseless bombings.

Under our federal system of jurisprudence, the main responsibility for punishing these individuals rests with the separate States. But, the Federal Government can and should provide stiff sentences for those who move their devices of terror across State lines. Our present law makes the movement of explosive devices in interstate commerce illegal if such movement is not for a lawful purpose. However, the penalties are too light, in my opinion, considering the potential harm involved.

The current law provides for a $1,000 fine and 1 year in prison for the movement of explosives in interstate commerce. My bill raises these penalties to $10,000 and 10 years in prison. Where persons are injured as a result of an explosion, the current law provides for a $10,000 fine and 10 years in prison. My bill would change this to a $25,000 fine and 25 years in prison.

Mr. Speaker, I realize that I am recommending harsh penalties. But the potential risks to life and property are grave. And our news media have been filled with stories of bombings in recent weeks. The bombings in New York have shocked the Nation. Last week, two individuals, apparently transporting explosives to an unknown target, destroyed themselves before they reached their destination. Another group operating a veritable bomb factory suffered a similar fate. In my hometown of Boulder, Colo., there have been several bombings in recent weeks. Fortunately, nobody was killed or injured. In Denver, Colo., several dozen schoolbuses recently were bombed by persons who are, to date, unknown.

This morning's newspaper carried an article which stated that President Nixon would soon send the Congress a message on explosives. I look forward to that message, Mr. Speaker, but I feel we must move ahead now. Potential bombers must know that they will be dealt with harshly; that their anarchical acts will be treated as such.

I call upon the distinguished members of the Judiciary Committee to address themselves to my bill at the earliest possible date. No American should be threatened with death or injury by the thugs and criminals whose hatred for their country has caused the terrifying bombings of the past few weeks.

17,000 MARCH ON HUNGER

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. BOB WILSON. Mr. Speaker, in these days when such extensive news coverage is given to protests and violent disorders, particularly among our young people, it is easy to lose sight of the high caliber and dedication of many of our youth. My distinguished colleague from Iowa, Congressman FRED SCHWENGEL, recently paid tribute to the Young World Developers, a group of young men and women who are dedicated to doing something personally to help combat the world's hunger problem. I am pleased to share with my House colleagues the activities of some of these young people in my district.

The article follows:

[From the San Diego Evening Tribune, April 28, 1969]

17,000 HERE MARCH ON HUNGER—YOUTHS' BLISTERS GIVE NEEDY A LIFT

(By Pat De Graw)

San Diego's youth marched to help those hungry in the world, and the way they did it made the whole town proud.

There were lots of blisters but no fights. There were those who dropped out for weariness but none quit in protest.

It was a youth production and Mother Nature blessed it with a beautiful spring day.

An unofficial count of 17,000 took part in the walk to emphasize that 1.75 billion people in the world are suffering from hunger.

The 30-mile walk was sponsored by the American Freedom from Hunger Foundation.

The foundation, began in 1961 at the suggestion of President John F. Kennedy, is the national committee supporting the United Nations' international freedom from hunger campaign.

David Foote, Western regional director of the foundation, said:

"The San Diego walk is without a doubt the largest such march on record in this country. The nearest any other city has come to this number of participants was 4,000 in Madison, Wis."

In sponsoring such walks, Foote said, the foundation has three goals.

First—"We want to help young people identify with the problem of starving millions."

Second—"We want to create community awareness of these problems."

Third—"We want to get financial support for specific projects aimed at alleviating hunger and poverty."

The youths set a goal of $100,000 for their walk. During the past few weeks walkers solicited sponsors who pledged to pay a specified amount for each mile completed by each walker.

"We won't know for a couple of days if the walkers made their $100,000 goal," Foote said. "But from my experience with a dozen of these walks, I would say they will come very close to that amount."

The Walk for Development began in Balboa Park at 6:30 a.m. After a short ecumenical service, the walkers passed through the first of 11 checkpoints where they had their registration cards verified. These cards were turned in to sponsors later so that the exact mileage for each walker could be determined.

As individuals, in clusters and in large groups, the walkers followed the police planned route of 29.8 miles. They walked in tennis shoes, Mexican huaraches, moccasins, sandals, combat boots and thongs.

Most of them ended their day-long trek barefoot and blistered.

Nurses stationed at each checkpoint administered first aid to sore feet. One harried nurse reported she had run out of adhesive bandages around 11 a.m., but continued applying cotton and tape to blisters on hundreds of feet.

At the midpoint in their journey, the walkers rested at Farnum Elementary School, where thousands of sandwiches and gallons of punch were provided by volunteers. A rock band, called Point Blank, played for the weary walkers who sat on the cool grass massaging tired feet.

Lt. R. W. Burgreen, of the San Diego Police Department, said: "We didn't count on there being this many participants, but they are conducting themselves in a very orderly manner."

Foote, who was one of the few adult organizers of the walk said: "I'm sure that the orderliness of the walk is due to organization by the young people themselves. Another contributing factor to the orderliness was the sophisticated communications setup which coordinated checkpoints with police and emergency services.

Handling radio and telephone communications were two local groups, the Southwestern Radio Emergency Associated Citizens Team and the San Diego County Amateur Radio Public Service Corps.

One of the mobile volunteers, Doug Campbell said: "This country is in secure hands—I am convinced of this after seeing these wonderful kids turning out for this demonstration. I'm proud to have helped them".

The young people themselves were in high spirits through the afternoon, even with a bright sun on their backs and a temperature of 82 degrees. They were enthusiastic as they talked about their walk.

Paul Allen, 20, a blind student at the California Western Campus of the United States International University walked the course with his seeing eye dog, Bill. When asked if he would complete the walk, Allen said: "Nothing could make me stop now, even if it takes me until midnight."

Sue Liner, 16, of Kearney High School said: "This is real brotherhood, with everyone together doing something important. I'm tired, but it is a good tired, and well worth the effort."

People along the route were curious about the long line of marchers. Many residents had heard of the walk, however, and offered the young people water, an encouraging word or a wetted-down sidewalk for blistered feet. One group of 40 students was invited to take a dip in an apartment house swimming pool and they accepted.

About 20 participants, long-distance runners, moved at a faster pace than a walk. David Teel, 17, of Madison High School, was the first person to complete the entire course. His time was three hours, eight minutes. Entering the walk later, but completing the course with the fastest time were Bill Gookin, a teacher at Montgomery Junior High School, and Tom Bache, a graduate student at the University of California at San Diego. They cover the course in 2:55.01. Their sponsors pledged a total of $79.30 for this time.

William Hargus, a civil engineer, finished the course in 3:30, and his son David, 9, completed the walk just a few minutes behind his father. David's time earned 70 cents per mile for the foundation.

The walkers themselves decided where the money they earned will be spent. Four agricultural projects were chosen prior to the walk. During the walk, participants voted for priorities among the four projects—Literacy House, Lucknow, India, a series of agricultural training centers in Dahomey, Africa, a 4-H club corn production project in Brazil and the San Diego India Village, sponsored by the Church World Services Commission.

A local project, using surplus food under the Federal Food Distribution program, will receive 42.5 per cent of the total amount raised in yesterday's walk.

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FOOD, DRINK, BAND AT MIDPOINT

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BLIND STUDENT, DOG IN LINE

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HUD LOW-INCOME TENANT GUIDELINES A FARCE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. CLAY. Mr. Speaker, I wish to call to the attention of my colleagues another attempt by a department of the executive branch to interpret the "intent of Congress."

The Housing and Urban Development Act of 1969 passed by this Congress sought to genuinely offer relief to financially troubled local housing authorities. When the Department of Housing and Urban Development gets finished with its interpretation and guidelines for the new program of Federal subsidies to public housing residents, there will be nothing to cheer about. Indications are that HUD will all but destroy the thrust of the new law which was meant to relieve deficit-ridden housing authorities and public housing residents.

The legislation which I sponsored in the House—and the Brooke legislation which subsequently became law—specifies that no public housing tenant will pay more than 25 percent of his income for rent. It also calls for subsidies to relieve local housing authorities of their deficits and to contribute to improve operating and maintenance services for tenants.

If HUD has its way, there will be a national uniform definition of tenant income which will include even the income of part-time students attached to the household. There will be no deductions for medical expenses—not even provisions to allow for emergency medical problems or needs. HUD will allow only a $100 deduction for each dependent, even though several housing authorities, including St. Louis, now allow $200. HUD will require the rents to be fixed on an income amount estimated by tenants, with no flexibility for tenants who may become unemployed or otherwise lose income.

HUD has further stated in its guideline draft that local housing authorities will receive Federal funds only if they meet some yet indefined "satisfactory standards of management and tenant responsibility." This means HUD can deny funds at will and arbitrarily impose a requirement which was not included as the law. HUD would be at liberty to determine what constitutes satisfactory management standards or "tenant responsibility."

HUD does not intend to eliminate public housing deficits. It has requested $13 million for fiscal 1971 which will be applied to only those cities in the most dire financial straits. Facts are that $100 million would be required to wipe clean the slate of public housing deficits in this country.

Finally, HUD intends to spend no money to improve operating and maintenance services for public housing. It has conveniently chosen to ignore that directive of the law.

The sum of $75 million was authorized by the Congress to carry out those sections of the HUD act of 1969 known as the Brooke amendment. But the 1971 budget, in accordance with the request by HUD, requests only $33 million. And HUD is drawing its guidelines to conform with the minimum funding it has sought.

The guidelines are expected to be made final and public this week. Senator Brooke continues to seek consideration from HUD for the intent of his amendment. As the Member who sponsored similar legislation in the House I have met with HUD officials. HUD has been unyielding in its inflexible position. Public housing residents—and local housing authorities who had reason to believe relief was in sight—are well advised to protest this latest attack by HUD.

Mr. Speaker, the following are the proposed HUD guidelines, which I bring to my colleagues' attention:

IMPLEMENTATION OF SECTIONS 212 AND 213 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1969

1. PURPOSE

The Housing and Urban Development Act of 1969 establishes important new policy and authorizes additional financial assistance for dealing with housing authority deficits, levels of operating and maintenance services, and amount of income which may be paid by tenants for rent. The purpose of this Circular is to outline the Department's policies and requirements with respect to implementation of Sections 212 and 213 of that Act.

2. GENERAL

a. The Act provides that the rent of a public housing tenant may not exceed 25 percent of the family's income, as defined by the Secretary. (Section 213(a)). This limitation on rents becomes effective no later than March 24, 1970. (Section 213(b)).

b. The Act also provides authority for HUD to pay annual contributions in excess of debt service requirements up to the statutory annual maximum (Section 212(a)) and it provides for that purpose an additional $75 million in contract authorization (Section 212 (b)) which, in accordance with the Conference Report on the Act, may be used to make payments for the following purposes:

(1) To cover existing operating deficits of public housing agencies and enable them to maintain adequate operating and maintenance services and adequate reserve funds.

(2) To make up the amount by which the proportionate share of operating and maintenance expenses attributable to a dwelling unit exceeds 25 percent of the tenant's income, provided the tenant is paying 25 percent of income for rent.

3. MEETING EXISTING OPERATING DEFICITS

a. The Secretary may, in his discretion, make payments to cover existing deficits of Local Housing Authorities, taking into consideration the adequacy of operating and maintenance service and reserve funds, in these cases where the LHA has demonstrated that satisfactory standards of management and tenant responsibility have been or will be achieved.

b. An existing operating deficit means a deficit including the deficiency in the normal maximum reserve existing for the LHA's fiscal year which includes December 24, 1969. Such payments do not apply to future deficits which may arise.

c. As the Conference Report stated in part:

"The Committee is deeply concerned over cases of lax management in many public housing projects which have led to high operating costs, deterioration of property, and an intolerable environment for the families who live there. . . .

"The Conferees wish to make it clear that the benefits of subsidized public housing, including those provided by this Section, cannot be achieved without tenant responsibility, including responsibility for the protection and care of property."

In seeking assistance under this provision of the Act, LHA's should be prepared to provide specific information on the positive actions they have taken or propose to take in cooperation with the tenants, to meet the concerns of the Conference Committee as stated above.

4. PAYMENTS OVER 25 PERCENT OF INCOME

a. The Secretary is authorized to provide payments to make up the amount by which the proportionate share of operating and maintenance expenses attributable to a dwelling unit exceeds the contract rent derived from a gross rent based on 25 percent of the tenant's income, as defined by the Secretary.

b. The Conference Report states that these payments may not be made with respect to a dwelling unit unless the rent paid for the unit is 25 percent of the tenant's income. The Report also states that the Conferees do not intend that all tenants in public housing should pay 25 percent of income for rent. In other words, if some of the families are paying more than 25 percent of income for rent and the remainder are paying less than 25 percent of income for rent, it is not necessary to increase all rents to 25 percent of income in order for the LHA to obtain assistance on behalf of those families which are paying more than 25 percent of income for rent.

c. In order to compute the amount of subsidy to which a LHA is eligible, three definitions are essential—a definition of the term "operating costs", the term "rent", and the term "family income." These definitions are set forth in paragraph 7 below. Although it is recognized that many state laws and local practices provide for differing interpretations of "family income", the Act provides for the Secretary defining the term for purposes of Section 213.

d. Except as the Act requires that no tenant pay more than 25 percent of income for rent, as defined by the Secretary, it does not otherwise affect the authority contained in Section 2(1) of the United States Housing Act with respect to the establishment of rents and income definitions for eligibility purposes by the LHS's.

e. The definition of family income which is described below, and which must be used to determine eligibility for the subsidy provided by Sections 212 and 213, is a simple, and easily administrable formula which LHA's may wish to consider adopting for purposes of administering their local programs.

5. EXAMINATION OF INCOMES

a. LHA's should commence immediately to examine incomes for purposes of determining eligibility for rent adjustments. Adjustments in rent should be based, to the extent possible, on family income data obtained in connection with regular or special re-examinations now in process or recently completed. In other instances, adjustments should be based on the latest verification of family income available to the LHA, and affected tenants should be notified of the basis for such adjustments.

b. If the required rent adjustments cannot be made by March 24, 1970, they shall be put into effect at the earliest date possible, retroactive to March 24, 1970.

6. TENANTS RECEIVING WELFARE ASSISTANCE

a. Section 213(b) of the Act states that the limitation on rents at 25 percent of income shall not apply in any case in which the Secretary determines that limiting the rent of any tenant or class of tenants will result in a reduction in the amount of welfare assistance which would otherwise be provided to such tenant or class of tenants by a public agency.

b. The Conference Report explained this provision with the statement:

"The conferees are disturbed by the growing practice of stretching an inadequate welfare budget by placing in public housing increasing numbers of families who cannot pay even the operating costs of the unit they occupy. The Conferees are hopeful that within the context of the welfare program, some means can be found to provide as much support for a welfare family in public housing as would be provided for that family in private housing."

LHA's should, therefore, keep careful records of the amount of welfare payments received by tenants whose rents are adjusted under this Act, both before and after such adjustment. A separate Circular will provide instructions as to actions which should be taken with respect to tenants receiving welfare assistance.

7. DEFINITIONS

a. *Rent.* "Rent" shall mean Gross Rent as defined herein.

b. *Gross Rent.* "Gross Rent" means Contract Rent plus the LHA's estimate of the value or cost to the tenant for responsible amounts of utilities purchased by the tenants and not included in the Contract Rent.

c. *Contract Rent.* "Contract Rent" means the rent charged a tenant for the use of the dwelling accommodation, equipment, services and utilities supplied by the project. Contract Rent does not include charges for utilities which may be purchased by the project and sold to the tenant as a transaction separate from the payment of such rent, charges for excess utility consumptions, or miscellaneous charges.

d. *Utilities.* Utilities means water, electricity, gas, other heating, refrigeration, and cooking fuels, and other utilities. Other utilities include, but are not necessarily limited to, sewage and garbage or trash collection for which a separate charge is made to the tenant by the LHA or others. Telephone service and electricity for tenant-installed air conditioners may not generally be included as a utility.

e. *Family Income.* "Family Income" means income[1] from all sources of each member of the family in the household, including minors, anticipated to be received during the twelve months following admission or redetermination of family income (as the case may be) less:

(1) a deduction of 10 percent of family income; and

(2) an exemption of $100 from family income for each minor other than the head or spouse.

f. *Operating and Maintenance Costs.* Operating and maintenance costs attributable to a dwelling unit for purposes of determining the maximum subsidy payable under Section 213 means costs computed pursuant to the following formula:

(1) Compute the sum of Total Operating Expenditures and additions to Operating Reserve and divide by the number of rooms. This gives the cost per room. (Rooms as used herein means all rooms in all projects under a single Annual Contributions Contract except for leased housing which shall be separately calculated.)

(2) Multiply the cost per room by number of rooms in the dwelling unit. (The number of rooms for each size unit shall be computed in accordance with Low-Rent Housing Preconstruction Handbook, RHA 7410.1, Chapter 3, Section 1.) This gives the cost attributable to each unit by size.

(3) For leased housing the cost attributable to the dwelling is the sum of the rent paid to the owner and LHA costs less the fixed annual contribution payable per unit.

8. LEGISLATIVE CITATIONS

a. Section 212

(1) Section 212(a) of the HUD Act of 1969 (PL 91-152) amends Section 10(b) of the United States Housing Act of 1937 to make clear that HUD has authority to pay annual contributions in excess of debt service requirements up to the statutory annual maximum.

(2) Section 212(b) increases the amount of annual contributions authorized under Section 10(e) of the United States Housing Act of 1937 by $75 million.

b. Section 213

(1) Section 213(a) provides that the rent of a public, housing tenant may not exceed 25 percent of the family's income as defined by the Secretary.

(2) Section 213(b) provides that the above limitation on rents shall be effective not later than 90 days following its enactment. It also provides that the 25 percent limitation shall not apply in any case in which the Secretary determines that limiting the rent of any tenant, or class of tenants, will result in a reduction in the amount of welfare assistance which would otherwise be provided to such tenant, or such class of tenants, by a public agency.

(3) Section 213(c) amends Section 14 of the United States Housing Act of 1937 to

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[1] The following are not considered as income by HUD:

(1) Casual, sporadic and irregular gifts, earnings of minors attending school full time, and amounts which are specifically received for, or are a reimbursement of, the cost of illness or medical care.

(2) Lump-sum additions to family assets, such as inheritances, insurance payments, including payments under health and accident insurance and workmen's compensation, capital gains, and settlements for personal or property losses.

(3) Amounts of educational scholarships paid directly to the student or to the educational institution and amounts paid by the United States Government to a veteran for use in meeting the cost of tuition, fees and books, to the extent that such amounts are so used. (Any of such amounts not so used and any amounts available for subsistence are to be included in Family Income.)

(4) The special pay to a serviceman head of a family away from home and exposed to hostile fire (e.g., Viet Nam); relocation payments for moving expenses to families and individuals displaced by urban renewal or other governmental action; and pursuant to the Food Stamp Act of 1964, as amended, the value of the coupon allotments for the purchase of food in excess of the amount actually charged the eligible households.

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make it clear that the Secretary is authorized to amend annual contributions contracts to provide rates of contribution based on the current going federal rate of interest.

CURIOUS NAMES IN INDIANA

HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. ROUDEBUSH. Mr. Speaker, Indiana is a charming State and one of its most interesting features is the wide variety of names attached to Hoosier towns and villages.

Rex Redifer, associate editor of Indiana Rural News, has written a delightful article listing some of the more amusing and colorful names given our communities.

The article follows:

THAT REMINDS ME

(By Rex Redifer)

Indiana is a State famous for many things—its parks, its lakes, its literature—but one of the more colorful items of our culture is the curious names given things and places.

Ourselves, for example. . . . We might understandably have been known as Indians, Indianites, Indianians, or anything—but no, we are Hoosiers.

Nobody seems to know exactly why. Some say that as the settlers wandered over the mountains and through the forests into the territory the traditional greeting was, "who's here?" Which in Indianese sounded like "Hoosier?"

At any rate, take Kokomo. That's a nifty name for a town. People like to stand around and chant KO-ko-mo-IN-di-ana . . . sounds good in songs, too, but it really ain't shucks to a name like Punkin Center, Indiana.

A particular pastime of mine is to sit around and ponder on those peculiar people who put such peculiar names on such peculiar places.

Think about Gnaw Bone. Things must have been bleak there for those first folks, and it could not have been better at Cope. Needmore must have lacked something, and if Rainsville and Graysville didn't dull the spirit, what about Stoney Lonesome?

Antiville must have been a hard little town to please. . . .

Daylight, Bright, Hope and Prospect must have seen better days, and you'd have to believe Cumback was a welcome little town.

It's hard to imagine just what DID happen at Hard Scrabble???

There were some neat little spots like Groomville and Correct; but Boggstown, Roachdale and Crawleyville make you squirm a little.

Onward, Advance, Long Run and Speed kind of keep you moving along, but Alert is a "pick-you-up" place on the map.

Judyville and Daisy Hill sound enticing, and Ballsville and Beehive had to be jumping joints.

Farther north there are Bourbon and Brimstone, but where is Fire?

There are Bramble, Bloomfield, Burr Oak and Bud, and how about Bean Blossom for a place to just go and sit?

Bear Wallow, Buffalo and Rabbit Hutch are self explanatory, but who knows about Birdseye?

We'll just duck Pigeon Roost. . . .

Solitude, Windfall and Willow Valley fairly beckon until you run into Cementville.

There are Floyds Knobs, Flat Rock, French Lick and Fruitdale, and Grammer sort of punctuates the map.

Everyone has heard of Santa Claus, Indiana, while Hanging Tree and Buzzard's Roost are less popular places to visit.

There is Patriot and Pecksville, Deputy and Free, Harmony and Friendship. . . .

Unless, perhaps, you'd prefer Dinwittie or Ging?

And finally, there is that city at the very northern most tip of the state called, of course, South Bend.

MURDER IN THE AIR

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. WYMAN. Mr. Speaker, what do you do to build a fire under the chairman of the House Committee on Interstate and Foreign Commerce on getting out a law that will help prevent hijacking of aircraft in this country? Last night Eastern's shuttle jet to Boston saw a criminal with a gun get into the pilot's compartment, kill the copilot, and wound the pilot. Had the pilot died, the plane would have crashed with all 73 passengers on board.

If my bill—H.R. 821—which has been pending 6 years before the Commerce Committee, had been law this criminal could not have gotten into the pilot's compartment. No criminal ought to be able to do this.

The pilots are up in arms on this. The public is seriously concerned, as well they should be, because some one of these days we are going to lose a plane and everybody on board unless something is done to prevent murder in the air inside the cockpits of commercial airliners.

In this connection I am including in the RECORD at this point the report of what happened on this Eastern flight as it appeared in this morning's Washington Post:

[From the Washington Post, Mar. 18, 1970]

RIDER KILLS COPILOT, INJURED PILOT LANDS

(By Harry Eisenberg)

BOSTON, March 17.—The copilot of an airliner carrying 73 persons was shot to death and the pilot wounded tonight when a man entered the cockpit and ordered the plane flown eastward.

The would-be hijacker was critically wounded.

The pilot—though shot in both arms—managed to land the plane safety.

Capt. Robert Wilbur Jr., 35, of Fairlawn, N.J., radioed the airport tower from about 5,000 feet altitude and south of Boston that his copilot was dead and that he and one other person were badly wounded.

Wilbur said an armed man had come into the cockpit, ordering them at the point of a gun to fly the plane to the east, but that when he was told they would have to land the plane at Boston first, he began shooting.

The airline said that after the plane landed successfully the first officer was found slumped over his seat, the captain at the controls and the assailant lying on the floor.

Eastern said the plane, a shuttle bound for Boston from Newark, N.J., was a DC–9 with 68 passengers and 5 crewmen.

Three stewardesses were collecting fares when one of the passengers said he had no money and that he wanted to see the captain, an airline official said.

The man pulled out a pistol, strode to the cockpit and soon thereafter the shooting broke out. The copilot who was killed was First Officer James E. Hartley, 31, of Fort Lee, N.J., Eastern said.

At that point the plane was over Franklin, Mass., about 30 miles south of Boston. Eastern said that in all probability no one else aboard the plane would have been able to land it had the pilot been unable to do so.

The third person wounded was identified at Massachusetts General Hospital as John J. DeVivo, 27, of West New York, N.J., a passenger. He too was in critical condition with two arm wounds and another gunshot wound between the abdomen and chest.

Police in West New York said DiVivo had been living with his mother and sister for 10 months and listed his occupation as a short-order cook.

Lester T. White, an Eastern official, said that DiVivo was shot in a struggle for possession of the gun. Police said DiVivo was placed under guard at the hospital.

Donald F. McGuire, another Eastern airline spokesman, said a stewardess accompanied the man to the cockpit and informed the captain of what was happening.

Capt. Wilbur told her he was busy landing the plane, said McGuire, and the stewardess replied, "You don't understand. He has a gun."

McGuire said the captain then told her to bring the man in, and instructed her to go back and tell the passengers everything was all right. She did as directed.

When the plane landed, McGuire said, the stewardess went up to the cockpit, opened the door and saw the assailant lying on the floor, the first officer slumped in his seat, and the captain busy taxiing the plane in.

It was believed to be the first time a death or injuries resulted from attempted takeover of a plane in this country. However, a passenger was killed and a hijacker was wounded during an attempted takeover of a DC–4 during approach to Cartagena, Colombia, on March 11, 1969.

The stewardesses aboard the Eastern plane tonight were identified as Christiane Peterson, Arlene Albino and Sandy Saltzer, all based in the New York area.

INFORMATION AND THE CONGRESS

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. MORSE. Mr. Speaker, I would like to tell our colleagues about a truly exciting program called Info-Expo '70 being offered at the second national meeting of the Information Industry Association on March 23–25 in Washington.

The timely and imaginative symposium to be conducted on March 23 entitled "Information and the Congress" will deal with a critical area for all legislators and those concerned about the legislative process. We are involved in an exciting age. Technology has developed new and vast inventories of information, and the full impact of the changes now going on needs much greater emphasis and focus.

I know that my colleagues are increasingly concerned with the information problems faced in each congressional office, just as the committee staffs and the

Library of Congress are almost overwhelmed by the constant input of relevant material. As you know, the House Subcommittee on Electrical and Mechanical Office Equipment is presently involved in studying the needs of the Congress in this important area and the subcommittee chairman, JOE WAGGONNER, will be meeting with the Info-Expo symposium to discuss information systems for the Congress.

The program being offered at the meeting is carefully balanced to deal with several of the most important problem areas faced in the Congress, and I feel it will make a substantial contribution by furthering the process for understanding the needs of the Congress for information services.

The program follows:

INFO-EXPO '70: THE INFORMATION INDUSTRY, WHAT IT IS, DOES, AND MEANS TO YOU

Info-Expo '70 is the 2d national meeting of the Information Industry Association. The meeting and trade show are scheduled for March 23–25, 1970, at the Shoreham Hotel in Washington, D.C. The meeting is open to the public, to registered non-members and members alike.

The six symposia, each dealing with a major concern of the evolving information age, include:

Information Industry in Perspective.—Utility of Information to tne Consumer. A new industry needs resourceful people to help sharpen its focus, define its mission and enlarge its future. These are the goals of the roster of speakers leading off the general session Monday, March 23. Dr. Norman Martin regularly shares the Lecturn with Professor Peter F. Drucker at The Graduate School of Business at New York University on the subject of his paper: *The Next 20 Years*. Dr. Lawrence C. Kingsland, uniquely educated with both engineering and medical doctors degrees, also has unique experience in operating a medical information center. The program, assembled by Symposium Chairman Dr. I. E. Block, Vice President and General Manager of Auerbach Info, Inc., of Philadelphia, concludes Tuesday afternoon.

Following the opening session Monday morning and with the exception of the evening Tax Workshop, attendees at Info-Expo '70 will have a choice of two parallel sessions. The program has been arranged to make the alternative program subject choices clear.

Information and the Congress.—Wrapped up in the way Congress and Congressmen handle information are the *sinews* of political power, the keys to the operation of the Committee system and the substance of the seniority system.

Information entrepreneurs interested in working with Congress on its information problems will be given a comprehensive review of the problems Monday afternoon from a distinguished forum of insiders. Chairman of this symposium is Walter Kravitz, Senior Research, Legislative Reference Service, Library of Congress.

The Government as a Source and User of Information.—Near the head of the list of victims of the information explosion is the *use* of government-created, tax-supported information. More and more is available but it is used less and less. Should government "reprivatise" the task of aggressively getting this information to use by taxpayers?

The other side of the coin carries the question: What right does government have to proprietary information of others which it needs to fulfill its many missions? An authoritative list of spokesmen for various views on this subject has been assembled for the symposium chaired by Herbert White, Leasco Systems & Research, Bethesda, Md., and past-president, Special Libraries Association.

Tax Workshop.—Late in 1969 Congress passed a Tax Reform Bill affecting many taxpayers. How do the provisions covering unrelated trade or business activities affect the commercial marketing of information by tax exempt organizations? Is it limited to taxing advertising in journals, or does it extend to information products as well? Symposium No. 4, chaired by David Link, Esquire, Chicago attorney, and chairman of American Federal Bar Association Committees relating to automation and the law, will explore the effect of technological change on the tax-related rules of the information age environment.

The Respective Roles of the Commercial and Not-for-Profit Sectors of the Information Community.—Is it an "Anything you can do, I can do better" sort of argument between the "for-profit" and "not-for-profit", or is there a symbiotic relationship already developing? The viewpoint on that question will begin with, but not be limited to, that of Symposium No. 5 Chairman Joe Kurney of the American Chemical Society. He has assembled a double session of speakers to express their own opinions and to answer that and other questions about the relationships between the several sectors of the information community.

Turning a Corner, Proprietary Rights and the Evolving Information Technology.—At a time when Copyright Law Revision efforts are reaching a decision point, the information industry talks of turning a corner. Is the corner to be turned toward unrestricted use of proprietary data, or toward a recognition that the infomation techniques on which the information industry is built require new rules to facilitate its fuller application to the information handling problems of society? A late addition to this symposium is Glenn De Kraker, Executive Vice President and General Manager of International Digisonics Corporation, speaking on "The Missing Information in Commercial Television." His remarks will detail his company's proposal, the subject of FCC Proposed Rule Making in Docket No. 18605, to permit the inclusion of coded information in TV transmissions for the purpose of logging performances, a development directly relevant to this symposium. Symposium No. 6, chaired by Gerald Sophar, Washington Representative for the Institute for Scientific Information, will throw new light on this increasingly difficult issue area.

As a bonus to attendees, the meeting will feature a trade show offering highlighted activities of information industry firms. They will show the ways their products and services are assisting individual scientists, government workers, financial experts and many others to efficiently handle otherwise increasingly burdensome information overloads. No separate registration fee will be charged to visit the exhibits.

The Information Industry Association, sponsoring this major conference on the first anniversary of its creation, will also hold a review session covering the activities of and challenges facing the industry, tied in with a "dutch treat luncheon" on Wednesday, March 25.

Among other items on the agenda for the business meeting is the election of a slate of nine board members to direct the activities of the Association. Firms interested in actively participating in the control and direction of the Association will have an unusual opportunity to do so through this election. The terms of the nine board members will be staggered so that in future years only one-third of the board will be elected each year.

A FARM LABOR AND RURAL ECONOMIC PROGRAM FOR CALIFORNIA

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. GUBSER. Mr. Speaker, a very worthwhile study concerning farm labor and rural economics was recently completed by a broadly based group under the auspices of the California Church Council.

To my knowledge, this is the first effort of growers and union representatives to reason together in an attempt to find areas of agreement, and I believe it is therefore worthy of insertion into the CONGRESSIONAL RECORD:

A FARM LABOR AND RURAL ECONOMIC PROGRAM FOR CALIFORNIA

(By the Committee for Economic Justice for the Agricultural Community, California Church Council)

INTRODUCTION

The Committee for Economic Justice for the Agricultural Community (EJAC) is an ad hoc advisory committee of the California Church Council. The Council, in turn, is the vehicle for statewide projects of the Council of Churches in Southern California, and the Northern California Council of Churches.

The thirteen member EJAC Committee includes a minimum of three grower members and three labor spokesmen, in addition to clergymen and other community representatives. The Committee also consults and maintains contacts with a great many other growers, union representatives, legislators, and informed community leaders.

Much of EJAC's discussion and work in the past several years has been directly concerned with the farm labor struggle for recognition and collective bargaining rights. Issues of greatest concern to the Committee have included the strike and boycott actions of the United Farm Workers Organizing Committee, and the legislative proposals at both state and federal levels, which have sought to guarantee organizing and bargaining rights to farm workers.

In EJAC, as in the state of California, the positions of growers and labor representatives on the disputed economic and political issues have continued in deadlock for some time. In an effort to find a means of breaking this deadlock, the Committee began looking beyond the economics of the boycott and the politics of proposed legislation, to see if it could define the interest and responsibility of of the broader community in the issues raised by the farm workers.

A sub-committee of two was assigned the task of drafting a "first position paper" on the broader economic and social and community implications of the farm workers' struggle, and proceeded with this task on the assumption that its parent committee mirrored the community impasse on the deadlocked issues in contention between labor and the producers. Accordingly, the sub-committee defined a series of propositions, which it thought should be supported not only by EJAC's community and clergy representatives, but also by the other labor and grower members of EJAC—and hopefully, by the community at large.

The sub-committee's "first position paper" was discussed and modified by the full EJAC committee, and a final report was discussed by EJAC on August 19, 1969. While specific exceptions were recorded, the propositions themselves, and the implementation action called for by the sub-committee, were accepted "in principle" by all present.

Basically, the final report concluded that the inability of labor and the producers to resolve their labor-management relations problems, and their inability to establish a basis for a more peaceful and productive relationship, is largely due to the failure of the wider community (a) to come to grips with basic economic, planning, and conservation problems in the agricultural areas of our state, and (b) to understand the relationship of these problems to our contemporary urban crisis issues.

The August 19 EJAC Report was presented to the California Church Council on December 16 and was discussed at length. The Council received and commended the Report, and encouraged its widespread dissemination for discussion and study. The Council also urged implementation of the Report's recommendations for further action and follow-up, but asked for assurance that all sectors of the agricultural community, specifically farm workers and small farmers, will become involved in the process of economic planning, which will be essential to further the proposals and programs outlined in the Report.

The following is a condensation of the full report, developed by the co-authors to preserve the central concepts and thrust of the much longer EJAC draft of August 19. Preparation of both the full report and this condensation were greatly facilitated by research services and staff assistance made available to EJAC by the Center for Labor Research and Education, University of California, Berkeley.

HOWARD HARRIS.
BRUCE POYER.

PROPOSITION I

"One of the most fundamental elements in the farm labor problem is the seasonality factor in California agriculture."

Introduction

California is the world's leading natural locale for the production of diverse specialty crops which are highly labor intensive—especially at harvest time. California's fertile crop producing areas also cover a vast territory. These simple facts give rise to a specialized and complicated agricultural labor market. The structure—or lack of structure—of this labor market has always presented special problems both for producers and for the workers in the market.

California producers have usually emphasized the "seasonality factor" as the basic concept dictating both their definiton and their approach to labor market problems. More specifically, to the producers, the labor part of the "seasonality" problem is primarily their need for harvest labor, in particular quantities, at particular times, and in particular places throughout California's vast producing areas.

To the workers, the key problem of "seasonality" is defined primarily in terms of needs—particularly the needs of low-skilled workers—for more dependable job opportunities extending beyond the harvest peak periods; for higher annual earnings (depending partly on better wages, and partly on better job opportunities); and for a complete range of community services and facilities, such as education, health care, and housing, which at best are only partially available to them, and at worst are not available at all.

Further understanding of the "seasonality factor" as it structures the California agricultural labor market requires analysis from the producers' point of view, the workers' point of view, and the community point of view.

1. How have California Producers responded in the past to the labor supply problems, which they identify primarily with the "seasonality factor"?

(a) The primary producer response over the past 100 years has been to rely on vast importations of labor, particularly to handle harvests. Beginning in the 1870's, the waves of importation went through phases concentrating on Chinese, Japanese, Filipinos, Mexicans, migrants from other parts of the U.S., and ending with reliance on an "emergency war time" treaty arranged to bring vast numbers of Mexican nationals to work in California fields. The "emergency" continued through the 1950's, and attempts to end the treaty with Mexico finally succeeded in 1964. Only 7,800 Mexican workers were admitted to the state in 1966.

(b) Another important response of California producers to the "seasonality factor" as it affects labor supply has been the impersonalization of the employer-employee relationship. The labor contracting system, which was originally designed to place an intermediary-interpreter between domestic growers and foreign workers, grew in the 1920's and 1930's to the point where most traditional employer functions were arranged by contractors—including recruiting, transportation, assignment of tasks, supervision of field work, payment of workers, arranging for camp sites, and even providing drinking water. The usual requirement for workers and employers to determine their own employment relationship was absent in agriculture, and the grower or producer or owner saw no real need even to deal with the seasonal farm laborer as an individual. The nature of the understanding between contractor and producer was seldom if ever actually known to the seasonal farm laborer.

Institutionalizing the labor contracting system had two other important consequences: First, when the predominant piece rate payment system was combined with the labor contracting system, producers did not have to be concerned whether 2 workers or 10 picked the crop, as long as it got picked, or whether yesterday's crew appeared again today, as long as a crew was there. Secondly, the labor contractor system grew to become a far more significant factor in the seasonal agricultural labor market than the public employment agencies of the state. Public agency services, based primarily on recruitment, fell far short of the services required and regularly rendered by the contractor.

(c) A final producer response to the "seasonality factor" in agricultural labor overlaps the various responses summarized above and may be the most important response in the future. This is increasing reliance on mechanization and technological change, discussed in greater detail in Proposition II.

2. What are the primary worker problems that have resulted both from the "seasonality factor" in California agriculture, and from the producers' past responses to that factor?

(NOTE.—The EJAC approach to this question was based on thorough analysis of the most reliable statistical data available, and particularly on *California Assembly Committee on Agriculture:* "Report on the California Farm Labor Force in 1965.")

(a) Chronic, involuntary unemployment is almost a way of life for farm workers, including those who are "attached" to the farm labor force, and including those who are able to find some non-farm work to supplement their farm income.

Excluding all farm workers who made $100 or less in 1965 (students, housewives, local residents), there were still 486,000 farm workers in that year. Only 41% of them were "fully" employed *for 27 or more weeks*. Excluding one-fourth of these workers, on grounds that they were not actually "attached" to the farm labor market, we can still identify 121,500 "attached" workers *who were unemployed more than half the year*. Most of them were able to work and available for work and in need of income from work which was not available to them. Most of them were anxious to join the "select" ranks of the 70,000 workers who were fully employed for 50 weeks or more—but they were unable to bridge the transportation, communication, seasonality, and community facility and service hurdles, so that they could be where the jobs were when they were needed.

(b) Most of the 121,500 chronically underemployed "attached" farm workers in 1965 were also unable to supplement their poverty level incomes adequately with non-farm work.

For the total farm labor work force of 486,000 in 1965, median annual income was $783 for those who worked in agriculture only, and was $1,388 for those who worked both on and off the farm.

There were only 70,000 farm workers in 1965 who were employed the year round, usually at the same location. Only about 22,000 of them made $5,000 or more.

Their work was supplemented by 277,000 short-term workers who made less than $1,000 in farm income in 1965. They were students, housewives, local residents, and a large group drifting in and out of the farm labor force—perhaps on their way to more permanent non-farm employment. These were the workers who were able to find non-farm employment to supplement their farm earnings.

In between these two groups were 140,000 farm workers who were "attached to the farm labor market, who could not arrange for regular employment on California farms, *and who were unable to obtain non-farm employment to supplement their farm incomes to any significant extent*. As we have seen, about 121,500 of them were involuntarily unemployed for more than half the year.

(c) Within the group of 140,000 workers continually searching for farm job opportunities, and with little hope of increasing their earnings from non-farm employment, available data indicate that their success in finding *27 or more weeks* of farm work a year increases with their increasing mobility. However, in all such cases, the percentage of workers who can find *year-round* employment *decreases* steadily as mobility *increases*. The practical cut-off point for increasing annual income by increasing the mobility of the worker is probably reached at about 27 weeks of work a year, even though the worker may be more professional and more attached to the labor market than most of the 277,000 short-term workers.

Increasing the mobility of attached or professional farm workers, up to any point, also reduces the amount of farm work available to the large supplementary or short-term farm labor force. More importantly, it adds to other poverty problems of this chronically underemployed group. A point of diminishing returns for the workers is quickly reached: greater mobility means more losses in time between jobs, in transportation expenses, and in the kinds of benefits that traditionally go only with regular and continuing employment—such as better housing, pay or support or alternative work in slack seasons or in bad weather, continuity in the education of the worker's children, and access to needed health care services. Those with ethnic and language problems pay a higher price still for the mobility required of them. Finally, the real costs to the worker of increased mobility add to the tendency to permit over-utilization of child labor in farm work.

(d) The primitive organization of the farm labor market is another significant factor contributing to unemployment and to chronic underemployment. The Farm Labor Service, unions, growers' associations, labor contractors, and individual growers try to direct workers to those areas where their skills are needed. Most farm workers,

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however, have little contact with these efforts. Available data indicate that the primary source of worker information about job openings is still the informal, word-of-mouth, communication grape-vine, and more job information still comes from relatives and friends than from any other source.

3. What are the primary community problems and responsibilities resulting from the "seasonality factor," the producers' past response to that factor, and the workers' problems related to that factor?

(a) From the community point of view, the primary problem of farm labor in California is the abject poverty suffered by the majority of farm workers. Our analysis suggests three chief sources of that poverty: (a) Low wages, particularly for the great majority of unskilled workers; (b) Irregularity of employment, occasioned by the heavy swing in demand for labor from the winter low to the harvest peak, and the consequent short-term nature of most farm jobs; (c) Chronic underemployment, due also to the fact that useful and productive work is simply not available to workers who are ready, willing, and anxious to perform it.

(b) The history of producer responses to the farm labor problems associated with seasonality has produced no long term solution in a period of more than 100 years, during which one expedient approach was added to another. Since the end of the bracero treaty program, there have been continued attempts to revive it, or to extend the use of Mexican nationals in other ways. These attempts have proceeded without regard to the fact that we have had chronic underemployment of a huge segment of the domestically available farm labor force, at least since 1965.

(c) Farm workers unions are pursuing goals based primarily on elimination of low wages as a fundamental source of farm worker poverty. In addition, the unions pursue the goals of full application of unemployment benefits to the farm labor sector, and more effective hiring and work referral procedures, as a means of reducing the impact of irregular employment at least on those workers who can qualify for such benefits.

Believing that unionization is the only practical way to achieve such goals, and being without power to create new employment opportunities (either farm or non-farm), the unions have not been in any position to come to grips with the chronic underemployment part of the poverty problems of all farm workers. Indeed, we believe that no single group in our society can solve this problem alone, because it is a social and community problem as much as it is an economic problem, and because its solution demands re-evaluation of many of our basic assumptions, values, and prejudices.

(d) We believe that much more basic solutions must be sought by the entire community to the problem of increasing the aggregate demand for a more flexibly structured *rural* labor force, which could be profitably utilized in both farm and non-farm employment, on projects of unquestioned social and economic value, and of unquestioned benefit both to urban and rural California. We further believe that "solutions" which seek to structure the agricultural labor force in different ways—including any more foreign labor imports, or any traditional kind of union-management structure that might be carried over intact from the industrial sector, or any additional efforts to increase labor mobility in the present unstructured labor market—will miss the point of coming to grips with the basic problem of providing more job opportunities for *rural* labor. If we continue to miss this point, we will have another hundred years of solutions which do not solve the economic problems of farm workers or of farm producers, and which frequently *magnify* the problems of workers and of rural communities and of small producers, as we pile one kind of short term expedient on top of another.

PROPOSITION II

"The present trend toward increasing reliance by producers on mechanization and technological innovation in agriculture, can be expected to continue and to accelerate in the future. The corporate giants of California agriculture will continue to increase their productive advantages gained through their greater ability to mechanize and to take competitive advantage of technological change. As in the industrial sector of the economy, there may be many long run benefits both to consumers and to society in the continuation of this trend. But there will also be increasing short-run problems for most workers, for the independent, non-corporate agricultural producers, and for most agricultural communities. The corporate giants of agriculture will also increase their influence on economic planning, investment, and policy decisions affecting not only agriculture, but all future growth and development of rural areas in California."

Introduction

The EJAC Committee concept of "mechanization and technological innovation" is an extremely broad one. It encompasses the use of machines like the tomato harvester, but also the development of varieties of tomato plants that will grow tomatoes that can be picked by the machine. It includes changes in processes, like cold storage or freezing, which change both field and shipping operations. It includes innovations in plant physiology, chemistry, and genetics, which have an impact not only on farming techniques but also on the types of agricultural production that can be profitably undertaken. It includes those changes in the technology of transportation and food processing which affect the way crops are planted and harvested, because they are stored, shipped, or marketed in new and different ways. Most importantly, our concept includes changes in agricultural production techniques as they have been measured over a long period of time by changes in farm output per man hour.

It is this kind of technological change that has resulted in a 60% increase in U.S. farm production between 1940 and 1963, while the number of farm workers dropped in the same period from 11 million to 6.5 million, and while the total farm population dropped in the same period from 30.5 million to 17.1 million. Most of the displaced rural people migrated into the towns and cities.

It is this kind of technological change which now permits each farm worker in the nation to produce enough to feed 42. In 1940, one farm worker could feed 17. In 1900, he could feed only 7.

And it is this kind of technological change which has brought about a decrease in the number of U.S. farms, from 5.2 million in 1949 to 3.4 million in 1964. In California, the number of farms decreased from 137,000 in 1950 (averaging 267 acres) to 80,000 in 1964 (averaging 458 acres). In both the state and the nation, the decrease in number of farm units took place almost entirely among the small, part-time, technologically inefficient and noncommercial holdings. This trend was so strong in California that by 1960, 15% of California's farms accounted for 75% of the total agricultural production of the state, and some 7,000 farms were employing two-thirds of all hired farm laborers.

1. From the worker's point of view:

(a) In U.S. industry generally, and in both public and private service sectors of the economy, workers have shared the increasing productivity that results from increasing mechanization and technological change. Although agricultural industry in California has increased its productivity over the years far more than industry generally, agricultural labor in California has not shared the increase. California trend data on the comparative wage rate increases of farm laborers compared to other unskilled labor groups, does not tell the story. The comparison must also be drawn in terms of the availability to workers of important services and benefits, such as education, housing, health care, unemployment compensation, social security, which are generally available to industrial and service workers in California, but are only partially available, or not available at all, to farm workers.

(b) It is frequently argued that mechanization and technological change increase the demand for workers with higher skills, who can then command higher wage rates. The argument can be applied only to a very small minority of farm workers in California. As we have seen, only 70,000 California farm workers in 1965 were employed for 50 weeks or more, and of these, only 22,000 made $5,000 or more. These select few represent less than 5% of the 486,000 workers who earned more than $100 in California farm work in 1965. Their comparatively "high" annual farm earnings were related more to regular, full-time employment opportunity, than to "high" wage rates.

(c) That unskilled jobs continue to disappear as mechanization and technological change proceed has been documented in output per man-hour studies in many manufacturing industries, in all food processing operations in California, and in many farm field operations (cotton, carrots, lettuce, tomatoes).

With the primary impact of all technological change falling on the unskilled, there will be even less opportunity for that segment of the farm labor force to find alternative employment opportunities *either* in farming or in industry—even though industry continues to disperse and to open new plants and operations in rural areas.

(d) Retraining programs permitting the unskilled to qualify for new opportunities have been developed and concentrated primarily in the urban areas, in response to tremendous need for such programs there. Even if industry continues to disperse to rural areas, the skilled manpower required to keep wheels turning will be drawn more from the urban areas than from the ranks of the untrained and unskilled rural poor.

(e) The trend toward more rapid technological change in farm operations also affects the entire question of union organization of farm workers. The larger and more mechanized agricultural producers use more skilled labor, and become easier targets for union organization. In fact, many unionized packing and shipping functions, previously performed on the edge of the fields where non-union pickers labored, are now being transferred into the fields to be performed there by machines. The union often follows along with the transferred functions (carrots, lettuce, tomatoes, and other fresh produce). However, the total number of jobs involved *in these operations* continues to decline in relation to total output, even though the total amount of agricultural work available in the entire state may not decline. Thus the union can score its "easy" victories only on behalf of the smaller part of the farm labor force—a part needing protection less than the unskilled need it. Further, if manufacturing experience is any precedent for agricultural labor, it is probable that success in union organizing and collective bargaining will by itself speed the process of technological change, and hasten the addition of more labor-saving methods, processes, and equipment.

2. From the producer's point of view:

(a) Even though much of the producer's research and development work is subsidized by taxpayers, investments in mechanization and in other technological innovations require capital. The larger and more successful the enterprise, the more easily capital becomes available to it, either from internal sources or by recourse to lending agencies.

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Thus the economic squeeze on small producers is intensified.

(b) Greater advantages are available to larger enterprises through federal tax subsidies, such as the 7% corporate tax credit for investment in new plant and equipment, and the accelerated tax write-offs which favor those with greater costs from depreciation of capital equipment.

Even federal income tax laws favor larger agricultural producers and intensify the economic squeeze on the smaller producers. For example, losses from farming have long been allowable as offsetting deductions against income from other sources. This has encouraged mass movement of money to farm lands by people who are not concerned about the effects on farming, but only about their taxes on other profits. Such farm land investments are not only stimulated by tax policies, but are also calculated to take advantage of increased land values, which accrue over time from the pressure of population increases, the development of new communities, and the land values added by other government investments—such as water projects.

(c) It is not surprising that tax. subsidy, and investment policies favor agriculture's large corporate enterprises, or that land speculation is uncontrolled. The rules of the game are heavily influenced, if not actually written, by those with the greatest legislative influence and staying power. This requires a heavy financial commitment to lobbying and political campaigning. Such financial and political power is not available to small producers, or to farm workers, or to the consumers of land for housing, or to the consumers of food for living. Agriculture's corporate "establishment", on the other hand, has carefully organized and nurtured its legislative power, and like most establishments, exercises that power skillfully in its own interests.

The term "agri-business" has been so abused in the past that it no longer facilitates common understanding. In this report, we prefer to use the term "agopoly," by which we mean to refer to the corporate giants and conglomerates directly involved in farming and/or food processing operations in California; *plus* the combines, corporations, and conglomerates who own or speculate in agricultural land, usually in huge holdings; *plus* all of the corporate giants who play an enormous service role—such as banks, investment and financing agencies, the corporate fertilizer and insecticide producers, the chain and "brand-name" wholesalers, brokers, and distributors, etc. In short, we mean to include as "agopolists" all of the large-scale private organizations which are usually managed by non-owners for the purpose of maximizing profits from business undertakings directly involved in or affecting the production and distribution of farm products. The profits from such operations usually go to stockholders.

We do not mean to include in the term "agopolists" those independent, noncorporate farmers who obtain their livelihood from the investment of their own management effort, and often their own labor effort as well, in their own operations. Such producers may hire farm laborers, and may add whatever capital investments they can obtain to their labor and management efforts. But they manage their own operations, which are usually farm operations, and they seek to preserve their independent status and their freedom from "outside" corporate controls and organizational structures.

California's agopolists have led the trend to greater mechanization and technological change, and have developed many other practices which have improved their productive efficiency. In the process, they have also continually bought out or squeezed out the independent, non-corporate farmers. In the process, they have also gained greater control not only of agricultural markets, but even more importantly, of land and water resources, of legislative processes, and of economic planning and capital investment policies relating to future growth and development of rural areas.

3. From the community point of view:

(a) Both the federal government, in its agricultural research programs, and the State of California, in its generous support of agricultural programs in the land grant colleges, heavily subsidize the basic research and development work which speeds technological change in agriculture. The producers who get the benefits of this taxpayer support, and particularly the large corporate producers, can argue that the subsidies do not serve their interests exclusively, but are enacted in the wider social interest. The producers, with the subsidies, theoretically become more efficient and productive, strengthen the economy, and bring a wider variety of better foods to the consumer's table, at costs that may not be lower, but which would otherwise undoubtedly have been higher.

However one evaluates the producer argument on "social" subsidies, it remains true that there are virtually no unified subsidy programs, or special legislative programs, or even research and development programs, that can be described as primarily responsive to worker needs. The Farm Labor Employment Service provides a network of job information centers which have been severely criticized as responsive primarily to producer needs by favoring an over-supply of labor. There have been some experimental housing programs with government subsidies, but they have hardly made a dent in worker needs, and they have not been related to meaningful educational programs for the children of farm workers. There have been some subsidized health care programs for migrant farm workers, which again have not scratched the surface of a tremendous backlog of worker needs.

None of these efforts to meet special farm worker needs should be criticized. But they are so minimal, fragmented, and intermittent, in comparison with the poverty problems that exist, that they can only be described as pathetic.

(b) At the local community level, the social costs of dislocations from technological change accrue most directly. The greatest social cost of all is in terms of the loss of productivity of workers who are ready, able, and willing to work, when work is not available for them. Obviously, tremendous and measurable costs also accrue to the state and local welfare system, by virtue of the poverty problems of 121,500 farm workers who can be absorbed into the working mainstream only half of each year. And even more real costs accrue and are absorbed by these workers as human beings, who are robbed of dignity and self-respect, forgotten in our economic and social policies, and deprived of the most essential of all social values, an opportunity to demonstrate their ability and to prove their worth as individuals.

The dislocation problem at the local level extends also to the independent non-corporate producers who are squeezed out by the corporate giants of agriculture. Having resources beyond the work they can do with their hands or with strong backs, their plight has been lamented less than the plight of the displaced or chronically under-employed farm worker. But their complete absorption by the corporate giants would have social and economic implications far beyond the individual displacement problems which many of these producers will be able to solve for themselves.

(c) A third group of community implications involved in Proposition II involves the relationship of California's agricultural and urban "communities." The primary problem here is migration. Current national data indicates that the mass migration of unskilled labor from farm to central city, characteristic of population movements for the past 100 years, has now slowed significantly.

Our beleagured cities will be able to use the breathing time to catch up on their incredible backlog of unresolved needs and problems. But the farm to central city migration pattern of the past will not be California's migration pattern of the future.

The primary population migration in California since the 1950's has been from central city to suburbia. The primary migration wave already under way for the future is from farm, and from central city, and from suburbia, to the new cities and towns of California's vast central valley. The public water supply is just beginning to be delivered to support the new cities and towns, the highways are being built to transport the people and the products they will produce and exchange, and much of the land on which the new cities and towns will be built is already in the hands of speculators or agopolists who are already shaping the profile of the future.

There are many questions that small producers, workers, and consumers should be joining together to raise about this profile: Will sufficient valley land be reserved for farming? If so, for what kind of farming—large scale, corporate farming only? What provisions will be made to avoid present urban area problems in housing, in public transportation, in pollution, in health care, in education, and in welfare? What voice will small farmers, workers, and consumers have in the planning of these new cities and towns? Will all the planning be done by the agopolists and the land speculators? Will they plan corporate leasehold cities and towns, on the model of the Irvine Ranch? Or will they plan for tax write-off or land speculation cities and towns? Or will they plan a revival of the "company towns" infamous in labor history?

These questions are raised more specifically in later sections of this report. Here, the point is that California's future development is now being plotted out, not in any democratic planning process, in which the views of small farmers, workers, and consumers can be heard and considered, but through the unchecked exercise of agopolistic control of land, water and community development policy.

Price and market control by agopolists may perhaps represent a price we are willing to pay for efficiency in production. But control of the future of California's rural and urban development, and the balance between them, is another price to pay. It is a much higher price, and we believe there is no meaningful exchange to make it worth paying.

PROPOSITION III

"There is no shortage of useful, constructive, and necessary conservation and environmental development work to be done in agricultural and rural areas and on the fringes of metropolitan areas. The work is of a social or public or community nature, and it has special importance in terms of preserving and strengthening an essential ecological balance between city and country.

"The first requirement for carrying out such conservation and environmental development work is a plan and a program. The second requirement is a regular and continuing source of labor to do the work involved.

"The labor supply exists in the unutilized potential of farm and rural workers who seek to enlarge their employment opportunities without migrating to the cities, but are unable to do so.

"What does not exist is a plan, and an organized rural labor market structure, which would make possible the full utilization of available labor resources, to meet both agricultural needs, and conservation and environmental development needs."

Introduction

In previous sections of this report, we have focused attention on the incredible waste we have long tolerated in California of the most valuable of all of our state's natural resources—people. The waste is not only in terms of the chronic under-employment of workers attached to the farm labor force. There is also an immeasurable waste of the seasonal and casual farm labor which appears on the scene every year at harvest time, and which would appear at other times to take advantage of other kinds of employment—if such employment were available. This short-term and casual harvest labor supply would not be readily available to agriculture if we did not have chronic underemployment and poverty in the entire rural economy. Further, the total waste of human resources which we continue to tolerate must also be calculated to include much unemployed manpower in the urban centers, which appeared there in the course of the mass migrations from rural areas, primarily because productive job opportunities were not available in rural areas.

Our waste of manpower has been rationalized in many ways. Many would like to believe that the people who do not have job opportunities are lazy, or irresponsible, or interested only in living on welfare. Since it is impossible to prove these mass indictments, they must serve only to assuage the collective social conscience. What we attempt to rationalize with moral judgments is our own failure to provide bold and imaginative programs for the future economic and social development of the kind of state most of us would prefer to live in. Thus, we fall easy prey to any prejudice about our waste of human resources, including racial prejudice, because we are unwilling to meet the leadership challenge confronting us.

The first requirement of any plan or program designed to make working opportunities available to a rural labor force which is ready, willing, and anxious to work, is to delineate the conservation and environmental development projects which should have priority in meeting urgent social needs. Such a delineation could be accomplished only through a statewide planning process, sufficiently comprehensive to cope with future land and water use and future community development, and sufficiently authoritative to plan for the complete restructuring of the rural labor market.

It is *not* our function in this report either to design the needed planning process, or to assign priorities to various conservation and development needs and projects. It *is* our function (1) to outline the broad scope of planning that would be required to come to grips with these needs; (2) to list some of the conservation and environmental development projects for which need now exists; and (3) to emphasize the necessity of restructuring the rural labor market in order to make any plan or program serve our primary need for full utilization of available human resources.

1. The scope of planning required to meet our conservation and environmental needs:

Comprehensive and coordinated water and land use planning and development is fundamental to a wide variety of inter-related environmental needs, including (a) the need for more adequate flood control systems; (b) the continuing need for water storage and delivery systems for both agricultural and urban uses; (c) the need to open up vast new recreation areas; (d) our needs for land reclamation, (e) fire prevention, (f) power generation, (g) reforestation, and (h) preservation of open spaces and wild life.

Coordinated water and land development projects elsewhere in the country, especially in the Tennessee Valley, have clearly demonstrated the feasibility and economic advantages of long range, multi-use planning for land and water conservation on a regional basis. In California, however, the need for such an approach is even greater.

Here, the chief challenge to proper water and land use planning is not posed in terms of resource conservation and development alone, but in the broader terms of ecological balance. *Here,* the primary planning challenge of the future will be to define sane and rational *community* development patterns, to meet the emerging needs of our state's increasing population, as it expands from present urban areas into new cities and towns in rural areas. *Here,* the highest priority for planning must be given to the problem of restoring a proper balance between urban and rural growth and development, with full consideration not only of resource use and mis-use, but also of migration patterns, and the poverty problems both of the urban poor, and of the rural poor—particularly, the seasonal agricultural labor force.

We do not at present have any planning process in California sufficiently comprehensive to cope with future land and water use and community development. What we have in lieu of a rational and democratic planning process, which should be able to cope with all three of these subjects, is the predominant influence of agopolistic interests, who largely determine our public land and water policies, even though these policies involve the vast expenditure of public funds. The agopolistic interests include huge land combines and many individual land speculators, who are often interested not in agricultural uses of rural lands, but in future development of new cities and towns in rural areas.

For example, the West Side of the San Joaquin Valley, which was mostly dry wasteland until recently, is nearly 150 miles long and 25 miles wide. By the early 1970's Feather River water will be available to this area from the San Luis Project of the U.S. Bureau of Reclamation and the California Aqueduct. In addition, a new freeway, Interstate 5, will soon extend all the way down the Western edge of the San Joaquin Valley to the Ridge Route, and will become the main line of transportation from the Bay Area to Los Angeles. These two arteries will bring the forces of growth and change to the West Side with an impact probably greater than that ever felt by any comparable region on earth.

It is noteworthy that no public transportation system has been proposed or discussed for the future development of this area. The 46 interchanges planned for Interstate 5 will therefore probably first give birth to facilities serving private automobiles and trucks. Then will come housing and business to serve the increasing labor force. Then there will be farm-based industries, heavy industries, speculation and real-estate promotions to dwarf all of California's previous land booms.

Will this coming development of new cities and towns, which would not be possible without the planned delivery of a public water supply involving vast outlays of tax funds, be guided by any kind of democratic planning? The portents are ominous. The transportation system for the area has already been decided upon in the absence of any plannng process to consider alternatives to an automobile-oriented future for the people coming to the West side.

Again, we resort to rationalizations to avoid coming to grips wtih the coming problems. We would like to believe that we can leave the economic and environmental future of the West Side to the impersonal checks and balances of the free enterprise marketplace, and be guided only by Adam Smith's famous invisible hand. Perhaps unfortunately, the kind of economy Smith described does not exist in California today. Our state's rural economy, in particular, is already guided more by agopolistic planning than by impersonal market forces.

Planning is *not* the question. The only questions that remain open are: Will the planning that is done be comprehensive enough to come to grips with the environmental issues and the ecological problems that confront not just the rural areas, but the entire state? And who will do the planning? And whose interests are to be represented both in the planning and in carrying out the programs which are planned?

2. Conservation and environmental development projects needed now:

Comprehensive water and land use planning of California's rural areas would give rise to a vast array of resource conservation and development projects. One of the chief functions of the plannng process would be to develop priorities for such projects, in terms of our most pressing social and environmental needs. However, present needs are demonstrable for the following kinds of projects, which by themselves could utilize much of our available rural manpower:

(a) Land reclamation and improvement projects, which can be accomplished by scientific planting and control of both surface and deep-rooted vegetation, to increase water retention and land yield; extending such planting to the fringes of metropolitan areas can both reduce fire hazards, and reduce expenditures for expensive flood and drainage control systems; extending such planting programs to mountain areas can both reduce fire hazards, and add to the proper upstream control of flood waters;

(b) Forestry projects, to build new timber reserves; to improve and expand public parks and recreation areas; to develop new greenbelt areas around present metropolitan areas, and around the sites of future new cities and towns; to provide for greater fire control in remote areas; and to control insects, pests, disease, and blight;

(c) Recreation projects including both parks and the special facilities required for a wide variety of major outdoor activities (including operating and maintenance personnel for these facilities and activities);

(d) Building and construction projects in connection with the above, including the development of access roads, bridges, and rights of way; grading and terracing work for fire, flood, and erosion control; building of control dams and water storage basins in upstream areas; building of campground and other recreation area facilities; developing and maintaining hiking trails, greenbelts, and landscape work in both rural and urban areas; historic site restoration; development of water delivery systems from holding and storage reservoirs; development of more comprehensive fire prevention systems, permitting easier access to remote areas, and adding more firebreaks;

(e) Other conservation projects, including algae control work in ponds and lakes; development of public and/or private nurseries to raise needed vegetative stock for planting programs; carrying out a vast extension of tree shelter belts, which could be planned in connection with green belt areas interconnected by a statewide system of riding and hiking trails and campgrounds.

3. Structure of a rural labor market capable of utilizing available manpower to meet both agricultural needs, and our broader conservation and environmental needs:

We believe that most of our needed conservation and development work could be planned and organized to take advantage of the "off season" availability of farm workers. In fact, much of the work we have described above must be done in the late fall, winter, or early spring seasons.

Further, we believe that our farm and rural labor supply is sufficient to fill all agricultural needs—including harvest peak needs—*and* to carry out the conservation and development work which must be planned.

However, the labor supply would not be

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sufficient unless we also plan to structure the rural labor market so that it can meet both needs. Creating the necessary structure would require the development of resident labor pools in centers geographically situated so as to permit the working residents in each center to have easy access both to the farm labor markets in the area of each center, and to the special conservation and development projects which are undertaken in the area of each center.

We believe that the most feasible way to restructure the chaotic farm labor market would be by locating, planning, and developing from six to twelve new cities or towns in key agricultural areas, to serve as the labor centers whose residents would form the core of the continuing labor supply for both the agricultural needs in each area, and the conservation and development project needs in each area. Proper location of sites for the proposed new towns may dictate use of an existing city or town, in which case our proposal would be to rebuild sections of the existing town and to add needed facilities to accommodate the larger working population to be located there.

Location of new town sites would depend on a service area concept related both to the need for manpower in a service area, *and* to the requirements of workers for the essentials of decent shelter, health care, education, recreation, and continuity in home life. As an illustration, the boundaries of an appropriate service area might be set at 100 square miles, with transportation pools and mobile housing facilities used to permit workers to fan out from the central residential core area during harvest peak periods, or during special phases of conservation work. Guaranteeing opportunities for full use of labor resources in the new towns would necessitate advance hiring and job referral arrangements with all agricultural producers in the service area, with all agencies and private groups involved in conservation and development work in the area, and possibly with area industries as well.

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The development of adequate housing and community facilities in the new towns would constitute a primary source of continuing demand for much of the labor of the community. Decent housing is only a starting point, for a central concept of new town planning must be establishment of more adequate educational, health care and other community facilities than farm workers and many rural workers have ever had in the past.

In such a planned program of community development based on maximization of employment opportunities and stability in the home and community life of farm and rural workers, the kind of unionism that could be expected to emerge would be neither craft nor industrial, but community unionism. The most important service function of such unionism might be operation of an effective work referral system. The traditional "bargaining" function might find as much scope in negotiations to extend work opportunities, as in negotiations to determine wage rates.

PROPOSITION IV

"Many groups and organizations interested in conservation of resources and in environmental problems in California have called for immediate adoption of a planning mechanism comprehensive enough to permit development of a state-wide land use plan for the future of all areas in which publicly subsidized water is to be delivered (whether the public subsidies are direct or indirect). Such a planning mechanism could incorporate the authority *both* to delineate the priority conservation *and* environmental development projects which are needed now, and to locate and develop new towns.

"In addition, a feasible basis exists in California for public acquisition of lands that could be utilized for broad community purposes, including the development of new towns.

"We believe that all church groups affiliated with the California Church Council should join in common purpose with other conservation and planning groups interested in establishing a state-wide planning process with authority to acquire and to maintain new public properties. We believe that the kind of planning mechanism proposed and advocated by such groups would be the most feasible and appropriate mechanism for incorporating the special planning needs and approaches we have identified in this report.

"Further, we believe that EJAC should take the initiative in developing and coordinating a practical program to demonstrate the feasibility of one or two new town projects, which would be organized specifically to achieve maximum productive utilization of working residents in the demonstration areas."

Introduction

The problems of inadequate housing and community facilities, of water and air pollution, of chemical contamination, of waste disposal, of public health and of transportation, are all obvious problems. The question of adequate life space, and other elements of human ecology, will now be even more important in terms of providing a liveable environment for an increasingly dense and affluent population.

The challenge to planning which is involved in this simply phrased "question of adequate life space" is the major challenge to mankind at this particular historical juncture, and may yet prove to be the major challenge of all of man's time on earth.

Various groups and institutions in California—including the Northern California Council of Churches, the Sierra Club, the Planning and Conservation League, the California Labor Federation, Californians for Land and Water Conservation, California Rural Legal Assistance, the Public Policy Research Organization (University of California consortium), and others—have approached the challenge from a specific frame of reference—the federal reclamation law. This law was designed to insure that large public expenditures and investments in water resources are made consistent with the principle of the greatest good for the greatest number, to promote conservation, and to prevent speculation in land at public expense. When public water is made available to land without water, or with limited water supply, the value of such land accrues enormously. Who should reap the increased values—the agopolists and speculators, who did not bring the water to the land, or the public, which did?

The answer contained in reclamation law is that the owners should reap the increased values, but that large owners and speculators should not be allowed to reap windfall profits from accruals in land values. The Supreme Court has interpreted the law as intended to insure that the benefits from enormous public expenditures for water "will not go in disproportionate share to a few individuals with large landholdings."

To carry out this intent, the law specifies an acreage limit per individual owner, and specifies that when water is delivered to lands owned in excess of the acreage limitation, the excess land must be sold.

Groups like the Northern California Council of Churches, Sierra Club, and Californians for Land and Water Conservation, are urging that when such excess lands become available, they should be purchased by the federal government. Such groups then seek, in the words of the resolution of the Northern California Council of Churches:

"To establish a democratic planning process, which will call upon all interested parties to participate in the development of an overall land-use plan for the future of all areas in which federally financed water is delivered, including both urban and rural land uses. We also urge the California State Legislature, administration, and local governments within California to help facilitate the democratic planning process, in cooperation with the federal government;

"To develop, on the basis of an established master plan, a policy for the redistribution of the lands purchased by the federal government in parcels which are in keeping with the original intent of federal reclamation law but also related to the most economically and socially feasible use of the land;

"To create a procedure and system by which government purchase and resale of excess lands will provide funds for Water Grants for Education and Conservation while preserving open spaces and agricultural greenbelts."

1. Cooperating in the effort to establish an effective state-wide planning process:

We believe that EJAC and the California Church Council should lend full support to the common goals of the various California conservation and planning groups seeking federal support for public and community development programs of broad scope, with the stipulation that provision must be made in such proposals for a democratic planning mechanism. We believe that the goals of these groups are intimately related to the planning needs described in this report, for these reasons:

(a) As the California valley areas are developed in the future, both EJAC and the California Church Council must remain committed to the kinds of policies that (a) will improve the lives of farm workers, and especially will meet their urgent needs for community facilities and services, such as housing, education, and health care; and (b) will preserve a place in the future for the small, non-corporate, independent, family-size farm—however large or small such a farm may now be.

We believe that these commitments can only be made effective if the church groups properly evaluate current developments in state water and land use policies, as these policies affect the environmental issues of our time. We wish to emphasize that the evaluation of present policies must be in terms of the present commitments of EJAC and the Church Council to *"economic justice for the agricultural community."* Neither group should lend *any* support to *any* program which goes only part of the way toward meeting these commitments. For example, there should be no support of any program to plan and create new cities and towns in rural areas, if the program then leaves the new town residents to sink or swim in arranging for their own employment in a surrounding sea of agopolistic organizations and special interests. Similarly, there should be no support of any program to restructure the rural labor market if the program is not organized to meet the primary needs of workers for community facilities and services, and does not seek to provide a more stable home life than farm and rural and seasonal workers have been able to achieve in the past.

(b) We believe that existing commitments of EJAC and the California Church Council, both to workers and to small farmers, can only be made effective if both groups take an active role in insisting on the public's right to have its *public* interest expressed and heard in planning for the future use of publicly financed water supplies.

(c) We believe that an unprecedented educational and leadership effort will be required to establish the kind of state-wide land use plan envisioned in the resolution of the Northern California Council of Churches, quoted above. Neither EJAC, nor the Northern California Council, nor the California Church Council can provide all of the leadership and education necessary to achieve widespread public understanding of the issues involved, and widespread public support for the establishment of the necessary planning mechanism. Careful coordination with other groups interested in the same goals will be essential. Even the more limited purpose of establishing priorities for the kinds of conservation and development projects outlined above, in order to begin utilizing human resources to meet social and community needs, will require careful coordination among all groups interested in the future of California's valley areas. In the process, no single group with special purposes, no matter how salutary, will be able to carry any special planning program alone.

2. Determining the question of public vs. private ownership and control:

In the ghetto areas of our cities, there has been much experience in recent years in the development of practical mechanisms to achieve greater democratic participation and involvement in programs for housing and for the construction and operation of various community facilities—including schools. Progress has been slow, and fraught with controversy.

However, in a framework of rural new town planning and development, the problems are much different and much more manageable. The possibility exists at the outset for community ownership of land to be used for housing, for service and trade establishments and for community facilities. Utilizing this possibility would give an important initial impetus both to planning, and to the immediate development of new town demonstration projects.

We believe that public or community ownership and control of lands and sites for new cities and towns in California's rapidly developing rural areas will prove to be the only feasible way (1) to avoid the inflationary effects of private land speculation in these areas, and (2) to reduce the tax impact of constructing and operating extensive new community facilities in these areas. The latter objective could be achieved by insuring that the communities themselves benefit from future accruals in land values that are basically the result of community development.

Within a framework guaranteeing long-term community benefits from increasing land values, we also believe it would be possible to insure adequate opportunities for individuals home ownership, and to preserve incentives to guarantee efficiency in service and trade enterprises. An initial emphasis on democratic planning and on public acquisition and control of land does not rule out all other alternatives to future development.

In fact, we believe it would be the function of a democratic planning mechanism to come to grips with the question of the proper mix of governmental, cooperative, and private functions in the developing economies of new cities and towns in California's vast central valley areas. These questions can no longer be consigned to the guidance of Adam Smith's "invisible hand."

In the process of deriving practical answers to some of the fundamental economic questions raised here, the democratic planning approach we urge would also have to develop much new information needed for proper evaluation.

For example, what is the present level of taxpayer subsidy and support of existing programs benefitting rural areas, including agricultural research and development programs, and including public water programs? In the provision of this tax support, how are tax burdens distributed, and how are the direct and indirect benefits of these tax programs distributed? To what extent do we now rely on free, private market mechanisms in the operation of our agricultural and rural economy, and to what extent are we already involved in mixed public and private sector "partnership" programs?

Answers will continue to be given to many of these questions—for example, in ballot propositions involving interest rates on bonds for water projects and other public facilities—even in lieu of authoritative data on the economic implications. Our greatest need is to extend the range of cost accounting information we usually rely on, to comprehend the real economic costs which accrue to society in the absence of democratic, rational, planned public approaches to the enormous growth and development of new cities and towns that will occur in California in the next few decades.

3. Taking additional steps to advance the concept of "economic justice for the agricultural community":

(a) In addition to cooperating with other groups on the common goal of establishing a much needed, state-wide, comprehensive and democratic planning process, EJAC and the California Church Council should seek to influence legislators at both state and federal levels on our need for planning, on our need for *action* on conservation and environmental issues, and on our need for a thorough restructuring of the rural labor market—as these needs have been described above.

(b) EJAC should also begin immediately on a project designed to demonstrate the feasibility of one or two new towns on the west side of the San Joaquin valley. The first step here would be to seek funding to support a feasibility study for the location of the new towns. This step should be taken in conjunction with other groups already working on general projects which could incorporate this approach—for examples, (a) Californians for Land and Water Conservation, (b) West Side Development Group (an Association), and (c) Public Policy Research Organization (University of California, Irvine).

Until it is possible to develop a viable state-wide planning mechanism, the key elements in such a feasibility study or demonstration project would be (a) availability of land on which the new towns could be built; (b) willingness of agricultural producers in the area to make binding arrangements for use of residents for agricultural needs, through a referral system developed for agricultural labor services; and (c) availability of housing and community facility funds through existing federal and state programs, which would have to be coordinated in their focus on new town development, rather than fragmented by function or by area.

CONGRESSMAN COLLIER INTRODUCES LEGISLATION TO RESTRICT THE SALE OF EXPLOSIVE DEVICES

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. COLLIER. Mr. Speaker, the bombings that have terrorized many communities throughout the Nation have intensified demands that something be done to stop this manifestation of anarchism.

All levels of government—local, State, and National—have responsibilities in this area. All three branches of the Federal Government likewise have responsibilities.

The executive branch must do all in its power to apprehend and incarcerate the perpetrators of these dastardly acts. The judicial branch must quit releasing dangerous criminals so they can commit more crimes.

What, you may ask, responsibility does the legislative branch have regarding bombings? Have we not passed enough laws which, if properly enforced, would enable law-enforcement officers to jail all the bombthrowers they catch?

Mr. Speaker, the answer, surprisingly, is: No, we have not passed enough laws. We need at least one more. I was surprised and shocked to learn that there is no Federal statute that would effectively curtail or at least limit the sale or other distribution of dynamite and other high explosives or make mandatory the keeping of records of the sales of such items and their ingredients. If we were operating under the laws that apply during a state of national emergency or during a war constitutionally declared by Congress, the Federal Explosives Act would be in force.

Unfortunately, the act does not apply under present circumstances, because we are not now in a state of national emergency and our participation in the war in Vietnam was begun during the Kennedy administration without a declaration of war by the Congress.

In order to strengthen existing laws on the subject, I have today introduced a bill that would amend the Gun Control Act of 1968 to include explosives. Anyone who sells explosives would be required to record the names, addresses, and ages of the purchasers. Sellers would not be permitted to sell explosives to persons under indictment, to those who are under the influence of alcohol or narcotics, or to any one who appears to be mentally unbalanced.

Mr. Speaker, it is imperative that we do all in our power to bring the wave of bombings to a halt. One of the best methods of accomplishing this goal is the cutting off of supplies at the source, as my bill proposes to do.

SMOKING CONTROVERSY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. CARTER. Mr. Speaker, those of us who attended last year's lengthy hearings on this bill were amazed to find, from the scores of scientific experts who appeared before us, that virtually no significant progress has been made in research to resolve the smoking controversy since the Congress last acted on this matter 5 years ago.

Last month, just as the conferees were about to meet on this bill, the American Cancer Society held a news conference to announce results of certain smoking experiments involving beagle dogs, in which some manifestations of lung cancer were said to have been observed. One witness before our committee had been Dr. Victor Buhler, one of America's most distinguished pathologists and a former president of the College of American Pathologists. Recalling his testimony regarding animal smoke inhalation studies, I wrote to Dr. Buhler and asked him to comment on this latest report. His reply strikes me as a perfect illustration of the difficulty of deriving real meaning from research results which are publicly reported, with great fanfare, before there has been any opportunity for critical scrutiny by qualified scientists.

Dr. Buhler's letter speaks for itself, and, without objection, I would like to share it with our colleagues, as follows:

ST. JOSEPH HOSPITAL,
Kansas City, Mo., February 21, 1970.

Hon. TIM LEE CARTER,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR DR. CARTER: Thank you for your recent telegram in which you inquired about an animal smoke inhalation experiment announced by Drs. Auerbach and Hammond earlier this month.

In connection with my testimony before your Committee last April (which, of course, was long before Drs. Auerbach and Hammond announced their results), I stated that in some inhalation experiments "there has been considerable trauma to the respiratory system of the animal by the procedures used." I went on to say that if lung cancer were produced by this experimental method, "I would have to question the effect which the trauma itself might have had in the result."

The method used by Dr. Auerbach is just such an experiment to which I made reference. He used dogs (beagles) who "smoked" in an unnatural way by means of a surgical incision in the neck tissues and trachea which was permanently kept patent by use of a foreign body (a hollow tube). This is certainly much different than the way in which a human being smokes a cigarette.

XUM

As you know, a scientist usually informs his colleagues and shares the knowledge of his experimental work by publishing the result of his experiments in a reputable scientific journal. The results of the latest Auerbach experiment have not been so published. My first knowledge of these experiments came from a front page article in our local newspaper.

Immediately after the newspaper article appeared, I obtained a copy of the report which was the basis for the newspaper publicity. I have read this report several times and carefully reviewed its contents. In responding to your request for my comments, I am compelled to say that the report raises several important questions. For example:

1. Experimental results offered as scientific evidence are only as good as, and can be no better than, the experimental model used. With this in mind, how can anyone claim that this experiment approximates the natural method of smoking in humans? The method used by Dr. Auerbach involves the direct delivery of cigarette smoke to the lower trachea, the bronchi and the lungs, thereby bypassing the oral cavity, the pharynx, the larynx and the upper portion of the trachea. A tracheotomy is a most unnatural way for an animal to breathe and certainly introduces the possibility of infection, both bacterial and viral, not only from the tracheotomy, but also by the constant irritation of the hollow tube used to keep the tracheotomy patent. I should think that such a technique would arouse extreme skepticism. Not only were all of the protective mechanisms of the upper respiratory tract not allowed to function, but also the mixing of air and smoke which occurs under normal smoking conditions could not have occurred. In earlier beagle dog experiments, Dr. Auerbach reported that five successive inhalations of smoke were taken in by the dog without intervening inhalation of air. The dog's mouth and nostrils would presumably have to be closed by physical force so as to allow for inhalation through the hollow tube in the throat. These indisputably traumatic conditions could in themselves be causative and therefore create extreme doubt as to the meaning of the reported results.

2. It may well be that the dog is not a suitable animal for lung experimentation. For example, McLaughlin, Tyler and Canada have warned experimenters in their article entitled "A Study of the Subgross Pulmonary Anatomy in Various Mammals", American Journal of Anatomy 108(2): 149–165 (1961), that ". . . great caution should be exercised in the choice of an experimental animal for pulmonary studies if they are to be applied to man. This is especially so if the dog, cat, or monkey are to be used, in view of their marked anatomical differences from man "

3. Why were there only eight control dogs out of a total original population of ninety-seven dogs? Were the control dogs subjected to simulated smoking and otherwise treated in every way as were the other dogs? It does not appear that a properly controlled air stream directed through the tracheostoma was substituted for "smoke" and unless this was done I am inclined to question whether these eight dogs could be deemed adequate controls.

4. It is not at all clear what Dr. Auerbach means by the word "early" in his reference to "early squamous cell bronchial carcinomas." This is not standard terminology so I do not know whether he has reference to "carcinoma-in-situ" or to some other lesion. Since Dr. Auerbach's results have not been published, including adequate photographs, and since the criteria utilized are not clear, one should exercise great caution in drawing any conclusions at this time from the descriptive phraseology used.

5. Most of the "invasive tumors" reported in the dogs that "smoked" were described as being of a bronchioloalveolar type. This is a type of cancer which is infrequent in human beings. Even the Public Health Service has not associated this type of tumor with cigarette smoking. Does Dr. Auerbach refute his previous reports of a relationship of squamous cell carcinoma and smoking in humans by now claiming that the bronchioloalveolar type is more prevelant? [I should add that I *cannot* determine from the report how many "invasive tumors" *in all* were observed. Nor does it appear that any of the tumors deemed malignant, whether bronchiolo-aleveolar or squamous, had metastasized.]

6. Dr. Auerbach has reported tumors in over sixty percent of the "smoking" dogs in the groups sacrificed. Based on my knowledge and experience, there is no such incidence, similar to these statistics, in any human population.

7. Similarly, an amazing twenty-five percent of the non-smoking dogs were reported to have developed tumors. What might the percentage have been if the dogs had been allowed to live out their entire lives? Serious questions are raised by this reported finding with respect to the use, not just of dogs generally, but of the beagles in this particular experiment. Was any real control of genetic, viral, environmental and other factors imposed?

Medical "breakthroughs", usually announced in newspaper headlines, often turn out to be disappointments when subjected to careful scientific scrutiny. For example, a December 1967 article by Harris and Negroni reported the production of lung tumors in cigarette smoking mice. It was hailed by an American Cancer Society sponsored bulletin, widely distributed to dentists and physicians, as undermining "one of the long-standing defenses of the tobacco industry." The headline on the story read "Lung Cancer: Another Experimental 'First'." But in the published article, the authors cautioned that "the mouse lung cannot be equated histologically with the human lung, and so 'degrees of carcinogenicity' derived in one system may have no validity for the other." Even HEW's *1968 Supplement to The Health Consequences of Smoking* summed up this "scientific breakthrough" as follows: "Harris and Negroni, in experiments with C–57 black mice, *some* of which were inoculated with viruses, achieved *some* enhancement of adenocarcinoma, but *did not* produce any proven squamous cell cancers."

WILLIAM LYNCH

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. TIERNAN. Mr. Speaker, it is my privilege to place in the RECORD today the remarks made by my close friend, William J. Lynch, at the annual St. Patrick's observance of the Sons of Irish Kings.

Mr. Lynch has been a credit to my State and a leader of a host of private organizations over the years.

I am sure that my colleagues will read with interest Mr. Lynch's remarks concerning the Irish and their accomplishments.

Mr. Speaker, without objection, I place in the RECORD Mr. Lynch's remarks:

THE DAY WE CELEBRATE

It is indeed an honor and a privilege to have been selected by King Ray Fogarty to be your speaker on this occasion and to join with my brother sons of Irish Kings in celebrating the great feast of the national apostle of the land of our fathers—the Great St. Patrick. Surely this feast must rank unique among all of the national festivals of the world. It is probably the oldest of its kind, for the Irish nation and its sons and daughters, have celebrated it consistently and continuously from year to year for nearly 1500 years. This is no local festival honored in a small island off the west coast of Europe. No, it is a feast-day marked with solemnity and attended with great rejoicing throughout the length and breadth of this planet of ours, wherever and in whatever corner of the globe the sons and daughters of the Gael have found themselves a home and a haven. It is a day—or rather it is a season—acknowledged and welcomed by people of all nationalities and many creeds—and *is it not* characteristic of the warm-hearted generosity of the celt that the Irish people in their homeland do not endeavor to appropriate the spirit of this glad day all to themselves? Instead, they rejoice mightily to see the countless numbers of their fellowmen participate in the commemoration of the saint they honor and revere, partake of the happiness, and join in the joyous and traditional ceremonial of the seventeenth of March of each year—that day of days when from all the world over millions upon millions of thoughts center on the green isle of Erin and its national patron.

And so we are gathered here this evening, some of Irish birth—all of Irish blood and heritage, on the eastern shores of this favored and predestined land of America—a land which for so long was indeed a land of promise for the sons of St. Patrick in their days of sorrow and tribulation—to recall once again to our minds the significance in time and in eternity of the glorious apostle of Ireland, of whom it has been said that he brought to the noble Gaelic people a soul and to their chieftains a conscience, and to pledge anew our abiding fidelity and loyalty to that faith and to those traditions which the Saint so firmly implanted in our forebears 15 centuries ago. The strong emotions that each one of us feels tonight are blended inextricably with the joys and sorrows of our ancestors over the years.

All the world has felt and benefited from the love and the loyalty of Ireland for the things of the mind and the spirit. Here in America we can say with all modesty that the Irish role in the development of the American spirit has been an exceptional and exalted one. Out of the sweat of their brow successive Irish generations have studded our country with works that breathe their love of God and of their fellowmen; with churches and schools; with hospitals and homes and houses of fraternal service; they have come in due time to participate in the leadership of our country, in its national life, its administration, in the professions. They have fought and bled and died to make secure their ideals of American society and its precious values.

America today is engaged not only in a struggle to overcome the economic drive of communist imperialism and its aggressive purposes in the political field. We are also involved in an even deeper battle: the struggles for the minds and hearts of millions of men and women in new nations that are just emerging from the colonial stage. At home, too, the warfare of ideas goes on and the pressures of materialism mount around us.

In that conflict the faith and devotion of America's citizens of Irish origin provide an abiding source of interior strength. Grounded upon fixed principles of morality, humbled by a true sense of the limitations of man's nature, enlightened by the truths of religion, the Irish mind seeks to put all things in their true and proper order under God. Out of that proper order, that habit of putting first things first, comes real spiritual strength, the kind of strength that is so vital to our endurance in the modern war of nerves, the daily battle for the souls and the hearts of men.

Side by side with our own United States, Ireland annually makes her unique and glorious contribution to the struggle to win the fight against Communism's insidious program to enslave the mind of all humanity. I refer, of course, to the vast missionary endeavor that is one of little Ireland's biggest contributions to mankind.

Last year almost one thousand Irish missionaries, priests, nuns and brothers went to the mission fields of Africa and Asia. They are teachers, doctors and nurses to staff schools, hospitals, training centers of many kinds in these primitive areas, in which at present 15,000 other Irish missionaries are working. Try to imagine the total value of the work involved in all this. It goes on every minute of the day, year in, year out, and—the record indicates it is always expanding. It cannot be measured in terms of money because only dedicated men and women can possibly perform it. We could estimate, however, that the cost of maintaining the same number of lay men and women in the same areas would run, I am sure, to not less than 10 million dollars a year. Yet these Irish missions are maintained by a country of 3 million people with a per capita income one fifth that of the United States. I mention this single example of Irish international activity because so few of us think about it, and because it is so characteristic of the greatheartedness of the Irish people. The peoples of Nigeria, of Ghana, of Korea and China, of India and Ceylon know of the Benign Irish presence in their midst with affection and gratitude.

In our own hearts and minds we must keep ever alive that deep Irish sense of the primacy of things spiritual, which is our most precious distinction, and while we do so, we may look to Ireland with hope for her role in the future of mankind. Once Ireland led a great cultural and spiritual revival as the early middle ages emerged from the darkness of the barbarian invasions. Still in the world of today she is a burning and a shining light. Her cause is not only vital to the realization of international justice and the principles of the United Nations, but out of a united and strong Ireland of the future, another great spiritual dawn may be looked for in the world.

It seems to me that in our preoccupation with our own problems here we may have permitted our relations with Ireland, that great motherland of the Christian millions, to have become remote and nebulous. If that is the case, it is a calamity that it should continue for we can only impoverish ourselves thereby. Think for a bit how meager has been the contribution to Ireland from the world at large and how immense her own contribution.

How strange it is, that this land that sent her sons as soldiers to the defense of every stricken nation should receive so little outside help in her struggle for independence and statehood. France, Spain, Austria, Canada, and the United States felt the rallying force of the Irish volunteer in every fight for freedom; and more, Washington felt not only the power of Irish manhood in the Continental Army, but the might of important financial contributions when they were needed most.

And this same intrepid, dauntless devotion to the ideal of nationhood lived through the centuries, until on July 11, 1921, Ireland became a nation. Alone, unaided, an unarmed people, against the might of an empire, won for itself recognition and independence. Army without banners, is the description given to the gallant little band that won that age-old fight. Army without banners indeed—army without adequate arms equipment—army poor in everything material with which wars are won. But army rich in courage, rich in the justness of its cause, rich in the spirit of its patriots, transmitted to them by their heroic fathers; rich in the consciousness of nationhood; rich with the determination to live like heroes, and die like men; rich in the armor of justice and christianity; rich in the teachings and prayers of Saint Patrick; and rich in the graces of Almighty God.

I would like to close this short tribute to St. Patrick, to Ireland, and to the great Irish people by recalling from the works of the famed Robert L. Taylor, a few words which in my opinion have achieved the status of immortality.

"If I were a sculptor, I would chisel from the marble my ideal of a hero. I would make it the figure of an Irishman, sacrificing his hopes and his life on the altar of his country."

"If I were a painter, I would make the canvas eloquent with the deeds of the bravest people who ever lived; whose proud spirit no power can ever conquer, and whose loyalty and devotion to the hopes of free government, no tyrant can ever crush. And I would write under the picture—Ireland."

"If I were a poet, I would melt the world to tears with the pathos of my song. I would touch the heart of all humanity with the mournful history of Ireland's wrongs and Erin's woes. I would weave the shamrock and the rose into garlands of glory for the Emerald Isle, the land of martyrs and memories; the cradle of heroes; the nursery of liberty."

Surely these sentiments, must find an echo and touch a responsive chord in the heart of every liberty-loving American of today. This evening, in this month of Patrick, let us in whose veins flows the blood of the Gael, dedicate ourselves anew to bringing to complete fruition in our day that solemn but long deferred hope of generation upon generation of Irishmen—"that all of Ireland must be free, from the center to the sea."

DRAFT LOTTERY A DECEPTION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. JACOBS. Mr. Speaker, news commentator Paul Harvey has the uncommon talent for expressing commonsense ideas clearly. For example:

DRAFT LOTTERY A DECEPTION

(By Paul Harvey)

How easily we can rattle some capsules in a big glass bowl and draw lots to see who goes to war and who does not.

With righteous wrath we outlaw gambling with dollars yet proclaim this gambling with human lives as "the only fair way."

There's a much fairer way: Draft us old guys and leave these enlightened young ones free to try to work us out of the multiple messes their parents got them into.

Already the draft lottery is failing to live up to the promises for it.

When the big drawing took place, young Americans draft-eligible the first year were told the odds were one-in-three they'd be called. Now the draft calls have been reduced but the odds have gone up to one-in-two.

Last month, young men with birthdays in the first hundred dates drawn were told they'd likely be called sometime during the year.

Now some draft boards expect to take men with numbers in the two-hundreds this first month.

The reason, we're told, is that the nation's 4,000 draft boards do not have uniform supplies of eligible men.

Again, Selective Service Washington headquarters promises somehow to "make it fair and equitable."

The best way to do that is to stop fighting today's wars with yesterday's weapons.

Masses of marching men are as outdated as the slingshot in an era of advanced technology.

President Nixon says he's willing to take "risks for peace"; then let's end the draft altogether.

There is no way our six-percent fraction of the world's mothers can produce enough boy babies to police the earth with bayonets; even if we should there is no way we could.

What's needed to guarantee our own nation's security is the most sophisticated military technology in the hands of a streamlined volunteer force of highly trained technicians.

You shove that kind of fist in the face of the world, you'll keep any enemy at arms' length.

"Young men for war; old men for counsel" has made no sense since the dawn of the nuclear age.

If 59 is not too old to pilot an airliner it's not too old to pilot a bomber.

And if we're going to fight modern wars with antique weapons, we old guys have had some experience with those.

Besides, many of us dogfaces left over from the Big War spent such a little while in safe rear-echelon jobs that we have yet to wade

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through mud and blood as our young are being asked to do.

Besides, it's us older men got us into this mess; let the old men get us out. We backed into the fire, it's our rear that ought to get blistered not our sons.

Besides, most of us have enjoyed our nation's most shining hours. We have grown fat on the bountiful fruits of our beloved Republic. It is we who owe a debt.

Our school-age generation has not yet harvested the first fruits, has not had time to live a life, to love a wife, to father children.

Let's give these keen young intellects opportunity to mature and perhaps they, wiser than we, may one day lead us out of the jungle.

WE CAN END THE DRAFT IMMEDIATELY

The unsettling effect of the military draft has been ameliorated only somewhat by the lottery.

It's still a heck of a way to run an army, to have to push unwilling men into the front lines with the threat of a prison sentence.

We've put up with this service under duress for so long now that most Americans have forgotten what a drastic departure this is from our nation's historic antipathy toward involuntary servitude.

If, in wartime, survival requires forcing everybody into uniform, then the only fair and equitable system would be to include everybody, all ages, both sexes.

But on or about the first day of February there will be placed on President Nixon's desk a document which says the military draft is not necessary, that a volunteer army is practicable and recommends that—without necessarily waiting for the end of hostilities in Vietnam—we should get on with it.

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President Nixon may well be President because of his campaign promise to abolish the draft. One of his first acts as President was to name a commission to study how and when this might be accomplished.

The fifteen member commission is headed by former Defense Secretary, Thomas Gates, Jr. Its Executive Director is Dean William H. Meckling of the University of Rochester. He tells me the commission consulted with scores of military and civilian manpower experts and the recommendation which those fifteen men will deliver to the President (next week) is to this extent unanimous: an all-volunteer Army should be tried and this is the year to consider it.

The increased cost of an all-volunteer army is projected by the commission as "about three billion dollars."

That much and more might be saved immediately by eliminating the cumbersome, costly overhead of maintaining four thousand Selective Service headquarters and the inestimable cost of chasing down and rounding up and prosecuting draft evaders.

Our Army, trying to upgrade training to match today's more sophisticated weaponry, has been frustrated by the frequently low standards of selectees and the passive resistance of many to this uninspiring involvement in Vietnam.

Despite vast improvements in basic training, we are still sending to Vietnam soldiers who are unprepared for combat.

One First Sgt. Vietnam vet, now based at Fort Knox, says he's seen G.I.'s assigned to combat "when they didn't even know how to take apart, clean and re-assemble their weapons."

Only 60% of the men who graduate from basic training go on to advanced combat training. The rest—cooks, clerks and truck drivers—are just as likely to end up in Vietnam, but with only sketchy combat skills.

If our nation's security depends on masses of marching men, we might as well start buying Russian War bonds—because our six-percent of the planet's population can't possibly match the Asiatics, man-for-man.

We can bleed to death trying.

If we succeed in keeping potential enemies at arm's length, it will be with technological weaponry. That kind of Army must be staffed with professionals, not amateurs.

FRIENDS WARM UP AS WE BACK OFF

Pullout of United States troops from Vietnam has shifted into second gear. Now the withdrawal is sufficient to allow for cutbacks in total United States troop strength.

The number of United States troops in Vietnam is being reduced thousands each week; is already below the lows of three years ago.

Now the President intends during the next 18 months to reduce the total number of Americans in uniform.

We now have three-and-a-third million men mobilized; the goal is 2.7 million men by the middle of 1971.

That would return us to a standing military force comparable to what ours was before the Vietnam buildup.

The timetable for shrinkage of the military which I am about to relate could accelerate, but as of now the plan is to eliminate 300,000 men from our armed forces by July 1 this year, plus 72,000 civilians.

Almost inevitably this cutback will be matched by a corresponding reduction in the military draft.

That the Administration will be accused of timing a drastic draft reduction to an election year is inevitable—in an election year. However, this "civilianization" of our nation is entirely consistent with the President's position dating back to his campaign promises to end the war and end the draft.

Secretary of State, William Rogers, says the Administration program for ending the United States involvement in the Vietnam war is "irreversible" and has already "changed the tenor of American foreign policy."

And this "changed tenor of American foreign policy" is having an interesting effect on our sometimes friends in Asia.

Vice President Agnew, during his recent swing through eleven Asian nations, restated the Administration's policy of "friendship" for all nations, but with the understanding that they will fight their own wars with their own men.

And where there were some red-led demonstrations against the Agnew visit, there was none of the spitting and stoning and traffic-blocking mobs which embarrassed earlier American visitors to those areas.

Heretofore, our allies have been willing to let Uncle Sam do their work, pay their bills, fight their wars. In return for our selflessness, we got more criticism than praise, more resentment than respect.

When the moment of truth arrived in Vietnam and we sought help from the 42 "allies" we had been helping, only five responded and those with only token forces. And except for Australia and New Zealand, we had to pay for the support of their troops.

Each time since 1965 that our White House has asked for more flags in Vietnam, for more support from the "allies" we have been supporting, the reply was a deafening silence. None of our 14 NATO partners responded. Among our SEATO allies, even Great Britain, France and Pakistan pretended not to hear.

Now the United States is changing "the tenor" of American foreign policy, as Mr. Rogers says, and sure enough, as we cool off our friends begin to warm up again.

Was the draft lottery rigged?

Not intentionally, certainly.

But three University of Pittsburgh students have analyzed the results of the draft lottery—with the aid of a computer—and they have found a pattern to the chosen numbers—which suggests the deck, however inadvertently, was stacked.

It would appear somebody forgot to stir the numbers.

For example, there were 17 December birthdates in the first third of the lottery.

The lottery has perhaps served the single purpose of limiting a young man's period of exposure to the draft to one year. And this, in turn, may quiet some campus unrest.

But one would hope that the whole conception of enforced military service might soon be set aside in favor of the all volunteer force which the President has promised.

One thing I notice most among today's young—and I am on campuses somewhere two or three days every week—

One common denominator which disgusts and disillusions today's young people is hypocrisy.

That involves Dad staggering home drunk and telling Junior not to smoke pot. It involves fighting communists on the other side of the world and tolerating them in Cuba.

And yes, it involves laws against gambling while the Government sponsors a lottery.

API PRESIDENT IKARD ANSWERS TIMES ARTICLE

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. EDMONDSON. Mr. Speaker, the New York Times magazine of March 8 carried an article by Erwin Knoll, Washington editor for the Progressive, which was heavily critical of America's oil industry and some of its leaders.

The article was particularly disturbing in that the facts were misrepresented in a number of instances by neglecting to report readily available information from the other side.

Frank Ikard, president of the American Petroleum Institute, has taken issue with some of the more blatant of these misrepresentations in a letter to the editor of the Times magazine.

To my knowledge, this letter has not yet appeared in the Times. I would like to have it appear in the Record so that our colleagues will have the opportunity to see both sides before passing judgment.

The letter follows:

American Petroleum Institute,
New York, N,Y., March 9, 1970.

Mr. Lewis Bergman,
Editor, New York Times Sunday Magazine,
New York, N.Y.

Dear Sir: Your March 8 issue carried an article attacking the so-called "oil lobby", written by Erwin Knoll, Washington editor of The Progressive. Effusions such as this, which are actually propaganda thinly disguised as reporting, tend to foster public skepticism as to the objectivity of the press.

It would take a reply fully as long as the original to do justice to the superficialities, misrepresentations, and artful omissions in the article. I would like to cite a few examples, however, which clearly indicate how far Mr. Knoll's piece departs from balanced and responsible reporting:

1. A great deal is made in the article of the alleged $5 billion "cost" of the oil import program to the public, but nowhere is it indicated that this is a matter very much in dispute. The U.S. Interior Department, for example, estimates that the real cost of the program—after taking all factors into account—is only about one-fifth of the figure cited in Mr. Knoll's article, and points out that such a cost represents very inexpensive insurance for the national military and eco-

nomic security provided by the program. A study by the Stanford Research Institute found that there is no net cost of the program to consumers, because of offsetting factors. Unless your readers had followed the debate on this question very closely, they would certainly be misled by the article into thinking that the figure cited was universally accepted.

2. Along the same lines, the article quotes at length from hostile testimony at last year's hearings on the import program. No mention whatever is made of the telling points made by many prominent witnesses at the same hearings in support of the program. As far as the reader could tell, there was no "other side" to the case. Moreover, the author of the article seems to be disturbed at prospects that committees in both the House and Senate plan further hearings on oil imports this year. Are we to infer from this that Mr. Knoll not only avoids presenting both sides of the issue himself, but objects to having both sides presented before Congress?

3. The article suggests that there is something unusual about a group of state governors undertaking to inform the White House that a proposed change in the import program would bring about severe economic loss, curtailed revenues and widespread unemployment in their states. Yet no mention is made whatever of White House visits on the part of other governors and state officials who were seeking to abolish or drastically modify the program.

4. Ironically, some of the Senators and Congressmen who are most vocal in condemning controls over oil imports, are outspoken advocates of import restrictions on other commodities that are manufactured in their states. Thus, some, for example, argue forcefully for controls over dairy imports, while others favor tight import restrictions on shoes and textiles. Apparently, however, Mr. Knoll sees nothing inconsistent in this.

5. The article carves a quotation out of context to give a misleading and distorted impression of a telegram sent by the Chairman of the House Ways and Means Committee to the staff of the Cabinet Task Force on Oil Import Control. The key part of the telegram, as reported in the press, was: "If, at the same time Congress is reducing depletion allowances, it develops that imports of oil are increased, the combination of the two could be injurious to the development of further reserves in the U.S." Moreover, Mr. Knoll suggests that this telegram was an example of "pressure" on the task force; in fact, it was sent by Rep. Mills in response to an inquiry from the task force staff as to his views.

6. Mr. Knoll quotes liberally the arguments and statistics cited by opponents of import controls. One would think that a reporter seeking to present a balanced view of his subject would feel obligated to take note of what was said by some of the prominent supporters of the program. Submissions to the Task Force by the governmental departments and agencies most concerned—Interior, Commerce, Defense and the Federal Power Commission—contained impressive statistical support for the program. So did a letter sent to the President by 81 members of the House of Repesentatives, including the majority leader and the chairman of eight committees, who opposed weakening the program on the grounds that such action would jeopardize national security. None of these submissions is even mentioned in the article. One might be pardoned for speculating as to whether they would have been similarly ignored had they opposed the program and contained extravagant estimates of its cost.

7. In treating the subject of taxes, Mr. Knoll conveniently confines his statistics exclusively to the area of federal income taxes, where oil companies admittedly pay at a lower rate than most other industries. But he might, in fairness, have recognized that when total direct taxes paid to all levels of government are taken into account, oil companies pay heavier than average taxes, even with gasoline excise levies excluded from the comparison.

8. An interesting example of the selective use of figures occurs in the section of the article dealing with oil company profits. The author quotes figures from the First National City Bank of New York to try to build a case that oil profits are excessive, as compared to those of other industries. Ironically, the very same bank tabulation cited by Mr. Knoll, shows that the petroleum industry's rate of return on net worth—the true measure of profits—was 12.9 percent in 1968, as compared with an all-manufacturing average of 13.1 percent. In fact, for the last ten years, fifteen years, or as far back as these statistics have been maintained by the bank, the petroleum industry's return on its investment has run slightly below the average for all manufacturing. (Incidentally, a reproduction of an oil industry advertisement accompanying the article was conveniently cropped one line above where this comparison of profits would have been shown.) These data scarcely support the article's depiction of oil as a "fat cat" industry, and this may account for the failure to provide them to your readers.

9. The article quotes a Congressional source to the effect that the American Petroleum Institute "has been a pace and precedent setter . . . vigorously seeking to adapt its positions and attitudes to the wave of the future." We like to think this is true and that it is reflected in such actions as the allocation of more than $3,000,000 annually in Institute funds to air and water pollution research. API's research program includes dozens of scientific projects conducted at universities and research laboratories, many of them with participation by government agencies. This being the case, we deeply resent the innuendo that there is something spurious about our research program, especially since the author made no effort whatever to get the facts, which are readily available.

It is ironic that writers such as Mr. Knoll, who profess to be liberal and progressive, are so intolerant of the ideas and views of those who disagree with them that they are unwilling to present those views fairly and objectively. We believe the readers of The New York Times Magazine are entitled to a more responsible and better balanced brand of journalism than is reflected in this article.

Sincerely,

FRANK N. IKARD.

SUPPRESSION OF THE PRESS IN GREECE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FRASER. Mr. Speaker, despite the denials of the Greek regime there is increasing evidence of subtle pressures by the military junta to keep the press in line. I insert at this point a story from the New York Times, Tuesday, March 17, 1970, by Alvin Shuster, titled "An Outspoken Athens Paper Struggles for Survival":

AN OUTSPOKEN ATHENS PAPER STRUGGLES FOR SURVIVAL

(By Alvin Shuster)

ATHENS, March 16.—A student walked into the offices of the afternoon newspaper Ethnos a few nights ago and said he wanted to give it the equivalent of $100. He said the money came from himself and his friends who knew the paper was in financial trouble.

With the help of contributions and the sale of subscriptions, a rarity in Greek journalism, Ethnos has just warded off its latest crisis. The problems of the newspaper, the most outspoken of the 10 Athens dailies, reflect the struggle now being waged between the army-backed regime, which is trying to keep the press in line through economic pressures.

NEW TAXES IMPOSED

The newspapers lost another round over the weekend with the denial of their appeal against one of the most severe measures—a customs duty ranging up to 100 per cent on imported newsprint. The publishers said they would try to appeal the decision by the customs authorities to the Council of State, the nation's highest administrative tribunal.

"We are now passing a crisis and our ability to publish is at stake," said one editor today.

Apart from the newspaper duty, which had been waived for the past 30 years, the regime has imposed new taxation scales that hit the large circulation "independent" papers more than the small pro-Government dailies. The pressure also includes a demand by the journalistes' union for more pay—an idea supported by the regime—and the withholding of Government and state-controlled advertising from papers that have shown varying degrees of unfriendliness.

While most of the newspapers have fallen into line, Ethnos has continued to taunt the regime with a policy that is the talk of Athens. Some say it is trying to commit suicide by undisguised hostility because it has nothing to lose in the face of back debts.

"I say we are trying to survive," said an Ethnos editor. "The people like what we're doing even if the regime doesn't. And circulation is rising."

To the delight of Ethnos's publishers and the chagrin of the Government, the paper has shown a remarkable rise in popularity since it adopted a policy of challenge that stops just short of clear violation of the strict three-month-old press law.

DEFIANCE IS SIGNALLED

While those demonstrating little defiance have lost sales—after recent price increases—the circulation of Ethnos jumped from 17,000 last November, soon after the disappearance of censors, to about 45,000 now in the Athens area.

One of its boldest features was the recent opinion poll for readers on the question: "What would you do if you were a dictator?" Published replies, slow to come at first, included, "I would put myself and my collaborators up against a wall and be shot," and, "I would abolish all dictators."

Just carrying the paper has become at least a gesture of defiance. But no one seemed surprised when some of its new subscribers asked that the paper not be delivered. They just wanted to contribute to the cause, but they did not want anyone to see the paper delivered to their houses. They said they would still buy it at the kiosks.

So far the regime has avoided bringing any actions against Ethnos under the criminal provisions of the act, which prohibits news designed to stir up "old political passions."

The Government has said that all its measures are designed to "cleanse and discipline" the newspapers, many of which were more than free-swinging before the army coup here nearly three years ago. It says that the papers should be taxed like other businesses and that its sliding scale of newsprint duties contribute to press freedom by protecting the small-circulation dailies.

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WELFARE OF ELDERLY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. SCHEUER. Mr. Speaker, there are more than 11 million people in America today, people above the age of 55, who are poor. They have little political power because they do not strike or demonstrate.

They do not march down the main street or put pickets in front of the city hall. One does not do that when one is old, gray, and not quite sure where's one's next meal will come from.

Few, if any, belong to unions or political parties or fraternal organizations.

They are the silenced minority in whose predicament our July 4 orators have shown little interest. They cannot find work to supplement their meager pensions and savings because society has made them economically obsolete.

In J. K. Galbraith's words, they are the first minority poor in history, the first poor not to be seen, the first poor whose plight the politicans apparently seem able to ignore.

But surely America owes them a living, a decent and dignified living, because they are decent, dignified people. They do not want our charity. They want work which will help them retain their basic pride, their essential human dignity, and their ability to live comfortably.

The bill I am introducing is the result of months of effort and research undertaken in collaboration with my distinguished colleagues in both Houses of the Congress and national organizations dedicated to the welfare of the elderly.

Notably associated with this legislation are Senators Edward Kennedy and Harrison A. Williams, as well as chairman of the House Committee on Education and Labor, Carl Perkins, and Congressman James O'Hara.

Senators Kennedy and Williams are introducing a smilar bill in the Senate.

Distinguished colleagues who are cosponsoring this bill are: Chairman Perkins, Congressmen O'Hara, Clay, Dent, Esch, William Ford, Hansen of Idaho, Hawkins, Hathaway, Meeds, Powell, Pucinski, and Thompson of New Jersey. All are fellow Members of the House Education and Labor Committee which will assume jurisdiction over this measure.

This bill would authorize the Secretary of Labor to provide part-time work opportunities for persons over 55 who are on low, inadequate pensions and unemployed not because they do not want to work or are incapable of work, but because there simply is no work for them.

The bill would provide funds—$35 million in fiscal 1971, $60 million in fiscal 1972, and $100 million in fiscal 1973—to enable the Secretary to enter into contracts with public and nonprofit agencies to provide the elderly with appropriate employment in community service occupations.

It is ironic that the great economic growth of the past decade has bypassed the aged. They continue to exist without hope on the penumbra of affluent America.

While the total number of the poor, including the aged, dropped approximately 35 percent—from 38.7 million in 1959 to 25.3 million in 1968—the alienation and the poverty of those above 65 increased.

In 1959, 15.4 percent of the total population of the poor consisted of those above the age of 65. A decade later, this figure had increased to 18 percent. Today, according to the Bureau of the Census, one out of every four persons above 65 is poor. Among the nonwhite elderly, 46.6 percent live in poverty; among the blacks, 47.7 percent.

The Senate's Special Committee on Aging reported last year that low income continued to be the "No. 1" problem facing persons over 65. It held that the gap was widening. The median income of families with an aged head was 51 percent of that for younger families in 1961, but only 46 percent in 1967. In the same year, about five in 10 families with an aged head has less than an annual income of $4,000; about one in five was below $2,000.

By 1985, the population of those above 65 is expected to rise by 50 percent and the population of those above 85 is likely to double.

As advanced age reduces their already limited earning opportunities, actual earnings will drop further. Medical needs and costs rise with declining health. Inflation erodes away their meager savings and cripples their purchasing power.

It is obvious that unless new and positive measures are adopted the Nation's elderly will face economic disaster. Social security has failed shamefully to keep up with their needs. The country is confronted with a retirement crisis. There is need for action—now.

I believe, Mr. Speaker, that though this bill will not solve the problem of the low-income or unemployed groups among our senior citizens, it is a positive step in that direction.

SOCIAL DEVELOPMENT FUND FOR ASIAN DEVELOPMENT BANK

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. HANNA. Mr. Speaker, we are fast arriving at a date when this body will be asked to consider augmentations to the social development fund for the Asian Development Bank. It is my hope and expectation that such a proposal recently given the President's support and recommendation will have our proper consideration.

It occurs to us that some persons might still hold a commitment to the practices of the past to funnel U.S. funds through our own agencies and controlled by our staff and requirements. I hope that only a few, if any, cling to such programing. All of my own personal experience and the substantial performances we can now measure from our multilateral financial institutions. The evidence predominately indicates that there is far better use made of dollars controlled through a banking institution. Also it is clear that many of the irritants that are present in unilateral arrangements are removed in working through these international banks. U.S. money is joined with funds from many other countries. Projects are more closely supervised and more local self-help is assured. Finally and very importantly, the money advanced is in most instances paid back.

Recent reports made by outstanding commissions and study groups are unanimous in recommending new approaches to foreign aid which emphasize the advantages of an approach such as the Asian Development Bank.

Mr. Speaker, I include immediately following these brief remarks, an excellent editorial which appeared recently in the Wall Street Journal. This editorial underscores the comments I have made and I commend its good sense to all Members of the House.

The editorial follows:

NEW APPROACHES TO FOREIGN AID

Since Congress and much of the general public have become so disenchanted with present foreign aid programs, it clearly is time for new approaches. A couple of thoughtful new studies offer a number of suggestions, many of them potentially quite useful.

One study, prepared by a Presidential task force, stresses increased use of multilateral organizations, such as the World Bank. A more international approach could be an improvement if it assured wider participation by industrial countries and encouraged the poorer nations to take the steps needed to promote their own development. But no one should delude himself that internationalization is any guarantee of success.

Much of the same skeptical comment can be made about the task force proposal for two new U.S. aid institutions, an international development institute and an international development bank. Too often in the past the Government has tried to solve aid problems by creating new agencies or by grafting new names onto old ones.

The task force, headed by Rudolph A. Peterson, executive committee chairman of California's Bank of America, evidently recognizes the overriding importance of policy and philosophy. It is an awareness shared by Edward M. Korry, U.S. Ambassador to Chile, who has just submitted a report on foreign aid to Secretary of State William Rogers.

Both the Peterson group and Mr. Korry, for instance, see that U.S. foreign aid in recent years has suffered sorely from a confusion of aims. Aid projects have often been launched primarily for political purposes, to win freinds and influence governments, whether or not there was any real hope for development gains. The payoff on that approach is disappointment and often active ill will abroad.

"If we are trying to obtain current political objectives," Mr. Korry says, "we will usually do better by applying resources specifically for that purpose, rather than by devoting it to development goals." Spending for political or military aims should be clearly labeled as such and carefully segregated from true foreign economic development assistance.

Both reports emphasize that the recipient nations must shoulder a heavy share of the responsibility for their own development. As the task force says, they should receive as-

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sistance "in relation to the efforts they are making in their own behalf."

Every country wants economic development, but some have settled on strange ways of seeking it: Concentration on "prestige" projects like national airlines; rigid governmental planning, out of tune with economic realities; neglect of agriculture, which must be central to any nation's growth; irresponsible financial policies, which dissipate scarce resources. The unhappy list could easily be extended.

However impatient the poorer nation is, and most are very impatient, it can progress more swiftly if it relies on some form of market economy to allocate resources, domestic as well as foreign. The records of both the industrial countries and the more successful of the developing nations should provide proof of that.

Wise resource allocation will be of limited help, though, if the world's markets are barred to the products of poorer nations, as they now often are. The U.S. has urged preferential tariff treatment for such products for a limited number of years; whether preferences are needed or not, surely the obstacles should be removed.

The developing countries also should remove some obstacles, those that they often pose to private investment from abroad. In spite of the problems—expropriation for one—U.S. private investment in less developed nations has been growing rapidly; in 1968 it was $2 billion, more than double the figure for five years earlier.

Congress recently authorized the Overseas Private Investment Corporation, designed to mobilize and facilitate the participation of U.S. private capital and business skills in international development. Properly administered, it could be highly productive.

No matter how intelligently the industrial countries and the poorer nations go at the task, however, Ambassador Korry warns that the danger of inflated expectations remains. "The resources needed to do the job in a generation, even on the unrealistic assumption that they could be applied efficiently," he says, "are well beyond those that conceivably can be made available."

The U.S. nonetheless has a substantial interest in diminishing the problems, even if no one can fully overcome them any time soon. Since that's true, it's helpful to have two such well-reasoned analyses of the task.

ECUMENICAL SUPPORT FOR PEACE IN THE MIDDLE EAST

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. EILBERG. Mr. Speaker, we hear much about the new ecumenical spirit and in my city, Philadelphia, where hundreds of thousands of Protestants, Roman Catholics, and Jews live side by side in harmony, the ecumenical spirit is a reality.

Recently, John Cardinal Krol, Archbishop of Philadelphia, Dr. Rufus Cornelsen, executive director of the Metropolitan Christian Council of Philadelphia, and Rabbi Elias Charry, president of the Board of Rabbis of Greater Philadelphia, issued a joint appeal for peace in the Middle East.

Significantly, these three major leaders of the spiritual communities believe peace only will be achieved and served if the warring parties sit down and in direct negotiations seek an unimposed peace.

With the unanimous consent of my colleagues, I insert in the Record a press release describing the joint action of the three spiritual leaders, followed by their open letter appealing for peace.

The open letter appealing for peace was accompanied by a separate covering letter. With the consent of my colleagues, I enter in the Record first the covering letter that was sent to President Nixon, Secretary of State William Rogers, and United National Secretary General U Thant; and second, the covering letter that was forwarded to UAR President Gamal Abdel Nasser, Israel Prime Minister Golda Meir, and other leaders in the Middle East:

John Cardinal Krol, Archbishop of Philadelphia, Dr. Rufus Cornelsen, Executive Director of the Metropolitan Christian Council of Philadelphia and Rabbi Elias Charry, President of the Board of Rabbis of Greater Philadelphia, today issued a joint appeal to all nations at war in the Middle East to "desist forthwith from military conflict and to begin direct negotiations with one another to seek an unimposed peace so that the peoples of the Middle East can develop their full creative potential."

The appeal, in the form of an open letter, is being sent to Egypt's President Gamal Abdel Nasser, Jordan's King Hussein, Israel's Prime Minister Golda Meir, and to the heads of all other nations at war in the Middle East. Copies also are being sent to President Richard M. Nixon, U.S. Secretary of State William P. Rogers, and U. Thant, Secretary-General of the United Nations.

This is the first time that the heads of the three major religious denominations in Philadelphia have issued a joint statement of concern on a moral issue affecting a great segment of mankind. In large part, this historic event is due to the ecumenical spirit to which his late Holiness, Pope John, gave such impetus when he placed the well-being of the common house of humanity above the differences of its members.

The appeal also states that "every nation has the right to exist without fear that it will be destroyed by its neighbors," and that direct negotiation is "civilization's only proven way of bringing about a peace which is just and will endure."

The declaration ends with an assertion that "common to our faiths—Islam, Christianity and Judaism—is the imperative that we live as brothers."

The three leaders of religious communities of Philedelphia view this act of common cerncern as another instance of their continuing effort to underscore the serious social problems existing in our own community as well as elsewhere, which disturb the conscience of those committed to a religious interpretation of life.

AN APPEAL FOR PEACE—AN OPEN LETTER

As religious leaders of the Philadelphia community—Catholic, Jewish and Protestant—we make the impassioned plea: Peace Must Come to the Middle East.

Every nation has the right to exist without fear that it will be destroyed by its neighbors.

We appeal to you to desist forthwith from military conflict and to begin direct negotiations with one another to seek an unimposed peace so that the peoples of the Middle East can develop their full creative potential.

This is civilization's only proven way of bringing about a peace which is just and will endure.

We speak in the name of God and out of compassion for humanity. We are brothers. Common to our faiths—Islam, Christianity and Judaism—is the imperative that we live as brothers.

Signed by:

John Cardinal Krol,
Archbishop of Philadelphia.

Rabbi Elias Charry,
President, the Board of Rabbis of Greater Philadelphia.

Dr. Rufus Cornelsen,
Executive Director, Metropolitan Christian Council of Philadelphia.

This open letter is being sent to: Egypt President Gamal Abdel Nasser, King Hussein of Jordan, Israel Prime Minister Golda Meir, and the heads of all other nations at war in the Middle East: President Ahmed Hassan al-Bakr, Iraq; Chief of State Nureddin al-Atassi, Syria; President Agha Mohammad Yakya Khan, Pakistan; President Abdul Rahman Al-Iryani, Yemen, King Feisal Abdel Aziz al-Saud, Saudi Arabia; King Hassan II, Morocco; Emir Sabah al-Salim al-Sabah, Kuwait; President Charles Helou, Lebanon; Premier Mahmoud el-Maghraby, Libya; President Houari Boumedienne, Algeria; President Jaafar al-Nimeiry, Sudan; President Habib Bourguiba, Tunisia.

Archdiocese of Philadelphia,
Philadelphia, Pa., February 20, 1970.

Hon. Richard M. Nixon,
President of the United States,
Washington, D.C.

Dear Mr. President: Our concern for peace in the Middle East has prompted us as religious leaders to send the enclosed Open Letter to the heads of nations at war in that area.

It is hoped that this combined expression of our religious convictions will contribute to stimulating continuing efforts for peace in the Middle East.

With the assurance of our esteem, we remain,

Sincerely,

John Cardinal Krol,
Archbishop of Philadelphia.

Rabbi Elias Charry,
President, Philadelphia Board of Rabbis.

Dr. Rufus Cornelsen,
Executive Director, Metropolitan Christian Council of Philadelphia.

Archdiocese of Philadelphia,
Philadelphia, Pa., February 20, 1970.

His Excellency President Gamal Abdel Nasser,
United Arab Republic.

Your Excellency: We have the honor to enclose an Open Letter to the heads of the nations at war in the Middle East appealing for peace.

This plea is accompanied by the fervent expectation that we shall receive a response to these concerns which express the yearnings of millions for peace.

With assurances of our esteem and our prayerful solicitude for the grave responsibilities you bear before God and man, we are

Sincerely,

John Cardinal Krol,
Archbishop of Philadelphia.

Rabbi Elias Charry,
President, Philadelphia Board of Rabbis.

Dr. Rufus Cornelsen,
Executive Director, Metropolitan Christian Council of Philadelphia.

CONDEMNS TERRORIST ATTACKS

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. TIERNAN. Mr. Speaker, as I read each morning's newspapers, I proceed with increasing trepidation that one morning I will read of multiple deaths from a disastrous attempt at hijacking an airline.

Hijacking has become commonplace as a part of our news. I fear that it will take a major disaster to shake many from their apathetic view of these extremist activities on our airlines.

The increased terror tactics and bombings must be stopped. Passengers and pilots must be safeguarded. It is for this reason that I have cosponsored a concurrent resolution with 14 of my colleagues in the House designed to initiate action to meet this horrendous situation.

I welcome the support for our efforts by President C. L. Dennis of the Brotherhood of Railway, Airline, and Steamship Clerks, Freight Handlers and Employees.

Mr. Speaker, I include his remarks on this issue for I feel they are pertinent to our resolution and put the issue in a proper prospective:

BRAC PRESIDENT C. L. DENNIS CONDEMNS TERRORIST ATTACKS AGAINST PLANES; CALLS FOR GOVERNMENT, INDUSTRY SUPPORT FOR WORLD CONFERENCE

CHICAGO.—President C. L. Dennis of the Brotherhood of Railway, Airline and Steamship Clerks, AFL–CIO, today issued a statement condemning terrorist attacks on aircraft and supporting the International Transport Workers' Federation in its request for a world conference on ways to end the terrorism.

"The present campaign of terror directed against commercial aircraft throughout the world, and particularly in Europe and the Middle East, deserves our strongest condemnation for the wanton disregard of human lives so senselessly sacrificed," Dennis said.

"It is obvious that the international community must take immediate and stern action when murder in the sky threatens human lives and the airline industry as a whole. It is, therefore imperative and urgent that concerted action be undertaken by organized labor, the airline industry and governmental agencies to devise an effective means of putting an end to this terrorism."

Dennis announced that the Brotherhood, an affiliate of the ITF, has cabled United Nations General Secretary U Thant, supporting the ITF's request for an emergency conference to develop ways of preventing further terrorism.

Dennis continued: "Moreover, this Brotherhood calls upon responsible officials of the U.S. government and leaders of the airline industry to support our efforts for a world conference to tackle this growing menace to the safe and free operation of commercial air transportation."

WABASH VALLEY ECONOMIC OPPORTUNITY UNLIMITED

HON. ROGER H. ZION

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. ZION. Mr. Speaker, development of the navigation potential of the Wabash River is a dream of long standing. Men of great vision throughout the Wabash Valley of southern Illinois and southern Indiana have known of this potential and have worked and planned to implement it. Recent years have witnessed a skyrocketing growth in the Great Lakes and inland waterways traffic. We in southern Indiana are working to capture our share of this dream and the Vincennes Sun-Commercial sums up the need for that effort. The editorial follows:

[From the Vincennes (Ind.) Sun-Commercial, Mar. 10, 1970]

GETTING A GROWTH INDUSTRY

If a city, or county, or general area had an opportunity to encourage the location of a sound growth industry, private and public leaders normally would exert great efforts to lure the prospective business to that community.

Development of navigation on the Wabash River involves this simple principle.

For the seventh consecutive year, waterborne commerce in the United States set a new all-time high. Preliminary estimates by the Army Corps of Engineers showed an increase in net tonnage moved over the various waterways in 1969 as compared with 1968.

The volume of traffic on the Inland Waterways went up from 512 million tons in 1968 to an estimated 538 million tons in 1969. That is an increase of 5.1 percent in actual business. The dollar figure surely must have been much higher. Tonnage is measured in pounds, which have a fixed weight, while dollars have had a sliding value in the era of inflation that began almost 30 years ago.

On the Great Lakes, tonnage increased 6.7 percent, while coastwise traffic went down 3.2 per cent.

The overall increase was from 884 million tons in 1968 to 913 million tons estimated for 1969, or 3.3 per cent.

What should interest people along the Wabash is the fact that traffic on the Inland Waterways and the Great Lakes increased. A navigable channel on the Wabash would connect with the Ohio River portion of the Inland Waterways, while the Cross-Wabash system could provide a route to the Great Lakes in both Illinois and Ohio.

Encouraging the location of a new industry that will bring more jobs and greater economic activity to a community is generally considered to be a worthwhile endeavor. Support for the continuing effort to establish the Wabash River once more as an important link in the nation's transportation system seems to fall in that general category.

Dollars, not the romance of steamboats, is involved. The Wabash Valley should make every effort to join in the expansion of this national growth industry.

UNITED NATIONS FIRST POPULATION PROGRAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. UDALL. Mr. Speaker, the United Nations has embarked on a limited but important program aimed at reducing rampant population growth in the developing nations in the Middle East. What is so promising is not the relatively modest level of funding this program presently enjoys, but rather that now for the first time the United Nations has responded with materials and information to a country requesting its assistance in birth control.

In a recent article appearing in the New York Times, Kathleen Teltsch tells how the U.N. became involved in the population fight and what promise this holds for the future.

The article follows:

[From the New York Times, Mar. 11, 1970]

U.N. OFFICIALS SEE BIRTH CONTROL PROJECT AS IMPORTANT STEP FORWARD

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., March. 10.—Three afternoons each week, women crowd into Egypt's hundreds of health centers and wait patiently until they are given a supply of contraceptive pills.

The pills are the first contraceptives provided by United Nations agencies to a country requesting assistance for birth control.

Although the project is a modest one, involving $300,000 for the next six months, it is seen here as a significant step forward.

United Nations officials voice pride in it. They see it as a new approach traceable mainly to a study last May by a panel headed by John D. Rockefeller 3d, chairman of the Rockefeller Foundation and of the Population Council, Inc. The panel criticized the United Nations' efforts as faltering and hampered by bureaucratic delays, by jealous bickering among the various agencies involved and by lack of dynamic leadership by the World Health Organization.

ADVOCATES ARE ENCOURAGED

Family-planning advocates outside the United Nations are moderately encouraged that there has been a change. However, one leading medical authority speaks with lingering bitterness, saying, "Tragic time has been lost because of United Nations creeping sickness—inertia."

He says this is particularly shocking because United Nations demographers were probably the first to warn that population growth was outstripping all estimates and that the present world total of 3.5 billion would double in 30 years.

No one pretends that the pilot project for Egyptian women will have startling repercussions. Its supporters feel it does open up a wide range of possibilities for practical help. The United Arab Republic with 32.5 million is considered one of the most overpopulated countries. Without family planning it is expected to reach 52 million by 1985.

Besides providing the pill, the agreement with Cairo covers the supply of plastic materials for the manufacture locally of 2 million intrauterine devices and the furnishing of technical aid by the World Health Organization.

IN HIGH GEAR AFTER 2 YEARS

Money for the project is coming from the United Nations Fund for Population Activities, which was set up in July, 1967, but only now is moving into high gear under the direction of Raphael Salas.

Mr. Salas is a deceptively mild-spoken administrator who won a reputation for toughness in the rough-and-tumble politics of the Philippines. He is mindful that one of his most challenging jobs probably is to get all the various commissions and agencies to pull together.

His fund operates under the United Nations development program and should have a fair measure of freedom to respond quickly to Government request. It will not need prior approval of an intergovernmental board, which could get ensnared in sensitive religious, political or cultural considerations.

The fund also can turn for help to outside groups such as the Ford and Rockefeller foundations, the Population Council or the International Planned Parenthood Federation, which since 1952 have been doing pioneering work in contraceptive research and training.

IMPROVEMENT EXPECTED

The search for improved contraceptives is likely to be accelerated by the private groups and also by governments as a result of the recent furor over possible injurious side effects from contraceptive pills and dissatisfaction with intrauterine devices.

Neither has been regarded by medical men as the final answer to contraceptive needs—merely as a reasonably effective method that must be used until better ones are devised.

The United Nations Population Fund so far has been promised aid by nine countries. The largest was the United States, whose pledge of $7.5 million in January would be half of the goal for this year. But the aid is to be given on condition that other sources provide the balance.

The $15-million annual program is small, measured against the $75-million the United States has set aside for family planning through the Agency for International Development. However, there have been hints from Washington that more money will be channeled through the United Nations if its new approach proves effective.

Sweden, among other countries, also has a significant aid program and a small, neutral state without a colonial past has been particularly effective in Africa and Asia.

Denmark also is extending help and has been receptive to the idea of setting up an international population institute in Copenhagen that would undertake research and training with the cooperation of a number of United Nations agencies.

The proposal, made two years ago, has not been acted on. It is cited by experts in the population field as one instance where interagency rivalries have obstructed a potentially important undertaking.

Britain, Canada, Japan, West Germany are among the other countries offering aid in birth control to poorer countries.

Until the United States spurt in foreign-aid allocations, the Ford Foundation was the largest single source of funds in the family-planning field and the first to undertake programs in India, Pakistan and elsewhere.

All specialists in the field agree that the success of the combined efforts of governments, the United Nations and the private groups depends ultimately on winning the cooperation of political leaders, particularly those from the developing countries where the population growth is highest.

Dr. Bernard Berelson, president of the Population Council, has remarked that for a political leader, family planning does not have much popular appeal. It is often difficult to sell to the public, and particularly in situations where the population has not had the benefits of education. It is also administratively burdensome and the results may not be visible for years, no help for present office-holders.

Even in countries where there is a national population policy, it may not arouse much enthusiasm from lower-echelon government officials. Consequently, Dr. Berelson feels it would help if government leaders could be persuaded to make two major speeches a year pushing the idea of family planning.

Mr. Rockefeller, who has traveled widely to seek support for the same goals, feels that some new international recognition might be an inducement—a prize of the stature of the Nobel Peace Award for contributions in the population field.

On the basis of the Ford Foundation's pioneer work since 1952 in training, Oscar Harkavy, director of the foundation's population program underscores the importance wherever possible of using nationals rather than bringing in outsiders. He also stresses the need for massive education to "fill the air with family planning."

SHUNS "GET TOUGH" POLICY

He disagrees with the suggestion that the prosperous states adopt a "get tough" policy, tying their foreign aid to progress in reducing population growth, saying it is certain to arouse hostility.

However, he favors a counter-suggestion to reward increased commitment to family planning by expanding aid significantly.

Gen. William H. Draper, Jr., chairman of the Population Crisis Committee and widely reputed to be Washington's most effective lobbyist for family planning, argues for simultaneously expanding both direct American aid and United States support for the United Nations Population Fund. He cites the program for Egypt as a case in point:

Cairo has had a national policy on family planning since 1965, but ran into difficulty in continuing without larger outside aid. The United States, which has no diplomatic relations with the United Arab Republic, could not give help, but the United Nations could. "It's round-the-corner aid but it works," General Draper said.

He rejects the suggestion that leaders in the developing countries would be reluctant to take foreign help in this field because they see it as some conspiracy by the prosperous whites to restrict the growth of the poor nonwhites, a kind of neocolonialism.

Advocates of the multilateral approach cite a number of hopeful developments:

The World Bank in the last year has given the population field priority status, has sent out six missions under joint arrangement with the World Health Organization and is preparing to finance programs in family planning in at least four.

The United Nations Children's Fund has given technical advice and training in the use of contraceptives and supplied transportation and related services, but no contraceptives. It is getting increasing requests for family planning activities to be included in its overall maternal and child health programs; some requests are coming for the first time from Latin America.

The World Health Organization reports that it is accelerating the training of doctors and technicians for family planning, widening its research in birth control methods and establishing reference centers to provide better information in the field.

The United Nations also has had requests for establishing a regional training center for the Caribbean area in family planning.

Miss Julia Henderson, Director of the Office of Technical Cooperation, summing up the recent developments says, "We're not being flooded with requests but we're getting more than before for staff workers, fellowships and contraceptives, and that's progress."

GREAT BRITAIN'S ROLE IN NORTHERN IRELAND

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. BOLAND. Mr. Speaker, I would like to join the gentleman from New York (Mr. LOWENSTEIN) in expressing concern about Great Britain's laggardly pace in resolving the social conflict threatening Northern Ireland. For a half century, Great Britain has remained stonily aloof to Northern Irish politics despite the grievances of that state's Catholic citizens. Faced with woefully substandard housing, with gerrymandered political districts that virtually disenfranchised them, with civil rights laws that constituted only a fake simulacrum of social justice, Catholics in Northern Ireland have been living in conditions tantamount to those in a feudal fiefdom. The ruling Protestant class—a class characterized by ossified rightwing political views—has systematically exploited Catholics for 50 years. The social tumult in Northern Ireland over the past few years is the direct result of this oppression. Barricaded streets, mobs clashing on the cobblestones outside Northern Ireland's Parliament, armed soldiers standing vigil at street corners have become commonplace sights. Something akin to civil war erupted in Northern Ireland a year ago and peace is still a distant prospect.

Great Britain, to be sure, has helped institute some reforms over the past 16 months. The Royal Irish Constabulary—a paramilitary group roughly equivalent to Germany's Sturmabteilung of the 1930's—has been civilianized and removed from political control. And the "B Specials," a reserve police force whose dogged loyalty to their political masters might have been envied even by Machiavelli, are scheduled to be disbanded by the end of this month. Housing reforms, too, have been enacted. The distribution of new housing—and old housing as well, for that matter—is now governed by Northern Ireland's central government instead of local political satraps. Perhaps the most significant reform of all is the 1969 Electoral Act, a law equivalent to the U.S. Supreme Court's celebrated "one-man, one-vote" ruling. It scraps the householder vote and company vote system, giving everyone 18 or over the right to cast ballots in local elections.

Everyone agrees such reforms are admirable. Yet they do not go far enough. Indeed, even the reforms I have cited here have yet to be fully implemented. The Electoral Act, for example, may turn out to be a hollow mockery of political justice: Local elections have been suspended indefinitely, and a ward redistricting project that may verge on the most arrant kind of gerrymandering is now underway.

Great Britain should—indeed, it must, if Northern Ireland is to remain a viable political entity—exert every effort to help guarantee the prompt implementation of the reforms it helped achieve. And, perhaps even more significantly, it must press for the enactment of still further reforms. One of the most pressing needs is the abolition of the 1920 Special Powers Act—a package of laws that gives political authorities in Northern Ireland veritable carte blanche any time they see fit to declare an emergency. Let me cite just a few of this act's grim provisions: Arrest without warrant, imprisonment without charge or trial, press censorship, punishment by flogging, prohibition of public meetings, seizure of private property. Certainly, Mr. Speaker, such staggering power must be abolished if Northern Ireland's citizens are to achieve even the most remote and tenuous form of civil rights.

What Northern Ireland plainly needs—and what Great Britain must help create—is a sweeping reform program that outlaws discrimination and guarantees civil liberties.

Northern Ireland's people—its Protestants as well as its Catholics—will not achieve social stability and social justice without such a program.

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DISCIPLINING THE PRESS

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. O'HARA. Mr. Speaker, the New York Times this week published an account of the heroic efforts of a newspaper in Athens, Greece, to resist the pressures of a dictatorial government.

At this moment, the very life of the newspaper "Ethnos" is threatened by the government's economic action. Oh, yes, the government says that its measures are designed to "cleanse and discipline" the newspapers, according to the Times report.

In the United States, we take a free and unfettered press for granted. Up until a few months ago most of us could hardly conceive of governmental action to silence the independent voice of our communications media.

Now many of us are not so confident.

Lest we become complacent, I would urge all my colleagues to read this article "An Outspoken Athens Paper Struggles for Survival." One will see what a vindictive and imaginative government can do to "cleanse and discipline" a free press.

The article follows:

AN OUTSPOKEN ATHENS PAPER STRUGGLES FOR SURVIVAL

(By Alvin Shuster)

ATHENS.—A student walked into the offices of the afternoon newspaper Ethnos a few nights ago and said he wanted to give it the equivalent of $100. He said the money came from himself and his friends who knew the paper was in financial trouble.

With the help of contributions and the sale of subscriptions, a rarity in Greek Journalism, Ethnos has just warded off its latest crisis. The problems of the newspaper, the most outspoken of the 10 Athens dailies, reflect the struggle now being waged between the newspapers and the army-backed regime, which is trying to keep the press in line through economic pressures.

NEW TAXES IMPOSED

The newspapers lost another round over the weekend with the denial of their appeal against one of the most severe measures—a customs duty ranging up to 100 per cent on imported newsprint. The publishers said they would try to appeal the decision by the customs authorities to the Council of State, the nation's highest administrative tribunal.

"We are now passing a crisis and our ability to publish is at stake," said one editor today.

Apart from the newspaper duty, which had been waived for the past 30 years, the regime has imposed new taxation scales that hit the large circulation "independent" papers more than the small pro-Government dailies. The pressure also includes a demand by the journalists' union for more pay—an idea supported by the regime—and the withholding of Government and state-controlled advertising from papers that have shown varying degrees of unfriendliness.

While most of the newspapers have fallen into line, Ethnos has continued to taunt the regime with a policy that is the talk of Athens. Some say it is trying to commit suicide by undisguised hostility because it has nothing to lose in the face of back debts.

"I say we are trying to survive," said an Ethnos editor. "The people like what we're doing even if the regime doesn't. And circulation is rising."

To the delight of Ethnos's publishers and the chagrin of the Government, the paper has shown a remarkable rise in popularity since it adopted a policy of challenge that stops just short of clear violation of the strict three-month-old press law.

DEFIANCE IS SIGNALLED

While those demonstrating little defiance have lost sales—after recent price increases—the circulation of Ethnos jumped from 17,000 last November, soon after the disappearance of censors, to about 45,000 now in the Athens area.

One of its boldest features was the recent opinion poll for readers on the question: "What would you do if you were a dictator?" Published replies, slow to come at first, included, "I would put myself and my collaborators up against a wall and be shot," and, "I would abolish all dictators."

Just carrying the paper has become at least a gesture of defiance. But no one seemed surprised when some of its new subscribers asked that the paper not be delivered. They just wanted to contribute to the cause, but they did not want anyone to see the paper delivered to their houses. They said they would still buy it at the kiosks.

So far the regime has avoided bringing any actions against Ethnos under the criminal provisions of the act, which prohibits news designed to stir up "old political passions."

The Government has said that all its measures are designed to "cleanse and discipline" the newspapers, many of which were more than free-swinging before the army coup here nearly three years ago. It says that the papers should be taxed like other businesses and that its sliding scale of newsprint duties contribute to press freedom by protecting the small-circulation dailies.

LORTON TRANSFER WOULD FRAGMENT DISASTROUSLY THE COORDINATED ANTICRIME PROGRAM OF WASHINGTON, D.C.

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FRASER. Mr. Speaker, Members of the House should read carefully the editorial from the Evening Star of a few day ago.

This forthright statement expresses the alarm and concern of responsible leaders of this area. They are alarmed that this House may take unwise action by adopting one section buried back on page 435 of a bill that otherwise contains many great improvements in the court system and procedures for the Nation's Capital.

Section 501 of H.R. 16196 promises not corrections, but mischief and disillusionment for the people of the Washington area. The section should be rejected from the bill. The editorial follows:

THE LORTON REPORT

Legislative Report No. 91-850, filed with no fanfare in the House last week, purports to be a factual, objective account of the investigative findings which have led the House District Committee to propose a transfer of the prison complex at Lorton, Va., from District to federal control.

Representative Fraser of Minnesota more accurately describes the report, however, as "an outrage"—wholly one-sided, which depicts the city corrections program and its director, Kenneth Hardy, in the worst possible light.

This is no surprise. Through the long hearings of the Dowdy subcommittee, Hardy was subjected to harassment, ridicule and abuse. So quite naturally the report, all 30 pages of it, portrays him in much the same light—as a blundering, evasive nincompoop, so immersed in "textbook theories" of permissiveness that he is incapable of doing anything right. His top aides fare little better. And their collective bumbling, according to the subcommittee, is the cause of failures which should be corrected by shifting the whole Lorton setup to the U.S. Bureau of Prisons.

This proposal, which will erupt into a major battle on the House floor in a couple of weeks, is somewhat complicated by the fact that it really involves two issues—not one.

For it is certainly not our contention that there are no administrative failures at Lorton, or that the Dowdy subcommittee has uncovered nothing of any substance to worry about. In fact, we suspect the opposite is true. The charges which have been made, therefore, deserve frank answers. And Mayor Washington would be wise to see that they are provided as quickly and as thoroughly as possible.

But the problem of correcting District faults, to the extent that they exist, provides no justification whatever for the committee's proposal to sever Lorton from District control. Nor does the report, for all its rhetoric, make such a case. It asserts at one point that the opportunity for the Bureau of Prisons "to implement their proven penology theories as to corrections . . . is fantastic." But how, specifically? We are left in the dark.

What such a transfer actually would do is to fragment disastrously the coordinated anticrime program which the city now is trying to organize. The hope for successful prisoner rehabilitation rests, for example, largely in community-based projects, with the local government pulling together a great many resources, public and private. These are not functions which the Bureau of Prisons is set up to perform and it could not effectively do so.

The real crux of the House District Committee debate is that its leaders—as their report discloses—do not really believe in all these "home-spun ideas" and "tinkering" and "experimentation with theories" about rehabilitation. Rather, they assert: "It is well established that the major purpose of the Department of Corrections is to maintain secure control of all persons committed to its custody until such time as they have paid the penalties as provided by law . . ."

It would be nice to believe that the problems of dealing effectively with criminals and productively reducing criminal recidivism later were really as simply as all that. But it just isn't so.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

POLICE ON CAMPUS AND THE EVOLUTION OF PERSONAL COMMITMENTS

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. REID of New York. Mr. Speaker, I insert in the RECORD today a piece which was brought to my attention by Fred Dutton, executive director of the Robert F. Kennedy Memorial and a noted authority on education in California. This is an article which examines the changing attitudes and opinions of the spectators on the Berkeley campus during a strike by students in February of 1969. The author, a doctoral candidate in criminology at the University of California at Berkeley, is reputed to be an objective and excellently qualified researcher.

I wish especially to bring to the attention of my colleagues the data collected and the conclusions reached in this case study of a "campus disorder." Essentially, the data revealed that decisions of the spectators to join the strike or remain uncommitted depended on the nature of future police action as much if not more than on the goals of the strikers; furthermore, the number of strikers tripled while Mr. Armistead was collecting his questionnaires. It appeared, in the last analysis, that the existence of police on campus provoked an adverse reaction by the spectators and thereby escalated the conflict.

I recommend this article to my colleagues as an example of the possible effects of the imposition of external sanctions on campus affairs:

POLICE ON CAMPUS AND THE EVOLUTION OF PERSONAL COMMITMENTS: A SURVEY OF NON-STRIKERS' ATTITUDES DURING A BERKELEY CONFRONTATION

(By Timothy W. Armistead)

On Tuesday, February 18, 1969, one of the most violent periods in the crisis at UC Berkeley began. About one month before, members of a non-white coalition called for a strike. Events at this early stage are summarized in a comprehensive description of the strike by Rodney Stark (1969:180), a Berkeley research sociologist and consultant to the National Commission on the Causes and Prevention of Violence:

"The specific protest which culminated in a series of violent clashes between students and police began peacefully and with little support in late January, 1969. On Monday, Jan. 20, spokesmen for a coalition of non-white students . . . organized as the Third World Liberation Front (TWLF), announced that a strike to protest delays in the creation of a black studies program would begin on Wednesday, Jan. 22, unless the administration moved rapidly to settle their grievances. . . . Shortly thereafter the central point in the TWLF demands evolved into the creation of a Third World College, devoted to ethnic studies. . . .

"The same day that TWLF announced its intention to strike, it received support from American Federation of Teachers local 1570, made up of graduate student teaching assistants. . . .

"The University administration countered with a review of recent accomplishments to improve Third World representation. . . . But Chancellor Roger W. Heyns refused to alter normal committee actions in order to act hastily.

"So the strike was begun as scheduled."

The strike at first attracted no more than one to three hundred demonstrators at the very maximum. Beginning Tuesday, January 28, police began declaring the picket line illegal and subject to dispersal.[1] From this time on, the number of strikers increased following each massive intervention by the police. On February 5, Governor Reagan declared a "state of extreme emergency" (*S.F. Chronicle*, 2/6/69:1), thus giving Alameda County Sheriff Frank Madigan complete police jurisdiction over the campus. He immediately prohibited the traditional noon rallies. The campus was fairly quiet for a week. The strikers, tripled in strength since the first part of February, began to lose supporters in the second week of February. But then incidents on February 13 and 18 brought thousands to the strikers' side. Stark's (1969: 185–186) account of events on February 13 follows:

"First, four squads of police moved across Sproul Plaza and dispersed a line of about 300 pickets who had been circling on the bridge area behind Sather Gate. The pickets left without incident. Off to one side of Sather Gate was a tiny circle made up of 17 teaching assistants from AFT 1570 who were conducting an informational picket line. According to faculty witnesses, the line did not at any time disrupt normal traffic through the gate.

"Nevertheless, Sheriff Madigan, who was present to supervise a force of by now 150 officers in the plaza, plus numerous plainclothesmen, made the decision for mass arrests. Suddenly the 17 TA's were surrounded by police and taken away under arrest."

Stark goes on to note that immediately after this arrest students vandalized several buildings, police made further arrests and embroiled themselves in a brutality case by severely beating a black news reporter in sight of several secretaries in the basement of Sproul Hall. Stark does not note, however, that *just before* the vandalizing began, the TAs were taken from the Sather Gate area into the Sproul Hall basement, and that during this fifty-yard trip many students witnessed the police beating and shoving the strikers. One of these bystanders, a friend of the author's, a graduate student in business administration, did not support the strike and shared the disdain reputedly held by the business community for "demonstrators." He witnessed the movement of TAs by the police and recounted his version of what happened:

"I was standing at least ten yards away from the path where they'd be going. I was leaning on one foot, casually, with my books under my arm, and you know how I look. [The informant looked very "straight"—very short hair, sport shirt and slacks, dress shoes. This was in marked contrast to the appearance of many of the strikers.] All of a sudden this huge cop ran over to me—he had to break formation to do it. I didn't think he was coming for me, so I looked around, but I was alone there. Then he slammed his club into my chest and I dropped my books all over. I was shaking I was so mad. I said, *"What? . . ."*, and he yelled "Move on!" I couldn't believe it. . . . As they got near the entrance to the basement they started to club some guy. Six cops on this guy! [He was doing] nothing! Anyway, if he'd been resisting he couldn't any more—he was on the ground, bleeding all over his head, and wasn't moving, but they *still* beat on him. . . . It was horrible. One guy, who must have been his friend, was out of his head, screaming and crying. Other guys had to hold him back."

In addition to this action, police were rumored to have beaten other students in the Sproul Hall basement on February 13. These rumors began spreading in the afternoon of February 13, and were alluded to in the student newspaper the next day. Twelve University employees confirmed these rumors in a letter to the student newspaper a week later (*Daily Californian*, 2/19/69:9):

"On February 13, 1969 there were several University employees in Sproul Hall who were witness to very bloody beatings by plain clothesmen and Alameda County Sheriffs, on persons arrested Thursday between 12:00 and 2:30 p.m.

"At about 1:30 a tall man was shoved through the basement door into the basement by four officers. When he fell to his knees he was struck in the legs by a plain-clotheman (sic) officer. The man was not resisting arrest; in fact, he was yelling "I'll walk, let me walk, I'm human."

"The next incident occurred just minutes later when two plainclothes officers dragged a blonde boy down the stairs into the hallway.

"There in the corner the same officer that had administered the beating was systematically beating the boy in the face and neck. . . .

"Then they dragged him by his feet all the way down the length of Sproul Hall corridor. As he passed us, we saw his mouth filled with blood.

"The police reported our room for watching these incidents. . . . Obviously, we were not meant to be witnesses to these incidents. In fact, one officer told us, "You fool with big time, you get in big trouble."

The next day, Friday the fourteenth, the strikers again increased in numbers. Monday, another strike line appeared despite bitter cold and rain, and some strikers engaged in vandalism (*S.F. Chronicle*, 2/18/69:1). The next day, February 18, another incident gathered support for the strikers. Jim Nabors, a black strike leader, was arrested and beaten by several officers when he tried to run away from them. Again there was vandalism.[2] This police action, a public display of the police violence that reportedly occurred days before in the basement of Sproul Hall (*S. F. Chronicle*, 2/14/69:24; *Daily Californian*, 2/14/69:1), apparently touched off an escalating series of student-police clashes lasting the next several days.

On Wednesday, February 19, there were many more strikers than on Tuesday, and three to four thousand students had gathered to watch. Further violent clashes between strikers and police resulted in twenty-four more arrests (*S.F. Chronicle*, 2/20/69:1).

On Thursday the ranks of strikers and spectators swelled to possibly six thousand. The day culminated in one of the most violent battles between police and students in the history of Berkeley. About 3:30 p.m. the police suddenly began to clear strikers and onlookers from Sproul Plaza by hurling tear gas cannisters into the crowd. Some students responded by hurling the cannisters back, along with stones and chunks of cement. Police repeatedly charged at the students, using tear gas and riot batons to roust them.[3]

Several students tipped over two police vans and damaged a few patrol cars. Until well after dark, police gassed pedestrians they encountered in a large part of the South Campus residential and business area. Interestingly, it was the "street people" and students, not the police, who helped motorists avoid the area.[4] The next day, Friday, four thousand strikers formed a massive demonstration, highly controlled and peaceful, to chant their opinion of Governor Reagan and the University Regents, who were meeting in University Hall.[5]

During these days of violence, particularly on February 18, 19, and 20, the ranks of strikers seemed to be swelled by student spectators who decided to join the picket lines. This is a report of what some of these bystanders were thinking and feeling at the time, what drew them to the scene, and how some of them came to feel their own partici-

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Footnotes at end of article.

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pation was necessary. It is an attempt to capture attitudes and expectations in process. At the time they were responding, none had yet stepped forward into the ranks of the strikers. But, as will be clear, many were considering such a move, and some were interviewed in the moment between the decision and the act.

RESEARCH METHOD

On February 19 and 20, Wednesday and Thursday, I conducted a brief survey (see Appendix A) of non-strikers in Sproul Plaza.[6] My purpose was to explore the non-strikers' reactions—as they were being formed, not as they might be recalled at some later time—to the massive police presence. To this end, on February 19 and 20 I distributed the questionnaires between the end of noon rallies (about 12:30 p.m.) and 2:00 p.m.

Being just one researcher, without funds at the time, and needing to accomplish the interviews before the imminent student-police clashes, I could not accomplish what I should have liked to. A truly insightful answer to my question, "What are these non-striking students thinking now and what have they been thinking about this strike?", could flow only from a sample of all non-striking Berkeley students (numbering about 28,000), or at least of all students in the general area of Sproul Plaza. But even this latter was impossible—I had no time to cover all the actual spectators and also those within earshot of the strike line who apparently chose to ignore it by reading, talking, or eating in nearby buildings. For these reasons, and because the attitudes expressed by a questionnaire respondent may not bear upon his subsequent action, the results of this survey must be considered only suggestive and certainly tentative.

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A difficulty that plagued the author was how to obtain a random sample of the non-strikers. Having decided to concentrate solely on the crowds actually watching the strikers and police, I began to give one questionnaire to every third person. This soon proved to be impossible because of the rapid shifts of the crowd. I was forced to give up statistically-based sampling procedure and relied instead on some rules of thumb. I tried to give questionnaires to whites, blacks and foreign students in proportion to their actual numbers in the crowd. Similarly, I tried to establish accurate proportions of conventionally-dressed and unconventionally-dressed students. Furthermore, I covered the whole crowd of onlookers, rather than working intensively on one sector of it.

In all, I recovered 142 completed questionnaires, about 26 per cent of the 555 handed out during the two days. This raises the question of the remaining 74 per cent of the questionnaires. What happened to them? Were students of a certain persuasion angered by them? Did the conditions under which the survey was conducted limit the return? I believe the answer to both of these questions is "yes." First, in asking some onlookers why they refused to fill out the questionnaire, I was told that as a criminology student I must be pro-police, and hence not to be trusted.[7]

Probably contributing even more than prejudice against a criminology student to the loss of 74 per cent of the questionnaires, was that the respondents and I were not able to locate one another in the swirl of events. In sum, a 26 per cent return is discouraging, but it does not necessarily vitiate the findings. The immediacy and spontaneity in the responses obtained seem to compensate for any sampling defects.

RESULTS

The first two questions were designed to reveal the involvement of post-noon rally spectators with the strike. (The noon rallies were held despite the sheriff's ban on them.) Were they passive supporters of the strike, who showed up for the rallies, or were they drawn to the plaza for other reasons? Answers to question two ("Were you here after the noon rally yesterday?") show that 65 per cent of the students had not seen the action in the Plaza the day before their attendance. And since only about half of the spectators attended the noon rally on the day interviewed (see question one, "Did you attend the noon rally today?"), it seems fair to conclude that the spectators were not in the plaza because of whatever occurred at the rally either the day interviewed or the day previous to that. Since these noon rallies are widely known as being the place to find out the day's schedule of protest, the spectators cannot necessarily be identified as established sympathizers with the strikers' cause.

Why *were* they there? Responses to question three give us a clue. Thirty-three per cent said their presence in the plaza was prompted by the activities there of the previous day—the student-police clashes. Another third came to see the police "in action." Thus, two-thirds of the respondents indicated that their presence was prompted by what they had learned about earlier events, no doubt through the mass media and by word-of-mouth.

Answers to questions four and five also make it clear that the large crowds of onlookers were not the residue of noon rallies or the result of normal foot traffic through the plaza. When asked (question four), "Would *you* be watching the strikers and picket lines if the police were not on campus to regulate pedestrian traffic?" only 3 per cent said yes, while nearly two-thirds said no. Less than half (question five) said they had in fact stopped to watch the picket lines on the days in the past when there had been no police present.

It may be obvious that the massive police presence brought the majority of onlookers to the plaza. But it is not at all obvious what these spectators were thinking and feeling as they looked on. The scene might have been alienating them from the strikers. It might have left them unaffected. It might have been increasing their support for the strike and/or opposition to the police. It was doing mainly the last, as answers to question six reveal.

Question six searches for the evolution of non-striking students' feelings about the strike: "Have you found yourself taking sides in this controversy since the police have been on campus in large numbers?" The answers ranged from one word responses to impassioned essays, and generally reflected turbulent thoughts. In a crude content analysis seven categories of response to this question have been isolated, excluding no response ("i"), and responses such as "I've always supported the strike" ("h"). Three response categories accounted for 64 per cent of the sample. These are a) Police Off Campus (33%), b) Vacillation (10%), and c) Increased Support for Strikers with Increased Hostility Towards Police (21%). Thus, the majority of onlookers were affected by what they saw and what they knew of previous events. Following are typical reactions from three categories.

"Police Off Campus": These responses tended to be short and often used the term "pig" to refer to the police. They were usually emphatic, such as the following (original emphases):

Yes. Cops *off* campus at any cost!

Again: Pigs off campus!

Nearly all responses which were longer than the above slogans stressed one reason for removing the police. The following exemplifies this:

"I don't believe the police should be on campus—they seem to be provoking instead of protecting."

Another student put the same thought this way:

"There wouldn't be as many people interested in the issues if the police were not on campus. I'm amazed that the law enforcement agencies could be so stupid as to aggravate the situation."

One of the longest responses in this category summarizes a number of points that were brought out separately by many respondents:

"The police should only be here to preserve the rights of all citizens—but instead of helping anyone and removing serious law breakers they are worsening the situation:
a) by creating disorder themselves—attacking students, for which the police themselves should be *convicted* of assault. . . .
b) by refusing to talk with campus persons at all, preserving instead an air of intimidation . . ."

"Vacillation": Respondents in this category felt torn between non-violent convictions and hatred for what they believe to be excessive police response to the situation, and unnecessary student violence. As this student said:

"I have tried to remain objective and unemotional to violence and injustices from either side. It's becoming difficult with reports of beating ups (sic) in the basement of Sproul, however."

Another began his statement with ambivalence toward police and strikers, and ended with a cynical observation based on his experience in the University:

"I don't like the idea of police or soldiers or other similar 'enforcers' being on campus. But, then, I don't like some of the more 'violent' activities that have occurred. Both aspects of the strike are manifestations of something rotten in the city of Sacramento. . . . I agree with what the strikers are working for, but they seem to be batting their heads against a brick wall. U.C. is a campus of the Regents, not of the students."

Another stressed the following cause of student violence and suggested its remedy:

"Although I don't condone violence on part of strikers and agitators, I became very upset by acts of police brutality. It appears that strikers' violence is in response to police tactics.

"Police off campus would seem appropriate in solving the problem of violence."

"Increased Support for Strikers with Increased Hostility Towards Police": One-fifth of the spectators felt a developing commitment to the strikers' cause. Most often this did not mean simply an increased acceptance of the strike demands, but was instead a response to police violence and its implications for university life and principles of democracy. These responses actually fell into three subcategories. The *first* consists of persons for whom the major impact was, so to speak, visceral. One student said he was changing in the following way:

"I know that something is happening to me now because I would be very willing to kick someone who was beating up people with a stick. Another's developing hatred for the police overrides the finer points of the strikers' legitimacy:

"Immature and crude tactics coming from Sh. Madigan and his squad of morons has put me on the side of the strikers regardless of their demands."

In the *second* subcategory, responses were less "emotional." These students were nonetheless increasing their support for the strikers:

"I have become more sympathetic toward TWLF since police have used force beyond what I consider the minimum necessary to control strike."

This student wrote several paragraphs, reflecting a near-determination to carry his developing convictions into action:

"Gov. Reagan professes to represent the majority of academic people on campus, when he demands police force 'to protect our right to an education.' He does not protect me or my rights! . . . When the rights of my

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Footnotes at end of article.

fellow students and faculty are denied, then my rights are denied. I begin to feel more strongly that I must take a position in opposition to the administration, the police and the government, for my inaction is being distorted into an untruth. . . ."

Students whose responses are of the *third* kind seem most likely to be tomorrow's strikers: [8]

"Yes sir. The Fascists come in blue helmets carrying sticks to 'educate'—where is justice and free speech? I must join."

Many of these, such as the following three respondents, have come to their vehement support after being initially opposed to the strike:

"Your ———— right. I was opposed to the strike until those ——— Alameda Pigs started venting their own frustrations on students, newsmen, faculty, etc. The conflict cannot be resolved until the cops leave."

This respondent came to support the strikers even though beaten by one. His support stems from an even greater dislike for police action than for his own beating:

"I was hit by one of the strikers—my glasses broken, etc. . . . I still support the demands and now the strike. The problems on campus must be solved by the campus—not the pigs. I now fully support the strike and want pigs off campus."

The third respondent, who exemplifies new strike supporters who once opposed the strike, gives this acccount of his changed attitude.

"I have so far been unable to support the issues of the strike. However, since the police have come on campus the strikers have won my emotional support. The only people who are inciting to riot or blocking public thoroughfares are the cops—get them off campus!"

CONCLUSIONS

In this report I have attempted to present the ongoing, immediate thoughts of people who were observing an upsetting situation. Non-strikers' statements indicate how deeply the situation was affecting them. Tempers ran high. For many students this meant simply anger at the police, but nearly as many—one-fourth to one-third, if my samples are representative—were engaged in an intense inner-dialogue regarding a commitment to action.

The decision to join or remain uncommitted depended, the respondents seemed to indicate, on the nature of future police action. Even as I collected the questionnaires, the number of strikers tripled. If my interpretation of the date is correct, this new strength did not come simply from support for the strikers' demands, but from a highly hostile reaction to police action, and a consequent empathy with strikers.

Events during the two weeks after the data were collected corroborate these conclusions. Strikers' occasional hints that a violent day lay ahead never attracted many spectators.[9] But soon after the police gassed and beat strikers and after the National Guard appeared with gas and bayonets, the ranks of strikers and onlookers swelled. For example, the following three-day sequence is reported in the San Francisco Chronicle. On Friday, February 28, the Chronicle reported that 200 strikers and onlookers at Berkeley were apparently blocking an intersection. In order to clear this intersection, the National Guard took the following action (S.F. Chronicle, 3/1/69:1):

"Seven troopers in battle dress—flanked by sheriff's deputies—laid down a fog of tear gas . . . to clear an intersection near the Berkeley campus.

"The guardsmen . . . then spread gas through Sproul Plaza and before long about the only people to be seen were around a hundred police, deputies and highway patrolmen—all of them masked.

"As groups of strikers and 'street people' began to gather on Telegraph Avenue, the police swept down the avenue for a distance of five blocks, spreading dense clouds of gas.

"Whenever they encountered a group, they gassed it. The same tactic was employed on the side streets leading away from Telegraph. It caught many pedestrians unaware."

The next school day, Monday, there were *500* strikers and at least as many spectators. But on that day the Guard did not repeat its Friday performance. There was no gassing or clubbing. On Tuesday, the strikers numbered *50* (*S. F. Chronicle,* 3/4/69:7, 3/5/69:30).

These data indicate that current opinion regarding the proper strategy for handling campus disorders is uninformed for at least two major reasons.

(1) First, taking a "firm stand" on disorders (e.g., calling hundreds of police onto a campus, expelling more demonstrators, suspending them on *suspicion* of illegal activity—a policy enacted during the TWLF strike (*S. F. Chronicle,* 2/22/69:1), may rid universities of the "few hardcore radicals" upon whom many college administrators want to fix the blame for all campus disorders. But this strategy may also draw more and more previously uncommitted, decidedly non-radical students into the ranks of committed protesters. In this connection, and before taking up the second major misconception regarding student-police confrontations, two points should be made:

(a) First, the consequences of meeting strikers' and strike leaders' protests with only disciplinary threats or measures have been clear ever since the forerunner of recent campus protest, the 1964 Free Speech Movement in Berkeley. (See Miller and Gilmore, 1965.) Greatly increased support for a student strike consistently follows repressive administrative action. (See Bell, 1969; McEvoy and Miller, 1969.)

(b) Second, as the Skolnick Report to the National Commission on the Causes and Prevention of Violence concluded, the conception underlying the "get tough" policy—that a few hard-core agitators have been leading duped students into unwarranted protest—is simply false.[10] Rather, student protests tend to be ". . . political acts expressing enormous frustration and genuine grievance" (Skolnick, 1969:xxvii). Furthermore " . . . research indicates that activists have usually been good students . . ." (Skolnick, 1969:xxi). When combined, these facts—that protests express genuine grievances of good students and that one of the major grievances expressed in the TWLF protests, as well as in others, was the use of suppression rather than quick and effective negotiation—point relentlessly to the cycle of increased repression and increased protest that the policy of a "tough stand," which translated into the use of massive police forces, maintains.

(2) The second major misconception regarding student-police disorders is that police presence on campus either restores order once it has collapsed, or it preserves order before it has collapsed. As to the first, a recent poll indicates that a majority of Californians believe that bringing police on campus to *restore* order does not escalate disorder (California Poll, Field Research Corporation: *S. F. Chronicle,* 3/4/69:6). As to the second Governor of California Ronald Reagan seems to have suggested that police should be on campus to *preserve* order: "It isn't good enough any more to wait until rocks are flying and beatings start and then come in and restore order," (*S. F. Chronicle,* 2/6/69:28).

The first notion, that police do not escalate disorder, finds no substantiation in the TWLF strike. As Stark notes and as this report has outlined, strike support and strikers' vandalism increased *after* each violent police action. The second notion, that we should station police on campus *before* disorder begins, assumes the truth of the first notion—that police do not escalate a conflict. Since the first notion seems to be false, the second notion compounds the mistakes of the first, by advocating that we commit them sooner than we have been. This does not seem to be a compelling policy for alleviating campus unrest.[11]

Charles J. Hitch, president of the University of California, recently cautioned legislators that they should not use excessive force on campus, because "If, in using force, we go far beyond what the academic community considers fair and reasonable, the dissidents will find two or more recruits for every one of them we succeed in removing (*S. F. Chronicle,* 2/6/69:14). The data in this survey and the data from other college campuses do indicate that recruitment of more "dissidents" flows from the use of excessive force. But it is not the author's intention to imply, as does President Hitch, that this is a reason why excessive force is unacceptable. Basic principles of our government, not a desire to limit numbers of dissidents, condemn the use of excessive police force.[12]

FOOTNOTES

[1] On Tuesday the strikers decided to "block" the Sather Gate entrance to the campus. This is technically illegal. Three points must be made in relation to these two facts. First, the strike leaders realized they were losing support and wanted to publicize their cause more; hence, they "blocked" the main entrance, which is adjacent to Sproul Plaza, the traditional site of Berkeley protests. Second, the term "block" is in quotation marks because two other entrances to the campus from the plaza area lie within fifty yards of either side of Sather Gate. The strikers left these and all other entrances open, clearly wishing to only symbolically "block" the entrance. Third, the highly publicized beatings some strikers gave students from Tuesday on were rendered only to students trying to actively break through the strike line, and they were repudiated by strike leaders as having been done by non-students.

This lengthy explanation should not be seen as a justification; it is merely an explanation of the illegal "blockage," and an indication that the mass arrests and police beatings that followed this blockage were not based on an adequate appreciation of the largely *symbolic* nature of the blockage.

[2] The reader may have noticed the paucity of reports from major newspapers to substantiate the author's version of events on the thirteenth and the eighteenth. Newspaper coverage was misleading. Compare, for instance, the author's narration of Nabors' arrest and of the role of police beatings on February 13 and 18, with that of the *Chronicle,* the "liberal" best-selling newspaper in northern California:

(a) The arrest of TA's on February 13: "As officers arrested nearly a dozen of the teaching assistants, about 250 strikes and sympathizers began a serpentine through the immediate area, overturning tables. . . ." *San Francisco Chronicle,* February 14, 1969:24.

(b) Nabors' arrest on February 18: "Nabors finally was subdued and carted off. . . ." *San Francisco Chronicle,* February 19, 1969:24.

This use of the passive voice with the acting agent understood ("was subdued") when referring to *officials'* action appears again and again in mass media reports of student-police confrontations. Its use in this context consistently implies that official behavior is not problematic, which is to say that it is "normal" and "makes sense," and that it is in *response* to students' behavior. Needless to say, strikers and students generally do not consider officials' actions so predictable and reasonable. The Skolnick Report points this out too. See Jerome H. Skolnick, The Politics of Protest. Ballantine Books, New York, 1969:7.

[3] The *Chronicle*, February 21, 1969:32, gives this report of the events:

"At 3:30 p.m., a running student tossed a purple flower at one of the officers. He was grabbed, clubbed and carried off, and it was believed that this incident turned the already aroused student throng into a furious mob.

"The police, under the command of Chief Tom Houchins of the Alameda County Sheriff's Department, held a press conference late in the day.

"He blamed the students for throwing the first tear gas cannister—"it came from the crowd."

"His assertion was widely disputed by students and by campus observers, not a few of whom were reporters "

After this incident, the *Chronicle* began to resemble the student newspaper, the *Daily Californian*, in its unfavorable reports on police action. And whereas previous *Chronicle* photographs were largely of strikers' acts of vandalism, after February 21 the *Chronicle* seemed to print more shots of police arresting and gassing people and of innocent bystanders trapped by the tear gas.

[4] Both the use of gas without regard for shoppers and the traffic control services performed by young people were observed by the author and other members of the University.

[5] The *San Francisco Chronicle*, February 22, 1969: 1, gives this report:

"Striking students of the Third World Liberation Front and union teaching assistants maintained meticulously correct picket lines.

"Orders had gone forth from Third World leaders to "limit the scope of the strike." Supporters were asked to do nothing to provoke violence."

[6] The author acknowledges his gratitude to Professor Leslie T. Wilkins, former Dean of the School of Criminology, for financial assistant through a project grant and for encouragement to write this article. The author further expresses his appreciation for invaluable criticism given by James T. Carey, Sheldon Messinger, and Rodney Stark.

[7] Perhaps, too, those who were pro-police thought the researcher was anti-police and hence not to be trusted. This is not too convincing; no one gave this as his reason for not cooperating, and many students who were were either partly against the students or actually in favor of the police action filled out the questionnaire.

[8] It is well known that we cannot necessarily predict action on the basis of expressed attitude. Nonetheless, I suspect that "tomorrow's strikers" will most likely be those like the following respondents who either say they "must join" or who have come from a position strongly opposing the strike to a position supporting it. These latter have probaly had a much more stirring conversion than have others, and so could be expected to carry their new convictions into action.

[9] See, for example, one strike leader's hint in the *San Francisco Chronicle*, February 22, 1969:18. And see the *Chronicle*, February 25:8, and February 26:12, for a report on subsequent strike support.

[10] Skolnick (1969:288-289): This view . . . attributes mass protest . . . to a conspiracy promulgated by agitators, often Communists, who misdirect otherwise contented people. This view, disproven so many times by scholars and distinguished commissions, tends to set the police against dissident groups, however lawful.

[11] It is not my intention to give detailed suggestions regarding what *is* a compelling policy for handling campus unrest. This survey does not justify such an undertaking. Nevertheless, destroying the basis of one approach to a "social problem" necessitates at least the suggestion of another. The interested reader will find what this author considers to be a compelling approach on pages 120-124 of the Skolnick Report.

[12] McEvoy and Miller (1969:23) point out this contradictory tendency of the Berkeley administration—particularly the Regents—to chide students for not following established procedure, but then to make *ad hoc* reactions to every new "crisis." In this instance, President Hitch's appeal was not to our Declaration of Independence or our Constitution, or to established principles of law enforcement in a democracy, but to the supremely pragmatic consideration that a given strategy for removing certain undesirables will create more of them. It could be, of course, that this appeal reflects less on President Hitch than on President Hitch's evaluation of the state legislature.

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APPENDIX A

1. Did you attend the noon rally today?

	Percent
Yes	56
No	42
No answer	2

2. Were you here after the noon rally yesterday?

	Percent
Yes	31
No	65
No answer	4

3. Are you here: (check answer(s) below)

(a) because of the activity here yesterday: 33%.

(b) to see the strikers: 20%.

(c) to see the police "in action": 32%.

(d) no special reason—just curious: 15%.

4. Would *you* be watching the strikers and picket lines if the police were not here on campus to regulate pedestrian traffic?

	Percent
Yes	23
No	61
No answer	1
Maybe	15

5. Did you stop to watch the strikers on the days in the past couple of weeks when no police were here?

	Percent
Yes	43
No	40
No answer	5
Sometimes	12

6. Have you found yourself taking sides in this controversy since the police have been on campus in large numbers?

Response Categories:

(a) Police Off Campus: 33%.

(b) Vacillating: 10%.

(c) Increased Support for Strikers with Increased Hostility Towards Police: 21%.

(d) More Support for Strikers: 5%.

(e) Uncommitted: 4%.

(f) More Opposed to Strikers: 3%.

(g) More Support for Police: 1%.

(h) No Change: 11% (Note: 88% of these have supported the strike all along.).

(i) No Answer: 13%.

LORTON TRANSFER WOULD DISMEMBER CORRECTIONS PROGRAM WHICH WE VOTED TO STRENGTHEN IN DECEMBER BY $2,302,340

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FRASER. Mr. Speaker, it would be ironic for the House to vote in March 1970 to dismember the District of Columbia Department of Corrections, after we just finished voting in December for an an additional $2,302,340 and 355 positions to strengthen the department.

Here is what the Appropriations Committee of the House said in the report accompanying the fiscal 1970 appropriations bill for the District of Columbia.

> Many of the new and expanded programs allowed are part of the President's crime program in the District of Columbia—$2,302,340 and 355 positions are directly related to this program and include work release, youth crime control and narcotics addicts rehabilitation.

I place my opposing views to section 501 as they appear in the committee report in the RECORD at this time:

OPPOSING VIEWS OF CONGRESSMAN DONALD M. FRASER ON SECTION 501 TRANSFERRING CITY WORKHOUSE, YOUTH CENTER, AND REFORMATORY FOR MEN TO JUSTICE DEPARTMENT

Having been a member of the Special Select Subcommittee which held hearings on the D.C. Corrections Department I wish to make this additional statement.

I oppose Section 501 (page 435 of the bill) which would give the administrative responsibility for three of the five city penal units to the Federal Bureau of Prisons and shift the employees at these penal units from the city payroll to the Department of Justice.

The city operates the following penal systems:

300 inmates at the city workhouse at Lorton, Virginia;

1700 inmates at the city reformatory for men at Lorton, Virginia;

300 inmates at the youth center (age 18 to 26) at Lorton Virginia;

90 inmates at the women's detention center at 1010 North Capital Street;

950 inmates at the city jail at 200 19th Street, S.E.

In addition there are cell blocks at police precinct station houses and a central cell block. The total capacity is about 700.

About 300 city prisoners—usually those needing maximum security—are placed in the federal prison system.

The alcohol rehabilitation unit which of course is not a penal facility, operated by the Department of Public Health has about 500 inhabitants at the Lorton, Virginia site.

I see no logic in the transfer of the first three of these penal units from the city government to the Federal Bureau of Prisons.

The House Appropriations Subcommittee has given close attention to the Corrections Department of the city and last year reviewed in detail President Nixon's $20 million crime program for the District of Columbia. The decision of the subcommittee and the full committee was to raise the budget of the D.C. Department of Corrections to $15,870,000. They stated in their report the following:

> The committee recommends $15,870,000 for the operation of the department and its various institutions and programs which is the full amount recommended by the Commissioner in his revised request. Many of the new and expanded programs allowed are part

of the President's crime program in the District of Columbia—$2,302,340 and 355 positions are directly related to this program and include work release, youth crime control and narcotics addicts rehabilitation.

For the House now to disassemble this program and send pieces over to be handled by the Justice Department does not make sense to me.

The Federal Bar Association President for the District, Mr. Louis Frana, stated their opposition to the transfer of these institutions as follows:

To be effective a criminal justice system requires a strong police department; courts which can administer swift and due process of justice; and a correctional system which provides rehabilitation. Each part of the criminal justice system is a function of local government and if this system is provided with adequate funds, it can be more effectively managed through local control.

Similar reasons have been used in statements of opposition to Section 501 by Mayor Walter E. Washington, the *Evening Star*, the *Washington Post*, the Council of Churches of Greater Washington, WTOP, and others.

Chief Justice Warren Burger has been campaigning for the improvement of our penal institutions. His views are well summarized in the following editorial in the *Washington Post:*

The burden of the Chief Justice's message is that there is a way to change the monumental contribution of our society to crime. It can be done by applying to the correction system the same "uniquely American combination of energy, brains, ingenuity, research and innovation which has made us the world's greatest industrial power." We can no longer tolerate a corrections system that does not correct. Even if people remain unmoved by the hope of curbing crime by reducing the output of graduate criminals returned to society, there ought to be wide agreement upon the humanitarian principle of not imprisoning human beings unless the prisons can give them a reasonable chance to straighten out their lives.

Section 501 of this bill should be opposed and the advice of Justice Burger and many other knowledgeable authorities should be followed if we are to make real improvements in the correctional system of the District of Columbia.

COLUMNIST DESCRIBES CHARACTER CRISIS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. CRANE. Mr. Speaker, Brian Bex, syndicated columnist and executive director of the American Communications Network, has made some important and penetrating observations concerning the political and social situation in America today: A state of affairs he terms a "crisis of character." His remarks, which were published in the Bloomington, Ind., Sunday Tribune and Star Courier, were awarded recognition as the best newspaper article of 1969 by the Freedoms Foundation. They constitute a call to Americans to accept the responsibilties of freedom and to work to restore to this Nation the dignity and sense of values that figured so prominently in our history.

I believe that Mr. Bex's comments may be of interest to my colleagues.

The article follows:

[From the Bloomington (Ind.) Sunday Tribune & Star Courier, Oct. 19, 1969]

COLUMNIST DESCRIBES CHARACTER CRISIS

Brian Bex, controversial and outspoken syndicated columnist, spoke recently on the character crisis in America today. Here is what the widely-acclaimed analyst had to say on the political situation in our country today.

Shakespeare once wrote "The fault, dear Brutus, is not in our stars, but in ourselves. . . ."

There is a tragic irony that a country and a people as great as the United States and the great body of energetic and resourceful Americans should find themselves in a dilemma which every day becomes more manifest.

The greatest, richest, and most progressive nation in all history now stands like some ancient monument which is slowly eroding away under the action of the sands, the winds, and the weather.

Ours is a country whose gross national product in goods and services has reached a fantastic level of one trillion dollars this year. It is a country with more automobiles, more telephones, more automatic appliances, more people living on a standard of comfort than any other in the world.

But ours is a country sadly vexed and greatly beset. We mass produce everything in this country: everything except character.

It used to be that when you wanted something, you worked to earn it. Now you stage a riot and get it given to you at someone else's expense.

If your father or grandfather lost his job, he took whatever work he could get. Now hordes of relief "clients" refuse a job unless it is to their liking, and they demand the job be brought to them.

This nation was built by immigrants who struggled here for opportunity, and would have scorned the false idea of "something for nothing." Now it seems to be an almost universal (and all-too-often) ambition.

It used to take a lifetime of gruelling work and scrimping for a family or a country to earn a little surplus, a taste of security. Now mobs of so-called "students" and whole "emerging nations" demand they be given it, out of your earnings and with no effort on their part.

"Minority groups" all over the earth seem to think the world owes them everything they want.

Have you ever wondered what happened to the America of yesterday? Yesterday, you paid your debts as quickly as possible, and sacrificed to do so. You disciplined your children, but disciplined yourself, first. You spent less than you earned, and demanded your government do the same. You went to church, your children to Sunday school, you held daily prayers, and no court would have dared to interpose any law into your private religion. You would have been horrified at (and quick to change) men in high places who made "deals." You expected to prosper only by doing a better and better job. You obeyed the law, but took an active enough part in government to see that the laws were just. You "walked softly but carried a big stick." And that was the character which brought this country victory in three wars in your lifetime, built it back from a shattering depression and fed and saved the civilized world.

Today, America is becoming a nation of drifters so accustomed to turning to the government or someone else for help that it is losing its heritage of hard work, thrift, and above all, individual responsibility. The mood of today is to say: If we have a disaster, let the government declare us a disaster area and send help; if we get out of work, we have unemployment insurance; sooner or later, we will have Social Security, so why worry?

I do not think we can continue to function as a free society unless people take some sense of responsibility for themselves and their own future.

Morality, integrity, law and order, and other cherished principles of our great heritage are battling for survival in many communities today. They are under constant attack from degrading and corrupting influences which, if not halted, will sweep away every vestige of decency and orderliness remaining in our society.

Certain groups, numerically weak but vociferously strong, appear determined to destroy all acceptable standards of personal conduct and sane bahavior patterns. They seem bent on eliminating all ethical practices relating to our established order.

It is becoming increasingly more apparent that a philosophy of the left (in all its shadings, from Communism to the welfare state to the "mixed economy" concept) can only be sucessfully fought by a positive philosophy of freedom. Ideas must be fought with other ideas, not emotions. It is not enough to know what one believes in, it is equally important to know why one holds certain convictions. An attack against a position is best met by a strong counterattack, whether the battle is one of physical force or the force of opposing philosophical and economic ideologies.

Clearly, it is time for each one of us to examine basic premises. It is time to reexamine our convictions and delve into the underlying reasons for them. Most of us know what our opinions are; it is just as important to discover where these opinions came from, what are the fundamental moral and philosophical premises on which they are based. It is time to stop fighting a defensive battle against leftist ideologies and turn the tide back with a strong showing of clear, rational, carefully considered ideas.

Most people are aware that our way, the American way of life, is being seriously challenged—that if something isn't done, things will get worse instead of better. There may not be agreement on which issue or issues are the most crucial, but among those most frequently mentioned are apathy, conformity, lack of a sense of responsibility, racial conflict, inflation, internationalists, socialism-Communism, juvenile delinquency, automobile accidents, government spending, monopoly unionism, foreign competition, and the like.

Yet, we find even those persons most seriously concerned asking this question: "But what can I do about it?" I'd like to have a nickel for every time I have heard this expression from those who earn more than I do. I say it this way to emphasize the fact that so many people, whose capabilities in business fields far exceed mine, plead full ignorance in the all-important business of fulfilling their duty as American citizens.

Salesmen who make hundreds of contacts before they make a sale, advertisers who are happy with a few orders per thousand broadsided mailed, fishermen who will go to any lengths in the mere hope of landing the big one, become very different people when it comes to performing their civic duties. Here, they seem to expect immediate and overwhelming results with a minimum of effort. They underestimate the competition. The grafter, the subversive, and the special interest groups have much to gain by imposing their wills upon legislators and upon the public; and what they gain is immediate. You and I, who want the blessings of liberty secure for ourselves and our posterity, perhaps are less aware of what we gain by defending and advancing Americanism.

Whatever the reason, the fact remains: People seem to like to believe they can't do anything—so they do nothing, yet, what each person is capable of doing, and has the ability to do, is most substantial.

First, you must have an opinion, as soundly based and firmly established as possible.

Second, you must see that this opinion is expressed in public, for an unknown opinion has no more value than any other form of unknown wealth.

Most of us aren't going to hire a hall, put on our own TV show, or even write a book. But we can, at least in conversations, say we are not convinced (when we aren't), and let those who have made a good point know that we think they have done well. Even those who would remain least involved can do this much.

You are busy, but you do read widely to keep informed. Good! As you read, mark articles, underline cogent phrases, check summarizing paragraphs. Then, send these on to others. If you have the time, include a note such as, "This also confirms what you said," or "You may be right, but there does appear to be another side." Formal letters of transmittal are seldom necessary. Just mail these materials where you think they would do the most good.

You may doubt the effectiveness of this technique until you see an editor, to whom you have sent a mailing or two, permanently change his policies; or a legislator change his vote on an issue. Or, a friend who has been in disagreement with you will come around one day and say: "You know that last item you sent really has something to it. I never thought of it that way."

If most of us did just this much, the principles and institutions of Americanism wouldn't be as contorted and corroded as they are now. Of course, you could go much further. You could refrain from letting purely commercial considerations "force" you to contribute and support movements and actions that you know are wrong. You could initiate correspondence with governmental officials, trade association executives and editors.

XUM

No matter how "big" or "small" you may consider yourself, realize that you may be the sole initiator of an idea—and that if you stop, everything stops. And this works both ways; for others need support, too. This you can do. You can support those who are supporting that which you believe is right.

The big question is not, "What can I do about it?" But rather, "How can I possibly afford not to do something?"

In this business of being a citizen, start! Keep moving; And you'll find you have really begun to "do something about it."

You see—today too many of us believe in the free enterprise system until the going gets tough—

We need a new dedication, a renewed devotion to our American private enterprise system.

There is no room for a Doubting Thomas. The preacher who wishes to preserve freedom of religion must also be a fighter for our free enterprise system, without any buts!

We have a responsibility to fight against the slow erosion of our free enterprise system. To preserve the right to our American heritage we must work harder at our responsibilities. We must oppose the "gimme" pressure groups and the political "handerouts." We must militantly challenge the philosophy that government can do everything for us and charge the bill to others. There are no others—they are you. We must stand, as individuals, for the right to own, to save, to invest in our free enterprise system. Without this freedom, other freedoms will soon be of little value.

Freedom is not hereditary.

Freedom has a price: and that price is vigilance.

The time has come for us to reestablish the rights, for which we stand—To reassert our inalienable rights to human dignity, self-reliance—To be again the kind of people who once made America great. And how shall we approach this problem? And will our answer be the needed vaccine for the rendering important of the collectivist cancer? I think it shall. I think the answer lies in this:

Today in America, everyone is a negatavist, i.e., one who is anti: anti-Communist, anti-Nazi, anti-federal aid to education. Now there is little wrong with being a negativist, except when it prevents the same from being constructive. You see, the first thing a person is going to ask you when he knows you are anti-something is: "What are you for? What do you believe in?" No fairer question could be presented. Now the problem arises due to the fact that those of the anti-grouping seldom can find the answer to this all-important question. What do you propose? This is the very problem. Not what a person is against, but what he is for; not anti, but pro; an alternative, something better, not merely more of the same, under a different label.

I suggest that we become pro-free enterprise, pro-capitalism, rather than anti-Communism. Now for the person who understands the systems in qestion, he will readily understand and realize that to be for one, you by definition must be against the other. To be a Communist, you must be against capitalism. Rather than talking about the evils of collectivism, speak on the benefits of capitalism, the advantages of living in a free enterprise, competitive society.

You see, Americans in general regard the collectivist system, no matter what the 'ism,' as something alien and unrelated to America, and in turn we would never join the Socialist or Communist parties.

Yet, we clamor loudly for every piece of socialistic legislation which is offered—so long as it is sugar-coated with an American label or wrapped in the American Flag.

It seems to me that this must be very disheartening to sincere socialists to note the continuing impotence of their party, while, at the same time, a pseudosocialism in free enterprise wrapping has been able to command such a tremendous following from the rank and file. This is indeed a sad commentary on the political and economic ignorance of the American people.

We dismiss socialism with a wave of the hand, and then line up in droves behind Social Security, socialized medicine, industry, housing, and education. We denounce collectivism, and yet innocently and ignorantly spout its doctrines day in and day out. The reason for this is so simple that we Americans often overlook it. We just do not understand our own system. We as Americans do not understand capitalism, which just happens to be the only system devised by man which allows for human freedoms and justice in the same breath.

There is little question that the collectivistic proposals seem logical, just, and humanitarian. They sound like the idealistic answer for a muddled world's prayer. In one breath, they denounce the slavery of totalitarianism and the "crazy guilt of capitalism," and offer the Utopian "middle way," which eliminates the liabilities and retains the assets of both collectivism and individualism. It is all very intoxicating and consoling—until one realizes that oil and water do not mix. When one arrives at this conclusion in the discussion, the proponent of such a heaven and earth begins to delete himself from the dialogue.

Address those who would replace our system with collectivism: Mr. Collectivist: Show me! Show me a spot on God's green earth where collectivism has increased individual freedom and eliminated poverty. Show me where it has not meant rigorous and arbitrary regulation. Show me where it has proved the road to escape to true freedom as well as to peace and plenty. Show me your Utopian, not on paper, but in reality! You admit in your writings that socialism in Germany, Italy, and Russia resulted in Nazism, Facism, and Communism, but you say that these were perversions of true socialism—and you abhor them. That is fine; I do, too. But show me where socialism has avoided these pitfalls and led to freedom and prosperity for everyone, as your blueprints say it will. Show me!

Despite the continued emphasis on increased production via collectivism, we can find no examples of such results in proof. All on paper, nothing in reality. Show me a socialized or even a half-socialized country which has remotely approached our free enterprise record of production and plenty. Show me a socialized or half-socialized country which has produced a higher standard of living for workers than capitalistic America. Show me where socialism has produced cheaper cars, telephones, radios, movies, gadgets and comforts, and where they have been more widely distributed among the average people. Show me a collectivist society where 72 per cent of the population have life-insurance policies and 49 per cent have bank accounts. If you know a better, happier, more envied workers' republic than we have right here in America, where is it? Please show us.

To this the collectivist has no answer. And why? He knows that capitalism and free enterprise have made it this way. This system, based on individual initiative and profit, has produced the best for the most. Socialists and communists make the same mistake. They place security ahead of freedom. America is the prime example of a nation which founded itself on the basic principle of individual freedom. Our Constitution bristles with limitations upon the government—and the result has been (exclusive of the last thirty years) a greater measure of security for Americans than for all other nations. America offers unlimited rewards for initiative, enterprise, and wisdom, and she must never guarantee the same for laziness, incompetence of failure. This free way of life is a rugged, painful business at times; but it has paid the biggest dividends on earth and is well worth every weary mile of it.

You see, freedom appeals to men's strengths; socialism and Communism appeal to man's weaknesses. Freedom teaches a man to stand independently on his own feet; the others teach him to lose himself in the protective herd.

Our argument for capitalism is that America has proved beyond any doubt that she has the best economic and political system yet devised. This is proven by our glorious record, not by some hypothetical blueprint that some over-educated-under-worked humanitarian visioned in a dream. America did not become the bread-basket, the factory, the bank, and the hope of the world by following the wrong systems or believing the wrong principles. Her solution is visible in every home, in every city, in every store, in this country.

For you see, when the 55 men went to Philadelphia in 1787, they had a dream. It was with great courage and conviction that they hoped to form an enduring basis of government for the nation which had been a-borning and whose future destiny and greatness existed only in their minds as a vision. These men agreed and disagreed—there was argument and counterargument. There was anger and there was calm thought. There was prayer and there was blasphemy. Finally there was compromise, the final product of their toil being the Constitution of the United States of America—a profound composite of their highest judgment and aspirations.

The Constitution having been completed, an arduous task lay ahead: These "salesmen of democracy" had to sell their product to the people whom they represented. A man must have confidence in the value of the product he is marketing. These 55 men had faith in the Constitution, yet they knew that it takes much more than faith to sell a concept.

Despite the many handicaps they had to overcome in communication and transportation, Madison, Franklin, Hamilton, and their colleagues, sold their product to the people of the young nation.

In the intervening years since 1789, many events of great political importance have occurred. Systems of government have risen and fallen. Yet in this time period, the Constitution of the United States has remained the most prominent expression of the American ideal of freedom and justice. Yes, the years have confirmed the founding fathers faith in their product.

For nearly two centuries, this Constitution has been the efficient framework within which a free and vibrant people have been able to realize their fullest potential.

In every period of our history, outside forces have tried unsuccessfully to weaken our democratic structure. During times like these, past generations of dedicated Americans, including our fathers and grandfathers, have reaffirmed their faith in democracy and their devotion to country. Many Americans have given their lives so that others might be able to pick the fruits of a bounteous nation. In war and peace, they have dedicated themselves to solving the problems of a growing nation. Our democratic framework is a stimulating atmosphere for their free quest for knowledge.

In order for our nation to continue resisting destructive influences, my generation must also be willing to re-affirm its faith in America. Our men in Vietnam are fighting to preserve free choice, and our students are sharpening their minds and skills in order to deal with the problems of an increasingly complex society. Despite the overwhelmingly loyalty of the majority, a minority of young Americans are evoking a genuine concern by their apathy and inane dissension.

You often hear it asked: But, how can citizens show America how it feels? How can the youth of America and their elders express their appreciation for the riches of opportunity and fulfillment that this country has provided? We, you and I, can participate, actively, in civil affairs. We can become operating members of the brain trust so vital to the success of our nation. For if America should fall to the collectivist disease, if she should die from bread and circuses, the epitaph of her gravestone may read as follows:

Here lies the only civilization which perished at the peak of its power, with its power unused.

Here lies a decent people who wanted love, not empire, and got neither; who tried to trade power for popularity and lost both.

Here lies a nation of advertisers who know how to change consumer tastes in cigarettes, but were themselves manipulated on all the issues that really mattered to their salvation and survival.

Here died a sort of Lancelot in the court of nations, who granting all his grievous flaws, was still somehow the noblest knight of all; except this Lancelot, crippled with an undeserved guilt complex, let his weapons and ideals fall unused, and so condemned all mankind to the thousand-year night of the Russian bear and the Chinese dragon.

Ladies and gentlemen:

The future of America lies in the hands of my generation. It is an awesome responsibility, but the obligation has been accepted by generations before us. The commitment is now ours. Of the many duties in this endeavor, the most vital to America's future lies in salesmanship. We must believe in our nation enough to go out and sell its principles to those outside our domain and to the apathetic within, so that future generations will have the drive to sustain the "Voice of America."

To sell America to American youth and American youth to America—this is the opportunity and this is the challenge. The generation that accepts this challenge will change the history of the world.

I thank you!

MRS. ANITA POLK

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. STOKES. Mr. Speaker, I rise to offer my sincere congratulations to a close friend and illustrious fellow Clevelander, Mrs. Anita Polk, on her recent promotion to deputy director of the Cleveland Urban League.

Anyone from the Greater Cleveland area who has sustained an interest in the betterment of our community is well aware of this remarkable lady's multitude of talents. She is equally at ease as a journalist, free-lance writer, speaker, public relations expert, or mediator of community disputes. In short, Mr. Speaker, she is a woman for all seasons.

The Cleveland Call and Post, one of the publications to which Mrs. Polk is a contributor, recently printed an article giving more complete details of her advancement. Since I feel that her story is one that would be of both interest and inspiration to my colleagues, I include the article in the RECORD at this point:

UL PROMOTES ANITA POLK

Mrs. Anita Lewis Polk, former director of community relations with the Urban League of Cleveland, has been promoted to the position of deputy director, according to Ernest C. Cooper, executive director of the local League, and Julian C. Madison, President, Board of Trustees.

"Mrs. Polk has been performing with exceptional skill, and devotion to her duties, that she warranted the promotion," Cooper said. The position had been vacant for more than one and a half years.

For the past three years, Mrs. Polk has assumed more and more responsibilities in matters relating to the projection of the Urban League's new thrust and increased Urban League's negotiation with crises, whether it was educational, labor-oriented or community conflict. She resolved many difficulties without fanfare, after hours of negotiations.

Aside from her regular duties, Mrs. Polk worked ten months on WKYC–TV reporting on Urban League's job opportunities, on a regular radio show for 50 weeks and featured a weekly column on League affairs.

Mrs. Polk's new duties will meld in with some of her current responsibilities, and provide supervisory and administrative assistance to the executive director.

A native of Birmingham, Alabama, Mrs. Polk is a graduate of Spelman College in Atlanta, Georgia, and has attended graduate school at Case-Western Reserve University. She has graduated from the Urban League's Leadership Development Caucus, and the Constructive Public Relations Course of the Cleveland Advertising Club.

A journalist and free-lance writer, Mrs. Polk has written for many major newspapers including the Call & Post, The Pittsburgh Courier, and Johnson Publications.

Prior to joining the Urban League staff, Mrs. Polk served as Deputy Director of the Manpower Advancement Project, as Director of Modern Homemakers and as General Manager of Lewis Sohio Service and Pilot Mutual Insurance Company, in association with her late father, John H. Lewis, Sr.

Mrs. Polk has an uncommon knowledge of the local, national and international community, based on her frequent out-of-town assignments and promotions as Public Relations Specialist.

Mrs. Polk resides with her daughter, Stacey, and her mother, Mrs. John H. Lewis, Sr., a teacher at Anton Grdina Elementary School in Glenville.

MASONIC GATHERING ATTRACTS MORE THAN 1,600 IN SAN ANTONIO

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FISHER. Mr. Speaker, on the evening of March 9 there gathered in San Antonio's magnificent Alzafar Shrine Temple more than 1,600 members of the Fraternal Order of Freemasonry. It was described by the mayor of the city, Hon. Walter W. McAllister, as the largest gathering of its kind he had ever seen in that metropolis.

The occasion was a rededication to the principles of the fraternity and a reaffirmation of loyalty to the flag and the country it symbolizes. Directed by Mr. Jack Cones, dynamic Potentate of the Alzafar Shrine Temple, the meeting attracted scores of prominent officers of the fraternity, along with many of the leading citizens of that and nearby communities. It was indeed a most colorful and impressive occasion.

A stirring address was delivered by Mayor McAllister. Speaking from notes, he eloquently upheld the highest concepts of Americanism, defended the Constitution, spoke of specific attacks upon orderly government, and urged those present to unite in a mighty drive to preserve this Nation's heritage against enemies from within as well as those from beyond our borders. Unfortunately, a full text of his remarks is not available for inclusion in the RECORD.

It can be said that the long-time mayor of San Antonio is widely recognized as one of the Nation's most capable and efficient municipal leaders. He is certainly one of San Antonio's most distinquished and respected citizens.

It was also my pleasure to address the gathering. Under leave to extend my remarks, I include a partial text of what I said. The address follows:

THE TIME TO ACT IS NOW

It is indeed an honor and a privilege to attend this function and participate in this program here this evening. Particularly I am pleased to appear on the same program with my long-time friend, Mayor Walter McAllister. He is a great patriot and a great American. It is an inspiration to see so much active interest being manifested in Masonic affairs by so many members of the Order.

I wish to compliment Potentate Jack Cones and the entire Shrine membership here at Alzafar for this new edifice—certainly one of the finest and most spacious Shrine Temples in the country. And I also congratulate all of you for sponsoring this meeting and for attracting such a tremendous audience.

XUM

It is a compliment to your leadership and prestige in this community.

I should like to talk a few moments about some shocking developments in this country—with which we are all familiar—which in my judgment require extraordinary attention on the part of all responsible Americans. And I cannot think of a more responsible group with which to discuss this subject, than a gathering of Masonic brethren.

CHICAGO 7

A full page advertisement appeared in the March 6 issue of the Wall Street Journal. Entitled "Violence in America," the insertion was by the Bank of America. It focused attention on a virus which has attacked America's vitals, and which unless contained can be expected to weaken or even destroy our capacity for self-government.

The ad referred to several hundred student rioters from nearby University of California who on the evening of Feb. 25 invaded the peaceful suburban village of Isla Vista, burned and completely destroyed the Bank of America's branch located there. Those students had nothing against that particular bank. It just happened to be handy for their purposes.

The students immediate excuse for violence was the verdict in the Chicago 7 trial; but in addition they left a list of protests against the "capitalistic establishment," "the war in Vietnam," "student repression," "Police brutality," and others. This sounds like a page out of a Communist dictionary.

Now, if this were an isolated case there would be no point in discussing it. But it is not isolated. I mention it because what happened at Isla Vista is happening in one form or another throughout this land—your land and my land—every day. And that's what I want to talk about for a few moments.

XUM

Ordinarily it is far more pleasant to talk about what is *right* with our country rather than what may be wrong with it. Right now, however, it seems to me we have reached a point in our history which requires all right-thinking citizens to stop, look, and listen. Indeed the time to act is now.

We have witnessed in right recent years a very definite deterioration as applied to morality, obedience to law and order, adherence to established authority, support of organized government, and even a deterioration of respect for the American flag.

Let us examine a few of these developments. During the 60's crime in America increased 10 times the rate of population increase! J. Edgar Hoover, himself a distinguished member of the Masonic Order, recently expressed deep concern because, he said, there exists in this country an amazing softness and tolerance toward those who violate laws. This is shocking, and it calls for extraordinary action on the part of all right-thinking citizens.

Today everywhere we look, right and left, ugly blotches of defiance and rebellion mar the patterns of peace and tranquility, and there is no doubt that the vast majority of our people don't like it.

I shall not belabor the crime issue. You are all keenly aware of its presence and its magnitude. We have seen the advent of the Black Panthers, the Students for a Democratic Society, and several other militant groups—white and black—devoted to anarchy and rebellion. We all know that here in this civilized land street mobs have become commonplace. And all of this being done brazenly, openly—without blush, shame or apology!

U.S. STUDENTS CUT CANE FOR CASTRO

Indeed, many unbelievably strange things are happening in America these days. For example, in recent times upwards of a thousand American college students have, at Communist expense, boarded ships from Canadian ports and from other places, bound for Castro's Cuba to help in the sugar cane harvest—most of them equipped with Marxist literature and various forms of subversive anti-American propaganda. Well, it's too bad they didn't travel on one-way tickets. As Elton Cude would tell them: "Love it or leave it!"

We are all aware of marchers who display the Hanoi flag. I saw it with my own eyes during the moratorium march in Washington last fall. I am speaking of the flag of our deadly enemy which engages in uncivilized brutality toward our troops, toward South Vietnamese civilians, and toward our helpless prisoners of war.

Can you believe such things can be happening here in America, the land of the free and the home of the brave?

RIOTS AND CRIME

We have in right recent years witnessed more than a hundred Negro riots—all of them senseless, unprovoked, and utterly devoid of reason. Scores of lives have been lost and nearly a billion dollars in property damage left for others to clean up and pay for. And there has been such little sign of remorse. Much of the rioting was done as a means of protecting organized looters and vandals who seemed to feel the only thing that stood between them and prosperity was a plate glass window.

As you might expect, there were some bleeding hearts and apologists who claimed riots were necessary in order to bring about change. That excuse is as old as the primitive jungle. It is an alien doctrine that should have no place in American thought—and it must be repudiated. We will not deserve or long enjoy freedom if we permit any compromise of our principles on this issue.

And we all know what has happened on our college campuses—even Harvard, Columbia, Colgate, and scores of others where civilization was supposed to be present in a fairly advanced state. It's simply too sickening to talk about. Because when we talk about what has taken place on these campuses, it sounds like something that should have taken place among the hottentots of darkest Africa, where civilized conduct is hardly expected.

There, too, has been the use and abuse of politics and emotions in dealing with racial relations. Out of all this we find America slipping backward instead of forward in the search for better ways in which to live together where racial differences are involved. Even the concept and the integrity of the neighborhood public school, to which the Masonic Order has long been devoted, is under attack today on many fronts.

ABUSE OF FREEDOMS

In the name of freedom of speech, police in the line of duty are maligned and labeled as "pigs"; other officials are often lampooned, vilified and cursed; depravity and filth is printed, acted and broadcasted. In the name of freedom of assembly, gangs of degenerates roam the streets, cursing, burning, beating and destroying. In the name of academic freedom individuals who are dedicated to the overthrow of our nation are permitted to teach our children, under authority of a Supreme Court decision.

Don't you really think this country's been on a civil liberties binge far too long?

Only recently the sanctity of the courtroom as a seat of justice was attacked during the trial of the Chicago 7, when for five long months Judge Hoffman, who presided, was in open court subjected to abuse with obscenities and repeated insults, day after day, as the culprits and their shyster lawyers were determined to obstruct justice and prevent a verdict from being rendered.

Regardless of legal aspects of that trial which remain to be examined, in my judgment Judge Hoffman is entitled to the plaudits of the entire nation. And the jury is entitled to a lot of credit, too.

Moreover, the thousands who marched or rioted in protest against the verdict are no better than those who were tried, because they themselves are criminals at heart or they would not be whining, ranting and destroying because five hoodlums were duly convicted in a court of law.

Now, I must not prolong this line of discussion. All these evidences of degeneracy, of sick minds and corrupt souls, add up to a condition which calls for double-duty and overtime, if you please, on the part of all patriotic and responsible citizens. In my judgment the vast majority of our people are sick and tired of this course of events. The time is overdue for a really meaningful crackdown. These hooligans must be taught, in language they can understand, that the right to enjoy freedom is not a license to abuse freedom. We have reached a point when in dealing with these characters we must not exercise that degree of restraint which we traditionally prefer.

As the prophet Isaiah put it: ". . . If ye be willing and obedient, ye shall eat the good of the land. But if ye refuse and rebel, ye shall be devoured with the sword."

Above all, let us support our peace officers, and let us reassure them of our support. It is an old Communist trick to scream "police brutality," "pigs," and other abusive expressions, as a part of their scheme to break down and erode public confidence in those who enforce the laws. As members of the Masonic Order and as American citizens, let us become more active in community affairs and resolve to give more and more support to good and worthy causes.

HOUR IS GROWING LATE

In terms of history, the hour is growing late. Without being an alarmist I think it is fair and correct to say that never before in American history has there been such outbursts of anarchy, crime and rebellion—to anything like the degree that exists in this country today. Truly, our capacity for self-government is being tested.

There are also disturbing signs in governmental trends. For example, during the past 10 years our nation has moved further and further away from the traditional American practice of allowing local people to deal with local problems at the local level. This is both fundamental and inherent in our system of government. But today we see the concept of local self-government being eroded, weakened and undermined. Indeed there has developed evidence of high-level distrust of the capacity of the people to govern themselves, as contemplated by the founding fathers when this Republic was established.

Along with that there has been an erosion of constitutional government. In our time there have been those who would twist and maim our Constitution and weaken the superstructure of our system.

Another source of concern is the emergence of anti-military sentiment, at a time of great national peril due to massive Communist military preparations. While constructive criticism is always appropriate, the fact is that much of the anti-preparedness attitude in this country today is an out-and-out attack on this nation's defense structure itself, and this is indeed disturbing.

HISTORY BEING REPEATED?

You know, the renowned historian, Arnold Toynbee, in his monumental study, has pointed out that almost all the great civilizations on earth have eventually withered and fallen from internal decay, not from external force. And the Englishman, Macaulay, who died on the eve of the Civil War, wrote:

"Your Republic will be fearfully plundered and laid waste by barbarians in the 20th century as the Roman Empire was in the 5th, with this difference: That the Huns and vandals who ravaged the Roman Empire came from without—and your Huns and vandals have been engendered within your own country by your own institutions."

I would like to think that Macaulay,

while prophetically right about the danger, underestimated the capacity of the American people to react, face up to such challenges, keep the faith, and triumphantly uphold the majesty of the law. But it will take some doing.

MASONIC CONTRIBUTION

Now, if I may shift gears for a moment, let me talk to you briefly as members of the Masonic Order. As you know, our great fraternal organization, which originated on Mount Moriah by Operative Masons, during the building of King Solomon's temple, has throughout history been in the forefront of battles for honor and good government. Masonic influence was particularly significant during our early history, when the going was rough and the need was urgent.

Well, it is rough now, and again the need is urgent. Therefore, in these critical times in our history, fate again imposes upon this Order—and upon all others who are similarly motivated—a duty to assume an extraordinary degree of responsibility when the chips are down. That time is now.

Let us recall for a moment the vital role Masonry has played in the endless struggle for stability, right and decency. We know that throughout our history this Order has wielded constructive influences, always—but always—dedicated to the dignity of man and the glory of God.

Masonry in America asserted its great influence most effectively during the earlier years of the Republic, and during its creation. It was a mammoth contribution and the influence exerted was probably decisive. Let us review a few evidences of that.

Two generations of Masons had been made in the first lodges of Boston, Philadelphia, Charleston, and Savannah before the first Masonic brethren laid down their lives for their country on the village green at Lexington and the slopes of Bunker Hill. So that, by the time the Revolution was in full swing, Masonry had a strong position among the leaders of the time.

The entire revolution was marked with Masonic influence. Ten military lodges were established in the Continental Army. Washington himself officiated in the raising of LaFayette to the sublime degree, and LaFayette later said Washington never entrusted an independent command to a subordinate officer who was not a member of the Masonic Order. At least 50 of Washington's subordinate generals in the revolution were members of the Order.

At the field of Bunker Hill our immortal brother James Warren laid down his working tools of life to enter the realm of the Supreme Architect. He had refused the offer to be made a Major General, and died a private in the ranks.

His commander was Israel Putnam, a distinguished Mason. Warren became one of the first men of distinction to lay down his life for the cause of independence. He had served as Provincial Grand Master of America under Scottish authority.

Incidentally, Warren's body was identified the next day and buried and the place marked. After the British evacuation a year later, the body was exhumed, carried in a solemn procession from the State House to King's Chapel and buried with military and Masonic honors. The oration delivered on that occasion by Perez Morton has been compared to Anthony's speech over the grave of Caesar.

"Our Grand Master," said he, "fell by the hands of ruffians, but was afterwards raised in honor and authority. We searched on the fields for the murdered son of a widow and found him by the turf and the twig at the brow of a hill."

MAJORITY OF CONSTITUTION SIGNERS WERE MASONS

In reckoning the contribution Freemasonry made to our country and its independence, it is significant that a majority of the signers of the Constitution and of the Declaration of Independence were Masons. Indeed some historians believe the Constitution would never have been agreed upon had it not been for the fraternal spirit which prevailed among so many of the more prominent men who produced it. It was touch-and-go for a long time. Some delegates despaired and left. Then the spirit of compromise gained the upper hand among the delegates.

In the interest of time I shall forego the temptation to pursue the subject of Masonic contribution to our country—particularly in times of crisis. It has been so much a part of America and its history.

OUTLOOK IS NOT HOPELESS

In conclusion, let me say that we have much of which to be proud. Today we lead the world in science and technology. Our gross national product is more than three times that of Russia. We have on two occasions put men on the moon, and more are scheduled to go. Our standard of living is unsurpassed by any other people. Our nation is blessed with a tremendous reservoir of ingenuity and patriotic fervor. The outlook is not hopeless—not by any means. But the hour is growing late. We have our work cut out for us.

In the uncertain and critical years immediately ahead, the hard core of the strength of America must flow from the great fraternal and patriotic organizations, along with the men and women of profound religious convictions. This, of course, includes all churches, all races, and all creeds. You can be certain that, just as it has done in other critical periods in our history, the Masonic Order will play a vital and important role in the endless search for better solutions for today, and for tomorrow. Because this Order is composed of the type of men who understand the meaning of responsibility, and are prepared to assume and implement it.

Surely this is a time which calls for rededication on the part of all loyal Americans. It is time to renew our faith in our institutions. And it is, of course, a time that requires vigilence on the part of all good citizens who still love this nation and its flag.

In finding the answers and in meeting the challenges, I have no doubt that our fraternity will contribute even more than its share.

KANSAS CITY: LEADER IN THE 1970'S

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. BOLLING. Mr. Speaker, the people of Kansas City have a good friend as well as an able Senator in STUART SYMINGTON. His recent message extolling the virtues of Kansas City was delivered before the Rotary Club of Kansas City on Lincoln's birthday. At the same time Senator SYMINGTON was honored by our Mayor Ilus Davis with a special proclamation for his decisive role in bringing major league baseball back to Kansas City with the Kansas City Royals. The Senator's speech follows:

KANSAS CITY: LEADER IN THE '70S

(By Senator STUART SYMINGTON)

On this the 161st anniversary of the birth of Abraham Lincoln, the challenges to our country may well be as crucial as those which that great man faced when he assumed the Presidency.

Lincoln was confronted with a basic difference in the thinking of our people; and those divisions led us into a long and bloody war.

Particularly in our cities and suburbs today we are again confronted with deep divisions; not as well defined, perhaps, as those between the North and the South some 110 years ago, but nonetheless real and growing and not without violence.

The test of this new decade as well as the subsequent 20 years of this century will be: can this nation build our urban, suburban and rural areas into a land with an environment that we will be able to pass on with pride to our children and their children?

I raise this question today before this outstanding service club, realizing that we are in a city with a great past and an even greater future—a city and an area which has demonstrated time and again that planning and working together in true American tradition creates a climate which in turn can only guarantee future happiness to the Heart of America.

Never was the spirit of cooperation more evident or more meaningful that last year—cooperation of governments, business and civic leaders, across your State line here; and also with your representatives in Washington, from both Missouri and Kansas.

As but one illustration, this cooperative spirit resulted in saving our status as the Regional Center for all the Federal offices working on the problems of the people of this area.

The evidence gathered, and presented in extraordinarily able fashion, proved that Kansas City offered outstanding facilities and unsurpassed services; and therefore in every way deserved to be designated as the logical growing center from which to serve millions of our citizens in surrounding states.

Your metropolitan leaders, many of whom are here today, once again proved that Kansas City is the kind of urban area that stands experienced, strong, and ready to face any problems, any challenges, of the future. In this connection, let us note that the hard facts which won this recent controversy were in large part a result of work and investment characteristic of preceding years.

With respect to the scope and meaning of this victory in holding and adding new regional offices, may I present that in 1968, the last year for which all the figures are available, in grants, salaries, payments for supplies and services, and in benefits, 20 Federal agencies put three-quarters of a billion dollars—to be exact, $784,454,848—into Jackson County alone.

Not only, therefore, is the Federal Government by far the largest employer in this regional center; it is also one of the biggest consumers, as well as obviously being a tremendous generator of business, old and new.

The importance of Kansas City as a Government center assures its future; but its many other assets, coupled with its natural resources of land and water and people, fully developed as planned, makes us all confident to the point of conviction that the Kansas City metropolitan area will be a true leader of the '70's and beyond.

Let us review today but a few of the numerous assets in your area, already available or to be developed; programs on which my Staff and myself are proud to cooperate, because they serve all the people, and because in the long run the Federal share in each project will be a sound investment indeed.

Kansas City was born on the banks of the mighty Missouri. With more than fifty million feet of water in upstream reservoirs, this great river assures our town ample water supply even in such severe drought years as those of 1954 and 1956.

Now controlled with flood protection that assures prevention of another Black Friday such as that of July 13, 1951—when this area suffered a billion dollars in flood loss—the

Missouri also provides a steadily growing potential for river transportation.

In addition, within less than two hours driving time, in due course Kansas City will have more than one dozen fresh water, multiple purpose reservoirs. Several are already completed; others are either under construction, or authorized or proposed; and I will never rest until they are all completed.

In these latter planned projects, in Missouri alone over the next decade or so, the Federal Government will invest more than $500 million; and with this added four million acre feet of water, our area will then be competitive in water recreation with any other in the land.

This water development will also constitute an important resource for continued healthful and desired industrial growth.

So much for the plans to fully utilize these unparalleled water resources the Almighty has bestowed upon Kansas City.

And there is more.

Now under construction and already in partial use as the major overhaul and training base of the world's finest airline—TWA—you all are providing what is destined to be the greatest inland airport—Kansas City International.

With the high speed rapid transit from downtown to the airport, coordinated with our superb multi-lane highway system, this area will still have one of the most convenient of all airports; and when that transportation system is operating, it will help solve other transit problems.

And there is more.

The Jackson County Sports Complex will nail down this area as "Big League" in every way. We have superb and growing fan support. We have the highest type and character of ownership. It is only a question of time—and I predict not too much time at that—when our Kansas City Royals will win a World Series; and right now, today, there is no longer any argument about the fact that our Kansas City Chiefs are the finest football team in the land.

The expanding Interstate and express highway system now being constructed as the result of cooperation at all levels, local, state and national, will serve in unsurpassed fashion the entire area: new airport, sports and entertainment complexes, the downtown area, and our rapidly growing suburbs.

In addition to the above, it has long been my belief that the development of educational facilities is a prerequisite to community development; and therefore I am glad to note the expansion of strong and growing institutions of higher education, including the new dental and medical facilities of the University of Missouri on Hospital Hill. Thanks to the fine constructive work of leaders here as well as support in Jefferson City and Washington, this progress will be a pattern for others to follow.

The faith in the future of your own business leaders as represented by such magnificent new commercial buildings as Commerce Towers, Ten Main Center, and the planned Crown Center Complex, gives practical assurance to all of the faith of the community in its future.

Yes, this the Heart of America has great and growing assets, many more than I have presented today. Nevertheless, as is true of every major city in the United States, we currently also have some problems.

In the past ten years, the rate of violent crime in cities over 250,000 has increased three-fold. Right here I am told that homicides this year doubled over last year. As I have said before—crime is the working partner of waste, and to bring to fruition our potential in the '70s, all forms of waste must be controlled. This is also true of crime. Working together it will be controlled.

Unfortunately, many outside—international—adventures, primarily the war that is dragging on in Vietnam. have dried up available funds needed on the domestic scene despite an increase in taxes. Accordingly, there is a shortage of money to do what we know is needed. More than half the tax and bond issues submitted to Missouri voters in 1968 were voted down; and 24 such issues were voted down in this city only last December.

This shortage of needed funds is by no means peculiar to Kansas City. For example, a pamphlet distributed in Washington earlier this week by the Mayor has in it this sentence: "St. Louis is bankrupt;" and it is a fact that most of our cities, our counties, and our states just do not have adequate money to accomplish what we know must be done.

These needs include:

Education—last year the Federal government provided over $10 million to further education in this county; and although more is needed this year, I am sorry to report that, under the new budget, less will be forthcoming.

More and better housing—last year the Federal government provided this community with $8 million for urban renewal and low-cost housing. This year the allotment was cut to $4.7 million; but now, thanks to much work, the amount has been increased back to $7 million. It is clear nevertheless that we are still $5 million short of what is vitally needed to continue and expand the rehabilitation of homes in declining areas; and also to carry on a necessary and desirable proper program for new low-cost housing.

In the remaining years of this century the United States will add another hundred million to the total population—300 million in all—and by that time 90% of our citizens will be living in urban and suburban areas.

The problems this accelerating population growth will present must be faced now; and with that premise, let us examine briefly but one example of the wastes referred to previously—that waste incident to air and water pollution.

These two forms of waste will not only eat away at much of our urban progress; they will take out of your and my pocketbooks an estimated $13 billion per year—$65 for every man, woman and child; and this does not include the heavy toll of death and sickness which inevitably results from poisoned water and contaminated air, something that cannot be measured in dollars and cents.

There are additional requirements if we are to meet the needs of Kansas City and other urban, suburban and rural areas; and with that as a premise I have become convinced that we must work toward the establishment of new priorities with respect to our treasure. Since by far the greatest portion of our tax dollar goes to Washington, that is where we must make the most headway.

In this connection, let us also bear in mind that, equally important with the preservation of our natural resources, must be the preservation of our financial resources.

As a recent editorial in the Wall Street Journal well summarized:

"If inflation wrecks the economy, as it has before in the U.S. and elsewhere, the problems of education, housing and welfare that we have now will seem minuscule in comparison. It's the economy that provides the resources to grapple with the nation's concerns."

We have no civil war at home. But if we fail in the carrying out of whatever is needed to preserve the strength and prosperity of this nation—and above all, if we do not take whatever steps are necessary to maintain the American spirit, we will be breaking faith with the unity in this land considered by Abraham Lincoln to be the last best hope for the nation's future.

Let us pledge, therefore, on this his birthday, that we will continue to move forward, that in the '70s we will make Kansas City the very symbol of progress in America.

The fulfillment of that pledge will give us the dignity that is both the heritage of and the hope for our beloved country.

KEYNOTE SPEECH BY SECRETARY HOLLIS DOLE, BEFORE THE SECOND MINERAL WASTE UTILIZATION SYMPOSIUM IN CHICAGO, ILL.

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. BURTON of Utah. Mr. Speaker, the Assistant Secretary for Mineral Resources of the Department of the Interior, Hollis M. Dole, is today delivering the keynote address before the Second Mineral Waste Utilization Symposium in Chicago, Ill. Since the work of the symposium is so timely as the Nation, following the leadership of the administration, now faces up to the hard efforts required in the task of improving the quality of the environment, I believe it will be of interest to my colleagues. Mr. Dole's speech follows:

SOLID WASTES: A NATIONAL RESOURCE

(Remarks by Hollis M. Dole)

Solid wastes are an environmental threat, and more so than any other environmental problem facing us today, they are everybody's concern. Householders, workers, businessmen, industrialists, State and Federal officials . . . all are confronted with the solid waste problem, and all, in varying degrees, have the opportunity, and indeed, the obligation, to curb the waste of our resources and to stem the environmental damage from solid wastes.

But when we speak of solid wastes we use a collective term—one that tends to obscure the tremendous variety of waste materials involved. Use of the collective term does not differentiate wastes according to the severity of the environmental threat posed by each, nor does it give any clue to help us rank waste problems in an order that would indicate the potential of each for economic solution.

It is necessary that we sort out our problem wastes more efficiently than we have thus far. We should seek to determine, for example, which wastes represent the greatest threats to environmental quality, and therefore, should be attacked first; where the best opportunities for turning waste into profit lie, or, at least, the best opportunities for recovering a marketable product from waste to help offset disposal costs; which problems should logically be tackled through research and development; and which are amenable only to some form of regulation. Where do the responsibilities of industry end and those of State and Federal government begin? As of now we may not have the answers to many of these questions. That doesn't mean that they shouldn't be raised. They should—for two compelling reasons.

The first is that solid wastes, in all their diversity, can represent serious threats to the quality of our environment and, more important, to the health and safety of everyone of us. If we need to be reminded of this, we need only think back to the 1966 disaster in Aberfan, Wales. One fall morning, in that little coal town, 140,000 cubic yards of waste rock and mud from a spoil heap on a nearby mountain gave way. It buried two farm houses in its path, engulfed a school and 18 houses, and damaged a second school and more dwellings before it finally stopped its disastrous slide down the mountainside. At least 144 people were killed, most of them school children.

This example is—hopefully—an extreme one. More typical solid waste problems do not manifest themselves so dramatically, although they usually affect more people in the long run. Nevertheless, the *shock* of Aberfan was typical of our reactions to solid waste problems which we cause without being aware of it, and which make us wonder at our own shortsightedness.

An equally compelling reason for looking more closely at the nature of these problems is the growing realization that we are wasting valuable resources . . . resources that we need right now and will need even more urgently in the future.

Mineral consumption in the United States is increasing at an astonishing rate. It is estimated that consumption of metals, nonmetallics, and fossil fuels in 1980 will be double that of today. Barring a host of technological breakthroughs in finding substitutes, this trend is irreversible.

Recent demand estimates made in the Department for particular commodities are especially revealing. By the most conservative estimate, primary aluminum demand will more than triple in the U.S. between 1967 and 1968. Demand for primary copper in that same period will—conservatively—jump by almost two-thirds. We will require better than 30 percent more iron, roughly 25 percent more phosphorus, and nearly 50 percent more sulfur.

To make matters worse, increased production will have to be obtained by treating lower and lower grade ores. Supplies of minerals and metals, whether domestic or foreign, are available to us only at ever-increasing costs, and are often accompanied by the generation of greater volumes of "waste" products. New or improved technology can pay high dividends by uncovering ways to make marketable byproducts from wastes—not only to wipe out or reduce disposal costs, but to broaden our resource base too.

The Nation can expect to meet its material needs in three basic ways. The first is through primary production of mineral raw materials; second, by imports from foreign sources; and third, by recapturing secondary materials and metals in reusable forms. This last is our only growing resource.

Automotive scrap serves as an excellent illustration. It now accumulates at a rate that can provide industry with over 10 million tons of ferrous and a half-million tons of nonferrous metals annually, with every indication that this rate will increase. An estimated 16 million junk cars still remain to be reclaimed from auto graveyards across the Nation.

In 1968, nearly 300,000 tons of aluminum were used in the manufacture of cans, lids, and caps, and virtually none of it will be reclaimed if present disposal practices are continued. We throw away each year on our city dumps 25,000 tons of tin in the coating on tin cans. This is equivalent to the amount of tin salvaged from all other secondary sources.

The resource potential of such "solid wastes" is so obvious that you are forced to wonder why we call them "wastes." There they lie, tantalizingly available, needing only a few technological refinements or perhaps a slight restructuring of the scrap industry to bring them back into the manufacturing cycle . . . As with Aberfan, we shake our heads at our own shortsightedness.

We must not, however, allow the high promise of increased secondary recovery to blind us to the need for devoting equal attention to other, less compliant waste substances. As I have noted, the term "solid waste" embraces an incredible variety of materials. Indeed, the term characterizes, not so much these materials themselves as our reaction to them.

As I have also suggested, the reaction is two-fold—solid wastes are sometimes deplored for the environmental threat they pose, sometimes for the waste of resources they represent. I am convinced that no discussion of the problems posed by these substances can be meaningful unless we remain aware of this duality. No proposal for new or improved disposal methods can be taken seriously unless it takes into account both aspects of their nature. For as private industry is increasingly coming to realize, environmental quality has become as much of a criterion for the design and operation of industrial processes as the more traditional ones like raw material availability, costs, and markets. And as the public at large is coming to understand, issues of environmental quality are inextricably linked to questions concerning the availability of the natural resources on which America's living standards and economic growth rate depend.

In his Budget Message to the Congress, President Nixon recognized the part that science and technology must play in resolving these issues. He said:

"Where technology has polluted, technology can purify. Solutions to many of our problems can be found only through greater understanding of our environment and man's impact upon it. We must also augment our ability to measure and predict environmental conditions and trends.

"I am confident that this challenge can be met by our leading research institutions and scientists."

It is clear, too, that industry has a major role to play. No Nation can afford wastage of its mineral resources any more than it can afford disasters like Aberfan.

I am pleased to see the excellent representation of industry at this symposium. It indicates that mineral processors, metal fabricators, chemical companies, and other manufacturers are responding to the solid-waste challenge. To me, your attendance also signifies a response to President Nixon's "New Federalism," which acknowledges need for a collective effort by industry, by our research and educational institutions, and by Federal, State, and municipal governments in seeking prompt solution of urgent problems.

Thank you for being here. I am sure that by working together we can share in the excitement of building a better America.

AIR POLLUTION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. SCHEUER. Mr. Speaker, it is common knowledge that our search for greater technological and industrial progress has severely damaged our planet. What may not be common knowledge, however, is the fact that huge quantities of lead and carbon monoxide—both deadly poisons—are dumped daily into the very air we breathe. This type of pollution affects both cities and towns across America.

Most gasolines contain lead and 190,000 tons of it—nearly 2 pounds for each U.S. citizen—are added to our air each year by cars, buses, and trucks. Carbon monoxide, according to the National Academy of Sciences, is dangerous to man when it reaches the level of 10 parts per million parts of air—a level it often attains in our congested cities.

I have introduced a bill, H.R. 15754, cosponsored by 13 of my colleagues in the House, which provides for the removal of lead from all gasoline and for the installation of adequate antipollution devices for ultimately all cars. Once lead is eliminated from gasoline, readily available catalytic antipollution devices will reduce by 90 percent the emissions of hydrocarbons, carbon monoxide, and other oxides of nitrogen into the air. I have been encouraged by the appearance of four recent articles—two in the New York Times, and one in Newsweek and Time magazines—concerned with this problem of pollution resulting largely from lead in gasoline. I place these four articles into the RECORD for the benefit of my colleagues:

[From Time Magazine, Jan. 26, 1970]

INVISIBLE KILLER

Among modern technology's more unwelcome gifts is a man-made surplus of carbon monoxide, a toxic gas that cannot be seen or smelled. One way CO is formed is by burning any substance that contains carbon—fuel oil, for example, or tobacco. As a byproduct of the incomplete combustion of gasoline, CO is a prime ingredient of auto exhaust, which is the main source of air pollution in big cities.

Scientists have known for a long time that in large amounts the gas severely impairs the ability of the blood's hemoglobin to carry oxygen from lungs to tissues. The result is a loss of energy and a crippling of both mental and physical reactions. Inhaling the gas from auto exhaust has become a popular method of suicide. Now, because the highly industialized Northern Hemisphere contains more than 90% of the world's CO, U.S. scientists are voicing new concern about its effects.

SMALLER BABIES

According to a recent report by the National Academy of Sciences, the gas becomes dangerous when it reaches levels of ten parts per million parts of air—a level that is no rarity in today's congested cities. At that point it can harm pregnant women and victims of bronchitis, emphysema and chronic heart disease. A damaged heart, for example, may be unable to compensate for reduced oxygen supply, and death may result. In Chicago and Philadelphia, says John Middleton, a top federal air-control official, the CO danger point "is exceeded throughout one-third to one-half of the day, and in Los Angeles more than 40% of the time." Each day in Los Angeles, cars spew out 20 million pounds of CO—enough to decrease the blood's oxygen-carrying capacity in some people by 20%.

In Manhattan last week, a three-day conference sponsored by the New York Academy of Sciences revealed that surprisingly low doses of the gas can be dangerous. Some scientists are even concerned about CO in tobacco smoke as well as auto exhaust. As they see it, the gas may explain why women who smoke cigarettes during pregnancy tend to have smaller babies than nonsmoking mothers.

Dr. Thomas Rockwell, director of Ohio State University's driving-research laboratory, also had bad news for motorists in smoggy areas, whether or not they smoke. Under some conditions, says Rockwell, a driver's perception is dangerously impaired by CO in his blood. He may have trouble detecting when a car ahead is slowing down:

XUM

he can even fail to notice when its brake lights flash on.

[From the New York Times]

Smogless Car May Take Years

Atlantic City, N.J., February 18.—Dr. Lee A DuBridge, President Nixon's science adviser, said today that it would take 10 years to free the nation's highways of pollution-producing automobiles.

He explained that this would be the time required to develop an engine that would not pollute the air after a few thousand miles of use, and to get all the old cars off the highways. However, Dr. DuBridge assured the 25,000 educators attending the 102d annual convention of the American Association of School Administrators in Convention Hall that the automobile industry is making progress in creating a pollution-free car engine.

"We have begun to find effective ways of reducing the nitrogen oxides and we are now busily exploring ways to eliminate the lead," he said.

ALTERNATIVES SOUGHT

Later at a news conference, Dr. DuBridge said that the new technologies to perfect a fumeless car were expensive, and the consumers eventually will have to pay for the antipollution innovations.

Asked whether these added costs would be contrary to President Nixon's efforts to control inflation, Dr. DuBridge said: "When the higher cost improves society—if you pay another $100 for cars that don't pollute the air, it's worth it. That's not inflation. Inflation is paying more than the products are worth."

He said that engineers were investigating the feasibility of steam or gas turbines or electric motors as possible replacements for the internal combustion engine, but they are confronted with serious technological problems.

"The fact is," he said, "that no one has yet invented a replacement for the internal combustion engine which has adequate performance, reliability, and safety, or which can be produced at a reasonable cost and requires a minimum of maintenance. Even if a promising engine were operating on a laboratory bench today, it would be a long time before it could be engineered and tested for practical use and put into large-scale production."

[From Newsweek Magazine, Mar. 23, 1970]

Autos: Ethyl's Deflated Romance

Time was when Ethyl was everybody's sweetheart—beloved of oil companies for raising gasoline octane ratings cheaply, favored by automakers for taking knocks out of engines, cherished by motorists for putting go in the gas buggy. But these days, Ethyl's best friends tell her that she contributes to the air-pollution problem. "I feel like 'A Boy Named Sue'," drawls executive vice president Lawrence E. Blanchard, Jr., of the Ethyl Corp., "only my father named me 'Ethyl'."

Ethyl's full name is tetraethyl lead, and her sudden wallflower status stems from President Nixon's proposed new standards of purity for automotive exhaust. The nation's automakers have decided that the first step in cleaning up must be the removal of lead additives from gasoline. The big oil companies, suddenly faced with a multibillion-dollar expenditure to change their refining techniques, at first reacted with outrage at Detroit but now are squabbling among themselves. That leaves the principal makers of lead additives (Ethyl Corp., E. I. du Pont, PPG Industries and Nalco Chemical) bereft of sponsors, and bitter about it. "There is no doubt in my mind," said Blanchard recently, "that lead has been picked by some as the scapegoat for a host of serious problems of the automotive industry."

Spray: It isn't that simple, as a Presidential panel will soon find out as it begins 90 days of inquiry into the cost and consequences of removing lead from gasoline. Lead additives were first used nearly 50 years ago, when refiners discovered that they somehow raised the octane rating of gasoline and suppressed engine knock. In recent years, with the rise of the "muscle" car and its high-compression engine, octane ratings have risen, too; nearly half of the cars on the road won't run satisfactorily on gasoline of less than 97 octane. Without adding lead, most refineries now cannot produce gasoline rated higher than 90 or 91 octane. Thus enormous quantities of lead are added, only to spew from tailpipes as an aerosol spray—an estimated total of 190,000 tons a year, or nearly 2 pounds for each U.S. citizen.

Is this dangerous? Lead in most forms is highly poisonous, and some studies have shown that the average American body contains 2.5 to 3 parts per million of lead. The danger level: 8 parts per million. Still, nobody has proved that any case of lead poisoning resulted from auto exhaust. While this leaves the case technically open, Fred Hartley, president of Union Oil Co. of California, recently conceded: "My medical director advises me I shouldn't get into a court of law on a lead case."

Pending definite medical evidence, the most immediate problem posed by lead is that it interferes with the automakers' favored method for achieving emission-free exhaust from internal-combustion engines. Present thinking in Detroit favors the use of a catalytic converter, which would bring exhaust gases into contact with a catalyst that would convert them to harmless chemicals. Lead compounds, however, would coat the catalyst within a year of operation. Since the automakers are convinced that an exhaust-control device must last the life of the car if it is to be effective, they have decreed—somewhat autocratically, in the view of the lead producers—that lead should be barred, and have promised to produce lower-compression engines that will run without lead. Edward N. Cole, president of General Motors, led the way in a speech two months ago, warning that if emission standards are tightened, "we know of no way presently that such control can be accomplished with lead in gasoline." Growled R. V. Kerley, Ethyl Corp's director of automotive applications: "What does he care if we go out of business?"

Clean: In fact, many oilmen agree with the lead makers that Cole is flatly wrong—that a way can indeed be found to clean lead from exhaust along with the other waste products. Both du Pont and Mobil Oil Corp. have recently touted experimental systems aimed at achieving this goal. Most regulators, for their part, tend to steer clear of the issue. "If we can make a low-emission car some other way," says Dr. A. J. Haagen-Smit, the California scientist who first described photochemical smog, "what the hell do I care?" On balance, however, the trend is toward the thinking of the anti-lead forces—and early this month, at a hearing before the California Air Resources Board. Union Oil's Hartley read what seems to be the handwriting on the wall. "I know we're not going to have lead in gasoline eventually," he said flatly. "I'm sure you men sitting before me have your minds made up already."

Accordingly, Hartley proposed a solution to the transitional problems involved in eliminating lead from gasoline. More than half the cars now on the road, he said, could run satisfactorily on unleaded gasoline of 91 octane; the others could be adjusted to use either that grade or a 97-octane leaded gas. If the industry were required to make those two grades, he said, this "would adequately satisfy the current automotive population and also provide lead-free gasoline for all 1971 and later models." Thus, by 1980, there would be no more need for leaded gasoline, and in the meantime there would be no need for a crash conversion of the oil industry's refineries.

Who Pays? And this, as most observers saw it, was the nub of the case. "The fight now," says a candid automaker, "is over who pays." To Detroit, stuck with the unhappy prospect of installing emission-control systems and raising auto prices by as much as $300 a car, it seems only fair that the oil industry should bear some of the burden. The oilmen, in turn, protest that the burden would be crippling; the American Petroleum Institute, for one, figures converting all refineries to lead-free production would cost at least $5 billion, with an added cost to motorists of 3 cents a gallon. By other estimates, however, this one is exaggerated. John Logan, president of Universal Oil Products Co., says the institute assumes "everything being scrapped and replaced by new stuff. What we're talking about is a higher degree of refining. So you don't scrap equipment, you just add to it." Logan's own estimate: from $2 billion to $2.5 billion.

In any case, of course, it will be the motorist who winds up paying the bill. And if this prospect bothers the Citizens for Clean Air who recently picketed in New York with signs reading "Get the Lead Out" and "Let the Sun Shine In," it seems thoroughly reasonable to the oil industry. "The consumer ought to pay the costs," says one Houston oilman. "The public is the beneficiary. Why shouldn't the public pay?"

[From the New York Times, Mar. 10, 1970]

General Motors To Provide An Antipollution System for Pre-1966 Cars

(By Jerry M. Flint)

Detroit, March 9.—The General Motors Corporation announced today that within a few months it would have an antipollution system aimed at cleaning fumes from older cars already on the streets.

The package will be offered first in California. General Motors would not say what the system would cost, but it was understood the price would be no more than $35.

In a speech prepared for delivery to engineers in Flint, Mich., the G. M. president, Edward N. Cole, said:

"This G.M. package can be installed at a reasonable price on virtually all pre-1966 model cars. We are hopeful of making the modification available within a few months in California. If widely used, it should have an immediate and significant effect on lowering the level of pollutants attributable to the automobile."

Cars built since the 1966 models have anti-emission equipment.

The changes planned for the older cars include adjusting and sealing the idle speed mixture control, increasing the idle speed, and altering the vacuum spark advance—all parts of the fuel burning system of an engine. "The hardware required is a thermo vacuum switch to protect the engine from overheating." Mr. Cole said.

The General Motors move is the second dramatic action from the auto maker on car pollution in a month and appears to reflect two beliefs the company in the current controversy over the environment.

The first is leadership. General Motors is the biggest car maker and always the major target of industry critics. G.M. men have made it clear in interviews that they want to be above reproach. Last month the company said it would modify all its future car engines to run on less powerful, non-leaded gasoline, as an effort to control pollution.

The second belief, in the words of one General Motors man, is "to put the monkey" on somebody else's back. In the leaded fuel controversy, the company's move meant that the gasoline companies were now responsible for providing less polluting fuel. In this latest action, General Motors said it would provide the system for cleaning old cars; the next move is up to state or Federal legislators, who would have to order the equipment on Government cars and make individual car owners pay for it.

COLE EXPRESSES CONFIDENCE

Mr. Cole said today: "Based on our research and development efforts to date, I am confident that the internal combustion can be made pollutant-free within current methods of measurement—and that this goal can be achieved within the next few years."

He said that to make engines pollutant-free, there will have to be changes in engine design and in emission control systems but he also said that changes would be needed in the composition of gasoline "including lower volatility, adjustments in the molecular structure, and in the removal of tetraethyl lead."

Earlier today, the Ford Motor Company said it would conduct field tests in California on emission control systems for used cars. The California Division of Highways is to deliver 30 of its vehicles and Ford said it would test the cars, tune and modify them and then retest them to see if the emissions are reduced.

The company said its own tests showed sharp reductions in emissions, similar to those reported by General Motors.

PLANT PROJECTS PLANNED

WARREN, MICH., March 9.—General Motors plans to begin construction this summer of $5.5-million in modernization projects to help combat environmental pollution.

A spokesman for the Fisher Body division of G.M. said today that new projects geared to controlling industrial water pollution would be started in Trenton, N. J.; Hamilton, Ohio, and Flint and Lansing, Mich.

When the projects are completed, said John Baker, Fisher Body manager of operations, "Two-thirds of our plants will have modern self-contained 'clean water' systems to remove industrial wastes from water used in manufacturing operations."

BURLEY TOBACCO SOIL BANK PROGRAM

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. CARTER. Mr. Speaker, today I am introducing legislation to permit the soil banking of burley tobacco allotments. As you know, the burley tobacco growers of Kentucky, Tennessee, North Carolina, Virginia, West Virginia, Ohio, and Missouri experienced a very poor market during 1969. The Secretary of Agriculture has decided that a cut of 10 percent in their allotments is necessary and the forecast for the coming years is not good.

The legislation I have introduced is a true reflection of those farmers' desires. They have suggested this legislation, and in all ways I have tried to make it reflective of their desires. I would like to explain a few of its provisions.

This legislation in no way alters the present support price acreage control under which the farmers have elected to work. This program is completely voluntary, and since it is the work of the farmer, I believe that it will be well received by them.

For the purposes of this bill, the burley farmers' acreage allotment for 1969 will not be disturbed, that it is to say that the 10 percent cut in allotment ordered by the Secretary this year will be made null and void for participants in this program. The producers of burley tobacco are allowed to enter into a contract of 1 to 3 years to divert not less than 25 nor more than 50 percent of their allotment. But if their allotment were half an acre or less, they would be able to retire 100 percent of it for an indefinite period of years without losing any of their 1969 allotment acreage.

Section 319(c) gives the rate of payment. The amount of payment shall be such a rate as the Secretary determines to be fair and reasonable, but it shall not be less than 30 or more than 50 percent of the estimated support price for the year the contract is in force.

To determine the basis upon which a farmer shall be paid, the Secretary shall take the average yield of burley tobacco on the individual farmer's acreage allotment for the 3 preceding years of production. For example, if the farmer has an allotment of 1 acre and his average yield of burley tobacco has been 2,500 pounds, his average yield for half an acre would be 1,250 pounds. If he diverted half an acre, this 1,250 pounds would be the basis upon which the Secretary shall determine his payment. This basis shall not be decreased, but it will be increased if the national average yields increase. The amount of increase will be 50 percent of the increase in that year's national average yields.

Section 319(d) is directed toward controlling the amount of production on that portion of the farmer's allotment which is not diverted. Again, let me state that this program is completely voluntary and that the present burley tobacco program will continue to function.

With those options available to the farmer, they, the farmers who have created this legislation, have willingly agreed to limit the amount of tobacco they will produce on that portion of their acreage allotment which is not diverted under this program. Such producers will be limited to their average yield for the 3 preceding years of production and this shall not be decreased under any circumstances. It can, however, be increased if the national average yields of burley tobacco increase during the second or subsequent years of their contract. The amount of their increase will be 50 percent of the national average increase for that year. For example, if a farmer enters into the soil bank program during 1971, and his average yield for 1968, 1969, and 1970 is 2,500 pounds, and he has soil banked half an acre, he will only be allowed to market 1,250 pounds. But if in a second or some subsequent year of the contract the national average yield increases by 10 percent, his permissible marketing production will be increased by 5 percent, which is 1,322 pounds.

There are several insurance factors in this bill which take into account the effects of weather and acts of God which could affect any year's production of burley tobacco. If the farmer's production is in excess of his permissible marketing production during the first year of his contract, he will be allowed to market the entire amount, but his permissible marketing for the next year will be reduced by an amount equal to that which was marketed the preceding year that was in excess of his permissible marketing for that year. This can be illustrated by considering this hypothetical case. Farmer Jones was allowed to market 1,750 pounds for the year 1971, but due to agreeable weather, his yield was 1,900 pounds. He will be permitted to market the entire 1,900 pounds, or he can destroy any amount of which he feels is below a desirable grade that would have the effect of lowering his average price. In the event he decides to market the total 1,900 pounds, he will only be permitted to market 1,600 pounds the next year, for he marketed 150 pounds in excess of the 1,750 pounds permitted. This also assumes that the national average yields for that year remain the same, which would mean that his permissible marketing yield for 1972 would remain at 1,750 pounds.

Similar provisions are made for underproduction, that is to say that if a producer comes under the maximum amount permitted to be marketed in any one year, he will be allowed to carry over this difference to the following year.

What these provisions actually do is to determine a permitted amount of production which can be marketed. They take into consideration over- and underproduction and the amount of production marketed for the period of the contract will total the number of years of the contract multiplied by the average maximum amount allowed to be marketed.

Mr. Speaker, as I stated, this legislation is a product of the farmers themselves, and I believe it to be a program which will alleviate the problems now present in the burley tobacco market. Sixty percent of the burley tobacco growers today have an allotment of half an acre or less. They depend upon this crop for the necessities of life. Labor supplied to produce this commodity is derived from the family, and the proceeds from its sale brings food and clothing to the household. I am concerned for their future, and I introduce this legislation with the conviction that it will save the market which is so necessary for them. It is my sincere hope that it will be given consideration by my colleagues.

OUR PATHETIC RHODESIAN POLICY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. ASHBROOK. Mr. Speaker, yesterday in the United Nations U.S. foreign policy took a realistic first step concerning the Rhodesia issue in using its veto power to defeat a resolution which would have condemned Great Britain for not using force to subdue Rhodesia and which called for severing relations and communications with the former British state. Unfortunately, we have far to go in correcting the pathetically inconsistent policy which was inherited from the last administration.

In his state of the world message last month, President Nixon stated:

> Clearly there is no question of the United States condoning, or acquiescing in, the racial policies of the white-ruled regimes. For moral as well as historical reasons, the United States stands firmly for the principles of racial equality and self-determination.

Last week the administration announced that we were closing our consulate in Salisbury thus further implementing our anti-Rhodesian position.

In contrast, as pointed out by the Chicago Tribune in a March 16 editorial, the United States has relaxed restrictions on trade with Red China while continuing the embargo against Rhodesia. And just yesterday, the Washington Post carried a headline which read: "United States Eases Curbs on Travel to China."

Of course, to stomach this double-standard policy we must not apply the "moral reasons" or the principle of self-determination to the Red China regime or our inconsistencies would clearly be showing.

Walter Trohan, the veteran Chicago Tribune columnist, provided some interesting thoughts on the Rhodesian situation in the March 13 issue of that paper. That, along with the above-cited editorial, advance some compelling arguments for reevaluating our Rhodesian policy if the U.S. position on this issue is not to continue as a subject of ridicule. I insert these two items in the RECORD at this point:

[From the Chicago Tribune, Mar. 13, 1970]

STAND ON RHODESIA QUESTIONED

(By Walter Trohan)

WASHINGTON, March 12.—The state department has taken a firm stand, which it does about as frequently as a total eclipse of the sun, on Rhodesia. Secretary of State William P. Rogers announced that this country will sever its last remaining tie with the white-ruled nation in southeast Africa by closing its consulate in Salisbury.

Unfortunately the department's record of firm stands hasn't been too successful, as is evidenced by the creation of the paper tiger of NATO, the conciliation and appeasement of Russia, the refusal to declare war in Viet Nam, and the alienation of the Arab World. All of these actions have undoubtedly been well intentioned, but would seem only to have made paving blocks on the road to the place of everlasting bonfires.

The great crime of Rhodesia has been to declare independence of the fragmenting British empire, which we began in 1776 before it had reached its greatest growth. Or it may be that an even greater crime is that Rhodesia's government is white even tho its constitution provides for gradual and mounting black control.

The pious attitude of the state department is the more curious because another branch of the federal government, the United States Commission on Civil Rights, released an essay at the same time which said that almost every white American is a racist—whether or not he thinks, knows, or does anything about racial problems.

The essay might also have said, but it didn't choose to, what Otto Kerner, former head of the Kerner commission, told me; that more than 95 per cent of blacks hate whites, which means they are racists on the other side of the coin.

It is to be wondered whether the state department is seeking to wipe out American guilt on race relations—both white and black—by taking a fearless stand on far-away Rhodesia. If the Rogers stand is calculated to win votes for the G. O. P. in the November congressional elections and the 1972 Presidential election, it won't work.

Almost five years ago Rhodesia declared independence from Britain under the leadership of Ian Smith, a British air hero in World War II. The break came over British dictation on race problems in Rhodesia in order to quiet matters at home and in other colonies, restive for more autonomy.

The United States turned the back of its hand on its founding fathers and gave its support to Britain against the independence of Rhodesia and imposed sanctions against its government. In five years the policy, supported by the United Nations where the rising black nations have a formidable vote, has failed to bring Rhodesia to its knees.

Last week the Rhodesian government put into effect its new constitution which formalized the Smith government. It imposes white control, but also provides for growing black participation and power as more are readied for responsibility by education and training.

Rogers described the adoption of the Rhodesian constitution as "the final and formal break" with Britain, which "the United States continues to regard . . . as the lawful sovereign" in Rhodesia. Downing street couldn't have held the British flag higher.

The decision to back Britain in Rhodesia might be understandable if Britain were supporting our policies around the world, but Britain continues to do business with our enemies—Cuba, Red China, North Viet Nam, and North Korea. We have imposed sanctions against Rhodesia and never miss an opportunity to embarrass South Africa, but Britain deals with our enemies for profit.

[From the Chicago Tribune, Mar. 16, 1970]

DOWN WITH RHODESIA, LONG LIVE MAO

When the United States announced the closing of its consulate general in Salisbury, Rhodesia, Prime Minister Ian Smith's government expressed regret that the Nixon administration had "allowed itself to be forced into this decision by the British government."

Whether it was intended to placate the British or the communist-supported black Africans in the United Nations or black extremists in this country—or all of these interests—is not clear, but the decision is an ironic example of Mr. Nixon's "new era" diplomacy.

In a 43,000-word report proclaiming a "historic watershed in American foreign policy," Mr. Nixon said the United States "will not intervene in the internal affairs of African nations." Now he is attempting, by severing the last vestige of diplomatic relations with Rhodesia and by cooperating with Britain's policy of economic sanctions against that country, to bring down its government. Britain with no reason to expect success, wants to topple the Smith government because it unilaterally declared Rhodesia's independence and later put into effect a new constitution establishing a republic. Both the United States and Britain are trying to strangle Rhodesia because its constitution limits the franchise to income tax payers and thus assures a parliamentary majority for the white minority. To a man of ordinary understanding this would seem to be an internal matter.

Mr. Nixon said the United States seeks "freer trade among all nations," particularly including the communist countries. Altho he has relaxed restrictions on trade with Red China, he has continued the Johnson administration's embargo on trade with Rhodesia, formerly our main source of strategically vital chrome ore. This has compromised our national security by putting us at the mercy of the Soviet Union for chrome ore, the price of which the Russians have doubled.

While attempting to ostracize Rhodesia on moral grounds, Mr. Nixon tells the American people that our national interest demands steps toward "improved practical relations with Peking." The Chinese, he says, are "a great and vital people and should not remain isolated from the international community." He proposes to build bridges over the "gulf of ideology" that separates us from a regime which has murdered more of its own people than any government in history, not excepting the Soviet Union; which has carried out a systematic policy of genocide against the people of Tibet; and which even now is building a road across northwestern Laos to facilitate its aggression against our ally, Thailand.

The President's report descanted on "new approaches" and new "action programs for progress" in Latin America, without even mentioning communist Cuba, the source of revolutionary infection thruout Latin America and a training base for black and white guerrilla warriors from the United States. The American Castroites freely travel to Cuba and back while everybody in the state department sleeps, presumably dreaming about what Mr. Nixon calls "changes in communist purposes."

In a significant interview the other day, Sen. Barry Goldwater remarked that, with the exception of the defense and justice departments, Mr. Nixon has "failed to get hold of the government." Certainly he has failed to "get hold" of the state department. In foreign affairs, it's about time for the President to get hold of himself.

DO NOT FRAGMENT CORRECTIONS SYSTEM, SAYS THE COUNCIL OF CHURCHES ABOUT THE LORTON TRANSFER

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FRASER. Mr. Speaker, the Council of Churches of Greater Washington has sent a very well reasoned letter to Members of the House in opposition to section 501 of the District of Columbia Court Reform and Criminal Procedures Act of 1970.

The letter is as follows:

COUNCIL OF CHURCHES
OF GREATER WASHINGTON.

Dear Members of the House of Representatives:

We are writing to you in opposition to Section 501 of the "D.C. Court Reform and Criminal Procedures Act of 1970"—H.R. 16196.

It is our opinion that to transfer part of the D.C. Correctional System to the Federal Bureau of Prisons leaving the other part under the jurisdiction of the city government is to invite chaos within that system. We firmly believe that the interests of everyone will best be served by leaving the city government in control of the City Workhouse, the City Youth Center and the Reformatory for Men (all at Lorton) as well as the Alcohol Treatment Center (Lorton), the City Jail and the Women's Detention Center.

Last fall the President's Crime Control Plan for D.C. included funds to provide special services for counseling, halfway houses, etc. At the moment the Department of Corrections is moving forward in new directions for effective rehabilitation with particular emphasis on community involvement and to

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fragment it at this time would jeopardize this process. Dividing up the entire Correctional System will not only make it difficult to provide these services in the most effective way, but will weaken the whole system itself.

Once again we state our opposition to Section 501 of H.R. 16196.

Yours very truly,
HARRY L. VINCENT,
President.
CHARLES L. WARREN,
Executive Director.

MAYOR LINDSAY ON MASS TRANSIT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. ROSENTHAL. Mr. Speaker, the House of Representatives is currently considering the Senate passed bill providing funds for mass transit.

At a hearing before the subcommittee 2 weeks ago, Mayor John V. Lindsay of New York City, made a cogent and convincing plea to strengthen the bill. He contended, and rightly so I believe, that the measure provided too little too late. The mayor offered suggestions for amendments which would improve the legislation considerably.

Since this important bill may be before us in the not-too-distant future and its effectiveness may have a crucial bearing on the future of our beleaguered cities, I strongly recommend a careful reading of the mayor's progressive testimony:

STATEMENT OF MAYOR JOHN V. LINDSAY OF NEW YORK CITY BEFORE THE HOUSING SUBCOMMITTEE OF THE HOUSE OF REPRESENTATIVES COMMITTEE ON BANKING AND CURRENCY, TUESDAY, MARCH 3, 1970

Mass Transportation has increasingly become the business of telling our citizens that you can't get there from here—and certainly not in comfort.

The Urban Mass Transportation Assistance Act of 1969 (S. 3154) now before you represents a new departure intended to relieve a deteriorating situation.

The bill recognizes the need for a 12-year commitment of at least $10 billion of Federal aid to mass transit although it obligates only $3.1 billion during the next five years and does not require the Federal government to any set level of appropriations thereafter.

Although no separate trust transit fund is established—so is the case for highways—the Secretary of Transportation is authorized to enter into binding contracts up to the $3.1 billion amount.

The contract authority approach does, of course, depend upon subsequent Congressional appropriations in amounts which the Secretary has obligated the government to pay. While not as secure a funding source as a trust fund, this pledge of the government of the United States should make more likely appropriations which match authorizations.

However, no more than $80 million may be appropriated in fiscal 1971; $310 million for fiscal 1972; and $710 million, $1.26 billion, and $1.86 billion in the succeeding three fiscal years.

This may be compared to the commitment by New York City alone of $1.3 billion over the next decade simply for the expansion of our subway system by 12 new lines.

Yet under the bill, no more than 12½ per cent of the total funds obligated can go to any one state—much less one city, except insofar as the Secretary in his discretion could allocate another 3 per cent of the total to one state. Thus, during fiscal 1971 New York State could at the outside receive no more than $12.4 million dollars, and New York City proportionately less—perhaps $6 million dollars.

For purposes of comparison, $42 million are proposed in the New York City capital budget for fiscal 1971 simply to purchase 200 new subway cars for a 7000 car fleet. This state-share limit should be eliminated from the bill.

Whereas the sponsors of the bill as passed by the Senate no doubt hoped that this bill would provide a breakthrough in urban transportation, the fact is that the best we can hope for is that the obligation authority provided in this bill will serve to arrest decline in our nation's mass transit systems. It can not seriously be thought to be a significant attempt to improve mass transit in the country.

The bill simply fails to recognize the urgency of the need for mass transit—not only because the facilities we have are failing to move people efficiently and cheaply, but also because the automobile threatens to choke our cities.

Despite this fact, the rules of the game continue to be loaded in favor of the automobile. Thirty seven dollars of Federal aid have been spent on highways for every one dollar spent on mass transit. The end result is that traffic so congests our street that simple movement is sometimes impossible, while air pollution levels rise dramatically.

We simply can't get people out of their cars unless we offer an attractive, alternative means of transportation.

As Secretary Volpe put it: "It seems to me that our excessive reliance on the automobile makes the creation of better, finer cities near to impossible."

Even such Draconian measures as completely banning private cars from congested areas make no sense unless we have other means of getting people where they are going. In the meantime automobiles continue to add up to 80 per cent by weight and volume of the air pollution in our city. Even if we can get Detroit to produce vehicles reducing pollution by 50 per cent, in our high density corridors we will still be befouled by toxic air.

And while it isn't true that if you've seen one city you've seen them all, it is true that this problem is a common one. I have seen this confirmed again and again during my work on the Kerner Commission and since in my dealings with the mayors of New York State and elsewhere.

If we are really to turn around the air pollution problem in our cities and still get people to work, school, stores and home in comfort we must take some basic steps:

First, we must change the highway trust fund into a transportation trust fund, usable locally on a block-grant basis to produce the best *balanced* system of transportation capital construction possible. In some areas and communities, this will still mean building roads, but in our major cities, the highest priority needs are in mass transit.

Second, we must make rapid strides to provide operational subsidies. Clearly it would be desirable to roll back mass transit fares in those of our cities which have priced mass transit almost beyond the capacity of the average citizen to pay. And maintenance and employee conditions could be improved. Poor maintenance continues to plague us and is only reflected in later years through higher and unnecessary capital costs.

Third, let us write into law an expenditure authority for mass transit at the minimum level of $10 billion originally proposed for the decade. Even this is grossly inadequate—New York City could spend $3 billion by itself over the decade—but the Congress should not retreat from the original Administration-Senate proposals.

Fourth, we must create incentives to control pollution in all transportation modes. In particular, the Federal share of mass transit projects which reduce pollution should be increased.

If the first and second of these steps are unrealistic today, then let us at least fund this bill at the $10 billion level immediately.

In mass transportation, as in housing, health, and education, this nation has been cannibalizing its physical plant for decades. This is especially true in the older cities. In the Thirties our justification was the Depression and in the Forties the war. Since then, we as a Nation have never really done enough to catch up with the damage done. We have certainly done even less to prepare for the future.

I cannot understand, therefore, the reluctance of the Administration and of the Senate to authorize the full expenditure authority required to meet a very conservatively estimated need of $10 billion over the next decade.

It is a somber footnote on our times that apparently we only chose to accept advice from "experts" when it comes to military hardware. There is a sacrosanct "minimum defense level" established by "experts."

Somehow, though, no one listens when the experts propose a minimum housing, welfare or transportation level.

With this bill, the experts tell us that we should plan how to spend $10 billion federal dollars over the next ten years to pay for mass transit projects that are already on the drawing board. Indeed, the Senate Committee Report indicates, the true figure based on the most recent estimates ranges from $28 to $34 billion *assuming constant ridership*.

There's the rub. We cannot merely assume constant ridership—we must insure increased use of mass transit both during rush hours and during off-hours. The cost in pollution, accidents, and time is too high to continue to prefer highways over transit.

A balanced transportation system is only possible if we improve mass transit on a massive scale so that it is a valid competing alternative to the private automobile. And that scale is well beyond the reach of the cities and states of this Nation.

The importance of the contract expenditure authority proposal, although a less attractive substitute for the now apparently dormant trust fund approach, lies in its symbolism as much as in its practical impact.

Not only can realistic budget proposals and capital improvement programs be developed against a firm Federal commitment, but thinking the unthinkable becomes practical. Sound proposals which are delayed or shelved because they are not possible within current budget constraints—all those consultant's studies that you and I have been paying so much for—can be brought forward from the distant future and be built today:

Finally, while we are meeting immediate needs we can, against a firm commitment of Federal funds, continue the expensive and otherwise quixotic design and development of projects needing longer-term study—for example, New York City's much-needed cross-the-bay link to Staten Island.

Why not, then, increase the level of investment to match the need? I think inflation is a spurious argument as far as the public service sector is concerned. This problem could readily be overcome by cuts in non-essential areas or by a recognition in our tax structure that we must pay for what we need.

Compared to our mass transit needs, we do

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not need an SST, a $5 billion trust fund for airports, a new carrier task force costing $1.4 billion, or an ABM.

But if we need these items and transit too, then let's pay for it—we can't afford not to do so. Which brings me again to the false economies of delaying a full $10 billion commitment today.

We save no money by delaying the commitment. The bill before you—by allowing early land acquistition loans—recognizes the problem: the longer we delay the more we pay.

We pay the costs of redesign, inflation, real estate speculation and, most importantly, missed opportunities for opening up large tracts of urban land to development for housing and industry. This is true even within a densely developed area like Manhattan. One small transit link can add thousands of jobs and millions to our tax base.

Local government—my city—has done all it can. We have been forced to commit so much to simply moving people around the city that our capital budget is artificially distorted. Twenty-six percent of our capital budget—which should be going for housing, schools, narotics treatment centers, and other badly needed projects—is going just to tread water in transportation.

Without any Federal assistance until recently, we have built the world's largest mass transit system. It is creaky, dirty, late and too expensive—but it's there. It moves 4.5 million people daily by subway, one million by bus, and one million by taxi. We have 7000 subway cars and 4500 publicly owned buses.

Against this existing commitment, we have made others. We have replaced 5,860 subway cars since World War II. But 1,000 are still in service which are pre-World War II and most are still not air-conditioned.

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We have committed ourselves to 12 new subway lines, expanding our services out to the growth areas of the city, at a cost over the decade of $1.3 billion—before inflation. In fact, we can expect inflation to bring costs $650 million higher before completion—bringing the expenditure to almost $2.0 billion dollars for which we have $800 million in State and City funds.

Just for these programs, then, we can use $1.2 billion in Federal funds over the decade.

More important for purpose of the present terms of this bill is how much we could effectively commit and use before 1976 when under the terms of the bill—we could expect new Federal funds in excess of $3.1 billion.

The answer is that New York City alone could use $1.3 billion in Federal funds by the end of fiscal 1975 for projects in design or under construction. In fact, $2.4 billion worth of capital construction and purchases could be undertaken.

If the Federal Treasury provided two-thirds of this amount ($1.6 billion), the city would have $325 million in capital funds freed for housing and schools while moving at full speed on mass transit over the next five years.

The sad fact, however, is that even with the full $10 billion authorization we are seeking, all of New York State could expect only $1.5 billion—and the city will do well to get half of that.

So you see why even $10 billion would not be enough for the next five years, much less $3.1 billion. I have appended several tables of supporting data.

Aside from immediate expenditure authority of $10 billion, the most significant change in the bill reasonably within the power of this committee is in the area of pollution control. The Hart-Hartke-Goodell amendment to S. 3154 requiring the Secretary of Transportation to take environmental factors into account in approving mass transit projects is a basic step forward.

I would urgently recommend to this Committee, however, that we do more than exercise essentially negative controls over proposed projects. We must structure the program so that a premium is placed on projects which reduce or limit pollution—including noise pollution. If Congress is willing to pay for pollution-limiting devices and projects, more will be undertaken.

I therefore propose that this bill be amended to provide that the Federal share of any project incorporating significant anti-pollution features be increased from the present level of two-thirds of "net project cost" to 90 percent, similar to the subsidy of arterial highways. Certainly if we can subsidize the polluters on a 90/10 basis, we should do no less for those who are making efforts to limit pollution.

Just as we have recognized implicit social costs in transportation in providing relocation payments to compensate for homes and businesses displaced, so should this pattern be extended to pollution. This is one way of putting money where our rhetoric is on the pollution issue—today and with fast results.

The increased subsidy is warranted not only to encourage choices among competing modes of transportation which are undistorted by artificial Federal funding formulas. It also recognizes the simple economic fact that at the moment proposals which limit pollution are considerably more expensive than those which do not. Therefore, if we are to meet urgent transit needs now without sacrificing our environment, we should be prepared to pay for it.

If we need 200 buses we should not be penalized and forced to settle for 150 more expensive but pollution-free vehicles because we cannot afford to buy any more without adding to the noxious fumes that surround us.

Or if a noiseless rubber-wheeled subway such as Mexico City's are sensible on a new line, we should not be limited to the ear-piercing shrill of metal wheels.

I know the pressures on you; I have shared them.

I also know at close hand the toll of years of neglect on a city and on a people. Mass transit today is not merely a vital key to the economic development of cities and regions, it is also a force with visible human imprints. It is dehumanizing and debasing to be crammed, shoved, pushed and pulled into long hot metal boxes with scores of other people—and still not to get to work on time.

In the long run, we will need fundings for a balanced transportation system not biased in favor of one mode over another. In the long run, we will also need federal expenditure subsidies.

At the present time, however, the greatest realistic contribution you can make toward giving our urban centers a little more of the breathing room they need—literally and figuratively—is to pass S. 3154 with the changes I have recommended.

LT. TERRENCE M. O'CONNELL RETURNS FROM VIETNAM

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. LONG of Maryland. Mr. Speaker, Lt. Terrence M. O'Connell, one of Maryland's finest young men, has recently returned from Vietnam to recover from wounds received in action.

Lieutenant O'Connell served with the 4th Cavalry in Hau Nghia Province about 30 miles northwest of Saigon. On January 8, 1970, his helicopter patrol came upon a group of Vietcong. Although three of the enemy soldiers surrendered, the fourth tossed a grenade. Lieutenant O'Connell pushed one of his men to safety and threw himself across another, protecting. them from the explosion. In spite of the severe injuries he received, he then directed his men to try to capture a high-ranking Communist officer who was attempting escape.

In risking his life to save others, Lieutenant O'Connell lost the use of an eye and an arm. His gallantry in facing these difficulties at home has exceeded his heroism on the field of battle.

Lieutenant O'Connell has been awarded the following medals: National Defense Service Medal, Parachute Badge, Vietnam Service Medal, two Purple Hearts, the Air Medal, Bronze Star with V, Bronze Star with V with first Oak Leaf Cluster, Bronze Star with V with second Oak Leaf Cluster, and the Vietnam Combat Medal.

I know you join me in honoring this brave man.

AMERICAN LEGION COMMANDER PRESENTS STRONG CASE

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. EDMONDSON. Mr. Speaker, earlier this month my very good friend and constituent J. Milton Patrick, national commander of the American Legion, appeared before the House Committee on Veterans' Affairs with an outstanding presentation outlining the needs of American veterans.

Commander Patrick strongly made the case for adequate funding of Veterans' Administration hospitals and medical programs. He made very persuasive points in support of increased compensation for disabled veterans; increased annual income limitations; increased funeral and burial allowances; and other items of concern.

In short, Commander Patrick has pointed up some areas where we are not doing our best for our veterans, a group of people to whom we owe a heavy debt.

Mr. Speaker, I include Mr. Patrick's statement in the Record at this point:

Statement of J. Milton Patrick, National Commander, The American Legion, Before the Committee on Veterans' Affairs, House of Representatives, March 3, 1970

Mr. Chairman and Members of the Committee It is a very great pleasure for me to have the opportunity to appear this morning before this distinguished Committee.

One of the high privileges accorded each year to the National Commander of The American Legion is that of bringing to the Committee on Veterans Affairs the views of his organization on those matters of highest priority concerning the program of veterans legislation which it submits to the Congress.

One year ago, when my distinguished predecessor appeared here, The American Legion was in the midst of the commemorative program for its 50th Anniversary. I am happy to be able to tell you now that our program was completed with great success, and that it was marked by many activities throughout the country signalling the completion of our first fifty years of service for God and Country.

The American Legion is now embarked upon its second fifty years of activity, and I am sure that all here will agree with me when I say that there is much to be done.

We of the Legion are, of course, intensely concerned with the program of benefits provided by the federal government for veterans and their families. Some elements of that program I shall discuss with the Committee in the course of my appearance here today.

But beyond the matter of particular benefits to meet the particular needs of our nation's veterans, The American Legion is vitally interested also in the present and the continuing security of the nation. In numbers of men now in uniform and in amounts of military hardware available to the armed forces to enable them to accomplish their mission, we are satisfied that present requirements for national security, in the main, are being met. And we feel, too, that the Congress is providing, by and large, sufficient funds for these purposes.

It is, however, our firm conviction that a critical situation does exist in the country, occasioned by the divisive tactics being employed by persons and groups that, for one reason or another, stand in opposition to the present war in Vietnam, and that oppose the efforts of the President of the United States to bring that war to a conclusion which will achieve the objective which led us into the war and justify the tremendous sacrifices that have been made by the American people. This situation, created by the clamoring of these persons and groups, does, in our judgment, pose a very real threat to the national security, both internally and externally.

The American Legion, above all else, wants a conclusion to the present conflict which will reflect honorably on the loss of more than 40,000 American lives, serious injury to thousands of young Americans, and the expenditure of untold billions of dollars. The United States entered the war in Vietnam to assure the right to self-determination of the Vietnamese people. Any settlement which does not secure that objective will render meaningless both the purpose and the cost of the great national effort which has been made.

In November of 1969 the National Executive Committee of The American Legion, meeting in Minneapolis in commemoration of our first National Convention, held in that same city in November 1919, approved a resolution placing this organization foursquare behind the efforts of the President to bring the war to a successful conclusion. To that purpose we have pledged our every effort and our every resource.

Now, ladies and gentlemen, for a moment, on a lighter note, and before I address myself to those legislative matters which bring me here today, I would like to remind you that it will again be the pleasure and privilege of The American Legion to host the members of Congress at dinner on Wednesday, March 4th. The dinner will be held in the Grand Ballroom of the Sheraton-Park Hotel, at 7:30 p.m., preceded by a reception at 6:00 p.m. Legionnaires from throughout the United States will be in Washington for the occasion, and it is our sincere hope that all of you will be able to join us.

Turning to the important subject of veterans legislation, there are some particular matters to which I would like to direct your attenteion as meriting action during this second session of the 91st Congress.

THE VA MEDICAL AND HOSPITAL CARE BUDGET FOR FISCAL YEAR 1971

Mr. Chairman and Members of the Committee, The American Legion is deeply concerned, even alarmed, with current and projected funding of the medical and hospital programs for which the Veterans Administration is responsible.

It is an obvious fact that if the Veterans Administration does not have, or is not permitted to use, sufficient funds to carry on its medical and hospital programs, then this nation is not going to have a medical services program for the care and treatment of its veterans that is second to none. It is also an unfortunate fact of life today that even to maintain present levels of patient care requires an ever-increasing financial commitment.

The American Legion continues to receive reports and information from the field indicating that all is not well in VA hospital facilities responsible for the care and treatment of sick and disabled veterans. There are such matters as non-operating beds; special care units for heart, kidney, surgical, blind, and other life-sustaining facilities and equipment that have not been activated; shortages of vitally needed equipment; lack of critically needed hospital personnel. These matters are being brought to our attention from various places throughout the country. And the end result of this situation is that there are veterans who are not being treated by the Veterans Administration who need and are entitled to treatment, and there are others who may not be receiving the quality of treatment to which they are entitled. Some of these veterans cannot get this needed treatment outside Veterans Administration hospitals.

Of particular concern to the American Legion, Mr. Chairman, is what seems to be a long-range program to phase out the tremendous medical and hospital program of the Veterans Administration. A United Press International news story of yesterday, built around quotes attributed to the Administrator of Veterans Affairs, would make it appear that there is a continuation of such a long-range phase-out program. The American Legion continues to be determined that no needy or deserving veteran will be denied a hospital bed when it becomes necessary. Mr. Chairman, we are more in accord with the statement attributed to you in that same news story quoting you as saying—"You can't do the job with half a budget and half the personnel required."

A review of the Administrator's annual reports shows a decline from a fiscal year 1958 high of 121,201 average operating beds to an estimated 95,261 for fiscal year 1971, or, in terms of average daily patient census in VA hospitals, from 111,599 to an estimated 82,806.

In making our evaluation, we did not disregard the beds which had been absorbed by the chronic or extended-care patient in VA nursing beds or out-placement to a community nursing home. Nor did we disregard the fact that improved drugs and medicines and therapy in conjunction with pre- and post-hospital care have significantly reduced the period of bed occupancy.

This evaluation, too, recognizes the effects of Medicare and Medicaid, as well as increased coverage under surgical and hospital insurance.

But, these offsets against bed demand are balanced, we believe, by the fact that estimates for fiscal year 1971 show a net veteran population gain of about six million since fiscal year 1958. These facts lead us to suspect that staffing ratios are being increased at the expense of the average daily patient census, and that waiting lists more properly reflect the budget average daily patient census. As such they are not a measure of bed demand or needs.

Beyond this serious situation involving treatment, The American Legion is most concerned with the effective continuation of the medical research program of the Veterans Administration. It is now a well-established principle of modern medical practice that a top-flight treatment program can only be maintained when it is accompanied by a continuing and effective program of medical research. Available evidence indicates that the medical research program of the Veterans Administration is at this moment being curtailed.

There are other danger signals, such as insufficient funding of the fee-basis dental care program for Vietnam Era veterans, and the growing backlog of physical examinations for rating and treatment purposes.

The reason for these remarks I have made, ladies and gentlemen of the Committee, is that this is not the time for the government to achieve economy through the curtailment of the budget of the Veterans Administration.

It is our impression that the Congress has been willing to provide funds for the Veterans Administration to carry on these vital programs. It may be that the problem originates and extends from actions within the Executive Branch. It is our view that in the final analysis the Congress of the United States, representing as it does all of the American people, can and will have its way in this matter.

Ladies and gentlemen of the Committee, I sincerely believe that it is urgent that the Congress, acting through this Committee, give early and serious consideration to the matters I have here presented. I believe such Congressional attention is necessary if our veterans are to be assured that the American people means what they say when they pledge a veterans benefits program second to none in the world.

INCREASED RATES OF COMPENSATION FOR SERVICE-DISABLED VETERANS

The American Legion believes it appropriate and necessary that the Congress again give attention to the monthly rates of disability compensation payable for service-connected disabilities. By law, the Administrator of Veterans Affairs must adopt and apply a schedule of ratings based on reduction in earning ability from certain injuries or combinations of injuries. These ratings must be based, as far as possible, upon the average impairments of earning ability resulting from such injuries in civil occupations.

In recent years, the inflationary spiral has continued upward. Correspondingly, the median national wage has continued to rise. Accepting the principle that the VA 1945 Schedule for Rating Disabilities is a valid measure of reductions in earning ability from certain injuries or combinations of injuries, the present high cost of living, as well as improved living standards, demands that attention soon be given to increasing the monthly rates of disability compensation for those veterans whose service-incurred disease or injury impairs their earning ability.

The American Legion will approach this Congress in the near future with specific recommendations for increases in monthly rates of disability compensation.

INCREASE ANNUAL INCOME LIMITATIONS, AND LIBERALIZE RATES UNDER THE DEATH AND DISABILITY PENSION, AND DEPENDENT PARENTS DEPENDENCY AND INDEMNITY COMPENSATION PROVISIONS OF LAW

Annual income limitations and rates of death and disability pension and dependent parents dependency and indemnity compensation were restructured and increased effective January 1, 1969 under Public Law 90-275, approved March 28, 1968.

As the Committee knows, pension and dependent parents DIC are income supplement benefits. Entitlement to these monthly monetary payments is based on a needs test. In comparing United States City Average Consumer Price Indexes for April 1968 with those of December 1969, it is seen that the average advanced from 119.9 to 131.3 for a percentage change of 9.5.

Effective January 1, 1970, the Tax Reform Act of 1969, Public Law 91-172, increased old age social security and family benefits by 15 percent. According to information from the Veterans Administration, if the Congress does not act to liberalize death and disability pension annual income limitations, as well as the monthly rates, about 1,230,000 pensioners will face a VA pension reduction on January 1, 1971. In effect, such a reduction would nullify for these pension recipients the beneficial intent of the 15 percent social security benefit increase. Also, unless there is legislative intervention, many dependent parents on the dependency and indemnity compensation rolls will suffer reductions in DIC payments as a result of the social security benefit increase.

Mr. Chairman and members of this Committee, in view of the 9.5 percent increase in the cost of living index since March 1968, and in view of the VA pension and DIC benefit loss that will ensue if Congressional action is not taken, we urge your early consideration of legislation to amend the pension and dependency and indemnity compensation provisions of law to increase the annual income limitations and the monthly rates payable.

INCREASED ALLOWANCE PAYABLE BY THE VA TOWARD THE BURIAL AND FUNERAL EXPENSE OF A VETERAN

Under title 38, United States Code, Chapter 23, the Administrator of Veterans Affairs may pay a sum not exceeding $250 to such person as he may prescribe to cover the burial and funeral expense of a veteran, and the expense of preparing the body and transporting it to the place of burial.

An annual survey conducted by the National Funeral Directors Association reports that in 1967 Americans paid $850 for the average regular adult funeral they selected. This figure did not include vault, cemetery or crematorium expense, monument or marker, or miscellaneous expenses, such as honorarium for the clergyman, flowers, additional transportation charges, burial clothing, or newspaper notice.

A comparison of the annual surveys from 1963 to 1967 reveals that the average cost of an adult funeral has been increasing at the rate of about $30 a year. Since the burial allowance was last increased by the Act of August 18, 1958, to the present $250, the amount authorized is clearly inadequate in the face of current costs of burial and funeral expenses. The American Legion urges consideration of legislation to increase the burial award to $400.

While time will not permit discussion of all matters of mutual interest to The American Legion and to this Committee, I should mention, in passing, that The American Legion hopes the matter of increased educational allowances for veterans exercising educational rights under the G.I. Bill soon will be favorably resolved.

Mr. Chairman, in closing may I express again my appreciation and that of The American Legion for the opportunity to appear before you to express the concern and the interest of our organization in these items of legislation affecting the program of veterans benefits.

I assure you, Mr. Chairman, on behalf of myself, of the national headquarters staff, and of 2,700,000 Legionnaires throughout the country, of the continuing and wholehearted cooperation of this organization with the Congress in the development and maintenance of the veterans benefits program.

ANALYSIS OF NIXON'S STATE OF THE WORLD MESSAGE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FRASER. Mr. Speaker, this week the Democratic Policy Council's International Affairs Committee, chaired by the distinguished Averell Harriman, released a comprehensive critical analysis of President Nixon's state of the world message. I insert in the RECORD at this point the statement:

STATEMENT BY INTERNATIONAL AFFAIRS COMMITTEE, DEMOCRATIC POLICY COUNCIL, AVERELL HARRIMAN, CHAIRMAN

WASHINGTON, March 14.—On February 18, President Nixon submitted to the Congress "a first annual report on U.S. foreign policy"—a "State of the World" message. It is difficult to find in its 43,000 words much that adds to congressional or public understanding of the complex international issues we face. As a document that purports to be "a new approach to foreign policy," it lacks substance and candor in laying out the many serious issues the country faces, and it fails to offer a creative program of action to deal with them.

During his campaign, President Nixon declared he had a "plan for peace." Today American boys are still fighting and dying in Vietnam, and now after a year of heavy staff work the Nixon Administration has revealed its "New Strategy for Peace": "Peace requires partnership . . .; peace requires strength . . .; peace requires a willingness to negotiate . . .; peace, we have learned, cannot be gained by good will alone . . .; peace does not come simply with statesmen's smiles." These are singularly empty phrases when compared to other statements such as President Kennedy's analysis of peace at American University in June of 1963.

The report is filled with unstinting self-praise for all kinds of "firsts," "new" departures and "innovations":

The Nixon Administration proclaims an "era of negotiations," disregarding the fact that there has been no shortage of negotiations in recent years and that there have been significant agreements achieved, including the limited test ban treaty, the outlawing of atomic weapons in outer space and nuclear non-proliferation.

Two decades after the Marshall Plan made "self-help and mutual assistance" the guiding principle, the Nixon Administration discovers "self-help" to be an essential ingredient in economic development.

A decade after President Kennedy initiated the "Alliance for Progress" we are told that the Nixon Administration is the first to decide that "partnership" should be the basis of our relations with Latin America.

More importantly, this simplistic sermonizing is accompanied by bureaucratic congestion. What is missing is an understanding that far more important than the procedures of decision-making are the decisions themselves and people who make them. A few good appointments are worth a score of committees. One wise decision is worth more than a stack of studies.

For page after page the report describes the "new" machinery which the Nixon Administration has created to handle foreign affairs: layer upon layer of "planning", "systematic review", "analysis", and "study of options"; committees within committees; panels within panels; groups within groups. What emerges is this picture: an Administration that has confused system with substance, that has substituted institutionalized mechanics for creative action.

After dismantling the Alliance for Progress, President Nixon's phrasemakers offer "action for progress." It is clear, however, that the pious preachments of "partnership" mask a "benign neglect" for the growing crisis of democracy and development in our Hemisphere.

As to Europe and NATO the report adds rhetoric in describing a "mature partnership" but no new substance to policies long established.

To Africa the Administration offers more generalities: "Our assistance throughout the continent will be flexible and imaginative,"—without describing the actions to be taken. The message states "the hard facts must be faced." Yet, the commendable step of closing our consulate in Southern Rhodesia, the Administration delayed for more than eight months after the British urged this action be taken.

Regarding Asia, the report implies that the region's peoples shall henceforth make do with their own "wide range of energy and genius." But the claims of new constraints on our involvement in Asia are hard to square with the Vice President's scatter-shot of promises to Asian leaders he met on his trip. However, we commend the initial steps taken toward improved relations with Communist China.

We agree with the President that, "Good U.S. economic policy is good U.S. foreign policy." Unfortunately, stumbling domestic economic mismanagement and our unfolding recession will have harmful repercussions abroad, especially among the developing nations.

Foreign aid was originally launched with wide bi-partisan cooperation, and we feel strongly that it should be continued on that basis. The recent recommendations of the President's Task Force for a new approach on international development give an opportunity for renewed bi-partisan cooperation for an effective program. The emphasis on increased support for the World Bank and the regional development institutions should be particularly welcomed. The proposals for multi-year funding are also sensible. However, careful examination should be given to those administrative proposals which divide responsibility for development among several high-level bodies for what is, in fact, one overall problem.

With regard to East-West relations, the message is one of hobbled gradualism on all fronts:

The S.A.L.T. negotiations—Despite the report's acknowledgement that these are the "most important arms control negotiations this country has ever entered," the Nixon Administration shows none of the urgency demanded by the rapid and deadly developments in the continuing arms race. A leisurely "building block" approach, which seeks to preserve all options while we move in measured steps toward "comprehensive assessments," ignores the mounting pressures on both sides for the deployment of weapons whose complexity gravely complicates the prospects for rational verifiable control.

In this connection the Administration's recent announcement of the decision to deploy MIRVs in June is deeply disturbing. This decision invites reciprocal escalation instead of mutual restraint in the nuclear arms race. It will make it far more difficult to reach a meaningful agreement on S.A.L.T.

A.B.M. System—The report tells us that the National Security apparatus "analyzed our options for proceeding with ballistic defenses on four separate occasions." But this fact of repeated consideration does not excuse the conclusion that we should build a costly system which neither offers security against a Soviet attack nor is needed to deter other nuclear threats.

Chemical and Biological Warfare—We support the President's initiatives in these fields, including the elimination of biological-toxin weapons and his submission to the Senate for action on the ratification of the 1925 Geneva Protocol prohibiting the use of chemical and biological weapons.

Improved relations between East and West in Europe—The matter is shunted aside with some cautionary phrases about the complexities and dangers of negotiations.

East-West Trade—The Administration does not seem to regard expanded trade in non-strategic goods as a commercially profitable step toward better relations. Rather the report suggests that the Soviets must pay with political concessions for the right to buy from us such products already obtainable in

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large quantities from Western Europe and Japan. This is not merely fruitless but counter-productive.

Laos—It is a measure of the message's comprehensiveness and candor that Laos was not mentioned and that less than three weeks later the Administration has had to make detailed statements on this critical problem.

The Vietnam War—What might have been the vehicle for constructive initiative for negotiated settlement reveals nothing new. The report refers to the Administration's desire for a "just peace"—without attempting to define that term in any meaningful fashion. It tells us again that the Nixon Administration is placing its reliance on Vietnamization of the war as a "plan for peace" whereas this program at best can only perpetuate the fighting with continued U.S. involvement. It fails to provide either a program or a final date for the withdrawal of all American troops in Vietnam.

It continues to give a veto over U.S. efforts for a negotiated settlement to the repressive minority government of President Thieu. That Government shares neither our objective of a negotiated compromise settlement nor the deepest desires of its own people for peace. In fact, the recent arrest and conviction of Deputy Tran Ngoc Chau—in flagrant disregard of constitutional safeguards and judicial procedures—is another shocking instance of the pressure to silence all South Vietnamese who want peace through a negotiated settlement.

These views on Vietnam are not partisan ones. They are shared in major respects by many responsible people of both parties.

The "State of the World" paper is more notable for what it fails to say than what it says. Apparently, the Administration is content to substitute rhetoric and bureaucracy for effective and enlightened initiative in foreign affairs.

ALL-VOLUNTEER ARMED FORCE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. CRANE. Mr. Speaker, I am very pleased to join with my distinguished colleague from New York (Mr. Farbstein) in introducing a House concurrent resolution which calls for the elimination of military conscription.

The report of the President's Commission on an All-Volunteer Armed Force shows clearly and unmistakably that it is both possible and practical to eliminate the military draft in the near future.

The Commission found that an all-volunteer army would cause only a small budget increase, and would actually be cheaper in real economic terms; could be achieved by July 1971 without affecting our ability to meet existing and anticipated troop level requirements; would be adequate to defend the Nation, and that a peacetime draft is not required to protect the Nation in case of a sudden attack; is not more isolated from society than the present mixed force; and would not vary greatly in ethnic, racial, or economic makeup from the present system.

The fact that 27 colleagues, from both political parties and representing the entire political spectrum joined Mr. Farbstein and myself in this endeavor is, I believe, representative of the wide public support which exists for this resolution. This support has also been expressed in a number of opinion polls and questionnaires which have been circulated by my colleagues.

I know that, as the year progresses, many Members will have occasion to discuss this subject on the floor of the House. I look forward to actively participating in these discussions and debates as we hopefully move toward an all-volunteer armed force.

Mr. Speaker, I insert a recent newspaper article by the columnist William F. Buckley, Jr., the text of the resolution, and the list of cosponsors in the Record following these remarks:

[From the Washington Evening Star, Mar. 12, 1970]

DRAFT WOULD FULFILL U.S. IDEAL

(By William F. Buckley, Jr.)

It is going to require a considerable act of will to put into effect the recommendations of the Gates Commission, as we turn gradually over the next year and one half in the direction of an all-volunteer army.

The Armed Services Committee of the Senate doesn't much like the idea, and went so far as informally to reject President Nixon's proposed successor to General Hershey because of his undiluted enthusiasm for the idea.

On the American scene in general, the libertarians and conservatives are in favor of the all-volunteer military because we believe in the presumption of voluntariness in all things. The left-liberals opposed conscription less because of their attachment to individual freedom than because they see here an opportunity to deflate the military.

In between is a large group of people whose objections are roughly, in two parts. On the one hand, they argue there is a great danger in a typically military class. That the opportunity might then come to the military class to dominate the civilian executive and even, as they do on Mondays, Wednesdays, and Fridays in Latin America, take over the government.

An additional argument is the notion that military training is good for any young man, and that moreover it does something to incorporate him into America—to Americanize him, if you will.

In the great debate on what was then called "universal military training" in the late '40s, President Truman fought to clinch the case in favor of conscription by saying proudly, "Look, I've served in the military, and look what it did for me!" That was not taken by the public as a conclusive argument in favor of UMT, but along came Korea, to make the argument academic.

Abolitionists of conscription must concede a couple of points to the opposition. It is true that a professional military class is less desirable than, say, a militia.

Arguing the point in the Federalist Papers, Hamilton wrote, "There is something so far-fetched and so extravagant in the idea of danger to liberty from the militia, that one is at a loss whether to treat it with gravity or with raillery: whether to consider it as a mere trial of skill, like the paradoxes of rhetoricians; as a disingenuous artifice to instill prejudices at any price; or as the serious offspring of political fanaticism."

But the virtues of the militia—which, like Switzerland's, stays and works at home except when in training, or when engaged in duty—are transferable to an army which needs, let us say, to keep 300,000 men in Western Europe. And the question is whether such as they should be volunteers, or conscripts.

The other objection, less often stated, is that things being as they are, inevitably the army will emerge much higher than 10 percent black. The objection is raised not because there is anything undesirable about the black fighting man. But because we will have come up with what will strike many as a mercenary army, collected from those same ghettos fostered by our system, and utilizing the victims of those ghettos who are now invited to protect with their lives their white brothers who make life intolerable for them at home.

I grant this is caricature. But so are the rantings of Herblock—precisely because the world is full of men and women who seek to hobgoblinize and, if at all possible, to dishonor the motives of America. (There is absolutely no doubt that tomorrow's economic textbook will be saying that in the post-Vietnam age, America solved its unemployment problem by recruiting a highly paid volunteer army.)

How does that add up? Surely we should end conscription, and the sooner the better. The additional cost is easily compensated for in a fairly short run by the economic productivity of those who do not enter the Army, and therefore remain home and pay taxes. And, in the long run, by the lowered cost of training—the fruits of professionalization.

Meanwhile, we shall have asserted once again our devotion to the principle that that which is not required of a citizen, he should not be compelled to do.

HOUSE CONCURRENT RESOLUTIONS 543, 544

Whereas the United States has relied throughout its history on a voluntary armed force except during major wars and since 1948; and

Whereas a voluntary armed force is the system for maintaining standing forces that minimize government interference with the freedom of the individual to determine his own life in accord with his values; and

Whereas an all-volunteer force will promote the efficiency of the armed forces, and enhance their dignity: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress, in accord with the conclusions of the President's Commission on an All Volunteer Armed Force which recommends a workable framework for meeting military personnel requirements, that—

(1) compulsory military service should be abolished and a volunteer armed force established when the power to induct individuals under the Military Selective Service Act of 1967 expires after July 1, 1971; and

(2) compulsory military service should be re-established only by Congress at the request of the President.

In addition to myself and Mr. Farbstein, the sponsors are: Mark Andrews, Republican of North Dakota; George E. Brown, Jr., Democrat of California; Daniel E. Button, Republican of New York; Shirley Chisholm, Democrat of New York; Don H. Clausen, Republican of California; Don Edwards, Democrat of California; Barry M. Goldwater, Jr., Republican of California; Seymour Halpern, Republican of New York; Michael J. Harrington, Democrat of Massachusetts; James F. Hastings, Republican of New York; Ken Hechler, Democrat of West Virginia; Margaret M. Heckler, Republican of Massachusetts; Edward I. Koch, Democrat of New York; Allard K. Lowenstein, Democratic of New York; Robert McClory, Republican of Illinois; Spark M. Matsunaga, Democrat of Hawaii; Alvin E. O'Konski, Republican of Wisconsin; Richard L. Ottinger, Democrat of New York; Jerry L. Pettis, Republican of California; Thomas F. Railsback, Republican of Illinois; Fred B. Rooney, Democrat of Pennsylvania; Garner E. Shriver, Republican of Kansas; M. Gene Snyder, Republican of Ken-

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tucky; **William A. Steiger**, Republican of Wisconsin; **Charles M. Teague**, Republican of California; **William B. Widnall**, Republican of New Jersey; and **John M. Zwach**, Republican of Minnesota.

FREDERICK B. LACEY

Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 12, 1970

Mr. FRELINGHUYSEN. Mr. Speaker, in recent days charges have been leveled at the Honorable Frederick B. Lacey, U.S. attorney for New Jersey, who is leading a most effective anticrime campaign in that State.

The charges are, in my opinion, most unfair. The New Jersey State Bar Association has approved a resolution expressing its complete confidence in Mr. Lacey. I am inserting in the Record a copy of the resolution.

RESOLUTION

Whereas, certain stories have recently appeared in the news media reporting that an individual or individuals outside of the State of New Jersey have called for the resignation or removal of the Honorable Frederick B. Lacey as United States Attorney for the District of New Jersey; and

Whereas, we are completely satisfied that the request and reasons therefor are utterly without merit;

Now therefore be it resolved that the Board of Trustees of the New Jersey State Bar Association express their complete, unequivocal, and unreserved confidence in the ability and integrity of the Honorable Frederick B. Lacey, and our enthusiastic support for the manner in which he has performed the duties of his office.

Be it further resolved that copies of this resolution be sent to President Richard M. Nixon, the New Jersey congressional delegation, and the United States Department of Justice.

SENATE—*Thursday, March 19, 1970*

The Senate, as in legislative session, met at 11 o'clock a.m. and was called to order by Hon. **James B. Allen**, a Senator from the State of Alabama.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, whose mercies are new every morning, take from our souls the strain and stress and let our ordered lives confess the beauty of Thy peace. Enfold us in Thy love and grant us wisdom from above. Give us understanding minds, patient hearts, and wills in tune with the infinite and eternal. Help us all in this place to lift the difficult decisions of national service into Thy holy light. Enable us to walk and work with eyes ever fixed upon that new day when Thy kingdom comes and Thy will is done on this earth.

In the Redeemer's name we pray. Amen.

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DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. **Russell**).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., March 19, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. **James B. Allen**, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

Richard B. Russell,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 18, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wyoming (Mr. **Hansen**) is recognized for not to exceed 20 minutes.

Mr. MANSFIELD. Mr. President, will the Senator from Wyoming yield to me without losing his right to the floor or any of his time.

Mr. HANSEN. I am most happy to yield to the distinguished majority leader.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11 O'CLOCK TOMORROW MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR COOPER FOR 15 MINUTES TOMORROW

Mr. MANSFIELD. I ask unanimous consent that immediately upon approval of the Journal on tomorrow, the distinguished Senator from Kentucky (Mr. **Cooper**) be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 737 and 738.

The ACTING PRESIDENT pro tempore. The clerk will state the first resolution.

FIFTH INTERNATIONAL CONFERENCE ON WATER POLLUTION

The joint resolution (S.J. Res. 162) in recognition of the Fifth International Conference on Water Pollution Research, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. Res. 162

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress declares that—

(1) the International Association on Water Pollution Research was formed in 1960 to bring scientists and engineers from throughout the world together in the fight against water pollution; and

(2) the objectives of the association are to contribute to a better understanding of water pollution problems, to encourage the exchange of scientific knowledge, to better enable the nations of the world to combat water pollution problems, to narrow the gap between actual and optimum use of water resources, and thus to contribute to continuing social and economic progress; and

(3) a lack of maximum communication and coordination between research programs has retarded efforts to effectively utilize all funds available for water pollution research performed in various countries; and

(4) efforts by the International Association on Water Pollution Research have materially assisted in alleviating duplication in pollution research, have fostered the exchange of scientific resarch data, and have significantly benefited all nations in their programs to control water pollution; and

(5) the international association has sponsored biannual conferences on water pollution research which have provided scientists, engineers, and administrators a forum for formulating an international activities program to permit concerted and cooperative water pollution research; and

(6) President Richard Nixon, in his address of September 19, 1969, to the United Nations, stated that "the task of protecting man's environment is a matter of international concern"; and

(7) in that address the President pledged the strong support of the United States for "international initiatives toward restoring the balance of nature, and maintaining our world as a healthy and hospitable place for man"; and

(8) the Fifth International Conference on Water Pollution will be held in San Francisco, California, July 26, 1970, through August 1, 1970, and will be reconvened in Honolulu, Hawaii, from August 2, 1970, through August 5, 1970, to deal with water pollution, one of the most important problems of the United States and the world.

(b) Therefore, all Federal departments and agencies, the States, and all interested persons and organizations, both public and private, are urged to cooperate with, and assist fully, the Fifth International Conference on Water Pollution, the United States National Committee, and the California and Hawaii Host Committees in making the 1970 conference the most outstanding, productive, and successful yet held.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–742), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of Senate Joint Resolution 162 (introduced by Senator Murphy for himself, Mr. Boggs, Mr. Cranston, Mr. Fong, Mr. Inouye, and Mr. Muskie), is to seek the cooperation of the Federal and State Governments and all interested persons and organizations to assist in the Fifth International Conference on Water Pollution. The conference will be held in San Francisco, Calif., from July 26 through August 1, 1970, and will be reconvened in Honolulu, Hawaii, from August 2 through August 5, 1970. Previous conferences have been held in London (1962), Tokyo (1964), Munich (1966), and Prague (1969). A future conference is scheduled to be held in Israel in 1972.

COST OF U.S. PARTICIPATION

Although the resolution does not request an authorization for an appropriation of funds for the Conference, in a letter dated February 20, 1970, the Department of State informed the Committee that on January 6, 1970, the Department of the Interior made a $70,000 contribution to the International Association on Water Pollution Research and the California host committee to support the U.S. participation in this Conference.

ADMINISTRATION COMMENTS

From the standpoint of the administration's program the Bureau of the Budget has no objection to Senate Joint Resolution 162, and according to the Department of State, it "will be happy to do all it can to facilitate the attendance of visitors from abroad."

COMMITTEE ACTION

Senate Joint Resolution 162 was introduced on October 21, 1969, by Senator Murphy (for himself and Senators Boggs, Cranston, Fong, Inouye, and Muskie) and referred to the Committee on Foreign Relations the same day. After the receipt of favorable executive branch comments on February 20, 1970, the joint resolution was considered by the committee during an executive session held on March 12, and ordered reported to the Senate with the recommendation that it be approved.

COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

The resolution (S. Res. 366) authorizing expenditures by the Select Committee on Equal Educational Opportunity, was considered and agreed to, as follows:

S. RES. 366

Resolved, That the expenses of the Select Committee on Equal Educational Opportunity, established by S. Res. 359, Ninety-first Congress, agreed to February 19, 1970, which shall not exceed $375,000 through January 31, 1971, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–743), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 366 would authorize the expenditure of not to exceed $375,000 by the Select Committee on Equal Educational Opportunity, from the date of approval of this resolution through January 31, 1971.

The Select Committee on Equal Educational Opportunity was established by Senate Resolution 359, agreed to February 19, 1970: To study the effectiveness of existing laws and policies in assuring equality of educational opportunity, including policies of the United States with regard to segregation on the ground of race, color, or national origin, whatever the form of such segregation and whatever the origin or cause of such segregation and to examine the extent to which policies are applied uniformly in all regions of the United States.

Senate Resolution 366, the present proposal, would provide the select committee with the necessary funds to carry out that purpose.

The membership of the Select Committee on Equal Educational Opportunity is composed of three majority and two minority members of the Committee on Labor and Public Welfare, three majority and two minority members of the Committee on the Judiciary, and three majority and two minority Members of the Senate from other committees. The members of the select committee are appointed in the same manner as the chairmen and members of the standing committees of the Senate.

Pursuant to Senate Resolution 359, the select committee shall make an interim report to the appropriate committees of the Senate not later than August 1, 1970, and shall make a final report not later than January 31, 1971. Such reports shall contain such recommendations as the committee finds necessary with respect to the rights guaranteed under the Constitution and other laws of the United States, including recommendations with regard to proposed new legislation, relating to segregation on the ground of race, color, or national origin, whatever the origin or cause of such segregation.

(At this point Mr. EAGLETON assumed the chair as Presiding Officer.)

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. SCOTT. As a member of the Committee on Rules and Administration, I want to mention that the functions of the Select Committee on Equal Educational Opportunity were rather fully discussed in that committee with the chairman, the Senator from Minnesota (Mr. MONDALE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA). It was made clear in the colloquy among those testifying and members of the committee that the purpose of this select committee is pretty well defined by the debate which took place in the Senate; that it is hoped the select committee will complete its business at the time set, and will then report at a time later decided on; and that the select committee would not necessarily expect indefinite continuances.

The functions of the select committee are not to impinge on the functions of the standing committee having jurisdiction but it is, rather, to look into the entire question of integration, busing, and all the many other complex and agonizing questions which were considered within the framework of debate on the Voting Rights Act. The select committee is not expected to go into the whole question of the educational system, the right to read, the roles of Federal and State governments and the local communities.

Therefore, I make this statement so that it may become a part of the record of the Senate, that the select committee itself accepts the limitations of its scope as being within the general framework of what went on in the Senate during debate on the voting rights bill.

I thank the Senator from Montana and the Senator from Wyoming for yielding me this time.

Mr. MANSFIELD. I am delighted that the distinguished minority leader has made these remarks. May I suggest that the most forgotten of all minorities, the American Indian, not be forgotten during the course of this study.

Mr. SCOTT. I think the study is broad enough to include all minorities. There were things said on the floor regarding Mexican Americans, Latin Americans, and I would think that the rights of all minority groups are involved in this thing and will be considered.

It is the intent that all American children shall have a better opportunity to learn more than they are learning now; but this is limited in this context to the functions of the select committee as it understands it and as the Committee on Rules and Administration understood it.

Mr. MANSFIELD. That is why I said I hope that the American Indians will not be forgotten.

I would only add that I believe the resolution that established this committee clearly defined the scope of this select committee's responsibilities. I am certain that the able chairman of the select committee, the distinguished Senator from Minnesota (Mr. MONDALE), who authored that resolution, will interpret correctly its full scope.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, and the approval of the distinguished minority leader, I wish to announce that after the votes on the two treaties, shortly after noon, it is our intention to call up the conference report on the Eisenhower dollar legislation at that time.

I thank the distinguished Senator from Wyoming for yielding.

Mr. SCOTT. So do I.

THE FACTS ABOUT CANADIAN OIL IMPORTS

Mr. HANSEN. Mr. President, to those who have voiced objections to the President's recent proclamation establishing a temporary, formal limitation on imports of crude oil and unfinished oil from Canada into districts I–IV of the United States, I would like to point out some of the underlying factors involved in the cutback.

First, Canadian imports were running far in excess of the rate of 332,000 barrels per day previously agreed upon between the two Governments and were approaching some 600,000 barrels. In addition, imports to the west coast were entering the country at a rate that added up to an overall total of around 800,000 barrels per day.

This represents more than half of Canada's total daily production and also an increase in just 2 months of more than 150,000 barrels daily. Although the Canadian Minister of Energy, Mines and Resources, J. J. Greene, said he thought the cutback was a "mistake," he also said that he knew the abnormal surge in Canadian imports had been disruptive to American producers and markets.

Even the Oil Import Task Force report recommended an increase of total Canadian imports to only 615,000 barrels per day by July 1970, and about the rate that will be in effect after the cutback.

The Canadians, themselves, had acknowledged the problem and, as a result, a National Petroleum Advisory Committee was established only last month.

The Honorable J. J. Greene, Canadian Minister of Energy, Mines and Resources, in a speech to the Canadian Petroleum Association in February, made it perfectly clear that the Canadian Government was concerned over what he termed, "this extraordinary fluctuation in our exports" to the United States.

The critics of the oil industry and the President's proclamation on Canadian imports have, as usual, distorted the facts and ignored the basic and underlying reasons for the cutback and the inclusion of Canadian oil imports under a formal agreement arrangement, rather than the voluntary agreement which had proved meaningless.

Let us examine the President's proclamation which prompted the outcry from the usual critics of anything the oil industry does or does not do.

The proclamation signed by the President was based on the national security provisions of the mandatory oil import program—section 2 of the act of July 1, 1954, as amended (72 Stat. 678), and section 232 of the Trade Expansion Act of 1962 (76 Stat. 877).

The proclamation noted:

> The Cabinet Task Force on Oil Import Control, established in March, 1969 to conduct a comprehensive review of the mandatory oil import restrictions under Proclamation No. 3279, as amended, submitted, on February 2, 1970, a report concluding that the existing overland exemption in combination with a system of restriction based on international agreements does not effectively serve our national security interests and leads to inequities within the United States and recommending that volumetric restrictions on the importation of Canadian oil be established as a means of interim control during the period of transition to an alternative United States-Canada energy policy.
>
> The Director of the Office of Emergency Preparedness, with the concurrence of the Oil Policy Committee, has recommended that the importation into Districts I–IV of Canadian crude and unfinished oils heretofore subject to voluntary controls, while exempt from mandatory controls, be limited to 395,000 average barrels per day in the period March 1, 1970 through December 31, 1970, in order to institute a more effective system of import control for the accomplishment of the national security purposes of Proclamation 3279, as amended.
>
> I agree with the recommendation of the Director and deem it necessary in the interest of the national security objectives of Proclamation 3279 to establish an orderly limitation on the importation into Districts I–IV of Canadian crude and unfinished oils.

Mr. President, one may note that the proclamation was based on not only the national security provisions of the mandatory oil import program, but also on the recommendations of the Cabinet Task Force on Oil Import Control, as noted in the proclamation.

When the President released the task force report in late February, there was the usual and expected outcry from the usual and expected oil industry critics because the President had not adopted in total the task force recommendations but had, instead, followed part of the task force recommendations by creating an interdepartmental panel under the chairmanship of the Director of Office of Emergency Preparedness.

In establishing the Oil Policy Committee, the President noted that all members of the task force agreed that a unique degree of security can be afforded by moving toward an integrated North American energy market and that he had directed the Department of State to continue to examine, with Canada, measures looking toward a freer exchange of petroleum, natural gas, and other energy resources between the two countries.

Those who now criticize the President's action apparently have not examined the task force recommendations which they say should have been adopted. What the task force recommended is essentially what the Presidential proclamation will accomplish. On page 105, the report states:

> Canada would be permitted to export to the United States as a whole 615,000 barrels of crude or products at existing rates during the first six months of the transition—roughly the volumes expected in July, 1970.

At the time the President issued the proclamation, Canadian imports were running at a rate of between 550,000 and 600,000 barrels per day for the area east of the Rocky Mountains and at 235,000 barrels per day for the west coast area.

The agreement between the United States and Canada called for a rate of 332,000 barrels per day for 1970. Imports to the west coast area are restricted only to the difference between actual production in that area and total consumption. The gap is about 482,000 barrels daily and of this shortage, Canada is supplying approximately half.

So the cutback to 395,000 barrels for the area east of the Rocky Mountains still represents an increase for 1970 of 63,000 barrels above the informal agreement with Canada and 15,000 barrels more per day than even the task force had recommended by July 1970.

And, actually, most of the complaint is coming from the usual sources in the Senate, the New York Times, the Boston Globe, and the Washington Post, rather than from the Canadians, who realize that they still have a pretty good thing going when they can import more than half of their requirements at cheap foreign rates and, at the same time, export more than half of their domestic production to the higher priced U.S. market.

Let me quote Mr. Greene, their Minister of Energy, in regard to that point. Greene said in his recent speech to Canadian oil producers:

> It will be no surprise for me to tell you that the United States authorities are concerned at this extraordinary fluctuation in our exports.
>
> I hope it will not surprise you to know that the Canadian Government is also concerned.
>
> This concern stems partly from the nature of our oil relations with the United States and our current understandings with the American Government. The development of our petroleum resources and the growth of our industry is predicated in part on expansion of exports to the U.S.A. The Canadian industry has benefited greatly from the relatively free access it has had to this large and valuable market. We have fought hard for this access and will continue to do so. But the current surge in Canadian exports undoubtedly poses a problem for the United States authorities in the short run. We have always recognized that the overland exemption to which we attach the highest importance carries with it the responsibility of avoiding disruption of U.S. markets. I feel therefore that we must be prepared to give the Americans what assistance we can in dealing with their short-term problem if we are to approach the bargaining table regarding long-term arrangements in a spirit of mutual confidence and with a likelihood of success.
>
> I have had some concern about the high level of exports in relation to the domestic situation. With trunk pipe lines operating at or near capacity, we find ourselves virtually without any cushion to deal with emergency circumstances which may arise in the short-term. This I find disturbing. It has been part of our posture in regard to the matter of supply security that we maintain a measure of emergency capacity to the U.S. West Coast and also to Ontario as a back-up for Quebec's oil supply. The current high level of oil exports leaves us virtually without this cushion.

And in regard to the eastern Provinces of Canada which now depend on some 700,000 barrels per day of foreign oil, Minister Greene said:

> The Federal Government would have welcomed and encouraged any industry initiative designed to market western Canadian oil on an economic basis east of Ontario, but such has not been forthcoming and eastern Canada remains dependent on imports.
>
> The fact of continued reliance on overseas supplies for approximately half of our domestic oil requirements has in recent months brought the question of the security of imported supply into public debate. This is both inevitable and desirable. It is inevitable because of continuing conflict in the Middle East and other oil-supplying areas, and desirable because basic issues relating to our national oil policy must be, and are, subject to periodic reappraisal.
>
> A related matter which has arisen in the course of the deliberations of the U.S. Cabinet Task Force on Oil Import Control is that of the continued security of Canadian supplies to U.S. markets in a situation where Canada is heavily dependent on imports for its own needs.
>
> The National Energy Board is giving continuous consideration to these problems. In particular, the Board is seeking to determine whether imported supplies which have proved reliable in previous crisis circumstances are likely to be any less secure in the future and, if so, what means could best be employed to

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> ensure an acceptable degree of security of eastern Canadian Oil supply.
>
> I do not wish to anticipate the Board's findings, but should it advise that a supply security problem does exist, then I am ready to urge a policy of progressive reliance on more secure sources for eastern Canadian supply.
>
> The complete answer to this would be the discovery of large resources on the Atlantic Shelf or in the Canadian Arctic. Even at the present rate of exploration in these areas, I think it appropriate for the Canadian Government to have a policy of no net dependence on United States oil supplies in times of emergency. I am not sure that this involves a drastic change in policy, as I understand that in the circumstances arising out of the Mid-East conflicts of 1956 and 1967 some U.S. oil was shipped to eastern Canada but these imports were greatly exceeded by emergency deliveries of Canadian oil to the U.S. West Coast. We intend to take steps to ensure that such a swap-out will be feasible in the future and that Canada is never likely to be in a position of posing a greater demand on U.S. sources in the east than it can compensate in the west. This type of arrangement whereby we bolster each other's security of supply makes good sense for both countries.

Canada is not yet self-sufficient in oil production—that is, the ratio of her total production to total consumption—but is rapidly approaching that capability. Whereas in 1960, Canadian production was 544,000 barrels daily—63 percent of domestic demand—today production is 1,300,000 barrels—95 percent of domestic use.

But rather than to continue to eat her cake and have it too, by the heavy use of cheap imports while realizing a substantial profit from more than half her production in sales to the United States, Minister Greene warned the Canadian producers that this "best of two worlds" would not continue as Canadian production increases. He said, and I quote:

> It is also incumbent upon me to serve notice to eastern Canadian refiners that, in the event oil supplies become available to them from any of a number of potential producing areas in Canada, they will be required to give preference to such indigenous oil over imported material.

Minister Greene has taken a realistic and sensible approach to this problem and rather than flailing the industry and ignoring its advice and recommendations as the majority of the Cabinet Task Force on Oil Import Control chose to do, he consulted with the industry and sought its advice in setting up a National Petroleum Advisory Committee.

And rather than locking the industry out of a study of its problems as did the Chairman of the President's Cabinet Task Force, Greene addressed the Canadian oil producers, as follows:

> In representing a major segment of Canada's petroleum industry, and in representing a distinctly prominent sector of the general Canadian Petroleum Association membership, I want to assure you—if such assurance is necessary—that the Federal Government is deeply impressed with the national importance of the oil industry, the magnitude of its problems and the great potential of its future.
>
> We face a series of difficult and critically—important policy decisions relating to the petroleum industry. I have therefore been most anxious that government should be able to draw on the best wisdom and experience of the industry and have taken vigorous steps to this end.
>
> Thus, since reassuming the full responsibilities of my portfolio I have committed myself to regular consultation with the leadership of your Association and with that of the Independent Petroleum Association of Canada. I had most useful meetings with these groups yesterday.
>
> In addition, I have established a National Petroleum Advisory Committee. This group is already at work and I am confident that it will afford an extremely valuable input to our policy deliberations. You will recall that the mmebership includes two persons selected on the advice of this Association: I am most gratified to have been able to bring together a group of men of such outstanding caliber to serve our country in this way.
>
> I regard the Advisory Committee as a most important development which will enable us to draw more effectively on the collective wisdom of the industry. However, I have sought to make clear that its appointment is intended to broaden the range of advice available to me rather than to displace existing sources of advice.

This is indeed a fresh approach and one that certainly should have been used by the chairman of the President's Task Force, rather than a panel of academicians with no practical knowledge of or expertise in the petroleum industry and who, according to testimony in recent hearings, did not even consult with recognized experts in the oil and gas industry.

In reading the rationale of some of their observations and recommendations, it would appear that the eminent economists, professors and lawyers who made up the task force staff were more interested in applying their own theories and creating an inanimate, federally regulated and controlled industry that could not possibly under the conditions they imposed, provide either national security of our energy resources or continue as a progressive, viable and vital part of the Nation's economy and develop massive energy needs of the future.

Mr. President, I commend the Canadian Minister for his recognition of the short-term problem and the long-range goals of a United States-Canada energy policy which President Nixon has directed the Department of State to continue to examine toward a freer exchange of petroleum, natural gas, and other energy resources between the two countries.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired. However, we are in the period for the transaction of routine morning business.

Mr. HANSEN. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I yield to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I commend the Senator from Wyoming for drawing attention to developments in Canada. I recently participated in a Canadian-United States Interparliamentary Conference. The question of the recent action of the United States concerning imports from Canada was raised and discussed at length at that meeting. It should be noted that the concern—I should say "interest"—of the Members of Parliament, was directed toward what the Senator has pointed out: the development of a long-range energy policy for our two nations. It is important to recognize there was no criticism of the level of the 395,000 barrels a day that has been imposed by virtue of the recent order of the United States on imports from Canada.

Rather, the interest really was in trying to make the continental policies workable.

I would call the Senator's attention to this important observation. So long as we maintain—and I hope we will maintain—an oil import quota system we may well find that our programs, whatever they might be, would be unworkable unless our Canadian neighbors joined in and agreed with us on an overall oil policy.

A fresh approach was taken by members of the Canadian Parliament who came to discuss matters not only with Members of Congress, but also with those who are negotiating for the executive branch through the Department of State, for an energy policy.

The Senator is correct when he says that the Canadians seem to be wiser than we in utilizing those who have expertise in the field. They are listening to members of their industry, particularly those who have the voices of the developing industry in their north country, just as we have a developing oil industry in our Alaska north country.

I would hope that those downtown who are dealing with this policy would heed the Senator's advice and would listen to and take heed of what the members of the oil industry of this country are saying with regard to the future of this industry.

I am sure the Senator knows full well what has happened in our natural gas industry under the regulation that has come about in the production field. Our resources and our known supply of natural gas have declined. If we are to have a vital energy policy, it must include natural gas as well as petroleum.

I commend the Senator for bringing to the attention of this body developments in our neighboring country, so far as the Canadian task force and the actions of the Canadian Minister of Energy are concerned. They have developed a very enlightening approach in Canada in looking at the total problem.

I hope we will follow the same approach. I believe that is what the Senator is suggesting to our executive branch.

Mr. HANSEN. That is indeed what I am suggesting. I want to express my appreciation to my distinguished colleague, the senior Senator from Alaska, who himself is a student of considerable note of the whole matter of energy, insofar as the contribution to that important facet of our economy comes from oil and gas. He is a realist, as are the Canadians.

I would hope this country could face up to the facts and recognize that unless we shore up our domestic reserves, both in oil and natural gas, we are going to be at the mercy, in an increasing quantity of measure, of foreign suppliers—a position that I think is inimical to the best interests of this country, and a position which would hurt the United States all around.

Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **HANSEN.** If we do not now take steps to shore up our natural gas and oil supplies in this country, we will find, as Canada now realizes, and as other countries throughout the world realize, that nothing is higher priced than something one has to have that someone else owns. It is because of the awareness of that fact by the senior Senator from Alaska that I am happy to join with him in carrying on a continuing crusade which I hope will bring to the attention of the American public the fact that natural gas and oil, taken together, provide 75 percent of our energy requirements in this country now.

Natural gas is the best fuel we can use as we try to fight the battle of pollution. We ought to be encouraging the development of its supply in this country rather than discouraging it, which will happen if we do away with the mandatory oil import program. If we want to encourage it, we have to give the industry greater assurance than we have given it up to the present time, or we will find fewer and fewer dollars will be going into exploration and fewer and fewer dollars will be going into actual reserves and production of gas. Out of that result will come an increasing dependence upon foreign sources of these energy fuels, or of alternative sources within our own country, neither of which I think serves the national interest at this time.

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I thank the distinguished Senator from Alaska. He is most knowledgeable. I am very grateful to him.

Mr. **AIKEN.** Mr. President, will the Senator yield?

Mr. **HANSEN.** I yield.

Mr. **AIKEN.** I do not want to put any flies in the ointment, but people in New England are also realists. Could the Senator give us any good reason why, when nearly 500,000 barrels of oil a day are unloaded in New England, for the cheapest heating oil we have to put up 2 or 3 cents a gallon more than the rest of the country? I realize the answer is that these 500,000 barrels have to go through a pipeline, across Maine, Vermont, and New Hampshire, to Montreal, and that eastern Canadians get the benefit of it.

It would be very helpful, if we were working out a long-range energy program—and I think it has to be energy, rather than oil, gas, uranium, or even hydro—that the administration do something to relieve the situation which we have been encountering in New England for the last several years. This situation is not warranted. Why they permit it to continue, I do not know.

I agree that we need a continental program for energy, and I know the Canadians—many of them, anyway—feel that we should deal in terms of energy rather than oil or other sources of energy. I think they are right about it.

We have to work together, but I do think in the meantime, if the Senator from Wyoming would pass this message along to the administration also, it would be very helpful if they could find some way—and there is a way—in which they could bring the price of heating oil in New England down to at least the average for the rest of the country.

I realize that Wyoming is the one State in the Union that pays more for oil than Vermont does. There is a reason for that. Just pass the message along to the White House, Senator.

Mr. **HANSEN.** Mr. President, if I may respond to my distinguished and dearly loved friend, let me say, first of all, that we should not forget that oil and natural gas today are among the biggest bargains to be found anywhere in our country, and I include New England when I say that. If one considers the average price index, the price of oil and gas has gone up not nearly as much as has the average cost of living.

I would point out, also, that at the wholesale level in New England, oil and gas are not in excess of the price throughout the rest of the country. The Senator asked why it is higher there. As a cattleman and producer of meat, I will ask the Senator, why there is a big difference between the price the farmer receives for an animal he sells on the market as compared with the price of steak. The cost of oil and gas to New England consumers does not result from the wholesale price, but, rather, from the retail prices that are added to it after it leaves the wholesaler.

During the past decade, the price of home heating oil has increased about 17 percent compared with a consumer price index rise of 26 percent. The task force report said that higher prices in New England for home heating oil appeared to be a matter of higher dealer margins and that New England wholesale prices were actually a little less than other parts of the United States.

So I would call attention to the fact that I have concern for New England and the fact that the people of New England are dependent upon oil and natural gas supplies. If we do not give greater encouragement to this industry than we are presently giving it, the people of New England could very well face a situation that would be completely intolerable, a situation which would result in a very great shortage of natural gas so that furnaces throughout all of New England could no longer be used because there would be no gas to supply them. This has been predicted by John Nassikas, Chairman of the Federal Power Commission, who has said that we have got to see to it that the oil producers of this country get a little better break pricewise or we are not going to have the gas to supply the homes of New England or the factories of the whole United States.

The **PRESIDING OFFICER** (Mr. BYRD of West Virginia). The time of the Senator from Wyoming has again expired.

Mr. **HANSEN.** May I have 5 additional minutes?

The **PRESIDING OFFICER.** Without objection, the Senator will be recognized for not to exceed 5 additional minutes.

Mr. **HANSEN.** Because of this fact, the people of this country surely must understand that the alternatives that are posed by doing away with the mandatory oil import program, instead of helping New England, will hurt New England. The better we are able to add to our reserves in this country, the greater becomes the chance that we can continue to supply the homes, the factories, and the mills of this country with fuel that is a very great bargain when compared with any other commodity, other than becoming dependent on unreliable foreign sources.

Mr. **STEVENS.** Mr. President, will the Senator yield for a moment at that point?

Mr. **HANSEN.** I am happy to yield.

Mr. **STEVENS.** I should like to state to my good friend from Vermont that our State pays a much higher per unit cost for heating oil than they do in New England, even though we produce a great deal more oil than even the State of Wyoming. The problem is one of distribution and the cost of distribution.

What the Senator from Wyoming has stated as far as dealers' margins in New England and New York are concerned is exactly correct. The additional cost to the consumers is in the distribution pattern in New England and New York, much more even than in the West.

I might also point, for instance, that in Alaska I could buy shoes from Japan much more cheaply than I could buy them from the east coast; and I could buy bicycles from our neighbors in the Pacific much more cheaply than from the east coast of the United States.

The **PRESIDING OFFICER** (Mr. BYRD of West Virginia). May we have a little less noise, in the galleries, please?

Mr. **STEVENS.** But the differential in the cost to us is the tariff pattern that exists and has existed for the protection of manufactured products in this country. Somehow, when we are dealing with natural resources, the interest of the consumer is considered by some to be paramount, but in connection with manufactured goods, it is rarely mentioned. This is something I cannot understand.

If New England, New York, and the east coast allow themselves to become dependent on a supply of oil from the Middle East, with the tremendous instability that exists there today, I think the east coast will rue the day that sufficient stability was not maintained in the oil industry, the gas industry, and the energy industries as a whole, to maintain their supply lines to the east coast, to bring to it electric power, gas, and oil on a stable delivery basis that is secure.

The real problem we face, in terms of Canadian imports—and our good friend from Vermont was there during a part of that period—is the surge of imports through the line the Senator is talking about into Canada. At the same time, there is a surge from the western part of Canada into our Midwest, and the result is a windfall profit for the industry involved. This does not help your consumers or our producers, and it provides no stability for the country.

We would like to work with you to provide stability for the manufactured products of the East. All we are asking for is assistance in providing the incentive for the development of our resources. If the incentive is not there, they will not be developed.

We are building a $900 million pipeline just to get the oil to tidewater. If the markets for the oil flowing through that pipeline are not protected, the pipeline will not be there, and the day will come when we will wish it were.

Even the natural gas that is starting to come into the east coast now would be affected. We have the greatest supply of natural gas in the world in Alaska, and it is not tapped today because of the regulation on natural gas. It is a shortsighted policy that has hindered the production of natural gas in this country up to this time. Canada faces a similar problem, for they too, have a supply of natural gas.

I hope we will get together and talk in the terms of energy, not just fuels. I would like to see us say to the Canadians, "Put the electric plants at the source of supply, in the rural areas where pollution is not a problem."

Certainly what we are thinking about is, in the long run, the best interests of the consumers of the United States. To insure a supply, to insure a stable market, and to insure that there are no surges and no dumping in this country of products from anywhere, whether they be manufactured products or the natural resources that come from our western and northwestern country will benefit all.

Mr. AIKEN. Certainly, Mr. President, I would be the last to criticize either the Senator from Wyoming or the Senator from Alaska for protecting and promoting the industries of their States. The Senator from Wyoming is doing a good job in that respect and I am glad to say so here while the Senator from Alaska is performing exceptional service for his State.

However, we do have a situation in New England—and it is an irritation to see the oil from other fields.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HANSEN. Mr. President, I ask for 5 additional minutes.

Mr. AIKEN. Not from Kuwait nor from the Middle East——

The PRESIDING OFFICER. Without objection, the Senator may proceed for 5 additional minutes.

Mr. AIKEN. But from Venezuela I think it is, largely, that comes into the pipeline at Portland, Maine, and goes through to Montreal, where the Canadians make, I presume, a dollar a barrel over what they would make by using their own oil, from western Canada.

We do, in Vermont, where we have lower electric rates than the other New England States, receive Canadian natural gas. I do not know where it is generated; I do not know whether there is a pipeline from the Prairie States through to Montreal, or not. It is not low-cost gas; I understand it is rather expensive, but its use is growing on the part of those people who prefer to use natural gas.

Mr. HANSEN. Mr. President, if the Senator will yield at that point, let me observe that if we consider the total energy mix, both oil and gas, this domestic industry, this great oil and gas industry in the United States, is fully competitive with foreign sources of supply, because if we consider oil, let us say, at $3.50 or $3.30 a barrel, and add to it the cost of natural gas, we see that even New England gets a total energy mix which is very comparable with what foreign oil costs us, plus what liquid natural gas would cost were it to be shopped over here. To do so, it would have to be kept at minus 200° Fahrenheit. It is a very expensive product to ship because of the refrigeration cost. If we included both these items it ought not be forgotten that this American industry is doing a great job in competing with that low-cost, foreign-produced oil.

Mr. AIKEN. I certainly hope the time does not come when the United States or the eastern part of the United States will be dependent on Middle East oil. I do not think that would be in the interests of our security at all.

Mr. HANSEN. I agree. That happened to a certain extent during the Israel-Arab war of 1967.

Mr. AIKEN. That is why I am so concerned that we work out a hemisphere arrangement with the Canadians, which would involve Alaskan oil, probably, and Canadian oil and gas—that which is discovered and not yet discovered—and the hydroelectric power which is still not developed in Canada. In New England, if all else should fail, we would have to go to the woodpile, and you cannot buy an ax with a well-shaped handle any more, I find, so I do not want to do that.

Mr. HANSEN. I know what the Senator means.

Mr. AIKEN. But in the meantime, I am advised that over half of the new homes built in Vermont are wired for electric heating, and that is why I say, let us talk in terms of energy rather than the various sources of energy.

Mr. STEVENS. Mr. President, will the Senator yield further?

Mr. HANSEN. I yield.

Mr. STEVENS. I think the Senator from Vermont is absolutely correct, and has provided great leadership in laying the foundation for these United States-Canadian talks that have taken place and are still taking place at the executive level.

Certainly, those of us who come from areas that have untapped water power resources, such as from the Yukon, Kuskokwim, and Tanana Valleys in my State, know that with such power we can match the energy resources of fossil fuels, and our water power could produce energy for transmission to New England, the great Midwest of the United States, and the power consuming areas of California and the Pacific coast.

This requires coordination, and the assurance to American industry that the markets will be there, and that they are not going to be subject to dumping of foreign supplies when the market is right, and the disruption of their lines of energy distribution as they are established throughout the country.

I think that if we can talk in terms of energy, the resources of my State are going to be wisely used in this country, and this is what we want in the long run. I think our long-term objectives coincide, and I am happy to try to help work that out.

Mr. HANSEN. Mr. President, I might just say that certainly the great and excellent rapport that exists between Canada and the United States reflects in no small measure the leadership, the fairness, and the great courtesy that are always hallmarks of the distinguished Senator from Vermont.

Senator STEVENS and I are happy to have been associated with the Senator from Vermont as members of that delegation with the Canadians in this recent interparliamentary effort.

Mr. AIKEN. I have enjoyed this colloquy with the Senators from Wyoming and Alaska, and particularly the last remarks of the Senator from Wyoming.

The PRESIDING OFFICER (Mr. EAGLETON). The time of the Senator from Wyoming has expired.

Mr. AIKEN. I ask for 30 seconds.

Mr. HANSEN. I ask unanimous consent that I may proceed for 2 additional minutes.

Mr. BYRD of West Virginia. Reserving the right to object—I shall not object—but we will have a vote on a treaty at 12 noon, and we hope to have a quorum call prior to that time. I do not object to the 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. I wish to say, finally, that my reports indicate that the use of electricity in the State of Vermont is doubling every 6 years, as compared with, I think, a rate of 9 or 10 years for the country as a whole.

Mr. STEVENS. I would say that that is one reason why Vermont has preserved its clean air. We will find a way around this pollution problem when we start using our energy resources to create electrical energy for transmission and for utilization in residences and in our large industries. That is the way we are pointed with this energy policy with Canada.

Mr. AIKEN. And the Canadians are even more concerned about pollution than we are.

Mr. HANSEN. Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

XUM

THE TOOLS FOR POLLUTION CONTROL

Mr. HATFIELD. Mr. President, it is said that a journeyman carpenter using brandnew tools and the best material available can do a good job, but that a cabinetmaker, using whatever tools come to hand, does superb workmanship.

In a sense this is true as well when applied to the art of government. There are those who constantly need new tools and new programs—and produce a fairly reasonable result. There are others who look into the tool chest, find what is available, and then proceed to do something important.

For nearly a decade our Democratic friends have done a great deal of talking about the problems of our environment—particularly about water pollution. The constant cry has been for new legislation and for new programs.

They have said, in effect, give us the tools with which to work and the environment can be restored. Well, a lot of legislation has been passed in the past few years—and the problem is still with us.

Meanwhile, in the tool chest of government there is a 70-year-old law which makes it a crime to pollute navigable streams and waters. For the past 8 years under Democrats that law was ignored while demands were being made to produce new and sharper tools in the fight against pollution.

A month ago the Nixon administration moved in Chicago Federal court against a dozen corporations, charging them with adding to pollution content of Lake Michigan. The administration used the old law.

Yesterday the administration followed this up with an indictment against one of our industrial giants, the United States Steel Corp., and one of its officials, charging pollution of the lake.

I believe as strongly as any man in this Senate that we need to take ever possible and reasonable action to slow down the spread of pollution and restore the quality of our environment. However, while Congress is studying the problem, let it be noted that the Nixon administration is already at work on the problem, using the tools that are at hand.

For too long there have been those who think that every problem needs new legislation if it is to be solved. In their frenetic search for new programs and proposals they often overlook what can be done with laws already on the books.

SMITH OF MAINE

Mr. AIKEN. Mr. President, on March 15, a very delightful column appeared in the Maine Sunday Telegram entitled "Smith of Maine." I think that every Member of the Senate ought to have an opportunity to read this column. Therefore, I ask unanimous consent to have it printed at this point in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

SMITH OF MAINE

(By Bill Caldwell)

WASHINGTON.—Six false starts to this column stare up at me, crumpled and accusatory, from the waste basket. They all fudge what I really feel.

So on this seventh try, I'll say straight out what I think, and what you'd find out by the end of this column anyway.

I think Margaret Chase Smith is the most direct and fascinating woman I know; and that she is the most unique and amazing senator I have ever met.

And, one way and another, I've met a lot of both over the years.

I say this out loud and clear today because I just spent an hour closeted with Senator Smith in her Washington office. And I have never seen her looking better. And I have never heard her speak more directly and frankly and informatively about the political and military scene in the nation and the affairs of Maine. Somehow that major surgery on her hip seems to have speeded her up instead of slowing her down.

Part of our conversation was taped; and that part of the interview appears on this page today. But I wish you could have been sitting in her office with me, so you could have heard the crisp, downeast incisiveness of her voice, seen the liveliness of her vivid blue eyes, listened to the inflexions of humor and annoyance and seriousness in her expressions. It would have done your heart good.

Maine people do not need to be "sold" on Margaret Chase Smith. Maine people have been sending her back to Washington again and again. She has represented us in the House and the Senate for 33 years! That in itself speaks volumes. I don't believe any woman has ever before in U.S. history represented her people so long, nor been held so steadfastly in their affections.

Yet the United States Senate is very much a man's club. It is a club where the nation's most serious business is done in closed sessions behind committee doors, or in the privacy of a senator's office.

The Senate is a club where long term membership, long term friendships, long term exchanges of confidences and long term exchanges of help given and help received count far more than flashy brilliance in floor debate. A senator who may spellbind the public in packed auditoriums, or who makes TV programs and newspaper headlines with provocative punch lines, is not necessarily a senator who cuts the mustard with other senators or whose advice is sought by the Man in the White House.

I recount all this because this is the background against which Margaret Chase Smith operates and must be measured. It is a masculine background which might be an insurmountable handicap to any lady, especially a lady who once had been a telephone operator in Skowhegan, Maine.

In some magic way, Senator Smith of Maine stays wholly feminine, yet cuts the mustard in the man's world of the Senate. And in the man's world of the oval office of the President, she is sought out by the Man in the White House—whoever he is. (Presidents Harry Truman, Dwight Eisenhower, John F. Kennedy, Lyndon Johnson and now Richard Nixon have each and everyone paid their own court to the lady from Maine).

How does she do it?

I will hazard these guesses . . . First, she does her homework. And the homework for someone on the Armed Forces, the Appropriations and the Space Committees is immense!

As a result Sen. Smith knows whereof she talks before she opens her mouth. Among Senators—let alone ladies—this is a rare quality, much respected. Second, when Sen. Smith speaks in the Senate, or at the White House, she keeps it short. Her talk is all meat and no fat. In Washington this rarity also commands attention. Third, Senator Smith goes for the jugular. That is not a lady-like way of expressing what Sen. Smith does in a very lady-like way. With a rose at her shoulder, her silver hair genteely in place, her voice modulated but delightfully from Maine, Senator Smith sometimes makes Admirals and Generals knock at the knees, makes Cabinet officers quake, makes budget directors triple-check their figures. She does this with no malice, but by going bluntly to the heart of the matter at hand, without wrapping her thrust in cotton wool.

I have been privileged to see letters which the senior Senator from Maine has sent in the past to Secretaries of Defense. They are scorchers. And they get action—inside 24 hours.

Why? Why do her suggestions, questions, requests stir up action? The answer is power. Senator Smith, demure in blue dress, standing a dainty five feet tall, wields immense power in the United States Senate. A whisper from the lady from Maine can be as strong as the next man's hurricane.

Wasn't it Senator Smith whose whisper started the fall of the ranting Senator Joe McCarthy? Wasn't it Senator Smith's whisper which almost killed the ABM? Wasn't it Senator Smith's whisper which last month killed the appointment of a new Selective Service Director over the President's bold voice?

The senior Senator from Maine uses power sparingly, and often out of public view. But woe betide the person who thinks the power is not there because it is not flaunted! Never has Senator Smith's power been more potent.

Witness the fact it will be Senator Smith who introduces President Nixon's bill to create a volunteer instead of a draft army . . . that it will be Senator Smith's vote which may determine the fate of stage two of the ABM. And it will be Senator Smith of Maine who will become the powerful chairman of the powerful Armed Forces Committee, if the Republicans win in November. Then, her voice will be the voice most listened to in regard to the nation's vastest expenditures. Her's may be the most influential, though soft, voice determining the defenses of the world's most powerful military system.

Margaret Smith speaks softly but incisively, behind her tidy desk in her unpretentious uncluttered office. Her calendar this day has 17 appointments listed—beginning at 7 a.m. They range from the President at 8:30 a.m. on through to delegations from Maine plumbers and heating contractors at 4 p.m. Behind her lie 33 years of ardous work in the hub of power. Yet today she looks well and vigorus enough for 33 years more.

"Smith of Maine" . . . three words that speak volumes.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

HIGHER EDUCATION OPPORTUNITY ACT OF 1970—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-282)

The **ACTING PRESIDENT** pro tempore (Mr. ALLEN) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

No qualified student who wants to go to college should be barred by lack of money. That has long been a great American goal; I propose that we achieve it now.

Something is basically unequal about opportunity for higher education when a young person whose family earns more than $15,000 a year is nine times more likely to attend college than a young person whose family earns less than $3,000.

Something is basically wrong with Federal policy toward higher education when it has failed to correct this inequity, and when government programs spending $5.3 billion yearly have largely been disjointed, ill-directed and without a coherent long-range plan.

Something is wrong with our higher education policy when—on the threshold of a decade in which enrollments will increase almost 50%—not nearly enough attention is focused on the two-year community colleges so important to the careers of so many young people.

Something is wrong with higher education itself when curricula are often irrelevant, structure is often outmoded, when there is an imbalance between teaching and research and too often an indifference to innovation.

To help right these wrongs, and to spur reform and innovation throughout higher education in America today, I am sending to the Congress my proposed Higher Education Opportunity Act of 1970.

In this legislation, *I propose that we expand and revamp student aid so that it places more emphasis on helping low-income students than it does today.*

I propose to create the National Student Loan Association to enable all students to obtain government-guaranteed loans, increasing the pool of resources available for this purpose by over one billion dollars in its first year of operation, with increasing aid in future years.

I propose to create a Career Education Program funded at $100 million in fiscal 1972 to assist States and institutions in meeting the additional costs of starting new programs to teach critically-needed skills in community colleges and technical institutes.

I propose to establish a National Foundation for Higher Education to make grants to support excellence, innovation and reform in private and public institutions. In its first year, this would be funded at $200 million.

There is much to be proud of in our system of higher education. Twenty-five years ago, two Americans in ten of college age went to college; today, nearly five out of ten go on to college; by 1976, we expect seven out of ten to further their education beyond secondary school.

This system teaching seven million students now employs more than half a million instructors and professors and spends approximately $23 billion a year. In its most visible form, the end result of this system contributes strongly to the highest standard of living on earth, indeed the highest in history. One of the discoveries of economists in recent years is the extraordinary, in truth the dominant, role which *investment in human beings* plays in economic growth. But the more profound influence of education has been in the shaping of the American democracy and the quality of life of the American people.

The impressive record compiled by a dedicated educational community stands in contrast to some grave shortcomings in our post-secondary educational system in general and to the Federal share of it in particular.

—Federal student loan programs have helped millions to finance higher education; yet the available resources have never been focused on the neediest students.

—The rapidly rising cost of higher education has created serious financial problems for colleges, and especially threatens the stability of private institutions.

—Too many people have fallen prey to the myth that a four-year liberal arts diploma is essential to a full and rewarding life, whereas in fact other forms of post-secondary education—such as a two-year community college or technical training course—are far better suited to the interests of many young people.

—The turmoil on the nation's campuses is a symbol of the urgent need for reform in curriculum, teaching, student participation, discipline and governance in our post-secondary institutions.

—The workings of the credit markets, particularly in periods of tight money, have hampered the ability of students to borrow for their education, even when those loans are guaranteed by the Federal government.

—The Federal involvement in higher education has grown in a random and haphazard manner, failing to produce an agency that can support innovation and reform.

We are entering an era when concern for the quality of American life requires that we organize our programs and our policies in ways that enhance that quality and open opportunities for all.

No element of our national life is more worthy of our attention, our support and our concern than higher education. For no element has greater impact on the careers, the personal growth and the happiness of so many of our citizens. And no element is of greater importance in providing the knowledge and leadership on which the vitality of our democracy and the strength of our economy depends.

This Administration's program for higher education springs from several deep convictions:

—*Equal educational opportunity*, which has long been a goal, must now become a reality for every young person in the United States, whatever his economic circumstances.

—*Institutional autonomy and academic freedom* should be strengthened by Federal support, never threatened with Federal domination.

—*Individual student aid* should be given in ways that fulfill each person's capacity to choose the kind of quality education most suited to him, thereby making institutions more responsive to student needs.

—*Support should complement rather than supplant* additional and continuing help from *all* other sources.

—*Diversity must be encouraged*, both between institutions and within each institution.

—*Basic reforms* in institutional organization, business management, governance, instruction, and academic programs are long overdue.

STUDENT FINANCIAL AID: GRANTS AND SUBSIDIZED LOANS

Aside from veterans' programs and social security benefits, the Federal government provides aid to students through four large programs: the Educational Opportunity Grants, College Work-Study Grants, National Defense Student Loans and Guaranteed Student Loans. In fiscal 1970 these programs provided an estimated $577 million in Federal funds to a total of 1.6 million individual students. For fiscal 1971, I have recommended a 10% increase in these programs, to $633 million, for today's students must not be penalized while the process of reform goes on. But reform is needed.

Although designed to equalize educational opportunity, the programs of the past fail to aid large numbers of low-income students.

With the passage of this legislation, every low-income student entering an accredited college would be eligible for a combination of Federal grants and subsidized loans sufficient to give him the same ability to pay as a student from a family earning $10,000.

With the passage of this legislation, every qualified student would be able to augment his own resources with Federally-guaranteed loans, but Federal subsidies would be directed to students who need them most.

Under this plan, every student from a family below the $10,000 income level—nearly 40% of all students presently enrolled—would be eligible for Federal aid. When augmented by earnings, help from parents, market-rate loans or other public or private scholarship aid, this aid would be enough to assure him the education that he seeks.

The Secretary of Health, Education and Welfare would annually determine the formula that would most fairly allocate available Federal resources to qualified low-income students. Because subsidized loans multiply the available resources, and because the lowest-income students would receive more than those from families with incomes near $10,000, the effect would be a near-doubling of actual assistance available to most students with family incomes below $7500.

If all eligible students from families with an annual income of $4,500 had received grants and subsidized loans under the existing student aid programs, they *would have received* an average of *$215* each. Under our proposal, all eligible students from families of $4,500 annual income would be *guaranteed* a total of *$1300* each in grants and subsidized loans. This would constitute the financing floor; it will be supplemented by earnings, other scholarships and access to unsubsidized loans.

STUDENT FINANCIAL AID: LOANS

The Higher Education Opportunity Act of 1970 would strongly improve the ability of both educational and financial institutions to make student loans. Although most students today are eligible for Guaranteed Student Loans, many cannot obtain them. Because virtually all Guaranteed Loans are made by banks, a student is forced to assemble his financial aid package at two or more institutions—his bank and his college—and colleges are denied the ability to oversee the entire financial aid arrangements of their own students.

In order to provide the necessary liquidity in the student loan credit market, I am asking the Congress to charter a National Student Loan Association. This institution would play substantially the same role in student loans that the Federal National Mortgage Association plays in home loans.

The corporation would raise its initial capital through the sale of stock to foundations, colleges and financial institutions. It would issue its own securities —education bonds—which would be backed by a Federal guarantee. These securities would attract additional funds from sources that are not now participating in the student loan program.

The corporation would be able to buy and sell student loans made by qualified lenders—including colleges as well as financial institutions. This would serve to make more money available for the student loan program, and it would do so at no additional cost to the Government.

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of the Treasury, would set an annual ceiling on these transactions. In fiscal 1972, I estimate that the N.S.L.A. would buy up to $2 billion in student loan paper.

Expanding credit in this manner would make it possible to terminate the payments now made to banks to induce them to make student loans in this tight money market. We would let the interest rates on these loans go to a market rate but the presence of the Federal guarantee would assure that this rate would result in a one to two percent interest reduction for each student. By removing the minimum repayment period we would not only enable students to pay back loans as quickly as they wish but we would make it possible for students to refinance their loans as soon as interest rates are lower.

We would continue to relieve all students of interest payments while they are in college but would defer rather than totally forgive those payments. This would be more than compensated for by extending the maximum repayment period from 10 to 20 years, easing the burden of repaying a student loan until the borrower is well out of school and earning a good income.

The added funds made available from these changes, which should exceed one-half billion dollars by 1975, would be redirected to aid for lower income students.

By increasing the maximum annual individual loan from $1,500 to $2,500, we would enhance the student's ability to avail himself of an education at any institution that will admit him.

Thus, the ability of all students to obtain loans would be increased, and the ability to borrow would be strongly increased for students from low-income families. The financial base of post-secondary education would be correspondingly strengthened. It is significant that this would be done at no cost to the Federal taxpayer.

CAREER EDUCATION

A traditional 4-year college program is not suited to everyone. We should come to realize that a traditional diploma is not the exclusive symbol of an educated human being, and that "education" can be defined only in terms of the fulfillment, the enrichment and the wisdom that it brings to an individual. Our young people are not sheep to be regimented by the need for a certain type of status-bearing sheepskin.

Throughout this message, I use the term "college" to define all post-secondary education—including vocational schools, 4-year colleges, junior and community colleges, universities and graduate schools.

Any serious commitment to equal educational opportunity means a commitment to providing the right kind of education for an individual.

—A young person graduating from high school in one of the states that lacks an extensive public junior college system—more commonly and appropriately known as community colleges—today has little opportunity to avail himself of this immensely valuable but economical type of post-secondary education.

—A youth completing 12th grade in a city without an accessible technical institute is now deprived of a chance for many important kinds of training.

—A forty-year-old woman with grown children who wants to return to school on a part-time basis, possibly to prepare for a new and rewarding career of her own, today may find no institution that meets her needs or may lack the means to pay for it.

We must act now to deal with these kinds of needs. Two-year community colleges and technical institutes hold great promise for giving the kind of education which leads to good jobs and also for filling national shortages in critical skill occupations.

Costs for these schools are relatively low, especially since there are few residential construction needs. A dollar spent on community colleges is probably spent as effectively as anywhere in the educational world.

These colleges, moreover, have helped many communities forge a new identity. They serve as a meeting ground for young and old, black and white, rich and poor, farmer and technician. They avoid the isolation, alienation and lack of reality that many young people find in multiversities or campuses far away from their own community.

At the same time, critical manpower shortages exist in the United States in many skilled occupational fields such as police and fire science, environmental technology and medical para-professionals. Community colleges and similar institutions have the potential to provide programs to train persons in these manpower-deficient fields. Special training like this typically costs more than general education and requires outside support.

Accordingly, I have proposed that Congress establish a Career Education Program, to be funded at $100 million in fiscal 1972.

The purpose of this program is to assist States and colleges in meeting the additional costs of starting career education programs in critical skill areas in community and junior colleges and technical institutes. The Department of Health, Education, and Welfare would provide formula grants to the States, to help them meet a large part of the costs of equipping and running such programs, in critical skill areas as defined by the Secretary of Labor.

THE NATIONAL FOUNDATION FOR HIGHER EDUCATION

One of the unique achievements of American higher education in the past century has been the standard of excellence that its leading institutions have set. The most serious threat posed by the present fiscal plight of higher education is the possible loss of that excellence.

But the crisis in higher education at this time is more than simply one of finances. It has to do with the uses to which the resources of higher education are put, as well as to the amount of those resources, and it is past time the Federal Government acknowledged its own responsibility for bringing about, through the forms of support it has given and the conditions of that support, a serious distortion of the activities of our centers of academic excellence.

For three decades now the Federal Government has been hiring universities to do work it wanted done. In far the greatest measure, this work has been in the national interest, and the Nation is in the debt of those universities that have so brilliantly performed it. But the time has come for the Federal Government to help academic communities to pursue excellence and reform in fields of their own choosing as well, and by means of their own choice.

Educational excellence includes the State college experimenting with dramatically different courses of study, the community college mounting an outstanding program of technical education, the predominantly black college educating future leaders, the university turning toward new programs in ecology or oceanography, education or public administration.

Educational excellence is intimately bound up with innovation and reform. It is a difficult concept, for two institutions with similar ideas may mysteriously result in one superb educational program and one educational dead end. It is an especially difficult concept for a Federal agency, which is expected to be even-handed in the distribution of its resources to all comers.

And yet, over the past two decades, the National Science Foundation has promoted excellence in American science, and the National Institutes of Health has promoted excellence in American medical research.

Outside of science, however, there is no substantial Federal source for assistance for an institution wishing to experiment or reform. There is a heightened need in American higher education for some source for such support.

To meet this need, I have proposed the creation by Congress of a National Foundation for Higher Education. It would have three principal purposes:

—To provide a source of funds for the support of excellence, new ideas and reform in higher education, which could be given out on the basis of the quality of the institutions and programs concerned.

—To strengthen colleges and universities or courses of instruction that play a uniquely valuable role in American higher education or that are faced with special difficulties.

—To provide an organization concerned, on the highest level, with the development of national policy in higher education.

There is a need to stimulate more efficient and less expensive administration, by better management of financial resources that can reduce capital investment needs, and the use of school facilities year-round. There is also need for better, more useful curricula, while developing a new dimension of adult education.

There is a need to give students far greater opportunities to explore career direction through linking education with the world of work.

There is a need to develop avenues for genuine and responsible student participation in the university. Colleges of today and tomorrow must increase communications and participation between the administration and students, between faculty and students, where they are presently faulty, weak or nonexistent.

The National Foundation for Higher Education would be organized with a semi-autonomous board and director appointed by the President. It would make grants to individual institutions, to States and communities, and to public and private agencies. Its grants would emphasize innovative programs and would be limited to five years each.

A number of small, categorical programs presently located in the Department of Health, Education and Welfare—would be transferred to the Foundation. In addition to the more than $50 million now being spent in those programs, $150 million would be requested for the Foundation in fiscal 1972. Beginning with this $200 million budget, this Foundation would have the capacity to make a major impact on American higher education.

From the earliest times higher education has been a special concern of the National Government.

A year ago I asserted two principles which would guide the relations of the Federal Government to the students and faculties and institutions of higher education in the Nation:

"First, that universities and colleges are places of excellence in which men are judged by achievement and merit in defined areas. . . . Second . . . that violence or the threat of violence may never be permitted to influence the actions or judgments of the university community."

I stated then, and I repeat now, that while outside influences, such as the Federal Government, can act in such a way as to threaten those principles, there is relatively little they can do to guarantee them. This is a matter not always understood. No one can be forced to be free. If a university community acts in such a way as to intimidate the free expression of opinion on the part of its own members, or free access to university functions, or free movement within the community, no outside force can do much about this. For to intervene to impose freedom, is by definition to suppress it.

For that reason I have repeatedly resisted efforts to attach detailed requirements on such matters as student discipline to programs of higher education. In the first place they won't work, and if they did work they would in that very process destroy what they nominally seek to preserve.

As we enter a new decade, we have a rare opportunity to review and reform the Federal role in post-secondary education. Most of the basic legislation that now defines the Federal role will expire in the next fifteen months. The easy approach would be simply to ask the Congress to extend these old programs. But the need for reform in higher education is so urgent, that I am asking the Congress for a thoroughgoing overhaul of Federal programs in higher education.

The Higher Education Opportunity Act of 1970 would accomplish this purpose. In addition, it would consolidate and modernize a number of other Federal programs that affect higher education. Through it, I propose to systematize and rationalize the Federal Government's role in higher education for the first time.

In setting such an ambitious goal, we must also arouse the Nation to a new awareness of its cost, and make clear that it must be borne by State, local and private sources as well as by Federal funds. In fiscal year 1972, I anticipate that the new programs authorized by the Higher Education Opportunity Act alone will cost $400 million more than the Federal Government is presently spending for post-secondary education. If our goal is to be attained, there must be comparable growth in the investment of other public and private agencies.

The time has come for a renewed national commitment to post-secondary education and especially to its reform and revitalization. We must join with our creative and demanding young people to build a system of higher education worthy of the ideals of the people in it.

RICHARD NIXON.

THE WHITE HOUSE, *March 19, 1970*.

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 952) to provide for the appointment of additional district judges, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. ALLEN) announced that on today, March 19, 1970, he signed the enrolled bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat, which had previously been signed by the Speaker of the House of Representatives.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON TRANSFERS OF CERTAIN APPROPRIATIONS

A letter from the Secretary of Defense, reporting, pursuant to law, on the transfers of appropriations under the Department of Defense; to the Committee on Appropriations.

PROPOSED HOUSING AND URBAN DEVELOPMENT ACT OF 1970

A letter from the Secretary of Housing and Urban Development, Washington, D.C., transmitting a draft of proposed legislation to increase the supply of decent housing and to consolidate, extend and improve laws relating to housing and urban renewal and development (with accompanying papers); to the Committee on Banking and Currency.

REPORT ON PURCHASES AND SALES OF GOLD AND THE STATE OF THE U.S. GOLD STOCK

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report on purchases and sales of gold and the state of the U.S. gold stock, for the 6-month period ended December 31, 1969 (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON MOBILE TRADE FAIR ACTIVITIES

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on mobile trade fair activities, for the fiscal year 1969 (with an accompanying report); to the Committee on Commerce.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Opportunity for Benefits Through Increased Use of Competitive Bidding to Award Oil and Gas Leases on Federal Lands, Department of the Interior, dated March 17, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Management Improvements Needed in U.S. Financial Participation in the United Nations Development Program, Department of State, dated March 18, 1970 (with and accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Weaknesses in Award and Pricing of Ship Overhaul Contracts, Department of the Navy, dated March 19, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Audit of Federal Deposit Insurance Corporation for the year ended June 30, 1969—Limited by Agency Restriction on Access to Bank Examination Records, dated March 19, 1970 (with an accompanying report); to the Committee on Government Operations.

Report on Lead and Zinc Mining Stabilization Program

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on lead and zinc mining stabilization program, for the calendar year ended December 31, 1969 (with an accompanying report); to the Committee on Interior and Insular Affairs.

Report on Desalination Program

A letter from the Secretary of the Interior, reporting, pursuant to law, on the desalination program during the year 1969; to the Committee on Interior and Insular Affairs.

Public Laws Enacted by Legislature of Guam

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a set of the public laws enacted by the 10th Guam Legislature (with an accompanying document); to the Committee on Interior and Insular Affairs.

Report of Federal Judicial Center

A letter from the Director, the Federal Judicial Center, Washington, D.C., transmitting, pursuant to law, a report of that Center, dated March 16, 1970 (with an accompanying report); to the Committee on the Judiciary.

Report on Application Denied by the Department of Transportation Contract Appeals Board

A letter from the Assistant Secretary for Administration, Office of the Secretary of Transportation, reporting, pursuant to law, on an application denied by the Department of Transportation Contract Appeals Board, during the calendar year 1969 (with an accompanying paper); to the Committee on the Judiciary.

Report of National Labor Relations Board

A letter from the Chairman, National Labor Relations Board, Washington, D.C., transmitting, pursuant to law, a report of that Board, for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

Proposed Authorization for Postmaster General To Enter Into Certain Service Contracts

A letter from the Postmaster General, transmitting a draft of proposed legislation to authorize the Postmaster General to enter into certain service contracts for periods not exceeding 4 years, and for other purposes (with an accompanying paper); to the Committee on Post Office and Civil Service.

Report on Status of Certain Public Building Projects

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a report covering status of public building projects authorized for construction and alteration pursuant to the Public Buildings Act of 1959, dated December 31, 1969 (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore:

Resolutions of the General Court of Massachusetts; to the Committee on Armed Services:

"Resolution of the Commonwealth of Massachusetts

"Resolutions memorializing the Congress of the United States to enact legislation providing for a comprehensive reform of the selective service system

"Whereas, The present selective service system keeps young men in a state of jeopardy for the unconscionable period of seven and one half years, with their fate controlled by a complex of regulations which are subject to constant change and which are applied by local boards in so capricious a manner as to make the ultimate decision on induction or deferment seem utterly arbitrary to the individual concerned; and

"Whereas, The present system discriminates against the poor, the less educated, and racial minorities, and works in favor of the wealthy and better educated, who can find draft havens in college, graduate school, teaching or other favored professions; and

"Whereas, The inequities of this system can only stir resentment among draftees toward those who enjoy draft exemptions and who in some instances rationalize their advantageous position through intemperate and indiscriminate criticism of the structure and goals of our government and society; and

"Whereas, Many draft exempt college students appear to be developing a culture which sanctions the use of any tactic to avoid the draft, and a large segment of this generation of potential leaders is thus maturing with a cynical view toward the obligations of national service; and

"Whereas, The inequalities of the system having contributed to the causes of justifiable campus protest, the same system can be and is used without regard for due process as a weapon to punish, protest and stifle dissent, diminishing public respect for military service while creating a vicious cycle of distrust and antagonism between the generations; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact a comprehensive reform of the selective service system, including adoption of a random selection system, establishment of national standards for determining eligibility, deferments and exemptions, shortening the period of uncertainty for individuals subject to the draft, eliminating the premium placed upon evasion devices and, in general, doing away with those features of the present system which have had the most unreasonably disruptive effects on the lives of our young people and the most dangerously divisive effects on our society as a whole; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the presiding officer of each branch of Congress and to each member thereof from this Commonwealth.

"Senate, adopted, March 2, 1970.

"Norman L. Pidgeon,
"*Clerk.*

"House of Representatives, adopted in concurrence, March 4, 1970.

"Wallace C. Mills,
"*Clerk.*

"Attest:

"John F. X. Davoren,
"*Secretary of the Commonwealth.*"

Resolutions of the Senate of the Commonwealth of Massachusetts; to the Committee on Commerce:

"Resolution of The Commonwealth of Massachusetts

"Resolutions requesting the Interstate Commerce Commission not to grant a discontinuance of Penn Central rail service

"Whereas, There is pending before the Interstate Commerce Commission an application of the Penn Central Railroad to discontinue rail service between Boston and Albany; and

"Whereas, If this is granted, there will be a termination of rail passenger service from Pittsfield and Springfield to Boston for the first time since 1841; and

"Whereas, if this is granted, rail commuters from South Station to Back Bay, Newtonville, Framingham and Worcester will be severly inconvenienced and forced to use other congested modes of transportation; now, therefore, be it

"Resolved, That the Senate of the Commonwealth of Massachusetts respectfully requests the Interstate Commerce Commission not to grant the desired discontinuance of railroad service by the Penn Central Railroad; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to John A. Volpe, Secretary of Transportation, to the presiding officer of each branch of Congress and to the members thereof from the Commonwealth, to the Interstate Commerce Commission and to the Penn Central Railroad.

"Senate, adopted, March 11, 1970.

"Norman L. Pidgeon,
Clerk.

"Attest:

"John F. X. Davoren,
"*Secretary of the Commonwealth.*"

Resolutions of the General Court of Massachusetts; to the Committee on Foreign Relations:

"Resolution of the Commonwealth of Massachusetts

"Resolutions memorializing the Congress of the United States to protest to North Vietnam the mistreatment of American prisoners of war

"Whereas, There are thirteen hundred and thirty-two members of the armed forces of the United States listed as prisoners of war or missing in action and many missing in action may be in prison camps, and more than two hundred of them have been held more than three and one half years, longer than any United States serviceman was held prisoner in World War II; and

"Whereas, North Vietnam has shown itself to be very sensitive to public opinion in the United States, it would be very useful to let North Vietnam see something of the unity and the impatience of the American people over the long-standing proven mistreatment on camps; now, therefore, be it
of said servicemen in North Vietnamese pris-

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to protest to North Vietnam the mistreatment of United States prisoners of war held in North Vietnam; and be it further

"Resolved, That a copy of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

"Senate, adopted, March 2, 1970.

"Norman L. Pidgeon,
"*Clerk.*

House of Representatives, adopted in concurrence, March 4, 1970.

"Wallace C. Mills,
"*Clerk.*

"Attest:

"John F. X. Davoren,
"*Secretary of the Commonwealth.*"

A joint resolution of the Legislature of the State of New Mexico; to the Committee on Public Works:

"RESOLUTION OF THE LEGISLATURE OF THE STATE OF NEW MEXICO

"A joint memorial requesting the Congress of the United States to make more funds available to the individual States for the maintenance of the Interstate Highway System

"Whereas, highway safety is a vital concern to New Mexico citizens, and official state figures have estimated that completion of our interstate system in New Mexico will result in 1,000 fewer accidents and 200 fewer deaths annually; and

"Whereas, the increased costs of maintenance are a further burden on a State which has been declared to have the lowest per capita gain in income, which has many declared economically depressed areas and which has chronic problems of poverty and unemployment; and

"Whereas, New Mexico is a corridor State, providing the citizens of our country with a transcontinental route through the mountains to the Pacific coasts; and

"Whereas, the ever increasing traffic on the interstate system is primarily a benefit to the coastal areas who have no other equally efficient means of access to the remainder of the country; and

"Whereas, the greatly increased flow of interstate traffic on the interstate highway system creates an accelerated deterioration of the high system and the need for greater expenditures for highway maintenance;

"Now, therefore, be it resolved by the Legislature of the State of New Mexico that the Congress of the United States is requested to appropriate additional revenue to the maintenance funds for interstate highway systems and make such funds available to the individual States for meeting the increased costs of such maintenance; and

"Be it further resolved that copies of this memorial be transmitted to the President of the United States Senate, the Speaker of the House of Representatives, and to the New Mexico delegation to the Congress of the United States.

"Signed and sealed at The Capitol, in the city of Santa Fe.

"E. LEE FRANCIS,
"President, New Mexico Senate.

"DAVID L. NORVELL,
"Speaker, House of Representatives."

A resolution adopted by the Common Council of the City of Mount Vernon, N.Y. praying for the enactment of legislation declaring January 15 as a national holiday in honor of the memory of Dr. Martin Luther King, Jr.; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Charles D. Baker, of Massachusetts, to be an Assistant Secretary of Transportation.

By Mrs. SMITH of Maine, from the Committee on Armed Services:

Curtis W. Tarr, of Virginia, to be Director of Selective Service.

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER (Mr. BOGGS). Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Michael Ray Adams, and sundry other graduates of the Coast Guard Academy, for assignment in the Coast Guard;

Philip K. Hauenstein, and sundry other officers, for promotion in the Coast Guard; and

Harlan D. Hanson, and sundry other members of the permanent commissioned teaching staff of the Coast Guard Academy, for promotion in the Coast Guard.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. HRUSKA (for himself and Mr. CURTIS):

S. 3606. A bill to provide for the construction of wells and other facilities necessary to provide a supplemental water supply to the lands of the Mirage Flats Irrigation District, Mirage Flats project, Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. HRUSKA when he introduced the bill appear later in the RECORD under the approprate heading.)

By Mr. PEARSON:

S. 3607. A bill to create a Rural Community Development Bank to assist in rural community development by making financial, technical, and other assistance available for the establishment or expansion of commercial, industrial, and related private and public facilities and services, and for other purposes; to the Committee on Banking and Currency.

(The remarks of Mr. PEARSON when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. CHURCH (for himself and Mr. MONTOYA):

S. 3608. A bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to increase the loan limitation on certain loans; to the Committee on Agriculture and Forestry.

(The remarks of Mr. CHURCH when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MONTOYA:

S. 3609. A bill for the relief of Virgilio Flores-Moreno; to the Committee on the Judiciary.

S. 3610. A bill to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes; and

S. 3611. A bill to extend to Federal employees coverage under the program of hospital insurance benefits for the aged established by part A of title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

(The remarks of Mr. MONTOYA when he introduced the bills appear later in the RECORD under the appropriate heading.)

By Mr. HART:

S. 3612. A bill to amend the Fair Labor Standards Act of 1938 in order to require equal pay for equal work to individuals of both sexes in professional, executive, and administrative positions; to the Committee on Labor and Public Welfare.

By Mr. McGEE (for himself and Mr. FONG):

S. 3613. A bill to improve and modernize the postal service and to reorganize the Post Office Department; to the Committee on Post Office and Civil Service.

(The remarks of Mr. McGEE when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 3606—INTRODUCTION OF A BILL TO PROVIDE A SUPPLEMENTAL SUPPLY OF WATER TO THE MIRAGE FLATS PROJECT, NEBRASKA

Mr. HRUSKA. Mr. President, my colleague from Nebraska (Mr. CURTIS) and I are reintroducing legislation similar to S. 2976 of the 89th Congress and S. 655 of the 90th Congress, to provide a supplemental supply of water to the Mirage Flats project, in northwestern Nebraska, without imposing any additional reimbursement costs on the water users of the irrigation district.

The Mirage Flats project was constructed in the 1940's under the water conservation and utilization program. Construction was under the supervision of the Bureau of Reclamation. The project was expected to bring enough water from the Niobrara River to irrigate a total of nearly 12,000 acres.

However, there has never been enough water delivered to the farms in this project to meet the projected amounts or the requirements of sound agricultural operation. The original calculations made in 1939 were faulty as to the amount of water that could be diverted from the river, or else the flow of the river during the years since construction of the project has simply been less than during the earlier period on which the estimates of the engineers were based.

Whatever the reason, it is clear from the history of the project that the amount of water the project would produce was overstated, and the ability of the farmers to pay was overestimated, inasmuch as they have never been able to realize the full potential of the land, due to the lack of adequate water.

In other words, if these factors had been correctly calculated at the beginning, it is likely that additional water from wells or otherwise would have been included as a part of the original project. It is now again proposed by us that such adidtional works to provide supplemental water be constructed.

Mr. President, the Mirage Flats Irrigation District has prepared a detailed description of the problem, including summaries of actual delivery of water as compared with the amounts originally projected.

Mr. President, I ask unanimous consent that the description of the Mirage Flats water shortage problem be printed in the RECORD at this point, together with the text of the bill.

The PRESIDING OFFICER (Mr. EAGLETON). The bill will be received and appropriately referred; and, without objection, the bill and description will be printed in the RECORD.

The bill (S. 3606) to provide for the construction of wells and other facilities necessary to provide a supplemental water supply to the lands of the Mirage Flats Irrigation District, Mirage Flats project, Nebraska, and for other purposes, introduced by Mr. HRUSKA (for himself and Mr. CURTIS), was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 3606

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That notwithstanding any other provision of law, the Secretary of the Interior is authorized to provide for the construction of wells and other facilities necessary to provide a supplemental water supply to the lands of the Mirage Flats Irrigation District, Mirage Flats project, Nebraska: *Provided*, That the Secretary of the Interior is authorized to use available funds to carry out the purposes of this Act, which funds shall be nonreimbursable and nonreturnable.

The material, presented by Mr. HRUSKA, is as follows:

WATER SHORTAGE PROBLEM—MIRAGE FLATS IRRIGATION DISTRICT, HAY SPRINGS, NEBR.

The Mirage Flats Project was authorized under provisions of the Water Conservation and Utilization Act of May 10, 1939. Construction began in 1941 and was completed in 1949. Irrigation operations started in 1946. The project was designed to provide full irrigation service to 11,662 acres of highly productive land on the north side of the Niobrara River south of Hay Springs, Nebraska.

Project facilities include Box Butte Dam and Reservoir, Dunlap Diversion and the necessary canals, laterals, and drains to provide the planned project service. All have been well maintained and are in good operating order.

Except for two years early in the operation period, the project has not had the quantity of water needed practically or theoretically for optimum crop production. This has been true in spite of high irrigation efficiencies. Shortages at the farm turnout for the period 1948 to 1963 inclusive averaged 0.42 of an acre-foot per acre annually or 27 percent of the theoretical requirement. The following table shows the historical deliveries, theoretical requirements and shortages for the years 1948 and 1963.

HISTORICAL SURFACE WATER FARM DELIVERIES AND THEORETICAL REQUIREMENTS (ACRE-FEET)

Year	Historical farm delivery	Theoretical farm-delivery requirement	Theoretical shortage
1948	1.20	1.63	0.43
1949	1.41	1.41	.00
1950	1.47	1.36	.00
1951	1.01	1.06	.05
1952	1.60	1.81	.21
1953	1.12	1.61	.49
1954	1.00	1.44	.44
1955	1.00	1.96	.96
1956	1.04	2.27	1.23
1957	1.07	1.53	.46
1958	1.04	1.36	.32
1959	1.26	1.44	.18
1960	1.20	1.64	.44
1961	0.99	1.40	.41
1962	.82	1.56	.74
1963	.99	1.43	.44
1964	1.07	(2)	(2)
1965	.58	(2)	(2)
1966	.94	(2)	(2)
1967	.93	(2)	(2)
1968	.85	(2)	(2)
1969	1.04	(2)	(2)
16-year average (1948-63)	1.14	1.56	.42

[1] From historical records of Mirage Flats Irrigation District.

[2] Not computed.

Since Box Butte Dam was built, minor spills have occurred in only a few years early in the operation period. In some years the inflow to the reservoir was inadequate to provide any assurance of reasonable water supply by the beginning of the irrigation season. The policy on water operations has been to leave some water in the reservoir at the end of the irrigation season even though it is needed that season. This is done to avoid a severe shortage the following year in case the inflow to the reservoir is below normal and to even out the water supply from year to year. Maximum and minimum annual reservoir content for years since 1948 are as follows:

BOX BUTTE RESERVOIR

Year	Maximum content	Minimum content
1948	32,210	18,150
1949	31,550	12,870
1950	30,580	9,500
1951	25,070	17,800
1952	31,550	10,010
1953	26,350	8,610
1954	23,140	6,680
1955	21,530	5,530
1956	22,330	4,480
1957	26,640	12,780
1958	30,350	13,540
1959	27,830	8,020
1960	26,100	5,680
1961	21,770	4,360
1962	22,920	9,360
1963	24,530	7,820
1964	22,290	3,520
1965	18,270	8,480
1966	24,440	3,530
1967	23,790	8,340
1968	25,560	10,980
1969	23,550	2,950

To overcome this perennial water shortage, some irrigators have drilled their own irrigation wells. Because the irrigated farm units in the project are small, this solution by individuals is costly and most uneconomical.

A more practical solution is the one proposed by the Bureau of Reclamation. A few district wells would be used in conjunction with the existing surface water storage to provide all district lands with a full water supply.

With this relatively minor addition the project would be able to provide the service that was originally intended and the service that irrigators expected when they acquired the project units.

The landowners, operators, and directors of the Mirage Flats Irrigation District understood when the project originally started that they would receive an acre-foot and half of water annually at the farm turnout for each irrigable acre. As shown above, the surface water supply is inadequate. All of us feel that the Government should construct facilities to provide an adequate water supply for reasonable crop yields. We also feel that any construction cost for these added facilities should be paid for by the Government and not us water users. Two of Nebraska's governors, our two U.S. Senators, and three Representatives to the Congress support us in this position.

S. 3607—INTRODUCTION OF A BILL TO CREATE THE RURAL COMMUNITY DEVELOPMENT BANK

Mr. PEARSON. Mr. President, the economic and social development of our rural communities ranks high on the Nation's list of priorities. Indeed, within the last few years rural development has come to be seen not simply as a desirable goal, but as a national necessity.

The growing national consensus on the need to expand the economic and social opportunities in rural America stems not only from the fact that many of our rural communities are economically depressed and culturally deprived, but also from the recognition that the migration of millions of people from the countryside and the small towns into a relatively few metropolitan areas constitutes one of the root causes of what we have come to describe as the "crisis of the cities."

Considering that the overcrowding of people and the excessive concentration of economic resources is the cause of many of the problems which plague our cities, the prospect of a possible 50-percent increase in our population—from 200 million to 300 million—within the next three decades is, indeed, sobering and certainly lends an additional sense of urgency to the need to expand economic opportunities outside our metropolitan areas. Unless we do so, almost all the population increase in the decades ahead will occur in the metropolitan areas. And, indeed, experts predict that unless present trends are substantially altered, 60 percent of our people will be piled up into but four massive strip cities by the year 2000.

President Nixon has recognized the urgent need of a national policy of rural development and balanced population growth. And, in his state of the Union message he declared:

> What rural America most needs is a new kind of assistance. It needs to be dealt with, not as a separate nation, but as part of an overall growth policy for all America. We must create a new rural environment that will not only stem the migration to urban centers but reverse it. If we seize our growth as a challenge, we can make the 1970's an historic period when by conscious choice we transformed our land into what we want it to become.

The goal of rural development will not be quickly or easily accomplished. The policy approaches will be many and varied. And, in fact, at this stage there is much that we do not know about what needs to be done to achieve a more balanced geographical distribution of the Nation's growing population.

But certainly, Mr. President, one of the most basic needs of the rural development effort is that of credit. The economic development of rural communities will require access to large and reliable sources of capital and this need simply cannot be met fully either by traditional government programs or by regular lending institutions.

The legislation I introduce today, Mr. President, is designed to channel private capital into the rural community development effort through the mechanism of a specially designed government corporation.

This bill would create a Rural Community Development Bank which would be designed to offer credit and also technical assistance to both individuals and public bodies for the development of projects which would serve to strengthen and expand the economic base of rural communities.

Mr. President, the Rural Community Development Bank will be a self-financing corporation, created and operated at no expense to the taxpayer.

The bill provides for a capital stock subscription of $1 billion to be provided by the Federal Government. The initial Government subscription would be only 20 percent of this amount—or $200 million. As the business at the bank developed, it could expand its capital stock by yearly increments of no more than $200 million. This seed money, paid in by the Federal Government, would be financed through the sale of U.S. Treasury obligations in the private market. Therefore, this $1 billion capitalization by the

Federal Government would not actually result in a direct appropriation of tax revenues from the Treasury.

With this capital stock, the bank could then sell bonds and debentures in the private market to raise the funds which it could use to make loans. It would charge interest rates on its loans sufficient to cover all operating costs. Therefore, the bank would be completely self-financing.

The bank would be governed by a 13 member board, appointed by the President. Seven members of the board would be Government officials, including Federal, State, and local government. The remaining six members would be appointed from the private sector, including representatives from finance, industry, labor, and the general public.

The bill would also establish a 20-member advisory committee which would be broadly representative of industry, finance, commerce, community development organizations, and appropriate State and local and Federal Government officials.

Mr. President, the Rural Community Development Bank would be authorized to make loans to job-creating enterprises which would serve to expand and improve the community's economic base.

The bank would also be authorized to make loans to public and quasi-public bodies for the development of industrial sites and for the expansion and improvement of those public facilities and services necessary to support a community's overall development effort.

Under the provisions of this bill, the bank could make housing loans if it were determined that the housing was an integral and essential part of the community's development program.

Loans for recreational and cultural facilities would also be authorized. But, as in all bank-backed activities, it would have to be determined that the project would contribute to the overall improvement of the community.

No project would qualify for assistance from the bank if it were found to be inconsistent with State and local planning objectives or if it were inconsistent with existing Federal community development programs.

Mr. President, an important feature of the bill is the provision which authorizes the bank to provide technical advisory assistance to both private individuals and public bodies. Indeed, the offering of planning assistance to small communities might eventually become as important as the banks' credit services.

Small communities lack the expertise for conceiving, planning, and carrying out an effective developmental program. An institution such as the Rural Community Development Bank would be able to provide advisory assistance to these small communities and should help fill a great void that now exists. The bank would be authorized to charge appropriate fees for this technical assistance.

Mr. President, the Rural Community Development Bank would be authorized to make loans and offer assistance to communities in counties outside the standard metropolitan statistical areas and where at least 15 percent of the families in that county had poverty level incomes.

The board would also be authorized to exclude those areas which although not at the moment a part of a Standard Metropolitan Statistical Area would likely qualify for such a classification in the foreseeable future. In other words, the bank would not participate in community development projects which the board determined would likely lead to further metropolitan sprawl. The general objectives of this legislation would be violated if the activities of the bank were to contribute to "filling up the space," so to speak, between existing metropolitan complexes.

Mr. President, the creation of the Rural Community Development Bank would open up a major new source of private capital to help finance the economic development of our rural communities. This will not be a substitute for government credit and direct assistance programs. Rather it will help to fill an enormous credit gap which neither government nor regular commercial lending institutions can ever be expected to fully meet.

The board would also become an extremely valuable source of expertise in community development. This would be of particular value to private entrepreneurs and small communities. Moreover, the experience of and knowledge gained from the bank's activities would eventually make a valuable contribution to national planning efforts for rural development and population growth policies.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

The PRESIDING OFFICER (Mr. Eagleton). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 3607), to create a Rural Community Development Bank to assist in rural community development by making financial, technical, and other assistance available for the establishment or expansion of commercial, industrial, and related private and public facilities and services, and for other purposes, introduced by Mr. Pearson, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the Record, as follows:

S. 3607

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Community Development Bank Act of 1970."

FINDINGS AND PURPOSE

Sec. 2. The Congress finds that there is an urgent need for the development and redevelopment of many rural communities of the Nation, that the development of the economy of such communities is essential to maintenance of a stable and consistent economic level of the Nation, that such development would aid in reducing the necessity of migration to metropolitan areas and in achieving a broader geographical distribution of the Nation's growing population, that such development can be aided by the establishment or expansion of commercial or industrial enterprises, and public and related private services and facilities, that the financing of such undertakings, in addition to financing presently available, is needed for such community development, and that the capital needs for investment in rural development are too great in total and too large in individual amounts to be met in full by existing institutions.

It is the purpose of this Act to accelerate rural development in the Nation by

(1) assisting in the economic development of rural communities which can provide additional economic opportunities and aid in the reduction of outmigration, by providing financial assistance for the establishment and improvement of commercial and industrial facilities, supporting public and private development facilities in or accessible to such communities, and housing necessarily related to the undertakings financed under this Act;

(2) stimulating private investment in such facilities;

(3) seeking to bring together investment opportunities, public and private capital, and capable management;

(4) providing technical and other supportive assistance to aid in such economic development; and

(5) seeking to achieve these purposes primarily by the application of the financial, management, and technical assistance resources of the private sector.

DEFINITIONS

Sec. 101. As used in this Act—

(1) The term "commercial and industrial facility" means a fixed place of business, in or from which a manufacturing, processing, assembling, sales, distribution, storage, service, or construction business is carried on, including but not limited to—

(A) an office building or place of management,

(B) a factory, plant, laboratory, service center, or other workshop,

(C) a store or sales outlet,

(D) a storage, transportation, or shipping facility, and

(E) any combination thereof.

(2) The term "supporting private and public development facility" means an element of infrastructure, including recreational and cultural facilities, typically developed and owned by a public agency or private utility, or other service or facility made available to the public which is necessary to support economic development activities under this Act.

(3) The term "housing necessarily related" means housing of all types in or near a community which will provide living quarters for the personnel of any new or expanded industry when the governing body of the political subdivision in which development assisted under this Act will be undertaken, certifies that there exists a need for additional housing in or near the development.

(4) The term "rural communities" means any community, whether or not incorporated, in the United States and the Commonwealth of Puerto Rico (including such areas in Indian Reservations and native communities as are approved by the Bank after consultation with the Secretary of the Interior) which is in a county in which at least 15 per centum of the population had an estimated annual per family income below the poverty level as determined by the Bank after consultation with the Director of the Office of Economic Opportunity, but shall not include (i) any area within the boundaries of any Standard Metropolitan Statistical Area, as defined from time to time, (ii) any area included in a metropolitan planning district or metropolitan development district, or (iii) any other area including towns and cities in an otherwise rural county which the Bank determines, in

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accordance with criteria developed by the Board, including growth pattern and economic potential, should be developed as a part of a metropolitan complex, or is a city which has available adequate resources and available financial support and other assistance for its development or redevelopment without assistance under this Act.

CREATION OF RURAL COMMUNITY DEVELOPMENT BANK

SEC. 201. There is hereby a corporation to be known as the "Rural Community Development Bank" (hereinafter referred to as the "Bank") which shall be an instrumentality of the United States Government. The Bank shall be subject to the provisions of this Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.

DIRECTORS AND OFFICERS

SEC. 202. (a) The Bank shall have a Board of Directors consisting of thirteen individuals who are citizens of the United States of whom one shall be elected annually by the Board to serve as chairman. Members of the Board shall be selected as follows:

(1) The President of the United States shall appoint seven members of the Board who shall be officials or employees of government, including Federal, State, and local government. The terms of directors so appointed shall be for four years, except that (A) the terms of such directors first taking office shall expire as designated by the President at the time of appointment, three at the end of two years, and three at the end of four years after such date; and (B) any director so appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. At the discretion of the President, any individual who ceases to be an official or employee of government during his term as director may, notwithstanding that fact, complete his term.

(2) The President of the United States shall appoint the remaining six members of the Board from among representatives of the private sector. Of the six persons so appointed, three shall be from among representatives of business and finance, one from among representatives of organized labor, one from among representatives of community development organizations, and one from among representatives of the general public. The terms of directors so appointed shall be for four years, except that (A) the terms of such directors first taking office shall expire as designated by the President at the time of appointment, one-half of the members at the end of two years, and one-half at the end of four years after such date; and (B) any director so appointed to fill a vacancy occurring before the expiration of the terms for which his predecessor was appointed, shall be appointed for the remainder of such term and shall be chosen from among representatives of the same category as his predecessor.

(b) The President, by and with the advice and consent of the Senate, shall appoint a president of the Bank. The president of the Bank shall be the chief administrative officer of the Bank and shall perform all functions and duties of the Bank, in accordance with the general policies established by, and subject to the general supervision of, the Board; and shall engage such other officers and employees as the Bank deems necessary to carry out its functions. The appointment of the president and not more than two assistant presidents may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and they may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The President of the Bank shall be an ex officio member of the Board of Directors and may participate in meetings of the Board, except that he shall have no vote except in case of an equal division. No individual other than a citizen of the United States may be an officer of the Bank. No officer or employee of the Bank other than members of the Board and Advisory Committee shall receive any salary, other than a pension, from any source other than the Bank during the period of his employment by the Bank.

(c) Members of the Board and of the Advisory Committee may receive the sum of $100 for each day or part thereof spent in performance of his official duties, which compensation, however, shall not be paid for more than 75 days (or parts of days) in any calendar year and shall not be paid to any board member if he is a full-time officer or employee of the United States, or such payment is otherwise prohibited by law, such members shall be reimbursed for necessary travel, subsistence, and other expenses incurred in the discharge of their official duties without regard to the laws with respect to allowances which may be made on account of travel and subsistence expenses of officers and employed personnel of the United States.

ADVISORY COMMITTEE

SEC. 203. (a) There shall be an Advisory Committee of not more than twenty persons, selected by the Board of Directors on the recommendation of the president of the Bank, which shall be broadly representative of industry, commerce, finance, labor, community development and anti-poverty organizations, the Congress and government at all levels. The Committee shall meet annually and at such other occasions at the call of the president of the Bank, and shall advise the Bank on general policy and on such other matters as the Bank may direct. Members of the Committee shall serve for such terms as the Board of Directors may from time to time determine and they shall be paid their reasonable expenses incurred on behalf of the Bank.

(b) Any official or employee of the United States Government may accept appointment and serve on advisory committee established pursuant to this section, any other provision of law notwithstanding.

CAPITALIZATION OF BANK

SEC. 204. (a) Subject to the provisions of this section, the Bank is authorized to issue from time to time and to have outstanding Class A capital stock of an aggregate purchase price not to exceed $1,000,000,000. Shares of such stock shall be nonvoting and without par value.

(b) The Secretary of the Treasury is authorized to and shall subscribe for and acquire on behalf of the United States, upon request of the Board of Directors, the full amount of the stock of the Bank of an aggregate purchase price of $1,000,000,000. The subscription of the United States shall be paid as follows:

(1) Not more than 20 per centum shall be paid at the time the bank is organized, as authorized by Appropriation Act, and shall be available as needed by the Bank for its operations.

(2) The remaining 80 per centum shall be paid on call by the Bank only when required to carry out the provisions of this Act, except that not more than 20 per centum of such amount may be called in fiscal year, as authorized by Appropriation Act.

The Secretary of the Treasury is authorized and directed to pay the subscription of the United States to stock of the Bank from time to time when payments are required to be made to the Bank. For the purpose of making these payments, the Secretary of the Treasury is authorized to use as a public-debt transaction $1,000,000,000 of the proceeds of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes of which securities may be issued under that Act are extended to include such purpose. Payment under this paragraph of the subscription of the United States to the Bank and repayments thereof shall be treated as public-debt transactions of the United States.

(b) Stock and other securities issued by the Bank pursuant to this section and section 206(b) shall be exempt securities under section 3 of the Securities Act of 1933 (15 U.S.C. 77c).

(c) As an addition to the capital and surplus structure of the Bank, there shall be issued to each contributor to the guaranty fund hereinafter provided for, a certificate identifying his or its interest therein, such certificates may as determined by the Board be redeemable in Class B stock of the Bank when the issuance of such Class B stock is authorized by the Congress.

OPERATIONS AND POWERS OF THE BANK

SEC. 205. (a) In order to carry out the purposes of this Act, the Bank is authorized to—

(1) make, participate in, or guarantee loans or provide other financing for real or personal property or for working capital to any public agency or private organization or individual for the establishment, expansion, or preservation of any industrial or commercial facility or supporting public or private development facility which is to be established or is located in a rural community, and housing related thereto;

(2) make, participate in, or guarantee loans or provide other interim financing for the construction or improvement of such facilities to building contractors, subcontractors, or other persons engaged in such work;

(3) provide or assist in the provision of insurance to protect any agency, organization, or individual receiving financing for a commercial or industrial facility or a supporting public or private development facility under paragraphs (1) and (2) against damage or casualty loss in connection with such facility;

(4) provide technical assistance to State and local governments in the preparation and implementation of comprehensive rural community development projects and programs, including the evaluation of priorities and the formulation of specific project proposals. The Bank may charge appropriate fees for its services under this subsection;

(5) undertake research and information gathering, and to facilitate the exchange of advanced concepts and techniques relating to rural community growth and development among State and local governments;

(6) develop criteria to assure that projects assisted by it are not inconsistent with comprehensive planning for the development of the community in which the projects to be assisted will be located or disruptive of Federal programs which authorize Federal assistance for the development of like or similar categories of projects.

(7) seek to bring together investment opportunities in such facilities, capital, and capable management;

(8) carry on such other activities as would further the purposes of this Act; and

(9) provide for the establishment of a guaranty fund to which the Bank may require each borrower to contribute such a percentage of the amount of loan, guarantee, participation, or other financial assistance extended by the Bank under this Act as the Board may from time to time determine.

(b) To obtain indirect participation by private and other public financial sources the Bank is authorized to—

(1) issue bonds, debentures, and such other certificates of indebtedness as it may determine and may issue such securities on a competitive or negotiated basis at the discretion of the Board of Directors;

(2) invest funds not needed in its financ-

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ing operations in such property and obligations as it may determine;

(3) buy and sell securities it has issued or guaranteed or in which it has invested; and

(4) guarantee securities in which it has invested for the purpose of facilitating their sale.

(c) Whenever necessary to meet contractual payments of interest, amortization of principle, or other charges on the Bank's own borrowings, or to meet the Bank's liabilities with respect to similar payments on loans guaranteed by it, the Bank may call an appropriate amount of the unpaid subscription of the United States in accordance with section 204(b)(2). Moreover, if it believes that a default on financing provided by it may be of long duration, the Bank may call an additional amount of such unpaid subscriptions for the following purposes—

(1) to redeem prior to maturity, or otherwise discharge its liability on, all or part of the outstanding principal of any loan guaranteed by it with respect to which the debtor is in default; and

(2) to repurchase, or otherwise discharge its liability on, all or part of its own outstanding borrowings.

(d) The Bank is authorized to establish a principal office and branch offices in such locations as it may determine. It may establish regional offices and determine the location of, and the areas to be covered by, each regional office. It may make arrangements with public or private organizations at the regional, State, and local levels, including banking organizations and other financing institutions, to act as agents or otherwise to assist the Bank in the conduct of its business.

(e) To carry out the foregoing purposes, the Bank shall have such additional powers as are necessary or appropriate in carrying out this Act.

OPERATING PRINCIPLES

SEC. 206. The operations of the Bank shall be conducted in accordance with the following principles:

(1) The Bank shall undertake its financing, technical assistance, and other operations on such terms and conditions and for such fees as it considers appropriate, taking into account the requirements of the enterprise, the risks being undertaken by the Bank, the benefits to the rural community or to the residents of such communities, and the conditions under which similar financing might be available from private investors.

(2) The Bank shall consult with and shall seek to encourage local banking and other financial institutions to participate in its financing and other activities.

(3) The Bank shall, to the extent feasible, give emphasis in its activities to providing financing and other assistance to facilities owned in whole or in part by residents of rural communities or to facilities in which such ownership is made available to such persons.

(4) The Bank shall seek to revolve its funds by selling its loans, guarantees, and other investments to private investors whenever it can appropriately do so on satisfactory terms.

(5) The Bank shall be subject to the Government Corporation Control Act (31 U.S.C. 841 et seq.) in the same manner and to the same extent as if it were included in the definition of "wholly owned Government corporation" as set forth in section 101 of said Act (31 U.S.C. 846).

(6) The Bank shall pay a return out of net income, after providing for reserves and operating expenses, at the rate of 2 per centum per annum on the amounts of Class A stock subscription actually paid into the Bank. Such return shall be cumulative and shall be payable annually into miscellaneous receipts of the Treasury.

(7) The Bank shall not engage in political activities nor provide financing for or assist in any manner any project or facility involving political parties or used or to be used for sectarian instruction or as a place for religious worship, nor shall the directors, officers, or employees of the Bank in any way use their connection with the Bank for the purpose of influencing the outcome of any election.

(8) The Bank shall adopt such bylaws as may be necessary for the conduct of its business and the management of its affairs and may adopt such additional rules and regulations as are necessary and appropriate for carrying out the provision of this Act.

LIMITATIONS ON FINANCING

SEC. 207. The Bank shall not provide financing for any business or commercial facility or public development facility, nor shall it plan, initiate, own or manage such a facility, unless it determines that—

(1) other public or private financing could not be obtained on reasonable terms and conditions;

(2) adequate arrangements have been made to insure that the proceeds of any loan or other financing are used only for the purposes for which the financing was provided, with due attention to considerations of economy and efficiency;

(3) the borrower or other recipient of financing has an adequate equity or other financial interest in or income from the facility to insure his or its careful and businesslike management of the project;

(4) the governing body of the city or, as appropriate, the governing body of the county, parish, or other political subdivision in which the facility is located or is to be established, or an agency or other instrumentality of such political subdivision designated by such body, has certified to the Bank its approval of (A) the establishment of the facility at the particular location, (B) the proposed standards of construction and design, and (C) provisions for the relocation of any residents or businesses to be displaced;

(5) the establishment, expansion, or preservation of the facility in the particular economic opportunity for residents of the location will contribute to the level of community and contribute to the general development of the community.

EXEMPTION FROM TAXES

SEC. 208. For the purpose of the Internal Revenue Code of 1954, the Bank shall be considered to be an instrumentality of the United States and exempt from Federal income taxes. Except as specifically provided in this Act, the Bank, including its capital and reserves or surplus and income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes upon real estate held, purchased, or taken by the Bank under the provisions of this Act. The security instruments executed to the Bank and the bonds, obligations, debentures, issued under the provisions of this Act shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation.

ANNUAL REPORT

SEC. 209. Not later than one hundred and twenty days after the close of each fiscal year the Bank shall prepare and submit to the President and to the Congress a full report of its activities during such year.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 301. (a) The sixth sentence of paragraph Seventh of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting before the comma after the words "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association" the following: ", or debentures or other obligations of the Rural Community Development Bank".

(b) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following:

"(14) Debentures or other obligations of the Rural Community Development Bank shall not be subject to any limitation based upon such capital and surplus."

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(c)), is amended by inserting before the semicolon in the second proviso following "stock of the Federal National Mortgage Association" the following: "; or in debentures or other obligations of the Rural Community Development Bank".

S. 3608—INTRODUCTION OF A BILL RELATING TO FHA NEEDS FOR ADDITIONAL LOAN AUTHORITY TO GRANT REALISTIC AID TO NATION'S FARMERS

Mr. CHURCH. Mr. President, we are all aware of the increased costs of living in our country. It requires more money to buy a car than it did 9 years ago, it costs more to buy a house, it costs more to borrow money—it just simply costs more to live. America's farmers are no exception to the increased costs that face us all and because they are that rare creature of our system—a producer who cannot set the price for his product—they are especially in need of aid to help meet these rising costs.

The current limitation of $60,000 for farm ownership loans and $35,000 for operating loans was established in 1961 under the Consolidated Farmers Home Administration Act. Since 1961 changes in technology, in farming practices, in family farm size, and in the cost of operating a farm in general have changed dramatically.

Because the need for sufficient operating capital is a constant need of America's family farmer and because Idaho farmers who I have spoken to about this topic have overwhelmingly supported increases in FHA loan authority, I introduce today legislation to increase authority for farm ownership loans from the current $60,000 to $100,000 and to increase loan authority for FHA operating loans to $50,000. These increases are needed to allow smaller units to acquire acreage to remain competitive and to aid those with current financial problems to restructure their debts and continue in business. If we are to continue the American institution of the family farm, we must provide programs to assure an adequate flow of capital to make them economically stable units. Our agricultural programs must be made more attractive so that life in rural America will be as economically rewarding as life in our major cities. If we do not, the flow to our cities will continue and the problems produced by huge concentrations of population will grow. America has too great a stake in the viability of our rural economy not to enact legislation updating current programs.

The PRESIDING OFFICER (Mr. EAGLETON). The bill will be received and appropriately referred.

The bill (S. 3608) to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to increase the loan limitation on certain loans introduced by Mr. CHURCH, was received,

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read twice by its title, and referred to the Committee on Agriculture and Forestry.

Mr. CHURCH subsequently said: Mr. President, I ask unanimous consent that the name of the distinguished Senator from New Mexico (Mr. Montoya) be added as a cosponsor of the bill.

The PRESIDING OFFICER (Mr. Eagleton). Without objection, it is so ordered.

S. 3610—INTRODUCTION OF A BILL TO PERMIT INVESTMENT TAX CREDIT FOR SMALL BUSINESSMEN AND FARMERS

Mr. MONTOYA. Mr. President, I am today introducing a bill, for appropriate reference, to provide for the continuation of the investment tax credit for small businesses.

As a member of the Senate Select Committee on Small Business, I have become increasingly aware of the precarious position of the small businessman and the small farmer within our society. The small business community has borne the brunt of the administration's efforts to fight inflation. Unlike larger businessmen, the small businessmen do not find it easy to pass on to consumers increased costs which are incurred as a result of the inflationary squeeze and the investment tax repeal. The rising costs have put these people on the brink of economic disaster. Small businesses are being forced to pay interest rates that are significantly higher than those prime rates enjoyed by large corporations, and many cannot obtain credit at any price. Small business simply cannot survive in this kind of economic climate.

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Yet, the small businessman has long been considered the backbone of our free enterprise system. Can we afford to forget this individual at this point in our history? Can we permit him to fall by the wayside when he has contributed so much to our Nation in the past? Mr. President, we must provide some relief from the increasing cost of inflation for the small businessman as well as for the small farmer.

Like the small businessmen, the small farmers also find themselves in desperate financial straits. The cost of living and the cost of production have skyrocketed. The cost of interest, taxes, and labor have likewise risen. But the prices which the small farmers receive in return have remained relatively constant. If we continue to permit our present economic policies to destroy these people, we will only be hurting ourselves, and we will also be encouraging heavier migration to our Nation's large cities, which even now cannot support their citizens.

For these reasons, I am today offering a new bill to allow a tax credit for investments of up to $15,000 for farmers and small businessmen. This type of legislation is not new to Congress. When the investment credit was suspended by Congress in 1966, an exception was made for small business investors. In the last session of Congress, the distinguished Senator from Indiana (Mr. Hartke) introduced an amendment to the Tax Reform Act of 1969 which would have permitted an investment credit of $20,000. I joined the majority of my colleagues in the Senate in voting to adopt this amendment; however, as we all know, the provision was dropped in conference committee, and the bill was signed into law without recognizing the need to assist our Nation's small businessmen and farmers.

Mr. President, this important segment of our society is in desperate need of our help, and I urge my colleagues to join with me in approving as soon as possible the legislation I now introduce.

I ask unanimous consent that the text of this bill be printed at this point in the Record.

The PRESIDING OFFICER (Mr. Dole). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 3610) to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes, introduced by Mr. Montoya, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

S. 3610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 49 of the Internal Revenue Code of 1954 (relating to termination of credit) is amended—

(1) by inserting after "pre-termination property" in subsection (a) the following: "and property to which subsection (e) applies", and

(2) by adding at the end thereof the following new subsection:

"(e) Small Business Exemption.—

"(1) In general.—In the case of section 38 property (other than pre-termination property)—

"(A) the physical construction, reconstruction, or erection of which is begun after December 31, 1969, or

"(B) which is acquired by the taxpayer after December 31, 1969.

and which is constructed, reconstructed, erected, or acquired for use in a trade or business, the taxpayer may select items to which this subsection applies to the extent that the qualified investment for the taxable year attributable to such items does not exceed $15,000. In the case of any item so selected (to the extent of the qualified investment attributable to such item taken into account under the preceding sentence), subsections (c) and (d) of this section, paragraphs (5) and (6) of section 46(b), and the last sentence of section 47(a)(4) shall not apply.

"(2) Special rules.—

"(A) Married individuals.—In the case of a husband or wife who files a separate return, the amount specified in paragraph (1) shall be $7,500 in lieu of $15,000. This subparagraph shall not apply if the spouse of the taxpayer has no qualified investment for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(B) Affiliated groups.—In the case of an affiliated group, the $15,000 amount specified in paragraph (1) shall be reduced for each member of the group by apportioning $15,000 among the members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term 'affiliated group' has the meaning assigned to such term by section 1504(a), except that—

"(i) the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1504(a), and

"(ii) all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

"(C) Partnerships.—In the case of a partnership, the $15,000 amount specified in paragraph (1) shall apply with respect to the partnership and with respect to each partner.

"(D) Other taxpayers.—Under regulations prescribed by the Secretary or his delegate, rules similar to the rules provided by sections 46(d), 48(e), and 48(f) shall be applied for purposes of this subsection."

S. 3611—INTRODUCTION OF A BILL TO EXTEND MEDICARE COVERAGE TO FEDERAL EMPLOYEES

Mr. MONTOYA. Mr. President, I am today introducing a new bill which would extend medicare coverage to Federal employees.

Health insurance protection for Federal employees was made available under the Federal Employees Health Benefits Act of 1959. Under this program, the Government provided regular employees with a number of health benefit plans in which they could enroll, and toward which the Federal Government, as an employer, would make premium contributions. In 1965, Congress enacted a national health insurance program for the aged—medicare—as part of the Nation's social security program. Federal employees, however, were excluded from coverage under this program despite considerable discussion of this possibility during deliberations on the various health insurance proposals before Congress in 1965.

In the years since 1959, about nine out of 10 Federal employees have elected to be covered under the Federal Employees Health Benefits—FEHB—program. The great majority of Federal civilian annuitants who have retired since June 1960 and their survivors have elected to continue their coverage under the FEHB program after retirement.

The program is financed on a current basis by premiums paid in part by employees and annuitants and in part by the Government. Employees and annuitants have a choice between high- and low-option coverage and a choice among a variety of plans. As a general rule, the Government contributes 50 percent of the cost of low-option coverage, and employees and annuitants bear almost all the additional cost of the extra protection under the high-option plans. About 86 percent of employees and annuitants have selected high-option coverage despite its higher cost to them, and, as a result, the Government is currently paying one-third or less of the program's cost.

Because of the limitations set by present law on the amount of Government contributions, an increase in premium rates is borne almost entirely by the employees and annuitants themselves. The gross benefit cost per capita has continued to rise because of the rising cost and increased utilization of health services and because of the increasing proportion of annuitants in the covered group. For these reasons, the premiums have consistently been raised.

A major part of the difficulties arising from our failure to include Federal civil service employees under medicare stems from the considerable movement of workers into and out of Federal employment. Many workers contribute to both part A of medicare and to the FEHB program. Upon retirement, these individuals find they fall into one of three groups: Either they are eligible for protection under both programs but with no added advantage; or they are eligible under both programs but with considerable duplication of health insurance protection; or they are ineligible under either program.

In the past, during consideration of the initial medicare legislation and subsequent amendment, special attention has been given the proposal to extend medicare coverage to civil servants. In 1967, the House Committee on Ways and Means, in its committee report on H.R. 12080, Social Security Amendments of 1967, directed the Social Security Administration "to make a thorough study of all the various problems which up to now have precluded the coverage of governmental employees under social security."

This study, issued in January 1969, contained a number of suggestions for relating the FEHB program to medicare. I have tried to incorporate most of the recommendations—but with a few changes—in my bill which I am today introducing.

This bill would bring all Federal workers under the hospital insurance provisions of social security for purposes of becoming insured for part A—hospital insurance—medicare protection when they reach age 65. It would further extend part A and part B medicare coverage to all civil service retirees.

In order to insure that all Federal civil service employees and retirees continue to enjoy the high-quality health insurance protection they now have, my bill would permit them to continue under the same FEHB policy only with greatly reduced premium payments. Benefits under the FEHB health insurance plan would only be permitted under circumstances when retirees are not entitled to benefits under parts A and B of medicare.

The monthly rate of employee or retiree contribution, under my bill, is based upon a formula which would take into consideration the number of individuals enrolled in each family. An individual enrolled in the plan only for himself would not be required to pay any additional premiums under the FEHB program. Those covered under medicare and enrolled in the Government health benefits plan would be deemed to have elected the higher of the two levels of benefits.

This measure will eliminate the duplications in coverage under the two programs as well as assure that all Federal civil service employees and retirees at age 65 are fully protected under a high-quality health insurance plan. Mr. President, many of my constituents, including the National Association of Retired Civil Employees in New Mexico, have urged that legislation of this nature be enacted. I am certain that many other Members of Congress have also been made aware of this need. My bill would greatly improve the present health insurance plan for retired Federal employees, and I call on my colleagues in the Senate to join with me in approving this new program as soon as possible.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the Record.

The PRESIDING OFFICER (Mr. Dole). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 3611) to extend to Federal employees coverage under the program of hospital insurance benefits for the aged etablished by part A of title XVIII of the Social Security Act, and for other purposes, introduced by Mr. Montoya, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

S. 3611

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 226 of the Social Security Act is amended (1) by redesignating subsection (d) thereof as subsection (f), and (2) by adding after subsection (c) thereof the following new subsections:

"(d) (1) Any individual who—

"(A) for any month does not, and upon filing proper application could not, satisfy the conditions specified in subsection (a) (2), and

"(B) upon filing (in such month) application for monthly insurance benefits under section 202 could not become entitled to such benefits,

shall be deemed, solely for purposes of subsection (a), to be entitled to such benefits for such month if he would have been entitled thereto if—

"(C) the term 'employment' (as used in this title and as defined in section 210) had included service (whether performed by such individual or by any other individual) which is deemed by section 3121(r) of the Internal Revenue Code of 1954, to constitute employment for purposes of the taxes imposed by section 3101(b) and 3111(b) of such Code, but only if such individual has filed an application under this subsection in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary.

"(2) The provisions of section 205(p) shall be applicable with respect to any determinations necessary to carry out the provisions of paragraph (1).

"(e) (1) Any individual who—

"(A) has attained age 65,

"(B) attained such age before 1980,

"(C) (i) is employed to perform service which is covered by a retirement system established by a law of the United States, (ii) is entitled, on the basis of service performed by him, to a pension or annuity under such a retirement system, or (iii) is the wife or dependent husband of an individual who meets the condition specified in clause (i), or (iv) is entitled to a pension or annuity under such a retirement system by reason of being the widow or widower of an individual who performed service which is covered by such system;

"(D) does not, and upon filing proper application could not, satisfy the conditions specified in subsection (a) (2),

"(E) is not, and upon filing proper application would not, be deemed (under subsection (d)) to be entitled to monthly insurance benefits under section 202, and

"(F) has filed application under this subsection in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary, shall be deemed, solely for purposes of this section, to be entitled to monthly insurance benefits under section 202 for each month, beginning with the first month in which he meets the requirements of this paragraph and ending with the month in which he dies, or, if earlier the month before the month in which he becomes, or upon filing proper application would become, entitled (without regard to the provisions of this subsection) to hospital insurance benefits under this section.

"(2) (A) For purposes of clause (C) (iii) of paragraph (1), the husband of an individual shall be deemed, for any month, to be the dependent husband of such individual if he has received, for each month in the six-month period immediately preceding such month, at least one-half of his support (as determined in accordance with regulations prescribed by the Secretary) from such individual.

"(B) the term 'retirement system established by a law of the United States', when used in paragraph (1), shall not include the insurance system established by this title, or by the Railroad Retirement Act of 1937.

"(3) In addition to any other funds authorized to be appropriated for any fiscal year to the Federal Hospital Insurance Trust Fund, there are authorized to be appropriated from time to time to such Fund such sums as the Secretary deems necessary for any fiscal year, on account of—

"(A) payments made or to be made during such fiscal year from such Trust Fund under part A of title XVIII with respect to individuals who are, but would not (except for the provisions of this subsection) be, entitled to hospital insurance benefits under this section.

"(B) the additional administrative expenses resulting or expected to result therefrom, and

"(C) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding provisions of this subsection had not been enacted."

(b) The amendments made by subsection (a) shall be effective on and after January 1, 1971.

Sec. 2. (a) (1) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new section:

"(r) Service Performed by Federal Employees.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), the term 'employment' (as defined in section 3121 (b)) shall be deemed to include service which—

"(1) is covered by a retirement system established by a law of the United States, and

"(2) is described in, and excluded from such terms (as so defined) by reason of, the provisions of paragraph (5) or (6) thereof.

(2) The first sentence of section 3122 of such Code (relating to Federal service) is amended by inserting after "section 3121(p) are applicable," the following: "and including service to which the provisions of section 3121(r) are applicable,".

(b) The amendments made by subsection (a) of this section shall apply with respect to service performed after December 31, 1970.

Sec. 3. (a) (1) Chapter 89 of title 5, United States Code, relating to health benefits plans,

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is amended by adding at the end thereof the following new section:

"§ 8914. Special rules for retired employees

"(a) In the case of an employee or annuitant enrolled in a health benefits plan under this chapter who has attained age 65 and is (or upon the filing of appropriate application or applications could become) entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, or a member of whose family covered by such enrollment has attained age 65 and is so entitled, the monthly rate of contribution charged him under the plan for periods after December 1970 shall be reduced—

"(1) if he is enrolled in the plan for self alone, to zero; or

"(2) if he is enrolled in the plan for self and family—

"(A) to a rate equivalent to the monthly premium currently payable under section 1839(b) of such Act for any period for which he is entitled to benefits under such part A and at least one other member of his family covered by such enrollment is also so entitled;

"(B) to a rate equivalent to the difference between the rate being charged under the plan for enrollment for self and family and the rate being charged under the plan for enrollment for self alone, determined without regard to this subsection,

for any period for which he is entitled to benefits under such part A and no other member of his family covered by such enrollment is so entitled; and

"(C) to a rate equivalent to the rate being charged under the corresponding plan for enrollment for self alone, determined without regard to this subsection,

for any period for which another member of his family covered by such enrollment is entitled to benefits under such part A but he is not so entitled.

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"(b) Any employee or annuitant who—

"(1) is enrolled in a plan described in section 8903 (1) or (2) of this title and has elected the lower of the two levels of benefits offered by such plan;

"(2) has attained age 65; and

"(3) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act;

shall, as of the first day of the first month in which he satisfies clauses (1), (2), and (3) (or January 1, 1971, if later), be deemed for all of the purposes of this chapter to have elected the higher of the two levels of benefits referred to in clause (1). An employee or annuitant who satisfies clause (1) through enrollment for self and family but does not satisfy clause (2) and (3) may elect for purposes of this subsection, under regulations prescribed by the Commission, to be considered as satisfying such clauses as of the first day of the first month in which any member of his family covered by such enrollment satisfies such clauses (or January 1, 1971, if later).

"(c) Nothing in this section shall affect any Government contribution provided for in this chapter or result in any change in such contribution from the amount it would be if this section had not been enacted, or affect any right or entitlement of an individual under or in connection with an approved health benefits plan described in section 8903 if such right or entitlement is available to employees and annuitants generally (or to employees and annuitants in a class or category of which such individual is a member) under or in connection with such plan.

"(d) If for any month (commencing with the month of January 1971) any individual is covered by an enrollment in a health benefits plan under this chapter, and for such month such individual is (or upon the filing of appropriate application or applications could become) entitled, for such month, to hospital insurance benefits under part A of title XVIII of the Social Security Act, then, for purposes of any claim by or on account or such individual for benefits under such plan, such individual shall be deemed to have received (as benefits under such plan) any benefits to which he would be entitled under the insurance programs established by parts A and B of such title XVIII if he were entitled to benefits under both of such programs for such month. Notwithstanding any other provision of law, in determining any claim for benefits under such title XVIII by or on account of any individual to whom the preceding sentence is applicable, such claim shall be determined in like manner as if such individual were not covered by an enrollment in a health benefits plan under this chapter."

(2) The table of sections of such chapter is amended by adding at the end thereof the following new item: "8914. Special rules for retired employees".

(b)(1) Section 8902(i) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this subsection, the determination of rates in the case of employees and annuitants who have attained age 65 shall be made subject to section 8914 in cases to which such section applies."

(2) Section 8906(c) of such title is amended by striking out "There" and inserting in lieu thereof "Subject to section 8914 of this title, there".

(3) Section 8906(d) of such title is amended by striking out "The amount" and inserting in lieu thereof "Subject to section 8914 of this title, the amount".

(c)(1) Section 5 of the Retired Federal Employees Health Benefits Act is amended—

(A) by striking out "There shall be withheld" and inserting in lieu thereof "(a) Subject to subsection (b) of this section, there shall be withheld"; and

(B) by adding at the end thereof the following new subsection:

"(b) In the case of a retired employee enrolled in the health benefits plan provided for under section 3 of this Act who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, or a member of whose family covered by such enrollment is so entitled, the amount to be withheld for periods after December 1970 shall be reduced—

"(1) if he is enrolled for self only, to zero; or

"(2) if he is enrolled for self and family—

"(A) to an amount equivalent to the monthly premium currently payable under section 1839(b) of such Act for any period for which two or more members of the family covered by such enrollment are entitled to benefits under such part A; and

"(B) to an amount equivalent to the amount which would be withheld in the case of an individual enrolled for self only, determined under subsection (a) without regard to this subsection, for any period for which not more than one member of the family covered by such enrollment is entitled to benefits under such part A.

"(e) If for any month (commencing with the month of January 1971) any individual is covered by an enrollment in the health benefits plan provided for under section 3 of this Act, and for such month such individual is (or upon the filing of appropriate application or applications could become) entitled, for such month, to hospital insurance benefits under part A of title XVIII of the Social Security Act, then, for purposes of any claim by or on account of such individual for benefits under such plan, such individual shall be deemed to have received (as benefits under such plan) any benefits to which he would be entitled under the insurance programs established by parts A and B of such title XVIII if he were entitled to benefits under both of such programs for such month. Notwithstanding any other provision of law, in determining any claim for benefits under such title XVIII by or on account of any individual to whom the preceding sentence is applicable, such claim shall be determined in like manner as if such individual were not covered by an enrollment in the health benefits plan provided under section 3 of this Act."

(2) The first sentence of section 3(c) of such Act is amended by inserting before the period at the end thereof the following: ", except that such rates shall be equivalent to the amounts withheld under subsection (b) of section 5 in all cases to which such subsection applies".

(3) Section 9 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Nothing in section 5(b) shall affect any Government contribution provided for in this Act or result in any change in such contribution from the amount it would be if such section had not been enacted, or affect any right or entitlement of an individual under or in connection with a health benefits plan provided for under this Act if such right or entitlement is available to retired employees generally (or to retired employees in a class or category of which such individual is a member) under or in connection with such plan."

S. 3613—INTRODUCTION OF THE "POSTAL REORGANIZATION ACT"

Mr. McGEE. Mr. President, I introduce for appropriate reference, a bill to amend title 39 to modernize the Post Office.

This bill, which I introduce on behalf of the distinguished ranking Republican member of the Committee on Post Office and Civil Service, Senator FONG, and myself, contains the elements for significant reform in the postal system without going so far as to divorce the largest civilian and public service agency of the Government from the supervision and control, to a reasonable extent, of the Congress elected by the American people.

This bill has been discussed in executive session of the Post Office Committee this morning and I will schedule further executive sessions as soon as is reasonably possible.

The PRESIDING OFFICER (Mr. HATFIELD). The bill will be received and appropriately referred.

The bill (S. 3613) to improve and modernize the postal service and to reorganize the Post Office Department, introduced by Mr. MCGEE (for himself and Mr. FONG), was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

ADDITIONAL COSPONSOR OF A BILL

S. 3216

Mr. KENNEDY. Mr. President, I ask unanimous consent, that, at the next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of S. 3216, a bill I introduced which is designed to provide Federal funds for programs that will seek out and treat victims of lead poisoning, and eliminate exposed wall surfaces that have been coated with lead-based paints.

The PRESIDING OFFICER (Mr. GURNEY). Without objection, it is so ordered.

SENATE RESOLUTION 373—RESOLUTION SUBMITTED EXPRESSING THE SENSE OF THE SENATE THAT LAWS RELATING TO STRIKES BY GOVERNMENT EMPLOYEES SHOULD BE ENFORCED

Mr. WILLIAMS of Delaware submitted a resolution (S. Res. 373) expressing the sense of the Senate that laws relating to strikes by Government employees should be enforced, which was placed on the calendar.

(The remarks of Mr. Williams of Delaware, when he submitted the resolution, appear later in the Record under the appropriate heading.)

ADDITIONAL COSPONSORS OF A RESOLUTION, SENATE CONCURRENT RESOLUTION 58

Mr. HATFIELD. Mr. President, on behalf of the Senator from Missouri (Mr. Eagleton), I ask unanimous consent that, at the next printing, the names of the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Bible), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Hughes), the Senator from South Dakota (Mr. McGovern), the Senator from Utah (Mr. Moss), and the Senator from New Jersey (Mr. Williams) be added as cosponsors of Senate Concurrent Resolution 58, expressing the sense of Congress that the administration should reverse its high-interest-rate policy, and that the Federal Reserve Board should take steps to gradually roll back the prime interest rates to 6 percent.

The PRESIDING OFFICER (Mr. Gurney). Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 19, 1970, he presented to the President of the United States the enrolled bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

ANNOUNCEMENT OF HEARING ON S. 3354, A BILL TO ESTABLISH A NATIONAL LAND-USE POLICY

Mr. JACKSON. Mr. President, a hearing on S. 3354, a bill to amend the Water Resources Planning Act—79 Stat. 224—to include provision for a national land-use policy, will be held on March 24, 1970, at 9:30 a.m., in room 3110, New Senate Office Building. At this time the committee will take testimony from spokesmen for the design and planning professions, including representatives of the American Institute of Architects, the American Institute of Planners, and the American Society of Landscape Architects.

The purpose of the initial hearing will be to acquire an overview of land-use planning and management in the United States and other countries and to explore the potential for creative use of land-use planning and management concepts in avoiding future environmental problems. Additional hearings will be held at a later date to obtain the views of Federal and State policymakers and planning officials, industry spokesmen, conservationists and ecologists, and other interested individuals.

The projected expansion of our Nation's growth in the years ahead is well known.

The national land-use policy I have proposed is designed to establish a framework by which economic growth and environmental enhancement may proceed in a harmonious relationship. Its grant-in-aid provisions will leave the initiative to the States; Federal coordination and standards will assure protection of national environmental interests. It will avoid crisis-oriented approaches to environmental conflicts and allow individuals and firms to plan projects having environmental implications in an orderly manner.

I spoke on the need for comprehensive land-use planning in a recent address at Princeton University and ask unanimous consent that a copy of that address be printed at this point in the Record.

There being no objection the address was ordered to be printed in the Record, as follows:

A View From Capitol Hill

(Address of Senator Henry M. Jackson to the Princeton University Conference, Princeton, N.J., March 9, 1970)

It is a great pleasure to be with you for this the 100th meeting of the Princeton University Conference. It is appropriate that this centennial meeting should be devoted to "Ecology and Politics in America's Environmental Crisis."

There is a crisis and it very much involves politics, because dealing with America's "Environmental Crisis" will require some fundamental changes in the actions of government and enterprise—and in the relationship of the individual citizen to both.

Fairfield Osborn, to whose memory this conference is dedicated, recognized this at a time when the words "environment" and "ecology" were seldom heard. In 1953 in *The Limits of the Earth* he said:

"The tide of the earth's population is rising, the reservoirs of the earth's living resources is falling. Technologists may outdo themselves in the creation of artificial substitutes for natural subsistence . . ."

The issue Fairfield Osborn dealt with was the control and management of "change." This is the major issue today.

The "industrial revolution" and now, the "technological revolution," have raised the country's Gross National Product from $55.6 billion in 1933 to $952 billion in the fourth quarter of last year. In less than 18 months, barring a recession, we will reach and cross the trillion dollar mark. By 1978—in less than 10 years—we will have doubled our present Gross National Product to 1 trillion 800 billion dollars.

When our Federal Constitution was written, there were 4 million people in America. Today there are over 200 million and 300 million are projected for the year 2000, a short 30 years away. Population growth is not the whole story, however. The impact of the technological revolution on our society is far more dramatic. Look at these figures. While our population was increasing by 70 percent since 1945:

The horsepower of our machinery increased by 350%;

Aviation fuel consumption increased by 700%;

News print consumption increased by 170%. New industries propelled by new technology have been created and have become vital sectors of our economy.

75 years ago the first automobile was invented. Today we are producing nearly 10 million passenger cars each year.

Fifteen years ago there were only 200 computers operating in the United States. In another 5 years, ⅓ of all spending on new plant and equipment will go for data processing equipment.

All of these—population increase, economic growth, technological change—have brought overwhelming pressures to bear on our natural resource base. Everywhere, we are experiencing intensified conflicts between alternative and sometimes incompatible uses of the environment.

The question we face is can we live with the changes we have brougth about and the changes which are projected for the future?

Winston Churchill recognized better than most that man must be able to live with the consequences of his actions. In his words, "We shape our buildings and then they shape us."

This lesson of the interrelationship between man and his surroundings is written large in the landscape of the 20th Century America. It is only recently, however, that man people have read it with understanding.

Churchill's point was that there *are* alternatives. Man has the capacity of choice, of shaping his future, and of preserving those values which a free society deems important. He recognized that the quality of life and surroundings which we enjoy is a function of how well we design our social institutions, how wisely we write and administer our laws, and how we order our national priorities. In short, the quality of life for present and future generations is a product of past choices and, more important, the choices to be made in the days ahead.

In my view from Capitol Hill, I must report that I am not optimistic that the choices we are making today are going to lead to a quality environment and a better life for Americans. I am not sure that the commitments to expend effort and resources on environmental programs will be sustained, and I fear that the expenditures will be directed toward treating symptoms rather than the underlying causes.

The history of conservation and environmental concern has been a history of specific, isolated confrontations—a history of focusing on the issue or crisis of the moment, be it forest management, wilderness preservation, an oil spill or air pollution. A comprehensive management approach to environmental administration has not been achieved. Our institutions and procedures still condition us to fight brush fires.

Fortunately, we are now making some progress towards the development of intelligent long-range environmental policies, most recently in connection with the enactment of the "National Environmenaatl Policy Act."

Many of the environmental aspirations and desires of the American people were written into law in the Environmental Policy Act which the President signed as his first official act of 1970. This measure provides a congressional declaration of national goals and policies to guide all Federal actions which have an impact on the quality of man's environment. The act makes a concern for environmental values and amenitics a part of the charter of every agency of the Federal government. It establishes a high level overview agency—the Council on Environmental Quality patterned after the Council of Economic Advisors—in the executive office of the President. The Council's mandate is to identify the basic policy issues and alternatives for environmental administration. Finally, the Act calls for an annual report on the quality of the environment. This report will provide, for the first time, periodic baseline information on the state of the Nation's environment.

The most important feature of the Act,

however, and, I might add, the least recognized, is that it establishes new decision-making procedures for all agencies of the Federal government. Some of these procedures are designed to establish checks and balances to insure that potential environmental problems will be identified and dealt with early in the decision-making process and not after irrevocable commitments have been made.

Full implementation of the goals and policies declared by the Act will require additional specific Act of Congress.

A National Land Use Policy is, in my view, a next logical step in our effort to maintain a quality environment.

Land use planning is an essential tool of environmental management for the future. Most existing problems of population density, pollution, and congestion are directly or indirectly attributable to past shortcomings of land use management—to poor selections among alternative uses of land.

Regulation and control of the land in the larger public interest is essential if real progress is to be made in achieving a quality environment. It is essential because the land is the key to insuring that *all* future development is in harmony with sound ecological principles and environmental guidelines. The problems of the present look relatively insignificant when they are compared with the problems we will have in 10, 20, 30 years *if* we accept supinely the ultimate consequences of some current projections of future requirements.

Listen to these statistics which are thrown at us by government prognosticators:

By 1975 our park and recreation areas, many of which are already overcrowded, will receive twice as many visits as today, perhaps 10 times as many by the year 2000;

We must construct 26 million new housing units by 1978. This is equivalent to building 2½ cities the size of the San Francisco-Oakland metropolitan area every year;

Each decade, new urban growth will absorb 5 million acres, an area equivalent to the state of New Jersey;

Demands for electrical energy double every 10 years; by 1990 demands will increase by 284%.

In the face of these and similar projections the Federal government has done little to plan for and deal with the problem of accommodating future growth in a manner that is compatible with a quality environment. We have instead created conditions which encourage haphazard growth and compound environmental problems. These are some of the problems I see:

Public administration is oriented to an annual budget cycle which distorts resource allocation decisions in favor of short term considerations.

Where long-range planning is undertaken, it is most often intended to meet the problems posed by projected trends. It is seldom directed toward achieving desirable goals.

Public policies are too often defined and carried out in fragmented, narrow scope programs by mission-oriented agencies.

Because of these and other deficiencies in public administration, the alternatives available are narrowly limited when crisis become immediate. Largely they consist of efforts to reclaim a small portion of what is being lost in the growing tides of environmental change.

The pressures upon our finite land resource cannot be accommodated without better planning and more effective control. Our land resources must be inventoried and classified. The Nation's needs must be catalogued, and the alternatives must be evaluated in a systematic manner.

These and other concerns can only be met if governmental institutions have the power, the resources and the will to enter into effective land use planning, if plans at all levels of government are coordinated, and if public decisions on land use are backed up with effective controls in the form of zoning and taxing policies.

I have introduced legislation in the Senate to establish a "National Land Use Policy." While this measure does not purport to be the final answer, it does provide a focal point for analysis and for consideration of alternatives. As introduced, the bill has three major provisions. *First*, it establishes a grant-in-aid program to assist State and local governments in improving their land use planning and management capability. *Second*, States are encouraged to exercise "States rights" and develop and implement a State-wide "Environmental, Recreational and Industrial Land Use Plan." *Third*, the Federal government's responsibility for coordinating Federal land use planning activities, for improving Federal-State relations, and for developing data on land use trends and projections is enlarged and centralized.

The Land Use Policy bill I have proposed carries with it a big stick, because a big stick is needed. The bill would authorize the President to reduce, at a rate of 20% a year, Federal grant-in aid programs which have potentially adverse environmental impact *if* a State should fail to comply with the requirements of the bill.

The programs I have in mind are Federal Highway Trust Funds, water resource projects, funds for airports and other public works oriented projects. It is my view that it is grossly irresponsible for the Federal government to pay 90% of the cost of a State transportation system unless the States have:

1. inventoried their land resource base;
2. identified areas for development and preservation;
3. related transportation plans to an overall design for the future;
4. implemented land use controls to protect lakes, ocean beaches, and units of the National Park and Forest system.

One of the recurring and most complex problems of land use decision-making today is that existing legal and institutional arrangements are in many respects archaic. They weren't designed to deal with contemporary problems. Industry, for example, is unable to get effective decisions on plant siting and location without, in some cases, running an interminable gauntlet of local zoning hearings, injunctions, and legal appeals. In other cases, industry is welcomed into areas which should be dedicated to other uses under the banner of "broadening the tax base." Often this really means higher taxes, fewer amenities and more problems.

The land use policy bill I have proposed would require the establishment of industrial, conservation, and recreational sanctuaries. These sanctuaries would be established in advance of their need and on the basis of projected demands. Industrial sites would be located so that transportation and environmental problems would be minimized.

Another essential element of the bill is the planning and development of new towns. In the next decade, population growth will cause the growth of new communities all over the country. Whether this growth is haphazard and ill-planned or organized and directed depends on our willingness to act decisively now to formulate a new towns policy. The planned location and development of new towns can relieve pressures on existing cities and avert potential environmental degradation in new areas before it occurs.

As chairman of the Senate Interior Committee, I am particularly interested in the potential of the public lands for new town development and the Committee will be exploring this subject during the present Congress. I was delighted to learn that the session of the Princeton University Conference in May will be devoted to this subject. It is a logical extension of today's discussion.

Public interest in the environmental crisis has in recent months gathered remarkable momentum, producing an abundance of good intentions. I would remind you, however, as Princeton's Professor Marion Levy is fond of saying, that "good intentions randomize behavior."

To give physical expression to the manifest concern of legislators, students, conservation groups, lawyers and millions of citizens, adequate level of national investment in a coordinated, systematic and long-range program of environmental administration is needed. We must be prepared to pay for those best things in life that used to be free, including the land, air and water that sustain life itself.

It is far easier to gain a consensus that we must pay for environmental quality than to reach agreement on the proper sources of funds.

State and local governments, taxpayers and corporate executives, like Uncle Sam, frequently have arms too short to reach their pocket books.

Industry's contribution to the "effluent" society has been so important that many feel it must be forced to pay the costs associated with new and higher standards of environmental protection. Unfortunately, many of the industries whose contribution to the deterioration of our environment is greatest are also industries furnishing necessities with a highly inelastic demand; fuels, power of all sorts, transportation and agriculture. In these cases the costs will be passed on to the consumer in a way that may be just as regressive as, say, the general sales tax.

User taxes give the appearance of a kind of rough hewn justice that is often deceptive. If they are carefully designed to exclude necessities, it may be possible at least partially, to avoid the regressive aspects of some taxes and some programs forcing consumer borne industry price increases. This method, unfortunately, provides little incentive for innovative controls by industry aimed at stopping pollution as opposed to costly remedial programs to cope with it when it becomes manifest.

The difficulty of arriving at fair and proper methods for generating the considerable capital resources that environmental quality will require is inherent in a society with millions of poor people and, more generally, an uneven distribution of income.

It is all very well for affluent middle class Americans—public officials, college students, politicians, even corporate officers—to demand that the factories be shut down, that a "no-growth" policy be adopted, that we adopt a new national life style which rejects the materialistic consumptive philosophy we have held dear for so long. But I would add a word of caution. The 26 million people in this country classified as being below the poverty line don't share this view. Poor people, black and white, do not espouse it. They want jobs. They want material goods. They want to be able to send their children to college. They don't want to be the first to suffer under a State backed program of spartan rigor.

Their attitude is that they neither created the environmental mess nor profited from the exploitation of common resources. I must say I find myself in sympathy with their point of view. A real commitment to restoring the quality of the enviroment means new priorities; this in turn means that housing, poverty, education and other programs must compete with environment for the tax dollar.

A parallel consideration that is often lost amid the welcome enthusiasm to restore the quality of our surroundings is the uneven access to the environment we are hoping to improve. Many of the programs on which it is relatively easy to gain agreement involve the restoration of areas that are enjoyed by middle and upper income groups, but have little present relevance to the life in the ghettos. Programs that bridge this gap—such as the Youth Conservation Corps I have proposed—are an essential corrective if we are not to exacerbate the disparities among income groups. It would be ironic indeed if regressive taxation were to become the instrument by which those least able to pay were to find themselves financing facilities they are least able to enjoy.

Dealing with the environmental problems we face will require some basic value judgments about the quality of life we desire and how it is to be attained. The great universities have many important roles to play in the days ahead in making these judgments. Some of our central environmental problems—such as the problem of air pollution—are vitally dependent on research and development that ought to be going on here and now. Economists can do much to bring to light the burden-sharing implications of alternative methods of financing environmental programs. Systems analysts can do much to illuminate the implications of choice under conditions of uncertainty. Agronomists and chemists can search for better methods of increasing agricultural production without reliance on chemicals that also pollute our land and water.

If university scholars are to help "clean up" the environment, they must be prepared to get their hands dirty. They must be more willing to recognize external constraints that cloud the purity of elegant research results, than has traditionally been true. They must resist the temptation to build elaborate theoretical models or retreat from methods to improve the environment to proliferating methodologies for studying it.

The universities are the nation's first and foremost centers for the advancement of learning and thought. President Goheen has noted that the university is distinguished from other institutions by its commitment to thought. "It does not seek victories; it does not work for profits; its production is not measurable. Its truest goals are not precise targets, but high ideals—the enrichment of the minds and lives of its students, the advancement of knowledge, the increase of understanding among men and the unending search for truth."

The commitment of the University is gravely needed in the task which lies ahead.

Thank you.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert L. Meyer, of California, to be U.S. attorney for the central district of California for the term of 4 years, vice William Matthew Byrne, Jr.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, March 26, 1970, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON NOMINATION BEFORE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, March 26, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Warren K. Urbom, of Nebraska, to be U.S. district judge, district of Nebraska, vice Robert Van Pelt, retiring.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of myself, the Senator from North Dakota (Mr. BURDICK); the Senator from Mississippi (Mr. EASTLAND) as chairman.

ANNOUNCEMENT ON HEARINGS TO BE HELD ON JUDICIAL CONFERENCE OF THE UNITED STATES

Mr. ERVIN. Mr. President, I should like to announce that on April 7 and 9, the Judiciary Subcommittee on Separation of Powers will hold public hearings on the powers of the Judicial Conference of the United States and the judicial councils of the circuits.

At a time when some would push us toward creating new hierarchies in the Federal courts, these hearings are particularly appropriate. Before we grant any new powers to the Judicial Conference or to the circuit councils, we should first determine how those bodies have exercised the powers which they already enjoy.

If we find that the Judicial Conference has departed from the intent of the Congress and overstepped its authority, we should hold it responsible for its transgressions. If we find abuses of power, we should remember those abuses when we are asked to grant the Conference even more authority.

Mr. President, no student of the Federal judiciary should deny that the Judicial Conference of the United States and the circuit councils today are engaged in activities which were wholly unintended by the Congress when it created those bodies in 1922 and 1939. The aim of these hearings is to find out precisely how far the Conference and councils have deviated from their congressional purpose.

In addition, these hearings should add much to the existing body of research on the Conference and councils. The subcommittee has invited members of the Judicial Conference and other distinguished jurists and lawyers to testify.

Persons desiring information about the hearings should contact the Subcommittee on Separation of Powers at 1418 New Senate Office Building, Washington, D.C. 20510, telephone 225-4434. The hearings will be open to the public and will begin each day at 10 a.m. in room 2228, New Senate Office Building.

ADDITIONAL STATEMENTS OF SENATORS

RURAL AMERICA ASKS TO AMEND THE WHOLESOME MEAT ACT

Mr. HRUSKA. Mr. President, it is my privilege to join as cosponsor of the bill introduced to amend the Wholesome Meat Act of 1967. For Senators who share with President Nixon and Secretary Hardin a concern for rural renewal and a desire for a proper urban-rural balance in our economy and population, I commend the bill to their attention.

The amendment is important indirectly to our small towns, to our farmers, and to our meatpackers, but it is especially and directly vital to the thousands of small meat processors whose businesses are threatened with extinction under the 1967 act. Our small towns need the employment and tax base which these businesses create. Our farmers need the custom services which these businesses offer. And, our meatpackers need these businesses as outlets for their retail meats. Without an amendment to the 1967 act, these advantages will be lost.

Mr. President, the amendment that I am cosponsoring will permit custom slaughtering of livestock to be done for farmers and ranchers by small meat processors who also cut and sell meat at retail.

Many Nebraskans have written to me expressing their concern that their custom slaughtering operations will be discontinued as a result of the 1967 act.

The problem is that the Wholesome Meat Act, as interpreted by the Department of Agriculture, has the effect of prohibiting the local butchers from providing custom meat services on uninspected meat for the farmer for his own consumption if the butcher is also engaged in the meat business. In the rural towns of Nebraska, and the Midwest generally, the local butcher is widely used for the slaughter of single animals for the consumption of farm families. This process saves the farmer the cost of maintaining proper facilities on the farm for sanitary slaughter, and saves him the time which the slaughtering and cutting would take. Having a local butcher to prepare animals owned by the farmers also helps save the farmers on their meat bills. Considering how low farm income is, compared with the income of most other segments of our economy, I do not think anyone would deny the farmer an opportunity to cut his expenses.

Mr. President, let me emphasize that this amendment will not in any way weaken the protection of the consumer who is buying meat at retail from the local processor. The amendment will give the Secretary of Agriculture full authority to control the sanitary conditions under which exempt custom slaughtering for farmers and ranchers is performed. The custom slaughtering operations will also be required to be kept separate from the retail marketing activities, and the products have to be clearly labeled. Custom slaughtered meats will have to be identified as "not

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for sale." Finally, all of the retail meats being sold by the small processor must come from inspected slaughter plants.

For over 30 years, these small meat processors have been selling meat and performing custom operations for the farmers and ranchers. The combination of these activities, which involves the use of the same personnel, facilities, and equipment, has made it possible through the years for these small meat processors to operate at a reasonable profit while serving their customers.

However, thousands of the Nation's approximately 7,000 locker and freezer provisioners may be forced to close their doors before the end of the year if the Wholesome Meat Act is not changed. And, the reason is not that small meat processors cannot produce wholesome meat under sanitary conditions, but rather, apparently due to technical oversight, the act failed to recognize the problems of these local processors.

If the local operators must give up their custom service on uninspected meat for the farmer and restrict their activities to the buying and selling of inspected products, or if they must discontinue their meat business and only provide custom services, or if they must make the necessary equipment and facility changes to comply with the 1967 act, many operators will have to quit the business. Giving up either of the types of business in which they engage would reduce their income to an uneconomic level. On the other hand, upgrading their facilities to permit full inspection would cost far more than the potential income from those facilities would justify. Thus, none of the three choices available to many of these small meat processors permits them to continue in business.

XUM

I am told that where small operators have gone to banks to seek financing for the purchase and installation of upgraded facilities, they have been turned down. The fear of the bankers is that the standards being imposed would eventually force the borrowing processors out of business.

Mr. President, this we cannot permit. Economic development is the key to renewing rural America. This will require an expanded tax base, new employment opportunities, and greater utilization of local resources to stimulate local economic activity. In my opinion, the local lockers and processors are providing such needed tax base, are creating employment off the farm, and are utilizing local resources to stimulate economic activity.

If the smalltown meat processors are forced out of business, there will be many undesirable results. First, large sums of capital and many years of hard work invested by the owners of these businesses will be lost. Next, thousands of jobs in rural communities will be lost. Also, tax revenues now provided by these businesses will be lost. Moreover, thousands of farmers and ranchers will be deprived of needed slaughtering and processing services forcing them to devise their own facilities and use their own time for slaughtering. I am told that this could even result in increased black-marketing of uninspected meat.

Finally, Mr. President, this amendment will provide a continuing economic boost for the meatpacking industry. It is thought by some persons that most of the livestock slaughtered by locker plant slaughterers is for their own account and is sold to consumers in sides, quarters, and other cuts. This is not the case. Most of the livestock slaughtered by the local operators is owned by farm people and prepared for them for their own use. At the same time, nearly all the meat sold to consumers by these operators is inspected meat, purchased from meatpackers. These local operators are very good customers of the meatpackers; in fact, I am told that the volume of inspected packer meat purchased by the local operators is nearly $500,000 annually. If these local sales by the smalltown meat processors can be continued under the Wholesome Meat Act, this volume will certainly continue to grow. Meatpackers are a strong Midwest industry which needs this substantial and growing market.

I believe that the 7,000 small meat processors throughout our Nation are an important segment of our meat industry, and a vital business operation in our rural communities. Every appropriate effort must be made to keep this industry in business. The amendment which I am cosponsoring will resolve this crisis.

Mr. President, let me again emphasize that this amendment does not weaken the protection of the consumer who is buying meat from the local operator's retail market.

Mr. President, I think the reasons why the amendment must be adopted are strong and compelling. I urge Senators to adopt the amendment.

RAMIFICATIONS OF PRESENT U.S. POLICY IN VIETNAM

Mr. HARRIS. Mr. President, an important discussion of the ramifications of our current policy on Vietnam was recently presented by one of our most distinguished military figures, Gen. Matthew B. Ridgway.

In an article published in the New York Times last Saturday, General Ridgway warns us with stark clarity of the dangers to our larger interests which could result from any attempt to hold out for a military victory in Vietnam. He argues that adherence to the conditions given by the President on November 3 which were to govern the rate of our withdrawal could force us into an untenable choice between major military steps of a provocative nature and suspending and even reversing our withdrawal. By relying on conditions under the control of others to govern our own policy, we run great risks of losing what room for initiative we still have, being forced, instead, to react, always a step behind, to the initiatives of others.

General Ridgway argues that we "should repudiate once and for all the search for a military solution and move resolutely along the path of disengagement and eventual complete withdrawal." He suggests that a negotiated political settlement is the only ultimate answer in Vietnam, and that we must face up to the difficult problems which that would pose for us. I have found the article instructive, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOPICS: SETTLEMENT—NOT VICTORY—IN VIETNAM

(By Matthew B. Ridgway)

Many continue to argue that a military solution, or "victory," in Vietnam has all along been within our reach, that nothing less would serve our interests. I believe such a solution is not now and never has been possible under conditions consistent with our interests.

That would have required, and would still require, resort to military measures unacceptable to most of our people. But regardless of past policy decisions, were such a course to be pursued now the divisive influences throughout our land, comparatively quiescent, would be intensified.

The basic decision, which I believe is irrevocable and which was made and announced long ago, was to reduce our operations and to initiate disengagement and withdrawal according to a plan merely outlined.

Whether or not it includes an ancillary decision to complete withdrawal by a fixed date, I do not know, though I assume it does. For reasons of its own—and reasonable ones are not lacking—the Administration has not seen fit to announce it.

Last Nov. 3 the President set forth three conditions that would, he said, determine the rate of our withdrawal: progress in the Paris talks; the character of enemy operations; and the rapidity with which the South Vietnamese Army can assume full responsibility for ground operations. He warned that "if increased enemy action jeopardized our remaining forces," he would "not hesitate to take strong and effective measures," not spelled out but alluded to again in his Jan. 30 press conference.

Adherence to these conditions could result in relinquishing the initiative. Hanoi's stalling in Paris, or Saigon's unwillingness or inability to bring its army up to the requisite level of combat effectiveness, or an escalation of enemy action would then compel a choice between resort to "strong measures"—a reversion, it would seem to me, to the search for a military solution already publicly eschewed—or suspending and even reversing our withdrawal.

NONMILITARY OPTIONS

If this reasoning is sound, then it is relevant to examine our opinions, should events seem to demand dealing "strongly" with the situation.

We could decide: to halt and subsequently reverse the disengagement process; to resume bombing in North Vietnam on the same scale and against the same target systems as before; to widen the bombing to include key points in power grids, port facilities and utilities, even though located in population centers; to impose a sea blockade of North Vietnamese and Cambodian ports; to invade North Vietnam with ARVN or U.S. ground forces, or both; to use nuclear weapons.

Putting any of these measures into effect could result in: ending hopes for arms control; raising U.S.S.R.-U.S. tensions; causing heavy loss of life among noncombatant North Vietnamese; raising U.S. casualty rates and dollar costs; impairing our capability for quickly responding to other challenges elsewhere; seriously accentuating domestic criticism of Government policy. If there was a land invasion of North Vietnam by U.S.

ground forces, the posibility, if not the probability, would follow of massive Chinese ground force intervention as occured under similar conditions in Korea in 1950; and, if nuclear weapons were employed, world and domestic opinion would revolt.

I question that the execution of any of these options would serve our interests. Most of them, I believe, should be rejected. Certainly we should repudiate once and for all the search for a military solution and move resolutely along the path of disengagement and eventual complete withdrawal.

This will present painful problems, but they must be faced. It raises serious military questions: How long will it take to increase the combat effectiveness of the South Vietnamese Army to a necessary level? If a long time, how much U.S. combat and logistic support will be needed, and for how long? If chiefly U.S. Air Force and Navy combat elements are needed, who is to provide security for their bases? And if reliance is to be placed on South Vietnamese forces, who will command them? How will U.S. base commanders and their troops react to such arrangements? These are a few of the military problems, quite apart from the political ones.

FOR A POLITICAL SOLUTION

A negotiated political settlement, which I think we would all prefer, and which I believe we must ultimately reach, will be unattainable unless we retain the initiative and face up to these problems now.

Regardless of how much this may tax the wisdom and determination of our Government an the patience of our people, our decision is, I believe, the prudent one, and we should channel its execution into the mainstream of our long-range national interests. *General Ridgway, now retired, was U.N. and U.S. commander in Japan, Korea and the Far East and later Army Chief of Staff. He points out that these are personal views without access to classified official studies.*

MARCH IS AEROSPACE EDUCATION MONTH

Mr. PEARSON. Mr. President, as one who is particularly interested in the future of aviation, both by virtue of my position on the Aviation Subcommittee and as a Senator representing a State where considerable activity in the field of aviation planning and production is being undertaken, I invite the attention of the Senate to an increasing effort to inform high school and college students in Kansas and across the Nation of the basic concepts in aviation and space affairs. This is an important educational movement, in my opinion, not only because of the scientific knowledge gained, but because the public at large needs to learn about this science and its alliance to the humanities so that we all can intelligently enjoy a changing world.

Accordingly, I ask unanimous consent to have printed in the RECORD a proclamation by the Governor of my State designating March "Aerospace Education Month."

There being no objection the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

To the people of Kansas, greetings.

Whereas, the State of Kansas has established itself as an innovative and resourceful leader in the field of education; and

Whereas, the growth of world aviation is reflected in the dynamic success and leadership of the Kansas aerospace industries; and

Whereas, the continued compatibility and cooperation of education and industry is evident in the existing ties manifested throughout the curriculum of all educational institutions:

Now, therefore, I, Robert B. Docking, Governor of the State of Kansas, do hereby proclaim the month of March, 1970, as Aerospace Education Month in Kansas, and urge all educational, industrial and civic leaders to take an active part in providing proper recognition of the field of aviation; support efforts to promote, within the educational institutions, programs directed toward the growth and development of aerospace education in the State of Kansas; therefore creating, for the youth of Kansas, a basic understanding of the social, political, technical and economical impact of the air age on everyday living and modern life; and demonstrate, for all to see, the sincere efforts of cooperation that exists between the aerospace industries and education, as evidenced by the work currently carried on by the Kansas Commission on Aerospace Education.

Done at the Capitol in Topeka under the Great Seal of the State, this 3d day of February, A.D., 1970.

By the Governor:

ROBERT B. DOCKING.
ELWILL M. SHANAHAN,
Secretary of State.
MALCOLM A. WILSON,
Assistant Secretary of State.

INQUIRY INTO OIL SPILL IN GULF

Mr. JACKSON. Mr. President, all Members of Congress are deeply concerned over the spreading oil spill from a Federal leasehold in the Gulf of Mexico off New Orleans.

The Committee on Interior and Insular Affairs is the unit of the Senate that has the initial responsibility for all mineral leasing activities on federally owned lands, including, of course, those authorized by the Outer Continental Shelf Lands Act under which the Chevron lease was issued. That act, which came out of the Interior Committee, has been on the books for some 17 years now, and it well may be that the statute itself, as well as its administration, needs to be reexamined. The Interior Committee also has been active in working out legislation for land and water pollution control and environmental quality control.

Accordingly, I have asked the Senator from Utah (Mr. Moss), chairman of our Subcommittee on Minerals, Materials, and Fuels, to initiate conferences with officials of the Interior Department to obtain the results of their on-the-spot investigations. Based on what we learn we will determine the next step, such as holding public hearings in Louisiana and in Washington. I may state that the committee is gravely concerned over statements made by Secretary Hickel after his return from a visit to the area as to apparent disregard by the lessee of safety and control regulations.

The committee wants to know what went wrong and why, and to see what legislation or other steps are needed to prevent any recurrence of the fire and subsequent spill with its attendant pollution and dangers.

EDUCATION BENEFITS FOR VIETNAM VETERANS

Mr. MATHIAS. Mr. President, the importance of education to the young man reentering civilian life as well as the special problems faced by many veterans with less than a high school education are all too clear. Yet the present program established under the previous administration has a rate of participation more than 25 percent lower than either of the prior first 3-year participation rates. The educational assistance allowance rates are most inadequate as they cover only 67 percent of the average tuition, board and room costs for public and nonpublic colleges. The 1966 bill fails to provide programs which seek out the veteran and respond to his particular needs.

Within the bills discussed by the joint conference are measures to amend the present program's ills. First, the necessity for rate increases cannot be questioned. The spiraling costs of living and education mean a significant rise is required. Next, training programs for the high school and elementary school dropout as well as the educationally disadvantaged veteran should be established for the man while he is in service and after his discharge. Innovative departures from present thinking can meet their needs. Finally, I urge a newly oriented and greatly expanded veterans "outreach" program to advise veterans of their benefits and how to obtain them.

In his column of March 11, 1970, Richard Harwood, of the Washington Post, discussed many of the problems associated with the 1966 bill. I ask unanimous consent that his article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

DEFICIENT GI BILL OF RIGHTS ADDS TO VIET VETERANS' WOES

The military draft has been a scandal since the beginning of the Vietnam war. It has been structured and administered to exempt from the fighting and, most particularly, from the dying, the sons of affluent America.

The principal burden of this war has thus been borne by the poor and by boys of the lower middle class who have lacked either the money, the wit or the desire to avoid military service. For those who survive the experience—as more than 99 percent do—the system offers certain rewards and opportunities that are now the subject of desultory consideration within the Congress and within the Nixon administration.

It centers on the Vietnam "GI Bill," which was passed in 1966 as a pale copy of the World War II and Korean War models and which was designed, in theory, to permit the disadvantaged grunts who always do most of the dying in wartime to achieve a measure of upward social mobility and the better life that is presumed to go with it. Under the World War II bill, nearly 8 million veterans used government subsidies and scholarships to finish high school, go to college or get technical training. They emerged in subsequent years as the most successful elements of the new and broadened American middleclass.

Theoretically, the same opportunities are available today to the one million or so men who are being discharged each year from the military services. In practice, however, things are not working out all that well.

For one thing, the level of benefits for the Vietnam veteran has been relatively low. The 1966 version of the GI Bill offered a single veteran $900 a year for four years to buy whatever education and subsistence he could get for the price. That was $90 a year less than Korean veterans received in 1952 and was far below the World War II allowance which covered all tuition charges—whatever they might be—and provided living allowances of $75 a month.

In 1967, Congress raised the annual educational subsidy to $1,170 and is now arguing over whether it ought to be raised again to either $1,500 or $1,170. Whatever figure is settled upon won't buy admission to any of the first-rank private schools in the country, unless the ex-soldier has independent means. Tuition alone at the Ivy League schools is between $2,500 and $3,000 a year, not counting books and living costs.

The Government's reasoning is that the public universities, with their lower tuition charges, are as good as the private schools and that not everyone has to go to Harvard. Whatever figure is settled upon—$1,200, $1,500 or $1,700—will still leave the ex-grunts living below the government-defined poverty line while they try to buy an education.

An even more serious problem is the uneven distribution of these benefits. Those who most need education and training get the least of it.

The estimates are that in an average year, the Pentagon is sending back to civilian life 44,000 men with a college education, 147,000 with one to three years of college, 630,000 high school graduates, and 174,000 men with less than a high school education.

On the basis of the experience thus far, nearly 60 per cent of the most-educated returnees and only 8 per cent of the least educated take advantage of the Vietnam GI bill.

By the most optimistic estimates, fewer than half of the Vietnam veterans are expected to ever apply for educational benefits. And these lost opportunities are going to be translated one day, John Steinberg of the Senate Labor Committee has said, in "a glut on the unemployment rolls, the welfare rolls, and the crime rolls."

What is needed, in the opinion of people concerned with this prospect, is a spectacular effort, led by the President, to encourage and help the veterans of Vietnam find the opportunities they never had before they were asked to take on the burden of that dirty war. Alan Boyd, who was then Secretary of Transportation, urged President Johnson to tackle the problem in early 1968. Nothing ever happened. President Nixon also has been urged tackled the job. His response many months ago was to appoint a commission with a reporting deadline of last Oct. 15. Nothing has ever been heard from that commission.

Meanwhile, thousands of returning veterans are going back each month to the lives of failure they have always known.

XUM

AIR POLLUTION FROM STATIONARY SOURCES

Mr. ALLOTT. Mr. President, in previous statements on environment problems I have noted that these problems often confront us with awkward choices.

They force us to choose not between good and evil, but between competing goods. This is especially true of air pollution problems because they are frequently linked to our problems of energy policy.

With no pun intended, air pollution problems are burning issues. The primary cause of air pollution is burning for the purpose of producing energy.

I have already spoken to the Senate on the subject of air pollution caused by transportation. Today I want to speak about some facets of the problem of air pollution from stationary sources, and the way this problem is complicated by our healthy economy's growing need for energy.

Since 1960 the electric power industry has nearly doubled its capacity to generate electricity. Yet in the same period the demand for electricity has grown even faster. Today the industry's reserves of power—the excess of capacity over peak demand—are only half of what they were in 1960.

As a result, during heat waves and cold snaps the electricity supply in some parts of the country is strained to the breaking point. And according to current projections, 10 years from now Americans will consume twice as much power as they use today. By 1990 the electric power industry must more than triple today's output.

Blackouts, shortages, and rationing of electricity could result if we do not drastically expand our generating capacity.

According to Charles F. Luce, chairman of Consolidated Edison Co., the company may have to black out selected residential neighborhoods in New York City this summer in order to meet power demands. This would be done by a procedure known as "selective load shedding" which shuts off selected areas for all but vital services.

To meet the new demands for service the electric power utilities are undertaking new building programs for generator plants. Or, more precisely, they are trying to build. Generating plants take space. Everyone wants more electricity but no one wants it generated near their homes or in spots that impinge upon areas of natural beauty.

A citizens' group concerned about conservation and possible contamination has delayed construction of a nuclear power plant along the Chesapeake Bay. Similar groups have moved to protect the unspoiled nature of historic Antietam Battlefield in Virginia, and the Storm King Mountain area north of New York City along the Hudson River.

It is impossible to generalize about these conflicts. Each case must be considered on its merits. But one thing is clear at the outset. The decade now beginning finds an increasingly sophisticated electorate confronted with increasingly complex and painful choices.

Powerplants often mar places of natural beauty.

Nuclear powerplants arouse fears of contamination near residential areas, and create thermal pollution by using huge quantities of water for cooling purposes. Thus there has been a lag in the construction of nuclear plants.

But coal-fired plants create air pollution wherever they are.

Even a modern coal burning plant with 1 million kilowatt capacity will discharge into the atmosphere 250 tons of sulfur dioxide and up to 80 tons of nitrogen oxides each day.

According to Presidential Advisor DuBridge:

> If we took all the sulfur out of all the coal and oil that is being burned each year in this country and took the sulfur out of the stack gasses, we would have a pile of sulfur which exceeds the total annual sulfur production in the United States.

The yearly emissions of sulfur oxides from coal-burning powerplants and factories are worth $300 million. They could be contained and marketed as sulfuric acid. Fly ash from coal burning also contains such rare metals as germanium and beryllium which could be recovered but which instead become air pollution.

Thus this form of stationary source pollution is not only very dirty, but very wasteful. And projections of future power demands indicate things are going to get very much worse.

The Chairman of the Atomic Energy Commission recently estimated that if we were to meet projected electric power requirements in the year 2000 using coal-burning plants, we would need 10 million tons of coal a day, and this would involve the daily movement of 100,000 railroad cars. Even if we were sure we had the coal reserves and railroad facilities, we would still fear the air pollution this would promise.

One way to limit air pollution is to require the burning of the most pollution-free coal. This would raise costs, but not intolerably. Fuel accounts for only one-seventh of the cost of generating and distributing electricity.

Another step is to insist on better pollution control equipment on each generating plant. This will not be painless.

The president of one of the Nation's largest electric power companies puts it this way:

> It is one thing to say that a utility company must spend $100 million on air pollution control equipment; it is another for the customers to realize that their electric bills must increase $15 million a year to make this expenditure possible.

Probably the most important step we can take will be in promoting the use of nuclear power. We should not do this until we can satisfy responsible citizen worries about safety. And we should not press ahead with nuclear reactors until we have made progress in solving the problem of thermal pollution and the disposal of radioactive wastes. Fortunately, real progress is being made on solutions to these problems.

As always in dealing with environment problems, the important thing is to remember that problems and decisions are connected by chains of consequences which, though not always visible, are always strong.

According to one estimate it would take $45 billion to get the American air pure again.

Industry is spending $200 million for air pollution control equipment—this in addition to $100 million on replacements for the approximately 3,000 precipatator installations in service. The private sector's bill will rise in the future.

Some Government estimates of the cost of air pollution control are encouraging. One study suggested that if industry and local governments share expenses, the cost to industry in cities over 50,000 might be less than one-sixth of 1 percent of production costs, and the cost to the citizens might be as low as 25 cents per month per household—or about one-ninth of 1 percent of personal per capita income.

Governor Reagan of California has

proposed establishing a statewide air monitoring network to measure air quality. There can be a Federal role in encouraging other States to do likewise.

The President proposes designating more air quality control regions. He also proposes federally established national emissions standards "for facilities that emit pollutants extremely hazardous to health, and for selected classes of new facilities which could be major contributors to air pollution."

Further, the President proposes extending Federal authority to seek court action so that the Government might intervene in both interstate and intrastate air pollution problems, where satisfactory efforts are not being made to bring air quality up to national standards. To give some teeth to this Federal intervention, the President proposes that "failure to meet established air quality standards or implementation schedules be made subject to court-imposed fines of up to $10,000 per day."

We need strict regulations of open-air agricultural burning.

We need alternatives to open burning for weed control along ditches and roadways—but these alternatives must not involve the use of chemicals which become a problem in their own right.

And we need close supervision of the use of heaters in large orchards.

It is important to remember that half of America's air pollution is produced in 1 percent of the territory. It is concentrated because the people are concentrated.

According to some studies, national standards for air pollution from stationary sources would be less efficient and as much as 50 percent more expensive than programs tailored to the localities where pollution is especially intense.

Thus one thing is certain. The attack on air pollution problems must be mounted by Federal, State, and local governments acting in concert. The administration is prepared to take the lead. I am confident that public officials everywhere will be responsive to this lead.

UTAH PARK AND RECREATION BILLS

Mr. MOSS. Mr. President, on the first day of the 91st Congress—January 15, 1969—I introduced two bills of great interest to my State of Utah—S. 26, to extend the boundaries of Canyonlands National Park, in southeastern Utah, and S. 27, to establish by law the boundaries of Glen Canyon National Recreation Area in Utah and Arizona.

On January 22, a week later, I introduced bills S. 531 and S. 532 to establish Capitol Reef National Park and Arches National Park in south central Utah.

On February 5, the Committee on Interior and Insular Affairs referred S. 531 and S. 532 to the Department of the Interior and the Bureau of the Budget for reports. On February 18, S. 26 and S. 27 were similarly referred. All referrals, therefore, occurred well over a year ago.

Although I have written letters and called personally to the National Park Service and to the Department of the Interior about these bills—not once, but several times—so far no departmental reports have been sent to Congress. Needless to say, I am tired of delay and indecision.

At my request, therefore, the chairman of the Subcommittee on Parks and Recreation (Mr. BIBLE) has scheduled hearings on the Glen Canyon and Canyonlands bills on May 5 and the Arches and Capital Reef bills on May 6 in Washington, D.C. It is to be hoped that the departmental reports will be forthcoming well before that date.

Hearings were held last session on the bill to expand the boundaries of Glen Canyon National Recreation Area. It is, on the whole, noncontroversial. The bill would set boundaries on an area of 1,142,433 acres of land and water—somewhat smaller than the 1,960,000-acre area established by administrative action.

The new boundaries extend northward, beyond the ones now in existence, to embrace a section of the country adjacent to the Maze, which lies north of the recreation area and west of Canyonlands National Park. The new boundaries would also exclude two tracts of public land withdrawn for reclamation purposes in the vicinity of Sit Down Bench and Warm Creek comprising approximately 7,836 and 4,946, acres, respectively. The location of these lands adjacent to both Lake Powell and nearby coal deposits make them adaptable for the development of steam powerplants, and, if development becomes feasible, the Department has indicated its willingness to negotiate leases for the lands needed. Private firms have expressed an interest in steam powerplant development in this area.

Enactment of the Glen Canyon Recreation Area bill was recommended by the Department of the Interior in the 90th Congress. Hearings were held on it by the Senate Interior Committee late in the second session, but no final action was taken because of the time factor.

At the time that Congress established the Canyonlands National Park in 1964, we recognized that the boundaries which we were setting did not encompass all of the unique and magnificent scenery which was of national park caliber. S. 26 proposes the addition of some of the spectacular areas which border the boundaries of Canyonlands, and which are equal with the present park area in scenic, scientific, or historic interest. It would add approximately 100,000 acres to the park bringing these fragile but superlative areas under the protection of the National Park Service.

The new areas include the Maze, a rugged labyrinth of canyons and eroded geological forms, some of which no white man has ever seen, part of famed Lavendar Canyon, part of Horseshoe Canyon, which contains some of the finest galleries of prehistoric pictographs in the world, and Dead Horse State Park which the Utah State Park and Recreation Commission at one time requested to be taken into Canyonlands National Park.

S. 531 and S. 532, as amended, would reduce in acreage the two national monuments—Capitol Reef and Arches—which were greatly expanded by Presidential proclamation on January 20, 1969, and would elevate both to the status of national parks.

Passage of all four bills would enhance the economic potential of southern Utah, but passage of the bills to establish Capitol Reef and Arches would be especially desirable for two reasons:

First, they would release for grazing lands now tied up in the expanded national monuments; and

Second, their passage would properly elevate to national park status two marvelous scenic national monuments. This was recommended by President Johnson and Secretary Udall. Enactment of these bills would establish in Utah five national parks—more than any other State in the Union.

The expansion of these two monuments, without prior notice caused understandable consternation among southern Utah livestock men who held grazing permits in the area.

After carefully studying the area, and balancing scenic and scientific values against grazing values of the lands involved, I drafted boundary adjustments which would incorporate the best of the scenery of the area within the boundaries of the proposed park, leaving the best of the grazing lands outside it. Three small tracts with remarkable features would be added, but most of the land under grazing permit; and the subject of the controversy, would be eliminated.

At Capitol Reef, the boundaries I recommend would eliminate approximately 56,000 acres, while adding only 29,000 acres. A net decrease of 17,000 acres. At Arches the new boundaries would add 1,600 acres and take out 10,560. A net decrease of 8,960 acres.

My amended version of the two bills would also make it possible for grazing permits, held at the time of enactment of the bills establishing the parks, to be continued and renewed during the lifetime of the holder's immediate family.

Hearings were held on both Capitol Reef and Arches in Utah about a year ago. Since that time nothing has happened. The livestock men who hold grazing permits within the boundaries of the enlarged national monuments do not know what the future holds for them. They are grazing at sufferance in the monuments and will not be able to graze their sheep or cattle on these grazing allotments in the future without my bills. They can make no plans—their families can make no plans.

It is only fair to them that Congress consider at once the bills which have been introduced to clarify the use of the land in question.

It is also important that the lands which are of national park status be so characterized so the people of the Nation will know them for what they are, and plan their vacations to see and enjoy them. As President Nixon has said:

> Increasing population, increasing mobility, increasing incomes and increasing leisure will all combine in the years ahead to rank recreational facilities among the most vital of our public resources * * *
>
> Plain common sense argues that we give greater priority to acquiring now the lands that will be so greatly needed in a few years.

XUM

Good sense also argues that the Federal government itself, as the nation's largest landholder, should address itself more imaginatively to the question of making optimum use of its own holdings in a recreation hungry era.

In this case, land acquisition is not the problem. These are Federal public lands. But designation and use are of pressing importance.

Enactment of these four bills would add greatly to our National Park System and to the outdoor recreation potential of the West.

I ask my Utah colleagues in the Senate and the House to help me in getting action on these bills this session.

POWER DAMS IN THE PACIFIC NORTHWEST

Mr. JORDAN of Idaho. Mr. President, one of our Idaho newspapers, the Lewiston Morning Tribune, and its editorial page editor, Bill Hall, recently had some very fine things to say about the question of providing power dams in the Pacific Northwest. The related question of protecting the environment was also considered in a commonsense way which I should like to call to the attention of the Senate. Bill Hall also mentioned the excellent questioning by the Senator from Oregon (Mr. HATFIELD), my colleague on the Committee on Interior and Insular Affairs.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection the editorial were ordered to be printed in the RECORD, as follows:

[From the Lewiston (Idaho) Morning Tribune, Dec. 3, 1969]

A CHOICE FACING CONSERVATIONISTS

(By Bill Hall)

If conservationists are going to succeed in their struggle with those who want to dam the Middle Snake and other free streams, they must first put their own house in order. While some conservationists are fighting to save the Middle Snake from dams, others are fighting nuclear generation facilities. Yet the nuclear alternative to hydroelectric generation of electricity is the only hope of saving such streams from the concrete mixer.

Society is going to need, demand and get more electricity from some source. At this point there are only three plausible sources—fossil-fueled generators, nuclear generators and dams.

In this era of widespread concern for the environment, it is possible politically to decide which of the three is most helpful and least damaging to our lives and force the power producers to follow that course. In fact, most power producers appear now to have sufficient respect for the political muscle of conservationists and sportsmen to choose the line of least resistance.

But what do they do if there is resistance along every line? And there is. In this area, most of us who live along and play on the Middle Snake would naturally like to keep it as it is. And there are a good many others outside this immediate region who feel the same. They range from the national Hells Canyon Preservation Council, headquartered at Idaho Falls, to such conservation giants as Arthur Godfrey.

To be realistic and politically responsible—and most of them try to be—it is not enough to say to the power producers, "Keep your hands off the Snake." More electric energy is going to have to come from some source, so it is necessary, if those trying to have the Snake are going to succeed, to point to alternatives.

Except in a few remote locations where fossil fuel generation facilities might be operated without appreciable damage to the environment and to the lives of those in the vicinity, the only practical alternative is the much cleaner nuclear generators.

But nuclear generation is in its infancy and imperfect. Like the dams and their killing pools, it has its side effects too. Those include heating the streams in which their coils are cooled (although warming is a side effect of some dams, too) or clouding the atmosphere with huge quantities of water vapor from cooling towers.

In our opinion, the nuclear side effects, which are certain to be licked as this young power production technique matures, are already less offensive than taming a wild river. And the side effects from the cooling towers are more limited geographically than the damage from stilling 50 or more miles of a rushing river.

But that is only one opinion. Other conservationists disagree. That is the dilemma facing the power producers. It doesn't matter whether they have any intention of respecting conservationist opinion or not. They couldn't please the conservationists if they wanted to.

Robert W. Woods, executive editor of *The Wenatchee Daily World*, put it succinctly in a note to the Tribune: "The very conservationists whom you join in fighting High Mountain Sheep Dam are the ones preventing the electric companies from taking the nuclear power alternative you suggest."

That is not quite the case; there are a good many Hells Canyon conservationists who favor and advocate the nuclear alternative. But, on the whole, the comment is accurate. There is no general agreement among Northwest conservationists on which alternative should be followed. And there actually are a good many conservationists who are fighting *both* dam construction and nuclear power plants, and usually fossil-fueled plants for good measure. That is unrealistic.

If the conservationists are to have any political clout in saving the environment, they must, as a group, start talking out of one side of their mouth at a time. They are working at cross purposes. Every time a conservation group blocks a nuclear power plant, it automatically produces more pressure for Middle Snake dam construction. Conversely, every time the defenders of a natural Middle Snake win another round, they create more pressure for nuclear power generation.

An attempt must be made to resolve this conflict. The time has come for a Northwest conservation congress to set some priorities within the conservation movement. Those primarily interested in saving the free rivers must sit down together with those primarily interested in preventing the threatened construction of nuclear power plants in their back yards. If possible, they should achieve some unified position. It is not necessarily a black and white choice between writing off the Middle Snake or accepting a nuclear reactor that raises the temperature of the Columbia by two degrees. But there must be some agreement, at least advocating nuclear generation facilities placement away from populated areas, where the cooling towers will have less effect on local weather. If the Middle Snake and other streams are to be saved, there must be some nuclear power plants built somewhere soon.

As it stands now, there are undoubtedly those ready to go to bat against any nuclear generator anywhere, and perhaps the conflict among conservationists is irreconcilable. But a meeting of the minds could at least produce an agreement to disagree. It could draw the lines more clearly and perhaps signal the beginning of a debate within conservation ranks.

If that happens it would probably become an intra-regional dispute. Much of the growing need for new power in the Northwest is based on the burgeoning population of the Portland-Seattle area. It might one day become necessary for partisans of the Middle Snake to suggest that those who need the power be the ones to accept the consequences of the generation facilities. There is considerable inequity in cheapening the Middle Snake—and thereby the lives of those in this area—to enrich the lives of those in the Portland-Seattle area. It may be necessary to suggest that those who reap the benefits of the new source of energy be the ones to accept the inconvenience of manmade localized fog.

Whether agreement or a better focused, more responsible disagreement would be the result, some discussion must take place within the conservation movement.

In the long run, the nuclear generators will come whether some conservationists or the power company executives want them or not. There aren't many adequate hydroelectric sites left today. And, as Wendell J. Satre of Spokane, executive vice president of Washington Water Power Co., inadvertently admitted in a speech here Monday, a Middle Snake dam isn't that urgent a matter anyway. If it is built, he said, it will only be a drop in the bucket of regional power needs.

The nuclear alternative is already here and will dominate the future. If a Middle Snake dam is built, it will still be necessary to turn to nuclear plants for most of our power needs. So we ask again, is it necessary to build every last dam before turning in a big way to the nuclear alternative, or can we turn to it in a big way now and save the last few remaining free streams, including the Middle Snake?

Unless there is some agreement—not only by the power companies, but by conservationists—to accept the nuclear alternative now, there will be no saving the Middle Snake. The people will demand and get the new power they need from some source. If it doesn't come from nuclear power plants, it will come from a dam on the Middle Snake.

[From the Lewiston (Idaho) Tribune, Dec. 7, 1969]

WHEN ALL CAUSES ARE LOST CAUSES

(By Bill Hall)

Sloganeering is a favorite and frequently foppish undertaking in most social crusades. But there is considerable clout in the catchline of one birth control organization which proclaims, "Whatever your cause it's a lost cause without population control."

That's true of virtually every world problem today, from campus unrest to traffic congestion. Without some curb on population growth virtually every other social crusade is a stop-gap measure that, if it works at all, can only work for a few more years if the population continues to advance at the present rate.

The most obvious example is the improvement in food production techniques, where despite astonishing advances in the last decade, food production continues to fall behind the need. Not only the number of people but the percentage of the world's people, who are hungry grows larger every year. That, by itself, could be enough to spell disaster in another couple of decades.

The population now doubles about every 35 years. The span of time it takes to double the population has been steadily decreasing for several centuries now. Hence the population growing pains are starting to come faster than the ability to cope with them. Population is at this moment outracing the technology to deal with its many ramifications. But, no matter what the span of years, the population can only double and redouble so many times before no method can answer the challenges it presents. You can double small numbers of people for centuries before reaching a figure of any consequence. But the dynamics of these statistics are such that soon you are doubling astronomical numbers and arriving at still more astronomical numbers. After a time you reach a figure that you cannot stand to double, a point where the earth simply will not tolerate any more bodies.

It is hard to say exactly what the intolerable level is, but, if we have not reached it, we are close. Another generation or two will bring us to the brink. See for yourself. Is too many people the 3½-billion mostly hungry souls today, or the 6-billion of the year 2000 or the 12-billion of 2035 when most children born today will still be alive?

Or take a more simple example and a more modest cause—traffic control in California. Double the number of automobiles now in California as a projection on what is likely in the year 2000. Can you imagine California with twice as many freeways and twice as many vehicles as today? And this is not some problem to pass on to a future generation. Most people approximately 40 and under will still be alive when that happens. And what about when you double that figure again for the year 2035 when most children born today will still be alive?

Perhaps in 20 or 30 years, you can ban private automobiles from the highways of California and require all citizens to move by mass transit. But what do you do in another 50 or 60 years when the mass transit vehicles become more numerous than the private vehicles of today?

Perhaps then you could start rationing travel. No one goes anywhere except by a state-issued permit?

How long does that go on though before traffic control becomes a lost cause? How long before everyone stays home, locked in his own cell in towering beehive cities, earning his living by remote control?

The more people get in each other's way, the less freedom they can be allowed for their own sake, and the more government must regulate their lives.

We face an Orwellian nightmare just around the corner unless we face up to the social ill that is at the root of all others, from war to pollution to race relations to generation gaps to hunger to conservation to housing to disease to sanity. At this point, every attempt to correct those ills is a lost cause.

[From the Lewiston (Idaho) Tribune, Feb. 22, 1970]

THE COMMON CAUSE OF POPULATION

(By Bill Hall)

Oregon's Sen. Mark Hatfield, in a series of incisive questions at a hearing in Washington, D.C., last Monday, made conservationists and dambuilders alike look beyond the present and examine the consequences of their proposals.

Hatfield made it plain that, if the population continues to grow, the development of more dams and mines cannot be avoided. He also made it plain, that, if the population continues to grow, no amount of dams or mines will be enough.

Until the population levels off, all of these little struggles, such as leaving the White Clouds natural or mining them and preserving Hells Canyon or damming it, are very temporary indeed. The total resources of this nation—developed and undeveloped—are limited. They will only serve a population so large, and we may already have exceeded the maximum practical population at our present rate of consumption per capita.

The indications are that most conservationists know that, although most of them have yet to make population control more than a secondary crusade to their pet projects.

Most of the dambuilders and mining engineers, on the other hand, seem to be operating on the unconscious assumption that the world will end in 20 or 30 years. They say that the Northwest will need three times as much power in 1990 as it does now, so the dams should be built. Assume those dams are built and the power needs of 1990 are met. What then about the power needs of the year 2000 or 2010, or even 2090? If power needs continue to triple every 20 years, the Northwest will, in 100 years, need 243 times as much power as it now requires. And what of 200 years from now, or 500?

Clearly, that is all quite impossible. Sooner or later, the population will be limited, probably by law, as an act of self-preservation.

But before the population can be leveled off to a point the nation can stand, there will be a period of buying time. Because of the lead time involved, once the decision is made to limit population, it will still take several years to fabricate the system of services to supply that optimum population.

And it is during that period that these battles over which resource is to be saved for all time and which is to be put to work for all time will be most crucial. Apparently, with that in mind, Hatfield wanted to know if the conservationists opposing dams in Hells Canyon are willing to accept nuclear generation, which also has unpleasant side effects.

It is not enough in this crisis circumstance to simply oppose the dams, and many conservationists are coming to realize that. The opponents of further dam construction must accept and advocate the lesser of several evils. They may have to choose between an atomic plant that fogs the air for five miles instead of a dam that slows 50 miles of river. Or they may have to accept and advocate the mining of materials used to produce solar panels for installation on the roofs of houses. And, for a few years, we may all have to tolerate the rationing of power.

It is irresponsible today for the power producers to say we must triple our power supply by 1990—period. And it is irresponsible to say you cannot build a dam or a nuclear alternative—period.

For the first time in history, man is capable of destroying himself—and not just with nuclear weapons, but simply by the overwhelming fact of his multitudinous presence. A given acre of land will support only so much humanity, and the same is true of the entire planet.

Until the population is limited, all of these struggles to save the White Clouds and Hells Canyon, and all of the contrary struggles to produce enough molybdenum or electric power, are certain to be lost. The White Clouds will be destroyed and the reserves of molybdenum will be exhausted. Hells Canyon will be dammed *and* the power will not go around.

Conservationists and dambuilders have a common cause in population control. Unless they succeed in unison in that effort, they will fail to achieve their separate goals of enough wilderness and power for all the years to come.

RATIONAL DECISIONS AND ARGUMENTS CRUCIAL TO GENOCIDE RATIFICATION: EXTRADITION OBJECTIONS ARE A CASE IN POINT

Mr. PROXMIRE. Mr. President, one of the points raised by those opposing Senate ratification of the Genocide Convention illustrates that much of the objection to the treaty is based essentially on emotional rather than a rational examination of the convention. Careful consideration of such points will show them to be invalid objections to ratification.

At the February meeting of the American Bar Association, Mr. Eberhard P. Deutsch, of the New Orleans bar, voiced his objections to ABA approval of the Genocide Convention. Mr. Deutsch has been a vocal opponent of ABA endorsement of human rights treaties for the past 20 years.

Mr. Deutsch spent much of his time pointing out what he considered to be pitfalls in article VI of the convention. This particular article states:

> Persons charged with genocide . . . shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Mr. Deutsch argues:

> How can it be suggested that United States citizens may not be tried, under the Genocide Convention, in foreign courts? . . . Are we to enter into a convention which would sanction trial of our prisoners of war on charges of genocide, or under which we must permit members of our military forces to be extradited for trial in Vietnam or elsewhere, without the constitutional guarantees for the preservation of which they have risked their lives, and their buddies have made the supreme sacrifice?

I would fully share Mr. Deutsch's concern if, indeed, the Genocide Convention permitted our soldiers to be extradited to a foreign country and deprived of the "constitutional guarantees" for which they have fought. But the facts are, that the genocide treaty permits no such violation of the rights of our fighting men, or of any of our citizens.

Apparently, Mr. Deutsch has ignored the very next article in the Genocide Convention, which makes it clear:

> The Contracting Parties pledge themselves in such cases to grant extradition *in accordance with their laws and treaties in force*. (Italic added.)

The key words in this provision of article VII of the convention are "laws and treaties in force." The conclusion to be drawn from this is that American citizens cannot be extradited to a foreign country for trial on genocide charges unless the United States and that country have signed an extradition treaty.

We do not have an extradition treaty with North Vietnam or North Korea. No American citizen, military or civilian, could be extradited to North Vietnam or North Korea to face trial on charges of genocide. It is true that American POW's now in enemy hands could be tried in enemy courts on trumped-up charges of any kind of crime, including genocide. But that risks always applies to any American citizen unfortunate enough to fall into enemy hands. U.S. ratification of the genocide convention would not change this.

Mr. Deutsch's entire argument seems to be based more on emotional reaction to the Genocide Convention than on a carefully reasoned analysis. Typical of his approach is his statement that the Genocide Convention "seeks to metamorphose peoples who have no idea as to the meaning of freedom and human rights, into judges of the freedoms of the people of the United States of America."

Mr. Deutsch hopes that—

> This Nation, under God, shall remain steadfast in its adherence to the ideals upon which it was founded, and in which it still leads the world along the paths of justice and freedom.

I can think of few more succinct arguments for Senate ratification of the Genocide Convention. Mr. President, this country must take the position of moral leadership in the battle for the protection of human rights. The Genocide Convention has been ratified by 75 other countries. America must tarry no longer in its decision to ratify the treaty.

THE DELIVERY OF UNCALLED-FOR AMOUNTS OF MILITARY MATERIEL TO THE GOVERNMENT OF CHIANG KAI-SHEK

Mr. HARRIS. Mr. President, I note with some alarm that efforts continue unabated with respect to delivering uncalled-for amounts of military materiel to the government of Chiang Kai-shek on Taiwan. In testimony before the House Armed Services Committee last week, a spokesman for the Office of the Chief of Naval Operations called for loaning three U.S. submarines to Taiwan, in spite of the fact that the administration itself had not deemed it necessary to request them. The committee accepted this argument and added this provision to the bill it reported.

Representative Donald M. Fraser has taken the lead in fighting this attempt to introduce a new weapons system into an already tense area under provocative circumstances, and I would like to commend him for this effort.

There are several reasons why I believe it would be unwise to allow this action of the House Armed Services Committee to stand. Nationalist China at present has no submarines, and no trained submarine personnel. It would take a long period of time, perhaps as much as 2 years, to take the submarines in question from the reserve fleet, prepare them for active service, and train the necessary Chinese crews. Once in service with the Chinese Navy, the United States would retain little control over their use. It is one thing to use submarines to provide antisubmarine warfare training for Chinese surface ships and aircraft, and another to employ such vessels in ways which might increase tension in East Asia. These submarines would not increase Nationalist China's security, would cost a considerable amount of money and time to place into active service, and might make us the reluctant beneficiaries of the byproducts of excess zeal on the part of the Nationalist Chinese.

Robert M. Smith, of the New York Times, has provided a useful summary of recent developments in this matter. I commend it to the attention of other Members of the Senate who may be distressed, as I was, to learn of this unnecessary initiative. I ask unanimous consent that Mr. Smith's article, which appeared on March 14, 1970, be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 14, 1970]

Loan of Three U.S. Subs to Taiwan Is Asked

(By Robert M. Smith)

Washington, March 13.—The House Armed Services Committee has proposed a loan of three United States submarines to Nationalist China.

The Administration, which proposed lending some vessels in the bill under discussion, had not included Taiwan on its list of recipients, and the addition seems likely to provoke a floor fight when the bill is considered in the House next Wednesday.

The Armed Services Committee, whose chairman is Representative L. Mendel Rivers, Democrat of South Carolina, sent to the floor an Administration-sponsored bill last month that extended the long-term loan of one submarine to Greece and one to Pakistan. The bill would also provide two destroyer escorts each to South Vietnam and Turkey.

In addition, however, the committee added the loan of two submarines to Turkey and of three to Taiwan.

Earlier this winter, a provision of the foreign aid bill that would have given Taiwan a squadron of Phantom jet fighters stirred such controversy that it was finally dropped.

Representative Donald M. Fraser, Democrat of Minnesota and chairman of the liberal Democratic Study Group, said today that he would offer an amendment to the committee's bill striking the loan of the submarines to Taiwan.

The Defense Department supports the loan of vessels to Greece, Pakistan, Turkey and South Vietnam but has not taken a position of those for Nationalist China.

The Defense Department's witness before the Armed Services Committee, Capt. G. M. Hagerman, director of the foreign military assistance division in the office of the Chief of Naval Operations, said that in his opinion the United States should lend Taiwan the submarines. The reasons he gave were stricken from the hearing report for security reasons.

Asked for its position on the loan this evening, the State Department said the issue was "under review."

"It has to be considered at a senior level," a department spokesman said.

VESSELS ON RESERVE

The action of the Armed Services Committee came to the attention of Capitol Hill today when the Democratic Study summarizing the bill's provisions and pointing out that it would reach the floor next week.

The submarines involved are diesel-powered and would come from the Navy's reserve fleet.

According to Captain Hagerman's testimony, Taiwan has no submarines and no personnel trained to operate any.

The committee's report on the bill said the submarines would allow Taiwan to mount an antisubmarine defense in an area where the United States was cutting back on its own naval forces.

"In the over-all defense of the western Pacific," the report said, "The Republic of China had undertaken a role in participating in antisubmarine warfare activities." He continued:

"Permitting China to have three submarines does not introduce a new weapons system into the area, but lets China replace the United States in the localization of the defense of any area where the Communist Chinese have over 30 whiskey-class submarines provided by the Soviets and flying the Red Chinese flag." "W" class Soviet submarines are medium-range patrol vessels, although some have been equipped with missiles.

"In addition to helping to meet their threat, the report added, "providing the submarines to China at this time will permit China to continue having submarines to use in antisubmarine warfare training, since the services the United States has heretofore provided for this training are being curtailed.

"The area for which China is exercising some antisubmarine warfare responsibility is one of the areas where we will be providing reduced protection due to the cutbacks in our Pacific surface and submarine fleet."

An aid to Representative Fraser said that the Congressman opposed the loan of the vessels to Taiwan because he felt it would introduce another weapon in an already tense area, and would be a provocative gesture.

SECURITY OF SAFETY AND CARGO

Mr. JAVITS. Mr. President, I am joining the Senator from Nevada (Mr. Bible) as a cosponsor of S. 3595, a bill to establish a Federal Commission on the Security and Safety of Cargo introduced on March 16. During the past several months the Small Business Committee, of which I have the honor to be the ranking minority member, has been conducting hearings and staff investigations into the problems faced by the shipper as a result of the wholesale theft of cargo from the Nation's airports, marine docks, and truck terminals. These losses have amounted to almost $1.5 billion. They represent a clear and present danger to the viability of the Nation's transportation system.

The bill introduced by Senator Bible embodies the imaginative concept of mobilizing the resources of the private sector in conjunction with the expertise of the Federal Government to develop a preventive program aimed at ending this assault by criminals on the free movement of commerce in the United States.

I have long advocated this approach, Mr. President, as I do not feel it in the best interest of carrier and shipper alike to add a new level of a Federal agency to cope with this problem. In the committee's hearings on July 23, 1969, I said:

> This is the kind of a situation where innovation could pay off in a very big way.

Mr. President, this is exactly what Senator Bible's bill provides. I ask unanimous consent to have printed in the Record copies of recent articles indicating the severity of the problem being faced by the shippers and carriers as a result of this growing problem of crime at the airports.

There being no objection the items were ordered to be printed in the Record, as follows:

[From National Jeweler, Dec. 1969]

How Long Will the Airport Robberies Be Tolerated?

Robberies of watches and watch parts at major airports continue to occur with distressing regularity and little if anything is being done to deal with this outrageous situation.

It is awesome at Kennedy International Airport in New York where the aircargo is huge and the pilferage correspondingly also of sizable proportions. It is only slightly better at La Guardia, at Newark, at Chicago O'Hare's and Logan Airport in Boston. The pickings are great at most of the airports.

This airport pilferage is big stuff for criminals. From January, 1967 to July, 1969, total imports of watches and watch parts reached close to $275 million, according to reliable sources. Out of this total, one-half of one

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percent or, about $15 million, represents pilferage of watches or watch parts. Furthermore, close to a million dollars represents pilferage in domestic shipments of these products.

ELUDE SECURITY

Despite tightened security, uniformed and undercover police, all sorts of electronic and mechanical devices and everybody at the airports in a state of alert, almost everyday there is either small or large pilferage reported. On some days the haul reaches staggering proportions.

Why is this? Why can't the security lid be clamped down tight at Kennedy and other airports?

Try and pin down where and with whom the task of complete security lies and you'll get the biggest run-around you ever saw. It's buckpassing in the grand manner.

Start with the airlines. The airlines shrug off the pilferage query and refer you to the airports; the airports refer you to the Port Authority; the Port Authority, charged with operating and policing the airports, claim lack of personnel, and refer you to AOCI in Washington (Airport Operations Council International) a trade association of government bodies which own and operate principal airports in the 50 states and AOCI, without hesitation, turns you over to ATIA (Air Transport Association of America) also in Washington, and there, out of breath, you finally get the coup-de-grace and are referred to the end of the line, the FBI which deals with crime occurring in interstate commerce.

PASS THE BUCK

No wonder people like the American Watch Association, representing leading watch manufacturers, and others representing manufacturers and importers in other industries suffering airport pilferage losses, can't get to first base in achieving maximum security for shipments. Nobody wants to talk to you; everyobody says, "Go see the other guy."

Last summer Congress, after repeated appeals from the jewelry trade in New York and other cities initiated an investigation of airport crime. The Select Committee of the Small Business Committee, investigating crime against small business, summoned principals to Washington for testimony.

The AWA, whose members had been major victims in airport pilferage, were represented by its president, Gerard Ditesheim, accompanied by Lee Rosen of Elgin Watch. The following facts were put on the record by both of these men:

LIST STEPS

1. Out of total imports from January, 1967 to July, 1969 of $275 million, $15 million of watches or watch parts were pilfered.

2. At least $1 million of watches and watch parts had been pilfered in domestic commerce.

3. It is clear that the reason criminals are concentrating their attention on major watch brands is that these can be moved along underworld or underground channels with ease.

4. Instances were cited by both Ditesheim and Rosen when the airlines, notably Pan Am, was sought for cooperation and aid in reducing pilferage losses at the airports and Pan Am executives wouldn't even take the time to answer their mail.

5. Losses were so severe with one airline, Seaboard Airlines, used for imports from the Virgin Islands, that shippers had to abandon using this line altogether.

NOTORIOUS INSTANCE

Dietesheim cited a blatant dereliction on the part of Pan Am with few parallels in corporate apathy and misdirection. Bulova, Ditesheim recounted—incidentally not a member of AWA—deeply troubled by continued pilferage of its imported cargoes at Kennedy, in which Pan Am was the carrier, assigned one of its executives to discuss the thefts with somebody in authority at Pan Am.

"This executive's efforts to reach a Pan Am vice president," Ditesheim testified before the Select Committee of the Senate, "were unavailing. In each case the call was returned by someone totally without authority at Pan Am. Finally Bulova wrote an angry letter to Najeeb E. Halaby, Pan Am's president. The only answer was a runaround response from Pan Am's corporate insurance and claims manager. Pan Am was not even represented at the meeting which the Airport Security Council held in June, 1969 with some watch industry people."

Subsequently, after Bulova and others had given up on Pan Am, with a Congressional investigation going on, Pan Am came to life. The airline did respond, putting on the record an almost pathetic affirmation that it did care, that it was worried about airport pilferage and was working mightily to control it. But the damage had been done and the watch industry had had its bellyfull. It was not taking it anymore.

TRY REMEDIES

Many things had been tried to foil the crooks. Arrival days had been switched; packages had been revamped so as to disguise contents. Some of the watch companies adopted the subterfuge of having shipments addressed to individuals. It didn't work. Thieves were either tipped off or soon learned of what was being tried.

"Why?" asked Sen. Alan Bible of Nevada who chaired the Select Committee hearings in Washington last summer—"if you couldn't depend on airline or airport personnel, why didn't you pickup yourself? Why not do your own handling?"

"For the good reason that we tried but they wouldn't let us," Rosen answered. "They told us they don't want anybody from the outside coming in."

This order at a time when those already "in" at the airport possibly, directly or indirectly, were involved with pilferage!

EVASIVE ANSWERS

As the Select Committee learned for itself, obstacles to clearing up the pilferage situation at Kennedy and other airports were the ambiguous, self-serving statements issued by representatives of agencies and bodies who were looked to for aid, not evasions.

John J. Corbett, director of management services, Airport Operations Council International, Inc. of Washington, D.C., the trade association of government bodies which own and operate principal airports in the 50 states, was most bland and evasive in his gratuitous observation that "If cargo theft is increasing, it is because airport tonnage is increasing at a rate even faster than the passenger traffic." He added: "While passenger traffic is expected to triple over the next decade, air cargo will more than quadruple in the 70's."

NO BEARING

One might be expected to be thrilled at the prospects envisioned by this spokesman, but what bearing has it on speeding up aircargo protection?

Charles G. Baker, deputy undersecretary of the U.S. Department of Transportation, asked by the Select Committee to give his views on airport pilferage, begged off on the ground that a study was in progress and until the study was completed, he could not speak with authority.

Stuart G. Tipton, president of the Air Transport Association of America, also headquartered in Washington, an agency which, among other duties, is committed to air cargo procedures and protection, wasted no time. Queried on airport pilferage, in quick time, Tipton replied: "Thefts at airports involving interstate commerce is the concern of the FBI."

What is one to make of all this? Is it all going to be a lot of talk and Congressional hearings and there it will end?

EXPECT LEGISLATION

Gerard Ditesheim and Rosen, who have been indefatigable in meeting with airport and airline officials in New York and in Washington, believe that bills now in process will spell out some amelioration of the pilferage situation. Both men have their fingers crossed, but are hopeful.

Jim White of the Jewelers Security Alliance, an experienced professional in security matters, who long has been close to the mess at Kennedy and elsewhere, sees an organization like the Metropolitan Air Cargo Association, comprised of a cross-section of importers and exporters in New York, doing far more to correct conditions at Kennedy than any specific organization of jewelers. White, on behalf of JSA, has been working steadily with MACA and is optimistic about the results.

PUT ON TOES

Already, White underlines, there is evidence that, due to MACA, as well as AWA and other industry organizations, police sources at the airports have been put on their toes. To substantiate this, White points to recent apprehension of hijackers and recovery of over $700,000 loot in watch parts, which was waylaid moving out of Kennedy, also the apprehension of hijackers and recovery of their loot of around $70,000 in jewel air shipments, also taken from a truck, moving out of Kennedy.

It still doesn't tell us much about alleviating the pilferage situation at Kennedy, White admits, but arrests and recoveries of merchandise are omens of what lies ahead for security at the airports.

Perhaps even more hopeful is the way Congress now feels about the pilferage canker at the nation's airports. In a letter to National Jeweler, Sen. Alan Bible, who chaired the AWA hearings in Washington, wrote: "I am concerned with the extremely serious economic threat to smaller businesses and industries posed by the increasing incidence of air cargo theft. I feel that increased cooperation between carriers, the shipping public, and the Federal government—especially the Department of Transportation and the Civil Aeronautics Board—is essential if we are to begin combating the growing incidence of cargo theft."

Sen. Bible also advised that "in the very near future," his committee will publish a report on air cargo which will be made available to the jewelry trade. Meanwhile, the Senator noted, he had introduced a bill to amend Sec. 407 of the Federal Aviation Act which statute would require aircargo carriers to file statements of aircargo either lost or presumably stolen, such lists to be issued every six months, beginning with the date of effectiveness of the amendment. It is a move, holds Sen. Bible, signalling to the carriers that they'd better tighten up—or else.

It gets down to the nitty-gritty: If we are ever to arrive at reasonable security at Kennedy and other airports and if pilferage is to be kept to minimal levels, Ditesheim, Rosen, White and others recommend the following steps to all concerned:

1. Stop the buckpassing. Authorities and agencies set by State and Federal governments have their responsibilities well defined and they should function as intended.

2. The Port of Authority has the job of policing Kennedy and other New York metropolitan airports. It should be given the budget so that it can employ the personnel to oversee and police airports to the full extent of areas.

3. Much of the pilferage at airports arises from carelessness and loose procedure. For example, airlines will unload precious cargo and leave it unprotected, sometimes for hours, before the cargo is removed to Cus-

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toms. Make the carriers speed up, not only unloading, but removal to strongrooms or to Customs area.

4. Customs also often passes the buck. It complains that it hasn't the personnel to process aircargo expeditiously. If this is so, increase the employes at Customs at the airports and give Customs no excuse for penalizing and often highly costly delays.

5. Experience has shown that looseness exists in the employment of aircargo handling personnel. Tighten up at this end and also extend the bonding of all employes at the airports.

6. Enact legislation that will make the air carriers more responsible for cargo from point of departure to point of delivery. At $7.50 per ton insurance rate the carriers can afford a more or less cavalier attitude about thefts of watches and watch parts.

SUMMING UP

As Rosen noted in testifying before the Select Committee, it isn't as if Kennedy security executives have to start from scratch. The mechanism for maximum security at Kennedy and other ariports has been explored and codified. Kennedy security has available to it an excellent manual which, if adhered to, materially would reduce cargo pilferage.

Underscored Rosen: "These security manuals are not completely used at Kennedy. And it is at Kennedy where we are having our losses."

The AWA, other jewelry trade association, the MCAA, whose membership deals with air cargo transport, join in a plea to the airlines and the airports and to their auxiliaries and supervisory bodies at State and Federal levels, to get going and correct an intolerable evil. Congress may or may not enact legislation; but whether Congress acts or not, decent regard for even minimal investment should move aircargo factors to effect much-needed reforms.

[From "Women's Wear Daily," Jan. 29, 1970]

SENATE COMMITTEE TO HEAR CLAIMS OF THEFT, PILFERAGE

(By Joel Elson)

PHILADELPHIA.—Hijacking and other apparel thefts are growing at an alarming rate with no end in sight.

Insurance, traffic, industry and Government authorities estimate annual losses suffered nationally through such depredations is in the neighborhood of $1 billion.

The U.S. Senate Select Committee on Small Business will soon hear apparel industry testimony on theft and pilferage of goods shipped by truck and rail.

Richard Tobey, president of Freight Traffic Services, Inc., Gladstone, N.J., told Fairchild News Service® that he is scheduled to present documented losses incurred by apparel manufacturers because of pilferage and theft.

His testimoney will cover attempts by trucking firms to raise rates by as much as 180 per cent; increasing number of carriers to limit their liability on claims for loss, theft or pilferage, and refusal my many motor carriers and freight forwarders to make pickups of clothing.

At the hearing Tobey will represent the Clothing Manufacturers Association of the U.S.A., the National Knitted Outerwear Association, the National Outerwear & Sportswear Association and the Fashion Apparel Manufacturers Association.

The situation is getting so bad, it was learned, that goods are being offered before they are stolen and the CMA has also asked for time to appear before the Senate hearing which is investigating organized crime to bring the whole delivery problem to the surface publicly.

And those clothing makers, which have been losing hundreds of thousands of dollars yearly, from hijacking and pilferage, can't reverse this despite the security precautions they take.

Many manufacturers see truckers, especially, too independent despite Federal and State regulations in effect.

But clothing factory officials also are starting to re-evaluate preconceived notions as to exactly where the theft and loss problem really begins.

By no means are they putting the entire blame for losses on the shoulders of the trucking fraternity.

Soft goods retailers are being thought of as quite heavy contributors to growing losses of goods shipped but which never reach the destination.

Manufacturers are no longer hiding their impatience with retailers and are taking the approach that stores can cut down losses by reporting concealed losses quicker on receipt of a shipment.

"Retailers have not been reporting enough packaging discrepancies—the goods come in short and that's it," FNS was told by Albert Ettelson, president of V-Lines Clothes Co. here.

Other garment producers want retailers to sign for deliveries less haphazardly and with more care and attention to the condition of packages.

Some manufacturers are of the opinion that the only course left open now is that used by H. Daroff & Sons, Inc., here.

This men's clothing producer, for some years now, has been filing lawsuits in State and Federal courts, on behalf of its customers, against trucking firms which fail to either deliver or explain the whereabouts of consignments to retailers.

That retailers are not willing to fork over hard cash for otherwise undelivered merchandise so that factories must try to get payment somehow is why many heads of plants are now seriously considering following similar legal action to recover damages.

CRIME IN THE DISTRICT OF COLUMBIA

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday as reported by the Washington Post. Whether this list grows longer or shorter depends on Congress.

There being no objection the article was ordered to be printed in the RECORD, as follows:

WOMAN CHARGED IN FATAL STABBING IN DISTRICT

A Northwest Washington woman has been charged with homicide in the Tuesday night stabbing of a McLean man, police reported.

Irene D. Lusher, 44, of 518 H St. NW, was arrested in connection with the slaying of Moses Andrews, 55, who was fatally stabbed in the chest during an argument in the lobby of the D.C. Hotel, 806 K St. NW, at 10:15 p.m., according to police.

In other serious crimes reported by area police up to 6 p.m. yesterday:

ROBBED

Jimmy's Restaurant, 501 East Capitol St., was held up about 8:10 p.m. Tuesday by two youths, one brandishing a handgun. "Here's the bag. Put the money in it before I blow your head off," the gunman told the clerk, tossing her a paper sack. She handed him the bills and the pair fled on foot, heading north on 6th Street SE.

Maude V. Clark, of Washington, was robbed about 8:50 p.m. Tuesday as she was walking in the 900 block of Emerson Street NW. A teen-ager approached her from behind, grabbed her pocketbook containing only papers and cards and escaped into an alley in the 4900 block of Georgia Avenue. Miss Clark, who was thrown to the ground during the struggle over the bag, was treated for facial cuts at Washington Hospital Center.

Margaret P. Sweeney, of Washington, was robbed about 2:30 p.m. Tuesday at the Turkey Thicket, 10th Street and Michigan Avenue NE, by a young man who placed a hard object in her back warning, "Just keep quiet and you won't get hurt. All I want is your money. Don't turn around and don't make any disturbance." After removing the bills from her purse, the man fled toward Perry Street NE.

Joseph A. Pasternak, of 1629 Columbia Rd. NW, was held up about 4 p.m. Tuesday by five youths, one armed with a revolver. The gunman forced Pasternak to hand him the money and the youths fled into an apartment building in the 1600 block of Argonne Place.

Arthur F. Clark, of Washington, was treated at Rogers Memorial Hospital for injuries he suffered when he was beaten and robbed about 9 p.m. Monday near his home at 6th and M Streets NW. Two men attacked him from behind, beating him in the head and knocking him to the ground. One of them searched his pockets and removed $1, then fled with his companion.

Walter Woodland, of Washington, a student at Moten Elementary School, was robbed about 12:30 p.m. Tuesday by a 12-year-old boy who attacked him as he was walking beside the school. Brandishing a brick and a stick, the boy ordered Woodland to hand over his coat. Woodland complied and the boy fled from the scene.

Safeway food store, 801 17th St. NE, was held up about 6:50 p.m. Tuesday by two youths who entered the store and walked up to the office window. One of them pointed a handgun at a clerk and ordered, "Come here and give me the money." She placed the cash into the money slot, the youths grabbed it and ran from the store.

Rudolph Watson, of Washington, a driver for American Industrial Rental Service, Inc., was held up about 1:50 p.m. Tuesday as he was approaching his delivery truck which was parked in the 800 block of Kennedy Street NW. A young man holding a gun in his pocket told him, "Be calm, man. Give me all the money." He then ordered the driver to enter his truck and lie on the floor while he escaped.

Harrinauth Rupnarain, of 1411 K St. NW, was held up about 2:30 a.m. Tuesday by a man who offered him a ride in his car when he spotted Rupnarain waiting for a taxi at Kendall Street and New York Avenue NE. After driving Rupnarain to his home, the man pulled out a long-barreled revolver and, threatening to kill him, ordered his passenger to hand over his money. Taking a wallet and two records, the driver told Rupnarain to get out of the car and not turn back, then drove southwest on New York Avenue.

Richard Minor, of Silver Spring, was held up about 10 p.m. Monday as he was walking in the 1600 block of Montello Avenue NE. Two men passed him on the street, wheeled around and confronted him. "This is a stick-up. Give me your money," one of them told Minor and pulled out an automatic. After Minor handed them a paper bag full of money, the unarmed man urged his companion, "He has a gun. Shoot him . . . shoot him." Minor then handed the pair his pistol and they fled into an alley towards Meigs Place.

XUM

Francis V. McCoy, of Washington, was treated at George Washington Hospital for injuries he suffered during an attempted robbery. Two men attacked McCoy as he stepped off a bus at 46th and H Streets SE, knocked him to the ground and kicked him in the face and body. After searching McCoy unsuccessfully, the pair ran south on 46th Street.

Allen Gillem, of Washington, was admitted to Freedmen's Hospital in critical condition after he was attacked during an attempted holdup about 2 a.m. yesterday. Four men, one wielding a gun, approached Gillem and his female companion as they were leaving a sandwich shop at 8th and H Streets NE. "This is a holdup," the gunman said and forced the pair into the car. As the men sped away, Gillem and his companion jumped from the auto and escaped.

Kowloon Restaurant, 410 61st St NE, was held up about 8:30 p.m. Tuesday. One of two men seated at the counter drinking sodas pulled out a revolver and said to the cashier, "This is a holdup." The two men went to the rear of the restaurant and took the money from the cash register, then approached a customer, Willis Green, of Washington. "Give me your wallet," the pair told Green, and grabbing his billfold, ran from the building and drove off in a car parked outside.

Peoples Drug store, 6901 4th St. NW, was held up about 10:15 a.m. yesterday by a young man who asked the clerk for a bottle of cough medicine. He then drew a revolver and demanded money. Taking the cash in a paper bag, the gunman stood by the rear door, then fled from the store.

Emogene Carter, of Washington, a student at Springarn High School, 26th Street and Benning Road NE, was held up inside the school about 9 p.m. Tuesday by a man displaying a pistol who forced her to surrender her wallet containing $2.99 and ran from the school.

Alice Hamilton, 82, who operates a store at her home, 7510 Ox Rd., Fairfax, was beaten and robbed by four men, one of whom entered her store and purchased a quart of oil. He then walked outside, returning shortly with a handgun and three companions. The men beat Mrs. Hamilton to the floor, tied her hand to the counter and fled with her money and eight cartons of cigarettes. Mrs. Hamilton was found 15 minutes after the robbery by a candy delivery man.

STOLEN

A $2,500 diamond ring was stolen between 1 and 5 p.m. Tuesday from a room at the Washington Hilton Hotel, 1919 Connecticut Ave. NW, registered to John Hichew, of St. Louis.

Two watches, four pair of earrings, a pearl bracelet, two necklaces, a pin, a pair of cufflinks and a set of contact lenses, with a total value of $5,500, were stolen from a room at the Washington Hilton Hotel, 1919 Connecticut Ave. NW, registered to Aaron J. Kaycoff of Westfield, N.J., sometime between 9:15 a.m. and 4:45 p.m., Tuesday.

Two pocketbooks, three pair of shoes, eight dresses, four sweaters, four pair of gloves, four rings, six scarves, a bracelet, a watch pin, six pair of earrings and a suitcase, with a total value of $1,345, were stolen between 4:30 p.m. Monday and 8 a.m. yesterday from a car belonging to John D. Deardourff, of 436 New Jersey Ave. SE, while it was parked in front of his home.

A tape recorder, 50 tapes, an amplifier, three paintings, an electric mixer, an electric can opener and $400 cash, with an estimated total value of $565, were stolen between 10 a.m. and 5 p.m. Tuesday from the apartment of Madison Calvin Wilson, 1808 Newton St., NW.

A record player was stolen sometime between March 12 and March 17 from Powell Elementary School, 1400 Upshur St. NW.

Nineteen cases of Whiskey, valued at $1,247.70, were stolen between 6 p.m. Monday and 8 a.m. Tuesday from a Jacobs Transfer, Inc. truck, according to Thomas F. Foran, of College Park, a company supervisor.

A briefcase containing $3,500 in cash and several credit cards was stolen about 9:30 a.m. Saturday from a pickup truck belonging to Calvin O. Bayliff, of Arlington, which was parked in the 2500 block of Ontario Road NW.

ASSAULTED

Ronnie Gaines, of 648 E St. NE, was admitted to Rogers Memorial Hospital with gunshot wounds in the back and hip. Gaines was injured during a fight at about 11:15 p.m. Tuesday on the porch of his home with a man armed with a gun who fired three shots at him.

STABBED

Bernard Slaughter, of Washington, was admitted to Washington Hospital Center in serious condition after he was stabbed in the neck, arm and chest during a fight with a youth armed with a knife at about 11:30 p.m. Tuesday at North Capitol and Bryant Streets NW.

Matthew Louis Gattling, of 316 18th Pl. NE., was admitted to Rogers Memorial Hospital in critical condition after he was stabbed in the chest during a fight at 8:45 a.m. Tuesday with a man wielding a knife.

FIRES SET

A fire causing minor damage was started about 1:10 p.m. Tuesday when a stage prop and loud speaker were ignited in the stage dressing room at Hart Junior High School, 6th Street and Mississippi Avenue SE.

WOMAN HELD IN BANK ROBBERY TRY

A 37-year-old Washington woman was arrested at her home at 7:45 a.m. yesterday in connection with an attempted robbery Monday at a Northwest Washington bank branch where she has an account, police reported.

Police charged Evangelo Price, of 728 Ingraham St. NW., with an attempted robbery of the Riggs National Bank branch at 1913 Massachusetts Ave. NW.

A woman entered the bank about 2 p.m. Monday and passed a teller a note saying, in part, "Please, there's a bomb. Put the money in a bag," according to police. The teller said she ignored the woman, walked from the window and pressed the alarm button.

In other area court and police actions reported by 6 p.m. yesterday:

INDICTED

James T. Cogdell, 29, of no fixed address, and Russelle Lee, 22, of no fixed address, were indicted yesterday by a grand jury in U.S. District Court in Washington for first-degree murder, second-degree murder, attempted robbery while armed and lesser charges in the shooting death of Benjamin Caldwell last Feb. 8.

Harry Andenson, 22, of D.C. Jail, armed robbery and lesser charges in the $100 holdup of Whitaker's Wines and Liquors, Inc., last Dec. 29.

Marvin E. Appling, 18, James Belton, 20, Walter V. Miles, 22, all of D.C. Jail, and David Graham Jr., 21, of 3912 4th St. NW, armed robbery and lesser charges in the theft of $394 from Harry Friedman on Jan. 17.

Thomas H. Autry Jr., 27, of 611 Florida Ave. NW, possession of narcotics.

Warren Baylor, 27, of 1320 S St. SE, and Naomi E. Frazier, 34, of 1200 Delaware Ave. SW, unlawful possession of narcotics.

Frederick V. Benjamin J., 23, of 3808 Washington St., Kensington, unlawful possession of narcotics.

Reese Blakeney, 37, of 356 Anacostia Rd. SE, carrying a dangerous weapon and possession of narcotics.

Charles Chambers Jr., 24, of 6713 13th Pl. NW, first-degree murder and carrying a dangerous weapon in the Feb. 8 shooting of Charles A. Warner.

James Cooper, 37, of D.C. Jail, armed robbery and lesser charges in the gunpoint theft of $14 from George Gardiner on Sept. 15, 1969.

James E. Donnell, 53, of 1907 15th St. NW, second-degree burglary and grand larceny in the Jan. 24 theft of $917 after a break-in at the home of Areatha L. Jarvis.

William A. Howard, 31, of 1401 Fairmont St. NW, possession of narcotics.

Carl Ivey, 21, of 234 37th Pl. SE, second-degree burglary and grand larceny in the Feb. 3 theft of a vacuum cleaner, a television set, a radio and clothing, with a total value of $830, from Thomas E. Richmond.

Arthur S. Jones, 23, of Lorton Reformatory, escape from custody.

Tony Koonce, 18, of D.C. Jail, armed robbery, assault with a dangerous weapon and lesser charges in the Jan. 8 holdup of a Colonial Parking, Inc., lot.

Diane Lee, 18, of 1427 Holbrook St. NE, forgery and uttering.

Bernard R. Love, 25, of 6 Florida Ave. NW, second-degree murder and carrying a dangerous weapon in the Jan. 2 shooting of James L. Brown.

Joseph E. Peterkin, 20, of Palmer Park, robbery and assault with a dangerous weapon in the theft of $172 from Angela M. Bullard on Dec. 2, 1969.

Bernard A. Robinson, 30, of 816 N. Patrick St., Alexandria, possession of narcotics.

Sean D. Scott, 20, of 2501 25th St. SE, first-degree burglary, assault with intent to rape and assault with a dangerous weapon.

Ronald C. Thomas, 24, of 4819 Central Ave. SE, assault with a dangerous weapon and carrying a dangerous weapon in a Dec. 23, 1969, gunpoint attack on William A. Jones.

Barrington Williams, 43, of 5826 Colorado Ave. NW, sale and purchase of narcotics.

Luis E. Cardenas, of 105 E. Glendale Ave., Alexandria, false statements to the Immigration and Naturalization Service.

SENTENCED

Clarence Carter, 33, of Washington, was sentenced to serve five years and to pay a $1,000 fine yesterday by Alexandria Corporation Court Judge Franklin P. Backus and a jury after being convicted of possession of heroin. He was arrested last Aug. 29 in a residence at 712 N. Fayette St., Alexandria, while allegedly attempting to inject heroin into a companion.

ADDRESS BY SECRETARY OF TRANSPORTATION VOLPE BEFORE NATIONAL PRESS CLUB

Mr. PEARSON. Mr. President, the increasing impact of transportation on our Nation has long been widely recognized. However, only recently has it become apparent in the public mind that a harmonious relationship must be firmly established between the need to transport people and things and the need to insure an inhabitable environment.

The Department of Transportation, under the solid leadership of Secretary Volpe, has, in my opinion, taken important steps to improve and protect our environment, while administering a national transportation network of awesome dimensions and complexity. Indeed, John Volpe is faced with some of the most profound problems of our society—problems of mobility, job opportunity, regional planning, environmental protection, and many others. Although he and his associates have been on the job little more than a year, many people, including the Members of this body, have been impressed by his enthusiasm and determination.

Accordingly, I invite the attention of the Senate to a speech made yesterday by Secretary Volpe before the National Press Club here in Washington. It provides, in my judgment, a readable summary of what's happening in the transportation field.

I ask unanimous consent that the speech be printed in the RECORD.

There being no objection the address was ordered to be printed in the RECORD, as follows:

REMARKS BY SECRETARY OF TRANSPORTATION JOHN A. VOLPE AT NATIONAL PRESS CLUB, WASHINGTON, D.C., TUESDAY, MARCH 17, 1970

Albert Gallatin, Thomas Jefferson's Secretary of the Treasury, advocated a Department of Transportation back in 1804—an idea that took 162 years to bear fruit. Cynics say that's par for Washington.

During those 162 years—while the country was growing—we acted like the Nation of "Do-it-Yourselfers" that we will always be, and entrepreneurs flung together the most extensive and expansive network of transportation facilities the world has ever seen. The only hitch, however, was that those were slower paced times and it wasn't necessary to give much thought to how one mode would link up with the others.

The "interface," as the systems boys call it, was somebody else's problem—the shippers and the passengers. And—back around the turn of the century when all this expansion was going on—nobody bothered very much about environmental side effects. After all, they argued, this country was so big that we could afford a little pollution. The cities were small, the spaces were wide open and the pace was slow.

But times have changed. Today the papers are filled with stories about congestion, pollution, urban decay and environmental disaster. We have become almost overnight, it seems, a land of massive cities and exploding populations. Our cars, trucks, planes and buses have multiplied along with the people.

The sheer dimensions of today's network of rails, highways and airways are hard to grasp. We have to talk in terms of billions of passengers, billions of ton-miles and tens of billions of dollars. It is the world's most complex and overall the most successful, network for movement of goods and people anywhere.

And yet, we are suddenly aware that it is not nearly good enough. We have come face-to-face with the inescapable fact that there is a vital public responsibility in this traditionally autonomous industry. And that is a responsibility, ladies and gentlemen, that this Administration intends to fulfill.

As we enter the decade of the seventies, the Department of Transportation finds itself astride the the most profound problems in modern society—problems of mobility, job opportunity, resource preservation, public health, regional planning, public education, recreation and environmental excellence. In short, what we do in Transportation will play an extremely significant role in determining the quality of life in these United States for a long time to come.

We can no longer make do with mere transportation "Networks," each spinning on its own merry way. We must create a balance, harmonious transportation system that meets a number of pressing social needs.

You all know what that means. We must cut out and eliminate these deadly pollutants from the air, up to 80 percent of which—in some areas—are attributed to motor vehicle exhausts. We must encourage—indeed, entice—much of the public to return to public transportation if we hope to make a dent in city traffic. We must make certain that the human element—not in some cases, but in all cases—gets top priority in the planning and building of new highways, airports and transit facilities. We must make transportation as safe as technically possible.

And we must get it in our heads once and for all that transportation is a utility which determines the effectiveness of schools, hospitals, job training and employment accessibility. Transportation can make or break our cities as they evolve into regional urban complexes.

I submit that we have made substantial progress along these lines during the last year. We are building momentum. We know where we are going and like the pioneers of old we are absolutely determined to get there. In that context I am delighted to announce here today that our Department—through the Federal Railroad Administration—has contracted with the Grumman Aerospace Corporation to start a project that will certainly inaugurate a new chapter in man's saga of mobility.

A letter contract has been signed calling calling for a $3 million engineering and technological studies' project for a 300 mile-per-hour tracked air cushion vehicle and an appropriate guideway. Grumman, the company that built the first lunar excursion module—the "Eagle"—will bring to the challenges of ground transportation all the experience and ability they have applied to our progress in outer space. We anticipate that this tracked air cushion vehicle contract will place us firmly in stride in developing a new generation of intercity ground transportation system.

In addition to this 300 mile-an-hour development project, we also expect to announce, at an early date, a contract for an actual demonstration tracked air cushion vehicle operating at 150 to 200 miles-per-hour.

This lower speed vehicle—which a number of firms are interested in—will operate over short distances up to 25 miles. We expect it to be in operation—in actual demonstration service—by late 1972.

So you see, we are looking to the future. But at the same time, we have done much in these first short fourteen months.

Let me sum up a few of our accomplishments that we feel are going to make a great deal of difference in the quality of life in this country.

First we recognized that we were taking over an organization that was less than two years old. It was a sort of conglomerate, with Federal Aviation Administration people thinking only about aviation, highway people thinking only about highways, and so forth. Our first mission was to impress upon everyone that transportation must be considered in its entirety. That no mode can stand alone.

And this philosophy has worked so well that we even have Frank Turner going out making speeches in support of the Airport/Airways Bill, and the Public Transportation legislation! And Jack Shaffer and Carlos Villarreal make speeches in favor of better highways!

Secondly, we worked to improve the organizational structure of the Department—to make our work more "relevant", if you don't mind an overworked word. Perhaps the most significant action along these lines was the creation of the office of the Assistant Secretary for Environment and Urban Systems. Dorm Braman, the former mayor of Seattle, has done an outstanding job in this post—serving, if you will, as the "conscience" of the Department.

Within this new format we have chalked up a number of accomplishments. We have taken steps to abate aircraft noise, both now and in the future. We have won agreement from the airlines that smoke from jet engines will be cut back by 1972, not by 1974 as they had originally planned. We have supported projects to find workable new sources of propulsion for cars, trucks and buses, such as steam, electric, and turbine engines. We worked closely with Detroit to get agreement on producing engines that would not require leaded gasoline. And we tightened emission standards for 1970 cars and began regulating truck and bus exhaust for the first time.

In the long run, of course, as traffic volume continues to increase 50 percent every decade, the sheer number of vehicles may well require that the internal combustion engine be phased out entirely. The research we are funding now will prepare us for that possibility, although some recent research indicates that the internal combustion engine *can* be completely cleaned up.

While we are on this subject, I don't think you can logically talk about pollution on one hand and not discuss safety on the other. The toll of death and injury on our highways is a national scandal. Vehicle crashes kill ten times more people every year than all the crime in this country. More than 150 highway deaths *every day*. They cost us $16.5 billion per year. And they deprive us of some of our most productive people, especially in the younger age group.

I said when I came into this Department that transportation safety was going to be at the top of our agenda. It was. It is. And it will be.

We intend to do everything necessary to ensure the safety of the motoring public and pedestrians as well. In this there can be no compromise, for who can estimate the potential of a life that is saved or the value of a life that is lost?

Another priority matter is traffic congestion on land and in the sky. Keep in mind that we are adding 10,000 new vehicles to our roads every day—a pace that highway construction cannot keep up with by any stretch of the dollar or of the imagination. In aviation, keep in mind that in 10 years the number of annual air passenger miles will be triple what they are today.

The state of our airways is critical. We drafted and sent to the Hill an Airport/Airways Bill that will invest $15 billion over the next ten years in facilities, equipment and manpower to ensure the safety and convenience of the airborne public. That Bill sailed through the House—by a vote of 337 to 6. It zipped through the Senate by a tally of 77 to 0. (We win 'em big!)

These figures indicate the broad support for action to build 900 new airports, update some 2,700 existing fields, and modernize the air traffic control and navigation system. The Bill goes to conference committee tomorrow and we hope to have it on the President's desk shortly.

We are also looking ahead to favorable action on our Public Transportation Bill of 1970.

I need not tell you gentlemen that the urban bus and the rapid rail systems of this country are in a perilous state. Some 235 transit companies have gone out of business in the last few years. Fares have gone up and service has declined to a condition that is far from what the American public deserves and expects.

We have invested nowhere near as much money in public transportation as we have in highways. We have invested nowhere near as much money in public transportation as we should have. As I tell them up on the Hill day after day after day, we've got one heck of a lot of catching up to do!

In fiscal 1968 we spent about $190 million for public transit, while we were spending over $4 billion on highways. This is not to say that we have to halt highway building. The way America is growing, we need all the carefully-planned, compatibly-built highways we can get. America's highway system has strengthened the economy, broken down travel barriers and brought all Americans closer together. It's a great asset.

What we need to do now, is give similar emphasis to the problems of public transportation. And when I say now, I mean now.

We propose to invest $3.1 billion over the next 5 years to save and upgrade these vitally needed systems and to ensure the social health and mobility of our metropolitan regions. The Senate has agreed that the job must be started at once and it passed our Bill by a vote of 84 to 4—again a massive demonstration of bipartisan support and confidence.

Passage of the Bill won't be as easy in the House, of course. (That's where the money comes from.) But we are getting more optimistic all the time. I think the American people realize that we cannot move today's millions of commuters and shoppers and students and job seekers by leaning so heavily upon the private automobile. Total dependence on the private auto for urban mobility is unfair, unrealistic—in fact—unworkable.

That brings me to a final point of emphasis—one that sums up all the rest. And that is our commitment to the American heritage—the great environment so rich and full of opportunity—which has given this country so much.

I am personally committed—as my agency heads are—to make certain that from now on our fabulous system of transportation contributes substantially to the fulfillment of human needs and environmental needs—instead of just shifting boxes and bodies around the country.

A reasonably good job has been done in the past—but we are committed to excellence. We are determined to do a better job than has ever been done before.

In the area of human needs, we have taken firm steps during this past year to assure an increase in the hiring of minority workers on Federally-funded transportation construction projects. We have expanded the Highway Act of 1968 and now are determined that no highway or other Federal-aid transportation project can proceed until replacement housing is available—built, if necessary.

Regarding the environment, we have acted to save the Everglades from the threat of a giant airport, relocated a highway scheduled to run through the historic French Quarter in New Orleans and two weeks ago I decided that Franconia Notch in New Hampshire would not be ruined by an untimely highway. These are just examples.

Ladies and gentlemen, America's transportation capability will grow. It is fatuous to think otherwise. But I am emphatic when I say that this growth will take place within a different framework—and with different criteria—than we have used over the past 200 years. We can do no less.

We are not out to condemn land, to build ugliness, to dislocate people. I am a builder by profession, and it has always been my personal creed to leave the land a little better than it was when I found it. In addition to that, I am a human being. And each of these gentlemen here with me today recognizes that transportation is, in the final analysis, a servant to the people.

Working together, we pledge that we will provide leadership that will bring all Americans a proper balance between mobility and serenity.

FORD FOUNDATION ANNUAL REPORT

Mr. PERCY. Mr. President, in the Ford Foundation annual report for 1969, Mr. McGeorge Bundy, president of the Ford Foundation, reviews the provisions of the tax reform bill passed in December 1969, and its effect on foundations.

Mr. Bundy feels that the new law will permit and protect the effective continuation of the basic programs of the foundation. He comments on both those provisions that he feels will benefit foundations as well as those provisions that he feels will harm the work of foundations such as the 4-percent tax on net investment income.

I believe that the fair and objective comments on the tax reform bill by the president of one of the leading foundations in the country will be of great interest to Senators.

I ask unanimous consent that Mr. Bundy's remarks be printed in the RECORD.

There being no objection the remarks were ordered to be printed in the RECORD, as follows:

THE FORD FOUNDATION ANNUAL REPORT 1969, OCTOBER 1, 1968, TO SEPTEMBER 30, 1969

The opening days of a new decade—even for those engaged in the business of philanthropy—offer a tempting invitation to survey the recent past, examine the present, and record some first, quick judgments about the years ahead. Within this institution, the processes of forecasting, self-examination, and change are almost constant, and these opening pages of our annual reports have generally been used only to underscore the more important actions and developments of the preceding year. I am this year departing from past practice not only because a new decade is beginning but because foundations in America are entering a new era. There has been a change in the governmental and social climate in which foundations will do their work during the Seventies.

On December 30, 1969, President Nixon signed into law the Tax Reform Act of 1969 which, among its many other provisions, includes the first extensive legal framework we have had in this country for the work of foundations. We must defer final judgment until the statute is fully developed in regulations and by interpretation, but my current belief is that the new law will permit and protect the effective continuation of all the basic programs of this Foundation. I believe it is essentially right that foundations as a class should have the framework of permanent safeguards against abuse which the new law aims to provide.

Our main task is to help to make the new law work, and especially to cooperate in the complex process by which a new statute is brought to life in detailed regulations. It is never easy to adjust to a new law, particularly to a wide-ranging one which must gradually be amplified in operation and interpretation. Within the past few weeks we have begun what is likely to be an extended period of transition, seeking to determine, in cooperation with government, the precise kinds of adjustments in programs and procedures which may be necessary to ensure full compliance with the Congressional purpose. As understanding is being sought, patience will be required. Already we are deeply indebted to the responsible administrative authorities and their dedicated legal staffs, in the Treasury Department and in the Internal Revenue Service, for the priority, time, and sober thought they have accorded our problems.

At the outset it is important to understand what the new law provides and what it seeks to accomplish. In the sixty-five pages devoted to foundations in the new law Congress gives new meaning to the term "foundations," puts an "excise tax" on them, set rules that regulate their philanthropic expenditures and programs, requires full reports on what they do, and removes some of the tax incentives for their establishment and growth. Most parts of this new law on foundations we regard as constructive, necessary, and long overdue; others give us concern; a few may not serve the public interest.

I

The first and least controversial set of provisions comes from studies and recommendations of the Treasury Department. They are designed mainly to prevent the misuse of foundations for the financial or business advantgae of those who set them up.

The new law contains stringent regulations against what is called "self-dealing," a process by which some foundations have been used by controlling parties to their own financial advantage. The law also requires a gradual divestiture by foundations of controlling interests in particular companies. This rule is consistent with long-standing Ford Foundation policy; in the last fifteen years we have reduced our holdings in Ford Motor Company stock from 88 per cent to 25 per cent, and, as a matter of sound investment policy, we expect to continue that process. The stock in the hands of the Foundation is non-voting.

The new law also sets a minimum that endowed foundations must pay out each year for philanthropic purposes. The minimum required payout (fully effective in 1975) will be 6 per cent of assets or full net investment income, whichever is higher. We think this payout requirement is high enough to remove all doubt that a foundation is in fact serving charitable purposes. We believe that foundations as a whole already pay out sums comparable to what the new law requires. Our own policy in recent years has been to pay out at a substantially higher rate than 6 per cent. We supported this requirement.

We did raise serious questions before the Congress about a different provision of the new law. This provision makes it far less attractive for donors to make gifts of appreciated property to private foundations for endowment purposes than to make such gifts to colleges, universities and publicly-supported charities. As a result, a rich man considering a capital gift of $10 million in appreciated property will find that giving to a foundation as against a charity more favored under the law could mean a difference in the donor's tax of as much as $3.5 million. Colleges and universities correctly emphasized their heavy dependency on large gifts—often in the form of appreciated securities—from a limited number of donors, and as a result the law as enacted preserves the benefits of such gifts as far as they are concerned. Foundations were treated differently and, as it now stands, the provision seems likely to have a sharply limiting effect on their establishment and growth. We doubt that this provision will serve the public interest.

Foundations in the past have been encouraged on two grounds: first, because they produce multiplier effects in the application of private wealth to public purposes; second, because American society needs all the diversity it can get—private as well as public—in support of its educational, scientific, and social enterprises. In the decades ahead America will need at least as much philanthropic ingenuity and diversity as it has enjoyed in the last century; we believe it will be shortsighted, therefore, to shrink or limit the growth of foundation resources currently available to the nation.

II

A second set of requirements in the new law relates to what foundations actually do with their grants. The Treasury made no recommendations in this area; the legislative devices were all shaped by the Congress. The Act establishes new controls over three classes of activity—grants to individuals, private foundation funding of voter registration drives, and work that might influence legislation. It also imposes on foundations a new kind of "expenditure responsibility" under which they must accept and discharge certain duties of monitoring which hitherto have been the responsibility of the Internal Revenue Service.

In each case the Congress faced a very difficult legislative task—to prevent actions that were obviously undesirable while permitting other actions, outwardly similar, that are just as obviously good. Thus, in the field of individual grants, it is obviously wrong that a foundation should be free to make arbitrary grants to relatives or hangers-on of its managers or trustees, but it is equally obvious that the right to make awards and fellowships to selected individuals is one of the most constructive powers of organized philanthropy. The Congress eventually found its solution here in the requirement of an "objective and non-discriminatory basis" for awards under procedures to be approved by the Treasury. Since a well-intentioned but easily misunderstood action of the Ford Foundation (travel and study awards to former members of the staff of the late Senator Kennedy) was responsible for much of the legislative concern with individual grants, we are glad that this workable solution was found.

In the case of voter registration, the Congress approved the use of foundation funds where such activity is carried on widely (in five or more states) by a charitable organization that is nonpartisan and does not get more than 25 per cent of its support from any one exempt organization. While this provision may prove to be unduly restrictive, especially in its very broad geographical requirement, it does attempt to strike a balance between two important needs—first, the need for access to charitable funds in the course of registering those not yet fairly represented in our democratic process, and, second, the need to protect those who seek public office against any arbitrary intrusion of tax-exempt money into a particular political campaign.

The hardest task of accommodation may come on the question of "influencing legislation." Here the Congress has written new language for an old problem. The law has long prohibited charitable organizations from devoting any "substantial" part of their activity to influencing legislation. The new law extends these restrictions to all such activities, even though "insubstantial."

This new language presents particularly sensitive questions of interpretation for Treasury regulations. Clearly it is not in the public interest that private foundations should engage in the activities that most of us have in mind when we talk of lobbying, propaganda, and electroneering. But in the present-day world, where all manner of issues relate to government, there is almost no subject a foundation touches that may not sooner or later have an effect on legislation. In this Foundation every program area selected by our Board of Trustees for current action is at least indirectly related to the governmental process. In housing and welfare, in education and family planning, in civil rights and criminal justice, in agricultural research and public broadcasting, in the lively arts and in strengthening state government, and certainly in the struggle to ensure equal opportunity, we meet the governmental process every day.

Furthermore, the government itself often wants foundation help on particular projects for which public money is not available, and for our part we are constantly seeking to help in the processes by which new and better public policies may be discovered.

As a current example of this mutual interaction, let me take a particularly happy joint venture—"Sesame Street," a children's television program which is the most successful effort yet made to convert the power of television to the purpose of learning. In supporting this program, which is the product of the extraordinary leadership of Mrs. Joan Ganz Cooney, the government and the foundations have had equal shares. The initial entrepreneurial energy came from Lloyd Morrisett (then at Carnegie Corporation and now leading the Markle Foundation). The Ford Foundation joined Carnegie in initial support of the venture, but the largest single source of funds has been the United States Office of Education. Our initial interest in "Sesame Street" was precisely in the possibility that if it should be successful, it could open a prospect of revolutionary progress in learning among children of many ages. A single season of triumph cannot be definitive on issues so large, but the promise for good in "Sesame Street's" achievement does lie exactly in the prospect that it will influence our national process of learning. That process is mainly supported by public funds, so it is necessarily a largely *governmental* process.

Finding ways to protect this kind of endeavor, while preventing real abuse, was a most important part of the legislative process of 1969, and it may also be the most important part of the process that lies ahead in the interpretation of the new law.

III

The third element in the new law is the imposition of a 4 per cent "excise tax" on the net investment income of foundations. Why Congress insisted on this tax is not clear. In a year of general tax revolt, and of suspicion of all instruments by which the rich may reduce their tax payments, we can only surmise that the tax derives from a feeling that foundations should pay a share of the high cost of government "just like everyone else." The Treasury recommended a smaller audit fee, without net revenue consequences, to cover the full cost of expanded government auditing of foundations. We joined with other foundations in strongly seconding the audit fee principle.

We hope that in due course the Congress will reconsider this decision. The money received from the 4 per cent excise tax will be just that much money that is not available for charitable work of all sorts. A tax on foundations is not a tax on the rich; it is a tax on charity. As such it runs directly contrary to the historic tradition under which charitable organizations have been required to meet their public obligations *not* by paying taxes but by putting their full effort—100 per cent of it, not 4 per cent—into work that is a contribution to society. The significance of the tax lies less in its immediate threat to foundations than in its meaning for the whole American tradition of private giving, and especially for the concepts of pluralism and diversity in American life.

But if in due course the audit fee principle is to be adopted, those of us who work for foundations will have to do a better job than we have done thus far of explaining what we are doing and why. One of the lessons of the year is that the Congress and the foundation world began with a limited understanding of each other's interests and concerns. Since it is the responsibility of any sector of our society to explain itself to the elected government, we must recognize that the fundamental failure here is the failure of the foundations. No group is above regulation, and there is no safety in any notion of an immunity conferred by some divine right of private charity to do just as it pleases.

This is in some ways an uncomfortable conclusion. It remains as true as ever that the freedom of foundations is their most precious asset, and it is certainly true that government regulation could destroy that freedom. The present reality, however, is that the freedom of foundations requires enough regulation to provide confidence, in Congress and in the country, that serious abuses are being prevented. Our problem is to ensure that we are sufficiently understood, and sufficiently supported by Congress and the public, to make that regulation reasonable—a support to our freedom and not an obstacle to it.

One difficulty is that foundations have been perceived as much bigger and more powerful than they really are. We have faced this problem with others; I have written in earlier reports of the trouble the Ford Foundation has in explaining to hard-pressed college presidents that we are just not big enough to solve all their problems. Similarly we have had painful problems in these last two years with all sorts of sponsors of valuable work who believe that foundations can and should make up for any shortfall in the appropriations of government. So we should not have been surprised when it appeared that some responsible legislators had come to believe that foundations are very big and getting bigger—a vast tax-exempt force above and beyond the law.

The fact of the matter is that in the last ten years foundations as a class have been growing in total size at a rate substantially less than that of the Gross National Product. More important, the budgetary problems of carefully programmed foundations have grown more severe with each passing year. In our own case, we have perhaps $240 million a year for carefully programmed activities in education, research, the arts, public broadcasting, domestic, social, urban, and environmental problems, and the plight of depressed societies abroad—fields which need literally billions more than they have. Our annual effort measures against the work of Federal, state, and local government as less than one part in a thousand.

The new law calls for full disclosure every year both to the government and to the public of detailed information about foundation income, expenses, operations, and organization. In any fair appraisal of that law the extensive reporting requirements must be viewed as among its most important and therapeutic provisions. If, as I believe, the central problem of responsible foundations in their relations with government is to dispel mystery and misunderstanding, and to ensure widespread and accurate knowledge of their philanthropic purposes, then full reporting to public authorities and interested citizens should be regarded as an opportunity, not a burden.

In the end, however, we must justify our continuing freedom, and our privilege of tax preference, not only by the way we keep the new law and report on our work, but also by the affirmative value of our record of achievement. We are proud of that record. We are determined not only to make sure that it is better understood but to sustain and extend it.

DEATH OF DR. RICHARD WEINERMAN

Mr. KENNEDY. Mr. President, 3 weeks ago the Nation lost one of its most distinguished and dedicated servants in the field of public health. The crash of the Swissair air jet outside Zurich, in circumstances strongly suggesting sabotage, took the lives of 47 people, including Dr. E. Richard Weinerman and his wife, Shirley Basch Weinerman.

The sudden tragedy of Dr. Weinerman's death is compounded by the fact that his life was cut short at its prime, at a time when he had reached the peak of his profession as a scientist and scholar in public health.

At his death, Dr. Weinerman was professor of medicine and public health at Yale University. In the course of his distinguished career, he had become a world-renowned authority on problems of international health and comparative health care, and an expert in the field of medical economics.

In addition, for the past 16 months, Dr. Weinerman had served on Walter Reuther's Committee of One Hundred for National Health Insurance. As a member of the technical committee of that group, Dr. Weinerman was playing a major role in developing Mr. Reuther's national health insurance proposals, especially in the crucial area of changing the organization and delivery of health services. As a member of the Committee of One Hundred, I had the honor and privilege of working with Dr. Weinerman. To be so cruelly deprived of his magnificent talents at a time when this aspect of his work was nearing fruition, is an extraordinary loss to all of us concerned with the quality of health care in America.

Earlier this month, in a moving eulogy delivered at a memorial service in the Battell Chapel at Yale University, Dr. I. S. Falk eloquently recorded many of the distinguished achievements of Dr. Weinerman during his career. I know that Dr. Falk's address will be of interest to all of us in Congress, and I ask unanimous consent that it be printed in the Record at the conclusion of my remarks, along with the obituary notice that appeared in the New York Times.

The death of Dr. Weinerman leaves the nation the poorer, and I extend my deep sympathy to his friends and his family with these appropriate words:

Where the light of the life of him shines
on the generations that will live,
Death only dies.

There being no objection, the address and article were ordered to be printed in the Record, as follows:

In Memoriam: E. Richard Weinerman, July 17, 1917, to February 21, 1970, and Shirley Basch Weinerman, January 22, 1918, to February 21, 1970

We—colleagues, students, friends and family—are gathered, in a spirit of affection and regard, to express our sadness for the untimely death of E. Richard Weinerman and his wife Shirley Basch Weinerman on February 21, 1970 near Zurich, Switzerland. They died in the explosion of an airplane en route to Tel Aviv, the beginning of a journey for professional studies in Israel and in other countries. Their death was all the more tragic because, reportedly, it came not through some mechanical failure but from the deliberate sabotage of the airplane, an act of ruthless and wanton violence in Arab commando efforts to cripple the Israeli economy. Forty-seven innocent persons were killed, and we lost respected and beloved friends.

We are gathered to express not only our sorrow on their death but our appreciation of them and their lives. We are grateful for all they did for us personally as well as professionally, for Yale, for many other institutions here and elsewhere, and for people throughout our country and in other lands. And we are conscious of the good that will undoubtedly come in years ahead from the foundations they helped lay and the contributions they made for health progress and human welfare everywhere.

Here at Yale, our Department of Epidemiology and Public Health and our Medical Center have lost a brilliant colleague who in his eight years with us was making important contributions to strengthen our institutions and our programs. Many other health and welfare institutions and associations in New Haven, in Connecticut and in many other places have lost a greatly valued participant in their undertakings. Students here—in public health, in health services administration, in medicine, in Pierson College (of which Dr. Weinerman was a Fellow) have lost an inspiring teacher and a devoted and indefatigable guide and counsellor. These are great losses to our education and professional worlds, and we shall have to devise ways to overcome them.

To the families—parents, brother and sister, and the children—of the Weinermans whose loss is not redeemable we extend our condolences and our deep sympathy as we share their sorrow.

E. Richard Weinerman was educated at Yale (AB 1938) and at Georgetown University School of Medicine (MD 1942). He had postgraduate training at Beth Israel Hospital in Boston, the Charles V. Chapin Hospital in Providence, and the Drew Field Regional Hospital in Florida. During World War II he served as Captain in the U.S. Army Medical Corps and was Chief of a Combat Shock Team in Europe.

After the war, he had brief tours of duty as a medical officer in the U.S. Farm Security Administration (1946–47) and in the U.S. Public Health Service (1947); and he rounded out his training in medicine by further formal preparation at the Harvard School of Public Health (MPH 1948). Then, he taught medical economics at the School of Public Health of the University of California (1948–50), while himself achieving special certification under the Board of Preventive Medicine and Public Health (1949) and Board eligibility in the specialty of Internal Medicine (1948–50); and he got his first experience in civilian medical care administration as a Medical Director in the Kaiser Foundation Health Plan in Oakland (1950–51).

He engaged in diverse studies in his postwar interim period—studies which were to foreshadow his major future interests both for the decade in which he engaged as an internist in the private group practice of medicine in Berkeley (1952–62) and for the last eight years he was to spend at Yale. There was a study on education for the health professions in New York State (1947–48), a community health survey in Boston (1948), a survey of hospital facilities in the San Francisco area (1948), and a number of surveys and evaluation studies of prepaid group practice plans and of health and welfare programs in various parts of the country (1949–62).

Two special undertakings were important for the long term interests which they generated. The first of these was the preparation of a report on "The Quality of Medical Care in a National Health Program" for a committee of the American Public Health Association (1949). This was a brilliant formulation of concepts and also of guidelines for action toward safeguarding quality of medical care. It set forth the foundations on which have rested most of the studies on quality of care which others have pursued since then. Dr. Weinerman achieved national recognition through this publication. He continued to be absorbed in this subject in all the years ahead of him.

The second that was to have major influence on his future interests was his study—under a fellowship awarded by the World Health Organization—of teaching and research programs in social aspects of medicine in European universities (1950). This experience introduced him to comparative international developments and experiences; and it was the beginning of his international studies of medical care. His report on "Social Medicine in Western Europe" was well received at home and abroad, and it gave him stature in the international field.

In the years when he was teaching at Berkeley and was engaged in the private group practice of medicine, Dr. Weinerman pursued a variety of special studies. He also participated eloquently, effectively and with enthusiasm and vigor in annual and special meetings of national and sectional professional associations; and he came to be increasingly in demand in professional circles for his clarity of mind and eloquence of expression. At one of these meetings his perspectives on the medical care problems of the day and on their treatment so impressed the Dean of our Medical School and the Director of our Hospitals that they proposed inviting him to Yale to undertake what already had been found a frustrating task—to improve the outpatient services of our hospitals. Others among us joined with them; and he was offered and accepted our invitation; but he came here not with a single but with a triple appointment—as Director of Ambulatory Services and as Associate Professor of both Medicine and Public Health. Three years later he was promoted to full professorship. Another three years later he was relieved of the demanding administrative duties and he moved full-time into the academic posts, free to concentrate on teaching, research and community engagements.

Throughout his years at Yale, Dr. Weinerman's interests were almost boundless, and his professional activities were so extensive as almost to defy description. When still responsible for the direction of the Ambulatory Services of the Hospitals, and for their reorganization and improvement, he found time to pursue—with continuing support from the U.S. Public Health Service—extensive researches on the development of records and statistics systems that might be useful elsewhere as well as here. He and his colleagues on this project prepared an impressive report which has been widely circulated. He also found time to design and inaugurate the Family Health Care Unit as an operational demonstration on the teaching of comprehensive medical care to medical students and on the delivery of comprehensive care to an aggregate of medically indigent families in the local community. He and his associates in this demonstration developed a flow of publications reflecting their experiences, the lessons they were learning, and the results being achieved that could be usefully applied in other settings. He also engaged, jointly with an associate, in comparative studies of comprehensive care programs in various American university medical centers. Then—as a member of a Yale University committee—he utilized these and other studies in helping to design the new program of comprehensive medical care which is now taking shape for the University community.

During his early years at Yale, even while responsible for a large administrative program, he carried a heavy load of teaching—to students in medicine, in public health and in nursing, and he participated through lectures and seminars in other divisions of the University. Nor did he curtail his activities either in national, regional and local associations or in university or community health and welfare agencies around the country. On the contrary, with each passing year, he was giving of his time and energy to an ever-widening spectrum of involvements. And, when a few years ago our present Dean established a Committee on Community Health Services, Dr. Weinerman was appointed chairman and became formally responsible for leadership in coordinating the expanding involvements and relations of the Yale New Haven Medical Center with old and new community health service programs.

During his first years at Yale, medical care was becoming progressively more and more expensive and inadequate throughout the United States. The strains were becoming excessive in New Haven as in most urban areas, and they were precipitating steeply rising demands on the emergency rooms and the

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other ambulatory clinics of hospitals. What should be the role of a teaching medical center as a community resource, beyond what it required for its role as a teaching and research center? Dr. Weinerman drew upon the proposals of many others and on his experiences here to formulate a model. The teaching medical center should strive toward becoming the inner central core of specialized services, ambulatory and inpatient; it should be circled by less specialized but organized community facilities which are backstopped by and which lean upon this inner core; and the core and its community circle should be embraced by an outer circle of state-wide regional organized facilities which are also regionally interrelated. This model is being widely accepted and used.

In the search for rational organization of medical care resources, Dr. Weinerman participated with many groups—some concerned with communitywide programs, others with special undertakings for the urban poor. In New Haven, he gave assistance in the development of our Community Health Center Plan; and he devoted much time and effort to the design and inauguration of the Hill Health Center and of other local programs to serve the poor and nearpoor.

When in 1968 he left the Ambulatory Services and moved into the full-time academic post in the Department of Epidemiology and Public Health, Dr. Weinerman gave himself over even more intensively to the academic tasks. In the field of Health Service Administration, this meant a broader and more extensive program of graduate education, new courses and seminars, a larger staff, more time devoted to fund-raising for the support of students as well as of faculty, and—especially—more time to teaching and participation with the graduate students and post-doctoral fellows. In the field of medical education, it meant participating in the development of new and more flexible curricula for medical students, and even more and more extensive involvement in teaching the social aspects of medicine and the place of the next-generation physicians and other medical personnel in community medicine.

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He saw more clearly than many of his colleagues what is ahead nationally. The steadily growing health manpower shortage and technological complexity of medicine compel that the provision of medical services shall be by and through organized medical groups; that the future of medical service lies with comprehensive group practice; and that the days of solo practice are rapidly approaching an end. And so his involvement was progressively more and more with the patterns of group practice, the interlocking of ambulatory group practice in the community with the specialty and inpatient resources of the medical center. In this area he was applying the extensive knowledge he had acquired through twenty years of study in this field. And his broad and deep knowledge made him much in demand in other communities which sought his counsel—in California, Appalachia, Cleveland, Washington and New York, in various university medical centers and schools of public health, in the Office of Economic Opportunity, in the Indian Service, in Alaska, and elsewhere.

The emerging crisis in medical care is financial as well as technological. Costs, rising steeply, are pricing medical care beyond the reach of tens of millions who are dependent on their private resources; public programs of Medicare and Medicaid and of other services are straining the resources of state and Federal government. In response to a nationwide need, Dr. Weinerman associated himself with others who have been undertaking to design a national program of health insurance which could have the promise of solving the fiscal problems while at the same time dealing with needed technological improvements. He joined the recently created Committee for National Health Insurance which is dedicated to these dual objectives, and he undertook to work on the most difficult aspect of these problems—the design of professional and fiscal incentives for the improvement of the medical care system. Only a few weeks before leaving for Geneva he completed a position paper on this subject which one day, when published, will be regarded I believe as the most imaginative and scholarly treatment ever accorded this complex and important subject.

Three years ago, with support from the Commonwealth Fund, he had rounded out his much earlier studies of social medicine in Western Europe by parallel studies in Eastern Europe—in Czechoslovakia, Hungary and Poland—published last year by Harvard University Press. This year, hoping to broaden his knowledge and understanding of national systems throughout the world, he resumed his comparative international studies of medical care systems by planning surveys in other countries with other kinds of systems—in Israel, Japan and New Zealand. This undertaking came to an abrupt end after only preparatory steps for advance consultations at the World Health Organization in Geneva.

Interspersed among these many activities were many more: Help in developing a new journal (Medical Care), participation in the Connecticut Regional Medical Program, membership in the Advisory Committee on Medicaid for the Connecticut Department of Welfare, and others. And there were extracurricular lectures, seminars and conferences.

Over the years there were nearly a hundred professional publications—journal articles, reviews, monographs—and in addition many for non-professional audiences. There were papers on social policy that helped to crystallize the thinking of many and to influence private and public programs. There were keynote addresses which set the tone and guided the agenda of large and influential audiences. And their diversity reflects the interests of an inquiring mind and of a spirit dedicated to all that contributes to health and well-being.

These activities and contributions were widely appreciated, and Dr. Weinerman received many acknowledgements in professional circles. In addition to membership or fellowship in the more than a dozen professional associations, he was National President of the Public Health Honor Society, Delta Omega (1964–65), and also Chairman of the Medical Care Section (1965–66) and of the Program Area Committee for Medical Care (1968–   ), American Public Health Association. He won professional and fiscal supports for his undertakings from the Public Health Service of DHEW and from the Commonwealth, the Milbank and other private foundations. He had almost innumerable accolades from associations and institutions which he helped.

Richard Weinerman was not alone. His professional life was shared by a devoted wife.

Shirley Weinerman, educated at Smith College (AB 1939) did not start as a technical expert in public health but came to be a knowledgeable professional associate. She was active in many civic programs, a volunteer worker in local agencies, and for years an active and devoted member on the Board of Directors of the New Haven Visiting Nurse Association. Over their years together, she travelled widely with her husband. Her mastery of French, reflected in her participation in the Alliance Francaise, extended their reach in many countries. She participated in their inquiries and observations and in the preparation of their reports. Last year she was a joint author of the volume they published on "Social Medicine in Eastern Europe."

But more than a professional associate, Shirley Basch Weinerman was the other half of the Weinerman team, ever working together. Their home was a place for the sympathetic maintenance of personal relations for their own family, and for never-ending hospitality to all who were part of their personal and professional lives.

The true tests of a man's contributions in science and in its applications is whether he adds substantially to durable knowledge, or whether his studies change the understanding or the course of further evolution. By these tests, E. Richard Weinerman stands well-recorded in the history of our fields. Neither our perspective of needs and problems, nor the course of developments in the disciplines of medical care and health services administration, were the same again after each major series of his publications. His technical studies widened and deepened our understandings; his formulations for planning, organization and performance for the availability of good medical care gave new "anchor points," as he liked to say, and new directions to the efforts and undertakings of many.

That there were resistances to his proposals—whether in our own institutions at Yale or on the larger scene—were no surprises to him or to others; rather, these were understandable elements in the dynamics of change and evolution in the well-established practices of society. There were times of discouragement, but not for very long. His spirit of dedication kept him on course.

Early in his professional life, he had come to see clearly that the physician could serve not only his individual patients but all society. Early, he recognized that this called for improvement in the institutions of society—whether in the availability of personal health services for the individual, in the organization of the services or their delivery or their orderly financing; whether in assurance of food for the hungry or malnourished, or housing for those without good shelter; whether in protection of the environment for all, or in education toward better opportunity in life and living. Early, he set himself on a course toward study and understanding and—even more—toward action for beneficient achievement. And, looking ahead, he devoted himself unremittingly to the students of this generation who are to be our future.

The Weinermans were warm persons who liked their fellow man, and who received friendship even as they gave it. They were dedicated to humanitarian causes, with special dedication to the problems and needs of the poor and the underprivileged. All this shown through.

We—friends, colleagues, students and family alike—express our sorrow upon our loss. We commit ourselves again to clear-purposed goals, as did the Weinermans, for progress in human welfare. (I. S. Falk, Professor Emeritus of Public Health (Medical Care), Yale University School of Medicine, New Haven, Connecticut.)

[From the New York Times, Mar. 2, 1970]

DR. WEINERMAN, YALE PROFESSOR: PUBLIC HEALTH EXPERT AND WIFE DIE IN SWITZERLAND

Dr. E. Richard Weinerman, a professor of public health at Yale University, and his wife, Shirley, were among the 47 victims of the Swissair jet crash Saturday near Zurich. Dr. Weinerman was 52 years old; his wife was 51. They lived at 5 Eastland Road in Hamden, Conn.

Dr. Weinerman, who was on sabbatical leave to study health care systems in Israel, Japan and New Zealand, had stopped in Geneva en route to Israel to discuss his research with officials of the World Health Organization and to use the organization's library. Dr. Weinerman recently had published a book on health care systems in Eastern Europe following a trip to that area.

Although Dr. Weinerman specialized in methods of improving health care, his experience also included service with several United States Government agencies, private practice in internal medicine and involvement in education and administration.

WORKS ON THE COAST

Dr. Weinerman, a native of Hartford, graduated from Yale, and, in 1942, received his medical degree from the Georgetown University School of Medicine.

Upon graduation from the Harvard School of Public Health, in 1948, Dr. Weinerman became associate professor of medical economics at the University of California's School of Public Health, at Berkeley, and later became special resident in internal medicine at San Francisco Veterans Administration Hospital.

In 1962 he returned to New Haven and was director of ambulatory services for Yale-New Haven Hospital. He left that post in 1968 to head the health services section of the department of epidemiology and public health in Yale's School of Medicine.

Dr. Weinerman was a member of the Connecticut advisory committee on Medicaid and the Committee of 100 for National Health Insurance.

He also was the author of numerous articles on health care. Mrs. Weinerman, a Smith College graduate, was not a specialist in public health, but she assisted her husband in his writing.

Dr. Weinerman leaves a son, Jeffrey; a daughter, Dianne; a brother, Robert; his parents, Mr. and Mrs. David P. Weinerman, and a grandchild. Mrs. Weinerman leaves a sister, Mrs. Clifford Barger, and her parents, Mr. and Mrs. Charles Basch.

A memorial service will be held tonight at 7 o'clock at the Emmanuel Synagogue in West Hartford, Conn., and on Monday at 11 A.M. in Yale's Battell Chapel.

DIRKSEN LIBRARY KICK-OFF DINNER A BIG SUCCESS

Mr. HRUSKA. Mr. President, on February 27, the Everett McKinley Dirksen Library Fund sponsored a dinner to inaugurate the campaign to raise $2 million to construct an appropriate wing to the Pekin City Library to house the late Senator's papers and memorabilia and to establish an endowment fund for fellowships.

It was a gala event and all of us who attended had a wonderful time. The entertainment was excellent and the speeches were short. It was a great tribute to a great man—a man we all miss in the Senate.

Coming to Washington at their own expenses and donating their talents were Dinah Shore, Wayne Newton, Frank Sinatra, and Danny Thomas. Mr. Frank Sennes took three days of his time to direct the show.

These entertainers have given much of their time and talents to help raise moneys for charitable causes. The library fund is indebted to them.

For many of us, it was the first time we had seen Louella Dirksen in some time. She came up from her Florida home to be with us to pay tribute to her husband.

She gave a short speech which not only was quite appropriate but masterfully presented. One could not help wondering just how much help she might have given Senator Dirksen with his legendary speeches.

Mr. President, I ask unanimous consent that Mrs. Dirksen's remarks be printed in the RECORD.

There being no objection the remarks were ordered to be printed in the RECORD, as follows:

Thank you Congressman Michel, and thank you Danny Thomas, Frank Sinatra, Dinah Shore and Wayne Newton for being with us tonight.

I remember, Frank, how the Senator used to laugh when the girls mauled you as you went thru the Mayflower lobby, taking a snip from your tie for a souvenir. He almost got to that place in the last few years but the fair sex would settle for a kiss. But I do want you to know how many hours of fun and happiness you have given us over the years.

And you, Howard Devron and your orchestra are bringing back fond memories to me. May you delight Washington audiences for many years to come.

Thank all of you for coming to this Everett McKinley Dirksen Library Fund dinner. I know you wouldn't be here if you hadn't been a friend of Everett Dirksen. I'm sure only his secretary Mrs. Gomien knew the full extent of his friendships. Also I'm sure the future generations thank you.

When this library was conceived it generally come about from the students who were asked to write themes or theses on the cause for the imbalance of the three branches of government in the last forty years—and the libraries have nothing.

This library will house the thinking of Everett Dirksen as well as many of the legislators who have thought as has he in the last half of this century.

Our forefathers framed the Constitution so that each branch would have equal power and be a check on each other. Since I have been in Washington the Executive has interpreted the laws which the Legislative have made until they were completely out of context.

The Judicial have usurped powers far beyond their domain. The reasons for these will be available to students and perhaps they will set our country straight so that once more the power will be in the hands of the people.

The plans for the Library will also call for a quiet place of meditation surrounded by a garden where I am sure David Burpee will see that there are some of the Senator Dirksen smiling marigolds. Thank you once again, and I love all of you.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the letter addressed to Mrs. Dirksen and signed by President Nixon be printed at this point in the RECORD. These words of the President have been echoed many times, not only by Senator Dirksen's colleagues, but by people everywhere who admired and respected him.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

FEBRUARY 24, 1970.

MRS. EVERETT MCKINLEY DIRKSEN,
Washington, D.C.

DEAR LOUELLA: My very best wishes go to all of those who attend the Everett McKinley Dirksen Memorial Library and Congressional Research Center dinner. It is fitting that a center housing an important part of the story of our time should be named after one who contributed so much to that story. In life, Everett Dirksen was a man of great oratorical eloquence; now, the record of his life and times will speak with a different eloquence to scholars and students from all over the world.

This memorial has my wholehearted support. Senator Dirksen's thirty-five years in Congress—sixteen in the House, nineteen in the Senate—saw tremendous changes in our nation and the world. I am gratified to know that future generations will have a chance to study those changes as they were recorded by Senator Dirksen and other congressional leaders. His memorable voice is now stilled, but his great heart will live on through his words and inspire generations to come with the patriotism that was his pride and his power.

With warm personal regards,

Sincerely,

/s/ DICK.

Mr. HRUSKA. Mr. President, the dinner was a sellout, with 900 persons present. Representative ROBERT MICHEL, who represents the district where the library will be constructed, did a splendid job as master of ceremonies. I ask unanimous consent that his remarks be printed at this point in the RECORD.

There being no objection the remarks were ordered to be printed in the RECORD, as follows:

Good evening, Ladies and Gentlemen, I'm Bob Michel, the late Senator Everett Dirksen's Congressman.

May I at the very outset welcome all of you and thank you for your being here. It's so wonderful to see so many of you from all walks of life and all sections of the country.

My first contact with the Senator goes back to high school days, when in his early budding political career, he spoke to our civics class. Little did I realize in those days that I would be called upon to speak, as I did last June 10, at the ceremony on the Capitol grounds when we planted and dedicated a small oak tree in Senator Dirksen's honor. In time it will be one of the giant trees. Nothing could be more appropriate to memorialize him on the Capitol grounds, for it symbolizes his love of nature and like a mighty oak, he was a towering figure in the United States Senate.

Tonight we're here to launch the building of another living memorial. All will agree that he was a great scholar and what more fitting tribute could there be than constructing a library in his honor.

It is my pleasure now to make several acknowledgments and introduce the distinguished guests here on the dais, and move the program along. So, without further ado . . .

Mr. HRUSKA. Mr. President, the program was impressive. The armed services color guard presented the colors, and the Reverend John T. Tavlarides, dean of Saint Sophia Greek Orthodox Cathedral, gave the invocation. His words were an inspiration to all of us. I request unanimous consent that they be printed at this point in the RECORD.

There being no objection the invocation was ordered to be printed in the RECORD, as follows:

O Lord, our Lord, what a Great Lord You are! You have blessed us with memory, and through memory we recall Everett McKinley Dirksen this night.

We recollect his strength and his deeds and we are enriched. We take the good he worked as substance, and we make a place of letters and history as tribute.

We seek to render proper tribute to You, also, Lord, by being in Your "Mind", acting in Your "Image" and loving in Your "Likeness". We long to be as You.

And in this spirit we offer this food, our gifts from Your gifts, for blessing and as sign of commitment to reform society, to transfigure man, to change what is to what will be.

If we have memory, and we have life—our memories and our life spring from You.

For Memory we thank you and for Life we glorify You.—For Everett Dirksen's life and our own existence we praise You, and shout, "O Lord, our Lord, what a Great Lord you are!" Amen.

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Mr. HRUSKA. Mr. President, Senator Howard Baker described the library and the reasons for the endowment fund. The fund will be used to establish fellowships for students and professors of Government who are concerned that the legislative branch of our Government maintain equal power with the other branches so that each might serve as a check on the others.

All of us are aware of the effort and diligence that it takes to make such a dinner successful. My friend, Kim Karabatsos, who also was very close to Senator Dirksen, was the general chairman. He and his charming wife, Betty, are to be congratulated for an outstanding job. Both, I am proud to say, are Nebraskans.

The President and Mrs. Nixon were the honorary chairmen. Cohosts of the events were Mr. and Mrs. James S. Kemper, Jr., of Chicago—Mr. Kemper is national chairman of the Fund—and Mr. and Mrs. Ben Regan of New York. Mr. Regan, until his untimely death last week, was a very close friend of Senator Dirksen. It was most unfortunate that his illness precluded the Regans' attendance, for he is well remembered in Washington, having given the annual birthday party for Senator Dirksen.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

XUM

PROTOCOL TO THE NORTHWEST ATLANTIC FISHERIES CONVENTION

The PRESIDING OFFICER (Mr. Hollings). In executive session, under the previous order, the Senate will proceed to vote on Executive I, 91st Congress, First Session, the protocol to the Northwest Atlantic Fisheries Convention.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on both conventions at the same time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on both conventions.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive I, to 91st Congress, first session, the protocol to the Northwest Atlantic Fisheries Convention?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Bible), the Senator from North Dakota (Mr. Burdick), the Senator from Connecticut (Mr. Dodd), the Senator from Arkansas (Mr. Fulbright), the Senator from Iowa (Mr. Hughes), the Senator from North Carolina (Mr. Jordan), the Senator from Massachusetts (Mr. Kennedy), the Senator from Georgia (Mr. Russell), the Senator from Virginia (Mr. Spong), the Senator from New Jersey (Mr. Williams), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. Anderson), the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Bible), the Senator from North Dakota (Mr. Burdick), the Senator from Connecticut (Mr. Dodd), the Senator from Arkansas (Mr. Fulbright), the Senator from Iowa (Mr. Hughes), the Senator from North Carolina (Mr. Jordan), the Senator from Massachusetts (Mr. Kennedy), the Senator from Georgia (Mr. Russell), the Senator from Virginia (Mr. Spong), the Senator from New Jersey (Mr. Williams), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from California (Mr. Murphy), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Kentucky (Mr. Cooper) is detained on official business.

If present and voting, the Senator from Kentucky (Mr. Cooper), the Senator from Arizona (Mr. Fannin), the Senator from South Dakota (Mr. Mundt), the Senator from California (Mr. Murphy), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) would each vote "yea."

The yeas and nays resulted—yeas 78, nays 0, as follows:

[No. 106 Ex.]

YEAS—78

Aiken
Allen
Allott
Bellmon
Bennett
Boggs
Brooke
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cook
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fong
Goodell
Gore
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hartke
Hatfield
Holland
Hollings
Hruska
Inouye
Jackson
Javits
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Sparkman
Stennis
Stevens
Symington
Talmadge
Thurmond
Tydings
Williams, Del.
Young, N. Dak.

NAYS—0

NOT VOTING—22

Anderson
Baker
Bayh
Bible
Burdick
Cooper
Dodd
Fannin
Fulbright
Goldwater
Hughes
Jordan, N.C.
Kennedy
Mundt
Murphy
Russell
Smith, Ill.
Spong
Tower
Williams, N.J.
Yarborough
Young, Ohio

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on Executive J, first session, 91st Congress, the Convention on the Privileges and Immunities of the United Nations.

The question is, Will the Senate advise and consent to the resolution of ratification? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Bible), the Senator from North Dakota (Mr. Burdick), the Senator from Connecticut (Mr. Dodd), the Senator from Arkansas (Mr. Fulbright), the Senator from Iowa (Mr. Hughes), the Senator from North Carolina (Mr. Jordan), the Senator from Massachusetts (Mr. Kennedy), the Senator from Georgia (Mr. Russell), the Senator from Virginia (Mr. Spong), the Senator from New Jersey (Mr. Williams), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. Anderson), the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Bible), the Senator from North Dakota (Mr. Burdick), the Senator from Connecticut (Mr. Dodd), the Senator from Arkansas (Mr. Fulbright), the Senator from Iowa (Mr. Hughes), the Senator from North Carolina (Mr. Jordan), the Senator from Massachusetts (Mr. Kennedy), the Senator from Georgia (Mr. Russell), the Senator from Virginia (Mr. Spong), the Senator from New Jersey (Mr. Williams), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from California (Mr. Murphy), the Senator from Illinois (Mr. Smith) and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Kentucky (Mr. Cooper) is detained on official business.

If present and voting, the Senator from Kentucky (Mr. Cooper), the Senator from Arizona (Mr. Fannin), the Senator from South Dakota (Mr. Mundt), the Senator from California (Mr. Murphy), the Senator from Illinois (Mr. Smith) and the Senator from Texas (Mr. Tower) would each vote "yea."

The yeas and nays resulted—yeas 78, nays 0, as follows:

[No. 107 Leg.]

YEAS—78

Aiken
Allen
Allott
Bellmon
Bennett
Boggs
Brooke
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cook
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fong
Goodell
Gore
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hartke
Hatfield
Holland
Hollings
Hruska
Inouye
Jackson
Javits
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McCarthy
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Sparkman
Stennis
Stevens
Symington
Talmadge
Thurmond
Tydings
Williams, Del.
Young, N. Dak.

NAYS—0

NOT VOTING—22

Anderson
Baker
Bayh
Bible
Burdick
Cooper
Dodd
Fannin
Fulbright
Goldwater
Hughes
Jordan, N.C.
Kennedy
Mundt
Murphy
Russell
Smith, Ill.
Spong
Tower
Williams, N.J.
Yarborough
Young, Ohio

The PRESIDING OFFICER (Mr. Hollings). Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

ORDER OF BUSINESS

Mr SCOTT. Mr. President, as in legislative session, I ask unanimous consent that the period for the transaction of routine business be extended for the conduct of further morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection. The Senate will be in order.

TRIBUTES TO SENATOR YOUNG OF NORTH DAKOTA ON 25TH ANNIVERSARY OF SENATE SERVICE

Mr. SCOTT. Mr. President, I would like to call to the attention of my colleagues that today the Senator from North Dakota (Mr. Young) is celebrating his 25th anniversary of service in this body. Twenty-five years ago the Senator took the oath of office after having been appointed on March 12, 1945, by Governor Anadahl to fill the vacancy caused by the death of Senator Moses. He was elected at a special election in June of 1946 and has been reelected each 6 years since that time. With his reelection in 1968, he became the longest serving U.S. Senator in North Dakota's history.

I commend the wisdom of the people of North Dakota in sending the Senator to the Senate to represent not only their interests but the Nation's interest as well, and I congratulate my distinguished friend and colleague on this day and express to him my thanks and appreciation for his help to me, to his party and to his country.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I want to join the distinguished minority leader in the remarks he has just made about our outstanding colleague, the Senator from North Dakota (Mr. Young).

Milt Young and I are neighbors. We have problems in common. We work together to try to find solutions to those problems, both as they affect national security and the agricultural economies of our respective States.

He is one of the ranking Members of this body. He serves with great integrity and devotion. I am proud to call him friend, because I look upon him as one of the truly outstanding Members of this body.

I salute him on this particular anniversary.

Mr. HATFIELD. Mr. President, I wish to join the minority leader and the majority leader in paying special recognition to our colleague from North Dakota, Senator Young. From time to time we in the Senate pay tribute to great and good men posthumously, but I think it is of far greater importance to give recognition to great and good men like Senator Young when they are present to hear it.

I pay this tribute to him not only because of his service to his own people of North Dakota but on behalf of the people of the State of Oregon where his name is well known. My constituents have often said to me, "If you have any questions or if you have need of counsel for what is in the best interest of agriculture in Oregon, then ask Senator Young of North Dakota." I think that is a tribute to a man who is recognized for his national leadership in this particular field.

I am very delighted on this occasion to congratulate you on 25 years of service in the Senate, and wish you another 25 years of service.

Mr. CURTIS. Mr. President, I wish to join my colleagues in paying tribute to our beloved friend, the distinguished Senator from North Dakota (Mr. Young). This involves something more than just pleasantries. Every Member of this body is aware of his dedication to tasks assigned him and realizes the very important load he carries on the Appropriations Committee and how well informed he is on matters coming within his jurisdiction.

As a member of the Committee on Agriculture and Forestry, I can say that American agriculture is very much indebted to Senator Young. His primary business, outside of his public service, is that of farming. We need the ideas, support, and influence of people who are part-time farmers, people who are interested in farming; but actually there is no one who can contribute to the deliberations as much as someone who understands what it is to be totally engaged in agriculture.

So, not only in behalf of all the people generally of the country, I want to speak out in behalf of the people of rural America and express for them our congratulations and best wishes for his excellent service and also our deep appreciation for what he has done and what he is so well equipped to continue to do.

Mr. JAVITS. Mr. President, I would like to join in congratulating Milt Young, as a window box farmer from New York. Aside from his service to agriculture, as he just reminded us this morning with very sage observations before the Republican conference, he has been a wonderful friend. He tolerated me for a long time on the Appropriations Committee, notwithstanding some heretical ideas, and he is the soul of friendship for Senators, and I think for all people. His heart is a very big one.

When you serve in an area that can make you case hardened and cynical, and you retain the freshness, spontaneity, warmth, and feeling for our people and their problems that Milt Young retains, then our farm communities are still producing for us some really great men. I join all my colleagues in congratulations.

Mr. HOLLAND. Mr. President, I came to the Senate in 1946. My recollection is that my distinguished friend from North Dakota preceded me by a little over a year. I think he came here in 1945.

Is that correct?

Mr. YOUNG of North Dakota. Yes.

Mr. HOLLAND. At any rate, he was friendly and helpful to me from the beginning. We have had assignments which are quite similar. Both of us have served for many years on the Committee on Agriculture and Forestry together, and for years on the Appropriations Committee. We have been on numerous subcommittees together. For instance, in the subcommittee over which I preside, the Subcommittee on Appropriations for Agriculture, Senator Young was for years the senior Republican, and he is still a faithful member of that committee. He has been attending it faithfully through about the last month when we have been conducting hearings on the 1971 appropriation budget for agriculture.

I just want the Record to show my great appreciation of Senator Young. There is no more loyal and faithful man in attending to his Senate duties than he is. There is no better friend of agriculture, and I mean all agriculture, whether in North Dakota or elsewhere, than he is. There is no more careful man in passing upon the numerous items of appropriations for those funds than he is.

I think he is a fine Senator by any standard, and I want the Record to say so. Above and beyond that, I want to say I have been happy to count him as my good, generous, and wonderful friend.

I have had a chance to visit him in North Dakota on two occasions. He made my visits there very enjoyable. He has visited us in Florida on occasion. He has always been warmly welcomed there and has always been very responsive to our needs there, whatever they might be.

I think he is a great Senator, an American Senator in the finest tradition, and beyond that, a great American.

Mr. STENNIS. Mr. President, I am

XUM

one of those fortunate enough to have served with our friend from North Dakota. I want to say first, with emphasis, that I have never known a Senator who did a better job in representing his State and the people and the interests of his State than Senator MILTON YOUNG.

I had the privilege of serving on an appropriations subcommittee with him before I became a member of that committee. That was as an ex officio member of the Public Works Committee. Later, on the Appropriations Committee, I served with him on several subcommittees. He has a fine knowledge of this Government and all its workings, and exercises a sound and skillful judgment. Moreover, we are strengthened here, too, because he stands for something in the Senate that is worthwhile and worthy.

It has not only his personality and his mind behind it, but his fine force of character as well; and I hope these first 25 years are just the first half of 50 years, rounded out.

Mr. GRIFFIN. Mr. President, I wish to associate myself with the many fine tributes that have been paid today to our distinguished friend and colleague, the senior Senator from North Dakota, on this anniversary occasion.

As others have pointed out, no one in the Senate is held in higher esteem or greater affection. For those privileged to know him, it is easy to understand why North Dakota voters have returned Senator YOUNG to the Senate in five successive elections and the last time, in 1968, by the highest percentage of vote of any Republican Senator in the Nation who was opposed.

XUM

As a rather junior Member, I wish to express my personal appreciation for his wise guidance and counsel and wish for him many more years in the Senate.

Mr. YOUNG of North Dakota. Mr. President, all these kind and gracious comments from my colleagues on the 25th anniversary of my being sworn into the Senate come as a most pleasant surprise.

It does not seem like I have been here 25 years. Time has a way of going very fast here. It is a busy life but a pleasant and very satisfying experience. Probably the thing I enjoy most about my job in the Senate is being able to help people.

If I have achieved any success as a Senator, it is due to the helping hands of the Members of this body. In all these 25 years I do not know of a single instance where, if I had a problem or something I was deeply concerned about, any Senator ever declined to give me a full opportunity to present my case. Invariably, if I had a good case they helped me take care of it.

The Senate is often spoken of as an exclusive club. Perhaps in some ways it is but I would like to characterize it somewhat differently. I have never known a group of people where there was more sincere friendship, consideration and a truly Christian spirit than that which exists among this membership. There are no party lines here when it comes to friendship. There is no better example of this than the tributes paid me today by my friends Senator MIKE MANSFIELD, the majority leader of the Senate, and Senator HUGH SCOTT, the minority leader. There is a relationship between Members of the Senate—whether they be Republicans or Democrats—that few people would understand unless they had the privilege of serving here.

Mr. President, I am most grateful to my colleagues for the many kind thoughts expressed to me on the occasion of my 25th anniversary in the Senate.

JUDGMENT ON MYLAI

Mr. STENNIS. Mr. President, when General Peers filed his report concerning the inquiries he had made in the Army concerning the alleged massacres in South Vietnam, I as a member of the Armed Services Committee, commended that report and the Army for what appeared to be a very fine job of self-examination, that shows a high purpose as well as clearly realizing the problem and discharging their duty in connection therewith.

I pointed out then, as I do now, that our Armed Services Committee has been keeping up with this matter all the time. We expect the Army to continue to make reports to us on this question as in the past. We expect to withhold any action of any kind as long as they are carrying out their duties, and when these trials are all over, we will then make a judgment on what our responsibilities are in view of all the facts and the manner in which the army has handled the affair.

I ask unanimous consent to have printed in the RECORD at this point an editorial entitled, "Judgment on Mylai," published in today's New York Times, and an editorial entitled, "Songmy: the Army Brings Charges," published in today's Washington Post.

There being no objection the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 19, 1970]

JUDGMENT ON MYLAI

The United States Army has faced up to the horror of Mylai with remarkable vigor and candor in the report of a panel of inquiry headed by Lieut. Gen. William R. Peers.

After a self-examination that is perhaps without precedent in a military organization, the Army board has conceded that, in the words of General Peers, "a tragedy of major proportions occurred" in the Vietnamese hamlet of Mylai on March 16, 1968. On that date more than 100 civilians—men, women and children—allegedly were killed, tortured and raped by members of the Americal Division.

The Pentagon made plain its determination to avoid future Mylais by filing charges against fourteen officers, including the Superintendent of West Point, who commanded the Americal Division at the time, for suppressing information about the mass killings. The guilt of the men so charged of course remains to be proved. But these accusations, together with charges already brought against ten men accused of direct involvement in the alleged atrocities, should help make clear to every G.I.—and to the world—that the United States does not condone and will not tolerate the behavior attributed to some American soldiers at Mylai.

General Peers said he has also recommended a tightening of regulations dealing with war crimes and quick reporting of atrocities, as well as improvements in training. The grim lesson of Mylai will not have been mastered until every American soldier, and especially every officer, has understood the horror of what unquestionably took place there and has recognized his own responsibilities under rules of war that were sternly enforced by American judges at Nurenberg and Tokyo after World War II.

[From the Washington Post, Mar. 19, 1970]

SONGMY: THE ARMY BRINGS CHARGES

"Our inquiry clearly established that a tragedy of major proportions occurred there on that day." Thus Lieutenant General William R. Peers confirmed, at a Pentagon news conference on Tuesday, the finding of his panel's investigation into the Songmy incident—the alleged mass killings by U.S. military personnel of civilians in the Vietnamese village. The Army has already brought criminal charges against ten men in connection with the events in Songmy. Tuesday, with General Peers and Army Chief of Staff General William C. Westmoreland, standing by, Secretary of the Army Stanley Resor announced that charges have also been brought against 14 officers—two generals included—for allegedly participating in or contributing to the concealment of the Songmy events from higher authority. Among those charged with failure to obey lawful regulations and dereliction of duty was Major General Samuel W. Koster, who was division commander at the time.

Wisely, in our view, General Peers, whose panel heard some 400 witnesses, persistently refused to discuss specifics in relation to the newly charged men, and Secretary Resor made the relevant point clear: the men were "entitled fully to the presumption of innocence which applies in our system of justice." There will be time enough to comment on the outcome of these cases and of the cases of those men accused of actual participation in the tragedy of Songmy. What seems worth observing now is that there is much reassurance to be gained from the manner in which the Army has proceeded thus far. Those who feared a "whitewash" by any investigating group other than a non-military one, and those on the other side who have persisted in viewing the reports of Songmy as part of a traitorous and vengeful deception foisted on the public by critics of the Vietnam war, should now be obliged to reconsider their views. The dignity and sobriety and apparent dead-earnestness with which the Army has pursued the facts and the forces behind this hideous affair offers much hope that we will arrive at the truth of what happened and be able to act on it justly in the context of the Army's effort. Perhaps that is a small and belated consolation in relation to events at Songmy—but it is an indispensable outcome to those events, and we are impressed with the Army's attempt to achieve it.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. STENNIS. Quite briefly. I understand the Senator from Alabama is quite pressed for time.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator's 3 minutes have expired.

Mr. STENNIS. I ask unanimous consent for 1 additional minute, for the Senator from Oregon to ask a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I should like to ask the Senator, whether as chairman of the Armed Services Committee, he is totally satisfied with the procedure the Army used in notifying these officers and other men who are now under indictment; as to the reasons for calling them to Fort Meade, without prior notice as to why some of their families were informed only through the news media.

I was concerned as to whether they used the right procedures, and I would just like to know, as a matter of inquiry, whether the Senator is satisfied.

Mr. STENNIS. No, I have not known of the fact until the Senator mentioned it. I have been busy holding hearings the last 2 or 3 days. I regret any shortcomings there may have been to that effect, but I am sure that if they are in error, they will make amends.

Mr. HATFIELD. I would urge the chairman of the Armed Services Committee to make such inquiry, because I believe these military people have certain rights as American citizens and as human beings, and I would like to be assured that the procedures used took into consideration these factors. I am not so certain that they did.

Mr. STENNIS. I will be happy to make inquiry and give the Senator a report.

FCC COMMISSIONER KENNETH A. COX

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the Record at this point an article that appeared in the New York Times on Sunday, March 15, 1970, regarding Commissioner Kenneth A. Cox of the Federal Communications Commission.

Mr. Cox is a prominent attorney from Seattle, Wash., who did an outstanding job when he was counsel to the Senate Commerce Committee.

The article is very thoughtful, realistic in tone, and I commend it to my colleagues.

There being no objection the article was ordered to be printed in the Record, as follows:

Will Politics Call the Tune Once Again?

(By Jack Gould)

To expect President Nixon not to seek a Republican majority on the Federal Communications Commission is patently unrealistic. But there is a special case arising in June which would give the White House an opportunity to demonstrate that it appreciates the future of communications is far too important for it to follow the usual rule of subjecting a regulatory agency to patronage politics.

In June the FCC stands to lose the services of Kenneth A. Cox, widely regarded as the ablest member of the body in terms of sustained dedication, knowledgeableness and competence in the social, legal and technical phases of all branches of communications. Because Cox's term is up in June and he is nominally a Democrat, the White House is expected to name what will be the third Republican to the FCC since President Nixon took office, giving the Republicans a 4 to 3 majority.

Preferably, the FCC should be neither a political toy nor a stepping-stone to lush jobs in the communications industry. Career commissioners are very novel; Rosel H. Hyde, recently retired, was the last one. But living on a commissioner's salary of $22,000 a year in the face of business offers many times that sum has made the FCC practically a revolving door.

A commissioner's party affiliation shouldn't be the Administration's sole concern. Other factors are more important, including training and diversity of outlook and background. Cox most nearly meets these criteria. In Washington he is an oddity; he genuinely prefers public service over private law practice and enjoys extensive respect from Republicans and Democrats alike for his integrity and diligence. It is no secret that many broadcast lawyers, knowing that Cox ultimately might vote against their clients, nonetheless call on him first because he is so searching in his questioning and is regarded as so completely fair. Often he drives his fellow commissioners and FCC staff personnel up the wall by doggedly insisting on minute detail. He is one of the very few commissioners to come up from the ranks; he used to be chief of the FCC broadcast bureau and knows the ropes.

Cox, 53, is an interesting contrast to his colleague and friend Nicholas Johnson. Both men often are allied in broadcasting matters and frequently are joint dissenters from the majority. Johnson, who is 35, and whose term expires in 1973, in effect has gone outside the commission to lecture and write articles and a book on the sins of broadcasting, the shortcomings of the FCC, the rights of viewers and the freedom of the airwaves. He has stirred up the academic community to a degree, has been instrumental in blocking some questionable deals, and has garnered more publicity than any other commissioner in many years, especially for one who is not an FCC chairman.

There is no doubt that Johnson has had an influence and will continue to have, but he is also paying a price for it. He will learn, as did Newton N. Minow, the former FCC chairman of "vast wasteland" fame, that you can talk your heart out to the literate public but that they represent only a minute fraction of the viewing audience and seldom respond consistently to your views. Moreover, it is easier for them simply to turn the set off rather than draw up a petition. After a while the curse of repetition also sets in and everyone knows what you're going to say.

Meanwhile, Johnson has mobilized the broadcasters against him, and when it comes to lobbying in Congress or around the White House, no eager citizens group is in their league. Johnson may surprise everyone, but you can get bets in Washington that Dean Burch, the new FCC chairman, may soon take the play away from him. Many activists find Burch refreshingly open-minded and, as he gets deeper into his job, he may come up with some quite unexpected votes. And you can get even more bets that Johnson will not be interested in a second seven-year term. Not when one is very restless, still under 40, and nationally known to some extent.

In contrast, Cox believes that progress in communications is best achieved by working within the agency. He is no slouch at writing punchy articles and making tough but good-humored speeches, but he is wary of overdrawn rhetoric that may temporarily make good reading and headlines but that succeeds primarily in thwarting or delaying a commission consensus on a reform measure. As a former counsel to the Senate Commerce Committee, which introduces broadcasting legislation, his forte is practical persuasion rooted in all the facts he can find.

On the sociological front, Cox's most vociferous critics are probably the cable-TV operators, those in operation and those who would like to be. Cox agrees with many observers that the average monthly fee of $5 for connecting a set to a master antenna is not going to last too long. He suspects that, in the case of new systems, the charge could rise substantially. If the fee were to go up to $10 a month, as many observes believe is possible, it would mean a master antenna connection would cost more every year than the price of some black and white TV sets. Where does this leave the poor in the ghettos, Cox wonders.

Actually, Cox has voted with the FCC majority in greatly liberalizing opportunities for cable-TV, providing there are controls in the public interest. The little-publicized Cox is akin to an electronic ecologist, making sure that blue-sky promises of progress do not conceal threats to existing resources.

President Nixon will find Cox's shoes hard to fill. That such an able servant may have to leave purely as a matter of superficial politics is one reason why the future of communications has been badly snagged. Today's modern commissioner must take into account economics, technology, social repercussions, law, media monopoly, frequency allocation, etc. In Cox, the public has a valuable proxy with 10 years of familiarity with such problems, and one who has expressed the willingness to give the rest of his active career to their resolution. It is a rare gain, and it must be hoped that the White House will take this fully into account between now and June.

NISEI: THE QUIET AMERICANS

Mr. MAGNUSON. Mr. President, today I wish to discuss one of the great triumphs of a people—the growth, development, and acceptance of Americans of Japanese ancestry in the United States.

Last year on June 7, 1969, a California historical landmark was dedicated at Gold Hill in Eldorado County, to mark the site of the Wakamatsu Tea and Silk Colony, the first recognized settlement of Japanese immigrants to the continental United States. This observance marked the 100th anniversary of the arrival of the first Japanese to establish permanent residence in this country.

Just prior to the close of the first session of the 91st Congress I was presented with a copy of a book entitled, "Nisei: The Quiet Americans." The book was written by Mr. Bill Hosokawa and published by William Morrow & Co. Mr. Hosokawa, an associate editor of the Denver Post, who was born and raised in Seattle, Wash., and who graduated from the University of Washington, has written a definitive 100-year history about the trials, tribulations, and successes of Americans of Japanese ancestry in the United States.

If my colleagues would think back about 28 years—for some of us will remember very well—Japanese-Americans in 1942 were subjected to the most shocking acts of racial prejudice, and ignorant shortsightedness in the history of this Republic. In 1942 nearly 110,000 Americans of Japanese ancestry were ordered by our Government to evacuate their homes, leave their place of business and occupation, and were forced to enter "detention camps." Principally under pressure of the U.S. Military Establishment in 1942, President Franklin D. Roosevelt signed Executive Order 9066 which launched the removal of Japanese aliens and Japanese-American citizens from supposedly strategic coastal areas. For 3 years, this unseemingly order was enforced. The author of the book, Mr. Hosokawa, his family, and thousands of his friends were sent to relocation centers on the very slim and inaccurate charge that Japanese-Americans were a dangerous element in the United States and a threat to our national security. Mr.

Hosokawa has emerged years later to write an important historical account of the course of events preceding and following the Executive order to evacuate Japanese-Americans to relocation centers.

I believe it is of immeasurable importance that we place in the record once and for all that the order to commit American citizens of Japanese ancestry, as well as Japanese aliens who, unfortunately, had no rights to citizenship because of Federal laws denying them naturalization privileges, to detention camps was a mistake, and one of our Government's most grievous errors of World War II.

Our inability to resolve the prejudice confronting Japanese-Americans did not stop there. Since 1789, as aliens of "racially ineligible" to naturalization, Japanese immigrants had no rights to citizenship. Citizenship was denied Japanese aliens until 1952 when, largely through the efforts of the Japanese American Citizens League, they realized their goal—the successful enactment of the Immigration and Nationality Act of 1952. This act eliminated race as a barrier to naturalization and also allowed, for the first time since 1924, a token immigration quota to Japan and other Asian nations, which negated the Oriental Exclusion Acts. I authorized the law. Discriminatory language for Asian immigrants was further eliminated and signed into law by President Johnson in 1965, when the racist national origins systems of allocating immigration opportunities was also abolished. Also, this one.

The book, "NISEI: The Quiet Americans," which I recommend to my Senate colleagues, carefully traces the history of Japanese immigration and their early struggles in the United States from 1869 to 1941. Then Pearl Harbor came and the war hysteria reached its peak with the decision to evacuate thousands of Japanese people, mostly American citizens, to so-called relocation camps. The camps lacked the brutality and the ovens of Buchenwald. But they were complete with armed guards, fences, and provided only a harsh garrison-type life.

Despite the searing knowledge that their rights were being denied them, as were the Jews in Europe, the evacuees clung to the ideals of America and refused to accept their plight as a permanent one. It is tragic that there was no legal right to confine them, yet the highest tribunal in the land upheld the evacuation order based on military considerations. The genesis of this decision is rather vague; many had a part to play in it—including many leading periodicals, the attorney general of California, and a military zone commander, Gen. John L. DeWitt.

Some of the main ingredients that provided the fuel to the evacuation order are the same elements today which continue to threaten our internal security and therefore our essential liberty; they are—public prejudice, congressional myopia. It must be eliminated from American society if we are to continue the growth and development of America as a free and democratic society.

Japanese-Americans have proven their patriotism by volunteering in World War I, serving honorably and with a zeal equal to all other ethnic groups in America. Then again in World War II, they served not only in the Pacific, but also in the very famous 442d Regimental Combat Team. Japanese-Americans formed a tremendously effective unit of fighting men, and fought valiantly and paid the supreme sacrifice with life and limb in France and Italy. According to the author's account, "in seven major campaigns, the 442d suffered 9,486 casualties; more than 300 percent of its original infantry strength—including 600 dead. More than 18,000 individual decorations for valor were won by the Japanese-Americans who served in the 442d." I would like to point out here that during the Second World War, when Japanese-Americans were fighting for America's freedom, their families, and friends were living in detention camps, away from their jobs and their homes—with their bank accounts frozen and their basic rights diluted.

Americans of Japanese ancestry have continued to fight for America's freedom, in the Korean war, and now in the Vietnam war. And, at home, they have through the years overcome the bigotry and prejudice of the past and risen to influential positions in public and private life. We, of course, have the good fortune to have in the Senate one American citizen of Japanese ancestry, Senator DANIEL K. INOUYE.

Senator INOUYE received a Bronze Star and a Distinguished Service Cross during his tour of duty in World War II as a member of the 442d Regimental Combat Team. He now serves the people of Hawaii and the Nation in this great deliberative body and I am proud to be among his colleagues.

As individuals, the book points out that Japanese-Americans have continually demonstrated that they are loyal and patriotic Americans. As a group, however, for a time in the early years, they are disorganized and as such weak in terms of the influence they could exert to improve their status in Washington, D.C. The beginning of a long and successful fight came with the establishment of the Japanese American Citizens League—JACL. Founded as a national organization in Seattle in 1930, the JACL had a slow start, but began to pick up steam during the tumultuous years of World War II. It was not until 1941 under the direction of National President Saburo Kido and the present Washington Representative Mike Masaoka that the JACL began to move more forcefully. Through the years, the JACL has worked quietly but effectively for equality of opportunity, citizenship, and the repeal of discriminatory alien land rights legislation.

The efforts of Japanese-Americans to secure the rights accorded all Americans is a story all Americans should know about. And the NISEI, as the American-born children of Japanese immigrants are called, have not ceased to fight for equal protection—and a better life for their children. For example, in this past congressional session, Senator INOUYE successfully managed passage of a bill to repeal a section of the Internal Security Act of 1950. That section, title II, permits the Federal Government to establish detention camps during periods of a declared threat to national security. This section, commonly called the concentration camps provision, is responsible for many rumors among minority groups, such that if they get out of line in the eyes of certain officials, they will be interned under the provisions of this law. This session, the House of Representatives will take up its version of Senator INOUYE's bill, introduced by Representative SPARK MATSUNAGA, also a decorated World War II combat veteran. It is my hope that the House will quickly pass the bill to repeal the anachronistic title II of the Internal Security Act.

In contemplating the long hard struggle of Japanese-Americans, and other minorities in this country, I am moved to read a portion of a statement made in this Chamber back in 1964 that was of great importance to all Americans. As you all know, in that year the great 100-day debate took place concerning the Civil Rights Act. Immediately prior to the historic vote, there was great uncertainty as to whether it would pass. A large block of uncommitted Senators, led by that great institution in American politics, Everett McKinley Dirksen, held the key votes. The late Senator finally decided to vote for passage of the measure, and with him came, I am sure, additional votes to assure passage. Allow me to read a portion of his remarks on that eventful day of June 1964. It serves to illustrate what eternal vigilance and responsibility we in the United States Congress must exercise if we are to prevent a repetition of the Japanese-American tragedy of 1942. He said:

> I am involved in mankind, and, whatever the skin we are all involved in mankind. Equality of opportunity must prevail if we are to complete the covenant that we have made with the people, and when we held up our hands to take an oath to defend the laws and to carry out the Constitution of the U.S.

Then, characteristically, Senator Dirksen quoted an English poet, John Donne, to emphasize his point:

> Any man's death diminishes me, because I am involved in mankind.

Relating the poet's thoughts to his own, Senator Dirksen said:

> So every denial of freedom, every denial of equal opportunity for a livelihood, for an education, for a right to participate in representative government diminishes me.

The 100-year history of Americans of Japanese ancestry does not read comfortably. They have in the past been denied the freedom for which we are supported to stand. Fortunately the Congress has removed from the law books practically all the discriminatory legislation. Still, racial prejudice continues to be one of America's most serious shortcomings. Even today as I speak there are acts of discrimination, and bigotry, occurring in the Nation. In the 200-year history of the Republic we have made great strides but much more needs to be done in this area.

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The author points out in the closing pages of his books that 80 percent of Californians approved the Japanese-American evacuation in 1942. He also points out that in a 1967 survey conducted by a UCLA Japanese American Research Project, fully 48 percent of Californians still approved of the evacuation. Prejudice is still among us. And it will continue to be so until every man, woman, and child changes his attitude toward his fellow man. It must come about. Our Founding Fathers spoke of promoting the general welfare. No mention was ever made that this will be contingent upon race, color, or creed. And it should never be a criteria. Right here in this august body we have representations from various ethnic and religious groups—elected by the people to serve the common good, for the people—regardless of their racial origins or religious beliefs.

Placing the experiences of the Japanese-Americans in the present context, we can readily observe that the experiences—the mistakes of the past—are lessons for us to consider in this day and age. President Harry S. Truman said in the summer of 1946 in presenting its seventh World War II Presidential unit citation to the Japanese-American combat team:

> You fought not only the enemy, but you fought prejudice—and you won. Keep up the fight, and we will continue to win—to make this great Republic stand for what the Constitution says it stands for, "the welfare of all the people all the time."

The Japanese-American experience should give faith to all Americans today in the possibility that we can achieve full equality of opportunity. And it can be accomplished through due process of law.

The principle of which this country was founded and by which it has always been governed is that Americanism is a matter of the mind and heart. Americanism is not, and never was, a matter of race or ancestry.

The book, "NISEI: The Quiet Americans," documents 100 years of struggle for identity, and equality of opportunity of a people. It also stands as a prototype for all of us that, although this great Nation may fall short of our ideals at times, we are indeed moving inexorably toward their attainment.

Mr. President, so that all shall know what this group of American citizens stand for, I ask unanimous consent to include at this point in the RECORD the Japanese American Citizens League Creed, which was authored by Mike Masaoka and was first read into the CONGRESSIONAL RECORD in May 1941:

> I am proud that I am an American citizen of Japanese ancestry, for my very background makes me appreciate more fully the wonderful advantages of this nation. I believe in her institutions, ideals, and traditions; I glory in her heritage; I boast of her history; I trust in her future. She has granted me liberties and opportunities such as no individual enjoys in this world today. She has given me an education befitting kings. She has entrusted me with the responsibilities of the franchise. She has permitted me to build a home, to earn a livelihood, to worship, think, speak, and act as I please—as a free man equal to every other man.
>
> Although some individuals may discriminate against me, I shall never become bitter or lose faith, for I know that such persons are not representative of the majority of the American people. True, I shall do all in my power to discourage such practices, but I shall do it in the American way: aboveboard, in the open, through courts of law, by education, by proving myself to be worthy of equal treatment and consideration. I am firm in my belief that American sportsmanship and attitude of fair play will judge citizenship and patriotism on the basis of action and achievement, and not on the basis of physical characteristics.
>
> Because I believe in America, and I trust she believes in me, and because I have received innumerable benefits from her, I pledge myself to do honor to her at all times and in all places; to support her Constitution; to obey her laws; to respect her flag; to defend her against all enemies, foreign or domestic; to actively assume my duties and obligations as a citizen, cheerfully and without any reservations whatsoever, in the hope that I may become a better American in a greater America.

THE EISENHOWER DOLLAR

Mr. SPARKMAN. Mr. President, as in legislative session I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 158.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the joint resolution from the Senate (S.J. Res. 158) to authorize the minting of clad silver dollars bearing the likeness of the late President of the United States, Dwight David Eisenhower, which was to strike out all after the resolving clause, and insert:

SECTION 1. Section 101 of the Coinage Act of 1965 (31 U.S.C. 391) is amended to read as follows:

"SEC. 101. (a) The Secretary may mint and issue coins of the denominations set forth in subsection (c) in such quantities as he determines to be necessary to meet national needs.

"(b) Any coin minted under authority of this section shall be a clad coin. The cladding shall be of an alloy of 75 per centum copper and 25 per centum nickel, and shall weigh not less than 30 per centum of the weight of the whole coin. The core shall be copper.

"(c)(1) The dollar shall be 1.500 inches in diameter and weigh 22.68 grams.

"(2) The half dollar shall be 1.205 inches in diameter and weigh 11.34 grams.

"(3) The quarter dollar shall be 0.955 inch in diameter and weight 5.67 grams.

"(4) The dime shall be 0.705 inch in diameter and weight 2.268 grams."

SEC. 2. Half dollars as authorized under section 101(a)(1) of the Coinage Act of 1965 as in effect prior to the enactment of this Act may, in the discretion of the Secretary of the Treasury, continue to be minted until January 1, 1971.

SEC. 3. (a) The Secretary of the Treasury is authorized to transfer, as an accountable advance and at their face value, the approximately three million silver dollars now held in the Treasury to the Administrator of General Services. The Administrator is authorized to offer these coins to the public in the manner recommended by the Joint Commission on the Coinage at its meeting on May 12, 1969. The Administrator shall repay the accountable advance in the amount of that face value out of the proceeds of and at the time of the public sale of the silver dollars. Any proceeds received as a result of the public sale in excess of the face value of these coins shall be covered into the Treasury as miscellaneous receipts.

(b) There are authorized to be appropriated, to remain available until expended, such amounts as may be necessary to carry out the purposes of this section.

SEC. 4. Section 4 of the Act of June 24, 1967 (Public Law 90–29; 31 U.S.C. 405a–1 note) is amended by adding at the end thereof the following new sentence: "Out of the proceeds of and at the time of any sale of silver transferred pursuant to this Act, the Treasury Department shall be paid $1.292929292 for each fine troy ounce."

SEC. 5. Section 3513 of the Revised Statutes (31 U.S.C. 316) and the first section of the Act of February 28, 1878 (20 Stat. 25; 31 U.S.C. 316, 458) are repealed.

SEC. 6. The dollars initially minted under authority of section 101 of the Coinage Act of 1965 shall bear the likeness of the late President of the United States, Dwight David Eisenhower and on the other side thereof, a design which is emblematic of the symbolic eagle of Apollo 11 landing on the moon.

SEC. 7. Title I of the Coinage Act of 1965 is amended by adding the following new section at the end:

"SEC. 109. (a) The Secretary may mint proof coins of the denominations set forth in section 101 from such metals or alloys as he may deem appropriate.

"(b) Proof coins minted under authority of subsection (a) shall be sold in such a manner as to assure a reasonable opportunity to all interested individuals to purchase directly from the Government at least one set of such coins of each year for which they are minted."

And amend the title so as to read: "Joint resolution to carry out the recommendations of the Joint Commission on the Coinage, and for other purposes."

Mr. SPARKMAN. Mr. President, this matter has been hanging fire for some little time. Now there has been worked out an arrangement which I believe is satisfactory to everyone. It is embodied in an amendment that will be offered by the Senator from Colorado (Mr. DOMINICK).

There are a few things in which we are interested, that we want to be sure are made a part of this matter. One thing in particular is that it is proposed to coin 150 million silver-content dollars, and that they will be disposed of by the Treasury. We want to see that the interest of the public of the United States is protected, as well as that of the Treasury. The Senator from Utah (Mr. BENNETT) who is present, intends to conduct a colloquy, I understand, with the Senator from Colorado, in order that the record may be straight as to those matters.

I yield now to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I move that the Senate concur in the amendment of the House of Representatives to the text of Senate Joint Resolution 158, with an amendment in the nature of a substitute, which I send to the desk at this point and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

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The substitute amendment is as follows:

SECTION 1. Section 101 of the Coinage Act of 1965 (31 U.S.C. 391) is amended to read as follows:

"SEC. 101. (a) The Secretary may mint and issue coins of the denominations set forth in subsection (c) in such quantities as he determines to be necessary to meet national needs.

"(b) Any coin minted under authority of subsection (a) shall be a clad coin. The cladding shall be an alloy of 75 per centum copper and 25 per centum nickel, and shall weigh not less than 30 per centum of the weight of the whole coin. The core shall be copper.

"(c) (1) The dollar shall be 1.500 inches in diameter and weigh 22.68 grams.

"(a) The half-dollar shall be 1.205 inches in diameter and weigh 11.34 grams.

"(3) The quarter dollar shall be 0.955 inches in diameter and weigh 5.67 grams.

"(4) The dime shall be 0.705 inches in diameter and weigh 2.268 grams.

"(d) Not withstanding the foregoing, the Secretary is authorized to mint and issue not more than one hundred and fifty million one-dollar pieces which shall have

"(1) a diameter of 1.500 inches;

"(2) a cladding of an alloy of eight hundred parts of silver and two hundred parts of copper; and

"(3) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper."

SEC. 2. For the purposes of this Act, the Administrator of General Services Administration shall transfer to the Secretary of the Treasury twenty-five million five hundred thousand fine troy ounces of silver now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h) which is excess to strategic needs. Such transfer shall be made at the value of $1.292929292 for each fine troy of silver so transferred. Such silver shall be used exclusively to coin one-dollar pieces authorized in section 101(d) of the Coinage Act of 1965, as amended hereof.

SEC. 3. The dollars initially minted under authority of Section 101 of the Coinage Act of 1965 shall bear the likeness of the late President of the United States, Dwight David Eisenhower.

SEC. 4. Half-dollars as authorized under section 101 (a) (1) of the Coinage Act of 1965 as in effect prior to the enactment of this Act may, in the discretion of the Secretary of the Treasury, continue to be minted until January 1, 1971.

SEC. 5. (a) The Secretary of the Treasury is authorized to transfer, as an accountable advance and at their face value, the approximately three million silver dollars now held in the Treasury to the Administrator of General Services. The Administrator is authorized to offer these coins to the public in the manner recommended by the Joint Commission on the Coinage at its meeting on May 12, 1969. The Administrator shall repay the accountable advance in the amount of that face value out of the proceeds of and at the time of the public sale of the silver dollars. Any proceeds received as a result of the public sale in excess of the face value of these coins shall be covered into the Treasury as miscellaneous receipts.

(b) There are authorized to be appropriated, to remain available until expended, such amounts as may be necessary to carry out the purposes of this section.

SEC. 6. The last sentence of Section 3517 of the Revised Statutes, as amended (31 U.S.C. 324) is amended by striking the following: ", except that coins produced under authority of Sections 101(a)(1), 101(a)(2) and 101(a)(3) of the Coinage Act of 1965 shall not be dated earlier than 1965."

SEC. 7. Section 4 of the Act of June 24, 1967 (Public Law 90–29; 31 U.S.C. 405a–1 note) is amended by adding at the end thereof the following new sentence: "Out of the proceeds of and at the time of any sale of silver transferred pursuant to this Act, the Treasury Department shall be paid $1.292929292 for each fine troy ounce.

SEC. 8. Section 3513 of the Revised Statutes (31 U.S.C. 316) and the first section of the Act of February 28, 1878 (20 Stat. 25; 31 U.S.C. 316, 458) are repealed.

SEC. 9. Coins produced under the authority of Section 101(d) shall bear such date as the Secretary of the Treasury determines.

Amend the title to read, "to carry out the recommendations of the Joint Commission on the Coinage, to authorize the minting of clad silver dollars bearing the likeness of the late President of the United States, Dwight David Eisenhower and for other purposes,"

Mr. DOMINICK. Mr. President, this amendment is offered as a compromise to the Senate and House versions of Senate Joint Resolution 158, authorizing an Eisenhower dollar coin.

As Senators will remember, on October 15, 1969, the Senate passed a joint resolution authorizing 300 million Eisenhower dollars made of 40-percent silver over a 3-year period. Thereafter, the Eisenhower dollar would have been minted out of an alloy of copper and nickel. On the same date, the House passed a substitute version authorizing only a cupro-nickel dollar and special sale of the 3 million rare silver dollars now held by the Treasury.

This amendment retains the language of the House bill, but in addition, authorizes not more than 150 million Eisenhower silver dollar coins to be minted simultaneously with cupro-nickel dollars. The 150 million silver dollars will be minted only as uncirculated coins and proof coins, and will be sold at a premium price.

The amendment further authorizes the transfer of 25.5 million fine troy ounces of silver from the national stockpile which has been determined to be excess to national security needs. It will be used only for coinage. The amendment deletes a House provision authorizing an inscription on the reverse side of the dollar coin of the Apollo Eagle. This provision did not have broad support in the Senate over the previous "peace" emblem.

It has also been agreed that GSA sales of Treasury silver bullion will continue at 1.5 million ounces per week through November 10, 1970.

This agreement has been worked out through the cooperation of both Senate and House leaders on this legislation and it has the full support of the administration. I ask unanimous consent at this point to insert in the RECORD a letter to me dated March 17, 1970, confirming the administration's support, signed by Secretary of the Treasury, David M. Kennedy.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., March 17, 1970.

Honorable PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMINICK: I was most pleased to receive your letter of March 13, describing the efforts now underday in the Senate to work out a compromise to the legislative impasse on the Administration's coinage bill, S.J. Res. 158.

As I understand it, the compromise proposal would include the following principal elements:

Authorize the minting of not to exceed 150 million silver dollars, of 40% silver content, bearing the likeness of the late President Dwight D. Eisenhower.

Authorize the simultaneous minting of cupro-nickel dollars, also bearing the likeness of President Eisenhower.

Authorize the Office of Emergency Planning to transfer from the National Strategic Stockpile to the Mint 25.5 million ounces of silver which have been determined to be surplus to our strategic requirements. This silver to be utilized exclusively for the minting of silver dollars.

You are quite understandably desirous of confirming the specific intentions of the Treasury Department with respect to silver sales should the proposed compromise be approved by the Congress. In this event, it is our intention to continue the weekly sales from Treasury silver stocks at the rate of 1.5 million ounces through but not beyond November 10, 1970. We have concluded that the proposed legislative compromise is fully consistent with the Administration's policies on coinage and silver; and we have further concluded that the continuation of weekly silver sales through November 10 will achieve our objective for an orderly transition of the Treasury out of the silver market.

I am especially appreciative of the fine bipartisan efforts which are being made in behalf of final legislative resolution of this matter.

Sincerely,

DAVID M. KENNEDY.

Mr. DOMINICK. On January 31, 1970, the Treasury held 95.3 million ounces of silver bullion and coin. It will require 61.5 million ounces of silver for GSA sales through November 10, 1970, leaving a balance of 33.8 million ounces. This figure should be adjusted for probable loss in melting coins into bullion, commitments to AEC and the Navy, and silver sold through GSA but not paid for, by 8.5 million ounces leaving a balance of 25.3 million ounces. Adding 25.5 million ounces from OEP gives a total of 50.8 million ounces for coinage. It will take 47.4 million ounces to mint the 150 milion Eisenhower silver dollars.

One hundred-thirty million uncirculated silver dollars will be minted and sold at $3–$5 each. Twenty million proof silver dollars will be minted and sold at $10 each. Sales at $3 each for uncirculated silver dollars and $10 each for proof silver dollars, including seigniorage, will net an amount of $468,500,000. Of course sales of 130 million uncirculated silver dollars at $5 each would substantially increase this return. The same amount of silver if sold directly through GSA would yield only $26,000,000.

Setting a definite date on which the Treasury will be out of the silver market should allow a stable transition for the market and allow silver to seek a true supply and demand market. The minting of 150 million 40-percent-silver dollars will make this a prestige coin honoring the late and dearly beloved Dwight D. Eisenhower. Special procedures are being proposed by the Mint for the minting and sale of these silver dollars so that the public can purchase limited amounts.

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I ask unanimous consent that a letter outlining this procedure and dated March 17, 1970, signed by Mary Brooks, Director of the Mint, be printed at this point in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., March 17, 1970.

Hon. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR PETER: This is in reference to our discussions regarding the manufacture and sale of Eisenhower dollars. Assuming that legislation providing for these coins is enacted promptly, the Mint could proceed to coin and issue 40% proof dollars and 40% silver uncirculated dollars for sale to collectors; and cupro-nickel dollars for general circulation. An outline of the items discussed follows:

A—Eisenhower 40% Silver *Proof Dollars:*

a. Mint at rate of about 5 million coins per year.

b. Produce individually—coins have jewel-like appearance.

c. Package in very attractive hard plastic case.

d. Manufacture at San Francisco—Mint Mark—S.

e. Accept orders starting in July or August, 1970.

f. Date 1970—initial release October 14, 1970.

g. Continue 1970 date into 1971, if necessary, to fill initial orders.

h. Sell to coin collectors at $10 each.

i. Collectors may order 1 through 4 dollars—limit of 4 dollars per order.

j. Total proof dollars=20,000,000—sell during next several years.

B—Eisenhower 40% Silver *Uncirculated Dollars:*

a. Mint at rate of 50 to 70 million coins per year.

b. Mass production item, but silver enhances appearance.

c. Package in appropriate container.

d. Manufacture at San Francisco—Mint Mark—S.

e. Accept orders starting in July or August, 1970.

f. Date 1970—initial release October 14, 1970.

g. Continue 1970 date into 1971, if necessary, to fill initial orders.

h. Prices suggested in range of $3 to $5 each.

i. Collectors may order 1 through 5 dollars—limit of 5.

j. Total uncirculated dollars=130,000,000—sell over 2 year period.

k. May use private firm to handle orders on computerized basis.

C—Eisenhower *Cupro-Nickel Dollars:*

a. Mint at rate of about 200 million coins per year.

b. Mass production at Philadelphia and Denver Mints.

c. Issue to Federal Reserve Banks for general circulation purposes.

Profits on Eisenhower Dollars

Silver dollars

Proof dollars, 20 million:	
Seigniorage	$11,000,000
Profit on sales @ $10	162,000,000
Total	173,000,000
Uncirculated dollars, 130 million:	
Seigniorage	71,500,000
Profits on sales @ $3[1]	224,000,000
Total	295,500,000
Total, silver dollars[2]	468,500,000

Cupro-nickel dollars

200 million annual rate:	
Seigniorage[3]	$190,000,000
Total profit—per above	658,500,000

[1] Profit increases if sold at $4 or $5 each.

[2] Requires 47.4 million ounces of silver. Estimated profit if sold through GSA=$26,000,000.

[3] Additional seigniorage would be realized each year on cupro-nickel dollars for circulation.

As you know, we cannot request funds for production of dollars until after enabling legislation is enacted. It will, therefore, be necessary for us to obtain appropriated funds and additional people for production of the cupro-nickel dollars for general circulation purposes. With regard to the proof and uncirculated dollars for sale to collectors, an appropriation is not needed, since we are permitted by law to reimburse our appropriation for the cost of manufacturing and selling items of this nature. However, an increase in our personnel ceiling would be required for these items.

If there is any additional information you may need in this matter, please let me know.

Sincerely,

MARY BROOKS,
Director of the Mint.

Mr. DOMINICK. Provided that Congress takes prompt action on this proposal, the mint hopes that these silver dollars will be available for initial issue on October 14, 1970, the birthday of the former President.

It should be noted that the amendment does not specify any set price for the sale of the uncirculated coins or the proof sets, but simply leaves this very important point to be determined by the Treasury. It is my own opinion that the price should be closer to $5 per uncirculated coin than $3 as has been suggested. I have no concern that the market would fall short at that price, and believe that $5 per coin plus the limit on the number that can be bought by any one person or organization, as outlined in Mrs. Brooks' memo, should enable wider distribution to the American public.

This is a historic occasion, marking the definite end of the Treasury's role in the silver market and providing a prestige coin as well as a cupro-nickel dollar with the imprint of our beloved late President, Dwight D. Eisenhower. I consider it a high honor that Senator BENNETT and Senator SPARKMAN have permitted me to work out this compromise and to offer this amendment confirming it.

I might say that I offer this amendment not only on my own behalf but also on behalf of the Senators from Idaho (Mr. JORDAN and Mr. CHURCH).

Mr. President, I also ask unanimous consent at this time to have printed in the RECORD a letter which was sent to me by Senator BIBLE, dealing with a request he made some time ago that Carson City Museum be given a representative collection of Carson City silver dollars, the 90-percent silver dollars now held by the Treasury.

After discussing this matter with the Treasury and the Mint, I told the distinguished Senator from Nevada, my very good friend, that it would create all kinds of problems if we went this route and tried to do it by legislation. The reason is that practically every museum in the country would then want to obtain some of these 90-percent silver dollars which are now being held by the Treasury and which will be disposed of to the general public under a plan authorized by the Joint Commission on Coinage.

For that reason, I did not think we ought to put it in, but I saw no reason at all why the Carson City Museum should not be included among those people who would be entitled to apply for and get a representative sample of these coins as they are offered to the general public.

I ask unanimous consent to have the letter printed at this point in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., March 18, 1970.

Hon. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR PETE: As the time draws near for Senate action on S.J. Res. 158, to carry out the recommendations of the Joint Commission on Coinage, I want to recall my request of some months ago that, in developing a compromise approach to the legislation, consideration be given to the possibility of providing for the return to Carson City, Nevada, of a representative collection of the Carson City silver dollars now held by the Treasury. As you know, the remaining Treasury stock consists mostly of dollars minted in Carson City in 1879 and later years. The Nevada State Museum, which occupies the site of the old mint in Carson City, hopes that provision can be made in the legislation for the return of a collection for historical preservation and public display.

I realize there are many competing demands for these coins, and that the Coinage Commission spent a great deal of time considering suggestions that they be made available to museums and comparable institutions. It does seem, however, that Carson City's desire for a return of a representative sampling of its handiwork and history has more than ordinary appeal.

I will appreciate learning what consideration this request received.

With best personal wishes.

Cordially,

ALAN BIBLE.

Mr. BENNETT. Mr. President, I agree with the Senator from Colorado that this amendment to Senate Joint Resolution 158 should receive Senate approval. As he has outlined, it is now 5 months since the two bodies passed their separate versions of this proposal, and during that time it has been possible to work out the arrangement for the minting of these Eisenhower 40-percent silver dollars and generally for their distribution.

Mr. President, the Senate version provided for the minting of 300 million silver-bearing dollars with a likeness of Dwight David Eisenhower. The House measure was far more comprehensive and included the recommendations of the Treasury and the Joint Commission on the Coinage. It did not provide for the minting of any dollars containing silver. As a member of that Commission, I supported the Treasury proposal. The minting of 300 million dollars containing 40 percent silver would have required

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about 95 million ounces of silver. This exceeded the available silver in Treasury stocks at that time but did not exceed the silver available in Treasury stocks including that mixed with gold which could have been used over a period of years. Thus, the acceptance of the Senate version would have required the Treasury to halt its sales of silver immediately. This action would therefore have resulted in the failure to accomplish an orderly transition from a silver market in which the Treasury pegged the price of silver to one in which the price was determined by market forces.

Such an orderly transition was one of the major responsibilities given to the Joint Commission on the Coinage when it was set up in 1965. Although the transition thus far has been relatively good, the silver market has been plagued with fluctuations in price as the result of legislative proposals requiring silver and rumors that sales from the Treasury would be halted. Statements made by Treasury officials that silver sales would continue well into October were not as convincing as they could have been because Congressional action on the minting of silver-bearing coins was uncertain.

It is time now to make a final determination of Treasury silver policy. As we approach the time when silver sales will be halted, it is even more important that producers and users have a basis on which to determine their actions, and no such basis can exist until the Congress finally decides what to do about minting of silver dollars.

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This amendment is a satisfactory solution to the differences between the House and Senate bills. It would provide for the minting of not more than 150 million dollars containing 40 percent silver. Silver sales could be continued at 1½ million ounces a week through November 10 of this year. This can occur, however, only with the receipt of some silver from the stockpile and by using all of the silver which the Treasury now holds, whether in bullion form or mixed with other metals.

As has the Senator from Colorado, there is one area in which I have concern. While the proposed legislation does not contain any specific instruction as to how the silver dollars would be sold, it has been suggested in Mrs. Brooks' letter that they might be distributed at a price of $3 each. We have no way of knowing what the demand for these dollars will be, but when I remember how quickly the complete supply of the former silver dollars disappeared and that they are now commanding premiums in the coin market, I have no fear that there will be any shortfall in demand for these dollars. In fact, the $3 price is much too low.

I believe that any profit made in this distribution should go to the U.S. Treasury and not to speculators or dealers in coins. I believe that the proposal contained in the statement of the Senator from Colorado is a wise one, but I feel that it does not go quite far enough. In the meetings of the Joint Commission on Coinage, it was decided that the remaining 3 million standard silver dollars would be sold on the basis of a determined price, but that individuals requesting these dollars would also be allowed to make a bid in excess of the determined price. If the demand proved to be greater than the supply, then the available dollars would go to the highest bidders. It seems to me that this could be a reasonable approach to the solution of the problem of the disposition of the new Eisenhower dollar.

First, the number to be received by any one person should be limited, and I understand that it is recommended that the number be limited to five. Second, the price should be determined as nearly as possible at the level that the market will bear. I agree with the Senator from Colorado that $3 is too low, that $5, as a starter, would probably be more realistic. But then I suggest that the other proposal be followed, and that the person applying for the privilege of purchasing five dollars be permitted to suggest the price higher than $5 which he would be willing to pay if the demand exceeds the number of dollars to get minted. An auction of the dollars could result in a market price, but an auction is difficult and costly to set up properly and would not provide for the widest possible distribution.

A combination of an auction and a determined price with a limitation on the number to be received would come closer, I think, to meeting what, I believe, is an appropriate means of selling these dollars than to sell all of them on a straight, predetermined price or at auction. I do not believe that we can completely avoid speculation, but I think this combination of application of a fixed price plus an offer to pay a higher price, if necessary, would minimize speculation and result in the widest and most equitable possible distribution.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. DOMINICK. I see no harm in going that route, to be truthful, but I would hope that they would put a minimum price that would be higher than $3 to start with.

The system they are proposing, at least in general outline, is that they will have applications at each of the post offices around the country. If anybody wants to buy one of these coins, and, I am sure, most people will, they will fill in that application and send it with their payment to a predetermined bank, which will be a depository for clearing the checks and getting the money. The applications will be encoded on computer tape; then those applications, in turn, will be sent for processing to San Francisco and New York. The coins will be mailed out directly from the San Francisco and New York assay offices.

Mr. BENNETT. I agree that $3 is too low a price. I hope they will check the matter carefully and raise the basic offering price to as high as $5. But I hope they would also include in that form an opportunity for a prospective buyer to indicate a price higher than the fixed price which he would be willing to pay if the applications exceed the number of silver dollars minted.

An additional advantage to such an approach is that it would provide to the Treasury of the United States the greatest income from the use of this silver in dollars.

I support this amendment, Mr. President. I feel that it is desirable for us to provide such a memorial coin honoring the late President Dwight David Eisenhower. I feel it is just as important that we continue the efforts which the Joint Commission on the Coinage and the Treasury have been engaged since enactment of the Coinage Act of 1965, that silver be allowed to approach a free market in an orderly fashion. Continuing silver sales by the Treasury until November 10, 1970, and the announcement of this fact in advance should do away with some of the speculation which has resulted from various proposals to provide silver coins or to halt Treasury sales for other purposes.

Mr. DOMINICK. I might say to my distinguished friend—and I really appreciate his support and help in this matter—that for each dollar that we increase the price on the total of 130 million uncirculated coins, it means $130 million to the Treasury.

Some people have thought that we were pressuring the American public a little too much. But these are memorial coins of a very significant value, both intrinsically and for the future as mementos honoring our late President Dwight D. Eisenhower, and I do not think anybody will have any objection to this kind of system.

Mr. BENNETT. Mr. President, at one time during the consideration of this problem, it was suggested that these not be coins at all, that they be medals; and I am sure that a 40-percent silver medal would not be offered for less than $5 under any circumstances, probably more.

Mr. President, I hope that the Senate will adopt this proposal with the amendments suggested by the Senator from Colorado.

Mr. MANSFIELD. Mr. President, I shall be brief.

First, I want to commend the Senator from Colorado for being able to work out the best possible compromise on the question of silver coinage for dollars. It is not as good as we all agree we would desire, but it provides a lot more than we had any reason to expect, under the circumstances.

Thus, I hope that this measure will be acted on shortly by the Senate and that it will receive the Senate's unanimous approval.

This is one small step forward—it may be the last one in this direction—that will be undertaken as expeditiously as possible so that these coins will become available about October of this year.

Once more I commend the distinguished Senator from Colorado.

Mr. JORDAN of Idaho. Mr. President, I am pleased to cosponsor the compromise amendments to Senate Joint Resolution 158 offered today by my distinguished colleague from Colorado (Mr. DOMINICK).

While the amended legislation does not go so far as the originally passed Senate bill, it is an acceptable compromise, and prompt enactment of it will make it possible to issue the new Eisenhower silver dollar on October 14, the late President's birthday. The ultimate minting and issue of 150 million silver dollars will be an effective and lasting memorial to the beloved 34th President, Dwight David Eisenhower.

In these days of multibillion-dollar appropriations, it is too-rare pleasure indeed to vote for enactment of a bill that will return an estimated $658 million to the Treasury, from nontax sources, plus additional millions in future years in seigniorage profits from the circulating cupro-nickel Eisenhower dollar.

Nearly a half billion dollars of this new Treasury revenue will result from the use of Treasury silver for minting and sale of the 40-percent Eisenhower silver dollars, rather than selling the bulk silver for a fraction of its coinage value through GSA surplus sales. Silver experts in my State have been recommending this coinage route to savings for the American taxpayer for some time, and I am pleased that the suggestion finally has been accepted, at least in part, by the Treasury Department in this compromise agreement.

I urge prompt enactment of Senate Joint Resolution 158, as amended.

Mr. President, I also ask unanimous consent, that this table, prepared by the mint, on estimated receipts from the sale of Eisenhower dollars, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Receipts on sale of Eisenhower dollars

SILVER DOLLARS

Proof dollars, 20 million:	
Seigniorage	$11,000,000
Profit on sales	162,000,000
Total	173,000,000
Uncirculated dollars, 130 million:	
Seigniorage	71,500,000
Profit on sales, at $3 each	224,000,000
Total	295,500,000
Total, silver dollars	[1] 468,500,000

CUPRO-NICKEL DOLLARS

200 million annual rate:	
Seigniorage	[2] 190,000,000
Total profit—per above	658,500,000

[1] Requires 47.4 million ounces of silver. Estimated profit if sold through GSA, $26,000,000.

[2] Additional seigniorage would be realized each year on cupro-nickel dollars for circulation.

Mr. CANNON. Mr. President, I am supporting the compromise solution to the silver dollar controversy because I believe the measure before us is the most expedient means for insuring the general circulation of the coin dollar. While I would very much like to see some silver in the Eisenhower dollar that is designed for general circulation, I am pleased that a solution has been reached which will provide for greater coin distribution. The return of these coins will be most welcome in Nevada and other western States.

Unfortunately, none of the 5 million 40 percent silver proof dollars, or the 30 to 40 million 40 percent silver uncirculated dollars will ever be in commercial circulation as originally intended. The absence of such coins from Nevada—the Silver State—has had its economic effect. These coins have been sorely missed by those in the vending machine industry.

It is regrettable that the administration did not take the necessary steps that I have advocated for many years to preserve the memory of our late Presidents in a metal of real value. To do so the administration would have had to adopt mining policies which would encourage domestic production of silver either through subsidy or other incentives so that the supply would be more equal to demand. We are now confronted by a situation in which the mint would run out of silver before the end of the year if it attempted to launch full-scale operations using 40 percent silver in the Kennedy half dollar or the Eisenhower silver dollar. We have for too many years neglectfully used the Treasury as a mine for silver manufacturers and now we must pay the consequences by resigning ourselves to the removal of metal with intrinsic value from our coin monetary system. This must only lead to fiat money and to a general weakening of the financial system upon which the Treasury has been based throughout the life of this country.

The hour is late but we can at long last take a realistic view of domestic silver production and provide the necessary incentive and encouragement. I believe that the free market will demonstrate the truth of what I say and that silver prices will rise in the months ahead to prices which will stimulate production in this country. But I believe the price we have paid and the road we have taken is a tragic one.

I therefore support the compromise that is before the Senate with great reluctance. We need to increase silver production but we have a great need also to produce coins—regardless of their metal content—in numbers which will make normal trade and commerce easier.

Mr. President, I support the proposal reluctantly because it does not go as far as I would like to have seen it go, but, nevertheless, under the circumstances, I think that the distinguished Senator from Colorado has done a very fine job.

Mr. DOMINICK. I appreciate the support which I have received today. I also appreciate very much the difficult situation which faced the Committee on Banking and Currency. I admire the spirit of compromise which has resulted in this legislation. I hope that the Senate will adopt the amendment in the nature of a substitute.

Mr. MANSFIELD. Mr. President, I would like to join in expressing my thanks to the distinguished Senator from Utah (Mr. BENNETT), the distinguished Senator from Alabama (Mr. SPARKMAN), and the other members of the Committee on Banking and Currency for their understanding of this situation.

It was not an easy job for them, in light of their own personal situations but they came as far as they could and did as much as they possibly could.

While the legislation before us is not what those of us from the Rocky Mountain silver-producing States would like, it is a good deal more than we had any right to anticipate, all things considered in this body, and in the other body as well.

Thus, I join the distinguished Senator from Colorado, who is primarily responsible for this legislation, in urging its unanimous approval.

Mr. DOMINICK. Mr. President, I ask unanimous consent to have printed in the RECORD a statement from the distinguished Senator from Nevada (Mr. BIBLE) on this subject.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ALAN BIBLE ON SENATE JOINT RESOLUTION 158

I wholeheartedly support the amendment of the distinguished and very able Senator from Colorado.

On October 15, 1969—just about five months ago—and by a very substantial vote of 40 to 21 the Senate took a well-considered deliberate, and responsible action when it passed Senate Joint Resolution 158 and sent the measure to the House for its consideration.

As passed by the Senate, S.J. Res. 158 provided for the minting of up to 300 million 40% silver-clad dollars bearing the likeness of the late President of the United States, Dwight D. Eisenhower. Our purpose was to honor that great soldier-statesman as we had previously honored his successor in office, the late President John F. Kennedy. We voted our conviction here in the Senate that there can be no finer tribute than to memorialize the late President on the most prestigious of our Nation's coins. Not on a coin of baser metals, but on one of intrinsic value—a 40% silver dollar.

At the time of the October debate, I stated my belief that a silver coin for this purpose would be revered and cherished by the American people, and I have not changed my mind. I also pointed out that the price being received from the present weekly sales of Treasury silver produces a return to the taxpayers of the nation wholly inadequate when contrasted with the return that would be available if the remaining silver stock were used to mint 40% silver dollars.

It was my belief—and still is—that the taxpayers should receive full value for the surplus silver held in our Treasury. A 40% silver commemorative dollar will bring the Treasury upwards of $3 per ounce of its remaining silver, in contrast to the present receipt of an average of approximately $1.87 per ounce. I cannot for the life of me understand why anyone in the Congress would object to the Treasury nearly doubling its profit. The taxpayer furnished the funds to acquire the Treasury-held silver, and I am sure he expects to see the Government receive the highest possible return for the commodity his hard-earned taxes were used to purchase. If the information supplied me is correct, receipts from the sale of the Eisenhower silver-clad dollars authorized by this amendment will amount to $468,500,000 (assuming a price of $3 for each uncirculated coin), whereas G.S.A. sale of the silver under the present program would amount to a relatively meager $26,000,000.

While this amendment will provide only half as many 40% silver dollars as we sought to authorize in October, it nonetheless places us in a very enviable position. By acting favorably—as we did last October—we will be providing a suitably prestigious memento marking President Eisenhower's service to the Nation, and at the same time we will be placing the Treasury in a position to reap—and the public to enjoy—a proper profit for the remaining silver supply.

In addition, the amendment would authorize the minting and issuance of cupro-nickel dollars, half-dollars, quarters and dimes in quantities needed to meet national

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requirements. I welcome this feature for it promises adequate coinage that will circulate and meet the coinage needs of our commerce. The inclusion of a cupro-nickel dollar coin means the return to general use of a cartwheel dollar to fill the void left by the disappearance of our silver dollar. This will be applauded in my State of Nevada and, I think, throughout the country.

As Members of the Senate know, I have for a number of years fought to keep silver in our coinage. Many residents of my State of Nevada are not enamoured of coins without intrinsic value, and for many years cherished the cartwheel dollar. As I am sure most Senators know, the silver dollar circulated freely in Nevada until the Congress and the Treasury began tampering with our coinage system.

I want to commend my distinguished friend, the Senator from Colorado. He has been in the forefront of the struggle to preserve silver in our currency for many years, and I have been honored to work with him in this vineyard over much of that time. There is no more effective and able a champion. I congratulate him for his leadership in developing and bringing forth this amendment, and I urge the Senate to give it its resounding approval.

Mr. CANNON. Mr. President, I join my colleague from Nevada (Mr. Bible) in urging that some consideration be given to the Nevada State Museum, housed in what was formerly the Carson City Museum, the place where our silver dollars were once minted. These will be silver dollars that now remain in the Treasury and I hope will be circulated, so that some consideration can be given to their request, as presented by my colleague (Mr. Bible), in order that they can at least get some of those Carson City silver dollars back.

Mr. PEARSON. Mr. President, I wholeheartedly support this amendment, just as I wholeheartedly supported and was a cosponsor of S. 2582 and the Senate amendment which was substituted for the original Senate Joint Resolution 158.

The present amendment has the support of the White House and the Treasury Department, and I understand that there is now a good likelihood that the House of Representatives will concur in it.

I favor this compromise move for several reasons:

First, and perhaps the most important, I feel that a commemorative dollar in the likeness of our former great soldier and President, General Eisenhower, should be a coin which is deserving of recognition and should not, in my opinion, be minted exclusively in cupronickel. Some of these coins should, by all means, contain a metal with intrinsic value such as silver.

Earlier this week I received from Mrs. Mamie Beyreis, of Kansas City, Kans., a very good letter, illustrative of the thinking of many people. I ask unanimous consent that the letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Hon. James B. Pearson,
U.S. Senate,
Washington, D.C.

Dear Senator Pearson: As a citizen of the United States of Amerca, I wish to express my opinion with regard to the minting of a coin in honor of the late President Dwight D. Eisenhower.

I feel that the late President Dwight D. Eisenhower should be honored with a Commemorative Coin minted of silver of which everyone would be proud to own.

I strongly feel that a clad coin, a dollar of copper-nickel, does not reflect consideration warranted to one of the greatest of Generals and President of the United States of America, whom we all loved and respected.

I truly hope you will see fit to vote against the minting of the clad dollar and use your influence toward the minting of a silver Commemorative Coin.

Sincerely yours,
Mrs. Mamie Beyreis.

Kansas City, Kans.

Mr. PEARSON. Mr. President, the amendment calls for 150 million Eisenhower silver dollars containing 40 percent silver to be minted, commencing in fiscal year 1971. These coins will be uncirculated, and proof sets will be sold at a premium price determined by the Treasury.

In addition to these 150 million silver-clad dollars, a cupro-nickel dollar coin will be minted concurrently for general circulation.

Congress recognized the value of minting a coin in commemoration of one of its leaders which has an intrinsic value when it produced silver half dollars with the likeness of former President John Kennedy. It has been said the silver half dollars did not circulate freely. This is perhaps true; nevertheless many millions of our citizens hold and cherish a Kennedy silver half dollar.

Second, the Senate has already made its position known on this matter by adopting the previous Dominick substitute amendment to Senate Joint Resolution 158 by a record vote of 40 yeas to 21 nays on October 15, 1969. This proposal, while similar, is, as I said previously, a good compromise considering the deadlock that has taken place between the House and the Senate on this legislation.

Third, the Treasury Department was against the other substitute amendment to Senate Joint Resolution 158, but through the untiring efforts of the Senator from Colorado (Mr. Dominick) to reach this compromise, they are now willing to back this legislation. This says a great deal to me.

Fourth, under this amendment, Treasury sales of silver will continue through GSA through November 10, 1970, at 1.5 million ounces per week. Also, the Office of Emergency Planning will transfer to the mint 25.5 million ounces of surplus silver no longer needed for the emergency stockpile. This silver will be used only for coinage and is in accordance with the recently revised stockpile objectives.

And last, we must move rapidly on this legislation to allow time for the Treasury to obtain a supplemental appropriation and still make the proposed October 14, 1970, issuance date. This date is, of course, the late President's birthday, which would have been his 80th.

I urge the Senate to adopt this compromise move.

The PRESIDING OFFICER (Mr. Gravel). The question is on the motion of the Senator from Colorado (Mr. Dominick) to concur in the House amendment with an amendment in the nature of a substitute.

The motion was agreed to.

Without objection, the title was appropriately amended.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment, as in legislative session, until 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR COOK TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately upon disposition of the reading of the Journal tomorrow the able junior Senator from Kentucky (Mr. Cook) be recognized for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPREME COURT OF THE UNITED STATES

Mr. BYRD of West Virginia. Mr. President, I ask that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The clerk will state the unfinished business.

The Assistant Legislative Clerk. The nomination of George Harrold Carswell, of Florida, to be an Associate Justice of the Supreme Court of the United States.

The Senate resumed consideration of the nomination.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of G. Harrold Carswell to be Associate Justice of the Supreme Court of the United States?

Mr. BROOKE. Mr. President——

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, just 4 months ago the Senate was considering the nomination of another man to be Associate Justice of the Supreme Court of the United States. At that time, opposition to confirmation was based on a number of questions. And there is no doubt that the ethical questions involved were sufficiently grave in themselves as to cause many Senators to look critically at the nomination and eventually to deny him confirmation.

But, in my judgment, ethical questions were not the primary concern. In my initial speech, announcing opposition to the nominee, I stressed that the question of confirmation quite properly dealt with the nominee's intellectual capa-

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bilities, his judicial temperament, and his personal integrity.

The nominee certainly possessed high intellectual capabilities, although I do not believe he exercised them with equal objectivity and independence in all areas of the law. Nor did his judicial temperament reflect a clear and impartial application of the law.

But in the final analysis I based my decision upon the answers to the question I had originally raised with regard to that nomination:

First, was he the man to restore the Nation's confidence in the integrity of the Supreme Court?

Second, was he the man to maintain the faith of this vast majority of fair-minded Americans in the Supreme Court of the United States, not to mention that of the disillusioned minority who look to the Court as the indispensable instrument of equal justice under law?

Having concluded reluctantly and sadly that he was not, I cast my vote in the negative.

Mr. President, it is tragic indeed that these same questions have been raised again with regard to a second nominee for the Supreme Court of the United States, and that again they must be answered in the negative.

Is Judge Carswell the man to restore the Nation's confidence in the highest court of our land?

How, indeed, could a man who has been reversed by an appellate court in nearly 60 percent of his published decisions, a man who has actively sought to circumvent the rulings of the Supreme Court itself, restore confidence in that Court?

Is it not much more likely that by the elevation of such a man, disobedience and delays would be encouraged?

Mr. President, I raise this as one of the most important factors in this entire debate concerning the nomination of G. Harrold Carswell. The Supreme Court of the United States has been under attack. It has been under attack from the so-called left and from the so-called right. Much has been said about the Supreme Court and its decisions and the members of that Court.

If there is anything we need in the Nation today, it is to restore the utmost confidence in the third branch of the Government, the judicial branch, and more particularly in the Supreme Court of the United States.

People can stand for mediocrity in either branch of the Government—either the President of the United States, Members of the Senate, Members of the House of Representatives, or heads of the various departments and agencies of the Federal Government. But there is one place in this land where the American people cannot stand for anything less than the highest possible quality. And that is in the Supreme Court of the United States.

Whenever there is a murmur of doubt regarding integrity or the competency of that Court, the very foundations of this great Nation are shaken. Equal Justice under law is perhaps the most righteous and respected tenet of all American rights.

Therefore, when there is an opportunity to choose a man who will sit on the Supreme Court of the United States, the entire Nation looks to the President, who has the responsibility of making that nomination, for the best man that possibly can be obtained for that high position.

The President has a responsibility to nominate. The Senate of the United States has the responsibility to advise and consent to that nomination.

Many people across the country have been concerned about whether the Senate should approve a nomination without really seriously questioning the candidate submitted by the President.

I believe that the President should be given all consideration when he sends a nomination to the Senate for confirmation, particularly, of course, when he nominates a man to serve in his Cabinet, or to serve as an Ambassador to the nations of the world, or a man to head up the agencies of Federal Government.

The Senate, under those circumstances, will, of course, look at the qualifications of the President's nominee. And unless there is some serious question about the honesty and integrity of the man, generally speaking, the President's nominee will be confirmed by the Senate.

I remember when the President nominated Mr. Hickel to serve as Secretary of the Interior. In my lifetime I have always considered myself somewhat of a conservationist. I come from a State where people are very much concerned about matters of conservation.

I had some serious doubts about Mr. Hickel's views concerning conservation. I debated on the floor of the Senate about that confirmation and ultimately I had to resolve the question as to how I would vote. I voted for the Secretary's confirmation after making a statement on the floor of the Senate about my views and about many questions which that appointment raised. I am very pleased to say that Secretary Hickel, in my opinion, has turned out to be one of the great Secretaries of the Interior.

My fears about conservation, and some of my other doubts and fears, have certainly not materialized, and I am very pleased and proud to be able to say so.

But the Secretary of the Interior serves at the will of the President of the United States, as do all members of the Cabinet, and as do all heads of departments and agencies of Government who are appointed by the President.

Is this true about a justice of the Federal courts? Obviously, the answer is "No." When we choose a Supreme Court Justice, the executive and the legislative branches of Government, and in this case specifically the Senate, are creating a third coequal branch of our Government.

The President and the Senate are joining together to create a third branch of Government, the judicial branch of Government, which is coequal and independent of further supervision. That Supreme Court Justice does not serve, nor should he serve, at the will of the President or at the will of the Senate. He is independent once he has been nominated and confirmed.

During the debate on the confirmation of Justice Fortas to be Chief Justice of the United States an issue was raised by my distinguished colleague and now minority whip, the distinguished Senator from Michigan (Mr. GRIFFIN), concerning some consultation which Justice Fortas was to have had with the then President, Mr. Lyndon Baines Johnson, at which time Justice Fortas was to have given some counsel and advice to the President, independent of his responsibilities as a Supreme Court Justice. Such action was wrong because a Supreme Court Justice is not counsel to the President nor should he be. He is independent, and thus, when his name is submitted for confirmation before the Senate it is no longer just a question as to whether he is the President's appointment and, therefore, should be approved by the Senate.

In short, I say our responsibility goes far deeper. We are concerned not only with the integrity and honesty of the nominee, but also with the competence, ability, and qualifications above and beyond the man's moral fitness to sit on the highest bench of the land.

It is far more difficult for those of us on this side of the aisle, those of us who are Republican Members of the Senate. It is far more difficult for us because the President is a member of our party; he is the leader of our party, and he has now submitted two names to the Senate for confirmation. One nominee I have referred to in my opening remarks, Clement Haynsworth. During that debate there were Republicans who believed that Mr. Haynsworth was not qualified to sit on the Supreme Court for a variety of reasons. When his name was submitted for confirmation, 17 Republican Senators voted against Clement Haynsworth. It was not easy for those 17 Senators; and I am sure, Mr. President, it was not easy for those Democratic Senators who voted against the confirmation of Mr. Haynsworth to sit on the Supreme Court.

As one who did vote against the nomination of Clement Haynsworth, I said at the time that it was indeed a painful experience for me. It is always a painful experience for me to deny any man that opportunity to achieve the highest honor his profession has to offer. For a man in the legal profession, and that is my profession as well—there is no greater achievement than to be honored by an appointment to the Supreme Court. Without question, it is the pinnacle of legal success. So just to deny that man the opportunity, in and of itself is a painful experience. Then, to deny the President of the United States and the head of our party the opportunity to name a man to the Court is another painful experience.

The Senate, after long and arduous debate, was greatly divided. It was a very close vote, as you will recall, Mr. President. Feelings at times ran high. The mail from our constituencies across the land was voluminous, and all of us had wished that we had never been placed in those painful circumstances.

But that is our job, Mr. President. That is our responsibility. When we walked down the center aisle, raised our right hands, and took our oath of office, we took on these very grave responsibilities. Painful though they may be at times, we have to undertake them with all the courage and conviction within us.

Mr. Haynsworth's nomination is now history. After that unfortunate experience, we had hoped the President, when he was to send up another nominee to fill the existing vacancy would have taken a long and more in-depth look at the qualifications, not only the legal qualifications and integrity but also the quality of the man and the competency of the man—yes, even the background and training and philosophy and strong beliefs, political and social beliefs. All these make up the composite man.

It would be simple, Mr. President, for the Senate to look at the paper qualifications of a man submitted to serve on the Supreme Court of the United States, John Doe, graduate from X college, from X law school, received a bachelor of laws degree in such and such a year, master of laws degree, if he did, served in a law firm, engaged in the private practice of law for *x* number of years; perhaps served as a municipal court judge, or perhaps took the Federal route, and went on the district court and circuit court of appeals; and therefore, per se, he is qualified.

But do we really live up to our responsibilities when we make such an examination, when we do not look more in depth into the man, the total man, who would sit on the Supreme Court of the United States of America?

I am sure there is not a man of this august body on either side of the aisle who did not hope and pray that the next name that would be submitted to our body could have received 100 percent support and prompt consideration and confirmation. This is true not because the Senate wants an easy job. I do not know any of my colleagues in this body, Democrat or Republican, who are not, in my opinion, courageous men. They are accustomed to making tough decisions, hard decisions, decisions many times which are not in their political interests, if you please, because that is their sworn duty and obligation and responsibility.

We waited several months before the name G. Harrold Carswell was submitted to the Senate for confirmation. I must confess that I knew little or nothing about Judge Carswell when his name was submitted.

As is the custom of the press, I, like my other colleagues, was questioned as to my opinion about the President's nominee.

I have been described as a moderate man, a man who does not shoot from the hip, a man who likes to gather the facts before he makes a decision. And I plead guilty to that description. I like to believe that I am that sort of man. I voiced no opinion on Judge Carswell at that time because I had none. I said nothing about him because I knew nothing about him. And in keeping with the procedures of this body, I knew that under our procedures—and I think they are the best procedures known to man—the proper committee, namely the Judiciary Committee, would have an opportunity to hold hearings, to receive evidence and testimony from proponents and opponents alike, to have the nominee appear before them personally, to look into his eyes and to listen to him and review his total record.

So I postponed my opinion, and certainly my decision, until such time as we had gone through the proper procedures and I would have the benefit of the testimony before the Senate Judiciary Committee.

I regret to say that in some few instances that procedure was not followed. Some of my colleagues formed rather hasty opinions, in my opinion. I do not say this critically, Mr. President, because every man must make his decision according to his own conscience and dictates. But some did not wait for the results of the Judiciary Committee hearings prior to announcing their decisions.

Let me say that I do not think anyone was any more eager than I to vote for confirmation. I would have loved to have voted for confirmation of the President's second nominee, as I would have loved to have voted for confirmation of his first nominee, let me assure you, Mr. President.

I waited, as I said, for the full transcript of the hearings before the Senate Judiciary Committee, and in the meantime I sent for the opinions of Judge Carswell, for he had served as a district court judge and, for a short period of time, a member of the circuit court of appeals. And I studied those opinions.

As I said, Mr. President, I am a lawyer by profession. I served for two terms as attorney general of my own State, the Commonwealth of Massachusetts. I have been in the habit of reading judicial opinions and citing them for authorities in various cases in point and on issues of law. And so I read the opinions of Mr. Justice Carswell. I tried to find out, as best I could, about the man, G. Harrold Carswell. What kind of man is this? Not only is he a lawyer, not only is he a judge, not only is he a member of the Republican Party, not only is he a resident of the State of Florida, not only was he born where he was, but what kind of man is he?

That is a very hard question, Mr. President, what kind of a man is a man? How do you determine this? Can you pick up a record and look at it: "Born such and such a date, mother and father such and such, church such and such, married to such and such a person, so many children, educated in such and such a school"?

Does that tell you what kind of a man he is?

As I said, this is not an easy question to determine. Is a man determined by his heredity, or by his environment, or by his experiences? How do we arrive at that? What kind of a man are we looking for? Are we setting the standards too high? Are we setting them much higher than those which we set for ourselves?

Mr. President, I happen to think that in choosing a man to put on the Supreme Court of the United States of America, we have to choose the highest quality that we have in this country. I do not accept the standard, that some of my colleagues have attempted to establish, of a B or C or D quality candidate.

We may not always get an A quality candidate, but, oh, Mr. President, I think we have always got to strive for an A quality candidate. I think we can accept no less in our search than the highest quality that we can obtain, to sit on the Supreme Court of our land.

Mr. President, I feel this is so true that I feel perhaps the standard should be higher than that for our elected officials; and I certainly do not except myself, nor do I except the President of the United States, from this judgment. Because when we are dealing with elected officials, we all know how men are elected to even the highest office in this land. Of course, we look for A quality in the President. We look for A quality in the Senate, and in the House of Representatives, and all through our Government. Oftentimes we do not get it, and it is somewhat understandable why we do not get it.

But in the selection of a Supreme Court Justice, we have perhaps the best system devised by man to achieve the highest standard; and it hurt me when I read in the press—I must confess I was not on the floor at the time—that some of my dear colleagues were saying, "Well, we have mediocre men in other places in the Government, and perhaps there ought to be an opportunity for mediocre men to sit on the Supreme Court of the United States of America."

What a specious argument. How can we ever say that? What student, even though he may end up with a D or an F when he goes to school, is not at least trying to get an A?

Of course, we all want the highest. We want the best air, we want the best water, we want the best house, we want the best education for our children. And, Mr. President, we want the best men to sit on the Supreme Court of the United States. And let there be no doubt in any American's mind that the Senate is ever going to accept anything less.

I do not say we have always had it. I think we are looking closer all the time, more in depth all the time, in order to see that we get exactly that—the highest quality possible for the highest bench.

Mr. President, we received the nomination of Mr. Carswell. We had important legislation before us for some time before we got to the debate, even after the hearings of the Committee on the Judiciary had been concluded. We read the testimony. Certain things were revealed in that testimony which were very disturbing to many of us.

Let me say that the nominee started off with a presumption of rightness. He started off with the most favorable presumption there is. I do not believe that any of the 100 Members of this body started off in opposition to a President's nominee. I think we all started out favorably inclined.

So when, as in the law, we talk about the burden of proof, we should probably be talking about the burden being on the side of those who raise objections to the confirmation; because we can presume that the President and the Justice Department have made thorough examinations into the total man, and into the backgrounds of those whom the President would designate for such an office.

If I may refer back, Mr. President, to the Haynsworth nomination very briefly, I think it illustrates well one point that has disturbed me in connection with both these nominations, and that is the

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amount of investigation that is conducted into the total background of candidates for this high position.

I have never asked the President about this. I know only what I have read and heard. I am not generally one who accepts hearsay; but I have never heard this repudiated: That the President did not actually meet Mr. Haynsworth until such time as his nomination had been rejected by the Senate.

If that is true, it would seem rather incredible to me. Oh, I know that the Presidency is a great responsibility, that the demands upon the President are vast, that much of what the President does has to be delegated to various departments and to the members of his Cabinet. I am in great sympathy with the office of the President because it has grown so large and the magnitude of its problems has become such that it is very difficult for any one man to begin to do all of the things which are demanded.

But there are only nine members of the Supreme Court of the United States; and in the course of a President's term of office of 4 years, very few members, generally, are appointed by an incumbent President, because Supreme Court Justices serve for life. Many of them serve actively until their 70's, and some into their 80's. So it has usually been true that a President may have one or two such appointments, or, if he serves two terms, he may have three or four in the course of his term of office. President Franklin D. Roosevelt, I think, is given credit for having appointed more Justices than any other President in the history of the Nation, and I presume that is probably true, but only because he was in office longer than any other President.

Before a man is appointed to the Supreme Court of the United States, no matter how busy and how occupied the President is, and how many demands he has upon him, it would seem to me that the President would want to meet the man, look into his eyes, listen to him talk, and get some feeling or understanding as to the composite, the total man with whom he had been speaking.

I understand that the President has met Judge Carswell. I do not know whether he met him prior to submitting his name or afterward. I really do not know. But I did hear the President say on national television that something which had come out about Judge Carswell after his name was submitted to the Senate had not been known to him prior to that time. That is understandable. I guess every little speech and every little thing and every little act would not be known to the President, even if a rather thorough investigation was conducted by the Department of Justice, which is the arm of Government that has that responsibility in these cases.

But, Mr. President, then I read a statement first attributed to and then acknowledged by Mr. Carswell that he had made when he was a young man 28 years of age. Those words to me were not merely political rhetoric—and I am familiar with political rhetoric. I guess none of us in this business is unfamiliar with political rhetoric. I am sure all of us, if we were perfectly candid with ourselves, would admit that we have been at some time guilty of using purely political rhetoric, even though we may not be trying to do so or intend to do so.

I examined these words and tried to understand whether this was political rhetoric or whether these were the deep-held feelings of the man who was uttering them. In other words, did he believe them? Did he harbor them? Was this something that was inside the man? Was this part of the total man?

I recognize the right of other men to read the same words and perhaps to come to a completely opposite conclusion from that which I finally came to. It seemed to me that Mr. Carswell had gone beyond the realm of political rhetoric, that he was talking his innermost, heartfelt, in-depth feelings. Whether because of environment or experiences—I do not know—he had these thoughts and these feelings, and they were part of him at the time he made the utterances. If that conclusion is wrong, I would be very happy, indeed, and very pleased to say so. I looked at the circumstances. I looked at the forum. I looked at the electoral race in which he was engaged.

I am not naive. I know what it took to win elections in 1948 in the district in which Carswell was running. I regret it. I cannot condone it. I am very sorry that was the case. But I am realistic enough to understand that that was the case.

Then I said to myself, "ED BROOKE"—not Senator BROOKE—"ED BROOKE, can you in good conscience, as a man, vote to confirm a man for the Supreme Court of the United States who advocates racial superiority in this country?" Then I said to myself, "ED BROOKE, could you in good conscience, as a man, vote to confirm a man who was black and who advocated racial superiority in this country?"

Mr. President, my answer to both of those questions is a resounding "No." I do not believe in racial superiority. I do not believe in white superiority, and I do not believe in black superiority. I do not believe there is a master race in God's earth. I have fought and talked out against black militancy, black power advocates who do support separatism in this country. I have spoken out, and always will, against blacks or whites who pit the races against each other.

So it was not without some real soul searching that I came to the conclusion that I could not support a man for this office who harbors racial superiority in himself. I said "harbors" because I was then sitting in judgment on a man who had made a statement in 1948, at the time he was 28 years of age, and I was sitting in judgment in 1970, not 1948.

I certainly am well aware that men can change, that men mature, that great social changes have taken place in this Nation and across the world. I have always been glad that I lived in the time when Pope John lived on earth. He said, "Open the windows and let the fresh air in," and a great ecumenical spirit swept across the land, and men's minds did begin to change. It was a healthy period. Oh, if that period had stayed longer with us, would not this country be in a much better position than it is today, and would not the world be in a much better position than it is today.

So I recognize the right of a man to change his mind. Again, because of his experiences and because of social and economic and legal changes, actually, that had taken place in this country, in my attempt to be as fair as I could, I then delved into the books again, asked the questions of people who knew the man, and did everything I could to find evidence of change.

Mr. President (Mr. INOUYE), I searched in all sincerity to try to find that change. I would have been pleased to have found a change. I said at the time when we were considering the nomination of Mr. Haynsworth, when there was great talk about the nomination of a man from the South or a man who was a strict constructionist to sit on the Supreme Court, that I would be proud to vote for a man from the South or a strict constructionist and would find no problems there at all in having voted for either. I do not believe that all men on the Supreme Court should come from the North, East, or the West. That is ridiculous. Of course we want men from the South. We want men from all sections of the country. Every man who is qualified should be eligible. I would like to see women sit on the Supreme Court. I would have no objection to a Chinese-American or a Mexican-American sitting on the Supreme Court or anyone else who is an American citizen—and qualified. They all should be able to sit on the Supreme Court of the United States of America. That would give me no problem whatever, and still does not give me any problem.

But I looked for change in this particular man. He was 28 years of age when he made that statement. Some people said at the time that the man was immature, that he was a young man and did not know what he was saying or doing.

Well, let me examine that briefly. He and I served in the same war. I served for 5 years in World War II, in Africa and Italy.

When I went into the Army, I had finished college but had not gone to law school yet. I guess I could have been accused, as most young men were in those days, of not really having grown up, of not having a great social conscience, perhaps, at the time. I lived a fairly good life. I was one of those lucky ones, whose father was able to educate me and send me to school. I attended fraternity dances and enjoyed life pretty much in general.

But when I came back from 5 years in the Army, I think I was pretty much a man. I think I was pretty mature. I think I knew pretty much what I was saying when I was 28 years old. I got married and had a child, was supporting my wife and my young daughter. I think that most men are pretty much men at 28 years of age, even if they have not had the sobering experiences of war.

We are talking now about giving the right to vote to the 18-year-olds, I think that is an excellent idea. I believe in it. I voted for it with many of my colleagues on the Senate floor. I hope, soon, that it will pass. I think that American men and women at 18 years of age are old enough to vote today. They are even, if anything, more intelligent than they were at my age. They have had the benefits of television and many other advantages that we did not have. They are very knowledgeable and have a social conscience. I think 18-year-olds should vote. They fight, they pay taxes, they do all the other things, so that certainly if they are old enough to vote at 18, they are old enough to understand the significance of their statements and their stands on important subjects, such as this one, when they are 28 years of age.

Thus, I believe that in 1948, G. Harrold Carswell was a man, not a boy. I do not accept the argument that he was not responsible for what he said at the time that he said it in 1948.

Let me quickly add thereto that I also think he certainly was capable of changing his feelings from 1948 to 1970 when the President saw fit to name him to the Supreme Court of the United States.

So now, Mr. President, we are talking about a period of 22 years between the statement made in 1948 as a political candidate and a man, if one is to accept my assessment of it, and the time when his case now comes before the Senate for confirmation.

How do we know if a man changes his mind?

How do we know that he is a different person?

How do we know he is the same man who spoke in 1948?

Well, do we ask him in 1970? I suppose we do. That is what the Judiciary Committee did. It asked him whether he had made that statement in 1948.

He honestly said that he did make that statement. I am not going to get into the trivia of whether he remembered it or did not remember it. That did not carry much significance with me.

So we ask him today and he says "No," I do not feel that way, as I did in 1948. I was a candidate in 1948 when I made that statement.

I do not want to misquote him, but I think he said that perhaps, at the time, he may have meant it. But he certainly knew now that it was obnoxious to him, and I am quoting him when I use that word, that it was obnoxious to him. And it is obnoxious.

I trust that every one of my colleagues has spent as much time as I have in reading the statement, because it goes far beyond just a statement on racial superiority; it goes much deeper than that. But then in 1970 he denied that he feels that way now.

Well, let us examine the circumstances under which he makes this denial. He makes the denial after he has been nominated to the Supreme Court of the United States.

Of course, he would make that denial.

I suggest that we have to consider a denial at that time in the light of and under the circumstances that he made it, just as we have to consider the time when he made the statement initially in 1948 in the light of and under the circumstances that he made it.

I do not say that he could not be telling the truth now, when he made that statement before the Judiciary Committee. But, no one would expect him to say that he still held those feelings today, in 1970. He hardly would want to feel that way, to say that he felt that way in 1970, when he probably knew that if he did he would not be confirmed as an Associate Justice of the Supreme Court. I do not blame him. I would not say it either.

But, let us give him all the benefit of the doubt. That was not the basis upon which I drew the conclusion.

I would like to believe that he meant what he said in 1970, as I would like to believe he did not mean what he said in 1948.

But let us look at the interim period between 1948 and 1970. That is where judges and lawyers would go and members of the jury, if you please, Mr. President, would go, to find out whether the man had made any changes in his basic philosophy and beliefs, whether the total man had changed, or whether he still harbored those same sentiments and strong beliefs.

Well, I searched and I searched and I searched. And I searched in vain, Mr. President.

For I found no utterances, public or private, that would indicate any change had been made. In fact, I found evidence to the contrary. I found supporting evidence that, in fact, he had not changed in that interim period.

One example of supporting evidence is the much discussed golf course case, if I might so describe it. Let us look at the golf course case breifly.

If I may refresh our recollection, there was a period of time when a battle was going on in the country to open up public facilities to all Americans, particularly to Americans, of course, who had until then been denied access to them—namely, black Americans and other minority groups.

I am sure it will be remembered that there were many cases before the Federal court, particularly the Supreme Court, involving lunch rooms, golf courses, rest rooms, and other public facilities of the sort where there had been separation of the races in the past.

The Supreme Court issued an opinion which stated that these facilities were illegally and unconstitutionally segregating the races. And they issued what was in effect was a cease-and-desist order.

In an attempt to circumvent the law, a flood of private clubs sprang up all over the country. Florida was no exception to this practice. What had been public golf courses, overnight were being turned into private clubs.

Judge Carswell was called upon to become an incorporator of a private golf club. He told the Judiciary Committee that he paid $100 and that he felt the purpose of that $100 was to make some repairs to the old club house.

At that time, as I have said, the practice of organizing and forming and incorporating private clubs was widespread. Most people in and out of the legal profession knew about it. As I said earlier, this was clearly an attempt to circumvent the law. I think it was wrong, Mr. President, but I am not going to get into that, as that is not really the issue before us now, as to whether that was right or wrong.

The white population understood it. The black population understood it. Everyone knew what was going on at the time. Civil rights advocates immediately went back to the courts to have the private clubs declared unconstitutional.

Where was Mr. Carswell at that time? What was he doing? He was in Florida, and he was a U.S. attorney.

I have been an attorney general, and I can say that in that office, which is comparable to the office of U.S. attorney, our duty and our obligation is not only to uphold and support and defend the law of the land, but it is also our obligation to enforce the law of the land and of the State and of the Federal Government.

Here was Mr. Carswell, the chief law enforcement officer in that district at the time. The time, I believe, was 1956; that is, 8 years after his statement was made. The chief law enforcement officer was called upon by a group of citizens to join in the formation of a club. And there is no dispute about this, it was a private club that denied admission to blacks.

Even though I disagree with the creation of a private club for the sole purpose of denying admission to blacks, browns, reds, whites, or any other class of people, I am not going to argue that point. The thing that I think is of the utmost importance is that in this case the chief law-enforcement officer of the district, a Federal law-enforcement officer of the district, was joining in a device to circumvent the Federal law of the land.

One can say, "Well, Carswell said he did not know about this and did not realize or did not do it for that purpose." Then, if one argues that, he has to say that we had a very naive U.S. attorney.

It is incredible that a man—and even a man who was not U.S. attorney—would not understand the purpose for which that private golf club was being established.

If this were just another white citizen of Florida that wanted a golf club, and a golf club that did not have blacks in it, that would be his private desire. I can disagree with him, but that is all right, if that is what he wants to do. But that is not G. Harrold Carswell. He was not a private citizen. He was the chief law-enforcement officer who had the responsibility of enforcing the laws of the land—the same laws which he would now be called upon to interpret if he were confirmed by the Senate of the United States, the same opinions that he would be writing and rendering, the same decisions that he would want U.S. attorneys all over the land to enforce.

Yet when he was in the position of having to enforce them, whether he agreed or disagreed with them, he joined a device to circumvent them.

When I was the attorney general of Massachusetts, I had to enforce certain laws with which I disagreed. I did not always agree with every law that the Legislature of Massachusetts passed. I have not always agreed with every law that has been passed by the Congress of the United States.

I do not want to say it again. We say it all the time, but it is true that the Nation is supposed to be a nation of laws and not of men. There would be anarchy if we were only to obey those laws we wanted to obey and disobey those laws we did not want to obey, particularly when it is our duty to uphold and defend and enforce the law.

I think that was one of the most damaging pieces of evidence to come before that committee.

If Mr. Carswell had still been a candidate in 1956, perhaps even if he had been the mayor of a city or town, I think I may have understood it—still not condone it, but perhaps not place as much weight upon it as I would when he was U.S. attorney.

That to me is unconscionable. Perhaps if I could believe as some believe that he is so naive not to understand the consequences of his act it would be more easy for me to accept. But I do not know that I would want to see a man on the Supreme Court who was that naive, Mr. President. A man who is on the scene and in this position as U.S. attorney and totally oblivious to what is going on around him, particularly in this very important field at that time—a man no longer 28 years of age, but then 36 years of age—is that the kind of man we want on the Supreme Court?

Well, some might say that because I am a black man I might be expected to be excited about this particular issue. I said on this floor the other day that I am an American before I am a Republican. And although I am as proud of my heritage as any other man, I believe I am an American before I am a black man. I love this country. I do not want to see this country torn asunder. I do not want to see the races split and divided. I do not want to see the black supremists, or black superiority people, or white superiority people get a foothold or even a slight foothold in this country. I am a strong believer in integration. I believe if this country is to be strong it is going to be strong only because it is a united nation and not divided.

I served on the so-called Kerner Commission. I went into Detroit, New York, Chicago, and Boston. I saw what was happening in the country during that period and immediately following periods of violence, burning, and destruction. I have been to East Berlin. As I have said, I served in the war, and I have been to Vietnam. It hurt me to see this country look like those battlefields. I do not want to see it come again to this Nation.

If we find a man harbors racist feelings I do not think that he should sit on the Supreme Court, or, in my opinion, serve in any real high position in the country. I do not think it is going to do well for this Nation.

I do not say here on the floor today, nor do I allege, that G. Harrold Carswell is a racist. I do not know that, in all fairness to the man. I think that one of the worst things a man can say about another man is that he is a racist, whether he is a black racist or a white racist. In my opinion, that is one of the worst things that can be said, and I do not so charge Mr. Carswell.

I am going to end on this point, because I want to get to another point later after my distinguished colleague from Alaska speaks. I have not been satisfied that he is a man who at one time admittedly harbored these racial feelings but does so no longer. He stated his views in what I believe to be perhaps the worst tone I have seen them set forth—not nasty language so much as the actual tone and depth of it. And I see no evidence whatsoever that this is not the same G. Harrold Carswell who comes before us in March 1970 for confirmation to the highest court in our land.

I see no evidence that this is not the same G. Harrold Carswell who spoke before an American Legion assembly in the State of Georgia in 1948. If I could find that evidence, even today, I would be pleased to find it. If I could reassure myself today that these are two different men; if I could believe we are not putting a man on the Supreme Court who harbors these views even today, I would seriously consider changing my announced decision to vote against this confirmation. Failing to get it, Mr. President, I must follow the dictates of my heart and my mind, and I ask my colleagues to do likewise.

Mr. GRAVEL. Mr. President, I do not think I ever heard a more eloquent statement of the facts of this most unusual case. I am honored to hear a statement, not from Senator Brooke, but from Ed Brooke, the man, who poured out his heart here for over an hour. I am honored to follow him, because all I can humbly do is merely take up in a brief fashion the points that he so lucidly brought forth.

Mr. President, I rise to speak against the confirmation of Judge Carswell to a seat on the Supreme Court of the United States.

Like my colleagues, I gave long and hard thought to the earlier nomination of Judge Haynsworth. I studied the three major arguments used against him—the arguments of civil rights, judicial ethics, and judicial stature. For me, these arguments were not persuasive against Judge Haynsworth.

The same arguments are now being used against Judge Carswell and this time I find them compelling.

Let me elaborate briefly.

First, the civil rights argument.

To me, the Haynsworth matter was not in any fundamental way a civil rights issue. Scattered points were raised, but they were not, in my mind, convincing. However, in my judgment the Carswell nomination presents us squarely with a civil rights issue. The man said, at the mature age of 28, that he believed in white supremacy. I can understand a politician seeking office in the South 20 years ago paying lip service to segregation. But, Mr. President, I cannot accept, nor understand, an American putting forth the view of white supremacy, regardless of where he comes from, in this Nation.

I certainly do not believe that a man's views, once expressed, should haunt him forever. Nevertheless, I do think there should be ample evidence in word and deed in the intervening years that these views have changed. Proof of the "redemption theory" is obviously required in this case in view of his extreme statement of 20 years ago. But Judge Carswell's actions in ensuing years, up to the present day, have merely shown an ability to express these same beliefs in more subtle and sophisticated ways.

Many felt the issue of judicial ethics in the Haynsworth case to be conclusive. I did not. Nor do I find it so with Judge Carswell; that is, if we are talking only of the use of his position for personal financial gain.

The matter of ethics, however, transcends monetary considerations. There are other ways to misuse one's position.

There are other modes of ethical misconduct.

I find deeply disturbing Judge Carswell's use of his judicial position to delay and frustrate orders of higher courts in matters of desegregation.

I find equally abhorrent, his lack of judicial temperament displayed by open hostility to civil rights workers and their counsel who came before his court seeking justice.

I find totally unacceptable his personal activities in effecting the transfer of a municipal country club from public to private ownership, with the result of denying black citizens access.

The ethics of this conduct has far greater implications to society than the question of the ethics of financial gain that surrounded consideration of Judge Haynsworth's nomination.

Finally, there is the matter of judicial stature. Probably most would now agree that in Judge Haynsworth we were presented with a jurist of some considerable stature. This is not to be said of Judge Carswell. Neither supporters nor detractors have found any legal opinion of the nominee which advanced the field of law in any notable way.

Not all jurists need be recognized scholars. But undistinguished persons should not be appointed to the highest court in the land.

It should be noted, too, that the academic legal community, which remained generally silent or mildly favorable to the Haynsworth nomination, is painfully appalled at the prospect of elevating Judge Carswell to the Supreme Court.

Each of us may give this fact a different weight, but I find it significant that in a community that is generally very protective of its own, the faculties of many of our leading law schools have felt strongly enough about the matter to actively oppose Judge Carswell's nomination.

In conclusion, I am compelled to vote against the nomination of Judge Carswell, because of his civil rights record, because of his misuse of judicial power, and because of his nonexistent judicial stature.

I believe President Nixon has exercised poor judgment in this nomination. I think it is incumbent upon the Senate to exercise its good judgment.

Certainly the fact that the Senate in the past 18 months has had a role in denying two Supreme Court nominations should not diminish our efforts to secure a nominee of superior caliber.

I would hope that, if we had to reject 10 qualified persons for this high office, we would not tire in our search. Each

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nominee must be considered on his own merits. We should start anew each time.

I hope that the Senate will deny confirmation to Judge Carswell.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. BROOKE. I certainly know what agonizing the distinguished Senator from Alaska has gone through in reaching his ultimate decision in this very important confirmation. I think perhaps even more difficult was the Senator's decision in the Clement Haynsworth confirmation. I know at that time the distinguished Senator gave in-depth consideration to that nomination; that he listened very attentively to the debate. I know that, personally, even though I do not believe he is a lawyer by profession, he read opinions and did all he could possibly do before reaching his conclusion. As I recall, because of that consideration, he did ultimately vote for the confirmation of the nomination of Judge Haynsworth.

I think certainly he has given the same in-depth consideration to the confirmation of the nomination of G. Harrold Carswell, and I know that he has spent considerable time in reviewing the record of Judge Carswell's decisions and opinions. I am sure that to him, like others who have stated their opposition to this confirmation, it is a painful task as well.

I just want to say, Mr. President, I know it takes great courage on his part. It is not something that a man enjoys doing. But it is a responsibility that he has undertaken, and he has made his decision and has so spoken.

I think perhaps one of the most important things that the Senator from Alaska (Mr. GRAVEL) has said today is that even if the names of 10 nominees are sent to the Senate for confirmation and they are not of the highest quality, the Senate should not hesitate in the rejection of those nominations.

If you reject candidate A because you do not feel he has the qualifications for the office, and then candidate B is submitted and you vote for confirmation because you feel you voted against candidate A and therefore you owe it to the administration, or to the President, or it does not look good to reject candidate B, are you really living up to your responsibility?

How can you justify it? The Senator from Alaska is saying that if you reject candidates A, B, C, D, E, F, G, H, I, and J, and if candidate K is presented and he lacks the qualifications, we ought to, just as strongly and just as courageously, and without any political considerations at all, reject candidate K.

I do not know, Mr. President, that I could say it better than the distinguished Senator from Alaska has said it; and I think that that is one of the most important matters that has been raised on this floor in this debate. I have heard the very argument to which the Senator has directed his remarks. I have heard colleagues say, "How can you go against the President twice?"

But is that the question before us, whether we are going against the President twice, three times, or 10 times? As the Senator from Alaska says, we are not going against the President any time. We are not here battling the President. I support the President of the United States. I am sure that the Senator from Alaska supports him. We would be in serious difficulty if we did not support the President. He is our President, and we respect him.

But we do not have to agree on everything that the President says or does, or even confirm every nominee to the Supreme Court whose name he submits. The President himself has admitted that he did not know some of the things that have come out about his candidate before he submitted his name to us. Our responsibility is to delve deeply into the background ourselves, independently of the executive branch, to find out what the facts are upon which we can base our decision. If we are merely to say "yea" to the President's nominee, then we are not living up to the responsibility that the people, under the Constitution, have given to the Senate of the United States.

So for one to argue that we should merely go along because we did not go along before is, in my opinion, a very weak, and very poor argument that should not be heeded by the Senate.

I did not fail to go along with the President when he first submitted Mr. Haynsworth's name. I do not think that the Senator from Alaska went along with him when he submitted his name. The Senator voted according to the merits of the case, and he made his decision on that basis. I, too, voted according to the merits of the case as I saw them, and based my decision upon them; and we came out in opposition to each other.

That is perfectly all right. That is what it is all about. That is why we are here. That is why the Senator is a Democrat and I am a Republican.

We are not here to "go along" with anyone. I am sure the Senator would agree with that.

We are not here to go along with anyone. I do not think we went along before, or did not go along. I do not have any less respect for the President because I happen to disagree with what he believes as to the qualifications of this or that particular candidate.

You know, the most important thing that might come out of this debate is that not only this President, but every President to come, will spend even more time than Presidents have spent in the past looking into the total man and the qualifications of their nominees to the Supreme Court of the United States; and that every Attorney General and every Justice Department will make more exhaustive investigations than have ever been made before; and that, when the nominations get to us, we will have a choice of riches rather than a choice of poverty, Mr. President, so that we might be asked to judge only upon the highest quality that the legal profession has to offer in this land.

If that is the result of this lengthy debate and an ultimate rejection of this candidate, then, in my opinion, it will have served a most worthwhile cause. And if it takes us 10 candidates to do it, then let us take the time for 10 candidates. I do not think there is anything more important.

We have plenty of time, Mr. President. We have spent far more time on far less important issues in this body, even in the short period of time that I have been here, than this issue deserves.

Mr. GRAVEL. Mr. President, will the Senator yield at that point?

Mr. BROOKE. Yes. I just want to say to the Senator from Alaska that I have great respect for both of his decisions, not only because on this decision we happened to come out the same way, but I have respect for him on his other decision as well. I have respect for any man, as long as he makes his decisions based on what he actually believes, in his head and heart, is right.

I am very happy to yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, I think the Senator has brought out the essential point very well, which was that since the President handed down this nomination, certain facts have been brought forward that he was not aware of, that might have caused him not to have selected Judge Carswell for the position.

I think the constraints of the office and the operation of the political system that we have conspire somewhat to prevent the President from stepping forward at this particular point in time and saying, "I think I made a bad decision; I change my mind; I wish to withdraw his name." I think that now the mechanism is in operation the Senate can act, and the Senate can reject this nomination.

I would hope that the President would not use the force of his office and the influence at his disposal, upon the members of the Republican Party who sit in this body, to elicit their votes in support of this nomination. I would hope that he would fall back to a more dormant position, so to speak, and let the facts permeate this body; and I am sure, with full knowledge of all the facts, that we will arrive at a conclusion which will correct what I think was an unfortunate error in judgment.

I should like to take a moment to address myself to two particular points of the argument that has been made over the last week. The first is summarized on the first page of the report of the Committee of the Judiciary. That is that the reason why many Senators are opposing Judge Carswell is because he is a southerner.

I think the fact that I have made a decision different from my prior decision with respect to a southern gentleman, the fact that I have fairly decent credentials with respect to votes affecting the South, and the fact that, in all sincerity, I have deep affection for the South and individuals from the South, is proof that at least in my mind there is no regard as to which part of this country Mr. Carswell comes from.

I would hope that if the nomination is not confirmed by the Senate, the President again would go to the South and choose a person with a name, a southern name; a southern gentleman, a man who before his profession has shown some distinction. So I would hope that my

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vote on this nomination would lay that allegation to rest.

The second point of the argument on the front page of the report of the Committee on the Judiciary relates to a constitutional conservative. I think there are many misplaced views in this regard. I think the inference in this instance is that we will have a judge who will sit on the Supreme Court of the United States who will be able to perform some extraordinary feats in laying to rest the scourge that is abroad in this country in the way of crime and in the way of individual pillage. I think that that almost begs the question to the point of being ridiculous. Certainly if Judge Carswell had a record of being such a distinguished jurist, it would be apparent to all; but the burden of proof in this document is directly to the contrary. Distinguished scholars in the area of torts have come out and said that Judge Carswell used almost insulting language.

Distinguished scholars in the field of criminal law have put statements in the public records to indicate that Judge Carswell made statements that would be insulting to an individual. How could anyone hope that a person with so little to offer in the field of experience would grace the Supreme Court of the United States and render some service toward the great problems that face the Nation in the area of crime?

I think both of these areas have been adequately answered in this brief document. I think I have made my point as lucid as I am able to.

Mr. President, I yield the floor back to the Senator from Massachusetts, if he wishes the floor; if not, I yield the floor.

Mr. BROOKE. Mr. President, I again thank the distinguished Senator from Alaska for the opportunity to engage in this short colloquy with him. He has performed a service to the Senate both by his statement and the material he has placed in the RECORD. We have both addressed ourselves primarily to one issue involving the qualifications of Mr. Carswell to sit on the Supreme Court of the United States.

As this debate continues, I expect to have an opportunity to discuss some of the other issues to which the Senator has referred; namely, the overall question of legal competency for this high post. I think that perhaps some of the people in the country might be rather confused in that here is a man who already has served as a U.S. attorney, which requires confirmation by the Senate; a Federal district court judge, which requires confirmation by the Senate; and a member of the circuit court of appeals, which requires confirmation by the Senate. They might wonder why this debate has not taken place earlier and how a man can arrive at practically the pinnacle of the legal profession without a similar debate. I question it myself, Mr. President.

I think that perhaps in the future we are going to have to take a much harder look at the responsibility we enjoy in the Senate for confirmation of U.S. attorneys, the confirmation responsibility we enjoy for Federal district court judges, and the confirmation responsibility we enjoy for members of the circuit court of appeals.

I think that, quite rightly, much of the law is interpreted at lower levels than the Supreme Court. Decisions are important in the Federal court, and several Presidents have shown an inclination to nominate to the Supreme Court only those members—or at least some members—who have served in one of the lower Federal courts.

It would appear to me that in the past—and I do not want to make this an indictment of our system—many times U.S. attorneys have passed pretty swiftly through the committee, after a look into their basic qualifications and into their honesty and integrity. The Judiciary Committee certainly has enough work to do, I am sure, and perhaps to a minor degree more is done with Federal district court judges and circuit court of appeals judges. When it gets to the Supreme Court, it seems to me that we say, "Wait a minute. Let us really take a look." I think that perhaps in this colloquy we are pointing out the necessity to say, "Let us really take a look at the U.S. attorney level and at the Federal district court level and at the circuit court of appeals level as well as the Supreme Court of the United States level." Then, of course, we would have more of a record to go on if someone is elevated to the High Bench.

There was very little in the Carswell case for the Senate to go on in previous confirmatory procedures, because very little testimony and evidence had been brought to light. I would hate to feel, even as important as the Supreme Court is, that we felt that any of our Federal courts were unimportant to the degree that we might pass judgment on nominees for those courts with very little indepth investigation and scrutiny and hearings before the committee and debate before the Senate.

I know that we have so much to do that we cannot debate as fully every Federal district court judgeship that comes before us for confirmation, but we might want to look more closely at what the Justice Department does in its investigation. We reply pretty heavily upon the Justice Department for information on nominees for the Federal judiciary and for the U.S. attorney offices. We in the Senate do not have any investigative staff to look into this ourselves, other than individual staffs, and, of course, the staff of the Judiciary Committee, which certainly is not a large staff—not large enough to send out investigators all over the country for the many posts we have to fill in the Justice Department and in the Judiciary. But we might want to take a closer look at our practices and our procedures in the future, to forestall the circumstances with which we are laboring at the present time in the G. Harrold Carswell case.

I just bring this matter up to the Senate in this form because of the statements made by the distinguished Senator from Alaska which provoked this thought.

Mr. GRAVEL. I think the members of the fourth estate share as much credit for discovery in these particular proceedings as the Senate, the entire Justice Department, and all the arms of the Government. Some of the key items were discovered by individuals of the press corps in their search to make a proper evaluation in meeting their responsibilities to the public at large.

I think it is fortunate that here, again, they play a role concurrent with the Senate, and that is, that as we debate these issues, the public at large becomes informed.

It is very difficult to endorse or defeat the nomination of a person who has no particular credentials one way or the other. The only thing about Judge Carswell that seems to stick out is the racist issue, and I think it sticks out with great preponderance.

Mr. BROOKE. Mr. President, will the Senator yield at that point?

Mr. GRAVEL. I yield.

Mr. BROOKE. Mr. President, the Senator refers to the statement of Judge Carswell in 1948. Now this statement was never revealed by the Justice Department. It was revealed by no arm of Government at all. In fact, to the best of my knowledge, the statement came to light only because of the—shall I say, digging in by a member of the press who went down into the records in Florida in the fifth circuit, and in the morgues of newspapers for that year, and came up with this statement.

Are we going to have to rely upon the perseverance and ability of the press totally for information—and very important information, I might add—concerning a judicial nominee?

Is that going to be the basis upon which we make our judgments?

Can we not have an independent investigative source of our own that would be thorough enough to reveal such information as this reporter came up with, which has created such doubts in many Senators' minds, which you and I have already indicated we find offensive and which even Judge Carswell himself has said he finds obnoxious?

I cannot believe that Judge Carswell would volunteer that information, but, when he was confronted with it, he could not quite recollect whether he had made the statement or not. I think the record indicates that.

Mr. GRAVEL. That really is the area that triggered my decision. Obviously, as the Senator stated earlier, it was in his best interests at this time, of wanting to become a Justice of the Supreme Court, to recant the statement. It is clear that he could have a sincere change of heart at this particular time, and I am prepared to accept that. But, in accepting that sincerity, I am compelled to go back over the years, and over that particular time, as to the acts and things he has done to indicate a change of mind. Perhaps there would be one item, or one statement disavowing his 1948 speech, or perhaps some particular court case, so that he could stand up and say, "Well, I changed my thinking and here is proof of it." But, the contrary is true. There is no sequential chronological change since this statement was made in 1948. It

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was not a statement about integration, or nonintegration, it was white supremacy. That is a good deal diffierent in my mind.

Mr. BROOKE. I said earlier, as the Senator will recall, that I had searched in all sincerity for any evidence whatever to support the contention that Judge Carswell had had a change of mind or heart on these strong and deeply felt beliefs between 1948, when he admittedly made the statement, and 1970, when he appeared before the Judiciary Committee. I said that I searched in vain. Did the Senator from Alaska find any evidence at all, even a scintilla of evidence, that there had been any change at all on the part of the judge?

Mr. GRAVEL. I found no evidence that there has been a change. I found ample evidence that there has been a continuation of those beliefs, and that those beliefs have sort of changed—as one does as he adds years to his life—into something more subtle and actually in a sense, more diabolical.

Mr. BROOKE. The golf course case, which I discussed in some detail, as the Senator will recall, is not the only evidence I found in the record which would indicate that not only had he not changed but that those beliefs were still with him during the period 1948 to 1970.

Mr. GRAVEL. Let me elaborate on that. I think the chain is more complete than that.

Mr. BROOKE. Oh, yes.

Mr. GRAVEL. The statement was made in 1948. But in 1953 he served on Seminole Boosters, Inc., which clearly is discriminatory, and the statement there in the charter which from all appearance he drew up. He affixed his signature at the top. His signature was also part of the attestation. That was in 1953. There was also the golf course, which is the Capital City Country Club, and that was in 1956. Then in 1966 the sale of a piece of property which was initially signed by his wife but, I might add, he had to sign it also in 1966.

Thus, not as an attorney but as a lay person, I occasionally sign documents that I do not particularly read, and I have been scolded by members of the bar for doing such things. I can only infer that Judge Carswell, when he signed the deed conveying that parcel of land in 1966—not in 1948, not in 1953, not in 1956, but in 1966, he signed it with knowledge of that clause, a clause which had been stricken down earlier.

Mr. BROOKE. Let me reply to that. I want to say to the Senator that I certainly would agree with him that there is a sequence of acts, deeds, from 1948 to 1970 to support that contention.

I addressed myself today to only one, and that was the golf course case. I did not want to take the floor of the Senate for any prolonged period of time, as I want to share the floor with my other colleagues who wish to discuss this matter. But I intend to take the various items and cases in the future and discuss them one by one. I think that I can probably make a greater contribution to this debate by doing it in this manner, and I am very much pleased that the distinguished Senator from Alaska understands that we do not want our colleagues to think we are talking about only one isolated case upon which we are making our judgments that, indeed, Judge Carswell has not changed from 1948 to 1970, or had changed, whichever way one wants to look at it. On the contrary, we found much evidence that there had been no change. I think it is important that we develop these one after another so that our colleagues will have the entire record upon which to base their opinions out in the open.

I thank the Senator from Alaska.

Mr. GRAVEL. I thank the Senator from Massachusetts.

Mr. President, I yield the floor.

NEED FOR ADDITIONAL EIGHTH CIRCUIT JUDGESHIPS

Mr. SYMINGTON. Mr. President, as approved yesterday by the House, S. 952, the omnibus judgeship bill, deletes the authorization of 13 Federal district judgeships from the 67 that were authorized when the Senate acted on the bill earlier this year. The Senate-passed bill made provision for an additional judge for both the eastern and western districts of Missouri and for the district of Nebraska. I am pleased that both the Senate and House approved the additional judge needed for the eastern district of Missouri. However, I believe it is most unfortunate that the House bill does not provide the additional judges requested for the western district of Missouri and the district of Nebraska. The Judicial Council of the Eighth Circuit has carefully considered both these requests and has confirmed the need for these additional judges.

The increased number of cases in Federal courts in the Nation arise not only by reason of population growth but also because of the volume and complexities of Federal civil and criminal laws which we in the Congress adopt. That should be frankly recognized in terms of sufficient judgepower in the courts of the Nation.

In due course, the provisions of the House and Senate bills will be considered in conference. And I would urge, with the greatest respect, the conferees to fully consider the strong documented case requiring another judge in the western district of Missouri.

Last March when, joined by Senator Eagleton, I introduced S. 1712 to provide an additional judge for the western district of Missouri, I stated the workload experience of that district justified the additional judge which that bill requested. The testimony of Chief Judge William H. Becker of the U.S. District Court for the Western District of Missouri before the Senate Subcommittee on Improvements in Judicial Machinery fully bears that out. Moreover the increased rate of filings in the first half of 1970 underscores the need.

The president of the Missouri bar writes that the State bar executive committee also has reviewed the question and recognizes fully the urgent need for two additional district judges in Missouri. He points out that—

> Lawyers who practice repeatedly in the Western District Court of Missouri are well aware that the case load confronting the judges of that District is inordinately heavy, and that an additional judge should be provided to handle the work in that Court. One of the principal reasons for this need is the great number of *prisoners' cases* arising out of the Federal Penitentiary located in Springfield, Missouri; and the State Penitentiaries located in Jefferson City and Moberly, Missouri. These three institutions produce a substantial case load which is a very difficult type of case to handle and which is very time consuming.

Mr. President, I believe Members of Congress also would recognize the significance of another and more general comment in this letter:

> The burden being placed on our Federal Courts, and the attacks being made on the court system of this nation, are such that the cost of needed additional judges is a small price to pay to assure litigants that adequate care and consideration will be given by qualified and sufficient judges.

Mr. President, I would urge the conferees to consider favorably the record that has been made in the committees which I believe fully substantiates the need for an additional judgeship in the western district of Missouri.

I ask unanimous consent that the letter referred to from the President of the Missouri bar be printed in full at this point in the Record.

There being no objection the letter was ordered to be printed in the Record, as follows:

THE MISSOURI BAR,
March 13, 1970.

Hon. Stuart Symington,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

Dear Senator Symington: The Executive Committee of The Missouri Bar has carefully reviewed the need for additional Federal District Judges in Missouri, and it recognizes that there is an urgent need for two additional District Judges. We are aware that members of the Senate and House Judiciary Committees have had substantial information and statistical data presented to them demonstrating the need for these two judges. We, therefore, are not submitting additional data now.

Because of the termination of some committees and the appointment of new committees in the Federal Judicial Conference, creating a time lapse, the Conference failed to make timely recommendations for an additional judge in the *Western* District of Missouri. An additional judge *was* recommended for the *Eastern* District of Missouri. We are sure that if the appropriate opportunity for consideration had been presented, a recommendation from the Federal Judicial Conference would also have been made for an additional judge in the *Western* District of Missouri.

The criteria used for measuring case loads in the Federal District Courts are admittedly obsolete and out of date. Yet the use of these outmoded criteria has caused the Western District of Missouri case load to appear erroneously lower. "Lawyers who practice repeatedly in the Western District Court of Missouri are well aware that the case load confronting the judges of that District is inordinately heavy, and that an additional judge should be provided to handle the work in that Court. One of the principle reasons for this need is the great number of *prisoners' cases* arising out of the Federal Penitentiary located in Springfield, Missouri; and the State Penitentiaries located in Jefferson City and Moberly, Missouri. These three institutions produce a substantial case load which is a very difficult type of case to handle and which is very time consuming."

> Because of these factors and others which are commented upon in the earlier data presented to the House and Senate Judiciary Committees, *we strongly recommend* that the *Omnibus Bill* not only include an additional District Judge for the *Eastern* District of Missouri, but that it be *amended* to include an additional District Judge for the *Western* District of Missouri. The burden being placed on our Federal Courts, and the attacks being made on the court system of this nation, are such that the cost of needed additional judges is a small price to pay to assure litigants that adequate care and consideration will be given by qualified and sufficient judges.
>
> We, therefore, urgently request you to support S. 952, S. 1712, and H.R. 9638 now pending, and that you support an *amendment* to provide for an additional Federal District Judge in the *Western* District of Missouri. We certainly would be pleased to receive an indication of your support.
>
> Thank you very much.
>
> Sincerely yours,
>
> EDGAR G. BOEDEKER,
> *President*.

Mr. EAGLETON. Mr. President, I, too, would like to address myself to the same subject matter that has been set forth by my distinguished colleague, Senator SYMINGTON.

The principal reasons advanced against approval of the judgeship in question, the one in the western district of Missouri, are:

First, the Judicial Conference of the United States did not recommend or approve the additional judgeship.

Second, the weighted caseload system presently employed shows no need for an additional judgeship.

Third, suspended eminent domain cases will not materialize.

I should like, if I could, to answer each of these objections which have been made to the additional judgeship in the western district of Missouri.

First, my reply to the argument with respect to the lack of approval by the Judicial Conference.

The needs of the western district of Missouri, and for that matter, the district of Nebraska, were never considered by the full Judicial Conference of the United States because of the failure of those districts to receive notice of the opportunity to submit their needs for study to the Judicial Conference Committee on Judicial Statistics.

Nevertheless, the Judicial Council for the Eighth Circuit did consider and approve the additional judgeship for western Missouri and Nebraska because of the exceptional circumstances preventing western Missouri and Nebraska from being considered by the Judicial Conference.

Second, my reply to the argument dealing with the weighted caseload system presently employed.

The weighted caseload system presently employed is considered generally as an inaccurate and unreliable measure of today's judicial burden.

A letter from the Director of the Federal Judicial Center, Mr. Justice Tom C. Clark, dated October 7, 1969, stated clearly the need for a new weighted caseload system and the inadequacies of the old system. I read a part of that letter:

> Discussions between the Judicial Conference Subcommittee on Judicial Statistics of the Court Administration Committee, the Administrative Office and the Federal Judicial Center have led to the conclusion that a new formula clearly related to sitting judgeships, present filings and case categories should be designed.

When the new weights resulting from the current study are revealed, a greatly different and reliable picture of judicial needs and rankings of courts will emerge.

Further, western Missouri has a unique problem in hearing petitions from prisoners of the U.S. medical center at Springfield. This is recognized in the administrative office paper on the "Judicial Business of the U.S. District Court for the Western District of Missouri," provided for the use of interested Congressmen. In that document the following statement appears:

> Petitions by federal prisoners have increased from 73 in 1964 to 133 in 1968 and 255 in 1969. The petitions by federal prisoners arise primarily from the Medical Center at Springfield, Missouri, and present unique legal questions.

These prisoners include a large number of persons who have not been convicted but who are committed because of suspected or proven mental incompetence, and also include problem convicts transferred from conventional penitentiaries.

Looking to the only presently available reliable measure, the number of cases filed by districts, a picture entirely different from the weighted caseload rankings emerges.

The figures for the last 4 fiscal years and the figure for the current unfinished fiscal year show the case filings by number per judge for the western district of Missouri as follows:

In 1966, the number of cases per judge was 294.75.

In 1967, the number of cases per judge was 265.25.

In 1968, the number of cases per judge was 262.75.

In 1969, the number of cases per judge was 286.75.

In 1970, on an estimated basis, the number of cases per judge is 397.50.

I come now to objection No. 3 and my response thereto. This objection deals with the suspended eminent domain cases.

Third, the Corps of Engineers can accurately predict eminent domain filings because of the long experience of the corps and detailed planning.

In addition, the potential burden of condemnation cases of the Whiteman Air Force Base ABM system scheduled by the executive department for an early start cannot be ignored in any projection of the needs of this court. The burden of the earlier Whiteman missile site cases in the western district of Missouri shows that this type of condemnation case is much greater than that of condemnation for conventional purposes. This is true because of the speed required in the acquisition program and the unprecedented complex nature of the uses and of the easements acquired.

In summary, we must take into account:

First, gross underestimate of the burden of Federal habeas corpus petitions of Federal unconvicted and convicted prisoners in the U.S. Medical Center for Federal Prisoners. No other district has this unique problem.

Second, gross underestimate of the burden of Federal habeas corpus by State prisoners to review validity of a State court conviction under 1966 amendments of Public Law 89-711, and recent controlling decisions.

Third, gross overestimate of the burden of conventional tort cases, for example, of which about 90 percent are settled by the litigants. There is no way to settle habeas corpus cases, which must be decided unless withdrawn or made moot.

Fourth, failure to take into account the backlog of suspended and unfiled eminent domain cases certain to be filed when budgetary restrictions are removed.

Mr. President, I am happy to join with my distinguished senior colleague, Senator SYMINGTON, in urging that the additional Federal court for the western district of Missouri be restored.

Mr. President, I ask unanimous consent that a statement made by Judge William Becker, the presiding judge of the western district of Missouri, before the Senate Judiciary Committee be printed at this point in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

A FINAL CONCLUSORY WORD

> One factor which greatly bothers the judges of the Western District of Missouri is the fact, as shown on Table I of the data presented the Congress by the Administrative Office, that while Local Rule 20 enabled our Court to make inroads on backlog in 1966 and 1967, the mounting pressures of prisoner petitions and condemnation cases broke that pattern in 1968.
>
> In 1966 the Western District of Missouri reduced its backlog by terminating 910 civil cases against 798 filed. In 1967, 783 were terminated against 734 commenced. In 1968, however, in spite of the decrease in filings of personal injury diversity cases, we terminated only 577 cases in 1968 against 708 filed. Every active judge in the Western District worked as hard in 1968 as he did in 1967 and 1966 if, indeed, he did not work harder and, because of his added experience, more efficiently.
>
> One is forced to conclude that unless given relief in the form of an additional judge, the record of accomplishment of making inroads on a backlog will not continue because the present judges of the Western District have no more judicial hours to give the United States, and endeavor to spend their limited time more efficiently.

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. INOUYE. Mr. President, at a time when our thrust should be toward drawing our country together, we witness movement toward separation and polarization. At a time when our leaders should be marshaling all forces to pro-

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pel this forward thrust, we review with alarm this administration's backward leap over the past year.

We witness the go slow approach our administration has adopted in the area of desegregation—its support of an amendment which would work to weaken the enforcement of school desegregation rulings in the South and its equivocation on extending for another 5 years the Voting Rights Act of 1965.

We remember the Justice Department's request to postpone for a year the enforcement of school desegregation orders in Mississippi which cause a "revolt" by lawyers in the Department's Civil Rights Division.

We recall the recent memorandum sent by a high level adviser to the President suggesting that the administration pursue a policy of "benign neglect" on racial issues at a time when the very fabric of our Nation is being torn at the seams by so many years of this very neglect.

We watched the removal of Leon Panetta from his post as Director of the Officer for Civil Rights in the Department of Health, Education, and Welfare because he tried to implement the law.

We notice a reduction in funds for inner cities at a time when they fester in desperation and the severity of their problems take quantum jumps. We heard, for example, our administration indicate that limited funds would be allocated to such programs as title I of the Elementary and Secondary Education Act—the primary vehicle by which compensatory services have been provided in school districts serving the poor.

It is with despair that we watch our administration seek a low profile in all areas of civil rights—a low profile which can only trigger high profiles on indices of dissatisfaction, alienation, and fragmentation among the already polarized groups in our Nation.

And now to hit the lowest point of its silhouette in this area, our administration has called upon Judge G. Harrold Carswell, a man who only two decades ago proudly declared he was an unabashed racist, to assume the mantle once worn by such distinguished judges as Justices Oliver Holmes, Louis Brandeis, and John Marshall.

Let me say that while I would have expected a nominee to the Supreme Court to have shown by word and deed a deep commitment to the principle of equal opportunity for all citizens, so eloquently expressed in the 14th amendment to our Constitution, I do not hold against Judge Carswell the speech he delivered in 1948 in which he declared:

> I yield to no man in the firm vigorous belief in the principles of white supremacy, and I shall always be so governed.

I am well aware that this speech expressing his vigorous belief in the "principles of white supremacy" was delivered in his youth and in the heat of an election campaign designed to sway white voters. At one time or another in our political careers, we have all made unfortunate statements which we would prefer to forget. However, I am distressed by the fact that since delivering this speech 22 years ago, Judge Carswell has done little to indicate by deed or decision that his views on civil rights have changed in any way.

The Judiciary Committee hearings have, in fact, revealed that between 1958 and 1969, 15 of Judge Carswell's decisions on civil rights and individual rights cases were unanimously reversed by the fifth circuit court. It is worthwhile to note that even those who support his nomination have admitted that his decisions in five cases "may fairly be described as anticivil rights."

In addition, the hearings disclosed that in 1956, Judge Carswell served as an incorporator and director of a private golf course in Tallahassee, a segregated course specifically formed to circumvent a Federal Court order requiring the desegregation of municipally operated recreational facilities. Judge Carswell's testimony that despite his official position and his knowledge of suits compelling equal treatment of blacks and whites at public golf courses, he did not know that the purpose of establishing the private club was to avoid the results of such suits. Is simply not one that we can accept from a U.S. attorney. Such a statement demonstrates an alarming lack of candor.

The Judiciary Committee's hearings also pointed out that as recently as 4 years ago Judge Carswell sold property with a provision that ownership, occupancy and use of the property would be restricted to members of the Caucasian race.

I was astounded that the White House reacted to this disclosure by stating that "this particular incident is not isolated at all." While I have no doubt that there are hundreds if not thousands of real estate deeds in this country which contain racial covenants, it is quite another matter to find such a covenant appearing in a deed held by a man who aspires for the High Bench. That Judge Carswell claims he was not aware of the covenant is hardly an excuse we can accept from a lawyer and judge.

If Judge Carswell had, in fact, renounced the doctrine of white supremacy enunciated in his 1948 speech, he should have shown a change of heart by deed rather than mere rhetoric. Opposition to the racial covenant covering the property he sold would have illustrated his belief by deed. Here was an opportunity he "missed."

Judge Carswell's civil rights record would alone be grounds enough for questioning his nomination. There is, however, yet another area of concern. I speak here of his judicial competence.

While I am not a member of the Committee on the Judiciary and, therefore, hesitate to discuss Judge Carswell's legal qualifications, I am concerned with the serious doubts and questions regarding his judicial competency raised by both my colleagues and an alarming number of distinguished jurists and legal scholars. The letter we recently received from 457 of our Nation's most prominent lawyers—among them the deans of Harvard, Yale, and the University of Pennsylvania—urging the rejection of this nomination cannot be ignored.

While I am concerned with Judge Carswell's civil rights record, my opposition is not just that of a liberal on civil rights to a "southern" judge. Judge Carswell's own southern judicial colleagues have demonstrated a remarkable coolness to his nomination to this high post. I gather from press accounts that Judge John Minor Wisdom as well as Judge Elbert Tuttle, both of the Fifth U.S. Circuit Court of Appeals, have refused to approve his elevation to the Highest Court—a refusal which stands in sharp contrast to the previous practice. This is particularly noteworthy because I believe if anyone can judge his professional qualifications objectively it is those who have worked with him in a professional capacity over the years.

There is no room for mediocrity on the High Bench. The Supreme Court deserves the best we can offer.

I am reminded here of our President's declaration that his nominee to the Supreme Court would be a man of as great judicial distinction as former Justices Oliver Holmes and Louis Brandeis. The record of the Judiciary Committee's hearings clearly indicates that Judge G. Harrold Carswell is simply not such a man.

To elevate to the Bench of the Highest Court in our Nation a man whose judicial career has been described as one of consistent mediocrity, even by some who support his nomination, would serve only to deteriorate the credibility of the Supreme Court at a time when its very welfare and prestige hang in the balance.

To elevate to the Bench of the Highest Court in our Nation a man who has done nothing to indicate by deed that his views on civil rights have changed over the last 22 years would be to undermine the Supreme Court's well earned reputation for equity and justice.

To support this nomination would be to violate my conscience and that of the American people.

Mr. President, for these reasons I cannot and will not support the elevation of Judge G. Harrold Carswell to the Supreme Court. I urge my colleagues to likewise clearly demonstrate their concern.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, all of us, at one time or another, have awakened from a dream in the middle of the night, trying hard to resurrect the scenes that played before our unconscious minds, with a disturbing feeling that we had been looking at pictures that we had seen before.

The speeches that have been made here in the Senate in the last few days on the Judge Carswell nomination, as well as the daily reports in the press, and the nightly bits and pieces on television, remind me so much of those dreams I just mentioned. The debate on the Judge Carswell nomination is scene for scene, word for word, almost a replay of the Haynsworth affair. The same actors are leading the opposition, the lines are so nearly identical, that it is uncanny.

Those directing the production for the opposition are precisely the same, organized labor bosses and civil rights leaders. The audience cheering and applauding the opposition is the same, people who do not want to see an end to the era of liberal domination of the political and economic and social affairs of this country by reform of an activist, lawmaking Supreme Court.

About the only difference in the cases is a slight rearrangement of issues and arguments against Judges Carswell and Haynsworth.

The ethical issue which was the false peg upon which the opposition hung their hats in the Haynsworth matter is missing, mainly because Judge Carswell and his wife are people of limited means. There can be no conflict of interest in his case, because there are no property holdings which can give any hint of conflict.

The civil rights issue is here as it was in Haynsworth. However, the civil rights case against Judge Carswell is a specious one indeed.

Except that there is so much at stake, the appointment of one of the nine Judges of the Supreme Court of the United States, one might be tempted to dismiss the civil rights arguments as not worthy of discussion.

But they have been raised, hence we must examine them.

First, there was the political speech which Harrold Carswell made 22 years ago, in 1948, as a candidate for public office, in which he defended segregation of the races as proper. This indiscretion received some momentary play in the press at the time, but I do not think that any broadminded or decent person can view this in any other light than a political statement made in the heat of a political campaign in rural Georgia 22 years ago. Judge Carswell was running against another candidate who had accused him as being liberal and in favor of integration. In that area, at that time, he said what many others running for public office said. It was an obnoxious statement as Judge Carswell has said but I doubt if there is a single Member of this great body, the U.S. Senate, who has not made statements in his political speeches over the years, statements that he would be very glad to be able to delete or rephrase at this time.

I think that the significant fact about Judge Carswell's Georgia political speech was his reaction when this came to light. He said: "Specifically and categorically, I renounce and reject the words themselves and the thoughts that they represent. They are obnoxious and abhorrent to my personal philosophy." This is the important thing to me, for this immediate reaction is most revealing of the man's character. It would have been very human had he tried to defend or to explain the statement. Many might have reacted so. However, Judge Carswell did not do this but he rejected the words out of hand. I think that this speaks much in favor of the character of the man. It indicates a drastic change in his attitude on the whole matter of segregation and integration. Judge Carswell is obviously a man who can change with the times.

The second building block for those who would like to prove Judge Carswell a racist is the matter of the Capitol City Country Club.

It appears that the local golf course in Tallahassee was municipally owned. The course was running at a loss of some $14,000 or $15,000 a year and the city wanted to dispose of the club. In the year 1956, a group of local citizens got together for the purpose of acquiring the municipal course and operating it as a private club. Some 21 signed a corporate charter for an enterprise called the Capitol City Country Club. Each put up $100. Harrold Carswell was one of the signers.

Opponents of Carswell claim the main purpose of the new club was to change a public course to a private one which could then exclude blacks from playing golf.

The hearing record reveals that this corporation never got off the ground, that it did absolutely nothing and that $76 of the $100 paid in by Judge Carswell was refunded to him.

Another group went ahead with the country club but Carswell was not a part of the second group. He had nothing whatsoever to do with it.

He did join the club some years later for 3 years from 1963 to 1966 so his children could play golf. He dropped out in 1966.

The opponents claim that this set of facts shows Judge Carswell participated in a scheme to deny blacks the right to play golf.

How in heavens name that conclusion is arrived at is a mystery to me.

Carswell signed his name to a charter of a corporation that did absolutely nothing.

It was succeeded by another corporation that operated the golf course. Judge Carswell was not a member of this second group.

Again the opposition has struck out.

The third attempt to brand Judge Carswell with a racist label came in connection with a transfer of a building lot to his wife. The lot came out of a subdivision which had restrictive covenants including one preventing transfer to any Negro.

The lot was never built upon by Mrs. Carswell and subsequently she sold it. The deed of conveyance contained a clause "subject to restrictive covenants of record."

As a former practicing Florida lawyer, I can say that this is standard language in Florida conveyances. There are probably deeds in the millions on record in Florida with this language, certainly in the hundreds of thousands.

No specific mention of the Negro covenant was made in the deed of conveyance that Carswell signed.

The facts then are that Judge Carswell never owned the land, there is no evidence that he ever knew anything about the covenant. He signed the deed because under Florida law, even though a husband has no interest whatsoever in his wife's property, he must join in conveyances of her real property. The deed says nothing about the covenant.

One wonders what this deed has to do with the Carswell nomination.

One questions why the minority report accompanying this nomination recites these facts.

Next there is mention of a joke alleged to have been told by Judge Carswell. Here the facts are so vague that the joke is not even set out in the minority report, simply alluded to. I might say that the least the attackers of Judge Carswell might have done here was to give the rest of the Senate the benefit of the joke so we could judge for ourselves its impropriety and perhaps even pass upon the merits of the humor in it, whether good or bad.

There is the last so-called racial fact involving the "Seminole boosters." This was a typical club of city folk and university alumni formed in 1953 to drum up support for the athletic teams of Florida State University. The charter has a clause limiting members to whites. Carswell's law firm drew the corporate charter for nothing by copying a charter then in use for a booster club of another college. How many lawyers in this body have done similar free acts—given a copy of a charter to a secretary for copying.

Now all these racial bits against Judge Carswell come under the heading in the report "Judge Carswell's Insensitivity to Human Rights."

In years to come, future historians in my view, are going to wonder what kind of political times these must have been to have motivated outstanding members of the U.S. Senate to indulge in this insensitivity thing.

It occurs to this Senator that the insensitivity here is clearly one directed against Judge Carswell.

There is not a single fact of substance in the record that indicates, except the speech of 22 years ago, and I doubt even those who signed the minority report against Carswell take that too seriously.

The rest of the case against the Judge rests upon an accusation of mediocrity.

I do not know whose brainchild this one is, although it is quite clear that it is a well organized campaign which has gathered a number of supporters, lawyers and law professors. These are also mainly, although not entirely, from the northeastern part of the Nation. There is no time to analyze their political affiliations or philosophies, but I would feel quite safe in venturing an opinion that they are of splendid liberal persuasion, great admirers of an activist Supreme Court like the Warren one, and of one clear, common mind, that a conservative judge has no place on the Supreme Court.

One fact about the mediocrity argument and the people who advance it, they do not know Judge Carswell, they have not practiced before his court, they do not know him as a colleague.

How does one define mediocrity or excellence in a Federal district judge? I must confess, I do not know, even though I have been a practicing lawyer and in Federal courts on many occasions.

If he is a busy, hardworking trial judge there is infrequent occasion to write

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opinions and little time even where opinions are written, to produce legal tomes.

The same would be true of legal tracts or articles, especially for law reviews.

Some lawyers like to see their name in print. In the case of law professors, it is a necessity to write and publish to get ahead in one's profession.

Not so a Federal district judge. In fact, a great production of legal essays, or for that matter, lengthy opinions on the part of a Federal district judge, would lead me, a former practicing lawyer, to suspect that some other judge was doing that particular judge's work, or else he was bucking for something besides being a district judge.

Now any practicing lawyer knows where to go to find out what judges are of excellent legal mind and have judicial abilities. That is to seek the opinion of the bench and bar where the judge is located.

The bench and bar of Florida, almost to a man, speak highly of Judge Carswell and his qualifications. He enjoys the almost unanimous endorsement of his colleagues on the bench and of the countless numbers of lawyers who come before him in his 11 years as a Federal district judge.

I have discussed Judge Carswell with a great many distinguished and able lawyers in Florida, men in whom I have the utmost confidence. To a man, they have said he has an excellent legal mind, he has been an outstanding Federal Judge and that he is Supreme Court material. That opinion is far more meaningful to me than opinions of lawyers and professors hundreds and thousands of miles away who have never laid eyes on Judge Carswell.

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We have heard a lot in the last 2 weeks about Judge Carswell's reversal record. I suggest that the case put forward by the Ripon Society and other groups presents a distorted and unreal picture of Judge Carswell's record in this regard.

Let us look at the real record. Judge Carswell was a trial judge in the Federal District Court for the Northern District of Florida from 1958 to 1969. During that period he heard more than 4,500 cases. That figure does not, of course, include guilty pleas, motions, hearings, and so forth.

Approximately 2,500 of these cases were criminal cases. Of all the criminal cases over which he presided, 44 appeals were taken to the court of appeals for the fifth circuit.

On 36 occasions, Judge Carswell was affirmed. On eight criminal cases, Judge Carswell's opinion was reversed in whole or in part. Out of more than 2,500 criminal cases over a 12-year period then, Judge Carswell was reversed in eight cases, and only partially in some of those cases. The list of the 44 cases is found at page 319 of the hearings.

I think that is a pretty good track record, and hardly one on which to found any kind of accusation that Judge Carswell's reversal record does not qualify him for the Supreme Court.

The Ripon Society's analysis of Carswell's record deals with published district court opinions: Only about 100 of Judge Carswell's 4,500 cases while on the Federal district court were printed and published. I suggest that it is impossible to make an accurate assessment of Judge Carswell's record—particularly one concerning reversal rates on the basis of 100 printed cases out of a 4,500 total.

During his tenure on the Federal district court, Judge Carswell heard approximately 2,000 civil cases, including civil rights cases. Of that number a total of 63 were appealed. Judge Carswell was reversed on 30 cases and affirmed on 33 cases. Of the cases reversed, again we must point out that in very many cases the reversal was partial. So much for allegations that Judge Carswell was frequently reversed: 30 cases out of more than 2,000 civil cases; eight out of more than 2,500 criminal cases. Like so many of the charges against him it dissolves when exposed to the light of day.

We have a very excellent summary of Judge Carswell's civil rights cases—there were very few of them—placed in the Judiciary Committee's record beginning at page 311.

Let me quote a passage from the separate individual views filed by the distinguished Senators from Indiana (Mr. BAYH), from Michigan (Mr. HART), from Massachusetts (Mr. KENNEDY), and from Maryland (Mr. TYDINGS). I respect my colleagues immensely, but I think their characterization of Judge Carswell's attitude regarding habeas corpus petitions is most unfair:

> An examination of Judge Carswell's habeas corpus decisions evidences a judge who does not take seriously the importance of this vital constitutional provision. It reveals a judge who has developed with regard to the writ a pattern of inattentiveness—inattentiveness which could deprive our Constitution of any real meaning. It reveals a judge who is inclined to look the other way.
>
> The record reveals that in at least nine cases, Judge Carswell has been unanimously reversed for refusing even to grant a hearing in habeas corpus proceedings or similar proceedings under 28 U.S.C. 2255. Whether this unseemly record is the product of simple callousness, obliviousness to constitutional standards, or pure ignorance of the law, one might only surmise.

I should point out to you that during his tenure, Judge Carswell heard petitions for hundreds of writs of habeas corpus—in Tallahassee alone he heard over 250 applications and petitions for habeas corpus in the last 10 years. From this list of cases, my colleagues have selected nine cases where Judge Carswell was reversed on appeal. In many of those cases, the hearing was held, as directed by the court of appeals and the result was the same as the judge has originally decided on the basis of the affidavits and prior submissions: That is the writ was denied and nothing more was heard of the case.

I think it is wildly and grossly unfair to play a numbers game with cases. Cases are full of intangibles, and subtleties which do not permit such a procedure; any so-called statistical breakdown of cases must necessarily fail to take into account these subtleties and fine distinctions.

Implied in the whole discussions is the erroneous notion that when a trial court judge's opinion is reversed, he is necessarily wrong or in error. That is not the case. Frequently, the law has changed, by virtue of statutory enactment or higher judicial opinion between the time the trial court hears the case and the time the case reached appellate court. Those who applaud the sociological approach to the law must be prepared to accept its implications: By that I mean that the abandonment of the doctrine of stare decisis has meant the abandonment of many of our fundamental notions of jurisprudence. Willy-nilly, doctrines of long standing have been diluted or altered or scrapped completely. This unhappy state of affairs has left our trial courts in a quandary. They have been forced to project, to suppose what higher courts had in mind, what implications there might be from decisions in different but related areas of the law. Trial courts do not make law; if they attempt to do so they are properly struck down. They rely on higher court guidance. That guidance in recent years has been a fluid thing; cherished and longstanding attitudes have been reformed and reshaped by the Supreme Court to fit the individual notions of virtue and truth of the sitting members.

One of the most telling criticisms of the Warren court, I think, has been that its abandonment of the doctrine of stare decisis has created chaos in the lower courts. The lower courts and lower court judges cannot fairly be blamed for this state of affairs.

There is a body of valid and very telling criticism of the Warren court from very eminent and responsible commentators, including the present membership of the Supreme Court, in their dissenting opinions. The best summation of this criticism that I know is contained in the address of Prof. Alexander M. Bickel, chancellor Kent professor of law and legal history at the Yale law school who was last year's Holmes lecturer at my alma mater, the Harvard Law School. Professor Bickel gave the following analysis:

> The Warren court has come under professional criticism for erratic subjectivity of judgment, for analytical laxness, for what amounts to intellectual incoherence in many opinions and for imagining too much history . . . the charges against the Warren court can be made out, irrefutably and amply.

Trial court judges, as I say, cannot be indicted for these shortcomings. The indictment is returnable again to the Supreme Court itself.

SOME COMPARISONS OF PRIOR JUDICIAL SERVICE

Mr. President, Chief Justice Warren Burger served on the U.S. Court of Appeals for the District of Columbia circuit from 1956 to his elevation in 1969, a period of 13 years. If we except Mr. Chief Justice Burger, Mr. President, we must go back to Justice Benjamin Cardozo to find an Associate Justice who came to the Supreme Court with more previous on-bench judicial experience than Judge G. Harrold Carswell.

Mr. Justice Cardozo was appointed to the high court by President Hoover in March 1932, having previously served on New York's highest court, the court of appeals, from 1917 to 1932.

I think it would be well to note the judicial experience of the intervening justices at this point.

President Roosevelt appointed Mr. Justice Hugo Black to the Court in 1937. Mr. Justice Black had served as a police judge in Alabama from 1910 to 1911, for a total period of about 18 months.

Mr. Roosevelt's next three appointees came to the Court without any prior judicial experience whatsoever: I refer to Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

Mr. Justice Murphy, who was appointed by President Roosevelt in 1940, had 7 years of prior judicial experience in the Detroit Recorder's Court.

Mr. Justice Byrnes and Mr. Justice Jackson, both appointed by President Roosevelt in 1941, each came to the Supreme Court without prior judicial experience.

Mr. Justice Rutledge, who was appointed by President Roosevelt in 1943 had served on the Court of Appeals for the District of Columbia from 1939 to 1943, a period of 4 years.

In all, President Roosevelt appointed eight new Justices to the Supreme Court; together these eight gentlemen had total prior judicial experience totaling slightly less than 12 years, roughly equal to G. Harrold Carswell's individual period of service.

We should note that President Roosevelt elevated Justice Harlan Fiske Stone to the post of Chief Justice in 1941; Chief Justice Stone had, of course, served on the High Court from 1925 to the time of his elevation, having been first appointed by President Coolidge.

President Truman appointed Harold Burton to the Court in 1945. Mr. Justice Burton came to the Court with no prior judicial experience.

Mr. Justice Tom Clark was appointed by President Truman in 1949. He came to the Court wth no judicial experience.

Mr. Justice Minton was appointed to the High Court by President Truman in 1949. He came to the Court with 8 years of experience on the U.S. Court of Appeals for the Seventh Circuit.

President Truman appointed Fred Vinson to the office of Chief Justice in 1946. Chief Justice Vinson had served on the U.S. Court of Appeals for the District of Columbia from 1939 to 1943, a period of 4 years.

In all, President Truman during his presidency appointed four members of the Supreme Court. The total prior judicial experience of these gentlemen amounted to approximately 12 years. Judge Carswell, as we know, served 12 years in the Federal judiciary prior to his nomination.

President Eisenhower appointed Earl Warren to the High Court in 1953. As we all know, to our sorrow, Mr. Chief Justice Warren came to the Supreme Court without prior judicial experience.

President Eisenhower appointed John Marshall Harlan to the Court in 1955. Mr. Justice Harlan had served for 1 year on the U.S. Court of Appeals for the Second Circuit.

Mr. Justice Brennan came to the Supreme Court with a good deal of judicial experience, having served on the New Jersey Superior Court, the appellate division and the New Jersey Supreme Court for a total of approximately 7 years, prior to his appointment by President Eisenhower.

Mr. Justice Whitaker, the next nominee of President Eisenhower, served on the Federal District Court for the Western District of Missouri and on the U.S. Court of Appeals for the eighth circuit for a period totaling approximately 3 years.

President Eisenhower appointed Mr. Justice Potter Stewart to the Court in 1958. Mr. Justice Stewart had served on the sixth circuit court of appeals for 4 years, 1954–58, prior to his elevation.

President Eisenhower thus appointed five members to the Supreme Court. Judge Carswell's prior judicial experience surpasses the individual experience of each of those justices. The total prior judicial service of President Eisenhower's nominees represents approximately 15 years. As an individual, Judge Carswell's prior judicial experience amounts to more than 12 years.

President Kennedy appointed two men to the Supreme Court, Byron R. White and Arthur J. Goldberg, both in 1962. Neither Mr. Justice White nor Mr. Justice Goldberg had prior judicial experience at the time of their appointments.

President Johnson, as we know, appointed two Justices during his tenure: Mr. Justice Abe Fortas and Mr. Justice Thurgood Marshall. Mr. Justice Fortas has no prior judicial experience, but Mr. Justice Marshall had served on the second circuit court of appeals for 4 years prior to his elevation.

The four justices appointed during the Kennedy-Johnson years had a total of 4 years prior judicial service among them. Judge Carswell, with 12 years experience, thus has three times the total prior judicial service of the four justices appointed by Presidents Kennedy and Johnson.

SUMMARY

In summary, the Carswell nomination boils down to these facts in the view of this Senator.

We have a nominee who has spent nearly all his working lifetime within the Federal court system, as a U.S. attorney, as a Federal trial judge, as a Federal appellate judge. Seldom has a prospective appointee to the Nation's highest court received a better preparation. This man understands the problem of lawyer and client in court because he has appeared at attorney for the prosecution and defense in countless cases. He knows the problems confronting a trial judge because he sat as one for 11 years. He has had appellate training in the busiest Federal appellate circuit and one, incidentally, which has had the bulk of the civil rights cases.

His fellow lawyers and judges hold him in high regard as an excellent legal mind and a first-rate judge.

His opposition have not made a case. Snowman after strawman which have been put up by them, have been knocked down and have been found to be of no substance.

In the last analysis, this Carswell nomination is a replay of Haynsworth.

The question is whether labor and civil rights leaders are going to be permitted to have a veto power over a conservative appointment to the Court or whether the President of the United States shall be permitted to carry out his constitutional functions and appoint a judge of his choosing.

To put it another way, is the Senate of the United States going to prevent one of the clear mandates of the 1968 election, which was to change the political philosophy and direction of the Supreme Court?

The liberals lost the 1968 election. They should not now perpetuate a Supreme Court which the people of this Nation deeply desire to be changed.

The President should be permitted to work his will in this nomination. There is no sound justification for the Senate to withhold its consent.

CONCLUSION

President Nixon has set about to reshape the Supreme Court with his appointive power. He has the right to do that under the Constitution and he has a duty to do it because of the promises he made to the American people during his successful election campaign in 1968. He has so far sent to the Senate jurists with wide experience on the bench, men whose views on the judicial process are known and certain. In this way, he hopes to restore to the High Court the dignity and objectivity that once marked its deliberations and by doing so restore it to the esteem it once enjoyed with the American people. As I see it, the Court went astray in recent years, at least partly because too many of the Justices appointed to it had little or no experience in the judiciary, State or local, prior to their appointment. Warren, Fortas, White, Douglas, and Black fall into that category. Justice Black served briefly as a police court judge in Alabama, as I mentioned before. The Burger appointment and now the Carswell appointment offer very real and substantial encouragement to many of us, in public and private life, who have been worried about the direction of the Court in recent years. The Warren court has made its record and is now part of history; frankly, I find that record leaves much to be desired in several respects and I think the country is the worse for it. It is time for a change and a new record to be made. I think it will be a commendable record and I look for Harrold Carswell to play an influential role in its making.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point numerous telegrams I have received from lawyers and judges in the State of Florida over the last 2 days backing the nomination of G. Harrold Carswell.

There being no objection the telegrams were ordered to be printed in the RECORD, as follows:

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

J. R. WELLS, Jr.,
Attorney.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

H. M. VOORHIS,
Attorney.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Judge of the Supreme Court of the United States.

R. F. MAGUIRE, Jr.,
Attorney.

WINTER PARK, FLA.,
March 17, 1970.

Hon. EDWARD GURNEY,
U.S. Senate,
Washington, D.C.:

As a member of the Florida Bar I would greatly appreciate your doing all that you can to assure Senate confirmation of the appointment of G. Harrold Carswell.

L. PHARR ABNER.

PANAMA CITY, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
Washington, D.C.:

I strongly urge confirmation of Judge Carswell's nomination to the Supreme Court. I am a member of the Florida Bar and American Bar Association. I practiced before Judge Carswell during his tenure as United States District Judge in Florida. I am an honor graduate of the University of Florida College of Law, and feel my own academic achievement qualifies me to evaluate and wholeheartedly recommend Judge Carswell based solely upon his demonstrated legal ability. The negative opinions of so called legal schools presently being circulated around Washington are nothing more than subterfuges to disguise philosophical objections.

C. DOUGLAS BROWN,
Attorney at Law.

PANAMA CITY, FLA.,
March 17, 1970.

Senator EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

As a practicing Florida lawyer of more than 20 years experience I wholeheartedly endorse the nomination of Hon. G. Harrold Carswell to serve on the Nation's highest court. I have practiced law primarily in northwest Florida, the area served by Judge Carswell as a district court judge. I have practiced law in Orlando, Fla., where I was a law partner of Hon. Don G. Baker. I served at one time as research aide to Hon. Campbell Thornal of the Supreme Court of Florida and at present I am a member of the Florida Board of Bar Examiners. I have done both trial and appellate work and have appeared before numerous judges of the State and Federal courts of Florida. I am acquainted with and have appeared before Judge Carswell in legal matters, it is my firm belief that Judge Carswell is eminently qualified in character, ability and experience and would serve with honor and distinction as Justice of the Supreme Court of United States.

LARRY G. SMITH.

ORLANDO, FLA.,
March 17, 1970.

SENATOR ED GURNEY,
Washington, D.C.:

I urge the appointment of Judge Carswell to the Supreme Court.

GROVER C. BRYAN.

ORLANDO, FLA.,
March 17, 1970.

Senator ED GURNEY,
Washington, D.C.:

I urge the appointment of Judge Carswell to the Supreme Court.

RICHARD L. FLETCHER.

ORLANDO, FLA.,
March 17, 1970.

Senator EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

The undersigned endorses and urges your continued support for the nomination of Judge Carswell to the Supreme Court.

RONALD A. HARBERT,
MATEER, FREY, YOUNG & HARBERT.

ORLANDO, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

This is to confirm my own support and actively solicit the continued support of the nomination of Judge Carswell now in debate before the Senate.

WILLIAM G. MATEER,
MATEER, FREY, YOUNG & HARBERT.

ORLANDO, FLA.,
March 17, 1970.

Senator EDWARD GURNEY,
U.S. Senate,
Washington, D.C.:

I urge the appointment of Judge Carswell to the Supreme Court.

ELDON C. GOLDMAN.

DALLAS TEX.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

Urge you do all in your power to obtain Senate confirmation of Judge Carswell as Associate Justice, United States Supreme Court.

FLETCHER G. RUSH,
Former President of the Florida Bar.

TALLAHASSEE, FLA.,
March 17, 1970.

Senator EDWARD J. GURNEY,
New Senate Office Building,
Washington, D.C.:

As a former assistant attorney general for the State of Florida for 8 years I strenuously urge and support the confirmation of Judge Harrold Carswell to the Supreme Court of the United States. I have had occasion to appear before Judge Carswell during this 8 year period in litigation involving civil rights and have always found him to be courteous able and impartial. The manner in which he conducted his court including treatment of counsel was beyond reproach and consistent with the highest judicial standards. Judge Carswell has served the Federal judiciary with honor and distinction both as a district court judge and court of appeals judge. His confirmation will bring to the U.S. Supreme Court a man of impeccable integrity and outstanding ability. U.S. Senate should take great pride in confirming Judge Carswell for indeed he is, has been, and will continue to be a credit to the judiciary and the entire Nation.

GERALD MAGER.

JACKSONVILLE, FLA.,
March 17, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senator,
Washington, D.C.:

We appreciate your efforts in support of confirming President Nixon's nomination of Judge G. Harrold Carswell to the Supreme Court.

A diligent investigation of Judge Carswell's background has revealed no more than two or three incidents which only his most biased detractors can twist into arguments against him. The criticisms which have been voiced make him appear to be strangely different from the person who is known to Florida lawyers.

An insignificant number of lawyers from other States who do not know Judge Carswell have gained publicity by signing petitions which distort his personality, philosophy and qualifications.

By contrast, the lawyers in this State who have appeared before him, who know him personally and who have firsthand knowledge of his qualifications are virtually unanimous in his support.

It is apparent that the real objective of the publicity campaign against Judge Carswell is to prevent a conservative voice from being heard on the court. Opposition that is based on political grounds gives support to those who criticize Supreme Court decisions as being politically motivated. Such opposition is destructive of public confidence in the judicial system of this country.

Unless a vote on Judge Carswell's confirmation is taken as soon as possible, the continued controversy can only damage public respect for the Supreme Court and our system of justice.

William H. Adams III, Jack H. Chambers, Earl B. Hadlow, George L. Hudspeth, Fred H. Steffey, Thomas M. Baumer, Linden K. Cannon III, Phillip R. Brooks, John G. Grimsley, Wade L. Hopping, James Mahoney, J. Frank Surface, Brian H. Bibeau, David W. Carstetter, Walton O. Cone, Guy O. Farmer II, Mitchell W. Legler, Rolf H. Towe, William D. King, and Bryan Simpson, Jr.

COCOA, FLA.,
March 17, 1970.

Congressman ED GURNEY,
Washington, D.C.:

Strongly recommend Senate confirmation of our great Florida Jurist Judge Carswell.

ROBERT G. FERRELL III,
Public Defender, 18th Judicial Circuit.

BROOKSVILLE, FLA.,
March 17, 1970.

Senator EDWARD GURNEY,
Washington, D.C.:

Your support for Judge Carswell as Justice of the Supreme Court sincerely appreciated by the Judiciary of Florida. Carswell is a qualified jurist.

MONROE W. TREIMAN,
County Judge, Hernando County.

FT. LAUDERDALE, FLA.,
March 17, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I concur completely with the nomination of Judge Carswell and hope and trust you will continue to urge his confirmation by the Senate.

DAVIS W. DUKE, JR.,
Attorney.

BRADENTON, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senator, New Senate Office Building,
Washington, D.C.:

As practicing attorneys in Florida, we urge quick confirmation of Judge Carswell to the Supreme Court.

W. J. DANIEL,
WALTER H. WOODWARD,
E. N. FAY, JR.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Washington, D.C.:

I concur completely with the nomination of Judge Carswell and hope and trust you

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will continue to urge his confirmation by the Senate.

JAMES M. CRUM,
Attorney.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I concur completely with the nomination of Judge Carswell and hope and trust you will continue to urge his confirmation by the Senate.

K. ODEL HIAASEN,
Attorney.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

I concur completely with the nomination of Judge Carswell and hope and trust you will continue to urge his confirmation by the Senate.

JAMES D. CAMP, Jr.,
Attorney.

FT. LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

In concurrence completely with the nomination of Judge Carswell. And hope and trust you will continue to urge his confirmation by the Senate.

RICHARD G. GORDON,
Attorney.

BRADENTON, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Washington, D.C.:

As an active practicing attorney in Florida I hereby urge the immediate confirmation of Judge Harrold Carswell to the Supreme Court.

JAMES M. WALLACE,
Attorney at Law.

BRADENTON, FLA.,
March 18, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

As practicing attorneys we urge immediate confirmation of Carswell to Supreme Court Justice.

DEWEY A. DYE, Jr.,
KENNETH W. CLEARY,
JAMES M. NIXON, II,
ROBERT L. SCOTT,
DAVID K. DEITRICH.

SARASOTA, FLA.,
March 18, 1970.

Hon. EDWARD GURNEY,
Washington, D.C.:

As a practicing attorney in Florida I urge quick confirmation of Judge Carswell.

RICHARD S. SPARROW.

SARASOTA, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Washington, D.C.:

As a practicing attorney in Florida I urge quick confirmation of Judge Carswell.

WILLIAM A. SABA.

SARASOTA, FLA.,
March 18, 1970.

Senator ED GURNEY,
Washington, D.C.:

As a practicing lawyer in Florida I strongly recommend early confirmation of Judge Carswell to the Supreme Court of United States.

THOMAS F. ICARD.

CRESTVIEW, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Washington, D.C.:

Respectfully request that you vote for the confirmation of Judge Carswell nomination.

WILLIAM DEAN BARROW,
Attorney.

CRESTVIEW, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Old Senate Building,
Washington, D.C.:

Respectfully request that you vote for the confirmation of Judge Carswell nomination.

BEN L. HOLLEY,
Attorney.

LAKELAND, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
New Senate Office Building,
Washington, D.C.:

As member of the Florida Bar Board of Governors, I support the nomination of Judge Harrold Carswell to the Supreme Court of United States. Your continued support is urged and will be appreciated.

M. CRAIG MASSEY.

LAKELAND, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate,
New Senate Office Building,
Washington, D.C.:

I recommend support of Judge Harrold Carswell's nomination to Supreme Court. I am member of the Florida Bar and president of the Tenth Judicial Circuit Bar Association.

DAVID J. WILLIAMS.

MILTON, FLA.,
March 18, 1970.

Senator ED GURNEY,
Senate Building,
Washington, D.C.:

We circuit judges of the First Judicial Circuit or Florida have had the pleasure of knowing Judge G. Harrold Carswell as a lawyer and as a judge; it is a pleasure to vouch for him and urge his confirmation. Best wishes.

WOODROW M. MELVIN,
Presiding Judge.

BELLEAIR, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge the confirmation of Judge Carswell.

CHARLES R. HOLLY,
Circuit Judge, Clearwater, Fla.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD GURNEY,
U.S. Senator,
Washington, D.C.:

The Judicial Administration Committee of the Florida Bar considers Judge Harrold Carswell to be eminently qualified, competent and learned to serve as Supreme Court Justice. We urge his confirmation without further delay. I also personally recommend this action.

PARKER LEE MCDONALD,
Circuit Judge and Chairman of Committee.

LAKELAND, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

As practicing attorneys interested in the return of sound constitutional government we respectfully request and urge you to continue your support of the nomination of Judge Carswell to the Supreme Court of the United States.

J. HARDIN PETERSON, Sr.,
J. HARDIN PETERSON, Jr.,
EUGENE W. HARRIS,
GEORGE C. CARR.

ST. PETERSBURG, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.:

I personally support the Senate's confirmation of Judge Harrold Carswell as a Justice of the United States Supreme Court.

BEN F. OVERTON,
Circuit Judge.

FORT LAUDERDALE, FLA.,
March 18, 1970.

Senator EDWARD J. GURNEY,
New Senate Office Building,
Washington, D.C.:

I urge confirmation Judge Carswell on nonpartisan basis.

L. CLAYTON NANCE,
Circuit Judge.

TAVATES, FLA.,
March 17, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

I respectfully recommend Judge Carswell for your favorable consideration and urge you support his nomination by President Nixon as an Associate Justice of United States Supreme Court.

Sincerely submitted,

Circuit Judge W. TROY HALL, Jr.

KEY WEST, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
U.S. Senator, Washington, D.C.:

We the undersigned, members of the Monroe County Bar Association, at Key West Florida, endorse, support and request the confirmation of the nomination of Judge G. Harrold Carswell to the United States Supreme Court.

Enrique Esquinaldo, William V. Arbury, William R. Neblett, Allan B. Cleare, Jr., W. C. Harris, M. Ignatius Lester, J. Lancelot Lester, Jack A. Saunders, Paul E. Sawyer, Jr., Tom O. Watkins, Hillary U. Arbury.

BRANDENTON, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
U.S. Senator,
New Senate Office Building,
Washington, D.C.:

As a practicing Florida attorney and former State attorney for 24 years, I respectfully urge the immediate confirmation of Judge Carswell.

W. M. SMILEY.

ORLANDO, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

R. H. WILKINS.

ORLANDO, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

C. W. ABBOTT.

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ORLANDO, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

R. W. BATES.

ORLANDO, FLA.,
March 18, 1970.

EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

D. L. GATTIS, Jr.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate, Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

M. W. WELLS, Jr.

ORLANDO, FLA.,
March 18, 1970.

Hon. EDWARD J. GURNEY,
Senate Office Building,
Washington, D.C.:

I urge your support and vote for the confirmation of G. Harrold Carswell as Associate Justice of the Supreme Court of the United States.

M. W. WELLS.

Mr. GURNEY. I yield the floor.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SAXBE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GURNEY). Without objection, it is so ordered.

Mr. LONG. Mr. President, it has come to my attention that Judge John Minor Wisdom of the Fifth Circuit Court of Appeals has issued a public statement in opposition to the confirmation of Judge Carswell.

It seems to me this statement was highly inappropriate, in view of the fact that Judge Wisdom has a direct conflict of interest in this matter and nothing about the conflict of interest appeared in his statement.

It is common knowledge that Judge Wisdom has for 10 years been trying to obtain his own elevation to the Supreme Court. Judge Wisdom's friends did everything they could to suggest that Judge Wisdom, rather than Judge Carswell, should be nominated for the vacancy that presently exists.

If Judge Carswell is confirmed, as I hope will be the case, the presence of two judges from the South on the Court will mean that it will probably be a very long time before a man from that part of the Nation is appointed to fill a vacancy. So, here is Judge Wisdom, waiting in the wings, issuing a public statement against Judge Carswell and hoping that with the defeat of Judge Haynesworth and then Judge Carswell, President Nixon will be forced to turn to Judge Minor Wisdom, who is one of the Republican leaders for the State which I have the honor to represent in the Senate. During the time that Judge Wisdom has been on the court, he has agreed with virtually as many motions and requests of the Justice Department as, I suppose, any judge in the United States. He has been so completely subservient to the Justice Department, under both Democrats and Republicans, that we might well wonder whether he is a lawyer for the Government rather than a judge seeking to hear both sides of an argument and to dispense justice impartiality.

This is clearly a case of a jealous, frustrated, and ambitious man seeking to prevent the kind of a man which President Nixon promised to appoint from going on our Highest Court, in the hope that he, Wisdom, who is not the kind of man President Nixon promised to appoint, will be the successful nominee.

Since the debate has commenced on the nomination of Judge Carswell, I have undertaken to obtain the views of judges in Louisiana including those who have been confirmed by the Senate and are presently serving in the district courts. Thus far, every judge with whom I have discussed the matter has been high in his praise of Judge Carswell and has urged that Judge Carswell be confirmed.

Mr. President, I should like to make it clear that there is nothing inappropriate in a judge expressing his views about a nominee for the Court. However if a judge is to make a statement urging that a man not be confirmed, he should make clear in his statement his hopes that should the man be defeated there then will be a job open on the Supreme Court which he hopes to fill. When he does that sort of thing, he should make clear to all that his action involves an obvious conflict of interest. In this case no such clarification was made. If the man has reason to be prejudiced, or if he is biased, he should make the whole facts clear. This, it seems to me, would be more fair than simply saying that he has doubts about the qualifications of a man for a job without making it clear that he hopes that by helping to defeat the nominee, he will make it possible to have that same job.

It would seem to me that Judge Wisdom should have made that clear in his statement. I would say that if one talked to the lawyers in Louisiana, even though Judge Wisdom comes from Louisiana and Judge Carswell comes from Florida, or if he talked to the judges in Louisiana and talked to the law school deans in Louisiana or the law enforcement officials of my State, in an effort to compare the two men, he would receive the overwhelming suggestion that, by all means, Judge Carswell would be a better man for the Supreme Court than Judge Wisdom.

I do not say this to reflect on Judge Wisdom. I merely say that the opinions I have been able to receive are that Judge Carswell is highly qualified and would make a great Associate Justice. He is not the sort of extremist that some would make a great Associate Justice. come away with the view that Judge Carswell is a moderate, a middle-of-the-road type, and that Judge Wisdom is himself something of an extremist.

Mr. President, we have enough of extremism on the Supreme Court now. It is about time we tried to move toward moderation, which I believe would be what we would expect under Judge Carswell.

Mr. GURNEY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. GURNEY. I read that account in the morning paper, as did the Senator from Louisiana, and I found nowhere in the news account any reason given by Judge Wisdom for opposing the nomination of Judge Carswell. I thought that was rather strange.

Does the Senator know whether he has advanced any reason for opposing the nomination?

Mr. LONG. I paid little or no attention to it. It just struck me as highly inappropriate. I did discuss it with the men who are high up in the legal councils of my State. These men point out that in viewing this action we have to keep in mind that when Judge Wisdom did that, he had perhaps more reasons than meet the eye for wanting the man defeated, he being in hopes of getting on the Supreme Court himself.

He has been trying to move in that direction for many years. I know of no speech in which Judge Wisdom has said this. But if you talk to the legal fraternities in my State, they will tell you it is common knowledge that that man hopes to be elevated to the Supreme Court. I read a publication recently, in which it was mentioned that some Republican leaders have suggested Judge Wisdom for the job. I noticed that when Judge Haynsworth's nomination came to the floor, the Washington Post was not enthusiastic about Judge Haynsworth, even though the Post finally suggested that he be confirmed, but it said, "Why not a man like Wisdom?" So, he has been considered. I am sure he was considered before the Carswell selection. I am sure he will be considered again, in the event that Judge Carswell were defeated.

May I point out that I come from Louisiana, and Judge Wisdom comes from Louisiana. I did not object to his appointment when President Eisenhower sent his name down. It seemed all right to me.

Mr. GURNEY. Mr. President, I think I can say that even though Florida is quite a bit east of Louisiana, Florida is also a member of the fifth circuit. And it is common knowledge among the lawyers there that Judge Wisdom does have ambitions to be on the Supreme Court.

To get back to the point I raised, I did not see any reason given by Judge Wisdom for opposing the nomination. All kinds of reasons have been given, such as insensitivity and things like that. I would imagine he could have found one. But he did not give any.

Mr. LONG. Mr. President, he had a real good one, because he hoped to get that job. He was waiting in the wings in the event that man were defeated. I suggest that as a possible motive, for all of those who want to judge for themselves.

And it might well have been desirable for him to mention in the course of the statement that he had hoped that the name sent up here would be that of Judge Wisdom instead of Judge Carswell, so that people would know the facts and could judge accordingly, rather than to pick up the morning paper and read that Judge Wisdom, whom they assume to be a fine man, is opposed to the nomination of Judge Carswell.

It did not make a much better impression on me than did the incident involving Judge Tuttle.

Here we have this fine old man, a veteran of the wars of the judiciary. He is getting a little old, and perhaps a little senile.

He sent a letter up here talking about a man he had known for more than 20 years and saying that he is a fine judge and ought to be confirmed for the Supreme Court.

Then, after a period of time passes, he sent another letter here repudiating his first letter.

About all I can say is that we should not pay any attention to what he says. He is getting a little old. He sends us a letter recommending a man he knew for 20 years. Then he sends another letter to contradict and repudiate the first letter.

He might send another letter here to repudiate the repudiation.

Mr. GURNEY. I agree with the Senator's analysis. Apparently the thing that made him change his mind was the country club incident at Tallahassee and the deed of conveyance. He obviously did not know the facts, because Judge Carswell signed his name to the charter of the corporation that never did any business and was never a member of the country club.

If the Judge had known this, I cannot imagine that he would not change his mind.

As for the deed, if the Senator recalls, there was a record of conveyance from Mr. Carswell. He had no interest in the property. He signed the deed, as a husband has to when he is conveying property.

The deed says subject to covenants of record, which is a practice that is quite common in Florida.

It is quite obvious to me that Judge Tuttle was not aware of the facts.

Mr. LONG. Mr. President, the deed was a matter that was available to the Senate about a year ago when the Senate confirmed Judge Carswell for the Circuit Court of Appeals. And every Senator could have had that same information at that time if he had wanted it.

At that time, as I recall it, the Senate unanimously confirmed Judge Carswell, without a single objection.

One must keep in mind that 99 percent of the cases decided by that court are decided finally. It is only about one out of 100 cases that is ever appealed to the Supreme Court. The Supreme Court does not allow all of those appeals. It is only about 1 percent.

One should be very careful about whom he picks to sit on that circuit court of appeals.

Presumably, the Senate itself should be chastised for voting unanimously to confirm a man, knowing what it did about him.

In addition, when the Civil Rights Act of 1964 was pending before the Senate, I personally offered an amendment to make it crystal clear that if one were a member of a truly private club, that club could discriminate in any way it wanted to discriminate.

That amendment was agreed to upon the advice of attorneys of the Justice Department who were working on the civil rights bill at that time. It was agreed to by Mr. Hubert Humphrey and the leadership for the Democrats and the leadership for the Republicans. It was agreed to unanimously by the Senate.

I would say that any Senator, having voted and participated in the Senate action when we unanimously made it crystal clear that there was nothing whatever illegal about a private club discriminating in the matter of membership in any way it wanted to, would have to plead that he was either too ignorant to know what he was doing or else that he voted to make legal and proper exactly the action that he is contending Judge Carswell did that is wrong.

That being the case, I say that a Senator who was here in 1964 should either don a dunce cap and pretend he does not know what he is doing or else he should agree that he himself should be defeated because he voted to make legal what Judge Carswell did that he now contends is wrong.

The Senator knows as well as I do that that was during a time when, if I had been living in Tallahassee and wanted to play golf without competing with the crowd on the public links, I do not know how I could have found a golf club that was not segregated at that time.

In Louisiana we had clubs for the minority groups and clubs for the majority groups.

The people that were claiming discrimination then were the whites, because it was so much more crowded on their courses than on the other courses. They wanted to play the Negro courses and could not gain acceptance there.

If someone wanted to play golf in Louisiana, he would not have any chance. If he joined a country club, it would have had to be segregated at that time.

What about the members of the Forest Hill Country Club in New York, which was segregated for a long time until they let Althea Gibson go there to play? Should we put them in jail by passing an ex post facto law?

It seems ridiculous to me.

Mr. GURNEY. I thought the Senator made an interesting point in colloquy a while ago when he said he would not be surprised if other judges would send in telegrams repudiating the position they first took.

The Senator from Kansas (Mr. DOLE) handed me an item that appeared on the news ticker.

It is from New Orleans. It says:

> U.S. Fifth Circuit Judge John Minor Wisdom said yesterday television reports he opposes the nomination of Judge G. Harrold Carswell to the Supreme Court "is going a little bit too far."

It says further:

> Wisdom told UPI last night he felt he was not obligated to write a letter endorsing Carswell. "But to say I oppose him is going a bit too far," he said.

So here we have the repudiation by Judge Wisdom that the Senator from Louisiana was talking about a moment ago.

Mr. LONG. It is almost getting to be a farce. I think the best one can say is that based on their performance, it might be well to ignore what the judges on the circuit will say, if Judge Tuttle and Judge Wisdom are going to reverse themselves and say they do not mean what they say.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. DOLE. Mr. President, I tried to reach Judge Tuttle on the telephone. I was confused by all of the telegrams flying around the Chamber.

I was told that I could find him in San Francisco. He was not available. But he returned the call to my office and said, he had sent the telegrams to Senator TYDINGS that Senator TYDINGS had requested. They were solicited by Senator TYDINGS. And they were very carefully written. If I wanted to talk to him about something else, I could reach him at a certain number in San Francisco, but he did not care to elaborate on the Carswell matter.

There has been much said about the role of Judge Tuttle and the great impact his statements might have. As one of those Senators yet in the undecided column I was seeking information as to whether he was for or against Judge Carswell. I hope to call him again tomorrow.

Mr. LONG. I am pleased to see that Judge Wisdom has at least modified his statement. I hope that Judge Brown, who is the chief judge in the fifth circuit, does not change his mind. He is supposed to have made a statement that that fine judge writes good and crystal-clear opinions.

I deplore the conversation of some who feel that Judge Carswell has not demonstrated the erudite brilliance of some. I think I understand what that is about now. It seems there are some judges who like to use all sorts of big words, to roam all over the English dictionary and use these mouth-filling words so that one has to retire to his library and read the law with a law book in one hand and a dictionary in the other.

Others, somewhat like this Senator, feel the English language is for the purpose of communication and the simpler one can say something the easier it is to understand. Judge Carswell seems to be that type person. Most of the judges with whom I have discussed this matter say they prefer that kind of opinion.

I recall that one time following a speech I made to the student body of the school which my daughter was attending, I asked her how my speech went over. She said she did not think it went over too well because these young ladies

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were used to hearing people give speeches using words they did not understand. She said they could understand my words, so they did not think I was very bright. I have been trying all of my life to say things so that everyone could understand what I was saying, so that it would not go over the heads of those in the audience. I found that did not appeal to the students of that fine school my daughter was attending.

I am reminded of the time my sister showed my father a theme she had written for her English class. He read it and said:

> This demonstrates why so few college graduates are successful. Let me read some of this. If I could keep a speech or paper short, I know I would be heard for certain.

He made a point to use words more easily understood by the great majority of the people.

I personally approve of that. I do not approve of briefs being longer than they need to be. If one can say more in a few pages it has greater meaning than one which takes many more pages. I do not approve of writing 90-page opinions when 1 page could explain what he was doing and why. Of course, there are others who take a different point of view.

To criticize a person and say he should be denied a promotion or whatever emoluments that might come his way merely because he follows one school of writing which uses languages that people can understand is, I think, rather foolish.

Mr. President, if there are no other statements to be made at this time, I suggest the absence of a quorum.

Mr. HART. Mr. President, will the Senator yield to me?

Mr. LONG. I yield to the Senator from Michigan.

Mr. HART. If the Senator will permit me, I wish to suggest the absence of a quorum. I have a message to bring up.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

PUBLIC HEALTH CIGARETTE SMOKING ACT—CONFERENCE REPORT AND AMENDMENT IN DISAGREEMENT

Mr. HART. Mr. President, for the majority leader, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6543.

The PRESIDING OFFICER (Mr. SAXBE) laid before the Senate the message from the House of Representatives announcing its action on the conference report on H.R. 6543 and its action on amendment numbered 13 of the Senate, as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6543) entitled "An Act to extend public health protection with respect to cigarette smoking, and for other purposes.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"SEC. 3. Section 5 of the amendment made by this Act shall take effect as of July 1, 1969. Section 4 of the amendment made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of this Act. All other provisions of the amendment made by this Act except where otherwise specified shall take effect on January 1, 1970."

Mr. HART. Mr. President, on behalf of the majority leader, I move that the Senate concur in the House amendment to Senate amendment No. 13.

The motion was agreed to.

SUPREME COURT OF THE UNITED STATES

The Senate resumed the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. HART. Mr. President, my opposition to the nomination of Judge Carswell has already been expressed in the Committee on the Judiciary and again in colloquy with Senators in this debate. I would like to explain my grave concern more fully in these remarks.

Earlier in our Nation's history, the Supreme Court was a remote institution, even to most lawyers. Today, it is a significant, visible factor in the lives of all Americans. Perhaps, in those early days, appointing a mediocre man without distinction—and I suspect it occurred—caused no grave hurt or great harm. Today, the country requires and is entitled to better.

The nomination of Judge Carswell presents us with a candidate whose credentials for this office are extremely difficult to perceive—a man described by the dean of the Yale Law School as having "more slender credentials than any nominee for the Supreme Court put forth in this century."

True, Judge Carswell has been a practicing attorney, a Federal prosecutor, and a judge on our lower Federal courts—as have countless others. Striking, however, is his lack of distinction in all these capacities. There simply has been no indication that he has demonstrated uncommon excellence or accomplishment as a private practitioner, as a public advocate, or as a jurist.

We have been told in this debate that the President's choice should not be scrutinized too closely if he is at least above some bare minimum level of adequacy. Indeed, the present Attorney General has suggested that the Senate had failed "to recognize the President's constitutional prerogatives" when it rejected his last nominee.

But if the President alone may examine a nominee's suitability and if a bar association committee is the final word on his professional stature, then there is precious little left for the Senate to do but go through the motions of confirmation.

I do not believe that article II of the Constitution intends the advice and consent of the Senate to be such a pro forma ritual of the appointment process.

In the first place, the President's unilateral discretion to nominate candidates, itself, provides almost unlimited power to influence the Court. Only his choices can be considered by the Senate for confirmation. The President's power is not absolute precisely because article II of the Constitution distinguishes between the power to nominate and the power to appoint. As both Chancellor Kent and Justice Story pointed out long ago, the Senate, through its advice and consent, shares the appointing power—1 Kent, Commentaries, 310; 2 Story, Commentaries, section 1539.

Since the Senate's power is confined to passing upon the President's choices, there are inherent restraints upon its abuse which are certainly clear to us today. Alexander Hamilton presciently described these restraints as follows:

> But might not his nomination be overruled? I grant it might, yet this could only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed; because they could not assure themselves, that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain, that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

That is one passage from the Federalist Papers that I think all of us ought to make reference to.

For the same reasons, however, the Senate's duty to review the President's selection persists in full measure even when it has been met by rejecting a prior nominee. The Senate's duty is to assure the Nation that the nominee who is accepted will be better qualified, not less qualified, than the previously rejected nominee or nominees.

Second, and more importantly, presidential nominees will usually be free of conspicuous disqualification, such as gross incompetence or unethical behavior. The constitutional obligation of the Senate, therefore—if it is to have real meaning—would also seem to require an independent judgment of the nominee on other grounds, including his stature and his judicial temperament. On this point also, Hamilton's thoughtful commentary deserves close attention:

> To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favortism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration.
>
> It will readily be comprehended, that a

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> man who had himself the sole disposition of offices, would be governed much more by his private inclinations and interests, than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism, or an unbecoming pursuit of popularity, to the observation of a body whose opinion would have great weight in forming that of the public, could not fail to operate as a barrier to the one and to the other.

There is much else in the Federalist Papers from which I have drawn these two excerpts. It is Federalist Paper 76, and it bore the date April 1, 1788.

Mr. President, to confirm this nomination out of some sense of commity with the Executive would erode seriously the deterrence against poor appointments, which Hamilton described. This serious question of quality cannot be brushed aside by suggesting that dissatisfaction lies only with birthplace or philosophy. We have heard repeatedly that the substance of the argument against this nominee is that Judge Carswell is from the South and is a constitutional conservative. Let every Senator read closely the majority and dissenting views of the Committee on the Judiciary and, if he can, the hearings and ask himself whether this really is the burden of the objections to Judge Carswell.

This administration promised appointees to the Court who are strict constructionists and men of distinction. There are many judges, lawyers, and teachers of law throughout this country, including the South—should the appointment be made from that region—who would meet both tests. Judge Carswell does not.

An eminent professor from a southern law school, who submitted testimony to the Judiciary Committee in support of Judge Haynsworth's nomination, said that Judge Carswell's record on the bench gives no promise of ability or judicial capacity commensurate with a seat on our highest court. Even a charitable appraisal of such an undistinguished record is dismaying, when measured against the awesome responsibilities of the Supreme Court.

Nor should this concern be confused with academic pedigree or scholarly output. The history of the Court and its great judges makes this clear. Even in this century, men like Black and Jackson read law instead of completing law school. Many outstanding judges and other likely candidates for the Court have not gone to the most famous law schools or published widely. Some have demonstrated their outstanding ability and excellence by public service in other branches of the government than the judiciary. Diversionary discussion of "B students and C students," therefore, does little to clarify the important point which is involved. That is, simply, the recognition that a nominee must have achieved during his career, in whatever way, some measure of professional stature and distinction beyond the most pedestrian, run-of-the-mill candidacy now before us. To demand less is a disservice to the Court, an institution for which we seek to assure respect.

Beyond Judge Carswell's lack of distinction in any area of the law, there is a further disturbing aspect of his candidacy—his record in the field of civil rights and civil liberties. At best, it indicates an insensitivity to the right to equal justice and freedom from discrimination. For many, his record manifests a more positive hostility toward these constitutional mandates.

My colleagues on the Judiciary Committee, and other Senators opposing his nomination, have already reviewed in detail this distressing evidence; it suffices to note once more:

The white supremacy speech, repudiated for the first time upon nomination to the Supreme Court;

The large number of his decisions against blacks in civil rights cases which were unanimously reversed by the appellate courts;

The testimony by members of the bar about his hostile courtroom demeanor toward civil rights attorneys and about his questionable treatment of civil rights litigants;

His participation in the conversion of a municipal golf course into a private club to avoid the requirement of integrated public facilities; and

His stated lack of awareness of the purpose for creating the club, which explanation suggests either lack of candor with the Senate or surprising obliviousness to the society around him.

Unfortunately, public attention has concentrated on the 1948 speech and on the circumstances under which it was given. But it is not necessary to decide what opposition the 1948 speech alone would warrant. Judge Carswell's record since then, far from revealing any metamorphosis, is equally disquieting.

Significantly, when Judge Carswell was elevated to the court of appeals, before his white supremacy speech of 1948 had even come to light, the Leadership Conference on Civil Rights opposed his appointment on the basis of his record on the bench:

> Judge Carswell has evidenced a strong bias against Negroes asserting civil rights claims and has been more hostile to civil rights cases than any other federal judge in Florida during his tenure as a district judge.

Some of my colleagues have indicated that they are disturbed by such evidence, but do not feel that the record in the Judiciary Committee hearing goes so far as to establish conclusively Judge Carswell's present bias on racial matters.

Assume this is true, Mr. President, for reasonable men may differ as to the conclusiveness of that evidence. Is this the most we can say about an appointment for life to our highest court:

> He is not glaringly incompetent and the evidence which raises serious questions about his fairness on racial matters is inconclusive.

Does that conclusion really meet our constitutional obligations to the Court and to the Nation?

Mr. President, before my colleagues answer this question for themselves, I hope they will reflect upon the very difficult deliberations in this Chamber concerning the last nominee to the Court, who was ultimately rejected.

When I voted against the appointment of Judge Haynsworth to the Supreme Court, I stressed his record on civil rights. As I said then:

> Disagreement even with a majority of a judge's opinions would not cause me to oppose his confirmation. But opposition is justified when his decisions indicate consistent insensitivity to the rights of individuals recognized to be within the reach of the law.

Such insensitivity is unmistakable from Judge Carswell's record and raises serious doubts about his ability to be impartial in matters of civil rights and liberties.

Other Senate opponents of Judge Haynsworth's appointment stressed the record of specific conflicts of economic interest. Those Senators said that although such conflicts may have led to no actual impropriety on the bench, they clearly raised the appearance of impropriety. And even the appearance of impropriety—at this point in our history—was deemed too destructive of public confidence in the judiciary. Therefore, my colleagues felt it essential that substantial doubts be resolved against Judge Haynsworth.

Some have suggested that the Haynsworth nomination presented entirely separate issues from the one now before us—that the last confirmation debate raised questions of ethics and morality, while Judge Carswell's nomination has merely raised a dispute over ideology. I suggest they are fundamentally wrong. Upon reflection, there is a profound analogy between the opposition to Judge Haynsworth based on conflict of interest, and opposition to Judge Carswell based on his insensitivity to individual rights.

The Supreme Court has neither purse nor sword to sustain it. Its authority in our society rests on the delicate balance of public confidence in its moral integrity and fairness in all matters. That confidence must be sustained.

The issue now is not public confidence in Judge Carswell's ability to be open-minded in financial matters before the Court, but confidence in his ability to be openminded about the rights of particular citizens.

Our Nation promises its citizens equal justice under law. To the minorities and the underprivileged in our society, especially, the Supreme Court must symbolize assurance that equal justice will prevail, that inequities will be removed through due process of law. These citizens have good reasons—based on recent actions as well as past expression—to doubt Judge Carswell's willingness to listen, to hear them and to uphold the Constitution impartially.

I hope we are not prepared to say that this Senate is deeply concerned about the appearance of partiality in financial matters, but not about the appearance of unfairness in matters of human rights—that this Senate restricts consideration of our professed moral values to business relations, and dismisses such considerations in human relations as "political ideology."

If anything, Judge Carswell's nomination poses a graver threat to continued trust in our courts than did the nomination of Judge Haynsworth.

The appointment of a man whose record presents a prima facie and, I believe, still unrebuttal cause for distrust by millions of Americans would be unfortunate at a time when we are trying to bring our society together.

President Nixon noted the danger of such distrust in his acceptance speech when he received his party's nomination in Miami. He said then:

> Let those who have the responsibility for enforcing our laws, and our judges, who have the responsibility to interpret them, be dedicated to the great principles of civil rights.

You can argue it as you will—you can go through the record from top to bottom—and you find nothing which would fit the nominee to that proposition, or let him pass the test established by President Nixon in that Miami speech.

Judge Carswell, at the very least, has shown a conspicuous lack of this dedication to the great principles of civil rights which our minorities should expect from the final arbiters of the Constitution and which the President, quite properly, underscored as an indispensable element, if you will, in those who should man the courts of this country—assuredly, the Supreme Court of this country.

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It is not only a question of keeping faith with Americans. The Senate very recently offered the franchise to our youth over 18. It did so in recognition of their ability to be responsible, perspective voters, and also in the hope that they would be encouraged to work within and with our legal system. These younger citizens, too, can only be disillusioned by an appointment which downgrades our highest court and undermines its effectiveness as a steam valve for social turmoil.

For all these reasons, Mr. President, I voted against Judge Carswell's nomination in the Judiciary Committee, and I shall vote against his nomination now. I do believe that to consent to this nomination would be a tragic injustice to the Court, to the Senate, and to the American people.

The Court was intended to be a place where the best minds of this country could insure delivery to all the people of this country of the promises made by the Constitution. While there are many roads by which a man may demonstrate excellence, and on which the judgment can be made, if such a man's name came before the Senate, that he is indeed a distinguished American, Judge Carswell has managed to find no road on which he has been able to demonstrate that kind of distinction.

I sense that this argument may not have been made—at least, with success—in the Senate in connection with earlier nominations. I acknowledge that in times past mediocre men, men lacking in distinction, have been appointed to the Court, and they have served there without hurt or harm, apparently. But today that Court is a very real presence in the lives and the homes of every American, black and white; and I think it would be without excuse for the Senate to consent to the nomination of one whose very best friends find difficulty in establishing as more than a run-of-the-mill lawyer and a run-of-the-mill judge.

I know that this is a harsh statement to make, but I think it an accurate one. The Court is not a place for other than big leaguers, to put it in the language of the sports page when teams are down South in spring training. The management of those teams is seeking to identify the best and would be responsible to a harsh judgment by the fans if it fielded the mediocre, and if there were better available. I think we will be subject to the same harsh criticism if we consent to the nomination of Judge Carswell when so many others of greater distinction—big leaguers, if you will—are available.

Again, to pursue the sports analogy, because it is so much more easily understood, the hall of fame for football and baseball and other sports does not provide seats or space or shelf room or display cabinets for those who did not quite make it. The class D ballplayer is not enshrined—not even a triple A player; only big leaguers. How ridiculous if the argument was made that because many ballplayers do not quite make it, the hall of fame should have a shelf for some of them, too. How even more ridiculous to make that suggestion with respect to seats on the Supreme Court. Yet I think the suggestion has been made. I hope we do not consent.

Mr. KENNEDY. Mr. President, will the Senator be kind enough to yield?

Mr. HART. I am delighted to yield.

Mr. KENNEDY. First, I want to commend the Senator from Michigan for his comments and statements this afternoon to the Senate. I believe that this really is one of the most comprehensive and thoughtful and sensitive presentations that we have heard on the whole question of Judge Carswell and his nomination to the Supreme Court. I hope that all our colleagues will have a chance to look at this thoughtful and reasoned statement, which I think is extraordinarily compelling.

One of the points that has been made by those who have looked with some disdain on many of us who have expressed reservations with respect to the nomination is the belief that we are expressing opposition because Judge Carswell comes from a different part of the country, because he has a different political philosophy. They assert that in the past we have downgraded the questions of philosophy when there have been nominees who were perhaps more closely identified with many of those who are expressing reservations about Carswell. They say that the true issue really is not a matter of civil rights or a question of judicial temperament or competency or any of these other things which we have raised, but it is just that we are expressing reservations about Carswell because he comes from a different part of the country and has a more conservative outlook on the important social issues of our time.

I know that in the brief minority report signed by several members of the Judiciary Committee, on which the Senator and I were signatories, we indicate in a straightforward statement that our opposition to Judge Carswell is not based on geography or philosophy. Yet, time and again during the course of this debate we have heard those who are supporting Judge Carswell charge that this is the basis of the opposition.

I shall be interested in the reaction of the distinguished Senator from Michigan on that point. I feel that the Senator's statement today has expressed most adequately and eloquently the reasons for his own reservations; but I would be interested if the Senator from Michigan would respond to that point, because I think it would be enormously valuable to Members of the Senate.

Mr. HART. First, of course, I want to thank the distinguished Senator from Massachusetts for his comments.

Now to his question: Those of us who joined in the Judiciary Committee in opposition to the nomination and who filed the report to which the Senator from Massachusetts makes reference, were conscious, I think, even before we heard the charges, that in this case it would be suggested that our opposition was because of the region from which the nominee came. I will acknowledge that not only did we anticipate this charge, but that our only means of refuting it is to assert, as we have and do, that the President can deliver on his promise to appoint men of distinction as well as strict constructionists from the South, if he wants to add that requirement, because there are men of distinction, law professors, judges, both State and Federal practitioners in the South.

The Senator from Massachusetts will recall that in the executive meetings of the Judiciary Committee, when it was considering the nomination now before us, the able Senator from Maryland suggested perhaps a dozen such distinguished southerners. His background and knowledge in this area reflect his conscientious chairmanship of the Subcommittee on Improvements in Judicial Machinery. In the course of that assignment, he has come to know many distinguished judges and practitioners across the country. He listed by name and he spoke the names of a good many such men, acknowledging that, while their views with respects to constitutional construction might differ from his on occasion, nonetheless, in a full professional life they had demonstrated fitness, some measure of excellence, some uncommon capacity. I think it is now—if it has not been in the past—the responsibility of the Senate to assure itself that any nominee shall be possessed of those marks.

I am sure that the people of this country have assumed that basic to our inquiries, perhaps before we move to any other aspect of a nomination, we have satisfied ourselves with respect to that point.

Mr. KENNEDY. I thank the Senator. I think he has expressed very well what

I feel were the sentiments of a number of us on the Judiciary Committee who expressed reservations about this nominee and have been attempting to address ourselves to the problem of whether the opposition was in terms of geography.

I think another area on which the Senator touched in his speech is whether any presumption follows the President's recommendation with regard to nominees to the Supreme Court. The Senator fully reviewed in his statement what he believed to be the responsibility of the Senate in terms of advising and consenting on the nominees. But I think many of the people in this country wonder about the comments that have been expressed by some of our colleagues that because the Senate turned down one nominee, Judge Haynsworth, the Senate is emotionally expended or tired, that it has a responsibility and an obligation now to fall behind the President that if there is any kind of reasonable question or reasonable doubt, we should decide it in his favor in terms of any nominee, no matter how inferior his qualifications.

I would be interested in how the distinguished Senator from Michigan views his responsibility in terms of making a judgment on the question of Judge Carswell, and what weight he would give to the President's recommendation for a Supreme Court Justice.

Mr. HART. Well, in truth, in many respects, the Senate, over a long period of time, has sort of painted itself into a corner. We have, by and large, in judicial nominations, operated on the assumption that it is analogous to a nomination for a member of the Cabinet, that unless there is some glaring venality involved in the nomination, unless there is gross incompetence, the President has suggested him as the man he wants to work with him, the President will be responsible for the performance so, therefore, let us resolve our doubts in favor of the nominee.

I do not quarrel with that rule of thumb when it is an Executive nomination in the executive department. But we, as one independent branch are wrong to apply the same rule of thumb, and treat as analogous, the nomination made by the second independent branch of a person who shall staff the highest court in the third independent branch.

I do not argue that this has been our practice. I hope there have been instances when it has been. I know there have been instances when it has not been. But as of 1970, we should decide that it shall be our practice.

I have a strong feeling that if Alexander Hamilton were around here today and had the privilege of the floor, he would tell us that is exactly what he was trying to tell us in Federalist Paper No. 76.

It is too bad, in school, that we are not exposed to that paper, which is almost on the index, that we should not read it, that it is dangerous for us, and we are not encouraged to read it, so that generally the only time we do it is under compulsion, and it goes in one eye and out the other.

There is much thought in that particular paper relevant to the question that the Senator from Massachusetts raises and to which I am attempting to make a response. It is not analogous to the review that we give to a nomination for a member of the Cabinet or an ambassador, either. This independent body's, this independent branch's action—yes or no—is on the nomination by the head of the executive branch of a person who shall be a highly significant factor in the performance of the third independent branch.

So I think we should begin to review our practice and, to the extent that we have tended to resolve all doubts in favor of the nominee, insure that we are far more cautious in that practice as it applies to a judicial nomination, particularly to the nomination of a judge of the Supreme Court.

As I said earlier in my remarks, the most we can say about the appointee—I should say, the most I can say; I know there are Senators who would state a much stronger case for the nominee—but if a person, if a Member, if a colleague feels that he is troubled by these resolved doubts in favor of the nominee and says that the record is not conclusive with respect to his ability to rise above the 1948 statement, and therefore he tends to think that he will vote to give his consent, I would simply say that our responsibility is much more full than that.

We do not discharge our responsibility by saying, "Well, he is not conspicuously incompetent, and the evidence that raises the question about his fairness on racial matters is not conclusive; therefore I will vote for him." That does not meet our constitutional obligation to the Court, to the people of the country, nor to the Senate. That is not the way a manager would be fielding his team in anticipation of opening day. If he did, the fans and the ownership would be quickly down his throat. The ownership would insist that there are better men in the system. "Bring them up. Don't field this fellow merely because he doesn't fumble it every time."

Mr. KENNEDY. Mr. President, does the Senator from Michigan feel it is reasonable in evaluating Judge Carswell that we look at the series of incidents which have been developed in the minority report of the Judiciary Committee and look, as that report did, at his general views on the question of human rights, and consider these matters seriously, whether we go to the time of the speech, to the time of the golf course matter, to the sale of the land, or to various other incidents which have been suggested in the report? Does the Senator think it is reasonable for us to make some conclusions with respect to the personal attitudes of the judge, and then to read the civil rights cases in which he has participated, to determine whether his private predilections have spilled over into his courtroom demeanor, his temperament in terms of dealing with those involved in civil rights cases, and his ability and willingness to follow precedent in terms of higher court decisions, and all of his procedural and substantive attitudes in his handling of these cases? Does the Senator not feel that we are really fulfilling our responsibility in expressing some reservations about the nominee's competency and qualifications in that field?

Mr. HART. Unless we were to do that, I think we would be failing in our responsibilty. I know it can be abused and that to analyze particular opinions that a nominee has written and base one's final position solely on those opinions can be dangerous. It can produce, and I think in the past has produced, unhappy results. But clearly, there is an obligation to evaluate carefully the writings of the nominee and to develop along with the understanding that comes from the written word, an understanding of the reaction of appellate courts when reviewing that performance.

We have been reminded here of the reversals of cases appealed from Judge Carswell's court. On written opinions, his rate of reversals has been 2½ times higher than the average of such reversals of men in his own circuit.

This rate of reversal is also substantially higher than the national average. This is relevant. I do not suggest that in and of itself it is conclusive of our judgment. But to suggest that it is inappropriate to note the fact would be equally wrong.

Outside students have commented on this aspect of the nominee. I think reference has been made earlier to the finding of the Ripon Society, which, as I understand it, numbers no members of the Democratic Party among its ranks. Those findings speak of the reversals on appeal as one of a good many reasons that they assign to justify their conclusion that the nomination is inappropriate.

I do not want to paraphrase it or quote it. I am not sure it is an accurate paraphrase. I do not say whether they say they do not favor it or do not consent to it or that it should be withdrawn. But they assign a good many reasons for their recommendation that it is inappropriate.

An examination of these decisions, as well as his demeanor and his conflicting testimony about that, is wholly justified, especially when we are put on notice that we should scrutinize his approach in the area of civil rights because of the 1948 statement.

That statement was a pledge. In 1948 he said:

> I yield to no man in the firm, vigorous belief in the principles of white supremacy. And I shall always be so governed.

There are not many escape hatches left in that statement, except to say I change my mind. And that is the reason it is relevant to see, in view of these written opinions, to what extent there has been a change of mind.

And certainly, if I could conclude my response to the Senator from Massachusetts, where is there in the record the basis for saying that this nominee meets what President Nixon in his Miami acceptance speech so clearly said should be needed?

He said:

> Judges who have the responsibility to interpret the laws must be dedicated to the great principles of civil rights.

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I repeat what President Nixon, then the presidential nominee, said:

> Let those who have the responsibility for enforcing our laws and our judges who have the responsibility to interpret them be dedicated to the great principles of civil rights.

Who wants to get up here and explain that this man has a dramatic record reflecting dedication to the great principles of civil rights?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HART. Gladly. I would like to get an answer.

Mr. DOLE. I wish to ask a question.

Mr. HART. Am I yielding for the Senator to answer the question I just asked?

Mr. DOLE. No. I will let that rest for a while and ask a question, if I might.

Mr. HART. I am glad to yield for that purpose but I renew the hope that we will have an explanation of this nominee as one who is dedicated to the great principles of civil rights as judged by the record, citing again the test of the President.

Mr. DOLE. I listened to the Senator from Michigan with great interest because I know of his integrity and great interest in this particular area, as he is a member of the Committee on the Judiciary. I heard the Sentaor express his views that perhaps in the past that committee and this body may have failed in their obligation in regard to the nomination of other judges, whether for the the district court, circuit court, or U.S. Supreme Court. The Senator undoubtedly considers that a U.S. district judge nomination is highly important. I am certain the Senator from Michigan passed on a number of those nominations in the Committee on the Judiciary, and assume that in every instance he felt the man was highly qualified.

Mr. HART. No. The hard truth is, and I think it does us all good to say it, in reviewing district court and circuit court nominations, the tradition, deep, rich, and perhaps unwise, is that, absent some extraordinary circumstance the recommendation of the Senators and the concurrence of Senators from the place of residence of the nominee rather assures a pro forma performance by the committee. This is unfortunate. If we had the capacity to legislate 2 extra days for every one of the 52 weeks, it is possible the committee would be able to do with respect to district judges and circuit judges what I suggest in this case and every one hereafter with respect to nominees for the Supreme Court.

I am acknowledging that in the past the committee and the Senate very probably failed to treat as very different the tests we apply to a man to go to the Supreme Court from the tests we apply to the man who goes into the Cabinet. We should demand some excellence.

Mr. DOLE. Mr. President, will the Senator yield further?

Mr. HART. I yield.

Mr. DOLE. I suggested that after the Haynsworth nomination was rejected, perhaps the Senate by its action, indicated there was a new test, the Haynsworth test. I suggested to the committee that perhaps this test should be applied to all future Court nominees, whether Republican or Democrat.

As I understand the Senator, there is a difference in his reasons for opposing Judge Haynsworth than his reasons for opposing Judge Carswell. Is that correct?

Mr. HART. I suggested quite to the contrary. There is a fundamental analogy between the two. The apparent conflict of interest resulting from economic interests, the apparent conflict of interest charged against Judge Haynsworth, was the possession of stocks. We developed the theory that even if there was in fact no actual influence or no actual impropriety, the appearance of impropriety, was too destructive of public confidence in the Court to permit the man to be seated.

I make the same suggestion with respect to Judge Carswell. There is an analogy between the opposition of Judge Haynsworth on conflict of interest and the opposition of Judge Carswell based on his insensitivity, based on the 1948 pledge that he would always be governed by the principle of white supremacy, so as to cause a loss of faith in the court—this, whether or not, in fact, as of 1970 he entertains any such notion. It is the appearance to minorities to whom we say, "Take your grievance to court." It is the appearance.

Given those circumstances it would persuade me to reach the decision, and others who could not vote for Judge Haynsworth because of apparent conflict of economic interest, that I cannot vote for Judge Carswell because of the same reason. It happens not to be economic but very deeply human.

Mr. DOLE. Perhaps I share the thought but not the conclusion the Senator exposed earlier, that more attention should be paid to nominations, whether they be for the district court, circuit court or U.S. Supreme Court.

I am reminded of a study prepared by Mary Curzan presented to the graduate school at Yale University on the selection of judges in the Fifth Circuit. In that paper she describes the contrast between the Kennedy administration and the Eisenhower administration and points out clearly that in the Kennedy administration the responsibility for judicial appointments was vested in Joseph Dolan, who was "a 'pol,' a former State legislator from Colorado, a Western organizer of the 1960 Kennedy campaign, a man who knew every county politician in the country by his first name."

I will quote from her report:

> He sought to use his office both to strengthen the judiciary and to strengthen the political fortunes of the Kennedy Administration. If the two goals conflicted, he almost always preferred to advance the latter at the expense of the former. Thus, Dolan evaluated a judicial appointment to the Fifth Circuit not simply in terms of a man's qualifications but in the light of the future prospects of the entire Kennedy legislative program.

Summarizing on page 6 of this presentation she states:

> Thus, the Kennedy Administration spent a considerable amount of time and effort conducting a "talent hunt" for competent administrators. It made no comparable effort to hunt for talent for the federal courts. In the Kennedy Administration, the Department of Justice tended to play a passive role in the judicial appointment process. Names were screened as they were presented to the Department. The Department had standards for making choices, but it did not have a mechanism to widen its choices.

I would point out this is an independent study indicating a basic contrast. Judge Carswell was appointed to the district court in 1958 by President Eisenhower who, according to the authority, placed great emphasis on appointing qualified judges. Then, last year, after a brief hearing by the Committee on the Judiciary, he was elevated to the circuit court. With respect to those who have said the man has no experience, I believe that that properly has been dispelled.

I disagree but do not quarrel with the Senator's conclusion but would add that other administrations have submitted other names. In fact, one that I believe the Senator voted for in committee was Francis X. Morrissey. This nomination was later withdrawn on the floor of the Senate, but the question of competency had been raised.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. HART. I yield?

Mr. KENNEDY. At that time the proponent of that nomination had, I think, the wisdom to withdraw the nomination. Some of us who have expressed reservations about this nomination hope that same judgment would be expressed by the administration on this nomination.

Mr. DOLE. Mr. President, if the Senator will yield further. At the time the nomination was withdrawn, the Senator from Massachusetts made it very clear that we should not depend solely on the great law schools of our country for our judges and that if we restricted judicial appointments to the graduates of such schools, we would adopt a selective system which was fundamentally undemocratic.

I share that feeling. There have been some statements that only those who graduate from Yale or Harvard or who have written in law journals or other publications should be placed on the Supreme Court. That does not mean that those who have not done so should not be selected, whether it be Carswell, Brandeis, or Learned Hand, who had tried only two criminal cases when he was appointed.

Mr. KENNEDY. Did Morrissey ever say he was committed to racial supremacy?

Mr. DOLE. He did not say much at all, as I recall.

Mr. KENNEDY. Were any such statements as that brought out? The bar association made an investigation of that nomination. The members of the committee could have revealed any such statement if there had been any. Was there anything to suggest that he made expressions about white supremacy or racial segregation?

Mr. DOLE. He was not endorsed by the American Bar Association or the Boston Bar Association.

Mr. KENNEDY. Will the Senator answer the question?

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Mr. DOLE. He did go to a law school in Georgia, a southern school, as Judge Carswell did. That question was not raised, so I do not know. I do not know what his views on that were or may be now.

Mr. KENNEDY. As I remember, the question the Senator from Michigan asked the Senator from Kansas was what information the proponents of Judge Carswell had that would indicate his belief in full human rights for all Americans. I think that was a question that is deserving of an answer, not only for this body but for all Americans.

Mr. DOLE. If the Senator from Michigan will yield further, I believe the question involved was one of competence. I have read the record and it never got beyond that question. I am not certain of the exact date hearings were concluded but there were differences of opinion. The vote was 6 to 3 in the committee. The Senator from Massachusetts, the Senator from Michigan, and I might say the Senator from Mississippi, chairman of the committee, voted to report the Morrissey nomination. I was not a Member of the Senate at that time. The point I make is that some set one standard in 1965 and then another one in 1970. When are we going to have one standard for all nominees, whether they come from the North, the South, the East, or the West? If we are going to have one standard, I will accept that; but if we are going to have a different standard based on different views of someone in this Chamber, such practice should be rejected.

Mr. KENNEDY. I agree with the Senator from Kansas. I think the same procedures should be followed as to the Carswell nomination as was followed in 1965, and the Carswell nomination should be withdrawn. But let me ask another question: Was Morrissey being nominated for the Supreme Court?

Mr. DOLE. I may ask the Senator, Does he think that makes a difference?

Mr. KENNEDY. I certainly do think so. I think the criteria for a Supreme Court nomination should be much higher than those for a district court nomination. Does not the Senator from Kansas believe it makes a difference?

Mr. DOLE. The Senator is saying that a judgeship on a Federal district court is a relatively unimportant position?

Mr. KENNEDY. I am not saying that. I asked the Senator whether the previous nominee was being nominated for the Supreme Court.

Mr. DOLE. He was being nominated for the district court, but the Senator from Massachusetts maintained he was qualified throughout.

Mr. KENNEDY. That is right.

Mr. DOLE. I happen to believe it is a highly important position. It is in a trial court not an appellate court. I am a lawyer, the Senator from Massachusetts is a lawyer, the Senator from Michigan is a lawyer, as is the Senator from Florida. In jest I might add there is one honest man in the Chamber, the Senator from Delaware (Mr. Williams), who is not a lawyer. At any rate, the question is: Are we going to have a different standard for different court nominees, whoever it might be, whether Carswell, Haynsworth, White, or whoever? It is time, perhaps that new standards be established and that the Judiciary Committee have extensive hearings with respect to all nominees for all court nominations. Carswell has been approved twice, perhaps in a rather summary way, by the Committee on the Judiciary and the Senate.

Mr. HART. Mr. President, if I could interrupt——

Mr. DOLE. The Senator from Michigan has the floor.

Mr. HART. The question now is whether we bring him up to the big leagues. If the management was wrong in moving him from D to C, it was unfortunate, but we now know, with his fielding, batting, and thinking, that he should not be moved forward.

Mr. DOLE. We made mistakes, in my opinion, when Justice Douglas and others were put on the High Court. I do not believe any of those in the Chamber now were Members of the Senate when that mistake was made.

Mr. HART. The Senator from Kansas has described four lawyers here. For the record we will not say how many others are here, in addition to the Senator from Delaware (Mr. Williams), who are not lawyers; but, as lawyers, do we not agree that we should seek from among the best to put on the Court? Is there a lawyer who quarrels with that, seriously?

Mr. DOLE. I hope not.

Mr. HART. Well, should that be the test from now henceforth?

Mr. DOLE. But should it be the test for the district court, should it be the test for the circuit court, and should it be the test for the Supreme Court?

Mr. HART. And if we have to parcel our time, let us start by putting such people on the Court of the greatest importance, both in substance and symbolism.

Mr. DOLE. I raised that question with the chairman following the rejection of the nomination of Judge Haynsworth on the Senate floor. The first two nominations for judges who came up were members of the party on this side of the aisle. I heard of some comments on that proposal.

I feel very sincerely that if we intend to improve the judiciary, it will take additional effort by the Judiciary Committee. I recognize that the Senator from Michigan and the Senator from Massachusetts have many other commitments, and there is not enough time. That applies to the Senator from Nebraska and all other members of the committee. Senators have a myriad of duties, but this should be done. I am not derogating the nomination debated here but am speaking generally.

Mr. HART. I can make a suggestion as to how we can be helped, and that is to let the Department of Justice and the Chief Executive apply the test I am suggesting before they send a name of anybody in here from among the best.

Mr. DOLE. President Eisenhower attempted to do that. Mrs. Curzan carefully describes those who were proposed. I was quoting an independent source that indicates there was quite a distinction between the Eisenhower administration and the Kennedy administration on judicial appointments; they were not solely made on a political basis by President Eisenhower.

Mr. HART. Did the objective study conclude that political factors were not at work in nominations made to the court in any administration?

Mr. DOLE. No; I do not believe that conclusion was reached.

Mr. HART. And, therefore, not in the Eisenhower administration, either?

Mr. DOLE. The emphasis was on competence, as it is today.

Mr. HART. My memory fails me at the moment. I cannot recall whom the Kennedy administration proposed for a Supreme Court vacancy, and whom we consented to.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. HART. Yes.

Mr. KENNEDY. I think it was Justice Goldberg and Justice White. They were the two nominees.

Mr. HART. Justice Goldberg and Justice White. I hate to mention it, but Justice White was No. 1 in his class at Yale, but he would have been just as good if it had been at Michigan.

Mr. DOLE. Had he had a great deal of experience? Did he have wide judicial experience?

Mr. HART. He distinguished himself as a Rhodes scholar. I think there is great merit in both of those measures.

I think it is generally agreed that Justice Goldberg was one of the great figures of the American bar.

Mr. DOLE. In 1965 the then Senator from Florida, Mr. Smathers, indicated, if I am correct, that of the nine sitting Supreme Court Justices, only three had had prior experience on the bench. Perhaps that is not important. Some indicate it is; some indicate it is not. I recall the testimony of Mr. Segal, Mr. Jenner, and others from time to time in the hearings. They had a different view depending on the facts and circumstances.

I believe scholarship is an ingredient, but so is experience.

I come back to the experience of Judge Carswell. We cannot wipe it off and say he is not qualified. The Senator from Michigan looks at Judge Carswell and gives him credit for experience, maybe not much, but he gives him some credit for experience.

Mr. HART. I do. He has years of service in the Federal "league."

But my point is that it is not a record on which to move him up. The experience is there, but is the quality?

I yield to the Senator from Florida.

Mr. GURNEY. I say yes, although I do not want to get into the argument about the excellence of the nominee. All of us can make up our minds on that. I think our opinions could differ.

There is nothing undistinguished about the bar of Florida. Florida is the eighth largest State of the Union; but Judge Carswell was regarded by his colleagues there as an excellent judge, with a fine legal background.

Mr. HART. If the Senator will yield, I will agree that the point he makes does have relevance. All of us ought to resolve in our own minds how we will

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decide this issue. It is relevant, and I will admit that we all have our own opinions.

Mr. GURNEY. Senators could argue here all day, and I do not think they would change each other's opinion on the issue of excellence. I was not interested in that. But another point does disturb me, and that is the point of sensitivity, which has been raised here so many times. In a way, I think it may be the main issue in this nomination and the vote by the Senate.

It puzzles me how the opposing members of the Committee on the Judiciary, the Senator from Michigan, who has the floor as well as the others who joined him in the minority report, can overlook the statement of Charles Wilson.

I have done some telephone calling back home during the argument here, checking with lawyers who could tell me personally about what has gone on in civil rights cases in Florida before Judge Carswell's court. They all tell me that Charles Wilson, a Negro attorney, actually began the civil rights prosecutions in Florida. He was the first lawyer, black or white, for that matter, to engage in civil rights litigation in Florida on the side of black plaintiffs. He spent 5 years in Judge Carswell's court, in all kinds of cases, desegregation cases in the schools as well as others.

This black lawyer has had more experience before Judge Carswell and in his court on civil rights cases than any other lawyer, all during this time; and, of course, the letter he wrote to Senator EASTLAND, the chairman of the Committee on the Judiciary, is found on page 328 of the record of the hearings.

He tells about what he did:

> I represented plaintiffs, in civil rights cases in the Federal Court for the Northern District of Florida, which was then presided over by Judge G. Harrold Carswell. I also represented criminal defendants and other civil clients in his court during this period of time.

This is interesting:

> Previous to his taking the bench in 1958, I had opposed him as defense counsel in criminal prosecutions brought by the United States when he was United States Attorney.

Now, here is the important thing:

> As a black lawyer frequently involved with representation of plaintiffs in civil rights cases in his court, there was not a single instance in which he was ever rude or discourteous to me, and I received fair and courteous treatment from him on all such occasions.

For the life of me, I cannot see how Senators, in the face of evidence like that, can come here and say that Judge Carswell is insensitive, that he is not interested in human rights, that he does not like black people, that he does not give them a fair shake in his court.

The interesting thing about Mr. Wilson is that his present service, incidentally, is as Deputy Chief Conciliator for the U.S. Equal Employment Opportunity Commission, an appointment apparently made during the Johnson administration.

It seems to me this is the kind of direct evidence, by a lawyer who was personally present and who was part of the action for 5 years in Judge Carswell's court, that is the important thing. This is persuasive to me. Not nearly so persuasive is the testimony of a law professor, however eminent he may be, or a lawyer in New York, however eminent he may be. The opinion of such a witness on insensitivity or sensitivity does not bear nearly as much weight as that of this black lawyer, who was there in that court.

Mr. HART. Mr. President, I think in my remarks I acknowledged that there would be those among us who feel that the record does not conclusively resolve this particular question, and we shall each read the record and reach our individual conclusions.

But may I ask, how does one respond to the testimony of Professor Clark, a black lawyer who was, as I understand it, in charge of civil rights litigation generally in the southeast part of the country? He had had an opportunity to judge the performance of a number of Federal judges in that circuit, and he tells us, with respect to the nominee:

> He was probably the most hostile judge I have ever appeared before. He was insulting to black lawyers, and he rarely would let me finish a sentence. . . .
>
> It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him while using a civil tone to opposing counsel.

He went on to describe that he was so hostile and insulting to Negro lawyers that, when newcomers were getting ready to go to court in the interest of civil rights petitions or actions, he, Professor Clark, would spend the night before having them go through their addresses "while I harassed them as preparation for what they would get the following day."

That has a ring of truth to it, too.

Mr. GURNEY. I will say to the Senator from Michigan that of course that is a bit of evidence that we have to weigh.

Mr. HART. That is what we are talking about, bits and pieces.

Mr. GURNEY. I hope I can get some answers, not only to Clark but to Lowenthal, and I think one other professor who was involved in some of this litigation in Florida.

I do think, though, that even if you take their testimony as being of some weight, that, on a one-shot deal, which apparently is what they were engaged in down in Florida, it is not nearly as persuasive to me as a lawyer, and I am sure it is not to the Senator from Michigan as a lawyer, because he has been trying to weigh evidence and the importance of evidence, and what is perhaps more important than something else.

To me, when a black lawyer whose job it is to prosecute and defend civil rights cases, who spent 5 years in this district court of Judge G. Harrold Carswell, says that this man "was courteous at all times and fair to me, a black attorney representing black litigants," that is very persuasive, and I do not see how it can be ignored.

Mr. HART. The Senator from Florida properly describes it as a piece of evidence, when he talks about Professor Clark's testimony. The same description can attach to the piece of evidence reflected by the expression of views of Charles F. Wilson. All of us must resolve, through a multitude of these instances and examples and assertions and contradictions, precisely, first, what this man is as a person, and second, what this person on the Supreme Court would appear to be to black Americans.

That is where I find there is an analogy between the apparent conflict of economic interest that we raised as to Judge Haynsworth and the apparent conflict of human interest that we assign as a reason to reject the nomination of Judge Carswell.

Does not all this evidence raise enough serious questions about his hostility, on top of the white supremacy speech, to make us hesitant to tell the people of this country, "You can trust this man to be fair?"

Mr. GURNEY. If the Senator will yield further, turning to another bit of evidence that I noticed in the news this morning, about a lawyer in Florida, from Panama City, as I recall—and I think there is other testimony in the record about this—great weight, or some weight, I will say, has been placed upon the fact that when a lawyer was arguing before Judge Carswell in court, in some of these civil rights matters, he turned around and faced the wall, did not face the lawyer and look at him. I am not familiar with the law practice of the Senator from Michigan, but I can speak of my own personal view that I do not think I ever argued a case that took any length of time in which the judge and I locked eyes all the time and stared at each other all the time. It is just human nature that the judge will turn around in his chair and look at the wall, but listen.

This kind of evidence about the insensitivity or lack of sensitivity of a judge in these civil rights matters—I am appalled that that kind of evidence is even trotted out on the floor of the Senate, to say that a man is hostile to black litigants and black lawyers. To me, it smacks of trying to build a case that the opponents want to build and they cast around the country, so they can drum up support for their belief.

Mr. HART. Mr. President, the items we raise, we raise in an effort to assure that our decisions shall be right, that it shall be wise in history's verdict.

If there were nothing else in the record save the question—phrase it as you will—Are we discussing now one among the gifted few at the American bar who shall be put on the Supreme Court, or are we not? The answer is disturbing when we hear talk such as, "Let us raise our sights and let us apply tests uniformally," then now is the time to begin, if we have been lax in the past in insisting on demonstrable excellence.

If there is doubt that the bits and pieces—the Senator from Florida says every lawyer has argued a case to a judge who has turned his back. If all these items raise doubts, then let us resolve the doubt in favor of the disadvantaged American who is being persuaded to seek his relief in the court.

I probably will regret seeing this in the RECORD in the morning, although,

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having said this clearly, it is not a slip of the tongue; but I know now, and every black lawyer will know, that if this nominee's back is turned to him during the course of an argument, there is on the wall above him, "I am a white supremacist, and I pledge that I always shall be."

This may not describe in the least the motive of this nominee in turning his back. It may be just as inappropriate and inoffensive as backs turned to me when I have tried to persuade judges. But there is the appearance that is now clear for all to see that I suggest raises the same kind of conflict that we talked about in the Haynsworth matter. What we seek to do is to develop those elements in this record which will enable us to answer the question wisely: Do we consent or withhold our consent?

Mr. GURNEY. Mr. President, will the Senator yield further?

Mr. HART. I yield.

Mr. GURNEY. I do not want this in any way to be interpreted as disparaging the sincerity of the Senator from Michigan; but, literally, if we take what the Senator has just said as the gospel truth, then I think we had better put a new canon in the canons of ethics of Federal district court judges: "Thou shall never turn thy back upon any attorney, but will always face him full in the face."

Mr. HART. Does the Senator know of anybody else nominated to the Supreme Court who pledged his people that he will always be governed by the principles of white supremacy? If there is such a one, we would take precisely this position, of cautioning that to preserve confidence in the Supreme Court of the United States, we can and should do better than that one.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. HART. I hope we do not have to add as a canon of professional ethics a caution against voicing the supremacy of the white. I hope all of us understand this—that we do not need it in our canons.

Mr. GURNEY. I would answer the Senator there—as he knows what the answer is—that any one of us has made statements on the political hustings that I am sure we are ashamed of, that we would like to delete, that we would like to rephrase, that we wish we had never said. I know I have, and I suspect the Senator from Michigan has.

Mr. HART. When I visited with Judge Carswell in the committee, I said the same thing. But I also said that what troubles me, and will trouble others, is that in a basic sense part of what we are is of what we were, and what we are now is part of what we shall be. Many people understand that when they look at me and wonder whether I really meant it and whether I have ever changed my mind about some of the idiotic things I have said on the hustings. That is what people will always wonder about if, in looking at the Supreme Court, they see a man who once said that he would always be a white supremacist. Is it still a part of him?

I think it is a mistake to raise that kind of apparent conflict in the 1970's in this country.

Mr. DOLE. Mr. President, will the Senator yield briefly?

Mr. HART. I yield.

Mr. DOLE. Let me say that I know the Senator from Michigan to be a fair man. I have known him in other circumstances far removed from this Chamber, and there can be differences of opinion.

There is evidence to indicate that certainly Judge Carswell is highly qualified. I am not going into the discussion of mediocrity as that question was raised on your side of the aisle. But there is evidence in the record that, despite the statement made, which has been declared by the nominee as being obnoxious to him at this time, it has been repudiated.

There is other evidence. As the Senator from Florida has stated and as the Senator from Michigan has stated, these are all bits and pieces. We must weigh them. Some have more weight than others.

Frankly, I was impressed with the statement inserted in the RECORD yesterday of Prof. James Moore, professor of law at Yale, in his discussion of Judge Carswell in what he felt Judge Carswell's attitude was toward members of minority groups. He pointed out that he is part American Indian, so he can speak with some authority; and he gave Judge Carswell very high marks for his successful efforts to establish a law school. It was made very clear by Carswell that there should be no bias because of race.

So as the Senator from Michigan and the Senator from Florida have said, it is all evidence that must be weighed by each of us. Some may reach a different conclusion. But I share the hope that the Senator from Michigan has expressed that perhaps, whatever may happen here, this signals a closer examination of judicial nominees—Democrat or Republican, district court or circuit court or the Supreme Court. If we confirm the nomination of a man once, twice, or three times in a perfunctory manner, that is our fault, and we do a disservice. We have a right to raise a question at any time but nonetheless I believe the evidence at this point favors Judge Carswell.

I might add that I have not made any final determination. I want to support Judge Carswell unless there is evidence that I should not.

I tried to reach Judge Tuttle this morning by telephone because of some confusing statements—at least in my thought—about his telegrams. He said the telegrams were solicited by the senior Senator from Maryland. He felt that they were very clear, and he did not want to discuss the nomination further. I believe he has some obligation. If he now is opposed to Judge Carswell, as a responsible member of the judiciary he has an obligation to those of us in the Senate to make his views known. Why should he hide his views? If he is opposed to Judge Carswell for some specific reason, we should know, and if he is not, we should know that; because, apparently, much weight has been given to the three telegrams. But again I say to my friend from Michigan that I trust he will permit us to weigh the evidence, the same evidence he does, and perhaps reach a different conclusion.

Mr. HART. Mr. President (Mr. GURNEY), of course that is what we are about. That is what we are seeking to do. In the case of Judge Haynsworth, we weighed the evidence and we resolved the doubts, perhaps hesitantly and reluctantly, against Judge Haynsworth to preserve confidence in the Supreme Court. I believe that we cannot do any less here, and I would hope that the nomination will not be confirmed.

Mr. President, I yield the floor.

SENATE RESOLUTION 373—SUBMISSION OF A RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT LAWS RELATING TO STRIKES BY GOVERNMENT EMPLOYEES SHOULD BE ENFORCED

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent, as in legislative session, to submit a resolution. For the information of the Senate, I ask that it be read.

The PRESIDING OFFICER. The resolution will be stated for the information of the Senate.

The legislative clerk read as follows:

S. RES. 373

Whereas section 7311 of title 5, United States Code, provides, inter alia, that an individual may not accept or hold a position in the Government of the United States if he participates in a strike, or asserts the right to strike, against the Government of the United States, or is a member of an organization of employees of the Government of the United States that he knows asserts the right to strike against the Government of the United States;

Whereas section 1918 of title 18, United States Code, makes it a Federal criminal offense, punishable by a fine of not more than $1,000 or imprisonment of not more than one year and a day, or both, to violate the provisions of section 7311 of title 5, United States Code; and

Whereas, reportedly numerous employees of the postal field service have participated in a strike against the postal service in New York City and other cities in the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Postmaster General should immediately take such measures as may be necessary to enforce the provisions of section 7311 of title 5, United States Code, and

(2) the Attorney General should immediately take such measures as may be necessary to enforce the provisions of section 1918 of title 18, United States Code,

with respect to any individual striking, or asserting the right to strike, against the United States Post Office Department.

Mr. WILLIAMS of Delaware. Mr. President, I am sure we all recognize the importance of this resolution. Rather than proceed tonight, I ask unanimous consent that the resolution be placed directly on the Senate Calendar.

The PRESIDING OFFICER (Mr. GURNEY). Is there objection to the request of the Senator from Delaware? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 11 A.M.

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the previous order that the Senate stand in adjournment, as in legislative session, until 11 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 5 minutes p.m.) the Senate adjourned, as in legislative session, until tomorrow, Friday, March 20, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 19, 1970:

U.S. District Judge

Andrew W. Bogue, of South Dakota, to be U.S. district judge for the district of South Dakota, vice Axel J. Beck, retired.

U.S. Marshal

Donald D. Hill of California to be U.S. marshal for the southern district of California for the term of 4 years, vice Wayne B. Colburn, resigned.

HOUSE OF REPRESENTATIVES—*Thursday, March 19, 1970*

The House met at 11 o'clock a.m.

The Right Reverend Protopresbyter Nikolaj Lapitzki, Byelorussian Orthodox Church of St. Euphrosynia, South River, N.J., offered the following prayer:

In the name of the Father, and the Son, and the Holy Ghost.

Almighty God, and our Father, the source of justice, on this day commemorating the anniversary of independence of Byelorussia, we humbly bow our heads and pray that Byelorussia, and all other captive nations, may soon receive a new birth of freedom.

O, all generous God, the source of wisdom, bless and instruct the leaders and legislators of the United States of America, so that they would arrive at the decisions which would lead to peace and freedom for all mankind in the world.

Almighty Father, the source of love and kindness, shorten the days of misunderstanding among nations, and give peace and Your blessings to all the people on the earth.

Thou art the Saviour and Protector, and we glorify Thy name today and shall forever. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2882. An act to amend Public Law 394, Eighty-fourth Congress, to authorize the construction of supplemental irrigation facilities for the Yuma Mesa Irrigation District, Ariz.

The message also announced that the Vice President, pursuant to Public Law 91-213, appointed Mr. Tydings and Mr. Packwood to the Commission on Population Growth and the American Future.

THE RIGHT REVEREND PROTOPRESBYTER NIKOLAJ LAPITZKI

(Mr. PATTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTEN. Mr. Speaker, it was our privilege to hear the opening prayer by the Right Reverend Monsignor Protopresbyter Nikolaj Lapitzki of the Russian Orthodox Church of South River, N.J.

I would like the Members of the House to know that the Byelorussians consider themselves a separate nation. They have long been in the forefront for real freedom and religious liberty.

They consider their people in Russia as one of the captive nations. You would love these people. They love America. They love freedom, and they love their God and their church.

Mr. Speaker, it was a pleasure to hear one of their leaders, the Right Reverend Protopresbyter Nikolaj Lapitzki give the opening prayer here today.

MINE OFFICIALS SYMPATHETIC TO COAL MINERS ARE BEING FIRED

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute.)

Mr. HECHLER of West Virginia. Mr. Speaker, an article by Mike Causey in yesterday's Washington Post indicated that the White House, in its attempts to "purify" the staff of the Bureau of Mines, is firing or planning to fire certain employees who have been associated with the United Mine Workers. If such a step is being taken because of the recent turmoil within the United Mine Workers, I would like to state that this is a cruel, tragic development. Bureau of Mines officials who have had experience as coal miners probably were good, faithful, honest, and efficient members of the United Mine Workers. If there are prejudices being exercised against them, the administration of the Bureau will be lopsided. What about those with past experience as coal operators?

Mr. Speaker, this practice must stop, and honesty, objectivity, and fairness be restored to the Bureau of Mines.

DISTRICT OF COLUMBIA OMNIBUS CRIME BILL

(Mr. HOGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOGAN. Mr. Speaker, today we are taking up one of the most important pieces of legislation ever considered for the District of Columbia.

I would like to try to correct some of the misconceptions in circulation about the so-called no-knock provision in the District of Columbia omnibus crime bill, H.R. 16196.

The most important point I wish to make is that the police already have no-knock authority. H.R. 16196 provides an additional protection to the citizen and clarifies the doctrine for the policeman.

The U.S. Supreme Court in Ker against California upheld the constitutionality of an entry without notice and recognized the existence of the doctrine of exigent circumstances under which an officer may dispense with notice. The 29 States that have confronted the issue have allowed entry without notice either through express statutes or judicial application of the common law exceptions to the general rule requiring notice.

The second misconception is that entry without notice is an unwarranted and unconstitutional invasion of the citizen's right to privacy. This is also totally inaccurate. The provision deals only with the method of entry into premises. It has nothing to do with whether the entry is legal.

The misconceptions pertaining to entry without notice make it clear that some definite standards should be enacted to govern when police must announce and when they need not. If Congress does not set out guidelines, how can we expect our law enforcement officers to know what to do on the spur of the moment in a dangerous situation?

Unfortunately, dangerous robbers, rapists, and murderers in the Capital City consider an identifying policeman at their door an appropriate shooting target. We cannot tolerate this. We must give the police a method of avoiding injury and death by enacting this no-knock provision.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE REPORTS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight tonight to file certain reports.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON CONSUMER AFFAIRS, COMMITTEE ON BANKING AND CURRENCY, TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Consumer Affairs of the Committee on Banking and Currency may be permitted to sit today during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. HALL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. McMILLAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16196) to reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 16196, with Mr. CORMAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from South Carolina (Mr. McMILLAN) will be recognized for 1 hour, and the gentleman from Minnesota (Mr. NELSEN) will be recognized for 1 hour.

The Chair recognizes the gentleman from South Carolina.

Mr. McMILLAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the House District Committee presents to the House today H.R. 16196 which is the product of numerous studies, reports, and recommendations which have been developed by commissions, judicial and legislative groups, and special consultants, as a result of the concentration of attention to the crime problems in the National Capital for the past few years.

I want to say that this is a bipartisan effort. The members of the House District Committee have devoted long hours to the consideration of this bill—they are a dedicated group to whom the citizens of this country and of this city are indebted for bringing out such a splendid bill. I also wish to thank the Department of Justice for the invaluable assistance which its attorneys have given to the committee, and to thank, too, the members of the staff of the District Committee and legislative counsel's office, who went "beyond the call of duty" to make this as good a bill as possible.

The bill brings together in one single measure essentially the best of the suggestions that have been developed. Numerous bills dealing with some facet of court reorganization or dealing with the crime problem were introduced and referred to the District Committee. The committee has labored with the proposals for many months. Extensive public hearings have been held. Special conferences and consultations have been held. Two subcommittees under Congressman ABERNETHY and Congressman DOWDY worked diligently in executive session to assemble the respective parts of the pending bill for which each subcommittee was responsible. They and the members of their subcommittees are to be commended for their diligence and accomplishments.

The bill was reported by the full committee by a vote of 20 to 4. The committee strongly feels that it should be enacted as introduced and reported to the House.

The sense of this bill is one of great urgency and necessity. Your committee is not aware of any period in the Capital's history when crime was so rampant as now, when the police have been so shackled, when prosecutors because of technicalities, and courts because of unrealistic philosophies, and failure to go full speed ahead, have contributed to a major breakdown of law enforcement, and there has been such shocking failure in large part of the machinery of justice to bring to punishment admitted murderers, rapists, and others guilty of aggravated assaults and robberies. This is a crime infested city; let there be no ignoring that fact.

This is the fifth consecutive Congress wherein your committee has brought a major anticrime bill to the House, and each time the House has responded by the passage of remedial legislation by overwhelming majorities.

However, no pretense is made that this bill, of itself, is a panacea for all problems related to crime, or for all other ills in the Nation's Capital.

The bill is an extensive one. Two whole titles of the District of Columbia Code are amended and codified by this bill—one completely reorganizes the local court system, and another revises criminal procedure in the District of Columbia.

Another revision changes what is juvenile proceedings in existing law. The new law will cover proceedings for almost all family matters.

There are amendments to certain criminal laws and new criminal law.

The present legal aid agency is replaced with a public defender office with more extended services.

The District of Columbia Department of Corrections facilities at Lorton are transferred to the Federal Bureau of Prisons.

Provision is made for the payment of attorney fees for Metropolitan Police officers who are sued for wrongful arrest.

The Commission on the Revision of the Criminal Laws of the District of Columbia is abolished—the work on this bill indicates the effectiveness of making such revisions within the respective and responsible committees of the Congress.

The bill will provide for the first time a genuinely separate and local system of courts of the District of Columbia. All existing trial courts will be merged into a single new superior court. The jurisdiction of the present local trial courts transferred on the effective date of the legislation and the jurisdiction over local matters now within the U.S. district court will be transferred at intervals until the separation of jurisdiction is completed. The highest court for the District will be the District of Columbia Court of Appeals.

One of the proposals considered by the committee deals with investigative detention, the so-called stop and frisk law. It was suggested that the District needs a statutory scheme delineating the rights and powers of law enforcement officers to investigate suspicious circumstances of a criminal nature, although there is no probable cause to make an arrest, and, when necessary as an aid to their investigation, to detain both suspects and witnesses for a short period of time. On August 27, 1969, the Metropolitan Police Department of the District of Columbia issued an extensive, detailed memorandum to the police force, setting forth guidelines for the exercise of authority to stop and frisk. The memorandum was promulgated following the Supreme Court decision in *Terry* v. *Ohio*, 392 U.S. 1, and represented an attempt by the Police Department to conform its stop and frisk and investigative detention authority to the standards set forth in that decision. The committee was urged by the Department of Justice at the hearing to defer action on H.R. 14335 on the grounds that the administrative guidelines issued by the Police Department provided the police satisfactory law enforcement guidance and represented a more flexible and therefore appropriate response to the Supreme Court decision in Terry than would legislation which is more difficult to amend. The committee, while strongly in favor of the principles of stop and frisk and investigative detention enumerated in H.R. 14335, has accepted this recommendation and has deferred action on H.R. 14335 to await developments under the administrative guideline promulgated by the Metropolitan Police Department.

The committee has had the benefit of the most expert assistance and advice possible. Among members of the committee there is no difference of opinion as to the seriousness of the problems of the District or for the need of legislation to provide means for dealing with the emergency situation. I hope that the minor differences on some issues may be resolved for the best interests of the Nation and that the House will give overwhelming support to the bill on final passage.

Mr. NELSEN. Mr. Chairman, I yield myself 12 minutes.

Mr. Chairman and Members of the House of Representatives, this is probably the most important bill we have dealt with in a long time. The role I am cast in gives me some concern, not being a lawyer, since this bill deals with court

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reform and many legal implements for law enforcement.

I think of the story of the two cows munching the grass in the pasture. A milk truck goes by, and the sign on it says, "Grade A Milk, Homogenized, Vitamin A Added, Pasteurized." One cow looks at the other and says, "It does make you feel rather inadequate, doesn't it?"

I want to say, as we are dealing with legal provisions of a bill of this kind, being laymen perhaps we are a little inadequate; but looking at the need for the legislation, I take no backseat to anyone in presenting the fact that this bill is needed in the interest of our Nation's Capital.

As I look out on the floor, I see people from all over the United States, representing their districts. Regardless of whether they are from California, Alaska, Puerto Rico, or wherever it may be, this is our Nation's Capital.

As I pointed out in the Rules Committee, this city is being torn apart by crime. What we are trying to do here is to protect the people of this district and to protect our Nation's Capital, to restore the necessary image so that the United States of America will not be judged by its own Federal city.

I should like to call attention to the speech which was made by Sterling Tucker, the Vice Chairman of the City Council. He pointed out that the ghetto areas of this city were damaged the most by the plundering and by the criminals who feed on crime and dope addicts, and that they have actually made subjects and made servants out of the people by what they are doing here in the District of Columbia.

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I want to compliment both sides of the aisle for the atmosphere that existed in our committee in dealing with this bill. Democrats and Republicans joined hands in working on this bill from the very beginning. It is a 439-page bill.

At one time there was some criticism because we were not moving. We heard some comment even from the White House. We heard some comment from the Justice Department. We arranged to meet with the President. We arranged to meet with the Justice Department. As a result, communications were established, and a proper atmosphere for getting things done prevailed.

We then moved on with the drafting of this bill, which I believe is most important. I want to say to all Members here that the District of Columbia Committee is not a particularly sought after prize for any Member in the House of Representatives, but many of us who serve on that committee feel that we need to do everything we can to make our Nation's Capital a model city.

This bill is a comprehensive, balanced bill.

Our hearings developed considerable facts about the operation of the local courts. We found, for an example, that the caseload in the general sessions court was about 16,000 cases a year with a large backlog. We found in the juvenile court there were 6,000 juvenile cases awaiting trial, and 3,600 adult cases awaiting trial in that court.

Under the terms of this bill, a new superior court of general jurisdiction will be set up, and the general sessions court will be phased out, and the local appellate court will be expanded. Ten new judges will be added to that court immediately, and three appellate judges will also be added.

We intend to add more judges as the needs are evidenced. This is the intent of the committee, but we thought we should permit the courts to operate with their 10 trial and three appellate judges and provide an increase later in a couple of years.

Mr. Chairman, a public defender agency is provided for as well as bail reform. I might point out that in 1966 the Bail Reform Act at that time removed from the crime enforcement officials in this city some of the instruments they needed for the dealing prior to trial with known criminals roaming the streets who are repeat offenders. There are those who talk about pretrail detention as being something brand new, and which is way out of line. Let me call your attention to the fact that in the city of New York they have a money bail statute which does the same thing. They recently found their jails in New York were clogged by prisoners. Accordingly the New York City officials relieved the pressure in New York by suggesting the judges release arrested defendants on their own recognizance only to find a storm of protest arising from the people in New York itself. In fact, New York City had only a few days taste of what the district has "enjoyed" for 4 years.

We are not here asking for pretrial detention in any different manner than prevails in many parts of the country. We know we have recidivists on the street repeating with one crime after another who are being released prior to trial, and they are released to commit further crime. As a result, this city is being plundered by known criminals.

Now the "no-knock" provision. When I read about it as a farmer I thought it sounded pretty bad. Then I learned to my great surprise under the common law of the land that the no-knock provision is presently permitted by the U.S. Supreme Court. Many States by statute set up by statute and decision the very provisions that we have in this bill. About 17 or 18 States by case law are doing what we provided for here. This is nothing new.

There are those who seem to think this is a brandnew idea. I want to make that very clear to the Members of this House, that it is not, and I am sure that you would be interested in this observation.

Now we come to the wiretap provision. Again we find that people think this is brand new. This body in 1968 in the Safe Streets Act provided for wiretap provisions for Federal law enforcement under careful court supervision. May I call your attention to the fact that recently we have had some convictions or arrests in serious dope traffic cases in the District of Columbia. The Federal law was followed in this case; and I think that in loosely patterning this after the Federal law we have a good wiretap law.

Again referring back to the pretrial detention provision, let me call your attention to the fact that many of us were called to the White House where the Speaker, CARL ALBERT, our majority leader, GERALD R. FORD, our minority leader, the representatives of the Committee on Interstate and Foreign Commerce, and all of the leaders of the various committees were assembled. It was called to our attention by Chief of Police Jerry Wilson that we had about 300 known violators on the street who were hardcore drug addicts and were contributing greatly to crime here. Chief Wilson said that if they could only detain these persons and get them off the street, we could improve the crime index here by as much as 50 percent.

One further point I want to make here is this: This meeting was attended by Art Linkletter. His daughter became the unfortunate victim of dope—LSD. Mr. Linkletter related the story of his own daughter who went on one of these trips then had recurrences of hallucination periods. Finally, she thought she was losing her mind and committed suicide.

The no-knock, wiretap, and pretrial detention provisions in this bill are to a great extent there because of the dope traffic here in the District of Columbia.

Now, I want to call your attention to the fact that many of us on the committee felt that we could make a contribution to protect the youth of this city from the pusher which in my opinion is the most heinous criminal in our modern-day society where the young people of this community, including our schools, are becoming slaves to the dope pusher. The tools exist in this bill to combat this type of crime.

Mr. Chairman, it seems to me we ought to look carefully before we say "no" to a committee provision that is going to make it possible to move in the direction of giving protection to the youth of this community.

So, actually, "no knock" is not new, wiretapping is not new and pretrial detention is not new, and this city needs help and it needs it now. The White House, the Department of Justice, and the prosecutors, and the police department have pleaded for the provisions which we have inserted in the bill.

Now, Mr. Chairman, I compliment those who want to be sure that we are not violating the Constitution of the United States in any way. I think we should always be careful to adhere to the Constitution and be careful that we are doing that. But I have confidence in the courts that if there is any provision here that in any way is said to violate the Constitution, it will be considered promptly on appeal.

Again, may I say that it is no prize to be on the District of Columbia Committee. There is no political advantage to be gained anywhere as the result of serving on this committee.

However, I think the situation is so serious now here in the District of Columbia, and I know the quiet majority, whether they be black or white, I know they are pleading for protection here in our Federal City. I can conscientiously say without the least equivocation or mental reservation whatsoever that in my considered judgment every provision of this bill meets the constitutional standards. it is a good, well-rounded, balanced bill. It has the endorsement and cooperation of the Justice Department, the White House, and the majority of our committee.

So, I plead with the House of Representatives to enact this bill.

Now, Mr. Chairman, I have been in government one way or the other since 1935. In my judgment this bill is the most important piece of legislation that I have ever had anything to do with.

I live in Minnesota 1,200 miles from our Federal City yet I want to say that this is my Federal City, this is your Federal City, and I am firmly convinced that this piece of legislation is needed to make it a safe decent place to live and visit. I think it is good legislation and I hope the House of Representatives will adopt promptly.

Mr. Chairman, the House today in considering H.R. 16196, the District of Columbia Court Reform and Criminal Law and Procedure Act of 1970, with its accompanying report No. 91-907, has before it the most comprehensive bill effecting the court system and criminal law and procedure in the District of Columbia that has come out of the District of Columbia Committee since I have been a member of that committee. Contained within this District of Columbia omnibus crime bill are the following bills which I introduced on the behalf of the administration and which were cosponsored by a large number of my fellow Congressmen: H.R. 12854, a bill to reorganize the courts of the District of Columbia; H.R. 14189, a bill to provide a new code for juvenile procedure; H.R. 12856, a bill which would expand the District of Columbia Legal Aid Agency into a Public Defender Service, and, H.R. 12855, a bill which would amend the District of Columbia Bail Agency Act so as to increase the effectiveness of the Bail Agency. The administration also supports the pretrial detention aspects of H.R. 14334 which was introduced by Chairman McMillan of the District Committee and the several bills introduced by Congressman Hogan relating to criminal law and procedure designed to assist crime enforcement officials in this city as well as the prosecutors and trial judges.

While I am not a lawyer and I do not pretend to have any particular great knowledge of the law, I strongly support those bills mentioned above which are incorporated in this omnibus bill. I believe it has strong support from the majority of the citizens of this community, from its civic leaders, its church groups, the District of Columbia Bar Association, and others. The results of a referendum conducted by the District of Columbia Bar Association covering many of the more controversial topics included in the omnibus crime bill, indicate majority support for such provisions as wiretap, codification of the no-knock entry, impeachment of defendants by use of prior convictions, enlargement of the Government's right to appeal, and the provision concerning resisting arrest.

After listening to considerable testimony in the hearings on this bill, and after discussing it in executive session and reading many of the statements, pro and con, concerning certain of its controversial issues, I am of the opinion that the District of Columbia omnibus crime bill is a balanced piece of legislation. Where objections were raised as to the constitutionality of certain of the provisions in the bill, such as pretrial detention, the committee was careful in obtaining decisions on such matters from the Attorney General, the U.S. Attorney for the District of Columbia, and others who are knowledgeable in such matters.

For instance, we have available here at my desk for the information and guidance of each Member a Virginia Law Review article authored by Attorney General John N. Mitchell, addressed specifically to the constitutional questions raised by pretrial detention.

This omnibus crime bill is not only a balanced piece of legislation because of the way it was treated in committee, but, perhaps more importantly, because it protects the interests and rights of the individual while at the same time preserving and promoting the integrity of the entire judicial process. The bill thus attacks the problems of crime in the District of Columbia in a number of different ways, but admittedly one of its principal purposes and primary objectives is to bring some peace and tranquillity to the streets of this city. This city is about to be torn apart by crime with all its attendant problems, such as the constant fear of assault, robbery, and so forth, in the homes and on the street, the costs to the victims of crime in pain and suffering, loss of earnings, losses by theft, and so forth.

The first and initial step taken by this bill is to reorganize the court system so that ultimately, but on a timely schedule, all of the common law criminal and civil jurisdiction will be removed from the Federal court system into the local District of Columbia courts. It thus puts the District of Columbia more or less on a footing with the State courts. In addition, title I of this bill will add 10 trial judges to the superior court as soon as they can be appointed and their nominations cleared with the Senate, and in addition, three appellate judges are being added to the District of Columbia Court of Appeals.

What this means is that for the next 2 years, while certain of the civil and criminal jurisdiction cases are being transferred from the Federal courts to the local trial and appellate courts, 10 additional trial judges and three additional appellate judges will be working on the backlog both criminal and civil that may exist in the courts of the District of Columbia. This cannot help but result in speedier trials for defendants. At the same time, hopefully, it will have a deterring effect on crime in this city by effecting swifter and surer justice. Title I of the bill also provides for an executive officer to be appointed for the local courts. This officer would receive the same salary as the judges; and it would be his job to see to it that the Superior Court and the District of Columbia Court of Appeals would be operated much more efficiently and effectively. It would introduce into the local court system the concept of court administration in the truest and most professional sense of that word.

The registrar of wills and the probate court would also, 2 years after the date of enactment, become part of the local court system. The U.S. District Court for the District of Columbia is the only Federal court in the country that operates as a local probate court. The bill would also eliminate the Coroner system as it has been known in the District of Columbia and replace it with a modern Medical Examiner system. Also the District of Columbia Court of Appeals would set the rules and regulations for admission to the local bar whereas the U.S. Court of Appeals for the District of Columbia Circuit now performs that function.

There is established in the omnibus crime bill provision for a family division of the newly proposed Superior Court for the District of Columbia. The family division would be composed of a domestic relations branch and a juvenile court branch. As many of you may know from your acquaintanceship with District matters generally or from reading the newspapers, the Juvenile Court for the District of Columbia has been experiencing a considerable number of problems over the last few years. There are those who would say that several of these problems arise by reason of the fact of certain conflicts in personality or otherwise which may exist between certain members of the bench of that court. Whether or not this is a contributing cause, one thing is crystal clear and that is that there is a tremendous backlog existing on the dockets of the Juvenile Court for the District of Columbia which have reached a number of 6,200 juvenile and 3,600 adult cases and constitute a backlog of up to 3 years. This bill would eliminate the independent Juvenile Court for the District of Columbia 6 months after enactment. Initial relief is provided for the backlog by a provision which would permit the chief judge of the court of general sessions to assign judges newly appointed under the provisions of this bill, to the juvenile court as now constituted so as to assist that court in working down that backlog.

There are a number of procedural safeguards accorded juveniles which are contained in the revision to the Juvenile Code for the District of Columbia, such as the right to counsel, forms of petition, and jurisdiction over intrafamily quarrels.

Perhaps one of the more innovative measures of the bill is that the jurisdiction of the juvenile court over individuals 16 to 18 years of age is revised. The term "child" is defined in the bill as meaning an individual who is under 18 years of age except that it does not include an individual who is 16 years of age or older and who is charged by the U.S. attorney with murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault with intent to commit such offense or assault with a dangerous weapon or any such offense as noted above, and any offense properly joinable with such offense. Also, jurisdiction of individuals 16 years of age or

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older charged with traffic offenses will be handled by the superior court.

These provisions are explained in part by the fact that we are dealing today in our highly populated center city areas with youngsters who, though they may be 16 years of age, are sophisticated and dangerous. In recent months, individuals aged 16 and 17 were charged with approximately 10 percent of all the rapes and homicides committed in the District of Columbia. This is greatly disproportioned in their relation to the total population. As will be brought out later, the narcotic addict is a compulsive criminal and must rob and steal in order to feed his habit. We know, generally speaking, that narcotic addiction can almost never be cured. While there is some hope for the methadone treatment, what we are dealing with when we have a 16- or 17-year-old individual who is a narcotic addict is someone who may be virtually committed to a life of crime and someone for whom there is little hope of rehabilitation. It does not make good sense to me to handle a 16- or 17-year-old individual in the juvenile court system who has been involved in a serious felony such as murder, rape, or robbery, and then turn that individual out on the streets at age 21 whether or not he has been rehabilitated, and whether or not he constitutes a danger to the community at age 21.

In an earlier day when children received a high standard of guidance and direction in the home and in the church and in the community, there was less need for us to deal with an individual, as an adult, who was 16 years of age. Indeed the statistics indicate that when that kind of home and community discipline existed for the juvenile, he was not committing felonies and crime to the extent he is today. But we do not have that kind of home situation or environment in the inner city areas today. On the contrary, what we have is a large impersonal city, parents who are working, children who are exposed to narcotics, and all kinds and types of temptations on television, in the streets, and elsewhere. As a result, we find ourselves with a crime explosion by juveniles. We have to draw the line somewhere and I think realistically in this bill the line has been properly drawn at a point consistent with several State laws.

There are also provisions in the bill calling for life sentences for multiple offenders, and increased penalties for those who commit crimes of violence while armed. There are provisions on resisting arrest, competency of witnesses, and other criminal law procedures which will be handled independently by other members of the District Committee to whom I will yield time in this debate.

There are also revisions of the District of Columbia Uniform Narcotic Drug Act contained in this bill. In this regard, I wish to remind the members of this body that Chief of Police Wilson, in testifying before the House District Committee, is quoted as saying that if he could get 200 or 300 hard-core narcotic addicts off the streets, he believes he could reduce crime in the District of Columbia by 50 percent. The relationship of narcotic addiction to crime is perhaps best presented as it was by Dr. Murray Grant, the then director of the District of Columbia Department of Public Health, before the Senate District of Columbia Committee in March of last year when he said that in the District of Columbia it costs from $40 to $60 a day to maintain an average drug habit.

In the District of Columbia it costs from $40 to $60 per day to maintain an average drug habit. The addict obtains these funds largely through crime against property or, in the case of women, by prostitution. We are reliably informed that in the District, or in Baltimore where much of the merchandise ends up, a fence will pay only around $50 for merchandise valued at $250 to $500. Thus, to maintain a $50 habit, an addict must each day steal merchandise, which on an annual basis, must have a valuation of $100,000 to $150,000.

There are 1,076 drug addicts known in the District of Columbia; in addition, there is little question that there are a considerable number of others not so registered. It is clear, therefore, that the total amount of merchandise stolen by these addicts to maintain themselves on the habit is obviously very large. Thus, there is sound basis for the conclusion that much prostitution and a considerable number of street crimes in the District are a direct consequence of the enormous cost of the drug habit to the addict. It has also been said that a number of the recent bank robberies are by addicts and that this is an approach especially likely to be used by younger addicts including teenagers. Older addicts look with scorn on this because the "con" games they have developed, check passing and especially crimes against property, reflect their more developed criminal skills. We are seeing not only a very large number of young adult addicts in our program, but an increasing number of teenagers, including some 13- to 14-year-old adolescents with an established habit.

It seems fair to say that in terms of the cost of crimes to "feed" narcotic habits in the District, the figure may reach, or extend beyond, $150 million each year.

As to pretrial detention, there are in this Chamber on the desk before me copies of a law review article from the University of Virginia Law Review written by Attorney General John N. Mitchell, which I referred to earlier. It is not a particularly long article and I suggest to those Members who are here and have an interest in this matter that they spend the few minutes it would take to read that article because I feel sure that it will answer all the objections made by those who oppose this measure as written into this bill. There is no sense in my standing here repeating the repudiations of the eighth amendment, the due process and the presumption of innocence arguments, used by opponents to pretrial detention, which are so logically and persuasively stated in Mr. Mitchell's article. In my own view, after listening to the hearings on this bill and the arguments in the markup of this bill, which such provisions as court reorganization, increased judges, and the public defender system will help effect speedy trials and aid the indigent defendant in obtaining justice from the courts, this particular provision of pretrial detention is balanced so as to meet the need to protect the community from those who might otherwise be released back on the street after having once been apprehended so as to permit them to commit other and further crime. The opponents to this measure will say that they have statistics to show that only 5 percent of the individuals who have been released without bail have been convicted of other crimes within 60 days.

First, from my own reading, I do not believe that there are adequate statistics to prove that claim and that in fact it may support pretrial detention if pursued in argument. Second, I think it is wrong for most of us in our own States to have a bail system that as a practical matter is used for pretrial detention and deny it to citizens of the District of Columbia. I believe pretrial detention is important for the safety of this community; I believe it is important as a deterrent to crime; I believe it is important to the morale of the police department; and, I believe it is important for the effective prosecution of crime in the District of Columbia.

No one can convince me that the pretrial release of a known hoodlum on the streets, one dangerous to the community, or a hard-core narcotic addict, does not have a devastating effect on the citizen respect for the police, the courts, the judicial system, and perhaps more importantly this Congress, especially if it votes today not to permit pretrial detention.

A public defender service is provided for in this bill that would expand what is now known as the District of Columbia Legal Aid Agency. It would provide a small cadre of experienced, effective counsel for indigent defendants in the District of Columbia who could not otherwise afford counsel. This public defender service will provide up to 60 percent of the counsel needed by these indigents and the other 40 percent will come from members of the local bar who are paid under the Criminal Justice Act.

There are those who object to the use of the wiretap in the District of Columbia for certain common law crimes. However, the Safe Streets Act of 1968 authorized each of the States to adopt their own local wiretap laws, as permitted by State law, and these provisions in the bill are merely in conformity with that act. I do not agree with those who express great fear that every individual in the District of Columbia can expect to have his telephone tapped. First, it is designed to catch criminals and it is already being used for Federal crimes in the District for that purpose. Those who are informed in the area of wiretap know very well that wiretapping is a very expensive and complicated proposition. The recent narcotics raids in the District that resulted in the arrest of approximately 46 individuals involved, I understand, surveillance costs that were well in excess of $50,000. As the ranking minority member of the District of Columbia Committee, if the indications are that there is a request for revenue to cover excessive or unwarranted electronic surveillance, I am go-

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ing to be one of the first to know about it and object to it. Accordingly, I just do not buy the scare tactics of all those who say that everyone's telephone in the District of Columbia is going to be subject to wiretap.

The District of Columbia Bail Agency is strengthened and expanded under this bill for those individuals who can qualify for release prior to trail on their own recognizance. Sufficient authority is placed with this agency and it is given additional employees so that it can effectively supervise those who are so released. Pretrial release for indigent defendants who do not constitute a danger to the community has proved successful and may in fact be expanded under the provisions of this bill.

The foregoing is a general overview of what I consider the most important provisions of this bill. I hope that it has been informative and useful.

However, I might add before closing that certain studies have been conducted in recent years that yield results of interest in considering this legislation. For instance, the report of the President's 1967 Commission on Law Enforcement indicates that if your income is under $3,000, your chances of being robbed are five times greater than if your income is over $10,000; your chances of being raped four times greater; and, your chances of being burglarized almost double. In addition, the report reveals that if you are black, the chances that you will be robbed are more than triple those if you are white; and the chances of your being burglarized or having your auto stolen are more than double for the black citizen.

I am sure that I need not draw a picture for my colleagues in order that they may recognize that the description of the group provided by the President's commission as most victimized by crime applies with equal, if not greater, force to this city than any other city in the Nation. Councilman Sterling Tucker of the District of Columbia City Council noted these kinds of statistics in a recent speech exhorting the black leaders of the District to speak out against crime and help lift the shroud of fear that it places on this city for all its citizens.

In conclusion, may I again state that I am not a lawyer and that I will yield time to those on this side of the aisle to answer those technical, legal questions which some of you might have regarding this bill. But for those who are not lawyers, and many who are, I feel sure that the application of commonsense and logic to the arguments regarding the provisions in this bill will convince you of the need and appropriateness of this legislation as reported to you today.

The majority of the District Committee, in a truly bipartisan vote and action, favored the speedy enactment of this bill. The President's interest in passing his crime package was forcefully stated in his letter to the minority leader yesterday. When enactment is accomplished, and I hope we pass this bill today, I believe you are going to see a change in this city for the better as far as crime is concerned. The change will not be overnight, but I hope to see results by summer or early fall.

My friends, we have a duty in this city to combat the crime we see on every hand. We have a challenge in this Chamber today to stand up and be counted in favor of this legislation that will give our police, prosecutors, and courts the necessary tools to accomplish the task. The residents of this community, our constituents, and the Nation as a whole, look to us today to pass this balanced anticrime package for the District of Columbia.

Mr. McMILLAN. Mr. Chairman, I yield 10 minutes to the gentleman from Mississippi (Mr. ABERNETHY).

Mr. MacGREGOR. Mr. Chairman, will the distinguished gentleman from Mississippi yield to me at this point?

Mr. ABERNETHY. I shall be happy to yield to the gentleman from Minnesota.

Mr. MacGREGOR. Mr. Chairman, I would like to say to my distinguished colleague from the State of Minnesota, as a farmer he has done a better job in outlining this bill than most Philadelphia lawyers could do.

I was particularly pleased that he placed the emphasis which he did on the threat of the narcotics pusher. I think it is significant to note that the very limited use of the wiretap authority contained in the 1968 omnibus crime bill in the District of Columbia pursuant to very careful court order resulted in some 60 indictments in the narcotics field from only three taps. This limited wiretap provision is very necessary for the District of Columbia, and it is obviously highly effective.

I thank the gentleman from Mississippi for yielding.

Mr. ABERNETHY. I was very happy to yield to the distinguished gentleman from Minnesota and I would like to join with the gentleman and agree with the comments he just made.

Mr. Chairman, it has been my privilege to serve as a member of this committee for almost 28 years. There are not many rewards that come from this service back in our districts, but the opportunity for reward is here today—the reward being the saving of this capital of the civilized world which can come to us today through the passage of this legislation.

This is a beautiful city. It has been the envy of people around the earth. It is the center of all of the activities of this world—commercial, cultural, government, business, and so on. I have traveled a little in my life—not to much—but I have been to numerous countries on other continents. I have visited many lovely cities, but there is no city in the world as beautiful as Washington, D.C. Even so, it is dying. In fact, there is not much life left in it. It is very close to death at this very moment. It is dying of a disease—crime—that is rapidly expanding not just in Washington, but elsewhere in our country.

Much of this crime is committed by the youth of our land, and more particularly of this city. I am not one who wishes to be critical of our youth, not at all. In fact, I should be critical—and I am—of the adults who have had the responsibility of training these youngsters, and failed to do their job.

Mr. Chairman, this city is a jungle. I do not say that because I like to say it. It hurts me to say it, but I know it is true—it is a jungle.

Some of us have been pointing to this situation for a number of years. Even though most everyone in the city and in the Government here knew it was true, there are some who denied it and who continue to deny it. We sometimes read editorials occasionally that say that crimewise Washington is no worse than any other city. In some respects it is not, but overall we know it is.

Most of the news that we hear nowadays, either on the radio or the television, or in the papers, is in criticism of a few specific provisions in this bill. Instead of commending this bill to the Congress and pointing out its good features we only hear criticism of a few sections.

As an example, I listened night before last to a radio editorial. The editor spent his time speaking of that which he said was the bad things in the bill. I am really surprised that I managed to listen all the way through because I know of nothing so dull as a radio editorial; but the reason this attracted my attention is that the editor happened to be speaking about something that I had had a hand in putting together.

Now, I do not want the members of the press to feel as though I am jumping on them, because I am not. I am just trying to suggest to them that we need their help, too. I do not object to criticism, I welcome it. I could not very well have remained in this House of Representatives and taken part in its activities as long as I have if I could not take criticism. I can take it—and sometimes it does me good. In fact, I know it often does me good. But we need the help of the people who put the news out in this town, and the citizens of the community who believe in law enforcement, to help us give them the tools that they need to restore this city to civilized sanity.

We have been working on this measure since last fall. It has been a long road. It has not always been pleasant. I do not mean that there have been personal differences between us—because there have not been. We have produced what I think is the finest piece of crime legislation ever assembled and brought into this Chamber in the history of this country.

It is a bipartisan measure. It was produced by Members on both sides of the aisle—if you can say that we have an aisle in our committee. But most of all, it was produced by the hands and the good mind of one of the most able young men I have come in contact with—and that person is Don Santarelli, of the office of the Attorney General. He has been so helpful and has rendered such great service that I cannot let my bit of time pass without expressing my appreciation for his good work and expressing the debt that this city and this Congress owe him for the services he has rendered.

Mr. Chairman, when Congress is in session, I am a resident of Washington. I have owned a home here since 1949.

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I have seen my neighbors flee this city. I have seen their schools go to pot—and you know the troubles they are in—and indeed they are in a mess. I see their libraries breaking down.

If you go into a library in this community at night, you can no more concentrate than you can fly—this is not all the time. Disorder often prevails.

I have seen the streets become unsafe. You would not dare allow your wife or your daughter to walk in the vicinity of this Capitol at night—and frequently in the daytime. I still own my home in Washington and I am convinced I will continue to own it so long as my people feel they want me to stay here and represent them.

But with the situation that we have to live in, it has come to be a tough job to stick it out. It is tough and it is dangerous.

I have before me a few press clippings taken from local papers which give some indication of the problem of crime in the city: "Mayor Authorizes New Police Patrols"; "Extra Police Authorized on Overtime"; "Embassy Guards Are Backed by White House"; "More Foot Policemen Are Put on Overtime."

Now these are items in the daily news—every day: "$523,000 Safety Program Voted by D.C. School Board."

It is even dangerous to walk in the halls of the city schools.

Teachers have been shot—students abused.

Here is another headline, "School Crime Hearing Called"; "District Moves on Library Plea."

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. McMILLAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Mississippi.

Mr. ABERNETHY. Here is another item: "Crime Rise Threatens Branch Library Closing"; "Mayor Puts Focus on Youth Crime"; "Merchants Quit Georgia Avenue as Crime and Fear Spread"; and so on and on.

Now this bill will not solve all this.

And I hope the people of this city who live and own property here will not get the idea that merely passing a bill through Congress will solve all problems. It will take some action on the part of the people and some guts and interest on the part of parents. Laws are worth nothing unless we have juries of men and women who will do their job and convict. A law recorded on the statute books is of no value unless we have people who will come forward and testify.

A fine old man driving a cab put me out here at the Capitol the other day and he said, "Mister, I am living in holy horror because of the crime situation in my community. I am scared to death."

And I told him what I said to you just now.

He replied: "But if I come forward to help, or if I come forward to testify, they would burn down my house."

That is the chance that some people here are going to have to take if we are to get this town out of the trouble it is in. We have the tools here if they will use them. We have a good police force. We have a good bill here. I commend it to your consideration and for your approval. Then I hope that this time next year it will be safe for somebody to walk in the neighborhood of the Capitol of the most civilized Nation on earth.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I am happy to yield to the gentleman from Minnesota.

Mr. NELSEN. I merely wish to say to my colleague, the gentleman from Mississippi (Mr. ABERNETHY) the learned lawyer that he is, and considering the work that he has done on this bill, I am sure we all owe him a debt of thanks. He has diligently and effectively worked on this matter, and on behalf of those on our side of the aisle, I merely wish to thank him personally for what he has done.

Mr. ABERNETHY. I thank the gentleman.

Mr. Chairman, the Constitution gives to Congress the expansive power to exercise exclusive legislation in all cases whatsoever in the seat of Government of the United States.

Today, we exercise that power in a time of crisis. There is hardly a person in this land who is not aware of the crime problem in the District of Columbia. Certainly, there is not a decent citizen in the District who has not been affected by the menace of crime.

The Constitution lays upon the shoulders of the Congress the ultimate responsibility for life in the District. When conditions become intolerable, the Congress must act. Conditions have become intolerable for hundreds of thousands of our citizens.

In the last 11 years, the total number of serious crimes in the District has increased sixfold. Particularly shocking is the incidence of armed robbery and burglary. Last year, armed robberies averaged almost 20 each day. That means that each day, roughly 20 people in the District were confronted head on with a weapon of destruction. A dialog of these confrontations is printed frequently in the morning paper:

"Shut up and give me what you got."

"Don't move or you're dead."

"Give me the money or I'll kill you."

Unfortunately, tragedy has struck too often to ignore these threats. Again and again, crimes of violence have been committed. Again and again, they have gone unpunished.

No single bill will restore complete tranquility to this beleaguered city. Thus, the District of Columbia Court Reform and Criminal Procedure Act of 1970 is not a panacea for all our problems. But it is a reasoned response to lawlessness—an immediate response to immediate problems.

The urgency of the situation cannot be overstressed. Crime is having an awesome impact on the District of Columbia. It is driving out the stable middle-class residents who provide the sinew of a healthy community. As they have gone, the tax base of the District has seriously deteriorated. Community leadership has suffered also. When businesses in high crime areas are closed because of crime, people suffer hardships and inconvenience. They are forced out of work.

Consultants assert that needed housing in this city is being delayed because planners and builders are afraid of crime. A recent report declares:

> Prime among the obstacles inhibiting private development of housing downtown is the wide-spread atmosphere of insecurity and lack of confidence stemming from . . . in the 1968 riots and the increasing wave of crime and deterioration.

On another front, we are told that some of the city's public libraries face the threat of being closed unless "disorder, theft and vandalism can be brought under control." In some library branches, children, students, and adults are not permitted to study, read, or carry out research because of the disturbances created by gangs or the threat of bodily harm made by individual offenders.

In our schools, young people striving for an education sit side by side with bank robbers and addicts. The pressures to conform to a pattern of misconduct are frequently immense.

Every decent citizen acknowledges fear—fear of strangers, fear of the streets. Few of our people venture out at night. Instead, they are locked in their homes, guns at the ready.

Mr. Chairman this intolerable situation requires action.

The bill reported by the District Committee is a major reform—a comprehensive treatment of the inadequacies in the criminal justice system. To a very significant extent, the breakdown in law and order here may be attributed to a breakdown in the criminal justice system. This is the deficiency to which we respond.

This is a bill to revitalize the criminal justice system. This is a bill to restore needed balance to one of the fundamental mechanisms of a civilized society.

Court reform is essential. In recent years, the number of offenders has risen sharply. At the same time, certain trends in the criminal law have afforded additional protection to criminal defendants. These protections expend time. One prominent judge on the Federal district court here has declared:

> In the last few years, due to Wade-Stovall matters, Lack matters, remands and other rulings of the Supreme Court and our Court of Appeals, *it now takes twice as long to try any given criminal case as it took some 5 or 6 years ago.*

There is no doubt whatever that the courts here have been swamped by an inordinate number of cases. An expansion in the number of judges is vital. This bill goes beyond that, however, to provide an authentic unified "local" court system. Over a 3-year period, all local jurisdiction presently residing in the U.S. district court and the U.S. court of appeals will be transferred to a new superior court and the District of Columbia Court of Appeals. At the same time, the present court of general sessions, the juvenile court, and the District of Columbia Tax Court, will be merged within the new superior court.

Several important benefits will flow from this reform. Additional manpower in the new superior court should materially reduce present backlogs and delays, permitting the realization of speedier

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trials for criminal defendants. The inability of present courts to close a 9-month gap between arrest and trial has seriously undermined the law's deterrence.

Transfer of local criminal jurisdiction from the Federal courts will largely eliminate the present practice of reducing felonies to misdemeanors so that they can be tried more quickly in the court of general sessions. The Federal district courts, in turn, will be relieved of the heavy burden of local cases and permitted to concentrate on Federal matters. In both instances, the quality of justice should be improved.

The court reorganization we contemplate provides for a central court executive in the local system. This officer will have authority to effect sound management techniques in court administration. His duties will include assisting the chief judges in organizing the courts for efficient operation, managing property and disbursements, and providing technical assistance through informational reports.

Under this court reorganization, decisions in the superior court will be appealed to the District of Columbia Court of Appeals. Beyond that, cases may be reviewed by the Supreme Court. With rare exceptions, this new regimen bypasses the U.S. court of appeals. The elimination of this unnecessary layer of review and the attendant decrease in the opportunity for mischief by that court is more than sufficient grounds to adopt this legislation.

There are other sections of this bill which should command unanimous support. For example, the bill amends the District of Columbia Bail Agency Act to increase substantially the responsibilities and effectiveness of the bail agency. At the present time, the agency does not have sufficient personnel or authority to fulfill its role in the community.

Title III of the bill converts the present legal aid agency into a full-fledged public defender program. The committee believes that this new service, which will provide legal representation to defendants in criminal cases who are financially unable to obtain adequate counsel, will help to expedite criminal trials in an increasingly technical field of law.

Let me touch briefly on two of the major improvements in criminal law and procedure.

PRETRIAL DETENTION

The bill authorizes courts in the District of Columbia to consider a defendant's potential danger to the community in setting conditions of pretrial release. Further, if the court determines in an adversary hearing not only that there is a "substantial probability" that the defendant has committed a dangerous or violent crime but also that there is no condition or combination of conditions of release which will reasonably assure the safety of the community, the defendant may be detained. The time limit on detention is 60 days.

The committee was persuaded by more than 3 years of experience under the Bail Reform Act that society must have the means to protect itself from danger. Present law mandates the pretrial release of all noncapital offenders, with limited exceptions to prevent flight. The U.S. court of appeals has made it crystal clear that court in the District may not consider danger to the community, no matter how imminent, no matter how grave. The court has said:

> The structure of the Bail Reform Act and its legislative history make it clear that in non-capital cases, pretrial detention cannot be premised upon an assessment of danger to the public should the accused be released.

The committee is convinced that this law is unreasonable. It does not accommodate the interests of society. The actual incidence of crime and violence committed by persons released before trial urgently dictates a revision of the statute. Society should have a fair and rational mechanism for protecting itself from the dangerous defendant.

Although it is important to assure the presence of an accused person at trial, this cannot be more vital than protecting society. This cannot be more vital than preserving the health and safety of individual citizens.

When Congress fails to provide for the dangerous defendant, it fails to balance the interests in society.

I agree with the statement of the court in *Ex Parte Thaw*, 209 F. 954, 955 (1913):

> The right to bail . . . is subject, like all other personal rights, to being influenced by considerations of public policy and public safety.

This is the essence of the matter before us. The committee has drafted a bill to achieve substantial justice while protecting defendants. It has tried to balance the interests in society.

NO-KNOCK

The bill contains a provision codifying the common law authority for police to enter a premises without knocking under exigent circumstances—exigent circumstances in which the officer might be killed or critical evidence would be destroyed. No one questions the general rule that in the vast majority of cases, officers should knock and announce their identity and purpose before entering. But there must be exceptions to the general rule. Everyone in this Chamber knows that if a policeman politely knocks on the door of a dangerous suspect and announces, the response may well be a shotgun blast in the stomach. At best, knocking and announcing to a dangerous suspect increases immensely the threat to the policeman's life and limb. The element of surprise would be lost; the opportunity for violence would be multiplied. And the probability of destruction of evidence zooms.

New York has had a no-knock statute since 1965. It was used effectively 2 weeks ago. Armed with no-knock warrants, New York City police raided a private residence and a store. They seized an estimated 24 pounds of heroin and cocaine with a retail value of $10 million.

Police officers in the District of Columbia are entitled to legislative guidance on the law in this area.

There are other important revisions in criminal procedures. They are needed by authorities to reduce crime. The committee approved these measures because the time has come for society to act.

The people of the community are watching us today. They are looking to the Congress to provide leadership.

The tragic developments in the District of Columbia require a massive effort to control disorder.

This bill is the most reasonable but potent response your committee could make to the crisis in the District which lies before us. I urge its adoption.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER assumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On March 12, 1970:

H.R. 11651. An act to amend the National School Lunch Act, as amended, to provide funds and authorities to the Department of Agriculture for the purpose of providing free or reduced-price meals to needy children not now being reached; and

H.R. 14733. An act to amend the Public Health Service Act to extend the program of assistance for health services for domestic migrant agricultural workers and for other purposes.

On March 13, 1970:

H.R. 8020. An act to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship overhauling away from home port whose dependents are residing at the home port.

H.R. 11702. An act to amend the Public Health Service Act to improve and extend the provisions relating to assistance to medical libraries and related instrumentalities, and for other purposes.

On March 17, 1970:

H.R. 13008. An act to improve position classification systems within the executive branch, and for other purposes; and

H.R. 13300. An act to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the extension of supplemental annuities, and for other purposes.

The SPEAKER. The Committee will resume its sitting.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

The Committee resumed its sitting.

Mr. NELSEN. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, today we are talking about a city and its people. In 10 years I have become intimate with this city and I love it and it is mine. This friend of mine is sometimes a beautiful lady wearing cherry blossoms in her hair. She is exciting, inspiring, and challenging. And sometimes she is afraid, and sometimes she is frightening.

These charts tell about that frightening aspect. But statistics are cold. In and of themselves they do not mean much. So I want to use these numbers and graphs to draw a picture for you.

The first chart tells a story about our city of Washington. It says simply that of all major cities in the United States, Washington, D.C., is preeminent in crime. We are No. 1.

Chart No. 2 tells us that in 10 years we went in Washington from 79 to 289 homicides and from 2,500 to 3,600 aggravated assaults. The difference in definition is that one victim died and the other lived.

But because I have been intimate with this city, I do not look at the chart and see numbers. I see the old man lying on East Pennsylvania Avenue with an eye protruding from his head, horribly beaten. He had not bothered anyone. He was not part of an establishment. He was not rich. He was poor. And he was black. There was no motive for that crime except sadistic pleasure.

The chart says the city jumped from 65 forcible rapes to 336, but what I see is the young mother at 13th and Euclid, fresh home from the obstetric ward at the hospital, lying in bed, her newborn infant at her side, torn apart physically, and with an enduring, indelible scar on her mind, literally almost scared to death.

The chart says burglaries increased from 3,000 to 22,000 and robberies increased from 7,000 to 12,000, but what I see is the wide-eyed little kid from Northeast who, at 13, is a three-time violator. I see a 21-year-old man arrested for armed robbery, climbing the walls of his jail cell, screaming in mortal agony for the needle to which he has become a slave. I see the Murphy man and the bunco specialist and the mug job and the yoke.

The totals add up to a six-time increase in crime in my city, and I see a 12-year-old girl on the street selling an already diseased body, turning 60 percent of the take over to a sleazy pimp. I see the "gentleman" who drops her out of his fine car at the edge of a dark alley.

The chart says 62,575 offenses—what it means really is that there were more than 62,000 victims. That is the significance.

Now we get some cause and effect—some perspective. The line which designates the rate of increase in crime jumps when the court says there shall be no investigative arrests, and it shoots almost straight up when we stop the monetary bail bond and release the accused on his own recognizance. Not shown here are the vast numbers of the accused who commit additional crimes while waiting 8 months for trial. This is not difficult to understand.

Here is a man arrested on New York Avenue for robbery. He has an $80 a day narcotics habit. Turn him lose on the street. Where can he get $80 a day for the "horse" on his back except through crime? He cannot help himself. His compulsion is all devouring and complete and uncontrollable. He needs help—and his prospective victims need help.

The prediction? Follow the curve. If we do not do something, 100,000 crimes annually will occur by the end of 1972—100,000 victims in 1972. I will not talk about the economic loss and the social loss.

This is what this bill is all about. Mr. Chairman, and my colleagues, I have not spent 10 years sitting up with this sick friend, which is the city, because I like to play cops and robbers or because I like excitement. This city has been my laboratory, to study the problems of cities and the problems of people. And anyhow, police work is not generally exciting. It is rather, drudgery. It is not so much heroic as it is dangerous, although I have seen some genuine heroic acts. Forget about the statistics and think about people and fear and hurt and death.

This bill seeks no vengeance. It seeks protection. It seeks a law to make people free. It seeks to bring law and order out of chaos. It asks simply that we make our city one of which all Americans can be justly proud, a city which is a pattern for the Nation to follow.

Mr. Chairman, I include the charts which I have previously referred to, for the information of the Members.

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CRIME INDEX OFFENSES—JANUARY THROUGH SEPTEMBER 1969, CITIES 500,000 TO 1,000,000 POPULATION

City	Population	Offenses: Total offenses	Offenses: Ranking per 1,000 population	Murder	Rape	Robbery	Aggravated assault	Burglary	Larceny	Auto theft
Baltimore	939,024	48,220	3	174	521	6,679	8,408	14,970	9,473	7,995
Boston	697,197	25,924	9	74	180	2,298	1,184	6,565	4,716	10,907
Buffalo	532,759	11,504	13	32	102	699	587	3,963	3,506	2,615
Cincinnati	502,550	9,656	14	43	129	606	536	3,760	3,244	1,338
Cleveland	876,050	36,069	7	179	210	3,939	1,556	8,854	5,174	16,157
Dallas	679,684	29,451	6	161	319	1,563	2,800	14,150	4,613	5,845
Houston	938,219	41,983	5	193	311	3,484	2,110	18,040	8,948	8,897
Milwaukee	741,324	13,413	15	30	60	428	523	2,994	5,970	3,408
New Orleans	627,525	20,962	11	52	231	1,732	1,734	6,343	6,285	4,585
Pittsburgh	604,332	24,583	8	43	181	2,215	1,364	7,625	6,023	7,132
St. Louis	750,026	35,218	4	189	470	3,571	2,738	14,306	3,282	10,662
San Antonio	587,718	20,144	10	70	123	656	1,596	8,511	5,192	3,996
San Diego	573,224	14,096	12	25	113	517	565	3,649	6,716	2,511
San Francisco	740,316	39,632	2	100	437	4,825	2,266	13,795	5,156	13,053
Washington D.C	763,956	44,629	1	200	259	8,656	2,687	16,367	8,345	8,115
District of Columbia ranking in actual number of offenses		2		1	6	1	4	2	3	6
District of Columbia ranking per 1,000 population		1		1	6	1	4	2	2	6

CRIME IN THE DISTRICT OF COLUMBIA

Offense	January through December, calendar year—: 1958	1962	1966	1969
Homicide	79	91	144	289
Forcible rape	65	82	134	336
Robbery	709	1,572	3,703	12,423
Aggravated assault	2,535	3,005	3,177	3,621
Burglary	3,642	5,022	10,267	22,992
Larceny ($50 and over)	1,683	2,666	5,261	11,548
Auto theft	1,899	2,581	6,565	11,366
Total	10,612	15,019	29,251	62,575

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, in connection with the very eloquent presentation of our very distinguished colleague, the gentleman from Iowa, I want to allude to one fact and corroborate what the gentleman said.

Last year when the President announced he was in favor of pretrial detention, the courts here, heartened by this, began to post higher bonds for defendants, and there was a marked decrease in the number of robberies in the city as a result. In due course, appeals were taken and some of these detentions on money bonds were reversed by the appellate court, and the rate of crime again skyrocketed.

I think this is ample indication of the validity of the points made by the gentleman from Iowa that pretrial detention will definitely have a curbing effect on crime.

Mr. McMILLAN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. DOWDY).

Mr. DOWDY. Thank you, Mr. Chairman.

Mr. Chairman, the action we take today will symbolize to the citizens of the District of Columbia the determination of Congress to reduce crime in this city. It will advise the criminal elements in this city that their control of the streets will no longer be tolerated.

Before I proceed, Mr. Chairman, I must pause to join the gentleman from Mississippi (Mr. ABERNETHY) in commending the splendid assistance given to all of us on the committee by Don Santarelli. Without his able help and long study, we might yet be laboring to bring this crime bill to final form. I want to express to him my personal appreciation.

The District of Columbia Court Reform and Criminal Procedure Act of 1970 is our comprehensive answer to violence in Washington. Long and careful study went into this legislation. For months the Committee on the District of Columbia and the subcommittees worked closely with the Department of Justice. We heard testimony for 8 days, plus 11 days on the Department of Corrections. We sought out the advice of prominent citizens.

The District of Columbia Bar Association held a referendum on many key provisions in the bill. A majority of the more than 1,400 association members who voted in the referendum endorsed the key provisions which our committee adopted.

There are two important provisions which deserve special comment, and in addition to that the Lorton matter, which were heard before my subcommittee. I will comment on those in my remarks today.

Under the terms of the Bail Reform Act of 1966, courts in the District of Columbia are forbidden to consider danger to the community in setting conditions of release for noncapital offenders. As a result, the District has seen a steep rise in crime by persons released before trial.

Robberies have been the most flagrant example. Burglaries have also been significant.

The language of the present act mandates the pretrial release of all noncapital defendants.

It mandates their release even if they have long records of violent crime.

It mandates their release even if they were caught in the act.

It mandates their release even if they commit a new crime on bail.

A provision of this nature goes too far, because it does not protect the interests of society.

Several years ago, four masked men broke their way into a private home in Houston. They were armed with guns, knives, and a cattle prod. Over a period of 3 hours, they tortured a wealthy Houston couple and a woman working in the house, trying to obtain money that was not there.

The man was beaten severely. His wife was shot in the left thigh after being beaten to the floor, burned with a knife, and shocked with the cattle prod. The woman working in the house was pistol-whipped. A 10-month-old child was threatened with death. When the men finally left, they took $3,000.

If this true incident had occurred in Washington, the Bail Reform Act would have mandated the release of these four defendants, had they been apprehended.

To my mind, that result is unconscionable. If the men in question were identified by their victims, if there was a "substantial probability" that they had committed the crime, they should not be released. To release them would be a menace to society.

The plain truth is that hundreds of dangerous defendants—some as vicious as the men I have described—have been released before trial in the Nation's Capital. Some of them have been narcotics addicts who could not resist the impulse to rob and steal. Some have been rapists compelled to violence.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McMILLAN. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. DOWDY. We do not serve the public interest when we blind our eyes to the dangerous defendant. This bill provides a reasonable, rational answer to the problem.

Another important provision in this bill is a new juvenile code. This code has been inspired by recent developments in juvenile law and by the grim statistics of juvenile delinquency. Between fiscal 1963 and fiscal 1969, the number of cases referred to the present juvenile court involving serious crimes by persons between 16 and 18, increased by the following percentages:

Aggravated assault up 91 percent;
Robbery up 258 percent; and
Burglary up 96 percent.

In fiscal 1969, 22 persons between 16 and 18 were charged with homicide—24 with rape—166 with aggravated assault—186 with armed robbery.

In only 10 of these cases of serious crime did the present juvenile court waive its jurisdiction.

Today's young people, 16 and 17 years old, are not unsophisticated children. When they commit crimes of violence, they are entitled to be treated as adult offenders.

Some 40 percent of the serious crimes in Washington are committed by juveniles. We can hardly ignore this tragic development.

I feel I should, as well, comment briefly on the title which would transfer the Lorton complex to the Federal Bureau of Prisons. Our committee held extensive hearings on this phase of the bill, from which it became evident that the philosophy of permissiveness under which Lorton is and has been operating for several years, has resulted in a total breakdown of discipline and complete lack of security which still exists until this hour of this day.

The narcotics traffic into the complex is unbelievable; the inmates make their own intoxicants in large quantities; sexual and homosexual activity is rampant; correctional officers are continually abused and attacked by the inmates, and are not properly backed by their supervisors in their attempts to enforce discipline. We asked narcotics enforcement about the possibility of doing something about narcotics at Lorton, and were told by Mr. Ingersol, the director of the Department of Justice, Bureau of Narcotics, that the total lack of security practiced at Lorton would make vain any enforcement effort on the part of his men. The Director of the District of Columbia Department of Corrections expressed his satisfaction with the current practices relating to discipline and security.

We feel, everything considered, the transfer of authority over Lorton is not only desirable, but necessary, if there is to be any rehabilitation of the inmates.

Mr. Chairman, this is a good bill. It deserves the support of every Member of the House. It has been needed for a long time, and we should pass it now.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BROYHILL).

Mr. BROYHILL of Virginia. Mr. Chairman, all of us are aware of the many problems with which we are confronted concerning the crime situation in the District of Columbia, and the concern that the American people have regarding these problems.

Mr. Chairman, I do not believe there is any problem about which the American people will be as unforgiving for our failure to correct or to come up with a solution to, as this grave crisis in our Nation's Capital. I do not mean by that, however, that they will forgive us for our failures in solving other problems.

But I feel there can be no excuse for our failure to meet our responsibility, by passing the legislation that will help to eliminate this jungle of lawlessness which exists here in our Nation's Capital.

So, Mr. Chairman, the question before us today is how serious we are about going something about this most serious problem.

A report of the FBI just the other day pointed out that the incidence of crime had increased by 11 percent during the past year. This was apparently an attempt to point out the fact that this increase was less than that in previous years, as if that was supposed to afford some comfort in that crime may not increase quite as fast in the future as it has in the past.

But, here in the Nation's Capital, the increase in serious crime during the past year was a whopping 27 percent. These lawbreakers in Washington are paying no attention to the national statistics and trends. They are raping and robbing and murdering and mugging at unprecedented rates. I suppose they feel that since this is their Nation's Capital too, it should be a haven for lawbreakers and law violators.

Some of the reasons for this legislation, and for this steady increase in crime, spring from the complete breakdown of the criminal justice system here in the District of Columbia over a period of years. We know that the police force has been inadequate in numbers, that the U.S. attorney's office is understaffed, and that the courts are overloaded. We know further that the present system is failing to rehabilitate. But possibly the most serious problem of all is the leniency on the part of so many members of the courts toward lawbreakers, the change in the criminal procedures, the tendency to distort the interpretations of the Constitution and the laws usurping the prerogatives of the legislative branch of our Government.

Of course, Mr. Chairman, the criminal or the individual who has no respect for law to begin with, loses his fear of legal process and gains confidence that his chances are overwhelming of getting off scot free when he violates a law.

But, possibly one of the most serious reasons why we are continuing to have this increase in the local crime rate, as we may well admit, is the failure on the part of the Congress to respond prompt-

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ly enough in passing appropriate legislation. Why have we had this delay? Simply because we have been unable to agree among ourselves as to how, in writing this legislation, we can provide proper protection for the constitutional rights of the lawbreakers—strange though this may sound.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McMILLAN. Mr. Chairman, I yield 4 additional minutes to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. Chairman, all of us are concerned with the constitutional rights of our citizens, but unless we can do something to make our society more civilized and to protect the integrity of our form of government, these constitutional rights will soon not be worth the paper they are written on.

I say, Mr. Chairman, that the American people are getting sick and tired of this constant hue and cry, over and over again, about the rights of the criminal and of the lawbreaker. I believe the American people would like to hear just a little bit more said about, and to have a little bit more consideration given to the rights of the law-abiding citizens and, even more importantly, to the victims of these crimes.

As you all know, we spend billions and billions of dollars every year on every imaginable and conceivable program—welfare, education, rehabilitation of these misfits; but how many proposals do we hear, how many bills have we passed, to help the innocent victims of these criminals? Many of these victims of rape, beating, and robbery will go throughout their lives bearing the scars of these outrages. Do not these people have some rights? Should not they receive at least a little more consideration?

Mr. Chairman, this bill that is before us today is a major step in the direction of doing something about this very problem. It is not a panacea, as the gentleman from Mississippi has pointed out. We do not maintain that this bill itself will abolish all crime, and we are not contending that the failure of the local criminal justice system is the sole cause of the increased crime rate in the Nation's Capital. But what we are saying is that insofar as the inadequacies in this criminal justice system do contribute to the increase in crime, then the time has long since passed when we should be doing something about it.

Mr. Chairman, the Committee on the District of Columbia has worked hard in trying to come forth with a bill that we think will be truly effective. We have worked on this bill for several months and, as always, there was a lot of give and take and much compromise in order to work out these differences. The rights of all our citizens were considered in the writing of this bill. Unfortunately, we find that there is still some disagreement, difference of opinion among learned lawyers; and, unfortunately, this disagreement affects most of the sections of the bill, and there are going to be many amendments offered to change it.

But although no one questions the right of the House of Representatives, nor the necessity of the House of Representatives, to work its will on legislation, these problems with which we are confronted are so serious, Mr. Chairman, and the situation so urgent, that if we begin to adopt these amendments and water down this legislation—yes, I say to gut the bill—then we may as well send it back to the committee and give up, and admit we cannot solve the problem.

So, Mr. Chairman, I am hoping that the House will support the committee, and support the President of the United States, and pass this bill and let all the criminal elements in this city know that their days are numbered.

This bill is historic and vitally important. What the committee has tried to do is to treat the shortcomings throughout the system. This is not a piecemeal bill. It deals with the police. It deals with the courts. It deals with corrections. Perhaps most significant is the fact that it reasserts the determination of the Congress that law-abiding people may live in this city without fear.

The court reform embodied in this legislation is a principal ingredient in the fight against crime.

In the District of Columbia, police solve about 17 percent of the reported offenses. Even with this low percentage, the courts are swamped by the number of cases. Under the present system, therefore, more arrests would not help much in reducing crime. They would simply increase the existing pressure to lower charges or dismiss them completely. The scandalous delays we now have would be stretched and lengthened.

The only remedy is to expand substantially the court personnel and reorganize the city's judicial system.

At the present time, all felony jurisdiction for Federal and local crimes in the District of Columbia resides in the U.S. District Court for the District of Columbia. The legislation before us would transfer the jurisdiction for all such "local" felonies to a new superior court for the District of Columbia—a court combining the present court of general sessions, the juvenile court, and the District of Columbia Tax Court. Thirteen new trial judges would be added to man this superior court.

This plan presents some hope of cutting down delays. It will eliminate the present friction between the Federal and "local" courts. And it will give the District of Columbia—for the first time—a completely unified local court system.

Another benefit of this proposal is that it will eliminate appellate review by the U.S. Court of Appeals. This court of appeals is notorious. Getting a conviction past Judge Bazelon and Judge Wright is like passing a ship between Scylla and Charybdis. Local offenders in the District are well aware of the proclivities for leniency by men on that court. In the new proposed system, they will appeal convictions to the District of Columbia Court of Appeals.

Every member of the committee supported court reorganization. And every Member of the House should support it as well.

But court reorganization is not enough. Fundamental reforms in criminal procedure are also needed to reduce crime.

This bill contains a number of features to inject the element of deterrance into the criminal justice system. For example, discretion is given to a sentencing judge to impose progressively larger sentences for the habitual misdemeanant. Mandatory life sentences are directed for felons convicted of a third or subsequent violent crime. Any defendant who has been convicted three times for such serious violent crimes as kidnaping and rape shows little prospect of being reformed. The recidivist offender must be deterred; the safety of the public must be protected.

The electronic surveillance authorized by this bill is an essential tool to combat organized crime. The value of this weapon in penetrating the organized narcotics traffic in the District has been illustrated repeatedly in recent months. This bill extends wiretapping authority to certain serious District of Columbia offenses in line with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968.

There are other important provisions in the bill, such as the codification of the common law authority for police officers to enter without knocking in a limited number of exigent circumstances; the enactment of reasonable mandatory minimum sentences for persons committing a crime of violence while armed; and increasing the possible penalty for forcible rape to life imprisonment.

Perhaps the most urgently needed provision—in this bill—aside from court reform—is explicit authority for pretrial detention. Under the Bail Reform Act, which applies to all criminal offenses in the District of Columbia, virtually all noncapital offenders are entitled to release before trial. The only criterion which the courts may consider is the likelihood of the defendant's appearance at trial. Noncapital offenders include men charged with forcible rape, arson, kidnaping, armed robbery, burglary, bank robbery, mayhem, assault with intent to kill, manslaughter, and second degree murder.

Under the mandate of the present law, virtually all of these defendants must be released. The safety of society is legally irrelevant.

Mr. Chairman, when the incidence of armed robbery climbed 52 percent last year, and such offenses occurred almost 20 times each day, and when the experts tell us that a large percentage of these robberies are committed by persons released before trial, then I would say that the safety of society is overriding.

Speedier trials of course are one answer to crime by persons while released on bail. One of the main objectives of court reorganization is to see that such speedier trials become a possibility.

But, even in the best of situations, a gap of between 50 to 60 days will remain between arrest and trial in serious offenses. Congressional fiat will not close that gap. We cannot ask the impossible of the judicial system.

During this time—during this period before trial—the interests of society demand protection. Under the present Bail Reform Act, these interests are ignored.

Tyrone Curtis Parker is a classic example of the problems we face. In early 1967, Parker was arrested in the District and charged with armed robbery. He was released pending trial. Before he was finally brought to trial, he had been arrested for new crimes: twice for armed robbery, twice for assault with a gun, once for assault with a board, once for robbery and assault, once for burglary, and once for bank robbery.

Each time, he was again released after arrest. Each time, his release was mandated by the Bail Reform Act.

Judge Tim Murphy of the court of general sessions has told Congress:

> Many cases come before the court in which from the outset there is not a shadow of a doubt about the defendant's guilt. Many of these cases involve dangerous persons whom the judge knows to a moral certainty will repeat their criminal activity if released. Yet under the Bail Reform Act he must release these people to prey on the community. My immediate examples are the holdup man who is in on one, two, three or four gun point holdup charges, and, of course, your narctoic addicts, who because of their illness must commit a crime to support a habit.

It is time for Congress to deal with this situation. It is time for us to provide the court with the means of detaining, through fair procedures:

First. Narcotic addicts who do not operate with a free will and must rob and steal to support their habits.

Second. Incorrigible recidivists with long records of criminal activity.

Third. Sex offenders who act from compulsion.

Fourth. Hard-core troublemakers with propensities for violence.

When evidence of their guilt is great, men in these categories should be retained in custody to preserve and protect the public safety.

There are many difficult problems in the District of Columbia. But we should not view the situation with undue pessimism. Rather, we should view the District of Columbia as a laboratory for reforms, as an opportunity to test new techniques to reduce crime. Everyone can agree on the goal we seek: liberty with order in a model city.

Mr. McMILLAN. Mr. Chairman, at this time I yield 10 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, no one needs to spend time to explain to the people of this city or to the people of the Nation the problems we have with crime.

The problem we face here today is, what do we do to correct this situation; and how do we prevent the American public and this House of Representatives from doing what they did in 1967, with almost exactly the same speeches, when they passed the omnibus crime bill of 1967 and said, "Well, now, we have passed all of these sections and we have done our job." We turned away and since that very repressive bill of 1967 was passed, the crime rate has gone up at almost a vertical rate.

There is only one thing that will prevent crime in the United States and the District of Columbia and that one thing is to restore the judicial system which this House of Representatives and the rest of the Government have allowed to fall into the state of neglect.

I say neglect because we started only after 1967 to do something, for example, about the police—where we raised the salaries—and many of us supported this and recommended it and we have voted for increases in numbers in the Police Department and for restructuring in it—and this has caused us now to begin to have in Washington, D.C., an adequate police department. We will need some more men and we will need some more training. This we can accomplish.

But what good is it going to do to increase the number of police if we have a pending felony backlog in the courts here of 1,500 cases?

Now in this bill the committee cut the number of judges to be put on in 2 years below what the President recommended. A fine thing. We want to know why it is that we have so many felons on the streets. You have prosecutors carrying loads in the U.S. attorney's office that they cannot handle. You have courts swimming in litigation and, yes, we have the transfer of Lorton in here. Yesterday afternoon I asked Jim Bennett to come to the office, the former head of prisons in the United States from 1939 to 1964, and I knew Mr. Bennett when I was with the Department of Justice. He did not testify on this bill—unfortunately—in fact I do not know of anybody who testified on the transfer of Lorton who was in the Federal system to say whether they wanted it. He said:

> You know what you are going to do to us—you are giving us a $100 million backlog in neglected construction in the District of Columbia.

This House is responsible for the District of Columbia. I testified the first day on this bill and outlined where $100 million has to be spent to build a jail that holds 593 and has in it over 1,000. If you are going to preventively detain people—where are you going to put them? Right now the Lorton complex is 400 to 500 over its capacity. The same thing is true in the Youth Commission Detention area.

Now why am I here pointing out these things as being the solution to our crime problem and why are many of us offering amendments to this bill?

First, let me say that the underlying fabric of the bill is sound. Many of us supported it in committee. I supported the President's package when it came over here which was basically to reorganize the courts and to make certain other structural changes. There were some things in there which some of us did not approve of, for example, preventive detention.

I will tell you right now that with a pending felony backlog of 1,500 cases, in my experience as a defense lawyer and a prosecutor trial lawyer, for 20 years—you are going to have a series of minitrials, and because of these preventive detention matters you will certainly break the back of an already staggering court system.

I hope that we are going to make legislative history here today. I would ask the chairman of the committee if it is the thought and the intention of the committee that as we create these new judgeships, we will not just simply have 10 new judges who will be trying the same cases that 10 judges are trying in the Federal district court now which is falling farther behind every month, but can we try to have 10 judges available in the district court and 10 judges in the session court until we get rid of this felony backlog?

I will turn to another point on which perhaps Mr. ABERNETHY, who handled the bill, or Mr. McMILLAN, the chairman, can give us some idea so that we can establish a legislative history so the administration of the courts and the District government know it is our intention that in only giving 10 judges now, we expect that there would be more judges available on that criminal trial calendar until that backlog is gone, because until it is gone, you are kidding yourself as to what you can do with the crime rate.

There are problems in the bill, and that is why there will be amendments offered—and I wish to stress that this is not the President's bill as it came over—there were a series of amendments put into this bill by members of one committee in many cases, for example, with no hearings, a provision was included that makes every theft from a vending machine second-degree burglary. I point out that in the bill burglary is defined as a crime of violence, which means that if one is convicted three times under the bill for such things as breaking into a bubble gum machine, he can be placed in the position of having been convicted of three defined violent crimes and given a mandatory life sentence. That sort of thing should not be placed in a bill of 439 pages. Our objection to having it all considered like this was that we now have seven titles. They cover a broad spectrum of things.

For example, they cover the no-knock provisions, and no-knock provisions that are presently being discussed in the Committee on Interstate and Foreign Commerce in relation to the narcotics bill. No-knock here has nothing to do with narcotics. We already have a common law authorization to no-knock in narcotics cases under the Ker case. This adds to it unnecessarily.

The same thing is true with the establishment of search warrants. The same thing is true with the wiretapping provisions. We have a wiretapping provision here that can be used by the Federal Government for narcotics. We also have one available for use against organized crime. But the wiretapping statute here has been expanded to electronic bugs, to pick up oral communications as well as those on the telephone. It covers a list of crimes, and we will list them during the 5-minute rule. But it includes everything down to the destruction of property over a value of $200.

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The authorization sections are not clear on it. I want it limited so only the U.S. Attorney can authorize use of it. We want to be certain who can tap, how long he can tap, and what he can do while he is tapping.

We have another point in here regarding the juvenile court that will be discussed by other Members. We also have the preventive detention section, and within it the fact that we will not use rules of evidence. We have a list of violent crimes that covers almost everything and, what is even worse, we have written to the Attorney General and said, What is the time period of the greatest danger when somebody is being out on the streets on bail?" We have not gotten an answer. The surveys we have, limited as they are, indicate that the time problem begins to operate after 4 months. Under this bill you will hold a man for 60 days, be certain that he does not have a job any longer, that he has broken away from his family, and then put him back out on the streets at the end of 60 days, and in this jurisdiction, with the court situation as it is now, where a defendant waits 8 to 12 months for a felony trial, after 60 days you are going to put him on the streets for 10 months.

We will offer amendments for rapid trial; in other words, where we require that a man be tried, he will be tried rapidly. One Member has indicated he has an amendment that would limit the hearing for 60 days. I think it should be 30 days in which a man should be tried. You cannot correct a problem in the system by making another error with it.

What we are pleading for in this legislation—and this bill is going to pass—I do not know why the gentlemen were all saying that we ought to pass this legislation, that the American public is worried whether we are or are not. Let us not get into that. This bill is going to pass. It will pass out of the House. It will go over to the Senate. There will be a conference, and it will then go to the President. There is no problem on that question. The problem we have with this bill—and it does not have anything to do with liberality or conservatism in politics—is that we have constitutional problems, and severe ones.

For example, Senator ERVIN and I have had a precisely similar position on preventive detention and its problems under the fifth, sixth, and eighth amendments and we have the same problems with the no-knock provision under the fourth amendment.

Let me say this: If we had passed the bills which had taken control of guns in the District, I would feel a great deal more safe about the no-knock provision than now, because under this provision we will have officers armed and citizens armed, without announcement, facing each other in the nighttime in the citizens' homes. I think that is a difficult and dangerous situation.

Mr. NELSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I am sure that my distinguished colleague from Washington did not intend to deceive the House, but I am afraid some of the information which the gentleman offered might have that effect.

The bill gives the President every new judge he requested; that is, 10 new judges at the present time. The consensus in the committee was that, if this court reorganization legislation is as effective as we anticipate it is going to be, we may not need the judgeships which the President asked for to be created at a future date. There was at no time any indication from the committee that these judgeships would not be given in the future if their need can be justified.

It seemed to me that the gentleman from Washington gave the impression that somehow the committee was denying the President the judgeships which he had asked for to expedite the court backlog.

Mr. ADAMS. Mr. Chairman, will the gentleman yield so we can make legislative history on that?

Mr. HOGAN. If I have the time, I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, if we have that agreement, it is fine. Does the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Washington.

Mr. ADAMS. Can we not agree on both sides that it is the intention of the committee that we do have the additional judges requested by the President beyond this year if the backlog is not dropped?

Mr. HOGAN. Obviously, Mr. Chairman, the gentleman knows I am not authorized to speak for this side of the aisle or for the gentleman's side of the aisle, but during all the discussions with the distinguished representatives of the committee on both sides of the aisle this certainly has been the import of our discussions, that we are not going to deny these judgeships if they really are needed.

Another point I would like to make in responding to the gentleman is that the gentleman said we have the no-knock authority now. I am delighted that the gentleman from Washington made this point, because it is one of the most important ones we should keep in mind. The police do already have the no-knock authority, but what this legislation attempts to do is to clarify this doctrine for the benefit of the police officer to prevent him from being second-guessed. We substitute a judicial interpretation in advance as to whether or not the exigent circumstances exist to authorize his entry without announcing his presence.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. McMILLAN. Mr. Chairman, I yield the gentleman from Maryland (Mr. HOGAN) 3 additional minutes.

Mr. HOGAN. Mr. Chairman, I thank the gentleman from South Carolina.

Mr. McMILLAN. Mr. Chairman, I would like to ask the distinguished gentleman from Maryland to yield to me.

Mr. HOGAN. I yield to the gentleman from South Carolina.

Mr. McMILLAN. Mr. Chairman, the gentleman from Washington (Mr. ADAMS) stated a moment ago that the crime bill passed, or enacted, in 1967, in his opinion failed to secure improvement of the crime situation we have in Washington.

I would like to say the only meaningful crime bill we have passed with any teeth in it, which we were able to get the other body to agree to, was vetoed by the President in 1967, and the watered-down version we sent back to the White House would not solve any of the problems confronting us here in this Capitol.

Mr. HOGAN. Mr. Chairman, I thank the gentleman from South Carolina.

Mr. Chairman, another point which the gentleman from Washington made which I would like to discuss is the wiretapping provision. The gentleman said we have the wiretapping provision now.

Mr. Chairman, I am sure the gentleman from Washington realizes the existing law is a Federal wiretap law, which allows the local jurisdictions to enact conforming legislation applicable to local offenses. Since the Federal wiretap law applies only to U.S. district courts, if the court reorganization bill which we have before us today passes, we need to enact this additional legislation to authorize the newly created superior court to have the wiretap provisions which are vitally necessary.

The final point I should like to respond to is that the gentleman from Washington seemed to give the impression somehow that the judges are intentionally delaying trials so we will have a backlog. His measure to expedite the process seems to indicate this is what he feels.

No one is more aware of the difficulties with the court backlog than the judges themselves. They have supported this court reorganization for that purpose. What we need to do is to enact this court reorganization. This in itself will help expedite the judicial process to make an accelerated calendar unnecessary.

The thing which concerns me about any kind of expedited calendar is what happens to the misdemeanor cases. We may never get to them, and the defendants charged with these minor offenses will be denied their constitutional right to a speedy trial.

Mr. McMILLAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. I thank the distinguished gentleman for yielding to me.

Mr. Chairman, protecting the public from crime and violence is the first and most urgent objective of government.

The evidence is overwhelming that we have failed to meet this objective in the District of Columbia.

Last year crime in the District jumped 27 percent Reported armed robberies climbed from 4,640 in 1968 to 7,071 in 1969, an alarming increase of 52 percent More than 290 people met a violent death. Since 1958 crime in the District of Columbia has increased by 500 percent—just reflect upon that—it is incredible.

We cannot permit this trend to continue. As Members of Congress, we must

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exercise every power at our disposal to restore security to the Nation's Capital.

After months of careful study, the District Committee has produced a bill we think will be helpful. It is aimed at improving the District's criminal justice system, a system which every observer must conclude is inadequate. Far-reaching, fundamental, and sweeping reforms are essential to make the system work.

Court reform is imperative. As the President has pointed out, the courts in the District are choked with cases. Judges from the Federal district courts have told Congress repeatedly that to process more cases is virtually impossible.

This bill takes a bold step forward, transferring the felony jurisdiction in the District of Columbia from the Federal district courts to an expanded local system. For the first time, the District of Columbia will enjoy its own unified judicial system—a system on a par with systems in the 50 States. We believe this shift will substantially improve the quality of justice.

The committee found, however, that more is needed than court reorganization. Unrealistic rules and rigid procedures have crippled the Government's ability to combat crime. In the face of current conditions, law-enforcement officials must be given new tools to restrain, deter, and rehabilitate offenders.

One of the most important of these new weapons is the pretrial detention of dangerous defendants.

For hundreds of years, trial courts have been detaining dangerous defendants before trial by the simple technique of setting high bond. This shabby strategem has inevitably discriminated against the poor and it has frequently resulted in unnecessary detention.

As a response to this injustice, Congress adopted the Bail Reform Act of 1966, to eliminate money as a barrier to freedom. The act mandates the pretrial release of all noncapital defendants—defendants charged with everything from armed robbery to second degree murder.

Although its basic objective was desirable, the Bail Reform Act, as drafted, exposed society to an unreasonable risk of harm from dangerous defendants. Many defendants were released who had no hesitation whatever to commit new crimes. Many heroin addicts and recidivists repeatedly engaged in crimes of violence.

The open pretrial detention we propose will protect the public from the dangerous defendant. At the same time, it will not discriminate against the poor. Detention will not be related to the size of a man's pocketbook; it will only relate to the safety of the community.

In the context of the District of Columbia, the limited pretrial detention of dangerous defendants should contribute significantly to a reduction in crime.

Let me stress that pretrial release will remain the norm. This is not only the intention of the committee, but it may also be inferred from our other actions. The committee has supported a major expansion of the District of Columbia Bail Agency, which will supervise defendants who have been released. It has created new penalties for bail jumping, for offenses committed during pretrial release, and for violating conditions of release. These sections imply that detention, however necessary it may occasionally be, will be the exception.

This bill in all its provisions is designed to restore a decent order to the Nation's Capital. The very lives of our citizens demand its success.

The time has long since passed when we must stop coddling the criminal and protect the rights of the innocent and law-abiding citizens. This bill will do just that, yet it will preserve the constitutional rights of those accused of crime. I urge its enactment without any crippling amendments.

Mr. MIZE. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I am happy to yield to the gentleman.

(Mr. MIZE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MIZE. Mr. Chairman, I am pleased that the District of Columbia Court Reform and Criminal Procedure Act of 1970 is before the House today. I urge my colleagues to support this legislation for the protection of residents and visitors in the Nation's Capital and for the more efficient administration of justice in the District of Columbia.

Over a year ago, I offered an amendment to the Bail Reform Act of 1966 to permit pretrial detention of those accused of Federal crimes who are determined to be a threat to the safety of the community. My amendment provided a multitude of safeguards for the accused, including a pretrial detention factfinding hearing, a requisite judicial finding of probable danger to the community, and a strict time limit on pretrial detention.

I am deeply gratified the District of Columbia Committee has found it appropriate to include similar pretrial detention procedures and protections in the legislation before us today, applicable to crimes committed in the District.

Mr. Chairman, I am confident that this legislation, in respect to pretrial detention of dangerous persons, will provide a model for all the States. After the Congress enacts this legislation, and after appropriate court tests of its constitutionality are completed, the States will be free to draft and enact legislation providing similar protection in every community in the land.

BAIL REFORM ACT OF 1966

Mr. Chairman, it is clear that the Federal courts and the Congress are the vanguard of criminal procedure reform in the United States. In 1966, this House overwhelmingly passed the Bail Reform Act in an effort to eliminate some gross injustices in traditional American bail procedures.

The most serious injustice was that courts could set bail at levels beyond the means of poor defendants without running afoul of the eighth amendment prohibition of excessive bail.

The definition of "excessive bail" was illusory. What was excessive for one defendant was a "bargain-basement deal" for another. The rich went free prior to trial, the poor languished in jail while the creaky machinery of justice progressed toward trial date some several months or even years hence.

We eliminated these injustices in Federal prosecutions with the Bail Reform Act, but for society, the cure was as bad as the disease. The accused was effectively required to be released pending trial if he had a fixed residence and/or a previous pattern of showing up at trial.

In the District of Columbia, dangerous criminals have been released prior to trial consistently since 1966, and the recidivist rate has become a national scandal, a threat to local citizens, and an inhibition to those across the land who want to visit their National Capital. Patriotic Americans who feel that their children should see the Halls of Congress, the Supreme Court, the White House, the Archives and the other symbols of our democracy have been haunted by the fear that they will be another victim of crime, another statistic, while visiting here.

The situation, in short, has become intolerable. District of Columbia crimes of violence have increased over 100 percent since the Bail Reform Act became law.

It should surprise no one that the States have universally failed to follow our ill-conceived 1966 initiative in the area of bail reform. The specter of the recidivist stalking the streets was too much for our State legislatures. In the States, therefore, the injustice of detaining the nondangerous accused for want of bail has been perpetuated in order to provide concurrent opportunity to detain the truly dangerous.

PRETRIAL DETENTION IS CONSTITUTIONAL

Mr. Chairman, there is no legitimate basis for the argument that pretrial detention of an accused—determined to be dangerous to the community—is unconstitutional.

Since the Judicature Act of 1789, pretrial detention of those accused of capital crimes, at the discretion of the magistrate, has been the law of the land.

Just last year, a Federal district court in the District of Columbia permitted detention of an accused who was known to have threatened witnesses scheduled for use by the prosecution at his trial.

Clearly, if pretrial detention of those accused of capital crimes has been constitutional since 1789, we have the right today to legislate pretrial detention of those accused of lesser violent crimes.

Those accused of capital crimes are accorded the presumption of innocence, as much as any other defendants charged with any other crimes. Pretrial detention of an accused, with appropriate safeguards as to his personal civil rights, does not diminish his presumption of innocence at trial or at any other stage in the proceedings. The presumption of innocence, simply put, is a device to assure that the burden of proof will forever remain with the prosecution in a criminal action. It is an essential element of our adversary system of criminal justice.

But the Bail Reform Act of 1966 has perverted the presumption and obligated magistrates to release dangerous criminals to prey on society because of a misunderstanding of its historic foundation and usefulness in the law.

In the British Commonwealth, it has been established for centuries that an accused has the benefit of a presumption of innocence. Consistent with this presumption, British courts have not hesitated to provide for pretrial detention of those who probably would threaten the safety of the community if released.

Those who say the Constitution requires bail to be set for any criminal, regardless of the threat he poses to society, misrepresent the intention of the framers of our Bill of Rights.

The very same Congress that approved the eighth amendment to the Constitution approved the Judicature Act of 1789, providing for pretrial detention of those accused of capital offenses.

Together, these actions of the Founding Fathers are conclusive proof that society was never intended to be the prey of dangerous felons before they are tried.

Today, crimes like armed robbery, forcible rape, and homicide are often not capital offenses. In 1789 they were capital offenses.

Since we have become more humane in the punishment of criminals by reducing the statutory maximum punishment, we have accordingly reduced the protections of the act of 1789 in respect to pretrial detention.

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Mr. Chairman, without resorting to punishment practices of the distant past, the legislation before us provides for limited, supervised pretrial detention of dangerous criminals in the District of Columbia. It merits our full support and swift passage.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SMITH).

Mr. SMITH of New York. Mr. Chairman, I want to speak briefly this morning about one part of this bill which is perhaps controversial but the provisions of which will authorize judges to consider danger to community on noncapital cases and to detain certain dangerous defendants before trial. This provision, which is called the limited pretrial detention provision, is found under subchapter 2 of chapter 13 of this act, the section for pretrial detention, which starts on page 402 of the bill.

These provisions are urgently needed in the District of Columbia. They are needed, first, because experience under the mandatory release provisions of the Bail Reform Act has revealed that a significant amount of crime—serious and frequently violent crime—is committed by persons released before trial. Of 130 persons indicted for robbery and released before trial in fiscal 1967, 34 percent were reindicted for at least one felony committed during pretrial release. In calendar 1968, 70 percent of 345 robbery defendants indicted and released were subsequently rearrested for a new crime.

These high rates have prompted at least three commissions on crime in the District of Columbia to recommend the enactment of pretrial detention.

Pretrial detention is needed, second, because the present law does not provide for detention of specific noncapital offenders whom everyone would concede are dangerous to the public. Nor does it provide for the custody of defendants who have been released once, only to go out and commit a new crime. Let me illustrate——

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. Yes, I yield to the gentleman.

Mr. MIKVA. Is the gentleman unaware of the fact that the provision will allow the preventive detention of purse snatchers who have no prior record?

Mr. SMITH of New York. If the purse snatcher came under the definition as the perpetrator of a dangerous crime——

Mr. MIKVA. Which he does. Any theft of property or the taking of property by force or threat of force is within that definition.

Mr. SMITH of New York. It would seem to me, I would say to the gentleman from Illinois, that a purse snatcher, if under the provisions of this bill which protects his rights against detention, were liable—and if it were found by the judge that he was liable—to go out and snatch seven or eight more purses before he might be tried, then if he comes under the definition of a person charged with a dangerous crime, I would say this pretrial detention would probably be good for society.

Mr. MIKVA. Mr. Chairman, if the gentleman will yield further, my concern is that even apart from the principle, some of the definitions I think go way beyond what is appropriate even if one accepts preventive detention as a possible device for some instances. I really do not think that these discussions have adequately covered this point. I would like to know if it is contemplated that preventive detention is intended to take some 16-year-old purse snatcher and throw the key on him before trial?

I thank the gentleman for yielding.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Maryland.

Mr. HOGAN. In answer to this observation about the purse snatcher, I might point out that within the past year, within a few blocks of the Capitol Building, a woman was the victim of a purse snatcher and as a result of which she broke her hip and died.

I submit that the nature of the crime is really not relevant as to whether the individual constitutes a danger to the community. However, the distinguished gentleman from New York is in the best position to know in an adversary proceeding whether it is a sufficient crime of danger to detain an individual before trial.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Missouri.

Mr. HUNGATE. I would like to ask the gentleman this question: Is it possible to preventively detain anyone without the approval of the court? Would the judge have to make that ruling?

Mr. SMITH of New York. The judge would have to make that ruling; yes.

Mr. HUNGATE. The judge would have to make the determination. So the purse snatcher or whatever the offense might be, however it is determined by the court, just as you might now have detention under high money bond to prevent release?

Mr. SMITH of New York. That is right.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. McMILLAN. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I shall be happy to yield to the gentleman from Indiana.

Mr. DENNIS. I want to ask the gentleman this question: In the pretrial detention section there is provision among other things as I understand it that the committing magistrate must determine after a hearing that the accused is probably guilty of the offense charged; is that correct?

Mr. SMITH of New York. That is so.

Mr. DENNIS. Does not the gentleman feel that that has the germ of reversing the ordinary presumption of innocence and requiring a man to go to trial later before a jury which may well have learned, in one way or the other, that the court has already decided that he is probably guilty before the jury ever got to his case?

Mr. SMITH of New York. No; I do not feel that is so, I would say to the gentleman from Indiana. I think in any preliminary hearing, for instance, the court has to make the determination that there is enough probability of guilt that he should be held for the grand jury.

I do not see that this preliminary proceeding, preliminary and before trial, is substantially different from that.

Mr. DENNIS. If the gentleman will yield further, does the gentleman not think it would have an effect on the jury if it came to their attention that the court, sitting on the bench, had already prejudged the case for them?

Mr. SMITH of New York. No, I do not think so. I will say to the gentleman from Indiana, because when the defendant is present for trial that fact means that a committing magistrate has judged that there was sufficient evidence of a crime being committed, and that the defendant committed it, to be held. And I do not believe that this pretrial detention matter in which the judge must determine only a strong probability that the man may be guilty would make any difference.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. NELSEN. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Virginia.

Mr. POFF. Mr. Chairman, in response to the question propounded by the gentleman from Indiana, I believe it would be appropriate to comment that under the Bail Reform Act of 1966, which is on the books today, it is possible prior to trial to detain an accused in a capital case. In the hearing which the magistrate holds incidental to his determination, he is obligated today to find, not a substantial probability of guilt, but only probable cause.

I suggest that this simply indicates that the bill reported by the committee offers a larger measure of protection to the accused than does the present law and surely does not offend the presumption of innocence.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I thank the gentleman for yielding.

Addressing myself to the point raised by the gentleman from Indiana, I would inquire of the gentleman from New York is it not correct that in many States in cases of capital offenses release and bail may be denied and is constitutionally denied in such cases where evidence is strong or the presumption great when the man goes to trial now they are concerned with that same problem concerning presumption of innocence?

Mr. SMITH of New York. That is true.

Mr. HOGAN. If the gentleman will yield further, and of course at the time of giving his instructions to the jury, the judge advises them to disregard this preventive detention that the gentleman from Indiana complains about.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would like to ask the gentleman from Maryland if he has ever tried to defend a defendant in a criminal case, and whether he would have liked to have asked the judge to instruct the jury to tell them to not pay any attention to the fact that "I have already decided that this man is probably guilty"?

Mr. SMITH of New York. Before the gentleman from Illinois (Mr. MIKVA) asked me to yield I was about to illustrate why pretrial detention is needed because the present law does not provide for detention of specific noncapital offenders whom everyone would concede are dangerous to the public.

In St. Louis last summer, a policeman with no record was identified by five women as the phantom rapist who had terrorized the city by attacking more than 50 women. He was released on bail. Three weeks later he broke into a woman's apartment, attempted to rape two girls, slashed them with a knife, and shot one of them in the face with a pistol. Since he was originally charged with rape, bail could have been denied because rape is a capital offense in Missouri. In Washington, however, under the Bail Reform Act, he would be entitled to pretrial release as a matter of statutory law both before and after his attack on the girls. There was no evidence in that case that the defendant would try to escape. It is obvious that speedy trials are no answer at all to a person like this.

Under the language of the Bail Reform Act, a man could be caught in the middle of an armed robbery, he could shoot at police, he could be a heroin addict, and he could have a long record of violent crime—and he would still be entitled to pretrial release. We must change this law.

The third reason why pretrial detention is needed is that today the courts are detaining some noncapital defendants before trial by the dishonest and hypocritical device of setting high bond. The law should be above this subterfuge. If a person is dangerous he should be detained openly, in a way that does not discriminate against indigent defendants.

These provisions are reasonable and they permit detention only under special circumstances in a limited category of serious cases. There is a 60 day time limit. A defendant may not be detained unless the court finds in writing, after an adversary hearing, that there is a substantial probability that the defendant committed the violent crime with which he is charged and that there is no condition or combination of conditions of release that would reasonably assure the safety of the community.

Eminent lawyers and jurists have raised questions about the constitutionality of pretrial detention. Other eminent lawyers and jurists have no question about the constitutionality of the pretrial detention provisions of this bill. I refer both the lawyers and the nonlawyers in the House to an article written by Hon. John N. Mitchell, Attorney General of the United States, in the writing of which he had the assistance of some eminent constitutional lawyers, and which appeared in volume 55 of the Virginia Law Review in November 1969, entitled "Bail Reform and the Constitutionality of Pretrial Detention," for a good discussion of the constitutionality of pretrial detention in connection with the eighth amendment, the presumption of innocence, the due process clause of the fifth amendment, and provisions mitigating the burden of confinement.

This city and her people, Mr. Chairman, are under siege by her criminal enemies. Society needs the means and the tools for her protection and her survival. I ask you, Mr. Chairman, give this city and District the means and the tools she needs.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. MIZELL. Mr. Chairman, I feel that it is vitally important that we all note very carefully the chart on page 81 of the committee report that accompanied H.R. 16196. The graph shown on that page indicates very clearly that crime in the District of Columbia has increased drastically since the Bail Reform Act of 1966 was enacted, and I believe that the increase can be attributed directly to that legislation. The District's Bail Reform Act, better known as the District of Columbia Bail Agency Act became law on July 26, 1966, and from that date on, crime rates in the District have skyrocketed. Today, as a result, we find second, third, and fourth offenders walking the streets of our Nation's Capital; known criminals who commit their acts as they await trial. There are thousands of these professional criminals free to do as they please, and they are endangering the lives and property of our law-abiding citizens. It is imperative that we protect the responsible people of our Nation's Capital.

Today we are dealing with the crime problems of Washington, D.C. We must, however, as we examine the importance of this legislation, realize that the bail reform revisions included within the bill may be used as a soundingboard for future legislation which will affect the Nation as a whole. Statistics also show that the 1966 Bail Reform Act resulted in serious increases in crime in all parts of the Nation. I believe very strongly that if Congress passes the pretrial release and detention section of this bill, and it consequently becomes law, you will see a definite leveling off, and possibly a decrease in the crime rate in the District of Columbia which would pave the road for legislation that would revise the Bail Reform Act on a national level. I commend the chairman and the members of the District Committee for the fine job they did in handling this ticklish and controversial issue, and I urge the passage of the pretrial and release portion of this bill intact.

Mr. NELSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, the time for purple oratory and grisly crime statistics is past. The passage of this legislation to turn the tide against crime is long overdue, and I am confident that this legislation will receive the approval of the great majority of the House today.

However, the citizens of the congressional districts of all the Members of the House have almost as much at stake in this bill as do the citizens of the District of Columbia, because in this bill we are establishing landmarks of law in such vital areas as no-knock, preventive detention, and the age for waiving juvenile offenders to adult courts. Because the Federal Legislature is passing judgment on these vital matters, courts and State legislatures all across the country will take their cue from the final form of this bill.

Therefore, we owe it to our constituents to scrutinize these measures with the utmost care and that we do our very best not only to guard the sacred rights of American citizens, but to provide the best framework of protection possible for the innocent victim of the robber, the mugger and the rapist who roam the streets in this city.

Amendments will be offered. I will offer several myself. I believe my amendments will strengthen the bill. I ask the patience of this House in considering and in deliberating on all of the amendments so that we can finally vote the passage of the bill, with the assurance and the satisfaction that the House has worked its will in its best tradition.

With reference to the remarks of the gentleman from New York regarding preventive detention, I think this is an important feature of the bill and I support it. I am going to offer an amendment, however, to provide that a judge must have clear and convincing evidence of the dangerousness of the offenders to the community before he orders them detained pending trial.

I think the remarks of the gentleman from Indiana are well taken. I do not believe the testimony submitted in a pretrial detention hearing should be available to the courts in subsequent proceedings, and my amendment speaks to that problem.

The bill we debate today represents many months of time and effort on the part of the President and the committee. It responds to the most urgent problem facing this city today. Despite its defects, some of which we may remedy today, this legislation will give the District of Columbia the institutional resources it needs to make the streets of this city safe for its citizens again.

Mr. NELSEN. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, this is a very comprehensive piece of legislation, and I obviously have the time to address myself to only one provision of the bill.

I would, however, take this opportunity to congratulate the committee on the work that they have done. I think they have done an extremely adequate job in explaining the measure to us here this morning.

I do want to talk for just a minute about the no-knock provision in this legislation. It seems to me from listening to some of the speeches I have heard today that great emphasis has been laid upon the fact that we have a tremendous felony backlog in the District, and this is in a large part responsible for the breakdown of law and order in the District of Columbia.

While I thoroughly support the provisions dealing with the reorganization of the court system and judicial reform, it seems to me we ought, in this legislation, to recognize the necessity for doing something to aid those who are pursuing the investigative function, aiding those who are charged with the arrest function and those charged with the responsibility of criminal investigations, and they ought to get some benefit, I think, from this bill.

More importantly, the community ought to reap some benefit from this bill through better law enforcement.

When we stop to consider that the arrest record is only 17 percent in the District, and that something less than 50 percent of the crimes in many categories are even reported, then it seems to me we ought to do something to strengthen the investigative function. The job of a police officer is certainly a tough, mean and demanding job, and if we can in this legislation with the no-knock provision clarify the very difficult role he has of deciding when exigent circumstances exist that permit him to dispense with the notice that is ordinarily given in the case of the execution of a search warrant or in the execution of a lawful arrest it seems to me we have done something worthwhile.

There is a lot of talk in the press that this is a radical departure, that this legislation constitutes a radical departure from existing law, and that consequently what we will unleash upon an unsuspecting public is a series of unreasonable and unconstitutional searches and seizures in contravention of the fourth amendment to the U.S. Constitution.

I am as proud of my record in the field of civil liberties as anyone, but as I read this very carefully drawn provision, I think the committee ought to be congratulated on codifying what, as the gentleman from Maryland (Mr. HOGAN), said, is clearly the common law in the District. It is the law, either by statute or by decision, by case law, and now represents the law I think within 29 different jurisdictions. So instead of creating the notion—and I think it is a false notion—that we are somehow going to create a situation where police are going to be just unreasonably barging into the homes of innocent people after midnight, we ought to bear two very, very basic principles in mind, in judging the validity and the constitutionality of the no-knock provision in this statute, and that is that, first of all, before an officer can enter, before he can enter without knocking, without announcing the purpose of his arrival on the scene, the following must occur:

First of all, he must have the authority of law. He must be there under color of law to enter, either pursuant to a search or an arrest warrant, or he must be there because he has a right to be there under the law of arrest. So officers are not going to be barging into the homes on innocent people. They are going to be entering premises only when it has been clearly established by the fourth amendment requirement that evidence of a crime has been submitted to a judicial officer, and as a result, a lawful warrant has been issued, or he is there pursuant to carrying out the lawful arrest function.

I do not think I have to engage in what someone referred to a moment ago as any purple oratory to remind you of the instances right here in the District of Columbia, one a year ago, when two brave men, officers of the Federal Bureau of Investigation, announced that they were there to serve a criminal warrant and they were shot to death, felled under a fusillade of bullets almost immediately because of a criminal who was within, and who, when he learned that they were there to serve an arrest warrant, murdered both men.

We have heard other examples here in the last couple of hours of deliberate destruction of evidence because of a prior announcement. So I say it is not doing too much, we are not going beyond the fourth amendment, beyond the Constitution, beyond the case law of the District when we say that, given a lawful search warrant, given the right to be on the premises to carry out an arrest, there ought to be clearly outlined in the law those exceptional or exigent circumstances under which prior announcement for the purpose of entry need not be made, and I support the section. I hope the bill will be passed.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. THOMSON).

Mr. THOMSON of Wisconsin. Mr. Chairman, I rise in support of H.R. 16196 and wish to discuss the bill's proposals for dealing with the increasing rate of juvenile crime. For years everyone has been talking about how bad the District of Columbia juvenile court is and how much something needed to be done. Yet for years nothing has been done. Some past efforts by this Chamber to alleviate the situation have come to naught. The pleas of the present chief judge of the juvenile court have remained unanswered for years. Now section 121(a) of H.R. 16196 proposes to do something, and I urge you to support the revision of the juvenile proceedings code as it has been reported by the District of Columbia Committee.

I support the revision of the juvenile proceedings code because it represents a realistic solution to the problem of a rising rate of serious crimes by juveniles which is facing the District of Columbia. This bill takes a hard look at the problem and comes up with some hard answers. But these answers are, I suggest, the only ones that make any sense if we are to offer real solutions to real problems.

As an example of what I mean, let me briefly discuss a provision which has caused a lot of concern among many of us. As reported this bill would redefine the term "child." Instead of giving the new family division jurisdiction of all acts committed by persons under 18, it would exclude those 16 and 17 years old charged with a serious violent felony by the U.S. attorney. Since we are used to having all those under 18 brought to the juvenile court it is not easy to see why some should be excluded under the new reformed court system. But I suggest that the FBI Crime Index as well as the statistics prepared by the District of Columbia juvenile court for the Attorney General and the Commissioner of the District of Columbia should answer any questions or hesitations in this regard. Crime is rising in the District of Columbia at a rate that is frightening to all of us.

Even more frightening is the increase in serious crimes being committed by juveniles. In 1963, there were seven juveniles referred to juvenile court for rape, while last year, 1969, there were 37 juveniles referred for rape. In 1963, there were 18 juveniles referred to juvenile court for armed robbery, while last year, 1969, there were 261 juveniles referred for armed robbery. This shows that in the last 6 years rapes by juveniles have increased five times and armed robberies by juveniles have increased 14 times. The

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annual report for fiscal 1969 of the juvenile court unequivocally states that this increase is largely due to the criminal activity of the older boys, ages 16 and 17.

It is clear that only one thing can be done if the citizens of the District of Columbia as well as our constituents who come to our Nation's Capital are to be protected against serious attacks by these youths. Furthermore, it is also clear that one thing—and it is the same thing—can be done if the new family division is to be successful in helping youths who are not beyond the call to a law-abiding life. That one thing is what the bill proposes to do; that is, to take these older, aggressive and sophisticated 16- and 17-year-olds who commit serious violent felonies out of the juvenile system. They no more belong there than do the 18- and 19-year-olds who commit a serious violent felony. Remove these youths from the juvenile system and give that system a chance to breathe, a chance to work with the younger, less sophisticated kids. Free up the few rehabilitative resources the District of Columbia has. Let the judicial as well as the social services staff concentrate its talents on the youth who will best benefit.

I have no problem in placing my full support behind this provision. I am aware of the attacks made upon it. But I am also aware that by taking the older felons out of the juvenile system we are not "throwing them to the wolves." To the contrary, most of these kids want all the rights and protections afforded to adults charged with crime. The bill would give them just this in courts which would also have facilities which are better able to handle these older aggressive youths. Besides the usual probation services, there would be the facilities for youthful offenders available to the District of Columbia courts under the Federal Youth Corrections Act—18 United States Code, 5005, et seq.

In closing, let me say that we are facing a crisis in the District of Columbia. We must deal with the harsh realities. The bill does just this. It takes the young thugs and treats them as they should be—as adults—and leaves the family division free to handle those who are still juveniles as evidenced not merely by their age but by their acts as well. Other jurisdictions who had the 18-year-old age limit, such as New York and Illinois, faced similar problems and have lowered their juvenile age limit. This bill would not be as drastic since it only lowers the age for those charged with serious violent felonies. It is clearly needed.

Mr. NELSEN. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, as a member of the committee, I would like to urge adoption of H.R. 16196 in its entirety. I think this piece of legislation, dealing with the District of Columbia will set a pattern for the entire Nation. It is high time that we who work in the District of Columbia begin to set a pattern for the entire Nation as far as crime control is concerned.

I know there is a difference of opinion between the lawyers, the lawmakers and the people who have been previously concerned with law enforcement who serve now as Members of this body, but let me appeal to all Members please not to try to take the teeth out of this important piece of legislation. It is needed, and it is needed as it is.

Just yesterday, the President of the United States made it quite clear to all Members on this side of the aisle, and I think to all Members of Congress, that he favored the passage of H.R. 16196 in its entirety.

At this stage, I include a letter the President wrote to Congressman GERALD R. FORD urging the passage of this piece of legislation:

THE WHITE HOUSE,
Washington, March 17, 1970.

Hon. GERALD R. FORD,
House of Representatives,
Washington, D.C.

DEAR GERRY: As you know so well, there is pending before the Congress legislation of great importance to the fight against crime in the District of Columbia. I hope you will express to the Members the urgent interest I have in the earliest possible approval of this legislation.

In the last decade, the District of Columbia experienced a calamitous increase in crime and violence. From my first day in office, the Executive Branch has applied all the powers and resources available to combat crime. We have found that new measures are necessary. Last year, total offenses increased by 27 percent, and a total of 62,000 serious offenses were recorded. Reported armed robberies climbed from 4,640 in 1968 to 7,071 last year, an increase of 44 percent.

The Administration bill, H.R. 16196, recently reported by the House District Committee, would provide the tools to deal with this problem. It is a comprehensive attempt to treat all aspects of the criminal justice system in the District of Columbia, and I urge all Members of Congress to support its quick enactment.

The courts here are choked with an overwhelming backlog of cases, particularly in the Juvenile Court. The prosecution is hampered by legal and procedural shackles. Inadequate defense resources exist for a proper representation of indigents. The Bail Agency in the District of Columbia will run out of resources next month and must be rescued. It must be given new powers to supervise defendants on pretrial release and to give courts adequate information on persons charged with crime for consideration for pretrial release.

In addition, courts must be given the power of increased sanctions, including detention after due process proceedings, in order to protect the community from the truly dangerous person charged with crimes and awaiting trial.

The House District Committee is to be complimented on its fine work in reporting out the entire program in this area that I submitted to the Congress last year. Many provisions of the House Committee bill are improvements over the original versions.

Half-hearted measures will not suffice. The citizens of the District of Columbia are entitled to the full support of the Congress and this Administration in returning public safety and order to this community.

Sincerely,

RICHARD NIXON.

Mr. NELSEN. Mr. Chairman, I understand the chairman of the Judiciary Committee has been seeking to have some time, so I will yield 6 minutes to the gentleman from Maryland, and then reserve some time for the gentleman from New York (Mr. CELLER) if we have the time following the speech by the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I join with my distinguished colleagues who commended to Mr. Donald Santarelli of the Department of Justice for the yeoman work he and his staff have invested in this massive piece of legislation.

For the record, I should like to name some of the other employees of the Department of Justice who worked weekends and at night with some of us on the committee trying to bring this bill to the state in which we have it today. They are: Earl Selbert, Edward Pesch, David Prosser, Carl Rauh, Judith Rogers, and Mary Lawson.

I should like also to correct some of the misinformation which has been in the press about the leadership of the District of Columbia Committee delaying this legislation. The distinguished chairman, the gentleman from South Carolina (Mr. MCMILLAN), the subcommittee chairman, the gentleman from Mississippi (Mr. ABERNETHY), and the subcommittee chairman, the gentleman from Texas (Mr. DOWDY), could not have been more cooperative with the minority side of the aisle and the Department of Justice.

The point I should like to make is that the bill which the committee brings to the floor of the House today is far more comprehensive, far more involved, and far more responsive to the crime problem in Washington than the version which was passed by the other body. There was at no time any effort to stall this legislation. I just wanted the record to show that.

Mr. Chairman, I am not going to take time to talk about the crime problem in Washington, D.C. There is not one person in this body or in this city who does not know the immense proportions of that problem.

I should like to discuss in a general way some of the controversial areas which we will be discussing when amendments are considered.

First is the wiretap provision. The 90th Congress enacted the omnibus crime bill and gave comprehensive wiretap and electronic surveillance law for Federal offenses. Nowhere has the need for and the success of this law been more convincingly demonstrated than here in Washington, D.C. In the last 6 months three raids have resulted in the arrest of more than 70 narcotics violators, several of them major dealers. There has been the recovery of substantial quantities of heroin and cocaine, which has resulted from this wiretap provision. In one particular case three authorizations for wiretap resulted in more than 60 arrests, and to date over 40 indictments have flowed from those wiretaps. This is ample justification for its need in the curbing of organized crime.

The District of Columbia government, the Mayor, the Corporation Counsel, the Chief of Police all have endorsed this provision.

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In the 1968 law Congress specifically authorized State and local jurisdictions to provide for wiretaps for local offenses. As I observed earlier in my colloquy with the gentleman from Washington, this is necessary if we create the new superior court in this bill because the Federal legislation only gives this authority to the U.S. district court. We must, just to continue the authority now in existence, enact this provision.

I might say also that the provisions in this bill are virtually verbatim with the statute enacted by Congress in 1968. The criminal penalties in that law now on the books are provided in this existing statute.

I should like to turn now to the "No-knock" section, which is also controversial and which was covered so amply by the gentleman from Illinois (Mr. ANDERSON). I will not reiterate what he has said, but I do believe we need to overcome the hysteria and the misconceptions which have been in circulation about this provision.

This is not going to give the police any authority that they do not already have. The Supreme Court of the United States, in Ker against California, upheld the constitutionality of an entry without notice and recognized the existence of the doctrine of exigent circumstances under which an officer may dispense with notice. Twenty-nine States have confronted this issue and allowed this kind of entry without notice, either through statute or through court decisions.

Entry without notice is most commonly permitted by these States to protect the lives of the officers or third parties. What we are doing here today in this bill is merely codifying this doctrine from case law and clarifying the situation for the police officer. In addition to that, we are providing an additional safeguard by providing for the going before a judicial officer in advance to get a warrant authorizing the entry without announcement.

Mr. Chairman, the second misconception is that this legislation is an unwarranted and an unconstitutional invasion of the citizen's right of privacy. That is totally untrue and unfounded. The provision only deals with the matter of the method of the entry; it has nothing to do with whether or not the entry is legal. Entry into the premises, which would be the invasion of privacy, must be authorized in advance by a warrant issued by a judicial officer on the showing of probable cause by the officer, or on a showing by the officer of probable cause that the person committed a felony. Misconceptions pertaining to this no-knock doctrine make it clear that a definite standard should be enacted to govern when the police must announce and when they can dispense with the announcement. If the Congress does not set up guidelines, then how can we expect law enforcement officers to know what to do in the heat of a dangerous situation? In my judgment, the clearly drawn guidelines rather than shifting case law will deter police abuse of this authority. This bill provides the police with definite standards by setting out the general rule which requires that they announce prior to entry, and then it specifies those limited exceptions when the officer may dispense with the announcement.

Mr. McMILLAN. Mr. Chairman, at this time I yield 3 minutes to the chairman of the Committee on the Judiciary, the gentleman from New York (Mr. CELLER).

Mr. NELSEN. Mr. Chairman, I will have a little time that I overlooked. I have given the gentleman from Virginia (Mr. SCOTT) 2 minutes. But may I ask how many minutes are remaining on our side?

The CHAIRMAN. A total of 6 minutes.

Mr. NELSEN. Mr. Chairman, I yield 3 minutes of that time to the gentleman from New York (Mr. CELLER).

The CHAIRMAN. The gentleman from New York is recognized for 6 minutes.

Mr. CELLER. Mr. Chairman, I want to address myself presently to one of the provisions concerning "preventive detention," which is, in a sort of way, "imprisonment without trial."

My comment is not against the District Committee, which labored long and hard to bring forth this bill. The bill in many instances contains rather imprecise language, and in the time granted me later in the debate I shall point out some of those inadequacies.

But "preventive detention," in my opinion, like Swiss cheese, is full of constitutional holes. It destroys a time-honored and time-hallowed presumption of innocence. It affects trial by jury, due process, the prohibition against excessive bail, and involves possible double jeopardy and the right to a speedy trial. Now, deprivation of such fundamental rights must give us pause. Our boast as a nation of individual freedoms and individual liberties will sound as hallow as an eggshell if we have "preventive detention" embodied in our statutes. Such a provision would cast, in my opinion, into limbo the pages of history that tell of the great battle for basic individual rights at the cost of countless lives and great treasure. These rights are embodied in the amendments of our Constitution. We cannot with impunity erase them nor cavalierly erode them. We attempt to do that indeed by this so-called preventive detention.

The present hysteria in the country and specifically in the District with reference to crime should not cause us to lose our sound judgment.

Wisdom must overcome emotion. Justice, not revenge, must be our lone star in the pursuit of crime. Logic and not excitement must guide us.

I used the word "revenge." Juvenal once said "revenge is the poor delight of small minds."

Mr. Chairman, in order to conquer some culprits we must not sacrifice the rights of all. Such cure is worse than the disease.

Now, Mr. Chairman, I share the conclusion of the American Bar Association and the National Commission on the Causes and Prevention of Violence in believing that:

> Preventive detention should not be adopted.

The American Bar Association concluded:

> Because of the drastic effects of preventive detention, the difficulties inherent in predicting future criminality and the unresolved constitutional issues, preventive detention proposals should not be enacted.

Mr. Chairman, the National Commission on Violence stated:

> While there is a very real public interest in preventing criminal activity by released persons awaiting trial this interest would be better served by reforming the criminal justice system to expedite trials than by adding the additional burden of a preliminary trial to predict the likelihood of future criminality. It should be noted that even at present some crimes, such as first degree murder, are not bailable.

Mr. Chairman, the problem of repeated criminality by persons who are released on bail awaiting trial is largely a problem of court and prosecutor delays in bringing the offender to trial.

Any proposal to require additional trials in which prosecutors and defense counsel and judges would have to participate—which would undoubtedly become an extended preliminary trial—would seriously tax an overburdened judicial system. It would very likely result in greater delays in ultimately adjudicating criminality and consequently further endanger rather than protect the society at large. A far better and direct remedy, in my opinion, would be to furnish the manpower and facilities, the courts and prosecutors which are needed to promptly try offenders in the first place.

Preventive detention will only prevent speedy trials and determinations of guilt. The provision of temporary incarceration and the consequent requirement of an additional hearing to determine danger to the community will not result in any measurable improvement in public safety.

Mr. Chairman, "preventive detention" was tried in Great Britain and failed. However, they are now in the process of repealing such statutes.

And, may I call your attention to a provision on page 405 in connection with "preventive detention" in lines 7 to 10. This is very significant and this is the part of imprecision that I find in many of the sections of this proposed bill:

> (5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

What does that mean? That means that information—and that information may be mere hearsay as contained in many of the documents involved in "preventive detention."

This is a denial of due process. The information may be rumor, gossip, self-serving declarations, or even "old wives tales." It is a highly dangerous provision, and I hope some suitable amendment will be offered in due course to correct that error or eliminate it altogether.

The CHAIRMAN. The time of the gentleman from New York has expired.

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Mr. McMILLAN. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I rise to say during these 3 minutes how disappointed I am that this bill would divide up the Department of Corrections and transfer part of it to the Federal Bureau of Prisons, and leave the other part with the District of Columbia.

I served on the select committee which purported to look into this question. There was only one witness who appeared on the question of whether there should be a transfer, and that was the gentleman who had introduced the bill. No other witness testified on the desirability or usefulness of making such a transfer. The Federal Bureau of Prisons was not invited to testify on the question of whether they wanted to have part of the corrections system transferred to them. The Department of Justice was not invited to testify on whether half the corrections system should be under their responsibility. We had no testimony from any competent outside experts on corrections as to whether or not this would be a useful move. In short, there is no foundation, there is no basis on which to make a considered judgment on splitting up the corrections system so as to leave the city jail and the halfway houses and the parole system as the responsibility of the city, and taking the youth center and the reformatory and the minimum security unit, and putting them under the Bureau of Prisons. There is not one word of testimony that this is going to do any good for anybody—not one word.

I will tell you what this involves. If you are a woman and convicted of a crime you go to a facility operated by the city. If you are a man and convicted of a crime you go to a facility operated by the Department of Justice, because that is the result: the Women's Detention Home will be a part of the correction system with the city, and the reformatory would go with the Department of Justice.

This is not the way to legislate improvement in corrections. We have the testimony of some very wise people that this is not a very good idea, including, I understand, people who have been with the Bureau of Prisons. I can personally attest to a conversation with a highly experienced longtime Federal servant in the Bureau of Prisons who said it is wrong, it is a mistake to transfer Lorton to the Bureau of Prisons.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NELSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I recognize this bill—the thrust and intent of which I basically support—as a serious effort to meet a serious situation.

While recognizing this, there are certain things I believe we ought to remember. We should realize that the bill, however necessary and useful does not purport to address itself, for the most part, to the social problems which are the root causes of crime; nor does it deal, to any large extent, with the questions of penal reform, which are basic to the problems of crime.

This does not mean that the bill is not a useful one, but such considerations will help us to remember, as we should, that this bill, if enacted into law, like most bills, will not by any means accomplish all the things which its proponents claim for it.

The bill is directed to a very bad crime situation existing in the District of Columbia, and, not surprisingly, it is, in all truth, a stringent bill.

There are good things about this bill, and there are other things which are not so good. I hope that it will be amended, and so improved. If this is not done we will have to make, as we so often do, a not altogether easy choice.

Controversial features of this bill include: First, the no-knock provisions, second, the wiretap provisions, and third, preventive detention.

The first two, on balance, I accept as having sufficient safeguards, as being necessary, and as being consistent with existing law.

Preventive detention I oppose, as of doubtful constitutionality, and questionable policy—necessarily involving, as it does, the mistaken incarceration of an undetermined number of innocent men. Moreover, it is my judgment that it will be far less effective than its proponents claim, and that its legitimate ends can be adequately met by less drastic action.

In addition I will offer an amendment to strike out the section which imposes a mandatory life sentence for a third conviction of a so-called violent crime, regardless of circumstances—which I regard as unsound in principle and fraught with the probability of gross injustice in individual cases.

Also, again as a matter of justice and a fair trial, I shall try to restrict cross-examination as to previous and unrelated offenses, to those of a character which actually do bear upon truthfulness and veracity.

The people of the District of Columbia—including more especially her most humble citizens—are entitled to justice under law. With this bill we attempt to give it to them. The effort is called for; let us hope that it may have measurable success, without unsupportable sacrifice of our constitutional liberties.

Mr. NELSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, it has been my honor to serve on a subcommittee of the Judiciary Committee which has devoted many weeks to the subject of pretrial detention. Originally, I cosponsored legislation seeking to authorize pretrial detention in all of the Federal courts of the United States, but after many hours of testimony and soul searching on my part, I have come to doubt the wisdom of the procedure.

My objections do not go to any constitutional infirmity of the "pretrial detention because of danger to the community" concept. Rather, my objections are based upon policy considerations.

It is my fear that we have built into the sections authorizing pretrial detention more procedural protection for the accused than the Constitution commands and more than our judicial system can digest.

Admittedly, this is a judgmental matter on my part. I concede that I may be in error. It is for this reason that I am willing to accept, somewhat reluctantly, a trial period of pretrial detention limited to the District of Columbia. I view this as an opportunity to test the accuracy of my fears.

The principal arguments made by others against pretrial detention do not turn upon such practical considerations. Rather, they are based upon profound constitutional grounds.

These arguments are fallacious.

It is often asserted that an innocent man under the bill may be detained upon a finding of probable guilt and a prediction of probable future danger to the community. This is unconstitutional, it is alleged.

It is not novel to our system that an innocent man may be detained. For example, an arrest of an innocent man may be made, and his liberty denied without judicial action, upon probable cause therefor existing in the eyes of a law-enforcement officer. Such pretrial detention resulting from a lawful arrest has never been thought to be unconstitutional.

After an innocent man has been lawfully arrested and is brought before a judicial officer, release may be granted or he may be detained—without any evidentiary hearing and without any consideration of the rules of evidence—if the judicial officer believes that the innocent man will not appear for trial or may interfere with witnesses. There has never been any doubt as to the constitutionality of such procedures.

Indeed, pretrial detention after specified hours is expressly authorized under the 1966 Bail Reform Act, and its constitutionality in this regard has not been challenged.

Furthermore, there are many illustrations of defendants, whom we presume to be innocent, being detained before trial when there are public policy reasons for doing so, for example, if there is a suspicion of mental incapacity or addition. There has never been any serious question as to the constitutionality of such practices, even though procedural guarantees of the type found in this bill are almost totally lacking.

The true principle is that the liberty of even an innocent man may be denied if there are overriding and compelling public policy reasons for doing so and if that denial is accomplished in a reasonable manner.

Much is made about the difficulty of predicting future conduct. Of course, it is difficult, but it is not a constitutionally prohibited activity. Judges are hired to make informed predictions and do so every day, ranging from a prediction of the likelihood of appearance for trial to a prediction that a convict will profit from probationary supervision. Such pre-

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dictions are not unconstitutional nor, I suggest, is the prediction based upon information before the court that a defendant poses a danger to the community pending trial if not confined.

Mr. Chairman, it is not consistent legally or intellectually to admit the constitutionality of existing pretrial detention practices and to deny constitutionality in this instance. In truth, opponents are making a determination that the sanctity of the judicial process by insuring appearance for trial is of greater importance and entitled to greater protection than the safety of the community. I utterly reject such an indefensible classification and urge my colleagues to do likewise.

There is much in this bill that is worth while. Without doubt, the reform of the court system in the District of Columbia will do more to improve the processes of justice and the safety of this community than any other provision in the bill. The title authorizing pretrial detention should be supported to test its efficacy. The arguments against "no knock" are emotional and reflect a lack of understanding of the constitutional principles involved. The wiretapping provisions, so essential in our efforts to stamp out organized crime and narcotics offenses, are carefully drawn and meet the test of constitutionality.

I am deeply disappointed that the committee has provided in this bill to permit the impeachment of a defendant by showing his prior conviction of a felony. Such a practice is medieval and is to deny justice in many cases. Because of this one provision, it is most probable that one or more innocent citizens will be convicted of crimes in the District of Columbia.

Also, I deeply regret that the committee seeks to impose mandatory sentences for certain offenses. A mandatory sentence represents a substitution of the judgment of the legislative body for that of the judge. Justice is a personal thing and the legislative body can never anticipate all of the circumstances which should be considered in fixing an appropriate penalty. I oppose mandatory sentences as a matter of principle and regret that the insidious practice is perpetuated in this bill.

This bill contains many titles, some of which are worth while and some of which are offensive to me. On balance, however, I have concluded that the bill merits my support.

Mr. NELSEN. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. Scott).

The CHAIRMAN. The gentleman from Virginia (Mr. Scott) is recognized for 3 minutes.

Mr. SCOTT. Mr. Chairman, the suggestion has been made that an amendment will be offered to strike title 5 of this bill, the portion transferring the Lorton Correctional Institutions from the District of Columbia Department of Corrections to the U.S. Bureau of Prisons.

You may know that the Lorton facilities are located in Fairfax County and in my congressional district. Many constituents have complained to me regarding the manner in which the facilities are operated and I requested the District of Columbia Committee, which exercises legislative oversight over the facilities, to investigate the charges and introduced the measure to transfer the facilities to the Department of Justice which is now a portion of the overall District of Columbia crime bill. The subcommittee held hearings lasting for 11 days, sometimes meeting in both the morning and afternoon, and took 561 pages of testimony. At the conclusion of the hearings they issued a report which contains 33 separate findings, all confirming the charges made by my constituents. Let me read a portion of these to you and urge that before we get to the amending stage of our consideration of this bill, you obtain a copy of this report dated February 23, 1970, and entitled "Investigation and Study of the Department of Corrections of the District of Columbia." All of the findings are verified by reference to statements made in the transcript of the hearings.

Some of these findings are, and I am quoting from pages 2 to 5 of the report:

> When correctional officers strictly enforced regulations, they were transferred to other duties.
>
> The prisoners were allowed to organize an "Inmate Advisory Council". This group gave advice and made demands, which were granted, as to the operation of their facility.
>
> Escapes from the five institutions under the control of the Department of Corrections are all too frequent. It appeared that these incidents occurred from lack of proper security at the various institutions and the permissive policy of the Department of Corrections' staff.
>
> The use of narcotics by inmates is widespread, and there appears very little effort by the administration to control it.
>
> The inmates manufacture "moonshine alcohol" in copious quantities and "one officer who was very thorough in locating and destroying such alcohol was referred to other duties and told he was making waves and the prisoners did not like it."
>
> The practice of homosexuality and lesbianism is widespread and uncontrolled.
>
> Rapes of prisoners by other prisoners are common place.
>
> The prisoners do not perform even menial tasks and threaten to riot if an effort is made to force them to work.
>
> The various institutions maintain schools for prisoners. They are poorly attended, maintained and taught.
>
> The rifling, removal, and destruction of personal and other official files appears to have been done at will, by both authorized and unauthorized personnel.
>
> The morale of the paid personnel, especially the guards, or Correctional Officers is at an all-time low.
>
> The training of correctional officers in particular, and personnel in general is from no training at all, to extremely limited courses.

The report concludes that there will be a full opportunity by the Federal Bureau of Prisons to set up a District of Columbia penal system as a model for the Nation.

Now, these are the findings of the committee after hearings and, if this Congress is to operate efficiently, we must give credence to the findings of our committees.

Let me turn for just a minute to one other aspect of this measure. Sometimes we hear the phrase "Lorton Reformatory" but the word "reformatory" is a misnomer because the inmates for the most part are felons, many sentenced for major crimes including murder and adjacent to this prison complex is the maximum security facility or group of cell blocks for the incorrigible prisoner. There is also the Lorton Youth Center and the minimum security facility.

An effort must be made to teach the inmates to observe the rules of society and to rehabilitate them so that they can become useful members of society. Your committee has found that this is not being done and I urge that all amendments to the overall crime bill be rejected and that the bill be passed in its entirety.

Mr. McMILLAN. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. Hungate).

Mr. HUNGATE. Mr. Chairman, this bill is not perfect. But the sun has its spots and a diamond has its flaws—gold will not rust and the good will shine through.

As a cosponsor of this measure, I would urge you to support this bill, although there are many items in it that are subject to amendment, some of which will be mine.

There are the items such as the Lorton transfer, wire tapping, preventive detention, the no-knock provision, juveniles, and reorganization of the courts.

I think these all merit serious consideration and the bill can be improved in many instances by amendment.

But, I still say that when this bill is considered as a whole, it is a very worthwhile bill and I hope you will support my amendments. But whether you do or not, I certainly hope you support this bill finally and I think it may be the only crime bill that you may get to vote on. I urge your support of it.

As to preventive detention, I would like to say I think the aggravated District of Columbia crime problem is almost a direct descendant of the so-called bail reform bill when they stop setting bail in a money figure where you could really, without naming it, take into consideration the danger that existed in the seriousness of the offense and the background of the defendant.

A speedy trial is said to be an alternative to preventive detention.

Any of you people who have represented a defendant against whom the State has a real strong case, how often have you tried to go to trial as fast as you can?

I will offer amendments against the no-knock provision, which I feel goes too far and on the issue of the provision to remove the right to resist unlawful arrest, I feel like the two fellows who were going to a party and expecting to get into a fight. One fellow said, "I have my knife with me." The other fellow said, "You would not cut me, would you?" The other fellow said. "No, not intentionally but when the lights go out, I will not know you from anybody else."

I think when somebody breaks the law, we do not know a policeman from anybody else. They are to be treated as lawbreakers whether they are policemen or not.

Mr. Chairman, I yield back the balance of my time and urge the support of the bill.

Mr. SAYLOR. Mr. Chairman, after cutting away the rhetoric surrounding debate over the District of Columbia crime bill, one is left with the fact of a crime wave in the Nation's Capital which cannot be allowed to continue. The responsibility of Congress to make the District of Columbia a "model" of criminal justice is well known and well documented. The Committee on the District of Columbia has provided a major step in that direction with its bill, H.R. 16196.

There is no way on earth that every Member could be satisfied with every provision in the bill; the nature of our legislative process works against the creation of perfect laws. I am certainly not entirely happy with every section of the bill. However, the important thing is that the committee has recognized that this is "must" legislation if "something" is to be done about the soaring crime rate in the District. The District is close to being the Nation's crime capital—that is an intolerable situation for the center of democracy.

Some well-intentioned but misguided people who neither work nor live in the District have circulated horror stories about the "no knock" and "preventive detention" portions of the committee bill. Their concern, it would appear, is for the criminal element of society. Someone is always bleeding words for the criminal—my main concern is with the general public.

Frankly, when I am forced by the District of Columbia crime situation to make special provision for my staff in order to protect their safety, then I say that these out-of-town "do gooders" simply do not have the facts. Or, worse yet, they pay no attention to facts. Just a few days ago one press story recounted the almost insurmountable problems faced by the District of Columbia businessmen in finding help if they are located in certain parts of the city. Without H.R. 16196, which is only a first step in the fight against crime, the District will deteriorate even further.

Although I intend to support the committee's bill, I do want to point out my particular concern for section 201 of the proposed legislation which deals with sentencing. To be brief and brutally frank, the sentencing sections of the bill still provide judges with too much discretionary power. I applaud the stiffer and longer sentences—but that is not the whole answer to the recidivism problem as we all know. The simple fact is that judges do not use their sentencing powers now—will they change their ways with the passage of this bill?

Last year I introduced a bill, H.R. 14426, which would have removed most of the discretionary sentencing power of judges in the case of convictions for violent crimes. The present bill from the committee is a modification of that approach; while it recognizes the problem, it does not fully remedy the situation. I explained my "tough approach" to gun crime in particular as necessary to rebuild the public's confidence in our determination to wipe the scourge of gun crime from the American scene. That is still my objective, whether it be for the District of Columbia or the whole Nation. I said earlier and I repeat now, "if a person is found guilty of a violent crime, then let us make sure he goes to prison. If a person is found guilty of a violent crime, is sentenced to prison, then let us be sure we keep him in prison."

The proposals on mandatory sentencing embodied in H.R. 14426 were circulated among the membership of the National Federation of Independent Business in their ballots of public issues. I learned this morning of the final tabulation of the voting on that bill: 86 percent approved; 11 percent disapproved; 3 percent did not vote. The lesson is plain—the general public wants a tougher attitude against the criminal and especially against the repeating criminal.

I believe this is also what the majority of residents of the District of Columbia desire in terms of crime control legislation. It is my fervent hope that H.R. 16196 will be interpreted by judges to mean a stiffening of their backbones with regard to criminals.

Mr. POFF. Mr. Chairman, a minority of the committee challenges the eighth amendment constitutionality of pretrial detention. While I respect their views, and while I concede that there are few constitutional absolutes, I share the view of the majority. As structured in this bill, I believe that pretrial detention does not offend the eighth amendment.

The eighth amendment says that "Excessive bail shall not be required." The minority interpret that language to mean that bail must be granted in all cases and that it must not be excessive. The majority interpret that language to mean that when it is proper to grant bail, it shall not be excessive.

What did the authors of the language intend it to mean? There was no floor debate on the question when the first Congress wrote it. However, we know that this same Congress only a few months earlier had written the Judiciary Act of 1789. That statute granted bail in all noncapital cases. So did the Northwest Ordinance of 1787. So did the constitutions of the States of Pennsylvania, North Carolina, and Vermont. With so many examples at hand, it is reasonable to assume that if the authors of the Bill of Rights wanted such a clause written into the permanent law of the land, they would have imported into the Federal Constitution the language they had so recently written into an impermanent statute. They did not do so. Their omission must be construed as intentional.

The logic of this rationale is strengthened by the fact that the authors of 37 of the constitutions of the States thought it was necessary to include in their documents both a clause similar to the eighth amendment and a clause granting bail in noncapital cases. If, as the minority contend, the former guarantees the right to bail in all cases, what is the need of the latter?

Dicta in the Supreme Court decision in Carlson against Landon supports the view of the committee majority. In pertinent part it reads:

> The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail . . . Indeed, the very language of the Amendment fails to say all arrests must be bailable.

From the time of the first Congress, which decided not to grant bail in capital cases, legal scholars have largely agreed that Congress has the power to define the classes of cases in which bail will not be allowed. In the days of the first Congress, most violent crimes were capital offenses, and it seems clear that detention was authorized on the ground that release would endanger the community. Today, most of those offenses have passed from the capital to the noncapital category. But those offenses are no less violent, and those who commit them pose no less danger to the community. And for the same reason the first Congress classified them as nonbailable, the 91st Congress has the power to classify them as nonbailable.

Congress has the power to authorize detention before trial not only with respect to noncapital offenses but nonviolent offenses. Under present statutes and case law, certain juveniles can be detained; sexual psychopaths and the mentally disturbed can be detained. Pretrial detention is authorized for defendants, who threaten witnesses, accused persons awaiting extradition, aliens awaiting deportation proceedings. Even under the Bail Reform Act of 1966, the accused can be jailed if he is likely to flee before trial.

Pretrial detention, as provided in this legislation, does not violate the due process clause. To the contrary, the standards incorporated by subchapter II are far above the minimum necessary to avoid any possible conflict with the due process clause.

Let me briefly list, Mr. Chairman, some of the procedural safeguards granted a defendant before he can be detained. He is entitled to a hearing with counsel to represent him. He can testify, present witnesses, proffer information in his own behalf, and cross-examine Government witnesses who testify. The judge must make written findings of fact which are subject to prompt appellate review. These required findings seriously limit the classes and number of defendants who can be detained. First, only defendants charged with specified violent felonies, most of which were formerly capital offenses can be detained. Even when charged with such a violent crime, a defendant cannot be detained for a majority of these offenses absent proof that he has either been convicted or is presently on trial for such an offense. Second, in order to detain a defendant, a judge must also find that no condition or conditions of release will reasonably assure the safety of the community. And finally, to minimize the danger of detaining the innocent, the judge must find a substantial probability that the defendant committed the offense charged.

There are some who argue that, regardless of the procedural safeguards, it is the detention itself which violates due process. In response, may I observe, Mr. Chairman, that detention is hardly a novel concept. Since 1789 the detention of certain classes of individuals has been approved without violating or abridging due process of law. For example, defendants charged with capital offenses have been denied bail since the Constitution was adopted because of their dangerousness and other relevant factors. This has never been questioned on due process grounds. Defendants have and still are routinely detained prior to trial to prevent flight in noncapital cases. And this has never been thought to violate due process. These detentions have occurred with hardly any of the procedural safeguards which are granted the defendants in subchapter II which I have just described.

To protect the community from danger, many States permit detention of those who are mentally ill or retarded, those who are sexual psychopaths, those who suffer from a communicable disease, those who are alcoholics, and those who are drug addicts. The statutes which permit these deprivations of freedom rarely grant the safeguards contained in this subchapter. Standards for detention are seldom so rigorous and precise as they are here. Moreover, detention under many of these laws may extend well beyond the maximum of 60 days provided by subchapter II; it may extend indefinitely, and it may last a lifetime. Statutes of this nature have been upheld repeatedly by courts including the Supreme Court. See for example, *Minnesota ex rel. Pearson* v. *Probate Court*, 309 U.S. 270 (1940) (sexual psychopaths commitment statute upheld). On the basis of Supreme Court authority and the background of both prior and existing practice, it is plainly evident, that reasonable pretrial detention of the kind provided for by subchapter II does not violate due process.

Some have suggested that the sixth amendment jury trial guarantee may apply to the detention hearing. It does not.

The sixth amendment jury trial guarantee does not apply to preliminary hearings establishing probable cause. These hearings frequently result in detention. It does not apply to bail hearings now, which frequently result in detention. It applies only to the actual trial of the case in which guilt or nonguilt is the issue and not to any pretrial proceeding.

I have been asked this question: "Would a finding of no 'substantial probability' of guilt at the detention hearing become a predicate for a fifth amendment double jeopardy plea at trial?"

My answer is "No." Jeopardy does not attach to a case tried to a jury until the jury has been impaneled and sworn; in a nonjury case jeopardy does not attach until the first witness is placed on the stand and begins to testify. That is, *Newman* v. *United States*, — F. 2d (D.C. Cir., decided March 10, 1969) (Bazelon, Miller, and Burger). Because the detention hearing obviously will precede the trial, in no sense has jeopardy attached.

A decision by one grand jury to ignore a charge does not prohibit a prosecutor from resubmitting the case to the same or a different grand jury. *United States* v. *Thompson*, 251 U.S. 407 (1920); *United States* v. *One 1940 Oldsmobile Sedan*, 167 F. 2d 494 (7th Cir., 1948). The standard for a grand jury indictment is probable cause. If a finding of no probable cause, a standard requiring less proof than "substantial probability" is not a bar, clearly a finding of no substantial probability is not a bar.

The presumption of innocence has been called an "honored canon" of American law, a "sacred tenet" of Anglo-Saxon jurisprudence. It is all of that. It is more. It stands guard between the State and the citizen. It has to do with liberty. It distinguishes the American system of criminal justice from all others. While it is not written into our Constitution, it is imprinted indelibly upon the conscience of America. It must be forever maintained.

It is argued that detention before conviction violates the presumption of innocence, no matter how limited the detention may be or how many due process safeguards are thrown about it. But such detention has always been practiced and sanctioned by British and American law and is today. Detention incidental to arrest and arraignment has never been thought to be a violation of the presumption of innocence. Detention imposed under the present Bail Reform Act of 1966 to assure appearance at the trial has never been challenged as a violation of the presumption of innocence. The same is true of detention imposed upon the accused when he has threatened witnesses, detention imposed in capital cases and detention imposed in a variety of other cases upon defendants awaiting trial on the issue of guilt or innocence.

The presumption of innocence does not expire when the interests of society require the temporary isolation of the suspect. It continues throughout every step of the criminal justice process. The presumption of innocence does not expire until the State has rebutted it with proof of guilt beyond any reasonable doubt.

Under this legislation, a suspect cannot be detained until, first, the State has demonstrated that his release would pose a danger to society, and second, the State has partly rebutted the presumption of innocence by establishing a "substantial probability" of guilt. But even then, the presumption of innocence survives the detention and goes with the accused throughout his trial until the State has established guilt beyond reasonable doubt.

Mr. **ROGERS** of Florida. I rise in support of H.R. 16196, the District of Columbia Court Reform and Criminal Procedure Act of 1970.

I am particularly pleased to note that H.R. 16196 is an omnibus bill, a composite of 27 pieces of legislation which I and other Members of the House have introduced in an effort to cope with the serious problem of crime in the District of Columbia.

In January 1969, I introduced legislation directly aimed at the crime crisis which then existed in the District of Columbia. That crisis is now even more severe, with the city of Washington, D.C., the Nation's Capital, leading all other cities in the number of homicides for 1969.

The concepts of three bills that I introduced last year are embodied in the bill presently before the House.

One bill, H.R. 6034, would have transferred some of the original jurisdiction of the U.S. District Court for the District of Columbia over lesser crimes to the Court of General Sessions in order to bring about more speedy trials in both courts.

The bill now before the House establishes an enlarged and unified court system composed of the newly-created Superior Court of the District of Columbia and an enlarged District of Columbia Court of Appeals, to give the city of Washington, D.C., both a trial and an appellate court comparable to those in the States, separate and apart from the U.S. District Court and the U.S. Court of Appeals for the District of Columbia Circuit.

Another bill, H.R. 4206, would have made mandatory, rather than permissive, the imposition of an additional penalty of 5 years imprisonment for the use of a deadly or dangerous weapon in the commission of a crime in the District of Columbia.

The bill before the House provides for a mandatory 3-year additional prison sentence for the use of a deadly or dangerous weapon. The second offender, under the present bill, would receive a minimum of 10 years and up to a maximum of life, depending upon the sentence of the crime committed, apart from the use of the deadly or dangerous weapon.

A third bill, H.R. 4205, which is incorporated in the bill now before the House, would have authorized an increase in funds for the District of Columbia Bail Agency in order that more personnel could be employed to permit that Agency to properly carry out its functions or presentence investigations and surveillance of those on bond awaiting trial.

The bill now before the House removes the present $130,000 ceiling on expenditures of the District of Columbia Bail Agency which has prevented the Agency from employing the necessary number of persons to carry out its functions. The bill also expands the functions of the agency and this, I believe, will make it more effective in working with the courts to bring about speedy trials and the proper supervision of defendants released on bond.

And finally, but certainly not least, I wish to commend the committee for its wisdom in proposing an amendment to the Bail Reform Act of 1966 to permit a Federal judge to consider the danger to the community which a defendant might pose when deciding whether to release that defendant on bond.

I had introduced legislation to give this discretion to our Federal judges in the 90th Congress and reintroduced the bill cn January 3, 1969, at the convening of the 91st Congress. I am convinced that by letting the Federal courts consider danger to the community, the incidence of crimes committed by persons on bail will be significantly reduced.

I urge the House to promptly adopt this legislation.

Mr. OTTINGER. Mr. Chairman, we are today dealing with legislation aimed at one of our most pervasive societal problems, the increase in crime which has become a major preoccupation of Americans everywhere. Since this measure, the District of Columbia Court Reform and Criminal Procedure Act of 1970, is the first major bill on crime to be brought before the House, it may well set the tone for further legislation on the subject in this session, and for that reason deserves the most careful attention to the provisions we finally vote upon today.

The accelerating crime rate is no myth, Mr. Chairman, and we have waited overlong for the opportunity to redirect Federal resources and legislation. It is clear that the incidence of crime is largely a symptom of the deep discontents, frustrations, and social dislocation so alarmingly a sign of our urbanized life. There are many measures we need to take to insure the freedom of our citizens to walk their streets without fear, but in so doing, we must be alert to the danger of overreacting and abrogating basic constitutional rights inhering to us all, in seeking remedies for crime.

The first and most important step is the improvement in the quality of the lives of Americans everywhere; in housing, employment, education, and equal justice under law. Nothing we will ever do can be sufficient in this direction, but I would hope that our real sense of urgency will be applied to the rooting out of social inequities which destroy hope and turn individuals away from participation in the ordered and affluent life of our Nation.

Until every person has access to dignified and rewarding employment, until every family has a decent home in a satisfying environment, until every child has the opportunity to an education that will guarantee him the fullest development of his talents, we will fall short of the better society we wish to create and be a part of. These are the first priorities.

In dealing more directly with the crime problem, we need first of all to place far greater emphasis on the rehabilitation of those convicted and punished for offenses, we must modernize and expand and enlighten our entire penal establishment, and we must spare no effort to see that the person released to enter society again does so with hope and with every chance and encouragement to become a productive, law-abiding citizen.

Second, we must expand our entire judicial system, at whatever the cost—more judges, more courtrooms, more administrative personnel, more legal counsel for indigents, more prosecutors, and more support staff to make justice swift and eliminate the shocking delays of a year and more in bringing accused persons to trial. These steps will act to the benefit not only of society at large but also to the innocent person accused of crime, and will remove any sense of impunity on the part of lawbreakers who by the long delays in coming to trial may be tempted to further criminal acts in the expectation of eventually being convicted and imprisoned in any event.

These then are the essentials: emphasis on rehabilitation, improvement of the quality of life in general, and speedier trials, none of which we can afford to ignore in the effort to cut the crime rate.

The bill before us, H.R. 16196, has many provisions aimed in these directions that deserve our full support. I refer to the restructuring of the local courts, the expansion of judicial facilities and judgeships, consolidation of the District of Columbia courts, and extension of the jurisdiction of the newly created superior court. The court reorganization section of title I shows promise in alleviating the tremendous case backlogs which have aggravated the problems of the District.

The juvenile code revision in part B of title I, however, contains onerous provisions which need to be stricken from the act. There is no denying the inferiority of the juvenile justice system in the Capital, but H.R. 16196 falls far short of the reforms needed and is actually regressive in many ways. Under this legislation any youth over 16 accused of burglary, mayhem, arson, kidnaping, and other crimes of violence would be automatically waived to adult court, and the juvenile court would have no discretion to retain jurisdiction, even in cases of first offenses. This strikes hard at the belief that the youthful offender is most redeemable and most amenable to rehabilitation, and could well have the alarming effect of turning young persons into unescapable criminal patterns at an early age. The bill also sets a standard of "preponderance of evidence" for a finding of guilt, and we need here to change this to the Senate version's more enlightened "beyond a reasonable doubt" standard.

Crime is accelerating among youth, and we need to address ourselves to this problem, but harsh measures and treatment of the young as adults can have no long-range effect to the benefit of the offender or to society at large.

It is title II, the criminal law revision, however, which contains the most onerous of the bill's regressive provisions and which must either be stricken or extensively overhauled. Its allowing for preventive detention of suspects up to 60 days on a judicial finding of probable guilt is not only unconstitutional in my view but will not alleviate the crime problem in any way. By doubling the work of criminal courts, we will increase rather than cut case backlogs, we will prejudice detained defendants when they eventually come to trial, and the detention of a person who is actually innocent of the charges against him can have the most deleterious effects on his life. It threatens him with loss of livelihood, breakup of family and increase in public assistance burdens, and exposes him to completely unjustified incarceration. By increasing caseloads we will merely extend trial delays and still have the charged individual free in society for the usual 10 to 12 month interim when his 60 days of detention are up. Furthermore, our overtaxed detention facilities simply cannot handle this increased population. This section must be stricken for its assault on basic liberties, on presumption of innocence, and for the simple fact that it solves no problem but compounds existing deficiencies. We cannot allow such police-state measures to become law in the attempt to find solutions to troublesome problems.

Offenses by persons released on bail comprise only some 6 percent of the total crime figure, and more than half of this percentage involves crimes committed more than 60 days after release in any event. Preventive detention advocates rest their case on the clairvoyance of judges as to who may or may not commit a crime while free on bail, and such unsupported powers cannot be allowed. The presumption of guilt has no place in our jurisprudence, and except in certain cases involving crimes by individuals on bail or probation, or where justice is impeded by threats to witnesses or jurors, we must jealously safeguard the rights of innocent persons so perilously endangered in these proposals.

The "no-knock searches" authorized under this title will give police license to enter any private residence at any time of day or night without announcing themselves and in many cases without warrants. The standards for such searches are so loosely drawn as to give law enforcement personnel almost total license, and unless we are prepared to surrender the inviolability of our homes and the basic right of all our citizens to privacy, we must strike these provisions as going against all our traditional liberties. Where the cure is worse than the disease, our course is clear.

The same applies to the wiretapping authorization for such a wide range of suspected criminal activity that a virtual carte blanche is given for the tapping of any phone. When the day arrives that no citizen will be secure in the privacy of his conversations, we shall have surrendered to fear and have created a climate intolerable to a free people. We need less wiretapping in these times, not more.

Another intolerable invasion of constitutional rights of the individual resides in the proposal for chemical, scientific, medical, or other personal identification tests when deemed reasonable without any definition of what is or is not reasonable. Police would arbitrarily be empowered to submit private citizens to such tests even without the suspicion of a crime. The police dragnets implicit here and the indignities that could be wreaked on any innocent person simply do not fit our way of life and must be stricken down without hesitation.

Finally, we must not approve provisions of mandatory sentences for certain classes of offenders, which would completely eliminate judicial discretion on a case-by-case basis—the foundation of our jurisprudence. Crimes of violence will never be decreased by harsher sentences, which may indeed have the opposite effect of encouraging the most dangerous reaction by a person committing a crime in the belief that he will be sentenced for life in any event and has nothing to lose by the most vicious behavior.

These are the basic changes we need to make. The eighth amendment's guarantees of due process are the cornerstones of all of our basic liberties, and if we allow indiscriminate incursions, we will be well on the way to a repressive totalitarian state. The freedom to walk the streets without fear will have been swallowed up by new fears, and we could well be paving the way to dissolution of our most precious freedoms in every area. Let us expand our courts, let us speed the trying of cases, let us reform our penal system and emphasize rehabilitation, let us work together to raise our standards of justice and opportunity in every way.

But let us not in panic undermine the liberties which we hold most dear and which identify our society as the best hope and example for the civilized world. Too much is at stake to allow the smallest breach in our enshrined and codified liberties. Justice is the indispensable element in a society seeking to preserve law and order, and we must never lose sight of the protection that due process provides for each of us as we seek to cope with our problems and enhance the quality of our daily lives.

XUM

Mr. WINN. Mr. Chairman, I rise to make a statement in general support of H.R. 16196, the District of Columbia omnibus crime bill, which has been before the House for consideration today.

As you will note from the charts appearing in House Report No. 91–907 accompanying H.R. 16196, and the charts that are displayed on the floor today, the number of serious offenses that have been reported in 1969 as compared to 1956 have increased over 400 percent. Of course, we do not need the charts to tell us this. I dare say that there is not a Member in this body who has not been touched by crime in this city, either through someone in his office, in his family, or a constituent visiting the District of Columbia. Directly or indirectly, I daresay each of you is included in the crime statistics of the city in the past couple of years or so, or you know someone intimately who was a crime victim.

Certainly President Nixon graphically exposed to the entire Nation, if it had not already been exposed via the press, radio and television, the crime situation in the District of Columbia when in his state of the Union message he indicated that no Member of either body would feel safe in walking to his home that afternoon after adjournment.

This omnibus crime bill is intended to change the crime situation in the District of Columbia and it aims to do so in a number of different ways. It reorganizes the courts so as to make them more responsive to the needs of the community and mete out swift justice to those who are committing crime; it increases the number of judges who will be sitting in a new general jurisdiction type court, the superior court, which will handle juvenile, family, tax, civil, and criminal matters; and it provides for appellate review from its own local District of Columbia Court of Appeals to the U.S. Supreme Court. It places the District of Columbia on a footing with the States in that the local, criminal, and civil jurisdiction cases will rest and be handled in a local court system.

Under the provisions of this bill, the juvenile court is merged into what will be known as the superior court. A family division of the superior court is established which will handle not only juvenile matters but also domestic relations cases and intrafamily offenses such as the assault cases between husbands and wives.

Turning to the more controversial provisions, one of the provisions of this bill would reduce the jurisdiction of the juvenile court over individuals from 18 to 16 years of age. In other words, if a juvenile is found to have committed a very serious offense such as homicide or rape, that case would be tried in the adult court rather than the juvenile court. The reason for this, of course, is that the innercity youth of today is much more sophisticated than his counterpart of many years ago and in many cases is a hardened criminal or a hard-core narcotics addict who is out robbing right and left to feed his narcotics habit. The number of serious crimes such as robbery and rape committed by individuals 16 and 17 years old in the District of Columbia is alarming. A glance at the House report accompanying this bill will bear this out. Something has to be done to curb this juvenile crime. That is the testimony of Chief of Police Wilson. The recommendation to lower the jurisdiction of the juvenile court from 18 to 16 years of age comes from no less an authority than Chief Judge Miller of the juvenile court.

Pretrial detention as it is provided for in this bill is also a controversial provision especially if we are to believe the local newspapers. As my good friend and colleague, ANCHER NELSEN, has indicated to you, the Attorney General and his associates in the Department of Justice have examined the contentions of the opponents to pretrial detention and they have decided, as ANCHER NELSEN has stated—the arguments are contained in the Virginia Law Review article available for you here on the desk—that the constitutional questions raised with respect to pretrial detention can and have been answered to the satisfaction not only of the Justice Department but the members of the District Committee as well. There are good features of the Bail Reform Act of 1966 in that people are released on bail not on the basis of their ability to pay in those instances where it is appropriate where they will not flee the jurisdiction and will appear for trial. However, there is a fatal flaw in the Bail Reform Act of 1966 in that it does not protect the community from those individuals who commit crime who if they were released out on the streets on their own recognizance would impair the safety of this city. What has been done in this bill should have been done 4 years ago. Those who do not constitute a danger to the community may, of course, be released on their own personal recognizance with supervision in those cases where it is needed to insure their presence at trial. However the dangerous criminal such as the hardcore narcotics addict who is going to go out and commit more crime to feed his habit must and should be detained for the safety of the community at least for some minimum time and hopefully up to the period that he will be tried.

Turning next to the question of wiretapping, the provisions in this bill relating to wiretap are in conformity with the authority granted by this Congress itself in the Safe Streets Act of 1968 for States and local authorities to enact local legislation permitting wiretapping in certain specified kinds of cases. The wiretap provisions in this bill were carefully drawn so as to stay within the standards set forth in the Safe Streets Act of 1968. Many other States have enacted their own local wiretap laws and this will give to the District of Columbia a wiretap law to combat local crime in those cases where it is needed. Electronic surveillance is an expensive business and it is judicially supervised. For these reasons I am not fearful that the wiretap provisions of this bill are going to be abused. Furthermore, I do not believe the courts, including the Supreme Court, would permit such abuse.

Turning next to the "no knock" provisions in this bill: historically various State courts and the Supreme Court of the United States over the years have authorized the police to break and enter a house under certain exigent circumstances without knocking in executing warrants. Generally speaking this "no knock" provision codifies the common law as recognized by the Supreme Court. The State of New York, a rather forward looking State when it comes to criminal legislation, has a statute similar to that which is proposed in this bill. The experience over the years since the State enacted its law on "no knock" has indicated that the law-enforcement officers and the courts have been very cautious in the application of these provisions. I am satisfied that the codification of the "no knock" authority permitting police to execute search and arrest warrants will be handled in the District of Columbia with integrity and commonsense.

In conclusion may I say that I strongly favor the passage of the District of Columbia omnibus crime bill. To use the words of President Nixon, the crime situation in the District of Columbia is nothing less than calamitous. From my own observations, the Chief of Police, the trial judges in the District of Columbia, the U.S. attorney for the District of Columbia, and certainly those—and there are many of us—who fear for our safety on the streets, share the President's opinion. The eyes of all your constituents and the Nation as a whole, and the people certainly in this community who look to this body for help, are turned to this chamber today to see what we are going to do. I strongly urge each and every one of you to vote favorably on this bill which contains the President's crime package.

Mr. TAFT. Mr. Chairman, a premise, if not a specifically enumerated right of our constitutional form of government, is that each citizen be permitted to live in a lawful society, free from the depredations of violence and crime of all sorts.

In no part of America is this entitlement less secure or further threatened than in the District of Columbia. Here, in an area of prime national governmental responsibility, the "right to law," as we might call it, is less protected and more violated than anywhere. Rather than being a model of what could be done everywhere, it has become a horrible example of what must be prevented. Belatedly, we in the Congress are now seeking again to do something about this.

The omnibus District of Columbia bill before us is by no means a complete or ideal vehicle in all respects. But it is a step in the right direction.

It will bring about court reform and eliminate some of the dreadful delay in processes of law here.

It will bring about bail reform by permitting courts to consider the public's right of safety as to defendants who are shown to be dangerous, while at the same time, assuring the defendant a fair judgment on the danger question.

It will provide stiffer penalties for repeated offenders.

It will encode the right to use wiretapping and electronic surveillance under proper protection of privacy as laid out by the Supreme Court in the Berger and other cases.

On the "no knock" provision, I have some reservations, but the drug problem here in the District and elsewhere merits taking some risks. If abuses occur, the Congress and the courts should act to correct them.

In the last 10 years, the number of serious crimes in the District have increased from about 10,000 per year to over 60,000 a year. This merits extraordinary remedies.

Mr. RYAN. Mr. Chairman, H.R. 16196, the District of Columbia Court Reform and Criminal Procedure Act of 1970, infringes upon civil liberties in a number of ways. Any proponent of this bill who contends that these infringements are justified by the necessity for law and order should heed the words of Mr. Justice Goldberg, writing for the majority in *Escobedo* v. *Illinois*, 378 U.S. 478 (1964), who said:

> If the exercise of constitutional rights will thwart the effectiveness of a system of law enforcement, then there is something very wrong with that system.

Ignoring the conditions causing crime—poverty, ignorance, discrimination, urban decay, and the despair and anger these engender—the report of the majority of the Committee on the District of Columbia concentrates on heavy-handed techniques to, so it purports, control and short circuit criminal acts.

No one who is at all aware of the news of the day can fail to appreciate the serious problems of criminality and violence which afflict our cities and suburbs, and even our rural areas. And no one can deny that crime, and its control and prevention, must be addressed aggressively and effectively. Of course, crime must be confronted—at both the level of its social causes and the level of its overt manifestations. But this confrontation cannot be allowed to result in a diminution or compromise of civil liberties.

While H.R. 16196 aims, among other things, at refashioning the criminal procedure applicable within the District of Columbia, I am convinced that its enactment in its present form will have ramifications reaching far beyond the District line. This legislation is a bellwether; failure to correct its invidious features will signal an assault on civil liberties throughout the country. With this perception in mind, I think we are constrained to examine most stringently every feature of this bill.

Several aspects of H.R. 16196 present severe incursions on civil liberties; some of these are almost certainly unconstitutional. These include the provisions dealing with preventive detention, "no knock" searches, mandatory sentencing, and the judicial treatment of juveniles.

Other aspects of the bill—such as that concerning wiretapping and electronic eavesdropping—are similarly of very serious concern.

The basic problem afflicting our system of criminal justice today is the enormous lag between arrest and trial. The sixth amendment to the Constitution requires, in no uncertain terms, that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." Yet today, clogged dockets make this requirement impossible to meet. We need only note the words of Justice Tom C. Clark, now Director of the Federal Judicial Center, in his testimony before the House Select Committee on Crime on September 18 of last year. Mr. Justice Clark observed in the prepared statement he offered at that time:

> The District of Columbia is a good example. The enlargement of the police effort through overtime, additional officers, and improved techniques together with the riot situation of 1968 produced more filings in the past years. In Fiscal Year 1968 criminal case filings in the District Court alone reached 1,756, while in 1969 they increased 5 percent, to 2,197 cases. The court system was not equipped to handle this increasing heavy load and as a consequence the cases have backed up until there are some 1,700 presently pending.

Reform of the court structure, addition of personnel, introduction of modern management techniques, increased reliance on computers, and infusion of money are the answers to this serious slowdown in the court machinery.

Preventive detention is only a subterfuge—it evades the real problems which allow those charged with crimes to be at liberty on parole or bail for months pending trial. It is no substitute for forthrightly and responsibly facing the situation and remedying it.

Moreover, preventive detention raises serious constitutional problems. The eighth amendment prohibits excessive bail. This prohibition, in effect, is rendered nugatory if, for some, eligibility for bail is entirely removed, as the concept of preventive detention provides.

Even more suspect as constitutionally offensive is preventive detention's serious conflict with the fifth amendment's guarantee of due process. The basic tenet of Anglo-Saxon law is that a man is presumed innocent until proven guilty beyond a reasonable doubt. Preventive detention reverses this principle so integral to our system of justice.

Moreover, the standard provided by the bill for determining whether a suspect should be detained is "substantial probability" that he committed the offense for which he has been arrested. Pretrial detention is based on a standard less stringent than the "beyond a reasonable doubt" standard applicable at his trial.

Finally, H.R. 16196 specifies that rules of evidence shall not apply. Thus, hearsay, illegally obtained information, and other ordinarily incompetent evidence could be introduced to support the pretrial, or preventive detention.

Constitutional defects are not the only charges to be leveled at the preventive detention encompassed within the District of Columbia Court Reform and Criminal Procedure Act of 1970. The language of the bill leaves very important terms undefined, and is written in broad strokes.

I want to make clear that rejection of the scheme for pretrial detention presented in this bill in no way forecloses adequate measures to insure that dangerous criminals are not left free to roam the streets. As the minority committee report details, the 1966 Bail Reform Act itself contains a selective detention mechanism. For example, urinalysis checks of drug addicts can be ordered; positive reactions can result in immediate incarceration.

Finally, as I have said, the real solution to the alleged problem of criminal suspects roaming free on bail pending trial is to adequately staff and modernize the courts so that speedy trials may be obtained.

I should at this time like to refer to the December 20, 1969, report of the Committees on Federal Legislation and on Civil Rights of the Association of the Bar of the City of New York, entitled "Proposed Federal Legislation on Preventive Detention—Supplemental Report on the Administration Bill." In this carefully considered and argued report, the committees concluded:

> We disapprove all present proposals for legislation authorizing preventive detention. These bills we believe to be unconstitutional because the procedures which they provide are lacking in due process. Even if these procedures should pass a constitutional minimum standard, they are unwise. They go too far, bypassing alternative methods of dealing with alleged problems, when these alternatives may not only be less drastic but better suited to deal more precisely with the problems. Nor are we persuaded that the underlying problems to which proponents point have been adequately demonstrated to exist nationally. Nevertheless, such subterfuges as have developed in practice are also undesirable, and we consider the present debate to be both healthy and constructive. From it we hope to see emerge specific

limited legislation to deal with such problems as shall be demonstrated.

H.R. 16196 also authorizes, in section 23–591, so-called no-knock searches. This section provides:

> (a) Any officer authorized by law to make arrests, or to execute search warrants, or any person aiding such an officer, may break and enter any premises, any outer or inner door or window of a dwelling house or other building, or any part thereof, any vehicle, or anything within such dwelling house, building, or vehicle, or otherwise enter to execute search or arrest warrants, to make an arrest where authorized by law without a warrant, or where necessary to liberate himself or a person aiding him in the execution of such warrant or in making such arrest.
>
> (b) * * *
>
> (c) An announcement of identity and purpose shall not be required prior to such breaking and entry if the warrant expressly authorizes entry without notice, or where such officer or person reasonably believes—
>
> (1) his identity or purpose is already known to any person in the premises;
>
> (2) such notice may result in the evidence subject to seizure being easily and quickly destroyed, disposed of, or concealed;
>
> (3) such notice may endanger the life or safety of the executing officer or another person;
>
> (4) such notice may enable the party to be arrested to escape; or
>
> (5) such notice would otherwise be a useless gesture.

Thus, no-knock entry may be specifically authorized by the search warrant, or, even if it is not, such entry is legalized when the police officer reasonably believes one of the five alternatives listed in subsection (c).

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No standards are provided to govern the circumstances under which a warrant may properly authorize the entry without notice. What is perhaps even worse, no-knock entry in those circumstances where the officer reasonably believes notice would otherwise be a useless gesture is, in effect, carte blanche for the arbitrary discretion of the overzealous policeman. For a suspect arrested pursuant to such an entry to prove that the officer did not reasonably believe notice of his presence outside would be a useless gesture, or that the officer did not have reasonable grounds to so believe, would be virtually impossible. Virtually any situation can be so colored as to justify a reasonable belief.

Finally, this unjustifiable assault on privacy is a wide-ranging one. No-knock searches may be utilized for every type of criminal activity, including misdemeanors.

Again, I want to stress that rejection of the no-knock provisions of H.R. 16196 does not deprive the police of the measures they need to combat crime—measures which I readily endorse when they are constitutional and do not infringe upon civil liberties. The existing common-law exceptions to the fourth amendment "announcement rule" are entirely sufficient to deal with those situations requiring no-knock entries.

The mandatory sentencing provisions contained in H.R. 16196 are also subject to severe criticism. A mandatory life sentence, with eligibility for parole only after 20 years, is provided for a third conviction of a "violent crime" by section 201 of the bill. Section 201 also enables an increase of up to 50 percent in the maximum statutory sentence for a second conviction of any criminal offense. A mandatory minimum sentence of 3 years is required by section 205 of the bill for first conviction of a violent crime committed with a weapon; and a 10-year minimum sentence is stipulated by the same section for a second similar conviction.

The stringency of these provisions is emphasized by the broad definition of "violent crime" embodied in section 201:

> (2) (A) For purposes of this subsection, the term "violent crime" means any violation of the laws of the United States (including laws applicable exclusively to the District of Columbia) or of a State or territory of the United States, which violation would constitute under the laws applicable exclusively to the District of Columbia any of the following crimes: Murder, manslaughter, rape, arson, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, robbery, housebreaking, indecent acts against children, assault with intent to kill, to commit rape, or to commit robbery, assault with a dangerous weapon, assault on a police or correctional officer, or assault with intent to commit any offense punishable by imprisonment for more than one year.

Thus, a man who has been convicted once of housebreaking, and once of robbery, will be sentenced to life imprisonment if he is again convicted of housebreaking. And he will not be eligible for parole for 20 years.

The eminent legal scholar Herbert Wechsler, professor of constitutional law at Columbia Law School, has said of that branch of our criminal law concerning sentencing:

> This is the law on which men place their ultimate reliance for protections against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, penal law governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to destroy. Nowhere in the entire legal field is more at stake for the community or for the individual.

Thus, any attempt such as is made by this bill to enact mandatory sentences must be examined most carefully.

One factor to note in such analysis is that there are a number of studies comparing reconviction rates following different methods of disposal of offenders which suggest that it makes very little difference for reconvictions as to what sentence the courts impose. Particularly apt in this regard is the observation made in "The Honest Politician's Guide to Crime Control," pages 118 and 119, by the distinguished Norval Morris, professor of law and criminology at the University of Chicago Law School, and Gordon Hawkins, senior lecturer in criminology at the University of Sydney:

> The similarity between the reconviction rates of offenders despite differences in their sentences is not really very surprising. "Treatment" in penal institutions generally consists of little more than variations in the conditions of custody, and probation rarely involves more than cursory supervision. It would be surprising if either proved a significant influence on conduct.

Thus, increasing sentences is likely to have little beneficial effect in deterring recidivism.

Again, I refer to Professors Morris and Hawkins, who discussed the relationship between confinement and deterrence on page 116 of their book:

> But although we know very little about the extent to which our past or present sanctions have achieved general deterrent effects, we do know that crime rates frequently vary quite independently of penal policy. Few people today believe that by devising deliberately punitive measures for the individuals incarcerated in prison we can achieve any very significant general preventive effect.

Virtually every respectable expert in the field opposes mandatory sentencing because, as the editorial in the Washington Post of March 10 points out, mandatory sentencing "deprives judges of a vital element of judgment." As the editorial continues:

> A judge who sees a defendant before him, hears his plea, studies the circumstances and the record of his life, is far better able than remote legislators to fix a sentence appropriate to the particular culprit and calculated to balance compassion and prospects for rehabilitation with public safety. The legislature ought to allow the judge flexibility. A provision such as that contained in the crime bill that a judge must sentence anyone convicted of a violent crime, if he was previously convicted for at least two violent crimes, to life imprisonment (with eligibility for parole only after twenty years) entails for a convict an extinguishing of all hope. The aim of a penal system must be to reform. It must, therefore, afford hope of reformation.

Mandatory sentencing such as is prescribed by H.R. 16196 is clearly regressive in philosophy, destructive of offering hope for reform of the criminal, and unlikely to really solve the problem of crime.

One last word on the issue of sentencing. Presumably, incarceration should lead to rehabilitation. It is here that our real efforts should be directed. Yet, the present facilities for helping people convicted of crime, and consequently imprisoned, are shockingly inadequate. There are more than 1,300,000 persons in the correctional system. This number excludes those awaiting trial; it includes those on probation, those in correctional institutions, and those on parole or similar aftercare. Yet, for these 1,300,000 people, only one in five of 125,000 persons employed in correctional work have treatment and rehabilitation as their primary functions.

And of these 25,000—that is, one-fifth of 125,000—there are only about 56 psychiatrists employed full time in the approximately 230 adult correctional institutions in this country. Of these 56, 18 are in the Federal prison service, while another large group is in the service of the California Adult Authority. And even these figures are misleading, since most of the efforts of these psychiatrists are directed at diagnosis and classification, not treatment.

Here is where the full weight of Federal influence and Federal moneys should be directed—at improving our correctional system so that there is a meaningful chance for convicted criminals to reform and to have a new chance. This effort, combined with a massive program aimed at reducing the social causes of crime—poverty, discrimination, ignorance, and urban blight, and the anger, cynicism, and despair these breed—is the real means by which to fight crime.

Finally, I want to make reference to the provisions of the District of Columbia Court Reform and Criminal Procedure Act of 1970 dealing with juveniles. The bill lowers the age at which a juvenile may be waived to adult court for trial of a serious crime from 16 to 15. This waiver can be initiated by the corporation counsel, and it is mandatory unless the juvenile court judge affirmatively finds reasonable prospects for the rehabilitation of the youth. As to certain crimes—including burglary, robbery, manslaughter, and assault with intent to commit any such offense—the juvenile court judge would have no discretionary power, and 16- or 17-year-old youths charged with such offenses would automatically be tried as adults.

In addition, the bill eliminates jury trials for juveniles and requires only a "preponderance of evidence" standard of proof in adjudication of delinquency and in persons-in-need-of-supervision cases. Moreover, there is provision for transfer of a child from a juvenile facility to an adult institution if it is only administratively established that he had committed irresponsible conduct in the juvenile facility.

Clearly the problem of crimes committed by juveniles—sometimes very serious crimes—is one which we must carefully examine and strenuously assault. But, the measures taken in this bill may well miss the mark. For one thing, I believe we should note the statement of Professors Morris and Hawkins on page 155 of their book.

> The majority of juvenile delinquents both convicted and unconvicted do not subsequently pursue criminal careers; only a minority become recidivists. The fact that in America, as in the rest of the world, only a minority of young criminals become persistent adult criminals indicates that for most young people it is a passing phase of development and not a static condition.

Certainly we cannot condone criminal acts by juveniles. Certainly Mr. Justice Fortas did not intend to do so when he wrote in the landmark decision of *Matter of Gault*, 387 U.S. 1 (1967): "Under our Constitution, the condition of being a boy does not justify a kangaroo court." But these statements clearly indicate and require—and properly so—that we deal with youths intelligently and with full regard for their rights. I do not believe that the provisions of H.R. 16196 adequately pass this muster.

My concentration on these four major problems in H.R. 16196—preventive detention; "no-knock" searches; mandatory sentencing; and juveniles' rights—is in no way intended as disregard for other serious flaws in this bill. Other provisions, as well, are highly offensive and seriously suspect. Certainly, this House can act more wisely and responsibly than to pass H.R. 16196 as it has been reported out of committee. And certainly, this House must finally recognize and act to eradicate the breeding grounds of crime and despair—the poverty, discrimination, poor educational facilities, urban decay, and lack of opportunity which are America's shame, and which underlie the violence and criminality afflicting this Nation.

Mr. GALLAGHER. Mr. Chairman, the problem of crime in the District of Columbia is an extremely serious one and it is obvious to every Member of this Chamber that new steps must be taken to guarantee the safety of the District's residents. It is impermissible for the Federal Government, which has jurisdiction over so much of what goes on in the District, to allow crime to continue at its present rate. The bill under discussion today represents a response to the quite legitimate fear of crime that grips so many of our citizens and that tends to paralyze the life in the great city of Washington.

But we must be very careful not to pass a bill which, instead of reducing that fear, actually engenders an atmosphere of greater fear. As valuable as much of this legislation is, I believe that certain provisions are so obnoxious to our traditions and our constitutional heritage as to reduce all people—criminals and law-abiding individuals—from free men to frightened men.

What we have implicit in much of this bill is what the Wall Street Journal recently called the politics of lost confidence. To kill crime in the District, we have created a mechanism, an overkill if you like, which represents a very real failure of nerve and an abdication of faith in ourselves and in our unique system of government.

Mr. Chairman, this is the omnibus crime bill, but I regard it as a very ominous bill as well. Certain sections give credence to the often heard but thus far, at least, unprovable statement that the District of Columbia is the last plantation. Instead of cooling the crime problem, I am very afraid that much of what we are asked to pass today will inflame passions and may, in a very real sense, increase the disorder we are trying to eliminate.

Let me begin by a brief discussion of the wiretapping provisions and the so-called no-knock right of officers to break into the sanctity of the home. In 1968, Sociologist Barry Schwartz presented remarks which are relevant to both of these sections and which we should keep in mind:

> Surveillance may itself create the disorder which it seeks to prevent . . . Where privacy is prohibited man can only imagine separateness as an act of stealth . . . (In a social structure) rules governing privacy, then, if accepted by all parties, constitute a common bond providing for periodic suspensions of interaction.

Mr. Chairman, poet Robert Frost put it much more simply: "Good fences make good neighbors."

I would not be so foolish as to contend that Washington is now, ever has been, or probably ever will be, a society in which every man is as responsible as the next, or where neighborliness is a way of life for everyone. There is too much crime in Washington and there are people who should be dealt with as harshly as the law permits.

But what Dr. Schwartz and Robert Frost were driving at, I believe, is that you cannot create a viable society by destroying what Justice Brandeis once described as the right most cherished by civilized men, the right to be let alone.

UNRESTRICTED WIRETAPPING

The wiretapping provisions of this bill go far beyond those which were approved by the Safe Streets Act and which I accept as the law of the land, though at that time I warned of the inadvisability of total surveillance in a step-by-step escalation. The bill we are asked to approve today contains no safeguards, prohibitions, civil remedies, requirements for regular reports on its operations, protection of innocent third parties, or adequate access of defendants to logs of intercept.

This provision is in reality a constitutional amendment, abolishing the fourth amendment to our Constitution in the District of Columbia. It would add another denial of rights to District residents which is even worse than their partial disenfranchisement: it would destroy almost all of their right to privacy.

NO-KNOCK PROVISION

And the rest of privacy would be destroyed by the no-knock provision. When the Senate passed a bill recently which contained a similar provision, the purpose was to find evidence of narcotics violations. The bill we are asked to approve today will authorize no-knock provisions for virtually every conceivable kind of crime with or without probable cause, including misdemeanors.

If we really want to prevent evidence from being destroyed I would far prefer to see us abolish indoor plumbing and to confiscate all the matches in the District of Columbia. Further, what we should do is to make it illegal for shades to be drawn, and, perhaps, require that all walls and doors be made of glass, though I say it facetiously, I am confident that a serious proposal along these lines will be made in an omnibus crime bill before we create the mistake of the decade.

We must recognize that, in a society where guns are so prevalent, it is not inconceivable that householders will shoot first and ask questions later. Further, one of the real problems of law enforcement today is the climate of suspicion between citizen and police. The mere knowledge that the cop on the beat may come bursting into your home in the dead of night cannot help but exacerbate that community tension.

What we are asked to do by these two provisions is to take the tap off the door and put it on the phone.

PREVENTIVE DETENTION

The fifth amendment to our Constitution guarantees due process; the eighth amendment guarantees reasonable bail; and the sixth amendment guarantees access to counsel. All of these sections of our most fundamental document are jeopardized by the provisions providing for a detention trial prior to the actual trial.

Other sections of this bill would

strengthen the criminal justice system by reorganizing the courts and thus lessen the unconscionable delay between crime and punishment. Indeed, the whole concept of justice is that a man knows he will be punished when he commits a crime; this concept is destroyed when he is brought to trial 2 years later.

But this additional trial—this detention trial—may well undo the valuable work other sections of the bill may accomplish.

The most repugnant part of this provision is to suspend another basic tradition of Anglo-Saxon jurisprudence: a man is innocent until proven guilty. I note that there is a real dispute about just how much crime is committed by people out on bail; I do not think we should impose preventive detention without more study and statistics upon which most people can agree.

OTHER PROVISIONS

There seems to be no real case made for the transfer of Lorton from the District of Columbia Department of Corrections to the U.S. Bureau of Prisons. I am informed that the proposal has not received the support of the President, the Department of Justice, the District of Columbia Bar Association, the Bureau of Prisons, or the District government. This seems a pretty solid lack of support for the transfer, and I do not believe the House should approve it.

Excluding from juvenile court 16-year-olds and waiving 15-year-olds to adult court for some crimes seems unduly harsh. I find little precedent for such a destruction of the juvenile court system and, while it may not be working at its maximum effectiveness in the District, it should be improved, not weakened.

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CONCLUSION

What we witness in much of this bill is what we see in other bills introduced as a means to deal with crime: the creation of the tools necessary to undermine personal freedom and democratic government. We are repeating the terrible mistakes made in the era of Joe McCarthy, but we are doing it in a far more dangerous manner this time.

For we are cloaking repressive provisions in legislation. We are aiding and abetting a thrust toward destroying the American political system. It is not important to question whether this is being done by a carefully preconceived plan or whether it is merely the unanticipated side effect. The point is that it is happening.

Fear of crime should not cause us to legislate fear, and the vital necessity for law and order in our society should not blind us to what our society is supposed to be.

I am reminded of the famous Herblock cartoon in the McCarthy era. It shows two legislators on the steps of the Capitol, and one says to the other: "Read it? Hell, I'm too busy defending the Constitution to bother reading it."

Mr. Chairman, the House today must not make a torch to the Bill of Rights and make ashes of human dignity. We must stop "the politics of lost confidence" and reassert faith in ourselves and in the unique American experience.

DISTRICT OF COLUMBIA CRIME BILL AVOIDS REAL PROBLEM

Mr. RARICK. Mr. Chairman, the extent of crime in the District of Columbia is appalling as all of us know. The responsibility for the enactment of laws to govern the District is ours, as the Constitution provides. The moment of truth is at hand.

The measure before us is not the measure which many of us would have drafted. There are provisions which beyond any doubt are drastic, and which should neither be provided nor utilized except in the face of a showing of their manifest necessity. The committee which has considered this measure has had the benefit of the advice of those government officers who must deal with its problems daily. It has also had the benefit of the advice of many groups and individuals outside of the government. On the basis of the information before it, it has reported to us this measure, a drastic measure to deal with a drastic problem.

In the period from 1958 through 1969 we have seen an increase in violent felonies as well as other felonies, in the District of Columbia which borders on the fantastic. Homicides rose from 79 to 289, an increase of 365 percent; rapes rose from 65 to 336, an increase of 517 percent; armed robberies escalated from 709 to an astounding 12,423, a rise of over 1,752 percent—and other crimes rose proportionately.

In dealing with the escalation and proliferation of crime in the Nation's Capital, drastic measures have been proposed. I certainly regret that the situation is so horrible that it has been necessary for honest and capable men to recommend such measures. But they have done so, and I will support their recommendations.

It is not only worthwhile, but important, to note the opponents of this measure and their battle cries. The opposition to the enforcement of law—to the apprehension of criminals—is heard from the very voices whose long and effective emasculation of the criminal laws of the Nation and of the States has freed the criminal monster which is now in the process of devouring our innocent people.

Those who cry loudest of the rights of the criminal—be they judge, lawyer, or sociologist—are the same ones who have so far succeeded in their deliberate destruction of our system of justice that they bear the most responsibility for the very evils which we must now correct. The neglect of the rights of decent citizens in an overly zealous drive to protect the rights of violent criminals is not the solution to our problem, it is the cause of the dilemma in which we find ourselves.

Those of us who will vote for this measure as a necessary evil to correct an impossible situation in Washington, must make it known at the same time that we will be ever alert to the administration of the law which we are enacting, and that we desire it to be effectively enforced—but in no wise abused. With this caveat, let the courts administer the new law we are about to enact.

Mr. HARRINGTON. Mr. Chairman, many of my colleagues have risen today to deal with this bill in detail. It is my intention to discuss the philosophy behind certain portions of the bill—a philosophy which appears to me to be misdirected.

We cannot ignore the growing fear of crime that is spreading throughout this country today. We must realize that we are dealing not only with crime itself but with an exaggerated and nearly hysterical emotional reaction to the threat of crime. In the large cities of this country, 43 percent of the people stay off the streets at night because of their fear of crime. We in Congress as well as all other levels of government are besieged with demands for action. These demands are justifiable and the situation we are facing today must be alleviated. To say this much is easy. To take the proper course of action is complex and difficult.

In the past 3 years three separate Presidential commissions have studied problems relating to crime. Such close and continuing scrutiny of a problem by Presidential commissions has never happened before in the history of this country. The problems have been outlined, the statistics have been compiled, the solutions have been suggested—everything is in readiness but nothing has happened. Today we have the opportunity to act on some of the recommendations of those commissions, recommendations incorporated in this bill. Today, we have the opportunity to make the District of Columbia a safer and better place in which to live. And what might we do. I am afraid that the Congress may enact legislation so restrictive and so repressive that the enlightened views of the eminent scholars and criminologists on those panels and the basic rights and freedoms of the citizens we are attempting to preserve, will be denied.

The National Commission on the Causes and Prevention of Violence—Eisenhower Commission—states:

> Necessary as measures of control are, they are only a part of the answer. They do not cure the basic causes of violence. Violence is like a fever in the body politic: it is but the symptom of some more basic pathology which must be cured before the fever will disappear.
>
> Indeed, if measures of control were this society's only response to violence, they would in the long run exacerbate the problem. The pyramiding of control measures could turn us into a repressive society where the peace is kept primarily through official coercion rather than through willing obedience to law. That kind of society where law is more feared than respected, where individual expression and movement are curtailed is violent too—and it nurtures within itself the seeds of its own violent destruction.

We cannot allow ourselves to lose sight of the recommendations of these commissions and what we know to be the only true and ultimate answer to the problem of crime. We should not become so entangled in the development of measures of control that we fail to eradicate the causes that make control necessary. Those causes are the ancient enemies of mankind: poverty, hunger, ignorance, prejudice, and the failure of our society to make life meaningful.

Bearing this in mind, I would like to turn my attention to some of the legal aspects of the bill under consideration today.

One core principle of justice is that a man has a right to be presumed innocent until proven guilty. On the other hand, man forms a society for the protection of the individual members. When there are certain members of a society who appear to present a clear and present danger to that society, these two fundamental concepts conflict.

On a national basis one-third of those who are released from prison will be reimprisoned within 5 years and over 40 percent of those who are released from prison are charged with the commission of another crime. The provisions of this bill take these factors into consideration and propose that the manner of dealing with individuals who have criminal records is preventive detention and mandatory life sentences for the third offense.

But there is a temporary solution to the problem—a solution which would hold such persons in prison for a maximum of 60 days before they are tried. While this solution may cure a symptom, it does not cure the disease which causes a man to become a criminal.

The factor which is ignored in these proposals is that less than 3 percent of all personnel working in local jails and institutions in this country devote their time to treatment and training. How can we categorize individuals as incurable criminals without having first attempted to cure them? The basic principle of modern criminology is rehabilitation rather than punishment.

I cite this particular provision of the bill under consideration today to demonstrate my concern that stopgap measures will be viewed as permanent solutions to our crime problem. They are not. I refer here and cite my opposition to the provisions in today's bill dealing with preventive detention, no-knock searches by police, wiretapping and electronic surveillance, transfer of Lorton Prison complex to the Department of Justice, and the change in juvenile court jurisdictions on the 15- to 18-year-olds.

I will vote for those provisions of the bill which make a constructive contribution to the problems of crime in the District of Columbia. But I will not vote for those measures which are insensitive to the fundamental human rights of our society. And at the same time, Mr. Chairman, it is pertinent to reinforce our commitment in this country to see to it that the causes of crime are eradicated by a change of society from within. We must avoid the too easy path of restrictions from without.

Therefore, Mr. Chairman, I must reluctantly cast my vote against this legislation should the above-mentioned sections be included in their present form. These provisions are so detrimental to the maintenance of a just society that they must not be enacted into law, even at the loss of some good reforms within the District of Columbia.

Mr. MIKVA. Mr. Chairman, I will vote against H.R. 16196. I do so reluctantly because I believe that the bill does some very necessary things. It provides a long overdue reorganization and expansion of the District of Columbia courts. It expands the District of Columbia's Public Defender Agency into the kind of full-fledged effort which befits one of the Nation's largest cities; and it expands the authority and functions of the District of Columbia Bail Agency to provide for increased supervision of and services to defendants released on bail prior to trial.

But despite the good things which H.R. 16196 does, it is so replete with provisions which are unwise as a matter of policy and unconstitutional as a matter of law that I cannot support the bill. Without attempting in every case to detail my objections on policy and constitutional grounds, I merely list the following weaknesses in the bill to demonstrate its overall unacceptability.

First. The bill lowers from 16 to 15 the age at which a juvenile may be waived to adult court for trial of certain crimes, and in cases where the U.S. attorney decides to charge a juvenile with a serious crime, transfer of jurisdiction from the Family Division is mandatory. This provision removes all discretion from the Family Division judge and requires in all cases, regardless of the mitigating circumstances in any individual case, that the juvenile be tried and sentenced as an adult. An amendment to delete this mandatory transfer of jurisdiction provision was offered on the floor, but was defeated.

Second. The bill provides harsh mandatory sentences for three-time convicted felons, and mandatory sentence to life imprisonment for a person thrice convicted of loosely defined "crimes of violence." This provision runs counter to the almost universal recommendations of penologists and sentencing experts, and ignores the adverse effect of such harsh sentences on a prosecutor's willingness to prosecute and a jury's willingness to convict. Time and time again it has been proven that Draconian mandatory sentences do not reduce crime. These measures will be no exception.

Third. The bill transfers control over three of five correctional facilities in the District of Columbia from the District government to the Federal Bureau of Prisons. No support for this transfer appears in the record of the committee's hearings; it was not requested by the administration; it was not supported by the Bureau of Prisons. The action appears to be a vindictive and unjustifiable attempt to punish the black Director of the District of Columbia's Department of Corrections and has suspicious racial overtones.

Fourth. The bill authorizes issuance and execution of "no-knock" warrants which carry the practice far beyond the existing common law exceptions to the announcement requirement and which will ultimately result in unannounced crashing into the homes of private citizens—even when no need for such intrusion exists. More than likely, it will also result in some dead policemen since statistics show that firearms are now present in about one-half of the 60 million households in the Nation.

Fifth. The bill authorizes wholesale wiretapping and bugging for a list of crimes which goes far beyond crimes normally engaged in by organized racketeers—supposedly the target of such activity.

Finally, the bill authorizes sweeping preventive detention. It applies this drastic departure from our traditional notions of due process to persons who have no criminal record merely on the basis of a judicial officer's prediction of his "dangerousness," a concept which is nowhere defined in the bill. Moreover, although the ostensible justification for preventive detention is to protect society from crimes committeed by defendants prior to trial, there is no provision in the bill for guaranteeing speedy trials of defendants held in preventive detention—or of any other defendants for that matter. The committee expresses the pious hope that court reorganization alone will achieve speedy trials, even though it has not done so in any other State or Federal jurisdiction.

Amendments were offered to correct these and other deficiencies in the committee version of the bill. Almost none of these amendments was accepted, and not one of the bill's most glaring faults was corrected. I myself offered an amendment to eliminate the most flagrantly unconstitutional aspects of preventive detention and to insure speedy trials. My proposal would have enjoined the District of Columbia courts to formulate plans to try criminal defendants within 120 days, or within 60 days in the case of crimes of violence, or to tell the Congress the reasons why it could not do so. The speedy trial plan would have required the courts to submit detailed recommendations for additional authorizations and appropriations for resources and manpower to meet the speedy trial time limits established. If speedy trials were a reality, radical solutions like preventive detention might well be unnecessary.

Violent street crime and our citizens' increasing fear of it are two of the most serious domestic problems facing this country in the 1970's. We in Congress must do everything we constitutionally can do to assist State and local jurisdictions—who in our system retain the primary responsibility for fighting crime. I have sponsored over a dozen bills on various aspects of the crime problem. I favor reorganization and expansion of the District of Columbia courts, expansion of the Public Defender Service, and expansion of the District of Columbia Bail Agency. But I do not believe that in our zeal to combat crime, we can ignore our oaths to support the Constitution of the United States. I do not believe that we should "con" the public into believing we are doing something useful, when we are not. We are not going to be successful in facing up to the desperate problems of crime in the street until we stop kidding ourselves and the public about its causes and cures. Especially when we legislate for the District of Columbia, whose citizens are unrepresented in the Congress which makes its laws, we must take care to see that the laws we enact meet the highest constitutional standards—and will carry us to a desired goal.

I have never knowingly voted for a bill

which I believed was unconstitutional and unwise. I will not do so today.

Mr. PEPPER. Mr. Chairman, I would like to take this opportunity to commend my colleagues on the Committee on the District of Columbia for their prodigious efforts in reporting out such a comprehensive crime bill for the District.

H.R. 16196 is a complex bill to deal with a complex problem. There is no question that something must be done about crime in the District, as well as in the rest of the Nation. My Select Committee on Crime held hearings in Washington just last month, and its citizens—teachers and housewives, businessmen, and cab drivers—all urged Congress to act to stem the crime rate in this city. Their message was echoed in the testimony we have heard in other cities we have visited—Boston, Omaha, Nebraska, San Francisco, Columbia, S.C., as well as my own city of Miami.

Drafting such a bill is a tremendously difficult task, and it is no adverse reflection on members of the District of Columbia Committee that not all Members, myself included, agree with all the bill's provisions.

Yet, despite the questions I may have about certain provisions, and the need we all must recognize to do many more things in the areas of youth crime, narcotics and dangerous drugs, modernization of correctional institutions and so forth, the D.C. Crime Bill is an honest and forthright attempt to use our legislative authority to improve law enforcement and criminal justice in the Nation's capital.

It is my hope that this legislation will mark the beginning of a continuing effort of the Congress constantly to improve and modernize our criminal laws and provisions for their enforcement.

Mr. McMILLAN. Mr. Chairman, I take this opportunity to thank all members of the committee for the time they have given during the past 6 months to this most important legislation. I wish to thank the members of the staff of the committee for the long hours they have worked. I especially want to thank Mr. Santarelli and Mr. Mitchell, the Attorney General, for the fine assistance they have given us during the past 5 months in preparing this legislation. I also wish to thank the President of the United States for the fact that he has given so much of his valuable time to this important legislation. He has given us the necessary backing we must have from our leader on this type of legislation.

I wish to thank the chief judge of the U.S. district court and Chief Judge Hood of the court of general sessions appeals for the District of Columbia, as well as Judge Green, chief judge of the court of general sessions. I also want to thank Mr. Meade and the members of the legislative drafting office for their invaluable assistance.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the bill by title.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Court Reform and Criminal Procedure Act of 1970".

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TITLE I—REORGANIZATION OF DISTRICT OF COLUMBIA COURTS

SHORT TITLE

SEC. 101. This title may be cited as the "District of Columbia Court Reorganization Act of 1970".

PART A—REVISION OF TITLE 11 OF THE DISTRICT OF COLUMBIA CODE

REVISION OF TITLE 11

SEC. 111. Title 11 of the District of Columbia Code is amended to read as follows:

"TITLE 11.—ORGANIZATION AND JURISDICTION OF THE COURTS

"Chap.	Sec.
"1. General Provisions	11–101
"3. United States Court of Appeals for the District of Columbia Circuit	11–301
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"Chapter 1.—GENERAL PROVISIONS

"Sec.
"11–101. Judicial power.
"11–102. Status of District of Columbia Court of Appeals.

"§ 11–101. Judicial power.

"The judicial power in the District of Columbia is vested in the following courts:

"(1) The following Federal courts established pursuant to article III of the Constitution:

"(A) The Supreme Court of the United States.

"(B) The United States Court of Appeals for the District of Columbia Circuit.

"(C) The United States District Court for the District of Columbia.

"(2) The following District of Columbia courts established pursuant to article I of the Constitution:

"(A) The District of Columbia Court of Appeals.

"(B) The Superior Court of the District of Columbia.

"§ 11–102. Status of District of Columbia Court of Appeals

"The highest court of the District of Columbia is the District of Columbia Court of Appeals. Final judgments and decrees of the District of Columbia Court of Appeals are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28 of the United States Code.

"Chapter 3.—UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

"Sec.
"11–301. Jurisdiction of appeals from the District of Columbia Court of Appeals.

"§ 11–301. Jurisdiction of appeals from the District of Columbia Court of Appeals

"In addition to its jurisdiction as a United States court of appeals and any other jurisdiction conferred on it by law, the United States Court of Appeals for the District of Columbia Circuit has jurisdiction of appeals from judgments of the District of Columbia Court of Appeals—

"(1) with respect to violations of criminal laws of the United States which are not applicable exclusively to the District of Columbia if a petition for the allowance of an appeal from that judgment is filed within ten days after its entry; or

"(2) entered before the effective date of the District of Columbia Court Reorganization Act of 1970 in any other case if a petition for the allowance of an appeal from that judgment is filed within ten days after its entry.

"Chapter 5.—UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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"11–501. Civil jurisdiction.
"11–502. Criminal jurisdiction.
"11–503. Removal of cases from the Superior Court of the District of Columbia.

"SUBCHAPTER II.—AUDITOR

"11–521. Appointment of auditor.

"SUBCHAPTER I.—JURISDICTION

"§ 11–501. Civil jurisdiction

"In addition to its jurisdiction as a United States district court and any other jurisdiction conferred on it by law, the United States District Court for the District of Columbia has jurisdiction of the following:

"(1) Any civil action or other matter begun in the court before the effective date of the District of Columbia Court Reorganization Act of 1970 other than any matter over which the Superior Court of the District of Columbia takes jurisdiction under section 11–921 (a)(4)(B).

"(2) Any civil action begun in the court during the eighteen-month period beginning on such effective date under—

"(A) chapter 3 of title 21 (relating to gifts to minors);

"(B) chapter 5 of title 21 (relating to hospitalization of the mentally ill);

"(C) chapter 7 of title 21 (relating to property of the mentally ill);

"(D) chapter 11 of title 21 (relating to commitment and maintenance of mentally retarded persons);

"(E) chapter 13 of title 21 (relating to appointment of committees for alcoholics and addicts);

"(F) chapter 15 of title 21 (relating to appointment of conservators); or

"(G) chapter 29 of title 16 (relating to partition of property and assignment of dower).

"(3) Any civil action or other matter filed in the court during the eighteen-month period beginning on such effective date—

"(A) which would have been within the jurisdiction of the Orphans Court of Washington County, District of Columbia, before June 21, 1870;

"(B) relating to the execution or validity of wills devising real property within the District of Columbia, and of wills and testaments properly presented for probate in the United States District Court for the District of Columbia, and the admission to probate and recording of those wills;

"(C) relating to the proof of wills of either personal or real property and the revocation of probate of wills for cause;

"(D) involving the granting and revocation for cause of letters testamentary, letters of administration, letters ad colligendum and letters of guardianship, and the appointment of successors to persons whose letters have been revoked;

"(E) involving the hearing, examination, and issuance of decrees upon accounts, claims, and demands existing between executors or administrators and legatees or persons entitled to a distributive share of an interstate estate, or between wards and their guardians;

"(F) involving the enforcement of the rendition of inventories and accounts by executors, administrators, collectors, guardians, and trustees required to account to the court;

"(G) involving the enforcement of distribution of estates by executors and administrators and the payment or delivery by guardians of money or property belonging to their wards; or

"(H) otherwise within the probate jurisdiction of the court on the day before such effective date.

"(4) Any civil action (other than a matter over which the Superior Court of the District of Columbia has jurisdiction under paragraph (3) or (4) of section 11–921 (a)) begun in the court during the thirty-month period beginning on such effective date wherein the amount in controversy exceeds $50,000.

§ 11–502. Criminal jurisdiction

"In addition to its jurisdiction as a United States district court or any other jurisdiction conferred on it by law, the United States District Court for the District of Columbia has original jurisdiction of the following:

"(1) Any criminal case begun in the court by the return of an indictment or the filing of an information before the effective date of the District of Columbia Court Reorganization Act of 1970.

"(2) Any criminal case which is begun in the court by the return of an indictment or the filing of an information during the eighteen-month period beginning on such effective date and which—

"(A) involves a violation of any one of the following sections of the Act entitled 'An Act to establish a code of law for the District of Columbia', approved March 3, 1901:

"(i) section 809 (D.C. Code, sec. 22–201) (relating to abortion),

"(ii) section 803 (D.C. Code, sec. 22–501) (relating to assault with intent to kill, rob, rape, or poison),

"(iii) section 823(a) (D.C. Code, sec. 22–1801(a)) (relating to burglary in the first degree),

"(iv) section 812 (D.C. Code, sec. 22–2101) (relating to kidnaping),

"(v) sections 798 through 802 (D.C. Code, secs. 22–2401 through 22–2405) (relating to murder and manslaughter),

"(vi) section 808 (D.C. Code, sec. 22–2801) (relating to rape),

"(vii) section 810 (D.C. Code, sec. 22–2901) (relating to robbery); or

"(B) involves any other offense under any law applicable exclusively to the District of Columbia which offense is joined in such information or indictment with any of the offenses listed in subparagraph (A).

"(3) Any offense under any law applicable exclusively to the District of Columbia which offense is joined in the same information or indictment with any Federal offense.

"§ 11–503. Removal of cases from the Superior Court of the District of Columbia

"A civil action or criminal prosecution in the Superior Court of the District of Columbia is removable to the United States District Court for the District of Columbia in accordance with chapter 89 of title 28, United States Code.

"SUBCHAPTER II.—AUDITOR

"§ 11–521. Appointment of auditor

"For so long as the business of the court may require, the United States District Court for the District of Columbia may appoint an auditor for the court.

"CHAPTER 7.—DISTRICT OF COLUMBIA COURT OF APPEALS

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"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"§ 11–701. Continuation of court; court of record; seal

"(a) The District of Columbia Court of Appeals (hereafter in this subchapter referred to as the 'court') shall continue as a court of record in the District of Columbia.

"(b) The court shall have a seal.

"§ 11–702. Composition

"The court shall consist of a chief judge and eight associate judges.

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"§ 11-703. Judges; service; compensation

"(a) The chief judge and the judges of the court shall serve in accordance with chapter 15 of this title.

"(b) Judges of the court shall be compensated at the rate of $36,000 per annum. The chief judge, during his service in that position, shall receive an additional $500 per annum.

"§ 11-704. Oath of judges

"Each judge, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11-705. Assignment of judges; divisions; hearings

"(a) Judges of the court shall sit on the court and its divisions in such order and at such times as the chief judge directs.

"(b) Cases and controversies shall be heard and determined by divisions of the court unless a hearing or rehearing before the court in banc is ordered. Each division of the court shall consist of three judges.

"(c) A hearing before the court in banc may be ordered by a majority of the judges of the court in regular active service. The court in banc for a hearing shall consist of the judges of the court in regular active service.

"(d) A rehearing before the court in banc may be ordered by a majority of the judges of the court in regular active service. The court in banc for a rehearing shall consist of the judges of the court in regular active service, except that a retired judge may sit as a judge of the court in banc in the rehearing of a case or controversy if he sat on the court or a division of the court at the original hearing thereof.

"§ 11-706. Absence, disability, or disqualification of judges; vacancies; quorum

"(a) When the chief judge of the court is absent or disabled, his duties shall devolve upon and be performed by such associate judge as the chief judge may designate in writing. In the event that the chief judge is (1) disqualified or suspended, or (2) unable or fails to make such a designation, his duties shall devolve upon and be performed by the associate judge of the court next in seniority according to the date of his original commission.

"(b) A chief judge whose term as chief judge has expired shall continue to serve until redesignated or until his successor has been designated. When there is a vacancy in the position of chief judge, the position shall be filled temporarily as provided in subsection (a).

"(c) Two judges shall constitute a quorum of a division of the court, and six judges shall constitute a quorum of the court sitting in banc.

"§ 11-707. Assignment of judges to and from Superior Court

"(a) The chief judge of the District of Columbia Court of Appeals may designate and assign temporarily one or more judges of the Superior Court of the District of Columbia to sit upon the District of Columbia Court of Appeals or a division thereof whenever the business of the District of Columbia Court of Appeals so requires. Such designations or assignments shall be in conformity with the rules or orders of the District of Columbia Court of Appeals.

"(b) Upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia, the chief judge of the District of Columbia Court of Appeals may designate and assign temporarily one or more judges of the District of Columbia Court of Appeals to serve as a judge of the Superior Court of the District of Columbia.

"§ 11-708. Clerks and secretaries for judges

"Each judge may appoint and remove a personal law clerk and a personal secretary.

"§ 11-709. Reports

"Each judge shall submit to the chief judge such reports and data as the chief judge may request.

"SUBCHAPTER II.—JURISDICTION

"§ 11-721. Orders and judgments of the Superior Court

"(a) The District of Columbia Court of Appeals has jurisdiction of appeals from—

"(1) all final orders and judgments of the Superior Court of the District of Columbia;

"(2) interlocutory orders of the Superior Court of the District of Columbia—

"(A) granting, continuing, modifying, refusing, or dissolving or refusing to dissolve or modify injunctions;

"(B) appointing receivers, guardians, or conservators or refusing to wind up receiverships, guardianships, or the administration of conservators or to take steps to accomplish the purposes thereof; or

"(C) changing or affecting the possession of property; and

"(3) orders or rulings of the Superior Court of the District of Columbia appealed by the United States or the District of Columbia pursuant to section 23-104 or 23-111 (d) (2).

"(b) Except as provided in subsection (c) of this section, a party aggrieved by an order or judgment specified in subsection (a) of this section, may appeal therefrom as of right to the District of Columbia Court of Appeals.

"(c) Review of judgments of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia and of judgments in the Criminal Division of that court where the penalty imposed is a fine of less than $50 for an offense punishable by imprisonment for one year or less, or by fine of not more than $1,000, or both, shall be by application for the allowance of an appeal, filed in the District of Columbia Court of Appeals.

"(d) When a judge of the Superior Court of the District of Columbia, in making in a civil or criminal case a ruling or order not otherwise appealable under this section, shall be of the opinion that the ruling or order involves a controlling question of law as to which there is substantial ground for a difference of opinion and that an immediate appeal from the ruling or order may materially advance the ultimate termination of the litigation or case, he shall so state in writing in the ruling or order. The District of Columbia Court of Appeals may thereupon, in its discretion, permit an appeal to be taken from that ruling or order, if application is made to it within ten days after the issuance or entry of the ruling or order. An application for an appeal under this subsection shall not stay proceedings in the Superior Court of the District of Columbia unless that court or a judge of the District of Columbia Court of Appeals shall so order.

"(e) On the hearing of any appeal in any case, the District of Columbia Court of Appeals shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

"§ 11-722 Administrative orders and decisions

"The District of Columbia Court of Appeals has jurisdiction to review orders and decisions of the Commissioner of the District of Columbia, the District of Columbia Council, and any agency (including the District of Columbia Redevelopment Land Agency, the Board of Zoning Adjustment of the District of Columbia, the Zoning Commission of the District of Columbia, and the Public Service Commission of the District of Columbia) in accordance with the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501—1-1510, or in the case of orders and decisions of the Public Service Commission of the District of Columbia under section 8 of the Act of March 4, 1913 (D.C. Code, title 43), in accordance with that section.

"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

"§ 11-741. Contempt powers

"In addition to the powers conferred by section 402 of title 18, United States Code, the District of Columbia Court of Appeals, or a judge thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§ 11-742. Oaths, affirmations, and acknowledgments

"Each judge of the District of Columbia Court of Appeals and each employee of the court authorized by the chief judge may administer oaths and affirmations and take acknowledgments.

"§ 11-743. Rules of court

"The District of Columbia Court of Appeals shall conduct its business according to the Federal Rules of Appellate Procedure unless the court prescribes or adopts modifications of those rules.

"CHAPTER 9—SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

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"SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

"§ 11-901. Continuation of courts; court of record; seal

"The District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court are consolidated in a single court to be known as the Superior Court of the District of Columbia (hereafter in this title referred to as the 'Superior Court'). The Superior Court shall be a court of record in the District of Columbia and shall have a single seal.

"§ 11-902. Organization of the court

"The Superior Court shall consist of the following divisions: Criminal Division, Civil Division, Family Division, Tax Division, and Probate Division. The divisions of the Superior Court may be divided into such branches as the Superior Court may by rule prescribe.

"§ 11-903. Composition

"(a) On the effective date of the District of Columbia Court Reorganization Act of 1970 the Superior Court shall consist of a chief judge and thirty-six associate judges.

"(b) Eighteen months after such effective date, three additional associate judges shall be appointed to the Superior Court.

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"§ 11-904. Judges; service; compensation

"(a) The chief judge and the judges of the Superior Court shall serve as provided in chapter 15 of this title.

"(b) Judges of the Superior Court shall be compensated at the rate of $34,000 per annum. The chief judge, during his service in that position, shall receive an additional $500 per annum.

"§ 11-905. Oath of judges

"Each judge of the Superior Court, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11-906. Administration by chief judge; discharge of duties

"(a) The chief judge shall administer and superintend the business of the Superior Court, as provided in chapter 17 of this title. He shall give his attention to the discharge of the duties especially pertaining to his office and to the performance of such additional judicial work as he is able to perform.

"(h) He shall, insofar as is consistent with this title, arrange and divide the business of the Superior Court and fix the time of sessions of the various divisions and branches of the Superior Court.

"§ 11-907. Absence, disability, or disqualification of chief judge

"(a) When the chief judge of the court is absent or disabled, his duties shall devolve upon and be performed by such associate judge as the chief judge may designate in writing. In the event that the chief judge is (1) disqualified or suspended, or (2) unable or fails to make such a designation, his duties shall devolve upon and be performed by the associate judge of the court next in seniority according to the date of his original commission.

"(b) A chief judge whose term as chief judge has expired shall continue to serve until redesignated or until his successor has been designated. When there is a vacancy in the position of chief judge, the position shall be filled temporarily as provided in subsection (a).

"§ 11-908. Designation and assignment of judges

"(a) The chief judge may designate the number of judges to serve in any division and branch of the Superior Court and may assign and reassign each judge to sit in any division and branch. When making assignments to the Family Division and Tax Division, the chief judge shall consider the qualifications and interest of the judges. Each associate judge shall attend and serve in the division and branch to which he is assigned.

"(b) When the business of the Superior Court requires, the chief judge may certify to the chief judge of the District of Columbia Court of Appeals the need for temporary assignment of an additional judge or judges as provided in section 11-707.

"§ 11-909. Meetings and reports

"(a) The judges of the Superior Court shall meet together at such times as may be specified in the rules of the Superior Court, and at the call of the chief judge, to consider matters relating to the business and operations of the Superior Court.

"(b) Each associate judge shall submit to the chief judge such reports and data as the chief judge may request.

"§ 11-910. Clerks and secretaries for judges

"Each judge of the Superior Court may appoint and remove a personal law clerk and a personal secretary.

"SUBCHAPTER II.—JURISDICTION

"§ 11-921. Civil jurisdiction

"(a) Except as provided in subsection (b), the Superior Court shall have jurisdiction of any civil action or other matter (at law or in equity) brought in the District of Columbia. Such jurisdiction shall vest in the court as follows:

"(1) Beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, the court shall have jurisdiction of any civil action or other matter begun before such effective date in the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the District of Columbia Tax Court.

"(2) Beginning on such effective date, the court shall have jurisdiction of any civil action or other matter, at law or in equity (other than a matter over which the United States District Court for the District of Columbia has jurisdiction under paragraph (1), (2), or (3) of section 11-501), which is begun in the Superior Court on or after such effective date and in which the amount in controvery does not exceed $50,000.

"(3) Beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, which is begun in the court on or after such effective date and which—

"(A) is brought under—

"(i) subchapter I of chaper 11 of title 16 (relating to ejectment);

"(ii) subchapter II or III of chapter 13 of title 16 (relating to the condemnation of land on behalf of the District of Columbia);

"(iii) chapter 19 of title 16 (relating to writs of habeas corpus directed to persons other than Federal officers and employees);

"(iv) chapter 25 of title 16 (relating to change of name);

"(v) chapter 33 of title 16 (relating to quieting title to real property);

"(vi) subchapter II of chapter 35 of title 16 (relating to writ of quo warranto);

"(vii) chapter 37 of title 16 (relating to replevin of personal property);

"(viii) the Hospital Treatment for Drug Addicts Act for the District of Columbia (D.C. Code, secs. 24-601 through 24-611) (relating to commitment of narcotics users); or

"(ix) section 2 of the Act of August 3, 1968 (D.C. Code, sec. 1-804(b)) (relating to contractors bonds);

"(B) involves an appeal from or petition for review of any assessment of tax (or civil penalty thereon) made by the District of Columbia;

"(C) is brought under chapter 23 of title 16; or

"(D) is based upon personal injury or property damage (or both) if all the parties to such action are residents of the District of Columbia and the conduct giving rise to the action occurred in the District of Columbia.

"(4) Immediately following the expiration of the eighteen-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy)—

"(A) of any matter (at law or in equity)—

"(i) which would have been within the jurisdiction of the Orphans Court of Washington County, District of Columbia, before June 21, 1870;

"(ii) relating to the execution or validity of wills devising real property within the District of Columbia, and of wills and testaments properly presented for probate in the court, and the admission to probate and recording of those wills;

"(iii) relating to the proof of wills of either personal or real property and the revocation of probate of wills for cause;

"(iv) involving the granting and revocation for cause of letters testamentary, letters of administration, letters ad colligendum and letters of guardianship, and the appointment of successors to persons whose letters have been revoked;

"(v) involving the hearing, examination, and issuance of decrees upon accounts, claims, and demands existing between executors or administrators and legatees or persons entitled to a distributive share of an interstate estate, or between wards and their guardians;

"(vi) involving the enforcement of the rendition of inventories and accounts by executors, administrators, collectors, guardians, and trustees required to account to the court;

"(vii) involving the enforcement of distribution of estates by executors and administrators and the payment or delivery by guardians of money or property belonging to their wards; or

"(viii) otherwise within the probate jurisdiction of the United States District Court for the District of Columbia on the day before such effective date; and

"(B) any matter (at law or in equity) described in subparagraph (A) which was begun in the United States District Court for the District of Columbia.

"(5) Immediately following the expiration of the eighteen-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, brought under—

"(A) chapter 3 of title 21 (relating to gifts to minors);

"(B) chapter 5 of title 21 (relating to hospitalization of the mentally ill);

"(C) chapter 7 of title 21 (relating to property of the mentally ill);

"(D) chapter 11 of title 21 (relating to commitment and maintenance of mentally retarded persons);

"(E) chapter 13 of title 21 (relating to appointment of committee for alcoholics and addicts);

"(F) chapter 15 of title 21 (relating to appointment of conservators); or

"(G) chapter 29 of title 16 (relating to partition of property and assignment of dower).

"(6) Immediately following the expiration of the thirty-month period beginning on such effective date, the court shall have jurisdiction (regardless of the amount in controversy) of any civil action or other matter, at law or in equity, brought in the District of Columbia.

"(b) The Superior Court shall not have jurisdiction over any civil action or other matter (1) over which exclusive jurisdiction is vested in a Federal court in the District of Columbia, or (2) over which jurisdiction is vested in the United States District Court for the District of Columbia under section 11-501 (relating to civil actions or other matters begun in such court before the expiration of the thirty-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970).

"(c) For purposes of subsection (a) (3) (D) and section 11-922(b) (1) (B) the term 'resident of the District of Columbia' shall not include (1) any elective officer of the Government of the United States, (2) any employee on the staff of an elected officer if such employee is a bona fide domiciliary of the State of residence of such elected officer, (3) any officer of the executive branch of the Government whose appointment to the office held by him was by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President if such officer is a bona fide domiciliary of a State of the United States, or (4) any officer of a foreign government or any employee of a foreign government or international organization or association if such person is a bona fide domiciliary of a foreign country.

"§ 11-922. Transfer of civil actions to Superior Court

"(a) In a civil action begun in the United States District Court for the District of Columbia before the effective date of the District of Columbia Court Reorganization Act of 1970 (other than an action for equitable relief), where it appears to the satisfaction of the court at or subsequent to any pretrial hearing but before trial thereof that the action will not justify a judgment in excess of $10,000 and does not otherwise invoke the jurisdiction of the court, the court may certify the action to the Superior Court for trial.

"(b) In a civil action begun in the United States District Court for the District of Columbia during the thirty-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, the court may certify the action to the Superior Court if it appears to the satisfaction of the United States District Court at or subsequent to any pretrial hearing, but before the trial thereof, that—

"(1) the action—

"(A) will not justify a judgment in excess of $50,000; or

"(B) is based upon personal injury or property damage (or both), all parties thereto are residents of the District of Columbia, and the conduct on which the action is based occurred in the District of Columbia; and

"(2) the action does not otherwise invoke the jurisdiction of the court.

"(c) When an action is transferred under this section, the pleadings in the action, together with a copy of the docket entries and copies of any orders entered therein, and the deposit for costs, shall be sent to the Superior Court. The Superior Court shall thereafter treat the case as though it had been filed originally in that court, except that the jurisdiction of the court shall extend to the amount claimed in the action even though it exceeds the applicable jurisdictional limitation.

"§ 11-923. Criminal jurisdiction; commitment

"(a) The Superior Court has jurisdiction over all criminal cases pending in the District of Columbia Court of General Sessions before the effective date of the District of Columbia Court Reorganization Act of 1970.

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"(b)(1) Except as provided in paragraph (2), the Superior Court has jurisdiction of any criminal case under any law applicable exclusively to the District of Columbia.

"(2) The Superior Court shall not have jurisdiction of any criminal case under any law applicable exclusively to the District of Columbia begun in the United States District Court for the District of Columbia under section 11-502(2) by the return of an indictment or the filing of an information during the eighteen-month period beginning on such effective date.

"(c)(1) With respect to any criminal case over which the Superior Court has jurisdiction, that court may make preliminary examinations and commit offenders, either for trial or for further examination, and may release or detain offenders in accordance with chapter 13 of title 23.

"(2) With respect to any criminal case over which the United States District Court for the District of Columbia has jurisdiction, the Superior Court (A) may make preliminary examinations and commit offenders, either for trial or for further examination, but only during the eighteen-month period beginning on the effective date of the District of Columbia Court Reorganization Act of 1970, and (B) may release or detain offenders in accordance with chapter 13 of title 23.

"SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

"§ 11-941. Issuance of warrants; record

"Judges of the Superior Court may, at any time, including Sundays and legal holidays, on complaint or application under oath or actual view, issue warrants for arrest, search or seizure, or electronic surveillance in connection with crimes and offenses committed within the District of Columbia, or for administrative inspections in connection with laws relating to the public health, safety, and welfare. Each proceeding respecting a warrant shall be recorded as prescribed by the court. Warrants shall be issued free of charge.

"§ 11-942. Subpenas

"(a) The Superior Court may compel the attendance of witnesses by attachment. At the request of any party, subpenas for attendance at a hearing or trial in the Superior Court shall be issued by the clerk of the court. A subpena may be served at any place within the District of Columbia, or at any place without the District of Columbia that is within twenty-five miles of the place of the hearing or trial specified in the subpena. The form, issuance, and manner of service of the subpena shall be as prescribed by rule of the court.

"(b) A subpena in a criminal case in which a felony is charged may be served at any place within the United States upon order of a judge of the court .

"§ 11-943. Process

"(a) All process other than a subpena may be served at any place within the District of Columbia, and, when authorized by statute, by the Federal Rules of Civil Procedure, or by the Federal Rules of Criminal Procedure, at any place without the District of Columbia.

"(b) Service upon a third-party defendant, upon a person whose joinder is needed for just adjudication, and upon persons required to respond to any order of commitment for civil contempt may be served at all places outside the District of Columbia that are not more than one hundred miles from the place of hearing or trial specified.

"(c) The form, issuance, and manner of service of process shall be as prescribed by rule of the court.

"§ 11-944. Contempt power

"In addition to the powers conferred by section 402 of title 18, United States Code, the Superior Court, or a judge thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§11-945. Oaths, affirmations, and acknowledgments

"Each judge and each employee of the Superior Court authorized by the chief judge may administer oaths and affirmations and take acknowledgments.

"§ 11-946. Rules of court

"The Superior Court shall conduct its business according to the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure (except as otherwise provided in title 23) unless it prescribes or adopts modifications of those Rules. Modifications of the Federal Rules shall be submitted for the approval of the District of Columbia Court of Appeals, and they shall not take effect until approved by that court. The Superior Court may adopt and enforce other rules as it may deem necessary without the approval of the District of Columbia Court of Appeals if such rules do not modify the Federal Rules.

"Chapter 11.—FAMILY DIVISION OF THE SUPERIOR COURT

"Sec.

"11-1101. Exclusive jurisdiction.

"§ 11-1101. Exclusive jurisdiction

"The Family Division of the Superior Court shall be assigned exclusive jurisdiction of—

"(1) actions for divorce from the bond of marriage and legal separation from bed and board, including proceedings incidental thereto for alimony, pendente lite and permanent, and for support and custody of minor children;

"(2) applications for revocation of divorce from bed and board;

"(3) actions to enforce support of any person as required by law;

"(4) actions seeking custody of minor children,including petitions for writs of habeas corpus;

"(5) actions to declare marriages void;

"(6) actions to declare marriages valid;

"(7) actions for annulments of marriage;

"(8) determinations and adjudications of property rights, both real and personal, in any action referred to in this subsection, irrespective of any jurisdictional limitation imposed on the Superior Court;

"(9) proceedings in adoption;

"(10) proceedings under the Act of July 10, 1957 (D.C. Code, secs. 30-301 to 30-324);

"(11) proceedings to determine paternity of any child born out of wedlock;

"(12) civil proceedings for protection involving intrafamily offenses, instituted pursuant to chapter 10 of title 16;

"(13) proceedings in which a child, as defined in section 16-2301, is alleged to be delinquent, neglected, or in need of supervision;

"(14) proceedings under chapter 5 of title 21 relating to the commitment of the mentally ill; and

"(15) proceedings under chapter 11 of title 21 relating to the commitment of the mentally retarded.

"Chapter 12.—TAX DIVISION OF THE SUPERIOR COURT

"Sec.

"11-1201. Exclusive jurisdiction.

"11-1202. Abolition of other remedies.

"11-1203. Rules and regulations.

"§ 11-1201. Exclusive jurisdiction

"The Tax Division of the Superior Court shall be assigned exclusive jurisdiction of—

"(1) all appeals from and petitions for review of assessments of tax and civil penalties thereon made by the District of Columbia; and

"(2) all proceedings brought by the District of Columbia for the imposition of criminal penalties pursuant to the provisions of the statutes relating to taxes levied by or in behalf of the District of Columbia.

"§ 11-1202. Abolition of other remedies

"Notwithstanding any other provision of law, the jurisdiction of the Tax Division of the Superior Court to review the validity and amount of all assessments of tax made by the District of Columbia is exclusive. Effective on and after the effective date of the District of Columbia Court Reorganization Act of 1970, any common-law remedy with respect to assessments of tax in the District of Columbia and any equitable action to enjoin such assessments available in a court other than the former District of Columbia Tax Court is abolished. Actions properly filed before the effective date of that Act are not affected by this section and the court in which any such action has been filed may retain jurisdiction until its disposition.

"§ 11-1203. Rules and regulations

"The Superior Court may make such rules and regulations for conducting business in the Tax Division, consistent with the statutes applicable to such business and with the Superior Court's general rules of practice and procedure, as it may deem necessary and proper. Rules and regulations for the Tax Division shall, insofar as possible, assure the prompt disposition of matters before the Tax Division to the end that the taxing statutes of the District of Columbia shall be fairly and efficiently enforced.

"Chapter 13.—SMALL CLAIMS AND CONCILIATION BRANCH OF THE SUPERIOR COURT

"SUBCHAPTER I.—CONTINUATION AND SESSIONS

"Sec.

"11-1301. Continuation of Branch.

"11-1302. Sessions.

"SUBCHAPTER II.—JURISDICTION AND PROCEDURES

"11-1321. Exclusive jurisdiction of small claims.

"11-1322. Arbitration and conciliation.

"11-1323. Certification of case by Superior Court judges; recertification.

"SUBCHAPTER I.—CONTINUATION AND SESSIONS

"§ 11-1301. Continuation of Branch

"The Small Claims and Conciliation Branch shall continue as a branch of the Civil Division in the Superior Court.

"§ 11-1302. Sessions

"The Small Claims and Conciliation Branch, with a judge in attendance, shall be open for the transaction of business on every day of the year except Saturday afternoons, Sundays, and legal holidays, and shall hold evening sessions whenever necessary.

"SUBCHAPTER II.—JURISDICTION AND PROCEDURES

"§11-1321. Exclusive jurisdiction of small claims

"The Small Claims and Conciliation Branch has jurisdiction over all cases within the jurisdiction of the Superior Court in which the amount of the plaintiff's claim or the claimed value of personal property in controversy does not exceed $500, exclusive of interest, attorney fees, protest fees, and costs.

"§ 11-1322. Arbitration and conciliation

"In order to effect the speedy settlement of controversies, and with the consent of the parties thereto, the Small Claims and Conciliation Branch may settle cases, irrespective of the amount involved, by the methods of arbitration and conciliation. The judges sitting in the Branch may act as referees or arbitrators, either alone or in conjunction with other persons, as provided by rule of the court. A judge, officer, or employee of the Superior Court may not accept any fee or compensation in addition to his salary for services performed pursuant to this section.

"§ 11-1323. Certification of cases of Superior Court judges; recertification

"When the interests of justice seem to require and all parties consent thereto, a judge of the Superior Court may certify a case to the Small Claims and Conciliation Branch for conciliation, or to endeavor to obtain a complete or partial agreed statement of facts or stipulation, which will simplify and expedite the ultimate trial of the case. With the consent of all parties, the trial of the case may be completed in the Branch. In the absence of consent, the case shall be recertified to another judge of the Civil Division for trial.

"Chapter 15.—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

"SUBCHAPTER I.—APPOINTMENT; QUALIFICATIONS; SERVICE OF JUDGES

"Sec.

"11-1501. Appoint and qualifications of judges.

"11-1502. Tenure.

"11-1503. Designation of chief judge.

"11-1504. Service of retired judges.

"SUBCHAPTER II.—THE DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

"11-1521. Establishment of Commission.

"11-1522. Membership.

"11-1523. Term of office—members; vacancy; continuation of service by a member; term of office—alternates.

"11-1524. Compensation.

"11-1525. Operation; personnel; administrative services.

"11-1526. Removal; involuntary retirement; proceedings.

"11-1527. Procedures.

"11-1528. Privilege; confidentiality.

"11-1529. Judicial review.

"SUBCHAPTER III.—RETIREMENT

"11-1561. Definitions.

"11-1562. Eligibility for retirement.

"11-1563. Withholding of retirement payments.

"11-1564. Computation of retirement salary; election to credit other service.

"11-1565. Service by retired judges.

"11-1566. Survivor annuity; election; relinquishment.

"11-1567. Survivor annuity; payments to fund.

"11-1568. Survivor annuity; entitlement; computation.

"11-1569. Survivor annuity; payment; order of precedence.

"11-1570. Retirement and Annuity Fund.

"11-1571. Periodic increases; existing rights.

"SUBCHAPTER I.—APPOINTMENT; QUALIFICATIONS; SERVICE OF JUDGES

"§ 11-1501. Appointment and qualifications of judges

"(a) The President of the United States shall nominate, and by and with the advice and consent of the Senate, shall appoint all judges of the District of Columbia courts. He shall have power to fill all vacancies that may occur in those courts during a recess of the Senate, by granting commission which shall expire at the end of the next session of the Senate.

"(b) A person may not be appointed a judge of a District of Columbia court unless he—

"(1) is a citizen of the United States;

"(2) (A) is a member of the bar of the District of Columbia, and (B) (i) has been a member of such bar for a period of at least five years, or (ii) in the case of a professor of law in a law school in the District of Columbia or of an attorney employed in the District of Columbia by the United States or the District of Columbia, has been eligible for membership in the bar of the District of Columbia for at least five years prior to his appointment; and

"(3) has been actively engaged, for at least five of the ten years immediately prior to his appointment, as an attorney in the practice of law in the District of Columbia, as a judge of a District of Columbia court, as a professor of law in a law school in the District of Columbia, or as an attorney employed in the District of Columbia by the United States or the District of Columbia.

During his term of service and for one year after the termination thereof, no member of the District of Columbia Commission on Judicial Disability and Tenure shall be eligible for nomination or appointment to a District of Columbia court.

"§ 11-1502. Tenure

"Subject to the provisions of subchapters II and III of this chapter, a judge of a District of Columbia court shall serve for a term of ten years, and upon completion of such term, such judge shall continue to serve until his successor is appointed and qualifies.

"§ 11-1503. Designation of Chief Judge

"(a) The chief judge of a District of Columbia court shall be designated by the President of the United States from among the judges of the court in regular active service, and shall serve for a term of four years or until his successor is designated. He shall be eligible for redesignation. A judge may relinquish his position as chief judge, after giving notice to the President.

"(b) If a chief judge is not redesignated, or relinquishes the office of chief judge, he shall continue as an associate judge.

"§ 11-1504. Service of retired judges

"A judge retired for reasons other than disability may perform, upon designation of a chief judge, those judicial duties which he is willing and able to undertake.

"SUBCHAPTER II.—THE DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

"§ 11-1521. Establishment of Commission

"There shall be a District of Columbia Commission on Judicial Disabilities and Tenure (hereafter in this subchapter referred to as the 'Commission'). The Commission shall have power to suspend, retire, or remove a judge of a District of Columbia court, as provided in this subchapter.

"§ 11-1522. Membership

"(a) The Commission shall consist of seven members appointed by the President as follows:

"(1) Two members shall be appointed from active or retired Federal judges serving in the District of Columbia.

"(2) Two members shall be appointed from members of the bar of the District of Columbia who are actively engaged in the practice of law in the District of Columbia.

"(3) Three members shall be appointed from residents of the District of Columbia, at least two of whom are not members of the bar of the District of Columbia.

The Chairman of the Commission shall be designated by the concurrence of at least four members. The term of the Chairman shall be two years.

"(b) There shall be four alternate members of the Commission appointed by the President as follows:

"(1) One alternate member shall be appointed from active or retired Federal judges serving in the District of Columbia.

"(2) Two alternate members shall be appointed from members of the bar of the District of Columbia who are actively engaged in the practice of law in the District of Columbia.

"(3) One alternate member shall be appointed from residents of the District of Columbia who are not members of the bar of the District of Columbia.

"(c) No member or alternate member (other than a Federal judge appointed under subsection (a) or (b)) shall be an officer or employee of an executive or military department of the Government of the United States (listed in section 101 or 102 of title 5 of the United States Code), an officer or employee of the United States employed in the legislative or judicial branch of the Government of the United States, or an officer or employee of the District of Columbia government.

"§ 11-1523. Term of office—members; vacancy; continuation of service by a member; term of office—alternates

"(a) (1) The terms of office for the members of the Commission shall be six years, except that upon appointment of the first members: two members shall serve for two years; two for four years; two for six years; and one for three years, as designated by the President at the time of appointment. A member appointed to fill a vacancy occurring before the expiration of the term of his predecessor shall serve only for the remainder of that term. Any vacancy in the Commission shall be filled pursuant to section 11-1522.

"(2) If approved by the Commission, a member may serve after the expiration of his term for purposes of participating until conclusion in a matter, relating to the suspension, retirement, or removal of a judge, begun before the expiration of his term. A member's successor may be appointed without regard to the member's continuation in service, but his successor may not participate in the matter for which the member's continuation in service was approved.

"(b) The terms of office for the alternate members of the Commission shall be six years. An alternate member shall serve as a member pursuant to rules adopted by the Commission.

"§ 11-1524. Compensation

"Any member or alternate who is an officer or employee of the United States shall serve without compensation. Other members or alternate members shall receive the daily equivalent of the rate provided for GS-18 of the General Schedule contained in section

5332 of title 5, United States Code when actually engaged in service for the Commission.

"§ 11-1525. Operations; personnel; administrative services

"(a) The Commission may make such rules and regulations for its operations as it may deem necessary, and such rules and regulations shall be effective on the date specified by the Commission. The District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1510) shall be applicable to the Commission only as provided by this subsection. For the purposes of the publication of rules and regulations, judicial notice, and the filing and compilation of rules, sections 5, 7, and 8 of that Act (D.C. Code, secs. 1-1504, 1-1506, and 1-1507), insofar as consistent with this subchapter, shall be applicable to the Commission; and for purposes of those sections, the Commission shall be deemed an independent agency as defined in section 3(5) of that Act (D.C. Code, sec. 1-1502). Nothing contained herein shall be construed to require prior public notice and hearings on the subject of rules adopted by the Commission.

"(b) The Commission is authorized, without regard to the provisions governing appointment and classification of District of Columbia employees, to appoint and fix the compensation of, or to contract for, such officers, assistants, reporters, counsel, and other persons as may be necessary for the performance of its duties. It is authorized to obtain the services of medical and other experts in accordance with the provisions of section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate provided for GS-18 of the General Schedule.

"(c) The District of Columbia is authorized to detail, on a reimbursable basis, any of its personnel to assist in carrying out the duties of the Commission.

"(d) Financial and administrative services (including those related to budgeting and accounting, financial reporting personnel, and procurement) shall be provided to the Commission by the District of Columbia, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the District of Columbia government. Regulations of the District of Columbia for the administrative control of funds shall apply to funds appropriated to the Commission.

"§ 11-1526. Removal; involuntary retirement; proceedings

"(a)(1) A judge of a District of Columbia court shall be removed from office upon the filing in the District of Columbia Court of Appeals by the Commission of an order of removal certifying the entry, in any court within the United States, of a final judgment of conviction of a crime which is punishable as a felony under Federal law or which would be a felony in the District of Columbia.

"(2) a judge of a District of Columbia court shall also be removed from office upon affirmance of an appeal from an order of removal filed in the District of Columbia Court of Appeals by the Commission (or upon expiration of the time within which such an appeal may be taken) after a determination by the Commission of—

"(A) willful misconduct in office.

"(B) willful and persistent failure to perform judicial duties, or

"(C) any other conduct which is prejudicial to the administration of justice or which brings the judicial office into disrepute.

"(b) A judge of a District of Columbia court shall be involuntarily retired from office when (1) the Commission determines that the judge suffers from a mental or physical disability (including habitual intemperance) which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of his judicial duties, and (2) the Commission files in the District of Columbia Court of Appeals an order involuntary retirement and the order is affirmed on appeal or the time within which an appeal may be taken from the order has expired.

"(c) (1) A judge of a District of Columbia court shall be suspended, without salary—

"(A) upon—

"(i) proof of his conviction of a crime referred to in subsection (a)(1) which has not become final, or

"(ii) the filing of an order of removal under subsection (a)(2) which has not become final; and

"(B) upon the filing by the Commission of an order of suspension in the District of Columbia Court of Appeals.

Suspension under this paragraph shall continue until termination of all appeals. If the conviction is reversed or the order of removal is set aside, the judge shall be reinstated and shall recover his salary and all other rights and privileges of his office.

"(2) A judge of a District of Columbia court shall be suspended from all judicial duties, with such retirement salary as he may be entitled to pursuant to subchapter III of this chapter, upon the filing by the Commission of an order of involuntary retirement under subsection (b) in the District of Columbia Court of Appeals. Suspension shall continue until termination of all appeals. If the order of involuntary retirement is set aside, the judge shall be reinstated and shall recover his judicial salary less any retirement salary received and shall be entitled to all the rights and privileges of his office.

"(3) A judge of a District of Columbia court shall be suspended from all or part of his judicial duties, with salary, if the Commission (A) upon the concurrence of four members, orders a hearing for the removal or retirement of the judge and determines that his suspension is in the interest of the administration of justice, and (B) files an order or suspension in the District of Columbia Court of Appeals. The duration of the suspension shall be specified in the order but may be modified, as appropriate, by the Commission.

"§ 11-1527. Procedures

"(a)(1) On its own initiative, or upon complaint or report of any person, formal or informal, the Commission may undertake an investigation of the conduct or health of any judge. After such investigation is it deems adequate, the Commission may terminate the investigation or it may order a hearing concerning the health or conduct of the judge. Nothing in this subchapter shall preclude any informal contacts with the judge, or the chief judge of his court, by the Commission, whether before or after a hearing is ordered, to discuss any matter related to its investigation.

"(2) A judge whose conduct or health is to be the subject of a hearing by the Commission shall be given notice of such hearing and of the nature of the matters under inquiry not less than thirty days before the date on which the hearing is to be held. He shall be admitted to such hearing and to every subsequent hearing regarding his conduct or health. He may be represented by counsel, offer evidence in his own behalf, and confront and cross-examine witnesses against him.

"(3) Within ninety days after the adjournment of hearings, the Commission shall make findings of fact and a determination regarding the conduct or health of a judge who was the subject of the hearing. The concurrence of at least five members shall be required for a determination of grounds for removal or retirement. Upon a determination of grounds for removal or retirement, the Commission shall file an appropriate order pursuant to subsections (a) or (b) of section 11-1526. On or before the date the order is filed, the Commission shall notify the judge, the chief judge of his court, and the President of the United States.

"(b) The Commission shall keep a record of any hearing on the conduct or health of a judge and one copy of such record shall be provided to the judge at the expense of the Commission.

"(c) (1) In the conduct of investigations and hearings under this section the Commission may administer oaths, order and otherwise provide for the inspection of books and records, and issue subpenas for attendance of witnesses and the production of papers, books, accounts, documents, and testimony relevant to any such investigation or hearing. It may order a judge whose health is in issue to submit to a medical examination by a duly licensed physician designated by the Commission.

"(2) Whenever a witness before the Commission refuses, on the basis of his privilege against self-incrimination, to testify or produce books, papers, documents, records, recordings, or other materials, and the Commission determines that the testimony or production of evidence is necessary to the conduct of its proceedings, it may order the witness to testify or produce the evidence. The Commission may issue the order no earlier than ten days after the day on which it served the Attorney General with notice of its intention to issue the order. The witness may not refuse to comply with the order on the basis of his privilege against self-incrimination, but no testimony or other information compelled under the order (or any information directly or indirectly derived from the testimony or production of evidence) may be used against the witness in any criminal case, nor may it be used as a basis for subjecting the witness to any penalty or forfeiture contrary to constitutional right or privilege. No witness shall be exempt under this subsection from prosecution for perjury committed while giving testimony or producing evidence under compulsion as provided in this subsection.

"(3) If any person refuses to attend, testify, or produce any writing or things required by a subpena issued by the Commission, the Commission may petition the United States district court for the district in which the person may be found for an order compelling him to attend and testify or produce the writings or things required by subpena. The court shall order the person to appear before it at a specified time and place and then and there shall consider why he has not attended, testified, or produced writings or things as required. A copy of the order shall be served upon him. If it appears to the court that the subpena was regularly issued, the court shall order the person to appear before the Commission at the time or place fixed in the order and to testify or produce the required writings or things. Failure to obey the order shall be punishable as contempt of court.

"(4) In pending investigations or proceedings before it, the Commission may order the deposition of any person to be taken in such form and subject to such limitation as may be prescribed in the order. The Commission may file in the Supreme Court a petition, stating generally, without identifying the judge, the nature of the pending matter, the name and residence of the person whose testimony is desired, and directions, if any, of the Commission requesting an order requiring the person to appear and testimony before a designated officer. Upon the filing of the petition the Superior Court may order the person to appear and testify. A subpena for such deposition shall be issued by the clerk of the Superior Court and the deposition shall be issued by the clerk of the Superior Court and the deposition shall be taken and returned in the manner prescribed by law for civil actions.

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"(d) It shall be the duty of the United States marshals upon the request of the Commission to serve process and to execute all lawful orders of the Commission.

"(e) Each witness, other than an officer or employee of the United States or the District of Columbia, shall receive for his attendance the same fees, and all witnesses shall receive the allowances, prescribed by section 15-714 for witnesses in civil cases. The amount shall be paid by the Commission from funds appropriated to it.

"§ 11-1528. Privilege; confidentiality

"(a) The filing of papers with and the giving of testimony before the Commission shall be privileged. Unless otherwise authorized by the Judge whose conduct or health is the subject of the proceedings under section 11-1527(a), the hearings before the Commission, the record thereof, and all papers filed in connection with such hearings shall be confidential. But on prosecution of a witness for perjury or on review of a decision of the Commission, the record of hearings before the Commission and all papers filed in connection therewith shall be disclosed to the extent required for the prosecution or review.

"(b) If the Commission determines that no grounds for removal or involuntary retirement exist it shall notify the judge and inquire whether he desires the Commission to make available to the public information pertaining to the nature of its investigation, its hearings, findings, determinations, or any other fact related to its proceedings regarding his health or conduct. Upon receipt of such request in writing from the judge, the Commission shall make such information available to the public.

"§ 11-1529. Judicial review

"(a) A judge aggrieved by an order of removal or retirement filed by the Commission pursuant to subsection (a) or (b) of section 11-1526 may seek judicial review thereof by filing notice of appeal with the Chief Justice of the United States. Notice of appeal shall be filed within thirty days of the filing of the order of the Commission in the District of Columbia Court of Appeals.

"(b) Upon receipt of notice of appeal from an order of the Commission, the Chief Justice shall convene a special court consisting of three Federal judges designated from among active or retired judges of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia.

"(c) The special court shall review the order of the Commission appealed from and, to the extent necessary to decision and when presented, shall decide all relevant questions of law and interpret constitutional and statutory provisions. It shall affirm or reverse the order of the Commission or remand the matter to the Commission for further proceedings.

"(d) The special court shall hold unlawful and set aside a Commission order or determination found to be—

"(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(2) contrary to constitutional right, power, privilege, or immunity;

"(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(4) without observance of procedure required by law; or

"(5) unsupported by substantial evidence.

In making the foregoing determinations, the special court shall review the whole record or those parts of it cited by the judge or the Commission, and shall take due account of the rule of prejudicial error.

"(e) As appropriate and to the extent consistent with this chapter, the Federal Rules of Appellate Procedure governing appeals in civil cases shall apply to appeals taken under this section.

"(f) Decisions of the special court shall be final and conclusive.

"SUBCHAPTER III.—RETIREMENT

"§ 11-1561. Definitions

"For purposes of this subchapter—

"(1) The term 'judge' means any judge of the District of Columbia Court of Appeals or the Superior Court or any person with judicial service as described in paragraph (2) of this section.

"(2) The term 'judicial service' means service as a judge in the District of Columbia Court of Appeals, the Superior Court, or the former Juvenile Court of the District of Columbia, District of Columbia Tax Court, police court, municipal court, or District of Columbia Court of General Sessions.

"(3) The terms 'retire' and 'retirement' include retirement, resignation, or failure to be recommissioned or reappointed upon the expiration of a commission.

"(4) The term 'fund' means the District of Columbia Judicial Retirement and Survivors Annuity Fund as provided in section 11-1570.

"(5) The term 'widow' means a surviving wife of a judge who has either (A) been married to the judge for at least two years preceding his death or (B) is the mother of issue by the marriage and has not remarried.

"(6) The term 'widower' means a surviving husband of a judge who has either (A) been married to the judge for at least two years preceding her death or (B) is the father of issue by the marriage and has not remarried.

"(7) The term 'Commissioner' means the Commissioner of the District of Columbia.

"(8) The term 'child' means—

"(A) an unmarried child under eighteen years of age, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the judge in a regular parent-child relationship;

"(B) such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age eighteen; or

"(C) such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university or comparable recognized educational institution. For the purpose of this paragraph, a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become twenty-two years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than five months and if he shows to the satisfaction of the Commissioner that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

"(9) The term 'lump-sum credit for retirement' means the unrefunded amount consisting of—

"(A) retirement deductions made from the basic salary of a judge;

"(B) amounts deposited covering earlier judicial and nonjudicial service; and

"(C) interest on the deductions and deposits at 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter compounded annually to December 31, 1956, or, in the case of a judge separated or transferred to a position not within the purview of this section before he has completed five years of service, to the date of the separation or transfer;

but the term 'lump-sum credit for retirement' does not include interest—

"(i) if the service covered thereby aggregates one year or less; or

"(ii) for the fractional part of a month in the total service.

"(10) The term 'lump-sum credit for survivor annuity' means the unrefunded amount consisting of—

"(A) survivor annuity deductions made from the salary of a judge;

"(B) amounts deposited for survivor annuity covering earlier judicial and nonjudicial service; and

"(C) interest on the deductions and deposits at 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter compounded annually to December 31, 1956, or, in the case of a judge separated or transferred to a position not within the purview of this section before he has completed five years of service, to the date of the separation or transfer;

but the term 'lump-sum credit for survivor annuity' does not include interest—

"(i) if the service covered thereby aggregates one year or less; or

"(ii) for the fractional part of a month in the total service.

"§ 11-1562. Eligibility for retirement

"(a) A judge is eligible for retirement under this subchapter when he has completed ten years of judicial service, whether continuous or not, or upon mandatory retirement as provided in section 11-1502.

"(b) The retirement salary of a judge who retires shall commence as follows:

"(1) With twenty or more years of judicial service, at age fifty.

"(2) With less than twenty years of judicial service, at age sixty, unless he elects to receive a reduced salary beginning at age fifty-five or at the date of retirement if subsequent to that age.

"(c) A judge with five years or more of judicial service, including civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, may voluntarily retire for a mental or physical disability which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of judicial duties. Such disability shall be established by furnishing to the Commissioner a certificate of disability signed by a duly licensed physician, approved by the Surgeon General of the United States, and containing such information and conclusions as the Commissioner by regulation may require consistent with this subsection.

"(d) A judge involuntarily retired for permanent disability pursuant to subchapter II of this chapter shall be eligible for retirement salary if he has five years or more of service, judicial or judicial and civilian, performed by the judge which is allowable under section 8332 of title 5, United States Code. The retirement salary of a judge who retires under this subsection shall commence upon the date his retirement becomes effective.

"§ 11-1563. Withholding of retirement payments; lump sum credit

"(a) There shall be deducted and withheld from the basic salary of each judge appointed after October 31, 1964, and each judge appointed before November 1, 1964, who has elected to come within the provisions of this subchapter an amount equal to 3½ per centum of his basic salary. Amounts so deducted and withheld shall be deposited in the fund in accordance with procedures established by the Commissioner. Each judge subject to this section shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatsoever for all regular service during the period covered by such payment, except the right to the benefits to which he shall be entitled under this subsection, notwithstanding any law, rule, or regulation affecting the judge's salary.

XUM

"(b) If he has not previously so deposited, each judge subject to this section shall deposit in the fund, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, a sum equal to 3½ per centum of his basic salary received for judicial service performed by him as a judge prior to the date he became subject to the District of Columbia Judges Retirement Act of 1964. Each judge may elect to make such deposits in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner. Notwithstanding the failure of any judge to make such deposits, credit shall be allowed for the service rendered but the retirement pay for such judge shall be reduced by 10 per centum of such deposit remaining unpaid unless the judge shall elect to eliminate the service involved for purposes of retirement salary computation, except as provided in section 11-1564(d).

"(c) If any judge who is subject to this section is removed, resigns, or fails to be recommissioned or reappointed, he is entitled to be paid his lump-sum credit for retirement if application for payment is filed with the Commissioner at least thirty-one days before the commencing date of any retirement salary for which he is eligible. The receipt of the lump-sum credit for retirement by the judge voids all retirement salary rights under this subchapter, until he is reemployed in judicial service subject to this subchapter.

"(d) If a judge who has not elected to bring himself within the survivor annuity provisions of this subchapter dies while in regular active service, the lump-sum credit for retirement shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving him in the order of precedence established in section 11-1569(b). Such payments shall be a bar to recovery by any other person.

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§ 11-1564. Computation of retirement salary; election to credit other service

"(a) The retirement salary of a judge who retires pursuant to section 11-1562 (a) and (b) shall be paid annually in equal monthly installments during the remainder of his life and shall bear the same ratio to his basic salary immediately prior to the date of his retirement as the total of his aggregate years of service bears to the period of thirty years. A judge who elects to receive a reduced retirement salary pursuant to section 11-1562(b)(2) shall have his retirement salary reduced by one-twelfth of 1 per centum for each month or fraction of a month he is under the age of sixty at the time of the commencement of his reduced retirement salary. In no event shall the retirement salary of a judge exceed 80 per centum of his basic salary immediately prior to the date of his retirement.

"(b) The retirement salary of a judge retired for disability pursuant to section 11-1562 (c) or (d) shall be paid annually in equal monthly installments during the remainder of his life and shall be computed as provided in subsection (a). If a judge is retired for disability, his retirement salary shall not be reduced because of his age at the time of retirement. In no event shall the retirement salary of a judge retired for disability be less than 50 per centum or exceed 80 per centum of his basic salary immediately prior to the date of his retirement.

"(c) In computing the retirement salary of a judge retiring under section 11-1562, the judge shall be entitled, if he so elects during the continuance of his judicial service or at the time of his retirement, to receive, in addition to the amount provided for in subsection (a) of this section, an amount (payable annually in equal monthly installments during the remainder of his life) based on military and civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, computed in accordance with section 8339 (a), (b), (c), (d), (g), and (h) of that title, as applicable, subject to the provisions of section 8334 (c) and (d) of that title and the provisions of subsection (d) of this section; except that average pay for the purpose of the computation shall be deemed to be the basic salary of the judge immediately prior to the date of his retirement under section 11-1562.

"(d)(1) The crediting of service with respect to any judge under subsection (c) of this section shall be made on the standard basis of a deposit in a sum equal to 3½ per centum of his basic salary, pay, or compensation for civilian service creditable under section 8332 of title 5, United States Code, with interest as provided in pargraph (2) of this subsection.

"(2) Interest on deposits under this subsection is computed from the midpoint of each service period included in the computation to the date of deposit or the commencing date of the retirement salary of the judge, whichever date is the earlier. Interest is computed at the rate of 4 per centum a year to December 31, 1947, and 3 per centum a year thereafter, compounded annually. Interest may not be charged for a period of separation from the service which began before October 31, 1956.

"(3) Deposit under this subsection may not be required for—

"(A) service before August 1, 1920;

"(B) military service; or

"(C) service for the Panama Railroad Company before January 1, 1924.

"(4) If a judge elects to be credited with service under subsection (c) of this section, his lump-sum credit, or any remaining balance thereof, in the Civil Service Retirement and Disability Fund or in the retirement fund of any other retirement system for civilian employees of the Government of the United States or the District of Columbia, shall be transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund. The judge shall be deemed to consent to the transfer. The transfer shall be a complete discharge and acquittance of all claims and demands against the retirement system from which the funds were transferred on account of the service so credited.

"(5) A judge whose lump-sum credit is transferred to the fund under paragraph (4) of this subsection is not required to make deposits in addition to the amount transferred for periods of service for which full contributions were made to the retirement system from which the transfer was made.

"(6) In the case of a judge whose lump-sum credit has been transferred to the fund under paragraph (4) of this subsection and who has not elected a survivor annuity under section 11-1566, or prior corresponding provision of law, the Commissioner shall refund to the judge any amount which the Commissioner determines to be in excess of the amount of the deposit required by this subsection. In the case of a judge whose lump-sum credit has been transferred to the fund under paragraph (4) of this subsection and who, prior to the effective date of this section, had elected a survivor annuity and made deposits to the fund for survivor annuity purposes, the Commissioner shall refund to the judge any amount which the Commissioner determines in excess of the amount of the deposit required by section 11-1567.

"(7) If any civilian service performed by the judge which is creditable under section 8332 of title 5, United States Code, is not covered by the amount of the lump-sum credit transferred under paragraph (4) of this subsection, the judge may make deposit, on the standard basis prescribed by paragraph (1) of this subsection, with interest as provided in paragraph (2) of this subsection, in accordance with and subject to the applicable provisions of section 8334 (c) and (d) of that title, of the amount or amounts necessary for him to receive full credit for that service for the purposes of subsection (c) of this section. The deposit may be made, as the judge may elect, in installments, during the continuance of his judicial service, in such amounts as the Commissioner may determine in each instance, or in a lump sum prior to or at the time of his retirement under section 11-1562. A judge electing to make installment deposits shall not be given full credit for the service until the total required deposit is made.

"(8) For the purpose of survivor annuity, deposits authorized by this subsection also may be made by the survivor of a judge.

"(e) Nothing in this subchapter shall prevent a judge eligible therefor from simultaneously receiving his retirement salary under this section and any annuity or retired pay to which he would otherwise be entitled under any other law without regard to this subchapter. However, in computing the retirement salary of a judge under this section, service used in the computation of such other annuity shall not be credited.

"§ 11-1565. Service by retired judges

"Any retired judge performing full-time judicial duties on the District of Columbia Court of Appeals or the Superior Court shall be entitled, during the period for which he serves, to receive the salary of the office in which he performs such duties, but there shall be deducted from such salary an amount equal to his retirement salary for that period. No deduction shall be withheld for health benefits, Federal employees' life insurance, or retirement purposes from the salary paid to a retired judge during judicial service. The performance of such judicial service shall not create an additional retirement, change a retirement, or create or in any manner affect a survivor annuity.

"§ 11-1566. Survivor annuity; election; relinquishment

"(a) Any judge, whether or not subject to sections 11-1562 to 11-1565, may, by written election filed with the Commissioner within six months after the date on which he takes office or is reappointed or recommissioned, or within six months after he marries, bring himself within the survivor annuity provisions of this subchapter.

"(b) Any judge in regular active service or any retired judge, who shall have elected survivor annuity, and who after that election is unmarried and does not have a dependent child, may elect—

"(1) to terminate the deductions and withholdings from his salary under section 11-1567(a) and any installment payments elected to be made under section 11-1567(b); and

"(2) to have paid to him the lump-sum credit for survivor annuity.

Any election under this subsection shall be made in writing and filed with the Commissioner.

"(c) If any judge who shall have elected survivor annuity resigns from office otherwise than under the provisions of this subchapter or is removed, he shall be entitled to be paid the lump-sum credit for survivor annuity.

"(d) Payment of the lump-sum credit for survivor annuity as provided in this section shall extinguish all claims with respect to survivor annuity.

"§ 11-1567. Survivor annuity; payments to fund

"(a) There shall be deducted and withheld from the salary (whether basic or retirement) of each judge who has elected survivor annuity a sum equal to 3 per centum of that salary. The amounts so deducted and withheld shall, in accordance with such procedures as may be prescribed by the Commissioner, be deposited in the fund. Every judge who elects survivor annuity shall be deemed thereby to consent and agree to the deductions from his salary as provided in this subsection, and payment less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatever for all judicial services rendered by such judge during the period covered by such payment, except the right to the benefits to which he or his survivors shall be entitled under the survivor annuity provisions of this subchapter.

"(b) If he has not previously so deposited, each judge who has elected survivor annuity shall deposit to the fund, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, a sum equal to 3 per centum of his salary received for judicial service and of retirement salary (but excluding salary for judicial service under section 11–1565); and a sum equal to 3 per centum of his basic salary, pay, or compensation for civilian service creditable under section 8332 of title 5, United States Code, with interest as provided in section 11–1564(d). Except to the extent that the Commissioner has made refund to the judge under section 11–1564(d)(6), deposit is not required with respect to that portion of the service of the judge covered by the transfer, under section 11–1564(d)(4), of his lump-sum credit to the fund. In addition, deposit may not be required for the types of service described in section 11–1564(d)(3). Each judge may elect to make deposits under this subsection in installments during the continuance of his judicial service in such amounts as may be determined in each instance by the Commissioner. Deposits under this subsection also may be made by the survivor of a judge.

"(c) If a judge or survivor fails to make such deposits, credit shall be allowed for the service, but the annuity of the widow or widower of such judge shall be reduced by an amount equal to 10 per centum of the deposit required by this section, computed as of the date of the death of the judge, unless the widow or widower elects to eliminate the service not covered by deposit entirely from credit for computation purposes except as provided in section 11–1564(d)(3).

"§ 11–1568. Survivor annuity; entitlement; computation

"(a) The service of a judge for the purpose of computing a survivor annuity includes his judicial service (and retired service for which deductions are made) and, subject to section 8334(d) of title 5, United States Code, his military and civilian service which is creditable under section 8332 of that title.

"(b) Nothing in this subchapter shall prevent a widow or widower eligible therefor from simultaneously receiving a survivor annuity under this subchapter and any other annuity (survivor or otherwise) or retired pay to which he or she would otherwise be entitled under any other law without regard to this subchapter. However, in computing the survivor annuity of that widow or widower under this subchapter, service used in the computation of such other survivor annuity shall not be credited.

"(c) If a judge who has elected a survivor annuity dies in regular active service or after having retired from such service with at least five years of allowable service under this section for which payments have been withheld or deposits made, the survivor annuity shall be paid as follows:

"(1) If the judge is survived by a widow or widower but no child, the widow or widower shall receive, beginning on the day after the judge dies, an amount computed as provided in subsection (e); or

"(2) If the judge is survived by a widow or widower and one or more children—

"(A) the widow or widower shall receive an immediate annuity in the amount computed as provided in subsection (e); and

"(B) there also shall be paid to or on behalf of each such child an immediate annuity equal to one-half the amount of the annuity of such widow or widower, but not to exceed the lesser of (i) $2,700 per year divided by the number of such children or (ii) $900 per child per year; or

"(3) If the judge leaves no surviving widow or widower but leaves a surviving child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the amount of the annuity to which the widow or widower would have been entitled under paragraph (1) of this subsection had he or she survived, but not to exceed the lesser of (A) $3,240 per year divided by the number of children or (B) $1,080 per child per year.

An annuity payable to a widow or widower under this section shall be terminable upon death or remarriage. The annuity payable to a child shall be terminable upon his death or marriage or his ceasing to be a child as defined in section 11–1561(8). In case of the death of a widow or widower of a judge leaving a child or children of the judge surviving, the annuity of such child or children shall be recomputed and paid as provided in paragraph (3) of this subsection. In any case in which the annuity of a child is terminated, the annuities of any remaining child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was terminated had not survived the judge.

"(d) Questions of disability or other eligibility requirements of a child under this section shall be determined by the Commissioner who may order such medical or other examinations at any time as he deems necessary with respect to determining the facts concerning the disability of a child receiving or applying for an annuity under this subchapter. An annuity may be denied or suspended for failure to submit to examination.

"(e) The annuity of a widow or widower of a judge electing survivor annuity shall be an amount equal to the sum of—

"(1) 1¼ per centum of the average annual salary received for service allowable under subsection (a) during the last three year of such service prior to death or retirement multiplied by the sum of his years of judicial service and his Member, congressional employee, and his military service allowable under subsection (a); and

"(2) three-fourths of 1 per centum of such average annual salary multiplied by his years of all other civilian service allowable under subsection (a).

A survivor annuity shall not exceed 44 per centum of the average annual salary described in paragraph (1) of this subsection and shall be subject to reduction as provided in section 11–1567(c).

"§ 11–1569. Survivor annuity; payment; order of precedence

"(a) Survivor annuities shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued.

"(b) In any case in which—

"(1) a judge who has elected survivor annuity shall die (A) while in regular active service after having rendered five years of allowable service as provided in section 11–1568(a) or while receiving retirement salary under this subchapter but without a survivor or suvivors entitled to annuity under section 11–1568(c) or (b) while in regular active service but before having rendered five years of allowable service; or

"(2) the right of all persons entitled to an annuity under section 11–1568(c) based on the service of the judge shall terminate before a valid claim therefor shall have been established;

the lump-sum credit shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order or precedence, and such payment shall be a bar to recovery by any other person:

"First, to the beneficiary or beneficiaries whom the judge may have designated in writing to the Commissioner prior to the judge's death;

"Second, if there be no such beneficiary, to the widow or widower of the judge;

"Third, if none of the above, to the child or children of the judge and the descendants of any deceased children by representation;

"Fourth, if none of the above, to the parents of the judge or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such judge;

"Sixth, if none of the above, to such other next of kin of the judge as may be determined by the Commissioner to be entitled under the laws of the domicile of the judge at the time of his death.

Determination as to the widow, widower, or child of a judge for purposes of this subsection shall be made by the Commissioner without regard to the definitions in section 11–1561.

"(c) In any case in which the annuities of all persons entitled to annuity based upon the service of a judge shall terminate before the aggregate amount of annuity paid (together with any amounts received by the judge as retirement salary) equals the total amount credited to the individual account of the judge, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the date of the death of such judge, the difference shall be paid upon establishment of a valid claim therefor, in the order of precedence prescribed in subsection (b).

"(d) Any accrued annuity remaining unpaid upon the termination (other than by reason of death) of the annuity of any person based upon the service of a judge shall be paid to such person. Any accrued annuity remaining unpaid upon the death of any person receiving an annuity based upon the service of a judge shall be paid, upon establishment of a valid claim therefor, in the following order of precedence:

"First, to the duly appointed executor or administrator of the estate of the annuitant;

"Second, if there is no such executor or administrator, payment may be made, after the expiration of thirty days from the date of death of the annuitant, to such person or persons as may appear in the judgment of the Commissioner to be legally entitled thereto, and such payments shall be a bar to recovery by any other person.

"(e) Where any payment under sections 11–1566 to 11–1569 is to be made to a minor or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the jurisdiction wherein the claimant resides or is otherwise legally vested with the care of the claimant or his estate. Where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the jurisdiction wherein the claimant resides, payment may be made to any person who, in the judgment of the Commissioner, is responsible for the care of the claimant, and the payment bars recovery by any other person.

"§ 11–1570. Retirement and annuity fund

"(a) The District of Columbia Judicial Retirement and Survivors Annuity Fund is hereby continued in the Treasury and appropriated for the payment of retirement salaries, annuities, refunds, and allowances as provided in this subchapter. If at any time the balance of the fund is insufficient to pay current obligations arising under this subchapter, there is authorized to be appropriated to the fund, out of any moneys in the Treasury of the United States to the credit of the District of Columbia not otherwise appropriated, such amounts as may be necessary to pay current obligations. The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the fund, and shall make actuarial evaluations of the fund at intervals of five years or more if deemed necessary by the Secretary.

"(b) The Secretary shall invest, from time to time, in interest-bearing securities of the United States or Federal farm loan bonds, any portions of such funds as in his judgment may not be immediately required for payments from the fund and the income derived from such investments shall constitute a part of the fund.

"(c) All amounts deposited by, or deducted and withheld from the salary of, any judge for credit to the fund shall, under regulations prescribed by the Commissioner, be credited to an individual amount of the judge.

"(d) None of the moneys mentioned in this subchapter shall be assignable, either in law or in equity, or be subject to execution, levy, attachment, garnishment, or other legal process.

"§ 11-1571. Periodic increases; existing rights

"(a) The retirement salary of any judge, or the annuity of any person based upon the service of a judge, who, on the effective date of any increase which, after the effective date of this section, becomes payable under the provisions of section 8340(b) of title 5, United States Code, is receiving such salary or annuity (1) under the provisions of this subchapter, or (2) under the provisions of section 11-1701, as in effect prior to the effective date of this section, and its predecessor laws, shall be increased on the effective date of the increase by a percentage equal to the percentage of such increase under section 8340 of title 5, United States Code.

"(b) Nothing in this subchapter shall defeat or diminish rights acquired under section 11-1701, as in effect prior to the effective date of this section, and its predecessor laws, except on the election and with the consent of the judge, annuitant, or other person affected.

"Chapter 17.—ADMINISTRATION OF DISTRICT OF COLUMBIA COURTS

"SUBCHAPTER I.—COURT ADMINISTRATION

"Sec.
"11-1701. Administration of District of Columbia court system.
"11-1702. Responsibilities of chief judges in the respective courts.
"11-1703. Executive Officer of District of Columbia courts; appointment; compensation.
"11-1704. Oath and bond of Executive Officer.

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"11-1721. Clerks of courts.
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"11-1725. Compensation.
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"11-1727. Recruitment and training of personnel.
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"SUBCHAPTER III.—DUTIES AND RESPONSIBILITIES

"11-1741. Court operations and organizations.
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"11-1744. Information and liaison services.
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"11-1747. Delegation of authority.

"SUBCHAPTER I.—COURT ADMINISTRATION

"§ 11-1701. Administration of District of Columbia court system

"(a) There shall be a Joint Committee on Judicial Administration in the District of Columbia (hereafter in this chapter referred to as the 'Joint Committee') consisting of: The Chief Judge of the District of Columbia Court of Appeals, who shall serve as Chairman, an associate judge of that court elected annually by the judges thereof, the Chief Judge of the Superior Court, and two associate judges of that court elected annually by the judges thereof.

"(b) The Joint Committee shall have responsibility within the District of Columbia court system for the following matters:

"(1) General personnel policies, including those for recruitment, removal, compensation, and training.

"(2) Accounts and auditing.

"(3) Procurement and disbursement.

"(b) Submission of the annual budget requests of the District of Columbia Court of Appeals and the Superior Court to the Commissioner of the District of Columbia as the integrated budget of the District of Columbia court system, except that such requests may be modified upon the concurrence of four of the five members of the Joint Committee.

"(5) Approval of the bonds of fiduciary employees within the District of Columbia court system.

"(6) Formulation and enforcement of standards for outside activities of and receipt of compensation by the judges of the District of Columbia court system.

"(7) Development and coordination of statistical and management information systems and reports supporting the annual report of the District of Columbia court system.

"(8) Liaison between the District of Columbia court system and the court systems of other jurisdictions, including the Judicial Conference of the United States, the Judicial Conference of the District of Columbia Court, and the Federal Judiciary Center.

"(9) With the concurrence of the respective chief judges of the District of Columbia courts, other policies and practices of the District of Columbia court system and resolution of other matters which may be of joint and mutual concern of the District of Columbia Court of Appeals and the Superior Court.

"(c) The Joint Committee, with the assistance of the Executive Officer of the District of Columbia courts, shall—

"(1) consider and evaluate the business of the courts and means of improving the administration of justice within the District of Columbia court system and shall report thereupon in its annual report;

"(2) prepare and publish an annual report of the District of Columbia court system regarding the work of the courts, the performance of the duties enumerated in this chapter, and of any recommendations relating to the courts;

"(3) recommend from time to time to the Congress changes in the organization, jurisdiction, operation, and procedures of the courts which are appropriate for legislative action, and institute such changes, pursuant to the responsibilities enumerated in subsection (b), in the methods of administering judicial business in the court system as would improve the administration of justice; and

"(4) arrange for such training seminars, and other related services, as are desirable and feasible for judges and other court personnel, including services from the Federal Judicial Center on a reimbursable basis.

"(d) The Joint Committee shall have authority to issue all orders and directives necessary to implement the responsibilities and duties enumerated in this section.

"§ 11-1702. Responsibilities of chief judges in the respective courts

"(a) The Chief Judge of the District of Columbia Court of Appeals, in addition to the authority conferred on him by chapter 7 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11-1701(b),

consistent with the general policies and directives of the Joint Committee.

"(b) The Chief Judge of the Superior Court, in addition to the authority conferred on him by chapter 9 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11-1701(b),

consistent with the general policies and directives of the Joint Committee.

"§ 11-1703. Executive Officer of the District of Columbia courts; appointment; compensation

"(a) There shall be an Executive Officer of the District of Columbia courts (hereafter in this chapter referred to as the 'Executive Officer'). He shall be responsible for the administration of the District of Columbia court system subject to the supervision of the Joint Committee and the chief judges of the respective courts as provided in this chapter. He shall be subject to the supervision of the Joint Committee regarding administrative matters that are enumerated in section 11-1701(b). He shall be subject to the supervision of the chief judges in their respective courts: (1) regarding all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and (2) regarding the implementation in the respective courts of the matters enumerated in section 11-1701(b), consistent with the general policies and directives of the Joint Committee.

"(b) The Executive Officer shall be selected by, and subject to removal by, the President.

"(c) The Executive Officer shall receive the same compensation as an associate judge of the Superior Court.

"§ 11-1704. Oath and bond of the Executive Officer

"(a) The Executive Officer shall take an oath or affirmation for the faithful and impartial discharge of the duties of his office.

"(b) The Executive Officer shall give bond, with two or more sureties, to be approved by the Joint Committee, in an amount prescribed by the Joint Committee, faithfully to discharge the duties of his office.

"SUBCHAPTER II.—COURT PERSONNEL

"§ 11-1721. Clerks of courts

"The District of Columbia Court of Appeals and the Superior Court shall each have a clerk who shall perform such duties as may be assigned to him.

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"§ 11-1722. Director of Social Services

"(a) There shall be a Director of Social Services in the Superior Court who shall have charge of all social services for the Superior Court, subject to the supervision of the Executive Officer. With respect to adults, he shall provide probation services, intake procedures, marital and family counseling, social casework, rehabilitation and training programs, and such other services as the court shall prescribe. With respect to juveniles, he shall provide intake procedures, counseling, education and training programs, probation services, and such other services as the court shall prescribe.

"(b) To the maximum extent feasible, the Director shall coordinate with and utilize the services of appropriate public and private agencies within the District of Columbia, and shall coordinate and provide administrative services to volunteers utilized by the Superior Court or any divisions thereof.

"(c) As directed by the Executive Officer, the Director shall conduct studies and make reports relating to the utilization of social services as an adjunct to the Superior Court.

"(d) The Director shall make recommendations with respect to the consolidation or disposition of causes before the court relating to members of the same family or household.

"§ 11-1723. Fiscal Officer; Auditor; bond

"(a)(1) There shall be a Fiscal Officer in the District of Columbia court system who shall be responsible for the budget of the court system and for the accounts of the courts, subject to the supervision of the Executive Officer.

"(2) The Fiscal Officer shall receive, safeguard, and account for all fees, costs, payments, and deposits of money or other items, and shall be responsible for depositing in the Treasury of the United States all fines, forfeitures, fees, unclaimed deposits, and other moneys.

"(3) The Fiscal Officer shall be responsible for the approval of vouchers and the internal auditing of the accounts of the courts and shall arrange for an annual independent audit of the accounts of the courts by the District of Columbia government.

"(b) There shall be an Auditor in the District of Columbia court system who shall be responsible for the auditing of accounts filed in actions and matters before the District of Columbia courts. He shall be subject to the supervision of the Executive Officer.

"(c) The Fiscal Officer and the Auditor shall each give bond with two or more sureties, to be approved by the Joint Committee, in an amount prescribed by the Joint Committee, faithfully to discharge the duties of his respective office.

"§11-1724. Appointment of nonjudicial personnel

"(a) Subject to the approval of the Joint Committee, the Executive Officer shall appoint, and may remove, the Fiscal Officer, and such other personnel whose principal function is to perform duties for both District of Columbia courts.

"(b) The Executive Officer shall appoint, and may remove, the Director of Social Services, the clerks of the courts, the Auditor, and all other nonjudicial personnel for the courts as may be necessary (except the personal law clerks and secretaries of the judges) subject to—

"(1) regulations approved by the Joint Committee; and

"(2) the approval of the chief judge of the court to which the personnel are or will be assigned.

Appointments and removals of court personnel shall not be subject to the laws, rules, and limitations applicable to the District of Columbia employees, except as otherwise specified in the District of Columbia Court Reorganization Act of 1970.

"§ 11-1725. Compensation

"(a) The Executive Officer shall fix the compensation of all nonjudicial employees of the courts without regard to chapter 51, and subchapter III of chapter 53, of title 5, United States Code. He may fix compensation for one position at a rate not to exceed the maximum rate for GS-17 of the General Schedule; and three positions at a rate not to exceed the maximum rate for GS-16 of the General Schedule. He shall be guided, in fixing the rates of compensation of all other nonjudicial employees, by the rates of compensation fixed for other Federal or District of Columbia employees in the judiciary or the executive in the same or similar positions or in positions of similar responsibility, duty, and difficulty.

"§ 11-1726. Court reporters

"The Executive Officer shall appoint reporters who shall be full-time employees of the courts and who shall accept no compensation or fees (other than their salaries) for stenographic services connected with the reporting of court proceedings. When necessary, the Executive Officer may contract for additional temporary reporting services. Nothing in this section shall be construed to preclude the Superior Court of the District of Columbia from providing by rule for the sound recording of proceedings in lieu of mechanical (audio or manual) transcription in any branch, division or courtroom of the court. Court reporters shall, in addition to being subject to the general supervision of the Executive Officer, be subject to the supervision of the chief judges of the courts and of the other District of Columbia judges for whom they perform services, regarding the performance of their duties in the respective courts.

"§ 11-1727. Recruitment and training of personnel

"The Executive Officer shall be responsible for recruiting such qualified personnel as may be necessary for the District of Columbia courts and for providing in-service training for court personnel.

"§ 11-1728. Service of United States marshal

"The United States Marshal for the District of Columbia shall continue to serve the courts of the District of Columbia, subject to the supervision of the Attorney General of the United States.

"§ 11-1729. Reports of court personnel

"(a) Judges of the courts shall furnish time and attendance records to the respective chief judges, with a copy to the Executive Officer.

"(b) All nonjudicial personnel of the courts shall furnish such reports and information to the Executive Officer as he shall request.

"§ 11-1730. Reports of other personnel

"The Executive Officer or the chief judge may request such reports as may be necessary to the efficient administration of the courts from—

"(1) the United States Attorney for the District of Columbia,

"(2) the Corporation Counsel.

"(3) the United States Marshal for the District of Columbia,

"(4) the Commissioner of the District of Columbia,

"(5) the superintendent of any hospitals or institutions to which persons have been committed by the Superior Court,

"(6) the District of Columbia Public Defender Service,

"(7) the District of Columbia Bail Agency,

"(8) the District of Columbia Department of Corrections,

"(9) the Chief of the Metropolitan Police Department,

"(10) the District of Columbia Department of Public Health, and

"(11) the District of Columbia Department of Public Welfare.

These officials, agencies, and departments shall furnish such reports and information as may be requested pursuant to this section.

"SUBCHAPTER III.—DUTIES AND RESPONSIBILITIES

"§ 11-1741. Court operations and organizations

"Within the respective District of Columbia courts, and subject to the supervision of the chief judges thereof, the Executive Officer shall—

"(1) supervise, analyze, and improve case assignments, calendars, and dockets;

"(2) provide improved services and introduce new methods to better utilize the time of and accommodate government and other witnesses;

"(3) supervise, analyze, and improve the management of jurors;

"(4) recommend changes and improvements in court rules and procedures affecting his administrative responsibilities;

"(5) report periodically to the appropriate chief judge with respect to case volumes, backlogs, length of time cases have been pending, number and identity of incarcerated defendants awaiting trial, and such other information as the respective chief judges may request;

"(6) mechanize and computerize court operations and services where feasible and desirable, and carry on continuing studies and evaluations of increased and innovative uses of mechanization and computerization;

"(7) conduct studies and research with respect to court operations on his own initiative or on request of the respective chief judges; and

"(8) perform such other duties as may be assigned to him by a chief judge.

"§ 11-1742. Property and disbursement

"(a) The Executive Officer shall be responsible, subject to the supervision of the Joint Committee, for arranging with the appropriate Federal or District of Columbia agencies for the operation, maintenance and repair of such buildings and space as may be assigned to the courts. The allocation of space therein shall be vested in the chief judges of the District of Columbia courts.

"(b) The Executive Officer shall be responsible for the procurement of necessary equipment, supplies, and services for the courts and shall have power, subject to applicable law, to reimburse the District of Columbia government for services provided and to contract for such equipment, supplies, and services as may be necessary.

"(c) The Executive Officer shall serve as disbursing officer and payroll officer of the District of Columbia courts and shall assign and distribute necessary equipment and supplies.

"§ 11-1743. Annual budget

"(a) The Joint Committee shall prepare and submit to the Commissioner of the District of Columbia annual estimates of the expenditures and appropriations necessary for the maintenance and operations of the District of Columbia court system.

"(b) All such estimates shall be forwarded to the Bureau of the Budget by the District of Columbia without revision, but subject to the recommendations of the District of Columbia. Similarly, all estimates shall be included in the budget without revision by the President but subject to his recommendations.

"§ 11-1744. Information and liaison services

"The Executive Officer shall be responsible for—

"(1) collecting and compiling statistical information with respect to the volume and disposition of the work of the courts and the personnel of the courts;

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"(2) printing and distribution of court rules;

"(3) keeping the courts advised of pending legislative and executive actions relating to the courts;

"(4) serving as the public information officer of the courts; and

"(5) performing such other duties as may be assigned to him by the Joint Committee and the chief judges in their respective courts.

"§ 11-1745. Reports and records

"(a) The Executive Officer shall prepare and publish, subject to the approval of the Joint Committee, the annual report of the District of Columbia court system of the work of the courts and their operations during the preceding year together with any recommendations relating to the courts. Nothing in this chapter shall prevent the respective chief judges from preparing and publishing any other reports as they may wish.

"(b) The Executive Officer shall be responsible for maintaining and safeguarding the records of the courts. Except for those records required by law to be kept under court seal, he shall make the records available at all reasonable times to—

"(1) the United States Department of Justice,

"(2) the Commissioner of the District of Columbia,

"(3) the District of Columbia Commission on Judicial Disabilities and Tenure, and

"(4) such other agencies as the Joint Committee may specify.

"§ 11-1746. Certification of copies of papers or documents filed in District of Columbia courts

"The Executive Officer shall provide that if any person filing any paper or document in a District of Columbia court requests a certification of such filing, a copy of such paper or document provided by such person shall be appropriately marked for such person to show the time and date of such filing and the identity of the individual with whom such paper or document was filed. Such certified copy shall be prima facie evidence in any proceeding that the original of such paper or document was filed as shown by the certification.

"§ 11-1747. Delegation of authority

"The Executive Officer and court officers appointed by him may delegate to their subordinates authority and responsibility to perform the functions vested in them by law.

"Chapter 19.—JURIES AND JURORS

"Sec.
"11-1901. Qualifications of jurors.
"11-1902. Single jury selection system.
"11-1903. Grand jury; additional grand jury.
"11-1904. Assignment of jury panels.
"11-1905. Length of service.
"11-1906. Fees of jurors.

"§ 11-1901. Qualifications of jurors

"Jurors serving within the District of Columbia shall have the same qualifications as provided for jurors in Federal courts.

"§ 11-1902. Single jury selection system

"There shall be a single system in the District of Columbia for the selection of jurors for both Federal and District of Columbia courts. The selection system shall be that prescribed by Federal law and executed in accordance therewith as provided by the United States District Court for the District of Columbia.

"§ 11-1903. Grand jury; additional grand jury

"(a) A grand jury serving in the District of Columbia may take cognizance of all matters brought before it regardless of whether an indictment is returnable in the Federal or District of Columbia courts.

"(b) If the United States Attorney for the District of Columbia certifies in writing to the chief judge of the United States District Court for the District of Columbia, or the chief judge of the Superior Court, that the exigencies of the public service require it, the judge may, in his discretion, order an additional grand jury summoned, which shall be drawn at such time as he designates. Unless sooner discharged by order of the judge, the additional grand jury shall serve until the end of the term for which it is drawn.

"§ 11-1904. Assignment of jury panels

"The names of persons to serve as jurors in the United States District Court for the District of Columbia and the Superior Court shall be drawn from time to time as may be required, and such persons shall be assigned to jury panels within those courts as the courts may decide.

"§ 11-1905. Length of service

"Petit jurors summoned for service in the District of Columbia shall serve for such period of time and at such sessions as the particular court shall direct, but, unless actually engaged as a trial juror in a particular case, may not be required to serve in the court for more than one month in any twelve consecutive months.

"§ 11-1906. Fees of jurors

"Jurors serving in the Superior Court shall receive the same fees as jurors serving in the United States District Court for the District of Columbia.

"Chapter 21.—REGISTER OF WILLS

"Sec.
"11-2101. Continuation of office.
"11-2102. Appointment; oath; bond.
"11-2103. Services as clerk.
"11-2104. Powers and duties; restrictions; penalties.
"11-2105. Deputies and other employees.
"11-2106. Accounts.

"§ 11-2101. Continuation of office

"The Office of the Register of Wills shall continue as an office in the Probate Division of the Superior Court.

"§ 11-2102. Appointment; oath; bond

"The Superior Court shall appoint the Register of Wills. The Register of Wills shall—

"(1) take an oath for the faithful and impartial discharge of the duties of his office; and

"(2) give bond, with two or more sureties, to be approved by the chief judge of the Superior Court, in the amount designated by the court, faithfully to discharge the duties of his office, and seasonably to record (A) the decrees and orders of the court in any matters over which the court exercises probate jurisdiction or powers, (B) all wills proved before him or the court, and (C) all other matters directed to be recorded in the court or in his office.

The bond shall be entered in full upon the minutes of the Superior Court and the original filed with the records of the Superior Court.

"§ 11-2103. Services as clerk

"With respect to the Probate Division of the Superior Court, the Register of Wills shall perform such duties as clerk as the chief judge of the Superior Court may assign.

"§ 11-2104. Powers and duties; restrictions; penalties

"(a) The Register of Wills may—

"(1) receive inventories and accounts of sales, examine vouchers, and state accounts of executors, administrators, collectors, and guardians, subject to final approval of the court;

"(2) take the probate of claims against the estates of deceased persons that are properly brought before him, and approve or reject claims not exceeding $300; and

"(3) take the probate of wills and accept the bonds of executors, administrators, collectors, and guardians, subject to approval of the court.

"(b) In matters over which the Superior Court has probate jurisdiction or powers, the Register of Wills shall—

"(1) make full and fair entries, in separate records, of the proceedings of the court;

"(2) make fair record in strong bound books of all wills proved before him or the court, keeping separate books for wills within the jurisdiction of the court;

"(3) make fair and separate record of other matters required by law to be recorded in the court;

"(4) lodge in places of safety, designated by the court, original papers filed with him;

"(5) make out and issue every summons, process, and order of the court;

"(6) make fair and uniform tables of his fees, and post them in a conspicuous place in his office for the inspection of persons having business therein;

"(7) prepare and submit such reports as may be required to the Executive Officer of the District of Columbia courts; and

"(8) in every respect, act under the control and direction of the court.

"(c) The Register of Wills may not—

"(1) practice law in any court of the District of Columbia or of the United States; or

"(2) demand or receive any fee, gratuity, gift, or reward for giving his advice in any matter relating to his office.

"(d) The Register of Wills shall forfeit to the court the sum of $50 for each day that the tables referred to in subsection (b)(6) are missing through his neglect, which may be recovered as other debts for the same amount are recoverable.

"(e) If the Register of Wills or a person acting for him takes a greater fee than the fee provided for by law, he shall pay the party injured $100, which may be recovered as other debts for the same amount are recoverable.

"§ 11-2105. Deputies and other employees

"The Executive Officer of the District of Columbia courts shall appoint and remove such personnel as may be needed by the Register of Wills, pursuant to chapter 17 of this title.

"§ 11-2106. Accounts

"All fees, costs, and other moneys, except uncollected fees not required by law to be prepaid, collected by the Register of Wills with respect to matters within the jurisdiction of the Superior Court shall be turned over to the Fiscal Officer of the District of Columbia courts.

"Chapter 23.—MEDICAL EXAMINER

"Sec.
"11—2301. Medical Examiner; Deputies; appointment, qualifications and compensation.
"11-2302. Supporting services and facilities.
"11-2303. Former duties of coroner; oaths; teaching.
"11-2304. Deaths to be investigated; notification and investigation of deaths.
"11-2305. Possession of evidence and property.
"11-2306. Further investigation; autopsy.
"11-2307. Autopsy by pathologist other than Medical Examiner.
"11-2308. Delivery of body; expenses.
"11-2309. Records; reports; fees for other services.
"11-2310. Records as evidence.
"11-2311. Autopsies performed by court order.
"11-2312. Tissue transplants.

"§ 11-2301. Medical Examiner; Deputies; appointment, qualifications, and compensation

"(a) The Commissioner of the District of Columbia shall designate or appoint a Chief Medical Examiner and such Deputy Medical Examiners for the District of Columbia as may be necessary.

"(b) The Chief Medical Examiner and his deputies shall be physicians licensed in the District of Columbia. The Chief Medical Examiner and at least one deputy shall be certified in anatomic pathology by the American Board of Pathology or be board eligible.

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They may be designated from among physicians practicing in the District of Columbia Department of Public Health.

"(c) The Commissioner shall fix the compensation of the Chief Medical Examiner and his deputies at a rate or rates not in excess of the per diem equivalent of the maximum rate for GS-18 of the General Schedule contained in section 5332 of title 5 of the United States Code.

"§11-2302. Supporting services and facilities

"The Commissioner shall furnish or make available such investigative, technical, and clerical personnel, facilities, and equipment as the medical examiners shall require, or he may arrange or contract for such services, equipment, and facilities with the United States Government or universities and hospitals in the District of Columbia.

"§ 11-2303. Former duties of Coroner; oaths; teaching

"(a) The Chief Medical Examiner shall be responsible for all the medical functions formerly performed by the coroner in the District of Columbia, consistent with the provisions of this chapter, and the Chief Medical Examiner and his deputies may administer oaths and affirmations and take affidavits in connection with the performance of their duties.

"(b) The Chief Medical Examiner and his deputies may be authorized by the Commissioner of the District of Columbia to teach medical and law school classes, to conduct special classes for law enforcement personnel, and to engage in other activities related to their work.

"§11-2304. Deaths to be investigated; notification and investigation of deaths

"(a) Under regulations established by the Chief Medical Examiner, the following types of human deaths occurring in the District of Columbia shall be investigated:

"(1) Violent deaths, whether apparently homicidal, suicidal, or accidental, including deaths due to thermal, chemical, electrical, or radiational injury, and deaths due to criminal abortion, whether apparently self-induced or not.

"(2) Sudden deaths not caused by readily recognizable disease.

"(3) Deaths under suspicious circumstances.

"(4) Deaths of persons whose bodies are to be cremated, dissected, buried at sea, or otherwise disposed of so as to be thereafter unavailable for examination.

"(5) Deaths related to disease resulting from employment or to accident while employed.

"(6) Deaths related to disease which might constitute a threat to public health.

"(b) All law enforcement officers, physicians, undertakers, embalmers and other persons shall promptly notify a medical examiner of the occurrence of all deaths coming to their attention which are subject to investigation under subsection (a) of this section and shall assist in making dead bodies and related evidence available to the medical examiner for investigation and autopsy.

"(c) Any physician, undertaker, or embalmer who willfully fails to comply with this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100 nor more than $1,000.

"(d) The Chief Medical Examiner shall by regulation prescribe procedures for taking possession of a body following a death subject to investigation under subsection (a) of this section and for obtaining all essential facts concerning the medical causes of death and the names and addresses of as many witnesses as it is practicable to obtain.

"§ 11-2305. Possession of evidence and property

"(a) At the scene of any death subject to investigation under section 11-2304, a law enforcement officer or the medical examiner shall take possession of any objects or articles useful in establishing the cause of death and shall hold them as evidence.

"(b) In the absence of the next of kin, a police officer or the medical examiner may take possession of all property of value found on or in the custody of the deceased. If possession is taken of the property, the police officer or medical examiner shall make an exact inventory of it, and deliver the property to the property clerk of the Metropolitan Police Department.

"§ 11-2306. Further investigation; autopsy

"(a) If, in the opinion of the medical examiner, the cause of death is established with reasonable medical certainty, he shall complete a report thereon.

"(b) If, in the opinion of the Chief Medical Examiner or the United States attorney further investigation as to the cause of death is required or the public interest so requires, a medical examiner shall either perform, or arrange for a qualified pathologist to perform, an autopsy on the body of the deceased. No consent of next of kin shall be required for an autopsy performed pursuant to this section.

"(c) The medical examiner shall make a complete record of the findings of the autopsy and his conclusions with respect thereto and shall prepare a report, and upon request, furnish a copy to the appropriate law enforcement agency.

"§ 11-2307. Autopsy by pathologist other than medical examiner

"(a) If an autopsy is performed by a pathologist other than a medical examiner by request of a medical examiner, the pathologist shall furnish to the medical examiner a complete record of the findings of the autopsy and his conclusions with respect thereto. The medical examiner shall thereupon prepare a report, indicating the name of the pathologist performing the autopsy and his findings and conclusions, and the medical examiner's own comments with respect thereto, if appropriate, and upon request, shall furnish a copy thereof to the appropriate law enforcement agency.

"(b) A pathologist other than a medical examiner who performs an autopsy at the request of a medical examiner shall be compensated in accordance with a fee rate established by the Commissioner of the District of Columbia.

"§ 11-2308. Delivery of body; expenses

"(a) Following investigation or autopsy, the medical examiner shall release the body of the deceased to the person having the right to the body for purposes of burial pursuant to law. If there is no such person, he shall dispose of it according to law.

"(b) Expenses of transportation of a body by a medical examiner and of autopsies performed pursuant to this chapter shall be borne by the District of Columbia.

"§ 11-2309. Records; reports; fees for other services

"(a) The Chief Medical Examiner shall be responsible for maintaining full and complete records and files, properly indexed, giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause, and manner of death, and all other relevant information and reports of the medical examiner concerning the death, and shall issue a death certificate.

"(b) The records and files maintained under the provisions of subsection (a) of this section shall be open to inspection by the Commissioner of the District of Columbia or his authorized representative, the United States attorney and his assistants, the Metropolitan Police Department, or any other law enforcement agency or official; and the medical examiner shall promptly deliver to such persons copies of all records relating to every death as to which further investigation may be advisable.

"(c) Any other person with a legitimate interest may obtain copies of records maintained under the provisions of subsection (a) upon such conditions and payment of such fees as may be prescribed by the Chief Medical Examiner. If such person fails to meet the prescribed conditions, he may obtain copies of such records pursuant to court order if the court is satisfied that he has a legitimate interest.

"(d) The Chief Medical Examiner shall prepare an annual report to the Commissioner of the District of Columbia containing information on the number of autopsies performed, statistics as to cause of death, and such other relevant information as the Commissioner of the District of Columbia shall require. The report shall be open to inspection by the public. The report shall not identify by name deceased persons examined.

"(e) Medical examiners may charge fees, at rates prescribed by the Chief Medical Examiner, for completing insurance forms or performing similar services for private parties.

"§ 11-2310. Records as evidence

"The records maintained pursuant to section 11-2309, or reproductions thereof certified by the Chief Medical Examiner, are admissible in evidence in any court in the District of Columbia, except that statements made by witnesses or other persons and conclusions upon non-medical matters are not made admissible by this section.

"§ 11-2311. Autopsies performed by court order

"In the case of sudden, violent, or suspicious death when the body is buried without investigation, the United States attorney, on his own motion or on request of a medical examiner or the Metropolitan Police Department, may petition the appropriate court for an order to conduct an inquiry. The court may order the body exhumed and an autopsy performed. In such cases, records and reports shall be filed as if the autopsy were performed prior to burial except that a copy of the report shall be furnished directly to the court.

"§ 11-2312. Tissue transplants

"The medical examiner may allow the removal of tissue pursuant to section 9 of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2-258).

"Chapter 25.—ATTORNEYS

"Sec.
"11-2501. Admission to bar; regulations; prior admission.
"11-2502. Censure, suspension, or disbarment for cause.
"11-2503. Disbarment upon conviction of crime; procedure for censure, suspension, or disbarment.
"11-2504. Censure, suspension, or disbarment by other courts.

"§ 11-2501. Admission to bar; regulations; prior admission

"(a) The District of Columbia Court of Appeals shall make such rules as it deems proper respecting the examination, qualification, and admission of persons to membership in its bar, and their censure, suspension, and expulsion.

"(b) Members of the bar of the District of Columbia Court of Appeals shall be eligible to practice in the District of Columbia courts.

"(c) Members of the bar of the United States District Court for the District of Columbia in good standing on April 1, 1972, shall be automatically enrolled as members of the bar of the District of Columbia Court of Appeals, and shall be subject to its disciplinary jurisdiction.

"§ 11-2502. Censure, suspension, or disbarment for cause

"The District of Columbia Court of Appeals may censure, suspend from practice, or expel a member of its bar for crime, misdemeanor, fraud, deceit, malpractice, professional misconduct, or conduct prejudicial to the administration of justice. A fraudulent act or misrepresentation by an applicant in connection with his application for admission is sufficient cause for the revocation by the court of his admission.

"§ 11-2503. Disbarment upon conviction of crime; procedure for censure, suspension or disbarment

"(a) When a member of the bar of the District of Columbia Court of Appeals is convicted of an offense involving moral turpitude, and a certified copy of the conviction is presented to the court, the court shall, pending final determination of an appeal from the conviction, suspend the member of the bar from practice. Upon reversal of the conviction the court may vacate or modify the suspension. If a final judgment of conviction is certified to the court, the name of the member of the bar so convicted shall be struck from the roll of the members of the bar and he shall thereafter cease to be a member. Upon the granting of a pardon to a member so convicted, the court may vacate or modify the order of disbarment.

"(b) Except as provided in subsection (a), a member of the bar may not be censured, suspended, or expelled under this chapter until written charges, under oath, against him have been presented to the court, stating distinctly the grounds of complaint. The court may order the charges to be filed in the office of the clerk of the court and shall fix a time for hearing thereon. Thereupon a certified copy of the charges and order shall be served upon the member personally, or if it is established to the satisfaction of the court that personal service cannot be had, a certified copy of the charges and order shall be served upon him by mail, publication, or otherwise as the court directs. After the filing of the written charges, the court may suspend the person charged from practice at its bar pending the hearing thereof.

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"§ 11-2504. Censure, suspension, or disbarment by other courts

"The Federal courts in the District of Columbia and the Superior Court may censure, suspend, or expel an attorney from practice at their respective bars, for a crime involving moral turpitude, or professional misconduct, or conduct prejudicial to the administration of justice. If an attorney is expelled from practice under this section, the court expelling him shall notify the other Federal courts in the District of Columbia and the District of Columbia Court of Appeals of the action taken."

PART B—PROCEEDINGS REGARDING JUVENILE DELINQUENCY AND RELATED MATTERS

SEC. 121. (a) Chapter 23 of title 16 of the District of Columbia Code is amended to read as follows:

"Chapter 23.—FAMILY DIVISION PROCEEDINGS

"SUBCHAPTER I.—PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION

"Sec.
"16-2301. Definitions.
"16-2302. Transfer of criminal matters to Family Division.
"16-2303. Retention of jurisdiction.
"16-2304. Right to counsel.
"16-2305. Petition; contents; amendment.
"16-2306. Service of summons, and petition.
"16-2307. Transfer for criminal prosecution.
"16-2308. Initial appearance.
"16-2309. Taking into custody.
"16-2310. Criteria for detaining child.
"16-2311. Release or delivery to Family Division.
"16-2312. Detention or shelter care hearing; intermediate disposition.
"16-2313. Place of detention or shelter.
"16-2314. Consent decree.
"16-2315. Physical and mental examinations.
"16-2316. Conduct of hearings; evidence.
"16-2317. Hearings; findings; dismissal.
"16-2318. Order of adjudication noncriminal.
"16-2319. Predisposition study and report.
"16-2320. Disposition of child who is neglected, delinquent, or in need of supervision.
"16-2321. Disposition of mentally ill or mentally retarded child.
"16-2322. Limitation of time on disposition orders.

"SUBCHAPTER I.—PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION—Con.

"16-2323. Modification, termination of orders.
"16-2324. Support of committed child.
"16-2325. Court costs and expenses.
"16-2326. Probation revocation; disposition.
"16-2327. Interlocutory appeals.
"16-2328. Finality of judgments; appeals; transcripts.
"16-2329. Time computation.
"16-2330. Juvenile case records; confidentiality inspection; and disclosure.
"16-2331. Juvenile social records; confidentiality; inspection; and disclosure.
"16-2332. Police and other law enforcement records.
"16-2333. Fingerprint records.
"16-2334. Sealing of records.
"16-2335. Unlawful disclosure of records.
"16-2336. Additional powers of Director of Social Services.
"16-2337. Emergency medical treatment.

"SUBCHAPTER II.—PATERNITY PROCEEDINGS

"Sec.
"16-2341. Representation.
"16-2342. Time of bringing complaint.
"16-2343. Blood tests.
"16-2344. Exclusion of public.
"16-2345. New birth record upon marriage of natural parents.
"16-2346. Reports to Director of Public Health.
"16-2347. Death of respondent; liability of estate.
"16-2348. Paternity records; confidentiality; inspection; and disclosure.

"SUBCHAPTER I.—PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION

§ 16-2301. Definitions

"As used in this subchapter—

"(1) The term 'Division' means the Family Division of the Superior Court of the District of Columbia.

"(2) The term 'judge' means a judge assigned to the Family Division of the Superior Court.

"(3) The term 'child' means an individual who is under 18 years of age, except that the term 'child' does not include an individual who is—

"(A) sixteen years of age or older and who is charged by the United States attorney with (i) murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault with intent to commit any such offense, or assault with a dangerous weapon, or (ii) an offense listed in clause (i) and any other offense properly joinable with such an offense;

"(B) charged with an offense referred to in subparagraph (A)(i) and convicted by plea or verdict of a lesser included offense; or

"(C) sixteen years of age or older and who is charged with a traffic offense.

For purposes of this subchapter the term 'child' also includes a person under the age of twenty-one who is charged with an offense referred to in subparagraph (A) or (C) committed before he attained the age of sixteen, or a delinquent act committed before he attained the age of eighteen.

"(4) The term 'minor' means an individual who is under the age of twenty-one years.

"(5) The term 'adult' means an individual who is twenty-one years of age or older.

"(6) The term 'delinquent child' means a child who has committed a delinquent act and is in need of care or rehabilitation.

"(7) The term 'delinquent act' means an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in a State, or under Federal law. Traffic offenses shall not be deemed delinquent acts unless committed by an individual who is under the age of sixteen.

"(8) The term 'child in need of supervision' means a child who—

"(A)(i) being subject to compulsory school attendance, is habitually and without justification truant from school;

"(ii) has committed an offense not classified as criminal or is one applicable only to children; or

"(iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and

"(B) is in need of care or rehabilitation.

"(9) The term 'neglected child' means a child—

"(A) who has been abandoned or abused by his parent, guardian, or other custodian;

"(B) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his parent, guardian, or other custodian;

"(C) whose parent, guardian, or other custodian is unable to discharge his responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

"(D) who has been placed for care or adoption in violation of law.

No child who in good faith is under treatment solely by spirtual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered a neglected child for purposes of this subchapter.

"(10) The term 'mentally ill child' means a child who is mentally ill within the meaning of section 21-501.

"(11) The term 'mentally retarded child' means a child who is mentally retarded within the meaning of section 21-1101.

"(12) The term 'custodian' means a person or agency, other than a parent or legal guardian, to whom legal custody of a child has been given by court order and who is acting in loco parentis.

"(13) The term 'detention' means the temporary, secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

"(14) The term 'shelter care' means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

"(15) The term 'detention or shelter care hearing' means a hearing to determine whether a child who is in custody should be placed or continued in detention or shelter care.

"(16) The term 'factfinding hearing' means a hearing to determine whether the allegations of a petition are true.

"(17) The term 'dispositional hearing' means a hearing, after a finding of fact, to determine—

"(A) whether the respondent in a delinquent or need of supervision case is in need of care or rehabilitation and, if so, what order of disposition should be made; or

"(B) what order of disposition should be made in a neglect case.

"(18) The term 'probation' means a legal status created by court order following an adjudication of delinquency or need of supervision, whereby a minor is permitted to remain in the community subject to appropriate supervision and return to the Division for violation of probation at any time during the period of probation.

"(19) The term 'protective supervision' means a legal status created by Division order in neglect cases whereby a minor is permitted to remain in his home under supervision, subject to return to the Division during the period of protective supervision.

"(20) The term 'guardianship of the person of a minor' means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor, and concern with his general welfare. It includes (but is not limited to)—

"(A) authority to consent to marriage, enlistment in the armed forces of the United States, and major medical, surgical, or psychiatric treatment; to represent the minor in legal actions; and to make other decisions concerning the minor of substantive legal significance;

"(B) the authority and duty of reasonable visitation (except as limited by court order);

"(C) the rights and responsibility of legal custody when guardianship of the person is exercised by the natural or adoptive parent (except where legal custody has been vested in another person or an agency or institution); and

"(D) the authority to exercise residual parental rights and responsibilities when the rights of his parents or only living parent have been judicially terminated or when both parents are dead.

"(21) The term 'legal custody' means a legal status created by court order which vests in a custodian the responsibility for the custody of a minor which includes—

"(A) physical custody or the determination of where and with whom the minor shall live;

"(B) the right and duty to protect, train, and discipline the minor; and

"(C) the responsibility to provide the minor with food, shelter, education, and ordinary medical care.

A court order of 'legal custody' is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

"(22) The term 'residual parental rights and responsibilities' means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person, including (but not limited to) the right of visitation, consent to adoption, and determination of religious affiliation and the responsibility for support.

"§ 16–2302. Transfer of criminal matters to Family Division

"(a) If it appears to a court, during the pendency of a criminal charge and before the time when jeopardy would attach in the case of an adult, that a minor defendant was a child at the time of an alleged offense, the court shall forthwith transfer the charge against the defendant, together with all papers and documents connected therewith, to the Division. All action taken by the court prior to transfer of the case shall be deemed null and void unless the Division transfers the child for criminal prosecution under section 16–2307.

"(b) If at the time of an alleged offense, a minor defendant was a child but this fact is not discovered by the court until after jeopardy has attached, the court shall proceed to verdict. If judgment has not been entered, the court shall determine on the basis of the criteria in section 16–2307(e) whether to enter judgment or to refer the case to the Division for disposition. If judgment has been entered, it shall not be set aside on the ground of the defendant's age.

"(c) The court making a transfer shall order the minor to be taken forthwith to the Division or to a place of detention designated for children by the Superior Court. The Division shall then proceed as provided in this subchapter.

"(d) Nothing in this section shall affect the jurisdiction of a court over a person twenty-one years of age or older.

"§ 16–2303. Retention of jurisdiction

"For purposes of this subchapter, jurisdiction obtained by the Division in the case of a child shall be retained by it until the child becomes twenty-one years of age, unless jurisdiction is terminated before that time. This section does not affect the jurisdiction of other divisions of the Superior Court or of other courts over offenses committed by a person after he ceases to be a child. If a minor already under the jurisdiction of the Division is convicted in the Criminal Division or another court of a crime committed after he ceases to be a child, the Family Division may, in appropriate cases terminate its jurisdiction.

"§ 16–2304. Right to counsel

"(a) A child alleged to be delinquent or in need of supervision is entitled to be represented by counsel at all critical stages of Division proceedings beginning at the time of admission or denial of allegations in the petition and at all subsequent stages. If the child and his parent, guardian, or custodian are financially unable to obtain adequate representation, the child shall be entitled to have counsel appointed for him in accordance with rules established by the Superior Court. In its discretion, the Division may appoint counsel for the child over the objection of the child, his parent, guardian, or other custodian.

"(b) When a child is alleged to be neglected, the parent, guardian, or custodian of the child named in the petition is entitled to be represented by counsel at all critical stages of the Division proceedings and, if financially unable to obtain adequate representation, to have counsel appointed in accordance with rules established by the Superior Court. The Division shall, where appropriate, appoint separate counsel to represent the child, as provided in section 16–918.

"§ 16–2305. Petition; contents; amendment

"(a) Complaints alleging delinquency, need of supervision, or neglect shall be referred to the Director of Social Services who shall conduct a preliminary inquiry to determine whether the best interests of the child or the public require that a petition be filed. If judicial action appears warranted, under intake criteria established by rule of the Superior Court, the Director shall recommend that a petition be filed. If the Director decides not to recommend the filing of a petition, the complainant in a delinquency or neglect case shall have a right to have that decision reviewed by the Corporation Counsel, and the Director shall notify the complainant of such right of review.

"(b) Petitions initiating judicial action may be signed by any person who has knowledge of the facts alleged or, being informed of them, believes they are true, except that petitions alleging need of supervision may only be signed by the Director of Social Services, a representative of a public agency or a nongovernmental agency licensed and authorized to care for children, a representative of a public or private agency providing social service for families, a school official, or a law enforcement officer. Petitions shall be verified and verification may be upon information or belief.

"(c) Each petition shall be prepared by the Corporation Counsel after an inquiry into the facts and a determination of the legal basis for the petition. If the Director of Social Services has refused to recommend filing of a delinquency or neglect petition, the Corporation Counsel, on request of the complainant, shall review the facts presented and shall prepare and file a petition if he believes such action is necessary to protect the community or the interests of the child. Any decision of the Corporation Counsel on whether to file a petition shall be final.

"(d) Petitions shall be filed by the Corporation Counsel within ten days after the complaint has been referred to the Director of Social Services, except as otherwise provided in section 16–2312. A petition shall set forth plainly and concisely the facts which give the Division jurisdiction of the child under section 11–1101(13) and in delinquency cases the petition shall state the specific statute or ordinance on which the charge is based; and, if delinquency or need of supervision is alleged, a statement that the child appears to be in need of care or rehabilitation. The petition shall contain such other facts and information as may be required by rules of the Superior Court.

"(e) A petition may be amended by leave of the Division on motion of the Corporation Counsel or counsel for the child, at any time prior to the conclusion of the factfinding hearing. The Division shall grant the Corporation Counsel, the child, and his parent, guardian, or custodian notice of the amendment and, where necessary, additional time to prepare.

"(f) The District of Columbia shall be a party to all proceedings under this subchapter.

"§ 16–2306. Service of summons and petition

"(a) When a petition is filed, the Division shall set a time for initial appearance and shall direct the issuance of summonses. If delinquency or need of supervision is alleged, a summons, together with a copy of the petition, shall be served upon the child and upon his spouse (if any) and his parent, guardian, or other custodian. If neglect is alleged, the summons, together with a copy of the petition, shall be served on the parent, guardian, or other custodian of the child named in the petition. Where appropriate to the proper disposition of the case, the Division may direct service of summonses upon other persons. A summons issued pursuant to this section shall advise the parties of the right to counsel as provided in section 16–2304.

"(b) Upon request of the Corporation Counsel, the Division may endorse upon the summons an order directing the parent, guardian, or other custodian of the child to appear personally at the hearing and directing the person having physical custody or control of the child to bring the child to the hearing.

"(c) If it appears, from information presented to the Division, that there are grounds to take the child into custody as provided in section 16–2309, or that the child may leave or be removed from the jurisdiction of the Superior Court or will not be brought to the hearing, notwithstanding service of the summons, the Division may endorse upon the summons an order that the officer serving the summons shall at once take the child into custody. If the child is taken into custody under this section, the provisions of sections 16–2309 to 16–2311 shall apply.

"§ 16–2307. Transfer for criminal prosecution

"(a) Within ten days of the filing of a delinquency petition, or later for good cause shown, and prior to a fact-finding hearing on the petition, the Corporation Counsel, following consultation with the Director of Social Services, may file a motion, supported by a statement of facts, requesting transfer of the child for criminal prosecution, if—

"(1) the child was fifteen or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;

"(2) the child is sixteen or more years of age and is already under commitment to an agency or institution as a delinquent child; or

"(3) a minor eighteen years of age or older is alleged to have committed a delinquent act prior to having become eighteen years of age.

"(b) Following the filing of the motion by the Corporation Counsel, summonses shall be issued and served in conformity with the provisions of section 16–2306.

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"(c) When there are grounds to believe the child is mentally retarded or mentally ill, the Division shall stay the proceedings for the purpose of obtaining an examination. After examination, the Division shall proceed to a determination under subsection (d) unless it determines that the child is incompetent to participate in the proceedings, in which event it shall order the child committed to a mental hospital pursuant to section 16-2315 or section 927 of the Act of March 3, 1901 (D.C. Code, sec. 24-301(a)).

"(d) The Division shall conduct a hearing on each transfer motion for the purpose of determining whether there are reasonable prospects of rehabilitating the child prior to his majority, unless a commitment pursuant to subsection (c) has intervened. Unless the Division finds that there are reasonable prospects for rehabilitating the child prior to his majority, it shall transfer the child for criminal prosecution and notify the United States attorney. Accompanying the order of transfer shall be a statement of the reasons, with respect to the five factors set forth in subsection (e) of this section, for transferring the child. This statement shall be available, upon request, to any court in which the transfer is challenged, but shall not be available to the trier of fact on the criminal charge prior to verdict.

"(e) Evidence of the following factors shall be considered in determining whether there are reasonable prospects for rehabilitating a child prior to his majority:

"(1) the child's age;

"(2) the nature of the present offense and the extent and nature of the child's prior delinquency record;

"(3) the child's mental condition;

"(4) the nature of past treatment efforts and the nature of the child's response to past treatment efforts; and

"(5) the techniques, facilities, and personnel for rehabilitation available to the Division and to the court that would have jurisdiction after transfer.

The rules of evidence at transfer hearings shall be the same as those that govern dispositional proceedings in delinquency cases, as set forth in section 16-2317. At a transfer hearing, only the propriety of eventual Division disposition shall be considered, and evidence bearing on probable cause or the likelihood that the child committed the act alleged shall not be admitted.

"(f) Prior to a transfer hearing, a study and report, in writing, relevant to the factors in subsection (e), shall be made by the Director of Social Services. This report and all social records that are to be made available to the judge at the transfer hearing shall be made available to counsel for the child and to the Corporation Counsel at least five days prior to the hearing.

"(g) A judge who conducts a hearing pursuant to this section shall not, over the objection of the child whose prospects for rehabilitation were at issue, participate in any subsequent factfinding proceedings relating to the offense.

"(h) Transfer of a child for criminal prosecution terminates the jurisdiction of the Division over the child with respect to any subsequent delinquent acts.

"§ 16-2308. Initial appearance

"At the time set forth in the summons, or at such later time as may be authorized by rule of the Superior Court, the child named in a delinquency or need of supervision petition or the parent, guardian, or custodian of a child named in a neglect petition shall appear before a judge assigned to the Division and shall be advised of the contents of the petition and of the right to counsel as provided in section 16-2304. At that time the child, or in neglect cases the parent, guardian, or custodian, may admit or deny the allegations in the petition, but it shall not be necessary at the initial appearance for the Corporation Counsel to establish probable cause to believe that the allegations in the petition are true. At the initial appearance, the judge may set the time for the factfinding hearing or continue the matter until a later time. This section shall not apply in any case where prior to or at the time of the initial appearance, a detention or shelter care hearing is required by section 16-2312.

"§ 16-2309. Taking into custody

"A child may be taken into custody—

"(1) pursuant to order of the Division under section 16-2306 or 16-2311;

"(2) by a law enforcement officer when he has reasonable grounds to believe that the child has committed a delinquent act;

"(3) by a law enforcement officer when he has reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his removal from his surroundings is necessary; or

"(4) by a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parent, guardian, or other custodian.

"§ 16-2310. Criteria for detaining children

"(a) A child shall not be placed in detention prior to a factfinding hearing or a dispositional hearing unless he is alleged to be delinquent or in need of supervision and unless it appears from available information that detention is required—

"(1) to protect the person or property of others or of the child, or

"(2) to secure the child's presence at the next court hearing.

"(b) A child shall not be placed in shelter care prior to a factfinding hearing or a dispositional hearing unless it appears from available information that shelter care is required—

"(1) to protect the person of the child, or

"(2) because the child has no parent, guardian, custodian, or other person or agency able to provide supervision and care for him, and the child appears unable to care for himself.

"(c) The criteria for detention and shelter care provided in this section, as implemented by rules of the Superior Court, shall govern the decisions of all persons responsible for determining whether detention or shelter care is warranted prior to the factfinding hearing.

"§ 16-2311. Release or delivery to Family Division

"(a) A person taking a child into custody shall with all reasonable speed—

"(1) release the child to his parent, guardian, or custodian upon a promise to bring the child before the Division when requested by the Division, unless the child's placement in detention or shelter care appears required as provided in section 16-2310; or

"(2) bring the child before the Director of Social Services, or to a medical facility if the child appears to require prompt treatment or to require prompt diagnosis for medical or evidentiary purposes.

Any person taking a child into custody shall give prompt notice to the Corporation Counsel and to the parent, guardian, or custodian (if known) together with the reasons for custody.

"(b) When a child is brought before the Director of Social Services, the Director shall in all cases review the need for detention or shelter care prior to the admission of the child to the place of detention or shelter care. The child shall be released to his parent, guardian, or custodian unless the Director of Social Services finds that detention or shelter care is required under section 16-2310.

"(c) If a parent, guardian, or custodian fails, when requested, to bring the child to the Division as provided in subsection (a)(1), the Division may issue a warrant directing that the child be taken into custody and brought before the Division.

"§ 16-2312. Detention or shelter care hearing; intermediate disposition

"(a) When a child is not released as provided in section 16-2311—

"(1) a detention or shelter care hearing shall be commenced not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 16-2302; and

"(2) a petition shall be filed at or prior to the detention or shelter care hearing.

"(b) Prompt notice of the detention or shelter care hearing shall be given, if delinquency or need of supervision is alleged, to the child, and to his spouse (if any), parent, guardian, or custodian, if he can be found, or, if neglect is alleged, to the child, and to the parent, guardian or custodian named in the petition if he can be found. Counsel for the child, and in neglect cases counsel for the parent, guardian, or custodian, shall be entitled to a copy of the petition prior to the hearing.

"(c) At the commencement of the hearing the judge shall advise the parties of the right to counsel, as provided in section 16-2304, and shall appoint counsel if required. He shall also inform them of the contents of the petition and shall afford the child, or in a neglect case, the parent, guardian, or custodian, an opportunity to admit or deny the allegations in the petition. He shall then hear from the Corporation Counsel to determine whether the child should be placed or continued in detention or shelter care under the criteria in section 16-2310. The child and his parent, guardian, or custodian shall have a right to be heard in their own behalf.

"(d) When a judge finds that a child's detention or shelter care is not required under the criteria in section 16-2310, he shall order the child's release, and may impose one or more of the following conditions:

"(1) Placement of the child in the custody of a parent, guardian, or custodian or under supervision of a person or organization agreeing to supervise him.

"(2) Placement of restrictions on the child's travel, activities, or place of abode during the period of release.

"(3) Any other condition reasonably necessary to assure the appearance of the child at a factfinding hearing or his protection from harm, including a requirement that the child return to the physical custody of the parent, guardian, or custodian after specified hours.

"(e) When a judge finds that a child's detention or shelter care is required under the criteria of section 16-2310, he shall then hear evidence presented by the Corporation Counsel to determine whether there is probable cause to believe the allegations in the petition are true. The child, his parent, guardian or custodian may present evidence on the issues and be heard in their own behalf.

"(f) When a judge finds there is probable cause to believe the allegations in the petition are true, he shall order the child to be placed or continued in detention or shelter care and set forth his reasons. When a judge finds that there is not probable cause to believe the allegations in the petition are true, he shall order the child to be released.

"(g) For good cause shown, the Division may grant a continuance of the detention of shelter care hearing, or any part thereof, for a period not to exceed five days. During the period of the continuance, the Division may order the child to be placed or continued in detention or shelter care.

"(h) On motion by or on behalf of the child, a child in custody shall be released from custody if his detention or shelter care hearing is not commenced within the time set herein.

"(i) If a child is not released after his detention or shelter care hearing and the parent, guardian or custodian did not receive notice thereof, the Division may, in the interest of justice, conduct a new hearing in accordance with rules prescribed by the Superior Court.

"(j) Upon objection of the child or his parent, guardian, or custodian, a judge who conducted a detention or shelter care hearing shall not conduct a factfinding hearing on the petition.

"§ 16–2313. Place of detention or shelter

"(a) A child who is alleged to be neglected and who is in custody may be placed at any time prior to disposition, only in—

"(1) a foster home;

"(2) a group home, youth shelter, or other appropriate home for nondelinquent children; or

"(3) another facility for shelter care designated by the division, including an appropriate facility operated by the District of Columbia.

No child alleged to be neglected may be placed in a facility described in paragraph (3) of subsection (b) of this section.

"(b) A child who is alleged to be in need of supervision or (except as provided in subsection (d) or (e)) is alleged to be delinquent and who is in custody may be detained at any time prior to disposition only in—

"(1) a foster home;

"(2) a group home, youth shelter, or other appropriate home for allegedly delinquent children; or

"(3) a detention home for allegedly delinquent children or children alleged to be in need of supervision, designated or operated by the District of Columbia.

Unless the Division shall by order so authorize, no child may be detained in a facility described in paragraph (3) if it would result in his commingling with children who have been adjudicated delinquent and committed by order of the Division.

"(c) A child in detention or shelter care may be temporarily transferred to a medical facility for physical care and may, on order of the Division pursuant to section 16–2315, be temporarily transferred to a facility for mental examination or treatment.

"(d) Except as provided in subsection (e), no child under eighteen years of age may be detained in a jail or other facility for the detention of adults, unless transferred as provided in section 16–2307. The appropriate official of a jail or other facility for the detention of adults shall inform the Superior Court immediately when a child under the age of eighteen years is received there (other than by transfer) and shall (1) deliver him to the Director of Social Services upon request, or (2) transfer him to a detention facility described in subsection (b)(3).

"(e) A child sixteen years of age or older who is alleged to be delinquent and who is in detention, whose conduct constitutes a menace to other children, and who cannot be controlled, may on order of the Division be transferred to a place of detention for adults, but shall be kept separate from adults.

"§ 16–2314. Consent decree

"(a) At any time after the filing of a delinquency or need of supervision petition and prior to adjudication at a factfinding hearing, the Division may, on motion of the Corporation Counsel or counsel for the child, suspend the proceedings and continue the child under supervision, without commitment, under terms and conditions established by rules of the Superior Court. Such a consent decree shall not be entered unless the child is represented by counsel and has been informed of the consequences of the decree nor shall it be entered over the objection of the child or of the Corporation Counsel.

"(b) A consent decree shall remain in force for six months unless the child is sooner discharged by the Director of Social Services. Upon application of the Director of Social Services or an agency supervising the child made prior to the expiration of the decree, a consent decree may, after notice and hearing, be extended for not more than six additional months by order of the Division.

"If prior to the expiration of the decree or discharge by the Director of Social Services, the child fails to fulfill the express conditions of the decree or a new delinquency or need of supervision petition is filed concerning the child, the original petition under which the decree was filed may, in the discretion of the Corporation Counsel following consultation with the Director of Social Services, be reinstated. The child shall thereafter be held accountable on the original petition as if the consent decree had never been entered.

"(d) If a child completes the period of continuance under supervision in accordance with the consent decree or is sooner discharged by the Director of Social Services, the Division shall dismiss the original petition.

"§ 16–2315. Physical and mental examinations

"(a) At any time following the filing of a petition, on motion of the Corporation Counsel or counsel for the child, or on its own motion, the Division may order a child to be examined to aid in determining his physical or mental condition.

"(b) Whenever possible examinations shall be conducted on an outpatient basis, but the Division may, if it deems necessary, commit the child to a suitable medical facility or institution for the purpose of examination. Commitment for examination shall be for a period of not more than sixty days unless the Division, for good cause shown, shall extend the commitment for a further period not to exceed sixty days.

"(c) (1) If as a result of a mental examination the Division determines that a child alleged to be delinquent is incompetent to participate in proceedings under the petition by reason of mental illness or mental retardation, it shall, except as provide in subsection (2), suspend further proceedings and the Corporation Counsel shall initiate commitment proceedings pursuant to chapter 5 or 11 of title 21.

"(2) If a motion for transfer for criminal prosecution has been filed pursuant to section 16–2307 and the Division determines that a child alleged to be delinquent is incompetent to participate in the transfer proceedings by reason of mental illness, it shall suspend further proceedings and order the child confined to a suitable hospital or facility for the mentally ill until his competency is restored. If prior to the time the child reaches the age of 21 it appears that he will not regain his competency to participate in the proceedings, the Corporation Counsel shall initiate commitment proceedings pursuant to chapter 5 of title 21.

"(3) If, as a result of mental examination, the Division determines that a child alleged to be in need of supervision is incompetent to participate in proceedings under the petition by reason of mental illness or mental retardation, it shall suspend further proceedings. If proceedings are suspended, the Corporation Counsel may initiate commitment proceedings pursuant to chapter 5 or 11 of title 21.

"(d) The results of an examination under this section shall be admissible in a transfer hearing pursuant to section 16–2307, in a dispositional hearing under this subchapter, or in a commitment proceeding under chapter 5 or 11 of title 21. The results of examination may be admitted into evidence at a factfinding hearing to aid the Division in determining a material allegation of the petition relating to the child's mental or physical condition, but not for the purpose of establishing a defense of insanity.

"(e) Following an adjudication at a factfinding hearing that a child is neglected, the Division may order the mental or physical examination of the parent, guardian, or custodian of the child whose ability to care for the child is at issue. The results of the examination are admissible at a dispositional hearing on the petition alleging neglect.

"§ 16–2316. Conduct of hearings; evidence

"(a) The Division shall, without a jury, hear and adjudicate cases involving delinquency, need of supervision, or neglect. The Corporation Counsel shall present evidence in support of all petitions arising under this subchapter and otherwise represent the District of Columbia in all proceedings.

"(b) Evidence which is competent, material, and relevant shall be admissible at factfinding hearings. Evidence which is material and relevant shall be admissible at detention hearings, transfer hearings under section 16–2307, and dispositional hearings.

"(c) All hearings and proceedings under this subchapter shall be recorded by appropriate means. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings arising under this subchapter. Only persons necessary to the proceedings shall be admitted, but the Division may, pursuant to rule of the Superior Court, admit such other persons (including members of the press) as have a proper interest in the case or the work of the court on condition that they refrain from divulging information identifying the child or members of his family involved in the proceedings.

"(d) If the Division finds that it is in the best interest of the child, it may temporarily exclude him from any proceeding except a factfinding hearing. If the petition alleges neglect, the child may also be temporarily excluded from a factfinding hearing. In any case, counsel for the child may not be excluded.

"§ 16–2317. Hearings, findings; dismissal

"(a) Except as otherwise provided by statute or court rule, all motions shall be heard at the time of the factfinding hearing.

"(b) After a factfinding hearing on the allegations in the petition, the Division shall make and file written findings in all cases as to the truth of the allegations, and in neglect cases, he shall also make and file written findings as to whether the child is neglected. If the Division finds that the allegations in the petition have not been established by the preponderance of the evidence it shall dismiss the petition and order the child released from any detention or shelter care.

"(c) If the Division finds on the basis of the preponderance of the evidence that a child alleged to be delinquent or in need of supervision committed the acts alleged in the petition, it may proceed immediately to hear evidence as to whether he is in need of care or rehabilitation or may postpone the proceedings to await a predisposition study and report. Material and relevant evidence shall be admissible to determine need for care or rehabilitation even though not competent at a factfinding hearing. In the absence of evidence to the contrary, a finding of the commission of an act which would constitute a criminal offense is sufficient to sustain a finding of need for care or rehabilitation.

"(d) If the Division finds that the child is not in need of care or rehabilitation it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered. If it finds the child is in need of care or rehabilitation in a delinquency or need of supervision case, or that the child is neglected, the Division shall proceed immediately, or at a postponed hearing to make proper disposition of the case.

"(e) After a factfinding hearing if the proceedings are not terminated, the Division shall review the need for detention or shelter care of the child.

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"§ 16-2318. Order of adjudication noncriminal

"A consent decree, order of adjudication, or order of disposition in a proceeding under this subchapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction, nor does it operate to disqualify a child in any future civil service examination, appointment, or application for public service in either the Government of the United States or of the District of Columbia.

"§ 16-2319. Predisposition study and report

"After a motion for transfer has been filed, or after the Division has made findings pursuant to subsection (b) of section 16-2317 sustaining the allegations of a petition and, in neglect cases, the conclusion that the child is neglected, the Division shall direct that a predisposition study and report to the Division be made by the Director of Social Services or a qualified agency designated by the Division concerning the child, his family, his environment, and other matters relevant to the need for treatment or disposition of the case. Except in connection with a hearing on a transfer motion, no predisposition study or report shall be furnished to or considered by the Division prior to completion of the factfinding hearing.

"§ 16-2320. Disposition of child who is neglected, delinquent, or in need of supervision

"(a) If a child is found to be neglected, the Division may order any of the following dispositions which will be in the best interest of the child:

"(1) Permit the child to remain with his parent, guardian, or other custodian, subject to such conditions and limitations as the Division may prescribe, including but not limited to medical, psychiatric, or other treatment at an appropriate facility on an out-patient basis.

"(2) Place the child under protective supervision.

"(3) Transfer legal custody to any of the following—

"(A) a public agency responsible for the care of neglected children;

"(B) a child placing agency or other private organization or facility which is licensed or otherwise authorized by law and is designated by the Commissioner of the District of Columbia to receive and provide care for the child; or

"(C) a relative or other individual who is found by the Division to be qualified to receive and care for the child.

"(4) Commitment of the child for medical, psychiatric, or other treatment at an appropriate facility on an in-patient basis if, at the dispositional hearing provided for in section 16-2317, the Division finds that confinement is necessary to the treatment of the child. A child for whom medical, psychiatric, or other treatment is ordered may petition the Division for review of the order thirty days after treatment under the order has commenced, and, if, after a hearing for the purpose of such review, the orginal order is affirmed, the child may petition for review thereafter every six months.

"(5) Make such other disposition as may be provided by law and as the Division deems to be in the best interests of the child and the community.

"(b) Unless a child found neglected is also found to be delinquent, he shall not be committed to, or confined in, an institution for delinquent children.

"(c) If a child is found to be delinquent or in need of supervision, the Division may order any of the following dispositions for his supervision, care, and rehabilitation:

"(1) Any disposition authorized by subsection (a).

"(2) Transfer of legal custody to a public agency for the care of delinquent children.

"(3) Probation under such conditions and limitation as the Division may prescribe.

"(d) No child found in need of supervision, unless also found delinquent, shall be committed to or placed in an institution or facility for delinquent children, unless otherwise specified by the Division.

"(e) No delinquent child shall be committed to a penal or correctional institution for adult offenders, except that, on order of the Division, a child sixteen years of age or older who has been committed to another institution or other facility may be transferred after a hearing at which the child is present and represented by counsel and upon a finding by the Division that the child's conduct while in custody constitutes a menace to other children and cannot be controlled. The transfer shall be to a facility maintained by or available to the District of Columbia pursuant to the provisions of section 5025 of title 18, United States Code.

"§ 16-2321. Disposition of mentally ill or mentally retarded child

"(a) If no previous examination has been made under section 16-2315 and the Division, after factfinding but before a dispositional hearing, has reason to believe that a child is mentally ill or mentally retarded, it may order an examination as provided in section 16-2315.

"(b) If as a result of the examination the child is found to be mentally ill or mentally retarded, the Division may, in lieu of other disposition, direct the appropriate authority to initiate commitment proceedings under chapter 5 or 11 of title 21. The Division may order the child detained in suitable facilities pending commitment proceedings.

"(c) If the examination does not indicate that commitment proceedings should be initiated or if the proceedings do not result in commitment, the Division shall proceed to disposition pursuant to this subchapter.

"§ 16-2322. Limitation of time on dispositional orders

"(a) (1) A dispositional order vesting legal custody of a child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding two years. Unless the order specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

"(2) An order vesting legal custody of a child in an individual other than his parent shall remain in force for two years unless sooner terminated by order of the Division.

"(3) An order of probation or a protective supervision order shall remain in force for a period not exceeding one year from the date entered, but the Director of Social Services or the agency providing supervision may terminate supervision at any time that it appears the purpose of the order has been achieved.

"(b) A dispositional order vesting legal custody of a child in a department, agency, or institution may be extended for additional periods of one year, upon motion of the department, agency, or institution to which the child was committed, if, after notice and hearing, the Division finds that—

"(1) in the case of a neglected child the extension is necessary to safeguard his welfare; or

"(2) in the case of a child adjudicated delinquent or in need of supervision, the extension is necessary for his rehabilitation or the protection of the public interest.

"(c) Any other dispositional order may be extended for additional periods of one year, upon motion of the Director of Social Services, if, after notice and hearing, the Division finds that extension is necessary to protect the interest of the child.

"(d) A release or termination of an order prior to expiration of the order pursuant to subsection (a) (1) or (3), shall promptly be reported in writing to the Division.

"(e) Upon termination of a dispositional order a child shall be notified in writing of its termination. Upon termination of an order or release a child shall be notified, in accordance with rules of the Superior Court, of his right to request the sealing of his records as provided in section 16-2334.

"(f) Unless sooner terminated, all orders of the Division under this subchapter in force with respect to a child terminate when he reaches twenty-one years of age.

"§16-2323. Modification, termination of orders

"(a) An order of the Division under this subchapter shall be set aside if—

"(1) it was obtained by fraud or mistake sufficient to set aside an order or judgment in a civil action;

"(2) the Division lacked jurisdiction; or

"(3) newly discovered evidence so requires,

"(b) A child who has been committed under this subchapter to the custody of an institution, agency, or person, or the parent or guardian of the child, may file a motion for modification or termination of the order of commitment on the ground that the child no longer is in need of commitment, if the child or his parent or guardian has applied to the institution or agency for release and the application was denied or not acted upon within a reasonable time.

"(c) The Director of Social Services shall conduct a preliminary review of motions filed under subsection (b) and shall prepare a report to the Division on the allegations contained therein. The Division may dismiss the motion if it concludes from the report that it is without substance. Otherwise, the Division, after notice, shall hear and determine the issues raised by the motion and deny the motion, or enter an appropriate order modifying or terminating the order of commitment, if it finds such action necessary to safeguard the welfare of the child or the interest of the public.

"(d) A motion may be filed under subsection (b) no more often than every six months.

"§ 16-2324. Support of committed child

"Whenever legal custody of a child is vested in any agency or individual other than the child's parent, after due notice to the parent or other persons legally obligated to care for and support the child and after hearing, the Division may, at the dispositional hearing or thereafter, order and decree that the parent or other legally obligated person shall pay, in such manner as the Division may direct, a reasonable sum that will cover in whole or in part the support and treatment of the child after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the Division may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

"§ 16-2325. Court costs and expenses

"If, at the dispositional hearing or thereafter, the Division finds, after due notice and hearing, that the parent or other person legally obligated to care for and support a child subject to proceedings under this subchapter is financially able to pay, the Division may order him to pay all or part of the costs of—

"(1) physical and mental examinations and treatment of the child ordered by the Division; and

"(2) reasonable compensation for services and related expenses of counsel appointed by the court to represent the child, or, in neglect cases, himself.

Payment shall be made as prescribed by rules of the Superior Court.

"§ 16-2326. Probation revocation; disposition

"(a) If a child on probation incident to an adjudication of delinquency or need of supervision commits a probation violation he may be proceeded against in a probation revocation hearing.

"(b) A proceeding to revoke probation shall be commenced by the filing of a revocation petition by the Corporation Counsel. The petition shall be in such form as may be prescribed by rule of the Superior Court and shall be served together with a summons in the manner provided in section 16-2306.

"(c) Probation revocation proceedings shall be heard without a jury and shall require establishment of the facts alleged by a preponderance of the evidence. As nearly as may be appropriate, probation revocation proceedings shall conform to the procedures established by this subchapter for delinquency and need of supervision cases.

"(d) If a child is found to have violated the terms of his probation, the Division may modify the terms and conditions of the probation order, extend the period of probation, or enter any other order of disposition specified in section 16-2320 for a delinquent child.

"§ 16-2327. Interlocutory appeals

"(a) A child who has been ordered transferred for criminal prosecution under section 16-2307 or detained or placed in shelter care or subjected to conditions of release under section 16-2312, may, within three days of the date of entry of the Division's order, file a notice of interlocutory appeal.

"(b) Such appeals shall be given precedence over other cases and shall be expedited.

"(c) In cases involving transfer for criminal prosecution, the pendency of an interlocutory appeal shall act to stay criminal proceedings. Until the time for filing an interlocutory appeal has lapsed, or if an appeal is filed until its completion, no child who has been ordered transferred for criminal prosecution shall be removed to a place of adult detention, except as provided in section 16-2313, or otherwise treated as an adult.

"(d) The decision of the District of Columbia Court of Appeals shall be final.

"§ 16-2328. Finality of judgments; appeals; transcripts

"(a) Except as otherwise expressly provided by law, in all hearings and cases tried before the Division pursuant to this subchapter, the judgment of the Division is final.

"(b) In all appeals from decisions of the Division with respect to a child alleged to be neglected, delinquent, or in need of supervision, the child shall be identified only by initials in all transcripts, briefs, and other papers filed, and all necessary steps, as prescribed by rule of the District of Columbia Court of Appeals, shall be taken to protect the identity of the child.

"(c) Upon the filing of a motion and supporting affidavit stating that he is financially unable to purchase a transcript, a party who has filed notice of appeal or of interlocutory appeal shall be furnished, at no cost or at such part of cost as he is able to pay, so much of the transcript as is necessary adequately to prepare and support the appeal.

"(d) An appeal does not operate to stay the order, judgment, or decree appealed from, but on application and hearing whenever the case is properly before the appellate court, that court may order otherwise if suitable provision is made for the care and custody of the child.

"§ 16-2329. Time computation

"(a) In all proceedings in the Division, time limitations shall be reasonably construed by the Division for the protection of the community and of the child.

"(b) The following periods shall be excluded in computing the time limits established for proceedings under this subchapter:

"(1) The period of delay resulting from a continuance granted, upon grounds constituting unusual circumstances, at the request or with the consent, in any case, of the child or his counsel, or, in neglect cases, also of the parent, guardian, or custodian.

"(2) The period of delay resulting from other proceedings concerning the child, including but not limited to an examination or hearing on mental health or retardation and a hearing on a transfer motion.

"(3) The period of delay resulting from a continuance granted at the request of the Corporation Counsel if the continuance is granted because of the unavailability of evidence material to the case, when the Corporation Counsel has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date; or if the continuance is granted to allow the Corporation Counsel additional time to prepare his case and additional time is required due to the exceptional circumstances of the case.

"(4) The period of delay resulting from the imposition of a consent decree.

"(5) The period of delay resulting from the absence or unavailability of the child.

"(6) A reasonable period of delay when the child is joined for a hearing with another child as to whom the time for a hearing has not run and there is good cause for not hearing the cases separately.

"§ 16-2330. Juvenile case records; confidentiality; inspection and disclosure

"(a) As used in this section, the term 'juvenile case records' refers to the following records of a case over which the Division has jurisdiction under section 11-1101(13):

"(1) Notices filed with the court by an arresting officer pursuant to this subchapter.

"(2) The docket of the court and entries therein.

"(3) Complaints, petitions, and other legal papers filed in the case.

"(4) Transcripts of proceedings before the court.

"(5) Findings, verdicts, judgments, orders, and decrees.

"(b) Juvenile case records shall be kept confidential and shall not be open to inspection; but, subject to the limitations of subsection (c), the inspection of those records shall be permitted to—

"(1) judges and professional staff of the Superior Court;

"(2) the Corporation Counsel and his assistants assigned to the Division;

"(3) the respondent, his parents or guardians, and their duly authorized attorneys;

"(4) any court or its probation staff, for purposes of sentencing the respondent as a defendant in a criminal case and the counsel for the defendant in that case;

"(5) public or private agencies or institutions providing supervision or treatment or having custody of the child, if supervision, treatment, or custody is under order of the Division;

"(6) the United States Attorney for the District of Columbia, his assistants, and any other prosecuting attorneys involved in the investigation or trial of a criminal case arising out of the same transaction or occurrence as a case in which a child is alleged to be delinquent; and

"(7) other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of his family, or in the work of the Superior Court, if authorized by rule or special order of the court.

Records inspected may not be divulged to unauthorized persons; but the prosecuting attorney inspecting records pursuant to paragraph (6) of this subsection may divulge the contents to the extent required in the prosecution of a criminal case, and the United States Attorney for the District of Columbia and his assistants may inspect a transcript of the testimony of any witness and divulge the contents to the extent required by the prosecution of the witness for perjury, without, wherever possible, naming or otherwise revealing the identity of a child under the jurisdiction of the Division.

"(c) Notwithstanding subsection (b), the Superior Court may by rule or special order provide that particular items or classes of items in juvenile case records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection (1) in delinquency or need of supervision cases, by the attorney for the child, or (2) in neglect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

"(d) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile case records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

"(e) No person shall disclose, inspect, or use records in violation of this section.

"§ 16-2331. Juvenile social records; confidentiality; inspection and disclosure

"(a) As used in this section, the term 'juvenile social records' refers to all social records made with respect to a child in any proceedings over which the Division has jurisdiction under section 11-1101(13), including preliminary inquiries, predisposition studies, and examination reports.

"(b) Juvenile social records shall be kept confidential and shall not be open to inspection; but, subject to the limitations of subsection (c), the inspection of those records shall be permitted to—

"(1) judges and professional staff of the Superior Court and the Corporation Counsel and his assistants assigned to the Division;

"(2) the attorney for the child at any stage of a proceeding in the Division, including intake;

"(3) any court or its probation staff, for purposes of sentencing the child as a defendant in a criminal case, and, if and to the extent other presentence materials are disclosed to him, the counsel for the defendant in that case;

"(4) public or private agencies or institutions providing supervision or treatment, or having custody of the child, if the supervision, treatment, or custody is under order of the Division; and

"(5) other persons having a professional interest in the protection, welfare, treatment, and rehabilitation of the respondent or of a member of his family, or in the work of the Division, if authorized by rule or special order of the court.

Records inspected may not be divulged to unauthorized persons.

"(c) Notwithstanding subsection (b), the Superior Court may by rule or special order provide that particular items or classes of items in juvenile social records shall not be open to inspection except pursuant to rule or special order; but, in dispositional proceedings after an adjudication, no item considered by the judge (other than identification of the sources of confidential information) shall be withheld from inspection (1) in delinquency or need of supervision cases, by the attorney for the child, or (2) in ne-

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glect cases, by the attorney for the child and an attorney for the parent, guardian, or other custodian of the child.

"(d) The Superior Court may by rule or special order provide procedures for the inspection or copying of juvenile social records by persons entitled to inspect them. No person receiving any record or information pursuant to this section may publish or use it for any purpose other than that for which it was received without a special order of the court.

"(e) No person shall disclose, inspect, or use records in violation of this section.

"§ 16–2332. Police and other law enforcement records

"(a) Law enforcement records and files concerning a child shall not be open to public inspection nor shall their contents or existence be disclosed to the public unless a charge of delinquency is transferred for criminal prosecution under section 16–2307, the interest of national security requires, or the court otherwise orders in the interest of the child.

"(b) Inspection of such records and files is permitted by—

"(1) the Superior Court, having the child currently before it in any proceeding;

"(2) the officers of public and private institutions or agencies to which the child is currently committed, and those professional persons or agencies responsible for his supervision after release;

"(3) any other person, agency, or institution, by order of the court, having a professional interest in the child or in the work of the law enforcement department;

"(4) law enforcement officers of the United States, the District of Columbia, and other jurisdictions when necessary for the discharge of their current official duties;

"(5) a court in which a person is charged with a criminal offense for the purposes of determining conditions of release or bail;

"(6) a court in which a person is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him; and

"(7) the parent, guardian, or other custodian and counsel for the child.

"(c) Photographs may be displayed to potential witnesses for identification purposes, in accordance with the standards of fairness applicable to adults.

"(d) No person shall disclose, inspect, or use records or files in violation of this section.

"§ 16–2333. Fingerprint records

"(a) The contents or existence of law enforcement records and files of the fingerprints of a child shall not be disclosed by the custodians thereof, except—

"(1) to a law enforcement officer of the United States, the District of Columbia, or other jurisdiction for purposes of the investigation and trial of a criminal offense; or

"(2) pursuant to rule or special order of the court.

"(b) When a child is transferred for criminal prosecution under section 16–2307, law enforcement records and files of his fingerprints relating to any matter so transferred shall be deemed those of an adult.

"(c) No person shall disclose, inspect, or use records in violation of this section.

"§ 16–2334. Sealing of records

"(a) On request of a person who has been the subject of a petition filed pursuant to section 16–2305, or on the Division's own motion, the Division shall vacate its order and findings and shall order the sealing of the case and social records referred to in sections 16–2330 and 16–2331 and the law enforcement records and files referred to in section 16–2332, or those of any other agency active in the case if it finds that—

"(1) (A) a neglected child has reached his majority; or

"(B) two years have elapsed since the final discharge of the person from legal custody or supervision, or since the entry of any other Division order not involving custody or supervision; and

"(2) he has not been subsequently convicted of a crime, or adjudicated delinquent or in need of supervision prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication.

"(b) Reasonable notice of a motion shall be given to—

"(1) the person who is the subject of the petition;

"(2) the Corporation Counsel;

"(3) the authority granting the discharge, if the final discharge was from an institution, parole, or probation; and

"(4) the law enforcement department having custody of the files and records specified in section 16–2332.

"(c) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred. All facts relating to the action including arrest, the filing of a petition, and the adjudication, filing, and disposition of the Division shall no longer exist as a matter of law. The Division, the law enforcement department, or any other department or agency that received notice under subsection (b) and was named in the order shall reply, and the person who is the subject matter of the records may reply, to any inquiry that no record exists with respect to such person.

"(d) Inspection of the files and records included in the order may thereafter be permitted by the Division only upon application by the person who is the subject of such records, and only to those persons named in the application; but the Division in its discretion may, by special order in an individual case, permit inspection by or release of information in the records to person having a professional interest in the protection, welfare, treatment, and rehabilitation of the person who is the subject of the petition or other members of his family.

"(e) Any adjudication of delinquency or need of supervision or conviction of a felony subsequent to sealing shall have the effect of nullifying the vacating and sealing order.

"(f) A person who has been the subject of a petition filed under this subchapter shall be notified of his rights under subsection (a) at the time a dispositional order is entered and again at the time of his final discharge from supervision, treatment, or custody.

"(g) No person shall disclose, receive, or use records in violation of this section.

"§ 16–2335. Unlawful disclosure of records; penalties

"Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information concerning a child or other person in violation of sections 16–2330 through 16–2334, shall be guility of a misdeameanor and, upon conviction thereof, shall be fined not more than $250 or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by the Corporation Counsel in the name of the District of Columbia.

"§ 16–2336. Additional powers of the Director of Social Services

"In addition to the powers and duties prescribed in section 11–1722, the Director of Social Services shall have power to take into custody and place in detention or shelter care, in accordance with this subchapter, children who are under his supervision as delinquent, in need of supervision, or neglected, or children who have run away from agencies or institutions to which they were committed under this subchapter.

"§ 16–2337. Emergency medical treatment

"Nothing in this subchapter shall prevent a public agency having custody of a child who is under the jurisdiction of the Division from providing the child with emergency medical treatment.

"SUBCHAPTER II.—PATERNITY PROCEEDINGS

"§ 16–2341. Representation

"(a) Where a public support burden has been incurred or is threatened, the Corporation Counsel, or any of his assistants, shall bring a civil action on behalf of any wife or child in the Family Division to enforce support of such wife or child, the Division having jurisdiction under paragraph (3), (4), (10), or (11) of section 11–1101.

"(b) In all cases over which the Division has jurisdiction under paragraphs (3), (4), (10) and (11) of section 11–1101, where the court deems it necessary and proper, an attorney shall be appointed by the court to represent the respondent.

"(c) Nothing in this section shall be construed to interfere with the right of an individual to file a civil action over which the Division has jurisdiction under the paragraphs of section 11–1101 referred to in subsection (b).

"§ 16–2342. Time of bringing complaint

"Proceedings over which the Division has jurisdiction under paragraphs (3) and (11) of section 11–1101 to establish paternity and provide for the support of a child born out of wedlock may be instituted after four months of pregnancy or within two years after the birth of the child, or within one year after the putative father has ceased making contributions for the support of the child. The time during which the respondent is absent from the jurisdiction shall be excluded from the computation of the time within which a complaint may be filed.

"§ 16–2343. Blood tests

"When it is relevant to an action over which the Division has jurisdiction under section 11–1101, the court may direct that the mother, child, and the respondent submit to one or more blood tests to determine whether or not the respondent can be excluded as being the father of the child, but the results of the test may be admitted as evidence only in cases where the respondent does not object to its admissibility. Where the parties cannot afford the cost of a blood test, the court may direct the Department of Public Health to perform such tests without fee.

"§ 16–2344. Exclusion of public

"Upon trial or proceedings over which the Division has jurisdiction under paragraph (3), (4), (10), or (11) of section 11–1101, the court may exclude the general public and, at the request of either party, shall exclude the general public.

"§ 16–2345. New birth record upon marriage of natural parents

"When a certified copy of a marriage certificate is submitted to the Director of Public Health, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child, and the paternity of the child has been judicially determined or acknowledged by the husband before the Commissioner of the District of Columbia or his designated agent, or has been acknowledged in an affidavit sworn to by the husband before a judge or the clerk of a court of record, or before an officer of the armed forces of the United States authorized to administer oaths, and the affidavit is delivered to the Commissioner or his designated agent, a new certificate of birth bearing the original date of birth and the names of both parents shall be issued and substituted for the certificate of birth then on file. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal and opened for inspection only upon order of the Family Division.

"§ 16–2346. Reports to Director of Public Health

"(a) Upon entry of a final judgment determining the paternity of a child born out of wedlock, the clerk of the court shall forward a certificate to the Director of Public Health of the District of Columbia, or his authorized representative in the jurisdiction in which the child was born, giving the name of the person adjudged to be the father of the child.

"(b) Upon receipt of the certificate provided for by subsection (a) of this section, the Director of Public Health or his authorized representative shall file it with the original birth record, and thereafter may issue a certificate of birth registration including thereon the name of the person adjudged to be the father of the child.

"§ 16–2347. Death of respondent; liability of estate

"If the respondent dies after paternity has been established and prior to the time the child reaches the age of 18 years, any sums due and unpaid under an order of the court at the time of his death shall constitute a valid claim against his estate.

"§ 16–2348. Paternity records; confidentiality; inspection and disclosure

"(a) Except on order of the Family Division, no records in a case over which the Division has jurisdiction under section 11–1101 (11) shall be open to inspection by anyone other than the plaintiff, respondent, their attorneys of record, or authorized professional staff of the Superior Court. The Family Division, upon proper showing, may authorize the furnishing of certified copies of the records or portions thereof to the respondent, the mother, or custodian of the child, a party in interest, or their duly authorized attorneys. Certified copies of the records or portions thereof may be furnished, upon request, to the Corporation Counsel for use as evidence in nonsupport proceedings and to the Director of Public Health as provided by section 16–2346(a).

"(b) No person shall disclose, receive, or use records in violation of this section. Whoever willfully discloses, receives, makes use of, or knowingly permits the use of information in violation of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $250 or imprisoned not more than ninety days, or both. Violations of this section shall be prosecuted by the Corporation Counsel in the name of the District of Columbia."

(b) The item relating to chapter 23 in the analysis of title 16 of the District of Columbia Code is amended by striking out "Juvenile Court" and inserting in lieu thereof "Family Division".

PART C—INTRAFAMILY OFFENSES; JURISDICTION AND PROCESS OUTSIDE THE DISTRICT OF COLUMBIA; COMPETENCY OF WITNESSES

INTRAFAMILY OFFENSES

SEC. 131. (a) Title 16 of the District of Columbia Code is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10.—PROCEEDINGS REGARDING INTRAFAMILY OFFENSES

"Sec.
"16–1001. Intrafamily offense.
"16–1002. Complaint of criminal conduct; referrals to Family Division.
"16–1003. Petition for civil protection.
"16–1004. Petition; notice; temporary order.
"16–1005. Hearing; evidence; protection order.
"16–1006. Dismissal of petition; notice.

"§ 16–1001. Intrafamily offense

"(a) An intrafamily offense is an act, punishable as a criminal offense, committed—

"(1) by one spouse against the other;

"(2) by a parent, guardian, or other legal custodian against a child; or

"(3) by one person against another person with whom he shares a mutual residence and is in a close relationship rendering the application of this chapter appropriate.

"(b) For purposes of this chapter the terms 'complainant' or 'family member' include any individual in the relationship described in subsection (a).

"§ 16–1002. Complaint of criminal conduct; referrals to Family Division

"(a) If, upon the complaint of any person of criminal conduct by another or the arrest of a person charged with criminal conduct, it appears to the United States Attorney for the District of Columbia (hereafter in this chapter referred to as the 'United States attorney') that the conduct involves an intrafamily offense, he shall notify the Director of Social Services. The Director of Social Services may investigate the matter and make such recommendations to the United States attorney as the Director deems appropriate.

"(b) The United States attorney may also (1) file a criminal charge based upon the conduct and may consult with the Director of Social Services concerning appropriate recommendations for conditions of release taking into account the intrafamily nature of the offense; or (2) refer the matter to the Corporation Counsel for the filing of a petition for civil protection in the Family Division of the Superior Court (hereafter in this chapter referred to as the 'Family Division'). Prior to any such referral, the United States attorney shall consult with the Director of Social Services concerning the appropriateness of the referral. A referral to the Corporation Counsel by the United States attorney shall not preclude the United States attorney from subsequently filing a criminal charge based upon the conduct, if he deems it appropriate, but no criminal charge may be filed after the Family Division begins receiving evidence pursuant to section 16–1005.

"§ 16–1003. Petition for civil protection

"(a) Upon referral by the United States attorney, or upon application of any person or agency for a civil protection order with respect to an intrafamily offense committed or threatened, the Corporation Counsel may file a petition for civil protection in the Family Division.

"(b) In any matter referred to the Corporation Counsel by the United States attorney in which the Corporation Counsel does not file a petition, he shall so notify the United States attorney.

"§ 16–1004. Petition; notice; temporary order

"(a) Upon a filing of a petition for civil protection by the Corporation Counsel, the Family Division shall set the matter for hearing, consolidating it, where appropriate, with other matters before the Family Division involving members of the same family.

"(b) The Family Division shall cause notice of the hearing to be served on the respondent, the complainant and, if appropriate, the family member endangered (or, if a child, the person then having physical custody of the child), the Director of Social Services, and the Corporation Counsel. The respondent shall be served with a copy of the petition together with the notice and shall be directed to appear at the hearing. The Family Division may also cause notice to be served on other members of the family whose presence at the hearing is necessary to the proper disposition of the matter.

"(c) If, upon the filing of the petition, the Division finds that the safety or welfare of a family member is immediately endangered by the respondent, it may, ex parte, issue a temporary protection order of not more than ten days duration and direct that the order be served along with the notice required by this section.

"§ 16–1005. Hearing; evidence; protection order

"(a) Members of the family receiving notice shall appear at the hearing. In addition to the parties, the Corporation Counsel and the Director of Social Services may present evidence at the hearing.

"(b) Notwithstanding section 14–306, in a hearing under this section, one spouse shall be a competent and compellable witness against the other and may testify as to confidential communications, but testimony compelled over a claim of a privilege conferred by such section shall be inadmissible in evidence in a criminal trial over the objection of a spouse entitled to claim that privilege.

"(c) If, after hearing, the Family Division finds that there is good cause to believe the respondent has committed or is threatening an intrafamily offense, it may issue a protection order—

"(1) directing the respondent to refrain from the conduct committed or threatened and to keep the peace toward the family member;

"(2) requiring the respondent, alone or in conjunction with any other member of the family before the court, to participate in psychiatric or medical treatment or appropriate counseling programs;

"(3) directing, where appropriate, that the respondent avoid the presence of the family member endangered;

"(4) directing the respondent to perform or refrain from other actions as may be appropriate to the effective resolution of the matter; or

"(5) combining two or more of the directions or requirements prescribed by the preceding paragraphs.

"(d) A protection order issued pursuant to this section shall be effective for such period up to one year as the Family Division may specify, but the Family Division may, upon motion of any party to the original proceeding, extend, rescind, or modify the order for good cause shown.

"(e) Any final order issued pursuant to this section and any order granting or denying extension, modification, or rescission of such order shall be appealable.

"(f) Violation of any temporary or permanent order issued under this chapter and failure to appear as provided in subsection (a) shall be punishable as contempt.

"§ 16–1006. Dismissal of petition; notice

"(a) The Family Division may dismiss a petition if the matter is not appropriate for disposition in the Family Division.

"(b) If a petition dismissed under subsection (a) was originated by referral from the United States attorney, and the dismissal was prior to the receipt of evidence pursuant to section 16–1005, the Family Division shall notify the United States attorney of the dismissal."

(b) The analysis of title 16 is amended by adding after the item relating to chapter 9 the following:

"10. Proceedings Regarding Intrafamily Offenses ---------------------- 10–1001".

JURISDICTION AND PROCESS OUTSIDE THE DISTRICT OF COLUMBIA

SEC. 132. (a) Title 13 of the District of Columbia Code is amended by inserting after chapter 3 the following new chapter:

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"Chapter 4.—CIVIL JUDISDICTION AND SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"SUBCHAPTER I.—GENERAL PROVISIONS

"Sec.
"13–401. Relation to other provisions of law.
"13–402. Uniformity of interpretation.

"SUBCHAPTER II.—BASES OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE THE DISTRICT OF COLUMBIA

"Sec.
"13–421. Definition of person.
"13–422. Personal jurisdiction based upon enduring relationship.
"13–423. Personal jurisdiction based upon conduct.
"13–424. Service outside the District of Columbia.
"13–425. Inconvenient forum.

"SUBCHAPTER III.—SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"Sec.
"13–431. Manner and proof of service.
"13–432. Individuals eligible to make service.
"13–433. Individuals to be served; special cases.
"13–434. Assistance to tribunals and litigants outside the District of Columbia.

"SUBCHAPTER I.—GENERAL PROVISIONS

"§ 13–401. Relation to other provisions of law

"Except in cases of irreconcilable conflict, this chapter shall be construed to augment, and not to repeal, any other law of the District of Columbia authorizing another basis of jurisdiction or permitting another procedure for service in civil proceedings in the District of Columbia courts.

"§ 13–402. Uniformity of interpretation

"When the statutory language so permits, this chapter shall be so interpreted and construed as to make uniform the laws of those jurisdictions which enact in comparable form the first two articles of the Uniform Interstate and International Procedure Act.

"SUBCHAPTER II.—BASES OF PERSONAL JURISDICTION OVER PERSONS OUTSIDE THE DISTRICT OF COLUMBIA

"§ 13–421. Definition of person

"As used in this subchapter, the term 'person' includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, whether or not a citizen or domiciliary of the District of Columbia and whether or not organized under the laws of the District of Columbia.

"§ 13–422. Personal jurisdiction based upon enduring relationship

"A District of Columbia court may exercise personal jurisdiction over a person domiciled in, organized under the laws of, or maintaining his or its principal place of business in, the District of Columbia as to any claim for relief.

"§ 13–423. Personal jurisdiction based upon conduct

"(a) A District of Columbia court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a claim for relief arising from the person's—

"(1) transacting any business in the District of Columbia;

"(2) contracting to supply services in the District of Columbia;

"(3) causing tortious injury in the District of Columbia by an act or omission in the District of Columbia;

"(4) causing tortious injury in the District of Columbia by an act or omission outside the District of Columbia if he regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from services used or consumed, or services rendered, in the District of Columbia;

"(5) having an interest in, using, or possessing real property in the District of Columbia; or

"(6) contracting to insure or act as surety for or on any person, property, or risk, contract, obligation, or agreement located, executed, or to be performed within the District of Columbia at the time of contracting, unless the parties otherwise provide in writing.

"(b) When jurisdiction over a person is based solely upon this section, only a claim for relief arising from acts enumerated in this section may be asserted against him.

"§ 13–424. Service outside the District of Columbia

"When the exercise of personal jurisdiction is authorized by this subchapter, service may be made outside the District of Columbia.

"§ 13–425. Inconvenient forum

"When any District of Columbia court finds that in the interest of substantial justice the action should be heard in another forum, the court may stay or dismiss such civil action in whole or in part on any conditions that may be just.

"SUBCHAPTER III.—SERVICE OUTSIDE THE DISTRICT OF COLUMBIA

"§ 13–431. Manner and proof of service

"(a) When the law of the District of Columbia authorizes service outside the District of Columbia, the service, when reasonably calculated to give actual notice, may be made—

"(1) by personal delivery in the manner prescribed for service within the District of Columbia;

"(2) in the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction;

"(3) by any form of mail addressed to the person to be served and requiring a signed receipt; or

"(4) as directed by the foreign authority in response to a letter rogatory.

"(b) Proof of service outside the District of Columbia may be made by affidavit of the individual who made the service or in the manner prescribed by the law of the District of Columbia, the order pursuant to which the service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction. When service is mdae by mail, proof of service shall include a receipt signed by the addressee or other evidence of personal delivery to the addressee satisfactory to the court.

"§ 13–432. Individuals eligible to make service

"Service outside the District of Columbia may be made by an individual who is permitted to make service of process under the law of the District of Columbia or under the law of the place in which the service is made or who is designated by a District of Columbia court.

"§ 13–433. Individuals to be served: special cases

"When the law of the District of Columbia requires that in order to effect service one or more designated individuals be served, service outside the District of Columbia under this article must be made upon such designated individual or individuals.

"§ 13–434. Assistance to tribunals and litigants outside the District of Columbia

"(a) A District of Columbia court may order service upon any person who is domiciled or can be found within the District of Columbia of any document issued in connection with a proceeding in a tribunal outside the District of Columbia. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside the District of Columbia and shall direct the manner of service.

"(b) Service in connection with a proceeding in a tribunal outside the District of Columbia may be made within the District of Columbia without an order of court.

"(c) Service under this section does not, of itself, require the recognition or enforcement of an order, judgment, or decree rendered outside the District of Columbia."

(b) The analysis of title 13 is amended by inserting after the item relating to chapter 3 the following new item:

"4. Civil Jurisdiction and Service Outside the District of Columbia ---------------------- 13–401".

COMPETENCY OF WITNESSES

SEC. 133. (a) Section 14–305 of the District of Columbia Code is amended to read as follows:

"§ 14–305. Competency of witnesses: impeachment by evidence of conviction of crime

"(a) No person is incompetent to testify, in either civil or criminal proceedings, by reason of his having been convicted of a criminal offense.

"(b) (1) Except as provided in paragraph (2), for the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a criminal offense shall be admitted if offered, either upon the cross-examination of the witness or by evidence aliunde, but only if the criminal offense (A) was punishable by death or imprisonment in excess of one year under the law under which he was convicted, or (B) involved dishonesty or false statement (regardless of punishment). A party establishing conviction by means of cross-examination shall not be bound by the witness' answers as to matters relating to the conviction.

"(2) (A) Evidence of a conviction of a witness is inadmissible under this section if—

"(i) the conviction has been the subject of a pardon, annulment, or other equivalent procedure granted or issued on the basis of innocence, or

"(ii) the conviction has been the subject of a certificate of rehabilitation or its equivalent and such witness has not been convicted of a subsequent criminal offense.

"(B) In addition, no evidence of any conviction of a witness is admissible under this section if a period of more than ten years has elapsed since the later of (i) the date of the release of the witness from confinement imposed for his most recent conviction of any criminal offense, or (ii) the expiration of the period of his parole, probation, or sentence granted or imposed with respect to his most recent conviction of any criminal offense.

"(c) For purpose of this section, to prove conviction of crime it is not necessary to produce the whole record of the proceedings containing the conviction, but the certificate, under seal, of the clerk of the court wherein the proceedings were had, stating the fact of the conviction and for what cause, shall be sufficient.

"(d) The pendency of an appeal from a conviction does not render evidence of that conviction inadmissible under this section. Evidence of the pendency of such a appeal is admissible."

(b) The item relating to section 14–305 in the analysis of chapter 3 is amended to read as follows:

"14–305. Competency of witnesses; impeachment by evidence of conviction crime."

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PART D—CONFORMING AMENDMENTS

Subpart 1—Amendments to District of Columbia Code

AMENDMENTS TO TITLE 12

SEC. 141. Title 12 of the District of Columbia Code is amended as follows:

(1) Section 12–102 is amended to read as follows:

"§ 12–102. Substitution of parties

"The substitution of parties in civil actions in the United States District Court for the District of Columbia and the Superior Court of the District of Columbia is governed by the Federal Rules of Civil Procedure."

(2) Section 12–309 is amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

AMENDMENTS TO TITLE 13

SEC. 142. Title 13 of the District of Columbia Code is amended as follows:

(1) (A) Chapter 1 is repealed.

(B) The analysis of title 13 is amended by striking out the item relating to chapter 1.

(2) Section 13–301 is amended to read as follows:

"§ 13–301. Courts to which applicable

"Except as otherwise specifically provided by law or rules of court, this chapter applies to the District of Columbia courts."

(3) Section 13–302 is amended by striking out ", and the District of Columbia Court of General Sessions, including the Domestic Relations Branch thereof" and inserting in lieu there "and the Superior Court of the District of Columbia";

(4) Section 13–331(1) is amended by inserting "chapter 4 of this title or," after "including".

(5) (A) Chapter 7 is repealed.

(B) The analysis of title 13 is amended by striking out the item relating to chapter 7.

AMENDMENTS TO TITLE 14

SEC. 143. Title 14 of the District of Columbia Code is amended as follows:

(1) Section 14–103 is amended by striking out the period at the end thereof and inserting in lieu thereof ", or by leave of a judge of the Superior Court of the District of Columbia in the manner prescribed by the rules of that court."

(2) (A) Section 14–104 is amended—

(i) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court";

(ii) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(iii) by striking out all after the first sentence and inserting in lieu thereof "The testimony shall be taken as provided in the rules of the Superior Court."

(B) The item relating to section 14–104 in the analysis of chapter 1 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(3) Section 14–307 is amended—

(A) by striking out "courts of the District of Columbia" in subsection (a) and inserting in lieu thereof "Federal courts in the District of Columbia and District of Columbia courts";

(B) by striking out "where the accused raises a defense of insanity" in subsection (b)(2); and

(C) by striking out "or" at the end of paragraph (1) of subsection (b), by striking out the period at the end of paragraph (2) of such subsection and inserting in lieu thereof "; or", and by adding after paragraph (2) the following new paragraph:

"(3) evidence relating to the mental competency or sanity of a child alleged to be delinquent, neglected, or in need of supervision in any proceeding before the Family Division of the Superior Court."

(4) Section 14–309 is amended by striking out "courts of the District of Columbia" and inserting in lieu thereof "Federal courts in the District of Columbia and District of Columbia courts".

(5) Section 14–503 is amended by striking out "the United States District Court for the District of Columbia, or by the former orphans' court of the District" and inserting in lieu thereof "a court in the District of Columbia".

(6) Section 14–505 is amended by striking out "by the secretary or an assistant secretary of the Board of Comissioners" and substituting in lieu thereof "as provided by the Commissioner".

AMENDMENTS TO TITLE 15

SEC. 144. Title 15 of the District of Columbia Code is amended as follows:

(1) Paragraph (2) of section 15–101(a) is amended to read as follows:

"(2) Superior Court of the District of Columbia,".

(2) Section 15–102 is amended by striking out "District of Columbia Court of General Sessions" wherever it appears and inserting in lieu thereof "Superior Court of the District of Columbia".

(3) Sections 15–108 and 15–111 are each amended by inserting "or the Superior Court of the District of Columbia" after "District of Columbia".

(4) (A) Subchapter II of chapter 1 is repealed.

(B) Chapter 1 is amended by striking out the heading "SUBCHAPTER I.—GENERALLY".

(C) The analysis of chapter 1 is amended by striking out the heading "SUBCHAPTER I.—GENERALLY" and by striking out the matter relating to subchapter II.

(5) Section 15–307 is amended by inserting "or the Superior Court of the District of Columbia" after "United States District Court for the District of Columbia".

(6) (A) Section 15–310 is repealed.

(B) Section 15–301 is amended by striking out "15–310,".

(C) The analysis for chapter 3 is amended by striking out the item relating to section 15–310.

(7) Sections 15–311, 15–318, and 15–320 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(8) (A) Subchapter II of chapter 5 is amended—

(i) by striking out "District of Columbia Court of General Sessions" in sections 15–521 and 15–522 and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(ii) by striking out in the subchapter heading "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(B) The analysis of chapter 5 is amended by striking out in the heading relating to subchapter II "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(9) Section 15–706(a) is amended—

(A) by striking out paragraph (14),

(B) by inserting "and" at the end of paragraph (13), and

(C) by redesignating paragraph (15) as paragraph (14).

(10) (A) Section 15–707 is amended to read as follows:

"§ 15–707. Probate fees

"(a) Except as provided in subsection (b), the Register of Wills may demand and receive in advance for services performed by him such fees as shall be set by the Superior Court.

"(b) Where the estate does not exceed two hundred dollars in value the Register of Wills shall receive no fees, and where the estate does not exceed five hundred dollars in value the fees may not exceed ten dollars."

(B) The item relating to section 15–707 in the analysis of chapter 7 is amended by striking out "Court".

(11) (A) Section 15–708 is amended by striking out " the probate court" in the first sentence and inserting in lieu thereof "probate", and by striking out "court" in the section heading.

(B) The item relating to section 15–708 in the analysis of chapter 7 is amended by striking out "court".

(12) (A) Section 15–709 is amended—

(i) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia",

(ii) by striking out "the Court of General Sessions" and inserting in lieu thereof "the Superior Court",

(iii) by amending subsection (b) to read as follows:

"(b) Fees for services by the United States marshals for processes issued by the Superior Court shall be prescribed by rules of that court."; and

(iv) by amending the section heading to read as follows:

"§ 15–709. Fees and costs in Superior Court."

(B) The item relating to section 15–709 in chapter 7 is amended to read as follows:

"§ 15–709. Fees and costs in Superior Court."

(12) Section 15–710 is repealed and the item relating to that section in the analysis of chapter 7 is repealed.

(13) (A) Sections 15–711, 15–712, and 15–713 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(B) The section heading for each of those sections and the items relating to those sections in the analysis of chapter 7 are each amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(13) (A) Section 15–714 is amended—

(i) by striking out "District of Columbia Court of General Sessions" in subsections (a) and (b) and inserting in lieu thereof "Superior Court of the District of Columbia";

(ii) by adding after subsection (b) the following new subsection:

"(c) No travel allowance shall be paid to any witness residing within the District of Columbia."; and

(iii) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court".

(B) The item relating to section 15–714 in the analysis of chapter 7 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(14) Section 15–716 is repealed and the item relating to that section in the analysis of chapter 7 is repealed.

(15) Section 15–717 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

AMENDMENTS TO TITLE 16

SEC. 145. (a) Chapter 3 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–301 is amended—

(A) by striking out "Domestic Relations Branch of the District of Columbia Court of General Sessions" in subsection (a) and inserting in lieu thereof "Superior Court of the District of Columbia"; and

(B) by striking out "Commissioners" in subsection (b)(3) and inserting in lieu thereof "Commissioner".

(2) Sections 16–304, 16–305, 16–307, and 16–314 are each amended by striking out "Board of Commissioners" and "Board" each place they appear and inserting in lieu thereof "Commissioner".

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(b) Chapter 5 of title 16, District of Columbia Code, is amended as follows:

(1) Sections 16-501 and 16-502 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Sections 16-516 and 16-549 are each amended by striking out "Probate Court" and inserting in lieu thereof "Superior Court".

(3) (A) Sections 16-533 and 16-577 are each amended (i) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia", and (ii) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court".

(B) The items relating to such sections in the analysis of chapter 5 are each amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(4) Section 16-578 is amended (A) by striking out "docketed in the United States District Court for the District of Columbia" and inserting in lieu thereof "filed and recorded", (B) by striking out "six years" and inserting in lieu thereof "twelve years", and (C) by striking out "section 15-132(a)" and inserting in lieu thereof "section 15-101".

(5) Section 16-581 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(c) Section 16-601 of the District of Columbia Code is amended by—

(1) striking out ", or a judge thereof," in the first sentence and inserting in lieu therefore "or the Superior Court of the District of Columbia,", and

(2) striking out "has" in the first sentence of the second paragraph and inserting in lieu thereof the following: "(as specified in section 11-501) and the Superior Court of the District of Columbia (as specified in section 11-921) have".

(d) Chapter 7 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16-701 is amended to read as follows:

"§ 16-701. Rules and regulations

"The Superior Court may make such rules and regulations for conducting business in the Criminal Division of the Court, consistent with statutes applicable to such business and in the manner provided in section 11-946, as it may deem necessary and proper."

(2) (A) Section 16-702 is amended to read as follows:

"§ 16-702. Prosecution by indictment or information

"An offense prosecuted in the Superior Court which may be punished by death shall be prosecuted by indictment returned by a grand jury. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, but it may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment. Any other offense may be prosecuted by indictment or by information. An information subscribed by the proper prosecuting officer may be filed without leave of court."

(B) The item relating to section 16-702 in the analysis of chapter 7 is amended to read as follows:

"16-702. Prosecution by indictment or information."

(3) Section 16-703 is amended to read as follows:

"§ 16-703. Process of criminal division; fees

"(a) The Criminal Division of the Superior Court may issue process for the arrest of a person against whom an indictment is returned, an information is filed, or a complaint under oath is made.

"(b) Process shall—

"(1) be under the seal of the court;

"(2) bear teste in the name of a judge of the court; and

"(3) be signed by a clerk or employee of the court authorized to administer oaths.

"(c) In cases arising out of violations of any of the ordinances of the District of Columbia, process shall be directed to the Chief of Police, who shall execute the process and make return thereof in like manner as in other cases.

"(d) In all other criminal cases, the process issued by the Superior Court may be directed to the United States marshal or to the Chief of Police.

"(e) For services pursuant to subsection (d) of this section the marshal shall receive the fees prescribed by section 15-709(b)(2)."

(4) Section 16-705 is amended to read as follows:

"§ 16-705. Jury trial, trial by court

"(a) In a criminal case tried in the Superior Court in which, according to the Constitution of the United States, the defendant is entitled to a jury trial, the trial shall be by jury, unless the defendant in open court expressly waives trial by jury and requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial without a jury, the trial shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.

"(b) In any case where the defendant is not under the Constitution of the United States entitled to a trial by jury, the trial shall be by a single judge without a jury, except that if—

"(1) the case involves an offense which is punishable by a fine or penalty of more than $300 or by imprisonment for more than ninety days (or for more than six months in the case of the offense of contempt of court), and

"(2) the defendant demands a trial by jury and does not subsequently waive a trial by jury in accordance with subsection (a), the trial shall be by jury.

"(c) The jury shall consist of twelve persons, unless the parties, with the approval of the court and in the manner provided by rules of the court, agree to a number less than twelve."

(5) Section 16-706 is amended to read as follows:

"§ 16-706. Enforcement of judgments; commitment upon non-payment of fine

"The Superior court may enforce any of its judgments rendered in criminal cases by fine or imprisonment, or both. Except as otherwise provided by law, and subject to the relief provided in section 3569 of title 18, United States Code, in any case where the court imposes a fine, the court may, in the event of default in the payment of the fine imposed, commit the defendant for a term not to exceed one year."

(6) Sections 16-704, 16-707, 16-709, and 16-710 are each amended by striking out "Court of General Sessions" and "District of Columbia Court of General Sessions" wherever they appear and inserting in lieu thereof "Superior Court of the District of Columbia".

(7) The heading of chapter 7 is amended by striking out "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(e) Chapter 9 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16-901 is amended by striking out "Domestic Relations Branch of the District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) (A) Section 16-916 is amended—

(i) by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) Whenever any father or mother shall fail to maintain his or her minor child or children, the court may decree that he or she shall pay reasonable sums periodically for the support and maintenance of his or her child or children, and the court may decree that the father or mother pay court costs, including counsel fees, to enable plaintiff to conduct the cases.", and

(ii) by amending the section heading to read as follows:

"§ 16-916. Maintenance of wife and minor children; maintenance of former wife; maintenance of minor children; enforcement".

(B) The item relating to section 16-916 in the analysis of chapter 9 is amended to read as follows:

"16-916. Maintenance of wife and minor children; maintenance of former wife; maintenance of minor children; enforcement."

(3) (A) Section 16-918 is amended to read as follows:

"§ 16-918. Appointment of counsel; compensation

"(a) In all uncontested divorce cases, and in any other divorce or annulment case where the court deems it necessary or proper, a disinterested attorney shall be appointed by the court to enter his appearance for the defendant and actively defend the cause.

"(b) In any proceeding wherein the custody of a child is in question, the court may appoint a disinterested attorney to appear on behalf of the child and represent his best interests.

"(c) An attorney appointed under this section may receive such compensation for his services as the court determines to be proper, which shall be paid by the parties as the court directs."

(B) The item relating to section 16-918 in the analysis of chapter 9 is amended to read as follows:

"16-918. Appointment of counsel; compensation."

(f) Chapter 13 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16-1301 is amended to read as follows:

"§ 16-1301. Jurisdiction of District Court

"The United States District Court for the District of Columbia has exclusive jurisdiction of all proceedings for the condemnation of real property authorized by subchapters IV and V of this chapter, with full power to hear and determine all issues of law and fact that may arise in the proceedings."

(2) Subchapter I is amended by adding at the end thereof the following new section:

"§ 16-1303. Jurisdiction of Superior Court

"The Superior Court of the District of Columbia has jurisdiction of all proceedings for the condemnation of real property authorized by subchapters II and III of this chapter with full power to hear and determine all issues of law and fact that may arise in the proceedings."

(3) Section 16-1311 is amended—

(A) by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner",

(B) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court",

(C) by striking out "name of the Board" and inserting in lieu thereof "name of the District of Columbia", and

(D) by striking out "Board of Commissioners" in the heading and inserting in lieu thereof "District of Columbia".

(4) Section 16-1312 is amended to read as follows:

"§ 16-1312. Juries for condemnation proceedings.

"For purposes of this subchapter, a special jury list shall be prepared of not less than

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one hundred persons who are qualified jurors in the District of Columbia. When a jury is required for a condemnation proceeding under this subchapter, the names of such number of persons as may be necessary shall be selected from this list by lot and furnished to the Superior Court."

(5) Section 16–1314(a) is amended by striking out "members of the Board of Commissioners" in the first sentence and inserting in lieu thereof "Commissioner", and by striking out "Commissioners" in paragraph (5) of the second sentence and inserting in lieu thereof "Commissioner".

(6) The third sentence of section 16–1318 is amended to read as follows: "If the appraisement is vacated and set aside, the court shall order the necessary number of new persons selected from the special jury list and, from among the persons so selected, shall appoint a new jury of five capable and disinterested persons who shall proceed as in the case of the first jury."

(7) Sections 16–1319, 16–1321, and 16–1336 are each amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

(8) Section 16–1331 is amended by striking out "Board of Commissioners of the District of Columbia, and agencies of the United States authorized by law to acquire real property," and inserting in lieu thereof "Commissioner of the District of Columbia".

(9) Section 16–1332 is amended by striking "Board of Commissioners of the District of Columbia and agencies of the United States authorized by law to acquire real property" in subsection (a) and inserting in lieu thereof "Commissioner of the District of Columbia", and by striking out ", and where the property sold was acquired under an appropriation authorized for the use of the District of Columbia, moneys received from the sale shall be deposited in the Treasury" in subsection (c).

(10) Section 16–1334 is amended by striking out "or the United States" wherever it appears.

(11) Section 16–1337 is repealed and section 16–1338 is redesignated as 16–1337.

(12) The first sentence of section 16–1357 is amended to read as follows: "When the date for trial has been set, provided by section 16–1356, the court shall order the names of a number of persons, not less than twenty, selected from the special jury list provided by section 16–1312, and the names of the persons selected shall be certified to the clerk of the United States District Court for the District of Columbia as a panel of prospective jurors."

(13) Chapter 13 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V.—EXCESS PROPERTY FOR THE UNITED STATES

"§ 16–1381. Acquisition of property in excess of needs

"In order to promote the orderly and proper development of the seat of government of the United States, agencies of the United States authorized by law to acquire real property, may acquire, in the public interest, by gift, dedication, exchange, purchase or condemnation, fee simple title to land, or rights in or on land or easements or restrictions therein, within the District of Columbia for public uses, works and improvements authorized by Congress, in excess of that actually needed for and essential to their usefulness, in order to preserve the view, appearance, light and air and to enhance their usefulness to prevent the use of private property adjacent to them in such a manner as to impair the public benefit derived from the construction thereof, or to prevent inequities or hardships to the owners of adjacent private property by depriving them of the beneficial use of their property.

"§ 16–1382. Retention, for public use, of excess property

"When the authorities of the United States having jurisdiction of real property, rights or easements acquired pursuant to this subchapter, elect to retain any of them for the use of the United States, they may use the property, rights of easements for park, playground, highway, or alley purposes, or for any other lawful purposes that they deem advantageous or in the public interest.

"§ 16–1383. Availability of appropriations for purchases of excess property

"When real property is purchased pursuant to this subchapter in excess of that needed for a particular project or improvement, appropriations available for the payment of the purchase price, costs, and expenses incident to the project or improvement may be used in the payment of the purchase price, costs, and expenses of excess real property purchased in connection with the project or improvement, as provided by this subchapter.

"§ 16–1384. Condemnation of excess real property by United States agencies; payment of awards, damages and costs

"(a) When excess real property is condemned by agencies of the United States as provided by this subchapter, the condemnation proceedings for the acquisition of the property shall be in accordance with subchapter IV of this chapter, or any laws in effect at the time of the commencement of condemnation proceedings for the acquisition of real property in the District of Columbia for the use of the United States.

"(b) Appropriations available for the condemnation of property pursuant to subchapter IV of this chapter may be used in the payment of awards, damages, and costs in condemnation proceedings pursuant to that subchapter for the acquisition of excess real property as provided in this subchapter.

"§ 16–1385. Construction of subchapter

"This subchapter does not repeal any provisions of existing law pertaining to the condemnation or acquisition of streets, alleys, or land, or the laws relating to the subdividing of lands in the District of Columbia."

(16) The analysis of chapter 13 is amended by—

(A) by adding after the item relating to section 16–1302 the following:

"16–1303. Jurisdiction of Superior Court.";

(B) by amending the item relating to section 16–1311 to read as follows:

"16–1311. Condemnation proceedings by District of Columbia.";

(C) by amending the item relating to section 16–1312 to read as follows:

"16–1312. Juries for condemnation proceedings.";

(D) by striking out the item relating to section 16–1337 and by striking out "16–1338" and inserting in lieu thereof "16–1337"; and

(E) by adding at the end thereof:

"SUBCHAPTER V—EXCESS PROPERTY FOR THE UNITED STATES

"16–1381. Acquisition of property in excess of needs.

"16–1382. Retention, for public use, of excess property.

"16–1383. Availability of appropriations for purchases of excess property.

"16–1384. Condemnation of excess real property by United States agencies; payment of awards, damages and costs.

"16–1385. Construction of subchapter."

(g) Chapter 15 of title 16, District of Columbia Code, is amended as follows:

(1) Sections 16–1501 and 16–1505 are each amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 16–1504 and the item relating to that section in the analysis of chapter 15 are repealed.

(h) (1) Section 16–1901 of title 16, District of Columbia Code, is amended—

(A) by striking out "the United States District Court for the District of Columbia" in the first sentence and inserting in lieu thereof "the appropriate court";

(B) by inserting "(a)" immediately before "A person" and by adding after the last sentence the following:

"(b) Petitions for writs directed to Federal officers and employees shall be filed in the United States District Court for the District of Columbia.

"(c) Petitions for writs directed to any other person shall be filed in the Superior Court of the District of Columbia."; and

(C) by striking out "to District Court" in the section heading.

(2) The item relating to section 16–1901 in the analysis of chapter 19 of title 16 is amended by striking out "to District Court".

(i) Section 16–2501 of title 16, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court".

(j) The second paragraph of section 16–2701 of title 16, District of Columbia Code, is amended by striking out "United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "appellate court".

(k) Chapter 29 of title 16 of the District of Columbia Code is amended as follows:

(1) Sections 16–2901 and 16–2921 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 16–2901(d) is amended by striking out "section 21–213" and inserting in lieu thereof "sections 21–146 and 21–704".

(3) Sections 16–2923, 16–2924, and 16–2925 are each amended by striking out "District Court" and inserting in lieu thereof "court".

(l) Chapter 31 of title 16, District of Columbia Code, is amended as follows:

(1) Section 16–3101 is amended to read as follows:

"§ 16–3101. Definition

"As used in this chapter, the term 'Probate Court' means the Superior Court of the District of Columbia."

(2) Sections 16–3103, 16–3105, and 16–3106 are each amended by striking out "powers of enforcement and punishment as provided by section 401 of title 18, United States Code" and inserting in lieu thereof "contempt power".

(3) Section 16–3104(b) is amended by striking out "to the United States".

(m) Section 16–3301 of title 16 of the District of Columbia Code is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(n) Chapter 35 of title 16, District of Columbia Code, is amended to read as follows:

"CHAPTER 35.—QUO WARRANTO

"SUBCHAPTER I.—ACTIONS AGAINST OFFICERS OF THE UNITED STATES

"Sec.

"16–3501. Persons against whom issued, civil action.

"16–3502. Parties who may institute; ex rel. proceedings.

"16–3503. Refusal of Attorney General or United States attorney to act; procedure.

"SUBCHAPTER II.—ACTIONS AGAINST OFFICERS OR CORPORATIONS OF THE DISTRICT OF COLUMBIA

"16–3521. Persons against whom issued, civil action.

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"16–3522. Parties who may institute; ex rel. proceedings.
"16–3523. Refusal of United States attorney or Corporation Counsel to act; procedure.

"SUBCHAPTER III.—PROCEDURES AND JUDGMENTS

"16–3541. Allegations in petition of relator claiming office.
"16–3542. Notice to defendant.
"16–3543. Proceedings on default.
"16–3544. Pleading; jury trial.
"16–3545. Verdict and judgment.
"16–3546. Usurping corporate franchise; judgment.
"16–3547. Proceedings against corporate directors and trustees; judgment and order; enforcement.
"16–3548. Recovery of damages from usurper; limitation.

"SUBCHAPTER I.—ACTIONS AGAINST OFFICERS OF THE UNITED STATES

"§ 16–3501. Persons against whom issued; civil action

"A quo warranto may be issued from the United States District Court for the District of Columbia in the name of the United States against a person who within the District of Columbia usurps, intrudes into, or unlawfully holds or exercises a franchise conferred by the United States or a public office of the United States, civil or military. The proceedings shall be deemed a civil action.

"§ 16–3502. Parties who may institute; ex rel. proceedings

"The Attorney General of the United States or the United States attorney may institute a proceeding pursuant to this subchapter on his own motion or on the relation of a third person. The writ may not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified setting forth the grounds of the application, or until the relator files a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court prescribes, conditioned on the payment by him of all costs incurred in the prosecution of the writ if costs are not recovered from and paid by the defendant.

"§ 16–3503. Refusal of Attorney General or United States attorney to act; procedure

"If the Attorney General or United States attorney refuses to institute a quo warranto proceeding on the request of a person interested, the interested person may apply to the court by certified petition for leave to have the writ issued. When, in the opinion of the court, the reasons set forth in the petition are sufficient in law, the writ shall be allowed to be issued by any attorney, in the name of the United States, on the relation of the interested person on his compliance with the condition prescribed by section 16–3502 as to security for costs.

"SUBCHAPTER II.—ACTIONS AGAINST OFFICERS OR CORPORATIONS OF THE DISTRICT OF COLUMBIA

"§ 16–3521. Persons against whom issued; civil action

"A quo warranto may be issued from the Superior Court of the District of Columbia in the name of the District of Columbia against—

"(1) a person who within the District of Columbia usurps, intrudes into, or unlawfully holds or exercises, a franchise conferred by the District of Columbia, a public office of the District of Columbia, civil or military, or an office in a domestic corporation; or

"(2) one or more persons who act as a corporation within the District of Columbia without being duly authorized, or exercise within the District of Columbia corporate rights, privileges, or franchises not granted them by law in force in the District of Columbia.

The proceedings shall be deemed a civil action.

"§ 16–3522. Parties who may institute; ex rel. proceedings

"The United States attorney or the Corporation Counsel may institute a proceeding pursuant to this subchapter on his own motion, or on the relation of a third person. The writ may not be issued on the relation of a third person except by leave of the court, to be applied for by the relator, by a petition duly verified, setting forth the grounds of the application, or until the relator files a bond with sufficient surety, to be approved by the clerk of the court, in such penalty as the court prescribes, conditioned on the payment by him of all costs incurred in the prosecution of the writ if costs are not recovered from and paid by the defendant.

"§ 16–3523. Refusal of United States attorney or Corporation Counsel to act; procedures

"If the United States attorney or Corporation Counsel refuses to institute a quo warranto proceeding on the request of a person interested, the interested person may apply to the court by certified petition for leave to have the writ issued. When, in the opinion of the court, the reasons set forth in the petition are sufficient in law, the writ shall be allowed to be issued by any attorney, in the name of the District of Columbia, on the relation of the interested person, on his compliance with the conditions prescribed by section 16–3522 as to security for costs.

"SUBCHAPTER III.—PROCEDURES AND JUDGMENTS

"§ 16–3541. Allegations in petition of relator claiming office

"When a quo warranto proceeding is against a person for usurping an office, on the relation of a person claiming the same office, the relator shall set forth in his petition the facts upon which he claims to be entitled to the office.

"§ 16–3542. Notice to defendant

"On the issuing of a writ of quo warranto the court may fix a time within which the defendant may appear and answer the writ When the defendant cannot be found in the District of Columbia, the court may direct notice to be given to him by publication as in other cases of proceedings against nonresident defendants, and upon proof of publication, if the defendant does not appear, judgment may be rendered as if he had been personally served.

"§ 16–3543. Proceedings on default

"If the defendant does not appear as required by a writ of quo warranto, after being served, the court may proceed to hear proof in support of the writ and render judgment accordingly.

"§ 16–3544. Pleading; jury trial

"In a quo warranto proceeding, the defendant may demur, plead specially, or plead "not guilty" as the general issue, and the United States or the District of Columbia, as the case may be, may reply as in other actions of a civil character. Issues of fact shall be tried by a jury if either party requests it. Otherwise they shall be determined by the court.

"§ 16–3545. Verdict and judgment

"Where a defendant in a quo warranto proceeding is found by the jury to have usurped, intruded into, or unlawfully held or exercised an office or franchise, the verdict shall be that he is guilty of the act or acts in question, and judgment shall be rendered that he be ousted and excluded therefrom and that the relator recover his costs.

"§ 16–3546. Usurping corporate franchise; judgment

"Where a quo warranto proceeding is against persons acting as a corporation without being legally incorporated, the judgment against the defendants shall be that they be perpetually restrained and enjoined from the commission or continuance of the acts complained of.

"§ 16–3547. Proceedings against corporate directors and trustees; judgment and order; enforcement

"Where a quo warranto proceeding is against a director or trustee of a corporation and the court finds that at his election either illegal votes were received or legal votes rejected, or both, sufficient to change the result if the error is corrected, the court may render judgment that the defendant be ousted, and that the relator, if entitled to be declared elected, be admitted to the office, and the court may issue an order to the proper parties, being officers or members of the corporation, to admit him to the office. The judgment may require the defendant to deliver to the relator all books, papers, and other things in his custody or control pertaining to the office, and obedience to judgment may be enforced by attachment.

"§ 16–3548. Recovery of damages from usurper; limitation

"At any time within a year from a judgment in a quo warranto proceeding, the relator may bring an action against the party ousted and recover the damages sustained by the relator by reason of the ousted party's usurpation of the office to which the relator was entitled."

(o) Chapter 37 of title 16 of the District of Columbia Code is amended—

(1) by replacing subchapter II;

(2) by striking out the heading "SUBCHAPTER I.—GENERAL PROVISIONS"; and

(3) by striking out the items relating to subchapter II in the chapter analysis and by striking out "SUBCHAPTER I.—GENERAL PROVISIONS" in that analysis.

(p) Chapter 39 of title 16 of the District of Columbia Code is amended as follows:

(1) The chapter heading is amended by striking out "COURT OF GENERAL SESSIONS" and inserting in lieu thereof "SUPERIOR COURT".

(2) Section 16–3901 is amended to read as follows:

"§ 16–3901. Practice; applicability of other laws and rules of court

"All provisions of law relating to the Superior Court of the District of Columbia and the rules of the court apply to the Small Claims and Conciliation Branch of the court as far as they may be applicable and are not in conflict with this chapter or chapter 13 of title 11. In case of conflict, this chapter and chapter 13 of title 11 control."

(3) Section 16–3902 is amended—

(A) by striking out "of the District of Columbia Court of General Sessions" in subsection (a); and

(B) by striking out "District of Columbia Court of General Sessions" and "Court of General Sessions" in the form prescribed by subsection (e) and inserting in lieu thereof "Superior Court of the District of Columbia".

(4) Sections 16–3903 and 16–3905 are each amended by striking out "of the District of Columbia Court of General Sessions".

(5) The third sentence of section 16–3904 is amended to read as follows: "When the set-off or counterclaim is for more than the jurisdictional limit of the Small Claims and Conciliation Branch, as provided by section 11–1321, but within the jurisdiction of the Superior Court, the action shall nevertheless remain in the Branch and be tried therein in its entirety."

(6) Section 16-3907 is amended by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia".

(7) Section 16-3910 is amended by striking out ", or the rules prescribed pursuant to section 13-101(c)" and inserting in lieu thereof "or the rules of the court" and by striking out "of the District of Columbia Court of General Sessions".

AMENDMENTS TO TITLE 17

Sec. 146. (a) Title 17 of the District of Columbia Code is amended as follows:

(1) Chapter 1 and the item relating to such chapter in the chapter analysis are repealed.

(2) (A) Section 17-301 is amended—

(i) by striking out "Court of General Sessions" in the section heading and inserting in lieu thereof "Superior Court",

(ii) by striking out "District of Columbia Court of General Sessions" and inserting in lieu thereof "Superior Court of the District of Columbia", and

(iii) by striking out "section 11-741(c)" and inserting in lieu thereof "section 11-721(c)".

(B) The item relating to section 17-301 in the analysis of chapter 3 is amended by striking out "Court of General Sessions" and inserting in lieu thereof "Superior Court".

(3) (A) Section 17-303 is amended to read as follows:

"§ 17-303. Appeals from administrative orders and decisions

"An appeal from an order or decision of an administrative agency, as provided for in section 11-722, is commenced by filing within the time prescribed pursuant to section 17-307(a), the written petition for review provided by section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1-1510). The District of Columbia Court of Appeals may prescribe the necessary rules and procedures for review of administrative orders and decisions, consistent with section 11 of the Administrative Procedure Act."

(B) The item relating to section 17-303 in the analysis of chapter 3 is amended by striking out "; petition; records, procedure".

(4) Section 17-304 is amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner or Council" and by inserting after District of Columbia, the first time it appears the following: "by the independent agency,".

"§ 17-305. Scope of review

"(a) In considering an order or judgment of a lower court or any of its branches, brought before it for review, the District of Columbia Court of Appeals shall review the record on appeal. When the issues of fact were tried by jury, the court shall review the case only as to matters of law. When the case was tried without a jury, the court may review both as to the facts and the law, but the judgment may not be set aside except for errors of law unless it appears that the judgment is plainly wrong or without evidence to support it.

"(b) The provisions of section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1-1510) shall apply with respect to review by the District of Columbia Court of Appeals of an order or decision under that Act."

(6) Section 17-306 is amended by striking out "branch" and inserting in lieu thereof "division" and by striking out "order or decision of an administration agency" and inserting in lieu thereof "administratve order or decision".

(7) Section 17-307 is amended by striking out "section 11-741 or 11-742" in subsection (a) and inserting in lieu thereof "section 11-721 or 11-722", by striking out "District of Columbia Court of General Sessions" in subsection (b) and inserting in lieu thereof "Superior Court of the District of Columbia", and by striking out "section 11-741(c)" in subsection (b) and inserting in lieu thereof "section 11-721(c)".

AMENDMENTS TO TITLE 18

Sec. 147. Title 18 of the District of Columbia Code is amended as follows:

(1) The last paragraph of section 18-101 is amended to read as follows:

"'Probate Court' and 'court', respectively, mean the Superior Court of the District of Columbia."

(2) Subsection (d) of section 18-505 is amended to read as follows:

"(d) The rules of the court with respect to the taking and use of testimony of out-of-District witnesses apply to testimony taken pursuant to this section. The original will or codicil shall be sent with the notice or order of appointment or commission or letters rogatory, and exhibited to the witnesses."

(3) (A) Section 18-513 is amended to read as follows:

"§ 18-513. Rules of procedure

"The court shall prescribe rules of procedure governing the trial of issues when a caveat is filed, including provisions for notice, appointment of guardians ad litem, trial by jury, and effect of judgments."

(B) The item relating to section 18-513 in the analysis of chapter 5 is amended to read as follows:

"18-513. Rules of procedure."

AMENDMENT TO TITLE 19

Sec. 148. Title 19 of the District of Columbia Code is amended as follows:

(1) Section 19-701 is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(2) (A) The following new section is added after section 19-114:

"§ 19-115. Definition

"For purposes of this chapter, the term 'Probate Court' means the Superior Court of the District of Columbia."

(B) The analysis of chapter 1 is amended by adding at the end thereof the following new item:

"19-115. Definition."

AMENDMENTS TO TITLE 20

Sec. 149. Title 20 of the District of Columbia Code is amended as follows:

(1) Sections 20-302, 20-332(a)(2), 20-502(b), and 20-1107 are each amended by striking out "to the United States".

(2) Sections 20-312, 20-337, and 20-501 are each amended by striking out in the forms referred to therein "the Chief Judge of the United States District Court for the District of Columbia" and inserting in lieu thereof "the Chief Judge of the Superior Court of the District of Columbia".

(3) Section 20-351(a)(2) is amended by striking out "an insane person" and inserting in lieu thereof "a mentally-ill person".

(4) Section 20-364(a) is amended by striking out "in the name of the United States" and inserting in lieu thereof "in the name of the District of Columbia".

(5) Section 20-502 is further amended by striking out in the form referred to therein "Probate Court of the District of Columbia" and "Probate Court of the District" and inserting in lieu thereof "Probate Court".

(6) Section 20-1110 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court", and by striking out "shall be given to the United States and".

(7) Sections 20-1320 and 20-1505 are each amended by striking out "Probate Court of the District of Columbia" and inserting in lieu thereof "Probate Court".

(8) (A) Section 20-2301 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court" and by striking out "United States attorney" in the section heading and inserting in lieu thereof "Corporation Counsel".

(B) The item relating to section 20-2301 in the analysis of chapter 23 is amended by striking out "United States attorney" and inserting in lieu thereof "Corporation Counsel".

AMENDMENTS TO TITLE 21

Sec. 150. (a) Chapter 1 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21-112 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Probate Court".

(2) Section 21-115 is amended by striking out "to the United States".

(3) Section 21-158 is amended by striking out "in the name of the United States".

(4) Section 21-301(4) of title 21, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(b) Chapter 5 of title 21, District of Columbia Code is amended as follows:

(1) Sections 21-501 and 21-502(a) are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 21-521 is amended by striking out "the family physician" and inserting in lieu thereof "a physician".

(3) Sections 21-544, 21-564(a), 21-564(b), and 21-590 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(4) Section 21-564(a) is further amended by striking out "Board of Commissioners" and inserting in lieu thereof "Commissioner".

(5) (A) Section 21-581 is amended—

(i) by striking out "Commissioners" in subsection (a) and in the section heading and inserting in lieu thereof "Commissioner", and

(ii) by striking out "(a)" and subsection (b).

(B) The item relating to section 21-581 in the analysis of chapter 5 is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(6) Section 21-584 is amended by striking out "witnesses in the courts of the United States" and inserting in lieu thereof "other witnesses in the court".

(7) (A) The following new section is added after section 21-591:

"§ 21-592. Return to hospital of an escaped mentally ill person

"When a person has been ordered confined in a hospital or institution for the mentally ill pursuant to this chapter and has left such hospital or institution without authorization or has failed to return as directed, the court which ordered confinement shall, upon the request of the administrator of such hospital or institution, order the return of such person to such hospital or institution."

(B) The analysis of chapter 5 is amended by adding after the item relating to section 21-591 the following:

"21-592. Return to hospital of an escaped mentally ill person."

(c) Members of the Commission on Mental Health established under section 21-502 of title 21 of the District of Columbia Code who are in office on the effective date of this title shall continue in office as provided in subsection (b) of that section.

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(d) Section 21-706(a) of title 21, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(e) Section 21-906 of title 21, District of Columbia Code, is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(f) Chapter 11 of title 21, District of Columbia Code, is amended as follows:

(1) Sections 21-1101, 21-1102, 21-1103, 21-1104, 21-1105, 21-1106, 21-1107, 21-1108, 21-1110, 21-1111, 21-1113, 21-1115, 21-1118, and 21-1123 are each amended by striking out "feeble-minded" each place it appears and inserting in lieu thereof "retarded".

(2) Sections 21-1102 and 21-1120 are each amended by striking out "Department of Public Welfare" and inserting in lieu thereof "District of Columbia Council".

(3) Sections 21-1103 is amended—

(A) by striking out "United States District Court for the District of Columbia" in subsection (a) and inserting in lieu thereof "Superior Court of the District of Columbia", and

(B) by striking out "of District Court as to feeble-mindedness" in the section heading and inserting in lieu thereof "mental retardation".

(4) Section 21-1104 is amended by striking out "District Court of the United States for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(5) Section 21-1109(a) is amended by striking out "running to the United States".

(6) Section 21-1111(a) is amended by striking out "Commissioners" and inserting in lieu thereof "Commissioner".

(7) Section 21-1114 is amended—

(A) by striking out "juvenile court of the District of Columbia as a dependent or delinquent child" and inserting in lieu thereof "Family Division of the Superior Court upon allegations that he is delinquent, neglected, or in need of supervision",

(B) by striking out "feeble-minded" and inserting in lieu thereof "retarded",

(C) by inserting ", other than proceedings on a motion to transfer pursuant to section 16-2331," after "the proceedings" in the first sentence, and

(D) by striking out "brought before juvenile court appears feeble-minded" in the section heading and inserting in lieu thereof "brought before Family Division appears retarded".

(8) Sections 21-1116 and 21-1122 are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(9) Section 21-1117 is amended—

(A) by striking out "feeble-mindedness" and inserting in lieu thereof "retardation", and

(B) by striking out "feeble-minded" in the section heading and inserting in lieu thereof "retardation".

(10) The analysis of chapter 11 is amended—

(A) by striking out "of District Court as to feeble-mindedness" in the item relating to section 21-1103 and inserting in lieu thereof "mental retardation", and

(B) by striking out "before juvenile court appears "feeble-minded" in the item relating to section 21-1114 and inserting in lieu thereof "before Family Division appears retarded", and

(C) by striking out "feeble-minded" in the items relating to sections 21-1117 and 21-1118 and inserting in lieu thereof "retarded".

(g) Chapter 13 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21-1301 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) The first sentence of section 21-1302 is amended by striking out "to the United States".

(h) Chapter 15 of title 21, District of Columbia Code, is amended as follows:

(1) Section 21-1501 is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(2) Section 21-1506 is amended by striking out "of the Civil Division".

AMENDMENTS TO TITLE 28

Sec. 151. (a) Sections 28-2103 and 28-2104 of title 28 of the District of Columbia Code are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(b) Section 28-2105 of title 28 of the District of Columbia Code is amended by striking out "District Court" and inserting in lieu thereof "court having probate jurisdiction".

SUBPART 2—AMENDMENTS TO OTHER LAWS

REDESIGNATION OF COURTS

Sec. 155. (a) Except as otherwise provided in this Act, all laws of the United States (other than this Act) applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the—

(1) justice of the peace,

(2) justice of the peace court,

(3) police court of the District of Columbia,

(4) Municipal Court of the District of Columbia,

(5) Municipal Court for the District of Columbia (established by the Act of April 1, 1942 (56 Stat. 190)), and

(6) District of Columbia Court of General Sessions (established by the Act of July 8, 1963 (77 Stat. 77)), or any division or branch of that Court

are amended by substituting "Superior Court of the District of Columbia" for each such reference.

(b) Except as otherwise provided in this Act, all laws of the United States (other than this Act) applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the Municipal Court of Appeals for the District of Columbia (established by the Act of April 1, 1942), are amended by substituting "District of Columbia Court of Appeals" for such reference.

(c) The following laws of the United States applicable to the District of Columbia, in force on the effective date of this Act, are amended by striking out all references therein to the United States District Court for the District of Columbia and inserting in lieu thereof "Superior Court for the District of Columbia":

(1) The following sections of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901:

(A) Section 491a of such Act (D.C. Code, sec. 7-202).

(B) Section 491n of such Act (D.C. Code, sec. 7-215).

(C) Section 1608e of such Act (D.C. Code, sec. 7-313).

(D) Section 1610 of such Act (D.C. Code, sec. 7-323).

(E) Section 869b of such Act (D.C. Code, sec. 22-1510).

(F) Section 632 of such Act (D.C. Code, sec. 29-228).

(G) Section 586 of such Act (D.C. Code, sec. 29-413).

(H) Section 586f of such Act (D.C. Code, sec. 29-419).

(I) Section 793 of such Act (D.C. Code, sec. 29-725).

(J) Section 1225 of such Act (D.C. Code, sec. 45-910).

(2) Section 12 of the Boiler Inspection Act of the District of Columbia, approved June 25, 1936 (D.C. Code, sec. 1-713).

(3) Section 2 of the Act of August 3, 1968 (D.C. Code, sec. 1-804b).

(4) Section 41 of the Act entitled "An Act to regulate the practice of the healing art and to protect the public health in the District of Columbia", approved February 27, 1929 (D.C. Code, sec. 2-132).

(5) Section 4 of the Act of July 2, 1940 (D.C. Code, sec. 2-304).

(6) Section 7 of the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906 (D.C. Code, sec. 2-606).

(7) Section 3 of the Act entitled "An Act to amend the Act to regulate the practice of podiatry in the District of Columbia", approved June 29, 1940 (D.C. Code, sec. 2-703).

(8) Section 29 of the Act entitled "An Act to provide for the examination and registration of architects and to regulate the practice of architecture in the District of Columbia", approved December 13, 1924 (D.C. Code, sec. 2-1029).

(9) The following sections of the Professional Engineers' Registration Act, approved September 19, 1950:

(A) Section 8 of such Act (D.C. Code, sec. 2-1808).

(B) Section 9(b) of such Act (D.C. Code, sec. 2-1809(b)).

(10) Section 13 of the District of Columbia Charitable Solicitation Act, approved July 10, 1957 (D.C. Code, sec. 2-2112).

(11) The following sections of the District of Columbia Securities Act, approved August 30, 1964:

(A) Section 11 of such Act (D.C. Code, sec. 2-2410).

(B) Section 12 of such Act (D.C. Code, sec. 2-2411).

(12) Section 18 of the District of Columbia Public Assistance Act, approved October 15, 1962 (D.C. Code, sec. 3-217).

(13) Section 389 of the Revised Statutes of the United States Relating to the District of Columbia (D.C. Code, sec. 4-135).

(14) The following sections of the Act entitled "An Act to punish false swearing before the trial board of the Metropolitan police force and fire department of the District of Columbia, and for other purposes", approved May 11, 1892:

(A) Section 1 of such Act (D.C. Code, sec. 4-601).

(B) Section 3 of such Act (D.C. Code, sec. 4-603).

(15) Section 2 of the Act entitled "An Act providing for the establishment of a uniform building line on streets in the District of Columbia less than ninety feet in width", approved June 21, 1906 (D.C. Code, sec. 5-202).

(16) Section 11 of the Act entitled "An Act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes", approved March 19, 1906 (D.C. Code, sec. 5-311).

(17) Section 7 of the Act entitled "An Act to provide for means of egress for buildings in the District of Columbia, and for other purposes", approved December 24, 1942 (D.C. Code, sec. 5-323).

(18) Section 8 of the Act entitled "An Act to regulate the height of buildings in the District of Columbia", approved June 1, 1910 (D.C. Code, sec 5-408).

(19) Section 7(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (D.C. Code, sec. 5-706).

(20) The third proviso of section 11(a) of the Horizontal Property Act of the District of Columbia, approved December 21, 1963 (D.C. Code, sec. 5–911).

(21) Section 1 of the Act of March 4, 1929 (D.C. Code, sec. 6–505).

(22) Section 5 of the Act of December 15, 1932 (D.C. Code, sec. 7–405).

(23) The fifth paragraph of so much of the first section of the Act of March 3, 1905, as relates to bridges (D.C. Code, sec. 7–505).

(24) The second paragraph of so much of the first section of the Act of June 29, 1932, as relates to Bridges (D.C. Code, sec. 7–514).

(25) Section 1 of the Act entitled "An Act to provide for the elimination of the Michigan Avenue grade crossing in the District of Columbia, and for other purposes", approved March 3, 1927 (D.C. Code, sec. 7–520).

(26) The third paragraph of so much of the first section of the Act of July 3, 1930, as relates to Bridges (D.C. Code, sec. 7–523).

(27) Section 11 of the District of Columbia Public Utilization Act, approved October 17, 1968 (D.C. Code, sec. 7–950).

(28) Sections 1 and 2 of the Act entitled "An Act to provide for the elimination of grade crossings of steam railroads in the District of Columbia, and for other purposes", approved March 3, 1927 (D.C. Code, sec. 7–1215 (a), (b)).

(29) Section 1 of the Act entitled "An Act to provide for the establishment of a municipal center in the District of Columbia", approved February 28, 1929 (D.C. Code, sec. 9–201).

(30) The Act entitled "An Act to prohibit the introduction of contraband into the District of Columbia penal institutions", approved December 15, 1941 (D.C. Code, sec. 22–2603).

(31) Section 5 of the Hospital Treatment for Drug Addicts Act for the District of Columbia, approved June 24, 1956 (D.C. Code, sec. 24–605).

(32) Section 345 of the Public Health Service Act, approved July 1, 1944 (D.C. Code, sec. 24–614).

(33) Section 26 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (D.C. Code, sec. 25–126).

(34) Section 3 of the Act entitled "An Act concerning common-trust funds and to make uniform the law with reference thereto", approved October 27, 1949 (D.C. Code, sc. 26–703).

(35) Section 5 of the Act entitled "An Act to provide for the incorporation and regulation of medical and dental colleges in the District of Columbia", approved May 4, 1896 (D.C. Code, sec. 31–904).

(36) The Act entitled "An Act to amend the Code of Law for the District of Columbia", approved April 16, 1934 (D.C. Code, sec. 35–205).

(37) The following sections of the Life Insurance Act, approved June 19, 1934:

(A) Section 13, chapter II of such Act (D.C. Code, sec. 35–412).

(B) Section 24, chapter II of such Act (D.C. Code, sec. 35–423).

(C) Section 15, chapter III of such Act (D.C. Code, sec. 35–515).

(38) Section 5, title II of the Act of September 19, 1918 (D.C. Code, sec. 36–435).

(39) The following sections of the Act of March 4, 1913:

(A) Section 8, paragraph 97(a) of such Act (D.C. Code, sec. 43–201).

(B) Section 8, paragraph 35 of such Act (D.C. Code, sec. 43–405).

(C) Section 8, paragraph 48 of such Act (D.C. Code, sec. 43–418).

(40) Section 5 of the Act entitled "An Act to authorize the Metropolitan Railroad Company to change its motive power for the propulsion of the cars of said company", approved August 2, 1894 (D.C. Code, sec. 44–208).

(41) Section 305 of the District of Columbia Real Estate Deed Recordation Tax Act, approved March 2, 1962 (D.C. Code, sec. 45–725).

(42) The following sections of the Act of August 25, 1937:

(A) Section 9 of such Act (D.C. Code, sec. 45–1409).

(B) Section 11 of such Act (D.C. Code, sec. 45–1411).

(43) The following sections of the Act entitled "An Act to regulate rents in the District of Columbia, and for other purposes", approved December 2, 1941:

(A) Section 8 of such Act (D.C. Code, sec. 45–1607).

(B) Section 10 of such Act (D.C. Code, sec. 45–1610).

(44) The following sections of that Act entitled "An Act to provide for unemployment compensation in the District of Columbia, authorize appropriations, and for other purposes", approved August 28, 1935:

(A) Section 3(c)(10) of such Act (D.C. Code, sec. 46–303(c)(10)).

(B) Section 4(e) of such Act (D.C. Code, sec. 46–304(e)).

(C) Section 12 of such Act (D.C. Code, sec. 46–312).

(D) Section 13(h) of such Act (D.C. Code, sec. 46–313(h)).

(45) Section 13 of the Act of August 14, 1894 (D.C. Code, sec. 47–606).

(46) The Act entitled "An Act to authorize reassessment for improvements and general taxes in the District of Columbia, and for other purposes", approved April 24, 1896 (D.C. Code, sec. 47–721).

(47) Section 1 of the Act entitled "An Act to provide for enforcing the lien of the District of Columbia upon real estate bid off in its name when offered for sale for arrears of taxes and assessments, and for other purposes", approved March 2, 1936 (D.C. Code, sec. 47–1011).

(48) Section 5 of the Act of July 3, 1926 (D.C. Code, sec. 47–1209).

(49) The following sections of the District of Columbia Revenue Act of 1937, approved August 17, 1937:

(A) Section 1, title I of such Act (D.C. Code, sec. 47–1401).

(B) Section 6, title I of such Act (D.C. Code, sec. 47–1406).

(C) Section 3, article III, title V of such Act (D.C. Code, sec. 47–1618).

(50) Section 29 of the District of Columbia Income Tax Act, approved July 26, 1939 (D.C. Code, sec. 47–1529).

(51) Section 3 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (D.C. Code, sec. 47–1586b).

(52) Section 145 of the District of Columbia Sales Tax Act, approved May 27, 1949 (D.C. Code, sec. 47–2622).

(53) Section 8 of the Act entitled "An Act to provide for the regulation of closing-out and fire sales in the District of Columbia", approved September 1, 1959 (D.C. Code, sec. 47–3008).

(54) Section 11 of the Act of July 3, 1926 (D.C. Code, sec. 48–211).

(55) Section 2 of the Act of February 18, 1932 (D.C. Code, sec. 48–402).

(d) The Act of February 26, 1907 (D.C. Code, sec. 45–707), is amended to read as follows: "That the Recorder of Deeds of the District of Columbia shall recopy such of the records in his office as may, in his judgment and that of a judge of the Superior Court of the District of Columbia appointed for that purpose, need recopying in order to preserve the originals from destruction. The expense of such recopying may not in any fiscal year exceed $1,000 and such expense shall be certified by a judge of the Superior Court appointed for that purpose and audited by the General Accounting Office."

AMENDMENTS REDESIGNATING DISTRICT OF COLUMBIA TAX COURT

Sec. 156. (a) Section 303 of the District of Columbia Revenue Act of 1949 (D.C. Code, sec. 40–603–1) is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(b) Section 314 of the Act of March 2, 1962 (D.C. Code, sec. 45–734), is amended by striking out "District of Columbia Tax Court" and inserting in lieu thereof "Superior Court of the District of Columbia".

(c) Section 5 of the Act entitled "An Act to define the real property exempt from taxation in the District of Columbia," approved December 24, 1942 (D.C. Code, sec. 47–801e), is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(d) Subsection (e) of the Act entitled "An Act to provide for the taxation of rolling stock of railroad and other companies operated in the District of Columbia, and for other purposes," approved December 15, 1945 (D.C. Code, sec. 47–1215(e)), is amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(e) Sections 31 and 34 of the District of Columbia Income Tax Act, approved July 26, 1939 (D.C. Code, secs. 47–1531, 47–1534), are each amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(f) Section 11 of title XII and section 1 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1586j, 47–1593) are each amended by striking out "Board of Tax Appeals for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(g) Sections 7 and 13 of title IX of the District of Columbia Revenue Act of 1937 (D.C. Code, secs. 47–2407, 47–2412) are each amended by striking out "the Board" and inserting in lieu thereof "the Court".

(h) All other laws of the United States applicable exclusively to the District of Columbia in force on the effective date of this Act in which reference is made to the Board of Tax Appeals for the District of Columbia or to the District of Columbia Tax Court are amended by substituting "Superior Court of the District of Columbia" for such reference.

MISCELLANEOUS AMENDMENTS RELATING TO TRANSFERS OF JURISDICTION

Criminal Jurisdiction

Sec. 157. (a) Section 40 of the Act entitled "An Act to regulate the practice of the healing art to protect the public health in the District of Columbia", approved February 27, 1929 (D.C. Code, sec. 2–131), is amended by striking out "in the United States District Court for the District of Columbia" and inserting in lieu thereof "in the District of Columbia".

(b) Section 8 of the Act entitled "An Act to establish a Board of Intermediate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932 (D.C. Code, sec. 22–2601), is amended by striking out "in any court of the United States".

(c) The Act entitled "An Act to provide for the treatment of sexual psychopaths in the District of Columbia, and for other purposes", approved June 9, 1948, is amended as follows:

(1) Section 201 of such Act (D.C. Code, sec. 22–3503) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) The term 'court' means a court in the District of Columbia having jurisdiction of criminal offenses or delinquent acts.", and

(B) by striking out "an offense in the juvenile court of the District of Columbia" in paragraph (4) and inserting in lieu thereof "a delinquent act".

(2) Section 202(a) of such Act (D.C. Code, sec. 22–3504) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

(d) Section 164A(f) of the Uniform Narcotic Drug Act (D.C. Code, sec. 33–416a(f)) is amended by striking out "United States branch of the municipal court" and inserting in lieu thereof "Superior Court of the District of Columbia".

Settlement of Claims

(e) The Act entitled "An Act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia", approved February 11, 1929, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 1–902) is amended by striking out "court of the District of Columbia" and inserting in lieu thereof "courts in the District of Columbia".

(2) Section 2 of such Act (D.C. Code, sec. 1–903) is amended by striking out "United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia," and inserting in lieu thereof "courts in the District of Columbia".

Law Enforcement Council

(f) Section 401(b) of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (D.C. Code, sec. 2–1901 (b)), is amended by striking out paragraph (12) and by redesignating paragraphs (13) through (15) as paragraphs (12) through (14), respectively.

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Real Property Actions

(g) Section 1227 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 45–912) is amended by striking out ", either in said United States District Court for the District of Columbia or before a justice of the peace".

Tort Claims

(h) Paragraph (b) of section 2 of the District of Columbia Employee Non-Liability Act (D.C. Code, sec. 1–921) is amended to read as follows:

"(b) 'Court' means the court in the District of Columbia having the necessary civil jurisdiction pursuant to section 11–501 or 11–921 of the District of Columbia Code."

Damages to National Guard Property

(i) Section 38 of the Act entitled "An Act to provide for the organization of the militia of the District of Columbia" approved March 1, 1889 (D.C. Code, sec. 39–513), is amended by striking out "any justice of the peace, with the right of appeal to the United States District Court for the District of Columbia, or before the United States District Court for the District of Columbia" and inserting in lieu thereof "the court in the District of Columbia having jurisdiction of the amount in controversy".

Unclaimed Freight

(j) Section 643 of the Act entitled "An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (D.C. Code, sec. 44–102), is amended—

(1) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia", and

(2) by striking out the proviso.

AMENDMENT REFLECTING TRANSFER OF PROBATE JURISDICTION

SEC. 158. (a) The Revised Statutes of the District of Columbia are amended as follows:

(1) Section 416(b) of such Revised Statutes (D.C. Code, sec. 4–159) is amended—

(A) by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction", and

(B) by striking out "Probate Court" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 454 of such Revised Statutes (D.C. Code, sec. 29–514) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(b) The Act entitled "An Act regulating admissions to the Institution of the Association for Works of Mercy in certain cases, and for other purposes," approved October 12, 1888, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 32–101) is amended by striking out "the judge of the orphans' court of the District of Columbia" and inserting in lieu thereof "a judge of the court having probate jurisdiction".

(2) Section 4 of such Act (D.C. Code, sec. 32–104) is amended by striking out "orphans' court of the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(c) The Act entitled "An Act to establish a code of law for the District of Columbia," approved March 3, 1901, is amended as follows:

(1) Section 534 of such Act (D.C. Code, sec. 45–611) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 537 of such Act (D.C. Code, sec. 45–619) is amended by striking out "said United States District Court for the District of Columbia" and inserting in lieu thereof "the court having probate jurisdiction".

(3) Section 669 of such Act (D.C. Code, sec. 27–113) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(4) Section 746 of such Act (D.C. Code, sec. 26–334) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(d) The District of Columbia Revenue Act of 1937 is amended as follows:

(1) Section 3 of article I of title V of such Act (D.C. Code, sec. 47–1603) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(2) Section 5 of article I of title V of such Act (D.C. Code, sec. 47–1605) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(3) Section 9 of article III of title V of such Act (D.C. Code, sec. 47–1624) is amended—

(A) by striking out "United States District Court for the District of Columbia" each place it occurs and inserting in lieu thereof "court having probate jurisdiction", and

(B) by striking out "said District Court" and inserting in lieu thereof "such court".

(e) Section 9 of the Act entitled "An Act to create a board for the condemnation of insanity buildings in the District of Columbia, and for other purposes," approved May 1, 1906 (D.C. Code, sec. 5–624), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(f) Section 5 of the Act entitled "An Act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia," approved February 11, 1929 (D.C. Code, sec. 1–906), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

(g) Section 2 of the Act of April 5, 1939 (D.C. Code, sec 31–711), is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having probate jurisdiction".

AMENDMENTS RELATING TO THE JURISDICTION OF THE FAMILY DIVISION

SEC. 159. (a) Section 5 of the Act entitled "An Act to provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children", approved November 6, 1966 (D.C. Code, sec. 2–165), is amended by striking out "Juvenile Court" both times it appears and inserting in lieu thereof "Family Division of the Superior Court".

(b) Section 4 of the Act entitled "An Act to provide for the care of dependent children in the District of Columbia and to create a board of children's guardians", approved July 26, 1892 (D.C. Code, sec. 3–116), is amended by striking out "police court or the criminal court of the District" and inserting in lieu thereof "Family Division of the Superior Court".

(c) The first section of the Act entitled "An Act to enlarge the powers of the courts of the District of Columbia in cases involving delinquent children, and for other purposes" approved March 3, 1901 (D.C. Code, sec. 3–120), is amended by striking out "criminal and police courts" and inserting in lieu thereof "Family Division of the Superior Court".

(d) Section 405 of the District of Columbia Law Enforcement Act of 1953 (D.C. Code, sec. 24–106) is amended to read as follows:

"PSYCHIATRIST AND PSYCHOLOGIST

"SEC. 405. The Commissioner shall appoint a qualified psychiatrist and a qualified psychologist whose services shall be available to the following officers to assist them in carrying out their duties:

"(1) In criminal cases, the judges and probation officers of the United States District Court for the District of Columbia and the judges and Director of Social Services of the Superior Court of the District of Columbia.

"(2) The judges and such personnel assigned to the Family Division of the Superior Court as the Chief Judge may designate.

"(3) Such officers of the Department of Corrections as the Director thereof shall designate.

"(4) The Board of Parole of the District."

(e) Section 927(a) of the Act entitled "An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (D.C. Code, sec. 24–301), is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(f) The Act entitled "An Act to improve and extend, through reciprocal legislation, the enforcement of duties of support in the District of Columbia", approved July 10, 1957, is amended as follows:

(1) Section 2(d) of such Act (D.C. Code, sec. 30–302(d)) is amended by striking out "Domestic Relations Branch of the Municipal Court for the District of Columbia" and inserting in lieu thereof "Family Division of the Superior Court".

(2) Section 22 of such Act (D.C. Code, sec. 30–322) is amended by striking out "civil branch of the municipal court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia in civil cases".

(g) Section 3 of article III of the Act entitled "An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes", approved February 4, 1925 (D.C. Code, sec. 31–213), is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(h) Section 2 of the Act entitled "An Act for the protection of children in the District of Columbia and for other purposes", approved February 13, 1885 (D.C. Code, sec. 32–209), is amended—

(1) by striking out "police court" and inserting in lieu thereof "Family Division of the Superior Court", and

(2) by striking out the proviso at the end thereof.

(i) Section 6 of the Act entitled "An Act to regulate the placing of children in family homes, and for other purposes", approved April 22, 1944 (D.C. Code, sec. 32–786), is amended by striking out "Domestic Relations Branch of the Municipal Court" each time it appears and inserting in lieu thereof "Family Division of the Superior Court".

(j) The Act entitled "An Act to regulate the employment of minors within the District of Columbia", approved May 29, 1928, is amended as follows:

(1) The third sentence of section 22 of such Act (D.C. Code, sec. 36–222) is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

(2) Section 26 of such Act (D.C. Code, sec. 36–228) is amended by striking out "juvenile court" and inserting in lieu thereof "Family Division of the Superior Court".

AMENDMENTS RELATING TO THE CHIEF MEDICAL EXAMINER

SEC. 160. (a) The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 683 of such Act (D.C. Code, sec. 27–125) is amended—

(A) by striking out "coroner of said District" each place it appears and inserting in lieu thereof "Chief Medical Examiner", and

(B) by striking out "Coroner" each place it appears and inserting in lieu thereof "Chief Medical Examiner".

(2) Section 686 of such Act (D.C. Code, sec. 27–128) is amended to read as follows:

"SEC. 686. This subchapter shall not be construed to (1) interfere with or prevent the disinterment of any body in accordance with section 11–2311 of the District of Columbia Code, or (2) interfere with the disposal of the ashes of bodies which have been cremated."

(3) Section 802(a) of such Act (D.C. Code, sec. 40–606) is amended by striking out the second paragraph.

(b) Section 9 of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2–258) is amended to read as follows:

"SEC. 9. OFFICE OF THE CHIEF MEDICAL EXAMINER.—(a) The Commissioner is authorized to appoint physicians to perform the functions of the Chief Medical Examiner, in accordance with chapter 23 of title 11 of the District of Columbia Code.

"(b) The Chief Medical Examiner of the District of Columbia may, in his discretion, allow tissue to be removed from any dead human body in his custody or under his jurisdiction. Such tissue removal shall not interfere with other functions of his Office. Any person who, in accordance with section 8, is entitled to the body for burial, shall first authorize the tissue removal."

AMENDMENTS RELATING TO THE REVENUE LAWS OF THE DISTRICT OF COLUMBIA

SEC. 161. (a) The District of Columbia Revenue Act of 1937 is amended as follows:

(1) Section 1 of title IX of such Act (D.C. Code, sec. 47–2401) is amended—

(A) by striking out "The word 'Board', means the Board of Tax Appeals for the District of Columbia created by this title.", and

(B) by striking out "The word 'court' shall mean the United States Court of Appeals for the District of Columbia." and inserting in lieu thereof "The word 'court' shall mean the Superior Court of the District of Columbia, unless the context indicates otherwise."

(2) Section 2 of title IX of such Act (D.C. Code, sec. 47–2402) is amended (A) by striking out the first four paragraphs, (B) by striking out "(a)", and (C) by striking out the paragraph designated "(b)".

(3) Section 3 of title IX of such Act (D.C. Code, sec. 47–2403) is amended to read as follows:

"SEC. 3. Any person aggrieved by any assessment by the District of any personal-property, inheritance, estate, business-privilege, gross-receipts, gross-earnings, insurance premiums, or motor-vehicle-fuel tax or taxes, or penalties thereon, may within six months after payment of the tax, together with penalties and interest assessed thereon, appeal from the assessment to the Superior Court of the District of Columbia. The mailing to the taxpayer of a statement of taxes due shall be considered notice of assessment with respect to the taxes. The court shall hear and determine all questions arising on appeal and shall make separate findings of fact and conclusions of law, and shall render its decision in writing. The court may affirm, cancel, reduce, or increase the assessment."

(4) Section 4 of title IX of such Act (D.C. Code, sec. 47–2404) is amended to read as follows:

"SEC. 4. (a) Decisions of the Superior Court on civil tax cases are reviewable in the same manner as other decisions of the court in civil cases tried without a jury. The District of Columbia Court of Appeals has the power to affirm, modify, or reverse the decision of the Superior Court with or without remanding the case for hearing.

"(b) The decision of the Superior Court shall become final (1) upon the expiration of the time allowed for filing a petition for review, if no petition is filed within that time; (2) upon the expiration of time allowed for filing a petition for certiorari if the decision of the Superior Court has been affirmed on appeal, or the appeal has been dismissed, or no petition for certiorari has been filed; (3) upon denial of a petition for certiorari if the decision of the Superior Court has been affirmed on appeal, or the appeal has been dismissed; or (4) upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if that Court has affirmed the decision of the Superior Court or dismissed the petition for review.

"(c) If the Supreme Court directs that the decision of the Superior Court be modified or reversed, the decision rendered in accordance with the Supreme Court's mandate shall become final upon the expiration of thirty days from the time it was rendered unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected to accord with the mandate, in which event the decision of the Superior Court shall become final when so corrected.

"(d) If the decision of the Superior Court is modified or reversed by the Court of Appeals and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been filed, (2) the petition for certiorari has been denied, or (3) the decision of the Court of Appeals has been affirmed by the Supreme Court, then the decision of the Superior Court rendered in accordance with the mandate of the Court of Appeals shall become final upon the expiration of thirty days from the time the decision of the Superior Court was rendered, unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected so that it will accord with the mandate, in which event the decision of the Superior Court shall become final when corrected.

"(e) If the Supreme Court orders a rehearing, or if the case is remanded by the Court of Appeals for rehearing and if (1) the time allowed for filing of a petition for certiorari has expired and no petition has been filed; (2) the petition for certiorari has been denied; or (3) the decision of the Court of Appeals has been affirmed by the Supreme Court, then the decision of the Superior Court rendered upon such rehearing shall become final in the same manner as though no prior decision had been rendered.

"(f) As used in this section the term 'mandate', in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance, means the final mandate."

(5) Section 5 of title IX of such Act (D.C. Code, secs. 47–709, 47–710, 47–711, 47–712, 47–716 and 47–2405) is amended by striking out "ninety days" wherever it appears and inserting in lieu thereof "six months".

(6) Sections 6, 8, and 9 of title IX of such Act (D.C. Code, secs. 47–2406, 47–2408, and 47–2409) are repealed.

(7) Section 14 of title IX of such Act (D.C. Code, sec. 47–2413) is amended to read as follows:

"SEC. 14. (a) Where there has been an overpayment of any tax, the amount of the overpayment shall be refunded to the taxpayer. No refund (other than inheritance and estate taxes) shall be allowed unless the taxpayer files a claim before the expiration of that period. The amount of refund of taxes (other than inheritance and estate taxes) shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim or, if no claim is filed, then the two years immediately preceding the allowance of the refund. No refund of inheritance and estate taxes shall be allowed after three years from the date the tax is paid unless the taxpayer files a claim before the expiration of that period. The amount of refund of inheritance and estate taxes shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim or, if no claim is filed, then during the three years immediately preceding the allowance of the refund. Every claim for refund must be in writing under oath, must state the specific grounds on which it is founded, and must be filed with the Assessor. If the Assessor disallows all or any part of the refund claim, he shall notify the taxpayer by registered or certified mail. After receiving notice of disallowance, if the claim is acted upon within six months of filing, or after the expiration of six months from the date of filing if the claim is not acted upon, the taxpayer may appeal as provided in sections 3 and 4 of this title. This subsection does not apply to real estate tax nor does it apply to taxes imposed by the District of Columbia Income Tax Act; by the District of Columbia Income and Franchise Tax Act of 1947; or by titles I and II of the District of Columbia Revenue Act of 1949, refunds of which are otherwise provided by law.

"(b) In any proceeding under this title the Superior Court has jurisdiction to determine whether there has been any overpayment of tax and to order that any overpayment be credited or refunded to the taxpayer, if a timely refund claim has been filed.

"(c) Any other provision of law to the contrary notwithstanding, if it is determined by the Assessor or by the Superior Court that there has been an overpayment of any tax, whether as a deficiency or otherwise, interest shall be allowed and paid on the overpayment at the rate of 4 per centum per annum from the date the overpayment was paid until the date of refund, but with respect to that part of any overpayment which was not assessed and paid as a deficiency or as additional tax interest shall be allowed and paid only from the date of filing a claim for refund or a petition to the Superior Court as the case may be.

"(d) For purposes of this section, any interest or penalties paid by the taxpayer in connection with an overpayment of tax shall be deemed to be a part of the overpayment of tax."

(b) Section 34 of the District of Columbia Income Tax Act (D.C. Code, sec. 47–1534) is amended by striking out the last sentence.

(c) Section 34 of the District of Columbia Income Tax Act (D.C. Code, sec. 47–1534) is amended by striking out "ninety days" and inserting in lieu thereof "six months".

(d) The District of Columbia Revenue Act of 1949 is amended as follows:

(1) Section 611 of such Act (D.C. Code, sec. 47–2810) is amended by striking out ", except for such violations as are felonies, and prosecutions for such violations as are felonies shall be by the United States attorney in and for the District of Columbia, or any of his assistants".

(2) Section 303 of such Act (D.C. Code, sec. 40–603–1) is amended—

(A) by striking out the second sentence thereof, and

(B) by striking out "ninety days" and inserting in lieu thereof "six months".

(3) Section 141 of such Act (D.C. Code, sec. 47–2618) is amended to read as follows—

"Sec. 141. (a) Any vendor or purchaser aggrieved by a final determination of tax or denial of an application for refund of any tax may appeal to the Superior Court in the same manner and to the same extent as set forth in sections 3, 4, 7, 10 and 11 of title IX of the District of Columbia Revenue Act of 1937.

"(b) If it is determined by the Assessor or by the Superior Court that any part of any tax which was assessed as a deficiency, and any interest thereon paid by the taxpayer, was an overpayment, interest shall be allowed and paid on the overpayment of tax at the rate of 4 per centum per annum from the date the overpayment was paid until the date of refund."

(e) The Act of March 2, 1962, is amended as follows:

(1) Section 314 of such Act (D.C. Code, sec. 45–734) is amended—

(A) by striking out subsection (b), and

(B) by striking out "(a)".

(2) Section 320 of such Act (D.C. Code, sec. 45–740) is amended by striking out ", except for such violations as are felonies, and prosecution for such violations as are felonies shall be by the United States attorney in and for the District of Columbia, or any of his assistants".

(f) Section 4 of the Act entitled "An Act to designate parcels of land in the District of Columbia for purposes of assessment and taxation, and for other purposes", approved February 23, 1905 (D.C. Code, sec. 47–407), is amended by inserting after "clerk of the United States District Court for the District of Columbia," the following: "clerk of the Superior Court of the District of Columbia,".

(g) Paragraph 11 of section 6 of the Act of July 1, 1902 (D.C. Code, sec. 47–1213), is repealed.

(h) The Act entitled "An Act to amend the laws relating to assessment and collection of taxes in the District of Columbia, and for other purposes", approved February 18, 1929, is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 47–1304) is amended by inserting after "shall be available also" in the second sentence thereof the following: "in the Superior Court of the District of Columbia".

(2) Section 2 of such Act (D.C. Code, sec. 47–1305) is amended by striking out "equity court" and inserting in lieu thereof "Superior Court of the District of Columbia".

(i) Section 2 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1593a) is repealed.

(j) Section 7 of the Act entitled "An Act to amend certain tax laws applicable to the District of Columbia", approved July 10, 1952 (D.C. Code, sec. 47–2414), is repealed.

(k) Section 1 of title XV of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1593) is amended by striking out "ninety days" and inserting in lieu thereof "six months".

AMENDMENTS TO THE DISTRICT OF COLUMBIA ADMINISTRATIVE PROCEDURE ACT

Sec. 162. Section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1510) is amended—

(1) in the first sentence, by striking out ", except" and all that follows thereafter and inserting in lieu thereof a period; and

(2) by repealing the last sentence.

ADDITIONAL AMENDMENTS RELATING TO ADMINISTRATIVE PROCEDURE

Sec. 163. (a) The second proviso of section 586d of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 29–417), is amended by striking out "have the action of the said Board of Higher Education reviewed by the United States District Court for the District of Columbia at an equity term thereof" and inserting in lieu thereof "appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(b) Subsection (c) of section 137 of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–948(c)) is amended to read:

"(c) Appeals from all final orders and judgments entered by the court under this section may be taken by either party to the proceeding within sixty days after service on the party of a copy of the order or judgment of the court."

(c) The first paragraph of section 28 of the Life Insurance Act, approved June 19, 1934 (D.C. Code, sec. 35–427), is amended by striking out "from the ruling of the superintendent to the United States District Court for the District of Columbia, in equity" and all that follows and inserting in lieu thereof "as provided by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(d) Section 1210 of the District of Columbia Insurance Placement Act, approved August 1, 1968 (D.C. Code, sec. 35–1709), is amended by striking out "section 11–742 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(e) Subsection (b) of section 10 of the Act entitled "An Act to provide for voluntary apprenticeship in the District of Columbia", approved May 21, 1946 (D.C. Code, sec. 36–130(b)), is amended by striking out the fourth sentence and all that follows and inserting in lieu thereof "Any person aggrieved by the action of the Council may appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(f) Subsection (a) of section 9 of the Act of September 19, 1918 (D.C. Code, sec. 36–409), is amended by striking out the second sentence and all that follows thereafter and inserting in lieu thereof "The review shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1510)."

(g) The District of Columbia Traffic Act, 1925, is amended as follows:

(1) Subsection (a) of section 13 (D.C. Code, sec. 40–302(a)) is amended by striking out "sections 11–742, 17–303, 17–304, 17–305(b), 17–306 and 17–307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(2) Subsection (d) of section 6 (D.C. Code, sec. 40–603(d)) is amended by striking out "and jurisdiction is hereby conferred upon the Court of Appeals of the district for this purpose".

(h) The second paragraph of section 4 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (D.C. Code, sec. 40–420), is amended by striking out the second and succeeding sentences and inserting in lieu thereof "Appeal shall be as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)".

(j) Section 8 of the Act of March 4, 1913, is amended as follows:

(1) Paragraph 50 of such section (D.C. Code, sec. 43–420) is amended by striking out "circuit courts" and inserting in lieu thereof "the Superior Court of the District of Columbia".

(2) Paragraph 65 of such section (D.C. Code, sec. 43–705) is amended by striking out the third paragraph.

(3) Paragraph 68 of such section (D.C. Code, sec. 43–708) is repealed.

(k) The Act entitled "An Act to provide for unemployment compensation in the District of Columbia, authorize appropriations, and for other purposes", approved August 28, 1935, is amended as follows:

(1) Section 3(c)(10) of such Act (D.C. Code, sec. 46–303(c)(10)) is amended by striking out the last sentence thereof.

(2) Section 12 of such Act (D.C. Code, sec. 46–312) is amended by striking out subsection (b).

AMENDMENTS RELATING TO REVIEW OF ADMINISTRATIVE ACTIONS REGARDING OCCUPATIONS AND PROFESSIONS

Sec. 164. (a) The Act entitled "An Act to regulate the practice of the healing art to protect the public health in the District of Columbia", approved February 27, 1929, is amended as follows:

(1) Section 38 of such Act (D.C. Code, sec. 2–129) is amended to read as follows:

"Sec. 38. The Commission may refuse to license or to register any person for any cause that in the judgment of the Commission would authorize suspension or revocation of a license or registration under section 27 of this Act. Before the Commission refuses to license or register any applicant for cause under this section, it shall give him an opportunity to be heard in person or by attorney and to produce witnesses in his behalf. Witnesses may be produced on behalf of the Commission and on behalf of any interested person. The attendance and testimony of witnesses may be compelled by subpena issued by the Superior Court, and that court is authorized to issue and enforce the subpenas on petition of the Commission. Any person failing or refusing, without just cause, to appear and testify in response to a subpena, or in any way obstructing the course on any hearing to which he has been subpenaed, is guilty of contempt of court and may be punished as other persons guilty of contempt of court are punished. Any member of the Commission may administer oaths at any hearing. Review of the Commission's action may be had in accordance with the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(2) Section 27 of such Act (D.C. Code, sec. 2–123) is amended to read as follows—

"Sec. 27. Suspension or revocation by the Commission of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1–1501 to 1–1510)."

(b) The Act of July 2, 1940, is amended as follows:

(1) Section 11 of such Act (D.C. Code, sec. 2–311) is amended—

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(A) by striking out all that precedes paragraph (a) and inserting in lieu thereof "The Board may revoke or suspend the license of any dentist in the District of Columbia upon proof satisfactory to the Board—", and

(B) by striking out "the said court" in the last sentence and inserting in lieu thereof "the Board".

(2) The last sentence of section 25 of such Act (D.C. Code, sec. 2-325) is amended to read as follows: "The license of a dentist who permits a dental hygienist, operating under his supervision, to perform any operation other than that permitted under this section, may be suspended or revoked, and the license of the hygienist violating this Act may also be suspended or revoked, in accordance with section 12 of this Act."

(3) Section 12 of such Act (D.C. Code, sec. 2-312) is amended to read as follows:

"SEC. 12. Suspension or revocation by the Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1-1510)."

(c) The Act entitled "An Act to amend the Act to regulate the practice of podiatry in the District of Columbia", approved June 29, 1940, is amended as follows:

(1) Section 7 of such Act (D.C. Code, sec. 2-707) is amended—

(A) by striking out all that precedes paragraph (a) and inserting in lieu thereof "The Board may revoke or suspend the license of any podiatrist in the District of Columbia upon proof satisfactory to the Board—", and

(B) by striking out "the said court" in the last sentence and inserting in lieu thereof "the Board".

(2) Section 8 of such Act (D.C. Code, sec. 2-708) is amended to read as follows:

"SEC. 8. Suspension or revocation by the Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1-1510)."

(d) Section 6 of the Act entitled "An Act to define the term of 'registered nurse' and to provide for the registration of nurses in the District of Columbia" approved February 9, 1907 (D.C. Code, sec. 2-407), is amended by striking out all after the first sentence and inserting in lieu thereof "Suspension or revocation by the Nurses' Examining Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1510)."

(e) Section 7 of the Act of March 2, 1929 (D.C. Code, sec. 2-406), is amended by striking out "sections 11-472, 17-303, 17-304, 17-305(b), 17-306, and 17-307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1-1510)".

(f) Section 4(d) of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2-253) is amended by striking out ", and may seek review by the United States Court of Appeals for the District of Columbia" and all that follows and inserting in lieu thereof a period.

(g) The District of Columbia Practical Nurses' Licensing Act is amended as follows:

(1) Section 15 of such Act (D.C. Code, sec. 2-434) is amended by striking out ", and may seek a review by the United States Court of Appeals" and all that follows and inserting in lieu thereof a period.

(2) Section 8(b) of such Act (D.C. Code, sec. 2-427) is amended by striking out "in accordance with the provisions of subsection (c), section 5 of the Act of April 1, 1942 (56 Stat. 193, ch. 207; sec. 11-756(c), D.C. Code, 1951 edition)".

(h) Section 14 of the Physical Therapists Practice Act (D.C. Code, sec. 2-463) is amended by striking out ", and may seek a review by the United States Court of Appeals for the District of Columbia" and all that follows and inserting in lieu thereof a period.

(i) The third sentence of section 10 of the Act entitled "An Act to regulate the practice of veterinary medicine in the District of Columbia", approved February 1, 1907 (D.C. Code, sec. 2-810), is amended by striking out ", as provided by section 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code".

(j) The second paragraph of section 10 of the Act entitled "An Act to regulate barbers in the District of Columbia, and for other purposes", approved June 7, 1938 (D.C. Code, sec. 2-1110), is amended by striking out "in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code".

(k) The fourth paragraph of section 7 of the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906 (D.C. Code, sec. 2-606), is amended by striking out ", in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code".

(l) Section 28 of the Act entitled "An Act to provide for the examination and registration of architects and to regulate the practice of architecture in the District of Columbia", approved December 13, 1924 (D.C. Code, sec. 2-1028), is amended by striking out ", in the manner provided by sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code".

(m) Section 7(a) of the Act entitled "An Act to regulate and license pawnbrokers in the District of Columbia" approved August 6, 1956 (D.C. Code, sec. 2-2007), is amended by striking out "in accordance with the provisions of subsection (c), section 5 of the Act of April 1, 1942 (56 Stat. 193, ch. 207; sec. 11-756(c), D.C. Code, 1951 edition)".

(n) Section 9 of the Professional Engineers Registration Act (D.C. Code, sec. 2-1809) is amended—

(1) by amending subsection (e) to read as follows:

"(e) Any preson aggrieved by the action of the Board may appeal as provided in the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1-1510).", and

(2) by striking out subsections (f) through (h).

(o) Section 9 of the Act of August 25, 1937 (D.C. Code, sec. 45-1409), is amended by striking out "sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1-1510)".

(p) Paragraph 42 of section 7 of the Act of July 1, 1902 (D.C. Code, sec. 47-2101), is amended by striking out "sections 11-742, 17-303, 17-304, 17-305(b), 17-306 and 17-307 of the District of Columbia Code" and inserting in lieu thereof "the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1-1510)".

AMENDMENTS RELATING TO ENFORCEMENT OF SUPPORT

SEC. 165. (a) The Act of March 23, 1906 (D.C. Code, secs. 22-903, 22-904, 22-905), is repealed.

(b) The proviso of so much of the first section of the Act of May 18, 1910, as appears under the heading "COURTS" and the subheading "JUVENILE COURT" (D.C. Code, sec. 22-906) is repealed.

(c) Subsection (c) of section 19 of the District of Columbia Public Assistant Act of 1962 (D.C. Code, sec. 3-218), is repealed.

(d) Section 6 of the Act entitled "An Act to improve and extend, through reciprocal legislation, the enforcement of duties of support in the District of Columbia", approved July 10, 1957 (D.C. Code, sec. 30-306), is amended to read as follows:

"SEC. 6. Proceedings to enforce duties of support initiated by the District of Columbia shall be commenced by the filing of a complaint irrespective of the relationship between the plaintiff and defendant. Jurisdiction of all proceedings under this Act is vested in the Family Division of the Superior Court which shall have all power and authority heretofore vested in the Domestic Relations Branch of the District of Columbia Court of General Sessions."

AMENDMENTS RELATING TO THE CONDEMNATION OF LAND

SEC. 166. (a) Section 2(b) of the District of Columbia Alley Dwelling Act approved June 12, 1934 (D.C. Code, sec. 5-104), is amended by striking out "the Act entitled 'An Act to provide for the acquisition of land in the District of Columbia for the use of the United States', approved March 1, 1929" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

(b) Section 5 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5-704) is amended by striking out "the Act entitled 'An Act to provide for the acquisition of land in the District of Columbia for the use of the United States', approved March 1, 1929 (45 Stat. 1415) or Acts which may amend or supplement said Act" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

(c) Section 1 of the Act of March 4, 1929 (D.C. Code, sec. 6-505), is amended by striking out "Chapter XV of the Code of Law for the District of Columbia" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

(d) Section 491d of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7-205), is amended to read as follows:

"SEC. 491d. After the return of the marshall and filing of proof of publication of the notice provided for in section 491c, the court shall order the selection of condemnation jury as provided in section 16-1312 of the District of Columbia Code. The jury shall consist of five persons and each juror shall take an oath or affirmation that he is not interested in any manner in the land to be condemned, is not related to the parties interested therein, and will fairly and impartially ascertain the damages each owner of land to be taken may sustain by reason of the opening, extension, widening, or straightening of the street, avenue, road, or highway, and the condemnation of land needed for the purpose thereof, and to assess the benefits resulting therefrom as hereinafter provided."

(e) Section 491h of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7-209), is amended by striking out "shall order the jury commission to draw from the special box the names of as many persons as the court may direct, and from among the persons so drawn the court shall thereupon appoint" and inserting in lieu thereof "shall order the selection in accordance with section 491d of".

(f) Section 491m of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 7-214), is amended by striking out "court of appeals of the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(g) Section 3(a) of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to acquire, operate, and regulate public off-street parking facilities, and for other purposes", approved February 16, 1942 (D.C. Code, sec. 40–804(a)), is amended by striking out "sections 483 to 491, inclusive, of chapter XV, as amended, of the Code of Law for the District of Columbia, approved March 3, 1901 (31 Stat. 1265–1266)" and inserting in lieu thereof "chapter 13 of title 16 of the District of Columbia Code".

AMENDMENTS RELATING TO LANDLORD-TENANT ACTIONS

SEC. 167. The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 1235 of such Act (D.C. Code, sec. 45–909) is amended to read as follows—

"SEC. 1235. Whenever real and personal property are leased together, as, for example, a house with furniture contained therein, the landlord, either in an action of ejectment or in the summary proceeding for possession, in the Superior Court of the District of Columbia, may have a judgment for recovery of the personalty as well as the realty."

(2) Section 1225 of such Act (D.C. Code, sec. 45–910) is amended by striking out "or the landlord may bring an action to recover possession before a justice of the peace, as provided in chapter one, subchapter one, aforesaid".

(3) Section 1228 of such Act (D.C. Code, sec. 45–914) is repealed.

AMENDMENTS RELATING TO ACTIONS BY AND AGAINST CERTAIN BUSINESSES

Public Utilities

SEC. 168. (a) The Act of March 4, 1913, is amended as follows:

(1) Paragraph 64 of section 8 of such Act (D.C. Code, sec. 43–704) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(2) Paragraph 65 of section 8 of such Act (D.C. Code, sec. 43–705) is amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "District of Columbia Court of Appeals".

(3) Paragraph 67 of section 8 of such Act (D.C. Code, sec. 43–707) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(4) Paragraph 94 of section 8 of such Act (D.C. Code, sec. 43–401) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of Appeals".

(5) Section 11 of such Act (D.C. Code, sec. 43–502) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court for the District of Columbia".

(6) Section 7 of the Act of April 22, 1904 (D.C. Code, sec. 43–1515) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "Superior Court of the District of Columbia".

Business Corporations

(b) The District of Columbia Business Corporation Act, approved June 8, 1954, is amended as follows:

(1) Section 2(r) of such Act (D.C. Code, sec. 29–902 (r)) is amended to read as follows:

"(r) 'The court', except where otherwise specified, means the court in the District of Columbia having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000."

(2) Sections 81, 89, and 90 of such Act (D.C. Code, secs. 29–930e, 29–931a, 29–931b) are each amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "court".

(3) Section 137 of such Act (D.C. Code, sec. 29–948) is amended by striking out "United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "court".

(c) The Act entitled "An Act to establish a Code of laws for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 639d of such Act (D.C. Code, sec. 29–240) is amended—

(A) by striking out "the United States District Court for the District of Columbia" the first time it appears and inserting in lieu thereof "the court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000",

(B) by striking out "the United States District Court for the District of Columbia" the second time it appears and inserting in lieu thereof "such court", and

(C) by striking out "said United States District Court for the District of Columbia" each time it appears and inserting in lieu thereof "such court".

(2) Sections 768, 782, and 786 of such Act (D.C. Code, secs. 29–701, 29–715, and 29–719) are each amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

(d) The District of Columbia Nonprofit Corporation Act is amended as follows:

(1) Section 2(k) of such Act (D.C. Code, sec. 29–1002(k)) is amended to read:

"(k) 'The court', except where otherwise specified, means the court in the District of Columbia having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000."

(2) Section 55 of such Act (D.C. Code, sec. 29–1055) is amended by striking out "The United States District Court for the District of Columbia" and inserting in lieu thereof "The court".

(3) Section 94 of such Act (D.C. Code, sec. 29–1094) is amended by striking out "the United States District Court for the District of Columbia" each place it appears and inserting in lieu thereof "the court".

Insurance Companies

(e) Section 20 of chapter II of the Life Insurance Act (D.C. Code, sec. 35–419) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

(f) Section 5 of chapter II of the Fire and Casualty Act (D.C. Code, sec. 35–1308) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

Partnerships

(g) Section 25 of the Uniform Limited Partnership Act (D.C. Code, sec. 41–425) is amended by striking out "United States District Court for the District of Columbia" and inserting in lieu thereof "court having jurisdiction of civil actions wherein the amount in controversy exceeds $50,000".

AMENDMENTS RELATING TO ILLEGAL ACTION BY CORPORATIONS

SEC. 169. The Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, is amended as follows:

(1) Section 632 of such Act (D.C. Code, sec. 29–228) is amended by striking out "to the United States" and inserting in lieu thereof "to the District of Columbia".

(2) Section 786 of such Act (D.C. Code, sec. 29–719) is amended by striking out "in the name of the United States".

(3) Section 793 of such Act (D.C. Code, sec. 29–725) is amended by striking out "in the name of the United States".

AMENDMENTS RELATING TO HOSPITALIZATION OF ADDICTS

SEC. 170. Section 3 of the Act entitled "An Act to provide for the treatment of users of narcotics in the District of Columbia, approved June 24, 1953 (D.C. Code, sec. 24–602), is amended by striking out "Juvenile Court Act of the District of Columbia, as amended" and inserting in lieu thereof "chapter 23 of title 16 of the District of Columbia Code."

AMENDMENT RELATING TO TRANSFER OF PRISONERS

SEC. 171. So much of the first section of the Act of March 2, 1911, as relates to the workhouse (D.C. Code, sec. 24–403) is amended by inserting after "United States District Court for the District of Columbia" each time it appears the following: ", Superior Court of the District of Columbia,".

AMENDMENTS TO THE UNITED STATES CODE

SEC. 172. (a)(1) Section 1257 of title 28, United States Code, is amended by adding after and below paragraph (3) the following new sentence: "For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals."

(2)(A) Chapter 133 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2113. Definition

"For purposes of this chapter, the terms 'State court', 'State courts', and 'highest court of a State' include the District of Columbia Court of Appeals."

(B) The analysis of chapter 133 is amended by adding at the end thereof the following new item:

"2113. Definition."

(b) Section 1869(f) of title 28 of the United States Code is amended by striking out everything following "Canal Zone Code" and inserting in lieu thereof a semicolon and the following: "except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia;"

(c)(1) Chapter 85 of title 28 of the United States Code is amended by adding at the end thereof the following new section:

"§ 1363. Construction of references to laws of the United States or Acts of Congress.

"For purposes of this chapter, references to laws of the United States or Acts of Congress do not include laws applicable exclusively to the District of Columbia."

(2) The analysis of chapter 85 is amended by adding at the end thereof the following new item:

"1363. Construction of references to laws of the United States or Acts of Congress.".

(d)(1) Chapter 89 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1451. Definitions

"For purposes of this chapter—

"(1) The term 'State court' includes the Superior Court of the District of Columbia.

"(2) The term 'State' includes the District of Columbia."

(2) The analysis of chapter 89 is amended

by adding at the end thereof the following new item:

"1451. Definitions."

(e) 5102(c)(4) of title 5 of the United States Code is amended to read as follows:

"(4) teachers, school officials, and employees of the Board of Education of the District of Columbia whose pay is fixed under chapter 15 of title 31, District of Columbia Code; the chief judges and the associate judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and nonjudicial employees of the District of Columbia court system whose pay is fixed under chapter 17 of title 11, District of Columbia Code;".

AMENDMENTS RELATING TO THE DISTRICT OF COLUMBIA'S SHARE OF EXPENSES OF THE FEDERAL COURTS

SEC. 173. (a)(1) All outstanding and future obligations of the Commissioner of the District of Columbia with respect to the District of Columbia's share of the cost of construction, operation, maintenance, and repair of the United States courthouse in the District of Columbia, as required by the Act of May 14, 1948 (62 Stat. 235), are canceled upon the effective date of this title.

(2) Beginning on the effective date of this title, the Executive Officer of the District of Columbia courts shall reimburse to the United States from any funds in the Treasury to the credit of the District of Columbia courts the amount determined by the Administrator of General Services to be necessary to cover seventy-five per centum of the costs of operation, maintenance, and repair of space used by the United States attorney and United States marshal for the District of Columbia.

(b) Section 7 of the Act of June 30, 1906 (D.C. Code, sec. 47-204), is amended to read as follows:

"SEC. 7. (a) (1) Until the day before the effective date of the District of Columbia Court Reorganization Act of 1970, the Commissioner of the District of Columbia shall reimburse the United States for 60 per centum of the expenditures made on or before that day for the expenses of the United States District Court for the District of Columbia that are described in paragraph (2). During the thirty-month period beginning on such effective date, the Executive Officer of the District of Columbia courts shall reimburse the United States for expenditures made during that period for such expenses at the following rates of reimbursement:

"(A) 40 per centum for the first eighteen months of such period.

"(B) 20 per centum for the remainder of such period.

"(2) The expenses referred to in paragraph (1) are fees of witnesses, fees of jurors, pay of bailiffs and criers (including salaries of deputy marshals who act as bailiffs or criers), and all other miscellaneous expenses of the United States District Court for the District of Columbia.

"(b) Beginning after the thirty-month period referred to in subsection (a), the Executive Officer of the District of Columbia courts shall reimburse the United States for the District of Columbia's share of the cost for jury selection and grand jury expenses, as determined by the Director of the Administrative Office of the United States Court. Estimates of the District of Columbia's share of such cost for each fiscal year shall be submitted to the Joint Committee on Judicial Administration of the District of Columbia courts for transmission with the annual estimate of the District of Columbia courts under section 11-1743 of title 11 of the District of Columbia Code.

"(c) Reimbursement made under this section shall be made from funds in the Treasury to the credit of the District of Columbia."

(c) Section 6 of the Act of August 2, 1949 (D.C. Code, sec. 47-213), is amended by inserting before the period at the end thereof ", until eighteen months after the effective date of the District of Columbia Court Reorganization Act of 1970".

PART E—TRANSITION PROVISIONS; APPOINTMENT OF ADDITIONAL JUDGES; AND EFFECTIVE DATE

EXISTING RECORDS, FILES, PROPERTY, AND FUNDS

SEC. 191. (a) The files, records, property, and unexpended balances of appropriations and other funds of the former District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court are transferred to the Superior Court of the District of Columbia.

(b) The files, records, and property of the United States District Court for the District of Columbia with respect to its jurisdiction on the day before the effective date of this title under section 11-522 of title 11 and chapters 5, 7, 11, 13, and 15 of title 21, respectively, of the District of Columbia Code, as in effect on such day, are transferred to the Superior Court of the District of Columbia.

EXISTING PERSONNEL

SEC. 192. (a) The personnel of the former District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, and the District of Columbia Tax Court shall be transferred to the Superior Court of the District of Columbia and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of that court without break in service. Personnel of the United States District Court for the District of Columbia performing functions incident to jurisdiction transferred under this Act to the Superior Court shall be entitled to transfer to the Superior Court, and upon such transfer shall retain all of their rights, privileges, and benefits, and shall be considered as continuous employees of the Superior Court without break in service.

(b) Nothing in this title shall affect the status of persons in the competitive civil service on the date of enactment of this Act, but such persons may be assigned within the District of Columbia court system without regard to such status.

RETIREMENT OF CERTAIN DISTRICT OF COLUMBIA JUDGES

SEC. 193. (a) The person serving as judge of the District of Columbia Tax Court on the day prior to the effective date of this title may, within sixty days of such date, elect to retain retirement benefits under section 2 of title IX of the District of Columbia Revenue Act of 1937 (D.C. Code, sec. 47-2402), or relinquish such benefits and elect retirement benefits under chapter 15 of title 11 of the District of Columbia Code, as amended by part A of this title.

(b)(1) Any judge of the District of Columbia Court of Appeals, the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the former District of Columbia Municipal Court of Appeals or Municipal Court, who had retired prior to the effective date of this subsection, may elect to have his retirement salary recomputed and paid in accordance with this subsection. Such election may be made in writing within sixty days after such effective date and shall be filed with the Commissioner of the District of Columbia.

(2) The retirement salary of each judge making such election shall be recomputed in accordance with applicable law then in effect at the time of his retirement, except that, in the recomputation of such retirement salary, the salary of the corresponding judicial office on the day immediately following the effective date of this subsection shall be deemed to be the salary which such judge was receiving immediately prior to the date of his retirement.

(3) Each judge who elects recomputation of his retirement salary in accordance with this subsection shall—

(A) deposit in the District of Columbia Judicial Retirement and Survivors Annuity Fund an amount equal to 3½ per centum of his basic salary received for judicial service, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year; or

(B) have his retirement salary, as recomputed in accordance with this subsection, reduced by 10 per centum of the amount of such deposit remaining unpaid.

(4) The retirement salary of any judge which is recomputed in accordance with this subsection shall be payable only with respect to those months beginning on and after the first day of the first month following the date of the election made by such judge under this subsection.

CONTINUATION OF SERVICE OF JUDGES OF DISTRICT OF COLUMBIA COURTS

SEC. 194. A judge of the District of Columbia Court of General Sessions, the Juvenile Court of the District of Columbia, or the District of Columbia Tax Court who is serving as a judge of such a court on the day before the effective date of this title under an appointment made before such date shall on such date continue to serve as a judge of the Superior Court of the District of Columbia, but no amendment made by this title shall be construed to extend the term of such judge under such appointment. No amendment made by this title shall be construed to extend the term of office of a judge of the District of Columbia Court of Appeals appointed before the effective date of this title. The chief judge of the District of Columbia Court of Appeals and the chief judge of the District of Columbia Court of General Sessions serving on the day before the effective date of this title shall, on and after such date, serve as chief judges of the District of Columbia Court of Appeals and the Superior Court of the District of Columbia, respectively, until their successors have been designated under section 11-1503 of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title.

APPOINTMENT OF ADDITIONAL JUDGES AND EXECUTIVE OFFICER OF DISTRICT OF COLUMBIA COURTS

SEC. 195. (a)(1) The President of the United States shall nominate, and by and with the advice and consent of the Senate shall appoint, three additional judges to the District of Columbia Court of Appeals who shall have the qualifications prescribed by section 11-1501 of title 11 of the District of Columbia Code as contained in the revision made by part A of this title, and who shall, upon taking the oath required by law, enter into immediate service on that court.

(2) The President of the United States shall nominate, and by and with the advice and consent of the Senate shall appoint, ten additional judges to the District of Columbia Court of General Sessions who shall have the qualifications prescribed by section 11-1501 of title 11 of the District of Columbia Code as contained in the revision made by part A of this title, and who shall, upon taking the oath required by law, enter into immediate service on that court.

(b) The President shall appoint an Executive Officer of the District of Columbia courts. Until the effective date of this title, the Executive Officer shall receive the same compensation as is prescribed for an associate judge of the District of Columbia Court of General Sessions. The Executive Officer in office on the effective date of this title shall continue to serve in such office until his successor has been selected in accordance with subchapter I of chapter 17 of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title.

ASSIGNMENT OF JUDGES TO THE JUVENILE COURT OF THE DISTRICT OF COLUMBIA

SEC. 196. Notwithstanding the provisions of title 11 of the District of Columbia Code, as in effect on the date of enactment of this title, the chief judge of the District of Columbia Court of General Sessions may assign associate judges of that court to sit as judges of the Juvenile Court of the District of Columbia, under the supervision of the chief judge of the Juvenile Court, during the period beginning on the date of the enactment of this title and ending on the day before the effective date of this title.

EFFECTIVE DATE

SEC. 197. (a) The effective date of this title (and the amendments made by this title) shall be the first day of the seventh calendar month which begins after the date of the enactment of this Act.

(b) Notwithstanding subsection (a), the following provisions shall take effect as provided in the following paragraphs:

(1) The provisions of chapter 25 (relating to attorneys) of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect on April 1, 1972. The provisions of chapter 21 (relating to attorneys) of title 11 of the District of Columbia Code, in effect on the day before the effective date of this title, shall remain in effect until April 1, 1972.

(2) The provisions of chapter 21 (relating to the Register of Wills) of title 11 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect immediately following the expiration of the eighteen-month period beginning on the effective date of this title. The provisions of sections 11–504 through 11–506 of title 11 of the District of Columbia Code (relating to the Register of Wills) in effect on the day before the effective date of this title, shall remain in effect until the expiration of such eighteen-month period.

(3) The amendments made by the following sections of this Act (relating to those matters over which the United States District Court for the District of Columbia retains temporary jurisdiction) shall take effect immediately following the expiration of the eighteen-month period beginning on the effective date of this title: Sections 144(10), 145(b) (2), 145(k) (1), 145 (l), 147(1), 148(2), 149(2), 149(4), 149(6), 149(8), 150(b)(1), 150(b)(3), 150(d), 150(e), 150(f)(3), 150(f)(4), 150(f)(8), 150(g), and 150(h)(1).

(4) Section 146(a)(1) (relating to the repeal of certain review provisions) shall not apply with respect to any appeal from the District of Columbia Court of Appeals over which the United States Court of Appeals for the District of Columbia Circuit has jurisdiction under section 11–301 of title 11 of the District of Columbia Code as in effect immediately before the date of enactment of this Act.

(5) Section 11–722 of the District of Columbia Code, as contained in the revision made by part A of this title, shall take effect with respect to petitions filed after the effective date of this title for review of decisions or orders.

(6) The amendments made by subpart 2 of part D of this title to section 8 of the Act of March 4, 1913, shall not apply with respect to proceedings brought in the United States District Court for the District of Columbia on or before the effective date of this title.

(7) The amendments made by section 162 shall take effect with respect to petitions filed after the effective date of this title for review of decisions or orders.

(8) Sections 195 and 196 shall take effect on the date of the enactment of this Act.

(c) For purposes of this title and any amendment made by this title, the term "effective date of the District of Columbia Court Reorganization Act of 1970" means the first day of the seventh calendar month which begins after the date of the enactment of this Act.

Mr. McMILLAN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title I of the bill be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, line 1, strike out "Sec. 702. Definition."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 91, line 18, insert "(a)" immediately after the quotation marks.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 91, line 19, strike out "and who shall accept no compensation or fees (other than their salaries) for stenographic services connected with the reporting of court proceedings".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 92, after line 8, insert the following subsection:

"(b) In addition to their annual salaries, court reporters may charge and collect from parties, including the United States and the District of Columbia, who request transcripts of the original records of proceedings, only such fees as may be prescribed from time to time by the Executive Officer. The reporters shall furnish all supplies at their own expense. The Executive Officer shall prescribe such rules, practice, and procedure pertaining to fees for transcripts as he deems necessary, conforming as nearly as practicable to the rules, practice, and procedure established for the United States District Court for the District of Columbia. A fee may not be charged or taxed for a copy of a transcript delivered to a judge at his request or for copies of a transcript delivered to the clerk of a court for the records of the court. Except as to transcripts that are to be paid for by the United States or the District of Columbia, the reporters may require a party requesting a transcript to prepay the estimated fee therefor in advance of delivery of the transcript."

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. DENNIS

Mr. DENNIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENNIS: Page 185, strike out lines 2, 3 and 4, and all of line 5 up to the period following the word "punishment" in line 5 and insert in lieu of the matter so stricken, the following language: "If the criminal offense involved false statement, perjury, subornation of perjury, fraud, deceit, forgery or counterfeiting, false representations, or false pretense, or other *crimen falsi*, or if the witness has introduced evidence of his own good character."

Mr. DENNIS. Mr. Chairman, one of the fundamental principles of our law, as I have always understood it, is that a man is on trial only for the offense with which he is charged, that he must be proven guilty of that particular offense beyond any reasonable doubt, and that we do not send men to jail for general bad character—probably a good idea because a good many of us might be in jail.

Because of that fundamental principle, it is also a fundamental rule of law that normally we cannot prove a previous and unrelated and unconnected conviction as part of the State's case in a criminal trial. That cannot be done.

Unfortunately we largely nullify that rule by saying that we can ask a defendant who takes this stand about previous convictions on the theory that it reflects upon his credibility as a witness. Frequently it does not reflect on his credibility as a witness at all, because the type of crime—perhaps an assault or something like that—is a type of crime which has no relation itself to the credibility of the witness and has no relation whatever to the facts of the case for which he is on trial. Prosecutors love to do that because they get another offense in and convict a man for bad character rather than for the offense for which he is on trial. Defense attorneys know it is often fatal to a reasonable defense.

In the District of Columbia, I understand, in a decision known as Luck against the United States, the court of appeals has held that it is within the discretion of the trial court as to what previous offenses can be inquired about and to what extent, but the court of appeals has not really left it in the discretion of the trial court, so it is contended, but it has laid down many intricate rules, with the result the trial judge never knows whether he is going or coming, and many cases have been reversed on a technical ruling.

So, Mr. Chairman, what the committee has done in the bill is to try to lay down a rule. The committee has said they can ask a man about a previous misdemeanor, if that involved a dishonesty or false statement; while for anything punishable by more than a year. They can ask him about it, whatever it is or however unrelated it may be to the matter before the court.

What I am trying to do in this amendment, which is not an attack on the bill, which I support basically, is to attempt to get fairness and to hold this business—about asking a man on trial about previous convictions on the theory it reflects on his credibility as a witness—down to the crimes which actually do reflect on his credibility. Therefore, I say under my amendment they can ask about: "criminal offense involving false statement, perjury, subornation of perjury, fraud, deceit, forgery or counterfeiting, false representations, or false pretense, or other crimen falsi."

They could not ask him about other types of crimes, such as assault and other things which have no effect on his credibility as a witness in the case on trial, except in one instance; that is, if he puts his own character in evidence by calling character witnesses. In that case they can open the door and ask him about any other previous offense.

That is the purpose and thrust of this amendment. I suggest to the House that it is simply a matter of fairness.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to my colleague, the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I suspect before the afternoon is out, my colleague, the gentleman from Indiana, and I may disagree on one or two provisions, and particularly on one provision I sponsored in this bill. However, I compliment the gentleman from Indiana on this amendment.

Mr. Chairman, I assume the word "germane" would be germane to the gentleman's amendment. In this body there is a rule of germaneness, but in the other body there is not. I once heard that described, as far as germaneness applying in Congress, that if a man made a speech, it had to be about something. I think that in essence is what the gentleman has offered. If one offers evidence, it has to be about the thing one is seeking to prove.

Mr. Chairman, I compliment my friend, the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman.

Mr. WIGGINS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana (Mr. Dennis).

Mr. Chairman, I wish to urge all my colleagues to give very serious consideration to the amendment offered by the gentleman from Indiana. I compliment the gentleman for offering this perfecting amendment.

It should be an amendment which would be accepted out of hand by the majority and the minority. It is a worthwhile amendment.

I am an attorney serving on the Judiciary Committee. There are many attorneys in this House who probably have tried more criminal cases than I. But I want to give you the benefit of my experience.

I believe, on the basis of considerable experience in representing defendants accused of crimes, that it is impossible to get a fair trial if the prosecution is permitted to impeach a defendant based upon his prior conviction of an unrelated felony. For a defendant to be in the witness box to give an affirmative answer to the question by a prosecutor, "Have you been previously convicted of a felony?" is to insure that he is going to be convicted even though he be an innocent man.

I believe the procedures authorized in this bill, which tolerate impeachment of a witness based upon the unrelated prior conviction of a felony, are a positive denial of justice to defendants.

This amendment should be accepted in the name of simple justice.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

The provision in the bill before us today which is challenged by this amendment originated in a bill which I introduced and which was picked up in the omnibus bill.

Basically what we have here is giving the opportunity to the prosecution to bring in prior convictions in order to impeach the credibility of the witness. I say this is necessary since trials are fact-finding procedures.

If the defendant who has a whole string of prior convictions takes the stand and the prosecution does not have the right—as it would not if this amendment prevails—to let the jury know that this man was previously convicted of robbery or murder or other serious offenses, the jurors would assume he was a person of integrity who should be believed.

The purpose of impeaching credibility is to try to give to the jury some way to assess whether or not to believe the witness.

The difficulty here is a court decision in the District of Columbia, the so-called Luck doctrine, to which the gentleman from Indiana referred.

I would call the attention of the House to the fact that the Advisory Committee on Rules of Evidence to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, a committee appointed by former Chief Justice Warren and made up of distinguished Federal judges, lawyers, and educators, agreed with the proposal as it is now in the bill before us today.

In considering the Luck doctrine, they said:

> Acts are constituted major crimes because they entail substantial injury to, and disregard of, the rights of other persons or the public. A demonstrated instance of willingness to engage in conduct in disregard of accepted patterns is translatable into willingness to give false testimony.

So I submit that all we need to consider in making up our minds on this amendment is whether or not criminal activity, in a general psychological framework, should be considered by the jury as germane to impeach credibility of the witness on the stand.

This rule as it is in the bill is consistent with the rule in the vast majority of the States. At the present time, however, in Washington, D.C., we are operating under this Luck doctrine. This gives the judges the additional discretion to prohibit the impeachment of witnesses.

This doctrine has caused so much confusion that judges disagree among themselves in different cases as to what may be used and what may not be used. One judge believes, for example, that car thievery should be used and another says it should not be used. There is so much confusion about it that we need to express the intent of the Congress itself, to indicate that we believe all prior convictions should be used to impeach the credibility of a witness.

I might say that this is the statute in the District of Columbia at the present time. There would be no need for this provision in the bill today except for this Luck doctrine, which denies the rights of impeachment to the prosecution which they ought to have.

Mr. Chairman, I think that the Luck doctrine is unworkable for the following reasons:

First, because the appellate court has been unable to develop meaningful criteria to guide trial judges, in deciding whether or not to allow impeachment, the result is chaos. Some trial judges rule out all impeachment of witnesses in every case. In one murder case, the trial judge went so far as to exclude all prior convictions of the defendant but told defense counsel he could use prior convictions on the part of the prosecution witnesses to impeach their credibility. I say that is not in the interest of impartial justice.

Second, judges who do allow impeachment always have the threat of appellate reversal hanging over their heads. This is because appellate judges can easily find an abuse of discretion whenever they disagree with a jury verdict of guilty in a case in which the trial judge permitted impeachment of the accused. This has happened.

The third point I would like to make is even appellate judges cannot agree among themselves on what kind of crimes may be used as impeachment. Three appellate decisions have specifically approved the use of larceny as impeachment; one decision challenged it. Two decisions sanctioned use of housebreaking or burglary. One challenged it. The decisions are also split on other offenses. The trial judges are understandably in a quandary as to how to proceed. Which decision do they follow? Such confusion in the administration of justice is intolerable.

Because there is this confusion, we need to clarify the law today.

As far as I am concerned, the Luck rule itself makes no sense. It operates to frustrate the search for truth in criminal trials where credibility is in issue. It was rejected by the Bar Association of the District of Columbia in a referendum. The rule for impeachment proposed by the prestigious Advisory Committee makes good sense. It is workable, appropriate, and will enhance the truth-seeking process of criminal trials. It is consistent with the practice in nearly 90 percent of the States. Only the District of Columbia has this big problem because of the Luck doctrine.

Mr. ABERNETHY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hope that the Members of the House will not be persuaded by the very interesting statements that were made by the author of this amendment or by the very distinguished gentleman from California (Mr. Wiggins).

One of the problems in the District of Columbia, where crime is more rampant than any other place in this Nation, is the so-called Luck doctrine, which denies the prosecutor the privilege of inquiring of a defendant for the purpose of impeaching his credibility: "Of what have you been convicted?" I am really a little bit surprised that our distinguished friend from California would suggest that we accept this amendment. More than 45 States of this Nation—listen to me now—more than 45 States of this Nation allow the prosecution to inquire of the defendant: "Of what have you been convicted?" for the purpose of impeaching his credibility. If that is a legal weapon in 90 percent of the criminal jurisdictions of this country and the objective of this Congress today is to wipe out crime in the District, then why do we not exercise the opportunity and take advantage of the ordinary opportunities that are made available in the other States in wiping out crime? That is how simple this matter is. I practiced law a little bit, and I know how technical we lawyers can get sometimes.

We search for technicalities. We root out technicalities. We dig up technicalities.

Mr. Chairman, many who are walking the streets today as criminals have gotten out by reason of some smart fellow—and there are lots of them who claim to be smart—because of some technical point he has unearthed.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. Yes, I yield to the gentleman from Indiana.

Mr. DENNIS. The gentleman appreciates the fact I am sure that this amendment in nowise tries to retain the Luck doctrine. What I am attempting to do here is to give the court a new rule which will hold down the inquiries about previous convictions to offenses involving false statements, perjury, subornation of perjury, fraud, deceit, forgery, counterfeiting, false representation and false pretense; in other words the type of crime that actually does reflect upon credibility.

Mr. ABERNETHY. Mr. Chairman, I regret I cannot yield further to the gentleman. I say we ought to leave to the U.S. district attorney and the law-abiding people of this town the same weapons that are available to other groups.

I know what the gentleman is trying to do. He is just trying to change the color of this thing. He is just throwing some ink into it in an attempt to change it from white to blue or to a different shade.

Mr. Chairman, I think we ought to vote it down.

We had debate over this in the committee. The Department of Justice asked for it, the President of the United States asked for it, the Advisory Committee on Rules of Evidence and Practices and Procedures of the Judicial Council asked for it, 90 percent of the States follow this rule, the U.S. district attorney asked for this measure, and the District Bar Association has approved it. Why change it? Why change it?

Mr. DENNIS. Mr. Chairman, will the gentleman yield further?

Mr. ABERNETHY. Yes; I yield further to the gentleman from Indiana.

Mr. DENNIS. I say the reason for changing it is that in fairness you have to change it if you believe that when you try a man for an offense, then try him for it. Do not throw him in jail just because he has or may have a general bad character; but you want to convict him on the basis of his general character and that is the only reason why you fail to change that rule.

Mr. ABERNETHY. I want to assure the gentleman that all I am trying to do is to steer toward the jail not people of bad character, but people guilty of offenses. I feel that the police and the prosecution should have the advantage of every weapon that is available, that is available to at least 45 State jurisdictions of this country. That is all I am asking.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

I wish to comment upon the statement of the gentleman from Mississippi concerning the effect of the rule in 45 jurisdictions. My own State of California permits the impeachment of a witness upon the showing of a prior conviction of a felony. But it is so well known that the operation of this doctrine is capable of abuse that many prosecutors are reluctant to use it and many judges browbeat the prosecutors into not using it.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to direct the attention of the Committee again to the statements made by the distinguished gentleman from Mississippi that 45 States permit the attack upon the credibility of a witness when he takes the witness stand. However, this is done under certain rules and regulations which protect that witness. It is the duty of the court to instruct the jury that they can only consider the question as to prior convictions as having or not having a bearing on the credibility of the defendant. The question of the credibility of the defendant is put in issue when he takes the stand in his own defense. However it has no bearing upon the question of whether he is innocent or guilty. Furthermore, the jurors when they are sworn in take an oath to the effect that they will decide the issues based solely upon the facts as presented to them from the witness stand and not consider any other extraneous matter.

I want to point out to the Committee that this section which the amendment offered by the gentleman from Indiana seeks to delete from the bill was recommended by the Advisory Committee on Rules of Evidence of the Judicial Conference of the United States. That Advisory Committee consists of such distinguished gentlemen of the bar as Charles W. Joiner; Judge Simon E. Sobeloff, of the Fourth Federal Circuit Court; Craig Spangenberg, an eminent trial lawyer in Ohio; as well as the distinguished Edward Bennett Williams who is a renowned criminal lawyer in his own right. Such a distinguished committee as this is not going to recommend a rule of evidence that is unreasonable, or unfair. With all their years of combined experience, particularly in the field of criminal law if there was any question about this section being proper and valid evidentiary procedure they would never have made such a recommendation.

They have recommended that this section be placed in the law, and I would urge the defeat of the amendment offered by the gentleman from Indiana.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I would like to address a question to the gentleman from Indiana, if I might, the author of the amendment.

It is my understanding that the gentleman from Indiana has no objection to a felony being introduced into evidence as to the character, provided that felony is the same type of felony as the one for which the accused is being tried at the time. Is that a fair statement?

Mr. DENNIS. Mr. Chairman, if the gentleman will yield, my thinking is simply this: If you are going to permit inquiry about a previous conviction upon the theory that it reflects upon the man's credibility as a witness, and that is the only theory on which we do permit it, then it should be limited to the type of offense which has some bearing on credibility.

For instance, I do not believe a crime of passion or assault, or something like that, has much bearing on a man's veracity. Now, perjury, of course, does. And I say if you are going to cross-examine him about previous convictions on the theory that they bear on credibility, it is only fair to hold it down to those which, in fact, do bear on credibility.

Mr. RHODES. If the gentleman from Ohio will yield further——

Mr. HARSHA. I yield further to the gentleman from Arizona.

Mr. RHODES. The only rational manner in which convictions of a former felony would impinge upon the credibility of a witness, or conviction of a felony, is evidence of bad character.

Now, I fail to see how the conviction of a felony A would cause a person to then have bad character, at least, to be evidence of that bad character when a conviction of felony B does not. If you are going into credibility of a witness, I do not know whether there are differences between the types of felonies which can be committed. If either felony is evidence of bad character then it is evidence on the credibility of the witness.

I do not see why you make the difference between felonies. I think you are taking the idea of rationality and germaneness to a degree I never heard of.

Mr. DENNIS. If the gentleman will yield further, if I may answer the gentleman from Arizona, the point is that if you get asking about these other unrelated offenses you get to the place where the jury decides to convict the man just because they think he is a bad actor. If the gentleman thinks that is all right, then that is one thing, but that is not the theory of our law.

Mr. RHODES. Mr. Chairman, if the gentleman will yield further, I believe

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the gentleman is distorting the import of my question. All I am saying is that if a felony, or the conviction of a felony is evidence of bad character, then conviction of all felonies is evidence of bad character.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. JACOBS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think with respect to the colloquy that has just taken place it is important to make this clear: that on the question of a defendant's character, the amendment offered by the gentleman from Indiana (Mr. Dennis), would permit introduction of prior convictions, if that were the issue. If the defendant himself put witnesses on the stand to prove that he had good character, then the prosecuting authorities under this amendment could introduce any prior convictions to show that the man had bad character. But if the issue is whether or not the man will tell the truth, then the amendment offered by the gentleman from Indiana (Mr. Dennis) would permit the prosecutor only to introduce evidence on that question of whether he is the kind of fellow who tells the truth.

Now, they say—and I will yield to my friend, the gentleman from Texas (Mr. Brooks) if I am wrong about this—but they say that in Texas if they want to know what a cowboy will do when he gets drunk, they find out what he did the last time he got drunk. And I think that is valid logic upon the issue of whether or not a person is going to tell the truth.

Take the case of a cowboy in a bar who hauls off and hits somebody right square in the mouth over an argument. Far from being evidence of that cowboy's dishonesty, under some circumstances, this might be evidence of his complete honesty.

Let me give you one more example, in the civil practice. If you sue me for an automobile accident, it is not possible for you to put into evidence that I am covered by a big insurance company. You cannot show that the loss will not be to me as an individual but to my insurance carrier.

Why? Because whether I have insurance is not germane to the question of whether I ran a red light. This is a germaneness rule and of all places, here in the Nation's Capital where a germaneness rule should be adopted, I should think it would be in this committee of the House of Representatives.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman.

Mr. DENNIS. I just want to thank my colleague, the gentleman from Indiana, for bringing out a point which I think perhaps has become obscured here.

While normally under this amendment, previous convictions which can be inquired about are limited to those listed here which reflect directly on a man's truthfulness, nevertheless when he puts his own good character in evidence and in issue then the sky is the limit and you can ask him about anything that he was ever convicted for, of any character.

There are two situations, either you should hold down the cross examination as to previous convictions to what does reflect on his credibility—or, if he is trying to prove that he is an angel, then you are allowed to go beyond that.

This is what they do, incidentally, over in England where our common law comes from. I do not think that in attacking crime in the District that we want to be unfair. This is just a matter of fairness. Everybody who has tried a criminal case from either side of the table, and I have tried them on both sides, as defense counsel and as a prosecutor, knows that this thing right here of unrestricted inquiry as to previous convictions is one of the most unfair things that takes place in our courts. You cannot expect a jury or anybody else to separate their mind and to remember that they are only supposed to bear the previous conviction in mind on the question of credibility.

That is ridiculous. We all know that. We are just trying to get a little realism and a little fairness—that is the only thing. But this is an important provision. I thank the gentleman for yielding.

Mr. JACOBS. Let me suggest this: we are going to get a lot further in passing commonsense legislation if we try to decide what is right instead of who is right. Or on the question of somebody else's authority. What is of higher authority than the House of Representatives in deciding matters of this kind?

Do not decide these questions on the authority—of who said something. Analyze the individual question yourself.

My colleague, the gentleman from Indiana, I believe, will be offering an amendment later to strike out a provision which I support in this bill relating to habitual criminals. I think we will be on opposite sides when that issue comes before this committee. So do not try to determine who is right. Think this thing through and determine what is right. What is right in this case is that if you are trying to prove that a man is a liar—dig up the times in the past that he has been dishonest. Do not dig up a barroom fight that has nothing at all to do with whether a fellow will lie.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it is my understanding that at one point during the general debate the question was raised as to whether or not the President of the United States was endorsing the committee bill.

I thought the matter had been carefully covered by a news release yesterday. I tried to make sure that it was clearly set forth in a letter to all of the Members on our side of the aisle, which letter was mailed yesterday, and, I presume, was received today.

I have a letter in my hand from the President the text of which I understand the gentleman from Kansas (Mr. Winn), has included in the Record during the general debate. But to make it absolutely certain and positive as to the President's view, let me read certain excerpts from that letter which is dated March 17, 1970, and which reads as follows:

> As you know so well, there is pending before the Congress legislation of great importance to the fight against crime in the District of Columbia. I hope you will express to the Members the urgent interest I have in the earliest possible approval of this legislation.

Reading further from the President's letter—

> The House District Committee is to be complimented on its fine work in reporting out the entire program in this area that I submitted to the Congress last year. Many provisions of the House Committee bill are improvements over the original versions.

The letter continues—

> Half-hearted measures will not suffice. The citizens of the District of Columbia are entitled to the full support of the Congress and this Administration in returning public safety and order to this community.
>
> Sincerely,
>
> Richard Nixon.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. Will the gentleman withhold his request for a few moments? If I have time, I will respond.

The amendment offered by the distinguished gentleman from Indiana (Mr. Dennis) I think is worthy of the full consideration of the committee. He is an eminent lawyer. He is obviously sincere in his convictions concerning this amendment. But in listening to his comments and the comments of the gentleman from California (Mr. Wiggins) followed by the arguments presented by the gentleman from Maryland (Mr. Hogan) and the gentleman from Ohio (Mr. Harsha) I am personally convinced that the provision in the bill is preferable to the amendment offered by the gentleman from Indiana.

As was pointed out by the gentleman from Ohio (Mr. Harsha) the Standing Committee on Rules of Practice and Procedure and the Advisory Committee on Rules of Evidence in March of 1969 recommended the provision included in the bill. By inference, certainly this distinguished group would not support the amendment offered by the gentleman from Indiana.

It is interesting to note that among those on the Advisory Committee on Rules of Evidence are the following—and I cite only several names: Edward Bennett Williams, a distinguished member of the bar for the District of Columbia, who has an outstanding reputation of being a defendant's lawyer in a most successful way.

Also it should be noted that the chairman of this Advisory Committee on Rules of Evidence is a man by the name of Mr. Albert E. Jenner, Jr., a distinguished member of the bar of the State of Illinois. I happen to have had some experience with Mr. Jenner. He was a most able member of the staff of the Warren Commission. He is an outstanding lawyer and also a member of the legal profession who over the years has had a great reputation as a defendant's lawyer. Yet he, along with Mr. Edward Bennett Williams, and others apparently recommended this provision that is in the bill.

Therefore I have come to the conclusion, based on their approval and the views of the committee, that the committee language in this instance ought to be retained and not amended.

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Mr. FRASER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRASER. Mr. Chairman, I intended to ask the distinguished minority leader about the letter from the President of the United States, parts of which he read to us. I noted that the letter states that many of the provisions added by the committee strengthen the bill. I assume that those words were carefully chosen. He did not say that all the changes made by the committee strengthened the bill, but many of them.

I am raising this question in a general way only because I would hope that the distinguished minority leader, who I know has a very strong commitment to try to do something about the crime problem in the District, as I think all of us do, that he would feel, as he obviously does, that we should look very carefully at some of these provisions, that the endorsement of the President of the bill and the language he uses certainly is not intended to preclude a careful examination and debate in the House of the wisdom, the propriety, or the usefulness of some of these provisions which have been called into question. Would the gentleman generally agree with that view?

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I believe at the outset in my own remarks, I paid a compliment to the author of the bill and the gentleman from Indiana (Mr. Dennis).

I do think we have a responsibility to go over the bill carefully as it has been recommended by the committee. On the other hand, I am convinced that the thrust of the bill and as far as I know as of this moment all provisions of the bill should be supported, but I, as one, do not think we should preclude ourselves from ample consideration of any good faith amendments. Certainly the amendment offered by the gentleman from Indiana (Mr. Dennis) is one offered in the best of good faith.

Mr. FRASER. I have in mind a particular concern in the bill about dividing up the Corrections Department and sending half of it to the Bureau of Prisons. The ranking Republican member of the committee, the gentleman from Minnesota (Mr. Nelsen), who has shown a very sustained and constructive interest in the District, had not favored that amendment at the time it came up in the committee.

I just hope when we get to that issue we will get a fair hearing from everyone, because this is not a partisan question. It is a question of what is really best for the people of the District, those who want to see crime abated and who want to see the community move forward. That particular provision is wrong in the opinion of many groups in the community who have considered it.

I just want to make clear we are not going to find ourselves in the position of saying, well, no amendment ought to be considered on its merits, or that all amendments are bad, or anything of that kind.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield further?

Mr. FRASER. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I think the record so far speaks for itself, that it is not a partisan amendment, because this is one offered by a distinguished Member from our side of the aisle. I suspect there will be other amendments offered from the gentleman's side of the aisle.

On the other hand, I think the burden of proof is on those who would seek to amend the bill. In this particular case, on this amendment, I do not think the proponents have sustained the burden of proof.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, we are concerned about this and I would call the attention of the minority leader to this, because there was some confusion in the remarks of the gentleman from Mississippi (Mr. Abernethy) and the gentleman from Maryland (Mr. Hogan) whether this provision of the bill was in the original bill. It was placed in the bill by the gentleman from Maryland (Mr. Hogan), as I remember.

The remarks of the gentleman from Mississippi (Mr. Abernethy) were to the effect that it was not in the original bill. My remembrance is that the gentleman from Maryland put it in, and now the gentleman from Indiana (Mr. Dennis) wants to take it out, so I would hope the minority leader's statement that the bill is supported in the general sense by the President does not mean that all things put in by various Members at various times are, therefore, under some carte blanche umbrella of Presidential approval.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I want to make it clear that the Dennis amendment is distinct from what the gentleman has been discussing, that is, that the administration does endorse this provision in the bill.

The gentleman from Washington is correct that the original proposal sent up by the Department of Justice did not include the provision as it now is in the bill. However, if Members would read the provisions recommended by the Advisory Committee, which the distinguished minority leader has just been discussing, they would see that this provision was adopted, and it is now one of the ones the President has specifically asked us to include in the bill.

Mr. FLOWERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to support the committee and to speak against the pending Dennis amendment. Before doing so, I must say as one whose office is very close to the District of Columbia Committee room that I express my gratitude for the many hours of hard work and labor the members of this committee have done in the preparation of this piece of legislation and other legislation they have brought to the floor of this House. They have done yeoman work for this House, and I know all Members appreciate it.

Mr. Chairman, I wish to speak in behalf of overruling the Luck doctrine concerning impeachment of a witness at trial by proof of prior convictions and replacing it with a rule recently proposed as the model for all Federal district courts by the prestigious Advisory Committee to the Judicial Conference of the United States. Its proposal is presently contained in section 133.

The Luck rule permits a judge in his discretion to prohibit all impeachment of a witness by proof of prior convictions. This hurts the search for truth.

Juries have the responsibility of assessing credibility of witnesses. How can they properly carry out this responsibility, Mr. Chairman, if such highly relevant evidence to credibility is excluded? As the advisory committee observed in rejecting the Luck rule, the exclusion of all impeachment by proof of prior convictions of an accused in a criminal case "enables an accused to appear as a person whose character entitles him to credence, when the fact is to the contrary." The Luck rule, Mr. Chairman, is objectionable, therefore, because by excluding probative evidence of credibility, it frustrates the search for truth and deprives the Government in a criminal case of a fair trial.

The Luck rule is also unworkable. First, no meaningful criteria exist to guide trial judges in exercising their discretion to allow or prohibit impeachment. The result is chaos. Some judges allow no impeachment at all. Some allow no impeachment of the defendant in a criminal case but allow impeachment of Government witnesses. Judges who do allow impeachment vary from case to case.

Even the appellate judges cannot agree as to what crimes can be used as impeachment. Some allow larceny; others challenge it. The same is true of housebreaking and auto theft. If the appellate judges cannot agree, what are trial judges to do?

The Luck rule encourages appeals. Since 1965, there have been over 30 appellate opinions trying to apply and interpret this rule.

Virtually all legal authorities, such as Dean Wigmore, recognize the probative value of prior convictions in assessing credibility of a witness. As the advisory committee, referred to above, observed in justifying impeachment by proof of prior convictions:

> A demonstrated instance of willingness to engage in conduct in disregard of accepted patterns is translatable into willingness to give false testimony.

Ninety percent of the States do not deprive their juries of such significant evidence. In a recent referendum, the Bar Association of the District of Columbia rejected the Luck rule. The prestigious advisory committee, consisting of distinguished Federal judges, lawyers, and educators, rejected the Luck rule

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which does deprive the juries of this evidence. The recommendation of this advisory committee for all the Federal district courts should be enacted for the District of Columbia courts.

I am reluctant to disagree with my good friend the gentleman from Indiana, but I must in this instance. I should like to support the committee version and speak against his amendment.

Mr. FARBSTEIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, to be for crime is like being against motherhood. I am against crime, just like everybody else, but there are certain things which are right and certain things which are wrong. I say just so long as the wrong things present in this bill are sustained by this body then I am to that degree against this bill.

Mr. Chairman, I rise in strong opposition to the District of Columbia crime bill. There are innumerable bad and dubious features of this bill. But I propose to deal with just two—so-called preventive detention and the no-knock sections—but in other search-and-seizure sections, in the wiretapping provisions, the backward steps on juvenile trials, the transfer of Lorton, and many others that could be cited the committee has demonstrated that it prefers a blunderbuss to a scalpel. We can fight crime constitutionally. We can combine procedure and substantive criminal amendments with broader efforts to improve social and economic environmental conditions. We can make of our prisons rehabilitation centers instead of schools for crime. We can teach respect for law by adhering to constitutional principles instead of blindly panicking into throwing overboard those restraints our forefathers wisely placed upon police actions.

We can do all that. But this bill goes the other way. And with what results? It can safely be predicted that its enactment will have little effect on the crime rate because it does not address itself to our real problem. It only aggravates them.

NO-KNOCK

The rule that the authorities must give notice of their authority and purpose and only break in when they are denied admission goes back to at least 1603. It is not, in other words, a recent invention of "effete snobs" to hamstring the police with technicalities. The rule is founded on well-recognized principles. First, one has autonomy and privacy in his own home, and to invade that privacy the police need meet several preconditions. They must have probable cause, they must ordinarily present their case to a neutral magistrate, they must specify particularly what it is they are looking for, and they must give the person the opportunity to admit the officers under authority of the warrant. That is what is meant by the old aphorism thrown around so much in the other body as if it alone constituted authority carte blanche to break and enter—"the king's keys open every door." Yes, but pursuant to preconditions.

Second, the rule of announcement protects the safety of both home dweller and policeman. A sudden breaking-in is a time of confusion. Especially in this period when the fear of crime is so prevalent the tendency of one who hears people crashing into his home will be to shoot first and ask questions later and officers will be inclined to defend themselves similarly. What do the proponents of this provision think the answer should be when an innocent homeowner, who has no narcotics or contraband or whatnot on his premises, shoots and kills a policeman whom he thinks is an ordinary housebreaker? Are we going to prosecute the man for murder and say he cannot make a mistake like that? Or are we going to say, "Oh, well, too bad, mistakes will happen," and release him?

But perhaps more importantly, what are we going to do when the police break into a house where there is, say marihuana, which they knew about and intend to seize, and the homeowner, otherwise not a violent individual or a dangerous criminal, believing criminals are breaking into his house, shoots and kills an officer? Charge him with murder? Release him? This bill is silent. The proponents do not tell us, because to face the question is to admit that there is a real problem and that hard choices have to be made. And the proponents want to make only easy choices.

But aside from the practical aspects, the section simply is unconstitutional. In the Ker case, eight Justices accepted the rule of announcement as a constitutional requirement. Four Justices would have restricted closely the exception to the rule, under which this section would be clearly unconstitutional. The other four Justices excused noncompliance there because they found that the officers could have reasonably believed Ker already knew of their presence, an exception which would not save this section.

As for me, I prefer to follow Senator ERVIN, a constitutional expert, who has no doubts that this section is not sustainable.

PREVENTIVE DETENTION

One hardly knows where to start in discussing this section. There is the constitutional problem of denial of bail and the constitutional due process problem involved in the results visited upon suspects who are "preventively" detained. There is the lack of standards and the inability, demonstrated time and time again, to determine who should be detained and who can be released. There is the problem of overcrowded detention centers which are worse crime factories than our penitentiaries. The whole subject is a can of worms.

There are Members who can elaborate on the eighth amendment problem. Let me say only that it seems perfectly evident that the framers must have used the excessive bail clause as shorthand for the right to bail or they framed the clause with an unstated right to bail in mind. Those who argue that the clause only protects against excessive bail for those whom Congress may deem worthy of bail seem to me to be denigrating the acumen of the framers. The Bill of Rights was intended to restrict authority and it hardly seems likely that persons wishing to restrict authority would impliedly authorize an exercise which could completely eradicate the restriction they had embodied in a constitutional provision.

I believe, thus, that the eighth amendment embodies a right to bail, subject only to the two common law exceptions. That is, bail was designed to assure the presence of the defendant at his trial. If the committing judge found on objective evidence that no bail he set would accomplish this purpose he could deny bail. In capital cases, per se, no amount of money could compel a defendant facing death to return, so there was no absolute right.

The proponents of the section have not addressed themselves to the argument. Even more curiously, they have failed to address themselves to the due process and practical problems.

A detained prisoner cannot hold a job. Thus, he cannot support his family; he cannot earn a lawyer's fee. Because he now has no job he will, if convicted, make a poor probation risk and he is prejudged by the judge, the probation officers, his court-appointed counsel, yes, even himself, as a dubious prospect for release. A detained defendant upon conviction will more often be jailed than a convicted defendant who has been released pending trial.

A detained defendant can only consult his lawyer in the confines of jail. Conditions are unfavorable to privacy and mutual dignity. Consultations will be fewer than if he were outside. The quality of representation suffers.

A detained defendant cannot assist in his own defense. He cannot find witnesses and other evidence.

A detained defendant is much more likely to be convicted than one who has been released pending trial. The reasons are those I have alluded to.

A detained defendant who is convicted makes a poorer prospect for rehabilitation than one who has been released pending trial because, in large measure, rehabilitation is affected by the defendant's perception of the fairness of the criminal justice system.

A detained defendant is jailed in worse conditions than a convicted defendant. Detention jails are overcrowded, conditions are bad, exercise and recreation facilities are bad or nonexistent, security restrictions are excessive, burdening his communication with family, lawyer, friends. Blackstone once wrote that the period between confinement and trial was a "dubious interval" during which "a prisoner ought to be treated with the utmost humanity." This does not now approximate the case.

Thus, due process is violated by the results of preventive detention.

Then we turn to what preventive detention is supposed to accomplish and we see that what standards exist are vague and inadequate. The result will be that little relationship will exist between those detained and those who should have been detained if they could have been identified. An unsure judge will detain lots of people who should not be detained and conscientious judges will despair. In Senator ERVIN's hearings, there was related a study of two judges here. The study followed up what happened to the suspects each released. The "liberal" judge released over two-thirds of the suspects who appeared before him, the "conservative" judge only about half. And yet the number of released defendants who were subsequently arrested for new offenses committed while they were out pending trial was almost the same with both judges and in both cases the number was quite small. The actual figures: the former judge released 180 of 226, about 80 percent, and the latter judge released 141 of 285, about 50 percent. Of the former's 180, 16 were subsequently rearrested, about 9 percent; of the latter's 141, 12 were subsequently rearrested, about 8 percent.

Thus, preventive detention is not only unconstitutional, it will not work.

What we could do, if we would, is to get more judges and facilities and supporting personnel and bring defendants to trial faster. We could do something intelligent about narcotics which is a prime factor in our crime problem. We could do something effective about rehabilitating convicted persons so as to reduce recidivism. We could do lots of things but we must face the fact first that there are no easy answers like the ones this bill proposes.

Mr. McMILLAN. Mr. Chairman, I wonder if we can agree to a time limit for further debate.

I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

XUM

There was no objection.

The CHAIRMAN. Each Member standing at the time the request was made will be recognized for approximately 1 minute and 45 seconds.

The Chair recognizes the gentleman from Minnesota (Mr. MACGREGOR).

Mr. MACGREGOR. Mr. Chairman, I rise in opposition to the pending amendment. I do so with considerable hesitancy, because I have had for some time the great pleasure of working on the Committee on the Judiciary with the distinguished author of the amendment. I know of his high competence and sound judgment.

I oppose the amendment for one overriding reason. Its adoption would establish here in the District of Columbia an evidentiary rule more favorable to the criminally accused than that applicable generally in the country.

In the light of the crime picture in the District of Columbia this would be a signally unwise step for the Congress of the United States to take. There are three principal reasons for enacting section 133 of the committee bill and for rejecting the Dennis amendment. Many of those reasons have been presented by previous speakers.

First, the rule for impeachment contained in section 133 is the same as that recently proposed by the Advisory Committee on Rules of Evidence to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, as the model rule to be used in all Federal district courts and before all magistrates. This Advisory Committee, appointed by Chief Justice Warren and consisting of distinguished Federal judges, lawyers, and academicians, carefully analyzed the different rules for impeachment, including the Luck rule, and recommended the rule which, with only technical changes, is included in the bill before us. There is no reason why Congress should legislate a rule of evidence for the courts in the District which differs from that used in other Federal districts, since the basis for assessing credibility of a witness here is the same as elsewhere. Absent such a reason, consistency alone justifies adoption of the same rule.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, statistics from the District of Columbia show that about one-third of those individuals released on their own recognizance committed at least a second crime before they came to trial. Not all of the cases are as dramatic as the one in which the individual released on his own recognizance finished the job he had started a few hours before by killing the victim he had only injured that few hours before. We are talking here about retaining the rights of an individual who is accused. Under this bill his right to be innocent until he is proven guilty will be retained. But I suggest the rights of the innocent victims to protection of the law must also be maintained.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi (Mr. ABERNETHY).

Mr. ABERNETHY. Mr. Chairman, I would simply like to state what we are trying to do with the provision now in the bill is to bring a rule of evidence within the District of Columbia in line with the rules of evidence that prevail in more than 45 States of this Nation. There may be some merit to the position of the author of the amendment, but it appears to me, by virtue of the fact that more than 90 percent of the States of the Nation disagree with him, that there is more merit on the other side. So, all we are asking this House to do is to make that which is available for admission in 90 percent of the States of the Nation eligible for admission into evidence in the District.

I hope you will vote down the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. McMILLAN).

Mr. McMILLAN. Mr. Chairman, I hope the members of this Committee will not begin gutting this bill at this point and that we will be able to send to the President and the Attorney General the type of legislation they need in order to cope with the crime situation in Washington.

I hope the amendment will be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I would simply like to observe to the House in the remarks that have been made here that no one seriously challenged my statement that this is an amendment which merely puts logic and fairness into this particular field of the law. The criticisms have been general ones. They have not, I submit, answered the arguments that I have made. I repeat that this is not, obviously, a partisan or political amendment, and it is not an antibill amendment, but just an amendment which wants to put a little fairness and logic into this particular part of the law by saying that if you are going to ask a man about a previous conviction, on the theory that it reflects on his truthfulness, it ought to be confined to the type of crime that in fact does reflect on his truthfulness, unless he has put his character in evidence. That is a fair proposition, and I ask the Committee for its support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The question was taken; and on a division (demanded by Mr. DENNIS) there were—ayes 31, noes 60.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS:

Page 21, the item relating to section 11-923 in the chapter analysis is amended to read as follows:

"11-923. Criminal jurisdiction; commitment; accelerated criminal trial calendar

Page 24, line 3, redesignate subsection (b) as subsection (c).

Page 24, insert after line 2 the following new subsection:

"(b) In assigning judges in the Criminal Division, the chief judge shall give special attention to the need to assign as many judges as practicable to the accelerated criminal trial calendar established pursuant to section 11-923(d)."

Page 32, strike out line 7 and insert in lieu thereof the following:

"§ 11-923. Criminal jurisdiction; commitment; accelerated criminal trial calendar

Page 33, insert after line 9 the following new subsection:

"(d)(1) There shall be established in the Superior Court a separate accelerated criminal trial calendar on which shall be placed the cases of all defendants who are detained prior to trial and all other cases in which the following offenses are charged: murder; rape; robbery; arson; burglarly in the first degree; kidnaping; indecent acts against a child; and offenses involving traffic in narcotics or dangerous drugs.

"(2) Cases placed on the accelerated criminal trial calendar under this subsection shall be given priority over other criminal cases consistent with the sound administration of justice."

Mr. JACOBS. Mr. Chairman, the greatest urgency in the problem of crime in this jurisdiction as well as others involves those crimes which are violent in nature.

Consider the foreign trade policy of a poor nation. They export the things that they need. And they import the things they need worse.

This amendment would create a ratio between judges assigned to violent and nonviolent crimes in the superior court which we shall, I hope, create.

A larger number of judges would be assigned to violent crime cases than to cases of nonviolent crimes, and, consequently, there would be a little more time before a person charged with a nonviolent crime would come to trial, but there would be a little less time before the person charged with a violent crime would come to trial.

The theory is very simple. The violent brand of crime is more dangerous to the community. In the case of an embezzler who is waiting for trial, he is not quite so dangerous because no employer is going to give him the combination to the safe pending trial of his particular kind of crime.

So it really is not a very complicated amendment.

I offered the amendment in the committee, and certain objections were raised to it. I believe that I have met all of those objections by changes I have made in the amendment. It was suggested that the hands of the judges might be tied, but the amendment in its present form gives full discretion to the chief judge to assign whatever number of judges he thinks necessary to the accelerated violent crime calendar.

So with that, Mr. Chairman, I have nothing else to say, because the amendment is just that simple, but I will be glad to try to answer any questions that might be asked.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I want to commend the gentleman on presenting this amendment. It is an extremely sensible and constructive proposal to protect the public from the scourge of violent crime. I supported it when it was presented in the committee, and I hope that it will pass here on the floor.

It is, I believe, in harmony with the principle of the preventive detention section. I believe, of course, that you can support this amendment and not necessarily have to support the other. The amendment clearly gives the public greater safety on the street because those who are charged with violent crimes will get a greater measure of speedier justice. Again I commend the gentleman for presenting his amendment.

Mr. JACOBS. I thank the gentleman and also commend him for his untiring efforts on the District of Columbia committee to help in the fight against crime.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I will be delighted to yield to the gentleman from Virginia.

Mr. POFF. Mr. Chairman, as I understand the amendment as read by the Clerk, it would create in the court system for the District of Columbia two calendars which, for purposes of identification, we can call the violent and nonviolent calendars, and clearly it is to expedite criminal cases.

My question is with respect to those cases which are not on the expedited calendar. Is there a danger to the constitutional rights to a speedy trial, that those rights may be impaired?

Mr. JACOBS. Obviously nobody knows the answer to that question until it might be tested. However, I would suggest the analogy of the felony court, and the misdemeanor court. The defendant in the misdemeanor court is going to get to trial probably faster in most jurisdictions than in the felony court, but it would not be proper, I believe, or would not be legally sound to suggest that the person who is to be tried on the calendar in the felony court is denied a speedy trial simply because other categories of crimes are moving faster in another court.

Mr. POFF. If I may continue, and I commend the gentleman for his response, but may I comment on that response? I am inclined to believe that whatever might tend to delay the trial of a person charged with a crime could properly be urged as a constitutional challenge.

Now, may I propound another question?

Mr. JACOBS. Let me comment on the other first, if I may——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Jacobs was allowed to proceed for 5 additional minutes.)

Mr. JACOBS. Mr. Chairman, I think really that what the gentleman from Virginia has suggested is good, classic, legal theory. And his question quite rightly goes to the heart of this question that so many of us have discussed, and that is the rights of a defendant. But what about the rights of the public? What about the rights of the innocent? What about the rights of the victim? I do not think anybody in this Chamber has failed to make a speech on this subject at some time in the last 12 months. Here is a practical application of that theory.

A man charged with a nonviolent crime has a right to a speedy trial; yes. But there is the right of the public to have an even speedier trial for those charged with violent crimes.

Now I might say further that in essence this, I am reliably informed, is the procedure that is pretty much being followed in the District of Columbia court system right now.

I think it is incumbent upon the members of this committee to speak out as Members of the Congress in endorsement of that policy.

Mr. POFF. Mr. Chairman, the gentleman has laid the basis for my second question.

Does the gentleman fear that the fact that Congress has pronounced upon the subject of a speedy trial might be taken by the courts to mean that Congress has expressed its definition of the constitutional guarantee of a speedy trial.

Mr. JACOBS. I really do not. I really think the underlying theory of this amendment is that in this country traditionally we have divided our criminal calendars between felonies and misdemeanors.

But there are some felonies that are not of a violent nature and of great physical danger to would-be victims in a community. And there are some misdemeanors which do inlvove violence to the person and great danger to the community. I suggest a redefinition of the division which has traditionally been made in our administration of criminal justice—dividing more specifically between that which is of greater danger physically to the community and that which is less dangerous to the community.

I might add the court under this amendment would have the discretion to include such other cases as it felt were of great public importance in the administration of justice.

Mr. POFF. I have one final question. I will ask the gentleman further—Does the gentleman know the attitude of Chief Judge Green and U.S. attorney for the District of Columbia concrening the feasibility and the functional difficulties inherent in his proposal?

Mr. JACOBS. When I introduced the amendment originally in committee, I received quite a lot of objection from those sources and to the best of my knowledge, I have met every objection that they have made by changing and altering the amendment I had originally proposed. The original proposal required trial to be held within 40 days. They objected to that as being impractical. And it is out.

I believe this amendment meets every objection that they raised in our committee.

At present this amendment is precisely what it appears to be on its face—an expedition of violent criminal cases and a little bit of delay, but not, I think, unconstitutional or unreasonable delay, in favor of the victims rather than the defendant, in cases of nonviolent crimes.

Mr. POFF. I thank the gentleman for his explanation.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman.

Mr. PEPPER. Do I presume correctly that the able gentleman in the well would like to see, and feels that it is constitutionally desirable if not imperative, that every defendant charged with crime have a speedy trial?

Mr. JACOBS. Absolutely.

Mr. PEPPER. And that the public authority provide personnel and the procedure necessary to assure every person charged with crime a speedy trial?

Mr. JACOBS. Yes.

Mr. PEPPER. But the able gentleman is saying that if the public authorities are delinquent in providing the personnel and the procedures to assure everybody a speedy trial, and some have to wait for a long, long time—at least those who wait should be those who are being charged with crimes of violence.

Mr. JACOBS. Yes.

Mr. ABERNETHY. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, with regard to the observation just made by the gentleman from Florida, the real object of the amendment, if it has an object, is to provide a speedier trial for some who are charged with certain offenses, than for others who are charged with other offenses.

This might be interpreted by the court as a discrimination.

For instance, here is a man charged with robbery. Under the amendment proposed by the gentleman from Indiana, if the court proceeded to try other cases, the defendant who may be charged with robbery could come in with his smart counsel and say, "If Your Honor please, I move that the defendant be discharged because under the amendment which was offered by the gentleman from Indiana and adopted by the Congress my client was entitled to a speedier trial than these other fellows got. My client's trial has been delayed. Therefore, I move that his case be dismissed."

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Indiana.

Mr. JACOBS. I really think that as long as the question is completely within the discretion of the court, it could hardly constitute a legal ground for dismissal.

Mr. ABERNETHY. I am not too sure that the courts would interpret the language as discretionary. The gentleman from Virginia touched on the dangerous point. We may be attempting to define what under the Constitution constitutes a speedy trial. If the court should hold that that was what the Congress was attempting to do, then, my friends, just as certain as we sit here today, this amendment would be used as a technical ground for the discharge of a defendant.

May I say to the Members of this body that, indeed, I have the highest regard for my colleague from Indiana. He and I have discussed this amendment. We discussed it in the committee and we have discussed it here today. I frankly stated to him that I could see some merit in the court accelerating the trial of certain cases, but I do not want the House to invade the jurisdiction of the court and determine the order in which his docket is to be set and in which the cases are to be tried. That is the responsibility of the judge. That is his prerogative. This House should not attempt to set the docket of a criminal court. That should be determined by the high officer who presides over the court.

I have checked the language of the amendment with the Office of the Attorney General, and they have expressed the identical concern about it that I have just conveyed to you. They urge that it be defeated.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I am happy to yield to the gentleman from Minnesota.

Mr. NELSEN. One point that has not been mentioned is the fact that there will be an administrative officer of the court who will assign dockets to the various judges.

Would the court administrator be able to make adjustments to accommodate the objectives sought by the Jacob's amendment.

Mr. ABERNETHY. I do not think the responsibility of the court administrator goes quite that far. I believe the court docket would actually be set by the presiding officer or the judges themselves.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from New York.

Mr. SMITH of New York. I wish to associate myself with the gentleman's remark. I believe it would be a great mistake to put the court into the kind of legislative straitjacket proposed. I am glad we are making a record today to indicate what we would like to see done by the courts to the extent that they are able to do so, which is the very thing that the amendment offered by the gentleman from Indiana seeks to accomplish. That is, to get some of the violent cases pending out of the way. But I think it must be left to the courts to run their own business, and to put them into such a legislative straitjacket as that proposed would be a great mistake.

Mr. ABERNETHY. I thank the gentleman. I am heartily in accord with what the gentleman from Indiana has in mind in offering his amendment. Indeed, the more violent cases ought to be gotten out of the way first. Nevertheless, we are treading on dangerous ground when we invade the authority of a judge to set the order of trial of the lawsuits in the court over which he presides.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Illinois.

Mr. YATES. Is not the same procedure proposed in the bill under the preventive detention section? Are you not invading the province of the court in that provision?

Mr. ABERNETHY. No, we are not.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time in order to try to obtain a more precise explanation from the gentleman from Mississippi. I do not see the distinction in the gentleman's argument with respect to the section to which the amendment would apply and the preventive detention section. It seems to me the argument is equally applicable to both sections. If the amendment offered by the gentleman from Indiana would authorize, in the gentleman's words, an invasion by the Congress into court rules and procedures, of the determination by the court of the order in which cases are to be tried, how does the gentleman draw a distinction in that respect from the preventive detention section?

Does not that section require the court to take particular cases and separate them in the procedure in this bill providing for preventive detention?

Mr. ABERNETHY. No, it does not.

Mr. YATES. What is the distinction?

Mr. ABERNETHY. All I can say is there is absolutely no kindredship between these two sections of the bill, none at all. The preventive detention is simply for the purpose of keeping off the street a dangerous man who is likely to go right back on the street in the morning and repeat that with which he has just been charged.

Mr. YATES. That is the point. Certain cases are listed as authorizing preventive detention, cases in which violent crimes are charged. That is true in this section as well. The gentleman's explanation fails to show any difference in the two provisions as far as congressional dictation to the courts is concerned.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, that is exactly what this provision is for, to keep that dangerous man off the streets, and if that is an acceptable exception in the case of preventive detention, it should be a legitimate provision in this kind of situation.

All I have to say is we have wiretapping coming up and there is not going to be a word from the gentleman about the constitutionality of it. We are going to have preventive detention, and there is not going to be objection from the gentleman on the constitutionality of that. But suddenly when an amendment comes along to put those charged with violent crimes on an accelerated calendar for those crimes which are the things the American public is really afraid of, when somebody comes along with that suggestion, suddenly we have all these fine points about the constitutionality. The people of this country are entitled to speedy trials of violent crime charges.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. There is nothing to prevent the judge from setting those people down to trial.

Mr. JACOBS. Would that be unconstitutional?

Mr. ABERNETHY. I have not said it is going to be unconstitutional to send those people down for trial.

Mr. JACOBS. Would it be unconstitutional for him to do it?

Mr. ABERNETHY. I have done my best to explain, but we get into a field where we differ.

Mr. JACOBS. If the judge did what I am proposing, would it be unconstitutional?

Mr. ABERNETHY. I do not know.

Mr. JACOBS. If the gentleman is not so sure about it if the judge accelerates, why be so sure about it if we do it?

Mr. YATES. Mr. Chairman, I still do not see the distinction sought to be drawn between the action of Congress concerning cases outlined in the amendment offered by the gentleman from Indiana, and cases outlined in the preventive detention section. If it is not proper for Members of Congress to act in one case, it is not proper to do it in the other.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. Mr. Chairman, I just want to say that I enjoyed the gentleman's speech, and I stand my ground.

Mr. YATES. So do I.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The question was taken; and, on a division (demanded by Mr. JACOBS) there were—ayes 37, noes 54.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: Page 117, strike out lines 2 through 14 and insert in lieu thereof the following:

"an individual—

XUM

"(A) who is sixteen years of age or older and—

"(i) who is charged by the United States attorney with murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault to commit any such offense, or assault with a dangerous weapon, and

"(ii) who, before the charge referred to in clause (i), was, under circumstances where a motion could have been filed under section 16–2307 requesting transfer for criminal prosecution, found delinquent or was the subject of a consent decree entered after the filing of a delinquency petition; or

"(B) who is sixteen years of age or older and who is charged with a traffic offense.

An individual described in subparagraph (A) who makes a plea to a lesser included offense, who is convicted of a lesser included offense, or who is charged with an offense described in that subparagraph and with any other offense properly joinable with such offense shall be included in the definition of the term 'child'."

And on Page 117, line 17, strike out "or (C)".

Mr. GUDE. Mr. Chairman, this legislation contains a section which provides that a 16-year-old who is charged with a serious crime is automatically to be tried and sentenced as an adult. Mr. Chairman, the reason for my amendment is that I do not believe we can draw a black and white line at the 16-year-old first offender. I believe it should be provided that for 16-year-olds, this mandatory referral should be on the second serious offense, and that the juvenile court should retain the option of deciding whether the case of a first offender is to be waived to the adult court.

All of us have witnessed the great increase in crime committed by juveniles with alarm and dismay. Alarm, at a new generation of criminals; dismay, at a new generation of ruined lives. The bill before us is in many respects an excellent program to strengthen the juvenile court, streamline its procedures, and assure that speedier justice is given to young offenders, who need swift justice even more than their elders if the law is to command respect.

I agree, too, that many juveniles are too sophisticated and set in a pattern of criminal behavior to be reformed by the juvenile process before they reach age 21. Many more juveniles should be prosecuted and tried as adults, for the sake of both the community and the juvenile.

However, I fear that the committee bill goes too far in turning over juveniles to regular criminal proceedings. The fact that many more juveniles should be tried as adults does not persuade me that every 16-year-old charged with his first serious offense should be excluded from the juvenile court process without consideration of any other factor, such as his previous record. The majority of our States do not exclude 16-year-old first offenders from the juvenile courts, and I do not think we should adopt this drastic rule for the District of Columbia.

However, if a 16-year-old is charged with a second serious offense, and has already had the benefit of special juvenile disposition, I think we are on solid ground in concluding that he cannot be rehabilitated by the juvenile system and should be treated as an adult.

My amendment would transfer to adult court every juvenile 16 and older who has already been adjudicated by the juvenile court for a serious offense—that is, second offenders.

Let me point out that about a third of the juveniles referred to the juvenile court have already been adjudicated delinquent once, so these hardened, repeat offenders would all be tried as adults under my amendment. I believe our strengthened juvenile court system will be able to handle the remaining first offenders, once the hard core is transferred to adult court, and that we ought to give the reorganized court system a chance.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as much as it pains me to disagree with my good friend and colleague from Maryland, I feel compelled to do so.

I might say this amendment was offered in the committee and defeated 21 to 4.

I think what we have to recognize, as the gentleman does, that some individuals are very hardened criminals at a very early age. I, for one, support the constitutional amendment allowing 18-year-olds to vote. I think it is a perfectly logical extension of this to recognize the fact that some youngsters are hardened criminals at an early age.

The proposal that the gentleman talks about is sometimes referred to as the "one-bite" approach. In other words, let the child go through the juvenile system on the first offense and treat him as an adult only if he repeats. On its face it is very appealing but not when you consider that the first bite may be a murder or a forcible rape, and frequently is; nor when you consider that this may be the first offense that the individual was caught for, but is far from the first offense which he has committed. Moreover, this does not really apply the one-bite rule. The 14-year-old adjudicated as delinquent for armed assault or robbery and later charged with the same crime after his 16th birthday would still be considered a first offender under this amendment. Since he would not be eligible for waiver at the time of the first offense, it cannot be counted for the purpose of this law. Indeed, a 16-year-old with a record of offenses dating back to the age of 9 or 10 might escape adult treatment if he avoids waiverable offenses between the ages of 15 and 16.

In addition to the serious substantive problems posed by this amendment, the necessary procedures to decide who is an adult or a child create an administrative nightmare. A policeman who catches a youth in an armed robbery has to determine if he has a prior record and what the offense was and whether it was adjudicated and whether he is in a waiverable category before determining whether or not to take the child to the juvenile intake worker or the U.S. attorney. This places an intolerable burden on the police.

I want to make one point in connection with this section of the bill. It is very appealing when someone says that we ought to be very attentive to youngsters, and I agree, too. If we have any chance to rehabilitate a person, it should be among those who are young. What we are losing sight of, however, is that a very hardened individual at 15 or 16 years of age is thrown into a situation where he is in custody with 8-, 9-, 10-, and 11-year-olds. So that, while we are concerned with what the effect will be when the 15- or 16-year-old goes into confinement with adults we do not appear to be as concerned about the 8-, 9-, 10-, or 11-year-old who is being corrupted by the older hardened juvenile offender.

We should also not lose sight of the fact that this provision in our bill in no way eliminates the right of an individual to be tried under the Youth Correction Act. As far as I am concerned, the Youth Correction Act is a far more promising way to rehabilitate a youthful offender than by turning him over to the local welfare authorities.

Mr. CELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I desire to have the attention of the distinguished chairman of the District of Columbia Committee and call his attention to the provisions with reference to imprisonment for life.

On page 302 we find the provisions that if a defendant is guilty of three felonies, he may—and the word "may" is used on line 19, page 302—be sentenced for the rest of his natural life. And, on page 303, if the defendant is guilty of three violent crimes, he shall be sentenced for the rest of his natural life by the judge, and the definition is given as to what are violent crimes. They are enumerated on page 304 and include murder, manslaughter, rape, arson, mayhem, malicious disfiguring of another, abduction, kidnaping, burglary, robbery, housebreaking, indecent acts against children, assault with intent to kill, and so forth.

Those enumerated offenses are also felonies.

Now, which prevails, the permissive act on the part of the judge or the compulsory action as enunciated in the language?

Must the person be sentenced for life for three felonies or "may" he be sentenced for life? There is an inconsistency and I should like to get an elaboration upon it from the chairman of the committee.

Mr. McMILLAN. Mr. Chairman, I yield to the gentleman from Mississippi to respond to the question of the gentleman from New York.

Mr. ABERNETHY. The language that the gentleman last referred to covers crimes which are identified as violent crimes. In other words, if one is convicted the third time for a violent crime, then he must be sentenced for life. The other offenses are not identified as violent offenses or offenses which fall within the category which would require the determination as to whether or not he gets a life sentence. The giving of a life sentence as a result of those offenses is permissive.

Mr. CELLER. I understand that but the difficulty as I see it is that you enumerate as violent crimes felonies. All those violent crimes that you specify are also felonies.

Mr. ABERNETHY. Yes.

Mr. CELLER. What is the judge to do? Must he sentence for life or may he sentence for life?

Mr. ABERNETHY. If the offenses are those that are identified on page 304 fall within those on page 304 and if he is convicted for the third time for those offenses, he must be sentenced for life.

Mr. CELLER. The gentleman does not seem to get the gist or the thrust of my argument.

Mr. ABERNETHY. Perhaps I do not, but I thought I did.

Mr. CELLER. But those items that the gentleman speaks of are all felonies.

Mr. ABERNETHY. Indeed they are.

Mr. CELLER. We are dealing with a criminal statute and the language must be exact. This is not exact language. If you had defined those crimes which you deem to be felonies, I would not argue with you. But everything you put there under the category of violent crimes is also a felony.

Mr. ABERNETHY. If the gentleman will look at the language on page 302, beginning with line 9, the gentleman will see the following:

> Except as provided in subsection (b) . . .

Does that answer the gentleman's question?

Mr. CELLER. I do not think it does.

Then you go on to say if any person is convicted in the District of Columbia of a felony, and before the commission of such felony was convicted of at least two felonies—additional felonies—I think the language must before it leaves this Chamber be made more precise. Otherwise you are going to get yourself in a heap of trouble.

Mr. ABERNETHY. I would say that the gentleman is absolutely correct if felonies were limited to those which are set forth on page 304. But, there are many felonies other than those set forth on page 304 of the bill.

Mr. CELLER. I am sorry that I cannot convince the gentleman, but I think subsequent events will show that he is in error and that I am correct, and that will be rather dangerous because it might mean freedom for some very desperate criminals. At least, you might not be able to sentence him for life because of discrepancy here which I pointed out.

I think it would be well to address yourself before you conclude to get the language nailed down so that there will be no doubt about it.

Mr. GUDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in response to my colleague from Maryland, I would like to point out, in getting back to the subject of the amendment which we are presently considering, that judges now have the option of waiving a juvenile to the adult court on the first offense, so that 16-year-old juveniles who commit brutal, serious offenses can be waived. My amendment would merely make the mandatory provision applicable to second offenders, rather than first offenders.

Mr. HOGAN. Mr. Chairman, would the gentleman yield?

Mr. GUDE. I yield to the gentleman from Maryland.

Mr. HOGAN. The restrictions which the appellate court has placed on this procedure has resulted in the waiver of only 10 juveniles in the past year, in spite of the fact that there have been 22 murders and 88 rapes, all serious crimes, there have been only 10 waivers.

Mr. GUDE. I believe the gentleman will find that this legislation itself eases the waiver procedure, so that the old restrictions on waiver will no longer apply. In addition, the court will have, for the first time, the power to waive 15-year-olds to the regular courts for prosecution as adults.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I would just point out that in the bill you have a new transfer procedure which was discussed by the gentleman from Maryland who just spoke, at page 128, which allows the court to transfer, they can transfer clear down to the 15-year-old. The amendment offered by the gentleman from Maryland, who offered this amendment in committee, is an amendment on the mandatory section, which says it is mandatory if you are over 16, and if you are accused of any of those crimes that are listed on page 304, then you are in the adult court.

I want to say that it has also been suggested on page 306—and I hope the members of the committee will listen to this—you have now made the breaking into of a vending machine for bubble gum burglary in the second degree, and burglary is included under the definition on page 304 at line 7 as one of the crimes of violence.

Now, a second burglary conviction would put you in the position of being a 17-year-old, and automatically placed into the adult court, and if you were accused of a third one, as the chairman of the Committee on the Judiciary pointed out, it is not in the discretion of the judge as to a mandatory sentence, but it is without the judicial discretion that it is a mandatory sentence. I think the amendment offered by the gentleman is very well taken on the definitional area. We have left the transfer arrangement in so you can transfer a violent child, and the problem that the courts have had in the past is corrected. I appreciate the gentleman offering the amendment.

Mr. KYL. Mr. Chairman, I move to strike the necessary number of words.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, in connection with the observations made about the bubble gum machine. This amendment was in one of my bills, and it responds to the fact that some of the very sophisticated vending machine operations cost hundreds of thousands of dollars, and under the present law most such break-ins are prosecuted as misdemeanors, but this provision in the bill will also still allow the U.S. attorney the discretion of proceeding under the "bubble gun case" as a misdemeanor.

I thank the gentleman for yielding.

Mr. KYL. Mr. Chairman, of course one of the things involved in the waiving of juveniles is the fact that under a Federal court decision, evidence adduced against juveniles while so assigned cannot be used against the juvenile if he is waived to an adult court.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Gude).

The question was taken; and on a division (demanded by Mr. Adams), there were—ayes 29, noes 63.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Foley: On page 22, strike out lines 3 through 5 and insert in lieu thereof the following:
>
> "(b) Thirteen additional associate judges shall be appointed to the Superior Court as follows: Eighteen months after such effective date, nine additional associate judges shall be appointed, and thirty months after such effective date, four additional associate judges shall be appointed."

Mr. FOLEY. Mr. Chairman, the purpose of this amendment is to restore the number of judges recommended by the President and the administration in their original submissions to the committee.

There are presently 27 judges, local judges, in the District of Columbia, and the proposal of the administration is to raise that number to 50—adding 23 additional judges. These were to be phased in by immediate appointment of 10, with the creation of the court, and the appointment of nine additional judges in 2 years, and the appointment of four additional judges in 3 years.

My amendment changes that staging to 18 months and 30 months to comport with the jurisdictional staging in the bill as reported by the committee.

Like the gentleman from Mississippi (Mr. Abernethy) and the gentleman from Washington (Mr. Adams) who are both members of the committee, my trial experience has been largely involved in the past with the prosecution of criminal offenses.

I think it is very clear that where dockets are crowded and where the backload is great, and we have now in the District courts 1,500 felonies backed up, it is inevitable that there will be management of the backload by the acceptance of pleas to reduce charges, which does not necessarily lead to the proper administration of justice.

I asked Chief Judge Harold H. Green of the District of Columbia Court of General Sessions for his advice on this matter and I would like to report briefly what he has advised me.

I quote:

> It may reasonably be estimated that between 10 and 13 of the District Court's 20 active, working retired, and visiting judges are now handling local, as distinguished from federal, matters. Thus, the addition of 13 judges to the Superior Court contemporaneously with the transfer of the local jurisdiction to that court would not significantly add to the total judgepower available for the handling of the local cases. Court reorganization would relieve pressure on the District Court to rely on visiting and retired judges, and it would free that court to take on additional federal litigation now filed in other

> federal districts. But with the addition of only 13 more judges to the local bench it would do little to speed the disposition of local litigation.
>
> The number of judges presently assigned to that litigation (in local and federal courts combined) has proved to be inadequate and has led to the continually mounting backlogs, trial delays and wholesale reduction of criminal charges which are the prime target of the court reorganization bill. Even with increased efficiency resulting from consolidation, it cannot be expected that the number of judges found to be grossly inadequate for the local caseload would thereafter be sufficient.
>
> Specifically, with the addition of only 13 more judges, little or no additional judgepower would be available to handle the case overflow which is now causing almost every month an increase in Juvenile Court, General Sessions Court, and District Court backlogs and is thereby preventing swift trials and punishments, little or no additional judgepower would be available to permit the institution of tougher charging policies and a halt in the unwarranted reduction of felonies to misdemeanors; and little or no additional judgepower would be available to set up effective intra-family and juvenile proceedings. In short, without the additional judges, it would be difficult to achieve the aims of court reorganization.

Mr. Chairman, if we are serious about attacking the crime problem in the District of Columbia, one of the essential areas to reach is the inadequate number of judges in this city. The administration has recommended an additional 23 judges. The District Committee has reported 13. I think the President's letter contained the suggestion that Congress not take halfway measures. I believe the Committee has taken a halfway measure in the authorization of new judges.

The explanation of the District Committee in its report is that it does not feel the additional judges are justified considering the need for economy. I suggest that one of the areas that we should put on the lower level of priority in this problem is the problem of economy. We must realize that effective judicial administration and the removal of the backlog of cases, require the expenditure of funds. We are taking some strong action in this bill. One of the things we must do is to strengthen up the court system, to give it the full number of judges necessary to carry on the prompt and efficient administration of justice.

Mr. ABERNETHY. Mr. Chairman, I rise in opposition to the amendment.

I fully understand and appreciate the reasons assigned by my friend from the State of Washington for offering the amendment. Let me get the picture before you, and we will tell you what we did and why we did it.

There are now 27 judges of the court of general sessions. That is a great many judges. They are judges who will have jurisdiction of cases which will be common to State courts in your own States. The administration asked for 10 additional judges now, nine additional judges 2 years from now, and four additional judges, I believe, 3 years from now. I have forgotten the exact wordage. That is 23. That would be the equivalent, were they all granted now, of 50 judges with one judge for every 20,000 people, including men, women, and children. These judges do not work for nothing, although we were not exactly making an economy move. The salaries of these judges will be around $34,000 or $35,000. Inasmuch as the administration asked for only 10 judges now for a period of 2 years, we said, "Well, let us try with 10 now and three 2 years from now and see if that will not be enough, and if that will not be enough, the Congress will still be here and we will give you some more."

We went down to the Attorney General's office, and I never had a more satisfactory conference on a bill. This was one of the items we discussed. I presented it in this manner. I said, "Let us try this. It will not slow down what you are trying to do. You will get just exactly what you are seeking for this year and for next year, and it might be enough."

One of the learned judges was sitting there, an interesting man, a good friend of mine. He said, "Why not give the President the authority to appoint all 23 judges now, and then if he does not want to appoint all of them, he does not have to appoint them." Everybody laughed.

Members know they are not going to let a plum like that go by. I would not, if I had the authority to appoint them. Do Members know of any judgeships that go vacant in their district? A judgeship is the juiciest plum of all. That would not go vacant.

But the limitation we put on, the limitation of judges now, does not slow down what they requested. They went along with us. They are agreeable to it. They did want to appoint the judges for life, which we did not agree to, and which I think is better. So we decided to give them the 10 now and the nine 2 years from now if found they have not enough. We will still be in business here—I hope we will—and we can then authorize the others.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Washington.

Mr. FOLEY. The gentleman suggested if 2 years from now additional judges are needed, the Congress will be here, but is it not true that 2 years from now the additional criminal jurisdiction and thus a heavier load of cases will be thrust upon the Supreme Court?

Mr. ABERNETHY. Yes; and this is another thing I want to put in. I say it reluctantly, but the judges do not put in the hours that the gentleman and I put in. The courts do not open until about 10 in the morning. I think that is a little late. Most of the time they adjourn at 4. They take out 1½ to 2 hours for lunch. I am not criticizing them. There is nothing more delightful than being a judge. It is just the most delightful thing of all. I used to look at my judge when I was a district attorney and observe that easy job he had, sitting there and just saying "sustained" or "overruled." And that is about all he had to do.

If the courts would open earlier and work longer—and we have suggested that, I will say to the gentleman—that would help.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, if the gentleman from Mississippi will give me his attention, if, in fact, additional judges are needed after the 18-month period, we will only know this in terms of further backlogs being created in the courts of the District. Is that not correct?

Mr. ABERNETHY. Yes. If the backlog shows up, that would happen. But they will ask for it themselves 2 years from now.

Mr. FOLEY. Are we not taking the risk of creating a backlog and reducing the efficiency of the courts by denying the request requiring the addition of these additional judges as the transfer of jurisdiction occurs? Is that not the theory?

Mr. ABERNETHY. I have made a lot of mistakes, but I do not think this is a mistake. We have made an evaluation, and we have made available to them just exactly what they asked for in the next 2 years. Next year or the year after, after a year of operation of this court, if this backlog does not begin to be depleted, the committee can go back to work and consider giving them additional judges.

Mr. FOLEY. Was that decision of the committee as explained in the report, based primarily on economy?

Mr. ABERNETHY. I do not know what is in the report, because I did not write it, but my decision—I did not handle the whole thing—was based on what I just said in the well of the House, that I thought this city could make it with 40 judges, and keep up. At least they will have an opportunity to try that. I do not know if they can do it. But they will try it on the outline sent up by the administration.

Mr. FOLEY. I know the gentleman had a distinguished record as a prosecutor.

Mr. ABERNETHY. It was quite ordinary, but I got by.

Mr. FOLEY. Where prosecuting officials face crowded calendars and courts, the eventual result is for them to tend to reduce cases, to get pleas and to move the docket, is that not correct?

Mr. ABERNETHY. Yes.

Mr. FOLEY. And are we not risking, if we have a shortage of judges, just that sort of conduct in the U.S. attorney's office as a result of not having adequate trial calendars to move cases along at the proper times?

Mr. ABERNETHY. I honestly do not think we have that risk here.

Mr. YATES. Mr. Chairman, may I ask the gentleman what the current backlog of criminal cases is? There was a statement on the floor a few minutes ago that there was a backlog of 1,500 felonies.

If that is true, with due respect to the gentleman's charming delineation of the life of a judge, the fact remains that those who want speedy trials for defendants charged with heinous crimes believe there ought to be the means of disposing of the cases quickly, of providing sufficient number of judges to do the job. The administration has recommended more judges to deal with the situation than the committee has provided.

I yield to the gentleman from Mississippi.

Mr. ABERNETHY. These judges the gentleman speaks of will not go on the court until 2 or 3 years from now.

Mr. YATES. Then there will be a bigger backlog.

Mr. ABERNETHY. They do not have any place to put them. They have to build a courthouse for them. They have to have facilities. There is no place to put these we are adding now.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Washington.

Mr. FOLEY. Under the amendment I have offered, is it not true we would provide the same number of judges immediately that the committee has called for and that the administration has called for?

Mr. ABERNETHY. That is correct.

Mr. FOLEY. The purpose of the amendment, as I am sure the gentleman knows, is to phase in in 18 months nine additional judges instead of the three authorized by the committee bill, exactly as was recommended by the Justice Department and by the administration. At the end of 30 months, when additional civil jurisdiction goes to this court, which will require additional civil cases to be handled, there would be an additional four judges.

I did not want the gentleman to misunderstand, and I am sure he does not. We are not adding these additional judges now. We are adding them in a phased way exactly in terms of number and roughly in terms of time as the original administration request.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield to me in regard to the backlog of cases?

Mr. YATES. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. In my experience as a prosecutor, I have never found that these people are always ready for trial. Lawyers come into court and ask for continuances. Sometimes the backlog is the result of lawyers saying, "I have to try a lawsuit in Baltimore and I cannot be here tomorrow."

Mr. YATES. I agree with the gentleman. That is why I wondered why he compared congressional activity with that of the courts. There is a difference between the two types of activity. Judges cannot control their calendars. They can try, but lawyers, especially good ones have more than one client and more than one case and lawyers cannot be in two courts at the same time. Yes, there are judges who can work harder and spend more time in their courtrooms, but the fact remains that even if they do, a very substantial part of the backlog will remain. Defendants are entitled to a quick trial, and quick trials, too, are desirable to protect the community. Let's make sure there are enough judges to handle the cases.

Mr. JACOBS. Mr. Chairman, I rise in opposition to the amendment.

I should like to endorse what the gentleman from Mississippi said. When we made a determination about the number of additional judges we were recommending to the committee for authorization, we made that determination on the basis of actual need and not what the need might be. If we would err we would err on the side of safety of having enough judges.

The point is that we have several years to determine whether it would be an error. When the time comes we will have a better picture of what is needed.

Surely, it was partly a fiscal responsibility to make the adjustment, but it was a fiscal responsibility consistent with the needs and the facts as our committee understood them.

I stand with the gentleman from Mississippi on this matter.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Washington.

Mr. FOLEY. The gentleman just made a very impassioned speech a few minutes ago about the necessity for handling violent crime.

Mr. JACOBS. That is right.

Mr. FOLEY. I supported the gentleman on that amendment. Unfortunately, it did not carry.

Perhaps one of the ways we can speed the trials for violent crimes is to have sufficient judges available and to have them available at the time the defendant is ready for trial, and not anticipate by saving a few hundred thousands dollars a year we will do the people of this district or the people of the United States any good in the fight against crime.

Mr. JACOBS. I respond to the gentleman by saying obviously I offered my amendment in the context of those judges authorized under this bill. I am convinced that was a sufficient number of judges for that purpose.

When the time comes, if additional judges are required, we will not have to guess at it. That is the point. When the time comes we can find out definitely whether any additional judges are needed.

Mr. FOLEY. The way we will find out is by having another backlog build up.

Mr. JACOBS. One does not have to have his basement fill up with water before he calls a plumber. If the water begins to leak a little he will call a plumber. But he will not call a plumber if he does not have any trouble at all.

Our best recommendation is that proposed by the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington, Mr. FOLEY.

The amendment was rejected.

The CHAIRMAN. Are there any further amendments? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—CRIMINAL LAW AND PROCEDURE

SENTENCING OF MULTIPLE OFFENDERS

SEC. 201. (a) Section 907 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 22–104), is amended to read as follows:

"SEC. 907. Except as provided in section 907A(b), if any person—

"(1) is convicted of a criminal offense (other than a non-moving traffic offense) under a law applicable exclusively to the District of Columbia, and

"(2) was previously convicted of a criminal offense under any law of the United States or of a State or territory of the United States which offense, at the time of the conviction referred to in paragraph (1), is the same as, constitutes, or necessarily includes the offense referred to in that paragraph,

such person may be sentenced to pay a fine in an amount not more than one and one-half times the maximum fine prescribed for the conviction referred to in paragraph (1) and sentenced to imprisonment for a term not more than one and one-half times the maximum term of imprisonment prescribed for that conviction. If such person was previously convicted more than once of an offense described in paragraph (2), he may be sentenced to pay a fine in an amount not more than three times the maximum fine prescribed for the conviction referred to in paragraph (1) and sentenced to imprisonment for a term not more than three times the maximum term of imprisonment prescribed for that conviction. No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this section."

(b) Such Act is amended by adding after section 907 the following new section:

"SEC. 907A. (a)(1) Except as provided in subsection (b), if any person—

"(A) is convicted in the District of Columbia of a felony, and

"(B) before the commission of such felony, was convicted of at least two felonies,

and the court is of the opinion that the history and character of such person and the nature and circumstances of his criminal conduct indicate that extended incarceration or lifetime supervision, or both, will best serve the public interest, the court may, in lieu of any sentence otherwise authorized for the felony referred to in subparagraph (A), impose such greater sentence as it deems necessary, including imprisonment for the natural life of such person.

"(2) For purposes of subparagraph (B) of paragraph (1)—

"(A) a person shall be considered as having been convicted of a felony if he was convicted (i) of a felony in a court of the District of Columbia or of the United States, or (ii) in any other jurisdiction of a crime classified as a felony under the laws of that jurisdiction or punishable by imprisonment for more than two years; and

"(B) a person shall be considered as having been convicted of two felonies if his initial sentencing under a conviction of one felony preceded the commission of the second felony for which he was convicted.

No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this subsection.

"(b)(1) If any person—

"(A) is convicted in the District of Columbia of a violent crime, and

"(B) before the commission of such violent crime, was convicted of at least two violent crimes,

the court shall (unless it imposes the death sentence) sentence him to imprisonment for his natural life, with eligibility for parole only after the expiration of twenty years from the date his imprisonment begins. Imposition or execution of sentence under this subsection shall not be suspended, probation shall not be granted, and chapter 402 of title 18 of the United States Code (Federal Youth Corrections Act) shall not apply.

"(2)(A) For purposes of this subsection, the term 'violent crime' means any violation of the laws of the United States (including laws applicable exclusively to the District of Columbia) or of a State or territory of the United States, which violation would constitute under the laws applicable exclusively to the District of Columbia any of the following crimes: Murder, manslaughter, rape, arson, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, robbery, housebreaking, indecent acts against children, assault with intent to kill, to commit rape, or to commit robbery, assault with a dangerous weapon, assault on a police or correctional officer, or assault with intent to commit any offense punishable by imprisonment for more than one year.

"(B) For purposes of this subsection, (i) a person shall be considered as having been convicted of two violent crimes in his initial sentencing under a conviction of one such crime preceded the commission of the second violent crime for which he was convicted, and (ii) no conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this subsection."

CONSPIRACY

SEC. 202. Such Act of March 3, 1901, is further amended by adding after section 908 the following new section:

"SEC. 908A. (a) If two or more persons conspire either to commit a criminal offense or to defraud the District of Columbia or any court or agency thereof in any manner or for any purpose, each shall be fined not more than $10,000 or imprisoned not more than five years, or both, except that if the object of the conspiracy is a criminal offense punishable by less than five years, the maximum penalty for the conspiracy shall not exceed the maximum penalty provided for that offense.

"(b) No person may be convicted of conspiracy unless an overt act is alleged and proved to have been committed by one of the conspirators pursuant to the conspiracy and to effect its purpose.

"(c) When the object of a conspiracy contrived within the District of Columbia is to engage in conduct in a jurisdiction outside the District of Columbia which would constitute a criminal offense under an Act of Congress applicable exclusively to the District of Columbia if performed therein, the conspiracy is a violation of this section if (1) such conduct would also constitute a crime under the laws of the other jurisdiction if performed therein, or (2) such conduct would constitute a criminal offense under an Act of Congress exclusively applicable to the District of Columbia even if performed outside the District of Columbia.

"(d) A conspiracy contrived in another jurisdiction to engage in conduct within the District of Columbia which would constitute a criminal offense under an Act of Congress exclusively applicable to the District of Columbia if performed within the District of Columbia is a violation of this section when an overt act pursuant to the conspiracy is committed within the District of Columbia. Under such circumstances, it is immaterial and no defense to a prosecution for conspiracy that the conduct which is the object of the conspiracy would not constitute a crime under the laws of the other jurisdiction."

SECOND DEGREE BURGLARY EXTENDED TO BREAKING AND ENTERING VENDING MACHINES AND SIMILAR DEVICES

SEC. 203. Section 823(b) of such Act of March 31, 1901 (D.C. Code, sec. 22–1801), is amended by inserting after "deposited and kept for the purpose of trade," the following: "or any parking meter, coin telephone, vending machine dispensing goods or services, money changer, or any other device designed to receive currency,".

PENALTY FOR RAPE

SEC. 204. Section 808 of such Act of March 31, 1901 (D.C. Code, sec. 22–2801), is amended to read as follows:

"SEC. 808. Whoever has carnal knowledge of a female forcibly and against her will or whoever carnally knows and abuses a female child under sixteen years of age, shall be imprisoned for any term of years or for life."

COMMITTING CRIME OF VIOLENCE WHILE ARMED

SEC. 205. (a) Section 2 of the Act entitled "An Act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes", approved July 8, 1932 (D.C. Code, sec. 22–3202), is amended to read as follows:

"SEC. 2. (a) If any person commits a crime of violence in the District of Columbia when armed with or having readily available any pistol or other firearm (or imitation thereof) or other dangerous or deadly weapon (including a sawed-off shotgun, shotgun, machinegun, rifle, dirk, bowie knife, butcher knife, switchblade knife, razor, blackjack, billy, or metallic or other false knuckles) he shall, in addition to the punishment provided for the crime of violence—

"(1) if he is convicted for the first time of having so committed a crime of violence in the District of Columbia, be sentenced to a minimum period of imprisonment of not less than three years, and a maximum period of imprisonment which may not be less than three times the minimum sentence imposed and which may be up to life imprisonment.

"(2) if he is convicted more than once of having so committed a crime of violence in the District of Columbia, be sentenced to a minimum period of imprisonment of not less than ten years, and a maximum period of imprisonment which may not be less than three times the minimum sentence imposed and which may be up to life imprisonment.

"(b) Where the maximum sentence imposed under this section is life imprisonment the minimum sentence imposed under subsection (a) may not exceed fifteen years' imprisonment.

"(c) Any person sentenced under this section may be released on parole in accordance with the Act of July 15, 1932 (chapter 2 of title 24 of the District of Columbia Code), at any time after having served the minimum sentence imposed under this section.

"(d)(1) Chapter 402 of title 18 of the United States Code (Federal Youth Corrections Act) shall not apply with respect to any person sentenced under paragraph (2) of subsection (a).

"(2) The execution or imposition of any term of imprisonment imposed under this section may not be suspended and probation may not be granted. Nothing contained in this section shall be construed as reducing any sentences otherwise imposed or authorized to be imposed.

"(e) No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this section."

(b) Section 13 of such Act is amended by striking out "This" and inserting in lieu thereof the following: "Except as provided in section 2 and section 14(b) of this Act, this".

RESISTING ARREST

SEC. 206. Subsection (a) of section 432 of the Revised Statutes relating to the District of Columbia (D.C. Code, sec. 22–505(a)) is amended by inserting at the end thereof the following: "It is neither justifiable nor excusable cause for a person to use force to resist an arrest when such arrest is made by an individual he has reason to believe is a law enforcement officer, whether or not such arrest is lawful."

INSANE CRIMINALS

SEC. 207. Section 927 of the Act of March 3, 1901 (D.C. Code, sec. 24–301), is amended—

(1) by striking out "Whenever a person is arrested" and all that follows down through "period of probation" in the first sentence of subsection (a) and inserting in lieu thereof the following: "Whenever a person is arrested or indicted for, or charged by information with, an offense, or a child is the subject of a transfer motion in the Family Division of the Superior Court of the District of Columbia pursuant to section 16–2331 of the District of Columbia Code, and before the imposition of sentence, the expiration of any period of probation, or prior to hearing on the transfer motion, as the case may be,";

(2) by striking out the period at the end of the second sentence of subsection (a) and inserting in lieu thereof "or to participate in transfer proceedings.";

(3) by inserting after "stand trial" in the third sentence of subsection (a) "or to participate in transfer proceedings";

(4) by inserting after "stand trial" in both places it appears in subsection (b) "or to participate in transfer proceedings";

(5) by amending subsection (d) to read as follows:

"(d) If any person tried upon an indictment or information for an offense raises the defense of insanity and is acquitted solely on the ground that he was insane at the time of its commission, he shall be committed to a hospital for the mentally ill until such time as he is eligible for release pursuant to subsection (e).";

(6) by adding at the end of subsection (j) the following sentence: "No person accused of an offense shall be acquitted on the ground that he was insane at the time of its commission unless his insanity, regardless of who raises the issue, is affirmatively established by a preponderance of the evidence."; and

(7) by adding at the end thereof the following new subsection:

"(k)(1) A person in custody or conditionally released from custody, pursuant to the provisions of this section, claiming the right to be released from custody, the right to any change in the conditions of his release, or other relief concerning his custody, may move the court having jurisdiction to order his release, to release him from custody, to change the conditions of his release, or to grant other relief.

"(2) A motion for relief may be made at any time.

"(3) Unless the motion and the files and records of the case conclusively show that the person is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto. On all issues raised by his motion, the person shall have the burden of proof. If the court finds that the person is entitled to his release from custody, either conditional or unconditional, a change in the conditions of his release, or other relief, the court shall enter such order as may appear appropriate.

"(4) A court may entertain and determine the motion without requiring the production of the person at the hearing.

"(5) A court shall not be required to entertain a second or successive motion for relief under this section more often than once every six months. A court for good cause shown may in its discretion entertain such a motion more often than once every six months.

"(6) An appeal may be taken from an order entered under this section to the court having jurisdiction to review final judgments of the court entering the order.

"(7) An application for habeas corpus on behalf of a person who is authorized to apply for relief by motion pursuant to this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court having jurisdiction to entertain a motion pursuant to this section, unless it also appears that the remedy by motion is inadequate or ineffective to test the validity of his detention."

NARCOTIC DRUGS

SEC. 208. Section 23 of the Uniform Narcotic Drug Act (D.C. Code, sec. 33–423) is amended to read as follows:

"SEC. 23. (a) Except as hereinafter provided, a person violating any provision of this Act, or any regulation made by the Commissioner of the District of Columbia or the District of Columbia Council under authority of this Act, for which no specific penalty is otherwise provided, shall be fined not less than $100 nor more than $1,000, or imprisoned for not more than one year, or both.

"(b) A person convicted of an offense punishable pursuant to this section, who shall have previously been convicted in the District of Columbia of such an offense, or who shall have previously been convicted, either in the District of Columbia or elsewhere, of a violation of the laws of the United States or of a State or subdivision thereof which would have been a violation of this Act and punishable pursuant to this section if committed in the District of Columbia and prosecuted pursuant to this Act, shall be fined not less than $500 nor more than $5,000 or imprisoned for not more than ten years, or both.

"(c) For additional penalties for two or more violations of this Act, see sections 907 and 907A of the Act of March 3, 1901 (as amended by title II of the District of Columbia Court Reform and Criminal Procedure Act of 1970)."

CODIFICATION OF TITLE 23 OF DISTRICT OF COLUMBIA CODE

SEC. 209. (a) The general and permanent laws of the District of Columbia relating to criminal procedure are revised, codified, and enacted as title 23 of the District of Columbia Code, "Criminal Procedure", and may be cited "D.C. Code, sec.   ", as follows:

"TITLE 23.—CRIMINAL PROCEDURE

"Chap.	Sec.
"1. General provisions	23–101
"1. General Provisions	23–101
"3. Indictments and Informations	23–301
"5. Warrants and Arrests	23–501
"7. Extradition and Fugitives from Justice	23–701
"9. Fresh Pursuit	23–901
"11. Professional Bondsmen	23–1101
"13. Bail Agency and Pretrial Detention	23–1301
"15. Out-of-State Witnesses	23–1501
"17. Death Penalty	23–1701

"Chapter 1.—GENERAL PROVISIONS

"Sec.
"23–101. Conduct of prosecutions.
"23–102. Abandonment of prosecution; enlargement of time for taking action.
"23–103. Statements prior to sentence.
"23–104. Appeals by United States and District of Columbia.
"23–105. Challenges to jurors.
"23–106. Witnesses for defense; fees.
"23–107. Discharge or acquittal of joint defendant druing trial in order to be witness.
"23–108. Depositions.
"23–109. Powers of investigators assigned to United States attorney.
"23–110. Remedies on motion attacking sentence.
"23–111. Proceedings to establish previous convictions.
"23–112. Concurrent and consecutive sentences.

"§ 23–101. Conduct of prosecutions

(a) Prosecutions for violations of all police or municipal ordinances or regulations and for violations of all penal statutes in the nature of police or municipal regulations, where the maximum punishment is a fine only, or imprisionment not exceeding one year, shall be conducted in the name of the District of Columbia by the Corporation Counsel for the District of Columbia or his assistants, except as otherwise provided in such ordinance, regulation, or statute, or in this section.

"(b) Prosecutions for violations of section 6 of the Act of July 29, 1892 (D.C. Code, sec. 22–1107), relating to disorderly conduct, and for violations of section 9 of that Act (D.C. Code, sec. 22–1112), relating to lewd, indecent, or obscene acts, shall be conducted in the name of the District of Columbia by the Corporation Counsel or his assistants.

(c) All other criminal prosecutions shall be conducted in the name of the United States by the United States attorney for the District of Columbia or his assistants, except as otherwise provided by law.

"(d) An indictment or information brought in the name of the United States may include, in addition to offenses prosecutable by the United States, offenses prosecutable by the District of Columbia, and such prosecution shall be conducted by the United States attorney in the name of the United States, if the written consent of the Corporation Counsel (or his assistant authorized to consent to such prosecution) is filed in such case.

"(e) Separate indictments or informations, or both, charging offenses prosecutable by the District of Columbia and by the United States may be joined for trial if the offenses charged therein could have been joined in the same indictment. Such prosecution may be conducted either solely by the Corporation Counsel or his assistants or solely by the United States attorney or his assistants if the other prosecuting authority consents.

"(f) If in any case any question shall arise as to whether, under this section, the prosecution should be conducted by the Corporation Counsel or by the United States attorney, the presiding judge shall forthwith, either on his own motion or upon suggestion of the Corporation Counsel or the United States attorney, certify the case to the District of Columbia Court of Appeals, which court shall hear and determine the question in a summary way. In every such case the defendant or defendants shall have the right to be heard in the District of Columbia Court of Appeals. The decision of such court shall be final.

"§ 23–102. Abandonment of prosecution; enlargement of time for taking action

"If any person charged with a criminal offense shall have been committed or held to bail to await the action of the grand jury and within nine months thereafter the grand jury shall not have taken action on the case, either by ignoring the charge or by returning an indictment, the prosecution of such charge shall be deemed to have been abandoned and the accused shall be set free or his bail discharged, as the case may be: but, the court having jurisdiction to try the offense for which the person has been committed, when practicable and upon good cause shown in writing and upon due notice to the accused, may from time to time enlarge the time for the taking action in such case by the grand jury.

"§ 23–103. Statements prior to sentence

"Before imposing sentence the court may disclose to the defendant's counsel and to the prosecuting attorney, but not to one and not to the other, all or part of any presentencing report submitted to the court in the case. The court also prior to imposing sentence shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of punishment. At any time when the defendant or his counsel addresses the court on the sentence to be imposed, the prosecuting attorney shall, if he wishes, have an equivalent opportunity to address the court and to make recommendation to the court on the sentence to be imposed and to present information in support of his recommendation. Such information as the defendant or his counsel or the prosecuting attorney may present shall at all times be subject to the applicable rules of mutual discovery.

"§ 23–104. Appeals by United States and District of Columbia

"(a)(1) The United States or the District of Columbia may appeal an order, entered before the trial of a person charged with a criminal offense, which directs the return of seized property, suppresses evidence, or otherwise denies the prosecutor the use of evidence at trial, if the United States attorney or the Corporation Counsel conducting the prosecution for such violation certifies to the judge who granted such motion that the appeal is not taken for purpose of delay and the evidence is a substantial proof of the charge pending against the defendant.

"(2) A motion for return of seized property or to suppress evidence shall be made before trial unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion.

"(b) The United States or the District of Columbia may appeal a ruling made during the trial of a person charged with a criminal offense which suppresses or otherwise denies the prosecutor the use of evidence on the ground that it was invalidly obtained, if the United States attorney or the Corporation Counsel conducting the prosecution for such violation certifies to the judge that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of the charge being tried against the defendant. The court shall either adjourn the trial until the appeal shall be resolved or declare a mistrial and continue the case until the appeal shall be resolved.

"(c) The United States or the District of Columbia may appeal an order dismissing an indictment or information or otherwise terminating a prosecution in favor of a defendant or defendants as to one or more counts thereof, except where there is an acquittal on the merits.

"(d) The United States or the District of Columbia may appeal any other ruling made during the trial of a person charged with an offense which the United States attorney or the Corporation Counsel certifies as involving a substantial and recurring question of law which requires appellate resolution. Such an appeal may be taken during a trial only with leave of the court, and upon allowing such an appeal during a trial the court shall adjourn the trial until the appeal shall be resolved or declare a mistrial and continue the case until the appeal shall be resolved. Such an appeal may be taken after trial, and the appellate court shall decide the question of law which has been certified as substantial and recurring, but a verdict in favor of the defendant shall not be set aside.

"(e) Any appeal taken pursuant to this section either during or prior to trial shall be expedited.

"(f) Pending the prosecution and determination of an appeal taken pursuant to this section, the defendant shall be detained or released in accordance with chapter 13 of this title or chapter 207 of title 18, United States Code.

"§ 23–105. Challenges to jurors

"(a) In a trial for an offense punishable by death, each side is entitled to twenty peremptory challenges. In a trial for an offense punishable by imprisonment for more than one year, each side is entitled to ten peremptory challenges. In all other criminal cases, each side is entitled to three peremptory challenges. If there is more than one defendant, or if a case is prosecuted both by the United States and by the District of

Columbia, the court may allow additional peremptory challenges and permit them to be exercised separately or jointly, but in no event shall one side be entitled to more peremptory challenges than the other.

"(b) The court may direct that jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. In addition to those otherwise allowed, each side is entitled to one peremptory challenge if one or two alternate jurors are to be impaneled, to two peremptory challenges if three or four alternate jurors are to be impaneled, and to three peremptory challenges if five or six alternate jurors are to be impaneled.

"(c) Any juror or alternate juror may be challenged for cause.

"(d) No verdict shall be set aside for any cause which might be alleged as ground for challenge of a juror before the jury is sworn, except when the objection to the juror is that he had a bias against the defendant such as would have disqualified him, such disqualification was not known to or suspected by the defendant or his counsel before the juror was sworn, and the basis for such disqualification was the subject of examination or request for examination of the prospective jurors by or on request of the defendant.

"§ 23-106. Witnesses for defense; fees

"The court shall order at any time that a subpoena be issued for service upon a named witness on behalf of a defendant if the defendant makes an application for such an order and makes a satisfactory showing that he is financially unable to pay the fees of the witness and that the presence of the witness is necessary to an adequate defense. If the court orders the subpoena to be issued the costs incurred by the process and the fees of the witness so subpoenaed shall be paid in the same manner in which similar costs and fees are paid in case of a witness subpoenaed in behalf of the prosecuting authority.

"§ 23-107. Discharge or acquittal of joint defendant during trial in order to be witness

"(a) When two or more persons are jointly indicted or charged by information, or charged by separate indictments or informations which have been joined for trial, the court may, with the consent of the prosecuting authority, direct that a defendant who has not gone into his defense be discharged so that he may be a witness for the prosecution.

"(b) When two or more persons are jointly tried, a person desiring that another defendant testify on his behalf may request a judgment of acquittal on behalf of such defendant, which the court shall consider in the same manner as a motion made by such defendant.

"(c) At the request of a defendant who wishes to testify on behalf of another person with whom he is jointly tried, if the evidence against such defendant is sufficient to be submitted to the jury and if such other person consents, the court may submit the case concerning such defendant to the jury separately so that his testimony may not be considered against him by such jury.

"(d) A discharge granted pursuant to subsection (a), or an acquittal secured pursuant to subsection (b) or (c), shall be a bar to another prosecution for the same offense of the defendant so discharged or acquitted.

"§ 23-108. Depositions

"(a) If a material witness for either the prosecution or the defendant resides more than twenty-five miles from the place of holding court, is sick or infirm, or is about to leave the District of Columbia, and the prosecution or the defendant applies in writing to the court for a commission to examine such witness when the deposition is to be taken beyond the District of Columbia, the court may grant the commission and enter an order stating for what length of time notice shall be given to the other party before such witness shall be examined. At or before the time fixed in the notice, when the examination is upon written interrogatories, the other party may file cross-interrogatories, but if he fails to do so the clerk shall file the following interrogatories:

"(1) Are all your statements in the foregoing answers made from your own personal knowledge? If not, show what is stated upon information and give its source.

"(2) State everything you know in addition to what is stated in your above answers concerning this case favorable to either the prosecution or the defendant.

"(b) The court may order in any case that the examination be conducted orally.

"(c) The commission shall issue from the clerk's office, the examination of the witnesses shall be made and certified, and the return thereof made in the same manner as in civil cases, and unimportant irregularities or errors in the proceedings under the commission shall not cause the deposition to be excluded where no substantial prejudice can be wrought to the prosecution or the defendant by such irregularities or errors.

"§ 23-109. Powers of investigators assigned to United States attorney

"Any special investigator appointed by the Attorney General and assigned to the United States attorney for the District shall have authority to execute all lawful writs, process, and orders issued under authority of the United States, and command all necessary assistance to execute his duties, and shall have the same powers to make arrests as are possessed by members of the Metropolitan Police Department of the District of Columbia.

"§ 23-110. Remedies on motion attacking sentence

"(a) A prisoner in custody under sentence of the Superior Court claiming the right to be released upon the ground that (1) the sentence was imposed in violation of the Constitution of the United States or the laws of the District of Columbia, (2) the court was without jurisdiction to impose the sentence, (3) the sentence was in excess of the maximum authorized by law, (4) the sentence is otherwise subject to collateral attack, may move the court to vacate, set aside, or correct the sentence.

"(b) A motion for such relief may be made at any time.

"(c) Unless the motion and files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and conclusions of law with respect thereto. If the court finds that (1) the judgment was rendered without jurisdiction, (2) the sentence imposed was not authorized by law or is otherwise open to collateral attack, (3) there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner, resentence him, grant a new trial, or correct the sentence, as may appear appropriate.

"(d) A court may entertain and determine the motion without requiring the production of the prisoner at the hearing.

"(e) The court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

"(f) An appeal may be taken to the District of Columbia Court of Appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

"(g) An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section shall not be entertained by the Superior Court or by any Federal or State court if it appears that the applicant has failed to make a motion for relief under this section or that the Superior Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

"§ 23-111. Proceedings to establish previous convictions

"(a) (1) After conviction of (but before pronouncement of sentence on) a person for an offense under the laws applicable exclusively to the District of Columbia the United States attorney or the Corporation Counsel, as the case may be, shall file an information informing the court of any previous convictions that would subject such person to increased punishment. A copy of such information shall be served upon counsel for the person before sentence is imposed.

"(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

"(3) Whenever an information has been filed under this section with respect to a person who stands convicted following a plea of guilty, the court shall allow the person to withdraw the plea upon a showing that, at the time the plea was entered, the person did not know that his previous convictions would subject him to increased punishment.

"(b) If the prosecutor files an information under this section, the court shall inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a previous conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

"(c) (1) If the person denies any allegation of the information of previous conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the prosecuting authority shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

"(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a previous conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

"(d) (1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of previous convictions, the court shall proceed to impose sentence upon him as provided by law.

"(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the prosecutor, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by law. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

"§ 23-112. Consecutive and concurrent sentences

"A sentence imposed on a person for conviction of an offense shall, unless the court imposing such sentence expressly provides otherwise, run consecutively to any other sentence imposed on such person for conviction of an offense, whether or not the offense (1) arises out of another transaction, or (2) arises out of the same transaction and requires proof of a fact which the other does not.

"Chapter 3.—INDICTMENTS AND INFORMATIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.

"23-301. Prosecution by indictment or information.

"SUBCHAPTER II—JOINDER

"23-311. Joinder of offenses and of defendants.

"23-312. Joinder of indictments or informations for trial.

"23-313. Relief from prejudicial joinder.

"23-314. Joinder of inconsistent offenses concerning the same property.

"SUBCHAPTER III—SUFFICIENCY

"23-321. Description of money.

"23-322. Intent to defraud.

"23-323. Perjury.

"23-324. Subornation of perjury.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 23-301. Prosecution by indictment or information

"An offense prosecuted in the Superior Court which may be punished by death shall be prosecuted by indictment returned by a grand jury. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, but it may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment. Any other offense may be prosecuted by indictment or by information. An information subscribed by the proper prosecuting officer may be filed without leave of court.

"SUBCHAPTER II—JOINDER

"§ 23-311. Joinder of offenses and of defendants

"(a) Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

"(b) Two or more offenses may be charged in the same indictment or information as provided in subsection (a) even though one or more is in violation of the laws of the United States and another is in violation of laws applicable exclusively to the District of Columbia and may be prosecuted as provided in section 11-502(a)(3) of title 11.

"(c) Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately and all of the defendants need not be charged in each count.

"§ 23-312. Joinder of indictments or informations for trial

"The court may order two or more indictments or informations or both to be tried together if the offenses, and the defendants if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were under such single indictment or information.

"§ 23-313. Relief from prejudicial joinder

"If it appears that a defendant or the government is prejudiced by a joinder of offenses or of defendants in an indictment or information or by such joinder for trial together, the court may order an election or separate trials of counts, grant a severance of defendants, or provide whatever other relief justice requires. In ruling on a motion by a defendant for severance the court may order the attorney for the government to deliver to the court for inspection in camera any statements or confessions made by the defendants which the government intends to introduce in evidence at the trial.

"§ 23-314. Joinder of inconsistent offenses concerning the same property

"An indictment or information may contain a count for larceny, a count for obtaining the same property by false pretenses, a count for embezzlement thereof, and a count for receiving or concealing the same property, knowing it to be stolen or embezzled, or any of such counts, and the jury may convict of any of such offenses, and may find any or all of the persons indicted guilty of any of said offenses.

"SUBCHAPTER III—SUFFICIENCY

"§ 23-321. Description of money

"In every indictment or information, except for forgery, in which it is necessary to make an averment as to any money or bank bill or notes, United States Treasury notes, postal and fractional currency, or other bills, bonds, or notes, issued by lawful authority and intended to pass and circulate as money, it shall be sufficient to describe such money, bills, notes, currency, or bonds simply as money, without specifying any particular coin, note, bill, or bond; and such allegation shall be sustained by proof that the accused has stolen or embezzled any amount of coin, or any such note, bill, currency, or bond, although the particular amount or species of such coin, note, bill, currency, or bond be not proved.

"§ 23-322. Intent to defraud

"In an indictment or information in which it is necessary to allege an intent to defraud, it shall be sufficient to allege that the party accused did the act complained of with intent to defraud, without alleging an intent to defraud any particular person or body corporate. On the trial of such an indictment or information it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove a general intent to defraud.

"§ 23-323. Perjury

"In every information or indictment for perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, and by what court, or before whom the oath was taken (averring such court, or person or persons, to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record of proceeding either in law or equity, other than as aforesaid; and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed; any law, usage, or custom to the contrary notwithstanding.

"§ 23-324. Subornation of perjury

"In every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed, any law, usage, or custom to the contrary notwithstanding.

"Chapter 5.—WARRANTS AND ARRESTS

"SUBCHAPTER I—DEFINITIONS

"Sec.

"23-501. Definitions.

"SUBCHAPTER II—SEARCH WARRANTS

"23-521. Nature and issuance of search warrants.

"23-522. Applications for search warrants.

"23-523. Time of execution of search warrants.

"23-524. Execution of search warrants.

"23-525. Disposition of property.

"SUBCHAPTER III—WIRE INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

"23-541. Definitions.

"23-542. Authorization for interception of wire or oral communications.

"23-543. Procedure for interception of wire or oral communications.

"23-544. Procedure for approval of interception of wire or oral communications.

"SUBCHAPTER IV—ARREST WARRANT AND SUMMONS

"23-561. Issuance, form, and contents.

"23-562. Execution and return.

"23-563. Territorial and other limits.

"SUBCHAPTER V—ARREST WITHOUT WARRANT

"23-581. Arrests without warrant by law enforcement officers.

"23-582. Arrests without warrant by other persons.

"SUBCHAPTER VI—AUTHORITY TO BREAK AND ENTER UNDER CERTAIN CONDITIONS

"23-591. Authority to break and enter under certain conditions.

"SUBCHAPTER I—DEFINITIONS

"§ 23-501. Definitions.

"As used in subchapters II, IV, and V of this chapter—

"(1) the term 'judicial officer' means a judge of the Superior Court of the District of Columbia or of the United States District Court for the District of Columbia, or a United States commissioner or magistrate for the District of Columbia;

"(2) the term 'law enforcement officer' means an officer or member of the Metropolitan Police Department of the District of Columbia, or of any other police force operating in the District of Columbia, or an investigative officer or agent of the United States;

"(3) the term 'prosecutor' means the United States attorney for the District of Columbia or his assistant, the Corporation Counsel of the District of Columbia or his assistant, or an attorney employed by, and who has entered an appearance on behalf of, the United States or the District of Columbia in a criminal case or in an investigation being conducted by a grand jury.

"SUBCHAPTER II—SEARCH WARRANTS

"§ 23-521. Nature and issuance of search warrants

"(a) Under circumstances described in this subchapter, a judicial officer may issue a search warrant upon application of a law enforcement officer of prosecutor. A warrant may authorize a search to be conducted anywhere in the District of Columbia and may be executed pursuant to its terms.

"(b) A search warrant may direct a search of any or all of the following:

"(1) one or more designated or described places or premises;

"(2) one or more designated or described vehicles;

"(3) one or more designated or described physical objects; or

"(4) designated persons.

"(c) A search warrant may direct the seizure of designated property or kinds of property, and the seizure may include, to such extent as is reasonable under all circumstances, taking physical or other impressions, or performing chemical, scientific, medical, or other tests or experiments of, from, or upon designated premises, vehicles, objects, or persons.

"(d) Property is subject to seizure pursuant to a search warrant if there is probable cause to believe that it—

"(1) is stolen or embezzled;

"(2) is contraband or otherwise illegally possessed;

"(3) has been used or is possessed for the purpose of being used, or is designed or intended to be used, to commit or conceal the commission of a criminal offense; or

"(4) constitutes evidence of or tends to demonstrate the commission of an offense or the identity of a person participating in the commission of an offense.

"(e) A search warrant may be addressed to a specific law enforcement officer, or to any law enforcement officer of a designated classification, or to any officer of the Metropolitan Police Department of the District of Columbia or other designated agency authorized to make arrests or execute process in the District of Columbia.

"(f) A search warrant shall contain—

"(1) the name of the issuing court, the name and signature of the issuing judicial officer, and the date of issuance;

"(2) the name, classification, or department or agency of the officer or agent to whom it is addressed;

"(3) a designation of the premises, vehicles, objects, or persons to be searched, sufficient for certainty of identification;

"(4) a description of the property whose seizure is the object of the warrant;

"(5) a direction that the warrant be executed during the hours of daylight or, on the basis of a request made in accordance with section 23–522(c), an authorization for execution at any time of day or night;

"(6) where the judicial officer has found cause therefor, including one of the grounds set forth in paragraph (1), (2), (3), or (5) of section 23–591(c), an authorization that the executing officer may enter premises or vehicles to be searched without giving notice of his identity and purpose; and

"(7) a direction that the warrant and an inventory of any property seized pursuant thereto be returned to the court on the next court day after its execution.

"§ 23–522. Applications for search warrants

"(a) Each application for a search warrant shall be made in writing upon oath or affirmation to a judicial officer.

"(b) Each application shall include—

"(1) the name and title of the applicant;

"(2) a statement that there is probable cause to believe that property of a kind or character described in section 23–521(d) may be found in designated premise in a designated vehicle or object, or upon designated persons;

"(3) allegations of fact supporting such statement; and

"(4) a request that the judicial officer issue a search warrant directing a search for and seizure of the property in question.

The applicant may also submit depositions or affidavits of other persons containing allegations of fact supporting or tending to support those contained in the application.

"(c) The application may also contain—

"(1) a request that the search warrant be made executable at any hour of the day or night, upon the ground that there is probable cause to believe that (A) it cannot be executed during the hours of daylight, (B) the property sought may be removed or destroyed if not seized forthwith, or (C) the property sought may not be found except at certain times or in certain circumstances; and

"(2) a request that the search warrant authorize the executing officer to enter premises or vehicles to be searched without giving notice of his identity and purpose, upon reasonable grounds to believe that one of the conditions set forth in paragraph (1), (2), (3), or (5) of section 23–591(c) may exist at the time and place at which such warrant is to be executed.

"Any request made pursuant to this subsection must be accompanied and supported by allegations of fact supporting such statement.

"§ 23–523. Time of execution of search warrants

"(a) A search warrant shall not be executed more than ten days after the date of issuance and shall be returned to the court after its execution or expiration in accordance with section 23–521(f)(7).

"(b) A search warrant may be executed on any day of the week and, in the absence of express authorization in the warrant pursuant to section 23–521(f)(5), shall be executed only during the hours of daylight.

"§ 23–524. Execution of search warrants

"(a) An officer executing a warrant directing a search of a dwelling house, other building, or a vehicle shall, except as provided in sections 23–521(f)(6) or 23–591(c), give, or make reasonable effort to give, notice of his identity and purpose to an occupant thereof before breaking and entering therein.

"(b) An officer executing a warrant directing a search of a person shall give, or make reasonable effort to give, notice of his identity and purpose to the person, and, if such person thereafter resists or refuses to permit the search, may use such force against the person or any other person aiding his resistance or refusal as is necessary to execute the warrant.

"(c)(1) An officer or agent executing a search warrant shall write and subscribe an inventory setting forth the time of the execution of the search warrant and the property seized under it.

"(2) If the search is of a person, a copy of the warrant and of the return shall be given to that person.

"(3) If the search is of a place, vehicle, or object, a copy of the warrant and of the return shall be given to the owner thereof if he is present, or if he is not, to an occupant, custodian, or other person present; or if no person is present, the officer shall post a copy of the warrant and of the return upon the premises, vehicle, or object searched.

"(d) A copy of the warrant shall be filed with the court whose judge or magistrate authorized its issuance on the next court day after its execution, together with a copy of the return.

"(e) An officer or agent executing a search warrant may seize any property discovered in the course of such execution which he reasonably believes to be subject to seizure pursuant to section 23–521(d), even if the property is not enumerated in the warrant or the application therefor, and no additional warrant shall be required to authorize such seizure, if the property is fully set forth in the return. Such seizure may include taking physical or other impressions or performing chemical, scientific, or other tests or experiments.

"(f) An officer or agent executing a search warrant may take photographs and measurements during the execution.

"(g) An officer executing a warrant directing a search of premises or a vehicle may search any person therein (1) to the extent reasonably necessary to protect himself or others from the use of any weapon which may be concealed upon the person, or (2) to the extent reasonably necessary to find property enumerated in the warrant which may be concealed upon the person.

"§ 23–525. Disposition of property

"An officer or agent who seizes property in the execution of a search warrant shall cause it to be safely kept for use as evidence. No property seized shall be released or destroyed except in accordance with law and upon order of a court or of the United States attorney or Corporation Counsel for the District of Columbia or one of their assistants.

"SUBCHAPTER III—WIRE INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

"§ 23–541. Definitions

"As used in this subchapter—

"(1) the term 'wire communication' means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications;

"(2) the term 'oral communication' means any oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying the expectation;

"(3) the term 'intercept' means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device;

"(4) the term 'electronic, mechanical, or other device' means any device or apparatus which can be used to intercept a wire or oral communication other than—

"(A) any telephone or telegraph instrument, equipment, or facility, or any component thereof, (i) furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties; or

"(B) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

"(5) the term 'investigative or law enforcement officer' means any officer of the United States or of the District of Columbia who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this subchapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

"(6) the term 'contents', when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purport, or meaning of that communication;

"(7) the term 'judge' means a judge of the Superior Court of the District of Columbia, a judge of the District of Columbia Court of Appeals, a judge of the United States District Court for the District of Columbia, and a judge of the United States Court of Appeals for the District of Columbia;

"(8) the term 'judge of competent jurisdiction' means in addition to the judges included in paragraph (7)—

"(A) a judge of a United States district court or a United States court of appeals not in the District of Columbia; and

"(B) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire or oral communications;

"(9) the term 'aggrieved person' means a person who was a party to any intercepted wire or oral communication or a person

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against whom the interception was directed; and

"(10) the term 'communication common carrier' has the same meaning which is given the term 'common carrier' by section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h)).

"§ 23–542. Authorization for interception of wire or oral communications

"(a) The United States attorney for the District of Columbia may authorize an application to a judge for, and the judge may grant, in conformity with section 2518, title 18, United States Code, and section 23–543 of this subchapter, an order authorizing or approving the interception of wire or oral communications by investigative and law enforcement officers when the interception may provide or has provided evidence of the commission of or a conspiracy to commit any of the following offenses:

"(1) Any of the offenses specified in the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901, and listed in the following table:

"Offense:	Specified in—
Abortion	section 809 (D.C. Code, sec. 22–201).
Arson	sections 820, 821 (D.C. Code, secs. 22–401, 22–402).
Blackmail	section 819 (D.C. Code, sec. 22–2305).
Bribery	section 861 (D.C. Code, sec. 22–701).
Burglary	section 823 (D.C. Code, sec. 22–1801).
Destruction of property of value in excess of $200.	section 848 (D.C. Code, sec. 22–403).
Gambling	sections 863, 866, 869e (D.C. Code, secs. 22–1501, 22–1505, 22–1513).
Grand larceny	section 826 (D.C. Code, sec. 22–2201).
Kidnaping	section 812 (D.C. Code, sec. 22–2101).
Manslaughter	section 802 (D.C. Code, sec. 22–2405).
Murder	sections 798, 800 (D.C. Code, secs. 22–2401, 22–2403).
Obstruction of justice	section 862 (D.C. Code, sec. 22–703).
Receiving stolen property of value in excess of $100.	section 829 (D.C. Code, sec. 22–2205).
Robbery	section 810 (D.C. Code, sec. 22–2901).

"(2) Bribery as specified (A) in the second paragraph under the center heading 'General Expenses' in the first section of the Act of July 1, 1902 (D.C. Code, sec. 22–702), and (B) in the Act of February 26, 1936 (D.C. Code, sec. 22–704).

"(3) Extortion and threats as specified in sections 1501 and 1502 of the Omnibus Crime Control and Safe Streets Act of 1968 (D.C. Code, secs. 22–2306, 22–2307).

"(4) Offenses involving dealing in narcotic drugs, marihuana, and other dangerous drugs as specified in sections 2 and 16 of the Uniform Narcotic Drug Act (D.C. Code, secs. 33–402, 33–416) and section 203 of the Dangerous Drug Act for the District of Columbia (D.C. Code, sec. 33–702).

"§ 23–543. Procedure for interception of wire or oral communications

"(a) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge and shall state the applicant's authority to make the application. Each application shall include—

"(1) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

"(2) a full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including (A) details as to the particular defense that has been, is being, or is about to be committed, (B) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (C) a particular description of the type of communications sought to be intercepted, and (D) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

"(3) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(4) a statement of the period of time for which the interception is required to be maintained, and if the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communications has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

"(5) a full and complete statement of the facts concerning all previous applications, known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the judge on each such application; and

"(6) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain results.

"(b) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

"(c) Upon application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire or oral communications within the District of Columbia, if the judge determines on the basis of the fact submitted by the applicant that—

"(1) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 23–542;

"(2) there is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

"(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

"(4) there is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the individual referred to in paragraph (1).

"(d) Each order authorizing or approving the interception of any wire or oral communication shall specify—

"(1) the identity of the person, if known, whose communications are to be intercepted;

"(2) the nature and location of the communication facilities as to which, or the place where, authority to intercept is granted;

"(3) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

"(4) the identity of the agency authorized to intercept the communications, and of the person authorizing the applications; and

"(5) the period of time during which the interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

"(e) No order entered under this section may authorize or approve the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (a) of this section and the court making the findings required by subsection (c) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this subchapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days.

"(f) Whenever an order authorizing interception is entered pursuant to this subchapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Reports shall be made at such intervals as the judge may require.

"(g) Notwithstanding any other provision of this subchapter, any investigative or law enforcement officer, specially designated by the United States attorney for the District of Columbia, who reasonably determines that—

"(1) An emergency situation exists with respect to conspiratorial activities threatening the national security interest or to conspiratorial activities characteristic of organized crime that requires a wire or oral communication to be intercepted before an order authorizing the interception can with due diligence be obtained, and

"(2) there are grounds upon which an order could be entered under this subchapter to authorize interception,

may intercept the wire or oral communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, the interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event the application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this subchapter, and an inventory shall be served as provided for in subsection (h)(4) of this section on the person named in the application.

"(h)(1) The contents of any wire or oral communication intercepted by any means authorized by this subchapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subchapter shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, the recordings shall be made available to the judge issuing the order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 2517, title 18, United States Code, for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under subsection (3) of section 2517 of title 18, United States Code.

"(2) Applications made and orders granted under this subchapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. The applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

"(3) Any violation of the provisions of subsection (h) may be punished as contempt of court.

"(4) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under section 22–543(g) which is denied, or the termination of the period of any order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine, in his discretion, are necessary in the interest of justice, an inventory which shall include notice of—

"(A) the fact of the entry of the order or the application;

"(B) the date of the entry and the period of authorized, approved, or disapproved interception, or the denial of the application; and

"(C) the fact that during the period wire or oral communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to the person or his counsel for inspection such portions of the intercepted communications, applications, and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge, the serving of the inventory required by this subsection may be postponed.

"(i) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information.

"(j) (1) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States or the District of Columbia, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that—

"(A) the communication was unlawfully intercepted;

"(B) the order of authorization or approval under which it was intercepted is insufficient on its face; or

"(C) the interception was not made in conformity with the order of authorization or approval.

The motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this subchapter. The judge, upon the filing of the motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

"(2) In addition to any other right to appeal, the United States attorney shall have the right to appeal from an order granting a motion to suppress made under paragraph (1) of this subsection, or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying the application that the appeal is not taken for purposes of delay. Appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

"§ 23–544. Procedure for approval of interception of wire or oral communications

"When an investigative or law enforcement officer while engaged in intercepting wire or oral communications in the manner authorized by section 23–543, intercepts wire or oral communications relating either to offenses other than those specified in the order of authorization or to offenses other than those offenses for which interception was made pursuant to section 23–543(g), he shall make an application to a judge as soon as practicable for approval for disclosure and use of the information intercepted, in accordance with section 2517 of title 18, United States Code.

"SUBCHAPTER IV—ARREST WARRANT AND SUMMONS

"§ 23–561. Issuance, form, and contents

"(a) (1) A judicial officer may issue a warrant for the arrest of any person upon a sworn complaint which states facts constituting an offense over which the judicial officer has jurisdiction for trial or preliminary examination, and establishing probable cause to believe that the person committed the offense. More than one warrant may issue on the same complaint.

"(2) Upon request of the prosecutor a summons shall issue instead of an arrest warrant. More than one summons may issue on the same complaint. If a person fails to appear in response to a summons, a warrant shall issue for his arrest.

"(b) (1) An arrest warrant shall be signed by the judicial officer and shall state or contain the name of the issuing court, the date of issuance of the warrant, a description of the offense charged, and the name of the person to be arrested or, if his name is unknown, any name or description by which he can be identified with reasonable certainty. It shall command that the person be arrested and brought before the issuing court or officer. If the complaint establishes reasonable grounds to believe that one of the conditions set out in paragraphs (1) through (5) of section 23–591(c) may exist at the time and place at which such warrant is to be executed, the warrant may contain an authorization that it be executed as provided in subsection (a) of section 23–591.

"(2) A summons shall be in the same form as an arrest warrant except that it shall summon the person named to appear before the issuing court or officer at a stated time and place.

"(c) An arrest warrant may be directed to a specific law enforcement officer, or to any law enforcement officer of a designated classification, or to any officer of the Metropolitan Police of the District of Columbia or other designated agency authorized to make arrests or execute process.

"(d) Each complaint shall be made in writing upon oath or affirmation. Except for good cause shown, no warrant shall be issued unless the complaint has been approved by an appropriate prosecutor.

"§ 23–562. Execution and return

"(a) (1) A warrant issued pursuant to this subchapter shall be executed by the arrest of the person named. The officer need not have the warrant in his possession at the time of the arrest, but upon request he shall show the warrant to the person as soon as possible. If the officer does not have the warrant in his possession at the time of the arrest, he shall inform the person of the offense charged and of the fact that a warrant has been issued.

"(2) A summons shall be served upon a person by delivering a copy to him personally, or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the person's last known address.

"(b) (1) The officer executing a warrant shall make return thereof to the judicial officer before whom the person is brought for preliminary examination. At the request of the appropriate prosecutor any unexecuted and unexpired warrant shall be returned to the issuing court or judicial officer and shall be canceled.

"(2) On or before the return day the person to whom a summons was delivered for service shall make return thereof to the court or officer before whom the summons is returnable.

"(3) At the request of the appropriate prosecutor made at any time while the complaint is pending, a warrant returned unexecuted and not canceled or expired or a summons returned unserved or a duplicate thereof may be delivered by the judicial officer to the marshal or other authorized person for execution or service.

"(c) (1) A law enforcement officer within the District of Columbia making an arrest under a warrant issued pursuant to this subchapter, making an arrest without a warrant, or receiving a person arrested by a special policeman or other person pursuant to section 23–582, shall take the arrested person without unnecessary delay before the court or other judicial officer empowered to commit persons charged with the offense for which the arrest was made. This subsection, however, shall not be construed to conflict with or otherwise supersede section 3501 of title 18, United States Code. When a person arrested without a warrant is brought before a judicial officer, a complaint or information shall be filed forthwith.

"(2) Before taking an arrested person to a judicial officer, a law enforcement officer shall perform all recording, fingerprinting, photographing, and other preliminary police duties required in the particular case, and if such duties are performed with reasonable promptness, the period of time required therefor shall not constitute a delay within the meaning of this section.

"§ 23–563. Territorial and other limits

"(a) A warrant or summons for an offense punishable by imprisonment for more than one year issued by the Superior Court of the District of Columbia may be served at any place within the jurisdiction of the United States.

"(b) No warrant or summons issued by the Superior Court of the District of Columbia for an offense punishable by imprisonment for not more than one year, or by a fine only, or by such imprisonment and a fine, may be executed at any place more than twenty-five miles from the place where the court is held, or more than one year after the date of issuance.

"(c) A person arrested outside the District of Columbia on a warrant issued by the Superior Court of the District of Columbia shall be taken before a judge, commissioner, or magistrate, and held to answer in the Superior Court pursuant to the Federal Rules of Criminal Procedure as if the warrant had been issued by the United States District Court for the District of Columbia.

"(d) When an application alleges that an act which would constitute a felony if committed by an adult has been committed by a child, and that the child may not with due diligence be found within the District of Columbia, a judicial officer may issue a warrant for the arrest of the child as if he were an adult. When the child is brought before the issuing court or officer pursuant to the warrant he shall be ordered transferred to the Family Division of the Superior Court pursuant to section 16-2302.

"SUBCHAPTER V—ARREST WITHOUT WARRANT

"§ 23-581. Arrests without warrant by law enforcement officers

"(a)(1) A law enforcement officer may arrest, without a warrant having previously been issued therefor—

"(A) a person whom he has probable cause to believe has committed or is committing a felony;

"(B) a person whom he has probable cause to believe has committed or is committing an offense in his presence;

"(C) a person whom he has probable cause to believe has committed or is about to commit any offense listed in paragraph (2) and, unless immediately arrested, may not be apprehended, may cause injury to others, or may tamper with, dispose of, or destroy evidence.

"(2) The offenses referred to in subparagraph (C) of paragraph (1) are the following:

"(A) The following offenses specified in the Act entitled 'An Act to establish a code of law for the District of Columbia', approved March 3, 1901, and listed in the following table:

"Offense:	Specified in—
Assault	section 806 (D.C. Code, sec. 22-504).
Petit larceny	section 827 (D.C. Code, sec. 22-2202).
Receiving stolen goods.	section 829 (D.C. Code, sec. 22-2205).
Unlawful entry	section 824 (D.C. Code, sec. 22-3102).

"(B) Attempts to commit the following offenses specified in such Act and listed in the following table:

"Offense:	Specified in—
Burglary	section 823 (D.C. Code, sec. 22-1801).
Grand larceny	section 826 (D.C. Code, sec. 22-2201).
Unauthorized use of vehicles.	section 826b (D.C. Code, sec. 22-2204).

"(b) A law enforcement officer may, even if his jurisdiction does not extend beyond the District of Columbia, continue beyond the District, if necessary, a pursuit commenced within the District of a person who has committed an offense or whom he has probable cause to believe has committed or is committing a felony, and may arrest that person in any State the laws of which contain provisions equivalent to those of section 23-901.

"§ 23-582. Arrests without warrant by other persons

"(a) A special policeman shall have the same powers as a law enforcement officer to arrest without warrant for offenses committed within premises to which his jurisdiction extends, and may arrest outside the premises on fresh pursuit for offenses committed on the premises.

"(b) A private person may arrest another—

"(1) whom he has probable cause to believe is committing in his presence—

"(A) a felony, or

"(B) an offense enumerated in section 23-581 (a) (3); or

"(2) in aid of a law enforcement officer or special policeman, or other person authorized by law to make an arrest.

"(c) Any person making an arrest pursuant to this section shall deliver the person arrested to a law enforcement officer without unreasonable delay.

"SUBCHAPTER VI—AUTHORITY TO BREAK AND ENTER UNDER CERTAIN CONDITIONS

"§ 23-591. Authority to break and enter under certain conditions

"(a) Any officer authorized by law to make arrests, or to execute search warrants, or any person aiding such an officer, may break and enter any premises, any outer or inner door or window of a dwelling house or other building, or any part thereof, any vehicle, or anything within such dwelling house, building, or vehicle, or otherwise enter to execute search or arrest warrants, to make an arrest where authorized by law without a warrant, or where necessary to liberate himself or a person aiding him in the execution of such warrant or in making such arrest.

"(b) Breaking and entry shall not be made until after such officer or person makes an announcement of his identity and purpose and the officer reasonably believes that admittance to the dwelling house, building, or vehicle is being denied or unreasonably delayed.

"(c) An announcement of identity and purpose shall not be required prior to such breaking and entry if the warrant expressly authorizes entry without notice, or where such officer or person reasonably believes—

"(1) his identity or purpose is already known to any person in the premises;

"(2) such notice may result in the evidence subject to seizure being easily and quickly destroyed, disposed of, or concealed;

"(3) such notice may endanger the life or safety of the executing officer or another person;

"(4) such notice may enable the party to be arrested to escape; or

"(5) such notice would otherwise be a useless gesture.

"(d) Whoever, after notice is given under subsection (b) or after entry where such notice is unnecessary under subsection (c), destroys, conceals, disposes of, or attempts to destroy, conceal, or dispose of, or otherwise prevents or attempts to prevent the seizure of evidence subject to seizure shall be fined not more than $5,000 or imprisoned for not more than 5 years, or both.

"(e) As used in this section, and in section 23-524(a), the terms 'break and enter' and 'breaking and entering' include any use of physical force or violence or other unauthorized entry but does not include entry obtained by trick or strategem.

"(f) With regard to (1) the execution of a warrant directing a search of a person under section 23-524(b), (2) the execution of a warrant directing the arrest of a person under subchapter IV of this chapter, or (3) an arrest authorized by law without a warrant under subchapter V of this chapter, the notice requirements of this section are applicable only where it is necessary to enter a dwelling house, building, or vehicle to effect such a search or arrest.

"Chapter 7.—EXTRADITION AND FUGITIVES FROM JUSTICE

"Sec.
"23-701. Warrants for the arrest of fugitives from justice.
"23-702. Procedure on arrest of fugitives.
"23-703. Failure to appear.
"23-704. Extradition.
"23-705. Removal proceedings and returns to foreign countries not affected.
"23-706. Confiement.
"23-707. Definitions.

"§ 23-701. Warrants for the arrest of fugitives from justice

"Whenever any person who is (1) within the District of Columbia, (2) charged with any offense committed in any State, and (3) liable by the Constitution and laws of the United States to be delivered over upon the demand of the Governor of that State, any judge of the Superior Court may, upon complaint on oath or affirmation of any credible witness, setting forth the offense, that the person is a fugitive from justice, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the Superior Court, to answer the complaint.

"§ 23-702. Procedure on arrest of fugitives

"(a) Any person arrested upon a warrant issued pursuant to section 23-701, or arrested within the District of Columbia as a fugitive from justice without a warrant having been issued, shall be taken before the Criminal Division of the Superior Court for preliminary examination on a complaint charging him as a fugitive.

"(b) If, upon the examination of the person charged, it shall appear to the court that there is reasonable cause to believe that the complaint is true and that the person may be lawfully demanded of the chief judge, the person shall be detained or released according to law, in like manner as if the offense had been committed in the District of Columbia, to appear before the court at a future date, allowing thirty days to obtain a requisition from the Governor of the State from which the person is a fugitive. The complaint of fugitivity from another jurisdiction shall create a presumption that the person is unlikely to appear if released, which may be overcome only by clear and convincing proof.

"(c) If the person so released or detained shall appear before the court upon the day ordered, he shall be discharged, unless he shall be demanded by requisition pursuant to subsection (g) of this section or section 23-704, or unless the court shall find cause to detain or to release him as provided by subsection (b) until a later day; but regardless of whether the person shall be detained or released as provided in subsection (b) or discharged, his delivery to any person authorized by the warrant of the Governor shall be a discharge of any bond or obligation.

"(d) The Chief of Police of the Metropolitan Police Department shall give notice to the police official or sheriff of the city or county from which the person is a fugitive that the person is so held in the District of Columbia.

"(e) A person detained as provided by this section shall not be detained in jail longer than to allow a reasonable time for the person receiving the notice required by subsection (d) to apply for and obtain a proper requisition for the person detained according to the circumstances of the case and the distance of the place where the offense is alleged to have been committed.

"(f)(1) At any time prior to the filing of a requisition, a person arrested pursuant to this section may in open court waive further proceedings pursuant to this chapter.

"(2) Following waiver, a judge of the Superior Court may, in his discretion, if the United States attorney consents, release the person upon such conditions as the judge shall deem necessary to insure his appearance before the proper official in the State from which he is a fugitive, and shall otherwise order his return to the jurisdiction of that State in the custody of a proper official.

"(3) Following waiver, a person not released pursuant to paragraph (2) of this subsection shall be ordered to return to the jurisdiction from which he is a fugitive in the custody of a proper official, and may be detained to await return.

"(4) A person detained pursuant to paragraph (3) for more than three days (not including Saturdays, Sundays, and holidays) shall be returned to the court and shall thereupon be released pursuant to paragraph (2), unless the court shall find good reason to extend his detention for an additional three days to obtain the attendance of a proper official of the damanding jurisdiction.

"(g) If a person has not waived further proceedings pursuant to subsection (f), and a requisition from the Governor of the jurisdiction from which the person is a fugitive is presented to the court, the court shall order the requisition to be filed and referred to the chief judge for extradiction proceedings pursuant to section 23-704, and shall order the person committed pending those proceedings.

"§ 23-703. Failure to appear

"Any person released pursuant to section 23-702 who fails to appear as required shall be punished by a fine not exceeding $5,000 or imprisonment for not more than five years, or both.

"§ 23-704. Extradition

"(a) In all cases where the laws of the United States provide that fugitives from justice shall be delivered up, the chief judge of the Superior Court shall cause to be apprehended and delivered up fugitives from justice who shall be found within the District of Columbia, in the same manner and under the same regulations as the executive authority of a State is required to do by the provisions of chapter 209 of title 18, United States Code, and all executive and judicial officers are required to obey the lawful precepts or other process issued for that purpose, and to aid and assist in that delivery.

"(b) The chief judge of the Superior Court may also surrender, on demand of the Governor of any State, any person in the District of Columbia charged in that State in the manner provided in subsection (a) of this section with committing an act in the District of Columbia, or in another State, intentionally resulting in a crime in the State whose executive authority is making the demand, even though the accused was not in that State at the time of the commission of the crime, and has not fled therefrom.

"(c) No person apprehended in accordance with the provisions of subsections (a) and (b) of this section shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken before the chief judge of the Superior Court of the District of Columbia who shall inform him of the demand made for his surrender, and of the crime with which he is charged, and that he has the right to demand and procure legal counsel.

"(d) If the person or his counsel shall state that he desires to test the legality of the person's arrest, the chief judge shall hold a hearing to determine whether the person shall be delivered over as demanded. At the hearing, the person shall have the same rights to challenge his detention and extradition as if the hearing were upon a writ of habeas corpus.

"(e) If the chief judge shall order the person delivered over, he may appeal, within twenty-four hours, from that order to the District of Columbia Court of Appeals if the chief judge who rendered the order, or a judge of the District of Columbia Court of Appeals, issues a certificate of probable cause. The appeal shall be expedited by the District of Columbia Court of Appeals. An application for a writ of habeas corpus on behalf of a person who is authorized to demand a hearing pursuant to this subsection shall not be entertained if it appears that the applicant has failed to demand such a hearing or that the chief judge, after hearing, has ordered him delivered over, unless it also appears that the remedy by hearing is inadequate or ineffective to test the legality of his detention.

"(f) Nothing contained in this subsection shall prevent a person from waiving his right to appear before the chief judge of the Superior Court and voluntarily returning in custody of a proper official to the jurisdiction of the State which is demanding him.

"(g) No person demanded by the Governor of a State pursuant to this section shall be released upon bond or other obligation except pursuant to an order of a court of the demanding State.

"(h) Any associate judge designated by the chief judge or acting chief judge shall have the same power to act pursuant to this section as the chief judge.

"§ 23-705. Removal proceedings and returns to foreign countries not affected

"Nothing contained in this chapter shall repeal, modify, or in any way affect existing law concerning the procedure for the return of any person apprehended in the District of Columbia to a Federal judicial district to answer a Federal charge, or repeal, modify, or affect existing law or treaty concerning the return to a foreign country of a person apprehended or detained in the District of Columbia as a fugitive from a foreign country.

"§ 23-706. Confinement

"(a) The agent of the demanding State to whom the prisoner may have been delivered in accordance with the provisions of section 23-704, may, when necessary, confine the prisoner in a facility of the District of Columbia Department of Corrections, and the Department of Corrections must receive and safely keep the prisoner for such reasonable time as will enable the officer or person having charge of him to proceed on his route, such officer or person being chargeable with the expense of keeping.

"(b) The officer or agent of a demanding State to whom a prisoner may have been delivered following extradition proceedings in another State, or to whom a prisoner may have been delivered after waiving extradition in the other State, and who is passing through the District of Columbia with a prisoner for the purpose of immediately returning the prisoner to the demanding State, may, when necessary, confine the prisoner in a facility of the Department of Corrections. The Department of Corrections must receive and safely keep the prisoner for such reasonable time as will enable the officer or agent to proceed on his route, such officer or agent being chargeable with the expense of keeping. That officer or agent shall produce and show to the Department of Corrections satisfactory written evidence of the fact that he is actually transporting the prisoner to the demanding State after a requisition by the executive authority of the demanding State. The prisoner shall not be entitled to demand a new requisition while in the District of Columbia.

"§ 23-707. Definitions

"For purposes of this chapter—

"(1) the term 'State' includes any territory or possession of the United States; and

"(2) the term 'Governor' means the executive authority of a State.

"Chapter 9.—FRESH PURSUIT

"Sec.
"23-901. Arrests in the District of Columbia by officers of other States.
"23-902. Hearing; commitment; discharge.
"23-903. 'Fresh pursuit' defined.

"§ 23-901. Arrests in the District of Columbia by officers of other States

"Any member of a duly organized peace unit of any State (or county or municipality thereof) of the United States who enters the District of Columbia in fresh pursuit and continues within the District of Columbia in fresh pursuit of a person in order to arrest him on the ground that he is believed to have committed a felony in such State shall have the same authority to arrest and hold that person in custody as has any member of any duly organized peace unit of the District of Columbia to arrest and hold in custody a person on the ground that he is believed to have committed a felony in the District of Columbia. This section shall not be construed so as to make unlawful any arrest in the District of Columbia which would otherwise be lawful.

"§ 23-902. Hearing; commitment; discharge

"If an arrest is made in the District of Columbia by an officer of another State in accordance with the provisions of section 23-901, he shall without unnecessary delay take the person arrested before a judge of the Superior Court of the District of Columbia, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judge determines that the arrest was lawful, he shall order the release or detention of the person arrested, pursuant to section 23-702, to await for a reasonable time a requisition from the Governor of the State demanding the extradition of the person arrested. If the judge determines that the arrest was unlawful he shall order the person discharged.

"§ 23-903. 'Fresh pursuit' defined

"For the purposes of this chapter, the term 'fresh pursuit' shall include fresh pursuit as defined by the common law, also the pursuit of a person who has committed a felony or one whom the pursuing officer has reasonable grounds to believe has committed a felony. It shall also include the pursuit of a person whom the pursuing officer has reasonable grounds to believe has committed a felony, although no felony has actually been committed, if their is reasonable ground for believing that a felony has been committed. Such term shall not necessarily imply an instant pursuit, but pursuit without unreasonable delay.

"Chapter 11.—PROFESSIONAL BONDSMEN

"Sec.
"23-1101. Definitions.
"23-1102. Bonding business impressed with public interest.
"23-1103. Procuring business through official or attorney for a consideration prohibited.
"23-1104. Attorneys procuring employment through official or bondsman for a consideration prohibited.
"23-1105. Receiving other than regular fee for bonding prohibited; bondsmen prohibited from endeavoring to secure dismissal or settlement.
"23-1106. Posting names of authorized bondsmen; list to be furnished prisoners; prisoners may communicate with bondsmen; record to be kept by police.
"23-1107. Bondsmen prohibited from entering place of detention unless requested by prisoner; record of visit to be kept.
"23-1108. Qualifications of bondsmen; rules to be prescribed by courts; list of agents to be furnished; renewal of authority to act; detailed records to be kept; penalties and disqualifications.

"23–1109. Giving advance information of proposed raid prohibited.
"23–1110. Designation of official to take bail or collateral when court is not in session.
"23–1111. Penalties.
"23–1112. Enforcement.

"§ 23–1101. Definitions

"For purposes of this chapter—

"(1) the term 'bonding business' means the business of becoming surety for compensation upon bonds in criminal cases in the District of Columbia; and

"(2) the term 'bondsman' means any person or corporation engaged in the bonding business either as a principal or as an agent, clerk, or representative of another engaged in such business.

"§ 23–1102. Bonding business impressed with public interest

"The bonding business is impressed with a public interest.

"§ 23–1103. Procuring business through official or attorney for a consideration prohibited

"It shall be unlawful for any bondsman, either directly or indirectly, to give, donate, lend, contribute, or to promise to give, donate, lend, or contribute any money, property, entertainment, or other thing of value whatsoever to any attorney at law, police officer, deputy United States marshal, jailer, probation officer, clerk, or other attaché of a criminal court, or public official of any character, for procuring or assisting in procuring any person to employ the bondsman to execute as surety any bond for compensation in any criminal case in the District of Columbia. It shall be unlawful for any attorney at law, police officer, deputy United States marshal, jailer, probation officer, clerk, bailiff, or other attaché of a criminal court, or public official of any character, to accept or receive from a bondsman any money, property, entertainment, or other thing of value whatsoever for procuring or assisting in procuring a person to employ a bondsman to execute as surety any bond for compensation in a criminal case in the District of Columbia.

"§ 23–1104. Attorneys procuring employment through official or bondsman for a consideration prohibited

"It shall be unlawful for any attorney at law, either directly or indirectly, to give, loan, donate, contribute, or to promise to give, loan, donate, or contribute any money, property, entertainment, or other thing of value whatever to, or to split or to divide any fee or commission with, any bondsman, police officer, deputy United States marshal, probation officer, bailiff, clerk, or other attaché of any criminal court for causing or procuring or assisting in causing or procuring a person to employ the attorney to present him in a criminal case in the District of Columbia.

"§ 23–1105. Receiving other than regular fee for bonding prohibited; bondsmen prohibited from endeavoring to secure dismissal or settlement

"It shall be lawful to charge for executing a bond in a criminal case in the District of Columbia, but it shall be unlawful for a bondsman, either directly or indirectly, to charge, accept, or receive a sum of money, or other thing of value, other than the regular fee for bonding, from a person for whom he has executed bond, for any other service whatever performed in connection with any indictment, information, or charge upon which the person is bailed or held in the District of Columbia. It also shall be unlawful for any bondsman to settle, or attempt to settle, or to procure or attempt to procure the dismissal of any indictment, information, or charge against any person in custody or held upon bond in the District of Columbia, with a court, or with the prosecuting attorney in a court in the District of Columbia.

"§ 23–1106. Posting names of authorized bondsmen; list to be furnished prisoners; prisoners may communicate with bondsmen; record to be kept by police

"A typewritten or printed list alphabetically arranged of all persons engaged under the authority of any of the courts of criminal jurisdiction in the District of Columbia in the business of becoming surety upon bonds for compensation in criminal cases shall be posted in a conspicuous place in each police precinct, jail, prisoner's dock, house of detention, and every other place in the District of Columbia in which persons in custody of the law are detained, and one or more copies thereof kept on hand; and when a person who is detained in custody in a place of detention shall request a person in charge thereof to furnish him the name of a bondsman, or to put him in communication with a bondsman, the list shall be furnished to the person in charge of the place of detention within a reasonable time to put the person detained in communication with the bondsman selected, and the person in charge of the place of detention shall contemporaneously with that transaction make in the blotter or book of record kept in the place of detention, a record showing the name of the person requesting the bondsman, the offense with which the person is charged, the time at which the request was made, the bondsman requested, and the person by whom the bondsman was called, and preserve that as a permanent record in the book or blotter in which entered.

"§ 23–1107. Bondsmen prohibited from entering place of detention unless requested by prisoner; record of visit to be kept

"It shall be unlawful for a bondsman to enter a police precinct, jail, prisoner's dock, house of detention, or other place where persons in the custody of the law are detained in the District of Columbia for the purpose of obtaining employment as a bondsman, without having been previously called by a person detained or by some relative or other authorized person acting for or on behalf of the person detained. Whenever a bondsman enters a police precinct, jail, prisoner's dock, house of detention, or other place where persons in the custody of the law are detained in the District of Columbia, he shall forthwith give to the person in charge thereof his mission there and the name of the person calling him and requesting him to come to such place. That information shall be recorded by the person in charge of the place of detention and preserved as a public record, and the failure of the bondsman to give that information, or the failure of the person in charge of the place of detention to make and preserve a record of that information, shall constitute a violation of this chapter.

"§ 23–1108. Qualifications of bondsmen; rules to be prescribed by courts; list of agents to be furnished; renewal of authority to act; detailed records to be kept; penalties and disqualifications

"(a) It shall be the duty of the United States District Court for the District of Columbia and the Superior Court of the District of Columbia, each, to provide, under reasonable rules and regulations, the qualifications of persons and corporations applying for authority to engage in the bonding business in criminal cases in the District of Columbia, and the terms and conditions upon which the business shall be carried on, and no person or corporation shall, either as principal, or as agent, clerk, or representative of another, engage in the bonding business in either court until he shall, by order of the court, be authorized to do so. The courts, in making these rules and regulations, and in granting authority to persons to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person so applying, and no person shall be permitted to engage, either as principal or agent, in the bonding business, who has ever been convicted of an offense involving moral turpitude, or who is not known to be a person of good moral character. It shall be the duty of each of the courts to require every person qualifying to engage in the bonding business as principal to file with the court a list showing the name, age, and residence of each person employed by the bondsman as agent, clerk, or representative in the bonding business, and require an affidavit from each of these persons stating that he will abide by the terms and provisions of this chapter. Each of the courts shall require the authority of each of those persons to be renewed from time to time at such periods as the court may by rule provide, and before the authority shall be renewed the court shall require from each of those persons an affidavit that since his previous qualification to engage in the bonding business he has abided by the provisions of this chapter, and any person swearing falsely in any of the affidavits shall be guilty of perjury.

"(b) Each court shall prescribe such rules and regulations as may be necessary to insure that whenever a bondsman becomes surety for compensation upon a bond in a criminal case before the court, the bondsman shall make a record, which shall be accurate to the best of the maker's knowledge and belief and shall thereafter be open for inspection by the court or its designated representative, and by the designated representative of other law enforcement agencies of the District of Columbia, of the following matters:

"(1) the full name and address of the person for whom the bond is executed (referred to in this subsection as the 'defendant') and the full name and address of his employer, if any;

"(2) the offense with which the defendant is charged;

"(3) the name of the court or officer authorizing the defendant's admission to bail;

"(4) the amount of the bond;

"(5) the name of the person who called the bondsman, if other than the defendant;

"(6) the amount of the bondsman's charge for executing the bond;

(7) the full name and address of the person to whom the bondsman presented his bill for the charge;

"(8) the full name and address of the person paying the charge; and

"(9) the manner of payment of the charge.

Whoever violates any rule or regulation prescribed under this subsection shall be fined not more than $500 or imprisoned not more than six months, or both, and if he is a bondsman shall be disqualified from thereafter engaging in any manner in the bonding business for such period of time as the trial judge shall order.

"§ 23–1109. Giving advance information of proposed raid prohibited

"It shall be unlawful for any police officer or other public official, in advance of any raid by police or other peace officers or public officials or the execution of any search warrant or warrant of arrest, to give or furnish, either directly or indirectly, any information concerning the proposed raid or arrest to any person engaged in any manner in the bonding business, or to any attorney at law; but it shall not be unlawful for any police or other peace officer, in conducting any raid or in executing any search warrant or warrant of arrest, to communicate to any attorney at law or person engaged in the bonding business, any fact necessary to enable the officer to obtain from the attorney at law or person engaged in the bonding business information necessary to enable the officer to carry out the raid or execute the process.

"§ 23–1110. Designation of official to take bail or collateral when court is not in session.

"(a) The judges of the Superior Court of the District of Columbia shall have the authority to appoint some official of the Metropolitan Police Department to act as a clerk of the court with authority to take bail or collateral from persons charged with offenses triable in the Superior Court at all times when the court is not open and its clerks accessible. The official so appointed shall have the same authority at those times with reference to taking bonds or collateral as the clerk of the Municipal Court had on March 3, 1933; shall receive no compensation for those services other than his regular salary; shall be subject to the orders and rules of the Superior Court in discharge of his duties, and may be removed as the clerk at any time by the judges of the court. The United States District Court for the District of Columbia shall have power to authorize the official appointed by the Superior Court to take bond of persons arrested upon writs and process from that court in criminal cases between 4 o'clock postmeridian and 9 o'clock antemeridian and upon Sundays and holidays, and shall have power at any time to revoke the authority granted by it.

"(b) (1) An officer or member of the Metropolitan Police Department who arrests without a warrant a person for committing a misdemeanor may, instead of taking him into custody, issue a citation requiring the person to appear before an official of the Metropolitan Police Department designated under subsection (a) of this section to act as a clerk of the Superior Court.

"(2) Whenever a person is arrested without a warrant for committing a misdemeanor and is booked and processed pursuant to law, an official of the Metropolitan Police Department designated under subsection (a) of this section to act as a clerk of the Superior Court may issue a citation to him for an appearance in court or at some other designated place, and release him from custody.

"(3) No citation may be issued under paragraph (1) or (2) unless the person authorized to issue the citation has reason to believe that the arrested person will not cause injury to persons or damage to property and that he will make an appearance in answer to the citation.

"(4) Whoever willfully fails to appear as required in a citation, shall be fined not more than the maximum provided for the misdemeanor for which such citation was issued or imprisoned for not more than one year, or both. Prosecution under this paragraph shall be by the prosecuting officer responsible for prosecuting the offense for which the citation is issued.

"§ 23–1111. Penalties.

"Any person violating any provision of this chapter shall be fined not less than $50 nor more than $100, or imprisoned for not less than ten nor more than sixty days, or both, where no other penalty is provided by this chapter; and if the person so convicted is (1) a police officer or other public official, he shall upon recommendation of the trial judge also be forthwith dismissed from office, (2) a bondsman, he shall be disqualified from thereafter engaging in any manner in the bonding business for such a period of time as the trial judge shall order, or (3) an attorney at law, he shall be subject to suspension or disbarment as attorney at law.

"§ 23–1112. Enforcement.

"It shall be the duty of the Superior Court and of the United States District Court for the District of Columbia to see that this chapter is enforced, and upon the impaneling of each grand jury in the District of Columbia it shall be the duty of the judge impaneling such jury to charge it to investigate the manner in which this chapter is enforced and all violations thereof in connection with the matter under investigation by such jury.

"Chapter 13.—BAIL AGENCY AND PRETRIAL DENTENTION

"SUBCHAPTER I—DISTRICT OF COLUMBIA BAIL AGENCY

"Sec.
"23–1301. District of Columbia Bail Agency.
"23–1302. Definitions.
"23–1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations.
"23–1304. Executive committee; composition; appointment and qualifications of Director.
"23–1305. Duties of Director; compensation; tenure.
"23–1306. Chief assistant and other agency personnel; compensation.
"23–1307. Annual reports to executive committee, Congress, and Commissioner.
"23–1308. Budget estimates.

"SUBCHAPTER II—RELEASE AND PRETRIAL DETENTION

"23–1321. Release in noncapital cases prior to trial.
"23–1322. Detention prior to trial.
"23–1323. Detention of addict.
"23–1324. Appeal from conditions of release.
"23–1325. Release in capital cases or after conviction.
"23–1326. Release of material witnesses.
"23–1327. Penalties for failure to appear.
"23–1328. Penalties for offenses committed during release.
"23–1329. Penalties for violation of conditions of release.
"23–1330. Contempt.
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"SUBCHAPTER I—DISTRICT OF COLUMBIA BAIL AGENCY

"§ 23–1301. District of Columbia Bail Agency

"The District of Columbia Bail Agency (hereafter in this subchapter referred to as the 'agency') shall continue in the District of Columbia and shall secure pertinent data and provide for any judicial officer in the District of Columbia or any officer or member of the Metropolitan Police Department issuing citations, reports containing verified information concerning any individual with respect to whom a bail or citation determination is to be made.

"§ 23–1302. Definitions

"As used in this chapter—

"(1) the term 'judicial officer' means, unless otherwise indicated, the Supreme Court of the United States, the United States Court of Appeals for the District of Columbia Circuit, the District of Columbia Court of Appeals, United States District Court for the District of Columbia, the Superior Court of the District of Columbia or any justice or judge of those courts or a United States commissioner or magistrate; and

"(2) the term 'bail determination' means any order by a judicial officer respecting the terms and conditions of detention or release (including any order setting the amount of bail bond or any other kind of security) made to assure the appearance in court of—

"(A) any person arrested in the District of Columbia, or

"(B) any material witness in any criminal proceeding in a court referred to in paragraph (1).

"§ 23–1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations

"(a) The agency shall, except when impracticable, interview any person detained pursuant to law or charged with an offense in the District of Columbia who is to appear before a judicial officer or whose case arose in or is before any court named in section 23–1302(1). The interview, when requested by a judicial officer, shall also be undertaken with respect to any person charged with intoxication or a traffic violation. The agency shall seek independent verification of information obtained during the interview, shall secure any such person's prior criminal record which shall be made available by the Metropolitan Police Department, and shall prepare a written report of the information for submission to the appropriate judicial officer. The report to the judicial officer shall, where appropriate, include a recommendation as to whether such person should be released or detained under any of the conditions specified in subchapter II of this chapter. If the agency does not make a recommendation, it shall submit a report without recommendation. The agency shall provide copies of its report and recommendations (if any) to the United States attorney for the District of Columbia, to the Corporation Counsel of the District of Columbia (if pertinent), and to counsel for the person concerning whom the report is made. The report shall include but not be limited to information concerning the person accused, his family, his community ties, residence, employment, and prior criminal record (if any), and may include such additional verified information as may become available to the agency.

"(b) With respect to persons seeking review under subchapter II of this chapter of their detention or conditions of release, the agency shall review its report, seek and verify such new information as may be necessary, and modify or supplement its report to the extent appropriate.

"(c) The agency when requested by any appellate court or a judge or justice thereof, or by any other judicial officer, shall furnish a report as provided in subsection (a) of this section respecting any person whose case is pending before any such appellate court or judicial officer or in whose behalf an application for a bail determination shall have been submitted.

"(d) Any information contained in the agency's files, presented in its report, or divulged during the course of any hearing shall not be admissible on the issue of guilt in any judicial proceeding, but such information may be used in proceedings under sections 23–1327, 23–1328, and 23–1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceeding.

"(e) The agency, when requested by a member or officer of the Metropolitan Police Department acting pursuant to court rules governing the issuance of citations in the District of Columbia, shall furnish to such member or officer a report as provided in subsection (a).

"(f) The preparation and the submission by the agency of its report as provided in this section shall be accomplished at the earliest practicable opportunity.

"(g) A judicial officer in making a bail determination shall consider the agency's report and its accompanying recommendation, if any. The judicial officer may order such detention or may impose such terms and set such conditions upon release, including requiring the execution of a bail bond with sufficient solvent sureties as shall appear warranted by the facts, except that such judicial officer may not order any detention or establish any term or condition for release not otherwise authorized by law.

"(h) The agency shall—

"(1) supervise all persons released on nonsurety release, including release on personal recognizance, personal bond, nonfinancial conditions, or cash deposit or percentage deposit with the registry of the court;

"(2) make reasonable effort to give notice of each required court appearance to each person released by the court;

"(3) serve as coordinator for other agencies and organizations which serve or may be eligible to serve as custodians for persons released under supervision and advise the judicial officer as to the eligibility, avail-

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ability, and capacity of such agencies and organizations;

"(4) assist persons released pursuant to subchapter II of this chapter in securing employment or necessary medical or social services;

"(5) inform the judicial officer and the United States attorney for the District of Columbia of any failure to comply with pretrial release conditions or the arrest of persons released under its supervision and recommend modifications of release conditions when appropriate;

"(6) prepare, in cooperation with the United States marshal for the District of Columbia and the United States attorney for the District of Columbia, such pretrial detention reports as are required by Rule 46(h) of the Federal Rules of Criminal Procedure; and

"(7) perform such other pretrial functions as the executive committee may, from time to time, assign.

"§ 23-1304. Executive committee; composition; appointment and qualifications of Director

"(a) The agency shall function under authority of and be responsible to an executive committee of five members of which three shall constitute a quorum. The executive committee shall be composed of the respective chief judges of the United States Court of Appeals for the District of Columbia Circuit, the United States District Court for the District of Columbia, the District of Columbia Court of Appeals, the Superior Court, or if circumstances may require, the designee of any such chief judge, and a fifth member who shall be selected by the chief judges.

"(b) The executive committee shall appoint a Director of the agency who shall be a member of the bar of the District of Columbia Court of Appeals.

"§ 23-1305. Duties of Director; compensation; tenure

"The Director of the agency shall be responsible for the supervision and execution of the duties of the agency. The Director shall receive such compensation as may be set by the executive committee but not in excess of the compensation authorized for GS-16 of the General Schedule contained in section 5332 of title 5, United States Code. The Director shall hold office at the pleasure of the executive committee.

"§ 23-1306. Chief assistant and other agency personnel; compensation

"The Director, subject to the approval of the executive committee, shall employ a chief assistant and such assisting and clerical staff and may make assignments of such agency personnel as may be necessary properly to conduct the business of the agency. The staff of the agency, other than clerical, shall be drawn from law students, graduate students, or such other available sources as may be approved by the executive committee. The chief assistant to the Director shall receive compensation as may be set by the executive committee, but in an amount not in excess of the amount authorized for GS-14 of the General Schedule contained in section 5332 of title 5, United States Code, and shall hold office at the pleasure of the executive committee. All other employees of the agency shall receive compensation, as set by the executive committee, which shall be comparable to levels of compensation established in such chapter 53. From time to time, the Director, subject to the approval of the executive committee, may set merit and longevity salary increases.

"§ 23-1307. Annual reports to executive committee, Congress, and Commissioner

"The Director shall on June 15 of each year submit to the executive committee a report as to the agency's administration of its responsibilities for the previous period of June 1 through May 31, a copy of which report will be transmitted by the executive committee to the Congress of the United States, and to the Commissioner of the District of Columbia. The Director shall include in his report, to be prepared as directed by the Commissioner of the District of Columbia, a statement of financial condition, revenues, and expenses for the past June 1 through May 31 period.

"§ 23-1308. Budget estimates

"Budget estimates for the agency shall be prepared by the Director and shall be subject to the approval of the executive committee.

"SUBCHAPTER II—RELEASE AND PRETRIAL DETENTION

"§ 2321. Release in noncapital cases prior to trial

"(a) Any person charged with an offense, other than an offense punishable by death, shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required or the safety of any other person or the community. When such a determination is made, the judicial officer shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or the safety of any other person or the community, or, if no single condition gives that assurance, any combination of the following conditions:

"(1) Place the person in the custody of a designated person or organization agreeing to supervise him.

"(2) Place restrictions on the travel, association, or place of abode of the person during the period of release.

"(3) Require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 per centum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release.

"(4) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

"(5) Impose any other condition, including a condition requiring that the person return to custody after specified hours of release for employment or other limited purposes.

No financial condition may be imposed to assure the safety of any other person or the community.

"(b) In determining which conditions of release, if any, will reasonably assure the appearance of a person as required and the safety of any other person or the community, the judicial officer shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, the weight of the evidence against such person, his family ties, employment, financial resources, character and mental conditions, past conduct, length of residence in the community, record of convictions, and any record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

"(c) A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such person of the penalties applicable to violations of the conditions of his release, shall advise him that a warrant for his arrest will be issued immediately upon any such violation, and shall warn such person of the penalties provided in section 23-1328.

"(d) A person for whom conditions of release are imposed and who, after twenty-four hours from the time of the release hearing, continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and the person is thereupon released, the judicial officer shall set forth in writing the reasons for requiring the conditions imposed. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon application, be entitled to a review by the judicial officer who imposed the condition. Unless the requirement is removed and the person is thereupon released on another condition, the judicial officer shall set forth in writing the reasons for continuing the requirement. In the event that the judicial officer who imposed conditions of release is not available, any other judicial officer may review such conditions.

"(e) A judicial officer ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release, except that if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection (d) shall apply.

"(f) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(g) Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

"(h) The following shall be applicable to any person detained pursuant to this subchapter:

"(1) The person shall be confined, to the extent practicable, in facilities separate from convicted persons awaiting or serving sentence or being held in custody pending appeal.

"(2) The person shall be afforded reasonable opportunity for private consultation with counsel and, for good cause shown, shall be released upon order of the judicial officer in the custody of the United States marshal or other appropriate person for limited periods of time to prepare defenses or for other proper reasons.

"§ 23-1322. Detention prior to trial.

"(a) Whenever a judicial officer determines that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community, he may, subject to the provisions of this section, order pretrial detention of a person charged with—

"(1) a dangerous crime as defined in section 23-1331(3);

"(2) a crime of violence, as defined in section 23-1331(4), if (i) the person has been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged; or (ii) the crime of violence was allegedly committed while the person was, with respect to another crime of violence, on bail or other release or on probation, parole, or mandatory release pending completion of a sentence; or

"(3) any offense if such person, for the purpose of obstructing or attempting to obstruct justice, threatens, injures, intimidates, or attempts to threaten, injure, or intimidate any prospective witness or juror.

"(b) No person described in subsection (a) of this section shall be ordered detained unless the judicial officer—

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"(1) holds a pretrial detention hearing in accordance with the provisions of subsection (c) of this section;

"(2) finds that—

"(A) there is clear and convincing evidence that the person is a person described in subsection (a) of this section;

"(B) based on the factors set out in subsection (b) of section 23–1321, there is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community; and

"(C) except with respect to a person described in paragraph (3) of subsection (a) of this section, on the basis of information presented by proffer or otherwise to the judicial officer there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

"(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(c) The following procedures shall apply to pretrial detention hearings held pursuant to this section:

"(1) Whenever the person is before a judicial officer, the hearing may be initiated on oral motion of the United States attorney.

"(2) Whenever the person has been released pursuant to section 23–1321 and it subsequently appears that such person may be subject to pretrial detention, the United States attorney may initiate a pretrial detention hearing by ex parte written motion. Upon such motion the judicial officer may issue a warrant for the arrest of the person and if such person is outside the District of Columbia, he shall be brought before a judicial officer in the district where he is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section.

"(3) The pretrial detention hearing shall be held immediately upon the person being brought before the judicial officer for such hearing unless the person or the United States attorney moves for a continuance. A continuance granted on motion of the person shall not exceed five calendar days, unless there are extenuating circumstances. A continuance on motion of the United States attorney shall be granted upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

"(4) The person shall be entitled to representation by counsel and shall be entitled to present information by proffer or otherwise, to testify, and to present witnesses in his own behalf.

"(5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(6) Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but such testimony shall be admissible in proceedings under section 23–1327, 23–1328, and 23–1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceedings.

"(7) Appeals from orders of detention may be taken pursuant to section 23–1322.

"(d) The following shall be applicable to persons detained pursuant to this section:

"(1) To the extent practicable, the person shall be given an expedited trial.

"(2) Such person shall be treated in accordance with section 23–1321—

"(A) upon the expiration of sixty calendar days, unless the trial is in progress or the trial has been delayed at the request of the person; or

"(B) whenever a judicial officer finds that a subsequent event has eliminated the basis for such detention.

"(3) The person shall be deemed detained pursuant to section 23–1323 if he is convicted.

"(e) The judicial officer may detain for a period not to exceed five calendar days a person who comes before him for a bail determination charged with any offense, if it appears that such person is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law and that such person may flee or pose a danger to any other person or the community if released. During the five day period, the United States attorney or the Corporation Counsel for the District of Columbia shall notify the appropriate State or Federal probation or parole officials. If such officials fail or decline to take the person into custody during such period, the person shall be treated in accordance with section 23–1321, unless he is subject to detention under this section. If the person is subsequently convicted of the offense charged, he shall receive credit toward service of sentence for the time he was detained pursuant to this subsection.

§ 23–1323. Detention of addict

"(a) Whenever it appears that a person charged with a crime of violence, as defined in section 23–1331(4), may be an addict, as defined in section 23–1331(5), the judicial officer may, upon motion of the United States attorney, order such person detained in custody for a period not to exceed three calendar days, under medical supervision, to determine whether the person is an addict.

"(b) Upon or before the expiration of three calendar days, the person shall be brought before a judicial officer and the results of the determination shall be presented to such judicial officer. The judicial officer thereupon (1) shall treat the person in accordance with section 23–1321, or (2) upon motion of the United States attorney, may (A) hold a hearing pursuant to section 23–1322, or (B) hold a hearing pursuant to subsection (c) of this section.

"(c) A person who is an addict may be ordered detained in custody under medical supervision if the judicial officer—

"(1) holds a pretrial detention hearing in accordance with subsection (c) of section 23–1322;

"(2) finds that—

"(A) there is clear and convincing evidence that the person is an addict;

"(B) based on the factors set out in subsection (b) of section 23–1321, there is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community; and

"(C) on the basis of information presented to the judicial officer by proffer or otherwise, there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

"(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(d) The provisions of subsection (d) of section 23–1322 shall apply to this section.

"§ 23–1324. Appeal from conditions of release

"(a) A person who is detained, or whose release on a condition requiring him to return to custody after specified hours is continued, after review of his application pursuant to section 23–1321(d) or section 23–1321(e) by a judicial officer, other than a judge of the court having original jurisdiction over the offense with which he is charged or a judge of a United States court of appeals or a Justice of the Supreme Court, may move the court having original jurisdiction over the offense with which he is charged to amend the order. Such motion shall be determined promptly.

"(b) In any case in which a person is detained after (1) a court denies a motion under subsection (a) to amend an order imposing conditions of release, (2) conditions of release have been imposed or amended by a judge of the court having original jurisdiction over the offense charged, or (3) he is ordered detained or an order for his detention has been permitted to stand by a judge of the court having original jurisdiction over the offense charged, an appeal may be taken to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not so supported, the court may remand the case for a further hearing, or may, with or without additional evidence, order the person released pursuant to section 23–1321(a). The appeal shall be determined promptly.

"(c) In any case in which a judicial officer other than a judge of the court having original jurisdiction over the offense with which a person is charged orders his release with or without setting terms or conditions of release, or denies a motion for the pretrial detention of a person, the United States attorney may move the court having original jurisdiction over the offense to amend or revoke the order. Such motion shall be considered promptly.

"(d) In any case in which—

"(1) a person is released, with or without the setting of terms or conditions of release, or a motion for the pretrial detention of a person is denied, by a judge of the court having original jurisdiction over the offense with which the person is charged, or

"(2) a judge of a court having such original jurisdiction does not grant the motion of the United States attorney filed pursuant to subsection (c),

the United States attorney may appeal to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not so supported, (A) the court may remand the case for a further hearing, (B) with or without additional evidence, change the terms or conditions of release, or (C) in cases in which the United States attorney requested pretrial detention pursuant to sections 23–1322 and 23–1323, order such detention.

"§ 23–1325. Release in capital cases or after conviction

"(a) A person who is charged with an offense punishable by death shall be treated in accordance with the provisions of section 23–1321 unless the judicial officer has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the property of others. If such a risk of flight or danger is believed to exist, the person may be ordered detained.

"(b) A person who has been convicted of an offense and is awaiting sentence shall be detained unless the judicial officer finds by clear and convincing evidence that he is not likely to flee or pose a danger to any other person or to the property of others. Upon such finding, the judicial officer shall treat the person in accordance with the provisions of section 23–1321.

"(c) A person who has been convicted of an offense and sentenced to a term of confinement or imprisonment and has filed an appeal or a petition for a writ of certiorari shall be detained unless the judicial officer finds by clear and convincing evidence that (1) the person is not likely to flee or pose a danger to any other person or to the property of others, and (2) the appeal or petition for a writ of certiorari raises a substantial question of law or fact likely to result in a reversal or an order for new trial. Upon such findings, the judicial officer shall treat the person in accordance with the provisions of section 23–1321.

"(d) The provisions of section 23–1324 shall apply to persons detained in accordance with this section.

"§ 23–1326. Release of material witnesses

"If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence

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by subpena, a judicial officer shall impose conditions of release pursuant to section 23-1321. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 23-1327. Penalties for failure to appear

"(a) Whoever, having been released under this title prior to the commencement of his sentence, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall, (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari prior to commencement of his sentence after conviction of any offense, be fined not more than $5,000 and imprisoned not less than one year and not more than five years, (2) if he was released in connection with a charge of misdemeanor, be fined not more than the maximum provided for such misdemeanor and imprisoned for not less than ninety days and not more than one year, or (3) if he was released for appearance as a material witness, be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(b) Any failure to appear after notice of the appearance date shall be prima facie evidence that such failure to appear is willful. Whether the person was warned when released of the penalties for failure to appear shall be a factor in determining whether such failure to appear was willful, but the giving of such warning shall not be a prerequisite to conviction under this section.

"(c) The trier of facts may convict under this section even if the defendant has not received actual notice of the appearance date if (1) reasonable efforts to notify the defendant have been made, and (2) the defendant, by his own actions, has frustrated the receipt of actual notice.

"(d) Any term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 23-1328. Penalties for offenses committed during release

"(a) Any person convicted of an offense committed while released pursuant to section 23-1321 shall be subject to the following penalties in addition to any other applicable penalties:

"(1) A term of imprisonment of not less than one year and not more than five years if convicted of committing a felony while so released; and

"(2) A term of imprisonment of not less than ninety days and not more than one year if convicted of committing a misdemeanor while so released.

"(b) The giving of a warning to the person when released of the penalties imposed by this section shall not be a prerequisite to conviction under this section.

"(c) Any term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 23-1329. Penalties for violation of conditions of release

"(a) A person who has been conditionally released pursuant to section 23-1321 and who has violated a condition of release shall be subject to revocation of release, an order of detention, and prosecution for contempt of court.

"(b) Proceedings for revocation of release may be initiated on motion of the United States attorney. A warrant for the arrest of a person charged with violating a condition of release may be issued by a judicial officer and if such person is outside the District of Columbia he shall be brought before a judicial officer in the district where he is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section. No order of revocation and detention shall be entered unless, after a hearing, the judicial officer finds that—

"(1) there is clear and convincing evidence that such person has violated a condition of his release; and

"(2) based on the factors set out in subsection (b) of section 23-1321, there is no condition or combination of conditions of release which will reasonably assure that such person will not flee or pose a danger to any other person or the community.

The provisions of subsections (c) and (d) of section 23-1322 shall apply to this subsection.

"(c) Contempt sanctions may be imposed if, upon a hearing and in accordance with principles applicable to proceedings for criminal contempt, it is established that such person has intentionally violated a condition of his release. Such contempt proceedings shall be expedited and heard by the court without a jury. Any person found guilty of criminal contempt for violation of a condition of release shall be imprisoned for not more than six months, or fined not more than $1,000, or both.

"(d) Any warrant issued by a judge of the Superior Court for violation of release conditions or for contempt of court, for failure to appear as required, or pursuant to subsection (c)(2) of section 23-1322, may be executed at any place within the jurisdiction of the United States. Such warrants shall be executed by a United States marshal or by any other officer authorized by law.

"§ 23-1330. Contempt

"Nothing in this subchapter shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

"§ 23-1331. Definitions

"As used in this subchapter:

"(1) The term 'judicial officer' means, unless otherwise indicated, any person or court in the District of Columbia authorized pursuant to section 3041, title 18, United States Code, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court; and.

"(2) The term 'offense' means any criminal offense committed in the District of Columbia, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress.

"(3) The term 'dangerous crime' means (A) taking or attempting to take property from another by force or threat of force, (B) unlawfully entering or attempting to enter any premises adapted for overnight accommodation of persons or for carrying on business with the intent to commit an offense therein, (C) arson or attempted arson of any premises adaptable for overnight accommodation of persons or for carrying on business, (D) rape, carnal knowledge of a female under the age of sixteen, assault with intent to commit either of the foregoing offenses, or taking or attempting to take immoral, improper, or indecent liberties with a child under the age of sixteen years, or (E) unlawful sale or distribution of a narcotic or depressant or stimulant drug (as defined by any Act of Congress) if the offense is punishable by imprisonment for more than one year.

"(4) The term 'crime of violence' means murder, forcible rape, carnal knowledge of a female under the age of sixteen, taking or attempting to take immoral, improper, or indecent liberties with a child under the age of sixteen years, mayhem, kidnaping, robbery, burglary, voluntary manslaughter, extortion or blackmail accompanied by threats of violence, arson, assault with intent to commit any offense, assault with a dangerous weapon, or an attempt or conspiracy to commit any of the foregoing offenses, as defined by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

"(5) The term "addict" means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 so as to endanger the public morals, health, safety, or welfare.

"§ 23-1332. Applicability of subchapter

"The provisions of this subchapter shall apply in the District of Columbia in lieu of the provisions of sections 3146 through 3152 of title 18, United States Code.

"Chapter 15.—OUT-OF-STATE WITNESSES

"Sec.
"23-1501. Definitions.
"23-1502. Hearing on recall of out-of-State witnesses by State courts; determination; travel allowance; penalty.
"23-1503. Certificate providing for attendance of witnesses at criminal prosecutions in the District of Columbia; travel allowance; penalty.
"23-1504. Exemption from arrest.

"§ 23-1501. Definitions

"As used in this chapter—

"(1) The term 'witness' includes a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution, or proceeding.

"(2) The term 'State' includes the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

"(3) The term 'summons' includes a subpena order, or other notice requiring the appearance of a witness.

"§ 23-1502. Hearing on recall of out-of-State witnesses by State court; determination; travel allowance; penalty

"(a) If a judge of a court of record in any State which by its laws has made provision for commanding persons within that State to attend and testify in the District of Columbia certifies under the seal of the court (1) that there is a criminal prosecution pending in that court, or that a grand jury investigation has commenced or is about to commence, (2) that a person within the District of Columbia is a material witness in the prosecution or grand jury investigation, and (3) that his presence will be required for a specified number of days, upon presentation of that certificate to any judge of the Superior Court of the District of Columbia, except as provided in subsection (c), such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

"(b) If at the hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to attend and testify in the prosecution or grand jury investigation in the requesting State, and that the laws of such State and of any other State through which the witness may be required to pass by ordinary course of travel, will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the prosecution or grand jury investigation, as the case may be, at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

"(c) If the certificate presented under subsection (a) recomemnds that the witness be taken into immediate custody and delivered to an officer of the requesting State to assure

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his attendance, in the requesting State, the judge may in lieu of notification of hearing, direct that the witness be forthwith brought before him for a hearing. If the judge at the hearing is satisfied of the desirability of the custody and delivery of the witness, he may, in lieu of issuing subpena or summons, order the witness to be forthwith taken into custody and delivered to an officer of the requesting State. The certificate shall be prima facie proof of the desirability of the custody and delivery of the witness.

"(d) Any witness who is summoned as above provided and, after being paid or tendered by some properly authorized person the fees and allowances authorized for witnesses in criminal cases in United States district courts, fails without good cause to attend and testify as directed in the summons, shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from the Superior Court.

"§ 23–1503. Certificate providing for attendance of witnesses at criminal prosecutions in the District of Columbia; travel allowance; penalty

"(a) If a person in any State, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions or grand jury investigations in the District of Columbia, is a material witness in such a prosecution or a grand jury investigation in the District of Columbia which has commenced or is about to commence, a judge may issue a certificate under seal stating these facts and specifying the number of days the witness will be required. The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of the United States or the District of Columbia to assure his attendance in the District of Columbia. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

"(b) If the witness is summoned to attend and testify in the District of Columbia he shall be tendered the fees and allowances authorized for witnesses in criminal cases in United States district courts. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within the District of Columbia for a period longer than that specified in the certificate, unless otherwise ordered by the court. If the witness, after coming into the District of Columbia, fails without good cause to attend and testify as directed in the summons, he may be punished in the manner provided for the punishment of any other witness who disobeys a summons issued from the court in the District of Columbia where the prosecution has been instituted or the grand investigation has commenced or is about to commence.

"§ 23–1504. Exemption from arrest

"(a) Any person who comes into the District of Columbia in obedience to a summons directing him to attend and testify in the District of Columbia shall not, while in the District of Columbia, pursuant to the summons, be subject to arrest or the service of process, civil or criminal, in connection with any matter which arose before his entrance into the District of Columbia under the summons.

"(b) Any person who is in the process of passing through the District of Columbia for the purpose of proceeding to or returning from a State which has summoned him to attend and testify shall not be subject to arrest or the service of process, civil or criminal, in connection with any matter which arose at some other time.

"Chapter 17.—DEATH PENALTY

"Sec.
"23–1701. Capital punishment.
"23–1702. Provision for death chamber; appointment of executioner and assistants; fees.
"23–1703. Sentences to be in writing and certified copy furnished.
"23–1704. Who may be present at executions; fact of execution to be certified to clerk of court.
"23–1705. Place of execution.

"§ 23–1701. Capital punishment.

"The mode of capital punishment in the District of Columbia shall be by the process commonly known as electrocution. The punishment of death shall be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of the current shall be continued until the convict is dead. The time fixed for the execution of the sentence shall not be considered an essential part of the sentence, and if it be not executed at the time therein appointed, by reason of the pendency of an appeal or for other cause, the court may appoint another day for carrying the same into execution.

"§ 23–1702. Provision for death chamber; appointment of executioner and assistants; fees

"The Commissioner of the District of Columbia shall provide a death chamber and necessary apparatus for inflicting the death penalty by electrocution and designate an executioner and necessary assistants, not exceeding three in number. The District of Columbia Council shall fix the fees for the executioner and his assistants.

"§ 23–1703. Sentences to be in writing and certified copy furnished

"If a person is sentenced to death for a conviction in the District of Columbia the presiding judge shall sentence the convicted person to death according to the terms of this chapter, and make the sentence in writing, such sentence shall be filed with the papers in the case against the convicted person, and a certified copy thereof shall be transmitted, by the clerk of the court in which such sentence is pronounced, to the District of Columbia Department of Corrections not less than ten days prior to the time fixed in the sentence of the court for the execution.

"§ 23–1704. Who may be present at execution; fact of execution to be certified to clerk of court

"At the execution of the death penalty there shall be present only the following persons: The executioner and his assistant; the prison physician and one other physician if the condemned person so desires; the condemned person's counsel and relatives, not exceeding three, if they so desire; the prison chaplain and such other ministers of the Gospel, not exceeding two, as may attend by desire of the condemned; the superintendent of the prison, or, in the event of his disability, a deputy designated by him; and not fewer than three nor more than five respectable citizens whom the superintendent of the prison shall designate, and, if necessary to insure their attendance, shall subpena to be present. The fact of execution shall be certified by the prison physician and the executioner to the clerk of the court in which sentence was pronounced, which certificate shall be filed by the clerk with the papers in the case. No person under the age of twenty-one years shall be allowed to witness any execution.

"§ 23–1705. Place of execution

"Any person adjudged to suffer death shall be executed within the walls of the designated facility of the Department of Corrections, or within the yard or inclosure thereof, and not elsewhere."

(b) The following provisions of law are repealed on the effective date of this Act, except with respect to rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this Act:

(1) Sections 397 and 398 of the Revised Statutes of the District of Columbia (D.C. Code, secs. 4–140, 4–141).

(2) The following provision of British law in effect in the District of Columbia: 23 Geo. II, chapter 11, sections 1 and 2 (D.C. Code, secs. 23–204, 23–205).

(3) The following sections of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901:

(A) Sections 911 to 914 (D.C. Code, secs. 23–301 to 23–304).

(B) Sections 915 to 917 (D.C. Code, secs. 23–201 to 23–203).

(C) Sections 918 to 924 (D.C. Code, secs. 23–107 to 23–113).

(D) Section 926 (D.C. Code, sec. 23–114).

(E) Sections 930 and 931 (D.C. Code, secs. 23–401, 23–402).

(F) Sections 932 and 933 (D.C. Code, secs. 23–101, 23–102).

(G) Sections 935 and 938 (D.C. Code, secs. 23–105, 23–106).

(H) Section 939 (D.C. Code, sec. 23–104).

(I) Section 1200 (D.C. Code, sec. 23–706).

(J) Section 1203 (D.C. Code, sec. 23–705).

(4) Act of January 30, 1925 (43 Stat. 798; D.C. Code, secs. 23–701 to 23–704).

(5) Act of April 21, 1928 (45 Stat. 440; D.C. Code, secs. 23–403 to 23–410).

(6) Act of March 3, 1933 (47 Stat. 1482; D.C. Code, secs. 23–601 to 23–612).

(7) Section 5 of the Act of April 5, 1938 (52 Stat. 198, 199; D.C. Code, sec. 23–305).

(8) Uniform Act on Fresh Pursuit (53 Stat. 1124; D.C. Code, secs. 23–501 to 23–504).

(9) Act of March 5, 1952 (66 Stat. 15; D.C. Code, secs. 23–801 to 23–804).

(10) Sections 207, 402, and 407(b) of the District of Columbia Law Enforcement Act of 1953 (67 Stat. 90, 96, 102, 106; D.C. Code, secs. 23–306, 23–115, and 23–411).

(11) The District of Columbia Bail Agency Act (80 Stat. 327; D.C. Code, secs. 23–901 to 23–909).

(12) Act of July 30, 1968 (82 Stat. 460; D.C. Code, sec. 23–101a).

Mr. McMILLAN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with and the title be open for amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. ADAMS. Mr. Chairman, reserving the right to object, I ask the chairman, as we have now gone through title I, if the chairman might offer to us the opportunity now that the bill be considered as read and open to amendment at any point.

Mr. WILLIAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAMS. Is the gentleman from Washington suggesting that the entire bill be open to amendment at any point or only the sections after the section which has already been read or that part of the bill which has already been read?

Mr. ADAMS. Only the sections after the part of the bill that has already been read.

Mr. NELSEN. Mr. Chairman, I object to that. This is the request that was made before the Committee on Rules, and it is my understanding that we proceed in the regular manner, taking title by title in this bill. I hope it will be the decision of this body to continue in the same manner.

Mr. ADAMS. Mr. Chairman, further reserving the right to object, I might state that the gentleman knows before the Committee on Rules the suggestion was made that this bill go over to next week. This recommendation was carried forward, and it was decided that we should proceed today with the matter. One of the reasons was that there was hope that this bill could be open for amendment at any point so that we could proceed with orderly consideration of some of these amendments this afternoon as opposed to later tonight. I could object and have the bill read, which would simply put it on endlessly, but we are trying to cooperate. I hope the gentleman from Minnesota will cooperate, since we have gone through title II, which the gentleman indicated was the only reason some Members did not want the bill open to amendment at any point. The reason was that they had amendments to title I. I am hopeful that we can open title II now, because some of these provisions go back and forth through various titles. I hope he will not object so that we can proceed with the entire bill.

Mr. NELSEN. Mr. Chairman, in the Committee on Rules the gentleman made a plea to them and they denied his request. I do not see any reason why we should skip around in this bill. I think we should proceed in the regular manner, and I hope that will be the wish of the House.

The CHAIRMAN. Will the gentleman from South Carolina restate his request?

Mr. McMILLAN. Mr. Chairman, I ask unanimous consent that further reading of title II be dispensed with and the title be open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 306, line 22, insert "SEC. 808." immediately after the quotation marks.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 331, line 22, strike out "11-502(a)(3) of title 11" and insert in lieu thereof "11-502(3)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 340, line 14, strike out "ground that there is probable cause to believe" and insert "reasonable belief".

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ADAMS. Mr. Chairman, I am inquiring if this is the amendment that is putting in a whole series of additional words and is changing the bill in terms of probable cause for the issuance of search warrants. We have a number of amendments to change that back to the bill as it originally came over.

Therefore, at this point, if this amendment of the committee is adopted, then we would be foreclosed from offering our amendments to put the bill back to the "probable cause" standard?

The CHAIRMAN. The Chair will advise the gentleman that if the committee amendment at this point is agreed to, it would not later be subject to further amendment.

Mr. ADAMS. Well, Mr. Chairman, I wish to offer a substitute amendment for the committee amendment. I understand the committee amendment is on page 340, starting at line 14 to change the words "probable cause to believe" to "reasonable belief"; is that correct?

The CHAIRMAN. The Chair will state that that is the committee amendment under consideration.

PARLIAMENTARY INQUIRY

Mr. ROBERTS. Mr. Chairman, if we act on the committee amendment which goes through page 340, are we precluded from offering other amendments to the previous pages?

The CHAIRMAN. No; title II will be open to amendments.

Mr. ABERNETHY. Mr. Chairman, I ask unanimous consent that the committee amendment be reread.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk reread the committee amendment.

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Chairman, is this an amendment in the nature of a substitute?

The CHAIRMAN. It is a committee amendment to strike out and insert, the Chair will state to the gentleman.

Mr. ADAMS. That is the reason for my parliamentary inquiry. This is the committee amendment that changes the "probable cause to believe" provision and then my amendment is in order at this point and I would like it read.

The CHAIRMAN. The gentleman's amendment is to line 16 on page 340?

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ADAMS. Maybe I can straighten out where we are. In terms of the first amendment as I understand the intent of the committee is to strike "that there is probable cause to believe" to "reasonable belief." "(A) It cannot be executed during the hours of daylight" and that is being stricken and in place of it there is being inserted "reasonable belief." Now, is that what is pending?

The CHAIRMAN. The Chair will state that the only committee amendment pending at the moment has to do with lines 14 and 15, to strike out "ground that there is probable cause to believe," and insert "reasonable belief." That is the only committee amendment that is before the House at the moment.

Mr. ADAMS. Then, Mr. Chairman, I ask unanimous consent to withdraw my amendment that I have proposed at this point, and I will rise in opposition to the committee amendment to substitute that wording.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The gentleman from Washington is recognized for 5 minutes.

Mr. ADAMS. Mr. Chairman, I apologize to the committee for taking the time, but we are not allowed by the rules to have a clerk, and we are therefore having to run all these amendments at the same time, and it is difficult when they come up rapidly to put them together.

There are three parts, or three changes, that I will be talking about. One will involve the substitute of a new standard for issuing of—well, they all involve a new standard for the issuing of a search warrant. What the committee has done, and I hope those of you who are lawyers who have practiced in the criminal courts or have a concern with constitutional law will understand that the committee through a series of amendments starting first at line 14, changed the whole standard of how you can issue a search warrant.

This will later tie in with the problems involved with the "no-knock" search warrant, because these provisions allow the issuance of a search warrant on very, very liberal grounds. All the officer has to say is that instead of having probable cause to believe that the search warrant cannot be executed during the hours of daylight, it has been changed to a standard called "reasonable belief."

Now, probable cause to believe is a very well-defined standard within the courts of the United States, and it requires that the officer, before he breaks into your house or before he comes to your house with a search warrant, has got to establish probable cause to believe that he cannot go there in the daylight.

What this means is that if you change this standard, if he has some reasonable belief that there appears to be, for example, let us say in a nice suburban neighborhood, some marihuana cigarettes circulating around, because he has seen some kids who have them, but he is not quite sure whether there is one in your house or not, but he has reasonable cause to believe that there might be one, then he meets the statutory standard for the issuance of a nighttime search warrant.

Later on we will describe how he will also meet the standards for a "no-knock" search warrant.

The amendment that I offered, because I thought these would be offered en bloc, indicates how even worse this is because the standard is what does he have to know about that property in order to get a search warrant, instead it used to be that the test is that the property sought will be destroyed or the property sought will not be found under certain circumstances. And that is what I want the test to be. That is what the test always has been in the United States.

The committee will—and this will be the next set of amendments after this one, for which I will offer a substitute, the committee has changed it to say the property is likely to be removed. Before that it was may be removed. We are saying that the officer should have probable cause to believe that the property will be destroyed or will be removed.

Now, this standard has worked very well on search warrants in the United States for many, many years. As a U.S. attorney, I have obtained search warrants under the standard that I am suggesting. It is a so-called positive standard. In other words, the officer really has to know what he is doing before he breaks into your house.

I hope, therefore, that the Committee will vote down this committee amendment to change the probable cause standard to reasonable belief, and then will vote for the substitute which I will offer next, so that we get a decent, and a really decent standard, for search warrants.

Mr. Chairman, this is the forerunner to the no-knock provisions. Remember—they build one on the other. You are going to allow people under the standards being suggested by the committee to enter at hours, day or night, without notice—and this is the first part of it.

Mr. HOGAN. Mr. Chairman, I rise in support of the committee amendment.

Mr. Chairman, I frankly am surprised by the gentleman's amendment because I would have thought he would have recalled that he and some of his allies in committee objected to the original language which was in the bill on the grounds that the words in line 14 and the words in line 16 which state "that there is probable cause" and then "may" is a double probability.

In order to clarify this, working with the Department of Justice, we came up with what is a compromise between the "may" and the "will." That is a "reasonable belief," that it cannot be executed between the hours of daylight and that the property is "likely" to be removed—then on below—that "the property sought is not likely to be found."

All of these things have to be taken together and not in separate consideration.

Mr. ADAMS. Mr. Chairman, will the gentleman yield since he used my name?

Mr. HOGAN. When I am finished.

Mr. Chairman, in the leading case on no-knock which has been quoted here earlier in the case of Ker against California, the U.S. Supreme Court said that the officer's quick action was "justified because of the likelihood that the marihuana would be destroyed or hidden."

What we have in the version adopted by the other body is the use of the word "will." I submit it is impossible for a law-enforcement officer to go before a judge and prove that something "will" be destroyed. It is just impossible to prove.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman.

Mr. FRASER. Is it not a fact that what the language provides is "probable cause" to believe it will happen? He does not have to prove it as a fact.

Mr. HOGAN. It is right. This is the standard criterion for probable cause.

Mr. FRASER. That is right.

Mr. HOGAN. You do not have to use the words "probable cause."

Mr. FRASER. Well, except that the amendment we are talking of waters it down.

Mr. HOGAN. The gentleman is correct. The amendment does not water it down and reaches a closer compromise with the version enacted by the other body.

Mr. FRASER. Except in one change under the subsection you are changing "probable cause to believe" to "reasonable belief."

Mr. HOGAN. I said we are not changing "probable cause."

Mr. FRASER. Yes, you are—that is what we are talking about.

Mr. HOGAN. This is the standard definition of probable cause—"reasonable belief" that something is likely to happen.

Mr. FRASER. If that is true, then why not leave the language as it is—if that is the standard interpretation.

Mr. HOGAN. I would have no objection to the language as it was originally in the bill. But to replace it with the word "will", as the gentleman from Washington has indicated he will do——

Mr. FRASER. But that is not in front of us now.

Mr. HOGAN. That is right. So I am just explaining how we came to adopt this committee amendment in committee.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman.

Mr. HALL. As a nonlawyer, I would simply inquire of the distinguished gentleman, if we do insert the committee amendment and change it to "reasonable belief," and if that were subsequent to it becoming law, misused by an officer of the law; would he not be culpable and have to defend his action if a counter civil suit was brought against him?

Mr. HOGAN. The gentleman is correct; he would.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman.

Mr. ADAMS. The whole point of this was that the original language which came from the other body and was suggested, is the standard throughout the United States, is a probable cause to believe that the property will be removed.

That was our position in the committee. It is our position now.

Mr. HOGAN. Excuse me—would the gentleman define "our"—it is yours but not the committee's.

Mr. ADAMS. No; I am saying, you said a number of us on the committee have taken an inconsistent position. We have not. We have stayed with the standard of "probable cause to believe" that the property will be removed. It was this moving back and forth of the language that was done by the gentleman from Maryland and not by any of us, on varying the standards and there is considerable doubt that the standard you are establishing will meet the fourth amendment test.

In my opinion, the Department of Justice, if they came in and testified again, would be just as happy to stay with the standards as they now know them.

Mr. HOGAN. The Department of Justice drafted this particular provision and it was adopted in the committee.

Mr. ADAMS. Mr. Santarelli drafted it.

Mr. HOGAN. I would like to clarify one thing before I yield to the distinguished chairman of the subcommittee. The alternatives we have are as follows: The original committee bill, which used the word "may"; the version adopted by the other body, which used the word "will," which the gentleman from Washington prefers, and which places an impediment in the hands of a police officer, and I submit the officer could not prove it. What the committee has done with this amendment is to take the middle ground by using the words "likely to."

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(On request of Mr. ABERNETHY, and by unanimous consent, Mr. HOGAN was allowed to proceed for 1 additional minute.)

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. I wish to commend the gentleman for his statement and to corroborate the fact that the language which appears in the bill, the committee amendment, was drafted in the Department of Justice. It did have the consideration of others than Mr. Santarelli, and even if it were limited to him, I have a very high regard for his opinion. But it went all the way to the top of the Criminal Division of the Department of Justice, and I hope the language stays in the bill.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Ohio.

Mr. WYLIE. I think the statement of the gentleman from Washington is misleading, in that he stated that the removal of the language "ground that there is probable cause to believe" would remove the probable cause test from the "no-knock" provision. Paragraph (1) (A), states:

> (1) A request that the search warrant be made executable at any hour of the day or night, upon the reasonable belief that—
>
> (A) it cannot be executed during the hours of daylight,

This paragraph relates to the time of execution. Paragraphs (B) and (C) relate to obtaining evidence and say: "the property sought is likely to be removed or destroyed if not seized forthwith" or, "the property sought is not likely to be found except at certain times or in certain circumstances." This is the probable cause test suggested by the Court in Ker against California.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. ADAMS. Mr. Chairman, will the gentleman yield so that I might clarify the question to which the gentleman from Ohio alluded?

Mr. DENNIS. I yield to the gentleman from Washington.

Mr. ADAMS. Just briefly, if the gentleman will look at the line 17, he will observe the word "or" is there. So probable cause applies to finding or seizing.

Mr. WYLIE. Mr. Chairman, will the gentleman yield to permit an observation?

Mr. DENNIS. I yield to the gentleman from Ohio.

Mr. WYLIE. It is in the disjunctive, that is true, but in the first paragraph, paragraph (A), it states:

> (A) it cannot be executed during the hours of daylight,

Then in paragraph (B) it states:

> (B) the property sought is likely to be removed or destroyed if not seized forthwith,

And in (C) it states:

> (C) the property sought is not likely to be found except at certain times or in certain circumstances;

Prior to that time the words were "may not." I think this language of the committee actually strengthens the language of the bill. That is the point I want to make.

Mr. DENNIS. Mr. Chairman, I had not intended to get into the debate at this point, and I am not particularly concerned at this point with the difference between "likely to," "will," or "may." Certainly "likely to" is stronger than "may" and not as strong as "will." But I am concerned about this change from "probable cause" to "reasonable belief." I frankly do not understand the reason for it.

The reason I am concerned is that "probable cause" is a very, very well-known legal and, indeed, constitutional phrase that the courts have interpreted time and again, and all lawyers know what it means. I do not know what "reasonable belief" means. The gentleman from Maryland has indicated that he thinks it means something less than and weaker than "probable cause," and that seems to me probable and logical. It is true that this is basic to the "no-knock" business, as the gentleman from Washington said. I have been prepared to go along with the "no-knock." I do not think it, in itself, is any new departure in the law, but I am a little concerned with this "probable cause." Departing from the phrase "probable cause," it seems to me perhaps is a new departure and, frankly, I do not see why the committee did it. They can change this other language down below just the same, it seems to me, but I think they ought to go back to using the familiar term "probable cause"; I should think the committee would want to do that.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Maryland.

Mr. HOGAN. There is no intention to change the doctrine of probable cause. It is our opinion and the opinion of the Department of Justice that we have not done that in this amendment. But I would like to point out the present statute on warrants, search warrants and arrests, only requires that a police officer prove good cause to believe that they are concealed in the house, good cause, which could be what we say, or just the possibility that they were there.

Mr. DENNIS. I am glad to have the gentleman's assurance that there is no intention of deserting the term "probable cause." I am happy to have that in the legislative record. I still do not understand why the term is departed from.

I take it, if the gentleman from Maryland would give me his attention just for a moment, and for the purpose of further developing the record, that when the gentleman indicated a moment ago in the well that he thought "reasonable" meant something less than "probable cause," that on reflection he does not think that, he thinks it means the same thing. Is that correct?

Mr. HOGAN. That is correct.

Mr. DENNIS. And that is the intention of the committee?

Mr. HOGAN. That is correct.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, do I understand the gentleman from Maryland, in response to this plea of the gentleman from Indiana, is restricting his definition, that the committee amendment is not a watering down of the phrase "probable cause"?

Mr. HOGAN. No. If I said it was a watering down of "probable cause" I was mistaken. I had no intention of doing so. What I said is, it is a watering down of the authority of the police officer who, under the version of the other body, has to show that the evidence will be destroyed. That is so strong the officer cannot prove with certainty that something will happen. The original version of the committee was that it may be destroyed. Now it is the compromise between the two. The language which the committee is offering as a committee amendment was proposed and adopted in the committee.

Mr. YATES. If it does change the phrase "probable cause," why leave it? The phrase has been defined by the courts of the country. Why should we change to a new phrase upon which there has been no judicial determination? Would it not be better to adhere to the original language of the committee?

The CHAIRMAN. The question is on the committee amendment.

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 58, noes 23.

Mr. YATES. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

> Committee amendment: Page 340, line 16, strike out "may" and insert in lieu thereof "is likely to".

Mr. ADAMS. Mr. Chairman, I would ask the indulgence of the Chairman of the Committee, that we might read those amendments that all apply to that same section, and consider them en bloc, and I would offer a substitute en bloc, in order to expedite the proceedings.

The CHAIRMAN. Is there objection to the request that the two committee amendments be considered en bloc?

There was no objection.

The CHAIRMAN. The Clerk will read the second committee amendment.

The Clerk read as follows:

> Committee amendment: Page 340, line 18, strike out "may not" and insert in lieu thereof "is not likely to".

Mr. ADAMS. Mr. Chairman, is there another amendment in line 17, to substitute "is not likely to" for "may not"?

The CHAIRMAN. There are two committee amendments, one at line 16 and one at line 18, which are presently being considered en bloc. The Chair does not have information on an amendment at line 17.

Mr. ADAMS. That is correct, Mr. Chairman. Those are the two amendments being considered en bloc.

The CHAIRMAN. These two committee amendments on page 340, one on line 16 and one on line 18, are now being considered en bloc.

SUBSTITUTE AMENDMENTS FOR COMMITTEE AMENDMENTS OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Chairman, I offer amendments in the nature of a substitute for the two committee amendments being considered en bloc.

The Clerk read as follows:

> Substitute amendments for committee amendments offered by Mr. ADAMS: Page 340, line 16, strike out "may" and insert in lieu thereof "will".
>
> Page 340, line 18, strike out "may not" and insert in lieu thereof "will not".

Mr. ADAMS. Mr. Chairman, I shall be brief, because the argument has already preceded on this. They have to be taken together.

I would call the attention of the members of the committee to the entire paragraph, starting in line 12 and continuing through line 18. What that is is the standard by which a search warrant is issued.

In the United States at the present time we have a standard—and this is the Federal standard—which says that the officer must have probable cause to believe that the warrant cannot be executed during the hours of daylight, that the property sought will be removed or destroyed if not seized forthwith, or that the property sought will not be found except at certain times or in certain circumstances.

This is a clearly defined standard under the fourth amendment.

The gentleman from Maryland says this requires that the officer must be positive. That is not true. The officer must only have probable cause to believe that the property will be destroyed. The new standard which the committee is asking us to accept, in my opinion, casts doubt on all search warrants issued under it under the fourth amendment, because now all he would have to know or say is that he has reasonable belief that the property sought is likely to be destroyed and so on.

XUM

I am not going to press the argument on the amendment any further. I believe we should go with a positive standard and not go to some new one when we do not know what will happen under it.

The effect of it is going to be that there will be some officers who will try some things they otherwise would not. Some houses will be broken into. Some people will have property removed and so on. If an officer were a lot more careful about being more certain, then it would not happen.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. I want to ask the gentleman if his substitute amendments are the same as the language which was considered and passed in the Senate?

Mr. ADAMS. Yes. Our language is the same as was passed in the Senate.

(By unanimous consent, Mr. BRINKLEY was allowed to speak out of order.)

THE LATE HONORABLE E. L. "TIC" FORRESTER

Mr. BRINKLEY. Mr. Chairman, it is my sad duty to announce to the House the death at 2 p.m. today of a former colleague of many of you, a friend of all of us, the Honorable E. L. "Tic" Forrester, of Leesburg, Ga.

"Tic" represented his country and the Third District of Georgia with honor and distinction for many years. The severity of his loss is profound and I grieve for him and express heartfelt sympathy to his dear wife, Thursba.

Next week I will ask the permission of the House for a special order to eulogize this great American.

Mr. ABERNETHY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Washington.

The gentleman was correct when he said he is putting back into the bill language that was adopted in the Senate. While I do not mean anything disrespectful of the Senate, I do not necessarily agree that the Senate language is the best language and I often find it is not. In fact, my judgment is that bills which pass the Senate fall far short of doing that which is needed in the District in order to solve the crime problem of the District.

To insert the word "will" instead of "may" just puts a burden upon the officer which is impossible for him to meet. This is reasonable language which we have in the bill. Reasonable men drafted this language, and I think those who approved it are reasonable. I hope that the House will vote down the gentleman's amendment and approve the committee amendment.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I am glad to yield to the gentleman.

Mr. HARSHA. As a matter of fact, the language that the committee is offering—was it not offered in an endeavor to conform this bill to the Supreme Court decision in the case of Ker against California?

Mr. ABERNETHY. I am sorry. I cannot answer that. Perhaps the gentleman is correct.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

The amendment offered by the gentleman from Washington would substantially narrow the authority of police officers under this bill, which is the proposal offered by the President, because by insisting that we use the word "will" as the standard we will be forcing the officer to prove in advance that property will be destroyed or that the officer's life will be endangered. The proposal offered by the administration and adopted by the committee provides that the police can obtain permission to dispense with announcing if there is reason to believe that the announcing in advance means that the property is likely to be destroyed or that the action is likely to endanger the officer's life. This proposal of the committee in the bill is reasonable and deals with probabilities. For example, if a police officer obtains a search warrant for 50 capsules of heroin, it is reasonable to believe that if he announced his identity or his purpose in advance, the drugs would be flushed down the toilet. The administration proposal would allow the warrant to be issued under these circumstances. The amendment offered by the gentleman from Washington would prohibit it, and it would state that the officer must have specific information that, if he announces in advance, the person will destroy the evidence. Such specific information is practically impossible to obtain. So the amendment offered by the gentleman from Washington would seriously hamper law enforcement and is not in conformity with the provision asked for by the administration.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I am glad to yield to the gentleman from Florida.

Mr. CRAMER. Mr. Chairman, I agree with the gentleman.

Mr. Chairman, I rise in opposition to the proposed amendment that would substitute the word "will" for "may" on line 16, and the words "will not" for "may not" on line 18 of page 340 of the House bill, under the section entitled "Applications for Search Warrants."

I am opposed to these two amendments because they would substantially weaken the no-knock provision providing for search where the property sought to be seized or discovered is stolen, embezzled, contraband, intended to be used to commit or to conceal a criminal offense, and for other improper purposes. The present language in the bill indicates that an application to the court can be made to request on reasonable belief that the property sought is likely to be removed if not seized or that the property sought is not likely to be found except at certain times, thus justifying the application. It is obvious that substituting "will" for "may" in both of those instances would be an impossible burden of proof and would destroy the no-knock provision.

I take this opportunity to also state that I support the bill as reported out of the committee, and I had hoped I would be available to vote for its passage by the House. Unfortunately, however, I cannot be present, as I have to return immediately to Florida to continue my efforts to get the Federal courts of Florida, and of the Nation, to abide by the Cramer antibusing amendment to the 1964 Civil Rights Act.

I also take this opportunity to state my strong support for this legislation which is essential if crime in the streets in the District of Columbia is to be controlled and our Nation's Capital made safe. This legislation also contains many provisions that are requested by the administration in other nationwide bills and proposals, which I believe of necessity must be passed by the Congress, and my support of this legislation before us today evidences my support for those nationwide proposals as well.

I have long been an advocate of effective anticrime legislation and have introduced many bills to accomplish adequate law enforcement in America. I am glad to support the bill now before us, the principal provisions of which include: First, restructuring of the courts in the District of Columbia to create one local court of general, civil, criminal, and juvenile jurisdiction; second, creation of an improved bail agency to supervise pretrial release of criminal defendants, including the allowance of limited pretrial detention of dangerous hardcore repeat offenders; third, establishment of a full-fledged public defender office to serve indigent adult and juvenile offenders; and fourth, revisions of the Juvenile Procedures Code to update and improve the administration and procedures of courts handling juvenile and family matters.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I am happy to yield to the gentleman.

Mr. WYLIE. The gentleman from Ohio asked a question awhile ago. Does not the committee language conform the bill to the decision of the Supreme Court in Ker against California, which I read from the committee print earlier, where they say that the officer's quick action was justified because of "the likelihood that the marihuana would be destroyed or hidden"? I submit when we are passing a bill of this nature that we ought to, insofar as possible, meet the tests which have been upheld by the Supreme Court of the United States. Therefore, I oppose the amendment.

Mr. HOGAN. I thank the gentleman for his contribution.

In that Supreme Court case of Ker against California the exact quote which the Supreme Court used was it said that the officer's quick action was justified because of "the likelihood that the marihuana would be distributed or hidden."

So "likely" is the word which we have in our bill which the Supreme Court called for in Ker against California.

XUM

The language in the other body's Federal drug bill, S. 3246, was "probable cause" to believe danger or destruction of evidence "will" result, if notice is given. In effect, the other body's test, succinctly stated, is a "probably will" test. The difficulty with this language is that it attempts to define "probable cause" by using the phrase "probable cause" in its definition.

The language in H.R. 16196 appropriately defines the probable cause standard by using the phrases "reasonably believes" danger or destruction of evidence "is likely to" result.

The cases dealing with unannounced entry by police officers do not enunciate a specific formulation of words. However, a reading of the "no-knock" cases and cases in related fourth amendment areas establish that what is required to justify no-knock entry is something less than absolute certainty and more than mere possibility. It can be argued that the word "will" expresses absolute certainty and the word "may" expresses possibility. The correct language is "likelihood"; that is, "of such a nature or so circumstanced as to render something probable"—Webster's New Collegiate Dictionary. The "is likely to" languages of H.R. 16196 comports with controlling case law.

In the leading case on no-knock entries, Ker against California, the U.S. Supreme Court said that the officer's quick action was justified because of "the likelihood that the marihuana would be distributed or hidden"—374 U.S. at 42.

The probable cause standard in the no-knock area of the law is best expressed by the phrase "is likely to."

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington (Mr. Adams) as a substitute for the committee amendments.

The substitute amendments for the committee amendments were rejected.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 355, line 9, strike out "sec. 22-543(g)" and insert in lieu thereof "subsection (g)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 366, strike out "may" in lines 17, 20, and 22 and insert in lieu thereof "is likely to".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 405, line 19, strike out "23-1322" and insert in lieu thereof "23-1324".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 406, line 10, strike out "23-1323" and insert in lieu thereof "23-1325".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 410, line 9, strike out the period and insert in lieu thereof a comma.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 414, line 8, strike out "conviction under" and insert in lieu thereof "the application of".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 416, line 17, strike out "; and" and insert in lieu thereof a period.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. HUNGATE

Mr. HUNGATE. Mr. Chairman, I offer two amendments, the "no-knock" amendments.

The CHAIRMAN. Does the gentleman desire that they be considered en bloc?

Mr. HUNGATE. I do not, Mr. Chairman. I want them considered separately.

The CHAIRMAN. The Clerk will report the first amendment offered by the gentleman from Missouri (Mr. Hungate).

The Clerk read as follows:

Amendment offered by Mr. Hungate: Page 339, insert "and" at the end of line 6; strike out lines 7 through 12; and on line 13 strike out "(7)" and insert in lieu thereof "(6)".

Page 340, beginning in line 19, strike out "; and (2)" and all that follows down through line 2 on page 341 and insert in lieu thereof a period.

Page 341, beginning in line 17, strike out ", except as provided in sections 23-521 (f) (6) or 23-591(c),".

Page 359, beginning in line 11, strike out "If the complaint establishes" and all that follows down through and including line 16.

Page 366, strike out line 11 and all that follows down through and including line 2 on page 367.

Page 367, line 3, strike out "(d)" and insert in lieu thereof "(c)"; and beginning in line 4, strike out "or after entry where such notice is unnecessary under subsection (c)".

Page 367, line 10, strike out "(e)" and insert in lieu thereof "(d)"; and in line 15, strike out "(f)" and insert in lieu thereof "(e)".

Mr. ADAMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Eighty Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 55]

Addabbo
Ashley
Ayres
Baring
Barrett
Boland
Bolling
Broomfield
Brown, Calif.
Bush
Camp
Cederberg
Chisholm
Clark
Clay
Colmer
Davis, Ga.
Dawson
de la Garza
Dent
Derwinski
Eckhardt
Edwards, La.
Esch
Evans, Colo.
Fallon
Fisher
Gaydos
Gray
Griffiths
Grover
Halpern
Hawkins
Hays
Hébert
Helstoski
Ichord
Kirwan
Koch
Lukens
McCarthy
McDonald, Mich.
McEwen
Mann
Meskill
Mills
Mollohan
Murphy, N.Y.
Nichols
Ottinger
Podell
Purcell
Randall
Reid, Ill.
Reid, N.Y.
Reifel
Reuss
Rivers
Rosenthal
St Germain
Schneebeli
Schwengel
Sisk
Stanton
Steiger, Ariz.
Stephens
Stubblefield
Teague, Tex.
Tiernan
Tunney
Udall
Vander Jagt
Wydler

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Corman, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16196, and finding itself without a quorum, he had directed the roll to be called, when 357 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Missouri is recognized for 5 minutes in support of his amendment.

Mr. McMILLAN. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the chairman of the committee.

Mr. McMILLAN. Mr. Chairman, I wonder if the Members who have amendments which they desire to offer to the remainder of the bill would have them delivered to the desk so that we may have prompt consideration of them. I think every person is anxious to get out later this evening. It is my opinion that we can complete this bill by 7 o'clock, if not before. It is my desire to cooperate in every way possible in voting up or down every amendment. I just mention that to speed up the action because I do know of certain Members who already have plane reservations for departure later this evening.

Mr. HUNGATE. Mr. Chairman, in line with what I hope to be the temper of the Committee of the Whole House on the State of the Union, the hour is late. I think most of us have heard about the no-knock provision contained in this bill. This amendment is directed to the no-knock provision.

Mr. Chairman, I ask unanimous consent that all debate on this no-knock amendment and all substitutes and amendments thereto cease in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HUNGATE. Mr. Chairman, this amendment is rather long. The heart of it is page 366, from line 11 on to line 2 of page 367. What it really does is take out the no-knock provision.

XUM

Mr. Chairman, in the words of a currently popular hillbilly song:

If you hang them all, you get the guilty.
 If you hang them all, you cannot miss.
If you hang them all, you get the guilty.
 There's been a lot of problems solved like
  this.

Let us hope that does not become the theme song of the 91st Congress.

You have all read and heard of the recent case in Iowa—and I see my distinguished friends from Iowa are here—where a farmer, tired of burglaries and vandals destroying his property, set up a spring gun so that whoever invaded his uninhabitated cottage would be shot. Someone did. They were. And he was sued and found liable for a judgment large enough to cost him his farm.

I know many were outraged at that result. Yet let me make one thing perfectly clear: Unless the no-knock provisions are removed from this bill we will make it hazardous for the householder to use force to repel invaders, even of inhabited dwellings. I do not believe this is your intent.

When the founders of this Nation met, now nearly two centuries ago, we had no standing armies sufficient to support the cause of freedom from Wheelus to Saigon. There were no nuclear submarines to insure us freedom of the seas. The blessings of a continental defense system sustained by ABM's, MIRV, and nerve gas, were unknown. But the colonists were well aware of the tyrannies available from a too-powerful Central Government. Their confidence in the principles upon which this Nation is based were such that they could write:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

That is amendment No. 4 to the Constitution, as I think you recognize.

It is true that the courts have sanctioned a no-knock entry under exigent circumstances in narcotics cases, but this provision is not limited to narcotics cases. It is true the courts have sanctioned a no-knock entry under exigent circumstances in gambling cases, but this provision is not limited to gambling cases.

Someone has stated earlier in the debate—and I believe I am correct on this—that this injection of the no-knock provision would give the police no powers they do not have. So I say do not do it.

Removal of the no-knock provisions from this bill will not repeal the no-knock authority already given by the courts in gambling and narcotics cases in exigent situations. Passage of this no-knock provision will lessen the freedom of every householder in the District, and will lessen the freedom of every visitor to Washington.

Now we are going to have judicial safeguards, you will hear all about that. You will have to go before a judge to get an order to be free from having a no-knock warrant issued on you. You can go before some judge like Judge Douglas, to get protection of your rights, or you can go before some judge like Judge Haynsworth, to get protection of your rights. I do not believe we want to go that far.

There are many in the Congress who support the recent campaigns to have all police officers wear an American flag insignia as part of their uniforms. This is a splendid idea. However, an American flag may be worn on the uniform, or it might be worn on the pajamas or even tattooed on the navel, but none of this will be to any avail if we lose sight of the principles for which that flag stands: Freedom, individual liberty, and the right to be secure in our homes against unannounced intruders.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from New Jersey (Mr. HUNT).

(By unanimous consent, Mr. HUNT and Mr. HARSHA yielded their time to Mr. WYLIE.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Missouri. This is a very important provision in the bill, the no-knock provision, and it should be retained.

The thrust of this no-knock provision is announcement and identity. It has been called a no-knock provision which, in my judgment, is a misnomer. More properly, it should be called a must-knock amendment rather than a no-knock amendment, with certain exceptions.

I think the gentleman from Missouri does not mean to suggest a situation like the one out in Iowa is applicable here.

You do not get to the question of no-knock until the law enforcement officer has obtained a search warrant, if the purpose for entering the premises is for search only; or he has obtained an arrest warrant, or he has entered the premises in hot pursuit of a felon.

It is then and only then that you get to the question of no-knock.

Now if we are to assume violations of the law by law enforcement officers, then we might as well forget about enacting any law and go back to the law of the jungle.

I, for one, would much rather take my chances, as a law-abiding citizen, to the possibility of an unauthorized entry by a police officer which is infinitesimal, in my opinion, compared to the possibility of being the victim of a crime.

Recent FBI reports indicate one of every 50 persons in the United States will be the victim of a crime.

There are no reported cases of illegal entry under no-knock provisions which are now in existence in 29 of our States. The no-knock provision is placed in this bill to provide police officers with clear statutory guidelines, and I think it is protection against an invasion of privacy. Entry must be authorized in advance by a search warrant. That warrant must authorize entry by no-knock after a showing of probable cause. The officer cannot enter on a frolic of his own and knock down the doors in the day or night or at any other time; or, the officer must have an arrest warrant. Again, probable cause must be shown, in any case. The third possibility exists where a felony is about to be committed or is being committed. Again, the element of probable cause must be present.

Now, the debate and controversy over the so-called no-knock issue makes it obvious to me that some clear guidelines must be enacted to define for our law enforcement officers when they must announce and when they need not. Imagine the dilemma of a police officer faced with a dangerous situation which he reasonably believes calls for dispensing with the announcement of his identity and purpose. What is the police officer to do? If judges and Congressmen cannot agree, how can we expect our law enforcement officers to know what to do on the spur of the moment in a dangerous situation. The lack of clear standards can only lead to police abuse. Mr. Speaker, this Congress has a duty to clearly define when a police officer must announce and when he need not.

In my judgment, section 23–591(b) of the bill correctly states the general rule by providing that breaking and entry shall not be made until after the officer announces his identity and purpose and the officer reasonably believes that admittance to the premises is being denied or unreasonably delayed. This general requirement is modeled after the Federal statute, 18 U.S.C. 3109.

It is also my view that section 23–591 (c) of the bill sets out correctly as exceptions the five specific circumstances in which law enforcement officers should not be required to announce their authority and purpose. Briefly stated, these five circumstances are: First, the officer's identity or purpose is already known; second, notice is likely to result in evidence being destroyed; third, notice is likely to endanger the officer's life; fourth, notice is likely to enable the suspect to escape arrest; and, fifth, notice would be a useless gesture, such as announcing an officer's intention to search an abandoned automobile. These five exceptions to the general rule requiring announcement are found in existing State and Federal law. They are necessary to protect the lives of our police officers and for the preservation of valuable evidence.

If the purpose of the announcement rule and the fourth amendment to the Constitution on search and seizure is to serve as an effective deterrent to prevent police officers from breaking down doors before entering premises, it is vitally important and only fair that Congress specify, for the benefit of both the citizens and law enforcement officers, when the latter must announce and when they need not. Requiring law enforcement officers to rely on uncertain and shifting case law, instead of providing them with an ascertainable standard of conduct, hardly supports the deterrent purpose of the law. Therefore, I support the purpose of section 23–591 of the bill which provides the District of Columbia with comprehensive statutory language to make clear those situations in which law enforcement officers must announce before entering and when they need not announce.

XUM

From early English times to today the law has recognized certain exceptions to the general rule requiring announcement of identity and purpose. In the 1963 landmark Supreme Court case of Ker against California, both the Justices supporting the opinion of the Court and the dissenters agreed that exceptions exist to the general rule requiring the announcement of identity and purpose. The specific exceptions to the general announcement rule listed in the bill are consistent with the opinion of the Court in Ker against California. In 1966, 3 years after the Ker decision, the Supreme Court refused to deviate from its position in Ker against California. In the case of *People* v. *Delago* (N.Y. 1966), a no-knock entry, pursuant to a New York statute, was authorized along with a search warrant for gambling paraphernalia. The no-knock warrant was based on the general experience of the police officers that gambling records are frequently quickly destroyed, if announcement is given. The New York Court of Appeals, the State's highest court, approved this no-knock method of entry. The U.S. Supreme Court denied certiorari thereby refusing to review the decision of the New York Court of Appeals.

The New York no-knock statute which was approved in Delago and which provided a model for the provision in this bill provides, in pertinent part, that a judicial officer may direct entry without announcement upon proof under oath "that the property sought may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result if such notice were to be given" (N.Y. Code Crim. Proc. § 799). Other States such as North and South Dakota, Nebraska, and Utah have also enacted no-knock statutes similar to the New York law. In fact, 29 States allow no-knock entries either through express statute or judicial application of the common law exceptions to the general rule.

Those who oppose no-knock entries cannot argue on the ground of unconstitutionality for these police activities have been upheld by the courts.

Are no-knock opponents saying that they can do a job superior to that of the learned justices of the highest courts in this land when it comes to interpreting such weighty legal issues as what constitutes "unreasonable searches and seizures"?

Let us look at these provisions. They deal only with the method of entry, not with whether the entry or invasion of the premises is legal. The entry must be authorized by an arrest or search warrant issued by a judicial officer on probable cause, by the law sanctioning arrests without a warrant which requires the officer to have before the fact probable cause to believe that the person has committed a felony. There is no unreasonable invasion of privacy for a judicial officer or the law of arrests has already sanctioned the entry on reasonable grounds. No-knock relates only to the method of entry and not the entry itself which is the alleged unconstitutional invasion of privacy issue.

I urge defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. CHAMBERLAIN).

(By unanimous consent, Mr. CHAMBERLAIN yielded his time to Mr. HOGAN.)

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, in response to the comment of the gentleman from Missouri about the violence that might ensue, I submit that, on balance, less violence will occur if the law-enforcement officers can get to the suspect before the suspect can get to his gun to shoot the police officers. This was recognized by the District of Columbia Corporation Counsel when he appeared before the committee and testified:

> Although these provisions, particularly the so-called no-knock rule, have engendered much controversy, and are fraught with some danger to those serving the warrants, there are some instances in which the life of an officer or the existence of valuable evidence can only be protected by serving a warrant . . . without notice.

The ugly fact is, Mr. Chairman, that there are a number of dangerous criminals in the District of Columbia who will shoot a police officer much quicker than they would shoot a burglar, and I do not think any of us want our law-enforcement officers to become targets for criminals.

I would like to cite the case of the notorious bank robber, Billie Austin Bryant who escaped from Lorton. Two FBI agents were on their way to arrest him at the apartment of his wife. They knocked on the door. He came to the door armed, fired, and killed the FBI agents. I submit, if they had in that instance entered without knocking, they would be alive today. I do not think we need to put our law-enforcement officers in that jeopardy.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Minnesota.

Mr. FRASER. Is it not a fact that these officers already had authority under common law to enter without knocking?

Mr. HOGAN. That is beside the point. The point is we are not giving them any more authority under this law. That is the point the gentleman overlooks. Their authority for arrest and search will be the same under the law as it is today. A police officer giving criminals like Bryant notice is inviting trouble.

(Mr. DOWDY, by unanimous consent, yielded his time to Mr. HOGAN.)

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Ohio.

Mr. HARSHA. Is it not a fact that all we are trying to do here is to codify the case law to make a statute available with certain technical guidelines so the police officer will always know the limits of their bounds and how far they can go and not resort or rely upon the indefiniteness or inadequacy of case law, which fluctuates from time to time?

Mr. HOGAN. The gentleman from Ohio is correct. We are giving the police no new authority. We are only clarifying the authority they already have and codifying the case law. The gentleman is absolutely correct.

I would like to quote the California Appellate Court which recently said announcement by the officer "could have been the equivalent of an invitation to be shot. Reasonable conduct on the part of a police officer does not require that he extend such an invitation."

Mr. Chairman, if we review this area of the law as I have done, I am sure we will agree with the California Supreme Court which said, People against Maddox:

> Suspects have no constitutional right to destroy or dispose of evidence, and no basic constitutional guarantees are violated because an officer succeeds in getting to a place where he is entitled to be more quickly than he would, had he entered without notice.

In spite of the misrepresentations which have been made by the foes of this legislation, police will not be barging into private homes. As in every other arrest or search situation, the officer must show probable cause. The provision in H.R. 16196 is simply a clarification, so I urge my colleagues not to be confused by the hysteria and the misinformation in circulation about this provision and to join the committee in approving this measure, which was approved by them 17 to 7, and by the President of the United States, and by the Department of Justice, and by the District of Columbia government, and by the District of Columbia Bar Association, and by the 29 States which recognize this no-knock authority, and see that this stays in the committee bill.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Missouri, in support of the committee provisions.

The gentleman from Missouri, as I understood him to say, concedes that the present case law provides or permits no-knock under the provisions set forth in this bill. Then it is very clear that all this provision of the committee bill does is simply to codify and put it into statutory language.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I think my statement was it permits it in narcotics and gambling cases. It would not be my statement that this codifies what the law is in all cases.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for the clarification, but I am not persuaded by his argument.

I think that this language in the bill simply does set forth the case law. It clarifies the situation for everyone, not only the police officer, but everyone connected with the law. I think the provision is a very worthy one and a necessary one in the District of Columbia at this time. I want simply to state that I support the committee provision in the bill and oppose the amendment offered by the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I am not about to restate the clarification purposes of this bill, I have listened to these arguments as I have listened to the arguments presented to the State legislature. In New York we have now the no-knock authority which has been sustained by the courts. It seems that the same arguments are being advanced here as were in New York prior to its enactment. Then the opponents said the very same things about possible violation, about possible encroachment upon the people, as though the law enforcement officials of the State were absolutely irresponsible.

When they saw their position was untenable, they were willing to accept the no-knock principle as it related to narcotics and to confine it to narcotics. When the advocates wanted to address themselves to an even greater area, the opponents finally agreed to the application of the no-knock provision to gambling, but the opponents were there opposing it every step of the way offering the same specious arguments we have heard today.

Experience has dictated that the no-knock warrant authority in New York State has been sustained and has been highly effective. That is the critical point. It has been highly effective. Some of the largest gambling rings in organized crime have been destroyed and some of the largest arrests in narcotics effected only 2 weeks ago in the Bronx as a result of the no-knock warrant, District Attorney Roberts was able to effect arrests involving narcotics of over $1 million. Judge Louis Fusco, the presiding judge in the arraignment fixed bail at $1.5 million for the defendants.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. Mr. Chairman, I compliment the gentleman from New York (Mr. BIAGGI), on his very distinguished police service record in New York City, and I associate myself with the remarks of the gentleman.

Mr. McMILLAN. The Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from South Carolina.

(By unanimous consent, Mr. McMILLAN yielded his time to Mr. BIAGGI.)

Mr. HUNT. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New Jersey.

Mr. HUNT. Mr. Chairman, I compliment my colleague, the gentleman from New York. We worked in police affairs with each other, and I am happy to see the gentleman, with his stature and police experience behind him, support this no-knock provision and fight against the amendment.

I am opposed to the amendment because, like the gentleman, I was engaged in law enforcement for a number of years prior to coming to the Congress.

We know the danger we have at times. We obtain a warrant legally, go through the certification, and go to a door, and if we miss we are dead. Sometimes to knock is to invite the gunfire from within the building. To move in fast and quickly has always been the method that has protected us from criminal action from the other side of the door.

I am happy to join with the gentleman, and I congratulate him for his fine comments.

Mr. BIAGGI. I thank the gentleman.

In connection with some of the objections, if the law enforcement officer fails to strictly comply with the procedures as prescribed by law he will be held accountable, and he should be held strictly accountable. I will be among those lending their voices of criticism in that area.

Second, the people of the District of Columbia are not second-class citizens, despite the fact that this Capital City can well be characterized as the Sin City of the Nation because of the huge crime picture. The people are being victimized. Oddly enough, the statistics prove here, as they prove in every large city area of the country, that the poor people, the ghetto people, are the ones who are most victimized. They should be given as much protection here as they have been given in New York City.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I certainly cannot speak from the same basis of experience as the gentleman who just addressed the House, the gentleman from New York (Mr. BIAGGI). My experience was in the realm of the prosecutive rather than law enforcement as such.

But I would certainly echo what the gentleman has just said, and particularly that the people in the ghettos deserve no less law enforcement than those who live elsewhere.

I was reminded of that this morning in the statement that one out of 70 people living in city ghettos today, in 1969, had the experience of being raped, robbed or assaulted, as against one out of 10,000 living in white suburbia. In other words, the chances were 100 times better for being a victim of some kind of criminal assault if they lived in the ghettos.

The words the gentleman said have been well documented by our experience. I have been waiting all afternoon in the debate on this particular bill to hear some documentation for the charge that there is going to be some great abuse if we clearly define what is the authority of the police in this regard. I have not heard any clear explanation or any documentation with respect to the 29 States where this provision already exists either by virtue of statute or by virtue of case law, as to whether there has been any extensive abuse.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Washington.

Mr. ADAMS. We have not been able to discuss it, because we just got to this point.

If the gentleman will turn to page 367 he will find this item in section 5: He can break in at any time when "such notice would otherwise be a useless gesture."

That just completely wipes out the Ker case and all the standards talked about by all the people here so far.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I yield to the chairman of the Committee on the Judiciary, the gentleman from New York (Mr. CELLER).

Mr. CELLER. Mr. Chairman, I should like to propound a question to the gentleman with reference to notice.

We read on page 366 that the officer serving the warrant need not give any notice if, and I read from page 367, "such notice would otherwise be a useless gesture."

Does that not mean that the officer making the knock does not have to give any notice to the occupant of the building if he feels it would be a useless gesture, and then all these other standards and restraints which are set forth prior thereto, also on page 366, are nullified?

So that the officer is given very wide discretion to enter without giving any notice whatsoever and if he deems that notice would be a useless gesture. A "useless gesture" is not to be defined by the courts and it need not be defined by the courts. It is wholly within the discretion of the officer himself. Am I correct in that interpretation?

Mr. ADAMS. The gentleman is correct.

Mr. CELLER. Thus the officer is really the determinator factor. He comes to a judgment that the notice would in his view be useless and he then goes ahead and forces entrance. There is naught to deter him his discretion governs.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I yield to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. I was also appalled by the statement of tacking two things together here and saying that there was going to be probable cause for the search warrant when we just argued before in this House that you could knock out the probable cause reason for a search warrant.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I cannot yield now because I do not have the time.

There are three tests in the Ker case of when you can enter a house. Men have done that. The one that the gentleman from New York (Mr. BIAGGI) mentioned is a case in point. He and I are both aware of the common law right of an officer to enter a house when his life is in danger or when someone else's life is in danger or when he has to protect the safety of another individual. This goes beyond that. The useless gesture means that he can go in at any time.

XUM

Mr. FRASER. Mr. Chairman, I would like to make an additional point that none of these requirements at the time apply when the warrant has been secured by the officer which enables him to go in without advance notice or knocking. In other words, if he makes sufficient statements so that he gets a warrant—and very probably he will—then none of these provisions apply to the time when he approaches a dwelling in question. It is a very wide open thing, I think.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I have so little time.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Mississippi (Mr. ABERNETHY) to close debate.

Mr. HOGAN. Mr. Chairman, will the gentleman yield for a brief observation?

Mr. ABERNETHY. I yield to the gentleman.

Mr. HOGAN. I thank the gentleman.

The gentleman from Washington I am sure did not want to deceive the House when he referred to the "useless gesture" provisions of the bill. I am sure he knows that in Miller against the United States the Supreme Court specifically recognized the exception of a "useless gesture" in no-knock cases.

I thank the gentleman for yielding.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. Let me have just one-half a minute.

I want to compliment the gentleman from Ohio on his speech, which was certainly a very fine one; and I also want to compliment the gentleman from New York (Mr. BIAGGI).

May I say to the members of the committee that we did not approach this in any haphazard fashion. We realized this was extraordinary procedure. We knew this kind of procedure or search arouses the concern of the American people. Therefore, we were very careful in writing into it appropriate safeguards that would protect the law-abiding. The man we are after is the violator. As Mr. BIAGGI stated, this thing has worked well in New York. I hold in my hand now a news report that came out of New York City just a few days ago where they entered under a no-knock warrant and recovered about $10 million worth of narcotics, which they could never have done without a no-knock warrant.

Mr. Chairman, I ask the House to vote down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. HUNGATE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HUNGATE. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. HUNGATE and Mr. McMILLAN.

The committee divided, and the tellers reported that there were—yeas 52, noes 120.

So the amendment was rejected.

(Mr. BURLISON of Missouri asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BURLISON of Missouri. Mr. Chairman, after examining the crime statistics for the District of Columbia one wonders just what effect law-enforcement agencies have had upon the crime rate. A more shocking collection of figures could hardly be compiled. Twice as many people were murdered in 1969 as in 1966. There were 336 forcible rapes in the District of Columbia during 1969. Just 3 years before, the rate was less than one-half that. In the same 3-year period the number of robberies has gone up more than 230 percent. In the past 12 years serious crime has increased 489 percent. Projecting ahead it is predicted that there will be 80,000 serious crimes committed in the District of Columbia in 1972. This projection is made more appalling when you consider that the police estimate that no more than 50 percent of all serious crimes are even reported. Because of embarrassment and social stigma probably only a fraction of all forcible rapes are reported.

In 1969 there were 56,419 felonies reported in the District of Columbia. In response the police made 11,504 arrests. Of these, 2,583 were indicted and 948 entered a plea of guilty. Only 513 were convicted at trial. This means that a criminal in the District of Columbia has less than three chances in 100 of being convicted of his criminal act.

No one claims that the District of Columbia crime bill will dispose of the problem, but a good case can be made that it will help.

It is a controversial bill which prescribes strong measures, but strong measures are needed.

Some have claimed that the bill unconstitutionally deprives the people of their personal liberty and right of privacy. I cannot agree. How is our personal liberty enhanced if we are not at liberty to walk in our neighborhood at night; if we are afraid to patronize many downtown restaurants and stores? How secure is our right to privacy when 23,000 homes were burglarized last year in this city? The equity of personal liberty and individual rights must be balanced against that of the protection and interest of society.

Not very long ago I visited friends at one of the large apartment complexes in Washington. I drove up to what can only be described as a guardhouse where I was stopped by the security police who inquired as to the reason for my visit. He then called my friend to confirm my story. I was instructed to drive in the courtyard and park. I then walked to a glass-enclosed lobby which, of course, was locked. When I picked up the telephone on a nearby concrete column and again identified myself I was told that when I heard a buzzing sound the door would unlock and I could enter the lobby. After entering the lobby I picked up another telephone identified myself again and was told that in a moment the elevator would open. I finally gained entrance to my friend's apartment after he released the two locks that secured his apartment door. It was an altogether frightening experience. The only difference between this and a maximum security penitentiary is that the tenants—inmates—have their own keys.

I do not know anyone who wants to live like this and if we can ever get crime under control they would not have to.

Against this backdrop let us examine a few of the controversial sections of the bill.

It would give judges authority to consider "danger to the community" in setting conditions of release on bail. A defendant charged with commission of a crime such as bank robbery or sale of narcotic drugs may be subject to pretrial detention on this basis.

Courts would also be authorized to detain repeat offenders who have been charged with at least two crimes of violence.

It is felt that these provisions are necessary to overcome the weakness of the 1966 Bail Reform Act. The act was designed to eliminate the injustice of locking up defendants simply because they did not have enough money to post bail. As a result the only criterion for denying bail in the District of Columbia is the likelihood that the defendant will flee the jurisdiction.

A recent study by the Justice Department revealed that 70 percent of those who were indicted for robbery and released before trial were rearrested while on pretrial release. Many were rearrested several times. The crime bill deals with this problem by providing for the pretrial detention of those who pose the greatest threat to the community.

This brings up the related problem of concurrent and consecutive sentencing. Under present law unless the judge uses the magic word "consecutive" when sentence is pronounced the sentences for unrelated offenses run concurrently. Thus, if a judge is sentencing a man for rape and he is unaware that the man has been previously sentenced for burglary, the sentences will run concurrently. Since the sentence for rape will, doubtless, be longer than the one for burglary, in effect the crime of burglary goes unpunished.

Say a man is arrested for robbery and released on bail. He knows that his trial will not be for several months and probably not for more than a year. Let us assume further that the evidence against him will almost certainly result in a conviction. What does that man have to lose by committing another crime? If he robs a store or house and is caught, his ultimate punishment will probably be no greater because of the near certainty that the sentences will be concurrent. Under the new law if a judge wanted the sentences to run concurrently he must so specify. If not they run consecutively.

The so-called no-knock provision relates to when law enforcement officers entering a home must announce their identity and purpose and when they need not. If the bill is enacted the rule for the District of Columbia will be similar to the Missouri rule. In cases where entry into the premises has been sanctioned by a judicial officer in a warrant or by the law of arrest on the basis of reasonable grounds to believe that criminals or evidence of criminal activity is secreted in those premises, the new law would not require the officer to announce his identity and purpose in certain situations. If the warrant expressly au-

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thorizes entry without notice or the officer reasonably believes his identity or purpose is already known to any person in the premises or such would otherwise be a useless gesture, he need not announce his identity or purpose. Nor is such announcement necessary if it is likely to result in the evidence subject to seizure being easily and quickly destroyed, disposed of, or concealed.

As a former three-term prosecuting attorney I have long advocated the right of appeal by the Government. Society should have the assurance of a fair trial, just as does the defendant. There can be no State appeal when the defendant has been acquitted after a full trial, but this bill would permit the Government to appeal adverse rulings by the court suppressing evidence or otherwise denying the prosecutor the use of evidence at trial. Often serious felony cases have been lost because of an evidentiary ruling the judge made and from which the prosecutor had no appeal. Obviously judges do not like to be reversed on appeal and they know that if they rule against the defendant their decision will probably be appealed. The natural inclination is to accept the defendants argument if it has any basis whatsoever because the judge knows the Government cannot appeal an adverse decision.

I do not feel that the rights of the accused are jeopardized. The traditional constitutional safeguards remain. But in this bill we also considered the interests of the law abiding public who have an equal right to the quiet enjoyment of their property and the security of their persons. Mr. Chairman, some of the points here discussed are innovative and have far-reaching implications and ramifications. Some of our social scientists are vigorously opposed to this approach. My response is that the trial period of leniency and permissiveness in criminal law enforcement has left our Nation, and especially our Nation's Capital, in appalling disarray. Throughout my professional career as a lawyer and a prosecuting attorney, my firm position on stringent law enforcement has been unequivocal. After 15 months service in the Congress I am more convinced than ever before that this position is in the best interest of our country.

AMENDMENT OFFERED BY MR. DENNIS

Mr. DENNIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENNIS: Page 303, strike out lines 13 through 26 in their entirety.

Page 304, strike out lines 1 through 21 in their entirety, thus striking out all of subsection (b) of section 907A of the bill.

Mr. DENNIS. Mr. Chairman, this seems to be a bad day for amendments, but this is the good amendment, which ought to be the exception. I ask the Committee seriously to give me their attention, and to give this amendment support, because it is not an amendment that goes to the thrust of this bill, or whether you are for the bill or against the bill; it is truly a good amendment.

On page 303 of this bill there is a section 907(A)(b)(1), and what this section says is that if anyone is three times convicted of a crime of violence, as defined in this bill, he is mandatorily sentenced to life imprisonment. The court has no discretion whatsoever. Moreover, he is not eligible for consideration for parole for a minimum of 20 years, and the court cannot suspend the sentence.

Now, that might not be as bad as it is if you really had nothing but crimes of violence. As the gentleman from Washington (Mr. ADAMS) has pointed out, burglary is a crime of violence under this bill, and to break into a gumball machine is burglary, and it makes it a crime of violence. So you can have a man convicted three times of a crime like that, and he would have to go to jail for life.

I cannot see for the life of me why, no matter how much you are against crime in the District of Columbia, or anywhere else, why you want to write a clause like that into a statute adopted by this Congress. What is the sense in it? What is just about it? What is right about it? And I want somebody to tell me what is just and right about it before you go ahead by rote here and vote it down just because it is an amendment, and this committee brought it in.

I have a lot of respect for this committee, a lot of respect for them and their work, and what they have done, and I am for their bill basically, but I did not abdicate my commonsense when I came here, and neither did the rest of you.

Now, just think of it. Under this section here, this one little section in this bill, a fellow at 18 years of age might break into a gumball machine. He might be sentenced to the reformatory. There he might get into a fight with a guard, and hit him, and that, too, is a crime of violence. There is conviction No. 2. He gets out, and for 30 years behaves himself, works, goes to church, raises a family, and stays out of trouble, and then at 50 years of age he knocks somebody down with an automobile, and is convicted of manslaughter.

Or maybe he finds somebody in bed with his wife and attacks the man—and that is conviction No. 3.

Now no judge on earth would, or should under these circumstances, send that man to jail for life, with no possibility of probation, and no parole for 20 years.

But a judge has to do that under this section. All I am trying to do is to strike the section out. It is a bad law and it is a bad procedure to ever make it mandatory on the court. What the courts are for is to decide on the facts of a particular case and to do what is right in that case. It is foolish to think we can sit here and in our wisdom see 30 years ahead to every little individual case that comes up and determine what the judge ought to do, and bind him in a straitjacket. It would not be good under any circumstances.

But when you tell him he has got to send a man to jail for life under circumstances such as I have described here—it is not only foolish, it is wrong. It is not necessary in this bill and there is no reason for doing it. So support my amendment and strike it out.

Mr. WIGGINS. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I do not intend to speak for 5 minutes in support of something that is obviously as worthwhile and so deserving of support as this amendment. I hope the Committee in its understandable desire to achieve some law and order in this community does not lose its sense of justice. We are very close to losing our sense of justice if we adopt the language of the bill with respect to mandatory sentences for life for crimes of violence as defined.

We are denying to judges the power to do the very thing they were hired to do and that is to judge cases. We deny to judges the power to consider the circumstances of an offense. We are denying to them the power to consider the age of the offender. We are denying to them the power to consider the provocation under which he may have acted. All of these things are essential to a just sentence.

All of you know that justice is not something that is ground out on a mass production basis. Justice is an individual thing. Each individual defendant accused and convicted of a crime is entitled to have the separate consideration of the circumstances of his offense by a judge.

What we are doing in the language of this bill, gentlemen, is to substitute our judgment for that of the judge. There may be judges who have caused us to have some concern about their judgment. But the solution to that problem is to appoint better judges. It is not to take away the judgment of all judges, the great bulk of whom are just as sensitive to the problem of crime as any Member of this House.

Mr. Chairman, I urge most earnestly that Members support this worthwhile amendment.

Mr. JACOBS. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, for years in my own State the entire penalty for driving a motor vehicle under the influence of alcohol was in the discretion of the judge. Finally, a statute was passed which mandated the suspension of driving privileges on the first conviction for such a crime.

The results were salutary so far as that problem was concerned.

The same is true of the Scandinavian countries where the penalties are even more stringent and mandated by law. The effect has been so good there that it has become a common practice in some countries that when four people are out on the town, they draw straws, and one becomes the driver and just does not drink anything during the evening.

My judgment is that after a person has been convicted of three separate—and it should be clear to the Committee that this provision requires that one be convicted of three separate violent felonies—that this individual is a bad bet for society. I do not like it. I think it is tragic that such should be the case. But three strikes are just too many in the kind of society in which we live. We realize all of the arguments against it. I feel them myself. The better judgment, I think,

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after weighing both sides of the argument is that this provision should be supported and that is why I introduced it in the Committee.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HARSHA. Mr. Chairman, every time this House considers a crime bill someone gets in the well of the House and sheds large crocodile tears for the criminals. One of the problems with the crime situation in this country has been that the courts have been too lenient, have been too free to grant probation, that sentences imposed have been too light. As a result, there is no respect for law and order. Enforcement has totally broken down. The criminal has no respect for penalties because he knows they are not imposed. There is no deterrent to the commission of crime.

What is wrong with giving a three-time loser, a man who has been convicted of violent crimes three times in his life, a life sentence, eligible for parole after 20 years? He has a recourse if he wants to stay out of jail—just do not violate the law. Why does he not conform to the rules of society like the rest of us? Then he will not be confronted with going to the penitentiary for life. If a stiff sentence could be imposed this will act as a deterrent to the commission of crime. It will bring a halt to some of this murder, rape, and plundering that is far too prevalent in the District of Columbia.

Mr. Chairman, I urge support for the provisions in H.R. 16196 which provides a mandatory 20-year-to-life sentence for persons convicted of their third violent crime. In order for this sentencing provision to apply, the criminal defendant's third violent crime conviction must occur after he has had two previous opportunities to reform his violent criminal behavior. Any provision of law which gives an individual not one but two opportunities to reform his ways cannot be called unfair or harsh.

Society needs protection from the robber, rapist, and kidnaper who after two chances for rehabilitation commits yet another heinous crime. It is the duty of this Congress to give the law-abiding citizens of the District of Columbia the security they need from the habitual violent criminal.

The criminal justice system in the District of Columbia has proven totally inadequate. The criminals feel they can commit crimes without fear of punishment. The provision will go a long way toward changing this unacceptable attitude. It will make it clear to the criminal that if he does not amend his violent behavior, he will receive certain punishment.

Uniformity and certainty of punishment is necessary to deter crime. It is interesting to note that in the spring of 1969 there was a substantial reduction in armed robberies immediately after the imposition of several life sentences for persons convicted of armed robbery. These sentences made front-page news and made an impression on the criminal community. In the opinion of the Chief of Police, the imposition of these life sentences along with the publicity, had a substantial deterrent effect immediately thereafter. It is true that the crime rate for armed robberies swung back up after several months, but this is attributable to the fact that the criminal community recognized that only one or two Federal judges were willing to consider imposing substantial sentences.

The provision in this bill will provide a necessary deterrent to curb continuous violent criminal activity. The habitual violent criminal is less likely to chance a third round with the criminal justice system if he is assured of a certain, unequivocal sentence.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

I wish to point out that the Department of Justice, the District of Columbia Chief of Police, the District of Columbia government, and then District of Columbia Bar Association overwhelmingly approved the provision as it is contained in the bill calling for mandatory penalties.

I will admit to the gentleman from Indiana, who offered the amendment that, yes, we are taking the discretion out of the hands of the judge in these cases of multiple offenders, because judicial leniency has been a contributing factor in this whole crime problem.

In the District of Columbia the crime statistics are just getting out of sight. Among cities with a population of a half million to a million, the District of Columbia ranks first in the actual number of murders and robberies committed and in the number of murders and robberies committed per capita. In 1969 there were 289 murders, while 10 years ago, in 1958, there were only 79.

The statistics indicate that something needs to be done. Everyone who has ever testified on the crime situation in Washington has indicated that recidivism is one of the big contributing factors. The President's Commission on Crime in the District of Columbia reports that two-thirds of convicted adult felons studied have been previously institutionalized. The provision in this bill providing a mandatory 20-year-to-life sentence for a person convicted of his third violent crime would be an important deterrent to the habitual violent criminal.

In my judgment, the provision is extremely fair. It gives the individual two distinct opportunities to reform his violent criminal behavior. If, after rejecting two opportunities for rehabilitation, he still commits another violent crime, then I think Congress has the duty to see that the law-abiding citizens of the District of Columbia are protected. This provision makes the decision that the violent criminal who fails to reform after two opportunities should be punished rather than the community. I urge that the amendment be defeated.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I am happy to yield to the gentleman from New York.

Mr. BIAGGI. The gentleman from Indiana who offered the amendment raised a point to which an answer has not yet been provided. Perhaps a man with three convictions of violent crime should be sentenced to life imprisonment. However, there is a description of a crime in the bill that defies comprehension. We say at one point that breaking into a slot machine is burglary, and then we go further and find that burglary is classified as violent crime. How do we resolve that particular problem? If we could resolve that question, perhaps the proposal would be more palatable. Unless we do so, obviously there could be gross injustice. We can conceive of three convictions of breaking into a slot machine and the man being sentenced to life imprisonment That would be grave injustice and a distortion of our entire objective.

Mr. HOGAN. I appreciate the contribution of the gentleman from New York. For purposes of clarification, I would certainly be willing to accept an amendment to restrict this provision to first-degree burglary. The analogy of slot machines is a distortion. Vending machine breaking would only be second-degree burglary anyway. So I would be willing to accept that change. Does the gentleman wish to offer an amendment?

The CHAIRMAN. The amendment before the Committee is the amendment offered by the gentleman from Indiana (Mr. DENNIS).

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

The gentleman from Maryland (Mr. HOGAN) just said that the example of second-degree burglary was distorted, but I think most Members in the Chamber who have had anything to do with criminal trials know that the inclusion of minor offenses in a mandatory life sentencing provision can lead to results which the Congress neither anticipated nor designed.

Let me read for the benefit of the committee the crimes defined as violent crimes in this bill: Murder, forcible rape, carnal knowledge of a female under age 16.

Let me just stop here to point out that any child over the age of 16 is defined as an adult if he commits a violent crime, so a 16-year-old boy having intercourse with a 15-year-old girl with her consent has committed a violent crime. If a 16-year-old boy takes indecent liberties with a girl of 15 years with her consent, he commits a violent crime.

Simple assault includes pilfering of coin-operated machines. It is not difficult to imagine a series of minor offenses leading to convictions and a mandatory life sentence for a 16-year-old boy who under most State laws would not even be eligible for penitentiary confinement.

The bill goes on to describe violent crime as mayhem, kidnaping, robbery, burglary, voluntary manslaughter, extortion, or blackmail if accompanied by threats of violence, arson with intent to commit any offense against a person, an assault with a dangerous weapon, or an attempt or a conspiracy to commit any of the foregoing offenses as defined above if the object of the conspiracy is a criminal offense punishable by imprisonment for more than 1 year.

The gentleman from Indiana (Mr. JACOBS) was talking about how effective the law and the mandatory confinement is for driving under the influence of liquor. I recall when I was acting as a deputy prosecutor we had such a law in the State of Washington for second offenders. I recall one defendant who pleaded guilty to a charge of driving under the influence of liquor was a veteran who had just come back from the Korean war with a whole series of battle ribbons and a Silver Star.

He knew he had been drinking too much and wisely drove his car off the road but forgot to turn off the engine, so technically he was in operation of the motor vehicle and was convicted. We then discovered he had a previous conviction before his military service which made it legally necessary for us to send him to jail for 30 days. He had a new job which he would lose if this occurred. Neither the prosecuting attorney nor the judge nor I felt this man should be subjected to this kind of punishment, but not even the Governor could commute the 30-day sentence. We finally all conspired to walk around the law—let the defendant file an appeal for a de novo trial—released him on his own recognizance and simply never called him for trial.

Provisions of this sort will necessitate prosecutors, judges, and perhaps juries finding some way around a totally obvious injustice, in many cases. No act of Congress can conceive of every situation that comes before a court. In the tremendous scope of human circumstances that come before a judge, it is wrong to try to hamstring his judgment to force actions which may in the circumstances be monstrously most unjust especially is it wrong when we have, by the inclusion of relatively minor offenses, laid this framework for a life sentence without the opportunity of parole before 20 years. Not just for serious offenders but juvenile and minor offenders as well.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I commend the Speaker in the well, because I think he summed up in concise legal language the problems connected with the mandatory sentence provision.

However, Mr. Chairman, I would like to go beyond that, because I have heard today here on the floor of the Congress more hysterical and unreasonable talk about crime in the District of Columbia than I have ever heard in my entire career here in the House of Representatives. Is it not about time we recognize that crime has specific roots and causes, and that we will not be able to solve crime here or anywhere with all the omnibus crime bills in the world? There are some things we should be doing, but very few of them are being done here today, Mr. Chairman. I weep to think of the kind of record we are making. Why do we not simply declare martial law in the District of Columbia and be done with it?

I am ashamed, deeply ashamed that this supposedly deliberative body could diminish the rights of our citizens with such casualness.

So far not one of the responsible amendments, the amendments that were eminently sound, have been successful today. And it looks like none are going to be successful as we work toward the conclusion of this bill.

I, for one, am not going to be a party to the setting aside of the Bill of Rights for citizens in Washington, D.C.

The CHAIRMAN. For what purpose does the gentleman from Washington (Mr. ADAMS), a member of the committee, rise?

Mr. ADAMS. Mr. Chairman, I have an amendment to the amendment which has been offered in respect to mandatory sentences. I will give copies to the minority side.

We were going to offer this amendment at a later date. In view of the offering by the gentleman from Maryland of what I regard as the bubble-gum machine amendment, which he put into the bill——

The CHAIRMAN. The Chair will advise the gentleman from Washington that the pending amendment is a motion to strike page 303, and the gentleman's amendment does not come at that point in the bill.

Mr. ADAMS. Then, Mr. Chairman, I will withdraw the amendment and ask for recognition by moving to strike the requisite number of words.

The CHAIRMAN. The Chair recognizes the gentleman from Washington for 5 minutes.

Mr. ADAMS. Mr. Chairman, the proposal which I would put before the Committee and which, because of the rules under which we are operating, cannot be put in at this point, is a definition of the crime of violence which applies to the pretrial detention later on, which applies to the mandatory sentences that the gentleman has, and is the basis on which one defines violent crime.

The gentleman from Washington (Mr. FOLEY) just gave an excellent explanation of what presently is in this bill. He really did not go far enough, because if we look at the bottom of page 417, in addition to all of the things he read, it is set forth there:

> Or conspiracy to commit any of the foregoing offenses, as defined by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

The best I can figure that out is that if there is any kind of a violence that has never been ever defined by a Congress or by any State, this sweeps it into this definition, or any conspiracy, or any attempt to commit any of the things that are there. They all become crimes of violence.

I guess that because of the offering of the amendments by some of us today some Members may believe we must be either very soft on crime or do not understand the problem or that we really do not care. It is not that at all. Our problem is that this statute is very badly and broadly drafted in certain parts.

I will offer at the appropriate time a new definition of the crime of violence, which will say as follows:

> The term "crime of violence" means murder, forcible rape, mayhem, kidnapping, robbery, burglary in the first degree, voluntary manslaughter, extortion or blackmail accompanied by threat of violence, arson, or assault with a dangerous weapon, as defined by any Act of Congress.

I can tell you that those are the violent crimes. That is what this Congress ought to be doing.

The second amendment I will offer—or maybe one of the other Members wants to offer it—is on page 406 to get rid of the earlier amendment I referred to which makes a break into any kind of a vending machine a burglary and a second-degree offense. If you want to define a burglary as a second-degree offense and breaking into some particular kind of vending machine or general telephone booth or using explosives, then I think that is fine, but what you are doing in this statute is you might as well say forget all of this and declare martial law in the District of Columbia. Then we will pick up everybody that we think should be picked up and put them away.

Mr. Chairman, that is all I have to say on this. I will offer an amendment later on, and I hope that the gentleman's amendment is adopted.

I talked with the head of the prison system, and he said that under the present definitions of violence and the present mandatory system in Lorton that you will have one-third of all the men there placed under a mandatory life sentence. I do not know where you will keep them or how you will keep them there, because you have not put any money into building anything new, but you will have mandatory sentences that will keep them there.

I yield to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I would simply like to say that I continue my opposition to the amendment, but I intend to support the amendment offered by the gentleman from Washington at such time as it is offered. I believe it is a more equitable definition of the very bill that I introduced and the provisions that I put into this bill.

So, Mr. Chairman, I oppose the amendment pending, and I believe after the gentleman from New York's comments and those of others that it would be a matter of good prudence for the entire committee to accept the more reasonable definition of violent crimes.

PERFECTING AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARSHA: On page 304, line 7, after the word "burglary" insert "in the first degree".

PARLIAMENTARY INQUIRY

Mr. DENNIS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DENNIS. Mr. Chairman, there is a motion here to strike that is pending. I query whether this amendment offered by the gentleman from Ohio is in order under those circumstances. Only a motion to strike is before the committee.

The CHAIRMAN. The motion of the gentleman from Indiana is to strike the section. The amendment offered by the gentleman from Ohio is a perfecting

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amendment in that language that is moved to be stricken.

Mr. DENNIS. Pardon me, Mr. Chairman. I think it is a perfecting amendment in connection with the bill but not as to my amendment. I raise a point of order against it.

The CHAIRMAN. The Chair will advise the gentleman that the amendment offered by the gentleman from Ohio is in the nature of a perfecting amendment that falls within that section of the bill that the gentleman from Indiana would strike by his amendment. Therefore it is in order.

Mr. ABERNETHY. Mr. Chairman, would the gentleman yield to me for a unanimous-consent request?

Mr. HARSHA. Yes. I yield to the gentleman.

Mr. ABERNETHY. Mr. Chairman, I ask unanimous consent that all debate on the Harsha amendment and the Dennis amendment and all amendments thereto conclude in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

Mr. DENNIS. Mr. Chairman, I object to that. I think we ought to have 15 minutes if we are going to have two amendments considered here.

The CHAIRMAN. Objection is heard.

Mr. ABERNETHY. Mr. Chairman, I ask unanimous consent that all debate on the Harsha amendment and the Dennis amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) is recognized for 5 minutes in support of his amendment.

Mr. HARSHA. Mr. Chairman, the so-called "bubble gum" amendment was adopted or placed in the bill after this section with which we are dealing now was inserted in the bill. It inadvertently was kept in without appropriate changes. There was no intention on the part of the committee to have this section apply to an incident that was described heretofore as the "bubble gum" situation.

All my amendment would do, if adopted, is simply limit the description of violent crimes to burglary in the first degree, which would exclude the "bubble gum" amendment or the section dealing with coin-operated machines from coming under the purview of this section of the three-time loser. That should eliminate the question that was raised heretofore about the young man breaking into a vending mechine on several occasions and then being confronted with this type penalty.

Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. SANDMAN).

Mr. SANDMAN. Mr. Chairman, at the outset may I say to you that I am prepared to vote for the toughest bill we can bring together that I hope will do something about crime in the District of Columbia.

I want to compliment the committee for the work it has done. I think this is a good bill. However, this is one section that arouses a great deal of pain on my part. Let me deal with what I know the gentleman from Indiana has in mind. He is talking about not the viciousness of the crime. He is addressing himself purely to the mandatory penalties. As a person who conducted a survey in my State in 1963 on this subject, let me tell the members of the committee something about this. Mandatory penalties defeat the very idea they are designed to accomplish. Once you attach a tremendous penalty and make it mandatory, you do not get convictions. This is always the result. This is what we found happened in my State. This, in my opinion, is what we should address ourselves to. Why should there have to be a mandatory life sentence on the third conviction? Let us assume that a man did get convicted on two violent offenses and let us further assume that some people including you and me and everyone else wants to see this man get life. As soon as that jury knows that upon conviction this man gets life, the chances are that you will get no conviction. It is that simple. This is what I think we should address ourselves to.

Mr. Chairman, this is the first amendment today that I propose to vote for, and I am voting for it because I know from experience that this will get more convictions and not less convictions.

(By unanimous consent, Mr. SANDMAN yielded the remainder of his time to Mr. DENNIS).

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. DENNIS.)

Mr. DENNIS. Mr. Chairman, I really appreciate the remarks which my friend, the gentleman from New Jersey has made, not merely because they are in support of my position, but because they are remarks of a man who has experience and who knows what he is talking about. What the gentleman says is so true.

Now, I do not know very much about a lot of things myself, but I, too, know something about this field. I have spent a lot of time in it. I am not a bleeding heart here. I have represented criminal cases on both sides of the table. What the gentleman from New Jersey (Mr. SANDMAN) says is true. When you get these Draconian penalties you do not get convictions.

Mr. Chairman, they used to hang people in England for about 100 offenses. The reason they do not hang them any more for all those offenses is simply based upon the fact, not that they got religion, or anything of that sort, but because those concerned came to Parliament and said that the juries would not convict. That is history and it is still true.

I am not opposed to the amendment of the gentleman from Ohio, because he makes the situation a little less heinous than otherwise, of course; but that is just a debating point, whether you send this person to jail for first degree burglary or second degree burglary.

The point is it is wrong to act ahead of time when, without any knowledge of the particular case that is going to come up, you try to tie the hands of the judge who has the facts before him. It is just as wrong in the case of the man who breaks into the corner grocery store when he was 18 years of age, and later when he is 50, and has been a law-abiding citizen for 40 years, is convicted of an assault. It is just as wrong as the bubble-gum case, not quite as dramatic, but just as wrong and just as unjust. So it is all right to support the amendment offered by the gentleman from Ohio if you want to, but you still ought to support my amendment, because this is a no-good provision in this bill from any point of view, and the committee ought to accept the amendment I offer. I am trying to improve their bill. I would like to have a bill I can vote for, for one thing. I do not want to have to vote for something like this, and if anybody feels they are going to cure crime in the District, or teach those judges a lesson, or something, because we write a mandatory sentence like this into the bill, then he just does not know what he is talking about. It is not going to have that much effect. But this mandatory penalty is a bad law, it is bad in principle, and it ought not to be imposed as provided in this bill.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. HUNT).

Mr. HUNT. Mr. Chairman, I rise in opposition to the amendment. As much as I hate to dispute and debate with my colleague, the gentleman from New Jersey, who cited some figures back to 1963, let me tell you this is nothing new. I was serving in the New Jersey Senate at that time, and debated my colleague on the floor in regard to the same situation.

We have a peculiar thing in New Jersey that, after the fourth offense you can be sentenced to life imprisonment in the State of New Jersey. Why do they not talk about this? The law specifically says that you may be sentenced to life in the New Jersey State prison for the fourth offense. We do not have felonies there—and I am not a lawyer, but I have been in the law enforcement field and engaged in it for about 33 years. A mandatory sentence seems to strike a chord of fear in the hearts of some attorneys, and—let us face it—we know why. They simply say this type of sentence does not permit the judge or the judiciary to extend mitigating circumsances. Let me tell you that I have a friend who lies paralyzed in his home where he has been for 17 years. He was a member of a detective bureau, and a very fine gentleman, who was shot down by a felon who was committing his fourth offense by committing armed robberies. This friend of mine has been totally paralyzed for 17 years, and the man who shot him is again on the street. If you were this man's wife, or if you were his children, let me ask you the question now: Could you find mitigating circumstances in your heart to turn him loose again?

Let us be factual about this. We are trying to curb crime in the District of Columbia. We do not need the bleeding hearts—and I challenge anybody in this particular room, this body, or in the gallery, to show me in Washington, D.C., a bubble gum machine on the street. Let us stop beclouding the issues with minor things that they bring up from somewhere or some place.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. HUNT. I cannot yield, as I have only a few seconds left.

Mr. ADAMS. The gentleman asked a question, and I want to answer it. If you want to come along with me to Macomb Street, I will show the gentleman——

Mr. HUNT. I will meet with the gentleman any time. I will be happy to go. But what else do we find on Macomb Street?

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Pennsylvania (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. Chairman, I would like to call the attention of the Members of this House that when a man is being tried for a serious offense in a jury trial the jury knows nothing about his prior offenses. I have sat here today, and I have heard the statement made that we have listened to hysteria on the floor of this House, and we are making a disgraceful record here today.

I am one Member who is proud of the record that this House is making today. I have been on the floor of the House almost all of this afternoon, and I have not heard any hysteria.

I have, rather, heard logic and I am proud of the record that is being made in this House today because it shows that we are concerned about people.

Now the statement was made that we should not make second-class citizens out of the people of Washington, D.C. The fact is that we have made second-class citizens out of the residents of the District of Columbia. How do you think the families feel—the families of the 280 people who were murdered last year, the 336 people who were forcibly raped, or the 12,500 people who were robbed—how do you think their families feel? You can go right down the list and come up with the shocking statistic that we have had 62,575 crimes committed in this District of Columbia last year.

I say that I am in favor of the amendment to the amendment offered by the gentleman from Ohio (Mr. HARSHA). I am against the amendment offered by the gentleman from Indiana (Mr. DENNIS), if his amendment is not amended by the amendment offered by the gentleman from Ohio (Mr. HARSHA).

I urge you to vote for the amendment offered by the gentleman from Ohio (Mr. HARSHA) so that we can stop making second-class people out of the residents of the District of Columbia and stop subjecting them to the violence of the criminal element.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Michigan (Mr. CONYERS) if I have some time left.

Mr. CONYERS. Mr. Chairman, the gentleman does have some time left, and I thank the gentleman for yielding.

Do you really seriously believe that people are going to stop committing murder or rape if they know that there is a mandatory sentence? These are crimes of passion, sir. Those who commit them are not contemplating what legal tools may or may not be available to the prosecutor at the time of the commission of such an offense. Nor do they spend much time anticipating whether their case, if apprehended would come before a soft judge.

These are crimes that simply do not turn on the legal considerations that we are attempting to deal with here today.

Mr. WILLIAMS. The crimes I am referring to are not crimes of emotion.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. Mr. Chairman, I think the gentlemen of the committee who are so concerned about the amendments, those favoring the amendments, are overlooking a statistic which is of interest—and that is that there are, for every three arrests and convictions of crime in the District of Columbia, 100 crimes are committed. So I am saying that the average criminal in the District of Columbia who is convicted three times has committed approximately 100 offenses.

Now if you want to show this concern for a man who on the average has committed 100 offenses that is up to you, but I stand in opposition to that.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I am pleased to yield to the gentleman.

Mr. CONYERS. I thank my colleague for yielding.

Do you recognize, my dear colleague, what you have said on the floor of the Congress?

Mr. BURLISON of Missouri. Yes; very well.

Mr. CONYERS. Well, then, I do not have anything to add to that.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I am pleased to yield to the gentleman.

Mr. WILLIAMS. I would like to say that from my considered experience after a number of years of association with law enforcement work that mandatory penalties do help. Furthermore, if anybody commits three violent crimes of passion, they do not belong on the public streets of Washington. We have to do everything we can to help our law enforcement officers stamp out crime here in the District of Columbia and turn back the tide of violence.

Mr. BURLISON of Missouri. I appreciate the gentleman's contribution.

The gentleman from Michigan has said that if the defendant has committed three crimes and has been convicted of those three crimes, he said crimes of passion, the defendant should not be subject to a mandatory life sentence. My response to that is simply that in such case he should be, for protection of society, placed where he cannot commit another crime of passion.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi (Mr. ABERNETHY).

Mr. ABERNETHY. Mr. Chairman, I rise in support of the Harsha amendment and in opposition to the Dennis amendment. I recommend and hope that the House will act accordingly.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Ohio (Mr. HARSHA).

The amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 53, noes 64.

Mr. DENNIS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. DENNIS and Mr. MCMILLAN.

PARLIAMENTARY INQUIRY

Mr. HARSHA. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HARSHA. As I understand, my amendment was adopted.

The CHAIRMAN. The gentleman is correct.

Mr. HARSHA. If the amendment offered by the gentleman from Indiana (Mr. DENNIS), is defeated, is my amendment still adopted by the Committee?

The CHAIRMAN. Yes, the gentleman is correct.

The Committee again divided, and the tellers reported that there were—ayes 67, noes 84.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 304, line 12, strike the word "punishable" and insert in lieu thereof the word "punished".

Mr. WIGGINS. Mr. Chairman, I think we have probably debated the issue of mandatory sentences long enough. I will not unnecessarily prolong this debate on this question.

I am sure all of my colleagues who voted in support of mandatory sentences have in mind some heinous criminal who committed a truly violent act, and who was sentenced to the State prison therefor, not once but on two occasions, and on a third occasion when he commits such an act feel he should be sentenced to prison for life.

I can understand that. I may disagree, but I understand it. However, the bill is not drafted to be limited to such offenses. It merely is required that the defendant be convicted of an offense punishable by a year in prison. In fact, he may be fined $10; or the offense and the circumstances surrounding it may be such that justice require that he receive probation.

I offer in this amendment the requirement that we deal only with the truly serious offenses and that the defendant actually spend a year in jail, not once but on two occasions. If so limited, I am quite sure that we will be dealing only with those offenses which are truly serious.

I will not prolong this debate beyond that. I urge the support of all Members for this worthwhile amendment.

Mr. HARSHA. The gentleman says if a man commits a crime of violence, even

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though it is a severe violent crime which could be punishable by a year in prison, if the court did not give the man that year in prison for some reason, he would not come under the purview of this statute.

Mr. WIGGINS. That is absolutely correct. The situation I envision is that of a man for example, who may be convicted of housebreaking under circumstances which would merit a 30-day or 90-day sentence; on a second offense he may be convicted under mitigating circumstances which would require a simple fine; and, on a third offense, I feel he should not in all cases go to prison for life.

If, however, on the first two he did, indeed, spend time in prison for 1 year, then I am more satisfied it was the type of serious offense which should be considered for an extended sentence.

Mr. HARSHA. In other words, the gentleman is making it mandatory that the court sentence the man, and he should serve at least 1 year in jail on each charge.

Mr. WIGGINS. To restate my true intention, it is that the previous convictions of felonies must have resulted in sentences of at least a year in jail before they trigger the mandatory life provisions of this bill.

Mr. HARSHA. Mr. Chairman, will the gentleman yield further?

Mr. WIGGINS. I yield further.

Mr. HARSHA. In other words, what the gentleman is saying is that irrespective of the seriousness of the crime the triggering factor is whether or not the judge has been lenient or made the defendant serve at least a year in the penitentiary.

Mr. WIGGINS. That is true, although I do not believe or endorse the implication. It is true that the manner in which the offense is punished is the triggering item and not the name or the designation of the crime.

Mr. HARSHA. Or the severity of the crime.

Mr. WIGGINS. The severity of the crime is usually manifested in the punishment and not its title. There are murders, as the gentleman knows, and there are murders. Some of them, in my judgment, should receive straight probation, and others should result in execution. Simply using the label "murder" does not designate the severity of the crime.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Maryland.

Mr. HOGAN. I should like to clarify what the gentleman said, that the individual must receive a sentence of 1 year. Is it not the purport of the amendment that the individual has to serve the time in prison? In other words, if the individual got a sentence which was suspended this would be excluded under the amendment.

Mr. WIGGINS. That is absolutely correct. He must be punished, and not merely punishable.

Mr. HOGAN. And if he served in prison, if he were sentenced to 5 years and actually were paroled after 11 months and 29 days, he would be excluded under the amendment.

Mr. WIGGINS. That is true.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. POFF, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Virginia.

Mr. POFF. As I understand the gentleman's purpose, he fails to accomplish it by the amendment he proposes. I direct the gentleman's attention to the fact that the clause "punishable by imprisonment for more than 1 year" modifies only that clause which it follows; namely, "or assault with intent to commit any offense."

If the gentleman intended to achieve the object he has professed, I believe it would be more appropriate for him to amend the language which appears on the previous page, 303, at line 17, in order that it may be clearly understood what his purpose is.

Mr. WIGGINS. I appreciate the gentleman's remarks. I understand and had previously considered the ambiguity in the language.

I believe the gentleman has stated one possible construction. For the purpose of legislative history I wish to give another possible construction; that is, that the language, "punishable by imprisonment for more than 1 year," modifies all the previous sentences listed. It is susceptible of that construction. My amendment adopts my construction of that ambiguous language.

Mr. POFF. I strongly disagree with the gentleman and urge him, if he cares to put his purpose into statute, to change his amendment.

Mr. WIGGINS. We will see how I do on this amendment, I will say to the gentleman, and I will make up my mind thereafter.

Mr. ABERNETHY. Mr. Chairman, I rise in opposition to the amendment.

With all deference to my distinguished friend from California, I believe he is really fouling this up, although I am sure he does not intend to do so.

If the word "punishable" is changed to "punished" then we would close the paragraph thusly: "or assault with intent to commit any offense punished."

And so on. The gentleman is speaking of the past. We are speaking of something out into the future, "punishable" by imprisonment for more than 1 year. We are not speaking of some act that someone has already committed.

Mr. WIGGINS. Will the gentleman yield?

Mr. ABERNETHY. Yes. I yield to the gentleman.

Mr. WIGGINS. I was going to differ with the gentleman. Crimes of violence referred to in this section refers to previous crimes of violence.

Mr. ABERNETHY. I have discussed this with some knowledgeable people—two members of the legislative counsel sitting here with us. They feel as I do about it. With all deference to the gentleman, they feel that the amendment will foul up the entire paragraph. I hope we defeat this amendment. If we are wrong, then, when we go to conference we can work it out.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Virginia.

Mr. POFF. I agree altogether with the statement that the distinguished gentleman has just made. I call your attention to the fact that in the paragraph concerned we are undertaking to define the term "violent crime." As it has application elsewhere in the section, violent crime concerns not only crime committed in the past, but crime which brings the defendant before the court. For that reason I am constrained to believe that the word "punishable" is the only form of the word that could be appropriately used at that point.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

I agree with what the distinguished chairman of the subcommittee, the gentleman from Mississippi, has just said. This will destroy the entire strength of this section. This body just indicated overwhelming support for the mandatory sentence provisions in this bill. This amendment would completely negate what we did by that vote.

What the gentleman's amendment will do is say that it does not make any difference what kind of an offense the individual committed. No matter how heinous it might be, as long as he did not spend a year physically in prison, it would not be applicable. I submit that the individual might be convicted of committing a violent crime and sentenced to 10, 15, 20, or 25 years and only actually be physically present in a prison for 11 months and 29 days. This amendment would deny society the right to have this section apply to such an offender.

Therefore, I urge that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DIGGS

Mr. DIGGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DIGGS: Page 344, strike out line 1 and all that follows down through and including line 14 on page 358.
>
> Page 335, in the table of contents following line 13, strike out the items relating to subchapter III.

Mr. DIGGS. Mr. Chairman, when Congress in 1968 enacted, as part of the Omnibus Crime Control Act, a wiretap and electronic surveillance statute, it indicated both in committee and on the floor that the intent of that section was to combat highly specialized crime: serious Federal offenses, organized crime, and activities which threaten national security. Because of inherent dangers in the use of electronic surveillance, numerous procedural safeguards were provided. Congress also indicated in that act that States were authorized to enact State

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wiretap statutes where need dictated such extraordinary measures.

Although no such need for electronic surveillance has been demonstrated in the District of Columbia, the committee has nevertheless reported a statute unconscionably broad, lacking in effective safeguards, costly to enforce, and violates the right to privacy. It falsely assumes that crime will be reduced by wiretaps—yet it will in fact result in more police officers being taken off the streets and put on phone taps and will thus likely lead to a continuation in the rising crime rate.

Since the Federal law has been used in the District of Columbia in a series of recent narcotics raids and has already resulted in approximately 75 arrests, it is absurd to justify the proposed local wiretap statute as a tool required to fight narcotics trafficking. That it has been so justified demonstrates the extreme weakness in the case made by its proponents.

That the statute authorizes taps and bugs for such crimes as simple robbery, fencing stolen articles, destruction of property, and abortion—none of which normally involve concert and conspiracy—shows the great extent to which proponents will go to advocate a so-called "law and order" tool of questionable utility and constitutionality.

Again, what need has been documented for such broad use of phone taps and electronic bugs?

As a general proposition, wiretap and surveillance equipment is expensive, not only to acquire but to maintain, install, and use. It is time consuming to keep proper records and to prepare the necessary applications and affidavits.

More dangerous, however, is its unwarranted invasion of the right to privacy. The 1967 report of the President's Commission on Law Enforcement and Administration of Justice, which endorsed a limited use of electronic devices against organized crime, nevertheless stated:

> In a democratic society privacy of communication is essential if citizens are to think and act creatively and constructively. Fear or suspicion that one's speech is being monitored by a stranger, even without the reality of such activity, can have a seriously inhibiting effect upon the willingness to voice critical and constructive ideas. When dissent from the popular view is discouraged, intellectual controversy is smothered, the process for testing new concepts and ideas is hindered and desirable change is slowed.

As a tool for the improvement of law enforcement, even the Federal wiretap law has not been in effect long enough to be adequately evaluated. We do not yet know, for instance, whether it has had any impact on the incidence of crime in the United States. We do not yet have the means of knowing the scope of the prosecutions to which such secret observations have led or how essential the evidence gathered through them has been. We do not even know how many convictions will result from the 75 arrests in the District of Columbia.

The wiretap and electronic surveillance section of the committee bill does not meet minimum due process standards. There are no provisions controlling the discretion of a local judge to authorize the placing of wiretaps on the business telephones of lawyers, clergymen, or physicians, nor the placing of electronic eavesdropping devices in their offices, confessionals, or consulting rooms. There are no provisions controlling the placing of taps on public telephones or of mikes in public places such as restaurants or lockerrooms.

The bill would grant the authority to eavesdrop electronically for such a multitude of offenses as to create a suspicion that it was drawn without adequate consideration of police logistics. One cannot imagine a reasonable police administrator seeking to enforce the laws against robbery, burglary, the fencing of petty stolen articles, or even arson by means of wiretaps. These crimes normally involve a single individual and are simply not crimes of concert and conspiracy. To use the tool against such crimes would be self-defeating, particularly where—as is true in the District of Columbia—there is universal complaint about the lack of adequate manpower to deal with violent street crime. To fan rumors that the authorities are conducting "fishing expeditions" into the thoughts, beliefs, and personal lives of private citizens is to unnecessarily create suspicion of police motives without even providing an improvement in law enforcement efficiency.

Subchapter III is additionally defective because it does not carry a prohibition—such as that contained in section 2515 of the Omnibus Crime Control Act of 1968—prohibiting the use of illegally obtained wiretaps, not only in criminal prosecutions but also in collateral matters before courts of law, administrative agencies, or legislative committees. The additional fact that subchapter III, unlike section 2520 of the Omnibus Crime Control Act, does not provide a civil remedy against public officials who abuse their authority can only lead to suspicion of the intent of the legislation. Clearly, civil suits should be permitted, not only against the offending official but also against the government of the District which is charged with responsibility for overseeing the official's actions.

This subchapter is also particularly inadequate in its absence of a requirement for periodic reports to the legislature on the operations undertaken under its authority. Title III of the Omnibus Crime Control Act specifically calls for systematic analyses of the law's effectiveness and usefulness to be presented to Congress each year. This insures that a careful and intelligent evaluation of the utility of such surveillance can be made. Both Congress and the public should have available to them reports of the number of electronic observations made during the course of each year, their length, the offenses for which they were used, their effectiveness in uncovering specific types of criminal activty, the numbers of prosecutions and convictions to which they have led, and their total cost in manpower and money to the department as contrasted with other means of detection and enforcement. Subchapter III, as presently approved, merely calls for nonmandatory reports to be made to the judge who has authorized a particular intercept.

A number of procedural weaknesses in subchapter III are very disturbing. Among these is the failure to include in the definition of "aggrieved person" innocent third parties who may be injured as the result of disclosing the contents of an intercept. The lack of a stiff minimum sentence for the illegal divulgence of an intercept is another glaring defect. No authority is given to a judge to terminate or to modify an order permitting a wiretap or intercept of his own motion. Thus, once a judge signs the order, he appears to be committed to the length of time specified therein, in spite of the fact that the periodic reports which he receives from the law enforcement authorities indicate that the tap is useless or even pernicious. Finally, guarantees of procedural fairness require that greater notice and greater access to the logs of intercepts be given to defendants for the preparation of motions to suppress.

In addition, we note that subchapter III fails adequately to expand upon the language of the Omnibus Crime Control Act of 1968 by failing to prohibit the advertising, manufacture, possession, sale, loan, gift, or use by private parties of equipment designed for wiretapping or electronic eavesdropping within the District.

No explanation has been offered why the proposed wiretap statute should authorize not only the local courts, but also the U.S. district court, to grant orders for wiretaps and interceptions wholly within the District.

We urge the wiretap and electronic surveillance section of the bill be rejected as ineffective, costly, dangerous and destructive of both the constitutional guarantees of basic due process and the protections afforded by the first, fourth, and fifth amendments.

Mr. MacGREGOR. Mr. Chairman, I rise in opposition to the amendment.

Mr. ABERNETHY. Mr. Chairman, would the gentleman yield to me for a unanimous consent request?

Mr. MacGREGOR. I am pleased to yield to the chairman.

Mr. ABERNETHY. Mr. Chairman, I believe that this amendment was fully considered in the committee, and I would ask unanimous consent at this time that all debate on this amendment and all amendments thereto close in 10 minutes.

Mr. ADAMS. Mr. Chairman, reserving the right to object, we started early on the bill today, and we asked that we be given the opportunity at every point to offer important amendments that some of us, at least, consider to be important, and some of the Nation does, such as wire tapping, Lorton, preventive detention, mandatory sentences——

Mr. ABERNETHY. Mr. Chairman, I will withdraw my unanimous-consent request. I take it that this time is coming out of the gentleman's time, so I will withdraw my unanimous-consent request.

The CHAIRMAN. The gentleman withdraws his unanimous-consent request.

Mr. MacGREGOR. Mr. Chairman, in title IV of Public Law 90-351, the Omnibus Crime Control and Safe Streets Act of 1968, Congress enacted a comprehensive Federal electronic surveillance and wiretapping law. This law specified the Federal offenses for which wiretapping was authorized. Congress also authorized States and other political subdivisions to engage in wiretapping and other forms of electronic surveillance, but only if permitted by a specific State statute and only if the State statute conformed to Federal standards. Congress also specified those crimes for which a State could authorize wiretapping.

Sections 23–541 through 23–544 of the pending bill would authorize wiretapping and other forms of electronic surveillance for the District of Columbia in accordance with Public Law 90–351. Federal standards to provide procedural safeguards and protections are followed word for word and electronic surveillance is authorized only for those offenses specified by the Congress by the 1968 legislation.

The omnibus crime bill sanctions wiretapping for only Federal offenses. It does not include local or State offenses such as planned, premeditated murder, organized burglary and fencing, and local narcotic and dangerous drug violations. Congress itself recognized this deficiency by specifically including in its 1968 legislation a detailed provision in which it authorized State and local jurisdictions to engage in wiretapping for local offenses but only if authorized by a statute. Congress specified minimum procedural standards which any such State statute would have to satisfy and also specified those local offenses for which wiretapping could be authorized.

It is inconceivable that we in Congress would have taken the pains to provide such detailed provisions for State and local wiretapping for non-Federal offenses if we had not concluded that such wiretapping was necessary and desirable. Sections 23–541 through 23–544 of this bill implement the congressional policy as reflected in the wiretap law we enacted by providing the District of Columbia with legislation authorizing wiretapping for local, non-Federal offenses. The proposed statute conforms almost verbatim with the corresponding sections of the Federal wiretap law and incorporates the identical procedural safeguards, protections, and restrictions. It authorizes wiretapping for only those offenses permitted by the Congress all of which are serious felonies bearing characteristics of the operations of organized crime.

The present U.S. attorney in the District, a law enforcement officer of vast experience, has stated that wiretapping is absolutely essential in the fight against organized crime and has supported the inclusion of every crime contained in these provisions, recognizing the beneficial role that electronic surveillance may play in both preventing and solving the commission of these crimes.

The District of Columbia government, representing the Mayor, Corporation Counsel, and Chief of Police, supported the proposed provision authorizing wiretapping for local offenses circumscribed by appropriate procedural safeguards.

In a recent referendum, the Bar Association of the District of Columbia approved extending the wiretapping authority of the 1968 omnibus crime control bill to local District of Columbia offenses.

The committee provision has widespread approval. Its need as a tool to effectively fight organized aspects of local crime is clear. It should be enacted, and this amendment should be defeated.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman.

Mr. ADAMS. There is no prohibition in this for illegal activities. It is in the Federal law.

On pages 352 and 353, it says—and it is in the Federal law:

> (g) Notwithstanding any other provision of this subchapter, any investigative or law enforcement officer, specially designated by the United States attorney for the District of Columbia, who reasonably determines that—

And then it goes on to say:

> (2) There are grounds upon which an order could be entered under this subchapter to authorize interception.

In other words, the bill goes far beyond what was done with the Federal law both in crimes and in people who can authorize it. I was going to ask the gentleman if he would support amendments to limit crimes, as was done in the Federal area, and to limit to the U.S. attorney designated.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. MACGREGOR) has expired.

Mr. ADAMS. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended an additional minute.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. MACGREGOR. The gentleman asked me a question very similar to a suggestion that I buy a package located in the gentleman's office without knowing the contents of the package or being given any opportunity to inspect it. I am somewhat cautious in answering such a suggestion. I would like an opportunity to see precisely what crimes it is you wish to see eliminated.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman.

Mr. HOGAN. The gentleman from Washington knows that this matter was discussed in committee and I specifically brought up the fact that criminal penalties now existing under the Federal law would be applicable to this statute. We have been assured by the legislative counsel and the Department of Justice and the committee's counsel that that is the case so that the repetition of criminal penalties for a violation is unnecessary in this law.

Furthermore, this only conforms 100 percent with the Federal statute by enacting the will of the Congress for local jurisdictions to enact wiretapping legislation to provide this authority for local offenses as opposed to Federal offenses. That is all we have done here.

(Mr. MACGREGOR asked and was given permission to revise and extend his remarks.)

PERFECTING AMENDMENT OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Chairman, I offer an amendment to this section which is a perfecting amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAMS: Page 347, strike out the table following line 12 and insert in lieu thereof the following:

"Offense:	Specified in—
Arson	sections 820, 821 (D.C. Code, secs. 22–401, 22–402).
Blackmail	section 819 (D.C. Code, sec. 22–2305).
Gambling	sections 863, 866, 869e (D.C. Code, secs. 22–1501, 22–1505, 22–1513).
Kidnapping	section 812 (D.C. Code, sec. 22–2101).
Murder	sections 798, 800 (D.C. Code, secs. 22–2401, 22–2403).
Obstruction of justice.	Section 862 (D.C. Code, sec. 22–703).

The CHAIRMAN. The gentleman from Washington is recognized in support of his amendment.

Mr. ADAMS. Mr. Chairman, I have now supplied the gentleman from Minnesota and Members on the minority side as well as on the majority side the list of crimes with which we are attempting to perfect this section under the motion to strike. I am not at all convinced that this section can be perfected. But I certainly think we should make every attempt to do so.

What I have done is to take the crimes wherever wiretapping or electronic surveillance might be useful in their solution and have included those, and have removed those which some investigative officer might just feel would be helpful so then has tapped somebody's wire.

I want to tell the committee what some of these things are about which they may be going to tap your wire for:

Abortion, destruction of property of the value of $200, grand larceny, manslaughter—I do not know how you would tap to detect manslaughter, but maybe you do—receiving stolen property of a value in excess of $100, robbery.

The ones we have left in are the ones where wiretapping helps. On the following pages we have narcotics, bribery, extortion, and so on covered.

I think we ought to be reasonable about what we are trying to do with wiretapping. In the first place, the Federal statute applies to all the subjects that people have been talking about in terms of convictions, and so forth. That has already been accomplished with Federal law. Narcotics convictions and narcotic investigations are done in the first instance by the Bureau of Narcotics working with the local enforcement agencies. They have the wiretap power. They have already exercised it in Washington, D.C. It has happened. The same is true with organized crime, and so on.

I hope you gentlemen look at this statute, particularly those of you who live, deal, have your business in, and participate in the District. This is not merely a wiretapping bill; this is a bugging bill. It covers not only taps, but any type of electronic surveillance, as I read it, in any fashion, such as driving a spike into the building in which you have an apartment, which turns every pipe and every type of radiator into a microphone for the area. It covers electronic dishes which will pick up any conversation in a room 500 yards away. You can put in various types of devices so you can wire into the wires of a house and pick up conversations throughout the house.

There may be areas in which wiretapping can protect the country and has some use, such as matters involving internal security, hard narcotics, gambling, and certain types of organized crime. But this gives carte blanche authority to conduct tapping any place any time.

I shall also offer a perfecting amendment. If you are going to make it a wiretapping bill, let us call it wiretapping, but do not run it over into every type of oral communication that can be picked up electronically in the country. That would be the second perfecting amendment. This is the first amendment which will limit the statute to crimes where wiretapping is useful. That is all I have to say on it, Mr. Chairman. I hope the committee will support the amendment.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. GUDE. I understand the gentleman's amendment would limit the areas to extortion, gambling, drug violations, and that type of crime?

Mr. ADAMS. That is correct; corruption, organized crime, narcotics.

Mr. GUDE. And those were the very crimes which the Department of Justice testified before the District of Columbia Committee they wanted to get after in the District of Columbia, and this is what they wanted that section of the law for. I want to commend the gentleman for his amendment. It is an excellent addition to the bill.

Mr. ADAMS. The gentleman is correct. I know of no testimony in support of tapping somebody's line or installing a piece of electronic surveillance equipment in a house because the suspect destroyed property of a value in excess of $200.

Mr. HOGAN. Mr. Chairman, I submit the gentleman from Maryland is not correct. The Department of Justice asked for the violations which are specified in the bill before the House right now. Is the gentleman saying that crimes which he will exclude by his amendment are not handled by organized crime?

Mr. ADAMS. I will say to the gentleman, yes. The destruction of property of a value in excess of $200—that is not what you go tapping for.

I will say to the gentleman yes, upon destruction of property in excess of a value of $200, this is not what you go tapping for. If we have organized crime, we have the authority under other sections to so tap. In answer to the other questions, we asked the direct questions—and Mr. Santorelli was there—and we asked: "What do you tap for in the case of destruction of property in excess of $200?" And I do not recall that he answered that.

Mr. ABERNETHY. Mr. Chairman, I rise to ask unanimous consent that debate on the Diggs amendment and all amendments thereto and other pending amendments close in 5 minutes.

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry: Would that also include another perfecting amendment?

The CHAIRMAN. The request was to cover the Diggs amendment and all amendments to the Diggs amendment.

Mr. ADAMS. Mr. Chairman, I object.

MOTION OFFERED BY MR. ABERNETHY

Mr. ABERNETHY. Mr. Chairman, I hesitate to do this. I move that all debate on the Diggs amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 60, noes 36.

So the motion was agreed to.

(By unanimous consent, Mr. ABERNETHY yielded his time to Mr. ADAMS.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I will submit that I had amendments to this section to correct on the bugs and to correct on the U.S. attorney being the only one authorized to designate a tap, and to say that there would be only electronic surveillance by wire and not electronic surveillance by bugs. I cannot present these amendments under these conditions. I will not. I will stand by the amendments as they have been offered, because the time has been so limited, the House cannot give consideration to them, and it would be improper for the Members to have to vote them up or down in the time they have.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I wonder why the gentleman from Washington did not offer these amendments in the committee?

Mr. ADAMS. We did. And there we got the same kind of treatment as we are getting now.

Mr. HOGAN. The gentleman did not offer the one on these offenses.

Mr. ADAMS. We did. I will state that was offered, as were others in the committee, and we have a repeat performance now of what we had in the committee.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I wish to state that the Department of Justice requested each and every one of the offenses which are specified in the bill as it is before us today, notwithstanding the comments made by the gentleman from Washington.

These are the kinds of crimes he would strip from the provisions:

Arson and destroying property. Electronic surveillance is useful in uncovering plots to engage in terroristic bombings such as those we recently witnessed in Maryland.

Plans for riots and disturbances are frequently made by telephone.

Blackmail and bribery arrangements are usually made by telephone.

On grand larceny, the organized theft rings operate by telephone.

On receiving stolen property, the fencing operations operate by the use of telephone.

As to robbery, the robbery ring which operated in metropolitan Washington used the telephone as an integral part of its operation.

LIST OF CRIMES FOR WHICH ELECTRONIC SURVEILLANCE IS AUTHORIZED WITH EXPLANATION OF USEFULNESS OF ELECTRONIC SURVEILLANCE

Abortion: Clandestine arrangements for performing illegal abortions are frequently made by telephone. Arrangements and planning are necessary aspects of this offense.

Arson and destroying property: Electronic surveillance is useful in uncovering plots to engage in terroristic bombings such as those recently in New York and Maryland or to plan riots and civil disturbances.

Extortionists, particularly of small businessmen, resort to arson or destruction of property. Usefulness of electronic surveillance to detect these offenses is clear.

Blackmail and bribery: The planning and arrangements for these offenses are clearly susceptible to electronic surveillance. Congress specifically lists bribery as offense for which local jurisdictions can wiretap.

Burglary: Burglars usually dispose of the property they steal to fences, covered in this statute by receiving stolen property of a value in excess of $100. Wiretaps of locations of fences are useful in detecting burglary rings and the manner in which stolen property is disposed of.

Recent examples of burglary rings—Robert Earl Barnes as burglar cooperating with local jewelers as fence. Beltway Burglars.

Destruction of property: See "Arson."

Extortion: An offense specifically listed by Congress in 1968 as appropriate for local electronic surveillance. Use of telephone frequent to plan and arrange these offenses.

Gambling: Congress in 1968 specifically approved of electronic surveillance to uncover local gambling. Relationship to organized crime is clear.

Grand larceny: Organized theft rings at transportation depots exist. Kennedy Airport in New York is an example, recently cited as such by the Attorney General. Washington has rings at bus and train stations.

Kidnaping: Congress in 1968 specifically approved of wiretapping for local kidnaping. The use of the telephone to call victim's relatives and to plan the kidnaping is clear.

Murder: This past year alone, Washington has recently had a number of gangland type slayings in the narcotics underworld. Electronic surveillance can manifestly be useful in detecting these prearranged murders.

XUM

Congress specifically authorized wiretapping for this offense by local authorities.

Narcotics and dangerous drugs—"dealing in": Congress specifically authorized local authorities to wiretap for these offenses. This applies only to dealers, not to those who possess solely for their own use.

Obstruction of justice: The use of the telephone to threaten or in other ways to intimidate witnesses is clear.

Receiving stolen property of value in excess of $100: This applies to fences. Fencing operations almost necessarily involve planning and organization. The potential value of wiretaps of fencing locations is clear.

Robbery: Congress specifically included this offense in its list of offenses for which local jurisdictions are authorized to wiretap. Washington has had semiorganized gangs of robbers perpetrating numerous robberies. One such gang was the Madden gang. Wiretapping can obviously be useful to detect the planning of such robberies.

Nowhere has the need for and success of this law been more convincingly demonstrated than here in the District of Columbia. In the last 6 months three raids have resulted in the arrest of over 70 narcotic violators, several of them major dealers, and recoveries of substantial quantities of heroin and cocaine. Three taps and 60 arrests, 43 indictments so far. The local U.S. attorney has reported that wiretaps provided most of the evidence leading to these arrests and seizures and that without these wiretaps, investigation would have been impossible.

The existing Federal statute approves wiretapping for only Federal offenses. H.R. 16196 fills in the gap now existing for local offenses.

In the 1968 law, Congress specifically authorized State and other local jurisdictions to provide for wiretapping for local, non-Federal offenses.

The proposed sections authorize wiretapping for a carefully selected list of offenses which either were approved specifically by the Congress in 1968 or meet the specific conditions imposed by the Congress. All have characteristics of the operation of organized crime. The procedural safeguards, protections, and restrictions imposed by the 1968 Federal bill are, of course, fully applicable to wiretapping done pursuant to the provisions in this bill, H.R. 16196. The evidence is overwhelming that electronic surveillance, with carefully drawn limitations, is a necessary tool in fighting organized crime. I favor providing local law enforcement officials with this tool.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Gude).

Mr. GUDE. Mr. Chairman, I yield to the gentleman from Washington (Mr. Adams).

Mr. ADAMS. I thank the gentleman for yielding.

All I can say is that we have done the best we can to try to correct and to correct the wiretapping section and the electronic surveillance so that they will be, first, constitutional, and second, a proper thing to put forth in the community.

I have been involved in cases involving wiretap evidence. I know the dangers involved that what people say over a line can be clipped and how it can be cut. This is the sort of thing, when it comes into a case, that one has to be terribly careful about to see to it that the parties who are accused can have an opportunity to respond.

I believe it does have a function, and a proper one, but this bill is as wide as one could create and covers every possible kind of offense that can take place, or might take place so you would have grounds to tap.

I thank the gentleman for yielding.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Mikva).

Mr. MIKVA. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Washington (Mr. Adams).

The amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Michigan (Mr. Diggs).

Mr. DIGGS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. Diggs and Mr. McMillan.

The committee divided, and the tellers reported that there were—ayes 37, noes 93.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Roberts: Page 314, insert after line 13 the following new section:

"POSSESSION OF CERTAIN DESTRUCTIVE DEVICES

"Sec. 208A. Section 14 of the Act of July 8, 1932 (D.C. Code, sec. 22-3214), is amended in subsection (c) by striking out 'this section' and inserting in lieu thereof 'subsection (a) or (b) of this section' and by adding at the end therof the following new subsection:

" '(d) (1) No person shall, without lawful authority, possess any incendiary device within the District of Columbia.

" '(2) For the purpose of this subsection, the term "incendiary device" means any flame producing—

" '(A) bomb,

" '(B) grenade,

" '(C) mine, or

" '(D) device similar to any of the devices described in the preceding clauses.

" '(3) Whoever violates this subsection shall be imprisoned—

" '(A) in the case of a first offense, for a period of not less than two years;

" '(B) in the case of a second or subsequent offense, for a period of not less than ten years'.".

Page 3, insert after the item relating to section 208 the following: "Sec. 208A. Possession of certain destructive devices."

Mr. ROBERTS. Mr. Chairman, it is late and I shall not take the 5 minutes. All of this language simply makes it a felony to possess a Molotov cocktail in the District of Columbia. A man might have a gun and he might have a reason for it. He might have it for self-protection. However, a man going around with a carload of Molotov cocktails has no such protection in mind.

I shall not belabor the point. I ask the committee to approve the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Roberts).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jacobs: Page 398, strike out line 1 and all that follows down to and including line 10 on page 418 and insert in lieu thereof the following:

"§ 23-1309. Release procedure

"Chapter 207 of title 18, United States Code, shall continue to apply with respect to any person detained pursuant to law or charged with an offense in the District of Columbia."

Page 389, beginning in line 13, strike out "and pretrial detention".

Page 389, in the table of contents following line 14, strike out "Subchapter I—District of Columbia Bail Agency".

Page 389, in the item in the table of contents relating to section 23-1303, strike out "with detainees".

Page 389, in the table of contents, add after the item relating to section 23-108 the following:

"23-109. Release procedure.

Page 390, in the table of contents, strike out the items relating to subchapter II.

Page 390, strike out lines 1 and 2.

Page 391, line 6, strike out "detention or".

Page 391, line 13, strike out "with detainees".

Page 391, line 18, strike out "detained pursuant to law or".

Page 392, beginning in line 7, strike out "or detained under any of the conditions specified in subchapter II of this chapter".

Page 392, line 21, strike out "detention or".

Page 393, beginning in line 10, strike out "proceedings under sections 23-1327, 23-1328, and 23-1329, in perjury proceedings, and" and insert in lieu thereof "perjury proceedings and".

Page 393, beginning in line 24, strike out "order such detention or may".

Page 394, line 4, strike out "order any detention or".

Page 394, strike out lines 19 through 21.

Page 394, line 22, strike out "(5)" and insert in lieu thereof "(4)".

Page 395, after the semicolon at the end of line 2 insert "and".

Page 395, strike out lines 3 through 7.

Page 395, line 8, strike out "(7)" and insert in lieu thereof "(5)".

Page 321, beginning in line 7, strike out "be detained or released in accordance with chapter 13 of this title or" and insert in lieu thereof "be released".

Page 33, line 3, strike out "or detain".

Page 290, after line 4, insert the following:

"(f) Section 3152(1) of title 18, United States Code, is amended by striking out 'District of Columbia Court of General Sessions' and inserting in lieu thereof 'Superior Court of the District of Columbia'."

Mr. JACOBS. Mr. Chairman, as has been indicated by the reading of this amendment it is not a complicated one. It is designed to strike out the preventive detention section of this bill.

Mr. Chairman, this, of course, is one of the principal amendments that was anticipated to this bill. I realize the hour is late. I also realize that much discussion has already taken place concerning the concept of so-called preventive detention.

We simply say that the adoption of this novel departure in our system of criminal justice in this country would alter the traditional concept that a man is innocent until proved guilty, to read that "a man is innocent until proved probably guilty" so far as detention is concerned for 60 days.

Also, there would be a departure from the rules of evidence at the hearing with reference to determination of the danger of the individual to the community. At the preventive hearing the rules of evidence would not apply. As those who like wizardry and remember the stories of the witch hunts will recall, witchism determinations were made on the basis of hearsay evidence. That is precisely what would be admissible to detain a person for 60 days under this provision.

Furthermore, the judicial officer is required to determine that a person is "probably" guilty. He is required to determine that a person would be a danger to the community.

Mr. Chairman, I think of Red Skelton when I think of this part of the bill. In comes the defendant before the judge and the regular rules of evidence are not applied, but the judge after a very, very brief hearing, determines along with Red Skelton, "You just don't look right to me."

I presume the way the votes have been going today, this amendment will be voted down. But let me raise my voice at this point in the history of our Republic against what I believe to be a very serious departure from our concept of freedom.

I intend to see crime fought in the District of Columbia and I intend to see it fought effectively. But I do not want to see it fought unconstitutionally. I really do not think that the Senator from North Carolina would be so vociferous in his complaint about this provision if he did not have very serious doubts about its constitutionality.

Mr. LOWENSTEIN. Mr. Chairman will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from New York.

Mr. LOWENSTEIN. Mr. Chairman, I want to thank the gentleman for offering this amendment, and for his contributions to this debate. I think most Members realize that he is one of the finest men in Congress, one of the brightest and most dedicated to the common good. But many Members do not realize that he has had a lot of experience in law enforcement and brings to this discussion much practical knowledge about crime and prisons. We would do well to listen to him carefully—that would be true on any subject—and to adopt the Jacobs amendment. This is a bad bill in many ways, and this amendment would help it considerably.

Mr. JACOBS. What is our problem? Our problem is that our courts are crowded and the dockets are crowded.

The dockets are crowded. Do we want to lock up for 60 days a person charged with a crime, in the District of Columbia, when the average wait before trial is 9 months? Why do they only make it 60 days if those who authorized and sponsored this kind of legislation did not have grave doubts in their own minds about the constitutionality? If it is constitutional, and if it is proper, why not a detention for the entire time before trial? The answer to that question is that there is grave doubt, I think, in the minds of those who have offered this radical departure to the constitutional guarantees of freedom in our country.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. ADAMS TO THE AMENDMENT OFFERED BY MR. JACOBS

Mr. ADAMS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAMS to the amendment offered by Mr. JACOBS: Page 417, strike out lines 15 through 24 and insert in lieu thereof the following:

"(4) The term 'crime of violence' means murder, forcible rape, mayhem, kidnaping, robbery, burglary in the first degree, voluntary manslaughter, extortion or blackmail accompanied by threats of violence, arson, or assault with a dangerous weapon, as defined by any Act of Congress or any".

Mr. ADAMS. Mr. Chairman, this is a perfecting amendment to the motion to strike. I also support the motion to strike.

This is the amendment that was offered before, and it is a definition of crimes of violence for which people can be detained prior to trial.

Mr. Chairman, on the point of preventive detention I hope that the long afternoon of debate and the sudden flaring from time to time of temper by perhaps this gentleman and others will not obscure the problem that is faced by this House in putting into effect preventive detention.

I call upon those of you who are strict constructionists of the Constitution to examine this carefully, and to understand that we are saying by definition, and that is what my amendment is all about, by definition that the list of crimes that appears on page 417 are crimes of violence; that on preventive detention on page 403 a crime of violence is the basis upon which a man can be detained.

What I have attempted to do here, as before, is to make a crime of violence truly a crime of violence, murder, forcible rape, mayhem, kidnaping, robbery, burglary in the first degree—not the bubble gum machine burglar, but first-degree burglary—voluntary manslaughter—not involuntary manslaughter—assaults, or blackmail accompanied by threats of violence.

We are going to take a number of people in this community and place them in detention without a trial other than a mini-trial—and if there were time today I would offer amendments that would at least say there would be rules of evidence in mini-trials, but as I understand the bill as we have analyzed it you do not use rules of evidences in the mini-trials, and the man can be put away for 60 days.

Many of us have written to the Department of Justice and to the administration, and said "Give us some information on when a man commits a crime, if he is out on bail." We have not received a reply to that, although the Bureau of Standards has been doing a study on it. We do have a survey that was made by the bail agency, and it is in the record and in our report which indicates that crimes generally occur if they are going to after 4 months.

What you are going to do in this bill by detaining a man, particularly a man who is accused of a crime that is not a violent one, and who is not what could be defined as a professional, hardened hoodlum, you are going to cause him to lose his job when you detain him, and you are going to cause him to be in effect placed in prison for 60 days, which will break his connection with the community.

Then you are going to let him out, because we have a 10 month trial-waiting period here and we have not been able to pass our amendments to get quick trial of these various offenses. We have not been able to get enough judges. Therefore, you are going to put him out on the streets and he is going to be on the streets 6 or 7 months.

The final point I would like to make is you would have with the 1,500 pending felony cases and not enough judges that this would simply break the back of the present trial system and the heavy backlog would grow even more.

I agree that men have to be held, but we are not using at the present time the right to put narcotic addicts into commitment under the civil commitment procedures which could be done.

There has been a law here for years for that and it is not done.

We do not use the regulation of the parole facilities and the regulations of the probation facilities that are available for the very hard core people. We are not saying that there are problems here—we are just trying to say you already had a problem with the fourth amendment in this bill, and a severe one, in two different places.

Now you have the due process clause involved. You have the presumption of innocence involved and you have the right to bail involved. When you say you can define any crime as being nonbailable because somebody defined it in the Judiciary Act of 1791, I would like you to analyze a paper that was circulated by Senator ERVIN who shows how this is not so.

I would say this: The Justices of the Supreme Court, in my opinion, when they examine this type of thing, will look very carefully at what your definitions of crimes are. I think if the Court becomes a strict constructionist court, it will do so even more because you are dealing with the fundamental rights of man and having his freedom taken away from him without trial by simply a petition being filed under a series of definitions that could cover almost anything.

Mr. HOGAN. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

XUM

Mr. Chairman, contrary to the objection raised, the dangerous-crime category is very restrictively defined. This category covers the most dangerous violent crimes which by their very nature ordinarily involve repeat offenders; that is robbery, burglary, rape, arson, and unlawful drug sales. The words "robbery" and "burglary" are not used in the statutory definition because as defined in the District of Columbia Code they include nonviolent offenses. Robbery, for example, includes pickpockets under the District of Columbia Code. This is why robbery in the pretrial detention statute is limited to the taking or threat of taking property by force. Burglary under the District of Columbia Code includes entry into lumber yards. This is why burglary in the pretrial detention statute is described as unlawful entry with intent to commit an offense into premises where people are likely to be. Thus, this definition is aimed at burglary with an attendant risk of bodily harm to a person, not mere unlawful entry.

The committee report also makes clear an intent to define this category of crime restrictively. It also makes clear that the sale or distribution of marihuana is not covered. This category of dangerous crimes is intended to reach those offenses which are the most dangerous and in which recidivism is the norm. All these crimes involve planning, premeditation, a profit or sex motive which usually would continue, a deliberate singling out of a victim, normally a stranger. Law enforcement experience with such offenders is that they are recidivists. Rare indeed is one arrested on his first criminal venture.

XUM

It should also be remembered, however, that the mere charge of one of these crimes does not lead to automatic pretrial detention. The charge acts merely as a triggering device to set off the hearing procedure, following which he cannot be detained unless it is shown that no condition or condition of release to be imposed on him will reasonably assure the safety of the community.

Mr. DOWDY. Mr. Chairman, I move to strike out the last word and rise in opposition to both pending amendments.

Mr. Chairman, the sections of this bill, authorizing judges to consider danger to the community in noncapital cases and to detain certain dangerous defendants before trial, is urgently needed in the District of Columbia.

It is needed because experience under the mandatory release provisions of the Bail Reform Act has revealed that a significant amount of crime—serious and frequently violent crime—is committed by persons released before trial. Of 130 persons indicted for robbery and released before trial in fiscal 1967, 34 percent were reindicted for at least one felony committed during pretrial release. In calendar 1968, 70 percent of 345 robbery defendants indicted and released were subsequently rearrested for a new crime.

These high rates have prompted at least three commissions on crime in the District of Columbia to recommend the enactment of pretrial detention.

Pretrial detention is needed because the present law does not provide for detention of specific noncapital offenders whom everyone would concede are dangerous to the public. Nor does it provide for the custody of defendants who have been released once, only to go out and commit a new crime. Let me illustrate:

In St. Louis last summer, a policeman with no record was identified by five women as the phantom rapist who had terrorized the city by attacking more than 50 women. He was released on bail. Three weeks later he broke into a woman's apartment, attempted to rape two girls, slashed them with a knife, and shot one of them in the face with a pistol. Since he was originally charged with rape, bail could have been denied because rape is a capital offense in Missouri. In Washington, however, under the Bail Reform Act, he would be entitled to pretrial release as a matter of statutory law both before and after his attack on the girls. There was no evidence in that case that the defendant would try to escape. It is obvious that speedy trials are no answer at all to a person like this.

Under the language of the Bail Reform Act, a man could be caught in the middle of an armed robbery, he could shoot at police, he could be a heroin addict, and he could have a long record of violent crime—and he would still be entitled to pretrial release. We must change this law.

A third reason why pretrial detention is needed is that today the courts are detaining some noncapital defendants before trial by the dishonest and hypocritical device of setting high bond. The law should be above this subterfuge. If a person is dangerous he should be detained openly, in a way that does not discriminate against indigent defendants.

This bill is a reasonable bill which permits detention only under special circumstances in a limited category of serious cases. There is a 60-day time limit. A defendant may not be detained unless the court finds in writing, after an adversary hearing, that there is a substantial probability that the defendant committed the violent crime with which he is charged and that there is no condition or combination of conditions of release that would reasonably assure the safety of the community.

This law is urgently needed and I trust the amendment to strike will be defeated.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. DOWDY. I yield to the gentleman from New York.

Mr. SMITH of New York. I wish to commend the gentleman on his statement and I want to associate myself with his remarks. I think the fact is plain to all of us that this city is under siege by the criminal elements. The law-enforcement people in this city and the courts need the tools to try to bring back the order in this city that we should have. Certainly this pretrial detention, surrounded as it is in this bill with constitutional guarantees and the guarantees of due process, is one of the tools that certainly this Congress should approve.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DOWDY. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the distinguished lawyer and member of the committee yielding. I have only one question. Is there application for a prejudicial determination prior to the so-called preventive detention?

Mr. DOWDY. There will be a hearing to determine whether the accused is likely to be dangerous to the community, and whether he should be detained or released.

Mr. HALL. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

I take this time to direct a question to the author of the perfecting amendment, the gentleman from Washington (Mr. ADAMS). Included in his definitions of crime applicable to preventive detention is burglary in the first degree, if I am correct. Is that correct?

Mr. ADAMS. That is correct, yes.

Mr. HARSHA. I would like to inquire whether the gentleman meant to limit that to first degree burglary, because first degree burglary includes only burglaries in a dwelling house with the occupant present.

Mr. ADAMS. That is correct.

Mr. HARSHA. It does not include unoccupied dwelling houses, where more than 95 percent of the burglaries in the District of Columbia occur. That would be burglary in the second degree. Is that your intention?

Mr. ADAMS. It depends entirely on what the situation is, as to whether or not someone was expected or could have been in there at the time of the burglary. I have limited it to first degree to avoid the crime of breaking into, as we mentioned, a vending machine, or avoid breaking into a warehouse as being the type of crime that would come under the definition. I do not know any other way to define it, unless you want to redefine burglary.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. HARSHA I yield to the gentleman from Virginia.

Mr. POFF. As I read the amendment offered by the gentleman from Washington, it would omit several of the crimes included in the definition of crimes of violence in the committee bill.

Mr. ADAMS. That is correct, it would, such as carnal knowledge of a female——

Mr. POFF. Among those would be carnal knowledge of a female under the age of 16, taking or attempting to take improper liberties with a child under the age of 16 years, and any attempt or conspiracy to commit any of the offenses cataloged in that definition.

So I most urgently submit that this amendment would do grave mischief to this bill, and I urge it be defeated.

Mr. ADAMS. Mr. Chairman, if the gentleman would yield further, the reason for omitting those—and we do not omit forcible rape—is that we are involved now with children of 16 being defined as adults and being treated in the adult courts, and we have a 16-year-old boy and 15-year-old girl and he and she may engage in voluntary intercourse, and then we are involved with a situation of his committing a crime of violence. I just think we have to define the crimes a little better. That is not what is in mind when we say somebody can be put in detention without a trial.

Mr. POFF. Mr. Chairman, if the gentleman will yield further, I wonder if the gentleman would care to comment upon his omission of the attempt to commit a crime of violence.

Mr. ADAMS. Mr. Chairman, my omitting of the intent to commit any offense in there is that if we have in all the offenses, when we go into attempt—in other words, the act has not occurred—we get into a whole series of what can be actually misdemeanors. In other words, there is a street fight with intent to hit somebody, an assault with intent to commit an offense. I felt that was too broad.

If that particular one bothers the gentleman, I would be happy to accept an amendment by the gentleman to include that.

Mr. Chairman, I am trying to get a definition of the types of problems we want to include and not include a lot of things which would be real abuses.

Mr. HARSHA. Mr. Chairman, I would like to point out to the committee, apropos of what the gentleman from Washington said, that he intended to omit the crime of second-degree burglary from the purview of this preventive detention section. In order to commit a first-degree burglary the store or home must have had an occupant in it at the time the burglary was committed. In other words, any home where the occupant was out, or downtown, or a store where there is no manager or other occupant, or is closed for the evening, can be burglarized, and this is second-degree burglary, and 95 percent of the burglaries committed in the District of Columbia are second-degree burglaries. Therefore, under the definition of the gentleman from Washington, the greatest number of burglaries in the District of Columbia would not be included in the pretrial detention provision.

Mr. GUDE. Mr. Chairman, I move to strike the last word. Mr. Chairman, I rise in opposition to amendments to strike the preventive detention section.

I think it is an essential feature of this bill to reduce crime. I am going to offer amendments which will strengthen the preventive detention section if it remains in the bill, and I hope it will.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I rise in support of the preventive detention section also.

Mr. DENNIS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, unlike the wiretap and no-knock provisions of this bill, both of which I accept and support, I do have considerable difficulty, reservation, and objection as to the preventive detention section.

Part of that, I suppose, is a visceral reaction. If I walk into court with a client, normally in this country and under our constitution, I would expect him to be able to make bond. It is rather surprising and shocking to me that, when he has not been convicted of anything, some judge can guess he is probably guilty and shut him up until a jury finally decides it.

As has been said, there are constitutional questions and there are policy questions because, under preventive detention, it is certain that some innocent men will go to jail, and I believe the very serious problem—which I acknowledge—that this preventive detention section is addressed to, could be faced in a less drastic way, probably by restoring to the trial courts some of the rights they had to fix bond prior to the bail law.

I see no reason why, in the case of these dangerous crimes which are covered by preventive detention, the type of crime does not bear directly on the likelihood of a man's appearance, and his bond could be fixed accordingly.

One of the things which disturbs me most about this section—and I should like to address an inquiry on this to some member of the committee or some authority here for the sake of legislative history—is the question that there is a pretrial here and the court must find that there is a substantial probability of guilt before he can detain anyone? Now, that goes a long way, it seems to me, to reverse the usual presumption of innocence until proved guilty.

At any rate, and be that as it may, it certainly is going to be very dangerous, damaging, and unfair to a man on trial if in some manner it comes to the attention of the jury trying the case that the judge trying the case has already previously decided the defendant is probably guilty.

I should like to ask some member of the committee whether it is the intention to keep that type of information from the jury; and, further, whether they would agree that if such information reached the jury it would be a ground for a mistrial and a ground for reversible error on appeal in the event of conviction.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I am glad to yield to the gentleman from Ohio.

Mr. HARSHA. Clearly a disclosure like that would be grounds for a mistrial. I do not know of a court in the country which would hesitate in granting a mistrial if there were a revelation such as mentioned in the gentleman's statement. I believe it is the clear intention of the committee under those circumstances that the court would act in that manner.

Mr. DENNIS. In like manner, it would be reversible error in the appellate situation?

Mr. HARSHA. In my opinion it would. I would think the trial court would act. I do not believe one would have to go to the appellate court to get that.

Mr. DENNIS. I thank the gentleman.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Missouri.

Mr. HUNGATE. I believe the gentleman makes a good point. We certainly want the presumption of innocence to carry as far as possible in preserving the rights of the accused.

I would think that the preventive detention would be no more damaging than the situation we have in many cases which do not proceed to the grand jury, where the prosecutor advances the information and there is a preliminary hearing in which there must be a determination of reasonable grounds or probable grounds in connection with the matter. It involves a similar problem.

Mr. DENNIS. I would suggest to the gentleman from Missouri that there is a distinction between a finding of probable cause to hold a man for trial, which is what he is talking about, and a finding of substantial probability of guilt, which is what we are talking about here. I believe it is a very different thing.

I do appreciate the remarks of the gentleman from Ohio.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Washington (Mr. ADAMS).

The amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 20, noes 73.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: Page 403, line 12, insert "clear and convincing evidence that" after "there is".

Page 405, beginning in line 12, strike out "on the issue of guilt" and all that follows down through and including line 17 and insert in lieu thereof the following:

in any other judicial proceeding. No person shall be considered as waiving his privilege against self-incrimination in any proceeding by testifying at the hearing.

Page 405, strike out lines 22 and 23 and insert in lieu thereof the following:

"(1) The detained person shall have his case placed on an expedited trial calendar and the handling of motions and other preliminary matters pertaining to the case shall also be expedited. Continuances shall be granted only upon a showing of extraordinary cause. If a continuance is granted upon motion of the defense or if the trial of the person has begun but not been completed before the expiration of sixty days after the order of detention of the person, the person shall remain subject to such order until the conclusion of the trial."

Mr. GUDE. Mr. Chairman, this amendment would modify three sections of the preventive detention section. It would require that the judge must have clear and convincing evidence of the dangerousness of the individual to be detained and would provide that no person shall be considered as waiving his privileges against self-incrimination in any proceeding by testifying at the hearing. Also, it would provide an expedited trial calendar for the cases of individuals detained.

Because I support pretrial detention, I want to take care to assure that the bill provides the strictest standards of due process, so that it will pass the court test that will surely be forthcoming. My amendment proposes three very simple changes to improve the bill. None of these changes will dilute its effectiveness in the crime fight or make the procedures for detaining dangerous individuals more cumbersome.

The first involves the standard of proof for the finding that the accused is dangerous and should not be released.

The committee bill requires the judicial officer at the detention hearing to find first that there is clear and convincing evidence that the accused fits one of the four categories of potential detainees. The judicial officer must then find that no condition of release will "reasonably assure" the safety of any person or the community.

The bill does not say whether this second finding must be made on the basis of clear and convincing evidence, so we must assume it does not require such evidence. I think it should.

If we are going to take a man and put him behind bars for up to 60 days, I think this requirement is essential.

The finding that no condition of release will protect the community is the finding of dangerousness—the critical finding—and I think we must require that the judge be more sure of his judgment than is required if he can find the accused dangerous on a mere preponderance of the evidence.

The second part of my amendment would bar the subsequent use of the testimony of the accused at the detention hearing in any other judicial proceeding. I think it is vital to maintain a strict separation between the detention hearing and the trial if we are to preserve the presumption of innocence at the trial. And I see no reason why the prosecution would suffer from the loss of testimony at a detention hearing that the prosecution has not benefited from before. The whole point of pretrial detention is to protect the community from dangerous defendants who can be identified and detained. It is not intended to give the prosecution the use of testimony it would not have but for the detention hearing. I do not think the provision in the committee bill will stand a court test.

Finally, my amendment would require that the cases of persons detained be placed on an expedited trial calendar. I see no argument against a requirement that these cases be expedited, and that they be set aside from other cases for this purpose.

When an accused is detained, it means he is charged with a serious crime, that there is a substantial probability that he is guilty, and that a judge has found him likely to endanger the community if released, surely the community as well as the individual has every interest in obtaining a prompt disposition of his case. The expedited trial calendar would facilitate such a speedy disposition, and I believe the courts would insist on it.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Florida.

Mr. HALEY. The gentleman from Maryland is a member of the Committee on the District of Columbia, is he not?

Mr. GUDE. That is right.

Mr. HALEY. Did you offer this amendment in the committee?

Mr. GUDE. We offered amendments on pretrial detention but they were defeated. We are still attempting to perfect the bill. As we said, we took defeats in the committee and we are taking them here on the floor. But I think we should have the opportunity to perfect this bill.

Mr. HALEY. Mr. Chairman, if the gentleman will yield further, I agree that the gentleman should have that opportunity. However, it would appear to me that serving on the committee these amendments would have been offered.

Mr. GUDE. There were amendments offered in the committee, as I pointed out to the gentleman, on pretrial detention and we did try to perfect it. In fact, an amendment was offered by the gentleman from Washington in regard to pretrial detention.

Mr. HALEY. Mr. Chairman, if the gentleman will yield further, does not the gentleman want to clean up crime in the District of Columbia and in the adjoining areas?

Mr. GUDE. Yes; I certainly do want to clean up crime. That is precisely why I want to make sure that the pretrial detention section is well written. I am suggesting that some people—and I know the chairman of the subcommittee has been worried about the constitutionality of certain sections——

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(By unanimous consent, Mr. GUDE was allowed to proceed for 1 additional minute.)

Mr. GUDE. Mr. Chairman, I strongly support the provision allowing pretrial detention. However, the chairman of the subcommittee has raised questions about other proposals with regard to their constitutionality. I have the same concern about the pretrial detention section as it is drafted. I simply want to make sure that this important provision is not held to be unconstitutional by the courts, so that our efforts are not wasted and the section is not lost. That is why I am offering my amendment.

Mr. POFF. Mr. Chairman, I move to strike the last two words.

Mr. Chairman, it should be noted that the amendment which has been offered by the gentleman from Maryland is in three parts. Two of those parts are inoffensive, if not altogether acceptable. However, the third part I find unacceptable.

Mr. Chairman, that part addresses itself to a section of the bill which is of extreme importance in the total scheme of the mechanism which has been provided for pretrial detention. It would provide that if a person testifies at a detention hearing his testimony shall not be admissible in any other judicial proceeding. The committee's proposal prohibits use of his testimony on the affirmative issue of guilt in his trial. This is consistent with Supreme Court law (*Simmons* v. *United States*, 390 U.S. 377). The committee's proposal would specifically permit use of a defendant's testimony in perjury proceedings and as impeachment as well as prosecution for bail jumping.

The proposed amendment would permit a defendant to commit blatant perjury at this hearing and be immunized from prosecution for his perjury and from its use as impeachment. Deliberate perjury is a crime in itself and goes to the root of the system of criminal justice in this country.

And yet he would be immunized from prosecution for perjury, and from its use as impeachment in any additional judicial proceeding. No court in the land can with impunity permit such a bizarre result—one which in effect sanctions deliberate perjury. It is contrary to the law in the District of Columbia, as it has been pronounced by the courts.

So, Mr. Chairman, I repeat that while two of the three parts of the amendment do no violence, the third is so mischievous I am obliged to urge that the entire amendment be defeated.

The CHAIRMAN pro tempore (Mr. HOLIFIELD). The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HUNGATE

Mr. HUNGATE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HUNGATE: Page 309, line 19, strike out the quotation marks and insert in lieu thereof the following: "However, no person may be punished for defying or violating unlawful government authority when obedience would have subjected him to significant and irreparable harm, unless the government is able to demonstrate the existence of an overriding public interest in demanding compliance with that authority."

Mr. HUNGATE. Mr. Chairman, at this time, if I might, I would like to read the section on resisting arrest on page 309 of the bill, beginning at line 16, and then read the amendment, and then I will yield back my time.

The present resisting-arrest section states:

> It is neither justifiable nor excusable cause for a person to use force to resist an arrest when such arrest is made by an individual he has reason to believe is a law enforcement officer, whether or not such arrest is lawful.

The amendment would simply provide:

> However, no person may be punished for defying or violating unlawful government authority when obedience would have subjected him to significant and irreparable harm, unless the government is able to demonstrate the existence of an overriding public interest in demanding compliance with that authority.

Mr. Chairman, I yield back the balance of my time, and I ask that this amendment be considered as soon as the opposition is heard.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my good friend from Missouri and I have argued this in committee. It was my bill that originally proposed this provision. I am not going to take the time of the committee today to reargue that issue, and I will insert my remarks regarding this matter. However, I just want to say that I strongly oppose this amendment because it will defeat the whole purpose of this provision if it is adopted. It will add additional confusion in the minds of the police officer and citizens at a time that we are trying to clarify the issue.

Mr. HOGAN. Mr. Chairman, I rise in support of the provision in H.R. 16196 which prohibits the use of force to resist an arrest, whether or not the arrest subsequently turns out to be lawful. The purpose of this provision is to encourage tranquility in the community by requiring that disputes as to the legality of an arrest be decided in the courts and not in the streets.

The prestigious American Law Institute recognized the soundness of this provision when it drafted the model penal code. Section 3.04 of the 1962 Official Draft of the model penal code provides:

> The use of force is not justifiable . . . to resist an arrest which the actor knows is being made by a peace officer, although the arrest is unlawful.

The language of the provision in this bill is substantially the same as that recommended in the model penal code.

Support for this provision also comes from the Uniform Arrest Act which was drafted by the Interstate Commission on Crime. Section 5 of the Uniform Arrest Act provides:

> If a person has reasonable ground to believe that he is being arrested by a peace officer, it is his duty to refrain from using force or any weapon in resisting arrest regardless of whether or not there is a legal basis for the arrest.

A number of States have followed the recommendations of the model penal code and Uniform Arrest Act and have enacted legislation to prohibit the use of force to resist an arrest, which subsequently turns out to be unlawful. These States include: New York, California, Illinois, Delaware, New Hampshire, and Rhode Island.

In addition, one State, New Jersey, in the famous 1965 case of State against Koonce, adopted the rule prohibiting the use of force to resist any arrest by court decision.

There is no valid reason for the outdated principle allowing the use of force to resist an arrest which subsequently turns out to be unlawful. The issue of the legality of an arrest in a civilized and urbanized society should be decided in the courts and not in the streets. One arrested and accused of a crime is taken immediately before a commissioner or judge. The person arrested is entitled to apply for release on bond. In addition, the person arrested is assured of a hearing with the advice of counsel to challenge the legality of the arrest. Moreover, the person arrested may vindicate himself civilly in a false arrest suit under the Civil Rights Act of 1871.

To permit an individual to forcibly resist an arrest on the basis of his judgment as to its legality is to permit him to act in folly. The individual is in no position to make an intelligent decision as to the legality of the arrest for he cannot know what information, correct or incorrect, the officer may be acting upon. The difficult question of probable cause—not guilt or innocence—which determines the legality of an arrest has, in many instances, taken the courts in this country, including the Supreme Court, years to decide.

Society's interest in protecting the entire community from the threat of physical harm also demands that an individual peacefully submit to an arrest, regardless of its legality. It is the street altercation between the police officer who is attempting to perform his duties and the individual who forcibly resists that, in our urban society, has increasingly become the springboard to general rioting. The report of the National Advisory Commission on Civil Disorders is sprinkled with examples of riots being ignited by individuals forcibly resisting arrests and assaulting police officers.

The concept of self-help in our modern and urbanized society is antisocial, dangerous, and outmoded. This provision recognizes this and requires that disputes as to the legality of an arrest be decided in the courts. I enthusiastically support this modernization of the law.

[From the Washington Post, Mar., 18, 1970]

MAN FREED IN GUN DEATH OF PASSERBY

(By Peter Osnos)

A 24-year-old Western Union messenger was acquitted yesterday on charges of murdering a Coast Guard officer last May during a struggle with a policeman on Connecticut Avenue NW near Dupont Circle.

The Coast Guard officer—a 40-year-old father of six—was a passerby as the accused man, William E. Johnson Jr., argued with a metropolitan policeman who was questioning him about a $3 theft.

"This was a fiasco brought about by an overzealous police officer," declared Joseph A. Rafferty in his closing defense of Johnson, who sat gripping the sides of his chair and shaking. Johnson has been in jail since the shooting.

Testimony during the two-day trial centered on whether the shots that killed Coast Guard Cdr. Warren D. Andrews were fired by Johnson or Officer Paul E. Grasso, the officer with whom he was struggling. There was no dispute that the bullets came from Grasso's gun.

The jury took barely 30 minutes to acquit Johnson of a second-degree murder charge and a charge that he shot Grasso who was wounded in the leg during the struggle. Johnson's mother fainted at the verdict and had to be assisted from the courtroom.

As he faced the jury standing across the courtroom, Johnson appeared more confused than pleased, but smiled when Rafferty turned to him and said, "You're a free man."

The key defense contention in the case was that Johnson was defending himself against a wrongful arrest by Grasso, who accused the messenger of taking the $3 from a Western Union customer's purse.

Although Johnson never was formally arrested for the $3 theft, witnesses testified that Grasso warned the messenger not to flee and, according to one witness, was trying to handcuff him.

Grasso came to the Western Union office located at 1354 Connecticut Ave. NW when a woman complained that the $3 was missing from her purse after a messenger had delivered a telegram.

U.S. District Court Judge John Pratt ruled that Grasso had "no probable cause" to arrest Johnson. Pratt instructed the jury on the right of a person to resist wrongful arrest.

Witnesses testified that Johnson and Grasso talked for almost 30 minutes before the struggle between the two men began and Grasso's revolver came loose from its holster.

The time was 1:52 p.m. and Cdr. Edwards was walking from Coast Guard headquarters to Boy Scout headquarters on Connecticut Avenue to run errands for a scout troop.

At that moment, Grasso and Johnson tumbled out onto the street and five shots were fired—three into Grasso's leg, one into a wall and one into Edwards' brain.

Johnson was seized and charged with first-degree murder. The charge was reduced to second-degree murder before his trial because, prosecutors said, there was no evidence of premeditation.

In summing up his case yesterday, Assistant U.S. Attorney Stephen M. Schuster said the issues hinged on the "credibility" of various witnesses. He derided the testimony of Norman (Chico) Wood, a passerby, who said Grasso had pulled out his revolver and fired at Johnson.

Other witnesses agreed on the basic fact that a tussle took place between Johnson and Grasso, during which shots were fired. Schuster argued that the presence of certain marks on Grasso's hand proved he was holding the gun barrel and not the trigger, during the shooting.

The thin, nervous Western Union messenger was held without bond on the first-degree murder charge and was sent to St. Elizabeths Hospital for a mental examination during the time he was jailed.

Johnson, a drop-out from junior high school, was born and reared in Washington. He held a series of messenger jobs before coming to Western Union. Although his speech is slurred and halting, his teachers always had told his mother he was capable of doing more in school than he did.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. HUNGATE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GALLAGHER

Mr. GALLAGHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. GALLAGHER: On page 427, after line 20, insert:
>
> "INDOOR PLUMBING
>
> "SEC. 210. Whoever owns a building or other structure in the District of Columbia which contains indoor plumbing shall be fined $5,000."

Mr. GALLAGHER. Mr. Chairman, I know the hour is late. I feel, however, that the hour is even later for liberty.

As I sat here through the debate, it struck me how terrible it was that the invention of indoor plumbing has become the apparatus to cause the fourth amendment to disappear.

The rationale for the no-knock provision is that if the policeman knocks before he enters a home, evidence of narcotic or other violations could be flushed down the drain. There just has to be a viable alternative to putting a match to the fourth amendment. Ridiculous as my proposal may sound, I would rather opt for liberty than indoor plumbing, if there is really no other option.

I have no argument with the intention of this bill. I can see that drug addiction and drug abuse is perhaps the most serious problem going on in America today. I have a bill that would make the nonaddicted pusher liable for a capital offense. But that is not really what I am discussing here today.

The amendment I have just introduced will make it a crime, punishable by a $5,000 fine, for any dwelling in the District to have indoor plumbing. I propose to substitute a "no-flush" law for a "no-knock" law.

That clearly seems to me to solve the problem of preserving evidence and so there will not be the necessity for the police to use the very threatening provision of this bill we approved earlier.

Next, of course, we will want to confiscate all the matches in the District to prevent the evidence from being burned. Further, what we must eventually do, to be wholly consistent with the thrust of provisions of this legislation and others offered recently, would be to require all doors and houses of dwellings in the District to be made of glass.

But, as a first step, a drop in the bucket as it were, I am proposing to ban indoor plumbing.

In order to avoid having civil and constitutional rights go down the drain in an attempt to stop evidence going down the drain, we will obviously have to do away with indoor plumbing. Since we have already approved taps for his phones, he certainly will not miss the water taps. And what good really are modern conveniences when they become the rationale for the destruction of our freedom.

I know that many people might say at first flush that this amendment does not stand much of a chance and will probably go down the drain when the vote comes.

Quite seriously, Mr. Chairman, it seems that we have really not carefully considered the aggregate effect of the legislation we are so eagerly and totally embracing. When you restrict one freedom, today, it becomes that much easier to restrict another tomorrow. The "no-knock" provision strikes deeply at one of the central features of Anglo-Saxon jurisprudence. Perhaps it is really the most basic concept of our law. That is, a man's home is his castle, and he must be able to raise the drawbridge from time to time. We have splintered that drawbridge this evening; so perhaps we should saw away the plumbing fixtures as well.

The inviolability of a man's home was clearly enunciated by William Pitt, the Elder, in 1763:

> The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter, the rains may enter—but the Kings of England cannot enter; all his forces dare not cross the threshold of that ruined tenement.

What we have passed not only permits that threshold to be crossed; we have permitted it to be shattered.

This amendment will, of course, give additional evidence to those who say that because I oppose the unevaluated use of new technology, I am against progress. Naturally, I do not take any such position at all, for revolutionary new tools like the computer are as essential to modern society as civil liberties are to the continuation of democratic government. And so the efforts I have been making with my privacy subcommittee for the past two administrations are an attempt to humanize technology and to make human values relevant to our sophisticated ways to gain and handle information.

I have often said in the past that I would not have opposed the introduction of indoor plumbing because it destroyed a society based around the village pump. But when it permits such things as the "no-knock" provision to be enacted and to clearly threaten our constitutional government, then I reluctantly must oppose it.

So, I lament for liberty here today. I lament for the problems we all have in trying to work out the correct approach to the great difficulties posed by urbanization and the increased crime rate. For what we are really discussing is the need to find a way to make society survive.

But I do not believe that our society will survive if we do not vigorously reassert the basic concepts of liberty and freedom.

As I said earlier, liberty and progress are compatible, but only if we find a place to reestablish the responsibility and the awesome accountability that we have to history. That rests here in this body.

Mr. Chairman, we must take effective action about crime while retaining the virtues that make society livable and truly worthwhile for all our citizens. We must serve the needs of society, as this committee is trying to do today, but we must do more than merely substitute fear for understanding and terror for meaningful programs. That way, we can make crime grow instead of lessening it.

We must preserve the freedom that our Bill of Rights guarantees to each American. I am afraid we are losing confidence in ourselves and faith in each other. If we do, freedom is doomed.

The no-knock provision as well as several others in this bill is a vote of no confidence in the American people and in the American system of government—history's noblest experiment.

Mr. HALEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will be very brief. I think we may dispose of this very quickly. Let us flush it down the drain.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GALLAGHER).

The amendment was rejected.

AMENDMENTS OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer two amendments.

I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. HALL. Mr. Chairman, reserving the right to object, let us hear them read before we decide whether they will be considered en bloc or not.

The CHAIRMAN. The Clerk will read the two amendments.

The Clerk read as follows:

Amendments offered by Mr. MIKVA: On page 389, insert after line 12 the following new chapter:

"Chapter 12—SPEEDY TRIALS

"Sec.
"23–1201. Time limits on commencement of trials.
"23–1202. Sanctions.
"23–1203. Application of section 23–1201.
"23–1204. Implementation plans; suspension of application of section 23–1201.

"23–1201. Time limits on commencement of trials

"(a) The trial of a defendant charged with a criminal offense under a law applicable exclusively in the District of Columbia shall be commenced within the 120-day period, or in the case of a defendant charged with a crime of violence, the 60-day period, beginning on the date (1) the defendant is arrested, (2) summons for his arrest is issued, or (3) the information or indictment charging him with commission of a crime is filed, whichever occurs first. However, if an indictment or information is dismissed on the motion of the defendant, and the defendant is subsequently charged with the same crime or a crime based on the same conduct or arising from the same criminal episode, the applicable period shall begin to run from the date the latest information or indictment charging him with such crime is filed. In the case of a trial of a defendant to be held as the result of an order declaring a mistrial, granting a new trial, or otherwise permitting a new trial, the applicable period for such trial shall begin to run from the date such order is issued.

"(b) The following periods shall be excluded in computing the time for trial:

"(1) Any period of delay resulting from other proceedings concerning the defendant, including periods during which the defendant is incompetent to stand trial or during which he is subject to examination and hearing on competency, examination and treatment pursuant to section 4 of the Act of June 24, 1953 (D.C. Code, sec. 24–603), or section 16A of the Act of June 20, 1938 (D.C. Code, sec. 33–416a), hearings on pretrial motions and interlocutory appeals, and trial of other charges.

"(2) Any period of delay during which prosecution is deferred by the United States attorney or the Corporation Counsel for the District of Columbia pursuant to written agreement with the defendant for the purpose of allowing the defendant to demonstrate his good conduct.

"(3) Any period of delay resulting from the absence or unavailability of the defendant.

"(4) Any reasonable period of delay beginning on the date an information or indictment is dismissed and ending on the date a new information or indictment is filed, if the information or indictment was dismissed on the motion of the United States attorney or the Corporation Counsel for the District of Columbia and the new information or indictment was filed against the defendant within a reasonable period and was based on the same offense or an offense required to be joined with such offense.

"(5) Any reasonable period of delay when the defendant is joined for trial with a defendant as to whom the time for trial has not run and there is good cause for not granting a severance. In all other cases the defendant shall be granted a severance so that he may be tried within the time limits applicable to him.

"(6) Any period of delay resulting from a continuance granted at the request of the defendant or his counsel upon a showing of good cause.

"(7) Any period of delay (not to exceed sixty days in duration) resulting from one continuance granted at the request of the United States Attorney for the District of Columbia or the Corporation Counsel for the District of Columbia upon a showing of good cause and special circumstances peculiar to that case which justify such continuance.

"(c) For purposes of this chapter, the term 'crime of violence' means a crime referred to in section 11–502(2)(A).

"§ 23–1202. Sanctions

"(a) When a trial date has been determined and on such date the defendant, his counsel, or both, fail to proceed to trial without justification, the court may punish for

criminal contempt the person responsible for the delay.

"(b) Subject to the provisions of section 23–1204(g), if a defendant is not brought to trial within the time prescribed by section 23–1201, the information or indictment shall be dismissed on motion of the defendant. Such dismissal shall forever bar prosecution for the offense charged and for any other offense required to be joined with the offense. Failure of the defendant to move for dismissal of his case prior to trial or entry of a plea of guilty shall constitute a waiver of the right to dismissal.

"23–1203. Application of section 23–1201

"(a) Except as suspended under section 23–1204, the time limitations in section 23–1201 shall apply—

(1) with respect to defendants charged with crimes of violence in informations or indictments filed more than six months after the effective date of the District of Columbia Court Reorganization Act of 1970, and

(2) with respect to defendants charged with any other criminal offenses in informations or indictments filed more than twelve months after the effective date of the District of Columbia Court Reorganization Act of 1970.

"§ 23–1204. Implementation plans; suspension of application of section 23–1201

"(a) The United States District Court for the District of Columbia and the Superior Court of the District of Columbia shall each prepare an implementation plan for the trial or other disposition of offenses in accordance with section 23–1201.

"(b) Implementation plans shall be formulated after considering the recommendations of the Federal Judicial Center, the United States Attorney for the District of Columbia, the Corporation Counsel for the District of Columbia, and attorneys experienced in the trial of criminal cases. Such plans shall include a description of the procedural techniques, innovations, systems, and other methods by which the courts have expedited or intend to expedite the trial or other disposition of criminal cases. In the case of the implementation plan of the Superior Court of the District of Columbia, the plan shall indicate what consideration has been given to an accelerated criminal trial calendar for trial of cases involving crimes of violence.

"(c) The United States District Court of the District of Columbia shall, with the approval of the Judicial Council for the District of Columbia Circuit, file its implementation plan with the Administrative Office of the United States Courts on or before the effective date of the District of Columbia Court Reorganization Act of 1970. The Superior Court of the District of Columbia shall, with the approval of the Joint Committee on Judicial Administration in the District of Columbia, file its implementation plan with the Executive Officer of the District of Columbia courts within the six-month period following the effective date of the District of Columbia Court Reorganization Act of 1970.

"(d) In the event that either court is unable because of limitations of manpower or resources to carry out its implementation plan within the time prescribed by section 23–1203, its plan shall, with approval of the Judicial Council for the District of Columbia Circuit or the Joint Committee on Judicial Administration in the District of Columbia (as the case may be) be submitted to the Judicial Conference of the United States (with a copy to the Attorney General) together with a request for suspension of the time for application of section 23–1201, as specified in section 23–1203. In addition to the information required under subsection (b), if a suspension is requested, the plan shall specify the necessary authorizations and appropriations for additional judges, prosecutors, probation officers, full-time defense counsel, court administrators, supporting personnel, and other resources without which compliance with section 23–1203 cannot be achieved.

"(e) On or before six months from the effective date of the District of Columbia Court Reorganization Act of 1970, the Judicial Conference shall determine, after considering such views as the Attorney General may offer on the proposed implementation plan of the United States District Court for the District of Columbia, whether and to what extent section 23–1203 is to be suspended and shall grant such suspension accordingly. On or before one year from the effective date of the District of Columbia Court Reorganization Act of 1970, the Judicial Conference shall determine, after considering such views as the Attorney General may offer on the proposed implementation plan of the Superior Court of the District of Columbia, whether and to what extent section 23–1203 is to be suspended and shall grant such suspension accordingly.

"(f) If an implementation plan and request for suspension is submitted for the United States District Court for the District of Columbia under subsection (d) to the Judicial Conference, then, within six months from the effective date of the District of Columbia Court Reorganization Act of 1970, the Judicial Conference shall submit a report to Congress describing such plan. If an implementation plan and request for suspension is submitted for the Superior Court of the District of Columbia under subsection (d) to the Judicial Conference, then, within one year from such effective date, the Judicial Conference shall submit a report to Congress describing such plan. Each report shall indicate the action taken by the Judicial Conference under subsection (e), and the legislative proposals and appropriations necessary to achieve compliance with the time limitations specified in section 23–1201.

"(g) If at any time after section 23–1201 applies to a court and such court finds that it will be unable to meet the time limitations specified in that section, the Chief Judge of such court may apply to the Judicial Conference for suspension of the application of such time limitations. The Judicial Conference may grant any such suspension for such periods as it deems necessary."

Page 315, line 1, in the table of contents, insert after the item relating to chapter 11 the following new item:

"12. Speedy Trials.................. 23–1201."

Page 439, line 8, strike out "section 601" and insert in lieu thereof the following:

"Section 601 and chapter 12 of title 23 of the District of Columbia Code (as codified by section 209 of this Act)"

Page 398, beginning in line 11, strike out "or the safety of any other person or the community" and after the period in line 12 insert the following new sentence: "In making such determination in the case of a person convicted of a crime of violence within the ten years immediately preceding the alleged commission of the present offense, the judicial officer may consider the likelihood that while released the person charged may commit a crime of violence, to the extent that such likelihood affects or involves factors common to evaluation of the probability of his appearance at trial."

Page 398, beginning in line 16, strike out "or the safety of any other person or the community,".

Page 399, strike out lines 13 and 14; and in line 17, strike out "and the safety of any other person or the community".

Page 402, strike out line 7 and all that follows down to and including line 2 on page 403, and insert in lieu thereof the following:

"§ 23–1322. Detention prior to trial

"(a) A judicial officer may, subject to the provisions of this section, order pretrial detention of a person charged with—

"(1) a crime of violence as defined in section 23–1331(3), if (A) the person has been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged, (B) the crime of violence was allegedly committed while the person was on probation, on parole, or on mandatory release pending completion of a sentence, and (C) the judicial officer determines that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community; or

"(2) any offense if such person, for the purpose of obstructing or attempting to obstruct justice, threatens, injures, intimidates, or attempts to threaten, injure, or intimidate any prospective witness or juror.

Page 403, line 17, strike out "(3)" and insert in lieu thereof "(2)".

Page 407, line 5, strike out "23–1331(4)" and insert in lieu thereof "23–1331(3)" and, in line 6, strike out "23–1331(5)" and insert in lieu thereof "23–1331(4)".

Page 416, strike out line 23 and all that follows down to and including line 6 on page 418 and insert in lieu thereof the following:

"(3) The term 'crime of violence' means murder, forcible rape, indecent acts against children, mayhem, kidnaping, robbery, burglary, voluntary manslaughter, extortion or blackmail accompanied by threats of violence, arson, assault with intent to commit any offense, or assault with a dangerous weapon, as defined by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

"(4) The term 'addict' means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 so as to endanger the public morals, health, safety, or welfare."

Mr. MIKVA (during the reading). Mr. Chairman, one of these amendments is a very long and complicated amendment. I ask unanimous consent that the amendments be considered as read. I will explain them in a much simpler manner than having them read in detail. I have distributed copies to all members of the committee, and I have other copies that I shall distribute to any Member who desires them. I shall be happy to have them printed in the RECORD. It will take about 10 minutes to read them. I think I can do a much better job explaining them than having them read. I ask unanimous consent that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. WIGGINS. Mr. Chairman, reserving the right to object, I would like to ask the gentleman whether the amendment follows the language of H.R. 14822, which he previously introduced with respect to speedy trials?

Mr. MIKVA. Substantially. It conforms to the different procedures in the District of Columbia, and there are a couple of slight differences, which I shall explain, which preserve more of the language of the committee bill than would be in my original bill. Substantially they are the bills that I introduced in the Judiciary Committee.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois to dispense with reading of the amendments and that they be printed in the RECORD?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois that the two amendments be considered en bloc?

Mr. HALL. Mr. Chairman, further reserving the right to object to that unanimous-consent request, I have since been supplied with a copy of the amendments. Do I correctly understand that the second one the gentleman from Illinois wants is a simple conforming amendment?

Mr. MIKVA. No; they are two separate amendments. Perhaps if I give the gentleman copies, he will see that they are, in fact, two substantive amendments.

Mr. HALL. Mr. Chairman, I have no right to prolong the proceedings, but I cannot for the life of me see how we can grant unanimous consent with respect to amendments which no Member of the House, outside of members of the committee, have previously seen or that have not been explained.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois is recognized in support of his amendments.

Mr. MIKVA. Mr. Chairman, I realize the hour is late. I suspect at this late hour, even I were to tell you that the law against murder was being repealed in this bill—and I question how many Members would know for sure that it was not—no amendments will pass. The committee intends to stand pat, which I think is unfortunate, because a great deal of this bill, with all due deference to the committee, appears to be the result of clipping and pasting. I must confess that I was a little unhappy because the committee would not let me bring in my paste pot. Apparently there was some administrative mixup and I never had an opportunity to offer these amendments to the committee, even though I requested permission to testify in due order and the chairman assured me that I would have an opportunity to do so. Somewhere between that assurance and the subcommittee hearings I was lost in the shuffle. So these amendments were never seen by the committee.

Nevertheless, I consider them very important because of what these amendments propose to do. The reason I asked to have them considered en bloc is that they propose to take the concept of preventive detention and make it do something that would help solve the crime problem in the District of Columbia—which I thought was what we were talking about. The main amendment would set up a proposal for a speedy trial. It would say that all criminal cases must be tried within 60 days. It does not propose mayhem or capricious nonsense. There are provisions in the bill for the judges to advise the Judicial Conference, and in turn the Attorney General and the Congress, if certain circumstances prevent them from holding trials within 60 days.

But basically the amendment says what we ought to do is get our criminal trials started in 60 days, so instead of locking up people for 60 days on preventive detention, and clogging up the courts with two sets of trials instead of one, we would have a trial take place within 60 days.

The second amendment provides that within a set of circumstances and under constitutional safeguards and policy safeguards, we would authorize people to remain under detention during that 60-day period. So the trial would take place when it ought to, and if the person is a danger to the community, he could be detained until it was completed.

Specifically, my amendment provides that anybody out on bail or probation or parole would have that revoked during the period until his trial is held. Anybody who is a narcotics addict would be detained for treatment, as in the committee bill, until such time as the trial is held.

Specifically, my amendment would confirm what most judges do now anyway; namely, authorize them to take dangerousness to the community into account in determining what conditions, if any, should be set for that person's release.

That may sound like a legal quibble, but the quibble is the difference between preserving the presumption of innocence and saying we will presume somebody temporarily guilty during the pretrial detention period.

We should be setting up a procedure for trying all criminal procedures within 60 days. If there is anyone against such an arrangement, I do know which it is. The courts are not against it, the police are not against it, and I cannot believe Congress likes the idea of a 10-month pretrial period.

My proposal on pretrial detention would stay within limits of the Constitution, and a policy, that will protect the community against dangerous people, but won't throw away our Constitution, wisdom, and judgment just because we are concerned about crime. We are trying to do something other than push the panic button.

There are provisions within the present bill which I know are not consistent with the committee's intention, not only as a matter of the preventive detention which is in the committee bill, but other provisions as well which the Supreme Court of the United States will find an opportunity to strike down. And we will be back where we are today. If the Congress is as concerned as it says, I think we ought to consider these amendments favorably.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I compliment the gentleman. The amendments which the gentleman offers and his comments show the type of work going on in the Judiciary Committee on the problem of preventive detention and how this can be done. I think it is a great tragedy that this matter has gone the way it has, and that the gentleman cannot be heard on this matter by the committee on a bill which involves a matter of such importance.

Mr. POFF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I join in the compliment just paid to my distinguished friend, the gentleman from Illinois. He is indeed one of the good lawyers in this body and he has indeed addressed a most complex subject.

Having paid the gentleman that tribute, I am obliged to oppose his amendment, not in its entirety, but in its principal thrust.

The Mikva amendment, so-called, is more appropriately called a substitute. In major part, it displaces the pretrial detention clause of the committee bill. Specifically, here is what it does:

First, while the Mikva substitute authorizes the judge to consider the likelihood that a person may commit a crime of violence while released pending trial, he may consider it only as it may affect the probability of his appearance at trial.

Second, the Mikva substitute strikes out the words "or the safety of any other person or the community" at two vital points in the committee bill.

Third, the Mikva substitute would not disturb the committee provision which permits the judge to detain narcotic addicts, but it would altogether eliminate the committee provision which permits the judge to detain a person charged with a dangerous crime as defined in the bill.

Fourth, the Mikva substitute would permit the judge to detain a person charged with a crime of violence only if it was committed while on probation, parole, or mandatory release from sentence and only if it is the second crime of violence committed within a 10-year period. The Mikva language is in the conjunctive. The language of the committee bill is in the disjunctive. The committee bill permits the judge to detain the person charged with a violent crime if either, it was the second such crime committed within a 10-year period or it was committed while on probation, parole, or mandatory release from sentence.

Fifth, the Mikva substitute definition of "crime of violence" omits certain crimes included in the committee definition. For example, it omits the crimes of attempt or conspiracy to commit all of the other crimes cataloged in the definition of violent crimes.

Parenthetically, it is interesting to note that the Mikva substitute retains the committee bill's hearing procedure and the full complex of due process safeguards which some critics have claimed will clog court calendars.

It is also significant to note that some who support the Mikva substitute argue that the eighth amendment guarantees pretrial detention in both capital and noncapital cases, even though the latter is a limited category.

In summary, the Mikva substitute would substantially unhinge a vital mechanism of the committee bill. That mechanism is a crime prevention mechanism. Prevention of violent crime by dangerous, repeat offenders while free on bail is a reasonable measure of self-defense which this community deserves.

Not unlike my colleagues, I am anxious to see that criminals are tried and punished as rapidly as possible, and I deplore the present backlog of criminal cases in this city. I do not believe, however, that the imposition of arbitrary deadlines by Congress is the right approach.

XUM

We have before us today a comprehensive bill to reorganize courts in the District of Columbia, transfer both civil and criminal jurisdiction, improve the administration of the local courts, revise the criminal procedures for the District. All of these measures are designed to upgrade and speed up the criminal justice system in this city. It is our job to give the courts, the prosecutors and the defenders the tools with which to provide fair and efficient justice. It is not our job to second guess the judges and court administrators as to how the details of the system are best worked out. Can we honestly sit in this Chamber and tell the judges, the prosecutors, the defense attorneys and all the supporting personnel involved in a criminal trial what is a reasonable time for trial for each and every defendant in this city for all the years to come? Can any of us honestly say that he knows that such and such a time limit will work in the District of Columbia in various types of cases next year, 5 years from now?

I submit that the persons who are directly and constantly involved in this system of justice are in a far better position to judge what is feasible and desirable than we are in this body. Let us give the courts the tools and the manpower they need as we have here and leave to them the implementation of the system.

The bill offered by the gentleman from Illinois, in effect, defines what is a speedy trial for violent crimes and for other crimes. Sixty days for the violent crimes is speedy trial, we are told, and 120 days for other offenses. Speedy trial, I will remind my colleagues, is mandated by the sixth amendment. Since that amendment was adopted, however, the courts have scrupulously avoided defining speedy trial in terms of a specific number of days. The courts have always viewed speedy trial as a relative thing to be judged in each case on the basis of the facts. We are asked here today to second guess the courts. We are asked to tell them—from the Supreme Court on down—you judges may not know what speedy trial is in every case, but Congress knows.

If we say this as to the District of Columbia, can it not be argued that Congress has defined constitutional speedy trial for all. Will not the next defendant in any Federal court throughout the country approach the bench to argue that he was not tried in 60 or 120 days, as the case may be, and since Congress has defined the Constitution in these terms he must be released. And think about the defendants in the courts in the many States. The sixth amendment applies to the States. State courts throughout the country will be told that they must dismiss charges because Congress has defined speedy trial in rigid terms and any defendant not tried in time must be released.

Mr. Chairman, I do not always believe the courts are right in all their decisions. I do however believe they are right and very wise in their constant refusal to reduce the speedy trial guarantee to rigid numerical terms. In this we should follow their lead and reject the proposal of the gentleman from Illinois.

Let me just add one other thought on this proposal. The reorganization of court jurisdiction we are considering today will provide for the transfer of all local cases—civil as well as criminal—to the local courts. This will be done over a period of 3 years. Despite the careful consideration that has gone into the implementation of this transfer and the planning that is already underway, the course of this transition is bound to be rough and rocky. Unforeseen problems will arise, newness is bound to generate confusion. If, on top of these problems, we impose rigid time limits for the trial of criminal cases we may cripple the very system of criminal justice we are trying to improve. We must give the courts time to work out the problems of transition. We cannot impose time limits on top of the other problems.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. POFF. I yield to the gentleman from Illinois.

Mr. MIKVA. I thank the gentleman for his kind words.

So that the record is clear, does the gentleman agree with me that in my proposed amendment in the nature of a substitute on probation, parole, and bail revocation, the procedure allowed to the court is as summary as the committee provided, and is not designed to clog up the procedure?

Mr. POFF. No, I do not; because the gentleman's language is in the conjunctive, while the committee bill is in the disjunctive. That means under the gentleman's amendment a person must not only be on probation or parole when he commits the offense but also must have committed a second crime of violence in the 10-year time span.

Mr. MIKVA. I must only say that this is one of the prices I must pay for not having been allowed to testify before the committee. I am sure I could persuade my distinguished colleague from Virginia that for the first time since I have known him he may have misread an amendment, just as I am sure I could persuade the committee that these provisions do not clog up the procedure.

But this is not the place to get into that kind of legalistic argument. I should like to invite my colleague from Virginia to sit down sometime to discuss it further.

Mr. POFF. I thank my colleague.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment.

It is regrettable that we did not have an opportunity in the committee to study the gentleman's amendment. I am sure he understands there was no intention to not consider it, but it must have been just an inadvertence.

There is a problem we need to think about here. There are many good things in the gentleman's amendment to which I would like to give a great deal more study. However, with this court reorganization bill we are trying to give the local court system the tools with which to unsnarl the tremendous backlog of cases they now have.

My fear is that by putting this additional burden on them, with a time restraint on the cases, it might jeopardize their ability in the best orderly way possible to eliminate those conditions.

I am not saying that there is not a great deal of merit to the gentleman's amendment, because I think there is.

Mr. Chairman, I wish to speak in opposition to the amendment which requires trials for violent crimes in 60 days and nonviolent crimes in 120 days.

This amendment operates on the mistaken assumption that Congress can legislate speedy trials, that somehow Congress can decree that trials shall occur within a certain number of days and that miraculously the trials shall occur.

I certainly am in favor of speedy criminal trials. We all, I expect, favor speedy trials. The way for Congress to provide speedy trials is not, however, to enact a statute which says, "Speedy trials shall occur." Rather, the way is to provide a more efficient court system with modern management, to increase the number of judges, and to enact an up-to-date code of criminal procedure. This is what this court reorganization bill—H.R. 16196—is attempting to do. It represents an admirable comprehensive effort to improve and streamline the fair and effective administration of justice, both criminal and civil.

But to superimpose by legislative fiat a 60- or 120-day trial decree would create chaos in the administration of criminal justice and release into the community, never tried, many murderers, rapists, narcotic dealers, and armed robbers. For it is no more than a pipedream to imagine that in a busy urban court all violent felony cases can be brought to trial in 60 days and all other felonies within 120 days. Even under the proposed court reorganization, many trials will not be brought to trial within the required time either because of court congestion or because more preparation for trial is necessary.

For example, recent narcotics raids in the District of Columbia have resulted in the arrests of major dealers and seizures of large amounts of narcotics. These cases require considerable additional investigation after the arrest and months of extensive trial preparation. Under this amendment, however, the charges against all the dealers would be dismissed because not tried in the required time limit. The same is true of many fraud cases, conspiracy indictments, and complex murder trials.

It simply is not possible to decree an arbitrary time limit for a trial. Too many unforeseen circumstances can arise.

In this regard, I should point out that in enforcing the sixth amendment right to speedy trial the courts have never prescribed a set time period in which a criminal trial must take place. Instead they have carefully analyzed the facts of the particular case before them to determine whether or not there was a violation.

Congress should not require the courts to depart from this sensible case-by-case approach and impose on them an arbitrary time limit. Only one group will benefit from such an arbitrary rule—criminals. Only one group will lose—society.

XUM

Though this amendment is obviously well intentioned, it clearly is misguided. To avoid the disastrous results it will cause, the amendment should be defeated.

The speedy-trial amendment proposed by the gentleman from Illinois seeks a most laudable goal. Ironically, it carries within itself the seeds of chaos and failure because of the consequences flowing from a detailed statutorily-mandated speedy-trial scheme. Legislation requiring a set of actions and designating a host of exceptions—in this case, time-period exceptions—confers litigable rights and duties. Applicable, as this is, to the process of adjudicating guilt or innocence—a process already loaded with litigable rights and responsibilties regarding such matters as: warrants, arrests, indictments, evidence, competency, counsel, joinder of offenses and defendants, and so forth—the amendment will produce a new and multiple caseload of time-consuming litigation.

Rulings and findings of the court regarding the event from which the time for trial is to be calculated will be challenged by defendants. The same is true of the numerous events which constitute an exclusion in computing the time for trial. The inevitable result is numerous collateral proceedings to be adjudicated before the case can be disposed of.

The amendment affords many statutory bases on which a defendant can move for dismissal of his case. Even if we assume that all issues are resolved against the defendant, and he goes to trial, the delays produced will make a mockery of the goal of trial in 60 or 120 days. This amendment will apply to a much enlarged criminal caseload in a city experiencing some 70,000 serious crimes a year.

XUM

Delay in adjudicating guilt or innocence is built into the adjudicatory and adversary system. It necessarily takes time to establish facts and apply the law. However, a major purpose of H.R. 16196 is to minimize that delay without impairing the quality of the process. The proposed amendment tragically will increase delay and impair the process. It provides new incentives for dilatory proceedings. From a defendant's point of view, at the worst he may delay his trial—something preferred by most defendants—while at best he has several new opportunities to secure dismissal on grounds unrelated to guilt or innocence.

The problem is not an accelerated calendar with time limits. The problem is a statutorily mandated accelerated calendar system. The key to speedy trial via accelerated calendar is court initiation and implementation, administratively. This assures flexibility and removes the litigable features of a system imposed by Congress.

I support speedy trial of criminal cases. I expect, and the Congress insists, that the judiciary develop and implement a speedy-trial system in the District of Columbia. The responsibility for efficient and fast disposition of cases is the judiciary's, and only they can achieve this goal.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Illinois.

Mr. MIKVA. I believe even the gentleman from Virginia is not suggesting that I add anything to the burden the committee imposed on the courts. I suggest that I deduct from that burden substantially.

I say to the gentleman, we both can be sorry, and the chairman of the committee can be sorry, and the chairman of the subcommittee can be sorry that these amendments were not considered by the committee, but we are dealing with difficult concepts constitutionally, policywise, and every other wise.

It will be a poor excuse to the citizens of the District of Columbia as to why pretrial detention was not given a chance to be effectively and constitutionally implemented, why they were not given this extra tool in the arsenal of weapons against crime, why they were not given speedy trials. To say it is because somehow amendments fell in a crack between the subcommittee and the full committee is not a particularly good answer. Many provisions worth trying are not going to pass a constitutional muster because of looseness and insufficient concern for the fundamentals of due process and the Bill of Rights.

Mr. HOGAN. I assure the gentleman that pretrial detention was given our most thorough consideration. There will be another legislative day, and the gentleman is authorized to introduce legislation at any time which will amend the law which I hope we will pass today.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. MIKVA).

The amendments were rejected.

Mr. ABERNETHY. Mr. Chairman, I ask unanimous consent that all debate on all amendments to this title close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AMENDMENT OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAMS: Page 306, strike out lines 11 through 18, and redesignate the succeeding sections accordingly.

Page 3, in the table of contents, strike out the item relating to section 203 and redesignate the succeeding section references accordingly.

Mr. ADAMS. Mr. Chairman, I shall not take all my time, but since we have not been able to define crimes of violence, this is known as striking the bubble gum amendment. There was put into the bill on page 306 a provision that said second-degree burglary is extended to breaking and entering vending machines and similar devices. This provides that a second-degree burglary conviction is a felony. It is also now a crime of violence if you happen to break into a parking meter, a coin phone, a vending machine dispensing goods, or any one of numerous other devices designed to receive currency. Since we have made it a crime automatically in the adult court for anyone over 16 years of age, I think this type of provision is not something that we need in the law automatically to give a kid a conviction because he will probably be convicted of a felony when he is 16 years old and breaks into a vending machine. If you want to put an amount of money on it or something else, all right, but I do not see what this will do in this bill. I hope that we strike it out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. ADAMS).

The amendment was rejected.

Mr. McMILLAN. Mr. Chairman, in order to provide assistance to the Members of the House, may I at this time introduce into the RECORD this section-by-section analysis of sections 23-1321 through 23-1332 of H.R. 16196 dealing with release and detention prior to trial.

SECTION-BY-SECTION ANALYSIS

SUBCHAPTER II—PRETRIAL DETENTION

Section 23-1321 continues the practice under the Bail Reform Act of 1966 of providing for the release of persons charged with noncapital offenses upon their own personal recognizance or upon execution of an unsecured bond in an amount specified by the judicial officer. The Bail Reform Act prohibits such release only if the judicial officer, in his discretion, determines that it would not reasonably assure the appearance in court of the person as required. This section, however, authorizes the judicial officer to consider "the safety of any other person or the community" as a basis for denying release on personal recognizance and as a basis for setting pretrial conditions of release which will reasonably assure both court appearance and the safety of any other person or the community.

The specific conditions of release proposed by this section to be utilized by judicial officers are essentially the same as those provided in the Bail Reform Act, both in substance and in order of preference. The condition provided in subsection (a)(5), has been modified to eliminate its restriction to assuring court appearance and to make clear that the court may release a person for employment or other limited purposes and then require his return to custody. Subsection (a)(5), within the requirements of reasonableness and due process, is intended to give the judicial officer wide latitude in imposing conditions he deems necessary to assure appearance and to protect the safety of any other person and the community.

One condition which a judicial officer cannot impose to protect the safety of any person and the community is a financial condition. The purpose of this limitation is to terminate the hypocrisy of using money bond to detain dangerous defendants. If defendants are dangerous, a judicial officer will have broad discretion as to the conditions of release he may impose and if no condition or conditions of release will reasonably assure the safety of the community, then he can detain such person pursuant to sections 23-1322 and 1323. This prohibition of financial conditions to assure safety of the community is not intended, however, to preclude their use as a condition to assure court appearance when appropriate.

Subsection (b) lists the factors which the judicial officer may take into account in making his determination under subsection (a). This list of factors is not exclusive; the judicial officer may consider any factor reasonably appropriate. One factor listed in subsection (b) but not in the Bail Reform Act is "past conduct". This factor has been added because of its obvious relevance to dangerousness. For example, in setting conditions of release for any defendant, but especially for a young adult, the court should consider his juvenile record. "Past conduct" would also allow a judicial officer to consider prior charges against a defendant. For example, if a defendant had once been charged with three armed robberies and the government accepted a plea to one, to avoid three trials, for which he could receive life imprisonment, a court could appropriately consider such information. "Past conduct" is, however, not limited to prior involvement with the law.

Subsections (c), (d), (e), (f), and (g) conform nearly word for word with 18 U.S. Code 3146 (c), (d), (e), (f), and (g), the comparable sections under the Bail Reform Act.

Subsection (h) provides the following:

(1) Persons detained shall be confined to the extent practicable in facilities separate from persons convicted. Your Committee is informed that this provision conforms with present practice. As a general rule, persons detained pending trial are confined in the District of Columbia jail, while persons convicted and serving sentences are at Lorton or other Federal institutions. There may be situations, however, ordinarily of an emergency nature, in which strict separation in different facilities, is not possible. For example, convicted persons receiving medical treatment in District medical institutions may, from time to time, be held for short periods at the District jail. In such a situation, the Committee would expect that prison officials not permit commingling of pretrial and post-sentence detainees. But to prevent confinement in the same institution, in such a situation, would be too restrictive. This is why the separation must be maintained only "so far as practicable".

(2) Persons detained shall have reasonable opportunity to consult with counsel. They may be released by the court for limited periods of time to prepare a defense, such as looking for a witness, and for other reasons. When released, they shall be in the custody of a United States marshal or other appropriate person, such as their attorney.

Section 23-1322 authorizes pretrial detention on grounds of dangerousness of limited categories of criminal defendants. The detention is authorized only if the judicial officer determines that no condition or conditions of pretrial release will reasonably assure the safety of any other person or the community. While existing law permits pretrial detention of any defendant on the grounds of likelihood of flight (*United States* v. *Melville*, — F. Supp. — (S.D. N.Y., Nov. 15, 1969) (Frankel, J.) and the detention of capital defendants on grounds of dangerousness to the community (18 U.S. Code 3148), it does not permit pretrial detention of non-capital defendants on grounds of dangerousness. Heretofore such defendants have routinely been detained by setting high money bonds on the subterfuge that such a bond is necessary to assure court appearance. Section 23-1321 specifically forbids this sham; this section in turn confronts the question of dangerousness squarely and permits detention of non-capital defendants on grounds of their dangerousness under certain limited circumstances.

This section delineates the three classes of defendants who can be detained prior to trial. The first class includes defendants charged with a "dangerous crime" as defined in section 23-1331(3). With certain minor exceptions explained in the analysis of section 23-1331(3), the category of dangerous crimes includes those charged with felonious sale of drugs such as heroin, robbery, burglary, arson, and rape or indecent liberties with a child under sixteen, and attempts to commit the same. While it is anticipated that pretrial detention of a person charged with such crimes will not frequently be ordered by a judicial officer if the person has no prior conviction of, or has not been previously charged with, serious felonies, such detention is permitted by the statute for the following reasons: The continuing danger presented by sellers of heroin is obvious. The other four categories of crime were at common law and in 1791 generally punishable by death and therefore not bailable as a matter of right, even as first offenses. These crimes usually result from a continuing motivation of pecuniary profit or sexual gratification. Ordinarily they involve planning, deliberation, and the purposeful selection of a victim who almost always is a stranger. Moreover, apart from sex offenses, these dangerous crimes frequently involve cooperation with other criminals on a continuing basis.

The nature of these offenses, the fact that the arrest rate for such crimes is about ten percent, and the long experience of law enforcement officers with such offenders, compels the conclusion that a person charged with commission of one of these crimes is rarely apprehended on his first criminal venture. When the police at last succeeded in apprehending such an offender for the first time, they often are able, by investigating such matters as his method of operation and evidence recovered, to connect him with a number of previously unsolved offenses, and therefore though not having been previously charged or convicted, such a person frequently is subject to indictment for a number of crimes. For all these reasons, therefore, persons charged with these crimes, can, if the judicial officer makes the other findings required by this section, be detained despite absence of proof of a prior charge or conviction of a serious felony.

The second class of defendants who can be detained are those charged with a "crime of violence" as defined in section 23-1331(4). "Crimes of violence" is defined to include "dangerous crimes" and other violent crimes such as murder, kidnapping, and assault with a dangerous weapon which expose the victim to death or serious bodily harm. Because those who commit these latter offenses are not necessarily as likely to be repeat offenders as those charged with a "dangerous crime", this class of defendants cannot be ordered detained pursuant to this section unless they have been convicted of such a crime of violence within the ten preceding years or are on pretrial release, probation, or parole, or mandatory release pending completion of a sentence for a crime of violence. Thus a defendant charged with a crime of violence cannot be detained absent specific proof of a recent conviction or pending charge of a crime of violence.

The third class of defendants who can be detained prior to trial are those charged with any offense who, in order to obstruct or attempt to obstruct justice, attempt to or do threaten, intimidate, or injure any witness or juror. Detention for this class merely codifies existing case law. *Carbo* v. *United States*, 82 S. Ct. 662 (1962); *United States* v. *Gilbert*, — F. 2d — (D.C. Cir., Dec. 17, 1969).

Subsection (b) prescribes the findings which a judicial officer must make after a hearing before he can order pretrial detention.

First, the judicial officer must find that the defendant comes within one of the three categories listed in subsection (a).

Second, the judicial officer must find, based on the factors set out in section 23-1321(b), that there is no condition or combination of conditions of release which will reasonably assure the safety of the community. This finding is required to make certain that no person is detained unless the judicial officer has given due consideration to the conditions of release specifically listed in section 23-1321(a) and other reasonable conditions, and concluded that their imposition on the defendant will not reasonably assure the safety of any other person or the community.

Third, except for the third class of defendants who can be detained as described above (those who threaten or injure jurors or witnesses), the judicial officer must find a substantial probability that the defendant committed the offense charged. The purpose of this third finding is to minimize so far as practicable the possibility of detaining defendants prior to trial who are innocent of the charge lodged against them. In this regard, the Committee concluded that the probable cause standard necessary both to bind a defendant over to the grand jury and to justify indictment by a grand jury, is not sufficient to achieve this objective. For obvious reasons the Committee did not feel justified in imposing the ultimate trial standard of "beyond a reasonable doubt". The language it selected was "substantial probability" which can best be equated with that used to secure a civil injunction—likelihood of success on the merits.

Such a finding is not required for those defendants charged with any offense who obstruct justice by threatening or injuring witnesses or jurors. Their detention is warranted not on the basis of the original criminal charge placed against them, but on the fact that their conduct will prevent a fair and orderly disposition of that charge, however serious it may be or however strong or weak the evidence against them may be.

The finding of substantial probability is to be based on information presented to the judicial officer "by proffer or otherwise". The information upon which the officer makes his finding need not be sworn testimony. Indeed, it is anticipated that, as is the present practice under the Bail Reform Act, that the use of sworn testimony will be the exception and not the rule. In the District of Columbia, the courts now predicate their bail determinations almost exclusively upon information proffered by the prosecutor, defense counsel, and bail agency, including such matters as the "weight of the evidence", one of the factors listed in section 23-1321(a). Only rarely does a judge require a witness to testify. To insure that a judge may so require, the Committee added the words "or otherwise". But the usual presentation of information would be by way of proffer, the prosecutor briefly outlining before the judicial officer the nature of his evidence. As provided in subsection (c) of this section, the defendant has the right to call witnesses in his behalf, to testify, and to prevent other information by proffer to challenge the obligation of substantial probability. He may not, of course, call witnesses who ordinarily would be expected to testify for the Government at trial, unless he can proffer to the court in reasonable detail how he expects their testimony to negate substantial probability. The hearing provided by subsections (b) and (c) is not designed to afford defendants a discovery device. Discovery is to be obtained pursuant to the rules of court.

Subsection (b) requires the judicial officer who orders a defendant detained to issue an order accompanied by written findings of fact and his reasons for issuing the order.

Subsection (c) prescribes the procedures applicable to the pretrial detention hearing held pursuant to this section. No prior federal statute has ever accorded to defendants in bail hearings such procedural safeguards as the right to counsel, right to testify and present other information in their own behalf.

The hearing may be initiated by oral motion of the United States attorney if the defendant is before a judicial officer. If the defendant has been released, the United States attorney may initiate such a hearing by *ex parte* written motion upon the basis of which a judicial officer may issue a warrant for apprehension of the defendant.

Once before a judicial officer, a defendant can secure a continuance for only five days

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absent extenuating circumstances. The United States attorney can secure a continuance for good cause for only three days. Pending the hearing, the defendant may be detained, after a threshold finding by the judicial officer that no condition or combination of release conditions will reasonably assure the safety of any other person or the community under the first sentence of Section 23-1322(a).

Pursuant to subsection (c)(4), the defendant can present information in his own behalf by proffer or otherwise can call witnesses in his behalf, and testify in his own behalf. He is entitled to representation by counsel.

If he chooses to testify in his own behalf, his testimony, pursuant to subsection (c)(6) is not admissible on the issue of guilt in any other judicial proceeding (Cf., *Simmons* v. *United States*, 390 U.S. 377 (1968)) except that such testimony is admissible in proceedings under sections 32-1327 (Penalties for failure to appear), 23-1328 (Penalties for offenses committed during release), and 23-1329 (Penalties for violation of conditions of release) and in perjury proceedings and for impeachment. See, *Woody* v. *United States*, 379 F. 2d 130 (D.C. Cir., 1967); *Bailey* v. *United States*, 389 F. 2d 305 (D.C. Cir., 1967). This provision prevents the Government from using his testimony affirmatively to establish guilt of the offense charged, for example, but at the same time permits such use if the defendant, having by aid of his testimony secured his release, is subsequently accused of failing to appear, violating other conditions of release, or committing another crime while on release.

The provision also does not permit a defendant testifying in his own behalf to perjure himself and what he says may be used for impeachment. To provide otherwise would be to interfere unreasonably with the truth-seeking process of court proceedings. A defendant clearly has a right to testify in his own behalf; he does not have a right to lie under oath with impunity.

Subsection (c)(5) provides that information stated in or offered in connection with any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law. This subsection reenacts existing law; 18 U.S. Code 3146(f) of the Bail Reform Act of 1966 is exactly the same. As explained above, bail hearings under the Bail Reform Act, which frequently result in detention of the accused, proceed primarily by way of proffers. They are not formal trials requiring strict adherence to technical rules of evidence. If the court is dissatisfied with the nature of the proffer, it can always, within its discretion, insist on direct testimony. But the discretion should be left to the court without imposing on it the burden of limiting admissibility to that it would permit a jury to hear.

Subsection (c)(7) provides that appeals from order of detention may be taken pursuant to section 23-1324, discussed *infra*.

Subsection (d) provides that persons detained under this section shall, to the extent practicable, be given an expedited trial. Moreover, unless the trial is in progress or has been delayed by the defendant, he must be treated in accordance with section 23-1321 after sixty days. In other words, detention pursuant to this section is limited to sixty days. This period of time was selected as the approximate time necessary in a busy urban court to bring to trial a defendant charged with a serious felony. The Government needs this period of time to marshal its evidence, to locate and interview witnesses, and to conduct laboratory and other scientific examinations to secure the kind of evidence desired by the courts. Pretrial proceedings such as motions for discovery, preliminary hearings, motions to suppress, grand jury proceedings, mental examinations, preparation of transcripts—usually at government expense—can also reasonably be expected to consume about sixty days. Most of these procedures, moreover, serve to protect the rights of the defendant. For these reasons the Committee concluded that imposing a shorter period of detention would not only be impractical and unrealistic but would also interfere, with legitimate trial preparations of both the Government and defendants.

Should at any time during the sixty-day period circumstances change in such a way as to affect the basis for pretrial detention, subsection (d) provides for the defendant's release pursuant to section 23-1321. One such circumstance might be the court's granting a motion to suppress most of the Government's evidence. At the pretrial detention hearing, which can normally be expected to occur immediately or shortly after arrest, the judicial officer would not be expected to make formal rulings on the legality of such matters as searches, seizures, and eyewitnesses identification since at that time in the proceedings, such rulings would be premature. Should, however, a defendant succeed in suppressing substantial evidence by appropriate motion following a hearing, this might well provide a basis for the court to reconsider its earlier ruling. This procedure, it should be observed, is no different from that which exists under the Bail Reform Act. If a person is either detained outright or has a high money bond set on grounds of likelihood of flight, one of the factors being the strong "weight of the evidence against him" and should a significant part of that evidence be suppressed, then the court may amend its earlier bail determination. In addition a changed circumstance leading to release would include an acquittal or dismissal of a pending charge pursuant to which the defendant was released at the time of the present charge and which formed the basis for detention under Section 23-1322(a)(2).

Subsection (e) permits a court to detain for five days a person charged with any offense who is on probation, parole, or mandatory release, to give the appropriate officials an opportunity to decide whether he should be returned to custody. This detention may be ordered if the court concludes the defendant is likely to flee or pose a danger to the community.

Section 1323 authorizes the pretrial detention of a narcotics addict, as defined in section 23-1331(5), charged with a crime of violence. It is common knowledge that addicts must continue to commit crimes to support their drug habits. Thus, pretrial detention of such persons who are charged with a crime of violence is warranted.

A person charged with a crime of violence, who appears to be an addict, may be detained for three days under medical supervision to determine whether he is an addict. If found to be an addict, the person may be ordered detained prior to trial for sixty days, but only after he has been accorded the hearing and other procedural safeguards contained in section 23-1322, and the court has concluded that no conditions of release will reasonably assure the safety of the community and available information established a substantial probability he committed the offense charged.

Section 1324 preserves the right of appeal of defendants who are detained or who are required to return to custody after specified hours of release. The section is identical to the comparable provision of the Bail Reform Act except that it specifically adds the right to appeal from an order of detention.

The Bail Reform Act of 1966 fails to provide the Government with the right to appeal. The Committee could see no reason to grant such a right to a defendant but at the same time preclude the Government from appealing a ruling it considered without support. The integrity of the judicial process and the public interest are as much jeopardized by the wrongful release of a defendant as they are by his wrongful detention. Accordingly, subsections (c) and (d) of this section provide the Government with the right of appeal comparable to that granted the defendant in subsections (a) and (b).

Subsection (a) of section 23-1325 provides the same standard for release for defendants charged with capital offenses as that provided in 18 U.S. Code 3148, of the Bail Reform Act of 1966, that is, such a defendant may be detained prior to trial if the court determines that no conditions of release will reasonably assure that he will not flee or pose a danger to any other person or to the property of others. The procedure to be followed pursuant to this subsection will continue that followed under 18 U.S. Code 3148.

Under subsection (a) the burden is on the judicial officer to find that the defendant is likely to flee or pose a danger. Presumably, however, a court would routinely make such a finding, particularly for any defendant charged with felony-murder.

Once guilt of a crime has been established in a court of law, however, the statutory presumption should be weighted in favor of detention by requiring detention unless the court finds no likelihood of flight or danger. Subsections (b) and (c) contain such a provision for those convicted and awaiting sentence and for those sentenced and on appeal. In practice, release would often be granted for those not yet sentenced but convicted of nonviolent crimes, with little if any prior difficulty with the law, and strong community ties, particularly in those instances in which probation or suspended sentence is anticipated.

For those convicted and sentenced to prison, however, release on appeal should be very infrequent for the reasons discussed in detail below, a practice not presently followed because of recent appellate decisions applying present 18 U.S. Code 3148.

Three separate decisions within the past year of the United States Court of Appeals for the District of Columbia Circuit have resulted in the release pending appeal of a defendant convicted as follows:

"(1) Robbery and assault with a dangerous weapon (Knife and Gun). Sentenced to 5 to 15 years. Defendant had two prior convictions of forgery, one of larceny. *Banks* v. *United States* decided May 26, 1969.

"(2) Carnal Knowledge (a gang rape). Sentenced to 5 to 15 years. *United States* v. *Forrest*, decided September 11, 1969. Defendant had one prior conviction of housebreaking and larceny, one conviction of larceny reduced from robbery, one juvenile conviction of robbery, and several other arrests.

"(3) Burglary, *United States* v. *Seegers*, decided February 19, 1970. Defendant, 19 years old, had 4 prior convictions of burglary as a juvenile, one conviction of attempted unauthorized use of an auto as an adult, and there was an outstanding warrant for his arrest for violation of probation."

In *United States* v. *Harrison* (D.C. Cir., decided October 23, 1968) (slip op. at 5), the court interpreted 18 U.S. Code 3148 as follows:

"Under the statutory guidelines imposed by Congress, it is our duty, if possible to set conditions under which appellant may be released."

In *Banks* v. *United States*, *supra* (slip op. at 4), the Court stated that on appeal "the Bail Reform Act plainly favors release."

In *United States* v. *Forest*, *supra* (slip op. at 3), the majority of the court (Judge Robb dissenting) stated:

"There is * * * the possibility that continued responsible behavior on [appellate] release would constitute meaningful support for a motion for reduction of sentence even if the conviction is affirmed."

Contrary to the underlying assumption of these cases, once a person has been convicted and sentenced to jail, there is absolutely no reason for the law to favor release pending appeal or even permit it in the absence of exceptional circumstances. First and most important, the conviction, in which the defendant's guilt of a crime has been established beyond a reasonable doubt, is presumably correct in law, a presumption factually supported by the low rate of reversal of criminal convictions in the Federal system. Second, the decision to send a convicted person to jail and thereby reject all other sentencing alternatives, by its very nature includes a determination by the sentencing judge that the defendant is dangerous to the person or property of others, and dangerous when sentenced, not a year later after the appeal is decided. Third, release of a criminal defendant into the community, even after conviction, destroys whatever deterrent effect remains in the criminal law. Finally, contrary to the suggestion in the *Forrest* case, the purpose of the appellate process is not to give a convicted criminal, by means of release pending appeal, an opportunity to demonstrate a basis for reducing a sentence after the conviction has been affirmed.

The proposed changes contained in subsections (b) and (c) would, therefore, prohibit release pending appeal unless the court finds as an affirmative fact by clear and convincing evidence that the appeal raises a substantial question of law or fact likely to result in a reversal or order for a new trial and that the person is not likely to flee or pose a danger to the person or property of others. This changes the present law in two respects. First, instead of requiring the court to find that the appeal is frivolous or taken for delay before he can deny release, the amendment requires him to find likelihood of reversal before he can grant release, a more reasonable standard for the obvious reason that the conviction is presumably correct. Second, instead of requiring the court to find likelihood of danger or flight before he can deny release, the proposed amendment requires the court by clear and convincing evidence to find no likelihood of danger and flight before he can grant release.

Because the Court of Appeals in its decisions appears to disregard property offenses in assessing danger to other persons or the community under the present statute and because of the vagueness of the word "community", the phrase "dangerous to other persons or to the community" has been amended to read, "dangerous to any other person or to the property of others". See *United States* v. *Forrest, supra*, dissenting opinion (Robb, J.). There is no reason why a defendant convicted and awaiting sentence or sentenced and on appeal should be allowed to steal, forge checks, or commit other frauds.

SECTION 23–1326 RELEASE OF MATERIAL WITNESSES

This section, concerning material witnesses, reenacts the provisions of 18 U.S.C 3149 presently applicable to the District of Columbia and applies them under this bill with no change in the existing law. It vests authority in judicial officers to impose conditions for release in the case of material witnesses whose presence cannot practicably be secured by subpena. The section, provides, however, that no material witness shall be detained because of inability to comply with any condition of release if his testimony can adequately be secured by deposition and detention is not necessary to prevent a failure of justice.

SECTION 23–1327 PENALTIES FOR FAILURE TO APPEAR

Section 23–1327 sets forth the penalties for failure to appear, commonly called bail jumping. A number of substantive changes have been made in the existing applicable law, 18 U.S.C. 3150.

To eliminate the difficulty of proving willfulness in bail jumping prosecutions under present law, a difficulty which has discouraged such prosecutions, subsection 23–1327 (b) provides that failure of a defendant to appear after notice of the appearance date will be deemed prima facie evidence that such failure to appear is willful.

To prevent defendants from avoiding bail jumping statutes by moving so that they do not receive formal notice of their due date in court or in other ways frustrating attempts to notify them of the court date, subsection 23–1327(c) permits conviction even if actual notice of the appearance date has not been received by the defendant provided that reasonable efforts to notify the defendant have been made and, second, that the defendant, by his own actions, has frustrated the receipt of actual notice. Reasonable efforts to notify the defendant would be met by certified mail to the defendant at his last known place of residence. Frustrating receipt of actual notice would mean, among other things, the defendant moving his place of residence without leaving a forwarding address or notifying the court or bail agency.

The present Bail Reform Act, 18 U.S.C. 1346(c) requires in mandatory language that upon release the judicial officer must warn the defendant of the penalties applicable for failure to appear. Two recent District Court cases outside of the District of Columbia have interpreted these warnings as prerequisites to a prosecution for bail jumping, and two indictments of flagrant bail jumpers were dismissed for lack of these warnings. *United States* v. *Campbell*, Cr. 68–72 (D.C. Oreg., decided March 10, 1969); *United States* v. *Graves*, Cr. R. 14110 (D.C. Nev., decided August 11, 1969). Subsection 23–1327(b) provides that failure to be warned of the penalties applicable for failure to appear is not to be a prerequisite to prosecution but may be considered as a factor in determining willfulness.

A court upon imposing sentence may permit the defendant to remain on release for a few days to get his affairs in order prior to surrender for sentencing. A recent court concluded that flight in that situation did not amount to a bail jumping violation. *United States* v. *Andrews*, Cr. 25330 (N.D. Ga., decided Jan. 23, 1968). Because your committee believes this result erroneous, the phrase "prior to commencement of his sentence" was added to section 23–1327(a) to make it clear that a period of release related to an appeal does not end when the appeal is decided, but runs until surrender to commence service of sentence. Thus, failure to appear at the end of such a period, even if extended, will clearly be deemed to be bail jumping.

Section 23–1327(a) provides the same maximum penalties for bail jumping as present 18 U.S.C. 3150 (five years if the underlying charge is a felony and one year if the underlying charge is a misdemeanor). To strengthen the deterrent effect of a bail jumping charge, the committee has included mandatory minimum punishments—at least one year in the case of a felony and ninety days in the case of a misdemeanor. The punishment for a material witness who fails to appear remains unchanged.

To deter bail jumping, section 23–1327(d) also requires that any term of imprisonment for bail jumping must be consecutive to any other sentence of imprisonment.

SECTION 23–1328 PENALTIES FOR OFFENSES COMMITTED DURING RELEASE

Your committee believes that added penalties for offenses committed during a period of pretrial release will be an important deterrent to such crime. At present there are no specific additional penalties applicable to these offenses. This lack, coupled with the present practice of moving the crowded trial calendar by prosecuting only one offense of several pending and the prevalent concurrent sentencing practice in our courts, results in the underworld knowing that once a defendant is out on bail charged with an offense, every other crime he commits is a virtual free ride.

Section 23–1328(a) permits the court to impose an added penalty for any offense committed during pretrial release. The additional sentence will be imposed by the court following conviction for the crime while released. If the crime committed while released is a felony, the added penalty is a mandatory minimum of one year's imprisonment with a maximum of five years. In the case of a misdemeanor committed while released the punishment is a mandatory minimum term of ninety days with a maximum of one year's imprisonment.

Section 23–1328(b) makes clear that warning a defendant of this potential added penalty at the time of his release is not intended as a prerequisite to the additional sentence.

Section 23–1328(c), as in the case of bail jumping sentences, requires that any added penalties for crimes committed while released must be consecutive to any other sentence of imprisonment. A concurrent sentence for a crime committed while released would defeat the deterrent effect of this section.

SECTION 23–1329 PENALTIES FOR VIOLATION OF CONDITIONS OF RELEASE

The Bail Reform Act does not provide realistic sanctions for violations of conditions of release.

The sanctions which do in fact exist under present law are weakly expressed and poorly implemented. A defendant who violates conditions can have those conditions changed and made more stringent under 18 U.S.C. 3146(e) and this will be continued under section 23–1321(e). Recent appellate cases indicate that violation of travel restrictions can lead to forfeiture of money bond if any has been set. (*Brown* v. *United States*, 410 F. 2d 212 (5th Cir. 1969); *United States ex rel Brown* v. *Fogel*, 395 F. 2d 291 (4th Cir. 1968)). Further, 18 U.S.C. 3151 leaves existing contempt powers unaffected by the Bail Reform Act as does section 23–1330 of this subchapter.

These existing sanctions have proven illusory at best. Experience with the Bail Reform Act over the past three years indicates that the power to change conditions is totally ineffective as a deterrent to violations of conditions. Forfeiture of bond has only been sanctioned recently in two circuits and a local court decision casts doubt on its use in the District of Columbia. *United States* v. *Penn*. 2 Crim. L. Rep. 3139 (D.C. Court of General Sessions 1968). Forfeiture, of course, is inapplicable if only nonfinancial conditions are set. Lastly, the contempt power spelled out in 18 U.S.C. 3151 is anything but a clear direction to the court to take action.

To remedy this situation section 23–1329 contains two specific sanctions to punish violators of release conditions.

The first sanction is that of revocation of release and detention until trial for a period of up to sixty days. This is based on a two-part finding at a detention hearing. The court must find clear and convincing evidence; first, that the person has violated a condition of his release and, second, that there is no condition or combination of conditions of release which will assure that the defendant will not flee or pose a danger to the community.

Because revocation is based on a betrayal of trust placed in the defendant by the court, there is no requirement that there be a showing of substantial probability that the defendant committed the offense for which he was originally released or that the offense

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must be a felony. Revocation will require the same procedures required for pretrial detention described in earlier sections, and many of the same safeguards and protections are afforded.

The right to initiate a revocation proceeding is vested in the United States Attorney. Section 23-1939(b) contemplates the issuance of an arrest warrant to bring the defendant before the court and further permits the arrest of a defendant released in the District of Columbia in any other district where he is found. In such case the defendant is to be brought before a judicial officer in the district of arrest and then he is to be transferred to the District of Columbia. Revocation hearings are not to be held in any other district but the District of Columbia.

The second sanction is a clear and specific contempt section to supplement the vague provision in 18 U.S.C. 3151 which is reenacted in section 23-1330 of this Act. Under section 23-1329(c) the court can impose a penalty of up to six months in jail and/or a $1,000 fine if the defendant is found guilty of criminal contempt for violation of a release condition. The contempt may be tried by the court without a jury and is to be expedited. For conviction the Government need only establish that the defendant has intentionally violated a condition of his release.

Section 23-1329(d) permits a warrant issued by a judge of the Superior Court for violation of release conditions, for contempt of court, for failure to appear as required or for a hearing pursuant to section 23-1322 (c)(2) to be executed at any place within the jurisdiction of the United States. This subsection is intended to clear up any uncertainty about the enforcement of warrants issued by the District of Columbia judicial officers outside of the District. It is contemplated that an arrest warrant can similarly be executed and issued to effectuate changes in release conditions pursuant to section 23-1321(e).

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SECTION 23-1330. CONTEMPT

Section 23-1330 is intended to make it clear that nothing in this Act is to be construed to interfere with or prevent the exercise by any court in the District of Columbia of its power to punish for contempt. Thus the contempt power spelled out in section 23-1329 does not repeal or revoke any other contempt power vested in the courts.

SECTION 23-1331. DEFINITIONS

Section 23-1331(1) defines "judicial officer" to include any person or court in the District of Columbia authorized to release a person before trial, sentencing or pending appeal pursuant to 18 U.S.C. 3041 and the Federal Rules of Criminal Procedure as well as any judge of the Superior Court.

Section 23-1331(2) defines the term "offense" to include offenses against the United States and violations of the District of Columbia Code as long as the offense is committed in the District of Columbia.

Section 23-1331(3) defines the five types of offenses included in the term "dangerous crime" referred to in section 23-1322(a)(1). Each of the five offenses is defined restrictively to stress the element of danger to persons.

Subparagraph (A) of section 23-1331(3) refers to the taking or attempting to take property from another by force or threat of force, a restrictive definition of robbery. This is intended to cover such crimes among others as robbery with a weapon, or by means of intimidation or threat, purse snatching and yoking. It is not intended to include an offense such as picking pockets which involves neither force nor the threat of force, even though the robbery statute, D.C. Code, Section 22-2901, applies to pickpockets.

Subparagraph (B) of section 12-1331(3) refers to the unlawful entry or attempted entry of any premises adapted for overnight accommodation of persons or for carrying on business with the intent to commit an offense therein, a definition of burglary limited to situations involving potential danger to persons. This definition excludes the burglarizing of shacks, railroad cars, coal yards and the like where the presence of other persons, and thus the chance of danger and harm to them, is slight.

Subparagraph (C) of section 23-1331(3) refers to arson or attempted arson of any premises adaptable for overnight accommodation of persons or from carrying on business. Thus certain offenses, such as 22 D.C.C. 403 concerning malicious burning of movable property and 22 D.C.C. 402 concerning burning of one's own property with intent to defraud another, would not be included unless a physical danger to another person could demonstrably be shown.

Subparagraph (D) of section 23-1331(3) covers a wide variety of sexually oriented crimes such as rape, attempted rape and taking immoral, improper or indecent liberties with a child under sixteen years of age. Carnal knowledge of a female under the age of sixteen is included to cover offenses dealing with a parent or guardian and their underage daughter or ward or other child abusers. It is not intended to cover the general crime of statutory rape where no force, threat of force or special familial relationship is involved.

Subparagraph (E) of section 23-1331(3) lists as a dangerous crime the unlawful sale or distribution of a narcotic or depressant or stimulant drug (as defined by any Act of Congress). Those persons involved in the sale and distribution of these drugs are often highly organized, as recent District of Columbia arrests indicate, and can clearly be deemed dangerous criminals. The connection between narcotics and violent crime is widely recognized. Moreover, sale of depressant and stimulant drugs, particularly hallucinogens and methamphetamines, often prove highly dangerous to the buyer.

This category is clearly limited to sale and distribution and mere possession without any accompanying intent to sell or distribute is not included. The term distribution can be interpreted to include one college student giving a prohibited pill to another student in a college dormitory. The committee does not intend to cover such distribution, but rather intends that the category should be restricted to commercial distribution or free sampling distribution aimed at establishing a commercial relationship. Limiting language to this effect was not included in the bill because of the myriad ways distribution can occur, and because the safeguards already built into the hearing process make it highly unlikely that students giving free drugs on a rare occasion to friends could be shown to be dangerous enough for detention.

The committee intends that the phrase "as defined by any Act of Congress", should be read to refer to those drug definitions codified in the United States Code only and, in particular, those found in 21 U.S.C. 321(v) and 26 U.S.C. 4731(a). In no circumstances is the sale or distribution of marijuana to be included herein.

The concluding phrase of section 23-1331(3) stating "if the offense is punishable by imprisonment for more than one year" is meant to apply to all of the five categories set out in this section. No detention hearing can arise due to the charge of a dangerous crime, as defined, unless that charge carries punishment in excess of one year's imprisonment.

Section 23-1331(4) defines the term "crime of violence" to include not only "dangerous crimes" but also other serious felonies which either result in death or serious bodily harm to the victim or expose him to such a risk. Because some of the crimes included are crimes of passion, i.e., manslaughter, and therefore are not as likely to involve repeat offenders as the category of "dangerous crimes," a person charged with a violent crime cannot be detained unless he has committed a "crime of violence" in the recent past or is on pretrial release for such a charge.

The inclusion of the offense of murder in this category is intended to include that offense in all its degrees but is not intended to limit the power to detain an individual charged with a capital offense, such as first degree murder, under section 23-1325. The term "voluntary manslaughter" is included to make it clear that involuntary manslaughter is excluded from this category.

The prior charge or conviction of a crime of violence necessary to the holding of a detention hearing under section 23-1322(a)(2) may be an offense under any State or territorial law. However, that State or territorial offense must be punishable by more than one year's imprisonment.

Section 23-1331(5) defines the term "addict." "Addict" is defined as one who habitually uses a narcotic drug defined in section 4731 of the Internal Revenue Code of 1954 so as to endanger the public safety, health, morals, or welfare.

SECTION 23-1332 APPLICABILITY OF SUBCHAPTER

This section makes subchapter II of Chapter 13 relating to release and pretrial detention applicable to the District of Columbia in lieu of the Bail Reform Act of 1966, 18 U.S. Code 3146-52.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wiggins: On page 418, at the beginning of line 8, add: "(a)"

On page 418, after line 10, add the following:

"(b) Sections 23-1322, 23-1323 and 23-1329(b)" and the words "revocation of release an order of detention, and" in Section 23-1329(a) of this subchapter shall apply only until the expiration of the three-year period beginning on the effective date of this subchapter.

Mr. WIGGINS. Mr. Chairman, this amendment sounds rather complicated, but let me tell you what it does. It is really quite simple. It applies only to the pretrial detention provisions. It limits the application of those provisions for a period of 3 years.

That is what it does. Let me explain why I offer this amendment.

Mr. Chairman, the Committee on the Judiciary of the House of Representatives has been considering the subject of pretrial detention since late last fall. That committee has heard testimony from the Attorney General, judges, from civil libertarians, from prosecutors, from chiefs of police. We have covered the whole spectrum of support and opposition to the subject of pretrial detention. I daresay that the House Judiciary Committee has given more separate consideration to this subject than any other committee of this House.

Now, Mr. Chairman, I do not wish to anticipate the position which may be taken by my colleagues on that committee, but let me tell you my judgment.

I doubt very much that the Committee believes there is any constitutional infirmity in the principle of pretrial detention. I have become completely satisfied as to the constitutionality of the proposal. I suspect that other Members on the other side of the aisle in the Committee on the Judiciary have reached the same conclusion.

But I will tell you this: There is a substantial danger that we have built into these proposals more due process guarantees, more procedures than our courts can conveniently digest. I am not saying that we are necessarily performing a disservice by enacting the legislation which will obstruct our courts. But I would say that there is the risk and the serious risk of this happening.

So, I offer this amendment. This amendment is designed merely to give the pretrial detention procedures a trial in the District of Columbia for a period of 3 years. At the end of that 3 years, it will be necessary to bring it back automatically to the Congress for us to incorporate such lessons as we may have learned within that 3-year period. If you oppose pretrial detention, you should not oppose this provision. If you support pretrial detention you similarly should support this amendment.

I urge your support of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, pretrial detention is not a panacea that will abolish crime in 3 years. To reverse the current trend and reduce crime would itself be a major accomplishment. The need for this legislation will thus remain well beyond 3 years; it will remain for as long as dangerous men commit crimes and as long as society requires protection.

Moreover, one of the major objectives of this legislation is to eliminate hypocrisy from bail determinations. All too often dangerous defendants are held in custody by the hypocritical expedient of setting high bond. When pressed on the issue, courts will contend that these defendants are sure to flee, but in reality judges are concerned about the public safety. Open pretrial detention of dangerous defendants, based on findings of dangerousness in an adversary hearing, will eliminate the hypocrisy that presently exists. It will eliminate a practice which inevitably discriminates against the poor. To repeal this reform in 3 years would return hypocrisy to the legal system and reestablish the chaos we have now.

To repeal this bill after 3 years is to condemn this reform before it begins. It may also weaken this legislation in the courts, some of which may infer from this repealer a congressional distrust of our own creation and rely on this distrust as a basis for challenging its constitutional validity.

This legislation should be given a fair chance, the same chance the Bail Reform Act was given back in 1966. We should watch its application and collect evidence.

If at the end of 3 years or any other period of time, the bill is unworkable or ill advised, then we can repeal it or make corrections.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III—PUBLIC DEFENDER

REDESIGNATION OF LEGAL AID AGENCY AS PUBLIC DEFENDER SERVICE

SEC. 301. The Legal Aid Agency for the District of Columbia is redesignated the District of Columbia Public Defender Service (hereafter in this title referred to as the "Service").

AUTHORITY OF SERVICE

SEC. 302. (a) The Service is authorized to represent any person in the District of Columbia who a District of Columbia court determines is financially unable to obtain adequate representation in each of the following categories:

(1) Persons charged with an offense punishable by imprisonment for a term of six months, or more.

(2) Persons charged with violating a condition of probation or parole.

(3) Persons subject to proceedings pursuant to chapter 5 of title 21 of the District of Columbia Code (Hospitalization of the Mentally Ill).

(4) Persons for whom civil commitment is sought pursuant to title II of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. 3411, et seq.) or the provisions of the Hospital Treatment for Drug Addicts Act for the District of Columbia (D.C. Code, sec. 24-601, et seq.).

(5) Juvenile alleged to be delinquent or in need of supervision.

(6) Persons subject to proceedings pursuant to section 7 of the Act of August 4, 1947 (D.C. Code, sec. 24-527) (relating to commitment of chronic alcoholics by court order for treatment).

Representation may be furnished at any stage of a proceeding, including appellate, ancillary, and collateral proceedings. Not more than 60 per centum of the persons annually determined to be financially unable to obtain adequate representation in each of the above categories may be represented by the Service, but the Service may furnish technical and other assistance to private attorneys appointed to represent persons described in the above-enumerated categories. The Service shall determine the best practicable allocation of its staff personnel to the courts where it furnishes representation.

(b) The Service shall establish and coordinate the operation of an effective and adequate system for appointment of private attorneys to represent persons specified in subsection (a), but the courts shall have final authority to make such appointments. The Service shall report to the courts at least quarterly on matters relating to the operation of the appointment system and shall consult with the courts on the need for modifications and improvements.

(c) Upon approval of its Board of Trustees, the Service may perform such other functions as are necessary and appropriate to the duties described above.

(d) The determination whether a person is financially unable to obtain adequate representation shall be based on information provided by the person to be represented and such other persons or agencies as the court in its discretion shall require. Whoever in providing this information knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined not more than $1,000 or imprisoned not more than one year, or both.

BOARD OF TRUSTEES OF SERVICE

SEC. 303. (a) The powers of the Service shall be vested in a Board of Trustees composed of seven members. The Board of Trustees shall establish general policy for the Service but shall not direct the conduct of particular cases.

(b) (1) Members of the Board of Trustees shall be appointed by a panel consisting of—

(A) the chief judge of the United States Court of Appeals for the District of Columbia Circuit;

(B) the chief judge of the United States District Court for the District of Columbia;

(C) the chief judge of the District of Columbia Court of Appeals;

(D) the chief judge of the Superior Court of the District of Columbia; and

(E) the Commissioner of the District of Columbia. The panel shall be presided over by the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit (or in his absence, the designee of such judge). A quorum of the panel shall be four members.

(2) Judges of the United States courts in the District of Columbia and of District of Columbia courts may not be appointed to serve as members of the Board of Trustees.

(3) The term of office of a member of the Board of Trustees shall be three years. No person shall serve more than two consecutive terms as a member of the Board of Trustees. A vacancy in the Board of Trustees shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(c) The trustees of the Legal Aid Agency for the District of Columbia in office on the effective date of this Act shall serve the unexpired portions of their terms as trustees of the Service.

(d) For the purposes of any action brought against the trustees of the Service, they shall be deemed to be employees of the District of Columbia.

DIRECTOR AND DEPUTY DIRECTOR OF SERVICE

SEC. 304. The Board of Trustees shall appoint a Director and Deputy Director of the Service, each of whom shall serve at the pleasure of the Board. The Director shall be responsible for the supervision of the work of the Service and shall perform such other duties as the Board of Trustees may prescribe. The Deputy Director shall assist the Director and shall perform such duties as he may prescribe. The Director and Deputy Director shall be members of the bar of the District of Columbia. The Board of Trustees shall fix the compensation to be paid to the Director and the Deputy Director, but such compensation shall not be less than $17,500 nor more than $27,500.

STAFF

SEC. 305. (a) The Director shall employ a staff of attorneys, clerical and other personnel necessary to provide adequate and effective defense services. The Director shall make assignments of the personnel of the Service. The salaries of all employees of the Service, other than the Director and the Deputy Director, shall be fixed by the Director, but shall not exceed the salaries which may be paid to persons of similar qualifications and experience in the Office of the United States Attorney for the District of Columbia. All attorneys employed by the Service to represent persons shall be members of the bar of the District of Columbia.

(b) No attorney employed by the Service shall engage in the private practice of law or receive a fee for representing any person.

FISCAL REPORTS

SEC. 306. (a) The Board of Trustees of the Agency shall submit a fiscal year report of the Service's operations to the Congress of the United States, to the chief judges of the Federal courts in the District of Columbia

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and of the District of Columbia courts, and to the Commissioner of the District of Columbia. The report shall include a statement of the financial condition of the Service and a summary of services performed during the year.

(b) The Board of Trustees shall annually arrange for an independent audit to be prepared by a certified public accountant or by a designee of the Administrative Office of the United States Courts.

APPROPRIATIONS

SEC. 307. For the purpose of carrying out the provisions of this title, there is authorized to be appropriated for each fiscal year, out of any moneys in the Treasury to the credit of the District of Columbia, such sums as may be necessary to implement the purposes of this title. Such sums shall be appropriated for the judiciary to be disbursed by the Administrative Office of the United States Courts to carry on the business of the Service. The Administrative Office, in disbursing and accounting for such sums, shall follow, so far as possible, its standard fiscal practices. The budget estimates for the Service shall be prepared in consultation with the Commissioner of the District of Columbia.

TRANSITION PROVISION

SEC. 308. All employees of the Legal Aid Agency for the District of Columbia on the effective date of this Act shall be deemed to be employees of the District of Columbia Public Defender Service and shall be entitled to the same compensation and benefits as they are entitled to as employees of the Legal Aid Agency for the District of Columbia.

REPEAL

SEC. 309. The District of Columbia Legal Aid Act (D.C. Code, secs. 2-2201 to 2-2210) is repealed.

TITLE IV—ATTORNEY'S FEES IN ACTIONS FOR WRONGFUL ARREST BROUGHT AGAINST OFFICERS OR MEMBERS OF THE METROPOLITAN POLICE DEPARTMENT

ATTORNEY'S FEES IN ACTIONS FOR WRONGFUL ARREST

SEC. 401. (a) Chapter 7 of title 5 of the District of Columbia Code (relating to fees and costs) is amended by adding at the end the following new section:

"§ 15-717. Attorney's fees to be awarded in certain civil actions brought against members or officers of the Metropolitan Police Department

"In a civil action in the United States District Court for the District of Columbia or any District of Columbia court brought against a member or officer of the Metropolitan Police Department for damages resulting from an alleged wrongful arrest by such officer or member, the judgment of such court, whether for the plaintiff or the defendant, shall include an aware of a reasonable attorney's fee to such member or officer."

(b) The table of sections for chapter 7 of title 15 of the District of Columbia Code is amended by adding at the end the following new item:

"15-717. Attorney's fees to be awarded in certain civil actions brought against members or officers of the Metropolitan Police Department."

EFFECTIVE DATE

SEC. 402. The amendments made by this title shall take effect with respect to civil actions in the United States District Court for the District of Columbia or any District of Columbia court brought after the date of enactment of this Act against a member or officer of the Metropolitan Police Department for damages resulting from an alleged wrongful arrest by such officer or member.

TITLE V—TRANSFER TO BUREAUS OF PRISONS OF CERTAIN FACILITIES OF DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

TRANSFER

SEC. 501. (a) Section 2 of the Act entitled "An Act to create a Department of Corrections in the District of Columbia", approved June 27, 1946 (D.C. Code, sec. 24-442), is amended by striking out ", the Reformatory at Lorton in the State of Virginia,".

(b) Section 6 of the Act entitled "An Act to establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes", approved March 16, 1926 (D.C. Code, sec. 3-106), is amended by striking out "(b) the reformatory at Lorton in the State of Virginia;".

(c) All the functions, powers, and duties of the Commissioner of the District of Columbia and the District of Columbia Council with respect to (1) the institutions of the District of Columbia that are located in Fairfax County, Virginia, and are operated by the Department of Corrections of the government of the District of Columbia, and (2) the care, custody, discipline, instruction, and rehabilitation of persons committed to, or otherwise residing in, such institutions, are transferred to the Attorney General. The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions, powers, or duties transferred to him by this section by any officer, employee, or organizational entity of the Department of Justice.

(d) the personnel—

(1) who the Director of the Bureau of the Budget determines were employed in connection with any function, power, or duty transferred by this section, and

(2) who are subject to the provisions of title 5 of the United States Code governing appointment in the competitive service and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates shall be transferred to the Attorney General and shall continue to have the employment privileges and rights they had under part III of title 5, United States Code, before their transfer under this section. The transfer of personnel pursuant to this section shall be without reduction in classification or compensation for one year after such transfer.

(e) For the purposes of the twenty-second paragraph under the center heading "UNITED STATES COURTS" in the first section of the Act of March 3, 1915 (D.C. Code, sec. 24-424), each institution of the District of Columbia described in section 2 of this Act shall be considered a Federal penitentiary.

TITLE VI—ABOLITION OF COMMISSION ON REVISION OF THE CRIMINAL LAWS OF THE DISTRICT OF COLUMBIA

ABOLITION OF COMMISSION

SEC. 601. (a) Title IX of the Act entitled "An Act relating to crime and criminal procedure in the District of Columbia", approved December 27, 1967 (Public Law; 90-226), is repealed.

(b) The Committees on the District of Columbia of the Senate and House of Representatives shall make a full and complete review and study of the statutory and case law applicable in the District of Columbia for the purpose of formulating a revised code of criminal law for the District of Columbia.

TITLE VII—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 701. (a) Except as provided in part E of title I, section 402, and subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the first day of the seventh calendar month which begins after the date of its enactment.

(b) Section 601 shall take effect on the date of the enactment of this Act. The amendments made by sections 201 and 205 of this Act shall apply with respect to any person who commits an offense after the effective date of this Act.

Mr. McMILLAN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. McMILLAN. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto close at 9 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

Mr. ADAMS. Mr. Chairman, reserving the right to object, we are coming now to the amendment that many of us wanted to have presented first as being the amendment that in the committee was the closest amendment, which is the Lorton transfer.

I would like to inquire of the Chairman how many amendments are pending, so that we will know how long the proponents of the amendment against the transfer of Lorton will have to present their case.

The CHAIRMAN. The Chair will state that there are two amendments at the desk. The Chair would also advise the gentleman that the Chair has no way of knowing how many amendments may be offered from the floor.

Mr. ADAMS. There are two amendments at the desk?

The CHAIRMAN. The Chair will state that that is correct.

Mr. ADAMS. Mr. Chairman, I would ask that the gentleman withdraw his unanimous-consent request until we see what happens with the Lorton amendment. Then I would have no objection, but I think it should have a fair presentation.

Therefore, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. M'MILLAN

Mr. McMILLAN. Mr. Chairman, I move that all debate on the bill and all amendments thereto close at 9 p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from South Carolina (Mr. McMILLAN).

The question was taken; and on a division (demanded by Mr. ADAMS) there were—ayes 76, noes 36.

So the motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. KYROS).

AMENDMENT OFFERED BY MR. KYROS

Mr. KYROS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KYROS: Page 436, strike out line 9 and all that follows down through and including line 9 on page 438.

(By unanimous consent, Messrs. McMillan, Adams, and Obey yielded their time to Mr. Kyros.)

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. Kyros).

Mr. KYROS. Mr. Chairman, the purpose of this amendment is that the transfer of the Lorton correctional complex from the District of Columbia to the Federal Bureau of Prisons should not be done at this time.

The fact is that tonight we are debating a crime bill. A bill dedicated to stopping crime in the District and one thing that does not fit in this bill, although I personaly supported every other part of it, is the transfer of Lorton away from the District.

There are several reasons for this. The first is that we should not seek to federalize essentially a local institution. We should not begin to break apart from the District of Columbia a fully coordinated correctional system and we should not begin to reverse the trend where money is going to be poured into Lorton to build a good capital plant.

There were hearings. However, there has never been any specific request from the Department of Justice and no request from this particular administration and none from the District of Columbia Bar Association and none from the District of Columbia judges for Lorton to be transferred.

As a matter of fact, Mr. Chairman, there has been no reason whatsoever except for the fact that there have been some things in Lorton which anyone would well disapprove of. But the fact is that money goes last to the prisons in this country.

Lorton today, I think, as a local agency operating continuously with the Mayor's staff provides a possibility for correction and rehabilitation of District of Columbia prisoners.

I would like to point out a statistic. With few exceptions, inmates at Lorton are all District residents and they all return to Washington after serving their sentence.

If the Federal Bureau of Prisons for one reason or another decided to close Lorton Center or complex and send these inmates to other Federal prisons, they would go several hundred miles away. Now what effect would this have on the rehabilitation of these prisoners? How would the families of these inmates even be able to visit or to see them?

We think we have a comprehensive parole system that has begun at Lorton. How could this be carried out under a federal system?

I will say further that no particular attempt was made during the hearings one way or the other to give a completely balanced presentation of the need for transfering Lorton. I think, for example, that there have been several things at Lorton that were not even looked at. Its narcotics addict treatment program, a correctional training academy, a community correctional center, a youth crime control program—I think for all of the evidence that was taken out and with all since that time that resulted, I do not think there is any warrant tonight for transfering the Lorton correctional complex to the Federal prisons.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. Broyhill).

(By unanimous consent, Messrs. Wampler, Brotzman, Thomson of Wisconsin, Schwengel, and Harsha yielded their time to Mr. Broyhill of Virginia.)

Mr. BROYHILL of Virginia. Mr. Chairman, I rise in opposition to the pending amendment, which would strike out the transfer of the Lorton Reformatory complex to the Federal Bureau of Prisons. The gentleman from Maine made a point of the fact that the administration has not requested this proposed transfer. Many Members who have offered amendments today have not seemed to be at all concerned about the opinion of the administration or of the Department of Justice regarding the provisions of this bill, but I point out that the administration and the Department of Justice knew what the committee was doing in regard to the proposed transfer of Lorton to the Federal Bureau of Prisons. They have had every opportunity to advise the committee of their position. Not one Member of this body can stand up and tell us that the administration or the Department of Justice is opposed to this transfer. They have ignored and refused to take any official position whatsoever. And only yesterday, the President advised this body that he favors the enactment of every provision in this bill.

Our Select Investigating Subcommittee of the District of Columbia Committee has put forth a great deal of time and work in their study of the problems at the Lorton Reformatory. We had 4 months of extensive staff investigation. We had 11 days of hearings, some lasting all day. We did not intend to waste our time, and we certainly hope we have not wasted the taxpayers' money in studying this problem.

As a result of our studies and deliberations, we found that conditions at Lorton Reformatory are deplorable. If the Members of this body will read the hearings and the report of our investigation, they will find a fantastic situation existing out there. I say it is positively amazing that the types of conditions we found at Lorton could exist in any quasi-Federal penal institution in modern times.

We have heard the countercharge that all this was the result of the complaints of disgruntled employees. But our committee verified every charge that was made, and insofar as complaints of a few disgruntled employees are concerned, let me say that the career employees who have been out there for a few years and know what is going on, are 100 percent in their feelings and their complaints about what is going on at Lorton. Practically all the employees belong to the American Federation of Government Employees, an affiliate of the AFL-CIO. They also are 100 percent in accord with the report and the recommendations of this committee. They are insisting that this transfer be made.

This is my 18th year as a Member of this body. Lorton Reformatory has been in my congressional district for most of that time. I know many of the employees at Lorton as my friends, as well as my former constituents. I have watched the morale of these employees go steadily down over the period of years as the efficiency of the institution has gone down and the disciplinary problems have gone up. Most of them are resigning, retiring, or requesting transfers to other Federal employment.

Thus we are losing the skillful, trained employees. Our committee found that in an attempt to replace these employees, ads are being put in the paper seeking applicants on the basis of no educational requirements whatsoever, no examination requirement, no character background investigation—and until the committee started its investigation, they were not even taking fingerprints of the applicants. There is no way of assuring that the institution was not getting former convicts, alcoholics, or sex deviates on its staff. Some of the new guards cannot even read or write.

We also found that the inmates are practically controlling the reformatory. There were many examples of the guards being attacked, stabbed, cursed, and disobeyed. And frequently, when a correctional officer has filed a complaint, he has not been backed up by his superiors.

Mr. Chairman, this situation has become intolerable, and the only obvious way to correct it is to place the Lorton complex under the jurisdiction of the Federal Bureau of Prisons.

Mr. SCOTT. Mr. Chairman, this is my bill, and I wish to speak on the bill.

(By unanimous consent, Messrs. Abernethy, Williams, Winn, and Sebelius yielded their time to Mr. Scott.)

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. Scott).

Mr. SCOTT. Mr. Chairman, I appreciate the gentlemen yielding their time.

Mr. Chairman, I rise in opposition to the amendment. Most of the House Members know the Lorton Correctional Institutions are in my congressional district. I sponsored title V that became a part of the bill we now have under consideration.

The correctional officers employed at the institution tell me that when they endeavor to maintain order in the prison, that the inmates contact outside pressure groups such as the Civil Liberties Union, CORE, and the Human Relations Council and that top city officials cater to these groups, which results in harrassment of the officers by their superiors.

The committee, after conducting hearings and taking 561 pages of testimony—and the Members have seen the large transcript of the hearings on Lorton—concluded that these allegations were true. We had further evidence yesterday when the president and executive director of the Council of Churches of Greater Washington wrote to each Member of Congress and urged the defeat of this measure. Now we have a choice of deciding whether to support the correctional officers and the committee of the House which has held extensive hearings or the outside pressure groups who attempt to dictate the operation of this institution.

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Let me quote from a report dated January 24 to the Commissioner of the District of Columbia which indicates the attitude of the District Department of Corrections. It states:

> Most of the inmates sent to the Lorton Complex come from the economically deprived sections of the city; they are vocal and militant; they are accustomed to stating grievances and they do not respect institutional authority.

Mr. Chairman, I think every Member of this House wants to support a crime bill, but if we are going to control crime, the control does not end at the gates of the penitentiary and it is a penitentiary we are talking about. Sometimes we hear the phrase "Lorton Reformatory." It is not a reformatory, not only because it does not reform, but because it is not for the short-term offenders either. We have a penitentiary at Lorton where those convicted of major crimes are committed. We have murderers at Lorton. There is one area for the incorrigible, where they have cellblocks known as the penitentiary area. In what is known as the Lorton complex, most of the inmates are convicted felons. Then there is the youth center and the minimum security facility.

I have lived for the past 23 years just a few miles from the Lorton Penitentiary. I am familiar with this institution. The leadership of the Department of Corrections of the District of Columbia are not controlling the militancy that exists in the Lorton Institution. This is the finding of the House committee, after extensive hearings.

I am sure that every Member is concerned with the increase in crime in the District of Columbia and this general crime bill is an attempt to bring order in the administration of justice. However, order should not stop at the penitentiary gate. The transfer of these facilities to the Federal Bureau of Prisons will mean that the inmates will benefit from the broad background and experience of that Bureau. Some of the prisoners may well be transferred to prisons away from Washington, trained supervisory personnel will replace those who condone militancy and I am hopeful that efforts will be made to rehabilitate the inmates and to teach them that the rules of society apply equally to all members. If they are permitted to do as they please in prison as your committee report shows is true at this time, we cannot expect them to abide by the rules of society when they are released.

This title is an important part of the overall crime bill. We cannot bring about order in our society by enforcing criminal laws and revising our court procedure and then letting order stop at the prison gates. Convicted criminals must have proper supervision and direction within the prisons. The Committee on the District of Columbia has found that they are not being rehabilitated at Lorton. Therefore, I urge that this amendment be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maine.

We have heard many things said about conditions at Lorton Reformatory. I suggest that those could be said about just about any other prison in any major city in the United States. The problem is to remedy the situations which exist, not to duck our obligations and dump the problem on the Federal Government, which already has more than it can do to handle the problems assigned to it.

It seems to me that if we were to do this in the case of the District of Columbia, to dump the problem in the hands of the Federal Government, of the Department of Justice, and of the Bureau of Prisons, none of whom have said they want to take on the obligation, we should do the same thing for the other major cities of this Nation, where the same deplorable conditions exist as in the District of Columbia.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. CABELL).

(By unanimous consent, Mr. DOWDY yielded his time to Mr. CABELL.)

Mr. CABELL. Mr. Chairman, this very definitely is a movement that will assist in law enforcement and will assist in the purposes for which penal institutions are created.

No other municipal entity, to my knowledge, attempts to operate a complete penal system, from the lifetime hardened criminals, the murderers, right on down through the moderate security, minimum security, and juvenile people.

This will make sense. The Federal Government has trained people. They have facilities, so they can segregate the hardened criminals by transferring them to another Federal institution, and they can then rework the institution under their supervision and under their jurisdiction and with their trained personnel. Lorton can be reworked to handle the moderate security and minimum security prisoners, and they can do a real job of rehabilitation, which is not being done at present.

Our juvenile courts themselves report a recidivism rate of in excess of 64 percent. That does not indicate there is any worthwhile rehabilitation being done at Lorton.

I ask the Members, in the interest of good crime prevention, to take this needed action.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I wish to make a few brief remarks in opposition to the amendment offered by the gentleman from Maine.

First, every prisoner who is in custody in the District of Columbia is right now in the custody of the Attorney General of the United States, so this is not the same thing as taking a local prison system away from some other jurisdiction. They are already prisoners of the Attorney General.

Secondly, studies from 1965 up to last year pointed out the very same deficiencies time after time after time, many of which could be corrected without the expenditure of money. They have not been corrected.

The Bureau of Narcotics has indicated that suggestions which it has made in order to curb narcotics traffic have not been put into effect.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, we seem to have a real logical fallacy here—a real non sequitur—when we score an offender for not having taken advantage of our vaunted rehabilitation system.

It is true that 70 percent of the young people who have gone through Lorton have come back. It is also true that the President's Crime Commission reports that two out of three of all teenagers who have bumped their heads against the criminal justice system have come back into the system within a few years for a far more serious offense.

The fact of the matter is that we do not have rehabilitation or correction systems anywhere in the United States that works.

We can pass this bill. Hopefully we will clean it up before we do. Then we had better get down to the business of seriously acquiring the knowledge which is necessary to create a rehabilitation system that will really work. As Chief Justice Warren Burger has recently stated—"We have developed systems of corrections which do not correct." It is time we developed rehabilitation and corrections systems designed to correct and build, not demean and destroy, human personality and effectiveness.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JACOBS).

(By unanmious consent, Mr. JACOBS yielded his time to Mr. KYROS.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LOWENSTEIN).

Mr. LOWENSTEIN. Mr. Chairman, I support the Kyros amendment, and will yield to my friend, the valued Member from Maine, in a moment, so he may rebut some of the odd statements we have just heard about his amendment. But first I want to take this opportunity to express my distress about many aspects of this bill—a bill which I had hoped I would be able to support in view of the great need for legislation to help with the problem of crime in the District of Columbia.

I do not doubt that many of those who support this bill do so in the honest belief that it will help to curtail crime here. And some of its provisions—most notably those concerning public defenders and overhauling the judicial structure—can be valuable.

But can anyone tell me what we would achieve by trying a 15-year-old "adult" for a serious crime if his conviction sends him to a prison that can do nothing but contribute to furthering his criminality? It seems to me that if we really mean to rehabilitate juveniles, the way to do so is not by changing the definition of the word, as if we can eliminate the problem by eliminating the word. We might more wisely try to improve the rehabilitation system so it has a chance to do what it is supposed to do for those who are incarcerated in it, whatever we call them.

It has taken years of experimenting

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with the delicate balance of social justice and individual liberty for our society to establish reasonable standards of conduct for its law enforcement officers as well as for the ordinary citizens whom law enforcement officers are supposed to protect. The kind of "no-knock" searches and night-time search warrants that would be validated by this legislation invite abuse by abandoning reasonable—and reasonably clear—standards of conduct to guide officials, and by thus leaving everyone concerned at sea in a bog of ambiguities. A fair test of probable cause would seem to be the minimum acceptable standard if we are now to adopt procedures that limit established judicial protections.

I have mentioned earlier my concern about the preventive detention provisions of this bill. The provisions governing—if that is the word—the use of wiretapping are not much more reassuring.

In fact, the totality of the bill reeks of the strange notion that the best way to promote individual security is to undercut or evade those constitutional guarantees that have done so much to protect individual security during the history of the Republic—as if somehow the average citizen will be safer if violations of his person by criminals are balanced by invasions of his privacy by officials.

There are many ways to begin to deal with the rise in crime in this city and in this country, but this is certainly not one. I hope the Members of this House who have evinced such concern about crime here today will take the trouble to study a package of proposals I introduced last week. Since time is running out now, I will put a description and an explanation of these proposals in the RECORD next week. In the meantime, I willl include in the Extensions, a letter about this bill that was sent to each Congressman by the American Civil Liberties Union. I wish more Members had read it more carefully before making up their minds about some of the amendments that have been voted down today.

The Congress and the President must take strong action to curb crime, in the District of Columbia and throughout the land. But the strong action authorized in this legislation is far better designed to curb civil liberties than it is to curb crime. The two are not synonymous, and we confuse them at our peril.

I now yield to the gentleman from Maine, in the hope that he will be able to persuade an unlistening House to pass his sensible amendment, though I concede that even if his amendment were to pass I could not vote for this deceptively appealing and dangerous bill anyway.

(By unanimous consent, Mr. LOWENSTEIN yielded his remaining time to Mr. KYROS.)

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. EVANS).

(By unanimous consent, Mr. EVANS of Colorado yielded his time to Mr. KYROS.)

Mr. KYROS. Mr. Chairman, the issue here tonight is not whether the committee worked hard. There is no question about that. They work hard on all of their bills, but we do not pass all of them. The issue here is not whether we will pass a good crime bill—we will pass one—the issue is whether we should transfer Lorton as a part of this bill. Actually, it has no part in this bill. First there is police work. Then there is judicial machinery. Finally there is correctional machinery. This is all part of an integrated whole in the District.

My friend from Virginia talked about the administration, saying that they were not against it. Well, they never said that they were for it, either. The Federal Bureau of Prisons never testified on the matter. The Department of Justice knew that this was going on, but they never testified on it. No one indicated at any time that they desired it to be transferred.

Now, anyone can come into this Chamber this evening and give us a parade of horribles about any prison in the United States. There is no question about it in anybody's mind. But the issue here is that Lorton is having money put into it. The investigation itself that was conducted by this committee was a good one in that corrective action will be taken. However, I do not think we should be talking about some disgruntled employees, as was done here on the floor of the House. Lorton should not be transfered. We should pass the crime bill, and then we will have ample time to study this situation later.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. KYROS).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. ADAMS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. KYROS and Mr. MCMILLAN.

The Committee divided, and the tellers reported that there were—ayes 47, noes 101.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: On page 438, insert after line 23 the following new title:

TITLE VII—INTERSTATE COMPACT ON JUVENILES

FINDINGS AND PURPOSE

SEC. 701. (a) The Congress finds that (1) juveniles who are not under proper supervision and control, or who have absconded, escaped, or run away, are likely to endanger their own health, morals, and welfare, and the health, morals, and welfare of others, and (2) the cooperation of the District of Columbia with the States is necessary to provide for the welfare and protection of juveniles and other persons in the District of Columbia.

(b) The Congress intends, in authorizing the District of Columbia to adopt the Interstate Compact on Juveniles, to have the District of Columbia cooperate fully with the States (1) in returning juveniles to those States requesting their return, and (2) in accepting and providing for the return of juveniles who are residents of the District of Columbia and who are found or apprehended in a State.

AUTHORITY TO ENTER INTO COMPACT

SEC. 702. (a) The Commissioner of the District of Columbia (hereafter in this Act referred to as the "Commissioner") is authorized to enter into and execute on behalf of the District of Columbia a compact with any State or States legally joining therein in the form substantially as follows:

"THE INTERSTATE COMPACT ON JUVENILES

"The contracting States solemnly agree:

"ARTICLE I—Findings and purposes

"That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the States party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one State to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party States may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party States shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the States party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

"ARTICLE II—Existing Rights and Remedies

"That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

"ARTICLE III—Definitions

"That, for the purposes of this compact, 'delinquent juvenile' means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; 'probation or parole' means any kind of conditional release of juveniles authorized under the laws of the states party hereto; 'court' means any court having jurisdiction over delinquent, neglected or dependent children; 'state' means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and 'residence' or any variant thereof means a place at which a home or regular place of abode is maintained.

"ARTICLE IV—Return of Runaways

"(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

"Upon reasonable information that a person is a juvenile who has run away from another State party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety days as will enable his return to another State party to this compact pursuant to a requisition for his return from a court of that State. If, at the time when a State seeks the return of a juvenile who has run away, there is pending in the State wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such State, or if he is suspected of having committed within such State a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such State until discharged from prosecution or other form of proceeding, imprisonment, detention, or supervision for such offense or juvenile delinquency. The duly accredited officers of any State party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all States party to this compact, without interference. Upon his return to the State from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that State.

"(b) That the State to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

"(c) That 'juvenile' as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

"ARTICLE V—Return of Escapees and Absconders

"(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forth before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed her the purpose of testing the legality of the proceeding.

"Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committeed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

"(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of the transportation costs of such return.

"ARTICLE VI—Voluntary Return Procedure

"That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state part to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly, accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

"ARTICLE VII—Cooperative Supervision of Probationers and Parolees

"(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called 'sending state') may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

"(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

"(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

"(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

"ARTICLE VIII—Responsibility for Costs

"(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

"(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Article IV(b), V(b) or VII(d) of this compact.

"ARTICLE IX—Detention Practices

"That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

"ARTICLE X—Supplementary Agreements

"That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment, and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

"ARTICLE XI—Acceptance of Federal and Other Aid

"That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize, the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

"ARTICLE XII—Compact Administrators

"That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

"ARTICLE XIII—Execution of Compact

"That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

"ARTICLE XIV—Renunciation

"That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

"ARTICLE XV—Severability

"That the provisions of this compact shall be severable and if any phase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, persons or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

(b) The Commissioner may enter into and execute on behalf of the District of Columbia the following additional articles to the Interstate Compact on Juveniles:

"ARTICLE XVI—Additional Provision Relating to Return of Minor Children

"This article shall provide additional remedies, and shall be binding only as among and between those party States which specifically execute the same.

"For the purposes of this article, 'child', as used herein, means any minor within the jurisdictional age limits of any court in the home State.

"When any child is brought before a court of a State of which such child is not a resident, and such State is willing to permit such child's return to the home State of such child, such home State, upon being so advised by the State in which such proceeding is pending, shall immediately institu proceedings to determine the residence and jurisdictional facts as to such child in such home State, and upon finding that such child is in fact a resident of said State and subject to the jurisdiction of the court thereof, shall within five days authorize the return of such child to the home State, and to the parent or custodial agency legally authorized to accept such custody in such home State, and at the expense of such home State, to be paid from such funds as such home State may procure, designate, or provide, prompt action being of the essence.

"ARTICLE XVII—Additional Provision Concerning Interstate Rendition of Juveniles Alleged to be Delinquent

"This article shall provide additional remedies, and shall be binding only as among and between those party States which specifically execute the same.

"All provisions and producers of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed."

COMPACT ADMINISTRATOR

SEC. 703. (a) The Commissioner shall appoint or designate an officer of the government of the District of Columbia (hereafter in this Act referred to as the "compact administrator") to administer the compact. The compact administrator shall serve at the pleasure of the Commissioner.

(b) The compact administrator, acting jointly with like officers of party States, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies, and officers of the government of the District of Columbia in facilitating the proper administration of the compact or of any supplementary agreement entered into by the compact administrator under subsection (c) of this section.

(c) Subject to the approval of the Commissioner, the compact administrator may enter into supplementary agreements with appropriate State officials for the purpose of administering the compact.

(d) Subject to the approval of the Commissioner, the compact administrator may make or arrange for any payments necessary to discharge any financial obligations imposed upon the District of Columbia by the compact or by any supplementary agreement entered into under subsection (c) of this section.

ENFORCEMENT

SEC. 704. The courts, departments, agencies, and officers of the District of Columbia shall enforce the compact and shall take such action as may be necessary to carry out the purposes and intent of the compact which may be within their respective jurisdictions.

CONSTRUCTION OF COMPACT

SEC. 705. The compact shall not be construed to prohibit the adoption of any other plan or procedure for the District of Columbia for the return of any runaway juvenile.

CONGRESSIONAL AUTHORITY

SEC. 706. The right to alter, amend, or repeal this Act is hereby expressly reserved by the Congress.

Page 439, line 1, strike out "TITLE VII" and insert in lieu thereof "TITLE VIII"; and, in line 3, strike out "701" and insert in lieu thereof "801".

Page 4, in the items in the table of contents relating to title VII, strike out "TITLE VII" and insert in lieu thereof "TITLE VIII" and strike out "701" and insert in lieu thereof "801".

Page 4, in the table of contents, insert the following after the item relating to title VI:

TITLE VII—INTERSTATE COMPACT ON JUVENILES

Sec. 701. Findings and purpose.
Sec. 702. Authority to enter into compact.
Sec. 703. Compact Administrator.
Sec. 704. Enforcement.
Sec. 705. Construction of compact.
Sec. 706. Congressional authority.

Mr. GUDE (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. GUDE. Mr. Chairman, this amendment is an amendment to add a new title VII to authorize the District of Columbia to enter into the interstate compact on juveniles. The juvenile compact is cosponsored by the gentleman from Maryland (Mr. HOGAN), the gentleman from Virginia (Mr. BROYHILL) and myself, and was passed by the House in July but has not yet cleared the other body.

Mr. Chairman, since this amendment will expedite this important measure and aid in the fight on jnvenile crime, I urge its adoption.

Mr. McMILLAN. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the chairman of the committee.

Mr. McMILLAN. Mr. Chairman, since this amendment has already passed the House, the committee accepts the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The amendment was agreed to.

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DEVINE. Mr. Chairman, today we are debating one of the most important pieces of legislation before the 91st Congress. The District of Columbia crime bill has been worked over at great length in committee, and, through the efforts of fine men like ANCHER NELSEN of Minnesota and TOM ABERNETHY of Mississippi, the District of Columbia can derive great benefits.

No small amount of credit, Mr. Chairman, should go to our very able Attorney General John Mitchell and his assistant Mr. Santarelli for their hard work and dedication to high constitutional principles in guiding this legislation along a difficult and rocky road.

For the benefit of the nonlawyers in the Congress, I think it might be well to spell out some of the things in this criminal business that we lawyers take for granted. For instance, a misdemeanor is a crime, the punishment for which is 1 year or less, whereas a felony is a major crime punishable by a sentence of in excess of 1 year. Further, an indictment is a formal accusation of crime preferred by a grand jury, based on, first, probable cause that a crime has been committed, and second, that there is also probable cause to believe that the person charged did indeed commit the crime.

Mr. Chairman, the layman does not differentiate between burglary and robbery, although they are completely different. As a rule of thumb, I would suggest to my colleagues that robbery is the more serious, and it always involves taking from the person. Burglary is a taking from a place, rather than a person. Armed robbery, by gun, knife or other deadly weapon is a greater offense than unarmed robbery, such as the common hit and run purse snatch. What happened in the District of Columbia last year? There were 12,423 robberies—more than a thousand a month. Add to that nearly 23,000 burglaries. What a great example in what should be the showplace of the world, our Nation's Capital.

And that brings me, Mr. Chairman, to a rather unpleasant task of possibly berating some of our colleagues that seem to bleed from every pore in compassion for what they describe as the downtrodden, the oppressed, the underprivileged, the deprived, and so forth, just as if these terms in and of themselves should excuse the voluntary commission of crime. Nobody forces these people to transgress the laws of society. They do so voluntarily, even though they may think they have an excuse, or a grudge against society.

Mr. Chairman, ours is a regulated society, and we are bound by rules, regulations, ethics, codes of conduct, laws, statutes, customs, and policies, all in the interest of protecting the freedoms of others. For instance, in baseball if a grounder is hit sharply along the third baseline and kicks up the chalk dust, it is inbounds and a fair ball. Why? That is what the rule says. To the contrary, in football, if a flanker catches a sideline pass and romps on down field, and his foot touches the sideline or any part thereof, he is out of bounds and the ball is dead at that spot. Why? That is what the rule says.

Mr. Chairman, excuse rationalization, compassion, justification, and seeking causes will not solve the serious problems of crime on the streets of our Capital, or any place else. The Congress must take affirmative action now, and pass this bill, intact, with the preventive detention provisions, the wiretapping section, with the no-knock portion, and all the rest. This is essential because the American people are fed up with what appears to be the preoccupation of the courts, and possibly the Congress, with the posture of always protecting the rights of the wrongdoers, to the exclusion of the rights of the respectable, law-abiding, hard-working citizens of our Nation.

I, for one, Mr. Chairman, am sick and tired of listening to the moans and wails of some of my colleagues about certain freedoms being removed from those who continually thwart every law, rule, regulation, and twist the very Constitution under which they claim absolute immunity. I am much more concerned with the protection of society in general, and restoring some semblance of order out of the chaos created by the criminals, anarchists, and their apologists. The time has come for all of us to put our shoulder to the wheel and move forward to an orderly society within the framework of the Constitution, laws, rules, and regulations, and this bill will be a large and significant step in that direction.

As I stated earlier this month on this floor, on March 4 to be exact:

> In order to maintain an orderly society, and protect the majority against the transgressions of those seeking to create chaos, insurrection, anarchy, and a jungle of our streets and cities, it is necessary to have

strong public backing for the duly constituted law-enforcement agencies across the land. This means all levels, from the lowest of constables in a rural setting, up through the sheriff's office, large metropolitan police departments, State police, and Federal law-enforcement agencies.

The image of law enforcement can be enhanced by the communications media, if they would dramatize the dangers and difficulties on that side of the law with the same vigor as they portray the lawless elements and their histrionics. Granted, the lawful side of the coin may not be as exciting, but does the media not have some responsibility to society in general to make a contribution on the side of law, and order, and justice, and the freedoms guaranteed by the Constitution, not to just the misfits, dissidents, minorities, and some of the costumed adolescents parading as students, but also to those majorities that created these very freedoms—the American public?

Mr. Chairman, this time is now at hand, and I am confident the overwhelming majority of my colleagues will support this bill, as I intend to do.

The CHAIRMAN. For what purpose does the gentleman from Michigan (Mr. Gerald R. Ford) rise?

Mr. GERALD R. FORD. Mr. Chairman, I take this time for the purpose of announcing to the Committee that the motion to recommit will be a straight motion to be offered by the gentleman from Wisconsin (Mr. O'Konski).

Mr. Chairman, I would like to conclude with this final observation: In my judgment the Committee on the District of Columbia, and the committee as a whole, have done a first-class job. I wish to commend particularly the gentleman from Mississippi (Mr. Abernethy) and the gentleman from Minnesota (Mr. Nelsen) for a superb job and, of course, I include the gentleman from South Carolina (Mr. McMillan). Others such as the gentleman from Maryland (Mr. Hogan) and the gentleman from Ohio (Mr. Harsha) deserve great credit. This is fine legislation and I hope there will be an overwhelming affirmative vote.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Bingham).

Mr. BINGHAM. Mr. Chairman, the rising crime rates in the District of Columbia are a source of great concern to all of us. There is no doubt that the residents of Washington's ghettos are in special need of protection. Legislative action is certainly needed, and the omnibus bill before us contains many constructive provisions, especially with regard to court reform and reorganization and with regard to the establishment of a public defender service.

Unfortunately, the bill as reported by the committee also contains many provisions which are dangerous and undesirable. I had hoped that the several amendments offered, for the most part by members of the committee, would be accepted, so as to make the bill itself on balance a helpful piece of legislation, but this has not happened. One after another, the amendments designed to improve the bill have been voted down. Accordingly, I feel constrained to vote against the bill as a whole, and I hope my colleagues will do likewise.

Four distinguished members of the committee, for whom I have the highest regard, the gentleman from Washington (Mr. Adams), the gentleman from Minnesota (Mr. Fraser), the gentleman from Indiana (Mr. Jacobs), and the gentleman from Michigan (Mr. Diggs), commented in their minority views that far too many of the bill's provisions are dangerous and repressive in their thrust. They point, for example, to the dangers of the pretrial detention and incarceration provisions, not only with regard to the likely violations of constitutional rights, but also in that these provisions will greatly add to an already clogged court calendar.

I am not opposed to pretrial detention under all circumstances, particularly where narcotics addicts are concerned, but the laws of the District already provide for the protection of the public in such cases and the proposed provisions are much too broad.

Similarly, I believe that there are certain instances where, under careful safeguards, "no-knock" searches and seizures may be justified where narcotics are involved, but here also the proposed provisions go much too far. As stated in the minority views, the provision "clearly goes well beyond the limits of permissible entry under the fourth amendment."

In the area of wiretapping and electronic surveillance, the bill before us opens the door to all kinds of abuses and goes far beyond what the Congress authorized in the Omnibus Crime Control Act of 1968, an act which in itself many constitutional experts and civil libertarians considered involved a dangerous violation of the fundamental right of privacy.

The bill also contains retrogressive provisions with regard to the treatment of juveniles, and calls for the transfer of an essentially local correctional institution to the U.S. Bureau of Prisons, over the objections of the District authorities. The bill also contains mandatory life sentence for those convicted for the third time for so-called crimes of violence. Not only is the definition of crimes of violence so broad as to include relatively minor offenses but this provision is also subject to the classic objection to mandatory sentence provisions that they result in unjustified acquittals where the juries are sympathetic to the plight of the defendant.

It is significant that, for all the protestations we have heard today about the need for speedy justice as an important element in crime control, an amendment providing for additional judges to cope with the backlog of criminal cases was voted down.

In its actions on this bill the majority of the District of Columbia Committee and of this House have shown a deplorable lack of awareness that "eternal vigilance is the price of liberty."

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Albert) having assumed the chair, Mr. Corman, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 16196) to reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes, pursuant to House Resolution 881, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. Albert). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. O'KONSKI

Mr. O'KONSKI. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. O'KONSKI. Since it has been amended, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. O'Konski moves to recommit the bill H.R. 16196 to the Committee on the District of Columbia.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 294, nays 47, answered "present" 1, not voting 88, as follows:

[Roll No. 56]

YEAS—294

Abbitt
Abernethy
Adair
Albert
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Annunzio
Arends
Ashbrook
Aspinall
Ayres
Beall, Md.
Belcher
Bell, Calif.
Bennett
Berry
Betts
Bevill
Biaggi
Biester
Blackburn
Blanton
Boggs
Boland
Bow
Brademas
Bray
Brinkley
Brock
Brooks
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Utah
Button
Byrnes, Wis.
Cabell
Caffery
Carter
Casey
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins
Conable
Conte
Corbett
Coughlin
Crane
Cunningham
Daddario
Daniel, Va.
Daniels, N.J.
Davis, Wis.
Delaney
Denney
Dennis
Devine
Dickinson
Donohue
Dorn
Dowdy
Downing
Dulski
Duncan
Edmondson
Edwards, Ala.
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Feighan
Fish
Flood
Flowers
Flynt
Ford, Gerald R.
Foreman
Fountain
Frelinghuysen
Frey
Friedel
Fulton, Pa.
Fulton, Tenn.
Fuqua
Galifianakis
Garmatz
Gettys
Giaimo
Gibbons
Goldwater
Goodling
Gray
Green, Oreg.
Griffin
Gross

Gubser
Gude
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Harsha
Harvey
Hébert
Hechler, W. Va.
Heckler, Mass.
Henderson
Hogan
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Karth
Kazen
Kee
Keith
King
Kleppe
Kuykendall
Kyl
Kyros
Landgrebe
Landrum
Langen
Latta
Lennon
Lloyd
Long, La.
Long, Md.
McClory
McCloskey
McClure
McCulloch
McDade
McEwen
McFall
McKneally
McMillan
Macdonald, Mass.
MacGregor
Madden
Mahon
Mailliard
Marsh
Martin
Mathias
May
Mayne
Melcher
Miller, Calif.
Miller, Ohio
Minish
Mize
Mizell
Morse
Morton
Mosher
Murphy, Ill.
Myers
Natcher
Nelsen
Obey
Olsen
O'Neal, Ga.
O'Neill, Mass.
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Philbin
Pickle
Pike
Pirnie
Poff
Pollock
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Railsback
Rarick
Rhodes
Riegle
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, Pa.
Rostenkowski
Roth
Roudebush
Ruppe
Ruth
St Germain
St. Onge
Sandman
Satterfield
Saylor
Schadeberg
Scherle
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Stafford
Staggers
Steed
Steiger, Wis.
Stratton
Stuckey
Sullivan
Symington
Taft
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Tiernan
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Wampler
Watkins
Watts
Weicker
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Winn
Wold
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young
Zablocki
Zion
Zwach

NAYS—47

Adams
Ashley
Barrett
Bingham
Burton, Calif.
Byrne, Pa.
Clay
Cohelan
Conyers
Corman
Culver
Diggs
Dingell
Edwards, Calif.
Eilberg
Farbstein
Ford, William D.
Gallagher
Gilbert
Gonzalez
Green, Pa.
Harrington
Hathaway
Holifield
Kastenmeier
Leggett
Lowenstein
Matsunaga
Meeds
Mikva
Mink
Moorhead
Moss
Nedzi
Nix
O'Hara
O'Konski
Powell
Rees
Rooney, N.Y.
Rosenthal
Roybal
Ryan
Scheuer
Thompson, N.J.
Waldie
Yates

ANSWERED "PRESENT"—1

Foley

NOT VOTING—88

Addabbo
Anderson, Calif.
Andrews, N. Dak.
Baring
Blatnik
Bolling
Brasco
Broomfield
Brown, Calif.
Brown, Mich.
Bush
Camp
Carey
Cederberg
Celler
Chisholm
Colmer
Cowger
Cramer
Davis, Ga.
Dawson
de la Garza
Dellenback
Dent
Derwinski
Dwyer
Eckhardt
Edwards, La.
Erlenborn
Esch
Fallon
Findley
Fisher
Fraser
Gaydos
Griffiths
Grover
Hagan
Halpern
Hansen, Wash.
Hastings
Hawkins
Hays
Helstoski
Hicks
Ichord
Jones, Tenn.
Kirwan
Kluczynski
Koch
Lujan
Lukens
McCarthy
McDonald, Mich.
Mann
Meskill
Michel
Mills
Minshall
Mollohan
Monagan
Montgomery
Morgan
Murphy, N.Y.
Nichols
Ottinger
Poage
Podell
Randall
Reid, Ill.
Reid, N.Y.
Reifel
Reuss
Rivers
Schneebeli
Sisk
Stanton
Steiger, Ariz.
Stephens
Stokes
Stubblefield
Teague, Tex.
Tunney
Udall
Vander Jagt
Watson
Wilson, Bob
Wilson, Charles H.

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Monagan for, with Mr. Addabbo against.

Mr. Teague of Texas for, with Mr. Celler against.

Mr. Fallon for, with Mr. Hawkins against.

Mr. Fisher for, with Mr. Brasco against.

Mr. Anderson of California for, with Mrs. Hansen of Washington against.

Mr. Kluczynski for, with Mrs. Chisholm against.

Mr. Murphy of New York for, with Mr. Stokes against.

Mr. Hicks for, with Mr. Foley against.

Mr. Colmer for, with Mr. Koch against.

Mr. Edwards of Louisiana for, with Mr. Carey against.

Mr. Randall for, with Mr. Brown of California against.

Mr. Hagan for, with Mr. Dawson against.

Mr. Montgomery for, with Mr. Podell against.

Mr. Jones of Tennessee for, with Mr. Kirwan against.

Until further notice:

Mr. Morgan with Mr. Cederberg.

Mr. Charles H. Wilson with Mr. Bob Wilson.

Mr. Baring with Mr. Derwinski.

Mr. Blatnik with Mr. Brown of Michigan.

Mr. McCarthy with Mr. Esch.

Mr. Mills with Mr. Cramer.

Mr. Tunney with Mr. Erlenborn.

Mr. Udall with Mr. Steiger of Arizona.

Mr. Ichord with Mr. Findley.

Mr. Davis of Georgia, with Mr. Cowger.

Mr. Dent with Mr. Broomfield.

Mr. Reuss with Mr. Andrews of North Dakota.

Mr. Rivers with Mr. Watson.

Mrs. Griffiths with Mrs. Dwyer.

Mr. Hays with Mr. Stanton.

Mr. Fraser with Mr. Reid of New York.

Mr. Gaydos with Mr. Vander Jagt.

Mr. Helstoski with Mr. Lukens.

Mr. Mann with Mr. Camp.

Mr. Mollohan with Mr. Schneebeli.

Mr. Nichols with Mr. Lujan.

Mr. Ottinger with Mr. Halpern.

Mr. Stubblefield with Mr. Reifel.

Mr. Sisk with Mr. Dellenback.

Mr. Stephens with Mr. Minshall.

Mr. Eckhardt with Mr. Bush.

Mr. de la Garza with Mr. McDonald of Michigan.

Mr. Grover with Mrs. Reid of Illinois.

Mr. Michel with Mr. Hastings.

Mr. FOLEY. Mr. Speaker, I have a live pair with the gentleman from Washington (Mr. HICKS). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

(Pursuant to order of the House, the proceedings by which the provisions of H.R. 16196 were substituted for the provisions of S. 2601 and the bill passed will be printed in the RECORD for Monday, March 23, 1970.)

TITLE AMENDMENT TO S. 2601

Mr. McMILLAN. Mr. Speaker. I offer an amendment to the title of the Senate bill S. 2601.

The Clerk read as follows:

Title amendment offered by Mr. McMILLAN: Amend the title of S. 2601 to read as follows: "To reorganize the courts of the District of Columbia, to revise the procedures for handling juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2601, DISTRICT OF COLUMBIA COURT REORGANIZATION ACT OF 1969

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that the House insist upon its amendment to the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the request of the gentleman from South Carolina? The Chair hears none, and, without objection, appoints the following conferees: Messrs. McMILLAN, ABERNETHY, DOWDY, CABELL, NELSEN, HARSHA, BROYHILL of Virginia, and HOGAN.

There was no objection.

PRINTING OF HOUSE PROCEEDINGS AMENDING S. 2601 MONDAY NEXT

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that the House amendment to the Senate bill (S. 2601) be printed in the CONGRESSIONAL RECORD for Monday next instead of the RECORD for today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

GENERAL LEAVE TO EXTEND

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of Senate numbered 13 to a bill of the House of the following title:

H.R. 6543. An act to extend public health protection with respect to cigarette smoking and for other purposes.

POINT REYES NATIONAL SEASHORE, CALIFORNIA

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3786) to authorize the appropriation of additional funds necessary for acquisition of land at the Point Reyes National Seashore in California, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 3, insert:

"SEC. 2. (a) Section 3(a) of the Act of September 13, 1962 (76 Stat. 538), is amended by striking out the words 'Except as provided in section 4, the,' in the first sentence and inserting the word 'The' in lieu thereof.

"(b) Section 4 is hereby repealed.

"(c) The remaining sections of the Act of September 13, 1962 (76 Stat. 538), are renumbered accordingly."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. SAYLOR. Mr. Speaker, reserving the right to object and I shall not object, will the gentleman from Colorado explain the Senate amendment?

Mr. ASPINALL. Mr. Speaker, will the gentleman from Pennsylvania yield to me?

Mr. SAYLOR. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Speaker, the amendment has been concurred in by the minority. The amendment is germane.

Mr. Speaker, H.R. 3786 was approved by the House on February 10. It would increase the authorization for land acquisition at the Point Reyes National Seashore from $19,135,000 to $57,500,000. Repetition of the merits of, and need for, this legislation is unnecessary; however, I do want to take a moment to explain the Senate amendment to the bill.

Briefly, the Senate amendment would repeal section 4 of the original Point Reyes Act—and references to it. That section suspended the authority of the Secretary of the Interior to condemn lands in the so-called pastoral zone.

As most of the Members of the House will recall, the pastoral zone was a legislative innovation attempting to stabilize the area without disrupting the local landowners. It was felt that ranching and dairying could be continued without unduly interfering with the recreational values of the seashore. We still believe that these uses are compatible. Because of the danger that these lands might be converted to some incompatible use, however, it is essential to acquire an adequate interest in the lands to protect the Federal investment and purpose. All of the 26,000 acres, of course, are within the boundaries of the Point Reyes National Seashore and the funds in the bill are adequate to acquire them—if acquisition is not delayed.

The only effect of the repeal of section 4 will be to allow the Secretary to condemn the needed lands if he cannot acquire an adequate interest in them through negotiations.

It is extremely important that the land acquisition program at this area be completed as soon as possible. We want this to be the last time that the Congress will have to consider the funds for this purpose, and we know that the costs will escalate if the program is delayed. If section 4 is not repealed, it could effectively frustrate the land acquisition program within the pastoral zone and thus result in a costly delay which no one, here, would appreciate.

Mr. Speaker, this amendment is not new. It was recommended by the Department in its report to the committee. While we recognized the merits of the amendment, we felt that it required a public reaction. As is too often the case, the departmental recommendation was announced only 1 day before our hearings were conducted; consequently, it was impossible for any of the witnesses appearing before us to indicate what that public reaction might be. In light of this fact, it was inappropriate for the committee to recommend the amendment to the House when it reported the bill.

Since that time the interested public has had an opportunity to consider this amendment. I am advised that the public witnesses who testified before our counterpart in the other body indicated that they had no objections to it, and I am aware of no opposition to it.

With that brief explanation, Mr. Speaker, I urge the House to concur in the Senate amendment and approve H.R. 3786, as amended.

Mr. SAYLOR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, I have requested this time for the purpose of asking the distinguished majority leader the program, if any, for the rest of this week and for next week.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, in response to the inquiry of the distinguished minority leader, we have finished the business for the week and I shall ask unanimous consent to go over until Monday next upon the announcement of the program for next week.

Monday is District day. There are no District bills.

However, on Monday there is scheduled H.R. 15728, to authorize the extension of certain naval vessel loans, under an open rule with 1 hour of debate.

For Tuesday there is H.R. 15628, the Foreign Military Sales Act Amendments, under an open rule with 1 hour of debate.

Also on Tuesday there will be called up by unanimous consent the following miscellaneous stockpile disposal bills from the Committee on Armed Services:

H.R. 15998, to authorize the disposal of Surinam-type metallurgical grade bauxite from the national stockpile and the supplemental stockpile;

H.R. 16289, to authorize the disposal of natural Ceylon amorphous lump graphite from the national stockpile and the supplemental stockpile;

H.R. 16290, a bill to authorize the disposal of refractory grade chromite from the national stockpile and the supplemental stockpile;

H.R. 16291, to authorize the disposal of chrysotile asbestos from the national stockpile and the supplemental stockpile;

H.R. 16292, to authorize the disposal of corundum from the national stockpile;

H.R. 16295, to authorize the disposal of natural battery grade manganese ore from the national stockpile and the supplemental stockpile; and

H.R. 16297, to authorize the disposal of molybdenum from the national stockpile.

For Wednesday and the balance of the week there is scheduled H.R. 13956, to authorize additional appropriations to the Smithsonian Institution, under an open rule with 1 hour of general debate.

Also, there are the following miscellaneous resolutions from the Committee on House Administration which I insert at this point in the RECORD:

H. Res. 583. To provide additional funds for the Committee on Agriculture.

H. Res. 649. To provide funds for the further expenses for the studies, investigations, and inquiries authorized by H. Res. 192.

H. Res. 750. To provide for the further expenses of the investigation and study authorized by H. Res. 105.

H. Res. 752. Providing for the expenses of conducting studies and investigations authorized by rule XI (8) incurred by the Committee on Government Operations.

H. Res. 780. To provide funds for the Committee on the Judiciary.

H. Res. 781. Providing funds for the operation of the Select Committee on Small Business.

H. Res. 783. To provide additional funds for the expenses of studies, investigations, and inquiries authorized by H. Res. 152.

H. Res. 784. To provide additional funds for the expenses of the studies, investigations, and inquiries authorized by H. Res. 152.

H. Res. 785. To provide funds for the expenses of the studies and investigations authorized by H. Res. 131.

H. Res. 786. To provide further funds for the expenses of the investigations authorized by H. Res. 21.

H. Res. 789. Providing for the expenses incurred pursuant to H. Res. 200.

H. Res. 801. To provide funds for the further expenses of the studies, investigations, and inquiries authorized by H. Res. 189.

H. Res. 808. To provide funds for the study and investigation authorized by H. Res. 17;

H. Res. 815. Providing expenses for the Committee on Interstate and Foreign Commerce.

H. Res. 836. To provide additional funds for the expenses of the investigation and study authorized by H. Res. 47.

H. Res. 837. Authorizes transfer of $20,000 from the contingent fund of the House for payment of mileage for Members.

H. Res. 839. Providing additional compensation for services performed by certain employees in the House Publications Distribution Services.

H. Res. 844. Authorizing the expenditure of certain funds for the expenses of the Committee on Internal Security.

H. Res. 869. Authorizing expenses for conducting studies and investigations pursuant to H. Res. 268.

H. Res. 883. Providing for expenses of conducting studies and investigations authorized by H. Res. 143.

S. Con. Res. 47. Authorizing the printing of the report of the proceedings of the forty-fourth biennial meeting of the Convention of American Instructors of the Deaf as a Senate document.

S. Con. Res. 50. Authorizing the printing of additional copies of the 1969 report of the Senate Special Subcommittee on Indian Education (Senate Report 91-501).

S. Con. Res. 52. Authorizing the printing of a compilation of the hearings, reports, and committee prints of the Senate Subcommittee on National Security and International Operations entitled "Planning-Programming-Budgeting."

S. Con. Res. 53. Authorizing the printing of the National Estuarine Pollution Study as a Senate document.

Mr. Speaker, I remind my colleagues again that the Easter recess will begin at the close of business on March 26 and will last until noon Monday, April 6.

This announcement is made subject to the usual reservation that conference reports may be brought up at any time and that any further program may be announced later.

Mr. GERALD R. FORD. I thank the gentleman.

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ADJOURNMENT TO MONDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE ADDITIONAL REPORT UNTIL MIDNIGHT, MARCH 20

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight Friday, March 20, to file an additional report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HALL. Mr. Speaker, I desire to know if on completion of all action on H.R. 16196 and S. 2601, as amended, motions to reconsider both bills were laid on the table?

The SPEAKER pro tempore. The Chair will state that they were.

Mr. HALL. I thank the Speaker.

HIGHER EDUCATION OPPORTUNITY ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-282)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Education and Labor and ordered to be printed:

To the Congress of the United States:

No qualified student who wants to go to college should be barred by lack of money. That has long been a great American goal; I propose that we achieve it now.

Something is basically unequal about opportunity for higher education when a young person whose family earns more than $15,000 a year is nine times more likely to attend college than a young person whose family earns less than $3,000.

Something is basically wrong with Federal policy toward higher education when it has failed to correct this inequity, and when government programs spending $5.3 billion yearly have largely been disjointed, ill-directed and without a coherent long-range plan.

Something is wrong with our higher education policy when—on the threshold of a decade in which enrollments will increase almost 50%—not nearly enough attention is focused on the two-year community colleges so important to the careers of so many young people.

Something is wrong with higher education itself when curricula are often irrelevant, structure is often outmoded, when there is an imbalance between teaching and research and too often an indifference to innovation.

To help right these wrongs, and to spur reform and innovation throughout higher education in America today, I am sending to the Congress my proposed Higher Education Opportunity Act of 1970.

In this legislation, *I propose that we expand and revamp student aid so that it places more emphasis on helping low-income students than it does today.*

I propose to create the National Student Loan Association to enable all students to obtain government-guaranteed loans, increasing the pool of resources available for this purpose by over one billion dollars in its first year of operation, with increasing aid in future years.

I propose to create a Career Education Program funded at $100 million in fiscal 1972 to assist States and institutions in meeting the additional costs of starting new programs to teach critically-needed skills in community colleges and technical institutes.

I propose to establish a National Foundation for Higher Education to make grants to support excellence, innovation and reform in private and public institutions. In its first year, this would be funded at $200 million.

There is much to be proud of in our system of higher education. Twenty-five years ago, two Americans in ten of college age went to college; today, nearly five out of ten go on to college; by 1976, we expect seven out of ten to further their education beyond secondary school.

This system teaching seven million students now employs more than half a million instructors and professors and spends approximately $23 billion a year. In its most visible form, the end result of this system contributes strongly to the highest standard of living on earth, indeed the highest in history. One of the discoveries of economists in recent years is the extraordinary, in truth the dominant, role which *investment in human beings* plays in economic growth. But the more profound influence of education has been in the shaping of the American democracy and the quality of life of the American people.

The impressive record compiled by a dedicated educational community stands in contrast to some grave shortcomings in our post-secondary educational system in general and to the Federal share of it in particular.

—Federal student loan programs have helped millions to finance higher education; yet the available resources have never been focused on the neediest students.

—The rapidly rising cost of higher education has created serious financial problems for colleges, and especially threatens the stability of private institutions.

—Too many people have fallen prey to the myth that a four-year liberal arts diploma is essential to a full and rewarding life, whereas in fact other forms of post-secondary education—such as a two-year community college or technical training course—are far better suited to the interests of many young people.

—The turmoil on the Nation's campuses is a symbol of the urgent need for reform in curriculum, teaching, student participation, discipline and governance in our post-secondary institutions.

—The workings of the credit markets, particularly in periods of tight money, have hampered the ability of students to borrow for their education, even when those loans are guaranteed by the Federal Government.

—The Federal involvement in higher education has grown in a random and haphazard manner, failing to produce an agency that can support innovation and reform.

We are entering an era when concern for the quality of American life requires that we organize our programs and our policies in ways that enhance that quality and open opportunities for all.

No element of our national life is more worthy of our attention, our support and our concern than higher education. For no element has greater impact on the careers, the personal growth and the happiness of so many of our citizens. And no element is of greater importance in providing the knowledge and leadership on which the vitality of our democracy and the strength of our economy depends.

This Administration's program for higher education springs from several deep convictions:

—*Equal educational opportunity*, which has long been a goal, must now become a reality for every young person in the United States, whatever his economic circumstances.

—*Institutional autonomy and academic freedom* should be strengthened by Federal support, never threatened with Federal domination.

—*Individual student aid* should be given in ways that fulfill each person's capacity to choose the kind of quality education most suited to him, thereby making institutions more responsive to student needs.

—*Support should complement rather than supplant* additional and continuing help from *all* other sources.

—*Diversity must be encouraged*, both between institutions and within each institution.

—*Basic reforms* in institutional organization, business management, governance, instruction, and academic programs are long overdue.

STUDENT FINANCIAL AID: GRANTS AND SUBSIDIZED LOANS

Aside from veterans' programs and social security benefits, the Federal government provides aid to students through four large programs: the Educational Opportunity Grants, College Work-Study Grants, National Defense Student Loans and Guaranteed Student Loans. In fiscal 1970 these programs provided an estimated $577 million in Federal funds to a total of 1.6 million individual students. For fiscal 1971, I have recommended a 10% increase in these programs, to $633 million, for today's students must not be penalized while the process of reform goes on. But reform is needed.

Although designed to equalize educational opportunity, the programs of the past fail to aid large numbers of low-income students.

With the passage of this legislation, every low-income student entering an accredited college would be eligible for a combination of Federal grants and subsidized loans sufficient to give him the same ability to pay as a student from a family earning $10,000.

With the passage of this legislation, every qualified student would be able to augment his own resources with Federally-guaranteed loans, but Federal subsidies would be directed to students who need them most.

Under this plan, every student from a family below the $10,000 income level—nearly 40% of all students presently enrolled—would be eligible for Federal aid. When augmented by earnings, help from parents, market-rate loans or other public or private scholarship aid, this aid would be enough to assure him the education that he seeks.

The Secretary of Health, Education and Welfare would annually determine the formula that would most fairly allocate available Federal resources to qualified low-income students. Because subsidized loans multiply the available resources, and because the lowest-income students would receive more than those from families with incomes near $10,000, the effect would be a near-doubling of actual assistance available to most students with family incomes below $7500.

If all eligible students from families with an annual income of $4,500 had received grants and subsidized loans under the existing student aid programs, they *would have received* an average of *$215* each. Under our proposal, all eligible students from families of $4,500 annual income would be *guaranteed* a total of *$1300* each in grants and subsidized loans. This would constitute the financing floor; it will be supplemented by earnings, other scholarships and access to unsubsidized loans.

STUDENT FINANCIAL AID: LOANS

The Higher Education Opportunity Act of 1970 would strongly improve the ability of both educational and financial institutions to make student loans. Although most students today are eligible for Guaranteed Student Loans, many cannot obtain them. Because virtually all Guaranteed Loans are made by banks, a student is forced to assemble his financial aid package at two or more institutions—his bank and his college—and colleges are denied the ability to oversee the entire financial aid arrangements of their own students.

In order to provide the necessary liquidity in the student loan credit market, I am asking the Congress to charter a National Student Loan Association. This institution would play substantially the same role in student loans that the Federal National Mortgage Association plays in home loans.

The corporation would raise its initial capital through the sale of stock to foundations, colleges and financial institutions. It would issue its own securities—education bonds—which would be backed by a Federal guarantee. These securities would attract additional funds from sources that are not now participating in the student loan program.

The corporation would be able to buy and sell student loans made by qualified lenders—including colleges as well as financial institutions. This would serve to make more money available for the student loan program, and it would do so at no additional cost to the Government.

The Secretary of Health, Education, and Welfare, in consultation with the Secretary of the Treasury, would set an annual ceiling on these transactions. In fiscal 1972, I estimate that the N.S.L.A. would buy up to $2 billion in student loan paper.

Expanding credit in this manner would make it possible to terminate the payments now made to banks to induce them to make student loans in this tight money market. We would let the interest rates on these loans go to a market rate but the presence of the Federal guarantee would assure that this rate would result in a one to two percent interest reduction for each student. By removing the minimum repayment period we would not only enable students to pay back loans as quickly as they wish but we would make it possible for students to refinance their loans as soon as interest rates are lower.

We would continue to relieve all students of interest payments while they are in college but would defer rather than totally forgive those payments. This would be more than compensated for by extending the maximum repayment period from 10 to 20 years, easing the burden of repaying a student loan until the borrower is well out of school and earning a good income.

The added funds made available from these changes, which should exceed one-half billion dollars by 1975, would be redirected to aid for lower income students.

By increasing the maximum annual individual loan from $1500 to $2500, we would enhance the student's ability to avail himself of an education at any institution that will admit him.

Thus, the ability of all students to obtain loans would be increased, and the ability to borrow would be strongly increased for students from low-income families. The financial base of post-secondary education would be correspondingly strengthened. It is significant that this would be done at no cost to the Federal taxpayer.

CAREER EDUCATION

A traditional four-year college program is not suited to everyone. We should come to realize that a traditional diploma is not the exclusive symbol of an educated human being, and that "education" can be defined only in terms of the fulfillment, the enrichment and the wisdom that it brings to an individual. Our young people are not sheep to be regimented by the need for a certain type of status-bearing sheepskin.

Throughout this message, I use the term "college" to define all post-secondary education—including vocational schools, 4-year colleges, junior and community colleges, universities and graduate schools.

Any serious commitment to equal educational opportunity means a commitment to providing the right kind of education for an individual.

—A young person graduating from high school in one of the states that lacks an extensive public junior college system—more commonly and appropriately known as community colleges—today has little opportunity to avail himself of this immensely valuable but economical type of post-secondary education.

—A youth completing 12th grade in a city without an accessible technical institute is now deprived of a chance for many important kinds of training.

—A forty-year old woman with grown children who wants to return to school on a part-time basis, possibly to prepare for a new and rewarding career of her own, today may find no institution that meets her needs or may lack the means to pay for it.

We must act now to deal with these kinds of needs. Two-year community colleges and technical institutes hold great promise for giving the kind of education which leads to good jobs and also for filling national shortages in critical skill occupations.

Costs for these schools are relatively low, especially since there are few residential construction needs. A dollar spent on community colleges is probably spent as effectively as anywhere in the educational world.

These colleges, moreover, have helped many communities forge a new identity. They serve as a meeting ground for young and old, black and white, rich and poor, farmer and technician. They avoid the isolation, alienation and lack of reality that many young people find in multiversities or campuses far away from their own community.

At the same time, critical manpower shortages exist in the United States in many skilled occupational fields such as police and fire science, environmental technology and medical para-professionals. Community colleges and similar institutions have the potential to provide programs to train persons in these manpower-deficient fields. Special training like this typically costs more than general education and requires outside support.

Accordingly, I have proposed that Congress establish a Career Education Program, to be funded at $100 million in fiscal 1972.

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The purpose of this program is to assist States and colleges in meeting the additional costs of starting career education programs in critical skill areas in community and junior colleges and technical institutes. The Department of Health, Education and Welfare would provide formula grants to the States, to help them meet a large part of the costs of equipping and running such programs, in critical skill areas as defined by the Secretary of Labor.

THE NATIONAL FOUNDATION FOR HIGHER EDUCATION

One of the unique achievements of American higher education in the past century has been the standard of excellence that its leading institutions have set. The most serious threat posed by the present fiscal plight of higher education is the possible loss of that excellence.

But the crisis in higher education at this time is more than simply one of finances. It has to do with the uses to which the resources of higher education are put, as well as to the amount of those resources, and it is past time the Federal government acknowledged its own responsibility for bringing about, through the forms of support it has given and the conditions of that support, a serious distortion of the activities of our centers of academic excellence.

For three decades now the Federal government has been hiring universities to do work it wanted done. In far the greatest measure, this work has been in the national interest, and the nation is in the debt of those universities that have so brilliantly performed it. But the time has come for the Federal government to help academic communities to pursue excellence and reform in fields of their own choosing as well, and by means of their own choice.

Educational excellence includes the State college experimenting with dramatically different courses of study, the community college mounting an outstanding program of technical education, the predominantly black college educating future leaders, the university turning toward new programs in ecology or oceanography, education or public administration.

Educational excellence is intimately bound up with innovation and reform. It is a difficult concept, for two institutions with similar ideas may mysteriously result in one superb educational program and one educational dead end. It is an especially difficult concept for a Federal agency, which is expected to be even-handed in the distribution of its resources to all comers.

And yet, over the past two decades, the National Science Foundation has promoted excellence in American science, and the National Institutes of Health has promoted excellence in American medical research.

Outside of science, however, there is no substantial Federal source for assistance for an institution wishing to experiment or reform. There is a heightened need in American higher education for some source for such support.

To meet this need, I have proposed the creation by Congress of a National Foundation for Higher Education. It would have three principal purposes:

—To provide a source of funds for the support of excellence, new ideas and reform in higher education, which could be given out on the basis of the quality of the institutions and programs concerned.

—To strengthen colleges and universities or courses of instruction that play a uniquely valuable role in American higher education or that are faced with special difficulties.

—To provide an organization concerned, on the highest level, with the development of national policy in higher education.

There is a need to stimulate more efficient and less expensive administration, by better management of financial resources that can reduce capital investment needs, and the use of school facilities year-round. There is also need for better, more useful curricula, while developing a new dimension of adult education.

There is a need to give students far greater opportunities to explore career direction through linking education with the world of work.

There is a need to develop avenues for genuine and responsible student participation in the university. Colleges of today and tomorrow must increase communications and participation between the administration and students, between faculty and students, where they are presently faulty, weak or nonexistent.

The National Foundation for Higher Education would be organized with a semi-autonomous board and director appointed by the President. It would make grants to individual institutions, to States and communities, and to public and private agencies. Its grants would emphasize innovative programs and would be limited to five years each.

A number of small, categorical programs presently located in the Department of Health, Education and Welfare—would be transferred to the Foundation. In addition to the more than $50 million now being spent in those programs, $150 million would be requested for the Foundation in fiscal 1972. Beginning with this $200 million budget, this Foundation would have the capacity to make a major impact on American higher education.

From the earliest times higher education has been a special concern of the National Government.

A year ago I asserted two principles which would guide the relations of the Federal government to the students and faculties and institutions of higher education in the nation:

"First, that universities and colleges are places of excellence in which men are judged by achievement and merit in defined areas. . . . Second, . . . that violence or the threat of violence may never be permitted to influence the actions or judgments of the university community."

I stated then, and I repeat now, that while outside influences, such as the Federal government, can act in such a way as to threaten those principles, there is relatively little they can do to guarantee them. This is a matter not always understood. No one can be forced to be free. If a university community acts in such a way as to intimidate the free expression of opinion on the part of its own members, or free access to university functions, or free movement within the community, no outside force can do much about this. For to intervene to impose freedom, is by definition to suppress it.

For that reason I have repeatedly resisted efforts to attach detailed requirements on such matters as student discipline to programs of higher education. In the first place they won't work, and if they did work they would in that very process destroy what they nominally seek to preserve.

As we enter a new decade, we have a rare opportunity to review and reform the Federal role in post-secondary education. Most of the basic legislation that now defines the Federal role will expire in the next fifteen months. The easy approach would be simply to ask the Congress to extend these old programs. But the need for reform in higher education is so urgent, that I am asking the Congress for a thoroughgoing overhaul of Federal programs in higher education.

The Higher Education Opportunity Act of 1970 would accomplish this purpose. In addition, it would consolidate and modernize a number of other Federal programs that affect higher education. Through it, I propose to systematize and rationalize the Federal government's role in higher education for the first time.

In setting such an ambitious goal, we must also arouse the nation to a new awareness of its cost, and make clear that it must be borne by State, local and private sources as well as by Federal funds. In fiscal year 1972, I anticipate that the new programs authorized by the Higher Education Opportunity Act alone will cost $400 million more than the Federal government is presently spending for post-secondary education. If our goal is to be attained, there must be comparable growth in the investment of other public and private agencies.

The time has come for a renewed national commitment to post-secondary education and especially to its reform and revitalization. We must join with our creative and demanding young people to build a system of higher education worthy of the ideals of the people in it.

RICHARD NIXON.

THE WHITE HOUSE, *March 19, 1970*.

A NEW APPROACH FOR DRUG COVERAGE UNDER MEDICARE

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OBEY. Mr. Speaker, I am introducing legislation today to provide outpatient drug insurance for the elderly.

My bill will establish a comprehensive drug insurance program for the 19 million Americans covered by medicare, giving them further protection against the disastrous consequences of illness at a time when they must live on very limited economic resources.

Perhaps the most convincing evidence in support of a drug insurance program lies in the way prescription drug costs are distributed among the aged population and those under age 65.

If drug use were equally distributed among all age groups—that is, four to five prescriptions annually, at a cost of $3 to $4 per prescription—there might not be a significant problem. Unfortunately, this is not the case.

ELDERLY HIT HARD

The elderly comprise slightly less than 10 percent of our total population, yet they acquire 22 percent of all outpatient prescriptions, which in turn account for 25 percent of all outpatient prescription drug costs. Per capita drug expenditures for the aged are more than three times the per capita outlays for drugs purchased by those under 65.

And the aged with severe disabilities can expect per capita expenditures three times greater than those over 65 who are not severely disabled. In other words, annual drug bills totaling in the hundreds of dollars are not at all uncommon among many older Americans.

How are the drug expenditures of the elderly financed then? Is it really necessary to consider expansion of the medicare program in this direction?

The answer to the first question, Mr. Speaker, provides a clearcut answer to the second. According to the Task Force on Prescription Drugs, only about 2 percent of the prescription drug costs of the elderly were covered by private insurance. About 9 percent of the costs were accounted for by free drugs, either from a physician or through a welfare program. Another 8 percent of the costs were reduced through tax savings.

The remainder, about 80 percent of their total drug bill, represented out-of-pocket expenses for the elderly—of whom many millions live in abject poverty or perilously close to the poverty line. It seems to me that this tremendous burden, combined with the absence of any adequate protection against such expenses from other sources, is more than enough reason to warrant expansion of Medicare in this vital area.

STUDY AND MORE STUDY

Congress has not been unaware of this problem. Who has not heard pleas from older constituents for some means of easing the financial burden of their outpatient drug needs? In 1965, as the debate on Medicare came to a close, several Members of Congress pointed out the omission of any drug benefit. However, the administration at that time argued persuasively that the matter of drug coverage needed additional study. Congress was assured that such study would be completed rapidly and recommendations brought to the attention of the concerned Members.

Now, 5 years later, studies continue, desipte the fact that elaborate explorations of the subject of drug insurance have been completed.

In 1967, as part of the social security amendments, Congress directed the Secretary of Health, Education, and Welfare to study in depth the ways and means of expanding medicare to include outpatient drugs. He set up a Task Force on Prescription Drugs, which in the fall of 1968 and early part of 1969 issued background paper after background paper substantiating the need and feasibility of a drug insurance program.

The Secretary, in his report to Congress, again urged adoption of a drug insurance program. No sooner had this recommendation been made, however, than the new Secretary indicated that still another group would study the study. Hence, was created the Secretary's Committee to Review the Findings and Recommendations of the Department's Task Force on Prescription Drugs. Once again, older Americans would have to wait.

Last July the review committee, in its report to the Secretary, overwhelmingly urged the Department to "recommend an administration decision for an out-of-hospital drug insurance program under medicare." It is now many months later, and I believe Congress cannot afford to wait longer for "an administration decision."

Therefore, I am introducing a bill to establish a comprehensive drug insurance program for the 19 million Americans covered by medicare. The proposal contains many task force and review committee recommendations regarding the most effective and efficient manner of implementing a drug program. My bill also borrows some features of other drug insurance proposals that I feel are in the interest of sound and responsible Federal legislation in this area.

WHAT THE BILL DOES

Mr. Speaker, this legislation calls for financing the drug insurance program under the part A portion of medicare—the same part which now provides hospital and other health benefits for the aged. Benefit payments would be financed in the same way in which other part A benefits and social security cash benefits are now financed: from employee-employer payroll contributions.

I believe there are several important reasons for financing benefits in this way.

PART A FINANCING

First, putting a drug insurance program under part A will assure that nearly everybody over the age of 65 benefits from it.

Second, this method of financing means that an individual will pay for his drug insurance during working years, rather than later when his income is sharply reduced due to retirement.

Part A financing also makes it possible to spread benefit costs over a longer period of time and to reap some advantage from anticipated increases in the general level of earnings of those covered by social security.

To finance benefits under the supplementary part B portion of medicare, which I seriously considered, would have necessitated an immediate increase in the premium payments made jointly by participants in that program—from out of pocket—and by the Federal Government, from general revenues.

This legislation envisions a program to meet the major portion of the costs of medically needed drugs, including drugs requiring a prescription and those nonprescription drugs deemed to be of special lifesaving or lifesustaining value.

I have rejected the concept of a limited drug program that would cover only those drugs associated with chronic or certain other conditions. It struck me that efforts to restrict program scope in this fashion ignore the basic reason for an insurance program—the costs which burden the insured.

WHAT DRUGS ARE COVERED

Drugs covered by the program would be determined by a formulary committee, composed largely of physicians and supported by an advisory group with the technical staff to carry out its functions. Besides determining which drugs would be covered, the committee would aid the Secretary of Health, Education, and Welfare in arriving at the reasonable costs which the program would pay toward covered drugs.

Payments would be made directly to the vendors of pharmaceutical services, rather than to the beneficiaries, whose only obligation would involve a $1 copayment on each prescription filled at participating pharmacies. The vendor mechanism, in addition to simplifying administration of benefits, also spares the elderly the confusion and expense of initiating the many small claims which prescriptions would represent.

COST CONTROL

In arriving at the reasonable costs which the new program would pay, the formulary committee would take into account the acquisition costs of each drug to the ultimate dispenser. Differentials in costs resulting from differences in the class of dispenser or from regional variations would also be taken into account. In addition, the committee would weigh the acquisition costs of other drugs of the same established name, including the least costly, in determining the reasonable cost for a particular drug.

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Having arrived at an acquisition cost, the committee would establish for these prescription drugs a reasonable fee component that covers the costs of professional services and overhead and an amount representing a fair profit. In the case of nonprescription items, payments would be determined on the basis of acquisition costs plus billing allowance—to cover overhead—and an amount representing a fair profit.

I should like to point out that the legislation emphasizes provision of pharmaceutical services through established community and other normal pharmaceutical outlets. Payments would not be made to physicians dispensing drugs, except in emergencies or where community pharmaceutical services are not otherwise available.

Any drug insurance design looks very complex, and I regret that I cannot touch upon every aspect of my proposal here. I believe, however, that this bill contains the proper ingredients for an economically and medically feasible program—and a recipe for high performance administration of it.

I sincerely hope that an opportunity to evaluate this and other proposals will develop quickly, for I am convinced that Congress cannot postpone responsible action in this area for another 5 years. Either we must honor our commitment to older Americans, or explain why what is said to be needed and feasible is beyond the power of Congress to inaugurate.

XUM

Mr. Speaker, senior citizens do not want a handout. They helped build this country. All they ask is for an opportunity, after 50 years of property taxes, raising their children, and working hard, to be able to retire with the dignity they have a right to expect.

This proposal, or something like it, could help do just that.

The text of my bill follows:

H.R. 16562

A bill to amend title XVII of the Social Security Act to provide payment under part A thereof (the hospital insurance benefits program) for the cost of qualified drugs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 226(b)(1) of the Social Security Act is amended by striking out "and post-hospital home health services" and inserting in lieu thereof "post-hospital home health services, and qualified drugs".

SEC. 2. Section 1811 of the Social Security Act is amended by inserting "and qualified drugs" after "related post-hospital services".

SEC. 3. Section 1812(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) qualified drugs.".

SEC. 4. (a) Section 1813(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4) The amount payable for qualified drugs furnished an individual pursuant to any one prescription or certification and purchased by such individual at any one time shall be reduced by an amount equal to the applicable drug co-payment."

(b) Section 1813 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) (1) Subject to paragraph (2), the drug co-payment which shall be applicable for the purposes of subsection (a) (4) shall be $1.

"(2) The Secretary shall, between July 1 and October 1 of 1973, and of each year thereafter, determine and promulgate the drug co-payment which shall be applicable for the purposes of subsection (a) (4) during the succeeding calendar year.

Such co-payment shall be equal to $1 multiplied by the ratio of (A) the average per capita costs for qualified drugs during the calendar year preceding the year in which the determination is made to (B) the average per capita costs for qualified drugs during the calendar year 1971. Any amount so determined which is not a multiple of $0.10 shall be rounded to the nearest multiple of $0.10 (or, if it is midway between two such multiples, to the next higher multiple of $0.10). The average per capita costs for qualified drugs during any calendar year shall be determined by the Secretary on the basis of the best information available to him (at the time the determination is made) as to the amounts paid under this part for qualified drugs furnished during such year, by providers which have agreements in effect under section 1866, to individuals who are entitled to hospital insurance benefits under section 226, plus the amount which would have been so paid but for subsection (a) (4) of this section."

SEC. 5. Section 1814(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) with respect to drugs or biologicals furnished pursuant to a physician's prescription, such drugs or biologicals are qualified drugs as defined in section 1861(t) and the provider has such prescription in his possession, or, with respect to drugs or biologicals not requiring a physician's prescription but determined by the Formulary Committee to be of a lifesaving nature, such drug or biological is a qualified drug as so defined and the provider has in his possession a physician's certification that it is medically required by such individual."

SEC. 6. Section 1814 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"LIMITATION ON PAYMENT FOR QUALIFIED DRUGS

"(g) Payment may be made under this part for qualified drugs only when such drugs are dispensed by a pharmacy which is a provider of services for purposes of this part; except that payment under this part may be made for drugs dispensed by a physician where the Secretary determines that such drugs were required in an emergency or that there were no pharmaceutical services available from providers of services in the community, in which case the physician (under regulations prescribed by the Secretary) shall be regarded as a provider of services for purposes of this part with respect to the dispensing of such drugs."

SEC. 7. The second sentence of section 1816 (a) of the Social Security Act is amended by striking out clause (1) and inserting in lieu thereof the following: "(1) to provide consultative services to institutions, agencies, or establishments to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as providers of services for such purposes, and".

SEC. 8. Part A of title XVIII of the Social Security Act is further amended by adding at the end thereof the following new section:

"FORMULARY COMMITTEE

"SEC. 1818. (a) There is hereby established a Formulary Committee to consist of three officials, within the Department of Health, Education, and Welfare, who are of appropriate professional background and who are designated by the Secretary. At least two of such officials shall be physicians. The chairman of such committee shall be designated by the Secretary and shall serve for such period of time as the Scretary deems appropriate.

"(b) (1) It shall be the duty of the Formulary Committee, with the advice of the Formulary advisory group (established pursuant to subsection (c)), to—

"(A) determine which drugs and biologicals shall constitute qualified drugs for purposes of the benefits provided under section 1812(a) (4);

"(B) determine, with the approval of the Secretary, the allowable benefit of the various quantities, strengths, or dosage forms of any drug or biological determined by the Committee to constitute a qualified drug; and

"(C) publish and disseminate at least once each calendar year among physicians, pharmacists, and other interested persons, in accordance with directives of the Secretary, (i) an alphabetical list naming each drug or biological by its established name and such other information as the Secretary deems necessary, and (ii) an indexed representative listing of such trade or other names by which each such drug or biological is commonly known, together with the allowable benefit for various quantities, strengths, or dosage forms thereof, together with the names of the supplier of such drugs upon which the allowable benefit is based.

"(2) (A) Drugs and biologicals shall be determined to be qualified drugs only if they can legally be obtained by the user only pursuant to a prescription of a physician; except that the Formulary Committee may include certain drugs and biologicals not requiring such a prescription if it determines such drugs or biologicals to be of a lifesaving nature.

"(B) In the interest of orderly, economical, and equitable administration of the benefits provided under section 1812(a) (4), the Formulary Committee may, by regulation, provide that a drug or biological otherwise regarded as being a qualified drug shall not be so regarded when prescribed in unusual quantities.

"(C) (1) For the purpose of providing professional, technical, and scientific advice to the Formulary Committee with respect to its duties and functions, the Secretary shall appoint an advisory group to the Formulary Committee (hereafter in this section referred to as the 'advisory group'). The advisory group shall consist of seven members to be appointed by the Secretary. From time to time, the Secretary shall designate one of the members of the advisory group to serve as chairman thereof. The members shall be so selected that each represents one or more of the following national professional health organizations: An organization of physicians, an organization of pharmacists, an organization of persons concerned with public health, an organization of colleges of medicine, and an organization of colleges of pharmacy. Each member shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of six of the members first taking office shall expire, as designated by the Secretary at the time of appointment, two at the end of the first year, and two at the end of the second year, and two at the end of the third year, after the date of appointment. A member shall not be eligible to serve continuously for more than two terms.

"(2) Members of the advisory group, while attending meetings or conferences thereof or otherwise serving on business of the advisory group, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not exceeding $75 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The advisory group is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the advisory group such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the advisory group may require to carry out its functions."

SEC. 9. Section 1861(t) of the Social Security Act is amended—

(1) by inserting ", or as are approved by the Formulary Committee" after "for use in such hospital"; and

(2) by adding at the end thereof the following new sentence: "The term 'qualified drug' means a drug or biological which (1) can be self-administered, (2) is furnished to an individual when not an inpatient in a hospital or extended care facility pursuant to a physician's prescription or a physician's certification that it is a lifesaving drug which is medically required by such individual, (3) is included by strength and dosage forms among the drugs and biologicals approved by the Formulary Committee, and (4) is dispensed (except as provided by section 1814(g)) by a pharmacist from a licensed pharmacy."

SEC. 10. Section 1861(u) of the Social Security Act is amended by striking out "or home health agency" and inserting in lieu thereof "home health agency, or licensed pharmacy".

SEC. 11. Section 1861(v) of the Social Security Act is amended—

(1) by striking out "The reasonable cost" in the first sentence of paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (5), the reasonable cost"; and

(2) by adding at the end thereof the following new paragraph:

"(5)(A) With respect to any qualified drug, the reasonable cost shall be an amount determined for such drug by the Formulary Committee.

"(B) In determining the reasonable cost of a qualified drug, the Formulary Committee shall seek to approximate the anticipated charges to beneficiaries for the drug; and in establishing the reasonable cost the Formulary Committee shall consider the acquisition cost of the drug to the ultimate dispenser, plus (i) in the case of a licensed pharmacy, for a prescription-legend drug, a reasonable fee component to cover the costs of professional services and overhead incident to the dispensing of the drug and an amount representing a fair profit, and for any other qualified drug, a billing allowance and an amount representing fair profit, or (ii) in any other case, an allowance equal to the cost to the dispenser of providing the drug.

"(C) In any case where a qualified drug is available from more than one source, the Formulary Committee shall take into account in determining its reasonable cost under this subsection the acquisition cost of the least costly product (however named) which meets all applicable quality and other standards and requirements under the Federal Food, Drug, and Cosmetic Act. Whenever the costs of the least costly product sold to ultimate dispensers vary significantly among the various regions of the United States or among the ultimate dispensers thereof, the Formulary Committee may determine separate reasonable costs with respect to such drug for various regions or for various classes of its ultimate dispensers."

SEC. 12. Section 1861 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

"LICENSED PHARMACY

"(z) The term 'licensed pharmacy' (with respect to any qualified drug) means a pharmacy, or other establishment providing community pharmaceutical services, which is licensed as such under the laws of the State in which such drug is provided or otherwise dispensed in accordance with this title."

SEC. 13. (a) The first sentence of section 1866(a)(2)(A) of the Social Security Act is amended by striking out "and (ii)" and inserting in lieu thereof the fololwing: "(ii) the amount of any co-payment required pursuant to section 1813(a)(4), and (iii)".

(b) The second sentence of section 1866 (a)(2)(A) of such Act is amended by striking out "clause (ii)" and inserting in lieu thereof "clause (iii)".

SEC. 14. The amendments made by this Act shall apply with respect to items and services furnished on and after the first day of January, 1971.

PRESIDENTIAL SUPPORT FOR STUDENT LOAN ASSISTANCE

(Mr. FUQUA asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, President Nixon has announced that he will propose several measures that can have dramatic effects on Federal aid to college students. The most important of these measures is the establishment of a National Student Loan Association which will provide a marketplace for secondary notes from lending agencies. This marketplace will relieve the lender's liquidity problems and increase his effective rate of return at no additional cost to the student or the Federal Government.

There is rapidly developing a great need to solve the liquidity problem for lenders participating in the guaranteed student loan program. Without some relief lenders will soon reach the saturation point. It is doubtful if there is a true and legitimate secondary market for paper in this program. The essential ingredient to create a secondary market or "make money flow" is profit. The stimulus for a secondary market in the mortgage-lending industry is the fact that paper bought and sold represents large amounts of principal investment, and that amortization or repayment generally occurs immediately on a monthly basis. Under these circumstances, there is a sufficient profit margin to permit trading at reasonable discounts and servicing arrangements.

The Student Loan Association should provide the avenue through which these secondary notes can be assimilated. I fully support the proposals by the President, and I am hopeful that congressional action can be taken at an early date. The Special Committee on Education is presently considering H.R. 16098, the omnibus postsecondary education bill. This bill incorporates H.R. 15027, a measure that I introduced which outlines a program for instituting this "warehousing" concept for student loan paper. This bill has the enthusiastic support of university and college administrators and lending institutions. It would solve a critical financial need for literally hundreds of thousands of students across the Nation without being a financial burden on the Federal Treasury. It would be in the highest of public interest and service.

SPACE PROGRAM

(Mr. BEALL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. BEALL of Maryland. Mr. Speaker, President Nixon's far-sighted approach to the Nation's long-term problems and challenges enables him to look beyond this term of office—and even a possible second term—and to plan for America's future in 10 or 20 years.

His definition of goals for the U.S. space program exemplifies this far-sightedness. While the President has wisely decided that our immediate needs, particularly domestic, should take precedence right now, he has outlined a bold, imaginative program for future space conquests.

An editorial from the Atlanta Journal discusses the "golden opportunity" for space flights we will face in this decade, and the way the President's plans will "make the most of it." I insert this editorial in the RECORD at this point:

[From the Atlanta Journal, Mar. 10, 1970]

SPACE PROGRAM

President Nixon's delineation of this nation's space goals for this decade is both imaginative and realistic in terms of objectives and in terms of money.

Just as President Kennedy laid the foundation for our landings on the moon—landings which would have been accomplished after his normal two terms in office—so President Nixon is laying the foundation for spectacular achievements which are scheduled after his possible second term.

Such undertakings require long-range planning. That is why it is essential that the schedules be outlined now.

Having made our leap into space at this particular time, we are faced with a golden opportunity. Once every 175 years the planets Jupiter, Saturn, Uranus and Neptune are lined up in such a way that a single unmanned space vehicle from earth can visit each planet in turn while traveling a single arc. That unique time frame occurs during this decade.

President Nixon is seizing the opportunity and will make the most of it.

His plan calls for more moon landings, visits to the other planets of this solar system and, eventually, the manned exploration of Mars itself.

Most important of all objectives is the one aimed at developing nuclear power plants for space vehicles. This is the key to cutting the time of space journeys into a fraction of what they would be with ordinary rocket power. This is what is essential in getting a man on Mars or any other planet in the solar system.

It would not be surprising if, as we progress in our space endeavors, shortcuts heave into view which could alter or reduce the time required for reaching some objectives.

The President's definition of goals should revitalize our space effort. The uncertainty which has surrounded it for so many months

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could only have a deleterious effect upon it and upon those involved in it.

Now the uncertainty is gone. Mr. Nixon has spelled out what we shall do during the 1970s and has projected at least one effort for the 1980s.

All that remains now is for us to get on with it.

CONGRESSIONAL QUARTERLY RESPONSE TOTALLY INADEQUATE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. WILLIAMS. Mr. Speaker, on Thursday, March 5, I called attention of this body to my concern that the private, for-profit, Washington publication, Congressional Quarterly, was less objective than it professed to be in assessing the manner in which Members of Congress support, or fail to support, President Nixon's administrative desires and efforts.

I offered considerable documentation for my concern as I recited my difficulties in obtaining certain necessary material or information from Congressional Quarterly, even for a fee.

A few days later, I received from Mr. Richard M. Billings, executive editor of Congressional Quarterly, a testy-toned letter of resentful responses together with a copy of a 5-page "statement" which Mr. Billings had issued to the wire services in response to my public, accurate criticism of Congressional Quarterly.

In reply, dated March 13, I advised Mr. Billings that his letter and statement were "totally inadequate"; that they added "nothing to the basic problem" which his publication "has created for the White House, the Congress, and, in turn, for itself." I advised him that his letter and statement reflected "an attitude and posture of something less than the exalted, infallible, professional character and stature" which he claimed for his publication.

In citing just one reason for my position, I advised him as follows:

> I would like to call your attention to paragraph 2, page 3, of your statement which reads:
>
> The President's position is determined by CQ at the time of each vote and is published in the next *Weekly Report* along with the breakdown of the vote. On occasion, it is brought to CQ's attention, mainly by its own editors and writers, that the President had taken a position on a vote on which CQ originally had given him no position. In such cases, the President's position is noted in time to be included in the voting study and in the voting captions appearing in the annual CQ Almanac.
>
> Obviously, your organization does not know what it is doing as when I talked to your Associate Editor, Mr. Marlyn Aycock, in an effort to determine what CQ thought was the President's position on the 47 so-called Nixon-issue Roll Calls, he informed me that I could get this information by reviewing the back copies of your *Weekly Report*. However, when, for a fee, I receive CQ's information on the President's position on the 47 so-called Nixon-issue Roll Calls, I found 7 instances in which the text of the original material published in your *Weekly Report* had 'the President did not take a position on this vote' crossed out, and handwritten in its place was 'a "yea" (or nay) was a vote supporting the President's position.' Obviously, I could not have gotten this information by reviewing your *Weekly Report* as suggested by your Mr. Aycock.
>
> "Also, the research staff of the Republican Congressional Committee had developed the information that on 12 of the 47 Roll Calls selected by CQ the President had not taken a position. Further, correspondence that I have had with members of the White House staff states that it would have been impossible for the President to have taken any position on H.R. 6778, the One Bank Holding Company bill as the President was not even aware of the amendments made to the bill on the floor of the House until after the final vote was taken on this bill, and that there was no Presidential statement issued on such things as H.R. 554, School Milk, on which only two negative votes were cast, or on Roll Call #64 on the Amendment to H.R. 11612. The same is true on a number of the other so-called 47 Nixon-issue votes selected by CQ on which to rate Members of Presidential Support."

Mr. Speaker, since bringing this problem of Congressional Quarterly to the attention of my colleagues, I have found that I have said some things which, in their opinion, have long needed saying. Based on that information which, incidentally, came from both sides of the aisle, I was able to advise Mr. Billings as follows:

> I know that complaints regarding your publication are not new, although, perhaps they may be more numerous since your recent internal problems. I have also learned that few, if any, people in or about the Congress take your indices seriously nor does anyone of the White House whom I have been able to contact.
>
> Also, I have learned neither the White House nor the Congress maintains a public index of Congressional support of the President. For to do so would, at best, require arbitrary, tenuous, subjective judgments of all legislative votes, and not just a few votes arbitrarily selected by CQ.

Having made my point which, at once, has been the point of many of my colleagues, I believe it sufficient, at least for the moment, to suggest: So much for Congressional Quarterly.

THE PRESIDENT'S PROGRAMS

(Mr. HANSEN of Idaho asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, it is a significant tribute to President Nixon that although the Democrats are trying to discredit his programs—sometimes by criticizing them, and at other times trying to take the credit for them—the American people will not be fooled, and the credit remains where it belongs. Thus public opinion rallies strongly behind the President's efforts, both in foreign and domestic areas.

A recent column by Roscoe and Geoffrey Drummond explains how the Democrats have tried to turn the President's far-reaching plans for welfare reform against him, but how this "toothless trap" has utterly failed. I insert this editorial in the RECORD:

DEMOCRATS SET TOOTHLESS TRAP

(By Roscoe and Geoffrey Drummond)

> WASHINGTON.—The question is why—why are the congressional Democrats so substantially doing Richard Nixon's bidding?
>
> On the crucial issue no modern President has gained such command of a Congress controlled by the opposite party as Mr. Nixon is achieving.
>
> The most vivid example of Nixon effectiveness with the Democratic Congress—and with the country—is what is happening to his sweeping innovative reform of welfare, long overdue but never near to being undertaken by the Democrats.
>
> Mr. Nixon set up his proposals last October and every evidence suggested the Democrats would let them lie inert indefinitely.
>
> But the administration began prodding gently, tactfully, then more bluntly and things began to change. Ways and Means Committee chairman, the powerful Wilbur Mills (D-Ark.), moved from hostility to open-mindedness to active support and now nearly the whole Democratic party is saying that Richard Nixon's big step toward a guaranteed annual income is what they wanted all along.
>
> Some leading Democrats are now mesmerizing themselves into believing that their decision to support the administration's welfare reform is a shrewd political coup for them. They suggest that they are "trapping" Richard Nixon by giving him his own welfare package—this on the theory that it will prove perilously unpopular with his conservative supporters and will hurt him.
>
> Not true and it began to be proved not true when the Ways and Means Committee voted, 21 to 3, to report the bill to the House. How many Republicans, including conservative Republicans, voted against it? None. Only conservative Democrats—three in all—voted against it. It isn't Nixon who is "trapped."
>
> The Democrats are not a little surprised at what they're doing. They are surprised because:
>
> (1) They had vastly misjudged that man Nixon whom they thought to be so mired in the past that he couldn't possibly outsmart them. It was their unchanged image of him which was mired in the past.
>
> (2) They couldn't imagine Nixon offering such a break-with-the-past, humane welfare program, particularly since they had so persistently neglected to do anything about it themselves.
>
> (3) Finally, the Democrats and also many of Mr. Nixon's admirers simply didn't believe that the President had or could acquire the talent for persuasive advocacy to rally public opinion behind him on two such controversial matters as Vietnam and welfare.
>
> Mr. Nixon has now done it twice.
>
> In one speech, he turned the country around on Vietnam at a time when opinion was rushing pell-mell against him.
>
> Over the opposition of organized labor, he created decisive support in the nation and in Congress for radical welfare reform.
>
> This is quite an achievement legislatively, politically and personally.

PROSPERITY: EDUCATION, POLLUTION, AND UNEMPLOYMENT DEPRESSION

(Mr. MADDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. MADDEN. Mr. Speaker, the average American of the year 1970 is not enjoying the economic happiness and contentment that a rich nation can afford to provide for its citizens.

The newspaper, television, and radio almost daily are sending into the homes startling declarations that living costs are rising monthly, taxes are increasing, house construction in 1969 was reduced 750,000 units, interest rates are rising, educational budgets have been

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curtailed, pension and retirement funds jeopardized, hospital and medical costs soaring, veterans' problems unsolved, consumers defrauded, unemployment increasing, and so forth.

I firmly believe that the news media should start reminding the American public and especially the younger generation that it is not too late in this year 1970 to relate facts concerning similar economic reverses that have taken place at intervals in our past history.

Older folks will remember that the devastating depression of the early 1930's was brought on in the 1920 period through our Federal Government ignoring the necessity to curb high interest rates, promote industry, housing, homeownership, and lower taxes, and make it easier for millions of American citizens to have more take-home pay and promote public buying power.

The recovery of the United States after devastating depression in the early 1930's was an economic miracle. The Federal Government under President Franklin Delano Roosevelt inaugurated programs of legislation which included social security, Wagner Labor Act, home loan, Federal work projects, medicare, housing, industrial expansion, restoring farm prosperity, and the reestablishment of public buying power.

THREE DEPRESSIONS IN EISENHOWER'S 8-YEAR TERM

In 1953, the first year of the Eisenhower-Nixon administration, under the economic leadership of Secretary of Treasury George M. Humphrey, the banking interests immediately proceeded to raise interest three times in the first 22 months of that administration. Other executive legislative policies were inaugurated that tended to curb the great period of recovery and expansion which we enjoyed for almost 20 years.

During the Eisenhower-Nixon administrations in the 1950's we had two major and one minor depression in 8 years.

When the Nixon administration took office 1 year ago last January, interest rates again began to expand, and necessary Federal projects were curbed, including a 75-percent restriction on all Federal construction. The present administration's policies have not curbed inflation but the high cost of living has expanded. Last February the Bureau of Labor Statistics reported that housing starts for January declined 6.5 percent in 2 months. New building permits in January declined 23 percent from the previous month. This drop in housing construction was the largest on record. Since President Nixon took office in January 1969, house building starts have dropped some 40 percent. After only 1 year in power the Republican Party has succeeded in rolling back the level of housing construction to that of 1946 when our population was only 140 million compared to 200 million in 1970. The Nixon administration's housing record has been a national disaster.

Last December the Congress, both Senate and House, by a substantial majority, passed an economic bill which, among other things, gave the President power to lower interest rates by 2½%. Mr. Speaker, this legislation was enacted into law and signed by the President. It is now lying dormant without any action from the executive department for almost 4 months.

1 PERCENT REDUCTION OF INTEREST

A family buying a $25,000 home with a 30-year mortgage at 8½ percent would pay over the life of the mortgage $69,562.80. If the interest rate is reduced by 1 percent to 7½ percent on the same $25,000 home with the same 30-year mortgage, the family would pay over the life of the mortgage $62,931.60, saving $6,631.20. A 2-percent interest reduction on a similar transaction would amount to over a $13,000 saving on the price of a $25,000 home with a 30-year mortgage.

The Nixon administration, in trying to fight inflation with high interest rates, is just as illogical as fighting a fire with gasoline instead of water. Higher interest increases the price of groceries, clothing, and other family necessities.

President Nixon must change his course as following the economic practices of large banking interests is an unfortunate repetition of what happened to this Nation's economy during the 1950 period and also brought on the devastating depression in the early 1930's.

TAX REFORM

The 91st Congress has been the first Congress in over 30 years to pass a tax reform bill. For a number of years when the Ways and Means Committee appeared before the Rules Committee I was the lone voice who continually protested their legislation because they did not submit provisions to close the fabulous tax loopholes extended to big oil companies, foundations, industries, big business, and so forth.

TAX FREE OIL MILLIONS

Americans with family incomes below the $3,000 poverty level had to pay Uncle Sam $1.5 billion in income taxes in 1967. Former Secretary of Treasury Joseph Barr, a fellow Hoosier, testified in January of 1968 that 21 persons with incomes of over $1 million paid no taxes at all, while 155 with annual income of over $200,000 escaped Federal taxes entirely. Big oil corporations enjoying the 27½-percent oil depletion bonanza, plus other exemptions in credits on both foreign and domestic oil practically paid no taxes considering their huge profits.

The Atlantic Oil Co. from the years 1962 to 1966, with annual income ranging from $61 million to approximately $127 million in 1966, paid no taxes whatsoever during that period

In 1964, Standard Oil of New Jersey, with a net income of approximately $1,630 million paid 1.7 percent tax to the Federal Government.

Some companies are not protected by huge high-priced lobbies like big oil. As an example, three coal companies, the Consolidated Coal Co., Pittston Coal Co., and Island Creek Coal Co. have paid annual taxes on their gross profits in figures ranging between 18 and 28 percent annually.

Other less publicized tax loopholes are:

The 7-percent tax credit for new machinery involving $2.3 billion;

The accelerated depletion on new buildings worth $500 million annually to its beneficiaries;

The corporate surtax exemption of $1.8 billion;

Tax-free county and municipal bonds which cost the United States $1.8 billion in revenue; and

The estate tax which will cost the Government approximately $2.5 billion annually.

I could name other tax loopholes less spectacular which are revenue losers for Uncle Sam.

The tax reform bill which was enacted in this session of Congress was merely a "slap on the wrist" to some of the fantastic loopholes similar to the ones mentioned herein.

In the House of Representatives we succeeded in cutting the 27½-percent oil depletion to 20 percent but the Senate, in its generosity to the oil lobby increased this figure to 22 percent.

The tax reform bill passed last year did legislate favorably in behalf of Federal tax reduction for the small taxpayer. To mention a few benefits—the tax reform bill raised the personal exemption for 1970 from $600 to $650; 1971, $700; 1972, $750; and for 1973 and thereafter—also granted $1,100 low-income allowance to be added to exemptions to benefit poor families—tax reductions for single persons—and 15 percent increase in social security; increase in standard deduction to 13 percent with a $1,500 ceiling for 1971; 14 percent with a $2,000 ceiling for 1974; and 15 percent with a $2,000 ceiling for 1973 and thereafter, and other tax concessions.

ANTIPOLLUTION LEGISLATION

Mr. Speaker, every couple of years at election time some officials and candidates suddenly awaken to the fact that our Nation is confronted with a serious water-and-air pollution menace. Some Members of Congress, including myself, for the last 15 years have been sponsoring and supporting legislation to bring about the elimination of the pollution menace to the health and well-being of our people.

In 1956, 14 years ago, I was one of the Members who supported and sponsored legislation to clean up our waters and also to eliminate smog and air pollution in the metropolitan areas. In three different sessions the Congress has enacted legislation which has expanded and made more effective steps to solve the complex pollution problem. We have made remarkable progress. Great advances have been made in the research department of the Federal Government and other institutions in discovering more modern scientific methods to eliminate pollution at a much lower cost to the Government and industry than existed when the first Federal pollution legislation was enacted. With cooperation and unity between Government, industry and municipalities there is no question in my mind that in the not far distant future this great water-and-air pollution problem will be completely solved to the satisfaction of the American people.

The Clean Water Restoration Act of 1966 provided for the expenditure of:

$150 million for the fiscal year ending June 30, 1967; $450 million for the fiscal year ending June 30, 1968; $700 million for the fiscal year ending June 30, 1969; $1 billion for the fiscal year ending June 30, 1970; and $1.25 billion for the fiscal year ending June 30, 1971.

EFFORT TO REDUCE WATER POLLUTION BUDGET BY $780 MILLION

Last August President Nixon, in his budget, recommended only $214 million of the $1 billion which the 1966 Federal law provided for the year 1970. After an extended debate on the floor of the House, this sum was increased for the year 1970 to $800 million.

A Federal Water Pollution Control Act was passed by Congress in 1960 only to be vetoed by President Eisenhower. It was again passed by the Congress and enacted under President Kennedy in 1961 and expanded under President Johnson in 1966.

FARM SUBSIDY BONANZA

Mr. Speaker, in a few weeks we will have before the Rules Committee and on the floor of the House the annual farm bill.

Two years ago when the House Agriculture Committee appeared before the Rules Committee to secure a rule on the 1968 farm subsidy bill, I was practically the lone voice who protested and opposed the fabulous $3.5 billion Federal aid farm subsidy bonanza. Like many programs where billions are involved to distribute as a subsidy, it generally develops into an operation where the wealthy and powerful recipients gradually accumulate the major share of the money.

In 1968, I opposed this fabulous farm subsidy and repeated the opposition in 1969 when the House Agriculture Committee appeared before the Rules Committee and on the floor of the House with their annual farm bill.

The theory of this $3.5 billion Federal rural subsidy was to pay individual farmers and also corporate farms for allowing acres to remain idle to prevent surpluses and thus indirectly institute price control.

In the Rules Committee hearings of 1968 and 1969, I presented for the Members' inspection a 1,250-page volume from the Senate hearings which listed only the farmers who were receiving from this subsidy sums over $5,000. Had the farmers who received under $5,000 been listed it probably would have required several volumes.

Mr. Speaker, I wish to hereby insert, verbatim, paragraphs from the speech I made on the floor of the House July 30, 1968, opposing these fabulous sums to large farm operations to be repaid for idle land under the multibillion dollar Government subsidy.

I quote from my speech in the CONGRESSIONAL RECORD of July 30, 1968:

> Mr. Speaker, of the various counties listed over the Nation several southern and western counties received payments between $16 and $20 million annually. Remember, I am referring to counties, not States. A half dozen individual farm corporations received over $1 million, each, but I believe the champion recipient of all was J. G. Boswell Co., Litchfield Park, Ariz., Kings County, Calif., who received $4,091,818 from the American taxpayers in the year 1967 for its idle land. Close behind was Rancho San Antonio, Gila Bend, Ariz., Fresno County, Calif., who received $2,863,668 in the year 1967. The runner-up was Giffen Farms, Inc., of Huron, Calif., who received $2,397,073 from the American taxpayers in the year 1966 for its idle land.
>
> In the CONGRESSIONAL RECORD, volume 114, part 17, page 22191, I listed the names and addresses of 25 large-farm recipients whose individual annual payments run above $442,327, I also submitted on that page of the CONGRESSIONAL RECORD where 10 farming operations received a total of $14,785,760 which is more than the total of $13,409,756 received by all farmers in 10 States—twenty-five farming operations received a total of $22,766,943 which is more than the total of $17,610,650 received by all farmers in 11 States.
>
> I do hope that every Member of the House will get a copy of the Senate hearings, first session, 90th Congress, listing the names, addresses, and amounts of all annual recipients over $5,000 by reason of this farm subsidy. In 1966 the total cost of the taxpayers was $3,281,621,070. The year 1967 was approximately a duplication of the previous years' subsidy. The House of Representatives is today called upon to extend this relief bonanza for the year 1970, which, if passed by this House, will cost the American taxpayers approximately another $3½ billion during 1970.
>
> I hope that the Members will refer to the CONGRESSIONAL RECORD, volume 114, part 17, page 22702, where I got permission to include an editorial from the Chicago Tribune, entitled "A Mississippi Farmer Squawks." This editorial outlined a protest by one Roy Flowers, a wealthy Mississippi cotton and soybean grower, who was ordered to pay $50,000 in back wages to more than 200 Negro tenants, under the Fair Labor Standards Act. The editorial states that Flowers makes more than $1 million per year from his various plantation enterprises. He failed to pay minimum wages to his field workers. Some were under 16 years of age. According to one suit, the tenants were charged $70 per month for houses without inside plumbing and water, but with holes in ceilings and walls, when a "reasonable cost" would have been $5 per month.
>
> The Department of Agriculture lists Flowers as having received $210,332 in Government subsidies for not planting crops, presumably cotton, last year. In 1966 he received $162,657 in Federal cash.
>
> I have received many letters during the last few weeks from all over the United States protesting the extension of this subsidy to the wealthy and corporate farmers of the Nation.
>
> In an article in Harpers magazine recently, Mr. John Fischer pointed out the following:
>
> When you offer a bribe for every acre taken out of cultivation, the men with the most acres naturally get the most money—in many cases hundreds of thousands of dollars every year. Typically they use their loot in two ways: (1) to buy more land from their smaller neighbors; and (2) to invest in tractors, cotton-pickers, fertilizer, weed-killer, six-row cultivators, and all the other devices of modern technology.
>
> This bonanza program which the House Agriculture Committee will endeavor to resell our Members this year has forced over three-quarters of a million farmers off the land and they in turn have moved in the urban areas to seek employment.

EDUCATION

During my early years in Congress, especially in the 1940's, it was difficult to convince the majority of the older Members that it was highly necessary for the Federal Government to help finance education in the congested metropolitan cities of the country. Members in those days did not realize that within 20 years, about 71 percent of our Nation's population would be living in urban areas. The local urban communities were unable to take care of the extra tax burden of educating millions of additional children who poured into the city schools. Relatively few Members of Congress from more rural areas would support legislation to educate millions of neglected urban children.

As a member of the House Education and Labor Committee in the 80th Congress, over 20 years ago, I was one of the leaders in the battle for urban Federal school aid and we have won magnificent victories in the intervening years.

Mr. Speaker, I incorporate with my remarks a speech I made on the floor of the House on March 24, 1965, when legislation was being presented for Federal aid for American schoolchildren.

> Mr. Speaker, I wish to commend the Committee the Committee on Education and Labor for bringing this comprehensive education bill to the floor of the House. If similar legislation were enacted 15 or 20 years ago millions of American youth who are now unemployed, some living in poverty or following a life of idleness or crime would now be on their way to and enjoy American abundance and prosperity. We are today listening to the same unfair statements of what is going to occur if the Federal Government participates, financially in the education of the youth of America.
>
> Similar school legislation was sent up by President Kennedy in 1963. President Johnson is 100 percent behind the bill H.R. 2362 now under debate.
>
> It is a very simple bill. There is nothing complicated about it. This bill will aid in the fundamental education of millions of American youth in this Nation who are being denied the opportunity of an education.
>
> Do not be misled. There are many special privileged lobbies working against this legislation. And let me address the newer Members on both sides of the aisle. I represent a district that had a population of 340,000 when I came to Congress in 1943 and today we have a population of approximately 600,000. There are thousands and thousands of working men and women who have come from all sections of the country, especially during World War II, to work in the defense plants and the steel mills of my district. I remember, I think it was about 10 years ago, we had on this floor a school construction bill that was defeated by I think 4 votes. Everybody seemed to be in favor of that school construction bill to help communities that were having great difficulty in building schools for children who were wedged in crowded schoolhouses; this condition existed not only in my district but in many other urban areas in the Nation. Millions over the Nation were very happy that something was going to be done to relieve the critical school situation. After a couple of days of debate, four very distinguished leaders of this House gathered back behind the rail, and in about 5 minutes a motion came down to strike the enacting clause of that bill; and by 4 votes the school construction bill was defeated.
>
> That motion succeeded in throwing out the window—defeating—an education bill which would have benefited millions of schoolchildren over the last 10 or 12 years. It took millions of dollars out of the pockets of the working men and women in my district, the same as it did in Chicago, in Pittsburgh, in Philadelphia, and other places.
>
> Why, Mr. Speaker, there were many insurance companies, loan companies, and bank lobbies, pressuring Congress to defeat that bill, and to get in on the financial bonanza.

The financial wizards organized a program to loan cities and towns millions at high interest to build schools. Today, there are school buildings in my district thrown together at prices, perhaps, three times what they cost to build. Local taxpayers are paying on a 30- to 35-year bond issue at a high rate of interest—taxpayers in my district—and over the Nation will be taxed for high interest, 35-year school bonds, during the major part of their adult life. The insurance companies and the banks will collect revenue throughout America at high rates of interest for the next 35 years thanks to almost the same identical pressure groups and propagandists who are opposing this school legislation.

Further, Mr. Speaker, most people in America know what is going on. They are watching this bill. Indiana, my friends, has elected two new Senators since the day when that education school construction bill was tossed out the window. They are for this bill that we have pending on this floor of the House today. They are going to support it. Why? Because under the leadership of Presidents Kennedy and Johnson, millions know the true facts on our school crisis.

Mr. Speaker, there has been a change over America. The people are beginning to find out that this is more or less a defense measure.

Mr. Speaker, several years ago I called up General Hershey of the Federal selective service and requested a tabulated breakdown by States of boys who were rejected in the draft on account of educational deficiencies. The startling figures are these. Some States have a good record. About half of the States have a poor record and about 14 or 15 of the States have from 25 percent to 35 percent, and some as high as 45 percent of the boys that were taken in the draft under the selective service were turned back on account of educational deficiencies.

Mr. Speaker, I am incorporating the above remarks from my speech supporting Federal aid to education legislation of 5 years ago so the public can be reminded of the great progress we have made toward convincing the American people of the necessity for Federal education help in the congested metropolitan areas.

Mr. Speaker, the purpose of my taking the floor of the House today is to remind some of the younger Members of Congress and the American public that our fight during the last quarter of a century to enact long-delayed legislation for the "forgotten people" has been a difficult one.

Time does not permit a review of the highlights of our congressional legislative progress over the last quarter of a century. It has been a long and tedious fight to enact legislation for more employment, higher wages, working conditions, tax reform, health and welfare and educational programs, farm prosperity, antipollution, and many other problems.

In the remaining days of this year of the 91st Congress, I do hope we can solve some of the newer problems, both domestic and international, confronting our country. It is the earnest hope of everyone that the 92d Congress, which will convene next January, will not have to face so many of the difficult economic and international crises with which we have been confronted during the last dozen years.

INJURIOUS TEXTILE IMPORTS MUST BE CUT

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I would like to inform the Members of the House of Representatives that at 11:45 a.m. today the Amalgamated Clothing Workers of America began a 2-hour demonstration at the Chicago Civic Center Plaza in order to protest the flood of imports of apparel and textiles from foreign countries, especially Japan.

It is estimated that over 7,000 people are at the demonstration in Chicago to protest the Japanese goods that are coming into the United States. This problem has become so serious that the Amalgamated Clothing Workers are staging this work stoppage today in order to focus attention on the large-scale unemployment and destruction of the apparel industry that are being threatened by the rising tide of imports.

In addition to the 1-day work stoppage in Chicago, demonstrations are also taking place today in Baltimore, Boston, Providence, Rochester, Philadelphia, Cleveland, Atlanta, Knoxville, Los Angeles, and New York.

Right now, in these major centers of our textile and clothing industry some 400,000 members of the Amalgamated Clothing Workers of America are meeting to discuss the flood of imports, particularly from Japan, and also to protest not only the shortening of the workweek to 4 days, but also the retrenchment and loss of jobs and the actual closing of factories because of foreign cheap-labor imports.

This nationwide demonstration is dramatizing the Amalgamated Clothing Workers' demand that Japan sign a comprehensive international agreement regulating the flow of imports. This demand is being made in order to protect the jobs and security of hundreds of thousands of American workers. Unfortunately, despite many efforts over the past year, the United States has not succeeded in winning such an agreement.

The time has come, therefore, for the Congress to take a very forthright stand on the question of textile imports. Textile and apparel imports have increased to such an alarming degree that Congress can put off action no longer. The textile and apparel industry employ more than 2½ million people and their continuing employment is essential for maintaining the economic health of the United States. Regulation of imports of textiles and apparel appears to be the only solution.

Mr. Speaker, consider the imports of cotton textiles and manmade fiber textiles. In 1968, we imported 1,648,000,000 square yards of cotton textiles—much of it from Japan. In 1969, the total rose to 1,654,000,000 square yards—despite a disastrous dock strike. Compare it in another way. In January 1969, we imported 69,000,000 square yards of cotton textiles; but in January 1970, this total rose to 150,000,000 square yards.

In manmade fibers the position is even worse. In 1968, we imported 1,453,000,000 square yards of textile goods made of artificial fibers. The total rose to 1,783,000,000 square yards in 1969. Now look at the situation as of this year. In January 1969, the import total was 89,000,000 square yards. But in January 1970, the figure had risen to 188,000,000 square yards. This means that this is the largest monthly increase in the last 6 years—in fact, it constitutes a record all-time high import figure.

Is there any wonder that our clothing workers are on a shortened workweek? How can one justify and evaluate an increase of all textile imports from 163,000,000 square yards in January 1969 to 350,000,000 square yards in January 1970? No wonder our textile and clothing workers feel that the United States is the dumping ground for all excess textile production of all low-wage countries.

Mr. Speaker, consider the employment situation in our textile and clothing industries.

In the textile mill product industry total employment was 1,000,000 in January 1969. By the end of December 1969, that figure had dropped to 982,000 jobs. In other words, 18,000 positions were eliminated in 1969 due to lack of working opportunity or due to the elimination of work opportunity, due most of all to low-wage imports. What is the position now? By the end of February 1970—total employment was down to 967,000—or a loss of 15,000 more jobs in just 2 months. Undoubtedly this loss is due to the excessive import flood of cotton textiles as mentioned above. In scarcely a year 33,000 jobs were eliminated in the cotton textile field. And this is despite the fact that there is a voluntary long-term cotton agreement in existence under which cotton textile imports would be restricted. What is going to happen when this voluntary agreement expires in September 1970?

What has happened in the apparel industry? In January 1969, total employment, according to census figures, stood at 1,424,000. But by December 1969, that total had dropped to 1,417,000 with a net loss of 7,000 jobs in 1 year. Now look at the position 2 months later. By the end of February 1970, jobs in this vital industry had dropped to 1,407,000. In scarcely a year 17,000 jobs were eliminated. The reason is not far to find. It is due to the flood of imports earlier this year as I have already reported.

Mr. Speaker, I mention these detailed figures because I am vitally concerned about this import situation. The Amalgamated Clothing Workers are protesting today by a 1-day work stoppage. Is this to be symptomatic of prolonged or permanent stoppage due to occur because of increasing textile imports? The American Textile Manufacturers Institute has warned us that during 1970 we will have to face an import level of more than 2,500,000,000 square yards of textiles. This will constitute around 10 percent of our domestic consumption. This will also displace 190,000 American textile workers with an annual income of around $1 billion. I have shown the trend

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in the loss of jobs—will this trend be accelerated? Or even allowed?

President Nixon announced and promised to do something about the escalating textile problem. To date nothing has been done.

Although Secretary Stans of the Department of Commerce visited all the major textile and apparel exporting countries to ask for voluntary restrictions on their part, he has achieved no results. Just this week the Japanese, the major offender and profit maker at the expense of the American textile worker, announced their rejection of a comprehensive approach to the whole textile import program. Their excuse was that overall the American textile industry has not proved injury from Japanese imports; hence they cannot reduce exports, cannot consider discussions on a voluntary basis and will institute retaliatory programs should we impose quotas on textile imports.

The time has come for Congress to step in on behalf of the American working men. I shall support the import quota plan when it comes up for discussion in Congress in the near future, and urge that my colleagues do likewise in order to save the American apparel and textile industry.

LOWER GRAIN PRICES—A DISASTER

(Mr. MELCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, I have read with interest the statement in the Congressional Record of Congressman Paul Findley, of Illinois, reacting to my recent remarks about the public statements being made by members of Secretary of Agriculture Clifford Hardin's official family.

I welcome the remarks of the distinguished Representative as an apologist for Secretary Hardin and his appointees. It is timely to have a dialog in the House of Representatives because of the vital stake of both farmers and consumers in the agricultural policies being pursued by the administration.

The articulate Congressman from Illinois is a former member of the House Agriculture Committee and is an appropriate and authoritative spokesman and exponent of the views and policies being pursued by the present administrators at the Department of Agriculture. I welcome the opportunity to comment on those policies, for they can bring disaster to the farmers of America.

The Congressman has cited segments of agriculture with improved income, and that is well. Income has been up notably for eggs, milk, and livestock producers recently, not because they slashed their prices and increased their volume of sales, but because their prices went up as a result of stabilized production with growing domestic demand.

The point of my discussion of Assistant Secretary Palmby's statement that farmers were realizing 13.2 percent more from 1969 crop soybeans because of a 10-cent per bushel decline in prices was the fallacy of the claim, as shown by the Department of Agriculture's own Statistical Reports. The fats and oils situation for January advised us that the value of the 1969 crop to farmers would be down 4 percent—not up 13.2 percent which was the impression Mr. Palmby had left.

Since my statement was made, the Palmby claims have been discretely amended in replays by Secretary Hardin and by Congressman Findley. The claim that farmers have received more is now made on the basis of beans marketed or utilized to date. The original claim has been amended, and there has been no claim made that when the farmers have disposed of all their 1969 crop soybeans, and get ready to make out their income tax returns for income for that crop, that it will be up instead of down. The producers may have gotten more total receipts earlier in the marketing year, but they will be short at the end of the year.

More rapid clearance of a crop in the early months of one year compared to the preceding year does not mean improved income.

This might be an acceptable theory as long as the price per bushel represents an amount equal to costs of production plus a reasonable return for labor and capital investment, and sales increased further than price cuts. What is happening down on the farm is that, regardless of the figures cited by Representative Findley, the price of beans and grains received by farmers runs at the low figure of 50 to 70 percent of parity and does not, I repeat, does not add up to cover costs, high interest rates and a meager minimum wage for the labor of growing the crop.

If times were better on the farm, I might rejoice along with my able friend from Illinois and the accomplished Assistant Secretary of Agriculture, but during these times when family farmers are being financially liquidated in all of our States—including his State of Illinois, the Assistant Secretary, State of Minnesota, and my Montana—I seek to revive the price of grains and beans before more of our friends on the land are driven out of business.

What has really been demonstrated by the public statements of the Department and Representative Findley is that, by reducing the farmers price, an increased demand for a farm commodity can be met with increased margins for the handlers and lower loan outlays by the Commodity Credit Corporation.

What is involved for the grain farmers? Lower net incomes. If the theory espoused by Assistant Secretary Palmby and Secretary Hardin, of forcing grain prices lower to quickly clear the crop, is made effective, the result to farmers dependent on grain income can be disastrous.

The proposals of the Secretary and the Department would lower grain loan support rates next year as follows:

Corn from $1.05 national average to 95 cents;

Wheat from $1.25 national average to $1.10;

Barley, sorghum, oats and other feed grains—reductions in loan rates matching that for corn.

All of these lower grain price proposals come in the midst of rampant inflation, and after this administration has stood aside for a 6-percent nationwide increase in freight rates last November and appears to have equal lack of concern about another 6-percent increase the eastern and western railroads have proposed, to take effect as quickly as possible—scheduled for March 11, now delayed until June.

It is a master plan—a blueprint for total destruction of an equitable parity base plan for grain producers.

Its eventual effect will be to damage the livestock industry, too, and destroy current favorable levels for those commodities as the low feed prices encourage over expansion of production, with excessive weights and fat on livestock marketed.

While all this goes on down on the farm, we can espouse pet theories to our heart's content, but I can assure you that the grain farmers will not be reading our comments in the Congressional Record. They will be reading letters from their lending institutions calling in their notes.

It is a go-broke policy that needs to be reversed.

STRATTON DEMANDS JUSTICE DEPARTMENT FRAUD INVESTIGATION INTO THE CLOSING OF THE JULIET GIBSON CAREER COLLEGE

The SPEAKER pro tempore (Mr. Albert). Under a previous order of the House, the gentleman from New York (Mr. Stratton) is recognized for 20 minutes.

Mr. STRATTON. Mr. Speaker, I take this time this evening to bring to the attention of my colleagues in the House a very serious situation that concerns some 300 young women, and also their parents, who have come here to Washington from all over the eastern part of the United States.

The Juliet Gibson Career College located at 1025 15th Street NW., Washington, D.C., closed down its doors on February 18 in a condition of financial collapse and left more than 300 present and prospective young women students holding the bag, very literally, for a total of $397,199 in prepaid tuition and dormitory fees.

These fees, incidentally, will range as high as $2,890 including not only tuition but dormitory charges, many of them being paid a full year in advance.

Now this is of concern to many Members of this body. It so happens that 80 of these young women come from my own State of New York, 16 from my present congressional district, and two from the new 29th Congressional District.

Last Tuesday bankruptcy hearings opened in the U.S. District Court for the District of Columbia. At those hearings the owner of the school, who incidentally is owner of another corporation called the Washington Dorms, Inc., which supplies dormitory services for this career college, announced that he had debts of some $529,209 and had assets of only $40,203, and also pointed out that of the total liabilities, $158,817 represented advance tuition for 177 girls who were

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not scheduled to enter this college until September of this year.

Mr. Speaker, these young ladies were recruited around the country in some seven Eastern States for a college that purported to provide for glamorous careers in fashion modeling, business, and public relations. Attractive and articulate young ladies, according to my information, had been conducting recruiting tours through the seven Eastern States and were collecting very substantial advance payments for schooling which was not scheduled to begin for months from the date that they picked it up, and they appealed, of course, to rather gullible young ladies who wanted to come to Washington to begin careers in these circumstances.

As a matter of fact, my information is that advance payments for tuition were being collected by these school representatives right down to the very minute that the school closed its doors in a state of financial collapse.

I have learned that, for example—and some of this information came out at the bankruptcy hearing on Tuesday—one mother was called repeatedly by the president of this school, Mr. Richard W. Parrott, demanding that she make an advance payment within a single week of $340. One mother paid $2,000 to the school and was told that she had to come up with that money within 15 days, although her daughter was not slated to begin her education, so-called, in this school until September of this year. And one couple from Courtland, N.Y., in my congressional district, even mortgaged their home for $2,140, which was demanded by the president of this school within 15 days, if they wanted their daughter admitted this fall, in September.

What is even more disturbing is it turns out that there is no law or regulation currently preventing this kind of thing in the District of Columbia. Apparently any school can open and can send representatives out around the country soliciting funds for services allegedly provided by the school without any checking being done by any agency or school board of the District of Columbia and without any accreditation.

Clearly, this is a loophole that needs to be plugged, and I propose, and I am in the process of drafting legislation and have conferred with the distinguished chairman of the Committee on the District of Columbia, and I am drafting legislation to close permanently the legislative loophole which makes it possible for an operation like the Gibson Career College to flourish in Washington under such flimsy and questionable circumstances and to solicit funds from trusting students and their parents across the country without any license or regulation by any city or school agency.

What is more, Mr. Speaker, after looking over the situation and conferring with some of the young ladies affected, and I have learned about the situation and have been working on it for the past 3 weeks, it seems to me there is a very clear suspicion that there may well be fraud involved in the operations of the Julia Gibson Career College which has bilked so many young ladies from upstate New York and their trusting parents.

I think it is incredible that a school with such predatory financial demands can be allowed to open and operate in the District of Columbia without any supervision or accreditation whatsoever. The methods of recruitment and solicitation certainly raise very grave questions in my mind and I am sure they do in the minds of other Members of this House. I understand some of the people associated with the school have been involved in similar financial collapses in other areas and under other circumstances.

Not only must we prevent this kind of thing from happening again and plug the legislative loophole immediately—and I have been assured by the gentleman from South Carolina, Chairman McMillan, that he will cooperate in this endeavor—but also every effort must be made by the U.S. district attorney's office for the District of Columbia to eliminate the operations of such fraud, which has had a devastating economic consequence for so many unsuspecting families. Nothing could be more cruel than to prey on the unsuspecting parents and young ladies than to fleece them out of their life's earnings, even at the very moment when the owners and the operators of this college knew they were confronted with the possibility of closing down their doors because they were in a condition of bankruptcy.

I have wired the Attorney General of the United States today and urged that he undertake an immediate investigation into the possibilities of fraud in connection with this operation.

I might say, Mr. Speaker, in closing, that the students and parents who have been fleeced in this operation and who have deposited their life savings and are left not only without tuition but without dormitory accommodations here in Washington, come from Amsterdam, Schenectady, Sprakers, Scotia, Cohoes, Cortland, Norwich, Canandaigua, South New Berlin, Auburn, Marathon, New Berlin, Romulus, and Bainbridge. I am sure there are those who have come from other States as well.

As a matter of fact, the financial operations, according to a report in the Washington Post this morning, of this particular undertaking are so strange that the original Gibson Corp., of which this school is an outgrowth, actually went bankrupt in 1967, but somehow Mr. Parrott has been able to hang on a little bit longer in Washington.

I am sure other Members of the House who may be affected will feel as I do. I urge them to join with me in pressing our demand for this investigation on the Attorney General and in pressing for the speedy adoption of corrective legislation.

RESTORING LAW AND ORDER

The SPEAKER pro tempore (Mr. Albert). Under a previous order of the House, the gentleman from Texas (Mr. Price) is recognized for 5 minutes.

Mr. PRICE of Texas. Mr. Speaker, for the past 2 days, the House of Representatives has been debating and voting upon two bills of key significance in the fight against crime—the quadrennial increases in Federal courts and judges, and the District of Columbia Court Reform and Criminal Procedure Act of 1970. I would like to discuss each of these two bills in turn.

Yesterday, by an overwhelming vote, the House passed the bill providing for the appointment of additional Federal district judges and restructuring certain Federal judicial districts. I wholeheartedly supported this proposal, with one significant reservation, which I related at some length to my colleagues.

To reiterate, it is my contention that the northern district of Texas desperately needs two rather than the one additional judgeship that was provided in the House bill. The judicial problems of the northern district have been intensively studied by the Justice Department, the American Bar Association, and the Judicial Conference of the United States. Despite the different approaches employed by these organizations, the same conclusion was reached; that is, the northern district of Texas needs two new Federal district judges.

The Senate, in its wisdom, adopted the recommendations of these three distinguished authorities on the administration of justice. Regretfully, the House was less amenable on the matter, and reduced the Senate number to one.

I note Texas was not the only State to have its judicial need neglected by the House. I hope this hesitancy to fully meet the established necessities of our judicial system is not indicative of a lack of interest in maintaining our court system at peak strength. I hope my colleagues have not turned away from the precept of Thomas Jefferson, who said:

> The most sacred of the duties of a government is to do equal and impartial justice to all its citizens.

Mr. Speaker, the five Federal district judges in the northern district of Texas, want to abide by Jefferson's dictum; however, they have repeatedly stated that their ability to do so is critically hampered by the present limited number of judgeships in the district, a district containing several widely separated population centers. In addition it is a district three times larger than the State of Indiana.

The Senate, the Justice Department, the ABA, and the U.S. Judicial Conference all agree with the five Texas judges. They have all recommended that the northern district be provided two new Federal judicial positions. Moreover, the Bureau of the Budget has declared that such an increase would not be inflationary, and is within the scope of the President's budget. For these reasons I have urged and I will continue to urge that the House conferees adopt the Senate proposal, and raise the Federal judiciary to full strength in the northern district of Texas.

Mr. Speaker, it is obvious to laymen and experts alike that the judical cannot mete out fair and impartial justice when the courts in many areas of the country are hopelessly backlogged with cases. In these districts, many indi-

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viduals—some innocent and some guilty—are being denied due process and other constitutionally guaranteed legal protections.

A prime example of this regrettable situation exists in the District of Columbia courts, which at the present time have a backlog of 1,500 felony cases alone. This judicial traffic jam has caused a serious breakdown in the administration of justice in the District. Felons are running loose on the streets and brazenly committing violent and serious crimes because they know that they can add to their ill-gotten gains before they are finally and tardily hauled before the courts of justice.

The crime situation in the District of Columbia would be quite tragic even if it were confined merely to offenses committed by individuals under indictment. Unhappily, however, these types of crimes seem to be but a small portion of a bleak situation, a situation which is deteriorating by the day.

Recent statistics on the extent of and increase in crime in the Nation's Capital are nothing short of horrifying. The city has become a gigantic cesspool of murder, rape, theft, mugging, and senseless violence. Particularly disturbing is the increased traffic in and use of illicit narcotics, especially among children. This increase is fueled by organized crime, the evil tentacles of which have even extended into area public schools. As a result of the crime and violence which invariably follows the drug peddler and drug user, uniformed policemen and special officers are forced to spend countless hours patrolling school corridors and playgrounds in an effort to protect hapless students of all ages.

It is to President Nixon's credit that he has focused the vast resources of the Justice Department on the problem of the District of Columbia crime. He and Attorney General Mitchell have decided that the Justice Department needs new legal and procedural tools if area crime problems are to be coped with in a meaningful way. Accordingly, the President has proposed omnibus legislation designed to restructure the attack on crime in Washington, D.C.

The House District Committee has carefully studied and examined the President's proposals. It has accepted the major ones, added additional provisions of its own, and reported out a comprehensive crime fighting package containing real vitality, the District of Columbia Court Reform and Criminal Procedure Act of 1970.

Since Congress, not the President, is charged with governing the District of Columbia and establishing an effective judicial and penal structure, Congress has the primary responsibility for restoring law and order to the Nation's Capital.

Congress can and must enact the legislative vehicles by which the resources of Government can be forcefully brought to bear on this monumental restorative task. The metropolitan police force must be upgraded and provided effective law enforcement tools which can assist in identifying and apprehending criminals, and preventing crime of all types. The Department of Justice and the U.S. prosecuting attorneys must be provided the means by which those accused of crime can be swiftly brought the bar of justice. The courts must be provided new laws so convicted wrongdoers can be quickly and sternly punished, particularly in those cases involving crimes of violence. A new environment conducive to respect for law and order must be engendered among the residents of the District. Greater concern for the rights of others and a high regard for effective law enforcement must be fostered as well.

Mr. Speaker, these are but the highlights of the massive undertaking that lies ahead of us. We face a long road back from local crime and violence to local law and order. The full resources of the Government must be dedicated to this task.

In my judgment, passage of the District of Columbia Court Reform and Criminal Procedure Act of 1970, represents a vital first step down this long arduous road. It is a step that must be taken, it is a journey that must be made.

TEXTILE IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 30 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, this morning I joined in a parade in Fall River, Mass., the center of the garment industry in New England, which was a public demonstration of the reaction of the average clothing worker to the flood of textile imports into my district.

I marched beside the employees of this industry and the leaders of the unions involved, particularly the Amalgamated Clothing Workers who spearheaded the parade.

I was moved by this experience. These people want to continue to be productive, do not want to become dependent on society or government, and do not want to be on welfare. But their future productivity is being threatened as foregin imports gobble up the American market. In a quiet, constructive, and peaceful way, they marched through Fall River—as they also marched in other cities today—to dramatize their plight.

As their Representative in Congress, I wanted to join in this demonstration. We cannot return to an agricultural society. We must have a healthy domestic industry if the economy is to grow and people are to lead the good life. That was the message of today's events, and I think that Congress should heed what they were trying to say.

The growth of foreign imports has created serious problems for the textile industry in New England and the Nation. I believe that we must give urgent attention to this situation.

Although the President last November called for freer world trade and cited the growing interdependence of the world economy, his message to Congress and the provisions of the administration's proposed Trade Act of 1969 both emphasize the President's words that the textile import problem "is a special circumstance that requires special measures."

These special opportunities for relief may be realized in one of two ways. First, and most desirable of all, this could be achieved by the successful culmination of administration efforts to negotiate agreements with other nations on voluntary quotas on textile exports to the United States. Failing this, relief can be provided through legislation; as, for example, through enactment of substantial improvements in the existing escape clause and adjustment assistance provisions, such as those recommended in the President's Trade Act, to assist damaged industries.

Shortly after taking office, President Nixon, on February 6, 1969, asserted the special and serious nature of the textile situation. Last summer he sent Secretary of Commerce Stans abroad to seek voluntary agreements on textile export quotas with other nations.

While several nations, and particularly the Japanese, have balked at voluntary agreements, I warmly applaud the President's determination to uphold his promises to seek relief for the textile industry.

But, if these efforts to achieve voluntary agreements fail, I believe Congress must redress the grievances of the textile industry. We need to take a hard look at whatever legislation may be necessary.

Upon completion of its current deliberations on the matters of welfare and social security reform legislation, I understand that the House Ways and Means Committee will begin hearings on the urgent questions of trade legislation.

Since becoming a Member of this House in 1967, I have supported the efforts of the Informal House Textile Committee—in which more than 100 Members of the House have participated, many from New England—in seeking relief for the textile industry. I have great respect for the leadership provided by its distinguished chairman, my colleague from Georgia (Mr. LANDRUM), and his associates, the gentlemen from North Carolina (Mr. JONAS) and South Carolina (Mr. DORN). I have endeavored at every opportunity to give my complete support to their concerted attempt to resolve this difficult problem.

I have spoken on the need to restrict textile imports, and since then have worked with the Informal House Textile Committee. They have kept this issue alive, and offered hope for its solution.

It should be noted that imports of manmade fibers have nearly doubled every 2 years. These imports in 1969 had increased 855.7 percent over imports in 1961–62. Much of the increase have involved imports from the Far East.

The effect of these manmade fiber imports flooding the American market has been devastating to the textile industry, causing sharp losses in earnings and profits and forcing many small- and medium-sized textile plants out of business. Garment manufacturing is a major industry in my district, the 10th Congressional District of Massachusetts. The decline of the textile industry in Fall River and other manufacturing cities, with its exodus to the South, is a well-known fact of history. Now the garment industry, which is the lifeblood of the

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whole Fall River community, is also being threatened.

Textile imports have increased so rapidly since 1957, when the United States enjoyed a favorable balance of trade between textile imports and exports, that we found ourselves with a $766 million textile trade deficit just 10 years later and a $1.1 billion deficit in 1968.

Thousands of textile jobs have been lost in recent years. Last June, Secretary Stans cited Department of Labor statistics to the alarming effect that 100,000 textile jobs would be lost annually over the next 6 years if the import trends continued.

Textile and garment manufacturers in my district and elsewhere are waging a losing competitive battle against foreign nations, such as Japan and some European countries, whose exports are partly subsidized by their governments and whose labor costs are much lower.

While hourly wages in the U.S. textile industry average about $2.25, the hourly wage in Great Britain is $1.35; in Japan, 35 cents; in Hong Kong, 25 cents; and, in South Korea, 8 cents an hour.

Certainly the Congress must look further than temporary relief in considering trade legislation. We cannot abandon free trade. As U.S. industry has sought to compete in growing world markets, it has expanded and increased its productive capacity. It has created new jobs in the process of meeting this challenge. The increase in U.S. exports from $20 billion in 1960 to over $34 billion at the decade's end has enhanced the wealth of the Nation and the dynamic growth of its economy.

I do not believe we can go back to restrictive tariffs, since other nations have protective devices of their own which they can retaliate against U.S. industries seeking to sell their products abroad. Ultimately I believe that our interests abroad will be best served by mutually agreed-upon policies of fair trade, and such agreements must be achieved.

However, the textile-apparel industry is a victim of a present unfavorable balance of trade. It may be true that other industries can be phased out if they are not productive, but this is not true of an industry which contributes 2.5 percent of the gross national product.

I believe in free trade, and fair trade. But whenever freedom of trade threatens to cripple employment in vital domestic industries, then I believe that our trade polices can no longer be considered productive.

The textile-apparel industry has suffered by delays in rectifying the situation, and I am impatient with these delays. I believe we must act now through legislative means for the industry's relief.

IMPERATIVES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. **STAGGERS**) is recognized for 30 minutes.

Mr. **STAGGERS**. Mr. Speaker, words create images, sometimes vivid, sometimes blurred. Take two words: permissiveness; tolerance. As delineated by the dictionary, they are not far apart. Yet in practical usage today, one has become vivid, glaring, definitely foreboding; the other is dropping out of focus, almost out of sight.

We are becoming a permissive society. Dissidence, resistance to authority in any form, is being claimed as the right of free citizens. Standards of conduct, whether expressed in terms of civil law or in terms of time-tested moral verities, are subject to the judgment of the individual, to be accepted only if approved.

The result is what might be expected. Our penal codes are being stripped of punishments; our moral code of inhibitions. In our functioning as a vast productive machine, permissiveness leads to chaos. It gives us implements and services characterized by defects. In our functioning as a mature political society, permissiveness is the entrance way to anarchy.

Many of us have been pointing a warning finger at the danger. We could see what was impending, and we feared it. Our mission has been to arouse our fellows to preventive action. A few could also foresee the consequences. But they did not fear them; they planned them.

So the word, "permissive," has acquired its baleful connotations. It is a sort of vocal symbol of all our woes and frustrations. There is no limit to the spread of permissiveness; it grows upon its successes. Active resistance becomes ever more appropriate, more necessary. No free and stable society can exist without law and order. No moral philosophy known to man ever envisioned a cosmos devoid of rewards and punishments.

Today the citizens of this confused but basically rational Nation demand a return to practicalities. The call is to each of us, to assert his grave concern over a drifting Nation, to act his part as a responsible citizen. There is common agreement that laws should be just and impartial, that enforcement of those laws should be swift and firm, that the judgments of the courts should be compassionate, but appropriate to the offense, that the guardians of morality should be clear and precise. Present conditions demand this retreat from anarchy and chaos.

Until disorder and insurrection are replaced by order and system, this Nation faces a danger from the opposite front. The reiterated insistence of history is that excessive laxity of conduct is always followed by repression, harsh and unsparing. The four horsemen still ride. Permissiveness gives way to anarchy, anarchy to chaos, chaos to tyranny. Our most recent example is Hitler.

The immediate problem is the restoration of imperatives to our thinking and acting.

Anyone who reads fairly widely must be aware that the process of restoration is underway. Speakers for various organized groups—cultural and professional—tend more and more to accept a share of responsibility for the deterioration of society. Law journals contain articles by judges accusing judges of laxity; by lawyers who say the legal fraternity is to blame. Church papers assert that a church must be more than a social organization, that its pronouncements on great moral issues must be clear and explicit.

More important than these is the attitude of the two great institutions which catch life at its beginning and place their indelible stamp on ideals and personality, the home and the public schools.

The goal which the schools set before themselves 50 years ago has been reached. Practically every child in the Nation is brought under the influence of the schools, and kept there for 10 years or more. Today they ask if what they have done for the child is enough. Society is vaguely critical. The phrase used to express the need is: "Quality Education."

It is as yet by no means clear what quality education is, or how it can be implemented. What can be said with assurance is that it will not be permissive education. The child cannot profitably roam at will through the impressionable years of childhood and youth. A complex social organization demands that he be equipped with relevant information, skills, and attitudes. Further, that his equipment include provisions for continuous and rapid modifications as both social and material technology advance.

For untold centuries the home has been the basic social institution. There is no substitute for it. Yet it cannot be counted as an unquestioned success. Child rearing is not an exact science. In truth, we know little more about it than did our caveman ancestors.

The affluent society, which dates back only a single generation, had one overriding ambition: It was to give their children everything that they lacked in their own youth. This is permissiveness gone wild.

Today they, like the schools, fear that it is not enough. The search is for "Quality Child-rearing."

The fact that all this soul searching is on the public tongue offers strong hope that it will lead somewhere. Intelligence is not lacking to move mountains—social and moral mountains as well as material ones.

Dennis Gabor, writing in a recent issue of the magazine Think, has something pertinent to say, especially to young people:

> The permissive society is coming to a dead end. Despite the lunatic fringe, rebellious youth also contains a potential elite. . . . Everybody must be made aware that a civilization achieved by a hundred thousand years of hard work and human sacrifice is worth preserving.

He then asks the big question:

> Must it decay first . . . before it is revived?

Suggesting some of the things that must be done to prevent such an outcome, he lays down the challenge:

> I don't expect you to like it. It is Hardship.

Then comes the appeal:

> Let's invent a future . . . a good one.

In that good future, the other word posed earlier in these remarks will emerge from obscurity. Toleration will take its rightful place in the guidelines of a really good society. Toleration is

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equally distant from the excesses of the right and the left. Toleration is a distinguishing mark of the ideal citizen. The tolerant citizen conforms in all matters where his unalienable rights are not concerned. He looks upon the follies and foibles of his fellows with understanding and sympathy, knowing there may be a beam in his own eye. In his capacity as the agent as well as the beneficiary of a free society, he acts with firmness but not animosity, with decisiveness but not arrogance, with swiftness but not haste, with justice but not prejudice.

"I have learned toleration from the intolerant," said Kahil Gibran.

May we all so learn, and speedily.

PROTEST ACTION OF NCAA IN BLACKING WASHINGTON AREA FROM TELECAST OF NCAA SEMIFINALS

The SPEAKER pro tempore. Under a previous order of the House, the Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY) for 10 minutes.

Mr. ROONEY of Pennsylvania. Mr. Speaker, I would like to take this opportunity to register my protest against the action of the NCAA in blacking out the Washington metropolitan area from the telecast of tonight's NCAA semifinals.

This is just another example of a blatantly arbitrary decision by an organization which seems dedicated to the enforcement of its own whims at the expense of the public interest. This decision brings to mind the longstanding, destructive NCAA-AAU feud and the recently prominent case of Jack Langer, the Yale basketball player suspended by the NCAA because he participated in the Maccabean games in Israel.

Washingtonians have proven themselves to be basketball enthusiasts, and those who were neither fortunate enough to obtain tickets nor affluent enough to afford them should not be ignored.

The games are being telecast nationally by NBC and were scheduled to be seen in Washington until the NCAA interposed its 180-mile rule.

I am not one to cast aside rules nonchalantly, but I do feel that the circumstances warrant it in this case. The games have been sold out for months. They are not of regional, but of national interest. In my opinion logic and reason demand that these circumstances be taken into consideration and this ill-founded decision reversed.

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INDEPENDENT BANKER'S PRESIDENT STRIKES OUT AGAINST BANK CONCENTRATION

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the Independent Bankers Association was formed 40 years ago to fight a growing trend of concentration in the banking industry. Today, the IBA is still engaged in that fight and although there have been setbacks, the group has achieved enough significant victories to prevent concentration of banking powers from doing away with independent banks. The current president of the Independent Bankers Association, B. Meyer Harris of Laurel, Mont., in his report to the 40th annual convention of the association on March 17 in Honolulu, made a renewed plea for the fight against bank concentration.

While I do not agree with everything in Mr. Harris' speech, I do feel that it is an outstanding chronicle of the problems faced in bank concentration and a format for what must be done to overcome the problem. Mr. Harris points out that shortly after the State of New Jersey passed a new branch banking law, there were 283 applications for branch banks. He added that a vast majority of banks in New Jersey are now in negotiation or considering selling out or merging. Mr. Harris included a report from one of the IBA members on the banking conditions in New Jersey:

> The upheaval and confusion in his state are beyond belief. Officers and employees are fearful of their status. Directors are at swords points to learn who will be retained on joint boards. Stockholders are deluged by offers, and customers are thoroughly confused.

Mr. Harris adds that New Jersey is apparently heading in the same direction as Virginia, which has seen the number of unit banks in its State decline from 305 to 238 today. During the same period, the number of branches increased from 320 to 700.

The Virginia situation can be brought home to Members of this body quite easily. One need only to drive across the Potomac River to northern Virginia where a vast majority of commercial banks in that locality are members of either holding companies or some other multibank corporate structure. Some towns in Virginia which formerly had two or three independent banks now do not have a single locally owned or operated commercial bank.

In describing what happens when concentration invades a State, Mr. Harris explains:

> Branching does, however, reduce the number of credit sources, particularly for the small borrower and small business.

Mr. Harris made an appeal to his association which should serve as sound advice to anyone who would further increase banking concentration. Mr. Harris said:

> I urge you to remain steadfast in your resolve to resist banking concentration. Your association stands ready at all times to aid you in these efforts.
>
> Whenever the branching question arises, I ask this question: What would be your role—and mine—if the entire banking industry were controlled by just a few huge corporations? The position which we cherish—that of making independent decisions for our banks and for the good of our communities—would vanish. Obviously, there are many forces in this land today seeking to propel us in that direction. My fervently held conviction is that we as independent bankers must resist this trend.

Mr. Speaker, I am including a copy of Mr. Harris' address in my remarks since it most dramatically recites the case against banking concentration:

40TH ANNIVERSARY CONVENTION—INDEPENDENT BANKERS ASSOCIATION—YEAR MARKED BY RADICAL CHANGES FOR INDEPENDENT BANKERS DUE TO INTEREST RATES, LIQUIDITY, AND RECENT TAX BILL

(By B. Meyer Harris)

A few days ago I boarded an airplane in the big sky country of Montana and landed a few hours later in the island paradise of Hawaii. I was thrilled to arrive here, as everyone is, but I must admit that I blinked a couple of times as I contemplated how rapidly I had moved into an entirely different type of climate, culture and terrain.

It occurred to me that it's been that kind of year for independent banking, with changes happening so rapidly and so radically that the image often seems blurred in retrospect. One-bank holding companies, the tax bill, interest rates, liquidity—these and many other issues kept us all running since I became your association president just one year ago at our 1969 convention in Las Vegas.

Believe me, this has been a fascinating year, and it has flown as swiftly as the jet which brought my family and me to this convention city. Although the year has been a strenuous one for your IBAA officers, we have been vastly rewarded by the opportunity to work on behalf of the IBAA with independent bankers from all over the country.

Our committees have done an outstanding job, and will be hearing reports of their work during this convention. I especially wish to commend our executive council members, many of whom are embroiled in branching and holding company fights that popped up in a number of states this year. Since our association was founded 40 years ago, these state directors have performed an invaluable service in keeping on top of events that affect independent banking in their states.

I am also pleased that my term as president is reaching its climax during a milestone year for the association. It was 40 years ago, on May 9, 1930, that a handful of bankers from small communities gathered in Glenwood, Minnesota, and founded the Independent Bankers Association of America.

They did not know at the time that they were the nucleus of a national organization which today has more than 6,600 member banks in 40 states. And I doubt if it ever occurred to them that their tiny organization, created as a last-ditch struggle to survive in the chaos of the Thirties, would one day convene in the splendor of Hawaii.

But if it were not for their dedication, and their decision to fight when surrender would have been the more comfortable alternative, we probably would not be here today.

One of the two surviving founders of the association is registered for this convention. He is Norman Tallakson, a director of the Bank of Willmar, Minnesota. The other surviving charter member is Ben DuBois, board chairman of the First State Bank of Sauk Centre, Minnesota, who was our top administrative officer for 30 years until his retirement at the end of 1962. Mr. DuBois is not here with us today, but he is still very active and is at his post at the bank every day.

NEXT YEAR: MINNEAPOLIS

I have heard the remark many times that IBAA conventions are particularly enjoyable because of their friendliness. For many of us, the annual IBAA convention is like a reunion, in which we renew acquaintances annually with our good friends from widely scattered parts of the country. Next year our association will convene in Minneapolis, and I would like to take this opportunity now to invite all of you to attend.

Located in America's heartland, Minneapolis has always been a very successful convention city for us, and I know you will want to resolve now to see your friends in that city in 1971. The dates are March 29, 30, 31, and the convention headquarters will be the beautiful Radisson Hotel in downtown Minneapolis.

My assignment here today is to highlight the events of my year in office, and offer some thoughts about the future. There are many ways that this can be done. For example, in my home state of Montana, the Indian tribes used to practice a custom known as the winter count.

These Indians painted colorful pictorial symbols on a buffalo robe, with each picture representing the event by which that particular year, or winter, as the Indians called it, was to be recalled. If these Indians were to make a winter count for independent banking in 1970, I wonder how they would portray the one-bank holding company issue.

I think they would have to color it a rather fuzzy shade of gray, because the issue has been so rife with rumor and conflict that it is easy to lose sight of what really is at stake.

Our association has stated its position on the controversial House Bill, H.R. 6778, on a number of occasions. However, one persistent rumor has refused to die, no matter how many times we have attempted to spike it.

IBAA AND ONE-BANK HOLDING COMPANY LEGISLATION

For reasons unknown to us, there seems to be a widespread impression that the IBAA backed the House-passed version of H.R. 6778.

Let me say again, emphatically, that this association did not back this or any other bill. Actually, there was no chance for any organization either to support or oppose H.R. 6778, since the bill was rewritten entirely on the floor of the House during a long debate.

When the House took this action, it marked one of the few times in history that the entire body had rejected recommendations of one of its standing committees. The bill enacted by the House bore little resemblance to the one reported to it by the Banking and Currency Committee.

The IBAA supported the general proposition that one-bank holding companies should be subject to federal regulation and control, in much the same manner as holding companies owning two or more banks. The Nixon Administration, through the Treasury Department, has made one-bank holding company control a matter of priority concern.

Nat S. Rogers, president of the American Bankers Association, in a statement last month declared that the ABA "recognizes that reasonable regulation of one-bank holding companies and multi-bank holding companies is necessary and desirable." We agree with this position, and the only point on which the ABA and we are not yet in agreement is precisely when to seek the legislation.

As executive vice president of the ABA, Charles E. Walker initiated a series of meetings of banking industry representatives in an effort to achieve a consensus on the substance of such legislation, an endeavor he continued when he became Under Secretary of the Treasury.

Similarly, the IBAA favored legislation, but as I said, backed no specific bill in testimony before the House Banking Committee.

The IBAA argues that while ownership of a bank by a one-bank holding company is a corporate device that has been used for many years, the picture has changed drastically in recent times.

Over the years, this device was primarily used by small banks. Its chief advantage is that 85% of the dividends passed from the bank to the parent holding company are not subject to federal income tax. Before the one-bank holding company device was adopted by the giant banks, the OBHC had helped in preserving independent ownership of small banks. In numerous instances, the device had made it possible to transfer ownership of a bank from one independent owner to another.

We must keep in mind, however, the fact that in recent years the giants in the banking industry discovered the device and began to exploit it vigorously. What used to have limited use as a convenience and advantage for small banks suddenly became a vehicle for increased concentration of money and credit.

Most of this growth of unregulated bank holding companies has taken place since 1965. In the period from 1965 to 1968, the number of these unregulated bank holding companies rose by over 200, while the amount of bank deposits in these companies rose by over 600%, from $15.1 billion in 1965 to $108.2 billion at the end of 1968. These totals have been sharply expanded since that time.

For the very reason that unregulated one-bank holding companies posed a survival threat to independent banking, the IBAA at its Las Vegas convention one year ago adopted a resolution favoring control. We testified to this effect before the House Banking Committee and on the eve of the House action, we advised House members that we favored January 1, 1965, as the grandfather date of the bill.

IBAA COMMITTEE ADOPTS STATEMENT

In view of such widespread support, one would expect that OBHC legislation would become law during this, the second half of the 91st session of Congress. It is one thing, however, to agree on an objective, and quite another to agree on precisely how to achieve it. After careful analysis of the House-passed version of the OBHC bill, the IBAA Federal Legislation Committee adopted a statement on the bill at a meeting in New Orleans on January 19.

In this statement, our committee was critical of the fact that H.R. 6778 fails to distinguish between the operations of large and small bank holding companies. The IBAA Federal Legislation Committee position paper continued as follows, and I quote:

"As shown in the House hearing, and as pointed out therein by the Nixon Administration and the Federal Reserve Board of Governors, big companies engaging in more than 100 types of non-banking business, many on a large scale, present a danger to the economy which should be outlawed.

"On the other hand, small companies, usually closely-held family-owned corporations, present no danger to the economy. However, these companies would be adversely affected by H.R. 6778, as passed by the House, chiefly because of the impact of federal income tax statutes. The effect is to foreclose the use of a holding company by a small bank. We believe the distinction between large and small one-bank holding companies should be made by amendment in the Senate.

"We propose that H.R. 6778 exempt one-bank holding companies having bank assets of less than $30 million, and non-bank assets of less than $10 million, as suggested by Federal Reserve Board witnesses who testified on H.R. 6778 in the House.

"We favor any other amendment to H.R. 6778 to protect the small one-bank holding company, which is essential to transferring control of a small bank from one independent owner to another, when a bank stock loan is involved.

"We recognize that there are bills in the Congress, such as the Proxmire and Reuss bills, and there are reports the White House may have another, that propose comprehensive studies of banking problems, but we do not agree that any of these is an alternative to or substitute for one-bank holding company legislation in this, the 91st Congress."

In other recommendations, the IBAA Committee urged that the bill be amended to clarify the difference between a person and a company, noting that in the present language literally the two are synonymous.

Also, it was recommended that insurance agency be stricken from the list of prohibited activities.

PRESIDENT URGES CONTROL

The threat to America's economy posed by large conglomerates of which banks are a part was expressed as follows by President Nixon in a statement last March 24, and I quote:

"Left unchecked, the trend toward the combining of banking and business could lead to the formation of a relatively small number of power centers dominating the American economy. This must not be permitted to happen, it would be bad for banking, bad for business, and bad for borrowers and consumers.

"The strength of our economic system is rooted in diversity and free competition; the strength of our banking system depends largely on its independence. Banking must not dominate commerce or be dominated by it."

The IBAA was instrumental in passage of the Bank Holding Company Act of 1956, which made holding companies controlling two or more banks subject to federal regulation. One-bank holding company legislation would be in the form of an amendment to the 1956 Act.

However, let me emphasize that when considering any legislation, we are committed to the interests of our bank members.

GREAT VICTORY FOR INDEPENDENTS

While the question of one-bank holding company control is still a very large question mark, independent banking won a great victory in December when the U.S. Supreme Court halted Florida's rolling banks.

This was a benchmark decision, since the Court ruled, in effect, that the Comptroller of the Currency could not wipe out with a single pen stroke the effect of laws established by the traditional legislative process at both the state and national levels.

Your association had a great and continuing interest in this case.

On December 9 the High Court firmly supported the longstanding IBAA position on mobile banking facilities operated by national banks under rulings of the Comptroller of the Currency. The Supreme Court held that the operation of armored cars for receiving deposits and delivering cash and off-premise receptacles for deposits amounts to unlawful branching.

The decision is of nationwide significance. It ended a controversy which began in the federal trial court in Florida. The banking commissioner of that state had sent a cease and desist letter in September, 1966, to the First National Bank at Plant City soon after the bank started its off-premise activities for obtaining deposits.

A similar operation was begun by a national bank in Panama City, Florida. This national bank was aggressively seeking deposits over a wide area. One independent banker reported that his deposits dropped from $7 to $6 million in a short time because of these activities.

Similar operations were started by national banks elsewhere in Florida and spread to Georgia, where one national bank had an armored car picking up deposits in North Carolina.

The lawsuit was essentially between the banking commissioner of Florida, a nonbranching state, and the Comptroller of the Currency. The parties included the First National Bank of Plant City on the side of the Comptroller and the competing state banks on the side of the state commissioner.

Pointing up the importance of this case is the fact that by the time it had reached the U.S. Supreme Court, 22 banks from throughout the nation had allied themselves with First National of Plant City in friend of the court roles.

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Among the 22 were such giants as Bank of America, Chase Manhattan and First National City of New York and First National of Chicago.

The Supreme Court strongly emphasized that national banks must conform to state branching laws and cannot, even under rulings of the Comptroller of the Currency, carry on off-premise activities which are denied to state banks under state law.

The IBAA gave unprecedented and unstinting support to the lawsuit in Florida because of its nationwide implications. At the time the Florida lawsuit started in 1966, similar mobile branching was taking place in Georgia, North Carolina and several Northeastern states. The IBAA felt that mobile branching could easily spread throughout the country.

The IBAA entered the case because if mobile branching were permitted and became entrenched, state legislators would be forced to change their laws to allow state banks to compete, thus causing a breakdown of the control of branching by state legislatures.

The IBAA joined with the Independent Bankers of Florida at the outset of the lawsuit. Our association had a large total commitment financially and legally.

Armed with this Supreme Court decision, we recently asked Comptroller of the Currency William B. Camp to rescind the rulings that permit national banks to operate off-premise deposit receptacles, mobile branches and loan production offices.

We told Mr. Camp that the rulings are inconsistent with the Supreme Court decision in the Florida case. We have also asked the Federal Reserve Board and the FDIC to rescind similar rulings.

Likewise since the Supreme Court handed down its decision in the Florida case, the rolling banks have rolled to a halt in Georgia, where a bank sought to circumvent the decision by reorganizing as a holding company. The armored car service was then performed for the bank by a separate subsidiary corporation of the holding company.

Incidentally, a rolling branch rolled on for a time in Georgia even after the Supreme Court decision was announced. Four days before the decision, the First National Bank of Cornelia, Georgia, formed a one-bank holding company and for a time the same vehicle formerly owned and operated by the bank, but subsequently owned by the holding company, continued to operate.

The bank and its officers were cited for contempt by a federal district judge in Georgia, but in an appeal to the fifth U.S. Circuit Court of Appeals, the bank claimed the Supreme Court decision did not prohibit a one-bank holding company from operating a rolling branch.

This provides what I consider a classic attempt to exploit the one-bank holding company device. It highlights what one-bank holding company legislation is all about, namely, one form of corporate ownership of a bank should and must not create a double standard that gives an advantage over another form of ownership. To put it another way, a bank should not be permitted to do indirectly what it cannot do directly.

NEW JERSEY BRANCHING STAMPEDE

If any of you should ever doubt the necessity of our efforts to restrict on branching, I invite your attention to one of the real horror stories of the past year. In New Jersey, barriers to branch and holding company banking that had been in effect for 20 years came tumbling down when the governor signed a new law on January 17, 1969.

Under the new branching and merging laws, New Jersey is now divided into three banking districts.

Banks may branch and merge within a banking district. Under prior law, banks were permitted to branch or merge only within their own counties. The new laws also permit registered bank holding companies to operate on a statewide basis.

The New Jersey law took effect on July 17. During a six-month waiting period 283 applications for branch banks had been filed with federal and state supervisory authorities. By August 12—less than a month after the law went into effect—federal and state supervisors had approved 132 applications for new branch offices. Also by August 12, 25 merger proposals had been announced, and two New Jersey banks had revealed plans to form registered bank holding companies.

Our good friend and New Jersey director, Frank Flowers, tells us that a vast majority of the banks in New Jersey are in negotiation or are considering sellout or merger today.

Mr. Flowers says the upheaval and confusion in his state are beyond belief. Officers and employes are fearful of their status. Directors are at swords points to learn who will be retained on joint boards. Stockholders are deluged by offers, and customers are thoroughly confused.

New Jersey is apparently headed in the same direction as Virginia, where branching restrictions were eased in March, 1962, to permit branching by merger anywhere in the state. In the brief period this pernicious system has been in effect, the number of unit banks in Virginia has declined from 305 to 238. During the same period, the number of branches increased from 320 to 700. A recent article in The Washington Post vividly portrays what can happen when branching attains this kind of foothold. Staff writer Richard Corrigan stated, and I quote:

"Control of Virginia's banks is quietly passing from courthouse square to corporate headquarters.

"Old-time community banks throughout the state are being overtaken—or taken over—by a handful of big banks and bank holding companies. The transformation of Virginia's once-scattered banking system has come about in six years, since the General Assembly voted to allow statewide bank mergers."

These stories are nightmares, and they strongly support the IBAA's claim that there is no such thing as a little bit of branching. Once the giants of our industry gain a foothold through branching in a limited form, a kind of gold fever overtakes them and they are not satisfied until they have made the entire state their private gold field. The result is banking concentration, which is bad for the public and bad for our country because it destroys competition.

VICTORY IN MONTANA

We are rather proud of the fact that in Montana recently the independent bankers of our state defeated the efforts of giant out-of-state holding companies to introduce branching.

Our legislature not only killed a bill to permit statewide branch banking, but also repealed a 1931 statute which allows banks in the same county or contiguous counties to merge and keep both offices open.

Action on the two bills is expected to block the out-of-state holding companies already established in Montana from expanding in the state by merging banks with their subsidiaries and operating them as branches.

Our experience in Montana demonstrated once again that the push for branch banking does not come from the people, but from the handful of huge banking institutions in the state and those with aspirations to build institutions in the state and those with aspirations to build a financial empire. There big banks will argue that branching is necessary for economic growth, but let's look at the record.

Texas and Illinois are the two leading guardians of free enterprise in banking.

Both states are stellar examples of dynamic modern industrial and commercial development. Both states are relatively free of extensive control by multibank systems, either giant banks or extensive bank holding companies. Certainly the records of these states do not support the argument that branching is essential to economic growth.

Branching does, however, reduce the number of credit sources, particularly for the small borrower and small business.

I urge you to remain steadfast in your resolve to resist banking concentration. Your association stands ready at all times to aid you in these efforts.

Whenever the branching question arises, I ask this question: What would be your role—and mine—if the entire banking industry were controlled by just a few huge corporations? The position which we cherish—that of making independent decisions for our banks and for the good of our communities—would vanish. Obviously, there are many forces in this land today seeking to propel us in that direction. My fervently held conviction is that we as independent bankers must resist this trend.

OWNERSHIP AND MANAGEMENT SUCCESSION VITAL

The fight against permissive legislation is only one side of the coin, of course. As independent bankers we must also continue to build our own institutions and strive to run better banks. Basic to our continuation as independent bankers is the problem of officer, management and ownership succession. I feel that there is no more important problem for independent bankers than the question of who will own our banks in the future.

Your association recognized long ago the importance of successor management and the fact that it is often a major problem for the smaller bank.

To help meet the problem, we sponsor two major projects each year—the seminar for senior bank officers on the Harvard University campus, and the seminar for junior bank officers on the Ball State University campus in Muncie, Indiana. The director of our junior seminar, Bob Myers, is one of our convention speakers. Both seminars attract capacity enrollments annually, and I recommend them highly.

Our association is so concerned about ownership succession that the problem is now a major topic of study by our bank study committee. Bill Givens, the committee chairman, will report to you during the convention and I don't want to trespass on his area of interest.

If independent banking is to survive, we must also assure the survival of our rural communities. For years Agriculture-Rural America committee has worked for a fair net income for farmers, and just recently embarked on a project to promote rural community development. Our Agriculture-Rural America committee chairman, Don Kirchner, will tell you about his committee's work in these areas.

IBAA URGED DELAY OF FINANCIAL PROVISIONS IN TAX BILL

Also during the past year, your association was highly concerned about the Tax Reform Bill. We filed a statement with the Senate Finance Committee urging that provisions dealing with financial institutions be held aside for at least a year to permit adequate study.

We raised several major questions regarding proposals in the bill on bad debt reserves and bond changes, and advised the Senate Committee that no urgent need existed for tax reform in the area of financial institutions. We felt that while many provisions of the bill were justified, self-proving and overdue, those dealing with financial institutions were passed in the House with no real study of adverse effects on bank safety, public interest or national goals.

In common with many of you in this room, I have spent all of my working life in banking. I suspect that something all of us have in common is a great and continuing concern about what is happening to the industry in which we have expended our talents, time and efforts.

Our survival as independent bankers depends to a large extent upon the work that is done by the community bankers in each state. I am optimistic about the future of independent banking because I have observed first hand the work that is being done at the grass roots level. I particularly commend those of you who have organized independent bankers associations in your state. I believe that this type of organization is essential to our success.

I sincerely hope that you enjoy yourselves at this convention. I urge you to kick off your shoes, don your beach clothes, grab your surfboard and unwind to a state of total tranquility. But when you leave these lovely Islands and return to your banks, I hope you will carry with you a vigorous new dedication to the cause of independent banking.

Thank you for your attention, and thank you for giving me the privilege of serving as your president.

ISSUE COINS FOR CIRCULATION THAT WILL NOT CIRCULATE

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the use of silver stockpiles to mint commemorative coins would be highly destructive to the national interest and would serve no useful public purpose.

When Senate Joint Resolution 158 which passed the Senate today calling for 40 percent silver in a proposed Eisenhower commemorative dollar comes back to the House of Representatives I expect to request a conference with the Senate and the appointing of conferees. The House approved a cupro-clad Eisenhower dollar in the first session of the 91st Congress.

The House-passed bill, calling for no silver in the Eisenhower dollar, was consistent with the recommendations of the Joint Commission on the Coinage. The Commission was composed of 12 Members of Congress, four members of the executive branch and eight public members.

The Secretary of the Treasury, David Kennedy, had served as chairman of the Joint Commission on the Coinage and had concurred in its findings.

Coins with silver in them do not circulate. They are hoarded immediately. A few favorites will make millions.

Apparently the Secretary of the Treasury has again caved into political and economic pressure and is turning his back on the findings of a commission which he chairs.

I am fully in accord with honoring the memory of President Eisenhower through a commemorative coin so long as it did not contain silver, a resource in short supply.

If the scheme to place silver in the Eisenhower dollar succeeds, the same groups will be back demanding silver in other commemorative coins. Eventually this will completely deplete our stockpiles reserved for national security and will also place commercial users of silver in great jeopardy. Before long, this Nation would be forced to enter the world markets and purchase silver at high prices to meet necessary commercial and defense needs.

The Congress has for several years been moving away from the use of silver in coins by substituting the cupro-clad material.

This has made the minting of coins much cheaper and has preserved an important natural resource for useful purposes. It would be wrong to reverse this by falling for a scheme to place 40 percent silver in the Eisenhower dollar.

A copy of a letter to Secretary Kennedy on the subject is as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND CURRENCY,
Washington, D.C., March 18, 1970.

Hon. DAVID M. KENNEDY,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: Yesterday, your Special Assistant, Mr. Jim Smith, was kind enough to forward to me an exchange of correspondence between Senator Dominick and yourself concerning proposed coinage legislation which, as you recall, has passed the House and now resides in the Senate awaiting either their acceptance of the House-passed bill or their refusal to concur and calling for, if they desire, a conference to resolve the disagreements.

Senator Dominick's letter of March 13 to you indicates that agreement had been reached concerning the minting of a limited number of 40 percent silver dollars bearing the likeness of General Eisenhower and that such agreement had been reached with House and Senate Members and discussed with the Joint Leadership. Mr. Secretary, to my knowledge, this is the first I have heard of these meetings in any formal written way. As Chairman of the House Committee on Banking and Currency, I did not participate in these meetings, nor was I invited to, and as far as the Democratic Leadership of the House is concerned, I have received no communication from them whatsoever concerning this matter. Senator Dominick uses the phrase "joint leadership" and I, therefore, assume he was talking about leadership from both sides of the aisle.

I find it incomprehensible, given the fact that as a member of the Coinage Commission who participated in all of the meetings, remembering full well the recommendations of the Commission, your complete concurrence therein, and the legislation which you, representing the Administration, sent to the Congress and which was enacted by the House, could now state as you do in your letter to Senator Dominick that, ". . . the proposed legislative compromise is fully consistent with the Administration's policies on coinage and silver. . . ."

To refresh your memory, Mr. Secretary, H.R. 14127, introduced by myself and Mr. Widnall, passed the House Banking and Currency Committee by an almost unanimous vote of 29 to 1. This bill went to the Floor of the House and a recommittal motion to require inclusion of 40 percent silver from cupro-nickel failed on a voice vote, indicating that those supporting the recommittal did not even have enough votes to call for a roll call. Final passage of H.R. 14127 was by the overwhelming vote of 267 to 65.

Personally, Mr. Secretary, I remain firmly committed—as I know the members of my Committee do—on this legislation as it passed the House and this shall continue to be my position.

Sincerely,

WRIGHT PATMAN,
Chairman.

THE USES OF EDUCATIONAL TECHNOLOGY

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, in March 1968, the Secretary of Health, Education, and Welfare appointed a nine-member Commission on Instructional Technology to conduct a comprehensive study of school uses of TV, radio, and allied instructional media.

The study, called the McMurrin report, was recently released by the White House, and because of the great interest that it has generated, the Select Educational Subcommittee of the House Committee on Education and Labor conducted a day of hearings on it so that our committee and the public in general could be advised of the major findings and recommendations of the distinguished members of the Commission.

Our principal witness was Dr. Sterling McMurrin of the University of Utah, who was Chairman of the Commission. He was accompanied by Sidney G. Tickton, executive vice president of the Academy for Educational Development, who directed the study.

Our subcommittee will hold additional hearings on the Educational Technology Act and related bills later in the spring.

Because of the widespread interest in the contents of the report, I am inserting Dr. McMurrin's testimony of March 12, 1970, at this point in the RECORD:

STATEMENT BY STERLING M. MCMURRIN, CHAIRMAN, COMMISSION OF INSTRUCTIONAL TECHNOLOGY, TO THE SELECT EDUCATION SUBCOMMITTEE OF THE COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES, MARCH 12, 1970

I am pleased to respond to the request of the Chairman to discuss the report of the Commission on Instructional Technology.

As you know, the 90th Congress enacted the Public Broadcasting Act of 1967 to develop the potential of noncommercial television and radio. The first two titles provided for the extension to June 30, 1970, of federal grants for the construction of educational broadcasting facilities, and for the establishment of the Corporation for Public Broadcasting. Title III of the act authorized "a comprehensive study of school uses of TV, radio, and allied instructional media." On the basis of Title III, plus an Office of Education proposal, a nine-member Commission on Instruction Technology was appointed by the Secretary of Health, Education, and Welfare in March 1968 to conduct this study.

Most of the commissioners were laymen in the matter of instructional technology; only a minority had expert knowledge in the field. All, however, were vitally interested in education and most of them were actively engaged in educational professions. By profession they represented the public schools, universities, foundations, and community colleges. In addition, the membership included a federal judge. The Commission was composed of the following persons:

Dr. David E. Bell, Executive Vice President, The Ford Foundation

Dr. Roald F. Campbell, Dean, Graduate School of Education, University of Chicago

Dr. C. Ray Carpenter, then Professor of Psychology, Pennsylvania State University, now Professor of Psychology, University of Georgia

Dr. Nell P. Eurich, then Dean of the Faculty, Vassar College

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Dr. Harold B. Gores, President, Educational Facilities Laboratories, Inc.

The Honorable A. Leon Higginbotham, Jr., Judge, Eastern District of Pennsylvania

Dr. Kermit C. Morrissey, President, Community College of Allegheny County

Dr. Kenneth E. Oberholtzer, Denver, Colorado, former Superintendent of Schools

Dr. Sterling M. McMurrin (Chairman), Dean of the Graduate School University of Utah

The Act which directed the establishment of the Commission described its purposes primarily in terms of the instructional uses of television and radio. When the Commission was constituted, however, the United States Commissioner of Education directed it to study the entire field of instructional technology without giving special emphasis to any particular medium. Accordingly, the work of the Commission was concerned with the whole gamut of instructional techniques—old, new, and future; printed, mechanical, and electronic; automated and cybernated; from books to computers, from classrooms to learning centers, from overhead projectors to satellite transmission, from pre-school to graduate school.

In describing the charge given to the Commission, Mr. Harold Howe II, the Commissioner of Education, said: 'We have reached the point where we have to find an approach to the development and use of educational technology that is at least superior to the process of sink-or-swim selection or of random, accidental experiment. We have got to come up with a more orderly, informed way of taking advantage of all that the new technology has to offer . . ."

The Commissioner went on to say: "The report of this Commission will be relevant no matter who occupies the White House or the office of the U.S. Commissioner of Education. It will represent the common and considered judgment of a distinguished group of men with very broad backgrounds in education and related fields. It will give full weight to the views and experience of all interested parties—in education, in industry, in government."

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The first meeting of the Commission was held on April 22, 1968. At this time the Academy for Educational Development was selected to act as staff for the Commission, with the Academy's executive vice president, Sidney G. Tickton, as study director. Under the Commission's direction, the staff promptly began to assemble ideas and information. Letters were sent to over 2,000 persons representing a broad sampling of the educational community as well as other interested institutions, individuals, government agencies, associations, and private enterprises involved with instructional technology. In addition, in order to ensure the widest range of response, announcements were placed in trade, professional, and other publications inviting communications to the Commission.

Simultaneously, an extensive set of questions probing broad policy matters as well as technical details and specific uses of instructional technology was developed. The staff sought expert information and opinion on every phase of the Commission's mandate—from establishment representatives and mavericks alike. As a result, about 150 research and information papers were commissioned, numerous interviews were arranged, and the Commission retained expert consultants to work with its staff.

Most meetings of the Commission were combined with field investigations to give the Commissioners a close look at technology at work in all levels and areas of education (public schools, universities, the armed services, industry, the Job Corps, etc.), in order to observe at first hand the various ways "instructional technology" is currently employed. Commissioners were also exposed to theorists and researchers at the frontiers of the field.

Besides regular meetings of the Commission, seminars were held which brought together groups of knowledgeable, experienced specialists in specific media fields. Staff members made field trips and prepared memoranda on organizations and projects recommended to the Commission's attention because of their quality, special promise, or cautionary import.

Finally, it should be mentioned that cooperation was established with the several administrative departments and other agencies of the federal government which had an interest in instructional technology and could contribute importantly to the study.

The Commission members were gratified by the interest mainfested in their work, and by the caliber of the dozens of distinguished persons—scholars, technicians, practicing schoolmen and others—who agreed to prepare papers or grant interviews. Hundreds of thoughtful replies came in response to the Commission's original invitation and announcement. They came from all quarters—from industry, from superintendents of big school systems like Detroit, Chicago, and New York, and dozens of smaller places; from nearly every state commissioner of education and state office of education.

We also received valuable input from such professional groups as the American Library Association, Association of Classroom Teachers, American Association of School Administrators, National Association of Educational Broadcasters, American Association of University Professors, and from the Boy Scouts, YWCA, Institute of Electrical and Electronic Engineers, and the American Bankers Association.

There were answers from approximately two hundred colleges and universities—from the Chairman of the Corporation at M.I.T. and the President of Princeton; from the deans of education of numerous leading universities throughout the nation; from deans and department heads in the fields of computer science, behavioral research, medicine, engineering, instructional resources, communications, instructional television.

In television alone, respondents included heads of educational networks and independent stations, university stations, school TV systems, and state systems.

The official Commission meetings were held at least once a month at various locations so that Commission business could be combined with dicussions with local persons involved in instructional technology and observations of instructional programs and centers across the country. Some of the meeting locations were as follows:

Denver: with tours of the U.S. Air Force Academy and Lowry Air Force Base. The Commission was briefed on overall Air Force involvement in instructional technology and its applications in the Lowry training program and in the regular academic work of the Air Force Academy.

San Francisco: including visits to Ampex Laboratories, the Job Corps Center at Pleasanton, California, San Jose State College, the IBM Education Center at Los Gatos, and the Palo Alto Unified School District.

Detroit: with observations of the use of instructional media in advanced industrial establishments in that area.

Portland: including an informal discussion with a number of representatives from the audiovisual and knowledge industries who had assembled for an annual meeting of audiovisual experts.

Boston: including visits to or discussion with representatives from Educational Development Center, Lowell Institute Cooperative Broadcasting Council, WGBH Boston, and Eastern Educational Network.

New York: Several meetings were held to include all the groups that wanted to express their views to the Commission, including the Educational Media Council, the Corporation for Public Broadcasting, EDUCOM, various production centers, persons from industry, and several New York universities and foundations.

Washington, D.C.: Many of the Commission's meetings were centered in Washington. Included were seminars and informal discussions with top officials of educational associations such as the American Council on Education, the American Association of Junior Colleges, the National Education Association, the Association of American Universities, the Council for Basic Education, the National School Boards Association, the Association of American Colleges, the National Association of State Universities and Land Grant Colleges, the National Association of Independent Schools, the Council of Chief State School Officers.

In addition to the regular Commission meetings, seminars were held to permit experts in individual subject areas to comment and exchange views with the Commission, including:

A seminar to explore communications satellites and their implications for instructional technology. Participating were representatives of the National Aeronautics and Space Administration, National Association of Education Broadcasters, Federal Communications Commission, National Educational Television, United States Office of Education, the President's Task Force on Communication Policy, and the Joint Council on Educational Telecommunications.

A seminar with a representative group of ITV practitioners to brief the Commission on unique problems of ITV and to acquaint the profession with the Commission's purposes. Later to provide a forum for the discussion of instructional television, the Commission held a seminar in Washington which was attended by a group of 19 national leaders in the field. Participants included network, station, administrative and school people as well as delegates from such associations as the National Association of Educational Broadcasters, the Joint Council on Educational Telecommunications, and the National Education Association.

Two seminars—one for teachers and one for students—to present their wide range of views on instructional technology. The teachers and students had varying degrees of exposure to technology in schools.

In addition, various persons were asked to make presentations on behalf of groups (such as publishers, audio-visual manufacturers, the computer industry, etc.) or on specific facets (such as R&D centers, regional education laboratories, systems analysis, etc.). Where possible, a roster of experts in individual subject fields was assembled in order to obtain views relating to their expertise.

Throughout the study, staff members inspected many projects, attended many conferences, including a Leadership Seminar on Teaching the Film sponsored by the American Film Institute; the Second Annual Los Angeles Film Study Conference, sponsored by Fordham University and the American Film Institute; the Conference on Computer Assisted Instruction sponsored by IBM, the National Council of Teachers of Mathematics at Pennsylvania State University; Curriculum and Training Strategies, and Managing the Creation and Adaptation of CAI Instructional Program, sponsored by the Institute for Computer-Assisted Instruction. Some of the institutions visited included: Miami-Dade Junior College (Learning Resources Center); Michigan State University (closed-circuit television); Oklahoma Christian College (dial access); New York Institute of Technology (computerized management of the educational process); NDEA Summer Institute for Teachers of the Disadvantaged at the University of Southern California.

The questions which the Commission on Instructional Technology examined were not limited to educational problems that are currently urgent or to the uses of equipment which is presently available. In assigning papers and interviewing experts, the Commission attempted to avoid undue emphasis on equipment per se or on the particular medium, but attempted instead to probe the value of technology employed in systems of instruction.

As the study proceeded, the Commission refined its conception of its task. The Commission decided that while it would study the various educational media individually, with careful regard to their interconnections and their respective roles in the total instructional program, it would nevertheless treat them as a whole in the report, rather than as individual techniques. It appeared that this approach would yield the most satisfactory results, considering the Commission's desire to recommend whatever in its opinion should be done in a large way to improve and advance education through technology.

The Commission took as the starting point of its study not technology, but learning. The heart of education is the student learning, and the value of any technology used in education must therefore be measured by its capacity to improve learning.

Today, we observed, learning in our schools and colleges is increasingly impeded by such troubles as the growing gap between education's income and needs, and the shortage of good teachers in the right places. Formal education is not responsive enough: the organization of schools and colleges takes too little account of even what is now known about the process of human learning, particularly of the range of individual differences among students. This condition makes schools particularly unresponsive to the needs of disadvantaged and minority-group children. Moreover, formal education is in an important sense outmoded—students learn outside schools in ways which differ radically from the ways they learn inside school. Educational institutions make scant use of the potent means of communication that modern society finds indispensable and that occupy so much of young people's out-of-school time.

Today technology touches only a small fraction of instruction. Colleges, universities, and schools have been using television, films, computers, or programed texts in instruction, but to a limited extent. The results are mixed, with some institutions making a creative and sustained use of the new media while others, after an initial burst of enthusiasm, quickly lost interest.

Examining the impact of technology on American education in 1969 is like examining the impact of the automobile on American life when the Model T Ford first came out for education. The Commission weighed the more benefits technology seems to hold out for education. The Commission weighed future promise against present achievements, and examined the discrepancies between the science-fiction myths of instructional technology and the down-to-earth facts.

Obviously, the problems that confront education have no one solution. But learning might be significantly improved if the so-called second industiral revolution—the revolution of information processing and communication—could be harnessed to the tasks of instruction.

On the basis of present experience and informed projections, the Commission believes that technology could bring about far more productive use of the teacher's and the student's time. Of particular importance is its capacity to provide instruction that is truly tailored to each individual student; the traditional resources of teacher and textbook are not sufficiently flexible by themselves. Moreover, technology could help educators base instruction more systematically on what is known about learning and communication, not only guiding the basic research, but also providing the strategies for applying research findings.

The Commission found other reasons, also, for harnessing technology fully to the work of schools and colleges. New forms of communication give man new capacities. Instructional technology could extend the scope and power of instruction. It could help to bridge the gap between the outside world and the school, thus making learning more immediate and more relevant. Perhaps technology's greatest boon could be to make education more democratic. Access to the best teaching and the richest opportunities for learning is inevitably inequitable because of the constraints of economics, geography, or other factors having nothing to do with a student's ability to learn. Through television, film, and other forms of telecommunications, however, the remote rural college and the hard-pressed ghetto school could share the intellectual and esthetic advantages of the best institutions and the richest community resources.

In the conviction that technology can make education more productive, individual, and powerful, make learning more immediate, give instruction a more scientific base, and make access to education more equal, the Commission concluded that the nation should increase its investment in instructional technology, thereby upgrading the quality of education, and, ultimately, the quality of individuals' lives and of society generally.

Our study has shown that one-shot injections of a single technological medium are ineffective. At best they offer only optional "enrichment." Technology, we believe, can carry out its full potential for education only insofar as educators embrace instructional technology as a system and integrate a range of human and nonhuman resources into the total educational process.

To achieve such improvements, the knowledge of how people learn must be deepened, and the capacity to put that knowledge to effective use must be augmented. In the process the organization and governance of the entire educational enterprise may well have to be changed. So may the preparation and deployment of professionals and other highly trained specialists. To make instruction productive and responsive to individual students, the barriers that stand between the formal institutions of education and the larger community may have to be breached.

The changes required will probably be as thoroughgoing as those which industry underwent when it shifted from hand labor to mechanization. But a society hurtling into the age of the computer and the satellite can no longer be held back by an educational system which is limping along at the blackboard-and-textbook stage of communication.

The six recommendations proposed in our report comprise the initial steps which the Commission on Instructional Technology considers essential, beginning with a new agency to provide leadership and focus for concerted action. Recommendation No. 1 would establish the National Institutes of Education (N.I.E.) within the Department of Health, Education, and Welfare, with broad authorization to support and fund greatly strengthened programs in educational research, development, and application. The N.I.E. would consist of several constituent institutes, and through them make grants to universities and other independent research institutions, as well as conduct research itself. It would also sponsor several strong autonomous centers for research, development, and application, and a few comprehensive demonstration projects.

A National Institute of Instructional Technology (N.I.I.T.) should be established within the National Institutes of Education to work closely with existing agencies concerned with instructional technology and to establish such other regional centers and programs as it deems necessary (Recommendation #2). It would concentrate on research, development, and application of technology. One of its chief functions would be to encourage the production of a wide variety of good instructional materials.

The proposed National Institute of Instructional Technology should also take the lead in searching out, organizing, and preparing for distribution high-quality material, in all media, needed to improve education (Recommendation #3). To this end, the N.I.I.T. should consider establishing a center or "library" of educational resources. The center would take on additional responsibilities, such as helping school and college libraries transform themselves into comprehensive learning centers.

Projects to demonstrate the value of technology for instruction (Recommendation #4) would be initiated by the National Institute for Instructional Technology. These project would concentrate funds and other resources on a few carefully selected communities or school districts, with the emphasis on pockets of poverty or minority-group deprivation. The school system of the District of Columbia might be invited to mount the first of such model demonstrations.

Improving the capacity of educators to make good use of technology would be a major function of the proposed National Institute of Instructional Technology. Recommendation #5 proposes the support of programs, based on stepped-up research and development, to train and retrain teachers, administrators, and a variety of specialists.

Recommendation #6 proposes a mechanism whereby the National Institute of Instructional Technology could bring education and industry together in a close working relationship to advance the effectiveness of instruction through technology.

The Commission has concluded that only the federal government can undertake the major responsibility for the expenditures for basic and applied research, development, and application required in the years immediately ahead. Furthermore, we believe that the minimum initial financing required to carry out the recommendations of this report is approximately $565 million. Of this about $150 million would be required to launch the National Institutes of Education and the National Institute of Instructional Technology. The remaining $415 million would be required for the first full year of operation, including approximately $250 million for the research, development, and application activities of the institutes, $25 million for the center or "library" of educational resources, $100 million for demonstration projects, and $40 million for the training of personnel. The aggregate amount suggested would equal no more than 1 percent of the projected total expenditures for American education in fiscal 1972.

In his Message on Education Reform on March 3, 1970, President Nixon proposed the creation of a National Institute of Education as a first step toward educational reform. President Nixon said: "We need a coherent approach to research and experimentation. Local schools need an objective national body to evaluate new departures in teaching that are being conducted here and abroad and a means of disseminating information about projects that show promise." He then went on to say: "There comes a time in any learning process that calls for reassessment and reinforcement. It calls for new directions in our methods of teaching, new understanding of our ways of learning, for a fresh emphasis on our basic research, so as to bring behavioral science and advanced technology to bear on problems that only appear to be insuperable."

The Commission believes that its proposals will help achieve the President's objectives.

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ENVIRONMENTAL EDUCATION BILL

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, on Tuesday, March 24, the Select Subcommittee on Education, of which I am chairman, will open hearings on H.R. 14753, the Environmental Quality Education Act, which, on November 12, 1969, I introduced along with the gentlemen from New York (Mr. SCHEUER and Mr. REID) and the gentleman from Idaho (Mr. HANSEN).

Mr. Speaker, Members of Congress must all be struck with the really phenomenal growth in awareness in our own country and in others of the dangers to the quality of our environment.

I cite only a few examples:

First. Recent issues of major national magazines such as Fortune, Time, Life, and Newsweek have been devoted primarily to ecological questions.

Second. Recently, legal actions have been filed by the attorney general of Illinois against major corporations which have been dumping pollutants into the waters around Chicago.

Only yesterday the Justice Department obtained a grand jury indictment against United States Steel for dumping solid wastes into Lake Michigan.

Third. There has been an extraordinary growth of ecology action groups among students on college campuses. Thousands of students at colleges and high schools all over the country are scheduled to participate in the nationwide environmental teach-in on April 22, which is designed to alert citizens to the dangers to our environment.

Fourth. And, of course, President Nixon in his message of February 11, 1970, on the environment called for $4 billion in Federal funds over the next 5 years, for, among other items, uniform Federal standards for water purity, the building of sewage treatment plants, and research to develop a pollution-free automobile.

Mr. Speaker, the signs of environmental decay are everywhere:

Oil from faulty drillings fouls our beaches and endangers marine life and waterfowl.

Pollution of the air takes minutes from each of our lives.

Human and industrial waste soils our streams and rivers.

Poisonous pesticides and fertilizers contaminate our food.

Messy industrial areas, unsightly junkyards, ugly billboards, and thickets of powerlines diminish the joy of what we would otherwise see.

Mr. Speaker, to clean up our environment and to restore it to a congenial state will require billions of dollars in Federal funds and moneys from other sources, as well as public and private.

But to achieve this goal we will also need a major educational effort to acquaint our younger students and adult citizens with the ecological facts of life so that future generations will not be faced with the problems that we are only beginning to confront now.

Let me here note, Mr. Speaker, the following statement from the report which the Citizens Advisory Committee on Environmental Quality made to the President in August 1969:

> Man's interaction with his environment, both natural and man-produced, is the basis of all learning—the very origin and substance of education. Yet, our formal education system has done little to produce an informed citizenry, sensitive to environmental problems and prepared and motivated to work toward their solution.

Mr. Speaker, the bill that we shall begin to consider on March 24, H.R. 14753, is directed to the task of making Americans more aware of the dangers to their environment and to the steps we must take to meet them.

Briefly, the Environmental Quality Education Act provides funds for:

First. Aid to colleges and universities to develop materials for teaching environmental studies, natural resources, pollution control, and conservation.

Second. Support for training teachers of environmental studies.

Third. Grants for elementary and secondary schools to teach about ecology studies courses.

Fourth. Funds for community conferences on the environment for civic and industrial leaders and State and local government officials.

Fifth. Grants for preparing materials on the environment for use by mass media.

During the course of the hearings, the subcommittee plans to visit several areas of the country and to hear testimony from a broad spectrum of interested witnesses, including ecologists, students, environmental educators, industrial leaders, labor leaders, conservation groups, and citizens organizations.

Mr. Speaker, on Tuesday, March 24, our witnesses will include a prominent ecologist, Dr. LaMont Cole, professor of ecology at Cornell University; Robert Motherwell and Helen Frankenthaler, the distinguished American painters; and Dr. Joseph Sitler, outstanding Lutheran theologian from the University of Chicago.

On Wednesday, March 25, we will receive testimony from a group of students who are planning the April 22 environmental teach-in; Garrett de Bell, editor of the Environmental Handbook; and William Knowland, a student at Antioch College.

On Thursday, March 26, we will hear from Dr. Matthew Brennan, the director of the Pinchot Institute; Dr. Edward Weidner, chancellor of the University of Wisconsin at Green Bay; and Dr. Clarence Schoenfeld, chairman of the Center for Environmental Education at the University of Wisconsin at Madison.

Among witnesses scheduled for later hearings are Margaret Mead, noted anthropologist; David Gates and John Cantlon, ecologists; and Dr. James E. Allen, Assistant Secretary of Health, Education, and Welfare for Education, and U.S. Commissioner of Education, and Mr. John Macy, president of the Corporation for Public Broadcasting.

Mr. Speaker, at this time I insert the text of the Environmental Quality Education Act in the RECORD:

H.R. 14753

A bill to authorize the United States Commissioner of Education to establish educational programs to encourage understanding of policies and support of activities designed to enhance environmental quality and maintain ecological balance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Environmental Quality Education Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress of the United States finds that the deterioration of the quality of the Nation's environment and of its ecological balance is in part due to poor understanding by citizens of the Nation's environment and of the need for ecological balance; that presently there do not exist adequate resources for educating citizens in these areas, and that concerted efforts in educating citizens about environmental quality and ecological balance are therefore necessary.

(b) It is the purpose of this Act to encourage and support the development of new and improved curriculums to encourage understanding of policies, and support of activities designed to enhance environmental quality and maintain ecological balance; to demonstrate the use of such curriculums in model educational programs and to evaluate the effectiveness thereof; to disseminate curricular materials and information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community and industrial business leaders and employees, and government employees at State, Federal, and local levels; to provide for community education programs on preserving and enhancing environmental quality and maintaining ecological balance.

USES OF FUNDS

SEC. 3. (a) From the sums appropriated, the United States Commissioner of Education, hereinafter referred to in this Act as the "Commissioner", shall assist in educating the public on the problems of environmental quality and ecological balance by:

(1) Making grants to or entering into contracts with institutions of higher education and other public or private agencies, institutions, or organizations for:

(a) Projects for the development of curriculums to encourage preserving and enhancing environmental quality and maintaining ecological balance.

(b) Pilot projects designed to demonstrate and test the effectiveness of the curriculums described in clause (a) whether developed with assistance under this Act or otherwise.

(c) In the case of applicants who have conducted pilot projects under clause (b), projects for the dissemination of curricular materials and other information regarding the environment and ecology.

(2) Undertaking directly or through contract or other arrangements with institutions of higher education or other public or private agencies, institutions, or organizations evaluations of the effectiveness of curriculums tested in use in elementary, secondary, college, and adult education programs involved in pilot projects described in paragraph 1(b).

(3) Making grants to institutions of higher education, local educational agencies, and other public or private organizations to provide preservice and inservice training programs on environmental quality and ecology (including courses of study, symposiums, and workshops, institutes, seminars, conferences) for teachers, other educational personnel, public service personnel, and community, business and industrial leaders and

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employees, and government employees at State, Federal, and local levels.

(4) Making grants to local educational, municipal, and State agencies and other public and private nonprofit organizations for community education on environmental quality and ecology, especially for adults.

(5) Making grants for preparation and distribution of materials suitable for use by mass media in dealing with the environment and ecology.

APPROVAL OF APPLICATIONS

SEC. 4. (a) Financial assistance for a project under this Act may be made only upon application at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary, and only if such application—

(1) provides that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) sets forth a program for carrying out the purposes set forth in section 3 and provides for such methods of administration as are necessary for the proper and efficient operation of such programs;

(3) sets forth policies and procedures which assure that Federal funds made available under this Act for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 3, and in no case supplant such funds.

(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

(5) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) Applications from local educational agencies for financial assistance under this Act may be approved by the Commissioner only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulation, be subject to approval in the same manner as original applications.

ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY EDUCATION

SEC. 5. (a) The Secretary of Health, Education, and Welfare shall appoint an Advisory Committee on Environmental Quality Education which shall—

(1) advise the Secretary concerning the administration of, preparation of, preparation of general regulations for, and operation of, programs supported with assistance under this Act;

(2) make recommendations regarding the allocation of the funds under this Act among the various purposes set forth in section 3 and the criteria for establishing priorities in deciding which applications to approve, including criteria designed to achieve an appropriate geographical distribution of approved projects throughout all regions of the Nation;

(3) review applications and make recommendations thereon;

(4) review the administration and operation of projects and programs under this Act, including the effectiveness of such projects and programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for improvements in this Act) to the Secretary for transmittal to the Congress; and

(5) evaluate programs and projects carried out under ths Act and disseminate the results of such evaluations.

(b) The Advisory Committee on Environmental Quality Education shall be appointed by the Secretary wthout regard to the civil service laws and shall consist of twenty-one members. The Secretary shall appoint one member as Chairman. The Committee shall consist of persons familiar with education, information media, and the relationship of man as producer, consumer, and citizen to his environment and the Nation's ecology. The Committee shall meet at the call of the Chairman or of the Secretary.

(c) Members of the Advisory Committee shall, while serving on the business of the Advisory Committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

TECHNICAL ASSISTANCE

SEC. 6. The Secretary, in cooperation with other Cabinet officers with relevant jurisdiction, shall, upon request, render technical assistance to local educational agencies, public and private nonprofit organizations, private profitmaking organizations, institutions of higher learning, agencies of local, State, and Federal Government and other agencies deemed by the Secretary to play a role in preserving and enhancing environmental quality and maintaining ecological balance. The technical assistance shall be designed to enable the recipient agency to carry on education programs which deal with environmental quality and ecology and (2) deal with environmental and ecological problems pertinent to the recipient agency.

PAYMENTS

SEC. 7. Payments under this Act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on acount of overpayments or underpayments.

ADMINISTRATION

SEC. 8. In administerng the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or private agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

AUTHORIZATION

SEC. 9. There is authorized to be appropriated for the fiscal year ending June 30, 1970, for carrying out the purposes of this Act such sums as Congress may deem necessary.

CALL FOR CONGRESSIONAL INVESTIGATION INTO OPERATIONS OF U.S. COPPER PRODUCERS

(Mr. BLANTON asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BLANTON. Mr. Speaker, I am introducing today a resolution which calls for a congressional investigation into the operations of the U.S. copper producers and their marketing procedures.

This resolution asks for an investigation into the domestic copper producers and the manner in which the price of copper is determined for markets in the United States, the relationship between the free-world price of copper and the price charged by the American producers of copper to American manufacturers and others, the possibility of violations of U.S. antitrust laws in the copper industry—the possibility of illegal pricing agreements, restraint of trade—the manner in which copper producers allocate their copper to various copper manufacturers, the extent to which American copper producers allocate their copper to their own manufacturing facilities, and other matters.

Mr. Speaker, some very grave questions have been raised in my own mind concerning the practices of our major copper manufacturers and producers. I am also asking the Department of Justice to start an immediate investigation by their Antitrust Division of what I believe could be violations of the laws. I am also asking the Federal Trade Commission to make an investigation into particular complaints which have reached me. I intend to resolve in my own mind some procedures which the copper producers have engaged in, which will touch in virtually every area of the industry.

On January 9 of this year, President Nixon named an interagency study committee of key ecnomic advisers on the copper industry. I think the New York Times headlines reporting this announcement gives us an indication of what this panel will come up with: "Industry Is Reassured; No Evidence of 'Deliberate Malpractices By Mining Companies Is Known.' " There is a definite need for an independent congressional investigation into this copper situation, separate and apart from the study being conducted by the executive branch.

Mr. Speaker, the major copper producers are so highly concentrated that the situation has resulted in a virtual monopoly of the domestic copper market by six major companies and their subsidiaries. The Lilliputians in this business are being locked out by the Gullivers, and the study I have made of the business to date shows little evidence that this situation is a chance occurrence.

I have a small company in my district which has been trying to buy copper from the major producers, or their subsidiaries, and they have been refused the metal under the pretext that there is a shortage of supply, or because of an archaic allocation system which has been an industry practice since 1963. In short, there is very little chance, if any, for anyone to break into this business today.

The allocation system, agreed upon by the giants in this industry in 1963, simply means that there is a system of preferred customers designated by the mining and refining segments of the industry—special "established" customers which include their own manufacturing subsidiaries who will receive and continue to receive their supply. But none can be given to new companies—certainly not ones which pose a threat of competition in the marketplace with the subsidiaries.

Of major impact in this entire industry is a very unique two-tier pricing system. Domestic copper is sold by the major producers at 56 cents per pound, to the subsidiaries and preferred customers. The world market, a speculative and therefore fluctuating market, has a current price of 79 cents per pound. Many small companies are forced to buy from the world market or the domestic scrap and speculative market simply because the domestic producers refuse to sell to them. The situation has come down to the cold facts that the six or seven major copper producers in this country can dictate who and who cannot be in the copper business. The small companies locked out of the agreement of 1963 have to buy their refined copper at almost the same price as the finished material sells for by the subsidiaries of the major producers and their preferred customer producers.

A new independent copper fabricator's only source for copper would be high price scrap, high price speculator copper or merchant's copper, which is approximately 15 to 20 cents a pound higher than the current producers price in this country.

Mr. Speaker, I plan to continue to inform this body of some rather dubious practices and highly suspicious procedures in the copper producers industry upon my return from Vietnam. I urge every Member to give serious consideration to this resolution, that we can start an investigation immediately.

ECONOMIC INDECISION

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, on Tuesday upon emerging from the White House, the distinguished minority leader, the gentleman from Michigan (Mr. FORD) stated that "the problem of inflation has been defeated" and that the chances of a recession are "nil." We may safely assume I feel, that the minority leader did not propound his analysis of the Nation's economic situation without the approval and, yes, even the encouragement of the White House. My sympathies are with the gentleman from Michigan. I feel very strongly that he has obviously been mislead by his own administration's so-called economic experts.

Yesterday, Dr. Arthur Burns, President Nixon's appointee as Chairman of the Federal Reserve Board, literally pulled the rug out from under the minority leader. When appearing before the Senate Banking and Currency Committee, Dr. Burns flatly contradicted the House Republican leader's post-White House pronouncements. Dr. Burns stated:

> No, I don't think the problem of inflation is at an end nor can I say there is no danger of a recession.

Now, in addition to being an economist of high repute, the Chairman of the Federal Reserve Board possesses impeccable Republican credentials. He served as Chairman of the President's Council of Economic Advisers under President Eisenhower. He acted as President Nixon's chief economic adviser during the 1968 campaign, and subsequent to the election was installed at the White House with considerable fanfare as the President's Economic Adviser. So impressed was President Nixon with his ability as an economist that this year he elevated him to the chairmanship of the Federal Reserve Board. Because of his high professional standing as well as his long and intimate relationship with the President, we in the Congress, as well as the country at large, must weigh carefully any pronouncement on his part as to the status of our national economy.

Mr. Speaker, it is clear from all available economic indicators that Dr. Burns is far closer to the mark as to the Nation's current economic posture than is our able friend from Michigan. Unemployment figures, industrial production, housing starts, and a decline in the gross national product all are indicative of a deepening recession. At the same time the cost of living stands some 7 percent higher than a year ago.

Mr. Speaker, I share the regret, which I feel certain the minority leader must feel, over the embarrassing position in which his administration has chosen to place him.

PRESIDENT'S MESSAGE ON HIGHER EDUCATION

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, the President's message on higher education, delivered to the Congress today, like most administration announcements, is short in substance and overabundant in rhetoric. No one can really disagree with the lofty pronouncements of the President that "no element of our national life is more worthy of our attention, our support, and our concern than higher education." However, there is considerable doubt as to whether we should agree with many of the suggestions and proposals advanced by President Nixon to solve what he calls basic wrongs in connection with Federal policy toward higher education.

Detailed analysis of the President's proposals must, of course, be dependent upon careful study of the exact language of the proposed Higher Education Opportunity Act of 1970. That study and analysis will, I am confident, be forthcoming soon from higher education experts in and out of Congress.

A quick reading of the message does reveal, unfortunately, an unexplainable disregard on the part of the administration for some of the really basic problems of higher education. It is clear from the President's message that he would make the student bear most of the cost of higher education. Education is suffering greatly increased costs from rampant inflation. To make a student, and particularly the student from lower and middle-income circumstances, bear this increased cost is wrong.

The Higher Education Act of 1965, enacted by the Democratic 89th Congress, contained important provisions which allow students from middle-income families to borrow money at low interest rates in order to obtain an education at reasonable cost. It would appear that the President would have us do away with that program and leave the student who is not poor but who has only moderate financial resources to the high interest rates of the marketplace.

I believe that any comprehensive program for higher education should include a system of direct grants to institutions of higher learning. The institutions of higher education themselves should be the beneficiaries of Federal assistance in order for students from all walks of life to have an opportunity for higher education at a reasonable cost.

From the President's message it appears he would dismantle all, or most, of the higher educational programs which he admits have resulted in a phenomenal increase in the number of Americans who today attend college over the number who attended college 25 years ago. For these programs which have been successful, he would substitute programs which on quick inspection would appear to lower the amount of money which would be available for educational assistance for most of our most deserving students. These programs, while lowering the amount of assistance available would increase the cost of that assistance to many students by forcing them to go into the marketplace to borrow money. If a student borrows $4,000 over 4 years to finance his college education at current rates and utilizes the 20-year payback period suggested by the administration in the President's message, the total cost of his loan would be in excess of $11,000.

I am disappointed that the President's message is not more realistic and that it did not deal with some of the crucial problems faced by educational institutions themselves.

APOLLO 11 ASTRONAUTS SELECTED AS THE 1969 RECIPIENT OF THE ROBERT J. COLLIER TROPHY

(Mr. MILLER of California asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MILLER of California. Mr. Speaker, Neil A. Armstrong, Col. Edwin E. Aldrin, Jr., USAF, and Col. Michael Collins, USAF, have been designated as the recipients of the Robert J. Collier Trophy for significant achievement in aeronautics and astronautics for 1969, it was announced today by Mr. Frederick B. Lee, president of the National Aeronautic Association.

A committee appointed by Mr. Lee consisting of 24 distinguished leaders and authorities in aeronautics and astronautics unanimously selected the crew of Apollo 11 from a list of outstanding nominees.

The committee, while fully recognizing the team effort and superb technical competence of the tens of thousands who support the Apollo program, awarded the trophy to Armstrong, Aldrin, and Collins for their high courage and stunning success in accomplishing man's highest adventure in recorded history—the first moon landing.

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The trophy traditionally has been presented by the President of the United States. The presentation to the Apollo crew has been scheduled for May 6 at a luncheon in Washington which will be hosted jointly by the National Aeronautic Association and the National Aviation Club.

The trophy was established in 1912 by Robert J. Collier, publisher and pioneer aviation enthusiast, as the Aero Club of America Trophy. In 1922 the Aero Club of America was incorporated as the National Aeronautic Association and now has aero clubs throughout the United States as chapters. NAA is the official U.S. representative of the Federation Aeronautique Internationale, the organization responsible for the authentication of all official aviation and space records on a worldwide basis, and is composed of more than 60 member nations. The Apollo 11 mission established one world absolute and six world class records.

In 1944 the association renamed the award the Robert J. Collier Trophy. It is awarded annually "for the greatest achievement in aeronautics or astronautics in America, with respect to improving the performance, efficiency, or safety of air or space vehicles, the value of which has been thoroughly demonstrated by actual use during the preceding year."

The first two awards went to Glenn H. Curtiss, for development of the hydroaeroplane in 1911 and for development of the flying boat in 1912. The following year the recipient was Orville Wright, for development of the automatic stabilizer. More recent recipients have included Vice Adm. William F. Raborn, James E. Webb, Hugh L. Dryden, James S. McDonnell, Lawrence Hyland, and the crew of Apollo 8.

THE WORK STOPPAGE

(Mr. OLSEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OLSEN. Mr. Speaker, because I deeply feel that the American people and my colleagues should have a complete understanding of the work stoppage by at least 70,000 employees, I am submitting several communications and telegrams which I believe should be in the RECORD at this point.

In reality, this postal strike must ultimately be settled here in Congress.

I sincerely believe that the House Post Office Committee and the House itself did the right thing when it almost unanimously adopted the Salary Adjustment Act, H.R. 13000, on October 18 of last year.

H.R. 13000 is a good bill, thoroughly reasoned out and passed at a time when cooler heads prevailed.

It was subsequently considered and a version of it passed by the Senate on December 12. Again, when cooler heads prevailed.

I feel we should cut the foot dragging and immediately go to conference to resolve the differences in the House and Senate pay plans and hopefully bring out a badly needed pay raise, especially for postal workers, most of whom received only a 4.1-percent increase last year while other Federal workers, for the most part, received 9.2 percent.

Mr. Speaker, I submit that the Congress has agreed to a pay raise, the administration has agreed, but now the administration wants to postpone such a pay raise and the President himself threatens a veto if the pay raise is as stipulated in H.R. 13000. But the Congress should act and then let the President make the decision on how he will follow through.

Mr. Speaker, again for the edification of my colleagues, I am appending hereto a release showing the position of the seven postal unions holding exclusive national recognition with the Post Office Department, and a copy of a telegram to the Secretary of Labor, the Honorable George P. Shultz, calling for immediate meetings aimed at halting the work stoppage in the Post Office.

Finally, Mr. Speaker, I am also enclosing an explanatory statement of the history behind work stoppage as promulgated by a number of postal unions. I hope each Member will read and study these statements in order that he can understand why this drastic situation has developed:

STATEMENT OF NATIONAL PRESIDENT FRANCIS S. FILBEY, UNITED FEDERATION OF POSTAL CLERKS

WASHINGTON, D.C., March 18.—President Francis S. Filbey of the United Federation of Postal Clerks (AFL–CIO) announced tonight that the Presidents of the seven postal unions holding exclusive national recognition with the Post Office Department met this afternoon and issued the following statement:

"Because of the provisions of Executive Order 11491 the Labor Agreement existing between our organizations and the Post Office Department, and existing statutes, we cannot support or condone the service interruption which has occurred and we collectively instruct all affected postal employees to return to work immediately.

"We further request an immediate, full and objective congressional investigation of all of the conditions and circumstances which brought this situation about."

The statement was signed by President Filbey for the Postal Clerks and by President James H. Rademacher of the National Association of Letter Carriers (AFL–CIO); President Monroe Crable of the National Association of Post Office & General Service Maintenance Employees (AFL–CIO); President Michael J. Cullen of the National Association of Special Delivery Messengers (AFL–CIO); President Chester W. Parrish of the National Federation of Post Office Motor Vehicle Employees (AFL–CIO); President Lonnie L. Johnson of the National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders (AFL–CIO) and President Herbert L. Alfrey of the National Rural Letter Carriers Association.

MARCH 19, 1970.

HON. GEORGE P. SHULTZ,
Secretary of Labor, U.S. Department of Labor, Washington, D.C.:

On behalf of all seven of the National Exclusive Representatives of postal employees we call upon you to intervene immediately and use your good offices and expertise in bringing about a conclusion to the growing interruption in mail service presently in progress.

In addition, we recommend that you commence meetings between the Post Office Department and the exclusive unions in an effort to seek means whereby the interruption may be halted so that the issues which underlay this interruption may be resolved promptly and peaceably.

Francis S. Filbey, President, United Federation of Postal Clerks; James H. Rademacher, President, National Association of Letter Carriers; Monroe Crable, President, National Association of Post Office and General Service Maintenance Employees; Michael J. Cullen, President, National Association of Special Delivery Messengers; Chester W. Parrish, President, National Federation of Post Office Motor Vehicle Employees; Lonnie L. Johnson, President, National Association of Post Office Mail Handlers, Watchmen, Messengers, and Group Leaders; Herbert L. Alfrey, President, National Rural Letter Carriers Association.

EXPLANATORY STATEMENT

We cannot, we do not condone this work interruption. We are doing all within our power to get all postal employees back to work at once.

But the public ought to know that this work stoppage is the bitter fruit of low wages and intolerable working conditions to which the present and previous Administrations have been culpably insensitive.

Employees' statutory rights have been wilfully violated for years—so much so that the unions were forced to sue for a Federal court order directing the Post Office Department to conform to the will of Congress as expressed in Public Law 89–301 governing overtime.

Yet the Post Office still drags its feet in paying off millions in back overtime pay to postal employees.

The unions have been ready for weeks to negotiate a new National Agreement and served proper notice of that fact early in January. After a 57-day delay in responding, the Post Office Department extended the old agreement beyond its March 8 expiration date.

This Administration has available under current law a mechanism for raising wages in labor shortage areas but has refused to avail itself of this and other ameliorative administrative actions despite all the ominous signs of employee unrest.

This Administration, before and after taking office, promised to achieve postal pay comparability with private industry in belated fulfillment of a law passed nearly a decade ago. Yet in recent weeks it has reneged on campaign promises and proposes a six-month delay of the July, 1970, pay raise which it agrees our members deserve.

The Postmaster General himself by comparing the abilities of postal employees unfavorably with Japanese postal workers committed verbal indiscretions which have come home to haunt him.

Historically, postal employees have looked to Congress for relief. But too many Members, knuckling under to unprecedented Administration pressures for dubious and untried forms of postal reform, are showing more concern for a postal corporation than for decent wages and the health and welfare of civil servants whose dignity has been too long affronted and whose real grievances in an expanding economy have been too long swept under the rug.

Postal workers are the victims of inflation not the cause of it.

In every democratic society workers whose rights, safety, economic well being and dignity have been denied have been forced to resort to self action and self help when the regular channels of social change and justice have been unresponsive. When stable, dedicated civil servants with many years of service feel they have no choice but to publicly and through direct action air their grievances in the face of highly restrictive laws it is quite obvious how deeply felt the injustices are.

Yet with all these grievances we remain confident that those employees who are withholding their labor will respond to our pleas and to the public need.

AMALGAMATED CLOTHING WORKERS OF AMERICA PROTEST RISING FLOOD OF TEXTILE IMPORTS

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, today thousands of members of the Amalgamated Clothing Workers of America have left their jobs for 2 hours as a means of protest against the rising flood of imported apparel and textiles, which directly threaten their jobs and their livelihood.

Mr. Speaker, for years many of us have realized that if these imports continue unchecked and unabated there can be only one result, large-scale unemployment and the destruction of one of America's great industries. For several years I have joined in sponsoring legislation in the House to put reasonable and fair limits on these imports. I have joined in appeals to Japan and other importing countries to put voluntary quotas on their own textile imports in an effort to preserve American textile jobs. But so far those appeals have been rejected, and this legislation already seems to be the only remaining answer.

The general president of the Amalgamated, Jacob S. Potofsky, has already stated that his union has no desire to cut off trade between this country and others. But the union does request, urgently, that the jobs and security of American workers be protected by regulation—by an agreement between this country and Japan that would limit the flood of low-wage imports.

The textile and apparel industry employs 2½ million people, many of them members of minority groups, many of them women, as in Penn Yan, N.Y., and many of them people who would be hard put to find other work.

It is also important to note that most of these imports come from low-wage countries, countries where garment workers make as little as 7 cents an hour—a wage no American worker can afford to meet.

So it seems to me, Mr. Speaker, that the members of the Amalgamated Clothing Workers have a just cause when they ask the Congress to pass legislation to regulate imports that cost them their livelihoods.

I salute them in their protest today, and pledge them my full support in enacting the necessary corrective legislation.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The United States is the largest producer of oats in the world. In 1967 the United States produced 781,867,000 bushels of oats or over 26 percent of the world total. The Soviet Union was the second leading nation producing 468,500,000 bushels.

LEAVES OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Mollohan (at the request of Mr. Albert), for today, on account of official business.

Mr. Camp (at the request of Mr. Gerald R. Ford), for today, on account of official business.

Mr. Cunningham (at the request of Mr. Gerald R. Ford), for week of March 23d on account of official business.

Mr. Mills (at the request of Mr. Boggs), for today, and remainder of the week on account of official business.

Mr. Fallon (at the request of Mr. Albert) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Stratton, for 20 minutes, today.

(The following Members (at the request of Mr. Hansen of Idaho) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. Price of Texas, for 5 minutes, today.

Mrs. Heckler of Massachusetts, for 30 minutes, today.

(The following Members (at the request of Mr. Melcher) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Rarick, for 30 minutes, today.

Mr. Staggers, for 20 minutes, today.

Mr. Rooney of New York, for 10 minutes, today.

Mr. Conyers, for 60 minutes, on March 24.

Mr. Lowenstein, for 30 minutes, on March 24.

Mr. Jacobs, for 30 minutes, on March 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Kyl, and to include two tables in his remarks on the crime bill.

Mr. Mizell, immediately following the remarks of Mr. Smith of New York during general debate in the Committee of the Whole today.

Mr. McMillan, and to include extraneous matter.

(The following Members (at the request of Mr. Hansen of Idaho) and to include extraneous matter:)

Mr. Steiger of Wisconsin in two instances.
Mr. Langen.
Mr. Rhodes.
Mr. Watson in two instances.
Mr. Roudebush.
Mr. Scherle in two instances.
Mr. Conte.
Mr. Hosmer in two instances.
Mr. Morse.
Mr. McCloskey.
Mr. Meskill in two instances.
Mr. Crane.
Mr. Duncan in two instances.
Mr. Kleppe.
Mr. Ashbrook.
Mr. Martin.
Mr. Carter.
Mr. Steiger of Arizona.
Mr. Beall of Maryland in two instances.
Mr. Scott.
Mr. Wyman in two instances.
Mr. McClory.
Mr. Fulton of Pennsylvania in five instances.
Mr. Taft in two instances.
Mr. Nelsen.
Mr. Erlenborn.
Mr. Cramer.
Mr. Fish.
Mr. MacGregor.

(The following Members (at the request of Mr. Melcher) and to include extraneous matter:)

Mr. Addabbo in two instances.
Mr. Farbstein in four instances.
Mr. Gonzalez in two instances.
Mr. Vanik in two instances.
Mr. Eilberg in three instances.
Mr. Fraser in two instances.
Mr. Fountain in two instances.
Mr. Kluczynski in three instances.
Mr. Burton of California.
Mr. Annunzio in two instances.
Mr. Mikva in eight instances.
Mr. Stokes.
Mr. Hamilton.
Mr. Hathaway in two instances.
Mr. Fulton of Tennessee in six instances.
Mr. Bingham in two instances.
Mrs. Sullivan in three instances.
Mr. Dingell in two instances.
Mr. Anderson of California.
Mr. St. Onge in two instances.
Mr. Koch in five instances.
Mr. White in two instances.
Mr. Harrington in three instances.
Mrs. Griffiths in two instances.
Mr. Conyers in two instances.
Mr. Kyros in three instances.
Mr. Patten in five instances.
Mr. Powell.
Mr. Olsen in two instances.
Mr. Wright in eight instances.
Mr. Pickle in three instances.
Mr. Ryan in four instances.
Mr. Dulski in five instances.
Mr. Melcher.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2882. An act to amend Public Law 394, 84th Congress, to authorize the construction of supplemental irrigation facilities for Yuma Mesa Irrigation District, Ariz., to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6543. An act to extend public health protection with respect to cigarette smoking and for other purposes; and

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

ADJOURNMENT

Mr. MELCHER. Mr. Speaker, I move that House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until Monday, March 23, 1970, at 12 o'clock noon.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1969, TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following reports for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85–804:

OFFICE OF THE
SECRETARY OF TRANSPORTATION,
March 16, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: In accordance with the provisions of Section 4 of Public Law 85–804 (50 U.S.C. 1434) the Department of Transportation reports one action taken during calendar year 1969 under the authority of that act:

Name of Contractor: The VP Company, 330 South Fair Oaks Avenue, Pasadena, California 91101.

Cost Involved: Contract Price $13,150.50.

Amount of Claim: $1690.05.

Description of Property: Contract for supply of 101 radio headset panels and ancillary items to the Federal Aviation Administration.

Action Taken: Application denied by the Department of Transportation Contract Appeals Board for the reason that relief was available under the disputes procedures of the contract.

Sincerely,

ALAN L. DEAN.

DEPARTMENT OF TRANSPORTATION,
CONTRACT ADJUSTMENT BOARD,
Washington, D.C.

(Application of the VP Company—Docket No. 85-804-4)

DECISION

This case involves a request for relief under Public Law 85–804 (72 Stat. 972, 50 USC §§ 1431 to 1435), by the CP Company of Pasadena, California, in the amount of $1,690.05 under FAA Contract No. FA68WA–1887 on the basis of mistake (FPR 1–17.204–3, 41 C.F.R. § 1–17.204–3).

Jurisdiction to grant extraordinary relief under Public Law 85–804 in Federal Aviation Agency contracts was transferred to the Secretary of Transportation by Section 6(c) (1) of the Department of Transportation Act (Public Law 89–670, 49 USC § 1655(c)(1), and delegated by the Secretary to this Board. In considering Public Law 85–804 applications, this Board follows the guidelines of the applicable General Services Administration Regulations, Part 1–17 of the Federal Procurement Regulations (41 C.F.R. § 1–17.00 *et seq*).

The contract provided for 101 Radio Headset Panels and ancillary items at a price of $13,150.50. The invitation for bids was issued on September 21, 1967, and nineteen bids were received. The contract award was made on March 8, 1968, and the contract was completed on October 9, 1968. The VP Company is withholding submission of its invoice for payment until a decision is rendered on this application for extraordinary relief. No progress or advance payments were made under the contract.

The basis of the application is that the contractor and its vendor were misled by the description for relays specified in Paragraph 3.5.1 of Specification FAA–E–2075A which provides:

"Relays K1 and K2 shall be C. P. Clare Type J with code 24 bifurcated contacts, or equal, with individual covers, 200-ohm +5% coils properly phased as reactors, to operate on 48 v dc. Relays K3 to K6 shall be C. P. Clare Type J with code 24 bifurcated contacts, or equal with individual covers, 1600-ohm +5% coils for 48 v dc operation."

The contractor claims that relays K1 and K2 were identical and that relays K3 through K6 were identical, so that only two types of relays were required. The vendor, C. P. Clare, furnished a price of $3.33 and $3.79, respectively, for these types of relays.

On April 4, 1968, after the award of the contract, the vendor on review of the wiring drawing (which apparently was not submitted to the vendor when a quotation was requested prior to the award of the contract) determined that the relays of the original bid would not perform their function and that four different relays were required.

The original bid with respect to these items was:

	Quantity	Price	Per unit
C. P. Clare type J:			
200-ohm coil	2 each	$3.33	$6.66
1,600-ohm coil	4 each	3.79	15.16
Total			21.82
10 percent G. & A.			2.18
10 percent profit			2.40
Total			26.40
Times 101 pieces			2,666.62

The adjusted price by C. P. Clare was:

	Quantity	Price	Per unit
Part No.—			
JA-017317	2 each	$7.76	$15.52
JB-017317	do	7.02	14.04
JC-017317	1 each	9.68	9.68
JD-017317	do	7.52	7.52
Total			46.76
10 percent G. & A.			4.68
10 percent profit			5.14
Total			56.58
Times 101 pieces			5,714.58

The contractor then established another source of supply for these items from the Magnecraft Company and obtained the relays at the lower price of $4,356.67. The deduction of the original bid price of $2,666.62 from this figure leaves the claimed loss of $1,690.05 or $16.73 per unit for 101 units.

The contractor contends that the Relay paragraph (3.5.1) was misleading and ambiguous, made no reference to the wiring drawing DR–C–40091–1–C, and was relied on in soliciting a quotation for relays from its vendor. This resulted in a loss of $1,690.05 for which the contractor requested a contract modification.

The Contracting Officer in denying the contractor's request for the contract modification, held (1) that the specification clearly indicated relays K1 through K6, C. P. Clare Type J, or equal, and specified the required coil resistance; and (2) Drawing DR–C–40091–1–C was part of the contract and indicated the required relay configuration and wiring necessary to perform the work.[1]

The contractor seeks relief under FPR § 1–17.204.3 contending that a mistake was made in the costs of the relays and its final bid price because the Relay specifications was misleading, ambiguous, and made no reference to the wiring drawing. The filing of an application for extraordinary relief as a mistake claim is improvident since this is more appropriately a claim for an alleged defective specification or a conflict between the specification and the drawing. As such, the matter herein is cognizable, ordinarily, under the contract and in the event of a dispute concerning it, there is an adequate remedy provided by the Disputes clause of the contract. The regular contractual procedure must first be exhausted before an application for relief under Public Law 85–804 can be considered, since FPR § 1–17.205–1(b)(2) provides that no contractual relief shall be entered into under authority of Public Law 85–804 if "other legal authority" is adequate and available within the agency. (*Blaw-Knox Company*, ACAB 1019 (1960)).

In view of the foregoing, the Board declines to consider the application for relief under Public Law 85–804. However, as the authorized representative of the Secretary, we return the matter to the Contracting Officer for appropriate disposition under the disputes procedure of the contract.

Dated: June 26, 1969.

E. P. SNYDER,
GERSON B. KRAMER,
EDGAR H. TWINE,
Members.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1801. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Federal Deposit Insurance Corporation for the year ended June 30, 1969, pursuant to section 17(c) of the Federal Deposit Insurance Act (H. Doc. No. 91–283); to the Committee on Government Operations and ordered to be printed.

1802. A letter from the Comptroller General of the United States, transmitting a report on weaknesses in award and pricing of ship overhaul contracts, Department of the Navy; to the Committee on Government Operations.

1803. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to increase the supply of decent housing and to consolidate, extend and improve laws relating to housing and urban renewal and development; to the Committee on Banking and Currency.

1804. A letter from the Secretary of the Treasury, transmitting the fourth semiannual reports for the period July 1–December 31, 1969, on (1) purchases and sales of gold and the state of the United States gold stock, and (2) the evolution of the international monetary system; to the Committee on Banking and Currency.

1805. A letter from the Secretary of the Interior, transmitting preliminary data on the lead and zinc mining stabilization program for calendar year 1969, pursuant to the provisions of Public Law 87–347; to the Committee on Interior and Insular Affairs.

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[1] In his letter of May 2, 1968, the Contracting Officer failed to indicate that his letter was a final decision under the Disputes clause, and were that his intention the letter was further defective since it failed to advise the contractor of its appeal rights as required by the regulations of this Department. *Keystone Coat & Apron Company* v. *U.S.*, 150 Ct. Cl. 277 (1960); *Bostwick-Batterson Co.* v. *U.S.*, 151 Ct. Cl. 560 (1960).

1806. A letter from the Secretary of Transportation, transmitting a report on contractual actions to facilitate the national defense during calendar year 1969, pursuant to the provisions of section 4 of Public Law 85-804; to the Committee on the Judiciary.

1807. A letter from the Director of the Federal Judicial Center, transmitting the second midyear report of the Center, pursuant to the provisions of 28 U.S.C. 623(b); to the Committee on the Judiciary.

1808. A letter from the Secretary of Commerce, transmitting the sixth annual report on mobile trade fair activities for the fiscal year ended June 30, 1969, pursuant to the provisions of Public Law 87-839; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Science and Astronautics. H.R. 16516. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (Rept. No. 91-929). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. House Resolution 841. Resolution to disapprove Reorganization Plan No. 1 (Rept. No. 91-930). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. Kluczynski, Mr. Rostenkowski, and Mr. Pucinski):

H.R. 16556. A bill to provide emergency financial assistance to urban public transportation systems; to the Committee on Banking and Currency.

By Mr. ASHBROOK:

H.R. 16557. A bill to guarantee that every employee of the Federal Government shall have the right to refrain from union activity; to the Committee on Post Office and Civil Service.

By Mr. COWGER (for himself, Mr. Hosmer, Mr. Bingham, Mr. Scheuer, Mr. Yatron, Mr. Friedel, Mr. Powell, Mr. Fraser, Mr. Stokes, Mr. Podell, Mr. Tiernan, and Mr. Mikva):

H.R. 16558. A bill to improve law enforcement in urban areas by making available funds to improve the effectiveness of police services; to the Committee on the Judiciary.

By Mr. EDWARDS of California:

H.R. 16559. A bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft; to the Committee on Merchant Marine and Fisheries.

By Mr. PELLY:

H.R. 16560. A bill to clarify the right of States and local subdivisions to provide for domestic preference in acquiring materials for public use; to the Committee on Public Works.

By Mr. GERALD R. FORD (for himself, Mr. Rodino, and Mr. William D. Ford):

H.R. 16561. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, as amended; to the Committee on Education and Labor.

By Mr. OBEY:

H.R. 16562. A bill to amend title XVIII of the Social Security Act to provide payment under part A thereof (the hospital insurance benefits program) for the cost of qualified drugs; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 16563. A bill to amend the Internal Revenue Code of 1954 to provide credit against income tax for an employer who employs older persons in his trade or business; to the Committee on Ways and Means.

By Mr. ST. ONGE:

H.R. 16564. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. TAFT:

H.R. 16565. A bill to provide comprehensive rules dealing with interrogation which will fully protect the rights and interest of society and the criminally accused; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 16566. A bill to authorize and direct the Corps of Engineers to engage in public works for waste water purification and reuse; to the Committee on Public Works.

H.R. 16567. A bill to require imported foodstuffs to meet standards required by the Federal Government for domestic foodstuffs; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 16568. A bill to encourage States to establish abandoned automobile removal programs and to provide for tax incentives for automobile scrap processing; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Boland, Mr. Byrne of Pennsylvania, Mr. Delaney, Mr. Derwinski, Mr. Dulski, Mr. Friedel, Mr. Gonzalez, Mr. Halpern, Mr. Hastings, Mr. Hosmer, Mr. Mikva, Mr. Nedzi, Mr. Podell, Mr. Price of Illinois, Mr. Rees, Mr. Rodino, Mr. Scheuer, Mr. Tunney, and Mr. Wolff):

H.R. 16569. A bill to amend the Internal Revenue Code of 1954 by imposing a tax on the transfer of explosives to persons who may lawfully possess them and to prohibit possession of explosives by certain persons; to the Committee on Ways and Means.

By Mr. WYATT:

H.R. 16570. A bill to authorize the appropriation of funds to be utilized by the Federal home loan banks for the purpose of adjusting the effective rate of interest to short-term and long-term borrowers on residential mortgages; to the Committee on Banking and Currency.

By Mr. YATRON:

H.R. 16571. A bill to amend title 38, United States Code, to provide for the payment of pensions to veterans of World War I; to the Committee on Veterans' Affairs.

By Mr. DELLENBACK (for himself, Mr. Michel, and Mr. Gude):

H.R. 16572. A bill to provide a consolidated, comprehensive child development program in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

By Mr. EDWARDS of California (for himself and Mr. Cohelan):

H.R. 16573. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. FARBSTEIN:

H.R. 16574. A bill to preserve and protect the confidentiality of first-class mail; to the Committee on Post Office and Civil Service.

By Mr. MESKILL:

H.R. 16575. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 16576. A bill to amend the Federal Insecticide, Fungicide, Rodenticide Act, as amended (7 U.S.C. 135-135k), to prohibit the importation of certain agricultural commodities to which economic poisons have been applied, and for other purposes; to the Committee on Agriculture.

By Mr. RYAN:

H.R. 16577. A bill to provide for regular determinations of the extent of air and water pollution throughout the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDE:

H.R. 16578. A bill to amend title II of the Social Security Act to provide a special rule for determining insured status, for purposes of entitlement to disability insurance benefits, of individuals whose disability is attributable directly or indirectly to meningioma or other brain tumor; to the Committee on Ways and Means.

By Mr. MacGREGOR:

H.R. 16579. A bill to establish a National Institute of Education, and for other purposes; to the Committee on Education and Labor.

H.R. 16580. A bill to amend the Communications Act of 1934 to provide continued financing for the Corporation for Public Broadcasting; to the Committee on Interstate and Foreign Commerce.

H.R. 16581. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968, to authorize appropriations for law enforcement assistance programs for the fiscal years 1971, 1972, and 1973 and to extend indefinitely the duration of such assistance programs; to the Committee on the Judiciary.

By Mr. BRADEMAS:

H.R. 16582. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

H.R. 16583. A bill to amend title V of the Housing Act of 1949 to provide assistance in the purchase of mobile homes in rural areas; to the Committee on Banking and Currency.

By Mr. LENNON:

H.R. 16584. A bill to amend section 5342 of title 5, United States Code, to provide for the adjustment, consistent with the public interest, of the pay of certain vessel employees engaged in fire protection; to the Committee on Post Office and Civil Service.

By Mr. MARTIN:

H.J. Res. 1142. A joint resolution proposing an amendment to the Constitution of the United States to provide that no individual may be seated as a Representative after attaining the age of 70 or as a Senator after attaining the age of 69; to the Committee on the Judiciary.

By Mr. ALBERT (for himself, Mr. Flood, Mr. Pike, Mr. Rees, and Mrs. Heckler of Massachusetts):

H.J. Res. 1143. Joint resolution to establish a Joint Committee on Environment and Technology; to the Committee on Rules.

By Mr. BURTON of Utah:

H. Con. Res. 552. Concurrent resolution relating to an Atlantic Union delegation; to the Committee on Foreign Affairs.

By Mr. WHALLEY:

H. Con. Res. 553. Concurrent resolution expressing the sense of Congress with respect to the establishment of all-volunteer armed forces; to the Committee on Armed Services.

By Mr. BLANTON:

H. Res. 885. Resolution creating a select committee to conduct an investigation and study of all the circumstances surrounding the commercial operations of U.S. copper producers and copper markets; to the Committee on Rules.

XUM

By Mr. NEDZI:

H. Res. 886. Resolution proposing an amendment to the Constitution of the United States to provide that the right to vote shall not be denied on account of age to persons who are 18 years of age or older; to the Committee on the Judiciary.

By Mr. TAFT:

H. Res. 887. Resolution to provide for public financial disclosure by Members, officers, principal assistants to Members and officers, and professional staff members of committees of the House of Representatives; to the Committee on Standards of Official Conduct.

By Mr. HECHLER of West Virginia (for himself and Mr. JACOBS):

H. Res. 888. Resolution providing for enclosing the galleries of the House Chamber with a transparent material to improve the acoustics on the floor and in the galleries; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. OLSEN:

H.R. 16585. A bill for the relief of Emile Georges Cochand; to the Committee on the Judiciary.

H.R. 16586. A bill for the relief of Yvon Jean Foisy; to the Committee on the Judiciary.

By Mr. PETTIS:

H.R. 16587. A bill for the relief of Miss Linda Ortega; to the Committee on the Judiciary.

By Mr. SMITH of Iowa:

H.R. 16588. A bill for the relief of the estate of Julius L. Goeppinger; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

335. By the SPEAKER. A memorial of the Legislature of the State of New Mexico, relative to providing funds for the maintenance of the Interstate Highway System; to the Committee on Appropriations.

336. Also, a memorial of the General Court of the Commonwealth of Massachusetts, relative to a comprehensive reform of the Selective Service System; to the Committee on Armed Services.

337. Also, a memorial of the General Court of the Commonwealth of Massachusetts, relative to the mistreatment of American prisoners of war in North Vietnam; to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

U.S. INTERESTS AND THE EAST-WEST BALANCE

HON. RICHARD L. ROUDEBUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. ROUDEBUSH. Mr. Speaker, during the recent Veterans of Foreign Wars national legislative conferences held in Washington, that organization was privileged to hear remarks by the Honorable Robert Ellsworth, the U.S. Permanent Representative on the North Atlantic Council.

Mr. Ellsworth delivered his remarks March 8. Because of the fine quality of these remarks, plus the fact that they contain so many interesting items, I insert them in the RECORD:

U.S. INTERESTS AND THE EAST-WEST BALANCE

I. INTRODUCTION

Besides the honor and pleasure which I attach to the invitation to speak to you this morning, this is, for me, an opportunity—an important opportunity—to discuss a matter which concerns us as citizens, as taxpayers, and as veterans of the foreign wars of the United States. Because these issues are complex and because they are surrounded by high emotion, it is not often that one can attempt a realistic public analysis of them. But with men such as yourselves: mature, having already been exposed personally to the ultimate risks, and devoted to our nation's strength and well-being, I expect that mentioning dangers will not cause alarm, and that mentioning hopes will not cause euphoria.

So I intend to discuss the pattern of events which affect the balance between East and West—with particular reference to US interests in Europe.

I labor under one handicap in doing this. That is the fact that I'm stationed in NATO headquarters in Brussels, while some of the most important actions affecting our interests in Europe and NATO are taking place here in the United States. *You* could probably tell *me* about the mood of the nation which is causing the present Congressional reconsideration of some of the vital concerns of American foreign policy.

Despite my geographic exile, however, I fully recognize that we, the American people, do have some profoundly important and difficult domestic problems here at home. As if domestic issues were not enough, the United States is also faced with severe problems overseas. In both cases, the difficulties are sufficiently serious that the imaginary line between the two disappears entirely. Anxiety about foreign problems is an ingredient of our internal politics today. And, in turn, domestic political, economic and social pressures could affect and inhibit what our nation can do in the international arena.

Many cans of worms are open, and it would be easy, in this situation, to become discouraged about managing any of the difficult areas of our national life. That we must not and need not be discouraged is indicated by what is being done by the Nixon Administration about the dilemma which developed, during the past few years, into the gravest mixture of domestic and foreign trouble. I believe that President Nixon deserves both our applause and our continuing support for his handling of the Vietnam situation both in Vietnam and here on the home front.

However, long-standing disappointment at our lack of political and military success as promised in Vietnam is behind much of the pressure in Congress for immediate and substantial unilateral cuts in our NATO forces. This is understandable, perhaps, but it is not realistic.

You will recall that in the early 1960's our government abandoned the strategy of massive retaliation and shifted to a broad strategy of flexible response. The organization and training of our general purpose forces, particularly the Army, were changed accordingly and a great deal of money and effort were invested in providing our military establishment with the ability to handle brushfire wars limited conflicts—counter-insurgency—on a flexible basis.

The first major all-out test of this new strategy and this new capability was in Vietnam.

Unfortunately, and not from any fault or lack of courage or leadership on the part of our military, the success which was promised did not attend that test. In the minds of many Americans, the use—and even the existence—of general purpose forces has become associated with the casualties and brutalizing effects of the Vietnam war, with its fantastic costs, and with its lack of the promised success.

From the reality of the Vietnam experience, set in a primitive and intrinsically remote strip of tropical coast in Southeast Asia, an unconscious analogy has been drawn with our position in Europe. Some in Congress say: if with 500,000 general purpose forces in Vietnam we have suffered great national agonies and yet have been unable to achieve success for the United States—what reason is there to suppose that 300,000 general purpose forces in Europe could do any better for the national interest?

If this dreadful fallacy should prevail, what a tragic regression that would be for the United States, for stability, for peace, and for freedom in the world.

II. PROBING THE ENIGMA

In Europe, where our national interests are more substantial and significant than they are in any other area outside our own fifty states, we are members of mankind's strongest and most successful alliance. NATO is the one alliance which unites us with allies with whom we share a common history, a common culture, common economic and environmental challenges, and most certainly a common love and responsibility for freedom. Of all of our alliances, this alliance is the best bargain because it adds the most to our national strength and security. And this is the alliance which protects that territory upon which the world balance of power—and of freedom—depends.

The most important reason for NATO's original existence was collective security: to provide for the common defense against possible aggression, and to deter the potential aggressor from initiating aggression.

NATO has delivered what it promised: peace in the West.

The most important potential aggressor the NATO allies were thinking about when they signed the North Atlantic Treaty was the Soviet Union. At that time—1949—the Soviet Union was thought of as a riddle wrapped in an enigma. The main thing we knew about this enigma was that it was terribly difficult to live with on the same planet. Even when "peaceful coexistence" became a watchword, the relationship remained difficult.

We now know a little more about the enigma of the Kremlin than we did in 1949. We know much about Soviet military capability, which I will discuss in a moment. And we know from the invasion of Czechoslovakia in 1968 that the Soviets use their military capability when they believe their political interests require it.

But we also have valid reason to believe that Soviet leaders see areas of common interest with us. Therefore we, together with our NATO allies, are engaged in a number of explorations to see whether, twenty-five years after the end of World War II, it would be possible to achieve a greater measure of stability and security in Europe. We are probing the enigma. We don't know what the results will be, but we can confidently expect one positive achievement: through our exploration of the enigma, NATO will know more about it, and we will have some important updated intelligence on its intransigence, and on its rationality. You gentlemen know the value of such intelligence, and you also know that it is *time* to try to achieve greater stability in this civilization for which we fought repeatedly in the first half of the Twentieth Century.

The character of NATO's explorations must be carefully understood. As President Nixon has just said in his Foreign Policy Report, the questions which divide nations "will not be dissipated by changes of atmosphere or dissolved in cordial personal relations between statesmen."

Based neither on complacency nor on a desire for merely improving the atmosphere, we have opened some important explorations recently.

The Nuclear Non-Proliferation Treaty, which may prove to be an important asset for international stability, entered into force this past week. Our hope now is that *all* nations will see fit to become signatories.

The Conference of the Committee on Disarmament, which is now in session at Geneva, will return to the question of a treaty to ban the emplacement of nuclear weapons on the ocean floors.

The stage for progress in other areas at Geneva was set last November by the President's historic renunciation of the first use of lethal and incapacitating chemical weapons, and of all methods of biological warfare. With this as a prologue, we are hoping for progress in Geneva toward agreement on a treaty on biological warfare.

The UK, US and France have, as you know, initiated soundings with the USSR concerning the possibility of improving the situation in and around Berlin.

The Federal Republic of Germany has taken the lead in bilateral contacts with the East. This West German "Ostpolitik" has led to discussions with the governments of the Soviet Union, Poland, and Eastern Germany.

Equally significant, given the long experience of the Germans in living next door to the Warsaw Pact, is their firm and public agreement with NATO's interest in possible mutual force reductions in Europe, which would be balanced in scope and timing.

One of the tests of the Soviet attitude toward European security will be their willingness to talk about reducing the large military forces presently concentrated in Europe—East and West. In the Declaration of last December's NATO Ministerial meeting in Brussels, the Allies said they were preparing the studies required for a realistic and feasible consideration of this subject. Of course, any significant *unilateral* reduction of NATO's conventional strength on our part would make it unlikely that the Warsaw Pact would feel they had anything to gain from discussing *mutual* reductions.

In all of the initiatives I have just mentioned, NATO has played a crucial role as the political-diplomatic center for consultation among fifteen allies, allowing all of us to develop contacts with the East in a spirit of trust and confidence among ourselves. Since these negotiations affect the interests of all, such political trust is necessary and could probably *only* be produced by the kind of confident consultation which NATO provides.

The relationship between NATO's defense posture and our effort to reduce tensions through negotiation is clearly recognized. The same West German government which has been active in exploring negotiating possibilities with the Warsaw Pact powers, is also party to the agreement reached with the British government last week to support the deployment of the British Sixth Armoured Brigade to Germany.

This deployment more than fills the gap left by Canadian force cuts, and it is a product of European willingness to accept a heavier burden in order to strengthen NATO's common defense.

I come, finally, to the event in this season of exploration and negotiation which has attracted the most attention, and probably deserves it. After careful consultations with our NATO allies, the United States engaged in preliminary talks in Helsinki last fall with the Soviet Union on the subject of possible limitations of strategic arms. These SALT talks, as they are now called, will resume in Vienna on April 16, again after full and deep consultation with our allies.

I said that the SALT talks deserve the attention they have received because, if they succeed, they could result in limiting the driving competition in strategic armaments between the world's two great superpowers. With this clear hope before us, we must see clearly the very difficult problems that present themselves.

III. BALANCING THE ENIGMA

The most obvious of these difficulties, when one is talking about SALT, is the increasing Soviet strategic capability about which we hear so much, especially the augmented menace of the Soviet SS-9 intercontinental ballistic missile.

That, however, is only part of the problem. Since we in NATO are no longer committed to a strategy of immediate nuclear response to every aggression, and since the Soviet Union is clearly thinking in more than just intercontinental ballistic missile terms, the whole range of Soviet military capability must be weighed, as it relates to our own and to NATO's capability.

The impartial Institute of Strategic Studies estimates that in Northern and Central Europe the Warsaw Pact has substantially more combat and direct support troops, more tanks, more interceptor aircraft, and more light bombers than we do.

The imposing Soviet and Warsaw Pact strength on the European mainland is matched by the dramatic build-up of Soviet military power in the Mediterranean, a build-up whose significance is underscored by the conflict between Israel and the Arab states in the eastern Mediterranean, and by the political changes in the area which have had the net effect of adding somewhat to the facilities available to the Soviets.

But even this picture of the balance is one-dimensional unless one sees the trends on the two sides of the balance over the last few years.

During the 1960's, the growth in Soviet expenditures supported major improvements in strategic force capabilities, as well as numerical increases and modernization of Warsaw Pact general purpose forces.

In contrast, American forces in Europe have been reduced by about 100,000 men, from 1962 to the present time. During that same period, our West European allies have been increasing their defense spending (as they are this year, too). And just last week our European allies in NATO showed their willingness to sustain a larger share of the common defense by arranging for the deployment to Germany of the British Sixth Armoured Brigade, the 36th Heavy Air Defense Regiment, and the 18th Helicopter Squadron.

At the same time, British Defense Minister Healey stated that the central problem facing NATO is the pressure for a further cutback of the American contingent. We have seen why this is the case. We have seen that the conventional and nuclear forces arrayed against NATO have never been greater, while NATO's forces in Western Europe—mainly U.S. forces—have been reduced.

This, then, is the context into which any present consideration of further reductions falls. It comes at a time when the other side has been beefing itself up. It comes at a time when our side has been thinning out.

There should be no mistake, therefore, about the potentially de-stabilizing effect of any substantial U.S. withdrawals at this time. No man has a better vantage for seeing this than the Supreme Allied Commander in Europe, U.S. Army General Andrew Goodpaster. He warned just last month that a sudden major reduction of American forces in Europe could destroy the Alliance and seriously threaten the security of the United States.

We are involved here, of course, in prediction and conjecture. Nobody knows exactly what would happen following the substantial reductions that have been proposed in Congress in recent weeks. We do know, that the balance of power, of interests, and of freedom, would tip further. We know that, to some extent, confidence would be eroded, the confidence of our allies that we would and could honor our long-standing treaty commitment. Even more important for deterring aggression, the confidence of Soviet military planners that we would and could honor our commitment might be eroded. So, while we don't know the exact shape of the scenario that would follow, I, for one, wouldn't want to risk the success, the stability, the security—yes, the peace—that we have successfully established and maintained for twenty years—by hasty action.

The worst situation would be where NATO could realistically be defended only by unlimited nuclear warfare. That is the prescription for political blackmail. Either one yields to the blackmail, or one suffers catastrophe. When that is the choice, blackmailers become bold.

IV. CONCLUSION: A QUESTION OF TIMING

Am I suggesting that things are going to stay the same, with the same requirement for the same US troop levels in Europe, for all time to come?

Emphatically—no. There has not been, in recent times, a period of greater diplomatic activity in Europe. There is much to be done. We find ourselves in a time when the imagination and patience of leaders is being called upon in many arenas to work on political and diplomatic problems long overdue for solution.

What we face, at this moment in history, is a critical question of timing. We appear to be going into an active era of negotiations with the countries of the Warsaw Pact, with the hope of increasing the safety, the stability and the security of Europe—and therefore of the world. We may fail, in which case we will know more about current Soviet intransigence than we did at the beginning. But we and our allies are going into the various talks—in Berlin, Vienna, Warsaw, Geneva and elsewhere—with the hope that we may have some success. While we are doing this—while we are attempting to make progress toward greater stability—we most certainly do not want to do anything, at this same moment, which would result in greater instability.

Above all, we need vision: we must not do anything today that would place NATO, and the United States, at the end of two or three years of evolution in the central question of the balance in Europe, at a disadvantage. Further substantial, unilateral, reductions of American forces in Europe could only have the effect of reducing our chances of maintaining that balance.

Therefore, both the optimists and the pessimists can join together in reasoning that this is not the time to force substantial unilateral troop cuts.

I hope that the Veterans of Foreign Wars will support this view. I hope you will agree that this is a critical point in history, that it is a point where we do not want further to de-stabilize the present balance.

We live today in a period when the threat of war continues to haunt our enjoyment of the peace, a time which calls upon us to display the qualities demanded of men in both war and peace. Winston Churchill said that in war we must have resolution, and in peace we must have good will.

If, through fatigue or lack of patience on the diplomatic front, we lose our good will, we could lose the chances which now present themselves for building a stable peace.

But we shall also surely be lost if, through fatigue and lack of patience on the strategic front, we lose the resolution which has brought us our present chances for building a stable peace.

OFFICE OF EDUCATION PROGRAMS BY STATES

HON. JOSEPH M. MONTOYA

OF NEW MEXICO

IN THE SENATE OF THE UNITED STATES

Thursday, March 19, 1970

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from New Mexico (Mr. MONTOYA), I ask unanimous consent that a statement by Mr. MONTOYA and State tables of 1971 budget estimates of the Office of Education be printed in the Extensions of Remarks.

There being no objection the statement and tables were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MONTOYA

Mr. MONTOYA. Mr. President, Fiscal Year 1970 will long be remembered in the annals of our times, if for no other reason than the fact that it saw a long and difficult working of the public will on the appropriations for the Office of Education.

It was a time which demonstrated the desire of the Congress, on both sides of the aisle, to provide funding considerably in excess of the desires of the Bureau of the Budget, and the Administration to carry out the objectives of the educational statutes enacted in the past decade.

It was a time that saw Congress, with reluctance yield to the rarely-used legislative power of the President who vetoed the initial proposals contained in H.R. 13111 which, had they been accepted, would have provided slightly more than a billion dollars for the OE programs above the budget estimates of the spring of 1969.

The bill which became law provided slightly in excess of $600 million more than the spring budget requests.

Because of the interest which has been generated by the appropriations fight on educational funding, and because of my belief that the state-by-state tables setting forth the amounts for the formula programs can be most helpful to my colleagues in responding to inquiries they have received, I asked the Office of Education to provide me with a tabular listing. This I have just received.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES

ALABAMA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$34,986,823	$38,156,305	$40,184,201	$38,176,079
State administrative expenses	349,908	381,563	401,842	381,761
Supplementary services (ESEA III)	2,893,354	2,040,343	2,040,343	2,040,343
Federally affected areas:				
Maintenance (Public Law 81-874)	9,241,181	2,362,000	9,528,000	
Construction (Public Law 81-815)	372,344	328,000	328,000	
Grants to States for school library materials (ESEA II)	840,259		702,195	
Strengthening State departments of education (ESEA V):				
Grants to States	531,860	531,860	531,860	524,625
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,888,098		851,705	
Loans to nonprofit private schools				
State administration	35,243		34,770	
Guidance, counseling, and testing (NDEA V)	315,250		263,508	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	51,454,320	43,800,071	54,866,424	41,222,808
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	571,028	571,028	571,028	623,847
Teacher education and recruitment	488,478			
Research and innovation	150,250			
Subtotal, education for the handicapped	1,209,756	571,028	571,028	623,847
Vocational and adult education:				
Basic State grants:				
Annual	5,755,151	5,840,193	7,184,345	6,755,021
Permanent	143,330			
Adult basic education (Adult Education Act):				
Grants to States	1,072,101	1,199,378	1,199,378	1,357,353
Special projects and teacher education	30,000			
Work-study and cooperative education		267,787	345,490	452,012
Research and innovation	29,598	529,860	1,042,119	470,701
Programs for students with special needs			378,489	
Subtotal, vocational and adult education	7,030,180	7,837,218	10,149,821	9,035,087
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	3,263,130	[1] 1,012,802	[1] 915,698	[1] 1,165,470
Work-study and cooperative education (HEA IV-C)	3,540,009	3,771,234	3,771,234	3,927,713
Loans:				
Direct (NDEA II)	2,673,248	2,195,856	2,674,480	2,049,884
Insured:				
Advances for reserve funds				
Interest payments	251,574			
Special programs for the disadvantaged: Talent search	48,471			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	224,435	227,680	227,680	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	2,032,026			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	$679,637	$1,037,770	$1,037,770	
Other undergraduate facilities (HEFA I, sec. 104)	3,436,369		433,104	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	102,579	102,859	102,859	$88,802
Undergraduate instructional equipment (HEA VI-A)	240,351			
College personnel development (NDEA IV; EPDA pt. E)	1,076,100			
Subtotal, higher education	17,617,929	8,398,201	9,212,825	7,281,869
Education professions development:				
Grants to States (EPDA B-2)	297,401	262,781	268,458	260,039
Personnel development programs	423,950			
Teacher Corps	285,388			
Subtotal, education professions development	1,006,739	262,781	268,458	260,039
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	633,492	319,145	539,187	316,271
Interlibrary cooperation (LSCA III)	42,892	42,892	42,892	42,084
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,251	25,251	25,251	24,886
Construction (LSCA II)	397,777		144,077	
College library resources (HEA II-A)	313,692			
Librarian training (HEA II-B)	54,758			
Educational broadcasting facilities				
University community service programs (HEA I)	175,958	175,958	175,958	
Subtotal, community education	1,683,329	602,755	966,874	422,090
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	561,688			
Total, Office of Education	80,563,941	61,472,054	76,065,430	58,845,740
Total, Office of Education, comparable basis [2]	74,607,215	61,472,054	76,065,430	58,845,740

Footnotes at end of table.

ALASKA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$1,725,848	$1,731,032	$1,874,230	$1,856,995
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	547,744	483,700	483,700	483,700
Federally affected areas:				
Maintenance (Public Law 81-874)	14,731,443	13,925,000	14,681,000	
Construction (Public Law 81-815)	918,641	1,293,000	1,293,000	
Grants to States for school library materials (ESEA II)	66,568		60,232	
Strengthening State departments of education (ESEA V):				
Grants to States	242,131	242,131	242,131	243,649
Grants for special projects				

XUM

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	$106,156		$52,995	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	49,999		50,000	
Planning and evaluation				$100,000
Subtotal, elementary and secondary education	18,551,863	$17,824,863	18,900,621	2,834,344
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	100,000	100,000	100,000	100,000
Teacher education and recruitment	73,390			
Research and innovation				
Subtotal, education for the handicapped	173,390	100,000	100,000	100,000
Vocational and adult education:				
Basic State grants:				
Annual	508,238	311,651	423,223	341,979
Permanent	30,000			
Adult basic education (Adult Education Act):				
Grants to States	131,891	136,550	136,550	141,802
Special projects and teacher education				
Work-study and cooperative education		204,951	212,262	220,277
Research and innovation		218,530	218,736	221,781
Programs for students with special needs			22,295	
Subtotal, vocational and adult education	670,129	871,682	1,013,066	925,839
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	61,078	[1] 30,508	[1] 30,246	[1] 38,496
Work-study and cooperative education (HEA IV-C)	164,593	130,963	130,963	145,638
Loans:				
Direct (NDEA II)	67,329	66,145	80,562	67,709
Insured:				
Advances for reserve funds				
Interest payments	6,941			
Special programs for the disadvantaged: Talent search	40,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	152,468	155,378	155,378	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	70,000			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		50,000	50,000	
Other undergraduate facilities (HEFA I, sec. 104)	190,628		50,000	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	28,901	35,400	35,400	43,454
Undergraduate instructional equipment (HEA VI-A)	8,119			
College personnel development (NDEA IV; EPDA pt. E)	45,800			
Subtotal, higher education	885,857	518,394	582,549	345,297
Education professions development:				
Grants to States (EPDA B-2)	112,896	112,896	114,450	113,728
Personnel development programs	423,950			
Teacher Corps	1,500			
Subtotal, education professions development	538,346	112,896	114,450	113,728
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	136,935	115,172	130,406	114,973
Interlibrary cooperation (LSCA III)	40,200	40,200	40,200	40,144
State institutional library services (LSCA IV-A)	6,939	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	3,221	25,017	25,017	24,886
Construction (LSCA II)	21,765		84,436	
College library resources (HEA II-A)	41,398			
Librarian training (HEA-B)				
Educational broadcasting facilities				
University community service programs (HEA I)	105,733	105,733	105,733	
Subtotal, community education	356,191	325,631	425,301	218,852
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil Rights Education				
Total, Office of Education	$21,175,776	$19,753,466	$21,135,987	$4,538,060
Total, Office of Education, comparable basis [2]	20,464,678	19,753,466	21,135,987	4,538,060

ARIZONA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$9,384,173	$9,528,554	$9,614,568	$10,474,927
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	1,514,678	1,143,854	1,143,854	1,143,854
Federally affected areas:				
Maintenance (Public Law 81-874)	9,187,169	6,526,000	9,158,000	
Construction (Public Law 81-815)	1,095,682	175,000	175,000	
Grants to States for school library materials (ESEA II)	422,604		361,721	
Strengthening State departments of education (ESEA V):				
Grants to States	368,490	368,490	368,490	369,169
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	784,359		366,659	
Loans to nonprofit private schools				
State administration	16,488		16,610	
Guidance, counseling, and testing (NDEA V)	147,487		125,883	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	23,071,130	17,891,898	21,480,785	12,237,950
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	224,757	224,757	224,757	245,547
Teacher education and recruitment	547,590			
Research and innovation	47,119			
Subtotal, education for the handicapped	819,466	224,757	224,757	245,547
Vocational and adult education:				
Basic State grants:				
Annual	2,133,895	2,378,280	3,091,227	2,428,192
Permanent	51,789			
Adult basic education (Adult Education Act):				
Grants to States	346,188	379,898	379,898	420,118
Special projects and teacher education	200,000			
Work-study and cooperative education		228,752	265,476	312,971
Research and innovation	58,332	235,501	235,815	321,349
Programs for students with special needs			162,854	
Subtotal, vocational and adult education	2,790,204	3,222,431	4,135,270	3,482,630
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	1,350,664	[1] 804,143	[1] 639,937	814,491
Work-study and cooperative education (HEA IV-C)	1,384,360	1,417,892	1,417,892	1,407,806
Loans:				
Direct (NDEA II)	2,169,754	1,743,464	2,123,848	1,432,565
Insured:				
Advances for reserve funds				
Interest payments	245,961			
Special programs for the disadvantaged: Talent search	138,751			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	177,936	180,964	180,964	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)				
Language training and area studies	133,600			
Construction:				
Public community colleges and technical institutions (HEFA I, sec. 103)	807,119	415,830	415,830	
Other undergraduate facilities (HEFA I, sec. 104)	1,228,671		275,087	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	58,386	72,487	72,487	63,916
Undergraduate instructional equipment (HEA VI-A)	163,854			
College personnel development (NDEA IV; EPDA pt. E)	230,933			
Subtotal, higher education	8,139,989	4,684,780	5,175,681	3,768,778

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

ARIZONA—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Education professions development:				
Grants to States (EPDA B-2)	$181,870	$181,870	$186,777	$182,441
Personnel development programs	1,363,104			
Teacher Corps	268,764			
Subtotal, education professions development	1,813,738	181,870	186,777	182,441
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	312,656	187,354	275,065	186,208
Interlibrary cooperation (LSCA III)	41,153	41,153	41,153	40,831
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,100	25,100	25,100	24,886
Construction (LSCA II)	215,407		105,542	
College library resources (HEA II–A)	202,552			
Librarian training (HEA II–B)				
Educational broadcasting facilities				
University community service programs (HEA I)	134,680	134,680	134,680	
Subtotal, community education	971,057	427,796	621,049	290,774
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	37,605,584	26,633,532	31,824,319	20,208,120
Total, Office of Education, comparable basis [3]	34,063,356	26,633,532	31,824,319	20,208,120

ARKANSAS

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$21,811,725	$23,499,049	$24,749,582	$23,897,696
State administrative expenses	218,117	234,991	247,496	238,977
Supplementary services (ESEA III)	1,713,497	1,266,286	1,266,286	1,266,286
Federally affected areas:				
Maintenance (Public Law 81–874)	2,842,356	958,000	2,586,000	
Construction (Public Law 81–815)	1,245,726			
Grants to States for school library materials (ESEA II)	453,532		380,294	
Strengthening State departments of education (ESEA V):				
Grants to States	388,193	388,193	388,193	384,783
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	886,740		448,166	
Loans to nonprofit private schools				
State administration	18,499		18,376	
Guidance, counseling, and testing (NDEA V)	165,473		139,263	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	29,743,858	26,346,519	30,263,656	25,887,742
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	297,836	297,836	297,836	325,385
Teacher education and recruitment	298,587			
Research and innovation				
Subtotal, education for the handicapped	596,423	297,836	297,836	325,385
Vocational and adult education:				
Basic State grants:				
Annual	3,319,461	3,150,572	3,873,698	3,076,273
Permanent	85,107			
Adult basic education (Adult Education Act):				
Grants to States	631,826	701,583	701,583	788,027
Special projects and teacher education	150,000			
Work-study and cooperative education		235,988	276,763	333,248
Research and innovation	4,1607	240,660	239,551	343,129
Programs for students with special needs			204,175	
Subtotal, vocational and adult education	4,228,001	4,328,803	5,295,770	4,540,777
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	1,656,935	[1] 677,466	[1] 519,808	[1] 661,595
Work-study and cooperative education (HEA IV–C)	2,505,616	2,265,627	2,265,627	2,283,439
Loans:				
Direct (NDEA II)	$1,830,266	$1,468,814	$1,788,966	$1,163,644
Insured:				
Advances for reserve funds				
Interest payments	64,487			
Special programs for the disadvantaged: Talent search	42,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	189,394	192,476	192,476	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	648,560			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		557,980	557,980	
Other undergraduate facilities (HEFA I, sec. 104)	2,248,903		240,408	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	74,074	77,911	77,911	67,408
Undergraduate instructional equipment (HEA VI–A)	136,490			
College personnel development (NDEA IV; EPDA Part E)	230,933			
Subtotal, higher education	9,677,658	5,290,274	5,693,176	4,226,086
Education professions development:				
Grants to States (EPDA B–2)	187,861	187,861	191,233	186,674
Personnel development programs	665,111			
Teacher Corps	268,545			
Subtotal, education professions development	1,121,517	187,861	191,233	186,674
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	391,716	219,830	340,150	218,258
Interlibrary cooperation (LSCA III)	41,581	41,581	41,581	41,139
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,138	25,138	25,138	24,886
Construction (LSCA II)	346,970		105,542	
College library resources (HEA II–A)	196,374			
Librarian training (HEA II–B)				
Educational broadcasting facilities				
University community service programs (HEA I)	142,316	142,316	142,316	
Subtotal, community education	1,183,604	468,374	694,236	323,132
Research and Development:				
Educational laboratories	20,067			
Research and development centers				
Subtotal, research and development	20,067			
Civil rights education	441,183			
Total, Office of Education	47,012,311	36,919,667	42,435,907	35,489,696
Total, Office of Education, comparable basis [2]	43,849,974	36,919,667	42,435,907	35,489,696

CALIFORNIA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$80,232,375	$83,959,819	$96,957,350	$91,661,698
State administrative expenses	802,900	839,598	969,574	916,617
Supplementary services (ESEA III)	14,180,196	9,681,939	9,681,939	9,681,939
Federally affected areas:				
Maintenance (Public Law 81–874)	76,264,658	25,225,000	74,734,000	
Construction (Public Law 81–815)	10,880,448	460,000	460,000	
Grants to States for school library materials (ESEA II)	4,786,011		4,081,360	
Strengthening State departments of education (ESEA V):				
Grants to States	1,908,448	1,908,448	1,908,448	1,910,647
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	5,335,635		2,580,066	
Loans to nonprofit private schools				
State administration	174,462		176,073	
Guidance, counseling, and testing (NDEA V)	1,560,552		1,326,826	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	196,125,685	122,074,804	192,874,636	104,270,901
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	2,397,629	2,397,629	2,397,629	2,619,406
Teacher education and recruitment	1,920,604			

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Research and innovation	$2,210,700			
Subtotal, education for the handicapped	6,528,933	$2,397,629	$2,397,629	$2,619,406
Vocational and adult education:				
Basic State grants:				
Annual	17,471,789	19,299,257	25,068,373	19,737,658
Permanent	534,067			
Adult basic education (Adult Education Act):				
Grants to States	1,908,201	2,137,446	2,137,446	2,430,216
Special projects and teacher education	224,914			
Work-study and cooperative education		512,086	903,040	1,409,368
Research and innovation	1,468,244	481,559	482,940	1,499,053
Programs for students with special needs			1,320,663	
Subtotal, vocational and adult education	21,607,215	22,430,348	29,912,462	25,076,295
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	11,127,949	[1] 7,170,901	[1] 6,548,209	[1] 8,334,349
Work-study and cooperative education (HEA IV–C)	13,636,446	12,567,739	12,567,739	13,004,762
Loans:				
Direct (NDEA II)	17,825,858	15,547,238	18,936,036	14,658,845
Insured:				
Advances for reserve funds				
Interest payments	2,567,470			
Special programs for the disadvantaged: Talent search	406,087			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	519,125	523,740	523,740	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	322,300			
Language training and area studies	2,275,532			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	6,699,777	3,453,412	3,453,412	
Other undergraduate facilities (HEFA I, sec. 104)	15,422,360		3,110,233	
Graduate facilities (HEFA II)	2,700,000			
State administration and planning (HEFA I, sec. 105)	534,541	399,679	399,679	300,490
Undergraduate instructional equipment (HEA VI–A)	1,577,046			
College personnel development (NDEA IV; EPDA pt. E)	7,096,900			
Subtotal, higher education	82,761,391	39,712,709	45,589,048	35,348,446
Education professions development:				
Grants to States (EPDA B–2)	977,178	1,027,178	1,079,123	1,030,190
Personnel development programs	6,201,146			
Teacher Corps	2,546,153			
Subtotal, education professions development	9,724,477	1,027,178	1,079,123	1,030,190
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	2,666,778	1,154,367	2,213,055	1,140,539
Interlibrary cooperation (LSCA III)	53,915	53,915	53,915	50,025
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	26,210	26,210	26,210	24,886
Construction (LSCA II)	1,313,062		388,295	
College library resources (HEA II–A)	2,161,076			
Librarian training (HEA II–B)	703,007			
Educational broadcasting facilities	168,766			
University community service programs (HEA I)	506,766	506,766	506,766	
Subtotal, community education	7,639,089	1,780,767	3,227,750	1,254,299
Research and Development:				
Educational laboratories	4,171,896			
Research and development centers	3,242,638			
Subtotal, research and development	7,414,534			
Civil rights education	487,177			
Total, Office of Education	332,288,501	189,423,435	275,080,648	170,599,537
Total, Office of Education, comparable basis [3]	291,305,089	189,423,435	275,080,648	170,599,537

COLORADO

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$8,914,233	$9,135,370	$9,283,738	$10,069,703
State administrative expenses	$150,000	$150,000	$150,000	$150,000
Supplementary services (ESEA III)	1,767,120	1,307,980	1,307,980	1,307,980
Federally affected areas:				
Maintenance (Public Law 81–874)	12,924,352	3,109,000	12,883,000	
Construction (Public Law 81–815)	2,655,971			
Grants to States for school library materials (ESEA II)	541,044		462,359	
Strengthening State departments of education (ESEA V):				
Grants to States	430,472	410,474	410,474	411,038
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	802,055		383,233	
Loans to nonprofit private schools	3,900			
State administration	19,340		19,673	
Guidance, counseling, and testing (NDEA V)	259,627		149,094	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	28,468,114	14,112,824	25,049,551	12,038,721
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	285,258	285,258	285,258	311,644
Teacher education and recruitment	696,367			
Research and innovation	498,738			
Subtotal, education for the handicapped	1,480,363	285,258	285,258	311,644
Vocational and adult education:				
Basic State grants:				
Annual	2,452,139	2,562,794	3,454,309	2,632,731
Permanent	66,744			
Adult basic education (Adult Education Act):				
Grants to States	255,893	275,835	275,835	301,102
Special projects and teacher education				
Work-study and cooperative education		234,655	281,755	340,489
Research and innovation	76,218	239,710	240,885	350,908
Programs for students with special needs			181,980	
Subtotal, vocational and adult education	2,850,994	3,312,994	4,434,764	3,625,230
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	2,061,131	[1] 1,042,836	[1] 880,449	[1] 1,120,607
Work-study and cooperative education (HEA IV–C)	1,823,059	1,697,619	1,697,619	1,775,107
Loans:				
Direct (NDEA II)	2,814,663	2,260,975	2,753,794	1,970,977
Insured:				
Advances for reserve funds				
Interest payments	363,089			
Special programs for the disadvantaged: Talent search	71,586			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	188,629	191,707	191,707	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	150,000			
Language training and area studies	175,765			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	940,502	483,869	483,869	
Other undergraduate facilities (HEFA I, sec. 104)	1,917,682		351,983	
Graduate facilities (HEFA II)	200,000			
State administration and planning (HEFA I, sec. 105)	173,128	83,988	83,988	77,966
Undergraduate instructional equipment (HEA VI–A)	212,102			
College personnel development (NDEA IV; EPDA pt. E)	1,558,200			
Subtotal, higher education	12,699,536	5,810,994	6,493,409	4,994,657
Education professions development:				
Grants to States (EPDA B–2)	231,798	204,815	210,921	205,377
Personnel development programs	1,597,409			
Teacher Corps	63,615			
Subtotal, education professions development	1,892,822	204,815	210,921	205,377
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	386,437	217,661	335,804	216,118
Interlibrary cooperation (LSCA III)	41,553	41,553	41,553	41,119
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,135	25,135	25,135	24,886
Construction (LSCA II)	232,842		114,404	
College library resources (HEA II–A)	354,370			
Librarian training (HEA II–B)	102,866			
Educational broadcasting facilities	338,685			

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

COLORADO—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Community education—Continued				
University community service programs (HEA I)	$142,295	$142,295	$142,295	
Subtotal, community education	1,663,692	466,153	698,700	$320,972
Research and development:				
Educational laboratories	346,000			
Research and development centers				
Subtotal, research and development	346,000			
Civil rights education				
Total, Office of Education	49,401,521	24,193,038	37,172,603	21,496,601
Total, Office of Education, comparable basis [2]	42,672,729	24,193,038	37,172,603	21,496,601

CONNECTICUT

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$8,699,833	$9,924,014	$11,405,817	$10,774,702
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	2,331,546	1,687,122	1,687,122	1,687,122
Federally affected areas:				
Maintenance (Public Law 81–874)	3,265,208	1,503,000	3,255,000	
Construction (Public Law 81–815)				
Grants to States for school library materials (ESEA II)	717,392		610,790	
Strengthening State departments of education (ESEA V):				
Grants to States	449,925	449,925	449,925	450,905
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	724,973		336,161	
Loans to nonprofit private schools				
State administration	26,250		26,375	
Guidance, counseling, and testing (NDEA V)	234,802		199,884	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	16,599,929	13,714,061	18,121,074	13,162,729
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	369,463	369,463	369,463	403,638
Teacher education and recruitment	534,275			
Research and innovation	170,485			
Subtotal, education for the handicapped	1,074,223	369,463	369,463	403,638
Vocational and adult education:				
Basic State grants:				
Annual	2,634,697	2,778,651	3,568,697	2,780,030
Permanent	92,547			
Adult basic education (Adult Education Act):				
Grants to States	457,836	503,143	503,143	561,073
Special projects and teacher education	225,000			
Work-study and cooperative education		245,509	302,605	378,146
Research and innovation	95,930	247,448	382,824	391,358
Programs for students with special needs			188,007	
Subtotal, vocational and adult education	3,506,010	3,774,751	4,945,276	4,110,607
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	1,668,912	[1] 889,184	[1] 801,634	[1] 1,010,294
Work-study and cooperative education (HEA IV–C)	1,597,398	1,593,508	1,593,508	1,679,997
Loans:				
Direct (NEDEA II)	2,360,435	1,927,841	2,348,049	1,794,541
Insured:				
Advances for reserve funds				
Interest payments	1,796,129			
Special programs for the disadvantaged: Talent search	70,500			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	257,121	210,285	210,285	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)				
Language training and area studies	644,664			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	707,988	452,481	452,481	
Other undergraduate facilities (HEFA I, sec. 104)	$2,461,717		$385,934	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	91,915	$96,574	96,574	$85,465
Undergraduate instructional equipment (HEA VI–A)	163,167			
College personnel development (NDEA IV; EPDA pt. E)	1,583,600			
Subtotal, higher education	13,453,546	5,219,873	5,938,465	4,630,297
Education professions development:				
Grants to States (EPDA B–2)	270,462	238,987	246,529	239,206
Personnel development programs	523,202			
Teacher Corps	171,534			
Subtotal, education professions development	965,198	238,978	246,529	239,206
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	514,029	270,073	440,842	267,842
Interlibrary cooperation (LSCA III)	42,244	42,244	42,244	41,617
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,195	25,195	25,195	24,886
Construction (LSCA II)	270,118		129,729	
College library resources (HEA II–A)	418,350			
Librarian training (HEA II–B)				
Educational broadcasting facilities				
University community service programs (HEA I)	162,263	162,263	162,263	
Subtotal, community education	1,471,708	539,284	839,782	373,194
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	37,070,614	23,856,410	30,460,589	22,919,671
Total, Office of Education, comparable basis [2]	30,769,708	23,856,410	30,460,589	22,919,671

DELAWARE

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$2,520,995	$2,571,260	$2,602,240	$2,837,447
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	714,568	597,711	597,711	597,711
Federally affected areas:				
Maintenance (Public Law 81–874)	2,000,165	1,388,000	2,109,000	
Construction (Public Law 81–815)		801,000	801,000	
Grants to States for school library materials (ESEA II)	134,057		117,339	
Strengthening State departments of education (ESEA V):				
Grants to States	261,718	261,718	261,718	263,311
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	164,547		82,557	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	50,000		50,000	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	6,009,383	5,769,689	6,784,898	3,948,469
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	100,000	100,000	100,000	100,000
Teacher education and recruitment	116,735			
Research and innovation				
Subtotal, education for the handicapped	216,735	100,000	100,000	100,000
Vocational and adult education:				
Basic State grants:				
Annual	623,244	508,984	685,061	532,691
Permanent	30,000			
Adult basic education (Adult Education Act):				
Grants to States	155,845	162,892	162,892	171,929
Special projects and teacher education				
Work-study and cooperative education		208,568	219,719	234,036
Research and innovation	24,638	221,110	221,271	236,560

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Programs for students with special needs			$36,090	
Subtotal, vocational and adult education	$843,727	$1,101,554	1,325,033	$1,175,216
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	234,892	[1] 135,912	[1] 140,312	[1] 178,585
Work-study and cooperative education (HEA IV–C)	206,977	310,950	310,950	349,089
Loans:				
Direct (NDEA II)	358,429	294,671	358,899	314,104
Insured:				
Advances for reserve funds				
Interest payments	28,837			
Special programs for the disadvantaged: Talent search	85,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	157,678	160,612	160,612	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	117,925			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	75,582	84,324	84,324	
Other undergraduate facilities (HEFA I, sec. 104)	403,675		72,306	
Graduate facilities (HEFA II)	200,000			
State administration and planning (HEFA I, sec. 105)	53,749	49,416	49,416	47,681
Undergraduate instructional equipment (EHA VI–A)	26,175			
College personnel development (NDEA IV; EPDA pt. E)	148,400			
Subtotal, higher education	2,147,319	1,085,885	1,226,819	939,459
Education professions development:				
Grants to States (EPDA B–2)	125,971	125,971	128,150	126,743
Personnel development programs				
Teacher Corps	6,744			
Subtotal, education professions development	132,715	125,971	128,150	126,743
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	172,884	129,939	160,000	129,546
Interlibrary cooperation (LCSA III)	40,395	40,395	40,395	40,285
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,034	25,034	25,034	24,886
Construction (LSCA II)	133,812		88,754	
College library resources (HEA II–A)	51,466			
Librarian training (HEA II–B)				
Educational braodcasting facilities				
University community service programs (HEA I)	111,098	111,098	111,098	
Subtotal, community education	574,198	345,975	464,790	233,566
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	137,618			
Total, Office of Education	10,061,695	8,529,074	10,029,690	6,523,453
Total, Office of Education, comparable basis[3]	9,142,795	8,529,074	10,029,690	6,523,453

DISTRICT OF COLUMBIA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$5,655,271	$5,710,543	$6,110,433	$6,344,360
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	1,088,238	705,509	705,509	705,509
Federally affected areas:				
Maintenance (Public Law 81–874)	5,436,944	374,000	5,418,000	
Construction (Public Law 81–815)	544,264			
Grants to States for school library materials (ESEA II)	167,514		139,372	
Strengthening State departments of education (ESEA V):				
Grants to States	273,711	273,711	273,711	272,313
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	254,359		83,393	
Loans to nonprofit private schools				
State administration	$13,333		$13,333	
Guidance, counseling, and testing (NDEA V)	79,191		51,609	
Planning and evaluation				$100,000
Subtotal, elementary and secondary education	13,662,825	$7,213,673	12,945,360	7,572,182
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	100,397	100,397	100,397	109,684
Teacher education and recruitment	534,221			
Research and innovation	1,787,758			
Subtotal, education for the handicapped	2,422,376	100,397	100,397	109,684
Vocational and adult education:				
Basic State grants:				
Annual	774,982	691,256	866,456	688,593
Permanent				
Adult basic education (Adult Education Act):				
Grants to States	216,690	231,310	231,310	250,179
Special projects and teacher education	525,000			
Work-study and cooperative education		210,853	224,696	242,726
Research and innovation	700,697	222,739	222,872	245,895
Programs for students with special needs			45,648	
Subtotal, vocational and adult education	2,217,369	1,356,158	1,590,982	1,427,393
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	1,046,615	[1] 603,189	[1] 458,426	583,470
Work-study and cooperative education (HEA IV–C)	1,079,303	748,751	748,751	733,608
Loans:				
Direct (NDEA II)	1,624,999	1,307,776	1,592,830	1,026,235
Insured:				
Advances for reserve funds				
Interest payments	3,603,390			
Special programs for the disadvantaged: Talent search	149,635			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	165,197	168,166	168,166	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	82,557			
Language training and area studies	345,215			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		74,111	74,111	
Other undergraduate facilities (HEFA I, sec. 104)	889,985		153,929	
Graduate facilities (HEFA II)	400,000			
State administration and planning (HEFA I, sec. 105)	65,934	67,409	67,409	63,528
Undergraduate instructional equipment (HEA VI–A)	79,610			
College personnel development (NDEA IV; EPDA pt. E)	1,136,919			
Subtotal, higher education	10,719,359	3,019,402	3,313,622	2,456,841
Education professions development:				
Grants to States (EPDA B–2)	132,452	132,452	133,436	131,765
Personnel development programs	636,278			
Teacher Corps	334,283			
Subtotal, education professions development	1,103,013	132,452	133,436	131,765
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	224,762	151,249	202,708	150,577
Interlibrary cooperation (LSCA III)		40,676	40,676	40,487
State institutional library services (LSCA IV–A)		39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)		25,059	25,059	24,888
Construction (LSCA II)	138,580		94,985	
College library resources (HEA II–A)	172,298			
Librarian training (HEA II–B)	49,920			
Educational broadcasting facilities	227,328			
University community service programs (HEA I)	117,437	117,437	117,437	
Subtotal, community education	930,325	373,930	520,374	254,799
Research and development:				
Educational laboratories	390,000			
Research and development centers				
Subtotal, research and development	390,000			
Civil rights education	152,065			
Total, Office of Education	31,507,332	12,196,012	18,604,171	11,952,664
Total, Office of Education, comparable basis[3]	20,990,855	12,196,012	18,604,171	11,952,664

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

FLORIDA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$32,030,278	$32,717,727	$33,005,253	$35,965,703
State administrative expenses	320,928	327,177	330,053	359,657
Supplementary services (ESEA III)	4,389,257	3,182,146	3,182,146	3,182,146
Federally affected areas:				
Maintenance (Public Law 81–874)	17,547,731	5,013.000	17,676,000	
Construction (Public Law 81–815)	2,694,363	17,000	17,000	
Grants to States for school library materials (ESEA II)	1,358,173		1,178,032	
Strengthening State departments of education (ESEA V):				
Grants to States	709,479	709,479	709,479	718,370
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	2,268,779		1,059,430	
Loans to nonprofit private schools	1,200			
State administration	53,121		54,190	
Guidance, counseling, and testing (NDEA V)	475,164		410,691	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	61,848,473	41,966,529	57,622,274	40,325,876
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	736,246	736,246	736,246	804,347
Teacher education and recruitment	839,519			
Research and innovation	324,353			
Subtotal, education for the handicapped	1,900,118	736,246	736,246	804.347
Vocational and adult education:				
Basic State grants:				
Annual	7,143,929	7,860,482	10,243,397	7,926,679
Permanent	187,558			
Adult basic education (Adult Education Act):				
Grants to States	1,040,045	1,159,832	1,159,832	1,312,124
Special projects and teacher education	79,950			
Work-study and cooperative education		293,111	414,601	571,500
Research and innovation	83,400	290,436	293,012	599,050
Programs for students with special needs			539,646	
Subtotal, vocational and adult education	8,534,882	9,603,861	12,650,488	10,409,343
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	3,249,260	[1] 1,692,052	[1] 1,664,938	[1] 2,119,080
Work-study and cooperative education (HEA IV–C)	3,993,543	4,139,255	4,139,255	4,628,227
Loans:				
Direct (NDEA II)	4,509,571	3,668,541	4,468,163	3,727,137
Insured:				
Advances for reserve funds				
Interest payments	180,238			
Special programs for the disadvantaged: Talent serach	50,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	264,313	267,743	267,743	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	851,904			
Language training and area studies	235,182			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103	2,312,667	1,193,372	1,193,372	
Other undergraduate facilities (HEFA I, sec. 104)	3,661,823		766,372	
Graduate facilities (HEFA II)	250,000			
State administration and planning (HEFA I, sec. 105)	168,491	132,528	132,528	112,265
Undergraduate instructional equipment (HEA VI–A)	398,154			
College personnel development IV; EPDA pt. E)	2,115,413			
Subtotal, higher education	22,290,559	11,143,491	12,682,371	10,636,709
Education professions development:				
Grants to States (EPDA B–2)	410,952	363,114	382,611	368,487
Personnel development programs	1,512,124			
Teacher Corps	685,906			
Subtotal, education professions development	2,608,982	363,114	382,611	368,487
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	$908,640	$432,168	$765,698	$427,812
Interlibrary cooperation (LSCA III)	44,384	44,384	44,384	43,158
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,381	25,381	25,381	24,886
Construction (LSCA II)	398,742		177,125	
College library resources (HEA II–A)	553,565			
Librarian training (HEA II–B)	110,327			
Educational broadcasting facilities				
University community service programs (HEA I)	227,490	227,490	227,490	
Subtotal, community education	2,308,038	768,932	1,279,587	534,705
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	518,550			
Total, Office of Education	100,009,602	64,582,173	85,353,577	63,079,477
Total, Office of Education, comparable basis[2]	91,304,417	64,582,173	85,353,577	63,079,477

GEORGIA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I): Basic grants	$34,745,771	$37,758,167	$39,816,759	$37,967,469
State administrative expenses	347,488	377,582	398,168	379,675
Supplementary services (ESEA III)	3,623,910	2,519,142	2,519,142	2,519,142
Federally affected areas:				
Maintenance (Public Law 81–874)	16,133,291	5,749,000	16,803,000	
Construction (Public Law 81–815)	2,309,974	1,598,000	1,598,000	
Grants to States for school library materials (ESEAII)	1,089,383		923,415	
Strengthening State departments of education (ESEA V):				
Grants to States	628,796	628,796	628,796	625,028
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	2,226,363		999,405	
Loans to nonprofit private schools				
State administration	44,018		43,958	
Guidance, counseling, and testing (NDEA V)	393,735		333,140	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	61,542,729	48,630,687	64,063,783	41,591,314
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	682,477	682,477	682,477	745,572
Teacher education and recruitment	729,543			
Research and innovation	134,110			
Subtotal, education for the handicapped	1,546,130	682,477	682,477	745,572
Vocational and adult education:				
Basic State grants:				
Annual	7,105,908	7,400,488	9,341,714	7,295,727
Permanent	172,456			
Adult basic education (Adult Education Act):				
Grants to States	1,352,356	1,515,610	1,515,610	1,719,026
Special projects and teacher education	700,000			
Work-study and cooperative education		284,162	386,107	519,360
Research and innovation	95,576	282,648	281,243	543,043
Programs for students with special needs			492,145	
Subtotal, vocational and adult education	9,426,296	9,482,908	12,016,819	10,077,156
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	2,670,339	[1] 1,205,195	[1] 1,040,494	[1] 1,324,307
Work-study and cooperative education (HEA IV–C)	2,700,025	4,209,230	4,209,230	4,431,514
Loans:				
Direct (NDEA II)	3,242,368	3,612,985	3,182,532	2,329,254
Insured:				
Advances for reserve funds				
Interest payments	538,465			
Special programs for the disadvantaged: Talent search	40,000			

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Institutional assistance:				
Aid to land-grant colleges:				
Annual	$240, 444	$243, 763	$243, 763	
Permanent	50, 000	50, 000	50, 000	$50, 000
Strengthening developing institutions (HEA III)	2, 550, 985			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	2, 044, 455	1, 063, 460	1, 063, 460	
Other undergraduate facilities (HEFA I, sec. 104)	2, 587, 633		522, 714	
Graduate facilities (HEFA II)	200, 000			
State administration and planning (HEFA I, sec. 105)	77, 383	120, 015	120, 015	101, 923
Undergraduate instructional equipment (HEA VI–A)	274, 568			
College personnel development (NDEA IV; EPDA pt.E)	1, 536, 309			
Subtotal, higher education	18, 752, 974	10, 504, 648	10, 432, 208	8, 236, 998
Education professions development:				
Grants to States (EDPA B–2)	311, 043	311,043	321,528	310,457
Personnel development programs	750, 849			
Teacher Corps	397, 473			
Subtotal, education professions development	1, 459, 365	311, 043	321, 528	310, 457
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	743, 951	364, 518	630, 121	361, 049
Interlibrary cooperation (LSCA III)	43, 491	43, 491	43, 491	42, 515
State institutional library services (LSCA IV–A)	39, 509	39, 509	39, 509	38, 849
Library services for physically handicapped (LSCA IV–B)	25, 304	25, 304	25, 304	24, 886
Construction (LSCA II)	357, 471		157, 345	
College library resources (HEA II–A)	427, 931			
Librarian training (HEA II–B)	218, 930			
Educational broadcasting facilities				
University community service programs (HEA I)	196, 164	196, 164	196, 164	
Subtotal ,community education	2, 052, 751	668, 986	1, 091, 934	467, 299
Research and development:				
Educational laboratories	670, 000			
Research and development centers	789, 680			
Subtotal, research and development	1, 459, 680			
Civil rights education	481, 623			
Total, Office of Education	96, 721, 548	69, 280, 749	88, 608, 749	61, 428, 796
Total, Office of Education, comparable basis[2]	86, 281, 082	69, 280, 749	88, 608, 749	61, 428, 796

HAWAII

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$2, 215, 107	$2, 753, 137	$2, 756, 538	$2, 591, 000
State administrative expenses	150, 000	150, 000	150, 000	150, 000
Supplementary services (ESEA III)	556, 489	716, 722	716, 722	716, 722
Federally affected areas:				
Maintenance (Public Law 81–874)	9, 520, 455	5, 741, 000	9, 490, 000	
Construction (Public Law 81–815)	1, 728, 671			
Grants to States for school library materials (ESEA II)	193, 833		163, 537	
Strengthening State Departments of Education (ESEA V):				
Grants to States	281, 390	281, 390	281, 390	280, 891
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	299, 306		148, 958	
Loans to nonprofit private schools				
State administration	13, 333		13, 333	
Guidance, counseling, and testing (NDEA V)	66, 059		58, 436	
Planning and evaluation				100, 000
Subtotal, elementary and secondary education	15, 024, 643	9, 642, 249	13, 778, 914	3, 838, 613
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	113, 023	113, 023	113, 023	123, 477
Teacher education and recruitment				
Research and innovation	131, 534			
Subtotal, education for the handicapped	244, 557	113, 023	113, 023	123, 477
Vocational and adult education:				
Basic State grants:				
Annual	$1, 000, 869	$1, 002, 844	$1, 344, 067	$1, 064, 384
Permanent	31, 661			
Adult basic education (Adult Education Act):				
Grants to States	235, 281	251, 540	251, 540	273, 315
Special projects and teacher education	120, 986			
Work-study and cooperative education		214, 090	233, 331	255, 761
Research and Innovation	25, 334	225, 047	225, 274	259, 896
Programs for students with special needs			70, 809	
Subtotal, vocational and adult education	1, 414, 131	1, 693, 521	2, 125, 021	1, 853, 356
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	275, 170	[1] 251, 661	[1] 240, 466	[1] 306, 057
Work-study and cooperative education (HEA IV–C)	563, 188	509, 439	509, 439	554, 236
Loans:				
Direct (NDEA II)	319, 050	545, 627	664, 557	538, 308
Insured:				
Advances for reserve funds				
Interest payments	82, 795			
Special programs for the disadvantaged: Talent search	66, 286			
Institutional Assistance:				
Aid to land-grant colleges:				
Annual	162, 092	165, 047	165, 047	
Permanent	50, 000	50, 000	50, 000	50, 000
Strengthening developing institutions (HEA III)	185, 300			
Language training and area studies	167, 132			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	327, 314	169, 240	169, 240	
Other undergraduate facilities (HEFA I, sec. 104)	547, 034		108, 157	
Graduate facilities (HEFA II)	600, 000			
State administration and planning (HEFA I, sec. 105)	30, 490	53, 635	53, 635	49, 359
Undergraduate instructional equipment (HEA VI–A)	58, 366			
College Personnel Development (NDEA IV; EPDA pt. E)	453, 739			
Subtotal, higher education	3, 887, 956	1, 744, 649	1, 960, 541	1, 497, 960
Education professions development:				
Grants to States (EPDA B–2)	137, 551	137, 551	139, 233	137, 272
Personnel development programs	104, 613			
Teacher Corps	282, 716			
Subtotal, Education professions development	524, 880	137, 551	139, 233	137, 272
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	203, 338	142, 449	185, 071	141, 892
Interlibrary cooperation (LSCA III)	40, 560	40, 560	40, 560	40, 404
State institutional library services (LSCA IV–A)	39, 509	39, 509	39, 509	38, 849
Library services for physically handicapped (LSCA IV–B)	25, 049	25, 049	25, 049	24, 886
Construction (LSCA II)	71, 358		92, 412	
College library resources (HEA II–A)	112, 262			
Librarian training (HEA II–B)	49, 920			
Educational broadcasting facilities				
University community service programs (HEA I)	115, 728	115, 728	115, 728	
Subtotal, community education	657, 724	363, 295	498, 329	246, 031
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	21, 773, 891	13, 694, 288	18, 615, 061	7, 668, 758
Total, Office of Education, comparable basis[2]	19, 338, 242	13, 694, 288	18, 614, 061	7, 668, 758

IDAHO

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$2, 947, 216	$3, 006, 605	$3, 032, 174	$3, 305, 670
State administrative expenses	150, 000	150, 000	150, 000	150, 000
Supplementary services (ESEA III)	857, 190	689, 438	689, 438	689, 438
Federally affected areas:				
Maintenance (Public Law 81–874)	2, 707, 913	1, 044, 000	2, 699, 000	
Construction (Public Law 81–815)	80, 850			
Grants to States for school library materials (ESEA II)	180, 728		153, 059	

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

IDAHO—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Elementary and secondary education—Con.				
Strengthening State departments of education (ESEA V):				
Grants to States	$283,917	$283,917	$283,917	$283,357
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	358,140		163,334	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	64,750		54,340	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	7,644,037	5,173,960	7,238,595	4,528,465
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	116,982	116,982	116,982	127,803
Teacher education and recruitment	134,140			
Research and innovation				
Subtotal, education for the handicapped	251,122	116,982	116,982	127,803
Vocational and adult education:				
Basic State grants:				
Annual	1,202,766	1,098,079	1,413,749	1,097,646
Permanent	39,430			
Adult basic education (Adult Education Act):				
Grants to States	146,680	153,041	153,041	160,663
Special projects and teacher education				
Work-study and cooperative education		213,519	230,055	252,140
Research and innovation	44,465	224,639	224,607	256,007
Programs for students with special needs			74,479	
Subtotal, vocational and adult education	1,433,341	1,689,278	2,095,931	1,766,456
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	558,213	[1] 296,613	[1] 258,188	[1] 328,614
Work-study and cooperative education (HEA IV–C)	639,633	581,865	581,865	613,231
Loans:				
Direct (NDEA II)	806,240	643,087	783,258	577,981
Insured:				
Advances for reserve funds				
Interest payments	74,845			
Special programs for the disadvantaged: Talent search	40,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	162,907	165,865	165,865	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	50,000			
Language training and area studies				
Constitution:				
Public community colleges and technical institutes (HEFA I, sec. 103)	400,064	206,857	206,857	
Other undergraduate facilities (HEFA I, sec. 104)	546,443		112,507	
Graduate facilities (HEFA II)	800,000			
State administration and planning (HEFA I, sec. 105)	89,308	57,748	57,748	52,914
Undergraduate instructional equipment (HEA VI–A)	65,137			
College personnel development (NDEA IV; EPDA pt. E)	154,800			
Subtotal, higher education	4,437,590	2,002,035	2,216,288	1,622,740
Education professions development:				
Grants to States (EPDA B–2)	152,799	135,012	136,719	134,884
Personnel development programs	488,709			
Teacher Corps				
Subtotal, education professions development	641,508	135,012	136,719	134,884
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	208,959	144,758	189,699	144,171
Interlibrary cooperation (LSCA III)	40,591	40,591	40,591	40,426
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,051	25,051	25,051	24,886
Construction (LSCA II)	131,159		93,087	
College library resources (HEA II–A)	73,906			
Librarian training (HEA II–B)				
Educational broadcasting facilities	$334,605			
University community service programs (HEA I)	115,079	$115,079	$115,079	
Subtotal, community education	968,859	364,988	503,016	$248,332
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	15,376,457	9,482,255	12,307,531	8,428,680
Total, Office of Education, comparable basis[3]	13,160,315	9,482,255	12,307,531	8,428,680

Footnotes at end of table.

ILLINOIS

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$44,413,015	$46,736,723	$53,256,753	$50,348,214
State administrative expenses	444,130	467,367	532,567	503,482
Supplementary services (ESEA III)	8,235,338	5,650,541	5,650,541	5,650,541
Federally affected areas:				
Maintenance (Public Law 81–874)	12,924,988	4,280,000	12,830,000	
Construction (Public Law 81–815)	907,187			
Grants to States for school library materials (ESEA II)	2,681,475		2,271,614	
Strengthening State departments of education (ESEA V):				
Grants to States	1,056,099	1,056,099	1,056,099	1,057,552
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	3,085,357		1,445,776	
Loans to nonprofit private schools	2,460			
State administration	99,990		100,742	
Guidance, counseling, and testing (NDEA V)	894,406		763,492	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	74,744,445	58,190,730	77,907,584	57,659,789
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	1,488,885	1,488,885	1,488,885	1,626,605
Teacher education and recruitment	1,499,900			
Research and innovation	918,573			
Subtotal, education for the handicapped	3,907,358	1,488,885	1,488,885	1,626,605
Vocational and adult education:				
Basic State grants:				
Annual	10,300,874	10,493,294	13,392,161	10,463,488
Permanent	36,0319			
Adult basic education (Adult Education Act):				
Grants to States	1,460,494	1,633,780	1,633,780	1,854,177
Special projects and teacher education	500,000			
Work-study and cooperative education		374,227	592,595	883,169
Research and innovation	397,728	356,327	358,071	934,315
Programs for students with special needs			705,533	
Subtotal, vocational and adult education	13,019,415	12,857,628	16,682,140	14,135,609
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	6,957,776	[1] 3,581,305	[1] 3,016,661	[1] 3,839,510
Work-study and cooperative education (HEA IV–C)	6,674,449	6,690,989	6,624,079	6,974,245
Loans:				
Direct (NDEA II)	9,003,578	7,628,040	9,290,708	6,753,109
Insured:				
Advances for reserve funds				
Interest payments	1,224,052			
Special programs for the disadvantaged: Talent search	146,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	385,726	389,721	389,721	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	380,000			
Language training and area studies	1,311,609			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	3,311,412	1,706,263	1,706,263	
Other undergraduate facilities (HEFA I, sec 104)	7,145,802		1,433,544	
Graduate facilities (HEFA II)	1,150,000			

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
State administration and planning (HFEA I, sec. 105)	$268,425	$227,574	$227,574	$185,842
Undergraduate instructional equipment (HEA VI–A)	627,907			
College personnel development (NDEA IV; EPDA pt. E)	4,050,300			
Subtotal, higher education	42,687,026	20,210,892	22,738,550	17,802,716
Education professions development:				
Grants to States (EPDA B–2)	701,085	619,473	644,963	617,727
Personnel development programs	2,187,500			
Teacher Corps	1,238,523			
Subtotal, education professions development	4,127,108	619,473	644,963	617,727
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	1,746,355	776,280	1,455,333	767,412
Interlibrary cooperation (LSCA III)	48,925	48,925	48,925	46,430
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,776	25,776	25,776	24,886
Construction (LSCA II)	1,653,747		277,743	
College library resources (HEA II–A)	1,001,350			
Librarian training (HEA II–B)	503,663			
Educational broadcasting facilities				
University community service programs (HEA I)	333,347	333,347	333,347	
Subtotal, community education	5,352,672	1,223,837	2,180,633	877,577
Research and development:				
Educational laboratories	240,489			
Research and development centers	1,707,213			
Subtotal, research and development	1,947,702			
Civil rights education				
Total, Office of Education	145,785,726	94,591,445	121,642,755	92,720,023
Total, Office of Education, comparable basis [2]	127,098,647	94,591,445	121,642,755	92,720,023

INDIANA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$15,015,004	$16,001,678	$17,081,476	$16,734,356
State administrative expenses	150,191	160,017	170,814	167,344
Supplementary services (ESEA III)	3,974,139	2,766,361	2,766,361	2,766,361
Federally affected areas:				
Maintenance (Public Law 81–874)	4,159,363	982,000	4,146,000	
Contruction (Public Law 81–815)	157,850			
Grants to States for school library materials (ESEA II)	1,286,642		1,090,524	
Strengthening State departments of education (ESEA V):				
Grants to States	630,850	664,602	664,602	662,709
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,950,699		889,093	
Loans to nonprofit private schools				
State administration	48,185		48,281	
Guidance, counseling, and testing (NDEA V)	431.016		365,908	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	27,803,939	20,574,658	27,223,059	20,430,770
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	745,215	745,215	745,215	814,147
Teacher education and recruitment	615,356			
Research and innovation	825,309			
Subtotal, education for the handicapped	2,185,880	745,215	745,215	814,147
Vocational and adult education:				
Basic State grants:				
Annual	6,170,769	6,017,761	7,793,487	7,045,204
Permanent	193,488			
Adult basic education (Adult Education Act):				
Grants to States	568,749	630,936	630,936	707,229
Special projects and teacher education	120,000			
Work-Study and cooperative education		285,876	393,126	537,464
Research and innovation	172,804	279,640	280,866	562,490
Programs for students with special needs			410,579	
Subtotal, vocational and adult education	7,225,810	7,214,213	9,508,994	8,852,387
Higher Education:				
Student Assistance:				
Educational opportunity grants (HEA IV–A)	$3,980,453	[1] $1,981,089	[1] $1,585,291	[1] $2,017,708
Work-study and cooperative education (HEA IV–C)	2,626,683	3,548,133	3,548,133	3,600,674
Loans:				
Direct (NDEA II)	5,348,259	4,295,200	5,231,415	3,548,839
Insured:				
Advances for reserve funds				
Interest payments	483,347			
Special programs for the disadvantaged: Talent search	48,000			
Institutional Assistance:				
Aid to land-grant colleges:				
Annual	257,471	260,870	260,870	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	286,887			
Language training and area studies	780,439			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	2,044,962	1,050,631	1,050,631	
Other undergraduate facilities (HEFA I, sec. 104)	3,483,714		717,108	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	170,805	129,751	129,751	115,084
Undergraduate instructional equipment (HEA VI–A)	360,578			
College personnel development (NDEA IV; EPDA pt. E)	2,725,327			
Subtotal, higher education	22,646,925	11,315,674	12,573,199	9,332,305
Education professions development:				
Grants to States (EPDA B–2)	349,257	349,257	361,618	348,543
Personnel development programs	1,077,531			
Teacher Corps	303,628			
Subtotal, education professions development	1,730,416	349,257	361,618	348,543
Community Education:				
Public Libraries:				
Services:				
Grants to States (LSCA I)	861,433	412,777	726.836	408,675
Interlibrary cooperation (LSCA III)	44,128	44,128	44,128	42,974
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,359	25,359	25,359	24,886
Construction (LSCA II)	206,881		171,455	
College library resources (HEA II–A)	527,165			
Librarian training (HEA II–B)	574,301			
Educational broadcasting facilities	468,770			
University community service programs (HEA I)	207,111	207,111	207,111	
Subtotal, community education	2,954,657	728,884	1,214,398	515,384
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	65,184			
Total, Office of Education	64,612,811	40,927,901	51,626,483	40,293,536
Total, Office of Education, comparable basis [2]	55,470,989	40,927,901	51,626,483	40,293,536

IOWA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$14,591,865	$14,644,700	$15,057,157	$15,939,698
State administrative expenses	150,000	150,000	150,571	159,397
Supplementary services (ESEA III)	2,292,488	1,648,450	1,648,450	1,648,450
Federally affected areas:				
Maintenance (Public Law 81–874)	2,653,905	310,000	2,596,000	
Construction (Public Law 81–815)	670,028			
Grants to States for school library materials (ESEA II)	722,942		612,734	
Strengthening State departments of education (ESEA V):				
Grants to States	461,077	461,077	461,077	460,360
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III)	1,119,359		486,312	
Loans to nonprofit private schools				
State administration	26,323		26,194	
Guidance, counseling, and testing (NDEA V)	235,455		198,519	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	22,923,442	7,214,227	21,237,014	18,307,905

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

IOWA—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	$432,885	$432,885	$432,885	$472,926
Teacher education and recruitment	391,785			
Research and innovation	356,003			
Subtotal, education for the handicapped	1,108,673	432,885	432,885	472,926
Vocational and adult education:				
Basic State grants:				
Annual	4,106,252	3,518,611	4,402,621	3,449,514
Permanent	122,556			
Adult basic education (Adult Education Act):				
Grants to States	284,335	309,838	309,838	339,991
Special projects and teacher education				
Work-study and cooperative education		248,936	308,525	389,733
Research and innovation	24,615	249,892	249,958	403,804
Programs for students with special needs			231,941	
Subtotal, vocational and adult education	4,537,758	4,327,277	5,502,883	4,583,042
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	3,185,784	[1] 1,384,620	[1] 1,073,409	[1] 1,366,200
Work-study and cooperative education (HEA IV–C)	2,146,018	2,567,000	2,567,000	2,628,434
Loans:				
Direct (NDEA II)	3,611,023	3,001,996	3,656,333	2,402,937
Insured:				
Advances for reserve funds				
Interest payments	286,147			
Special programs for the disadvantaged: Talent search	40,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	212,383	215,572	215,572	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	795,105			
Language training and area studies	65,312			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,383,909	712,803	712,803	
Other undergraduate facilities (HEFA I, sec. 104)	2,136,021		437,700	
Graduate facilities (HEFA II)	675,000			
State administration and planning (HEFA I, sec. 105)	99,713	109,775	109,775	94,665
Undergraduate instructional equipment (HEA VI–A)	244,835			
College personnel development (NDEA IV; EPDA pt. E)	1,313,075			
Subtotal, higher education	16,244,325	8,041,766	8,822,592	6,542,236
Education professions development:				
Grants to States (EPDA B–2)	180,053	240,053	246,996	239,649
Personnel development programs	535,761			
Teacher Corps	369,241			
Subtotal, education professions development	1,085,055	240,053	246,996	239,649
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	550,334	284,986	199,402	282,559
Interlibrary cooperation (LSCA III)	42,441	42,441	42,441	41,759
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,212	25,212	25,212	24,886
Construction (LSCA II)	506,923		159,521	
College library resources (HEA II–A)	422,878			
Librarian training (HEA II–B)	40,024			
Educational broadcasting facilities	316,617			
University community service programs (HEA I)	159,710	159,710	159,710	
Subtotal, community education	2,103,648	551,858	625,795	388,053
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	48,074,901	30,808,066	36,868,165	30,533,811
Total, Office of Education, comparable basis [2]	42,223,118	30,808,066	36,868,165	30,533,811

KANSAS

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$9,784,956	$9,864,608	$10,497,614	$10,742,914
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	1,942,094	1,422,144	1,422,144	1,422,144
Federally affected areas:				
Maintenance (Public Law 81–874)	8,664,572	3,302,000	8,642,000	
Construction (Public Law 81–815)	573,750	63,000	63,000	
Grants to States for school library materials (ESEA II)	556,782		465,110	
Strengthening State departments of education (ESEA V):				
Grants to States	414,425	414,425	414,425	410,248
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	893,721		415,179	
Loans to nonprofit private schools				
State administration	21,680		21,727	
Guidance, counseling, and testing (NDEA V)	291,036		164,659	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	23,293,016	15,216,177	22,255,858	12,825,306
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	338,673	338,673	338,673	370,000
Teacher education and recruitment	780,110			
Research and innovation	299,868			
Subtotal, education for the handicapped	1,418,651	338,673	338,673	370,000
Vocational and adult education:				
Basic State grants:				
Annual	3,089,082	2,965,782	3,774,360	2,933,014
Permanent	91,385			
Adult basic education (Adult education Act):				
Grants to States	260,619	282,224	282,224	308,408
Special projects and teacher education				
Work-study and cooperative education		239,415	288,439	353,525
Research and innovation	49,833	243,104	243,287	364,910
Programs for students with special needs				
Subtotal, vocational and adult education	3,490,919	3,730,525	4,787,151	3,959,857
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	3,070,461	[1] 1,211,224	[1] 872,547	[1] 1,110,550
Work-study and cooperative education (HEA IV–C)	2,015,111	1,948,114	1,948,114	1,931,768
Loans:				
Direct (NDEA II)	3,249,036	2,626,056	3,198,452	1,953,287
Insured:				
Advances for reserve funds				
Interest payments	98,308			
Special programs for the disadvantaged: Talent search	39,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	198,680	201,805	201,805	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	743,747			
Language training and area studies	218,743			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,051,377	531,076	531,076	
Other undergraduate facilities (HEFA I, sec. 104)	1,723,010		350,022	
Graduate facilities (HEFA II)	150,000			
State administration and planning (HEFA I, sec. 105)	89,473	99,770	99,770,	87,151
Undergraduate instructional equipment (HEA VI–A)	208,085			
College personnel development (NDEA IV; EPDA Part E)	1,398,500			
Subtotal, higher education	14,303,531	6,668,045	7,251,786	5,132,756
Education professions development:				
Grants to States (EPDA B–2)	207,864	207,864	211,581	206,004
Personnel development programs	336,778			
Teacher Corps				
Subtotal, education professions development	544,642	207,864	211,581	206,004
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	455,789	246,149	392,897	244,232

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Interlibrary cooperation (LSCA III)	$41,929	$41 929	$41,929	$41,390
State institutional library services (LSCA IV-A)	39,509	39,509	39,590	38,849
Library services for physically handicapped (LSCA IV-B)	25,168	25,168	25,168	24,886
Construction (LSCA II)	201,413		122,734	
College library resources (HEA II-A)	414,277			
Librarian training (HEA II-B)	146,541			
Educational broadcasting facilities	268,809			
University community service programs (HEA I)	149,218	149,218	149,218	
Subtotal, community education	1,742,653	501,973	771,455	349,357
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	44,793,412	26,663,257	35,616,504	22,843,280
Total, Office of Education, comparable basis [3]	39,690,646	26,663,257	35,616,504	22,843,280
KENTUCKY				
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$30,207,987	$33,739,322	$34,326,959	$34,010,527
State administrative expenses	302,084	337,393	343,269	340,105
Supplementary services (ESEA III)	2,622,860	1,849,465	1,849,465	1,849,465
Federally affected areas:				
Maintenance (Public Law 81-874)	8,407,184	5,604,000	9,477,000	
Construction (Public Law 81-815)	230,278	127,000	127,000	
Grants to States for school library materials (ESEA II)	759,127		641,127	
Strengthening State department of education (ESEA V):				
Grants to States	477,508	477 08	477,508	475,514
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,581,651		697,959	
Loans to nonprofit private schools				
State administration	30,673		30,230	
Guidance, counseling, and testing (NDEA V)	274,372		229,102	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	44,893,724	42,134,688	48,199,619	36,775,611
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	509,972	509,972	509,972	557,144
Teacher education and recruitment	387,755			
Research and innovation	343,102			
Subtotal, education for the handicapped	1,240,829	509,972	509,972	557,144
Vocational and adult education:				
Basic State grants:				
Annual	5,459,534	5,203,870	6,514,932	5,149,120
Permanent	143,135			
Adult basic education (Adult Education Act):				
Grants to States	910,457	1,019,688	1,019,688	1,151,842
Special projects and teacher education	477,989			
Work-study and cooperative education		260,170	330,959	425,218
Research and innovation	43,070	258,821	257,120	441,919
Programs for students with special needs			343,223	
Subtotal, vocational and adult education	7,034,185	6,742,549	8,465,922	7,168,099
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	2,828,376	[1] 1,110,483	[1] 870,849	[1] 1,108,388
Work-study and cooperative education (HEA IV-C)	3,124,716	3,312,872	3,312,872	3,224,149
Loans:				
Direct (NDEA II)	3,014,967	2,407,639	2,932,428	1,949,485
Insured:				
Advances for reserve funds				
Interest payments	148,217			
Special programs for the disadvantaged: Talent search	117,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	219,025	222,244	222,244	
Permanent		50,000	50,000	50,000
Strengthening developing institutions (HEA III)	864,600			
Language training and area studies	13,415			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	$1,338,963	$927,912	$927,912	
Other undergraduate facilities (HEFA I, sec. 104)	3,034,025		402,793	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	84,070	103,380	103,380	$85,668
Undergraduate instructional equipment (HEA VI-A)	233,537			
College personnel development (NDEA IV; EPDA pt. E)	668,600			
Subtotal, higher education	15,689,511	8,134,530	8,822,478	6,417,690
Education professions development:				
Grants to States (EPDA B-2)	247,063	247,063	253,807	246,120
Personnel development programs	452,063			
Teacher Corps	671,384			
Subtotal, education professions development	1,370,501	247,063	253,807	246,120
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	596,161	303,810	508,456	301,138
Interlibrary cooperation (LSCA III)	4,235	42,690	42,690	41,938
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,234	25,234	25,234	24,886
Construction (LSCA II)	158,205		139,594	
College library resources (HEA II-A)	309,262			
Librarian training (HEA II-B)	183,946			
Educational broadcasting facilities				
University community service programs (HEA I)	168,818	159,710	159,710	
Subtotal, community education	1,485,370	570,953	915,193	406,811
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	5,912			
Total, Office of Education	71,720,041	58,339,755	67,166,991	51,571,475
Total, Office of Education, comparable basis [2]	66,843,259	58,339,775	67,166,991	51,571,475
LOUISIANA				
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$30,428,619	$32,483,644	$34,326,959	$33,483,815
State administrative expenses	304,314	324,836	343,270	334,838
Supplementary services (ESEA III)	3,074,668	2,150,754	2,150,754	2,150,754
Federally affected areas:				
Maintenance (Public Law 81-874)	3,447,717	770,000	666,000	
Construction (Public Law 81-815)	351,676	666,000	813,574	
Grants to States for school library materials (ESEA II)	954,621			
Strengthening State departments of education (ESEA V):				
Grants to States	535,430	535,430	535,430	536,860
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,806,533		912,117	
Loans to nonprofit private schools				
State administration	37,949		37,976	
Guidance, counseling, and testing (NDEA V)	339,449		287,811	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	41,280,976	36,930,664	43,153,433	36,606,267
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	570,824	570,824	570,824	623,624
Teacher education and recruitment	346,923			
Research and innovation	+8,270			
Subtotal, education for the handicapped	926,017	570,824	570,824	623,624
Vocational and adult education:				
Basic State grants:				
Annual	5,453,039	5,834,580	7,500,631	5,841,820
Permanent	134,293			
Adult basic education (Adult Education Act):				
Grants to States	1,266,373	1,414,980	1,414,980	1,603,937
Special projects and teacher education				

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

LOUISIANA—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Vocational and adult education—Continued				
Work-study and cooperative education		$268,167	$353,338	$465,771
Research and innovation	$5,430	266,453	266,955	485,481
Programs for students with special needs			395,150	
Subtotal, vocational and adult education	6,859,135	7,784,180	9,931,054	8,397,009
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	2,533,113	1,334,386	1,028,548	[1] 1,309,103
Work-study and cooperative education (HEA IV-C)	3,081,348	3,778,457	3,778,457	3,810,300
Loans:				
Direct (NDEA II)	3,345,928	2,893,084	3,523,681	2,302,512
Insured:				
Advances for reserve funds				
Interest payments	182,628			
Special programs for the disadvantaged:				
Talent search	56,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	224,205	227,449	227,449	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	1,089,051			
Language training and area studies	203,255			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	306,071	939,932	939,932	
Other undergraduate facilities (HEFA I, sec. 104)	5,111,837		479,452	
Graduate facilities (HEFA II)	250,000			
State administration and planning (HEFA I, sec. 105)	160,233	101,494	101,494	84,399
Undergraduate instructional equipment (HEA VI-A)	272,955			
College personnel development (NDEA IV; EPDA pt. E)	1,330,908			
Subtotal, higher education	18,197,532	9,324,802	10,129,013	7,556,314
Education professions development:				
Grants to States (EPDA B-2)	322,474	284,936	295,177	285,423
Personnel development programs	611,791			
Teacher Corps	168,072			
Subtotal, education professions development	1,102,337	284,936	295,177	285,423
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	631,904	318,493	537,881	315,627
Interlibrary cooperation (LSCA III)	42,883	42,883	42,883	42,077
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,251	25,251	25,251	24,686
Construction (LSCA II)	229,744		143,887	
College library resources (HEA II-A)	308,819			
Librarian training (HEA II-B)	182,226			
Educational broadcasting facilities				
University community service programs (HEA I)	178,251	178,251	178,251	
Subtotal, community education	1,638,587	604,387	967,662	421,439
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	281,793			
Total, Office of Education	70,286,377	55,499,793	65,047,163	53,890,076
Total, Office of Education, comparable basis[3]	64,993,686	55,499,793	65,047,163	53,890,076

MAINE

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$3,351,971	$3,663,453	$3,884,709	$3,708,809
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	964,066	804,617	804,617	804,617
Federally affected areas:				
Maintenance (Public Law 81-874)	2,594,464	2,213,000	2,586,000	
Construction (Public Law 81-815)		22,000	22,000	
Grants to States for school library materials (ESEA II)	$253,111		$213,526	
Strengthening State departments of education (ESEA V):				
Grants to States	303,881	$303,881	303,881	$303,030
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	436,944		194,993	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	82,737		69,359	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	8,150,507	7,156,951	8,242,418	5,066,456
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	153,967	153,967	153,967	168,209
Teacher education and recruitment	155,543			
Research and innovation				
Subtotal, education for the handicapped	309,501	153,967	153,967	168,209
Vocational and adult education:				
Basic State grants:				
Annual	1,490,962	1,475,269	1,798,286	1,441,424
Permanent	48,182			
Adult basic education (Adult Education Act):				
Grants to States	192,097	204,502	204,502	219,519
Special projects and teacher education				
Work-study and cooperative education		217,708	237,519	265,176
Research and innovation		227,626	227,009	270,009
Programs for students with special needs			94,738	
Subtotal, vocational and adult education	1,731,241	2,125,105	2,562,054	2,196,128
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	666,632	287,069	248,553	[1] 316,350
Work-study and cooperative education (HEA IV-C)	797,691	744,348	744,348	786,502
Loans:				
Direct (NDEA II)	780,846	622,395	758,059	556,412
Insured:				
Advances for reserve funds				
Interest payments	147,253			
Special programs for the disadvantaged: Talent search				
Institutional assistance:				
Aid to land-grant colleges:				
Annual	170,056	173,048	173,048	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	120,300			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	548,214	283,459	283,459	
Other undergraduate facilities (HEFA I, sec. 104)	620,484		129,423	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	85,786	65,833	65,833	58,654
Undergraduate instructional equipment (HEA VI-A)	53,126			
College personnel development (NDEA IV; EPDA pt. E)	181,619			
Subtotal, higher education	4,222,007	2,226,152	2,452,723	1,767,918
Education professions development:				
Grants to States (EPDA B-2)	149,034	149,034	151,225	148,665
Personnel development programs	60,991			
Teacher Corps				
Subtotal, education professions development	210,025	149,034	151,225	148,665
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	258,291	165,022	230,310	164,169
Interlibrary cooperation (LSCA III)	40,858	40,858	40,858	40,618
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,075	25,075	25,075	24,886
Construction (LSCA II)	106,355		99,012	
College library resources (HEA II-A)	143,115			
Librarian training (HEA II-B)				
Educational broadcasting facilities	72,216			
University community service programs (HEA I)	121,158	121,158	121,158	
Subtotal, community education	806,577	391,622	555,922	268,522

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	$15,429,867	$12,202,831	$14,118,309	$9,615,898
Total, Office of Education, comparable basis[2]	14,495,704	12,202,831	14,118,309	9,615,898

MARYLAND

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$14,445,834	$17,445,114	$18,207,980	$17,213,299
State administrative expenses	150,000	174,451	182,079	172,133
Supplementary services (ESEA III)	2,887,002	2,088,229	2,088,229	2,088,229
Federally affected areas:				
Maintenance (Public Law 81-874)	25,867,892	3,387,000	25,785,000	
Construction (Public Law 81-815)	494,236	23,000	23,000	
Grants to States for school library materials (ESEA II)	936,620		805,571	
Strengthening State departments of education (ESEA V):				
Grants to States	529,969	529,969	529,969	534,643
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,312,943		607,549	
Loans to nonprofit private schools	12,890			
State administration	34,987		35,310	
Guidance, counseling, and testing (NDEA V)	312,960		267,604	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	46,985,333	23,647,763	48,532,291	20,108,304
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	493,874	493,874	493,874	539,556
Teacher education and recruitment	376,451			
Research and innovation	426,695			
Subtotal, education for the handicapped	1,297,020	493,874	493,874	539,556
Vocational and adult education:				
Basic State grants:				
Annual	3,966,192	4,278,999	5,497,155	4,325,158
Permanent	118,672			
Adult basic education (Adult Education Act):				
Grants to States	615,676	682,321	682,321	765,998
Special projects and teacher education	53,331	0	0	0
Work-study and cooperative education	0	263,026	341,872	444,046
Research and innovation	128,787	259,939	259,966	462,144
Programs for students with special needs	0	0	289,602	0
Subtotal, vocational and adult education	4,882,658	5,484,285	7,070,916	5,997,346
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	1,670,392	[1] 1,054,785	[1] 941,773	[1] 1,198,658
Work-study and cooperative education (HEA IV-C)	1,547,538	2,293,450	2,293,450	2,418,293
Loans:				
Direct (NDEA II)	2,346,062	2,286,880	2,785,347	2,108,257
Insured:				
Advances for reserve funds	0	0	0	0
Interest payments	234,680	0	0	0
Special programs for the disadvantaged: Talent search	0	0	0	0
Institutional assistance:				
Aid to land-grant colleges:				
Annual	220,505	223,731	223,731	0
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	706,694	0	0	0
Language training and area studies	13,131	0	0	0
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,346,890	693,653	693,653	0
Other undergraduate facilities (HEFA I, sec. 104)	2,241,212	0	480,057	0
Graduate facilities (HEFA II)	300,000	0	0	0
State administration and planning (HEFA I, sec. 105)	69,208	107,349	107,349	89,153
Undergraduate instructional equipment (HEA VI-A)	213,395	0	0	0
College personnel development (NDEA IV; EPDA pt. E)	1,624,327	0	0	0
Subtotal, higher education	12,594,035	6,709,848	7,575,360	5,864,361
Education professions development:				
Grants to States (EPDA B-2)	$318,527	$281,448	$293,258	$283,599
Personnel development programs	622,171			
Teacher Corps	156,293			
Subtotal, education professions development	1,096,991	281,448	293,258	283,599
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	606,374	308,005	516,863	305,277
Interlibrary cooperation (LSCA III)	42,745	42,745	42,745	41,978
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,239	25,239	25,239	24,886
Construction (LSCA II)	393,560		140,820	
College library resources (HEA II-A)	398,449			
Librarian training (HEA II-B)	102,510			
Educational broadcasting facilities				
University community service programs (HEA I)	178,121	178,121	178,121	
Subtotal, community education	1,786,507	593,619	943,297	410,990
Research and development:				
Educational laboratories				
Research and development centers	613,880			
Subtotal, research and development	613,880			
Civil rights education	225,529			
Total, Office of Education	69,471,953	37,210,837	64,908,976	33,204,156
Total, Office of Education, comparable basis[2]	64,111,111	37,210,837	64,908,976	33,204,156

MASSACHUSETTS

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$16,794,736	$18,817,388	$21,630,141	$20,448,506
State administrative expenses	167,965	188,174	216,301	204,485
Supplementary services (ESEA III)	4,108,964	2,867,743	2,867,743	2,867,743
Federally affected areas:				
Maintenance (Public Law 81-874)	13,710,871	5,971,000	13,994,000	
Construction (Public Law 81-815)	116,046	465,000	465,000	
Grants to States for school library materials (ESEA II)	1,296,227		1,103,113	
Strengthening State departments of education (ESEA V):				
Grants to States	626,114	626,114	626,114	628,412
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,557,326		722,123	
Loans to nonprofit private schools				
State administration	48,222		48,101	
Guidance, counseling, and testing (NDEA V)	431,343		364,543	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	38,857,814	28,935,419	39,169,436	24,249,146
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	750,780	750,780	750,780	820,226
Teacher education and recruitment	1,258,348			
Research and innovation	813,925			
Subtotal, education for the handicapped	2,823,053	750,780	750,780	820,226
Vocational and adult education:				
Basic State grants:				
Annual	5,383,109			
Permanent	179,461	5,750,373	7,201,524	5,685,895
Adult basic education (Adult Education Act):				
Grants to States	750,102	835,242	835,242	940,892
Special projects and teacher education	178,000			
Work-study and cooperative education		286,828	390,093	529,498
Research and innovation	437,153	279,501	277,979	553,934
Programs for students with special needs			379,393	
Subtotal, vocational and adult education	7,027,825	7,151,944	9,084,231	7,710,219
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	5,488,242	[1] 2,629,084	[1] 2,222,744	[1] 2,829,038
Work-study and cooperative education HEA IV-C)	6,495,739	3,949,122	3,949,122	4,047,533

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

MASSACHUSETTS—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Higher education:—Continued				
Loans:				
Direct (NDEA II)	$7,070,873	$5,700,121	$6,942,565	$4,975,844
Insured:				
Advances for reserve funds				
Interest payments	1,206,506			
Special programs for the disadvantaged: Talent search	127,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	268,977	272,428	272,428	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	50,000			
Language training and area studies	898,381			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	2,157,438	1,114,870	1,114,870	
Other undergraduate facilities (HEFA I, sec. 104)	4,330,783		881,731	
Graduate facilities (HEFA II)	1,800,000			
State administration and planning (HEFA I, sec. 105)	208,175	173,339	173,339	131,834
Undergraduate instructional equipment (HEA VI–A)	507,779			
College personnel development (NDEA IV; EPDA pt. E)	3,984,143			
Subtotal, higher education	34,644,036	13,888,964	15,606,799	12,034,249
Education professions development:				
Grants to States (EPDA B–2)	301,000	351,113	364,638	351,412
Personnel development programs	2,099,039			
Teacher Corps	829,390			
Subtotal, education professions development	3,229,429	351,113	364,638	351,412
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	940,815	445,385	792,186	440,855
Interlibrary cooperation (LSCA III)	44,558	44,558	44,558	43,284
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,396	25,396	25,396	24,886
Construction (LSCA II)	633,065		180,990	
College library resources (HEA II–A)	919,725			
Librarian training (HEA II–B)	293,465			
Educational broadcasting facilities				
University community service programs (HEA I)	216,889	216,889	216,889	
Subtotal, community education	3,113,422	771,737	1,299,528	547,874
Research and development:				
Educational laboratories	959,655			
Research and development centers				
Subtotal, research and development	959,655			
Civil rights education	91,670			
Total, Office of Education	90,746,904	51,849,957	69,143,155	45,713,126
Total, Office of Education, comparable basis[2]	74,629,878	51,849,957	69,143,155	45,713,126

MICHIGAN

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$32,395,258	$36,375,056	$42,339,833	$40,027,485
State administrative expenses	324,175	363,751	423,398	400,275
Supplementary services (ESEA III)	6,790,000	4,691,787	4,691,787	4,691,787
Federally affected areas:				
Maintenance (Public Law 81–874)	4,550,314	2,852,000	4,536,000	
Construction (Public Law 81–815)	194,618	3,000	3,000	
Grants to States for school library materials (ESEA II)	2,326,201		2,000,378	
Strengthening State departments of education (ESEA V):				
Grants to States	990,466	990,466	990,466	1,002,131
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	3,421,788		1,553,289	
Loans to nonprofit private schools	5,900			
State administration	86,061		86,366	
Guidance, counseling, and testing (NDEA V)	769,811		654,538	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	$51,854,592	$45,276,060	$57,279,055	$46,221,678
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	1,268,699	1,268,699	1,268,699	1,386,051
Teacher education and recruitment	1,576,186			
Research and innovation	841,068			
Subtotal, education for the handicapped	3,685,953	1,268,699	1,268,699	1,386,051
Vocational and adult education:				
Basic State grants:				
Annual	9,284,246	9,679,569	12,625,520	9,816,053
Permanent	297,765			
Adult basic education (Adult Education Act):				
Grants to States	991,837	1,106,931	1,106,931	1,251,622
Special projects and teacher education	500,000			
Work-study and cooperative education		349,093	540,122	794,545
Research and innovation	449,550	235,916	339,820	838,636
Programs for students with special needs			665,143	
Subtotal, vocational and adult education	11,523,398	11,371,509	15,277,536	12,700,856
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	6,080,085	[1] 3,232,073	[1] 2,690,991	[1] 3,425,007
Work-study and cooperative education (HEA IV–C)	5,006,293	5,922,710	5,922,710	6,144,144
Loans:				
Direct (NDEA II)	8,650,342	7,007,462	8,534,862	6,024,063
Insured:				
Advances for reserve funds				
Interest payments	435,727			
Special programs for the disadvantaged: Talent search	85,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	332,282	336,028	336,028	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	90,000			
Language training and area studies	1,159,039			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	3,315,772	1,701,935	1,701,935	
Other undergraduate facilities (HEFA I, sec. 104)	6,385,324		1,247,835	
Graduate facilities (HEFA II)	300,000			
State administration and planning (HEFA I, Sec. 105)	178,974	197,259	197,259	162,392
Undergraduate instructional equipment (HEA VI–A)	612,301			
College personnel development (NDEA IV; EPDA pt. E)	2,691,606			
Subtotal, higher education	35,372,745	18,447,467	20,681,620	15,805,606
Education professions development:				
Grants to States (EPDA B–2)	550,647	550,647	579,893	555,910
Personnel development programs	2,279,616			
Teacher Corps	849,241			
Subtotal, education professions development	3,679,504	550,647	579,893	555,910
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	1,377,606	624,808	1,151,767	617,925
Interlibrary cooperation (LSCA III)	46,926	46,926	46,926	44,990
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,602	25,602	25,602	24,886
Construction (LSCA II)	925,674		233,453	
College library resources (HEA II–A)	802,205			
Librarian training (HEA II–B)	522,737			
Educational broadcasting facilities				
University community service programs (HEA I)	283,198	283,198	283,198	
Subtotal, community education	4,023,457	1,020,043	1,780,455	726,650
Research and development:				
Educational laboratories	384,500			
Research and development centers				
Subtotal, research and development	384,500			
Civil rights education	163,596			
Total, Office of Education	110,687,718	77,934,425	95,867,528	77,396,751
Total, Office of Education, comparable basis[2]	97,394,923	77,934,425	95,867,528	77,396,751

MINNESOTA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$18,633,931	$19,279,742	$20,127,632	$20,462,284
State administrative expenses	186,630	192,797	201,276	204,623
Supplementary services (ESEA III)	2,976,699	2,097,802	2,097,802	2,097,802
Federally affected areas:				
Maintenance (Public Law 81-874)	3,381,658	846,000	3,368,000	
Construction (Public Law 81-815)				
Grants to States for school library materials (ESEA II)	996,022		853,429	
Strengthening State departments of education (ESEA V):				
Grants to States	544,184	544,185	544,185	548,158
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,563,031		719,373	
Loans to nonprofit private schools	11,500			
State administration	35,901		36,211	
Guidance, counseling, and testing (NDEA V)	321,136		274,431	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	28,650,422	22,960,526	28,222,339	23,412,867
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	552,633	552,633	552,633	603,750
Teacher education and recruitment	702,609			
Research and innovation	634,739			
Subtotal, education for the handicapped	1,889,981	552,633	552,633	603,750
Vocational and adult education:				
Basic State grants:				
Annual	4,942,203	4,620,947	5,960,728	4,609,697
Permanent	141,929			
Adult basic education (Adult Education Act):				
Grants to States	360,302	393,947	393,947	436,186
Special projects and teacher education	200,000			
Work-study and cooperative education		263,217	344,117	452,736
Research and innovation	472,021	260,075	261,567	471,479
Programs for students with special needs			314,026	
Subtotal, vocational and adult education	6,116,455	5,538,186	7,274,385	5,970,098
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	4,093,988	[1]1,691,761	[1]1,340,828	[1]1,706,563
Work-study and cooperative education (HEA IV-C)	3,074,487	3,107,129	3,107,129	3,205,052
Loans:				
Direct (NDEA II)	4,516,471	3,667,909	4,467,393	3,001,583
Insured:				
Advances for reserve funds				
Interest payments	416,615			
Special programs for the disadvantaged: Talent search	99,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	227,918	231,178	231,178	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	292,135			
Language training and area studies	260,387			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,824,346	951,515	951,515	
Other undergraduate facilities (HEFA I, sec. 104)	2,864,880		594,127	
Graduate facilities (HEFA II)	1,000,000			
State administration and planning (HEFA I, sec. 105)	180,132	122,169	122,169	101,943
Undergraduate instructional equipment (HEA VI-A)	318,722			
College personnel development (NDEA IV; EPDA Part E)	994,100			
Subtotal, higher education	20,213,181	9,821,661	10,864,339	8,065,141
Education professions development:				
Grants to States (EPDA B-2)	331,551	292,956	304,739	294,507
Personnel development programs	1,166,053			
Teacher Corps	443,834			
Subtotal, education professions development	1,941,438	292,956	304,739	294,507
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	657,518	329,014	558,967	326,011
Interlibrary cooperation (LSCA III)	43,022	43,022	43,022	42,178
State institutional library services (LSCA IV-A)	$39,059	$39,059	$39,059	$38,849
Library services for physically handicapped (LSCA IV-B)	25,263	25,263	25,263	24,886
Construction (LSCA II)	177,371		146,963	
College library resources (HEA II-A)	469,205			
Librarian training (HEA II-B)	280,541			
Educational broadcasting facilities				
University community service programs (HEA I)	177,277	177,277	177,277	
Subtotal, community education	1,869,706	614,085	990,551	431,924
Research and development:				
Educational laboratories	800,000			
Research and development centers				
Subtotal, research and development	800,000			
Civil rights education	78,967			
Total, Office of Education	61,560,150	39,780,047	48,208,986	38,778,287
Total, Office of Education, comparable basis[2]	53,695,378	39,780,047	48,208,986	38,778,287

Footnotes at end of table.

MISSISSIPPI

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$32,395,258	$39,797,685	$41,909,589	$39,905,960
State administrative expenses	366,015	397,977	419,096	399,060
Supplementary services (ESEA III)	2,101,942	1,502,449	1,502,449	1,502,449
Federally affected areas:				
Maintenance (Public Law 81-874)	2,593,395	1,115,000	2,585,000	
Construction (Public Law 81-815)	117,158			
Grants to States for school library materials (ESEA II)	589,397		491,458	
Strengthening State departments of education (ESEA V):				
Grants to States	437,838	437,838	437,838	432,249
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,312,466		596,634	
Loans to nonprofit private schools				
State administration	24,641		24,357	
Guidance, counseling, and testing (NDEA V)	220,413		184,592	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	40,158,523	43,250,949	48,151,013	42,339,718
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	399,693	399,693	399,693	436,664
Teacher education and recruitment	229,137			
Research and innovation				
Subtotal, education for the handicapped	628,830	399,693	399,693	436,664
Vocational and adult education:				
Basic State grants:				
Annual	4,298,675	3,992,678	4,942,085	4,065,937
Permanent	107,308			
Adult basic education (Adult Education Act):				
Grants to States	831,474	936,895	936,895	1,057,152
Special projects and teacher education	320,000			
Work-study and cooperative education		247,032	302,036	376,698
Research and innovation	45,826	248,534	247,557	389,802
Programs for students with special needs			260,361	
Subtotal, vocational and adult education	5,603,283	5,425,139	6,688,934	5,889,589
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	2,470,096	854,632	696,224	886,131
Work-study and cooperative education (HEA IV-C)	3,159,065	3,188,960	3,188,960	3,301,930
Loans:				
Direct (NDEA II)	2,304,564	1,852,929	2,256,810	1,558,569
Insured:				
Advances for reserve funds				
Interest payments	128,300			
Special programs for the disadvantaged:				
Talent search				
Institutional assistance:				
Aid to land-grant colleges:				
Annual	198,669	201,794	201,794	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	1,929,260			
Language training and area studies				

XUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

MISSISSIPPI—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Higher education—Continued				
Student assistance—Continued				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	$1,197,927	$640,997	$640,999	
Other undergraduate facilities (HEFA I, sec. 104)	1,640,792		304,004	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	89,151	93,741	93,741	$81,084
Undergraduate instructional equipment (HEA VI–A)	180,563			
College personnel development (NDEA IV; EPDA part E)	571,726			
Subtotal, higher education	13,920,113	6,883,053	7,432,530	5,877,014
Education professions development:				
Grants to States (EPDA B–2)	214,182	214,182	217,901	212,009
Personnel development programs	145,925			
Teacher Corps	468,815			
Subtotal, education professions development	828,922	214,182	217,901	212,009
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	455,712	246,118	392,834	244,201
Interlibrary cooperation (LSCA III)	41,928	41,928	41,928	41,389
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,168	25,168	25,168	24,886
Construction (LSCA II)	139,226		122,724	
College library resources (HEA II–A)	298,915			
Librarian training (HEA II–B)	339,973			
Educational broadcasting facilities				
University community service programs (HEA I)	150,559	150,559	150,559	
Subtotal, community education	1,490,990	503,282	772,722	349,325
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	289,604			
Total, Office of Education	62,920,265	56,676,298	63,662,793	55,105,019
Total, Office of Education, comparable basis [2]	58,018,047	56,676,298	63,662,793	55,105,019

MISSOURI

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$22,898,224	$23,390,495	$26,049,684	$25,258,099
State administrative expenses	228,982	233,905	260,497	252,581
Supplementary services (ESEA III)	3,556,732	2,481,771	2,481,771	2,481,771
Federally affected areas:				
Maintenance (Public Law 81–874)	8,398,571	2,176,000	8,371,000	
Construction (Public Law 81–815)	1,485,317			
Grants to States for school library materials (ESEA II)	1,670,831		994,943	
Strengthening State departments of education (ESEA V):				
Grants to States	596,859	596,859	596,859	607,581
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,655,991		772,977	
Loans to nonprofit private schools				
State administration	41,641		41,652	
Guidance, counseling, and testing (NDEA V)	372,479		315,664	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	40,905,627	28,879,030	39,885,047	28,700,032
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	641,800	641,800	641,800	701,166
Teacher education and recruitment	724,146			
Research and innovation	9,600			
Subtotal, education for the handicapped	1,375,546	641,800	641,800	701,166
Vocational and adult education:				
Basic State grants:				
Annual	$5,909,451	$5,798,086	$7,371,015,	$5,764,066
Permanent	173,605			
Adult basic education (Adult Education Act):				
Grants to States	742,562	824,641	824,641	928,768
Special projects and teacher education	127,000			
Work-study cooperative education		274,641	366,153	488,945
Research and innovation	20,573	270,958	270,913	510,373
Programs for students with special needs			388,323	
Subtotal, vocational and adult education	6,973,191	7,168,326	9,221,045	7,692,152
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	3,586,582	[1] 1,823,047	[1] 1,414,063	[1] 1,799,774
Work-study and cooperative education (HEA IV–C)	3,295,787	3,733,029	3,733,029	3,677,540
Loans:				
Direct (NDEA II)	4,823,178	3,952,550	4,814,078	3,165,527
Insured:				
Advanced for reserve funds				
Interest payments	130,362			
Special programs for the disadvantaged: Talent search	123,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	249,360	252,721	252,721	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	1,127,530			
Language training and area studies	239,679			
Construction:				
Public community colleges and technical institutes (HEFA I, sec 103)	1,972,556	1,017,094	1,017,094	
Other undergraduate facilities (HEFA I, sec. 104)	2,987,407		618,833	
Graduate facilities (HEFA II)	700,000			
State administration and planning (HEFA I, sec. 105)	143,722	134,033	134,033	109,742
Undergraduate instructional equipment (HEA VI–A)	343,897			
College personnel development (NDEA IV; EPDA pt. E)	2,396,200			
Subtotal, higher education	22,169,242	10,962,474	12,033,851	8,802,583
Education professions development:				
Grants to States (EPDA B–2)	346,701	321,701	338,688	326,759
Personnel development programs	470,198			
Teacher Corps	524,256			
Subtotal, education professions development	1,341,155	321,701	338,688	326,759
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	805,469	389,789	680,765	385,988
Interlibrary cooperation (LSCA III)	43,824	43,824	43,824	42,755
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,333	25,333	25,333	24,886
Construction (LSCA II)	512,392		164,733	
College library resources (HEA II–A)	522,912			
Librarian training (HEA II–B)	61,748			
Educational broadcasting facilities	340,000			
University community service programs (HEA I)	198,738	198,738	198,738	
Subtotal, community education	2,549,925	697,193	1,152,902	492,478
Research and development:				
Educational laboratories	2,683,838			
Research and development centers				
Subtotal, research and development	2,683,838			
Civil rights education	60,067			
Total, Office of Education	78,058,591	48,670,524	63,273,333	46,715,170
Total, Office of Education, comparable basis [2]	67,474,176	48,670,524	63,273,333	46,715,170

MONTANA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$3,460,422	$3,521,648	$3,576,190	$3,897,883
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	888,162	686,277	686,277	686,277
Federally affected areas:				
Maintenance (Public Law 81–874)	4,204,578	3,960,000	4,191,000	
Construction (Public Law 81–815)	844,364			

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Grants to States for school library materials (ESEA II)	$185,736		$155,462	
Strengthening State departments of education (ESEA V):				
Grants to States	282,290	$282,290	282,290	$281,090
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	333,751		152,595	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	96,914		53,521	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	10,458,830	8,600,215	9,260,668	5,115,250
Preschool and school programs for the handicapped (ESEA VI)	112,296	112,296	112,296	122,683
Teacher education and recruitment	143,729			
Research and innovation	32,075			
Subtotal, education for the handicapped	288,100	112,296	112,296	122,683
Vocational and adult education:				
Basic State grants:				
Annual	1,116,404	1,032,688	1,294,135	1,024,252
Permanent	38,665			
Adult basic education (Adult Education Act):				
Grants to States	156,723	164,109	164,109	173,321
Special projects and teacher education	138,000			
Work-Study and cooperative education		213,138	228,900	250,692
Research and innovation	32,571	224,368	224,340	254,451
Programs for students with special needs			68,178	
Subtotal, vocational and adult education	1,482,363	1,634,303	1,979,662	1,702,716
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	729,768	[1] 321,421	[1] 260,776	[1] 331,908
Work-study and cooperative education (HEA IV–C)	2,529,733	597,086	597,086	634,395
Loans:				
Direct (NDEA II)	877,702	696,872	848,766	583,775
Insured:				
Advances for reserve funds				
Interest payments	71,730			
Special programs for the disadvantaged: Talent search	50,394			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	163,086	166,045	166,045	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	21,300			
Language training and area studies	12,951			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	234,428	189,170	189,170	
Other undergraduate facilities (HEFA I, sec. 104)	662,620		109,909	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	68,765	57,831	57,831	53,806
Undergraduate instructional equipment (HEA VI–A)	59,639			
College personnel development (NDEA IV; EPDA pt. E)	253,200			
Subtotal, higher education	5,785,316	2,078,425	2,279,583	1,653,884
Education professions development:				
Grants to States (EPDA B–2)	135,982	135,982	137,296	135,432
Personnel development programs	270,762			
Teacher Corps				
Subtotal, education professions development	406,744	135,982	137,296	135,432
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	210,196	145,266	190,717	144,672
Interlibrary cooperation (LSCA III)	40,597	40,597	40,597	40,430
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,052	25,052	25,052	24,886
Construction (LSCA II)	88,347		93,236	
College library resources (HEA II–A)	108,233			
Librarian training (HEA II–B)	33,737			
Educational broadcasting facilities				
University community service programs (HEA I)	115,187	115,187	115,187	
Subtotal, community education	660,858	365,611	504,298	248,837
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	$19,082,211	$12,926,832	$14,273,803	$8,978,802
Total, Office of Education, comparable basis [2]	17,886,461	12,926,832	14,273,803	8,978,802

Footnotes at end of table.

NEBRASKA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$5,668,814	$7,066,340	$7,491,253	$7,070,441
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	1,353,663	1,024,798	1,024,798	1,024,798
Federally affected areas:				
Maintenance (Public Law 81–874)	4,624,472	2,287,000	4,610,000	
Construction (Public Law 81–815)	457,928			
Grants to States for school library materials (ESEA II)	374,367		313,078	
Strengthening State departments of education (ESEA V):				
Grants to States	340,817	340,817	340,817	338,719
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	576,770		258,291	
Loans to nonprofit private schools				
State administration	13,673		13,656	
Guidance, counseling, and testing (NDEA V)	183,554		103,492	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	13,744,058	10,867,955	14,305,385	8,683,958
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	217,458	217,458	217,458	237,573
Teacher education and recruitment	176,671			
Research and innovation	274,385			
Subtotal, education for the handicapped	668,514	217,458	217,458	237,583
Vocational and adult education:				
Basic State grants:				
Annual	2,135,304	1,852,721	2,335,637	1,817,746
Permanent	64,271			
Adult basic education (Adult Education Act):				
Grants to States	207,912	221,891	221,891	239,406
Special projects and teacher education				
Work-study and cooperative education		224,754	255,897	250,692
Research and innovation	82,022	232,650	232,880	254,451
Programs for students with special needs			123,046	
Subtotal, vocational and adult education	2,489,509	2,532,016	3,169,351	2,562,295
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	1,362,622	[1] 686,791	[1] 575,136	[1] 732,014
Work-study and cooperative education (HEA IV–C)	1,232,909	1,309,717	1,309,717	1,362,875
Loans:				
Direct (NDEA II)	1,786,869	1,489,033	1,813,595	1,287,501
Insured:				
Advances for reserve funds				
interest payments	64,019			
Special programs for the disadvantaged: Talent search	60,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	180,520	183,560	183,560	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	280,000			
Language training and area studies	34,980			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	726,890	359,064	359,064	
Other undergraduate facilities (HEFA I, sec. 104)	1,136,397		232,407	
Graduate facilities (HEFA II)	300,000			
State administration and planning (HEFA I, sec. 105)	75,908	74,549	74,549	67,335
Undergraduate instructional equipment (HEA VI–A)	125,481			
College personnel development (NDEA IV; EPDA pt. E)	511,900			
Subtotal, higher education	7,928,495	4,152,714	4,598,028	3,499,725

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

NEBRASKA—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Education professions development:				
Grants to States (EPDA B-2)	$172,525	$172,525	$175,108	$171,354
Personnel development programs	848,726			
Teacher Corps	541,734			
Subtotal, education professions development	1,562,985	172,525	175,108	171,354
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	330,484	194,677	289,742	193,435
Interlibrary cooperation (LSCA III)	41,249	41,249	41,249	40,900
State institutional library services (LSCA IV-A)	39,509	59,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,109	25,109	25,109	24,886
Construction (LSCA II)	256,938		107,683	
College library resources (HEA II-A)	204,610			
Librarian training (HEA II-B)				
Educational broadcasting facilities				
University community service programs (HEA I)	131,132	131,132	131,132	
Subtotal, community education	1,029,031	431,676	634,424	298,070
Research and Development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	27,422,592	18,374,344	23,099,754	15,452,975
Total, Office of Education, comparable basis [2]	24,000,086	18,374,344	23,099,754	15,452,975

NEVADA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$886,124	$893,858	$932,847	$1,006,741
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	646,767	551,066	551,066	551,066
Federally affected areas:				
Maintenance (Public Law 81-874)	3,554,294	1,426,000	3,543,000	
Construction (Public Law 81-815)	221,351	14,000	14,000	
Grants to States for school library materials (ESEA II)	113,689		100,155	
Strengthening State departments of education (ESEA V):				
Grants to States	257,521	259,550	259,550	260,934
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	113,732		61,619	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	50,000		50,000	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	6,006,811	3,294,474	5,675,570	2,068,741
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	100,000	100,000	100,000	100,000
Teacher education and recruitment	90,967			
Research and innovation				
Subtotal, education for the handicapped	190,967	100,000	100,000	100,000
Vocational and adult education:				
Basic State grants:				
Annual	566,052	414,954	555,252	428,871
Permanent	30,000			
Adult basic education (Adult Education Act):				
Grants to States	121,076	123,829	123,829	173,321
Special projects and teacher education	160,000			
Work-study and cooperative education		206,474	214,938	225,346
Research and innovation	140,627	219,616	219,670	227,226
Programs for students with special needs			29,252	
Subtotal, vocational and adult education	1,017,755	964,873	1,142,941	1,054,764
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	$141,788	[1] $83,274	[1] $93,823	[1] $119,414
Work-study and cooperative education (HEA IV-C)	343,532	193,116	193,116	221,473
Loans:				
Direct (NDEA II)	222,484	180,546	219,899	210,032
Insured:				
Advances for reserve funds				
Interest payments	31,014			
Special programs for the disadvantaged: Talent search	44,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	153,867	156,784	156,784	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)				
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		61,219	61,219	
Other undergraduate facilities (HEFA I, sec. 104)	334,962		51,403	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	43,460	38,960	38,960	43,968
Undergraduate instructional equipment (HEA VI-A)	14,561			
College personnel development (NDEA EPDA pt. E)	117,800			
Subtotal, higher education	1,497,468	763,899	865,204	644,887
Education professions development:				
Grants to States (EPDA B-2)	3,661	122,025	124,027	122,827
Personnel development programs	46,706			
Teacher Corps				
Subtotal, education professions development	50,367	122,025	124,027	122,827
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	146,589	119,137	138,353	118,886
Interlibrary cooperation (LSCA III)	40,253	40,253	40,253	40,182
State institutional library services (LSCA IV-A)	20,753	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	5,299	25,022	25,022	24,886
Construction (LSCA II)	62,523		85,596	
College library resources (HEA II-A)	57,175			
Librarian training (HEA II-B)				
Educational broadcasting facilities				
University community service programs (HEA I)	109,324	109,324	109,324	
Subtotal, community education	441,916	333,245	438,057	222,803
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	62,931			
Total, Office of Education	9,268,215	5,578,516	8,345,799	4,214,022
Total, Office of Education, comparable basis [2]	8,643,061	5,578,516	8,345,799	4,214,022

NEW HAMPSHIRE

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$1,431,723	$1,610,227	$1,627,712	$1,579,002
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	815,216	665,545	665,545	665,545
Federally affected areas:				
Maintenance (Public Law 81-874)	2,065,756	904,000	2,059,000	
Construction (Public Law 81-815)	−9,245	6,000	6,000	
Grants to States for school library materials (ESEA II)	168,878		146,053	
Strengthening State departments of education (ESEA V):				
Grants to States	269,677	269,677	269,677	271,088
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	257,968		118,824	
Loans to nonprofit private schools	2,970			
State administration	13,333		13,333	

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Guidance, counseling, and testing (NDEA V)	$55,921		$50,000	
Planning and evaluation				$100,000
Subtotal, elementary and secondary education	5,222,197	$3,605,449	5,106,144	2,765,635
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	100,000	100,000	100,000	101,537
Teacher education and recruitment	73,850			
Research and innovation				
Subtotal, education for the handicapped	173,850	100,000	100,000	101,537
Vocational and adult education:				
Basic State grants:				
Annual	941,303	887,585	1,110,143	875.100
Permanent	4,050			
Adult basic education (Adult Education Act):				
Grants to States	153,033	160,283	160,283	168,945
Special projects and teacher education				
Work-study and cooperative education		211,425	225,078	243,450
Research and innovation	26,550	223,146	223,006	246,673
Programs for students with special needs			58,485	
Subtotal, vocational and adult education	1,154,936	1,482,439	1,776,995	1,534,168
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	656,280	[1] 297,415	[1] 259,748	[1] 330,599
Work-study and cooperative education (HEA IV-C)	766,819	484,432	484,432	514,123
Loans:				
Direct (NDEA II)	804,338	644,825	785,378	581,473
Insured:				
Advances for reserve funds				
Interest payments	35,014			
Special programs for the disadvantaged: Talent search				
Institutional assistance:				
Aid to land-grant colleges:				
Annual	161,480	164,432	164,432	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	215,000			
Language training and area studies	50,731			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		168,618	168,618	
Other undergraduate facilities (HEFA I, sec. 104)	835,235		105,932	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	44,491	61,000	61,000	57,148
Undergraduate instructional equipment (HEA VI-A)	61,584			
College personnel development (NDEA IV; EPDA pt. E)	366,300			
Subtotal, higher education	4,047,272	1,870,722	2,079,540	1,533,343
Education professions development:				
Grants to States (EPDA B-2)	147,716	132,716	135,038	133,287
Personnel development programs	281,745			
Teacher Corps				
Subtotal, education professions development	429,461	132,716	135,038	133,287
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	199,116	140,714	181,596	140,180
Interlibrary cooperation (LSCA III)	40,537	40,537	40,537	40,387
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,047	25,047	25,047	24,886
Construction (LSCA II)	152,108		91,905	
College library resources (HEA II-A)	117,9771			
Librarian training (HEA II-B)				
Educational broadcasting facilities				
University community service programs (HEA I)	114,625	114,625	114,625	
Subtotal, community education	688,913	360,432	493,219	244,302
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	11,716,629	7,551,758	9,690,936	6,312,272
Total, Office of Education, comparable basis [2]	10,514,434	7,551,758	9,690,936	6,312,272

Footnotes at end of table.

NEW JERSEY

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$24,487,811	$27,524,859	$33,310,467	$31,490,628
State administrative expenses	245,001	275,249	333,105	314,906
Supplementary services (ESEA III)	5,233,177	3,626,822	3,626,822	3,626,822
Federally affected areas:				
Maintenance (Public Law 81-874)	10,321,861	4,251,000	10,287,000	
Construction (Public Law 81-815)	774,195	27,000	27,000	
Grants to States for school library materials (ESEA II)	1,652,599		1,406,778	
Strengthening State departments of education (ESEA V):				
Grants to States	738,898	738,898	738,898	742,620
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,796,586		863,566	
Loans to nonprofit private schools				
State administration	2,432		61,901	
Guidance, counseling, and testing (NDEA V)	552,014		469,127	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	45,804,574	36,443,828	51,124,664	36,274,976
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	866,823	866,823	866,823	947,003
Teacher education and recruitment	503,629			
Research and innovation	9,336			
Subtotal, education for the handicapped	1,379,788	866,823	866,823	947,003
Vocational and adult education:				
Basic State grants:				
Annual	6,246,915	6,907,524	8,960,209	6,980,487
Permanent	201,903			
Adult basic education (Adult Education Act):				
Grants to States	1,057,036	1,177,851	1,177,851	1,332,732
Special projects and teacher education	417,000			
Work-study and cooperative education		309,677	446,777	625,813
Research and innovation	338,844	299,333	299,942	657,391
Programs for students with special needs			472,044	
Subtotal, vocational and adult education	8,261,698	8,694,385	11,356,823	9,596,423
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	2,636,170	[1] 1,261,348	[1] 1,065,148	[1] 1,355,687
Work-study and cooperative education (HEA IV-C)	2,751,188	3,272,107	3,272,107	3,419,849
Loans:				
Direct (NDEA II)	3,182,169	2,734,731	3,330,813	2,384,445
Insured:				
Advances for reserve funds				
Interest payments	2,023,322			
Special programs for the disadvantaged: Talent search	139,875			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	290,710	294,262	294,262	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	50,000			
Language training and area studies	423,131			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	2,260,985	1,162,358	1,162,358	
Other undergraduate facilities (HEFA I, sec. 104)	3,452,283		725,600	
Graduate facilities (HEFA II)	1,600,000			
State administration and planning (HEFA I, sec. 105)	175,863	129,991	129,991	104,828
Undergraduate instructional equipment (HEA VI-A)	255,201			
College personnel development (NDEA IV; EPDA pt. E)	1,875,400			
Subtotal, higher education	21,265,297	8,904,797	10,030,279	7,314,809
Education professions development:				
Grants to States (EPDA B-2)	420,452	420,152	437,488	420,621
Personnel development programs	705,047			
Teacher Corps	264,859			
Subtotal, education professions development	1,390,358	420,152	437,488	420,621

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

NEW JERSEY—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	$1,090,767	$506,982	$915,632	$501,644
Interlibrary cooperation (LSCA III)	45,371	45,371	45,371	43,870
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,467	25,467	25,467	24,886
Construction (LSCA II)	545,193		199,000	
College library resources (HEA II-A)	487,854			
Librarian training (HEA II-B)	248,366			
Educational broadcasting facilities				
University community service programs (HEA I)	249,254	249,254	249,254	
Subtotal, community education	2,731,781	866,583	1,474,233	609,249
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	92,322			
Total, Office of Education	80,925,818	56,196,568	75,290,310	55,163,081
Total, Office of Education, comparable basis [2]	71,830,476	56,196,568	75,290,310	55,163,081

NEW MEXICO

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$9,794,395	$9,875,844	$9,888,110	$10,761,354
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	1,112,240	860,486	860,486	860,486
Federally affected areas:				
Maintenance (Public Law 81–874)	10,219,522	6,147,000	10,187,000	
Construction (Public Law 81–815)	229,219			
Grants to States for school library materials (ESEA II)	288,109		241,076	
Strengthening State departments of education (ESEA V):				
Grants to States	319,982	319,982	319,982	317,977
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	525,835		273,046	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	100,396		84,923	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	22,753,031	17,353,312	22,017,956	12,189,817
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	175,883	175,883	175,883	192,152
Teacher education and recruitment	291,082			
Research and innovation	485,629			
Subtotal, education for the handicapped	952,594	175,883	175,883	192,152
Vocational and adult education:				
Basic State grants:				
Annual	1,547,049	1,621,156	2,042,377	1,614,622
Permanent	43,107			
Adult basic education (Adult Education Act):				
Grants to States	289,178	314,106	314,106	344,873
Special projects and teacher education	933,162			
Work-study and cooperative education		219,993	243,642	276,038
Research and innovation	50,000	229,256	229,010	281,677
Programs for students with special needs			107,597	
Subtotal, vocational and adult education	2,862,496	2,384,511	2,936,732	2,517,210
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	954,594	[1] 381,399	[1] 332,197	[1] 422,810
Work-study and cooperative education (HEA IV–C)	1,288,791	972,393	972,393	1,047,147
Loans:				
Direct (NDEA II)	1,040,703	826,911	1,007,149	743,658
Insured:				
Advances for reserve funds				
Interest payments	59,250			
Special programs for the disadvantaged: Talent search	$113,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	169,625	$172,614	$172,614	
Permanent	50,000	50,000	50,000	$50,000
Strengthening developing institutions (HEA III)	159,660			
Language training and area studies	99,838			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		307,654	307,654	
Other undergraduate facilities (HEFA I, sec. 104)	1,361,848		156,457	
Graduate facilities (HEFA II)	300,000			
State administration and planning (HEFA I, sec. 105)	80,506	62,013	62,013	57,006
Undergraduate instructional equipment (HEA VI–A)	73,684			
College personnel development (NDEA IV; EPDA pt. E)	568,300			
Subtotal, higher education	6,319,799	2,772,984	3,060,477	2,320,621
Education professions development:				
Grants to States (EPDA B–2)	142,814	155,814	157,834	154,944
Personnel development programs	183,920			
Teacher Corps	456,756			
Subtotal education professions development	783,490	155,814	157,834	154,944
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	255,312	163,798	227,858	162,961
Interlibrary cooperation (LSCA III)	40,842	40,842	40,842	40,607
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,073	25,073	25,073	24,886
Construction (LSCA II)	132,985		98,654	
College library resources (HEA II–A)	196,710			
Librarian training (HEA II–B)	8,380			
Educational broadcasting facilities				
University community service programs (HEA I)	121,677	121,677	121,677	
Subtotal community education	820,488	390,899	553,613	267,303
Research and development:				
Educational laboratories	862,244			
Research and development centers				
Subtotal research and development	862,244			
Civil rights education	367,646			
Total, Office of Education	35,721,788	23,233,403	28,902,495	17,642,047
Total, Office of Education, comparable basis [2]	30,562,527	23,233,403	28,902,495	17,642,047

NEW YORK

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children more (ESEA I):				
Basic grants	$120,389,680	$150,579,865	$178,348,472	$168,606,704
State administrative expenses	1,204,063	1,505,799	1,783,485	1,686,067
Supplementary services (ESEA III)	13,221,927	8,869,461	8,689,461	8,869,461
Federally affected areas:				
Maintenance (Public Law 81–874)	16,738,842	6,027,000	16,997,000	
Construction (Public Law 81–815)	98,325	1,688,000	1,688,000	
Grants to States for school library materials (ESEA II)	4,090,893		3,465,109	
Strengthening State departments of education (ESEA V):				
Grants to States	1,474,535	1,474,815	1,474,815	1,477,979
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	4,198,623		1,928,151	
Loans to nonprofit private schools	151,200			
State administration	156,767		153,851	
Guidance, counseling, and testing (NDEA V)	1,402,273		1,165,991	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	163,127,128	170,144,940	215,874,335	180,740,211
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	2,331,331	2,331,331	2,331,331	2,546,976
Teacher education and recruitment	2,533,652			
Research and Innovation	2,538,892			
Subtotal, education for the handicapped	7,403,875	2,331,331	2,331,331	2,546,976

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Vocational and adult education:				
Basic State grants:				
Annual	$16,477,902	$17,362,450	$21,740,902	$16,998,256
Permanent	575,316			
Adult basic education (Adult Education Act):				
Grants to States	2,946,251	3,299,893	3,299,893	3,759,700
Special projects and teacher education	536,318			
Work-study and cooperative education		482,191	816,001	1,269,603
Research and innovation	872,939	454,319	449,210	1,348,923
Programs for students with special needs			1,145,363	
Subtotal, vocational and adult education	21,378,726	21,598,853	27,451,379	23,376,482
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	12,047,255	[1] 5,624,578	[1] 5,023,882	[1] 6,394,237
Work-study and cooperative education (HEA IV-C)	9,537,189	10,320,156	10,320,156	11,411,374
Loans:				
Direct (NDEA II)	14,717,179	12,194,653	14,852,696	11,246,484
Insured:				
Advances for reserve funds				
Interest payments	9,779,625			
Special programs for the disadvantaged: Talent search	312,236			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	544,335	549,067	549,067	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	135,000			
Language training and area studies	2,357,698			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	5,110,882	2,623,120	2,623,120	
Other undergraduate facilities (HEFA, sec. 104)	9,896,878		2,360,852	
Graduate facilities (HEFA II)	2,700,000			
State administration and planning (HEFA, sec. 105)	497,178	347,369	347,369	275,587
Undergraduate instructional equipment (HEA VI-A)	1,170,283			
College personnel development (NDEA IV; EPDA, pt. E)	8,008,950			
Subtotal, higher education	76,864,688	31,708,943	36,127,142	29,377,682
Education professions development:				
Grants to States (EPDA B-2)	892,515	892,515	931,283	889,739
Personnel development programs	4,332,101			
Teacher Corps	1,174,556			
Subtotal, education professions development	6,399,172	892,515	931,283	889,739
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	2,840,719	1,225,816	2,356,249	1,211,053
Interlibrary cooperation (LSCA III)	53,858	54,858	54,858	50,704
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	26,292	26,292	26,292	24,886
Construction (LSCA II)	2,521,607		409,187	
College library resources (HEA II-A)	2,018,364			
Librarian training (HEA II-B)	656,562			
Educational broadcasting facilities				
University community service programs (HEA I)	493,850	493,850	493,850	
Subtotal, community education	8,651,761	1,840,325	3,379,945	1,325,492
Research and development:				
Educational laboratories	3,644,494			
Research and development centers	495,973			
Subtotal, research and development	4,140,467			
Civil rights education	213,880			
Total, Office of Education	288,179,697	228,516,907	286,095,415	238,256,582
Total, Office of Education, comparable basis [2]	245,571,113	228,516,907	286,095,415	238,256,582

NORTH CAROLINA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$49,388,344	$53,422,821	$57,588,036	$54,441,713
State administrative expenses	493,970	534,228	575,880	544,417
Supplementary services (ESEA III)	4,019,265	2,787,844	2,787,844	2,787,844
Federally affected areas:				
Maintenance (Public Law 81-874)	$11,886,349	$6,864,000	$11,995,000	
Construction (Public Law 81-815)	1,391,665	60,000	60,000	
Grants to States for school library materials (ESEA II)	1,186,993		993,278	
Strengthening State departments of education (ESEA V):				
Grants to States	1,110,464	669,081	669,081	$659,015
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	2,543,076		1,130,562	
Loans to nonprofit private schools				
State administration	48,734		48,642	
Guidance, counseling, and testing (NDEA V)	1,402,273		368,639	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	73,471,133	64,337,974	76,216,962	58,532,989
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	805,195	805,195	805,195	879,674
Teacher education and recruitment	456,656			
Research and innovation	135,931			
Subtotal, education for the handicapped	1,397,782	805,195	805,195	879,674
Vocational and adult education:				
Basic State grants:				
Annual	8,749,892	8,458,742	10,686,736	8,433,409
Permanent	221,793			
Adult basic education (Adult Education Act):				
Grants to States	1,495,891,	1,677,851	1,677,851	1,904,580
Special projects and teacher education	415,000			
Work-study and cooperative education		296,158	412,153	563,534
Research and innovation	457,975	294,438	292,608	590,494
Programs for students with special needs			563,004	
Subtotal, vocational and adult education	11,340,551	10,727,189	13,632,352	11,492,017
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	4,329,263	[1] 1,691,105	[1] 1,437,343	[1] 1,829,403
Work-study and cooperative education (HEA IV-C)	4,815,571	5,388,943	5,388,943	5,517,832
Loans:				
Direct (NDEA II)	4,519,639	3,666,487	4,465,664	3,217,641
Insured:				
Advances for reserve funds				
Interest payments	164,526			
Special programs for the disadvantaged: Talent search	50,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	254,954	258,341	258,341	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	2,854,457			
Language training and area studies	127,573			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	2,664,358	1,368,374	1,368,374	
Other undergraduate facilities (HEFA I, sec. 104)	3,212,504		649,949	
Graduate facilities (HEFA II)	400,000			
State administration and planning (HEFA I, sec. 105)	217,104	139,376	139,376	126,689
Undergraduate instructional equipment (HEA VI-A)	364,447			
College personnel development (NDEA IV; EPDA pt. E)	2,291,206			
Subtotal, higher education	26,315,602	12,562,626	13,757,990	10,741,565
Education professions development:				
Grants to States (EPDA B-2)	337,952	329,952	338,289	326,380
Personnel development programs	809,378			
Teacher Corps	665,659			
Subtotal, education professions development	1,812,989	329,952	338,289	326,380
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	844,066	405,643	712,539	401,635
Interlibrary cooperation (LSCA III)	44,033	44,033	44,033	42,906
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,351	25,351	25,351	24,886
Construction (LSCA II)	388,584		169,389	
College library resources (HEA II-A)	678,984			
Librarian training (HEA II-B)	301,099			

Footnotes at end of table.

XUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

NORTH CAROLINA—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Community education—Continued				
Educational broadcasting facilities				
University community service programs (HEA I)	$207,608	$207,608	$207,608	
Subtotal, community education	2,529,234	722,144	1,198,409	$508,276
Research and development:				
Educational laboratories	820,000			
Research and development centers				
Subtotal, research and development	820,000			
Civil rights education	731,116			
Total, Office of Education	118,418,407	89,485,080	105,949,197	82,480,901
Total, Office of Education, comparable basis [1]	110,006,832	89,485,080	105,949,197	82,480,901

NORTH DAKOTA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$4,033,993	$4,453,821	$4,703,614	$4,718,350
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	815,806	653,528	653,528	653,528
Federally affected areas:				
Maintenance (Public Law 81-874)	2,664,431	2,664,000	2,651,000	
Construction (Public Law 81-815)		1,000	1,000	
Grants to States for school library materials (ESEA II)	162,589		136,301	
Strengthening State departments of education (ESEA V):				
Grants to States	273,216	273,216	273,216	272,292
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	329,954		146,026	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	88,341		50,000	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	8,531,663	8,195,565	8,778,018	5,894,170
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	109,151	109,151	109,151	119,247
Teacher education and recruitment	177,879			
Research and innovation				
Subtotal, education for the handicapped	287,030	109,151	109,151	119,247
Vocational and adult education:				
Basic State grants:				
Annual	1,270,281	1,036,588	1,266,027	1,003,655
Permanent	42,740			
Adult basic education (Adult Education Act):				
Grants to States	168,753	177,469	177,469	188,601
Special projects and teacher education				
Work-study and cooperative education		212,186	226,607	246,347
Research and innovation	45,834	223,689	223,539	249,784
Programs for students with special needs			66,697	
Subtotal, vocational and adult education	1,527,608	1,649,932	1,960,339	1,688,387
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	893,715	[1] 350,872	[1] 283,305	[1] 360,581
Work-study and cooperative education (HEA IV-C)	753,069	700,121	700,121	718,959
Loans:				
Direct (NDEA II)	946,751	760,727	926,540	634,207
Insured:				
Advances for reserve funds				
Interest payments	175,900			
Special programs for the disadvantaged: Talent search	48,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	162,084	165,039	165,039	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	405,000			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	$77,204	$200,784	$200,784	
Other undergraduate facilities (HEFA I, sec. 104)	919,319		109,575	
Graduate facilities (HEFA II)	253,165			
State administration and planning (HEFA I, sec. 105)	72,802	58,948	58,948	$54,101
Undergraduate instructional equipment (HEA VI-A)	71,130			
College personnel development (NDEA IV; EPDA pt. E)	269,200			
Subtotal, higher education	5,097,339	2,286,491	2,494,312	1,817,848
Education professions development:				
Grants to States (EPDA B-2)	131,498	131,498	132,699	131,065
Personnel development programs				
Teacher Corps	29,604			
Subtotal, education professions development	161,102	131,498	132,699	131,065
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	203,285	142,427	185,027	141,870
Interlibrary cooperation (LSCA III)	40,560	40,560	40,560	40,403
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,049	25,049	25,049	24,886
Construction (LSCA II)	256,991		92,405	
College library resources (HEA II-A)	133,911			
Librarian training (HEA II-B)				
Educational broadcasting facilities				
University community service programs (HEA I)	113,911	113,911	113,911	
Subtotal, community education	813,216	361,456	496,461	246,008
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	16,417,958	12,734,093	13,970,980	9,896,725
Total, Office of Education, comparable basis [3]	14,854,169	12,734,093	13,970,980	9,896,725

OHIO

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$33,370,827	$37,655,907	$40,363,720	$38,158,447
State administrative expenses	333,804	376,559	403,637	381,584
Supplementary services (ESEA III)	8,124,232	5,570,394	5,570,394	5,570,394
Federally affected areas:				
Maintenance (Public Law 81-874)	10,796,237	1,182,000	10,686,000	
Construction (Public Law 81-815)	601,890			
Grants to States for school library materials (ESEA II)	2,661,889		2,234,209	
Strengthening State departments of education (ESEA V):				
Grants to States	669,081	1,110,464	1,110,464	1,098,447
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	4,089,849		1,870,951	
Loans to nonprofit private schools				
State administration	101,489		101,499	
Guidance, counseling, and testing (NDEA V)	905,668		769,226	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	61,654,966	45,895,324	63,110,100	45,308,872
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	1,519,923	1,519,923	1,519,923	1,660,513
Teacher education and recruitment	902,441			
Research and innovation	110,492			
Subtotal, education for the handicapped	2,532,856	1,519,923	1,519,923	1,660,513
Vocational and adult education:				
Basic State grants:				
Annual	12,007,320	12,186,223	16,259,314	12,596,709
Permanent	369,365			

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Adult basic education (Adult Education Act):				
Grants to States	$1,208,203	$1,351,381	$1,351,381	$1,531,199
Special projects and teacher education	100,000			
Work-study and cooperative education		380,320	605,597	907,517
Research and innovation	2,239,722	367,003	369,349	959,985
Programs for students with special needs			856,581	
Subtotal, vocational and adult education	15,924,610	14,284,927	19,442,222	15,995,410
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	6,825,477	[1] 3,464,719	[1] 2,875,956	[1] 3,660,424
Work-study and cooperative education (HEA–IV–C)	4,369,310	6,842,259	6,842,259	7,071,655
Loans:				
Direct (NDEA II)	9,263,289	7,511,862	9,149,205	6,438,126
Insured:				
Advances for reserve funds				
Interest payments	353,134			
Special programs for the disadvantaged: Talent search	139,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	376,856	380,809	380,809	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	928,455			
Language training and area studies	228,989			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	5,062,019	2,208,535	2,208,535	
Other undergraduate facilities (HEFA I, sec. 104)	7,474,954		1,394,980	
Graduate facilities (HEFA II)	1,200,000			
State administration and planning (HEFA I, sec. 105)	130,405	216,768	216,768	161,361
Undergraduate instructional equipment (HEA VI–A)	681,179			
College personnel development (NDEA IV; EPDA pt. E)	2,814,700			
Subtotal, higher education	39,897,767	20,674,952	23,118,512	17,381,566
Education professions development:				
Grants to States (EPDA B–2)	615,679	615,679	635,989	609,202
Personnel development programs	1,529,997			
Teacher Corps	729,250			
Subtotal, education professions development	2,874,926	615,679	635,989	609,202
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	1,685,152	751,140	1,404,949	742,601
Interlibrary cooperation (LSCA III)	48,593	48,593	48,593	46,191
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,747	25,747	25,747	24,886
Construction (LSCA II)	1,080,285		270,392	
College library resources (HEA II–A)	1,016,270			
Librarian training (HEA II–B)	302,349			
Educational broadcasting facilities	131,687			
University community service programs (HEA I)	324,216	324,216	324,216	
Subtotal, community education	4,653,808	1,189,205	2,113,406	852,527
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	156,630			
Total, Office of Education	127,695,563	84,180,010	109,940,152	81,808,090
Total, Office of Education, comparable basis [2]	116,370,990	84,180,010	109,940,152	81,808,090

OKLAHOMA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$16,791,317	$18,162,341	$18,736,899	$18,422,414
State administrative expenses	167,913	181,623	187,368	184,224
Supplementary services (ESEA III)	2,108,726	1,496,021	1,496,021	1,496,021
Federally affected areas:				
Maintenance (Public Law 81–874)	12,601,770	3,695,000	12,559,000	
Construction (Public Law 81–815)	194,246	11,000	11,000	
Grants to States for school library materials (ESEA II)	596,823		507,271	
Strengthening State departments of education (ESEA V):				
Grants to States	$441,825	$441,825	$441,825	$440,485
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,034,408		466,563	
Loans to nonprofit private schools				
State administration	22,411		22,483	
Guidance, counseling, and testing (NDEA V)	200,465		170,393	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	34,159,904	23,987,810	34,598,823	20,643,144
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	366,917	366,917	366,917	400,857
Teacher education and recuitment	380,135			
Research and innovation	100,000			
Subtotal, education for the handicapped	847,052	366,917	366,917	400,857
Vocational and adult education:				
Basic State grants:				
Annual	3,699,294	3,754,031	4,762,742	3,753,576
Permanent	96,258			
Adult basic education (Adult Education Act):				
Grants to States	482,882	531,447	531,447	593,444
Special projects and teacher education	145,000			
Work-study and cooperative education		243,033	295,530	365,111
Research and innovation	253,116	245,683	245,422	377,356
Programs for students with special needs			250,912	
Subtotal, vocational and adult education	4,676,550	4,774,194	6,086,053	5,089,487
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	2,349,126	[1] 1,218,254	[1] 949,548	[1] 1,208,554
Work-study and cooperative education (HEA IV–C)	2,264,220	2,396,494	2,396,494	2,418,706
Loans:				
Direct (NDEA II)	3,259,838	2,641,299	3,217,015	2,125,662
Insured:				
Advances for reserve funds				
Interest payments	81,295			
Special programs for the disadvantaged: Talent search	91,808			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	202,223	205,364	205,364	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	906,400			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,378,671	652,830	652,830	
Other undergraduate facilities (HEFA I, sec. 104)	1,937,759		385,280	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	163,842	97,138	97,138	85,038
Undergraduate instructional equipment (HEA VI–A)	243,359			
College personnel development (NDEA IV; EPDA Part E)	777,463			
Subtotal, higher education	13,606,004	7,261,379	7,953,669	5,887,960
Education professions development:				
Grants to States (EPDA B–2)	140,917	215,621	221,695	215,613
Personnel development programs	552,463			
Teacher Corps	134,527			
Subtotal, education professions development	827,907	215,621	221,695	215,613
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	480,232	256,190	413,019	254,141
Interlibrary cooperation (LSCA III)	42,061	42,061	42,061	41,485
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,179	25,179	25,179	24,886
Construction (LSCA II)	485,060		125,669	
College library resources (HEA II–A)	395,613			
Librarian training (HEA II–B)	181,146			
Educational broadcasting facilities				
University community service programs (HEA I)	153,588	153,588	153,588	
Subtotal, community education	1,802,388	516,527	799,025	359,361

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

OKLAHOMA—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	$55,919,805	$37,122,448	$50,026,182	$32,596,422
Total, Office of Education, comparable basis[2]	51,930,596	37,122,448	50,026,182	32,596,422

OREGON

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$8,093,651	$8,243,687	$8,256,688	$8,998,583
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	1,723,019	1,267,496	1,267,496	1,267,496
Federally affected areas:				
Maintenance (Public Law 81–874)	3,282,405	791,000	3,301,000	
Construction (Public Law 81–815)				
Grants to States for school library materials (ESEA II)	485,416		426,653	
Strengthening State departments of education (ESEA V):				
Grants to States	392,527	392,527	392,527	398,278
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	745,867		338,665	
Loans to nonprofit private schools				
State administration	18,609		18,340	
Guidance, counseling, and testing (NDEA V)	166,454		138,990	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	15,057,948	10,844,710	14,290,359	10,914,357
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	279,058	279,058	279,058	304,870
Teacher education and recruitment	994,455			
Research and innovation	613,213			
Subtotal, education for the handicapped	1,886,726	279,058	279,058	304,870
Vocational and adult education:				
Basic State grants:				
Annual	2,503,962	2,562,708	3,291,857	2,560,863
Permanent	73,613			
Adult basic education (Adult Education Act):				
Grants to States	225,639	241,935	241,935	262,331
Special projects and teacher education	43,472			
Work-study and cooperative education		234,845	277,519	335,420
Research and innovation	253,116	239,845	239,951	345,463
Programs for students with special needs			173,422	
Subtotal, vocational and adult education	3,099,802	3,279,333	4,224,684	3,405,077
Higher education:				
Students assistance:				
Educational opportunity grants (HEA IV–A)	1,901,186	[1] 941,640	[1] 834,098	[1] 1,061,613
Work-study and cooperative education (HEA IV–C)	3,422,079	1,536,246	1,536,246	1,634,421
Loans:				
Direct (NDEA II)	2,539,530	2,041,561	2,486,567	1,867,215
Insured:				
Advances for reserve funds				
Interest payments	348,206			
Special programs for the disadvantaged: Talent serach	68,620			
I estitutional assistance:				
Aid to land-grant colleges:				
Annual	188,978	192,058	192,058	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	106,950			
Language training and area studies	120,593			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	978,887	502,615	502,615	
Other undergraduate facilities (HEFA I, sec. 104)	1,651,456		342,465	
Graduate facilities (HEFA II)	500,000			
State administration and planning (HEFA I, sec. 105)	86,876	89,263	89,263	78,838
Undergraduate instructional equipment (HEA VI–A)	198,461			
College personnel development (NDEA IV; EPDA Part E)	$1,321,922			
Subtotal, higher education	13,483,774	$5,353,393	$6,033,312	$4,692,087
Education professions development:				
Grants to States (EPDA B–2)	203,938	636,109	202,355	197,239
Personnel development programs	1,309,266			
Teacher Corps	386,867			
Subtotal, education professions development	1,900,071	636,109	202,355	197,239
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	375,683	218,650	337,786	217,094
Interlibrary cooperation (LSCA III)	41,566	41,566	41,566	41,128
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,136	25,136	25,136	24,886
Construction (LSCA II)	387,922		114,693	
College library resources (HEA II–A)	323,389			
Librarian training (HEA II–B)	228,958			
Educational broadcasting facilities				
University community service programs (HEA I)	142,684	142,684	142,684	
Subtotal, community education	1,564,847	467,545	701,374	321,957
Research and development:				
Educational laboratories	1,763,473			
Research and development centers	518,759			
Vocational education				
Subtotal, research and development	2,282,232			
Civil rights education	207,597			
Total, Office of Education	39,482,997	20,860,148	25,731,142	19,934,587
Total, Office of Education, comparable basis[2]	30,428,796	20,860,148	25,731,142	19,934,587

PENNSYLVANIA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$46,085,501	$48,837,387	$56,549,804	$53,460,234
State administrative expenses	460,885	488,374	565,498	534,602
Supplementary services (ESEA III)	8,692,138	5,928,233	5,928,233	5,928,233
Federally affected areas:				
Maintenance (Public Law 81–874)	9,290,582	856,000	8,759,000	
Construction (Public Law 81–815)				
Grants to States for school library materials (ESEA II)	2,767,349		2,338,965	
Strengthening State departments of education (ESEA V):				
Grants to States	1,071,500	1,071,500	1,071,500	1,070,926
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	3,992,360		1,796,266	
Loans to nonprofit private schools				
State administration	104,487		103,732	
Guidance, counseling, and testing (NDEA V)	934,630		786,156	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	73,399,432	57,181,494	77,899,154	61,093,995
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	1,672,090	1,672,090	1,672,090	1,826,756
Teacher education and recruitment	1,387,240			
Research and innovation	592,755			
Subtotal, education for the handicapped	3,652,085	1,672,090	1,672,090	1,826,756
Vocational and adult education:				
Basic State grants:				
Annual	13,607,721	14,189,903	17,913,248	13,975,149
Permanent	437,176			
Adult basic education (Adult Education Act):				
Grants to States	1,758,365	1,967,553	1,967,553	2,235,911
Special projects and teacher education	445,000			
Work-study and cooperative education		392,317	623,983	938,656
Research and innovation	753,769	380,532	379,054	993,434
Programs for students with special needs			943,714	
Subtotal, vocational and adult education	17,002,031	16,930,305	21,827,552	18,143,150
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	6,920,537	[1] 3,586,899	[1] 3,022,911	[1] 3,847,465

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Work study and cooperative education (HEA IV–C)	$5,302,145	$7,898,003	$7,898,003	$8,141,348
Loans:				
Direct (NDEA II)	9,314,508	7,776,759	9,471,840	6,767,101
Insured:				
Advances for reserve funds				
Interest payments	1,819,562			
Special programs for the disadvantaged: Talent search	90,000			
Institutional Assistance:				
Aid to land-grant colleges:				
Annual	415,033	419,164	419,164	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	136,445			
Language training and area studies	927,017			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	5,381,842	2,754 310	2,754,310	
Other undergraduate facilities (HEFA I, sec. 104)	7,313,779		1,517,897	
Graduate facilities (HEFA II)	1,648,829			
State administration and planning (HEFA I, sec. 105)	443,361	256,687	256,687	200,561
Undergraduate instructional equipment (HEA VI–A)	738,408			
College personnel development (NDEA IV; EPDA pt. E)	3,701,000			
Subtotal, higher education	44,702,466	22,741,822	25,390,812	19,006,475
Education professions development:				
Grants to States (EPDA B–2)	719,912	194,038	661,121	633,078
Personnel development programs	2,324,878			
Teacher Corps	1,208,432			
Subtotal, education professions development	4,253,222	194,038	661,121	633,078
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	1,948,566	859,344	1,621,800	849,386
Interlibrary cooperation (LSCA III)	50,021	50,021	50,021	47,220
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,872	25,872	25,872	24,886
Construction (LSCA II)	1,274,143		302,031	
College library resources (HEA II–A)	1,322,250			
Librarian training (HEA II–B)	245,608			
Educational broadcasting facilities				
University community service programs (HEA I)	350,978	350,978	350,978	
Subtotal, community education	5,256,947	1,325,724	2,390,211	960,341
Research and development:				
Educational laboratories	2,700,000			
Research and development centers	1,454,332			
Subtotal, research and development	4,154,332			
Civil rights education	30,538			
Total, Office of Education	152,451,053	100,045,473	129,840,940	101,663,795
Total, Office of Education, comparable basis [3]	131,178,759	100,045,473	129,840,940	101,663,795

RHODE ISLAND

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$3,427,736	$3,798,750	$4,261,172	$4,013,393
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	950,666	751,529	751,529	751,529
Federally affected areas:				
Maintenance (Public Law 81–874)	3,453,728	1,585,000	3,443,000	
Construction (Public Law 81–815)	125,400			
Grants to States for school library materials (ESEA II)	210,946		179,825	
Strengthening State departments of education (ESEA V):				
Grants to States	280,536	280,536	280,536	281,321
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	281,708		125,274	
Loans to nonprofit private schools	43,800			
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	69,988		58,982	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	9,007,841	6,565,815	9,263,651	5,296,243
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	$127,696	$127,696	$127,696	$139,507
Teacher education and recruitment	160,366			
Research and innovation				
Subtotal, education for the handicapped	288,062	127,696	127,696	139,507
Vocational and adult education:				
Basic State grants:				
Annual	1,087,186	1,096,365	1,357,242	1,052,744
Permanent	37,901			
Adult basic education (Adult Education Act):				
Grants to States	228,181	244,389	244,389	265,137
Special projects and teacher education				
Work-study and cooperative education		214,852	232,550	255,761
Research and innovation	124,574	225,590	225,274	259,896
Programs for students with special needs			71,503	
Subtotal, vocational and adult education	1,477,842	1,781,196	2,130,958	1,833,538
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	820,489	[1] 404,658	[1] 317,502	[1] 404,106
Work-study and cooperative education (HEA IV–C)	548,835	669,589	669,589	665,251
Loans:				
Direct (NDEA II)	1,074,064	877,340	1,068,572	710,761
Insured:				
Advances for reserve funds				
Interest payments	351,741			
Special programs for the disadvantaged: Talent search	42,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	167,458	170,438	170,438	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	37,000			
Language training and area studies	46,837			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	366,701	189,606	189,606	
Other undergraduate facilities (HEFA I, sec. 104)	643,900		134,700	
Graduate facilities (HEFA II)	600,000			
State administration and planning (HEFA I, sec. 105)	64,566	61,106	61,106	56,117
Undergraduate instructional equipment (HEA VI–A)	75,611			
College personnel development (NDEA IV; EPDA pt. E)	931,289			
Subtotal, higher education	5,820,491	2,422,737	2,661,513	1,886,235
Education professions development:				
Grants to States (EPDA B–2)	140,866	140,866	143,140	140,984
Personnel development programs				
Teacher Corps				
Subtotal, education professions development	140,866	140,866	143,140	140,984
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	240,363	157,658	215,551	156,901
Interlibrary cooperation (LSCA III)	40,761	40,761	40,761	40,548
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,066	25,066	25,066	24,886
Construction (LSCA II)	122,211		96,859	
College library resources (HEA II–A)	130,256			
Librarian training (HEA II–B)				
Educational broadcasting facilities				
University community service programs (HEA I)	119,427	119,427	119,427	
Subtotal, community education	717,593	382,421	537,173	261,184
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	75,073			
Total, Office of Education	17,527,768	11,420,731	14,864,131	9,557,691
Total, Office of Education, comparable basis [3]	15,077,595	11,420,731	14,864,131	9,557,691

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

SOUTH CAROLINA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$29,997,874	$32,519,726	$34,304,985	$32,812,774
State administrative expenses	300,015	325,197	343,050	328,128
Supplementary services (ESEA III)	2,876,411	1,634,142	1,634,142	1,634,142
Federally affected areas:				
Maintenance (Public Law 81-874)	8,148,582	3,589,000	8,485,000	
Construction (Public Law 81-815)	1,090,261	559,000	559,000	
Grants to States for school library materials (ESEA II)	647,442		542,285	
Strengthening State departments of education (ESEA V):				
Grants to States	462,194	462,194	462,194	456,998
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,435,659		658,416	
Loans to nonprofit private schools				
State administration	26,798		26,879	
Guidance counseling and testing (NDEA V)	239,707		203,707	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	45,224,943	39,089,259	47,219,658	35,332,042
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	448,822	448,822	448,822	490,338
Teacher education and recruitment	183,963			
Research and innovation				
Subtotal education for the handicapped	632,785	448,822	448,822	490,338
Vocational and adult education:				
Basic State grants:				
Annual	4,590,788	4,631,369	5,853,224	4,622,644
Permanent	114,757			
Adult basic education (Adult Education Act):				
Grants to States	938,021	1,056,859	1,056,859	1,194,355
Special projects and teacher education	120,000			
Work-study and cooperative education		253,315	318,525	402,768
Research and innovation	41,942	253,015	252,360	417,805
Programs for students with special needs			308,362	
Subtotal, vocational and adult education	5,805,508	6,194,558	7,789,330	6,637,572
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	1,318,847	[1] 676,045	[1] 556,431	[1] 708,208
Work-study and cooperative education (HEA IV-C)	1,318,936	2,923,329	2,923,329	3,024,746
Loans:				
Direct (NDEA II)	1,755,247	1,465,734	1,785,215	1,245,629
Insured:				
Advances for reserve funds				
Interest payments	58,412			
Special programs for the disadvantaged: Talent search	29,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	203,508	206,656	206,656	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	1,322,163			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,352,252	758,609	758,609	
Other undergraduate facilities (HEFA I, sec. 104)	1,552,012		294,365	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	89,260	88,808	88,808	81,417
Undergraduate instructional equipment (HEA VI-A)	145,939			
College personnel development (NDEA IV; EPDA Part E)	535,600			
Subtotal, higher education	9,731,176	6,169,181	6,663,413	5,110,000
Education professions development:				
Grants to States (EPDA B-2)	225,427	225,427	230,095	223,593
Personnel development programs	204,116			
Teacher Corps	389,168			
Subtotal, education professions development	818,711	225,427	230,095	223,593
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	$489,102	$259,833	$420,321	$257,737
Interlibrary cooperation (LSCA III)	42,109	42,109	42,109	41,520
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,183	25,183	25,183	24,886
Construction (LSCA II)	191,554		126,735	
College library resources (HEA II-A)	330,491			
Librarian training (HEA II-B)	68,841			
Educational broadcasting facilities				
University community service programs (HEA I)	156,011	156,011	156,011	
Subtotal, community education	1,342,800	522,645	809,868	362,992
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	363,946			
Total, Office of Education	63,919,869	52,649,892	63,161,186	48,156,537
Total, Office of Education, comparable basis[2]	60,168,230	52,649,892	63,161,186	48,156,537

SOUTH DAKOTA

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$5,384,852	$5,932,095	$6,138,638	$5,881,420
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	209,789	670,038	670,038	670,038
Federally affected areas:				
Maintenance (Public Law 81-874)	3,425,076	2,697,000	3,410,000	
Construction (Public Law 81-815)	192,626	24,000	24,000	
Grants to States for school library materials (ESEA II)	181,001		150,552	
Strengthening State departments of education (ESEA V):				
Grants to States	280,643	280,643	280,643	279,034
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	351,316		151,605	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	92,268		50,790	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	10,280,904	9,753,776	11,039,599	7,080,492
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	113,577	113,577	113,577	124,083
Teacher education and recruitment	156,012			
Research and innovation	7,853			
Subtotal, education for the handicapped	277,442	113,577	113,577	124,083
Vocational and adult education:				
Basic State grants:				
Annual	1,271,620	1,039,857	1,288,242	1,014,732
Permanent	42,940			
Adult basic education (Adult Education Act):				
Grants to States	157,733	165,279	165,279	174,659
Special projects and teacher education	50,000			
Work-study and cooperative education		212,567	227,753	248,520
Research and innovation	105,000	223,961	223,940	252,118
Programs for students with special needs			67,867	
Subtotal, vocational and adult education	1,627,293	1,641,664	1,973,081	1,690,029
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	931,287	[1] 342,968	[1] 279,677	[1] 355,964
Work-study and cooperative education (HEA IV-C)	835,548	764,132	764,132	665,251
Loans:				
Direct (NDEA II)	929,478	743,588	905,666	626,086
Insured:				
Advances for reserve funds				
Interest payments	68,059			
Special programs for the disadvantaged: Talent search	42,000			

XUM

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Institutional assistance:				
Aid to land-grant colleges:				
Annual	$163,222	$166,182	$166,182	
Permanent	50,000	50,000	50,000	$50,000
Strengthening developing institutions (HEA III)	109,300			
Language training and area studies	6,477			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		219,374	219,374	
Other undergraduate facilities (HEFA I, sec. 104)	978,247		113,427	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	81,037	61,447	61,447	56,097
Undergraduate instructional equipment (HEA VI–A)	70,545			
College Personnel Development (NDEA IV; EPDA pt. E)	222,400			
Subtotal, higher education	4,487,600	2,347,691	2,559,905	1,753,398
Education professions development:				
Grants to States (EPDA B–2)	152,859	135,065	136,118	134,313
Personnel development programs	184,482			
Teacher Corps	33,037			
Subtotal, education professions development	370,378	135,065	136,118	134,313
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	211,135	145,651	191,490	145,053
Interlibrary cooperation (LSCA III)	40,602	40,602	40,602	40,434
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,052	25,052	25,052	24,886
Construction (LSCA II)	264,000		93,348	
College library resources (HEA II–A)	122,741			
Librarian training (HEA II–B)	36,290			
Educational broadcasting facilities				
University community service programs (HEA I)	114,690	114,690	114,690	
Subtotal, community education	854,019	365,504	504,691	249,222
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	17,897,636	14,357,277	16,326,971	11,031,537
Total, Office of Education, comparable basis [2]	16,788,440	14,357,277	16,326,971	11,031,537

TENNESSEE

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$32,040,454	$34,783,877	$36,662,972	$35,117,840
State administrative expenses	320,413	347,839	366,630	351,178
Supplementary services (ESEA III)	3,110,281	2,179,882	2,179,882	2,179,882
Federally affected areas:				
Maintenance (Public Law 81–874)	6,763,256	856,000	6,741,000	
Construction (Public Law 81–815)	53,590			
Grants to States for school library materials (ESEA II)	887,491		748,560	
Strengthening state departments of education (ESEA V):				
Grants to States	548,312	548,312	548,312	543,785
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,880,219		837,746	
Loans to nonprofit private schools				
State administration	36,486		36,499	
Guidance, counseling, and testing (NDEA V)	326,367		276,616	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	45,966,869	38,715,910	48,398,217	38,292,685
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	592,555	592,555	592,555	647,365
Teacher education and recruitment	$755,063			
Research and innovation	377,353			
Subtotal, education for the handicapped	1,724,971	$592,555	$592,555	$647,365
Vocational and adult education:				
Basic State grants:				
Annual	6,385,581	6,588,682	7,760,491	6,153,352
Permanent	159,386			
Adult basic education (Adult Education Act):				
Grants to States	1,111,779	1,243,389	1,243,389	1,407,690
Special projects and teacher education				
Work-study and cooperative education		270,262	352,964	464,323
Research and innovation		269,100	267,311	483,925
Programs for students with special needs			408,841	
Subtotal, vocational and adult education	7,656,746	8,371,433	10,032,996	8,509,290
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	3,802,933	[1] 1,459,224	[1] 1,127,246	[1] 1,434,723
Work-study and cooperative education (HEA IV–C)	3,740,853	3,977,080	3,977,080	4,018,617
Loans:				
Direct (NDEA II)	3,915,617	3,163,746	3,853,342	2,523,458
Insured:				
Advances for reserve funds				
Interest payments	203,720			
Special programs for the disadvantaged: Talent search	95,774			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	231,544	234,822	234,822	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	1,690,064			
Language training and area studies	103,774			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,972,230	991,560	493,293	
Other undergraduate facilities (HEFA, I, sec. 104)	2,385,730		580,969	
Graduate facilities (HEFA II)	200,000			
State administration and planning (HEFA I, sec. 105)	139,223	116,041	116,041	100,888
Undergraduate instructional equipment (HEA VI–A)	293,417			
College personnel development (NDEA IV; EPDA pt. E)	1,784,787			
Subtotal, higher education	20,609,666	9,992,473	10,432,793	8,127,686
Education professions development:				
Grants to States (EPDA B–2)	271,931	271,931	279,580	270,606
Personnel development programs	808,592			
Teacher Corps	892,463			
Subtotal, education professions development	1,972,986	271,931	279,580	270,606
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	682,542	339,293	579,567	336,155
Interlibrary cooperation (LSCA III)	43,158	43,158	43,158	42,275
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,275	25,275	25,275	24,886
Construction (LSCA II)	225,972		149,969	
College library resources (HEA II–A)	408,431			
Librarian training (HEA II–B)	280,418			
Educational broadcasting facilities				
University community service programs (HEA I)	183,638	183,638	183,638	
Subtotal, community education	1,888,943	630,873	1,021,116	442,165
Research and development:				
Educational laboratories				
Research and development centers				
Vocational education				
Subtotal, research and development				
Civil rights education	376,697			
Total, Office of Education	80,196,878	58,575,175	70,757,257	56,289,797
Total, Office of Education, comparable basis [2]	71,926,325	58,575,175	70,757,257	56,289,797

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

TEXAS

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$73,314,190	$74,534,785	$74,853,133	$81,555,130
State administrative expenses	734,549	745,348	748,531	815,551
Supplementary services (ESEA III)	8,478,686	5,817,974	5,817,974	5,817,974
Federally affected areas:				
Maintenance (Public Law 81-874)	30,311,176	7,709,000	30,111,000	
Construction (Public Law 81-815)	4,876,004	309,000	309,000	
Grants to States for school library materials (ESEA II)	2,723,308		3,328,984	
Strengthening State departments of education (ESEA V):				
Grants to States	1,214,477	1,214,477	1,214,477	1,216,664
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	4,554,006		2,326,392	
Loans to nonprofit private schools	4,800			
State administration	106,791		107,263	
Guidance, counseling, and testing (NDEA V)	955,233		812,916	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	127,273,220	90,330,584	118,629,670	89,505,319
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	1,598,917	1,598,917	1,598,917	1,746,815
Teacher education and recruitment	1,448,263			
Research and innovation	529,938			
Subtotal, education for the handicapped	3,577,118	1,598,917	1,598,917	1,846,815
Vocational and adult education:				
Basic State grants:				
Annual	14,936,466	16,127,806	20,606,448	16,051,348
Permanent	359,602			
Adult basic education (Adult Education Act):				
Grants to States	2,505,509	2,823,537	2,823,537	3,214,895
Special projects and teacher education	283,905			
Work-study and cooperative education		392,317	635,716	953,864
Research and innovation	425,455	386,461	388,314	1,009,769
Programs for students with special needs			1,085,598	
Subtotal, vocational and adult education	18,510,937	19,730,121	25,539,613	21,229,876
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	7,466,566	[1] 3,928,154	[1] 3,254,435	[1] 4,142,141
Work-study and cooperative education (HEA IV-C)	8,341,028	9,160,666	9,160,666	9,466,983
Loans:				
Direct (NDEA II)	7,524,662	8,516,635	10,372,986	7,285,391
Insured:				
Advances for reserve funds				
Interest payments	1,107,488			
Special programs for the disadvantaged: Talent search	189,200			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	373,876	377,795	377,795	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	1,850,462			
Language training and area studies	425,414			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	4,437,818	2,284,545	2,284,545	
Other undergraduate facilities (HEFA I, sec. 104)	7,246,734		1,488,272	
Graduate facilities (HEFA II)	2,800,000			
State administration and planning (HEFA I, sec. 105)	252,014	229,549	229,549	184,718
Undergraduate instructional equipment (HEA VI-A)	818,531			
College Personnel Development (NDEA IV; EPDA Pt E)	2,487,200			
Subtotal, higher education	45,370,993	24,547,344	27,218,248	21,129,233
Education professions development:				
Grants to States (EPDA B-2)	627,577	627,577	658,726	630,803
Personnel development programs	1,632,485			
Teacher Corps	1,121,647			
Subtotal, education professions development	3,381,709	627,577	658,726	630,803
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	$1,664,458	$742,639	$1,387,913	$734,211
Interlibrary cooperation (LSCA III)	48,481	48,481	48,481	46,110
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,737	25,737	25,737	24,886
Construction (LSCA II)	1,622,353		267,906	
College library resources (HEA II-A)	971,864			
Librarian training (HEA II-B)	374,104			
Educational broadcasting facilities	200,000			
University community service programs (HEA I)	332,502	332,502	332,502	
Subtotal, community education	5,279,008	1,188,868	2,102,048	844,056
Research and development:				
Educational laboratories	1,709,715			
Research and development centers	820,000			
Subtotal, research and development	2,529,715			
Civil rights education	809,808			
Total, Office of Education	206,732,508	138,023,411	175,747,222	13,086,102
Total, Office of Education, comparable basis[2]	187,152,484	138,023,411	175,747,222	13,086,102

UTAH

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$3,013,832	$3,467,494	$3,507,573	$3,300,941
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	1,088,519	866,965	866,965	866,965
Federally affected areas:				
Maintenance (Public Law 81-874)	7,069,317	1,055,000	7,047,000	
Construction (Public Law 81-815)	1,235,518	773,000	773,000	
Grants to States for school library materials (ESEA II)	296,752		250,725	
Strengthening State departments of education (ESEA V):				
Grants to States	329,967	329,967	329,967	328,529
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	562,511		266,267	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance counseling and testing (NDEA V)	100,396		85,470	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	13,860,145	6,642,426	13,290,300	4,746,435
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	165,614	165,614	165,614	180,933
Teacher education and recruitment	443,578			
Research and innovation	3,537			
Subtotal, education for the handicapped	612,729	165,614	165,614	180,933
Vocational and adult education:				
Basic State grants:				
Annual	1,439,960	1,537,159	2,020,388	1,569,073
Permanent	38,478			
Adult basic education (Adult Education Act):				
Grants to States	146,169	152,742	152,742	160,321
Special projects and teacher education				
Work-study and cooperative education		219,041	243,642	276,038
Research and innovation		228,577	229,010	281,677
Programs for students with special needs			106,439	
Subtotal, vocational and adult education	1,624,607	2,137,519	2,752,221	2,287,109
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	1,253,811	[1] 859,058	[1] 629,481	[1] 801,184
Work-study and cooperative education (HEA IV-C)	1,102,791	1,081,711	1,081,711	1,027,389
Loans:				
Direct (NDEA II)	1,047,412	1,862,525	2,268,497	1,409,160
Insured:				
Advances for reserve funds				
Interest payments	178,722			
Special programs for the disadvantaged: Talent search	50,000			

XUM

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Institutional assistance:				
Aid to land-grant colleges:				
Annual	$168,195	$171,178	$171,178	
Permanent	50,000	50,000	50,000	$50,000
Strengthening developing institutions (HEA III)	117,600			
Language training and area studies	94,501			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		313,134	313,134	
Other undergraduate facilities (HEFA I, sec. 104)	1,830,753		224,368	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	54,045	67,778	67,778	63,154
Undergraduate instructional equipment (HEA VI–A)	189,561			
College personnel development (NDEA IV; EPDA pt. E)	986,775			
Subtotal, higher education	7,124,166	4,405,384	4,806,147	3,350,887
Education professions development:				
Grants to States (EPDA B–2)	178,237	157,489	160,149	157,143
Personnel development programs	513,069			
Teacher Corps				
Subtotal, education professions development	691,306	157,489	160,149	157,143
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	245,448	159,746	219,738	158 963
Interlibrary cooperation (LSCA III)	40,788	40,788	40,788	40,568
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,069	25,069	25,069	24,886
Construction (LSCA II)	243,914		97,470	
College library resources (HEA II–A)	227,431			
Librarian training (HEA II–B)	16,303			
Educational broadcasting facilities	59,310			
University community service programs (HEA I)	121,786	121,786	121,786	
Subtotal, community education	1,019,558	386,898	544,360	263,266
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	24,932,511	13,895,330	21,718,791	10,985,773
Total, Office of Education, comparable basis [3]	22,052,124	13,895,330	21,718,791	10,985,773

VERMONT

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$1,632,466	$1,878,396	$2,018,201	$1,892,934
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	637,800	543,728	543,728	543,728
Federally affected areas:				
Maintenance (Public Law 81–874)	136,062	4,000	136,000	
Construction (Public Law 81–815)				
Grants to States for school library materials (ESEA II)	104,377		94,392	
Strengthening State departments of education (ESEA V):				
Grants to States	251,499	251,499	251,499	254,064
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	187,862		82,130	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling and testing (NDEA V)	50,000		50,000	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	3,163,399	2,827,623	3,339,283	2,940,726
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	100,000	100,000	100,000	100,000
Teacher education and recruitment	72,260			
Research and innovation	43,867			
Subtotal, education for the handicapped	216,127	100,000	100,000	100,000
Vocational and adult education:				
Basic State grants:				
Annual	$704,708	$599,007	$753,385	$584,664
Permanent	33,318			
Adult basic education (Adult Education Act):				
Grants to States	131,267	135,709	135,709	140,840
Special projects and teacher education	30,680			
Work-study and cooperative education		207,235	216,271	228,243
Research and innovation		220,159	220,204	230,337
Programs for students with special needs			39,691	
Subtotal, vocational and adult education	899,973	1,162,110	1,365,260	1,184,084
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	572,834	[1] 226,362	[1] 190,591	[1] 242,578
Work-study and cooperative education (HEA IV–C)	419,455	377,681	377,681	418,789
Loans:				
Direct (NDEA II)	589,299	490,776	597,750	426,658
Insured:				
Advances for reserve funds				
Interest payments	84,397			
Special programs for the disadvantaged: Talent search	15,700			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	156,343	159,271	159,271	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)				
Language training and area studies	72,165			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	208,229	112,256	112,256	
Other undergraduate facilities (HEFA I, sec. 104)	351,138		76,355	
Graduate facilities (HEFA II)	800,000			
State administration and planning (HEFA I, sec. 105)	58,174	56,723	56,723	50,642
Undergraduate instructional equipment (HEA VI–A)	43,846			
College personnel development (NDEA IV; EPDA pt. E)	148,400			
Subtotal, higher education	3,569,980	1,473,069	1,620,627	1,188,667
Education professions development:				
Grants to States (EPDA B–2)	120,221	120,221	122,645	121,513
Personnel development programs	144,578			
Teacher Corps				
Subtotal, education professions development	264,799	120,221	122,645	121,513
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	163,671	126,155	152,416	125,812
Interlibrary cooperation (LSCA III)	40,345	40,345	40,345	40,249
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,030	25,030	25,030	24,886
Construction (LSCA II)	22,344		87,648	
College library resources (HEA II–A)	112,087			
Librarian training (HEA II–B)	24,510			
Educational broadcasting facilities				
University community service programs (HEA I)	108,892	108,892	108,892	
Subtotal, community education	536,388	339,931	453,840	229,796
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	8,650,666	6,022,954	7,001,655	5,764,786
Total, Office of Education, comparable basis [3]	7,058,1[illegible]6	6,022,954	7,001,655	5,764,786

VIRGINIA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$26,959,114	$29,583,055	$31,452,550	$29,734,141
State administrative expenses	270,742	295,831	314,526	297,341

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

VIRGINIA—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Elementary and secondary education—Con.				
Aid to school districts—Continued				
Supplementary services (ESEA III)	$3,568,334	$2,498,188	$2,498,188	$2,498,188
Federally affected areas:				
Maintenance (Public Law 81–874)	35,704,596	7,442,000	35,182,000	
Construction (Public Law 81–815)	3,589,739	635,000	635,000	
Grants to States for school library materials (ESEA II)	1,057,993		909,967	
Strengthening State departments of education (ESEA V):				
Grants to States	604,339	604,339	604,339	607,398
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,960,992		882,413	
Loans to nonprofit private schools				
State administration	42,701		42,696	
Guidance, counseling, and testing (NDEA V)	381,959		323,583	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	74,140,509	41,058,413	72,845,262	33,237,068
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	660,289	660,289	660,289	721,365
Teacher education and recruitment	689,322			
Research and innovation	27,317			
Subtotal, education for the handicapped	1,376,928	660,289	660,289	721,365
Vocational and adult education:				
Basic State grants:				
Annual	6,700,866	6,863,510	8,731,435	6,917,878
Permanent	173,136			
Adult basic education (Adult Education Act):				
Grants to States	1,132,973	1,272,206	1,272,206	1,440,646
Special projects and teacher education				
Work-study and cooperative education		281,687	383,650	512,118
Research and innovation	23,272	279,240	278,446	535,265
Programs for students with special needs			459,992	
Subtotal, vocational and adult education	8,030,247	8,696,643	11,125,729	9,405,907
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	2,335,930	[1] 1,159,806	[1] 1,042,262	[1] 1,326,557
Work-study and cooperative education (HEA IV–C)	2,032,353	3,570,372	3,570,372	3,802,964
Loans:				
Direct (NDEA II)	2,951,774	2,514,577	3,062,674	2,333,211
Insured:				
Advances for reserve funds				
Int rest payments	459,026			
Special programs for the disadvantaged: Talent search	40,000			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	241,008	244,330	244,330	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	1,006,475			
Language training and area studies	96,045			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,908,903	987,014	987,014	
Other undergraduate facilities (HEFA I, sec. 104)	2,551,185		531,957	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	104,159	115,965	115,965	103,412
Undergraduate instructional equipment (HEA VI–A)	267,588			
College personnel development (NDEA IV; EPDA pt. E)	1,379,700			
Subtotal, higher education	15,424,146	8,642,064	9,604,574	7,616.144
Education professions development:				
Grants to States (EPDA B–2)	319,962	304,962	318,302	307,392
Personnel development programs	581,689			
Teacher Corps	341,530			
Subtotal, education professions development	1,243,181	304,962	318,302	307,392
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	$747,843	$366,117	$633,325	$362,627
Interlibrary cooperation (LSCA III)	43,512	43,512	43,512	42,530
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,305	25,305	25,305	24,886
Construction (LSCA II)	168,885		157,812	
College library resources (HEA II–A)	420,852			
Librarian training (HEA II–B)				
Educational broadcasting facilities				
University community service programs (HEA I)	196,597	196,597	196,597	
Subtotal, community education	1,642,503	671,040	1,096,060	468,892
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	542,682			
Total, Office of Education	102,400,196	60,033,411	95,650,216	51,756,768
Total Office of Education, comparable basis [2]	96,547,970	60,033,411	95,650,216	51,756,768

WASHINGTON

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$11,517,854	$11,728,452	$12,691,030	$13,007,855
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	2,503,083	1,854,696	1,854,696	1,854,696
Federally affected areas:				
Maintenance (Public Law 81–874)	12,296,924	4,852,000	12,257,000	
Construction (Public Law 81–815)	530,390	425,000	425,000	
Grants to States for school library materials (ESEA II)	819,428		701,488	
Strengthening State departments of education (ESEA V):				
Grants to States	513,297	513,297	513,297	514,477
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,105,278		520,831	
Loans to nonprofit private schools				
State administration	29,065		30,374	
Guidance, counseling, and testing (NDEA V)	259,983		230,194	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	29,725,302	19,523,445	29,373,910	15,627,028
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	451,985	451,985	451,985	493,793
Teacher education and recruitment	433,170			
Research and innovation	284,584			
Subtotal, education for the handicapped	1,169,739	451,985	451,985	493,793
Vocational and adult education:				
Basic State Grants:				
Annual	3,610,797	3,741,687	5,012,651	3,830,755
Permanent	113,306			
Adult basic education (Adult Education Act):				
Grants to States	305,985	333,131	333,131	366,630
Special projects and teacher education				
Work-Study and cooperative education		255,219	330,381	424,493
Research and innovation	47,383	254,372	256,363	441,142
Programs for students with special needs			264,079	
Subtotal, vocational and adult education	4,077,471	4,584,409	6,196,605	5,063,020
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	2,518,068	[1] 1,486,035	[1] 1,229,052	[1] 1,564,298
Work-study and cooperative education (HEA IV–C)	2,745,963	2,375,723	2,375,723	2,485,067
Loans:				
Direct (NDEA II)	3,908,034	3,221,874	3,924,140	2,751,361
Insured:				
Advances for reserve funds				
Interest payments	250,413			

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Special programs for the disadvantaged: Talent search	$53,156			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	212,648	$217,847	$217,847	
Permanent	50,000	50,000	50,000	$50,000
Strengthening developing institutions (HEA III)	220,000			
Language training and area studies	453,264			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	1,372,312	709,565	709,565	
Other undergraduate facilities (HEFA I, sec. 104)	2,618,385		525,349	
Graduate facilities (HEFA II)	100,000			
State administration and planning (HEFA I, sec. 105)	178,004	106,412	106,412	93,637
Undergraduate instructional equipment (HEA VI-A)	312,641			
College personnel development (NDEA IV; EPDA pt. E)	1,517,613			
Subtotal, higher education	16,510,501	8,167,456	9,138,088	6,944,363
Education professions development:				
Grants to States (EPDA B-2)	292,833	258,745	268,288	259,877
Personnel development programs	1,284,423			
Teacher Corps	369,943			
Subtotal, education professions development	1,947,199	258,745	268,288	259,877
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	565,959	291,404	483,592	288,894
Interlibrary cooperation (LSCA III)	42,526	42,526	42,526	41,820
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,220	25,220	25,220	24,886
Construction (LSCA II)	323,350		135,966	
College library resources (HEA II-A)	376,750			
Librarian training (HEA II-B)	357,552			
Educational broadcasting facilities				
University community service programs (HEA I)	165,768	165,768	165,768	
Subtotal, community education	1,896,634	564,427	892,581	394,449
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education	142,010			
Total, Office of Education	55,468,856	33,550,467	46,321,457	28,782,530
Total, Office of Education, comparable basis[2]	49,313,337	33,550,467	46,321,457	28,782,530

WEST VIRGINIA

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$16,156,287	$18,798,318	$19,517,670	$18,451,323
State administrative expenses	161,563	187,983	195,177	184,513
Supplementary services (ESEA III)	1,615,010	1,186,348	1,186,348	1,186,348
Federally affected areas:				
Maintenance (Public Law 81-874)	520,634	18,000	519,000	
Construction (Public Law 81-815)	−8,575			
Grants to States for school library materials (ESEA II)	420,151		345,700	
Strengthening State departments of education (ESEA V):				
Grants to States	374,730	374,730	374,730	368,640
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	892,132		389,684	
Loans to nonprofit private schools				
State administration	17,219		16,718	
Guidance, counseling, and testing (NDEA V)	154,028		126,702	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	20,303,179	20,565,379	22,671,729	20,290,824
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	314,074	314,074	314,074	343,126
Teacher education an recruitment	235,097			
Research and innovation	58,498			
Subtotal, education for the handicapped	607,669	314,074	314,074	343,126
Vocational and adult education:				
Basic State grants:				
Annual	$3,010,158	$3,015,697	$3,717,085	$2,933,428
Permanent	91,340			
Adult basic education (Adult Education Act):				
Grants to States	497,755	550,582	550,582	615,329
Special projects and teacher education				
Work-study and cooperative education		236,178	275,990	332,524
Research and innovation	57,903	240,796	239,418	342,351
Programs for students with special needs			195,824	
Subtotal, vocational and adult education	3,657,156	4,043,253	4,978,899	4,223,632
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV-A)	1,434,297	[1] 677,010	[1] 570,018	[1] 725,500
Work-study and cooperative education (HEA IV-C)	1,854,608	1,938,617	1,938,617	2,012,278
Loans:				
Direct (NDEA II)	1,783,385	1,467,827	1,787,768	1,276,044
Insured:				
Advances for reserve funds				
Interest payments	119,460			
Special programs for the disadvantaged: Talent search	33,850			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	191,149	194,239	194,239	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	655,786			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)		608,986	608,986	
Other undergraduate facilities (HEFA I, sec. 104)	2,373,604		245,325	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	78,080	79,459	79,459	65,899
Undergraduate instructional equipment (HEA VI-A)	135,930			
College personnel development (NDEA IV; EPDA pt. E)	181,200			
Subtotal, higher education	8,891,349	5,016,138	5,474,412	4,129,721
Education professions development:				
Grants to States (EPDA B-2)	85,395	181,395	182,924	178,789
Personnel development programs	552,878			
Teacher Corps	287,331			
Subtotal, education professions development	925,604	181,395	182,934	178,789
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	403,825	224,804	350,119	223,167
Interlibrary cooperation (LSCA III)	41,647	41,647	41,647	41,187
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV-B)	25,143	25,143	25,143	24,886
Construction (LSCA II)	308,680		116,492	
College library resources (HEA II-A)	199,360			
Librarian training (HEA II-B)				
Educational broadcasting facilities	283,826			
University community service programs (HEA I)	139,136	139,316	139,316	
Subtotal, community education	1,441,126	470,419	712,226	328,089
Research and development:				
Educational laboratories	895,478			
Research and development centers				
Subtotal research and development	895,478			
Civil rights education	65,429			
Total, Office of Education	36,786,990	30,590,658	34,334,274	29,492,181
Total, Office of Education, comparable basis[3]	33,082,867	30,590,658	34,334,274	29,494,181

WISCONSIN

OFFICE OF EDUCATION

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$14,388,760	$15,278,409	$17,432,234	$16,479,930
State administrative expenses	150,000	152,784	174,322	164,799
Supplementary services (ESEA III)	3,403,351	2,364,521	2,364,521	2,364,521
Federally affected areas:				
Maintenance (Public Law 81-874)	2,095,973	571,000	2,089,000	
Construction (Public Law 81-815)	99,715			

Footnotes at end of table.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

WISCONSIN—Continued

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION—Continued				
Elementary and secondary education—Con.				
Grants to States for school library materials (ESEA II)	$1,153,770		$982,463	
Strengthening State departments of education (ESEA V):				
Grants to States	565,995	$565,995	565,995	$569,933
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	1,720,045		781,646	
Loans to nonprofit private schools	111,630			
State administration	41,056		40,967	
Guidance, counseling, and testing (NDEA V)	367,246		310,476	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	24,097,541	18,932,709	24,741,624	19,679,183
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	625,438	625,438	625,438	683,290
Teacher education and recruitment	767,180			
Research and innovation	420,384			
Subtotal, education for the handicapped	1,813,002	625,438	625,438	683,290
Vocational and adult education:				
Basic State grants:				
Annual	5,447,743	5,198,699	6,636,163	5,175,078
Permanent	162,247			
Adult basic education (Adult Education Act):				
Grants to States	543,151	600,765	600,765	672,723
Special projects and teacher education	260,000			
Work-study and cooperative education		272,356	362,307	483,876
Research and innovation	128,533	267,494	268,217	504,927
Programs for students with special needs			349,608	
Subtotal, vocational and adult education	6,541,674	6,339,314	8,217,060	6,836,604
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	4,329,791	[1] 1,787,985	[1] 1,544,035	[1] 1,965,198
Work-study and cooperative education (HEA IV–C)	3,056,446	3,168,640	3,168,640	3,379,954
Loans:				
Direct (NDEA II)	4,831,288	3,876,532	4,721,490	3,456,483
Insured:				
Advances for reserve funds				
Interest payments	596,580			
Special programs for the disadvantaged: Talent search	73,884			
Institutional assistance:				
Aid to land-grant colleges:				
Annual	240,649	243,969	243,969	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	113,300			
Language training and area studies	822,013			
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	2,005,041	1,032,197	1,032,197	
Other undergraduate facilities (HEFA I, sec. 104)	3,404,584		673,709	
Graduate facilities (HEFA II)	500,000			
State administration and planning (HEFA I, sec. 105)	189,230	134,944	134,944	113,051
Undergraduate instructional equipment (HEA VI–A)	353,677			
College personnel development (NDEA IV; EPDA pt. E)	1,357,300			
Subtotal, higher education	21,923,783	10,294,267	11,568,984	8,964,686
Education professions development:				
Grants to States (EPDA B–2)	282,828	323,516	335,694	323,915
Personnel development programs	1,014,790			
Teacher Corps	313,757			
Subtotal, education professions development	1,611,375	323,516	335,694	323,915
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	745,365	365,099	631,285	361,623
Interlibrary cooperation (LSCA III)	43,498	43,498	43,498	42,521
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	25,304	25,304	25,304	24,886
Construction (LSCA II)	732,551		157,514	
College library resources (HEA II–A)	$518,630			
Librarian training (HEA II–B)	276,081			
Educational broadcasting facilities				
University community service programs (HEA I)	190,150	$190,150	$190,150	
Subtotal, community education	2,571,088	663,560	1,087,260	$467,879
Research and development:				
Educational laboratories				
Research and development centers	1,200,000			
Subtotal, research and development	1,200,000			
Civil rights education				
Total, Office of Education	59,758,463	37,178,804	46,576,060	36,955,557
Total, Office of Education, comparable basis [3]	51,170,887	37,178,804	46,576,060	36,955,557

WYOMING

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
OFFICE OF EDUCATION				
Elementary and secondary education:				
Aid to school districts:				
Educationally deprived children (ESEA I):				
Basic grants	$1,364,174	$1,383,315	$1,401,274	$1,633,026
State administrative expenses	150,000	150,000	150,000	150,000
Supplementary services (ESEA III)	580,075	501,223	501,223	501,223
Federally affected areas:				
Maintenance (Public Law 81–874)	1,696,509	1,275,000	1,691,000	
Construction (Public Law 81–815)				
Grants to States for school library materials (ESEA II)	87,394		73,280	
Strengthening State departments of education (ESEA V):				
Grants to States	249,634	249,634	249,634	249,024
Grants for special projects				
Acquisition of equipment and minor remodeling (NDEA III):				
Grants to States	144,298		66,403	
Loans to nonprofit private schools				
State administration	13,333		13,333	
Guidance, counseling, and testing (NDEA V)	50,000		50,000	
Planning and evaluation				100,000
Subtotal, elementary and secondary education	4,335,417	3,559,172	4,196,147	2,633,273
Education for the handicapped:				
Preschool and school programs for the handicapped (ESEA VI)	100,000	100,000	100,000	100,000
Teacher education and recruitment	79,389			
Research and innovation				
Subtotal, education for the handicapped	179,389	100,000	100,000	100,000
Vocational and adult education:				
Basic State grants:				
Annual	590,814	443,091	570,988	442,347
Permanent	30,000			
Adult basic education (Adult Education Act):				
Grants to States	124,625	127,831	127,831	131,830
Special projects and teacher education				
Work-study and cooperative education		206,093	213,588	223,898
Research and innovation	87,014	219,345	219,403	225,670
Programs for students with special needs			30,081	
Subtotal, vocational and adult education	832,453	996,360	1,161,891	1,023,745
Higher education:				
Student assistance:				
Educational opportunity grants (HEA IV–A)	365,050	[1] 152,432	[1] 122,359	[1] 155,734
Work-study and cooperative education (HEA IV–C)	516,201	273,002	273,002	286,624
Loans:				
Direct (NDEA II)	411,098	330,488	402,525	273,913
Insured:				
Advances for reserve funds				
Interest payments	23,343			
Special programs for the disadvantaged: Talent search				
Institutional assistance:				
Aid to land-grant colleges:				
Annual	154,927	157,849	157,849	
Permanent	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	118,900			
Language training and area studies				
Construction:				
Public community colleges and technical institutes (HEFA I, sec. 103)	169,890	87,843	87,843	

Program	1969 actual	1970 budget request	1970 appropriation after 2-percent reduction	1971 budget request
Other undergraduate facilities (HEFA I, sec. 104)	$247,470		$52,868	
Graduate facilities (HEFA II)				
State administration and planning (HEFA I, sec. 105)	71,006	$47,216	47,216	$47,545
Undergraduate instructional equipment (HEA VI–A)	28,359			
College personnel development (NDEA IV; EPDA pt. E)	240,581			
Subtotal, higher education	2,396,825	1,098,830	1,193,662	813,816
Educations professions development:				
Grants to States (EPDA B–Z)	116,931	116,931	117,580	116,701
Personnel development programs	56,147			
Teacher Corps				
Subtotal, education professions development	173,078	116,931	117,580	116,701
Community education:				
Public libraries:				
Services:				
Grants to States (LSCA I)	153,903	122,142	144,375	121,852
Interlibrary cooperation (LSCA III)	40,292	40,292	40,292	40,211
State institutional library services (LSCA IV–A)	39,509	39,509	39,509	38,849
Library services for physically handicapped (LSCA IV–B)	$25,025	$25,025	$25,025	$24,886
Construction (LSCA II)	105,309		86,474	
College library resources (HEA II–A)	49,573			
Librarian training (HEA II–B)				
Educational broadcasting facilities				
University community service programs (HEA I)	106,901	106,901	106,901	
Subtotal, community education	520,512	333,869	442,576	225,798
Research and development:				
Educational laboratories				
Research and development centers				
Subtotal, research and development				
Civil rights education				
Total, Office of Education	8,437,674	6,205,162	7,211,856	4,913,333
Total, Office of Education, comparable basis[2]	7,841,382	6,205,162	7,211,856	4,913,333

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[1] Initial year awards only.

[2] The 1969 actual column shows obligations for project type programs where the State-by-State distribution cannot be predicted in advance, and therefore, is not shown in the 1970 and 1971 colmn. For this reason the 1969 comparable figure excludes obligations for project type programs

TRIBUTE TO PFC. JOE L. (CORKY) RIVERA

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. WHITE. Mr. Speaker, I have previously remarked, on the floor of this House, that my constituents of Spanish-speaking heritage have rendered distinguished service to their country and the cause of freedom, in the two world wars, in Korea, and in Vietnam. I have pointed out that their names on the casualty lists, and among Medal of Honor winners, have proved their loyalty to their country beyond question.

Today, I would like to cite a conspicuous example of this loyalty, the Winkler County News, of Kermit, Tex., carries on its front page of March 12, under the heading "Community Pays Tribute," a picture of representatives from Kermit veterans organizations standing at salute, while uniformed pallbearers carry the flag draped casket of Pfc. Corky Rivera to its final resting place.

The accompanying article recites that Pfc. Joe L. (Corky) Rivera, killed in action in Vietnam February 25, was the fifth of the nine sons of Mr. and Mrs. Joe Rivera, Sr., to serve their country in the armed services. Manuel Rivera served more than 13 years with the Army, 1953 to 1966, with two tours of duty in Germany. Joe Rivera, Jr., was in the Marines from 1960 until 1966, and served in Vietnam and in Hawaii. Gilbert Rivera was in service from 1962 to 1964 and saw duty in Germany. Another son is still in service. S. Sgt. Tommy Rivera entered the Army in 1965 and is now stationed in Hawaii.

Mr. Speaker, this example of dedicated service to our country by its citizens of Latin American heritage is not unusual, although the circumstances of this occasion call it dramatically to our attention. In every city and town of west Texas, similar proof of love of country and dedicated service could be cited.

It should be mentioned, further, that Corky Rivera is the second young man from Kermit to give his life for his country in Vietnam. Just a year ago yesterday, March 18, 1968, Cpl. Monte Ray Cooley, son of Mr. and Mrs. F. E. Cooley of Kermit, was killed in action.

I know the Members of this body join me in this tribute to courageous and devoted service, and in sympathy to the families of these brave young men.

PROMPT ACTION URGED ON FISCAL 1971 APPROPRIATIONS BILLS

HON. THOMAS S. KLEPPE

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. KLEPPE. Mr. Speaker, I want to commend Chairman MAHON of the House Committee on Appropriations for his expressed determination to report out the regular fiscal 1971 appropriation bills on schedule this year. I sincerely hope that he will receive all the cooperation he needs to accomplish this goal. The practice of running the Government on "continuing resolutions" is a poor way to do business.

I was particularly gratified to have the chairman's confirmation of what had been only a rumor—that the bill for the Office of Education, separate from the Labor-HEW appropriation bill, will be considered by the House during the week of April 13.

I am sure I need not remind my colleagues of the confusion our school districts have experienced this year. Our school systems cannot be expected to continue operating under the uncertainty caused by congressional inaction and delay of the type experienced with the fiscal 1970 bill.

Congress has shown many times in the past that it can move effectively and promptly. I urge my colleagues, in the spirit of cooperation, better management and efficiency, to push for early action on the fiscal 1971 appropriation bills.

DO NOT TAX THE HAND THAT HELPS

HON. ODIN LANGEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. LANGEN. Mr. Speaker, if the degree of wastefulness within the Federal Government might be compared with the amount of grime to be found within the family laundry, I would expect Arthur Godfrey would have to give up advertising enzyme cleaner products in complete despair.

As disturbing as this thought may be, there can be absolutely no justification whatsoever for a matter recently brought to my attention, and that is the drain of millions of dollars belonging to the American people now being paid in the form of taxes to foreign governments.

It would seem that on the one hand, the United States by design or default has been stuck with the job of protecting a sizable portion of the free world, while startlingly enough, these nations who are the principal beneficiaries of our overseas Defense Establishment extract additional sums by taxing through direct and indirect means the very mechanism designed to insure their safety.

Whether this be deliberate or accidental, it nevertheless is inexcusable and a meanness of the worst sorts. Can we then condemn our citizens who in their infinite patience cry out when they look at their W–2 forms, and ask with hand-on-forehead for an accounting of all those billions that have evaporated into the ethereal twilight zone known as the U.S. Treasury?

This matter cannot be passed over, and, indeed, I urge my colleagues as well as the American people to join with me in calling for action to halt this inexcusable drain on our public resources.

Below is a copy of a letter which I am sending to both the Secretaries of State and Defense—let it serve as a model which might be used by others who are exasperated by the never-ending raids on the U.S. Treasury:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 18, 1970.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to urge that you work in cooperation with the Secretary of State to end the payment of taxes by the United States in connection with its defense operations in foreign lands.

A recent report by the General Accounting Office gives numerous examples of direct and indirect taxes now being paid to such nations as Vietnam, Thailand, Germany, the United Kingdom, etc., which is in direct contradiction to the spirit and provisions of the Mutual Security Act of 1951.

Since the United States has undertaken heavy financial commitments in the defense of the free world, those nations who have been beneficaries should not expect the American people to pay taxes for the privilege of rendering them aid.

Therefore, I ask that you please give your immediate attention to this serious matter, and I would appreciate a report on your findings and actions to be taken pursuant to this problem.

Your cooperation is most appreciated.

Sincerely,

ODIN LANGEN,
Member of Congress.

FREDERICK, MD., POST OFFICE CRISIS

HON. J. GLENN BEALL, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BEALL of Maryland. Mr. Speaker, a problem which has reached crisis proportions in my district is the failure to appoint a postmaster for Frederick City, an office which will have been vacant for 2 years on April 1. Recently, an editorial which appeared in the Frederick News of Frederick, Md., addressed itself to this problem and endorsed a letter to the Postmaster General by U.S. Senator CHARLES McC. MATHIAS in which he decried not only the protracted delay in naming a Frederick City postmaster but also the deplorable physical condition of the Frederick City Post Office. The March 9 editorial states:

MATHIAS VERDICT ENDORSED

Timely is the protest of Senator Charles McC. Mathias to Postmaster General Winton M. Blount against the protracted delay in naming a Postmaster for Frederick City.

The senator points out that on April 1 the office of Postmaster in this city will have been vacant for two years.

And he well adds that despite the fact that postal personnel in Frederick City have shown unusual dedication and loyalty in carrying on their duties in the uncertain atmosphere that prevails, that there has been a visible deterioration in morale.

The senator adds the fear that this will be reflected in efficiency and service and will have an impact on public attitudes of the community to the entire postal service.

It might well have been added that a similar lack of Postmasters for extended periods occurs in the Frederick County towns of Sabillasville, Keymar and Libertytown.

Presumably Mr. Blount will reply to the letter of protest that naming of these officials is waiting for the passage by the Congress of the Nixon administration's proposal to divorce such offices from politics and put them under the merit system.

While there is much to be said for this plan, which has passed the Senate but is deadlocked in a log jam of almost a year's duration in the House of Representatives, conceivably such an impasse should not be permitted to remain indefinitely.

It would seem more judicious in the interests of postal efficiency and public convenience to fill the hundreds of vacant positions scattered about the country under the former system and let the new bi-partisan policy become effective if and when Congress finally enacts the Nixon proposal.

In his letter to the Postmaster General, Senator Mathis also draws renewed attention to the deplorable physical condition of the Frederick City Post Office.

It is a matter of more than two years since it was announced that an addition and renovations to the antiquated plant would be initiated but thus far there has been no sign of action.

As the senator points out, the Frederick City Post Office was constructed in 1917 and over the years has become hopelessly inadequate. Beyond this many of the original lighting and plumbing facilities are still in use although hopelessly outmoded.

At times it has been necessary to erect cardboard rain guards to protect the mail from a leaking roof and falling plaster. And the 1937 addition to the original building is now also obsolete.

"What was a problem is becoming a crisis," the senator concludes. We heartily endorse his verdict.

THE 97TH ANNIVERSARY OF THE ABOLITION OF SLAVERY IN PUERTO RICO

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. ANNUNZIO. Mr. Speaker, on March 22, the Puerto Ricans will celebrate one of the most important days in the history of democratic tradition, and most especially, in the history of Puerto Rico, for on this date 97 years ago in 1873, slavery was abolished forever in Puerto Rico.

It is my privilege today to congratulate the Puerto Ricans on their observance of this great achievement. I am glad to join with them in rejoicing over their good fortune in throwing off the yoke of slavery and in establishing a democratic government of the highest caliber—the Commonwealth of Puerto Rico.

I have had the honor to serve in the Congress with the distinguished Resident Commissioner from Puerto Rico, Hon. Jorge L. Córdova, and I wish to commend him for the outstanding service he has given to his constituents and to our Nation since he was elected in 1968.

On this occasion I also want to wish the people of Puerto Rico continuing success in a relationship which has proven to be fruitful for both the United States and Puerto Rico.

The history of slavery in Puerto Rico dates back to the 15th and 16th centuries when the Spanish colonial authorities began importing Negro slaves from Africa. The freeing of the slaves in the United States, under the authority of the 13th amendment, generated antislavery spirit among the liberals of Puerto Rico, several of whom began a strong campaign to emulate the North American example.

Two great leaders of the abolitionist cause in Puerto Rico were Roman Baldorioty de Castro and Jose Julio Acosta. Two others were Segrundo Ruiz Belvis and Julio L. de Vizcaronde. All were active in the great campaign to kill the cause of slavery on Puerto Rican soil.

This was accomplished on March 22, 1873, to the benefit of everyone concerned. Set free from aristocratic exploitation, the Puerto Rican people have pulled together to establish their country as a keystone in the democratic framework of Latin America. Their love of liberty is unsurpassed and their democratic spirit is the basis of their lives.

I have the privilege of representing Americans of Puerto Rican descent who reside in the Seventh Congressional District of Illinois. They have made many valuable contributions to the advancement of the mutual beneficient objectives of Puerto Rico and the United States, and so today, I take great pleasure in extending best wishes to the people of the Commonwealth of Puerto Rico on the anniversary of the abolition of slavery in their land and for continuing prosperity in the years ahead.

AGRICULTURE DEPARTMENT UPHOLDS BAN ON LEUKOSIS-AFFECTED POULTRY

HON. RICHARD FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. FULTON of Tennessee. Mr. Speaker, in late January, it was announced that an advisory committee of the Department of Agriculture had recommended that the Government relax its ban against the sales of certain diseased chickens for human consumption. This ban has to do with a long-standing Federal inspection policy under which poultry afflicted with diseases of the leukosis complex are condemned.

While the advisory committee's report was only a recommendation, it nevertheless aroused the immediate concern of the public as well as numerous scientists and researchers concerned with viral etiology of human diseases.

One of those concerned was William M. Mitchell, M.D., Ph. D., assistant professor of microbiology and medicine at Vanderbilt University School of Medicine.

On January 28, upon reading of the recommendation by the advisory committee, Dr. Mitchell wrote Secretary Hardin expressing his concern.

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Mr. Speaker, I include Dr. Mitchell's letter and the news clipping to which he refers in the Record at this point:

Vanderbilt University,
Nashville, Tenn., January 28, 1970.

Hon. Clifford M. Hardin,
Secretary of Agriculture of the United States, U.S. Department of Agriculture, Washington, D.C.

Dear Mr. Hardin: A bulletin from UPI which was printed in today's Nashville Tennessean (see inclosure) is most disturbing. It is incredible that any competent scientific advisory committee would recommend easing of the Agricultural Department's regulations on the use of leukosis bearing chickens for human consumption. There is a growing mass of evidence to support the thesis that human tumors (especially leukemia, lymphosarcoma, and osteogenic sarcoma) possess a viral etiology. From the wording of the UPI story, it would appear that the advisory committee's decision was based on the belief that a fowl virus would not be transmissible to other species. This is clearly not the case with regard to the Rous sarcoma virus in fowl which can be passed to mammalian cells (Svoboda, J., Nature, *186*, 980, *1960;* Chyle, P., Simkovic, D., and Hilgert, J., Folia Biol., (Prague), *9, 77, 1963*). It would appear that rather than relaxing the rules concerning the sale of fowl bearing probable virus induced tumors, the rules should be tightened to the point of,

1. Destruction of strains with a high leukosis incidence.
2. The banning of use in animal foods (i.e., to prevent the possible establishment of new oncogenic lines in household pets and their possible establishment as an oncogenic viral reservoir in human disease).

I would be greatly interested in the composition of the scientific advisory committee that made this recommendation to the Department of Agriculture (as reported by the UPI).

Sincerely,
William M. Mitchell, M.D., Ph.D.,
Assistant Professor of Microbiology and Medicine.

Diseased Chicken Sale Plan Protested

Washington.—The Consumer Federation of America (CFA) and the Butchers Union protested yesterday a recommendation that the government relax its ban against sales of certain diseased chickens for human consumption.

A scientific advisory panel recommended that the Agriculture Department regulation requiring condemnation of all chickens showing signs of leukosis, a cancer-like complex of poultry diseases, be eased on grounds scientists see no link between the ailment and diseases in humans.

But the recommendation was denounced yesterday by the CFA and Amalgamated Meat Cutters & Butcher workmen who said it would permit poultry processors to sell diseased birds to unsuspecting grocery shoppers, possibly subjecting them to leukosis.

Rep. Benjamin S. Rosenthal, D-N.Y., chairman of a House consumer subcommittee, also urged the administration to give consumers a say-so in deciding whether to follow the recommendation.

Under current regulations, all chickens showing any sign of leukosis are barred from sale for human consumption, but may be sold for pet food. Under the recommendations, entire chickens would be condemned if they showed massive leukosis evidence. But if only minor tumors were found, inspectors would condemn the flawed part and the rest could be sold for human food.

Mr. Speaker, I would like to commend the Secretary of Agriculture for his prompt decision in this matter, which was announced on February 5. At that time, the Secretary announced that:

> No changes will be made in the long-standing Federal inspection policy under which poultry affected with diseases of the leukosis complex are condemned.

Also, I would like to commend individuals such as Dr. Mitchell for showing their immediate concern and expressing it to Secretary Hardin. I am certain that this had a very positive impact on Secretary Hardin and influenced him in arriving at a decision at an early date.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

SENATE—*Friday, March 20, 1970*

The Senate, as in legislative session, met at 11 o'clock a.m. and was called to order by the Acting President pro tempore (Mr. Metcalf).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, who has made and preserved us a Nation, we thank Thee for freedom's pioneers, for the heroes' valor, the patriots' devotion, and the toil of brain and hand by which this Nation has become great and strong. We bless Thee for our place in the march of life, for the sturdy warriors of the spirit who have moved ahead, and for the singing youth in the ranks behind. However few or many our days, we thank Thee for life, and that it is lived now when new vistas beckon and new disciplines are demanded.

As we offer to Thee the service of our minds and hearts this day, we pray that Thou wilt keep the Senate, our country, and our people in Thy hand. May this Nation ever be a light of hope to all who honor Thee and a means of grace to all who know Thee not.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 19, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER (Mr. Ribicoff). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills; and they were signed by the Acting President pro tempore (Mr. Metcalf):

H.R. 6543. An act to extend public health protection with respect to cigarette smoking and for other purposes; and

H.R. 15700. An act to authorize appropriations for the saline water conversion program for fiscal year 1971, and for other purposes.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Byrd of West Virginia). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President (Mr. Ribicoff), I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS THURMOND AND McGOVERN THIS MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Kentucky (Mr. Cook), the distinguished Senator from South Carolina (Mr. Thurmond) be recognized for a period not to exceed 20 minutes and that the distinguished Senator from South Dakota (Mr. McGovern) be recognized following the remarks of the distinguished Senator from South Carolina (Mr. Thurmond) for a period of not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from South Dakota (Mr. McGovern), there be a brief period for the transaction of routine morning business with a time limitation of 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3614—INTRODUCTION OF THE FEDERAL PROCUREMENT AND ENVIRONMENTAL ENHANCEMENT ACT OF 1970

Mr. COOK. Mr. President, environmental pollution is one of the most immediate and serious problems confronting our Nation today. Of late, much has been said of the continued abuse of our air, water, and land resources.

However, it is only very recently that we have concerned ourselves with the effects of the Federal Government's activities. To his credit, the President has recognized some of the direct ill effects resulting from actions at federally operated facilities throughout the country. In the Executive order of February 4, he stated that the Federal Government must "provide leadership in the nationwide effort to protect and enhance the quality of our air and water resources." That order required all facilities under the jurisdiction of the U.S. Government to comply with the Clean Air Act and the Federal Water Pollution Control Act. Certainly, we all agree with this policy and I hope that Congress will consider legislation extending it to the logical and ultimate conclusion.

The total Federal budget is expected to be over $200 billion this year and for several years in the immediate future. A very substantial portion of this is necessary for day-to-day operation. Because the Government of the United States is the single largest purchaser of goods, materials, and services, its impact on the environment cannot be ignored.

To insure that the Federal Government does not contribute to the continued degradation of the environment, even indirectly, I am introducing the Federal Procurement and Environmental Enhancement Act of 1970. If enacted, it would prohibit all departments, independent agencies, and other instrumentalities of the United States using federally appropriated funds, from purchasing goods, materials, or services from any person operating in violation of either the Federal Water Pollution Control Act or the Clean Air Act. In effect, it becomes the policy of the U.S. Government not to do business with pollution lawbreakers. This purpose is accomplished by amending both the Federal Water Pollution Control Act and the Clean Air Act.

Congress has often in the past declared that a specific and desirable social policy be followed in the Federal Government's dealings in the free marketplace. To cite an example, American manufactured materials and American mined supplies are required for use in public contracts for the construction and repair of public buildings. Congress has also declared that a fair proportion of the total purchases for property and services be set aside for small business concerns. In addition, standards for minimum wages, maximum hours, child labor, and safe working conditions have been established by the Congress for Government purchasing contracts. These polices have been implemented at the highest level, rather than on a piecemeal departmental basis. In this manner, a uniform—rather than a disjointed or even nonexistent—Federal effort has been achieved.

To facilitate enforcement, this bill requires the establishment of contract regulations, and the insertion thereof, in all Federal procurement contracts. The following four paragraphs summarize and explain the required language:

First, the contractor or seller agrees to furnish adequate proof of compliance with the aforementioned air and water pollution acts, or, in the alternative, at the time of contract the seller agrees to implement an affirmative plan for compliance pursuant to those acts.

Section (c)(1) takes into account those manufacturers who are earnestly trying to comply with Federal pollution laws, while penalizing those who refuse to comply. It also permits the transaction of business with those persons who have filed implementation schedules with the Federal Water Pollution Control Administration and the National Air Pollution Control Administration.

Second, upon notice of a violation—and with notice to the seller—the Government is compelled to terminate the agreement. Section (c)(2) also relieves the Government of any damages, penalties, or other liabilities that normally accrue by unilateral termination.

Third, section (c)(3) permits the continuance of a contract, otherwise terminated, if the seller has implemented an affirmative plan or schedule pursuant to the air and water pollution control acts.

Fourth, the last contractual requirement, section (c)(4) exempts the Government from adjusting either the contract price or the delivery or performance schedule due to continuation of the agreement under (c)(3).

A distinction is made in section (f) between a "contract directly related to a pollution action" and all others. Only in the former would the termination, continuance, and exemption procedures of (c)(2), (3) and (4) apply. The Secretary of the Department of Health, Education, and Welfare or of the Department of the Interior, after consulting with the appropriate contracting agency head, determines the direct relatedness of the pollution action to the contract.

As an example, where the "X" supply company's paper factory is violating either the air or water pollution control law—all "X" paper contracts with the Government are subject to immediate suspension and termination. However, all other "X" contracts supplying other office equipment are not subject to this immediate action.

Section (F) is intended to prevent undue chaos where a large manufacturer supplies a diverse number of items to many Government agencies. An immediate end to all such contracts may produce unnecessary adverse effects. Therefore, this section provides that such contracts not directly related "shall continue until completed, at which time the prohibition becomes effective." Consequently, once the Government is notified that "X's" paper factory is an unrepentant polluter, henceforth, "X" will be ineligible for all procurement contracts.

Section (A) declares that such person is ineligible for a period of up to 3 years. At the discretion of the Secretary, the seller may become eligible prior to 3 years if he determines that the pollution has been abated.

To insure that the vast reaches of the Federal bureaucracy are informed of individual violations, section (b) causes both the Secretary of the Department of Health, Education, and Welfare and the Department of the Interior to establish the necessary notification procedures.

Finally, section (d) exempts the Department of Defense from this act, if the Secretary determines that such exemption is necessary for national defense. It does provide, however, for public hearings on the pollution action. In this manner, the necessary attention may be focused on the problem to encourage voluntary compliance.

Mr. President, I do not expect this bill to be a cure-all for the restoration of the environment to its formerly pristine nature. However, we must use every available tool to combat its continued degradation. Equally important, there is a need to provide leadership and direction for both industry and State and local governments. Should the Congress enact all of the pending antipollution bills and still allow the Government of the United States to act as an accomplice to lawbreakers—we have failed in our moral obligation to the public.

Mr. President, I ask unanimous consent that the name of the Senator from Montana (Mr. MANSFIELD) be added as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I introduce the bill and ask that it be appropriately referred. I also ask unanimous consent that the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3614), to amend the Federal Water Pollution Control Act and the Clean Air Act in order to provide assistance in enforcing such acts through Federal procurement contract procedures introduced by Mr. COOK, for himself and Mr. MANSFIELD, was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 3614

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Procurement and Environmental Enhancement Act of 1970".

SEC. 1. The Federal Water Pollution Control Act is amended by redesignating sections 12 through 13 as sections 13 through 20, respectively, and inserting after section 11 a new section as follows:

"DECLARATION OF PURPOSE

"SEC. 12. The Congress hereby declares that all Federal departments, independent agencies and other instrumentalities of the United States using appropriated funds shall not contribute to environmental pollution by contracting for goods, materials and services with those persons in violation of the Federal Water Pollution Control Act.

"COOPERATION BY FEDERAL DEPARTMENTS AND AGENCIES IN ENFORCEMENT

"SEC. 13. (a) Any person (including for the purposes of this section, an individual, corporation, partnership, or other private organization) ordered to abate any pollution by a court in a suit brought pursuant to section 10(g) of this Act, or found not complying with any law, regulation, or standard for the purpose of subsection (c)(1) of this section, shall be ineligible to enter into any contact for the procurement of goods, materials and services with any Federal department, independent agency or any instrumentality of the United States using appropriated funds (1) during the three year period following the date on which such department or agency receives notification of such order or finding from the Secretary, or (2) at the discretion of the Secretary on a date prior to the termination of such period when the Secretary determines that such abatement has been carried out as ordered or finding terminated.

"(b) The Secretary shall establish procedures to provide all such Federal departments and agencies with the notification necessary for the purposes of subsections (a) and (f).

"(c) The Secretary shall establish by regulations, which shall be made effective not later than 90 days after the effective date of this section, provisions which shall apply to each contract entered into by any such Federal departments or agencies with any person, and which—

"(1) require such person to furnish at the time of entering into such contract (A) proof of compliance with all applicable water pollution control laws, regulations and standards, or (B) an affirmative plan and implementation schedule pursuant to this Act.

"(2) upon notice from the Secretary, require the Federal Government, represented by the appropriate department or agency head, to terminate such contract, at any time and without payment of any penalties or damages, and upon due notice to that person that such person is not complying with applicable water pollution control laws, regulations, or standards; or

"(3) reserve to the Federal Government, represented by the appropriate department or agency head, the right to continue such contract if such person has implemented an affirmative plan or schedule pursuant to this Act.

"(4) exempt the Federal Government from adjusting the contract price for any resulting increased costs or the adjusting of any delivery or performance schedule due to the continuance of the contract under subsection (c)(3).

"(d) After public hearings the Secretary of Defense may exempt any contract from the provisions of this section (including regulations pursuant to this section) upon determining that such exemption is necessary for the purpose of national defense.

"(e) The Secretary shall annually report to the Congress, on measures taken toward implementing the purpose and intent of this Act, including but not limited to, (1) the progress and problems associated with implementation of this Act; and (2) the status of enforcement actions taken pursuant to this Act.

"(f) Subsections (c) (2), (3) and (4) shall apply only to a contract directly related to a pollution action of Section 13(a). Any other contracts between that person and such departments and agencies that are not directly related shall continue until completed, at which time the prohibition in Section 13 (a) becomes effective.

"(g) The Secretary, after consultation with the appropriate department or agency head, shall determine whether the action is directly related to the contract."

SEC. 2. The Clean Air Act is amended by inserting after section 111 a new section as follows:

"DECLARATION OF PURPOSE

"SEC. 112. The Congress hereby declares that all Federal departments, independent agencies and other instrumentalities of the United States using appropriated funds shall not contribute to environmental pollution by contracting for goods, materials and services with those persons in violation of the Clean Air Act.

"COOPERATION BY FEDERAL DEPARTMENTS AND AGENCIES IN ENFORCEMENT

"SEC. 113. (a) Any person (including for the purposes of this section, an individual, corporation, partnership, or other private organization) ordered to abate any pollution by a court in a suit brought pursuant to section 108 (c) or (g) of this Act, or found not complying with any law, regulation, or standard for the purpose of subsection (c)(1) of this section, shall be ineligible to enter into any contract for the procurement of goods, materials and services with any Federal department, independent agency or instrumentality of the United States using appropriated funds (1) during the three year period following the date on which such department or agency receives notification of such order or finding from the Secretary, or (2) at the discretion of the Secretary on a date prior to the termination of such period when the Secretary determines that such abatement has been carried out as ordered or finding terminated.

"(b) The Secretary shall establish procedures to provide all such Federal departments and agencies with the notification necessary for the purposes of subsection (a).

"(c) The Secretary shall establish by regulation, which shall be made effective not later than 90 days after the effective date of this section, provisions which apply to each contract entered into by any such Federal department or agency with any person, and which—

"(1) require such person to furnish at the time of entering into such contract adequate proof of (A) compliance with all applicable air pollution control laws, regulations, and standards, or (B) an affirmative plan or implementation schedule pursuant to this Act.

"(2) upon notice from the Secretary, require the Federal Government, represented by the appropriate department or head to terminate such contract, at any time and without payment of any penalties or damages, and upon due notice to that person that such person is not complying with applicable air pollution control laws, regulations, or standards; or

"(3) reserve to the Federal Government, represented by the appropriate department or agency head, the right to continue such contract if such person has implemented an affirmative plan or schedule pursuant to this Act.

"(4) exempt the Federal Government from adjusting the contract price for any resulting increased costs or the adjusting of any delivery or performance schedule due to the continuance of the contract under subsection (c)(3).

"(d) After public hearings, the Secretary of Defense may exempt any contract from the provisions of this section (including regulations pursuant to this section) upon determining that such exemption is necessary for the purpose of national defense.

"(e) The Secretary shall annually report to the Congress, on measures taken toward implementing the purpose and intent of this Act, including but not limited to, (1) the progress and problems associated with implementation of this Act; and (2) the status of enforcement actions taken pursuant to this Act.

"(f) Subsections (c) (2), (3) and (4) shall apply only to a contract directly related to a pollution action of section 113(a). Any other contracts between that person and such departments and agencies that are not directly related shall continue until completed at which time the prohibition in section 113(a) becomes effective.

"(g) The Secretary, after consultation with the appropriate department or agency head, shall determine whether the action is directly related to the contract."

ORDER OF BUSINESS

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3615—INTRODUCTION OF A BILL TO PROVIDE FOR ORDERLY TRADE IN TEXTILE ARTICLES

Mr. THURMOND. Mr. President, I introduce, for appropriate reference, a bill to provide for orderly trade in textile articles, in which I am joined by the senior Senator from New Hampshire (Mr. COTTON), the senior Senator from Pennsylvania (Mr. SCOTT), and the senior Senator from Nebraska (Mr. HRUSKA).

Mr. President, the legislation I have introduced today is designed to provide relief for the American textile industry from the ruinous threat of foreign imports. I am introducing this bill in response to the resolution adopted by the American Textile Manufacturers Institute yesterday at its meeting in San Francisco.

Mr. President, I regret the necessity to introduce such legislation but unfortunately the Japanese just this week have made demands and set conditions for further negotiations looking toward a voluntary agreement to curb imports that are so unreasonable as to be ridiculous.

The Japanese have said, in effect, that they must be guided in their negotiations with the United States by the principle "no injury, no restraint." They said that if the United States can provide evidence of injury on an item-by-item basis which is acceptable to the Japanese they will agree to control exports to the United States of the items in question. Otherwise, if the United States wishes to refer the matter to the Tariff Commission, which the Japanese describe as a fair and neutral organization, the Japanese Government will possibly be willing to accept the findings of the Tariff Commission with regard to injury.

In its communique to the United States, they included in their comment this incredible statement:

> On the basis of the incomplete data and explanations thus far presented by the government of the United States, the government of Japan cannot but conclude that they can find no items causing or threatening to cause injury.

This is indeed a most unfortunate statement. The tenor of the Japanese memorandum to the United States has infuriated a number of people both in the textile industry and in the Government.

Mr. President, the State of South Carolina is the textile capital of the United States. What happens in the textile industry reverberates throughout the Palmetto State for textiles and textile-related industries account for 75 percent of the industrial wages in South

Carolina, 70 percent of the industrial employment, 68 percent of the annual product value, and some 50 percent of the capital investment. There is no question but that our textile industry is the most modern in the world and if that statement is doubted by anyone here I invite them to visit our plants.

While it is true that no other State has a higher degree of textile concentration than South Carolina this is nevertheless a nationwide industry essential to the interest of the country. In addition to the people who are employed in the production of textiles, there are some 3 million Americans engaged in various support activities such as transportation, the supplying of raw materials for the industry, and in the selling of the textile goods themselves.

Every State in the Union has some manufacturing process involved in the textile-apparel industry. There are over 36,000 plants operating throughout the 50 States and 19 States grow cotton whereas almost every State of the Union produces wool.

The annual payroll for the industry has been estimated at more than $10 billion and let us not forget that this industry produces products which are essential to the defense of this Nation.

Mr. President, we have had two alternatives. We could either strike a bargain with the importing countries and limit on a voluntary basis the imports that would come into this country or we could go to the Congress and seek legislation for curbing imports.

It appears at this time that we have no alternative but that the Congress act immediately and pass legislation to stop excessive imports as the survival of the textile industry is a matter of the highest domestic and defense priority.

Mr. President, I received a telegram early this morning from the executive vice president of the American Textile Manufacturers Institute, Mr. Robert C. Jackson. The American Textile Manufacturers Institute is meeting in San Francisco and its board of directors adopted a resolution yesterday calling for an immediate legislative solution to the textile problem. The telegram reads as follows:

WASHINGTON, D.C.

Hon. STROM THURMOND,
Washington, D.C.:

A resolution adopted by the board of directors of the American Textile Manufacturers Institute, Inc., at San Francisco, March 19, 1970: For the past 14 months the United States Government has been attempting to implement, through international negotiations, President Nixon's policy of bringing wool and man-made fiber textile imports under comprehensive, quantitative restraints. In spite of the diligent efforts of the administration, with strong bipartisan support from the Congress, the unwillingness of Japan and other textile exporting nations to cooperate in achieving a fair, orderly, and negotiated solution is now clear.

The futility of continuing such negotiations is therefore, apparent. The situation demands an immediate legislative solution. Accordingly, we respectfully urge the President to:

(1) Immediately terminate further negotiations with Japan and other countries relating to United States imports of wool and man-made fiber textiles.

(2) Propose promptly, for enactment in this session of the Congress, legislation to impose effective, comprehensive, quantitative limitations on imports into the United States of all textile articles.

ROBERT C. JACKSON,
Executive Vice President.

Statistics compiled by the Commerce Department and by the industry graphically demonstrate that foreign imports and goods and especially those from the Far East are flooding the American market. Manmade fiber imports have doubled roughly every 2 years and compared with the 1961–62 level of manmade imports were up 855.7 percent by 1969. Mr. President, these imports are made by people who are paid low wages and in certain cases they are made by child labor. These people manufacture these goods under conditions and for wages that were long ago eliminated from the United States. The American industry has been forced to spend millions of dollars modernizing their plants to seek more efficiency and they have succeeded. In fact, Mr. President, the American textile mill today is the most efficient, mechanical operation of which I know. The result has been increased U.S. production but earnings and profits continue on a drastic downtrend. It has been estimated that the average textile mill profit in the United States was down 25 percent last year, and the balance sheets show it will be even lower this year.

When the Japanese talk about no injury they are, of course, overlooking literally thousands of pages of information that has been supplied to them by the American negotiators in Geneva and elsewhere. To deny that there is injury is to ignore the fact that many small textile plants have closed across this Nation and many medium sized ones are threatened today with liquidation. During 1968–69, some 27 textile plants closed their doors. Mr. President, thousands of textile jobs have been lost and almost 2.5 million jobs in this industry are being directly threatened across this country by the rising threat of foreign imports.

In my State of South Carolina 5,000 jobs alone were lost during the 1968–69 period and over 230,000 possible new jobs in the United States have been lost as a direct result of imports.

Mr. President, let us look at the fantastic amount of made-up goods that were sent into the United States in 1969: Cotton knit shirts, over 25 million; cotton woven dress shirts, over 12 million; cotton woven sports shirts, almost 23 million; men's and boy's work shirts, over 1.2 million.

Men's and boy's manmade fiber dress and sports shirts amounted to 168,600,000 units imported into the United States. Mr. President, that means that there were 61,600,000 men's and boy's dress and sports shirts that were not made in this country in 1969, and there were 168,600,000 dress and sports shirts of manmade fiber for men and boys that were not produced in this country.

The upshot of these statistics is that American workers were denied the opportunity to produce those goods because they were produced by foreign workers.

The Japanese have been very cunning in the way they have concentrated on the U.S. open market. When restraints were placed on cotton imports under the long-term agreement in 1962, the Japanese switched to the unprotected manmade fiber and wool markets. They have zeroed in on certain specialty items and have literally blasted them from the market. Mr. President, make no mistake about it, the Japanese intend to destroy the American textile industry and the American domestic market and control it in a monopolistic fashion themselves.

Mr. President, the incredulous thing about this whole situation is that while we are at the mercy of the Japanese imports and the other imports from the Asian countries such as Hong Kong, China, and South Korea, the Japanese maintain a closed door policy at home. They have shut out U.S. capital and shut out U.S. goods as they have concocted one of the most involved programs of restrictive regulations ever witnessed in the history of commerce.

We hear a lot of talk about free trade but the Japanese are no more involved in free trade than is a man with a monopoly. When you involve yourself in free trade, everybody plays by the same rules and there are no restrictive tariffs and there is no protection; but the Japanese are protecting their industry and they are protecting their jobs and their people, and all we are asking is that the United States protect its people and their jobs and its industry.

President Nixon said in his statement on world trade policy enunciated November 18, 1968:

> The textile import problem, of course, is a special circumstance that requires special measures. We are now trying to persuade other countries to limit their textile shipments to the United States. In doing so, however, we are trying to work out with our trading partners a reasonable solution which will allow both domestic and foreign producers to share equitably in the development of the United States market. Such a measure should not be misconstrued, nor should they be allowed to turn us away from the basic direction of our progress toward freer exchange.

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What can be fairer than that; what can be more equitable than that; and what can be more beneficial to all the parties concerned than the position President Nixon took in his world trade statement? However, the Japanese turn a deaf ear to the President.

Mr. President, I will deliver further commentary within the near future concerning the arguments that the Japanese have fostered and will demonstrate point by point the fallacies of their contentions.

We call upon every Member of Congress who is concerned with the protection of American jobs to join with us in supporting this legislation. Mr. President, we are talking here about Americans and their interest and their livelihood and their well-being. It is all well and good to be concerned about our friends elsewhere and to be concerned about underdeveloped countries, but Japan is no underdeveloped country.

Let me briefly review the legislation that I have introduced. The concept and the theory of this is not new, but it is effective. This legislation would provide that after July 1, 1970, the total quantity of imports of each category of textile articles would be limited during any year to the average annual quantity of such articles entered into the United States for consumption during the 1961–66 period.

It also provides that 1 year after this legislation becomes effective, the total quantity of any category of goods would be increased or decreased by an amount corresponding to the increase or decrease, if more than 5 percent, in the U.S. consumption of such category during the preceding year. It would provide, however, that the amount of such increase in any category would not exceed 10 percent of the amount of the increase in the U.S. consumption of that category.

This legislation would not interfere with agreements to which the United States is signatory now in force.

This legislation would provide for protection of textile articles produced in this country, including the very important primary manmade products, which, because of the great growth in the use of the manmade fiber, have become the cornerstone of the American textile industry.

Mr. President, we have tried to live by the golden rule and have tried to do unto our neighbors as we would have them do unto us and we have turned the other cheek, but now is the time to take action. The Japanese have demonstrated that they will not act in good faith and that they have no intention of continuing negotiations at this time that will produce any fruitful result.

Let us make no mistake about it. As far as I am concerned, the American workingman is, and will be, the most important individual in the world, and as long as his welfare and his interest are threatened, it is incumbent upon this Congress to take action to protect him.

The PRESIDING OFFICER. (Mr. RIBICOFF). The bill will be received and appropriately referred.

The bill (S. 3615) to provide orderly trade in textile articles, introduced by Mr. THURMOND, for himself and other Senators, was received, read twice by its title, and referred to the Committee on Finance.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from South Dakota is recognized.

THE UNSINKABLE ABM

Mr. McGOVERN. Mr. President, had the *Titanic* had the Defense Department's determination to build an antiballistic missile system it would doubtless still be afloat.

The Nike X-Sentinel-Safeguard system has repeatedly run head on into solid ice, only to sail off in another direction.

The thought was current in the 1950's and early 1960's that we could defend our population and industry against an attack from the Soviet Union. As recently as January of 1967, General Earle Wheeler was reporting to Senate hearings on Defense appropriations the Joint Chiefs of Staff view that the whole country should have an ABM defense, with concentrated defense of some 50 of the most densely populated areas.

But Secretary of Defense McNamara laid that thought to rest most persuasively in his important San Francisco address in September of 1967. Noting the steps the Soviet Union would likely take to overcome our ABM and thus maintain her assured destructive capability, he pointed out that:

> It is futile for each of us to spend $4 billion, $40 billion, or $400 billion—and at the end of all the spending, and at the end of all the deployment, and at the end of all the effort, to be relatively at the same point of balance on the security scale that we are now.

Secretary McNamara argued, however, that there were what he called marginal grounds for concluding that a light deployment of U.S. ABM's against the emerging Chinese nuclear threat would be justified and thus evolved the Sentinel version of the Nike X ABM.

The so-called marginal reason was that the Chinese might, before they have their missiles hardened, fear a U.S. preemptive strike against their own highly vulnerable deterrent. In periods of tension, Secretary McNamara reasoned, they might be quicker to launch than the Russians because if they felt they were under attack they would want to inflict at least some damage in the process of their own destruction.

Beyond this it was argued that an anti-Chinese ABM was technologically within our capacity. While it would be impossible to provide an effective defense against the sophisticated offense of the Soviet Union, our ABM components it was said, would have a higher degree of reliability against the primitive delivery systems to be developed by the Chinese—at least for a time, probably only a few years, until China's weapons became more advanced and more numerous.

The argument was obviously a strained one. I have always believed that Mr. McNamara was really opposed to any kind of ABM, but that he accepted the limited China-oriented defense to quiet the clamor for an even more elaborate and costly system.

In any case, this argument left ABM advocates with a terrible burden of proof. They had to tell us why nuclear deterrence would prevent the Russians from attacking us, but not the Chinese. They had to tell us why the Chinese could not incorporate penetration aids in their earliest missiles, thus nullifying the protection of our cities even before the ABM was in place. They had to respond to the suggestion that if the Chinese were bent on national suicide they could use much less advanced delivery vehicles, such as a freighter stationed a few miles off our coast, against which an ABM would be helpless.

Their case was further weakened when some ABM proponents, answering the charge that it might upset arms limitation talks with the Soviet Union, said we would not build it if the Russians agreed to abandon their plans for an ABM. But this left them in the tenuous situation of saying we needed a defense against the Chinese but that we were willing to negotiate it away in talks with the Russians—regardless of what China did.

Sentinel was also set back by protests over locations of the missile farms. Residents of Boston, Chicago, and other cities, when told by site surveyors that they were getting protection from the Chinese, responded that they had not had much trouble with the Chinese lately and were not interested in having missiles in their backyards.

SAFEGUARD PHASE I

Small wonder that the Nixon administration backed away from this particular iceberg, with the President's statement of 1 year ago:

> I do not buy the assumption that the ABM was simply for the purpose of protecting ourselves from Communist China.

But the ABM still refused to sink. The new hands at the tiller guided it to a new mission, after a study of the stars led to the theory that the Soviet SS–9 buildup threatened our land-based Minutemen. Having made the determination that we wanted to build the old Nike X system if we could find any plausible reason for doing so, the advocates quickly grasped hard target protection as their major justification. The anti-China option was not closed off, of course. No bridges were visibly burned. But fears about defensive missiles located in populous areas were at least allayed with a pledge that the new plan—now to be called Safeguard—contemplated construction only in remote areas, starting in North Dakota and Montana.

Unfortunately, the administration went on to make the case too well. Based on its rather questionable premises about the accuracy of the SS–9 and the prospects that its warheads would be independently targetable, Secretary of Defense Laird's projections of SS–9 deployment showed that it might be able to threaten our Minutemen.

But, as came out late in the debate last year, the same projections indicated that by continuing deployment just a short time longer, the Soviet Union could also neutralize the Safeguard system. Especially because of the vulnerability of the Missile Site Radars—the eyes of the defense—it was clear that Safeguard was both an impractical and ill-designed method of defending the Minuteman missile. The MSR's can be destroyed by overpressures just one-tenth as powerful as would be required to destroy a hardened Minuteman. A combination of less accuracy and less force than was attributed to the SS–9 could wipe out this essential component of the system and render it useless.

It is noteworthy that Secretary Laird has since admitted that the critics were right on this score. In his statement on February 20 to the Joint Session of the Senate Armed Services and Appropriations Committees, he said:

> To be perfectly candid, Mr. Chairman, it must be recognized that the threat could actually turn out to be considerably larger than the Safeguard defense is designed to handle. That is one reason we have decided to pursue several courses which should lead to less expensive options for the solution of this problem than expanding Safeguard to meet the highest threat level.

This conclusion followed a discussion of three possible Soviet courses of action. They may stop deploying SS–9's, and SS–11's, fail to develop MIRV's, and stop making improvements in their ICBM accuracy—in which case Safeguard Phase I could be unnecessary.

They might stop building new ICBM's and forgo MIRV development, but continue to improve accuracy to the point where their missiles "could constitute a threat to the Minuteman force." In those circumstances, Secretary Laird asserted, Safeguard would be "quite effective" against the threat.

Or, he said, they may deploy multiple independently-targetable warheads, improve accuracy, and continue SS-9 deployments at the present rate. If this happens, Laird said, we will be faced in the mid-1970's with a threat which is—

> much too large to be handled by the level of defense envisioned in the Safeguard system without substantial improvement and modification.

In other words, what the Secretary seems to be saying is that Russian forces must be not too small, or we will not need Safeguard; not too large, or Safeguard cannot work. They must be, like Baby Bear's porridge, "just right" to fit our defense.

Mr. President, I do not pretend to know what motivates Soviet military planners. It is possible to hazard all sorts of guesses on the intentions behind the SS-9 buildup, ranging from the thought that they see themselves as simply catching up with our superiority to Secretary Laird's estimate last year that they are going for a first strike capability.

But if we cannot fathom their intent in a positive way, it is certainly possible to draw some conclusions on what it is not. It is certainly not to make last year's decision on Safeguard look good. Their aim is not to justify our decisions. They are not in the business of building an offense designed to fit precisely our defense. Yet that is what we must believe if Safeguard Phase I, standing by itself, is to reflect the slightest shred of wisdom.

Another insuperable iceberg.

But Safeguard is still afloat, searching for a mission. It comes to us not with an apology for its failure, but with a new demand for more public revenues. And we are not even allowed to abandon the last year's lost cause. Safeguard Phase I, even though it is now either plainly unnecessary or plainly inadequate, will be continued because, in Secretary Laird's words:

> The additional cost needed to defend a portion of Minuteman is small if the full area defense is bought.

Translated into its real import, that means that the best way to handle waste is to make it a part of a bigger project. Then, presumably, it becomes less noticeable—even when it involves tens of billions of dollars.

BACK TO CHINA

So we return again to the anti-China rationale, although most reports see the Chinese having slipped another year in their ambitions to develop an ICBM capability, we are asked to authorize an expanded version of Safeguard in fiscal 1971. The deployments in Montana and North Dakota will be beefed up with more Sprint missiles. An additional Safeguard site is proposed for Whiteman Air Force Base, and long leadtime work on five more sites—Northeast, Northwest, the National Capital area, Warren Air Force Base in Wyoming, and Michigan/Ohio—will be undertaken. The discussion now, although Secretary Laird's statements frequently repeat the obvious—that Congress can review and stop the work at any time—is about a full 12-site deployment which would provide substantial area defense of the U.S. population for a number of years against Communist Chinese or *n*th country attack.

The essence of the reason, drawing again from Secretary Laird's statement of February 20, is "The potential capability of China to threaten serious damage to a vulnerable U.S. through nuclear attack, and thereby reduce the credibility of our Asian commitments."

If we have no ABM; if we rely only on nuclear deterrence; and if, nonetheless, we are presented with a Chinese ultimatum to let them have their way in Asia or risk a first-strike nuclear attack on a U.S. city, the President would be confronted with the terrible choice of backing down in Asia, risking the destruction of U.S. cities and loss of American lives, or initiating a strike against Chinese ICBMs before they are launched.

Our evaluation of this proposal requires several lines of inquiry—on the nature of the so-called adversary, China; on the prudence of the foreign policy which would be pursued as a consequence of a China-oriented defense; and on the technical capabilities of Safeguard to accomplish its stated purpose. All deserve the closest inspection before the Senate authorizes more billions of dollars for this highly doubtful system.

CHINA AS A NUCLEAR POWER

In a primary sense the anti-China rationale is grounded on the premise that a China equipped with nuclear weapons is likely to be unafraid of our enormous retaliatory power; that they may gamble through the delivery of ultimatums and by employing nuclear blackmail. Part of the argument is that while the Soviet Union has been deterred by our ability to absorb a first strike and deliver a society-destroying blow in return, it is reasonable that China will take a different view.

In part this fear is grounded in demographic differences between the Soviet Union and China. Mainland China is still a preponderantly agrarian society, with only 11 percent of her population residing in the 1,000 largest cities as compared to 47 percent for the Soviet Union and 63 percent for the United States. Thus, a large retaliatory strike probably could not destroy as much of China as of the Soviet Union or the United States. If there is a direct relationship between the percentage of population to be killed in nuclear war and the unacceptability of the risk, then it might be reasoned that the Chinese would take more risks than the Russians.

This view is fortified by the statements of prenuclear Chinese leaders. Administration spokesmen make much of a statement attributed to Chairman Mao Tse-tung that China, because of its huge population, could "survive" a nuclear attack. There have been numerous other reports downgrading the importance of nuclear weapons, such as an October 1960 statement by a People's Liberation Army official:

> The issue of a future war will not be decided by guided missiles or atom bombs. It will stil be decided by man. Atom bombs will never be able to destroy mankind or the world. . . . The revolutionary people are always able to find ways and means for overcoming every kind of modern weapon.

And we are, of course, familiar with Chairman Mao's thesis that "political power grows out of the barrel of a gun," and with Chinese views on the inevitability of war.

Certainly if we read selectively we can find cause to be alarmed about Chinese bellicosity.

It is my view, however, that our tendency has been to overreact, to misinterpret, and to draw an enormously inflated picture of China's ambitions and China's belligerence, to say nothing of her capacity to mount a major nuclear war against the United States. Out of little more than words, we have literally constructed an imaginary nation.

It bears little likeness to the China that actually exists. The real China is beset with overwhelming internal problems and with severely limited resources. Reliable economic statistics are difficult to obtain, yet we know that this nation with a population approaching 800 million people has a total output of goods and services of much less than one-tenth of our own. Her industrial output is probably no more than one-twentieth of ours.

Militarily, China has armed forces of about 2.7 million men, compared to 3.4 million for the United States—only China's troops are on their home soil, and their mission is not exclusively military. In 1967 China had less than 900 ships, the bulk of them of kinds generally associated with defensive operations, such as patrol and torpedo-launching craft. The air force is of a similar nature, made up primarily of some 2,900 jet fighters, with only a few bombers.

For present purposes, we are, of course, more concerned with China's uses of force, and here again the image that has been conjured in the American mind is hard to sustain.

One good authority is Secretary Laird's Defense report to which I have already referred on several occasions. It points out that:

> While the Chinese have proclaimed a general line of armed revolution in Asia and actively propagandize against "U.S. imperialists" and "puppet governments," they seem to be careful to avoid involvement of their own personnel in military operations associated with the so-called "liberation movements."

"Careful" may be too mild a word.

China has not, for example, given effective support or taken serious risks on behalf of Communist movements in India, even in light of the acrimonious border dispute between the two countries. While she is involved in training and equipping insurrectionary forces in Burma and Thailand, there is again no significant involvement of combat forces. Even in the case of our involvement in what they view as the remnants of the unfinished Chinese civil war, through our protection of nationalist forces on Quemoy and our support of Taiwan, the Chinese have carefully avoided direct confrontations.

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The Korean war can be seen as a variation from this cautious pattern, yet in sum it still does not support the image. We should readily perceive that China was aiding a Communist neighbor under attack by forces that were hostile to China as well, and Chinese troops entered the conflict only after they had good reason to believe—having the assurance of General MacArthur, among others—that once North Korea had been defeated we planned to press on into Chinese territory. Surely we can see the strictly defensive interest involved there, just as we should be able to see it in the case of China's much more limited help to Vietnamese Communist forces over the past several years.

China's reluctance to become involved in other countries may proceed from several sources. One is probably the scarcity of resources with which to lend assistance. Another may be the policy underscored by the very explicit official denunciations of the Soviet Union's use of force in Czechoslovakia in 1968—the view that it is more reprehensible to violate the rights of a sovereign state than for a state within the socialist camp to follow revisionist policies.

But I suspect that the essence of her attitude can be found in China's view of revolution as a "do it yourself" process in which there cannot and should not be extensive reliance upon outside help.

Thus, the heavily analyzed writings of Defense Marshal Lin Piao, with their emphasis on self-reliance and nationalism, can be read to imply that the chances of revolution in Asia, Latin America, and Africa are best if the battles are fought with indigenous forces. Communist China is pictured as a model and the October Revolution as an inspiration. If China aspires to be the ideological center of worldwide revolution, she appears to cherish with equal fervor her status of noncombatant.

In my view the acquisition of a limited nuclear capability is quite unlikely to work much change in the foreign policy line followed by Mainland China to date. To be sure it will remove our present option of unilaterally attacking China—and I think we can understand why they might want to develop it for that single purpose, particularly since they must feel increasingly insecure behind the Soviet Union's nuclear shield. But it is difficult indeed to envision a situation in which the Chinese force would be useful to them for other purposes.

Most official Chinese pronouncements confirm the conclusion that they regard their nuclear force as solely defensive. In the letter of June 14, 1963, to the Soviet Communist Party Central Committee on the general line of the International Communist Movement, for example, the Chinese Communist Party Central Committee argued that:

> In contrast to the imperialists, socialist countries rely upon the righteous strength of the people and on their own correct policies, and have no need whatever to gamble with nuclear weapons in the world arena. Socialist countries have nuclear weapons solely in order to defend themselves and to prevent imperialism from launching a nuclear war.

Similarly, the New China News Agency announcement of the 1964 nuclear test described its meaning as follows:

> China cannot remain idle and do nothing in the face of the ever-increasing nuclear threat posed by the United States. China is forced to conduct nuclear tests and develop nuclear weapons. . . . The development of nuclear weapons by China is for defense and for protecting the Chinese people from the danger of the United States launching a nuclear war.

At the same time, the Chinese began advocating complete destruction of nuclear weapons and the creation of "nuclear-weapon-free" zones, and they made a unilateral commitment never to be the first nation to use nuclear weapons—something the United States has never done. Moreover, the Chinese upbraided the Soviet Union for "adventurism" following the Cuban missile crisis in 1962, again indicating a cautious attitude toward nuclear arms.

On the basis of this I do not argue that the Chinese nuclear development is insignificant or unworrisome. Certainly we must be concerned with any proliferation of these ominous weapons. Certainly the cumulative danger will mount.

But it is nonsense to suggest that China as a nuclear power will abandon its past and be transformed into an adventurous menace against whom deterrence will be ineffectual.

Nuclear weapons will enhance China's posture as a force to be reckoned with in Asia. They will make her less fearful of a preemptive strike from the United States.

But they will certainly not make nuclear war acceptable. They will not lessen the assurance that a nuclear confrontation with the United States would wipe out millions of Chinese people and all of China's painfully built industrial capacity from blast and firestorm alone, with millions more dying from radiation, fallout and other less-rapid forms of destruction.

If we yield to pressures for the expanded ABM system we will have been taken in by our own unreasoning fears and by strong words from Peking; by the bravado of a nervous nonnuclear nation asserting it could survive nuclear attack. Chinese leaders are doubtless pleased at the success of their verbal foreign policy, doubtless incredulous at our panic.

The Chinese have been noisy. They regard the United States as a bitter enemy and they see the contradiction between capitalism and communism as irreconcilable.

But they are not insane, and it would require both total insanity and total depravity for them to risk nuclear war with the United States.

> POLICY IMPLICATIONS OF AREA DEFENSE
>
> It is certainly in our interest, and in the interest of peace and stability in Asia and the world, that we take what steps we can toward improved practical relations with Peking . . . we will seek to promote understandings which can establish a new pattern of mutually beneficial actions.

These words from the President's foreign policy address of February 18, together with the resumption of talks in Warsaw, are encouraging signs of recognition that our consideration of China as an outlaw nation has been unrealistic.

The President's approach is cautious and his explorations are tentative. But ultimately they may lead to at least some fulfillment of the mutual interest both Americans and Chinese have, ideological disputes notwithstanding, in dispelling the atmosphere of hostility between our two countries.

If these early gestures give some reason for hope, however, the administration's plans for an anti-China ABM threaten to completely dismantle any prospect for normalized relations.

In terms of our view toward China it makes sense for only two eventualities. The first is that we envision a first strike by the Chinese against the United States. In light of what I have already said about the words and deeds of Chinese leaders, and about the damage China would incur in a nuclear exchange with the United States, that concept emerges as a preposterous notion. It certainly cannot help but sour any muted overtures we might make to Peking, because it presumes that Peking is populated by fools and maniacs.

The second basic purpose for which a China-oriented ABM might be built is the retention of a first-strike option against the Chinese, which might be used under some circumstances short of attack upon the United States or its allies. It, too, casts shadows upon United States-China relations through its implications that we can feel secure only if we have the ability to launch a nuclear attack upon China at will. Surely it will exacerbate Chinese fears that we intend at some point to destroy their society. Moreover, this aspect of the case raises grave questions about our general policy toward the use of nuclear weapons. They deserve specific answers during the debate on Safeguard.

I am troubled, for example, by the relationship between the effort to retain a first strike option and the new doctrine toward Asian security announced by President Nixon. In his speech of November 3 he spoke of providing "A shield if a nuclear power threatens the freedom of a nation allied with us, or of a nation whose survival we consider vital to our security and the security of the region as a whole."

And he said that:

> In cases involving other types of aggression we shall furnish military and economic assistance when requested and as appropriate. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.

If this latter portion is a change from previous policies, and it has been construed that way, it is toward less extensive involvements of American conventional forces.

But the President has also spoken of the ABM giving us a more credible foreign policy in Asia. Does this mean that to the extent that we will decline to send American boys to fight battles that Asian boys should fight, we will stand more ready to intervene with nuclear force? Are we in fact embarking on an even

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more dangerous course, in which our vast nuclear superiority will replace our manpower as the source of our credibility in Asia?

The presumption is that the Safeguard system will give us more flexibility by giving us an additional option in the event that the Chinese threaten an Asian ally wth nuclear force. In addition to backing down, risking American cities by holding to our threat of retaliation, or initiating a preemptive strike against Chinese weapons, we could await the the showdown in the knowledge that our cities would be safe if we were forced to retaliate.

I think we should know, however, if there are other scenarios, in which we contemplate attack upon less than nuclear provocation from China. To the extent that it is designed to preserve such options, the Safeguard system places us in a posture we would regard as irresponsible and criminal if assumed by any other nation.

Moreover, we should be aware that the Safeguard system, because of the things it cannot do, will not come near to giving us the flexibility heralded as its justification.

THE CAPABILITIES OF NIKE X-SENTINEL-SAFEGUARD

At his press conference on January 30, President Nixon gave his impression of how well Safeguard phase II will work. He said:

> I don't anticipate an attack by Communist China, but if such a power had some capability with ICBMs to reach the United States, an area defense, according to the information we have received, is virtually infallible against that kind of potential attack, and, therefore, gives the United States a credible foreign policy in the Pacific area which it otherwise would not have.

Secretary Laird's statement of February 20 gives a similar impression, with its assertion that the credibility of our nuclear shield in Asia would be "greatly enhanced if our Asian allies knew that because of a Safeguard defense the Chinese Communists had virtually no prospect of blackmailing the United States by threatening American cities."

Mr. President, it simply is not true.

The fallibility of Safeguard II is so easily documented as to make one fearful about the sources of information available to the President.

First, it is important to note that the increment this year will not provide one iota of protection against the Chinese. Nor will any increment thereafter, until the whole system is built. Since all the Chinese would have to do is target their missiles on the areas left unprotected, the area defense will not give us damage denial against the Chinese until all 12 sites are in place, even if the system works perfectly. It is all waste until it is all built.

Second, even the full 12-site deployment does not contemplate protection of two entire States, Alaska and Hawaii. Both would be left fully vulnerable to a Chinese ICBM attack. In the event of any nuclear showdown with China they could be wiped out. Safeguard, in fact, increases the danger to them, by making them the easiest targets.

Third, the full deployment does not protect other areas of critical interest to the United States, including American bases and enclaves in all parts of the word. Does the President regard them as expendable?

Fourth, the basic components of the area defense—the Spartan missile and the perimeter acquisition radar—can be easily fooled by the most elementary of penetration aids. The essence of area defense is interception outside of the atmosphere, where the friction of the air is not available to filter out the decoys from the real warheads. It is entirely probable that the Chinese will build such devices in their very first operational ICBM's—thus at least eliminating any possibility for damage denial.

Fifth, the area defense system can be exhausted by bunched targeting. If the Chinese have 100 missiles by the end of the 1970's and we have the 12-site Safeguard, they could target all of their missiles on any one city which is not protected by enough Spartans to intercept them all and be assured of killing millions of Americans.

Sixth, the Chinese might rely on some other form of delivery system to avoid our ABM. There have been suggestions that they could smuggle small nuclear devices into the country, but they could more easily station multimegaton weapons aboard fishing ships along populous coastal areas. Such vehicles could propel destruction many miles inland—area defense or not.

Seventh, we must take into account the probable technical failures of this highly complex collection of machinery. In an age when we are seeing wings crack on C-5A's and fall off of F-111's, when M-16's and Minutemen are failing to fire, it seems unnecessary to even comment that the President's confidence in Safeguard—which cannot even be tested under battle conditions—may be misplaced.

Consider the imaginary scenario in light of these factors.

China demands that we let her have her way in Asia, on pain of suffering a nuclear attack against our cities if we do not comply. What does the President do?

Without Safeguard, it seems probable that he would reiterate our policy of deterrence, declaring that such an attack would mean instant retaliation. There would be a risk to our cities from Chinese missiles, just as there is now from Soviet missiles. If the attack came millions of Americans—and millions of Chinese—woud be killed.

With Safeguard the President would do precisely the same thing, with precisely the same consequences. The President would have no additional options. He could not say "go ahead and attack we are protected," because the Chinese could respond, "Alaska is not protected. Hawaii is not protected. Your bases in Japan are not protected. Our penetration aids will assure that enough of our ICBM's will get through to incinerate millions of your people even in the continental United States. All of our missiles are targeted on one city. We have nuclear devices hidden in your country where you can't locate them. And your ABM won't work." And the President will know they are right.

The truth is, Mr. President, that the area defense will not contribute anything at all to our ability to deter a Chinese attack, an ability which we already possess in massive proportions because of our overwhelming retaliatory forces. The scenario I have described will not occur unless the Chinese are madmen, and if they are then nothing can save us. Safeguard will not change the simple truth that once the Chinese are equipped with nuclear weapons any gamble or threat involving nuclear forces on either side will risk the lives of millions of Americans.

The only thing that is virtually infallible about Safeguard is its certain fallibility.

Mr. President, there has been a great deal of speculation lately to the effect that congressional opponents of the Safeguard ABM will settle at preventing any expansion; that we should consider it a victory if the system goes no further than the phase I authorized last year. I do not agree.

In 1969, 50 Senators voted against the first step. Since then we have had but one major new development—Secretary Laird's candid admission that the threat, if it develops in precisely the way he said it would in arguing for phase I last year, will exceed Safeguard's capabilities, rendering it a complete waste in terms of Minuteman protection. But he said we would build it anyway, because if we buy phase II then the added cost of buying phase I will be small.

It boils down to this: if we reject the expansion, as I am confident we will, then the justification for what was authorized last year disappears. The barnacle loses its rock.

It is my view, therefore, that we should stop any continental deployment of this discredited system, and that we should limit funds to research and development on other approaches which might be able to do what Safeguard clearly cannot.

Let us abandon the witless notion that any expenditure on weapons will increase our security.

Let us avoid the obvious interference with the strategic arms limitation talks involved in a system which purports to protect our cities.

Instead of worsening the chances for accommodation, let us replace unreasoning terror of a poor, primitive, and cautious nation with positive steps toward a mutual quest for survival.

Let us abandon this intolerable waste of some $50 billion of our resources, when domestic needs are crying out for fulfillment.

Those who have determined that we will build this discredited system have run out of reasons. They have started to repeat. The *Titanic* has returned to an iceberg it has encountered before.

It is time we let it sink quietly beneath the waves.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

PROPOSED LEGISLATION RELATING TO ASSISTANCE TO SMALL BUSINESS—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

Seventeen years ago President Eisenhower established the Small Business Administration (SBA). This marked the first peacetime recognition by the Federal government of the special needs of small businesses.

—Today there are in the United States an estimated 5,400,000 independent businesses, of which 95 percent are small by SBA size standards.

—Ninety-seven percent of our Nation's firms employ fewer than 100 full-time workers.

The small business sector of the economy contributes roughly 37 percent of the gross national product and is responsible for over 40 percent of U.S. employment.

We all know the almost legendary stories of men in the past and in our time who have started out in small business with little more than an idea and a belief in themselves and have gone on to great financial success. Yet small business can also mean other things.

—It can mean for the nation a source of independent innovation which continually offers new products and services needed by any economy if it is to remain vital.

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—It can mean the everyday success of the average businessman whether he owns his own retail or service enterprise or heads a small manufacturing concern. It is a quiet kind of success that doesn't make the big news on the financial page, but makes life more rewarding for millions of Americans. It is the kind of success that offers personal services to consumers—and personal satisfaction to the businessman.

—It can mean a chance for a young American to bring not only his talent but his individuality to the challenges of the business world.

—It can also mean an opportunity for dignity and for economic and social progress for many Americans previously without access to the economic system of our nation. Small business is a way to become a part of that system—and, after seeing it work, believe in it, in its promises and in its challenges.

THE REPORT OF THE TASK FORCE ON IMPROVING THE PROSPECTS OF SMALL BUSINESS

In order to discover ways in which we could help improve the prospects of small business in the United States, I appointed a Task Force, chaired by Mrs. J. Wilson Newman of New York, to report to me. In line with recommendations of their report, I am:

—Directing the Small Business Administration to emphasize its role as the advocate of the interest of small business. I am further directing all agencies to take these interests fully into account in their activities affecting small business.

—Proposing legislation to expand research to provide a clear picture of the problems, the trends and the needs of small business and a clear picture of the impact of government on small business.

—Proposing legislation to create a new position of Assistant Secretary in the Department of Commerce to assist in formulating policy for the Office of Minority Business Enterprise (OMBE). I established OMBE early in my Administration to coordinate programs and activities within the Federal government aimed at assisting minorities to enter the American economic mainstream. This is an extremely important undertaking.

The Task Force identified three major problem areas that can be found in all parts of the small business community, including that of the disadvantaged entrepreneur:

—The need for capital and for recognition of the special financial problems small firms may face in their early years;

—The need for sound management counseling; and

—The need for people and especially for trained people.

In order to help small business in these areas, I am proposing a far-reaching legislative program.

FINANCIAL ASSISTANCE

The Small Business Task Force found in surveys of businessmen across the nation that one-fifth of those consulted ranked financing first among their problems. Interest assistance, incentives to make loans, tax reform, bonding for small contractors and Minority Enterprise Small Business Investment Companies (MESBIC) are five major areas for action.

INTEREST ASSISTANCE

The risk of failure for small business is high, and the early years are the most perilous. These are the years in which the small businessman most often finds himself short of working capital and when high interest rates can have their greatest impact. In order to help small businessmen in such crucial early years, I propose legislation to authorize the Small Business Administration to make grants to borrowers whose loans are guaranteed by the SBA. These grants would narrow the gap between the prevailing interest rates and the statutory interest rate for SBA direct loans.

INCENTIVES TO MAKE LOANS

Another problem area of financing is that of providing adequate incentives to the private sector to make high-risk loans to small business. The cost of processing a small loan may and often does equal or exceed the cost of processing a large loan. In order to help the man who needs a small loan that carries a higher-than-usual degree of risk, I am proposing legislation that would offer compensation in the form of tax incentives to those lenders who bear the additional cost of making such loans. The incentive would be an income tax deduction equal to 20 percent of the interest earned on SBA-guaranteed loans.

To further assist in this area, I am proposing legislation that the SBA be permitted to delegate to the banks to the full extent it deems advisable the authority to make loans that the SBA guarantees, provided the bank retains a portion of the risk. Also, the SBA is revising its procedures so that a bank, with SBA approval, can use its regular loan forms rather than the special SBA forms.

A variety of organizations other than banks—foundations, trusts, church groups, community groups and others—are also interested in assisting the small business efforts of the disadvantaged by loan programs. To encourage these efforts, I also propose legislation to give the SBA the authority to guarantee loans by such organizations.

TAX REFORMS FOR SMALL BUSINESS

The man who is willing to take the financial risks involved in beginning a small business should be encouraged. In recognition of these risks, I propose legislation to provide the following tax reforms:

—Revision of "Subchapter S" of the Internal Revenue Code to make it easier for small business to be treated like a partnership for tax purposes.

—A ten-year tax loss carry-forward period, instead of the present 5-year period. This extension will be of special use to those new businesses that find it necessary during the early years to spend large amounts of money on research and development.

BONDING

No treatment of the problems of small business—especially those problems in the innercity—would be complete without consideration of the problem of insurance, including crime and property protection and surety bonds for construction.

On June 30, 1970, the Federal Insurance Administrator will report on these matters as required by the Housing and Urban Development Act of 1968. However, the urgency of the need to provide assistance relative to surety bonds for small business calls for immediate action. Accordingly, I am proposing legislation that would enable the SBA to guarantee, for a fee, as much as 90 percent of surety bonds up to $500,000 for small contractors who are qualified by SBA standards but lack the resources to qualify for bonding in the open market. Additional action regarding bonding may be called for in the Federal Insurance Administrator's report.

MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANY

The MESBIC concept shows promise of becoming an important tool for the generation of capital and as a source of managerial assistance for the disadvantaged who need help in small business. The Federal government matches the MESBIC sponsor on a "2 for 1" basis. The "leverage" power of this concept can be seen in an example: If a sponsor puts $150,000 into his MESBIC, the government lends it $300,000. This $450,000, with the application of other loans it generates, can result in over $2 million for new enterprises. Of equal importance is the availability of the sponsor's managerial talents.

To provide additional tools to assist this program, I propose legislation to provide:

—Statutory authorization for a bank to become involved in the program as the sole sponsor of a MESBIC.

—Ordinary income tax deductions for contributions to MESBIC's organized and operating under non-profit corporation statutes. This would provide a tax incentive for doubling the commitment of funds.

The legislation being proposed also reflects the intention that the program assist all the socially and economically disadvantaged who need such assistance.

PERSONNEL AND MANAGEMENT ASSISTANCE

In its survey, the Small Business Task Force discovered that two out of every five responses listed the quality and availability of personnel as a major problem. It also is probably the most difficult one to solve. However, there are steps that can be taken at this time.

JOBS PROGRAM

The Secretary of Labor is initiating an expansion of the Federal JOBS (Job Opportunities in the Business Sector) Program that will aid small business. The JOBS Program until now has been in practice suitable only to larger corporations. But under this new program, consortiums of small businessmen—with the cooperation of local organizations such as boards of trade and chambers of commerce—will receive Federal assistance to offset the extraordinary costs of training employees until they become fully productive.

STOCK OPTIONS

In order to offset the advantages large businesses have in attracting managerial talent, I am sending legislation to the Congress which would revise the tax rules for stock options as they relate to small business. The proposal would extend the qualified option exercise period from five to eight years and reduce the required holding period for the stock from three years to one year. This should substantially assist small, technically-oriented growth companies in their competition with larger companies for managerial and other talent.

MANAGERIAL TRAINING ASSISTANCE

In order to help disadvantaged entrepreneurs get the kind of business know-how needed for success in small business, I propose legislation that would provide management training for those among the disadvantaged who are entrepreneurs and prospective entrepreneurs. Assistance would be offered for extension courses, night school and other management training courses.

* * * * *

Small business is an important part of our national life; it has been an important part of my personal life as well. My father knew the challenges and the rewards of owning and operating a small store. To him—and to our family—that store meant more than a source of income; it meant a daily challenge, a place where we could work out the destiny of the family in our own way, taking the risks, and enjoying the satisfactions of ownership. Looking back on those years, I know now that our store was a success not only because of what it did for our family budget, but for what it did for our spirit. I know that today, in helping Americans in small business, we are helping their spirit—and the spirit of our nation.

RICHARD NIXON.

THE WHITE HOUSE, *March 20, 1970*.

REFERRAL OF PRESIDENT'S MESSAGE ON SMALL BUSINESS TO COMMITTEE ON BANKING AND CURRENCY AND COMMITTEE ON FINANCE

Mr. KENNEDY subsequently said: Mr. President, as in legislative session, I ask unanimous consent that the message from the President of the United States on small business be referred jointly to the Committee on Banking and Currency and the Committee on Finance.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

PROPOSED DISTRICT OF COLUMBIA ADMINISTRATION OF ESTATES ACT

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Code to increase the jurisdictional amount for the administration of small estates, to increase the family allowances, to provide simplified procedures for the settlement of estates, and to eliminate provisions which discriminate against women in administering estates (with an accompanying paper); to the Committee on the District of Columbia.

PROPOSED DISTRICT OF COLUMBIA EDUCATION ACT OF 1970

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting, pursuant to law, a draft of proposed legislation relating to education in the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

PROPOSED DISTRICT OF COLUMBIA FREEWAY AIRSPACE UTILIZATION ACT

A letter from the Assistant to the Commissioner, Executive Office, Government of the District of Columbia, transmitting a draft of proposed legislation to authorize the Commissioner of the District of Columbia to lease airspace above and below freeway rights-of-way within the District of Columbia, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

REPORT OF NATIONAL SCIENCE FOUNDATION

A letter from the Director, National Science Foundation, transmitting, pursuant to law, a report on Federal support of research and development at universities and colleges and selected nonprofit institutions, for fiscal year 1968 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. INOUYE, from the Committee on Commerce, with an amendment:

S. 1289. A bill to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes (Rept. No. 91–744).

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

S. 3072. A bill to stimulate the development, production, and distribution in interstate commerce of low-emission motor vehicles in order to provide the public increased protection against the hazards of vehicular exhaust emission, and for other purposes (Rept. No. 91–745).

EXECUTIVE REPORT OF A COMMITTEE

The following favorable report of a nomination was submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Robert Harry Nooter, of Missouri, to be an Assistant Administrator of the Agency for International Development.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. COOK (for himself and Mr. MANSFIELD):

S. 3614. A bill to amend the Federal Water Pollution Control Act and the Clean Air Act in order to provide assistance in enforcing such acts through Federal procurement contract procedures; to the Committee on Public Works.

(The remarks of Mr. COOK when he introduced the bill appear earlier in the RECORD under the appropriate heading.)

By Mr. THURMOND (for himself, Mr. COTTON, Mr. SCOTT, and Mr. HRUSKA):

S. 3615. A bill to provide for orderly trade in textile articles; to the Committee on Finance.

(The remarks of Mr. THURMOND when he introduced the bill appear earlier in the RECORD under the appropriate heading.)

By Mr. TYDINGS (for himself, Mr. BIBLE, Mr. COOK, and Mr. HOLLINGS):

S. 3616. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act to provide direct financial assistance to units of local government upon which the presence of the Federal Government has produced additional law enforcement burdens; to the Committee on the Judiciary.

(The remarks of Mr. TYDINGS when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. BAKER:

S. 3617. A bill to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development; to the Committee on Commerce.

By Mr. MATHIAS:

S. 3618. A bill for the relief of Felicidad Clemencia Gianan; to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. BIBLE, Mr. BROOKE, Mr. CRANSTON, Mr. EAGLETON, Mr. EASTLAND, Mr. FONG, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HUGHES, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. McGEE, Mr. MILLER, Mr. MONDALE, Mr. MUSKIE, Mr. PELL, Mr. RANDOLPH, Mr. SPONG, Mr. STEVENS, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio):

S. 3619. A bill to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes; to the Committee on Public Works, by unanimous consent.

(The remarks of Mr. BAYH when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. GRIFFIN:

S. 3620. A bill for the relief of Anastasia Pertsovitch; to the Committee on the Judiciary.

S. 3616—INTRODUCTION OF A BILL TO PROVIDE DIRECT FEDERAL AID TO LOCAL GOVERNMENTS AFFECTED BY CRIME EMANATING FROM FEDERAL ENCLAVES

Mr. TYDINGS. Mr. President, in enacting the Omnibus Crime Control and Safe Streets Act of 1968, Congress intended to embark upon a major effort to financially aid our State and local law enforcement systems in their efforts to combat crime. After 2 years of operation, it is now all too obvious that the Federal effort is not measuring up to expectations. A principal reason for this is that Federal anticrime funds are not sufficiently reaching the areas of high crime incidence where the money is needed the most. The Federal Government's failure in this regard is egregiously compounded in cases where the localities being denied adequate Federal anticrime funds suffer from lawlessness which emanates from the activities of the Federal Government itself.

That the Federal Government is contributing to the groundswell of crime which is afflicting many local communities is woefully apparent. In the prosecution of programs essential to the national defense and general welfare, the Federal Government occupies hundreds of thousands of acres of land, brings together hundreds of thousands of Americans and establishes large Federal enclaves, such as military installations, space centers and, of course, the Nation's Capital. We know that a substantial amount of crime committed by persons living or working on these Federal enclaves spills over its borders and often produces a stunning impact on the law enforcement systems of adjacent communities. In impacted localities, already overworked police units are presented with additional crime with which to cope, criminal court dockets are further congested and delayed, and prisons, ever more crowded.

Notwithstanding the impact which the Federal presence is having on law enforcement systems of contiguous communities, the Federal Government has not assumed its fair share of the law enforcement costs. This is because property under Federal ownership or control generally is not subject to local taxation. Moreover, the resources which it occupies and which might otherwise generate money to fight crime have been left untapped. As a result, already hard pressed local taxpayers must pay ever higher taxes for the increased effort needed to combat the incoming crime.

Furthermore, when it comes time to dole out Federal Safe Street Act funds, these communities which have experienced crime's impact by reason of nearby Federal activities must wait their turn in line with no guarantee that they will not go away empty handed.

The problem of crime impacting local communities by reason of their adjacency to a Federal enclave is unfortunately well illustrated in the communities surrounding the District of Columbia. The Committee on the District of Columbia, of which I am chairman, has engaged in an in-depth examination of the spillover of crime from the District of Columbia to the suburbs of Maryland and Virginia. Our hearings have adduced information evidencing the seriousness of the problem, especially in such areas as narcotics, robbery, burglary, and organized theft.

The criticality of the problem is reflected by the type and amount of crime spilling from the District of Columbia into Prince Georges County. During the period between May 20, 1968, and February 6, 1969, 90.7 percent of the robberies in this county occurred within a few miles of the District of Columbia. Sixty-three percent of the suspects arrested for these robberies were residents of the District of Columbia. Moreover, for calendar year 1969, 49 percent of all robberies in Prince Georges County were committed by Washington residents. Statistics also reveal that a high percentage of other serious crimes in Prince Georges County were committed by District of Columbia residents. No wonder William J. Kersay, the sheriff of Prince Georges County, testified that—

> Crime spill-over from Washington, D.C., has become a major factor in the lives of Prince Georges County citizens, especially those that live on or near the District line.

These statistics bespeak of large increases in law enforcement effort and taxpayer expenses. During 1969, the Prince Georges County fugitive squad spent 166 man-days in District of Columbia court just in order to return 103 fugitives back to the county. An even greater illustration of the added burden is the fact that approximately 40 percent of the inmates in Prince Georges County jails are District of Columbia residents.

The problem of crime spillover also has been seriously impacting local communities surrounding our large military bases, such as Fort Bragg, N.C., 51,000 servicemen; Fort Lewis, Wash., 45,000 servicemen; Camp Pendleton, Calif., 40,000 servicemen; Fort Dix, N.J., 37,000 servicemen; and Fort Knox, Ky., 35,000 servicemen. Law enforcement officers near these large installations have informed me that up to 70 percent of the crime in their communities is committed by servicemen. Because of a recent Supreme Court decision, the impact of this crime on local law enforcement efforts looms even larger.

Last year in O'Callahan against Parker, the Supreme Court significantly restricted court-martial jurisdiction by holding that a serviceman may not be tried by a military court for crimes which are not service connected. Applying O'Callahan, the Military Court of Appeals has held that military courts are without jurisdiction to try servicemen who while in civilian clothes commit against civilians off-post offenses such as murder, assault, rape, armed robbery, burglary, larceny, drug possession, and automobile theft. It will now be up to civilian authorities to investigate, apprehend, try, and imprison the servicemen who perpetrate these crimes. This obviously will generate an ever heavier work load upon the criminal justice system of local communities adjacent to military enclaves. The police and the prisons will be further burdened. And, as Prof. Robinson O. Everett of Duke Law School has observed, "the dockets of civil courts will be further congested."

In assisting State and local communities to combat crime it is clearly the first responsibility of the Federal Government to come to the aid of those communities that experience crime as a result of the activities of the Federal Government itself. So far the Federal Government has failed to satisfy this primary obligation.

Mr. President, today I am introducing legislation which is designed to remedy this regrettable oversight. My proposal, which amends title I of the Omnibus Crime Control and Safe Streets Act, empowers the Law Enforcement Assistance Administration to make grants directly to units of general local government, combinations of such units, and any regional commission composed of representatives from two or more such units that are adjacent to any Federal enclave. The purpose of the grants is to plan, develop, improve or implement any law enforcement plan or project designed to prevent or control the commission of crime emanating from a Federal enclave. The Federal Government will foot 80 percent of the cost of the local plans. The Federal funds necessary to finance such programs will be drawn from the 85-percent block grant fund. However, these direct grants will in no way influence the size of the grant to States in which the eligible units of local government are located.

I ask unanimous consent that my bill be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3616) to amend title I of the Omnibus Crime Control and Safe Streets Act to provide direct financial assistance to units of local government upon which the presence of the Federal Government has produced additional law enforcement burdens, introduced by Mr. TYDINGS (for himself, Mr. BIBLE, Mr. COOK, and Mr. HOLLINGS), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 3616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 197), Title I, is amended as follows:

1. Section 305 is amended:

(a) by renumbering the present section as subsection 305(a) and inserting after the last word in the subsection the words "except as set forth in subsection 305(b)"; and

(b) by inserting the following new subsection after subsection 305(a):

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"(1) In recognition of the responsibility of the United States for the impact which the Federal presence has on law enforcement in adjacent units of local government, Congress declares it to be the policy of the United States to provide direct financial assistance to units of local government upon which the presence of the Federal Government has produced additional law enforcement burdens.

"(2) The Administration is authorized to make grants directly to the units of general local government, combinations of such units, and any regional commission composed of representatives from two or more such units which are adjacent to the District of Columbia; a United States military installation, or any other federal enclave for the purpose of planning, developing, improving or implementing any criminal justice or law enforcement plan or project designed to deter, control or facilitate the administration of criminal justice with regard to the commission of crime, in such units, which is influenced by the proximity of the federal presence. These grants shall in no wise affect the size of the grant made under this Act to the States in which the eligible units of local government are located.

"(3) No grant under this subsection to an eligible recipient shall be for an amount in excess of 80 percentum of the cost of the project or program specified in the application for such grant.

"(4) An eligible recipient seeking a grant under this subsection shall submit to the Administration a plan which specifies [a] the law enforcement problem or problems produced or exacerbated by the contiguity of the federal enclave; [b] the plan or project designed to solve such problem or problems; [c] the budget of such plan or project; [d] the intent and ability of the recipient to contribute no less than 20 percentum of the cost of such plan or project in funds, facilities or services of any combination thereof; [e] the policies and procedures designed to assure that Federal funds made available for such plan or project will not be used to supplant local funds, but increase the amounts of such funds that would, in the absence of such Federal funds, be made available for law enforcement; [f] procedures for fiscal control and fund accounting which assure proper disbursement of and accounting of funds received under this subsection; [g] the relationship of the plan to other relevant State or local law enforcement plans and systems; and [h] certification that a copy of the plan or project has been submitted to the chief executive of the State or States in which the unit or units of local government involved in the plan or project are located.

"(5) The Administration shall allocate funds to the eligible recipients on the basis of population, the degree of contiguity with the federal enclave, the evaluation, if any, of the chief executive of the State in which the involved local units or units of government are located, and any other factor which, in the judgment of the Administration, would assure a fair and effective distribution of funds. The Administration shall make no grant prior to 60 days after the chief executive of the State has received a copy of the plan."

2. Section 306 is amended by inserting after the word "populations" and before the word "and" the words "and the recipients set forth in subsection 305(b)".

S. 3619—INTRODUCTION OF A BILL TO PROVIDE COMPREHENSIVE DISASTER ASSISTANCE

Mr. BAYH. Mr. President, I introduce, for appropriate reference, a bill to provide a comprehensive program of assistance to individuals, organizations, and communities suffering losses in major disasters. Although Congress has enacted during the past 20 years a number of beneficial disaster relief laws, many of these have been limited in scope, temporary in duration, and retroactive responses to particular catastrophes. Moreover, the basic disaster assistance act of 1950—Public Law 81-875—was directed almost entirely toward the public sector; even though amendments have been added from time to time, especially in 1966 and 1969, which were designed to extend a helping hand to families and businesses, the severe financial losses and personal hardships often incurred by many helpless victims of major disasters are eligible for minimal assistance only.

Understandably, much of the present disaster relief legislation has been piecemeal in nature. Through the years new provisions have been added in accordance with immediate demonstrated needs in reaction to specific situations. Moreover, the bulk of the 1969 act—Public Law 91-79—while general in scope, will expire on December 31, 1970. Scheduled to terminate on that date are important sections dealing with disaster assistance for the repair and reconstruction of roads and highways not on any Federal-aid system, timber sale contracts, the $1,800 forgiveness feature of Small Business Administration and Farmers Home Administration loans, expanded authority to provide temporary dwelling, food stamp allotments for low income families, and unemployment assistance for those not eligible to receive compensation under other State programs.

The advantages to be gained from codifying the many, diverse disaster assistance statutes, as well as the need at least to extend the life of the essential provisions of the 1969 act, by themselves would be sufficient justification for a careful examination by Congress of the whole matter of disaster relief. But there is an even more overriding factor which seems to necessitate prompt and vigorous action by the National Government in this field. Recent hearings conducted by the Senate Special Subcommittee on Disaster Relief, for which I am chairman, on the Federal role in providing assistance to the thousands of people and scores of communities in Mississippi, Louisiana, and Virginia which suffered devastating losses in the wake of Hurricane Camille, have convinced members of the subcommittee that certain new approaches should be considered.

Hurricane Camille was the largest known destructive force of wind and water ever to strike the United States. However, the physical damage it caused and the human problems it created, while possibly more extensive and longer lasting, were almost identical in kind with those following other similar major disasters. Tornadoes, earthquakes, floods, hurricanes, and other catastrophes have occurred, and no doubt will continue to occur, in astounding numbers in the United States. During the last 20 years alone the havoc caused by these natural phenomena has been so great that the President has declared the existence of major disasters in more than 280 areas, an average of about 14 each year. During some of the last few years the number has been considerably higher than the average; for instance, there were 25 major disaster declarations in both 1964 and 1965, 19 in 1968, and an all-time high of 29 was reached in 1969. Already in 1970, with less than 3 months elapsed, there have been three such declarations. No doubt the approaching spring flood and tornado season will again witness an upsurge in major disasters. It must be remembered, of course, that these statistics do not include the many other hundreds of serious storms or floods which result in large losses but are not deemed sufficiently extensive to be classified as major disasters.

It is interesting to note that, while property losses attributed to violent acts of nature have greatly increased through the years, loss of life and limb has generally decreased. The development of sophisticated weather forecasting and warning techniques and the ability to track and to map out the expected paths of great storms have permitted the evacuation of large numbers of people from endangered territories who otherwise might have been killed or injured. On the other hand, the concentration of large and expensive residential, commercial, and industrial facilities in relatively small areas, coupled with general escalation of overall values, has meant huge increases in property losses incurred by certain major disasters. For instance, the terrible Galveston flood at the beginning of the 20th century cost more than 6,000 lives and some $30 million property damage; in contrast, it has been estimated by the Office of Emergency Preparedness that 69 years later Camille caused 248 deaths but about $1.5 billion in property damages. The authors of the leading work about the costs of major disasters—D. C. Dacy and Howard Kunreuther, "The Economics of Natural Disasters"—tentatively estimate that the "average damage to the United States from hurricanes, floods, tornadoes, and earthquakes has exceeded $600 million annually" in recent years.

The fact that economic loss attributed to unexpected natural catastrophes has soared so dramatically points to the needs for new approaches to the problem. While our ability to curtail loss of life or diminish personal injuries caused by certain types of major disasters has greatly improved, damages inflicted on property have soared in real costs. For example, Dacy and Kunreuther reported a marked decline from 4,650 to 762 in the number of lives lost in the United States because of hurricanes, floods, tornadoes, and earthquakes during two comparable 5-year periods—1925-29 and 1960-65—in the last half century. In contrast, during that interim the property damages increased—in 1964 price levels—from $1.5 billion to more than $2.6 billion for the same periods. At the same time, the role of the Federal Government in extending assistance to the victims of disasters has substantially increased.

Although the type and quantity of damage caused by major disasters varies according to their location, scope, and intensity, I have been impressed by the similarity of the tragedy often inflicted on those unfortunate enough to have been subjected to these perils. I first be-

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came directly involved with the problems of disaster assistance after the Palm Sunday tornadoes ravaged Indiana and portions of Illinois and Michigan in 1965. As a participant since then in congressional hearings which have examined the need for Federal help, it has seemed obvious to me that the problems involved in providing relief to individuals and communities following a major disaster are much the same no matter where it occurs or what its cause.

During the last 5 years more than 100 major disasters have been declared by the President of the United States. The response by Congress and our people has been very praiseworthy; when fellow citizens, or indeed those in foreign countries, have been stricken by a great catastrophe, the American public has always been compassionate and generous. That does not mean, however, that all needs have been met or that improvements could not be made.

In my opinion the hearings have disclosed certain gaps in legislative authority and some deficiencies in administrative organization and operation which should be rectified. Among the most frequently voiced significant suggestions, complaints, and needs relating to disaster assistance programs which have come to the attention of the Special Subcommittee on Disaster Assistance are the following:

First. Delays and problems encountered in the provision, distribution, and leasing of temporary housing;

Second. The insufficiency of insurance coverage and slowness in settling insurance claims;

Third. The need for establishing immediate, effective communication systems;

Fourth. Inadequate centralized, coordinated administration and supervision;

Fifth. Relief for local governments not able to meet bonded indebtedness because of diminished tax base;

Sixth. The advantages to be gained from previously established State disaster plans providing systematic programs for refugee evacuation, emergency food and shelter, and longer range assistance to individuals;

Seventh. Need for trained emergency support teams with capability of immediate deployment in major disaster areas;

Eighth. Requirement for emergency public transportation systems to provide access to such vital places as governmental offices, supply centers, post offices, and major employment facilities;

Ninth. Charges of inequitable and discriminatory treatment, both by public and private agencies;

Tenth. Failure to recognize officially more than one charitable organization for the purpose of distributing goods and commodities provided by the United States;

Eleventh. Lack of adequate dissemination of information and clear explanation about available benefits;

Twelfth. The need for assistance in the preparation of application forms for various programs;

Thirteenth. Authorization for disaster relief funds to be used to restore facilities on a permanent and improved rather than a temporary or emergency basis; and

Fourteenth. Larger Federal contributions to those whose homes have been destroyed.

Congress cannot foresee nor provide in advance for every contingency or for all of the serious problems which inevitably arise from any major disaster. Nevertheless, it has always seemed logical to me that every effort should be made to establish by law full authority for the President and the various Federal departments and agencies to respond quickly, efficiently and without unnecessary restrictions when confronted by a major disaster. I do not believe it is either expedient or wise for Congress to attempt to enact separate relief bills each time a major disaster occurs. Until 1964, most Federal disaster relief legislation had been given general application, although it authorized assistance primarily for public losses. Since then, however, Congress enacted special bills for aid after the Alaskan earthquake, the Pacific Northwest floods, and Hurricane Betsy. The 1966 and 1969 acts did provide additional aid for the private sector, but as mentioned earlier much of the latter will no longer be in force after this year.

I believe it is time to bring together in one act the various features of disaster legislation which Congress has adopted from time to time and to supplement them with additional assistance and directions which testimony indicated to be essential. Consequently, I am introducing today an Omnibus Disaster Assistance Act which would repeal the basic acts of 1950, 1966, and 1969 and would replace them with a comprehensive measure designed to provide an orderly and continuing means of alleviating suffering and damages incurred in major disasters. Following is a brief summary of the main provisions of this bill.

TITLE I. FINDINGS, DECLARATIONS AND DEFINITIONS

Congress would recognize in title I that the extensive property damage, loss of life and limb, loss of income, and human suffering caused by major disasters generally interrupts the normal functioning of government and adversely affects individuals and families. Accordingly, it would declare its intention to render aid in such cases by revising and broadening existing relief programs, encouraging States to develop disaster plans, and consolidating the administration of Federal disaster assistance.

The definition of a major disaster would be basically the same as that provided in the Public Law 91–79, except for the addition of the descriptive words "high waters, wind-driven waters, tidal waves, and tornado." Perhaps it should be emphasized that the provisions of this bill, similar to previous disaster relief laws, would be limited only to those disasters which the President determined to be of "sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and private relief organizations."

TITLE II. OFFICE OF DISASTER ASSISTANCE

The bill would establish a new agency, the Office of Disaster Assistance within the Executive Office of the President, which would administer Federal disaster relief programs. The Office would be headed by a Director and an Assistant Director, both appointed by and responsible to the President for an unfixed term.

All of the present functions of the Office of Civil Defense, as well as the major disaster relief functions of the Office of Emergency Preparedness, would be transferred to the new Office of Disaster Assistance. The President would also be authorized to transfer during the next 6 months to the Office of Disaster Assistance any functions of any other agency or office which he determined related primarily to the functions of the new office. Likewise transferred would be all personnel, assets, liabilities, contracts, property, and records belonging to such agencies.

The Director of the Office of Disaster Assistance would be granted the standard powers usually vested in heads of agencies, including authority to issue rules and regulations, appoint and fix compensation of subordinate employees, obtain the services of consultants, acquire real or personal property, operate and maintain facilities, enter into contracts, appoint advisory committees, and delegate his functions to other officers. He would be required to submit at the end of each fiscal year a report to the President and Congress on the activities of the Office of Disaster Assistance.

Title II would take effect 90 days after enactment of the bill unless the President should prescribe an earlier date.

TITLE III. THE ADMINISTRATION OF DISASTER ASSISTANCE

Assistance provided under title III would be classified in three groups: First, emergency relief to be made available immediately after a declaration of a major disaster by the President; second, recovery assistance for long-range restoration and rehabilitation of an area; and third, certain general provisions which would be applicable to the administration of all major disaster relief.

The first category would provide for a Federal coordinating officer, emergency support teams, emergency communications systems and the cooperation of other Federal agencies. Congress stipulated in the 1969 Disaster Relief Act that the President should designate a Federal coordinating officer who would be responsible for overseeing all relief activities in a particular disaster area. Testimony presented to the subcommittee in the last few months clearly bears out the need for such unifying authority. Accordingly, section 301 of the bill would not only continue the requirement for such a coordinating officer but would also strengthen and expand his role.

The coordinating officer would be appointed by the Director immediately after a declaration of major disaster. He would be directed to make an appraisal of the types of relief needed to deploy emergency support teams, to establish field offices, to coordinate administration of relief with private organizations, and

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to take other actions he deems necessary to provide assistance to a disaster area.

Because of the great confusion and chaos often ensuing after major disasters, an urgent need exists for leadership, skilled help, and workable communications systems. Persons who experienced the utter devastation wrought by Hurricane Camille and other similar catastrophes have described how helpless victims remained many hours without the bare necessities of life—homeless, leaderless, and unable to communicate their plight either to the immediate vicinity or to the outside world.

In order to help cope with these problems, sections 302 and 303 would provide for emergency support teams and emergency communications systems. The Director would be authorized to recruit, train, and develop teams of personnel which could be deployed immediately following a disaster. Furnished with such equipment and supplies as they might need, the support teams would bring immediate, emergency assistance to a major disaster area and, after a preliminary survey, report to the coordinating officer on the kinds of relief most urgently needed. The Director would be authorized to establish in any major disaster area an emergency communications system which could be made available to State and local government officials or to other persons.

Other Federal agencies would be authorized by section 304 to provide, when requested by the Director, additional emergency disaster assistance. Although based largely upon a similar provision in section 3 of Public Law 81–875, the powers conferred would be somewhat clarified and expanded. All agencies would be enabled to extend the use of or lend their facilities, supplies, personnel, or other resources, with or without compensation, to States and local governments. They could also distribute food, medicine and other consumables through the American National Red Cross or other private relief organizations. Likewise, surplus equipment and supplies could be donated or loaned, and work essential to preserve life or property could be performed on either public or private lands. This could include the clearance of debris and wreckage, making repairs to or replacing public facilities, providing emergency shelter, and making contributions to States or local governments to perform this work. Reimbursement for such services or supplies would be deposited to the credit of the proper appropriations. A disclaimer clause would exonerate the U.S. Government for any claim based upon the exercise, performance, or failure to perform any discretionary act in carrying out such emergency assistance.

With respect to longer range recovery assistance in contrast to purely temporary emergency relief, title III of the bill would renew and strengthen several programs enacted in previous disaster laws and would provide a number of new kinds of aid. Present authorization for debris removal from private property, temporary housing, subsidized loans to homeowners, food coupons, unemployment compensation, restoration of Federal, State, and local facilities, highway repair and reconstruction, loan adjustments, timber sale contracts and public land entry, several of which will expire at the end of this year, would be extended indefinitely although in some cases in modified form. In response to extensive and convincing evidence of need for other types of assistance, the bill would authorize entirely new programs for temporary public transportation, a community disaster loan fund, special aid to enterprises constituting major sources of employment, the waiver of conditions for Federal grants-in-aid, preference to local firms and businesses in recovery work, and priority for public facility and public housing assistance applications.

Grants could be made by the Director under section 305 to any State or local government to remove debris from privately owned lands or waters deposited as a result of a major disaster. The State or local governments would in turn be authorized to reimburse any person for actual debris removal costs, less any salvage value of the debris. This provision is almost identical with section 14 of Public Law 91–79, now scheduled to terminate on December 31, 1970.

In order to provide dwelling accommodations for individuals and familes whose homes have been made uninhabitable by a major disaster, section 306 would authorize the Director for this purpose to use any unoccupied housing owned by the United States, to arrange with a local public housing agency for any unoccupied housing units, or to acquire, either by purchase or lease, already existing dwellings, mobile homes, or other readily fabricated dwellings. Mobile or specially fabricated dwellings would be installed on sites furnished without charge by a State, local government, or a displaced owner-occupant. Rentals collected for occupancy of these temporary dwelling accommodations could be adjusted or completely waived according to the financial ability of the tenants for as long as 1 year, but in no case would disaster victims be required to pay more than 25 percent of the family monthly income for housing expenses, including the amortization of debt on a destroyed or damaged house.

The only significant difference between section 306 of the bill and section 10 of Public Law 91–79 is that the authority conferred on the Director to acquire housing would include the right to purchase as well as to lease dwellings or mobile homes. The three previous disaster relief bills which I introduced—S. 1861, S. 438, and S. 1685—would have authorized the purchase of housing for this purpose, and each of the two bills which passed the Senate in 1965 and 1969 included such a provision. Because the cost to the Government of leasing mobile homes from manufacturers or distributors for a year is very high, it might be less expensive under certain circumstances to purchase them outright. They could be either stockpiled or sold later, either to the disaster victim occupant or on the open market. The fact that mobile homes have recently become eligible for Government-insured loans might facilitate their disposal, perhaps in some cases to the disaster victim himself.

More important, however, is the time which might be gained in some disasters by immediate purchase of temporary dwellings. Several weeks elapsed before mobile homes in any quantity were brought into the gulf coast areas most damaged by Camille, and there were many reports of other delays in installing and connecting them up promptly with public services. Some of this can be attributed to poor road conditions and destroyed facilities, but considerable time was lost through advertisement for bids, negotiating and letting contracts, and manufacturing and shipping units from factories hundreds of miles away. At the same time it has been estimated that within a hundred miles or so of the disaster area there were local dealers who had hundreds of mobile homes which could have been purchased and moved into place quickly if the agency had been authorized to do so. It seems to me that the Director at least should be empowered to purchase such temporary dwellings; he would use that power only if in his opinion it were more expeditious and economical to do so.

Emergency public transportation service in a major disaster area could be provided by the Director under section 307. The purpose would be to enable local residents who have lost all means of transportation to make necessary trips to distant governmental offices, supply centers, employment centers, post offices, stores, and other similar places of business. The emergency service could be provided only until regular public transportation was restored, or for a maximum period of 1 year after the disaster.

Although the number of major disasters in which there would be need for such a temporary transportation system is few indeed, the subcommittee was impressed with the plight of many residents of the Mississippi gulf coast who found it very difficult to transact business, make applications for assistance, pick up food and clothing, or talk with officials. When neighborhood shopping centers and stores have been destroyed, private automobiles have been damaged beyond repair, and public buses are no longer running, those living in isolated and removed sections of large communities have great difficulty in carrying on normal life activities. In such limited cases I believe the Director should be authorized to provide temporary transportation until regular service can be restored. The type, frequency, routes and fares charged, if any, for such service would be left to the discretion of the Director.

Several important changes would be made by sections 308 and 313 of the bill in the disaster loan programs of the Small Business Administration, the Farmers Home Administration, the Veterans' Administration, and other agencies.

First, the interest rate on any loan made under the authority of a disaster loan program would be changed from the current 3 percent—in most cases—to a rate not less than the average annual interest rate on all interest-bearing obligations of the United States with maturities of 20 years or more.

Second, offsetting the proposed higher interest rate would be an increase in the amount of forgiveness in SBA, FHA, and other disaster relief loans. At present on loans in excess of $500, a maximum of $1,800 will be canceled. The new formula would provide cancellation up to 50 percent of the uninsured loss to a maximum amount of $5,000.

Third, all disaster loans could be made without regard to whether financial assistance might have been available from private sources.

Fourth, the age of any adult applicant could not be a factor in determining whether a disaster loan should be made or what the amount of the loan should be.

Fifth, any home built with the aid of a major disaster loan would have to be constructed according to minimum standards of safety, decency, and sanitation prescribed by the Secretary of Housing and Urban Development and in conformity with applicable building codes and zoning regulations.

Despite the higher interest rate which would be charged for disaster loans, substantial benefits would accrue under the new formula for many of those seeking assistance. Any homeowner whose loss exceeded $10,500 would be eligible for a forgiveness of the maximum amount, or $5,000. His total encumbrance on $10,500 would be only $5,500. One who suffered a loss of $8,000 would be eligible for a cancellation of $3,750, leaving a balance of $4,250 due. A $6,000 loss would be credited with $2,750, reducing the obligation to $3,250. On the other hand a $4,000 loss would be entitled only to a $2,000 cancellation, which would be only $200 more than that available under the 1969 Disaster Act.

It is believed that the maximum of $5,000 cancellation in disaster loans up to $10,500 would bring substantial relief to the low- and middle-income groups whose homes might not be protected by insurance. The $5,000 credit would apply to loans on more expensive houses damaged in disasters as well, but the higher interest rates paid over a number of years would tend to counterbalance this cancellation.

Congress first provided for the $1,800 cancellation feature in disaster loans after Hurricane Betsy in 1965; a similar provision was included in the 1969 disaster assistance law. Because of the great increase in building construction costs in the last 5 years and the likelihood that such costs may continue to rise, a sizable increment in this amount would not appear to be unreasonable. When a major disaster seriously damages or destroys a dwelling, one which more often than not already may be encumbered by a sizable mortgage, the hard-pressed homeowner in this day of high prices may be skeptical of the value of an $1,800 subsidy. Disaster victims have raised the question of what $1,800 would mean to an owner sustaining a $15,000 loss on a home which might be burdened with an already existing $10,000 mortgage. Cancelling $5,000 of a loan made in such a case would cut the total obligation to $20,000 rather than $23,200 under the 1969 act.

Even though the interest rate through the years would be higher, the reduction in principal to most homeowners would be a welcome, encouraging ray of hope. Especially for older borrowers a lower principal ought to be more attractive than a reduced interest over a longer period of time. Eliminating the differential between the present 3-percent disaster loan rate and the average cost of borrowing by the U.S. Government would, of course, mean a higher immediate Federal expenditure, but in the long run the actual cost would tend to balance out.

It is important to note that, if the national disaster insurance program proposed in title IV of the bill is established, no homeowner would be eligible for disaster assistance under title III for loss of or damage to real property unless he had acquired major disaster insurance within 1 year after it should become available. I fully agree with those who insist that to the extent possible the homeowner should contribute to his protection against disaster losses through payment of regular insurance premiums. However, until such time as a workable disaster insurance system can be made applicable to the Nation as a whole, it would be entirely proper to continue the partially subsidized loan program.

The bill would also prohibit the denying of a disaster loan to any adult solely on the grounds of age. Testimony has been received indicating some reluctance to grant disaster home loans to individuals whose life expectancy might not be equal to the usual length of most mortgages. Older people displaced by a disaster ordinarily are as much or more in need of adequate dwelling space as are younger families. In any case, since the equity in the home would remain no matter what happened to the mortgagee, persons in need after a major disaster should not be in a disadvantageous position because of their age.

Minimum standards of safety, decency, and sanitation as well as applicable building codes would have to be adhered to in the construction of any residence financed with the aid of a disaster loan. The purpose of this provision is to assure that no home damaged or destroyed in a major disaster would be rebuilt with Federal assistance in a shoddy, unsafe, or unsanitary condition. The Secretary of Housing and Urban Development would be authorized, after consultation, to promulgate regulations designed to guarantee that such construction would conform to these minimum standards as well as local building codes and other requirements.

Loans or grants could be made under section 314 by the Director to any industrial, commercial, agricultural, or other enterprises which have been major sources of employment in major disaster areas but which are unable because of the disaster to operate. In view of the widespread unemployment which frequently accompanies major disasters, it is crucial to restore local industries and other enterprises to a functional condition as soon as possible so that local residents can become self-sustaining. This is especially important in those communities or areas which are heavily dependent on only one or two major types of enterprise for the bulk of their employment. For example, a small village or town which depends almost entirely for its livelihood on a fishing fleet, a canning factory, or a papermill destroyed in a major disaster would be practically destitute until that business could resume normal activities. Similar to other disaster loans, the interest for loans made by the Director under this section would be a rate equal to the average annual interest rate on all interest-bearing obligations of the United States having maturities of 20 years or more. However, the Director would be empowered to defer payments of principal and interest for a period not to exceed 3 years.

As mentioned previously, several provisions of the 1969 Disaster Act would be made permanent legislation by this bill. Prominent among them is the special unemployment compensation program proposed by section 316 for persons losing jobs because of a major disaster but who are not eligible for such compensation under laws of their States. Although the first payments under the program were not made until late in December, a large number of jobless individuals have already received substantial financial help. More than 22,500 in Mississippi and 2,000 in Virginia had filed claims with the Department of Labor by February 21, 1970; of that number nearly 19,000 in the first State and over 1,300 in the second have received one or more payments ranging between $30 and $48 per week. Total Federal expenditures for this purpose until February 21 were nearly $3.2 million, most of which had been allocated to Mississippi. Because of the proven success of this program I am proposing that it be continued indefinitely.

Worthy of reenactment also are sections 315, 318, 325, and 326 authorizing the free distribution of food coupons and surplus commodities, contributions of up to 50 percent for the repair of highways not on the Federal-aid system, the repair of timber roads, the salvage, cleanup and sale of damaged timber, and extended time for entry on public lands. The food coupon program has not yet been put into operation, although the President on November 18 by Executive order delegated authority to implement it to the Secretary of Agriculture. It is my understanding that guidelines are in the process of preparation. Assistance in the salvage and cleanup of timber damaged by disasters is essential to reduce or prevent additional losses because of insects, fire, disease, or other causes. Grants could be used only for expenses incurred in actual removal of damaged timber, offset by any value gained from salvage. The public land entry section would merely authorize the Secretary of the Interior to extend the time for entry on public lands in any State affected by a major disaster if he determined that the entryman could not comply with existing requirements because of a major disaster. Finally, although no funds have yet been expended under the non-Federal aid highway disaster program, several project applications are being processed and will no doubt be approved.

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Section 317 of the bill, which would authorize the restoration of Federal facilities damaged in a major disaster, restates in somewhat simpler language the provisions of section 6 of Public Law 81-875, the Disaster Relief Act of 1950. If the President determined such action to be so urgent that it could not be deferred, he would be authorized to allow any agency to repair, reconstruct or restore facilities owned by the United States which were damaged or destroyed in a major disaster. Work on the project could begin, even if sufficient funds had not been appropriated, if other funds could be transferred from different appropriations.

Three other sections of the bill—sections 319, 323, and 324—are based upon similar provisions of the 1966 Disaster Assistance Act. In those cases where State or local government public works projects, such as flood control, navigation, reclamation, electric power, water and sewage treatment, or airport installations, were damaged or destroyed in a major disaster while they were in the process of construction, reimbursement would be authorized for not more than 50 percent of the eligible costs incurred to repair, restore, or reconstruct such projects. Priority and immediate consideration would be given in the processing of applications for assistance under various housing acts received from governmental agencies located in major disaster areas. Also, under the loan adjustment program, the authority of the Rural Electrification Administration to adjust the schedules of payment for interest and principal on loans and to extend the maturity date to 40 years in case of loss caused by a major disaster, would be continued. The Secretary of Housing and Urban Development would be authorized to refinance loans where it might be made necessary by loss or damage caused by a major disaster, but the interest rate to be charged on refinancing such obligations would be fixed at the average annual rate on all interest-bearing obligations of the United States. In line with other sections of the bill the Secretary's authority to reduce that rate by as much as 2 percent would not be continued.

A new community disaster loan fund would be established in the Treasury by section 320; local governments which have suffered a loss of more than 25 percent of their tax base because of a major disaster would be able to borrow from this fund in order to make payments of interest and principal due on outstanding bonded indebtedness which they could not otherwise do. Loans for this purpose would be for a maximum period of 20 years and would carry an interest rate similar to that for other programs, equivalent to the average annual rate on all outstanding interest-bearing obligations of the United States having a maturity of 20 years or more. However, the Director would be authorized to waive payment of interest and principal on community disaster loans for a period not to exceed 5 years. As much as $100 million would be authorized to be appropriated for the purposes of the community disaster loan fund.

If a sizable proportion of the property in a community should be severely damaged or destroyed by a major disaster, its revenue sources almost inevitably would be drastically curtailed. Most local governments depend very heavily on the property tax for much of their income; in situations where one-third, one-half, or more of the assessed property valuation might be wiped out in a few hours, those governments would not be able to avoid comparable losses in taxable revenues. As a consequence they would face a financial crisis if they could not meet unavoidable fixed obligations, especially payments on the interest and principal of outstanding bonds previously issued for governmental purposes.

Testimony was presented to the subcommittee indicating that within a few months several of the gulf coast cities in Mississippi, which have lost upward of 40 to 50 percent of their tax base, will not be able to collect sufficient property taxes to remain solvent. Under these circumstances I firmly believe that the type of community disaster loan fund which is proposed in this bill would be of real assistance and should be established as soon as possible. Loans under this program could also be used to help provide the local share on any Federal grant-in-aid program available for restoration of the major disaster area.

Two other new provisions would facilitate economic recovery in a major disaster area. Section 321 would stipulate that organizations, firms, and individuals residing in or who do business in the area should be given preference in the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other disaster assistance activities. Section 322 would authorize any agency administering Federal grant-in-aid programs to modify or waive temporarily various conditions, including the matching of funds, if a major disaster would prevent the meeting of those conditions in order to receive assistance.

Several provisions of general application would be enacted by part C of title III. Foremost among these is the section which would clarify the scope of and extend for 1 year the period in which States receiving grants for the preparation of comprehensive disaster relief plans would have in which to submit their completed plans. The 1969 Disaster Relief Act authorized the President to make grants up to $250,000 to any State for not more than 50 percent of the cost of developing "comprehensive plans and practicable programs for assisting individuals suffering losses as the result of a major disaster." The original intent of this section, dating back to S. 1861 which I introduced in 1965, was without question to assist States in developing a complete and thorough blueprint outlining in detail the necessary preparation, organization, proecdures, supplies, equipment, and other requirements which would enable them to do everything possible to minimize the terrible effects of a major disaster and to begin restoration of the normal life and activities in any disaster area. However, in the formulation of the final language of section 8 of Public Law 91-79, somehow the wording seems to limit its scope to plans and programs which would assist only "individuals" suffering losses. This has been narrowly interpreted by some to mean that State plans developed under this section could not apply to assistance for local governments, public agencies, or business enterprises. In order to resolve any doubts about this matter, section 327 would authorize the Director to make grants to States to develop "comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments." In order to give States more time to apply for and prepare such plans, the date before which they would have to be submitted to the Director would be advanced from December 30, 1970, to December 31, 1971.

Although it is not possible to predict when or where catastrophes might occur, it seems to me only good sense for governments to do as much advance planning and to prepare themselves as much as possible in order to cope with the eventuality that their areas might be subjected to a major disaster. Recently I wrote to the Governor of each State, calling to his attention the availability of Federal funds for planning assistance. While many have not yet had the opportunity to respond, I was pleased to note how widespread is the realization of the importance for States to develop disaster relief plans. A number of States have already pioneered in this field, formulating at least a preliminary program, and several others have indicated intention to proceed with application for assistance. Others pointed out the difficulties they would encounter in trying to appropriate matching funds in time to contract for and complete a comprehensive plan by the end of this calendar year. Therefore, I am suggesting that the date should be extended another 12 months.

Allegations have been made that there were some instances of inequitable and discriminatory treatment, especially after the first emergency period, in providing aid following Hurricane Camille. Such charges have been levied against both public and private agencies, and those most concerned have been investigating the facts and will no doubt report on their findings. Certainly differential treatment in the handling of disaster assistance should not be tolerated.

In order to assure that aid would be provided to all irrespective of their personal background or status, section 330 of the bill would authorize the Director to establish regulations which would be applicable to the personnel and procedures of both public and private agencies involved in handling Federal disaster assistance programs. These guidelines would stipulate that there should be no discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status in distributing supplies, processing applications or managing other relief activities.

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Section 328 would authorize the Director to arrange with the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other private relief organizations for the use of their personnel and facilities in the distribution of medicine, food, supplies, or other material if he found that this would be necessary. This would resolve certain questions brought to the attention of the subcommittee about the power of the National Government to utilize officially the manpower, supplies, and skills which private organizations other than the Red Cross might be willing to provide. Considerable testimony has been presented illustrating the tremendously helpful assistance which the Salvation Army, the Mennonite Board, and others have rendered following disasters. There is no reason why the Director should lack authority to recognize them officially and call upon their services for disaster assistance. Any private relief organization entering into an agreement with the Director for this purpose would have to comply with regulations issued under section 330 discussed above pertaining to impartial and nondiscriminatory administration.

The Director also would be authorized—under sections 331 and 332—to establish emergency supply depots and to assign advisory personnel he deemed to be necessary. While some civil defense and military supply depots do exist which have been helpful in disasters, the Director should be empowered to locate and set up those which in his judgment would be essential for the accumulation of disaster assistance equipment and supplies. To meet a need often expressed to the subcommittee, upon request he also could send trained and experienced representatives to advise State or local government officers about various kinds of Federal programs and procedures. The subcommittee has been informed that in the smaller communities especially, where the chief executives often are part-time officers with little experience in or knowledge about national programs, it would be extremely helpful if well-informed consultants could be provided who would work closely with local governments when a major disaster overtakes them. These representatives, of course, would be strictly advisory and would be assigned only if the Director believed they would help enable communities to apply for and utilize fully various assistance programs.

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The 1969 Disaster Relief Act—section 13—authorized grants and loans to States and local governments to assist in suppressing any fire on publicly or privately owned forest or grasslands which might threaten to become a major disaster. Congress took this action after it had been pointed out that a small conflagration, beginning either on public or private property, could become a major fire threatening large areas if there were not sufficient manpower and equipment to quell it at the start. Such a holocaust would pay no attention to jurisdictional ownership boundary lines and could in a short time devour huge quantities of timber and grassland. Although the U.S. Forest Service has a number of well-trained, able firefighters and extensive equipment, this is often not true in privately owned tracts and sometimes is lacking in State and local lands as well. To help reduce great losses from fires of the type which desolated thousands of acres of timber in the Northwest during 1967, section 333 of the bill would reenact the grant and loan provision of the 1969 act which is scheduled to expire at the end of this year.

Finally, section 329 would be designed to prevent any person, business concern, or other entity from receiving duplicate disaster relief benefits. It would be the duty of the Director to be sure that financial assistance would not be given for any major disaster loss for which compensation had been received from any other Federal program, insurance policy, or other source. This, however, would not preclude Federal assistance for any part of a loss which had not been compensated otherwise. The Treasury would have to be reimbursed for any amount of assistance paid to a person, business concern, or other entity for disaster relief in excess of that to which the recipient was legally entitled.

TITLE IV. NATIONAL MAJOR DISASTER INSURANCE

No issue was accorded more unanimity of opinion by the witnesses who appeared before the Special Subcommittee on Disaster Relief than the urgent need for adequate insurance protection against major disaster losses. Nearly all State and local officials, private group representatives, industry spokesmen and individual property owners who testified seemed to agree that some kind of comprehensive policy covering catastrophic damages would be one of the most useful and desirable ways of providing assistance. My experience leads me to believe that most citizens would prefer investing an annual premium in advance to purchase protection against major disaster losses than they would seeking private relief, personal loans, or governmental subsidies after a tragedy has occurred.

For many years comprehensive casualty insurance covering a wide variety of damages resulting from fire, windstorm, hail, and other causes has been available, but this has not been true for floods, mud slides, wind-driven waters, high waves, and earthquakes. With the exception of the new program authorized by the National Flood Insurance Act of 1968, almost no insurance protection for damage caused solely by water has been obtainable. The difficulty of determining in the area afflicted by a hurricane the proper percentage of loss caused by wind versus water has in particular given rise to many controversies. Policyholders in the gulf coast area following Hurricane Camille have in many cases been frustrated and disappointed in pressing their claims for losses because of this almost insoluble factor.

For various reasons Federal flood insurance has not yet been made available on a widespread basis. Until recently the program has been limited to a few communities. An amendment to the 1969 Housing and Urban Development Act, however, permitted the Federal Insurance Administration to institute emergency programs which could be converted later to permanent status after the necessary studies have been completed. This enabled the Administration to provide flood insurance coverage in a total of eight places by early March, while another seven have been definitely scheduled for inclusion this month. It is expected that a number of other communities will qualify for the emergency flood insurance program during the next few months, although the law currently requires that they be converted by December 31, 1971.

Nevertheless, I believe there is ample reason for Congress to reexamine the whole matter of disaster insurance. Hearings held by the subcommittee in Mississippi and Virginia clearly demonstrated the need for more inclusive and extensive insurance protection for major disasters. Despite its recent gains the Federal flood insurance program, structured as it is on a community-by-community approach, likely will not gain nationwide application for many years. What is needed, it seems to me, is a comprehensive all-disaster risk-type insurance which could be made available in a comparatively short time to property owners in all parts of the country.

To be effective, actuarially sound, and purchaseable at rates which the ordinary householder could afford, any major disaster insurance program must have a broad base of policyholders; losses from disasters are such that the burden of funding relief costs should be shared throughout the Nation. This, of course, can be done, as it has many times in the past, through public revenues raised by taxation. Using public funds to assist those who have incurred sizable losses in major disasters may in one sense resemble a system of enforced public insurance. Probably there always will be many major disaster costs which all members of society will be called upon to absorb through small contributions in the form of national taxes. With respect to private property damages, however, there is no reason why owners should not be required to subscribe through advance payments to a system which would provide them at least minimum protection against possible future major disaster losses.

It would be preferable, of course, if satisfactory, sensibly priced insurance coverage against damages to private property caused by major disasters could be established by the insurance industry. In view of the nature and size of the risk involved, some kind of national reinsurance or subsidy might be necessary to induce private insurance companies to embark on such a venture. I would welcome any reasonable proposal which insurance representatives might make suggesting a joint approach involving Government participation in an industry managed disaster insurance system, and I believe that Congress would give serious attention to such a plan.

Consequently, the bill—section 413—would provide a period of more than a year in which the insurance industry could develop an acceptable program. However, unless the Secretary of Housing and Urban Development should determine and certify to the President and Congress not later than June 30, 1971, that private insurance companies have made available on reasonable terms major disaster insurance with coverage equal to or more extensive than that proposed by title IV, the Secretary would be directed to establish a national major disaster insurance program. Although delays in the legislative process might make the above date unrealistic, it could be extended easily if chances appeared to be good that such a program would indeed become a reality. Without such a deadline, however, I fear that little progress could be made, and in any event it may well be necessary to institute an all-Federal program.

To be successful, major disaster insurance must have widespread application and must be offered at premium rates which are not inordinately expensive. With these premises in mind, the bill—section 412(b)—would blanket in to the proposed new national major disaster insurance system all residential or other structures encumbered by loans or mortgages which have been guaranteed or insured by the Federal Housing Administration, the Veterans' Administration, or any other Federal agency. This would provide a sizable base upon which the program could be founded from the beginning. Second, as will be explained, the rate structure would be devised so as to attract into the system homeowners who would not be included automatically under the above provision. Third, further additional impetus to join would be provided by the outright denial—section 510—of any other Federal financial assistance to any owner of real property for damage to his property in a major disaster to the extent the loss could have been covered by a valid claim under major disaster insurance made available at least 1 year prior to the disaster. It is believed that these three factors—mandatory inclusion of federally insured mortgagors, minimal rates, and advance warning to nonparticipants of ineligibility for other Federal aid—would be sufficient to assure that within a reasonable period of time most homeowners throughout the Nation would be encompassed by the program.

To explain the specific features in more detail, the Secretary of Housing and Urban Development would be authorized—section 401—to establish and carry out the national disaster insurance system. He would be directed, to the maximum extent possible, to encourage and arrange for the financial participation and risk sharing in the program by private insurance companies or other insurers.

Priority would have to be given—section 402—to the coverage of residential properties housing from one to four families, but, if appropriate studies and investigations demonstrated that it would be feasible, the Secretary could extend major disaster insurance to other residential, business, agricultural, nonprofit, or public properties.

The Secretary would provide by regulation for the general terms and conditions of insurability which would apply to major disaster insurance. These would include such matters as the types, classes, and locations of properties, the nature of and limits of loss to be covered, the classification, limitation and rejection of risks, minimum premiums, loss-deductibles and any other necessary terms or conditions.

Coverage provided by the bill would be divided into two categories: First, a basic minimum amount, the premiums for which could be fixed by the Secretary at a rate below established costs; second, amounts above the basic minimum, which would be charged at rates not less than those estimated to be needed for all costs of providing that protection.

The basic coverage for residential properties housing up to four families would be $15,000 aggregate liability for any single dwelling unit, $30,000 for any structure containing more than one dwelling, and $5,000 aggregate liability for the contents of any dwelling unit. If the Secretary should declare other types of property to be eligible for major disaster insurance, any single structure in those specified categories would have an aggregate liability of $30,000.

The Secretary would be authorized—section 404—to make studies and investigations which would enable him to estimate what the risk premium rates would be for various areas based on actuarial principles, operating costs, and administrative expenses. He would also be directed to estimate what level of rates would be reasonable, would encourage prospective insurers to purchase disaster insurance, and would be consistent with the purposes of the act.

Based on the above information, and after consultation with the Director, the Secretary would—section 405—from time to time prescribe by regulation the chargeable premium rates for all types and classes of property for which disaster insurance is made available. He could if necessary fix the premium rates for the basic property values covered—noted above—at less than the estimated risk premium rates. Otherwise, the rates would have to be based, insofar as practicable, on the respective risks involved and would have to be adequate to provide reserves for anticipated losses. If the rates were fixed at a lower amount, they would have to be consistent with the objective of making major disaster insurance available at reasonable rates in order to encourage its purchase by homeowners and others.

To provide working capital for the national major disaster insurance program, the Secretary would be authorized—section 406—with the approval of the Secretary of the Treasury, to issue notes or other obligations in an amount not exceeding $500 million. The Secretary of the Treasury would determine the rate of interest for these notes or obligations, and would be authorized to purchase or sell them as public debt transactions.

The Secretary would also be authorized—section 407—to establish in the Treasury of the United States the national major disaster insurance fund from which would be paid all claims, expenses, administrative costs, and debt redemption of the major disaster insurance programs. The fund would be the repository for all funds which might be borrowed, appropriated by Congress, earned as interest on investments, derived from premiums, or received from other operations. If the Secretary should determine that the fund total would be in excess of current needs, he could request the Secretary of the Treasury to invest the amounts which the latter deemed advisable in obligations issued or guaranteed by the United States.

Claims for losses would be adjusted and paid for according to rules which the Secretary would be authorized—section 408—to prescribe. It would also be his duty—section 409—to inform the general public and any State or local official about the extent, objectives, and premium rates of the national major disaster insurance system, including the basis for and the differences between the rates for the two categories of coverage.

As pointed out previously, the bill would prohibit—section 410—Federal disaster assistance to any eligible property owner for a real property loss to the extent that such loss would be either covered by a valid claim or could have been covered by a valid claim under major disaster insurance which had been made available in his area at least 1 year prior to the occurrence of the damage. On the surface this may appear to be a harsh provision, but it seems to me that it is essential if the program is to be made workable on a national basis without exorbitant rates for participants. If major disaster insurance is provided for any area, an eligible property owner would have a grace period of 1 full year in which to secure protection; subsequently, he would have to absorb any loss caused by a disaster unless he had taken advantage of the insurance opportunity provided him. It should be noted that this caveat applies only to the owners of real property, and does not exclude other types of Federal assistance such as loans for any amount of loss not recovered by major disaster insurance or for the loss of personal property.

To prevent structures being rebuilt in areas which have proven to be disaster prone, the bill would prohibit—section 411—issuing new major disaster insurance coverage for any property which the Secretary finds has been declared by a State or local government to be in violation of State or local laws, regulations, and ordinances intended to prevent land development or occupancy in those areas. In order that the major disaster insurance system would be coordinated with other programs, the Secretary and the Director would be instructed—section 412(a)—to consult with other Federal, State, and local government departments and agencies having responsibility for disaster assistance.

TITLE V. MISCELLANEOUS

Section 501 would make a number of technical amendments in existing laws to bring them into conformity with the new proposed Omnibus Disaster Assistance Act. The three extant basic disaster relief laws of 1950, 1966, and 1969 would be repealed by section 502. Such sums as would be necessary to carry out the new

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act would be authorized—section 503—to be appropriated.

In general, the national major disaster insurance system would be designed to provide basic, minimum protection against disaster losses to most homeowners and possibly to other property holders as well. It would enable them to contract in advance at reasonable cost for coverage not now widely available which would assure at least partial compensation for dwellings, other structures, and personal property damaged or destroyed by major disasters. I believe that the American people on the whole would support a program whereby they could through a contributory system help share in the heavy burden which inevitably will fall on those unfortunate enough to be caught in the maelstrom of a natural catastrophe. Although the insurance plan outlined in title V may have certain unknown defects or omissions which will have to be corrected, it should provide a pattern for further discussion and the basis for a perfected program.

In conclusion, Mr. President, I believe that the Omnibus Disaster Assistance Act which I am introducing today would provide meaningful assistance to major disaster victims in several ways:

First, with the exception of aid to schools and institutions of higher education—see 20 U.S.C. 646, 758—and special limited disaster programs administered by various agencies and departments, it would consolidate into one act all of the extant major disaster laws;

Second, it would sharpen and strengthen present powers and duties relating to the providing of emergency aid to people and areas subjected to a major disaster;

Third, it would amplify and supplement present programs and authorize new ones designed to help individuals, organizations, and communities to recover from the awful consequences inflicted by a major disaster; and

Finally, it would authorize comprehensive, all-disaster risk insurance which would permit property owners to obtain protection at reasonable expense against a sizable proportion of their losses from major disasters.

Enactment of this measure would do much to insure that the Federal Government would be authorized to extend significant aid of all types to individuals and communities immediately after a Presidential declaration of a major disaster without having to wait several months for possible specific congressional action. I hope that the bill will receive prompt and favorable consideration.

Mr. President, I ask unanimous consent that the full text of the bill and a section-by-section synopsis be printed in the RECORD at the conclusion of my remarks, and that the bill be referred to the Committee on Public Works.

The PRESIDING OFFICER (Mr. GURNEY). The bill will be received and referred to the Committee on Public Works; and, without objection, the bill and synopsis will be printed in the RECORD.

The bill (S. 3619) to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes, introduced by Mr. BAYH (for himself and other Senators), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 3619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Disaster Assistance Act".

TITLE I—FINDINGS AND DECLARATIONS DEFINITIONS

FINDINGS AND DECLARATIONS

SEC. 101. (a) The Congress hereby finds and declares that—

(1) because extensive property damage and loss, loss of life, loss of income, and human suffering result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires, and other catastrophes; and

(2) because such disasters disrupt the normal functioning of government and the community, and adversely affect individual persons and families with great severity, special measures, designed to expedite the rendering of aid and assistance and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of alleviating the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disaster relief programs by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs by consolidating their administration.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "major disaster" means any flood, high waters, wind-driven waters, tidal wave, drought, fire, hurricane, tornado, earthquake, storm, or other catastrophe in any part of the United States which in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and private relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and respecting which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for disaster assistance under this Act, and shall give assurance of expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for the same or similar purposes with respect to such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State in the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Federal corporation, or other agency of the executive branch of the Federal Government, excepting the American National Red Cross;

(7) "Director" means the Director of the Office of Disaster Assistance except where a different meaning is indicated by the context within which it is used; and

(8) "Office" means the Office of Disaster Assistance.

TITLE II—OFFICE OF DISASTER ASSISTANCE

ESTABLISHMENT

SEC. 201. (a) There is hereby established, within the Office of the President, an Office of Disaster Assistance, for the purpose of administering Federal disaster relief programs, coordinating relief activities of private relief organizations in major disasters, and for other purposes.

(b) There shall be in the Office a Director of Disaster Assistance and an Assistant Director of Disaster Assistance (hereafter referred to as the "Assistant Director"), each of whom shall be appointed by the President, and shall serve at his pleasure. The Office shall be under the control and supervision of the Director. The Assistant Director shall perform such duties as may be assigned to him by the Director, and, during the absence or incapacity of the Director, or during a vacancy in that office, shall act as the Director. The Director shall designate an employee of the Office to act as Director during the absence or incapacity of both the Director and the Assistant Director, or during a vacancy in both of such offices.

(c) Subchapter II of chapter 53 of title 5, United States Code (relating to Executive Schedule pay rates), is amended as follows:

(1) Section 5313 is amended by adding at the end thereof the following:

"(20) Director, Office of Disaster Assistance."

(2) Section 5314 is amended by adding at the end thereof the following:

"(54) Assistant Director, Office of Disaster Assistance."

(d) There are hereby transferred to the Director all the functions of the Secretary of Defense carried out through the Office of Civil Defense, and the functions, insofar as such functions relate to major disaster relief, of the Director of the Office of Emergency Preparedness.

(e) Within one hundred and eighty days after the effective date of this Act, the President may transfer to the Director any function of any other agency or office, or part of any agency or office, in the executive branch of the United States Government if the President determines that such function relates primarily to functions transferred to the Director by the preceding subsection of this section.

TRANSFER OF PERSONNEL

SEC. 202 (a) All personnel, assets, liabilities, contracts, property, and records as are determined by the Director of the Bureau of the Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of section 201(d), are transferred to the Director. Except as provided in subsection (b), personnel engaged in functions transferred under this title shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(b) Personnel not under section 5337 of title 5, United States Code, shall be transferred without reduction in classification or compensation for one year after such transfer.

(c) In any case where all of the functions carried out through any agency or office are transferred pursuant to this Act, such agency or office shall lapse.

AUTHORITY OF THE DIRECTOR

SEC. 203. (a) The Director of the Office of Disaster Assistance may, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to him by this Act, delegate any of his functions to such officers and employees of the Office as he may designate, may authorize such successive redelegations of such functions as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions.

(b) The Director is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such advisory committees as may be appropriate for the purpose of consultation with and advice to the Office in the performance of its functions. Members of such committees, other than those regularly employed by the United States Government, while attending meetings of such committees or otherwise serving at the request of the Director, may be paid compensation at rates not exceeding those authorized to be paid experts and consultants under section 3109 of such title, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title, for persons in the Government service employed intermittently.

(c) In order to carry out the provisions of this Act, the Director is authorized—

(1) to adopt, amend, and repeal rules and regulations governing the manner of operations, organization, and personnel of the Office, and the performance of the powers and duties granted to or imposed upon him by law;

(2) to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this Act;

(3) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(4) to acquire by purchase, lease, condemnation, or in any other lawful manner, any real or personal property, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; to provide services in connection therewith, and to charge therefor; and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate;

(5) to construct, operate, lease, and maintain buildings, facilities, and other improvements as may be necessary;

(6) to accept gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(7) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(8) to make advance, progress, and other payments which the Director deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(9) to take such other action as may be necessary to carry out the provisions of this Act.

REPORTS TO THE CONGRESS

SEC. 204. The Director shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Office during the preceding fiscal year.

MISCELLANEOUS TRANSFER PROVISIONS

SEC. 205. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transfered under this Act, by (A) any agency or office, or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this title takes effect;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Director, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Office. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Director, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this title shall not affect suits commenced prior to the date this section takes effect; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted. No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the office as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this title takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part thereof, is transferred to the Director; or

(B) any function of such agency, office, or part thereof, or officer is transferred to the Director;

then such suit shall be continued by the Director (except in the case of a suit not involving functions transferred to the Director, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this title).

(d) With respect to any function transferred by this Act and exercised after the effective date of this title, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the office or officer in which such function is vested pursuant to this Act.

(e) This Act shall not have the effect or releasing or extinguishing any criminal prosecution penalty, forfeiture, or liability incurred as a result of any function transferred under this Act.

(f) Orders and actions of the Director in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Director.

(g) In the exercise of the functions transferred under this Act, the Director shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and his actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

EFFECTIVE DATE

SEC. 206. (a) This title, other than this section, shall take effect ninety days after the date of enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a), any of the officers provided for in subsection (a) or (b) of section 201 may be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Director pursuant to this Act.

TITLE III—THE ADMINISTRATION OF DISASTER ASSISTANCE

PART A—EMERGENCY RELIEF

FEDERAL COORDINATING OFFICER

SEC. 301. (a) Immediately upon the President's designation of an area as a major disaster area, the Director shall appoint a coordinating officer to operate in such area.

(b) In order to effectuate the purposes of this Act, the coordinating officer shall perform the following functions within the disaster area:

(1) make an initial appraisal of the types of relief most urgently needed;

(2) deploy any emergency support teams assigned to the area by the Director;

(3) establish such field officers as he deems necessary and as are authorized by the Director;

(4) coordinate the administration of relief, including activities of the American National Red Cross and such other private relief organizations as may agree to operate under his advice or direction; and

(5) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

EMERGENCY SUPPORT TEAMS

SEC. 302. The Director is authorized to recruit, train, or otherwise develop emergency support teams of personnel with the capability and responsibility of deploying themselves in a major disaster area immediately upon the proclamation of a major disaster. Such teams shall have such equipment and supplies as may be necessary to bring immediate, emergency assistance to disaster victims upon deployment. An emergency support team deployed in a disaster area by the Director shall make a preliminary survey of the disaster area and advise the Federal coordinating officer with respect to the types of assistance most urgently needed, and, subject to the direction of such officer, give assistance and relief to the victims of the disaster.

EMERGENCY COMMUNICATIONS SYSTEMS

SEC. 303. The Director is authorized, after consultation with such other Federal agencies, including the Federal Communications Commission and the Federal Aviation Agency, as may be appropriate, to establish an emergency communications system in any major disaster area in order to carry out the functions of his office, and to make such system available to State and local govenment officials and other persons as he deems appropriate.

COOPERATION OF FEDERAL AGENCIES

SEC. 304. In any major disaster, Federal agencies are hereby authorized, upon request of the Director, to cooperate with the Director in providing assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing, through the American Nationl Red Cross, other private relief organizations, or otherwise, medicine, food, and other consumable supplies;

(3) donating or lending equipment and supplies, determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government;

(4) performing on public or private lands protective and other work essential for the preservation of life and property, including—

(a) clearing debris and wreckage;

(b) making repairs to, or replacing, public facilities, belonging to State or local governments, which were damaged or destroyed by a major disaster;

(c) providing temporary housing or other emergency shelter for families who, as a result of such major disaster, require temporary housing or other emergency shelter; and

(d) making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph.

Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies. The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government in carrying out the provisions of this section.

PART B—RECOVERY ASSISTANCE

DEBRIS REMOVAL GRANTS

SEC. 305. The Director, whenever he determines it to be in the public interest, is authorized to make a grant or grants to any State or local government or agency thereof for the purpose of removing debris deposited on privately owned lands and on or in privately owned waters as a result of a major disaster, and such State or local government or agency is authorized, upon application, to make payments from amounts received in such grants to any person for reimbursement of expenses actually incurred by such person in the removal of such debris, but not to exceed the amount that such expenses exceed the salvage value of such debris.

TEMPORARY HOUSING

SEC. 306. (a) The Director is authorized to provide on a temporary basis, as prescribed in this section, dwelling accommodations for individuals and families displaced by a major disaster.

(b) The Director is authorized to provide such accommodations by (1) using any unoccupied housing owned by the United States under any program of the Federal Government, (2) arranging with a local public housing agency for using unoccupied public housing units, or (3) acquiring existing dwellings or mobile homes or other readily fabricated dwellings, by purchase or lease, to be placed on sites furnished by the State or local government or by the owner-occupant displaced by the major disaster, with no site charge being made. Rentals shall be established for such accommodations, under such rules and regulations as the Director may prescribe, taking into account the financial ability of the occupant. In case of financial hardship, rentals may be compromised, adjusted, or waived for a period not to exceed twelve months, but in no case shall any such individual or family be required to incur a monthly housing expense (including any fixed expense relating to the amortization of debt owing on a house destroyed or damaged in a major disaster) which is in excess of 25 per centum of the monthly income of the occupant or occupants.

EMERGENCY PUBLIC TRANSPORTATION

SEC. 307. The Director is authorized to provide an emergency public transportation service in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible. Such service shall be provided only until regular public transportation is restored or provided on a regular basis, and shall not in any case be provided for more than one year after the date of the major disaster proclamation.

SMALL BUSINESS DISASTER LOANS

SEC. 308 (a) In the administration of the disaster loan program under section 7(b)(1) of the Small Business Act, as amended (15 U.S.C. 636(b)), in the case of property loss or damage resulting from a major disaster the Small Business Administration—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall at the borrower's option on that part of any loan in excess of $500 cancel (i) the interest due on the loan, or (ii) the principal of the loan, or (iii) any combination of such interest or principal except that the total amount so canceled shall not exceed 50 per centum of the amount of such loss or damage, or $5,000, whichever is less, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments;

(2) may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources; and

(3) may in the case of the total destruction or substantial property damage of a home or business concern refinance any mortgage or other liens outstanding against the destroyed or damaged property if such financing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

(b) Section 7(b)(2)(A) of the Small Business Act (15 U.S.C. 636(b)(2)(A)) is amended to read as follows:

"(A) a major disaster, as determined by the President under the Omnibus Disaster Assistance Act, or".

(c) Section 7(f) of the Small Business Act (15 U.S.C. 636(f)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "Section 102(1) of the Omnibus Disaster Assistance Act".

FARMERS HOME ADMINISTRATION EMERGENCY LOANS

SEC. 309. In the administration of the emergency loan program under subtitle C of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967), in the case of property loss or damage resulting from a major disaster the Secretary of Agriculture—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall at the borrower's option on that part of any loan in excess of $500 cancel (i) the interest due on the loan, or (ii) the principal of the loan, or (iii) any combination of such interest or principal except that the total amount so cancelled shall not exceed 50 per centum of the amount of such loss or damage, or $5,000, whichever is less, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments;

(2) may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources; and

(3) may in the case of the total destruction or substantial property damage of a home or business concern refinance any mortgage or other liens outstanding against the destroyed or damaged property if such financing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

LOANS HELD BY THE VETERANS' ADMINISTRATION

SEC. 310. Section 1820(f) of title 38, United States Code, is amended to read as follows:

"(f)(1) The Administrator is authorized to refinance any loan made or acquired by the Veterans' Administration when he finds such refinancing necessary because of the loss of or destruction or damage to, property securing such loan as the result of a major disaster as determined by the President pursuant to the Omnibus Disaster Assistance Act.

"(2) The interest rate on any loan refinanced under this subsection may be reduced to a rate equal to the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum, and the term thereof may be extended for such period as will provide a maturity of not to exceed forty years, except that the administrator may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

"(3) To the extent such loss or damage is not compensated for by insurance or otherwise, the Administrator shall, at the borrower's option on that part of any loan in excess of $500, cancel (A) the interest due on the loan, or (B) the principal of the loan, or (C) any combination of such interest or principal except that the total amount so canceled shall not exceed 50 per centum of

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the amount of such loss or damage, or $5,000, whichever is less."

DISASTER LOAN INTEREST RATES

SEC. 311. Notwithstanding any other provision of law, any loan made under the authority of a disaster loan program administered by any federal agency, for the purpose of reconstruction, repair, or replacement of a structure damaged or destroyed as the result of a major disaster, or for the purpose of refinancing existing loans, mortgages, or liens on a structure so damaged or destroyed, shall bear interest at a rate not less than the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum.

AGE OF APPLICANT FOR LOANS TO REBUILD HOMES

SEC. 312. In the administration of any Federal disaster loan program in which a loan is requested for the purpose of reconstructing, repairing, or replacing any residential structure damaged or destroyed as the result of a major disaster, or for the purpose of refinancing an existing obligation on any such structure so damaged or destroyed, the age of any adult loan applicant shall not be considered in determining whether such loan should be made or the amount of such loan.

BUILDING STANDARDS FOR HOMES REBUILT

SEC. 313. (a) Any residential structure built with the aid of a loan granted by a Federal agency as the result of a major disaster shall be built in accordance with such minimum standards of safety, decency, and sanitation as the Secretary of Housing and Urban Development may prescribe by regulation for such purpose, and in accordance with applicable building codes.

(b) In order to carry out the provisions of this section, the Secretary of Housing and Urban Development is authorized—

(1) to consult with such other officials in the Federal, State, and local governments as he deems necessary, in order that regulations prescribed under this section shall—

(A) carry out the purpose of this section, and

(B) have the necessary flexibility to be consistent with requirements of other building regulations, codes, and program requirements applicable; and

(2) to promulgate such regulations as may be necessary.

AID TO MAJOR SOURCES OF EMPLOYMENT

SEC. 314. (a) The Director is authorized to provide any industrial, commercial, agricultural, or other enterprises, which have constituted the major sources of employment in an area suffering a major disaster, and which are no longer in operation as a result of such disaster, such assistance by means of grants, loans, or a combination thereof, as may be necessary to enable such enterprises to resume operations in order to restore the economic viability of the disaster area.

(b) Assistance under this section shall be in addition to any other Federal disaster assistance provided, however, such other assistance may be adjusted or modified to the extent deemed appropriate by the Director under the authority of section 329 of this Act. Any loans made under this section shall be subject to the interest requirements of section 311 of this Act, but the Director, if he deems it necessary, may defer initial payments of principal and interest for a period not to exceed three years.

FOOD COUPONS AND DISTRIBUTION

SEC. 315. (a) Whenever, as the result of a major disaster, the Director determines that low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to provisions of the Food Stamp Act of 1964 and to make surplus commodities available pursuant to the provisions of section 304 of this Act.

(b) The Director is authorized to continue through the Secretary of Agriculture to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households to which assistance is made available under this section.

(c) Nothing in this section shall be constructed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as it relates to the availability of food stamps in a major disaster area.

UNEMPLOYMENT ASSISTANCE

SEC. 316. The Director is authorized to provide to any individual unemployed as a result of a major disaster, such assistance as he deems appropriate while such individual is unemployed. Such assistance as the Director shall provide shall not exceed the maximum amount and the maximum duration of payments under the unemployment compensation program of the State in which the disaster occurred and the amount of assistance under this section to any such individual shall be reduced by any amount of unemployment compensation or of private income protection insurance available to such individual for such period of unemployment.

RESTORATION OF FEDERAL FACILITIES

SEC. 317. The President is authorized upon a determination by him that such repair, reconstruction, or restoration is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation, to authorize any Federal agency to repair, reconstruct, or restore facilities owned by the United States, under the jurisdiction of such agency, which are damaged or destroyed in any major disaster. In order to carry out the provisions of this section, such repair, reconstruction, or restoration may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated for another purpose.

REPAIR OF HIGHWAYS NOT PART OF FEDERAL-AID SYSTEM

SEC. 318. The Director is authorized to make a grant to any States affected by a major disaster for the permanent repair and reconstruction of those permanent street, road, and highway facilities not on any of the Federal-aid systems which were destroyed or damaged as a result of such a major disaster. No funds shall be allocated under this section for repair or reconstruction of such a street, road, or highway facility unless the affected State agrees to pay not less than 50 per centum of all costs of such repair or reconstruction.

REPAIR OF CERTAIN STATE AND LOCAL GOVERNMENT FACILITIES

SEC. 319. The Director is authorized to make a grant of such sums as may be necessary to pay not more than 50 per centum of eligible costs incurred to repair, restore, or reconstruct any project of a State, county, municipal, or other local government agency for flood control, navigation, irrigation, reclamation, public power, sewage treatment, water treatment, watershed development, or airport construction which was damaged or destroyed as a result of a major disaster, and of the resulting additional eligible costs incurred to complete any such facility which was in the process of construction when damaged or destroyed as a result of such major disaster. Eligible costs are those costs determined by the Director as incurred or to be incurred in (1) restoring a public facility to substantially the same condition as existed prior to the damage resulting from the major disaster, and (2) completing construction not performed prior to the major disaster to the extent the increase of such costs over original construction costs is attributable to changed conditions resulting from the major disaster. Payment under this section shall be made to the State, or local governmental agency which is constructing the public facility or for which it is being constructed, except that if the economic burden of the eligible costs of repair, restoration, reconstruction, or completion is incurred by an individual, partnership, corporation, agency, or other private entity (other than an organization engaged in the business of insurance), the State or local governmental agency shall pay such individual, partnership, corporation, agency, or other private entity not to exceed 50 per centum of those costs. Eligible costs shall not include any costs for which payment is received pursuant to insurance contracts or otherwise by the party incurring the economic burden of such costs.

COMMUNITY DISASTER LOAN FUND

SEC. 320. (a) There is established within the Treasury a Community Disaster Loan Fund from which the Director may authorize loans to local governments for the purposes of meeting payments of principal and interest on outstanding bonded indebtedness and for providing the local share of any Federal grant-in-aid program which is necessary to the restoration of the area as the result of a major disaster. Such loans shall be made only where the borrowing local government has suffered a loss of more than 25 per centum of its tax base and is otherwise unable to meet such payments or local share obligations.

(b) Loans from the fund established by this section shall be made for such periods as may be necessary, not to exceed twenty years, at an interest rate equivalent to the average annual interest rate on all outstanding interest-bearing obligations of the United States which have a maturity of twenty years or more, computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum. The Director may waive initial payments of interest and principal on such a loan for a period not to exceed five years or half the term of the loan, whichever is less.

(c) There is hereby authorized to be appropriated such sums, not to exceed $100,000,000, as may be necessary to carry out the provisions of this section.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 321. In the expenditure of Federal Funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given first to those persons who reside or do business primarily in the disaster area, and second to those persons residing or doing business primarily in the State in which the disaster area is located.

FEDERAL GRANT-IN-AID PROGRAMS

SEC. 322. In the administration of Federal grant-in-aid programs, any agency charged with the administration of such a program is authorized to modify or waive, for the duration of a major disaster proclamation, such conditions for assistance, including matching funds, as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

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PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

Sec. 323. In the processing of applications for assistance—

(1) under title II of the Housing Amendments of 1955, or any other Act providing assistance for the repair, construction, or extension of public facilities;

(2) under the United States Housing Act of 1937 for the provision of low-rent housing;

(3) under section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) under section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities; or

(5) under section 306 of the Consolidated Farmers Home Administration Act

priority and immediate consideration shall be given, during such period as the President shall by proclamation prescribe, to applications from public bodies situated in major disaster areas.

FEDERAL LOAN ADJUSTMENTS

Sec. 324. (a) Where such action is found to be necessary because of impairment of the economic feasibility of the system, or loss, destruction, or damage of the property of borrowers under programs administered by the Rural Electrification Administration, resulting from a major disaster, the Secretary of Agriculture is authorized to adjust and to readjust the schedules for payment of principal and interest on loans to such borrowers, and to extend the maturity dates of such loans to a period not beyond forty years from the dates of such loans. The authority herein conferred is in addition to the loan extension authority provided in section 12 of the Rural Electrification Act.

(b) The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, where he finds such refinancing necessary because of the loss, destruction, or damage to property or facilities securing such obligations as a result of a major disaster. The interest rate on any note or other obligation refinanced under this subsection may be reduced to a rate not less than a rate equal to the average annual interest rate on all interest-bearing obligations of the United States having maturities of twenty years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of refinancing, adjusted to the nearest one-eighth of 1 per centum, and the term thereof may be extended for such period as will provide a maturity of not to exceed forty years from the date of the loan. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

TIMBER SALE CONTRACTS

Sec. 325. (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or other specified development facility and, as a result of a major disaster a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost as determined by the appropriate Secretary (1) of more than $1,000 for sales under one million board feet, or (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) Where the Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, the Secretary may allow cancellation of the contract notwithstanding provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) The Director is authorized to make grants to any State or political subdivision thereof for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State of political subdivision is authorized, upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the remvoal of damaged timber, but not to exceed the amount that such expenses exceed the salvage value of such timber.

PUBLIC LAND ENTRYMEN

Sec. 326. The Secretary of the Interior is authorized to give any public land entryman such additional time in which to comply with any requirement of law in connection with any public land entry for lands affected by a major disaster as the Secretary finds appropriate because of interference with the entryman's ability to comply with such requirement as a result of such major disaster.

Part C—General Provisions

STATE DISASTER PLANS

Sec. 327. (a) The Director is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disasters. Such plans should include long-range recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) The Director is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the Director not later than December 31, 1971, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and relief following a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments, and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 301 of this Act.

(d) As soon as practicable after December 31, 1971, the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

USE AND COORDINATION OF PRIVATE RELIEF ORGANIZATIONS

Sec. 328. (a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other private relief organizations, in the distribution of medicine, food, supplies, or other items, whenever the Director finds that distribution through such organizations is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross and other private relief organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities in the Office and the services of the coordinating officer upon compliance with regulations promulgated by the Director under section 330 of this Act, and such other regulations as the Director may require.

DUPLICATION OF BENEFITS

Sec. 329. (a) The Director, in consultation with the head of each department or agency of the Federal Government administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines that (1) a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern, or other entity received assistance for the same loss from another source; and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

NONDISCRIMINATION IN DISASTER ASSISTANCE

Sec. 330. (a) The Director shall make, alter, and amend such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 328, private relief organizations shall be required to agree to comply with Office regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a

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major disaster area as he deems necessary for the effective coordination of relief efforts.

EMERGENCY SUPPLY DEPOTS

SEC. 331. The Director is authorized to establish such emergency supply depots as he deems necessary for the accumulation of essential disaster relief equipment and supplies.

ADVISORY PERSONNEL

SEC. 332. The Director is authorized to assign advisory personnel to the chief executive officer of any State or local government within a major disaster area, upon request by such officer, whenever the Director determines that such assignment is desirable in order to insure full utilization of relief and assistance resources and programs.

FIRE SUPPRESSION GRANTS

SEC. 333. Director is authorized to make grants and loans to any State to assist in the suppression of any fire on publicly or privately owned forest or grasslands which threatens such destruction as would constitute a major disaster.

DISASTER WARNINGS

SEC. 334. The Director is authorized to utilize or to make available to other agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c)), for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent natural disasters.

TITLE IV—THE NATIONAL MAJOR DISASTER INSURANCE PROGRAM

BASIC AUTHORITY

SEC. 401. (a) The Secretary of Housing and Urban Development (hereafter in this title referred to as the "Secretary") is authorized to establish and carry out a national major disaster insurance program which will enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real property or personal property related thereto arising from any major disaster occurring in the United States.

(b) In carrying out the major disaster insurance program the Secretary shall, to the maximum extent practicable, encourage and arrange for—

(1) appropriate financial participation and risk-sharing in the program by insurance companies or other insurers, and

(2) other appropriate participation on other than a risk-sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

SCOPE OF PROGRAM AND PRIORITIES

SEC. 402. (a) In carrying out the major disaster insurance program the Secretary shall afford a priority to making major disaster insurance available to cover residential properties which are designed for the occupancy of from one to four families.

(b) If on the basis of—

(1) studies and investigations undertaken and carried out and information received or exchanged under section 404, and

(2) such other information may be necessary, the Secretary determines that it would be feasible to extend the major disaster insurance program to cover other properties, he may take such action under this title as from time to time may be necessary in order to make major disaster insurance available to cover, on such basis as may be feasible, any types and classes of—

(A) other residential properties,

(B) business properties,

(C) agricultural properties,

(D) properties occupied by private nonprofit organizations, and

(E) properties owned by State and local governments and agencies thereof,

and any such extensions of the program to any types and classes of these properties shall from time to time be prescribed in regulations.

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 403. (a) The Secretary from time to time shall, after consultation with the Director and appropriate representatives of the insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for major disaster insurance coverage under section 402, including—

(1) the types, classes, and locations of any such properties which shall be eligible for major disaster insurance;

(2) the nature of and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;

(3) the classification, limitation, and rejection of any risks which may be advisable;

(4) appropriate minimum premiums;

(5) appropriate loss-deductibles; and

(6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the provisions of this title.

(b) In addition to any other terms and conditions under subsection (a), such regulations shall provide that—

(1) any major disaster insurance coverage based on chargeable premium rates (under section 405) which are less than estimated premium rates (under section 404(a)(1)), shall not exceed—

(A) in the case of residential properties which are designed for the occupancy of from one to four families,

(i) $15,000 aggregate liability for any dwelling unit, and $30,000 for any single dwelling structure containing more than one dwelling unit, and

(ii) $5,000 aggregate liability per dwelling unit for any contents related thereto; and

(B) in the case of any other properties which may become eligible for major disaster insurance coverage under section 402, $30,000 aggregate liability for any single structure; and

(2) any major disaster insurance coverage which may be made available in excess of any of the limits specified in subparagraphs (A) and (B) shall be based only on chargeable premium rates (under section 405) which are not less than estimated premium rates (under section 404(a)(1)), and the amount of such excess coverage shall not in any case exceed an amount which is equal to any such limit so specified.

ESTIMATES OF PREMIUM RATES

SEC. 404. (a) The Secretary is authorized to undertake and carry out such studies and investigations, and to receive or exchange such information as may be necessary, to estimate on an area, subdivision, or other appropriate basis—

(1) the risk premium rates for major disaster insurance which

(A) based on consideration of the risk involved and accepted actuarial principles, and

(B) including—

(i) applicable operating costs and allowances prescribed under section 408 to be reflected in such rates, and

(ii) any administrative expenses (or portion of such expenses) of carrying out the major disaster insurance program which, in his discretion, should properly be reflected in such rates,

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage shall be available under section 402; and

(2) the rates, if less than the rates estimated under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase major disaster insurance, and would be consistent with the purposes of this title.

(b) In carrying out subsection (a), the Secretary shall, to the maximum extent feasible and on a reimbursement basis, utilize the services of the Department of the Army, the Department of the Interior, the Department of Agriculture, the Department of Commerce, and the Tennessee Valley Authority and, as appropriate, other Federal departments or agencies, and for such purposes, may enter into agreements or other appropriate arrangements with any persons.

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 405. (a) On the basis of estimates made under section 404 and such other information as may be necessary, the Secretary from time to time shall, after consultation with the Director and appropriate representatives of the insurance authorities of the respective States, by regulation prescribe—

(1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 402 (at less than the estimated risk premium rates under section 404(a)(1), is necessary), and

(2) the terms and conditions under which and areas (including subdivisions thereof) within which such rates shall apply.

(b) Such rates shall, insofar as practicable, be—

(1) based on a consideration of the respective risks involved,

(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, consistent with the objective of making major disaster insurance available, where necessary, at reasonable rates so as to encourage prospective insureds to purchase such insurance, and

(3) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk primium rates under paragraph (1) of section 404(a), and the estimated rates under paragraph (2) of such section.

(c) Any chargeable premium rate prescribed under this section is—

(1) at a rate which is not less than the estimated risk premium rate under section 404(a)(1), and

(2) such rate includes any amount for administrative expenses of carrying out the major disaster insurance programs which have been estimated under clause (ii) of section 404(a)(1)(B),

a sum equal to such amount shall be paid to the Secretary, and he shall deposit such sum in the fund authorized under section 407.

TREASURY BORROWING AUTHORITY

SEC. 406. (a) The Secretary is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President), notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Administrator, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on the outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection, and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations.

The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) Any funds borrowed by the Secretary under this authority shall, from time to time, be deposited in the National Major Disaster Insurance Fund established under section 407.

NATIONAL MAJOR DISASTER INSURANCE FUND

SEC. 407. (a) To carry out the major disaster insurance program authorized by this title, the Secretary is authorized to establish in the Treasury of the United States a National Major Disaster Insurance Fund (hereinafter referred to as the "fund") which shall be available, without fiscal year limitation—

(1) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 406 of this title; and

(2) to pay such administrative expenses (or portion of such expenses) of carrying out the major disaster insurance program as he may deem necessary; and

(3) to pay claims and other expenses and costs of the major disaster insurance program, as the Secretary deems necessary.

(b) The fund shall be credited with—

(1) such funds borrowed in accordance with the authority provided in section 406 of this Act as may from time to time be deposited in the fund;

(2) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(3) interest which may be earned on investments of the fund pursuant to subsection (c);

(4) such sums as are required to be paid to the Secretary under section 405(d); and

(5) receipts from any other operations under this title which may, from time to time, be credited to the fund (including premiums and salvage proceeds, if any, resulting from reinsurance coverage).

(c) If, after all outstanding obligations have been liquidated, the Secretary determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

PAYMENT OF CLAIMS

SEC. 408. The Secretary is authorized to prescribe regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by major disaster insurance made available under the provisions of this Act.

DISSEMINATION OF MAJOR DISASTER INSURANCE INFORMATION

SEC. 409. The Secretary shall take such action as may, from time to time, be necessary in order to make information and data available to the public and to any State or local agency or official, with regard to—

(1) the major disaster insurance program, its coverage and objectives, and

(2) estimated and chargeable major disaster insurance premium rates, including the basis for and differences between such rates in accordance with the provisions of section 405.

PROHIBITION AGAINST CERTAIN DUPLICATIONS OF BENEFITS

SEC. 410. (a) Notwithstanding the provisions of any other law, no Federal disaster assistance shall be made available to any owner of real property for the physical loss, destruction, or damage of such property, to the extent that such loss, destruction, or damage

(1) is covered by a valid claim which may be adjusted and paid under major disaster insurance made available under the authority of this title, or

(2) could have been covered by a valid claim under major disaster insurance which had been made available under the authority of this title, if—

(A) such loss, destruction, or damage occurred subsequent to one year following the date major disaster insurance was made available in the area (or subdivision thereof) in which such property or the major part thereof was located, and

(B) such property was eligible for major disaster insurance under this title at that date,

and in such circumstances the extent that such loss, destruction, or damage could have been covered shall be presumed (for purposes of this subsection) to be an amount not less than the maximum limit of insurable loss or damage applicable to such property in such area (or subdivision thereof), pursuant to regulations under section 403, at the time insurance was made available in such area (or subdivision thereof).

(b) For purposes of this section "Federal disaster assistance" shall include any Federal financial assistance which may be made available to any person as a result of—

(1) a major disaster,

(2) a natural disaster, as determined by the Secretary of Agriculture pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), and

(3) a disaster with respect to which loans may be made under section 7(b) of the Small Business Act, as amended (15 U.S.C. 636(b)).

(c) For purposes of section 329 of this Act, the term "financial assistance" includes any major disaster insurance which is made available under this title.

PROPERTIES IN VIOLATION OF STATE AND LOCAL LAW

SEC. 411. (a) No new major disaster insurance coverage shall be provided under this Act for any property which the Secretary finds has been declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in disaster-prone areas.

COORDINATION WITH OTHER PROGRAMS

SEC. 412. (a) In carrying out this title, the Secretary, in cooperation with the Director, shall consult with other departments and agencies of the Federal Government, and interstate, State, and local agencies having responsibilities for major disaster assistance in order to assure that the programs of such agencies and the major disaster insurance program authorized under this title are mutually consistent.

(b) The Veterans' Administration, the Federal Housing Administration, and any other Federal agency administering a program under which loans or mortgages on residential or other structures are guaranteed or insured by the Federal Government, shall, by regulation, require that any such structure be insured under the major disaster insurance program administered by the Secretary.

TERMINATION OF AUTHORITY

SEC. 413. The Secretary shall not establish or carry out the major disaster insurance program authorized by this title if he finds and certifies to the President and the Congress not later than June 30, 1971, that major disaster insurance with coverage equal to or more extensive than that which would be provided under this title has been made available on reasonable terms by private insurance companies. The provisions of this title shall have no effect from and after such certification by the Secretary.

TITLE V—MISCELLANEOUS

TECHNICAL AMENDMENTS

SEC. 501. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461(a)(3(B)(ii)) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as determined by the President pursuant to the Omnibus Disaster Assistance Act;"

(b) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out of the last proviso the words "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30, 1950)" and inserting in lieu thereof the words "section 102(1) of the Omnibus Disaster Assistance Act".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709(h)) is amended by striking out "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30, 1950), as amended" and inserting in lieu thereof "section 102(1) of the Omnibus Disaster Assistance Act".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 1715l(f)) is amended by striking out of the last paragraph the words "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended (42 U.S.C. 1855–1855g)" and inserting in lieu thereof the words "the Omnibus Disaster Assistance Act".

(e) Section 7(a)(1)(A) of the Act of September 30, 1950 (20 U.S.C. 241–1(a)(1)(A)), is amended by—

(1) striking out "Office of Emergency Planning" and inserting in lieu thereof "Office of Disaster Assistance"; and

(2) striking out "pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof the following: "pursuant to section 102(1) of the Omnibus Disaster Assistance Act". (f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by—

(1) striking out "the Director of the Office of Emergency Planning" and inserting in lieu thereof "the Director of the Office of Disaster Assistance"; and

(2) striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(1) of the Omnibus Disaster Assistance Act".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 758(a)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof the following: "section 102(1) of the Omnibus Disaster Assistance Act".

(h) Section 165(h)(2) of the Internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)(2)) is amended to read as follows:

"(2) occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Omnibus Disaster Assistance Act,".

(i) Section 5064(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5064(a)), relating to losses caused by disaster, is amended

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by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Omnibus Disaster Assistance Act".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Omnibus Disaster Assistance Act".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681), is amended by striking out of the last sentence the words "section 2 of the Act of September 30, 1950 (64 Stat. 1109), as amended (42 U.S.C. 1855a)" and inserting in lieu thereof the following: "section 102(1) of the Omnibus Disaster Assistance Act".

(l) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to (1) the Office of Civil Defense, or (2) the Act of September 30, 1950 (64 Stat. 1109), or any provision of such Act, such reference shall be deemed to be a reference to (1) the Office of Disaster Assistance, or (2) the Omnibus Disaster Assistance Act, respectively.

REPEAL OF EXISTING LAW

Sec. 502. The following Acts are hereby repealed:

(1) the Act of September 30, 1950 (64 Stat. 1109);

(2) the Disaster Relief Act of 1966 (80 Stat. 1316); and

(3) the Disaster Relief Act of 1969 (83 Stat. 125).

AUTHORIZATION OF APPROPRIATIONS

Sec. 503. There are hereby authorized to be appropriated, except as provided otherwise in this Act, such sums as may be necessary to carry out the provisions of this Act.

The synopsis, presented by Mr. Bayh, is as follows:

Omnibus Disaster Assistance Act, Brief Section-by-Section Synopsis

TITLE I—FINDINGS AND DECLARATIONS, DEFINITIONS

Sec. 101. Findings and declarations. Congress would declare its intention to provide relief to disaster areas by revising and broadening relief programs, advanced planning, and improved federal administration.

Sec. 102. Definitions. Same as P.L. 91–79, except for the addition of the words "high waters, wind-driven waters, tidal waves, and tornado."

TITLE II—OFFICE OF DISASTER ASSISTANCE

Sec. 201. Establishment. The Office of Disaster Assistance (ODA) would be established within the Executive Office of the President, headed by a Director. ODA would subsume the functions of the Office of Civil Defense, which would be abolished, and the national disaster functions of the Office of Emergency Preparedness.

Sec. 202. Transfer of Personnel. Personnel, property, contracts, and records of the Office of Civil Defense and the disaster relief functions of the Office of Emergency Preparedness would be transferred to ODA.

Sec. 203. Authority of the Director. The Director would have the usual powers conferred on the head of an agency.

Sec. 204. Reports to Congress. The Director would submit a report to Congress on the activities of the Office of Disaster Assistance at the end of each fiscal year.

Sec. 205. Miscellaneous Transfer Provisions. Provides that certain administrative responsibilities, obligations and functions would be transferred to the new Office of Disaster Assistance.

TITLE III—THE ADMINISTRATION OF DISASTER ASSISTANCE

Part A—Emergency relief

Sec. 301. Federal Coordinating Officer. Would strengthen and expand the role of the Federal coordinating officer established by the 1969 disaster relief act.

Sec. 302. Emergency Support Teams. The coordinating officer would deploy emergency support teams where needed, and coordinate relief administration with private organizations.

Sec. 303. Emergency Communications System. The Director would establish an emergency communications system which would be made available to state and local governments.

Sec. 304. Cooperation of Federal Agencies. Other federal agencies, at the request of the Director of ODA, would be authorized to provide facilities, supplies, personnel, food, medicine, etc., for distribution, and to provide machinery for clearance of debris, to make repairs, etc.

Part B—Recovery assistance

Sec. 305. Debris Removal Grants. Grants to state and local governments for removal of debris from private property would be authorized.

Sec. 306. Temporary Housing. Provisions for temporary housing would be similar to those in P.L. 91–79, but the Director of ODA would be authorized to *purchase* as well as lease mobile homes. Temporary housing rentals would be charged according to ability to pay, and could not exceed 25% of family income for one year after the disaster.

Sec. 307. Emergency Public Transportation. Emergency public transportation would be authorized in a major disaster area where regular public transportation has been disrupted. Service would be terminated when regular public transportation has been restored but in no case would it continue for more than one year.

Sec. 308. Small Business Disaster Loans. SBA disaster loans could be made for refinancing the repair or reconstruction of homes and businesses, regardless of the availability of loans from other sources. Cancellation of up to 50% of uninsured losses in excess of $500 up to a maximum of $5000 would be authorized through the forgiveness of principal and/or interest. Payments of principal and/or interest could be deferred up to 3 years.

Sec. 309. Farmers Home Administration Emergency Loans. FHA disaster loans would be treated the same as those made by FHA in Sec. 308.

Sec. 310. Loans Held by the Veterans Administration. Veterans Administration loans could be refinanced in disasters under terms similar to SBA and FHA disaster loans.

Sec. 311. Disaster Loan Interest Rates. All disaster loans administered by any Federal agency would bear an interest rate not less than the average of all U.S. interest-bearing obligations maturing in 20 years or more, adjusted to the nearest ⅛th of 1%.

Sec. 312. Age of Applicant for Disaster Home Loans. All Federally administered disaster loan applications must be considered without discrimination because of age.

Sec. 313. Building Standards for Homes Rebuilt. Any home repaired or rebuilt with the aid of disaster loans would have to be constructed according to minimum standards of safety, decency and sanitation as prescribed by HUD.

Sec. 314. Aid to Major Sources of Employment. The Director would be authorized to make grants or loans to industries and businesses which are a major source of employment in a disaster-stricken area. Loans would be at interest rates prescribed in Sec. 311, but the Director would be authorized to defer payments of principal and interest for up to three years.

Sec. 315. Food Coupons and Distribution. The Director would be authorized to distribute, through the Secretary of Agriculture, food stamps and commodities in areas where he determined that low-income family households would be unable to purchase sufficient quantities of nutritious food.

Sec. 316. Unemployment Assistance. Unemployment compensation would be provided for individuals made jobless by disasters but who would not be eligible for unemployment compensation under the laws of their states.

Sec. 317. Restoration of Federal Facilities. The President would be authorized to order the reconstruction of any federal facility damaged or destroyed by disaster. Any agency could begin reconstruction, even if sufficient funds were not available to complete the job, provided that sufficient funds could be transferred from another agency's appropriations.

Sec. 318. Repair of Highways Not Part of Federal-Aid System. The Director would be authorized to approve grants for the restoration of state and local highways not on the federal-aid system damaged by disasters. Grants could not exceed 50% of the total cost of restoration.

Sec. 319. Repair of Certain State and Local Government Facilities. The Director would be authorized to make grants up to 50% of the costs of restoring public works projects in the process of construction but not yet completed which might be damaged or destroyed by major disasters. Eligible public works include projects for flood control, navigation, reclamation, electric power, water and sewage treatment, airports.

Sec. 320. Community Disaster Loan Fund. $100 million would be authorized for a Disaster Loan Fund in the Treasury which could be used for loans to local governments which have lost at least 25% of their tax base because of a major disaster. Loans would be made at interest rates specified in Sec. 311, except that the Director would be authorized to waive payment of interest and principal for up to five years.

Sec. 321. Use of Local Firms and Individuals. In the expenditure of federal funds, preference would be given to those persons or firms who work or do business in the areas which are receiving major disaster assistance.

Sec. 322. Federal Grant-in-Aid Programs. Any agency administering aid to disaster areas would be authorized to waive the conditions for receipt of federal grant-in-aid programs for the duration of the disaster proclamation, if inability to meet such conditions resulted from the disaster.

Sec. 323. Priority to Certain Applications for Public Facility and Public Housing Assistance. In processing applications for various housing programs, priority would be given to applications from public bodies located in disaster areas for the duration of a Presidential major disaster proclamation.

Sec. 324. Federal Loan Adjustments. The Secretary of Agriculture would be authorized to readjust payment schedules of borrowers from Rural Electrification Administration, if the borrowers are unable to make payments because of disaster damage. The Secretary of HUD would be authorized to refinance any note or other obligation which could not be paid because of disaster damage. The interest rate could be reduced to the rate provided by Sec. 311 above. The Secretary would be authorized to suspend payment of interest and principal and to extend maturity of loans which may cause financial hardship.

Sec. 325. Timber Sale Contracts. Grants could be made to assist in the increased costs for the repair of forest roads and for the salvaging and clean-up costs of disaster-damaged timber.

Sec. 326. Public Land Entrymen. The Secretary of Interior would be authorized to give public land entrymen additional time to comply with legal requirements for land entry if disaster damage prevents immediate compliance.

Part C—General Provisions

Sec. 327. State Disaster Plans. The President would be authorized to grant up to $250,000 to any State for not more than 50% of the cost of preparing comprehensive plans and practicable programs for preparation against and for relief to individuals, businesses and local governments suffering losses in major disasters.

Sec. 328. Use and Coordination of Private Relief Organizations. The Director would be authorized to make agreements with private relief organizations to help distribute food, clothing, medicine and other supplies, in accordance with Sec. 330, below, which would bar discrimination. The Director would be authorized to make agreements with private organizations which would allow the federal coordinating officer to coordinate all relief activities of private agencies in a given disaster area.

Sec. 329. Duplication of Benefits. The Director of ODA would be required to ascertain that no person or business would be receiving aid from more than one source for the same disaster damage. No person or business could receive assistance from the government for any loss compensated by insurance. The Director would be required to determine whether any person had received duplicate benefits and direct him to reimburse the Treasury for the excess amount.

Sec. 330. Non-discrimination in Disaster Assistance. The Director would be required to issue regulations forbidding discrimination by race, color, age, sex, nationality, religion or economic status in providing disaster relief supplies and services.

Sec. 331. Emergency Supply Depots. The Director would be authorized to establish emergency supply depots for disaster assistance materials.

Sec. 332. Advisory Personnel. The Director would be authorized to assign advisory personnel to the chief executive officer of a state or local government.

Sec. 333. Fire Suppression Grants. The Director would be authorized to make grants and loans to any state in order to assist in the suppression of fires on publicly or privately owned forest and grass lands.

Sec. 334. Disaster Warnings. The Director would be authorized to make available facilities of the civil defense communications system for warnings against imminent disasters.

TITLE IV—THE NATIONAL MAJOR DISASTER INSURANCE PROGRAM

Sec. 401. Basic Authority. Unless a suitable program is established by the private insurance industry by June 30, 1971, the Secretary of HUD would be authorized to establish a national major-disaster insurance program to enable property owners to buy comprehensive major disaster insurance.

Sec. 402. Scope of Program and Priorities. Dwellings in which are housed one to four families would be given priority for insurance. The Secretary would be authorized, however, to make disaster insurance available to other residential, business, agricultural, non-profit, and publicly owned properties if studies have deemed such insurance would be feasible.

Sec. 403. Nature and Limitation of Insurance Coverage. The Secretary, in consultation with the Director of ODA and appropriate State insurance authorities, would issue regulations for major disaster insurance pertaining to the classes of property, damage covered, classification of risks, premium amounts, loss-deductibles, and other matters. Coverage provided by the bill would be divided into two categories: first, a basic minimum amount, the premiums for which could be fixed by the Secretary at a rate below established costs; second, amounts above the basic minimum, which would be charged at rates not less than those estimated to be needed for all costs of providing that protection.

The basic coverage for residential properties housing up to four families would be $15,000 aggregate liability for any single dwelling unit, $30,000 for any structure containing more than one dwelling, and $5,000 aggregate liability for the contents of any dwelling unit. If the Secretary should declare other types of property to be eligible for major disaster insurance, any single structure in those specified categories would have an aggregate liability of $30,000.

Sec. 404. Estimates of Premium Rates. The Secretary would be authorized to make studies and investigations which would enable him to estimate what the risk premium rates would be for various areas based on actuarial principles, operating costs and administrative expenses. He would also be directed to estimate what level of rates would be reasonable, would encourage prospective insurers to purchase disaster insurance, and would be consistent with the purposes of the act.

Sec. 405. Establishment of Chargeable Premium Rates. The Secretary would from time to time prescribe by regulation the chargeable premium rates for all types and classes of property for which disaster insurance is made available. He could if necessary fix the premium rates for the basic property values covered (noted above) at less than the estimated risk premium rates. Otherwise, the rates would have to be based, insofar as practicable, on the respective risks involved and would have to be adequate to provide reserves for anticipated losses. If the rates were fixed at a lower amount, they would have to be consistent with the objective of making major disaster insurance available at reasonable rates in order to encourage its purchase by homeowners and others.

Sec. 406. Treasury Borrowing Authority. The Secretary would be authorized with the approval of the Secretary of the Treasury, to issue notes or other obligations in an amount not exceeding $500 million. The Secretary of the Treasury would determine the rate of interest for these notes or obligations, and would be authorized to purchase or sell them as public debt transactions.

Sec. 407. National Major Disaster Insurance Fund. The Secretary would also be authorized to establish in the Treasury of the United States the National Major Disaster Insurance Fund from which would be paid all claims, expenses, administrative costs and debt redemption of the major disaster insurance programs. The Fund would be the repository for all funds which might be borrowed, appropriated by Congress, earned as interest on investments, derived from premiums or received from other operations. If the Secretary should determine that the Fund total would be in excess of current needs, he could request the Secretary of the Treasury to invest the amounts which the latter deemed advisable in obligations issued or guaranteed by the United States.

Sec. 408. Payment of Claims. The Secretary would be authorized to establish regulations for adjustment and payment of claims.

Sec. 409. Dissemination of Major Disaster Insurance Information. The Secretary could make available to state and local agencies data and information with regard to the coverage, objectives and premium rates for disaster insurance programs.

Sec. 410. Prohibition Against Certain Duplications of Benefits. No property-owner would be eligible for disaster relief assistance if a person or business is covered for losses by insurance or could have been covered by disaster insurance which had been made available in his area at least one year prior to the occurrence of the damage.

Sec. 411. Properties in Violation of State and Local Law. No new major disaster insurance would be provided for properties which the Secretary found to be in violation of State and local zoning laws and ordinances.

Sec. 412. Coordination With Other Programs. The Secretary would consult with the Director of ODA and other departments and agencies of the federal, state and local agencies in order to coordinate the insurance program with their activities. Veterans Administration, Federal Housing Administration, and other federal agencies which guarantee or insure loans and mortgages would have to require that any such structures must be insured under the major disaster insurance program administered by the Secretary.

Sec. 413. Termination of Authority. The major disaster insurance program would not be established if the Secretary determined that by June 30, 1971, private insurance companies have provided equivalent coverage on reasonable terms.

TITLE V—MISCELLANEOUS

Sec. 501. Technical Amendments. Existing statutes would be brought into conformity with the Omnibus Disaster Assistance Act.

Sec. 502. Repeal of Existing Law. The disaster relief acts of 1950, 1966, and 1969 would be repealed.

Sec. 503. Authorization of Appropriations. Funds needed to carry out provisions of the act would be authorized to be appropriated.

Mr. SPONG. Mr. President, it is a pleasure to join the Senator from Indiana, the distinguished chairman of the Special Public Works Subcommittee on Disaster Relief, in the introduction of the Omnibus Disaster Assistance Act.

As a member of the subcommittee, I participated with him in several days of hearings in Mississippi and Virginia for the purpose of evaluating the effectiveness of the Federal response to victims of Hurricane Camille, and determining the need for additional Federal legislation.

The testimony we received was most helpful and enlightening. It demonstrated the need for: First, better coordination between Federal, State, and local officials; second, improvement in the administration of the temporary housing program for disaster victims; third, better systems of communications in disaster areas; fourth, better insurance coverage and quicker settlements of insurance claims; fifth, financial assistance to localities unable to meet their financial obligations because of extensive losses in their tax base; sixth, better dissemination of information, readily understandable to the general citizenry, on the types of available assistance; and seventh, official recognition of additional charitable groups having the capacity to distribute goods and commodities to disaster victims.

The bill being introduced today seeks to accomplish these purposes. A broad range of disaster relief programs would be established on a permament basis. This would facilitate a quick and effective response to natural disasters which may occur in the future. It is a sounder approach than attempting to respond legislatively to disasters on a piecemeal and

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individual basis after they have occurred. Congress cannot be expected to foresee every need arising from every emergency, but the bill we have developed offers great flexibility and establishes a foundation for an efficient response by Government agencies.

The Disaster Relief Act of 1969—Public Law 91–79—has been a useful tool in the Virginia effort to recover from damage inflicted last summer by Hurricane Camille. It was my privilege to serve on the conference committee which developed the legislation. Several key sections of that measure will expire on December 31, 1970, however, and it is important that they be continued and in some cases expanded.

Provisions scheduled to terminate deal with the removal of debris from private property, assistance for the repair and reconstruction of non-Federal aid highways, forgiveness of a portion of disaster loans made by the Small Business Administration and the Farmers Home Administration, authority for temporary housing for disaster victims, and food stamp and unemployment assistance.

Besides establishing these programs on a permanent basis, the bill would consolidate into one act all major existing disaster laws. Such a codification would lead to better coordination of relief machinery, and enable disaster victims to refer to one statute to ascertain the various types of available assistance.

The Omnibus Disaster Act would transfer the functions of the Office of Civil Defense, and the major disaster relief responsibilities of the Office of Emergency Preparedness, into a new Office of Disaster Assistance.

It would expand the role of the Federal coordinating officer provided for in the Disaster Relief Act of 1969 to include responsibility for appraising the types of assistance necessary in a disaster area, for establishing field offices, and for coordinating the administration or relief with private organizations.

The housing provisions of the bill are similar to those in existing law, except authority would be added to purchase as well as lease mobile homes. Rentals would be based on ability to pay, but in no event would exceed 25 percent of family income for 1 year after a disaster.

Emergency public transportation would be authorized in a major disaster area where regular public transportation has been disrupted.

Several changes are proposed in the disaster loan programs of the Small Business Administration and the Farmers Home Administration. Interest rates charged for most loans would be increased from the current 3 percent to the average rate for interest-bearing obligations of the Federal Government. However, this would be offset by increasing the amount of disaster loans which can be forgiven. Under present law, for loans in excess of $500, a maximum of $1,800 can be cancelled. A revised formula would provide forgiveness of up to 50 percent of the uninsured loss, to a maximum amount of $5,000.

I have some reservations over the community disaster loan fund which would be established under the bill. Localities that have suffered a loss of more than 25 percent of their tax base would be permitted to borrow from the fund in order to make interest and principal payments on outstanding bonded indebtedness.

I have no objection to the intent of the fund, but believe the Federal Government should not be required to bear the burden alone. There should be some requirement for participation by State governments before Federal funds could be loaned to a locality. I expressed the view at the subcommittee's hearings in Virginia that State governments have a responsibility in this area of disaster assistance, and the Senator from Indiana is aware of my feelings. No criticism of the bill is intended by my observation, but I look forward to receiving additional testimony on the point.

The bill provides that both public and private agencies involved in disaster relief work cannot discriminate on the grounds of race, color, religion, nationality, sex, age, or economic status.

Another provision would give official status to the Salvation Army and the Mennonite Board of Missions and Charities in the utilization of their manpower and supplies during disaster recovery efforts. Only the American Red Cross now has such status.

Our subcommittee heard considerable testimony in support of improved insurance protection against major disaster losses. Coverage presently is available for damage from fire, windstorm, and hail, but it is not generally available for floods, mudslides, wind-driven waters, high waves, and earthquakes. Congress sought to remedy the problem of water damage through the enactment of the National Flood Insurance Act of 1968, but that program has not been fully implemented.

The bill seeks to encourage the private insurance industry to develop a major disaster insurance program. I join the Senator from Indiana in inviting industry proposals on a joint approach involving Government participation in an industry-managed insurance system.

In any event, I welcome industry comment on insurance proposals which would become operative under the bill in the event a private plan is not developed. Some of its provisions, particularly those which would deny eligibility for a portion of disaster assistance to property owners who do not have insurance, seem somewhat harsh and restrictive.

However, the insurance section of the bill serves the worthwhile purpose of establishing a basis for comment and discussion. I reserve judgment on this aspect of the measure until the subcommittee has had the benefit of testimony from experts on estimated premium costs, and the possible effect of such costs on lower economic groups.

Mr. President, the bill is deserving of prompt consideration in view of the fact that the most important provisions of last year's Disaster Act will expire on December 31. The Nation has experienced an average of 14 major disasters per year over the past 20 years. The legislation being offered today would establish the means to alleviate promptly and effectively the damage and human suffering that accompany these phenomena.

ADDITIONAL COSPONSORS OF BILLS

S. 3579

Mr. PROUTY. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Vermont (Mr. AIKEN), the Senator from Maine (Mrs. SMITH), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), the Senator from Rhode Island (Mr. PASTORE) and the Senator from Rhode Island (Mr. PELL), be added as cosponsors of S. 3579 to authorize the importation without regard to existing quotas of fuel oil to be used for residential heating purposes in the New England States.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

S. 3596

Mr. GOODELL. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Vermont (Mr. PROUTY) be added as a cosponsor of S. 3596, the Humane Seal Protection Act of 1970.

The PRESIDING OFFICER (Mr. COOK). Without objection, it is so ordered.

ADDITIONAL COSPONSOR OF A JOINT RESOLUTION

S.J. RES. 61

Mr. McCARTHY. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Washington (Mr. MAGNUSON), the Senator from Illinois (Mr. PERCY), and the Senator from Oregon (Mr. PACKWOOD), be added as cosponsors of Senate Joint Resolution 61, proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The PRESIDING OFFICER (Mr. COOK). Without objection, it is so ordered.

SENATE RESOLUTION 374—RESOLUTION SUBMITTED TO AUTHORIZE THE COMMITTEE ON COMMERCE TO STUDY RESTRAINTS IMPOSED ON U.S. COMMERCE BY FOREIGN IMPORT RESTRICTIONS

Mr. COTTON. Mr. President, I am submitting for appropriate reference a Senate Resolution to authorize the Committee on Commerce to study restraints imposed on U.S. commerce by foreign import restrictions.

Just about every foreign country imposes restrictions on the importation of American goods, but we have none on theirs. The result is the United States has become a dumping ground for cheap shoes, cheap textiles, foreign-made electronic products, and many, many other manufactured goods. For a long time many Members of the Senate have been striving to save American industries and American jobs from being destroyed by this ever-increasing influx. Our efforts have been misunderstood by many who have gained the impression that we are seeking to invoke a protectionist policy and that we are opposed to free trade.

Speaking for myself and I believe for most of my colleagues who share my concern about this situation, I want to again make it clear that we are not seeking a return to a protectionist policy. What we do want is free trade that is a two-way street.

Recently the Senate voted overwhelmingly by a better than 2-to-1 margin in favor of the so-called Cotton amendment to the tax bill which authorized the President to impose quotas or other restrictions on the importation of goods from countries that imposed restrictions against American goods and to remove such restrictions whenever such other country removed theirs.

This amendment was dropped from the tax bill in the conference between the House and the Senate because the Ways and Means Committee of the House and the Finance Committee of the Senate believe they should not get involved in trade matters and that the tax bill was not the proper legislation to carry such an amendment. I have no quarrel with the position of the Finance Committee in this regard.

However, it is high time that the Congress gets involved in trade matters and asserts itself. In my section of the country over 10,600 shoe jobs have been lost in the last 3 years, fully one-quarter of these in my own State of New Hampshire. The electronics industry is one of the hardest hit by cheap-labor foreign imports. They now account for 98 percent of the portable and transistor radios sold in this country, nearly that percentage of the black and white television sets, and now serious inroads are being made in color TV sets.

I believe that an immediate study should be made of the barriers against American goods imposed by other nations, including import licenses, tariffs, and many other forms of restriction. I believe that the Senate Committee on Commerce, formerly known as the Committee on Interstate and Foreign Commerce, is the logical committee to make this study. I believe that an early report to the Senate cataloging and analyzing these trade barriers will be an eye opener not only for the Congress but for some of those in the executive departments who have been so slow to move toward saving our industries and our jobs. I would hope that hearings before the Committee on Commerce or any authorized subcommittee would include testimony from Secretary of Commerce Stans, as well as officials of the State Department.

One more word, much of the opposition to congressional action in the field of foreign imports comes from those who are concerned about the consumers and want them to have the full advantage of low-priced foreign goods. There are two answers to this. First, the workers in our manufacturing plants are consumers and, as such, are entitled to keep their jobs. The second and more important answer is that history has shown that, whenever a foreign industry has succeeded in virtually destroying its American competitor, the price of its goods goes up immediately. The contention that allowing American industry to be destroyed for the benefit of the American consumer is completely fallacious.

Mr. President, I ask unanimous consent that a speech by Kenneth N. Davis, Jr., Assistant Secretary of Commerce for Domestic and International Business, before the Electronic Industries Association on March 9 be printed at this point in the RECORD. I would like to direct the attention of my colleagues particularly to that part of the speech which quotes a letter from the president of Zenith Radio Corp., Joseph S. Wright, to Secretary Stans, in which Mr. Wright describes the plight of the electronics industry and a planned reduction in the Zenith working force by about 3,000 jobs this year due to the opening of their new plant in Taiwan.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

U.S. INTERNATIONAL TRADE PROSPECTS—CAN AMERICAN BUSINESS, LABOR, AND GOVERNMENT MEET THE CHALLENGE OF NEW WORLD COMPETITIVE FORCES?

(Address by Hon. Kenneth N. Davis, Jr.)

It is a particular pleasure and privilege to appear before the Electronic Industries Association. As you have heard, my entire business background was in one of your member industries. It is especially appropriate to discuss world trade prospects in this forum, because you are representatives of exactly the kind of industry on which the nation's future economic strength depends—strentgh which we must have if we are to be able to deal with our burning national issues.

I am proud to have been a member of the Nixon Administration during this past year. It has been a great thrill to work with others in government in their efforts to create effective programs to deal with the massive problems facing the nation and the world. I can tell you quite honestly that this year has taught me that the problems of government are more difficult than most businessmen imagine. I am convinced, though, that we are making real progress. We will do even better in the months ahead.

IMPORTANCE OF MAINTAINING U.S. WORLD COMPETITIVE POSITION

There is one overriding responsibility which should command the ultimate dedication of the Commerce Department and of U.S. industry. That is the responsibility to see that America does what is needed to assure its continued economic strength. *If our great industries and the nation as a whole do not maintain their strength and vitality, we will not have the financial resources to solve our massive national social and economic problems. Also, we would not be able to continue to provide leadership in international economic development which is so vital to the whole world's future.* It will cost many billions of dollars to bring economic and social equality to our minority citizens, to rebuild urban America, and to win the fight against environmental pollution. Does anyone here deny that we need our full strength now as never before in our history?

For a business to be strong today, it is no longer enough just to be able to compete effectively with other American companies here at home. The world has suddenly become a global marketplace! *We must now compete more effectively in this new global environment if we are to stay strong as industries and as a nation.*

Since coming to Washington, I have had the rare opportunity of observing the full range of problems being faced by business and labor in this country. I have also been working with the many others in government who share responsibility for our international trade and investment policy. *Government policy-makers must constantly remind themselves of the increasingly competitive international world in dealing with many matters which could formerly be looked at as strictly domestic problems.* No longer can we treat inflation, consumerism, and antitrust matters from a strictly domestic viewpoint. In the antitrust field, for example, we have not yet found ways to get other countries to adopt as tight anti-merger laws as our. Yet our companies must compete with their companies both overseas and here in the United States. In the consumer area, it is sometimes argued that we should permit unlimited imports of low cost foreign products such as textiles, oil, or steel because of the beneficial effect on consumer prices. However, from a truly national standpoint, our precarious balance of payments position simply will not permit such a policy. Also, from the standpoint of business and labor, the country cannot afford to see its major industries lose their strength just because of the existence of low cost labor or raw materials overseas, or because other countries subsidize their industry or have lax antitrust laws.

INTERNATIONAL TRADE MUCH IN CURRENT NEWS

There has been much in the news of late about world trade problems. It is difficult for those of us in government to try to assimilate and make sense out of the many conflicting reports. It must be virtually impossible for those of you who must devote most of your time to running your companies.

I have here just a few of the speeches, statement, and news reports on trade gathered in the past two weeks. They include major items from the departments of state, justice, and labor urging freer access to the United States market for foreign firms. There is a major policy statement from the AFL–CIO decrying the shift of U.S. jobs to overseas plants owned by foreigners and by American companies. From one newspaper, there is an editorial criticizing U.S. trade policy as too protectionist, but also a news story from the same paper criticizing the European Common Market for being unfair to the U.S. There are numerous stories, pro and con, about the U.S.-Japan textile talks. The most surprising item to me is the report of the press conference held by European Common Market officials after their "informal" discussions with various government agencies here last week. The Europeans appear to have misunderstood what we were trying to say to them. I will comment more on that later.

Rather than attempt to sort out all of the seeming contradictions, I am going to read a portion of another letter to you. The letter was just received by Secretary Stans from a highly respected member of your own industry—Mr. Joseph Wright, Chairman of Zenith Radio. As you will soon see, this is obviously an unsolicited letter, but its message is so important for everyone in business, labor, and government that I called Mr. Wright to get his approval to quote from it today.

FEBRUARY 26, 1970.

DEAR MR. SECRETARY: I am sure you are aware that the electronics industry, both components and finished goods, is engaged in a life and death struggle with the Japanese. On several occasions I have sought to interest the Department of Commerce in what is going on in this field, but apparently without any success.

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I am always struck very forcibly by the great difference between our situation and that of our Japanese competitors. The latter have the complete cooperation and support of their government in two major areas. First, in substantially subsidizing and pro-

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moting Japanese export trade and, second, in keeping out any United States competition which they do not regard as desirable. We attempted to break into the Japanese market, where TV sets that sell for $500 in the United States command a retail price of $1300 or more and we were kept out by denial of import and exchange licenses. We are sending a new high level team to Japan in a few weeks to try to break this open again, but I am absolutely sure that we will be met by the same kind of reception.

It is a very discouraging thing to us when our own United States Government agencies apparently have little if any interest in our problems, many of which could be solved, not by some new law or new bureau, but by effective and aggressive use of the machinery that is already on the books. I hope the Department can look into this matter, and at least stop indicating to people that there isn't any significant problem. Zenith's United States employment will be down an average of 3000 jobs in 1970 against 1969. When our new plant in Taiwan comes on stream in early 1971 it will have a capacity of 4000 jobs which will probably be lost in this country. This most tragic part of this story is that the heaviest impact of our 3000 lost jobs this year is on the blacks we have worked to train and give a sense of identity and pride, and the economic ability to escape the ghetto. Due to seniority, 38% of those laid off are blacks.

Respectfully yours,

JOSEPH S. WRIGHT.

PROTECTIONISM VS. FREE TRADE

Those of you who know Mr. Wright know that he is anything but a "protectionist.' What he is saying is that our government is not helping sufficiently in obtaining fair competitive conditions for American industry in world trade. He wants equal access to the Japanese market. When Japan engages in illegal "dumping" of merchandise in our market, which they sometimes do, he wants government action in far less than the 18 to 24 months taken today. He wants our government to object more strenuously to foreign export subsidies and cartels which would be illegal in this country.

The old "protectionism vs. free trade" argument has become a very sterile issue, I believe. Instead, we should all recognize that there are strong competitors all around the world today—in Europe, the Far East, and elsewhere. After World War II, the United States set out to build up industrial strength in all parts of the world to meet the needs of all people. An expansionist trade policy was a key part of the program. Now that we have been successful in creating worthy competitors, and with the onward thrust of modern transportation and communications technology, *we should not turn back toward protectionism! Rather, we must keep moving ahead toward trade expansion! But now, we must insist more firmly on receiving fair competitive treatment—treatment which just isn't being given to us by many of our trading partners!*

I am afraid that many of the "free trade" speeches made by American business and government leaders (and I admit to making my own share this year) are misunderstood by other nations, particularly by their officials who are responsible for coping with the problems of their own industries. *Foreign misunderstandings of U.S. intentions in the trade field can be most unfortunate.* For example, the failure of Japan to understand the firmness of the U.S. intent to secure reasonable limitations on textile imports to this country may well result in protectionist U.S. legislation soon. The failure of the Common Market to be more constructive in working on non-tariff barrier reduction with us, to take more progressive steps in its agriculture policy, and to recognize that we cannot stand idly by while it makes trading agreements which discriminate against the U.S., is endangering the passage of our Trade Act of 1969. And yet, this bill contains the repeal of the American Selling Price system of chemical import valuation, a change long sought primarily by Europe.

Of particular interest to this audience is the point that right now, *while Europe is calling for the repeal of ASP as the key to progress in other non-tariff barrier reductions, it is about to impose a new non-tariff barrier against the American electronic component industry.* The so-called Tripartite Accord between France, Germany, and Britain would impose discriminatory inspection standards against outside manufactured components. The EIA has estimated that U.S. exports of electronic components to Europe could be reduced by as much as 35% under the new restrictions. We could not help but be very disappointed with the lack of interest shown by the Common Market officials when we raised this matter with them last week.

EUROPEAN COMMON MARKET ATTITUDE ON TRADE POLICY

I mentioned earlier the news reports of comments by Common Market officials on our "informal" talks last week. They had met with various Washington agencies at their own suggestion. After the talks, their Director General of External Trade Matters was quoted in the press as follows:

1. The U.S. is no longer concerned over European border taxes.

2. The American Selling Price System must be repealed or international trade relations will suffer a grave setback.

3. The textile agreement which the U.S. seeks with the Far Eastern countries should be limited to selected items where injury can be proven.

4. The Common Market is alarmed by quota bills in the U.S. Congress and rising protectionist sentiment here.

5. Non-tariff barrier negotiations probably can't start until after 1971.

Frankly, it is hard for me to believe that this is an accurate report of the Common Market's understanding of the U.S. Government attitude. Here is what we said to the Common Market people at the Commerce Department:

1. The U.S. considers European border taxes a major non-tariff barrier, particularly with respect to export rebates in sales to third countries in competition with U.S. suppliers.

2. We are concerned about the prospects for obtaining Congressional approval of the repeal of ASP, both because of the lack of a textile agreement and because of little progress is being made with Europe toward non-tariff barrier reduction.

3. The Common Market has been reported to be interfering in U.S.-Far East textile discussions. Europe was asked to participate last spring and refused. It should not interject itself into these sensitive discussions at this late date.

4. Common Market preoccupation with enlargement of the European trading area through agreements with other European and Middle Eastern countries on a basis which discriminates against the U.S. is a matter of grave concern.

5. The Tripartite Electronic Components Agreement now being finalized by France, Germany, and Britain would be a major new non-tariff barrier. It would impose discriminatory inspection standards against U.S. electronic components. Congress is not likely to repeal the American Selling Price System for chemicals just as Europe sets up a new non-tariff barrier against the American electronics industry. Although the Tripartite Accord is technically not a Common Market proposal, we could not understand why Common Market officials appeared unwilling to intercede to stop the setting up of this new barrier to free trade.

6. The European Common Agricultural Policy continues to discriminate against U.S. exports and is therefore a major obstacle to better trade relations.

7. The Common Market view that non-tariff barrier negotiations probably can't start until after 1971 is most discouraging to the U.S. Such a long delay will result in strong objections by many important elements in U.S. industry. Europe and the U.S. should be eliminating barriers today in such significant areas as government procurement.

As you can see, we appear to be far apart in our thinking. *What could be particularly troublesome is that there does not appear to be recognition by the Europeans that there are serious differences between us which need attention now.*

SUMMARY

To summarize, Europe and Japan have become worthy and strong competitors in world trade. Their industry and government work closely together to plan global trading strategy, to develop markets and to determine government policy. *On the whole, foreign government, business, and labor leaders are better coordinated than we are.* Europe and Japan talk much of free trade, but are not doing enough about it. In the United States, we continue to move toward freer trade with far more dedication than our trading partners.

It seems that Europe and Japan are failing to realize that sentiments like those expressed by Mr. Wright are becoming widespread here. These are not "protectionist" sentiments, but rather an insistence that our government obtain fair and equitable trading terms with other countries.

CONCLUSION

In conclusion, *I believe that the United States will not, in fact, become "protectionist". But I also believe that we will become more and more insistent on being treated fairly.* We must close ranks between business and labor and among the various government agencies if we are to be successful. There are legitimate differences to be worked out among ourselves, but they can and must be worked out. *We should find ways to settle our internal differences more expeditiously than ever before if we are to compete successfully in the world.*

Referring again to Europe and Japan, it is urgent that these nations re-examine their current trade attitudes toward the United States, the world's biggest market. The benefits of continued trade expansion for all the world are inestimable. The losses from a turn toward world protectionism or to policies of national or regional special advantage would be irretrievable. *For the benefit of all the world's trade it is time for Japan and Europe to respond more fairly than heretofore to the 20 years of U.S. leadership in expansionist world trade policy!*

The PRESIDING OFFICER (Mr. RIBICOFF). The resolution will be received and appropriately referred.

The resolution (S. Res. 374), which reads as follows, was referred to the Committee on Commerce:

S. RES. 374

Resolved, That the Committee on Commerce, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study of the nature and extent of restraints imposed on United States commerce by foreign import restrictions.

SEC. 2. For the purpose of this resolution, the committee, through January 31, 1971, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other

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assistants and consultants; (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government; and (4) to establish and defray the expense of such advisory committees as it deems advisable.

SEC. 3. The committee shall report its findings, together with such recommendations as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $75,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 357

Mr. MONDALE. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of Senate Resolution 357, expressing the sense of the Senate on inflation.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

NOTICE OF HEARING ON EXTENSION OF DEFENSE PRODUCTION ACT

Mr. MONDALE. Mr. President, the Production and Stabilization Subcommittee of the Senate Banking and Currency Committee will hold hearings on March 31, April 1 and 2, 1970. These hearings will be on S. 3302, the legislation to extend the Defense Production Act, which would otherwise expire on June 30, 1970. That bill would also require that uniform cost accounting standards be implemented in regard to defense procurement contracts.

In January 1970 the GAO filed an extremely comprehensive report in regard to the question of uniform cost accounting standards. Recently, as a followup to this report, the GAO submitted to me two alternative proposals which would implement the recommendations contained in the GAO report. In the hearings we will consider the GAO proposals as well as the other measure I have mentioned.

Those wishing to testify on these measures should contact Mr. Hugh H. Smith of the committee staff—202-225-7391—to make the necessary arrangements. We have received many requests to be heard on this subject, and I anticipate there will be many more such requests. Under these circumstances, I hope that as many as can will choose a common spokesman. In this way, I hope we can cut down on the volume of testimony while insuring that all viewpoints are heard. In addition, it will be necessary that all statements to be presented to the committee be delivered to the committee offices at least 24 hours before the scheduled appearance. The subcommittee will be unable to receive testimony from anyone who is not able to comply with this requirement.

Mr. President, I ask unanimous consent that the two alternative proposals submitted by the GAO be printed in the RECORD at this point.

There being no objection the proposals were ordered to be printed in the RECORD, as follows:

PROPOSALS

ALTERNATIVE 1

"(a) The Comptroller General, as an agent of the Congress, shall promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting practices followed by contractors and subcontractors under Federal contracts. Such promulgated standards shall be used by all Federal agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration, and settlement of negotiated contracts with the United States Government.

"(b) The Comptroller General is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (a). Such regulations may require contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting practices including methods of distinguishing direct costs, and to agree to a contract price adjustment, with interest, for any increased costs incurred by the United States because of the contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data.

"(c) The rules, regulations, cost-accounting standards, and modifications thereof promulgated hereunder shall have the full force and effect of law and shall become effective not less than 30 days after publication in the Federal Register.

"(d) For the purpose of determining whether the contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, the contracting agency concerned and the Comptroller General or any representative of either shall have the right to examine and make copies of any documents, papers or records of such contractor or subcontractor.

"(e) (1) There shall be established in the Office of the Comptroller General a Cost-Accounting Standards Advisory Board of no more than five members to be appointed by the Comptroller General. The Board shall be comprised of members both from the Federal Government (with the consent of the head of the agency concerned) and from outside the Federal Government. One member shall be selected by the Board as its chairman. The Board shall advise and assist the Comptroller General in the preparation of cost-accounting standards and of regulations implementing such standards. The Board shall also review promulgated standards and regulations and, as it deems appropriate, make recommendations to the Comptroller General with respect to such existing standards or regulations.

"(2) The Comptroller General may appoint personnel from the Federal Government (with the consent of the head of the agency concerned) or from outside the Federal Government to serve on advisory committees and task forces to assist the Comptroller General and the Board in carrying out their functions and responsibilities under this section.

Members of the Board and other appointees under this subsection who are officers or employees of the Federal Government shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. The appointment of Board members and others under this subsection from outside the Federal Government may be without regard to Chapter 51, Subchapters III and VI of Chapter 53, and Chapter 75 of Title 5, United States Code, and those provisions of such title relating to appointments in the competitive service. Appointees under this subsection from outside the Federal Government shall receive compensation at rates fixed by the Comptroller General not to exceed the rate prescribed for level V in the Federal Executive Salary Schedule if serving full-time and not to exceed 1/260 of such rate for each day of actual duty (inclusive of travel time) if serving on a part-time or intermittent basis. While serving on an intermittent basis away from their home or regular place of business, appointees under this section shall be allowed travel expenses in accordance with 5 U.S.C. 5703.

(4) The Comptroller General, after consultation with the Chairman of the Board, shall have the power to appoint, fix the compensation of, and remove an Executive Secretary, without regard to Chapter 51, Subchapters III and VI of Chapter 53, and Chapter 75 of Title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The Executive Secretary of the Board may be paid compensation at a rate not to exceed the rate prescribed for Grade 18 of the General Schedule (5 U.S.C. 5332).

"(f) All departments and agencies of the Government are authorized to cooperate with the Comptroller General and the Board and to furnish information, appropriate personnel with or without reimbursement, and such other assistance as may be requested by the Comptroller General.

"(g) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

ALTERNATIVE 2

"(a) There is hereby established a Cost-Accounting Standards Board of not more than five members to be appointed by the President. A majority of the Board shall be appointed from the executive branch of the Government and the remainder from private life. The President shall designate one member as Chairman. Board members appointed from private life shall receive compensation at the rate of 1/260 of the rate prescribed for level IV in the Federal Executive Salary Schedule for each day of actual duty (inclusive of travel time).

"(b) The Board shall have the power to appoint, fix the compensation of, and remove an Executive Secretary and two additional staff members without regard to Chapter 51, Subchapter III and VI of Chapter 53, and Chapter 75 of Title 5, United States Code, and those provisions of such title relating to appointment in the competitive service. The Executive Secretary and the two additional staff members may be paid compensation at rates not to exceed the rates prescribed for levels IV and V of the Federal Executive Salary Schedule, respectively.

"(c) The Board is authorized to appoint and fix the compensation of such other personnel as the Board deems necessary to carry out its functions.

"(d) The Board may utilize personnel from the Federal Government (with the consent of the head of the agency concerned) or appoint personnel from private life without regard to Chapter 51, Subchapters III and VI of Chapter 53, and Chapter 75 of Title 5, United States Code, and those provisions of such title relating to appointment in the competitive service, to serve on advisory committees and task forces to assist the Board in carrying out its functions and responsibilities under this section.

"(e) Members of the Board and officers or employees of other agencies of the Federal Government utilized under this section shall receive no compensation for their services as such but shall continue to receive the compensation of their regular positions. Appointees under subsection (d) from private

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life shall receive compensation at rates fixed by the Board, not to exceed 1/260 of the rate prescribed for level V in the Federal Executive Salary Schedule for each day of actual duty (inclusive of travel time). While serving away from their homes or regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with 5 U.S.C. 5703.

"(f) All departments and agencies of the Government are authorized to cooperate with the Board and to furnish information, appropriate personnel with or without reimbursement, and such financial and other assistance as may be agreed to between the Board and the agency concerned.

"(g) The Board shall promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting practices followed by contractors and subcontractors under Federal Contracts. Such promulgated standards shall be used by all Federal agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration and settlement of negotiated contracts with the United States.

"(h) The Board is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (g). Such regulations may require contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting practices including methods of distinguishing direct costs from indirect cost, and to agree to a contract price adjustment, with interest, for any increased costs incurred by the United States because of the contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data.

"(i) The rules, regulations, cost-accounting standards, and modifications thereof promulgated hereunder shall have the full force and effect of law and shall become effective not less than 30 days after publication in the Federal Register. The functions exercised under this section shall be excluded from the operation of the Administrative Procedure Act.

"(j) For the purpose of determining whether the contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned or of the Board and of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers or records of such contractor or subcontractor.

"(k) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

NOTICE OF FURTHER HEARINGS ON THE IMPACT OF FRANCHISING ON SMALL BUSINESS

Mr. WILLIAMS of New Jersey. Mr. President, I would like to announce that my Small Business Subcommittee on Urban and Rural Economic Development will hold additional hearings on "The Impact of Franchising on Small Business," on Monday, March 30, in New York City.

The hearings will begin at 9 a.m. in the ceremonial courtroom, 1 Federal Plaza, New York City, and they are open to the public.

NOMINATIONS

Mr. MANSFIELD. In executive session, I move that the Senate proceed to the consideration of nominations on the Executive Calendar under new reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations on the Executive Calendar will be stated, beginning with the Department of Transportation.

DEPARTMENT OF TRANSPORTATION

The bill clerk read the nomination of Charles D. Baker, of Massachusetts, to be an Assistant Secretary of Transportation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I move that the Senate now proceed to consider the nominations placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the clerk will state the nominations placed on the Secretary's desk.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The bill clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I move that the Senate now proceed to consideration of the nomination of Director of Selective Service.

The PRESIDING OFFICER. The clerk will state the nomination.

DIRECTOR OF SELECTIVE SERVICE

The BILL CLERK. Curtis W. Tarr, of Virginia, to be Director of Selective Service.

Mr. STENNIS. Mr. President, this position is a highly important one. There has been a little delay in the filling of the position of a new Director. But, we had the nominee before the Armed Services Committee on yesterday. The Armed Services Committee is the parent committee on this matter, and after a very satisfactory hearing, at which all Senators had an opportunity to ask questions, and did, there was a unanimous vote in the recommendation that Mr. Tarr be confirmed for this position.

I am very glad to be able to report that to the Senate.

The Armed Services Committee has an added responsibility this year that hearings will have to be held with reference to the eventual renewal of the Selective Service Act. I want to assure the Senate that the Armed Services Committee will keep a surveillance over the operations of the Selective Service Act and take action from time to time, should such action arise, and, if it sees fit, to make reports to the Senate.

The Armed Services Committee, being the parent committee on this matter, is the one having the chief responsibility for the Selective Service Act, its amendments, its operation, and its renewal. I want to make this special statement to that effect, that we will follow up.

Mr. THURMOND. Mr. President, I want to say, speaking for the minority side, we feel that Mr. Tarr is a very fine gentleman and especially well qualified to be Director of Selective Service.

I join unanimously in the remarks just made by the distinguished Senator from Mississippi.

The PRESIDING OFFICER (Mr. ALLEN). The question is, Will the Senate advise and consent to the nomination of Curtis W. Tarr of Virginia to be Director of Selective Service?

The nomination was confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business as in legislative session?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO MONDAY, MARCH 23, 1970, AT 11 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, as in legislative session, until 11 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECTION 203—DEFENSE AUTHORIZATION FOR FISCAL 1970

Mr. MANSFIELD. Mr. President, the defense authorization for fiscal year 1970—Public Law 91–121—has been the law for 4 months:

Section 203 provides that:

> None of the funds authorized to be appropriated by this Act may be used to carry out any research project or study unless such project or study has a direct or apparent relationship to a specific military function or operation.

This section was not sought by the Department of Defense but was adjudged necessary by the Congress; the purpose of the amendment was clear. Over the past 25 years there has developed within the scientific and research community a dependence on the Defense Department of unusual dimensions. With section 203 Congress has expressed the view that such a dependence is not in the long-term best interests of the Nation, of the scientific and research community or for that matter of the Defense Department.

During these years the ease with which the Defense Department has been able to obtain funds has been responsible for generating a sense of security on the part of the researchers who have grown so dependent upon the Defense Department. It has been total security in the sense that temporary fluctuations in overall Federal budget emphasis have not affected their source of research funds. This sense of security was understandable; it probably accounts in part for the expansion of research by the Defense Department into almost every conceivable field.

Section 203 makes no judgment that any of the scientific work sponsored was poor; or that the Federal Government should not have sponsored it. The total Federal contribution to research may very well need to be increased but, as is implicitly required in section 203, the agency through which the most significant Federal contribution should be made to basic research should not be the Defense Department.

The response to section 203 by the Office of Research at Defense was at first to ignore this new congressional policy. On last November 25, I addressed the Senate and commented on this apparent disdain for a duly enacted law of the land. It was in large measure to the great credit of Deputy Secretary Packard that this initial response was overturned. On December 6, I commented on Secretary Packard's constructive attitude in recognizing that the laws of the land are made in the Congress and that the policies of this Government are intended to be made by elected officials. Appointed officials may disagree, but it is not their function to ignore the law. I think the initial reaction of ignoring section 203 was the byproduct of a generation of almost absolute "permissiveness" on the part of the Congress toward the Defense Department and its role in this area. But hopefully that attitude was reevaluated last session.

Secretary Laird in his official remarks before the House committee last February 27, also spoke constructively with respect to section 203. An interview after this congressional testimony reported in the Evening Star of February 28, expresses a different attitude. I was hopeful at that time that the Evening Star report gave misplaced emphasis to a remark of Secretary Laird and that his public testimony to the House committee was accurate. Apparently I was totally dismayed and somewhat alarmed when I learned that Secretary Laird last week in addressing the Electronics Industry Association convention at the Statler Hilton Hotel discarded his prepared remarks that expressed a policy of compliance with section 203, and openly admitted that his Department was working with industry against the clear expression and intent of section 203.

This is the first instance that I recall of an open and public admission by a Defense Secretary that the Defense Department works directly with industry to undermine congressional judgments to accomplish its ends. Some have questioned the existence of a military-industrial complex; at least we now know that its operations are no longer camouflaged and indirect. The new public attitude of Secretary Laird is shocking because it admits to stimulating lobbying activities by industries dependent upon Defense contracts for their survival. It is shocking, moreover, because we find a Government official actively enlisting the support of contractors to overturn a law of the land.

I read with great interest a series of articles by Doug Wilson in the Providence Journal concerning the application of section 203 and the dismay that some researchers have found to the renaming of their projects—renaming to give the appearance of a direct relationship—by the Defense Department. I ask unanimous consent that this series of articles be inserted at the conclusion of my remarks, as well as the news story from the Evening Star.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MANSFIELD. Mr. President, is it that the efforts of the Defense Department as reported in the Providence Journal were also contrived to circumvent the policy of section 203, but upon disclosure, the attack is now directed to the contractors to seek a change—to remove the restriction imposed upon the Defense Department in its sponsoring of basic research? Why can the reaction not be positive? It is deplorable indeed when a vital institution of this Government cannot accept the fact that the laws are made in Congress, not at the Pentagon.

The Secretary of Defense on February 27 expressed his concern about the broader implications of section 203 with respect to the overall level of research in the United States. He endorsed as an important principle that each major mission agency maintain the necessary level of excellent, imaginative research in those fields related to its long-range mission needs—which, in my opinion, is precisely the intent of section 203. He stressed that if Defense does not seem to be related directly to military programs, then it is essential that the support of high-quality basic research projects of broad national interest be provided immediately by some other agency. That is precisely what I had hoped would be accomplished. Why is no suggestion forthcoming along these lines? Why cannot the Bureau of the Budget coordinate a transfer in conjunction with the President's Office of Science and Technology? Why is it that the Secretary of Defense proposed only the negative—a change in 203?

The budget request for fiscal year 1971 for the National Science Foundation for support of research projects is increased by $15 million. Part of this is to meet a substantial growth in proposal pressure that NSF expects to result from changes in the amount of support provided for fundamental research by other Federal agencies. When the Director of the National Science Foundation testified recently on his fiscal year 1971 authorization bill, he made it clear that any Defense research project affected by section 203 will have to compete with all others for NSF project research funds. That is how it should be. I hope it does not imply a "let Defense stew in its own juices" approach which I suppose could result from inattention at the Budget Bureau level. The executive branch must recognize the spirit and intent of section 203 as well as its letter. The Federal contribution to scientific inquiry should not be diminished by force of section 203. If it is, it is because of ineptness at the interagency level. I suspect that the new expressions from Defense on section 203 might be accounted for by inattention at the Budget Bureau level.

I look forward to a proposal for interim funding by civilian agencies of research communities affected by section 203 until permanent arrangements can be made to fund them; the public investment to date should not be discarded. If it is, it is by the intentional acts of those formulating and administering the science policy of this Nation.

From the standpoint of the universities, probably the worst problem is the concentration by chance at one institution of far more than its fair share of reduction in defense and other agency research funds. Perhaps a temporary contingency fund should be established to assist those most affected.

In sum, I think greater attention must be given to these problems which affect the fundamental relationships of Government agency to Government agency and Government agency to the academic and research community. Inattention can no longer be tolerated. A laissez-faire attitude is not justified in the implementation of a sound national science policy. This is not the time for benign neglect when it comes to this Nation's research and scientific efforts.

EXHIBIT 1

[From the Washington (D.C.) Evening Star, Feb. 28, 1970]

NOT VIABLE: LAIRD APPEALS FOR END OF CURB ON RESEARCH

(By Orr Kelly)

Defense Secretary Melvin R. Laird has made his strongest appeal so far for repeal of a controversial congressional restriction that forces the Pentagon to prove the military usefulness of all of its basic research.

Laird said such a policy is "not a viable course of action for our country at this time."

His comment came yesterday during a recess in his testimony before the House defense appropriations subcommittee, of which he was formerly a member.

His criticism of the provision, known as Section 203 of the 1970 Military Procurement Authorization Act, went well beyond what he had to say in his formal report to Congress on the nation's military posture.

In that statement, he said:

"If we reduce our support of research projects on the theory that they do not seem to be related directly to military programs, I believe it is essential that the support of high quality basic research projects of broad national interest be provided immediately by some other agency of the government."

The restriction was tacked on the authorization act during last year's congressional debate over military spending.

Testifying earlier this week, Dr. John S. Foster Jr., director of defense research and engineering, told Congress that it was important that provisions of the restriction "not be interpreted so as to threaten further reduction or expulsion of the Department of Defense support for basic research in general and the university research community in particular."

"Such a consequence would cripple defense research and technology, especially our ability to respond rapidly in time of national crisis," Foster said.

He did assure the congressional committee, however, that every project in the research and exploratory development category had been checked this year to make sure it complies with the congressional restriction.

[From the Providence (R.I.) Evening Bulletin, Feb. 23, 1970]

Pentagon-Science Alliance Under Mounting Attack: The Scientist and the Military—I

(By Douglas C. Wilson)

Washington.—American science today is shaken by a national controversy that could alter the main thrust of technology in this country for many years.

The scientific community and one of its biggest allies, the U.S. Military Establishment, are being charged with too great a complicity in each other's affairs.

Each is accused of having feathered—and shared—the other's nest for so long that the Pentagon's influence is overextended and science is now distorted and misdirected.

Forces are at work that could reduce science's role as handmaiden to military technology and turn more of its attention to the country's domestic problems.

These forces are coming from two powerful groups—the anti-establishment young people at the universities and the liberal establishment in Congress, where the Pentagon's pervasive activities are under increasing attack.

Both groups regard today's "military-scientific complex" as an unholy alliance, either in whole or in part.

Congress is putting new limits on this consortium. Young activists are out to downgrade it, or even destroy it.

Both groups have made gains in the last year, cutting back the Pentagon's authority and forcing the universities to consider reforms in their scientific activities.

But the Defense Department has no intention of seriously reducing its basic ties to the scientific community. And the universities are anxious to avoid drastic change.

As a result, scientists, the government and the universities are now in a struggle of cross-purposes that is laced with uncertainty and at times with bitterness and hypocrisy. These may be inevitable, for the issues involved political pressures, questions of academic honor, and hundreds of millions of dollars.

The Defense Department has been one of the chief patrons of American science for a quarter of a century. It is now spending 500 to 600 million dollars a year for scientific research.

This exceeds the entire annual budget of the National Science Foundation.

It is twice as big as the budget of the Federal Water Pollution Control Agency, and three times that of the National Cancer Institute.

Pentagon money, in short, is a lifeblood element in American science. It helps to pay scientists' salaries, buys their equipment, and hires their research assistants.

This bond is an outgrowth of World War II and the subsequent Cold War era. Military leaders cultivated the science and technology they needed to develop sophisticated weapons in a tense and threatening world.

In the process, they also came to support science in more and more areas without direct connection to the Defense Department's immediate needs.

Scientists have been glad to get this extra support, but it has led to tenuous relationships and potential stresses in some areas, since the interests of science and those of the military are often dissimilar.

The Journal-Bulletin has learned, for example, that the Pentagon has put military titles on nonmilitary research projects, without the knowledge of the scientists involved. Informed of these titles, some scientists say they are misleading and potentially embarrassing, both here and abroad.

The wider, public debate over Pentagon spending has international aspects because the U.S. military spends several million dollars a year for research activities to foreign areas.

Interviews with scientists who engage in this activity showed that it carries political hazards. A biologist said that, because he went to Asia with Army support for his medical research, he got a poor reception there and was "automatically suspected of being an intelligence agent." Other defense-supported projects abroad have sparked serious international incidents embarrassing to the United States.

In addition to supporting American research abroad, the Pentagon also gives support to many foreign scientists who share their knowledge freely with the rest of the world's scientists.

A Canadian scientist emphasized this point, saying that if his Army-supported work is "of any use to the (U.S.) military then it's equally available to the Viet Cong." He proposed this as an answer to any of his fellow countrymen who might charge him with "selling out for the war effort" of another country—the United States.

Meanwhile, at home, critics in Congress attack this Pentagon "foreign aid" to science as a dangerous form of U.S. military interference in other nations' institutions.

But the centers of greatest controversy are the troubled universities and colleges in the United States.

The military spends 250 million dollars of its annual research money to support more than 5,000 scientific projects at 260 campuses—including more than four million dollars at Brown University of Rhode Island.

At leading universities, the Pentagon pays between a quarter and a third of all the federal money for scientific research. It outspent the National Science Foundation in this field by roughly 75 million dollars last year.

Congress, on one side, has passed a new law to get the military out of the business of subsidizing nonmilitary research.

Campus activists, attacking the "military-scientific complex" from another side have demanded that university scientists reduce or stop altogether their work for the military. Much of this dissent arises from their opposition to the war in Vietnam.

The law passed by Congress, called the Mansfield amendment, stipulates that the Pentagon cannot spend money for science unless the research has "a direct and apparent relationship to a specific military function or operation."

The law was enacted three months ago, and efforts to apply it already are agitating many university scientists.

In one recent interview, a scientist said the amendment could mean "anything from zero to catastrophe" to his own work and that of his colleagues.

Another scientist charged the leaders of Congress with "legislative blackmail."

Still another indicated that he had composed debatable statements of military "relevancy" to ensure that his projects will continue to receive Pentagon support:

"I may be a prostitute," he said, "but at least I can tell myself I'm a million-dollar-a-year prostitute."

Student activists have stirred the ire of other professors who defend their Pentagon subsidies openly and say the critics pose the greatest threat to their academic integrity.

"We fought long and hard in this country for academic freedom," said Prof. Guenter Lewy, a political scientist at the University of Massachusetts, "and I deeply resent self-appointed vigilantes coming to tell me what I can and cannot do. I will fight it."

On-campus criticism has been destructive at some institutions and constructive at others.

At Stanford University, militants last year seized a building at the Stanford Research Institute, a major defense contractor, and so embittered relations there that the university and the institute finally agreed to end their affiliation.

The laboratory complex is now the university's loss and the Pentagon's gain, joining the ranks of many other independent research centers and "think tanks" controlled largely by the military—another research realm that also has come under the pruning shears of Congress.

The Independent Research Laboratories and think tanks now nourished chiefly by the Pentagon are another great source of scientific and technological know-how.

Sixteen of these centers alone received a total of 263-million dollars from the Defense Department in fiscal 1969, more than all the Pentagon research money spent at colleges and universities.

But in the independent laboratory area, too, Congress is imposing new controls on Pentagon spending. To cushion themselves against the increasing military budget constraints, some of these centers plan to diversify their activities.

An example of this is the Research Analysis Corp. (RAC) in McLean, Va., where all but 10 per cent of the current research is devoted to military contracts.

"In another year," reports Frank A. Parker, the corporation's president, "we would like to see about 20 per cent of our effort applied in nonmilitary lines. People at RAC do have social motivation."

In Congress, even Sen. George Murphy, R-Calif., an outspoken defender of military contract centers, has suggested that these institutions "could, in fact, be our most important national resource when we turn them to the problems of pollution, waste disposal, communications, crime, delinquency, transportation, urban renewal, and the eradication of poverty, all of which are approaching crisis proportions."

Change appears likely to occur more rapidly at the Massachusetts Institute of Technology, now the center for more than 120-million-dollars a year in military research and development spending.

Unlike Stanford, M.I.T. intends to retain control over its prestigious military research laboratories. And there is growing talk, at the university's highest policy levels, of partially "converting" these centers into tools for attacking domestic problems.

MISLEADING TITLES ON RESEARCH

Defense Department officials have put misleading titles on some of the Pentagon's costly scientific research projects in an effort to justify their support.

Certain titles supplied to Congress a year ago were found to be misleading in recent interviews with researchers at U.S. and foreign universities. Most scientists have not even heard of the Pentagon titles, and in some cases they call them potentially embarrassing.

Projects have been given titles indicating a military aspect to nonmilitary research supported in the Defense budget. A scientist at York University in Toronto, for example,

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complains that an Army title linking his work to "missile reentry" is "a misrepresentation," and says his work does not have "any military applications that I know of."

A scientists at Brown University, surprised to hear that his Navy project was listed as a study related to "missile technology," said "if it has anything to do with missiles, I'm not aware of it." Similar cases were discovered at other universities.

While Defense officials acknowledged writing military titles for research studies, and say it is done to justify military funding, they maintain that the titles are not misleading.

A Navy research official said the special titles are "not intended to be descriptive of what the scientist is doing." Rather, they are supposed to be "descriptive of our interest in what he's doing," he said, "and that's quite another matter." No distinction of this kind has been made in title lists which the Pentagon sends to Congress, however.

Titles for projects supported by the Office of Naval Research, the official said, are written "to avoid scientific jargon and to express the Navy's interest in the particular work being supported."

He said he has to "justify these projects in terms of their potential relevance to the Navy," in order to make this relevance "clear to the people who are going to provide the dollars."

There is no clear pattern in the way the titles appear. The nonmilitary title for a project has sometimes appeared in Pentagon lists obtained by Sen. J. William Fulbright, D-Ark., who has put them in the Congressional Record, while a different, military title for the same project may appear in the separate catalogs that were sent to Congress a year ago. The reverse also has occurred—with a military title appearing in lists used by Senator Fulbright and a nonmilitary title appearing in the catalogs.

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But the military titles are there, and the effect of some can only be misleading.

A political scientist at the Massachusetts Institute of Technology, Prof. Frederick W. Frey, said he was "furious" when he learned that a major research effort he directed with Navy support totalling $700,000 had been labeled the "Impact of Modernization Upon Future Military Operations." His own title was "Human Factors in Modernization."

Because the project involved foreign countries, "we had to show no military applications," he said, "and preferably there were none."

More than 12,000 projects are supported by the Pentagon, and titles have been a principal guide used by Congress in debating the military relevance of these activities. Last Aug. 12, for instance, it was on the basis of picking out project titles in the social and behavioral sciences that Sen. Mike Mansfield, D-Mont., the majority leader, questioned the relevance of certain studies "to the military needs of the nation." This was during a lengthy floor debate on the involvement of the Pentagon in many research activities.

Pentagon officials have said the titles were intended for internal, government use only. Yet they are unclassified, and—as noted—some have been published in the Congressional Record, available to all.

Since the titles give a military cast to university studies, they can make school officials even more hard-pressed by those who want to sever campus ties with the Pentagon.

Since the titles also tie scientific work outside the U.S. to the Pentagon's "mission," they can make this work an easy target for anti-American feelings. They can even create such feelings.

And since the effect of the titles, here in Washington, is to misinform Congress, they hamper its ability to judge the nature and merits of research activities supported by the Pentagon, and reduce the likelihood that Congress will exercise intelligent control over such activities.

The Defense Department requested authority to spend more than $630 million in support of scientific studies in the current fiscal year, but Congress reduced this authority by $95 million, or 15 per cent, two months ago. In an effort to restrict military involvement in science, it also passed a new law, the Mansfield amendment, saying that the Pentagon may not spend money for research unless the work has a "direct and apparent relationship to a specific military function or operation."

With this, David Packard, the deputy defense secretary, told Defense research officials in a memorandum Dec. 3 that "insufficient attention has been given to making clear to the Congress the basis for deciding to support work in the particular field, and particularly the connections between relatively basic research and the long-range Defense problems and missions which require such research."

To comply with the new law, he directed the officials to take another look at all Pentagon-supported projects and provide "a written statement which describes, as clearly and simply as possible, the project or study and its purpose, together with its direct and apparent relationship to one or more designated military functions or operations." The review will be completed this month. Projects which are not relevant to the military must be terminated, he said.

Past results in the Pentagon's practice of writing military titles for research projects show that a new, in-house effort to stress the military nature of projects may have dubious value.

Senator Mansfield, an outspoken critic of the Pentagon's nonmilitary research, hailed Mr. Packard's directive at the time and noted approvingly that the Defense Department also was asking an outside agency, the National Academy of Sciences, to make an independent review. But the Academy has decided to stand aside for the time being and let the Pentagon make the "first pass" at projects, according to Dr. Philip Handler, the academy's president.

The high-ranking Defense official, mentioned earlier, who allowed himself to be interviewed but did not want his name used, said Pentagon experts, rather than outside scientists, can best determine the military relevance of the projects. Pentagon research directors do not expect university scientists to be aware of military problem areas, he said.

Echoing this argument, the Navy research official said "it's assumed that we have better knowledge of the Navy's interest than he (the scientist) does."

The clear implication of these arguments is that the Pentagon officials are supporting the work for reasons best known to themselves, and not always fully understood by the scientists.

The York University professor tried to speculate about possible "missile reentry" applications of his work. Such a connection had "never occurred" to him, he said, adding: "If I thought that was what it was being used for, I think I'd quit."

Another scientist said "it could be that somebody honestly thinks" his research has an application to missiles. "After all," he said, "the technical competence of military officers is not the same as the technical competence of fulltime scientists."

What these scientists are saying suggests that if Pentagon officials buy this research as a contribution to missilry, they are fooling either themselves—or scientists. And if they are not really supporting the work in the interest of missilry, then somebody else is being fooled.

IT IS FUNDAMENTAL STUDY

The York University scientist is Dr. Harold L. Schiff, a Canadian chemist and dean of the sciences faculty, who has conducted a three-year study called "Kinetics of Atmosphere Constituents" with U.S. Army support totaling $33,480. The three-year period ends this April.

He said his project is "absolutely fundamental research" into the daily and seasonal variations of "naturally-occurring chemical reactions" in the upper atmosphere—phenomena such as the aurora and "night airglow," he said.

He had never heard of the Army title for his project: "Study of Upper Atmosphere Reactions Involving Energy Transfer Between Species of Importance in Missile Reentry." This title appears in a catalog of Army projects prepared in January, 1969, and sent to Congress.

Dean Schiff called it "an extremely far-fetched title" and "a misrepresentation," and said it was "probably an artifice."

He said it was "certainly not a title which I have given my approval to." The chemist added that he would never sign a contract if it carried that label. He also felt that the title was potentially embarrassing. If a student editor discovered it and asked him about it, "I'd have to do some fast talking," he said.

The scientist at Brown is Dr. Joseph H. Clarke of the engineering department, who has received Navy support for a study of "Radiating and Reacting Gas Dynamics for Entry of Bodies Into Atmospheres."

"The work has to do with Mars and the planets," Dr. Clarke explained. The research would apply to "meteors and spacecraft," but not to missiles, he said, "because the temperatures and velocities I use are too high."

He had never heard the Navy title, "Thermally Induced Radiation Fields in Missile Technology."

Professor Frey, the political scientist at MIT's Center for International Studies, said he discovered inadvertently that the Navy was calling his ambitious, long-term research project a study of the "Impact of Modernization Upon Future Military Operations."

We were furious when, on their own hook, they came up with that title," he said. This project, originally called "Human Factors in Modernization," was supposed to be a study of "the dynamics of developing societies," using comparative data from seven countries: the United States, India, Brazil, Italy, Sweden, the Philippines, and Tanzania.

Professor Frey had hoped to enlist teams of specialists, both American and foreign, to work on the project in each of these countries. They would gather, interpret and compare information about attitudes and behavior relating to such matters as illiteracy, urban migration, the mass media and government. In view of these plans, a title linking the work to "future military operations" of the United States '"would have killed us abroad," he said.

Detailed information of this kind is "urgently required," he believes, "if many vital development policies are to succeed."

Professor Frey said the project was touchy enough without the money coming from the Defense Department. The estimated cost of the five-year project was $4.2 million, and the only source for that kind of research money was the Pentagon, he found. To get foreign participation, however, "we had to show no military applications," he said, "and preferably there were none."

Professor Frey supposes that the Pentagon simply "wanted an in-house title that looked more relevant to military operations. I think it's the kind of thing they do fairly routinely," he said.

The project is ending prematurely, after an expenditure of $700,000, because the Defense Department has reduced its support of foreign studies in recent years.

"I don't know that what we've produced is worth $700,000," the political scientist said frankly. The cut-off means "a lot of waste" because "there are other things we were tooling up to do," he explained, "and they've fallen by the wayside." This included a large investment in training people to use computers for the project.

Another political scientist, Professor Guenter Lewy of the University of Massachusetts, was surprised to hear that his project, entitled "Religion and Revolution: A Study in Comparative Politics," was officially described as an effort to "provide empirically derived conclusions about ideological movements which support insurgency."

"That's completely off," he said when he saw this description in the Congressional Record. "This description is misleading, to put it mildly. If this is Department of Defense language, I can say flatly, I don't like it."

Professor Lewy said he did not believe the Advanced Research Projects Agency (ARPA) which sponsors his work, "could think or hope that this kind of research could help solve any kind of current problems," and he added that "counterinsurgency is not my cup of tea—not that I have anything against it."

Later he stressed that he did not want to make a major issue of the Pentagon's language; the description might be justified if the word "revolution" had been used in place of "insurgency," he said.

Professor Lewy, a scholar and author whose special interest is in the field of religiously motivated political behavior, is in the fourth year of the project—a four-year, $69,800 research effort involving several studies financed by ARPA. The studies are historical analyses of "revolutionary situations in which religion has played a central role."

Much of the funding in this project, as in others supported by the Defense Department, is divided between the university, the principal researcher, graduate assistants, overhead costs, and other expenses.

One of Professor Lewy's studies, "The Attaturk Revolution in Turkey," has been a favorite target in Senator Fulbright's criticism of defense-sponsored research. He has cited the study frequently as an example of projects having little connection to the Pentagon's needs.

Other scientists were less disturbed by the Pentagon titles on their projects.

Both "Interaction of Drugs with Other Factors Determining Human Performance," and "Assessment of Military Performance Enhancement by Drugs" are titles given to a completed, $139,000 Navy study directed by a McGill University psychologist in Montreal. The investigator, Dr. Dalbir Bindra, knew of the second title.

Since he was studying human faculties of attention, memory and decision-making, he considered that "enhancement" of military performance was "one possible application" of his research. He said the work was "not related to the military in any immediate sense," however. As for the title—"I think it doesn't represent the facts," he said, "but I don't think it is an embarrassment to me."

The Navy title for a political science study by Prof. George Guthrie of Pennsylvania State University is "Military Implications of Modernization in the Far East." A telephone call to Professor Guthrie disclosed that he had never heard of this title for his $330,000 study, which covered a three-year period ending last June.

His own title was "Impact of Modernization in the Philippines." The part about "military implications" was "not part of the title," he said. "It never was. I don't know where that title came from."

He called his study "the kind of thing that people in all phases of government, including the military, should look at. And I think it has implications for the Defense Department," he said, "otherwise, they wouldn't support it." But he added: "I haven't written a report that would bear that title."

Professor Guthrie said he had done much of his research in the Philippines. Asked if the Pentagon's military title for the project would have been an embarrassment there, he said, "Yes, it would have been. Some of my Philippine colleagues would have been reluctant to participate."

These examples came to light in a check of relatively few projects, based mostly in New England and Canada. The Defense Department supports hundreds upon hundreds of projects at universities in all parts of the United States, and in 44 other countries. There is no telling how many more titles are at variance with the scientists' own definition of their research—or how much the variance would be a source of their embarrassment and dismay.

[From the Providence (R.I.) Evening Bulletin, Feb. 24, 1970]

THE SCIENTIST AND THE MILITARY: NEW LAW MAY HALT RESEARCH—II

(By Douglas C. Wilson)

"The study was 'to determine the psychological differences between sailors who had been tattooed once, sailors who had been tattooed more than once, sailors who had never been tattooed but wished they had, and sailors who hadn't been tattooed and didn't want to be.' "—Admiral Rickover.

WASHINGTON.—A Canadian scientist wrote to the student newspaper at McGill University in Montreal a few months ago to explain, light-heartedly, his "personal contacts with the U.S. war machine."

"It is patently obvious," he wrote, "that my work was not of military value, unless of course they have dropped my collected works on Hanoi or somewhere, which would be, I suppose, a shrewd blow against international communism."

The scientist was Dr. Richard Stevenson, director of McGill's Magnet Laboratory. He referred to his research in magnets, which has received support from the U.S. Office of Naval Research (ONR).

In testimony before Congress, the Navy's own gadfly-in-uniform, Vice Adm. Hyman G. Rickover, once spoke derisively of another Navy-sponsored research project involving submarine sailors at New London, Conn. The study, he said, was "to determine the psychological differences between sailors who had been tattooed once, sailors who had been tattooed more than once, sailors who had never been tattooed but wished they had and sailors who hadn't been tattooed and didn't want to be."

If congressmen laughed at the time, the laughing is over. They have passed a new, 40-word law designed to end Pentagon support of research projects which have little or no military value—whether these are valid scientific studies, like Dr. Stevenson's, or dubious projects like that at New London.

The new law, called the Mansfield Amendment, prohibits the Defense Department from supporting any research that does not have "a direct and apparent relationship to a specific military function or operation."

If a rigid interpretation of this language is enforced, it will have a serious impact at all of the country's leading universities, where defense agencies provide major support for science.

But defense officials have recently made it clear to Mr. Mansfield that they do not plan to reduce their research as much as he and others in Congress appear to expect. While congressmen meant to enact a strict law, to bring about a major reform of the Pentagon's activities, it is now obvious that the Pentagon plans to interpret the law as permissively as possible, making minimal changes in its research program.

The Pentagon supports university research in science at the level of 250-million dollars a year. This goes to support 5,500 research and development contracts at 260 institutions—including Brown University and the University of Rhode Island, where the annual defense outlay totals more than 4 million dollars.

The Defense Department's total spending for outside scientific research in recent years has been between 500 and 600 million dollars annually.

Almost all of the University contracts give salary support to professors and graduate students. A strict enforcement of the Mansfield Amendment would force a sharp cutback in these projects and reduce graduate school enrollments across the country.

It would probably hurt faculty sizes as well.

One measure of the problem was calculated by a worried scientist at Brown University. In his department alone, he said, the new law could mean the loss of about 20 graduate students out of 90, along with two or three faculty members.

He said he's afraid the new law "will throw the universities into a tailspin." It already has placed demands on scientists at some institutions.

The long-range impact of the Mansfield Amendment will depend, however, on a current test of wills between Congress and the Pentagon.

Senate Majority Leader Mike Mansfield, D-Mont, has suggested that "some of the abuse that is being heaped upon the Defense Department in recent times can be traced to the involvement of the Defense Department in matters more far-reaching than its mission or needs really require. The sponsorship of non-mission oriented research . . . is a clear example of this over extension."

He said the amendment "expresses a clear policy of Congress to reduce this dependency by the scientific community on the Department of Defense."

A strict interpretation of the Mansfield Amendment was intended by Congress. On the House side, the armed services committee endorsed the limitation and warned that it meant to interpret the law "in the narrowest sense."

Senator Mansfield and the other senator most responsible for the new law, J. William Fulbright, D-Ark, say it should rule out Pentagon support for many current programs, especially in the area of basic research. They have estimated that, altogether, more than 400 million dollars in projects now funded by the Pentagon, including many at universities, would be brought into question by the new law.

In discussing the amendment, they have suggested that it would rule out defense support for most basic research because basic research cannot have "a direct and apparent relationship to a specific military function or operation."

Before the Senate passed the amendment, Senator Fulbright said that basic research, in his view, "Is the type of research we would expect to be done in a graduate school at Harvard or Yale or Princeton, and so on, generally. It is sometimes called pure science. It has nothing specific in mind."

And Senator Mansfield has said that basic research, "by definition, cannot be closely, directly and visibly linked to a given need or problem."

The senators say it also would be difficult to justify many other Pentagon projects in areas which might be considered as applied research.

But Pentagon officials disagree with this view. Much basic research, they insist, is directly relevant to the needs of the military, and they estimate the Mansfield Amendment will force them to drop less than 95 million-dollars in Pentagon research spending, the amount Congress already has cut from their fiscal 1970 budget for science.

Pentagon officials claim that approximately 100 million of the 250 million dollars that they spend annually for campus research goes to support applied rather than basic science. One high-ranking defense official also stressed in a recent interview that basic research can be tied to given military problems. He cited the example of research into the basic chemistry of boron, used in propellants, which could sharply reduce the cost of producing these fuels.

In broader terms, a similar argument is made by the leading congressional champion of U.S. scientists, Rep. Emilio O. Daddario, D-Conn., who fears the Mansfield Amendment may cause severe damage to American science.

"Mission-oriented agencies have a responsibility—an obligation—to conduct a certain amount of basic research," he contends, because they need it "to innovate in the applied area" and "meet future needs."

Pentagon officials who share this viewpoint told the U.S. General Accounting Office in a letter of Dec. 16 that the total cost of projects "failing to comply" with the Mansfield Amendment would be "significantly" less than the 95 million cutback already imposed.

Thus, while those who backed the amendment in Congress appeared to seek an end to Pentagon involvement in research totaling far more than 95 million dollars, the Pentagon has no intention of doing this.

New budget proposals for fiscal 1971, approved by the Nixon administration, show that Pentagon officials hope to maintain the current level of research spending by asking Congress for 585-million dollars.

The General Accounting Office has indicated to Senator Mansfield that the Pentagon view would be hard to challenge. In a letter of Dec. 24, it told him it "seems unlikely" that the amendment "will have a significant impact on the amount of research sponsored by the Defense Department."

A scientist at Brown, Dr. Gerald Heller of the engineering department, described the situation accurately in a recent interview when he said "the Defense Department doesn't want things to change, and the question is how much pressure Congress is going to exert."

The fate of many scientific programs depends on the answer.

Brown University received 9.75-million dollars in federal support for science in fiscal 1969, and 2.79-million dollars of the amount—more than 28 per cent—came from defense agencies. The University of Rhode Island received 4.75-million dollars in federal research funds during the same year, with 1.26-million dollars—more than 26 per cent—being supplied by the Pentagon.

Much of this support is concentrated in one area at each university—1.36 million dollars a year in material sciences at Brown, and $70,000 a year in marine sciences at URI.

These projects and others like them, at other universities, appear likely to survive the first application of the new law, which is now being made by the Pentagon. But Congress isn't out of the picture, and Sen. Mansfield for one, said he will keep close watch on how the law is applied.

If Congress follows through with its original determination to cut most of the ties between the Pentagon and basic research, the programs at Brown and URI, which are essentially basic, could be among the many casualties.

A prominent Harvard psychologist, Dr. Edwin B. Newman, notes that the Mansfield Amendment could lead to "a far more radical reorientation of the government's research policy than anything which has happened in recent times."

"You don't sharpen up a sword that sharp and not have it cut somebody," he observed.

Ever since World War II, the Pentagon's research agencies have been a major source of financial support for American science. This support mushroomed after Russia launched the first Sputnik in 1957. Now scientists naturally want the government to continue supporting them in the style to which they're accustomed.

Many scientists agree that research money might more properly come from civilian agencies, like the National Science Foundation; but they fear Congress is not about to make up for the research money it cuts down from the defense budget by increasing the money for science in other federal agencies.

The fear is justified. Along with cutting 95-million dollars from the defense research budget, Congress also slashed 40-million dollars from the fiscal 1970 request of the National Science Foundation.

Understandably, therefore, university scientists tend to side with the Pentagon in defense of the status quo. The Pentagon, after all, has been a generous provider, dispensing grants with very few strings attached.

The M.I.T. scientist observed that university scientists "are now in the crossfire" between Congress and the Pentagon on this issue. He said the military relevance of his own defense-supported project is open to question, but the Mansfield Amendment makes him "gun-shy" about saying so, "and I wouldn't want to be quoted," he said.

The Mansfield Amendment has suddenly made many scientists "gun-shy," and they are now reluctant to say—as Dr. Stevenson said three months ago—that their work has no military value.

In fact, the new law has sent some campus research administrators scrambling to justify current scientific studies supported by the Pentagon. Defense officials say that they, and not the university scientists, have the expertise necessary to make the final decision about each project. But they have asked scientists to help them establish military relevance in some of the more doubtful cases.

The scramble to justify military support has occupied scientists at M.I.T.'s National Magnet Laboratory for more than a month. More Defense Department research money goes to M.I.T. than to any other university. The Pentagon's support for on-campus research there totaled 17 million in fiscal 1969, when it also supplied more than 100 million to M.I.T.'s off-campus laboratories.

Of these, probably the most esoteric is the magnet laboratory, which receives 2.4-million-dollars in annual basic research money from the Air Force.

Dr. Donald Stevenson, assistant director of the laboratory, said recently that the Mansfield Amendment has caused "a very serious situation." He wouldn't guess at the outcome: "A lot depends on who's determining relevancy," he said.

For the moment, the judge is the Pentagon, where one research official estimated, in December, that up to 20 per cent of the work at the laboratory ($480,000 a year) might be threatened.

The Defense Department has asked laboratory officials to help with the review of their work. "A few of our programs were said to be nonrelevant," Dr. Stevenson reported.

The Pentagon was not satisfied with the first, "very hurried description" of projects which the laboratory officials wrote, so "revised descriptions of all our programs" were submitted, he said. "We're hopeful that we did a better job."

Another person with his fingers crossed is Dr. Heller at Brown, who coordinates the university's program in material sciences. This program, supported by the Defense Department's Advanced Research Projects Agency (ARPA), involves separate research activities by nearly 50 scientists in five departments—physics, engineering, applied mathematics, chemistry and geology. About $300,000 of the 1.36 million in this year's ARPA support of the program helps to pay salaries of the faculty participants, and a similar amount supports 55 graduate students.

"I think that for the good of the country, the Defense Department has to support basic research," Dr. Heller said in a recent interview. "They can't afford not to. Applied science goes down the drain if there's no good basic science to back it up.

"And you never know what may grow out of this," he added. "People are interested in stress waves through metals, for instance. It's not applied research—yet the consequences of such research could lead to developments, say, in armor-piercing"

At URI, oceanographers have not been asked to justify the Navy's support for their work. The Office of Naval Research (ONR) supports marine sciences at URI with about $700,000 a year. Most of this goes to the Charles J. Fish Oceanographic Laboratory at the Narragansett Bay campus. It includes more than $200,000 for the lab's research vessel, Trident, covering about half of the Trident's annual operating cost.

Although the connection between oceanography and the Navy is obvious, many marine studies lack any direct relationship to "a specific military function or operation."

As interpreted by the Pentagon, however, the Mansfield Amendment apparently will not hurt marine activities at URI, nor at larger, Navy-backed laboratories at Woods Hole, Mass., and the University of California.

Perhaps the reason was best explained recently by William Hansen, a young British graduate student engaged in $28,000-a-year, Navy-supported oceanographic studies at McGill, in Montreal.

"Navies are the senior service in every way," he said. "It's the Navies that gave us charts of the oceans. And all mariners—whether or not they're Navy men, have tremendous spirit of kinship. Anything to do with the sea concerns them. It seems very traditional that the Navy studies anything of scientific interest that has to do with the ocean. In all the standard journals, you'll find that 60 per cent of the oceanographic studies got support from the ONR."

A "spirit of kinship" has developed over the years between military research agencies and science generally. Congress may yet succeed in breaking up the military-scientific complex. But the job, at the moment, looks tougher than splitting the atom.

A STATEMENT ON EVERY PROJECT'S MILITARY ROLE

To meet the requirements of the Mansfield Amendment, Deputy Defense Secretary David Packard has ordered Pentagon officials to prepare a written statement for each Defense-supported research project, showing its relationship to "a specific military function or operation."

He said they have given "insufficient attention," in the past, to showing Congress why they need this research.

Statements of relevance are required as a standard practice by the Canadian Defense Board, which also spends money for scientific research.

In Canada, the scientists themselves are asked to indicate the military relevance of proposed research at the time they apply for support. But neither the officials nor the scientists take the requirement very seriously.

The Canadian practice was described by Dr. Harold I. Schiff, dean of the sciences faculty at York University in Toronto, in a recent interview. He knows this procedure from the inside, because he serves on an academic review panel which screens the applications.

"You read these paragraphs and you're really amused at how far-fetched some of them can be," he reported. "It's obvious that someone has had to sit around for half a day to dream up some far-fetched relationship."

According to Dean Schiff, panelists reject a proposal on this basis only when they think "it would be a laughing-stock if it got into the press." The panel approves about 50 per cent of the proposals, judging nearly all of them on their scientific merit alone.

"The vast majority of them have very tenuous relationships to the military," he said, and the Defense Board accepts the panel's recommendations almost without exception.

Asked why statements of relevance are demanded in the first place, Dean Schiff said he assumes they're required as protection against anyone who might criticize this kind of nonmilitary spending by the Defense Board.

[From the Providence (R.I.) Evening Bulletin, Feb. 25, 1970]

THE SCIENTIST AND THE MILITARY: THEY SAY THE PENTAGON IS ROOT OF MONEY, BUT FEW ADD OF EVIL—III

(By Douglas C. Wilson)

WASHINGTON.—Looking out from their university laboratories, many scientists in recent years have had reason to regard the Pentagon as the root of all money—or a major source of it.

Very few of them call it an evil. The Defense Department provides some of the leading universities in this country with up to a third or more of all their federal support for scientific research.

Today, however, more and more students, professors and others—including some U.S. senators—think this is wrong.

One of the senators is J. William Fulbright, D-Ark., the unrelenting critic of Pentagon influence, who sees a conflict "between the role of the academician as a teacher and independent thinker, and as a hireling of the Defense Department."

Other critics might drop the word "hireling." It's a fighting word. But they agree with the senator's basic view that the "dependence of colleges and universities on Defense Department largesse is not a healthy situation."

The issue is hard to judge, especially in the case of nonmilitary research supported by the Pentagon.

Dr. Lee A. DuBridge, the White House science adviser, said a year ago he disagrees with those who say that universities should not accept any research support from the Department of Defense.

"Many agencies within defense have for many years been supporting in a fine and intelligent way excellent basic research projects in physics, chemistry, astronomy, mathematics, aeronautics, and other fields without any visible relationship to weapons work," he observed, "and without any restriction on full publication of results."

A professor at the University of Massachusetts, Guenter Lewy, has received Defense Department money for nonmilitary studies in history and political science for the last three and a half years. He expresses a view held by other grant recipients when he says: "This is the kind of thing that I would do anyway. This is my research, not the Defense Department's. I am not a hireling. It is research that any academic would do."

Members of Congress say that Pentagon money is Pentagon influence, however. While they accept the Pentagon's right to buy research in defense problems, many want to reduce the military's influence in areas that are essentially nonmilitary.

To accomplish this, Congress recently passed the Mansfield amendment, which prohibits the Defense Department from supporting nonmilitary research.

Senate Majority Leader Mike Mansfield, D-Mont., said that his amendment "expresses a clear policy of Congress to reduce this dependency by the scientific community on the Department of Defense."

Ironically, his amendment could have the effect of satisfying the critics in Congress without placating the critics on campus. In fact, it may actually increase campus attacks on defense-supported research.

Many scientists agree that the new law damns them either way: If they say their work is not related to specific needs of the military, they may lose their support. If they say it is related, the critics of military activities on the campus will take this as all the more reason to attack it. "If we claim too much relevance for our research, then we aggravate the radicals," one scientist said.

A research officer at one of the smaller Ivy League universities has chosen to duck the problem, at least for the time being. He said he provided Pentagon officials with statements they requested, relating to more than a million dollars' worth of research to military interests. He said a valid relationship could be shown and was.

But he said he deliberately kept no copies of the statements because they could fall into the hands of students who might then attack the projects as "warmongering."

He did not even clear the statements with all of the faculty researchers involved, he added, because some of them might have raised objections to anything attributing a military side to their work.

In the short run, therefore, the Mansfield amendment is adding to the academic dilemma.

To decide whether the longer-range effect of this law may resolve other, more insidious dilemmas, one must decide whether it is, in fact, harmful for academic scientists to depend on the Pentagon for support of essentially nonmilitary research.

While university people differ about the degree of the harm and some insist there's no harm at all, most of them agree on the standard to be applied. They agree that a spirit of open inquiry is essential at universities. If there is one yardstick they use to determine what is good for universities, it is academic freedom—the freedom to explore and discuss problems without constraint.

Whatever abridges this freedom is considered bad for students, bad for teachers, and bad for universities.

On this score, secret research has been a particular sore point. The Pentagon has realized this and reduced its classification of defense-supported campus research. At one time, eight per cent of the Pentagon's university projects were classified. This is now below four per cent.

But many critics of Pentagon support for research say it is harmful even when projects are not classified, because it damages the universities' freedom and character. A leading critic of Defense money at the Massachusetts Institute of Technology, Prof. Noam A. Chomsky, argues that ties to the Pentagon are detrimental because "academic freedom is violated, not ensured, when the university merely bends to the will of outside forces."

Professor Chomsky and others also argue that the Pentagon's science-subsidy is bad for science because it builds up defense-oriented science to the neglect of other scientific and technological needs which are becoming more urgent—needs in transportation, protection of the environment, and other domestic areas.

A former assistant director of the U.S. Budget Bureau, William D. Carey, has observed that the Cold War forced American science to evolve "not as a distinct function of balanced social goals but rather as a contented agent of other political ends, chiefly national defense, space and nuclear technology."

Until recently, one "contented agent" was M.I.T., but now there is increasing criticism on that campus. Part of this censure has been voiced by an M.I.T. student in management, George N. Katsiaficas.

"By working almost solely for the military," he asserts, "M.I.T. has trained its students in military technology and thereby induced them to continue in defense work after graduation. In addition, by accepting military contracts, M.I.T. inculcates in its students a positive attitude concerning war research. Instead of focusing on militaristic concerns, M.I.T. should be preparing its students to confront a far broader spectrum of problems."

Many scientists agree that there should be new priorities. But they disagree with the argument that Pentagon money damages their academic freedom. Some even protest that the biggest threat to their freedom comes from the critics, rather than the Pentagon.

A political scientist at Yale, Prof. Bradford Westerfield, states the first point very flatly: "None of us is committed to working for the Defense Department as such," he said. "They have not made the slightest effort to dictate what we were doing at any point. If we ever felt we were being manipulated, the relationship would be terminated."

He and three other Yale political scientists are engaged in studies that the Pentagon supports with $108,000 a year. Most of their research is in problems of international alliances.

The threat posed by the critics is seen by Professor Lewy and others. Campus radicals at the University of Massachusetts have erroneously linked Professor Lewy's own work—a study of revolutions—to the Pentagon's interest in counterinsurgency.

"That's not my cup of tea," he said. "But if a professor wants to do counterinsurgency, that's his business. We fought long and hard in this country for academic freedom, and I deeply resent self-appointed vigilantes coming to tell me what I cannot do. I will fight it."

A Canadian scientist, Dr. Harold I. Schiff of York University, shares much of this feeling. Protests, in the long run, may be counterproductive, he says, because "scientists may give up and go elsewhere, finding that the universities are no longer the havens of freedom they once were."

Certainly much of the criticism, especially by student radicals, is implied guilt by association: The Pentagon's activities in Vietnam are wrong, so it is wrong—the radicals say—for scientists to have ties with the Pentagon.

The anti-war argument carries its main force against weapons research. But the argument about academic freedom is directed against all Pentagon research. It is subtler and harder to grasp.

There is no question that academic science depends heavily upon the Pentagon for support:

University scientists now depend on the Pentagon for 250-million dollars a year. This money supplies them with laboratory equipment, research assistants, and often a large part of their own salaries. In one project alone—the material sciences program at Brown University—it provides 50 faculty students with about $300,000 a year in salary support.

Three members of the Brown faculty draw 75 per cent of their pay from the Pentagon, while others are subsidized as much as 50 per cent.

Recent interviews with candid people like Professors Lewy and Westerfield brought assurances that their ties with the Pentagon do not bend them to "the will of outside forces."

Other interviews gave a different picture, however. In ways which are usually unwritten, and often not acknowledged, the tie between scientists and Pentagon resources has placed many sincere individuals under subtle constraints.

This was clear even in the way some scientists took advantage of the ground rules allowed in interviews. The spirit of open

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inquiry, dear especially to science, was often compromised by a protective anonymity.

Nine, or exactly half of the scientists interviewed in recent visits to seven American and Canadian universities, did not want certain comments attributed to them. Four of them did not want to be quoted by name at all.

These scientists agreed to be counted, but they did not want to stand up.

One scientist went "off-the-record" simply to say he agrees with many Americans who believe the Pentagon has too large an influence in American society.

Another scientist said he did not want his name or project to appear in the papers. The work was unclassified, and it cost taxpayers more than $60,000. But he said publicity might endanger the project unless the Pentagon was allowed to clear it in advance.

Such men do not say, in so many words, that they hesitate to bite the military hand that feeds them. Instead, they merely excuse themselves: "I am a scientist, not a politician," they say.

Other constraints appeared, too.

A geologist had no hesitation about discussing the immediate aspects of his research in seismology, currently supported by a $70,000 grant from the Air Force. These aspects were clearly humanitarian. At the same time, the scientist noted that his work had other applications, of more interest to the military.

What were they?

"I'd rather not say," he replied firmly. "I try to stay away from what they (the military) do. I don't like to know."

Like his colleagues, he's doing what he wants to do, and the work is valuable. But it is not open to full and candid inquiry. ("Like Lord Nelson," another scientist acknowledged, "you sometimes clap your glass to your sightless eye.")

Another professor emphasized that his work was never classified. He proved it by handing out a copy of his final report. Yet a constraint appeared on the last page, where he told Army officials he hoped to publish some of his findings: The articles, he assured them, would first be sent to the Army "for checking, before such manuscripts are submitted to the journals."

Another subtle form of influence is possible at the very inception of scientific research projects. The Pentagon is known to be a major source of money for large scientific investigations. Demand for this money is great, and competition increases the temptation to make proposals as attractive to the money-dispensing agencies as possible.

Scientists answer that they are proposing work they would like to do no matter where the money comes from.

Referring to Brown University's Defense-supported program in material sciences, Dr. Gerald Heller of the engineering department said, "We judge the work only on its scientific merits. We don't try to pick out any subjects that look to be more directly relevant than others."

But he added that "a professor writing a proposal is certainly going to color his proposal to the thinking of the person who's giving out the money. Otherwise, he's not going to get the money.

"It's the same if you write a proposal for the National Institutes of Health: you will color your proposal. This would be true no matter what the source is," he said.

An engaging scientist in Montreal indicated that a certain amount of gamesmanship is involved: "We're very skilled in means of getting search funds to do just what we want to do," he said.

Other scientists feel that they can't always do "just what they want to do," once a project is agreed to, however. Prof. Frederic W. Frey, a political scientist at M.I.T. makes this point:

"You may know what they want," he said, "and usually they're talking about such large amounts of money that you bend over backward."

Professor Frey found, to his chagrin, that his own Pentagon research contract led to serious constraints. He obtained Pentagon support for a seven-nation suvey of "Human Factors in Modernization."

As he and other political scientists began to set up the program, he said, the Pentagon vetoed plans to use the funds in one country after another.

"Finally we were saying the hell with it," he related. "I would rather have spent those two years rather more productively. Being involved in the whole hassle leaves a bad taste in your mouth."

The Pentagon reduced its support of overseas research to help restore the U.S. balance-of-payments. But it also curtailed this activity in response to congressional criticism—showing one of the ways in which Congress, itself, is a major source of constraint.

A few scientists even regard Senator Mansfield's new concern about the Pentagon's influence on campus as unwelcome meddling.

Dr. Edwin B. Newman, a psychologist at Harvard, recently was angered by a report that Senator Mansfield's office agreed to have "The Cambridge Project"—a joint Harvard-M.I.T. research program—evaluated by the General Accounting Office (GAO). The GAO was to see if Pentagon support for this program would be ruled out by the Mansfield Amendment.

"It's just plain legislative blackmail," Dr. Newman declared. "At what point does one senator have a right to assert his own definition of what's allowed, and then send investigators around to harass people in universities and see whether they conform?"

The Cambridge Project, nicknamed "Cam," is an ambitious and costly effort to develop better computer methods for behavioral science. It will cost 1.5-million-dollars a year in Pentagon funds. The GAO informed Senator Mansfield after a recent initial check on the project that the Pentagon is convinced it meets the requirements of the Mansfield Amendment.

Because of the amendment's restrictions, other scientists who consider their work to be nonmilitary are now reluctant to say so.

One university laboratory director even said the Mansfield Amendment might lead his center to change the nature of its research, to avoid cuts in Pentagon funding. "We may have to change the items that are supported by these funds or run the risk of losing them," he explained.

At the same time, many scientists also say that the Mansfield Amendment may be beneficial in the long run, because it may realign the pattern of support so that the "civilian" field of science is tied to civilian agencies.

Perhaps the clearest sign that scientists themselves question Pentagon support is the frequency with which they say they would rather get the money from somewhere else.

"We would rather have our money from the National Science Foundation or from the National Institutes of Health," says Prof. John O. Edwards, a chemist at Brown, expressing the general view. "But there's little chance that they'll take over where the Defense Department is being cut back." (The National Science Foundation was able to spend only $186 million for campus research in the last complete fiscal year, compared with the Pentagon's $250-million investment in this activity.)

Professor Frey says bluntly that the congressional critics "are utterly hypocritical because they kill the Defense Department support for research and do not offer any replacement."

Senator Mansfield has emphasized that "as sponsor of this amendment, I can clearly state that there was no intention on the part of the Congress when it enacted this section into law, of depriving the scientific community of proper funding for valid research projects."

If this is so, and if Congress holds the Pentagon to a strict application of the amendment, many scientists will expect Congress to appropriate more for the government's nonmilitary research agencies in the years ahead.

About the time that the Senate passed the Mansfield Amendment, the House passed a different, more controversial amendment of its own. It would have required the Defense Department to provide Congress with a behavior report on each university before the Pentagon awarded research money to the institution.

The report was to give "the record of the school, college or university with regard to cooperation on military matters such as the Reserve Officer Training Corps and military recruiting on its campus."

The House armed services committee, ruled by its arch-reactionary chairman, L. Mendel Rivers, D-SC, said it wanted the law because "research projects should be placed in universities which are cooperating fully with the Department of Defense in the national defense efforts."

This provision was tantamount to a bribe, and obviously a threat to academic freedom. The amendment was killed in a Senate-House conference.

This attitude is a backlash against recent campus debate over hard military research, a debate which has raged at several universities for the last year and a half.

Although most weapons-related research is done in "off-campus" laboratories, radicals who are angered by the war have made this kind of research their principal target. They have attacked "weaponeering" at one university after another.

The controversy has been especially heated at two leading centers for work of this kind—M.I.T. and Stanford University.

At M.I.T., one articulate graduate student in science, Jonathan Kabat, has voiced the concern of many students:

Weapons research, he says, is incompatible with the main purpose of a university—which seeks "to establish reason and understanding as the fundamental principles for human activity and interaction."

On this basis, university people tend to oppose violence in their affairs—whether it is student violence aimed against weapons research or weapons research itself, which provides the tools for international violence.

Still others are not so sure.

A chemist at Brown, Prof. John O. Edwards, agrees that "most academic people don't want to be in a position where they could hurt anybody else."

In past years, he has worked on antidotes to chemical warfare agents under contracts with the Army's Edgewood Arsenal Research Laboratories in Maryland.

"I have no reason to believe that any of the things I worked on could be used to increase a war capability," he said emphatically. "I have never been asked even to hint what might be a poison. They were interested in antidotes.

But he hesitates to condemn fellow scientists who work on projects related to other, more conventional weapons.

Other scientists are more positive in defending weapons research, saying—as Professor Edwards suggests—that weapons are needed to protect freedom, including academic freedom.

At a gathering of scientists last December, Dr. Charles W. Schilling of George Washington University put it succinctly:

"To be successful, universities require freedom. To insure freedom, national defense requires the advanced technology often pioneered by universities. This is the simple, strong, mutual bond about which there should be little debate."

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Similarly, Dr. DuBridge, the White House science adviser, reminded a University of Chicago audience last year that "during World War I and World War II, the scientists and engineers of this nation did a tremendous service to their country and the free world.

"If we had allowed military research and development to come to a halt after World War II," he added, "or if we allow it to come to a halt now, we would now or soon be in very grave danger indeed. A weak or disarmed America would be an invitation to the destruction of the free world. This will continue to be the case until firm disarmament agreements are reached—which we all hope will be soon."

Like others who seek disarmament, however, many scientists believe that military research and development have already gone too far. This feeling is strongest among young people—including tomorrow's scientific and technological experts.

Two months ago, an opinion poll at M.I.T. showed that 76 per cent of the undergraduate and graduate students who voted in the poll disapprove of the university's Defense contracts for work on the controversial MIRV missile system.

The poll also indicated that a majority of students would like to see one of M.I.T.'s defense contract center, the Instrumentation Laboratory, "converted" to non-defense research activities.

A campus "Review Panel on Special Laboratories," led by faculty members, recommended last fall that work in this laboratory and M.I.T.'s other major research center, the Lincoln Laboratory, be diversified to include more nonmilitary projects "devoted to the major problems of society." Panel members felt that "a university role in defense research is appropriate," but they agreed that the institute's involvement in the development of certain offensive weapon systems had been highly inappropriate.

At Stanford University, the movement against weapons research became a frontal assault last year when militants seized a laboratory at the Stanford Research Institute (SRI) and held it for nine days.

The SRI scientists finally announced they would quit "rather than submit to control of their work by some outside morals committee," in the words of SRI president Charles Anderson.

Stanford and SRI have agreed, since then, to let the institute become an independent research center, entirely divorced from the university.

Many scientists think that far from being a satisfactory solution, such a falling apart between the university community and defense research is bad for the country.

Dr. Philip Handler, president of the National Academy of Sciences, believes with others that the "external scientific community" provides the Defense Department with invaluable "advice and monitoring."

"We must be certain that we do not totally separate the military from the best of American science," he told the Journal-Bulletin. "We still require a Defense Department, and as long as we do, there's an obligation to see that it has access to the best brains in the country."

[From the Providence (R.I.) Evening Bulletin, Feb. 26, 1970]

THE SCIENTIST AND THE MILITARY: TRIP TO A "THINK TANK"—IV

(By Douglas C. Wilson)

WASHINGTON.—One of the country's biggest military "think tanks" is perched on a hilltop in Virginia, less than 10 miles from the Pentagon.

A tank, of course, can be an aquarium of sorts—and this particular thought center, the Research Analysis Corp., almost gives that first impression. Lush, tropical plants fill the glass-enclosed entrance to the building, creating an air of serenity.

The atmosphere is disarming—perhaps by design. For the Research Analysis Corporation, known as "RAC," actually is tight with security. It takes more clearance to get beyond the reception desk, here than it does at the Pentagon, where strangers come and go as they like.

Each visitor signs a register at RAC and records his citizenship, time-of-arrival, and the nature of his mission: "classified" or "unclassified."

Then he is given a colored name tag, marked "Escort Required," and someone comes to lead him inside.

The Pentagon relies heavily on the research done by RAC and 15 other think tanks—officially called "federal contract research centers"—and it supports their wide range of activities with many millions of dollars.

In fiscal 1969, the Defense Department poured 263-million dollars into "tanks" like RAC. The Pentagon also gave out large contracts to many other research corporations, buying everything from hard chemistry in gas warfare to speculative studies of what the United States might do if Israel should suddenly decide, in 1972, to unleash 20-to-50 kiloton atomic weapons against the Arabs.

The prestigious Arthur D. Little Corp. of Cambridge, Mass., is one company that provided the Defense Department with know-how in the development of "incapacitating" chemical warfare agents in recent years. The general public has known little or nothing about this Arthur D. Little program, a $1,091,300 research effort which lasted from January, 1965, until November of last year.

The company has not gone out of its way to publicize this activity. To be sure, the work was only a small fraction of Little's many ongoing activities, which are mostly nonmilitary. When asked about it, however, company officials frankly acknowledge the chemical warfare research.

They say they cannot give details of the work, which are secret, but they confirm two unclassified project titles listed by the Army Chief of Research and Development: "Feasibility Studies in Chemical Agents," and "Search for New Incapacitating Agents."

One Army manual on chemical agents describes two groups of incapacitants: "psychochemicals," which produce "temporary physical disability such as paralysis, blindness or deafness," and "anesthetics," which produce "temporary mental aberrations."

Because only 30 per cent of its contracts are with the government, the Little company is not an official "federal contract research center." To fall in this category, a company must be engaged primarily in research for the government. Arthur D. Little, instead, is an independent, highly competitive enterprise, and its officials prefer to keep it that way.

But Donald C. Bowersock, the vice president in charge of research and development, says that defense research falls easily within the broad scope of the company's interests and capabilities.

"We're prepared to do work for any client where we feel we have something to contribute," he said. "Our judgment is on that basis, rather than on the basis of who the client is."

George Baker, directer of public relations, stressed that incapacitating agents may be preferable to other forms of weaponry, because "people get zonged, and then—in a few minutes—they're okay again. It may not be nearly so dangerous as shooting somebody, or beating them around the ears," he said.

Another public relations official, John H. Crider Jr., reported that some of the same work also yielded new insights into "therapeutically useful compounds."

Unclassified reports on this aspect of the research show it included a study of marijuana and its chemical analogs, which "produce ataxia (loss of muscle coordination) and motor deficits and generally act as central nervous system depressants in mice, cats, and monkeys when administered intravenously. . . ." Some of the Army-backed studies had possible applications to brain tumor therapy.

The Army support ended in November, when the company was told there was no further money available. "A good deal of what we could do had been accomplished anyway," Mr. Crider said, "and we were nearing the end of our contribution."

Three other concerns which have worked on incapacitating chemicals for the Army are the Aerojet General Corp. of Sacramento, Calif.; FMC Corp. of Princeton, N.J.; and Hazleton Laboratories, Inc, of Falls Church, Va.

An entirely different "contribution" to the nation's defense is made by the Hudson Institute at Croton-on-Hudson, N.Y. This center has provided the U.S. military with countless policy studies, including "scenarios" like the Arab-Israeli bomb drama.

The Army is spending $8,550,000 this year in engaging the energies and talents of Research Analysis Corporation.

RAC is roughly the size of two other military think tanks—the Institute for Defense Analyses in Arlington, Va., and the Center for Naval Research, here in Washington. Only the mammoth, 20-million-dollar-a-year Rand Corp., of Santa Monica, Calif., is larger.

Frank A. Parker, a friendly, unassuming veteran of government and university service, is president of RAC.

He directs a staff of 500 people, including economists, engineers, mathematicians, social scientists, statisticians, retired Army officers and other specialists—many with Ph.D.'s—who provide the Army with expertise in war games, foreign policy, manpower scheduling, and a variety of other activities. Eighty per cent of the work is classified.

Mr. Parker noted that Congress has forced the Pentagon to reduce its support of think tanks gradually over the last four years.

Surprisingly, he said he approves "of Congress imposing this kind of control."

"I think there is a tendency to contract for too much of this work," he said. "With respect to RAC, there's no question our program is a better program under money constraints than it was when it was growing. Both RAC and the military services have become more selective of the work they are doing."

At the same time, he stresses that the corporation's basic services to the Defense Department are indispensable. He said war gaming, for example, is an elaborate, highly specialized and computerized activity, but it costs the Army much less than it would pay for comparable field exercises, using live and fully equipped troops.

The simulated "war zone" at RAC, similar to facilities at the Rand Corp. and elsewhere, is composed of a "Red Room," where the "enemy" initiates and responds to military actions, a "Blue Room," where friendly forces operate, and a "Control Room," which calculates the outcome.

"Gaming's most useful purpose is to understand the impact of what you're doing, rather than the specific result of the engagement," Mr. Parker explained. "Actually, the Army has taken over much of this activity. We've done a lot of work in developing games that the Army now plays in its own facilities."

Mr. Parker said RAC has devised one war game, "Carmonette," which is "totally computerized" for small, tactical unit engagements.

"Carmonette," he said, allows RAC analysts to tell the Army: "This is what the outcome of this particular kind of engagement would be, under these particular circumstances."

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One brain child of RAC's computer technicians is an "Automated Force Structure Model," designed to help the country's top command choose the right number, size and type of military units it should deploy for greatest effect against given enemy forces, under given circumstances, in any part of the world.

For instance, Mr. Parker said it normally would take months to design the best unit structures for use in Vietnam. The "Automated Force Structure Model" can do this in a few weeks.

Other specialists at RAC engage in foreign studies. The military shorthand titles for some of these projects sound like labels from an apothecary's shelf: SASSA, SANESA, SASEA, SALA, SACNEA, and COLSEC. But they refer to "Strategic Analysis of Sub-Saharan Africa," "Strategic Analysis of North Africa, the Middle East, and South Asia," "Strategic Analysis of Southeast Asia," "Strategic Analysis of Latin America," "Strategic Analysis of Northeast Asia," and "United States and Regional Collective Security Arrangements."

Pentagon support for foreign affairs research has been sharply criticized by Sen. J. William Fulbright, D-Ark., and others who say it encroaches upon the State Department's area of responsibility. He complains that military planners "are busily engaged in blueprinting strategies where our military will play the key role in trying to maintain order in a disorderly world."

But Mr. Parker believes that foreign studies are "something that the military definitely needs."

"There's no question in my mind that this kind of work is justifiable," he said. "If I were in the Defense Department (like many think tank executives, he was, before he joined RAC), I would want to know the political and economic environment I was working in," he said. "I'd want to know how it relates to my particular job."

Much of the corporation's work is in "housekeeping" areas, involving manpower and logistical studies—"like getting the maximum life out of equipment," Mr. Parker said. "This kind of work produces savings in the many, many millions of dollars."

The point once was dramatized by former Defense Secretary Robert S. McNamara, who said that the Rand Corp., for instance, had saved the Pentagon $10 for every dollar given to Rand by the Air Force.

Military think tanks have been associated with universities in past years. A few of them still are—like the Center for Naval Research, which is administered by the University of Rochester. But many universities, feeling new qualms about their ties to the "military industrial complex," recently have severed these connections. One of the first to do so was the Johns Hopkins University, which helped to establish RAC in 1948 and remained affiliated with it until 1961.

Twelve universities were "member institutions" of the Institute for Defense Analysis until June, 1968, when they and the IDA mutually agreed to end the relationship. Cornell University recently broke its tie with the Cornell Aeronautical Laboratory, and Stanford University and the Stanford Research Institute also have agreed to go separate ways.

"Within an hour of the Arab armored crossing of Israel's borders, Israeli aircraft received authorization to drop two atomic weapons near each of the attacking Arab armies."

This chapter in future "history" was written more than a year ago in a study commissioned by the U.S. Department of Defense. The Middle Eastern holocaust was seen in a crystal ball at the Hudson Institute, an American think tank that is famous for "thinking about the unthinkable."

The headline "event" was part of a hair-raising scenario in "Peacekeeping Studies" which the institute completed for the Pentagon in December, 1968.

Pentagon officials always emphasize that the ideas expressed in such studies do not necessarily represent the viewpoint of the Defense Department. But the scenario, written by a Michael E. Sherman, does illustrate one kind of thinking done for the Pentagon by the Hudson Institute. The Pentagon paid this establishment, headed by nuclear war strategist Herman Kahn, $1,074,000 for its thoughts in fiscal 1969.

Returns on the investment included the "Peacekeeping Studies." The authors explained that they wrote a few scenarios for the project to "make more vivid the understanding of problems that may occur in the near future."

Nuclear proliferation, they noted, could occur in the Middle Eastern conflict between the Arab states and Israel, and the "resulting possibility of nuclear use by one or both sides, and those possible reactions which the U.S. should support, must be thought through well in advance," they said.

Mr. Sherman's scenario is based on an initial presumption that "Israeli leaders continued to resist Soviet and American pressure to sign the nonproliferation treaty," developing their own "stock of fifteen or twenty 20-to-50-kiloton weapons by late 1972."

The purpose of this soothsaying is to explore the question: "If atomic weapons were to spread to this area of high political tension, what are the possible implications for peacekeeping in any future war that might erupt?"

From here on, the author gives a free rein to his imagination. Israel feigned a "spoofing" attack against the Arabs, late in 1972, and the Arabs called the bluff. As a result, "between half and two-thirds of the Israeli air force were destroyed or damaged on the ground," and the Arabs then launched an armored, land invasion of Israel.

In desperation, Israel dropped two atomic bombs near the invading Arab armies, precipitating a world crisis. At the United Nations, "the representatives of the two superpowers struggled for a diplomatic resolution of the volatile situation."

The United States supported a Russian motion in the Security Council which censured Israel and called upon that country to withdraw all her military forces to the borders that existed before the outbreak of the Six Day War in 1967.

The scenario closes with Israel acceding to this demand and Defense Minister Moshe Dayan resigning from his post.

Mr. Sherman added a note of caution: "It may be advisable to anticipate a criticism of this scenario," he wrote, "by acknowledging that it rests on some relatively optimistic assumptions . . . It is in the nature of all scenarios, however, that they must make controversial assumptions that cannot be proved or disproved except by time and actual events."

The insights generated by this "optimistic" exercise and other problem studies led Mr. Sherman and his colleagues, Raymond D. Gastil, Johan J. Holst, and Andrew J. Pierre, to conclude that "the United States should give very careful attention to the possibility of increasing its support and use of multilateral tools for the resolution of conflict situations."

For one thing, they said, "it will be increasingly difficult to intervene unilaterally" because many Americans—"ranging from extreme liberals to old-fashioned isolationists"—will oppose such action.

To be sure, they wrote, the United States will still "wish to come into certain situations unilaterally, because of lack of belief that any appropriate international body will intervene in a way which will be sufficiently timely, effective, or close to our interests."

But "it will probably always be our desire that conflicts between India and Pakistan, Israel and its Arab neighbors, or Greece and Turkey be solved primarily by the use of international forces, they said.

[From the Providence (R.I.) Evening Bulletin, Feb. 27, 1970]

THE SCIENTIST AND THE MILITARY: A DELICATE DECISION—V

(By Douglas C. Wilson)

The light was fading in the biologist's cluttered office. The day was overcast, threatening New England with snow. On the office shelves, stuck among the scientific journals, were souvenirs from Asia—modest, small mementos picked up during studies and travel.

Dr. Ellis was somber.

"I think it is wrong," he said, "all wrong, to present people with this kind of dilemma."

His dilemma concerned the U.S. Army and his own scientific research in a foreign country. He had a delicate decision to make, so he asked not to be identified.

Dr. Ellis is not his real name. As for the country he was talking about—it could have been India.

The rest of the story is true. As Dr. Ellis would say, "it has a one-to-one correspondence with reality."

For many years, this quiet, highly respected biologist, who belongs to a medical school faculty in New England, had investigated a certain disease in India. His overseas research, like that of many colleagues, was supported, from time to time, by the U.S. Defense Department.

He was grateful, and until two years ago, he never questioned it.

The Pentagon has been generous to American biologists and other scientists who conduct studies abroad, supporting their work with nearly 25 million dollars a year.

Dr. Ellis said if anyone asked why the military was interested in medical problems, the answer was always simple: "Soldiers are exposed to diseases, like everyone else," he explained.

"Oh, I sometimes think the military connection is a little far-fetched," he added frankly. "But the Defense Department accepts it."

For a while, his work in India was supported by research grants from non-military agencies. Dr. Ellis has found research money increasingly hard to come by, however, and two years ago he turned back to a source well-known for its generous support of medical science: the U.S. Army.

The Army gave him the necessary funds, and soon he was back in Asia—where he immediately discovered that "a grant from the U.S. Defense Department today puts you in a very awkward situation.

"I had a very strong impression that there were lifted eyebrows when I showed up," he said. "I definitely got a poorer reception than I had in previous years, and I can't attribute it to anything else."

He said his work is nearing a breakthrough, and he needs to return to India this summer.

He would like to return without the stigma that goes along with an Army contract:

"I'd much rather go out there with money from the National Institutes of Health, or the Rockefeller Foundation, or something of that sort," Dr. Ellis said. But he finds that research stipends from these other sources are in short supply, and the Pentagon may be the only answer.

"In the end, I may be forced either to pay it out of my own pocket, or get it from the Pentagon. And if I get it from them, I'm automatically suspected of being an intelligence agent," he said. "I'll just have to decide."

The case of Dr. Ellis is revealing because his work is so innocuous, from the standpoint of U.S. military interests abroad. His project, like most medical research, is humanitarian, promising benefits to people in all countries.

Pentagon officials defend such activities before Congress, citing valuable results. They once reminded the Foreign Relations Committee that the Asian flu virus "was first cultured in the Army medical laboratory in Japan and was identified at Walter Reed Army Institute for Research as a new virus.

This permitted the development of an effective vaccine at Walter Reed in time to blunt the impact of the disease in the United States in 1957–58," they noted.

Yet Dr. Ellis discloses another part of the story: He said he has a colleague in Japan who works at a similar Army laboratory, and this civilian scientist has told him that Japanese scientists will not meet with him openly—either at the Army base or in their own offices—because the American military establishment in Japan is so controversial.

"If they want to meet, they meet in a cocktail lounge of a hotel," Dr. Ellis said. "That's an extreme case, perhaps, but it points up what I'm telling you about."

The Pentagon has supported many other kinds of research abroad, some of it less innocuous.

Its interest in one kind of study, social science, has been especially vulnerable to foreign suspicion.

The foreigner who accepts a biologist's work at face value still may question the motives of a social scientist who wants to study the internal political affairs of his country—especially when the investigation is sponsored by the Pentagon.

No more than 10 per cent of Defense-sponsored research abroad has ever been in the social sciences, however, and most of this is concentrated in two countries—Vietnam and Thailand.

While concern about foreign sensitivities has been focused upon projects of that kind, Dr. Ellis' account shows that the Pentagon's motives are suspect even when the U.S. military supports the "hard" sciences.

Sen. J. William Fulbright, chairman of the Foreign Relations Committee, has long criticized military support for all of these overseas activities, saying that it "brings us into disrepute among the countries of the world and does great damage to our foreign relations." In a Senate speech last July, he remarked: "Our foreign relations are already bad enough without the Defense Department adding to it."

If overseas research is important, it should be sponsored "by some agency other than the military," he said. "Military intrusion is much different from intrusion by cultural or other institutions, because people are suspicious of the military, as going to their own security."

Many researchers agree. In 1968, an anthropologist, Gerald D. Berreman, created a stir when he quit an expedition known as the "Himalayan Border Countries Project," directed by the University of California at Berkeley. He had worked for seven years on the project, when it was supported by the Ford Foundation.

Besides looking into anthropology, the Berkeley group was studying relations among Tibet, Indian and China, and the political system of Nepal.

Professor Berreman quit because the Pentagon took over support of the search effort in 1967, paying $282,840 to carry it through to July, 1970.

"If they came from innocuous sources," Professor Berreman wrote to his director, "I would, of course, welcome the funds which you have indicated would be available to me in the project. I have research interests I would like to pursue in the Himalayas, and sources of funds are becoming increasingly scarce, especially as budgets tighten to support the war—a pinch anthropologists are feeling acutely."

But he said he could not accept Pentagon money. He cited a warning issued in 1967 by the executive board of the American Anthropological Association:

"Anthropologists engaged in research in foreign areas," it said, "should be especially concerned with the possible effects of their sponsorship and sources of financial support. Although the Department of Defense and other mission-oriented branches of the government support some basic research in the social sciences, their sponsorship may nevertheless create an extra hazard in the conduct of fieldwork and jeopardize future access to research opportunities in the areas studied."

The "possible effects" on the Himalayan project were realized very soon after Professor Berreman left the program. When his story reached India, right and left-wing members of the Parliament protested the project, some of them suggesting that it was a cover for American espionage.

A moderate, pro-government newspaper in India said the project should not have been approved by anyone "alive to the nation's self-respect and security." Finally, the Advanced Research Projects Agency of the Pentagon had to break off its support, ending the project prematurely.

Nearly three years earlier, the Johnson Administration was considerably embarrassed by a research project in Latin America known as "Project Camelot." This was a 1.5-million-dollar study by social scientists at American University, who planned to go into Chile and other countries to study "Methods for Predicting and Influencing Social Change and Internal War Potential."

Neither the Chilean government nor the U.S. ambassador knew anything about the project in advance. When the plan became known, there were loud protests in Chile and in this country.

Ever since, defense-sponsored social science research has been a prime target of critics in Congress, and they have forced the Pentagon to reduce such activities.

Pentagon research officials realize that their support for foreign studies is still a major source of difficulties with the legislative branch. Yielding to this pressure, the Defense Department is trying to transfer many of its projects to the State Department. So far, the effort has failed, because the State Department does not share the Pentagon's great interest in supporting research.

The vast difference between the research activities of the Pentagon and the State Department was recently underscored by Senator Fulbright:

"In the next fiscal year, the Department of Defense proposes to spend $7,547,000 on research about foreign areas. Yet only $125,000 is budgeted for external research by the agency responsible for our nation's foreign affairs," he noted.

State Department officials are not eager to take over responsibility for the costly studies now supported by the Pentagon. They would have to create a whole new bureaucracy simply to administer this activity. And they would have to ask Congress for a budget increase of several million dollars to continue supporting such programs in the years ahead.

State Department officials have indicated there are other things they would rather seek money for.

The long-established military-scientific alliance in the country has suddenly found itself beset by pressures in Washington, academe, and the world at large.

The problems now encountered by scientists who receive military support underscore this fact: That the going for science is perilous as well as prosperous when its fortune is bound to the fortunes of a policy agency like the U.S. Defense Department.

The bond will survive, because defense will always need the help of scientists, and the interests of scientists, like those of everybody else, will need to be defended from time to time.

But the same forces of policy and opinion that encouraged the growth of a "military-scientific complex" in America now are cutting it back.

For many years, the nation felt that the greatest threat to its well-being was the external threat of communism. The defense budget prospered accordingly, and scientists—who require expensive equipment—became wedded to the military as a generous source of funds.

Cold War policies also led to U.S. intervention in foreign countries however, climaxed by the hot war in Vietnam. And as this war intensified, dragged on, and became unpopular, the military—nurtured until it had become a vast establishment—came under increasing attack, along with interventionism itself.

More and more, the U.S. military has met suspicion abroad, criticism in Congress, and opposition on campus.

Scientists associated with the military have been caught in the fallout.

Military support has stigmatized and even killed research projects that scientists have undertaken in foreign countries. It has drawn other scientists into a crossfire here at home—the crossfire between students and the establishment, and between Congress and the Pentagon.

Students and other academic reformers are trying—with marked success at some institutions—to reduce the universities' collaboration with the military.

In Washington, Congress has imposed new legal and budgetary restrictions on military support for science, cutting the defense budget in this area and passing the Mansfield Amendment, which limits the Pentagon's science spending to projects directly related to military needs.

Most scientists resent both of these pressures. Far from being an odious patron, the civilian research arm of the Pentagon has been benevolent in its dealings with science. Pentagon officials have given scientists maximum funds with minimum conditions attached.

At the same time, many scientists show uneasiness about their Pentagon alliance, demonstrating that there is, in fact, some incongruity between their own scholarly interests and the political concerns of the military.

As noted, they also are finding that the alliance can work to their peril, as well as their profit.

Thus, many scientists feel instinctively that while efforts to trim their dependence upon the military may hurt their immediate interests, such efforts, in the long run, may make their lot happier and more stable.

Especially at universities, almost all of those who now receive Defense Department funds say they would rather get their money from civilian agencies.

For the time being, a few of them may suffer and do without. The Pentagon is not going to reduce its activities in any precipitous fashion. It will implement the Mansfield Amendment as little as possible. But many of those scientists whose support is terminated under the new law probably will not find new sources of support immediately.

Universities and graduate students will feel the pinch, as the universities are forced to make up the difference in the scientist's salary and students find themselves without research assistantships.

The other short-range effect generated by these pressures is that of hypocrisy: The hypocrisy of men who claim military relevance in their work, to guarantee continued support, when they had seen no relevance before; and the hypocrisy of university officials who must talk one way to students, who oppose military research, and another way to the government, which insists that defense-supported research must be military.

Due to other political forces, the long-term picture may be brighter, however.

Just as military technologies and science of interest to the military flourished in the climate of international crisis, new civilian technologies and the science they require may begin to flourish in the new climate of the domestic environmental crisis.

The dominant national concerns are turning from the problems of war abroad to the problems of peace—and survival—at home. Already with this change, there are signs that part of the science of swords in this country may be converted to a science of plough-shares.

There is even some desire among defense-supported scientists outside the academic community, at independent military research centers like the Research Analysis Corp. of McLean, Va., to engage in more nonmilitary activities.

And there is a strong desire at universities like the Massachusetts Institute of Technology to cut back on "weaponeering" and turn the energies of science more toward domestic problems.

Government has reflected the negative—the new critical attitude toward the military—by placing new curbs on defense spending, including Pentagon spending in the field of science.

Scientists will watch Washington closely to see whether it also reflects the positive—the new sentiment favoring domestic priorities—by increasing the money for "civilian" science.

Why Stick the U.S. Taxpayer?

(By Douglas C. Wilson)

A man of extraordinary candor, Dr. Harold I. Schiff of York University in Toronto declared in a recent interview that he could think of only one "qualm" he might feel about getting research money from the U.S. Pentagon:

"I'm not quite sure why the U.S. taxpayer is being stuck with this rather than the Canadian taxpayer," he said.

Dr. Schiff, a chemist, has received more than $33,000 from the U.S. Army during the last three years to study the "kinetics of atmospheric constituents".

Over a period of 12 years, ending last August, a scientist at another Canadian university, Dr. Richard Stevenson, has received a total of about $160,000 from the U.S. Navy to support his study of magnets.

In a letter to the student newspaper at McGill University in Montreal, Dr. Stevenson, director of McGill's magnet laboratory, said he first wrote to the U.S. Office of Naval Research in 1955, asking for $20,000.

"And to my surprise, when I think about it," he said, "they gave it to me."

He added: "I have often asked myself why this very generous support for my work was given . . . The only reason that makes sense to me is that I was the happy recipient of American altruism."

What Dr. Schiff and Dr. Stevenson have received is only a tiny part of the "American altruism" that the Defense Department has spread among foreign scientists for many years.

This Pentagon activity still goes on, although it has tapered off since fiscal 1965, when the Defense Department provided $15.3 million to foreign scientists.

Dr. John S. Foster, Jr., the Pentagon's director of defense research and engineering, has said the cutbacks were made because of "concern with the U.S. balance-of-payments problem."

Another problem, growing all the time, is the criticism from Congress. Here as always, the leading critic is Senator Fulbright, who continues to press for further reductions in the Pentagon's overseas research activity.

In a speech to the Senate last year, he said, "There is trouble aplenty over military research being carried out in our own educational institutions and there is no need to ask for the same kind of trouble in 44 other countries. . . . A compelling need in our foreign affairs today is to make the American presence abroad less visible. We do not accomplish that by linking foreign universities to our Military Establishment."

In the current fiscal year, however, Pentagon officials are still planning to spend between five and six million dollars for foreign research in more than 40 countries.

The largest amounts are spent in Canada, the United Kingdom, Israel, and Norway—in that order.

Dr. Foster believes that "if we were forced to discontinue the foreign research program, as a matter of policy, the United States would not have the benefit of important research contributors throughout the world. The United States does not have a monopoly on originality in science and technology," he said, "nor is it possible to do all necessary defense research and development within the United States."

Most of this foreign research is in the biomedical, engineering, physical and environmental sciences.

The titles of many—perhaps most—of the studies sound directly applicable to military technology. For instance, the Navy plans to spend $10,000 in France this year for a study of "supercavitating propeller design." But other projects sound more bizarre: "Nature and pharmacological action in toxin from deadly jellyfish" is a Navy-supported study at the University of Queensland in Australia. "Studies of the bionomics and taxonomy of the birds of India, and taxonomy of the birds of Bhutan," is a recent Army study in Bombay. And the Army also supports an "investigation of leadership qualities of kibbutz-raised young men" in Israel, and a study of the "weathering of rocks under humid tropical conditions" in Malaysia.

One shouldn't always judge a project by its title. The Army has a military title for Dr. Schiff's project, calling it a "study of upper atmosphere reactions involving energy transfer between species of importance in missile reentry."

Dr. Schiff has said the link between his work and missilry is "extremely far-fetched" and " a misrepresentation."

He said he has never felt that his work had any military value. It is a study of "naturally-occurring chemical reactions" in the atmosphere, like the aurora and night airglow.

But even if his project did have military value, he would have a ready answer to potential critics among his fellow Canadians—student radicals or others who might charge him with "selling out for the war effort of another country," he said.

Dr. Schiff said all of his work is unclassified, appearing "in the open literature."

"So if it's of any use to the military, then it's equally available to the Viet Cong," he said.

As it is, he discusses his work freely with "colleagues in Russia," he observed.

If there is any fallacy in Dr. Foster's past argument for supporting foreign scientists, it lies in his statement that the United States would not otherwise "have the benefit" of their scientific talents.

As Dr. Schiff indicates, almost all of their work is unclassified and available in published form to scientists in all countries, no matter who supports it.

This is clear in the scientific journals. A graphic example appears in a 1969 issue of "Astronautica Acta," a journal of the International Academy of Astronautics.

It carries an article on "Gaseous Detonation." Dr. John H. Lee of McGill is one of the authors. In this 19-page report, Dr. Lee presents some results of research he has done with support from the U.S. Air Force.

A Russian scientist, Dr. R. I. Solokhin of the University of Novosibirsk, and an American, Dr. A. K. Oppenheim of the University of California, contributed other information to the same article, as co-authors with Dr. Lee.

This sharing, of course, has always been true of the international scientific community. The point is that Pentagon support is enhancing the work of scientists generally, and not the U.S. defense posture relative to that of the Russians or anyone else.

Dr. Schiff opened a large, bound volume of scientific papers delivered at a recent "international conference on the physics of electronic and atomic collission," which was held in the Soviet Union.

The edition was printed in English, and many of the papers were reports by American scientists and others who noted that their work had been supported by U.S. military agencies.

Occasionally it is argued that the Defense Department supports many unclassified, basic research projects in physical science, gathers the results from many separate sources, and pieces them together like a jigsaw puzzle to fill specific needs in defense technology.

A jigsaw theory of sorts was propounded, in a recent interview, by a high-ranking Pentagon official who did not want to be quoted.

Dr. Schiff noted that this is also one of the more sophisticated arguments put forward by student radicals who insist that the Pentagon would not support research unless it had a direct military value.

"But I can't believe that these people in the Pentagon are that smart, to really be fitting it all together," he said.

THE WORK OF THE SENATE—TOWARD A BETTER BALANCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a speech I made at the annual convention of the American paper industry in New York City last Tuesday, March 17, 1970, be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Toward a Better Balance

(Remarks of Senator Mike Mansfield Democrat of Montana, at the annual convention luncheon of the American paper industry, New York City, March 17, 1970)

I am very grateful for the opportunity to get away from Washington, even for a day. These are busy times in the Senate. The pace is as though the session were ending rather than just beginning. More votes, for example, have been taken in the first few weeks of 1970 than in all of last year through the month of September. The Senate has been meeting almost every day, some times on Saturdays, and the sessions have been long and arduous.

To be sure, this intensity of activity is not necessarily a measure of constructive achievement. I am frank to admit that a high decibel of sound emerging from the Capitol dome is not always indicative of the value of what is transpiring under it. Certainly, there are times when silence is better than talk and when inaction is to be preferred to action.

I do not believe, however, that what is happening in the Senate, today, is sound and fury signifying nothing. The uncharitable may ascribe the Senate's mood merely to pre-campaign jitters among Democrats. It is true that Democrats face a difficult election in November. The President charms the TV audiences; the Vice President bombs the TV commentators. All the while, Democrats are confronted with the sheriff holding, I am told, nine million dollars in mortgages from the last election. As if that were not enough, the Republican National Commitee has made clear that it will zero in on the Senate as the citadel of the remaining Democratic influence in the government.

Nevertheless, the Senate's present disquiet goes deeper than politics. In the first place, the sentiment is to be found not only in members of my party but among Republicans as well. It afflicts those who are slated to be candidates in November and those who are not. Its origins, I believe, lie not in partisanship but in acute sensitivity to what is a growing disquiet in the nation.

The current Senate, in fact, is one of the least partisan I have known. For the past year, most of its members have been inclined to act on the view which President Nixon expressed in his inaugural address. You will recall that the President suggested it was a time for lowered voices.

While restraint in speech was an excellent suggestion, it is not of itself a response to the nation's difficulties. It will not defuse the economic and social time bombs in our midst. Our problems will not grow less dangerous by virtue of being soft-pedaled. Nor will neglect, benign or otherwise, solve them. To manage these problems at all, it seems to me, requires a combination of thought, discussion and action, quiet and restrained, if you will, but nonetheless, purposeful. To achieve that combination throughout the nation, there is a need for the consistent application of Presidential leadership supplemented by the Congress. The past few weeks of intense activity offer evidence that the Senate is willing to supply the supplement.

What it is that produces the uneasiness and, in turn, the predisposition to action in the Senate is not difficult to find. There is a clue to a principal source in the closeness with which the *Wall Street Journal* is read these days in the Senate Lobby. I venture to say that this interest has more to do with stock-taking than stock-holding. The financial news is followed because there is uncertainty regarding the trends in the nation's economy.

I shall not pre-empt these matters when others here are far more expertly qualified to discuss them. I would only point out that Senators are acutely aware that prices have been rising at an annual rate of six per cent for the past two years. They know, too, that price levels have reached an all time high and that interest rates are at a 100-year pinnacle.

Nor is there any point in mincing words about the housing industry and, perhaps, other major elements in the economy. The word there is not recession, it is depression. The national unemployment rate is above four per cent for the first time in many years, and the factory work week is shrinking in a number of the nation's key industries.

Economists grasp the significance of these and other indicators in one way. Bankers in another. Business managers in still another. Senators read the mail from home. We are well-informed, for example, on the consequences of unemployment or shrinking incomes in terms of personal hardships. We are well aware of what high prices mean to old people living on Social Security annuities or pensions of $100 a month or less.

The Senate may acknowledge as inevitable some of the actions which the Administration has taken to combat inflation. By the same token, however, the human impact of these actions are not ignored. In short, Senators do not exclude from their judgment of the nation's economic situation, the human plight of Americans who are caught in the statistics, who are squeezed in the vise of declining or fixed incomes as against still unchecked price-rises.

It is only too apparent that what began a year ago as a laudable effort by the Administration to restrain a serious inflation has not yet succeeded in achieving that goal. At the same time, a large segment of American enterprise and many Americans have been hurt in consequence of those measures. That is the reality and I see no point in whispering or ignoring it.

There is no panic reaction in the nation to this situation. There should not be. There need not be. I do not believe, however, that the way out of the difficulties lies in whistling in the dark. The fact is that there is no assurance of what lies just around the next corner.

The economy as a factor of concern has registered this session on the sensitive litmus of the Senate for the first time in many years. It joins the catalogue of carryover national ills which have long been a source of anxiety. These other difficulties were there during previous administrations and are pressing in the current administration. Included, of course, is the still-seething issue of race-relations. In the Senate, this problem is now seen more and more not as peculiar to the South but one that is woven into the social fabric of the entire nation.

The problem of crime in all of its ramifications, including the condition of the courts and criminal proceedings, also continues to stalk the Senate Chamber. There is great concern at the loss of the sense of sheer physical safety especially among the nation's urban dwellers. So, too, is there deep distress over the proliferating use of dangerous drugs, particularly among the young, and the apparent inability to get at the origins of this phenomenon or to grapple effectively with its consequences.

Finally, as you know only too well, the nation has suddenly awakened to the extent of the pollution of the environment. May I say that the Senate has been aware of this gathering cloud for several years. Pioneer legislative work had already been done in past sessions and effective follow-through in the Executive Branch is now awaited. In this instance, the Congress was able to supply a pre-paid supplement to support the emergence of Presidential leadership on pollution a few months ago.

What these difficulties add up to is a long neglect of the nation's inner structure. Disintegration of the physical environment, especially in the urban areas, is far advanced. Furthermore, the social cement of civility, community responsibility and personal restraint appears to have given way in many places. Resort to violence grows. The whole range of public services—state, local and federal—seems sometimes indifferent to the situation. More often it is inadequate and ineffective. Whatever the case, the pillars of the nation's habitability are tending to weaken—and some at least faster than they can be reinforced.

Solutions to complex problems in a complex society costs a great deal of money. We have spent much and we will, undoubtedly, have to spend more. Whatever is spent, however, will not be enough if we do not also direct to these difficulties a concentration of intelligence and skills and a diligent and determined industry. That kind of effort requires leadership in all parts of the nation, inside and outside of government.

Do we have these resources? Can we afford the effort? We have no choice, it seems to me, but find them and to afford them. The key to the solution, I believe, is to be found in the use of existing resources more effectively and purposefully. In my judgment, a prohibitive taxation is not the sole alternative to decaying cities or insecure streets. Nor is a run-away inflation the inevitable consequence of providing for the needs of the old and the indigent, for adequate health facilities and services and for a decent education of the young.

There is another basic alternative as I see it. It is, as I have indicated, a better use of the resources which are available and, largely, already available to the federal government. To that end, of course, a continuing improvement in the productivity of government is necessary and I am delighted that the President has made a start in that connection. However, while we reach for savings of the millions of dollars which are spent for outdated tea-tasters and the like, it is to be hoped that we will not overlook the billions which are poured out annually in pursuit of outdated foreign policies and military practices.

It is not only a matter of waste and inefficiency in operations. By far, the greater drain lies in the irrelevance and excesses which exist in these main categories of federal expenditures. Some would call for a "reexamination of priorities" in the National Budget of $200 billion. I think it is more accurate to speak of moving towards a better balance between expenditures for security against threats from abroad and expenditures for security against erosion by neglect at home.

For many years, this balance has been heavily weighted on the side of defending against foreign dangers—real or presumed, imediate or projected. That is why the cost of the Defense Department towers above all other federal expenditures. At $72.6 billion it is far and away the greatest single item in the current budget. In my judgment, the balance is lopsided, primarily because, as a nation, we have acted for too long on the basis of lopsided fears. We have concentrated on alien dangers and overlooked or disbelieved the dangers accumulating at home. In the circumstances, the civilian authorities—and that includes the Senate—have not exercised fully their responsbilities to inquire in depth into expenditures for national defense. For years, the checkbook has been open for military expenditures.

Let me cite an example. Cost over-runs on new weapons systems obviously do not contribute to the nation's defense; they contribute to the nation's indebtedness. Yet, on 38 major weapons procurement systems, over $20 billion above the original cost estimates was permitted to accumulate without serious challenge from anywhere in the government until very recently. This total included such items as a $3 billion over-run on the Minute Man Missile; $1.4 billion on the C–5A cargo plane and $3.0 billion on the M–48 torpedo.

The ABM debate which took place in the Senate last year sounded a bell on this laxity. In my judgment, it was a clear, if belated, notice that loose-thinking and loose-spending of this kind in the Executive Branch will no longer find acceptance in the Senate merely because they are packaged as national defense.

What applies to weapons systems applies also to the nation's numerous overseas commitments. The underlying policies and practices which sustain these commitments account for a major part of the defense budget. Over the past two decades, we have accumulated, under various treaties and programs, allies by the dozens and military bases abroad by the hundreds. Whatever the initial merit, many of these arrangements are now outdated or downright dangerous.

An example of costly obsolescence is to be found in the size of the U.S. military force which, for two decades under NATO, has been maintained in Western Europe. Even today, the U.S. contingent there still numbers about one half million American military personnel and dependents. The fact is that a quarter of a century after World War II, we have not made significant changes in the magnitude of the U.S. forces stationed in Europe under NATO. We have not done so, notwithstanding the inflation and the weakened international financial

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position of the dollar, to both of which this costly commitment has contributed. We have not done so, notwithstanding the changed relationships within Europe—in particular, the increasing commercial and other amicable contact between East and West. We have not done so, notwithstanding the consistent disinclination of the Europeans to meet their NATO commitments at anywhere near the agreed on levels.

It is not surprising that a majority of Senators are now urging a contraction in the U.S. troop deployment in Western Europe. What is surprising is that the Executive Branch has resisted, through several administrations, any significant reduction in the commitment.

The cost of this enterprise has been estimated by Senator Percy of Illinois at $14 billion. It is a severe drain on tax resources, a source of inflation and, of course, a major item of outflow in the balance of payments. I look to the Senate to press for a confrontation on this excess in what is otherwise a desirable and still necessary commitment to NATO. Together with the President, it seems to me, that we will have to require this confrontation if we are to begin to redress the balance in the use of the nation's resources. Unless there is a readiness to face up to issues of this kind, the prospects of shifting resources to desperate domestic needs are dim indeed.

What is transpiring in Southeast Asia is even more disturbing than the inertia of our policies regarding NATO. To date, the involvement has already exacted an immense cost—easily over $100 billion for Viet Nam alone and that war continues to command U.S. resources at the rate of about $1.5 to $2 billion a month. More tragic, Viet Nam has claimed almost 50,000 U.S. lives and caused over 250,000 other casualties. The toll of human life continues heavy from week to week. There is no definite sign, as yet, that there is an end in sight via "Vietnamization" or any other route.

On top of the continuing drain of Viet Nam, there has now unfolded the possibility of a deepening involvement in Laos. I speak now not of the U.S. bombing of the Ho Chi Minh Trails which, just inside Laos, lead from North to South Viet Nam. These military operations actually have little to do with the situation inside Laos but are related directly to the conflict in Viet Nam. At this late date, it is probably not to be expected that they will end until there is an end to the war in Viet Nam. In themselves, however, they do not necessarily involve an enlargement of the war in Southeast Asia.

There is another war within Laos—the so-called "hidden war"—which carries the risk of a new U.S. entrapment. It takes a great stretch of the imagination to relate vital U.S. interests to this remote conflict in a primitive land inhabited by scarcely three million people. Nevertheless, we have somehow already managed, by the way of foreign aid or otherwise, to sink billions of dollars in Laos. To that aid has been added U.S. advisors and those who go beyond advice. U.S. transport and helicopter support has been committed. Even a B–52 bombing raid has been undertaken among the ancient burial urns of the so-called Plain of Jars. It is a familiar pattern, akin to that which drove us, beginning in 1952, ever deeper into Viet Nam.

The warning flags are flying in the Senate on Laos. They have been raised by Members of both parties. They have been raised, in my judgment, because the Senate senses that it is vital to the future of this nation—and I use the word advisedly—that what transpired in Viet Nam not be repeated in Laos—or anywhere else. Unless this bleeding of men and resources can be halted now, where on the Asian mainland does it end? What lies beyond Laos? Thailand? Cambodia? China? As the drain goes on in Southeast Asia, where will we find the resources, and the young initiatives and strength and ideals which are essential elements for meeting the difficulties within the nation? In the face of this war's divisiveness, on what will we rebuild a firm national unity without which the stability of the Republic is jeopardized?

It seems to me that we must not only avoid a new enmeshment in Laos but that we must redouble the effort to get our heads above water again in Viet Nam. We must do so, moreover, without prolonged delay. I am persuaded that that is the direction in which President Nixon wants to move and is seeking to move. In that respect he has had and he will continue to have my full support. I have upheld the Nixon Doctrine which would reduce our military involvement throughout Southeast Asia. I have supported, too, the President's request to the Soviet Union and the United Kingdom, as co-chairmen, that they reconvene a meeting of the participants in the Geneva Conference of 1962.

Negotiations still offer, in my judgment, the best prospects for preventing an expansion of the conflict in Laos and for ending the war in Viet Nam. The way is still open in Paris; it can be reopened in Geneva. To that end, it might be helpful, I believe, if the President would designate to the present peace talks in Paris a representative of stature and authority with his full confidence. I would hope, further, that there would be a clarion call for a revival of the Geneva Conference of 1961–1962 on Laos, coupled with the proposal that the Conference be broadened in membership and objective in order to consider the situation of all of Indochina and the Southeast Asian mainland. Moreover, it may well be desirable that the call which goes out should go out for a foreign ministers meeting in order to register its urgency.

From the point of view of the interests of this nation, it is time to seek, I believe, the neutralization not only of Laos, but of all of Indochina and the entire Southeast Asian mainland. It is time to join with other outside powers in bona fide multilateral guarantees of the neutrality of the region.

I do not underestimate the difficulties. But what is the alternative? This nation has everything to gain by trying to revitalize without delay the diplomatic machinery which may bring about a termination of this tragic situation on the Southeastern Asian mainland.

POW AND MIA TRIBUTE DAY

Mr. DOLE. Mr. President, on May 1 in Constitution Hall, a special tribute will be paid to Americans who are missing in action or prisoners of war in Southeast Asia.

I attended a Constitution Hall rally in support of prisoners of war on February 21. Although those who attended were highly concernced, only about 300 were present in the hall, which seats 3,811. It was distressing that so few came in support of men whose sacrifice and hardships are so great. I resolved then that Constitution Hall would be filled within 90 days in a resounding demonstration of support for these brave Americans.

I soon realized that a project of these proportions is a complex undertaking. To better organize and express this tribute, I enlisted the aid of six of my colleagues. The distinguished majority leader (Mr. MANSFIELD), the junior Senator from Arizona (Mr. GOLDWATER), the junior Senator from Colorado (Mr. DOMINICK), the junior Senator from Mississippi (Mr. STENNIS), the senior Senator from California (Mr. MURPHY), and the junior Senator from Maine (Mr. MUSKIE) have responded with their enthusiastic support. Six members of the House of Representatives have also joined us. They are Mr. ROUDEBUSH of the Fifth District of Indiana, Mr. TEAGUE of the Sixth District of Texas, Mrs. MAY of the Fourth District of Washington, Mr. DANIEL of the Fifth District of Virginia, Mr. McKNEALLY of the 27th District of New York, and Mr. SIKES of the First District of Florida.

The tribute will be nonpartisan and nonideological. Those assisting represent both parties, with differing ideologies, but we agree American prisoners have not been treated in accordance with the 1949 Geneva Conventions. We believe they deserve America's unwavering support, regardless of differences concerning conduct of the war.

Plans for the May 1 tribute will be coordinated with Mrs. James B. Stockdale, California, national coordinator of the National League of Families of American Prisoners in Southeast Asia; Mrs. James A. Mulligan, Virginia, area coordinator of the organization; and H. Ross Perot, a Dallas, Tex., industrialist who has been instrumental in promoting international efforts for the release of Americans.

The assistance of major veterans and civic groups in the Washington area has been enlisted. Initial interest has been encouraging, and their support will be invaluable.

It is especially appropriate to pay tribute on May 1. That date designated "Law Day USA" by joint resolution of Congress is particularly significant. The resolution makes specific reference to the ideals of justice under law between nations.

We chose to declare our support for these missing Americans and POW's within the context of Law Day to emphasize our belief in the rule of law, especially the law of nations, which is embodied in the 1949 Geneva Conventions on prisoners of war. These conventions are the definitive statements in international law concerning treatment of prisoners of war, and both North Vietnam and the NLF have persistently and callously violated them, notwithstanding ratification by North Vietnam on June 28, 1957. Despite ratification and the clear language of the conventions, Hanoi, and the Vietcong have committed the following calculated violations:

Refusal to provide proper nourishment and humane treatment for all American prisoners of war, information on their detention camps and access by neutral observers;

Refusal to identify all American prisoners of war;

Denial to American prisoners of war the right to communicate regularly by mail with their families; and

Continued detention of the seriously ill and wounded.

Mr. President, I urge the participation of all Senators and all Americans. Our prisoners and their families must not feel forgotten by their fellow citizens. Neither can the North Vietnamese and the Vietcong believe their conduct is condoned by the American public.

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Mr. President, I therefore renew my hope that all Members of the Senate and of the House of Representatives and all Americans will on Sunday, May 1, 1970, pay special tribute to those Americans missing in action and those Americans who are presently prisoners of war.

THE SOIL CONSERVATION SERVICE DESERVES ADEQUATE FUNDING

Mr. CHURCH. Mr. President, on March 17 I presented testimony to the Agricultural Appropriations Subcommittee calling for proper funding of Soil Conservation Service programs. In that testimony I set forth in some detail the need for the programs provided by the SCS. Because they are of vital importance to our country and to my State of Idaho, I ask unanimous consent that the text of my remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TESTIMONY BY MR. CHURCH

Mr. Chairman, once again the appropriations of the Soil Conservation Service are under consideration by this committee and once again, I appear before you to plead the cause of this vital conservation program.

Long before ecology, preservation and conservation became the popular terms they are today—heralded by the press and the public and held up as the most vital political issue facing our nation in this decade—the Soil Conservation Service was laying a foundation upon which a viable conservation program could be built. Their studies of the soil made it possible for farmers and ranchers to plan their operation with an eye toward future as well as present production. SCS programs have paid for themselves time and time again in preservation of vital natural resources, in good farm and ranch conservation practices, and in developing new and better methods to protect our environment.

Today the Soil Conservation Service is being asked to do much more. The benefits of its conservation knowledge and experience are being brought to bear on the solution of a rapidly increasing variety of problems. Expanding suburbs, housing developments, industrial growth, airports, highways, parks, school facilities—indeed the entire urbanization of this country—involves land that only a few years ago was agricultural. And as this process takes place, the knowledge of the SCS is needed by those who must make basic decisions.

The knowledge gathered and constantly being added to by the SCS is used in flood control in new areas, in water pollution abatement, watershed protection and erosion control. These are practices that not only pay dividends on the farm and ranch—they are also vital in the proper planning of our urban environment. As one example—the proper application of knowledge gathered by the Soil Conservation Service could undoubtedly have prevented the terrible property loss occasioned by recent mud slides in suburban areas of California.

The Soil Conservation Service is dedicated to helping our people, both urban and rural, make wise use of the land through proven conservation practices. Their programs help to keep the soil in place, control the flow of water resources, and prevent the carrying of silt into our rivers, lakes and streams. It is a team effort with the land owners themselves making the decisions and doing the work on the land, and the SCS furnishing technical information to help the land owners and operators evaluate their problems and arrive at practical, economical solutions. The mission of the Soil Conservation Service is as important now so as we begin a nationwide campaign to clean up our environment. We must strengthen the programs of the Soil Conservation Service to better aid in the carrying out of this great national mission.

Secretary of Agriculture Clifford Hardin has recognized the need for the wise use of conservation practices in our rural areas. On February 12 of this year, Secretary Hardin, in an address to the National Farm Institute in Des Moines, Iowa, pointed out:

"Nearly three-fifths of the Nation's land area is used to produce crops and livestock. More than one-fifth is ungrazed forest land. Thus the watersheds that sustain urban America are largely in farms and forests. And the Nation must look to the managers of these lands for most of its land treatment as well as management of its water supplies."

These facts alone point up the tremendous need for a strong, viable Soil Conservation Service Program.

Idahoans familiar with the program are concerned over the Conservation Operations item in the SCS proposed budget. I share that concern, Mr. Chairman. The level of proposed funding for next year is approximately $200,000 over this year's budget. Most of that increase is for "operations of Plant Materials Centers," for which there is a critical need in Idaho. I urge the Committee to approve this small increase in the Plant Materials item.

The balance of this item is the basic source of aid provided by the SCS to farmers and ranchers in planning wise conservation practices. The budget estimate is $106,045,000 as compared with a 1970 appropriation of $106,103,000. This appears to be a slight cut, but, given increased demands placed upon the service and rising cost of operation, the cut becomes very significant.

Earlier this year, I met with Mr. George W. (Bill) Clark, the legislative chairman of the Idaho Association of Soil Conservation Districts and other representatives of the Department of Agriculture and SCS. At that meeting, in which other members of Idaho's Congressional Delegation participated, deep concern was expressed for recent personnel losses sustained by SCS. I have heard this same concern expressed by Idaho farmers and recently received resolutions from several major Idaho Farm organizations protesting cuts in the Soil Conservation Service program.

In Idaho, the latest estimates indicate we need at least 1½ more technicians per soil conservation district for an increase, statewide, of 75. This compares with a nationwide need of about ¾ of a technician per district. I am told by the Idaho Association that, nationwide, over a period of the next five years, an increase of approximately $20 million in this program of assistance to farmers and ranchers is needed. I support the position of the Idaho Association and request an increase of from 7 to 10 percent in the Conservation Operations item to cover increased operational expenses, in order to reverse the regrettable dismissal of technicians in the SCS, and to provide for modest additions of severely needed personnel.

The budget provides for a slight increase in River Basin Surveys and Investigations. Currently, Idaho's Soil Conservation Service is involved in the Columbia-North Pacific Framework Study and the Great Basin Study. Funds are needed for the completion of this work. It is our hope that a more detailed study of the Upper Snake will take place in 1972. I am pleased to support the budget request in this area.

Watershed Planning under the budget request stands to suffer a 20% cutback. The Watershed needs of Idaho are increasing—not decreasing. The legislatures of my state has more than doubled the state's contribution to Watershed Planning. State input has increased from 0 to $45,000 to the most recent level of $110,000 per biennium for this vital program. A federal decrease in the magnitude of 20% would not only drastically curtail the planning rate, but would discourage any further enlargement of State Legislature and the State's participation in this important work. Both the Idaho and the National Association of Soil Conservation Districts have repeatedly called for a two-fold increase in the Watershed Program. I have supported the request in the past. Accordingly, I am opposed to the proposed reduction and would prefer to see a reasonable increase in this item, with enough new planning starts authorized to use the full appropriation.

The budget estimate shows a deep cut in resource conservation and development planning with no money asked for new planning starts.

Idaho feels fortunate to have received one of the first ten Resource Conservation and Development Projects. The project is demonstrating that this approach is sound. The emphasis on sound, strong, local leadership is proving its worth.

A four-county, four-soil conservation district group in Idaho recently organized what they call the Wood River Resource Area. These local officials, along with the majors of the surrounding towns and other local organizations, have been engaged for two years in developing a comprehensive resource plan for the area. Recently, they filed an application for a Resource Conservation and Development Project. That application is now in Washington awaiting the approval of the Secretary of Agriculture for planning.

This fine program deserves better treatment than that contemplated in the budget. I respectfully urge that the Committee treat it affirmatively.

In conclusion, Mr. Chairman, I would like to take this opportunity to thank you for the opportunity to appear before your committee today in support of the programs of the Soil Conservation Districts of my State. The service which they provide in the battle to sustain and improve our environment is vital. Their programs are deserting of the highest regard and the highest practicable level of funding. SCS has proved its worth many times over and, with the proper support from the Congress and the Executive, it will continue to be one of the strongest weapons in our battle to preserve a habitable environment in this nation for all of our people.

INTER-AMERICAN ECONOMIC AND SOCIAL COUNCIL MEETING

Mr. CHURCH. Mr. President, Robert H. Dockery of the staff of the Foreign Relations Committee attended the Inter-American Economic and Social Council meeting in Caracas in February. His report to the committee is an excellent summary of the meeting, and a cogent statement of the economic issues, particularly as they affect trade matters, between Latin America and the United States at this time.

Inasmuch as the Congress will undoubtedly have to consider many of these issues in the months ahead, I ask unanimous consent that Mr. Dockery's report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE EIGHTH SPECIAL MEETING OF THE INTER-AMERICAN ECONOMIC AND SOCIAL COUNCIL (IA-ECOSOC)

THE LATIN AMERICAN POSITION

In May of 1969 the foreign ministers of twenty-one Latin American countries met in

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Vina del Mar, Chile and produced a 6,000 word document, setting forth for the United States, Latin America's position on trade and aid issues. Two weeks later Foreign Minister Gabriel Valdes of Chile hand-delivered the document to President Nixon, and after a forty-minute meeting with the President, the *New York Times* quoted Valdes as saying, "All that can be said has been said; the time has come for action."

For the Latin American nations, the Consensus of Vina del Mar is a guide to action, and it represents nothing less than a six-year effort on the part of Latin America to formulate a unified development policy vis-a-vis the United States. The Consensus emphasizes basic economic issues and in this area makes a solid attempt to define the terms and conditions for future relations with the United States. In this respect, the following points are particularly noteworthy:

Trade. The Latin American countries have reached the conclusion that increased trade is their only real avenue to economic development on terms which they find politically acceptable. With this objective in mind, they deem it vital that the United States agree to:

(1) A "standstill" on tariff and non-tariff barriers affecting Latin American exports to the United States, including an agreement not to take any action which would adversely affect Latin American exports to third countries;

(2) A review of existing trade barriers with a commitment to their gradual elimination;

(3) A system of compensatory financing whereby their export earnings would not be affected if the U.S. did adopt additional trade restrictions; and

(4) A policy of promoting among the developed countries a generalized tariff-preference arrangement for exports from the developing countries. Barring acceptance of such an ararngement by the other industrialized nations, the United States should adopt a regional tariff-preference system.

The leaders of Latin America firmly believe that trade designed along these lines would provide their countries with the foreign exchange necessary to permit them to be in control of their own economic development programs. And from a political standpoint, these leaders adamantly maintain that such a degree of economic independence is mandatory if they are to contend effectively with rising nationalist sentiment and the anti-Americanism that serves as its foundation.

Aid, finance, and investment

While the Latins have not adopted an either-or approach on the trade-vs.-aid issue, they emphasize that aid must not be conditional—and least of all conditional in terms of adversely affecting their actual or potential trade patterns and/or tying aid to non-competitive suppliers. To the extent possible, aid should be multilateralized with the aid recipients provided a more meaningful say as to how assistance funds are to be spent. In this regard, in the Latin American view, the program loan (balance of payments support) should be emphasized and these loans should be made through the Inter-American Development Bank.

The Latins also argue that the United States should do all that it can to expand long-term financing arrangements, including easier accessibility to U.S. capital markets in order to reduce Latin America's dependence on foreign private investment. In this connection, Latin American leaders make the point that their countries can pay off long-term credits while foreign investments represent a continuous drain on much-needed foreign exchange. Accordingly, and something which is particularly distasteful to Latin leaders is the notion (insisted on by the U.S.) that foreign investment is a form of economic cooperation and assistance. The Latins say that in 1967, for example, U.S. investors repatriated $1 billion in profits from Latin America while sending to it in the form of fresh capital only $191 million. These figures do not of course take into account the wages and taxes paid or the profits reinvested by U.S. business; rather they are used solely to make the point that U.S. investors are taking more money out of Latin America than they are sending in. Latin Americans believe in general that, if the U.S. wants its investors to prosper in the region, then it is incumbent on the U.S. to make sure that investors are "development-oriented."

Science and technology

The United States must make a concerted effort to help bring about the transfer of science and technology to Latin America with a view to helping the latter mount a major research and development effort of its own. Aside from the traditional technical assistance arrangements, Latin America wants the U.S. to support a massive infusion of industrial know-how, including access to patents, trademarks and licenses. This should be accomplished through the establishment of regional information centers and data banks. From these efforts, Latin America hopes to be able to adopt existing technology to its own particular conditions while, at the same time, to begin to generate technological advances on its own. (Latin America's interest in and concern for developing applied scientific and technological skills has grown perceptibly since the appearance of Servan-Schreiber's *The American Challenge.*)

THE U.S. RESPONSE

These were the basic issues and attitudes which the United States confronted during the Eighth Special Meeting of the Inter-American Economic and Social Council and the two technical meetings that preceeded it. For the most part, they were not new—many of the same issues having been raised at the Bogota Conference of 1948. There was, however, a new cast of characters, and unlike in 1948, the Latin countries were firmly united on the issues and on their determination to force the United States to respond to them.

In response the United States offered to undertake the following:

(1) To support the creation of a Special Committee for Consultation and Negotiation. According to the IA–ECOSOC resolution as finally approved: "This Committee shall be composed of representatives of all the member countries of the Organization (of American States), and its duration shall be indefinite. Its functions shall be to serve as an instrument for consultation and negotiation between the Latin American countries and the United States of America within the framework of a new policy which will strengthen hemispheric cooperation for development in the spirit of the Consensus of Vina del Mar and of the proposals of the United States."

(2) To submit U.S. economic policies to the country-review procedure conducted annually by the Inter-American Committee on the Alliance for Progress (CIAP). (This was announced by the President in his October 31 statement before the Inter-American Press Association.)

(3) To drop the AID additionality requirement, which forced aid recipients to increase their non-traditional imports from the United States. (This was done in Trinidad in June, 1969.)

(4) To remove the tying of AID loans to U.S. export by permitting procurement from Latin American suppliers, providing that 50% of the value of the product is produced in Latin America.

(5) To remove all restrictions on the dollars provided to cover local currency costs involved in AID project loans and similar loans made through the Fund for Special Operations of the Inter-American Development Bank.

(6) To review the "nuisance" duties on those products not produced in "substantial quantities" in the United States but of interest to Latin America for export to the U.S. The Latin American countries are to submit their product lists no later than March 31, 1970. (At the closing plenary session of the IA–ECOSOC meeting, Mexico announced that it had its list in hand and that it was formally submitting it to the United States.)

(7) To urge the industrialized countries to adopt an across-the-board tariff preference scheme for exports from the developing nations. Should these efforts prove of no avail within a "reasonable period of time", the United States agreed to support the adoption of a regional preference system on behalf of Latin America.

(8) To increase financial support for the Inter-American Development Bank, plus advancing to 1970 the U.S.' 1971 subscription of $206 million to the Bank's callable capital.

(9) To maintain our bilateral aid program to Latin America as the U.S.' largest regional economic assistance effort (about $430 million for FY 1971), and in addition, to fund the following specific programs and/or projects, primarily under the auspices of the OAS.

(a) $30 million to assist the development of capital and securities markets plus the identification of viable industrial projects. This is to be a joint project between CIAP and the Inter-American Development Bank.

(b) $20 million to promote tourism in Latin America.

(c) $20 million to promote science and technology.

(d) $15 million for trade expansion and promotion.

If the Latin Americans were unhappy with the U. S. response, they were not so unhappy as to have pushed the confrontation to a walk-out—as many had thought would occur. But, by the same token, the best the United States was able to do was buy time.

The Latins were particularly pleased with the U. S. agreeing to drop what they consider to be some of the most irritating restrictions on AID loans and with its apparent willingness to get down to concrete cases on the trade issue. Regarding the latter, Latin America's economic and finance ministers left the IA–ECOSOC meeting believing that they had gotten their foot in the door, and that during future meetings of the Special Committee for Consultation and Negotiation they would be able to kick it wide open.

It appears very doubleful, however, that the Administration views its "partnership" policy in these terms. The U. S. Delegation became increasingly frustrated because of its belief that the Latins were only out to make unreasonable demands on the U. S. and therefore really not willing to discuss the issues in the spirit of "true partnership." But "true partnership" implies equality among the partners. This, of course, is not the case because, for the Latins, partnership can only mean their *attaining* equal status—economically as well as politically.

In reply to the Latin's interpretation of "partnership," the point which Assistant Secretary Meyer and other officials made repeatedly, particularly with respect to the trade issue, was that the Executive Branch is sympathetic to their demands but is unable to meet them without Congressional approval. And "given the prevailing mood in Congress," the Latins should understand that the Executive Branch is faced with a long, up-hill fight.

In my conversations with the Latin delegates, I agreed that there was a good deal of truth in what Meyer and the others were saying but, at the same time, I pointed out that the Nixon Administration had not submitted any legislative program for re-directing U.S. policy toward Latin America. I made these same points to the members of the U.S. Delegation but received no indication that the Administration plans to ask Congress to support a new program in the trade and aid field vis-a-vis Latin America. For what it may have been worth, I also made the point that Governor Rockefeller's recommendations in these areas had been generally well received by the Committee.

It seems to me that, in trying to convince the Latins of the Congress' intractability, the Administration has done little more than convince itself; moreover, there seems little doubt but that the Administration firmly believes it achieved at least a minor victory at the IA-ECOSOC conference. But if it were a "victory", it came not as the result of any new policy initiative but rather, the result of the U.S. agreeing to bury the old one. What will take its place remains to be seen—for although the Administration has decided to emphasize straight economic issues as the basis for "partnership" with Latin America, it has not decided what this means in terms of implementation:

(1) Does it mean more trade and less bilateral aid? Does it mean more trade and increased multilateral aid? Or does it mean relying more on U.S. investment directed through the Overseas Private Investment Corporation?

(2) Can the United States respond meaningfully to Latin America's demand for increased trade with the United States, in view of the fact that the products of most interest to Latin America are the very products which the United States has traditionally sought to protect, namely those with a labor-intensive input? In other words, is trade a politically viable alternative to aid with respect to U.S.-Latin American policy?

(3) To what extent would an emphasis on trade effectively serve to counter charges of U.S. economic intervention in Latin America?

(4) Are the political advantages that might be gained through emphasizing trade outweighed by the reduction in the kind of control which we have been able to exercise through the bilateral aid program? Or is the loss of this "control" itself an advantage?

(5) How can U.S. investment be promoted in Latin America in a manner which is politically acceptable to the region? Should the U.S. Government officially adopt a policy of promoting only joint venture arrangements in which Latin Americans own a majority (or close to it) of the stock?

(6) How long should we give the other industrialized nations to decide whether they will join us in promoting a system of generalized tariff preference for the developing countries? How long will Latin America give us before urging that we adopt a regional preference scheme? Could the U.S. exert significant pressure for the generalized scheme by accepting Latin America's more immediate demands on the trade issue?

(7) To what extent is the United States prepared to help Latin America refinance its external debt, which during this decade will increase appreciably as the grace period ends for all the Alliance loans made during the Sixties? Is there any other way for Latin America to pay off this indebtedness except by increased exports?

In retrospect

Writing in 1961, Dr. William Manger, former Assistant Secretary General of the Organization of American States warned:

"There could be nothing more dangerous for the inter-American regional organization than for a situation to develop whereby one country would find itself on one side of an issue and all the others on the other side. And yet, that is exactly what is happening in the economic field, in which the United States invariably finds itself opposed by every other American republic on every economic issue that presents itself."

The incipient danger of which Dr. Manger spoke in 1961 became a glaring reality during the Eighth Special Meeting of the Inter-American Economic and Social Council. The principal results of the four days of deliberations was the agreement to establish a Special Committee for Consultation and Negotiations.

The significance of the Special Committee is that it formally institutionalizes the historical economic confrontation between the United States and Latin America. Whether this new ministerial-level forum replaces, for all intents and purposes, the Inter-American Economic and Social Council is itself a moot point. The fact of the matter is the Latin American countries have formulated a single, consolidated position on trade and economic development issues, and, as a single negotiating unit, they have presented to the United States a list of their economic grievances which they believe the United States is duty-bound to remedy. Thus from the Latin American standpoint, the general purpose of the Special Committee is two-fold; 1) To achieve a "redress of their economic grievances" and 2) To ensure that new grievances are not added to the existing list. It is within this framework that the Latins view the Administration's policy of hemispheric "partnership", and the success or failure of the partnership will depend on Washington's willingness (or lack of it) to give the Latin American countries a voice in U.S. trade and economic policy as it affects their economies both individually and collectively.

As a follow-up thought: Jose Marti (independence leader and national hero of Cuba) once cautioned his countrymen that "a people economically enslaved but politically free will end by losing all freedom; but a people economically free can go on to win its political freedom." If Marti's warning has been lost on Cuba, it has not been lost on the rest of Latin America. Rightly or wrongly, Latin America believes that it is fighting U.S. economic enslavement and what it is seeking from the United States is agreement in principle on non-intervention in an economic sense—with Latin America being the judge as to what constitutes "economic" intervention.

If the U.S. reluctance to accept the principle of political non-intervention is any guide, the Latin American countries are sure to be in for some very serious disappointments. But in at least one respect, Latin America's policy-makers are in a better position than their U.S. counterparts: the Latin Americans know what they want. The Consensus of Vina del Mar leaves no doubt on this score.

THE ABM

Mr. CASE. Mr. President, the subject of our strategic defense, including the controversy over the antiballistic missile, is a truly vital subject, vital because it concerns the preservation of our national security. We must not leave undone anything essential to our security. We must not squander money when it is not necessary for our security. This is a matter above individual whim, above the interest of any particular group, above partisanship of any kind.

I agree with those who hold that building an ABM area defense system against China is unsupportable in foreign policy terms and in light of the facts about the Safeguard system. Quite contrary to the proposition that its deployment would be helpful in context of the Strategic Arms Limitation Talks with the Soviet Union, I suggest that it would be escalatory and likely harmful to these talks. These matters I shall devote more time to very soon.

Furthermore, it would in truth damage the credibility of our Asian deterrent, not enhance that deterrent, as has been claimed.

The Secretary of Defense has told us that the Chinese might have nuclear-tipped strategic missiles in 1975. But as he also conceded, our civilian population would not be protected against the Chinese from the Safeguard ABM until the entire 12-site system were deployed. This would be many years after 1975.

So the Safeguard defense of our civilian population, which we are told is necessary for a credible Asian policy, will not exist during a lengthy period when the Chinese have strategic missiles. This would, by the administration's definition, render our Asian policy "uncredible." The fact is that with China, as with any other nuclear power, what makes our foreign policy credible is our large strategic missile deterrent. This is fortunate because expert testimony has shown that the workability of the Safeguard ABM is open to the gravest doubts.

So far as protection against the Soviet Union goes, it is now clear that those who opposed Safeguard last year were right. Secretary Laird conceded this when he said that continued SS-9 deployment could present our country with a threat "much too large to be handled by the level of defense envisioned in the Safeguard system without substantial improvement and modification."

I am reassured that the Secretary has come to agree what we told him last spring: That Safeguard would not protect our deterrent and that if we are to protect our strategic missile force, we must seek new hardware and new techniques of using it.

But even here there is a contradiction in the administration's position. For although the administration this year speaks primarily of Safeguard's importance in protecting our strategic missiles, four out of the five additional sites on which "long leadtime advanced preparation work" would be undertaken in phase II of Safeguard can only be understood in terms of area defense. Like a cat chasing its tail, we are back at area defense against the Chinese.

Safeguard is being justified to the American people not by sound reasoning but by sleight of hand. There is a Safeguard rationale to fit every occasion, it seems, but not increased security for the United States.

THE POSTAL STRIKE

Mr. DOLE. Mr. President, the ramifications of the postal strike in New York City is of concern to all Senators. This walkout has caused a paralysis in the movement of mail in a tristate metropolitan area, and is spreading to other cities throughout the United States.

While the Congress should not be pressured into taking legislative action, the postal strike dramatically indicates the necessity of the Senate moving rapidly to consider the Nixon administration's plan for postal reform.

It can be hoped those seeking to stall the nomination of Judge Harrold Carswell will permit us to act on the nomination very soon. If the postal strike spreads, they will have a difficult time explaining why the Senate could not move expeditiously in a time of national need.

LAOS—A PRODUCT OF PAST U.S. POLICY

Mr. DOLE. Mr. President, I have listened with interest to the expressions of concern over the American presence in Laos. We have heard warnings about the dangers of our presence there. And, we have even heard allegations of a credibility gap because of the President's statement on the extent of our involvement in Laos.

PRESIDENT KENNEDY'S COMMITMENT

To put our Laos policy in perspective, let us examine the historical context of our policy.

First, let me read from the state of the Union message of President John F. Kennedy of January 30, 1961, a little over 9 years ago:

> In Asia, the relentless pressures of the Chinese Communists menace the security of the entire area—from the borders of India and South Vietnam to the jungles of Laos, struggling to protect its newly-won independence. We seek in Laos what we seek in all Asia, and indeed, in all the world—freedom for the people and independence for the government. And this Nation shall persevere in our pursuit of these objectives.

Mr. President, those two sentences clearly are the reasons why John F. Kennedy took us into South Vietnam and Laos. Let me repeat them:

> We seek in Laos what we seek in all the world—freedom for the people and independence for the government. And this Nation shall persevere in our pursuit of these objectives.

Who will deny those are noble aims? Who, except the leaders of the new left and the neoisolationists.

The commitment in Laos was brought to the attention of the American people on January 30, 1961.

LAOS DURING KENNEDY ADMINISTRATION

During the next 2½ years, much happened. And much was said by President Kennedy, some of which is worth reviewing.

On March 23, 1961, in a statement issued from the White House, the President noted that all was not well in Laos. There was fighting there between Communist and non-Communist forces and he said:

> Soviet planes, I regret to say, have been conspicuous in a large scale airlift into the battle area.

The President said there had been over 1,000 Russian sorties in about a 4-month period. Then he warned:

> If there is to be a peaceful solution, there must be a cessation of the present armed attacks by externally-supported Communists. If these attacks do not stop, those who support a genuinely neutral Laos will have to consider their response.

That, Mr. President, is what is known as a thinly veiled threat. The President backed up that warning with the words that "all members of SEATO have undertaken special treaty responsibilities toward an aggression against Laos."

Senators may recall a rather famous line from his statement:

> Laos is far away from America, but the world is small.

Since 1961, the world has not grown any larger, Mr. President.

Another statement came on March 26, 1961, after a meeting between President Kennedy and Prime Minister Macmillan of Great Britain at Key West. A joint communique said:

> They agree that the situation in Laos cannot be allowed to deteriorate.

DISPATCH OF TROOPS TO THAILAND

In the interests of brevity, let me go on now to Tuesday, May 15, 1962, where I wish to stop and digress a moment to a somewhat related issue. On that day, the President issued a statement which read:

> Following joint consideration by the Governments of the United States and Thailand of the situation in Southeast Asia, the Royal Thai Government has invited and I have today ordered, additional elements of the United States military forces, both ground and air, to proceed to Thailand and to remain there until further orders. These forces are to help insure the territorial integrity of this peaceful country.
>
> The dispatch of United States forces to Thailand was considered desirable because of recent attacks in Laos by Communist forces and the subsequent movement of Communist military units toward the border of Thailand. A threat to Thailand is of grave concern to the United States.

Mr. President, where then were the protests from those who protest in these Chambers today?

Mr. President, on July 23, 1962, the Geneva Accords were signed and hailed by the President as "a significant milestone in our efforts to maintain and further world peace."

The President finished his statement by promising Laos "moral and material support, as that country enters this new phase in its history."

AMBASSADOR W. AVERELL HARRIMAN

Those accords were brought about by the elder statesman and internationally known negotiator, Ambassador W. Averell Harriman. As a conciliatory gesture during his negotiations, we accepted the Communist choice of a ruler for neutral Laos, one, Souvanna Phouma, the same royal gentleman who today seeks our military help.

Mr. Harriman is an interesting study in what is wrong with American diplomacy. He has difficulty in standing up to the enemy.

He is willing to walk the extra mile even as the opposition negotiator refuses to take the first step.

The only place he ever stood and fought was over the size and shape of the table.

His effectiveness can be measured by the situation in Laos today, 8 years after he agreed to the Geneva accords. The whole theory behind the Geneva accords was, if we give the Communists everything they ask for, maybe they will go away; but, as it turned out, only America went away. The Communists have stayed around in sufficient strength to keep Laos in a complete state of turmoil and assure that there is no effective ground opposition to their use of the Ho Chi Minh Trail. It was a clever ploy on the part of the Communists, obviously too clever for Mr. Harriman.

It has cost the United States dearly in South Vietnam, and yet there are those today who would suspend even our air attack along that trail regardless of what that would mean in the way of new casualties and a longer war.

Next, Mr. President, we come to September 30, 1962, where in a joint statement President Kennedy and the Foreign Secretary of Great Britain agreed:

> On the strong necessity for the signatories of the Geneva Accord of Laos to see to it that all foreign forces are withdrawn from that country by October 7.

Mr. President, as we know, something went awry. October 7 came and went. And the North Vietnamese kept coming and staying.

My next date is February 25, 1963, when in a toast at the White House to His Majesty, Sri Svang Vatthana, King of Laos, the President said that "we are wholeheartedly behind your effort to maintain the freedom of your people." That was then, of course.

Finally, Mr. President, I come to April 19, 1963. On that date the President addressed the American Society of Newspaper Editors. He was asked, "Does the deteriorating situation in Laos raise the possibility of U.S. intervention?"

The President skirted that question. He called the matter "most serious" and "of the greatest concern." But he never answered the question.

Yet, the fact is, Mr. President, American personnel were already in Laos and we had agreed to increase our shipments of supplies and weapons. We were there then for the same reason we are there now, the Communists had violated the Geneva accords. Not only had they never lived up to them, but they also were steadily increasing their numbers.

If they had not been there, we would not have been there. The same is true today.

There are only a few minor differences between then and now. In the past, Presidents Kennedy and Johnson would not discuss Laos involvement. Today President Nixon has discussed it fully.

Then there was silence from the chairman of the Senate Foreign Relations Committee. A member of his party was President.

Today there is no silence. Today a Republican is President.

Mr. President, I have presented the facts. Members of this body may draw their own conclusions.

THE POSTAL STRIKE

Mr. CURTIS. Mr. President, I rise to express the hope that the Government will take very stern and decisive action in reference to the postal strike. It should be done soon and without delay. The delivery of the U.S. mail is Government business. No one has a right to strike, or delay, or interfere with that important Government business of transporting the mails.

Mr. President, our entire system of commerce and business, as well as all the personal and private communications,

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are dependent upon the flow of the mails. No group, regardless of a grievance they claim, has a right to interfere, let alone deliberately halt delivery of the mail.

It is my hope that not only can action be taken to stop the strike, but also that whatever is necessary, whether it be military troops or otherwise, be brought in to deliver the mail now, and that Congress take such steps as are necessary to see that what is taking place in the country now does not spread and that it does not happen again.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. GRIFFIN. Mr. President, I wish to associate myself with the Senator's statement, and to call attention to a resolution introduced by the distinguished Senator from Delaware (Mr. WILLIAMS), Senate Resolution 373, which is on the calendar. At some point, if the words of the Senator from Nebraska are not heeded, it may be that the Senate will have to turn its attention to consideration of such a measure. The resolution very appropriately recites that under section 7311 of title 5, United States Code:

> An individual may not accept or hold a position in the Government of the United States if he participates in a strike, or asserts the right to strike against the Government of the United States.

That is a very important provision, in addition, of course, to criminal penalties that are provided by the law for engaging in a strike against the Government of the United States.

Mr. CURTIS. I thank the distinguished Senator. I am wholeheartedly in accord with the objectives of that resolution.

I yield to the author of the resolution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CURTIS. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, I support the remarks of the Senator from Nebraska. I think it would be a catastrophe if this country were to allow the mail service to continue in its present disrupted form. We cannot allow this situation to expand.

I introduced a resolution yesterday in order that members of the postal service would be alerted to the fact that there is a very strict law on the books now regarding the right of any individual to strike against the Government.

The purpose of this resolution was to call upon the Department of Justice and the Postmaster General to enforce these laws.

As the Senator from Michigan has pointed out, the law clearly states that an individual may not accept or hold a position in the Government of the United States if he participates in a strike or asserts the right to strike against the Government of the United States.

It also provides rather serious penalties for such actions in addition to losing their jobs as Government employees.

The resolution which I introduced would call upon the Postmaster General and the Attorney General to enforce this law. I think it is time that notice be given to those encouraging or participating in these strikes.

I talked with the leadership of the Senate and said that while I would not make an effort to push this resolution to a vote today, since some Members may not have a chance to study it, I did not feel that if the strike were in effect over the weekend, when we come in Monday Congress would have no choice but to give immediate consideration to this resolution or to take some action, because we cannot sit idly by in the Congress and see the mail service dropped.

Mr. CURTIS. I commend the distinguished Senator. This Nation is threatened by a rail strike, threatened by a truck strike, and threatened by a mail stoppage. Not only are the people of the country being unfairly treated and punished; it is a test of whether this Government has the will and determination to govern.

Mr. WILLIAMS of Delaware. I thank the Senator. As I said earlier, if the strike is not settled over the weekend Congress must face up to that situation.

A strike against the Federal Government is a violation of the law, and it cannot be condoned.

A nationwide disruption of our mail service can have catastrophic results to our economic system, and we just cannot allow that to happen.

In this instance the Government has sufficient legal authority to cope with this illegal strike, and these laws must be enforced.

The union and its members should be on notice that Congress will not act on a pay increase under the blackmail threat of an illegal strike.

JUDGMENT ON MYLAI

Mr. TYDINGS. Mr. President, yesterday, unfortunately I was called off the Senate floor when the distinguished Senator from Mississippi (Mr. STENNIS), chairman of the Committee on Armed Services, made some remarks which are shown in the CONGRESSIONAL RECORD which contains the proceedings of March 19, 1970, under the heading "Judgment on Mylai" on page 8051, at which point he put in the RECORD two editorials, one appearing in the New York Times of March 19, 1970, and one appearing in the Washington Post of March 19, 1970.

I would like to associate myself with the remarks of the distinguished Senator from Mississippi, the chairman of the Armed Services Committee. I would like to say, as he did, without passing judgment on the report of the Peers committee, that the very fact that the Peers committee did a comprehensive report on the tragedy of Mylai, without limiting itself merely to officers or men in the lower grades, but covering the entire tragedy, is a great tribute to the Army of the United States, to the Secretary of the Army, Mr. Resor, to General Westmoreland, to General Peers, and to the men of his committee.

What the court-martial will say, one does not know. Certainly, until that time, the men involved are entitled to the presumption of innocence. However, I have been greatly interested in this incident since it came to light. When last in California, I met Mr. Ridenhour, a young man, a student, a former soldier in Vietnam, who wrote to a number of Members of Congress about the incident. I had the opportunity to introduce Mr. Ridenhour to the Senator from Mississippi (Mr. STENNIS), who spent a great deal of time, at my request, listening to Mr. Ridenhour. Later Mr. Ridenhour had the opportunity to disclose what information and facts he had to the Peers committee.

I might say that the results to date indicate the highest integrity and honor of the Army of the United States. They certainly indicate that the system is working at its finest. To have the courage to do what the Peers inquiry did is, I think, almost without equal in the Western World.

I wish to associate myself with the remarks made yesterday by the distinguished Senator from Mississippi, and I ask unanimous consent that his remarks appear in the RECORD at the conclusion of my remarks on this subject.

There being no objection, the statement and attachments were ordered to be printed in the RECORD, as follows:

JUDGMENT ON MYLAI

Mr. STENNIS. Mr. President, when General Peers filed his report concerning the inquiries he had made in the Army concerning the alleged massacres in South Vietnam, I as a member of the Armed Services Committee, commended that report and the Army for what appeared to be a very fine job of self-examination, that shows a high purpose as well as clearly realizing the problem and discharging their duty in connection therewith.

I pointed out then, as I do now, that our Armed Services Committee has been keeping up with this matter all the time. We expect the Army to continue to make reports to us on this question as in the past. We expect to withhold any action of any kind as long as they are carrying out their duties, and when these trials are all over, we will then make a judgment on what our responsibilities are in view of all the facts and the manner in which the army has handled the affair.

I ask unanimous consent to have printed in the RECORD at this point an editorial entitled "Judgment on Mylai" published in today's New York Times, and an editorial entitled, "Songmy: The Army Brings Charges," published in today's Washington Post.

There being no objection the editorials were ordered to be printed in the RECORD:

[From the New York Times, Mar. 19, 1970]

JUDGMENT ON MYLAI

The United States Army has faced up to the horror of Mylai with remarkable vigor and candor in the report of a panel of inquiry headed by Lieut. Gen. William R. Peers.

After a self-examination that is perhaps without precedent in a military organization, the Army board has conceded that, in the words of General Peers, "a tragedy of major proportions occurred" in the Vietnamese hamlet of Mylai on March 16, 1968. On that date more than 100 civilians—men, women and children—allegedly were killed, tortured and raped by members of the Americal Division.

The Pentagon made plain its determination to avoid future Mylais by filing charges against fourteen officers, including the Superintendent of West Point, who commanded the Americal Division at the time, for sup-

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pressing information about the mass killings. The guilt of the men so charged of course remains to be proved. But these accusations, together with charges already brought aganst ten men accused of direct involvement in the alleged atrocities, should help make clear to every G.I.—and to the world—that the United States does not condone and will not tolerate the behavior attributed to some American soldiers at Mylai.

General Peers said he has also recommended a tightening of regulations dealing with war crimes and quick reporting of atrocities, as well as improvements in training. The grim lesson of Mylai will not have been mastered until every American soldier, and especially every officer, has understood the horror of what unquestionably took place there and has recognized his own responsibilities under rules of war that were sternly enforced by American judges at Nuremberg and Tokyo after World War II.

[From the Washington Post, Mar. 19, 1970]

Songmy: The Army Brings Charges

"Our inquiry clearly established that a tragedy of major proportions occurred there on that day." Thus Lieutenant General William R. Peers confirmed, at a Pentagon news conference on Tuesday, the finding of his panel's investigation into the Songmy incident—the alleged mass killings by U.S. military personnel of civilians in the Vietnamese village. The Army has already brought criminal charges against ten men in connection with the events in Songmy. Tuesday, with General Peers and Army Chief of Staff General William C. Westmoreland standing by, Secretary of the Army Stanley Resor announced that charges have also been brought against 14 officers—two generals included—for allegedly participating in or contributing to the concealment of the Songmy events from higher authority. Among those charged with failure to obey lawful regulations and dereliction of duty was Major General Samuel W. Koster, who was division commander at the time.

Wisely, in our view, General Peers, whose panel heard some 400 witnesses, persistently refused to discuss specifics in relation to the newly charged men, and Secretary Resor made the relevant point clear: the men were "entitled fully to the presumption of innocence which applies in our system of justice." There will be time enough to comment on the outcome of these cases and of the cases of those men accused of actual participation in the tragedy of Songmy. What seems worth observing now is that there is much reassurance to be gained from the manner in which the Army has proceeded thus far. Those who feared a "whitewash" by any investigating group other than a non-military one, and those on the other side who have persisted in viewing the reports of Songmy as part of a traitorous and vengeful deception foisted on the public by critics of the Vietnam war, should now be obliged to reconsider their views. The dignity and sobriety and apparent dead-earnestness with which the Army has pursued the facts and the forces behind this hideous affair offers much hope that we will arrive at the truth of what happened and be able to act on it justly in the context of the Army's effort. Perhaps that is a small and belated consolation in relation to events at Songmy—but it is an indispensable outcome to those events, and we are impressed with the Army's attempt to achieve it.

ENVIRONMENTAL QUALITY: THE WETLANDS OF THE CHESAPEAKE BAY MUST BE PROTECTED

Mr. TYDINGS. Mr. President, Maryland is a State rich in natural resources. One of the most valuable is her wetlands, those tidal marsh areas so essential to marine life and wildlife. Yet, like many of her resources, Maryland's wetlands are at present under attack. Careless dredge and fill operations, combined with the absence of a State shoreline plan, constitute a clear and present threat to the wetlands of the Chesapeake Bay.

The damage already done is substantial. In the past 17 years Maryland has lost 7 percent of her marsh acreage. The State now possesses approximately 320,000 acres of wetlands. Yet in the next 5 years estimates are that she may lose half of them, some 147,000 acres, and that an additional 93,000 acres are in danger of disappearing in the following 5 years.

It is thus evident that strong affirmative action must be taken now to protect the wetlands. A comprehensive shoreline plan is urgently required, along with State review of all proposals to drain wetlands.

I fully support measures designed to achieve these requirements.

The Evening Star of February 23, 1970, ran a lead editorial about the wetlands of the Chesapeake Bay. Its conclusion, with which I heartily agree, is that "the wetlands must be saved." I ask unanimous consent that the editorial be printed in the Record, as well as a letter I wrote Secretary Hickel concerning Maryland's wetlands.

There being no objection, the editorial and letter were ordered to be printed in the Record, as follows:

Battle of the Wetlands

The wetlands of the Chesapeake Bay region, it is daily more apparent, are to become a political battleground.

As one would expect, the opposing forces in the coming battle will be a coalition of watermen and farmers, who view as theirs exclusively the riparian rights that from time immemorial have traveled hand in hand with property rights, and conservationists who believe the use of wetlands—the littoral and land between the tides—should be controlled in the interest of all the people.

Prior to reapportionment the farmer-waterman coalition had the political muscle to stave off attempts to impose controls over the uses wetlands were put to. Now it doesn't. But it is still capable of formidable resistance to change.

The "country boys" see the wetlands as a livelihood—not only in terms of harvests of crops and seafood, but also in terms of profits and revenues that might flow from waterfront development. The "city boys" see them in terms of recreation, as a mainspring of the Bay region's ecology, as a distinctive natural heritage worth preserving.

The latter have noted with concern developments such as last summer's controversy over the sale of wetlands in the Ocean City area for intensive development and the refusal of a grand jury to bring charges in connection therewith.

Conservationists also have noted with concern such things as the projected draining of Gilbert Swamp near Hughesville, in Charles County, Md., with money supplied by the federal Soil Conservation Service (nearby farmlands are subjected to occasional flooding) without public notice ever being given, and use of wetlands near Gloucester Courthouse, Va., as a garbage dump.

As a result of such concern the Virginia General Assembly is studying a Virginia Institute of Marine Science report which poses this question: "Can such a significant portion of the economic and sociological base of Tidewater continue to hang so tenuously on the mounting and uncontrolled pressures to capriciously dredge, fill, dike and bulkhead wetlands to convert them into housing developments, industrial sites and, alas, garbage dumps?"

And in Maryland Senate President William S. James, D-Harford, has introduced a bill, approved in advance by a special legislative committee, that would empower the state to control the use of privately owned wetlands along most waterways.

The lists are drawn. The Star stands firmly with Senator James and the Virginia Institute of Marine Science. The wetlands must be saved.

January 14, 1970.

Hon. Walter J. Hickel,
Department of the Interior,
Washington, D.C.

Dear Secretary Hickel: Conservationists everywhere recognize the great value of wetlands. These marsh areas are essential to the preservation of marine life and invaluable as habitats for a wide variety of wildlife such as the Canvasback duck, the Diamondback terrapin, and the Canadian wild goose. These wetlands, however, are ecologically fragile and thus can easily be destroyed by drainage and development.

The National Commission on Marine Science, Engineering, and Resources has recognized the value of our wetlands and has pointed out, alarmingly, that since 1949 over seven percent of our wetlands, more than half a million acres, have been destroyed by dredging and filling. In California, alone, seventy percent of the state's wetlands have been lost. By 1965 twenty-nine percent of the wetlands that existed along Long Island in 1954 had been filled in and eighty-eight percent of those remaining were threatened by development.

The threat to wetlands is equally severe in Maryland. In the past seventeen years my state has lost seven percent of her marsh acreage. Maryland now has 320,000 acres of wetlands. Yet in the next five years, she may lose half of them, some 147,000 acres, and an additional 93,000 acres are in danger of disappearing in the following five years.

It is the responsibility of public officials at all levels of government to ensure that sufficient wetlands are protected and set aside for public benefit.

Certain recent developments in Maryland may provide a unique opportunity for the Department of Interior, in conjunction with the State of Maryland, to purchase valuable wetlands along the Atlantic coast. Two shoreline development corporations have filed bankruptcy petitions in Worcester County, Maryland. Their wetland properties have been placed in the hands of trustees with instructions to sell up to 122 acres, a portion of which has been filled in.

The Land and Water Conservation Fund is intended to provide the means to secure and protect these scarce wetlands. The National Commission in its 1969 Report recognized this use of the fund when it explicitly recommended that the Fund "be more fully utilized for acquisition of wetlands."

I therefore request that the Department look into the Maryland situation I have cited to evaluate the desirability of using a portion of the $3 million contingency allowance of the Fund for Fiscal Year 1970, to assist Maryland in obtaining title to these wetlands and help stem the tide of wetlands destruction.

I have taken the liberty of providing the Secretary of the Maryland State Department of Natural Resources with a copy of this letter.

Best wishes.

Sincerely,

Joseph D. Tydings.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

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Mr. TYDINGS. Mr. President, I ask unanimous consent that I may speak for 3 minutes more.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TYDINGS. Mr. President, in 1966 as a member of the Senate Air and Water Pollution Subcommittee, I wrote and Congress enacted legislation providing for the first comprehensive analysis of the Nation's estuaries. As the juncture point of fresh water and salt water, estuaries are among the most important of our natural resources.

The Chesapeake Bay is perhaps the most valuable estuary in the Nation.

Yet we knew little about these marine resources and how to protect them. The analysis has provided us with much-needed information, however, and equally important has recommended a planning mechanism to protect our estuaries. Recently completed, the analysis is entitled "The National Estuarine Pollution Study."

On February 17 I introduced legislation, S. 3460, to provide for the planning mechanism required for our estuaries. It is entitled the Coastal Zone Management Act of 1970 and has been referred to the Special Subcommittee on Oceanography. Hearings are expected late this month and will continue in the spring and summer. Late last month in Baltimore, I discussed this legislation and some of the problems surrounding and Chesapeake Bay. I ask unanimous consent that my statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOSEPH D. TYDINGS ON ENVIRONMENTAL QUALITY, FEBRUARY 23, 1970

A key domestic issue confronting this nation today as we enter a new decade is the shocking decline in the quality of our environment. We need not look far to see how, both as a nation and a society, we have abused the natural resources of our great country.

The air in Baltimore and our other great metropolitan centers constitutes a menace to our health. At least part of every river system in the country is polluted—the Potomac, the Patapsco, and the Severn are no exceptions. And each of us accounts for five pounds of garbage a day which here in Baltimore means over two thousand tons of trash per day and, for the nation at large, means approximately 182 million tons of garbage per year.

It seems that if we don't die in a nuclear holocaust or push ourselves off the planet because of a rising population, we may simply disappear beneath our own trash.

The simple fact is that we have pushed our natural resources beyond the point of endurance. The disgraceful condition in which we now find our air, land and water—both here in Maryland and beyond—is the inevitable result.

There are two complex but subtle reasons which help us understand why we in America today find our resources in such terrible shape.

The first is our past history of treating our natural resources ruthlessly. We have always dealt harshly with our air, land and water. Our heritage is one of waste and insensitivity. As a young nation, we cleared forests, dug mines, removed Indians, and built railroads—all without considering the impact on our environment. We treated our resources carelessly, as if they were limitless. We forgot that the ecological balance is fragile and thus easily disturbed.

The second reason is our understanding of technology. Americans seem to have an irrational love affair with technology. But technology is only how we do something. It is a technique, a method. It is how we apply the knowledge we have. It is not knowledge itself, nor is it always progress. Yet too often we confuse the two. We equate progress with technology. We assume that what is technologically feasible is also desirable. This is not always the case.

Just because we can build a dam or an SST doesn't mean we should.

Recently the decline in the quality of our environment has received considerable public attention. In magazines and newspapers, on radio and television, even in a State of the Union address, hardly a day passes without some comment on "the pollution problem." All this attention, of course, is most welcome, for a national policy to succeed must enjoy public support. Yet by itself, public attention is not sufficient. Action is needed as well, and so far, we've had more attention than action.

In 1966, however, I introduced and Congress enacted my legislation directing the Secretary of Interior to conduct a three-year comprehensive study of the nation's estuaries. These marine resources, an integral part of what scientists now call the coastal zone, are invaluable for they supply over 65% of our commercial fish and contain all our wetlands upon which our wildlife depend. The report has recently been completed.

Based upon its analysis, Secretary of the Interior Walter J. Hickel in testimony before the House Committee on Public Works stated "that our estuaries are seriously polluted, and that the unwise use of the lands and waters of our estuarine zones not only contributes to this pollution, but is rapidly destroying valuable natural resources." Specifically:

Over eight billion gallons of municipal wastes are discharged daily into estuarine waters, yet only about one half receive secondary treatment.

Of the nearly 22 billion gallons of industrial waste discharged per day only 29% receive any kind of waste treatment.

Eight percent of the nation's shellfish grounds have been declared unsafe as a source of shellfish for human consumption.

As the Report says:

"One of the greatest threats to the estuarine ecosystem is the ever present chance for a catastrophic spill of oil or other hazardous materials." The Santa Barbara, Louisiana, and Florida experiences clearly indicate this threat is real.

The National Estuarine Pollution Study fully documents the abuse suffered by our estuarine resources. It is a basic and comprehensive analysis of a major natural resource and should serve as a point of reference for scientist and public official alike.

Estuaries are vital components of the coastal zone. This can be defined as the margin where land and water interact. It is not just the sea itself, nor the land either, but rather the broad area where they join together and directly influence each other. The coastal zone includes bays, marshland, river deltas, harbors, estuaries and even parts of the continental shelf.

It is the key geographic feature of our nation. Along this wide juncture of land and sea is 75% of our population, maritime trade valued at approximately $40 billion, over 6,000 wells that serve a billion dollar oil and gas industry, all of our wetlands, most of our fish and wildlife, and prime recreational areas. Yet the coastal zone as a resource is both shrinking and subject to degradation. Pollution, lack of public access to the seashore, wetlands draining, and the concept of single purpose use all contribute to the deterioration of the coastal zone.

"The key to more effective use of our coastline," says The National Commission on Marine Science, Engineering, and Development in its 1969 report entitled *Our Nation and the Sea,* "is the introduction of a management system permitting conscious and informed choices among development alternatives." Last week I introduced legislation providing for such a system. The bill, which enjoys bipartisan support, is designed to encourage a state coastal zone agency, as recommended by The Chesapeake Bay Case Study conducted for the Marine Science Council by Trident Engineering Associates of Annapolis. Entitled the Coastal Zone Management Act of 1970, the bill provides for up to 50% of cost grants to designated state coastal authorities upon the development of a master plan for their zone, the granting to the authorities of power sufficient to carry out the plan, the review by the designated state coastal authorities of all local projects that would affect the coastal zone.

Establishes a special "Marine Resources Fund" in the Treasury and provides for an annual $125,000,000 deposit using funds obtained from the offshore oil revenues.

Authorizes joint federal/state estuarine sanctuaries to create natural field laboratories for long-term studies.

Provides that new federal projects within a state's coastal zone be approved by either the designated state coastal authority or the Marine Science Council.

Finds that "the welfare of American society now demands that manmade laws be extended to regulate the impact of man on the biophysical environment."

Declares as policy that "the states have the primary role in planning and developing the coastal zone resource."

The bill has been referred to the Commerce Committee where the newly formed Special Subcommittee on Oceanography, of which I am a member, will hold hearings on it and similar legislation in March.

I'd like now to make a few remarks about the Chesapeake Bay.

The Bay is Maryland's greatest natural resource. It's deep water channel to the Port of Baltimore makes it the lifeline of Maryland. Chesapeake oysters and crabs are known and sold throughout the nation. It's blue waters and scenic views help make Maryland the land of pleasant living.

Basically the Chesapeake Bay right now is in passable shape. Water quality standards have been set, enforcement of present laws is getting tougher, the 1968 state bond issue of $125,000,000 will help build more treatment plants, and the new Department of Natural Resources will consolidate our previously disjointed efforts to preserve the Bay.

But we must remember that the first signs of a resource's decline in quality are rather subtle and often unnoticed. The damage to an estuary can be very gradual and only when it is too late do we confront the devastating final impact.

There are at present a number of alarming signs of environmental deterioration in the Chesapeake Bay. Taken alone and at a fixed period of time, they may not appear as great trouble. Yet together and over the next two decades given the 5 million new people the Bay area expects in the next twenty years—they constitute a clear and present danger to the environmental quality of the Chesapeake Bay:

12 out of 32 public swimming beaches in Maryland were closed during some portion of the 1968 summer.

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Over 25,000 acres of oyster bars were closed by pollution in 1968.

7 percent of Maryland's irreplaceable wetlands have already been destroyed and nearly half of those remaining are endangered.

All the major rivers that flowed into the Bay are polluted: the Potomac, Patapsco and Severn are among the worst.

Each year Maryland loses over $3 million in commercial fishing revenues due to pollution, according to a report of the Department of Interior.

Ten plants twice the size of the proposed Calvert Cliffs facility will be needed in the next 30 years to meet Maryland's future power needs. Yet we don't know where they're going to go, where they should go, or what their impact will be on the fragile ecology of the Chesapeake Bay.

Unless we begin now to protect our Bay, to restore those areas that have already been destroyed and to plan for the future impact of 5 million additional people in twenty years, the Chesapeake Bay will go the way of our other polluted resources.

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

OUR MILITARY FORCES IN EUROPE

Mr. MANSFIELD. Mr. President, I wish to draw the attention of Senators to a statement on troop costs in Europe, made in the other body on Monday, March 16, by the gentleman from Wisconsin (Mr. Reuss), chairman of the Joint Economic Committee's Subcommittee on International Exchange and Payments. I should like to underline some facts and figures cited by Representative Reuss and some suggestions he put forward for streamlining our military force structure in Europe.

Mr. Reuss pointed out that our balance-of-payments deficit, our worldwide military expenditures, our military expenditures in Europe, and our military expenditures in Germany all reached new highs in 1969 of $7 billion, almost $5 billion, over $1.6 billion, and $949 million, respectively. He went on to suggest that we could achieve some prompt savings in Europe by cutting the number of U.S. generals and admirals in Europe by 10 percent and by consolidating, closing, and trimming some of our European military headquarters. Specifically, he urged that the Air Force and Navy combine some headquarters, a step the Army took several years ago.

I have had occasion myself to note that the number of general-grade officers and headquarters elements we station in Europe appear excessive to need. In my judgment, the suggestions put forward by Mr. Reuss are useful and timely.

I ask unanimous consent that Mr. Reuss' carefully detailed speech and analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The United States Can and Should Cut Military Costs in Europe Now

Mr. Reuss. Mr. Speaker, on March 12 I sent a letter to Secretary of Defense Laird inquiring into the fate of a Department of Defense program known as Redcoste. The initials stand for "Reduction of costs—Europe." When some $14.8 billion of our defense budget goes toward fulfilling our NATO commitments, when more than $2.6 billion of this amount is spent directly in Europe leading to at least a $1.6 billion drain, I can think of no more laudable or timely objective for a program.

Yet last year, Secretary Laird, in his revised defense budget for fiscal year 1970, deferred action on at least two cost-savings measures recommended under Redcoste. And in this year's defense posture statement, there is no mention of Redcoste, or even of a son of Redcoste. This is surely a singular omission given the size of the U.S. balance-of-payments deficit, soaring U.S. military expenditures, and savings reportedly to be achieved under Redcoste—some $200 million in overseas expenditures and some $400 million in the budget according to a January 26, 1969, article by Mr. William Beecher of the New York Times.

If Redcoste has been dropped—which is what I fear—the program should be promptly revived and expanded. In the meantime, I have a few modest suggestions of my own to make on where we can cut some costs in Europe—and now—with savings for both our defense budget and balance of payments.

OUR PAYMENTS DEFICIT WORSENS

Mr. Speaker, the U.S. balance-of-payments deficit last year climbed to a record high of $7 billion. U.S. defense expenditures abroad also reached a new high—almost $5 billion. And this is counting only the direct costs of our military presence abroad. If we add in the indirect costs, the total is certainly higher by a billion or more. In Western Europe, our dollar outflow for military activities continued its upward course—$1.468 billion in 1965, $1.535 billion in 1966, $1.616 billion in 1967, $1.533 billion in 1968, a whopping $1.624 billion as a preliminary figure for 1969. In West Germany alone, our dollar outflow is now running at an annual rate of close to $1 billion.

In view of these record-setting figures for 1969, I find the attitude of our defense, foreign affairs, and monetary officials remarkably ostrichlike. To be sure, adjustments in value in the currencies of several Western European nations and the creation of "paper gold" have brought some calm to the international monetary scene. To be sure, for the moment foreigners like our dollars because they earn high interest. But without a more determined effort to reduce our payments deficit and to curb inflation, and especially to cut the military expenditures at home and abroad which contribute so largely to both, we are asking for future trouble.

To be sure, we may realize some balance of payments savings as we reduce our forces in Vietnam—but oh, so slowly. To be sure, Western European countries still purchase military goods and services from us—some $1.006 billion in 1969—but in amounts that are declining and insufficient to cover our rising expenditures on that continent. Worldwide, our receipts from military sales were an estimated $1.893 billion in 1969 as against dollar outflows for military purposes of over $4.8 billion. And then we have been promised some savings as we assume a somewhat "lower profile" abroad. But these are for tomorrow. What we need is some concrete action today.

INADEQUATE ACTION SO FAR

Mr. Speaker, I propose some action in Europe. Almost one-fifth of our defense is oriented toward Western European security. By far the greatest proportion of our even more costly land forces are committed to the defense of Europe. Yet, at the same time, we find the sternest critics of our persistent payments deficits, the firmest devotees to gold, among our European friends. In West Germany, where we station some 210,000 U.S. military along with their 150,000 dependents and employ some 70,000 German nationals, our dollar drain last year amounted to $949 million, up from $877 million in 1968. Yet we limp from year to year with even more unsatisfactory offset arrangements with West Germany, recent ones being comprised largely of West German band purchases which increase the U.S. foreign debt and require us to send even more dollars to Germany in interest payments.

I note also that the few steps we have taken to cut costs in Europe—and these have been largely in reaction to congressional pressure or initiatives by other governments—have failed to produce any long-term savings. In 1966 and 1967, as a result of being asked to depart from France, we carried out some long overdue streamlining of our military establishment in Europe and brought a few personnel home. Recently, we have taken some very small similar steps in Spain and Turkey. In 1968, we also carried out a limited redeployment of some 28,000 military personnel from Germany. But any budgetary and balance-of-payments savings we may have realized from these actions have been more than wiped out by rising prices and wages in Europe, pay increases for our military, and the revaluation of the German mark.

WHAT CAN BE DONE NOW

For several years I have urged that Western European countries, and particularly West Germany, be asked to shoulder a portion of the enormous budgetary costs of the U.S. commitment to NATO. Recently, my colleague on the Joint Economic Committee the senior Senator from Illinois, Mr. Percy, has pinpointed a number of areas where assumption of these costs by Europeans would be both logical and fair. For example, he suggests that Europeans pay the wages of local nationals employed by U.S. forces, construction costs for permanent installations built for U.S. forces, and transportation and fuel costs. These proposals should be pressed by U.S. officials. To be realistic, however, they will require lengthy and difficult negotiations.

Recently also, the majority leader of the other body, Mr. Mansfield, joined by 49 colleagues, reintroduced his resolution calling for a substantial reduction of U.S. forces in Europe. Certainly, gradual reductions should be possible over the next several years. But, again, the negotiating process within our own bureaucracies and with allies promises to be lengthy.

Mr. Speaker, fortunately opportunities are at hand for achieving some savings in the budgetary and balance-of-payments without delay. Essentially these opportunities lie in carrying forward the streamlining begun with our move from France—in consolidating headquarters, perhaps in eliminating one or two whose missions appear less than essential, in trimming the brass at some headquarters and the support personnel and foreign employees at others.

I cannot pretend that the streamlining I propose will be painless. But at least it can be accomplished without dickering with allies, without debates over cutting into combat capabilities, and with greater efficiency and leanness for our forces as dividends. A March 1970 article in Dun's Review, entitled "Deadwood in the Executive Suite," pointed out that the giant company, North American Rockwell, like other companies now seeking more efficiency and economy in their operations, recently eliminated an entire level of management. It said:

"As a result of a management study on the company's Aerospace and Systems Group, DUN's has learned, top management decided to cut out one complete reporting level for the seven divisions in the group. So the group president's office was eliminated, and the divisions now report directly to corporate headquarters. In the process, says a company spokesman, there was a major cutback 'including a number of executives.'"

I have no doubt that the American Military Establishment in Europe can benefit from similar if less draconian measures.

During a recent conference I attended in West Germany, I was appalled to learn that winthin a single German electoral district there resided 37 American generals. Since that time, I have requested and received figures from the Pentagon listing the number of U.S. general-grade officers, enlisted men and civilians attached to important U.S. military headquarters in Europe. The totals are impressively large, classified of course, and tell only part of the story. For every headquarters has its support personnel—motor pool drivers, teachers, hospital personnel, maintenance personnel, translators, file clerks, and whatall who are not officially counted as part of the headquarters staff.

I cite one example, Ramstein Air Base in West Germany, headquarters for the U.S. 17th Air Force, has 18,000 military men—I repeat, 18,000 military—plus 31,000 wives and children, plus 1,200 civilian employees, 598 buildings—cost $52 million—and 1,600 vehicles, not counting private cars. The figures come from Arthur Veysey, an enterprising reporter for the Chicago Tribune, who wrote an illuminating series of articles on the U.S. Military Establishment in Europe in January 1970.

Ramstein, of course, may be unique in size and numbers. According to Veysey, it is also a tactical airbase for U.S. Phantom jet fighters, host to a NATO subcommand and 50 various support operations. But then again, unfortunately, it may not be unique. Several other U.S. commands back up, parallel, or overlap the numerous NATO commands, which also have their very ample share of U.S. personnel. Moreover, several U.S. commands are co-located with tactical air squadrons, which also appear to have a rather generous number of support personnel for the number of planes they fly.

ARE SO MANY SEPARATE HEADQUARTERS NEEDED?

There are at least 14 important headquarters for U.S. forces in Europe. Some of them undoubtedly approach the overload of military personnel who are stationed at Ramstein. They should be trimmed.

Mr. Speaker, to be specific, I suggest that streamlining in Europe can include at a minimum the following measures:

First. Cut the number of U.S. generals and admirals stationed in Europe by 10 percent. I cannot reveal the number stationed there now because the Pentagon has enjoined me from doing so, but it is enormous. Spending by U.S. personnel and their families is the largest single category of military expenditures abroad—making up 33 percent of the total. The more you earn, the more you have to spend—and generals earn a lot. Furthermore, since services for high-level officers tie up a certain number of enlisted personnel, bringing home these officers, or retiring them, should release a large number of these personnel for useful combat assignment.

THE STUTTGART COMPLEX

Second. Why not abolish the separate headquarters for U.S. Forces, Europe? The U.S. European Command, known as EUCOM, is located at Stuttgart with a vast staff, and a brand new command center that cost $13 million. Yet the commander in chief of U.S. Forces, Europe, Gen. Andrew Goodpaster, is located many miles away at Casteau, Belgium, which is the headquarters of NATO's Allied Command, Europe, and where General Goodpaster also wears the NATO hat of Supreme Allied Commander. Surely, the functions of EUCOM can be performed by a slightly augmented staff for General Goodpaster at Casteau, or by the separate Air Force, Army, and Navy commands in Europe, or by both. We could rent or sell the building at Stuttgart to the Germans, who need the space and have the cash.

Third. Combine headquarters, U.S. Air Force Europe—USAFE—now located at Wiesbaden, Germany, with headquarters U.S. 17th Air Force at Ramstein, Germany, or for that matter with headquarters U.S. 3d Air Force at Ruislip, England. What is good for the Army should be good for the Air Force. The Army accomplished an equivalent streamlining of its command structure when U.S. forces were ousted from France in 1966, and I applaud them for it. The headquarters of U.S. Army Europe, formerly located at Stuttgart, was combined with the headquarters of U.S. 7th Army, located at Heidelberg, Germany, with savings in personnel and costs and support elements. If the U.S. Army, with 190,000 men stationed in Europe can manage very well with one headquarters less, surely the U.S. Air Force with less than half that number in Europe—some 80,000—can manage even better minus a headquarters installation.

VARIOUS NAVAL HEADQUARTERS

Fourth. What is good for the Army and Air Force should also be good for the Navy and for our defense budget and balance of payments too. The headquarters of U.S. Navy, Europe—USNAVEUR—is presently located in London, in a luxury apartment house across the street from the American Embassy, according to Veysey. Why not move it to Naples, where we have ample high-level naval personnel wearing NATO hats in NATO's allied Forces Southern Europe command—AFSOUTH—who could well assume the responsibilities of USNAVEUR, or transfer these responsibilities to the admiral who commands the 6th fleet in the Mediterranean?

At present, as reported by Roy Meachum in the December 7, 1969, Washington Star, we have one four-star admiral acting as NATO's commander in chief for AFSOUTH with a navy consisting of exactly one barge under his peacetime command, "a rather fancy motor boat used by the admiral for visiting ships that come in the beautiful Bay of Naples." We also have a three-star admiral in command of the U.S. 6th Fleet with its 50 ships and 200 planes. He reports to our four-star admiral in charge of London headquarters, not to our admiral in Naples, who takes charge only if war breaks out and we assign our fleet to NATO. Presumably our admiral in London reports to General Goodpaster in his capacity as chief of EUCOM, as well as to the Chief of Naval Operations in Washington. Our admiral in Naples also reports to General Goodpaster—in his capacity as NATO's Supreme Allied Commander. Is this any way to run a Navy?

USNAVEUR has to look after even fewer men than U.S. Air Force, Europe—some 25,000 manning the ships of the 6th Fleet, and those manning the Polaris subs which come into Holy Loch and Rota, Spain for maintenance. There is of course a healthy complement of lesser U.S. admirals in Europe backing up those I have mentioned. Surely, we do not need all these chiefs and all these headquarters in Europe for this modest number of Indians.

AN ITALIAN HEADQUARTERS

Fifth, Mr. Speaker, I suspect there is another headquarters in Europe that we could phase out completely, lock, stock and barrel, without causing a ripple. I refer to an Army headquarters known as Southern European Task Force, SETAF, stationed in Italy and blessed, I am sure, with an ample number of support personnel and dependents.

The mission of this headquarters, according to the Department of Defense, is "to provide combat support to the NATO forces in Northern Italy." According to the 1966 Army Times "Guide to Army Posts":

Getting orders to Italy is often considered a "dream assignment" by Army officers, EM, civilians and dependents.

According to the same source:

SETAF plays host each year to thousands of vacationing U.S. servicemen and their families from France and Germany.

I am sure that SETAF is more than a serviceman's spa. But Italy is not on the central front in Western Europe, where a good argument can be made for providing substantial American "combat support." Italy is less exposed than Greece and Turkey, where we certainly have numerous military personnel but no equivalent headquarters. Let us put SETAF in cold storaage at the Pentagon and airlift it to Europe when tension says we might need it.

TIME TO STREAMLINE

Mr. Speaker, the opportunities for streamlining that I have listed are only the most obvious ones. There may be other ways of carrying out these measures than the ones I have suggested. One way or another, however, I urge that these opportunities be seized. As other opportunities for savings come to my attention, and when I receive the status report on Redcoste which I have requested from Secretary Laird, I will report to my colleagues. In the meantime, for the information of my colleagues, I include at the conclusion of my remarks the series of recent articles on U.S. forces in Europe by Arthur Veysey of the Chicago Tribune, an article in the December 1969 issue of the Survey of Current Business on U.S. military expenditures abroad, a January 1969 article by Mr. William Beecher of the New York Times on cost reduction in Europe, and the text of my letter to Secretary Laird.

Mr. Speaker, the streamlining I recommend in our military establishment in Europe can be carried out promptly. It can lead to substantial budgetary and balance of payments savings. If our NATO allies should protest the measures proposed, let them be invited to assume the costs of maintaining the status quo. If these economizing measures lead to the release of foreign employees—all to the good. I know for a fact that the German economy needs every worker it can find. I also know for a fact that the American Government needs every budget dollar and balance of payments dollar it can find to put to work productively at home.

[From the Chicago (Ill.) Tribune, Jan 18, 1970]

DEBATE GROWS OVER AMERICAN ROLE IN EUROPE

(By Arthur Veysey)

(NOTE.—Arthur Veysey, chief of the Tribune's London bureau, has traveled more than two months thruout Europe to study first hand the United States role in the North Atlantic Treaty organization. He has interviewed top-ranking American commanders and their staffs, and visited military bases and support facilities. In the first of eight articles on our role in NATO, Veysey discusses the views of top commanders and tells how the United States became involved in the defense of Europe.)

STUTTGART, GERMANY, January 17.—A big American military force remains in Europe 25 years after the end of World War II, and debate rages over the issue of whether many, if not all, of the servicemen should be brought home.

Almost daily, new voices join the demand that the United States reduce its military commitment and let the Europeans look to their own defenses. Sen. Mike Mansfield [D., Mont.] wants half of the troops returned home, and he may now have the backing of a majority of senators.

Today, the United States has in Europe 310,000 soldiers, airmen, and sailors, with their 240,000 wives and children. Add to this

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10,000 European employes, acres of warehouses, fields of tanks, 22 air fields with 500 warplanes, a 3 billion dollar radar network, post exchanges, hospitals, schools, and deep shelters for at least 7,000 nuclear explosives.

More than two months ago, THE TRIBUNE began a study of American commitments in Europe, focusing on how troops are used and whether big cuts would be practical and wise.

Top commanders were interviewed. Military installations were visited. Meetings of the North Atlantic Treaty organization were attended. Firsthand observations have ranged from joining a patrol along the Czech border to flying faster than sound over the Rhine river. TRIBUNE correspondents in Washington, Moscow, and Bonn contributed facts and views.

NIXON PLEDGES TO KEEP STRONG FORCE

President Nixon has declared:

"The American commitment to the North Atlantic Treaty organization remains in force and will remain strong."

Melvin Laird, secretary of defense, told NATO defense ministers in Brussels this winter:

"The United States will make no reduction in combat troops in Europe as far as NATO is concerned."

At the same meeting, William Rogers, secretary of state, emphasized:

"A sound defense posture is indispensable as we move from the era of confrontation to the era of negotiation."

The carefully worded statements, rather than reassuring Europeans who fear the consequences of an American withdrawal, convinced NATO ministers that American cuts are coming, and they may be heavy.

American military commanders also are concerned. "Some people want the fruits of peace without the costs of peace," said Gen. Andrew Goodpaster, NATO's supreme commander, commander in chief of American forces in Europe and a native of Granite City, Ill.

TROOP LEVEL CALLED AT MINIMUM

Gen. James Polk, our European army commander, added:

"Our conventional forces are razor thin. Our level of troops is about the minimum. The soviet is speeding up and training hard."

The United States air force commander in Europe, Gen. Joseph Holzapple, a flyer from Peoria, Ill., said:

"The soviet proved in Hungary and Czechoslovakia it will move when doing so is in its interest. Our forces make a soviet move into a free part of Europe unattractive."

The American naval commander in Europe, Adm. Waldemar Wendt, son of a minister in Millstad, Ill., said:

"If we withdraw our 6th fleet we would say to our allies, 'Let the Mediterranean become a soviet lake.' "

The United States commander in Berlin, Maj. Gen. Robert Fergusson, a native of Chicago, added:

"With 40,000 soviet troops within an hour of the city, a cut in our troops in Europe would cause real apprehension in Berlin."

In western European capitals, politicians, diplomats, political scientists, and editors tend to agree that a heavy reduction in American forces in Europe would be an event of major historical importance, outweighing in the long run decisions about Viet Nam.

Policymakers here suspect that American decisions about Europe may come as an aftermath of the Viet Nam war and be based more on emotions than on a cool assessment of the present situation in Europe and repercussions that might result from a basic change in the military balance between East and West in Europe.

ROGERS GIVES WARNING

Rogers warned the NATO ministers:

"American public opinion will increasingly demand troops be brought home from many parts of the world."

A German newspaper, Die Rhienpfalz, commented:

"The American public has grown tired of NATO."

The current American commitment in Europe stems from the end of World War II in 1945, when victory brought a euphoria.

Under its spell, the United States dismantled the most potent military force ever created. Within one year, we brought home from Europe all but 390,000 of our 3.1 million men. Canada brought home all of its 300,000 service men. Britain cut its forces from 1.3 million to fewer than 500,000. Western European nations freed from Nazi rule were impotent.

However, the Soviets were not content to restore the European map of 1939. During the war, they had taken over the Baltic states and moved their boundary westward thru parts of Finland, Poland, Romania, and the Balkans, adding, altogether, an area bigger than Italy with 23 million persons.

COMMUNISTS INSTALLED

By 1947, they had installed communist governments in the "liberated" nations of Poland, Hungary, Romania, Bulgaria, Yugoslavia and ruled East Germany with a firm fist, thus bringing another 360,000 square miles and 95 million persons under Soviet control. Millions fled westward.

In France, Italy, and Belgium, battered by war and occupation, Communists rioted and connived. In Greece, they waged bloody civil war and held much of Athens. They were busy in distant, vital areas such as Iran with its oil, Malaya with its rubber.

Early in 1948, Jan Masaryk jumped or was thrown from his window in the foreign ministry at Prague, Czechoslovakia, which had advanced so fast in its few years of independence between the wars, fell to the Kremlin. On June 24, Josef Stalin blockaded West Berlin.

The situation was now clear. Stalin, while perhaps not seeking a new war, was certainly out to get all he could. No western European nation was strong enough to stand up to the soviets. Even together, they were a poor second. Only the United States, with its atomic bomb, could hold off the Kremlin.

"At that moment, we in the United States came to a conscious decision that our defense began right here at the iron curtain," recalls Gen. David A. Birchinal, deputy to Goodpaster.

So American troops came back to Europe. Twelve nations pledged themselves to fight all for one, one for all. Later Turkey, Greece, and West Germany joined the alliance.

ELLSWORTH TELLS VIEWS

"We must not forget," said Robert Ellsworth, the present ambassador to NATO, "that we came here for our own vital interest. We are still here for our own vital interest."

The commander of the United States 17th air force standing guard in Germany, Maj. Gen. Royal Baker, who has flown into combat more than 500 times in Germany, Korea, and Viet Nam, said:

"We are insurance for peace. But then, some people don't believe in insurance."

This insurance can be illustrated by the daily nonstop aerial marathons over western Europe.

ON CONSTANT ALERT

Three times every day of the year—at 1 a.m., 9 a.m., and 5 p.m.—a 707 jet liner packed with electronic gear roars along the 11,000-foot runway of the American air base at Mildenhall, England, 60 miles northeast of London.

Aboard is an army general, an air force general, or a navy admiral from the United States military headquarters for Europe outside Stuttgart. When high in the sky, the officer calls by radio to the plane which preceded him. He then flies in great loops over western Europe until, eight hours later, he is relieved by the next officer.

The officer has just one task: to be ready to take command instantly of all of United States military forces in Europe should a soviet missile suddenly, without warning, drop an H-bomb onto the new windowless 13 million dollar United States European command center in Stuttgart.

[From the Chicago (Ill.) Tribune, Jan. 19, 1970]

UNITED STATES IS READY FOR AN INSTANT EUROPEAN WAR

(By Arthur Veysey)

(NOTE.—What would happen if a military attack was launched against one of several western European nations? Poised to react instantly are land, sea, and air units of the North Atlantic Treaty organizations. In this second of eight articles on the United States' role in NATO, Arthur Veysey, chief of the Tribune's London bureau, tells of plans charted to react to any attack ranging from a border skirmish to all-out nuclear bombardment.)

STUTTGART, GERMANY, January 18.—The United States is ready to go to war in Europe this instant. It has been pledged to do so every minute of every day for 20 years should the soviets attack any of the North Atlantic treaty partners.

American and NATO war plans are drawn to meet any kind of strike against western Europe, Turkey, or Greece, as well as Iceland or Canada, be it an isolated border crossing by a small band, or an all-out world war.

American soldiers continuously patrol the most exposed fronts—isolated West Berlin where the Communists continue to strengthen their 50 million dollar wall with its 14,000 armed guards, and a 300 mile stretch of the iron curtain which separates the southern half of West Germany from East Germany and Czechoslovakia.

The patrols are thin—6,500 infantrymen in West Berlin, 6,000 cavalry men along the curtain. They constitute little more than a trip wire against the 40,000 soviet soldiers within an hour of Berlin and 300,000 more soviet troops elsewhere in the satellites, not to mention 600,000 men in satellite uniforms.

But the American patrols, in the words of America's and NATO's commander, Gen. Andrew Goodpaster, are backed up by rank upon rank of forces, American and NATO, drawn on according to the severity of the threat.

INSTANT WAR DEMANDS INSTANT REACTION

In the era of missiles and nuclear explosives, a nation deliberately starting a war could hope to win only thru an overpowering sneak attack.

The possibility of instant war demands instant reaction.

Thus the 13 million dollar command post here is always manned and backed up by alternates, some deep under the ground, one always airborne in a jet liner.

Thus vital officers at 22 air fields must always answer the telephone before its sixth ring. When parted from a phone line, if only for a minute's walk, they must carry a two-way radio turned to the switchboard. The bases must be ready to get the first of their 500 combat planes into the air within five minutes.

Thus the 3 billion dollar radar screen, its stations perched atop mountains and hills with its 14,000 men, always probes the eastern skies, feeding information thru a variety of channels, into computers and then on to

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headquarters and mobile field command huts and the 12,000 men of the air defense command with their 80 batteries of missiles, big and small, and their new-style guns which spew 6,000 bullets per minute.

Every friendly plane, military or commercial, flying near the iron curtain emits a signal identifying itself. Whenever a strange golden blob shows up on radar screens, at least two jet fighters take off to learn its identity, while, down below, missiles are cocked.

Thus the Berlin and iron curtain patrols always carry a rifle, carbine, or machine gun, and are ordered, if shot at, to shoot back, stand fast, and call for help. Within 30 minutes 50,000 American soldiers could be moving out of their camps in southern Germany and, within another 90 minutes, a further 35,000.

Thus, in the Mediterranean, the two aircraft carriers of the United States 6th fleet cruise at least 700 miles apart and one always is ready to fight. The fleet's 1,500 marines are ready to go ashore in amphibious craft and helicopters in less time than their transports need to reach land.

SUPPORT FROM THE UNITED STATES

If all this is not enough, the plans call for immediate help from the United States. Twenty-eight thousand infantry men, though living in the United States, are ready to be on their way to Europe within a day. Their tanks, cannon, armored cars, and thousands of other vehicles await them here. The air bases are ready to receive within three days at least 500 combat planes which would fly across the Atlantic, some of them refueling five or six times on the way.

The United States also expects instant help from its NATO partners who have put under Goodpaster's command 800,000 of their 2.2 million service men, with 5,000 tanks and 2,500 warplanes on 200 air fields. Former President Charles de Gaulle withdrew France's 500,000 men, 500 warplanes, and two fleets from NATO's command. NATO officers don't count on using the French forces, but they believe any Soviet attack serious enough to involve NATO also would involve France.

Current war plans, both American and NATO, limit all American and NATO forces to the immediate use of so-called conventional weapons. However, the United States admits having on hand in Europe more than 7,000 nuclear explosives.

BOMBERS AND MISSILES

A few years ago, the first Red foot on free European earth would have brought American H-bombs onto soviet cities. Today, the United States has 500 long range bombers and 1,000 missiles capable of reaching Russia as well as 41 Polaris submarines—each with 16 missiles, but the soviets are credited with 1,100 missiles able to reach United States and 700 smaller ones and a thousand bombers able to spread havoc across western Europe.

Consequently, the United States and NATO have given up the policy called "massive retaliation" for one of "flexible response," which means that Goodpaster would use forces strong enough only to overcome the attack. Intelligence services report that the soviet's maneuvers the last two years also shunned nuclear weapons.

Consequently, tactics and equipment developed during World War II but scrapped during the era of instant nuclear war are being revived. Planes practice flying a few hundred feet off the ground and attacking such single targets, as bridges, factories, railroads, truck convoys, tank columns. Buildings painted white or cream color are being camouflaged and 342 concrete shelters are being built for combat planes at a cost of $128,000 each. Emergency repair crews with 40 men and 37 pieces of equipment are learning how to fill bomb craters in runways in a couple of hours.

COULD HANDLE ATTACK

The planners believe that American and NATO forces, as they exist today, are capable of halting any conceivable soviet attack, or at least slowing it until help could come.

But should the soviets breaks thru massively, plans call for nuclear weapons, altho only of battlefield size.

The basic tactic attempts to use the nuclear arms as a blocking weapon. NATO troops would set off a row of small atomic explosives in front of the advancing forces to create a radioactive belt thru which the invaders could pass only in sealed troop carriers. West German planners would prefer the belt to be laid across soviet territory.

MORE MONEY, MEN

Being prepared for a war without nuclear weapons means more men, more equipment, more bases—all of which means more money. Yet the move away from nuclear war planning comes at a time when NATO members are cutting forces and budgets.

Britain's defense minister, Denis Healey, warned NATO ministers that large cuts would force NATO commanders to return to the policy of meeting any kind of soviet attack by immediately throwing at Moscow every nuclear explosive they hold, and if the United States holds off in an attempt to spare American cities, that Britain and France will have to launch their own missiles and bombs which, tho puny compared with those of the United States, would make quite a mess of Moscow.

[From the Chicago (Ill.) Tribune, Jan. 20, 1970]

GENERAL FROM ILLINOIS HEADS UNITED STATES, NATO FORCES IN EUROPE

(By Arthur Veysey)

CASTEAU, BELGIUM, January 19.—A United States army engineer from Granite City, Ill., holds the power of life and death over more people than anyone else in western Europe.

He is Gen. Andrew Goodpaster, supreme commander of 1.1 million soldiers, sailors, and airmen from 14 nations, including 310,000 Americans.

HAS TWO HEADQUARTERS

He presides over two headquarters—the North Atlantic Treaty Organization command in the village of Casteau with a many-nationed staff of 3,500 in a 50 million dollar complex of buildings put up in five months three years ago, and the United States European Command, called Eucom, in a former army post outside Stuttgart, Germany. The staff there is small, about 700. Because of the distance between the two headquarters, Goodpaster's deputy, Gen. David Birchinal, runs the day to day affairs at Stuttgart.

Gen. Dwight D. Eisenhower, the first supreme commander, established NATO headquarters near Versailles, outside Paris, and the American headquarters for Europe soon moved from Frankfurt, Germany, to a one-time royal hunting forest not far from Versailles. President Charles de Gaulle ordered both of them out of France.

SERVICES HAVE OFFICES

The United States army, navy, and air force each has its own European headquarters, subordinate to Goodpaster. They are widely scattered, with army Gen. James Polk in a former German army post in Heidelberg, air force Gen. Joseph Holzapple in another pre-war German army post in Wiesbaden, and navy Adm. Waldemar Wendt in a luxury apartment house in London across the street from the American embassy.

The army carries the main burden of America's participation in the joint defense of western Europe. It has 190,000 men in Europe. Another 28,000 soldiers, tho living in the United States, are pledged to fly over within a day if Goodpaster asks for them. The number of American soldiers in Europe has varied somewhat during 20 years, depending upon the fierceness of Russia's threats, but the figure has usually been in the low 200,000s.

FIVE ARMY DIVISIONS

The army's fighting force centers around five divisions, each with about 13,000 men and 3,300 vehicles. The soldiers live mostly in former German army camps, which are quite comfortable after 25 years of American use. Most married soldiers have their families here.

The soldiers go on maneuvers two or three times a year and to one of three training centers for about a month to fire their weapons. Missile crews go to the Greek Island of Crete. Combat soldiers here are expected to be ready to fight at any time, so the army gives them more training here than in the United States. The extra training costs two million dollars a year for each division.

MOST ARE VOLUNTEERS

About three-fourths of the soldiers are three-year volunteers. Soldiers like European duty and few draftees get the chance to come. Each soldier costs the army at least $5,000 a year altho Gen. Polk denies that "young American soldiers have never had life so good as they do here." Most single soldiers save money, encouraged by 10 per cent interest on their special savings bonds.

Nineteen thousand soldiers reenlisted last year, most of them to stay longer in Europe. Sixty-five thousand have volunteered for Viet Nam duty, altho most did so in the early years of the war. Gen. Polk says the possibility of being sent to Viet Nam discourages some short-term soldiers from reenlisting. Career soldiers ask to go where the action is, the biggest source of promotion and awards.

U.S. AIRMEN

Gen. Holzapple's 80,000 airmen are divided into the 17th air force with headquarters at Ramstein, Germany, and about 250 combat planes and 50 transport planes at 6 German airfields; the 3d air force with headquarters at Ruislip, outside London, and about the same number of planes on 5 British bases; and the 15th air force with headquarters at Tarragona, Spain, and five bases in Spain, Italy, Turkey, and Libya, altho it is losing Wheelus field outside Tripoli. The young Arab captains and majors who seized command of the Libya government, told ailing, elderly King Idris not to come home, and ordered the Americans to pack up. Our 3,000 airmen there and their families are already leaving.

DE GAULLE ORDERS MOVE

All American air bases in Europe used Wheelus field for year-round fair weather training. Because some German fields are weatherbound about half the time for normal flying, the flyers will miss Wheelus. Gen. Holzapple says the air force will survive, but with extra effort and at higher cost.

De Gaulle, however, was most costly. He deprived the air force of nine bases. The air force moved some planes forward into Germany or backward into Britain, neither militarily ideal, and sent the others home.

The air force is taking over a German field abandoned by Canada. Present bases, together, occupy 93,000 acres of land valued at 1.6 billion dollars supplied without rent for our NATO partners.

Most of our airfields have about 3,000 men, altho Ramstein has 18,000 military men, 31,000 wives and children, 1,200 civilian employes, 598 buildings, and 1,600 vehicles, not counting private cars. However, Ramstein, besides being a Phantom jet fighter base, provides headquarters for the 17th air force and a NATO subcommand and 50 various support operations. We'll take a closer look at airfields later in this series to see why the air force has 3,000 airmen on a field with only 60 or so planes.

XUM

NO NAVY LAND BASES

Adm. Wendt boasts that his 50 ships with their 25,000 men and 200 planes need no European land bases. The 6th fleet ships are based in the United States and come to the Mediterranean area for periods of four to six months. Tankers and cargo ships deliver fuel and supplies at sea.

Of the navy's 41 Polaris missile submarines, nine operate from a tender anchored in Holy Loch in Scotland; nine from another tender at Rota, near Cadiz, Spain, and nine from the American east coast.

Each sub has two crews of about 140 men each. The men are based in the United States, fly here, take over a submarine during its month at Holy Loch or Rota being maintained and resupplied, then go to sea for two months. They fly home after the patrol. Being away from home for three months twice a year causes considerable family problems and, altho enlisted submariners may earn up to $13,000 a year, living conditions are excellent and the duty challenging, the navy is short of Polaris men.

Two special combat forces deserve mention—the 32d air defense command and the 601 tactical control wing.

The air defense men are descendants of an anti-aircraft unit that, by shooting down 240 Japanese planes in New Guinea and the Philippines, earned Gen. Douglas MacArthur's comment: "This is superior shooting."

When planes started flying higher than guns could reach, anti-aircraft outfits were scrapped. Now missiles can go higher and faster, thus planes fly low and ack-ack fire is back.

Today's ack-ack men start shooting with the Hercules, a two-stage solid fuel missile 39 feet long and radar guided, that can reach out 175 miles and catch a plane flying three times as fast as sound. Big trailers carry the "Herk." It can carry an atomic warhead.

Next comes the Hawk, 16 feet long and radar guided, reaching out 20 miles for planes flying at altitudes of 100 to 4,500 feet.

Next comes the Chapparel, borrowed from the navy.

All of these missiles can be fired without the crew ever seeing the plane.

For close work, the army has a new small missile fired by a soldier from his shoulder and a modern version of the old Gatling machine gun with revolving barrels.

TEAMS AID SOLDIERS

The men of the air control wing are the link between the flyer and the soldier. Two-man teams, each with a Jeep, live with infantry outfits. If the soldiers need help from the air force, the teams, called forward air controllers, or FACs for short, identify the target, call for appropriate planes, guide them to the target, and report damage done. In the old days, artillery spotters on a hill, or in a balloon or plane did the same job for artillery. "FACs" proved their value in Viet Nam, often operating from small, slow planes or helicopters.

Visits to army, navy, and air force units in Europe indicate that American service men are fairly happy, reasonably comfortable, and justly paid. Specialists are highly intelligent, expertly trained, and dedicated—real professionals.

[From the Chicago (Ill.) Tribune,
Jan. 21, 1970]

Nothing Too Good for GI's in Europe

(By Arthur Veysey)

Kaiserslautern, Germany, January 20.—For as long as anyone knows, people moving east and west across the heart of Europe have come this way. The countryside is hilly and thickly covered with everygreen forests, but the going is easier than to the north or the south.

Soldiers sacked Kaiserslautern in the 30-years war three centuries ago. Napoleon's armies came this way. In World War II, allied bombers destroyed more than half the buildings here and killed 518 persons.

Today Kaiserslautern and the wooded hills around it hold our biggest military supply center in Europe. Commanders would prefer to have the supplies farther back, in France, for example, where they were until President de Gaulle told us to take them away. About half of the material was moved here. Some of it was sent to Burtonwood, near Liverpool, in England, where we have our biggest warehouses—equal to a building 1,000 feet long and 1,000 feet wide. Ammunition went to hideouts in Wales or to Viet Nam.

A BOOMING CITY

Kaiserslautern is a booming city of 190,000 persons and, despite a large car factory and sewing machine plant, the United States is its biggest employer—with 10,000 workers.

Warehouses hold 160,000 items, ranging from tiny rivets and transistors to bulldozers, nine hospital trains, enough bridging to provide 200 spans across the Rhine river, and enough snap-on pipe to run a fuel line 1,000 miles. The list value of the items in storage is 364 million dollars.

Six-thousand tons of material arrive monthly, mostly by truck from Bremerhaven. The warehouses, always open, dispatch 50,000 orders monthly.

A long workshop is used in rebuilding heavy equipment. Tanks, jeeps, trucks, torn sleeping bags, and worn shoes go to other workshops. The armed forces save money by getting the work done here. Wages are lower and there are no Atlantic freight bills to pay.

Kaiserslautern, though the biggest supply center, is only one of six American depots and four major maintenance areas in Europe, where our forces have, altogether, 2 million tons of supplies worth 2 billion dollars. Commanders think they have enough to wage a war for three months. To keep stocks level, a cargo ship arrives from the United States every other day.

Most of the 310,000 American service men in Europe are stationed in Europe for two or three years. Almost all married men have their families here. The bases have apartments or houses for only half of the 240,000 service wives and children. The rest live "on the economy" and many complain of high rents and low temperatures.

HOUSING CHANGES HANDS

Military housing changes hands every eight months, on the average. Cleaning and redecorating cost 40 million dollars a year. Workshops repaired 123,000 pieces of furniture last year. Base laundries washed 68 million pieces of clothing, and base dry cleaners handled 1,445,000 apparel items. Post exchanges employ 16,000 persons and made 26 million dollars on sales of 406 million dollars. Commissary sales amount to 68 millions.

About 110,000 children attend military post schools, with staffs of 5,000 at a cost to the government of 79 million dollars a year, or about 700 dollars per child [about the same as in the United States]. Children at remote, smaller bases attend boarding schools.

The high school at Lakenheath, England, is fairly typical. The buildings are American-designed, bright, light, warm, well equipped, and overcrowded, with 920 boys and girls, including 380 boarders, in space designed for 450. The 41 teachers and 25 counselors are American citizens. They came here for one or two years. Texas and California supply the largest number. The students read American books, have American curriculums, play American games. Slightly more than half go on to college.

GROW UP FASTER

Military children supposedly grew up faster than others, and become accustomed to separation from their families earlier.

Fifty thousand service men are taking college subjects, either from 50 universities offering correspondence courses or in seven operating classrooms at various bases. Forty-thousand are learning foreign languages, although the Pentagon, in an economy move, is threatening to charge them $10 each if it thinks the language is not a military necessity. The military offers to help its 15,000 men who are almost illiterate, but few of the latter take advantage of the opportunity.

The armed forces boast that their medical service is as good as that in any American community. In Germany, the army has 15 hospitals with 500 doctors, four psychiatrists, and three psychologists useful for keeping an eye on persons who know military secrets, and 11,500 other staffers; a variety of field medical services; 65 dispensaries; 108 dental clinics.

A TYPICAL DAY

On a typical day, about 750 service men and 650 wives and children are hospital patients, and 32 babies are born. The army puts its medical bill in Germany alone at 23 million dollars a year.

An air force hospital at Lakenheath cares for the 25,000 American service men in England and their 25,000 wives and children. Its new building is quite magnificent. For its daily quota of from 80 to 100 patients, it has 35 doctors, 54 nurses, 270 other medical personnel. Every Monday a plane flies around Britain collecting people requiring treatment. The hospital operation costs a million dollars annually but its commanders say the cost would be double that back home.

OWN RADIO NETWORK

The army, navy, and air force believe that by keeping a man interested and active on his base, he will stay out of trouble. Bases have a variety of clubs with good food, cheap, tax-free drinks, and bingo and slot machines to help pay the costs. They have movie theaters, bowling alleys, shops, libraries, gymnasiums, baseball and football grounds with military league games on Saturdays, and often swimming pools.

The GIs have their own radio network and, in Germany, a television station showing American programs nightly between 8 p.m. and 1 a.m. American and German TV systems are different technically, so the Germans need converters to look in.

The military daily paper, Stars and Stripes, prints lots of news, sells for a nickel, carries no advertising, has built a new million dollar plant, and has a circulation of 145,000, the largest of any English language newspaper on the continent. American Express provides banking services and military postoffices accept letters for homes at regular American postal rates.

The crime rate is lower here than in the United States. Agreements with European governments authorize local police to arrest suspects for crimes off the bases, but the police turn most offenders over to the military. Drunken driving is the most common offense. At last count 51 soldiers were in German jails. Military courts now have professional judges and lawyers. A portion of the World War II horror camp at Dachau is an American military prison.

SOURCES FOR ADVICE

For advice, soldiers can call on 188 lawyers, 200 chaplains, 350 Red Cross workers. To get away from their bases, families can obtain cheap vacations at 15 subsidized resort hotels, mostly in the Bavarian Alps. Berchtesgaden, where Hitler used to vacation, has a religious retreat.

XUM

The forces make available a much fuller life than many service men expect.

[From the Chicago (Ill.) Tribune, Jan. 22, 1970]

Planes Are Few, But United States Mans NATO Bases for War

(By Arthur Veysey)

Alconbury, England, January 21.—One day in 1938 English workmen cut a gap in a hedge separating two cow pastures. They put up a couple of huts and some tents and, lo, the royal air force had a flying field.

During the war, the American air force moved in, making some improvements. Jimmy Stewart and Clark Gable flew and manned guns in bombers.

The Americans went away after the war, but the Berlin blockade brought them back.

Today Alconbury is a base for Phantom reconnaissance planes. Not far away, another American base, Mildenhall, handles transport planes. They are fairly typical of our air force installations in Europe.

NINETY-PLANE NUCLEUS

About 60 Phantoms are based here, and there are about 30 Hercules transports at Mildenhall. Now, guess how many men the two bases have together. Two thousand? Four thousand? The answer is 6,000. Plus 6,000 wives and children. Plus 200 American civilian experts. Plus 1,500 British civilians to do the chores. And these numbers would be larger if the two bases did not depend upon another, Lakenheath, for a hospital and secondary schools.

Does the air force really need all these people to keep 90 planes flying?

Commanders quickly explain that our air bases in Europe are all designed for use in war and thus must be ready to handle many more planes than the few kept here in peace time. Basic services are about the same whether an air field is putting up 10 planes or 200. The control tower, communications systems, weather bureau, emergency services are all needed 'round the clock. Maintenance shops have equipment and supplies needed in the early days of a war.

At a peace time base, flyers are hard to find. A Phantom has a crew of only two, a Hercules transport four to seven. The Phantom flyers, usually lieutenants or captains, average 29 years in age, are college graduates, and have been flying for four to six years. Squadron commanders sometimes have as much as 7,000 hours of flying time.

VIETNAM BACKGROUND

Nine out of 10 have been in Viet Nam, and some can tell fierce tales. Col. Ralph Findlay, deputy commander of operations, was hit over North Viet Nam but managed to guide his burning plane out to sea. His canopy jammed and his suit was burned off by the time he got out. His navigator was plucked out of the sea with both legs shattered, but he is walking again now.

The Alconbury Phantoms, faster than sound, fly over enemy territory and radio back anything specially important they see.

But their main task is to take pictures. The planes carry a variety of magical cameras. One takes a picture from horizon to horizon. Another uses infra-red film which records differences in heat.

PICTURE OF THE PAST

On a black night, the infra-red camera not only picks out planes on a runway but can tell whether the engines have been used recently.

On a hot afternoon, flyers may come back with pictures of parked planes which the men didn't see because they weren't there. They had been moved, but their earlier shadows had cooled bits of concrete.

The cameras use film by the hundreds of feet. It must be developed quickly. So each Phantom photo base has a magnificent darkroom. It fills 26 trailers, linked together in an air-conditioned steel maze, self-sufficient except for water, and for that a pond or stream will do. Within six hours the whole thing can be ready to move, either on wheels or hoisted into transport planes.

The purchase price of the spectacular, efficient darkroom? $2,600,000.

OTHERS TO INTERPRET

A photograph means different things to different people. So Alconbury has people trained to find in a photo all sorts of things of military importance, peering thru the enemy's efforts to hide and distort.

Their discoveries warn ground forces of enemy preparations and provide targets for the air force. And, after a raid, the Phantoms go back and take new pictures to assess damage. The planes are unarmed and rely on speed, maneuverability and, especially, the ability and courage of the pilot and navigator.

The Phantoms are slowed by a parachute on landing. So Alconbury must have its parachute shop. For each hour in the air, a Phantom needs 36 man-hours of maintenance. So Alconbury has 300 maintenance men who draw supplies from warehouses with 40,000 different items worth 20 million dollars. A computer keeps track of the stuff and cuts the warehouse staff by half, but, even so, 300 men are needed to fill 8,000 orders a day.

ONE NIGHT FROM UNITED STATES

If the warehouse lacks an urgent item, the computer orders it from the appropriate American warehouse and the daily trans-Atlantic cargo plane brings it overnight. The base uses 3 million gallons of fuel monthly. Most comes by pipeline from British refineries.

An air base's communications equipment costs 28 million dollars and needs 190 men. Alconbury is tied into worldwide military networks, and indeed some of the chat from the moon comes thru here.

If the operator wanted to, he could open a line from a pilot flying over Turkey to his wife making a cake in her kitchen in Oak Park.

The generals and admirals who take turns flying around western Europe in a Mildenhall 707 have an open line to President Nixon, wherever he may be. Some operators handle secret messages and thus need approval of the Federal Bureau of Investigation, but electronic coders do most of the scrambling.

A 2-MONTH STINT

Mildenhall is the military passenger and cargo center for Britain. Eighty thousand persons, including President Nixon, passed thru last year, along with 14,000 tons of high priority cargo. The terminal has a staff of 190, plus 11 army men who serve as postal clerks, and 106 sailors for naval cargo planes.

The main business is carried out by 30 Hercules propjet transport planes which come here for two-month stints from their American bases, bringing along about 350 key men. The planes operate as far east as India and make deliveries to American embassies behind the iron curtain. For the Moscow run, the crews pick up a soviet navigator and radioman in Copenhagen.

The flyers like that run. It usually means three days of parties in Moscow.

SAFETY FOR EGGS

The planes join in military maneuvers, dropping paratroops and supplies. The packers boast that eggs they have packaged can be dropped without cracking a one.

The motor pool requires 179 men. Various offices, athletics, hobbyshops, library, gym, theater, post exchange, commissary, a new steam bath, various clubs, the bowling alley, and the dental shop occupy about 350.

[From the Chicago (Ill.) Tribune, Jan. 23, 1970]

Officials Call NATO a Success

(By Arthur Veysey)

Casteau, Belgium, January 22.— "There is no doubt in my mind that NATO has been a howling success," said the United States Army commander in chief for Europe, Gen. James Polk.

Gen. Andrew Goodpaster, supreme commander of the North Atlantic Treaty Organization, asserts that NATO has fulfilled its major objectives:

Europe has had 25 years of peace.

Western Europe has regained its confidence, recovered from war and occupation, and become more prosperous, more productive than ever.

NATIONS WORK TOGETHER

Free European nations are working together, altho shunning political union. Military cooperation makes the joint strength greater than the sum of the separate forces.

West Germany has become sovereign and an active member of the alliance.

"The real trouble with NATO is that NATO has been too successful," members of Goodpaster's 3,500 multi-nation staff say. "We've kept things quiet for so long that people no longer are scared of the soviets. People say they don't need us any more."

NO FEAR SEEN

In 15 NATO nations, by any statistical comparison, need not fear being overrun by Russia and its satellites. NATO nations have 518 million persons to the Communists' 336 millions. They have 120 million men of military age against 64 million. They are much richer, with an estimated income of 1,400 billion dollars, against the Communists' 536 billion. NATO controls two-thirds of the world's wealth and does two-thirds of the world's trade in three-fourths of the world's ships.

NATO members, believing a good offense is the best defense, have doubled and redoubled their military budgets. In recent years, spending has shrunk but NATO military budgets this year exceed 100 billion dollars, more than double the soviet and satellite total. However, about 25 billions should be charged to Viet Nam.

NATO efforts to pool manufacture of arms continually clash with national business interests but occasionally do succeed. National projects can give added value to the alliance if they fit into an over-all plan. The best example is about 200 air fields, each nationally run but suitable for joint operation. Radar, communications, and pipe lines are interlinked. A NATO flotilla of four or five destroyers and frigates carries little punch but works out procedures which could be applied in war.

FAIR SHARE DOUBTED

Many Americans complain that Europeans aren't doing their fair share, devoting an average 5 percent of their national incomes to the military compared with America's 9 percent. But their budgets total 23 billion dollars where the soviet satellites contribute only 7 billion dollars to Warsaw pact costs, perhaps reflecting a soviet lack of trust.

NATO nations have 5.4 million soldiers, sailors, and airmen, a million more than the combined Communists. Because the United States has only 10 percent of its men in Europe, the Communists are slightly thicker on the ground, 1.3 million to the American's 1.1 million.

London's institute of strategic studies estimates that the communist forces have 17,000 tanks to NATO's 7,000 in Europe and 1,500 combat planes to NATO's 3,000. However, that comparison omits America's forces in the United States and America's mighty industry. The United States has given away

26,639 tanks, 8,502 warplanes, 8,598 cargo planes and helicopters, 354,992 trucks and jeeps, 58,136 cannons, 29,357 missiles, and 3.3 million rifles, carbines, and machine guns. Much of this came to Europe as part of a 17 billion dollar military aid program. The United States also gave its partners 16 billion dollars in cash and civilian goods and services.

WEAKNESSES NOTED

NATO has two weaknesses. First, the members are widely scattered and form, in effect, a series of islands.

Geographically, France is the hub of NATO but former President Charles de Gaulle created a hole there, closing nine American air fields and 24 depots, and forcing headquarters to move to Belgium, Holland, and Germany.

High French military men and many influential citizens want France back in the NATO military command, knowing France lacks the equipment and men necessary to fight on its own.

POLITICAL WEAKNESS TOLD

The second NATO weakness is political.

Factions, as so often in the past, are rending the democratic nations internally and pulling them one from another. Greece is of increasing importance to NATO as the Russian fleet moves into the Mediterranean, but NATO members are threatening to oust Greece from the alliance because of its military regime.

In 1945, the United States, and western European nations which were to become its partners in NATO, controlled much of the world. The navies ruled the seas, unchallenged. The United States ended the war with 500 foreign bases. Today, America has fewer than 100. The British, French, Dutch, and Belgian empires are gone and much of the former colonial territory is closed to NATO.

Instead of a wide choice of east-west routes across southern Europe, Africa, and the middle east, we today have just one—thru Turkey and Iran.

OPINION SHIFT COSTLY

Perhaps most costly to NATO has been the shift in public opinion in western Europe concerning the Soviet Union and the United States.

Advocates of the soviets are getting a better hearing for their contention that Russia does not intend to move into western Europe and never did.

They claim that the United States, by trying to ring the Soviet Union alliances, forced it to maintain its defenses. They point out that Russia has not fought any war since 1945 while the United States had one war in Korean and now is fighting in Viet Nam.

HELP SEEN AS UNLIKELY

Quite a few Europeans, both friends and foes of the United States, believe that ever since the Soviet Union developed its hydrogen bombs and long range missiles, the United States would be unlikely to rush to Europe's defense.

Britain's Harold Macmillan, a firm friend of the United States, believed this strongly enough to begin construction of five Polaris submarines—with American help—to replace British made bombers carrying British-made atom bombs.

Similarly, de Gaulle built 35 Mirage bombers and atom bombs at an estimated cost of 9 billion dollars. Pompidou is spending another 5 billion to give France 18 land missiles and three Polaris submarines.

ARMS RIGHTS LIMITED

NATO's front line runs thru West Germany but West Germany's military rights are limited sharply by post-war treaties.

By imposing an 18 month draft, Germany has 460,000 men in uniform but 11,900 young Germans refused to be drafted last year as conscientious objectors. The army lacks 2,500 officers and 31,000 noncommissioned officers.

The prospect of American military cuts in Europe pushes Germans toward rearmament, a word that has scared generations of Europeans.

[From the Chicago (Ill.) Tribune, Jan. 24, 1970]

NATO Burden on United States a Cost Analysts' Maze

(By Arthur Veysey)

Stuttgart, Germany, January 23.—The joint defense of Europe, now in its 21st year, is the most costly enterprise ever undertaken by any group of nations.

In the first 20 years, the members of the North Atlantic alliance, first 12, then 15, now 14, spent 1 trillion 165 billion dollars on their military forces. Not all, of course, can be charged to operations in Europe. The United States, for instance, with military budgets totaling 847 billion, has in the meantime fought wars in Korea and Viet Nam.

A FASCINATING PUZZLE

Military spending produces two kinds of costs. Every dollar spent must come from American taxpayers, and certain foreign spending drains gold or foreign currency from the American treasury, adding to our balance of payments problem.

Trying to assess each kind of spending is a fascinating financial puzzle. Figures for the cost to American taxpayers of keeping 310,000 men in Europe vary from less than 2 billion dollars a year to more than 25 billion, depending upon who provides the figures and what he is trying to prove.

WAGES ARE LOWER

The lowest figure comes from American military finance officers in Europe, who want to emphasize economy. These officers cite the current budget for forces in Germany, totaling 1,262 million dollars and made up of 702 million for military pay, 62 million for pay to American civilians, and 216 million for pay to German civilians, 31 million for transportation and similar costs, 79 million for supplies bought in Germany, and 172 million for electricity, water, and other German services.

The United States has more than two-thirds of its European forces in Germany. If one assumes a similar level of costs for forces outside Germany, the total European figure would be under 2 billion dollars a year.

These finance officers add that, by keeping 310,000 troops in Europe, the military saves the taxpayers money because wages of civilian employes are lower here than at home, because the European government provides real estate worth at least 3 billion dollars with a rental value of more than 150 million dollars a year, and because the German government pays 95 per cent of all military bills in Berlin.

Looking on the drain on gold, the officers say that about 375 million of the 1,262 million finds its way back home in savings, remittances to families or purchases of American goods and services. Also, the German government has agreed to offset 1,520 million dollars of American spending this year and next.

EXCHANGE RATE HURTS

Consequently, the officers conclude, the forces are costing the American treasury only 127 million dollars a year in gold and marks, a pittance.

On the dark side, Defense Secretary Melvin Laird says the higher value of German marks will add 100 million dollars to American costs this year. And finance officers say rising German wages and prices will add another 50 million.

Another military accounting puts the European figure for the army alone of 1.8 billion dollars and lists, among major items, 1.1 billion dollars for military pay, 63 million for education, and 23 million for medical services.

ZERO DRAIN CLAIMED

A department of defense accounting for 1967 gave the total for all forces in Europe as 2.6 billion and said that of this 1.5 billion was spent in Europe. The department claimed that all of the 1.5 billion was recovered by the treasury, 1 billion thru German arms purchases in the United States and 500 million thru German investment in treasury certificates. Thus, the department said, the forces cost nothing in foreign money or gold.

German offset deserves a closer look. Under the latest agreement to offset 1 billion 520 million dollars over the next two years, the German government proposes buying American military equipment costing 800 million dollars and American civilian goods and services costing 125 million dollars. But Germany presumably would buy these goods and services in any case. The purchases do not reduce the cost of keeping our forces in Germany.

For the rest of the offset, Germany proposes using 150 million dollars to help Germans invest in American enterprises and property. The German treasury will send the American treasury 250 million dollars worth of marks for 10 years, will extend the term of existing German loans to the United States amounting to 113 million, will delay collecting 33 million dollars interest earned on German loans to the United States, and will make early repayment of 44 million dollars in American loans to Germany.

GERMANS DRAW THE LINE

These measures have aspects of financial sleight of hand, distorting the real cost in foreign currencies and gold. In using them, the United States is behaving like an overstretched householder who borrows in order to pay current debts. He delays the day of reckoning but, by adding interest charges, increases the sum he pledges himself eventually to pay.

The United States treasury is currently trying to revise the offset agreement to include the 100 million in added costs brought about by Germany's upward revaluation of its mark. But negotiators are running up against solid German opposition. German financial officers say that, altho Germany has had trade surpluses in recent years, the higher mark is hurting sales abroad and Germany cannot afford to alter the arrangement.

BIG MISSING ITEM

Some Americans believe the time has come for Germany to assume more of the cost of maintaining the joint defense of western Europe. They propose that Germany take over such tasks as operating the radar screen and anti-aircraft weapons, the workshops, warehouses and docks used by the American forces. American military commanders say Germans are fully capable of doing these jobs well, altho the commanders, like all military men, would regret seeing any vital service pass from their direct control.

None of this accounting so far takes into consideration the very high cost of supplies and services provided from the United States. For this, no military estimate is available.

Price tags are high: one Phantom, 2.5 million dollars; training one pilot, $170,000; a muffler for testing engines, $30,000; equipment for one army division, 236 million dollars; one Polaris submarine, 100 million dollars; 598 buildings at Ramstein air base, 52 million dollars; equipment for one bridging platoon of 23 men, 7 million dollars; shelter for one plane, $128,000; Falcons to drive birds from a Spanish air field, $22,000 a year.

TEN PERCENT OF BUDGET

The 310,000 men in Europe constitute about one-tenth of the United States' military forces and thus could be said to account for one-tenth of the normal military budget. Allowing about 25 million dollars for Viet

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Nam, our normal military budget is about 50 billion. One-tenth of 50 billion is 5 billion. This figure would be light, because forces here depend heavily on many services conducted entirely in the United States.

American forces here are part of the NATO command. Some accounts would include not only American spending on our own forces, but also the sums the United States spends on allied forces. The United States has given NATO partners 17 billion dollars in military aid and 16 billion in economic aid and has contributed about 2 billion dollars to joint NATO projects.

BALANCE OF THREATS

Because of the inability to trace cost items, one accounting procedure attempts to calculate the cost of keeping troops in Europe by considering reasons for military spending.

If one accepts the widely used generality that the Soviet Union was the biggest military threat to the United States until Viet-Nam came along—if the Russian threat, that is, were equal to all other threats put together—then half the normal military budget could be assigned to meeting that threat. Our normal budget, deducting Viet Nam costs, is 50 billion dollars. Half is 25 billion, and that, these accountants say, is the real cost of keeping troops in Europe.

A look at past American military budgets supports this figure.

REMAINS ON PLATEAU

Before NATO, the United States 1949 military budget was 13 billion dollars. American forces came back to Europe and by 1952 the budget had shot up to 49 billion. In those years the United States fought the Korean war, but even after that war ended the budget never dropped below 42 billion.

For more than a decade, until the Viet Nam buildup in 1965, American military effort was designed to contain the Soviet Union and its satellites. In half of the non-Korean, non-Viet Nam, United States budgets were charged to the defense of Europe, the 20-year total would be about 400 billion. In the 20 years, European military budgets approach $300 billion. The joint total is about $700 billion.

For $700 billion, three-fourths of all European NATO families could have a new $20,000 home. But NATO supporters say that without the military spending many of the families would not need a new home. They would be dead.

[From the Chicago (Ill.) Tribune, Jan. 25, 1970]

COMMANDERS OPPOSE PULLOUT BY NATO

(By Arthus Veysey)

LONDON, January 20.—Should the United States bring home many of its 310,000 men in Europe?

"No," our top military commanders here all answer. They, and other NATO supporters, give five reasons:

1. The remaining American forces would be unbalanced and unable to fight effectively, even to defend themselves. "A token force is an expendable force and that is not good enough nor fair to the troops." Gen. David Birchinal, deputy commander-in-chief for Europe, told The Tribune. The navy commander, Adm. Wardemar Wendt, said: "Without the American 6th fleet, the ability of European navies to fight would be sharply degraded."

CLAIMS UNITED STATES OUT-PLANED

Our air force commander, Gen. Joseph Holzapple, said the United States is already out-planed by the Soviets in Europe. The army commander, Gen. James Polk, said the army has already been deprived of new model tanks and helicopters. "Our soldiers deserve the best," he says.

2. American withdrawals would leave a military gap in Europe that Europeans are unlikely to fill. "If America drops the torch, there will be no one to grab it," comments a London periodical, Time and Tide. Former ambassador to NATO, Harland Cleveland, predicted to Congress on his retirement that American withdrawal would "trigger similar reductions by our allies." NATO meetings for two years have been concerned primarily with reductions.

The Russian invasion of Czechoslovakia in 1968 frightened some Europeans into demanding stronger NATO forces but the fear has worn off and, despite the continued stationing of 70,000 soviet troops in Czechoslovakia, NATO forces are withering.

SEES PRESSURE INCREASE

3. American cuts would probably increase European pressures for seeking agreements with the soviets, regardless of the cost. The last NATO council meeting, recognizing the widespread and growing public demand for easier relations with the soviets, agreed to seek negotiations aimed at a balanced reduction of forces on both sides of the iron curtain as the best hope of keeping the military balance even in Europe.

4. For 20 years the presence of American forces here and the American pledge to fight for any of its allies if attacked have restrained European nations from seeking to dominate the continent. American withdrawal would put western Europe up for grabs. The nation in the best position to reach for continental power is West Germany, already foremost economically, financially, and industrially, West Germany has, so far renounced seeking military and political power outside its borders and accepted a role secondary to that of the United States. But West Germany, alone of NATO allies, lost territory in the World War. It alone has a basic desire to change present borders by putting together the two halves and trying to recover territory lost to Poland in recompense for Polish territory seized by the soviets.

"West Germany is a considerable nation," says Gen. Holzapple. "Were Germany to change sides, that would make quite a difference in world affairs. Twice in my lifetime Germany has gone off the rails. The Germans have political savvy and, having been twice burned, are wary. But I don't say it's impossible for them to go off the rails again. There is much apprehension about Germany, especially in Britain and in the lowlands. I believe were we to make a big cut, the immediate shock wave would make Germans also quite panicky. I don't know where reactions would lead."

DECRY GERMAN CONTROL

Gen. Polk, former American commandant in Berlin, said: "People have long said they don't want a German finger on the nuclear trigger. To keep our vote on what happens in Europe, we must continue to keep our forces here."

5. American cuts would give the soviets a freer hand at a time when the Kremlin masters have dropped former Premier Nikita Khrushchev's talk about "peaceful coexistence."

"Never again will the soviet allow anyone to speak to it from a position of strength," said President Nikolai Podgorny on the 52nd anniversary of the Bolshevik revolution.

Gen. R. G. Simonyan, writing in the Soviet Military Review, reported: "The Soviet Union's growing defense potential and its indomitable nuclear missile might have basically changed the balance of strategic forces between the United States and the Soviet Union."

CITES SOVIET MOVES

In the past year and a half, the soviets have moved their navy into the Mediterranean and "introduced" troops in Czechoslovakia, thus strengthening the communist forces east of the iron curtain.

Soviet Secretary Leonid Brezhnev bluntly pronounced the new soviet hard line in Europe. The troops will stay in Czechoslovakia, he declared, "because so long as imperialism exists, it will continue its attempts to interfere in the affairs of socialist countries."

The commander of the soviet's long-range missiles, Marshall Nikolai Krylov, wrote in Pravda that "world capitalism, headed by the United States, is preparing to plunge mankind into a rocket-nuclear war whose social, biological, psychological, and moral consequences will be far more disastrous than those of any previous war."

The soviets, besides reportedly now making more big missiles than the United States and developing warheads which will split and scatter over several targets, showed in its Czech invasion how massively it has developed its "conventional" forces in the last three years.

DOUBTS REDUCTION

Reporters of soviet policies believe the Soviet Union is unlikely to agree to any reduction in its reequipped troops because the soldiers, with their tanks, can be used also to control the growing restlessness and dissatisfaction within eastern Europe. All soviet cities have large garrisons. The satellite leaders, Walter Ulbricht, Wladyslaw Gromulka, and Janos Kadar, are old men. Their death or replacement could set off unrest. Their successors could need soviet troops.

The soviets, in presenting a pleasing face to the world, propose disbanding both the Warsaw and NATO alliances and holding a European conference to produce a "European security system."

WOULD LOSE LITTLE

At first, the soviets said the United States would not be included, it not being a European nation. Subsequently, it said the United States could be admitted as an observer. The goal is obvious: To make the soviets supreme in Europe by speeding up American withdrawal and by keeping Germany divided.

The soviets would lose little in scrapping the Warsaw pact, signed in 1955 by East Germany, Poland, Hungary, Romania, Bulgaria, Albania, and Czechoslovakia. For several years the pact had no meeting at all, taking all orders from Moscow. Satellite officers were included on its staff but when one, a Czech general named Vaclav Prchlik, complained publicly that satellite officers were given no responsibility, the soviets abolished his post and sent him back to Prague, where the Communist party expelled him. NATO Secretary General Manlio Brosio points out that the soviets have concluded a series of pacts with individual satellites which make the Warsaw pact superfluous.

The soviets continue to portray NATO as an aggressive military bloc dominated by the United States and "revenge-seeking circles in West Germany." It claims these two "coerce smaller nations into accepting NATO burdens against their own interests." It claims Norway and Turkey are "eager to escape from the NATO yoke" and calls Denmark "an unwilling junior partner."

"We see no indication that the soviet is going to jump us," says Gen. Polk, "but it keeps a firm hand behind the iron curtain. One can wonder why. The soviet could try blackmail, seizing something and challenging us to restore the old line."

Former British Prime Minister Sir Alec Douglas Home says: "Without American troops here and without America's nuclear weaponry, few nations would be free today."

UNITED STATES WEIGHING PLAN TO REDUCE NONCOMBAT TROOPS IN EUROPE

(By William Beecher)

WASHINGTON, January 25.—A little-known plan of the Johnson Administration to withdraw about 30,000 troops from Europe is expected to be reviewed by the Nixon Administration as part of a special study just ordered by the National Security Council.

The plan, involving mostly administrative and support troops rather than combat forces, was prepared in the final weeks of the Johnson Administration and was incorporated into the budget presented to Congress this month.

President Johnson's budget message offered only this glancing reference to the cutback: "Actions contemplated in this budget will support our share of the efforts to improve the combat effectiveness of the NATO forces and, by streamlining overhead, will reduce the costs of maintaining U.S. forces in Europe."

Reliable sources say the program is designed to save almost $100-million a year in overseas expenditures and nearly twice that amount in budget costs.

About a third of the program involves consolidations of bases and other actions that do not affect American commitments to the North Atlantic Treaty Organization and thus could proceed without consultation with the allies, officials say.

The rest requires consultations, which, for the most part, have not yet started: These items are expected to be scrutinized carefully in the Security Council's two-month study of Alliance force levels and strategy.

Origins of the troop reduction plan go back almost a year, when the Department of Defense, worried about the increasingly adverse balance-of-payments problem, were seeking ways to substantially reduce costs of overseas garrisons.

SHUTTLE PLAN APPROVAL

The Atlantic allies had recently approved a formula under which two-thirds of an American division would be withdrawn to the United States, but would leave its equipment in Germany and would return once a year for training exercises. Two brigades of the 24th Infantry Division flew back to West Germany this month for the first such exercise.

Pentagon officials considered applying this formula to a second American division, but quickly rejected the idea for fear it would bring a snowballing of troop reductions by other NATO Countries.

Instead, they hit upon the idea of studying the entire system of post exchanges, schools, headquarters establishments, supply depots and combat support facilities to see where consolidations and closing of bases could save money.

They produced a plan that would have reduced forces by 35,000 to 40,000 men and offered the prospect of annual savings of about $200-million in overseas expenditures and $400-million in the budget.

Such action, its proponents felt, would also show Congress the Administration was actively trying to pare down expenses in Europe and perhaps forestall Congressional demands for more drastic troop cuts.

There was considerable discussion within the Government, with the Joint Chiefs of Staff and some State Department officials insisting the program be scaled down so as not to include any basic combat elements.

Proponents described the program as "cutting the tail without hurting the dog."

Some changes were made, however, and the program was moving toward acceptance and implementation when the Soviet block invaded Czechoslovakia in August.

RELUCTANT AFTER INVASION

In the aftermath of that event, the Administration did not want to approach its Atlantic allies on the administrative reductions, primarily because they might have undercut the primary effort at the time to convince the allies they must bolster their forces in response to the Soviet Union's more threatening posture in Europe.

In the fall, when the United States was preparing to announce actions that would cost $77-million—including the advance of the 24th Division exercise by several months and an accelerated aircraft shelter building program—some officials also wanted to announce details of the proposed "streamlining" of noncombat forces and facilities.

But again, because of the fear that it might psychologically be the wrong time for such disclosure, details were withheld.

Knowledgeable officials say the consolidations that do not require consultation with allies are likely to proceed without delay.

An example would be to move American naval personnel in London to a large Navy complex in Naples. This would make room for Air Force personnel in England to take up the vacated offices and quarters, thus allowing the closing of commissaries, schools, quarters, medical facilities, and clubs for officers and noncommissioned officers at an air base in Britain.

But other parts of the plan are expected to be reviewed closely. One of these would offer to turn a number of air defense installations over to West Germany, allowing the United States to pull out the troops and supporting elements now assigned such duties.

[From Survey of Current Business, December 1969]

U.S. DEFENSE EXPENDITURES ABROAD

(By Cora E. Shepler and Leonard G. Campbell)

U.S. Government defense expenditures abroad for goods and services reached an annual rate of over $4.8 billion in the first half of 1969, the largest amount ever recorded for these transactions in our international balance of payments. For the past several years they have comprised a tenth of all U.S. purchases of goods and services from foreign countries, and have been exceeded only by private merchandise imports as a source of foreign dollar earnings. In recent years the large increases in defense expenditures abroad have been associated with the conflict in Southeast Asia.

Defense expenditures abroad averaged about $3 billion a year from 1960 through 1965, but increased sharply following the involvement in combat in Vietnam. Tables 1 and 2 show that outlays in 1966 were $800 million higher than in the prior years, and in 1967 rose by another $600 million to $4.4 billion. In 1968 expenditures rose by only $150 million to $4.5 billion. Expenditures in each of the first three quarters of 1969 have amounted to about $1.2 billion and are now expected to total between $4.8 billion and $4.9 billion for the whole year. The flattening out in the recent past is primarily due to completion of certain major construction projects in Southeast Asia.

In 1961 the U.S. Government undertook to increase Government and commercial sales of military equipment to friendly nations economically able to bear a larger portion of the defense effort. The objectives of this program include increasing the strength of our allies, standardizing military equipment, and establishing cooperative logistics arrangements. These sales also help to offset the adverse effect of the balance of payments resulting from U.S. military deployment abroad. Since 1961 U.S. Government cash receipts associated with military sales contracts, and commercial sales of military equipment taking place under government to government agreements, have average well over $1.2 billion annually. As can be seen in take 3, the total for the four-year period 1965–1968 was $5.4 billion when barter sales of agricultural products arranged to reduce military net foreign exchange costs are included.

BALANCE OF PAYMENTS IMPACT

Defense expenditures abroad represent only the foreign costs of U.S. defense programs. Total Department of Defense outlays are, of course, very much larger. For instance, outlays for Vietnam in fiscal year 1969 are estimated at about $28.8 billion, of which about $27.0 billion was spent in the United States. Many of the items used abroad by the military were produced domestically and thus were not balance of payments entries. The remainder of the $28.8 billion, about $1.8 billion or 6 percent of the total, was spent in various countries for foreign goods and services for the war effort, and represents the direct Department of Defense balance of payments costs of the hostilities in Vietnam.

Defense expenditures in the United States have adverse indirect effects on the balance of payments, which are not included in the figures mentioned in this article. The indirect effects arise from increased requirements for imported materials used in the domestic production of military equipment. They also arise from the combination of an increase in military and civilian demand on the productive capacity of U.S. industry, which contributes to the increase in domestic costs and prices, and diverts a rising share of the domestic demand to imported goods and services.

On the other hand, both direct and indirect expenditures abroad have contributed to increased dollar earnings by foreign countries and thus have enabled them to step up their purchases of U.S. products either directly or through third countries. Because most of these shipments take place through commercial channels and are not related to Government activities, they are not reflected in the data discussed in this article, and it would be difficult to estimate them. It is not likely, however, that the rise in foreign expenditures in the United States has fully compensated for the increase in U.S. expenditures abroad that resulted from the large expansion of military activities in recent years.

The defense expenditures shown in the tables accompanying this article (equivalent to line 16, table 1, in the quarterly U.S. balance of payments presentations) include outlays for foreign goods and services by the military agencies and similar defense transactions of the Atomic Energy Commission and the Coast Guard which meet the NATO definition of defense expenditures. In addition to the direct expenditures of these agencies for goods and services, the data include the foreign expenditures of U.S. contractors employed to construct and operate U.S. foreign installations and to furnish other services abroad. Also included are the personal expenditures of U.S. military and civilian personnel and their dependents abroad, together with the foreign purchases of the military exchanges and similar agencies which sell to personnel. Other disbursements include expenditures for NATO infrastructure, the offshore procurement of military equipment to be transferred as aid to foreign countries, contributions to international military headquarters expenses, and other outlays for administration of military assistance programs.

Outlays for material, supplies, and equipment for our own use have included uranium, petroleum, and other items imported by the Government into the United States, as well as goods bought abroad and used abroad for the support of our forces. The data shown here do not include foreign products purchased in the United States, or the foreign components of U.S. products purchased here.

Defense expenditures abroad include all purchases of goods and services from foreign governments, foreign contractors, or foreign subsidiaries or branches of U.S. firms unless contractual arrangements stipulate that a certain portion of amounts paid out to the contractors is to be expended for U.S. products and services to be used in fulfilling the contracts. In the latter case, the resulting U.S. exports are netted against military expenditures and excluded from commercial exports in the balance of payments accounts.

FOREIGN CURRENCIES AND BARTER

Expenditures by the defense agencies do not always provide new dollar earnings to foreign areas since some purchases are paid for in foreign currencies previously acquired by the U.S. Government as repayments on loans and other credits, as counterpart funds received under grant programs, and as proceeds from sales of goods and services. Of course, such use of foreign currencies does not imply equivalent balance of payments savings for the United States. During the years 1965–1968 use of these currencies by the Department of Defense has averaged about $170 million a year. All expenditures in foreign currencies acquired without concurrent payment abroad in dollars are included as part of the data shown in tables 1 and 2. Acquisitions of these currencies are included as receipts in table 3 when they are proceeds of military sales programs.

During the 1965–1968 period the defense agencies acquired an average of approximately $175 million a year of foreign goods and services under barter agreements whereby U.S. agricultural products were exchanged for foreign products. The dollar value of such foreign procurement is included as part of the data shown in various categories of expenditures in tables 1 and 2, and the barter sales of agricultural products are included in table 3.

PERSONNEL SPENDING INCREASES

Not surprisingly, higher expenditures abroad by personnel and their dependents account for a significant part of the rise in defense expenditures abroad in recent years. In addition to an overall increase in military strength abroad, recurring pay raises have made many more dollars available for foreign spending. At mid-1969, the U.S. military establishment abroad was comprised of about 1.2 million men stationed abroad or on board ships at sea, and approximately 400 thousand of their dependents were living in foreign countries.

After averaging about $810 million a year from 1960 through 1963, personnel outlays rose to over $950 million in 1964 and continued to expand rapidly to reach an annual rate of almost $1.6 billion in the first half of 1969, nearly twice the rate of the 1960–63 period. About two-fifths of the most recent totals shown for this category were purchases of foreign goods for resale and other expenditures of the military exchanges, officers' clubs, and similar activities operating with nonappropriated funds to serve personnel.

Personnel spending varies from country to country according to the number of troops and dependents stationed in each country and the attractiveness of the merchandise and services offered on the local market. Where combat duty is involved, there are other special factors. Personnel expenditures in Vietnam, for example, dropped off during the Tet Offensive last year because most of the combat troops were moved out of urban areas and early curfews were imposed in urban areas. Per capita outlays there are also lower because personnel are not authorized to bring their dependents into the area.

Where the local market does not adequately meet demand, military men and their families spend mostly in the commissaries, exchanges, and other facilities operating within the military economy. Some of this spending is for goods brought by the military exchanges in other foreign areas and significant earnings are thus recorded for some countries where relatively few U.S. personnel are stationed. Major earnings are also realized by various countries from sales to men visiting on leave or rest and recuperation and from outlays ashore of Navy personnel stationed aboard ship.

Programs to reduce the foreign exchange costs of personnel spending abroad necessarily have been voluntary in nature since some specific curbs on the per capita expenditures of military men could create a morale problem and could require legislative sanction. The manner of military personnel and U.S. civilians in some oversea areas has been reduced, but pay and price increases have offset any significant savings. More U.S. goods have been made available in the military exchanges and certain limitations have been placed on sales of foreign goods.

An attractive savings program, made available to servicemen overseas on September 1, 1966, offers military personnel on active duty a 10 percent interest rate, compounded quarterly. Each man may deposit an amount equal to his entire pay and allowances up to a maximum of $10,000, subject to withdrawal overseas only in case of an emergency. Gross deposits, excluding interest, from the inception of the program through June 30, 1969, totaled nearly $620 million. These deposits, however, do not represent equivalent balance of payments gains since they may have replaced other forms of saving or remittances to the United States or may have been facilitated by transfers of money from the United States to personnel stationed overseas.

Treasury savings bond sales through payroll deductions have also helped to absorb GI funds, and disbursement procedures have been modified to make it easier for servicemen to leave a portion of their pay "on the books." U.S. personnel have also been urged to make greater use of American-controlled recreation facilities overseas. Handsome arrangements have been made for travel on U.S. carriers, and thousands of servicemen in Vietnam have taken advantage of rest and recuperation flights to Hawaii instead of traveling to Hong Kong, Thailand, Japan, or other foreign areas.

MANY CONSTRUCTION PROJECTS COMPLETE

Military expenditures abroad for construction began to decline in 1958 and dropped off gradually to a low of less than $100 million in 1963. The next 2 years showed small increases followed in 1966 by a substantial increase of about $200 million, occurring principally in Southeast Asia. Outlays in the following year were more than $380 million but declined to $275 million in 1968.

The balance of payments costs of major defense construction projects in Vietnam and Thailand were held down by employing U.S. prime contractors who made their large purchases of heavy equipment and construction material in the United States. Thus only two-fifths of the payments to these contractors represented expenditures for construction materials bought in various foreign countries and for the employment of foreign labor. The major construction programs undertaken in Vietnam and Thailand over the last several years are by and large completed and the major contracts under these programs have been superseded by similar but smaller contracts for operation and maintenance by U.S. contractors.

DEFENSE PROCUREMENT ABROAD

As a result of various measures instituted in the early 1960's to minimize defense procurement abroad, expenditures for foreign materials, supplies, and equipment had declined from nearly $670 million in 1962 to less than $530 million annually in 1964 and 1965. Thereafter, as a result of activities in Vietnam, these purchases began to increase sharply and by 1968 they passed $1.0 billion and accounted for over one-fifth of total defense expenditures abroad.

Purchases of petroleum products represented more than half of oversea defense expenditures for merchandise in 1968, amounting to about $520 million as compared with a yearly average of $265 million for the 5 years just prior to the expansion of the U.S. involvement in the Vietnam conflict. This sharp increase in the foreign cost of refined petroleum reflected not only the stepped-up requirements for the Seventh Fleet and for aircraft fuel in Southeast Asia, but also price increases resulting from the closing of the Suez Canal in June 1967.

Reported expenditures abroad for subsistence to be supplied to troops or sold in commissaries were less than $90 million in 1968, including foods acquired under barter programs. Purchases from foreigners for cash have been held to a minimum in the last two years, in part, by employing improved modes of transportation to carry U.S. subsistence items overseas.

Another $200 million was spent abroad in 1968 for major equipment as compared with $75 million as recently as 1965. More than 80 percent of these expenditures were in Canada with most of the remainder in Germany and Japan. Expenditures for missiles, electronics, and aircraft engines and spare parts are included in the outlays reported for this category.

Expenditures abroad for the military assistance offshore-procurement programs accounted for only $16 million of defense expenditures abroad in 1968. This program, once a major factor in our defense spending, was originally established to develop the military productive capacity of our allies by buying military equipment abroad to be transferred as grant aid. After peaking at $640 million in 1955, such expenditures dropped off sharply through 1958, and since then have declined more gradually.

In 1961 the Department of Defense initiated a program to reduce expenditures abroad for materials and supplies by placing contracts in the United States when estimated U.S. costs, including transportation and handling, did not exceed the estimated foreign cost by more than 25 percent. This differential was raised to 50 percent in mid-1962 and remains in effect, together with other programs, to minimize the foreign exchange cost of procurement abroad.

SPENDING FOR SERVICES

Payments to foreigners, contractual services outlays, and other direct expenses for services totaled $1.6 billion in 1968 and comprised well over a third of defense expenditures abroad. Of this amount, nearly $900 million was paid out in Southeast Asia and $600 million was spent in Europe.

Although the employment of foreign citizens in Europe has declined, activities in Southeast Asia and higher wages and bonuses have increased the costs of employing foreigners in recent years. These expenses, which are incurred principally for the maintenance and operation of bases, amounted to about $400 million annually in the 6 years prior to 1966, and then increased to an annual rate of over $630 million in the first half of 1969.

Other expenditures include payments to foreign contractors and the foreign expenditures of U.S. contractors engaged in the day-to-day operation of our bases and providing communication, utilities, real property maintenance, and repair services. Although a reduction in the number and functions of oversea facilities has occurred in certain areas, expenditures have increased considerably, primarily as a result of Southeast Asia activities.

NATO INFRASTRUCTURE PAYMENTS

The infrastructure program is the major multilaterally-funded program by which NATO provides combat support facilities, including airfields, naval facilities, missile sites, pipelines, and land-based communication and radar warning systems. As a result of the relocation of the NATO headquarters and forces from France in the spring of 1967, it has also been necessary to construct new headquarters in Belgium and the Netherlands, to relocate the communications network, and to provide other new facilities.

The U.S. share of infrastructure costs under the current formula is 25.8 percent in projects in which France participates and 29.7 percent when France does not participate. U.S. contractors are now eligible to bid on construction projects on equal terms with European contractors. The foreign exchange cost of our share of outlays is reduced, in part, by procurement from U.S. sources by U.S. contractors and, in some instances, by foreign contractors as well.

From the inception of U.S. participation in the program in 1951 to the end of June 1969, our total contribution to NATO infrastructure came to nearly $1.2 billion. The net impact of this program on the U.S. balance of payments cannot be measured, since procurement from U.S. sources is recorded as commercial exports and cannot be separately identified. However, activities under the program during the last several years probably have not contributed significantly to the U.S. deficit because, in some instances, special arrangements have been established to insure that U.S. contributions are offset by orders to U.S. suppliers.

CONCENTRATION OF DEFENSE SPENDING

Even though U.S. military establishments are widely distributed throughout the world, our defense outlays are concentrated in a relatively small number of countries. In the recent past, 10 countries have accounted for about 80 percent of the total. Nearly one-fifth of the 1968 total was spent in Germany alone, where outlays reached nearly $900 million. Over one-fourth was spent in Japan and Vietnam together, where disbursements were close to $600 million in each country. Thailand, Korea, the Ryukyu Islands, the Philippines, and Taiwan, the other major support areas for the Vietnam conflict, together received almost $1.1 billion, another fourth of the total. However, data for Vietnam and Thailand are somewhat overstated since petroleum expenditures are normally charged to the location where title is transferred to the military agencies rather than to the location of the refinery. Canada with nearly $300 million and the United Kingdom with nearly $200 million were the other two major recipients.

Although it is difficult to establish a clear-cut distinction between outlays for hostilities in Southeast Asia and expenditures for other purposes, it is estimated that in 1968 about $1.7 billion, or more than a third of our gross expenditures were attributable to the Vietnam conflict. The greatest increase in military expenditures in the last several years has, of course, been in Vietnam and the support areas. However, the conflict there has clearly increased expenditures in other areas of the world, such as in certain of the oil-producing countries.

OUTLAYS IN WESTERN EUROPE

Defense expenditures in Western Europe have averaged $1.5 billion a year since 1960 and have not deviated by much more than $100 million a year. The rather substantial reduction since 1960 in the number of U.S. troops deployed in Europe has been largely offset by price and wage increases The rapid decline in military expenditures in France, following the relocation of U.S. and other NATO forces from France in 1967, was accompanied by increased expenditures in Germany, Belgium, and elsewhere in Europe.

The Czechoslovakian crisis in August 1968, which led to an increase in troop deployment in Germany, also was partially responsible for increased expenditures in that country. In the past decade, Germany has earned more than any other country from U.S. military expenditures. In the first half of 1969, the annual rate of our military expenditures there reached almost $910 million, comprising nearly 60 percent of the Western European total.

U.S. defense expenditures in Germany probably did not contribute substantially to our balance of payments deficit from 1962 through 1967 because of our military offset agreements with that country. Under these arrangements Germany agreed to purchase military goods and services from the U.S. Government and from private U.S. suppliers at levels approximating our defense expenditures there. Final payments under these agreements was made in June 1967. Since then Germany has continued to purchase military equipment in the United States, but at greatly reduced levels. While Germany has also invested in medium-term non-convertible and non-negotiable U.S. Treasury securities, these securities will reach maturity in a few years and are a claim upon our real resources.

U.S. military expenditures in France before 1967 exceeded French purchases of military supplies and equipment from us. The peak in our defense outlays there was reached in 1955 at almost $600 million; our spending declined thereafter to somewhat over $200 million in 1966, the last full year before our military forces were removed. Expenditures in France are now running at an annual rate of less than $20 million.

Expenditures in the United Kingdom declined steadily from nearly $290 million in 1960 to less than $150 million in 1966. In the following year, the United States made an advance payment of $35 million to the United Kingdom for military equipment and the total for 1967 rose to $210 million. Expenditures have since averaged close to $200 million a year. Apart from purchases by military exchanges and direct personal expenditures by servicemen and their dependents, most outlays in the last 2 years have been for troop support and the operation and maintenance of our bases.

EXPENDITURES IN THE WESTERN HEMISPHERE

U.S. defense outlays in Canada reached a peak in 1958 of over $440 million, which included about $280 million spent by the Atomic Energy Commission for the procurement of uranium. Thereafter, uranium purchases declined and our overall expenditures trended downward until 1966. Beginning in 1966 they increased steadily to reach an annual rate of $310 million in the first half of 1969.

These outlays have been partially offset by Canadian purchases in the United States under the U.S.-Canadian defense production-sharing program. Under this program the value of contracts placed directly by the Department of Defense in Canada, as well as subcontracts placed there by U.S. contractors, is measured against the value of similar Canadian contracts place in the United States. Thus the program was designed to provide that, in the long run, military exports to Canada would balance military imports from Canada for certain military procurement, repair, overhaul, and modification of military equipment. Basic raw materials, fuels and lubricants, construction, off-the-shelf general procurement, and certain services do not come under the provisions of this program.

Outlays for goods and services in the American Republics, although widely dispersed among countries, now consist primarily of expenditures in Panama related to Canal Zone operations and purchases of petroleum products in Venezuela. During 1965 and 1966 these transactions were augmented by relatively small expenditures in the Dominican Republic. Since 1966 expenditures have been in excess of $100 million annually.

Reported expenditures in other countries of the Western Hemisphere, a little more than $80 million in 1968, have been less in the last 5-year period than in the several years preceding our entry into the Vietnamese conflict. These expenditures are principally for procurement of petroleum products from the Netherlands Antilles and Trinidad. It should be noted, however, that data for these areas are somewhat understated since petroleum expenditures are normally charged to the location where title is transferred to the military agencies, e. g., Thailand and Vietnam, rather than to the location of the refinery.

URANIUM PURCHASES IN SOUTH AFRICA

The data shown in table 2 for Australia, New Zealand, and the Union of South Africa cover primarily expenditures of the Atomic Energy Commission in the Union of South Africa and, beginning in the fourth quarter of 1967, the personal expenditures of troops from Vietnam on rest and recuperation in Australia. Purchases of uranium from South Africa were concluded in first quarter of 1967 and the expenditures for this commodity in 1966 and 1967 were offset by barter sales of agricultural products.

SOUTHEAST ASIA AND REST OF THE WORLD

In the rest of the world, expenditures amounted to $800 to $900 million annually in the 5-year period before hostilities intensified in Vietnam. In 1965, the first year of stepped-up activity, they increased to almost 1.1 billion and in the following year rose to $1.8 billion. The increase in 1967 was less steep but still amounted to over $500 million, for a total of over $2.3 billion. Thereafter, expenditures climbed at a slower pace, and by the first half of 1969 they reached an annual rate of $2.7 billion.

U.S. military outlays in Japan have been second only to those in Germany since 1959, but in the prior decade Japan earned considerably more than Germany. Annual Japanese earnings reached a peak of about $750 million in calendar years 1952 and 1953, but then began to fall after the Korean armistice and continued to decline through 1964 when they amounted to only two-fifths of their largest annual total. Japanese earnings turned upward in 1965 with the increased U.S. activity in Vietnam and by the first half of 1969 were running at an annual rate of $640 million.

Almost half of the 1968 outlays in Japan consisted of expenditures by U.S. personnel or purchases by the military exchanges for resale to troops in Japan, Vietnam, Korea, and the other areas, Military exchange purchases amounted to $135 million in 1968, almost triple the 1965 figure. Direct personnel expenditures in Japan have also increased, primarily because of outlays by men based in Vietnam who are in Japan on furlough or on rest and recuperation. Also, most of the men in the Pacific Fleet sooner or later have an opportunity to make a port call in Japan, a favorite liberty port among camera and stereo enthusiasts, and spend heavily on these and other items.

As in many other countries in this area, expenditures in Korea varied little during the years 1960–65, but almost doubled in 1966 when procurement of goods and services for use in the war effort began to make its impact. In 1967 Korea earned nearly $240 million, almost twice the annual average earlier in the decade and about three times the highest annual amount earned during the Korean War. In 1968, following the Pueblo incident, our military position in Korea was strengthened and expenditures rose to over $300 million. By the first half of 1969 the annual rate had climbed to nearly $360 million.

The United States has built up in Thailand a network of air bases, deep-water ports, supporting highways, supply installations, and communication systems. Construction in Thailand was carried out by several U.S. civilian construction companies and Army engineers, using American equipment to a considerable extent. Many Thai laborers were employed, however, and construction materials were procured in Thailand and other support countries. Most American military supplies have been moved from seaport to airfield via Thailand's domestic transport network.

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Gross expenditures, in Thailand reached a peak of almost $320 million in 1968 and then began to decline with the completion of the major construction programs. The withdrawal of 6,000 Air Force and Army support and construction personnel in this fiscal year may reduce them even further. Operating and maintenance expenses, combined with the personal outlays of U.S. troops stationed in Thailand and of troops there on rest and recreation from the combat zone, represent most current defense expenditures providing dollar earnings to that country.

U.S. military expenditures in Vietnam were comparatively minor prior to the last half of 1965. About mid-1965, however, with the progressive increase in personnel and activity, expenditures began to rise rapidly and by 1968 amounted to over a half billion dollars, as compared with about $65 million in 1964. When the United States entered combat activities, it was hampered by a scarcity of logistical facilities. The two major ports at Da Nang and Saigon were grossly inadequate to meet new demands and the delivery of support equipment by sea necessitated the construction of deep-draft ports. Large construction projects were also begun at airfields and storage facilities.

The increased requirements for labor, both skilled and unskilled, brought about by these vast projects led to labor shortages and resulted in an agreement between the U.S. Government and the Government of Vietnam for employment by U.S. contractors of third-country nationals, with first priority going to troop-contributing countries and then to countries rendering economic assistance to Vietnam. Of the amounts paid out as wages to such third-country nationals, only the workers' piastre expenditures are included in the data shown for Vietnam. The balance is allocated principally to Korea, the Philippines, and Thailand where most of these wages are remitted.

Late in 1965 military payment certificate (MPC's) were introduced as a means of paying the U.S. forces in Vietnam. These MPC's are denominated to dollars and used instead of U.S. currency or dollar negotiable instruments as the official medium of exchange for transactions in military exchanges and other establishments of the Armed Forces Military disbursing officers and banking facilities are authorized to exchange MPC's for piastres to be spent in the local economy but will not generally exchange MPC's for U.S. dollar negotiable instruments unless personnel are leaving the country. Personnel are prohibited from using either U.S. currency or MPC's for purchases of Vietnamese goods and services are required to purchase all piastres from official sources.

While the recent withdrawal of 60,000 troops from Vietnuam will reduce personnel expenditures in Vietnam, the total oversea disbursements will not fall by a proportionate amount because some of these troops are moving to other foreign areas. Nevertheless, with the completion of major construction programs and the decline in troop levels in Southeast Asia as a whole, military expenditures in the area may decline in 1970.

U.S. ALLIES BUY AMERICAN PRODUCTS

Increased U.S. military sales in countries economically able to procure a portion of their defense requirements in the United States have helped to offset the deficit impact of U.S. military disbursements. These sales have also fostered cooperative logistics with our allies and have enabled them to obtain weapons systems from the United States for much less than it would have cost them—counting research, development and production—to manufacture comparable systems.

Many American products have been transferred under military sales contracts, including aircraft such as fighter-bombers, transport and training planes, multipurpose jets, and helicopters; destroyers and patrol boats; ammunition and missile systems; electronic and communication equipment; tanks, vehicles, and various parts and spares. As a result of these transfers U.S. Government cash receipts associated with military sales contracts and other programs have ranged from $0.9 billion to $1.1 billion a year during the last several years, as shown in table 3. In the first half of 1969 they were at an annual rate of $1.1 billion—nearly five times the amount of 1960. (Quarterly data are shown in line B.3, table 5, of the U.S. balance of payments presentations.)

Receipts from Germany accounted for nearly half of the aggregate $7.1 billion of such receipts during calendar years 1962 through 1968. Of the global total, about $6.5 billion represented cash received under foreign assistance legislation authorizing reimbursable military exports. The remainder, averaging nearly $90 million a year, represented primarily the dollars and foreign currencies acquired either through the sale of property excess to the needs of military installations abroad, or through sales of materials and services provided under various logistical support programs to the United Nations Emergency Forces and to the allied countries contributing military strength in Korea and Vietnam. Also included are sales both here and abroad of petroleum products and other goods and services furnished to foreign naval vessels and aircraft. Receipts of foreign currencies contributed to the United States by foreign countries under military assistance programs, which are used principally for the support of our military missions abroad, are also included as part of these various receipts.

Although $7.1 billion of cash was received by the Government in the last 7 years, approximately $6.4 billion of goods and services were actually transferred to foreign countries during the period. These transfers under the military sales program included exports from the United States, transfers from stocks overseas, sales over-the-counter abroad, and training and other services provided either here or abroad. Transfers of goods and services to Germany represented 35 percent of the total, to the United Kingdom 13 percent, and to the other countries of Western Europe 21 percent. Exports to Canada and the American Republics were 7 percent of the total, to Australia and New Zealand 9 percent, and the remaining 15 percent went to Japan and the rest of the world. Line 4, table 1, of the quarterly U.S. balance of payments presentations provides quarterly data for these military exports.

Barter sales of agricultural products arranged to finance purchases by the military agencies and the Atomic Energy Commission began in 1963 and by the end of June 1969 the cumulative value of payments to the Department of Agriculture by these agencies for shipments to foreign countries was almost $840 million. Under this program agricultural commodities are provided to a barter contractor as an intermediary in obtaining foreign goods and services to meet a portion of the oversea requirements of both military and nonmilitary agencies. The objectives of the barter program are achieved only to the extent that the exports under it are additional to agricultural sales that otherwise would be made abroad for payment in dollars. The Department of Agriculture has a screening procedure to maximize the probability of additionality in each approved barter transaction.

Table 3 also shows the available data for commercial sales of military items to NATO and to Germany, Italy, Japan, Iran, and Saudi Arabia under government-to-government agreements. These receipts for equipment procured directly by foreign countries from private U.S. sources have averaged about $200 million a year since 1961.

In recent years special U.S. Treasury medium-term securities have, on occasion, been sold to foreign governments when our military expenditures in their countries are significantly larger than their military purchases from us. These financial measures, which do not represent a long-term solution to the military deficit, are not included in table 3.

TABLE 1.—DEFENSE EXPENDITURES ABROAD FOR GOODS AND SERVICES, BY MAJOR CATEGORY[1]

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	January-June 1969
Total[2]	3,087	2,998	3,150	2,961	2,880	2,952	3,764	4,378	4,530	2,412
Department of Defense expenditures[3]	2,722	2,694	2,839	2,765	2,755	2,894	3,718	4,367	4,521	2,406
Expenditures by U.S. personnel and by military exchanges, clubs, etc	806	772	829	843	954	1,050	1,256	1,391	1,502	791
U.S. military and civilian personnel and dependents	418	460	484	472	561	623	738	799	871	453
Military exchanges and other nonappropriated fund agencies	388	312	345	371	393	427	518	592	631	338
Construction	166	152	110	92	106	152	353	382	275	140
Equipment	56	59	79	84	88	75	145	197	199	112
Materials and supplies	551	579	589	510	427	453	592	721	805	444
Foreign citizens (direct and contract hire)	363	388	414	429	409	422	482	558	580	317
Other services and unallocated	466	490	522	536	570	589	754	993	1,052	553
NATO infrastructure	117	50	85	56	55	41	46	49	55	19
Military assistance program offshore procurement	148	147	143	151	89	57	40	30	16	7
Military assistance program services	49	57	68	64	57	55	50	46	37	23
Atomic Energy Commission defense expenditures	365	301	262	188	118	49	36	2		
Coast Guard expenditures	(4)	3	4	8	7	9	10	9	9	6

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[1] For quarterly data see line 16, table 1, of the quarterly U.S. balance-of-payments presentations in the Survey of Current Business.

[2] This series differs from the series maintained by the Department of Defense which includes expenditures for retired pay, claims, grants of cash to foreign countries, and net changes in Department of Defense holdings of foreign currencies purchased with dollars. These transactions are included in other entries in the quarterly balance-of-payments presentation in the Survey of Current Business.

[3] Data by category differ from the series maintained by the Department of Defense in certain instances, e.g. (1) Department of Defense includes permanent change of station and per diem allowances in the category "Expenditures by U.S. personnel" beginning with the last half of 1967, whereas they are included here in the category "Other services and unallocated"; and (2) Department of Defense data do not include expenditures for equipment from operation and maintenance appropriations in the category "Equipment" beginning with 1965, whereas they are included here as "Equipment" through 1967, and "Materials and supplies" thereafter.

[4] Not shown separately.

Source: U.S. Department of Commerce, Office of Business Economics, from information made available by operating agencies.

TABLE 2.—DEFENSE EXPENDITURES ABROAD FOR GOODS AND SERVICES, BY MAJOR COUNTRY

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969 January–June
Total	3,087	2,998	3,105	2,961	2,880	2,952	3,764	4,378	4,530	2,412
Western Europe	1,652	1,531	1,633	1,523	1,492	1,468	1,535	1,616	1,533	797
Belgium/Luxembourg	28	12	16	12	11	12	14	35	37	21
Denmark/Greenland	51	37	34	42	36	40	37	36	34	18
France	274	286	268	243	218	208	206	97	25	10
Germany	649	636	749	691	694	714	770	837	877	454
Greece	19	18	20	27	28	31	24	26	28	13
Iceland	14	14	12	10	11	13	17	24	18	7
Italy	116	97	114	93	102	102	106	102	103	65
Netherlands	37	28	34	31	40	41	43	49	41	19
Norway	17	14	15	14	24	24	28	38	32	7
Spain	64	54	52	49	45	45	50	48	42	21
Switzerland	9	6	5	8	10	11	10	12	10	6
Turkey	57	54	55	50	58	42	49	48	51	22
United Kingdom	287	225	197	184	173	154	146	210	172	106
Other and unallocated	30	50	62	69	38	31	35	54	63	28
Canada	387	357	326	296	258	177	205	232	285	155
Latin American Republics	59	57	76	79	86	89	91	102	105	55
Other Western Hemisphere	89	100	87	92	94	80	68	81	83	38
Bermuda	13	14	14	14	10	8	9	11	8	4
Netherlands Antilles	60	63	53	51	54	33	21	43	44	20
Trinidad and Tobago	12	20	17	21	24	32	29	19	22	10
Other and unallocated	4	3	3	6	6	7	9	8	9	4
Australia, New Zealand, and South Africa	75	98	103	105	103	57	59	29	33	21
Other countries	825	855	880	866	847	1,081	1,806	2,318	2,491	1,346
Bahrein	36	43	39	35	31	36	38	56	61	32
Japan	412	392	382	368	321	346	484	538	581	320
Korea	94	112	103	90	91	97	160	237	301	178
Morocco	26	21	18	16	7	4	5	6	5	3
Philippines	47	49	51	46	58	81	147	167	169	90
Ryukyu Islands	78	93	96	97	115	123	150	188	202	104
Saudi Arabia	42	45	44	43	37	36	51	53	91	45
Taiwan	25	23	22	20	21	21	60	70	76	42
Thailand	5	8	30	27	34	70	183	286	318	139
Vietnam	[1] 7	[1] 12	[1] 37	52	64	188	408	564	558	303
Other and unallocated	53	57	58	72	68	79	120	153	129	90

[1] Includes Cambodia and Laos.

Note: See table 1 for other notes.

Source: U.S. Department of Commerce, Office of Business Economics, from information made available by operating agencies.

TABLE 3.—U.S. GOVERNMENT RECEIPTS UNDER MILITARY SALES PROGRAMS COMMERCIAL SALES UNDER GOVERNMENT-TO-GOVERNMENT AGREEMENTS AND BARTER SALES ARRANGED TO FINANCE PURCHASES OF THE DEPARTMENT OF DEFENSE AND THE ATOMIC ENERGY COMMISSION

[In millions of dollars]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969 January–June
Total [1]	323	549	1,392	1,243	1,216	1,326	1,280	1,421	1,383	778
U.S. Government cash receipts associated with military sales contracts [2] [3]	319	399	1,139	994	987	1,080	927	1,023	974	564
Barter sales of agricultural products arranged to finance purchases of:										
Department of Defense [4]				8	35	109	141	226	200	90
Atomic Energy Commission [4]	(5)	(5)	(5)	(5)	(5)		28	2		
Commercial sales under government-to-government agreements [4] [5] [6]	4	150	253	241	194	137	184	170	209	124

[1] Does not include certain Department of Defense and Export-Import Bank collections on credits financing commercial sales of military equipment and does not include interest collections on credits financing Department of Defense sales which are included in the series on U.S. defense receipts maintained by the Department of Defense. These transactions are included in other entries in the quarterly balance of payments presentations in the Survey of Current Business. ,

[2] For quarterly data see line B.3 table 5 of the U.S. balance-of-payments presentations in the Survey of Current Business.

[3] U.S. Government cash receipts include principal repayments on credits financing military sales contracts and are net of refunds.

[4] Included as part of the data shown in line 3 table 1 of the quarterly U.S. balance-of-payments presentations in the Survey of Current Business.

[5] Not available.

[6] Includes available data for commercial sales of military equipment under government-to-government agreements.

Source: U.S. Department of Commerce Office of Business Economics from information made available by operating agencies.

MARCH 12, 1970.

Hon. MELVIN R. LAIRD,
Secretary, U.S. Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: I understand that the Department of Defense is now implementing a program known as REDCOSTE ("Reduction of Costs, Europe") which was first developed in the summer of 1968. According to testimony by Maj. Gen. George S. Boylan before the Department of Defense Subcommittee of the House Committee on Appropriations on April 22, 1969, Redcoste: "stems from a Department of Defense survey of forces and support elements in Europe, all three services—Army, Navy, Air—last summer. The defense team visited installations and looked at the relationship of the support overhead to the combat posture, and concluded that, in fact, savings could accrue in Europe through consolidations, eliminations, and changes." (Hearings, p. 753)

Earlier, former Defense Secretary Clark M. Clifford described the program as: "a number of measures designed to tighten up further our force structure in Europe so as to ease, to the extent feasible, our balance of payments and budgetary problems. What are involved here are consolidations and relocations of certain force elements and command and support activities within NATO; reductions in administrative personnel at major headquarters and in personnel support activities, such as communications, post exchanges, recreation facilities, etc.; and the elimination of overlapping and duplication generally." (Posture Statement, January 15, 1969, p. 71)

In your statement before the House Armed Services Committee on March 27, 1969, you announced that the Redcoste program for Fiscal Year 1970 was being cut back:

"The original fiscal year 1970 budget anticipated savings of about $160 million from this effort. We have reexamined the impact of the fiscal year 1970 Redcoste program and are convinced it is somewhat too ambitious in the time frame contemplated. The Army and Air Force in particular cannot implement the program on the schedule originally planned. Accordingly, we propose to restore $17 million of the $56 million deleted from the Army budget under Redcoste, and $19 million of the $88 million deleted from the Air Force budget." (Hearings, p. 1760)

In an article in the New York *Times* of January 26, 1969, William Beecher reported that the original Redcoste plan called for a force reduction of 35,000 to 40,000 men, with an annual saving of $200 million in overseas expenditures and $400 million in the budget.

With inflation at the highest level since the Korean War, and with a balance of payments deficit approaching $7 billion a year, I think it is imperative that the Redcoste program be fully implemented at the earliest possible date.

The testimony of Maj. General Boylan last April, a portion of which is cited above, indicates that there is opposition, at least within the Air Force, to full implementation of Redcoste.

Accordingly, I would appreciate receiving answers to the following questions:

1. What measures were recommended by the original Redcoste study prepared by the Office of the Secretary of Defense? What was the estimated budgetary and overseas expenditure saving for each measure recommended?

2. Which of these recommendations were implemented in Fiscal Year 1969?

3. Which of the recommendations were approved in the Fiscal Year 1970 budget as prepared by Defense Secretary Clark Clifford? As modified by you?

4. Which of the original Redcoste study recommendations remain unimplemented?

5. Which of the recommendations not yet implemented do you plan to implement in the future?

I would like to receive as much of this information as possible in unclassified form. If it is necessary to classify it, please give the reasons for classification.

If possible, I would like to have the answers to these questions by March 25.

Sincerely,

Henry S. Reuss.

EXPANDED SCHOOL LUNCH PROGRAM

Mr. SYMINGTON. Mr. President, the Senate recently supported a further expansion of the school lunch program.

Many of us believe that we should be giving more attention to the problems which appear to be increasing here at home, including efforts to improve the lives of our children.

In that connection, I ask unanimous consent that a wise editorial entitled, "School Lunch Programs Are a Way to Better Health," published in the Kansas City Times, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

School Lunch Programs Are a Way to Better Health

If the Senate can put more federal money into the school lunch program, more power to the Senate. If the Congress can put pressure on the states to earmark tax money for the purpose, more power to the Congress. If taxing units at any level can assure all children—poor or otherwise—of at least one nutritious meal a day, much will have been acomplished in America in the promotion of good health and the reduction of disease.

Ideally, school lunches ought to be provided without cost to all students. Lunch should be available—and breakfast too—just as classrooms, teachers and library books are available without special cost to the individual.

Instead, the whole program tends to get bogged down in the semantics and bookkeeping of who pays how much for what. In the Kansas City district, for example, about 20 percent of the entire student enrollment receives either a free lunch or one at reduced price. The cost to the student who can pay is 40 cents in the elementary schools and 45 cents in the high schools. Children whose families say they can pay nothing get the lunch free. Those who can pay something—and usually it is minimal—get lunch at the reduced price. The federal government now pays 19 cents for each free lunch and 5 cents for each reduced price lunch. The difference in the total cost is made up by the families who pay and by local taxpayers.

The state of Missouri earmarks nothing for school lunches. The state money arrives—inadequate as it is—and the district uses it in general operation although most must go to teacher salaries. Commodities help. But the burden of expense and responsibility remains local.

The Kansas City district now serves about 900,000 free or reduced-price lunches a year. The 20 per cent of the student body who receives them compares to 11 per cent of only a year ago and almost none at the beginning of the decade. Obviously, the free or low-cost lunch is being accepted not as an emergency matter but as routine.

The local taxing district hardly is in a position to put more money into the program. The state of Missouri at the moment is an unlikely rescuer. Missouri can't even put through an income tax reform law without danger of being overridden through a referendum.

Thus we return, as usual, to the federal taxing power in Washington for relief. The school lunch bill as it was reported from the Senate agricultural committee was an improved measure and the amendments to it for greater federal aid, voted this week by the Senate, make it even better. There can be no question that diet is a basic element in health, and that it is particularly important for children. Nutrition lost in childhood never can be regained. Society pays for that loss later in the hospital and medical bills of sick people who might have been healthy except for youthful malnutrition.

The school lunch is of fundamental importance. The point is to get it to all children—those who do pay, those who won't pay and those who can't pay—without the stigma of the dole and without the youngsters having to borrow from the teachers who seldom get all their money back. At least one decent meal a day is as essential as anything the schools can offer.

CAN WE TRUST THE KREMLIN?

Mr. MILLER. Mr. President, the March issue of Reader's Digest contains an article entitled "Can We Trust the Kremlin—Soft Words Versus Hard Facts," written by the distinguished former military editor of the New York Times, Hanson Baldwin. Because of its timeliness and deep perception, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Can We Trust the Communists? Soft Words Versus Hard Facts

(By Hanson Baldwin)

Can we trust the Kremlin?

This question—after all the recent talk of "peaceful coexistence," "détente," "rapprochement"—has now become, with the opening of arms talks with the Russians, of key importance.

In recent months, Soviet Foreign Minister Andrei Gromyko and other Kremlin spokesmen have been making soft noises toward the United States which to many Americans translate into peace.

But are the noises genuine?

No American can forget that it was the same Andrei Gromyko who in October 1962 assured President Kennedy that the Soviet Union had not installed and would not install offensive missiles in Cuba, although the President had in his desk photographs of such missiles, aimed at the United States.

Former Vice President Humphrey contends that the issue goes beyond trust, that we "stand on common ground with Moscow" because of the threat of mutual nuclear annihilation, and that we *must* limit strategic nuclear weapons or perish. We can and must *try*—but it takes two trustworthy parties to get a trustworthy agreement. and trustworthiness can be determined only by deeds, not just words, spoken or written.

Certainly we have a common interest with the Russian people—and with all other people—in survival; certainly most Americans would like to see a safe and enforceable limitation to the arms race, enabling us to use the money for more productive purposes.

But the issue is *not* disarm or perish; it is whether, if we disarm in trust of the Kremlin, our chances of survival will be improved or reduced. In fact, unless we are careful *how* we limit our arms, unless we are sure that any agreement with the Russians is based on *enforceability* and not just on faith in their good intentions, we could end up Red or dead—or both. After all, mutual deterrence has been an effective restraint to nuclear war during the first quarter-century of the atomic age, and it is likely to remain so—regardless of formal arms-limitations agreements—as long as the United States retains strategic superiority.

The United States has already made the initial mistake of undertaking these highly important talks from a basis of actual or impending inferiority in strategic weapons. One doesn't play poker without cards, and nations cannot negotiate sucessfully, or protect their vital interests, from a position of weakness.

In *all* relations between men and nations, an element of trust is essential to agreements. This is particularly true in arms negotiations, since no foolproof system of inspection that is both politically and technically feasible is possible. Yet in 1945–46 we trusted the Kremlin, drastically reduced our arms, abandoned scores of overseas bases, demobilized 8 million of our 11 million servicemen, offered the Kremlin equality in the decisive new field of atomic power where we had a monopoly—and got what? New and powerful pressures on Greece and Turkey, stepped-up subversion in Italy and France, the Berlin blockade, seizure from within of Czechoslovakia and outright unprovoked aggression in Korea! It was these Kremlin-directed actions that forced us to rearm and to make vast new military expenditures.

Again, in 1958, we trusted the Kremlin. In a kind of unofficial "gentlemen's agreement," we instituted a voluntary moratorium on atmospheric tests of nuclear weapons. We did not even prepare for additional tests—so we were caught short in 1961, when the Kremlin inaugurated a series of highly sophisticated tests for which they had obviously been preparing a long time. They derived from these tests advantages—in knowledge of the peculiar thermal and X-ray effects of extremely powerful nuclear explosions at high altitudes—which we have never fully overcome.

Many sincere but misguided Americans have suggested that the Russian arms buildup was reaction to U.S. developments. This is a distortion of the facts. It was said that if we built an anti-ballistic-missile system, it would force the Soviets to do the same. The result? We didn't; they did.

There is, of course, an action-reaction cycle in all human affairs. This is one reason why it is desirable, if safe means can be found to do so, to dampen the arms race. It was the Soviet's installation of more and larger ICBMs then we had, and their installation of ABMs in sizable numbers—despite our abstention—that forced us to start our ABM program in self-defense. Their arms budget continues to increase, while we have started,

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with budget cuts and large force reductions, a kind of unilateral disarmament.

But the real question is whether actions do not speak louder than words. The Russians *talk* about relaxation of tensions, arms limitation, the solution of political problems, but so far they have not made one single substantive change in their tough policies. If the Soviet leaders really want to live in peace and let other nations do likewise, there are things they can do that would be far more convincing than words. Consider these key areas:

ARMS LIMITATION

Moscow is pushing one of the greatest armament-expansion programs ever financed in any country. The biggest submarine fleet in the world is being steadily enlarged by 12 to 20 new submarines every year. This rate of construction is unprecedented except in wartime Nazi Germany.

Soviet land-based intercontinental ballistic missiles now exceed ours in number and far exceed ours in total force of nuclear explosives. Despite an agreement not to put nuclear weapons in orbit, the Soviet Union has developed a Fractional Orbital Bombardment System (FOBS) which could, if used, reduce our attack-warning time to perhaps five minutes. Moscow is continuing underground tests of nuclear weapons, plus tests of biological- and chemical-warfare agents.

The Soviet arms program, as now projected, cannot conceivably have any objective other than the achievement of superiority over the United States in many areas of military power—particularly in strategic weapons. There is no sign of any abandonment of this program. If "parity" in missiles will give us more security than superiority, why is the Kremlin driving so for superiority, despite the cost in goods and comforts for the Russian people.

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A unilateral reduction of the Soviet arms budget—something that the United States already has done—and agreement to exchange at least a limited number of on-site armament inspections would help to indicate that Moscow is *really* interested in arms control. In the absence of such actions, dare the United States trust mere lip service?

VIETNAM

Soviet aid to Hanoi is a major factor in prolonging the Vietnam war. It could not possibly have been waged on the scale of the last three years without such aid. The United States has halted the bombing of North Vietnam, withdrawn troops, made clear its desire for an honorable peace. Yet communist-flag ships still carry petroleum, trucks, cement and food to Haiphong. Thus, to a very considerable degree, Moscow controls the intensity of the fighting; certainly she could help to reduce it. And if Moscow were truly interested in improving relations with the United States, she could also ease Hanoi's inhumane treatment of U.S. prisoners.

SPACE

Nothing illustrates more sharply the difficulty of doing business with the Soviets than the contrast between the openness of the United States' Apollo 11 lunar landing flight and the secrecy of the simultaneous Soviet unmanned moon probe. Col. Frank Borman, commander of Apollo 8, was in the Kremlin shortly before both events and was told nothing of the intention—one that obviously failed—to upstage the U.S. moon flight.

Space cooperation is a field that can provide benefits to both countries—and to the world. So far, the Russians will have none of it.

ARMS EXPORTS AND SUBVERSION

While the Kremlin leaders talk of peace, they are engaged in stirring up trouble throughout the world. Moscow's export of arms in large quantities, even to the most dangerously explosive areas, continues unabated. Russia is helping to build five more Egyptian divisions, for example (to increase the total to about 12), despite the already tense situation in the Middle East.

In the Arabian peninsula, the so-called Popular Front for the Liberation of the Occupied Arab Gulf was formed about a year ago. This front operates with the support of the large Soviet embassy in Aden, and with financial and arms aid from the U.S.S.R. Its target, ultimately, is the rich prize of Middle East oil. It hopes to topple the British-backed regimes in Muscat and Oman and other relatively moderate governments in the oil-rich sheikhdoms of the Persian Gulf. An actual small-scale guerrilla war is being fought in Oman.

This same pattern of subversion is evident in many parts of the world, making it clear that the Kremlin has never forsworn former Premier Nikita Khrushchev's public support for what he called "wars of national liberation." In Africa and Vietnam, for example, the pattern is identical and familiar: psychological, economic, political and military penetration; encouragement of unrest; establishment of terrorist cells and guerrillas; civil war and revolution—all supported from outside the country.

A renunication of such subversion would do more to reduce the fear of Russian imperialism in the West than any other one act.

PROPAGANDA

The Soviets' virulent press and radio attacks against the established order throughout the world continue. Two clandestine radios beamed at Turkey—one located in East Germany, the other in Russia—spew venom against the United States, the Turkish government, and the North Atlantic Treaty Organization, in which Turkey is allied. Millions of rubles are being spent to support radical publications and organizations around the globe. Meanwhile, Russian propaganda for domestic consumption continues to picture the United States as its chief enemy and denounces Washington in malignant terms as the enemy of all people.

Cessation of these propaganda attacks would certainly add credibility to the Soviets' expressions of desire for peaceful coexistence, and prepare the way for a free exchange of ideas between our society and theirs. In this respect, probably the most symbolic, and certainly the most dramatic gesture the Russians could make would be the destruction of the Berlin Wall.

These are only a few of the actions that would speak louder than words in determining the Kremlin's good faith. Yet, so far, there has been no real hint of any concession by Moscow in any of the world's trouble spots. Divided Berlin, divided Germany, divided Korea, war-torn Vietnam, an Eastern Europe held in uneasy thrall by Moscow and, above all, the complete intransigence of the Russians in the Middle East crisis—these are the major causes of today's tensions and conflict.

Until there is progress toward resolving these differences, Americans have no choice but to reserve decision about the Kremlin's good faith and future intentions. We must continue to try—yes; but we must also not let down our guard.

How can there be trust until there is at least one substantial Soviet deed to justify it?

WATER POLLUTION

Mr. MANSFIELD. Mr. President, yesterday the Senate passed Senate Joint Resolution 162. The senior Senator from Texas (Mr. YARBOROUGH) was then necessarily absent as he is today. However, he has a longstanding interest in water pollution control and has a statement supporting Senate Joint Resolution 162. I ask unanimous consent that Senator YARBOROUGH's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SENATE JOINT RESOLUTION 162—ANOTHER STEP TOWARD A BETTER ENVIRONMENT

Mr. YARBOROUGH. Mr. President, the measure which passed the Senate on March 19, 1970, marks yet another effort by this Senate to assist in curbing the destruction of our environment. This Resolution, which provides for the recognition of the Fifth International Conference on Water Pollution Research, will enable the best minds of our country to share with their counter-parts in other nations of the world what they have learned about making the earth a better place for all of us to live. The Senate has once again given evidence of its real concern about this problem.

This resolution is very similar to my S.J. Res. 156, to establish an interagency commission to make necessary plans for the United Nations Conference on the Human Environment scheduled for 1972 and for other international conferences and meetings relating to the human environment, which is now in the Foreign Relations Committee. I hope that it will be possible to pass this Resolution which is so similar in purpose to the one we have acted on.

S.J. RES. 156

Joint Resolution to establish an interagency commission to make necessary plans for the United Nations Conference on the Human Environment scheduled for 1972 and for other international conferences and meetings relating to the human environment

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established a commission to be known as the Interagency Commission on the Human Environment.

(b) It shall be the purpose of the Commission to make necessary plans for United States participation in (1) the United Nations Conference on the Human Environment scheduled for 1972, and (2) other international conferences and meetings relating to the human environment.

SEC. 2. (a) The Commission shall be composed of an appropriate number of members appointed by the President from the Department of State and other appropriate Federal departments and agencies. The President shall designate one member as Chairman and one member as Cochairman.

(b) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3. The Commission shall appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this joint resolution. Such appointments shall be without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such compensation shall be fixed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

SEC. 4. The Commission is authorized to request directly from any Federal department or agency any information it deems necessary to carry out the provisions of this joint resolution, and to utilize the services and facilities of such department or agency; and each Federal department or agency is authorized to furnish such information, services, and facilities to the Commission upon request of the chairman to the extent permitted by law and within the limits of available funds.

SEC. 5. The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

SEC. 6. There are authorized to be appropriated such amounts, not in excess of $500,000 for any fiscal year, as are necessary to carry out the provisions of this joint resolution.

POSTAL STRIKE

Mr. THURMOND. Mr. President, I wish to make a few comments about the Postal Union wildcat strikes which are spreading throughout the Nation. There is no excuse for the actions of letter carriers in participating in this crippling strike. Such actions are clearly illegal. This is dealt with in title 5, section 7311 of the United States Code. But even if there were no Federal statute dealing with such cases, it should be universally recognized that servants of the general public have no moral right to strike. In doing so they betray their public trust and cause undue hardships on those who depend heavily on their services.

In this particular case, Mr. President, tieups are reaching crisis proportions in various sections of the country; and they threaten to get worse. Americans are particularly dependent on their mail service and they should not be required to be subjected to the exteme inconvience and frustrations of a mail collapse at the whim of a few who are in position to encourage this lawless action.

Mr. President, I urge the administration to take steps immediately which will result in bringing this outrage to an end. Perhaps if certain Senators who persist in preventing the Carswell nomination from coming to a vote would step aside, we would have a chance to consider the various proposals affecting post office employees which could prevent this from happening again.

FOREST SERVICE RESEARCH PROGRAMS

Mr. MANSFIELD. Mr. President, as we all recognize, there is a general preoccupation with matters pertaining to our environment and ecological values. One of the Federal agencies which is historically very involved in maintaining the quality of our environment is the U.S. Forest Service. This agency has an outstanding record in the area of scientific research. Their facilities in Montana have had a very influential role in these programs.

Recently, my able colleague from Montana (Mr. METCALF) and I addressed a letter to the Secretary of Agriculture regarding the Forest Service's research activities. We have received a detailed reply along with an analysis of the Forest Service's current research programs and plans for the future. This is an interesting document.

I ask unanimous consent that our letter, his reply of March 13, and the attached statement be printed in the RECORD.

There being no objection the material was ordered to be printed in the RECORD, as follows:

MARCH 2, 1970.

Hon. CLIFFORD M. HARDIN,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Since we have been in Congress we have been intensely interested in and have supported the U.S. Forest Service programs in forest, range and watershed research.

While we regard as most timely the national emphasis now being given to the quality of environment, we think of the Forest Service as one of the agencies interested for years in research directly related to the protection and improvement of the environment. We are familiar with some of their work on the forest and range lands of Montana and surrounding states. We do not know how much of this research makes up their program, particularly in other portions of the country, but suspect that it may be more than most people realize. Even so, it may be far below the level needed.

So that we may be in a better position to evaluate its adequacy, we will appreciate receiving—by not later than 15 March—a report from the Forest Service on how its research has related to quality of the environment and what its plans are for future research in this area.

Very truly yours,

MIKE MANSFIELD,
U.S. Senator.
LEE METCALF,
U.S. Senator.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 13, 1970.

Hon. MIKE MANSFIELD,
U.S. Senate.

DEAR SENATOR MANSFIELD: Thank you for the opportunity to report on Forest Service Research programs and plans relative to the quality of the environment. The statement which you requested is enclosed. A similar statement is being sent to Senator Metcalf.

As you know, this Department is deeply involved in many programs to alleviate today's critical environmental problems. The Forest Service, with its responsibilities for 186 million acres of Federal land, plays a vital and active role in these programs. The Forest Service also is the designated Federal agency responsible for research on forest and related resources.

To fulfill its research mission, the Forest Service has built an outstanding scientific research organization. Its depth and versatility are reflected in the more than 30 scientific disciplines represented in its ranks. Of the nearly 950 professional research people, 40 percent hold doctorate degrees. One indication of Forest Service Research involvement in environmental problems, and particularly significant in the context of your inquiry, is the fact that 86 Forest Service scientists are members of the Ecological Society of America. This is more than in any other Federal agency.

The Forest Service has repeatedly demonstrated its sensitivity to emerging problems and trends of national importance. Its willingness and ability to reorient program emphasis to meet new environmental priorities are indicated by changes in research direction already made and planned for the future.

Sincerely,

CLIFFORD M. HARDIN,
Secretary.

RESEARCH ON THE QUALITY OF THE ENVIRONMENT IN U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE[1]

Historically, a major goal of Forest Service research has been to enhance the quality and productivity of the Nation's forest and related resources, and to insure the compatibility of resource use and resource renewal. For more than 50 years emphasis has been on learning to work with nature. Management and protection research focused on understanding the intricate and sensitive interrelationships of all living organisms in forest ecosystems and the manner in which they reacted to soil, moisture, temperature, and other environmental influences.

Environmental forestry research has been productive for many years. Forest Service research provided essential ecological information for the Great Plains tree planting program of the late 1930's, which established nearly 250,000 acres of shelterbelts. In the 1940's, research had a major role in the unprecedented reforestation efforts which restored life to tens of millions of acres of burned-out, cutout, and wornout land in the South and the Lake States. Scientific study of major ecosystems started after early Forest Surveys provided the first comprehensive knowledge of forest type distribution patterns. Disastrous floods, mudflows, and gully erosion along the Wasatch front in Utah were stopped by revegetation, soil management, and land use practices developed by research. Prescriptions for successful tree planting on strip-mined areas of the Central States were developed and applied to convert thousands of acres of barren spoil banks to vigorous forest cover providing rich wildlife habitat, improved water quality, and new recreational areas.

The Forest Service recognized some of the emerging specialized resource problems related to the environment and made major program adjustments to meet them some 10 years ago.

It started wildlife habitat research in 1959 (now over a $1,200,000 research effort).

It began outdoor recreation research in 1961 and has the largest scientific effort of any Federal agency in this area.

Forest engineering research was started in 1962 to devise new methods of forest operations to protect the environment—balloon logging is now operational.

Urban forestry research has begun to work on noise reduction by forest vegetation, screening patterns, protection of city watersheds, contributions of forest recreation to inner-city problems, shade tree protection, and habitat requirements of songbirds and nongame animals.

Many recent research accomplishments promise widespread improvement of environmental problems.

Wood pulping processes are being improved to reduce water consumption and find uses for mill effluents.

A computerized system for application of engineering data to the design of scenic roads for maximum aesthetic appeal has been successfully tested.

A remote sensing system for detecting, evaluating, and monitoring smog damage to forests will be operational next year.

A whole new technology complex has been developed to reduce the incidence of catastrophic blow-up fires, including airborne infrared scanner for mapping fire perimeters, chemical fire retardants, an automated system of allocating and dispatching manpower and equipment to fires, and cloud seeding to prevent lightning-caused fires.

In spite of current and past research on environmental problems, the effort is not enough. Today's and tomorrow's environmental concerns must be met. Vigorously growing forests filter and purify air and water; they dampen noise; they provide shelter and food for animals and birds; they provide materials for housing and other necessities of life, and they highlight the landscape upon which they grow. The Forest Service recognizes need for new research efforts to make forests contribute more fully to man's living environment, as well as to produce the critically needed goods and services and to protect the forests themselves.

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[1] Statement on Forest Service research related to quality of the environment requested of Secretary Hardin by Senators Mike Mansfield and Lee Metcalf, March 2, 1970.

Following are some of the critical problem areas that are now being worked on and research needs that must soon be met. Pesticides must either be made safer or be replaced by nonchemical methods. A multifaceted approach to the forest residues problem, particularly critical in the Northwest, will work toward better utilization, improved conversion and transport systems, and alternatives to burning for disposal of material that still cannot be used. Ways will be found to make pulp and paper from urban waste without fouling the atmosphere and water. The Dutch-elm disease must be stopped, and other massive destroyers of forests, such as the gypsy moth, must be controlled. Prescriptions for using trees as sound screens adjacent to highways, airports, and other noise generating sources will be worked out. Silviculture research will seek new cultural practices to enhance forest landscaping, water quality, wildlife habitat, and recreation activities. In the broad transition zone between the inner city and rural woodlands, the planting and culture of trees for their many contributions to the amenities of living will be studied. Genetic resistance to smog and other airborne chemicals will be developed and exploited to maintain or reestablish forests damaged by air pollution. Management techniques for wilderness areas are needed to achieve optimum use patterns and to prevent impairment of the fragile wilderness environment. The Forest Service will be a major participant in extensive inter-Departmental experiments on weather modification. New applications of remote sensing will be developed to monitor environmental damage. Fundamental to these and other related activities, an expanded program of basic ecosystems research will be continued.

Concern about the environment in no way minimizes the importance of production-related problems. In many cases production- and environment-related research go hand-in-hand. An analysis just completed for the Bureau of the Budget disclosed that 66 percent of Forest Service research in F.Y. 1970 relates to environmental quality. Although the F.Y. 1971 budget proposal is oriented toward timber supply problems, at least 75 percent of the planned increases will also contribute directly to the solution or abatement of environmental problems. For example, Watershed Management Research increases will be applied to techniques for sedimentation control. Forest Engineering Research will work toward better utilization and less waste residue in the woods; Forest Products Research will do the same for the pulpmill. Forest Survey and Forest Economics Research studies of changes in land use will provide important information on environmental trends.

As you know, the long-range plan for forestry research calls for nearly doubling present scientific manpower which would require an appropriation of $92.5 million by 1975. Plans for this increased level of research indicate that about one-half is inseparably related to both environmental quality and the production of natural resources. Of the remainder, 30 percent is concerned primarily with environment, and 20 percent with resource problems.

STRICT CONSTRUCTIONISM

Mr. MILLER. Mr. President, the Wall Street Journal of March 19, 1970, contains an interesting and timely article entitled " 'Strict Constructionism'—With a Wink," written by Arlen J. Large. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"STRICT CONSTRUCTIONISM"—WITH A WINK

(By Arlen J. Large)

Senator HART. What do you understand the President means when he said he is looking for and thinks he has found in you a strict constructionist?

Judge CARSWELL. I don't have for you a pat answer, because I don't think it is pat answerable.

Because it comes up these days in connection with Supreme Court appointments, there's keen interest in what is meant by the term "strict constructionist." Everyone generally understands it means somebody who construes the words of the Constitution more or less literally, and doesn't make up a lot of far-out interpretations.

But, in practice, just how does that work out?

A CYNICAL FINDING

Because the Executive and Legislative branches of Government also must act within the Constitution, an examination of their manner of construing that document might give a clue to the meaning of "strict construction." There are strong grounds for a finding that's lamentably cynical:

If you want to do something badly enough, you contrue it as Constitutional, even if you must construct an argument that is strictly far-out.

You can buy Louisiana from Napoleon, fight undeclared Asian wars, bust down a dope peddler's door and pass a national law letting teen-agers vote. The crucial question is whether such activities are desirable on their merits; if deemed so, you then assemble yourself a Constitutional rationale.

As Congress currently explores the farther reaches of its Constitutional powers to regulate voting, those powers are being construed very broadly indeed.

The Constitution itself is invitingly murky. Would-be voters for U.S. Senators and Representatives must have "the qualifications requisite for Electors of the most numerous branch of the state legislatures"—which presumably fix those qualifications.

Such words underlie the traditional view that the states—not the Federal Congress—are in charge of voting. Because of that tradition, when it was deemed desirable to forbid the states to deny the vote to Negroes, to women and to poll-tax non-payers, words had to be added to the Constitution.

But one of these Constitutional changes offered Congress a loophole that it only recently has begun to exploit. The 100-year-old Fifteenth Amendment, on Negro voting, says, "Congress shall have the power to enforce this article by appropriate legislation." In 1965, lawmakers relied on that in abolishing literacy tests and other state-decreed voting barriers in the South. The Voting Rights Act contained another provision allowing Spanish-speaking Puerto Ricans in New York to escape that state's literacy test. The Constitutional basis was the Fourteenth Amendment's requirement that states give each citizen "equal protection of the laws."

The Supreme Court ruled in 1966 that Congress indeed had such power to override a state's election law. It was one of several post-1965 court decisions opening new vistas of Federal authority over voting, and the Nixon Administration, which claims to cherish "strict construction," is cheering Congress on.

BANNING LITERACY TESTS

Both a sense of equity and the political imperatives of wooing Southerners led to the President's proposal for a statute outlawing literacy tests in the 12 non-South states that still have them, even if there's no allegation of deliberate discrimination against Negro voters. Both the House and Senate have agreed to a nationwide ban on literacy tests in the voting rights bill now in the final stages of enactment.

The Administration also cites Warren Court rulings as the basis for sweeping away state requirements that bar new residents from voting in Presidential elections. This also has been enthusiastically received in Congress. Sen. Barry Goldwater, who last year thought a full-dress Constitutional amendment would be required, swung around to a simple statutory remedy mainly because he decided the other method would take too long.

The Arizona Republican told colleagues: "Once the policy decision is made to cure the problem by means of a statute, rather than an amendment to the Constitution, I have no difficulty in finding that it is well within the authority of Congress to pass such a statute." Among other things, Sen. Goldwater cites the power of Congress "to secure the rights inherent in national citizenship."

While agreeing that Congress can pass laws banning state literacy and residence requirements, Attorney General John Mitchell's lawyers construe things more strictly when it comes to lowering the voting age. That, the Administration insists, must be done by Constitutional amendment. But such unlikely allies as the conservative Sen. Goldwater and the liberal Edward Kennedy of Massachusetts contend that if Congress can act on literacy and residence it can act on age, too. A determined majority of the Senate has agreed; the House has yet to decide.

Arguments for free-and-easy lawmaking have superficial appeal. If it's unjust to keep illiterates from voting, the state tests should be junked and a Federal law is the fastest way. Nobody seriously argues that a man who moves from Iowa to Florida becomes unqualified to judge candidates for the national office of President; there's no defense for archaic state residence laws that deny U.S. citizens a Presidential ballot, and a Congressional remedy is easily at hand. Only a handful in Congress now is arguing openly that 18-year-olds shouldn't vote. If the issue has been settled on its merits, why fool with the tedium of a Constitutional amendment?

The motives, moreover, of the self-proclaimed strict constructionists are open to question. Most of them are from the South, where for years blatant denial of the vote to blacks was shielded behind the high Constitutional doctrine of state control of voting. Southern respect for every jot and tittle of the Constitution conveniently overlooked Section 2 of the Fourteenth Amendment, which provides that states denying the vote to their citizens "shall" lose a proportional number of U.S. House seats. But the construction Congress itself put on this requirement was strictly negative; the provision was never invoked, simply because the lawmakers didn't want to, and the Constitution thus has been amended by deliberate oversight.

And that, of course, is the danger of Constitutional corner-cutting. A Congress determined to pass do-good laws on questionable Constitutional authority is likewise free to enact do-bad laws; definitions about which is which will depend on who has more votes. Presidents who are free to pick and choose among their Constitutional powers are going to wink at the right of habeas corpus (Lincoln), put citizens of a particular ancestry in detention camps (FDR), send soldiers to an undeclared war in Korea (Truman), or in Vietnam (Eisenhower, Kennedy, Johnson, Nixon).

SENATOR ERVIN'S WARNING

"When the Constitution of the United States is nullified by those in authority because of their impatience or because of their zeal to do what they consider to be advisable . . . liberty in America has no chance to survive; because then we will have a government of men and not a government of laws."

So warned Sam Ervin during the Senate's voting-law debate. The North Carolina Democrat is among the more consistent "strict constructionists." While following the traditional Dixie gospel about state control of voting, he raises the same prickly Constitutional objections to some things ardently wanted by fellow conservatives: Official school prayers, pre-trial preventive detention of accused criminals, "no-knock" authority for narcotics agents to raid suspected drug peddlers, crackdowns on GI war dissenters.

In disputes over such things as no-knock authority, it comes down to which strict constructionist you believe—the Attorney General or Sen. Ervin. At the moment it seems more Senators and Representatives believe Mr. Mitchell, and no-knock authority probably will become Federal law. Then it will be up to the Supreme Court, should a test case arise, to decide whether an official break-in by Federal narcs fits the definition of unreasonable searches and seizures forbidden by the Constitution.

If there are any would-be "strict constructionists" on the Court then, they'd best look within themselves for guidance on what that label really means. Their co-equal brethren downtown and on Capitol Hill don't seem to know, either.

DEATH OF FORMER REPRESENTATIVE FORRESTER, OF GEORGIA

Mr. TALMADGE. Mr. President, Georgians were saddened yesterday by the passing of E. L. "Tic" Forrester, of Leesburg, Ga., former Representative of the Third District of Georgia.

Tic Forrester was selected by the Third District to the 82d Congress and served with distinction from 1951 through 1964. He distinguished himself in the House as an able representative and as a champion of the Constitution. He was a staunch advocate of strong local government and a great defender of the principle that government can be administered best from State capitols, city halls, and county courthouses, rather than from the banks of the Potomac.

He was an outstanding lawyer, serving as attorney for Lee County from 1928 to 1937, and as solicitor general—district attorney—of the southwestern judicial circuit from 1937 through 1950. He was twice a delegate to the Democratic National Convention in 1948 and in 1952.

Tic Forrester will be sorely missed by his many friends and loved ones, and my wife Betty joins me in extending our deepest sympathies to Mrs. Forrester and the family.

FRED L. HALL

Mr. DOLE. Mr. President, it is with regret that I bring to the attention of Senators the death of a well-known Kansan. On Wednesday, Fred L. Hall, a former Governor of Kansas and justice of the Kansas Supreme Court, died in Shawnee, Kans., at age 53.

Fred was first elected Lieutenant Governor of Kansas at 34 in 1950. His political fortunates rose rapidly, and he soon was widely known as an articulate and dynamic political leader. He served as Governor of Kansas in 1955–56.

Although I did not always agree with Fred Hall, I respected him for his energy and devotion to the Republican Party.

I regret that Fred Hall will no longer be able to provide us with his wise counsel.

TRIBUTE TO THE LATE DR. E. RICHARD WEINERMAN

Mr. RIBICOFF. Mr. President, included among the 47 innocent victims who perished in the Swiss air disaster last month were two personal friends from Connecticut, Dr. E. Richard Weinerman and his wife, Shirley.

Dr. Weinerman's contributions to improving the medical care system in this country were singularly impressive. His most noteworthy achievements in the field of public health were recently described in detail in a eulogy delivered by Prof. I. S. Falk of the Yale University Medical School, where Dick spent many productive years. In addition, we were provided with a glimpse of the devotion the Weinermans shared for their fellow man through their efforts to assist the poor and underprivileged.

I ask unanimous consent that the text of this tribute, delivered at a special memorial service at Yale to the Weinermans, be printed in the Record.

There being no objection, the tribute was ordered to be printed in the Record, as follows:

IN MEMOLIAM: E. RICHARD WEINERMAN, JULY 17, 1917–FEBRUARY 21, 1970; SHIRLEY BASCH WEINERMAN, JANUARY 22, 1918–FEBRUARY 21, 1970

We—colleagues, students, friends and family—are gathered, in a spirit of affection and regard, to express our sadness for the untimely death of E. Richard Weinerman and his wife Shirley Basch Weinerman on February 21, 1970 near Zurich, Switzerland. They died in the explosion of an airplane en route to Tel Aviv, the beginning of a journey for professional studies in Israel and in other countries. Their death was all the more tragic because, reportedly, it came not through some mechanical failure but from the deliberate sabotage of the airplane, an act of ruthless and wanton violence in Arab commando efforts to cripple the Israeli economy. Forty-seven innocent persons were killed, and we lost respected and beloved friends.

We are gathered to express not only our sorrow on their death but our appreciation of them and their lives. We are grateful for all they did for us personally as well as professionally, for Yale, for many other institutions here and elsewhere, and for people throughout our country and in other lands. And we are conscious of the good that will undoubtedly come in years ahead from the foundations they help lay and the contributions they made for health progress and human welfare everywhere.

Here at Yale, our Department of Epidemiology and Public Health and our Medical Center have lost a brilliant colleague who in his eight years with us was making important contributions to strengthen our institutions and our programs. Many other health and walfare institutions and associations in New Haven, in Connecticut and in many other places have lost a greatly valued participant in their undertakings. Students here—in public health, in health services administration, in medicine, in Pierson College (of which Dr. Weinerman was a Fellow) have lost an inspiring teacher and a devoted and indefatigable guide and counsellor. These are great losses to our education and professional worlds, and we shall have to devise ways to overcome them.

To the families—parents, brother and sister, and the children—of the Weinermans whose loss is not redeemable we extend our condolences and our deep sympathy as we share their sorrow.

E. Richard Weinerman was educated at Yale (AB 1938) and at Georgetown University School of Medicine (MD 1942). He had postgraduate training at Beth Israel Hospital in Boston, the Charles V. Chapin Hospital in Providence, and the Drew Field Regional Hospital in Florida. During World War II he served as Captain in the U.S. Army Medical Corps and was Chief of a Combat Shock Team in Europe.

After the war, he had brief tours of duty as a medical officer in the U.S. Farm Security Administration (1946–47) and in the U.S. Public Health Service (1947); and he rounded out his training in medicine by further formal preparation at the Harvard School of Public Health (MPH 1948). Then, he taught medical economics at the School of Public Health of the University of California (1948–50), while himself achieving special certification under the Board of Preventive Medicine and Public Health (1949) and Board eligibility in the specialty of Internal Medicine (1948–50); and he got his first experience in civilian medical care administration as a Medical Director in the Kaiser Foundation Health Plan in Oakland (1950–51).

He engaged in diverse studies in his postwar interim period—studies which were to foreshadow his major future interests both for the decade in which he engaged as an internist in the private group practice of medicine in Berkeley (1952–62) and for the last eight years he was to spend at Yale. There was a study on education for the health professions in New York State (1947–48), a community health survey in Boston (1948), a survey of hospital facilities in the San Francisco area (1948), and a number of surveys and evaluation studies of prepaid group practice plans and of health and welfare programs in various parts of the country (1949–62).

Two special undertakings were important for the long term interests which they generated. The first of these was the preparation of a report on "The Quality of Medical Care in a National Health Program" for a committee of the American Public Health Association (1949). This was a brilliant formulation of concepts and also of guidelines for action toward safeguarding quality of medical care. It set forth the foundations on which have rested most of the studies on quality of care which others have pursued since then. Dr. Weinerman achieved national recognition through this publication. He continued to be absorbed in this subject in all the years ahead of him.

The second that was to have major influence on his future interests was his study—under a fellowship awarded by the World Health Organization—of teaching and research programs in social aspects of medicine in European universities (1950). This experience introduced him to comparative international developments and experiences; and it was the beginning of his international studies of medical care. His report on "Social Medicine in Western Europe" was well received at home and abroad, and it gave him stature in the international field.

In the years when he was teaching at Berkeley and was engaged in the private group practice of medicine, Dr. Weinerman pursued a variety of special studies. He also participated eloquently, effectively, and with enthusiasm and vigor in annual and special meetings of national and sectional professional associations; and he came to be increasingly in demand in professional circles for his clarity of mind and eloquence of expression. At one of these meetings his perspectives on the medical care problems of the day and on their treatment so impressed the Dean of our Medical School and the Director of our Hospitals that they proposed inviting him to Yale to undertake what already had been found a frustrating task—to improve the outpatient services of our hospitals. Others among us joined with them; and he was offered and accepted our invitation; but he came here not with a single but with a triple appointment—as Director of Ambulatory Services and as Associate Professor of both Medicine and Public Health. Three years later he was promoted to full professorship. Another three years later he was relieved of the demanding administrative duties and he moved full-time into the academic posts, free to concentrate on teaching, research and community engagements.

Throughout his years at Yale, Dr. Weinerman's interests were almost boundless, and his professional activities were so extensive as almost to defy description. When still responsible for the direction of the Ambulatory Services of the Hospitals, and for their reorganization and improvement, he found time to pursue—with continuing support from the U.S. Public Health Service—extensive researches on the development of records and statistics systems that might be useful elsewhere as well as here. He and his colleagues on this project prepared an impressive report which has been widely circulated. He also found time to design and inaugurate the Family Health Care Unit as an operational demonstration on the teaching of comprehensive medical care to medical students and on the delivery of comprehensive care to an aggregate of medically indigent families in the local community. He and his associates in this demonstration developed a flow of publications reflecting their experiences, the lessons they were learning, and the results being achieved that could be usefully applied in other settings. He also engaged, jointly with an associate, in comparative studies of comprehensive care programs in various American university medical centers. Then—as a member of a Yale University committee—he utilized these and other studies in helping to design the new program of comprehensive medical care which is now taking shape for the University community.

During his early years at Yale, even while responsible for a large administrative program, he carried a heavy load of teaching—to students in medicine, in public health and in nursing, and he participated through lectures and seminars in other divisions of the University. Nor did he curtail his activities either in national, regional and local associations or in university or community health and welfare agencies around the country. On the contrary, with each passing year, he was giving of his time and energy to an ever-widening spectrum of involvements. And, when a few years ago our present Dean established a Committee on Community Health Services, Dr. Weinerman was appointed chairman and became formally responsible for leadership in coordinating the expanding involvements and relations of the Yale New Haven Medical Center with old and new community health service programs.

During his first years at Yale, medical care was becoming progressively more and more expensive and inadequate throughout the United States. The strains were becoming excessive in New Haven as in most urban areas, and they were precipitating steeply rising demands on the emergency rooms and the other ambulatory clinics of hospitals. What should be the role of a teaching medical center as a community resource, beyond what it required for its role as a teaching and research center? Dr. Weinerman drew upon the proposals of many others and on his experiences here to formulate a model. The teaching medical center should strive toward becoming the inner central core of specialized services, ambulatory and inpatient; it should be circled by less specialized but organized community facilities which are backstopped by and which lean upon this inner core; and the core and its community circle should be embraced by an outer circle of state-wide regional organized facilities which are also regionally interrelated. This model is being widely accepted and used.

In the search for rational organization of medical care resources, Dr. Weinerman participated with many groups—some concerned with communitywide programs, others with special undertakings for the urban poor. In New Haven, he gave assistance in the development of our Community Health Center Plan; and he devoted much time and effort to the design and inauguration of the Hill Health Center and of other local programs to serve the poor and near-poor.

When in 1968 he left the Ambulatory Services and moved into the full-time academic post in the Department of Epidemiology and Public Health, Dr. Weinerman gave himself over even more intensively to the academic tasks. In the field of Health Services Administration, this meant a broader and more extensive program of graduate education, new courses and seminars, a larger staff, more time devoted to fund-raising for the support of students as well as of faculty, and—especially—more time to teaching and participation with the graduate students and post-doctoral fellows. In the field of medical education, it meant participating in the development of new and more flexible curricula for medical students, and ever more and more extensive involvement in teaching the social aspects of medicine and the place of the next-generation physicians and other medical personnel in community medicine.

He saw more clearly than many of his colleagues what is ahead nationally. The steadily growing health manpower shortage and technological complexity of medicine compel that the provision of medical services shall be by and through organized medical groups; that the future of medical service lies with comprehensive group practice; and that the days of solo practice are rapidly approaching an end. And so his involvement was progressively more and more with the patterns of group practice, the interlocking of ambulatory group practice in the community with the specialty and inpatient resources of the medical center. In this area he was applying the extensive knowledge he had acquired through twenty years of study in this field. And his broad and deep knowledge made him much in demand in other communities which sought his counsel—in California, Appalachia, Cleveland, Washington and New York, in various university medical centers and schools of public health, in the Office of Economic Opportunity, in the Indian Service, in Alaska, and elsewhere.

The emerging crisis in medical care is financial as well as technological. Costs, rising steeply, are pricing medical care beyond the reach of tens of millions who are dependent on their private resources; public programs of Medicare and Medicaid and of other services are straining the resources of state and Federal government. In response to a nation-wide need, Dr. Weinerman associated himself with others who have been undertaking to design a national program of health insurance which could have the promise of solving the fiscal problems while at the same time dealing with needed technological improvements. He joined the recently created Committee for National Health Insurance which is dedicated to these dual objectives, and he undertook to work on the most difficult aspect of these problems—the design of professional and fiscal incentives for the improvement of the medical care system. Only a few weeks before leaving for Geneva he completed a position paper on this subject which one day, when published, will be regarded I believe as the most imaginative and scholarly treatment ever accorded this complex and important subject.

Three years ago, with support from the Commonwealth Fund, he had rounded out his much earlier studies of social medicine in Western Europe by parallel studies in Eastern Europe—in Czechoslovakia, Hungary and Poland—published last year by Harvard University Press. This year, hoping to broaden his knowledge and understanding of national systems throughout the world, he resumed his comparative international studies of medical care systems by planning surveys in other countries with other kinds of systems—in Israel, Japan and New Zealand. This undertaking came to an abrupt end after only preparatory steps for advance consultations at the World Health Organization in Geneva.

Interspersed among these many activities were many more: Help in developing a new journal (Medical Care), participation in the Connecticut Regional Medical Program, membership in the Advisory Committee on Medicaid for the Connecticut Department of Welfare, and others. And there were extra-curricular lectures, seminars and conferences.

Over the years there were nearly a hundred professional publications—journal articles, reviews, monographs—and in addition many for non-professional audiences. There were papers on social policy that helped to crystallize the thinking of many and to influence private and public programs. There were keynote addresses which set the tone and guided the agenda of large and influential audiences. And their diversity reflects the interests of an inquiring mind and of a spirit dedicated to all that contributes to health and well-being.

These activities and contributions were widely appreciated, and Dr. Weinerman received many acknowledgments in professional circles. In addition to membership or fellowship in the more than a dozen professional associations, he was National President of the Public Health Honor Society, Delta Omega (1964–65), and also Chairman of the Medical Care Section (1965–66) and of the Program Area Committee for Medical Care (1968–), American Public Health Association. He won professional and fiscal support for his undertakings from the Public Health Service of DHEW and from the Commonwealth, the Milbank and other private foundations. He had almost innumerable accolades from associations and institutions which he helped.

Richard Weinerman was not alone. His professional life was shared by a devoted wife.

Shirley Weinerman, educated at Smith College (AB 1939) did not start as a technical expert in public health but came to be a knowledgeable professional associate. She was active in many civic programs, a volunteer worker in local agencies, and for years an active and devoted member on the Board of Directors of the New Haven Visiting Nurse Association. Over their years together, she travelled widely with her husband. Her mastery of French, reflected in her participation in the Alliance Francaise, extended their reach in many countries. She participated in their inquiries and observations and in the preparation of their reports. Last year she was a joint author of the volume they published on "Social Medicine in Eastern Europe."

But more than a professional associate, Shirley Basch Weinerman was the other half of the Weinerman team, ever working together. Their home was a place for the sympathetic maintenance of personal relations for their own family, and for never-ending hospitality to all who were part of their personal and professional lives.

The true tests of a man's contributions in science and in its applications is whether he adds substantially to durable knowledge, or whether his studies change the understanding or the course of further evolution. By these tests, E. Richard Weinerman stands well-recorded in the history of our fields. Neither our perspective of needs and problems, nor the course of developments in the disciplines of medical care and health services administration, were the same again after each major series of his publications. His technical studies widened and deepened our understandings; his formulations for planning, organization and performance for the availability of good medical care gave new "anchor points," as he liked to say, and new directions to the efforts and undertakings of many.

That there were resistances to his proposals—whether in our own institutions at Yale or on the larger scene—were no surprises to him or to others; rather, these were understandable elements in the dynamics of change and evolution in the well-established practices of society. There were times of discouragement, but not for very long. His spirit of dedication kept him on course.

Early in his professional life, he had come to see clearly that the physician could serve not only his individual patients but all society. Early, he recognized that this called for improvement in the institutions of society—whether in the availability of personal health services for the individual, in the organization of the services or their delivery or their orderly financing; whether in assurance of food for the hungry or malnourished, or housing for those without good shelter; whether in protection of the environment for all, or in education toward better opportunity in life and living. Early, he set himself on a course toward study and understanding and—even more—toward action for beneficent achievement. And, looking ahead, he devoted himself unremittingly to the students of this generation who are to be our future.

The Weinermans were warm persons who liked their fellow man, and who received friendship even as they gave it. They were dedicated to humanitarian causes, with special dedication to the problems and needs of the poor and the underprivileged. All this shone through.

We—friends, colleagues, students and family alike—express our sorrow upon our loss. We commit ourselves again to clear-purposed goals, as did the Weinermans, for progress in human welfare.

IOWA FARM BUREAU POLICY

Mr. MILLER. Mr. President, last night, members of the Iowa congressional delegation were guests at a dinner of which the president of the Iowa Farm Bureau Federation, Mr. J. Merrill Anderson, and 100 State and county Farm Bureau leaders from Iowa were the hosts.

President Anderson's speech at the dinner, which carefully and precisely outlined the views of the Iowa Farm Bureau Federation with respect to pending farm legislation and other major issues, merits the closest attention of Senators.

I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

FARM BUREAU POLICY

Mr. Chairman, honored guests, Farm Bureau leaders. As you know, it has been a custom for many years for Farm Bureau leaders from Iowa to come to Washington each year to visit with our Congressmen here and to observe our federal government in action. Women Farm Bureau leaders come one year and men who have the responsibilities as chairmen or members of their county national policy committees come the alternate years. Obviously, this is the year for the men!

In addition, each year membership chairmen from the counties that make their membership quota before March 1st, win a trip to Washington. Every county in Iowa will be represented in that group this year. Because ALL counties made their state and national goals before March 1. This has never happened before in the history of the Iowa Farm Bureau . . . In 1947 every county made quota—but not until July 1.

I look forward to this opportunity to entertain our Congressional delegation and discuss issues with them. My duties call me to Washington several times during the year, but this is an opportunity to be here with a group who are the real farm leaders of Iowa.

Iowa farmers are interested in virtually every issue that comes before Congress. We are concerned about world peace, about the role of the United Nations' inflation control, pollution prevention, natural resources preservation, rural development, crime prevention and dozens of others. Tonight, I plan to comment on only four issues—and on two of those only briefly. They are the government price support and production control program, farm product marketing and bargaining, the freedom to market our products, and farm labor legislation.

We know you are interested in our point of view. Otherwise you would not have accepted our invitation to be here tonight. We very much appreciate your presence here, and your consideration of our considered opinions. We want you to understand the problems we face. We request your support.

We believe Farm Bureau has earned the right to designate itself as the Voice of Agriculture. We read considerable in our local papers about the so-called "farm coalition." It is often said in newspaper reports that all farm and commodity organizations except Farm Bureau belong. This is not true.

The list of national farm and commodity organizations that are NOT members of the coalition is far greater in number than those which are members. Many members of the so-called "coalition" are not national but state organizations. Some are relatively small and unimportant national ones. One organization listed is a county unit that has, we are told, only 19 members. One organization which belongs to the "farm coalition" is the Soybean Growers of America. This organization is not nearly as large nor as prominent as the American Soybean Association, which is not a member of the "coalition."

One of the four general farm organizations that belongs to the "coalition" has admitted that only 50% of its members are farmers. Another one of the four keeps its membership as well as its finances secret—even from its own members!

The American Farm Bureau Federation is the greatest coalition of farmers ever put together. Over 1,800,000 families are members. We are gaining every year, and we're proud to say so.

In Iowa we have a vibrant organization in each county, with a county office, personnel and hundreds of Farm Bureau leaders. As an example of the effectiveness of our leaders when they determine to do something, this year we organized a new health service in co-operation with Blue Cross. We enrolled 45,000 families. This makes the Farm Bureau group over three times larger than the next largest health care group in Iowa.

In addition, we challenge any organization in the state to offer proof that it is more democratic than Farm Bureau and devotes more effort to developing policies and electing officers.

We often hear the comment, "If farmers could only be together." Actually, Farm Bureau represents a larger proportion of organized farmers than the AFL–CIO does of organized labor. If the members of all of the other general farm organizations would decide to merge with our members—and if the policy development process was democratic—the policies of the organization would in all probability be just what Farm Bureau's are now, because our present members would outnumber those coming in.

I am not reviewing this to be boastful. We do not feel smug. We ought to have a higher per cent of farmers as members than we do. However, I am saying that our members are well enough organized and our size is sufficient to establish us, for the time being and for the foreseeable future, as the Voice of Agriculture. We cannot and will not permit this voice to be stifled by those who cite the opinions of minor organizations and refer sadly to the "fragmentation of agriculture." Of course there are various opinions on issues, but agriculture is not "fragmented."

We do not expect any Congressman to vote with us on every occasion. We do expect thorough consideration of our views and an understanding of the number of farmers involved in putting together our policies and our organizational strength. If these and the basic logic of our policies are considered, we have little doubt that our Congressional delegation and our organization will be supporting the same objectives and types of legislation.

Now . . . about the four specific issues. First, Price Support and Adjustment Programs . . .

Farm Bureau has been instrumental in encouraging the introduction of the Agricultural Adjustment Act of 1969 by a large number of senators and representatives, including Senator Miller. Senator, we very much appreciate your joining others in support of this legislation.

Surely, it is no longer debatable that the present legislation on the books is undesirable and not even maintainable. We are all aware of the absolute necessity for the Administration and Congress to reduce expenditures to the amount being collected in taxes. Even if we could justify the payments being made in the name of agricultural adjustment, it is doubtful if we could convince a sufficient number of urban Congressmen to support these expenditures in competition with the demands for pollution control, defense, and many other important causes.

Neither does it seem debatable that government programs can bring prosperity to producers. After more than 35 years of attempts, producers in the greatest financial difficulties today are those who have been receiving the most in payments and government aids. Two examples are wheat and cotton. The certificate plan for wheat, introduced a few years ago, was hailed as the savior of the commodity. The results have been tragic. Cotton is in little better condition. This program plus the international commodity agreements have devastated our markets and production patterns.

In some cases, payments have reached astonishing levels. Recent figures from the USDA indicate that the government payments in relation to realized net income in North Dakota for 1968 were 113.1%. This amazed us. What it means is that the North Dakota farmers would have been better off if they had not farmed at all and merely received their government payments! In Kansas, the figure was 78%, Texas 84%, Oklahoma 68%, and Nebraska 63%. The Iowa figure was 28.2, which is certainly large enough. In contrast with the high ones, Connecticut and Massachusetts run only 2%, Florida 4.1%, California 9.6%.

Our production payments on corn of 30¢ per bushel, were designed, supposedly, to free the market. The problem is that the payments free only one end. Using a support and payment does lower the ceiling price, so that more grain can be moved into domestic and foreign markets. However, it must be recognized that the incentive payment is the major reason why farmers participate in government programs. Most farmers produce the maximum base acreage to maintain their base and collect the 30¢ per bushel compensatory payment and diversion payments.

This has resulted in the elimination of small farms, and these farms moving into larger hands. Many farmers have told me they could not farm all the land they control without the diversion program.

Ours is a five-year transitional program. It would begin cutting the direct payments and certificate payments by 20% per year until 1975. By that time, all acreage allotments, bases, marketing quotas, direct payments and one-year land diversion would be discontinued completely. In their place, we would provide for the retirement of at least ten million acres per year for the next five years, which would give a fifty million acre diversion with no harvesting or grazing. We would encourage whole farm participation. We are certain that this would result in crop reduction and less dislocation of farmers. These conclusions are verified by several studies made at the Agricultural Adjustment Center at Iowa State University.

We would continue a loan rate for wheat, feed grains, cotton and soybeans at not more than 85% of the previous three-year market average. Contrary to some statements that have been made, this formula could actually increase supports in some instances, but it would not price a commodity out of either the domestic or foreign market.

We are proud of what we have added to this program for the commercial farmers. We also recommend retraining and adjustment grants for those farmers who wish to have an opportunity in other fields and need vocational training assistance in order to acquire that opportunity.

It is our hope that the whole farms retired through this program would be available for hunting, fishing and other recreation. Everyone knows the deep hunger on the part of urban residents for outdoor recreation. This program could help provide that. It could serve two purposes. We will be glad to answer questions in more detail.

There seem to be only two possible alternatives to our program. One is to continue the present one, with some amendments, which seems neither desirable nor likely. The other is to revert to a former Act, which would mean, among other things, that there would be no restrictions on feed grain acreage and no direct payments. The Secretary of Agriculture would be required to support the price of corn through loans or purchases at such level—between 50% and 90% of parity—as he determines will not result in increasing CCC stocks of corn.

We are asking tonight that each of our Iowa Congressmen openly support our program as the most logical transition step from one that has failed and cannot be maintained, to a position where in five years we will have a maximum amount of freedom to compete for markets, but enough land diversion and support to avoid disastrous surpluses and ruinous prices.

A word about farm labor legislation. . . . As you probably know, there are two bills under consideration by the Congress. They are known as the Williams Bill S–8, and the Murphy Bill, S–2203.

The Williams Bill would merely put agricultural labor under the National Labor Relations Board with no consideration for the dramatic differences in conditions which exist between agriculture and industry. The Murphy Bill establishes, we believe, benefits for both the laborer and the farmer.

Under the Williams Bill, violations of unfair labor practices would be judged by the National Labor Relations Board and subject to court review. These procedures normally take months, and in some cases, years. Crops would be harvested or lost long before that. Under the Murphy Bill farmers would be given a right for direct access to courts for injunctive relief if the strike would result in the loss of a crop. Also, under the Murphy Bill product boycotts would be prohibited. Hiring hall contracts would not be legalized. Secret ballots of workers would be required to recognize a union. Strikes at harvest time would be prohibited.

All of these things are vital. A strike of 48 hours at a critical time for a farmer really dependent upon farm labor could cause the loss of a whole year's income in the case of a perishable crop and drastic loss in the case of livestock. Some of the farmers here have employees looking after farrowing sows while they are here in Washington. Some of them have more sows than they could possibly care for themselves. A sow doesn't wait for the end of a labor dispute. We believe it is obvious that special legislation is needed for agriculture. We recommend to you the Murphy Bill.

There has also been introduced in the Congress the Agricultural Marketing and Bargaining Act of 1969. We support this act. We believe it will strengthen the farmers' ability to join together to bargain for legitimate marketing conditions and price. Agricultural bargaining associations are defined and the processor is required to negotiate with legitimate agricultural bargaining associations. Let me make it crystal clear . . . he is required only to bargain, not to come to an agreement. It seems reasonable that a democratically selected association of producers should at least have the right to discuss terms and prices in good faith with processors. The act would not compel producers to join any association. Again, we would like your support.

Nationally, the Farm Bureau is engaged in a freedom-to-market campaign. The Iowa Farm Bureau has devoted considerable effort to supplying information to farmers and consumers concerning the grape boycott in California. You may ask why should Iowa farmers be concerned about California grape growers. The answer is that an attempt is being made in California to establish a principle and a practice that is a Gargantuan threat to the free marketing of all farm commodities. In fact, the boycott tactics have already been extended to beef. Some stores have turned away products from Iowa Beef Processors because of the labor dispute that exists in their plants. We sent one of our staff members to California to view the grape situation firsthand, and to bring us an unbiased, accurate report. He returned persuaded that the grape situation is not a dispute between the grape growers and their workers. Neither are the typical housing nor wages the legitimate problems. Mr. Chavez and his few followers are attempting to force unionization in the grape industry over the objections of the majority of workers and the employers. Our concern is not so much with their attempt as with the tactics they employ.

Again, we have no objection to the type of boycott which is merely a matter of recommending to your friends that they not purchase a certain item or not patronize a certain business. This, we believe, is anyone's right. However, in this case, with the aid of labor unions, the dissidents in the grape area have enlisted the support of the Council of Churches and many government agencies in behalf of one side of an economic dispute. We believe it is unforgiveable that either the churches or government agencies should do this. The churches have indicated they are merely advocating the right of an individual to vote with his pocketbook on the grape dispute. This is not true because the boycott is only effective where coercion has been used to prevent retailers from offering grapes for sale. In this way the grape boycott leaders not only vote for themselves and their sympathizers, but they vote for everyone else, because they make it difficult or impossible for anyone to buy grapes.

If the grape and beef boycotts are successful they will be used against other commodities. If the idea is once established, then retailers would probably capitulate as automatically as the picket line at a factory is observed by union members. This would mean that the producers of any agricultural commodity could be brought to their knees by a labor union dispute anywhere in the United States, because there would be no market for their products. We suggest that this tactic and monopoly power cannot be tolerated.

I must not take more of your time. Let me express our very deep appreciation to our Congressional representatives for your many courtesies and for your attention here tonight. We would like to ask that you discuss particularly these issues I have outlined with your constituents from this group as they meet with you later. As I said earlier, we are interested in many issues and know that you could bring valuable information to our group on crime control, drug abuse, and dozens of others. However, our special reason for coming this time is to discuss these crucial farm issues where we need your support. Consequently, we ask that you give our people an opportunity to convey to you their feelings concerning these specific and vital issues, and we respectfully request your vigorous support and cooperation.

POLITICS OVER PEOPLE

Mr. McINTYRE. Mr. President, it is fast becoming apparent to the people of New England that the President appears to have written them off in order to appease the secret government of oil. These consumers who for years have paid outrageously high prices for their heating fuel are learning that their excessive payments are going into the coffers of the oil industry and often to be channeled into the campaign funds of the Republican Party.

The Concord Monitor, a newspaper well known for its incisive reporting, has recognized that the President seems to have placed political expediency ahead of the very people he pledged to represent.

The Monitor also points out that the actions taken by the administration are directly contrary to its anti-inflationary program. Rather than protecting the consumer and strengthening the economy, President Nixon has unfortunately apparently capitulated to the oil lobby.

I ask unanimous consent that the Concord Monitor editorial entitled "Oil Imports: Politics Over People" be printed in the Record.

Also, I ask unanimous consent to have printed in the Record an editorial from the Washington Post of March 19, 1970, which points out that the President's decision to reduce Canadian oil imports is another example of the lack of genuine concern the administration has for the Nation's consumers.

There being no objection the items were ordered to be printed in the Record, as follows:

[From the Concord (N.H.) Monitor, Mar. 6, 1970]

Oil Imports: Politics Over People

From a viewpoint of coldblooded politics, President Nixon's decision a week ago to do nothing about the oil import quota system that clobbers the New England consumer financially probably was a sound one.

The President rejected a recommendation from a cabinet-level task force which would have resulted in a reduction of about two cents a gallon on home heating oil and gasoline.

XUM

For a family with a fuel bill of about $400 a year, this would have meant a saving of about $47. Nationwide, it would have meant a reduction in payments to the oil companies of about $2 billion.

But the President apparently felt he owed a larger debt to the big oil interests than to people—particularly New England residents. As a group, they pay more for oil products than anyone else in the nation, principally because of the oil import quota system.

But it is no secret that the President is heavily indebted to the oil moguls who contributed so handsomely to his 1968 election campaign in exchange for promises to protect their interests.

Thus this latest decision falls into line with the Nixon administration's torpedoing of the proposed Machiasport, Maine, oil refinery project, which also would have reduced fuel oil costs for New England consumers.

Also, the President owes few political favors in New England. He lost four of the six New England states in 1968, winning only the two least populous—New Hampshire and Vermont. Decisions such as the people who voted against him.

In addition, the decision jeopardized only one Republican U.S. Senator in New England who is up for re-election in 1970 Winston Prouty of Vermont.

All the others in the six-state area either are Democrats or are not up for re-election.

The political nature of the Nixon decision to ride along with big oil at the expense of New England consumers was apparent in December at the last meeting of the cabinet task force.

U.S. Atty. Gen. John N. Mitchell, who was not a member of that study group, attended that meeting in place of Labor Secretary George P. Shultz. Mitchell ,the President's campaign manager in 1968, was reported to have told the group to be careful not to make a recommendation that would make it difficult for the President.

The report was watered down somewhat from the recommendation of the task force staff.

As far as the President's future is concerned, the decision virtually assures the continued flow of big oil campaign money, and perhaps some votes in the oil states of California and Texas. New England, which went against him in 1968, probably will be written off anyway.

It is ironic that the Nixon decision runs directly contrary to his inflation control program. The thrust of the latter campaign is to reduce spending. Yet a means to chop consumer spending by $2.4 billion has been rejected in the interests of the oil company contributors.

Hard-nosed politics is a fact of life in the American system of government. But that government still is supposed to function on behalf of the people to whom it belongs. It is supposed to protect the people against the travesties of special interests.

The President in this decision gave precedence to politics over the best interests of the people he is supposed to represent, and he is a smaller man for it.

[From the Washington (D.C.) Post, Mar. 19, 1970]

OIL QUOTA FOR CANADA

The President's import quota on oil from Canada may be primarily designed to pressure Ottawa into signing an overall energy agreement with the United States. The White House statement about the quota described it as "temporary" and noted expectations that the negotiations for a general energy pact will continue. Whether or not the quota will have a beneficial influence on these negotiations remains to be seen, but viewed on its own merits this patching up of the quota system is a move in the wrong direction.

The Cabinet Task Force on Oil Import Control recently urged abolition of the existing quotas and the adoption of a moderate tariff in their place. It found the present system "not adequately responsive to present and future security considerations." It is strange that the administration's first move following that report should be the addition of another quota where none existed before. The President explained his action by saying that voluntary controls applicable to Canada were not working. But why should there be any concern about the amount of oil coming in from Canada?

The only excuse for the quotas in the first place is protection of the domestic industry so that an adequate supply of oil will be available in case of an emergency that would cut off imports. But the task force pointed out that "Canadian and Mexican oil is nearly as secure politically and militarily as our own, although complete realization of these security benefits will require fully understood and harmonized energy policies." For this reason the task force recommended tariff preferences for crude oil and refinery products from general Western Hemisphere sources and that "Canadian and Mexican imports be exempt from the program, if common energy accords can be arranged with those governments."

In our view, this is the direction in which the government should be moving, especially because of the enormous savings to consumers that would result from elimination of the quotas. It would be much easier to swallow the new quota for Canada as ploy in the negotiations for a broad energy agreement if the administration showed any promise of implementing the policy suggested by its experts.

GOODELL CALLS FOR RELEASE OF FUNDS TO AID SMALL COMMUNITIES IN ANTIPOLLUTION FIGHT

Mr. GOODELL. Mr. President, in this age of concern with water pollution, particularly concern by the administration, it is strange that the Department of Agriculture has refused to release $22 million which Congress has already appropriated for water and waste disposal systems in villages with populations of 5,500 or less.

I have written a letter to the President urging that these funds be released, and calling upon him to allow the Farmers Home Administration to utilize the total amount appropriated, pursuant to Public Law 89–240, by Congress for sewage disposal grants.

I urge Senators to join me in this appeal, the success of which should affect villages in every State.

Mr. President, I ask unanimous consent that my letter to the President be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 16, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am taking the liberty of bringing to your personal attention a matter of great concern to many small villages in rural areas of our Nation.

In your State of the Union Message you stated that sewage treatment plants would be built "in every place in America where they are needed." In this regard I am writing to appeal to you to release the additional $22 million appropriated by Congress for the current fiscal year for rural water and waste disposal by small communities. These funds, along with the $24 million which you have already released to the Farmers Home Administration (FHA) will enable the FHA to assist small rural communities in developing these water or sewer systems.

Many village sewer systems are being constructed with the aid of other Federal programs, administered by the Appalachian Regional Commission and the Departments of Interior and Agriculture. Unless the additional $22 million in grant funds is released, these villages may be unable to use the systems they have constructed or have had approved for construction.

Small villages are simply unable to finance the construction of the sewage trunk lines from their homes to the main trunk lines. Without these collection lines, their entire sewage systems will lie unused. A number of small villages have received assurance (some as long as two and three years ago) from the Farmers Home Administration that their collection systems had been approved for funding; however, because of the shortage of Federal funds, actual disbursements to the villages have not been made. Therefore, a community that is prepared to begin construction now cannot do so until these additional funds have been released.

There are approximately 375 communities in New York State that have a population of 5500 or less. Nearly 300 of these communities cannot construct their sewage systems until they receive grant assistance from the Farmers Home Administration.

In addition, a recent House Appropriations Committee report indicates that as of two years ago about 1500 rural counties in the Nation will require Farmers Home Administration grant assistance to finance the preparation of comprehensive water and sewer plans. These plans must be completed prior to October 1, 1971, pursuant to Public Law 89–240, for the area to be eligible for development grant assistance. The communities need an average of eighteen months to complete a plan; therefore, if they are to meet the October 1, 1971 deadline, a substantial number of the plans must be started in the current fiscal years.

I was very pleased with the recent news that you would release the additional $586 million appropriated by the Congress for construction of sewage treatment plants to the Department of Interior, for a total of $800 million in Fiscal Year 1970. The $22 million additional which I am requesting you to release today to the Farmers Home Administration will provide our small rural areas with trunk lines—a vital link without which their systems cannot function.

Respectfully yours,
CHARLES E. GOODELL.

U.S. MIDDLE EAST POLICY—MYTHS AND MISCONCEPTIONS

Mr. TYDINGS. Mr. President, I am deeply disturbed by the reports that the Nixon administration has decided to deny Israel's request for additional Phantom and Skyhawk jets. Given the fact that Egypt already possesses roughly three times as many fighter planes as Israel, and that France has decided to sell Libya 100 Mirages which will surely come under the direct or indirect control of Cairo, the President's decision can only endanger the survival of Israel and the prospects for peace in the Middle East.

Attempting to put an end to the arms race in the Middle East is a commendable objective. But it makes little sense to try to cut off the arms flow at a point when the Arabs possess a vastly superior number of planes. It is true that Israel controls the skies over Suez today. But that is only because her pilots are better trained.

It is only a matter of time before the Egyptians learn to fly the sophisticated aircraft the Soviets have supplied. Then the question of air superiority will be determined by numbers; and Israel will once again find herself in the position of besieged underdog.

Furthermore, it is naive to believe an arms race can be halted unilaterally. There is absolutely no indication that either the Soviets or the French are willing to halt the steady shipment of arms to their Arab clients.

It looks to me as though the State Department is making another futile effort to win Cairo back from the Soviets by offering Israel's security as an inducement.

If these reports on the administration's intentions are accurate, I intend to speak out against this dangerous and unjust decision on the Senate floor. And I believe many others will join me.

This will not be the first time the State Department has advocated a course that would seriously jeopardize Israel's security and, I would argue, America's real interest in the Middle East. For years, a view of U.S. interests in the Middle East has circulated in diplomatic circles in this country which is both dangerous and unrealistic.

It is time someone examined this State Department case and revealed it for what it is: A collection of myths and mistaken assumptions. This is what I would like to explore with you today.

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The State Department's case goes something like this:

"By closely identifying with Israel and supplying her with arms, the United States is losing its ability to compete with the Soviets for the allegiance of militant Arab government: governments such as those in Egypt, Syria, Iraq, and Libya. Open Soviet support for the Arabs has enabled Moscow to gain a foothold in the Middle East which threatens U.S. economic interests in the area, and which soon could pose a serious threat to the southern flank of NATO.

"Therefore, this argument concludes, to check Soviet penetration in the Middle East, the United States must demonstrate that it is not a committed ally of Israel, but rather that we are an impartial force in the area. For if we can convince the Arabs that we are sympathetic, we can woo Cairo, Damascus, and Baghdad out of the spreading shadow of Soviet influence. And perhaps win them back into the Western camp."

At best, this line of reasoning is a naive concoction of wishful thinking and obsolete 19th century diplomacy. At worst, it reveals a dangerous cynicism that too often has infected U.S. foreign policy.

This oft-heard argument rests on a series of specious assumptions.

First, there is the assumption that growing Soviet influence in Egypt is primarily the product of U.S. ties with Israel. This assumption simply ignores the fact that the Soviets bought a special relationship with Egypt back in 1955 by agreeing to provide Nasser with massive military and economic aid—a price we were not willing to pay.

Why did we refuse to compete for Nasser's favor if it was so valuable? We refused because it was argued that our economic interests lay in the oil-rich monarchies of Saudi Arabia, Kuwait, and Iraq—countries whose governments Nasser vowed to topple.

In short, it was the State Department's judgment in 1955 that our vital interests demanded the preservation of those governments; an objective that was inconsistent with the arming of Egypt.

To point to the Arab-Israel conflict as the principal cause of Soviet activity and influence in the Middle East is sheer fancy. The Soviets would be there today even is Israel had never been created.

Second, there is the assumption that Soviet influence in the Middle East raises a serious new threat to NATO's southern flank and, thus, to the United States. Again, this argument is not supported by the facts.

To begin with, the Soviets are a power in the Mediterranean for precisely the same reason we are: They have deployed a large portion of their fleet there. Furthermore, this Soviet fleet is self-sufficient; it can be completely supplied at sea without even putting into port.

To claim that recent access to certain north African ports has significantly augmented Soviet power, one must either fall back on the old 19th century dictum that "showing the flag" in foreign ports is an important form of international influence, or argue that the Soviets could use these ports as staging areas for invasions of France, Italy, or Greece.

In fact, neither of these arguments is at all compelling in a nuclear age. Western Europe is safe from a Soviet invasion because Moscow knows such an action would trigger World War III.

Third, the assumption is made that the United States has a vital interest in Middle Eastern oil that must be preserved.

Less than 3 percent of the oil consumed in the United States comes from Middle Eastern wells. This fact, combined with rich new oil fields discovered in Alaska and in the North Sea, should make it clear that an abrupt stoppage of oil shipments from the Arab countries would pose no strategic problems.

But more important, there is little reason to believe such a stoppage will materialize. The aftermath of the 6-day war in 1967 provided ample evidence that the Arabs need U.S. and European markets more than the West needs Middle Eastern oil.

Saudi Arabia and Kuwait were emphatic in their rejection of an Iraqui proposal in August of 1967 to stop all oil deliveries to Western Europe. And there is no reason to believe this state of affairs will change in the foreseeable future.

Fourth, it is argued that the United States can seduce countries like Egypt, Syria, and Iraq from the Soviets by merely moving away from Israel and offering the Arabs certain negotiating concessions.

This is naive. No real alternative has been offered.

It all goes back to the wedding of Egypt and the Soviet Union in the mid-fifties in which Moscow promised to arm and finance Nasser and his allies. Such matches are not easily broken.

We made a futile attempt in 1956 when the United States literally resurrected Nasser's government from certain death by forcing Britain, France, and Israel to evacuate the Suez Canal. But even this act of political life-saving—one which we have since regretted—failed to improve our relations with Nasser. It only made him stronger.

In other words, nothing short of offering Egypt far more aid and armaments than Moscow currently is providing could hope to expel Soviet influence from Cairo in the foreseeable future.

Fifth, and finally, this oft-heard State Department argument rests on a totally cynical view of U.S. foreign policy.

For it assumes that whatever is expedient is best. That historic and moral commitments are simply empty rhetoric suitable for United Nations declarations and inaugural addresses, but not really to be taken seriously in the conduct of international affairs.

America is morally committed to the preservation of Israel as a Jewish homeland. History has made tragically clear the necessity for a place to which Jews may turn in the face of the persecution which has continued to infect western history. The spectacle of Jews vainly seeking a haven from Hitler's death camps must never be repeated. No man of conscience can believe otherwise.

If we do not honor such commitments, if we are prepared to barter them away for a mess of pottage or a tank of oil, if we will not stand firmly behind nations that are truly threatened by external forces, then we no longer stand for anything. We no longer hold out the promise of leading the way to a more sane and humane world order.

And let us not confuse what constitutes real commitment. It is not the fabricated obligation to support a corrupt military clique in Saigon which lacks the support of its own people and jails all political opposition. Or the willingness to supply arms to a brutal military junta in Greece because we are afraid they might turn to the Soviets.

By "commitment," I mean the determination to help a free people shape their own destiny safe from the threat of foreign domination or annihilation. This is the kind of commitment we owe Israel.

Having thus dispelled, in what I hope was a convincing manner, the principal myths and mistaken assumptions that have clouded our official thinking on the Middle East, we are now in a better position to define the broad outlines of a sensible U.S. policy for the seventies.

In my view, our Middle East policy should consist of the following:

First, an unwavering commitment to the survival of Israel.

Second, the maintenance of the military balance of power in the area as the best deterrent to an outbreak of a fourth round of the Arab-Israeli conflict.

Third, continued talks with the Soviets; for it is essential to work out the necessary understandings to avoid a direct United States-Soviet military confrontation in the Middle East and to limit the continuing arms buildup in the area.

Fourth, efforts to gradually reestablish our shattered diplomatic relations with the Arabs while recognizing that nations like Egypt and Syria are likely to remain closer to the Soviets than to us in the decade ahead.

Fifth, continued support for the United Nations mission of Ambassador Jarring and his effort to implement the U.N. resolution of November 22, 1967; for that resolution represents the only guidelines for a settlement of the Arab-Israeli conflict that has been endorsed in principle by all the parties involved.

Sixth, insistence on a meaningful peace settlement—that is, a settlement which all parties have a real interest in preserving. For an imposed settlement is not a durable peace; it merely defines the borders over which the next war will be fought.

And finally, our Mideast policy for the coming decade must be postulated on the need for patience.

I wish it were realistic to predict an imminent settlement of all outstanding issues in the Middle East and the onset of a just and permanent peace. But it is not. The hates and hostilities still run too deep.

The best we can hope for in the coming decade is a policy which prevents the outbreak of yet another round in the Arab-Israel war and which buys more time.

Time to heal the bitterness and salve hurt pride. Time for dialog and communication. Time for the mutual trust and understanding to take root which are the foundations of lasting peace.

TRIBUTE TO SENATOR YOUNG OF NORTH DAKOTA ON 25TH ANNIVERSARY OF SENATE SERVICE

Mr. DOLE. Mr. President, on behalf of the Senator from Colorado (Mr. Allott), I ask unanimous consent to have printed in the Record a statement he has prepared in tribute to the Senator from North Dakota (Mr. Young).

There being no objection the statement was ordered to be printed in the Record, as follows:

Statement by Senator Allott

I wish to join my colleagues in expressing sincere congratulations to Senator Milton Young of North Dakota, on the occasion of the 25th anniversary of his service in the Senate.

Coming from an agricultural state, Senator Young has been of immense help to me over the years on the farm problems of Colorado. His service on the Agriculture Committee has made him truly one of the most knowledgeable experts in the Senate on this vital subject.

I have had the privilege of serving with Senator Young on the Appropriations Committee, where his devotion to the fiscal integrity of this country has been the hallmark of his service over the years.

When I came to the Senate over 15 years ago, Milton Young had already served in this body for 10 years. He was by then well known for his leadership and highly respected for his expertise. I always remember with great fondness the kindness he showed me, and the time he spent with me in helping me to learn my way around the Senate.

Because he was reelected in 1968 to his fifth consecutive term, we are fortunate to be able to face the decade of the 1970's with Senator Young's skill and leadership in full force.

Mr. President, I congratulate my good friend and wish him many more productive years in the Senate.

MISUSE OF NAMES OF MEMBERS OF CONGRESS IN CONNECTION WITH PROPOSED LEGISLATION

Mr. ALLEN. Mr. President, bills and resolutions are in the public domain, and it is only proper that they should be associated with their authors.

However, I have recently been made aware by experience that Members of Congress are vulnerable to misuse of their names along with proposed legislation they may have authored. I have learned that it is possible for private organizations to use such legislation for soliciting contributions in a manner to convey to the public an entirely false impression that the Member of Congress whose legislation is seized upon is privy to plans of the private organization.

Stated differently, it is clear that names of Members of Congress can be used without their knowledge or consent in a manner to legitimize fundraising efforts on the part of private organizations. To the extent that the public is misled into believing that there may be an endorsement of the solicitation by the Member of Congress—to that extent the public may be deceived. Such deception involves the legislative process and use of the U.S. mails. I believe the problem to be sufficiently important to justify careful scrutiny by the Senate.

A chronological account of how a bill introduced by me became involved in such a scheme may be instructive.

On March 17, 1969, I introduced Senate Joint Resolution 80, a proposed constitutional amendment to return the control of public schools to the States and to the people. The introduction was accompanied by what I considered reasonable and rational arguments—Congressional Record, volume 115, part 5, pages 6578–6580.

Some 10 months later, an organization known as the American Education Lobby, Dodge House, 20 E Street NW., Washington, D.C., seized upon the amendment as a vehicle for launching a campaign to solicit funds.

In each letter of solicitation there was a printed card addressed to me on which the language of the amendment was also printed. The letter requested contributions to the American Education Lobby. The exact date of the first mailing of letters and solicitation by the American Education Lobby is not known.

However, on January 16, 1970, after the first mailing, a representative of the American Education Lobby presented a member of my staff with copies of material purportedly used in the solicitation. This solicitation had been made without prior consultation with me or with any member of my staff and without my knowledge or consent.

The first cards from this initial mailing began arriving at my office on or about January 18, 1970, along with letters of inquiry and expressions of support.

Mr. President, correspondence I received on this subject indicates how fully the public was misled by the solicitation. Among the deceived were housewives, an 80-year-old retiree, a lawyer, a professor with a Ph. D. degree, and ministers. The problem to which my remarks are addressed can best be illustrated by reference to this correspondence. For this reason, I ask unanimous consent that illustrative correspondence and my replies thereto be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, immediately upon becoming aware that contributors were associating me with the fund drive, I made inquiries to determine the language used and the full contents of letters of solicitation. Copies of my letters to donors disclaiming any association or knowledge of the fund drive were mailed to the American Education Lobby and the organization was directed to cease and desist using my name in any manner that might associate me with their activities.

However, our office continued to receive letters. I thereupon requested my staff to advise the lobby in firm and unmistakable terms to discontinue use of my name in any way. I was advised that the director of the organization promised to discontinue such practice. Nevertheless, I continued to receive cards addressed to me which indicated that the organization had not fulfilled its assurance in this respect. That is one aspect of the problem.

Another aspect derives from the fact that there is good reason to question whether or not the American Education Lobby is in fact a lobby. So far as we know, it has no staff, only a director who signs the letters of appeal. Its activities, so far as we know, have been limited to attempts to raise funds to fight sex education in public schools, and a more recent effort to raise funds in the highly emotionally charged York case in Oklahoma City. In this connection, it is revealing that a prominent attorney was already representing the York family without fee.

Mr. President, organizations such as the American Education Lobby purchase mailing lists and flood the mails with appeals for contributions based on emotionally charged issues which may be topical at the moment.

This illustrates the type of organizations with which Members of Congress must be on guard as well as deceptive tactics that may be used to prey upon the public.

I do not doubt that many individuals were induced to contribute funds to the American Education Lobby only by reason of the fact that the organization inserted a card addressed to me in their letters of solicitation which card contained the language on my proposed amendment. Such a device implies consent and suggests participation in a plan to get the legislation enacted. In addition, the device creates an impression of a responsibility on the part of the author of the legislation for feasibility of a plan and it implies an oversight over expenditure of the funds solicited.

Mr. President, I repeat, to the extent that the public is influenced to contribute to the private organization by reason of these impressions, inferences, and implications, to that extent have they been deceived.

We can only speculate on the amount of funds raised by this organization by use of such a deceptive device. However, every Member of Congress is vulnerable to these tactics. I understand other Senators and Representatives have had similar experiences.

I believe that the problem is of sufficient importance and of a magnitude to justify a senatorial inquiry into these practices with the view of determining whether or not existing Federal statutes have been violated or whether additional legislation is needed to cope with this problem. If this organization has found a profitable method of soliciting funds by means of implying endorsement of solicitations by the authors of the legislation, then you can rest assured that this practice will proliferate.

Mr. President, I suggest that the appropriate Senate committee look into this matter with the view of determining the need for legislation to protect the public from unscrupulous practices of fly-by-night fundraising organizations who may seize upon proposed legislation of Members of Congress in an effort to legitimize their efforts.

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EXHIBIT 1

HOUSTON, TEX.,
January 16, 1970.

Hon. JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: As Treasurer of the Harris County Republic Party. I did everything I could to help elect President Nixon with the hope that he would change the horrible conditions which exist in Washington.

I am well pleased in many ways, but I deplore the condition which exists in H.E.W., Robert Finch is one of his big mistakes.

Please find enclosed my check for $100 as requested by A.E.L. I agree that education should be a State matter, and if the Federal Government would tax less the States could care adequately for their School Systems.

Yours truly,

J. C. TROTTER.

JANUARY 20, 1970.

Hon. JOHN C. TROTTER,
Attorney at Law,
Houston, Tex.

DEAR MR. TROTTER: This will acknowledge and thank you for your nice letter of January 16, 1970, expressing your interest in the "local school control" amendment which I introduced here in the Senate. I am glad this bill has your support and I will certainly push for its early and favorable consideration.

Although you referred to an enclosed check in the amount of $100.00, it was not with your correspondence when it was delivered to my office. I am sure you are aware of this, but let me point out that I have made no solicitation personally or through any committee or group of people, including the American Education Lobby, for funds to finance the advertising of this bill, and I have no knowledge of any effort by anyone to raise any such funds. Certainly I have no part in any such effort. I am sending a copy of my reply to your letter to each of those persons with whom you shared a copy of your correspondence under date of January 16.

With kindest regards, I am

Sincerely yours,

JAMES B. ALLEN.

HOUSTON, TEX.,
January 20, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.:

We have received a letter from the American Education Lobby, Washington, D.C. asking our support of your constitutional amendment S.J. Res. 80. They have requested that we write letters to our Senators and Congressman supporting your amendment and have requested a cash contribution to the American Education Lobby to enable them to assist you in passing this amendment, as we can find no information on this organization will you please contact us as to their reliability.

C. E. FRIEL,
Meridith Manor Civic Club.

JANUARY 21, 1970.

Mr. C. E. FRIEL,
Mr. R. I. MCLEMORE,
Meridith Manor Civic Club,
Houston, Tex.

DEAR FRIENDS: In response to your wire, neither I nor any member of my staff were aware of plans by the American Education Lobby to solicit funds for support of the proposed Constitutional Amendment relating to control of local public schools until after the letters were mailed.

My only connection with this project is limited to the fact that I introduced the Amendment March 17, 1969. Naturally, I welcome support for the proposed Amendment. However, this project was initiated by the Education Lobby and not by this office and neither I nor my staff have anything at all to do with the money raised or with implementing whatever plans the Lobby may have for use of the money.

Very truly yours,

JAMES B. ALLEN.

NEWNAN, GA.,
January 18, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SIR: The enclosed came to me in the mail.

Is this being circulated with your permission? I do not see your endorsement on it anywhere.

Yours truly,

Mrs. P. E. BEARD.

JANUARY 24, 1970.

Mrs. PAUL E. BEARD:
Newnan, Ga.

DEAR MRS. BEARD: Your expression of support for the proposed Constitutional Amendment to return control of local public schools to the states and to the people is much appreciated.

I am firmly convinced that local control of public schools is essential to public support, without which our valued public school system cannot survive. Thus, local control is in the best interest of all children and a necessary condition for quality education for all children.

The materials which you enclosed advocating support of this Amendment and solicitating funds for the purpose of promoting the Amendment are being circulated without my permission. Neither I nor any member of my staff has ever solicited funds or authorized solicitation of funds for the purpose of promoting the Amendment, nor were we aware that the American Education Lobby was doing so until after the letters had been sent out.

In fact, my only connection with this effort is that I introduced the proposed Amendment on March 17, 1969. Accordingly, we have no knowledge of what plans the Lobby has for promoting support of the Amendment and cannot judge the effectiveness of its efforts.

Very truly yours,

JAMES B. ALLEN.

JANUARY 22, 1970.

Mrs. EMMA CAMPBELL,
Dallas, Tex.

DEAR MRS. CAMPBELL: Your expression of support for the proposed Constitutional Amendment to return control of local public schools to the states and to the people is much appreciated.

I am firmly convinced that local control of public schools is essential to public support, without which our valued public school system cannot survive. Thus, local control is in the best interest of all children and a necessary condition for quality education for all children.

However, neither I nor any member of my staff has ever solicited funds or authorized solicitation of funds for the purpose of promoting the Amendment, nor were we aware that the American Education Lobby was doing so until after the letters had been sent out.

In fact, my only connection with this effort is that I introduced the proposed Amendment on March 17, 1969. Accordingly, we have no knowledge of what plans the Lobby has for promoting support of the Amendment and cannot judge the effectiveness of its efforts.

Under the above circumstances, we are returning your check in the amount of $10 made payable to the American Education Lobby.

Very truly yours,

JAMES B. ALLEN.

(NOTE.—No letter received from Mrs. Campbell—only support card and check.)

HOUSTON, TEX.,
February 11, 1970.

Hon. JAMES B. ALLEN,
U.S. Senator from Alabama.

DEAR SENATOR: Reference is made to your letter under date of Jan. 27, 1970 in which you state "neither I nor any member of my staff has ever solicited funds etc". You are wrong Senator. Some member of your staff had to put that plea for funds in the envelope carrying your message. The organization I refer to is the "American Education Lobby".

Today I received another letter saying this same bunch must have gotten their mailing list. It is time you cleaned house. I am a retired Civil Service employee trying to live on my annuity and I did send money to this organization solely because the plea came in the envelope with your message. Money does not come easy for me at my age (80) and I resent being taken in.

Very truly yours,

CLAUD A. SMITH.

FEBRUARY 16, 1970.

Mr. CLAUD A. SMITH,
Houston, Tex.

DEAR MR. SMITH: In answer to your letter of February 11, 1970, I must repeat that neither I nor any member of my staff has ever solicited funds or authorized the solicitation of funds to promote the proposed Constitutional amendment which I introduced on March 17, 1969. It is not true that any member of my staff "put that plea for funds in the envelope carrying your message."

The solicitation was made by the American Education Lobby without my knowledge. I learned about it only after the letters had been sent out. The plea for funds was signed by Mr. Lee Dodson of the American Education Lobby for use of the Lobby and not from me.

My only connection with this affair is that I introduced the proposed amendment which was printed verbatim on a card put in the letter of solicitation without my knowledge or consent.

I understand how provoked you must be. I, too, have been offended by the efforts of the American Education Lobby to tie me into their fund raising efforts. I have absolutely no knowledge of their plans or how the funds will be used to promote support for my proposed amendment.

I appreciate your taking the time to write me, and I am glad to have this opportunity to assure you most sincerely and emphatically that neither I nor any member of my staff has ever had anything to do with the solicitation by the American Education Lobby.

With sincerest best wishes, I am

Yours very truly,

JAMES B. ALLEN.

ROSSVILLE, GA.,
February 21, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: I have access to a large number of cards (sample enclosed) which many people in this area want to circulate because of their concern over the trend toward Federal control over public schools.

However, before circulating these cards, I do want to verify that S.J. Resolution 80 does provide for the constitutional amendment substantially as stated on the card.

Please let me hear from you on this matter, as well as the proposed date for action on the resolution and any other comments you may have. A copy of the resolution would also be helpful to answer any questions.

Very truly yours,

MRS. CHARLES J. STRAIN.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: I strongly support your proposed Constitutional amendment, S.J. Res. 80, to return the schools to the states and people. I will be doing all I can to get my own Senators and Representatives behind it. Please push it as hard as you can in this session. It is our last hope!

———— ————.

S.J. RES. 80

Each state shall have the sole and exclusive jurisdiction of the organization and administration of all public schools and public school systems within the state. The courts of each state shall have exclusive jurisdiction to determine all rights, privileges, and immunities of citizens of the state with respect to public schools and public school systems within the state. No officer or court of the United States shall have the power to impair or infringe any rights herein specifically reserved to the states.

FEBRUARY 25, 1970.

MRS. CHARLES J. STRAIN,
Rossville, Ga.

DEAR MRS. STRAIN: Your interest in my proposed Constitutional Amendment to return control of schools to the states and to the people is encouraging and much appreciated.

Recently an organization in Washington mailed out a letter soliciting funds which enclosed a card addressed to me similar to the one you enclosed. As a result many people assumed that I knew about the solicitation and that I was in some way connected with the organization and plan to get the Amendment approved for submission to the states. This was not the case. I had absolutely no connection with the organization and have no way of evaluating whatever plans they might have to help get the Amendment approved by the House and Senate.

The above is by way of explaining that while I have no objections to the use of the Amendment, I cannot approve the use of my name in connection with efforts to raise funds for any individual or organization. A mailing in quantity to be effective would cost a substantial sum of money.

On the other hand, the Amendment is in the public domain and there is no reason why it cannot be used except that I prefer that no card or other enclosure be used with my name on it which would indicate that I had even a remote connection with any effort to solicit contributions.

Again, thank you for your interest and support. Enclosed is a copy of the proposed Amendment as you requested.

Very truly yours,

JAMES B. ALLEN.

UNIVERSITY OF NORTH DAKOTA,
Grand Forks, N. Dak., February 23, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: My colleagues and I recently received a notice from your office concerning the American Education Lobby requesting funds to halt integration. Our general reaction was difficult to describe: we were shocked that such vitrolic propaganda techniques are being employed by a member of the U.S. Senate, and as students of government policy we found S.J. Res. 80 profoundly embarrassing.

I have analyzed propoganda for years and can assure you that the materials released under your name will receive support only among that segment of the American polity devoted to fanatic prejudice, bigotry, and pseudo-patriotism. I am sure you are well aware of this and only hope your audience is much less significant than you anticipate. Meanwhile, you will receive publicity in North Dakota, for I am using these materials in my classes as examples of the problems facing educators, professionals, and the American citizenry. If you release further materials of this nature, I would appreciate receiving them.

Yours truly,

CHARLES H. KAISER, PH. D.,
Assistant Professor of Sociology.

FEBRUARY 26, 1970.

CHARLES H. KAISER, Ph. D.,
Assistant Professor of Sociology, the University of North Dakota, Grand Forks, N. Dak.

DEAR DR. KAISER: Your statement that you received a notice from my office concerning the American Education Lobby requesting funds to halt integration is not true.

Neither I nor any member of my staff has ever had any connection whatsoever with the American Education Lobby and were not aware of their use of the language of S.J. Res. 80 or my name in a fund raising effort until after the initial mailing had been made. Subsequently, on my instructions Mr. Lee Dodson who signed the letter requesting funds was told not to use cards addressed to me and not to use my name as a part in any future fund raising projects.

I have no idea of what plans the Lobby may have for promoting the Amendment nor do I have the slightest idea of how the money raised will be used. On the other hand, all statutes and names of Senators are in the public domain.

As for the merits of S.J. Res. 80, my concern for returning control of local schools to the states is based on a conviction that it is necessary in order to preserve the institution of public education in the South. A continuation of present policies will alienate public support in the South no less than it has outside the South and for the same reason that schools cease to educate—white or blacks.

With respect to racial balance policy, one might read with profit the conclusions of the International Commission of Jurists arrived at after an exhaustive study of the subject in British New Guinea several years ago. No one can dismiss their findings by charges of racism or bigotry. One with an open mind on the subject might also profit by a more careful evaluation of *all* of the findings of the Coleman Report.

However, if an analysis of the material sent you by the American Education Lobby leads you to the conclusion that the material was "released under (my) name," and if such a conclusion is indicative of your analytical ability, there would seem to be reason to doubt that your analysis of objective studies of the problem will yield anything of value to you or to your students.

Very truly yours,

JAMES B. ALLEN.

CENTER BRUNSWICK METHODIST CHURCH,
Troy, N.Y., February 28, 1970.

Senator JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: A letter from the American Education Lobby contains a copy of your proposed Constitutional Amendment S.J. Res. 80, together with their arguments in support of it.

For several reasons I am very much opposed to it.

First, it smacks of an effort to put schools beyond the purview of any federal government agency in order to guarantee that states, and perhaps other local municipalities, will not be compelled to upgrade their educational systems.

Secondly, it reflects an effort to guarantee to states or local municipalities the privilege of maintaining separate and unequal schools for minority groups.

I do not believe that compulsory busing is the way to achieve integration in the schools, nor am I fully convinced that racial integration of schools is desirable. But I do believe that the scope of your proposal extends dangerously far beyond either busing or integration.

Thirdly, I am opposed to such a constitutional amendment simply because it removes from national consideration and protection one of the fundamental social areas upon which the existence and progress of the nation are dependent. If such a precedent is set, what area next will be removed from national scrutiny?

Fourthly, it is widely argued that in the educational sphere local autonomy must be protected. I agree. But as yet I have seen no threat to such local autonomy by the Department of Health, Education, and Welfare, or by any other federal government agency, except where local autonomy has established programs in violation of basic human rights. These, too, need protection.

Finally, if for no other reason, I would oppose S.J. Res. 80 because of the fanatical scare tactics that are obvious in the supporting letter I received.

For these reasons, and others, I am opposed to the adoption of S.J. Res. 80 and I shall so inform my Senators and Representatives.

Yours truly,

Rev. HOWARD M. HILLS.

MARCH 6, 1970.

Rev. HOWARD M. HILLS,
Center Brunswick Methodist Church,
Troy, N. Y.

DEAR REV. HILLS: Your thoughtful letter relating to S.J. Res. 80 is much appreciated. In the beginning let me say that I concur in your judgment concerning the language used in the letter you received soliciting funds supposedly to support the Amendment.

My only connection with this solicitation is that I introduced the Amendment on March 17, 1969. Of course, the bill is in the public domain. However, a card addressed to me was inserted in the letters of solicitation with the obvious purpose of leading individuals to believe that I was in some way connected with the appeal. The fact of the matter is that I was not aware that the letter had been mailed until after the event and knew nothing of the plans.

Subsequently, on my direction the Education Lobby was firmly advised not to use cards addressed to me or otherwise undertake to associate my name with their fund raising efforts.

As for the Amendment, the only purpose is to preserve public schools in the South and throughout the nation. I doubt that the general public will continue to support education which does not educate. The record compiled in Washington and other areas of the nation indicate that many public schools are not fulfilling this basic requirement.

In my judgment, the Amendment would have the same effect in the South as it has had in the North and particularly in New York State which prompted the State Legislature to enact legislation to guarantee the integrity of neighborhood schools.

From the standpoint of human and social values, the International Commission of of Jurists and other authoritative organizations have concluded that an arbitrary racial balance in schools or in public services is neither rational nor practical. On the other hand, the method of recruitment or assignment should not be discriminatory.

It is my opinion that you misjudge the character and integrity of State Supreme Court Judges in the South. There is no evidence to indicate that these Judges will not uphold and defend civil rights and human rights of all citizens in their respective states.

In conclusion, let me assure you that it is a pleasure to receive a calm and reasoned letter such as yours on this particular issue and I appreciate your taking the time to write me. I wish it were possible to convince you and others that the responsible leadership in the South is deeply concerned with the problem of providing vastly improved educational opportunities for all of the children of Alabama.

With sincerest best wishes, I am
Very truly yours,
JAMES B. ALLEN.

HOUSTON, TEX.,
February 17, 1970.

Hon. JAMES B. ALLEN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: My delay in answering your letter of the 27th Ult was due to the fact that I have been unable to come to my office because of the "FLU". From the contents of the letter I received from the American Education Lobby, 20 E Street NW., Dodge House, Washington, D.C. 20021, I thought they were collecting money to aid you, and naturally felt that probably, at least 90% of the collection would reach your office. However since you had not authorized such collections I feel that the American Education Lobby obtained the ten dollars I sent them falsely. Therefore I am sending them a copy of this letter and am requesting them to refund me the ten dollars I sent them.

I realize you are very busy, but if you can help me get the return of the ten dollars I sent them I will appreciate it very much.

With best personal wishes I am
Sincerely,
W. A. STUBBLEFIELD.

P.S. I wonder how the Post Office Department would consider their conduct?

MARCH 7, 1970

Mr. W. A. STUBBLEFIELD,
Houston, Tex.

DEAR MR. STUBBLEFIELD: I am enclosing a copy of a letter to the American Education Lobby requesting that they refund your contribution.

After having received your first letter, this organization was firmly directed to discontinue the use of enclosures addressed to me and the use of my name in their fund raising efforts.

Please advise me if your contribution is not refunded as you have requested.

With sincerest best wishes, I am
Very truly yours,
JAMES B. ALLEN.

MARCH 7, 1970.

AMERICAN EDUCATION LOBBY,
Dodge House, 20 E Street NW.,
Washington, D.C.

GENTLEMEN: The attached copy of a letter from Mr. W. A. Stubblefield, Houston, Texas is self-explanatory. The letter clearly indicates that Mr. Stubblefield was led to believe that I was associated with your organization in soliciting funds to promote S.J. Res. 80.

This is another example of a misleading impression conveyed by your letters of solicitation. As early as January 27, 1970, letters came to my office indicating that individuals associated me with your request for contributions by reason of the printed cards you used which were addressed to me. Some letters I received contained checks payable to your organization. As you know, these checks were returned by me to the donors with an explanation that neither I nor any member of my staff had ever solicited funds or authorized solicitation of funds to promote the proposed Amendment and that your solicitation was undertaken without my knowledge or consent. In fact, I was not even aware of your solicitation until after the letters were mailed.

As a result, Mr. Lee Dodson of your organization was personally contacted by a member of my staff to insist that I not be associated in your literature or otherwise with you fund raising efforts.

Nevertheless, letters have continued to come to my office indicating that many individuals believe that I have a connection with your organization and its efforts to solicit funds. Consequently, on my direction, a member of my staff conveyed to you my firm insistence that you discontinue the use of cards addressed to me in your letters of solicitation. Mr. Dodson gave his assurance that you would comply with this request. Despite this assurance such cards continue to be received indicating that you are still inserting cards addressed to me in your letters of solicitation. Thus, people continue to be misled.

Mr. Stubblefield requested that you refund his contribution of $10. I am certain that you will want to accommodate his request. I would appreciate receiving a copy of your letter of transmittal.

Mr. Stubblefield asks in a postscript to his letter how the Post Office Department would consider your conduct. Your continued use of cards addressed to me in your fund raising efforts suggests that it may be necessary to find out if their use in your fund raising efforts is a type of deception in violation of postal regulations.

Very truly yours,
JAMES B. ALLEN.

THE UNITED PRESBYTERIAN CHURCH
IN THE UNITED STATES OF AMERICA, BOARD OF CHRISTIAN EDUCATION, FIELD SERVICES,
March 3, 1970.

Hon. JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: I have received materials from the "American Education Lobby" sent out in support of your proposal for a constitutional amendment, S.J. Res. 80, concerning the governance of our public school system. This letter is to express my opposition to such a proposed constitutional amendment.

First, let me say I do not necessarily agree with all of the actions our Federal Government has taken in a serious attempt to assure that all children and youth have free access to the very best type of education possible.

Secondly, I do state very definitely that there are well recognized inequalities in the quality of education being provided to various groups of pupils who are divided by racial and economic lines, and that these inequalities must be remedied. The various states are not taking effective measures to remove these inequalities, and therefore, our Federal Government must take action to assure that adequate education is provided to all our young citizens.

The third, and most important statement I would make in opposition to such a constitutional amendment as S.J. Res. 80 is that education can no longer be considered a local or even state matter. Recognized inequalities and injustices in education are not being dealt with effectively by local or even state authorities. Beyond this, public education is no longer even a state matter, for our people move freely and rapidly from one part of this great nation to another, and therefore, must have that quality and type of education which will enable children and youth—who will very soon be the decision-makers of tomorrow—to be able to live in new communities, find and perform new jobs and be responsible citizens in any part of this nation. Therefore, a local school system that may prepare pupils to live in that local community or state with its limiting customs of the past is entirely unable to provide education to enable pupils to be adequately prepared to live in any part of our vastly varied and changing nation. Therefore, it is essential that some standards and supervision of education be determined, not by local customs, but by the total national life of which we are all a part.

I would, therefore, oppose the proposed constitutional amendment, S.J. Res. 80, and hope for a broadened perspective that would see our children and youth as citizens of a great nation and whose education must for their own sake and the sake of the nation be freed from local limitations and expanded to be a preparation for responsible life in this nation, which is in fact, also part of what is becoming more and more "one world".

Sincerely yours,
CHARLES D. HINDMAN.

MARCH 12, 1970.

Rev. CHARLES D. HINDMAN,
The United Presbyterian Church in the United States of America, Board of Christian Education, Springfield, Ill.

DEAR REV. HINDMAN: Your letter in regard to the proposed Constitutional Amendment to return control of schools to the States is much appreciated.

The Amendment was introduced March 17, 1969 and is, of course, in the public domain. The American Education Lobby undertook to raise funds supposedly in support of the

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Amendment without my knowledge or consent. I did not learn of the project until after the letters were mailed. Subsequently, on my instruction, the Lobby was firmly advised to discontinue the use of my name and of a card addressed to me which was inserted in their letter of solicitation.

I can agree with some of your observations in your letter, but I arrive at entirely different conclusions based on the same observations. In instances where you conclude that Federal Government ought to take action, I conclude to the contrary that state and local communities ought to take action or more effective action as the case may be.

Obviously we differ on more fundamental premises which are unrelated to the subjects of public school education, economic classes, race or religion. For example, I seem to detect in your arguments and conclusions an absolutist premise whereas I begin from a premise of limited government.

Should you care to explore the other side of the question, may I recommend "Essays on Liberty" by Acton on the point of absolutist government; "A Study of Racial Discrimination" by the International Commission of Jurists, Geneva, Switzerland, undertaken in 1965 on request of the Government of British Guiana with reference to the logical inconsistency and impracticability of racial ratios and racial balance as criteria of participation in public afforded services; from the standpoint of educational considerations; one could profit by reading the "Coleman Report" with special references to harmful effects of integrating a minority of White middle class pupils into a Negro majority school; on the moral question one might contemplate the idea expressed in a recent Alsop Column in which we are asked to consider the morality of compulsory busing of adults out of their home communities to achieve a social end. If wrong for adults, is it not wrong in the case of children? From a purely practical point of view, it would seem unnecessary to cite authority for the proposition that public school education cannot survive without public support. It is my judgment that public support in the absence of state and local control, cannot long be maintained anywhere in the U.S.

Let me conclude by assuring you that I am glad to get your viewpoints on this important subject and while I concur in much of what you say, I do not agree with your judgment respecting the remedy.

With sincerest best wishes, I am

Very truly yours,

James B. Allen.

TIME TO OVERCOME RELUCTANCE TO OPPOSE GENOCIDE

Mr. PROXMIRE. Mr. President, I invite the attention of Senators to an article published in the St. Louis Post-Dispatch of March 17. The article, entitled "Our Reluctance To Oppose Genocide," is a reprint of a statement by Jerome Alan Cohen, professor of law at Harvard University.

As I have pointed out repeatedly, many of the arguments against Senate ratification of the Genocide Convention are based on emotional rather than rational reasoning. Professor Cohen affirms:

> The ABA bears a large share of the responsibility for our failure to ratify the Convention. . . . Its legal objections seem to be the product of exaggerated fears and gross misunderstandings.

Professor Cohen deals with the concern of many in the American Bar Association that ratification of the convention would lead to charges of genocide against the United States with regards to racial discrimination. He also brings up the point that the convention itself explicitly states that each concurring party would have to formulate supplementary enacting legislation to insure effective and fair procedures for any judicial action arising from the application of the convention. Many people opposing the genocide treaty do so out of an unclear understanding of this provision of the convention.

And finally, Professor Cohen forcefully notes that the real answer to many of the arguments is that the United States must rededicate itself to solving the problems responsible for the reservations of many in the ABA as to Senate ratification. I fully agree that this is crucial in order to "remove any basis for charges of genocide against our country."

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Our Reluctance To Oppose Genocide

The costs of those tragic twins—racial discrimination and Vietnam—multiply daily. Perhaps that is the best way to explain why the House of Delegates of the American Bar Association (ABA) recently voted against favoring American adherence to the Genocide Convention.

This multilateral treaty specifies as "genocide" a variety of "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." It confirms that these acts are international crimes deserving punishment.

In 1948, out of revulsion for the wholesale extermination of Jews and other groups that had taken place during the previous decade, the United Nations unanimously adopted the Genocide Convention. The UN acted largely under the leadership of the United States, which declared the event "of great importance in the development of international law and of co-operation among states for the purpose of eliminating practices offensive to all civilized mankind."

Yet the U.S. has never ratified this treaty, despite the fact that 75 other countries have done so, the treaty has been in effect since 1951 and we continue to profess belief in its principles. This refusal to practice what we preach has further damaged American credibility both at home and abroad.

The ABA bears a large share of the responsibility for our failure to ratify the Convention. Its opposition played an important part in the defeat of initial ratification efforts in 1949.

Now once again the ABA has refused to give its blessing. Its legal objections seem to be the product of exaggerated fears and gross misunderstandings, which in turn reflect understandable defensiveness about American conduct.

Opponents of the Convention charge that it would impair the administration of justice in this country by requiring the punishment of broadly-defined acts. They appear to be especially concerned that racial discrimination might lead to a genocide charge—by the Black Panthers, for example. But no criminal prosecution can be brought on the basis of the Convention alone. It plainly specifies that each country must enact legislation to give effect to its provisions, so that Congress will have to spell out substantive safeguards.

The Convention authorizes trial before either an international penal tribunal or "a competent tribunal of the state in the territory of which the act was committed." No international penal tribunal has been established. Nevertheless, opponents argue that if one ever is established it might take cases away from American courts and try them according to un-American procedures. But the Convention makes clear that no international tribunal can operate against any country unless that country has accepted its jurisdiction. Obviously our government will not do so until it has satisfied itself about the powers and procedures of such a tribunal.

But, it is said, by permitting Americans to be tried in the court of another nation for a crime allegedly committed in that nation's territory, the Convention subjects them to the danger of a possibly unfair conviction of genocide. Opponents do not conceal their fear that American soldiers might be tried in both North and South Vietnam for atrocities such as those at My Lai.

This overlooks the fact that Americans are already subject to such trials. The Convention merely confirms that genocide is an international crime. Either of the Vietnams could bring genocide charges without relying on the Convention. Moreover, the same acts that constitute genocide—killing, for example—frequently violate other laws of virtually all countries. And North Vietnam, following Western precedents, has already claimed the right to punish American servicemen as war criminals for acts that could also be deemed genocide.

Rather than concern themselves with these and other equally insubstantial legal problems relating to genocide, American lawyers might do better to rededicate themselves to eliminate racial discrimination at home and racial extermination abroad and thereby remove any basis for charges of genocide against our country.

THE NEWSMAN'S PRIVILEGE ACT

Mr. FULBRIGHT. Mr. President, I am pleased to join as a cosponsor of S. 3552, the "Newsmen's Privilege Act," introduced by the junior Senator from New Hampshire (Mr. McIntyre).

Any infringement of press freedom, any intimidation of journalists, particularly by the Government, undermines the strength of our society and the role of the press as the public watchdog. If the press is to fulfill its role, the separation between it and Government must be clear.

All of us are familiar with the recent controversy about efforts by the Justice Department to subpena reporters' notes, confidential materials and television tapes.

The bill would protect the confidential nature of a newsman's information and sources except—and this should be emphasized—in cases which are libelous, illegally obtained, or a threat to human life or national security. It would protect newsmen from forced disclosure before any Federal court, jury, agency, commission, or Congress itself, of confidential information received by them in their capacities as newsmen. They would also be protected against forced disclosure of the sources of such information.

The canons of the American Newspaper Guild require newsmen to "refuse to reveal confidences or disclose sources of confidential information in court or before other judiciary or investigatory bodies."

Although 16 States, including Arkansas, have enacted "shield" laws which generally protect newsmen's sources, it is appropriate and important that we have a uniform national standard as would be established by this legislation.

I believe that Mr. Julian Goodman, president of the National Broadcasting Co., stated the case well when he said:

> We feel it is essential to have legal protection for our news sources so there will be no question of their right to speak to reporters without fear of damaging exposure or reprisal.

Mr. Goodman added:

> To put it simply, I believe that all such subpoenas are against the public interest wherever they may compromise news sources or prejudice further news access. They are bad in principle, bad in practice and bad in experience, because their effect is to dry up and drive away the diversity of information the public must have.

The dean of the Columbia Graduate School of Journalism, Elie Abel, recently said:

> I don't think there's a real danger to free expression from technology so much as from the fact that too many people have become too casual about such things as Federal subpoenas for notebooks and unedited films of newsmen and other forms of intimidation against the news media.

I hope that the Senate and the House, where identical legislation has been introduced by Representative OTTINGER and other Members, will act with dispatch on this matter.

Mr. President, I ask unanimous consent that several articles pertaining to this subject be printed in the RECORD.

There being no objection the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 9, 1970]

REPORTERS SEE THREAT TO FREEDOM

A 13-member Reporters' Committee on Freedom of the Press was formed yesterday to voice concern over what is viewed as government threats to information-gathering practices.

They noted that subpoenas seeking disclosure of confidential information and sources recently were served on reporters.

In a statement issued by the committee after a meeting attended by 35 reporters, the newsmen said such subpoenas endanger "the delicate process through which news is often gathered and disseminated to the public."

They said the practical impact of such court-ordered testimony "is to destroy whatever trust newsmen have developed among sources who can provide information not otherwise available to the general public.

"This has been particularly true in stories dealing with radical political organizations—such as the Black Panther Party or Students for a Democratic Society—whose suspicion of the courts and law enforcement agencies makes their confidence particularly difficult to develop."

The committee, set up at a meeting at Georgetown University, will act as a national clearing house for information on developments in this field; will sponsor a full study of the reporter's legal rights and responsibility, and will provide legal information and help to newsmen who request it, the statement said.

The committee members are James Doyle and Barry Kalb of The Washington Star; Robert Maynard of The Washington Post; Fred Graham, John Kifner and J. Anthony Lukas of The New York Times; Jack Nelson of the Los Angeles Times; Don Johnson of Newsweek magazine; Marvin Zim of Time magazine; Murray Fromson and Bill Stout of CBS, and Charles Quinn and Lem Tucker of NBC.

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[From the New York Times, Mar. 8, 1970]

PANEL CRITICIZES ATTACKS ON PRESS—WARNS THAT PUBLIC APATHY THREATENS FREE SPEECH

(By Henry Raymont)

Some American politicians are following the ancient belief that by beheading the heralds who bring bad news they will make the bad news disappear, according to Elie Abel, the new dean of the Columbia Graduate School of Journalism.

"Some politicians seem to be making a calculated effort to turn an unquestioned public unhappiness with news into a weapon against the press," Mr. Abel said. "The idea is that when unpleasant things happen they should not be reported."

That, he told a seminar of media representatives, was the sense of much of the recent criticism of the press and television by Vice President Agnew and other Administration spokesmen.

"Agnew is trying to build public pressure in favor of suppressing reality," Mr. Abel charged. "That is not really new. It has a long history from the time the medieval kings beheaded the herald who brought bad news to the campaigns of Governor [George] Wallace, who berated newsmen as 'pointheaded intellectuals'."

ABEL MODERATED PANEL

The new dean, who for more than two decades reported on national and international affairs for newspapers and television, spoke as the moderator of a panel on "The Tube versus Type: Will the Written Word Survive the 70's." The discussion was organized last week by the Publishers' Publicity Association as one of the events marking the National Book Awards.

The panelists agreed, with one partial dissent, that current attacks on free expression and public apathy to their implications, pose a greater threat to the communications media than the widely discussed inroads of mass technology.

"I don't think there's a real danger to free expression from technology so much as from the fact that too many people have become too casual about such things as Federal subpoenas for notebooks and unedited films of newsmen and other forms of intimidation against the news media," Mr. Abel asserted.

Norman E. Isaacs, executive director of The Louisville Courier Journal and president of the American Society of Newspaper Editors, shared this view. He declared: "Why should we get into an argument on technology when what we are fighting for is the right to express ourselves in the face of a clear revival of McCarthyism. I frankly am shocked by the reluctance of many to really take a stand against this erosion of our basic freedoms."

[From the Daily Texan, Mar. 11, 1970]

NBC HEAD DEFENDS MEDIA AGAINST FEDERAL PRESSURES

(By Janice Haag)

American journalism is under the greatest attack today since the Sedition Act of 1798 when newsmen were jailed for statements displeasing to the government.

This assessment was made by Julian Goodman, president of the National Broadcasting Company, in a Sigma Delta Chi Foundation Lecture Tuesday night in the Academic Center Auditorium.

Speaking before a standing-room-only crowd, the NBC executive predicted that if pressures on the news media's judgment and independence continued, they would "create a clear and growing danger to the freedom of information secured by the First Amendment."

Calling on government officials to abandon the use of subpoenas on the news media, Goodman said, "The independence of the press is essential to the public interest the government is pledged to serve."

He also defended the television networks' policy for coverage of major presidential statements and the response and rebuttal which usueally follow the President's messages.

Goodman discussed the press' obligation to provide the public the information it must have to conduct its affairs. "This obligation cannot be delegated. It cannot be pursued on any other basis than the honest presentation of the facts and the background," he said.

About recent subpoenas to news media, Goodman said, "To put it simply, I believe that all such subpoenas are against the public interest wherever they may compromise news sources or prejudice further news access. They are bad in principle, bad in practice and bad in experience, because their effect is to dry up and drive away the diversity of information the public must have."

He continued, "We also feel it is essential to have legal protection for our news sources so there will be no question of their right to speak to reporters without fear of damaging exposure or reprisal."

In discussing NBC's policy of presidential coverage, Goodman said the network has always followed the policy of airing all significant sides of political controversy.

"Because a President's speech is one link in a chain of news, we believe such a message calls for analysis to give background and perspective to what he has said. This means presenting the President's speech in a framework of journalism, rather than simply contributing air time to it," Goodman said.

He continued, "We intend to continue this practice no matter what party constitutes the opposition. But within the standards of equal time and fairness, we must also remain the sole judges of what constitutes good news practice."

Goodman proposed a three point program for common action among media groups in support of their profession:

Full exposure and publicity on any government action that threatens the press function.

Explanation to the public of the issues at stake and its rights in the matter.

Support of legal defense of the rights of newsmen.

[From the New Republic, Mar. 21, 1970]

NEWSMEN AND THEIR CONFIDENTIAL SOURCES

(By Abraham S. Goldstein)

The outrage with which the news media greeted recent efforts by federal prosecutors to subpoena reporters' notes and TV tapes, and the hasty retreat beaten by Attorney General Mitchell, has obscured from view just how unsatisfactory the ultimate resolution was. The public was left with the impression that Mitchell had violated a right of newsmen to keep their notes and tapes confidential and that indignation had brought him to heel. The fact, however, is that in the federal system and in three-fourths of the states, reporters have no more right than the rest of us to withhold information demanded by the subpoena of a court, grand jury or legislative committee. Nevertheless, Mitchell concluded that it would be impolitic to press his power to the limit in the overheated atmosphere now surrounding Black Panthers and Weathermen. He proposed instead to negotiate in the future, rather than peremptorily to subpoena newsmen's files.

In short, the Attorney General reverted to what has long been the practice. Such "negotiation" inevitably involves a bargaining process in which the weak will feel pressed to divulge information while the strong will not. In 1945, for example, a congressional committee, which had voted a contempt citation for a well-known newsman who had refused to divulge his sources, reversed itself after it was subjected to a barrage of press criticism. And Mitchell himself is following the "prudent" course lest the major media beat him in the court of public opinion.

The uncertainty as to when and where the journalist and his records are to be protected is fed by the paucity of case law. The Supreme Court has never dealt with the issue, and there are relatively few state decisions, in part because "negotiation" keeps cases out of courts. If we lived in a time when government investigators were less demanding or seemed more sensitive to the value of confidentiality, or when the need for a strong and critical press was less clear, the currently ambiguous situation might be tolerable. But this is not such a time. The paranoid tendencies latent in a mass society are running unusually strong these days and make all the more essential a clear standard which strikes the proper balance between the demands of confidentiality and those of the public interest.

The usual rule regarding subpoenas is that they compel disclosure of all information, written or oral, relevant to the concerns of the investigative or judicial body which issued them. The person who refuses to comply may be held in contempt and remitted to custody until he testifies. The underlying principle is that a rational society, and intelligent decision-making, depend upon a free exchange of information and that society is entitled to demand of its citizens that they make their knowledge available. Though it is currently fashionable to treat such demands as invasions of privacy, they can as easily be viewed as contributions to the common welfare. For every license to withhold information obviously carries with it the risk that a crime might not be discovered or successfuly prosecuted, or that the innocence of a defendant might not be established, or that a legislative policy might not be intelligently formulated. It is after all an "establishment" press which will be withholding information from the official establishment. The sources and the information protected today may involve Black Panthers and the SDS. Tomorrow, they may involve disclosure of corruption or abuse of power among public officials or corporate executives.

The news media themselves have been the most vigorous champions of access to all sorts of records and proceedings. And when confronted by governmental agencies with claims of an executive or legislative privilege to withhold information, they have been justifiably suspicious that such claims might be made less to protect the public interest than to subvert it. In this spirit, they have sought legal endorsement for their position through "right to know" laws and the federal Freedom of Information Act. Newsmen, therefore, occupy the uneasy position of espousing a right of access to the government's files while denying governmental access to their files. In doing so, they are placing the need to protect their sources, and their newsgathering procedures and relationships, above the state's right to a full investigation or a fair trial.

Despite the inconsistency of this position, there is ample precedent for it. We find in constitutional law the principle that truth is not an end in itself. The most conspicuous illustration is the limit on official inquiry inhering in the privilege against self-incrimination. The testimonial privileges also restrict official inquiry: husband and wife may not be compelled to disclose their communications with one another; the priest may not disclose his penitent's confession; the attorney may not reveal the secrets of his client. In many states, comparable protection is given to communications between physician and patient, accountant and client, social worker and client, psychologist and patient.

The recent outcry of the news media is in effect a claim for parity of treatment with the other professional groups. They argue that there is a strong public interest in freedom of communication within the journalist-informant relationship, and that such interest transcends the particular legislative or judicial or investigative interest in learning the content of the communication. They argue, in addition, that the disclosures are usually made in reliance on a promise that they will be treated as confidential; that the failure to protect such disclosures will dry up essential sources of information; and that adherence to their professional code of ethics will expose them to charges of contempt.

These assertions are far more credible for newsmen than they are for the other professionals. Most disclosures are made to an attorney because the client wants the best possible advice and because he realizes that he will be the loser if he withholds the raw materials on which such advice should be predicated. The patient tells all to his physician because he wants to be diagnosed and treated properly. Information is given to social workers, teachers and guidance counselors because there is a problem which calls for help. The persons who make such communications probably know very little about the degree to which their confidences may be disclosed in the future; but if they did, the immediate interest in getting good advice would probably prevail, the communication would be made, and the professional relationships would remain viable.

In the case of a journalist's privilege, the informant does not risk his health or liberty or fortune or soul by withholding information. He is likely to be removed by baser motives—spite or financial reward—or, on occasion, by a laudable desire to serve the public welfare if it can be done without too much jeopardy. His communication, more than the others, is probably the result of a calculation and more likely to be affected by the risk of exposure. In this instance, compelling the disclosure of a confidential source in one highly publicized case really is likely to restrict the flow of information to the news media. And by doing so, it may well interfere with the freedom of press guaranteed by the First Amendment.

In fourteen states, legislatures have been persuaded to enact statutes which protect the newsmen's sources. In eight of the states, the protection is absolute. In the remaining six, however, the privilege may be invoked only if the material derived from these sources has been published. Of the two solutions, the latter seems preferable because it strikes a balance in favor of the newsman only if he has indeed served the public by publishing the information and adding to society's store of knowledge. But it does not entirely meet either the need or the current problem. In some cases, the sources should be protected even if nothing has yet been presented to the public. And in others, the information should be protected as well as the source if vigorous reporting is to be encouraged. A newsman cannot be expected to learn what the Black Panthers or Weathermen or heroin users are doing unless he operates in an atmosphere of reciprocal confidentiality. He must be free to explore in detail, but at his own pace and in his own way. Interference with that exploration by official demands for information may make it immeasurably more difficult for the reporter to gain access in the future. For he will appear, after he has responded to a subpoena, to have been a police spy using deceptive practices in order to obtain information which would not otherwise have been disclosed to him.

The dilemma is a real one. It is relatively easy to justify protecting a confidential source when the public has been given the benefit of information obtained from that source. It is far more difficult when the newsman asks for immunity from subpoena for sources and information he may never expose to public view at all. For these problematic situations, a judge should be authorized, each time the privilege is asserted, to decide whether or not the investigative or adjudicative interest is great enough to override the public interest in confidentiality and a free press. As in the law of "government privilege" and self-incrimination, this could in most instances be determined by appraising the context in which the problem arises and the relative importance of the competing interests, without requiring the disclosure of the privileged material to the judge. The bill recently introduced by Rep. Richard Ottinger (D, N.Y.) adopts such an approach for the federal government and, with some modifications, might serve as a model "Newsman's Privilege" statute for states as well.

Disclosures to journalists are only a special instance of a much larger problem which has not yet received the attention it deserves. Communications are regularly made to schools, employers, banks, stores and the military on the erroneous assumption either that they will remain confidential or that they will be used for a limited purpose. Inadequately protected by law, they make up a fund of information which is increasingly available to public and private investigators. As the pace of inquiry and computerization increases, so also will the temptation to use these "dossiers." The current controversy between the prosecutors and the news media serves to remind us once again that our confidences are protected far less than we realize, and that a more sensitive law of confidential communications is long overdue.

PARTICIPATORY FOREIGN POLICY

Mr. MATHIAS. Mr. President, the adoption by the Senate of Senate Resolution 85, known as the national commitments resolution, is now seen as a crucial step in the recovery by Congress of the war powers invested in it by the Constitution.

The New Leader magazine of March 2, 1970, presents an interesting and provocative analysis of this important legislation, the reasons for its passage, and its historic implications. Written by Henry F. Graff, a professor of diplomatic history at Columbia, it affords a valuable perspective on the current dialectic between events in Laos and elsewhere and debate on the Senate floor. I recommend Dr. Graff's article to Senators and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THINKING ALOUD: PARTICIPATORY FOREIGN POLICY

(By Henry F. Graff)

At a press briefing several days before he delivered his February 18 state-of-the-world report to Congress, "United States Foreign Policy for the 1970's: A New Strategy for Peace," President Nixon declared that it "reflects my best view at this time of where we are and where we ought to go." But the recurrent theme of the 40,000-word message—"a more responsible participation by our friends in their own defense and progress"—may also reflect the fact that he is less free to make fresh "national commitments" than any of his predecessors in the White House.

Although Senate Resolution 85—chiefly the work of Foreign Relations Committee Chair-

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man J. W. Fulbright—has received relatively little attention since its adoption by an overwhelming majority last June 25, many foreign policy watchers think it may have trimmed, if not clipped, the Chief Executive's wings. Known informally as the National Commitments Resolution, it states simply: ". . . it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the Executive and Legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment." (A commitment is defined as an undertaking to use the Armed Forces on foreign soil or a promise to send military or financial assistance to a foreign power "either immediately or upon the happening of certain events.") In a word, the Senate has said, "No more Vietnams without the approval of Capitol Hill."

What lies behind this remarkable assertion that Congress must be recognized as an equal partner of the President in the shaping of foreign policy? Coming as it does a generation after Franklin Roosevelt issued his "shoot on sight" order without consulting Congress, 11 years after Eisenhower sent Marines into Lebanon without consulting Congress, and almost five years after Johnson decided to "go North" without consulting Congress, an obvious answer is that the Executive Branch is being punished for the failure in Vietnam. The inability to "nail the coonskin to the wall" has exacted a cost from the Presidency, of which this resolution may only be an installment. In the bargain, Congress, feeling collectively embarrassed over its guileless support of the Tonkin Gulf Resolution in 1964, is blaming its wounded pride generously.

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Vietnam is, however, far from the whole explanation for passage of SR 85. Unquestionably the persistence of international problems without end or solution, passed on from one Administration to another like family heirlooms, has underlined the limitations of the President's fiats in the world, not to speak of the military measures often required to support them. There is a keen feeling in Congress, too, that the task of being the world's policeman—grimly and boldly undertaken in the days of Hitler, Mussolini and Tojo—has not only soured as a national policy but has become an unbearable military burden. In telling the President that he cannot be Chief of Police plus District Attorney, Judge and Jury in foreign affairs, Congress was demanding an end to a dispensation that had come to seem natural as well as anathema to millions at home and abroad.

It was inevitable, also, that in a time when almost every institution in society is responding to calls for fuller participation by the public in the making of decisions, the formulation of foreign policy would not remain an exception. An inclination in this direction has long been evident. Since the beginning of the century Americans have increasingly sat like a nation of Madame Defarges in constant critical judgment on their countrys' international agreements. Up to now, though, their judgments have come chiefly as after-the-fact reflections on irrevocable decisions.

Another ingredient of SR 85 is that Congress is beginning to recover at last from its chagrin at having been so terribly wrongheaded in 1919 about the possibilities for peace through collective security, and in the 1930s about the dangers to America from the Fascist dictatorships. Fulbright stated the matter baldly in 1967:

"Since at least 1945 when the Senate ratified the United Nations Charter with virtually no debate, Congress has been doing a kind of penance for its prewar isolationism, and that penance has sometimes taken the form of overly hasty acquiescence in proposals for the acceptance of one form or another of international responsibility. . . . In its deference to the Executive in foreign affairs, Congress has conceded him, and the experts around him, a kind of infallibility which the wisest among them would readily admit they do not have. Versailles, like Munich, has conveyed more lessons than were in it; its only lesson, as far as the workings of the American government are concerned, is the need not of congressional diffidence but of congressional responsibility. . . ."

In addition to these special factors playing at the moment on the relationship between the President and Congress, the Resolution may reflect a new swing of the pendulum in the ancient struggle for supremacy between those two branches of government. The Constitution is by no means clear as to where the dividing line is between the Legislature and the Executive in the responsibility for making foreign policy and war. The Framers expected reasonable men to be in charge of the Republic and did not write rigid guidelines.

The President's duties and powers are dealt with in only 320 words. With regard to international affairs the Constitution states that the President is to be sworn and bidden to "preserve, protect, and defend the Constitution." He is to be the Commander-in-Chief of the Army and Navy; with the advice and consent of the Senate he may make treaties; with the consent of the Senate he is to appoint ambassadors and other public ministers; and from time to time he may give to Congress information on the state of the Union and make recommendations for its consideration that he deems necessary and expedient. That is all the Constitution says about the President's power to make foreign policy. Beyond this he is guided by his conscience, his respect for tradition, his imaginativeness—including his sense of history—and his ability to persuade the people to follow him.

Congress, on the other hand, has the stated power to provide for the common defense and general welfare of the United States. It can declare war, raise and support armies, provide and maintain a navy, make the rules governing land and naval forces, call out the militia, and take charge of whatever part of the militia it presses into Federal service. In addition, Congress has the power of the purse and the power to regulate foreign commerce with the United States. Its relationship with the President is embraced in the words "advice and consent," a phrase recognized as vague ever since President Washington stormed out of the Senate chamber "in a violent fret," according to reports at the time, because he wanted consent more than advice.

History shows, as Edward S. Corwin, a distinguished scholar of the Presidential office concluded, that by its wording the Constitution offers to both the President and Congress nothing less than "an invitation to struggle for the privilege of directing American foreign policy." And experience has revealed that in this struggle the Presidency has immense advantages, which John Jay long ago pointed out in *The Federalist*: its unity, its superior access to information, and its capacity for secrecy and dispatch. A consequence has been to make Congress less active than reactive in the making of policy, and more eager to denounce it than to devise it. The names attached to the great dicta of American foreign policy, therefore, have been provided by the Executive Branch: Monroe, Polk, Hay, Theodore Roosevelt, Marshall, Truman, and Eisenhower. Congress has supplied the naysayers: from Thomas B. Reed to John W. Bricker; from Henry Cabot Lodge to Robert A. Taft and now J. W. Fulbright.

Still, the opposition to Presidential policy-making which SR 85 represents is a response to a deep-seated fear of Executive power that is a by-product of activist Presidencies. The United States has participated in approximately 100 foreign military operations since 1789—almost all of them a result of Presidential initiatives. These initiatives have become more frequent in this century, and since World War I especially they have sometimes been on a large scale.

Some critics of the Resolution argue that the handling of the Cuban missile crisis, the *Pueblo* incident, and the more recent case of the "spy" plane bagged over North Korea required such secrecy and quick decision that public consultation with Congress would have been precluded even if there had been a Commitments Resolution. Proponents know—or at least so they say—that in a crisis the President must act fast because he is the Commander-in-chief. Their concern is that in the major debacles of the past few years—the Bay of Pigs, the Tonkin Gulf, and the Dominican Republic—the President erred, and they note that in none of these cases was the urgency to act so acute that Congress could not have been consulted beforehand.

The unease about the power of the President to make war began to grow at the start of the 20th century. The so-called Philippine Insurrection of 1899–1902 was a bloody struggle that cost 4,000 American lives. Carl Schurz, the veteran politician and ardent anti-imperialist, denounced the fighting as a "President's War." "I ask any fair-minded man," he thundered, "whether the President, before beginning that war, or while carrying it on, has ever taken any proper steps to get from Congress, the representatives of the people, any proper authority for making that war."

Woodrow Wilson's actions in sending troops into various parts of Latin America, and most notably into Mexico against Pancho Villa, were accepted by the public without question. These were not foreign wars, it could be said; these were order-keeping expeditions appropriate for a people whose country had recently become a "first-rate power," and who would be forgiven if they occasionally confused technological superiority with moral superiority.

The military interventions continued to take place during the 1920s, remaining confined to this hemisphere. At the same time, World War I had turned millions of Americans into isolationists with respect to involvement in Europe and they found a style in being anti-President. The President—which meant *any* President—was an evil genius not to be trusted in international affairs. Most isolationists had a greater faith in Congress to keep the country out of war. But some sought an even better alternative. One effort, now generally forgotten, was the so-called Ludlow Resolution of the 1930s.

The work of Representative Louis Ludlow of Indiana, it was based, as is the National Commitments Resolution, on the conviction that the conduct of foreign relations requires no expertness or special training. Ludlow proposed a Constitutional Amendment providing that, except in case of an attack on the United States or its possessions or upon any country in this hemisphere by a non-American country, "the people shall have the sole power by a national referendum to declare war or to engage in warfare overseas."

Ludlow's argument was that war could be declared by a total of 267 persons in Congress, "while 127 million other people have nothing to say about it. Thus we find the war power vested in a very little group in Washington . . . that is singularly influenced and dominated by one other individual, the other individual being whoever happens at any given time to occupy the office of President of the United States." Roosevelt condemned the suggested Amendment in a letter to the Speaker of the House, saying it "would cripple any President in his conduct of our foreign relations; and it would encourage other nations to believe that they would violate American rights with impunity." Early in 1939 the Ludlow proposal was defeated when the House failed to pass the discharge motion required.

A comparable and better-known effort to bind the power of the Chief Executive, grounded in much the same reasoning as Ludlow's, was begun in 1952 by Senator John Bricker of Ohio. It aimed to control the President through a Constitutional Amendment giving Congress regulatory power over "all Executive and other agreements with any foreign power or international organization." Once again it seemed right to many Americans that the nation try to protect itself not only from the actions of irresponsible or misbehaving Presidents but also from the actions of unwary Senators who might be pressured by the Chief Executive.

Under much heat from the White House, the Bricker idea failed in the Senate. A version was defeated in 1954 by only a single vote. The Presidency, therefore, was spared being punished for the Korean War. Still, the fact that Dwight Eisenhower, a victorious general and a Republican to boot, sat in the Oval Office had not protected him from the attack that the Republican isolationists mounted.

The National Commitments Resolution is an intellectual descendant of the Ludlow and Bricker proposals. While the Presidency has not been handcuffed, it has been put under surveillance, and the President himself is on notice. But the most important aspect of SR 85 is the support for it. This has come from "internationalists" as well as "isolationists" on both sides of the aisle. Besides Fulbright, the backers include Karl Mundt and Claiborne Pell, Jacob Javits and Herman Talmadge, James Eastland and George McGovern, Walter Mondale and Harry Byrd. Many of the staunchest advocates have long records of pleading for national efforts against aggression and international Communism, for foreign-aid programs, for technical assistance to emerging nations, and for intercultural relations; Fulbright's own name, indeed, adorns the most generous international fellowship program ever created. The movement of these men to their present stand has been as painful and as self-conscious as the lonely journey a generation ago that took Senator Arthur Vandenberg from the leadership of the isolationists to a proud place as one of the fathers of the United Nations.

The implications are portentous: These men are, in effect, criticizing the idea that a President must be as strong as he can make himself—a conception that has guided the reforming Presidents of this country from T.R. to L.B.J. They are also declaring that through the default of Congress the President's power has been allowed to burgeon and bulge, and that they are determined to realign the scales of power.

The response of the Administration to the Resolution, at least outwardly, has been of a traditional type so far: Yield not an inch. President Nixon admits that when he was in Congress he favored a limitation on the power of the President to act militarily. But now, he says, he thinks differently. He fears that "for a President of the United States to have his hands tied in a crisis in the fast-moving world in which we live would not be in the best interest of the United States." Nevertheless, in decrying SR 85 the Administration has not been forceful even though its opposition is unqualified. It relies on the fact that there is no simple formula for arranging the relationship between the Executive and the Legislature. And since the Resolution is only an expression of the "sense of the Senate," it is not legally binding upon the President.

The Administration, of course, is aware that the language of the Resolution is, or appears to be, ambiguous on an important point. Can the Executive make a commitment on his own hook if there is already supportive legislation or a pertinent treaty on the books, or does the requirement of Legislative as well as Executive action point to the need of specific joint intention to create a "commitment"? The answers affect significantly the arrangements to defend Thailand. Moreover, does the Resolution mean that joint Legislative-Executive steps are necessary in order to carry out a commitment as well as simply to enter into it? Time and crisis will provide both the interpretations and the answers.

A nice point raised by Senator Gale McGee of Wyoming, the outstanding critic of the Resolution, is whether the Senate is not engaging in some special-pleading. He speaks of the Senate demeaning itself in seeking a role in the shaping of foreign policy even as it demeans the high office of President. "Imagine," he says, "the impact on the prestige of any pro football team whose only excuse is that the other side has stolen the ball." The Senators' resolution, McGee declares, is deeply tinged with neo-isolationism—a withdrawal from world responsibility at the very time that the world is shrinking in size. On McGee's side is the startling fact that many of the arguments in favor of the Resolution might have been taken from Senator Taft's well-remembered speech of 1951 on the subject of Presidential power in foreign affairs, a speech that was widely denounced as isolationist.

The Resolution has broad support, too, among many thoughtful students of foreign policy outside of government. As they have become more "doveish" they are looking for comfort to the branch of government that is also "doveish." When they were "hawks" not so long ago, they defended the prerogatives of the Presidency, which happened to be "hawkish." Ruhl J. Bartlett, Professor Emeritus of Diplomatic History at the Fletcher School of Law and Diplomacy, gave extensive favorable testimony at the hearings the Senate Foreign Relations Committee held in 1967. Bartlett concluded that passage of a Commitments Resolution "could be the first great constructive act in returning the ship of state to a safer course." Henry Steele Commager of Amherst College, who twice in articles in the New York *Times Magazine* (1941 and 1951) came down hard in favor of the argument that the conduct of foreign relations rests exclusively with the President, has changed his mind. He avers today that the power of Congress in international affairs has been grievously eroded.

Commager's turnabout is not unique. In 1961, in a lecture subsequently published in the *Cornell Law Quarterly*, Senator Fulbright advocated a strengthening of the role of the President. "As the leader of a beleaguered community of free nations," he said, "the United States is under the most pressing compulsion to form wise and farsighted policies. . . . The essence of this compulsion is the conferral of greatly increased authority on the President. . . ." (Fulbright was unabashed by McGee's use of this material in the debate on the Resolution.)

Shortly after the Korean War ended Walter Lippmann, in his brilliant book *The Public Philosophy*, deplored the degradation of democratic leadership in foreign affairs, choosing as a descriptive the phrase "the enfeebled Executive." Later his unceasing criticism of the role of the President in the making of the Vietnam war became a significant element in the collapse of the Johnson government. Finally, it should be noted that in June 1968 the editors of the *Harvard Law Review*, never notably opposed to a vigorous Executive Branch, examined the respective powers of the President and Congress to commit forces to combat abroad and judged the Resolution (they had an earlier version of it) "a commendable attempt to restore the proper constitutional balance."

But if a new mood has descended on the country in which the intellectual leaders share, President Nixon need only be attentive; as his foreign-policy message suggests he has been, he need not be intimidated. Presidential power to act decisively in a crisis—including the use of troops—is not yet seriously eclipsed. Each Chief Executive as he begins his term reminds himself that history deals roughly with weak Presidents. He speedily makes up his mind, therefore, not to be a Buchanan. In his determination he can take advantage of his high, daily visibility and his easy access to the channels of public communication. Familiarity breeds confidence as well as contempt, and normally the President alone is in a position to mold public opinion on a national scale. Consequently, if the President and Congress should be at loggerheads, the battle may be uneven, especially if the President has personal magnetism, regardless of "the sense of the Senate."

The Resolution and the Senate debate on it convey the notion that Presidents require the additional wisdom that congressmen can supply. Among the assumptions, no doubt, is the idea that several hundred heads are better than only one, despite the fact that the world of cliché also knows the truth that too many cooks spoil the broth. Almost nothing in the American political process forces the voter to examine candidates for Congress as possible makers of foreign policy. Nor could anyone argue successfully with the view that, on the whole, the electorate has chosen better Presidents than congressmen, and is going to continue to do so. Then, too, the forces that play upon a congressman are likely to make him keep both ears close to the ground—familiar congressional acrobatics that, despite its usefulness, greatly reduces the angle of vision.

Another unspoken assumption underlying SR 85 is that congressmen are less bellicose than Presidents and, therefore, capable of exercising needed restraint. The record will always show, though, that the War of 1812 was a product of congressmen who forced their will upon a weak President. The sobriquet "war hawks," once reserved by historians for those militants of 1812, has been notably resuscitated in our own day to describe the supporters of a "President's War." The Spanish-American War was also thrust upon an unwilling President by a "hawkish" Congress. In fact, President McKinley responded to the loud beat of the drums just in time to prevent the men on the Hill from declaring war without a message from him.

As the pendulum swings toward Congress again, it is worth reminding ourselves that legislatures tend to be inert on most large questions, galvanizing themselves into action only at the last possible moment. The examples abound. Congress, archaic in its organization and functioning, is the branch of government least able to anticipate troubles abroad, alter the national policies at the choicest time, or break a lance in a bold and stirring cause.

Furthermore, a singular problem in the formulation of foreign policy in a democracy is the need to fix responsibility before the public. The Congress collectively cannot be the responsible agent and, therefore, cannot be co-equal with the President in fact. In the missile crisis in 1962 when President Kennedy announced to the congressional leadership his intention to establish a blockade of Cuba, Senator Richard Russell of the Armed Services Committee spoke up for bolder action. Kennedy replied that it was possible to respond as Russell had only if one did not have the responsibility for the consequences—in this case of killing Russians as well as Cubans. Six years later, Russell—who, incidentally, is credited by Fulbright with having played an important initiatory role in the framing of SR 85—was not alone among Senators who spoke quickly for harsh action against North Korea in the *Pueblo* crisis.

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The question for the American people is not whether to choose between the President and the Congress as the keeper of the gate, or to seek some greater security in following them conjoined. Americans, to judge from many kinds of evidence, yearn for a policy in the world that will protect them as well as inspirit them—what the actions of the strong Presidents and their Secretaries of State seemed to produce until Vietnam. For all manner of reasons such actions are not likely to yield the desired results again in the foreseeable future.

The racial turmoil at home, for one, carries a message to every part of the world, and particularly to those places where Presidents have been inclined to act without consulting Congress. The message says that the power of the United States is enormous but strangely unaccompanied by conviction. The ringing phrases that were once part of the American arsenal—"all men are created equal," "liberty and justice for all"—seem empty, almost as if they were old heraldic mottoes. The American performance at home is not measuring up to the American promise to the world, and no amount of force—whether applied by the Executive or by the Congress, with or without the approval of the other—is likely to be persuasive.

The nation is shifting its sights and its feet, looking for a more effective stance. The effort to alter the present relationship between the President and the Legislature is only one stage in the correction taking place. It is not of itself a new move toward isolation—although it may foreshadow such a move. It has been undertaken in the hope of discovering a fresh way of defining such unavoidable concepts as "national interest" and "international responsibilities." The method chosen—the passage of SR 85—is obviously pregnant with possibilities good and bad, but probably not as significant as its sponsors believe and hope. The policies that achieve success hereafter will require approval far beyond the White House and the Capitol, separately or yoked.

FORT MONMOUTH, N.J., ARMY SIGNAL SCHOOL

Mr. WILLIAMS of New Jersey. Mr. President, rumors regarding a contemplated transfer of the Army Signal School at Fort Monmouth, N.J., have recently caused serious concern throughout my State. The continuance of this strategically important communications operation in the northeastern region of our Nation is vital; and the New Jersey Education Association and the Council of Eatontown, N.J., have unanimously passed resolutions expressing opposition to any such move. Their respective arguments are presented eloquently and cogently, and they merit consideration by Senators as well as by appropriate officials with the Department of the Army.

I ask unanimous consent that the resolutions be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE BOROUGH OF EATONTOWN, N.J.

Whereas, the Department of Defense is presently conducting a study affecting the continuance of the Army Signal School located at Fort Monmouth, New Jersey, under the auspices of the Army personnel, commonly known as the Boatwright Committee; and

Whereas, it is anticipated that said Committee shall file its findings together with its recommendations with the Secretary of Defense on October 1, 1970; and

Whereas, a substantial portion of the facilities commonly known as Fort Monmouth lie within the geographic confines of the Borough of Eatontown, in the County of Monmouth, New Jersey; and

Whereas, the continuance of the Army Signal School at Fort Monmouth is a matter of community concern to the Borough of Eatontown and other adjacent municipalities;

Now, therefore, be it resolved that the Boatwright Committee consult with the affected municipalities and particularly with the Mayor and Council of the Borough of Eatontown in the course of its fact-finding endeavors; and

Be it further resolved that it is respectfully requested by the governing body of the Borough of Eatontown that the Department of Defense through its Secretary advise this Borough of the recommendations of the Committee prior to any public determination permitting this Borough, if necessary, to submit to the Secretary of Defense its viewpoint and recommendations.

Seconded by Mr. Dixon and adopted upon the following roll call vote:

Ayes: Councilmen Smock, Dixon, Stillwagon, Kaufmann, and Frey. Absent: Councilman Festa.

Nays: None.

Approved.

HERBERT E. WERNER,
Mayor.

RESOLUTION OF THE NEW JERSEY EDUCATION ASSOCIATION

The following resolution was adopted by the Executive Committee of the New Jersey Education Association at its meeting on Saturday, March 7, 1970:

Whereas, the United States Army Signal School at Fort Monmouth, New Jersey, has provided an invaluable service to the community, county, State and Nation; and,

Whereas, many of its faculty members are ably serving in the administration of public and private schools in New Jersey through membership on their governing bodies; and,

Whereas, many of the faculty members are participating in exchange teaching programs in the public schools and colleges of Monmouth County; and,

Whereas, the United States Army Signal School has shared its innovative methods in the use of media instruction with the public schools of Monmouth County and the State of New Jersey; and,

Whereas, the relocation of the Signal School would have a devastating effect on local schools because of the immediate loss of federal aid, and the exodus of supporting industry that would surely follow;

Therefore, be it resolved, that the New Jersey Education Association is unalterably opposed to the phasing out or relocation of the United States Army Signal School from its present location at Fort Monmouth, New Jersey; and,

Be it further resolved, that the New Jersey Education Association shall notify Secretary of Defense Melvin A. Laird, Senator Clifford B. Case, Senator Harrison A. Williams, Congressman James Howard, and other New Jersey Congressmen, of our concern regarding this contemplated move; and,

Be it further resolved, that the New Jersey Education Association shall immediately communicate this resolution to the National Education Association and urge their support of this resolution and any assistance they can afford us in our efforts.

SHORTAGE OF LOW SULFUR COAL

Mr. BROOKE. Mr. President, the current national emergency involving critical shortages of low sulfur coal seriously affects efforts to deal with the environmental problem effectively.

In order to reduce air pollution, our cities have attempted to limit the amount of sulfur that can be contained in coal burned by utility companies at the present time. The shortages of low sulfur combustibles are critical.

At a time when stockpiles are at the lowest level in history and production is uncertain, we have been permitting the export of substantial volumes of low sulfur coal.

Until such a time as we can assure sufficient supply and a reliable production of low sulfur steam coal, we should give strong consideration to appropriate action which would restrict the export of coal in order to insure an adequate domestic supply at tolerable prices.

Mr. President, I ask unanimous consent to have printed in the RECORD an article on the subject, published in the Wall Street Journal of Wednesday, March 11, 1970.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUPPLY-DEMAND PARADOX: COAL INDUSTRY'S NEW VIGOR IS BEING SAPPED; OUTPUT PINCH THREATENS ELECTRICITY LEVELS

(By Thomas Lindley Ehrich)

PITTSBURGH.—A litany of woes stemming from poor planning, labor problems and transportation snafus is hampering the first real boom the coal industry has experienced in a quarter of a century and is creating a supply pinch that threatens the nation with power shortages.

After years of minimal growth while utilities—the biggest buyers of coal—rushed to order nuclear generating units, the industry suddenly finds itself swamped by demand. Nuclear units haven't been installed as fast as planned, and demand for power has grown even faster than expected. Meanwhile, foreign countries have begun buying U.S. coal in large volume just at a time when domestic stocks have been slashed by last year's labor problems.

Thus, while other industries fret over waning business, King Coal has so many orders that the industry finds itself steadily falling behind in supplying this nation's needs.

"Things are in such deplorable shape that something has to be done about it," says James E. Watson, manager for power at the Tennessee Valley Authority. The TVA, one of the nation's biggest utility complexes and by far its largest single coal buyer, currently has a stockpile of 2.8 million tons of coal. Its normal full stockpile is eight million tons. Moreover, half the current stock is at two of the TVA's facilities, says Mr. Watson, while the remaining nine plants in the system have only enough coal to operate for a week or two.

The pinch has bred a kind of under-the-table market for coal, in which some operators are breaking delivery contracts signed years ago in order to sell their coal at higher current prices. It has prompted Armco Steel Corp. to suggest putting limits on coal exports. It's even triggered eager coal users to offer financing of new mines in order to assure themselves of future supplies, a rare move even in coal's heyday 30 years ago.

PINCH SEEN WORSENING

Meanwhile, the pinch is almost certain to get worse. If the threatened nationwide railroad strike materializes, it will halt almost all coal deliveries. On April 1 a stronger Federal mine health and safety law takes effect. According to the National Coal Association, an admittedly pro-industry trade group, the effect of the more stringent mining rules will be to slow production at most mines and force an unknown number of the smaller, marginal mining operations out of business.

All this could leave some consumers without electricity this summer, when air conditioner use strains generating capacity. Utilities have less than a 60-day supply of coal on hand, compared with 71 days at the end of 1968 and 88 days in 1967. Some individual utilities, of course, have more. Dayton Power & Light Co. has more than a 60-day supply and is "in great shape," according to an official. Others aren't as lucky. "Some have gotten down as low as 10% of the 60-day to 90-day supplies they like to have," says a coal official.

"There is a quite lively prospect of power shortages and blackouts this summer," says a spokesman for the coal association.

PRICE INCREASES PASSED ON

Other coal-using industries, notably steelmakers, are even closer to the line. As of Dec. 31, that industry had an average of 19 days of coal supplies, down from as much as 49 days in 1968. "We like to carry 60 days," says a coal buyer at one large steel company, "but now 45 days supply is considered good."

Even if power shortages are avoided consumers aren't likely to escape one effect of the pinch—markedly higher prices. Like most other businesses in this inflationary period, coal operators have been hit by sharply higher labor and materials costs. Unlike others who've had to absorb at least some of them, the pinch is allowing coal operators to pass their increases right on to users.

"Prices rose 10% in 1969," estimates William Bellano, former president of Island Creek Coal Co. and recently appointed president of its parent, Occidental Petroleum Corp. "And there will be 15% to 20% increases this year," he adds, with many of them tied to the April 1 effective date of the Federal mining law.

Coal operators' price increase plans, moreover, could include wholesale renegotiations of long-term supply contracts signed in the early 1960s.

The aim, coal men say, would be to bring their escalation clauses, which are limited, more into line with the "sophisticated" escalation clauses written since 1967, which grant price boosts on a broad basis. John Corcoran, president of Consolidation Coal Co., a unit of Continental Oil Co., says, "We didn't know all we'd face in escalation costs" at the time the early contracts were signed.

For their part, many utilities, including New York's Consolidated Edison Co., have escalator clauses permitting them to increase utility prices as their raw material costs climb.

STRIKES DECREASE CAPACITY

On the face of it, the snafu in the coal industry is a simple case of not enough production capacity to meet demand. During 1967 through 1969, coal output held steady at about 550 million tons a year. Consumption of coal in the same period rose to 564 million tons from 530 million tons. Electric utilities coal use alone rose 15% during the three-year span. To make up the difference, users consumed an estimated 19 million tons of reserve coal in that period.

Why didn't coal operators increase output? In part, it was beyond their control. Labor trouble in the nation's coalfields, which never have been entirely peaceful, boiled over during 1968 and 1969, with several major wildcat strikes and an untold number of short, isolated stoppages, which cost about 10.5 million tons in lost production. According to one industry estimate, only one month during the past 18 has been strike free in the industry.

There's little agreement on the reasons for the strikes, though it's clear that dissent within the United Mineworkers union, last year's UMW presidential election campaign and heightened rank-and-file concern over mine health and safety were central causes. Besides strikes, increased absenteeism and more intensive efforts to increase mine safety have cut productivity, coal men say.

In part, though, the production shortfalls stem from the coal industry's failure to expand. During the early 1960s, production dwindled to 403 million tons a year, and electric utilities were rushing toward nuclear power plants. Fearing a sizable loss of utility business and the resulting overcapacity, coal operators almost stopped opening new mines.

"During the atomic scare," says Occidental Petroleum's Mr. Bellano, "there weren't enough new mines being built to take care of the new requirements of utilities and others and to take care of exhaustion of old mines."

FOREIGN DEMAND LEAPS

Nuclear plants ran into more than just production delays. For instance, construction was slower than expected, costs began to mushroom and a concerted opposition by conservationists slowed building even more. It currently takes as long as seven years to install a nuclear plant. Originally the utilities thought it would take about two years.

The stretch-out forced utilities to use more coal and hastily to add coal-burning power stations to meet power demand they'd expected the nuclear units to fill.

To top it off, a coal export market began opening up. Foreign steelmakers, especially the Japanese, have begun increasingly to buy metallurgical coal needed for making steel. In a $500 million transaction nearing completion, a Japanese trading company will pay Island Creek Coal nearly double the going price for 30 million tons of U.S. coal at a new Buchanan County, Va., mine to be financed by the Japanese.

Nor is there any near-term hope of balancing the output with demand. Labor troubles continue to plague the industry and may again boil over, coal men fear. Old mines are running at capacity, and it will be several more years before significant new capacity, being hastily developed, will make an impact. It takes from two to four years to bring a mine from start to full production.

Meanwhile, many coal companies are allocating their production as best they can. "Some companies have told their customers to figure on getting no more than 80% of what they got in 1969," says a large coal operator. Eastern Associated Coal Corp., an affiliate of Eastern Gas & Fuel Associates, figures only a 30% increase in production would fulfill its contract commitments. Like most companies, says John Phillips, Eastern Associated's president, "we were unable to meet all our contracts."

A HARDENING OF ATTITUDES

One big steel company, expecting a 20% shortfall in commercial deliveries, is considering working its "captive mines"—those owned outright—on Saturdays at overtime rates.

A few coal companies, aware that they can get more money for their coal, are reneging on contract commitments entirely.

Says Mr. Watson of the TVA: "One producer quit delivering to us in November and hasn't delivered a pound since then, though we have a contract." He says the TVA hasn't "yet" taken legal action, but he notes there have been some recent suits by power companies against coal suppliers on the same grounds.

The shortage of supplies and hardening attitudes among mine operators also has shattered some of the traditional relationships between consumer and supplier. "I never used to talk about this," says Mr. Watson grimly, "and a lot of utility executives still won't, because when you talk about coal shortages the prices go up. But I've crossed that bridge now. Our first obligation is service. Somebody has to talk about this."

Ironically, the coal industry's chance for a prolonged boom may be jeopardized by a number of factors. Growing concern over air pollution is bringing mounting pressure on utilities to clean up their smokestacks. Some big city electric utilities are switching to low-sulphur-content fuel oil or natural gas. Others are seeking to buy low-sulphur-content coal, which is in short supply. In time, the nuclear plants may live up to their expectations.

In the interim period, the coal industry may even have a hard time maximizing returns from the higher prices it gets. The transportation system that distributes coal, say both utility and coal men, is dismal.

For one thing, there's an absolute shortage of hopper cars. For another, the distribution of the available ones often defies logic. Thousands of empty cars may stand on unused spurs leading to small mines at the same time big mines have to stop production because they don't have enough cars. Nor is the situation any better on the delivery end. On Feb. 22, for example, some 19,000 hopper cars of coal were waiting at the Norfolk and Hampton Roads, Va., ports. Another 8,521 cars were on the way. The port was loading at the rate of only 2,000 cars a day.

Says one frustrated coal man: "If the coal industry could produce what it would like to produce, the railroads couldn't haul it."

EDUCATIONAL REVOLUTION IN AMERICA

Mr. McGEE. Mr. President, a revolution is going on today in America. There is an educational revolution, the scope and sense of which we are still not fully aware.

As Crosby Noyes observed in his column in the Washington Evening Star yesterday, the traditional concept of education is now in the process of being scrapped before a new coherent system has been worked out to replace it. Mr. Noyes wrote this in the context of what he sees as "snorts of derision" at the President's request for establishment of a National Institute of Education, which would function as a clearinghouse for educational research. Clearly, the revolution in education deserves deep study, as the column says.

I ask unanimous consent that the column be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

[From the Washington Star, Mar. 19, 1970]

Revolution in Education Deserves Deep Study

(By Crosby S. Noyes)

President Nixon's recent message to Congress on educational policy is a most unsettling document. Its major theme is that American education is in serious danger of flunking out.

The big problem, it seems, is not just more money or more schools and teachers, although these quite obviously are deficient. The big problem is that we still don't know how, or what, to teach. And in order to find out, Congress is being asked to set up a new clearing-house for research, known as the National Institute of Education.

One can hear the snorts of derision. If, at this late date, after all the money that has been spent and all the studies that have been made, we still don't know how to run an educational system, then heaven help us. If we really must start now to mount a "searching re-examination of our entire approach to learning," we are in a fine mess.

And so we are. The message has hit the essential and most disagreeable truth. We are faced with the problem of defining all over again what schools are and what they are supposed to do. And this, in turn, calls for a basic redefinition of what we mean by "education" in modern society.

Revolution today is an overworked word. Yet the revolution that is taking place in American education is as profound as the one which took place 500 years ago when education was pretty much confined to the learning of Latin and Greek. Now, as then, the effect on the society is tremendous. And it is happening in a fraction of the timespan of earlier changes.

Education, to be sure, has come a long way in the last 500 years. But, for the last century or so, it has changed very little in its primary purpose. In most Western countries today, the educational systems still are geared to the objective of creating an intellectual elite—progressively more competitive sorting out of sheep and goats—in which brains and discipline—not to mention money and cultural background—are the essential assets.

It is this traditional concept of education that is now in the process of being scrapped at least so far as the public school system is concerned. It is being abandoned under the pressure of rapidly changing social necessities before a new coherent concept of an educational system has been worked out.

Hence, all the talk and all the confusion these days about "relevance" in education. Relevant to what? Well, for starters, relevant to the need of creating a successful multiracial society. And next, relevant to the needs of the child in making a place for himself within that society.

In these terms, one must admit that there is much—perhaps most—in school curriculums that is irrelevant to all of the students: Black and white, rich and poor alike. What is being taught, for the most part, are the rudiments of long-established disciplines. But the disciplines themselves are changing so fast that the classic preparation is becoming more and more a waste of time and a source of irritation.

The difficulty is to work out a single system of education which will be equally relevant to blacks, whites, rich and poor. The basic tools, no doubt, remain literacy and language, and to acquire these, the most intensive remedial efforts can and must be made at the lowest levels of school and preschool training. But beyond this, what is or isn't relevant in the system depends very largely on the individual's view of the society, as it is and as it ought to be.

Because one aspect of the educational revolution, at least, is perfectly clear: The function of the schools now is more than the preparation of children for a successful multi-racial society. The schools themselves are the principal mechanism by which such a society hopefully may be achieved. A truly integrated educational system, assuming that it can be created, is held to be essential to the creation of a truly integrated society.

Yet, only too obviously, this society does not exist today and probably will not for a good many years to come. So, to some extent, an educational system designed to give students the aptitudes and attitudes suitable to a successfully integrated society is preparing children for living in an unreal world.

It is in their perception of this dilemma that different people and different groups come to differing conclusions about what kind of an educational system is relevant to them. The problem greatly complicates the "new approach to learning" that is being attempted, and it will be examined in another article.

THE POSTAL STRIKE

Mr. WILLIAMS of New Jersey. Mr. President, it is essential that full-scale mail delivery service be restored immediately. The walkout or absenteeism of postal workers is in violation of Federal law, making them subject to specified penalties. But we must now take full account of the frustration of our mailmen over administration failures to correct totally inadequate wage scales through proposing further specific amendments to existing law.

Congress has been prepared to raise Post Office funds and is concluding action on pay raises for postal workers. I supported substantially higher wage scales for all postal employee grades, but I am at present concerned that there be no further delay in the enactment of this legislation.

However, the administration has frustrated congressional action on comprehensive improvements in wage scales and on making provision to extend the right of collective bargaining with binding arbitration to our postal workers, by tying these actions to an extensive reorganization of the Post Office system. I strongly believe that legislative action should be taken now on these specific matters, while Congress continues an intensive study of necessary postal reforms.

Nevertheless, the current work stoppage cannot be condoned. The crucial importance of the mail system to our economy and to millions of Americans must be clearly recognized. Post Office officials must make an intensive cooperative effort with postal union leaders to secure the immediate return to work of postal employees.

Nor can the administration continue to delay the fulfillment of its promises to postal employees on wage scale improvements and bargaining rights. Court injunctions and mail embargoes must now be supplemented by positive assurances that these valid needs of our postal employees will be acted upon as soon as possible.

APPLAUD FOREIGN RELATIONS COMMITTEE APPROVAL OF SENATE RESOLUTION 211

Mr. BROOKE. Mr. President, the Foreign Relations Committee has advanced the cause of a secure peace by its endorsement of Senate Resolution 211. The perfected resolution offers clear support for a concerted effort to head off deployment of MIRV—multiple independently targetable reentry vehicles—and other new strategic weapons.

My proposal for a suspension of MIRV testing and deployment has always been explicitly conditioned on progress in limiting other strategic weapons, specifically the total number of offensive missiles and the size of any anti-ballistic-missile deployment. The committee language specifically incorporates this call for a general freeze of offensive and defensive weapons at the present level. The resolution emphasizes that a mutual suspension of MIRV flight tests and deployment is a critical element in the effort to obtain such a freeze. Indeed, the principal means for verifying compliance with the proposed freeze on MIRV deployment is a moratorium on further flight tests of such technology, since such tests would be essential to deployment of the kind of accurate and reliable weapons which would jeopardize mutual deterrence.

The committee's favorable action provides the Senate an historic opportunity to render its advice on the grave issues of nuclear arms control. I trust that the 43 original cosponsors of Senate Resolution 211 will be joined by an overwhelming majority of their colleagues in prompt approval of this vital proposal.

By reinforcing the President's quest for strategic arms limitation, the Senate can facilitate serious and constructive diplomacy in the SALT negotiations which resume shortly. Senate Resolution 211 can be an essential vehicle in this effort. I applaud the committee's enlightened contribution to this campaign.

HUNGARIAN INDEPENDENCE—LAJOS KOSSUTH

Mr. WILLIAMS of New Jersey. Mr. President, March 15 marked the celebration of Kossuth Day, an appropriate tribute to a Hungarian revolutionist, Lajos Kossuth.

Kossuth, born in 1802, began his political career as an appointed deputy to an influential member of the National Diet. While holding this position, he gained an outstanding reputation through clever, politically oriented letters. His writings were so successful in influencing his fellow Hungarians that he soon became the editor of his own magazine.

However, Kossuth's attempt to initiate a movement for national reform was forcibly suppressed. In May 1837 he and several others were arrested on charges of high treason, and they subsequently spent 5 years in prison.

During his captivity, his reputation as a representative of the masses grew extensively, and upon his release, he immediately became the leader of a new political movement designed to draft reform.

With the help of a strong Hungarian army, the movement became successful. And on April 19, 1849, Kossuth and the movement declared their independence from Hungarian rule. But despite the support of the people, freedom from the Hungarian throne was short lived, and in August 1849 Kossuth was forced to flee from his nation and escape to Turkey.

Mr. President, the enthusiastic reception given to Lajos Kossuth in 1851 when he visited the United States demonstrated the concern of the American people for the cause of Hungarian independence. I ask, today, that this Nation continue to extend to the people of Hungary our good faith and best wishes.

MONDALE SUPPORTS COALITION FARM BILL

Mr. McGOVERN. Mr. President, the Senator from Minnesota (Mr. MONDALE) recently delivered strong testimony to the Committee on Agriculture and Forestry in support of a farm bill which he and I are sponsoring with a number of other Senators. It would make the Food and Agriculture Act of 1965 continuing

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legislation, with some important improvements.

Senator Mondale pointed out that failure to act would cause farm income to fall by a billion dollars or more in 1971, and he also said a review of the administration's generalized set-aside proposal shows it "would be far less effective in supporting farm income than current programs."

The statement, which I ask unanimous consent to have printed in the Record, notes that the cost of existing farm programs is less than 2 percent of this year's $200 billion Federal budget. I agree with Senator Mondale's point:

> I don't think that we should be on the defensive regarding the cost of an adequate farm program which stabilizes farm supplies and prices and gives consumers an abundance of high quality food.

Mr. President, this bill, S. 3086, has wide producer and congressional support. I would point out that 27 national farm and commodity groups now support the measure. Certainly Senator Mondale has presented an excellent case for its prompt enactment.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement in Support of Extension of the Food and Agricultural Act of 1965, by Walter F. Mondale, U.S. Senator From Minnesota

Mr. Chairman and committee members, I joined with Senator McGovern and several other Senators on October 23, 1969, in introducing S. 3068, which we called the Agricultural Stabilization Act of 1969. At that time 22 national farm organizations and commodity groups had announced their support of such an Act. Since then five more commodity groups have added their support to this bill.

In appearing before you today, I want to restate my support of S. 3068 which, after adding a few amendments to strengthen farm income, would make the Food and Agriculture Act of 1965 continuing legislation. But I want to do even more. I want to urge your committee to move with all possible speed to report out an agricultural bill which has wide producer and congressional support. We must have a bill which will assure farmers a fair share of our National income and we must have it enacted well before August, the beginning of fall seeding of winter wheat for the 1971 crop.

Other witnesses have discussed the provisions of the continuing authorities which would become operative if the 1965 Act were allowed to expire without replacement. I want to add my warning regarding the decline in farm income which will occur if we fail to enact S. 3068 or a comparable bill in the next few months.

Analysts are generally agreed that farm income would fall by a billion dollars or more in 1971 if we fail to enact new legislation. Wheat producers would probably lose all their wheat certificate payments which will amount to $900 million in 1970. The second year, wheat acreage allotments probably would be reduced even further because loans at 50 percent of parity, now required in the continuing legislation, would cause stocks to pile up again.

Although cotton producers might receive higher incomes in 1971 if the 1965 Act is allowed to expire, the continuing cotton legislation would create unmanageable stocks of cotton, if not repealed. New legislation would be almost imperative the second year.

Feed grain producers would be most adversely affected in 1971. They would lose all their current payments which will total about $1.5 [illegible]lion in 1970 and market prices would rest on the 50 percent of price support level provided in the continuing legislation. This will be about 90 cents a bushel for corn for the 1971 crop.

Although feed grain producers would incur the most serious income losses in 1971, if the 1965 Act is not renewed or replaced, cotton and wheat growers may incur the greater income losses over a 3 to 5 year period. Farm income losses would surely reach $4 to $5 billion a year—a fourth to a third of the net income now realized by farmers.

After the first year or two lower prices of grains, soybeans, cotton and livestock products would result in lower values for all agricultural assets. Cattle breeding herds and ranches might increase in value for a year or two but, they too, would decline after that.

The decline in agricultural income and farm assets would adversely affect all rural financial institutions and all public institutions in rural areas. The financial pressures created by lower asset values would affect the one million largest farms most severely.

In my own state of Minnesota farm program payments have exceeded $100 million every year since 1962 except for 1967. Last year they totaled $171 million. I have attached certain tables which reflect on this and other aspects of farm programs regarding Minnesota.

Livestock products make up two-thirds of the farm marketings in Minnesota. If the 1965 Act is not renewed, Minnesota farmers will lose farm program payments equal to a fourth of their net income in recent years. In addition they will suffer a substantial decline in their income from feed grains and livestock products as excessive supplies glut the markets.

I was impressed by your statement, Mr. Chairman, when you opened these hearings. As I recall, you reported that the farm prices for an identical market basket of food were only 8 percent higher in 1969 then in 1947–49. Yet during this period the processing and marketing charges for the market basket of food increased 55 percent.

I have been reminded many times by my farmer constituents that farm prices in 1969 were only 2 percent higher than 21 years earlier, in 1947–49, whereas the prices of goods purchased by farmers, interest, taxes and farm wage rates have increased 50 percent during this period. Quite frankly I have difficulty in understanding how the average farm family survives the cost-price squeeze in our current inflationary economy.

I don't think, therefore, that we should be on the defensive regarding the cost of an adequate farm program which stabilizes farm supplies and prices and gives consumers an abundance of high quality food. Actually only 5% of consumers after tax income goes to farmers for the domestically produced food they buy.

Farm program costs of $3 to $4 billion appear large when they are considered without reference to other parts of the government budget. But the government budget this year is $200 billion and farm price support program costs are only 2% of the total. If we can hold farm program costs at current levels when other costs are rising, they will be a declining percentage—less than 2% of the total budget.

Before going on to comment upon the generalized measure which the Administration finally sent forth as their program permit me to tell this Committee of the need for permanent advance payment legislation for wheat and feed grain producers. As you know, I have introduced a bill making advance payments to farmers participating in the feed grain program mandatory. This bill has 14 cosponsors. I am also a cosponsor of Senator Burdick's bill which does the same for producers participating in the wheat program.

At the time the Secretary of Agriculture announced its decision to eliminate advanced payments for the 1970 programs, I said this was a wrong decision for a number of reasons. First, halting such payments is not a cost savings to the government, but simply a shift in funding to another fiscal year.

Second, it will place a new financial burden on our farmers who must now borrow money at today's high interest rates in order to finance crop planting and operating costs. Third, the advance payments program has been working well for seven years. It is directly responsible for encouraging many farmers to sign up and divert acreage. Under the program those farmers who elect to participate receive an advance on their payments in the spring with the balance paid in August. Without benefit of advances, farmers may well choose not to sign up, thus planting heretofore diverted acres with resultant lower grain prices this summer and fall.

Last year Minnesota farmers received more than $31 million in advances under the feed grain program. For farmers to borrow the equivalent of $31 million for six months—assuming they could find 9% loan funds—would saddle them with nearly $1.4 million in interest charges. The on-paper savings to the Federal government in the current fiscal year does not seem adequate reason for imposing a new financial burden on family farms.

Our, bills, therefore, require the Secretary of Agriculture to make advance payments to producers under the feed grain and wheat programs. They would amend existing legislation requiring the Secretary to make not less than 50% of any payments under the programs to producers in advance of determination of performance.

I am told this bill will receive early hearings by a Subcommittee of the Committee. I hope these will come promptly since early sign up figures are most distressing—bearing out my earlier warning.

After the initial two weeks in the feed grain program, as illustration, only 42 percent of Minnesota farmers had signed up as compared to the 1968 program. Nationally, the figure is 65 percent.

Now, to return to the matter of major concern, I assume that at some time in the near future you will have Secretary Hardin come before you and explain in some detail how he would administer the proposed Agricultural Act of 1970 which his staff has drafted and sent to members of Congress. I fully endorse the goal of the proposed act, "To give farmers a wider range of decision-making on their own farms . . . through increased opportunity and flexibility for farmers to specialize in those crops which will maximize their net returns." But I doubt that the proposed Act will meet the acid test of maintaining farmers income.

Professor Luther Tweeten of Oklahoma State University was recently asked to make an economic appraisal of the Administration's "set-aside" proposal at a seminar sponsored by the Iowa Center for Economic and Agricultural Development. In his words the set-aside proposal is designed to provide restraints on production that will permit satisfactory levels of price and income and will neither inhibit the growth of markets nor place needless obstacles in the way of efficient farm operation.

After a detailed analysis of the most probably economic response to the set-aside provision in different sections of the country, however, Professor Tweeten concluded that they would be far less effective in supporting farm income than current programs. He concludes that if the cost of a set-aside program were held the same as for the current programs, $3.2 billion, then net farm income, would be $0.5 billion less under the set-aside program. Said another way, the program is estimated to cost the U.S. Treasury $0.5 billion more than the 1969-type program in 1971 to achieve the same farm income.

He finds the set-aside program less effective than current programs in reducing the acreage of the major grains. If cotton, wheat and feed grain payments were kept at 1969 levels, Professor Tweeten estimated 10 million additional acres of feed grains would be planted.

This would be offset partially by the diversion of 15 million acres of minor crops, oats, tame hay, etc., under the set-aside program, but the increased supplies of feed grains would lead to lower prices and increased supplies of livestock products within a short time. Livestock producers would also experience lower incomes as output expanded against inelastic demand.

Professor Tweeten also observes that dropping the restraints on the production of allotment crops means that the conserving base will become a relatively more important factor than before in controlling production, yet some states have dropped or deemphasized the conserving base. States which have dropped the conserving base will be relatively advantaged under a set-aside program.

Mr. Chairman, I hope it will be possible for you to schedule Secretary Hardin's appearance before your committee at an early date so that we can obtain a better understanding of the advantages and disadvantages of shifting from our voluntary relatively successful acreage adjustment program for cotton, wheat and feed grains to an untried set-aside program.

Thank you for alloting me the time to appear before this Committee.

GOVERNMENT PAYMENTS TO MINNESOTA FARMERS 1966-68

[Dollars in thousands]

	1966	1967	1968
Conservation	$5,910	$7,069	$5,578
Sugar Act	3,298	3,275	3,343
Wool Act	835	615	1,220
Soil Bank	7,973	6,028	4,649
Feed grain program	105,200	62,141	103.424
Wheat program	9,796	11,247	11,863
Cropland adjustment	2,417	4,876	4,433
Total	135,429	95,251	134,510

Source: Economic Research Service, Farm Income, State Estimates 1949-68, FIS 214 Supplement.

REALIZED GROSS AND NET INCOME FROM FARMING MINNESOTA, 1960 AND 1968

[Dollars in millions]

	1960	1968	Change percent
Cash receipts from:			
Farm marketings	$1,437.1	$1,864.9	+30
Government payments	31.7	134.5	+324
Value of home consumption	47.0	31.5	−33
Gross rental value farm dwellings	84.5	121.6	+44
Farm production expenses	1,167.3	1,571.5	+35
Realized net income	433.0	581.1	+34

Source: Economic Research Service, Farm Income, State Estimates, 1949–1968 FIS 214 supplement.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER**. Is there further morning business? If not, morning business is closed.

SUPREME COURT OF THE UNITED STATES

The **PRESIDING OFFICER**. In executive session, the question recurs on the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

The Senate resumed the consideration of the nomination.

Mr. **MILLER**. Mr. President, on January 19, the President forwarded to the Senate his nomination of the Honorable George Harrold Carswell, a member of the Fifth Circuit Court of Appeals, to be a Justice of the U.S. Supreme Court.

Hearings on this nomination were held by the Senate Comimttee on the Judiciary on January 27, 28, and 29, and on February 2 and 3, 1970. The printed hearings were distributed to Members of the Senate on Monday, March 2.

Not being a member of the Judiciary Committee and not having any personal knowledge of Judge Carswell, it seemed prudent for me to study the hearings record before reaching a final decision on this matter. To do otherwise would be to make a judgment on a most important matter without considering the evidence—to indulge in "trial by the press" and to thus shirk the duties of a Member of a separate, coequal branch of our Federal Government in his exercise of the constitutional power of confirmation.

It should be pointed out that only last June 19, the Senate confirmed the nominee to his present position without debate. Perhaps the reason there was no debate was that there were no dissenting votes in the Judiciary Committee when the nomination was reported to the Senate with the committee's recommendation for approval. Similarly, there were no dissents at the time of the confirmation of his nomination to be a Federal district judge on March 31, 1958.

It should also be pointed out that no questions of substance have been raised regarding the nominee's adherence to the canons of judicial ethics—a far cry from the $437,000 financial interest in the case of Judge Haynsworth, which some journalists still persist in ignoring.

CIVIL RIGHTS DECISIONS

Shortly after the nomination was referred to the Senate by the President, news articles appeared which quoted from a speech given by the nominee over 21 years ago, August 2, 1948, when he was a candidate for the State legislature in Georgia. The quotation was:

> Segregation of the races is proper and the only practical and correct way of life in our states. I have always so believed and I shall always so act.

It will be remembered that it was not until 1954 that the U.S. Supreme Court handed down its decision in the school desegregation cases of Brown against Board of Education, which reversed the longstanding "separate but equal" principle. However, since that time there has been a national commitment to the cause of civil and human rights—one which cannot be well served if biased individuals are elected or appointed to posts of leadership in our Government where the problems inherent in this great cause are not dealt with objectively.

When asked to comment on the statement he made over 21 years ago, the nominee said:

> Specifically and categorically, I renounce and reject the words themselves and the thought they represent; they are abhorrent.

Nevertheless, a number of witnesses appeared before the Judiciary Committee, seeking to show that the nominee's record on the Federal bench indicated a racist bias which would preclude his serving on the U.S. Supreme Court in an objective manner. One of the principal opponents to the nomination was Joseph L. Rauh, Jr., general counsel of the Leadership Conference on Civil Rights. Not to be overlooked are the facts that Mr. Rauh was national chairman of Americans for Democratic Action from 1955 to 1957 and is currently vice chairman of ADA; was vice chairman of the District of Columbia Democratic Central Committee from 1952 to 1964 and chairman from 1964 to 1967.

This witness placed the major portion of his argument on "the 15 cases in which Judge Carswell was unanimously reversed by the court of appeals in the area of human and individual rights," to use his words. He described eight cases in the field of civil rights and seven relating to habeas corpus proceedings.

Unfortunately, Mr. Rauh's presentation constitutes an example of the very bias which he sought to prove exists in the nominee. The presentation ignores all of the other civil rights cases in which the nominee participated as a Federal district judge for 11 years: six which were not appealed and four which were affirmed; also five since he was elevated to the court of appeals. The analysis appearing in the hearings record, commencing at page 311, discloses eight "pro-civil-rights" decisions; 10 "neutral"; and five "anti-civil-rights." The "neutral" decisions are classified into three groups: First, those in which Judge Carswell's ruling as a district judge was affirmed by the court of appeals, indicating his correct application of existing law; second, those in which he, while sitting on the court of appeals, joined in a unanimous decision; and third, those in which his ruling as a district judge was vacated by the court of appeals for reconsideration in light of U.S. Supreme Court or court of appeals changes in the law subsequent to Judge Carswell's district court ruling.

The "neutral" decisions include three claimed by Mr. Rauh to be "anti-civil-rights": *Wechsler* v. *County of Gadsden, Fla.*, 351 F. 2d 311; *Steele* v. *Board of Public Instruction of Leon County, Fla.*, 371 F. 2d 395; and *Youngblood and United States* v. *Board of Public Instruction of Bay County, Fla.*, CCA(5) No. 572.

However, Mr. Rauh did not reveal that in the Youngblood case Judge Carswell was one of the judges on the Fifth Circuit Court of Appeals who joined in a unanimous policy decision resulting in reversal of 13 cases—including Youngblood—in light of an intervening U.S. Supreme Court decision. Judge Carswell properly abstained from the decision reversing Youngblood, because he himself had sat on that case; but he joined in the others—all of which were governed by the intervening U.S. Supreme Court decision.

In Wechsler, the Fifth Circuit Court of Appeals vacated an order entered by Judge Carswell in light of two decisions handed down by the higher court after Judge Carswell entered his order.

And in Steele, decided by Judge Carswell in 1963, we have another situation involving an intervening decision of the fifth circuit in 1966, on the basis of which the district court decision of Judge Carswell was reversed in 1967.

Mr. Rauh apparently did not go to the trouble of looking to see whether the unanimous reversals of Judge Carswell in these civil rights cases represented reversals in light of intervening decisions which Judge Carswell could not have foreseen at the time he rendered his decisions. If he had done so, he could hardly have classified them other than "neutral."

Mr. Rauh's testimony with respect to the seven habeas corpus cases must be discredited for the same failure—either to properly research them or, if this was done, to present the full picture to the committee. Although his testimony received considerable publicity in the press and was, therefore, most unhelpful to the public's being fully and completely informed, the confirming power of the Senate must not be exercised on the basis of one-sided publicity.

Beginning at page 315 of the hearings report is a full analysis of these seven cases, along with the information that nine of Judge Carswell's decisions in habeas corpus cases were affirmed by the court of appeals—information which Mr. Rauh neglected to provide in his testimony. Nor did he point out in his testimony that in another case, *McCullough* v. *United States*, 231 F. Supp. 740, Judge Carswell had followed the more liberal position of the Fourth Circuit Court of Appeals in granting relief—a position later changed because of a less liberal position of his own fifth circuit.

As pointed out at page 318 of the hearings report, the question of when a hearing in this type of case is required has been a difficult one for lower Federal court judges generally, and seven reversals on different factual situations over a period of 11 years could hardly be considered a showing of bias against human and individual rights.

The one sidedness of Mr. Rauh's presentation is difficult to reconcile with his well-known ability as a lawyer and lays a foundation for concluding that his equally well-known partisan political proclivities simply overwhelmed the professionalism which should have characterized his testimony.

A complete and fairminded analysis of the decisions certainly does not leave the impression that the nominee would fail to serve obectively if he were a member of the Supreme Court.

THE COUNTRY CLUB ISSUE

One argument advanced by opponents of the nomination to support their allegation that Judge Carswell is biased is that 14 years ago, when he was a U.S. attorney with headquarters in Tallahassee, Fla., he was an incorporator and director of a corporation which took over from the city a golf and country club for the purpose of achieving a private, segregated facility. It is not argued that being a member of a private, segregated country club is illegal or indicative of racial bias. The argument, rather, is that it has been declared illegal to manipulate a transfer of a municipally operated facility, open to the public, to private ownership for the purpose of segregating the facility. And it is said that Judge Carswell knowingly participated in such a deal.

From some of the debate that has occurred and from the hearings record, it is apparent that the opponents have been confused between the Tallahassee Country Club and the Capitol City Country Club.

The Tallahassee Country Club was organized as a private country club in 1924. In August of 1935, during the depression, it turned over the clubhouse and golf course to the city, because the few members were unable to carry the financial burden; but it reserved the right to lease back the property should the city decide to lease or otherwise dispose of the property in the future.

In September of 1952, the stockholders of the original club reorganized and petitioned the city commission to return the property, because the clubhouse was run down, the golf course was in need of improvement, and the city—which had been losing some $14,000 a year in the operation—was unwilling to incur the expenses needed to restore the facilities. Finally, on February 14, 1956, the city leased the facilities back to the original club for $1 a year, thus getting out from under the $14,000 loss operation. The next day, February 15, 1956, a front-page story appeared in the Tallahassee Democrat captioned: "Municipal Golf Course Leased to Private Firm—Vote Is 4 to 1 as City Makes Deal for $1." The article reported that the representative of the original club, when asked if the course would be open to the public, said:

> Any *acceptable* person will be allowed to play. (Emphasis supplied.)

The article further stated that a former commissioner had said, at the time the proposal was first introduced 2 months before, that racial factors were hinted as the reason for the move.

Two affidavits from citizens of Tallahassee—page 274 of the record—claim that the transaction had racial overtones and that this was known to the public. Moreover, use of the phrase "acceptable person" could be interpreted as excluding Negroes in a racist environment.

However, Judge Carswell had nothing to do with all of this.

The following April 24, a new corporation—the Capitol City Country Club, Inc.—was organized, and on September 1, 1956, it took over operation of the facility from the old corporation. On September 5, there appeared an announcement by the new corporation on the front page of the local newspaper with the caption: "Country Club Corporation Elects 21 New Directors—Directors To Name Officers Before October 1." The announcement stated further:

> Public Can Play—Although the new club is now a private organization, the golf course facilities are open to the public at daily, monthly, or yearly green fees.

It is noteworthy that the announcement by the new corporation, in contrast with the statement from the old corporation, did not delimit the public availability of the facility to "acceptable persons."

Judge Carswell, who was U.S. attorney in Tallahassee at the time, was a nominal member, subscribing incorporator, and director of the new corporation. I use the word "nominal," because he was only one of over 400—including then Gov. LeRoy Collins—signed up for membership, each of whom paid in $100 toward a $300 membership; never attended a single meeting; did not participate in the management of the club or the drawing up of the bylaws; never had any discussion or heard anyone else discuss anything that this was an effort to take public lands and turn them into private hands for a discriminatory purpose; was not one of the 21 directors elected from a slate of 42—of which his name was one—obviously because of his inactivity; and the following February 1 withdrew his name from the club, requesting a refund of his $100; on February 12, he was refunded $76.

The degree of his inactivity is clear from his testimony in the record and also from the testimony of Julian Proctor, one of the original founders of the club, who brought all of the pertinent records before the committee for inclusion in the RECORD. In fact, Judge Carswell paid so little attention to the club that he thought he had received a certificate of stock for his $100—pages 12, 13 and 31; and Senator HRUSKA of Nebraska, in his questioning, thought that he had too—page 12. According to Proctor, however, no stock or membership certificates were issued until after Judge Carswell had withdrawn his membership—page 253.

In the face of the record, to argue that 14 years ago Harrold Carswell was a knowing participant in an illegal, racially motivated deal would be to draw inferences that distort the record. Those who would draw such inferences cannot distort the record in one place, to their advantage, and not permit inferences and distortion in another place to their disadvantage. If they wish to infer that Harrold Carswell knew this was a racially motivated deal when he paid in his $100 14 years ago, let his supporters infer that Harrold Carswell dropped out when he learned that it was a racially motivated deal. Either way, taking the evidence that he was not a knowing participant or distorting the record and inferring that he dropped out when he found it was an illegal, racially motivated deal, the opponents must fail on this point. Furthermore, there is no evidence that this was an illegal, racially motivated deal—as far as the Capitol City Country Club, Inc., is concerned.

ABILITY

Some of the opponents have loosely and superficially referred to the nominee as "mediocre," "incompetent," "undistinguished," "lacking the brains," possessing a background of no "demonstrated achievement" or "professional excellence," having only a "level of modest competence," and the like. One, for example, is Louis H. Pollak, dean of the Yale Law School, who testified "from what little I knew of him at hearsay and from the press" plus an admittedly limited review of some of Judge Carswell's opinions. Such testimony, from a registered Democrat, who, in turn, leans on the opinions of two other registered Democrats, Professor Van Alystyne of Duke Law School and Prof. John Lowenthal of Rutgers Law School, lacks the very "professional excellence" in which the nominee is claimed to be deficient.

Contrast this with the testimony of James W. Moore, sterling professor of law and 34-year faculty member of Yale Law School, "on the basis of both personal and professional knowledge: a vigorous young man of great sincerity and scholarly attainments—moderate but forward looking, and one of growth potential—a fine jurist." Contrast it with the letter—page 321 of the hearings report—from Mason Ladd, long-time dean of the Iowa Law School and, following his retirement, the first dean of the Florida State University Law School at Tallahassee: "Well qualified in every way—scholarly—free from prejudice upon the current issues of the day"—based on knowing the nominee well, personally. Contrast it with evaluations of several fifth circuit judges with whom he has served and who observed his record when he was on the district bench—set forth in letters appearing in the hearings record: "fine skill as a judicial craftsman," "superior intelligence," "an excellent writer and scholar," "his volume and quality of opinions is extremely high," "possesses the professional and judicial qualifications to be a distinguished Justice of the Supreme Court."

After reading a representative group of Judge Carswell's opinions, and taking into account the fact that a busy district judge rarely has the time to engage in long, erudite writing in the manner of an appellate judge, I cannot but conclude that Judge Carswell has the capacity to be a good Supreme Court Justice. Indeed, his responses to questions during the hearings display an ability to be both articulate and eloquent. This does not mean that I do not believe I could have selected someone whom I might, in my own subjective thinking, believe to be more erudite, more scholarly, or more experienced. Most Members of the Senate have their favorites and their preferences—just as we did when previous nominations have been made to the Supreme Court. But "preference" can hardly serve as a basis for evaluating a nominee of the President.

A DISTINGUISHED IOWAN WHO KNOWS JUDGE CARSWELL VERY WELL

I have already referred to the letter appearing in the RECORD from Mason Ladd, the long-time dean of the law school at the University of Iowa whom I have known well for 24 years. Dean Ladd has always enjoyed a reputation for being not only an outstanding educator and legal scholar, but for being a moderate, progressive, and very fairminded person. When he retired from his deanship at Iowa, he became the first dean of the new law school of Florida State University at Tallahassee in September 1966, from which he is now retired. He spends most of his time in Iowa, but occasionally returns to Florida State as a visiting professor of law.

On February 16, Dean Ladd wrote to me from Florida State University because, as he said:

> I feel that the race claim and attack upon the Judge is a very unjust and unfair attack.

He went on to say:

> I know Harrold Carswell very well . . . He is one of the five men with whom I visited when I decided to come down here to establish this new College of Law. At that time I made definite inquiry as to whether the law school would be integrated and how the blacks would be regarded. He was very definite in urging that Negroes be brought into the law school even though they might not meet the aptitude tests which we require of white applicants . . . I regard him as competent, capable, and he is one of the hardest working judges I know. I would very much like to see him go on to the Supreme Court.

Words and opinion from one of my distinguished fellow Iowans, who knows Judge Carswell very well, carry great weight with me.

I shall support the nomination.

Mr. KENNEDY. Mr. President, I believe that each Senator has two straightforward questions facing him:

First. Is George Harrold Carswell a jurist with sufficient eminence, intellect, legal scholarship, judicial insight, and professional leadership to be qualified, above all the other lawyers, judges, and legal scholars in the Nation, for one of the nine seats on our Highest Court?

Second. Has George Harrold Carswell performed his judicial functions fairly, justly, in accordance with the law, the Constitution, and the controlling decisions of higher courts, and with an objectivity that proves him able to separate personal prejudices from his official acts?

Unfortunately, for the President, the Senate, the nominee, and, most of all, for the country, the answer to both of these questions is clearly "No."

George Harrold Carswell's 12 years on the bench has provided no evidence whatsoever that he deserves to be placed in the first rank of American lawyers. Despite his long service, he has shown no ability to contribute to the development of the law. He has displayed no particular talent for articulating the logic of the law, for anticipating—or even keeping pace with—the direction of legal progress, for applying old legal concepts to new problems, for providing lawyers and judges with opinions which help explain and settle complex legal issues. Despite 8,000 opportunities to do so, he has rarely, if ever, produced opinions which generated interest or comment or respect in the legal community, with the exception of his human rights cases, which I will come to in a moment. Our Nation has hundreds, perhaps thousands, of eminent jurists and advocates and law teachers who have dedicated their lives to the study and advancement of the law, to the strengthening of the legal profession, of the progress of the judiciary, and to imparting an understanding of the law to aspiring lawyers. They are the standard against which every Supreme Court nominee must be judged, and by this standard George Harrold Carswell does not even merit consideration, let alone nomination.

Yet, even if Harrold Carswell's attainments and leadership did meet the minimum standards for Supreme Court eligibility, his performance as a district judge would disqualify him. The job of a district judge is to apply the law to the facts presented him, and to do so fairly, dispassionately, and objectively. He must take the law as he finds it, in the Constitution and in the code, and in the decisions of the Supreme Court and the appeals court for his circuit. To do his job well, he must adhere to both the letter and the spirit of those decisions, and must help explain their meaning and elaborate on their application. He must rule in such a way that his decisions will stand up on appeal, so that the workload of the higher courts is not expanded by the need repeatedly to substitute their decisions for his.

Judge Carswell has failed on all these counts. He has refused to follow controlling constitutional precedents, even when they had already been applied and explained in previous appeals from his room, has aided those who sought to own decisions. He has ignored statutes specifically mandating court procedures. He has been rude to lawyers in his court-evade his own decisions, has taken it upon himself to be advocate for one side in certain cases, even when representatives from that side did not choose to contest the proceedings. The evidence detailing these facts is set out at length in the hearings and in the minority report, but I think certain pieces of evidence bear repeating.

We have heard the charge that these facts were reported only by dissatisfied lawyers representing disappointed litigants and that, therefore, their recollections can be considered biased or faulty. We have heard claims that their views were based on brief encounters with the judge, so that they had an inadequate basis to get to know him. One Senator yesterday referred to these witnesses as lawyers who knew the judge only on a one-shot basis.

I believe that anyone who listened to the testimony of these witnesses, and had a chance to judge their sincerity and demeanor, would have been persuaded and moved by the facts each of them related. But one lawyer, in particular, provided information which leaves little doubt as to the facts. Mr. Leroy Clark is now a professor at the New York University Law School, one of the most respected legal training institutions in the Nation. From 1962 to 1968 he supervised all civil rights litigation in Florida for the NAACP legal defense fund. In that capacity and over that extended period of time, amounting to more than half of Judge Carswell's tenure on the district court bench, Attorney Clark probably appeared before the nominee in more human rights cases than any other single lawyer in Florida. There can be no question whatsoever as to his substantive assessment of Carswell's work, for each of us can also make our own assessment from the printed opinions. Time after time, Judge Carswell threw plaintiffs or claims out of court on motions to strike or on motions to dismiss for failure to state a cause of action or similar motions. In layman's terms, the granting of such motions means that the defendant has met a heavy burden of proving that there is no possible way the plaintiff can win, that there are no real contested issues of law or fact, in short that even if the plaintiffs can prove everything they allege, there is no conceivable theory under which their claims can be granted. As every judge knows, these are extremely difficult motions to sustain. But Judge Carswell had no difficulty granting them when Negroes seeking to vindicate their rights were the plaintiffs. And so, plaintiffs were repeatedly denied a chance to prove their cases, and justice was either totally denied, where appeals were impractical or too late, or justice was substantially delayed, even where appeals could be taken in time to do some good. In some of those appeals, the reversal of Judge Carswell was so curt that one gets the impression there was a charade going on, a process in which the fifth circuit knew that almost any civil rights case in Judge Carswell's court had to go through his hands at least twice as a matter of routine. The Due case is indicative of this phenomenon. There the fifth circuit said:

> The orders of the trial court dismissing the complaint for failure to state a claim on which relief would be granted can be quickly disposed of. These orders were clearly in error.

The message here is not that Judge Carswell had a different view of civil rights from that of many Senators, or many citizens. The point is that he repeatedly decided difficult cases without even considering the issues, repeatedly refused to hold hearings on matters that were complex and plainly subjects, at least, of legitimate dispute. These are neither charges of mere judicial error, nor descriptions of judicial restraint—these are blatant examples of judicial abdication and judicial irresponsibility. If every judge acted as Carswell acted, and only did what the law required him to do when specifically told to do so by the appellate court in each case, then we would have no viable judicial system at all.

Let me stress again, however, Mr. President (Mr. HOLLINGS) that these are conclusions that all of us can reach from a reading of the judge's decisions and the appeals from them. We do not need to rely on the interpretations of Mr. Clark to see that Carswell's court was a barrier to law and justice rather than a source of law and justice.

But what Mr. Clark's testimony, based on his experience as a lawyer in Florida, adds, is a feeling for the tone and atmosphere in the Carswell courtroom, the factors of temperament and character that do not show up in a cold transcript or a written decision. Mr. Clark's description of these factors speaks for itself:

> Judge Carswell was insulting and hostile . . . He turned his chair away from me when I was arguing . . . It was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according to opposing counsel every courtesy possible. It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him while using a civil tone to opposing counsel.

Mr. Clark was sophisticated enough and secure enough a person not to get upset by such behavior, and does not even now consider these matters as important for what they show about Carswell the judge as for what they show about Carswell the man. But for the Senate, some of whose members might be willing to accept a nominee's personal predilections, no matter what they were, as long as they did not affect the quality of his official performance, the implications of this evidence regarding Carswell the judge are crucial.

And let there be no doubt of the strength of this evidence. These are not merely the isolated recollections, after the fact, by a single attorney. They are fully corroborated by the first-hand testimony of other lawyers who endured the same treatment. And the accuracy of Mr. Clark's recollections of past events is confirmed by his contemporaneous reaction. At the very time of these events, Mr. Clark considered appearances before the judge by his younger associates to be such harrowing experiences, that he prepared them by making them rehearse their arguments the night before while Mr. Clark, playing the role of Judge Carswell, harassed them.

Given this evidence, we must ask the question, "Why?" Why would a member of the Federal bench perform so poorly in substance and in style? Why should he frustrate justice and ignore the canons of judicial behavior? What philosophy or theory of jurisprudence could explain his attitudes and his abdication? I submit that we have heard no suggestion of a legitimate rationale for these characteristics. And I submit that there is only one possible explanation which fits the facts:

This nominee to the Supreme Court was not able to divorce his personal prejudices and predilections from his official actions. His private resistance to equality of opportunity and of rights overwhelmed his public obligation to adhere to constitutional, and statutory, and judicial guarantees of such rights. His personal disagreement with the law of the land led him to public attempts to frustrate it. His was civil disobedience of the worst order, for it was clothed in the robes of justice.

We have heard the incredible suggestion that those lawyers who are unqualified for services on our highest court should have a representative on it. But I daresay that no one would suggest that those few judges who are unwilling to adhere to the Constitution, to the Federal Code, and to controlling cases, deserve a representative on the Supreme Court. The possibility that such a phenomenon might occur is a slur on all American lawyers and all American judges, but it is an especially disheartening show of contempt for those judges who have courageously followed the dictates of the Constitution, the code, and the cases—and of conscience—in the face of the most serious threats to their careers, their social stature, and even their personal safety.

What, then, is the argument in favor of this nominee? Reduced to its basic terms, the argument seems to consist of the following claims:

First. The President has the right to choose anyone he wants for the Supreme Court.

Second. There is no "ethical" issue here, so the Senate has no basis for rejection.

Third. The Court needs a southerner.

Fourth. There is a philosophical imbalance on the Court which needs to be corrected.

Fifth. The Senate already rejected one nominee for this seat, and as a matter of etiquette towards the President should not reject the second, no matter how unqualified he is.

Sixth. The Senate rejected Haynsworth and got Carswell, who is plainly worse; thus, if we reject Carswell, we will get a nominee with even poorer qualifications.

It is hard to believe that this is the case being made, but I think I have read or heard every one of those arguments being made, almost in those exact words, and I am embarrassed to say that on occasion they have been tendered and received with a straight face.

Let me take them up one by one:

First. "The President can choose his own Court."

Certainly no one who has read the Constitution of the United States can accept such a claim. The Founding Fathers very wisely divided the responsibility for designating members of the judicial branch of Government between the other two branches. The President selects the Supreme Court Justice with the advice and consent of the Senate. Both have a role to play, and those roles are equally important. The President has the power to select, but the Senate has the power and the responsibility to decide whether the person selected meets the needs of the Court, the Nation, and the times. This responsibility is particularly crucial in the case of the Supreme Court, for in no sense is the Court "the President's own," in the way that the Cabinet is, or that some administrative agencies may be. The President's term is 4 years; the Justice's term is life—perhaps 30 years to make decisions from which there is no appeal, decisions of life or death, decisions of peace or turmoil, decisions of progress or retreat, decisions of liberty or bondage. The President does not choose a Justice for himself, or to reflect himself. He chooses a Justice for the Nation, and to reflect the best the Nation has to offer. And very properly the Constitution mandates that the standards and the limits for that choice be set by the Senate, by 100 elected representatives of all the people, acting in the interest of all the people.

Mr. President, the Constitution makes clear that we are not supposed to be a rubberstamp for White House selections. We are not intended merely to be an outer boundary to prevent the appointment of thieves, madmen, or fanatics. We do not meet our duty if we place the sole burden on those who question a nominee's qualifications, and no burden on those who propose him. When a man is selected to be one of the nine members of our highest judicial body for the rest of his life, there is a substantial burden on those who support him to demonstrate that he is qualified professionally and personally, that he will do honor to the Court, that he will have the respect and attention of the bar and the populace, that he will contribute to the work of the Court and the growth and progress of the law, that he has a breadth of understanding and sensitivity that enables him to deal with the great issues of the day, and perhaps most of all, that along with whatever normal human failings he may have, he also represents the best instincts of mankind. That is a difficult burden to meet, but it is a vital burden. And it is not presumed to have been met as to a particular individual merely because the President nominated him. The act of nomination identifies the person as to whom the burden must be met; but under no conceivable logic can that act meet it.

The pragmatic proof of this all too obvious proposition lies in the nomination process itself. The fact is that under today's selection system, unless the Senate performs its functions fully and aggressively, the Nation has less assurance of the quality of Supreme Court appointments than of its lower court appointments. In the process of selecting district or circuit judges, there are at least three points where a candidate can be screened out quickly and quietly.

First, the Justice Department can screen him out based on its full field investigation of his background, associations, writings, speeches, and paper records, and the detailed opinions and comments of his friends, neighbors, associates, subordinates, superiors, and even his enemies. Although such investigations draw some local attention, that notice does not produce any real constraints, since several candidates for each position are usually investigated, and almost everyone knows who they are anyway. Since secrecy is not a factor, the investigations can be careful and thorough and even lengthy if necessary. On the basis of this full field investigation, the Justice Department can frequently eliminate many candidates for lower court positions, or identify issues or doubts for the White House to resolve. Candidates who survive this test must go through still another pre-appointment stage. All proposed district and circuit court appointments are submitted to the American Bar Association Committee on the Federal Judiciary, and no action is taken on any candidate until that committee's report has been received. The committee has time to complete a thorough survey in the limited areas of the candidate's professional experience, integrity, and temperament. It can reach its conclusions knowing that since the nomination has not been announced, a rejection will not embarrass anyone. And since it knows that its findings will be adhered to, it can act in frankness and candor, without a need to protect its own flank. The third screening occurs once the selection has been announced. At that time, the bar and the local public becomes aware of the nomination, but it is frequently identified more with the nominee's political sponsor than with the President himself. Thus, the President retains ample legroom—and the sponsor, ample incentive—to withdraw the appointment swiftly and silently if adverse information is uncovered after the announcement.

Thus, by the time the Senate committee, let alone the Senate, receives most nominations to lower Federal courts, they have been screened though all three of these effective screens, although naturally the screening standards are much lower than they would be for the Supreme Court.

The strange fact is, however, that although the standards for the Supreme Court are higher, the screening process does not work at any of those three stages. Because of the recent fetish for total secrecy regarding all high appointments, the Justice Department cannot conduct its full field investigation with the usual thoroughness. In particular, it can interview safely only those who are known to have the candidate's interest at heart and therefore will keep the secret. Thus, for all practical purposes, those with adverse information cannot be interviewed if the secret is to be maintained. The Department and the President are then left, as the two most recent Supreme Court nominations have demonstrated, with only a fragmented and lopsided view of the candidate, and with no idea of the problems in his background, character, or associations.

The ABA screening of the Supreme Court candidates does not help at all to fill this gap. Although Presidential Candidate Nixon promised in the fall of 1968 to refer all judicial nominations to the ABA's Federal Judiciary Committee for preannouncement screening, President Nixon in 1969 changed his mind and decided to do so only with respect to district and circuit judges. Thus, the Bar Association Committee hears of the Supreme Court nominations only when the public does, and, of course, only after the damage has been done, in the sense that the full prestige of the President and the Attorney General have been placed behind the nominee.

The committee is thus faced not with proffering private advice to the Attorney General based on neutral principles as to the candidate's qualifications, but instead must decide whether or not to buck the political powers that be. Moreover, they only have the briefest period to do so. In the Carswell case, the ABA committee was invited by telegram on January 21 to submit its views in advance of a hearing scheduled for January 27. At most, it had 3 working days to complete its very difficult task. The result was expectable. It succeeded in accomplishing only the most perfunctory checks on the nominee's qualifications, failing to interview personally or in depth even those who were known to the committee or its agents to have relevant information. In fact, it, like the Justice Department, failed to obtain or consider much of the derogatory information which the hearing and subsequent inquiries later brought to light. But once its finding of "qualified" was issued on January 26, its own prestige was on the line, and a change of position would have constituted not only a rebuff to the administration, but also an admission of the inadequacy of its own procedures and the shallowness of its allowed role. As expected, once the die was cast, the committee stuck to its guns, upon a post-hearing review of some, but not all, of the evidence.

While I am on this subtopic, let me mention exactly what that committee's finding is and what it is not, because this finding has been one of the two chief underpinnings of the pro-Carswell case since the beginning. The other, of course, was the Tuttle recommendation, otherwise loosely referred to as "the support of his colleagues on the fifth circuit." As we have seen, despite the use of the Tuttle letter in the hearings, in the majority views, in constituent letters, and on the floor, that endorsement disappeared less than 1 week after it was solicited by Judge Carswell, although none of us in the Senate knew of that fact until 1 month later at the earliest. As to at least one, and probably two other fifth circuit judges, it turns out that the support never existed at all. But returning to the ABA committee, the Attorney General made a statement on network television the other evening which may have reflected and encouraged a general misunderstanding of what the bar association role has been. The Attorney General stated that the nominee had been "highly recommended by the American Bar Association." I would suggest to the Attorney General, and I would hope that the media can confirm this with the association's president, that there are two basic errors in this statement. First, no one connected with the association has "highly recommended" anyone. Second, whatever was done was not done by the American Bar Association. The facts are that an appointed group of 12 members of the association, constituting the Standing Committee on the Federal Judiciary of the ABA, but not the ABA itself, gave the nominee a rating of "qualified," without any adjectives. As the Members of the Senate well know, the ABA is extremely jealous of the accuracy of its public positions. If in a legislative hearing we have an ABA witness, we are always carefully told whether he is expressing the views of a committee, a section, a council, some executive body, or of the entire house of delegates of the ABA.

Perhaps the Attorney General's unfamiliarity with these distinctions led him to make a loose reference, but I hope that we can be more discriminating here on the floor of the Senate. As for his extra adjective and his substitution of "recommended" for "qualified," I think they can perhaps be attributed to understandable enthusiasm in the heat of battle, but again our debates should avoid that error. One related point, the distinguished minority leader indicated that the ABA Committee on the Federal Judiciary was appointed by the eminent and respected president of the ABA, a constituent of the minority leader's, Mr. Bernard Segal. The minority leader seemed to imply thereby that Mr. Segal would endorse the Carswell nomination. First of all, the committee serves in staggered terms and many of the members were appointed by Mr. Segal's predecessors. Second, Mr. Segal has certainly made no statements endorsing Mr. Carswell, and the public statements he has made on the subject justify a conclusion that he at least has grave doubts about the nomination and probably opposes it. Finally, of interest in assessing the weight to give the finding of the ABA committee is the fact, which may or may not be relevant, that the chairman of that committee was appointed to a judgeship and a sub-Cabinet post by the previous Republican administration, and served for a year in an important post in the present administration.

Returning to the inadequacies of the screening process for Supreme Court candidates, we have reached the last stage, where the public and press provide the President with vital information overlooked in the previous two stages. But unlike district and circuit court selections, Supreme Court nominations cannot be withdrawn quietly and without substantial embarrassment. The President and the Attorney General have placed themselves on the line, and it is hard for them to retrace their steps without appearing to admit gross error, even though such error, as we have seen, is almost inherent in the machinery. Thus, for example, during the Haynsworth debate, even after the administration realized that there was a substantial chance of rejection, even after leading Republicans had pleaded with the President to withdraw the nomination, and even after the nominee himself had suggested withdrawal, the President and the Attorney General felt the necessity to push through to the bitter end, regardless of the consequences.

I hope that the lessons of last time have been learned, and that the serious problems which have been revealed, and the substantial opposition in the Senate, will persuade the President that, even if party loyalty carries the confirmation through, the nominee's effectiveness will be so seriously impaired and the Court's stature so compromised, that the nomination should be withdrawn before the Senate is forced to make a decision it should not have to make.

Concluding my assessment of the first argument in favor of Carswell, I think it is clear that the notion of absolute Presidential discretion is unsupportable in theory or in history, and totally untenable in practice.

Second. The Senate cannot reject without an "ethical" issue.

This argument errs both in its premise and in its conclusion. In the first place, it is myopic and disingenuous to argue that there is no ethical issue here. The evidence of the nominee's behavior in court, his aiding and abetting the circumvention of his own orders, his refusal to adhere to direct precedents in his own cases, his failure to carry out Supreme Court and circuit court mandates, and, in general, his failure to resolve the conflict between his personal prejudices and his official obligations, raises the most serious and sensitive ethical questions. Senator CRANSTON performed a most valuable service earlier this week by pointing out that even from a layman's perspective, the evidence against Judge Carswell appears to indicate multiple violations of the canons of judicial ethics. And Senator GRAVEL yesterday added a most succinct statement of the ethical issues.

If the claim of those who make this argument, however, is that there is no question of financial ethics here, in the present state of the record, then they are correct. But I doubt that the Senate is willing to agree to the proposition that the only ethical questions relevant to judicial appointments are ones with dollar signs. If other kinds of conflicts of interest and prejudice and abdication of official duties are deemed irrelevant, then the days of excellence and fairness and justice on the bench cannot last much longer.

Of course, even if there were no "ethical" question here, the Senate's jurisdiction and responsibility would not be eliminated. The Constitution does not say that the Senate shall provide its advice and consent only on "ethical" grounds, and the Senate has never considered its role to be so constrained. Certainly qualifications are a legitimate and necessary criterion for our review. Surely, understanding of the times and sensitivity to the Nation's problems are factors we may and should take into account. And without doubt, we can consider what the impact of an appointment would be on our national fabric and our legal institutions. So I think we can justifiably reject this argument both in theory and in fact.

Third. The Court should have a southerner.

Of course, the Court already has a southerner, so this argument starts at a disadvantage. Despite the fact that the present nominee would be the second southerner, I have heard no Senator—and no one else for that matter—express opposition on that basis. There can be no doubt that those who are opposed to this nomination on its merits would be gratified, and required, to vote to confirm any southern lawyer or judge with the eminence and qualifications for Supreme Court service. But we are not going to vote to confirm a man who is not otherwise qualified, merely because he is a southerner.

What is more, as one who went to law school in the South, and who knows firsthand of the many distinguished lawyers and jurists and scholars there, I think I would be extremely unhappy about this appointment if I had remained in the South. The clear implication is that the administration feels that George Harrold Carswell is the best the bench and the bar of the South can produce. That notion is an insult to every judge and attorney in the region, whether he considers his own qualifications to be better or worse than the nominee's. For the suggestion that this man is outstanding and superior by the region's standards betrays a low opinion of the region and its lawyers.

Again, if the President wants to choose another southerner, that is his privilege. But let him choose a man who is clearly qualified and a credit, not an embarrassment, to his region and his nation.

Fourth. We need to balance the Court with a conservative.

This argument was a familiar refrain throughout the 1968 campaign, and was a key argument during the Burger nomination. The Senate overwhelming voted for Chief Justice Burger despite his reputation as a strong conservative. Most of us, including most of those who are opposed to Carswell, felt that Judge Burger's qualifications were so outstanding that his particular jurisprudential philosophy was irrelevant, and that would be our position with regard to any eminently qualified candidate, no matter what his judicial philosophy. Again, if I were a judicial conservative, I think I would take umbrage at the implication that this nominee was the best of my stripe that could be found. And again also, the mere fact of "conservatism" cannot turn an unqualified candidate into a qualified candidate.

Fifth. "Etiquette demands that we not reject a second of the President's nominees."

Mr. President, if I had not heard this argument seriously discussed in these Halls, I would consider it laughable. This is not a matter of etiquette or noblesse oblige. The stakes are too high to yield to politeness. Our responsibilities are too grave to fall before the interests of the President's pride. We have a duty to our own consciences, to the Senate as a coequal branch of government, to the Court, to the Nation, and to the President himself, to see that his legacy and our legacy to the next generation of Americans is not a Court which generates disrespect and derision.

There is no escape from the fact that the President has displayed neither etiquette nor kindness nor sensitivity toward the Senate and the citizenry in his last two nominations to the Court. Why we should now sacrifice substance and duty to some vague notion of courtesy is beyond my understanding. The administration has twice erred. We must not compound the most recent error by ignoring it. We are not given the power and obligation of advice and consent merely for show, just to trot out and exercise every once in a while to prove that we still have it. It was given to us as part of a very careful division and balance of powers to protect our democracy and our liberty, our Government and our people. If we let "etiquette" take precedence over our constitutinal mandate and over national need, then we are abdicating our functions in the government of laws. Chivalry is fine in its place; but it is no substitute for the Constitution, for reason, or for the U.S. Senate.

Let the President send us a nominee he, and we, can be proud of, and then we will show him how courteous and kind and cooperative we can be.

Sixth. If Haynsworth was bad, and Carswell is worse, just imagine what the next nominee will be like.

Once again, the logic would be ludicrous, something out of Art Buchwald or Russell Baker, if not for its repetition in the halls of the Senate. The clear message of the Haynsworth vote was "We want something better." Perhaps at the time Carswell was named, the President thought he was better; but as we have seen, we are in an a fortiori situation. It is difficult to understand how anyone who voted against Haynsworth, for whatever reason, can vote for Carswell. And it is unlikely that anyone who was troubled by his vote for Haynsworth can vote with a clear conscience for Carswell.

We cannot, we must not, assume that because there have been two serious errors in the executive branch, there will be a third, even more serious. Perhaps we in the Senate are partially to blame. Our assignment is not only consent, but advice. Perhaps if this nomination is defeated, we can be more forceful and direct in our advice, both as to specific candidates and general principles. The message of a vote of rejection now would be clear: "Mr. President, we want a candidate who is so clearly qualified that we will all be pleased to share in the honor of his appointment. We want a man who represents the best this Nation has to offer. We want a man who will do justice to the Nation in every sense of the word, whom the entire country can look up to, whose opinions will enlighten and stimulate, even if they do not persuade. Mr. President, we have many such men, and we will help you to find them." That will be our message if we reject this nominee.

If we confirm Harrold Carswell our message will also be quite clear: "Mr. President, you can appoint anyone you like, no matter how pedestrian, no matter how undistinguished, no matter how pedestrian, no matter how unworthy of respect, no matter how abhorrent to our ideals, our traditions, and our liberty. And you will not have the Senate to worry about any more. We consider advice and consent a vestigial power which we are content to allow to atrophy."

Surely, we cannot allow such a message to go forth. We cannot dash the hopes of those who depend on the Senate as a bastion of liberty and justice and constitutional supremacy. We cannot take the easy route of silence and inaction. We must raise our voices in protest, and we must take action.

Mr. MONDALE. Mr. President, there has been a great deal of discussion in recent days about the standards for choosing and approving nominees to the Supreme Court. It has even been suggested that a nominee's mediocrity and lack of distinction are not valid grounds for voting against confirmation.

I refuse to believe that a majority of the Senate adhere to that view. But the very fact that such an argument has been made says something about the faith which Judge Carswell's defenders have in the nominee's abilities.

That their faith is shaken is not surprising in light of the overwhelming record verifying Judge Carswell's "slender credentials"—his failure to distinguish himself as a suitable candidate for membership on the Nation's highest court. For example, a Republican organization, the Ripon Society, stated:

> Virtually all legal historians and scholars who have examined G. Harrold Carswell's record have found him to be one of the least qualified, if not the least qualified, nominee to the United States Supreme Court in the twentieth century. Exhaustive studies which have been performed jointly in the last month . . . give extremely strong statistical corroboration to the contention of judicial scholars that G. Harrold Carswell is seriously deficient in the legal skills necessary to be even a minimally competent Supreme Court Justice.

The Ripon Society conducted a very unusual study of Judge Carswell's record upon the district bench. On the issue of reversals on appeal, the society came to this startling conclusion:

From 1958 to 1969 as a Federal district court judge, 58.8 percent of all of those cases where Judge Carswell wrote printed opinions and which were appealed resulted ultimately in reversals by higher courts. By contrast, in a random sample of 400 district court opinions, the average rate of reversals among all Federal district judges during the same time period was 20.2 percent of all printed opinions on appeal. In a random sample of 100 district court cases from the fifth circuit during the 1958–69 time period the average rate of reversals were 24 percent of all printed opinions on appeal.

Judge Carswell's rate of reversals for all of his printed cases was 11.9 percent as compared to a rate of 5.3 percent for all Federal district cases and 6 percent for all district cases within the fifth circuit during the same period.

When these results are analyzed cumulatively, they form a most impressive indictment of Judge Carswell's judicial competence. The incredibly high rate of reservals—59 percent—which Carswell has incurred on appeals in those cases in which he has written printed opinions brings into serious doubt the nominee's ability to understand and apply established law.

On the basis of this evidence, the Ripon Society has urged Republican Senators "to uphold their party's best traditions by rejecting confirmation" of this nomination. Coming from members of the President's own party, this can hardly be viewed as a partisan attack on a President's Supreme Court nominee.

The Ripon Society's analysis of Judge Carswell's qualifications is similar to views expressed by deans and faculty members from law schools throughout the Nation. Dean Derek Bok of the Harvard Law School stated that Judge Carswell has "a level of competence well below the high standards that one would presumably consider appropriate and necessary for service on the Court." Dean Louis Pollak of the Yale Law School testified before the Judiciary Committee that Judge Carswell "has not demonstrated the professional skills and the larger constitutional wisdom which fits a lawyer for elevation to our highest court. With all deference, I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth this century."

And Duke University Law School Prof. William Van Alstyne, who testified in favor of Judge Haynsworth's nomination, told the Judiciary Committee:

> There is, in candor, nothing in the quality of [Judge Carswell's] work to warrant any expectation whatever that he would serve with distinction on the Supreme Court of the United States.

These strong and unequivocal expressions of "no confidence" in Judge Carswell's qualifications are not unique. As the dissenting members of the Judiciary Committee point out:

> The outpouring of professional dismay over this nomination has reached a level unequaled in recent history. Lawyers and law professors from all over the country, despite their preference for maintaining cordial relationships with members of the Court, have forcefully expressed their view that the Carswell nomination will demean the Court and dilute its stature.

This outpouring of professional dismay came to a head on March 13, 1970, when a group of almost 500 prominent members of the legal profession signed a statement urging the Senate to reject this nomination. This group—composed of Republicans and Democrats, liberals, and conservatives, academicians, and practioners—reminded the Senate of its constitutional duty in this matter:

> We respectfully urge that, although this is a second nominee for the vacancy, the Senate has a greater constitutional duty to exercise independent judgment in judicial appointments than it has in executive appointments. We believe that, in the exercise of that duty, the Senate should confirm an appointment to the Supreme Court only if the nominee is of outstanding competence and superior ability. Judge Carswell does not, in our opinion, meet that test.
>
> The Senate has recognized this obligation in repeated instances. For example, of the 71 Supreme Court nominations sent to the Senate during the nineteenth century by the Presidents, more than one-fourth were denied Senate approval (Charles Warren: The Supreme Court in United States History, Vol. II, pp. 758–762).

In addition to the nearly 500 prominent attorneys throughout the Nation who have urged the Senate to reject this nomination, nine of the 15 faculty members of the Florida State University Law School—a law school which Judge Carswell helped establish—yesterday wrote to the President of the United States, urging that his nomination be withdrawn. I think that statement, by a group of faculty members, is a significant statement indeed.

Given this overwhelming and unprecedented reaction to the credentials of a Supreme Court nominee by prominent individuals representing the mainstream of the legal profession, we might ask ourselves why the President made such a choice. Anthony Lewis, a distinguished

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student of the Supreme Court, posed and then answered the question in a recent article:

> How, then, have we arrived at a point where a man with as minimal qualifications as Judge Carswell can be appointed? He was chosen, evidently, as an earnest of President Nixon's declared intention to roll back Supreme Court decisions that he thinks have gone too far in a libertarian direction. . . .
>
> But the tragedy is that the appointment of narrow men, men of limited capacity, will make things worse, not better. What that Court needs is not more war of doctrine, in which moderation is crushed.
>
> The Supreme Court today needs more reason, more understanding, more wisdom. If it has strayed too far from the true vision of American life, as the President believes, those are the qualities that will bring it back. There is nothing wrong with the Supreme Court that G. Harrold Carswell can cure.

This evidence of Judge Carswell's minimal qualifications is, I believe, sufficient grounds for refusing confirmation. But there is a more fundamental reason for rejecting this nomination—one that involves a great deal more than diluting the stature of the Supreme Court by appointing unqualified individuals.

During the debate over Judge Haynsworth's nomination to the Supreme Court, I observed:

> The question before us is much broader and much more important than merely the nomination of a single individual to our highest court, as important as that would be by itself. The question really is the direction in which we will move in the country concerning the quality of rights which we say we stand for as a nation.

It is tragic that the nomination now before the Senate raises that same question—and raises it in an even more compelling manner.

For the Senate's acquiescence in this nomination will have an impact beyond that on the Court itself. At the very least, it will signify to millions of Americans that substantial evidence of an individual's hostility and insensitivity to human rights is no bar to membership on the Supreme Court. Perhaps even more important, confirmation of Judge Carswell will amount to an endorsement of this administration's calculated effort to reverse antidiscrimination policies developed over the past 10 years.

To determine Judge Carswell's position on human rights, it is not necessary to rely on a speech made 22 years ago. Even if that speech were erased from the record, Judge Carswell's actions since that time speak for themselves.

There are three basic aspects of Judge Carswell's career which clearly demonstrate his low regard for minority rights: his private activities, first as a U.S. attorney, and then as a Federal judge; his judicial decisions; and finally, his demeanor on the bench.

In regard to Judge Carswell's private activities, I believe that the three most disturbing facts are the following:

In 1953, Judge Carswell chartered an all-white booster club for Florida State University;

In 1956, he was an incorporator and director of a private segregated golf course, a move designed to circumvent the right of Negroes to play on a public course; and

In 1966, he signed a deed containing a "whites only" racial covenant.

There has already been a substantial amount of discussion about each of these episodes. However, it should be pointed out that these incidences take on an added importance in light of Judge Carswell's repudiation of his 1948 advocacy of racial supremacy. The nominee told the Judiciary Committee:

> There is nothing in my private life, nor is there anything in my public record of some 17 years, which could possibly indicate that I harbor racist sentiments or the insulting suggestion of racial superiority. I do not do so, and my record so shows.

As noted by the dissenting members of the Judiciary Committee:

> Judge Carswell's official and unofficial conduct must be scrutinized with this standard in mind, as well as for its implications regarding his professional qualifications.

Measured against this standard, the nominee's private activities "betray a continuing insensitivity to human rights and to his status as a Federal official and judge."

While there might be argument as to the real motive underlying Judge Carswell's private activities, there can be little doubt about the disregard for human rights continually illustrated in the nominee's judicial record. The minority report of the Judiciary Committee best describes this record as "one of obstruction and delay, amounting too often to an improper refusal to follow the mandates of the Constitution and the clear guidelines of the higher courts."

The accuracy of this summary is obvious after examining some of the more important cases decided by the nominee. On the vital issue of school desegregation, Judge Carswell has demonstrated that he believes more in "obstruction and delay" than in the Constitution.

In *Augustus* v. *Board of Public Education of Escambia County,* 185 F. Supp. 450 (1960), reversed 306 F. 863 (1962), civil rights lawyers attempted to present evidence on the necessity of ending racial segregation of school faculties as an essential step to making school desegregation work. Judge Carswell responded that black students have no standing to sue for desegregation of faculties, stating:

> Students can no more complain of injury to themselves in the selection or assignment of teachers than they can bring action to enjoin the assignment to the school of teachers who were too strict or too lenient.

He, therefore, refused to hold a hearing on the issue and struck it from the complaint.

This part of the decision was reversed when the case was appealed to the fifth circuit. The court stated that Judge Carswell was wrong to assume without thorough investigation of the law or the facts that Negro students could not possibly be injured by faculty segregation. The court ordered a hearing on the issues, saying that "whether as a question of law or of fact, we do not think that a matter of such importance should be decided on a motion to strike."

In another aspect of the same case, Judge Carswell delayed for a year and a half in obtaining a desegregation plan from local authorities. He then approved a plan which gave local authorities 1 more year before even token desegregation would begin. This plan also allowed only 5 days a year for blacks to request transfer to white schools, authorized the school board to reject transfer applications on general grounds, and provided insufficient notification of rights to black parents.

The plan approved by Judge Carswell was contrary to existing law. The memorandum filed by dissenting members of the Judiciary Committee pointed out:

> Because of the danger that such plans could be used to maintain segregation, the Fifth Circuit had previously held in 1959 that a school board's adoption of the Florida Pupil Assignment Law did not meet the requirements of a plan of desegregation or constitute a "reasonable start toward full compliance" with the Supreme Court's 1954 decision in *Brown-Gibson* v. *Board of Public Instruction of Dade County, Florida* 272 F. 2d 763 (1959). The Fifth Circuit had reaffirmed this decision in 1960. *Mannings* v. *Board of Public Instruction of Hillsborough County, Florida,* 227 F. 2d. 370 (1960).
>
> In *Gibson* the Fifth Circuit also held that the Pupil Assignment Law, even if administered nonracially, was not enough to satisfy a school board's duty to desegregate; it had to be desegregating its schools simultaneously with the application of the Pupil Assignment Law.
>
> Despite the clarity of the law on this point, and despite Judge Carswell's obligation to follow the decisions of the Fifth Circuit, the desegregation order he entered against Escambia County in 1961, provided, in effect, only that the Board should continue using the Pupil Assignment Law which, up to that time, had resulted in the continuation of a fully segregated school system. No meaningful additional steps were required.

The fifth circuit, of course, reversed this desegregation plan approved by Judge Carswell. The court found that the plan "has not gone far enough," and then instructed Judge Carswell as to the minimum that should be required.

In another important desegregation case, *Steele* v. *Board of Public Instruction of Leon County,* 8 Race Rel. L. Rep. 932 (1963), Judge Carswell approved a desegregation plan giving all children blanket reassignment to the segregated schools they were presently attending; black children wishing to attend an integrated school would be required to follow the procedures of the Florida pupil assignment law before being reassigned to a white school. In addition, the Carswell-approved plan provided for desegregation at the rate of only one grade per year.

The the fifth circuit had already ruled every aspect of this plan unconstitutional in the previously decided Augustus case did not deter Judge Carswell. His disregarded for the guidelines of the fifth circuit was again illustrated a year later in *Youngblood* v. *Board of Public Instruction of Bay County, Florida,* 230 F. Supp. 74 (1964). In that case, Judge Carswell approved a plan intended to prevent anything but token integration—this plan, too, was based on the Florida pupil assignment law.

Judge Carswell's record in desegregation cases also demonstrates his refusal to speed the pace of desegregation. Ignoring various rulings by higher courts rejecting grade a year desegregation plans and calling for faster desegregation, Judge Carswell continued to deny plaintiffs' motions to change these plans in the counties under his jurisdiction.

As a result of Judge Carswell's refusal to abide by the Constitution and by higher court rulings in desegregation cases, two of the three school districts under his supervision were among the only four reported Florida districts maintaining completely segregated faculties into 1967. More than 90 percent of the black children in the Tallahassee schools were still in separate and completely segregated schools. Southern Education Reporting Service, statistical summary, 1966–67, page 11.

There are other illustrations of Judge Carswell's refusal to follow the law in cases involving racial discrimination.

In *Due* v. *Tallahassee Theatres, Inc.*, 335 F. 2d 630 (1964), Negro plaintiffs filed for injunction to restrain a conspiracy among theater owners, city officials, and the county sheriff to enforce a policy of segregated operation of theaters.

Judge Carswell dismissed three of five claims in the complaint for failure to allege a claim on which relief can be granted. No evidentiary hearing was afforded.

The fifth circuit was unanimous in reversing this decision, with Chief Judge Tuttle stating that:

> The orders of the trial court dismissing the complaint for failure to allege a claim on which relief could be granted can be quickly disposed of. These orders are clearly in error.
>
> * * * * *
>
> It appears, in fact, to be a classical allegation of a civil rights cause of action.
>
> * * * * *
>
> There is no doubt about the fact that the allegations here stated a claim on which relief could be granted, if the facts were proved.

In *Dawkins* v. *Green*, 285 F. Supp. 772 (1968), plaintiffs alleged that city officials had initiated bad faith prosecutions against them to retaliate for past civil rights activities and to intimidate them from engaging in future civil rights activities. Judge Carswell again granted the defendents' motions for summary judgment and dismissed the case. The fifth circuit reversed this decision, stating that "no facts were present so that the trial court could arrive at its own conclusions."

And in *Singleton* v. *Board of Commissioners of State Institutions*, 356 F. 2d 771 (1966), a suit to desegregate Florida State reform schools was brought by former inmates on probation at the time of the decision. Plaintiffs were still inmates when the suit was filed. Judge Carswell dismissed the complaint for lack of standing, stating that the plaintiffs were released from original commitment and were no longer under the board's custody.

The fifth circuit again reversed Judge Carswell, stating that the plaintiffs were released on conditional probation, and were thereby subject to recommitment if they violated the conditions. The Court found that this is "well within" the requirements for standing. The Court also observed that Judge Carswell's reasoning would prevent desegregation in reform schools, since an inmate's average stay was less than the time required to file suit and obtain a court order.

There are various other cases decided by Judge Carswell—involving issues of civil rights and of criminal rights—which present the picture of a judge who follows his own beliefs rather than constitutional and legal requirements. For example, there are at least nine criminal cases in which Judge Carswell was unanimously reversed by the fifth circuit for refusing to grant an evidentiary hearing in habeas corpus proceedings or similar proceedings under 28 United States Code, section 2255.

It is no wonder, then, that the dissenting members of the Judiciary Committee concluded that Judge Carswell's record:

> Reveals that he is not, in fact, a "strict constructionist" in any sense of that vague term. Indeed, he has displayed little, if any, regard for the principle of "stare decisis" when its application has directly required him to follow the holdings of the 5th Circuit and the Supreme Court in civil rights cases. His decisions in this area merely reinforce the picture of a judge who was unable to divorce his personal prejudices from his judicial functions.

Perhaps the most distressing aspect of Judge Carswell's overall record is the testimony before the Judiciary Committee concerning his courtroom demeanor when dealing with civil rights litigants and their lawyers. According to Prof. Leroy Clark, a black attorney who supervised the NAACP legal defense fund litigation in Florida between 1962 and 1968, Judge Carswell was:

> (T)he most hostile federal district court judge I have ever appeared before with respect to civil rights matters . . . Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible.
>
> It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him while using a civil tone to opposing counsel.

Since appearing before Judge Carswell was such a unique experience, Mr. Clark was forced to take extraordinary precautions. He told the committee that—

> (W)henever I took a young lawyer into the state, and he or she was to appear before Carswell, I usually spent the evening before making them go through their argument while I harassed them, as preparation for what they would meet the following day.

Three other attorneys appeared before the committee and verified Professor Clark's characterization of Judge Carswell's courtroom behavior. One of these witnesses, Norman Knopf, is now a Justice Department attorney who testified pursuant to a subpena. He corroborated the testimony of Prof. John Lowenthal of Rutgers University Law School that Judge Carswell "expressed dislike of northern lawyers" appearing in southern civil rights cases. According to Mr. Knopf:

> Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on . . . It was a very long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people, and he in effect didn't want any part of this, and he made quite clear that he was going to deny all relief that we requested.

Judge Carswell's hostility went beyond discourtesy and rudeness. These lawyers also testified that Judge Carswell acted outside a judicial capacity to detain civil rights workers in jail and to insure that nine clergymen arrested as "freedom riders" would retain a permanent criminal record.

I have been a lawyer for 15 years and served as attorney general in my State for 5 years, and I have never heard of any judge doing that sort of thing.

In addition to these witnesses, further evidence concerning Judge Carswell's antipathy to attorneys representing civil rights litigants was presented to the Senate by Senator CRANSTON on March 18, 1970. The distinguished Senator from California spoke with two other attorneys who had appeared before Judge Carswell and who had experienced the same hostility. Senator CRANSTON recounted his conversation with one of these attorneys, Theodore Bowers, of Panama City, Fla.:

> He said of his experiences in Judge Carswell's court that the judge was hostile, even in regard to routine procedural matters.
>
> He stated that civil rights cases seemed to affect him emotionally, that he would get excited in the course of such trials in his court.
>
> Bowers told me that Judge Carswell turned away from him, looking off to the side, turning his body to the side, when he was presenting an argument. He stated that Judge Carswell stayed turned aside throughout half of his total argument. He argued for 10 minutes, and for 5 of those minutes Judge Carswell was looking away, had turned bodily away, seemed to be totally ignoring the case he was seeking to make.
>
> He stated that Judge Carswell would appear especially hostile when he, Theodore Bowers, or others cited decisions of the Supreme Court. Judge Carswell attacked Supreme Court decisions while he was sitting on the bench of a lower court.
>
> All this, said Bowers, was a consistent pattern of behavior by Judge Carswell from 1964 until 1968, when he left the court where these observations were made.
>
> Theodore Bowers added that the judge would attack attorneys appearing in desegregation cases, and all this, he said, constituted what he would term to be "totally improper judicial posture."

I fully agree with Senator CRANSTON's contention that Judge Carswell's courtroom behavior raises serious questions that he continually violated canons 5, 10, and 34 of the Canons of Judicial Ethics, which read as follows:

> **5. Essential Conduct**
>
> A judge should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavoring to ascertain the facts.

> 10. Courtesy and Civility
>
> A judge should be courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court.
>
> * * * * *
>
> 34. A Summary of Judicial Obligation
>
> In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, *courteous, patient,* punctual, *just, impartial,* fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influences; . . .

Somewhat like those of us in the Senate:

> He should administer justice according to law, and deal with his appointment as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

Despite the seriousness of the charges of unfairness and hostility made before the Judiciary Committee, Judge Carswell did not reappear to rebut these charges. Instead, he issued a general statement that there has never been "any suggestion of any act or work of discourtesy or hostility" on his part.

To accept this statement, we almost have to believe that four attorneys perjured themselves before the Judiciary Committee.

The significance of Judge Carswell's courtroom demeanor is best explained in the minority report on this nomination:

> Our judicial system must accord litigants a fair hearing. Justice is not dispensed when a judge's personal views and biases invade the judicial process. In Judge Carswell's court, the poor, the unpopular and the black were all too frequently denied the basic right to be treated fairly and equitably.
>
> Judge Carswell was simply unable or unwilling to divorce his judicial functions from his personal prejudices. His hostility towards particular causes, lawyers, and litigants was manifest not only in his decisions but in his demeanor in the courtroom.

Mr. BAYH. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. BYRD of Virginia). Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. MONDALE. I yield.

Mr. BAYH. I note with a great deal of interest the reference my colleague from Minnesota made with regard to justice and the attitudes that citizens who become involved in the judicial process have relative to the treatment they get in our courts. Is the Senator from Minnesota at all concerned about the impact that this nomination will have on large numbers of people that, through his efforts, and the efforts of others, are beginning to have a better opportunity to join other Americans who live in prosperity?

Is the Senator at all concerned how they will view this nomination?

Mr. MONDALE. I thank the Senator for asking that question, because it is quite apparent that one of the great and fundamental debates in this country involves capacity of American institutions to respond to the just needs of the people of this country—particularly the poor and the deprived, who are not in a position politically, economically, culturally, or educationally to assert their rights as others more privileged are able to do.

Whether our institutions will respond to the rights and privileges found in the Constitution depends upon the sense of humanity of the judiciary and those who make it up. I very much fear that Judge Carswell not only lacks competence to perform his duties as a Supreme Court Justice in a technical sense; but also I am even more certain that he lacks the basic commitment to human rights, decency, and justice which is absolutely essential if this country is going to hold itself together.

Mr. BAYH. I concur in the evaluation of this particular concern that the Senator from Indiana shares. I have talked to a number of people, as I have gone about my various duties, and have been in and out of Washington in the past 2 or 3 days, and I have been surprised at the number of cab drivers, hotel employees, and restaurant employees who are concerned over the nomination of Judge Carswell to the Supreme Court. I cannot, in all honesty, suggest how severe this is, or how nationwide it is, but I must say it is significant enough that I am deeply concerned over the impact this nomination has on those who have been trying to work within the system.

I appreciate the Senator from Minnesota yielding to me.

Mr. MONDALE. I thank the Senator for his observations. What is unique about this debate is that it is only the second time in 20 years, perhaps more, that we have ever had a Supreme Court nominee presented about whom there is any question of personal commitment to human rights and the principles enunciated by the Supreme Court.

This certainly is not a partisan issue. President Eisenhower presented nominees who were brilliantly qualified and totally committed to human rights. Indeed, I would believe most attorneys would agree that most of the Eisenhower court appointees in the South, as well as to the Supreme Court, established a magnificent standard of commitment to the cause of human rights and the cause of human justice.

What is unique about Judge Carswell's nomination is that it raises the question of whether a person who has a lifetime record—a personal record as well as a judicial record—of antagonism and hostility to human rights and civil rights, and to the enforcement of the law of the land, and specifically to orders of the circuit court under which he operated, should be permitted to serve on the highest court of the land.

I believe that it would be exceedingly unwise and disastrous to do so. And I regard it as one of the great historical departures of modern American history that we should be reopening the question of human rights and the 14th amendment and argue again a question going back to the 19th century on the issue of human rights.

Mr. GURNEY. Mr. President, the Senator mentioned his lifetime of hostility on the part of Judge Carswell in talking about civil rights cases that went through his court.

I draw the attention of the Senator from Minnesota to the letter to the chairman of the Judiciary Committee, as shown on page 328 of the record, written by Charles F. Wilson. Mr. Wilson was a civil rights attorney in the northern district of Florida for many years. He writes about his experience from 1958 to 1963.

He says:

> I represented plaintiffs in civil rights cases in the Federal court for the northern district of Florida, which was then presided over by Judge Harrold Carswell.

I remember he was a black attorney. As a matter of fact, in checking with some of the lawyers in Florida who I know were also concerned in civil rights cases before Judge Carswell's court, they tell me that Charles Wilson really was the first attorney to represent civil rights litigants in the northern district of Florida.

The letter says, as I am sure the Senator from Minnesota knows—and I will read a little bit from it:

> There was not a single instance in which he was ever rude or discourteous to me, and I received fair and courteous treatment from him on all such occasions.

He talks about representing plaintiffs in three major school desegregation cases. And he goes on and generally says that, during all of the time he appeared before Judge Carswell, he had only one disagreement with him, and that was over the extent of the relief to be granted.

An interesting thing about Mr. Wilson is that he is presently employed, as the Senator will observe from the letter, as Deputy Chief Conciliator for the U.S. Equal Opportunity Commission.

He was appointed, I presume, by President Johnson.

How can the Senator from Minnesota say that Judge Carswell has had a lifetime of hostility in these cases in view of the evidence in the record?

Mr. MONDALE. Starting from 1948, when he made one of the most outrageous statements on racial supremacy that I have ever heard from a candidate for public office——

Mr. GURNEY. That was a speech he made as a young man.

Mr. MONDALE. I can refer to four specific witnesses who appeared under oath before the Judiciary Committee and personally testified to outrageous acts of insensitivity and hostility by Judge Carswell.

Mr. GURNEY. One of those was a law professor who went down there one time to practice in his court.

Mr. MONDALE. We have affidavits from Mr. Maurice Rosen, under oath, and from Theodore R. Bowers, both of whom practiced before Judge Carswell.

We have a statement made by the Senator from California (Mr. CRANSTON) yesterday, based on personal conversations with attorneys who practiced before Judge Carswell's court. Then we have, may I say, a very decided pattern——

Mr. GURNEY. If we are going to get into the facts——

Mr. MONDALE. In which Judge Carswell, time after time, would not even listen to the factual case that was brought before him by litigants asserting civil rights claims, but would dismiss them summarily.

Time after time the circuit in which he operated would reverse him. He would not even show courtesy to plaintiffs' counsel who appeared before him in civil rights cases, and he would strike the allegations in the pleadings.

These facts, I think, establish a very clear record of insensitivity and hostility in civil rights cases.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. MONDALE. I will yield in a moment. It is always said that those who know Judge Carswell best are for him. However, I note that in addition to the 500 prominent attorneys who urge the U.S. Senate to reject the nomination of Judge Carswell, nine of the 15 faculty members of Florida State University Law School yesterday wrote the President of the United States asking that the nomination of Judge Carswell be withdrawn.

I think that all of this establishes the type of pattern I have been discussing.

Mr. GURNEY. Mr. President, will the Senator yield further?

Mr. MONDALE. I would be delighted to yield at this time.

Mr. GURNEY. I would say in answer to the rebuttal argument of the Senator that there is some merit in it. I would point out, though, that he has not answered any of the questions I tried to get answered during his recitation.

XUM

So that we could get the facts on the table. How long had these lawyers practiced before Judge Carswell's court? I think in the case of one professor—and it may have been Lowenthal from Rutgers, but I do not recall—he appeared in court one time before Judge Carswell.

That is not exactly the kind of weighty evidence represented by Attorney Charles Wilson, who appeared before his court for 5 successive years, presented.

However, here is another——

Mr. MONDALE. I would be glad to respond to the Senator.

Mr. GURNEY. All right.

Mr. MONDALE. Mr. Clark, the NAACP Legal Defense Fund attorney in that area, on page 227 of the record said:

> Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carwell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible. It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him while using a civil tone to opposing counsel. But I mention those as asides, really, and I do not think them important, because I am sophisticated enough, and other lawyers, black lawyers who appeared before him, were sophisticated enough to sustain that kind of personal insult.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. BAYH. I think it is most appropriate that the distinguished Senator from Minnesota raised this question on the testimony of Mr. Clark in relationship to the comment of our distinguished friend, the Senator from Florida.

I think it would be appropriate to add in the RECORD at this time the further testimony of Mr. Clark on page 226 of the hearings that indicate his competence to testify before us on this point.

Mr. Clark said:

> I knew every single lawyer in the State of Florida who practiced civil rights law, white and black, and indeed I know what their evaluation of Carswell was.

He goes on to say that he has appeared before Judge Carswell at least nine or 10 times personally, and that he has had access to the opinions of every attorney that has been working in this important area in the State of Florida.

So, I think the Senator from Minnesota has found the correct answer to the question raised by the distinguished Senator from Florida.

Mr. GURNEY. Mr. President, if the Senator will yield, he apparently has overlooked Mr. Charles Wilson, who appeared in the court for 5 years. He did not make any mention of him.

May I introduce one of the best pieces of evidence into the RECORD? On this matter of sensitivity I think it is very interesting.

I received a telegram from Julian Bennett. He also wrote a letter for the record, on page 328. Mr. Bennett represents the Bay County School Board in Bay County, Fla. That county has Panama City located in it. He handled the litigation involving the school desegregation in Bay County before Judge Carswell.

Here is what his telegram has to say:

> First counsel for Negro plaintiffs was Charles F. Wilson, Pensacola, Florida, who I understand has filed a letter supporting Judge Carswell's nomination to Supreme Court. Present counsel, Theodore Bowers, . . .

That is the attorney that the Senator from California (Mr. CRANSTON) mentioned the other day. I continue to read from the telegram:

> Present counsel, Theodore Bowers, is one of 14 different lawyers representing individual plaintiffs against school board in seven years that this case has been pending.
>
> Judge Carswell was a District Judge for approximately six of these seven years. During six years Judge Carswell . . .

I think this is extremely interesting on the sensitivity issue:

> actively encouraged and challenged the parties to pursue voluntary desegregation, failing which he entered numerous desegregation orders. He was constantly calling counsel together to determine desegregation progress. Voluntary efforts without court orders resulted in the total integration of high schools in 1967 by closing county's all-Negro school. Presently there are no all black schools in Bay County, Florida. Indicative of Judge Carswell's fair play and fair rulings is that in 6 years of continuous desegregation litigation, plaintiffs and NAACP, thought it necessary to appeal his orders only one time and that in 1969 resulting in the fifth circuit court of appeals, en banc, saying of the Bay County desegregation efforts: "This system is operating on a freedom of choice plan. The plan has produced impressive results but they fall short of establishing a unitary school system." Page 23 of slip opinion—Sing Leton et al. v. Jackson Municipal Separate School District et al., case No. 27863.
>
> In 6 years I saw Judge Carswell patiently listen to all arguments of all counsel. No allegation made in any pleading anywhere or on appeal to higher court of mistreatment of any client or counsel by Judge Carswell at any time. No attorney in my 6 years before the court complained to the court of any alleged mistreatment, publicly or privately, prior to nomination of Judge Carswell to U.S. Supreme Court. Judge Carswell did request Justice Department representing USA to try to assign the same lawyer to our case for continuity in order to avoid the court having to review for new counsel old ground already covered and former rulings of the court on evidentiary matters. His patience and courtesy in bring each new counsel up to date was remarkable to behold. All counsel were treated with respect and fairness. Judge Carswell constantly chided the school board to do better. He told us after Green v. New Kent County, that freedom of choice was out and that we must come up with some other plan. Presently school system operating on straight neighborhood zone plan with all black schools integrated with white students. Letter to follow.
>
> JULIAN BENNETT.

There is direct evidence from a lawyer who spent years in litigation in school desegregation matters before Judge Carswell. It seems to me that kind of evidence is very probative in our case and that it is far more important than a law school professor who came down there for one case. There is another side to the sensitivity story. It is borne out in the letter of Charles Wilson, in this telegram, and others letters in the record.

I thank the Senator.

Mr. MONDALE. I thank the Senator. Of course, the testimony of Mr. Clark was under oath before the committee. He tried nine or 10 cases before Judge Carswell. He was the Director of the NAACP Legal Defense Fund Office in the area. He supervised civil rights cases throughout the State of Florida and was in a fine position to know what was going on. Testimony on this matter was not limited to a single lawyer, but included several other attorneys who testified to the same effect with respect to Judge Carswell's record.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. MONDALE. I am glad to yield.

Mr. DOLE. I just noticed at page 324 of the hearings a letter from Mike Krasny. I will read a portion of that letter because it relates to whether there was a period of hostility and whether Judge Carswell was pro or anticivil rights:

> I was Judge Harrold Carswell's law clerk from February 1960 to June 1962, a period of approximately two and a half years. I believe I was his law clerk longer than any other law clerk he had before or since. I am a member of the Florida Bar practicing law in Melbourne, Fla.
>
> As a member of the Jewish faith and consequently a member of a minority, I sincerely believe that the day to day association which I had with Judge Carswell, both in and out of the courtroom, would have revealed any racist tendencies or inclinations, had there been any. Without the slightest hesitation, I can assure you and the members of your committee that the litigants in the United States Federal District Court in Tallahassee were not judged by their race, creed or color.

> Judge Carswell's integrity and honesty is beyond question in this regard. He dealt fairly honestly and respectfully with all those who came before him. His judicial manner was not altered by the race or color of those who appeared before him. I believe that I am more qualified to judge this man than are his accusers. I would be willing, at my own expense, to testify under oath that none of the decisions rendered by him during my tenure of office were tainted in any manner with a so-called racist philosophy, nor were civil rights lawyers or litigants treated in any manner other than the respectful manner accorded to all litigants and attorneys appearing before him.
>
> The people of this country have a right to know the truth about his beliefs, unsullied by false accusations and innuendo.
>
> I deeply resent the attempt of some to tarnish the reputation of a man of Judge Carswell's caliber. He would be a great asset to the Supreme Court.
>
> MIKE KRASNY.

That letter was sent to the chairman of the Committee on the Judiciary. The point I make is that apparently the Senator's case is built upon the statement of Mr. Clark, as well as the statement of the Senator from Massachusetts, but there is other evidence.

It has been pointed out many times that we all have a duty and obligation to weigh the evidence, not just the evidence against and not just the evidence for, but all the evidence. The Senator from Minnesota cites the statements of four witnesses but how many litigants and attorneys appeared before Judge Carswell all the time he was on the bench? What percentage of the total number of lawyers who appeared before Judge Carswell does Mr. Clark represent? There is no specificity about the number of litigants or their mistreatment, only general statements by the Senator from Minnesota and the Senator from Massachusetts about a man's bias and hostility. That may be a fair statement, but I do not believe it is.

It would be helpful to have the facts. How many lawyers appeared before Judge Carswell? How many litigants appeared before Judge Carswell? What was the occasion of his being rude or turning the chair?

Mr. MONDALE. I refer the Senator to my earlier remarks in which I detail the argument to which the Senator objects.

These are four witnesses who testified under oath. Mr. Clark had wide experience before several judges in Florida, including Judge Carswell. He was in charge of litigation in that area. There are several affidavits. The Senator from California (Mr. CRANSTON) testified as to conversations with attorneys who practiced before Judge Carswell. There is an abundance of evidence under oath which showed his antipathy toward settled law, his dismissal of legitimate lawsuits brought by civil rights attorneys, and his personal involvement in the efforts to keep segregated institutions in his own community—tracing from the present all the way back to 1948. All of these occurrences raise grave doubt as to whether there is any commitment whatsoever on the part of Judge Carswell to human rights and to the enforcement of the Constitution; they also raise grave doubt as to whether Judge Carswell has the competence necessary to discharge the responsibility of serving on the Highest Court of our land.

Mr. DOLE. Mr. President, will the Senator yield further?

Mr. MONDALE. I yield.

Mr. DOLE. I believe this information would be helpful to all of us in the Senate and to the public. The bad things about Judge Carswell are widely reported in the newspapers and the network programs.

I would like to know how many lawyers appeared before Judge Carswell. I would like to know how many litigants appeared before Judge Carswell. He has been a member of the bench for 12 years. He has handled approximately 4,500 cases. He has been a Federal district judge, which is a trial judge, as the Senator from Minnesota knows. He has been a member of the appellate court for well over a year. He has had literally thousands of litigants and lawyers before his court.

I would guess any of us, whether it be in a political campaign or a campaign of this kind, could pick up one or two, or half a dozen, people who may not agree with the Senator from Kansas or the Senator from Minnesota. So to be fair and honest, as I know the Senator from Minnesota wants to be, we should have relative numbers. The Senator is great on numbers of reversals—x number of x cases. But what about the total number of lawyers who appeared before him, the total number of litigants? Is that information available?

Mr. MONDALE. I do not know. I have referred to the record I have before me. I am no statistician on the northern Florida judicial district. I do not know how many lawyers practiced before the court or how many cases there were. One has to judge on the basis of his official opinions and on the basis of the experience of those who practiced before him; and the issue we are now debating is Judge Carswell's opinion on human rights. What is his attitude and demeanor toward those who practiced before him in those cases?

We have heard sworn testimony from NAACP legal defense fund attorney who tried cases before him nearly 10 times and sworn testimony from three other attorneys. All the testimony was to the same effect. How many other attorneys who tried other lawsuits? How many property cases? How many title cases? How many patent cases? How many aircraft accident cases? I would not have the slightest idea, and I do not think it is slightly relevant.

Mr. DOLE. Will the Senator yield further?

Mr. MONDALE. I am happy to yield.

Mr. DOLE. We are talking about the "total man." The Senator is looking for the perfect man, apparently.

Mr. MONDALE. I am looking for somebody better than this.

Mr. DOLE. I could comment on that. We have heard these same arguments before. It is a replay of the Judge Haynsworth nomination—the same cast of characters, the same accusations, the same parts, are paraded in this Chamber. The arguments made during the consideration of Judge Haynsworth's nomination are now being applied in the case of Judge Carswell. Judge Haynsworth was "insensitive." I am not certain whether the Senator from Minnesota said this but others have said Judge Carswell is very mediocre; therefore, he is not worthy of the honor of sitting on this High Court. It is the same cast of characters and the same scenario—just a different picture.

Mr. MONDALE. And we were correct both times. The Senator from Kansas will recall that I supported the nomination of Judge Burger to be Chief Justice of the United States. The record will show I have supported most nominees sent to the Senate by the President of the United States. The President should have a broad parameter of choice. Where I draw the line is when a nominee is before us who is wrong on human rights—because we cannot back off the cause of human rights. We cannot back off the 14th amendment to the Constitution and still have a country.

That is why I am opposing the nomination of Judge Carswell. That is why I opposed the nomination of Judge Haynsworth. It may be the same cast of characters, but I am proud to be a part of the play. I am sorry we are faced with this kind of nominee.

Judge Carswell's record, both on and off the bench, persuasively leads to but one conclusion: that at best, the nominee has shown himself to be indifferent and insensitive to human rights; at worst, he has demonstrated his hostility to those who sought to challenge unlawful discrimination through legal channels.

To the nearly 500 lawyers who urged the Senate to reject this nomination, it is a record which clearly indicates that "the nominee possesses a mental attitude which would deny to the black citizens of the United States—and to their lawyers, black or white—the privileges and immunities which the Constitution guarantees." Anthony Lewis, a distinguished student of the Supreme Court, has said:

> That record displays at the very least extraordinary insensitivity. It must raise questions about Judge Carswell's fitness for a lifetime position on a court that must decide some of the most sensitive and most important racial questions before the country. For the black community, the idea of Judge Carswell on the Supreme Court bench must now be a provocation.

Particularly disturbing about the nomination of Judge Carswell is the fact that it is one more symbol of the indifference to racial justice displayed by this administration. Those who believe that the southern strategy exists only in the minds of partisan journalists should consider this nomination as a part of the following pattern of administration actions:

The award of defense contracts to textile firms with a history of racial discriminations;

The proposal of a voting rights bill which was designed to downgrade our commitment to equal suffrage in the South and which was a patent call to southern members to embroil the simple extension of the 1965 act in a welter of confusion and delay;

The issuance of a policy statement on school desegregation, which was nothing more than a blatant invitation to the South to delay further;

The request to the Supreme Court to slow down enforcement of school desegregation plans could not be implemented in time;

The refusal to seek cease-and-desist powers for the Equal Employment Opportunity Commission; and

The dismissal of Leon Panetta for attempting to enforce civil rights legislation, and the elevation of those who believe that the law should not be fully enforced.

Unlike the nomination of an individual to the Supreme Court, each of these actions can be reversed in a short period of time. But a Supreme Court appointment is a lifetime proposition, and one vote inherently weighed against civil rights litigants might decide close cases for years to come.

The Supreme Court is simply too vital an institution to be embroiled in any sectional strategys. It is the one institution which has represented the last hope for redressing the grievances of those who have been denied fundamental rights and opportunities.

If the President really wanted "geographical balance," he could have named John Wisdom, Griffin Bell, Frank Johnson, or a variety of other distinguished southern jurists—all of whom are fair and impartial judges.

But I fear that the President wanted something else—and thus he nominated G. Harrold Carswell.

I think all of us, including the President, should heed the words of Marion Wright Edelman, a young lawyer who has spent a good part of her life in a courtroom fighting against discrimination:

> We do not defuse the George Wallaces by selling our principles and becoming more like them—we defuse them by clear and resounding repudiation with a national tone and policy that makes it clear that the Constitution is not a political football. For surely whites cannot now expect, once again, blacks and Mexican-Americans and Indians and Puerto Ricans to respect a Constitution they render so cheap.

Mr. McCARTHY. Mr. President, I will speak today principally of the role of the Senate in the confirmation of nominations for Justices on the U.S. Supreme Court and of the very special responsibility which rests upon the Senate in performing that very clear constitutional responsibility.

Nearly every major compromise worked out at the Constitutional Convention involved the sharing of responsibility with the U.S. Senate. The conflict between the large and the small States was resolved by providing two Senators from each State and by assigning House membership on the basis of total population. The controversy over the power of the Executive—and particularly his power in the conduct of foreign affairs—was settled by providing that the Senate confirm high officials of the Government and that a two-thirds vote of the Senate be required for ratification of treaties.

The controversy over whether we should have a judiciary which was elected by the people or appointed by the Chief Executive was settled by the constitutional provision that members of the Federal courts must be confirmed by the Senate of the United States.

Today the Senate is called upon to exercise that responsibility.

As in the exercise of other responsibilities, Senators and the Senate can make a choice of playing any number of roles. Three principal roles are always available to us.

The first one is that in which the appearances of power and prestige are maintained without accepting the responsibility or exercise of power.

We can take on the role similar to that of the constitutional monarch in Great Britain, appear at ceremonial occasions and state dinners, and be invited to the White House for prayer services. Some accept special missions unrelated to the real world of authority of the Senate, and sign everything the President sends up to us.

The second role is that under which we can assume power without responsibility—as has sometimes been the case in the conduct of Senate business, and in irresponsible public statements—or in the Government by ordeal which is sometimes carried on under the name of the filibuster. We can act in this manner, and then second-guess, as we did to a large extent with reference to the Fortas case.

The third role is that of accepting full responsibility, set against the real power and authority which the Constitution does grant to the Senate.

This a time when the Senate must carefully reexamine its constitutional functions in relation to all of its obligations and duties, its relationship to the House of Representatives, and its relationship to the executive branch of the Government and to the judiciary. This reexamination is as important for the other agencies of Government as it is for the Senate, but the responsibility here is ours.

There is, I think, a very special need for this consideration today, because in the period of the last 25 years there has been a significant change both in the substance of American government and in the functioning of governmental institutions and the relationships among them. There are also special conditions today which make such a reexamination easier and potentially more productive.

I was one of many Senators who expected that after the rejection of the Presidential nomination of Judge Haynsworth for the Supreme Court, the President would offer a nominee of such qualifications that the Senate might quickly confirm his choice and turn to other important domestic and international matters.

I do not know of a case in which two successive nominees have been rejected, except in the administration of President Grant.

Mr. DOLE. Mr. President, will the Senator yield briefly?

Mr. McCARTHY. I yield.

Mr. DOLE. I think it is also true that the Senator from Minnesota opposed Chief Justice Burger's nomination.

Mr. McCARTHY. That is quite right, and every day I feel better about it. I was especially moved to think it was a good action when I heard the Senator from Nebraska say that only men who know the nominees intimately have any right to speak about them; and I suppose I knew Judge Burger more intimately than anyone else in the Senate. On that basis, I suggested that he should not be Chief Justice, and voted against him.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. HOLLAND. Other Senators have similar views with reference to Judge Carswell. I think I know him better than any other Senator, and I strongly support him. I have waited all afternoon to get a chance to take the floor, but the floor has been farmed out from the distinguished Senator from Massachusetts (Mr. KENNEDY) to the distinguished junior Senator from Minnesota (Mr. MONDALE), and now to the distinguished Senator from Minnesota who presently holds the floor.

We who know him best are given little chance to say anything, as long as this farming out process continues.

Mr. McCARTHY. Mr. President, let me say to the Senator that I did not say that Senators should vote for or against Judge Burger because I knew him more intimately than others did. I say this only because the argument has been made by supporters of Judge Carswell that only those who know him intimately should be listened to in this debate. The question about Judge Burger was raised incidentally to my presentation.

I might say, so far as farming out time is concerned, this is the first time that I have spoken with reference to the Carswell case, and I think that it is in order for me to speak for an hour without anyone charging that the floor has been farmed out to me. I do not know what the Senator from Florida has in mind. Who farms out time? I was recognized by the Chair. Nobody farmed out any time to me.

Mr. HOLLAND. Mr. President, if the Senator will yield——

Mr. McCARTHY. The Senator from Florida was not seeking recognition.

Mr. HOLLAND. The Senator from Florida meant that the Senator from Massachusetts had the floor, yielded to the Senator from Minnesota (Mr. MONDALE), who then proceeded and, after speaking at length, yielded to his able colleague.

Mr. McCARTHY. No; I was recognized by the Presiding Officer. I was not yielded the floor by another Senator.

The PRESIDING OFFICER. (Mr. BYRD of Virginia). The Senator is correct.

Mr. HOLLAND. The Senator from Florida simply reiterates that he knows Judge Carswell pretty well, and would like at sometime to be heard, and he thinks his experience might even be impressive on the Senator from Minnesota, who does not know Judge Carswell.

Mr. McCARTHY. I would be quite willing. I have been listening, and have been reading what the Senator from Nebraska (Mr. HRUSKA) and others who are advocates of Judge Carswell have said; after some 2 or 3 weeks of listening and reading reports, and newspaper reports as well, I thought I might speak today.

The PRESIDING OFFICER. Will the Senator from Minnesota yield for a moment?

Mr. McCARTHY. For what purpose?

The PRESIDING OFFICER. For a statement by the Chair. The Senator from Minnesota is correct; the junior Senator from Minnesota had indicated he had finished, and thereupon the Chair recognized the senior Senator from Minnesota, who was the only Senator then seeking recognition.

Mr. McCARTHY. That is correct.

As I stated, I hoped President Nixon might send us the name of another nominee whom we might confirm rather quickly, and then turn to other important domestic and international matters. I am never happy to be involved in an action opposing any person who may be nominated, but I think in the case of confirming nominations to the Supreme Court, perhaps more than in any other action we take, we have to deal in personalities.

If you examine the composition of the present Court, you will find that it is made up of some men who were appointed by Franklin Roosevelt. Because of retirement there is no one there who was appointed by President Truman. It has two appointees of President Eisenhower, one by President John Kennedy, one by President Lyndon Johnson; and one by President Nixon. Now we are considering another.

Appointments to the Supreme Court are not the special right or province of the President in the way that other appointments are. Court appointees live on long after a President has left office, and in many cases even after he has died. The Senate has a continuing responsibility to take the long view in considering the appointment and confirmation of members of the Supreme Court.

We now have before us for consideration the nomination of Judge Carswell.

On Monday, the Senator from Nebraska (Mr. HRUSKA), the principal advocate of Judge Carswell's nomination, argued that the Senate should not really examine the qualifications of a Supreme Court nominee when considering confirmation, but should accept the President's recommendation. He also suggested that since there are, as he said, lots of mediocre judges, people, and lawyers, that they are entitled to representation, too.

I will not challenge this latest argument for mediocrity, and I trust that no one would be moved to vote to confirm on these grounds, but rather take up some of the more serious questions and more substantial considerations relating to the Court and to the nominee, Judge Carswell.

The persistent argument that was made when Judge Haynsworth was under consideration and one which has been continued in dealing with the present case—is that the Court needs balance and that the appointment of Judge Carswell will somehow balance it or at least bring it closer to balance.

On page 10 of the committee hearings, Senator HRUSKA was quoted as saying:

> There are some who feel there should be less activism and that the law should be strictly construed. The President has felt that there can be a better balance to the Court. He indicated this last summer.

According to Senator HRUSKA, the President indicated last summer that he wanted better balance on the Court. Neither the President nor Senator HRUSKA has explained in what way he considered the Court to be unbalanced.

Does he want one good decision and one bad decision? Does he want one right decision and one wrong decision? Is it geographical balance that he wants, or racial, or by sex, or religion, or age? Should we have more nonlawyers on the Court? There are not any nonlawyers on the Court now. There is nothing in the Constitution that says that members of the Supreme Court should be lawyers. In fact, there is nothing in the Constitution that says they have to be 21 years old. Perhaps we should have some people who are 18 or 16 on the Court. There may be some overrepresentation, now, of those who are old.

Is it certain decisions that the President would like to have reversed? If it is, we ought to be told which ones they are. Do we want to go back to Plessy against Ferguson, in 1896? That was a balanced decision—separate but equal. It sets back progress toward desegregation in this country by roughly 60 years.

Does the President want all decisions to be made by a vote of 5 to 4? Or would he like to have them 4 to 4? In that case we ought not to make this additional appointment and just run it with an eight-judge Court. You would have some kind of numerical balance which would not mean very much.

If the President is really concerned about this Court, if he does want to balance it, he should tell us how he wants to balance it. He should give us some explanation as to what this means, if this is in fact his objective.

In the same statement, the Senator from Nebraska said there should be "less activism" on the Court. What does the President mean by "less activism," or what does the Senator mean by "less activism?" If he speaks for the President, we should know. Would he like to have the Court hear fewer cases than it now does? Should it postpone consideration of some of the vital issues before the country? Would he prefer that all precedents established in the 19th century be applied to contemporary problems? Would he suggest that at a time when social, economic, and cultural change in this country is growing at the most rapid rate in the history of our Nation, that the Court should be indifferent and unresponsive?

At a time when nearly every one of the traditionally established civil rights is under strain and requires new definition and new interpretations and new judgment—and freedom of speech, which was a relatively simple matter back in 1789, is now involved in the whole question of television and radio and newspapers, as the Vice President tells us almost every other day—should the Court be indifferent to the complexity of freedom of speech today?

Should the Court be indifferent to the problems of the right to assemble, which was also relatively easy to define in 1789, but which is now involved in very complicated questions of the right to belong to certain organizations or the right to picket or the right to march? Should the Court be indifferent to some of the basic questions of conspiracy such as were raised in the case of Dr. Spock and William Sloan Coffin, and in other cases that recently have been the subject matter of judicial proceedings?

Are we to have a Court which is indifferent to the question of the right to privacy, which in 1789 related to rather simple things like quartering troops and now involves all the technological complexity of electronic devices for spying upon people, either visually or by listening in or by other means that have been developed?

Should the Court be indifferent to the new problems of due process and individual rights and the rights of citizens as they move into a time of an emancipated and much more complex culture than we knew 160 or 170 years ago?

Is this the kind of activism which is frowned upon? Is this the kind of opposition to activism that we would expect if Judge Carswell were to be appointed to the Court?

The Senator from Nebraska did not stop with the statement that the President wants balance and less activism. He goes on to say, a few lines later, that it is not only the President who wants balance, but the country wants balance on the Court. He says it is obvious that the country wants balance on the Court, and he cites the election of President Nixon as an indication that the country wants that balance.

It is hard for me to accept that the result of the election in any way suggests that the country wants balance, unless we go again to the mysterious source of Presidential power which comes from the silent majority. Mr. Nixon was not elected by a majority of the people of this country. The vote for the presidency was almost a tie. This did not suggest that the country wanted much change in the Court, I would say.

If the Court was unbalanced, it would seem that the country was somewhat indifferent and would permit it to continue to be unbalanced. Ideally, of course, the Court should be made up of the most intelligent and responsible and most learned men in the country. One would hope that, this being the case, almost every decision would be close to unanimous. You could have a kind of choir of angels in which all would see things in

XUM

the same light and judge it by the same high power of reason and conclude to the same end. We cannot reach that kind of ideal situation, but we ought to make a rather serious effort to come close to it.

The Senator from Nebraska goes on to another principle for selection. He quotes in this case Mr. Dooley, who said "No matter whether the Constitution follows the flag or not, the Supreme Court follows the election."

He goes on to say that he did not mean this literally, but that it has a grain of truth in it: the appointees to the Court should reflect the mood of the country, and the mood of the country is reflected in the election results.

Mr. President, the idea of a representative Court is something foreign to the American tradition. The men who drafted the Constitution were rather careful not to make the Court representative in the sense suggested by the Senator from Nebraska. The constitutional convention did not even consider having the Supreme Court elected by the people, or other judges. It rejected the idea that members be chosen by the House of Representatives and by the Senate, and adopted the rather simple provision that Justices be nominated by the President and confirmed by the Senate.

I ask to have printed at this point in the RECORD an explanation of what this process meant and how it was carried out by Chief Justice Hughes.

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There being no objection the material was ordered to be printed in the RECORD, as follows:

THE SUPREME COURT OF THE UNITED STATES

(By Charles Evans Hughes, Columbia University Press, 1936, pp. 11–14)

Serious questions were raised as to the method of appointing judges. How was the ideal of the separation of powers to be reconciled with practical exigencies? Despite the emphatic terms in which the political maxim had been laid down by the States, Madison found "not a single instance in which the several departments of power have been kept absolutely separate and distinct." Jefferson in his "Notes on Virginia" observed that the legislature had in many instances "decided rights which should have been left to judiciary controversy." Rhode Island and Connecticut had long refused to recognize the principle of division of powers; in Connecticut, the legislature had been "in the uniform, uninterrupted, habit of exercising a general superintending power over its courts of law, by granting new trials." After a careful review of State practice, Madison concluded that "the legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex."

In many States, the legislature appointed the judges directly, and, notwithstanding the devotion to the doctrine of Montesquier, it is not surprising that in the Federal Convention the Virginia plan should have proposed that the national legislature should appoint the judges of the Supreme Court. The Patterson plan provided for appointment by the Executive. James Wilson opposed appointment by the legislature. He said: "Experience showed the impropriety of such appointments by numerous bodies. Intrigue, partiality and concealment were the necessary consequences. A pricipal reason for unity in the Executive was that officers might be appointed by a single, responsible person."

Dr. Franklin observed that two modes of choice had been mentioned, to-wit, by the Legislature and by the Executive. He wished that other modes might be suggested, "it being a point of great moment." Madison objected to appointment by the *whole* legislature. "Many of them were incompetent judges of the requisite qualification. The candidate who was present, who had displayed a talent for business in the legislative field, who had perhaps assisted ignorant members in business of their own, or of their Constituents, or used other winning means, would without any of the essential qualifications for an expositor of the laws prevail over a competitor not having these recommendations, but possessed of every necessary accomplishment." Madison proposed appointment by the Senate "as a less numerous & more select body"; or as he had said earlier, as "sufficiently stable and independent." This was adopted by the Committee of the Whole in their report on the Randolph plan and was embraced in the report of the Committee on Detail. Meanwhile it had been suggested, with reference to the practice in Massachusetts, that the judges be appointed by the Executive, with the advice and consent of the Senate, and this proposal was finally adopted.

Mr. McCARTHY. In order to protect the integrity and the detachment of the Court, Justices were given life terms under the Constitution, which also provided that even their salaries could not be reduced during the period of their service. It really makes much better sense—the way some extremist groups call for the impeachment of Justices, Chief Justices, and others—to undertake to pack or unpack the Court, as has been done in times past, than to argue that we should have a balanced Court or a representative one.

Mr. President, this question has been asked by nearly everyone who has spoken of this matter during these many weeks, but I think it fair again to ask: What are the standards by which a Supreme Court Justice should be picked? The Constitution is not very clear, not very specific. It does not even, as I said earlier, lay down an age requirement as it does in the case of the President and for Members of Congress. The Constitution does not even, as I said earlier, require a Supreme Court Justice to be a lawyer.

Nonetheless, there are qualifications and standards, which have developed over the years from experience, from reflection on the nature and the importance of the Court, from historical forces that have run, from an examination of its historic achievements, and principally, from the conduct of the men who have been appointed to the Court.

The Senator from North Carolina (Mr. ERVIN) on page 19 of the committee hearings set a limited standard, one which is clearly better than that which was stated by the Senator from Nebraska. The Senator from North Carolina said this:

> I would like to say that the Senator from Nebraska used the quotation from Mr. Dooley facetiously, but I would like to expressly disavow myself as a disciple of Mr. Dooley. I don't think judges should follow election returns. I think that the duty of a Supreme Court Justice was stated by Chief Justice Marshall in the most lucid fashion in his opinion in the famous case of *Marbury* v. *Madison*, where he pointed out that the Constitution obligates a Supreme Court Justice to take an oath to support the Constitution, and declared that the obligation which that oath imposed upon a Supreme Court Justice is to accept the Constitution as the rule for his official actions.

Certainly, one must agree with that basic statement.

A much more complete and appropriate statement of his qualification is that presented by Alexis de Tocqueville in his book "Democracy in America":

> So they created a federal Supreme Court, a unique tribunal one of whose prerogatives was to maintain the division of powers appointed by the Constitution between these rival governments. * * * But that is just the theory which has been put in practice in America. The Supreme Court of the United States is the sole and unique tribunal of the nation.
>
> It is responsible for the interpretation of laws and of treaties; questions to do with overseas trade or in any way involving international law come within its exclusive competence. One might even say that its prerogatives are entirely political, although its constitution is purely judicial. Its sole object is to see that the laws of the Union are carried out;
>
> To this first cause of its importance is added another even greater one. In the European nations only private persons come under the jurisdiction of the courts, but the Supreme Court of the United States may be said to summon sovereigns to its bar. When the court crier, mounting the steps of the tribunal, pronounces these few words: "The state of New York versus the state of Ohio," one feels that this is no ordinary court of justice. And when one considers that one of these parties represents a million men and the other two million—

This was about 1835—

> one is amazed at the responsibility weighing on the seven men—

At that time there were seven on the Court—

> whose decision will please or grieve so many of their fellow citizens.
>
> The peace, prosperity, and very existence of the Union rest continually in the hands of these seven judges. Without them the Constitution would be a dead letter; it is to them that the executive appeals to resist the encroachments of the legislative body, the legislature to defend itself against the assaults of the executive, the Union to make the states obey it, the States to rebuff the exaggerated pretensions of the Union, public interest against private interest, the spirit of conservation against democratic instability. Their power is immense, but it is power springing from opinion. They are all-powerful so long as the people consent to obey the law; they can do nothing when they scorn it. Now, of all powers, that of opinion is the hardest to use, for it is impossible to say exactly where its limits come. Often it is as dangerous to lag behind as to outstrip it.
>
> The federal judges therefore must not only be good citizens and men of education and integrity, qualities necessary for all magistrates, but must also be statesmen; they must know how to understand the spirit of the age, to confront those obstacles that can be overcome, and to steer out of the current when the tide threatens to carry them away, and with them the sovereignty of the Union and obedience to its laws.
>
> The President may slip without the State suffering, for his duties are limited. Congress may slip without the Union perishing, for above Congress there is the electoral body which can change its spirit by changing its members.

Felix Frankfurter, in his book "Of Law and Men (Papers and Addresses)," page 39, writes in commenting on the quality of judges on the Court.

> A judge whose preoccupation is with such matters (the problems faced by the United States Supreme Court under the Commerce Clause and under the Due Process Clause) should be compounded of the faculties that are demanded of the historian and the philosopher and the prophet. The last demand upon him—to make some forecast of the consequences of his action—is perhaps the heaviest. To pierce the curtain of the future, to give shape and visage to mysteries still in the womb of time, is the gift of imagination. It requires poetic sensibilities with which judges are rarely endowed and which their education does not normally develop. These judges, you will infer, must have something of the creative artist in them; they must have antennae registering feeling and judgment beyond logical, let alone quantitative proof.

Learned Hand further states:

> I venture to believe that it is as important to a judge called upon to pass on a question of constitutional law, to have at least a bowing acquaintance with Acton and Maitland, with Thucydides, Gibbon and Carlyle, with Homer, Dante, Shakespeare and Milton, with Machiavelli, Montaigne and Rabelais, with Plato, Bacon, Hume and Kant, as with the books which have been specifically written on the subject. For in such matters everything turns upon the spirit in which he approaches the questions before him. The words he must construe are empty vessels into which he can pour nearly anything he will. Men do not gather figs of thistles, nor supply institutions from judges whose outlook is limited by parish or class.

Mr. President, I think that all of us who accept these rather general standards should ask how do we judge Mr. Carswell as measured against the standards. Let us begin with the most elementary consideration; namely, that of whether or not he is skilled in the law.

I always have some hesitation about raising a question of this kind. Sometimes Members of the Senate who are lawyers get up and say, "Now, speaking as a lawyer," and sometimes they say, "Now thinking as a lawyer."

I have never been sure what they mean. If they speak as a lawyer, does that mean with more competence, or does it mean that their competence is reduced, or discounted, lengthened, or expanded? I have asked this question several times of Senators who have spoken as lawyers and have never been able to get an adequate explanation of what they mean.

John Griffiths, of Yale Law School, in a letter to Senator EASTLAND, wrote:

> That only the most distinguished and technically qualified members of the legal profession ought even to be considered for the highest court in the nation. . . . It is part of the Senate's duty to exercise the highest standard, in proficiency as well as integrity, as a minimum qualification for elevation to the Supreme Court. [p. 15 of Individual views]

There is little in the record of the hearings to sustain the argument that Judge Carswell is skilled in the law.

Mr. William Van Alstyne, professor of law at Duke University Law School, former special consultant to the Senate Subcommittee on Separation of Powers, chaired by the distinguished Senator from North Carolina (Mr. ERVIN), states on page 136 of the committee hearings:

> Respectfully, however, while relief was not denied in these cases, it was only in circumstances where heavily settled higher court decision and incontestably clear acts of Congress virtually compelled the results, leaving clearly no leeway for judicial discretion to operate in any other direction. I would respectfully invite the committee's particular attention to the particular opinions to establish that conclusion.
>
> More disturbing in the cases generally, and by generally I mean not to restrict myself to the area of race relations at all, although intrinsically far more difficult to illustrate in the nature of the short-coming, there is simply a lack of reasoning, care, or judicial sensitivity overall, in the nominee's opinions.
>
> There is, in candor, nothing in the quality of the nominee's work to warrant any expectation whatever that he could serve with distinction on the Supreme Court of the United States.

In the series of cases cited by Prof. Van Alstyne, on pages 134 and 135 it appears that despite clear indications from various civil rights acts, Supreme Court decisions, and companion cases in the neighboring district court in Florida, Judge Carswell's opinions stand, and I quote, as "severe and restrictive and subsequently reversible interpretations on a principal point of constitutional law." What makes Prof. Van Alstyne's testimony most significant is that this same person, after a similar study in the case of Judge Haynsworth, concluded on page 134 of the committee report:

> After a review of Judge Haynsworth's opinions and decisions during 12 years on the court of appeals, that the extent of the criticism then being made by others was not in fact justified. While it was not possible to review and to report on any large number of Judge Haynsworth's decisions in my filed statement, I did attempt to examine a sufficient number fairly to reflect in my statement what I believe to be of principal interest to this committee and to the Senate. On that basis, I concluded that Judge Haynsworth was an able and conscientious judge, that his decisions manifested a greater degree of judicial compassion within the allowable constraints of proper discretion than others had taken the care to acknowledge, and that even in instances where I could not personally find agreement, private or professional, with a particular result, I could, nonetheless see from the quality of the opinion that that result had been arrived at with reassuring care and reason.

Yet, unfortunately, in Mr. Carswell's case, while Mr. Van Alstyne "sought to review Judge Carswell's work in an equivalent fashion," his impressions are, and I quote, "sharply different from those I held of Judge Haynsworth, however, even without regard to additional circumstances which have made this an extraordinary case."

Mr. President, I would like to quote from the Ripon Society statistical study concerning Judge Carswell's record:

> REVERSAL ON APPEAL
>
> During the eleven years (1958–1969) in which Judge Carswell sat on the federal district court in Tallahassee, 58.8% of all of those cases where he wrote printed opinions (as reported by West) and which were appealed resulted ultimately in reversals by higher courts. By contrast in a random sample of 400 district court opinions the average rate of reversals among all federal district judges during the same time period was 20.2% of all printed opinions on appeal. In a random sample of 100 district court cases from the Fifth Circuit during the 1958–1969 time period the average rate of reversals was 24% of all printed opinions on appeal.

The report further states that Mr. Carswell's reversal rate compares unfavorably with reversal rates within his own district as well as the general reversal rate for all Federal district cases. Mr. Carswell had a rate of reversal of 11.9 percent of his printed cases compared with 6 percent for all district cases within the fifth circuit. In other words, Mr. Carswell's rate of reversal is more than twice the average for Federal district judges.

A good indicator of the scholarly value of judicial work is the number of times a particular judge's opinions are cited by brother jurists' opinions. Again Mr. Carswell, in the Ripon report, is found woefully lacking. I quote:

> CITATION BY OTHERS
>
> Carswell's 84 printed opinions while he was serving as a district court judge were cited significantly less often by all other U.S. judges than is the average for the opinions of federal district judges. Carswell's first 42 opinions during his first five years on the federal judiciary (1958–1963) have been cited an average of 1.8 times per opinion. Two hundred opinions of other district judges randomly chosen from district court cases spanning this same period have been cited an average of 3.75 times per opinion. The 42 most recent of Carswell's printed district court opinions have been cited an average of 0.77 times per opinion. Two hundred opinions of other district judges randomly chosen from cases spanning the same 1964–1969 time period have been cited an average of 1.57 times per opinion.

In the final analysis, the Ripon Society can only conclude:

> When these results are analyzed cumulatively they form a most impressive indictment of Judge Carswell's judicial competence. The incredibly high rate of reversals (59%) which Carswell has incurred on appeals in those cases in which he has written printed opinions brings into serious doubt the nominee's ability to understand and apply established law.

Mr. President, not only is there a grave question as to Mr. Carswell's legal competence but there exists strong evidence of disrespect even for the procedures of the law and of the courts.

Consider the remarks of Norman Knopf, an attorney in the Department of Justice, who was subpenaed to appear before the Judiciary Committee. Mr. Knopf was one of those persons who in the summer of 1964 volunteered to work with the Law Students Civil Rights Research Council. These students provided invaluable assistance to civil rights law enforcement. Mr. Knopf, assigned to the northern Florida region to assist the Lawyers Constitutional Defense Committee in that area, possesses first-hand knowledge, based on actual court-room experience, of Mr. Carswell's deportment in the critical area of individual rights. On page 177 of the hearings, Mr. Knopf testified:

> It is relatively clear in my mind. I remember this. This was my first courtroom experience, really, out of law school, and I remember quite clearly Judge Carswell. He didn't talk to me directly. He addressed himself to the lawyer, of course, Mr. Lowenthal,

> who explained what the habeas corpus writ was about, and I can only say that there was extreme hostility between the judge and Mr. Lowenthal. Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on and he was especially critical of Mr. Lowenthal. In fact he lectured him for a long time in a high voice that made me start thinking I was glad I filed a bond for protection in case I got thrown in jail. I really thought we were all going to be held in contempt of court. It was a very long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people against—rather just arousing the local people, and he in effect didn't want any part of this, and he made it quite clear that he was going to deny all relief that we requested. At that point, Mr. Lowenthal argued that the judge had no choice but to grant habeas as the statute made it mandatory.

Additional testimony given before the Judiciary Committee evidence a disposition of hostility on Mr. Carswell's part based on issues—in this case civil rights advocates rather than bad courtroom performances.

This view is bolstered by the sworn testimony of Mr. Leroy D. Clark, associate professor at the New York University Law School, who from 1962 to 1968 was staff counsel to the NAACP legal defense fund in charge of the entire civil rights litigation in the State of Florida. Mr. Clark's credentials are unique. On page 221 of the committee hearings he states:

> There is not a lawyer in the country today who has appeared before Judge Carswell on more cases with specific reference to civil rights matters, and indeed on each occasion on which I appeared before Judge Carswell, it was in connection with a civil rights case.

What was Mr. Clark's experience before Mr. Carswell? In his own words—page 227 of the committee hearings:

> Let me talk a bit about his demeanor with respect to lawyers. And I say that with this caveat: I believe that the documentation as to his judicial performance is much more important than his demeanor with respect to myself and other civil rights attorneys. Judge Carswell was insulting and hostile. I have been in Judge Carswell's court on at least one occasion in which he turned his chair away from me when I was arguing. I have said for publication, and I repeat it here, that it is not, it was not an infrequent experience for Judge Carswell to deliberately disrupt your argument and cut across you, while according, by the way, to opposing counsel every courtesy possible.
>
> It was not unusual for Judge Carswell to shout at a black lawyer who appeared before him using a civil tone to opposing counsel. But I mention those as asides, really, and I don't think them important, because I am sophisticated enough, and other lawyers, black lawyers who appeared before him, were sophisticated enough to sustain that kind of personal insult.
>
> What I am concerned about is whether it indicates that Judge Carswell is not only a political segregationist but is a personal segregationist, because that will have a great deal to do with whether or not this man can change when he is in a different environment.

Regrettably, Mr. Clark's testimony was substantiated and amplified by the sworn testimony of two additional committee witnesses. Mr. Ernest H. Rosenberger, a volunteer lawyer for the Lawyers Constitutional Defense Committee of the American Civil Liberties Union in northern Florida during the summer of 1964, was counsel for nine clergymen who were arrested when they attempted to integrate a Tallahassee airport restaurant in 1961. On page 156, Mr. Rosenberger notes that Mr. Carswell's reputation in the area of civil rights was "bad sir." He stated further:

> The filing fee is one example of obstruction without reason in a civil-rights situation. Another thing is a matter of applying for a writ of habeus corpus in that district, in that you had to use specific forms issued by the court. You could not just draw an application for a writ of habeas corpus. You had to use specific forms of that court for that purpose. His reputation was one of obstruction in civil-rights litigation.

Mr. John Lowenthal, professor of law at Rutgers University, another attorney who had first-hand experience before Judge Carswell in 1964, states on pages 141 and 142:

> He expressed dislike at northern lawyers such as myself appearing in Florida, because we were not members of the Florida bar. I might add here that we could not find local lawyers willing to represent the voter registration people in Florida. It was either northern lawyers or no lawyers.

Mr. President, the testimony of all these individuals adds up to only one conclusion, that Judge Carswell, all too often, has given too much weight to his own personal views and not enough to the law itself.

The third standard is, I think, the most important—that referred to by Justice Hand, Justice Frankfurter, and also by de Tocqueville, the question of whether the nominee possesses the kind of broad historical and philosophical knowledge that a man should carry to the Supreme Court of this country.

Little is known of Judge Carswell's views on economics or theology or politics or social change. The only one clear statement by him is the speech of 1948 in which he said, "I yield to no man as a fellow candidate."

If he had just stopped short and said, "as a fellow candidate," one might have a little different view of him. But he added, "or as a fellow citizen."

One does not know what the conditions were in that State. It might have allowed a limited kind of judgment in view of the politics in that State in 1948.

But he did not stop at saying, "I yield to no candidate as a fellow candidate or as a fellow citizen."

He said:

> I yield to no man, as a fellow candidate or as a fellow citizen, in the firm, vigorous belief in the principles of White Supremacy, and I shall always be so governed.

This was said in 1948 when Mr. Carswell was 29 years old. The judge says he no longer holds these views. A man can change. Living proof surrounds us as former White House and administration officials under President Johnson, who supported the Vietnam war for years, are being quoted as saying nowadays that the war in Southeast Asia is at least inadvisable. Conversions of such kind ought to encourage others.

There is too much evidence, I think, cumulated since 1948 down to very recent times that Judge Carswell still holds the rather deep philosophical views expressed in 1948 and that his pragmatic and practical position is consistent with the views which he says he has rejected.

In Mr. Carswell's case, time and his decisions have not indicated that he has altered his basic position. Some say, "What about Hugo Black? Was not Hugo Black a member of the Ku Klux Klan?" The fact is that Hugo Black, as Professor Van Alstyne indicates on pages 137 and 138 of the committee hearings:

> As county prosecutor of Bessemer County in Alabama, Hugo Black prosecuted the mayor and chief of police for extorting confessions from Negroes. That is reassuring. . . . As a U.S. Senator, he had ample opportunity to take a political position under very public circumstances on a variety of constitutional and civil liberties issues. In one case, for instance, he voted against the Smoot-Hawley tariff, a very complicated bill, and primarily on the basis that it gave a certain power to one of the customs masters to screen out certain forms of writing from the United States; that is to say, his was the first amendment objection. This matter was carefully reviewed by people of politically liberal persuasion at the time, and they did find a repeated series of reassuring events at this time, so to indicate that at the very worst than Hugo Black's affiliation with the KKK was one of convenience, given their overwhelming political control of the area, but neither by public utterance nor by private conduct nor by subsequent participation in the U.S. Senate or otherwise in public or private life was there lacking the presence of reassuring events or any presence of things more detrimental.
>
> There is, however, a different distinction as well; 1948 is not 1933. The race issue was not a major issue in 1933. The affiliation of convenience may not speak particularly well of a man, but this was by no means so serious a matter in 1933 as in 1948. In 1948 civil rights legislation was before Congress. This was in the context of all the political controversy. The President had just desegregated the military in which Mr. Carswell himself had been matured in part. The Nation had just then read President Truman's special report "To Secure These Rights." The issue was now central, the occasion to reflect was far better provided than in 1933.

It was late, in 1948, to hold the views expressed then by Judge Carswell. A campaign is a good time in which to discover what a man thinks and what he is prepared to do or say in order to win an election. What he does or says in a campaign is a good basis to judge his qualifications for other offices.

It was largely on the basis of this that I voted against the confirmation of Mr. Burger to be Chief Justice of the United States. It is an indication of how a man is likely to act when he is under pressure to make judgments. Judge Carswell does not stand the test of special legal competence as a candidate and as a judge. It raises most serious question and is a most important consideration of his judgment on history and philosophy. His conception of the role of a justice of the Supreme Court falls far short of any standard which the Senate should accept.

The suggestion that he be put on the Court to balance the Court indicates that there might be a policy of reversing the trend that has developed over the last approximately 20 years toward the cause of civil rights and securing rights for the people of this country and that we are moving backward, even beyond Plessy against Ferguson, a decision made in the 1890's when it was decided that the period of reconstruction was to be ended.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. BAYH. Mr. President, before the Senator goes back as far as the 1890's, I have noticed, with a great deal of interest, his assessment that this nomination tends to be a retreat from the positive direction in which we have been heading for years long past in the history of this country.

The Senator observed a moment ago that he thought 1948 was a little too late to make a statement like the one Judge Carswell had made that year.

I thought it might be appropriate to note also that 1948 was the year that President Truman won the nomination at the Democratic Convention. As the Senator from Minnesota well knows, there was quite a confrontation at that convention and there was a major decision made to push for a major civil rights plank in the Democratic Party.

It seems to me that we were then moving forward in that area. Yet, that was the time, during that very campaign, that Judge Carswell made his unfortunate statement.

Mr. McCARTHY. It was a year of truth, I think. He went beyond saying, "as a candidate." He said that "as a citizen" he held that position of white supremacy. It was too late and it was the wrong year in which to take that position.

In my opinion, the nominee fails on the most important point in the de Tocqueville list of qualifications.

The indications and the suggestion that this may be something comparable to the end of the period of reconstruction raises another question with reference to the whole Federal judiciary. The judiciary is certainly more than a supreme court.

Most presidential nominations for appointments to the Federal judiciary are approved without significant debate or serious controversy. Of the 421 circuit and district court nominations presented from the beginning of the Truman administration in April 1945 to the end of the Kennedy administration in November 1963, only a few proved to be controversial. Only four—all Truman nominees in 1950 and 1951—were rejected by voice votes on the Senate floor after having been reported unfavorably by the Senate Judiciary Committee.

In the 89th Congress, however, presidential nominations received searching attention: one was the nomination to the Fifth Circuit Court of Appeals, and the other the nomination to the District Court of Massachusetts.

Professional competence, reputation, personal history were, of course, considered in these nominations, but there was, in my opinion, a deeper consideration: whether the Federal judiciary should remain a regional or a State system or become a truly national judiciary.

The appointment of James P. Coleman to the Fifth Circuit Court of Appeals clearly raised the civil rights issue. Had James Coleman been nominated during the Truman or Eisenhower administrations, or perhaps even during the years when John F. Kennedy was President, it is likely that he would have been approved with scarcely a murmur of protest in the Senate.

Coleman was qualified as a lawyer. He had proved himself as a circuit judge and as a supreme court justice in his own State. His record as a Governor and in other State offices was such that he would have met the standards for appointment to the circuit for which he was nominated.

But when in 1965, his name was sent to the Senate by President Johnson, his views, as well as his record and his qualifications, were subject to most thorough examination. The reason is clear. Civil rights has become a truly national issue and to assure the carrying out of national policy under the Civil Rights Act, the law, it is recognized, must be applied uniformly in all of the courts of the country.

The courts of this land must administer the law more or less on a regional basis. We are still inclined to accept a kind of regionalized system of justice in this country. I suggest that because we have made such progress in improving justice at the Supreme Court level that it would be a serious step backward if the Supreme Court were to become a regional court. The district courts reflect regional differences largely because of appointments in the past but also in some cases, recent appointments. The circuit courts generally have reached the point where on appeal uniform justice is applied on uniform standards from one part of the country to the other. But to establish a regional division in the Supreme Court might not cause chaos, I would say, but undoubtedly it would cause great confusion.

Mr. President, I now wish to speak on one or two other matters which I think are related to the matter we have before us. One of these matters is the suggestion made by the Senator from Maryland (Mr. MATHIAS) in his individual views on page 12 of the committee report, where he stated:

> It is a political principle that was hard won by courageous men in England and preserved by brave men in America. The freedom of a judge to determine a case on its merits, subject only to other judges opinions on appeal, and not to suffer any retribution from any external authority . . . .

The suggestion is that somehow or other the action by the Senate is a review of a judicial finding or determination. The Senate is not reviewing previous decisions by Judge Carswell but passing a necessary judgment as to whether he is qualified to be on the Supreme Court. In doing so, we are exercising our constitutional responsibility to confirm or to deny to confirm a presidential nominee to the Supreme Court. To suggest that the Senate's role in this instance is that of a court above the Supreme Court or as endangering the freedom of judicial action is not only to misconceive the Senate's role in making judicial appointments but also to ignore the entire history of judicial appointments under the Constitution of the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD certain remarks made by Alexander Hamilton on this matter in Federalist Papers Nos. 76 and 77.

The PRESIDING OFFICER (Mr. COOK). Without objection, it is so ordered.

The material, ordered to be printed in the RECORD, is as follows:

Federalist Papers No. 76

To what purpose then require the cooperation of the Senate? I answer that the necessity of their concurrence would have a powerful, though in general a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to preventing the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. And, in addition to this, it would be an efficacious source of stability in the administration.

Federalist Papers No. 77

Let us take a view of the converse of the proposition—"The senate would influence the executive." As I have had occasion to remark in several other instances, the indistinctness of the objection forbids a precise answer. In what manner is this influence to be exerted? In relation to what objects? The power of influencing a person, in the sense in which it is here used, must imply a power of conferring a benefit upon him. How could the senate confer a benefit upon the president by the manner of employing their right of negative upon his nominations? If it be said they might sometimes gratify him by an acquiescence in a favorite choice, when public motives might dictate a different conduct; I answer that the instances in which the president could be personally interested in the result, would be too few to admit of his being materially affected by the compliances of the senate. The power which can originate the disposition of honors and emoluments, is more likely to attract than to be attracted by the power which can merely obstruct their course, if by influencing the president be meant restraining him, this is precisely what must have been intended. And it has been shewn that the restraint would be salutary, at the same time that it would not be such as to destroy a single advantage to be looked for from the uncontrouled agency of that magistrate. The right of nomination would produce all the good of that of appointment and would in a great measure avoid its ills.

Mr. McCARTHY. Mr. President, Leo Pfeffer, in his history of the Supreme Court entitled "This Honorable Court," accurately summarizes this history:

> The organizational integrity of the Court has not been touched by any act of Congress nor by any Constitutional amendment. No member of the Court has ever been removed from it other than by death, voluntary resignation or retirement. [p. 18]

This unique and integral status of the Court, so necessary to the maintenance of the vitality of the Government, is, therefore, not the result of carefully

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drawn procedures. Rather, the Supreme Court has proved itself on the basis of the quality of individuals serving on its bench. What the framers of the Constitution did not anticipate or not provide, the individual justices through their actions have molded a necessary and singular institution of justice without parallel in any other government. The Supreme Court has not evolved into a department of intrigue as feared by some of the men gathered in 1787. Rather, it has become the foremost and at times the only protector of individual rights, the innovator of social change.

Two examples in recent times that I would cite would be civil rights actions and the one-man, one-vote principle. The court acted only when social pressure was so great that action had to be taken and only after it was satisfied a reasonable length of time had passed for Congress and the executive branch to initiate action.

Benjamin Franklin, on June 5, 1787, acquainted the delegates to the Constitutional Convention with a mode of selection practiced in Scotland. He related:

> A Scotch mode in which the nomination proceeded from the Lawyers, who always selected the ablest of the profession in order to get rid of him and share his practise among themselves. It was here, he [Franklin] said, the interest of the electors to make the best choice, which should always be made the case if possible. [Madison. p. 68]

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Lincoln in 1864, when called upon to replace Roger Taney, stated what he considered acceptable criteria for determining an individual's capacity to sit on the Court:

> We cannot ask a man what he will do, and if we should, and he should answer us, we should despise him for it. Therefore, we must take a man whose opinions are known. [*This Honorable Court* by Leo Pfeffer. p. 165]

The standards we are applying to Judge Carswell are not unreasonable. It is said that Mr. Justice Taft envisioned heaven as a great court inhabited exclusively by angelic judges. Mr. Pfeffer, in his book cited earlier in my remarks, states:

> Taft was thus the only mortal known to history who attained not only heaven but the heaven of heavens for he presided over this angelic court—ten years before his death. [p. 269]

I cite these examples of Benjamin Franklin, Abraham Lincoln, and Chief Justice Taft as three persons who have contributed a measure toward building the Court into the kind of reliable and trustworthy and important institution it has become.

Each Member of this body ought to consider the foregoing observations in making his decision. Each Member of this body ought to realize in making his decision that it has fallen to the men of the Supreme Court, to define and protect the Court's function and relevance to the national welfare. The triumph of Mr. Justice Marshall is evident. The Supreme Court has become an institution capable of withstanding the shifts of popular passions and has helped to shape the patterns of the Nation. In the words of Mr. Pfeffer:

> Paradoxically, the institution least democratic in its structure—consisting of nine men serving for life and responsible to no one—has become the institution most committed to and effective in the promotion and preservation of democracy. [p. 425]

Mr. President, all of this, it seems to me, adds up to a rather strong case against the confirmation of Judge Carswell.

Mr. President, I would now make four or five observations on some incidental arguments which have been raised in support of the Carswell nomination.

The Senator from Nebraska has said that if Judge Carswell had had no trial experience, the argument would have been made that he should not have been appointed. I would suspect that someone would make the point, but it would not be a very telling argument. It could not have been made seriously, because there is a history of men who went on the Court without trial experience who turned out very well. I would rather see a Justice depend on his clerks for legal and technical advice than depend on his clerks for philosophy or knowledge of history or wisdom.

The Senator from Nebraska said that, because he was a trial judge, he did not have time to indulge in niceties of scholarship. I would not fault him for what he said. I think his case must be judged on the basis of what he has said and what he has done.

The Senator from Nebraska has suggested in that same argument that a trial judge is very good because he learns to read between the lines, where a vital part of the record is contained. This may be true. I do not know how important it is for a Supreme Court Justice to read between the lines. It might come to that if one is satisfied he has read what is written, if he had read the lines right in the first instance, and then judge him as to how well he reads between the lines. But when one cannot come to a positive, affirmative judgment on the basis of what was written or what was said, I do not think anyone should be moved to take action on the basis of what a prospective Justice may have read or seen somewhere between the lines.

It may be well to point out again that the term of office of a Justice of the Supreme Court goes far beyond the term of a President, which may be 4 years, and a maximum of 8 years. The Senate has the responsibility not to be moved by any special appeal which says we should confirm this nomination because a President of the United States has asked us to do so, that somehow he has the right to do so, or the argument that those who know the judge intimately are for him, and we ought to respond to their urging. If that is so, one would have to ask how intimately the President of the United States has known Judge Carswell, or what is his experience with him. Over how long a period of time did he know him? On what basis of the association did the President of the United States, Mr. Nixon, decide that Judge Carswell should be nominated for the Supreme Court?

So considering all of these factors, the legal record itself, his handling of his own court, and what I consider more important, the fundamental and basic expressions concerning the nature of the Court, the general question is whether or not Mr. Carswell possesses the breadth of knowledge and wisdom, a sense of what the function of the Supreme Court is, an awareness of that great tradition.

I would not want to say that he is disqualified totally on any one or more of these counts, but that, taken together, the Senate should not confirm the nomination of Judge Carswell to be a Justice of the U.S. Supreme Court.

Mr. HRUSKA. Mr. President, earlier this month a substantial quantity of mail, postcards, and letters were delivered to my Washington office. They appeared to be quite identical in their appearance as well as their substance, and also they were identical in another respect: none of them had a return address, although they were signed.

My staff made a diligent search in the city directory and the telephone book of Omaha to ascertain whether they could identify any of the senders of these letters, but they were unsuccessful.

Some days ago, a representative of the Chief Inspector of the Post Office visited my office and those of 20 other Senators and some 11 Representatives. This visit explains the bulk of the mail urging the defeat of Judge Carswell's nomination.

The inspector's purpose in calling at my office was to deliver several pieces of mail which came into the possession of the postal service as a result of incorrect addressing. Perhaps I should explain that when the Post Office receives undeliverable mail—that is, where the address is undecipherable or found to be incorrect, the envelope or parcel is treated as "dead mail" and forwarded to a special office. There the envelope or parcel is opened to see if it is possible to identify the intended recipient, or the sender, and get the material into the hands of the proper persons.

Toward the end of February, several parcels of dead mail came into the possession of the postal authorities. They were addressed to such organizations as "MPLA Publications, African Support Committee," the "Southern Patriot," and to named individuals. Some of the parcels were mailed from Oakland, Calif., on February 20, and some from San Jose, Calif., on February 18. Others had no identifying postmark. None of them had return addresses. They were found in several States far removed from California.

When the parcels were opened, it was discovered that they contained postcards and letters addressed to Senators and Members of Congress, urging that the nomination of Judge Carswell be defeated. They also contained an unsigned letter of explanation from what is described as ". . . a group of concerned citizens in California." I will discuss this unsigned letter in a few moments. I am informed that at last count, there were 586 pieces of mail of this description, delivered on Tuesday, March 3, and Wednesday, March 4.

In addition to those pieces of mail delivered by the Chief Inspector's office, I have received a flood of letters and postcards bearing Omaha, Nebr., postmarks. Some of these letters and postcards simply urge me to oppose Judge Carswell's nomination, while others are insulting and some border on the abusive.

Mr. HOLLAND. Mr. President, will the Senator from Nebraska yield? I ask the Senator to yield to me because I have probably 10 minutes of remarks on the same subject as those just made by the Senator from South Carolina. I ask the Senator if he will yield to me at a convenient time.

Mr. HRUSKA. Mr. President, I have a brief statement to conclude, and when I complete it I will be happy to yield to the Senator from Florida.

Not a one of them carries a return address.

Quite obviously, these letters were bulk mailed from some other point—perhaps from California, although there is no way of confirming that—for remailing in Omaha. Quite obviously, the purpose of all this was to create a false opinion that a great many people in Omaha objected to Judge Carswell's nomination.

The nomination of Judge Carswell has stimulated a great deal of debate, not only in the Senate, which has the constitutional responsibility to advise and consent in the matter, but also in the public press. There is, of course, nothing wrong at all with public exploration and consideration of the matter. In our open society we encourage the widespread discussion of important issues. I believe all my colleagues will join me in stating that we find it important to look and listen to what our people and the press are saying. Sometimes we agree and sometimes we disagree, but we must always listen.

For this reason, we want to make sure that what we are listening to is actually the voice we think it is. I certainly want to know what the people in Omaha are thinking about, not only on the matter of nominating associate justices to the Supreme Court, but on all other issues as well. It is important to me what they are thinking; they elected me to sit here and represent them. I am responsible to them. I must go before them every 6 years and demonstrate that I reflect their wishes and their views.

But the postcards and letters urging me to reject Judge Carswell's nomination to the Supreme Court were not the voices of Nebraskans even though someone went to considerable trouble and some expense to make me think that they were.

Now, I do not mind getting letters from Californians. I confess that they do not receive the same prompt attention in my office that letters from Nebraskans do, but that does not mean that I do not have affection for them, or that I do not value their opinion. Certainly, the distinguished Senators from California will understand and forgive me for the preferred treatment I give to Nebraskans.

However, I should think that if someone in California—or anywhere else—wanted to write to me, he would have the courage and common decency to properly identify himself. I should think that anyone with honest and honorable intentions would have no reason to try to conceal his address or what State he lives in.

Mr. President, a little earlier in these remarks I mentioned that the Post Office Department had found among the cards and letters addressed to Senators and Representatives, a letter of explanation and instruction. I would like to quote from that letter at this time. Please note that it does not carry any signature or return address. There is no way to determine who wrote it, who mailed it, or what his motives might have been.

The letter starts out with "Dear Friend." No name or address, just "Dear Friend." Now, that is a curious way to start a letter to a friend, and it is even more curious that a letter to a friend would not be signed.

Here is the text of the letter, Mr. President:

> DEAR FRIEND: We are a group of concerned citizens in California. We feel that your organization would be interested in keeping the fires of democracy alive in our nation while we still have time.
>
> There are many issues of great importance being deliberated at this moment. The Haynsworth nomination was such an issue and we felt that the people of this nation should be represented on the highest court with objectivity and reason by a man whose personal life as well as public life was beyond reproach. We made our voices heard on this matter. As you know Haynsworth was defeated.
>
> Every letter that is written to a congressman represents over 600 people as it is unusual for people to write unless it is a subject which concerns them personally.
>
> We write to our California congressmen and representatives on every issue that protects human and civil rights, but we would like to write Senators and Representatives in other states. As you know a letter from a Senator's own constituent carries more weight. Would you be willing to mail these letters in your state?
>
> We have checked with our legal staff who report that there is no legal restriction on the mailing of letters.
>
> If you have any questions on the content of the letters you are welcome to open them. We oppose war and the oppression of any minority on every issue.
>
> We want to see social change which will create a more just society.
>
> Please mail these and help maintain the freedom of all in the Nation. Thank you so much.

Note, Mr. President, that the second paragraph starts out with a statement that "There are many issues of great importance being deliberated at this moment," and then recalls the Haynsworth nomination. The letter goes on to say that "We made our voices heard on this matter. As you know, Haynsworth was defeated."

Whose voices? Mr. President, whose voices? Whoever the unknown authors of this letter might be, they appear to believe that they were influential in the rejection of Judge Haynsworth. How did they go about this? In the same way that they are trying to influence the nomination of Judge Carswell? By underhanded, cowardly methods calculated to deceive? By convincing those in positions of responsibility of a supposed public attitude which, in fact, was created out of whole cloth?

The unsigned letter continues—and I quote in part from the fourth paragraph:

> We write to our California Congressmen and Representatives on every issue. . . . but we would like to write Senators and Representatives in other states. As you know a letter from a Senator's constituents carries more weight. Would you be willing to mail these letters in your state?"

So there it is. A clear invitation to duplicity. A blatant attempt to create a false impression of support for opposition to Judge Carswell's nomination.

One of the last remarks in the letter is especially interesting. It says that, "We want to see social change which will create a more just society."

I assume that means they reject the society that we now have—a society founded and preserved on a government of laws; a society which indulges behavior even of those who would destroy it, because that is the price of democracy.

Mr. President, as a result of this experience, I have had an exchange of correspondence with the Post Office Department. I would like at this time to read the letter which is dated March 16 from the office of the Chief Postal Inspector here in Washington, D.C. It is addressed to me, and says:

> DEAR SENATOR HRUSKA: The Postmaster General has asked me to respond to your inquiry concerning the mass mailing of post cards and letters which advocate a particular course of action by the Senate on the nomination of Judge G. Harrold Carswell as Associate Justice of the United States Supreme Court.
>
> We do not have a definite explanation for this type of mail recently received by you with the postmark of the Omaha, Nebraska post office under dates of March 2 and March 7.
>
> There has come to our attention a series of similar mailings originating in California sent in individual parcel post packages to organizations in North Carolina, Tennessee, and Washington with the request that the receiving organization individually mail "these letters in your State". . . . "As you know a letter from a Senator's own constituent carries more weight."
>
> The packages from California contained no name or return address of the initiating "group of concerned citizens in California." They came to our attention because they were not delivered as addressed and they were treated as dead mail. Following such treatment, the individual cards and letters were delivered to the addressed members of Congress with appropriate explanations.
>
> We are making inquiry in an effort to identify the California source, but have negligible investigative leads at this point and, as you indicate, it appears rather questionable that a violation of the Mail Fraud Statute can be established.
>
> Sincerely,
>
> W. J. COTTER,
> *Chief Inspector.*

IN RE CARSWELL MAILINGS

The Carswell material discovered in Seattle was addressed to MPLA Publications, African Support Committee, 11 West Cremona, Seattle, Washington 98119. There was no originating postmark.

The Tennessee mailings were addressed to Southern Patriot, 3210 West Broadway, Nashville, Tennessee with originating postmark of Oakland, California on February 20.

The North Carolina mailings (2) were addressed to Mr. Bob Friedman, P. O. Box 10, Carbarro, North Carolina, with originating.

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postmark of San Jose, California on February 18.

A total of 586 individual pieces involved in the mailings which have thus far come to our notice. The following Senators and Representatives are included among the addressees.

SENATORS

Jackson
Magnuson
Bayh
Burdick
Byrd
Cook
Dodd
Ervin
Eastland
Hart
Hruska
Jordan
Kennedy
Fong
Baker
Gore
Mathias
McClellan
Scott
Thurmond
Tydings

REPRESENTATIVES

Brown, George E. Jr.
Fountain
Galifianakis
Henderson
Jones, Walter B.
Taylor
Preyer
Jonas, Charles R.
Mizell
Lennon
Ruth

The mail was delivered to the named members of Congress on March 3 and 4.

That is the conclusion of the memorandum.

Mr. President, to make the record complete, the States to which these mailings were made to the Senators and Representatives are the following: Washington, Indiana, North Dakota, Kentucky, Connecticut, North Carolina, Mississippi, Michigan, Nebraska, Massachusetts, Hawaii, Tennessee, Maryland, Pennsylvania, and South Carolina.

I want to say again that people who use the mails in this fashion presumably have a right to do so. There very likely are no violations of the law. They have the right to use the mail this way if they wish. But those receiving the mail a right to know where it comes from and by what methods such mail finds its way into hands of the addressee, particularly when those receiving it are public officials trying to perform a duty. It would mean more if there were a constituent's name or if it were truly an anonymous source. Most of us would like to know who the witnesses are who appear before us, who the people are who communicate with us, and what their interests and motivations are. Who is paying the bill? Why the deceit in the method of mailing?

Is it really a groundswell or an indication of a groundswell of public opinion or is it a sham?

Note the words in the letter:

> We write to our California Congressmen and Representatives on every issue that protects human and civil rights.

Then they branch out into the business of such mailings to other States.

I do not know what other Senators have in mind or what their thoughts are on the subject. I do know that there was delivered to my office a total of 250 or 300 such letters. I brought some of the samples to my desk here. There are post cards. Those that are not postmarked from my home city of Omaha, Nebr., are blank, because those were the ones brought us by the postal inspector.

The letters are pretty much on a uniform type of paper. Some of it is lined and some of it is plain. But nowhere in all these letters or on any of these postcards is there any name. Patently, it is an effort to try to create the impression of a groundswell when none actually exists.

I ask unanimous consent to have printed at this point in the RECORD an article published in the Columbus Dispatch of March 16, 1970, at page 3A of that paper. It is headlined as follows: "Postal Inspectors Discover Scheme To Dupe Solons; Carswell Foes Send Phony Mail."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POSTAL INSPECTORS DISCOVER SCHEME TO DUPE SOLONS: CARSWELL FOES SEND PHONY MAIL

(By George Embrey)

WASHINGTON.—Opponents of Judge G. Harrold Carswell's Senate confirmation to the U.S. Supreme Court engaged in a phony national mail campaign. The Dispatch learned Monday.

Post Office Department sources reported postal inspectors came upon shipments of hundreds of stamped post cards and letters addressed to U.S. senators which were to have been mailed from North Carolina and Washington state.

The parcel post packages had been undeliverable and carried no return addresses. They were opened under postal regulations which require a search to try to obtain the identity of the sender for return.

The inspectors found some 250 letters and cards with messages opposed to Carswell which obviously were to give the impression they were mailed from the senators' home states.

The cards and letters in the two parcels sent to the wrong addresses in North Carolina and Washington were to have been mailed to U.S. Sen. Sam J. Ervin Jr. D-N.C., B. Everett Jordan, D-N.C., Warren G. Magnuson, D-Wash., and Henry M. Jackson, D-Wash.

Discovery of the packages of mail sent to wrong addresses indicated to Washington observers that a major phony mail campaign was under way against Carswell.

A mimeographed covering letter was found in each of the two packages, both of which had been mailed from points in California.

The covering letter said at one point: "Every letter that is written to a congressman represents over 600 people as it is unusual for people to write unless it is a subject which concerns them personally."

The covering letter also observed that "our legal staff reported that there is no legal restriction on the mailing of letters."

The Post Office Department said it is required by law to deliver such material and will do so. However, postal inspectors are to accompany the mail to the four senators and explain they originated in California and not in their home states.

Mr. HRUSKA. I yield to the junior Senator from Florida for a unanimous-consent request, with the usual stipulation.

Mr. HOLLAND. I appreciate the Senator yielding to me.

Mr. President, I did not receive letters of the type mentioned by the distinguished Senator from Nebraska, but I did receive complaints from my State about this whole series of deceptive mailings.

The article which caused the furore—and it was that—in my State, as can well be understood, appeared in the Tallahassee Democrat on Monday of this week, March 16, entitled "Mail Plan Uncovered." I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

MAIL PLAN UNCOVERED

A scheme to flood U.S. Senators with phony anti-Carswell postcards and letters from their home states has come to light in North Carolina but could well be protected over the nation by "privacy of the seal," Tallahassee Postmaster Peyton Yon said today.

Postal officials have discovered at least three packages of stamped letters and postcards addressed to senators. The packages were prepared in California and mailed to persons in various states with the apparent object of having them mailed from "home states" to senators, giving them the impression the messages in opposition to the nomination of Judge G. Harrold Carswell to the Supreme Court came from their own constituents.

Two packages sent to an individual in North Carolina were opened by postal inspectors who could not locate the addressee. The packages carried no return address and were opened by the inspectors seeking identity of the sender so they could be returned.

The packages contained some 250 stamped postcards and letters, almost all of them addressed to Sen. Sam Ervin and Sen. Everett Jordan of North Carolina.

Postmaster Yon said first class, deliverable mail would never be opened by postal officials and that only if a package were torn open by accident in transit would its contents come to light.

Mr. HOLLAND. Several paragraphs in that article are well worthy of reading into the RECORD:

> A scheme to flood U.S. Senators with phony anti-Carswell postcards and letters from their home states has come to light in North Carolina but could well be protected over the nation by "privacy of the seal," Tallahassee Postmaster Peyton Yon said today.
>
> Postal officials have discovered at least three packages of stamped letters and postcards addressed to senators. The packages were prepared in California and mailed to persons in various states with the apparent object of having them mailed from "home states" to senators, giving them the impression the messages in opposition to the nomination of Judge G. Harrold Carswell to the Supreme Court came from their own constituents.
>
> Two packages sent to an individual in North Carolina were opened by postal inspectors who could not locate the addressee. The packages carried no return address and were opened by the inspectors seeking identity of the sender so they could be returned.
>
> The packages contained some 250 stamped postcards and letters, almost all of them addressed to Sen. Sam Ervin and Sen. Everett Jordan of North Carolina.

Mr. President, when I first heard this, which was on Tuesday morning, through a telephone call from a longstanding friend of mine in Tallahassee, I immediately contacted the Department of Justice, having been told that one of the Assistant Attorneys General, Mr. Rehnquist, was handling this matter for the Department of Justice. I told him of the report which had come to me and asked him if he would check this matter with the Post Office Department and advise me as to what he discovered.

Later I checked with the offices of the two North Carolina Senators, and I shall report on that later in this brief summary of my findings.

Yesterday, or the day before, I received from Assistant Attorney General William

H. Rehnquist, the gentleman whom I had contacted, a brief personal note which I shall not include in the RECORD—it is a simple note of transmittal—and a copy of the letter from Mr. W. J. Cotter, Chief Inspector, to Senator HRUSKA, which the latter has already placed in the RECORD, and a copy of the letter which was contained in the packages, which I shall mention later and which Senator HRUSKA has already placed in the RECORD. It begins "Dear Friend" and ends with these words, in capitals:

> Please mail these and help maintain the freedom of all in the Nation. Thank you so much.

It is unsigned.

The communication to me also contained a letter from the Post Office Department to Mr. William E. Timmons at the White House. I take it that all of this is for the information of the Senate so I think this should be included in the RECORD.

I read it into the RECORD:

> Postal inspectors have alerted me to a considerable mail campaign designed to damage the Senate confirmation of Judge Carswell.
>
> Two packages, undeliverable and without return address, have been opened by postal inspectors in order to determine any contents that might indicate the identity of the sender for return. The envelopes contained some 250 stamped postcards and letters addressed to the United States Senators. Almost all of these are addressed to Senators Ervin and Jordan of North Carolina.

Obviously this letter to Mr. Timmons from the Post Office Department, Mr. Paul N. Carlin, the signing official, related to the North Carolina issue in particular.

Continuing to read:

> Also enclosed is a "ditto" copy of a covering letter urging the recipient to remail the letters.

That is the letter read into the RECORD by the Senator from Nebraska which was contained in the packages not delivered and the letter was found when the packages were opened by the Post Office inspectors.

These parcel post packages originated in California. One is postmarked San Jose, undelivered to an individual in North Carolina whose name was Bob Freidman, and his address is stated as Carrboro, N.C., which is a suburb of Chapel Hill where the University of North Carolina is located.

I am told that the fact is this package could not be delivered because they could not find the addressee Mr. Freidman, and that was the reason for calling in the Post Office inspectors.

Continuing to read:

> These parcel post packages originated from California (one is postmarked San Jose) and are directed to an individual in North Carolina. The object, obviously, is to have these California postcards and letters mailed in North Carolina to the Senators from that state, giving them the impression that these messages are from their own constituents.
>
> A similar package from California to Washington state, undeliverable at the address specified, also has been opened by postal inspectors and contains similar postcards and letters addressed to Senators Magnuson and Jackson in opposition to the confirmation of Judge Carswell.
>
> The packages addressed to North Carolina and to Washington state to wrong addresses indicates a major mail campaign, using this misleading tactic to erroneously indicate greater opposition to Judge Carswell's nomination. The POD is required by law to deliver such material, and we are doing so. Postal inspectors will personally visit the offices of Senators to whom these letters and cards are addressed and explain to them that they originate in Calif. and not in their own states.
>
> Enclosed is a copy of the covering letter.

I repeat that part of the covering letter because it seems to me to be particularly significant:

> We write to our California congressmen and representatives on every issue that protects human and civil rights, but we would like to write Senators and Representatives in other states. As you know a letter from a Senator's own constituent carries more weight. Would you be willing to mail these letters in your state?
>
> We have checked with our legal staff who report that there is no legal restriction on the mailing of letters.

Mr. President, I, too, have been advised that there are no legal restrictions on this kind of tactic, which is certainly completely reprehensible.

I immediately called Senator ERVIN and he told me that he was working on something else, but that he had a great mass of cards and letters which had been personally delivered by a Post Office inspector who gave him the facts as stated in the letters which have been placed in the RECORD. He stated to me that all of the letters were sealed and stamped and were addressed to him, but were not canceled, and that he had not had a chance to go into them personally, although one of the employees in his office, Hall Smith, had gone into some of them, and he would send Mr. Smith around to my office with those which had not been opened.

Mr. Smith brought around to my office 51 unopened letters, all of which were addressed to Senator ERVIN, and 92 cards. Mr. Smith told me that he felt sure the others which had been opened already would equal 20 or 30 to add to that number.

We are talking solely about the number of letters and cards in the North Carolina package which were addressed to Senator ERVIN.

There was another group addressed to Senator JORDAN, but I am not able to make a report on that because I have not been able to contact Senator JORDAN today.

I have, however, along with Mr. Smith, personally opened, at the suggestion of Senator ERVIN, the letters which had not been opened, all of which were stamped and sealed and had been delivered to him by the Post Office inspectors.

I think it might be well to state that some of them are respectful and some of them are not. They were intended, as is clearly shown, to be mailed to Senator ERVIN from his home State over postal cancellations from certain places in his State. They had been included in one of the two packages sent to this little post office in Carrboro, just outside of Chapel Hill, addressed to one Bob Freidman, who could not be found.

Mr. President, the first of these letters which I opened at the suggestion of Senator ERVIN, reads as follows:

> Senator SAM ERVIN, JR.: I am asking you to vote against Carswell he is no good for the poor we need man with issure—

I do not know what that word "issure" means—

> to our country good not made pigs of the people.
>
> Sincerely,
>
> MITCHELL RICHARDSON.

Mr. President, that is one of the letters which I opened and which I now offer for the RECORD.

The second of the letters which I opened is a little dictatorial. It is written in red ink. The other one was written in blue ink. This second letter was to Senator ERVIN, and reads:

> DEAR SIR: You must vote *no* to keep Carswell from being appointed to the Supreme Court.,
>
> Sincerely,
>
> PEARL MCGEE.

The third letter which I opened refers to Judge Carswell in a rather insulting way. Let us see what it says:

> DEAR SENATOR ERVIN: Carswell is a fool and not a judge. He is an insult to the South.
>
> ANDREW STEVENS.

The fourth one claims to be written by a citizen of North Carolina. It is one of the group of letters written in California seeking to mislead the Senator that the letters come from North Carolinians who are writing to their own Senators.

The letter reads:

> DEAR SIR: I am a patriotic American and citizen of North Carolina, in this capacity I urge you to block the nomination of a Mr. Harrold Carswell to the Supreme Court.
>
> Thank you,
>
> ROBERT SIMPSON, Sr.

Mr. President, as to whether he is a citizen of North Carolina, I have no information, but it is one of the sealed letters written in California appearing as part of the group of letters coming in the package from California addressed to Mr. Freidman at Carrboro, N.C.

The next letter to Senator ERVIN reads as follows:

> HONORABLE SIR: I as a citizen am asking you not to vote for Carswell. He is a dirty old racist. I am going to tell you, that if you vote for him I will have to put you in the same category as he is. Also you might not be a Sen. any longer if you vote for him.
>
> MR. HALL.

Mr. President, of course, none of these have any return address on them, nor are they identified in any way except that the letters are handwritten and were sealed when sent in this large package from California to Mr. Bob Freidman at Carrboro, N.C., with a covering letter asking that he make sure that they are mailed from points in North Carolina to Senator ERVIN.

Assumedly, the other group would be mailed to Senator JORDAN of North Carolina whom I have not yet had the privilege of seeing in his office.

The next letter addressed to Senator ERVIN reads as follows:

DEAR SENATOR: As a United States citizen, I demand you to make sure Harrold Carswell is not appointed to the position of Supreme Court Justice. I feel this man hasn't got the stature to hold a light post up let alone hold a job of this sort.

Thank you.

MR. MICHAEL O'HARE.

That is written quite frankly, I should say, to indicate that Michael O'Hare might be a very frank Irishman.

The next of the letters is the one that refers to fascism as one of the things that they fear in the matter of the appointment of Judge Carswell. It reads:

Senator ERVIN: If you truly represent the people of this country, you will not allow Carswell to be appointed to the Supreme Court. He is worse than you last offering, Haynsworth! What is this country coming to anyway? You will find yourself on the short end of the stick also, if you put him into office. Fascism is rapidly taking over America. The Supreme Court is our final safeguard. Are you willing to see that safeguard removed by the appointment of this prejudice man? I hope not! Do not be caught up in the tradition of Southern hate for the Negro.

That is signed:

A Concerned White Patriot—Henry Jacobs.

Again, there is no return address on the outside of the sealed envelope.

The last letter refers to Senate bill 12. I had forgotten what Senate bill 12 was. I find in asking at the document room—and I have the bill in my hand now—that bill was introduced in the Senate on January 15, 1969, by Mr. EASTLAND for himself, the Senator from Utah (Mr. BENNETT), the Senator from Nevada (Mr. BIBLE), the Senator from West Virginia (Mr. BYRD), the Senator from New Hampshire (Mr. COTTON), the Senator from Illinois, Mr. Dirksen, the Senator from Connecticut (Mr. DODD), the Senator from Arizona (Mr. FANNIN), the Senator from Florida (Mr. HOLLAND), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Nebraska (Mr. HRUSKA), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from South Carolina (Mr. THURMOND), and that the bill is entitled: "A bill to strengthen the internal security of the United States."

There were, among the some 51 which we opened, five or six which referred to matters other than the Carswell nomination.

This letter reads:

DEAR SENATOR: Because I feel it is my duty to write and tell you how I feel about Senate bill # 12.

I feel it is outrageous to our country and, a complete violation.

Because if you don't do anything about it, it will be like Hitler was in Germany.

Please vote against this bill.

It is signed "Mrs. Donna Brimmer," without any return address or any other sort of address.

Mr. President, not only is this part of the program which on its very face is deceitful, but it is also deceptive, and meant to be so. It is dishonorable. And I think it is truly despicable.

I want to make it very clear that I do not think any Member of the Senate had any knowledge of this program or had any part in it. But I want to make it very clear for the record as to the type of campaign that is being aimed against an honorable man who has rendered many good years of service to his Nation—first in the Navy under fire, and second in the various positions which he has held, as U.S. attorney, as district judge, and now as judge of the circuit court of appeals.

I have been grieved to hear people talking about mediocrity in connection with this man. In the first place, I want to call attention to the fact that the Federal judges of the fifth judicial circuit have elected him, and he has served for some years as a representative of the district judges in that whole circuit on the National Judicial Conference. And how a district judge who was not highly regarded could be elected to that position and could serve in it honorably for these years, unless he had shown real honor, real character, and real upstanding performance in his service, I do not see.

I call attention also to the letter from Judge Tuttle which appears in the RECORD. And it is rather clear that Judge Tuttle has changed his mind in some respects. But that letter written by him in longhand on the 22d of January and filed in the record of the hearings on the 27th of January shows clearly his conviction that Judge Carswell had served with distinction. It even speaks of his having served with distinction as an appellate judge, not just since he was appointed last year, but on various occasions before then.

I find that because of the high esteem in which he was held by the Circuit Court of Appeals for the Fifth Circuit, he was called upon frequently to sit with that court and participate in making important decisions.

Judge Tuttle's letter thus truthfully reflects the fact that Judge Carswell rendered such service as to impress himself upon the members of the circuit court of appeals to the degree that they called on him frequently to sit with them on appellate matters.

I am distressed to have an attack made against this man of the kind such as is evident from this despicable letter-writing campaign. None of us know how far it has reached. But obviously it has reached into many States.

None of us can hear from the radio, television, or other coverage of this matter anything about the very creditable record this man has made.

I have known him since his marriage. The family into which he married were longtime friends of ours. His wife was a friend and classmate of our oldest daughter.

We were frequently in the home of the Simmons in Florida. During the years I was in Tallahassee, 8 in the State Senate and 4 as Governor, I was frequently in their home. I knew that family well. They were our close friends.

So, I met this man very shortly after he came to Florida.

I have yet to receive one letter from Florida attorneys or judges except letters in complimentary terms of this nominee, letters urging his confirmation.

I placed in the RECORD the other day the communications I had received from the Governor and members of the cabinet of the State of Florida on that subject.

I placed in the RECORD letters from the entire membership of the district court of appeals for the entire northern district of Florida. That consists of five judges, I believe. That is our second highest court, just below the Supreme Court.

I placed in the RECORD some 20 wires I had received from circuit judges. They preside over nisi prius courts which are courts of general jurisdiction.

I have yet to hear anything but friendly comment about Judge Carswell from any judge of our State, and I think I am correct in saying I have heard from way over 100 reputable lawyers to the same effect.

In closing—and I apologize to the Senator from Nebraska from taking so long—I wish to present for the RECORD a letter addressed to me from the president of the Florida bar dated March 16, 1970. Mr. Mark Hulsey, Jr., wrote to me enclosing a copy of a telegram he sent that day to the Senator from Indiana (Mr. BAYH) and the Senator from Maryland (Mr. TYDINGS). Since neither of these Senators has seen fit to have the telegram printed in the RECORD, I wish to do so.

Mr. Hulsey asks that I give publicity to his letter of February 17 to the Senator from Indiana (Mr. BAYH). He said he wrote a similar letter to the Senator from Maryland (Mr. TYDINGS) on that date.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter of February 17, 1970, addressed to the Senator from Indiana (Mr. BAYH) from the president of the Florida Bar, and the letter which Mr. Hulsey addressed to me under date of March 16, 1970, enclosing a copy of the telegram he sent to the Senator from Indiana (Mr. BAYH) and the Senator from Maryland (Mr. TYDINGS).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FLORIDA BAR,
OFFICE OF THE PRESIDENT,
Jacksonville, Fla., February 17, 1970.

Re nomination of Judge G. Harrold Carswell for Associate Justice of the U.S. Supreme Court.

Hon. BIRCH BAYH,
U.S. Senator,
Washington, D.C.

DEAR BIRCH: I regret that an unexpected travel schedule has prevented an earlier reply to your letter of February 3, 1970.

You have asked for my rebuttal on the statement made on behalf of the National Conference of Black Lawyers and the testimony of Professor William Van Alstyne. While it is now probably moot, I hope it will give you cause to reflect again on the entire subject and vote to confirm Judge Carswell when the matter is considered by the full Senate.

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As I indicated to you earlier, it is certainly ironic that Judge Carswell is charged with being a racist. My experience with him and his reputation in the Northern District of Florida are just to the contrary.

The statement made by the National Conference of Black Lawyers is replete with mistaken assumptions and premises. It argues rather than states facts. Understandably, the National Conference would have difficulty in being objective.

The testimony of Professor Van Alstyne is a different matter. His credentials are impressive. Conspicuous by its absence is his lack of trial practice. Professors are qualified to critique Appellate decisions but it takes the trial lawyer to evaluate the trial Judge. Professor Van Alstyne expected your committee to give his criticism of Judge Carswell greater weight because he supported Judge Haynsworth. Apparently, he did not appreciate the difference between the atmosphere in the trial arena and the serene Appellate Court.

No useful purpose will be served by a complete rehash of the various cases cited. In passing, however, I will comment on them:

1. *Due v. Tallahassee*. The real issue in this case was when is a summary judgment proper and also what states grounds for relief under the Civil Rights Act.

2. *Singleton* v. *Board*. The mootness issue was scarcely raised below. The issue boiled down to credibility. A trial judge who saw the parties thought one way, the Appellate Court disagreed.

3. *Dawkins* v. *Green*. The District Court found there was no material issue of fact to be resolved and granted summary judgment. The Circuit Court disagreed.

4. *Steele* v. *Board*. This case was remanded because of a new decision, *U.S. and Linda Stout* v. *Jefferson County Board of Education*, rendered by the Fifth Circuit *after* the District Court Order.

5. *Augustus* v. *Board*. The Fifth Circuit Court of Appeals held it was error to grant a motion to strike the allegations relating to the assignment of teachers, principals and other school personnel because this was not a matter that had "no possible relation to the controversy". The Circuit Court also stated that:

"In the exercise of its discretion, however, the district court may well decide to postpone the consideration and determination of that question until the desegregation of the pupils has either been accomplished or has made substantial progress."

Thus, it appears that the Circuit Court recognized that the issue of assignment of school personnel was not one that must be decided immediately, it was only an issue that must not be disposed of by a motion to strike.

Professor Van Alstyne did mention the *Brooks* and *Pinkney* cases as being favorable to civil rights plaintiffs. Other civil rights cases where the Judge's action was sustained include:

Robinson v. Coopwood, 415 F. 2d 1377 (1969).

Baxter v. Parker, 281 F. Supp. (1968).

Steele v. Taft (July 19, 1965).

Ball v. Yarborough, 281 F. 2d 789.

Knowles v. Board of Instruction of Leon County, 405 F. 2d 1206.

Presley v. City of Monticello, 395 F. 2d 675.

Professor Van Alstyne said he did not know Judge Carswell. Perhaps if he had known him in Tallahassee, had heard him cursed, had listened to the harassing telephone calls and practiced law in his Court, he would not have been so quick to condemn him.

I appreciate very much your asking for my comment. Please call on me again if I may be of service to you.

Sincerely yours,

MARK HULSEY, Jr.

THE FLORIDA BAR,
OFFICE OF PRESIDENT,
JACKSONVILLE, FLA., *March 16, 1970*.

Re Judge G. Harrold Carswell.

Hon. SPESSARD L. HOLLAND,
U.S. Senator,
Washington, D.C.

DEAR SENATOR HOLLAND: I enclose copy of telegram which I have today sent to Senators Birch Bayh and Joe Tydings. Please circulate copies of this telegram as you think appropriate. Also enclosed is a copy of a letter that I wrote to Birch Bayh in February which I am certain you will find of interest.

Please let me know if you think The Florida Bar can be of any further service in connection with the successful confirmation of Judge Carswell.

Sincerely yours,

MARK HULSEY, Jr.

MARCH 16, 1970.

Hon. BIRCH BAYH,
U.S. Senator,
Washington, D.C.

The 10-month vacancy on the United States Supreme Court and the passage of two months since the nomination of G. Harrold Carswell to that court makes it imperative for the Senate to act as soon as possible on his confirmation. Prolonged controversy will seriously erode public respect for the Supreme Court and our judicial system generally.

We respect your right to criticize Judge Carswell and oppose his confirmation, but excessive and extended criticism without developing new facts can become destructive to the court you seek to protect.

Tactics designed to delay a vote can only be characterized as fillibustering, a procedure we are certain you oppose. Unnecessary delay will diminish Judge Carswell's effectiveness and lastingly damage the public image of the Supreme Court.

Lawyers who have never met Judge Carswell, have never appeared before him, and know of him only from biased sources have signed and publicized petitions against him.

The lawyers of Florida actually know Judge Carswell best. The Florida Bar is the sixth largest organized Bar in America, with almost 12,000 members. Many of these lawyers have met Judge Carswell, have appeared before him, and know him and his record personally.

As President of The Florida Bar, I have been instructed by a unanimous vote of the Board of Governors to strongly endorse his confirmation.

I urge you to use your best efforts to cause an early Senate vote.

MARK HULSEY, Jr.,
President, the Florida Bar.

Mr. HOLLAND. I thank the Senator from Nebraska for his patience.

Mr. HRUSKA. I thank the Senator from Florida for his contribution. I am grateful to him for having included in the RECORD samples of the letters and postcards. I wish to join him in the belief and the statement that it would be unthinkable, and I am confident it is not so, that any of our colleagues in the Senate either knew about it or had any advanced information about this practice which has been described.

I yield to the Senator from Tennessee subject to the same stipulations heretofore stated.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I shall not take the time of the Senate for very long. I wish to speak briefly on the same issue which has been brought to the attention of the Senate by the distinguished Senator from Nebraska and the distinguished senior Senator from Florida.

The article which the senior Senator from Florida placed in the RECORD from the Florida newspaper, I believe, referred to mailings to Tennessee of these cards and letters. I can personally vouch for that.

It is interesting, or at least it is interesting to the junior Senator from Tennessee, that so far I have received about 270 letters in my office relating to Judge Carswell; and that approximately 200 of them were mailed in bulk to me by the postmaster in Knoxville, Tenn., by parcel post with a letter dated March 5, 1970. The letter is from our distinguished Postmaster C. Edwin Graves, who pointed out in his letter to me as follows:

U.S. POST OFFICE,
Knoxville, Tenn., March 5, 1970.

Hon. HOWARD BAKER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: The enclosed were received at this office to be cancelled and placed in the mails.

I thought you should be informed that these were originally sent from the State of California. They are not from residents of this great State of Tennessee.

If we can be of further service, please let us know.

Sincerely yours,

C. EDWIN GRAVES,
Postmaster.

Mr. President, every constituent has the right to write to his Member of Congress in the House and in the Senate. I believe I speak for every Member of this body when I say we read and pay special attention to the sentiment, the drift of the sentiment, and the changing of opinions reflected in letters.

For that reason I am not sure I agree with my distinguished colleagues that this is free of any taint because a fraud has been perpetrated or an attempted fraud has been perpetrated on Members of the Senate on the theory that constituents of theirs expressed opinions one way or another on a principal issue and they want us to react to a fraudulent situation they created knowingly.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the Senator, if I may.

Mr. HRUSKA. I am happy to yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, I agree with the distinguished Senator. A fraud was attempted to be perpetrated. My statement was that after seeking legal counsel I was sorry I had been advised that under the postal laws they had to deliver those letters without opening them and they doubted any fraud charge could be made. I have not had a chance myself to research the postal laws.

Mr. BAKER. I am not sure the postal laws are all the laws that would apply in this case. I think that if any private citizen attempts to create a situation which misleads another person, public officials in this case, the statutory law might be applicable as the basis for an action and I suggest to the Department of Justice it might be looked into on that basis.

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All of these letters I have just opened—they were not opened by my staff—are in the same size envelopes. They are all, with one exception, addressed in longhand; they are all in the same color ink with one or two exceptions; and most of them are on the same type paper. The post cards are all the same size. They are handwritten.

I will not detain the Senate long enough to read all the names, but it seems to me that the combination of the facts that they were forwarded from California, that they are all on the same material, and that we have here 200 names, should be enough for someone to seek to determine where they came from. I hope the postal authorities and the Department of Justice will do so because there is enough lawyer left in me, even after 3 years in the Senate, to find out who is trying to create a situation to make it appear that citizens of the State of Tennessee are writing to their Senators to suggest a position on an important matter, when they admit in this letter they are not citizens of Tennessee, that they are flying under false colors, and they parcel posted these communications to Tennessee by mail.

My father had recommended Eddy Graves for the position of postmaster in Knoxville. I am glad that Mr. Graves wrote me this letter. He points out that the communications did not come from Tennesseeans.

I will take them into account but I will also take into account the obvious lack of sensitivity of those who set up this effort to deceive this Member of the Senate on the matter of the nomination of Judge Carswell.

I intend to vote for the confirmation of Judge Carswell and from now on I intend to be on the lookout in my mail for any manufactured or contrived documents, contrived on the part of a few from whatever part of the country, to deceive elected officials. I think it is despicable. It is remarkable that about 70 percent of the communications on this subject received thus far in my office came by parcel post from California with a covering letter admitting the fraud.

Mr. HRUSKA. I thank the Senator for his contribution.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield to the Senator from Montana with the stipulations earlier stated.

Mr. MANSFIELD. Mr. President, until this afternoon I felt I was a prisoner in an isolated booth as far as a certain type of communication was concerned. I had not heard of any other Senator receiving the same kind of mail until I listened to the debate today. I became so concerned that on March 5 I made a statement on the floor of the Senate in which I stated as follows:

> RETURN ADDRESSES, PLEASE
>
> Mr. MANSFIELD. Mr. President, one of the basic duties of a congressional office is the receipt of and response to constituent mail. This is one way in which we can keep in touch with the people we represent and it is a reasonably good indication as to how they may feel on a particular issue.
>
> Last week I received many letters and cards from what I assume are residents of Missoula, Mont., expressing their views on a variety of legislative matters. There were approximately 150 communications, all signed and postmarked Missoula, Mont., but not one single return address. They definitely were not form letters because they commented on issues such as the voting rights legislation, the Carswell Supreme Court nomination, taxes, integration, Vietnam, and extension of the Office of Economic Opportunity programs. Because these matters are very current, I would like to be able to respond to these letters, but it is impossible to do so under these circumstances. I checked very carefully to see if there might be one address, but I could not find one. The only indication was one reference to the views being expressed by an organization of some 600 people.
>
> I am taking this means of stating to these people in Missoula, as well as to any of my constituents, that I welcome their comments and recommendations and welcome an opportunity to respond. However, in this case, it is impossible.

Since that time I have received in excess of 50 more post cards and letters, none of them, even yet, with an address.

It appears to me that this is an unorthodox way—to put it as mildly as possible—to try to exert pressure on a Senator or a Member of Congress. To me this type of mail could well be counterproductive. I think that is obvious. I do not approve of it. And I certainly am curious as to its source.

I am always delighted to hear from my own constituents. I am very happy to answer their questions, to the best of my ability. But I must say this is a new way to reach a Member of the Senate, and one which I do not approve of. I like to know who writes in. They know who I am. I like to know who they are so I can answer their questions, as I said, to the best of my ability.

I do not know what can be done about mail of this kind. I have received an education this afternoon in listening to various Senators expound their views on this question and also to find out that it goes far beyond the confines of the State of Montana and far beyond the confines of the city of Missoula, Mont.

If my mail originates as described in the remarks I have just heard, then I do not know what can be done. But I do know that, as far as I am concerned, I will make up my own mind, give due attention to all communications which I receive, pro and con, on any matter, and in that way try to face up to my responsibility, and not do it behind the dodge of not leaving an address.

I thank the Senator for yielding to me.

Mr. HRUSKA. Mr. President, I am pleased that the Senator from Montana has addressed himself to this question. It came to my attention that on either March 4 or 5, he made some comments on this matter. After discussing it in my office, we felt it would be better to refer it to the Post Office Department and have the postal inspector check into it so we would have a real basis. I think the basis, the pattern, the grand design of this public relations scheme has been unfolded this afternoon in the colloquy engaged in by several Senators.

Mr. President, I yield the floor.

COMPREHENSIVE DISASTER ASSISTANCE—REFERRAL OF BILL—ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Indiana (Mr. BAYH) having to do with relief of disasters be referred to the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that after that committee has had the opportunity to study the proposal by the Senator from Indiana, it will be referred to other committees as well.

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. Monday next.

Mr. HRUSKA. Mr. President, reserving the right to object—the ruling has not been made yet—is that a bill having to do with insurance or allowing insurance companies to work together for the purpose of issuing coverage against certain natural disasters?

Mr. MANSFIELD. Mr. President, I have not the slightest idea. I was requested to do so by the Senator from Indiana, and it is on that basis that I have made the request, which I understand the Chair has granted.

Mr. HRUSKA. If it is the type of bill of which I have some recollection, it is my understanding that it is a bill which would carve an exception out of the antitrust laws and permit companies to get together for the purpose of writing insurance against risks in certain national coverages. If so, it would be a bill that inherently would go to the Judiciary Committee on two counts: One is the antitrust laws and the other is that it has to do with a situation which is embraced in the McCarran-Ferguson Act of 1946.

Mr. MANSFIELD. I am informed it creates an agency under the aegis of the President. That same legislative proposal has been considered by the Public Works Committee previously, and, so far as I know, it is in accord with what has been done before in this body.

Mr. HRUSKA. I do not know what other legislation there is. I know there is a bill by the administration also pending in one House or the other which has the same general subject matter. It is that which caused me to perk up my ears here. If it is in that same field, then it gets into the antitrust law amendments and into the McCarran-Ferguson Act.

Mr. MANSFIELD. As the Senator knows, any Senator has a right to introduce a bill and have it referred. This bill will go to a number of committees, but the request made on behalf of the Senator from Indiana and which was granted by the Chair, was to refer it to the Committee on Public Works.

Mr. HRUSKA. May I suggest to the majority leader that, in due time, and if the nature of the proposed legislation is such that it would involve the antitrust laws or the McCarran-Ferguson Act, it would be in order that we ask, at a later

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time, upon proper showing, that there be a reference to the Judiciary Committee for the purpose of its scrutinizing the legislation and then reporting back to the Public Works Committee if that is indicated.

Mr. MANSFIELD. Any Senator can make that request at any time on any bill. I would not want to go any further than I have. It will be referred to the Committee on Public Works, as I understand and it is my belief it will be referred to other committees as well.

Mr. HRUSKA. I asked for no stipulation. I asked if it would be in order to do that if circumstances warranted it.

Mr. MANSFIELD. I ask that the Senator confer with the Senator from Indiana. I am certain his doubts will be dispelled.

Mr. HRUSKA. I am grateful to the Senator.

Mr. MANSFIELD. Mr. President, I do not want to make the request for Monday that I just did. I understand the request to speak for one-half hour has been withdrawn for that time, but still is in effect for Tuesday.

ORDER FOR ADJOURNMENT FROM MONDAY NEXT TO TUESDAY, MARCH 24, 1970, AT 9:30 A.M.

Mr. MANSFIELD. I ask unanimous consent that when the Senate completes its business on Monday next, it stand in adjournment, as in legislative session, until 9:30 Tuesday morning.

The PRESIDING OFFICER. The Chair will rule that without objection it is so ordered, but the Chair might suggest to the Senator from Montana that we have not disposed of the time for convening on Monday next.

Mr. MANSFIELD. It was already done. I withdrew my request. My understanding is that we are going to come in at 11 o'clock Monday morning as in legislative session.

ORDER FOR RECOGNITION OF SENATOR MURPHY ON TUESDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the prayer on Tuesday, the distinguished Senator from California (Mr. MURPHY) be recognized for not to exceed one-half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, reserving the right to object, I did not quite catch what the distinguished majority leader said. Did he say that from Monday to Tuesday we would recess or adjourn the Senate?

Mr. MANSFIELD. Adjourn.

Mr. GRIFFIN. I wonder if the distinguished majority leader would consider the possibility that perhaps we should not adjourn the Senate and consider the possibility of recessing.

Mr. MANSFIELD. I would be delighted. I will change that from adjournment to recess, at the conclusion of business on Monday.

Mr. GRIFFIN. I thank the distinguished majority leader. Nothing has been said on this side yet charging or suggesting that there is any such thing as a filibuster going on. I am sure that there is not; I hope that there is not, and that we will be voting soon on this very important nomination. But, speaking from this side, I hope we can get to that vote next week.

Mr. MANSFIELD. I would hope so, but it is an impossibility, as I see it, on the basis of conversations which I have had. What I wanted to announce was that at the conclusion of the remarks of the distinguished Senator from California (Mr. MURPHY) on Tuesday, at approximately 10 o'clock the Senate will take up the conference report on the Elementary-Secondary Education Act.

We have no choice in the matter. It is a privileged matter. It was thought it could be brought up Monday. I asked that it be postponed until Tuesday, for good and sufficient reasons.

That may well take all day, if not longer; so this is the reason for the early session on that date.

Mr. GRIFFIN. Mr. President, I came in late, and I suppose I did not understand that. Has that unanimous-consent request been agreed to?

Mr. MANSFIELD. Not for Tuesday, but if it is not, and we come in later, it still is privileged, and we will just take up that much more time.

We do not need a unanimous-consent agreement, because we have the agreement to come in at 9:30 on Tuesday. We have a half-hour up until 10 o'clock for the Senator from California (Mr. MURPHY), and then, as a matter of procedure and priority, any conference report comes down automatically.

Mr. GRIFFIN. That would not be true if we were in executive session, would it?

Mr. MANSFIELD. Yes; it would be true in executive or legislative session, as I understand it. That would be subject, of course, to the ruling of the Chair. If that is not correct, Mr. President, I would, as a matter of honor on my part, have to move on Monday next, if I cannot obtain the agreement today, that we stand in adjournment, because I feel I have made a commitment which I must honor.

Mr. GRIFFIN. I do not know, of course, what the response would be from this side. I would like to consult with the distinguished minority leader, perhaps we will have no choice in the matter. As far as I am concerned, I believe we should stick with the nomination that is pending, and get to a vote on that. I do not believe it should be put aside for some other business, particularly something that might take a long period of time. If it were a matter of putting the nomination aside for a half-hour or so to take up another measure, that would be one thing; but we are conscious of the fact that the conference report on the education bill is very controversial, and discussion about it may well go on for a considerable period of time.

Mr. MANSFIELD. It could. If the Senator will yield, no one has been more anxious that the Senator from Montana to bring the Carswell nomination to a head and to have the vote taken. However, as the distinguished acting minority leader should know, the leadership at times is placed in a position which could be embarrassing.

I can state that, to the best of my knowledge—and I think this is a true statement of the fact—it will be an impossibility to get the Carswell nomination to a vote before the Easter recess. I am hopeful we can get it to a vote on the following Tuesday, or at the latest on the following Wednesday. If we can do that, in view of the circumstances which have arisen and the extension of debate which has occurred over the past week or so, I think we will have achieved something in the nature of a minor victory.

But I would hope that the Senator would allow us to take up this conference report without attempting to block this commitment of the leadership on a privileged matter. I would tell him, in all candor, that the motion to go into legislative session is not debatable, that I would be compelled to move, and the conference report would be taken up on that basis. I might point out that I have accommodated the Senator by changing the order from adjournment as in legislative session to recess. I would hope that he could similarly accommodate the leadership. Otherwise, I suppose a new motion to so adjourn would have to be offered next Monday and the Senate could then decide.

I hope the acting minority leader will realize the position the leadership is in, because he could well be in the same position at some future time.

Mr. GRIFFIN. I appreciate that the majority leader feels a sense of obligation; and the fact that he has advised the Senate helpful. I simply feel that I am not in a position, and would not want, to agree to such a procedure without at least consulting with the minority leader; and I am sure the Senator can understand that. Perhaps, there can be an agreement at a later point.

Mr. MANSFIELD. Yes; that is perfectly all right, because we still have plenty of time. We have the adjournment from tonight until Monday, and the recess, as of the present time, from Monday until Tuesday. The recess entered by me out of consideration for the wishes and views of the Senate.

Mr. GRIFFIN. It would be my observation that we have heard, I believe, from all of those who wish to speak or wish to make statements in favor of the nomination. We have heard from a great many speakers from the other side who are opposing the nomination. I do not know how many more speakers there will be. I would assume it would not be too difficult to ascertain; and, if necessary, we could continue Monday night on into the evening, in order to make sure that everyone had an opportunity to speak on the nomination. Unless there is a filibuster of some kind underway, I do not understand why we should not be able to get to a vote.

Mr. MANSFIELD. I have tried to explain in part why, with this very impor-

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tant conference report coming up, which personally I would have liked to have seen go over until after the recess, and that we are up against a series of facts which I would think would be impossible to overcome at the present time.

I am prepared to continue to come in early and to stay in late. I am not prepared, and never have been, to stay in all-night sessions.

I do not think there is much more that can be added to the debate. I think most Senators have, by and large, made up their minds, or are on the verge of so doing, and it would be my hope that we would be able to dispose of the conference report next week—it may take more than a day. I hope some agreement can be reached—either at the end of next week before we go out, or on the day we come back—as to when we could vote at a time certain on the pending nomination.

I assure the distinguished acting minority leader again that if the Senator from Montana had his way, we would vote on the Carswell nomination next week.

Mr. GRIFFIN. I thank the distinguished majority leader. He has been most cooperative and helpful at all times.

Mr. MANSFIELD. I thank the Senator from New York for yielding, and apologize for the delay.

SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of George Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. GOODELL. Mr. President, on February 5 of this year, I announced my decision to vote against the nomination of Judge G. Harrold Carswell to be an Associate Justice of the U.S. Supreme Court.

I do not oppose him because he comes from the South, or because he may be considered to be a strict constructionist of the Constitution, whatever one's individual definition of that term may be I enthusiastically supported the nomination of Chief Justice Burger, who was also characterized by the President as a strict constructionist. I voted for the confirmation of Judge Burger because he was, in my judgment, eminently qualified.

The President has a right to nominate to the Supreme Court any man of his own choice, of any judicial philosophy, from any region of the country. The Senate has its own duty under the Constitution. Each Member of the Senate must exercise his individual judgment, and base his decision on the most careful scrutiny of the qualifications of the nominee, with a searching mind as to whether the best interests of the Nation will be served by confirmation.

The issue of consent in the case of a Supreme Court nominee is clearly distinguishable from that issue in the question of the confirmation of other presidential nominees.

For instance, the function of a Cabinet officer is to carry out and administer the President's policy. His term of office expires with that of the President. The Supreme Court, on the other hand, has a constitutional function which is clearly separate and distinct from those of its two coequal branches of the Government. Also, appointment to the Court is for life.

The President should be given great latitude in obtaining confirmation of his choices for positions in the executive branch; but, because of the unique constitutional role which the Supreme Court plays in American life, every Senator has a special duty in casting his vote on a confirmation issue involving a Supreme Court nominee.

He should ask himself, "What is my obligation, as an individual U.S. Senator, on an issue such as this?" It is not our function to demand that a Supreme Court nominee agree with us on all the issues and in all the cases he may have decided in the past; but there are certain issues that are so basic to our country that its very survival is tied to them.

One of these is civil rights. I oppose Judge Carswell because, as a member of the Federal judiciary, he has failed to heed the civil rights revolution of the past decade. He has demonstrated a basic insensitivity to fundamental civil rights issues—issues which are essential to our survival as one indivisible Nation.

In my view, any man proposed for a place on the Supreme Court must understand the meaning and the dimensions of that civil rights revolution. No matter what his other qualifications and virtues, if he fails to comprehend its meaning, he should not be confirmed. My opposition to Judge Haynsworth was predicated upon the same ground.

Mr. President, there are a series of cases that have been cited with reference to the judicial record of Judge Carswell. I shall mention only a few here today. And I might say, with reference to this debate, that I do not believe that all Senators have made up their minds. From my discussions with my colleagues, I think there are a great many who are uncertain, and they are listening carefully to the evidence being presented on both sides, and are particularly alert to any new evidence which comes to light.

I think this extended debate thus far has been of great utility to those Senators who are undecided. It also is of great usefulness in enlightening the American public as to this issue, so that citizens can have the opportunity to convey to their elected representatives their own inclination with reference to the approval of Judge Carswell.

President Nixon has indicated that he wanted a young man—one of his qualifications—in appointing a Supreme Court Justice. The reason for this, apparently, is that he wants someone who will remain on the Court for an extended period of time. Judge Carswell is 50 years of age. With even normal service on the Court, we are talking about 15 or 20 years of Judge Carswell sitting on the highest court of this land. With the longevity of Supreme Court Justices—the historical record—and their disinclination to retire, we may be talking about a considerably longer period of time in which this nominee will serve on the Court. He could well be serving on the Court 30 years from now, in the year 2000 with all the changes we can anticipate in this country in the last third of this century.

Mr. President, in that context, I think it is important that the U.S. Senate review the abilities and the disabilities of the Carswell nomination.

Much has been made during the last weeks debate of the fact that the American Bar Association's judiciary committee had rated Judge Carswell as "qualified" to sit on the Supreme Court. The Attorney General of the United States has, in fact, stated publicly that Judge Carswell was "highly recommended by the American Bar Association."

Forgotten has been the fact that the committee chose, for the first time in the history of its evaluation of Supreme Court nominees not to rate Judge Carswell on the comparative scale of "not qualified" or "highly acceptable from the viewpoint of professional qualifications." It would seem that the committee, therefore, did not consider Judge Carswell as "highly acceptable from the viewpoint of professional qualifications," and that by rating him on merely the new criterion of "qualified" the committee members were telling the Senate as much by their damnation with faint praise of the judge as they could have by rejecting him.

Forgotten has been the fact that the committee generally will rate a judge qualified for appointment if he displays even marginal professional qualifications coupled with an absence of gross ethical impropriety in his record. Shall this Senate confirm, for a seat upon the highest court of our land, one whom the ABA's judiciary committee has refused to rate as even marginally qualified according to its former standards of "highly acceptable."

Forgotten, finally, has been the fact that the committee chose not to reserve judgment until all of the evidence was in, but to render an opinion expeditiously. In doing so, it committed itself to an opinion before a report was released by the Ripon Society, an exhaustive statistical report completed by a number of law students, and lawyers, demonstrating that Judge Carswell is, on the basis of several criteria, an exceptionally inadequate Federal judge.

Mr. President, eight distinguished members of the American Bar Association opposed to the confirmation of Judge Carswell have sent a telegram of protest to Bernard Segal, president of the American Bar Association, and Lawrence Walsh, chairman of the ABA's judiciary committee, urging them to reconvene the committee in order to rate Judge Carswell on the established comparative scale used to rate nominees for the Federal judiciary. I would like, at this point, to read that telegram of protest into the RECORD.

It is addressed to Mr. Bernard Segal, president of the ABA and Mr. Lawrence E. Walsh, chairman of ABA judiciary committee.

We are members of the American Bar Association who do not believe that Judge Carswell meets the minimum requirements

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of professional ability and judicial temperament to sit on the Supreme Court of the United States. Even if he meets the minimum requirements, we do not believe that a man with minimum qualifications should be confirmed by the Senate as a Justice of our highest Court.

It is our understanding that while the Committee on the Federal Judiciary ranks appointees to the lower federal courts on a comparative scale that covers the entire ranges from "not qualified" to "qualified," "well qualified" and "exceptionally well qualified," it rates appointees to the Supreme Court only as "not qualified" or "qualified." We further understand that this is a recent departure from earlier practice. Initially the same comparative scale was used for all courts, and thereafter until the Carswell appointment, Supreme Court appointees were rated either "not qualified" or "highly acceptable from the viewpoint of professional qualifications."

The action of the Committee on the Federal Judiciary in rating Judge Carswell as "qualified" has been used widely as an endorsement of Judge Carswell's nomination to the Supreme Court by those who support him. The Attorney General of the United States has stated publicly that Judge Carswell was "highly recommended by the American Bar Association."

We believe that the new "pass-fail" system of rating appointees to the Supreme Court deprives the Senate of information that is vital to the proper performance of its duty to advise and consent. For those Senators who may agree with us that their consent to the appointment of a man with minimum qualifications should be declined, it is vital to know whether the bar rates an appointee as barely "qualified," "well qualified" or "exceptionally well qualified." It is highly incongruous to continue supplying such information to the Senate for appointees to the lower federal courts and to withhold it when the Senate performs the vastly more important function of considering appointees to the Supreme Court.

We therefore respectfully request that the Committee meet again to rate Judge Carswell on the established comparative scale still used for the lower courts and that we be given an opportunity to present our views to that meeting. We urge that such a meeting be set as promptly as possible so that the Senate will know precisely where the Committee rates Judge Carswell before it completes its deliberations on his nomination.

We further request that the comparative scale be utilized in the Committee's rating of all future nominees to the Supreme Court.

Samuel I. Rosenman,
Judge, former president of the New York City Bar Association.
Francis T. P. Plimpton,
President of the New York City bar Association.
Derek Bok,
Dean of Harvard Law School.
Louis Pollak,
Dean of Yale Law School.
Bernard Wolfman,
Dean of the University of Pennsylvania Law School.
Murray Schwartz,
Dean of the UCLA Law School.
Neal Rutledge,
Miami attorney, son of former Supreme Court Justice Wiley Rutledge and former law clerk to Justice Black.
Warren Christopher,
Partner in O'Melvany and Myers of Los Angeles, former Deputy Attorney General of the United States.

I am joining with several other Senators today in sending a telegram to Mr. Segal and Mr. Walsh affirming my agreement with the sentiments expressed by those legal scholars who signed the telegram of March 11, and requesting that the ABA committee indeed reconvene to reconsider its statement on Judge Carswell. It is clear that that statement has been flawed by its use of a new ambiguous criterion to rate Judge Carswell and by the fact that it was made before all of the evidence on the judge was in. For those reasons, no one can claim that statement to be an unqualified endorsement of Judge Carswell, and for those reasons, the committee should meet again to consider new evidence and to make an unambiguous statement on its opinion of the judge.

Mr. President, Attorney General Mitchell has also faulted the Ripon Society report; and I will make further reference to that study at a later time.

I might assure my colleagues present that that probably will not be tonight. But the Ripon Society study was a thorough study and examination of the record of Judge Carswell, comparing it to the record of other Federal judges in the fifth circuit.

The Attorney General asserted that only Judge Carswell's reported decisions were cited and, therefore, the preponderance of his decisions have not been analyzed. If the Attorney General has such faith that the unrecorded decisions will demonstrate the competence of Judge Carswell, why has he not released those decisions, which his Department surely has examined and filed in disappointment? Why did he not refute the Ripon study by forwarding to the Senate Judiciary Committee the file of those unreported decisions? I challenge the Department of Justice, if it is so convinced of Judge Carswell's juridical skill, to make public the evidence upon which their assertion rests, to present to this Senate the evidence which it needs to make an informed decision upon that judge.

Let me suggest, in the absence of that evidence, that the statistical techniques used in the Ripon study, and attacked by the Attorney General, have just been validated in the annual report of the Administrative Office of the U.S. Courts. The Director of that Office, in table B-1 of the report, presents statistics which nearly exactly replicate the figures of the Ripon Society on the rate of reversal in all Federal courts—20.2 percent—in 1969, and in all fifth circuit courts—24 percent. It is clear, since the Administrative Office has validated the reversal figures reached by the Ripon lawyers and law students, that the statistical techniques on the basis of which they came to their conclusion are valid, and that Judge Carswell is indeed juridically incompetent to sit upon the Nation's highest court.

If the Attorney General should say that the unreported decisions have still not been taken into account, then I say to him that such a study is now being made, by the same group of Columbia students and New York lawyers which authored the report put out by the Ripon Society. They are examining 7,000 unreported opinions, all of those appealed to the fifth circuit appellate bench since 1958, to measure Judge Carswell's record against that of each of the other trial judges in that circuit.

This comprehensive examination will come to us certified under oath from those lawyers signing it, and they will be affixing their professional reputations to that oath. The comprehensive study will end, once and for all, the speculation about whether Judge Carswell is impeached by his unreported cases as well as by his reported ones.

I challenge the Attorney General, since it is he who has implied that the record of unreported cases will be determinative, publicly to define the standard of competence by which he will judge a Supreme Court nominee. Let him define the term "competence," however he will, and I assure this Senate that Carswell will not meet it. It is the Attorney General, and those Senators who have supported the judge, who have stated that the unreported cases would be determinative. Fine. Let them now back up their words with a commitment, with a willingness to say "if he goes beyond this threshold, he would be unacceptable."

Should they refuse to do it, they demonstrate to the Senate and to the American public that they, indeed, fear the nominee to be unqualified by an objective standard, and that they are unwilling to define "competence" for fear that their man will be found wanting.

Let them set the standard, and then let us see whether the definitive study of 7,000 fifth circuit cases shows them that their man ought to sit upon the highest court of the land.

Mr. President (Mr. Bayh), there are many factors in the record of Judge Carswell which should be carefully considered by the Senate.

Judge Carswell has been, for a brief period, a trial judge in a rural district. No one can assert that he has been consistently exposed to well-briefed cases and sophisticated oral argument. It is clear that he has been consistently rude to lawyers, white and black, appearing before his court. He has had a disdain for the writ of habeas corpus which displays an insensitivity to civil liberties not often noted in this country in these times.

Are we not entitled, Senators, to ask for a nominee for the Supreme Court not merely that he be competent, but that there be an x factor of judicial prudence, of sensitivity, of intellectual capacity for all those who sit upon the Supreme Court?

In this year of 1970, after the Supreme Court's image has been tarnished by the Fortas and the Haynsworth brouhahas, when law students across the country have begun to look upon the Court's decisions with increasing skepticism and even contempt, when more and more citizens unversed in the law have begun to suspect the impartiality, the wisdom, the values of the members of the Court, can we afford to confirm a justice whose presence on the Court can only exacerbate these trends.

If this Senate has any concern whatsoever with insuring that the Supreme Court and its decisions be respected across the land, can we place George Harrold Carswell on that Court?

Is there a man among us who can say that Judge Carswell has that x factor which ought to be the unique possession of the nine most important jurists in the country? Is there a man among us who can say that he is impressed with Judge Carswell's prudence, his sensitivity, his intellectual capacity?

Mr. President, there have been many things said about the record of Judge Carswell. I would cite only one more, a specific item that I think is of interest. The hour is getting late.

Mr. President, in this morning's newspaper, I read a reference to a memorandum that had been submitted to some Republican Senators last fall. I would like to expand a little bit on that memorandum, because now that it has been revealed, I believe that its full import should be understood.

Mr. President, the President of the United States, in my opinion, has been poorly served by those in the Justice Department particularly in the office of the Counsel to the Department, who were to do the investigatory staff work on prospective nominees for the Supreme Court. Those staff members failed to disclose to the President the total Haynsworth record, and their negligence has now once again resulted in his being caught by surprise on the Carswell segregationist speech, the golf course incident, and the restrictive covenant on his house—and others, factual details in the background of Judge Carswell that are distinctly relevant to his qualifications to be one of the Supreme Court Justices.

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As far back as November 1969, Mr. President, some Republican Senators were fearful that the President would not be fully informed of the background of his next nominee to the Supreme Court. Our forebodings, unfortunately, proved all too accurate. I would like to read to you from a memorandum prepared for some Republican Senators last November, dated November 5, 1969. It is labeled "Southern Judgeships" and reads as follows:

> *As moderate Republicans* appointed by Eisenhower retire from the Fifth Circuit and as Haynsworth prepares to leave the Fourth, the Nixon Administration is choosing segregationist Democrats or Dixicans to replace them. Since these judges are being named by Mitchell and approved in a perfunctory way, Nixon may well not be fully aware of their record or probable impact.
>
> *The most recent appointee,* pushed through the Senate Judiciary Committee and confirmed on the floor on Moratorium Day, is Charles Clark, a leading strategist in Mississippi's resistance to desegregation and close associate of William Harold Cox, segregationist District Court judge.
>
> *Clark* defended Mississippi's segregated jury system at the time of the Philadelphia Klan murder trial; he proposed indictment of James Meredith in order that the University could exclude him as a criminal; he was the chief legal adviser in the challenge to unseat the first black elected to the Mississippi legislature in recent times. A Democrat, he is described by Jack Greenberg of the Legal Defense Fund as a "young, smart, effective lawyer, who has devoted his entire career to the segregationist cause." He joins the court at a time when Emmett Tuttle and other pro-civil rights Eisenhower appointees are retiring.
>
> *Nixon's other recent appointee* to this crucial court, George Harrold Carswell of Florida, is described by Southern lawyers as an even more unfortunate choice than Clark, since Carswell is older, less intelligent and more set in his ways. As a district judge, he has been repeatedly reversed and reproached by the Fifth Circuit for his rulings in cases involving desegregation of everything from reform schools to theaters. But his chief technique, say civil rights lawyers, is prolonged temporization.

Mr. President, these are all new contributions to the debate which is arising over this important nomination. I am confident there will be more revelations as this debate progresses. And I intend to participate further in this debate in the hope that we can convince the Senators who are now uncertain and who have not fully made up their minds that it is in the best interests of the United States that the Senate reject the nomination of Judge Carswell.

I believe it is critical that my Republican colleagues view this issue in perspective and recognize its full import for our country.

This is not a matter of party loyalty. This cannot be a matter of partisanship. Each Senator should look to his own conscience and should not vote on the basis of who made the nomination and what party he belongs to.

The Supreme Court is an independent branch of Government. Every judge, once he is placed on the bench, becomes immune from politics. It is not significant whether a Justice of the Supreme Court is a Republican or Democrat. He is past party affiliation.

It is significant that a Justice of the Supreme Court in 1970, in the last one-third of this century, should be a man of wisdom, sensitivity, intelligence, and a man who understands the importance of the basic issues that face this country.

I do not believe on those standards that Judge Carswell qualifies, and I urge my colleagues to reject the nomination.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COOK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO MARCH 23, 1970, AT 11 A.M.

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the previous order, that the Senate stand in adjournment, as in legislative session, until 11 o'clock Monday morning.

The motion was agreed to; and (at 5 o'clock and 15 minutes p.m.) the Senate adjourned, as in legislative session, until Monday, March 23, 1970, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, March 20, 1970:

Department of Transportation

Charles D. Baker, of Massachusetts, to be an Assistant Secretary of Transportation.

Director of Selective Service

Curtis W. Tarr, of Virginia, to be Director of Selective Service.

In the Coast Guard

The nominations beginning Michael Ray Adams, to be ensign, and ending Merle L. Cochran, to be chief warrant officer (W-4), which nominations were received by the Senate and appeared in the Congressional Record on March 18, 1970.

EXTENSIONS OF REMARKS

ADDRESS BY HEW SECRETARY FINCH BEFORE THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, on February 7 HEW Secretary Robert H. Finch addressed the National Association of Secondary School Principals. The Secretary emphasized two challenges which face our secondary schools: student unrest and effective education. While realizing that to a certain degree student unrest reflects the tensions within our society as a whole, Secretary Finch rightly pointed out that the educational process has often failed the student and that the Nixon administration is committed to learning much more about education techniques and the development of cognitive skills. Part of this challenge lies with developing an awareness and concern for our environment. "And in this battle," the Secretary states, "there is no weapon more critical than education."

I think my colleagues will find the Secretary's remarks of interest. The complete text follows:

Address by the Honorable Robert H. Finch

As my own first item of business, let me convey to you, at his personal request, President Nixon's greetings. Even though the press of business has prevented his personal attendance, he asked me to express his concern and close attention to your endeavors.

Your convention theme, "What's Right With American Education", provides a healthy concern with the positive. I don't think by that focus that you are ignoring the problems and tensions which secondary schools are experiencing. Since you are at the eye of the storm, you obviously know that there are no rugs big enough to have some of your problems swept under.

It is in that same spirit of the positive that our own efforts are proceeding. And when we look at what is wrong with education, we do it in the sure knowledge that self-examination is the indispensible first step toward the achieving of the quality education Americans have always expected.

But to assess both what is wrong and what is right with American education—to establish some benchmarks for analysis—we must go back and ask the basic and intimidating question of what education is all about.

Let me suggest that it is individual liberation. It is to prepare the individual for the expansion of personal options.

If a person has not mastered the basic language of words and numbers, his choices are limited because he can neither understand nor communicate with his society.

If he has not been exposed to a variety of jobs and experiences, his choices are limited by narrow horizons.

If he has not rubbed shoulders or at least rubbed minds with a variety of people, it is likely that his choices will be limited by his stereotypes of race, class, and region.

I think we know then what the goals are. We are not just training people for jobs. We must also cultivate the life of the mind for the joys and freedoms which that life gives. But we must set these as goals for the majority students who will not continue their education as well as for the minority who do.

These goals may be unattainable, for certainly there are no finite limits to knowledge. Certainly each generation born anew must be educated anew. But these are directions in which we always should be tending. And the promise of American education will never be fulfilled so long as our expectations and our capabilities outrun our performance.

Even if we are agreed on goals, the consuming question becomes "how do we fulfill them?" And this is the spirit in which the most sincere of critics have raised their voices about American elementary and secondary education.

The symptoms of breakdown are all too clear. One report of a four-month period in the last school year documented 341 protest incidents in high schools in 38 different states. By May 25, 1969, Alan Westin of the Center for Research and Education in American Liberties estimated the total number of protests at around 2,000. The disturbances were not just traceable to racial tensions in urban schools, nor were they limited to secondary institutions infamous for their outmoded educational techniques. Apart from violence, the increasing problem of narcotics and drug abuse has received the anguished attention of citizens in inner-city and suburb alike.

And another index, not marked by violence but by despair, is the silent increase in the dropout rate of young, incredibly mobile, but profoundly unhappy students.

But this is not the whole story. The increasing tension and violence is an index of the tensions within our society itself. In part, precisely because our society as a whole expects so many—and sometimes inconsistent—missions of our schools, they are the focal point for tremendous pressures brought to bear from all quarters: community, government, taxpayers, parents, teachers, and law enforcement officers. We can not expect our schools to be free from these tensions when our society as a whole is not. And yet, I know that the conflicts engendered by such opposing forces probably focus on your collective desks more often than any other—with the possible exception of the Secretary of Health, Education, and Welfare.

I think, however, that to focus totally on problems of violence and disruption would be to distort our inquiry both in to what is wrong with American education and with what is right with it. The passive acquiescence of boredom is just as much an index of trouble as vandalism and disruption, even though one receives the headlines and the other does not. And the basic truth that the existence of both shows is, in fact, how little we do know about success or failures of our American educational system.

We are trying to find out through such vehicles as the monumental Coleman Report, and many of its subsequent critiques. We are beginning to learn a great deal about the strength and weaknesses of various educational techniques. Through the present Administration's comprehensive reassessment of Title I of the Elementary and Secondary Education Act, we are focusing hard thought on how really to reach the disadvantaged human service target areas that such programs were designed to foster.

We need to know much more about educational techniques and the development of cognitive skills. This Administration's budget requests will increasingly reflect our concern for upgrading substantially the research, experimental and evaluation techniques in education across the board. This entire vital component has been shortchanged in budgets at all levels for years—particularly when compared to all of the other massive endeavors of our nation.

Currently only about one quarter of one per cent of all education spending goes to research and development. The Defense Department spends 10 per cent and the health industry 5 per cent on research and development. We can no longer afford to disgorge billions into the system without a game plan.

We do, of course, know some things. We observe schools which work very well. We sense intuitively that the first thoroughly televised generation in the history of the world cannot simply be passed into and through the same rigid institutional structures that its parents and even grandparents traveled. We know already that the 1970s will show significant changes in the ethnic and demographic characteristics of high school students. And we know that there must be a fantastic and sophisticated proliferation of skills which those students must possess simply to cope with the world of the 1980s. By 1975, the unskilled will constitute less than 5 per cent of the labor market. This all means that we must get on with our business of reassessment in education, and get on with it fast. We must recognize that we are preparing people for jobs which do not even exist today—even by description.

I am well aware that however visionary or urgent the long-range goals are, they must still be seen in the constricting context of short-range day-to-day crises: crises of disruption, of financing, of community dissatisfaction, of teacher morale. I am certainly not here today to dictate a monolithic federal master plan about how each of you in the context of your own particular situation should proceed to address these crises.

I am reluctant most of all to dispense a Guru's advice because the channels should also be open in the other direction. We in Washington need to know much more. We need the communication and interchange. And if there is one single message I would want to impart today, it would be our commitment to communication and to working together to address ways of better meeting the needs of the more than 20 million young American citizens whom you today directly represent.

I am, indeed, encouraged to see the spirit of self-examination which pervades your program for discussion. And with respect to the increasingly difficult problems of discipline in the schools, I am excited to see the booklet entitled "The Reasonable Exercise of Authority" which your organization has published and disseminated.

This is preventive medicine at its best. The title and contents suggest your strong emphasis on a style of leadership, not just a rigid code of behavior. It explains for the layman the difficult and rapidly evolving area of student's rights and constitutional due process in the schools. I commend you sincerely for this effort as an Association.

Students, after all, are citizens and full members of the community. They are increasingly numerous as well as vocal. A hypocrisy gap can make our civics classes meaningless unless the environment experienced in our educational institutions reinforces lectures on constitutional precepts. We know, from the *Gault* decision and others that young people in trouble have legal protections and constitutional rights. How much more important, then, for the student *not* in trouble with the law to experience his rights as a young citizen rather than merely the law's sanctions as a delinquent.

I repeat that I have no magic formula for solving crises of disruption. We do know results are constructive when a community—be it a city or an educational institution—sits down to examine itself through dialogue by its constituent elements. I know, too, that your interchange at meetings such as these, and vehicles such as the *Education U.S.A. Special Report on High School Student Unrest*, can give you the benefit of the experience of others. The Federal Government has no more desire to play policeman in the high school corridor than it does on the college campus. We respect a long tradition of local and academic freedom. We are acutely aware of the administrative nightmare which such an intrusive process would entail. We have limited our role to the positive steps we can take to ease the pains of transition and institutional reform. Our Office of Education studies and research efforts have increasingly been directed toward methods of easing tensions in the American high school. And in a special message to the State School Officers last September, Commissioner Allen and I suggested both short- and long-range steps which might be adopted by school systems as methods of averting violence and disruption.

In addition, we have initiated changes within the organization of the Office of Education in an attempt to respond to crises of the American secondary school system. We have, for example, established an Office of Students and Youth as one way of letting young people serve other young people. A continuing Task Force on students and social change is making additional studies of the problem and has embarked on further contracts for research and analysis on problems of change at the secondary school level. The Office of Education has given a major priority to funding of student-run and student-sponsored education projects. Announcements of other activities can be anticipated in the near future.

While these activities are necessarily small in light of some of the crises facing American high schools, they are designed to create a new atmosphere of communication and trust among all parties in secondary education.

There is one final item on my agenda which I deem intimately related to all I have said this morning. By discussing it as an educational vehicle for the channeling of student energies, I do not mean it as a cynical technique of crisis management. I refer, of course, to the compelling problems of restoring the Nation's environment. This is not, and it cannot become, a political fad or a passing bit of heavy rhetoric. We mean business. Environmental considerations—a sense of responsibility for this planet and for each other—must become a permanent component of every decision—governmental, legal, industrial, and personal—from here on out.

The burning question about the degradation and abuse of the environment is no longer the catalogue of ecological horror stories, but rather: "what are we going to do about them?" And in this battle, there is no weapon more critical than education.

The teacher we intend to send into our public schools in 1980 is today a sixth grader somewhere in America. He or she must be

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taught—beginning right now—along with every American boy and girl, about environmental quality, about ecology and about all of the complex and interacting elements that go to make them up.

We and they must learn together—and in the spare time we have left, we must begin to write the textbooks for this new educational enterprise. We must think about America as it will be in 1980—a Nation with some 250 million citizens with different kinds of schools and different kinds of teaching and learning programs, and we must do this right now. That future teacher will enter college in 1976 and new textbooks will have to be written and published, courses mapped out and instructors trained in these new disciplines.

When we turn these brand-new teachers loose in 1980, they must know much more than any of us do right now about the problems involved in human survival—or else the war may well be lost, although the battles may go on for a few decades longer.

Departments devoted to the environmental sciences are being started at many of our Nation's universities. Many seminars have been held. This is an excellent beginning—but we must also begin now to develop similarly oriented programs in our grade schools, in our high schools and in our junior colleges.

These same basic courses must be developed and put into action at every stage of adult education. Logically, this should include not only adult education sponsored by formal school systems, but also the educational enterprises conducted by business and industry, by unions and by other organized groups. The future of society lies in its ability to respond to crisis. And we are in a situation with regard to our environmental preservation that calls for a clear and vigorous response by every sector of American life.

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We need in our schools to counteract the idea of environment as being something "out there" that can be visited and then left behind at the end of a field trip. Our goal must be to see that every school has access to an environmental study area where youngsters of all ages can grow up with the concept of environment as being everything that makes up their world, and with an understanding of the interdependency of all its numberless elements. Whatever Marshall McLuhan meant by telling us and the media that we live in a "global village," the analogous message for environmental education is clear: "The world is the classroom."

Through the development of what Dr. Allen has called EEE—environmental/ecological education—at every level of learning, I see some very exciting things:

—Pre-schoolers will more and more be using the out-of-doors as a classroom—for it is urgent that our children early begin to understand their environment.

—High school students will use civics courses to engage in work study programs with city and state officials and environmental quality professionals. They will focus on all sorts of urban problems to which solutions must be found—waste disposal, water supply, pollution and population.

—Undergraduates will participate in multidisciplinary classes under the guidance of master teaching teams to allow them to work out the great intellectual synthesis of the 1970's—the still unexplored area that lies among the humanities, the natural and social sciences, and the broad-based environmental studies that must be undertaken.

Education in this issue is not just something for kids. The entire level of mass citizen understanding and participation must be raised if we are to reverse the environmental skid. In this effort, we must rely on educational television, on community colleges, on business, on labor—in fact, on a total fusion of individual and group effort.

Action on this issue calls for both skills and passion: for disciplined scientific techniques and the emotional commitment to utilize them. If our communications do not fail us in this crisis, all Americans will, to some degree, become eco-activists.

Let me close my remarks on the note struck by your conference theme. If there were to be one crucial thing that is right among the many things that are right—about the American educational system, it would be its historic capacity to respond creatively to challenge. This is the decade of challenge; and in your constructive introspection, the response has already begun. To that I can only echo the words I quoted last spring at a White House meeting of the best of your own students—the Presidential Scholars. The words were uttered by my predecessor, John Gardner, and they apply to education, to political leaders, and to each one of us.

"A nation is never finished. You can't build it and leave it standing as the Pharaohs did the pyramids. It has to be recreated in each generation by believing, caring men and women. It is now our turn. If we don't believe or don't care, nothing can save this nation. If we believe and care, nothing can stop us."

WHAT IS A FIREMAN?

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. ADDABBO. Mr. Speaker, the firefighters of New York City responded to nearly a quarter of a million fire alarms during 1969, yet we tend to take their bravery and dedication for granted. The forgotten heroes of our city deserve our support and appreciation 365 days of the year.

I would like to bring to the attention of my colleagues an article entitled "Inside Fire Lines" written by Mr. Michael J. Maye, president of the Uniformed Firefighters Association. The article appeared in the March 3, 1970, edition of the Civil Service Leader and presents a meaningful picture of New York City's 12,000 firemen. The article follows:

[From the Civil Service Leader, Mar. 3, 1970]

WHAT IS A FIREMAN?

(By Michael J. Maye)

A big red truck turns the corner, lights blazing, siren blaring and the chilling blast of a horn cutting through the night. Men with oversized hats and yellow-striped coats cling to the side of this monstrous piece of machinery. If it is not heading for your house—or even your block—it may be just another sound of the City, loud and frightening, which quickly blends into the thousands of other street noises which melt into the night.

But if it is your house or your block which is involved—perhaps with billowing smoke and roaring flame leaping from a building—and the red truck appears with its passengers in oversized hats and yellow-striped coats, you will never again live through such an experience without recognizing the components of the dramatic scene for exactly what they constitute: the very best the City has to offer to help you.

There are 600 miles of streets in this City with more than 400 miles of waterfront along its shores. New York is hundreds of thousands of buildings, ranging in age from brand new to well over 200 years old; one-story taxpayers to 102-story skyscrapers—and not one is completely and truly "fire proof." By the same token, eight million people live here and another 1.5 million commute here daily—and not one of these human beings is "fire proof," for there is no such thing as an "Asbestos Man."

These people and buildings are protected around-the-clock—and the responsibility for supplying this protection is entrusted to 12,000 firefighters.

What, then, is a fireman? Who is he and why does he do what he does, risking his life and limbs daily?

The qualifications for a New York City firefighter are the highest of all civil service jobs. Their training is the most intensive and never-ending, their dedication is unquestioned and their record unblemished.

These firefighters answered 240,000 alarms of fire in 1969—and 4,283 of them sustained injuries!

Who is this man?

The average firefighter is 27 years old, married, with 3.5 children. He is familiar with all types of buildings, construction and other tools and equipment. He likes to read a lot, probably more so than the average. He loves his country and is proud to say so.

The New York City firefighter is unique in many ways. He is in the job because he loves it. He fights for assignment to the "action houses" because he knows from the first minute of his appointment that danger and risks are part of the job.

The New York City firefighter is unique even in his approach to fighting fires. Almost everywhere else, the motto is "surround it and drown it" when fighting a fire. Because of the way New York City itself is laid out physically, with giant buildings next to small ones and almost everything attached to something else, the New York City firefighter must "go in and put it out—don't let it spread."

This, then, is what firefighting and firefighters are all about—and New Yorkers are justly proud of the men and the job they do.

DO NOT TRANSFER LORTON REFORMATORY COMPLEX, SAYS WRC-TV—NBC CHANNEL 4

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FRASER. Mr. Speaker, a recent editorial on WRC-TV set out several sound arguments against taking the Lorton facilities out from city administration. These are excellent reasons for removing title V from H.R. 16196.

The editorial is as follows:

WRC-TV 4 EDITORIAL

There is a move on Capitol Hill to take away still another function of the city government. Included in a House District Committee bill is a provision to transfer the Lorton Reformatory Complex from city administration to the Federal Bureau of Prisons.

Lorton is in Virginia—almost all of its inmates are from the District. There is resentment among some residents of the Lorton area that the District's problems are being brought into Virginia.

The reformatory is in the Congressional District of Representative William Scott. He has received letters and visitations from his constituents, some of them employees at Lorton, citing alleged abuses and irregularities. They asked for transfer of control of

Lorton, and in response, Representative Scott introduced the measure. After hearings it was approved in committee.

It should be defeated on the House floor because—

It is a diminution of the structure and authority of the District government. There is no more reason to permit the Federal government to run Lorton than to run the prison systems of Virginia, Maryland, or any other state. The Director of the D.C. Department of Corrections, Kenneth Hardy and his staff have done an excellent job in terms of a low recidivism rate and progress toward a model system called for by the President. There is no indication the Federal Bureau of Prisons wants the responsibility of running Lorton.

It would be better for the Congress to fully support the D.C. Corrections Department with funds, personnel and authority than to reduce its scope with no certainty of achieving a better result.

ABM OPPONENTS BOXED IN

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. RHODES. Mr. Speaker, as history has shown time and time again, a nation's ability to defend itself against foreign enemies is of primary importance if it is to survive. And while it is regrettable that the huge sums needed for our national defense cannot be spent curing the Nation's domestic ills, we must have adequate strength to deter or repel a foreign attack or any other programs or plans for the Nation will be meaningless.

A recent column by John Roche in the Detroit News outlines the harsh facts of world politics and power today. And although many would prefer to ignore them, those facts include a realization that, in Mr. Roche's words, "the U.S.S.R. is launched on an extremely dangerous, hard-line course" and that "the Soviets have an operational ABM system." In light of these and other realizations, it is imperative that the United States have an ABM system, too, as Secretary of Defense Laird and the President well know. I commend Mr. Roche's column to the attention of my colleagues:

ABM OPPONENTS BOXED IN

(By John Roche)

If one accepts a conspiracy theory of politics, the strategy of the Nixon Administration is a cunning plot against the liberal Democrats. If one assumes, as I do, that no administration could organize a three-man cabal without a fourth, from the *Washington Post*, getting into the act, it's just bad news. But either way, the liberal Democrats are trapped in a grinder—the Soviet Union on one side and Defense Sec. Mel Laird on the other. Laird, a man of first-rate ability, has been quietly setting the Democrats up. While Vice President Spiro Agnew has been drawing the headlines and the fire of the opposition, Laird has been laying the trap. He has been genial; the soul of reason. He has avoided all the cliches of messianic anti-communism. But his message has been clear: the Soviets are arming to the teeth and the Congress (read: liberals) has refused to meet this challenge to our national security. It would be some consolation to think that President Nixon and Laird lured the liberals into the trap but the fact is they rushed in under their own steam.

The bait was, of course, the anti-ballistic missile (ABM), which various liberal senators have denounced because (1) it wouldn't work, (2) it would work but would provoke the Soviets, (3) it wouldn't work and would provoke the Soviets and (4) whether it worked or not, we should spend our money cleaning up slums. Laird, placidly ignoring this static, has simply gone ahead building the record. He has emphasized the incredible Soviet production of the monster SS–9 missile and hinted that it soon may be equipped with MIRV's, four or five independently targeted missiles that travel on the same bus. He has announced that the Russians have developed a "killer satellite" which could wreck our surveillance system. He has urged the expansion of the Safeguard ABM system. The liberals, busy chopping away at the defense budget, have dismissed all this as the theme song of the "military-industrial complex."

After all, the Soviet Union did agree to arms limitation talk. And any rational man will admit that Moscow has a strong interest in stabilizing the arms race. (It is, admittedly, a bit difficult to explain Soviet policy in the Mideast on this basis but that can be treated as an eccentricity.) Those of us who insist on arguing that the USSR is launched on an extremely dangerous, hard-line course are written off as relics of the Cold War, men who have lost the capacity to adapt to changing circumstances. Laird just sat and waited. Then the trap was sprung. Not by Laird but by his Soviet counterpart, Marshal Andrei A. Grechko, minister of defense of the USSR. Writing in *Pravada* Grechko stated: "We possess weapons capable of reliably hitting enemy aircraft and missiles, irrespective of height or speed of their flight, at great distances from the defended targets." In short, the Soviets have an operational ABM system. True, it may not be very extensive but it is in place. And Soviet statements of this sort tend to be very reliable. They know, for example, that our radar has been monitoring their tests. Now what? Somebody undoubtedly will say that we provoked them into setting it up but that is sheer nonsense. The lead time on a weapons system like that is five to 10 years; the first Safeguard units will not be in place until 1975. The initial step must be a reappraisal of the whole liberal outlook on defense and security. For this is not just a bad dream; the Soviets are prowling in the Mideast, supporting Hanoi playing with the noose around Berlin and moving toward preponderant strategic power. The American people cannot and—as Mr. Nixon and Laird well know—will not permit this to happen. If the liberals continue their fixation on the "military-industrial complex" and ignore the perilous shift in the balance of world power, they will consign themselves to oblivion.

TRIBUTE TO ROBERT HOWARD OF THE CHICAGO TRIBUNE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. ERLENBORN. Mr. Speaker, before I served in this House of Representatives, it was my privilege to serve in the Illinois House of Representatives for four terms; and it was my privilege there to know Robert Howard, the Springfield reporter for the Chicago Tribune.

Bob is retiring now and I do not want him to leave without public notice that the fourth estate is losing a good reporter and an honest one.

He had those traits of perceptiveness and understanding which made all of us comfortable in turning over our precious legislative ideas and our political fortunes to his journalistic treatment.

The Illinois Legislature and the people of Illinois are richer for the work that has been done by Bob Howard.

CIVIL DEFENSE

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mrs. GRIFFITHS. Mr. Speaker, John T. Wheeler, Associated Press writer, has done, in my judgment, a great service by his article, "U.S. Civil Defense: 'An Absolute Farce'." This article was carried in the Detroit Sunday News, March 15, 1970. When I first came to Congress, I served on the Government Operations Committee and as a member of CHET HOLIFIELD's subcommittee. On that committee we studied civil defense. Mr. HOLIFIELD made a detailed study of the weaknesses of our own civil defense and the strength of other nations, including Russia's defense.

When you read Mr. Wheeler's article, you will find that after 15 years we still have no civil defense whatsoever, while Russia has an excellent civil defense. Our lack of civil defense undoubtedly is due to the fact that there is no organized lobby in this country of manufacturers requesting such defense.

The article follows:

U.S. CIVIL DEFENSE: "AN ABSOLUTE FARCE"

(By John T. Wheeler)

WASHINGTON.—If it came tomorrow—earth's first and probably last atomic war—almost half of America's 200 million people would die. Period. No way to save them.

An estimated 33 million more would die also. Needlessly.

There is a way to save them. But it hasn't been done.

Those are the hard figures of the Office of Civil Defense (CD), entrusted with overseeing the sheltering of the nation's citizens for The Bomb. About 35 cents a year per person is being spent towards that end.

A proper, full-scale shelter program could save 48 million American lives by CD estimates. That same estimate says present shelter programs would save only 15 million. Thus the cruel arithmetic: 33 million lives wasted.

John E. Davis, national CD head, concedes Americans are poorly protected and that in some cases civil defense is nonexistent.

A survey that reached from coast to coast and from small towns to Washington and Detroit showed:

There are stocked public shelters for only 61 million Americans.

Shelters are concentrated in cities.

Some federally-approved shelters do not meet minimum standards.

Many shelters are poorly marked.

Trained shelter managers are not assigned specific shelters in most cases.

Water barrels are empty in many shelters.

Radiation monitoring equipment is sometimes not in place, or without batteries, or not working.

(More than 800 buildings in Detroit have been designated as fallout shelters by the Army Corps of Engineers, but the local Civil Defense office believes more would be needed in the event of a nuclear attack.

(Building fallout shelters here is not considered feasible, they said.

(Meanwhile, the city's air raid system is being kept in operation, a public information program is available and there are various plans to meet other type of disasters.

(However, the local Civil Defense staff has been greatly reduced over the years. The only training program is for government employees—on radiation monitoring.)

Omaha Civil Defense Director William Noyes' judgment that American civil defense amounts to "criminal negligence" was one of the most forceful condemnations of the present program.

A Pentagon official called the national program "an absolute farce based on hope."

One reason advanced for America's unpreparedness is that a fully effective civil defense program would "provoke" Russia by upsetting the implied balance of death between the two superpowers.

Federal officials say more could be done under the present budget if state and local officials would organize properly. Top federal officials, including Davis, say Congress won't boost the federal budget of $69 million.

Local officials say organization is impossible given present public apathy, and that only strong federal leadership, including the influence of the President, can lead to a full fallout shelter program.

CD estimates 65 million Americans live in remote enough areas to survive in any event.

In the South and Southwest, the civil defense shield is more like a fishnet. An Atomic Energy Commission source said these areas are so unprotected that they virtually are written off in case of attack.

Throughout most of the Nation there are no local maps giving the location of fallout shelters or assigning persons to specific areas to insure against overcrowding.

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Federal literature shows Washington with spaces equal to nearly 600 percent of the capital's population. District of Columbia officials say that while this is the number of potential shelter space, present spaces with emergency stocks cover only one-half of the capital's daytime population of 1.4 million.

Spot checks turned up school buildings, federal buildings and other structures—even the main fallout shelters at Strategic Air Command's (SAC) Omaha headquarters—that were approved but do not meet federal minimum standards.

A SAC spokesman assumed SAC bases would be attacked immediately and destroyed.

But one of the command's civil defense officials stationed at Offutt Air Force Base said, "I can't see why an enemy would bother wasting a missile on this place. We don't have any attack craft or missiles."

The theme was one heard repeatedly in talks with Civil Defense officials in areas which Pentagon sources say can expect to be hit by many bombs.

Carmine G. Novis, head of New York City's Civil Defense: "There is no reason to destroy us. I assume New York will not be hit."

Charles Willowby, of Colorado Springs, Colo.'s Civil Defense office: "I don't think it would be logical to hit us. NORAD—North American Air Defense Command—will already have given the warning."

NORAD is centered one-third of a mile inside a mountain because it is one of the prime targets.

Melvin M. McBridge, deputy director of Washington's Civil Defense: "We don't plan on Washington being hit. Why would they bomb us anyway? The President and other key leaders would be safely out of the city."

A far different view was expressed in California where a senior state official said, "The Russian targeting concept is to attack the cities and carry out massive destruction. We consider San Francisco and Los Angeles to be prime targets."

In Russia, civil defense training for civilians is compulsory and extensive and includes sections on bacteriological and chemical warfare, something ignored by the U.S. program. Moscow has instituted an active shelter building program; the United States has none.

Russian civil defense is headed by an army marshal and has military men in command positions.

There are limited and realistic exercises at the local level, and the public repeatedly is warned that population centers are certain to be hit.

The Pentagon assumes major communications, administration and industrial centers would be smashed. A tremendous communications system would be needed just to identify bottlenecks and the most needy areas.

City and county civil defense units lack radios. It is hoped that the nation's ham or amateur radio operators could fill the gap. But there is no detailed master plan for this.

A New York official, when asked how the problem of several million dead might be solved in his city, said: "Oh, that's a problem for the sanitation department."

A sanitation department official said as far as he knew there were no plans for the handling of masses, perhaps millions, of bodies. "But it is certainly something to think about," he added.

TRAFFIC CONGESTION ON INTERSTATE HIGHWAY 70–S

HON. J. GLENN BEALL, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BEALL of Maryland. Mr. Speaker, one of the greatest annoyances to the people of my district is the intolerable congestion during peak traffic hours along Interstate Highway 70–S, the western Maryland area's primary link with Washington and points south. A recent editorial which appeared in the Frederick Post of Frederick, Md., addresses itself succinctly to this problem and commends the stand taken by U.S. Senator CHARLES McC. MATHIAS in a letter to the chairman of the State Roads Commission, David H. Fisher, in which he points out the pressing need for immediate remedial action. The March 10 editorial follows:

70–S TRAFFIC PRESSING PROBLEM

Biggest problem facing the State Roads Commission in the Frederick area is to solve the chaotic traffic problems on Route 70–S, the area's sole link with Washington and points south.

Timely indeed is the strong letter of Senator Charles McC. Mathias to David H. Fisher, chairman-director of the SRC, in which he minces no words in pointing out the necessity for early action if a complete stoppage of traffic during the rush hours is not to occur.

The Mathias letter will be particularly welcomed by the several hundred from this area working at either the National Bureau of Standards or the Atomic Energy Commission, both of Gaithersburg, or employed by the many research and development companies located along the channel of Route 70–S.

Both in reporting to work and returning to their homes they find that the traffic congestion is so great as to greatly lengthen their journeys over a highway ironically posted for a 70-mile an hour speed limit.

In his letter to Chairman Fisher, the senator suggested the possibility of speeding up traffic by prohibiting passing by slow or bulky vehicles such as trucks or denying use of the highway entirely to such vehicles during the rush hours.

"During peak traffic hours, this high speed highway is clogged with traffic moving at a snail's pace. The point of merger of highway traffic and beltway vehicles is a scene of confusion with large numbers of cars trapped behind slow moving vehicles," he said.

As Senator Mathias well points out this condition prevails in both lanes of what was projected to be a high speed highway. He suggested that the SRC chairman pay a visit to the highway during a peak traffic hours and see for himself the almost incredibly congested conditions prevailing.

And if conditions are bad today, what of the future? "Projections of future traffic density often seem to be so astronomically high as to be unbelievable," the senator declares.

Noting that the SRC has long-range plans for widening the portion of the highway between Gaithersburg and Bethesda, he inquired into the feasibility of expending this project before the highway some day in the not too distant future bogs down entirely.

WOMEN'S LEAGUE READIES FOR ANOTHER 50 YEARS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. ANDERSON of California. Mr. Speaker, women of America are celebrating this year, August 20, their 50th anniversary of the ratification of the 19th amendment to the U.S. Constitution, the amendment which insured the right of women's suffrage.

Among the leaders in the amendment drive were many who in 1920 founded the League of Women Voters. The league has been active throughout its history and has expanded its political role and increased its emphasis on voter registration and an enlightening of the electorate.

Efforts are also being made to deal with issues of communitywide importance. In Los Angeles, for example, the league is working in the suburbs to explain housing needs and to assure residents that low-income housing does not necessarily result in slums and ghettos.

The league has an active membership of over 160,000. In beginning its second half century, it hopes to increase that figure and continue the recruitment of minority group members. Some members have also indicated that they hope to reach more young people and persons from both ends of the economic spectrum.

What goals are being set and how the league hopes to accomplish them were discussed in the February 21, 1970, issue of the Christian Science Monitor. So that my colleagues may be aware of their future directions, I am inserting the article in the RECORD. With the article also goes my congratulations to the League of Women Voters for its 50 years of success and best wishes for many, many more years of success.

The article follows:

LEAGUE OF WOMEN VOTERS: AFTER 50 YEARS, WHICH WAY WILL THE LEAGUE MARCH?

(By Susan Hunsinger)

BOSTON.—"When the league was founded 50 years ago, it was thought that every woman should join," says Mrs. Bruce B. Benson, current president of the League of Women Voters of the United States.

The founders, who had just won the 72-year-old battle for women's voting rights, felt responsible for educating the 20 million people they had helped enfranchise.

But the idea that the league was something for everyone was unrealistic, says Mrs. Benson. "Many people don't want to be involved even in a peripheral way with a citizens' government-oriented group."

Nevertheless, Mrs. Benson thinks "the potential of the league is infinitely greater than its present membership" of 160,000 women. In 1970—the 50th year for the league and women's suffrage and the 100th anniversary of Negro suffrage—the league is trying to achieve a more representative membership.

MORE BLACK MEMBERS

In the past few years the league has been concentrating on increasing its membership among minorities. Black membership has risen—nationwide.

The Alabama league president, Mrs. Sarah Cabot Pierce of Montgomery, says about one-quarter of the attendance at her league meetings now is black.

But, in essence, says Mrs. Benson, the wife of an Amherst College physics professor, "We are missing the two ends of the economic spectrum. We have very few wives of corporate executives and we have very few poor women."

The Alabama president, whose husband is in the insurance business, explains "there are not very many businessmen who approve of their wives getting involved in controversial issues. The native boys prefer the Junior League."

The lag in membership among the poor is in part attributed to attitudes unintended but nevertheless expressed. The league has always been officially integrated.

But members of minority groups—as well as poorer whites—may have felt uncomfortable at the meetings, often held in the homes of the well-to-do. Similarly, Catholics may have been reluctant to attend meetings held in Protestant churches. Now the league favors holding public meetings in public places.

Perhaps the most important determinant of league membership is the nature of league activities, which focus on broad issues and the structure of government.

"I think we have to accept the fact that we are a primarily white, middle-class group," says Mrs. Mary Grace Smith, former president of the Boston league. "Some people can't afford to be volunteers of [the league] sort. It's more important for them to use what leisure time they have to work on matters of immediate community interest"—such as upgrading the ghetto school rather than trying to abolish the Electoral College.

Even the middle-class, well-educated women who have always formed the league's hard core now have less time for volunteer activities. For many of these women—upon whom the league has depended—are going to work.

"This trend has already had a tremendous impact on the league," says Mrs. Benson. In an attempt to adapt itself to the schedules of working women, the league now holds more meetings at night and at lunchtime downtown.

And the league has for the first time embarked on a nationwide fund-raising drive for $11 million—in part to pay professionals to do the routine office work formerly done by volunteers.

The league also wants the money to reach young people. "We have learned by experience that young people, even the biggest activists, are interested in using democratic processes to bring about change," says Mrs. Benson.

Last summer the league used $100,000 of its education budget to recruit and transport 150 "highly politicized" young people—ranging from Black Panthers and SDSers to the Young Americans for Freedom—to a conference in Denver. The purpose was to allow them to pool experience on how to get things done.

BOMBARDED BY REQUESTS

There was "a lot of rhetoric," and some Mexican-American students upset the dinner tables when the university cafeteria inadvertently served grapes. But, Mrs. Benson says, these same young people went into workshops to work out the practical techniques of community organization.

Since then, according to Mrs. Benson, the league has been bombarded by young people who want to know how to do things. "At times we know the answer but don't have a staff member to phone or type the answer."

The league's activities have a two-fold thrust: (1) efforts to clarify issues and encourage more voting, and (2) study and action on a specific league program selected nationally every two years.

As for the league program, many of its past objectives are legislative history. The league takes part of the credit for the following:

Social welfare—the Sheppard-Towner Act in 1921 for maternal and child health, the Social Security Act of 1935, and the Muscle-Shoals proposal for public-controlled power facilities in the Tennessee Valley in 1933.

Government reform—establishment of the merit system of hiring federal employees, 1934–40, and revision of state constitutions in Pennsylvania, Michigan, California, Iowa, Hawaii, and Florida.

Foreign policy—every renewal of the Trade Agreements Act beginning in 1934, and recent U.S. efforts to ease trade restrictions with Communist China.

Water—the Water Resources Planning Act of 1965 and the Clean Water Restoration Act of 1966.

When asked what the concerned citizen could do about water pollution, chairman of the President's Council on Environmental Policy, Russell B. Train, replied recently, "Join the League of Women Voters."

IMPLEMENTATION STRESSED

But why join the league rather than a strictly conservationist group? The league, says Mrs. Benson, works to see that federal legislation gets implemented on the state and local level.

"It's not enough to lobby in Congress," says Mrs. Benson. "You have to follow it through. . . . You have to know who the polluters are, how much money they need to stop, what to do with the sewage, and you have to press all government levels for the money for treatment plants."

The league has always tackled highly political, or controversial, issues, but rarely those divided on a clear-cut party basis.

One of the league's problems is finding room for new issues, since the old ones don't fade away, they just expand. Water resources, for example, has been on the league program for 14 years. As if a sign of the program to come, the Massachusetts league board already includes an expert on thermonuclear pollution.

Equal opportunity also presents a never-ending number of public problems for league study. One of the most appropriate places to work for equal opportunity, league women are learning, is in the suburbs, where most members live.

"Our essential effort must be focused on ourselves . . . and on our own community institutions which are racist and exclusive and which perpetuate poverty," said Mrs. Smith, now legislative chairman for the Massachusetts league board. She referred to school textbooks, suburban industry and church rosters, and the exclusion of low-income housing.

Leagues all over the country are studying zoning laws and how to make them more flexible. The November, 1969, issue of Current Review, a national league publication, identifies the various exclusionary zoning practices and suggests ways to curb them.

The Los Angeles league is working to reduce the suburbanites' fear of the "invasion" of low-income housing and multiple family dwellings. "The league has joined with realty groups and fair-housing councils in sponsoring seminars to explain housing needs, to show that low-income housing does not mean an instant slum or ghetto," says Mrs. Barbara Margerum, Los Angeles league president.

NOT FEMINIST GROUP

So far the national league has focused on the rights of minorities, but not, interestingly, on those of women. However, three state leagues—Alaska, Iowa, and Tennessee—have recently expressed interest in studying women's rights.

"It's a little hard to say why the league has not been interested in these issues pertaining to the legal and financial status of women," says Mrs. Benson. "There has been a conscious, and perhaps unconscious, effort not to be a feminist organization, but to be a citizens' organization in the broad sense."

One of the broadest citizen concerns—the Vietnam war—has also escaped League study. "It's too bad that the League didn't get involved in studying the whole problem of national liberation way back in the 1950's," Mrs. Benson says. By the time the general problem had become specific in Vietnam, she thinks public—and perhaps league—attitudes were already too polarized.

The absence of these issues may result partly from league procedures—which are as time-consuming as they are democratic. Before an issue can be added to the league program, a substantial majority, or "consensus," must agree on its importance for league study. At the local level, the only opportunity to suggest an issue is at the league discussion meeting.

League procedures, according to Mrs. Benson, should allow for the member who cannot be present at the meeting, and, perhaps, for the suspicion that "meetings are getting more and more out of style." But the league is reluctant to introduce any mechanism which might lead to the mere registration of opinion rather than considered judgment.

Some of the league's traditional procedures—such as the parliamentary meeting—are proving inappropriate in the inner city. League members find that voter registration is no longer equivalent to voter service: many inner city residents have to be convinced of the power of the vote, or of testimony before the city council—or housing authority—techniques which are second nature to the league.

Some members disagree about the group's primary function. "The league has one of the same divisions as the church," says Mrs. Benson. "The individual salvation-types vs. the social activists."

Some think the league's purpose is to educate the individual citizen to decide which action to take. The other trend is to say, yes, the role of the league is education, but you won't get needed changes unless you act in an organized political fashion.

DEMONSTRATIONS ARGUED

How organized is the league ready to be? The Massachusetts league closed its office last October 15 and urged members to participate in Vietnam Moratorium Day discussions. The national league participated in the June, 1968 Poor People's Campaign march when it got to Washington.

"As league president I feel that demonstrations are a useful political tool, guaranteed under the Constitution," says Mrs. Benson. But she has been severely criticized by some members who feel that demonstrations are not a "league-like" way to influence public policy. "They seem to forget we got the vote by demonstrating," she adds.

No matter what emphasis league members put on political action, they agree that numbers make a difference. The Massachusetts league, which has the largest number of local leagues and 12,000 members, has more influence than the Mississippi league, with 375 members, or the Alabama league, with 700.

At the national league convention in May, there may be a move to speed up league procedures to allow for a little more action, a little less discussion. While the Alabama president feels her league would prefer not to move so fast, she says, "Maybe that's the kind of world we live in."

FREEDOM'S CHALLENGE

HON. RICHARD FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. FULTON of Tennessee. Mr. Speaker, recently, Mr. Luther F. Cobb, a 17-year-old student at Overton High School in Nashville, Tenn., submitted an essay to the Tennessee competition for the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of America contest. Mr. Cobb's essay was written on the theme of the contest, "Freedom's Challenge," and was subsequently judged to be the best entry from the State of Tennessee.

Mr. Speaker, in reading Mr. Cobb's essay, I was profoundly impressed. Here is a young man who undoubtedly will be one of our leaders in the future. It seems to me he speaks for the broad middle spectrum of responsible youth of today.

In doing so, he admonishes those of the extreme left and the extreme right that the cure for the ills of democracy is not found in destruction but in construction. For, as he quotes the late Al Smith, "All the ills of democracy can be cured by more democracy." Thus, rather than advocating the destruction of the system and the so-called establishment, Mr. Cobb acknowledges that there are problems facing the United States internally, but the solution of those problems lies in extending our democratic processes and rights to all citizens and permitting them fuller participation in our Nation's bounty and harvest.

Also, to generations which have preceded him, Mr. Cobb demonstrates that those young Americans for whom he speaks do have an understanding of our problems. Even more importantly they wish to solve these problems within the framework of our Constitution and democratic institutions. He asks that his generation be understood in this light and be allowed to participate. I feel that it is incumbent upon us to pay serious attention to this request and open the avenues of participation to this new generation, which will soon be engaged in the difficulty of steering this country through very difficult seas.

Mr. Speaker, I include Mr. Cobb's winning essay, "Freedom's Challenge," in the Record at this point, and highly recommend it to my colleagues for their consideration:

Freedom's Challenge

The freedom of every citizen of the United States hinges upon the conduct of the United States in the next few years in world and domestic affairs—and this conduct depends directly upon the attitudes and actions of the American people. We, as concerned young people, should examine the challenges presented to us by our heritage and our present world, and act responsibly to meet these challenges.

The United States faces crises both at home and abroad. In Southeast Asia we fight against the encroachment of the Communist menace as it attempts to close in upon millions of helpless people. The challenge which faces Americans is not to shirk the responsibility forced upon us by our role as world leader, nor to let a vocal few dissuade us of the rightness of the cause to defend freedom, militarily if necessary, against aggression by outside powers.

At home, disagreement, often violent, grows in frequency and scope. Many Americans, fulfilling the basic right of freedom to express their opinions, protest against domestic conditions of poverty, hunger, and discrimination; as well as conditions abroad. The challenge which exists here is not to allow a reaction against vocalism to result in the abolition of our time-honored freedom, but to combat a false opinion with the truth, knowing that the minds of rational men will make the final choice for the right. We must not allow ourselves to be drawn to the militant radicalism of either the right or the left, but to chart the rational course between, insuring the continuation of the right to settle public issues by open public discussion.

We as concerned citizens and future leaders of America, must, however, avoid the pitfalls that lie in wait for the unwary. Rather than being emotionally drawn to one side or the other of an issue, we should weigh carefully all the arguments, both pro and con, before reaching a conclusion. We should always be willing to discuss and reason, keeping an ever-open mind to the opinions of others.

We must also realize that inevitably with freedom come grave responsibilities—both for the preservation and reasonable use of our liberties. We should realize that freedom does not imply a license to hurt or take advantage of others, but a mandate to help them. Also imperative is the realization that we must always bear the consequences of our own actions; accordingly we should never in the heat of emotion abolish an institution without providing for a replacement which will insure a more effective system. Our democratic government is the end product of thousands of years of human experience, and is undoubtedly the best form of government on earth today—allowing for individual freedom to guide one's own destiny. Naturally, democracy, like any institution, has defects—there was never a human creation which did not. However, as Alfred E. Smith said, "All the ills of democracy can be cured by more democracy." In addition, it is important to remember in the midst of attacks upon our government that, for any improvement to be made, a more effective system must be devised. So far, none has.

As citizens, then, of a free country, we must shoulder the responsibility to keep it free. Perhaps the greatest challenge of democracy is that it cannot remain as a viable institution unless its citizens are willing to keep it so. The sacrifices in war and peace of years ago cannot stand by us today—democracy requires a constant sacrifice for the perpetuation of its immeasurable benefits. If we become indolent and apathetic, our country, the paragon of freedom, will slide backwards into decay and absolutism as did ancient Rome in a similar situation. Thus, as citizens, we must be impelled to become involved in our future; to take a voice in our government and a part in its maintenance; to stand firmly for what is right and to work to promote that which is right; and to proudly accept the challenge of freedom in our world.

NORTHEAST PUBLIC POWER ASSOCIATION BACKS DICKEY-LINCOLN

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. HATHAWAY. Mr. Speaker, the membership of the Northeast Public Power Association, an organization comprised of power companies from the seven Northeastern States from Maine to New York, recently approved a resolution exhorting members of the New England House and Senate delegations "to wholeheartedly support an appropriation of $807,000 for continued development of the Dickey-Lincoln School hydroelectric power project."

The resolution and an accompanying letter sent to me from the association's executive vice president reaffirm this outstanding organization's faith in Dickey and reassert its hope that the project will soon become a reality.

I join in these sentiments, and in the exhortation addressed to my New England House colleagues urging their full support. I am hopeful they will review the case for Dickey closely, paying special attention to those elements which clearly indicate that the project would save New England power consumers at least $9 million a year.

I am hopeful that those who have yet to voice their support for Dickey will then join those of us who have in bringing the prospect of reliable and low-cost electric power for the people of the Northeast to fruition.

At this point, Mr. Speaker, I insert both the resolution and the letter from the Northeast Public Power Association in the Congressional Record. I additionally insert a second resolution approved by the association's membership, regarding the present trend toward private-utility monopoly in the energy field, and specifically calling for congressional investigation of this trend and its manifestations:

Hon. William D. Hathaway,
Congressional Office Building,
Washington, D.C.

Dear Mr. Hathaway: We are glad to see that the President has again included $807,000 in his budget for resumption of planning for the Dickey-Lincoln School project. As you realize, former Presidents Johnson and Kennedy also included funds for this purpose in all budgets that they submitted to Congress.

Today, as you know, the New England power supply situation has become dangerous, a danger due largely to inadequate planning. Problems of pollution and environment are added to the continuing hazard of power shortage; energy of all types is costly in New

England. Shortage and high costs rather than abundance and low costs seem to plague the area. If these dangers are not corrected in the near future, the damage wrought on the whole area will take years to correct.

Dickey-Lincoln School should be made a reality. It is one of the last practical riversites in New England for development of hydroelectric energy. It can be a yardstick for utility operations as well as a deterrent to spiralling energy costs. Dickey-Lincoln will not add to the pollution problem.

Our members are hopeful the project will become a reality. We enclose our resolution in support of Dickey-Lincoln.

Sincerely,

Frank Sahlman,
Executive Vice President.

Resolution: Dickey-Lincoln School Project

Whereas, the power companies of the Northeast had to reduce voltages 25 or more times last summer because of shortage of power; and

Whereas, by their own testimony, the power companies will have serious power shortages for the next several years; and

Whereas, a crisis exists which may well develop into a regional disaster of blackout proportions in 1970 and beyond; and

Whereas, the Dickey-Lincoln School project, though opposed consistently by the investor-owned power companies, would provide some of the badly needed power capacity; now therefore

Be it resolved, that the Northeast Public Power Association exhorts the New England Delegation of the United States Congress to wholeheartedly support an appropriation of $807,000 for continued development of the Dickey-Lincoln School project.

Resolution: Congressional Investigation of Utility Activities

Whereas, about forty years have elapsed since the Congress of the United States has thoroughly reviewed the activities and operations of the privately-owned electric utilities, and

Whereas, there is much evidence that former illegal practices, brought to light in previous investigations, are being resumed under new forms, and

Whereas, there is developing power shortage due to insufficient planning by the private utilities in matters of reliability and power supply, and

Whereas, there are indications of a conspiracy to hamper the healthy growth, or to put out of existence, the consumer-owned plants in the Northeast by activities contrary to the anti-trust laws, and

Whereas, previous Congressional action culminated in the Federal Trade Commission investigations of the 1930's and the Public Utility Holding Act of 1935.

Now therefore be it resolved that the Northeast Public Power Association urge Congressional action to investigate the current activities of the privately-owned electric utilities in the Northeast to determine if they are properly meeting their responsibilities in the public interest and for essential national security, and to determine if further legislation may be necessary to accomplish these ends.

LITTLE LOGIC IN LORTON TRANSFER—SAYS WASHINGTON POST

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1970

Mr. FRASER. Mr. Speaker, another voice has been raised against section 501 of the District of Columbia Court Reform and Criminal Procedures Act of 1970—H.R. 16196.

The Washington Post in a recent editorial had this to say about the section that transfers the city workhouse, the juvenile center, and the penitentiary from the city to Federal control:

The Lorton Transfer

There is little logic to the provision of the bill which would make the Lorton prison complex a part of the federal prison system. Lorton has been greatly handicapped by lack of funds for staff and facilities, a weakness that Congress has only recently moved to correct. Its strength is that it is near to the community it must serve and to which its prisoners will return. It is part of a unique correctional system which includes the city jail, the parole organization, and a developing network of halfway houses, work release and narcotics rehabilitation programs.

In spite of its difficulties, Lorton has been able to do a better job of curbing recidivism (the tendency of released criminals to resume a life of crime) than the Federal Bureau of Prisons and a number of highly touted state prison systems.

An imprudent move to split off the police department and place it under congressional control was defeated in committee. The move to split off Lorton similarly should be turned back by the House.

DETROIT RECEIVING HOSPITAL

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mrs. GRIFFITHS. Mr. Speaker, Receiving Hospital in Detroit is one of the great hospitals of this country in the care of emergency cases. A recent article written by John Peterson of the Detroit News uses the words of Dr. Floyd H. Lippa to show the similarities between this hospital and a field hospital in a combat zone. This is an interesting story and it shows, among other things, that Detroit Receiving has a better rate of cure from gunshot wounds to the heart than the highly touted hospital at Houston, Tex.

The article follows:

Surgeon Reminded of Viet Service: Receiving Called Combat Zone

(By John Peterson)

For Dr. Floyd H. Lippa, Vietnam is out of sight but not out of mind.

Memories of that war-stricken land are reinforced continually during the 10-to-12-hour shifts he spends as a Wayne State University assistant professor of surgery at Receiving branch of Detroit General Hospital.

Dr. Lippa, 32, returned from Vietnam last May expecting to enjoy a peaceful respite at a big city hospital—far from the whining rockets and the booming mortars of the Central Highlands.

What he found instead he said, was a situation strikingly similar to the 71st Evacuation Hospital at Pleiku where he was stationed for a year as an Army surgeon.

"At first it was hard to believe," he said. "But I soon came to accept the fact that there is a war going on here every bit as vicious as that in Vietnam."

Receiving could well be dubbed Detroit General War Hospital, he suggested in a recent article in Conception, the monthly magazine of the Detroit Student Health Organization.

There are differences to be sure, he conceded, but gunshot wounds are basically the same whether they are inflicted in southeast Asia or southeast Michigan.

"In Vietnam," he said, "days and even weeks would go by when there would be few emergency operations. But then there would be months when large-scale enemy offensives would flood the hospital with up to 500 battlefield casualties.

"At Receiving, in a busy month, we handle only about 130 emergency operations but the place still resembles a combat zone hospital."

Why? Dr. Lippa believes one of the major reasons in the difference between emergency room procedures. And he believes Receiving could profit by employing some of the techniques used in Vietnam.

"When emergency operations were required in Vietnam, the normal daily life of the hospital would be interrupted. Emergency rooms were not allowed to be congested with other less serious medical and surgical cases unless all battle casualties were treated. Nurses and doctors stood ready to work 16 hours at a time, if necessary."

Receiving's daily routine, he said, is not brought to a standstill by emergency cases.

"Our emergency room is often cluttered by less seriously ill patients. This sometimes makes conditions virtually unworkable and proper care of the many patients who come here each day more difficult."

Despite overcrowding, Dr. Lippa believes Receiving ranks among the best emergency facilities in the nation.

"It is still the 'place' in the city for care of the trauma patients," he said. "We have a national reputation for being innovative in the care of the shock patient and for treatment of stab and gunshot wounds to the heart."

Recent statistics show that Receiving had a mortality rate of only 15 percent in 26 cases of gunshot wounds to the heart as compared with 35 percent for similar cases in Houston.

Dr. Lippa credited much of Receiving's fine record to the ready availability of well-qualified personnel and the speed with which police transport gunshot victims to the emergency room.

But he believes improvement is needed, and offers these recommendations:

Expansion of emergency space to four times its present size. To function at 100 percent efficiency the emergency room should occupy the entire first floor of the hospital.

More privacy for patients, including separate, soundproof cubicles in the female area so students, interns and residents may take histories and perform examinations without interruption.

Four times as many nurses and orderlies to relieve doctors of routine chores such as starting intravenous feedings, taking blood tests and performing minor sutures.

To accomplish the latter, he suggested, it may be necessary to relax requirements for licensing returned Vietnam medics as paramedical personnel.

And finally, he asserted, the enactment of strong gun control legislation would go a long way toward reducing the heavy volume of gunshot victims Receiving treats each year.

Dr. Lippa, who took his residency in surgery at Receiving before entering the Army, said there is a tremendous difference in trauma patients now as compared with then.

"Six years ago, most of our emergency cases were for stab wounds," he said. "Now the overwhelming majority are gunshot victims. In most cases they were shot by an acquaintance—a friend or relative.

"When people carry guns as part of their everyday life, there is a great temptation to use them. That's probably the main reason our emergency room reminds me so much of Vietnam."

LET US AVOID A NEW WAR

HON. ARNOLD OLSEN

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. OLSEN. Mr. Speaker, if there is any consolation to be derived from the sorry plight in Laos it is that the American people will not now be again dragged unknowingly into another hopeless military fiasco such as Vietnam. The press is keeping the people informed of the events in Laos and, I might add, to a much more illuminating degree than the administration.

The fourth estate was on the job in the early Vietnam years, reporting the simple facts of the transition from advisory status to combat status. However, the people, and perhaps the journalist on the scene, were unable to comprehend the terrifying reality of our Vietnam commitment. Seven long incredible years of hell have made our people chary of future military engagements in that area once known as French Indochina.

I think the Eastern News and Libby Times, published in Libby, Mont., by Paul Verdon, accurately expressed the sentiments of most Montanans in a recent editorial entitled "Let Us Avoid A New War." The Western News pointed out that in 1962 one would have been answered only by incredulity for predicting that the next two Presidents would find their most difficult problem in the war in Vietnam. As improbable as it seems, few people apparently recognized the self-defeating nature of our venture into Vietnam.

Once again we find ourselves poised on the threshold of a still further involvement in Southeast Asia. Are we willing, let alone able, to sacrifice our most precious resource, our young, to a war we will not even be committed to win? The Western News answers that question as well as anyone:

> Nixon was elected mainly because most Americans hoped for a new Administration that would find some way to extricate this country from the war in Southeast Asia. The United States public will not accept extension of our involvement into other countries.

The time long ago arrived when the book should have been closed on our military efforts in Vietnam. It is a bad book and there is no demand for any future sequels on Laos, Cambodia or Thailand.

The editorial from the Western News follows:

LET'S AVOID NEW WAR

At the end of John F. Kennedy's first year in the presidency, South Vietnam was a strife torn nation in Asia where several thousand American specialists were trying to train the nationalist government's army to resist the communist attackers from the north.

In 1962, you would have been answered only by incredulity if you had predicted that not only John Kennedy's successor but also the second man to succeed him in the White House would find as his most difficult problem the war in Vietnam. So we wonder if in 1978, the President (whoever he may be) will have to deal not only with an undecided conflict in Vietnam but also with war in Laos, Thailand, or Cambodia.

The extension of the hostilities into Vietnam's neighbors, and particularly Laos, is following a pattern generally similar to the escalation of the war that now requires an American army of half a million men plus costs approaching $30 billion annually.

President Nixon last week assured the nation that no American ground troops are involved in Laos. Less than 2,000 Americans are in Laos, the President said. Those who are there are only advisers or pilots who fly the transport planes required to supply the native forces and maintain communications. The President did admit that about 300 American airmen have died in combat in Laos.

So far as we know, Congress has never authorized U.S. involvement in hostilities in Laos. Diplomatic commitments or treaty obligations may make it necessary for us to aid the Laotian government against the North Vietnamese intruders.

A more realistic reason, however, for providing air support to Laotian government troops is protection of our own forces in South Vietnam. If North Vietnamese troops were allowed to advance without restraint through Laos and Cambodia, they would eventually outflank the South Vietnamese and their American allies. Protection of our own people and property in South Vietnam, as long as we are involved in that war, requires that we resist Communist advances in neighboring countries.

As we learned in South Vietnam, it's only a short step from military advice and assistance to participation in actual combat.

If we fly now into Laos, American soldiers may soon follow.

The sequence of events could also take us into Cambodia and Thailand.

Nixon was elected mainly because most Americans hoped for a new administration that would find some way to extricate the country from the war in Southeast Asia. The United States public will not accept extension of our involvement into other countries.

We must stop spilling American blood and expending our material resources in regions where we stand little chance of final victory and where our national security is not directly at stake.

America is learning that it cannot defend the world alone. Unless other nations of the West are willing to share the heavy cost of worldwide policing, America must concentrate on strengthening and defending its homeland and avoid further overseas involvement.

COMPLAINTS ABOUT AUTO REPAIR PROBLEMS

HON. FRANK E. MOSS

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, March 19, 1970

Mr. MOSS. Mr. President, as we all know, the senior Senator from Michigan (Mr. HART) has had the Subcommittee on Antitrust and Monopoly at work trying to bring down the costs of owning and operating an automobile.

The subcommittee work in auto repairs, auto insurance, and the oil industry has turned up some rather shocking figures about the overspending the consumer may now be forced to make for his transportation.

Senator HART figures that if there were reforms in these three areas, the total potential savings could approach $20 billion yearly.

The significance of this work is apparent from that one figure. But that the work would be significant is no surprise to those of us who know the thoroughness—as well as the fairness—characteristic of Senator HART's output.

Because so many of us have received complaints about auto repair problems, it seems fitting to have placed in the RECORD Senator HART's proposals for improving this service.

Therefore, I ask unanimous consent that a speech by Senator HART to the Society of Plastic Engineers on January 19, 1970, be printed in the Extensions of Remarks.

There being no objection the speech was ordered to be printed in the RECORD, as follows:

THE CONSUMER AND HIS CAR

(Remarks of Senator PHILIP A. HART)

It has come to my attention that the Senate investigation of repair costs is not going to get the auto industry's nomination as "Most Valuable Governmental Contribution of 1969."

But neither will the senior Senator from Michigan declare it "Most Pleasant Experience of 1969."

But, as we draw near the end I am happy for the chance to discuss with you some of the conclusions that seem to make sense—and to ask your help to make another such inquiry unlikely.

As you may know, the auto repair investigation is part of a trio. All are aimed at greasing the free enterprise system so it will deliver a lower-cost transportation system for the consumer.

The other two parts zero in on auto insurance and petroleum.

(As you see, when we think "consumer transportation" we think "auto." On that, score one for the industry that put together a product, production system and sales team that turned a plaything into a necessity in a relatively few years.)

The trio of studies was undertaken because of concern that the total cost of owning a car—both in dollars and frustration—was keeping some consumers out of the market. For others, the hardships were unacceptable.

The problems in the auto insurance area are simple—although I don't expect the solutions to be.

We are trying to give the consumer better odds for getting insurance coverage at a reasonable price—and for keeping it. The problems we uncovered have been extensively reported. So I'm sure you are familiar with those denied insurance because of occupation, marital status, housekeeping or some such arbitrary criteria. Perhaps you have had experience closer to home with policies that were canceled—or not renewed—for no apparent reason. And, unfortunately, any group this size contains those who have been socked with premiums up to the stratosphere for reasons other than a bad driving record.

In a few days all the statements for these hearings will be filed, the exhibit material catalogued and the record closed. Then will come a period of sorting out. In a couple of months, I hope to have ready legislative proposals to make this aspect of owning a car more pleasant.

In the petroleum hearings, we sought to nail down the true cost of government protection programs—such as the import quota—and to determine if they buy the protection promised.

So far we know the cost is high—and the protection is low.

The import quota has cost American consumers $40 to $50 billion in higher prices since it started in 1959. Yet it has been a

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failure in protecting the national security by assurnig a large safe domestic supply of oil. Instead of enlarging our reserves by stimulating exploration and discovery at home, almost coincidental with the imposition of the quota, such indications of domestic activity as new oil found, number of wells started and the number of years' supply began to turn downward.

More meaningful to consumers is the fact that if the quota were eliminated gas at the pump could be five cents a gallon cheaper.

After another set of hearings, we will be ready to make recommendations for a more prudent way to protect our national security—while cutting consumer costs.

Which brings us back to auto repairs—and some tentative conclusions.

While many nuts and bolts need to be adjusted on these ideas, I think it is appropriate to let you take a look now at the broad-brush picture of what we are designing. At this stage you can contribute constructive criticism—which seems far better than having a finished government program later pronounced from on high.

There are two ways to look at the consumer and his car. One is to focus on all the commuters wending their way back and forth on the Ford Expressway daily and decide cars that run prove we have a satisfactory system.

The other is to look at the mail the subcommittee has received the past year or so. The latest figure is about 6,000 complaint letters. Commenting on this, Bob Irvin, auto editor of The Detroit News, noted that television networks estimate one letter equals the views of 1,000 persons. Applying that formula, the 6,000 letters could reflect six million unhappy car owners.

Focusing on the 58 million who didn't write is a poor way of guaranteeing the six million will disappear. More likely that approach would encourage the six to become seven, then eight, then nine or perhaps more millions of discontented.

The result of that isn't good for the industry. And when things aren't good for the industry they aren't good for employment—or Michigan or the nation.

So if we want to ease the problems that have grown up all along the line—from drawing board to service station bay—what do we do?

In problem solving, of course, the first step is to define the problem. This is what the subcommittee has been working on for 18 months.

Consumers put their overall complaint concisely: When the darn thing doesn't work right why can't someone simply tell me what is wrong and fix it—the first time?

Studies showed that this complaint was well-founded. The figures for unsatisfactory repair jobs ranged from 36 to 99 percent. But it was clear that the consumer who got his car fixed right the first try may be just plain lucky.

A second major concern of the consumer was the total cost he encountered in keeping his car operating. Too familiar was the situation where the car was hard to start so the shop replaced the battery. That didn't do it so they replaced the points and plugs. Then the wiring harness. And finally the distributor rotor for only $1.50—and magically it worked. Many times consumers suspected that if the rotor had been changed in the first place they could have saved $100 or so.

Other cost complaints zeroed in on the fact that the body of the car needed extensive cosmetic surgery every time bumpers kissed in a parking lot.

Solutions to these consumer complaints seems to require three things:

1. Cars designed to need less repairs—especially crash parts. Seventy-five percent of all collision claims are for $200 or under. Yet, in a recently study when cars were run into a wall at five miles an hour—easily parking lot speed—damage ranged from $134 to $305 and averaged out to $200.

2. Cars and systems which make it easier to make more accurate diagnosis of a car's ills. This should raise the batting average for satisfactory repairs.

3. Ways to cut total repair costs.

At this moment I see a four-front attack on these consumer problems.

The fronts are standards, inspection, licensing and training.

Standards: These would be minimum performance standards for both new and used vehicles. They would be established by the Department of Transportation under the Motor Vehicle Safety Act. Standards for new cars would be federally set and federally administered. Standards for used cars would be federally set and administered by both federal and state governments.

Included in the standards, I think, must necessarily be means to more easily use the present—and developing—diagnostic equipment to check on performance. Wouldn't it be great if the consumer could save costs because say the steering mechanism could be checked out by attaching the equipment to one point instead of maybe seven or eight? We know that Pontiac already has designed the Grand Prix so that its electrical system can be checked with one connection at the end of the assembly line. And methods are on the market—but not on all cars—for warning if the brake system is falling below a safe level of performance. One way is a red light that flashes on the dashboard.

Obviously if we are to cut consumer costs by keeping cars out of accidents, not to mention saving lives, the method of checking safety must be simple or inexpensive enough to assure cars on the road are sufficiently safe.

While cars are being designed to be more easily diagnosed for safety factors, I would hope the industry could smooth the way for checking other aspects of the car's performance.

This leads into point two:

Inspection: There are two types of inspection that seem necessary. We need to provide a system of inspection stations with up-to-date diagnostic equipment that can be used for periodic check-ups. This is the best way to assure safety—for the passengers and fellow travelers sharing the road. Also these diagnostic centers could be utilized by consumers who wish to know in advance of going to the shop what shape their car is in.

The inspection stations, I think, should be privately owned. Ideally they should not be tied in with any repair shop. I recognize that in the rural areas of our country that would not always be possible. However, where possible this seems like the best way to get the credibility necessary for any diagnosis made.

A network of diagnostic centers also would increase the likelihood of a consumer getting an accurate diagnosis on his car. Equipping such a center now, I'm told, runs about $200,000—or about the average investment an auto dealer makes in his entire plant. It would be unrealistic to expect every gas station or alley garage or dealer to have this equipment. Yet the possibility of having the car checked out completely for a few dollars—could save the consumer many needless repairs. A conservative estimate is that today consumers are wasting $8 to $10 billion paying for work not needed—or even not done. If the car-owner discovers after diagnosis that the bill might run high he has two choices—opt for replacing the car or shop around for the best price on the needed repairs. It's tough to shop around now once a garage has your car in pieces all over the floor.

Also needed, I think, is post-crash inspection.

Under this system, any car that suffers damage to safety-related equipment in a crash would be labeled. That car could then not go back on the road until it has passed a safety inspection. There has been much conversation about accidents caused by drivers, bad roads or bad weather. But no statistics are available for those caused by badly repaired cars. Yet if 36 to 99 percent of repairs are incorrectly done now it is reasonable to suspect some of this work ends up in a heap further down the road.

Licensing: The night before we opened our hearings—based on staff investigation—I said here in Detroit that licensing of mechanics seemed a good way to make sure repairs were being done by someone who should be able to do them right. It has been made clear since that licensing of all mechanics may cause more problems than it would solve—such as raising the overall repair bill by prohibiting the use of trainees and apprentices for simpler repair work. So—my quality control having proved imperfect on that idea—I am recalling it.

Therefore, I am now thinking along the lines of licensing of shops, with at least one master mechanic in each. The remaining mechanics could be certified as competent by the automotive industry.

The shops would be required to have equipment capable of doing the work which would be attempted. This requirement, of course, would be less for a service station doing minor jobs than for a dealer offering full-line service.

The master mechanic would be responsible for overseeing—and/or reviewing each job turned out and ascertaining that the work was competently done.

Training: Today we are at least 70,000 mechanics short. And while the vehicle population continues to explode the rate of increase in skilled mechanics is not keeping pace.

Obviously we need a massive training program. And I am happy to report that discussions are underway now between the industry and various governmental departments which could help organize this.

We will have a report on the progress during our final set of hearings in March.

But even a massive training program may not turn up the number of mechanics necessary. That makes other parts of this plan more essential. For given a network of diagnostic centers which can pinpoint the problems scientifically we will be able to use lesser-skilled persons to do some of the repair work.

This might have social benefits far beyond getting consumers' cars repaired more quickly—and better. For it could help cut into the unemployment rate for many of our high school dropouts.

In brief, that is the way thoughts are now running for solutions to the auto repair complaints.

This program isn't expected to deliver utopia. Nor can it be put to work overnight. However, if we get moving in the next few months, I would expect significant progress in three years. The full plan may be implemented by 1975. And I think all four parts are essential. The absence of even one would weaken all.

The best part of these four points is that I think most of them could be accomplished without new federal laws.

But there is a fifth part which is necessary if consumer complaints are to ebb. This one deals with the design of the car—design that will directly effect the frequency of repairs and their costs. This is one where the industry itself, I'm sure, can take the necessary steps and avoid the possibility of the government regulating design with "repair standards".

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There is no doubt in my mind that the consumer today is deeply concerned over the fragility of his car. Having laid out anywhere from $2,000 to perhaps $9,000 for a beautiful machine he is a little sick to see it a few weeks later looking as if it has been in a bar-room brawl with all the parking-lot nicks and creases. Worse, of course, is the discovery that the cosmetic touches on the front or rear end will cost him $300 or $400 to replace when he nudges the car ahead in the traffic jam.

News that some 1971 models will have bumpers that will absorb up to five miles per hour of impact without body damage is a big step in the right direction. Insurance experts told us a bumper which absorbed 12 miles per hour would cut repair bills by 25 percent. That's one-billion dollars worth.

It seems to me that this group is especially equipped to help deliver the consumer a car which will stand up to normal wear and tear.

Plastics could have a great role in providing the beauty that consumers value in their cars without putting too high a price tag on its upkeep.

Clearly in mind is a picture I saw some time ago of a plastic-bodied car that had been crashed headlong into a tree. As we all know, if we did that with our own family buggy the body repair bill alone would total several hundred dollars—not to mention the cost of repairing the machinery under the hood. Yet this plastic job suffered only a six- or eight-inch separation where the right and left body components were glued together. The repair was simple: clear out the debris and re-glue the two pieces. The cost, I presume, would be equally easy to bear.

Maybe plastic bodies do not make sense at this time. I don't know. But I know you do—or you can dream up something that will make sense.

One thing is certain: the consumer and his car isn't today exactly the greatest love affair of the century. Yet he must rely on it in order to conduct his life.

Let's build escape machines—but let's remember that the one thing the consumer wants most to escape from are the frustrations of maintenance.

I know steps will be taken to make the consumer and his car a more pleasant relationship. If the right things are to be done, we need the benefit of your expert advice.

PRESIDENT TORRENCE OF TENNESSEE STATE UNIVERSITY

HON. RICHARD FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. FULTON of Tennessee. Mr. Speaker, one reads in the newspapers today with all too alarming frequency reports of disorders and disruptions on the campuses of our American colleges and universities. Therefore, it is heartening to read of positive measures which, though less publicized, are being taken to alleviate the causes of unrest through positive means and maintain the equilibrium on the campuses. Recently, I received a letter from Dr. A. P. Torrence, the president of Tennessee State University at Nashville, Tenn., who said in part:

In recent years there has been considerable concern in Tennessee and in the United States generally about unrest and disruption on the campus of universities and colleges. Over the past few months Tennessee State University has taken positive action to reduce the possibility of disruptive negativism and unrest on our campus. The steps taken include complete administrative re-organization to facilitate policy formulation and communication among the various constituencies of the University; revised committee structure which provides for greater involvement of students, faculty, and staff in policy formulation; updated student regulations which are more specific regarding penalties for disruptive acts. In addition, the President and other administrative officers regularly schedule small group meetings of students and larger group meetings in residence halls.

In addition, President Torrence outlined in his spring convocation address of March 31, 1969, the general thrust of the new policies at Tennessee State University, an address entitled "New Directions at Tennessee Agricultural and Industrial State University."

Mr. Speaker, I include President Torrence's remarks in the RECORD at this point and commend it to the consideration of my colleagues:

NEW DIRECTIONS AT TENNESSEE AGRICULTURAL AND INDUSTRIAL STATE UNIVERSITY

(By A. P. Torrence)

There is a crucial period in the life of every institution—a time of supreme importance to its continued health, progress, and development; a period when the institution holds its finest potential for success or its greatest potential for failure; when it may ascend or descend, climb up or crawl down, go forward or slide backward. These alternatives constitute ironic parodoxes for any institution and its people.

We at Tennessee State University are charting a course, outlining a path, plotting new directions which hold the potential and, hopefully, will result in great progress and achievement for this institution. I am pleased this morning to talk very briefly about these new directions at our University.

One important new direction is a changing of our thinking about what Tennessee State University is. Conceptually, our University is not to be perceived as a family consisting of parents and children but rather as a community, as may be defined from a sociological point of view and which may have several aspects: (1) It is a population aggregate or a group of people, (2) they inhabit a contiguous territory or a particular area, (3) they are integrated through past experiences, (4) they are conscious of their unity, (5) they are able to act in a corporate capacity, (6) they have some common mode of life, and (7) they live under a common set of laws. There is a real distinction between the concept of a family and that of a community. While both are characterized by intimate face-to-face association and cooperation, the latter is joined voluntarily and formally organized with goals and objectives, while the former is not. The latter, and especially in our situation, considers all as mature, responsible persons while the former does not.

The concept of a community may be applied to a small local group, to a city, state, region, a nation, and sometimes we even speak of a community of nations. Community may be characterized as old or young; rich or poor; business or professional—or academic as in the case of our University. An academic community differs from all others in that its primary concern is with involvement, study, research, reason, and service. An atmosphere of intimidation, violence and disruption should be foreign to the academic community. These means of bringing about change are subordinate in the academic community to the use of intellect for the same purpose.

All that I have said falls clearly and distinctly within the realm of democratic organization, procedure, and concept. The development of our potential—both as individual members of the community and of the community as a unit—can, must, and will be attained within this concept. This is another new direction.

The type of democratic community of which I speak has three major aspects:

The respect for the personality and dignity of every individual;

The mutual responsibility of the individual and the group, and

Reflective thinking—the free-play of intelligence.

The respect for the personality and dignity of every individual in the community is cardinal. There can be no high and low status at this University except as it relates to academic performance and achievement. Each individual and all segments of the university community are essential for its effective operation and fulfillment. It is in this light that we must deal with one another—courteously, pleasantly and honestly.

The entire university community has a responsibility to each individual in it, and each individual in the group has a responsibility to the community. Through such mutual responsiveness, Tennessee State University can become the supreme enterprise for which it has such great potential.

In solving the problems that confront the University nothing will take the place of reflective thinking and free-play of intelligence. These give strength and power to each individual in the community and to the University as a whole. Thomas Jefferson had the right opinion when he said, "I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion." This is the nature of the University and it has implications for involvement as we look for the best answers to our problems and concerns wherever they may be found on the campus.

In keeping with the new directions discussed here, we are developing an organizational structure to facilitate the efficient formulation of policies. This involves faculty, students, and administrators, as well as the effective communication of university concerns and decisions. We are evaluating our university operations in an effort to identify strengths and weaknesses more precisely as a basis for building and planning programs and activities for the near future. Evaluation is needed in all aspects of the programs and operations of the University—academic policies, rules and regulations; curricula offerings as related to the needs of students and of the society; admissions, placement, and counseling services; faculty strength, effectiveness, and balance; financial needs, fiscal management and allocations; the physical plant and its maintenance and operations. In these and other areas we need and desire the advice and assistance of the faculty, staff, students, and graduates of the University.

Finally, these new directions will result in an academic program which is relevant and of high quality; in the unremitting flow of fresh ideas and new knowledge; in an atmosphere which provides for social growth as well as individual and group awareness; and in a sense of loyalty which is endemic to the academic community. Our new directions will also command the respect and support of the larger community, and most importantly they will provide the opportunity for involvement and reason—the hallmarks of an institution of higher learning.

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VETERANS' LIFE INSURANCE PROGRAM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. TEAGUE of Texas. Mr. Speaker, the Committee on Veterans' Affairs has jurisdiction over the question of the various insurance programs operated by the Veterans' Administration. These programs are U.S. Government life insurance, generally available to World War I veterans; the national service life insurance program available to veterans of World War II and some later service; and the servicemen's group life insurance which covers individuals now on active duty in the Armed Forces.

I have received from the Administrator of Veterans' Affairs a letter which I am sure will be of great interest to all policy holders, but particularly those who have policies designated as "J" "JR" and those who have added the TDIP—a total disability income provision to the national service life program. In these groups it has been found possible to reduce the premiums.

I am sure that all individuals affected will be interested in the letter of the Administrator which follows:

VETERANS' ADMINISTRATION,
Washington, D.C., March 17, 1970.

Hon. OLIN E. TEAGUE,
Chairman, Veterans' Affairs Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, our veterans' life insurance programs include a continuing actuarial review of the operations. That review indicates that in two areas it is possible at this time to reduce the premiums charged certain veterans.

The first of these is National Service Life Insurance Veterans' Reopened Insurance issued to veterans insurable under good health standards, policy prefix J. It is provided that the premiums charged these veterans may be adjusted at intervals of not less than two years in accordance with experience.

These policies are of permanent plan types and the approximately 164,000 policies in force have accumulated substantial reserves which are currently invested at a rate substantially higher than the 3½% return required as a basis for the premium charged. The increase in earnings will permit a reduction in premiums averaging about 18%. Depending on the age and plan reductions will vary from a low of about 15% to a high of about 20%. There will be a reduction of about $5,600,000 in the present annual premium income of some $30,000,000.

An exhibit illustrating the reduction in selected cases is enclosed. Of course it is possible that future claims and investment experience will require future adjustment of these premiums upward or downward.

The law authorizing the Veterans' Reopened Insurance program also provided for the issuance of insurance to veterans who were not insurable under standards of good health in two separate categories. One of these involved health impairments of service-connected origin and the other health impairments of non-service-connected origin. Policies in these categories are prefixed JR and Js respectively. Policy reserves for these categories are invested at the same rate as applies to the reserves for the policies issued according to good health standards. However, these extra earnings are being used to offset the mortality losses in these groups. As soon as the losses have been fully liquidated premiums on these policies will be adjusted to reflect their experience.

The second area is in the National Service Life Insurance program Total Disability Income Provision. This optional coverage authorized under 38 USC 715 is available at such extra premium as may be prescribed.

We have found that experience on this coverage in connection with 5-year level premium term insurance policies, with one exception, indicates that premiums can be reduced. As a result, I am approving a reduction averaging 35% in these premiums.

The reduction will apply to practically all income provisions attached to World War II type term policies, prefix V and those attached to Korean type term policies, prefixes RS and W. A small number of income provisions (approximately 1,250) were issued after World War II based on a waiver of service incurred disabilities. Because of unfavorable claims experience arising from the waived disabilities no reduction can be made in these premiums.

Three types of Total Disability Income Provision are included. These are the provisions protecting to age 60 with the original $5.00 per $1,000 benefit and the later $10.00 benefit as well as the current provision with a $10.00 benefit protecting to the 65th birthday. Insureds 55 and over with the current provision will not receive a reduction because their premiums were calculated on a basis different than that for ages under 55.

I am enclosing an exhibit illustrating the reduction which will be made in selected representative cases. It is estimated that the reduction will reduce the premium outlay of the 420,000 affected veterans by $4 million annually.

The reductions will be made effective early in the coming fiscal year. The effective month will be determined by the lead time needed to change the records of the approximately 600,000 veterans involved, print the necessary notices, and take other required steps.

Sincerely,

DONALD E. JOHNSON,
Administrator.

VETERANS REOPENED INSURANCE PROGRAM "J" SEGMENT—COMPARISON OF PRESENT AND PROPOSED REDUCED PREMIUM RATES FOR $10,000 INSURANCE

Plan and issue age	Present annual premium	Proposed reduced annual premium
Ordinary life:		
35	$144.36	$117.16
45	228.26	186.86
55	373.56	310.96
Modified life:		
35	105.36	86.46
45	160.86	133.76
55	243.56	208.16
20-payment life:		
35	206.96	166.76
45	293.16	238.86
55	432.56	359.36
Endowment at 65:		
35	222.36	179.76
45	401.86	326.26
55	936.96	763.36

NATIONAL SERVICE LIFE INSURANCE TOTAL DISABILITY INCOME PROVISION—COMPARISON OF PRESENT AND PROPOSED REDUCED PREMIUM RATES FOR $100 PER MONTH TDIP BENEFIT ON 5-YEAR TERM POLICIES

Age at last renewal	Present annual premium	Proposed reduced annual premium
35	$14.20	$9.50
40	18.90	11.80
45	33.10	21.30
50	63.90	42.60

A JOINT RESOLUTION INTRODUCED BY HON. DAVE MARTIN

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. MARTIN. Mr. Speaker, I am today introducing a joint resolution proposing an amendment to the Constitution to provide that no individual may be seated as a Representative after attaining the age of 70, and as a Senator after attaining the age of 69.

Retirement is required of civil service employees and also of the military at a certain age. Private industry also follows this same line of action and requires its executives to retire at a certain age. I feel that this rule should also be applied to Members of Congress.

At the present time, there are only 22 House Members who are over age 70, and only 13 in the other body.

My joint resolution provides that no individual may begin a term of office as a Representative if he has attained the age of 70, or the age of 69 for a Senator. Since House Members have 2-year terms, this means that someone who was seated at age 69 would then fill out his term and actually retire at age 71. A Member of the Senate could be seated up through the age of 68, and with a 6-year term, would then be retiring at age 74.

There is a great deal of sentiment of approval throughout the country for mandatory retirement of Members of Congress, and I see no reason why it should not apply to us, as well as others engaged in different areas of work.

A BILL TO PROVIDE A SAVINGS INCENTIVE PLAN FOR PARENTS

HON. THOMAS J. MESKILL

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. MESKILL. Mr. Speaker, today I am introducing a bill to provide a savings incentive plan for parents to help them to meet the costs of their children's higher education.

The rising costs of higher education can no longer be ignored. Higher costs for room and board, tuition, and related fees have already deprived some gifted and talented children from advancing their education. If the present trend continues, more and more families will find financing a college education an intolerable burden.

As the costs of a higher education have skyrocketed, the demand for a college education has increased. More and more, students, as they graduate from high school, are enrolling in our institutions of higher learning. Increasingly our society demands that they do so. Our society has become so sophisticated that a college education has almost become a necessity.

The U.S. Census Bureau estimates that the present college enrollment of about

5.5 million will more than double by 1985 to 11.5 million. The capital expenditures that will be required to accommodate this expansion will press both public and private institutions of higher learning to their fullest capacities. The financing problems already faced by institutions of higher education will be compounded.

The picture for the years ahead is not rosy. State and local governments will be expected to contribute an increasing share for the maintenance and expansion of facilities of higher education. The Federal Government, undoubtedly, will be called upon to share the burden.

But present Federal programs to meet the costs of college education are sorely inadequate. What programs do exist are channeled to meet the needs of low-income groups.

Two of the four basic Federal student aid programs offer direct financial assistance. These are the educational opportunity grants program and the college work study program. Generally speaking, however, these two programs are only available to students in extreme financial need.

The other two programs—the national defense student loans and the guaranteed loans—merely put off the cost of attending college until the student can afford to assume the responsibility himself. A student who participates in either of these programs has to begin his career already $8,000 to $15,000 in debt.

New legislation is needed.

Most solutions that have been advanced have called for huge expenditures of public funds. These proposals have been considered unrealistic and have received precious little in the way of support. Few, however, dispute that something must be done.

The bill I am introducing today is unique because it places the responsibility for financing higher education with the families themselves. Through a system of incentives, it is designed to encourage families to plan to meet the cost of their children's education.

The bill is written to permit parents to set aside tax-deductible funds to be placed in a special education fund to pay the costs of their children's college education.

The legislation has been modeled after the Keogh Act, which permits self-employed persons to plan for their retirement by annually setting aside tax-deductible funds.

The legislation I propose today would permit parent-taxpayers to accumulate educational funds in trusts, insurance or annuity contracts, custodial accounts with banks, nontransferable face amount certificates, and/or Government bonds.

The bill sets annual contribution limits at the lesser of $500 per qualified beneficiary, 10 percent of the contributing taxpayer's adjusted gross income or $2,500. A deduction would be allowed only for contributions to a qualified fund.

Allowable contributions have been determined by taking into account the estimated future costs of higher education, but limiting the amount of such allowable contributions so as to avoid an unreasonable or unjustified burden upon the economy.

A qualified fund would be a fund established by the contributing taxpayer pursuant to a written plan solely for the purpose of defraying the cost of room, board and tuition at an institution of higher education for one or more qualified beneficiaries.

Each plan would, at its inception and at all times thereafter, require a specified beneficiary or beneficiaries. If a beneficiary should cease to be a beneficiary of the plan, and if there were then no remaining beneficiaries under the plan, the taxpayer would have a specified period—120 days—in which to designate an alternate beneficiary, or beneficiaries. In such a case, the alternate beneficiary could be a son or daughter of the taxpayer, or a descendant of either; a stepson or stepdaughter of the taxpayer; a brother, sister, stepbrother, or stepsister of the taxpayer or a son or daughter of a brother or sister of the taxpayer. However, only contributions to a fund having a beneficiary who is a child of the taxpayer and who: First, has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, second, is a student, are deductible from the taxpayer's gross income. If at the end of the specified period no such beneficiary had been designated, the accumulated fund would be required to be distributed to the taxpayer and reported by him as ordinary income within a specified number of years. The taxpayer would at any time have the option to change a beneficiary or include additional beneficiaries.

The bill specifically requires that distribution of the fund commence within 5 years of graduation or separation from a secondary school, and be completed within 10 years of the same date. In the event it is necessary to designate an alternate beneficiary, distribution of the fund must be completed within 10 years of the date of designation of the alternate beneficiary. Distribution of the fund to a qualified beneficiary for the qualified purpose would be tax free. These timespans were chosen to allow for service in the Armed Forces, 4 years of undergraduate study, and some graduate work.

If distribution of the fund is not commenced or completed as aforesaid, then the proceeds of the fund, or the remaining proceeds, would revert to the taxpayer within a certain specified number of years and be taxed to him as ordinary income as received. If the proceeds of the fund revert to the taxpayer as a result of unauthorized use of the fund, the taxpayer would include twice the amount of the fund proceeds in his income. The taxpayer would have the option to take the payout in lump sum or over a 5-year spread as in the Keogh Act, that is, including, annually, one-fifth of the total fund in his income over a period of 5 years. Should the taxpayer predecease the date of distribution of the fund and without making testamentary disposition to the contrary, the assets of the fund at the date of his death would revert to the taxpayer's estate within a period not to exceed a specified number of years.

Mr. Speaker, I believe that this bill offers the most realistic approach to the problem of financing higher education costs. The most attractive feature of the bill is that it relies on incentives rather than direct subsidies.

Presently, we have no law which encourages savings for education. With this incentive, it is more likely that parents will put aside a portion of their income on a regular basis to finance the costs of their children's advanced education.

Unless we devise an incentive program to encourage families to plan for the funding of their children's higher education, the public will have to bear these costs in the form of increased taxes.

Currently, we are attempting to keep the lid on inflation by controlling expenditures. It would be unrealistic to expect the Federal Government to be able to finance enormous subsidies to higher education at this time.

The savings incentive plan I have proposed would be particularly helpful to middle-income groups who are unable to benefit from the scholarship programs and the student aid programs mentioned earlier which are oriented toward providing financial assistance to low-income families. This bill is unique, however, in that it makes provision for partial aid to middle-income families to help them to meet their children's higher education expenses.

The legislation encourages planning to insure that the funds for higher education are there when they are needed. By participating in this program, parents would in effect be developing an educational foundation for their children.

Mr. Speaker, unless we take bold action to meet this need we will find that many of our gifted children will not have the opportunity to advance their education. The plan I have proposed here today balances the responsibility of parents to provide their children with advanced educational opportunity with the responsibility of Government to foster and encourage education.

SENATOR SMITH OF MAINE

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. KYROS. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues a recent newspaper column which says a great deal about the people of my State, and the distinguished and charming senior Senator from my State. Senator MARGARET CHASE SMITH has represented Maine in the Congress for 33 years, years in which she had won the firm support of most of my State's citizens, and certainly the esteem and respect of all. For those many individuals who have come to know her direct manner, her candid approach to issues, and her soft but incisive speech, there is no doubt but that the lady is from Maine.

With special appreciation to the Senator for the long and continued service which she gives to my State ond our Nation, I insert into the RECORD Mr. William

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Caldwell's "Downstreet" column which appeared in the Maine Sunday Telegram on March 15, 1970:

SMITH OF MAINE

(By William Caldwell)

WASHINGTON.—Six false starts to this column stare up at me, crumpled and accusatory, from the waste basket. They all fudge what I really feel.

So on this seventh try, I'll say straight out what I think, and what you'd find out by the end of this column anyway.

I think Margaret Chase Smith is the most direct and fascinating woman I know; and that she is the most unique and amazing senator I have ever met.

And, one way and another, I've met a lot of both over the years.

I say this out loud and clear today because I just spent an hour closeted with Senator Smith in her Washington office. And I have never seen her looking better. And I have never heard her speak more directly and frankly and informatively about the political and military scene in the nation and the affairs of Maine. Somehow that major surgery on her hip seems to have speeded her up instead of slowing her down.

Part of our conversation was taped; and that part of the interview appears on this page today. But I wish you could have been sitting in her office with me, so you could have heard the crisp, downeast incisiveness of her voice, seen the liveliness of her vivid blue eyes, listened to the inflexions of humor and annoyance and seriousness in her expressions. It would have done your heart good.

Maine people do not need to be "sold" on Margaret Chase Smith. Maine people have been sending her back to Washington again and again. She has represented us in the House and the Senate for 33 years! That in itself speaks volumes. I don't believe any woman has ever before in U.S. history represented her people so long, nor been held so steadfastly in their affections.

Yet the United States Senate is very much a man's club. It is a club where the nation's most serious business is done in closed sessions behind committee doors, or in the privacy of a senator's office.

The Senate is a club where long term membership, long term friendships, long term exchanges of confidences and long term exchanges of help given and help received count far more than flashy brilliance in floor debate. A senator who may spellbind the public in packed auditoriums, or who makes TV programs and newspaper headlines with provocative punch lines, is not necessarily a senator who cuts the mustard with other senators or whose advice is sought by the Man in the White House.

I recount all this because this is the background against which Margaret Chase Smith operates and must be measured. It is a masculine background which might be an insurmountable handicap to any lady, especially a lady who once had been a telephone operator in Skowhegan, Maine.

In some magic way, Senator Smith of Maine stays wholly feminine, yet cuts the mustard in the man's world of the Senate. And in the man's world of the oval office of the President, she is sought out by the Man in the White House—whoever he is, (Presidents Harry Truman, Dwight Eisenhower, John F. Kennedy, Lyndon Johnson and now Richard Nixon have each and everyone paid their own court to the lady from Maine).

How does she do it?

I will hazard these guesses . . . First, she does her homework. And the homework for someone on the Armed Forces, the Appropriations and the Space Committees is immense!

As a result Sen. Smith knows whereof she talks before she opens her mouth. Among Senators—let alone ladies—this is a rare quality, much respected. Second, when Sen. Smith speaks in the Senate, or at the White House, she keeps it short. Her talk is all meat and no fat. In Washington this rarity also commands attention. Third, Senator Smith goes for the jugular. That is not a lady-like way of expressing what Sen. Smith does in a very lady-like way. With a rose at her shoulder, her silver hair genteely in place, her voice modulated but delightfully from Maine, Senator Smith sometimes makes Admirals and Generals knock at the knees, makes Cabinet officers quake, makes budget directors triple-check their figures. She does this with no malice, but by going bluntly to the heart of the matter at hand, without wrapping her thrust in cotton wool.

I have been privileged to see letters which the senior Senator from Maine has sent in the past to Secretaries of Defense. They are scorchers. And they get action—inside 24 hours.

Why? Why do her suggestions, questions, requests stir up action? The answer is power. Senator Smith, demure in blue dress, standing a dainty five feet tall, wields immense power in the United States Senate. A whisper from the lady from Maine can be as strong as the next man's hurricane.

Wasn't it Senator Smith whose whisper started the fall of the ranting Senator Joe McCarthy? Wasn't it Senator Smith's whisper which almost killed the ABM? Wasn't it Senator Smith's whisper which last month killed the appointment of a new Selective Service Director over the President's bold voice?

The senior senator from Maine uses power sparingly, and often out of public view. But woe betide the person who thinks the power is not there because it is not flaunted! Never has Senator Smith's power been more potent.

Witness the fact it will be Senator Smith who introduces President Nixon's bill to create a volunteer instead of a draft army . . . that it will be Senator Smith's vote which may determine the fate of stage two of the ABM. And it will be Senator Smith of Maine who will become the powerful chairman of the powerful Armed Forces Committee, if the Republicans win in November. Then, her voice will be the voice most listened to in regard to the nation's vastest expenditures. Her's may be the most influential, though soft, voice determining the defenses of the world's most powerful military system.

Margaret Smith speaks softly but incisively, behind her tidy desk in her unpretentious, uncluttered office. Her calendar this day has 17 appointments listed—beginning at 7 a.m. They range from the President at 8:30 a.m. on through to delegations from Maine plumbers and heating contractors at 4 p.m. Behind her lie 33 years of arduous work in the hub of power. Yet today she looks well and vigorous enough for 33 years more.

"Smith of Maine" . . . three words that speak volumes.

THE UNITED NATIONS AND THE HUMAN ENVIRONMENT—PART II

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. FISH. Mr. Speaker, the Preparatory Committee for the United Nations Conference on the Human Environment is currently meeting at the United Nations in New York City working on the agenda for this important conference to be held in Stockholm in 1972.

Christian A. Herter, Jr., chief delegate from the United States to the 27-nation preparatory committee, on March 11, 1970, addressed the group stating the U.S. position.

Mr. Herter properly recited congressional policy, contained in the National Environmental Policy Act of 1969, which authorizes agencies of the Federal Government to support "programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment."

Commenting on the importance of the global character of the coming Stockholm Conference the U.S. delegate noted that national disasters do not respect geographical boundaries. It is noteworthy that the American position stressed the importance of education to achieve the necessary governmental positive action to deal with the world's environmental problems. The advancement of information, knowledge, and experience clearly should be a major aspect of the conference.

Mr. Herter called on the preparatory committee to bear in mind four fundamental considerations. He points out that there must be continuing economic progress, but one in which man cooperates with nature. The role of the social behavioral sciences should not be overlooked. Environmental education at an early age, leading to scientific and managerial competence should get a high priority. Lastly, we are reminded of the fundamental truism that "no comprehensive understanding of environmental change can ignore the effects of a constantly growing population."

XUM

As a member of the U.S. delegation, along with Congressman MILLER, I am pleased to insert the speech by Mr. Herter in the RECORD for the information of my colleagues:

STATEMENT BY CHRISTIAN A. HERTER, JR., SPECIAL ASSISTANT TO THE SECRETARY OF STATE FOR ENVIRONMENTAL AFFAIRS, IN THE PREPARATORY COMMITTEE FOR THE CONFERENCE ON HUMAN ENVIRONMENT, MARCH 11, 1970

At the outset the Delegation of the United States wishes to say how very pleased it is by the selection, made by members of the Preparatory Committee, of officers to preside over the affairs of this Committee. We extend our heartiest congratulations to Ambassador Johnson of Jamaica, who is serving as Chairman, to Messrs. Hoveyda, Lacko and Mwaanga, elected as Vice-Chairmen, and to Mr. Billner, our Rapporteur. The leadership and efficiency of this bureau, as we all know, will make a substantial difference in the success of our efforts in the Preparatory Committee. We also wish to congratulate the Secretary General on his excellent opening statement.

I

The U.S. Delegation would like to stress the importance our government places on the deliberations of the Stockholm Conference, and on the growing international movement in which it holds such an important place—the movement to enhance the quality of man's earthly environment.

In September of 1969, President Nixon in his address to the 24th session of the General Assembly pledged "the strongest support of the United States for [the Conference that the United Nations already is planning on the environment for 1972]." The President continued by saying "I hope that even before then we can launch new national and international initiatives toward restoring the balance of nature and maintaining our world as a healthy and hospitable place for man." And in this same fashion, Ambassador James Russell Wiggins, then American Representative to the United Nations, expressed the view in December of 1968: "Indeed, let us all hope that governments will not wait for the Conference of 1972 before taking energetic action to relieve and repair the wounds we have inflicted on nature and on ourselves."

We are pleased to report, Mr. Chairman, that as a government we have not let the time go by, on either the national or international front. The first piece of legislation signed by President Nixon in 1970 is entitled the "National Environmental Policy Act of 1969." Under the terms of this law, the Congress of the United States, inter alia, authorizes and directs that to the fullest extent possible "all agencies of the Federal Government shall . . . (E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment . . ." The legislation also provides for the creation, in the Executive Office of the President, of a three-man Council on Environmental Quality, analogous to the President's Council of Economic Advisors. The Council on Environmental Quality, with a staff and money, is the President's arm in seeing to it that the policies of the basic legislation are carried out, and it serves as a central coordinating point for all domestic federal activities in the field of environment.

Realizing full well that the United States cannot effectively participate in international conferences on environmental problems without beginning to put its own house in order, President Nixon, on February 10 of this year, submitted a message to the Congress—the first in our history to be devoted exclusively to the subject of the environment—in which he advocates a comprehensive 37-point program, embracing legislative proposals and administrative action in the fields of water pollution control, air pollution control, solid waste management, park lands and public recreation and "organizing for action."

Again, in the international field, the Secretary of State, fully aware that environmental problems transcend national borders, established, a little over a month ago within the State Department, an Office of Environmental Affairs, to be directed by his Special Assistant. I, sir, have the honor of addressing you from that position. One of the major functions of this new office is to coordinate the international environmental activities of the federal government, so that in this field the United States speaks with one voice abroad.

II

The delegation of the United States would next like to make those observations designed to help put the 1972 Stockholm Conference in perspective.

First, we would suggest that this Conference is a highly visible and significant benchmark on a road that has already been travelled and will be travelled long after 1972. This Committee, and indeed, the General Assembly, are not the first bodies to be seized with the problems of the environment nor will they be the last. We would remark in passing on the excellent work already being undertaken by certain regional organizations such as the Economic Commission for Europe, and on the expertise that is being developed in this broad field by many of the specialized agencies of the United Nations. We would also draw your attention to the highly valuable research being undertaken by such international non-governmental organizations as the International Council of Scientific Unions (ICSU), the International Biological Program (IBP), etc.

Secondly, we would suggest that the unique feature of the Stockholm Conference is its *global* character—the first such world conference on the environment in history. This means not only attendance from all regions of the world; it means also that the problems with which we will be dealing are of global concern, regardless of the social, economic, or political philosophy of individual countries or their level of economic development. This world of ours is one biosphere and changes brought about in this atmosphere, whether by natural courses or by man's intervention, are by-and-large not limited to specific geographic areas. For example, a devastating hurricane or typhoon or a sustained period of drought do not respect ideological or geographic boundaries. Yet man by 1972 may be able to predict global weather patterns two weeks in advance, a venture which will require the active participation and cooperation of virtually every country in the world. Equally, the people of many countries represented in this body are heavily dependent on the continued ability of the oceans to support life. In certain parts of the world, this invaluable resource is being depleted, or is even disappearing. Man's own avarice must bear part of the responsibility; his indifference, in permitting indiscriminate pollution of the air, the estuaries of the world and the ocean, bears another part of the responsibility.

Thirdly, we would observe hopefully that at the 1972 Conference government representatives and political leaders, as well as scientists and technical experts, will attend and be involved from the outset. If the 1972 Conference is to result in positive action, it must be recognized that it is only through educating and persuading the body politic that necessary governmental actions can be undertaken.

III

Bearing in mind these broad elements or perspectives, we would now like to make some comments on the content of the program that will be recommended by this body to the General Assembly for the Stockholm Conference. At the outset we wish to compliment the distinguished representative from Sweden for his very excellent opening statement and for the precision and clarity with which he has outlined the major considerations.

We agree with the Swedish representative that the "problems that we deal with should be urgent and require immediate action." To this we would only add two comments. First, we need some method of determining priorities of urgency. For this purpose we might consider, for example, seeking the advice of some eminently qualified scientific organization, such as the International Council of Scientific Unions.

Second, we believe this criterion of urgency should not exclude exchanges of information, knowledge and experience on aspects of the environment on which, even in 1972, we will probably still know too little to mount action programs. Such exchanges should be a major aspect of the Stockholm Conference. It is through them that we shall identify, and enable ourselves to take timely action on, the environmental challenges of the long future.

We would also agree with the recommendation of the representative from Sweden that the ongoing efforts of international organizations, governmental and non-governmental, must be taken into strict account. We recommend that they be coordinated and given direction. There is a natural and very troublesome tendency for many multinational organizations to feel they are the first body to have heard of the problems of the environment and that they have the only capacity extant to contribute solutions to environmental problems. Not unlike the wild animals which we seek to preserve and conserve, some organizations seem to believe in what has been called the "territorial imperative." This Delegation feels very strongly that the overlap of activity, even among agencies within the United Nations family, is rapidly approaching the unacceptable.

In sum, and to refer once again to the admonitions of the Swedish Ambassador, the program for the 1972 Conference must be manageable in scope and focus.

IV

Mr. Chairman, by way of conclusion, it is the view of my Delegation that throughout the next two years of preparation and at the Stockholm Conference itself, certain fundamental considerations should constantly be borne in mind by all of us.

First, the management of the environment, a vital skill of itself, must allow for continuing economic progress while minimizing environmental degradation and pollution.

Second, man's relation to his environment is a very complicated one, and cannot be expressed purely in physical terms. The role of the social and behaviorial scientists has not, in our judgment, received sufficient attention in the effort to appraise the totality of the impact of environment on man.

Third, "environmental" education, whether or not interdisciplinary, must commence at the earliest possible age. As has been noted, the problems which are the subject of our deliberations will be with us a long time, perhaps with increasing urgency as the years go by. Nothing, therefore, could be of greater importance than to start now with training for future competence—scientific and managerial—in this field, and with developing broad public understanding. We would welcome a continuing exchange of information and experience from countries who have begun or are beginning to develop school and university curricula in "environmental" education.

Fourth, no comprehensive understanding of environmental change can ignore the effects of a constantly growing population and its tendency to concentrate in large cities.

Last, and perhaps most important, ways and means must go forward to "accentuate the positive." We should not see our task merely as that of staving off disaster—although disaster would certainly overtake us if we did nothing; we should rather seize the affirmative opportunity to enhance the quality of life for man.

JOAN ELLEN RZESZUTEK RECEIVES VFW VOICE OF DEMOCRACY AWARD

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. RODINO. Mr. Speaker, Miss Joan Ellen Rzeszutek, of Newark, and a senior at Our Lady of Good Counsel High School, recently submitted the winning essay in the Voice of Democracy contest sponsored by the Fourth District, Veterans of Foreign Wars. Her essay, "Freedom's Challenge," is thoughtful and I am pleased to bring it to your attention, as follows:

FREEDOM'S CHALLENGE

(By Joan Rzeszutek)

What is Freedom's Challege? To be honest, when I first saw the words "Freedom's Challenge," sounds of stirring patriotic speeches delivered by prominent statesmen came to my mind. How could I write or speak like that? Seemingly defeated already, I sat down to think. My thoughts on freedom were of liberated slaves from Civil War times and escapees from concentration camps. Both of these I had learned about in school. My thoughts on the word challenge were of soldiers in combat and demonstrators in protest. Both of these I had learned about in life.

Then the realization came to me that I have never personally been involved in a challenge to my freedom because I live in the United States of America. My religious, educational, and personal rights were given to me as birthrights. When I was old enough to earn a living I chose a job according to my individual preferences. I'm free! I've always been free. So where is there a challenge?

I took a long, hard look around me and saw how misinterpreted this word freedom has become. Permissiveness is our era's substitute. This new "freedom" has made common such sights as pornographic entertainment, draft dodging, and the downgrading of human dignity. Society is spoiled. And I am not ashamed to admit that much of "society" in America is young people. Never having learned to appreciate freedom by being deprived of it, we must *search* for its appreciable qualities. *That* is the challenge.

All Americans must work to preserve the freedom we have enjoyed for generations not so much from a foreign enemy as from ourselves. It is our responsibility to see that laws are enforced for the cause of freedom. Someone might say, "Laws! How can you speak of laws and freedom in the same sentence?" Well, when we get to the point where everyone does as he pleases and pardons his actions that hurt others by salving his conscience, then we are off freedom's trail. Human beings *want* order. They *want* peace with their neighbor. And they *want* freedom. From these desires spring laws. That's the way life is. Even as children we cry out for discipline if we get none.

And right here is a good place to begin. With our children. Parents along with the schools must instill into their children the need to value the necessary intangible elements of life. Teach them by example.

Now that the challenge has been presented, will we accept it or not? Shall we let our high grade freedom fall to low grade permissiveness? Many speak and write as I have done. Only time will tell if we have acted according to these words. The challenge is ours.

THE PRESIDENT AND THE POSTMASTER GENERAL SHARE THE BLAME FOR THE POSTAL STRIKE

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. KOCH. Mr. Speaker, the New York metropolitan area is besieged by a postal strike threatening its economy and stagnating the principal means of communication for over 10 million people. If it continues, it will paralyze the whole country and severely cripple the entire Nation's economy. The strike is illegal and it cannot be condoned. But, while we criticize the postal workers for not honoring the Federal injunction, we must be realistic in analyzing the seeds of discontent that have finally erupted, and we must place much of the blame for this staggering problem where it belongs—with the President and the Postmaster General.

For too long the postal workers have been asked to be patient. And for too long the Postmaster General and the President have sat behind their desks ignoring the warnings of the postal leaders that their men were fed up and were going to strike.

Postal workers in New York City are grossly underpaid. Salaries now range from $6,176 to $8,442. There are those on welfare who receive more money than a newly hired postal employee, and there are New York City postal employees whose income is so low that they are eligible for welfare and in fact are receiving benefits. Furthermore, the 21-year veteran postal worker is still making $1,000 less a year than the newly hired city fireman or the transit worker employed at $10,000. It is unconscionable for the Government to ask its postal employees to accept such low salaries in a city where $6,771 provides only a "low moderate" income for a family of four.

But, instead of working to increase postal pay levels, the President in fact has recommended that the pay increase scheduled in July for all Federal employees, including postal workers, be postponed until January of next year. Furthermore, he indicated in his budget message that he would veto any pay increase measure that was submitted to him without being coupled with postal reform.

Is General Blount in New York City now meeting with the postal employees and seeking a way out of this morass? No. He sits in his rosewood paneled office twiddling his thumbs while the city of New York burns.

On March 10, 17 members of the New York City congressional delegation wrote to Postmaster General Blount urging that he immediately request from the Civil Service Commission authority to provide interim upward adjustment of salaries for new postal employees in New York City to alleviate the serious recruiting and retention problems now facing the postal system in that area. Currently, the New York City post office has more than 900 unfilled vacancies because of the difficulty in attracting employees—all of which makes the work more difficult for those already overburdened and underpaid employees who stay.

The President and Postmaster General's continued inaction on this problem—like so many other problems—as a means for saving money will in the long run cost the people of the New York metropolitan area hundreds of millions of dollars. What is being done on the executive level is surely not good administration, but rather a crass lack of concern for human values as well as economic considerations.

The Congress too is not without blame. We have taken too long in reaching an agreement on the pay raise/reform bill. We must move quickly in passing this legislation.

I urge, however, that the Postmaster General and Civil Service Commission, act immediately to provide those increases in postal pay that are available under title V, section 5303 of the United States Code as an interim measure, until we are able to enact a fair postal pay raise, so as to demonstrate the Government's good intentions in meeting its obligation to give the country's postal workers the standard of living that they and their families deserve.

ENVIRONMENTAL BILL OF RIGHTS

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. MORSE. Mr. Speaker, the deep concern of millions of Americans about the hazards to the human environment that have resulted from our country's vast growth in technology, industry, population, and affluence, is rapidly developing into a national war against pollution.

Battles against pollution are already being waged below the Federal level, and I am glad to note that the State of Massachusetts—an area with a heritage of fresh and beautiful waters, the home of Thoreau and Walden Pond—is in the forefront of this attack.

Gov. Francis Sargent has taken a strong position on the front lines by proposing an environmental bill of rights which would become part of the constitution of the Commonwealth of Massachusetts. This constitutional amendment would guarantee the rights of all citizens to clean air, land, and water. It affirms the "right of the people to a healthy, clean, and esthetically pleasing environment, and to the conservation and protection of the natural resources of the Commonwealth," and imposes upon the Governor, the general court, and every government agency "an affirmative duty to protect that right," and assures every citizen access to the courts to enforce these guarantees.

It is with great pride in the strong role that my home State has taken to preserve and protect the quality of its environment that I present here, for the attention of my colleagues, Governor Sargent's proposal and his accompanying message to the Senate and House of Representatives of the Commonwealth of Massachusetts:

THE COMMONWEALTH OF MASSACHUSETTS,
State House, Boston, March 2, 1970.

To the Honorable Senate and House of Representatives:

A clean and health environment should be a fundamental constitutional right, just as basic as the right to freedom of speech. Within the framework of our law, we must guarantee and affirm that right. The constitutional amendment submitted with this message does so.

This amendment declares that "the people have a right to a healthy, clean and esthetically pleasing environment." It does not stop there, however. It imposes upon the Governor, the General Court, and every governmental agency within the Commonwealth an affirmative duty to protect that right. And it specifically grants to every citizen access to the courts to enforce these guarantees.

The amendment achieves two other key purposes. First, it establishes that publicly owned parks, recreation areas, forest and watershed lands, great ponds and similar areas cannot be diverted to an inconsistent use except by a two-thirds vote of each House of the Legislature. This extends previous court decisions on this question. Second, the amendment will permit special tax treatment for agricultural and open space lands. Such a provision is necessary to encourage the preservation of these lands for conservation purposes.

The need for such an amendment is widely recognized. I urge your approval of the accompanying proposal.

Respectfully submitted.

FRANCIS W. SARGENT,
Acting Governor.

PROPOSAL FOR A LEGISLATIVE AMENDMENT TO THE CONSTITUTION

(Relative to the right of the people to a healthy, clean, and esthetically pleasing environment and to the conservation and protection of the natural resources of the Commonwealth)

A majority of all the members elected to the Senate and House of Representatives, in joint session, hereby declares it to be expedient to alter the Constitution by the adoption of the following Article of Amendment, to the end that it may become a part of the Constitution [if similarly agreed to in a joint session of the next General Court and approved by the people at the state election next following]:

ARTICLE OF AMENDMENT

Article XLI and Article XLIX of the amendments of the constitution are hereby annulled and the following is adopted in place thereof:—The people have a right to a healthy, clean and esthetically pleasing environment. The general court, the governor, and all instrumentalities of government within the commonwealth shall make adequate provision for the protection, conservation, and improvement of the air, water, land, wildlife, and the scenic and historic resources of the commonwealth. It shall be the right of any person to enforce by legal and equitable action the rights and responsibilities set forth in this amendment.

The general court shall have the power to provide for the taking, upon payment of just compensation therefor, of lands and easements or interests therein, including water and mineral rights, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary or expedient therefor and may prescribe for forest, agricultural and open space lands such methods of taxation as will provide for the conservation of those resources.

Park, conservation, recreation, forest and watershed lands, and wetlands, tidelands, great ponds and kindred areas in public ownership shall not be taken or diverted to an inconsistent use except by the enactment, by a two-thirds majority vote of each house, of a special act of the general court which clearly describes the land, its existing public use and new use.

MRS. IRENE ARNING HONORED BY AMERICAN NURSES ASSOCIATION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. PICKLE. Mr. Speaker, the American Nurses Association has singled out Mrs. Irene Arning, of Taylor, Tex., as one of the finalists from 39 States in a nationwide search for talent, dedication, and professional competence.

For more than 20 years, Mrs. Arning has devoted her energies as a school and public health nurse in Williamson County. She is typical of the devoted professional who gives unselfishly of herself for years and years with no thought of personal recognition.

Mr. Speaker, I would like to honor this woman by reprinting her story in the RECORD. The following news article is from the competent and picturesque Taylor Daily Press of March 9:

TAYLOR NURSE HONORED FOR OUTSTANDING WORK

A Taylor nurse, concerned with improving the quality of life in Texas, was honored today by the American Nurses' Association (ANA) for making an outstanding contribution to this community.

The ANA announced that Mrs. Irene L. Arning has been selected to represent Texas as one of the finalists from 39 states in a nationwide BE-INvolved Nurse Search. Honors went to registered nurses who have been actively participating in raising the level of social or health services in their communities.

Mrs. Arning was nominated by the Texas State Nurses Association in Houston.

If selected as the national winner among the 39 state finalists, she will be eligible for a $2,000 award from Schering Corporation, an international pharmaceutical company. One-half of this award would be contributed by her to a Taylor community project in which she is involved.

Mrs. Arning, a school and public health nurse in East Williamson County and Taylor for more than 20 years, has been active in promoting community health through community education.

Since May 1969, she has presented 41 films and talks to schools, churches and civic groups in Taylor concerning drug abuse.

As an active member of the American Red Cross, she has been teaching mother-baby care and first aid to high school students and community groups. She also has taught and trained the Taylor Fire Department in first aid emergency care for ambulance service. In 1969, Mrs. Arning was awarded a 20 year service pin by the National Red Cross for active service to her community.

Mrs. Arning has volunteered to teach mother-baby care and to encourage immunization at the migrant camps that move into the area during the harvest season. In 1953, she received recognition from the "Women of the Church" for her services to the migrants.

A motion picture documentary on ANA's national winner and five finalists is being produced by Schering. Both the cash award and the film will be presented at the ANA's biennial convention at Miami Beach in May 1970.

All registered nurses, including the 207,000 members of the ANA, were eligible for nomination in the BE-INvolved search for exceptional performance either on-the-job or after work. The final winner will be selected by ANA's Honorary Committee headed by John D. Rockefeller, IV, West Virginia's Secretary of State; and Margaret B. Dolan of North Carolina, president of the National Health Council and former ANA president.

Mrs. Arning has also been very active in the Cancer movement—being President of the East Williamson County Society, as well as a District Director.

HEARINGS ON CREDIT REPORTING BILLS

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mrs. SULLIVAN. Mr. Speaker, the Subcommittee on Consumer Affairs of the House Committee on Banking and Currency began hearings this week on bills dealing with the practices of credit reporting firms which amass personal or financial data on millions of Americans and sell that information to businessmen to aid them in deciding whether to give or deny credit or employment or insurance coverage to a particular person. This is a very important part of the mammoth credit industry in this country and performs a necessary service.

Some credit reporting firms do a better job than others in assuring the reliability of the information they sell, and in protecting the confidentiality of that information. All of them, I am sure, try to keep false information out of their files, but the evidence is strong that much erroneous information nevertheless gets into credit files with distressing regularity, and often is impossible to root out, while doing irreparable damage to the reputations of countless Americans.

That is why I have nicknamed the bill I have introduced on credit reporting, H.R. 16340, as the "Good Name" Protection Act.

Mr. Speaker, because of the tremendous barrage of mail and telegrams received by Members of Congress on this issue, much of it indicating that H.R. 16340 would destroy the credit reporting business in this country and thus lead to sharp curtailment of credit to millions of moderate income families, I think it would be useful to place in the RECORD at this point the statements I made Tuesday morning as chairman of the subcommittee in opening the initial hearing, and this morning when we resumed the hearing.

I think any Member who knows of my work on legislation in my committees will recognize that in pursuing a complex and highly controversial legislative issue, I try to bring out all of the relevant facts, pro or con, so that in recommending a bill to the House for passage I can explain and defend its provisions. In order to have a full and comprehensive discussion in our hearings of all of the issues involved in a piece of legislation, I believe we should work from a broadly based bill which sets these issues out squarely. H.R. 16340 is such a bill—a very comprehensive and very controversial one.

What comes out of committee will depend upon an objective analysis of the testimony we receive from all sides of specific provisions this bill now contains. Parts of it may go too far, as some witnesses contend, or not far enough, as others claim.

STATEMENT IN OPENING THE HEARING

Following, Mr. Speaker, is the statement I made Tuesday morning in opening the present hearings:

STATEMENT BY CHAIRMAN LEONOR K. SULLIVAN IN OPENING HEARINGS OF SUBCOMMITTEE ON CONSUMER AFFAIRS, HOUSE COMMITTEE ON BANKING AND CURRENCY, ON FAIR CREDIT REPORTING BILLS, TUESDAY, MARCH 17, 1970

The Subcommittee today begins a series of hearings on legislation which I call the "Good Name" Protection Act, but which is officially known as the Fair Credit Reporting Act. Our purpose will be to determine whether Federal legislation is needed in this field, and if so, what form it should take.

I think there is general agreement that American citizens applying for credit, insurance or employment should not be denied these essentials because of erroneous, incomplete, obsolete, misleading or malicious information about them contained in a secret file maintained by a firm which makes a business of selling personal data about individuals to other businessmen.

One's reputation remains today, as it always has been, the most precious thing we own, and he who damages our reputations—whether by willful action or by stupid error in pushing a computer button—can hurt us irreparably, particularly if we never catch up with the existence of the damaging report while continuously suffering the *consequences* of its existence in a credit or investigative file somewhere.

Undoubtedly, the computerization of personal information about millions of individuals gives this subject greater importance and urgency than it had in the days when the average businessman knew his customers personally and knew the good credit risks from the bad, and the insurance agent was an old acquaintance who knew the good actuarial risks from the bad ones.

Today, the data is almost completely second hand, third hand or even more distant and impersonal, and it is almost impossible to find a human being to unravel a computer error once it is made. When the computer is half a continent away and connected to the store by electronics, the remoteness of the customer from the real arbiter of his credit worthiness becomes even more pronounced.

These are situations I am sure our witnesses will develop for us as these hearings proceed. We are all generally aware of the problem. But what are *proper* solutions for the problem? None of us wants to end the extension of credit, or make it so difficult for businessmen to obtain accurate *relevant* information about an individual that it becomes easier to deny credit than to go through onerous procedures. At the same time, we cannot continue to countenance slip-shod practices in credit reporting which destroy the reputations of innocent people seeking credit, insurance or employment.

My statement this morning, Mr. Speaker, at the start of our second session on this legislation was as follows:

STATEMENT BY CONGRESSWOMAN LEONOR K. SULLIVAN, CHAIRMAN, SUBCOMMITTEE ON CONSUMER AFFAIRS, HOUSE COMMITTEE ON BANKING AND CURRENCY, IN OPENING SECOND DAY OF HEARINGS ON BILLS DEALING WITH CREDIT REPORTING PRACTICES, THURSDAY, MARCH 19, 1970

This morning, we resume the hearings we began on Tuesday on H.R. 16340, S. 823, and other bills dealing with the sale of information to businessmen on the personal affairs, character or financial status of individuals applying for credit, insurance or employment.

On Tuesday, at our opening session, we heard testimony from groups and individuals, including a Member of Congress sponsoring one of the pending bills, urging strong Federal legislation to protect consumers from "arbitrary, erroneous and malicious credit information" and specifically endorsing most of the provisions of H.R. 16340—a bill which I have nicknamed the "Good Name" Protection Act. All of our witnesses on Tuesday testified that they would prefer to have us pass no legislation at all in this field at this time rather than pass the less comprehensive bill passed by the Senate last November, S. 823.

In this second meeting in the series of hearings, we will hear representatives of two of the major credit reporting agencies take what I am sure will be a much different look at this issue. Both witnesses have submitted prepared statements which support the idea of Federal legislation in this field, and support S. 823 as passed by the Senate.

I want to express my appreciation not only for getting copies of their testimony in advance, so that we could study them prior to the hearing, but also for giving us such excellent and incisive comments on the issues in controversy and their reasons for supporting S. 823 and opposing H.R. 16340.

Following the procedure we adopted Tuesday, we will limit each of our witnesses this morning to *10 minutes* for uninterrupted oral presentation of their viewpoints and for summaries of their statements. But the entire text of each of the statements will go into the record and appear in our printed transcript, plus additional factual or analytic material they may wish to submit which would make our record more useful to the Committee and to the House in the subsequent consideration of credit reporting legislation.

By the time we have completed this series of hearings, I hope and believe we will have all the facts we need, from every affected industry and from the public and from appropriate government agencies, to enable us to legislate intelligently on this complex subject.

On Tuesday I read aloud a letter I received from a credit reporting agency executive in my home city of St. Louis whose criticism of H.R. 16340 consisted in full of calling me an idiot. As I said then, while the gentleman's letter might have made him feel better for having gotten off his chest his intense feeling of opposition to a particular bill, it is not the kind of criticism which helps us write technically complex legislation. Our witnesses today, I know, will be far more specific in their comments.

Believe me, we welcome critical analysis by those who have studied this issue and know the problems from first hand experience.

But along those lines, I would like to say that the mail deluge coming into the Congress from credit reporting firms all over the country raising an alarm that we are imminently about to destroy the credit reporting industry, and make it impossible for businessmen to obtain reliable information about individuals they are considering dealing with—information they definitely need to have in order to make informed business judgments—those letters of alarm, I might point out, are a little premature.

We are not about to act on any bill; we have barely begun the hearings which are intended to get us all of the relevant facts necessary in order to be *able* to legislate. I am sure no one would seriously suggest that this Committee blindly accept the Senate bill and pass it without our own detailed study. So if any Members of the House are being frightened by the flood of alarmed constituent mail from businessmen on this issue into thinking we are about to report out some monstrous and unworkable piece of legislation, I suggest they wait to see what we actually develop in these hearings. The industry witnesses we are hearing today, and those we will hear later, are certainly capable in explaining the problems they think they would encounter under any of the bills.

AFTER 70 MILLION YEARS OF LIFE, DDT IS A BIG THREAT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. DINGELL. Mr. Speaker, one of my constituents, Mr. Percy V. Bantten, of 1875 Pelham Road, Dearborn, Mich., recently sent me a clipping from the Detroit News of March 2, 1970, dealing with the threat which DDT poses to the continued existence of animal life on the earth.

I feel that the Detroit News article by James L. Kerwin provides an excellent insight into the perils of improper use of insecticides. So that my colleagues may have an opportunity to read this article, I include the text at this point in the RECORD:

AFTER 70 MILLION YEARS OF LIFE, DDT IS A BIG THREAT

(By James L. Kerwin)

Man's chemical warfare against pests has imperiled a rare and priceless lizard-like creature that has survived the age of dinosaurs 70 million years ago.

The threat posed by DDT and other pesticides to the ancient jungle-dwelling tuatara—along with polluted air—is only one of the problems of contaminated environment concerning officials at the Detroit Zoo.

A prized tuatara in the Holden Reptile House died after digesting cockroaches laced with DDT, an autopsy disclosed.

To protect the lone survivor, zoo officials sealed the tiny, drab green reptile in a chamber to keep bugs and other intruders out.

"Just think, they lived through all of the cataclysms of millions and millions of years in time only now to be knocked off by DDT," grumbled William Austin, zoo curator.

The plight of the tuatara, which virtually are impossible to import today from New Guinea's steaming jungles, is typical of the environmental crisis created by man's carelessness.

Eggs from valuable birds are too thin to be hatched.

Fish fed to bears and members of the cat family have to be selected carefully so that the DDT and other dangerous residues found in fatty tissues are not ingested by the diners.

Last year, veternarians found in an autopsy on a rhea—a skinny ostrich-type bird—that brain tissue was saturated with DDT to the point it caused death.

Rattlesnakes also have died at the zoo from eating insects loaded with pesticides.

Officials constantly worry that the famed penguin colony, forced to live in an outside pool while its quarters are refurbished, will fall ill and perish from respiratory ailments caused by polluted air.

Alligators are threatened with poisoning from ingesting pennies tossed into their pools.

"Most of our problems can be traced to people pollution;" complained zoo director Dr. Robert F. Willson.

DDT has been singled out by zoo and other scientific researchers as the major villain in environmental contamination.

"We're certain that it causes birds to lay eggs that crack when they sit on them to hatch," Dr. Willson said.

Residue from chemical compounds, he said studies show, also cause severe muscular problems with several species of birds.

The zoo imports only herring from certain areas of the Pacific for feeding animals because of the high level of DDT found in similar fish in the Atlantic.

Trees in the shady 126-acre park no longer are sprayed because of the contamination of soil by the fallout. Chemical residue does not break down for years.

"We'd rather lose a few trees than our prized exhibits," said Dr. Willson.

Live mice fed to snakes and other reptiles are checked to make sure they aren't loaded with pesticides when they arrive from "mouse farms" in crates.

"If possible, we'd like to shut up our tenants in air, dust, waterproof quarters to protect them from our contaminated ways," said one zoo staffer.

So far, Detroit's crisp and clear winter weather has spared the zoo from any deaths among its 54 penguins who normally live behind glass walls in air-conditioned and air-filtered quarters.

"Penguins who live outside usually have a high mortality rate because their natural environment in the Antarctic is so pure," explained Austin.

Neither Austin nor Willson feel enough is being done to protect the environment and would like to see tighter restrictions on the application of garden pesticides.

"In a sense, we're trying to make life easier, but death is quicker," argued Austin.

"For the moment, there's not much more we can do than just hope we don't destroy everything around us."

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ON POSTAL WALKOUT

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. PATTEN. Mr. Speaker, I am very concerned over the unprecedented work stoppage of postal workers in the metropolitan area.

The New Jersey congressional delegation has always worked diligently to improve pay and working conditions for postal employees, with solid support from the press, and the general public.

One shortcoming of the present postal situation is that wages are determined on a national basis. This means that a postal worker in some sections of the country may have what he considers a fair wage, but the cost of living in many other States—especially those in the metropolitan area—is much higher. This, in itself, creates a problem.

I have met with postal carriers, clerks, supervisors, and postmasters on many occasions and I am certainly familiar with their economic problems and their goals. Many of these goals are justified.

I strongly urge postal workers to remain on the job. By doing so, it would improve the chances of Congress taking effective action to help resolve the problems that exist—in wages, and working conditions. I have been informed that over 50 percent of postal workers have to take additional jobs, and that many of them also depend on their wives working, in order to help support their families.

Mr. Speaker, it is obvious to me and to many other Members of the House, that the postal workers of America need help. I will continue to do whatever I can to help provide that assistance.

TEXAS LEADS NATION IN INDUSTRIAL DEVELOPMENT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. PICKLE. Mr. Speaker, although it is no secret, the State of Texas leads the other 49 States in industrial development for the year just ended. During 1969, despite a nationwide crimp in development, Texas moved to the forefront and leads the Nation in this field for the first time in history.

This information was made public March 12 by the Honorable Preston Smith, Governor of Texas. Governor Smith revealed this news at a meeting with the accompanying statement. I include his remarks at this point:

"It is my pleasure to announce today that Texas has just been named the Number One state in the nation in industrial development for the first time in its history," the Governor said. "The good news comes to us, not from our own figures, but from the Dun and Bradstreet Corporation, in a report published by the Fortune Magazine Marketing Research staff."

The Governor noted that Texas' total of 901 new plants in 1969 represented industrial growth more than 42 percent greater than that of second place California.

Texas, according to the Fortune report, was the only Southwestern state to rank in the top ten of new industrial locations.

Other states in the top ten were Georgia with 609 new plants, Illinois with 290, Alabama with 289, Florida with 224, Minnesota with 224, Ohio with 212, and North Carolina with 189, and Indiana with 240.

Only six other states exceed Texas' total of 15,576 manufacturing plants. "The 901 new plants established in Texas in 1969," said the Governor, "constitute a 6 percent increase in the total number of manufacturing plants in the state—a 6 percent increase in the total number of plants in just one year."

The Governor credited the remarkable increase in industrial development over the past year to the efforts of the Texas Industrial Commission, "the close-knit alliance between local, regional and state development groups that we have in Texas," and "the partnership of industry and government that we have in Texas to promote a better life for all our citizens."

He said, "It is this concept and this practice of teamwork which makes our state unique."

The top ten states in industrial development invested a total of $7,967,500 in programs to attract industrial growth. Texas investment in 1969 was only $385,570, or less than 5 percent of the total. Altogether, these ten states accounted for 3,813 new plants, of which Texas earned 901, or 24 percent.

"Thus, for an investment of one-half the average, Texas has been able to accomplish nearly three times the results," the Governor said.

WHAT IS OVERPOPULATION?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. CRANE. Mr. Speaker, a great deal is heard today about the dangers of overpopulation, both of our own Nation and of the world. There are those whose grim forecasts point to famine and chaos in only a few years unless we act immediately to regulate population growth—even to expand the authority of Government into the totally personal matter of family planning.

The proponents of legislative action, or even of Government-sanctioned moral suasion, in this area fail, I believe, to recognize an important point. The problem of population is, in reality, far less one of absolute numbers than of the ability of a society to provide food for its people.

That fact has been recognized, however, by the Reverend Rousas J. Rushdoony, in the "Myth of Over-Population," a perceptive and challenging book in the "University Series of Historical Studies" published by the Craig Press. Reverend Rushdoony, a writer and scholar and authority on American history, is also president of the Chalcedon Foundation in California. A chapter from his book, titled "What Is Overpopulation?" was reprinted in the Freeman, magazine of the Foundation for Economic Education. It calls attention to some of the commonly overlooked questions that any serious and rational discussion of population must answer, and demonstrates the capacity of a free market economy to maintain a food supply adequate to the needs of its population, however great.

The chapter follows:

WHAT IS OVERPOPULATION?

(By Rousas J. Rushdoony)

Increasingly, modern man has come to believe that he faces a serious problem in the near future because of the so-called population explosion. The world, he is told, is running out of room and out of food for man, and, as a result, drastic measures may be necessary in order to prevent disaster.

Before the question, "Does the world face overpopulation?" can be answered, another question must be faced: "What is overpopulation?"

Perhaps the best answer to this latter question is that overpopulation is an imbalance between the number of people living and their food supply, which results in hunger and even famine because the available production of food cannot match the population's needs.

In terms of this definition, it must be recognized that the world has had the problem of overpopulation several hundred times at least, and probably almost consistently during much of its history. This ancient problem of overpopulation can best be understood by a few illustrations, and first of all, its history in North America. North America had a continuing problem of overpopulation before the coming of the white man. The Indian population was small, perhaps at most 250,000 to 300,000, and perhaps even less than half that number. Nevertheless, overpopulation was a continual problem, and it led to hunger, famine, and cannibalism. The very word "cannibal" comes from the Americas.

It is derived from the Spanish *Canibales*, which came from the Carib *calina*, *galibi*, literally, strong men, i.e., those who practiced it. Both among the tribes contacted by Columbus and in the areas now a part of the United States, cannibalism was fairly prevalent. Its purpose was certainly often religious and magical, but it was also clearly economical as well, often dictated by the shortage of food. Among some tribes, its magical use continued into the nineteenth century:

> From time immemorial the Skidi Pawnees had offered a human sacrifice to the morning star each spring in order to insure the success of their crops of corn, beans, and pumpkins. The victim was always a prisoner of war, and usually a pure young woman. She was treated kindly by her captors and kept in ignorance of her fate until the morning she was led, painted from head to foot in sacred red and black colors, to a scaffold in the center of the village, tied to the crossbars, and, just as the morning star appeared in the sky, killed by a medicine arrow shot through her heart.[1]

This is clearly a case of human sacrifice; human sacrifice was often accompanied by a ritual act of cannibalism. But there also existed extensive cannibalism as a remedy for hunger. Indian cannibalism is very little reported or studied. Older Indians who recalled it were unwilling to discuss readily a subject which brought much disrepute to them. Modern writers, prone to a romantic view of the Indians, tend to mention it only in passing and then to justify it by unfavorable references to cruelty in Western civilization.[2] Most general works give us only a brief, passing reference to such facts as this, concerning a South American people: "Some of the many bands of Tupian people bred their women to captives of war and raised the resultant children like veal calves for butchering."[3] In most cases, however, cannibalism for economic reasons was a last resort, although not an uncommon last resort.

HUNGRY HUNTERS

Why were the Indians hungry, when they had the wealth of the Americas at their disposal? The answer is that their food supply was severely limited. A few animals, like the passenger pigeon, were seasonally plentiful, but they were not always available. Before the white man brought the horse and the gun to the Indians, buffalo were much more difficult to hunt, and smaller game was normally depended on. In forested areas, game was scarce. Living off the land is a poor way to live and makes only a marginal and precarious existence possible. It was rarely done by white men. The fur trappers went into the wilderness with food and equipment as their capital: a grubstake made survival possible. Settlers moved out in large groups, with at least two years' income as capital, to clear, plant, and develop the soil. As the settlers developed the soil, the nearby game increased, because the food supply increased. Game drew close to settlements and multiplied, and Indians drew close to settlers to get the game as well as the settlers' produce and animals. The coming of the white man increased the food supply, because the white man developed the earth.[4]

Here is the key to the problem. The total Indian population in North America was not greater than many an average-sized American city, and yet the Indians were unable to produce enough food to avoid famine. Some counties in California today produce more food than perhaps the Indians of North, South, and Central America ever saw in a year. For hunting tribes, famine was a normal thing.

From the Abnaki of Maine through the Micmac of Nova Scotia and the Montagnais and Naskapi of Quebec and Labrador, hunger was increasingly a part of life and legend, in direct proportion as farming dwindled and hunting became the only gainful occupation. Even in a country teeming, as the saying goes, with game, the chase is bound to be a shaky provider, there being nothing stable about a supply of wild meat.[5]

Agriculture, then, was a preventative to famine, but it was not a certain preventative. Repeatedly, the farming peoples of Europe have undergone famine. Thus, in England alone, during the thirteenth century, hunger and famine struck in 1203, 1209, 1224, 1235, 1239, 1243, 1257, 1258, 1271, 1286, 1289, 1294, 1295, and 1298. In 1258, for example, it was reported that the poor ate the bark of trees, and horseflesh, and that 20,000 starved in London, which was the report also for 1235. In 1239, we are told that people ate their children, and 1286, a 23 years' famine began, with the years cited above being simply the severest years.[6]

The Plymouth colony in New England faced famine immediately as a result of its farming. The cause for this is stated candidly by Bradford: it was the socialistic system of farming which created the famine:

> At length, after much debate of things, the Govr (with the advice of the cheefest among them) gave way that they should set corne every man for his owne particuler, and in that regard trust to them selves; in all other things to goe on in the generall way as before. And assigned to every family a parcel of land, according to the proportion of their number for that end, only for present use (but made no devission for inheritance), and ranged all boys and youths under some familie. This had very good success; for it made all hands very industrious, so as much more corne was planted then other wise would have bene by any means the Govr or any other could use, and saved him a great deall of trouble, and gave farr better contente. The women now wente willingly into the field, and tooke their little-ones with them to set corne, which before would aledg weaknes, and inabilitie; whom to have compelled would have been thought great tiranie and oppression.
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> The experience that was had in this commone course and condition, tried sundrie years, and that amongst godly and sober men, may well evince the vanitie of that conceite of Platos and other ancients, applauded by some of later times;—that the taking away of propertie and bringing in communitie into a comone wealth, would make them happy and florishing; as if they were wiser than God. For this communitie (so farr as it was) was found to breed much confusion and discontent, and retard much imployment that would have been to their benefite and comforte.[7]

The problem at Plymouth Plantation was thus a restrictive form of farming, one imposed from London, which undercut initiative and production. Basic to sound farming, therefore, is freedom from statist controls. As Montesquieu observed, "Countries are not cultivated in proportion to their fertility, but to their liberty."[8]

FAMINE WAS NORMAL

Not nature but man is the major cause of famine. Natural disasters such as storms, droughts, and frost can indeed destroy crops, but their effect is local, not total. Free production elsewhere can alleviate a shortage in a stricken area. In 1967, killing frosts in the San Joaquin Valley of California in some cases destroyed all the fruit on many farms. Farms sometimes within sight of a devastated farm came through the frost with minor damage. Some produce was in short supply, but other produce supplied the lack by bumper crops. Farmers whose crops were destroyed did not starve. Those who had savings used them to weather the year; many wives went to work to alleviate the financial crisis. The uses of freedom and industry saw these farmers through a crisis without any famine, nor with any proclamation of a national disaster calling for Federal funds.

Walford listed, among the causes of famine, the following factors which are of particular significance:

1. The prevention of cultivation or the willful destruction of crops;
2. Defective agriculture caused by communistic control of land;
3. Governmental interference by regulation or taxation;
4. Currency restrictions, including debasing the coin.[9]

The world, during its least populous eras, suffered most from hunger and famine. As statist controls receded in the nineteenth century, hunger also began to recede, and Western civilization increasingly saw famine banished and hunger successfully dealt with. A far greater population enjoyed far greater supplies of food.

The reason for this increased supply of food was not simply technology nor the Industrial Revolution. The application of technology to Russian farming since 1917 has not seen an increase in the food supply. On the contrary, food production has declined, and the Ukraine, once the breadbasket of Europe, has been unable to feed the Soviet Union. Technology has not increased the food supply of Red China nor of any other socialist regime. The reason for the increased supply of food was the growth of freedom. Now "thanks to Socialism, famine again stalks the earth. . . . Like a horse and carriage, 'socialism and hunger' inevitably go together." As a result, "much of Eastern Europe, once a granary in its own right, lives off U.S. surpluses, while the fertile farmlands of Algeria, which produced so bountifully for the hard-working colons, have turned barren."[10] In the United States, as a result of the increasing socialistic controls of farming, food production is declining to the point that civil government officials can speak of future food problems, and a conservative writer can describe the policy as planned famine.[11]

HUNGER ENDEMIC TO SOCIALISM

The answer, then, to our problem is in essence this: socialism always creates ultimately an imbalance between the number of people living and their food supply which results in hunger or famine. There is in this sense, therefore, always a problem of overpopulation under socialism. Hunger is chronic and endemic to socialism.

Socialism, moreover, affects both the food supply, by limiting it, and also the population, by both expanding it at one stage and limiting it at another. Socialism grows in a country by catering to a group or to various groups by subsidies. These subsidies penalize the taxpayers for the benefit of favored groups who are termed "needy" but are now in actuality an undeservedly privileged group.

A subsidized group experiences a "population explosion." Being released from the responsibility of work, it lacks inhibitions and feels no constraint about rapid increase. Since more children may be a means of increased subsidy, the inhibition of financial accountability and responsibility is removed. Absorption with sex, and irresponsible sex, are products of a welfare economy. Zoo animals have a different sexuality than do wild animals.[12] A zoo is a welfare economy, and the zoo animals are privileged—and enslaved—animals. A welfare economics gives a privileged and enslaved status to a segment of the population. Again, America gives us a familiar and telling illustration. The American Negro, under slavery, existed in a welfare economy, because slavery is a form of welfare economics. The possession of slaves gave social status but it was not an an economic asset. The slave gained cradle to grave security for a minimum of work. His

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Footnotes at end of speech.

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living conditions were sometimes good and sometimes bad, but, on the whole, far superior to those of the peoples of Red China and the Soviet Union. . . .

The census of 1860 estimated that the total population of the United States would reach "about a hundred million" by 1900, but it estimated that, with emancipation likely, due to the start of the Civil War, "so many (Negroes) will be transferred from a faster to a slower rate of increase," that "nine millions of the colored, in the year 1900, appears a large estimate."[13] The Negro population in 1900 reached 8,833,994, the total population, 75,994,575. There was thus a marked decline in the ratio of the colored population after 36 years of freedom. Slavery, as a welfare economy, had encouraged the birth rate. The further the Negro left behind slavery and plantation patronage, the more his population statistics indicated a declining birth rate. The following statistics are revealing.[14]

[In millions]

Year	White	Negro	Indian	Total
1860	26.9	4.4	0.044	31.4
1900	66.8	8.8	.237	76.0
1930	110.3	11.9	.332	122.8
1960	158.8	18.9	.524	179.3

The above statistics do not list Chinese, Japanese, and other groups. The Indians are included to indicate that an Indian population greater than ever existed in pre-Columbian America now lives with millions of Americans without famine. Indian America was overpopulated; modern white America is not.

The statistics are also important in that they show the marked decline in the ratio of Negroes to whites from 1860 to 1930; the Indians showed some increase in the same time, because the reservation system provided them with a welfare economy. The census of 1860 did not include Western Indians, but their numbers at that time were limited in the West. Their strong resistance has created the illusion of great numbers in men's minds. The Negro ratio declined to 1930 but returned to about the same ratio as 1860 in 1960. In other words, a generation of welfare, beginning with the New Deal of President Franklin Delano Roosevelt, provided a return to the subsidized conditions of the Negro of 1860.

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THE WORST ELEMENTS SUBSIDIZED

Thus, a welfare economy, up to a point, increases a segment of the population. Whether in ancient Rome or modern America, this increase is of the worst segment of the population in ability, intelligence, and character. The worst elements of the white and Negro populations are subsidized to the detriment of the nonsubsidized whites and Negroes.

In 1965, in the cities, nearly one-fourth of the Negro women who have been married were now divorced or separated as against a 7.9 per cent rate for white women. "Nearly one out of every four Negro babies born" was illegitimate, a Negro illegitimacy rate of 23.6 per cent as against a white rate of 3.07. More than half of all Negro children in 1965 were helped by Federal-state Aid to Dependent Children, as against an 8 per cent rate for white children. The birth rate for Negroes was 40 per cent higher than for whites, so that it was estimated that by 1972 "Negroes will make up one-eighth of the U.S. population."[15] The situation since 1965 has become rapidly worse.

However, with full socialism, the need to gain votes by subsidy gives way to totalitarian controls over all the people, and population figures then show a frequent decline. Population figures for the U.S.S.R. are estimates only, in that the data is carefully guarded by that state, and the indications of population decline and famine are many.

The answer to the question, "What is overpopulation?" is that it is an imbalance between the number of people living and their food supply. This is a condition the world has faced during most of its history. As a result, we can answer the question, "Does the world face overpopulation?" that it indeed does face overpopulation, hunger, and famine progressively as it becomes more and more socialistic. Socialism has a poor record when it comes to eliminating problems: its answer adds up to eliminating people. In fact, one of socialism's major and chronic problems is simply *people*. Socialism on the one hand destroys production, and, on the other, breeds up the least desirable elements. Its answer is to find the people at fault. Socialism always faces overpopulation; a free economy does not.

FOOTNOTES

[1] John C. Evers, *Artists of the Old West*. (New York: Doubleday & Co., 1965), p. 48.

[2] Oliver La Farge, *A Pictorial History of the American Indian* (New York: Crown Publishers, 1957), p. 56.

[3] William Brandon, with Alvin M. Josephy, Jr., *The American Heritage Book of Indians* (New York: American Heritage Publishing Co., 1961), p. 56.

[4] See James C. Malin, *The Grassland of North America: Prolomena to Its History*, pp. 138–140, Lawrence, Kansas, 1947; and Malin, "The Grassland of North America: its Occupancy and the Challenge of Continuous Reappraisals," p. 10, Background Paper No. 19, prepared for the Wenner-Gren Foundation International Symposium, "Man's Role in Changing the Face of the Earth," Princeton Inn, Princeton, New Jersey, June 16–22, 1955. See also Marquis de Chastellex, *Travels in North America in the Years 1780, 1781, and 1782*, vol. I, p. 79f., Chapel Hill: University of North Carolina Press, 1963.

[5] Brandon, *op. cit.*, p. 175.

[6] E. Parmalee Prentice, *Hunger and History, the Influence of Hunger on Human History* (Caldwell, Idaho: Caxton Printers, 1951), p. 6f. See also Prentice, *Farming for Famine* (Garden City, N.Y.: Doubleday, Doran, 1936), p. 7f. Prentice's data comes from Cornelius Walford, *The Famines of the World: Past and Present*, March 19, 1878, *Journal of the Royal Statistical Society*, vol. 41, p. 433; vol. 42, p. 79.

[7] William T. Davis, editor, *Bradford's History of Plymouth Plantation*, 1606–1646 (New York: Charles Scribner's Sons, 1908), p. 146f.

[8] Montesquieu, *Spirit of Laws*, Bk. xviii, ch. 3.

[9] Cited by Prentice, *Hunger and History*, p. 4.

[10] *Barron's*, December 20, 1965, p. 1.

[11] Dan P. Van Gorder, *Ill Fares the Land* (Boston: Western Islands, 1968).

[12] Robert Ardrey, *African Genesis* (New York: Atheneum, 1961), p. 118.

[13] *Eighth Census*, 1860, p. 8.

[14] Ian Golenpaul, editor, *Information, Please Almanac*, 1967 (New York: Simon and Schuster, 1966), p. 324.

[15] "Negro Revolt—The Big City Crime," in San Francisco *Call-Bulletin*, Saturday, August 14, 1965, p. 2.

BOSTON-ALBANY RAIL SERVICE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. CONTE. Mr. Speaker, we are all aware of the decline in passenger rail service throughout the country. Recently the Penn Central asked the Interstate Commerce Commission for permission to discontinue its service between Boston and Albany.

I oppose such a discontinuance, and I said so in a letter to the ICC after the Penn Central request was announced. In this regard, I would like to bring to the attention of my colleagues a resolution adopted by the Commonwealth of Massachusetts on March 11, 1970, in opposition to this action, as follows:

RESOLUTION OF THE COMMONWEALTH OF MASSACHUSETTS

Resolution requesting the Interstate Commerce Commission not to grant a discontinuance of Penn Central rail service

Whereas, There is pending before the Interstate Commerce Commission an application of the Penn Central Railroad to discontinue rail service between Boston and Albany; and

Whereas, If this is granted, there will be a termination of rail passenger service from Pittsfield and Springfield to Boston for the first time since 1841; and

Whereas, If this is granted, rail commuters from South Station to Back Bay, Newtonville. Framington and Worcester will be severely inconvenienced and forced to use other congested modes of transportation; now, therefore, be it

Resolved, That the Senate of the Commonwealth of Massachusetts respectfully requests the Interstate Commerce Commission not to grant the desired discontinuance of railroad service by the Penn Central Railroad; and be it further

Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to John A. Volpe, Secretary of Transportation, to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth, to the Interstate Commerce Commission and to the Penn Central Railroad.

Senate, adopted, March 11, 1970.

NORMAN L. PIDGEON,
Clerk.

Attest:

JOHN F. X. DAVOREN,
Secretary of the Commonwealth.

COST GAP PUTS GLASS INDUSTRY AT IMPORT MERCY

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. MOLLOHAN. Mr. Speaker, before the end of this Congress, we will consider legislation regarding America's international trade policy. Many of our key industries are vulnerable to the burden of foreign imports which is of great concern to us in the Appalachian States.

While many industries enjoy considerable advantage from our trade policies because of the foreign markets opened to their products, many industries in West Virginia bear the burden of this advantage by being subjected to the stiff competition from foreign industry.

As the excellent editorial which appeared in the Wheeling Intelligencer pointed out, this policy is extremely short-sighted. I commend the editorial to the House, as follows:

COST GAP PUTS GLASS INDUSTRY AT IMPORT MERCY

Under existing law the President can go either way when the Tariff Commission divides evenly on a question of import restriction.

It has done just that on the proposition of restoring duties on sheet glass, and Congressman Mollohan has asked the President to accept as a Commission recommendation the views of the three members who are in favor of providing the protection.

"Last year," the First West Virginia District Representative wrote Mr. Nixon, "imports cornered over thirty per cent of the domestic market for sheet glass, and since late last fall more than 1,100 employes have been laid off in sheet glass factories alone.

This is bad enough. But according to Mollohan, worse is to come. "Housing," his letter continued, "uses sixty per cent of all sheet glass and the automotive industry uses another twenty per cent, both imports and domestic production. With the severe cutbacks in both housing and automobile production we cannot tolerate the same level of imports we have had in the past."

Free trade is excellent in theory and a practical policy when production costs are comparable. The hard fact is, however, that there is no such thing as free trade in competitive goods in those foreign markets we must invade if we hope to do business abroad. So long, then, as this is so and imported sheet glass can undersell our own here in the United States because it costs less to manufacture, it is extremely poor public policy, it would seem to this newspaper, to deny our glass manufacturers the protection they need to hold their own in a shrinking home market.

NOTICE OF 1970 CENSUS

HON. JAMES G. FULTON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. FULTON of Pennsylvania. Mr. Speaker, it is a pleasure to place in the CONGRESSIONAL RECORD the letter which I am sending to my congressional district regarding the coming 1970 census:

THE 1970 CENSUS COMING

WASHINGTON, D.C.,
March 21, 1970.

DEAR FRIENDS: I am writing to let you know about the coming United States 1970 Census in our District on Wednesday, April 1, Census Day. The population census is required every ten years under the U.S. Constitution, Article 1, Section 2.

I find that this year the Census is both a population and a housing census. The requirement for information on housing has been added by Congress in order to have facts to work out legislation to meet the current housing shortage caused by high interest rates and inflation.

On Saturday, March 28, each home receives in the mail a census form to be completed—to be mailed in the return envelope on Wednesday, April 1. Every fifth household will receive a longer census form, with extra questions so that a fair sampling both on population and housing can be obtained for our Country. Census questions must be answered truthfully and to the best of one's knowledge.

Our Census District consists of our South Hills 27th Congressional District in Allegheny County, and all of Beaver County. In this large area, I have been able to recommend that the head office be located in a central location for our District, 250 Mt. Lebanon Boulevard, Mt. Lebanon, Pa., 15234, which intersects Castle Shannon Road. This office is open Monday through Friday, from 8:30 a.m. to 5:00 p.m. The telephone number is 343–4833 if you would like to inquire for further instructions to learn procedures.

I am glad to advise you that this Federal Census office in our District is being set up on a bi-partisan basis, consisting of 35 office workers and 300 field workers. These workers are carefully selected people residing in our area and are full time Federal employees during the time of the taking of the Census.

Sincerely,

JAMES G. FULTON.

P.S.—I know it will interest you to learn that the first Census was taken in 1790 when the United States had 3,929,214 citizens. In 1860 our U.S. population had risen to 31,443,321. By 1900 we had 75,994,575 people and in 1930 122,775,046. Already the computers in the U.S. Department of Commerce in Washington, D.C. are estimating as of April 1, 1970 the population will be 205 to 211 million people! What a wonderful nation this is, isn't it! It is our Country, and we are all proud to be United States Citizens.

Regards,

JIM.

MORE REAL WORKERS AGAINST POLLUTION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BROWN of California. Mr. Speaker, as the April 22 environmental teach-in grows nearer, I believe it is an appropriate time to give credit to those persons who are the real workers for a quality environment.

I often become distressed when I see that while just about everybody mouths opposition to pollution, when the time comes when sacrifices must be made to achieve environmental quality, the shouts die down to whispers.

The beauty of the environmental issue is that everybody can be for it; its tragedy is that very few are willing to really do anything about it.

I am proud that three of my friends can be counted among the real workers against pollution. Paul Ehrlich, Alan Sieroty, and Garrett Hardin all have been in the forefront not only over the past year or so when the environment suddenly became a major issue, but all three of them have devoted great time and energy dealing with these problems for many years.

We need more Paul Ehrlichs, more Alan Sierotys, more Garrett Hardins if we are to achieve environmental quality.

Recently, I have come across a series of newspaper articles about and by these men. I am inserting the articles in the RECORD because I believe that what Ehrlich, Sieroty, and Hardin do and say must serve as examples for all of us.

The articles follow:

[From the Los Angeles Times, Feb. 13, 1970]

TOO LATE NOW TO AVOID FAMINES, EXPERT CLAIMS

(By Maggie Savoy)

Prof. Paul R. Ehrlich is a scary guy.

He doesn't look scary. He doesn't even look like a professor. He looks more like a jovial Abraham Lincoln—not so tall, but darkly scrawny.

It's not how he says what he says. He's quick and snappy, and can turn out a quip (with a poison tip) faster than Godfrey Cambridge. He has a rat-a-tat delivery that puts your mind out of breath.

It's what he says that's scary, even in these gloomy-doomy days.

"It is already too late to avoid famines that will kill millions, possibly by 1975," he says. "We are playing environmental roulette, overbreeding, putting crud in the atmosphere, poisoning our water, killing our fish, sloshing pesticides which kill the insects that kill the pests (sheer idiocy!), heading straight into the worst crisis mankind has ever seen.

"Politicians are talking about it. But they hardly know what they're talking about and won't do a thing about it once the pressures hit them.

"Already half a billion people are slowly starving, another billion are malnourished. If population control measures are not initiated immediately and effectively, all the technology man can bring will not fend off disaster."

He shakes his craggy head. "Unfortunately, the decision for population control will be opposed by growth-minded economists and businessmen, by nationalistic statesmen, by zealous religious leaders and by the myopic and well-fed of every description."

Dr. Ehrlich, 40ish director of graduate study for the department of biological sciences at Stanford University, is a man in a hurry. He's one of the speakers at Sunday's "Stanford Goes Public" conference at the Century Plaza. And he's making lots of speeches, "now that people are suddenly beginning to listen to me."

One reason for his hurry is on the cover of his book, "The Population Bomb" (paperback, Sierra Club-Ballantine).

OUT OF BREATH

"While you are reading these words four people will have died from starvation. Most of them children."

"It's already too late," he says. "Now was years ago."

He's doing what he can: Making speeches, writing articles, publishing another book, "Population Resources and Environment," founding Zero Population Growth (a nontax deductible pressure group trying to "save the world with 50-cent dollars, dedicated to stop population growth now, clean up environment, take political action. Tell your readers the address is 367 State St., Los Altos, Calif., and they can write to Shirley Radl.")

And frankly, he's out of breath. "And so we're all going to be, in one gigantic killer smog, if we don't do something now."

As the world rushes pell mell toward a population of 7 billion in 2,000 ("which means we'll have to triple agriculture in the next 30 years, theoretically possible but totally impossible in practice"), Dr. Ehrlich spares a few minutes for a rush interview.

"While I'm talking to you thousands of people are starving," he snaps. "We are breeding one entire United States of America every three years in the world. We had 600,000 battle deaths in all of America's wars. The world makes that up in three days.

"Where are we going to put all these people? Float new cities in the ocean? We'd have to haul a city big enough for 600,000 out into the sea every three days. That's one big public works program!"

But it's not so much where we're going to put them. (We already stack people 75,000 to the square mile on Manhattan, and all but 18.5% of them already suffer from some degree of neurotic of psychotic disturbance.)

It's how we're going to feed them. Where we're going to put their junk. And how we're going to find water, power and air for them

TECHNOLOGY FAILURE

Technology, he says, will not begin to solve the problem. And he's impatient with those who think we can pull some technological rabbit out of the hat. Not even nuclear power is the answer.

"Waste has to be kept out of circulation for thousands of years," he said. "So you bury it in salt mines. By the year 2,000 it will take 3,000 6-ton tank trucks at a time, heading for the mines. I hope every one of them is a good driver!"

What we need right now, he says, is an "ombudsman for humanity."

"We're stupid. America is completely run by pressure groups. The oil industry keeps right on drilling the oceans (destroying food that feeds the fish).

"Citizens insist on their right to own Cadillacs—even though we junk 5 million cars a year. Zealots deny people the right to control their own birthrates; laws force women to bear children they don't want.

"The petro-chemical people aren't interested in controlling insects. Why? They sell insecticides. Bugs build resistance, but that's all right. That sells more insecticides. There are better ways to control pests—but they won't research them. They want to sell insecticides."

"Society," he said, "didn't invent the birth control pill while it still had time."

Still, the ones on the market are used, even though there are dangers, "because they are fail-safe."

"If we permitted abortion, we could use a safer pill. In the few times it failed, a woman could have a relatively safe abortion."

India, with a population of nearly 550 million and a birth rate of 43 per 1,000, has long been a disaster. Thirteen years of birth control measures have *doubled* the birth rate.

"They talk about compulsory sterilization for males who have sired three or more children," he says, "but they'd better hurry up. It would take 1,000 surgeons operating eight hours a day, five days a week, eight years to sterilize the existing candidates! And by that time look how many more there would be."

The population bomb keeps ticking, and to read Dr. Ehrlich's book is to all but stop your own heart ticking from fright.

Still, the woe-sayer has some suggestions.

1. "Face it: this earth is a spaceship with a limited carrying capacity."

2. "America must set the example to the world by establishing a crash program to limit its own serious population explosion. (Among a random sampling of 12,000 American men, women and children in Texas, New York, Louisiana and Kentucky about 17% were "real risks" nutritionally).

3. "Tax laws should discourage reproduction (eliminate deductions for children)."

4. "Federal laws to make instruction in birth control methods mandatory in all public schools."

5. "Rush federal support to research population regulation, environmental sciences, behavioral sciences."

Ehrlich is in a rush ("I haven't spent four days in the same time zone since the public learned the word 'ecology' "), and he's off to catch a plane.

"We've got to help the underdeveloped countries. Saying that the population explosion is their problem is like telling a fellow passenger his end of the boat is sinking."

He, for one, is concentrating most of his efforts on college and university kids.

"A lot of establishment people think ecology is a safe argument to turn the kids on. They'd better watch out. They're in for a dramatic surprise. The kids dig.

"They're not just looking at the war, for instance. They're looking at who benefits from it. Pretty soon they'll discover where war comes from and how we get into it."

Earlier he urged action on 1,000 cheering UCLA students. "Stuff envelopes, plan rallies (there's a nationwide teach-in on April 12), go door-to-door. You don't have to convince anybody.

"A group of kids no larger than this one could elect any senator in America. Don't worry about the Silent Majority: They've never done anything. At the Boston Tea Party, at the American Revolution, they were home sitting on their hands.

"The American system has been taken over by sloth. The average American does not pay attention, won't even read the fine print of his tax bill. Pay attention to your elected officials, go to hearings, read the bills. Become a counter-pressure group.

"Argue with your parents. You probably know more than they do—but don't let that give you a fat head. You don't know everything, either. Inform yourself.

"After all, it's your future."

PROFESSOR LEAPS FROM BUTTERFLIES TO BIRTH CONTROL

(By Mary Hager)

PALO ALTO, CALIF.—Not long ago, a Stanford University business professor finished what he thought was a successful speech to some mortgage bankers in Dallas and waited for the questions. The first question was, "Can you tell us about that fellow Ehrlich you have out there?"

It had nothing to do with the speech, but it was a good question, for in the past few years Paul Ehrlich has moved from the relative obscurity of studying butterflies on Stanford's Jasper Ridge to becoming a leading figure in the international crusade for population control. In fact, the 37-year-old biologist with a passionate concern for the future of man may become to the environmental movement what Ralph Nader (whom he faintly resembles) is to the consumer movement.

Ehrlich was thrust into his role in 1968 with the publication of "The Population Bomb," a slim volume he wrote in less than three weeks, in which he foresaw the end of life on earth by famine, plague or thermonuclear destruction unless drastic measures were taken—first and foremost, a halt to the spiraling population growth.

Ehrlich says the world population is growing by 70 million a year and will double in approximately 35 years. The world food output will also have to double to meet the demand, but even now some 2 billion people are not properly fed, he contends.

Ehrlich is in such demand these days for lectures, television appearances and interviews that his time is literally scheduled to the minute. His life is governed by the little red datebook he keeps in his shirt pocket. He is willing, eager and available, but so busy that people may have to be content with a minute or two between appointments, or meeting him at the airport at 8 a.m., before he catches a plane.

HE'S NO CRUSADER

The tall, lean Ehrlich, who might be mistaken for a student but for his close-cropped hair and slight professional slouch, maintains that he is not a crusader by nature. "This is not my thing," he says.

He explains his dedication: "I have a 14-year-old daughter and I would like to see a decent world for her to live in, not to have her face death from emphysema or plague or famine or worse. This was a calculated, rational choice."

His daughter, Lisa Marie, is his sole contribution to the population explosion. He has had himself sterilized.

Ehrlich intends to keep up his crusading through the 1972 election in hopes some drastic changes will be made. "If we have to wait another four years after that, it will be too late, if it is not already," he predicts.

He says he is cautiously optimistic about the progress of the movement, but pessimistic about the prospects of reducing the world's population.

"We are moving slowly in the right direction but the world is moving fast in the wrong direction. Getting a man on the moon was child's play compared to limiting population," he says.

Ehrlich, who pictures himself as a biologist who "grew up chasing butterflies and dissecting frogs," dates his concern with population problems back to high school days when he read a book called "The Road to Survival" that, as he recalls, warned "if we don't get on the ball, we'll go down the drain."

While studying at the University of Pennsylvania and later doing graduate work at the University of Kansas, he became involved with studies of insect populations. To a biologist the problems of insect and man are not that far apart, and it was only logical when he came to Stanford in 1959 that his concerns for man's deteriorating environment and rampant population growth should creep into his lectures.

"By the mid '60s the students were listening and they began telling their parents," he recalls. He received an increasing number of invitations to speak to parent and alumni groups.

STAR ON CAMPUS

The real turning point came in 1967 when he was invited to speak before San Francisco's Commonwealth Club. The talk was covered by radio and TV and Ehrlich's involvement grew. He was in demand for interviews, lectures and TV appearances.

"The Population Bomb," written the following year at the suggestion of David Brower, then executive director of the Sierra Club, was a compilation of Ehrlich's lectures and concerns. The book, which has now sold more than 375,000 copies, did get tremendous publicity.

Articulate, witty and with a flair for the dramatic, Ehrlich has scored well with personal appearances. Campus appearances invariably draw mobs. Recently, an estimated 2000 were turned away from a lecture at Berkeley after the university administration had first assigned him to a seminar room for 30, then moved his talk to an auditorium that seated 500.

After a full hour guest spot on the Johnny Carson Show, the show received a record response of more than 5000 letters, not counting the letters Ehrlich received personally, which still averaged 20 to 25 a day several weeks later. "They were all positive," he says. "I never get flak any more. When I started, the reaction was about 50-50."

Occasionally his ideas are subject to attack. Not long ago San Francisco Chronicle columnist Charles McCabe aimed three columns at Ehrlich, calling him, among other things, "a latter day Malthus" and "worse than Hitler." Ehrlich's biology colleagues immediately drafted a letter voicing their unanimous support.

Crusading is time-consuming—16-hour days are routine—and Ehrlich says his biological clock is often upset by the constant traveling.

While he worries that he doesn't have enough time for his family, Ehrlich does see his wife, Anne, who works with him and has a desk just outside his office.

NO PROFIT IN INSECTS

Together the Ehrlichs have just completed a "thinking man's Population Bomb," tentatively titled "Population, Resources, Environment" to be published in late spring.

The Ehrlichs collaborated once before, in 1960, when he wrote a field guide to butterflies and she did the illustrations to earn money for a trip to Europe. They didn't get the book done on time, but went anyway.

In addition to the book, Ehrlich has numerous commitments for magazine articles and does his writing at nights and on planes.

He has found no time lately for his real business, writing textbooks.

His research has suffered but he does keep it up. His specific interest is the intelligent control of insect pests, "an area that has lots of applied significance if you don't want to make a profit," he says.

His hobby, flying, also has suffered. He used to fly more than 100 hours a year. Last year he flew only 32 and lost his instrument rating. He rarely finds time to read these days—military history and anthropology are favored topics—or to go to movies, where he finds he "can really lose myself." He does, however, run 1½ miles every day.

Before he began his crusading, Ehrlich was on his way to becoming a formidable figure in the biological world. He is the author of more than 70 scientific papers, the first written some 20 years ago. Describing a new species of butterfly was "red hot science in those days," he recalls. His field research is usually conducted on Stanford's Jasper Ridge Biological Experimental Area and in Colorado, but he has also done research in such far-flung areas as New Guinea, the Solomon Islands, Malaya, Cambodia, Kashmir, East Africa, the Canadian Arctic, Australia, Alaska and Mexico.

Ocean Thought of As Dump: It Is Time to Stop Drilling Off the Coast

California is endowed with great natural resources: the fertile Central Valley, the grand Sierra Nevada mountains, vast deserts, thousands of acres of forests, redwoods and giant sequoias, miles of rivers and streams and thousands of inland lakes. But nowhere in this state is the demand for space so great, the competition for use so intense as it is along the shoreline.

Last year approximately 82 million people-days were spent along the Califorina shoreline. In Orange County alone 22 million people-days were spent at the beaches—that's two and a half times greater than the number of visits to all of California's 4.2 million acres of national parks.

As the population multiplies and as leisure time expands, the public's need for the esthetic and recreational resources of the shoreline will continue to increase. It is estimated that in 1980 the crowds at Los Angeles' 34 miles of beaches alone will almost equal the number of people who used the entire coastline last year.

People are not the only ones seeking space along the shoreline. Also using the coastline's resources, but for their own limited, one-dimensional purposes, are economically and politically powerful industries. The operations of these industries are frequently in conflict with the public's interest, and the effects of their economic exploitation of the coastline has often been disastrous.

On Jan. 28, 1969, oil well A–21 blew out off the Santa Barbara coast. Within a few days 800 square miles were covered with oil. The spill continued unchecked for more than a week. It soon reached the beaches, bathing them with black waves, gumming 40 miles of white sand and shore.

The Santa Barbara disaster was met with public outrage. Within days the President, secretary of interior, scores of congressmen and legislators were on the scene.

However, despite this "environmental Bay of Pigs" as former Interior Secretary Udall called it, despite the occurrence of subsequent major oil leaks off Santa Barbara, despite the continuous ooze of crude oil from the drilling areas and despite evidence that the potential of another environmental disaster exists at any of the platforms in the channel, the drilling continues.

In addition to polluting the ocean and desecrating its beaches, visually offensive oil drilling platforms despoil the view of the shoreline from Pt. Conception to Huntington Beach.

I recall seven years ago, as an assistant to former Lt. Gov. Anderson, asking the oil industry to place their drilling platforms below the ocean's surface. The oil companies said subsurface drilling was not then feasible at most of their drilling sites but assured us engineering studies were under way.

It's worth noting that at the same time engineering studies were being made on how to fly man to the moon. We have since landed on and returned from the moon, but those ugly platforms are still above the surface, in everyone's view.

Visual pollution caused by oil operations is not restricted to off-shore platforms. The shoreline is marred by oil refineries and oil storage tanks—unsightly and unwanted landmarks. And in the backyards of homes in Southern California beach cities, oil pumps stand where trees once grew and black crude oil stains the land.

The shoreline belongs to the public. Oil development ought not be allowed to obliterate the rights of people to enjoy uncluttered ocean views, unpolluted surf, unimpaired fisheries and unspoiled beaches. It is time to stop oil drilling off our coastline!

Posing as serious a threat to the shoreline ecology as oil pollution are the effluents and wastes discharged by power plants.

DEMAND FOR ELECTRICITY WILL DOUBLE IN 10 YEARS

To set this problem in perspective it is first necessary to focus on the magnitude of California's future power needs. Within the next 10 years the peak demand for electricity in this state will more than double, and in 30 years it will increase almost 10 times. To meet this electrical demand we will need more than 100 additional power plants by the year 2000.

Conventional, fossil-fuel plants emit huge quantities of pollutants and because of this, their future use, particularly in Southern California, is very limited. The alternative, according to the power industry, is atomic energy.

However, due to the effluents discharged by nuclear power plants, they, too, pose a very severe threat to the environment. The coastline is particularly endangered because it offers the most economical location for nuclear plants. Plans are already under way to site about a half dozen nuclear power plants along the California shoreline—that's in addition to the atomic energy plants now operating on the beach at San Onofre and on Humboldt Bay.

Nuclear power plants discharge greater quantities of heated effluents than conventional plants, and they discharge these hot water effluents at higher temperatures. In fact, the average nuclear power plant discharges hundreds of thousands of gallons of hot water every minute. This river of heated water may be 30 to 40 degrees higher than sea water.

According to scientists and ecologists, there is no question whether this thermal pollution will affect the aquatic ecology. The question is, how much?

Nuclear power plants also discharge radioactive wastes. Though the release of radioactive contaminants is regulated by the Atomic Energy Commission, there are growing numbers in the scientific community who are deeply concerned with their potential hazard.

Dr. John Gofman and Dr. Arthur Tamplin, both of the Lawrence Radiation Laboratory, have completed studies which indicate that the allowable limits for radioactive wastes set by the AEC are too high—and pose a severe public health hazard. They estimate that present allowable radiation levels from peaceful atomic activities could cause in excess of 16,000 additional cancer cases per year in the United States. Gofman and Tamplin have called for a reduction to not more than 10% of the AEC discharge standards.

We should require power companies to install cooling towers or other closed circuit cooling systems, which have the potential of greatly reducing the amount of heated water effluents. And we must reduce the AEC standard of allowable radioactive wastes, as has been done in Minnesota and is being considered in other states.

In addition, we should not allow power plants to be located on our beaches—their structures are not compatible with the natural esthetics of the shoreline. Instead, we should look to underground sites and to inland sites away from population centers, where a number of plants could be clustered together, thereby making it economical to pump water over long distances.

It certainly is not uncommon to find industries, such as the power industry, looking to the ocean as a convenient dump.

Government has done far too little to ameliorate this problem. In fact, government agencies themselves dispose of wastes along the California coastline, and they bear part of the responsibility for the deterioration of the shoreline environment.

A few years ago a chemical company, planning on mining phosphate 40 miles off the San Diego coast, found unexploded U.S. Navy projectiles in the area. The chemical company never did proceed with phosphate mining there.

Recently the State Narcotics Office dumped "accumulated evidence" off the San Francisco coast. Soon after, seashell collectors on a San Francisco beach began finding bottles of methadrine. More than 200 bottles were picked up. The narcotics office never did assume responsibility for the methadrine but they have since stopped their procedure of dumping "evidence" into the ocean.

Over the years, government and agriculture have left uncontrolled the drainage of pesticides into the ocean. As a result we are poisoning ocean food supplies, threatening the existence of wildlife, and interfering with the oxygen-producing processes of oceanic plankton—which, on a worldwide basis, accounts for 60% of the earth's oxygen supply.

BEACHES CLOSED; CLAM BEDS STILL QUARANTINED

Last year six miles of ocean along Newport and Huntington beaches were closed to the public due to improperly treated sewage. The Pismo clam beds off those beaches are still under quarantine.

Inadequate sewage treatment also forced the closing last year of another stretch of shoreline, six and a half miles long on the Monterey coast.

The detrimental effects of waste dumping are nowhere as stark as the inner harbor of Los Angeles. For years the harbor has been dead—all animal and plant life having been destroyed by indiscriminate discharges of domestic and industrial effluents.

Government, as well as industry, must treat the ocean not as a dump for its refuse but as the state's most important recreational resource. The notion that society's wastes can be diluted and absorbed by the ocean without any deleterious effects on the shoreline ecosystem is simply not valid.

We have suffered long enough the destruction of the coastline environment by oil, sewage and pesticide pollution, industrial wastes, oil discharges, power plants, unsightly structures, unconcerned governmental bodies, and insensitive land developers.

I hope, as we hear so often, that this is truly the year of ecology—the year that man begins to question technology simply for technology's sake, the year that man begins to take meaningful action to preserve and improve his environment, the year that man begins to treat with gentler hands the place in which he lives.

XUM

[From the Washington Post, Feb. 22, 1970]

WE TROUBLE THE EARTH

(By Garrett Hardin)

One of the maddening aspects of a cultural revolution is that those who take part in one have a hard time telling what the revolution is about until it is over. They often do not know what is taking place until the change has progressed to a "point of no return."

Rachel Carson started a revolution when she published "Silent Spring" in 1962. True to form, this revolutionary work was widely misunderstood at first. Some critics complained that Miss Carson had not presented all of the evidence—which was true. Others said that pesticides were not necessarily so bad as her horrendous examples implied—which also was true. But most of the nit-picking critics missed entirely the revolutionary meaning of "Silent Spring."

What Miss Carson was trying to tell us was simply this: The world can no longer afford to ignore what has been called "ecologic ethic." The ethical system under which we operated in the past was possibly adequate for an uncrowded world, though even this is debatable. But it is not adequate for a world that is already critically overcrowded, a world in which it is increasingly difficult for anyone to do anything at all without seriously affecting the well-being of countless other human beings.

In castigating pesticide sprayers as monomaniacs, Rachel Carson was alerting the world to what has been called the fundamental principle of ecology, namely: We can never do merely one thing. A monomaniac, by definition, is someone who thinks he can do just one thing, whether it be killing pests with pesticides, creating law and order with naked force or bringing Utopia into being with uninstructed love.

INTRODUCING A CAT

We can never do merely one thing, because the world is a system of fantastic complexity. Nothing stands alone. No intervention in nature can be focused exclusively on but one element of the system. More than 100 years ago, Charles Darwin gave an amusing example of an ecologic system in his classic discussion of the consequencies of introducing a cat into rural England:

"The number of humble-bees in any district depends in a great measure upon the number of field-mice which destroy their combs and nests; and Col. Newman, who has long attended to the habits of humble-bees, believes that 'more than two-thirds of them are thus destroyed all over England.' Now the number of mice is largely dependent, as everyone knows, on the number of cats; and Col. Newman says, 'Near villages and small towns I have found the nests of humble-bees more numerous than elsewhere, which I attribute to the number of cats that destroy the mice.' Hence it is quite credible that the presence of a feline animal in large numbers in a district might determine, through the intervention first of mice and then of bees, the frequency of certain flowers in that district!"

This story, from "The Origin of Species," was later embroidered upon by others, who pointed out that, on the one hand, it is well known that old maids keep cats and that on the other, red clover (which requires humble-bees as pollinators) is used to make the hay that nourishes the horses of the British cavalry. From all this, "it logically follows that the continuance of the British Empire is dependent on a bountiful supply of old maids." (Should a Ph.D. thesis be done on the relation between the marriage rate in England from 1920-60 and the loss of India, Suez, and the African colonies? Worse topics have served.)

Despite the verse by Francis Thompson opening this article, the stirring of a flower on earth may not quite trouble a distant star. But it does trouble the rest of the earth to a surprising degree. Let's look at a particular example, one among many.

CONSEQUENCES OF ASWAN

Everyone has heard of the Aswan Dam in Egypt. It has been built high up in the Nile for two purposes: to generate electricity and to provide a regular flow of water for irrigation of the lower Nile basin. Ecology tells us that we cannot do merely one thing; neither can we do merely two things. What have been the consequences of the recently built Aswan Dam?

First, the replacement of periodic flooding by controlled irrigation is depriving the flood plains of the annual fertilization it has depended on for 5,000 years. (The fertile silt is now deposited behind the dam, which will eventually have to be abandoned.) Consequently, artificial fertilizers will soon have to be imported into the Nile valley.

Second, controlled irrigation without periodic flushing salinates the soil, bit by bit. There are methods of correcting this, but they cost money. This problem has not yet been faced in Egypt.

Third, the sardine catch in the eastern Mediterranean has diminished from 18,000 tons a year to 500 tons, a 97 per cent loss, because the sea is now deprived of flood-borne nutrients. No one has reimbursed the fishermen for their losses.

Fourth, schistosomiasis (a fearsomely debilitating disease) has greatly increased among Egyptians. The disease organism depends on snails, which depend on a steady supply of water, which constant irrigation furnishes but annual flooding does not. Of course, medical control of the disease is possible—but that, too, costs money.

Is this all? By no means. The first (and perhaps only a temporary) effect of the Aswan Dam has been to bring into being a larger population of Egyptians, of whom a greater proportion than before are chronically ill.

What will be the political effects of this demographic fact? This is a most difficult question—but would anyone doubt that there will be many political consequences, for a long time to come, of trying to do "just one thing," like building a dam on the Nile? The effects of any sizable intervention in an ecosystem are like ripples spreading out on a pond from a dropped pebble; they go on and on.

Before the Aswan Dam was ever started, there should have been a thorough study of the costs and benefits to be expected. There was a study of a sort, of course, but it was myopic on the cost end: All it included was the cost of building a concrete dam, implicitly assuming that it is possible to do just one thing. There was no mention of the costs of a new fertilizer industry, of a far-flung medical program, of a soil reclamation program or of developing a new occupation for displaced fishermen; and nothing at all about controlling pathological processes in the body politic. What was missing in the preliminary cost-benefit analysis was the ecologic view. The analysis was merely economic, in the narrowest sense.

ECOLOGY TO TAKE OVER

I think one of the few predictions that we can confidently make as we move into the 1970s is that economic analysis is going to become ecologized; or perhaps we should say ecology will engulf economics. Whether ecologists will become economists or vice versa is of only secondary importance. What is important is that the more inclusive science will encompass the less inclusive, which has proved too narrow a base for carrying out cost-benefit analyses.

It is interesting that the roots of the words "ecology" and "economics" are similar. The first part of the two words comes from the Greek *oikos*, meaning house or home. Both studies have something to do with a house or household. *Logos* means words or discourse and by tradition is used to indicate any field of study. So ecology is the study of households—or perhaps, in modern terminology, we should say of orderly or organized systems.

The second part of the word "economics" comes from the Greek *nomos*, which means law or custom. Economics might be defined as the study of the customary arrangements of a system.

It would be indefensible to claim that the etymological difference between the two words sprang from a profound perception of the distinction between the two fields. Nevertheless, by accident as it were, the names are unusually apt.

Economics, as it has been practiced by most economists since the time of Adam Smith, has had as it purlieu the customary arrangements of systems. The systems in question have been the subsystems of individual business enterprises. Those who paid the piper called the tune. With some exceptions, economists have assumed that "whatever is, is right," to quote William Graham Sumner, who was quoting Alexander Pope.

Ecology, neither so fortunate nor so unfortunate as to have patrons, has taken a larger view. The ecologist studies all inputs and outputs, regardless of who pays for them or who benefits by them. In the past, the ecological eye has been focused only on non-human economic situations. The focus is now changing as ecology engulfs economics.

Logic dictates this engulfment, but logic alone does not determine history. Power relationships also must be favorable. I think the power relationships now favor a change. In the past, economics was to a large extent the handmaiden of business. The vast majority of economists were either employed directly by business, or had jobs in university departments of economics that were unusually sensitive to business interests.

In recent decades, the steady increase in the number of economists employed by governmental and quasi-governmental agencies points toward the day when the tunes played by economists will be different. A different sector of society is paying the piper. Whether this means that economists will enjoy greater intellectual independence is not clear and may well be doubted. However, the shift in the balance of power should favor the development of a broadly ecological view among economists and that will be a social gain.

ABORIGINAL THINKING

But even as the thinking begins to become ecologized in one sector, old patterns of nonecological thinking continue in others. I can cite no more striking example of aboriginal economic analysis projected into the future than that now supporting the SST, the supersonic transport airplane. One might suppose that an innovation that will cost some $5 billion would be rigorously justified by an exhaustive economic analysis. What are the facts?

The first and most significant fact is that no business concern has ever proposed to finance the SST. The government will pay at least 90 per cent of the cost. As far as the prime contractor is concerned, this is like writing "Santa Claus" on the assets side of the ledger book—very nice, but not economics.

Since we, the people, are financing the SST, presumably we are doing so because we have carried out a cost-benefit analysis ahead of time and have found that the balance is favorable? Not so. No one has ever carried out a cost-benefit analysis for the SST. Still our legislators propose to spend $5 billion of our money in ignorance of economic realities.

Yet the elements of a cost-benefit analysis are easy to lay out. Just as the cost of the Aswan Dam includes far more than the cost of the concrete and steel that went into it, the cost of the SST will be far more than the special alloys and engineering skills required to make it.

The true cost of the operation of the SST must also include the cost of building giant new airports far from major cities, the cost of new transportation subsystems to take passengers from cities to distant airports, the cost of the deterioration of the home environment for wide areas around new airports and so on.

No economist has drawn up a balance sheet showing all these costs. Only the design and manufacture of the plane itself is counted as an essential cost. All other costs are conveniently labelled "external costs," or "externalities." New airports, new ground transportation, and the decay of communities of homes are all part of the "externalities" of the SST program. They are seldom mentioned, even under this invidious name, by the proponents of the supersonic plane.

MAGIC OF WORDS

It will be useful to pause to examine the role of language in controversy. Language serves many functions, and of these, two are most important: description and coercion. The descriptive function of language is generally frank and open, but the coercive function is usually hidden under the disguise of putative descriptiveness.

When a pesticide sprayer speaks of the "side-effects" of his actions, he is making use of the coercive function of language. But effects are effects. In calling certain effects "side-effects," the apologist is implying that they are secondary, that they don't really count, that you shouldn't be concerned about them. He is trying to coerce your attention in other directions. "Side-effects" is a bit of word magic by which the user seeks to control the world, or people's perception of the world.

Similarly, the economist who refers to the destruction of home environments and to the need for added airports and ground transport as "externalities" in the SST program is seeking to coerce the public's attention away from an open, honest accounting of all the costs. "Externalities" is not description; it is word magic.

Perhaps the worst of the "external" costs of the SST, and the most difficult to deal with, is sonic boom. The seriousness with which it is viewed depends on one's age, perhaps one's sex, the noisiness of the environment in other respects, previous conditioning, temperamental characteristics and perhaps even one's political predilections. Inside a building the effect is generally much worse than outside; a room may vibrate like a musical instrument. The aural experience is like being inside a drum beaten on by an idiot.

"Well, that's the price of progress for you," says the cheerful apologist. O.K.: What precisely *is* the price? What does a cost-benefit analysis tell us about the SST?

The only benefit in sight is saving time. (Don't tell us that it will employ people; the same can be said for peddling heroin.) The current model of the American SST is planned for a capacity of just under 240 passengers. Whisked coast-to-coast, they will save two hours each at the most optimistic estimate. So 480 man-hours will be saved. What are they worth? Let's assume that everyone who is so eager to save this time is an important executive, making an average salary of $60,000 a year. Such people probably work at least 60 hours a week 50 weeks a year, or 3,000 hours a year. Their time is, then, worth $20 an hour. The time saved by a planeload of such people is worth $20 × 480, or $9,600 for each plane load. This is the benefit.

IRRESPONSIBLE DECISION

What is the cost? The cost is borne not by the passengers, but by people on the ground. Occasionally plaster is cracked or even windows broken; the prehistoric cliff dwellings at Mesa Verde National Park, in Colorado, may be damaged; a surgeon performing a delicate eye operation may be startled and botch his work; invalids troubled with insomnia may become more troubled. But let's ignore all that. Let's think only of the ordinary citizens who don't like sitting inside a drum beaten by an idiot; let's ask exactly how much diseconomy they must suffer to wipe out the economy of $9,600 enjoyed by the people on the plane. Where is the break-even point?

It has been estimated that a typical flight from the West Coast to the East Coast of the United States would produce a traveling cone-shaped boom that would disturb 20 million people. Dividing $9,600 by this number we obtain 4.8 mils. That is, if the discomfort of each person receiving a boom has a negative value of $5 mils or more, the aggregate value of the transcontinental supersonic flight is negative. And remember, this calculation ignores the more spectacular damages and assumes that all the passengers earn $60,000 a year.

The diseconomy of the flight is even more striking if some of the passengers are society women flying from one coast to the other to attend a garden party, or officials in the Federal Aviation Agency going out to give lectures on the national importance of the SST.

As one who has been often boomed by military supersonic planes—which are not so large or as obnoxious as the commercial plane will be—let me say that I would regard 5 mils a boom as inadequate compensation.

I think most people who do not get all dewy-eyed when hearing the word "progress" would agree with me. Why, then, must we put up with such a behemoth? The reason, I think, is simple: The decision-making processes have only the loosest of couplings to the social control mechanisms that we hint at by the word "responsibility."

"A decision is responsible," the philosopher Charles Frankel says, "when the man or group that makes it has to answer for it to those who are directly or indirectly affected by it."

Putting the most charitable possible construction to the decisionmaking in the SST affair, we might say that the decision to have such a facility is made by the 240 high-salaried passengers who will ride the plane from coast to coast. But they don't have to pay the cost. The cost is paid by the 20 million people on the ground who suffer each time some 200 passengers save two hours. The decision to produce and fly the SST is, in the deepest sense, an irresponsible decision.

In passing, let it be noted that a responsible decision in the SST matter would be easily reached if all airline executives, all 45,000 employees of the FAA and all 535 members of Congress were compelled to live in the path of SST sonic booms, thus making them answer for their decisions as Frankel recommends.

Economics employs *partial* analysis to reach its decisions. This defect is not essential to the subject of economics, but it is traditional. Because of the increasing pressure of population and because of our greater knowledge of the consequences of our actions, economics is being rapidly altered away from its classical mold in the direction of ecology. The public interest in every proposal will in the future weigh more and more heavily in reaching decisions on the expenditure of public moneys.

Cost-benefit analyses must be carried out within an intellectual framework that comes closer to incorporating the total system—not, certainly, all the way from Thompson's flower to the troubled stars, but certainly over a broad swath of earthly interrelationships. The myth of "externalities" must be abandoned. Economics must become ecologized.

ABORTED DREAMS

When ecology engulfs economics, many of the dreams of imaginative engineers will be deliberately aborted because cost-benefit analysis will indicate an aggregate value that is negative. Many a dam will go unbuilt.

The SST and many other technical marvels will never be realized or will be subsequently abandoned. Does this mean that all material "progress" will come to an end? Does it mean that we will be so inhibited by complete ecological-economic analysis that we can never again take a new technological step?

I think not. "We can never do one thing," and we can (in principle) never carry out an absolutely complete analysis, but it is nonetheless possible to institute changes safely.

Two intellectual tools make this possible. The first is model-building, as mathematicians understand the term. With an intellectual model, one works out the feedback consequences of alterations in the system in an immaterial realm where the "costs" can be borne without pain.

The second tool is dynamic programing, that is, the use of an adaptive logical system that can correct the model (or its real life analog) rapidly, before runaway feedback processes take control. Every order-of-magnitude improvement in the state of the art of computers brings with it a corresponding improvement in the efficacy of model-building and dynamic-programing. Such improvements in turn increase our confidence in our ability to foresee the consequences of interventions in ecological systems, and our willingness to undertake innovations.

The engulfing of economics by ecology thus will reintroduce responsibility into the political system, though at the risk of putting an end to all change. Fortunately, however, the powers of modern computers give man the capability of dealing with almost incredibly complex systems and thus regaining confidence in his ability to alter the systems in which he lives in a creative and responsible way.

DR. VOLODYMYR HORBOVYI

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. DINGELL. Mr. Speaker, the Detroit-East and Hamtramck Branch of the Ukrainian Congress Committee of America, Inc., has forwarded to me an appeal on behalf of Dr. Volodymyr Horbovyi, who is held as a political prisoner in the Soviet Union. So that my colleagues may be aware of this situation, I insert in the RECORD:

DR. VOLODYMYR HORBOVYI'S APPEAL

(We would appreciate if the Amnesty International, the International Commission of Jurists in Geneva, the U.N. Commission of Human Rights, the European Council in Strasbourg and the International Court in The Hague turned their attention to the plight of political prisoners in the Soviet Russian concentration camps. Special consideration should be given to the case of Dr. Horbovyi, who, being a citizen of Czecho-Slovakia, has been illegally sentenced by the Russians to 25 years. We hope that the above-mentioned organizations will do everything in their power to demand his release.)

Herewith I have the honour to state my situation.

My name is Dr. Volodymyr Horbovyi. I was born on January 30, 1889 in the town of Dolyna, Galicia, formerly Austro-Hun-

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gary, by nationality Ukrainian. My citizenship was first Austrian, then Ukrainian, afterwards Polish, and in 1947 I became temporarily a Czech-Slovak citizen. I was never a Soviet citizen and as a free man never lived in the USSR. Before World War II, I was a member of the Council of Advocates of Lviv (Lvov), during the war a judge at the Polish Appeal Court in Cracow, and after the war a legal consultant at the Ministry of Agriculture of the Czecho-Slovak Republic.

My imprisonment has no legal basis, and it occurred as follows: In July 1947 the government of Poland proclaimed me a "war criminal" for alleged collaboration with the Germans during the war. For this reason, upon the demands of the said government, I was arrested in Prague on August 1, 1947, and extradited to Poland on August 7, 1947. In the note which was issued by the Polish government it was said that I would stand trial. Unfortunately, the trial was never held, and could not have been held, for a whole year of persistent investigation failed to produce any incriminating evidence. On the contrary, I proved that I had been critical of Hitler's political course and in general was not guilty of any crime, and that the "document" which provided argument in support of the demand for my extradition was ineptly fabricated. The Polish authorities were embarrassed, but instead of sending me back to the Czecho-Slovak Republic, they handed me over to the Soviet authorities in Warsaw on July 9, 1948. For this purpose they fabricated a new "document" which this time accused me of being a Ukrainian nationalist.

In the USSR the Polish story repeated itself. Another year of dramatic investigation also failed to produce the required results for the MGB (Ministry of State Security—Transl.). It is well known what atmosphere prevailed within the MGB at that time. Instead of giving me an opportunity to return to the CSSR and to continue my work there in peace, I was sent to the forced labour camps by an administrative order on the basis of a closed-door decision of the Special Conference of the Ministry of State Security of the USSR, No. 2906–49, of July 6, 1949, under Article 54–2, 54–11 of the Criminal Code of the Ukrainian SSR, for a term of 25 years. The Ministry of State Security does not exist any more, its "special conferences" have also been formally abolished, but their strange fruits continue to carry legal force.

In order to provide a characteristic of the legality and justice in these parts I wish to quote the following facts:

(a) The Soviet Criminal Code and the UN Declaration of Human Rights, which was signed by the Soviet Union, permit the punishment of an individual only on the basis of a decision of the court, and, at the same time, guarantee the rights of defense to the accused. Regrettably, in the USSR the above stated legal principles are only propagandistic in nature, for reality is completely different. In my case there was no trial, no sentence, no opportunity to defend myself, yet I have been suffering imprisonment for the last 15 years (22 years by 1969—Translator).

(b) According to a decree of March 24, 1956, the Commission concerned with the investigation of cases of individuals serving sentences for political, violation-of-duty, or economic crimes, should have reviewed the grounds on which each person was imprisoned at the place of confinement. This Commission summoned me and interrogated me on October 1, 1956, but a negative verdict had already been reached on September 29, 1956. On October 1, 1956 the Chairman of the Commission formally notified me that my case was being scheduled for an additional investigation.

(c) My petition in my case dated May 22, 1960 was dealt with by the Prosecutor General's Office of the Ukranian SSR by its decision No. 01–20776/60 which said: "The Prosecutor General's Office of the Ukrainian SSR can find no basis for protesting decision of the Special Conference of the Ministry of State Security of the USSR No. 2906–49, because the Committee of State Security declares that the accusations have found confirmation." Formally, the Prosecutor General's Office should watch over the activities of the security organs and not vice versa.

(d) In the period from July 2, 1960 to November 22, 1960 I was confined to the investigating isolator of the KGB of the Ukrainian SSR in Kyiv, which meant that investigation in my case was being conducted. According to the regulations of the Criminal Procedural Code, an investigation can end either with an indictment and subsequent trial, or with the suspension of an investigation and the release of the arrested. In my case neither one nor the other occurred.

(e) In 1955 the Soviet authorities formally agreed to the repatriation from the USSR of all foreigners, but in practice do not make it possible to take advantage of it even though I demanded to be returned.

(f) The decree of September 3, 1955 and the order of the Ministry of Internal Affairs No. 0323 of August 10, 1956 on the release from imprisonment of invalids has not been applied in my case, even though I have been an invalid since January 11, 1952.

(g) The ChK, GPU, NKVD, KGB—are various names for one and the same institution, which is represented by one and the same element. Therefore it would be strange if the same people and the same institutions now worked for the restoration of the so-called socialist legality, which they themselves discredited. It is not hard to imagine what this restoration of legality actually looks like in real life.

I declare that never in my life did I commit any crime or was mixed up in something bad. My only blunder was that I thoughtlessly trusted Soviet propaganda about Soviet humanitarianism and legality and remained within their reach.

As early as 1921 I became interested in jurisprudence. I have years of experience and know many things. Reading the statements made by the representatives of Soviet justice about genuine renewal of socialist legality in the USSR, or listening to statements made by political leaders of that state to the effect that there are no longer any political prisoners there, and comparing it all with the situation of people like me, I cannot help but wonder at that chimerical and malicious Soviet morality, which I am unable to comprehend.

I wish to remark that one can get a true picture of the situation of a political prisoner in the USSR only on the basis of an inspection by an impartial committee of the places of his confinement, and by questioning him, and listening to explanations by myself or people like myself.

I should be grateful if you would become interested in the situation of the political prisoner in the USSR and in my case, and if you would help me to avail myself of the rights which are due to me as a man and a citizen, and most of all—to help me to free myself from illegal imprisonment, to enjoy freedom of movement and to obtain satisfaction.

Yavas, January 30th, 1962.

CRIME

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. MOLLOHAN. Mr. Speaker, no one can look at the crime statistics in our cities and, indeed, around the Nation, without the conviction that our protection against the criminal is not sufficient.

It is apparent to everyone that there are not enough arrests being made, that our courts are not guaranteeing the public a speedy trial, and that our prisons are not reforming their prisoners.

Too many crimes are simply never solved. In Washington, in the first 10 months of 1969, only 1,000 of the 5,000 robberies were solved; and in 1968, only 25 percent of all the serious crimes in the District of Columbia were solved.

And while crimes increase throughout the country, our court system allows more and more time between arrest and trial, while those arrested are free to commit even more crimes. The results of our penal system are not better, for more than half of all those who have served time return for another crime.

It is obvious to all the need for an expanded police and court and prison system, and the sooner we realize this, the faster we can deal with the surge in crime we now face.

An editorial in the Wheeling Intelligencer deals with this subject in a particularly forceful manner, and it deserves the attention of all those who are concerned with crime and combatting it.

The editorial follows:

We Can't Smooth Path of Rowdies and Expect Order

Police Chief Rizzo, of Philadelphia, has put into words where they might exert some influence what many worried citizens in many other jurisdictions have believed to be true—that there is a connection between shrinking prison populations and the rising crime rate.

The connection is found in the ease with which accused persons with the necessary financial connections, especially repeat performers, can make bail, and the disposition of so many trial judges to grant probation to those who have broken the law on one or more previous occasions.

"At this very moment," Rizzo told the Philadelphia Crime Commission at a Harrisburg hearing, "about three hundred criminals awaiting trial on two or more serious offenses are walking the streets of Philadelphia. Last year one of every three persons arrested for homicide, rape, robbery, aggravated assault and burglary was free on bail for a prior offense at the time of arrest."

With the figures adjusted for population, the Philadelphia Police Chief might have been describing the situation in most any other Community in the Country, a fact attested to time and again in the periodic crime reports of the Federal Bureau of Investigation.

There is one other phase of the subject on which Rizzo apparently did not touch. That is the contribution to this shrinking prison population, rising crime rate, walking brigade of repeat performers situation represented by the disposition of Parole Boards to turn loose repeat performers.

While individual Judges must assume a large share of the responsibility for this general state of affairs, it should not be forgotten that they are, at least in part, the victims of a sort of be-kind-to-criminals malady that has afflicted the land. The Supreme Court, in a series of decisions, has smoothed the path of those accused of crime while making the work of both police and prosecutors more difficult. Crime Commissions have tended to blame everybody and everything but the individual's disposition to flaunt the law for the rise of crime. The bail system which Chief Rizzo says is too easy has been assailed as too severe. Skillful lawyers and crowded dockets have tended to lengthen progressively the day between arrest and trial. Prison "reformers" have assailed penal authorities as heartless, just as apologists for the lawless accuse the police of brutality every time they come in contact with a lawless mob.

The condition the Philadelphia Police Chief complains of is the product of this whole distortion of the historic view of crime and punishment. Until there is a disposition to get tough all along the line, particularly in the Courts, little improvement need be looked for.

TESTIFIES BEFORE HOUSING SUBCOMMITTEE

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. HARRINGTON. Mr. Speaker, as you know, the Housing Subcommittee of the Banking and Currency Committee held hearings last week concerning various mass transportation proposals.

Massachusetts State Representative Michael Dukakis, who was to testify before the committee on March 12, was called to Boston to vote on a resolution relative to the war in Vietnam and thus could not appear before the committee personally. His testimony, however, has been submitted to the committee and I am most happy to be able to present his remarks in the CONGRESSIONAL RECORD for the benefit of my colleagues, as follows:

STATEMENT OF REPRESENTATIVE MICHAEL S. DUKAKIS, OF MASSACHUSETTS, TO THE HOUSE COMMITTEE ON BANKING AND CURRENCY

Mr. Chairman, members of the Committee: I am State Representative Michael S. Dukakis of Brookline, Massachusetts. I represent the Thirteenth Norfolk District, a suburban area that is almost completely surrounded by the central city itself.

I have come before you today to urge that you support H.R. 7006. It is my belief that this bill represents an auspicious step in the direction of providing our urban population with an efficient mass transit system.

Since 1963, a group of Massachusetts legislators, myself included, have been working towards a reversal of our state's transportation policy. It was our feeling that Massachusetts was spending far too much money and taking far too much land for the construction of highways, while ignoring Metropolitan Boston's desperate need for an expended and improved mass transit system. Recently we won a major concession from our Governor, who agreed to ban further construction on several planned expressways in the Boston area.

I mention this because I believe that the transportation ills of Massachusetts are not unique; on the contrary, I think that the same problem is being faced in urban areas across the country. Our cities will simply not survive if they are not serviced with clean, comfortable, efficient, and reliable mass transit systems, and these systems cannot be built without federal assistance such as that proposed in the bill now before this committee.

Until now, most officials have taken for granted their assumption that the way to move large numbers of people with the smallest economic and social cost and the greatest efficiency is to construct highways for them. Our cities will not long survive if this assumption is allowed to go unchallenged. Not only are highways within urban areas too expensive economically, but they are prohibitive in terms of social cost. Desperately needed housing and jobs are often abolished; traffic congestion becomes more impossible than ever; pollution is dangerously aggravated; and the loss of our already severely limited open space is irreplaceable. Added to this is the convincing evidence that it is fantasy to believe that more road construction will be a shot in the arm for commercial growth.

There is an alternative to the endless reflexive highway construction. In Boston, the Massachusetts Bay Transportation Authority, which runs our mass transit system, has drawn up a series of very ambitious plans that would overhaul their entire system by remodeling existing stations, purchasing more modern cars, improving service, and, most importantly, extending service to more and more parts of the metropolitan area. The further we can extend service and the more attractive we can make it, the more people will be persuaded that there is a more convenient way for them to commute to the downtown area than taking their cars.

The implementation of these plans has been proceeding at a painfully slow pace. A few of our most ancient stations have been renovated and a few new vehicles have been purchased. Some construction is underway that will extend the system to outlying areas. But this work cannot begin in earnest until an infusion of federal funds, such as that proposed under this bill, is forthcoming. I cannot emphasize this point strongly enough. Attractive, efficient urban mass transportation systems are here: they are ready right now. The plans have all been made, the costs have been computed, and the disbursement of the awaited funds has been approved. We are just waiting for this body to act.

In Massachusetts we have in our Constitution a provision which prohibits the use of the gasoline tax for any purpose other than highway construction and maintenance. It cannot be used for the costs of providing mass transit; in fact, its use is so limited that it cannot even be used for providing parking lots for mass transit facilities.

Since 1963, I have been convinced that by placing emphasis on highway construction we are working to the detriment of the development of a mass transit system as well as bringing the destruction of our cities more and more imminent. The well-respected Advisory Committee on Intergovernmental Relations in their April 1969 report has said, ". . . complex highway and mass transit needs of an urban society call for a broadened application of highway use funds to transportation purposes in addition to the construction and maintenance of streets and roads." While it is true that this report concerns itself with state aid to local government, the principles on which it is based are equally applicable in a discussion of Federal aid to state governments.

In Massachusetts much has been said about the so-called "free money," the 90–10 money. Little has been said, however, about the misuses to which this money has been put. I do not mean that the money has been spent in an unauthorized manner, but I believe the availability of this money has led many states to a complete loss of perspective in the development and preservation of our cities.

The Metropolitan area which I represent has been part of a long fight against the construction of certain segments of the interstate highway system. We have based our objections on the projected loss of 5,000 units of housing. We have based our objection on the destruction of the environment and on the loss of our open space. But perhaps our greatest objection has been the fact that we do not see the construction of endless miles of highways as serving our transportation needs.

It has taken us seven years to reach the point where Massachusetts was willing to change its transportation policy; seven years and the destruction of thousands of housing units, the isolation of whole communities, and a perceptibly detrimental affect on our environment. Perhaps the greatest force fighting a change in transportation philosophy across the nation has been the mistaken feeling that federal highway money is free money. I don't have to stand before you and tell you the state of most of America's urban economies. Many of our cities and states find themselves on the brink of financial disaster. The reliance upon highways and the 90–10 money continues only because there is no alternative.

Not only is this lack of alternative forcing great financial burdens on our urban areas, but it is also contributing to the decline of the city as a viable entity. Land in our metropolitan areas is becoming extremely scarce. If the City of Boston builds all of the roads projected under the interstate highway system, we would find that by 1990, Boston would have thirty per cent more of its land devoted to streets, highways, and related uses than to all housing of all types. This factor is especially significant, because Boston is a city of shrinking population. Our people are fleeing to the suburbs, and one of the prime reasons for this exodus from the central city is the lack of land available for development. As more land is taken and the tax base shrinks, the city finds itself in a spiraling financial crisis. For without this tax revenue, the city is unable to provide its citizens with the services necessary to keep them in the city.

I do not suggest that the development of a rapid transit system is the answer to all our urban problems. But I do suggest that it is imperative that the cities are given the option of developing an integrated system, one that has rail and rubber working not in competition, but in coordination. And 1 further suggest that this cannot and will not happen until there is adequate funding for mass transit. We must stop treating mass transit as a stepsister, a second class citizen to the highway system, and provide the states with a financial alternative to the highway fund. I believe that H.R. 7006 is the vehicle by which we can accomplish this goal, because it will establish a permanent fund to be used for mass transit and restore flexibility to transportation planning, construction, and operation.

In conclusion, Mr. Chairman, I want to thank you for the opportunity of appearing before this committee. I hope you will see that the development of an economically and socially acceptable transportation system depends in great part on what the Congress does with H.R. 7006.

DEVELOPMENT ASSISTANCE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BINGHAM. Mr. Speaker, as one who has had a long-term and personal acquaintance with our various foreign aid programs, I am familiar with the ideals and purpose that young people can bring to bear on the problems of development. For this reason, I commend to the attention of the House the following report by the Youth Task Force for International Development which contains a number of mature and perceptive proposals relating to American development assistance policies.

The report is a further example, if any are really needed, that the majority of American young people are interested in the development of creative, yet practical, solutions to the many problems

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facing both our own Nation and mankind in general.

The Youth Task Force report follows:

WHAT RIGHT HAVE WE TO PEACE?

Few deny the serious problems of international development. The quality of life for two-thirds of the world's population, who now suffer intense poverty and hunger, continues to deteriorate. Problems of overpopulation, unemployment, poor health, inadequate education grow more severe. If development means an improvement in the overall quality and opportunity of life, then clearly the developing world is not developing. U.S. efforts to help reverse this trend are bogged down in a bureaucratic morass of politicking and tokenism.

And yet if these problems which frustrate development lead to world tension and conflict, and if the U.S. response to their urgency is to ignore and "wash our hands" of them, to reduce and harden our development assistance, and to refuse to adopt policies which would really benefit the developing world, then *what right have we to peace?* What right have we to peace, physical or psychological, now or in the future, if we do so little to deal with the basic causes of conflict and human disparity?

Vietnam, crime and pollution are important but surface problems, reflecting that the U.S. is also a developing country uncertain of its values and priorities. Human development knows no national boundaries. We too often ignore and even deny underlying, causal problems of development, such as the needs and sentiments of developing societies, ecological considerations, the overall relationship between the wealthy and poor, and the need for human development. Development is an extremely complex process, which we do not, and perhaps cannot, fully understand. Our response to this vital challenge will elevate or further debase human existence.

We must change our perspective of development. It is not merely economic or social: it is inherently ecological. It involves the relationships between organisms and their environment, between people and their resources, between people themselves. In their pursuit of technological advance and material gain, the "developed" countries have largely ignored these relationships, resulting in a colonial system in which people are expendable inputs rather than important, independent human beings.

The revolutionary process of redefining values and overcoming traditional barriers to independence and self-respect is global. The U.S. participation in this process cannot be limited to a response to our needs only. If we are to have any right of inheriting a better world, we must act now to help build it.

These actions should be based on the needs and desires of the developing societies themselves, on their efforts to foster development along their own cultural patterns. Each society has individual characteristics and problems. The U.S. cannot dictate that development be in our image. This policy results in an unnatural aberration when successful, and in resentment and bitterness when not. We cannot and should not expect political favors or gratitude.

In attempting to understand the views and sentiments of the developing societies and to suggest innovative, more effective alternatives for U.S. development policy, we, the Youth Task Force for International Development, urge that the U.S. adopt human development as a major national priority and submit the following proposals:

XUM

DEVELOPMENT ASSISTANCE

Need

The goal for U.S. assistance policy should be a relevant assistance program based on the needs and views of developing societies and compatible with their domestic makeup.

Current U.S. policy

U.S. efforts to help people help themselves are continually stymied by a policy of containment and fear which lacks room for dynamic change and adaptation. Assistance programs have been inadequately funded and many times ill-conceived, often reflecting a spirit of "white man's burden", and seldom assisting those in greatest need.

Proposals

(1) The potential for human development, not ideology, should be the primary consideration for assistance. Aid should help people, not status quo or racist regimes such as the Union of South Africa and Rhodesia inhibiting human development. Aid should be complementary to needed reforms within the developing society, not a substitute for them, but it should not necessitate U.S. involvement within aid-recipient countries.

(2) The U.S. must commit more of its resources to development. Both the amount and terms of assistance are important. A reasonable goal for the U.S. would be to at least double its economic aid by 1972. Such aid commitments must be for longer term and overlapping periods. That is, yearly appropriations must be abolished in favor of three to five-year commitments, with succeeding commitments being made no less than six months in advance of expiration of the preceding commitment. The U.S. might consider the establishment of 3% of its GNP as an assistance-allotment goal by 1980.

(3) Bilateral assistance should emphasize technical assistance and related human development assistance, such as the "popular participation" envisioned under Title IX. Population, employment, health, and education remain important areas for bilateral assistance.

(4) Whenever possible, bilateral aid should be in the form of grants to relieve the immense debt-servicing problems. One possibility worth thought is reduction or elimination of outstanding debts in the U.S. bilateral loans should be at lower or no interest.

(5) Development loans and other needs for foreign exchange should be handled primarily through multilateral channels. This type of aid should constitute at least 30% of total U.S. assistance. The International Development Association which gives soft loans, and regional development banks, particularly need additional funding.

(6) Especially undesirable are political "strings" to aid, which should be abolished. Tied economic aid, though more understandable, is also uneconomic, inefficient, and monopolistic. If these latter strings are to be maintained, the costs to the developing societies must be recognized (approximately 15%-20%); the aid-recipient therefor should be liable for only 80%-85% of the face value of the loan.

(7) We must be willing to redesign existing structures to meet better the needs of development. The Agency for International Development (AID), for example, is becoming a bureaucratic maze. While actual funding decreases, funding for "watchdog" functions increases, adding to rather than diminishing inefficiency. Greater emphasis on problem sectors (population, employment, health, education, agriculture, et al.) would be more effective in dealing with human development problems than the present regional structure.

(8) The United States should place as much emphasis on the solution of second generation problems of development as on first generation problems. For example, the second generation problems of the "green revolution", those of market development, diversification of crops, employment, and self-sufficiency are just as important as the development and dissemination of new, hardier strains of cereal grains.

(9) The United States should considerably strengthen its support of establishment of internationally controlled and regionally administered training centers open to all nations which will train nationals in vital infrastructure positions, including public administration, public health, education and agriculture. The resultant pool of expertise would then be open to each nation to draw upon as needed.

(10) An innovative search should be made for other sources of development financing, possible sources being related to Special Drawing Rights, ocean resources, tax incentives, world commercial taxes, etc.

TRADES

Needs

A realistic policy that acknowledges the primary importance of trade to developing societies, the serious difficulties that trade fluctuations can cause, the need for access to developed markets, and the critical need for developing societies to earn more foreign exchange through trade.

Current U.S. policy

Current U.S. action is based on protectionism of certain domestic industries from international competition. These trade restrictions, quotas, tariffs and embargoes, the result of political favoritism and backscratching, critically limit trade development in poorer countries.

Proposals

(1) An immediate goal of U.S. assistance must be the radical liberalization of trade policies, reflecting preferential treatment to developing societies. Further, these policies must provide the developing countries with greater access to developed markets in both competitive and non-competitive products.

(2) Affected areas of the U.S. society can be subsidized through internal adjustment assistance during the transition to more competitive industries, but business, labor, educational institutions, and government must help speed the transition.

(3) Long-term goals must include stabilization of international prices for primary commodities which would enable developing countries to increase export earnings.

(4) In keeping with preferential treatment to developing countries, U.S. must support regional trade arrangements and organizations in developing areas.

PRIVATE INVESTMENT

Need

In developing their infrastructure, the developing societies need considerable amounts of capital and expertise which the private sector is qualified to give.

Current U.S. policy

Private investors have for some time concentrated on extractive businesses, seriously exploiting the resources and people of developing societies. They have promoted and perpetuated conditions of inequality and have retarded the distribution of wealth within these countries. Little has been done to correct this situation; it is still far too easy for politicians and private investors to collude for personal or political gain. This situation is further deteriorated by congressional efforts to harass the poor: privately endowed, development-minded foundations.

Proposals

(1) Structures should be established to regulate international private investment to protect the investor and the developing societies from unfair practices and exploitation.

(2) The U.S. government must continually increase incentives to private businesses to encourage investment of capital and know-how in the developing countries. Such incentives should take the form of guarantees of private sector investments, and cooperation with business in pre-investment surveys and fact-finding teams, including cost-sharing.

(3) The Hickenlooper Amendment must be immediately abolished because it is in-

herently unfair and places unwanted restrictions on U.S. freedom of action.

(4) The possibility of expropriation should be accepted by foreign investors who ignore the welfare of the developing societies concerned. Such threat of expropriation may be minimized by joint foreign-domestic investments, with at least 50% coming from the developing country and the rest coming from foreign investors.

(5) Private investors should be encouraged to pursue new methods of primary investment in developing countries, such as promotion of multinational corporations that pool resources and manpower, and the creation of more jointly-owned enterprises and "development park" projects.

(6) Private investors must provide adequate cross-cultural orientation of their overseas personnel to increase their effectiveness through greater understanding of the host country.

(7) Development-minded foundations should be encouraged to continue their work, particularly in the areas of research, public health and cooperatives.

(8) U.S. labor organizations are not exempt from the development field; they have much organizational and labor training expertise to offer the developing countries, and should be equally encouraged to extend it to them, through government incentives and public opinion.

IMPLEMENTATION

We have too long removed the humanness from the peoples of the developing world and held thier problems at arms length. People throughout this nation must be made sensitive to their own feelings and to the feelings of others, or there will be no basis on which to begin the vital process of human development.

To implement these and future development proposals, we must create an effective constituency supporting a more positive U.S. role in development. We must confront people with and sensitize them to the need and importance of human development. The relationship between national and global problems and human needs must be stressed.

Through both the mass-media and personal interrelationships such as teach-ins, we must create massive, sustained, and innovative educational effort to create empathy for human development needs and positive support for a more effective, adequate U.S. response to these needs.

Rather than being bullied by powerful self-interest groups obstructing development efforts, our national leaders must provide positive, far-sighted leadership. They must dare to reverse the present isolationist trend and to vote for more realistic U.S. assistance measures, and to defend and explain these actions to their constituencies.

We must recognize that the implementation of these proposals will result in temporary dislocations and hardships in the domestic economy. These must be met by appropriate internal adjustment assistance measures.

The U.S. must cease viewing aid in terms of buying allies; its purpose should be to promote human development and the quality and opportunity of life.

It is an insult to America, especially its Black citizens, that American business contributes to the perpetuation of the racist regimes in Africa, and their denial of human rights. The U.S. would, therefore, be reflecting the desire of its citizens and, indeed, the cause of racial and human justice, in calling for, and implementing effective policies which will dissolve such inequality.

Youth, whose vested interest is the future, must focus the power of its idealism on human development in a worldwide context—to mold the future in accordance with its ideals and visions. Youth is neither blinded by its idealism, nor unaware of the dismal stream of inadequate responses poisoning its future.

CONCLUSION

There must be a basic attitudinal change and a subsequent restructuring of all U.S. policies and institutions, public and private, to reflect this change. While this demand is idealistic, it is imperative, Rhetoric is meaningless without action. Human problems need human solutions. Until we achieve greater human development and opportunity we have no "right to peace".

EMPRISE

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. STEIGER of Arizona. Mr. Speaker, at the request of Congressman ROBERT STAFFORD, I offer the following letters from Mr. Ralph A. Foote of Middlebury, Vt., and Mr. William Birrell Franke of Rutland, Vt.

Both these gentlemen are obviously sincere in their conviction that their position is accurate. The fact remains that Mr. Patriarca did deal with Emprise in an attempt to recover moneys invested in the Hancock-owned Berkshire Downs, and that as a result of Mr. Patriarca's investment he was involved in an attempt to have Green Mountain change conflicting dates of operation.

The inference that Mr. Patriarca was an investor in Green Mountain was not intended by me.

The letters follow:

CONLEY & FOOTE,
Middlebury, Vt., March 11, 1970.

Hon. SAM STEIGER,
Congressman from Arizona,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STEIGER: I am attorney for Green Mountain Park Race Track in Pownal, Vermont. In testimony of yours appearing in the *Congressional Record* recently, you have seen fit to claim the involvement of our enterprise with an alleged Mafia leader.

This action on your part has caused, and will continue to cause, our people untold amounts of damaging publicity. The anguish and grief cannot be calculated. I expect you will hear directly from the Honorable William B. Franke, former Secretary of the Navy under Dwight Eisenhower. He is a director and a member of the Executive Committee of our corporation.

I am directed to tell you, on behalf of our President and General Manager, that your accusation is completely false and we unequivocally deny the truth of same.

In the event that rechecking by your staff of your information source reveals the falsity of your accusation, may we have the benefit of public attention to the fact?

Will you extend us a further courtesy? May this letter receive, at your request, the same treatment in the *Congressional Record* which was accorded your accusation.

Very respectfully yours,
RALPH A. FOOTE.

WILLIAM BIRRELL FRANKE,
Rutland, Vt., March 14, 1970.

Hon. SAM STEIGER,
Congressman from Arizona,
House Office Building,
Washington, D.C.

DEAR MR. STEIGER: At the end of the Eisenhower administration I retired as Secretary of the Navy and became a member of the board of directors of a number of corporations. One of these was the Taconic Racing and Breeding Association, Inc. (Green Mountain Race Track) of Pownal, Vermont. Before accepting membership on the board of this corporation I made a very careful investigation of the corporation and the individuals who were responsible for its management. I found not only that these individuals were men of outstanding integrity but that racing in Vermont was supervised by a Racing Commission that is devoted to the maintenance of honest racing in this State; that works hard at its job; and that will permit no deviation from the high standards it has set. Based upon this and liking horses and racing I became a small stockholder of the corporation, a director and later a member of the executive committee. I have enjoyed the association and have found what many people do not know, that a small track can be operated with complete honesty and can avoid the infiltration of gangsters.

You will therefore understand with what great concern I read that portion of a recent speech made by you to the House of Representatives, reproduced in the Congressional Record, and reading as follows:

"Sportservice loans have been made to tracks and individuals that have figured in scandals surrounding Hancock Race Track, Pittsfield, Massachusetts; Raymond Patriacca's involvement in Green Mountain Park Raceway (near Pownal, Vermont), involved a $255,000 transaction with Emprise".

Without cause, without justification and presumably without investigation you have damaged the reputation of the Green Mountain Track and all of us who are and have been associated with it. All of this could have been avoided had you seen fit to check the accuracy of the completely false information you received and/or first communicated with us here in Vermont.

A retraction never receives the publicity that does an accusation so that there is no way in which the trouble you have caused can be offset by your further action. The most that can be done by you is to tell the House that this part of your speech was incorrect, to insert this in the Congressional Record and to so advise the Press. This I ask that you do.

Very sincerely yours,
WILLIAM B. FRANKE.

SIMILAR PESTICIDE TREATMENT URGED

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. NELSEN. Mr. Speaker, I am today joining the distinguished chairman of the House Agriculture Committee, the gentleman from Texas (Mr. POAGE), in the sponsorship of legislation designed to prohibit the importation of food stuffs from any nation unless such items can meet U.S. standards involving DDT or other chemically poisonous applications.

The Department of Agriculture and other Federal units are in the process of sharply restricting pesticides and insecticides which may be applied with safety by American farm producers. It is certainly a health hazard to consumers to permit into this country agricultural commodities treated with higher amounts of chemical poisons than that permitted domestically. In addition, permitting such a double standard puts American producers at a competitive disadvantage.

Therefore, the prompt passage of this bill is called for in the interests of public health and fairness to U.S. farmers.

This measure would amend the Federal Insecticide, Fungicide, Rodenticide Act to prohibit the importation of any agricultural commodity from any country unless the President has determined that such country has at least equal restrictions with respect to the use of pesticides or insecticides.

WASHINGTON REPORT

HON. GLENN CUNNINGHAM

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. CUNNINGHAM. Mr. Speaker, I periodically make a report to the people of the Second Congressional District of Nebraska, whom I have the honor to represent in the U.S. House of Representatives.

This is my sixth report for the 91st Congress:

WASHINGTON REPORT OF CONGRESSMAN GLENN CUNNINGHAM

AIR, WATER POLLUTION ONE OF MY MAJOR CONCERNS

DEAR FRIENDS: Air and water pollution is a matter of extreme importance to all of us. It has been one of my major concerns for many years. Prior to my becoming Mayor of Omaha in 1948, I chaired an Omaha Improvement Plan Committee which made an exhaustive study of the city's ecological problems; and as Mayor I administered the city's first smoke abatement program, which won national recognition. Unfortunately a succeeding city administration relegated the program to the "back burner" where it languished until the Omaha City Council has again given the program the serious attention it needs.

I am a co-sponsor of President Nixon's seven bills designed to wage a constructive and effective campaign against pollution. These bills will encourage better soil conservation and the development of parklands and public recreation areas. They also are concerned with means of disposing of trash and all solid wastes.

The Administration proposals are designed to clean up our water resources; improve the quality of the air we breathe; and to remove from our landscape the litter and trash which has become a national eyesore.

Construction of sewage treatment plants will be encouraged and the power of the Federal Government strengthened to halt stream pollution. Specific attention will be given to automotive exhaust pollution and the development of engines and fuels to curtail poisoning of the air.

Federal assistance would be extended to the States and interstate agencies to enable them to carry out and accelerate programs of water standards enforcement and implementation.

The efforts to make our environment more livable will not be inexpensive. But, as you and I both realize, if man does not do something immediately to clean up the land on which he lives and the air he breathes, he runs the risk of ultimately polluting himself out of existence.

AWARD FOR LA VISTA

When Mrs. Leta Hollis of LaVista broke her arm and was unable to come to Washington, I accepted the Honorable Mention Certificate for LaVista in the National Clean Up Contest.

Other 2nd District cities honored for their beautification efforts were Millard, Oakland, Papillion, Plattsmouth, and Valley.

PRESIDENTIAL VETO OF HEW BILL

Time and again, the President has stated that the problem of inflation is second only to the Vietnam War. Likewise, it is my opinion that inflation is our country's most dangerous domestic problem.

It was for this reason that I joined 190 of my colleagues in the House of Representatives in sustaining the Presidential veto of the HEW Appropriation Bill.

In attacking inflation, let me say the President did not single out the fields of education and health. He has drastically and materially cut back in the military, reduced the appropriations for the space program, and has requested labor and industry to be cautious and responsible in their actions as to wages and prices.

I believe you will agree with me that along with a sound dollar will come sound programs in all areas, especially health and education.

AT LONG LAST

I have been working closely with Postmaster General Blount on Postal Reform for 12 months and, at long last, Congress has taken a significant step. I received the following letter from the Postmaster General which indicates the many hours of work, day and night, it took to bring this about:

"MARCH 13, 1970.

"DEAR GLENN: I am most grateful for your vital support yesterday morning when the substitute version of the postal reform bill was ordered reported out of the Committee.

"The Committee's action fully reflects the many months of public hearings and executive deliberations. You have made a significant contribution to the improvement of the postal system and to the welfare of its employees.

"There is, of course, much work ahead. I look forward to your continued counsel and cooperation as we strive for a truly excellent postal service.

"Sincerely,

"WINTON M. BLOUNT."

PRESIDENTIAL SCHOLARS VISIT

It was my pleasure recently to have as visitors four charming young ladies who participated in "A Presidential Classroom for Young Americans." Susan Marie Loomis is a senior at Millard High School, and Cathleen Bruckner is from Mercy High in Omaha.

The other Presidential Scholars who visited my office as part of the curriculum in their study of the three branches of Federal Government were Vicki Winans, who attends Brownell Hall-Talbot School, and Lyn Wallin, a student at Westside High.

PORNOGRAPHY MEASURE REPORTED OUT

My continuing war on pornography took a giant step when the Committee on Post Office and Civil Service reported out one of three Administration bills on obscenity.

I introduced the measure at the request of President Nixon and also co-sponsored the other two parts of the package. I am hopeful final action can be taken on this package of anti-smut measures during the current session of the Congress.

THE VICE PRESIDENT VISITS

Janis and I were joined by Senator Roman Hruska in greeting Vice President Agnew on his arrival at Lincoln for a speaking engagement.

LEGISLATIVE RECOMMENDATIONS

I have introduced a Joint Resolution calling for the establishment of a Joint Committee on Environment and Technology. As I stated on the first page of this Report, this has been one of my major concerns for many years. This committee would conduct a continuing, comprehensive study and review the character and extent of environmental and technological changes that might occur in the future and their effect on population, communities and industries.

Recently I sponsored a local police assistance bill to help law enforcement agencies combat crime in urban areas. This measure would allow the Federal Government to make direct grants to improve the effectiveness of police services.

The ever-growing drug problem prompted my introduction of a bill which would establish a Presidential Commission to examine the medical, social and legal questions pertaining to the use of marihuana. We need an authoritative study that would establish intelligent, up-to-date conclusions and recommendations. The measure calls for a "blue-ribbon" panel to complete its study within one year. Its recommendations to the President would provide the basis for legislative action at all levels of Government. This bill *does not* suggest in any way that marihuana be legalized nor does it prescribe the nature of penalties for its use; these questions are left to the commission to decide.

Sincerely,

GLENN CUNNINGHAM.

FORCED SCHOOL BUSING AND BALANCING ISSUE TAKEN TO COURT BY CRAMER, AUTHOR OF THE ANTIBUSING AMENDMENT TO THE 1964 ACT

HON. WILLIAM C. CRAMER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. CRAMER. Mr. Speaker, for the information of the Members of the House, I believe it my duty to call their attention to my activities in attempting to get the judiciary system of this country to abide by the antibusing amendment to the 1964 Civil Rights Act, of which I am the author, and thus to order no busing to accomplish racial balance, and to prove the legality of all-black schools in the South, as well as in the North, where a de facto segregated neighborhood exists.

I intend to pursue this matter in the courts until, hopefully, it is decided by not only the Fifth Circuit Court of Appeals but also eventually, and hopefully in the near future, by the U.S. Supreme Court.

I appeared before the U.S. Fifth Circuit Court of Appeals in Atlanta yesterday in the case involving my home district of Pinellas County, in Leon W. Bradley, Jr., et al., plaintiffs, against the Board of Public Instruction of Pinellas County, Fla., et al., defendants, where the appellant, through the NAACP, is appealing a district court order where the continuing maintenance of some de facto all-black schools and all-white schools are being permitted to exist under a court-decreed unitary system finding.

This case could become a landmark case and would be poetic justice in my opinion if the case involving my home district should go to the Supreme Court and become the landmark case for making needed decisions, hopefully consistent with the amendment which I successfully offered as the Representative of that district to the 1964 Civil Rights Act. And, hopefully, as the result of my efforts in appearing as amicus curiae before the Court with permission of the Court, having argued the case and presented briefs in support of my amendment made in 1964 relating, now 6 years later, to the integration problems presently coming into being in my own district.

I place in the RECORD at this point a UPI article by Ed Rogers, of the Washington bureau and southeastern region, which discusses properly the questions raised by Chief Justice Burger in the latest Memphis case, in which he indicated that it was essential that these questions be answered by the courts and compares his position with mine, suggesting that perhaps—and I say hopefully—our objectives could be the same; that is, consistent with my antibusing amendment, and with the preservation of neighborhood schools and quality education on a nationwide basis.

It is my intention to join this matter at the first opportunity before the Supreme Court, hoping to get the issue decided, particularly in view of the upcoming September term of school and the necessity for the school boards throughout the country to have proper judicial definitions before them so that they can make timely decisions and, hopefully, consistent with the no busing to accomplish balance mandate of the 1964 act.

I include a copy of that article which indicates that Chief Justice Burger's discussion in the Memphis case indicates that he believes a definition of a unitary system is needed and, in his view, it is a system "within which no person is to be effectively excluded from any school because of race or color." And because it appears that this definition would allow de facto segregation in the South and a construction of desegregation consistent with my antibusing amendment that mandates against forced busing of pupils to accomplish balance or to force the integration of de facto black or white schools in the North or the South where the neighborhoods are black or white voluntarily and without gerrymandering by any school board or State action.

At a later date, I intend to place in the RECORD my brief and argument before the Fifth Circuit Court of Appeals for the information of my colleagues and the people of this Nation, believing it to be one of the most serious and significant questions facing America today.

This is particularly true when the President has previously spoken out on this matter, and when it appears that further Presidential guidance is likely to be offered in the next few days. I would obviously hope that guidance would be consistent with the 1964 Cramer amendment.

I have discussed this matter with the Honorable John Mitchell, the Attorney General, with the Vice President Agnew Task Force on Quality Education, and with the White House, and I would hope that my views would be considered and adopted as administrative policy. I am appealing to the courts with the hope that it will be adopted as judicial policy, it already having been adopted as legislative policy.

The education system of America is at the crossroads and continued disruptions and the destruction of neighborhood school systems must be brought to an end; uniformity of treatment for all school districts should be the goal, consistent with the congressional mandate.

The above-mentioned article follows:

[From the Jacksonville (Fla.) Journal, Mar. 16, 1970]

DO CRAMER, BURGER AGREE ON FORCED PUPIL BUSING?

(By Ed Rogers)

WASHINGTON.—The chief justice of the United States and a Southern congressman have set out from different points toward what may become a meeting of minds on school busing.

In a concurring opinion on a school desegregation case "involving Memphis," Chief Justice Warren E. Burger last week listed some questions the court should resolve. These included:

". . . whether, as a constitutional matter, any particular racial balance must be achieved in the schools . . . (and) to what extent transportation may, or must be, provided to achieve the ends sought . . ."

The questions are inherent in many recent decisions of lower federal courts.

Rep. William C. Cramer of Florida, meanwhile, has intervened personally in a half-dozen federal desegregation cases involving Florida schools.

As the author of an antibusing amendment adopted by Congress as part of the 1964 Civil Rights Act, Cramer hopes to take the case to the Supreme Court.

He will argue before the 5th U.S. Circuit Court of Appeals in Atlanta Wednesday in a case involving Pinellas County (St. Petersburg).

Cramer contends the lower federal courts have misinterpreted Congress' intent in calling for wholesale busing to improve the racial balance of schools in the South.

Cramer says the courts have concluded that the amendment forbidding forced busing applies only in the North, where racial isolation results from neighborhood patterns.

Cramer quotes a floor debate involving then-Sen. Hubert H. Humphrey, D-Minn., to show the intent was to forbid such busing also in the South.

Humphrey, after arguing that the Constitution prohibits segregation but does not require integration, said:

"In fact, if the bill were to compel it (busing), it would be a violation, because it would be handling the matter on the basis of race and we would be transporting children because of race."

"The fact that there is a racial imbalance per se is not something which is unconstitutional," Humphrey said.

Federal policy has shifted considerably since then.

During the four years Humphrey served as vice president, the Department of Health, Education and Welfare adopted a policy that schools must take positive steps to integrate, not merely to desegregate.

There evolved a court doctrine that the goal should be a "unitary" school system. Some interpreted this to mean having schools so balanced that a former Negro school could not be distinguished from a former white school.

Burger's definition of a "unitary" system is simple.

In his opinion in the Memphis case, Burger said it is a system "within which no person is to be effectively excluded from any school because of race or color." Some believe this definition allows de facto segregation—even in the South.

But before the Nixon administration disavowed a belief in busing for busing's sake, a widely held view in Washington was that the Constitution guarantees an integrated education for Negroes.

RESOLUTION CONDEMNING CONDUCT OF WILLIAM M. KUNSTLER

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. DUNCAN. Mr. Speaker, I applaud the action of the Tennessee Bar Association in adopting a resolution condemning the conduct of lawyer William M. Kunstler. I would like to place in the RECORD a copy of that resolution:

RESOLUTION OF THE TENNESSEE BAR ASSOCIATION

Resolution relating to William Kunstler

Whereas, The Board of Governors of the Tennessee Bar Association holds with Daniel Webster that "Justice is man's greatest interest on earth," and

Whereas, the domestic peace and tranquility of our nation and the welfare of all our citizens is directly dependent upon the efficient operations of the courts of our land; and

Whereas, lawyers, as officers of the court, are charged with the solemn duty and continuing obligation of insuring that court procedures are conducted on a dignified and orderly basis and in keeping with the historically high standards of an honorable profession; and

Whereas, a lawyer's deliberate departure from those standards of conduct and his studious and premeditated attack upon the system of justice he is sworn to serve is reprehensible and contemptible; and

Whereas, the consistent patterns of unlawyer-like conduct on the part of William Kunstler, during the Chicago conspiracy trials, has come to our attention; and

Whereas, we denounce his conduct as being contemnaceous, contemptible and in flagrant violation of the accepted standards of legal ethics, and as disruptive of the orderly processes of the courts; and

Whereas, the conduct of the said William Kunstler, in the opinion of this Board, is wholly and utterly devoid of any redeeming social, moral or legal value and is abhorrent to every legitimate concept of court room conduct and demeanor; and

Whereas, this Board is under a duty to officially record its feelings and cannot remain silent when it is under a clear duty to speak,

Now, therefore, be it resolved by the Board of Governors of the Tennessee Bar Association in called meeting assembled in Nashville, Tennessee, on this, the 14th day of March 1970, that:

1. We condemn the conduct of William M. Kunstler during the Chicago Conspiracy Trial.

2. We deplore his impending visit to the University of our State and the use of student government activity funds as a source of a substantial honorarium.

3. We urge all Tennessee trial judges in Tennessee to withhold from him the privilege of practicing law in any of the courts of our State.

4. Be it further resolved that a copy of this Resolution be spread upon the official minutes of this meeting, published in the Ten-

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nessee Bar Journal and released to the news media.

Be it further resolved that a copy be sent to the Honorable Buford Ellington, Governor of Tennessee, each trial judge in Tennessee and each member of Tennessee's delegation in Congress.

BISHOP FRANCIS T. HURLEY

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 17, 1970

Mr. BURTON of California. Mr. Speaker, this afternoon Msgr. Francis T. Hurley will return to Holy Name Parish, the San Francisco parish to which he was first assigned after his ordination in 1951 and there, in the ancient rites of the Roman Catholic Church, he will be consecrated bishop. Bishop Hurley will fly almost immediately to Juneau, Alaska, where, on Saturday, he will be installed as auxiliary bishop of the diocese of Juneau.

Bishop Hurley is a native San Franciscan and the brother of Bishop Mark Hurley of the diocese of Santa Rosa. It has been noted in the press that this is the first time in the United States that a Roman Catholic bishop will be consecrated by his brother.

XUM

The young Frank Hurley attended St. Agnes grammar school on Masonic Avenue from 1932 to 1940. Upon graduation he entered St. Joseph's College, Mount View, and completed his priestly studies at St. Patrick's Seminary, Menlo Park. He was ordained to the priesthood by Archbishop John J. Mitty on June 16, 1951.

From 1951 to 1953 he was assistant pastor of Holy Name Church, San Francisco. The next year was spent at Catholic University, Washington, D.C., in postgraduate studies in the field of education. From 1954 to 1957 he taught at Serra High School, and lived at St. Pius Church, Redwood City.

In June of 1957, Bishop Hurley was named assistant director of the Department of Education, NCWC, Washington, D.C., a post he held until January of 1958 when he was named assistant secretary of NCWC, now the U.S. Catholic Conference.

Pope John XXIII appointed Bishop-elect Hurley papal chamberlain in November 1960, and he was reappointed July 1963 by Pope Paul VI. In April 1966 he was appointed domestic prelate by Pope Paul.

The bishop is also secretary to the governing committee of the National Catholic Community Service which is a member of the USO—United Service Organizations—and he is member of the board of government of USO.

When the National Conference of Catholic Bishops of the United States came into existence in 1966, he continued to serve as assistant general secretary of both organizations, USCC and NCCB, and was named associate general secretary of the two in 1968.

Bishop Hurley's new diocese of Juneau was established in 1951. It covers an area of 37,566 miles and has a general population of 9,745. Catholic population is 3,200.

Bishop Hurley possesses the natural wit and charm common to his Irish-American heritage and a deep love of San Francisco which is common to all of us who are privileged to call her our home.

His own comments reflects the depth of his feeling and his concerns:

> The transfer to Juneau means I will no longer be a priest of the Archdiocese of San Francisco, where my vocation was born and nourished and where the early days of my priesthood were spent. To borrow some familiar words, at least a piece of my heart will be left in San Francisco.
>
> It will not be easy to leave Washington, D.C., but neither was it easy to leave San Francisco where I was assigned to the National Catholic Welfare Conference in 1957. I was entering a new world, an entirely different type of work, dealing with an aspect of life of the Church that can be observed only in the Bishops' national conference.
>
> During the twelve and a half years here I found both the Bishops' conference and Washington, D.C. fascinating. Living in the Nation's Capital I learned to respect and admire the career people in the Federal government, people who from afar seem lost in a faceless bureaucracy but whose work is vital to the Nation. Working at the Bishop's national office I received my initiation into extensive interreligious cooperation with Protestants, Orthodox and Jews. . . .
>
> Obviously there has been a touch of "Potomac Fever" but it will find its antidote in the call of the North. Once again I move into a new world, in a unique territory, for a new type of life. I look forward to working with Archbishop Ryan, to serving the people of God in that area and to enjoying the beauty of the territory (while I develop partisan's interest in ecology.)

Mr. Speaker, I call this to the attention of my colleagues in the House so that they might join with me in noting the occasion of Bishop Hurley's consecration and in extending to him congratulations and warm and sincere wishes for success in his new role.

UTAH POLICE CHIEFS URGE INCREASED FUNDS TO FIGHT CRIME

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BURTON of Utah. Mr. Speaker, I testified today before a House Judiciary Subcommittee in support of legislation to authorize increased funds to strengthen the ability of local and State law enforcement agencies in their fight against crime. I asked the chiefs of police of Salt Lake City and Ogden for their views on the pending legislation for inclusion in the record of the hearings. I would like also to include their comments in the CONGRESSIONAL RECORD:

> SALT LAKE CITY, UTAH,
> *March 17, 1970.*
>
> Representative LAWRENCE J. BURTON,
> *Longworth House Office Building,*
> *Washington, D.C.:*
>
> Re your meeting on LEAA funds: Police face problem requiring new concepts and approaches. Past methods and experience may not provide acceptable solution. Experimentation must be encouraged for success. Federal Government must accept greater funding role. Local police limited because their community cannot provide needed match funds. We cannot meet 40 percent of one million. How do we use ten million availability?
>
> C. C. WHITEHEAD,
> *Chief of Police.*

> OGDEN, UTAH, *March 19, 1970.*
>
> Congressman LAWRENCE J. BURTON,
> *Longworth House Office Building,*
> *Washington, D.C.:*
>
> Appreciate your efforts to have a committee realize Federal assistance under present system is not too advantageous to such agencies as our Municipal Police Depts. Creation of Agencies, committees, directors, etc., consume too much of money appropriated.
>
> All efforts should be made to cut red tape and for money to go directly to our agencies to fight crime on the streets and without so many restrictions, as long as agencies account for funds spent and show accomplishments in deterring crime in our communities.
>
> L. A. JACOBSEN,
> *Chief of Police.*

MILITARY ASSISTANCE TO GREECE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. FRASER. Mr. Speaker, reports have been circulating recently that the United States may resume military assistance to Greece, while it is still under totalitarian government, run by a small group of military officers.

Such an action would be tragic because it would signal our total acquiescence to the current regime, which continues to suppress liberties and fails to set any date for elections.

Resumption of this assistance would not affect the ability of the junta to maintain its iron-fisted control—nor would resumption appear to make much difference in the actual flow of material to Greece, since it now appears that the publicized "cutback" really amounted to very little. The following chart shows the value of deliveries to Greece under the military assistance program for fiscal year 1966 through fiscal year 1969. The takeover by the military junta occurred on April 21, 1967:

VALUE OF DELIVERIES TO GREECE UNDER THE MILITARY ASSISTANCE PROGRAM FOR THE PERIOD FISCAL YEARS 1966 THROUGH 1969

[In thousands of dollars]

	1966	1967	1968	1969
Aircraft and aircraft support	23,976	12,184	6,657	18,086
Ships and ship spares	2,365	1,151	480	3,667
Vehicles and weapons	6,459	2,336	17,966	8,378
Ammunition	3,992	3,203	5,270	5,004
Missiles	22,230	3,172	2,432	3,063
Communications and electronics equipment	5,404	3,777	3,650	4,933
Other equipment	3,690	3,968	2,207	2,042
Repair and rehabilitation	1,402	1,474	1,029	1,770
Supply operations	7,650	6,189	8,440	6,735
Training	1,000	663	2,221	1,114
Other services	576	3,753	3,645	1,445
Total	78,735	41,870	53,997	56,237

Regardless, the United States should follow the lead of our European friends who seem to cherish democratic practices in Greece more than we, as evidenced by the recent actions of the Council of Europe.

LOS ANGELES TIMES SCIENCE WRITER ON ENVIRONMENTAL PROBLEMS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BROWN of California. Mr. Speaker, over the past years I have always found the scientific analysis of current issues done by Dr. Irving S. Bengelsdorf of the Los Angeles Times to be outstanding contributions to public knowledge in areas of national interest.

Dr. Bengelsdorf maintains a keen view of the problems of man and his environment, and during recent months, he has written an especially valuable series of articles dealing with these problems.

Today I am inserting these articles into the RECORD because I believe that they present us with the type of perspective that we must utilize if we are to solve these problems.

The articles follow:

EARTH'S RESOURCES ARE GREAT—BUT THERE IS AN END TO THEM

(By Irving S. Bengelsdorf)

In 1650, three decades after the Pilgrims landed at Plymouth Rock, world population was one-half billion people. In 1850, 10 years before the presidential election of Abraham Lincoln, world population reached one billion people. It took a 200-year interval for world population to double.

But the rate of population growth now has increased tremendously. The present world population of 3.5 billion people is expected to double by the turn of the century—in only 30 years! Between now and the year 2000 we shall ADD as many people as are alive today.

Continuing rapid world-population growth will stress and strain an already inadequate world food supply and unequally distributed mineral resources. In the introduction to a book entitled "Resources and Man," issued by a committee of the National Academy of Sciences-National Research Council, the committee writes, "Man must look with equal urgency to his nonrenewable resources—to mineral fuels, to metals, to chemicals, and to construction materials.

"These are the heritage of mankind. Their overconsumption or waste for the temporary benefit of the few who currently possess the capability to exploit them cannot be tolerated." And then, the committee adds, "To delay progress towards self-regulation of population size is to play 'Russian roulette' with the future of man."

Consider our energy resources. M. King Hubbert of the U.S. Geological Survey has contributed an outstanding chapter dealing with future energy supplies. One of the major sources of energy in the universe is thermonuclear fusion. Each star twinkling placidly in the heavens is a raging, seething thermonuclear fusion furnace. And, our sun, being a star, is no exception.

So, thermonuclearly-produced energy from the sun slams into earth and causes green plants to grow. And animals eat the green plants. And we eat both the green plants and the animals. So, the sun provides us with food which gives us our daily quota of energy needed to survive.

Over geological time—about 600 million years—some of the green plants have been converted into fossil fuels: coal, petroleum and natural gas. The coal in your barbecue, gasoline in your car, and gas cooking your dinner on the kitchen range, are the remnants of incredibly ancient sunbeams. The sun also causes winds to blow to provide windpower, and rivers to flow to provide water power.

The advantages of solar energy, the direct use of the sun's rays, are that it consists of enormous amounts of energy and is renewed daily. Yet, because it is so diffuse, difficult to concentrate, and interrupted daily, solar energy shows little promise as a general energy source of the future—except in farming.

Only 2% of the world's energy now is supplied by water power, and it is not likely to increase. Water power sources usually are in remote areas where people are not, and dams silt up in a relatively short time-period, energy from winds and tides, and geothermal energy released from earth's hot interior, are highly local, restricted to a few specific areas. Their contributions are very small compared to the world's future total energy needs.

So, we are left with coal, petroleum and natural gas, and nuclear energy. Hubbert, in detailed calculations, shows that the United States now only has about a 60-70 year supply of petroleum and about a 200-300 year supply of coal.

Although the world has mined coal for about 800 years, one-half of all the coal mined has been burned in the last 30 years. And although petroleum has been pumped out of the ground for about 100 years, one-half of all the petroleum pumped has been burned in the last 14 years!

Since fossil fuels are only temporary, and controlled thermonuclear fusion is not here as yet—and may not be feasible—Hubbert says we must turn to breeder nuclear fission reactors for our future energy needs. Failure to do so "would constitute one of the major disasters in human history."

But, he strongly warns that we must be extremely careful not to dispose of radioactive wastes in ways that could be "hazardous to the health and genetic security of the nation."

WILL THE 1970'S BE BETTER? THE PROSPECT IS NOT GOOD

(By Irving S. Bengelsdorf)

At 9:40 in the morning on All Saints Day—Nov. 1, 1755—with most of its citizens praying in its churches, Lisbon was devastated by an intense earthquake. It is estimated that 60,000 people lost their lives in the earthquake and the 40-foot high tsunami and the six-day-long fire that followed.

An earthquake is considered an "act of God." And God is benevolent and charitable. Why would He devastate churches and destroy thousands of worshipers by choosing to spring an earthquake on Lisbon at precisely the moment when His faithful were worshiping Him in church? A wave of religious doubt and questioning swept over Europe, culminating in 1759 with Voltaire's "Candide." It is a brilliantly written, grisly satire that uncompromisingly pokes fun at the "establishment" of the late 18th century. Part of Candide's story takes place in Lisbon during the earthquake.

One of the characters in "Candide" is a Polyanna-like philosopher named Dr. Pangloss. Regardless of what happens to him, his motto remains: "All is for the best in the best of possible worlds."

Obviously, Dr. Pangloss is an optimist. Then what is a pessimist? In "The Silver Stallion," the American novelist James Branch Cabell writes, "The optimist proclaims that we live in the best of all possible worlds; and the pessimist fears this is true."

What are the chance of improving our "best of all possible worlds" in America as we enter today into the eighth decade of the 20th century? Not very good, according to Dr. Philip M. Hauser of the University of Chicago and one of the country's leading sociologists.

In a most provocative speech delivered to the 46th annual Congress of Cities held recently in San Diego, pessimist Hauser emphasized:

"During the 70s, air and water pollution will continue to threaten health and life; housing supply and quality will remain inadequate; slums will continue to be centers of physical rot and social pathology; air and surface traffic will continue to congest urban areas and the commuters' crisis will not abate.

"Urban design will continue to fall far short of meeting requirements; crime and delinquency will continue at high levels; organized crime will continue to thrive with virtually the same immunity it has enjoyed for half a century; drug addiction and alcoholism will continue to serve as avenues for escape for increasing numbers of people unable to cope.

"The revolt of youth not only will continue but, in all likelihood, will escalate at both extremes—the hippies who seek escape and the activists who seek confrontation; the revolt of the blacks will also escalate as the gap between what they desire and what they have continues to grow.

"The public schools will transform the United States into a caste society stratified by race and economic status as they continue to fail to provide the poor and minority groups with adequate education; poverty will continue to remind this most affluent of nations that it has grave systemic disorders; tax reform is likely to continue to be a promise rather than a reality; welfare provisions will continue to be inadequate and constitute a continuous source of irritation both to welfare recipients and to taxpayers.

"Payments will still be made to massive agricultural enterprises for not growing crops; consumer protection will remain inadequate as 'caveat emptor' lingers as a relic of the past; the House of Representatives and the state legislatures will remain malapportioned through continued use of the gerrymander despite the 'one-man one-vote' rule; the dead hand of the South will continue its reactionary grip on the federal legislative process by reason of the combination of the one-party system and seniority rules.

"The 'New Federalism' will demonstrate the continued disinterest of state governments in urban problems and demonstrate again that state governments are more inept, more calloused, more subject to special interest pressures and more corrupt than the federal government; military expenditures will remain at astronomical levels and may continue to increase even if we manage to become disengaged from the Vietnam horror."

Hauser pulls no punches and, obviously, his outlook for the seventies does not qualify him as an optimist. For as Voltaire had Candide say, "Optimism is a mania for maintaining that all is well when things are goin' badly."

PROBLEM OF RAISING A GROWING WORLD'S STANDARDS OF LIVING

(By Irving S. Bengelsdorf)

Americans account for only about 5.9% of the total world population—200 million Americans out of a total world population of 3.4 billion people. Yet, although the number of Americans is only about one-seventeenth of the total number of people in the world, Americans use up about one-half of the world's mineral and energy resources.

XUM

Thus, standing behind each and every American—silently supporting his life in an extremely complex, modern technological society—are 12 tons of steel per person, 360 pounds of copper, 310 pounds of lead, 240 pounds of aluminum, 230 pounds of zinc, 40 pounds of tin and about 1,000 pounds of other metals.

And to keep each American going in our society now requires an amount of energy equivalent to the burning of 12 tons of coal per person per year. With a population of more than 80 million automobiles, there now are 0.4 automobiles per American citizen; in California, this ratio rises to about 0.7 automobiles per Californian.

Obviously, with a growing American population demanding ever more material goods and energy—and the rest of the world demanding even more material goods and energy sources as it strives to attain a higher standard of living comparable to the high American living standard—the world competition for minerals and energy sources in the next few decades will be intense, indeed.

Even if the rate of world population growth were zero—no growth in population at all—the international competition for the world's resources would be fraught with difficulties and dangers enough. But, world population is not stagnant. It is growing at a rate of about 2.1% per year. This does not sound like very much, but at this growth rate, the number of people on earth will more than double in 31 years—about 7 billion people by the year 2000.

At a symposium entitled "Earth as a Planet," presented at the 135th annual meeting of the American Assn. for the Advancement of Science held in Dallas, Dr. Harrison Brown of Caltech emphasized the enormous drain on the world's resources in the near future.

XUM

Thus, with an estimated American population of 340 million Americans by the year 2000, each American will have to be provided with 20 tons of steel per person, 1,320 pounds of aluminum, 740 pounds of copper, 640 pounds of lead, 480 pounds of zinc, 410 pounds of tin, and energy sources amounting to the equivalent of 20 tons of coal burned per person per year.

But, the rest of the exploding world population wants to emulate our high standard of living. They also will want more material goods and energy sources.

In his book "The Next Ninety Years" Dr. Brown writes, "The economic development of the poorer nations will place a tremendous drain upon the earth's available resources. By the year 2000, the population of the world might well grow to 7.5 billion persons, about 6 billion of whom will be living in the presently underdeveloped nations of the world.

"If by some miracle all these people were to be brought up to the standard of living NOW enjoyed by the people of the United States, we would need to extract from the earth over 50 billion tons of iron, one billion tons of copper, an equal amount of lead, over 600 million tons of zinc and nearly 100 million tons of tin, in addition to huge quantities of other substances.

"These quantities are several hundred times the PRESENT annual world rates of production. Their extraction would virtually deplete the earth of all high-grade mineral resources . . ."

Dr. Brown concludes, "Our basic problem, really, is not that of supporting comfortably the distressingly large numbers of people who we now know will inevitably inhabit the earth in the decades ahead. I am convinced that technically this can be done.

"Our basic problem is getting from here to there successfully, with a minimum of chaos and human suffering. We are called upon to make the most difficult transition the community of man has yet been called upon to make—that of bringing birth rates in balance with rapidly lowering death rates on a worldwide scale.

"At the same time we are called upon to rapidly improve the economic well-being of the world's people. Although this transition is feasible from a technological point of view, it might well turn out to be impossible politically."

Many of the major problems facing our planet have been created by the applications of science and technology. But their solutions lie with people—their numbers and their attitudes.

It's a Hungry World—Getting Hungrier

(By Irving S. Bengelsdorf)

Almost 71% of our planet's surface is water—the oceans and the seas. And of the remaining 29% that is dry land, only about one-tenth of it is suitable for human habitation and farming. There are tundra regions, mountain chains, deserts, tropical rain forests and savannahs. This contributes to an uneven distribution of population.

Thus, although the planet's dry land now is politically divided into about 140 different countries, about half of the 3.5 billion fellow human passengers now aboard Spaceship Earth live in only five countries: China, India, Soviet Union, United States and Pakistan.

To survive, people need energy obtained from the food they eat. And food, as well as population, is unevenly distributed. Hunger is a matter of geography.

In a recent pamphlet entitled "The Dual Challenge of Health and Hunger—a Global Crisis," published by the Population Reference Bureau, Washington, D.C., Dr. Georg A. Borgstrom writes, "If all food in the world were equally distributed and each human received identical quantities, we would ALL be malnourished."

COULD FEED ONE-THIRD

Dr. Borgstrom, professor of food science and geography at Michigan State University, East Lansing, Mich., then adds, "If the entire world's food supply were parceled out at the U.S. dietary level, it would feed only about one-third of the human race."

Borgstrom points out that the world's peoples now are divided into three categories: There is the "Luxury Club" of almost 400 million people—the United States, Canada, parts of Western Europe, Oceania, and the La Plata countries of Latin America—who enjoy a "rich and steadily more abundant diet as well as a high standard of living . . ."

Then there are the fence-straddlers of about 800 million people—examples are the Soviet, Eastern Europeans and Japanese—who "manage well enough despite numerous handicaps and limited resources, but their diet, although barely adequate, is monotonous and their life, in general, parsimonious."

Finally, there are the poverty stricken of more than 2 billion people—Asia, Africa and most of Latin America—who live in "the most critical hunger areas."

GREAT DECEPTION

And the rich live off the poor. Borgstrom explains: "We of the rich, well-fed world are subject to a gigantic self-deception. There is, for instance, nothing wrong with our impressive dairy development, but we conveniently fail to realize that its high level of performance depends on the influx from the hungry world of millions of tons of proteins . . "

It is incredible that Peru, a poor country that now is the leading fishing nation in the world, does not feed its high-protein catch to the protein-deficient hungry of Peru and Latin America, but exports its catch as fish meal to feed the chickens and hogs of America and Europe.

What to do? The first thing is that we must face reality. Borgstrom emphasizes, "The most disquieting aspect of the food issue is the fact that, with few exceptions, the scientific and technical community has been signaling a green light to mankind when a stop sign would have been far more appropriate. Recent statements by leading western scientists in almost all disciplines reveal a shocking disregard for the abject conditions which enclose almost three-fifths of the human race.

"It is indeed macabre to witness the present game of calculating how many people the world COULD nourish—IF. The figures soar beyond 7 billion to 10 billion and even more. Yet, scandalously, the world has failed to provide satisfactorily for even half the 3.5 billion people alive now. To give our current population a minimally sound diet would require the immediate doubling of world food production. Whatever else happens, and whatever urgent measures are taken, food is going to be the overriding issue of the next 30 years."

Borgstrom concludes: "I would argue that the hunger crisis reflects man's inability to imagine what he already knows. We are participating in a grand-scale evasion of reality which bears all the signs of insanity. In order to bring health and restore vitality to the whole human species, nothing less is required than a global WILL to act, simple justice, true population control, worldwide food planning, effective execution by the scientists, engineers and public leaders of states and regions—and a massive commitment of funds.

"Furthermore, the resources of lands and seas must reach the larders of all mankind, not just the wealthy. It is time the West kept faith with the Atlantic Charter, which proclaims that all peoples should have equal access to the harvests of the world."

THE POMPIDOU APOLOGY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. EILBERG. Mr. Speaker, we all have our disagreements. One of the marks of our open society is that we can have these disagreements publicly.

On his recent visit to the United States, French President Pompidou was confronted by a lot of our fellow Americans who are unhappy with his policy in the Middle East. From press reports we learned that President Pompidou was ruffled and unnerved by these demonstrations, despite the President's warning that we live in an "age of demonstrations." So ruffled was the French President that the President flew to New York to reassure him and apologize.

I can understand the demands of diplomacy.

But I think it is time for some plain talk. I participated in one of those demonstrations right here in Washington on the eve of M. Pompidou's arrival. The crowd was orderly and well behaved. The march and rally were licensed and the Americans present were exercising their Bill of Rights guarantees to free speech and the right to petition their Government. I boycotted M. Pompidou's appearance before the joint session, because I strongly oppose his policies in the Middle East as, I might add, do a majority of my fellow Americans and the French people.

I was not in San Francisco, Chicago, or New York, but I am sure the demonstrations M. Pompidou encountered there were more orderly, more respectful, and more restrained than those that many of our colleagues confront in the charivari of American public life.

If M. Pompidou was upset by the rough and tumble of American public life, I can only fault his foreign office for not preparing him better for the culture shock. America has always be a brawling, roughhouse of manners and debate and, if the administration will let me borrow a term it has brought into currency, we are not yet effete.

Some have suggested that it was all a question of manners and to them I say consider the ethics of a French Government which takes Israel's money for goods, refuses to deliver the goods, and then has the unmitigated gall to demand, on three occasions, payments for maintenance of the goods which it refuses to deliver. That kind of conduct would get short shrift on any Main Street in this country.

The President's apology to M. Pompidou has rankled many Americans, notwithstanding the needs of diplomacy. The apology has inspired Rabbi Elias Charry, president of the Board of Rabbis of Greater Philadelphia, representing some 330,000 Americans, to write an eloquent letter to the President.

Rabbi Charry suggests that, in light of the apology, a restatement of the traditional American policy toward Israel would be welcome, accompanied by the same press attention that surrounded the apology.

I think Rabbi Charry's request is particularly significant in light of this week's alarming press reports that the State Department, acting in the name of the White House, will announce within days that the administration either will not sell Israel the arms Mrs. Meir asked for back in September, or will sell that country only some of the arms on certain conditions.

It is my fervent hope that this administration will not compromise the posture of our only ally in the Middle East and I have expressed that view in separate telegrams to the President and my fellow Pennsylvanian, the Senate minority leader.

With the unanimous consent of my colleagues, I enter in the CONGRESSIONAL RECORD Rabbi Charry's letter to the President:

THE BOARD OF RABBIS OF
GREATER PHILADELPHIA,
March 5, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I write as the President of the Board of Rabbis of Greater Philadelphia, comprising some 140 spiritual leaders of a Jewish community of 330,000.

In the New York Times of March 3, an official White House statement is reported as saying that instances of "discourteous and disrespectful" treatment accorded President Pompidou in this country were the acts of a "few citizens" and "do not represent the American people and this country's attitude toward France."

The protests which met President Pompidou stemmed from deeply felt anger by Americans—both Jew and others—over the sale of Mirages by France to Libya, an act that deliberately threatens Israel. The demonstrations were not directed at the French people—but at Mr. Pompidou who authorized the sale. (You yourself expressed indignation when that fact became known). The protesters were very much aware that Pompidou is not France—and that a majority of Frenchmen are dissatisfied with Pompidou's policy toward Israel. That, at some point in the protests, acts of discourtesy by a few hotheads took place is, of course, deplorable—yet understandable. The protesters were saying that Israel has the right to live and that they have the right to express their indignation in the face of betrayal by leaders like Pompidou. Not only is such public protest sanctified by American law and tradition, it does represent, in my opinion, the American people's attitude not to France but to Pompidou's perfidy. We trust that President Pompidou was not deluded by your courteous deference at his dinner in New York.

The demonstrators indeed were representative of the America which, in any number of Congressional resolutions and Presidential statements, has in essence said to the world: The State of Israel is our friend and ally and must live under no threat of destruction or attack despite the machinations and hatred of the people that would destroy her. We should be happy to know that in your talks with the President of France, you made this unmistakably clear.

In view of the fact that the apology by the President of the United States to the President of France may be misunderstood as having implications detrimental to Israel, we should welcome from your Administration a restatement of the traditional American policy toward Israel. Justice would require that such a statement would attract the same attention from the press as did your unprecedented flight to New York to assuage Mr. Pompidou's ruffled feelings.

Respectfully yours,
RABBI ELIAS CHARRY,
President.

MORTON L. MANDEL ELECTED PRESIDENT OF THE NATIONAL JEWISH WELFARE BOARD

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. VANIK. Mr. Speaker, today, a distinguished citizen and civic leader of my community, Mr. Morton L. Mandel, was elected as president of the National Jewish Welfare Board which is the national association of 487 Jewish Community Centers and Young Men's and Young Women's Hebrew Associations with a combined membership of over 800,000 men, women and young people in more than 200 communities in 34 States. Under its aegis are 250 armed services committees throughout the United States. The board also represents the Jewish community in USO.

Mr. Mandel, at the age of 48, has become known as one of Cleveland's outstanding businessmen. He is the president of the Premier Industrial Corp., a leading manufacturing and distribution agency which was founded by Mr. Mandel and his two brothers, Jack and Joseph, and is now a substantial publicly held corporation with annual sales which are about to reach $100 million. His outstanding business and civic contributions were recognized as early as 1956, when he was voted the "Outstanding Young Man of the Year" by the Cleveland Junior Chamber of Commerce. More recently, he has been made a director of the Central National Bank of Cleveland and of the Cleveland Electric Illuminating Co.

He was president of the Jewish Community Center of Cleveland from 1952 to 1958, and is now an honorary trustee for life of that organization. He was a vice president of the Midwest section of the National Jewish Welfare Board and has served as vice president of the national board since 1964. He is the national president of the Bureau for Careers in Jewish Service.

Mr. Mandel is a long-time trustee and member of the executive committee of the Jewish Community Federation of Cleveland. He is currently chairman of its foundation advisory council. He has been an officer of its Jewish Welfare Fund Appeal on several occasions, and is one of the advisory council for the 1970 campaign. He is a member of the board of the Mount Sinai Hospital of Cleveland and of a number of its committees, including a current committee which is studying the future program for the hospital.

He is division A—big gifts division—chairman of the current United Appeal Campaign of Greater Cleveland. In prior years he has served in a variety of capacities in the campaign, and also as trustee and an honorary trustee of the Cleveland Community Chest since 1965.

XUM

Mr. Mandel is chairman of the endowment fund committee of the Council of Jewish Federations and Welfare Funds, and is a trustee of the council. He is a former member of the visiting committee of the school of applied social sciences of Case Western Reserve University, and is currently chairman of the leadership gifts division of the university's annual alumni fund campaign.

He served on the board of the junior achievement committee from 1955 to 1963, and as a member of its advisory council from 1965 to the present time. He is a member of the Greater Cleveland Growth Association and advisory board member of the Greater Cleveland Safety Council.

Morton Mandel is the perfect example of the type of civic and community leader that this Nation relies on—and needs more of. His activities in the business and civic affairs are a model for effective community action.

A RESOLUTION RELATING TO THE ANNUAL FINANCIAL REPORT MADE BY MEMBERS OF THE HOUSE

HON. ROBERT TAFT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. TAFT. Mr. Speaker, I have today introduced a resolution relating to the annual financial report made by Members of the House to the Committee on Standards and Official Conduct. The effect of the resolution would be to amend the existing rule to provide that information now filed in confidence in part B, would become available for public inspection upon filing. While recognizing the distaste of some for any such disclosure other than to the committee, I have become convinced that it is necessary in order to maintain and strengthen public confidence in the Congress. The present rule, calling only for disclosing of the names of security holdings without amounts, seems inclined to arouse rather than allay questions and attacks upon our integrity. We must take this further step in the public interest.

THE FRED LEWIS RICHARDSON, JR., FOUNDATION

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. QUILLEN. Mr. Speaker, nearly 3 years ago I was privileged to participate in ceremonies to dedicate a monument to Pfc. Fred L. Richardson, Jr., of Bristol, who was killed in action in Vietnam.

When I returned to my office in Washington after this impressive ceremony, I felt strongly that the events which occurred during this memorial were of such significance that the newspaper accounts should be placed in the CONGRESSIONAL RECORD. They appeared in the June 15, 1967, issued of the RECORD.

It was the excellent idea of Mrs. Clarence Burley to erect a monument in memory of Mr. Richardson and she must also be given credit for successfully directing the effort to establish the Fred Lewis Richardson Foundation, a charter organization which will administer a scholarship program for a deserving high school student each year in the Bristol, Tennessee-Virginia community.

The foundation received its charter last month and I feel honored that I was chosen to serve as an honorary member of its board of directors.

Mrs. Burley mailed a copy of the foundation's charter and I would like to make it available for the readers of the RECORD.

THE FRED LEWIS RICHARDSON, JR., FOUNDATION

Whereas, Fred Lewis Richardson, Jr., son of Mrs. Fred Richardson Delaney and stepson of Fred Delaney, was killed in action in Vietnam on May 3, 1966, and is believed to be the first Bristol Negro killed in this military campaign; and

Whereas, Pfc. Richardson, who was twenty years of age when he died while leading a platoon attack on North Vietnamese gun emplacements, for his outstanding military service record received the Purple Heart, the Military Medal, and the Vietnam Cross with palms for gallantry from the Government of South Vietnam, and the Bronze Star from the United States Government.

Now, therefore, the undersigned, in honor of Fred Lewis Richardson, Jr., desire to and hereby do associate ourselves in the formation of a memorial foundation under the provisions and subject to the requirements of the law for such cases made and provided, and by this, our Articles of Association, set forth as follows:

1. The name of the association is to be Fred Lewis Richardson, Jr. Memorial Foundation.

2. The address wherein its principal office is to be located is Bristol, Sullivan County, Tennessee.

3. The purposes for which it is formed are as follows:

(a) To inspire youth of all races to become more active and participate in all phases of religious, patriotic, and civic organizations and to learn the value of helping others by working together for the common good of all people.

(b) To administer a scholarship program in honor of Fred Lewis Richardson, Jr. which will include the awarding of funds to deserving senior youth in the Bristol Tennessee-Virginia community to aid them in continuing their education in a higher school of learning, said award to be presented every two years.

The awards shall be $25.00 United States Savings Bonds to one or more senior high school students enrolled in schools in the Bristol Tennessee-Virginia community chosen by a committee composed of faculty members wherein said student is enrolled and subject to the approval of the officials of this Foundation. The recipients of the savings bonds awards shall be selected on the basis of their active participation in extra-curricular activities rather than on an academic standing.

4. The Foundation shall be managed by a Board of Directors and the initial members of the Board are:

Mrs. Clarence Burley, Chairman, Bristol, Tennessee.

Mrs. Fannie Marie Delaney, Bristol, Tennessee.

Mr. Fred Delaney, Sr., Bristol, Tennessee.

Mrs. Dawn Delaney, New York City, New York.

Mr. Curtis P. Mayo, New York City, New York.

Mrs. Curtis P. Mayo, New York City, New York.

Mr. Ernie Norcross, Bristol, Virginia.

Mr. William Overbay, Bristol, Tennessee.

Mrs. Henry Barker, Bristol, Tennessee.

Mrs. Albert King, Bristol, Tennessee.

Mr. Robert Richmond, Bristol, Tennessee.

Mr. Wilfred Gillenwater, Bristol, Tennessee.

Mr. Richard Boyd, Bristol, Virginia.

Mr. Wesley Davis, Bristol, Tennessee.

Mr. Fred Delaney, Jr., New York City, New York.

The following persons shall be named as Honorary members of the Board of Directors:

Hon. James Quillen, Washington, D.C.

Judge Hal Carr, Blountville, Tennessee.

Mrs. Robert Richmond, Bristol, Tenn.

In the event of the resignation or death of any member of the Board of Directors hereinabove named the unexpired term of such Board member shall be filled by a person or persons selected by the remaining Board members.

5. The period for the duration of the Foundation is unlimited.

6. The names and addresses of the original organizers of the Foundation are as follows:

Mrs. Clarence Burley, Bristol, Tennessee.

Mrs. Fannie Marie Delaney, Bristol, Tennessee.

Mr. Fred Delaney, Sr., Bristol, Tennessee.

Mr. Curtis P. Mayo, New York City, New York.

Mrs. Curtis P. Mayo, New York City, New York.

Mr. William Overbay, Bristol, Tennessee.

GARY JOB CORPS CENTER HONORED FOR 5 YEARS OF EXCELLENT SERVICE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. PICKLE. Mr. Speaker, 5 years ago, the Job Corps was barely a concept, much less an action program. At this time, the Gary Center took the first cautious steps forward. In the 5 years intervening, Gary has taken bold steps and now leads the Nation.

Mr. Speaker, the San Antonio Express-News summed it up much better than I can. I insert the following article written by Jerry Deal from the March 8 issue:

GARY, TOP JOB CORPS CENTER, 5 YEARS OLD

(By Jerry Deal)

SAN MARCOS.—Exactly five years ago, 229 bewildered and on the most part reluctant young men set foot for the first time on a former Air Force base in the flatlands just outside San Marcos.

They were the vanguard—the first few of some 23,000—to undergo training at the Gary Job Corps Center, as part of a new federal effort to place into the human race flow the young who either had rejected or had been repudiated by society. The object was to take these 16 to 21-year-olds, teach them a vocational skill and place them into jobs upon completion of their training.

This novel Job Corps program, inspired by former President Lyndon B. Johnson's Great Society, and under the direction of an already controversial federal antipoverty agency, the Office of Economic Opportunity, immediately was the recipient of raging outbursts from the critics.

"Too expensive," "It'll never work," "It is destined to become a politically corrupted program" and "They'll just learn how to become criminals," said those opposed to Job Corps, including many members of Congress.

"It can work," "It can be the salvation for many of our school dropouts and the deprived," "Give it a decent chance and it will be successful," retorted the proponents.

Both factions in many ways were proven to be right. Some Job Corps centers became involved in serious problems—excessive training costs, lack of ability to retain the young men (and later women), inadequate programs and counseling, and trouble with members and lawmen of the communities where the often unwelcome centers were located. Many centers failed to survive, even before last year's Nixon administration cutback on the Job Corps program.

Gary has weathered the storm for the five years—and without any indication of a federal spending cutback here. Gary has certainly not been without problems and it appears will prevail as long as the program is in existence. There have been serious incidents, including the most remembered, an early episode involving corpsmen in the shooting of two young Air Force men in San Antonio. There have been many other disciplinary problems.

At first there were rumors and half-truths involving Gary corpsmen blaming them for crimes throughout the South and Central Texas area. Most were found to be untrue.

Some early problems that did arise, Gary officials are quick to blame on the lack of proper screening of the candidates where they were being recruited—and at the time they were quick to tell OEO to do a better job of it. The misfits were returned home. In one case it was an entire hoodlum gang recruited in Chicago and sent to Gary.

But what really has happened the past five years at the center, considered the elite of all? Do its administrators sincerely believe the program has saved a large number from the ghettos? Has Gary actually reduced poverty and welfare costs? Are those who completed training still working at the skilled professions they were taught? What is the future of Gary, part of a program President Nixon once said he would discontinue?

Dr. O. J. Baker, skillful but frank executive director of Texas Education Foundation, Inc., non-profit organization that operates Gary and the McKinney Job Corps Center for Women (recognized as the most efficient of 11 women's centers), declared:

"Many problems we anticipated having with the program, we had. Many successes we anticipated having, we had.

"Although we are never satisfied, we have been pleased with those successes. I anticipate our Job Corps Center for a long time will continue to be a part under a different name . . . but of a federal program, perhaps the name is not important, what is important is there still are those who need this training, with no other ways to receive it. There always will be a need for this type program, for those youngsters who did not learn the right things in school to earn themselves a living, and for the school dropouts."

Dr. Baker, formerly superintendent of schools at Dickinson, remembers those first corpsmen coming to Gary, from virtually every state.

"You could see it in some, the first thing they wanted to do upon unboarding the bus on these Texas plains was leave again, and quite a few of those first ones did."

It was he who demanded better screening for recruits and who more than once butted heads with the upper echelon OEO poverty warriors concerning Job Corps policy.

Since those first 229 skulked onto the 1,000-acre reservation, a total of 23,239 have enrolled, including the 3,000 in training now. Of that number, 15,808 completed studies in one of the vocations offered, currently 34.

About 14,000 have been processed for jobs, returned to school or went into the military, with some 800 job verifications pending (some 250 returned to high school, 32 enrolled in college and about 600 were inducted or enlisted into the military).

A total of 2,528 General Educational Development (GED) high school equivalency degrees have been issued and another 350 corpsmen are taking GED courses now.

It's no inexpensive matter to train these young men, it is averaging about $4,500 per man a year, as it has for four years. But, of course, this includes keeping them on a 24-hour basis, and is despite the rise in living costs.

The federal limit is $6,900, and Gary has the lowest cost of the existing 36 men's centers (four urban like Gary, and 32 small conservation, before the cutback there were 100 men's centers).

Evidence of some success in training and placement is seen in the number of firms who have standing offers for certain numbers of graduates each month, for example Brown & Root of Houston; Texas Instruments, Dallas; and Collins Radio Corp., Dallas. Todd Shipping Yard of Galveston has a standing order for 20 welders each six weeks at a starting salary of $3.60 an hour.

There has been some concern because young Negroes not only comprise the majority of corpsmen, with 68 per cent, but because that percentage has steadily risen since the opening of Gary. Three years ago, 40 per cent of the populace was Negro. Latin-Americans (nearly all Mexican-Americans, with a few Puerto Ricans) comprise more than 19 per cent, Anglos about 11 per cent and Indians nearly one per cent.

Those instructors and officials who have expressed concern about the rising rate of Negroes are afraid it's scaring off the Mexican-Americans and Anglos. But others see the need for getting the Negroes into skills as most important. Some instructors have left Gary because of the rise in Negroes attending.

The percentage of Mexican-Americans has increased the past three years. It was about 15 per cent in early 1967.

"We'd like to get more Chicanos, but it seems like not too many sign up for the program," said Public Relations Dir. John C. Henry. "I'm a South Texas man and I know it would be a big help to many of these disadvantaged youngsters to get into such a program," he added.

About three per cent of the corpsmen get arrested for serious offenses during their stay (they get one pass a week to visit San Marcos, Austin or San Antonio), and most of these are sent home if not incarcerated where the offense occurs.

"We note with pride there have been no organized protests or demonstrations emanating from the center, in spite of such moves nationally among the same age groups," boasted Henry. "We know of no efforts to form any Negro, Mexican-American nor Anglo militant groups on center."

Of the 34 vocational courses, those involving automotive repair are the most popular, with more than 1,000 enrolled in this cluster. Welding is the second most popular with the building trades, business trades and heavy equipment operation close behind.

According to Wallace Dockall, Gary's center director, a current problem at Gary is the fact it is getting younger candidates than in recent years. "Of our enrollment, 75 percent are 18 years or younger and 55 percent are 17 and younger," he stressed. He attributed this to many new programs offered under the Manpower Training Act in cities where the deprived youths reside.

"This has necessitated a tremendous change in our program, partly because the young corpsmen have not been out into the world and suffered the hard knocks of being unable to make a decent living because of lack of education," he added. "Therefore, they lack the motivation some of their predecessors had."

He said Gary has especially redesigned its academic programs since it is taking the younger students longer to get adjusted, plus that in the past seven or eight months the academic knowledge of some incomers has been lower.

"Some 42 percent or 1,400 of our present trainees had a fourth grade or below reading level when they entered," Dockall asserted. "Our training programs are lasting longer in many cases because we have had to work more on the academic level, particularly reading, so they could properly be ready for their vocations."

Gary uses the phonic method of reading instruction, with audio and visual aids. In the laboratories, large electronic consoles are connected with reading booths and there is an individual tape recorder for each student. With a printed list of words before them, students listen to the instructor's voice on a master tape, record their own voices pronouncing the same words, replay the tapes to learn what mistakes they made,

The corpsmen on the average increase their reading level by one grade a month.

As for the future of Gary, both Dockall and Dr. Baker are excited about projected and possible upcoming programs. Dockall said efforts are under way to link incoming corpsmen with prospective employers—meaning a trainee taking upholstery would know shortly upon entrance he definitely had a job with, for example AAA Upholstery Co., if he satisfactorily completed the course; or an air conditioning student had a job with BBB Air Conditioning, Inc.

Among the proudest persons of Gary is U.S. Rep. J. J. "Jake" Pickle, Austin, in whose district the center is located. A long-time proponent of Job Corps, he is the first to admit the program has had its share of defects and has been highly controversial.

But he is quick to illustrate that Gary has moved consistently well in advance of the controversial surroundings behind the program and has in fact become a model center.

A REPORT TO THE PEOPLE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. EILBERG. Mr. Speaker, as the population in our districts grow each year, it becomes increasingly difficult to tell the people what you as their Congressman and the Congress itself are doing in their name and in their behalf.

Despite all efforts by the press to inform the public, many, many members of the voting public find it difficult to keep abreast of our activities.

Since a well-informed electorate is an absolute requirement in representative government, I have periodically published a newsletter designed to keep my constituency informed of their Congressman's activities. My current newsletter discusses some of the highlights of the first session of the 91st Congress and areas which will continue to be of concern and interest to the Congress and to my constituency. With the unanimous consent of my colleagues, I enter my current newsletter in the RECORD:

REPORTS TO THE PEOPLE

(By Congressman JOSHUA EILBERG)

The first session of the 91st Congress has drawn to a close and its achievements were many. It wil be remembered in many ways. First it will be recalled as the tax relief and reform Congress. It will be remembered as the Congress which launched the most significant Constitutional amendment in the history of this country.

TAX RELIEF AND REFORM

The Tax Reform Act passed in this Congress is the most comprehensive revision of our tax system since the income tax became law in 1913. Its major provisions call for raising the personal exemption in four steps from its present $600 to $750 by 1973 and raising the standard deduction in three annual steps beginning in 1971 from the current 10 percent of $1000 to 15 percent or $2000 by 1973. Some other important features are a minimum tax which will require the very wealthy who previously had escaped taxation to pay some taxes; a reduction in the oil depletion allowance from 27½ percent to 22 percent; more liberal deductions for moving expenses; easier rules for income averaging, and the end of many corporate tax advantages and privileges. To show how these savings will affect a taxpaying, married couple with two children study the following:

For an income of $8,000 to $10,000 the 1969 taxes was $850 to $1,225. The 1973 taxes will be $580 to $905. This is a savings of from $270 to $320.

It is important to note that the savings will not be reflected in your income tax for 1969, which you are filing now, but in the coming year's taxes.

XUM

SOCIAL SECURITY INCREASE

Early in this Congress. I described the Social Security System as the "Social Insecurity System." Senior citizens on fixed incomes are the hardest hit by inflation. As part of the tax reform and relief package, the Congress voted a 15 percent increase in Social Security benefits. I heartily supported this boost and continue to press for passage of my legislation which provides for automatic cost-of-living increases the first of every year. This would mean that people on Social Security automatically would get an increase each January 1 without the need for special legislation. Additional increases still could be voted by the Congress.

ELECTORAL COLLEGE REFORM

The House of Representatives has overwhelmingly approved a Constitutional Amendment abolishing the electoral college and providing for direct election of the President. I am proud to be a sponsor of this amendment and a member of the House Judiciary Committee which initially considered it. It is my hope that the Senate will move quickly to pass the amendment so that it can be forwarded to the states for ratification. Direct election is the only way we can make certain the peoples' choice goes to the White House.

ISRAEL AND THE MIDDLE EAST

After reading Secretary of State William P. Rogers' speech of December 9, I became alarmed, as did many of you, that the Administration was abandoning the United States' long-standing policy of firm support for Israel. I helped lead a vigorous campaign to dissuade the government from such a course. I have been assured that the cornerstone of United States policy in the Middle East is the survival of a free and independent state of Israel. In light of refusal by France and England to sell Israel arms, it is equally critical that the United States continue to allow Israel to buy arms for her self-defense in the United States. Not only is Israel's cause morally just, but she remains the only true friend of the United States in the Middle East and our only bulwark against Russian expansion and influence in that corner of the world.

DRUG ABUSE EDUCATION ACT

Lately we have all come to realize that drug abuse is a problem no longer confined to the socially underprivileged or the economically deprived. It is a problem we all share. Sadly we know so little about it and much of the information we receive is wrong. Many a student today can out-lecture his teacher on the subject of drugs. Much of his information is wrong but he does not know it. The House has passed the Drug Abuse Education Act, which for the first time recognizes the need for massive education on the subject. The law provides for a wide variety of educational programs directly relevant to the needs of local schools and communities like our own. It concentrates on in-school educational programs, teacher training in drug abuse education and scientific research on the effects of various non-medical drugs such as marijuana and LSD. This is a program we need and I vigorously supported it.

CHILD PROTECTION ACT

I sponsored the Child Protection Act of 1969 and I am proud to report that it has become law. The law protects children against death or injury from hazardous toys. Specifically it extends legal safeguards to protect children against toys that explode, catch fire, produce electric shock and electrocution, fragment or cut with sharp or protruding edges, or represent a strangulation, suffocation, or asphyxiation hazard. The bill empowers the Secretary of Health, Education, and Welfare to order such toys off the market if such hazards are determined to exist.

RUSSIA

As a member of the House Judiciary Subcommittee on Immigration and Nationality, I led a Congressional delegation to the 31st meeting of the Council of the Intergovernmental Committee for European Migration. ICEM helps move refugees and national migrants from behind the Iron Curtain to the West. To prepare for the meeting, I spent Thanksgiving Week in Russia. I returned a grateful and better American. Russia is stifling, suffocating. You are warned your hotel room is bugged, guards and soldiers grunt menacing instructions to you at Lenin's Tomb, you are followed, freedoms we take for granted are luxuries, the state is everywhere. And in the refugee camps at Vienna, I saw the kind of people who still clamor to cross from Iron Curtain countries. Those who bicker and quibble with America should visit Russia. I guarantee you will return as quickly as you can, a thankful, patriotic American.

FRANKFORD ARSENAL

The Army announced last year that it was transferring the research and development mission of the Frankford Arsenal to other installations around the country. The transfers would have meant the loss of jobs or uprooting of families to 2700 employees at the Arsenal. We in Congress, by refusing the Army the funds to implement the plan, were able to keep these 2700 jobs right here in Philadelphia. More recently the Army announced it was going to lay off 200 to 300 men at the Arsenal. I protested to Secretary of Defense Melvin Laird. The reduction-in-force was canceled with less than 100 vacant job slots eliminated. The first months of this year saw another announced reduction-in-force and disclosure of a proposal to transfer command responsibilities for fire control, indicating to me that continued vigilance will be required.

EDUCATION

Our schools need more money. Local tax sources are exhausted. The Federal government must assume a larger part of the cost of educating our children. Under the Administration's budget allocations, Philadelphia schools will lose $5 million. I joined the fight to restore more than $1 billion, including Philadelphia's $5 million, to the health, education, and welfare appropriation. Much of these funds are in the form of impact aid which provides money schools can use to directly meet operating expenses. I voted against the President's veto of these funds because, while I agree that inflation must be curbed, I do not think we should sacrifice our school children on the altar of inflation. My bill, the School Construction Act, would assist local school districts in keeping pace with the need for new classrooms. My bill to assist children with learning disabilities already has passed the House. I am now investigating ways in which the Federal government can contribute a larger share towards meeting the operating expenses of school districts like ours. There is no higher national priority than keeping our schools open and excellent.

WHERE YOU CAN REACH ME

Some people have asked where they can reach me. I keep an office right in the heart of the Northeast. The office is on the second floor of the First Federal Savings and Loan Building at Castor and Cottman Avenues. It is open six days a week and all weekday nights. Depending on the calendar in Congress, I am usually there on Fridays and Saturdays. If I am not there someone on my staff, Russ Krawczuk, Mary Dunne, Agnes Lyons, Jessie Shore, or Bea Marks will help you. Our number is RA 2-1717. In Washington, my office is at 1130 Longworth House Office Building (225-4661) and if you get to the Capitol, stop in and say hello.

SELF-HELP HOUSING TODAY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BROWN of California. Mr. Speaker, I was pleased when Congress included in the landmark 1968 Housing Act provisions through which self-help homebuilding and maintenance programs could be established with Federal assistance.

Self-help housing is an area which I have long been interested in, and back in 1967 I introduced legislation to set up a low interest loan program to aid low-income families in acquiring land and materials for such cooperative efforts.

I believe that the self-help concept should be encouraged and expanded if we are to meet ever-growing national needs for decent housing. I have personally visited self-help projects in California's Central Valley, and I have come away extremely impressed with the effectiveness of this approach.

Unfortunately, for most of us, the real crisis which exists in housing—especially in rural housing, and particularly in California where the rural housing situation is so bleak that I would rate the problem very high among all State issues—is largely invisible.

But, though it may not be visible, the problem is not getting any better. Economic retrention over the past 2 years cut deeply into home construction—and, of course, it was felt primarily by low-income families who were hurt by the massive interest rate hikes which dried up funds for low-rate programs.

Another current problem is the lack of adequate staffing for Government housing programs, and this stems from the constraints placed on staff levels by the administration in attempts to limit Government spending. For me this is false economy, and over the long run, these artificial constraints cause more problems than they solve.

Many of the issues I have discussed here came up at a meeting held last November in Asilomar, Calif., when some 150 persons got together to analyze existing programs and problems in self-help housing.

At that conference, two resolutions were adopted, and I now insert them into the RECORD as an indication of what we should be doing today to further expand the self-help housing approach.

The resolutions follow:

FARMERS HOME ADMINISTRATION LOAN PROCESSING

A Resolution of Self-Help Enterprises Conference, Asilomar, Calif.

The continuing poverty of the Farmers Home Administration, particularly on administrative staff, is a major problem to low-income, rural people seeking credit for housing. This poverty is due to inadequate appropriations and presidential manpower ceilings, the latter aggravating the former. The financial cost of delays in loan processing is very high and the costs in frustration and demoralization are even higher. We realize that the failure to solve this problem (at a cost which would be inconsequential when measured against the total federal budget) is in part the result of a system of national priorities which provides lavishly for the military and penuriously for domestic social programs; but we also believe that the failure arises from the fact that the common people in rural areas have little organization and poor means for expressing their own needs and frustrations.

We take this occasion to call the problem to the attention of our representatives in Congress and respectfully urge them, as a delegation, to work for a speedy solution—the lifting of manpower controls over this small agency and a supplemental appropriation aimed directly at providing the necessary funds.

SECTION 235 PROGRAM OF THE HOUSING AND URBAN DEVELOPMENT

A Resolution of Self-Help Enterprises Conference, Asilomar, Calif.

Whereas the shortage of adequate, low-income housing is one of this Nation's major domestic problems; and

Whereas self-help housing has in the past five years proven its value in various rural areas of the United States with Farmers Home Administration (FmHA) loans and the Office of Economic Opportunity (OEO) technical assistant funds; and

Whereas the urban need for this type of house is equally great; and

Whereas Section 235 of the Housing and Urban Development Act of 1968 provides a loan source through the Federal Housing Administration (FHA) which has been successfully used in a self-help program in Visalia, California, by Self-Help Enterprises, Inc. (SHE), and

Whereas in order to expand this type of program to make an impact on this national problem, other sources of funds are needed to secure and develop land to use as construction loans and as technical assistance funds similar to the provision of the Act which makes such funds available in rural areas through the FmHA: Therefore be it

Resolved, That this Board of Directors of Self-Help Enterprises and all those present at this Conference urge the Congress of the United States to enact legislation which will provide through the Department of Housing and Urban Development (HUD) direct loan funds to nonprofit sponsors of self-help housing for land purchase and development and house construction and grants to nonprofit sponsors for technical assistance to families.

TAXES AND THE SINGLE PERSON

HON. WILLIAM L. ST. ONGE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. ST. ONGE. Mr. Speaker, I have today introduced in the House a bill to extend to all unmarried taxpayers the same full tax benefits of income splitting that are now enjoyed by married individuals filing joint returns. A similar bill has already been introduced in the Senate.

I have taken this step for two reasons. There is a serious question of constitutionality in the existing system which taxes single persons at higher rates than the rates paid by married individuals. I do not feel that we should wait until an aggrieved taxpayer brings this matter to the U.S. Supreme Court for relief. It is incumbent upon us in the Congress to provide for equity of tax rates paid by the people of this country.

The bill does not discriminate against married individuals filing joint returns, whose tax rates would not be changed. It simply removes the penalty now paid by single taxpayers. The Tax Reform Act of 1969 acknowledged the existence of the problem by providing partial relief. This proposal goes all the way, as it should.

I understand that approximately 25 million taxpayers would be affected by this legislation, which is long overdue. It is interesting to note that the income-splitting provisions in our community property States were extended in 1948 to all married taxpayers throughout the country filing joint returns.

While the tax reform bill of 1969 did provide some relief for our taxpayers, there are some areas where the relief provided is not sufficient. This is one of those areas and the passage of this bill would relieve a serious inequity in our income tax laws.

SUPPORT FOR THE VOLUNTEER ARMY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, the Gates Commission report on an all volunteer army, which clearly demonstrated both the feasibility and the desirability of such a force, is now being reviewed at the White House. The release of the report has stimulated a spirited and very necessary discussion of the issues involved in eliminating the draft and instituting a volunteer army. Favorable commentary on the recommendations contained in the report has appeared in a number of newspapers and magazines. I would recommend for the attention of my colleagues two recent articles on the volunteer army which were published in Newsweek. The articles, by Stewart Alsop and Milton Friedman, follow:

[From Newsweek, Mar. 23, 1970]

CAN THE DRAFT BE ABOLISHED?

(By Stewart Alsop)

WASHINGTON.—Is President Nixon really serious about abolishing the draft?

At a recent college seminar, I was asked this question, or something like it, far more than any other. I had no confident answer. It is an interesting question, not only for the draft-age young. After making inquiries in knowledgeable quarters, I have the following fairly confident answer:

Yes, the President is entirely serious about abolishing the draft. If all goes more or less as expected in Vietnam (a big if) and if he can find the money (another big if) the President hopes to give an all-volunteer force a kind of test run. If the test run is successful, this country may have an all-volunteer force by midsummer next year.

This Presidential hope is largely based on the recent report by the blue-ribbon commission headed by former Secretary of Defense Thomas Gates. Gates himself, and several other members of the commission, including Generals Alfred Gruenther and Lauris Norstad, were initially very skeptical about ending the draft. In the end, the commission agreed unanimously that the thing could be done, and as soon as July 1971.

REPORT

A Nixon-appointed task force, including representatives of the Pentagon, the Budget Bureau, and all other interested agencies, is now hard at work rechecking the conclusions of the Gates commission, with instructions to report to the President in the near future. Significantly, the White House representative on the task force is Martin Anderson, who first persuaded then-candidate Nixon in 1967 that the draft could and should be abolished. The betting is that the President will have a program ready to propose to Congress by late spring or early summer.

There are all sorts of very good reasons for abolishing the draft. The first and best reason is that the draft is a deeply unfair, divisive and corrupting influence in American life—corrupting above all to those who benefit from the draft system by escaping the draft. To cite a single rather stomach-turning example, the Yale Divinity School, like other divinity schools, is now primarily a haven for draft dodgers, rather than a place where young men are prepared for the ministry.

There are other less obvious reasons for ending the draft. If the war in Vietnam proves anything, it is that it is profoundly dangerous and divisive to try to fight a limited war for limited ends with conscripted soldiers. Great powers have hardly ever done so, back to the time of the Roman Empire. The United States is inescapably a great power, with a great power's responsibilities, and a great power, above all in the nuclear age, must be able to fight limited wars in a limited way. Only a good professional army assures that ability.

MANPOWER

There is another reason, too. As anyone who has ever served in it will attest, the U.S. Army uses manpower in the profligate manner of a drunken millionaire throwing his money about. This is because the draft provides the Army with an unlimited source of manpower. If the draft ends, there will be real pressure on the Army to provide what it does not now provide—a reasonable return in combat power for its manpower investment.

But will the Gates plan really work? Will enough young men volunteer?

The Gates commission answer is a seemingly confident "yes." To maintain armed forces of 2.5 million men, 325,000 men will have to enlist voluntarily every year. The Gates commission concluded—and there were no dissents—that the required number of volunteers will be forthcoming, if military pay is raised by $3.2 billion a year, mostly for the lower ranks. But when you talk to members of the commission, they don't sound quite as serenely confident as the cold print of the commission reports suggests.

Thomas Gates himself, for example, agrees that the volunteer estimate is an educated guess, because no one can accurately predict how many young men would really volunteer. But he thinks there is at least a good chance that enough men will volunteer if they are offered "more pride and more pay."

Pride is at least as important as pay. Men do not live by bread alone, and they do not become soldiers for bread alone either. This suggests one reason why the Gates commission's educated guess may turn out to be a bad guess.

The Army, of course, is the real problem—the other services do not have much trouble attracting volunteers. The U.S. Army—unlike the Marine Corps—has never understood the importance of pride.

Other armies, back to the time of the Roman legions, have recognized the importance of battle honors and tradition; of drums and bugles and bagpipes and handsome uniforms; of elite regiments and stirring drill, above all of the simple atavistic admiration of men—and women—for brave men. These are some of the things that make a soldier feel proud of himself and of his unit. The U.S. Army, by contrast, has always seemed oddly determined to turn every recruit into a mere number, a thoroughly computerized, tabulated and quantified bureaucrat-in-uniform, with about as much dash and color as a codfish.

The problem of pride is complicated by the temper of the times. There has perhaps never been a time when a uniform carried with it less prestige. This is partly because the war in Vietnam has produced no victory, and no bands or bugles to welcome home the conquering heroes. It is partly because many liberal intellectuals have been at pains to foster contempt for the military.

EXPERIMENT

There is a money problem, as well as a pride problem. The Gates commission proposes that the $3.2 billion pay raise be put into effect on July 1 of this year, so that by July 1, 1971, it will be possible to see if the experiment has worked, and if the draft can be abolished. If President Nixon does not ask for the pay raise this year, the whole experiment will have to be put off to the indefinite future. In the face of threatening inflation and a tenuously balanced budget, it will not be at all easy for the President to ask for a massive military pay raise this year.

Yet there is one reason why the President may elect to do so all the same. In one of his leaked—and eminently sensible—memorandums to the President, Daniel Patrick Moynihan stressed the need to re-establish the authority of the government and the dignity of the Presidency. He wrote: "I fear the blunt truth is that ending the draft would be the single most important step you could take in this direction."

To anyone who has had any contact with the draft-age young, there can be no doubt that Moynihan was abundantly right.

THE END OF THE DRAFT?

(By Milton Friedman)

At long last, the end of the draft is in sight.

Two months after his Inauguration, President Nixon appointed a commission "to develop a comprehensive plan for eliminating conscription and moving toward an all-volunteer armed force." That commission has now unanimously recommended a plan that it believes would permit conscription to end on June 30, 1971, when the present legal authority expires. It would retain only a standby draft to be put into effect in case of emergency by action of Congress on the recommendation of the President.

As a member of the President's commission, I was much impressed by the emergence of unanimity out of initial disagreement. As our deliberations proceeded, and especially as our knowledgeable staff developed a growing body of factual evidence, it became ever clearer to all of us how superficial are most arguments in favor of conscription and how inefficient conscription is both as a method of taxation and as a method of recruiting manpower.

MOSTLY VOLUNTEERS NOW

The often hysterical claims that an all-volunteer force is undesirable because it would be all black or all this or all that or because it would strengthen militarism or because . . . all these claims are contradicted by one simple yet overwhelmingly important fact: *our armed forces today consist predominantly of true volunteers.*

Many men "reluctantly" volunteer for a first term of service because of the threat of the draft. But we know that all men beyond the first term of service are true volunteers, and they alone number nearly 40 per cent of the total forces. In addition, our best estimates are that at least one-third of the first-termers are also true volunteers. In all therefore, at least 60 per cent of the armed forces are true volunteers. A change in the method of recruiting the remaining 40 per cent—mostly enlisted men in the very lowest ranks—cannot produce drastic changes in either the composition or character of the armed forces.

Enforced service by a conscript is a tax imposed on him no less than the check you send to Internal Revenue is a tax imposed on you. The size of his tax is the difference between the sum of money for which he would have served voluntarily and the pay he actually receives. Currently, this tax amounts to about 50 per cent of the potential civilian income of draftees. So unfair a tax imposed on so small a minority would never be passed explicitly by Congress. It persists only because it is hidden.

The tax is not only unfair, it is also inefficient. Every tax involves costs in addition to the amount of the tax itself. For conscription, these indirect costs are the heavy burdens imposed on actual and potential draftees, their families, universities, employers—and most important, on all of us through the weakening of the political fabric of society.

Most of these costs cannot be assigned a money value. But for those that can, the commission estimates that "for each $1 in tax-in-kind collected, an average of $2.50 is foregone by the public"—i.e., that is costs $1.50 to collect $1. That is one reason why, when the books are kept properly to show all costs and all returns, a volunteer force is far less costly than a mixed force of conscripts and volunteers. But it is not the only reason.

A young man is conscripted for two years. He spends the first six months or so being trained, the last few months being processed for his discharge. We are lucky if he spends one year in active service. In addition, the time of other men must be used to train him and move him in and out of service.

To man a mixed conscript-volunteer force of 2.5 million men (the middle of the range of force levels considered by the commision) requires recruiting each year about 440,000 enlisted men (excluding officers). Even with today's low first-term pay and conditions of service, at least 250,000 would be true volunteers, leaving 190,000 who would have to be conscripted or induced to volunteer by threat of the draft.

An all-volunteer force of equal effectiveness has less turnover and uses manpower more efficiently. As a result, it requires recruiting each year about 325,000 enlisted men, or only 75,000 in addition to the present number of true volunteers.

THE REAL ALTERNATIVES

Compel 190,000 men per year to serve. Or improve pay and conditions of service to attract an additional 75,000 volunteers out of the 1.5 million who each year turn 19. These are the real alternatives.

ANALYSIS OF WORK DONE IN CONGRESS BY HON. ADAM C. POWELL THIS YEAR

HON. ADAM C. POWELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. POWELL. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

MARCH 20, 1970.

MY DEAR FRIEND: Enclosed is the analysis of work done this year in Congress by me. I know it is long, but I dare you to read it.

With every good wish.

Sincerely, your personal Congressman,
ADAM C. POWELL,
Member of Congress.

SECTION 1: LEGISLATION INTRODUCED AND ACTION TAKEN, 1970

At least 40 other pieces of legislation are not listed, these are the major ones:

H. Res. 98: The Committee is authorized and directed to conduct a full and complete investigation and study of the administration of programs carried on under the authority of the Economic Opportunity Act of 1964.

H. Res. 277: The Committee is authorized and directed to conduct a full and complete investigation and study to determine why, though only approximately 9 per centum of the men in the Armed Forces are black, yet approximately 14 per centum of those killed in action are black.

H. Res. 278: Requesting that the President of the United States stop selecting and inducting individuals into the Armed Forces for a period of 180 days.

H. Res. 365: The Committee is authorized and directed to conduct a full and complete investigation of the circumstances surrounding the recent trial, conviction, and sentencing of members of the Armed Forces on mutiny charges.

H. Res. 390: Resolved, That any action to shut down any Job Corps installation be suspended until the Congress has had an opportunity to review the Job Corps program in deciding upon extension of the Economic Opportunity Act of 1964, as amended, and appropriations for that program.

H. Res. 457: It is the sense of the House of Representatives that the President of the United States should resubmit the Geneva Protocol of 1925 banning the first use of gas and bacteriological warfare.

H. Res. 467: That the Government of the United States should seek prompt negotiations with the Union of Soviet Socialist Republics to reach agreement on limiting both offensive and defensive strategic weapons.

H.R. 2699: To provide for the admission to the Union, on an equal footing with the original states, of the Commonwealth of Puerto Rico.

H.R. 3779: To limit the categories of questions required to be answered under penalty of law in the decennial censuses of population, unemployment, and housing, and for other purposes.

H.R. 4191: To provide Federal assistance to improve the educational services in public and private non-profit child day care centers.

H.R. 7761: To provide supplemental appropriations to fully fund programs to build three hundred thousand units of low- and moderate-income housing.

H.R. 11808: To amend the Small Business Act to make crime protection insurance available to small business concerns.

H.R. 11934: To extend to every person classified or processed under the Selective Service Act the right to legal counsel to the end that the rights and privileges afforded under law may be known and secured.

H.R. 12321: To provide for the continuation of programs authorized under the Economic Opportunity Act of 1964.

H.R. 12500: To provide that the membership of local selective service boards reflect the ethnic and economic nature of the areas served by such boards.

H.R. 12779: To create a Department of Youth Affairs.

H.R. 13136: To provide for a comprehensive and coordinated attack on the narcotic addiction and drug abuse problem.

H.R. 14910: To provide a program to improve the opportunity of students in elementary and secondary schools to study cultural heritages of the major ethnic groups in the Nation.

XUM

H.R. 14012: To provide for the establishment of a Commission on Marihuana.

H.R. 15619: To designate the birthday of Martin Luther King, Jr., as a legal public holiday.

A CROSS-SECTION OF MAJOR CASES HANDLED THIS YEAR BY CONGRESSMAN ADAM C. POWELL ONLY: MARCH 20, 1970

Arranged through Immigration Service and the State Department to expedite entry of Peter Mangelsingh's family from Trinidad at the request of Ray Brunges, his employer. Helped his family get a pre-July appointment with the Port of Spain Consul instead of an 8 to 10 month wait.

Helped Mrs. Floyd Hunter of 172 East 112th Street to get a discharge from the Air Force for her husband due to her own serious illness and due to the death of his brother in Vietnam which changed his status to that of a "sole surviving son."

Assisted the Elmendorf Reformed Church of Harlem at 171 E. 121st Street, Rev. Don DeYoung, Minister, with the gathering of research information for one of its church committees conducting a letter-writing campaign to Member of Congress to restore the $16,000,000 cut in funds for incoming college freshmen in the Education Opportunity Grant Program. . .

Verified this reduction of funds with the House Education and Labor Committee; sent status reports to group re pending action regarding supplemental appropriations; sent information regarding Budget Bureau's recommendations, as well as information as to where organizations may direct efforts to get funds restored.

Assisted Carl George of 211 West 117th Street with his efforts to have the Marine Officers Training Center reopened in Hoboken, N.J., where he worked as a civilian employee. Sent an appeal to Navy Department and the Department of Commerce. The Center was subsequently reopened.

Aided Cecil Layne in getting an initially requested $9,000 Small Business Administration loan increase to $25,000 to improve his Negro Press Photo Service at 120 East 32nd Street.

At the request of Mel C. Patrick, Assistant to Borough President of Manhattan Percy Sutton, had a Military Inquiry made of the medical condition of Cpl. Manuel X. Cotto of the 3rd Marine Division in Vietnam. Cotto's request for an assignment in the rear because of a head injury of long standing, and painful headaches which made wearing a helmet unbearable, etc. was turned down. ACP requested investigation which resulted in a reversal of the previous decision; Cotto's claims were substantiated by tests. Thank-you note received from Mel C. Patrick.

Succeeded in getting financial records straightened out for Airman Paul Mordecai stationed in Germany; he and family were having extreme difficulties because of mix-up in records. Inquiry was made at the request of his mother, Mrs. Lucille Mordecai of 350 East 124th Street.

Responded to the request of Dr. Charles Walburg of Harlem Hospital for help in getting deferments for 6 resident physicians. Succeeded in getting deferments for 5; one was definitely determined ineligible for deferment. He voluntarily enlisted, however, when so informed.

At the request of Assemblyman Frank Rossetti, assisted Patrick A. Kwame from Nigeria here on student visa from Nigeria in his efforts to get a permanent visa. Contacted Immigration Service and the State Department in his behalf, sent him all necessary information and forms, etc., and sent all status reports to Assemblyman Rossetti.

At the request of Rev. Richard P. Pease of the New York City Mission Society, 105 E. 22nd Street, requested a full scale investigation of complaints of racial discrimination communicated to him by Black servicemen stationed in Keflavik, Iceland.

Investigated denial of security clearance for the son of Professor Dan W. Dodson of New York University School of Education, Dan Dodson, Jr., stationed at Fort Sill, Oklahoma. Security clearance was granted following ACP's inquiry.

Following numerous complaints about alleged brutality and beatings in stockade at Dachau, Germany, Secretary of Defense Melvin Laird sent a corps of investigators to look into the situation at ACP's request. The inspection was conducted through the Provost Marshall General's Office.

Helped to get deferment for Lewis E. Barsky in order to continue teaching in the Special Services Program at P.S. 168 in East Harlem for the Education of Socially Maladjusted Children.

Requested investigation of the much publicized story regarding the death of the Black Marine whose wife believes he was slain in the stockade. His wife and daughter 2, live in District. Pvt. Jose Louis Conception, age 19 was found dead at his base station on July 1, 1969, at Parris Island, S.C. According to report received, his death was declared "accidental drowning." The wife believes his letters indicate he was beaten to death in the stockade for "his attitude."

The request for an investigation came from Carl O. Callender, Staff Attorney, "Neighborhood Law Offices" on July 22, 1969. Report of findings of the investigation received from the U.S. Marine Corps August 21, 1969, and sent to Attorney Callender.

A petition signed by 95 soldiers protesting treatment of Black Soldiers at Fort Benning, Georgia, 5th Battalion, 31st Infantry Division, was sent to the Department of Defense for investigation. The Special Affairs and Review Division of the Department of the Army reported that most of the signatures had either left service on completion of obligation or had been routinely reassigned to duties elsewhere; the complaints could not be substantiated.

Requested an investigation of complaints from servicemen in the 4th Student Battalion (Airborne) stationed at Fort Benning, Georgia, that monies were being collected from members of that unit in support of the Anne Elisabeth Shepherd Orphanage (a segregated orphanage) and that Black troops were forced to contribute to that segregated orphanage or go on K.P. The Communication of Complaint stated that men who blew the whistle on the illegal practice were quickly shipped to Vietnam or given other hardship reassignments, for unknown reasons, records were flagged, etc. . . . it stated further that collections had been maintained for five years. According to an attached Columbus News account, the Paratroopers Training Center consists of 10 or more troops totaling some 4,000, and that at each pay period "each man was told to give to the Elisabeth Shepherd Fund in which 90% did, contributing from $1.00 up," or "go on K.P." It was also stated that these orphanage funds were diverted to build a parachute officers lounge building (No. 2195).

The Department of the Army on completion of its investigation in March of 1969 confirmed the collections and misappropriations, but the report stated that the amounts in each reference could not be determined with any degree of accuracy. It was confirmed that some monies were diverted to finance unit projects and to sponsor orphanage-related projects without required approval, and some monies could not be accounted for at all. "Fund Collections Ceased in October 1968;" the Anne Elisabeth Shepherd Association was dissolved in January of 1969," and the report further states that disciplinary action was taken against 5 individuals for dereliction of duties and for failure to safeguard and account properly for funds.

Quite a number of servicemen with outstanding records and qualifications were assisted in receiving long delayed promotions.

A soldier in Vietnam requested a New York State Flag because he was tired of seeing "nothing but 'Ole Miss' flying over there." At ACP's request Brigadier General Francis J. Higgins, the Adjutant General in Albany sent a New York State Flag to Sfc. Frederick S. Scruggs in Vietnam.

Straightened out false charges against Tony Rickman in U.S.M.C. who was charged with AWOL but was actually in hospital recovering from injury received in combat; was also accused of attacking a sentry while he was actually in barracks watching TV. False information and false charges officially sent to mother apparently caused her to have a stroke. Also aided in Rickman's getting a hardship discharge. Sister who resides in District requested ACP's help and sent "Thank You" letter on behalf of family.

Two letters of complaint were received from Vietnam soldiers reporting a decapitation incident:

On June 5, L/Cpl Kenneath Washington wrote: "A brother in Miki Company refused to go back into the bush; he was handcuffed and taken by force . . . now that brother is dead . . . decapitated by a helicopter."

On June 6, Pfc. Ernest Sykes, U.S.M.C., wrote: "One of my brothers was handcuffed and taken out into the bush, and his head was cut off by one of our own helicopters. He wasn't awarded a court martial for his punishment, that brother is dead today because of actions that the white man takes on his own."

Requested Secretary of Defense Laird to investigate. His report states that Pvt. George Williams, Jr. was killed on May 15, 1969, when he was unloading supplies from the aircraft, and his case was not related to the two men who were being carried handcuffed to a helicopter for transportation for disciplinary action back at their respective units. He conceded that "the means employed to deliver these two Marines to the field were incorrect and not in accordance with command policies." He further stated that corrective measures were being taken.

Numerous inquiries have been made into military situations arising from the Afro hair style of Black soldiers and a number of special court martials resulting therefrom have been investigated.

Numerous complaints from civilian prisoners have also been investigated through the Bureau of Prisons.

Assistance has been given to many individuals from certain southern areas who requested it because of their inability to get help elsewhere; both civilian and military.

Requested investigation of numerous on-the-job complaints by Civil Service Commission and the Equal Employment Opportunity Commissions re alleged discrimination when documented by complaints.

A number of Black youths who submitted applications for nominations to Service Academies were given authorizations to take the Civil Service Designation Examination to evaluate qualifications, but none so far have passed the tests.

One Black youth in District was highly recommended for a nomination to West Point because of his excellent High School scholastic rating (he ranks 31 in a class of 220) and because of his outstanding record as a trackman.

On October 17, 1968, that young man: Dennis Fikes of 1641 Madison Avenue was nominated as a principal candidate to West Point from District and is now being processed for admission.

Following his complaint to the U.S. Department of Commerce on May 27, 1969, concerning the token representation of Black students at the U.S. Merchant Marine Academy, and the fact that "the faculty is, and always has been all white and all male," ACP was notified on June 19th by Maritime Administrator A. E. Gibson that:

XUM

(1) The two current openings on the faculty at Kings Point for the coming school year will be filled by Black instructors from the New York area.

One appointment has already been made. Professor Kenneth Bantum in the Physical Education Department.

(2) A special officer has been assigned to the New York area to recruit Black nominees in an endeavor to raise the ratio of Black cadets at the Academy and increase equal employment opportunity in the Maritime industry. The enrollment is expected to consequently have a larger number of Black students this year.

As a result of the special recruiting program, 5 candidates have been recommended to ACP by Mr. James R. Jackson of the Maritime Administration's Civil Service Office; three are residents of the State of New York; two are out of State.

ACP nominated all five of these Black candidates for appointments to the U.S. Merchant Marine Academy for the class entering this year:

G. William Daley, Jr., (of the District), 620 Lenox Avenue, Apt. 4N, New York City, N.Y.

Joseph A. Washington, 1089 Tiffany Street, New York, N.Y.

Allan D. Bartow, 14 Benjoe Drive, Amityville, N.Y.

Howard W. Spears, 172 Quincy Street, Springfield, Massachusetts.

Edwin Wallace, 42 Beacon Street, Hyde Park, Massachusetts.

Sponsored applications submitted by City College Speech and Hearing Center of the City University for Program Development Grants in the area of Audiology and Aural Rehabilitation and Grants for Traineeships and Fellowships in Speech and Hearing requested by the Director of the Speech and Hearing Center, Dr. Bernard Schlanger.

XUM

The application for Program Development Grants in Speech Pathology and Audiology has been approved by the Social and Rehabilitation Service of HEW and the application for Traineeships and Fellowships has been approved by the Bureau of Education for the Handicapped of HEW.

Private Bills have been introduced and deportation stopped for:

H.R. 4110: Procerpina Alipio, 244 E. 117th St.

H.R. 4111: Wellesley C. Burns, 540 Manhattan Ave.

H.R. 4112: Dr. and Mrs. Manuel Cacdac, Mt. Sinai Hospital.

H.R. 4736: Oliver Thompson, 13 W. 127th St.

H.R. 7136: Lucious Edward Arnold, Wife Ann, Son Steven, and daughter Patricia, 1837 Madison Avenue.

H.R. 7137: Mario Cianciulli and Wife Candida.

H.R. 7138: Elena Foldes, 234 E. 96th St.

H.R. 7139: Joseph Howell, 540 Manhattan Ave.

H.R. 7141: Dr. Alfredo I. Sison, Harlem Hospital.

H.R. 7142: Enrique H. Smith, 192 E. 101st St.

H.R. 7143: Leticia M. Solema, 244 E. 117th St.

H.R. 7144: Jose Jesus Villalobos, 235 E. 89th St.

H.R. 7145: Ruby Williams, sister of Miss Doris Scott, 157 W. 111th St.

H.R. 8900: Herbert Styles, 1405 Park Avenue.

H.R. 9400: Rogelio A. Anglin, 109 W. 144th St.

H.R. 9401: Arrindell O. Thompson, 109 W. 144th St.

At the request of Walter E. White, President of the Puget Sound Area Council of the American Federation of Government Employees, Tacoma, Washington, sent a letter of support of confirmation of Arthur A. Fletcher by the Senate for the Post of Assistant Secretary of Labor to Chairman Ralph Yarborough and Members of the Senate Labor and Public Welfare Committee.

SECTION 2: PERSONAL BACKGROUND

Born: New Haven, Connecticut, November 29, 1908.

EDUCATION

A.B., Colgate University, 1930.

M.A., Columbia University, 1932.

LLD., Virginia Union University, 1934.

D.D., Shaw University, 1947.

D.Th., Virginia Theological Seminary, 1933.

Minister of Abyssinian Baptist Church, New York City, 1930–1970.

POLITICAL CAREER

Elected to New York City Council as an Independent, 1941.

Elected to United States Congress on all tickets, 1944.

Member of United States House of Representatives for 25 years (Democratic Party); of 435 members in Congress.

Chairman of the U.S. House Committee on Education and Labor, 1961–1966.

Received 84.4% of the total vote of his 18th Congressional District, the 8th highest of all contested Congressional elections in America.

ACTIVITIES

Spoken on 100 campuses.

Founder and Editor of *People's Voice*.

Founder and Director of the Adam Clayton Powell Community Center, an interfaith and inter-racial center of 5 buildings.

Only member of any Western Civilization parliament to attend the historic Afro-Asian Conference at Bandung, Indonesia, April 19, 1955.

U.S. Delegate, International Labor Conference, Geneva, Switzerland, 1961, 1963, 1964, 1965.

Life Member, National Association for the Advancement of Colored People.

Chairman, U.S. Congressional Delegation to Independence ceremonies for West Indies, Trinidad, 1957.

Member of President's Official Delegation to Independence for Jamaica.

HONORS AND AWARDS

Decorated by His Imperial Majesty, Haile Selassie, Knight Commander of the Golden Cross of the Order of Ethiopia, 1954.

"Outstanding Man of the Year" Award from Veterans of Foreign Wars, for fight against communism, 1956 VFW Annual Conference.

"Pastor of the Year" Award, New England Baptist Missionary Convention, 1961.

"Educator of the Year" Award from the I.P.B.O.E. of W., 1961.

Personal Guest of the Emir of Kuwait in Kuwait, 1963.

Vice President, World Parliament Association.

Has had audiences with His Holiness, the Late Pope Pius XII, and His Holiness, the Late Pope John XXIII.

Also honored by: Alpha Phi Alpha Fraternity; American Jewish Congress (Bronx and South Shore Divisions), National Medical Association; National Association of Colored Women's Clubs; Prince Hall Grand Masons; Royal Order of Ethiopian Jews; and Tau Gamma Delta Sorority.

SECTION 3: THE LANDMARK LEGISLATION THAT MARKED THE TURNING POINT IN EDUCATION AND LABOR IN THE UNITED STATES—THE LEGISLATIVE RECORD OF REPRESENTATIVE ADAM C. POWELL

Attached is the legislative record of Chairman Powell during his five years as Chairman of the Education and Labor Committee:

During the years, Congressman Powell has successfully guided to passage 60 major laws from his Committee without a defeat.

In these years, some of the most important legislation in the history of this country passed—

Increasing the Minimum Wage and Extending Coverage.

The War on Poverty.

Aid to Elementary and Secondary Education.

Barring Discrimination in Salaries paid to Women for the same work performed by Men.

Assistance for Colleges and Universities.

Manpower Development and Training for More Jobs.

Anti-Juvenile Delinquency.

Vocational Rehabilitation.

School Lunch Program.

Library Services.

Fair Employment Practices Commission.

No Funds for Segregated Schools.

Following is the record of the 60 laws which were passed:

PUBLIC LAWS

89–253: Expanding the War on Poverty.

89–258: Expansion of loan service of educational media for the deaf.

87–22: Amending Vocational Education laws to include and help practical nurse training programs.

87–30: Increasing the coverage of Minimum Wage legislation to include retail clerks; also increasing the minimum wage to $1.25.

87–87: Increased Benefits for Longshoremen and Harbor Workers.

87–137: Provides for one additional Assistant Secretary of Labor.

87–262: Establishes a teaching hospital for Howard University; transfers Freedmen's Hospital to Howard University.

87–276: Providing for the training of teachers of the deaf and handicapped children.

87–294: Education of the Blind.

87–300: Study of health and safety conditions in metal mines.

87–344: Extension of the laws providing funds for school construction and maintenance in Federally impacted areas.

87–399: Amending the Federal Employee's Compensation Act.

87–415: The Manpower Development and Training Act, to make more jobs available.

87–420: Amending the Welfare and Pension Plans Disclosure Act.

87–581: The Work Hours Act of 1962, establishing standards for pay and work of laborers and mechanics.

87–751: Educational and training films for the deaf.

87–729: Amending the Manpower Development and Training Act regarding railroad unemployment insurance.

87–823: Liberalizing formula under National School Lunch Act.

88–38: Equal Pay for equal work.

88–204: Higher Education Academic Facilities Act.

88–210: Improving the quality of vocational education, providing for its expansion and strengthening.

88–214: Amending the Manpower and Development Training Act.

88–269: Increasing Federal Assistance for public libraries.

88–321: President's Committee on Employment of the Physically Handicapped.

88–349: Amending the prevailing wage section of the Davis-Bacon Act.

88–368: Amending the Juvenile Delinquency and Youth Offenses Control Act of 1961 by extending it for two more years.

88–444: National Commission on Technology, Automation, and Economic Progress.

88–452: The War on Poverty.

88–508: Amending the Federal Employees Compensation Act.

88–579: National Council on the Arts.

88–582: Registration of Contractors of Migrant Workers.

88–665: Amending and extending the National Defense Education Act of 1958.

89–10: Improving elementary and secondary educational opportunities.

89-15: Amending the Manpower Development and Training Act.

89-36: National Technical Institute for the Deaf.

89-69: Amending the Juvenile Delinquency and Youth Offenses Control Act of 1961.

89-73: The Older Americans Act of 1965.

87-77: Amending Public Law 815, providing for school construction in Puerto Rico, Wake Island, Guam and the Virgin Islands.

89-125: Amending the National Arts and Cultural Development Act of 1964.

89-178: Providing for analysis of manpower shortage in correctional rehabilitation.

89-209: National Foundation on the Arts and the Humanities.

89-216: Bonding Provisions of Labor-Management Reporting and Disclosure Act of 1959.

89-286: Labor standards for persons employed by Federal contractors.

89-287: Financial assistance for students attending trade, technical, business and other vocational schools, after secondary education.

89-313: Providing for assistance in construction and operation of public elementary and secondary schools in areas affected by major disaster.

89-329: Strengthening the educational resources of our colleges and universities; and to financially assist such students.

89-333: Amending the Vocational Rehabilitation Act.

89-376: Coal Mine Safety.

89-448: Federal Employees Compensation Act Amendments of 1966.

89-511: Extend and Amend Library Services and Construction Act.

89-577: Metallic and Non-Metallic Mine Safety.

89-601: Fair Labor Standards Act Amendments of 1966.

89-694: Model Secondary School for the Deaf.

89-698: International Education Act of 1966.

89-750: Elementary and Secondary Education Amendments of 1966.

89-752: Higher Education Act of 1966.

89-792: Manpower Development and Training Act Amendments of 1966.

89-794: Economic Opportunity Act Amendments of 1966.

The following is a letter from President Lyndon B. Johnson to Congressman Powell on his fifth anniversary as Chairman of the House Education and Labor Committee:

THE WHITE HOUSE,
March 18, 1966.

DEAR ADAM: The fifth anniversary of your Chairmanship of the House Education and Labor Committee reflects a brilliant record of accomplishments.

It represents the successful reporting to the Congress of 49 pieces of bedrock legislation. And the passage every one of these bills attests to your ability to get things done.

Even now, these laws which you so effectively guided through the House are finding abundant reward in the lives of our people.

The poverty program is rapidly paving new pathways to progress for those whom the economic vitality of this land had previously bypassed.

The education measures are being translated into fuller opportunities for all our citizens to develop their God-given talents to their fullest potential.

Minimum wage, long a guarantee of a fair return for an honest days work, has been increased and greatly extended.

And the problems of juvenile delinquency are being met and curtailed by positive and determined action.

Only with progressive leadership could so much have been accomplished by one Committee in so short a time. I speak for the millions of Americans who benefit from these laws when I say that I am truly grateful.

Sincerely yours,
LYNDON B. JOHNSON.

SECTION 4: FIRST BLACK ACCOMPLISHMENTS BY ME

"What you are stands over you, and thunders so that I cannot hear what you say to the contrary." Emerson.

First Black elected to New York City Council in 1941.

Conducted the first investigation of the failure of New York City hospitals to hire Black nurses. Result: Black nurses are now working in all New York City hospitals.

Launched the first investigation of the four universities of the City of New York for their failure to hire Black professors. Result: Blacks are now employed on all of these staffs with Dr. Max Yergan being the first.

Conducted the campaign to stop the gerrymandering of Harlem so there could be a Black Congressman. Result: The Harlem Congressional District was created.

First Black from the East in Congress 26 years, handles an average of 5,000 cases per year—with full-time offices in New York and Washington, D.C. Results: Jobs were obtained, pensions secured and increased servicemen and veterans assisted and more than $20,000 in cash was refunded to constituents by the Federal Government in one year.

Obtained the first jobs for Blacks in the brewing industry such as Harry Parker in Rheingold, Pat Jackson at Schlitz and Cecil Cook with Knickerbocker.

Placed Black motion picture operators in theaters in Harlem and wiped out Jim Crow locals at the Apollo Theater and all uptown theaters.

Placed the first Blacks at bread companies with Mr. Romero being the first.

Placed the first Blacks (Joe Forbes) in the plant of Silver Cup Bread Company.

Put the first Blacks in the soft drink industry. Ace Carter with Canada Dry and Ralph Sharper with Hoffman Sodas.

The complaint against Blumstein Department Store marked the first store to be picketed to secure jobs for Blacks. This complaint was under the chairmanship of The Rev. John Johnson of St. Martin's Church who was assisted by Arthur Reid and Ira Kemp. Result: The employment for the first time of twenty-two Black salesgirls.

Dr. William Imes of the St. Joseph Presbyterian Church and I founded The Coordinating Committee for Employment. Through picketing this committee obtained jobs up and down 125th Street. Namely, Grant's, Kress, United Cigar, Liggett's Drug Store, Chock Full O'Nuts—included downtown stores—and the Loew's Theaters. These were the first jobs obtained for Blacks as sales clerks. Mrs. Hannibal was the first.

Held conferences with the Metropolitan Life Insurance Company which led to the employment of hundreds of Blacks with their firm.

Successfully executed negotiations to place Blacks in jobs at racetracks—in Washington, D.C. and New York City.

The only Member of Congress to conduct investigations on-the-spot, year-after-year of segregation and discrimination against Black GIs in North Africa, Europe, Hawaii & Japan.

Started and led the fight to wipeout segregation in the Armed Forces.

Delegate to the World Conference on Parliamentarians for World Government. Elected Vice President for three successive years.

Appointed and shepherded the first Black ever to graduate from Annapolis, Wesley Brown. In 1958 appointed more constituents to Annapolis and West Point than the entire 531 members of Congress appointed in the year that he was elected to the U.S. House of Representatives.

Was responsible for the first Black newspaperman being admitted to the Congressional Press Galleries. He was Louis Lautier, Washington Bureau Chief of the National Newspaper Publishers Association (NNPA).

Forced the restaurants of the U.S. Congress to admit Blacks without segregation.

Forced the Federal Civil Aeronautics Authority to end discrimination against Blacks at airports receiving federal funds.

Authorized and co-authored all the legislation which later became the Civil Rights program and is now the law.

First to author Federal Voter Registration Act.

Supported increased salaries and pensions for Post Office employees and federal workers.

At the request of a committee of doctors, spearheaded a complaint, taking with me 5,000 Blacks to City Hall to demonstrate for reinstatement of Black doctors in Harlem Hospital. Results: Black doctors were reinstated.

Was named Director of Relief for Harlem. One hundred thousand dollars was directed for food and jobs each year during the Depression.

Picketed Telephone Company and Con Edison. Placed first Blacks in those firms. These companies employ today over 7,000 Blacks with a total payroll for them of $50,000,000 annually.

Appointed the first Puerto Rican, Alfredo Vidal, to a Congressional staff.

Appointed the first Black man to work on the subways in the U.S. Capitol.

Appointed the first Black man in the skilled labor shops on Capitol Hill.

With Hope Stevens, Arnold Johnson and G. Lester Hines, formed and led a successful picket against the New York bus companies. This action resulted in 19,000 Blacks being employed by the Transportation System of New York today.

Appointed the first Black man as Chief Investigator to the Education & Labor Committee.

Made it possible for the hiring of the first Black umpire in the American Baseball League, Emmett Ashford.

Was responsible for placing over 200 Blacks in the apprenticeship training program for the Government Printing Office, and the placement of a Black District Inspector, Hough Mason. Also, through my efforts Richard Archer was made Chief of Training.

New York Herald Tribune: "Adam Clayton Powell attempted to drive a wedge into Washington long-standing segregation policies when he introduced the Powell Amendment to the Appropriations Bill." Now the Law!

Pittsburgh Courier: "Adam Clayton Powell leads fight against (West Indian) quota system."

Chicago Defender: "Adam Clayton Powell introduced a bill to extend the benefits of the Civil Service Retirement to Panama Canal employees.

Washington Post: "The House approved amendment by Adam Clayton Powell giving first priority for occupancy of houses to persons removed from their homes by slum clearance.

New York Times: "Powell proposed an emergency program today to train more scientists and engineers."

New York Defender: "Powell led investigation of denials of mortgages to property owners in Harlem." Results: More liberalized approach by the banks and the passage of a law by the New York State Legislature.

The Springfield, Mass. Daily News: "Adam Clayton Powell held a hand-full of high cards and he played them with masterly skill. He forged a new link in the chain of freedom at Bandung yesterday and all peace-loving men should applaud him for it."

Drew Pearson: "Powell out-maneuvered and out-talked his powerful Georgia colleague and won a masterful victory." Led the fight to abolish segregation in the National Guard.

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Washington Post: "The House voted to adopt an amendment by Adam Clayton Powell to bar aid to states who do not comply with the Supreme Court 1954 school integration order.

Ted Coleman: "Adam refuses to let party leaders put a ring in his nose. They admire Powell's defiance and his determination to fight."

Amsterdam News: "Powell has never failed to stand up and be counted on the side of Harlem when the best interests of the Negro were in question."

Washington Sunday Star: "The measure of (Powell's) success may be guaranteed by the contempt and fear many southerners hold for him. Most of his 106 House colleagues from the South roundly despise him to put it mildly."

Cleveland Plain Dealer: (Roy Wilkins, NAACP Executive Secretary)—Powell is a fighter—sometimes right and sometimes not diplomatic; but always a fighter and fighters are what we need and fighters are what the other side doesn't want us to have."

UNION OF CONCERNED SCIENTISTS LOOK AT AIR POLLUTION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BROWN of California. Mr. Speaker, last year, on two occasions, I was able to distribute to my colleagues studies made by the Union of Concerned Scientists dealing with the proposed ABM system and the MIRV program.

UCS delves into many areas, and is not limited to aspects of military programs alone. For example, last November, UCS, in conjunction with the Harvard Law Conservation Society published a valuable analysis of air pollution.

I have read the UCS report, and I find it to be of great value in furthering our understanding of the smog crisis. I now insert it into the RECORD, and I urge that my colleagues review the study and its recommendations.

The report follows:

A STUDY OF AIR POLLUTION

(By the Union of Concerned Scientists, Committee on Environmental Pollution Harvard Law Conservation Society, November 25, 1969)

[Figures referred to not printed in RECORD.]

RÉSUMÉ

A study and review of the medical, environmental, and economic consequences of air pollution is made with particular regard to the Boston Metropolitan Area. The Air Quality Standards proposed for this area by the Massachusetts Department of Public Health are studied in the light of this information and are found to be substantially inadequate. New standards are proposed with recommendations concerning implementation. Discussion of techniques for meeting these new standards is given.

THE AUTHORS

Union of Concerned Scientists, Committee on Environmental Pollution: Bruce Bailey, Gloria Bloom, Henry Kendall, James Mackenzie, chairman, subcommittee on air pollution.

Harvard Law Conservation Society: Peter Buchsbaum, Joseph Katchen, Scott Lang, Mike Last.

I. INTRODUCTION

The pollution of the air in many regions of the United States has reached levels that are now causing great concern not only among specialists in medical and health matters but also among many citizens in the population at large. A complete catalog of the economic, medical, and aesthetic damage caused in our society by the great variety of materials, many of them toxic, that are discharged into the air would make grim and unpleasant reading. No such catalog has been prepared. However, the increasing amount of information that *is* available suggests a problem far more acute than the public is aware of. Boston has not escaped its share of this man-made airborne blight.

In anticipation of the Air Quality Standards Hearings, the Committee on Environmental Pollution of the Union of Concerned Scientists (UCS) has conducted a study of some of the effects of air pollution in the nation and in the Boston area. In conjunction with the Harvard Law Conservation Society, UCS has prepared this study of air pollution. In this study, we have included our own recommended standards for the Boston area, for the levels of particulate matter and for oxides of sulfur that we believe furnish the protection to our health that is required.

In the course of this study, we have not confined ourselves simply to particulate matter or oxides of sulfur, although these alone will be considered in the forthcoming scheduled hearings. Nor have we restricted our discussion to damage, past, present and projected, to the Boston area alone. Air pollution is a national problem and much of the experience gained in other heavily populated regions of the country can aid us in protecting ourselves carefully and completely. We believe that thoughtful and adequate limitations on the levels of airborne particulates and oxides of sulfur, conscientiously enforced, are only the first in a series of steps which must be taken before we are free of man-made hazard and insult from the air about us. Among the limitations yet to come will be many that deal with our most important polluter: the automobile. In the meanwhile we must take the first step.

It is our belief that with the thoughtful support of many well-informed citizens we can ensure that it will be a correct first step, that it will be in the right direction, and that it will bring with it the adequate protection of the public health and welfare that we all seek and desire. That is why we have carried out this study.

II. THE EFFECTS OF AIR POLLUTION ON HEALTH

There is now no longer any doubt that air pollution causes death and chronic disease. In some cases, the direct evidence of excess death and illness is unmistakable, as in Donora, Pa. in 1948, or in the well known London smog episodes. There is, in addition, an increasing body of statistical evidence linking illness and chronic diseases to less spectacular levels of air pollution. In any population, there will be some people who are more sensitive to pollutants than others—the aged, the very young, and those suffering from chronic respiratory problems. These people are the most likely victims of high levels of pollutants. This is especially disturbing since long term exposure to fairly low levels of pollutants may cause chronic bronchitis later in life, putting the affected person in the category of those most likely to suffer in severe pollution episodes. Among the diseases that have been linked to air pollution are lung cancer, stomach cancer, dyspnea (labored breathing), bronchitis, and other illnesses, many of the respiratory tract.

Information about the effects of air pollution on human health comes from two basic sources: toxicological and epidemiological data. Toxicological data is gathered in laboratory experiments on humans and animals and yields information on the effects of controlled dosages of specific pollutant materials. For example, it has been demonstrated that sulfur dioxide (SO_2) is potentiated (increased in irritant capability) in the presence of some particulate matter which is commonly found in atmospheric pollution, such as aerosols of ferrous iron, or vanadium. SO_2 acts on the respiratory tract causing broncho-constriction, one of its principal short term effects. Other experiments have yielded information on the deposition and clearance of different sized particles from the respiratory tract. Many particles are cleared from the lungs and then swallowed, demonstrating a mechanism whereby carcinogenic particles can get from the lungs to the gastrointestinal tract. Other particles make their way into the blood and lymph systems. The health effects of a given quantity of particulate matter in the atmosphere will depend upon the size of the particles, where the retained material lodges in the respiratory tract, its chemical composition, substances in combination with it, and how it is inhaled. This means that the health effects of a given level of particulate pollution can vary dramatically.

Epidemiological studies are of more help in giving clues to determine reasonable ambient air standards. These studies relate the level of pollutants to health effects resulting in the population at large. However, it is important to remember that the levels cited are indices of pollution which occurred with statistically observed changes in mortality and morbidity. An example of epidemiological data is, for example, that when SO_2 levels reached 250 ppb for one day in Chicago, there was a sharp increase in the illness rate for patients over 55 years old who suffered from chronic bronchitis. Rises in SO_2 rates generally occur with rises in particulates, so in these studies it is difficult to isolate the effect of one component from the many that are usually present.

It is possible, but now regarded as very unlikely, that the rise in mortality and morbidity found with increased air pollution and the corresponding decrease with decreased pollution is coincidental and that other factors are the causal ones. However, as statistical evidence mounts in conjunction with mechanisms for causation learned in laboratory studies, the presumed causality becomes more and more probable. Presently the amount of this type of evidence has reached a point where there is no longer serious doubt about the causal relationship. Such is now also the case with the consequences of cigarette smoking.

In addition to the general effect of particles on the respiratory tract, there are some types of particles that are directly toxic. These include asbestos, lead, and fluorides. Accidental or industrial exposure to asbestos has caused tumors of the pleura after a latency period as long as 40 years. The use of asbestos has increased greatly since the time of the first exposures and the results are just becoming known. It is estimated that 20 to 50% of the population has asbestos material in their lungs today.

Less lethal, but more immediate in effects, are odors associated with particulate pollution. In extreme cases they can cause nausea, vomiting and insomnia. Odorous particles come from engine exhausts, street paving operations (asphalt), and trash burning, among other sources. Odors have to be controlled from specific sources rather than by a general reduction in the level of particulate pollution.

The most common irritating material is SO_2, which is converted into sulfuric acid by oxidation in the atmosphere. Catalysts that speed this up appear to be always present.

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There have been many studies of the effects of SO_2 and sulfuric acid on experimental subjects. SO_2 has been shown to cause constriction of the bronchial passage. It is one of the primary causes of eye irritation. It slows the motion of the cilia that line the bronchial tubes. In the laboratory these effects are noted at levels higher than those found in the outside atmosphere.

However, epidemiological data indicates that SO_2 affects health at much lower levels than in laboratory tests. In Rotterdam, a 24 hour mean concentration of 190 ppb for several days resulted in an increased death rate, and levels of 110 to 190 ppb resulted in increased hospital admissions for respiratory diseases. This study is interesting because the level of particulates in Rotterdam is generally low relative to the level of sulfur oxides, indicating that SO_2 played an important role in the effects.

What levels of air pollution are "safe"? The answer to that question is unknown. We do know, however, what levels are very likely to be dangerous. Epidemiologists tell us the lowest level at which it has thus far been possible to detect statistically, effects on health. Daily particulate levels of 750 $\mu g/m^3$ and SO_2 concentrations above 250 ppb have been associated with dramatic increases in deaths and illnesses in London. A British study found increased mortality from lung cancer and bronchitis among people living in an area with pollution levels of 160 $\mu g/m^3$ smoke and 40 ppb SO_2 as compared with those living at 80 $\mu g/m^3$ and 26 ppb. A British study of children, over a 15 year period, showed definite increases in respiratory illneses at smoke levels of 100–130 $\mu g/m^3$ and SO_2 levels of 43 ppb.

Pollution effects are by no means confined to the elderly or those with chronic sickness. In Buffalo, N.Y., doctors have correlated hospital admissions of children for asthma with low and high air pollution levels. The number of admissions jumped by nearly 60% as pollutant levels increased. The figures for eczema were even more striking. Hospital admissions increased by nearly 350%.

There have been many other studies from all over the world, including the United States, tending to reinforce these findings. Unfortunately, we do not know below what levels no discernable (or acceptably small) health effects will occur. However, there is no doubt that air pollution increases mortality and morbidity rates. We must decide what margin of safety we want to have, based on information now available. As tests and studies of increased precision and scope become available it may become necessary to revise standards. At the present time the information we have available is disquieting enough that we believe the standards should now be set with a significant margin of safety.

III. THE COST OF AIR POLLUTION

The national cost of air pollution is currently estimated at about $12-billion annually. This is for damage to property only. It does not account for increased health costs, production losses due to absenteeism from work, delays in transportation and subsequent loss of productive time, or degradation of real estate property values, to name a few of the many areas affected. Furthermore, the estimate of $12-billion is based only on *known* expenditures. It tells nothing of damage that has gone unrepaired, or of the cost of maintenance that *should* have been carried out but, for one reason or another, was not. Any of us looking about our grimy urban (and not-so-urban) areas can easily believe that the real cost is very much more than this amount.

The economic evaluations of the cost of air pollution show some interesting, if distressing, facts. From these data, we can make some useful observations about the situation here in Boston and its metropolitan area. Worcester, being perhaps the most heavily industrialized city of its size in the country, is surely affected by air pollution. Springfield, by sheer size alone, is subject to adverse conditions of pollution as is, indeed, every city of close to 100,000 or more in population. Smaller towns with various types of mills are also suffering economic loss due to the condition known as "external diseconomy"— a way of saying that industry is not made to carry the economic burden of its polluted effluent and the cost is passed on to private citizens.

The earliest comprehensive study of the cost of air pollution was done in Pittsburgh during 1912–1913 [1]. Table I is a breakdown of these costs as analyzed at that time— and in *1913* dollars. As dated as this information is, it is still interesting as an example of where the costs arise. This study suggested that losses to the polluters themselves amounted to about 15% of the total.

A survey conducted in two local Ohio River Valley areas of widely differing particulate pollution levels showed that it cost $84 more *per capita* per year to live in a region with airborne particulate levels of 235 micrograms per cubic meter than it did where the level was 115—in 1959 dollars [2]. Other studies of cities and towns in the upper Ohio River Valley, combined with surveys in the greater Washington, D.C. area [3] show that these costs vary in a substantial linear fashion with level of particulate pollution. This is especially interesting because it allows us to estimate a cost-per-microgram per-cubic-meter of particulate matter. This works out to $.80 per person, annually.

Let's look at what this means to Boston. During the period 1961–1965 the average level of particulate matter at the center of Boston was 135. At $.80 per microgram per cubic meter per person, this suggests a cost of $108 for every man, woman, and child in Boston, annually, during that period. For the entire population of 700,000 this would be $76-million per year, or about $380-million for that 5-year period!

To get an idea of how things compare with Pittsburgh, for which we have the earlier breakdown, let's consider the *per capita* costs there, in 1913. The $10-million spent then would be $50-million in today's economy. Since our costs, however, are based only on *damages,* we have to remove the loss to pollutant producers which was included in the Pittsburgh study. So, with a population of about 530,000 in 1913, the *per capita* cost in today's dollars would have been a mere $80! During the 1961–1965 period, Pittsburgh was found to have a particulate contamination level of 163. This would suggest their cost for pollution to be about $129 per person per year . . . and this, despite the fact that Pittsburgh has had one of the most advanced and rigorously-implemented air-pollution control programs in the country. While Boston doesn't begin to compete with Pittsburgh in having heavy industry, we're right up there with them in pollution costs!

Whatever our view of these numbers and their various implications, an annual cost to our citizens in Boston of between $75- and $100-million is far too much for the privilege of living in and breathing foul and debilitating air.

The cost to the city of Boston for currently recommended salary increases for its 3300 police patrolmen is put at $5.2-million. This is equivalent to a reduction of only 10 micrograms per cubic meter in the level of particulate matter! The level of 50 micrograms per cubic meter recommended by this group would represent a saving to the people of Boston of more than $15-million annually over the cost of existing with the level of 80 micrograms per cubic meter as proposed by the Massachusetts Department of Public Health.

IV. AIR POLLUTION AND AESTHETICS

It is difficult to give a quantitative measure to the aesthetic damage caused by air pollution. The quality of the air around us, the feeling we have as we breathe it, the total effect of its presence, is nearly impossible to define in terms of numbers. However, we *can* measure visibility, and the amount of "junk" that is daily landing on us, from air pollution. We can also, through surveys, obtain some ideas about when pollution becomes noticeable and then offensive to the population.

Among the kinds of situations difficult to evaluate are, for example: those facing the housewife who, in cleaning her home, finds dirt that did not originate there, her husband who finds his porch and auto covered with grime that he's sure he is not responsible for, their children finding toys and playground equipment dusty and dirty, and the museum curator finding statuary grimy and eroding. Situations such as these are clearly unpleasant even though there is no index that properly describes their degree. They affect our whole lives, in unpleasant and distasteful ways.

Fifty percent of this nation's population lives on less than one percent of its land. It is this small fraction of our land that contains the sources about which we must be increasingly concerned, for most pollutants originate over that less-than-one-percent of land area! When we speak of effects of air pollution, we must do so in terms of urbanized population. The fifty percent will soon be sixty, and seventy . . . the urbanized population is rapidly becoming the great majority of the total U.S. population.

The fall of dust and grime is something we can sense, and, indeed, something we can measure. In Boston, it comes down at a rate of between 20,000 lbs per square mile per month and 200,000 lbs per square mile per month, depending on the season.[4] It is clear that left to itself, this stuff would soon cover the city to a depth much greater than most buildings! In fact, most of it gets washed down the sewers by rain; not all of it, but a lot. The rest, though, remains to us to clear away. The street sweepers get the residue that lands in their domain. What accumulates in back yards, on roofs, cars, etc., is up to the citizen. It costs us money, offends our innate sensibilities, and indeed affects our whole feeling about life. There is now simply far too much to ignore.

Air pollution affects our ability to grow plants. Photochemical smog in metropolitan California areas has made it impossible to raise orchids.[5] Indeed in that state every economically important agricultural product has been harmed by air pollution. We have the same situation near Boston. Injury to vegetation has been observed in *every* county in New Jersey, with damage noted to at least 36 crops.[6] 60 to 100 percent injury has been observed to Douglas fir, Ponderosa pine, and forest shrubs, up to 30 miles from a smelter operation at Trail, British Columbia; the famous monument known as Cleopatra's Needle has deteriorated more since its arrival in New York in 1881 than it did in the previous 3,000 years in Egypt.

Within the past five to ten years there has been increasingly serious deterioration of statuary and other exhibits at the Boston Museum of Fine Arts. It is not confined to statuary crumbling in the out-of-doors but to partial destruction of bronzes and paintings indoors also. One cannot put a dollar value on these links with the past, for when gone, as many soon may be, they cannot be replaced.

We have discussed the cost of air pollution in a previous section of this report. But it is useful to state again some of the costs as possible indices of the aesthetic damage air pollution is visiting on us. Suspended

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Footnotes at end of speech.

matter in air causes corrosion effects which require, throughout the nation, more than $700-million per year just for remedial painting; if all damages were to be repaired, in fact, it might well be three times that figure. Commercial laundering, cleaning and dyeing costs from dirty air are estimated at no less than $4.4-*billion*, while damaged automobile exterior finishes are costing $0.3-million annually.[7] These numbers imply a tremendous amount of time and effort that must be supplied by the victims—us—not to mention the cost. Considered in the context of everyday living, they suggest the enormity of what is happening to us all.

The effect of dirty, eye stinging air on the public's attitude and morale, quite apart from concerns of health, cannot be expressed statistically. However, measurements have been made which show an "awareness" threshold of popualtions subjected to particulate pollution.[8] With a level of 50 micrograms per cubic meter of particular matter in the air, apparently no one complains about it. "Awareness" increases rapidly above this level. At 120 micrograms per cubic meter, 20 per cent of the population is *bothered* by pollution—50 percent is "aware" of it. In the period 1961–1965, Boston registered an annual mean level of 135, at its central measuring point. It has not improved since then. The levels have now become so high as to cause widespread public reaction.

We suggest that the intangibles cited above—effects on attitude, sense of public well-being, and pleasure in living and working in one's environment, are at least as important as those factors which can be measured quantitatively in some degree. We suggest, indeed, that through its subtle erosion and degradation of our environment, air pollution is thwarting many of our citizens in their pursuit of a full and useful life.

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V. THE HAZARDS OF MID-AIR COLLISIONS [9]

Boston is one of the very few major U.S. cities that has a major airport situated close to the heart of the city itself. This proximity eases airport access considerably but brings with it a hazard of very real proportions. This hazard arises from the poor visibility consequent on smoke and haze from air pollution coming primarily from electric power generating plants but contributed to by numerous other sources.

The Federal Aviation Administration (FAA) has recently completed a "near midair collision" study. Six of the seven hazardous near misses in the Boston area during calendar year 1968 occurred in the Logan International Airport's terminal area. The FAA believes that only one quarter of these near collisions are reported to them so that we infer that approximately 24 near misses between aircraft probably occurred in the Logan terminal area during 1968. The terminal airspace lies within 32 miles of the airport and includes virtually all of the densely populated portions of the Boston metropolitan area. The overwhelming majority of hazardous near misses (85%) occur under visual flight rules, and, according to the FAA, about half of the incidents can be attributed to poor visibility. Thus we estimate that twelve near misses, twelve possibilities for a grave emergency, occurred near Logan Airport last year *due to poor visibility*. The visibility over Boston is seriously impaired by local air pollution and it is especially bad at and near the airport, just where aircraft, while landing, put maximum demands on the pilot's skills.

With the introduction of the "jumbo jets", carrying close to 500 passengers each, and the ever increasing passenger loads carried by scheduled airlines in conventionally sized aircraft the potential for a disaster of very major proportions is rapidly swelling. A single Boeing 747, brought down by collision over a populated area could well give rise to damages exceeding 100 million dollars. The very real possibility that such an accident could occur over the Boston Metropolitan Area adds additional weight to the arguments for substantially lowering the particulate emissions.

VI. REVIEW OF THE PROPOSED STANDARDS AND UCS RECOMMENDATIONS

An *air quality standard* for a specific pollutant, such as sulfur dioxide, is a numerical expression of a goal to be achieved in a stated time through the application of appropriate preventive and/or control measures. The regulations and laws which will be needed to achieve the goals expressed by the standards are referred to as *implementation plans*. The characteristics which standards and implementation plans must have to be acceptable to the Department of Health, Education, and Welfare, are described in detail in the federal manual *Guidelines for the Development of Air Quality Standards and Implementation Plans*. In the present report we shall be considering only the proposed standards; implementation plans will be proposed by the State Department of Public Health within the next few months and will be the subject of a later analysis.

Comparison of the proposed standards with the Federal criteria and with the standards of other States

The standard proposed by the Massachusetts Department of Public Health for the annual average of particulate matter in the Boston Air Quality Control Region is 80 micrograms per cubic meter (written as $80 \mu g/m^3$). The federal criteria state that at this level of particulate pollution, *increased death rates* for persons over 50 years of age may occur. Accordingly we remark that the proposed standard for particulate matter contains no safety factor at all with respect to human health. The proposed standard clearly exceeds the concentration of $70 \mu g/m^3$ where public awareness and/or concern for air pollution may become evident and likewise exceeds the concentration of $60 \mu g/m^3$ at which an accelerated rate of corrosion of steel and zinc plates occurs when in the presence of sulfur dioxide and moisture.

The proposed annual standard for the Boston area for sulfur dioxide is 31 parts per billion (abbreviated ppb). The federal criteria state that at 40 ppb adverse health effects are noted. At 30 ppb one can expect chronic vegetative damage and excessive leaf drop.

The proposed maximum 24 hour average for sulfur dioxide is 105 ppb. The federal criteria state that for levels from 110 to 190 ppb there may be noted increased hospital admissions for respiratory diseases and absenteeism from work.

A visual comparison of the proposed annual limits with levels quoted in the federal criteria is presented in Figures 1 and 2. Recent annual levels of pollution in the Boston area are also presented. It is clear from this data that a hazardous air pollution problem exists in Boston at the present time.

A visual comparison of the proposed 24 hour limit on sulfur dioxide with levels quoted in the federal criteria and with recent data on downtown Boston is presented in Figure 3. The data show that on about a third of all the days in 1968 one could have expected to see increased hospital admissions for older persons; and that on about 20 days one could have expected to see increased mortality rates.

We have obtained the latest information available to us on standards from other states. Several of these states have already had their public hearings and as a result initially proposed limits have been lowered. Figure 4 shows the revised levels in those cases where hearings have been held, and the proposed levels otherwise. In Table II we list all this information as is now available to us.

Of the ten regions for which we have data only two had proposed annual particulate standards which were higher than those proposed by the Massachusetts Department of Public Health. On the revised levels that have been recommended following hearings there is none as high as the proposed Boston area levels. Of these ten regions there is none which has a presently proposed annual standard for sulfur dioxide which is higher than the level proposed for the Boston area.

In addition to the numerical limits that we have just discussed, proposed standards must meet certain other federal criteria to be acceptable. Those proposed for Boston fail to meet several of these important criteria. The standards should, but do not, have a time table for achieving the desired goals. This is a serious defect inasmuch as the *Guidelines* state that,

"Air quality standards submitted for review by the Department of Health, Education, and Welfare must be accompanied by a time schedule for their attainment; it is to be recognized that this time schedule may have to be modified when a corresponding implementation plan is fully developed."

This particular HEW guideline requirement is designed to implement the expressed intent of the Air Quality Act that attainment of air quality standards be accomplished within a "reasonable time". The HEW guidelines also state at a later point that,

"Establishment of air quality standards as goals connotes the fixing of at least an approximate time schedule for progress toward their attainment. Where it is difficult to estimate exactly how long it may take to attain the standards, States may find it desirable to adopt interim air quality objectives to be achieved in relatively short time periods, such as intervals of two or three years."

While the HEW guidelines do not have the same binding legal force as federal regulations, they are sensible and are likely to be taken seriously into account when the Secretary of HEW reviews the proposed state air quality standards. Therefore, it would be highly advisable from a practical point of view for the proposed standards to satisfy the federal guidelines by including an implementation timetable.

In addition to the federal guideline requirements, there are substantial public policy reasons for including a timetable in the state air quality standards. First is the very sensible argument made in the HEW guidelines referred to above that inherent in the notion of establishing air quality standards is the necessity of fixing some time standard for their realization.

Without such a time limitation, the enforcement of the air quality standards could be disastrously postponed. Secondly, the specification of at least an approximate timetable in the proposed standards will put all interested parties on notice of what to expect during the enforcement period. Such notice will be particularly valuable to major polluters who, being informed of where they stand, can begin to take measures necessary to conform to the standards; otherwise a polluter may be encouraged to delay antipollution steps in the hope that the implementation plan eventually devised to enforce the standards will be weak in its time requirements.

The standards proposed for Boston are also lacking any anti-degradation provision. Such a provision would prevent the further deterioration of air quality in those parts of the region where the air is already cleaner than what would be required by the standards. The need for such a provision is clearly recognized by the authors of the proposed standards in Section 1, as follows:

"*Section 1:* The ambient air quality standards as set forth in Section 4 of this docu-

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Footnotes at end of speech.

ment are value judgment determinations based upon:

"1.6 A desire to provide standards which would facilitate:

"a. the *preservation* of a high degree of air quality where such exists." [emphasis added]

Unfortunately, Section 4 of the proposed standards does not provide for the preservation of a high degree of air quality where such exists. It says only that "air pollution shall not exist in any portion of the ambient air space of significant concern." It then proposes ambient air quality standards for suspended particulates and sulfur oxides to be applied to the whole region. The only logical conclusion to be drawn is that in those areas within the region where the level of these pollutants in the ambient air space is less than the maximum permitted by sections 4.2 and 4.3, an increase in the level of these polluants will be tolerated up to the levels proposed for the whole region. In the absence of a specific anti-degradation policy, there is nothing to put the polluter on notice that degradation of high quality air within the regiion will not be permitted.

Thus, the authors of the proposed standards recognize a need to preserve existing air quality, but they fail, by their own standards, to meet this need.

Besides conflicting with the expressed intent of Section 1 of the proposed standards the failure to include an anti-degradation clause is contrary to the Air Quality Act of 1967. Section 101(b) provides in part as follows:

"(b) The purposes of this title are;

"(1) to *protect and enhance the quality* of the Nation's air so as to promote the public health and welfare and the productive capacity of its population . . ." [emphasis added]

The positive nature of this statement of purpose is emphasized by the words "protect and enhance." Not only is air quality to be "enhanced," or in the accepted meaning of the word, to be improved or made greater, but it is to be *protected,* obviously against a loss of quality or degradation.

If an area is designated as an air quality control region, its air quality is presumably already seriously degraded by one or more pollutants. But to the extent that it is better than what the criteria require, the protection of the public welfare would call for the maintenance of such better air quality to the fullest extent possible. Thus, if the State were to set a standard, which (as in the proposed standards for the Boston metropolitan region) would permit a more heavily polluted ambient air than that prevailing in portions of the region or within the whole region, this could result in the degradation of the region's air quality—a clear failure to *protect* such quality.

This interpretation of section 101(b) above is affirmed by the *Guidelines* issued by HEW, where in Section 1.51, it says:

"Air Quality standards which, even if fully implemented, would result in significant deterioration of air quality in any substantial portion of an air quality control region clearly would conflict with this expressed purpose of the law."

For the above reasons, the failure of the Proposed Ambient Air Quality Standards to include an explicit antidegradation provision seems to us to be inconsistent with the stated purpose of the Air Quality Act.

Finally, there is lacking a comparison of the standards with the present levels of pollution in the Air Quality Control Region. This is explicitly required by the Guidelines:

"When submitting the air quality standards for a given type of air pollutant, States will have to show the relationship of those standards to existing levels of that type of pollutant. For this purpose, data on existing levels must accompany the air quality standards when they are submitted for review by the Department of Health, Education, and Welfare."

And later on:

"Each time that air quality standards for a given type of pollutant are submitted for review by the Department of Health, Education, and Welfare, data on current levels of that pollutant must also be submitted.

"It is recommended that these data be presented in a format that will facilitate comparison of existing air quality with the corresponding air quality standards."

Without such data it is very difficult to judge what levels of clear air might be obtained and how long it might take to achieve them.

Recommendations for strengthening the proposed standards

From the foregoing discussion it is apparent that the proposed standards for the Boston area are substantially inadequate.

Our recommendations are first, that the proposed numerical limits for sulfur dioxide and particulate matter be set at levels which, on the basis of the present federal criteria and guidelines, are low enough to ensure the protection of public health and welfare. *The following numerical standards are recommended* as alternatives to those proposed by the Massachusetts Department of Public Health:

Limits on particulate matter air pollution

[Expressed in micrograms per cubic meter]

Presently proposed by Massachusetts Department of Public Health:	
12-month limit	80
24-hour limit	180
UCS recommendation:	
12-month limit	[1] 50
24-hour limit	150

[1] Specifically, that the geometric means of any 12 consecutive months shall be no more than 50 $\mu g/m^3$.

Limits on sulfur dioxide air pollution

[Expressed in parts per billion]

Presently proposed by Massachusetts Department of Public Health:	
12-month limit	30
24-hour limit	105
1-hour limit	280
UCS recommendation:	
12-month limit	[1] 20
24-hour limit	60
1-hour limit	250

[1] Specifically, that the geometric mean of any 12 consecutive months shall be no more than 20 ppb.

To ensure that these averages are statistically representative we *recommend* the adoption of a minimum number of sampling periods for computing the hourly, daily, and seasonal averages.

Our second set of recommendations consists simply of additions to the proposed standards to bring them into conformity with the federal guidelines:

The proposed standards contain no time schedule. We *suggest* a three year period for achieving the recommended levels.

We *recommend* a strong, effective antidegradation provision to prevent any further deterioration of the air within the region.

Finally, we *recommend* the inclusion of current data on the existing levels of pollution to facilitate a comparison of the proposed standards with existing conditions.

VII. ABATEMENT OF AIR POLLUTION

Although it is a popular pastime these days to talk about air pollution, it is still extremely difficult to "do something about it". Some of the proposals which are currently being discussed, such as the 1% sulfur law, would unquestionably have an immediate and beneficial impact on the Boston air-pollution problem. However, it is extremely unlikely that any one such scheme could lead to significant reductions in all of the pollutants that currently plague us. Hence, while 1% sulfur fuel would lead to a 50% reduction in sulfur emissions in the Boston area it would have negligible effect on the emissions of particulate matter. It is also very unlikely that in the long run such a program would be the most efficient or economical one available for the further reduction in sulfur emissions.

To see why the problem of air-pollution abatement is so complex we must consider the sources of pollution in the Boston area: Table III lists five of the major pollutants along with the relative contributions from different sources. It is apparent that the sources divide themselves roughly into two classes: those that move, with the automobile the chief contributor, and those that are stationary. It is also clear that these two different classes produce different kinds of pollution, and that the control measures that might be appropriate for one will probably be useless for the other. Let us consider then the nature of the pollution from these two general classes and the possibilities for controlling them.

The automobile

The automobiles in this country are frequently and accurately quoted as contributing upwards of 60% of all the air pollution in the United States. This means that of the 150 million tons of waste released into the air each year in the U.S. about 90 million tons come from our cars. Three fourths of this amount is in the form of carbon monoxide. Twelve per cent is in the form of hydrocarbons (unburned and partially burned fuel) and six percent is in the form of nitric oxide. On the other hand automobiles produce less than one percent of the sulfur oxides and only about six percent of the particulates. Automobiles are the chief source of lead discharged into the atmosphere. The amount of this toxic material is increasing ominously. The long range medical effects are presently unknown although lead ingestion is known to cause deleterious effects in humans.

The vast amounts of carbon monoxide produced by automobiles pose a severe environmental threat in the immediate vicinity of busy highways. Levels which are high enough to affect drivers' reactions have been recorded in slow moving traffic and in tunnels, and in several instances high levels have been monitored in apartments which have been constructed over highways. Unfortunately the local impact of the large quantities of carbon monoxide (and other pollutants) resulting from major complexes has not been adequately determined; it is our opinion that a serious effort should be made in this direction with the results seriously considered in all future highway planning.

The two other major pollutants from the internal combustion engine are nitric oxide and hydrocarbons. When these two pollutants combine in the atmosphere with the energy of sunlight we obtain photochemical smog. Although every American city with a population greater than 100,000 suffers to some extent from photochemical smog the residents of Los Angeles County appear to suffer the most. This area has been running a very interesting transportation experiment for the past twenty years and their results are important to us all. The residents of Los Angeles have steadfastly refused to build a rapid transit system and have chosen instead to build ever more highways, while simultaneously trying to control and reduce the emissions from their cars. The results have been disastrous. Los Angeles now suffers from acrid smog much of the time. The elementary and high schools have recently adopted an ozone alert system whereby children are not permitted to run, or to exercise, on days of high oxidant pollution, which are presently occurring about 20 times a year. They must sit at their desks quietly all day to avoid excessive respiratory damage from the oxidants in the air. The oxidants, primarily ozone, are direct products of the photochemical smog.

In addition to contributing to the smog of Boston the hydrocarbons from automobiles have other directly deleterious effects. Benzpyrene is the most potent cancer-causing hydrocarbon that is found in automobile exhausts; it is frequently referred to in comparisons between breathing polluted urban air and smoking cigarettes. The oft cited conclusion is that breathing air in New York City is roughly equivalent (as far as Benzpyrene is concerned) to smoking two packs of cigarettes a day.

What can we do about automobile pollution? Since the federal government has preempted the setting of emission standards for new automobile engines it is not presently within the power of individual states (except for California) to reduce these emissions. Nor is it technically feasible to require the installation of control devices on older cars. The best we can do in emission control is to require that cars undergo periodic inspections to detect excessive emissions. New Jersey is presently experimenting with this procedure.

There is of course another important aspect to the automobile problem. Even if the steam or electric car were perfected within the next few years the congestion on our highways would remain unchanged. The policy question therefore arises: should we continue to accomodate the increasing number of cars within the city? Must we continue to destroy homes, jobs, and open spaces for the sake of automobile commuting? If we construct the proposed inner belt and the southwest expressway are we willing also to build the expensive garages that will be necessary to house the excess automobiles in the city? Or, studying Los Angeles, will we take an alternate route toward a clean and efficient rapid transit system?

The decision clearly goes beyond the more familiar economic and political arguments that one usually encounters. But there is no question that the effects of this decision will have the deciding influence on what the environment of Boston will be like in the future.

Stationary sources

From Table III it is apparent that the stationary sources of air pollution in this area are almost exclusively responsible for the sulfur dioxide and particulate matter in the air. They also account for about half of the oxides of nitrogen. The effects on human health of sulfur dioxide and particulate matter have been reviewed previously and will therefore not be considered here.

Again from Table III, it is apparent that there are two major stationary sources of sulfur dioxide in this area. The many large office buildings, stores, hospitals, schools, institutions, and so forth, contribute about 44% of the total sulfur dioxide emissions in the greater Boston area, though about 40% of the total within the City of Boston. The electric utilities form the second major source and they account for about 32% of the total area-wide sulfur dioxide emissions, though about 43% within the City of Boston. Both of these sources burn primarily heavy Venezuelan oil which has a sulfur content of about 2.3%, by weight.

The techniques which are presently available for controlling sulfur emissions from these and other commercial and industrial sources are described in detail in the federal manual *Control Techniques for Sulfur Oxide Air Pollutants*. An excellent discussion of the subject, as it relates to Boston, can be found in the recent publication of the Boston Air Pollution Control Commission, *Control of Sulfur Oxides*. It is our intent here to summarize what methods are now available to control or remove sulfur oxides and to indicate some of the problems that will be encountered in long range planning for air pollution abatement.

As we have mentioned previously low sulfur fuel is a simple and effective method for immediately reducing emissions of sulfur dioxide. Its prime advantage is that no new equipment is needed. The increase in fuel cost is difficult to judge in advance but it seems unlikely that 1% sulfur fuel would increase fuel costs by more than 10 or 15%. Its principal disadvantage is that particulate emissions would not be reduced simply by the change to low sulfur fuel.

A second way to reduce sulfur oxide emissions is by means of changing to different fuels. Thus for a modest capital investment large buildings could convert from residual oil to a dual system of interruptible [10] natural gas and distillate oil. Since natural gas is essentially pollution free, both particulate emissions and sulfur emission would be drastically reduced by such a change. Because of federal restrictions on the use of natural gas this procedure would not generally be available to the electric utilities.

Large buildings could of course convert also to electric heating. This would eliminate their own pollution but, if widely adopted, could well put excessive demands on the generating capacity of the electric utilities.

Another possibility for the many large buildings would be the conversion to externally generated high pressure steam. At the present time such large amounts of steam are not available but the possibility exists of construction several large (perhaps municipally owned) steam generating plants as central heating units for the city. Since control equipment exists for such large installations the emissions could be almost totally controlled. There is an additional advantage to such a system: central steam generating plants could be replaced much more easily by new energy sources such as fission or fusion reactors as our fossil fuels begin to run out.

Finally, there exist procedures for removing sulfur oxides from the stack gases. There are many such processes currently being developed. Several are already being marketed, with performance guarantees, at the present time. Because of the present size of the equipment involved they are suitable only for installations such as electric utilities or institutions with large central heating plants. These processes, in addition to eliminating up to 90% of the sulfur oxides (which would be equivalent to burning 0.3% sulfur fuel with no equipment) would eliminate upwards of 90 to 95% of all particulates. The costs of these large gas-cleaning units are not prohibitive and are typically on the order of three to five million dollars per plant. The operating costs of these units are projected to be about the same as the cost penalty incurred by using 1% sulfur fuel oils.

Clearly it will take a great deal of cooperation and effort to reduce sulfur emissions below what can be obtained by using low sulfur fuel. This is even more evident for the sources of particulate pollution. From Table III it is apparent that there is no single source in this area that produces more than about 20% of the total particulate matter released into the air. Therefore in addition to the large buildings and electric utilities we shall have to work on controlling emissions from industry, solid waste disposal, domestic incinerators, and transportation if we are to make any progress in an overall program of abatement. This in turn implies the necessity for comprehensive planning and regional cooperation between Boston and its suburbs and between the Commonwealth and the cities.

Footnotes at end of speech.

It is our conviction that the serious environmental problems that we face today are primarily the results of inadequate knowledge of the long range local and global effects of our activities. It is our further belief that future disasters can be avoided only if both citizens and their elected officials are well informed on the possible effects of urban and regional planning on the environment. We hope that this report will in some measure aid those who are concerned about air pollution in Boston in their quest for thoughtful and intelligent standards which above all else will be adequate to protect public health and welfare.

FOOTNOTES

[1] O'Connor, J.J., Jr. "The Economic Cost of the Smoke Nuisance to Pittsburgh." University of Pittsburgh, Mellon Institute of Industrial Research and School of Specific Industries, Pittsburgh, Pa., Smoke Investigation Bulletin 4, 1913.

[2] Michelson, I. and Tourin, B. "Comparative Method for Studying Cost of Air Pollution." Public Health Dept. *81*(6):505–511, June 1966.

[3] "The Polluted Air We Breathe." American Federationist, *71*(2):6–11, 1964.

[4] "Air Quality Criteria for Particulate Matter", U.S. Dept. of Health, Education, and Welfare, National Air Pollution Control Administration. Pub. No. AP–46 (January 1969).

[5] "The Effects of Air Pollution", U.S. Dept. of Health, Education, and Welfare, PHS Pub. No. 1556 (Revised 1967), page 4.

[6] *Ibid*, page 6.

[7] "Statistical Abstract of the United States: 1967". 88th edition, U.S. Bureau of the Census, Washington, D.C., 1967, Table 1067.

[8] "Public Awareness and Concern with Air Pollution in the St. Louis Metropolitan Area". U.S. Dept. of Health, Education, and Welfare, Div. of Air Pollution, Washington, D.C., May 1965.

[9] This subject forms the basis of a detailed written statement submitted to the Public Hearing on Proposed Air Quality Standards by Alfred C. Conrod of M.I.T. We are grateful to him for allowing us to abstract in part from his longer paper.

[10] Interruptible gas is provided only when the distribution system has sufficient gas, which would probably include at least the spring, summer, and fall. For a full discussion see the B.A.P.C.C. report, *Control of Sulfur Oxides.*

TABLE I—ESTIMATED COSTS DUE TO AIR POLLUTION (MELLON INSTITUTE PITTSBURGH STUDY)[1]

Cause of expenditure	Cost
To smoke maker: Imperfect combustion	$1,520,740
To individual:	
Laundry bills	1,500,000
Dry cleaning bills	750,000
To household:	
Exterior painting	330,000
Sheet metal work	1,008,000
Cleaning and renewing wall paper	550,000
Cleaning and renewing lace curtains	360,000
Artificial lighting	84,000
To wholesale and retail stores:	
Merchandise	1,650,000
Extra precautions	450,000
Cleaning	750,000
Artificial lighting	650,000
Department stores	175,000
To quasi-public buildings:	
Office buildings	90,000
Hotels	22,000
Hospitals	55,000
Total	9,944,740

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TABLE II.—STANDARDS FROM VARIOUS STATES

State	Particulates (µg/m³)			Sulfur dioxide (PPB)		
	Before hearing		After hearing	Before hearing		After hearing
Massachusetts	Annual	80		Annual	31	
	24 h.	180		24 h.	105	
				1 h.	280	
Indiana, Illinois	Annual	75	75	Annual	15	15
	24 h.	300	260	24 h.	200	170
				1 h.	500	420
Pennsylvania	Annual	100	65	Annual	30	20
	24 h.	300	195	24 h.	250	100
				1 h.	500	250
New Jersey	Annual	65		Annual	20	
	24 h.	195		24 h.	100	
				1 h.	200	
Colorado	Annual	55		Annual	9	
	24 h.	180		24 h.	50	
				1 h.	100	
Virginia	Annual	80	60	Annual	50	20
	24 h.	125	100	24 h.	100	100
Maryland	Annual	65	65	Annual	10	
	24 h.	100	140	24 h.	50	
				1 h.	100	
				5 min.	250	
Washington	Annual	65		Annual	20	
	24 h.	140		24 h.	80	
				1 h.	250	
Missouri	Annual	75		Annual	20	
	24 h.	200		24 h.	100	
Delaware	Annual	110	70	Annual	40	30
City	24 h.	250	200	24 h.	220	130
				1 h.	500	300
Kentucky	Annual	65		Annual	20	
	24 h.	180		24 h.	100	
				1 h.	300	

TABLE III—EMISSION SOURCES

[In percent]

Sulfur dioxide	Greater Boston area	City of Boston
Large buildings	44.0	40
Electric utilities	32.0	43
Industry	13.0	12
Residential	9.0	5
Automobiles	0.7	

Oxides of nitrogen	National averages
Automobiles	50
Industry	11
Electric utilities	33
Space heating	5

Particulates	Greater Boston area
Electric utilities	19
Residential	17
Commercial buildings	16
Open dumps	14
Incineration	10
Cars	6
Industrial heating	4
Open burning	4
Barge burning	3
Industrial processing	2
Aircraft	2
Diesels	2

Carbon Monoxide	Greater Boston area
Automobiles	89.0
Open dumps	6.0
Open burning	1.0
Barge burning	1.0
Aircraft	1.0
Electric utilities	0.7
Residential	0.5

Hydrocarbons	National averages
Automobiles	67
Industry	22
Space heating	5
Refuse disposal	5

THE UNITED STATES AND LATIN AMERICA

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. GONZALEZ. Mr. Speaker, last month in San Antonio, the League of United Latin American Citizens held a celebration to mark the 40th anniversary of the founding of that organization. LULAC, as it is popularly called, is the oldest and perhaps the largest organization of Americans of Mexican descent in Texas and the United States, and is dedicated to serving the whole community.

Through the years, LULAC has pursued many programs that have been of benefit to the Mexican-American community. Today, for example, the participation in Operation SER, which is a unique and extensive service designed to provide jobs, job counseling, and job training to Mexican-Americans. This program operates in the Southwestern States, and is funded through a large contract with the U.S. Department of Labor.

The president of LULAC, the Honorable Alfred Hernandez, was among those present in San Antonio for this important celebration. He has dedicated a good part of his life to the advancement of the LULAC organization, and is widely known and respected for his many public service activities both within and outside that organization.

An address to the gathering was made by our Ambassador to the Organization of American States, the Honorable Henry E. Catto, Jr.

President Nixon selected Ambassador Catto last year for this important post. Mr. Catto is a citizen of the city of San Antonio, is bilingual, and has a wide and deep knowledge of Latin America. He is an able and perceptive man, and represents a fine choice for this post.

I believe that Ambassador Catto's speech to the LULAC celebration is worthy of note, and I include it in the RECORD. I hope that my colleagues will read it with as much interest as I did:

ADDRESS BY AMBASSADOR HENRY E. CATTO, JR., TO LEAGUE OF UNITED LATIN AMERICAN CITIZENS, SAN ANTONIO, TEX., FEBRUARY 28, 1970

Some years ago an observer of the Latin American scene commented "You can get Americans to do anything about Latin America except read about it." And in a recent article in *Atlantic* Arthur Schlesinger, Jr. said ". . . one cannot resist the impression—certainly Latin Americans don't—that deep down most North Americans don't give a damn about Latin America." Tonight I want to say a few words about why the North Americans had *better* give a damn; about what current U.S. policy is; about what the future holds; and about what *YOU* can do to help.

First, let's get an over-view of what Latin America as a whole is like today. Point number one is that Latin America is big and getting bigger. There are almost 250 million people living south of the Rio Grande. Did you know that Brazil is larger than the continental U.S.? Or that there are more citizens of Mexico than Frenchmen? Half of these people are under 20 years of age. By 2000, if the present growth rate continues, there will be over 700 million. Of these people, one-half cannot read or write. Thirty percent will die before they are 40 years old. Although today there are more Latin Americans by about 50 million than there are of us, they live on one-eighth of our income. Five percent of the people receive 35 percent of all the income available to them; while 70 percent live in poverty. As Schlesinger says, "Here is the one part of the Western World that is underdeveloped, and the one part of the underdeveloped world that is Western."

Yet at the same time here is a part of the world which has produced a highly polished culture; moving poets; bold and brilliant painters; superb composers of serious music; a style of popular music sung and danced to around the world; innovative businessmen; skilled doctors, accomplished and subtle diplomats. As the great Colombian observer, German Arciniegas, put it, there are really *two* Latin Americas: the visible and the invisible. Visible Latin America is presidents, generals, newspapers, universities, cathedrals, haciendas and ranchos. The *invisible* Latin America is a region of mute poverty. A vast reservoir of revolution. As Arciniegas said "Nobody knows what these . . . silent men and women think, feel, dream, or await in the depths of their being."

As these people, "bowed by the weight of centuries", begin to stir, what road will they choose? There are, I think, four roads for them to pick from. The first of these is Communist, and one—Cuba—has chosen to go down it. It is a hard road, and although some of the young, captivated by the Robin Hoodish "mystique" of Fidel Castro would tell you otherwise, I believe it is not the wave of the future. True, the Cuban way "works" after a fashion, but only because the Soviet Union pumps $1 million a day into its sagging economy to keep it afloat. Work though it may, it is, nonetheless, gray, drab, brutal and regimented. As a beacon for its neighbors, it offers little promise. Furthermore, there is widespread resentment over Fidel's imperialist-subversive adventures in Latin America. Most Latins don't like foreigners interfering in their internal affairs. Indeed, many specialists feel that a major reason why Che Guevara failed so miserably in Bolivia is that the campesionos simply did not like a foreigner preaching to them, no matter how attractive his gospel.

Indeed, this nationalist feeling leads us into the second open path, that of a populist-nationalist military regime. At least two countries seem to be currently following this

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way. The impulse common to both involves centralized, authoritarian governments but with a pronounced difference from the old-fashioned South American "caudillo". In the first place, the leaders use the rhetoric of social reform. They promise social justice. They blame many problems on foreign exploiters (by which they usually mean the U.S.). They are usually not of the old landed traditional aristocracy. They appeal to a fierce national pride; a pride often directed against U.S. business and sometimes resulting in nationalization. It is not yet clear whether this type of government will prove viable or whether it will tend to lapse into a typical, old style dictatorship. My guess is that this second path will be trod or traveled for a long time.

In contrast to the leftist revolutionary militarists are the more traditional military governments. They too call themselves revolutionaries, yet their revolutions generally favor private investment, encourage tax reforms, and strive to blunt the ravages of inflation. Political opposition is as limited as in the first two paths, and freedom of expression may be curtailed. The gamble these people take is: can they develop with sufficient speed to a point where the economic benefits of capitalism are widespread enough to stave off a cataclysmic revolution.

Finally, there is the path of liberal democracy. Liberty, that fragile flower, is in many ways the most difficult way to follow, demanding, as it does an informed electorate, restraint, trust and tolerance of another's ideas. Nonetheless, several Latin nations are boldly so embarked. They have shaped their futures in the mold of Western parliamentary democracy, and it is with these nations that the United States most closely identifies. As President Nixon said we have ". . . a distant handshake for dictators, a warm abrazo for democratic leaders", and we wish our democratic neighbors godspeed.

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What, then, does the situation in Latin America indicate for American policy? The Administration, believing that U.S. know-it-all attitudes have been galling to Latin America, has tried to set a new course. To plot this new course it sent Governor Rockefeller and a staff of experts to visit our southern neighbors. The result of the Rockefeller visits was a report, entitled Quality of Life in the Americas and it formed the basis for the Administration's new policy. The underlying philosophy of U.S. policy is basically this: for far too long, we have been preaching to Latin America. We have told them how to do business, how fast to multiply, how to organize their societies and their governments. Our attitude has been patronizing. Now what we need is less preaching and more listening, keeping always alert to ways to help. Out of this philosophy has come a concrete new program Action for Progress. Let me mention some of its features.

1. In the field of trade, we have proposed that *all* industrialized nations grant certain tariff preferences to *all* developing countries. If this plea falls on deaf ears, we are prepared to consider preferences to our American neighbors.

2. We will no longer change our tariff structure (as it bears on Latin America) without consulting the Latin Americans.

3. In keeping with the concept of partnership, we will increasingly channel our aid through multinational agencies such as the Organization of American States and the Inter-American Development Bank where the Latins themselves set the guidelines.

4. We will make it easier for Latin American countries receiving U.S. aid to make purchases among themselves rather than insisting they buy from us.

5. Symbolizing the end of condescension, we will submit to the same type of multinational annual economic review that all other members of the Alliance for Progress submit to. Furthermore, to symbolize our special relationship with Latin America, it is proposed that the Assistant Secretary of State for Latin America be made Under Secretary raising him above his State Department counterparts for Europe, Africa, etc.

6. U.S. Government owned patents will be shared with Latin America.

7. The President has requested funds from the Congress so that the last remaining gap in the Pan American highway—in Panama and Colombia—will be closed and goods and people will be able to travel from Canada to Argentina by motor vehicle.

8. Working through the OAS, the U.S. will increase its efforts to help promote the development of Latin science and technology.

I hope that the foregoing comments have left you with some of the feeling that *indeed* the U.S. *must* "give a damn" about our neighbors. Let me also share with you a new awakening which I personally have had since my connection with the OAS. Every day for the last eight months I have worked with people of Latin American heritage. I have spoken their language, danced their dances, read their poetry, traveled with them, and shared their food and drink. I have come to appreciate the greatness and depth of their culture. And slowly it has dawned on me that we here in San Antonio are sitting on top of an untapped cultural treasure. So many of us, although citizens of this great country, know the language and share the heritage of our sister republics to the south. From this realization, I have come to two conclusions.

First, we in San Antonio should treasure our Latin background. Being bilingual does not make us less American. It opens the door to *greater service* to our country. It does not diminish us, it enriches us. I cannot stress too strongly how positively our Latin American friends react when I speak in my faulted Spanish. But when the U.S. representative is named Castro or Telles or Jova, and when *he* speaks in faultless Spanish, the positive results are multiplied manyfold. LULAC, I think, is in a unique position to serve our country by helping direct our Spanish-speaking young people to take advantage of the new openings available under the State Department's Fair Employment program, under which promising young people can serve as Foreign Service Reserve Officers without even taking the written foreign service examination, and, incidentally, if my office can be of service here, please call on me.

There is, however, another side to this coin, which seems so bright with opportunity. For you may be perfectly sure that if we in the United States fail to make participation in the American dream a reality for all our citizens, it will be well noted south of the border. If the development of our own Spanish-speaking minority is stunted, so will our relations with our South and Central American friends be stunted. They listen to what we say, but they also watch what we do. And herein lies the challenge to the Anglo community. I hope and pray we can rise to meet it.

AWARD WINNING ESSAY ON FREEDOM'S CHALLENGE

HON. JOHN MELCHER

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. MELCHER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

FREEDOM'S CHALLENGE

(By Jeanne Keller, Great Falls, Mont.)

Over the entire world, the United States of America stands out as the domain of individual freedom. These freedoms which we enjoy are guaranteed to us by the Constitution and are enumerated in the first ten amendments to that document, the Bill of Rights.

Freedom is a many-faceted concept, composed of several individual rights. Freedom. The word itself is composed of seven letters, each representing a facet of freedom.

F is for flag. Old Glory. The Stars and Stripes. Her thirteen stripes remind us of the original thirteen colonies that asserted their freedom in their Declaration of Independence. The fifty stars represent the fifty states, united, an international symbol of freedom.

R is for religion. The church of your choice. Every man may worship as he so desires, free from religious persecution.

E is for equality. Civil rights without regard to race, creed, or color. "We hold these truths to be self-evident, that all men are created equal."

E is for expression. Through the press, speech, or in your own mind. We have the right to tell it like it is, so long as we tell it like it *really* is.

D is for decision. A choice, not an echo. Every man decides for himself.

O is for opportunity. Opportunity through the Job Corps, VISTA, social security, and the welfare program. Through our outstanding primary and secondary educational systems, colleges and universities.

The last letter stands not for a right, but for a responsibility. M is for mandate. The mandate given to us by our founding fathers when they spoke of the "unalienable rights of life, liberty, and the pursuit of happiness." A mandate from Franklin D. Roosevelt who said that the four freedoms were freedom of speech, freedom of religion, freedom from want, and freedom from fear. A mandate from Dr. Martin Luther King, Jr., who said, "Now is the time to make real the promises of democracy."

This is Freedom's Challenge: To accept these mandates, to insure the rights of *all* people.

Carl Sandburg, in his book, *The People, Yes*, said:

Now we may thank these people
Or reserve our thanks
And imply the request
    Would you just as soon get off this earth?
Saying to ourselves—This costs us nothing.
As though hate has no cost
As though hate ever grew anything worth growing.
Yes we may say this trash is beneath our notice
Or we may turn to them and say
    Yes, you too, you too are people.

When we finally recognize all people as our coinhabitants on this earth and appreciate and respect them for what they are, instead of deprecating them for what they are not, then freedom will no longer be a challenge, it will be a reality.

VOTING AGE?

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. WYMAN. Mr. Speaker, the problem of the 18-year-old vote is not as simple as it looks. Many Members of Congress are inclined to feel that those young men who are actually serving in the armed services overseas ought to have the right to vote regardless of age. Others contend that a fixed limit must apply to all.

The difficulty is compounded by constitutional questions indicative that for resolution without inviting litigation a constitutional amendment will be required. In this event there would be the requirement of ratification by State legislatures—in three-quarters of the States—and in most of which by State law the 21-year limit obtains.

The following editorial appearing recently in the National Review, is of interest:

THE RIGHT TO BE 18

It is the way of parents to be surprised again and again by the alternating mental processes of their adolescent young. One day the offspring exhibits a sense of responsibility and a clarity of perception that make father and mother proud. But it might be only the next day that the parents are reminded of youth's singular perspective.

Yet, as green as they are, teen-age boys are drafted into military service. And if 18-year-olds are valued so much as warriors, doesn't it follow that they deserve the right to vote?

This is the common argument for lowering the voting age to 18 from 21. But it is a specious argument. If one believes that it is a mistake to draft boys when they are but 18, what is believed to be wrong is not set right by giving them the vote. Why not turn the argument around? If society decides that 21 is a reasonable minimum voting age, then perhaps young men should not be drafted until they are 21.

Another argument for lowering the voting age is what is said to be the quick-ripening of the contemporary teen-ager. According to this school, youngsters mature mentally sooner than their parents did. Isn't the younger generation politically oriented? Hasn't that orientation manifested itself in waves of protest.

What wriggly reasoning that is. We suspect—indeed, we have observed—that those 18-year-olds who have politics forever on their minds constitute a small minority of their age group. There are more better-educated young people than ever, but most of them are busily and worriedly planning their personal futures, just as their parents were doing a generation ago.

There is, furthermore, nothing about a political demonstration that implies wisdom, judgment, or even correct information. More likely such a demonstration reflects impatience, frustration, a misunderstanding of what kind of behavior persuades others—all capped off by an abundance of youthful energy.

One way for people over 25 to judge the political competence of 18-year-olds is simply to look back a few years. How much have you learned since you were 18? Take that amount, subtract it from what you know today, and you will have a reasonably good idea of the equipment an 18-year-old would bring into the voting booth.

No, there is no guarantee that a citizen will vote thoughtfully when he turns 21. There is no "right" age for establishing maturity. But if we have doubts about some 21-year-olds, wouldn't we have more doubts about more 18-year-olds?

Sincere men can argue either side of this voting rights issue, as we have. We are now opposed to lowering the voting age because it has not been shown that the popular wisdom would be enhanced. It is a wonderful thing to be 18 years old. It is an age when anything is possible and much is inevitable—like soon turning 21. But 18 is too young an age at which to assume responsibilities there is no need to assume.

Don't be too angry with us, all you 18-year-olds. We don't like the idea of your voting yet or becoming soldiers either. What we do want for you is the chance to be and act 18. In time—in just a short time—that transcendent privilege will be lost to you forever.

BASKETBALL OFFICIATING

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. WRIGHT. Mr. Speaker, the Washington area is the host this week for the 1970 National Collegiate Athletic Association basketball championships. In attendance are members of the National Association of Basketball Coaches of the United States and numerous basketball officials from throughout the Nation.

Among these men are some of the approximately 135,000 who officiate at basketball games throughout the country. Very little is known or recognized about this particular group of men. Recently I read an article on this subject by a distinguished educator from the District of Columbia, Mr. J. Dallas Shirley, assistant commissioner of the Southern Conference. The article was written for the Southern Conference Sportsannual.

I am pleased to include this article in the RECORD for the broad-based understanding and recognition it deserves:

DOLLARS AND SENSE

(By J. Dallas Shirley)

The now famous words of the late General Douglas MacArthur "Old Generals never die they just fade away" may be paraphrased to apply to basketball officials, to read "Basketball officials never die, they just blow away." The average official is intelligent, often a college graduate, who, if he stopped and used more sense for the dollar earned, would probably never toot a whistle.

Like generals, officials are dedicated men; men who give unselfishly of their time and energy because they love the game. It may be said "yes, they 'give' of their time for a handsome fee." While this may be true, the statement must be carefully examined to see if it is really a handsome fee when based on an hourly rate for total time involved. The average fee for officials in the eleven major conferences of the country is about $100 per game, plus travel expenses. In some instances the fee will go as high as $150 per game, and in others as low as sixty dollars per game.

The average spectator may say, "$100 for forty minutes work comes to $2.50 per minute and that's not bad." For actual playing time on the court, he is absolutely right, but let's look at the facts. The distance many men, who wear the black and white shirt, travel will vary from less than 100 miles from home to better than 1,000 miles. To cover distance takes time, time away from his business or profession; time away from his family. So, to meet the demands of the conference regulations an official many times must leave his home town the day before a game and arrive back home twenty-four hours after the contest. Most conferences stipulate in their regulations that officials may travel by plane only so long as there is time to reach their destination by other means of transportation if the plane is delayed. This means that if the site of the game is but an hour away by plane, the official cannot take the last available plane, for he has to allow sufficient time to go by rail, bus or car which will require many more hours than by air travel.

Next the official is required to report to the site of the game one hour before tip-off to hold the all important pre-game conference. Now statistics reveal that the average forty minute college game takes one hour and thirty-two minutes to play, plus the one hour required ahead of game time, plus thirty minutes after the game to shower and dress—the total time at the arena is approximately three hours. Now the rate of pay drops down to fifty-five cents per minute, or $33 per hour, and you still say "that's not bad" and again you are right.

But, we must remember we have only talked about the time at the gymnasium. Let us use, as an example, an official must leave his home by 8 a.m. Saturday morning for an eight o'clock game that night. Now the contest will end near ten o'clock and because of lack of transportation he must wait until 9 a.m. the next morning to leave town, which will get him home by noon (after the church hour). Now simple arithmetic reveals the rate of pay per hour has greatly reduced, being away from home for 26 hours his hourly rate is but $3.86. This rate is far below fees paid many professional men.

It must also be remembered that the money received does not include the cost and upkeep of the official's uniform, his membership dues in various associations and federations, his travel to and from clinics and meetings—nor his cost for study materials.

I am not pleading a case for increased fees for officials, nor am I willing to agree that they are over-paid. I am only presenting the facts so the average basketball fan will be aware of the situation.

One may argue if the pay is so low, then why do professional men, men who are often leading citizens in their community, officiate? The answer is a simple one—they love the game and want to be around it and give a little back to the game, for many of them had been privileged to take a lot from the game in their college days.

What type of men go into officiating?

He is a former contestant in one or more sports.

He is interested in working with sports personalities, including coaches and athletes.

He has always been interested in sports.

He is frankly seeking an opportunity to add to his income on a part time basis.

He is interested in following officiating as a profession. This group is relatively small and is confined almost exclusively to professional sports.

Why, besides his love for the game, would he officiate?

He wants to supplement his normal income.

He wants to maintain some semblance of good physical condition.

He uses officiating as one form of recreation.

He believes he can contribute something to the game, as well as derive something from it.

Where do these men come from? What do they do for a living? Sports are proud to say that men from all walks of life are attracted to officiating; doctors, lawyers, congressmen, school people, businessmen, and the man next door.

These men are leaders in their communities; in their church; the Boys Club; Civic Clubs, etc. They are men proud of the contribution they make at home and on the playing floor. They boast that in these troubled times not a single official has ever been found guilty of being a part of a point-spread or the throwing of a game. Officiating does not attract that kind of man.

Long-time followers of Southern Conference basketball will remember names such as M. P. "Footsie" Knight; "Gummy" Proctor; Bunn Hackney; Paul Menton; Phil Fox; Arnold Heft, plus many more. Where are these men today? What are they doing? First, it is a safe bet to say the majority still love the game and frequently attend games in their area. Knight now serves as observer in the ACC. Proctor a successful salesman in Richmond, Va. Hackney just recently retired from Boy Scout work; Menton,

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now deceased, was a former sports editor of the Baltimore Sun. Fox, a professor of Health and Physical Education at the District of Columbia Teachers College, and Heft, a successful real estate man in the Nation's Capitol. The same story would be told about hundreds of other great officials in all conferences in the country.

The place of these men has been taken by the well known officials of today and when the present staff moves on, the younger men on the freshmen staff and high school associations are waiting in the wings to take up their whistles.

Officiating is big business and so essential to the success of the game. The Federation of State High School Athletic Association has registered over 125,000 officials; The International Association of Approved Basketball Officials (IAABO) has in excess of 12,000 qualified men. Added to this number must be the hundreds of men who are not members of either association.

The value of the official can probably be best summed up in a statement by a former official who now holds a high place in the athletic world:

"The game is only as good as the officials who administer the contest. Without well-trained, competent officials, sports can not survive."

The old cliche of "the officials lost the game" can best be answered by a quote from the great Vince Lombardi, who recently said:

"I never criticize the officiating—the officials never lost a game for me."

Officials will never get rich from blowing the whistle, but it is a life of thrills and unexpected situations. Basketball needs the officials and the officials need basketball . . . It is a two way street. Dollars made against the senses of an official will not balance out, but . . .

WILLIAM O. WALKER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. STOKES. Mr. Speaker, on March 16, 1827, John B. Russwurm, America's first Negro college graduate, published the opening edition of the Freedom's Journal and dedicated the paper to "arrest the progress of prejudice and to shield ourselves against the consequent evils." Almost a century and a half have passed since that time, but tragically, the prejudice and "consequent evils" to which John Russwurm referred still abound in our Nation. Nevertheless, during those years it has been the progeny of the Freedom's Journal, the Negro press, which has consistently illuminated the road to full equality for all black Americans.

In my home city of Cleveland, we have always been fortunate to have had a vital black press spearheading the struggle for freedom. For the past 50 years the giant of this movement has been Mr. William O. Walker, publisher of the Cleveland Call and Post. Mr. Walker's success in building the Call and Post from a tiny local publication to a position of unquestioned esteem has won him the admiration, respect, and praise of not only his fellow Clevelanders but also the national journalistic community. Nor has he been content to carry the battle for human rights from behind the editorial pages. A dedicated public servant, he has served both his city and his State in positions of prominence. Even now he occupies the important post of director of the Ohio Department of Industrial Relations.

Last Sunday evening on the 143d anniversary of John Russwurm's first edition, Mr. Walker was honored at a banquet in the Cleveland-Sheraton's Grand Ballroom for his half-century of exemplary service to our community. Heading a list of distinguished guests were Ohio Governor James A. Rhodes, and the principal speaker was syndicated columnist Carl Rowan. In all, almost 2,000 persons jammed the ballroom to thank Mr. Walker and wish him many more years of active involvement in the cause of human dignity.

As an invited guest at the testimonial and a lifetime admirer of Mr. Walker's work, I would like to share with my colleagues a small part of this event. Last week's edition of the Call and Post included a special section devoted to Mr. Walker. Among the articles in that section was one entitled "Half a Century of Crusading Journalism"—and account of this great man's achievements. I include the column in the RECORD at this point.

HALF A CENTURY OF CRUSADING JOURNALISM

The journalistic career of William O. Walker, and the concept of providing the Negro citizens of Cleveland, Ohio with a newspaper to serve their special interests had almost simultaneous starts a little over a half-century ago. In almost the same month that young Walker decided to switch from a career as a social worker and resigned as secretary of the Pittsburgh Urban League to join the staff of the Pittsburgh Courier, a Cleveland Businessman, Garrett A. Morgan, an ambitious inventor-manufacturer, established the Cleveland Call for the primary purpose of advertising his many inventions and a widely-distributed line of beauty products.

But is was not until 1932 that the ill-fated merger of the original Call and its later rival the Cleveland Post was taken over on the verge of bankruptcy by a young and energetic entrepreneur out of Baltimore, Md., who, impressed with the Cleveland slogan "Best Location in The Nation," was lured here to pick up the pieces.

From that time, the Call & Post story and the W. O. Walker story is virtually one and the same, and that story must of necessity be one about people, for the Call & Post is a newspaper, and newspapers are the reflections of the men and women who operate them, and of the influence of the changing scene about them.

The Call & Post story is a story of trial and tribulation . . . a story of strain and struggle . . . a story of unfulfilled desires and still-to-be-realized hopes, for the story of the Call & Post is also a story of the people it serves, more than 800,000 of them, about 15 percent of Ohio's total population.

The Call & Post story is a story of America, too, for the people who operate this newspaper, and the people whom this newspaper serves, are 100 percent American in their loyalties, in their ambitions, in their mode of living, and in their pattern of religious worship.

The fact that their skin pigmentation is generally darker than that of their fellow-Americans has altered none of these basic American concepts, but it has almost inescapably surrounded their lives with a dramatic atmosphere of living, of catching up, of reaching for the peak in the ultimate satisfaction of full citizenship.

The Call & Post Story is more than a story of a successful American business enterprise. It is a story of a way of life for America's 22,000,000 Negro citizens, who, step by step, foot by foot, with undiminished patriotism and accelerating determination, are rising above the barriers of ignorance, bigotry, proscription and misunderstanding, toward the full democracy that creed, color, or national origin.

The Call & Post Story began in 1919, 50 years ago, and can be conveniently divided into three distinctive phases.

The first phase, from 1919 to 1932 might be termed the "era of confusion."

Its operators gave little thought to editorial policy, to concise, competent, accurate news coverage. Nor is there any evidence that they were familiar with the grave community responsibility that every publisher must assume in this nation where the freedom of the press remains dependent upon the integrity of the nation's publishers and editors.

Poorly managed, badly edited, loosely circulated, the history of the Call was foreshadowed. It produced nothing but headaches and debts, bickering and confusion among its so-called stockholders, and eventually distress financially that caused it to be merged with the Cleveland Post in 1927.

The Post had started out bravely with entirely inadequate capital to become the "voice" of a fraternal society called "The Modern Crusaders of the World." But even though it pledged to "endeavor always to present news as free from any kind based on race, creed, or color; to fight for the betterment of all citizenry; to seek to be on the side of the right whether it leads to plaudits or shouts of derision; to ever seek the truth and fight for the truth; to stand ready to retract any erroneous statements appearing in its columns," it never enjoyed financial success.

A deal, later referred to as "a marriage of misery" was engineered in time that merged the Call and the Post into the Call & Post, and the unhappy and debt-laden union went from bad to worse, with the wails of creditors mounting to shrill cries. Then, in late 1932 a visionary 36-year-old Alabama-born "dreamer" walked into the offices of the nearly-defunct merger to take charge of the "interment."

Thus ended the 13-year era of confusion.

Then began the next thirty-eight of growth and progress.

Here emerged the responsible journal out of the ashes of frustration and failure.

THE MAN WALKER

The newcomer was William O. Walker.

Born in Selma, Alabama, September 19, 1896, he had been educated in the public schools of that city, and in the Department of Business Administration of Wilberforce University in Ohio. He later graduated from Oberlin Business College (November 1918), financing his education by working as a Pullman Porter out of Pittsburgh, Pa., an occupation that gave him priceless knowledge of both the geography and the people of his native land.

Trained for business administration, Walker sought employment in this field with the Pittsburgh Courier. The late Ira Lewis, then managing editor of that publication had no place for him, but after Walker had accepted a job as secretary to the Executive Secretary of the Pittsburgh Urban League, Lewis came into the offices of the Courier one morning to find his two top editorial assistants had summarily quit without notice.

In desperation, Lewis called upon young Walker, and after two weeks of training, turned him loose as a full-fledged reporter. The close of the year found Walker at the City Editor's desk, where he remained until 1920 when he accepted the city desk of the Norfolk Journal and Guide.

In May of 1921 he thought he was ready for a venture of his own, and traveled to the

Nation's Capital where, with the Murray brothers, Washington, D.C. job printer, he launched the Washington Tribune, which in that era attained one of the largest circulations enjoyed by a Negro newspaper on the Eastern Seaboard.

He severed connections with the Tribune at the death of one of the Murray brothers and the resultant family bickerings over management and control, and became advertising manager of the Fair Department Store, a Jewish-owned, downtown department store, which without pressure from the then undreamed of FEPC legislation, had adopted a policy of completely integrated employment.

In 1932 the firm sent young Walker to nearby Baltimore to manage one of its newly-acquired stores.

But by then, the bug of journalism had bitten deep. Walker looked about the nation for a suitable field where his training and modest savings might offer opportunity for the building of a real newspaper. He chose Cleveland, Ohio, a midwestern city that had established a reputation as one of the nation's most liberal and potentially "the best location in the nation."

On the invitation of Atty. Norman H. McGhee, he agreed to come to Cleveland in an effort to save the almost defunct Call and Post.

Here is what he found:

The paper owed so much money to the Murrell Brothers who had been publishing it, that this firm refused to do further printing. An arrangement was made to have the type forms of the paper prepared at 2319 E. 55 Street, and have the presswork done in the plant of the American Bohemian Publishing Company.

Subscribers had not received a copy through the mails in seventeen weeks.

The corporation had lost its franchise through failure to pay the necessary state taxes. A former employee had won a judgment against the defunct group for unpaid wages and there was little, if any, unencumbered real property on the premises.

Young Walker was given an interest in the paper and a promise of $35.00 per week in salary. Former stockholders promised to give him financial backing in the future. The group defaulted on their new editor's first week's pay then the second, and in subsequent weeks, Walker received only such amounts as he could realize from the operation of the paper, after expenses.

For months this amount averaged between five and ten dollars a week and in most cases, the new "editor-manager-advertising solicitor" had to dig down into his modest savings to keep the paper alive. Circulation had dwindled to 300 copies weekly, with a healthy slice of this going to former "stockholders" whose names were still on the "free list."

Undismayed, young Walker began to look about himself for help . . . not financial help, but for men possessed with the basic training and skill to successfully operate a weekly newspaper.

He found a pitiful few, particularly in the fields of mechanical skills necessary to develop a self contained publishing organization. But some he did find, men and women of keen insight, fierce loyalty and devotion, who, captivated by his flaming determination, helped him develop the organization which today is a source of pride and influence in the Ohio community.

The first of these was Mrs. Ida James, probably the first Negro woman in Ohio ever to operate a typesetting machine. Through her patient and untiring efforts scores of young apprentices were developed to operate the intricate typesetting machine acquired with the later growth of the paper.

Working under the theory that a well-equipped plant, capable of producing the entire newspaper from story to finished product was an absolute "must" Walker started to cultivate new friends in this community so new, but fascinating.

Good fortune and the groundswell of intense political activity in the Cleveland community threw him into contact with a vigorous young lawyer, Lawrence O. Payne, then riding a rising tide of popularity as a Negro Republican leader.

Working with Payne and Dr. Leroy H. Bundy, both members of the City Council, Walker threw the weight of his newspaper into the bitter political battle between incumbent Mayor Ray T. Miller (Democrat) and the late Harry Davis, Republican.

Lining up with the Republicans, Walker's hard-hitting editorials and practice approach to the Negro electorate, won him financial backing. With this money he purchased, in 1933, the beginning of the mechanical equipment-owned for many years by the Call & Post—a battered, second hand linotype and crude makeup equipment.

Then Mrs. Ida James (now deceased) who in addition to combining her skills at type setting and makeup with those of the editor-manager, was called upon to instruct two teenage boys plucked by Walker from his growing army of news carrier to become future typesetters.

One of these boys, Eugene "Gene" Ivey, is still with the company as Supervisor of the Call & Post's make-up and mechanical department.

Meanwhile former stockholders repudiated their promises to make-up operation deficits or to guarantee the editor's salary.

Walker, despairing of ever collecting his accumulating back wages and personal investments in the business, found a partner in Atty. Payne. As new equipment was purchased, it was done in the name and with the funds of the new partnership, which in 1940 was incorporated as the P. W. Publishing Company.

Also, the size of the newspaper was increased from the out-dated six-column page to the standard 12-em, eight columns, and from four pages to six, then to eight, then to ten, then to twelve.

More and more it was becoming a newspaper reflecting the colorful and turbulent life of its readers and of the times. Stone by stone the mechanical edifice was being built through close operation and by plowing into the business every surplus amount over and above expenses. Payne proved an ideal partner, for he soon grasped Walker's vision of building rather than bleeding the young and growing business.

Personnel was still a problem. It seemed almost impossible to secure trained people in a community where formerly no real newspaper had existed to serve the Negro people. Walker looked to other cities.

To manage circulation, he brought to Cleveland a youngster he had met in Washington, D.C. This kid had been one of those who had haunted the offices and plant of the Washington Tribune during Walker's service with that paper. A keen youngster, he had shown a flair for salesmanship.

Harry Alexander was brought to Cleveland to join the Call & Post small family, to find and train news carriers, and to circulate the paper.

To handle advertising, Walker found two men, one of them Charles H. Loeb, a trained newspaperman who had been attracted to Cleveland by the Cleveland Eagle, and the other, Walker's brother, Felix L. Walker, whom he persuaded to give up a taxi-cab business in Washington and cast his lot with the Cleveland organization.

Brother Felix eventually assumed management of the advertising department, when Walker discovered that Loeb, imaginative and with natural flair for writing fitted better into the editorial end of the newspaper.

Today Loeb is one of the most highly respected editors in the business. He was selected to represent the combined Negro Press in the Pacific Theatre as a war correspondent during World War II, chosen chairman of the Editorial Society of the National Newspaper Publishers Association, and is deeply involved in Cleveland community affairs.

During the first stages of this new growth, the entire mechanical operation of the newspaper was housed in one room of the building bought by Payne at 2319 E. 55 St. The Murrell Printing company occupied basement quarters, the rear of the building was occupied by an insurance company, another room by a representative of the Veterans Administration, and the second floor by Payne's law offices.

The paper was set on one typesetting machine by Mrs. James and her two young apprentices.

It was made up by the editor, city editor, advertising manager, and the circulation manager.

It was hauled in the editor's automobile to the American Bohemian plant where it was stereotyped and printed.

The end product was replete with errors. It was unattractive, and expensive. The cost of engravings made illustrations virtually prohibitive.

The entire newspaper field was then going pictorial. It was demonstrated by such magazines as Life and Time that the right photo was more valuable than a "thousand words", but the high cost of engraving prohibited the use of only the bare minimum of art.

Then in 1935 the struggling little company group ran across an advertisement telling of a mail-order engraving school in Aurora, Missouri. The course was sent for, and successively everybody on the staff had a fling at learning "engraving".

The equipment was crude, the lessons none too-clear, and the basic secrets of the photo-engraving process barely treated, but after several months of experiments Loeb and Felix L. proved the most adept at the process.

The Italian conquest of little Abyssinia had whetted the taste of Call & Post readers for news about the brave struggle of the little kingdom against Italian aggression, and on one glorious press night the "engraving department" came up with its first usable cut—an ink-top process cutout of a buxom Ethiopian woman soldier pointing a fearsome German Luger pistol. Crude but decipherable illustrations of local ministers, club groups, street scenes, and national personalities followed in quick succession, and the Call & Post circulation began to reach the 10,000 mark in Greater Cleveland.

The same laborious process of training members of the staff to make and develop news pictures was inaugurated. In this field Felix L., who died just a few weeks ago, the erstwhile advertising manager, showed the most proficiency, and combined his advertising solicitations with that of news photographer, with both he and Loeb working long hours in the crude darkroom producing plates from pictures.

When suitable men were found they were given the rudimentary training in engraving. Among them was William Washington, a crack cameraman, who quickly absorbed the secrets of engraving, and became the head of that department. Turned over to him for training were two others, William Crawford, a veteran camerman from Columbus, who had served as a combat photographer during the second World War, and Clement Perry, a youngster about to graduate from Glenville High School.

While these developments were occurring, America was in the midst of the greatest depression in its history, but the circulation of this alert medium continued upward, spurred by its consistent advocacy of equitable relief and fair job opportunities.

Advertising began to cramp the news columns and the newspaper was forced to expand from 16 to 24 pages to maintain a desirable balance of news and advertising.

Meanwhile the dream of owning a complete publishing plant was slowly materializing. More and more make-up equipment was added. One more, then two more typesetting machines. Additional type faces. Delivery trucks, capable of serving the widening field of distribution points. Typewriters, and improved engraving equipment.

The Newspaper, nevertheless, remained at the mercy of its outside printers. A strike, a breakdown in the outside shop or a disagreement over price, could easily cause lapse in publication. The growing company felt the acute need of a press of its own, one capable of printing a full-sized standard newspaper, comparable with the best in the nation.

The company's small surplus, plus borrowed capital, was spent for the acquisition of a 16-page Duplex rotary press, and in November of 1939, with Edward Murrell presiding over the history-making ceremony, the first completely-self-produced edition of the new Cleveland Call & Post rolled from the press while tears rolled down the cheeks of Walker and his brave little group of workers.

It was a crowning achievement for Edward Murrell, too, for he had been on the scene during all those years of the "era of frustration," and had come into the Call & Post organization as head pressman and instructor of the young men who eventually were to acquire the skills of press operation and maintenance.

When the youngsters were qualified, Edward Murrell was ready for a pleasant retirement.

But nobody reckoned with the growing interest of Call & Post readers to the growing news coverage in its pages. Overlooked too, were the rapidly-increasing Negro residents in the past fifteen years.

XUM

Cleveland advertisers, having weathered the depression era, had discovered in this live, vigorous, militant medium, a new gateway to an expanding market. Advertising continued to grow, and the increasing lineage made necessary an increase in size of the paper to a standard 24-page publication.

Ohioans outside of Cleveland, too, were clamoring for this newlook newspaper which so intimately reflected their lives, their foibles and their aspirations; which proved their outspoken advocate against prejudice and discrimination, which was willing to fight their battles for a fuller citizenship and better way of life, and which did not hesitate to point out to them their faults and omissions as citizens.

The 24-page edition had to be printed in two sections, one of sixteen pages and the other of eight pages, then stuffed by hand before distribution to trains and news trucks that were carrying it to the remotest parts of Ohio.

A special edition for Ohio and another for Cincinnati was established.

Harry Alexander's painstaking cultivation of young newscarriers from every Cleveland neighborhood, begun in 1936, was beginning to pay rich dividends.

The boys were taught how to sell their papers in their respective neighborhoods, how to keep accounts and how to save their money. The brightest of them were followed through grade and high schools, and wherever they showed desire and ability, were brought into the Call & Post family.

More and more, the Call & Post family was becoming an Ohio institution, with new blood from the community it serves. Hundreds of dollars spent in prizes and bonuses to stimulate sales by newsboys were paying off both in circulation and in trained personnel.

The Call & Post family continued to grow and the payroll continued to expand. As rapidly as it could afford it, the "paper that has never missed a payroll" added people to its organization.

The Call & Post has never been afraid of innovations.

It was among the first of the nation's Negro newspapers to operate its own photo-engraving plant; among the first to experiment with the use of strip film, or dry plate engraving; among the few in the country to adopt the automatic "teletypesetter."

The 16-page Duplex press of 1939 gave way to a massive 48-page Goss Press capable of turning out 25,000 copies of the standard Call & Post 32-page edition per hour.

Branch offices were established in Cincinnati, Columbus, Dayton, Toledo, Akron and Youngstown and news from every Ohio city having more than a handful of Negro residents filtered regularly into the editorial offices of the paper from correspondents who also sold the newspaper in their communities.

The Call & Post was one of the first "medium" class weeklies in Ohio to acquire membership in the Audit Bureau of Circulations, which checks carefully all members' circulation figures to guard against false claims.

In September 1959 Lawrence O. Payne died.

In 1960, Editor-Publisher Walker leaned back in his swivel chair, drew a few puffs on his pipe looked up at the ceiling of his office and made a decision.

The decision: To "offset."

The "why" of the $250,000 decision, and the miraculous result of Walker's far-sightedness are told in an article "Begins Bold Venture Into Photo-Journalism," on the first page of his section. The article was written by Robert Schneider in the June, 1961, issue of Printing Production, the nation's top newspaper trade publication.

With the introduction of offset and the installation of one of the finest offset printing plants in the state, the Call & Post has soared into one of the outstanding examples of black entrepreneurship in the nation, employing more than 100 persons in its editorial, composing, photolab, pressrooms and business offices in Ohio's three principal cities, Cleveland, Columbus and Cincinnati.

Policymaking body is the PW Publishing company, a corporation headed by Walker and whose stock is restricted to company employees. The operation has expanded its services into the field of general publication, and in its shop are produced a score or more of other newspaper publications and commercial circulars.

The operation supports a payroll in excess of $600,000 annually.

CHEAP FOREIGN LABOR IS PUTTING AMERICANS OUT OF WORK

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. EILBERG. Mr. Speaker, this morning it was my privilege to address a rally attended by 15,000 persons at Independence Square in Philadelphia. The rally was called by the Philadelphia Joint Board of the Amalgamated Clothing Workers of America to draw attention to an increasing problem in the clothing and textile industries.

The problem is simply that because of cheap labor in Japan and Korea—hourly wage rates range between 10 and 30 cents—the American clothing and textile worker is being forced out of work. Low-price imports have made it difficult, if not impossible, for our domestic products to compete. Recent attempts to impose voluntary restrictions on the textiles these Asian nations export to the United States have failed.

In light of this failure, the Congress must move to impose mandatory import restrictions.

In the calendar year 1969, 25,000 American workers lost their jobs in the apparel industry and another 25,000 lost their jobs in the textile industry. These men and women are skilled craftsmen, eager to work and entitled to pay scales commensurate with the American standard of living. We must not allow cheap foreign imports to force these people onto the unemployment rolls.

I insert in the Record my statement delivered this morning in Philadelphia at the rally of the Amalgamated Clothing Workers:

Statement of Congressman Joshua Eilberg

It is indeed an honor for me to be here with you today and join in your effort to focus national attention on the threat to American jobs, work standards, and security which has developed because of the staggering increase in foreign textile imports.

I had hoped that the Administration would have been successful in emphasizing to Japan and other nations that the time has come for voluntary, reasonable, meaningful agreement to be reached on regulation of textile trade with the United States. Last week we learned that the Japanese had rejected all attempts on our part to come to a voluntary import-export control agreement and upon learning that, I and the other Members of the Philadelphia Congressional Delegation sent a telegram to the President urging that he take immediate action and use his authority and discretionary powers to protect the jobs and working conditions of the hundreds of thousands of Americans employed in the apparel industry.

We have not as yet received a response to that telegram but I believe that the Japanese cannot be so foolish as to ignore demonstrations like this one or the fact that 47 Members of the House of Representatives and 14 Senators have sponsored legislation to provide for the olderly trade in textile products. How too can they ignore the announced intention of the House Ways and Means Committee to hold hearings on trade regulation matters in the near future. Do they not know that one of the major areas of consideration at these hearings will be proposals to impose mandatory import restrictions on textile trade?

As a Member of Congress and friend of the workingman, I can assure you that I will not stand idly by and let American apparel workers and textile workers lose their jobs. I will not stand by and watch the growing flood of foreign imports take away from our national economy a vital part of its gross national product.

I do believe that our government has left no stone unturned in an effort to secure a voluntary restriction on textile imports with the Japanese but at the same time I believe that the time for talk and cajoling is over and there is a need for prompt and effective action to be taken now to meet the problem headon. Since January of 1969, the apparel industry has lost 25,000 jobs. During the same time period the textile industry has also lost 25,000 jobs. I believe we cannot afford to let this situation go on unchecked.

I believe we cannot let foreign products produced by employees earning 30 cents or perhaps even 10 cents per hour compete equally with American-made textile products and apparel produced under humane conditions and where the employees are paid a decent wage.

Thus we have a situation now where the cotton textile imports have increased tremendously as have man-made fibers while at the same time the American economy has lost 50,000 jobs. Certainly this situation cannot be tolerated and I am honored to have had the opportunity to be with you today to lend my support to your effort. Thank you for inviting me.

THE STUDENT IN THE UNIVERSITY AND SOCIETY OF TODAY, NO. 4

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. McCLORY. Mr. Speaker, in January this year, the National Association of State Universities and Land-Grant Colleges published a summary of information provided by its member institutions on steps taken to ease campus tensions. Part I of the report is a compilation of actions directed toward increasing student participation in university policymaking. I am including part I in the RECORD as a part of my remarks today.

Part II, which I will ask to have printed in my next remarks on this subject, sets forth policies of the various universities toward disruptive demonstrations and provides examples of preparations for meeting possible disruptions.

I caution the reader to remember that the information contained in this report has almost surely been provided by an administrative official of each institution. While I have no doubt that the information in each case is factual, I would remind my colleagues that, especially with regard to part I, student intepretation of such actions might differ substantially from the establishment point of view.

Nevertheless, the report has been compiled with obvious care and is both an impressive and encouraging document. I commend it to the attention of my colleagues and to the general public.

The National Association of State Universities and Land-Grant Colleges is composed of 113 major State universities and land-grant institutions located in all 50 States, Puerto Rico, and the District of Columbia. In the membership are 13 major campuses of member multicampus universities. Sixty-nine of the members are land-grant institutions, designated by an asterisk in the list below. NASULGG institutions enroll nearly 30 percent of all students in higher education and in the Nation and are the Nation's major source of advanced and professional degrees and research activities.

The material follows:

MEMBERS OF THE NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES

Alabama: Alabama A&M College,* Auburn University,* University of Alabama.

Alaska: University of Alaska.*

Arizona: Arizona State University, University of Arizona.*

Arkansas: Agricultural, Mechanical, & Normal College, * University of Arkansas.*

California: University of California,* University of California at Berkeley, University of California at Davis, University of California at Los Angeles.

Colorado: Colorado State University,* University of Colorado.

Connecticut: University of Connecticut,* Connecticut Agricultural Experiment Station.*

Delaware: Delaware State College,* University of Delaware.*

District of Columbia: Federal City College.*

Florida: Florida A&M University,* Florida State University, University of Florida.*

Georgia: Fort Valley State College,* Georgia Institute of Technology, University of Georgia.*

Hawaii: University of Hawaii.*

Idaho: University of Idaho.*

Illinois: Southern Illinois University, University of Illinois.*

Indiana: Indiana University, Purdue University.*

Iowa: Iowa State University,* University of Iowa.

Kansas: Kansas State University,* University of Kansas.

Kentucky: Kentucky State College,* University of Kentucky.*

Louisiana: Louisiana State University,* Southern University.*

Maine: University of Maine,* University of Maine at Portland.

Maryland: Maryland State College,* University of Maryland.*

Massachusetts: Massachusetts Institute of Technology,* University of Massachusetts.*

Michigan: Michigan State University,* University of Michigan, Wayne State University.

Minnesota: University of Minnesota.*

Mississippi: Alcorn A&M College,* Mississippi State University,* University of Mississippi.

Missouri: Lincoln University,* University of Missouri.*

Montana: Montana State University,* University of Montana.

Nebraska: University of Nebraska.*

Nevada: University of Nevada,* University of Nevada at Reno.

New Hampshire: University of New Hampshire.*

New Jersey: Rutgers, The State University of New Jersey.*

New Mexico: New Mexico State University,* University of New Mexico.

New York: City University of New York, Cornell University,* State University of New York, State University of New York at Albany, State University of New York at Binghamton, State University of New York at Buffalo, State University of New York at Stony Brook.

North Carolina: North Carolina Agricultural and Technical State University,* North Carolina State University,* University of North Carolina, University of North Carolina at Chapel Hill.

North Dakota: North Dakota State University,* University of North Dakota.

Ohio: Kent State University, Miami University, Ohio State University,* Ohio University.

Oklahoma: Langston University,* Oklahoma State University,* University of Oklahoma.

Oregon: Oregon State University,* University of Oregon.

Pennsylvania: Pennsylvania State University.*

Puerto Rico: University of Puerto Rico.*

Rhode Island: University of Rhode Island.*

South Carolina: Clemson University,* South Carolina State College,* University of South Carolina.

South Dakota: South Dakota State University,* University of South Dakota.

Tennessee: Tennessee A&I State University,* University of Tennessee.*

Texas: Prairie View A&M College,* Texas A&M University,* Texas Southern University, Texas Technological College, University of Houston, University of Texas System, University of Texas at Austin.

Utah: Utah State University,* University of Utah.

Vermont: University of Vermont.*

Virginia: University of Virginia, Virginia Polytechnic Institute,* Virginia State College.*

Washington: University of Washington, Washington State University.*

West Virginia: West Virginia University.*

Wisconsin: The University of Wisconsin,* University of Wisconsin at Madison.

Wyoming: University of Wyoming.*

CONSTRUCTIVE CHANGES TO EASE CAMPUS TENSIONS

(State and land-grant universities take positive steps to involve students and curtail campus disruptions.)

INTRODUCTION

This compilation deals with one of the most critical subjects in higher education today: the governance of the university. In recent years, unprecedented violence and obstruction on the campus, caused generally by small groups of students, have attracted a major share of the nation's attention. Unfortunately, the many positive activities in higher education, far outnumbering disruptive or violent campus demonstrations, have been neglected.

While many universities were admittedly unprepared for and caught off guard by the first rounds of disruption, this is no longer the case. Colleges and universities throughout the country have now designed specific procedures and policies to protect their campuses and to guarantee the rights of those engaged in normal university activities to continue their pursuit unhampered. At the same time, the institutions have moved to safeguard and preserve the traditional, critical rights of dissent and peaceful protest so fundamental to academic freedom and our way of life.

In addition, while disapproving of many of the tactics used to present grievances, universities have also been making diligent efforts to deal with legitimate student concerns, and to involve students more deeply in campus governance. Although students have participated in campus decision-making at some universities for many years, in recent years this involvement has been intensified and expanded. Similarly, in recent years, an unprecedented number of specific reforms and changes have been adopted on campuses across the country in direct response to student concerns.

In short, the universities are making firm plans to deal with dissent if it threatens to disrupt. But even more important, at the same time they are taking major steps to eliminate the causes of legitimate student discontent.

State and land-grant universities take positive steps

To document these points, the Office of Institutional Research of the National Association of State Universities and Land-Grant Colleges has collected examples of positive steps taken to produce constructive student involvement and campus reform. Using a variety of sources, including university policy statements, news releases, addresses, committee reports, and press reports, information has been assembled from institutions in 49 states and the District of Columbia. Approximately 90 percent of the Association's membership is represented in this information. The institutions not included are not omitted because they are not doing anything in these areas, but only because information from them was not available at the time this report was prepared.

In addition, despite the large number of specific examples of positive steps cited here, this is by no means a comprehensive national survey. Not all relevant programs from NASULGC institutions have been covered again primarily for lack of information in the OIR files. There is no university in the Association that is not making significant efforts to deal with student concerns and unrest. In the future, in fact, OIR hopes to issue a supplemental report to include some of the information omitted here.

The findings of this survey are nonetheless impressive, and they significantly bear out conclusions reached in a more thorough national survey of a sample of *all* higher education institutions. That survey was conducted this past summer by Alexander W. Astin and Alan E. Bayer of the American Council on Education. The study, entitled *Campus Disruption During 1968–69*, states:

"It would appear that most colleges and universities are attempting to respond in a meaningful and appropriate manner to major campus protest when it occurs. Discipline has been used frequently in responding to violence. Major efforts have also been made to modify curricula and racial policies and to increase the student's freedom and power. Moreover, our data show clearly that the majority of institutions, including those where there was no major protest during the 1968–69 academic year, instituted substantive changes in rules or policy during the same period of time."

This last statement is particularly relevant to state and land-grant institutions. Because of their efforts to keep open effective channels of communication with students and for a variety of other reasons, many state and land-grant institutions have not experienced disruptive protests. All, however, are studying current student concerns and seeking positive, constructive answers to campus unrest.

The American Council on Education study continues:

"Popular accounts of the campus 'crisis' may often be misleading. That is, violence and disruption are not as 'rampant' as some groups would lead us to believe, nor are institutions 'irresponsible'—in the sense of attempting to curb violence—or as 'unresponsible' in the sense of instituting major changes—as many have claimed. While the most dramatic incidents of violence or seeming institutional inaction are likely to be deemed the most newsworthy, the response to this national representative survey of institutions indicates that such incidents are not reflective of the 'typical' American college."

The study concludes with mention of a key question confronting many colleges and universities this year: "How to encourage the expression of protest and social criticism and at the same time to preserve basic democratic processes and to protect the rights and privileges of all members of the campus community."

The information which follows dramtically and clearly indicates that state and land-grant universities in every part of the country—whether previously troubled by disruptions or not—have been seeking positive answers. Perhaps the most significant aspects of the examples cited in the following pages is their number. It is encouraging that so many institutions have in the past and are now devoting major amounts of time and effort to strengthening our system of higher education by giving students a major role in this task.

Two major sections of this report

The information included falls into two broad categories: (1) student participation in university policy-making and (2) institutional policies and procedures on conduct and disruption.

1. Student Participation in University Policy-Making

The purpose of the first section—student participation in policy-making—is to demonstrate the genuine commitment that state universities have to meaningful involvement of students in this process, especially on matters that directly affect them. Through hundreds of examples, this section illustrates how colleges across the country have made special efforts—particularly in the past two years—to open new channels of communication between students, faculty and administrators and to enable students to contribute to institutional governance.

2. Policies and Procedures on Conduct and Disruption

The second section—policies and procedures on conduct and disruption—shows that in addition to their efforts to maintain effective channels of communication with students, state universities are taking steps to insure that minorities will no longer be able to disrupt the pursuits of the majority on campus. If there are students, faculty, staff members, or non-students who choose to ignore the channels available to them, the universities are prepared to deal with their efforts to obstruct or disrupt normal campus activities. This attitude is well summarized in a policy statement adopted this past summer by the Board of Trustees of the University of North Carolina:

"The University of North Carolina has long honored the right to free discussion and expression, peaceful picketing and demonstrations, the right to petition and peaceably to assemble. That these rights are a part of the fabric of this institution is not questioned. They must remain secure.

"It is equally clear, however, that in a community of learning, willful disruption of the educational process, destruction of property, and interference with the rights of other members of the community cannot be tolerated."

I. STUDENT PARTICIPATION IN UNIVERSITY POLICY-MAKING

Of major significance is the growing amount of student participation in university decision-making. Many state and land-grant universities have pioneered in giving students a meaningful voice in university affairs. Nearly all NASULGC institutions have recently taken new steps to guarantee that students are included in the policy-making process on their campus, and particularly to guarantee that students have a role in formulating policies that affect them. The examples that follow focus on student participation in university policy-making through a variety of activities and projects.

STUDENT PARTICIPATION IN GOVERNANCE

Although this section overlaps with the following one on committees, the focus here is on student participation in larger, campus-wide bodies, such as university senates and faculty senates. These are often the bodies that act on committee recommendations and that have a major say in final campus decisions.

Alabama

Showing concern for a student voice in the University Senate at *Auburn University*, the presidents of the Student Government Association and Associated Woman Students were named ex-officio to that body.

At the *University of Alabama*, students now sit on university-wide standing committees. Student Government Association leaders are consulted in new administrative appointments. In addition, classes evaluate their professors and courses for publication in a faculty-course evaluation newspaper.

Arizona

A new, experimental alumni-student-faculty-administration University Council went into operation at *Arizona State University* this year. The Council will consider broad matters of university-wide concern. Also at the University, students have an opportunity to be signficantly involved in the formulation and enforcement of regulations relating to conduct through the Student Senate, Student Conduct Committee, Student Affairs Committee, other hearing boards of the University, and agencies within the colleges.

California

Revelle College, one of the three colleges making up the San Diego campus of the *University of California*, has formed an experimental governing committee to advise the provost. Composed of faculty, students, and administrators, the group will be consulted on all student affairs except budgetary matters.

Colorado

In a *Colorado State University* study of participation in academic decision-making, 61 percent of the University's academic departments reported new types of student participation since spring, 1968. According to the study, students last year were involved in curriculum revision and teaching evaluation in more than 85 percent of the University's departments, a significant increase from the year before. Other areas with major increases in student participation were advising department heads and departmental government.

Also at CSU, the Faculty Council in October, 1969 adopted a revision in the Student Social Code giving self-governing student coordinating bodies the responsibility for establishing social rules in residence halls, fraternities, sororities, and other organizations. Student Government has for a number of years had the responsibility for allocating the student activity fee collected by the governing board.

Delaware

The *University of Delaware* is going beyond the committee system this year to experiment with a "Commission" system. Commissions composed of deans, professors, and students are being created to review academic plans. The commissions will hold open hearings which students, alumni, and other interested persons will be urged to attend. Commission recommendations will go to the provost and president. If the commissions are successful in academic matters, their use may be expanded to other areas like student affairs and planning.

Florida

At the *University of Florida* the University Senate recently invited five representatives of Student Government to attend all open sessions of the Senate. The students may submit material for the agenda and address the Senate.

The Student Government sponsors a campus Rathskeller where students and faculty can meet, a book exchange, an "Accent" program of national speakers, an ombudsman for student help, a campus-wide orientation program by senior students for freshmen and sophomores, counseling on housing, and recreactional activities.

At *Florida State University*, students are members of several student-faculty bodies dealing with student governance. In addition, the student body president has been named an ex-officio member of the faculty senate.

Georgia

Proposed revised University Statutes, for the *University of Georgia* recommend that students be granted membership on the University Council.

Hawaii

An All-University Agenda Committee, with representation from students, faculty, and administrative groups, has been in existence at the *University of Hawaii* for the past year-and-a-half. The committee recently prepared a Statement of Standards for the university, which is now under consideration by governing bodies of the university. A Student Conduct Committee, with student representation on it, has been in operation since 1956. Student membership on the committee was recently increased.

Illinois

Many boards and committees of the *University of Illinois at Urbana-Champaign* have been restructured in the past two years to enable a greater degree of participation and authority for students. For example, in June, 1969, the Board of Trustees authorized reconstitution of the Illini Union Board to give it greater authority. Board membership is primarily composed of students.

A year ago the Urbana-Champaign Senate replaced the Committee on Student Affairs with a Policy Committee on Student Affairs. Composed of eight students and eight faculty members, it is the "policy" recommending and coordinating committee of the Senate for all student affairs.

Students are members of a number of other important administrative boards and committees, including: Athletic Council, Campus Planning, Coordinating Placement, Financial Aid to Students, Housing Review, Long-Range Planning, Transportation, and Traffic.

Studets at the *University of Illinois at Chicago Circle* hold membership on important Faculty Senate Committees pertaining to: Academic Freedom, Athletics, Budget, Educational Policy, Statutes and Bylaws, Student Discipline, and Student Affairs. The Office of the Chancellor also has included 70 students on 12 of its committees involved in the formulation of administrative actions. Chicago Circle students also served on committees that prepared reports presented at the school's Long Range Planning Conference held last fall.

Indiana

Students can participate in every area of *Purdue University's* operation directly involving them. Every one of Purdue's academic units has mechanisms for student participation and consultation. Students are on many committees at Purdue.

As an example, the Council of the School of Industrial Management includes five faculty members and 22 students. The president of the Council attends all school faculty meetings. The school appeals board has two student members and the undergraduate committee, which has a voice in all academic and administrative matters, has four student members—two graduates and two undergraduates.

Students in the School of Science are represented on the faculty-student advisory board, which makes recommendations to the science faculty council.

Iowa

At *Iowa State University,* students are members of six of seven existing councils and 19 of 31 standing committees. Most of the committees in which students do not participate involve either faculty personnel matters or technical subjects like radiation safety. Committees with student representation include human relations, fraternities and sororities, student behavior, library, campus planning, and university academic standards. Councils with student representatives include instruction, international programs, and student affairs.

In addition, most departments have some sort of a student advisory committee and the dean of each college has a student advisory committee.

Within the last two years, the *University of Iowa* has approved a revised constitution of student government giving the Student Senate broad powers and jurisdiction over all phases of student activities, including allocating student fees.

Kansas

A new system of faculty-student government is in operation this fall at the *University of Kansas,* following extensive study by a student-faculty committee and ratification by students in a referendum, the Faculty Senate at a meeting, and the Board of Regents.

The new system provides for a Faculty Senate and committees to deal with matters of exclusive faculty concern; a student senate and committees for matters of exclusive student concern; a University Senate and committees for matters of mutual faculty and student concern; and three University Boards, primarily to deal with discipline. Student and faculty membership on the University Senate committees is approximately equal. Each Senate also has a smaller elected council to act for it.

A University Planning Board, including student membership, was recently set up at the *University of Kansas.* The committee is charged with long-range planning in all areas of university life.

Kentucky

At the *University of Kentucky,* students are represented on the Board of Trustees. the University Senate, the University Judicial and Appeals Boards, and some dozen administrative committees with jurisdiction ranging from fees and student financial aid to parking and traffic control on campus.

Maine

The *University of Maine* reports that student participation in University governance has existed for a number of years, although a significant expansion of this role has taken place in the past three years. There are now five student members of the Faculty Council, for example.

Maryland

The *University of Maryland* Faculty Senate in October voted to add 29 students as full-voting members, giving them a one-sixth vote in determining major academic and social policies. The action must be approved by the entire faculty and the Board of Regents. It has the backing of university President Wilson H. Elkins. Eighteen of the students will be undergraduates, 11 graduates.

Massachusetts

At the *Massachusetts Institute of Technology,* students are members (with or without voting privileges) of most Institute committees. All students may attend faculty meetings and those who are knowledgeable on issues under discussion are granted speaking privileges.

Michigan

Wayne State University students have traditionally had representation on a wide range of University boards and committees. Among them are individual student governing bodies working with the deans of the separate schools and colleges within the University, the Student-Faculty Council (six faculty members, 16–18 students drawn from all schools and colleges), the Athletic Advisory Board, and the Financial Aids Advisory Board. Last year at Wayne, a new student-faculty body, the Newspaper Publication Board, was formed to oversee the management and operation of the student newspaper.

At *Wayne State University's* experimental *Monteith College,* currently celebrating its tenth anniversary, students can help plan seminars or other kinds of courses and the college is able to set up new courses quickly. The Afro-American studies program now offered to general University students was first thought of at Monteith in May, 1968. By September, 1968 it was being taught. Students helped in the planning.

Minnesota

The *University of Minnesota* began its "consultative" policy more than 22 years ago. As explained by Edmund G. Williamson, Dean of Students, in 1967, the policy provides that "any decision affecting students or student affairs will go first to students for consultation. For example, the decision to liberalize women's dorm hours was made after three years of public discussion. . . ."

Students became members of the All-University Senate with full voting rights at the *University of Minnesota* for the first time this fall. The elected students represent the various colleges and schools within the university on a proportional basis of students enrolled in each college or school.

Mississippi

The *University of Mississippi* has student representation on its Academic Council.

Montana

At the *University of Montana,* student participation in governance has been greatly expanded by President Robert T. Pantzer through provision for equal participation and proportionate student representation on virtually every University-wide standing or *ad hoc* committee, including those concerned with curriculum, selection of personnel, physical facilities, or disciplinary matters. In addition, close liaison is maintained with elected student body officers by the president as part of the decision-making process.

The Student Body President at *Montana State University* has held a seat on the Administrative Council, chief policy-making body of the university, since 1965. This student officer is also invited to attend general faculty meetings.

Nebraska

At the *University of Nebraska,* students sit on 11 University Senate committees, including those on grading, intercollegiate athletics, and libraries.

In most cases, two students, all of them recommended by student government, sit with approximately five faculty members. In others, such as the new Council on Student Life, which concerns itself with nonacademic student affairs, eight students sit with seven faculty-staff members.

Nevada

At the *University of Nevada, Reno,* students exercise major control over many student-oriented activities. For example, student conduct and control is the direct responsibility of Student Government through an all-student judiciary. Student Government owns and operates a student bookstore. Students are free to invite any speaker of their choice. Students govern their own activities. Student publications are entirely free of censorship and governed by a Student Publications Board.

New Hampshire

Last year, the *University of New Hampshire* completely restructured its form of campus governance. A single voting body, composed equally of faculty and students, replaced the present system of separate Student and University Senates. The new assembly consists of 30 students, 30 faculty members, 12 administrators, and five graduate students. Student "senators" are elected by their fellow students according to predetermined "voting districts" within the university campus. The new system was recommended by a Committee on Government Organization composed of 13 students, faculty, and administrators.

New Jersey

At *Rutgers University,* the student body of each school or college offering degrees elects one student senator to serve with the University's faculty members and various administrators as voting members of the University Senate. Student Senators have full rights to participate in the affairs of the Senate, including the right to hold office. Faculty meetings at Rutgers have also been opened to students.

In addition, the presidents of the student governments of the several colleges sit as voting members on the University Student Affairs Cabinet with the several deans of students and other appropriate university officers. Students participate on policy boards of the University's several degree-granting divisions in a variety of ways.

New Mexico

Three years ago, the University Faculty Senate at *New Mexico State University* voted to include student members. Two students are members of the Senate and two students are members of each of its sixteen committees. During these three years, the students have been excellent representatives, it is reported.

The Regents of the *University of New Mexico* have appointed a special committee on governance, including students, faculty, administrators, and alumni. The committee will function throughout the current year and will make recommendations for changes in governance.

A hearing board for campus disciplinary matters is made up of four members of the student body and four members of the faculty. Called the Student Standards Committee, this body may affirm or reverse disciplinary action already taken. In cases where action has not yet been taken, the committee may decide whether disciplinary action should be taken, and if so, the extent of it.

New York

In the 1968 Master Plan for *The City University of New York,* the Board of Higher Education pledged far greater participation by students and faculty in university governance and the decision-making process at all the colleges. In a far-reaching move in this direction, the Board adopted several resolutions as part of a comprehensive statement on "The Restructuring of Governance at City University":

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Appointment of a Council of Overseers on each campus, composed of students, faculty, alumni, and community representatives, with increasing responsibility for governance.

A statement that it would "view with favor" the substitution of a new set of bylaws for any unit of the university which wishes to create and propose a new governance structure provided that the proposed system is (a) drafted by a joint student-faculty-administration group, (b) approved by referendum by 75 per cent of full-time instructional staff members who vote and 75 per cent of the voting student body, and (c) recommended and approved by the college president.

Establishment of two university commissions to review governance and admissions policy and to submit reports to the Board of Higher Education. The commissions are made up of faculty, students, administration community representatives, alumni, university officers and delegates from the Seek Advisory Council.

A Student Advisory Council was formed to give students an opportunity to participate in policy deliberations. The Chairman and Vice Chairman will also attend meetings of the Administrative Council of college presidents and the Council of Deans of Students.

A Constituent Assembly was set up at *Cornell University* last spring to "investigate and make recommendations for a redistribution of power, and to include all relevant constituencies within the University in its governance." The Assembly consists of faculty members, students, non-professional academic employees, other employees, administration, trustees, alumni, representatives of the black community and other special interest groups. The Assembly's Drafting Committee has come up with a proposal for a Cornell University Senate which would have 131 voting members, including 60 students, 60 faculty members, two alumni, the provost of the university, one vice president elected by the vice presidents, three nonexempt employees, two exempt employees, one nonprofessional academic employee and one librarian.

A Student Cabinet, composed of the heads of student governments from 22 of the *State University of New York* campuses, met regularly last year with SUNY's chancellor. The aim of the cabinet is to promote constructive student involvement in university-wide programs. Presidents at all 68 campuses in the SUNY system report increased student involvement on major committees and increasing consultation with students in governance matters.

A new University-wide governing body including faculty, students, and administrators in the ratio of 5-3-2 went into effect this fall at the *State University of New York at Binghamton* as a result of referendums approving the proposal. At Binghamton, student committees on faculty personnel will also be created in each department, working in an advisory function parallel to faculty committees. A course and teacher evaluation system will also go into effect, with results made available to the faculty member involved, the student and faculty committees, and certain administrative officers.

For the last two years, the presidents of the five independent student associations at the *State University of New York at Buffalo* have served as full members of the President's Cabinet. Among the subjects reviewed by this body—which also includes representatives of the Faculty Senate and civil service personnel—are the roles of teaching and university service in decisions affecting promotions and appointments to tenure, overall research policy governing the solicitation and conduct of research projects, and minority group recruitment at the student, faculty, and staff levels.

Governance at the *State University of New York at Stony Brook* has been under examination by all segments of the campus community for the past year. An elected Commission of Twelve (half student and half faculty and staff) spent five months during the past school year reviewing university goals and policies. They prepared proposals, including one for a revised university governance, for submission to a university-wide referenda. Since May, 1969, negotiations and revision of the Commission's governance proposal has been going on among the existing governing bodies of the university.

Students recently participated in a number of committees that conducted an intensive review of the curriculum at Stony Brook.

Students hold membership on four judiciary boards, including the Student-Faculty Board on Student Conduct, the Student-Faculty Appeals Board, the University Hearing Board, and the University Review Board.

Students and faculty this fall have equal representation on the College Community Council at the *State University of New York, Geneseo,* College of Arts and Science.

North Carolina

At the *University of North Carolina* students are participating in a revision of the General College curriculum and a reform of campus judicial procedures. They are also involved in the organization of a Graduate Student Association and on *ad hoc* committees to advise academic departments on curriculum matters. In addition, students are members of the Administrative Board of Student Affairs, the Athletic Council, and the Publications Board.

North Dakota

The University Senate, major legislative body at the *University of North Dakota,* voted on October 2 to amend the University constitution to allow student representation. The action has been approved by the State Board of Higher Education. The University Senate presently consists of 54 faculty and administrative representatives of the University. Ten student members, to be selected by the Student Senate, would be added.

Five students and five faculty members serve on the board of directors for the *University of North Dakota's* Bookstore and are trying to find a way to lower the cost of books.

Ohio

Voting membership for 18 students in the University Senate was approved by the Board of Trustees of *Miami University* in December. The action doubled the number of student members which had been originally proposed by the Senate, primarily a faculty body, last April. The board's resolution included a reminder that the action is temporary, pending further consideration of other university governance changes by President Phillip R. Shriver and various university agencies, "which shall include a permanent and continuing participation by student government." Student members of the Senate will be the holders of 18 specific campus offices. A pending proposal would have the same number chosen by general campus election.

At *Ohio University* a president's advisory council, including students, faculty, and administrators, has been appointed.

Students at *Ohio State University* now sit on the Faculty Council and the Council of Academic Affairs.

Oregon

A broad policy statement on institutional governance adopted last year by *Oregon's State Board of Higher Education* states that "students should be involved in the formulation of institutional policies, rules, and regulations governing student conduct and student participation in the affairs of the academic community." Students were involved in development of the policy statement and appeared before both the Board's Academic Affairs Committee and the full meeting of the Board at which the statement was adopted.

Students at *Oregon State University* hold membership on 32 university committees and councils that contribute to the formulation of university policy. These include the Student-Faculty Council on Academic Affairs and committees and boards dealing with examinations, intercollegiate, athletics, student conduct, student publications, and university discipline. Students also participate in the development and review of university-wide academic policies and programs through joint meetings of the Executive Committees of the Student and Faculty Senates. Discussions are also in progress for the purpose of establishing a combined Student-Faculty Senate.

Pennsylvania

The University Senate of *The Pennsylvania State University* has approved a resolution giving full voting rights to students. Students have sat on Senate committees for several years but have had a vote only within the committee. The Senate is a faculty legislative body which determines educational policy.

Rhode Island

A President's Student Advisory Council is in operation at the *University of Rhode Island.* Students also sit on many policy recommending committees which make recommendations directly to the president. These include the Student Life Committee, Housing Committee, Memorial Union Advisory Council, and Association of Women Students.

South Carolina

Following a study by a committee appointed by the Governor, there has been more participation by *South Carolina State College* students and faculty in college affairs. Students are presently on all standing committees of the college with voting privileges. Student discipline is handled by student judicial boards, except when they feel it necessary to refer cases to a board composed of both faculty and student members.

At the University of South Carolina, a student committee, under Student Government, with limited faculty help, is working with the Dean of the College of Arts and Science on curriculum revision in the college. A subcommittee of black students is working on organization of an Afro-American studies program. Student representatives also meet with the general faculty of the school.

South Dakota

At the *University of South Dakota*, President Richard L. Bowen recommended in his State of the University message given on September 29 that students be given full voting representation on the University Senate, which is the University's general governing body on academic affairs. The Senate is a faculty organization currently including certain administrators.

Tennessee

University of Tennessee students now serve as members of the Faculty Senate. In addition, plans are underway to add students to the University's Administrative Council, which is the ultimate appeal agency on disciplinary matters and which adopts major policies on student conduct and standards.

Texas

At the *University of Texas at Austin*, last spring the Faculty Council was changed to University Council, with enlarged membership including three voting student members, and to establish a new faculty senate. The new Council held its first meeting in September.

Another new organization to be activated this fall at UT is a Faculty Senate, composed of elected faculty members of the University Council having administrative duties no higher than those of a department chairman. Senate recommendations will be conveyed to the Council.

The University Council and Faculty Senaate were both created through faculty legislation and approved by President Hackerman, the UT System Administration, and Board of Regents.

Utah

The major legislative body of the *University of Utah*, the Faculty Council, last year expanded its membership to include students and teaching assistants.

Vermont

At the *University of Vermont*, students were consulted prior to faculty adoption of a major curriculum revision and experimental living-learning program. Students served on the advisory committee which recommended the experimental program focusing on seminars and lectures for groups of students living together in the same dormitory.

Virginia

The Board of Visitors of *Virginia Polytechnic Institute* last spring approved a complete restructuring of university governance "involving close cooperation of faculty, students, and administration, and designed to include the view of all three groups." The changes involved:

Restructuring and expansion of the existing University Council and addition of two student representatives;

Creation of a 40-member Faculty Senate;

Establishment of commissions for undergraduate studies, research and graduate affairs, faculty affairs, and undergraduate affairs, with student representation on all commissions except faculty affairs.

For many years, students of the *University of Virginia* have operated their own Honor System under which students accused of lying, stealing, or cheating are tried by a student-elected Honor Committee. Other offenses requiring disciplinary action are tried by a student-elected Judiciary Committee. When acting in review, the university administration usually upholds committee decisions.

Washington

At *Washington State University*, student members were added this year to the University Council, which advises the president on major policy and administrative matters; to the Planning Council, which is charged with developing long-range educational plans and recommending priorities, and to the all-university Budget Committee.

West Virginia

At *West Virginia University*, Students serve on seven committees and subcommittees of the University Senate including a subcommittee to recommend revisions in the Core Curriculum and a Special Committee on Interracial Policies and Procedures.

A new University-wide Council on Planning includes two students among its twelve members. The student body elects two students to serve on the five-member University Committee on Student Discipline. Minor violations of residence hall regulations are adjudicated by students themselves through residence hall judiciary boards that they elect.

Wisconsin

The *University of Wisconsin* has long had a student "input" into policy formation, mainly through full membership on faculty committees in which most academic policies originate and through an active student government and student press on all its campuses.

Recently the University's Regents have directed the faculty to "investigate and develop experimental programs based on student participation in areas such as (a) curriculum design and evaluation, (b) evaluation of present and prospective teachers, (c) student participation in education of the disadvantaged, (d) methods of financing education of the disadvantaged not now being employed. . . ."

Wyoming

At the *University of Wyoming*, the student body president serves as an ex-officio member of the Faculty Senate and has the same privileges as elected members except the right to vote. In addition, students are members of several university committees dealing with student goverance and serve on the Appeals Board.

STUDENT MEMBERSHIP ON COMMITTEES

Student membership on committees is particularly important, for it is here that much of the preliminary work is done leading to policy recommendations and changes. Many state and land-grant universities have for many years placed students on major committees. In recent years, this trend has been accelerated.

Alabama

For many years, *Auburn University* students have served on standing University committees. Student Government Association members also served on *ad hoc* committees planning the Union addition, considering the ROTC issue, planning the dedication for the new Haley Center, proposing a student academic honor code, and reviewing student disciplinary regulations, as well as on others.

Student are represented on committees in the various schools and colleges at the *University of Alabama* as well as special committees dealing with Faculty-Student Planning, the Role of the Student, and Disciplinary Procedures.

Arizona

Student at the *University of Arizona* have a greater voice in policy-making this fall due to increased representation on University committees. The Faculty Senate has opened a number of committees which oversee various functions of the university to student membership for the first time. These include dishonest scholastic work, lecture, scholarships and awards, student grants and aids. Five committees which in the past had some student members now have increased student representation. These include personnel artist series, orientation, university relations, and student activities and eligibility. Student committee members are selected by the student government.

At *Arizona State University* student representation on major committees formulating policies governing the University has increased from 56 positions on 11 committees in fall of 1967 to 148 positions on 33 committees this fall.

Arkansas

At the *University of Arkansas* this fall, students have been named to all faculty-administrative committees in an attempt to improve communications on educational programs and policies. At least one student will also be appointed to each of the University Senate Committees.

The *University of Arkansas* College of Arts and Sciences faculty has established an experimental system to facilitate change and adaptation of courses and curriculum. Four student-faculty committees have been established and assigned to the fields of fine arts, literature, natural sciences, social sciences, and modern languages. They are authorized to experiment directly with new courses.

California

At all nine campuses of the *University of California*, students have become increasingly involved with service on both administrative and academic committees.

At the *University of California, Berkeley*, students have been appointed to most of the Chancellor's administrative committees, especially those which are intimately involved in student affairs, such as the Judiciary Committee and the KALX Radio Policy Board. In addition, student advice is sought on an *ad hoc* basis regarding matters which affect them.

At the *University of California, Davis*, students who serve on an academic planning committee receive academic credit.

Colorado

At the *University of Colorado* an extensive study on university governance conducted by a special committee of students, faculty and administrators has provided the impetus for increased student participation on a variety of committees. Joint student-faculty policy recommending boards have now been set up to deal with all significant non-academic areas of student affairs. The number of students participating on standing committees within the schools and colleges of the university has been increased. The Faculty Council has established a special student liaison committee to develop ways of relating students more significantly to the academic structure.

This fall President Frederick P. Thieme appointed a committee of administrators, faculty, and students to recommend a permanent policy on the use of the University's facilities and to serve as the approval agency for the use of facilities where approval is required. Pending the committee's recommendations, President Thieme announced interim policies.

Colorado State University students serve on the following university-wide committees: Orientation of New Students, Discipline, Educational Media, Campus Security, Housing Advisory, and Programs for Educationally Disadvantaged Students. In addition, students are voting members of six Faculty Council committees: Student Life, Undergraduate Instruction, Graduate Council, Health, Library Council, and Registration.

Connecticut

At the *University of Connecticut*, students are members, often with voting rights, of all standing and *ad hoc* university committees, except in those areas dealing directly with faculty concerns. Notable examples of the broad range of student representation on both administrative and planning groups in recent months include: The Security Division study committee, the Housing Policy Committee, the University Commission on Human Rights and Opportunities, the General Scholastic Requirements Committee, as well as several standing committees in the general areas of student-university relations and student affairs.

Delaware

At the *University of Delaware*, more students have been included on traditional faculty committees this year, including the one that screens potential professors and department heads. Students have a voice, though not a vote.

Two years ago *Delaware State College* established a highly-successful special committee consisting of four trustees, four members of the faculty, and six students. The committee meets regularly and considers any matters pertaining to student life that the students want considered. The committee is empowered to determine appropriate solutions to matters which might lead to student unrest and recommend appropriate action directly to the full Board of Trustees.

On August 14, 1968, the *Delaware State* Board of Trustees approved a policy statement authorizing and encouraging student participation in nine faculty committees: athletics, health and food services, library, student union, discipline, student personnel, lyceum, scholarship, and assembly. The Student Government Association selects the student members of the committees. The Board also authorized provision by the faculty of a student judiciary system wherein certain disciplinary matters will be handled by students, subject to appeals to a student appeals committee of the faculty.

District of Columbia

The Faculty Organization at two-year-old *Federal City College* voted during its first year to place students on all standing committees.

Florida

The *University of Florida* has 114 students serving on university committees. Two students serve as chairmen of major committees. This is a 50 percent increase over student representation in previous years.

Georgia

Students at the *University of Georgia* are voting members of committees pertaining to student affairs, intercollegiate athletics, cultural affairs, the University Bookstore, health services, housing, traffic, and a special Presidential Committee for Residence Hall Planning. They are non-voting members of committees on curriculum and admissions. A student observer also attends meetings of the Faculty Executive Committee.

Hawaii

Students have been added to virtually every major committee at the *University of Hawaii*.

Idaho

At the *University of Idaho*, each of the 40 standing committees of the faculty has from two to five students among its members. Most recently, the 15-man University Curriculum Committee appointed by the Faculty Council has been remodeled to include two upper-division undergraduate students and one graduate student nominated by the student government. This committee determines catalog changes and approves all changes in curricula as proposed by various departments. Students have long taken part in committee deliberations at Idaho, but this year the representation is at an all-time high.

Illinois

Trustees of the *University of Illinois* last spring approved recommendations of the Chicago Circle Senate and the Senate Coordinating Council authorizing student representation on committees of the Senates on all University of Illinois campuses. The student members will have Senate floor and voting privileges on matters relating to the action of the commitees on which they serve "unless the Senate provides otherwise."

On all campuses of the *University of Illinois* student advisory committees are employed quite liberally. At Urbana-Champaign, each of the four deans who have statutory responsibilities for student affairs have such committees. Most colleges and schools also have or are establishing advisory councils. In addition, many departments have student members on committees on courses and curricula. At Chicago Circle, student boards are functioning in most colleges. For example, in the College of Education, the Student Caucus places its members on college committees, where they have full voting rights. This organization also evaluates courses, teachers, and college requirements, advises other Education students, and participates in the interviewing and evaluation of professors being considered for employment. Student advisory committees are now being set up at the departmental level.

At the Medical Center, the College of Dentistry, the College of Pharmacy, and the College of Medicine all have student-faculty committees, aimed at encouraging dialogue between the two groups.

The faculty of the College of Medicine has incorporated student members, chosen by election, to its standing committees on instruction, student appraisal, and student promotions.

In the *University of Illinois* College of Nursing, by-laws of the faculty specifically include students on committees on curriculum and student affairs. Student members recently participated in a thorough review of the academic advising system of the College. Through the Student Council, they surveyed the views of all undergraduate students. These were incorporated into the recommendations that the Student Affairs Committee brought to the faculty and which were subsequently adopted by that body.

Indiana

Many of *Purdue University's* administrative committees include student members. For example, students have a voting voice on the committees for commencement, orientation of new students, campus beautification, campus appeals, expanded bookstore facilities, centennial program, and the advisory committee to select a director of University libraries.

The University Senate, legislative body of the *Purdue University* faculty, includes one student member on the standing committee on educational policy. In addition, four undergraduates sit on the superior students subcommittee. Students also sit on senate subcommittees in the areas of student counseling service, student housing, financial aids, student organizations, student publications, student freedom, responsibility and integrity, student affairs, parking and traffic, visual arts, and the library.

The student-faculty affairs committee of the School of Veterinary Science and Medicine at *Purdue University* has one elected student member from each undergraduate class. Similar representation exists on the home economics council, in addition to student membership on the school's committees on student affairs, publicity, and the library.

Iowa

At the *University of Iowa*, over the past five years the central administration—under no pressures from students themselves—has initiated steps to have more students placed on committees and to appoint students to more all-university committees. In 1964 there were six all-university committees with students as voting members. The current roster of committees lists students on 20 all-university committees. Student and faculty members on committees are equally empowered to introduce topics for the agenda, to debate proposals, and to vote on all actions. Students are appointed by the University president, after receiving recommendations from the Student Senate. In nearly all cases, the nominees of the Senate are appointed by the president. Student representation on academic committees within the various colleges has also accelerated.

Kentucky

Students have been appointed to serve on four standing committees of the *University of Kentucky* Community College System. Members of the Inter-Community College Student Council were named by Dean Ellis F. Hartford to serve on the following committees: Academic Planning, Curriculum Studies, Instructional Resources and Student Affairs. Four students were named to each committee. They began their new roles by participating in the annual community college faculty conference held in Lexington this fall. The new appointments mark the first time students have been included on system-wide committees, although they have previously served on individual faculty committees within each college.

Louisiana

Several colleges at *Louisiana State University*, Baton Rouge, have appointed students to college course and curriculum committees.

Maine

Students are represented on nearly all faculty and administrative committees at the *University of Maine*. All divisions of the newly-reorganized Student Service office have student advisory committees. Most academic departments also have student advisory committees. Students also serve on a University Planning Committee making long-range determinations of missions and goals for the University.

Maryland

Starting this fall, university housing policy at the *University of Maryland* is in the hands of a student-faculty committee which will initiate policy changes, solicit student opinions on dormitory life, and facilitate communications between residence hall students and the university housing office.

Massachusetts

At the *Massachusetts Institute of Technology*, students have been involved in a review of policies and operations, of the University's two special laboratories—Instrumentation Laboratory and Lincoln Laboratory. Students were included in a 22-member panel which studied the labs. They are also members of a new standing committee whose purpose is to advise the president on the laboratories' work and to inform and involve the community in the laboratories' programs.

There is student representation on the large majority of Institute committees. Students always enjoy speaking privileges and on many committees they can vote as well. On certain issues, committees hold open sessions at which a variety of student opinions can be expressed.

Students at the *University of Massachusetts* are represented on a number of Faculty Senate and University committees and subcommittees. Appointments are made by the president of the Student Senate. Students

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are currently members of committees on: Academic Matters, Master Planning, Scholarships, Financial Aid, Placement, Student Affairs and Student Life among others. They also hold membership on the Athletic Council, Discipline Board, Communications Board and Student Union Governing Board. On the Student Affairs Committee, which is chaired by a student, students are in the majority, and on the Student Life Committee they have equal representation with university staff members.

Michigan

At the *University of Michigan*, an increasing number of university-wide faculty committees have voting student members. At the school and college levels, students are sitting on a growing number and variety of committees concerned with matters like curriculum and policy-making. Every school or college also has some kind of student government or committee distinct from the University-wide student government council. Both a student-faculty and a black-student committee helped to determine the allocations of contributions to the University's Martin Luther King, Jr., Memorial Fund.

At *Michigan State University*, an *ad hoc* committee on Student Participation in Academic Affairs includes eight faculty members and five students.

Minnesota

Although students at the *University of Minnesota* have been full voting members of various University Senate committees for more than 20 years, the recent re-organization of the body has placed more students on more Senate committees. Among the committees on which they are represented are: Academic Standing and Relations, Printing and Publications, Social Policy, Business and Rules, Educational Policy, Liberal Education, Extension and Community Programs, Research, Resources and Planning, and Consultative. Student membership on the latter committee is of special significance because it serves as the "sounding board" to the president on educational and budgetary matters.

In addition, students have been added to many departmental, college, and school committees which have been previously limited to faculty. Each campus also has its own student-faculty Assembly and Assembly committees. The largest campus, the Twin Cities Campus, has students on all thirteen of its Assembly Committees with students in the majority on the Committee on Student Affairs.

Mississippi

At *Mississippi State University*, students have been represented on most of the standing committees for some time. Students are reported to be active participants in the committees.

Students are represented on most standing and special committees at the *University of Mississippi*.

Missouri

This year all standing faculty committees at *Lincoln University* have student members with full voting rights. Most faculty committees have had student representation for some time but now there is 100 percent student participation. For the first time the Faculty Committee on Student Personnel Services is half student and half faculty. Each academic department at *Lincoln* this year has created Student Advisory Committees to "advise with the several faculties with respect to curriculum, course requirements, examinations, etc."

At the *University of Missouri, Columbia*, students have served on some campus-wide committees for as long as ten years. They currently serve on 20 of 32 campus-wide committees, including schedule of studies and examinations, bookstore, library, government and activities, and student publications. Students have recently been added to student conduct committees. They are also represented on several faculty committees in four divisions, including curriculum and policy.

Students at the *University of Missouri, Rolla* have representation this fall with voting privileges on 18 faculty committees.

At the *University of Missouri, St. Louis*, students are full voting members of nearly all university committees, including those on curriculum, the library, new degrees and programs, admissions and student aid, long-range planning, urban affairs and community relations, student affairs and official publications.

Montana

Students hold membership with faculty on all boards related to student activities and facilities at *Montana State University*. There are also student members on 18 standing committees responsible for the administration, management, and formulation of policy recommendations relating to general campus operations. Membership on nine of these committees has been granted in the past five years. Students also have a voice in curriculum planning through participation on departmental curriculum committees.

Nebraska

University of Nebraska students appear routinely on *ad hoc* committees. They are currently serving on a new committee to evaluate and suggest possible improvements in the ROTC program. Each undergraduate college has an elected student advisory board that regularly meets with the deans to discuss educational questions, share information, and on occasion give some forceful advice. Students sit on many other collegiate committees, including the Curriculum Committee of the College of Arts and Sciences. Students also are represented on the new University Academic Planning Committee and the Human Rights Committee.

Nevada

At the *University of Nevada, Reno*, students are voting members of most university committees. The student body president is a voting member of the Office of Students Affairs. Students are consulted and they do participate in the development of policies and regulations affecting their out-of-class activities. A student-administration Steering Committee on Co-ed Housing studied, developed, and caused the adoption of policies and procedures governing co-ed dorms. A student-faculty-administration *ad hoc* Committee on Search and Seizure developed policies on search of premises occupied by students, culminating in the adoption of a University Search Warrant. An *ad hoc* Committee on Use of University Facilities, composed of administrators and students, reviewed existing policies and procedures and proposed revisions.

New Hampshire

In 1965 the *University of New Hampshire* began to invite the participation of students on University policy-making committees with responsibility for a wide range of campus services and activities. Today, more than 200 students serve on these committees—including standing committees of the University Senate (students are chairmen of several of these committees), and joint faculty-administration-student committees, whose members are appointed by the president of the University.

New Jersey

Rutgers University has, as a matter of policy, encouraged the inclusion of students on the committees of its colleges. Although the patterns vary from college to college, students participate on such policy and operations committees as financial aid, scholastic standing, curriculum and courses of study, library, admissions, and faculty-student relations.

New Mexico

For many years, students at *New Mexico State University* have been members of the disciplinary system. Students are on discipline committees at all levels of the system.

In addition, with the construction of a new field house and student center at NMSU, advisory committees have been established to advise administration on appropriate policies for the operation of these new structures. Students have representation on these advisory committees.

Students at the *University of New Mexico* have been serving on all administrative, faculty, and joint committees on campus for the past two years.

New York

At *Cornell University* several colleges have added students to important committees. Three students now serve on the Educational Policy Committee of the College of Arts and Sciences. Agriculture students serve on committees on educational policy, petitions, and scholarships, among others. Five departmental councils within the College of Human Ecology added student representation this fall. These councils serve as sounding boards for student suggestions and grievances. Representatives to the three standing policy committees of the faculty were chosen from the members of these councils. A number of student-faculty organizations of various degrees of formality are in operation in the College of Engineering.

Three university-wide student-faculty-administrative special committees that are currently active are the Committee on Residential Colleges, the Married Student Housing Policy Review Committee, and the University Committee on Campus Planning. Students are also members of a number of faculty committees.

Students at the *State University of New York, Albany*, have representation in the policy-making councils and committees of the University's faculty senate.

At the *State University of New York at Buffalo*, the Faculty Senate, in conjunction with the student government and the president's office, provided for equal participation between students and faculty on eight of nine standing committees of the Faculty Senate. In matters concerning curriculum and "hiring and firing of faculty," students participate equally with faculty on University-wide committees.

The University College Curriculum Committee, which must approve all proposed undergraduate courses, has five voting student members selected by the Student Association.

At the *State University of New York, Stony Brook*, students are members without vote of committees concerned with teaching policy, admissions, academic standing, library, and instructional resources. Students also serve as voting members of most special or *ad hoc* university committees.

At most of the 17 campuses of the *City University of New York*, students are members of all standing college committees such as those on curriculum, admissions, and student life.

North Carolina

The *University of North Carolina* has two new student-faculty committees to deal with discipline. The Hearings Committee handles cases of disruption and the Board of Inquiry advises the chancellor regarding whether there is sufficient evidence to warrant charging an individual with violations of the University policy on disruptive conduct.

The *University of North Carolina at Chapel Hill* has a long tradition of student participation in University affairs. Students are members of a number of University committees, including Space Utilization, Scholarships, Awards and Student Aid, Teaching and Curriculum, Traffic and Safety, Building

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and Grounds, Minorities and the Disadvantaged, Student Supply Stores, and Student Fee Structure.

At *North Carolina State University*, students have been appointed to almost every university committee in which they have an interest.

North Dakota

At *North Dakota State University* students are members of 10 Faculty Senate committees, including the Executive Committee and committees on: Academic Affairs, Educational Development, Public Events and University Relations, Research, Student Affairs, and University Athletics. The six academic colleges have students on many committees.

Ohio

At *Ohio University* this fall, students for the first time are members of 38 university committees, including executive and priorities planning committees.

Oklahoma

At *Langston University*, 50 students elected by their classes are members, along with faculty, on every standing committee.

Oregon

Students at *Oregon State University* serve with members of the faculty and administration on 32 university committees and councils. The newly-established President's Commission on Human Rights is made up of three students and six faculty members. The commission reviews all matters to violations of the human rights of members of the university community, including those which involve alleged ethnic and racial discrimination in the university's intercollegiate athletic program.

Rhode Island

At the *University of Rhode Island* students sit on most of the major committees, especially the ones relating to those aspects of university life which directly affect the student.

South Carolina

University of South Carolina students sit as full members of many joint committees such as the Student Affairs Committee, Registration Committee, Orientation Committee, Board of Student Publications and Communications, Discipline Committee, Campus Traffic Appellate Court, and Parking Committee. Students in the School of Education sit on all faculty committees in that school.

South Dakota

For many years, *South Dakota State University* has had student representation on virtually all committees.

All major committees and most minor committees, academic and non-academic, at the *University of South Dakota* have student representation. The student representatives are designated by the Student Association on invitation of the president of the University and report back to the Student Association and general student body.

Tennessee

In an effort to bring about greater student involvement in policy formulation. *Tennessee State University* has set up 12 student-faculty committees to replace 25 former committees, which were composed largely of administrators. Student committee representatives will be elected by the student body.

Students are represented on disciplinary, regulatory, and curriculum committees throughout the *University of Tennessee*. Students also serve on planning committees for student buildings, special committees to aid in the screening of candidates for administrative offices, campus speaker committees, and study groups for ROTC programs.

Texas

At the *University of Texas at Austin*, students are voting members along with faculty of nearly all standing committees. These include committees on Admissions and Registration, Educational Policy, Parking and Traffic, Publications, Student Living Accommodations, Discipline, Financial Aid, Advisory Council on Student Affairs, and a new committee on Ethnic Minority Affairs.

Utah

At *Utah State University*, students have for many years been members of faculty and administrative committees. These committees have been reviewed recently and, where advisable, students have been added. Students have also been assigned to other committees.

Virginia

At the *University of Virginia*, students have for some years served on a few of the administrative committees, which are advisory to the president. In the spring of 1969 a total of 120 students, selected from lists submitted both by the elected student government and by individual students, were appointed by the president to 41 of the 56 administrative committees. Students now serve on committees of most of the constituent colleges.

Students serve on all major committees at *Virginia Polytechnic Institute*.

Washington

Students at *Washington State University* have served for many years as regular voting members on most university committees. They have an equal voice with faculty on the Discipline Committee and on other committees dealing primarily with student affairs.

At the *University of Washington* student members have been added to most University faculty and staff committees and student representatives have been invited to participate in discussions of the various Councils of the Faculty Senate. Students have also been named to a large number of College and Department Committees.

West Virginia

The *West Virginia University* College of Commerce has established a committee consisting of four students and four facility members to discuss its academic program. Similar student-faculty committees have been created in the Departments of Political Science and History.

The School of Nursing has added 11 students to serve in an advisory capacity on four standing committees and has established a student-faculty board. The College of Engineering has an Engineering Council, including student representatives, which handles all major problems of concern to its students.

WVU students also serve on a variety of other committees including the Computer Center Advisory Committee, the University Program Board, the advisory boards to WWVU–TV and the West Virginia University Magazine, an advisory council to the campus activities center, the committee that recommends names for new University buildings, and special investigating committees.

Wisconsin

In recent years, the *University of Wisconsin* has increased student representation on committees which already had students and has routinely included students as members of new committees—the black studies proposal committee, for example. In almost every department, there is a conference group that listens to, and often heeds, student advice.

Wyoming

University of Wyoming students serve on committees dealing with academic standards, academic planning, curriculum and course offerings, library, cultural affairs, student services, student financial aid, and foreign student interrelations.

STUDENT PARTICIPATION ON SEARCH AND SCREENING COMMITTEES

In this section, student participation in one particular kind of committee is singled out. These are the committees that have major responsibility for recommending individuals to be appointed to high, policy-making positions on campus—from the president on down. Participation in the selection of such individuals perhaps most dramatically demonstrates the faith which state and land-grant universities have demonstrated in their students.

Alabama

Students at the *University of Alabama* have been represented on screening committees for both academic and administrative personnel. Students are represented on a committee to search for a new Law School Dean and on a screening committee to review candidates for the position of Dean of Students. Recently, student leaders were asked to select a group of students to meet with the Trustees to express their views on the selection of a new president for the University.

Arizona

The Board of Regents has included the student body president as a member of the advisory committee on the selection of a new president of *Arizona State University*.

California

At the *University of California, Davis*, both students and faculty were active on committees that chose the new chancellor, James H. Meyer.

Colorado

Student representatives from each of the various schools and colleges were appointed to serve with representatives of the faculty, staff, and alumni on a *University of Colorado* committee set up to recommend qualified candidates for the presidency of the University. As a result of recommendations to the Board of Regents, Dr. Frederick P. Thieme was appointed president, effective September 1, 1969.

At *Colorado State University*, students have been appointed to the Presidential Selection Committee, the Academic Vice-Presidential Selection Committee, and are expected to be appointed to search and screen committee for all major administrative positions.

Connecticut

University of Connecticut students have sat on search and screening committees for the major administrative positions filled within the past few years.

Georgia

A Student Advisory Council at *Georgia Institute of Technology* helped select a new president for the college.

Idaho

At the *University of Idaho* two students were appointed to the President's *ad hoc* committee assigned the responsibility of screening candidates for the position of Vice President for Academic Affairs. This committee made the final selection for recommendation to the Board of Regents. The students prepared application materials, interviewed candidates brought to the campus, and participated fully in the final selection.

Illinois

Students in the College of Medicine at the *University of Illinois at the Medical Center* have been members of every search committee for new department heads and deans for the past 18 months. Two *ad hoc* committees with significant student representation are currently advising the chancellor in the selection of key administrators. One is involved in the selection of a Vice Chancellor for Campus Affairs and the other in the selection of a Dean of Students.

Iowa

The State Board of Regents in Iowa invited a committee of four students to assist faculty and alumni in choosing a new president for the *University of Iowa*.

Kansas

At the *University of Kansas*, six students served on the Advisory Committee for the Chancellor's Selection along with six faculty members. Students also were on the committee selecting a new Dean of the School of Education and are presently serving on the search committee for a Dean of Journalism.

Kentucky

In the summer of 1968, students served in an advisory capacity to the committee which nominated the *University of Kentucky's* current president Otis Singletary for his job and are now filling a similar role in the process that will lead to the appointment of a Vice President for Student Affairs.

Maine

Students served on the committee which appointed Winthrop C. Libby as president of the *University of Maine* last April.

Massachusetts

Three of eight advisory committees that have been set up to help conduct a search for a new president for the *University of Massachusetts* are composed of students. Two are student committees from the University's Amherst campus, one from its Boston campus. Each committee is responsible for submitting its recommendations for president to the Trustee Selection Committee. Each will also be involved again after an initial screening has been carried out by the trustees.

Student advice and opinion played an important role at the *Massachusetts Institute of Technology* in its search for a Dean for Student Affairs. Student opinion is often valuable in the matter of faculty promotions.

Michigan

Clifton Wharton, Jr., the first Negro to be chosen president of a major American university, was recommended to the Board of Trustees of *Michigan State University* by a student-faculty-administration group.

At the *University of Michigan*, a student committee was one of those concerned with the selection of R. W. Fleming as president. Students were also involved in the selection of Wilbur Cohen, former Secretary of Health, Education, and Welfare, as the new Dean of the School of Education.

Wayne State University's ad hoc Committee to Advise the University on the Selection of a Vice President for Student Affairs includes five students among its nine members. The Committee was appointed by Wayne State President William R. Keast to advise him on whether the University should have a Vice President for Student Affairs and if so what criteria should be used in his selection. It was also charged with recommending candidates if it thought the office should be filled. Since the Vice President for Student Affairs is the position at the executive level in the University which most directly affects all students, President Keast strongly believes that the heavy student representation on the committee "is indicative of Wayne State University's affirmation of the value of substantial student participation in University governance."

Minnesota

Two students were included on the search and screen committee which selected President Malcolm Moos of the *University of Minnesota*. Students are also included on the search committees for the Dean of the College of Education and the Dean of the School of Business Administration.

Missouri

Student advice and opinion were solicited at the *University of Missouri, St. Louis*, in its search last year for a chancellor. A popularly-elected committee of students served in an advisory capacity to the search committee. Student opinion played an influential role in the search committee's criteria to be considered in the selection.

At the *University of Missouri, Columbia*, students participated in the selection of deans for the School of Law and the College of Arts and Science.

Montana

Students at *Montana State University* have been given the opportunity to present their views and recommendations as part of the screening process for selection of a new president.

At the *University of Montana*, students selected by the student body president have been appointed by President Pantzer to serve on the screening committee for selection of the new Dean of Students.

Nebraska

University of Nebraska students are currently serving on three major search committees, two for undergraduate college deans and the other for a new chancellor. Students also participate in the selection of professional staff in the area of student affairs.

New Hampshire

The president of the Student Senate was among the faculty-trustee-alumni members who, in the spring of 1969, served on the search committee which nominated the new president of Keene State College, a division of the *University of New Hampshire*. During 1969, students at the University of Durham were members of committees which screened and made nominations for the appointment of a new Academic Vice President and a new Dean of the College of Liberal Arts.

New Jersey

Rutgers University students have been included in the search and screen committees that recruited for positions including a Dean of Students, a Dean of the College, an Associate Dean of the College, and several assistant student personnel deans.

New Mexico

Students are members of the Criteria and Screening Committee which has been established by the Board of Regents to assist in the selection of a new president for *New Mexico State University*.

Using students on search and screen committees is a firmly-established practice at the *University of New Mexico*. Two years ago a student was on the committee that recommended a new president for the university. Students have also participated in committees searching for a Dean of Arts and Sciences, a Dean of Business, and a Dean of Nursing.

New York

Since March, 1969, students, faculty, and alumni representatives have served on all presidential search committees for chief executives of member schools of units of *The City University of New York*. Committees have chosen or are in the process of doing so presidents for Brooklyn, City, Hunter, and Kingsborough Community Colleges.

Students are now appointed as a regular matter to all search committees for new provosts and deans of the *State University of New York at Buffalo*. Committees presently in existence include those searching for a new Provost of the Faculty of Natural Sciences and Mathematics, for new deans of the Schools of Law and Pharmacy, and for a new Director of Physical Education, Recreation and Athletics.

North Carolina

At the *University of North Carolina* student members have played important roles in the past year on joint committees charged with screening applicants for the positions of Director of Athletics and Director of Admissions.

North Dakota

At the *University of North Dakota*, students participated in the selection of a new college dean.

Oklahoma

In 1967, students served on the selection committee that picked J. Herbert Holloman to be president of the *University of Oklahoma*.

Oregon

Three students are currently serving as full voting members on the 16-member Board of Higher Education Search Committee for a new *Oregon State University* president. Two students served in a similar capacity on the previous presidential search committee of 1961.

Pennsylvania

Both undergraduate and graduate students served on the advisory committee of the University Senate of *The Pennsylvania State University* in the selection of a president. The committee screened the entire list of candidates, interviewed a number of them, and made its recommendations to the Selection Committee of the Board of Trustees.

Rhode Island

Students at the *University of Rhode Island* recently served on the screening committee which was searching for a Dean of Students.

South Dakota

The student body is represented on search and screening committees at the *University of South Dakota* by delegates they appoint. Students serve on all committees set up to consider candidates for academic and administrative positions.

Texas

At the *University of Houston* last year, the student body president served on an advisory committee to aid President Philip G. Hoffman select a new vice-president and dean of faculties.

At the *University of Texas at Austin*, faculty-student nominating committees are used whenever a vacancy occurs at the presidential, academic vice-presidential, or dean level. These committees always include three students as voting members and from seven to nine faculty members. Similarly-composed evaluation committees are used for deans who have served for six years.

Washington

Students served on search committees appointed by the Board of Regents during selection of the last two presidents at *Washington State University*. A Student Government committe also was asked to interview all nominees and make recommendations to the Regents.

West Virginia

West Virginia University students have been appointed to every search committee for new academic deans in recent years including committees now screening candidates for deanships of the College of Arts and Sciences, the School of Medicine, and the School of Mines.

Wisconsin

University of Wisconsin students have served on search and screen committees for major administrators.

Wyoming

Through the appointment of the student body president to the Board of Trustees, *University of Wyoming* students have input in the appointment of faculty and major administration.

SELF-STUDIES AND EVALUATIONS

As part of their continuing efforts at reform, a number of state institutions have recently been or currently are engaged in major self-studies. Many of the studies have been assigned to joint student-faculty-administration committees. These studies are producing thoughtful recommendations to serve as a basis for future action.

Alabama

Student-faculty-administrative committees are appointed frequently at the *University of Alabama* to study various matters relating to students. Examples include a Committee on the Role of the Student, a Student-Faculty Planning Council, and an *ad hoc* committee to study the registration process.

Arizona

The Faculty Senate at the *University of Arizona* recently approved, unanimously, a report of an *ad hoc* committee on the adjudication of disputes related to nonacademic activities of students. The committee, which included students among its members, devoted its time to three activities:

1. A detailed examination of policies and procedures currently in practice at the university.

2. A careful evaluation and delineation of the rights and freedoms of students at a number of institutions, including Arizona.

3. A general statement of suggested policies and procedures which the committee felt would protect the rights and freedoms of students.

Among report recommendations was a call for clearly-defined means for students to participate in the formulation and application of university policy affecting student affairs and assigned areas of academic affairs.

California

In the summer of 1969, President Charles Hitch appointed a ten-member task force to look into all facets of student participation in campus governance on the nine compuses of the *University of California*. The task force was chaired by the Executive Vice President of the University and composed of three student body presidents, three members of the campus academic senates, and three chancellors.

Connecticut

Students at the *University of Connecticut* have been voting members of numerous self-study committees during the past several years. Of particular interest during the past several months have been: The committee to study the role of the Security Division, the Housing Policy Commtitee, and the Joint Committee on University Placement Policies.

Delaware

Three special student-faculty-administration committees were appointed last year at the *University of Delaware* to study special aspects of student life. A Committee on Policies, Programs, and Services Affecting Blacks and Other Minority Group Students issued a report containing 25 recommendations. Of these, 13 are now being implemented, six others are accepted, and the final six have been designated for further study. The end result will be to make the University a more hospitable place for minority group students.

Florida

At *Florida State University*, a special 77-member committee has been named to look into all facets of student life. It will report to the president.

University of Florida President Stephen C. O'Connell this summer named a 30-member Advisory Council, composed equally of students, faculty, and administrators, to examine the University's policies, programs, and philosophy. Among the topics he suggested the Council might explore are campus security officers, treatment of minority groups, drug use and control, and maintenance of campus order. The president told the Council there is no limit on the range or depth of its inquiries, studies, and action.

The Council was established to "continue the momentum and thrust" of a 75-member Action Conference formed in May 1968 which made 41 specific recommendations for change in the university. Many of the Conference's recommendations have been implemented. Others are under consideration by appropriate committees or are awaiting necessary legislative action.

Georgia

Students will serve on major committees involved in the self-study currently underway at the *University of Georgia*.

Hawaii

A Planning Task Force of students and faculty has been set up at the *University of Hawaii* to formulate program alternatives for consideration by President Harlan Cleveland. The work of the group will culminate in a "Prospectus for the 1970's"; which will be discussed by the entire university community before adoption. Similarly, when the university revised its Academic Development Plan in 1968, students participated on the ADP Committee, and public hearings were held before the plan's adoption. Students will continue to participate directly in all future planning, because the university administration believes that planning is one area in which student involvement can be most helpful and meaningful to the university.

Illinois

The College of Medicine of the *University of Illinois at The Medical Center* has received a grant from the National Fund for Medical Education to support improved student-faculty relationships. A series of evening conferences and two off-campus conferences involving equal numbers of students and faculty has been held.

Maine

A Statement on Campus Disorder is under discussion by both the Faculty Council and the Student Senate at the *University of Maine*. Included in the statement is a review of all University policies involving student rights and discipline. In addition to the Disciplinary Code, policies under discussion are the Free Speech and Assembly Policy, adopted in 1967, and the Open Campus Policy (Job Recruiting).

Maryland

President Wilson H. Elkins of the *University of Maryland* at a University Faculty Assembly in September asked each department of the university to "engage in self-examination and to answer the pertinent questions that are being raised by reasonable people." He asked the committees of the Faculty Senate to direct their attention to issues like a "thorough study of the courses required of all students." He also asked consideration of the question of student involvement in academic governance at institutional, college, and departmental levels.

Massachusetts

At the *Massachusetts Institute of Technology*, a Commission on Education has been recently set up to chart the role which the Institute should play in education, research, and service to society in the years ahead. Students play a valuable role on this key committee.

Students were represented and participated in advisory committees that directed a recently completed extensive study of the *University of Massachusetts'* organization.

Michigan

Last year, the *Wayne State University* Student-Faculty Council convened a Commission on Student Government (composed entirely of students) to study the role of students in all aspects of university governance. The Commission report will be completed later in this academic year.

The *University of Michigan* community is in the process of reviewing and changing student participation in University affairs. Many students and faculty at the University have devoted hundreds of hours toward planning an improved method of student responsibility. Pending agreement on a new system of rule-making and judicial procedures, the student government and the individual schools and colleges have adopted interim regulations.

Minnesota

Last year, faculty-student Task Forces at the *University of Minnesota* made recommendations on the following issues: placement services, campus demonstrations, and student representation on the University Senate. At present there is a faculty-student committee reviewing the role of ROTC on campus. In addition, a faculty-student study committee is re-defining the relationship between the student and the institution as well as reviewing and evaluating current student affairs functions.

Montana

A student-faculty committee at *Montana State University* has developed a Student Bill of Rights. It is currently continuing the study and revision of the Associated Students Constitution and By-laws. Student, faculty, and administration are participating jointly in a study-discussion of current and proposed methods of evaluating instruction.

New Hampshire

Student participation—through residence hall seminars and more formal "open hearings"—in a two-year-long evaluation of the *University of New Hampshire's* educational objectives, philosophy, and curriculum stimulated undergraduate student interest in the implementation of a blue-ribbon committee's Educational Policies Report. Begun in 1968, changes based on report recommendations are still underway today. Recommendations for university-wide improvement of general education studies, for experimental programs in life studies, and for a major curriculum change which has established the four-course-per-semester pattern at the state university resulted from this committee's report. Students have also been named to serve on departmental committees with faculty so that they may have a direct voice and hand in shaping the University's academic programs.

New Jersey

Rutgers University reports student involvement in evaluative processes dating back to 1964. In that year, a self-study of the university student personnel program was undertaken with evaluations submitted independently for the several campuses by the student personnel staff, a faculty committee, and a student committee. Also at Rutgers, faculty and course evaluations have been undertaken and published by several of the student governments within the university for the past three years.

New Mexico

Responding to a recommendation this summer of a Committee on the University, the *University of New Mexico* Regents have recently approved the establishment of an all-University constitutional committee to "improve campus governance" at the University. The Committee will consist of six faculty members, six students, four administrators, and three alumni.

For the fourth year, *University of New Mexico* students are evaluating teachers who have indicated willingness to be evaluated. The results of the evaluation are published each time and made available to students. Last year, as the result of student and faculty interest, classes were dismissed for a day of "All University Dialogue." The results of these conversations were published and many of the suggested reforms are already being put into effect. Recommendations pertained to university goals and responsibilities, entrance and degree requirements, the role of students, and evaluation of teaching, advising, and counseling.

New York

For two weeks last winter, members of the University Community at the *State University of New York at Buffalo* participated in the most extensive self-examination in the history of the university. Teach-ins were sponsored by all faculties and schools and by most academic departments. Among the issues covered were the nature and structuring of academic programs, the recruitment and retention of faculty; the relationship between the University and non-University agencies; and the University governance. The formation of a number of student-faculty study committees both preceded and followed the self-examining period.

In October, 1968, normal activity was suspended for three days at the *State University of New York at Stony Brook* for an intensive self-study by the entire university community. As a result of the conference, a commission, composed of students, faculty, and staff was set up to conduct a revision of university governance. Committees were also set up to conduct an intensive review of the curriculum.

Research groups were set up by the Constituent Assembly of *Cornell University* to delve into 11 topics pertinent to the governance of the university during the summer of 1969. Among topics studied were black studies, problems of racism and minority groups on campus, the university code and adjudicatory system, and academic freedom.

In accordance with the State Education Law, *The City University of New York* prepares a "Master Plan of the Board of Higher Education of the City of New York" for submission to the Governor and the New York State Board of Regents. The Master Plan reflects the coordinated planning activities of faculty-student committees at each of the 17 CUNY colleges as well as the planning efforts of the college administrations and the Board of Higher Education. The Master Plan, which is prepared every four years with annual revisions, is a major document of self-study which examines and evaluates the university's policies and activities and the higher education needs of New York City. Public hearings—one for faculty, students, and staff of the university and one for the general public—are held before the Master Plan is finally adopted by the Board of Higher Education.

North Carolina

Thirteen sub-committees, several of which included student members, have recently completed a two-year study on the future of the *University of North Carolina at Chapel Hill*. Work is underway on a study of the place and role of the ROTC on campus, with students participating.

Ohio

At *Miami University* a student-faculty-administration Commission on Student Participation in University Life has presented its final report to President Phillip R. Shriver. The group proposed the creation of a new government structure. It also asked extensive re-examination of academic requirements, improvements in communication, elimination of "red tape," and greater attention to "introduction of programs of particular relevance to black students and to women students." The report is to be distributed to the University Senate, Student Senate, and Board of Trustees and will be channeled to appropriate subcommittees for further consideration.

At *Ohio University* this year six special task forces, composed of faculty, students, and administration representatives will review and assess the program and operations of the University. Areas included in the task force assignments are academic goals and priorities, student life, budget goals and procedures, university resources, university services, and university facilities. In addition, a president's advisory council, including students, faculty, and administrators, has been appointed.

Oregon

At *Oregon State University* the Faculty Senate has recently established a committee on Minority and Special Services Programs, charged with evaluating all aspects of the university's program for students of minority groups and others needing special tutorial and counseling assistance. Three students, selected by the student government organization (ASOSU), serve on this 10-member committee which acts as an advisory group to the University's Director of Minority and Special Services Programs. The committee will also develop additional activities and programs to discharge the university's commitment to increasing the enrollment and facilitating the academic progress of students of minority groups.

The University's Commission on University Goals, which is charged with evaluating the broad objectives and long-range goals of the university, its organizational structure, and methods of operation, and with recommending measures to effect the achievement of these goals, is relying heavily on suggestions and ideas actively solicited (and received) from individual students and from the university's student government organizations.

Pennsylvania

This past summer, eight students agreed to accept employment at *The Pennsylvania State University* to study the workings of institutional machinery. Their work was done in connection with a special student-faculty-administration commission appointed last June to examine the University's policies and procedures. The students met frequently with the faculty and administrative members of the commission to discuss their findings and lay out new lines of approach. The commission will ultimately prepare concrete recommendations for changes in the University.

South Carolina

The *University of South Carolina* is presently undergoing a self-study in connection with reaccreditation. Students are members of every committee engaged in this self-study.

South Dakota

The *University of South Dakota* and the Office of the Commissioner for Higher Education in South Dakota are in the process of comprehensive self-evaluative studies in which students are directly participating.

Washington

At *Washington State University*, 16 study councils, made up of students, faculty, and administrators, recently completed a comprehensive analysis of the educational objectives of the institution.

West Virginia

A special committee of nine students, nine faculty members, and a representative of the President's Office has been appointed at *West Virginia University* to study the desirability and feasibility of a University Constitution.

Wisconsin

As the result of a study in which students, faculty, and administration participated, the Regents of the *University of Wisconsin* in 1968 issued a report on "The University of Wisconsin of the Future." Since this report, the various campuses of the University have been involved in long-range planning to establish the future goals of each campus.

Wyoming

A special student-faculty-administration committee has been appointed at the *University of Wyoming* to study and make recommendations on aspects of student life as related to minority groups.

COMMUNICATION AND CONSULTATION WITH STUDENTS

In addition to involving students in the bodies that make campus decisions, many universities have been making special efforts to keep open the regular channels of communication with students. Through effective communications, faculty, administrators, and students share and act on matters of mutual concern, thus preventing divisive campus issues. Some examples of the specific mechanisms adopted on state and land-grant universal campuses to facilitate and encourage student-faculty and student-administration communication follow.

Alabama

At the *University of Alabama*, Student Government officials meet regularly with various officials, including the President. A Student Life Committee, composed of students, faculty, and administrators, meets every two weeks to consider matters relating to student activities.

California

A 29-member statewide President's Student Advisory Council, composed of student representatives from all nine campuses of the *University of California*, was set up last March by President Charles Hitch. The group meets quarterly with the president to discuss a broad range of topics. The agenda is composed of items originated by the President's staff and by the student representatives.

Colorado

To improve communications between all segments of the campus, *Colorado State University*, under the leadership of its new president, has established a University Forum. The Forum consists of all academic deans, principal university administrative officers, faculty government representatives and ten student leaders. They come together regularly to exchange information, to discuss university problems, goals, and programs, and to propose action. The forum is not considered a policy or decision-making body. In addition, the president consults frequently with student leaders on proposed policies that affect students.

Connecticut

In addition to standing committees such as Student University Relations, at the *University of Connecticut* special briefing sessions are held after each meeting of the University (faculty) Senate and of the Board of Trustees, at which the president and the provost report to student government leadership on the business carried out by those bodies. Each Friday afternoon, the president or the provost is available for two hours in the Student Union Building, for a session of mutual information, criticism, and suggestion, open to all students on a walk-in basis.

Delaware

At the *University of Delaware*, two student groups have been established to meet monthly with the president—a President's Undergraduate Cabinet and Graduate Student Cabinet.

Also in Delaware, the General Assembly of the state passed a joint resolution commending the efforts of University of Delaware President Trabant to avoid confrontations. He spent much time night and day last year talking with students, resulting in a better understanding at the end of the 1968–1969 academic year.

Delaware State College this year says its policy is to listen to the students and try to meet reasonable demands.

Florida

The *University of Florida* Administrative Council was reorganized last spring to include three faculty and three student members. The Council's primary function is to be a channel of communications between the president and other council members with respect to matters of general university concern. It serves in an advisory capacity to the president, rather than as a policy-making body. It provides a vehicle for consideration of and reaction to policies brought before it by the president or others of its membership.

Florida State University last year used a $15,000 Danforth Foundation grant to help promote a series of off-campus student-faculty colloquia for informal discussions.

Georgia

The Board of Regents of the *University System of Georgia* authorized the establishment of a Student Advisory Council composed of the presidents of the Student Government Associations of the several institutions which comprise the system. The Council meets quarterly and advises the chancellor, his staff, and members of the Board of Regents on problems relating to the welfare of the students in the University System.

A Student Advisory Council at the *Georgia Institute of Technology* functions to relay information between students and the president.

Every major administrative official at the *University of Georgia* has a student counterpart within the framework of the Student Government Association. These counterparts meet on a regular basis with the administrative officials. For example, the Student Minister on Academic Affairs meets with the Vice President for Instruction on a weekly basis.

Hawaii

The "President's Round Table" at the *University of Hawaii* has brought students from 14 leading campus organizations to meet with the president and his central staff over the past few years.

Since assuming office in early September, President Harlan Cleveland has personally met with all the student leadership groups on campus and has endeavored to establish communication with students of widely differing political persuasions.

Idaho

At the *University of Idaho* there is currently considerable dialogue between the administration and the student body executive board concerning financial problems the University faces and the possible need for adjustment in student fees. Students are being given the opportunity to question the administration about the degree of need and to seek solutions more to their liking than a fee increase.

This same sort of administration-student dialogue is evident in the preliminary planning and design stages for the construction of a new athletic complex. Last year, the Athletic Complex Committee was composed of both students and faculty; this year, the University's architectural planner is working closely with interested students in determining exactly what kind of facilities should be built, how much money should be spent, and where the money should come from.

The *University of Idaho* planned a weekend retreat last year to sound out all campus voices in informal discussions concerning university matters.

Also at the *University of Idaho* last spring, two days after a campus address by Thomas Hayden, a co-founder of SDS, 4,500 University students gathered in torrents of rain before the house of President Ernest W. Hartung to express their support for him and his policies.

Illinois.

At *Southern Illinois University* last year, an open forum was established to allow students to discuss grievances openly with the Dean of Students and the student body president. A student advisory group has been set up to meet with each school or college to discuss and consider the academic program, curriculum, student relations, and faculty matters.

The chancellor of the *University of Illinois at Chicago Circle* has instituted a series of monthly open forums in which he meets with any students who are interested in learning his position on topics of current interest or who may wish to make their opinions known to him. A Chancellor's Press Conference is also held monthly, for the benefit of the student press.

Vice Chancellors at Chicago Circle have organized a student advisory committee, made up of representatives from the various student advisory boards serving the colleges. Students meet weekly with the two vice chancellors to exchange information and to communicate the ideas of the members of the college advisory groups.

At the *University of Illinois at Urbana-Champaign*, for the past two years the chancellor has had informal "Chancellor's Chats," in which he visits the various housing units and has informal question-and-answer sessions with students. He also holds luncheons and other meetings with student leaders to enable frank and open discussions on matters of current interest and concern.

By action of the Senate, each academic department at the *University of Illinois at Urbana-Champaign* has established a grading review committee to which any student who feels that his work has been unfairly marked may appeal his case.

In the College of Medicine at the *University of Illinois at The Medical Center*, the dean meets regularly with the presidents of the various classes and the leaders of student government. During the past school year, he also held a series of open meetings to which all students and faculty were invited.

Indiana

The *Purdue University* Office of Public Communication this year is publishing a four-page weekly newsletter for Pudue students. It includes a calendar of events and factual information about university policies, procedures, and developments.

In addition to campus-wide committees, *Purdue University's* separate schools have provision for the inclusion of student opinions and suggestions regarding nearly every aspect of their program. including curricula. In the School of Humanities, Social Science, and Education, for example, three students sit on the educational policy committee and 15 are members of the student advisory council. All divisions in the School either have students as members of their advisory committees or are contemplating opening more committees to undergraduates.

Representatives from each undergraduate class, from the graduate class, and from various student organizations comprise the student council of the Purdue School of Pharmacy and Pharmacal Science, a group which meets monthly with the dean, his administrative assistant, and invited faculty members to discuss operation of the school.

Iowa

At *Iowa State University*, there are open meetings at which students may discuss problems with the Vice President for Student Affairs or other persons within his organization. This vice president has also appointed a committee of students to advise him on matters of governance and the Dean of Students has an advisory committee made up of students.

Kansas

Kansas State University's Faculty Senate this fall is opening its meetings to all persons who wish to attend, subject only to space limitations. The Senate meets monthly to consider matters of direct faculty responsibility, such as courses, curricula, and degree awards. It also makes recommendations to the administration concerning other university matters.

The Chancellor, Dean of Faculties, and Dean of Student Affairs at the *University of Kansas* meet weekly with student leaders to discuss problems.

Maine

The University of Maine's new President Winthrop C. Libby has suggested that instead of a formal inauguration ceremony for himself, the university devote two days this winter to a forum broadly considering university problems. Terming this academic year as "The Year of the Mission," Libby has challenged the Maine faculty to strive for an understanding of the needs and objectives of students and for the establishment of an atmosphere of mutual respect between the component parts of the university community.

Massachusetts

The Publications Office of the *Massachusetts Institute of Technology* issues an Institute Report at frequent intervals, describing recent developments on campus to all members of the M.I.T. community. The president has set aside every Friday afternoon for an informal question-and-answer period with all interested students. Symposia dealing with crucial issues on the campus and in the nation, arranged by students, have brought about increased contacts between faculty and students.

During a recent campus disturbance, students set up an Information Center which monitored developments for the whole M.I.T. community, and, in addition, an oral report was issued twice a day by the associate provost. Almost daily faculty meetings, with students present, were also used to keep everyone informed and to open up channels for discussion of the issues involved in the disruption.

Michigan

To keep students better informed about services offered by the Student Affairs Offices, a new official publication, *Campus Comment*, has been started this year at the *University of Michigan*.

At the *University of Michigan*, all University vice presidents, all student service administrators, and some other administrative officers have student advisory committees.

In order to enhance communication and consultation with students, President William R. Keast of *Wayne State University* recently hired a student activist, who is a recent graduate of the university, as a special assistant. A recent graduate of the Wayne State University Law School, his particular responsibilities will emphasize communication between the general student body and the president's office.

Minnesota

For twenty years, quarterly meetings have been held between student leaders, faculty, and top administrators of the *University of Minnesota* to discuss current campus issues. These meetings are informal and "off-the-record." They are held at the home of the university president or vice president or at an off-campus location selected by students. Following the University's Consultation Policy, every effort is made to consult with students or student organizations which may be affected by a proposed policy or action.

Mississippi

The president of *Mississippi State University* meets weekly with the president of the University's Student Association to keep channels of communication open. The Division of Student Affairs, the faculty, and the president's office all make special efforts to keep channels of communication open.

At the *University of Mississippi* the chancellor and his top administrative officers meet monthly with student leaders.

Missouri

Students from all four campuses of the *University of Missouri* serve on an Intercampus Student Council which meets regularly with University President John Weaver to exchange ideas. The president of the University's Board of Curators has also expressed his willingness to meet with students and sit with the Council in order that the student attitudes may be directly transmitted to the University's governing board.

Fourteen of the 15 academic divisions at the *University of Missouri, Columbia,* now have some form of student advisory group. Seven divisions formed student advisory councils whose members are selected by students of the division.

At the *University of Missouri's School of Veterinary Medicine,* the dean, associate dean, class officers, and organization leaders hold noonday box-lunch sessions several times a semester.

Students at the College of Arts and Sciences at the *University of Missouri, St. Louis,* have opened a direct channel of communication between themselves and members of the college's administration and faculty. They formed an "Articulation Committee" last winter, composed of representatives from the three segments of the community and intended to serve as an open forum for the discussion of all aspects of the college's activities.

At the *University of Missouri, St. Louis,* a student representative body, the Central Council, attempts to keep the administration and faculty informed of student opinion and views. It also attempts to function as a grievance committee in handling student complaints.

Members of the Council representing a cross-section of the student body are invited to meet regularly with the chancellor to keep him informed of student concerns and to serve as a sounding board for student opinion.

At the *University of Missouri, St. Louis,* the Office of Student Affairs not only maintains an "open door" policy encouraging frequent meetings with students to permit a two-way flow of information, but also actively solicits student opinion through student surveys and opinion-seeking student censuses.

Montana

Ever since 1951, presidents of the *Montana State University* have held roundtable meetings with the students to discuss problems, solutions, and student desires.

Earlier this fall, *Montana State University* scheduled a two-day conference on university governance for a small group of students, faculty, and administrators. The conference was planned to review existing patterns at the University, discuss their strengths and weaknesses, consider theories of leading authorities, and examine alternative patterns.

At the *University of Montana,* in addition to the president's "open door" policy, which results in frequent consultation with student body officers, a Student Facilities Council, composed of eight students and eight representatives of the administration with equal voting and discussion rights, has been established. The Council has been charged with the responsibility of reviewing and making recommendations for all student facilities, including recreational facilities, housing, and food operations, as well as acting as an interface between students and administrators for discussion and recommendations relative to any concern expressed by any member of the Council or any student desiring to bring a matter before the Council.

Nevada

At the *University of Nevada, Reno,* students and student leaders meet periodically with the president, Dean of Students, and faculty on matters of mutual concern.

Comments UNR President N. Edd Miller, "The University of Nevada has been fortunate that no disruptions or violence have occurred on campus. Some of the factors contributing to this are the 'open door' policy of the administration, a student government that utilizes its freedoms with responsibility, and a genuine recognition that students are mature members of the University community and should be active participants in the decision-making process of the University."

New Hampshire

Student-Administration-Faculty (SAF) luncheons are convened monthly by the president of the *University of New Hampshire* to provide student leaders (including the editor of the undergraduate newspaper, the student radio station manager, the heads of various campus organizations, and other representative students) opportunity to discuss policies and issues informally with vice presidents and deans responsible for all phases of the University's academic, administrative, and financial operations.

A tradition at the University is that the door to the President's Office is always open to a student as are all meetings of the University Senate. All members of the faculty and staff and a significant number of students also receive the minutes of all Senate meetings, in addition to campus press coverage of such meetings.

New Jersey

Rutgers University reports major steps forward in the past two years in the reduction of campus communication problems. As an example, classes have been suspended on several occasions to provide time for all members of the academic community to participate in jointly-planned relevant workshops.

New Mexico

University of New Mexico President Ferrell Heady has appointed a special advisory committee to serve as "counsel" to him during times of "crises" while a new all-university constitution is being written this year.

New York

The Board of Higher Education of the *City University of New York* held hearings on the proposed 1969–70 operating budget, to which they invited faculty, students, and the public to present their views. Similar hearings were held before the Board drafted its new open admissions policy.

Presidents of many CUNY colleges have student-faculty-administrative "cabinets" which they consult regularly. Several colleges have also held conferences and weekend retreats where faculty, students, and administrators can exchange views in an informal setting.

Last year, the *State University of New* York initiated an experimental Student Cabinet, composed of the heads of student governments from 22 of the SUNY campuses who met regularly with SUNY's chancellor. The Cabinet was designed to promote constructive student involvement in university-wide programs.

Early in September 1969, the *Cornell University* Board of Trustees formally received the report of a trustee committee on campus unrest and voted to give "highest priority" to the report's recommendations. The report concluded that the University must make positive moves toward preserving order, defining and enforcing academic freedom, helping the community understand programs for black students, and communicating its goals both inside and outside the university.

At *Cornell University* this fall, an official weekly newspaper of record entitled the *Cornell Chronicle* to provide detailed information about university matters has begun publication. The *Chronicle* is published by the Office of Public Information.

The "Cornell in Perspective" Program, which has been operating for several years at the University, brings together groups of students and top administrators of the university in day-long sessions aimed at improving communications between the two groups.

North Carolina

For some years at *North Carolina State University,* student representatives from Student Government, student news media, Graduate Students' Association, and international students have met with Chancellor John T. Caldwell, the provost, the business manager, and representatives of the Faculty Senate and the Division of Student Affairs in an effort to improve knowledge on matters of concern.

Meetings of the faculty's Legislative Council at the *University of North Carolina at Chapel Hill* have recently been declared open to students and others.

The chancellor holds regular semi-monthly meetings with the president of the Student Body (and members of their respective staffs) to consider matters of common interest and concern.

Plans are nearing completion for the establishment of a University Consultative Council to include equal membership representation from students, faculty, non-academic employees, trustees, and alumni.

A new bi-monthly information sheet called "Steele Filings," containing general information for students, is now being published by the Deans of Men and Women.

North Dakota

The Bison Board was initiated at *North Dakota State University* to point out issues of concern, clarify issues, and exchange ideas in non-structured sessions involving the administration and students. Membership includes the president of the university, the three vice presidents, the Dean of Students, and 12 student leaders.

Ohio

A fruitful dialogue has been established between faculty members and deans who meet regularly with a group of Negro students at *Miami University of Ohio.*

Oklahoma

At *Langston University* the university president once a month chairs an informal open meeting of the University Council. The Council is composed of 25 members of the Faculty Senate and the 50 students who serve on standing committees. Council meetings take up problems or concerns which have not been resolved first at appropriate committee meetings. All members of the faculty and student body may attend these meetings and participate fully in the discussions.

In addition, every Thursday afternoon is "open house" in the president's office. Students are free to call on the president at any time, but on "open house" days students do not even need to have any special business to transact.

Oregon

An indication of improved communications between students and faculty at *Oregon State University* is the formation of the joint Student-Faculty Council on Academic Affairs in 1967. In February 1969, a Student-Faculty Conference was held at Salishan, providing an additional forum for discussion.

Pennsylvania

Acting on the recommendations of Theodore W. Kheel, prominent New York City mediator, *Pennsylvania State University* President Eric A. Walker last spring announced the establishment of an Office for Student Discussions. The Office was set up to deal with problems affecting groups of students, faculty, or administrators. It is intended to contribute to a climate of open discussion among students, faculty, and the administration.

Rhode Island

At the *University of Rhode Island*, the president invites groups of students to dinner at his home once a month. The Vice President for Student Affairs has breakfast with various groups of students two or three times per month in order to exchange ideas and get the pulse of the campus.

South Carolina

At the *University of South Carolina*, the Student-Faculty Relations Committee, consisting of three administrators (including the president), four faculty, and ten students, meets at frequent intervals to discuss problems of mutual interest. Additionally, the Vice President for Student Affairs and the Assistant Vice President meet periodically with the Student Government Cabinet.

South Dakota

Weekly meetings are scheduled by the president of the *University of South Dakota* with the Student Body president and the editor of the student newspaper. Open forums have also been offered for informal discussion between students and key administrative officers.

Administrator at *South Dakota State University* continually discuss all matters and problems with students.

Tennessee

The *University of Tennessee* scheduled a major conference on the topic of campus reform this fall where students, faculty, and administrators were to discuss openly and frankly ways to bring about better relationships among all groups of the University community.

At *Tennessee State University* President Andrew P. Torrence and other administrative officers regularly schedule small group meetings of students and larger group meetings in residence halls.

Texas

University of Texas at Austin officials who have planned ways for dealing with unrest, should it occur, are working with student leaders to keep all lines of communication open in hopes of avoiding any trouble.

University of Texas at Austin President Norman Hackerman last year answered questions on a broad range of topics of concern to students on a weekly radio show. More than 75 students appeared on the show with the president and other administrators during the year. The show was broadcast weekly on 30 radio stations in Texas and nearby Louisiana.

Dr. Bryce Jordan, Vice President for Student Affairs at the university, has initiated a series of informal coffees with university students to hear problems and discuss university life in general. Each week approximately 250 students are selected at random from the student directory and are invited to the coffee session.

At the *University of Houston*, a University information team was named by President Philip Hoffman to provide factual information and deal with communications problems encountered by student organizations.

Utah

Utah State University has set up a "House of Critis," consisting of students and new administration leaders who meet regularly to discuss campus issues.

At the *University of Utah* last year, a "Council of 20" was formed with student leaders, administrators, and faculty members to air critical campus issues.

Vermont

At the *University of Vermont*, top administrators discuss with the officers of the Student Association the problems and projects they are considering and indicate how they may be able to help resolve them. The students, in turn, come to the administration to point out areas of disagreement or confusion that may exist.

The *University of Vermont* scheduled this fall a Forum in which President Lyman S. Rowell and the Student Association president, along with three other students and faculty members, were to go before students and faculty to answer questions about policies and procedures in an attempt to further understanding of university operation.

Virginia

Each September, *Virginia Polytechnic Institute* holds a conference for 150 student leaders. Students are briefed as completely as possible on activities and programs for the coming year and bring up their own problems and questions. VPI officials regard this "give and take" atmosphere as most important.

The president of the *University of Virginia* and Dean of Student Affairs meet regularly with elected student leaders. In September, 1968, and again in September, 1969, about 30 student leaders met with the president, deans, and senior administrators and faculty members for uninhibited discussions and informal meals during two days and nights at the university's isolated mountain biological station.

Washington

At *Washington State University* President Glenn Terrell holds open fireside chats with students and faculty bi-weekly in a central student lounge. He also schedules regular lunch and dinner meetings with groups of students, drops in unannounced to eat at various dining halls, and maintains an "open-door" policy for his office and those of other top administrators. Student input received is given serious consideration in making decisions affecting them.

West Virginia

At *West Virginia University*, the president meets regularly with student leaders and gives appointments to students who want to see him. An adviser to black students was appointed in 1969.

Wyoming

University of Wyoming President William D. Carlson, deans, administrators, and trustees meet regularly with students to discuss matters of concern informally. The Office of Student Affairs and the Division of Communications Services cooperate in publishing a newsletter for UW students which includes factual information about university policies, procedures, and developments.

STUDENT INVOLVEMENT WITH BOARDS OF TRUSTEES

In this section are singled out examples of specific steps taken in recent years to improve student communication with university trustees, who have the ultimate responsibility for university governance. In general, there has been relatively little student-trustee interaction over the years and the steps cited here represent pioneering efforts in this area. In a few instances, students now are even members of the board of trustees.

California

The *University of California* Regents have provided that at all open meetings of the Regents' Committees on Educational Policy, Finance, and Grounds and Buildings, student body presidents and members of the Academic Council of the Academic Senate be permitted to request recognition to speak on agenda items. This procedure will be subject to review on or after June 30, 1970.

The Regents also agreed that individuals or organizations may appear before the Board with its permission, provided that at public meetings of the Board, one of the committee chairmen or the University president may request that specific student body presidents and/or members of the Academic Council be allowed to speak on those agenda items in which students and/or faculty, in previous committee meetings, have indicated an interest.

Colorado

Occasional contacts between student leaders and *Colorado State University* Governing Board members are arranged, usually in connection with regular monthly Board meetings. The student body president is invited to attend Board meetings.

Connecticut

The *University of Connecticut* Board of Trustees now has a student member with full voting rights, appointed by the Governor. The student member will serve until June 30, 1972. He is a law student who was president of the Associated Student Government of the University while an undergraduate.

Student leadership at the University sits on the Trustee-Administration-Faculty-Student Committee, a joint group which meets regularly to ensure communication among these four principle bodies concerning major current university issues. These meetings serve as briefing sessions for the several representatives, and as a device for constructing agenda for the several bodies. Representatives of student groups are frequently invited to appear at meetings of the Board of Trustees to comment on matters of interest.

Florida

A Council of Student Body Presidents for Florida's seven state universities was formulated by the *University of Florida* student body president in 1967. This Council has been recognized by the Board of Regents for Higher Education in Florida and is frequently consulted on issues.

Indiana

At *Purdue University* this year, an invitation has been extended to the president of the student body to attend all meetings of the Board of Trustees with all the privileges of any member of the administrative staff. He receives in advance a copy of the trustees' agenda and may comment on any issue.

Kentucky

Student representation on governing boards of colleges and universities was pioneered at the *University of Kentucky* in 1968. The Student member of the Kentucky board is a non-voting member.

Maine

The University of Maine Board of Trustees now has one member who graduated from the University in June, 1969. He was appointed in May, 1969, while a senior at the University.

Massachusetts

Massachusetts recently became the first state to pass a law giving students a voting membership on state college and university governing boards, including the board of the *University of Massachusetts.*

The Corporation of *Massachusetts Institute of Technology* has set up a Trustees Committee consisting of Corporation members, faculty, and students for the purpose of considering issues of general interest to the academic community. At the quarterly meetings of the Corporation, it is common to call on student committees for reports on critical issues. In order to obtain a better picture of student affairs, young alumni have been recently appointed to the Corporation.

Michigan

Regents of the *University of Michigan* have initiated a monthly student-faculty meeting to discuss items of mutual concern in an informal setting. These meetings supplement a formal hearing process which is used by the Regents for a number of controversial issues under consideration by the body.

Minnesota

The student body presidents of all campuses of the *University of Minnesota* meet periodically with members of the Board of Regents on an informal basis. They also attend the regular meetings of the Board. Each year, a Student Affairs Seminar is held by the Regents at which time various students, representing many points of view, are able to discuss their concerns and activities.

Montana

At the *University of Montana*, President Pantzer has frequently represented the students in expressing their concerns to the State Board of Regents and has been instrumental in obtaining audience for the students themselves before that body. The Regents themselves have expressed an affirmative concern that this avenue of communication be maintained and the Governor of the State of Montana has appointed a committee comprised of members of the Board of Regents for the purpose of enhancing Board communication with students.

Lines of communication have been set up between students and the Board of Regents of *Montana State University*. Students are allowed personal audiences before the Board.

New Hampshire

Faculty and student representatives from the campuses of the *University of New Hampshire* and the State Colleges at Keene and Plymouth attend the monthly meetings of the University's Board of Trustees, receiving agenda materials in advance of the meetings. They have the privilege of speaking to matters under consideration by the Board. In January, 1970, the Board will be host to 35 campus leaders at its monthly luncheon, engaging in informal discussion of trustee-student roles in campus policy-making. Several of the Board's standing committees regularly invite student participation when policies are being considered which have a direct bearing on student interests and concerns.

New Jersey

Since the establishment of the Board of Governors, *Rutgers University* regulations have provided that the monthly meetings of the Board be open. Students have had access to the Board on many occasions. At times, students have requested that items be included on the Board's agenda. On other occasions, the Board has requested that students be present, and there have been special meetings of the Board which have focused completely upon student concerns.

New Mexico

In November 1968, the Board of Regents of *New Mexico State University* established the University Community Council to be a sounding agency for the Board. One of the Council's four members is the president of the Associated Students.

A pattern of student attendance at meetings of the Board of Regents has been established at the *University of New Mexico*. Regents spend much time listening to and deliberating over problems brought to them by students.

New York

Ezra Cornell, a senior at *Cornell University* and oldest lineal male descendant of the university's founder, took his traditional place on the University Board of Trustees following his twenty-first birthday in November. He became the first student member of the Board.

In addition, there has been substantial effort during the past three years to increase communication and understanding between the trustees and the student body. When attending meetings in Ithaca, trustees have met and dined with groups of students. At one of their most recent meetings in New York City, they invited over 100 students to dine with members of the Board. Several receptions have also brought the two groups together.

Using funds from a special gift, this summer a *Cornell University* Trustee committee engaged a professional independent survey organization to sample attitudes of faculty, administrators, students, and alumni on "issues of major importance in planning for Cornell in the days and years to come." These issues include student unrest and dissent, black students and race relations at Cornell, the basic purpose of Cornell as a university, academic freedom, the role of the faculty, and restructuring of the University. The survey was part of the committee's desire to listen to campus opinion.

The chairman of the Student Advisory at *The City University of New York* attends all meetings of the Board of Higher Education. Students have also attended all meetings of the Board of Higher Education's Law Committee, which has been discussing and drafting policy in the areas of academic due process, student rights and responsibilities, and confidentiality of student records. Students have also been represented at all meetings of the Board's Committee on Expanded Educational Opportunity.

Mayor John Lindsay recently appointed two young alumni to the Board "in harmony with the course already set by the Board and Chancellor Bowker to make governance of the university more responsive and relevant to the need of New York's youth."

North Carolina

Trustees of the *University of North Carolina* have expressed their willingness to hear spokesmen from the student body at their regularly scheduled meetings. The Visting Committee of the Board visits the campus every other year to provide members of the faculty, staff, and student body an opportunity to voice their concerns.

Oregon

Largely through the efforts of the president of the *Oregon State University* Student Government Organization (ASOSU) and with the support of the University's executive office, an Interinstitutional Union of Students has been formed (subject to ratification by the institutions' student bodies) to represent the students and student government groups at each institution governed by the Oregon Board of Higher Education. Its purpose is to present to the Board, its members and officers, to the legislature, and to the Governor, student views on all pertinent issues which affect the student both as a participant in the state's system of higher education and as a citizen of the state. The ASOSU president has also proposed to the Governor the appointment of a student to the nine-member State Board.

Pennsylvania

The Board of Trustees of *The Pennsylvania State University* will consider (at its January, 1970 meeting) a proposal that three students be added to the Board of Trustee as ex officio members with full voting powers. The students would be the presidents of the Undergraduate Student Government, the Graduate Student Association, and the Organization of Student Government Association, which represents students on Penn State's Commonwealth campuses.

Rhode Island

University of Rhode Island students have been invited to attend meetings of the Board of Trustees and address the group on a number of occasions.

South Carolina

A Trustee-Student Liaison Committee for the *University of South Carolina*, consisting of three trustees and three students (appointed by the Student Body president), has been set up and meets periodically. Additionally, a student sits with the University's Board of Trustees.

The Board of Trustees of *Clemson University* has approved a policy providing for a dinner meeting of representative students and the Board at least once a year. Students invited to participate will be selected by the university president. The trustees feel that this will provide a chance for free and uninhibited discussion of the various problems and interests with which the students and the Trustees are mutually concerned.

South Dakota

The Regents of Education, the governing body of South Dakota's institutions of higher education, permit students to meet with them by special request.

Tennessee

The president of the *University of Tennessee* Student Government Association is invited to attend all meetings of the Board of Trustees. Students also meet regularly with the Board's Committee on Student Affairs and have floor privileges.

Vermont

At the *University of Vermont*, nominations have been received for student members to serve on trustee committees with full right of discussion. In this way, ten students are involved. The institution feels the student service on committees gives the student a far greater voice in institutional management than would be the case if only one student were serving on the Board of Trustees.

Also at the *University of Vermont*, a committee of trustees has been organized to study possible restructuring of the University's Board of Trustees. In authorizing the committee, trustees indicated that it would seek student and faculty opinion. The committee was created in response to a request by a group of about 500 students, faculty, and staff that the Board restructure its membership to include student and faculty representation. The committee is expected to report in December.

Virginia

This year the principal elected student leaders at the *University of Virginia* have been invited to present their views at regular meetings of the student activities and athletic committees of the Board of Visitors.

Washington

The *University of Washington* has two non-voting student representatives on its Board of Regents.

Last December, the University of Washington Regents announced a series of steps to assure more direct and continuous contact with students, faculty, and staff. The Board instituted a continuous series of on-campus sessions with students and other groups. It also began a series of longer, overnight meetings in an informal setting with students, faculty, and staff, at which university policies along with suggestions for change would be discussed.

Student officers regularly attend Board of Regents' meetings at *Washington State University* as observers and consultants. The Regents also set aside a regular period at each meeting for an informal discussion with a group of students.

West Virginia

In 1969, Governor Arch A. Moore, Jr., appointed a *West Virginia University* student, John Hoblitzell, to represent all university and college students on the new State Board of Regents for Higher Education. Mr. Hoblitzell serves in a non-voting, advisory capacity.

Wisconsin

The *University of Wisconsin* Regents give the president of the student body at the campus on which they meet a special place at their meeting and have him available for comments on issues that arise.

XUM

Wyoming

The student body president serves as an ex-officio member of the *University of Wyoming* Board of Trustees and has the same privileges as elected members except the right to vote.

OMBUDSMEN

The ombudsman is a special type of government official whose position originated in Sweden. He is a "people's man," a civic watchdog who is independent of governmental pressures. His job is to detect and investigate complaints of public employees' misuse of authority and to rectify valid complaints. On a number of campuses, students and faculty have been appointed ombudmen to receive and investigate complaints against acts of university officials and faculty members. A number of towns and counties in the United States have also been experimenting with the ombudsman concept.

Alabama

At *Auburn University*, a campus Ombudsman Director coordinates a 24-hour telephone answering service sponsored by the Student Government Association. Students, faculty, and interested citizens may use the service to make complaints, suggestions, and inquiries concerning the university or its students. The ombudsman and the SGA research questions and complaints and try to respond within a week. They bring legitimate complaints before university officials.

Instead of establishing an Ombudsman Office, the *University of Alabama* recently appointed a committee, which is composed primarily of students, to obtain student comments on University practices and procedures which affect students.

Arizona

At *Arizona State University*, the president of the student body and six faculty and staff members serve as general ombudsmen to hear any outstanding grievances and to help find solutions within the existing framework of the university. Services of the designated ombudsman are available to faculty and staff as well as to students.

At the *University of Arizona*, the Assistant Dean of Men tours residence halls as a walking ombudsman, to listen to complaints and problems.

California

Last fall, the *University of California, Berkeley*, appointed a professor of engineering science as its first ombudsman. His task is to hear complaints on academic matters from students, devoting half-time to his ombudsman duties. He has the power to investigate, to recommend, and—if necessary—to publicize; but he may not directly reverse or revise decisions made or actions taken by the normally constituted authorities. His is the power of reasoned persuasion.

This summer the *University of California at Los Angeles* established the office of ombudsman to resolve some of the procedural and other problems students and others encounter. "We see the ombudsman as someone to whom students, faculty, or staff members can turn when they don't know how to solve their problems or when they have exhausted all the regular channels without a solution. It's an attempt to provide more personal concern for the individual." The first ombudsman at UCLA formerly served as pastor to the University's Presbyterian students and as Associate Dean of Students. He was recommended for the new position by a student-faculty-administration commission.

Colorado

An *ad hoc* committee established by the Faculty Council of the *University of Colorado* is currently working to set up the post of ombudsman for the university. Representatives of the faculty, student body, and administration are serving on the committee.

No ombudsman position as such is in effect at *Colorado State University*. However, a full-time Human Relations Officer was recently appointed and works in promoting ethnic and racial understanding, investigates civil rights and discrimination complaints, and develops programs to foster human relations on campus. In addition, staff in the Office of the Dean of Students perform general counseling functions similar to those carried out by ombudsmen on other campuses.

Connecticut

An ombudsman for the *University of Connecticut* was appointed this fall. He is Dr. Fred Adams, a member of the university staff, who is also chairman of the Connecticut State Commission on Human Rights and Opportunities.

The ombudsman receives or initiates complaints regarding incidents or practices alleged to have violated racial respect or human rights on the campus. In this connection, any person claiming to have been so aggrieved may file a complaint with the ombudsman's office, which the ombudsman immediately investigates. The ombudsman may make special recommendations to the President concerning disciplinary action as well as recommendations to administrative officers designed to correct practices he has certified. The ombudsman works closely with the University's Standing Committee on Racial Respect, also established earlier this fall.

Florida

The ombudsman's office at the *University of Florida* is sponsored by Student Government.

Illinois

The position of campus ombudsman has been established at the *University of Illinois at Urbana-Champaign*. He assists students in finding the correct official to meet a particular need, and may negotiate solutions of student problems and recommend changes when necessary.

Massachusetts

The *University of Massachusetts* Board of Trustees has approved the establishment of an ombudsmen unit for the Amherst campus. The ombudsman will "assist any petitioner in the procurement of a just settlement of a grievance."

Michigan

Michigan State University created the office of ombudsman for students in 1967.

The Student-Faculty Council of *Wayne State University* has proposed that an Office of Student Ombudsman be created to expedite the handling of student complaints. It has been proposed that the ombudsman should be a recent graduate, rather than a current staff or faculty member or student, in order to provide some insurance of impartiality.

Minnesota

At the *University of Minnesota* students from the College of Liberal Arts have established a Student Ombudsmen Service (SOS). A centrally-located office was made available to them by the university.

New York

This October, acting on recommendations of a joint committee representing students, faculty, and staff, Peter Regan, acting president of the *State University* of *New York at Buffalo*, created two new offices "intended to improve our ability to fairly and effectively handle complaints, offenses, grievances and disputes arising in the life of our University." The new offices are University Advocate and University Ombudsman, both filled by professors. The Advocate will serve as internal counsel, responsible for bringing on proceedings to enforce university rules of conduct and standards of administrative judgment. The ombudsman will function as a mediator between the individual and the administrative and academic bureaucracy, at times as a representative of the individual, and as a last resort for the individual who feels that he cannot otherwise obtain satisfaction. The Advocate will act both for the University community in general and, in many cases, for individuals aggrieved by violations of rules and standards.

Two years ago, an ombudsman first served students, faculty, and staff at the *State University of New York at Stony Brook*.

Two colleges of the *City University of New York* have ombudsmen. Professor Samuel Hendel, a lawyer and member of the Political Science Department, is the ombudsman at City College. His duties include overseeing the operation of the newly-reorganized government and trying to assure justice and equity for all groups and individuals. He is assisted by a student selected by the student government. Robert Clarke, assistant professor of chemistry, was named to the post of ombudsman at Bronx Community College. He serves as a mediator and consultant.

Cornell University has appointed a faculty authority on trade unions as its first ombudsman. The office of ombudsman will be independent of any existing university agency. Mrs. Alice H. Cook, the new ombudsman, will receive grievances from anyone in the Cornell community and then endeavor to bring about a satisfactory solution between the person filing the grievance and the appropriate university office.

"It will be my job to be a fact-finder and to represent the complainant in any problems he might have and to make sure he knows what avenues of redress he has. If some shortcoming is found in the present university structure for redress, it will be my job to call it to the attention of the appropriate body that can remedy it," she said.

Ohio

Kent State University last fall created a new position Dean for Faculty Counsel to give a large and growing faculty a more effective channel for solving individual problems and grievances. The position follows the concept of ombudsman and was proposed by President Robert White following a recommendation from the Faculty Senate. Appointed to the position was the immediate past president of the campus chapter of the American Association of University Professors.

South Carolina

Under a new ombudsman program at the *University of South Carolina*, students who have complaints against the faculty or administration get them heard and remain anonymous. The ombudsman at South Carolina is a faculty member in the School of Engineering. He works with a committee of ten students.

South Dakota

The ombudsman concept has not been officially adopted at the *University of South Dakota*, but the Director of Student Affairs operates within that conceptual framework.

Texas

The first ombudsman for the entire student body has been named at the *University of Texas, at Austin*. He is Carnegie H. Mims, Jr., a second-year law student. He will have an office, receive a salary, and be an independent investigator of student complaints. Last year a student served as ombudsman for the College of Arts and Sciences.

Washington

At the *University of Washington*, a faculty member serves as the university's ombudsman, with responsibility for investigating student, faculty, and staff complaints of inappropriate action by university agencies, and seeking relief where warranted by the circumstances. He may also recommend changes in policies and procedures to help protect the rights of individual members of the university community.

XUM

West Virginia

In 1968, *West Virginia University* appointed an ombudsman to work primarily with non-academic employees. The Dean of Student Educational Services and his staff function as ombudsmen for students.

Wyoming

At the *University of Wyoming*, the president and key administrators serve as general "ombudsmen" to hear any outstanding grievances and to assist in finding solutions within the framework of existing university policies and regulations.

UNIVERSITY ADOPTS STUDENT SUGGESTIONS

To demonstrate that students can be and have been heard on university campuses, just a few examples have been listed below of specific steps taken at state universities in direct response to student requests. These range from the initiation of new academic courses to changes in dormitory visitation regulations. Similar examples can be found on many other campuses too.

Alabama

The *Auburn University* administration has made many changes on campus in response to constructive suggestions and ideas presented by students. In the past year, for example, curriculum revisions have been made on the basis of new course sequences developed jointly by students, faculty, and administrators In response to questions raised by concerned students, the University's mandatory ROTC requirement was reviewed by a student-faculty-administration committee. An experimental dormitory was set up for women. Various changes have been made in rules for women. The physical education requirement was reduced. And finally, after concern was expressed by student leaders, a Student Discipline Committee, was appointed to review policies pertaining to discipline. Students now have greater representation on discipline committees.

Through its committee structure and its Office for Student Development, the *University of Alabama* seeks out and reviews student suggestions, relative to all aspects of university life Recently, as a result of student proposals, a pass-fail credit system was adopted, which allows students to take courses outside their field of study and receive their credit on a pass-fail basis. Students are now participating in a revision of the University's registration process, and student recommendations have been responsible for the establishment of a new system for handling student activity fee accounts.

Arkansas

A teacher evaluation program has been inaugurated at the *University of Arkansas*, giving students the chance to evaluate, on an anonymous basis, their courses and the teaching ability of faculty members.

California

On several campuses of the *University of California* new agencies have been instituted to implement setting up courses, suggested by students. On several campuses community projects have been both suggested and implemented exclusively by students.

The concept of *in loco parentis* has been abandoned by the *University of California at Berkeley* as a result of discussions between administrators and students.

Colorado

Largely as a result of student advocacy or recommendations, *in loco parentis* rules and policies have been phased out at *Colorado State University* and responsibility for the establishment of student rules has been given to student governments. In addition, student requests were instrumental in creating an ethnic studies program and for gaining student seats on major university committees, including those in faculty government

Connecticut

Students at the *University of Connecticut* have had a long list of their suggestions incorporated into university policy. Many more are now in the planning stage. In the area of race relations, student suggestions concerning curricular innovation, grievance procedures, and housing policies have already been implemented. As a direct result of students' suggestions, a campus rathskellar is now in the planning stage, student cooperative service agencies have been established, a policy has been set governing use of facilities for industrial recruitment, and all institutional policies related to the housing of students are under systematic review.

Perhaps most dramatically noteworthy has been President Homer Babbidge's recent endorsement, in his annual address to the faculty, of a complete overhaul of the university's structures of governance. The president credited Tim Jerman, Associated Student Government president, with original suggestions concerning many details of the proposed renovation.

Delaware

In November 1968, the *University of Delaware* faculty approved by an overwhelming majority a statement on student rights and responsibilities recommended for passage by a joint student-faculty committee on Student Activities. The statement gave students new rights in the determination of their social affairs and rules of conduct not involving federal, state, or local laws.

Also at the *University of Delaware* last year, student requests led to experiments in self-regulated hours for women and visitation by women in men's residence halls, and to the scheduling of a further trial period for this fall. A final decision on the continuation of these privileges will be made after January 1, 1970.

Florida

As the result of an Action Conference which had the full support and participation of *University of Florida* students and Student Government, 41 recommendations were made to the president. These recommendations resulted primarily from student suggestions. The majority of these have been implemented and the remainder are in the process of implementation, modification, or discussion.

Georgia

In response to close work together by members of the Student Government Association and members of the Student Affairs Office at the *University of Georgia*, curfews for all women students of at least sophomore standing have been eliminated at the University, and curfews for freshmen have been modified. Georgia students this year are in charge of all general disciplinary action.

Largely due to student requests, ROTC was made voluntary effective with the fall quarter, 1969. In addition, grades earned in basic physical education will not be included in calculations yielding the cumulative or graduating averages of students.

Illinois

The Black Student Association at the *University of Illinois at Urbana-Champaign* has contributed significantly to the establishment of the Commission on Afro-American Studies, which in turn has developed an Afro-American Cultural Program. Residence organizations, and particularly the judicial boards on campus, have provided a direct and immediate reaction to the needs of students. This has resulted in modification of the judicial processes, in creation of a visitation program, and in changes in the residence halls operations. At *Chicago Circle* a group of interested black students has formed a committee which submitted a detailed proposal for a Department of Ethnic Studies. Several of these students were appointed to serve on a faculty committee that is currently meeting with the chancellor's staff in order to formulate a General Ethnic Program.

Indiana

At *Purdue University* last spring, black students submitted proposals for an enlarged black studies program to President Frederick L. Hovde. President Hovde appointed a special committee to review the proposals and recommend a long-term program which the university could implement immediately. President Hovde complimented these groups who "have provided the administration with sound, thoughtful and well-conceived ideas for enlarging the program of the university." Purdue's Black Cultural Center is in the process of organization—with major student inputs—this year.

Last December, upon the recommendation of student leaders and with the approval of the Faculty Council, the *Indiana University* Board of Trustees approved open guest privileges three days a week when students in campus residences could invite members of the opposite sex to study and visit in their rooms. Later, the policy was modified to allow students not wishing such privileges to request other accommodations. That modification was reversed subsequently in response to further student requests.

Iowa

A new Action Studies Program course scheduled at the *University of Iowa* this fall was the idea of three students. Instead of protesting about U.S. foreign policies and programs, new solutions can be sought in the course. The class is structured like the U.S. State Department, with a Bureau of Economic Affairs, a staff of the Secretary of State, and five regional bureaus covering the world. No lectures or tests are planned, but students research problems affecting their group and prepare papers supporting their policy decisions.

Iowa State University has adopted several suggestions made by students and refined by committees which included student representatives. Among them are a limited pass-fail system, revised women's hours, and revised requirements for the senior English examination.

Kansas

At the *University of Kansas*, a student-faculty committee appointed in May 1968 to consider student participation in the government of the University recommended a restructuring of both the student and faculty governing bodies to more clearly reflect the membership and concerns of each body.

Kentucky

This fall the *University of Kentucky* College of Law faculty announced the appointment of a law student to each of its committees for the first time. The action was taken following a request earlier this year by the president of the Student Bar Association.

Massachusetts

The *University of Massachusetts* this fall is decentralizing its Student Senate and developing area residence governments.

As a result of meetings between the president's office and student leaders of the Afro-American Organizations, the University has instituted a number of reforms in the area of human relations and has set up a university-wide monitoring committee to oversee implementation of the reforms. The committee includes two Afro-American representatives, a member of the Student Senate, a member of the Graduate Student Senate, a Faculty Senate member, a member of the administration.

Among the reforms agreed to by the administration were:

Stepped up efforts to recruit black faculty and staff and black members of the campus police force.

The development of a wide range of activities to make the university community more aware of black-white tensions and to find ways of dealing with them. A format will be sought to train members of residence hall and Greek-letter group governing staffs in racial orientation.

A system of campus-wide sensitivity training sessions.

The establishment of a university-wide code of human relations conduct, plus a review board of offenders and a system of penalties.

Beginning with this year's freshman class, all incoming freshmen will receive black-white encounter training as a part of freshman orientations.

At the *Massachusetts Institute of Technology* students not only suggested an increase in the enrollment of black students, but they now play a major role in recruiting disadvantaged students. In the case of classified research, students contributed to the decision to abandon classified theses. Students have also played an important role in decreasing the emphasis on war-related research in favor of research relevant to the problems of society.

Michigan

At Michigan State University last year, a major academic freedom report was implemented. The report was adopted two years ago following extensive study by students, faculty, and administrators.

At *Wayne State University* a student government suggestion to change policies regarding the repetition of and withdrawal from classes was implemented.

Minnesota

At the suggestion of students the *University of Minnesota* has established an Afro-American Studies Department, an Indian Studies Department, and a scholarship and loan fund for minority students. Student suggestions have also led the university to intensify the recruitment of minority students, involve more students in the governance of the university, and review policies on placement, ROTC, demonstrations, and minority workers on campus construction projects.

Missouri

Based on recommendations from students, faculty, administrators, and others the *University of Missouri* Board of Curators last year approved new rules of procedure in student disciplinary matters. The rules were designed to protect students rights and insure due process in disciplinary proceedings.

Also at the *University of Missouri*, students appeared before the Board of Curators to seek "hikes" in student fees.

At the *University of Missouri, St. Louis*, one department reviewing its curriculum asked for student critiques of its program through an article in the student newspaper. At the request of student groups, two new courses were scheduled: a non-credit experimental course in student government and a three-hour credit course in Negro history.

Montana

Student suggestions which have been affirmatively acted upon at the *University of Montana* include: A change in the age at which women can live off campus; a coeducational dormitory; discontinuance of a mandatory dormitory sign-out procedure for women; a change in the policy of visitation privileges in the dormitories; changes in traffic and parking regulations; changes in student disciplinary procedures, and changes in curriculum.

Montana State University has changed many of its residence hall regulations as the result of suggestions from the student governing bodies within the halls.

New Hampshire

In 1968–69, the Senate of the *University of New Hampshire*, following up recommendations originally initiated by students, took major steps to expand and to improve UNH's College Opportunity Program Experiment (COPE) for disadvantaged students. The Senate's action, with initial emphasis upon providing additional college opportunities for black students, led to a consolidation of the existing COPE and Martin Luther King student-aid programs, with increased resources and a more direct involvement on the part of both students and faculty.

A visitation program, devised and proposed by students, provides guest privileges for students of the opposite sex to visit other students in their living quarter in university residence halls, fraternities, and sororities. Functioning on a seven-day-per-week basis, the program is supervised and its rules enforced by house councils, the student Judiciary Board, and the Office of the Dean of Student Affairs.

A joint faculty-student-administration committee at the university is engaged with the UNH Residences Office in proposing innovations in campus housing which will enable students living in university residence halls to identify their living areas with the institution's educational programs. One of the first projects is an effort to have a faculty husband-and-wife team live in a residence hall. Another effort seeks to encourage professors to hold meetings of their classes in residence hall lounges and meeting rooms.

New Jersey

In response to student demands that the university better serve students from communities surrounding its three campuses, *Rutgers, the State University of New Jersey*, has moved to admit more economically deprived students.

In addition, residence hall policies at Rutgers are student-initiated. They are established by the Inter-Residence Hall Association, which is a student body.

New York

The open admissions policy, which will go into effect at *The City University of New York* in September, 1970, was not originally scheduled to begin until 1975. Earlier implementation was called for by the Student Advisory Council and other student, faculty, and community groups, and the Board of Higher Education approved an advance in the target date for start of the new admissions policy. The university will offer admission to all graduates of New York City high schools.

Students suggested the formation of the Chancellor's Student Advisory Council, which is now a functioning body, representing student interest to the chancellor, the Board of Higher Education, and the Administration Council of college presidents. Requests from the Council resulted in student representatives being named to attend meetings of the Board and the Administrative Council.

A group of students on the Agriculture campus at *Cornell University* formed an "Agriculture Reform Committee" to work for more flexibility in the curriculum. The group lobbied within channels and the school's Educational Policy Committee approved three of their demands: The elimination of the practice requirement; reduction in the number of required hours of Agriculture courses, and an end to the mandatory Orientation 101.

A group of 30 Cornellians concerned with finding ways the Cornell white community could educate its members about racism in personal, institutional, and national relationships came up with the idea for a new course. The student-run course, entitled "Education Issues in a Democracy," was introduced this fall.

At the *State University of New York at Albany*, the University Council last spring approved modification of regulations for entertainment of visitors and the use of alcohol on the campus. Under general guidelines to be set by the Living Area Affairs Committee, students in various living halls will set their own rules.

North Carolina

Within the last year, based on initiative taken by *University of North Carolina* students, a Visitation Program within the residence halls has been authorized. Parietal rules have been modified, and steps have been taken to eliminate discriminatory requirements concerning housing of women students.

To some extent, as a result of student initiative, a Black Studies curriculum has been developed, and an active effort is being made to recruit black students and students from disadvantaged segments of society.

Oregon

In April, 1969, at the request of *Oregon State University* Student Senate and with the approval and support of the Faculty Senate, the president of the university approved the adoption of the document commonly referred to as the Student Bill of Rights, entitled "Student Rights, Freedoms and Responsibilities at Oregon State University." Student recommendations have also been adopted in many areas relating to housing regulations, curricular matters, and registration.

South Carolina

In response to suggestions by residence hall government, the *University of South Carolina's* regulations concerning possession and consumption of alcoholic beverages on campus have been changed to permit such in conformance with state laws. As suggested by Associated Women Students, all curfew hours have been removed for women students above the freshman class who have parental permission. Student Government established a Metropolitan Education Foundation, which now involves faculty, students, and townspeople in a comprehensive program of education and recreation in the disadvantaged areas of the city.

South Dakota

As a result of direct student influence, the University Senate of the *University of South Dakota* has approved:

A Student Bills of Rights.

Improved housing regulations and policies.

A student disciplinary system (Student Court System).

Tennessee

The administration of the Knoxville campus of the *University of Tennessee* responded favorably to student proposals concerning the operation and management of residence halls, especially in the adoption of a more liberal policy on hours for women students above the freshman year and in the adoption of a policy concerning off campus living by women students.

Texas

At the *University of Texas at Austin*, student dissatisfaction with the food in university-run cafeterias housed in the Student Union resulted in the management of the two cafeterias being turned over to the student-dominated Texas Union Board last summer.

Vermont

The *University of Vermont* Board of Trustees in October named a committee to consider additional funding to aid recruitment of black students. The committee was created in response to a request by Student Association President Brooks McCabe.

Following his receipt of two petitions one calling for an end to ROTC and the other asking for its continuation—President Lyman Rowell of the *University of Vermont* announced that he would ask student and faculty committees to study the matter and that he would call a University Forum this fall to provide an opportunity for full and open discussion. The Forum included stu-

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dent, faculty, and administration participants, including Rowell, and dealt with housing, black students, and Kake Walk as well as ROTC.

Virginia

At the *University of Virginia* suggestions made by elected bodies of the student government have been regularly put into effect in recent years. Rules regarding housing have over the past three years been amended expressly to follow student desires, concurrently with establishment of responsible student administration of the rules. Programs for recruitment of black students have been instituted on a cooperative student-administration basis.

Washington

At *Washington State University,* a portion of student fees is now used to finance a new Center for Social Research. This is the result of a student suggestion at an informal meeting with the president. The University's policy on military recruiting on campus was reviewed by a committee of three students, three faculty, and two administrators; a student referendum was held on allocation of part of the Student Activities Fee; hours were eliminated for all women except first-semester freshmen; and parking regulations, fee structure, and allocations were studied—all following suggestions and recommendations from student groups and individuals.

West Virginia

There is a tradition of strong student government at *West Virginia University.* For instance, students initiated actions that led to adoption of a limited pass-fail grading system and abolishing residence hall hours for sophomore, junior, and senior women.

At the suggestion of black students, WVU arranged for six Negro professors on the West Virginia State College faculty to fly to WVU and deliver two lectures each in a course concerning black experiences in 20th century America. The WVU College of Commerce developed a course dealing with contemporary economic problems at the request of two students.

Wisconsin

The Madison campus of the *University of Wisconsin* is now laying the groundwork for an Afro-American Studies Department and a major in Afro-American Studies. The Milwaukee campus expanded course work in this area and established an Afro-American Center. Both campuses instituted these programs as the result of requests by students.

Wyoming

Upon the recommendation of the Student Senate and with the approval and support of the Board of Trustees, the Wyoming legislature in January, 1969, adopted a bill providing for appointment of the student body president to the *University of Wyoming* Board of Trustees. Students have initiated a teacher evaluation program which has been of assistance in reviewing courses and the teaching ability of faculty members. In response to student requests, trustees have eliminated a rule making it mandatory for upperclassmen to live in university dormitories. Trustees, following student suggestions, have appropriated funds to support a pilot program for the admission of more economically-deprived students.

LETTER FROM CIVIL LIBERTIES UNION

HON. ALLARD K. LOWENSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. LOWENSTEIN. Mr. Speaker, the following is the text of the letter sent to each Member of Congress by the American Civil Liberties Union. This is the document to which I referred during debate on the District of Columbia crime bill.

The letter follows:

MARCH 16, 1970.

DEAR CONGRESSMAN: The House District Committee has just reported H.R. 16196, the District of Columbia Court Reform and Criminal Procedure Act of 1970. Although the bill does contain some welcome and long overdue reforms of the District court system, many of its provisions constitute deeply disturbing inroads on fundamental rights and liberties guaranteed by the Constitution.

Once again a majority of the members of the House District Committee have shown themselves willing to authorize serious invasions of liberty on the voteless residents of the District of Columbia which they would never tolerate, much less support, against their own constituents.

In discussing the disturbing features of this bill, I should like to begin with the most offensive of them—preventive detention, "no-knock" search warrants, warrants to compel physical evidence, and almost unlimited wiretap authority. It should be noted that this dreadful collection of police-state measures has been hidden by the drafters at the end of Title II in a section innocuously labeled "Codification of Title 23." Neither the bill's title nor the table of contents, therefore, gives an inkling of the wide-ranging police powers which this single section of the bill would permit in the District of Columbia. We find it difficult to believe that this at-first-blush invisibility is accidental.

PREVENTIVE DETENTION

Much has already been said and written on the subject of "preventive detention" to demonstrate that it is both unconstitutional and undesirable. The American Civil Liberties Union joins these other voices in urging you to reject this proposal which, in authorizing detention on the basis of mere guesses about future behavior, cannot be distinguished from a sixty-day jail sentence imposed without a crime having been committed. Moreover, the cumbersome hearing procedure written in by the drafters to muffle its otherwise bluntly unconstitutional impact will further clog the already terribly overburdened court system in the District of Columbia.

Thus preventive detention, which its supporters say is necessary because of the present long delays between arrest and trial, will result in even longer delays. The burdens caused by these hearings will sharply reduce the beneficial effects anticipated from the addition of new judges. The risk of police-community friction and potentially explosive confrontation over this provision—which can be so easily interpreted as an attack on Washington's black community—cannot be underestimated. We urge you to resist efforts to undermine the Constitution and to avoid these dangers by rejecting preventive detention and concentrating on improving the courts in order to end once and for all the present long delay between arrest and trial.

"NO-KNOCK" WARRANTS

Although a great deal has already been written about the unconstitutionality of "no-knock" searches, in general, I would like to urge you to look very closely at § 23–591 which appears in § 209 of Title II) because of the degree to which it undermines the Fourth Amendment. The ACLU firmly believes that all "no-knock" authorizations which expand the traditional common law circumstances under which this has been permitted must be rejected as unconstitutional. Section 23–591 is a flagrant example of such expansion. It expands the permissible use of "no-knock" entry so greatly as to become the rule rather than the exception to the Fourth Amendment.

Section 23–591 authorizes "no-knock" searches *with or without a warrant* where notice "may" result in evidence being destroyed, disposed of, or concealed. Since almost any evidence could fall under this loosely drawn standard, the effect will be to permit "no-knock" searches in almost every case. Moreover, the police are not required to give notice where notice would be "a useless gesture." Nothing prevents the police from concluding that the simple fact that the occupants might object to a police visit makes notice "useless" since they will have to use force anyway.

There is nothing which prevents such unannounced entries from taking place during the middle of the night. Imagine the reaction of even a peaceful law-abiding citizen to the unannounced forcible entry of the police into his home on a quiet evening or in the middle of the night. The danger to police officers who make "no-knock" entries into homes in the middle of the night cannot be minimized.

The "no-knock" authorization contains no limitation on the type of crime to which it will be applicable. It is not limited to felonies. It applies to all crimes. There can be no doubt that the police will seek to use this authority to deal with any and every violation of the law where they wish to enter without notice. It will indeed become the rule. Citizens, supposedly protected by the Fourth Amendment will be forced to accept the "no-knock" entry into their homes as the normal situation. This cannot be so in a democracy under law.

COMPELLED PHYSICAL EVIDENCE

Section 23–251 (which also appears as part of § 209 of Title II) authorizes government officials to detain people to take "physical or other impressions" or other "chemical, scientific, medical, or other tests or experiments." Although it purports to require "probable cause" for the issuance of a warrant for this purpose, it defines that term in such a way that a person will be forced to submit to this detention even when the government lacks sufficient evidence to arrest him or even to search his house. The drafters of this provision are undoubtedly relying on a tentative suggestion in *Davis* v. *Mississippi,* 394 U.S. 721 (1969), that it might be permissible to require a person to agree to be fingerprinted in the absence of probable cause to arrest. The Court's opinion does not however support the broad grant of authority to detain in this bill. Especially in light of the total failure to provide limits and safeguards the provision cannot be constitutional. Moreover, the provision is an invitation to indiscriminate police dragnets. The existence of unsolved crimes will of itself be enough to authorize the police to pick up and detain unlimited numbers of persons without any evidence to relate them to these crimes. This freedom to detain citizens where there is no probable cause to arrest or search is totally inconsistent with our constitutional system to which the individual's freedom to be free from unwarranted invasion by the police is so central.

WIRETAPPING AND SURVEILLANCE

In 1968 Congress enacted the Omnibus Crime Control Act which authorized eavesdropping and telephone taps against certain specified crimes. Again buried in § 209 of Title II, this bill's authorization for even more eavesdropping and wiretapping covers an enormous range of crimes, including such offenses as robbery, arson and destruction of property, many of which are individual acts requiring no concerted action or conspiracy.

The bill contains no safeguards. There are no limits on the places, public and private, which may be subject to electronic eavesdropping and wiretapping. The number of innocent persons and conversations which will now be subject to government surveillance cannot be underestimated. Serious harm can result to third parties mentioned in intercepted conversations. Yet such persons are given no remedies and are deliberately excluded from the list of those who may move to suppress such evidence. Those defendants who are permitted to move to suppress illegally obtained evidence may well have to do so without full disclosure of the material to the defense.

The proposed wiretapping and eavesdropping law is a perversion of what we believe Congress intended to permit in the way of state legislation under the 1968 Crime Control Act. It is one-sided, expanding to the fullest the wiretapping and eavesdropping powers of the police, but keeping at a minimum the protections against illegal wiretapping and eavesdropping. The drafters of the bill have totally ignored the 1967 report of the President's Commission on Law Enforcement and Administration of Justice. We urge you to remember its words in considering this provision:

"In a democratic society privacy of communication is essential if citizens are to think and act creatively and constructively. Fear or suspicion that one's speech is being monitored by a stranger, even without the reality of such activity, can have a seriously inhibiting effect . . ."

TREATMENT OF JUVENILES

I should now like to turn to another area of the bill (Part B of Title I) which, despite its not being hidden in § 209, makes some serious and retrogressive changes in the operation of our juvenile court system.

The bill would exclude altogether from juvenile court jurisdiction any child sixteen or older *accused* of a serious crime. The result will be to exclude a child simply on the basis of the charge, without any reference to his past record (good or bad) or the strength of the evidence against him. The juvenile court judges will have no discretion since they will not even have jurisdiction over these youths. In addition, the bill provides for waiver of juveniles fifteen or older and accused of a felony to the adult court. In so doing, the bill presumes waiver in each case and places the burden on the defendant to show why he can still be rehabilitated in juvenile court. Once a juvenile is waived to the adult court, the jurisdiction of the juvenile court ends, *even with respect to future misconduct of any kind, including minor offenses.*

These provisions are totally inconsistent with our concept that juveniles may be more susceptible to rehabilitation than older persons committing crimes and that, as a result, juvenile court treatment of an offender should be highly individualized and geared to his rehabilitation. The provisions in this bill will affect many more than those juveniles impervious to rehabilitation. There is no evidence that the punishment delivered to them in adult court will be any more swift and certain. And any hope for rehabilitation will be destroyed by abandoning the juvenile to the well-known corrupting influences of the D.C. jail.

In those cases remaining under juvenile court jurisdiction, the bill establishes a *civil* standard of "preponderance of the evidence" to govern a finding of guilt for law violations in juvenile court, instead of the criminal standard of "proof beyond a reasonable doubt." The criminal standard has long been a required element of due process in adult criminal cases. A number of state legislatures and courts have adopted this rule for juveniles. The Supreme Court in *In re Winship*, 38 U.S. Law Week 3153, is about to decide whether this standard is constitutionally required in juvenile court cases as well. It makes no sense to adopt the *civil* standard by legislation when the entire trend, both as a matter of constitutional law and sound policy, is moving toward a higher standard of due process of law in juvenile proceedings.

RIGHT TO RESIST ILLEGAL ARREST

Section 206 of Title II deprives the citizen of the right to resist an illegal arrest. If there were realistic civil remedies for clearly unlawful arrests and if the District rigorously punished police who engaged in such arrests or other illegal arrests, then it might be agreed that citizens should not have a right to resist a *peaceful* illegal arrest. The right of a citizen to resist "excessive force"—or to say it more plainly, police brutality—should not be questioned. Yet this bill deprives the citizen of the right to resist even under these conditions. It will encourage police brutality because of the knowledge that at last the citizen has been deprived of the right to defend himself. This change in the law could well be used to deprive the citizen of any civil remedy as well. This small change in the law is a clear example of the second-class citizenship which is being imposed on District residents by this bill.

MANDATORY MULTIPLE OFFENDER SENTENCES

Under existing law in the District of Columbia, persons committing a crime of violence may be given an indeterminate sentence in addition to the punishment for the crime itself. Section 205 of Title II of this bill would require that a person who commits a crime of violence while armed be given an additional sentence. Moreover that sentence has a mandatory minimum sentence of not less than five years. It can extend to life imprisonment. A person previously convicted of two violent crimes would have to be given a mandatory life imprisonment sentence. Similar penalties are established for narcotics offenders.

We believe that the imposition of additional penalties should be left to the discretion of the judge. We also believe that the legislatures should not require mandatory minimum sentences. Our penal system is based upon rehabilitation. Sentencing in such a system must be, of necessity, an individualized matter. The judge should be given the authority to impose lengthy sentences where the legislature feels it necessary, but they should be left the flexibility to respond to signs of rehabilitation or the prospect of it in a convicted person.

IN CONCLUSION: AN OVERVIEW OF THE BILL'S IMPACT

As disturbing as each of these provisions is by itself to anyone concerned with the continued existence of civil liberties, even more troublesome to contemplate are the serious inequities and harassment which can and will be inflicted upon District residents as the police begin to realize the uses to which these techniques can be put in combination. Imagine the innocent citizen who, never having even been arrested before, is wrongly suspected of committing a crime. His phone—both home and business—can be tapped. He can be picked up and detained by the police to be fingerprinted and forced to submit to other physical tests even though the police could not arrest him. If the police should wish to search for evidence, they can do so without warning by breaking into his home in the middle of the night. And if the police, knowing full well that they lacked probable cause to arrest, decided to arrest him anyway, this bill would rob him of the right to resist—no matter how illegal or brutal the police's methods. Should he be charged with a so-called "dangerous crime" (which in this bill is defined broadly to include attempted robbery and the sale or even the use of marihuana) and should a judge decide, perhaps because he threatened the officers who broke forcibly into his home, that his release would jeopardize "the safety of any other person," he could be placed in preventive detention.

This sounds disturbingly like a police state, rather than the seat of democratic government—our nation's capital.

The American Civil Liberties Union urges you to amend H.R. 16196, to eliminate these unconstitutional and dangerous provisions so that the bill focuses its attention primarily on court reform. In this way, H.R. 16196 could mark a departure from the unfortunate trend of the last few years toward passing increasingly harsh criminal legislation in the District of Columbia, where the voteless citizens have no real power to object. Such legislation deprives these citizens of the very basic protections which the Constitution provides them against unwarranted and unlimited government invasions of their privacy.

In many respects, H.R. 16196, aside from its court reform provisions, reflects a Congressional desire to stop crime in the District, but a complete unwillingness to devote the resources really necessary to make the fight successful. I call upon you to take steps to turn the full attention of the Congress toward the real solutions of the crime problem—more efficient courts, vastly improved penal systems, and elimination of the reasons which cause people to commit crimes.

Sincerely yours,
LAWRENCE SPEISER,
Director, Washington Office, ACLU.
ALLISON W. BROWN, Jr.,
Chairman, National Capital Area Civil Liberties Union.

ENTHUSIASM OF YOUNG PEOPLE FOR ENVIRONMENTAL QUALITY

HON. HOWARD H. BAKER, JR.

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Friday, March 20, 1970

Mr. BAKER. Mr. President, one of the most hopeful aspects of the current enthusiasm for environmental quality is that the great energies of many young people are being brought to bear with characteristic fervor on the problems of environmental degradation. Such energy will no doubt continue to provide a visible prod for effective public and private action.

As an example of such responsible interest, I am proud to note that the Pi Kappa Phi Fraternity, of which I have been a member since my college days, has resolved at the national level to encourage all of its members to join in the fight for a quality environment.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL POLLUTION

Whereas, in our nation today there is a great concern among our people for the condition of the environment in which they live, and

Whereas, the health and well-being of human beings is the issue at hand, and

Whereas, the very essence of Pi Kappa Phi Fraternity is no more nor less than a select portion of that race of human beings, and

Whereas, many are joining together to bring about a cessation of the unwarranted and deathly pollution of our environment, and

Whereas, the Pi Kappa Phi Fraternity cannot fail to likewise be concerned,

Now therefore be it resolved, that this fraternity does request of each undergraduate chapter and each member, both student and graduate, to become fully involved, both physically and financially, in every possible

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instance of individual and collective effort to eliminate the continued pollution of our environment.

CHARLES TOM HENDERSON,
National President.
WILLIAM L. BRINKLEY, Jr.,
National Secretary.

SMOG MAJOR FACTOR IN DEATH OF PONDEROSA PINES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BROWN of California. Mr. Speaker, by now most of us realize that smog ranks as a major health hazard to humans, but so far, few people have become acquainted with the effects of air pollution on other life forms.

Now, as scientists become more aware of overall dangers caused by smog, it is evident that unless we reduce air pollution as soon as possible—without regard to the purely dollar costs of this action—that smog may cause significant changes in overall ecological balance.

As an example of the threat caused by smog to ecology, I would like to refer to a series of studies relating to the ponderosa pine trees in the San Bernardino Mountains of southern California. These studies indicate that air pollution affects plant growth, which in turn left the pine trees open to attack by pine beetles who destroyed the trees.

What is particularly alarming about these studies is that fact that the San Bernardino Mountains are some 60 miles from Los Angeles. The prospect for trees nearer Los Angeles—or near any major city these days—must be quite dim.

These studies are an initial indication of the intricate ecological changes which can be brought about by continued pollution. And the longer we procrastinate in delay, the greater these changes will be—and these are not minor alterations in life forms.

Air pollution becomes more dangerous each day to this entire planet. What are we doing to stop it?

I now insert into the RECORD these important studies detailing the effect of smog on the ponderosa pines:

DECLINE AND MORTALITY OF SMOG-INJURED PONDEROSA PINE

(By Fields W. Cobb, Jr., department of plant pathology, University of California, Berkeley, Calif.; R. W. Stark, department of entomology, University of California, Berkeley, Calif.)

ABSTRACT

Over a three-year period 36 trees in a 150 tree plot in the San Bernardino Mountains of Southern California were killed by the western or mountain pine beetle. Thirty-three of these exhibited advanced disease symptoms caused by atmospheric air pollution. Of the 114 trees living, 85 showed an increase in disease symptoms. The average disease rating in the three-year period almost doubled. It is concluded that should air pollution continue unabated virtual elimination of ponderosa pine from the forest stands in this area will occur.

Smog injury is a disease of plants caused by photochemical reduction of pollutants in the atmosphere. The reduction process generates ozone and other oxidants which cause a rapid loss of chlorophyll. When excessive, the photosynthetic capacity is reduced below that necessary to sustain plant growth. Photochemical air pollution injury to ponderosa pine results in premature chlorosis, senescence, stunting and casting of foliage.

In 1965, observations indicated that smog-injured ponderosa pines in the San Bernardino Mountains were frequently attacked by the western pine beetle, *Dendroctonus brevicomis* (LeConte), and the mountain pine beetle, *D. ponderosae* (Hopkins). Studies were initiated on the San Bernardino National Forest in 1966 to determine the relationships between air pollution injury and bark beetle attacks.

These studies (1–4) showed that ponderosa pines exhibiting advanced smog-injury symptoms were more frequently attacked by bark beetles than those with less severe symptoms. Only 3.5 percent of the most healthy trees (all trees were affected to some degree) were infested compared to 46.0 percent of the severely affected trees. The mountain pine beetle was not found infesting any of the healthy trees (4).

These studies also showed that smog injury reduced tree growth and caused significant reductions in the live crown ratio (length of live crown/total height). In addition, smog injury reduced oleoresin exudation pressure, resin yield and rate of flow of resin. Crystallization rate, on the other hand, was increased (1). These effects are believed to facilitate invasion of the trees by bark beetles (2).

Further effects of smog injury included a reduction in sapwood and phloem moisture, reduction of phloem thickness and of phloem carbohydrates. Phloem pH and oleoresin quality (based on major monoterpene constituents were not affected) (3). Reduction in moisture content was also believed to enhance the probable success of beetle attack, but it was speculated that the reduction of phloem thickness and amount of carbohydrates would be unfavorable for bark beetle broad development (2).

Methods: During the 1966 studies a plot of 150 ponderosa pines was established. Fifty of the trees were relatively healthy, 50 had light to moderate injury symptoms (intermediate), and 50 had severe symptoms (advanced). The classification was based on a scale of 0 to 9 using branch mortality, needle retention, color, length and complement as indicators (4). These trees were re-examined approximately three years later in late June, 1969. Trees that had died were examined for evidence of bark beetle infestation and the condition of living trees was updated using the same rating scale.

Results: Thirty-six of the 150 trees were killed during the three-year period (Table 1), all of which were infested by bark beetles prior to death. Thirty-three of these trees were in the advanced disease category in 1966, and 3 were in the intermediate category. All trees with the most advanced or severe symptoms were killed. Mortality became progressively less as severity of symptoms decreased; none of the healthy trees or least diseased of the intermediate group were killed.

Tree diameters ranged from less than 10'' to greater than 32''; 107 trees were less than 33 greater than 20'' (Table 2). More of the lower diameter trees (27.1%) were killed than those in higher diameter classes (21.2).

Sixteen of the killed trees had been removed during sanitation-salvage operations. Of the remaining 20 trees, 11 were infested by the western pine beetle, five by the mountain pine beetle and four by both bark beetle species.

TABLE 1.—MORTALITY AND CHANGE IN DISEASE RATING OF SMOG INJURED PONDEROSA PINE BETWEEN 1966 AND 1969

Status and change in disease rating	Disease rating Healthy	Intermediate number trees	Advanced
Status July 1966	50	50	50
Change to intermediate	21		
Change to advanced	1	34	
Mortality	0	3	33
Status June 1969	28	34	52

TABLE 2.—MORTALITY IN RELATION TO DIAMETER CLASS OF SMOG INJURED PONDEROSA PINE

Diameter class (inches)	Number of trees	Number of trees killed	Percent mortality
9 to 12	11	7	63.6
13 to 16	49	14	28.5
17 to 20	47	8	17.0
21 to 24	25	4	16.0
25 or more	18	3	16.7

These proportions of attack by beetle species are roughly equivalent to those found in 1966 (4).

Of the 144 trees still living in 1969, only 29 had the same numerical symptom rating as in 1966, 15 of these were healthy trees. Another 29 trees had increased symptoms but stayed in the same disease categories (healthy, intermediate or advanced) assigned to them in 1966. The remaining trees exhibited enough increase in symptom severity to move from healthy to intermediate or advanced or from intermediate to advanced (Table 1). Thus, despite the death of 33 advanced diseased trees, there were 52 trees in this category in 1969. The 1966 intermediate trees showed the geratest increase in disease severity with an average change in numerical rating of +2.5, compared to +1.1 for healthy trees and 0.5 for advanced disease trees. The overall average rating for the living trees increased from 2.1 in 1966 to 3.7 in 1969.

Discussion: These results confirm the conclusion that air pollution injury predisposes ponderosa pines to bark beetle infestations (4). They further show that, under the conditions prevailing in the Lake Arrowhead area of the San Bernardino Mountains, most trees are infested by beetles only after injury has become severe. Even the three intermediate diseased trees had time to develop the more severe symptoms of advanced diseased trees before being infested by beetles, probably in fall, 1967 or spring, 1968.

The results also indicate that the rating system based on needle length, color, retention and overall complement and on branch mortality can be used to predict those trees that will become infested by bark beetles. Such a system could be used in choosing trees for cutting, thus removing poor risk trees for beetle infestation.

The oleoresin exudation pressures (OEP) of all and the moisture contents of sapwood and phloem tissues of many of the plot trees were determined in 1966. When these data from trees with a disease rating of three or more are related to the results of the current study, we find that 63 percent of the tree with zero OEP were killed compared to only 31 percent of the high (125 psi>) OEP trees. Also, the moisture contents of both sapwood (108 vs. 118% dry wt.) and phloem (54.8 vs. 60.0% saturation) were less in those trees subsequently killed.

The mortality and increase in severity of smog injury in ponderosa pine that have occurred during the period 1966–1969 indicate the threat of air pollution to forest stands. Mortality in certain areas of the San Bernardino Mountains has been high for at least 10 years, and many of the more sus-

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ceptible ponderosa pines were killed prior to 1966. Thus, the trees being killed at the present time are probably the more resistant to air pollution. Yet, only about one-half of the trees classified as healthy in 1966 can still be considered as such; and only 11 of 41 trees with a disease rating of zero in 1966 have maintained that rating.

If the present level of mortality continues, it can be expected that only a small number of highly resistant ponderosa pines will be alive within 10–15 years. Ponderosa pine is the predominant species in most stands in the area, but there are other conifers such as sugar pine, incense cedar, white fir and Douglas fir which appear to be less susceptible to pollution injury although they are also beginning to show symptoms of injury. If the air pollution from the Los Angeles basin continues unabated, there will be a conversion from the originally well-stocked ponderosa pine stands to poorly-stocked stands of the less susceptible species. Only rigorous control of pollution or reforestation with highly resistant species can retain the area as a productive forest region or even as a favored recreation area. As air pollution increases in other areas of the country, similar results can be expected especially if the forest species are as susceptible to smog injury as is ponderosa pine.

No attempt was made to estimate the actual and potential loss of timber, nor the cost of removal of beetle-killed trees in the highly developed recreational area.

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SMOG INJURY, ROOT DISEASES, AND BARK BEETLE DAMAGE IN PONDEROSA PINE

(By R. W. Stark and F. W. Cobb, Jr.)

(NOTE.—Photochemical oxidants (smog) are causing serious injury to ponderosa pine in the San Bernardino Mountains of southern California. Apparently, smog injury also renders the trees more susceptible to attack by two species of destructive forest insects, the western pine beetle, Dendroctonus brevicomis, and the mountain pine beetle, D. ponderosae. Recent studies have shown that photochemical oxidant injury to ponderosa pine results in reduced oleoresin yield, rate of flow and exudation pressure, sapwood and phloem moisture content and phloem thickness, all of which are believed important in the defense of the tree against bark beetles. Smog injury also affects growth rate and probably wood quality. Soluble sugars and reserve polysaccharides were reduced in diseased trees. Current studies indicate that similar injuries to ponderosa pine, with resulting increase in bark beetle attack, occur as a result of infection by root disease fungi, notably Fomes annosus and Verticicladiella wagenerii.)

The disease of ponderosa pine caused by atmospheric pollution has been called X-disease, chlorotic decline, and ozone needle mottle. Gradual discoloration or mottling of needles exposed to smog is associated with premature chlorosis, which can lead to senescence and finally death and casting of needles (see photo). The disease is apparently associated with increased ozone in the atmosphere produced by photochemical reduction of air pollutants. There is a rapid loss of chlorophyll in foliage exposed to ozone which suggests that chlorotic decline results from a reduction in photosynthetic capacity below that necessary to support tree growth.

Older needles are affected first; discoloration generally begins at the needle tip and progresses toward the base. Where smog is persistent and severe, as in the Lake Arrowhead area of the San Bernardino Mountains, discoloration and defoliation continue until the tree is dead. All ages of trees are affected. Death can occur within two years but normally occurs at least five years after the onset of noticeable symptoms.

In 1965, U.C. plant pathologists noticed that smog-injured ponderosa pines in the San Bernardino Mountains frequently were attacked by the western pine beetle, *Dendroctonus brevicomis* LeConte, and the mountain pine beetle, *D. ponderosae* Hopkins. These beetles are the most destructive insect pests of pines in western U.S., causing an estimated loss of ponderosa pine alone in excess of $100,000,000 in the Pacific coast states between 1921 and 1945. The western pine beetle attacks Coulter pine in southern California and ponderosa pine throughout its range. Although its attacks when its population is low are normally restricted to slow-growing, decadent or unhealthy trees, it can kill apparently vigorous fast-growing trees of all ages. The mountain pine beetle is more destructive in lodgepole, western white and sugar pines, but it often attacks ponderosa pine in substantial numbers as well.

INFESTATION MEANS DEATH

In southern California, the western pine beetle may have two to four generations per year, whereas the mountain pine beetle usually has one or two per year. Successful infestation of a tree by either of these species usually results in death of the tree. Occasionally, the mountain pine beetle may kill only a portion of some trees, but such trees usually succumb to the attacks of succeeding generations of beetles. These two insects are undoubtedly the major forest insect pests in southern California and are the object of major control efforts by state and federal agencies. The losses in high-use recreation areas such as Lake Arrowhead are often incalculable.

Beginning in 1966, scientists from the University of California at Berkeley and the U.S. Forest Service began studies to determine the relationships between air pollution injury and bark beetle attacks. An extensive survey of the area in the vicinity of Lake Arrowhead was made. A total of 1,072 ponderosa pines, 103 of which were attacked by bark beetles, were intensively examined for symptoms of smog injury. Fifty-five per cent of the trees had noticeable symptoms of injury, and many of the apparently healthy trees were being affected by smog to at least some degree. Graph 1, above, shows the observed relationship between degree of injury and incidence of bark beetle attack. Only 3.5 per cent of the apparently healthy trees were infested, compared with 41.2 per cent of the most severely affected trees. [Graphs not printed in RECORD.]

COMBINED ATTACK

Of the 103 beetle-infested trees, 65 were attacked by *D. brevicomis*, 22 by *D. ponderosae*, and 16 by a combined attack of both species (graph 2). None of the apparently healthy trees were successfully attacked by *D. ponderosae* alone, a result which agrees with the hypothesis that the mountain pine beetle is less "aggressive" than the western pine beetle. Neither smog injury nor attack by bark beetles was related to height, diameter or the position of the trees in the stand. A relationship was not unexpected with the western pine beetle (because it is an aggressive species which may attack almost all age classes), but the mountain pine beetle is usually found in suppressed, weakened or damaged trees. The attack of all tree sizes in the advanced-disease category by the mountain pine beetle indicates that these trees were reduced in vigor to a state where they were easy prey for the beetle. Thus, the results show that trees exhibiting chlorotic decline symptoms are more frequently attacked by bark beetles than are those exhibiting less severe or no decline symptoms.

Critical examinations of 100 living trees in each of three disease categories, healthy, intermediate and advanced, were made to determine incidence of attempted attack. In the advanced disease category, 36 trees showed evidence of attempted attack by bark beetles, in the intermediate-disease category, 19 trees showed evidence of attempted attack and in the healthy category only five showed such evidence. These and the other observations suggest that trees subjected to smog injury not only are more frequently attacked by bark beetles but actually may be more attractive to the beetles.

After it was established that there is, indeed, a relationship between smog injury and bark beetle attack, studies were made to determine how air pollution injury affects the tree to make it more susceptible to bark beetle invasion. Characteristics of the tree studied included diameter and height growth, relative size of crown, oleoresin exudation pressure, oleoresin yield and rate of flow, crystallization rate, sapwood and phloem moisture content, phloem thickness, monoterpene and resin acid composition of oleoresin, phloem sugars, starch and nonstarch polysaccharides, and phloem pH.

MORE SUSCEPTIBLE

These studies gave some evidence about the mechanisms by which the trees may have been rendered more suceptible to bark beetle attacks. Chlorotic decline reduced tree growth both in height and diameter. The most obvious external effect on the tree which seems to be related to incidence of bark beetle attack was the short crown, expressed as the live crown ratio (length of total live crown divided by total height). Smog injury killed an excessive number of the lower branches of the tree, thus reducing the live crown ratio.

The oleoresin system of pines is believed to be a major source of resistance to bark beetle attacks. The resin in trees is maintained under various pressures, and differences exist between pines as to resin quantity and rate at which oleoresin crystallizes. Pressure, yield, and rate of flow are physical barriers to entry by the bark beetle. Crystallization rate may have an effect once a wound is made in the tree; a rapid crystallization rate would probably improve the possibility of successful attack by bark beetles. Trees with a low oleoresin exudation pressure seem to succumb more readily to attacks by both the western pine beetle and mountain pine beetle—particularly the latter. Smog injury reduced oleoresin exudation pressure, resin yield and rate of flow significantly. Crystallization rate, on the other hand, was increased.

Sapwood and phloem moisture contents of the smog-injured ponderosa pines were also reduced. Since the moisture content of the tree is a reflection of the physiological condition of the host affecting oleoresin exudation pressure, it is possible that a reduction in moisture content and oleoresin would further encourage successful bark beetle invasion. The effects on brood development in the tree also might be advantageous to the beetles. On the other hand, inner bark (phloem) thickness and phloem carbohydrates were also reduced in severely injured trees. These reductions may not be favorable for brood development because the nutritional value of the phloem for the feeding larvae may become limiting. Phloem pH and quality of the sapwood oleoresin, based on the major monoterpene constituents, were not affected by smog injury.

SMOG INJURY

Although there has been no apparent increase in the bark beetle populations in the Lake Arrowhead area, smog-injured trees may serve as a focus for future outbreaks of bark beetles. Bark beetle populations in the southern part of the state have been relatively static for several years. The weakened stands in the San Bernardino Mountains may act as a reservoir and cause future damage by bark beetles to be concentrated in this valuable recreational area. Even if bark beetles remain low in number, mortality of ponderosa pine from photochemical atmospheric pollution injury is continuously increasing.

Current studies at the University of California Blodgett Research Forest and other areas of northern California indicate that a similar disease-insect relationship exists between root-infecting fungi and bark beetles. In the Blodgett area (El Dorado County), approximately 80 per cent of the bark beetle-infested ponderosa pines that were examined had been infected by root-disease fungi prior to beetle infestation. None of an equal number of living uninfested trees chosen at random from the general area were diseased. The major root-disease organism was *Verticicladiella wagenerii*, a fungus that moves from tree to tree via roots and causes a prominent dark stain in the infested tissue. The most common insects that occurred in these diseased trees were the western pine beetle and the mountain pine beetle. However, some of the trees also had been attacked by the red turpentine beetle, *Dendroctonus valens* LeConte and by flatheaded borers (Coleoptera; Cerambycidae).

PRIOR INFESTATION

At the Boggs Mountain State Forest (Lake County), at least 60 per cent of the bark beetle-infested trees had been infected by *Fomes annosus* prior to beetle infestation. The insects were the same as those occurring in association with *V. wagenerii*. *Fomes annosus* is another potentially serious pathogen of conifer roots and is widespread in California. It occurs in natural stands undisturbed by man, but usually becomes a serious problem only after logging. The fungus commonly invades freshly cut stumps, moves down into the roots and then infects roots of adjacent trees by contact.

Surveys have shown that both *V. wagenerii* and *F. annosus* occur in association with bark beetle infestations in other areas of northern California as well. Other root disease fungi, *Armillaria mellea and Polyporus schweinitzii*, also have been found to infect ponderosa pine prior to beetle infestation, but these appear to be relatively unimportant in the overall root disease bark beetle association in ponderosa pine at the present time. Preliminary studies of white fir, *Abies concolor*, indicate that root disease fungi, especially *Fomes annosus*, also may be important in weakening the resistance of that species and predisposing it to bark beetles such as *Scolytus ventralis*.

Studies are in progress to determine the effects of *Verticicladiella wagenerii* on the physiology of ponderosa pine. There is evidence that oleoresin exudation pressure, resin yield and rate of resin flow are reduced in diseased trees. Moisture content, especially of the foliage, also appears to be reduced. However, there appears to be no effect upon quality of the turpentine fraction of xylem oleoresin or upon phloem pH. Resin crystallization rate actually may be reduced in diseased trees, an effect which would be the reverse of that found in smog injured trees.

PREDISPOSING TREES

Our studies have shown that, in addition to such direct losses as reduced growth and mortality, air pollution injury and root disease organisms have a greater effect than had been generally recognized by predisposing trees to attack by bark beetles. These studies will also aid in analyses of the population fluctuations of bark beetles and thus in the control of these serious pests.

Current studies on the effect of air pollution injury and root diseases on the physiology of ponderosa pine hopefully will elucidate the mechanisms by which disease predisposes forest trees to bark beetle infestation and, conversely, the mechanisms of tree resistance to bark beetle attack.

[From Hilgardia, a Journal of Agricultural Science published by the California Agricultural Experiment Station, May 1968]

Photochemical Oxidant Injury and Bark Beetle (Coleoptera: Scolytidae) Infestation of Ponderosa Pine

I. INCIDENCE OF BARK BEETLE INFESTATION IN INJURED TREES

(R. W. Stark, P. R. Miller, F. W. Cobb, Jr., D. L. Wood, and J. R. Parmeter, Jr.)

Introduction

Many workers have observed associations between diseased trees and bark beetle infestation, and speculated that disease is a factor predisposing forest trees to bark beetle attack. Although observations concerning such a relationship between disease and insect have been numerous, few studies have been made to determine the degree of the relationship.

A disease of ponderosa pine, variously called X-disease, chlorotic decline, or ozone needle mottle, has been prevalent in pine stands of the San Bernardino Mountains since the early 1950's. Examination of weather records coupled with observations that affected trees occurred randomly on north or south slopes, valley bottoms or ridge tops, along lake shores or in well watered yards, indicated that drought was not a prominent factor (Parmeter, *et al.*, 1962). Subsequent studies showed that injury was associated with photochemical air pollutants (Miller, *et al.*, 1963; Richards, *et al.*, 1966). A chronic bark beetle problem has existed for several years in the same area. Preliminary observations suggested that beetle attacks might be associated with trees injured by air pollutants, but no investigations were made to determine whether the disease might be predisposing trees to beetle infestation.

This study was undertaken to determine whether those trees showing decline symptoms were attacked in greater numbers by bark beetles than were nonaffected trees. If trees were being predisposed, the second objective was to determine the stage of disease when most beetle attacks occurred.

Methods

In July 1966, an intensive examination of forest stands in the San Bernardino Mountains was made by three crews, each consisting of an entomologist and a plant pathologist. Each crew searched for ponderosa pines under attack or infested by the previous (spring) generation of the western pine beetle (*Dendroctonus brevicomis* LeConte) or the mountain pine bettle (*D. ponderosae* (Hopkins)). Identity of beetles was determined by removing the bark of the lower boles of standing trees and examining them for brood or characteristic galleries. Each beetle-infested tree and nine uninfested, nearest-neighbor trees were carefully examined and the following data recorded:

1. Diameter breast height (dbh) ±2.5 cm.
2. Crown Class: Suppressed (S), Intermediate (I), Codominant (CD), Dominant (D), and overmature, flat-top dominant (FTD).
3. Total tree height ±1.5 m.
4. Length of live crown: the length of the living crown from the top of the crown to the lowest living limb ±1.5 m (before beetles killed the tree).
5. Total crown length: length of the total crown including dead branches ±1.5 m.

In addition, the following scoring system was applied to five tree characteristics which were considered the most sensitive indicators of damage caused by oxidants (particularly ozone) of photochemical air pollution. Binocular telescopes were used to evaluate needle condition throughout the crown. Many trees under attack at the time of examination had some living foliage, but the foliage of most trees infested by the previous generation of beetles had been killed.

Characteristic:	*Score value**
1. Needle (foliage) retention:	
Only current year needles	2
Current and preceding year's needles	1
Current and two or more year's needles	0
2. Needle color:	
Chlorotic mottle—complete chlorosis	1
Green, no detectable mottle	0
All foliage killed	(dead)
3. Needle length:	
Pronounced length reduction	1
Normal length	0
4. Branch mortality:	
Pronounced mortality (from bottom up)	1
Normal mortality	0
5. Needle complement (based on entire crown):	
Less than 25 percent of normal	4
25–50 percent of normal	2
50–80 percent of normal	1
80 percent of normal	0

* The maximum possible score indicating a severely damaged tree was 9; the minimum score of 0 indicated a healthy tree.

Any other abnormality of the tree was recorded, such as dwarf mistletoe infections, root pathogens, or lightning scars. Wherever possible, the tree was carefully examined to determine all insect species present, regardless of whether or not they were instrumental in causing the death of the tree.

In addition to intensive examination of forest stands, a critical evaluation of insect activity in a permanent sample plot was conducted to determine whether insect activity was higher on living trees in various stages of disease. This plot consisted of 150 living trees carefully classified according to the degree of damage caused by air pollution. Fifty trees were considered to be healthy or unaffected, 50 were in an intermediate stage showing some degree of chlorotic decline symptoms, and 50 showed advanced symptoms. Each tree was carefully examined with binocular telescopes for evidence of attempted or successful attack by an identifiable insect. This portion of the study was repeated in February, 1967, on a similar sample of trees in a pine stand near the permanent plot.

Results and discussion

Examination of insect-infested and nearest-neighbor trees

A total of 1,070 trees, 107 infested and 963 noninfested nearest neighbors, were examined. The infested trees were scattered throughout the ponderosa pine type of the San Bernardino Mountains from Cedar Pines Park in the west to the vicinity of Arrowhead Village and Skiforest in the east.

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A comparison of the scores of insect-killed trees versus nearest neighbors indicates clearly that trees exhibiting chlorotic decline symptoms are more frequently attacked by bark beetles than those exhibiting less severe or no decline symptoms (table 1). Almost 62 per cent of the insect-killed trees had disease ratings of 5 or greater but less than 15 per cent of the noninfested nearest neighbors were in this category.

Of the insects involved in killing ponderosa pine in westside Sierra Nevada stands, *D. brevicomis* is considered to be the more aggressive, capable of attacking and overcoming more vigorous trees than is *D. ponderosae*. This difference in attack vigor is reflected in the number of trees infested and killed by *D. brevicomis* in the healthy and intermediate classes (table 2). A total of 14 trees had combined attacks, with both *D. brevicomis* and *D. ponderosae* present in the same trees. Both insect species, however, appeared to prefer trees in advanced stages of chlorotic decline.

TABLE 1.—COMPARISON OF THE TOTAL SCORES INDICATING SEVERITY OF CHLOROTIC DECLINE SYMPTOMS OF INSECT-KILLED TREES AND THEIR NINE NEAREST NEIGHBORS

Chlorotic decline symptom score [1]	Insect-killed: Number of trees	Insect-killed: Percentage of total	Nearest noninfested neighbors: Number of trees	Nearest noninfested neighbors: Percentage of total
0	14	13.1	301	31.3
1	3	2.8	160	16.6
2	8	7.5	137	14.3
3	10	9.3	100	10.4
4	6	5.6	121	12.5
5	12	11.2	67	6.9
6	9	8.4	24	2.5
7 or more	45	42.1	53	5.5
	107	100.0	963	100.0

[1] 0—healthy tree; highest possible score: 9—severely damaged tree.

TABLE 2.—PERCENTAGE OF HEALTHY INTERMEDIATE AND ADVANCED CHLOROTIC DECLINE TREES ATTACKED BY EACH BARK BEETLE SPECIES SINGLY OR IN COMBINATION

Chlorotic decline sympton score [1]	Insect species attacking tree: D. brevicomis	D. ponderosae	Combined attack
	Percentage of total		
Healthy (0-1)	22.2	0	13.5
Intermediate (2-4)	19.1	13.6	30.4
Advanced (5+)	58.7	86.4	56.1

[1] 0—healthy tree; highest possible score; 9—severely damaged tree.

The proportionate number of trees in each of the four crown classes was approximately the same in the insect-killed and nearest-neighbor groups of trees. Thus, there was no indication that the insects preferred suppressed trees over dominant trees. However, the average disease rating of the insect-killed trees was higher in each crown class (table 3).

TABLE 3.—PERCENTAGE OF INSECT-KILLED AND NEAREST-NEIGHBOR TREES IN EACH CROWN CLASS AND DECLINE SYMPTOM SCORE

Crown class	Total number of trees	Decline symptom score [1] (percent of trees): Healthy 0-1	Intermediate 2-4	Advanced 5-9	Percentage of of total trees	Average decline symptom score [1]
Suppressed:						
Insect-killed	11	18	27	54	10.3	4.2
Uninfested	97	46	32	21	10.1	2.4
Intermediate:						
Insect-killed	23	26	13	62	21.5	4.5
Uninfested	208	42	38	20	21.5	2.4
Codominant:						
Insect-killed	23	13	27	62	21.5	5.0
Uninfested	324	52	36	11	33.7	2.0
Dominant:						
Insect-killed	50	12	24	64	46.7	4.3
Uninfested	334	50	38	14	34.7	2.3
Total:						
Insect-killed	107	16	23	61	100.0	
Uninfested	963	48	37	16	100.0	

[1] 0—healthy tree; highest possible score: 9—severely damaged tree.

Excessive mortality of lower branches which develops acropetally is a symptom of oxidant injury. However, length of live crown did not appear to be correlated with incidence of bark beetle attack. On the other hand, live-crown ratio (length of living crown/total tree height) of dominant and codominant trees was markedly reduced (table 4) and should serve as an indicator of both oxidant injury and host susceptibility to bark beetles. The average live-crown ratio of dominant and codominant, noninfested nearest-neighbor trees was about 58 whereas that of beetle-infested trees in the same crown classes was 48. Through excessive branch mortality, the live-crown ratio of dominant and codominant beetle-infested trees had been reduced to that of suppressed trees.

Disease rating of the insect-killed trees was higher than that of the nearest neighbors regardless of diameter or height class (tables 5 and 6), except possibly for trees taller than 39 meters. No apparent relationship existed between photochemical air pollution injury and either tree diameter or height.

TABLE 4.—RELATION OF LIVE-CROWN RATIOS WITHIN CROWN CLASSES TO BEETLE ATTACK

Crown class	Live crown ratio of—: Beetle-killed trees	Nearest neighbors
Dominant	47.8	60.1
Codominant	47.5	57.0
Intermediate	54.0	54.0
Suppressed	48.0	49.6

TABLE 5.—FREQUENCY OF TREES BY DIAMETER CLASS AND AVERAGE CHLOROTIC DECLINE SYMPTOM SCORE OF INSECT-KILLED AND NEAREST-NEIGHBOR TREES

DBH (cm)	Number of trees	Percentage killed by beetles (percent)	Average symptom score [1]: Beetle killed trees	Nearest-neighbor trees
<25	297	6.4	4.6	1.9
25—37	299	11.4	3.8	2.3
38—50	214	13.1	4.5	2.2
51—63	123	5.7	3.8	1.7
64—76	67	9.0	5.2	1.8
77—89	35	6.0	6.0	2.5
>89	36	33.3	3.6	1.9

[1] 0—healthy tree; highest possible score: 9—severely damaged tree.

TABLE 6.—FREQUENCY OF TREES BY HEIGHT CLASS AND AVERAGE CHLOROTIC DECLINE SYMPTOM SCORES OF INSECT-KILLED AND NEAREST-NEIGHBOR TREES

Height class (meters)	Number of trees	Percentage killed by beetles (percent)	Average symptom score [1]: Beetle killed trees	Nearest-neighbor trees
3—9	200	7.0	4.8	1.6
10—15	300	6.3	4.8	2.2
16—21	291	11.0	4.8	2.3
22—27	175	16.0	4.0	2.1
28—33	63	14.3	3.5	2.2
34—39	33	15.1	5.0	1.4
>39	9	33.3	4.7	4.3

[1] 0—healthy tree; highest possible score: 9—severely damaged tree.

TABLE 7.—FREQUENCY OF CHLOROTIC MOTTLE CAUSED BY CHRONIC EXPOSURE TO PHOTOCHEMICAL AIR POLLUTION BY NEEDLE AGE IN RELATION TO DEGREE OF NEEDLE RETENTION

Length of needle retention	Number of trees [1]	Percentage of trees with chlorotic mottle of needles—Year in which needles were formed: 1966	1965	1964	1963
2 years	500	24.2	100.0		
3 years	173	1.7	58.4	100.0	
4 years	40	0	10.0	57.5	100

[1] Based on 713 nearest-neighbor trees which exhibited injury caused by air pollution. Data recorded July 24-30, 1966.

Estimates of chlorosis were based on 713 nearest-neighbor trees which were affected to some extent by air pollution. The severity of needle mottle was inversely related to the degree of needle retention (table 7). In all cases, the oldest needles were most affected whether the tree retained two, three, or four years of needles. The reason for this is probably not a greater inherent susceptibility of older needle tissue but the longer period of exposure to photochemical air pollution (Miller and Parmeter, unpublished data).

Comparison of Bark Beetle Activity on Equal Numbers of Healthy, Intermediate-Diseased and Advanced-Diseased Trees

Examination of the 150 trees in the permanent sample plot strongly indicated that trees in an advanced state of chlorotic decline were more frequently selected by bark beetles than either intermediate or healthy trees. A total of 27 trees showed evidence of abortive or current attack by bark beetles. Eighteen were in an advanced state of chlorotic decline, eight were in an intermediate state, and only one was healthy. Of the 18 trees exhibiting advanced chlorotic decline, ten had many pitch tubes while eight had only a few. In the intermediate category, only one of the trees had many attempts, seven had a few. The healthy tree had only a few old, scattered pitch tubes.

An examination of 150 trees in a nearby comparable stand in February, 1967, yielded

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similar results. Thirty-three trees showed evidence of attempted bark beetle attack. Of these, 18 were in the advanced, 11 in the intermediate, and four in the healthy category.

Only three trees were attacked by *Dendroctonus valens* LeConte, and there was no correlation with chlorotic decline symptoms.

Summary

A total of 107 beetle-killed and 963 nearest neighbor ponderosa pines were examined to determine the association between severity of atmospheric pollution injury and infestation by bark beetles. Trees exhibiting advanced symptoms of pollution injury were most frequently infested by the western pine beetle, *Dendroctonus brevicomis*, and the mountain pine beetle, *D. ponderosae*. The degree of injury and incidence of bark beetle infestation were not related to total height, diameter, length of live and dead crown or crown class. As severity of oxidant injury increased, live crown ratio decreased and incidence of bark beetle infestation increased.

One hundred noninfested trees in each of three disease categories, advanced, intermediate, and healthy, were examined for evidence of prior beetle attacks. Thirty-six per cent of the advanced-diseased trees versus only five per cent of the healthy trees were attacked. Thus, the beetles may discriminate between healthy and diseased trees at a distance, upon contact with the host, or both.

These studies indicate strongly that atmospheric pollution injury predisposes ponderosa pine to bark beetle infestations.

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II. EFFECT OF INJURY UPON PHYSICAL PROPERTIES OF OLEORESIN, MOISTURE CONTENT, AND PHLOEM THICKNESS

(F. W. Cobb, Jr., D. L. Wood, R. W. Stark, and P. R. Miller)

Introduction

A high degree of association between disease caused by atmospheric pollution and incidence of bark beetle (Scolytidae) infestation in ponderosa pine, *Pinus ponderosa* Laws., has been demonstrated (paper I). Results also indicated that bark beetles can select severely diseased trees. Thus, an understanding of the influence of disease on host physiology may elucidate mechanisms of host resistance to bark beetles.

Studies were made during the summer, 1966, to determine the effects of atmospheric pollution injury (i.e., chlorotic decline) of ponderosa pine on various factors related to tree physiology. This paper reports the results of such studies on the following factors: (a) oleoresin exudation pressure; (b) yield and rate of flow; (c) crystallization rate; (d) sapwood moisture content; (e) phloem moisture content; and (f) phloem thickness.

The field aspects of the studies were carried out in the vicinity of Crestline in the San Bernardino Mountains. The area is about 1,550 meters above sea level at the northeastern edge of the Los Angeles basin. Photochemical air pollutants diffusing over the mountains from the basin have resulted in chronic, severe pollution injury to ponderosa pine.

Methods

A second-growth, all-age stand of ponderosa pine with most trees 65–85 years old was chosen for the study. Because susceptibility to atmospheric pollutants varies in ponderosa pine, we were able to select 50 trees in each of three disease classes—healthy, intermediate diseased, and advanced-diseased. Trees with disease rating of 0–1, 2–4 and 5 or greater, were classified as healthy, intermediate- and advanced-diseased, respectively. The rating of intermediate-disease was difficult, and overlap between this class and the two extremes occasionally occurred. Diameter, height, length of crown, and crown class were recorded for each tree. No suppressed trees were selected.

Measurement of oleoresin exudation pressure (OEP)

Standard hydrostatic pressure gauges (200 psi maximum) with specially constructed fittings (Bushing and Wood, 1964) were used to measure oleoresin exudation pressure of all trees. Holes approximately 13 mm. in diameter and 3 cm deep were drilled into the boles of the trees 1 to 1.5 meters above ground. The gauges were immediately screwed into the holes to a depth of approximately 2.5 cm. The first pressure readings were taken the day following installation of the gauges. Previous studies (Vité, 1961) have shown that diurnal fluctuations in OEP occur. Thus, three readings per day were taken, the first before sunrise, approximately at 5 a.m., the second at noon, and the third at 4 p.m. The early morning reading was made when OEP was at its highest, and the two later readings provided an estimate of the OEP at its lowest point. Low OEP measurements were taken only from trees with a morning OEP of 80 psi or greater. A fourth reading was taken before sunrise on the second morning for comparison with the pressure on the first morning. If the reading did not rise at least 10 psi above the low of the previous day, the gauge was taken out and another was placed into the tree. Any gauge which did not read at least 80 psi at the first reading was removed and another was inserted into a freshly drilled hole. As many as five or six gauges were installed in the trees during a one-week period to obtain an accurate, replicated reading.

Measurement of oleoresin yield, flow rate and crystallization

Glass tubes were used to measure both resin yield and flow rate in each tree.

They consisted of two parts: (a) 9 mm outside and 1 mm inside diameter capillary tubing 15 cm long bent to a 90 degree angle at the center; and (b) a tube 20 cm long with an inside diameter of 9 mm. The latter tube was sealed at one end, and a small hole was made in the side wall 3 cm from the open end to allow escape of gases as resin collected in the tube. Two elbow tubes were positioned on opposite sides of each tree 1 to 1.5 m above ground. They were inserted into holes 1.5 cm deep and 8 mm in diameter to a depth of about 1 cm. One of the larger diameter tubes was then inserted over the open end of the elbow and taped into place (figure 1). [Figure not printed in Record.]

After installation, linear measurements were taken at 15 to 30 minute intervals for the first four to six hours to establish rate of flow. Less frequent measurements were made for 24 to 72 hours or until the tubes became filled. Flow rate was expressed as ml of oleoresin per hour, yield as ml of oleoresin collected during the first 24 hours. Measurements for the two tubes of each type were averaged unless the measurement for one of the tubes was obviously inaccurate because of blockage. At the time of each measurement, the resin was carefully examined for the presence of crystals. The time of the first observation of crystal formation and an estimate of percentage of volume represented by crystals was recorded at that time and at all subsequent examinations.

Determination of sapwood and phloem moisture contents

Samples of sapwood and phloem were taken between 4 and 7 p.m. from four sides of each tree, 1 to 1.5 m above ground. Sapwood samples 4 cm in diameter and 5 to 8 mm thick were cut with an arch punch, removed with a chisel, and wrapped immediately in aluminum foil to prevent water loss. The foil-wrapped samples were weighed two to four hours after collection; then the foil was removed, dried and weighed. The samples were dried at approximately 100° C for 12 to 24 hours and weighed. The moisture content, expressed as percentage of dry weight, was then calculated by dividing the weight of water in the fresh sample by the dry weight of the sample.

The phloem samples, approximately 4 cm in diameter, were removed from the trees with a knife following removal of the bark and wrapped in aluminum foil. Fresh weight and moisture content were determined as for sapwood but moisture content was also determined on a percentage of saturation basis (Bier, 1959).

Measurement of phloem thickness

Samples of phloem were taken from all trees with an increment borer and the phloem thickness measured to the nearest half-millimeter. In February, 1967, phloem measurements from an additional 60 trees in a nearby, comparable stand were made in the same manner. The latter sample included 20 trees in each disease class.

Results and discussion

Relation of tree characteristics to disease severity

Diameter at breast height ranged from 24 to 93 cm, and total height ranged from 11 to 36 meters. Disease severity appeared to be related to the differences in tree size (table 1). The ratio of total crown length (living plus dead) to tree height was approximately the same for trees in all three disease classes. However, the live crown ratios (length of living crown/total tree height) became progressively less as disease severity increased, thus reflecting the excessive mortality of branches in the lower crowns of diseased trees.

Oleoresin exudation pressure

Then oleoresin exudation pressure was progressively reduced in ponderosa pine as severity of injury by atmospheric pollution increased. Some zero-pressure and low-pressure trees can be expected in a natural population of healthy ponderosa pines (Vité and Wood, 1961). Six of the healthy trees in our study had zero OEP, and an additional seven had low pressures (5–75 psi). However, the number of zero-pressure trees increased to 13 in the intermediate-diseased group and to 19 in the advanced-diseased group. The number of low-pressure trees also increased as disease severity increased, and there was a corresponding decrease in the number of high-pressure trees (80 psi and above). The average high OEP of all healthy, intermediate-diseased and advanced-diseased trees was 105, 78 and 46 psi, respectively. A χ^2 test on the differences between the distribution of trees in the healthy and intermediate-diseased groups and between the intermediate- and advanced-diseased groups was significant at the 99 per cent confidence level (x^2=12.11 and 9.75, respectively).

The effect of air pollution injury on the average low OEP and magnitude of the diurnal depression was determined for all trees with a high OEP of 80 or more (table 2). While the average diurnal low OEP of trees in the advanced-diseased group was 13–14 psi less than that in the healthy or intermediate-diseased groups, the magnitude of

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depression was also less. This can be related directly to the lower "high" OEP of advanced-diseased trees which was 118 compared to 141 and 139 psi for trees in the healthy and intermediate-diseased groups, respectively. Because trees with an OEP of less than 80 psi were not included and trees in the 80–120 psi range yielded relatively few valid lows (table 3), the averages in table 2, which are based only on valid lows, are higher than those for the original population.

Differences in the numbers of trees yielding valid low readings may have significance. Greater success was achieved in determining the low readings of trees with an OEP of 131 psi or more (table 3). Also, when the intermediate- and advanced-diseased trees were grouped (OEP 131 and >) and compared to the healthy trees, success in determining low pressures was 68 and 95 per cent for the diseased and healthy groups, respectively. This difference could be caused by increased propensity of oleoresin from diseased trees to crystallize.

TABLE 1.—RELATION OF TREE CHARACTERISTICS TO SEVERITY OF DISEASE CAUSED BY PHOTOCHEMICAL AIR POLLUTION

Disease category	Average diameter (cm)	Average height (m)	Live crown ratio (percent)	Crown class (number of trees)		
				Dominant	Codominant	Intermediate
Healthy	50	25	56	19	28	3
Intermediate	44	23	52	6	36	8
Advanced	39	20	35	3	30	17

TABLE 2.—RELATION OF LOW OEP DEPRESSION TO INJURY OF PONDEROSA PINES BY PHOTOCHEMICAL AIR POLLUTION

Disease class	Number of trees [1] tested	Percentage with valid low	Average low OEP [2]	Average depression [2]
			psi	psi
Healthy	37	76	94	47
Intermediate	27	52	93	46
Advanced	16	38	80	38

[1] The low OEP was determined only for trees with an early morning high OEP of 80 p.s.i. or greater.

[2] The average low OEP and the average depression of OEP are based on the number of trees for which a valid low OEP was obtained.

OLEORESIN YIELD, RATE OF FLOW, AND CRYSTALLIZATION RATE

These characteristics were determined for 21 healthy trees and 19 trees in each of the two classes showing disease symptoms.

The yield of more than 50 per cent of the trees in the advanced-diseased group was less than 2.0 ml compared to 16 per cent and 29 per cent of the intermediate-diseased and healthy trees, respectively (table 4). Conversely, more than 60 per cent of the healthy and intermediate-diseased trees yielded more than 4.0 ml of resin compared to only 15.8 per cent of the advanced-diseased trees.

The average yields for trees in the healthy, intermediate-diseased and advanced-diseased classes were 4.1, 4.2, and 2.1 ml, respectively. The averages for the two groups were conservative because the value of 5.9 ml was assigned to all filled tubes; tubes on 11 of the healthy and nine of the intermediate-diseased trees were filled before the end of the 24-hour period. There was no significant difference between the yield of healthy and intermediate-diseased trees. However, the difference between yields of these two groups and that of advanced-diseased trees was highly significant (0.01 level; F = 7.64, df = 58).

The rate of resin flow had a trend similar to resin yield (table 5). No difference existed between the flow rate of healthy and intermediate-diseased trees, but the flow rate of advanced-diseased trees was significantly reduced (0.05 level; F = 3.70; df = 57).

TABLE 3.—RELATION BETWEEN MAGNITUDE OF THE HIGH OEP (80 PSI AND GREATER) AND SUCCESS IN OBTAINING A RELIABLE LOW MEASUREMENT FOR PONDEROSA PINES INJURED BY PHOTOCHEMICAL AIR POLLUTION

Disease class	High OEP (p.s.i.)							
	80–100		101–120		121–130		131–160	
	Valid low	No low	Valid low	No low	Valid low	No low	Valid low	No low
	Number of trees							
Healthy	0	3	1	2	6	3	21	1
Intermediate	1	2	1	3	1	2	11	6
Advanced	0	3	2	5	0	1	4	1
Total	1	8	4	10	7	6	36	8

TABLE 4.—OLEORESIN YIELD DURING THE 1ST 24-HOUR PERIOD IN RELATION TO INJURY OF PONDEROSA PINES BY PHOTOCHEMICAL AIR POLLUTION

Disease class	Total number of trees	Resin yield (ml)					Average resin yield (ml)
		0	0.1–1.9	2.0–3.9	4.0–5.8	5.9 (full)	
		Number of trees					
Healthy	21	0	6	2	2	11	4.1
Intermediate	19	1	2	3	4	9	4.2
Advanced	19	2	8	6	3	0	2.1

Unlike oleoresin exudation pressure which apparently was reduced gradually as severity of disease increased, flow rate appeared to remain relatively constant through the intermediate stages of disease development. No difference in oleoresin yield appeared to exist between healthy and intermediate-diseased trees but, because of the limited capacity of the collection tubes, this cannot be stated with certainty.

Crystallization of oleoresin increased with increase in disease severity (table 6). Greater than 10 per cent crystallization of oleoresin occurred in samples from 47 per cent of the advanced-diseased trees, 39 per cent of the intermediate-diseased trees and only 19 per cent of the healthy trees. The difference between the amount of crystallization in samples from healthy and advanced-diseased trees was highly significant (0.01 level; F = 13.93, df = 37). However, differences between healthy and intermediate-diseased and between intermediate-diseased and advanced-diseased trees were not significant. The wide range of variability and relatively small sample size may account for the absence of significant differences between these classes.

SAPWOOD AND PHLOEM MOISTURE

The moisture content of both sapwood and phloem tissues showed a marked decrease in both classes of diseased trees (table 7). The differences in sapwood moisture content between healthy and intermediate-diseased trees (F=16.0, df=29) and between healthy and the advanced-diseased trees (F=10.4, df=29) were significant at the 0.01 level. However, the difference in sapwood moisture content between intermediate-and advanced-diseased trees was not significant. Thus, much of the moisture decrease in sapwood apparently occurred early during disease development. Reduction in water loss by transpiration associated with reduced foliage of severely diseased trees may have been a factor.

TABLE 5.—RELATION OF OLEORESIN FLOW RATE OF PONDEROSA PINES TO INJURY BY PHOTOCHEMICAL AIR POLLUTION

Disease class	Total number of trees	Resin flow rate ml./hr. (number of trees)					Average rate of flow (ml/hr)
		0–0.2	0.3–0.5	0.6–1.0	1.1–1.5	1.6	
Healthy	20	7	6	3	3	1	0.6
Intermediate	19	7	7	1	3	1	.6
Advanced	19	12	7	0	0	0	.2

TABLE 6.—OLEORESIN CRYSTALLIZATION OF PONDEROSA PINES DURING THE 1ST 24 HOUR IN RELATION TO INJURY BY PHOTOCHEMICAL AIR POLLUTION

Disease class	Total number of trees	Crystallization (percent)					Average crystallization (percent)
		0–5	6–10	11–20	21–40	41>	
		Number of trees					
Healthy	21	13	4	2	2	0	7.3
Intermediate	18	5	6	6	1	0	9.7
Advanced	17	7	2	3	4	1	13.9

The differences in phloem moisture content, based on dry weight, between healthy and intermediate-diseased (F = 6.56, df = 31) and between healthy and advanced-diseased trees (F = 16.5, df = 32) were also highly significant; again, the difference between intermediate and advanced-diseased trees was not significant. However, when phloem moisture content was determined on the percentage saturation basis, the difference between the intermediate-diseased and advanced-diseased groups proved to be highly significant (0.01 level; F = 4.9, df = 32). Possibly, phloem from trees with severe disease symptoms is more porous and can absorb more water per unit weight of tissue.

TABLE 7.—RELATION OF PONDERSOA PINE SAPWOOD AND PHLOEM MOISTURE CONTENT TO INJURY BY PHOTOCHEMICAL AIR POLLUTION

Disease class	Sapwood moisture[1] (percent dry weight)	Phloem moisture[2] (Percent dry weight)	Phloem moisture[2] (Percent saturation)
Healthy	138.2	287.2	64.8
Intermediate	109.9	263.6	61.7
Advanced	116.7	252.7	54.4

[1] Averages of four samples from each of 15 trees per disease class.

[2] Averages of 4 samples per tree from 16 trees in the healthy and intermediate-diseased classes and from 17 trees in the advanced-diseased class.

Phloem thickness

Phloem thickness decreased progressively with increase in disease severity. The average thickness of the phloem of healthy trees, measured in 1966, was 2.4 mm (range 1 to 6 mm); that of intermediate-diseased trees was 1.9 mm (range 1 to 4 mm); and that of advanced-diseased trees was 1.5 mm (range 1 to 5 mm). These differences were highly significant between healthy and intermediate ($F = 8.0$, $df = 99$) and between intermediate- and advanced-diseased trees ($F = 36.7$, $df = 99$). Results from the second plot, measured in February, 1967, substantiate these differences. The average phloem thickness of healthy trees again was 2.4 mm (1.5 to 4.0), that of intermediate-diseased trees was 1.4 mm (1.0 to 2.5), and that of advanced-diseased trees was 1.1 mm (0.5 to 2.0).

Summary

The results of these studies show that disease caused by photochemical atmospheric pollution affects certain physiological properties of ponderosa pine that may be related to increased susceptibility to bark beetles. Oleoresin exudation pressure, yield, and rate of flow were substantially reduced in severely affected trees, but crystallization of resin increased as severity of disease became greater. Both sapwood and phloem moisture contents were less in diseased trees. Phloem thickness in advanced-diseased trees was less than 60 per cent of that in healthy trees. The significance of these differences associated with oxidant injury is discussed in relation to host susceptibility to bark beetles in paper IV of this Hilgardia.

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III. EFFECT OF INJURY UPON OLEORESIN COMPOSITION, PHLOEM CARBOHYDRATES, AND PHLOEM PH

(P. R. Miller, F. W. Cobb, Jr., and E. Zavarin)

Introduction

The first paper in this Hilgardia has shown that disease caused by chronic exposure to photochemical atmospheric pollution predisposes ponderosa pine, *Pinas ponderosa* Laws., to bark beetle (Scolytidae) infestations. The second paper has shown that the disease affects certain physiological properties of ponderosa pine which may be associated with increased susceptibility to bark beetles. Other possible effects that may be related to increased beetle susceptibility include changes in the chemical composition of oleoresin and/or phloem. These possibilities are strengthened by results showing an increase in resin crystallization with increased severity of disease (see paper II in this issue) and by recent studies indicating that various turpentine constituents differ in their effects upon bark beetles (Smith, 1966). Phloem pH has been suggested as a factor in bark beetle-host relations (Miller and Keen, 1960), and phloem carbohydrates may be important both in beetle nutrition and in host attraction (Person, 1931).

The present study was made to determine the effect of atmospheric pollution injury to ponderosa pine on (a) monoterpene and resin acid composition of oleoresin, (b) sugars and reserve carbohydrates of phloem, and (c) phloem pH.

Methods

Ponderosa pines were studied in an area of the San Bernardino Mountains of southern California commonly subjected to atmospheric pollution. Samples for oleoresin, phloem carbohydrates and phloem pH analyses were collected in July, 1966. Additional samples were collected in February, 1967 for phloem carbohydrate analyses and in July, 1967, for oleoresin analyses. Trees in three disease classes, healthy, intermediate, and advanced, were included in the study. Descriptions of the disease classes and of the study areas are reported in the two previous papers.

Oleoresin analysis

Oleoresin samples were collected in two 0.5 dram, screw-cap vials positioned on opposite sides of each tree 1 to 1.5 m above the ground. The vials were inserted into 8 mm diameter holes extending into the xylem about 1.5 cm. After four to eight hours, the vials were collected and immediately capped. They were refrigerated during transit and stored in the laboratory at −10°C until analyzed. Monoterpenes and resin acids were analyzed by gas-liquid chromatography. An Aerograph Hy-Fi Model 600C chromatograph was used in combination with a Sargent Model SR recorder. Quantities of individual compounds were calculated from integrated peaks using a disk chart integrator.

A column 3 m long with an inside diameter of 1.5 mm filled with B, B-oxydipropionitrile (10 per cent) on acid-washed Chromosorb W 60/80 was used for monoterpene analysis. The column was maintained at 65° C (flow rate of 10 ml/min for both H_2 and N_2). About 0.2λ of oleoresin was injected directly after diluting it 1:15 with carbon disulfide. A 15 per cent solution of isopropylbenzene in mineral oil was used as the internal standard to determine the total terpene content of each oleoresin sample (Mirov, *et al.*, 1966). Isopropylbenzene, with a retention volume of 4.4 relative to a-pinene, appeared on the chromatogram a few minutes after β-phellandrene.

A column 4.6 m long x 3.2 mm inside diameter, maintained at 220° C (flow rate of 40 ml/min for H_2 and N_2) and filled with 10 per cent DEGS (diethyleneglycol succinate) on acid-washed, dimethylchlorosilane-treated Chromosorb W 60/80, was used to determine the resin acid composition. The oleoresin was first methylated with an excess of diazomethane for 5 minutes at 0° C in a solution of 10 per cent methanol in ether. The resulting mixture was dehydrated with potassium hydroxide and decanted; the unreacted diazomethane and solvent were then removed by evaporation. The residue was dissolved in 2 ml ether, and 0.2λ was injected into the chromatograph. Resin acid composition was then determined by the method used for monoterpenes.

Carbohydrate analysis

Four phloem samples were collected from each tree in early evening by the method described in paper II for phloem moisture samples. Within three hours after collection, the samples were weighed to determine fresh weight, immediately placed in bottles containing 80 per cent ethanol and boiled for 20 minutes. The bottles were then sealed until analyses were made. Additional phloem samples were taken adjacent to those above for determination of percentage moisture content. These moisture contents were used to calculate the dry weight of the carbohydrate samples.

The samples, preserved in 80 per cent ethanol, were thoroughly macerated in a VIRTIS homogenizer. Samples collected in July were then transferred quantitatively to the cellulose cups of a Soxhlet extractor. Extraction with 80 per cent ethanol was completed after 24 hours. In February, samples were macerated as before but placed in a 200 ml centrifuge bottle and held for 20 minutes in a water bath at 100° C. The samples were then centrifuged, and the supernatant decanted and retained. The procedure was repeated three times to collect all sugars from the residue. The extracts were diluted to a constant volume with 80 per cent ethanol. Each extract was further diluted to obtain a quantity of sugars within an optical density range facilitating measurement with the anthrone test (Adams and Emerson, 1961).

The quantity of reserve carbohydrates, including both starch and non-starch polysaccharides, was determined by extraction of the sugar-free residue with 52 per cent perchloric acid (Adams and Emerson, 1961; Hassid and Neufeld, 1964). The perchloric acid extracts were diluted with 80 per cent ethanol and reacted with anthrone reagent. Fresh anthrone reagent was prepared daily and standardized with known glucose concentrations.

An attempt was made to separate starch from nonstarch polysaccharides with the method described by Hassid and Neufeld (1964). However, interference from other materials in the samples precluded accurate analyses of the separate components.

The sample from each tree was analyzed average glucose equivalents for 80 per cent three times. The results were expressed as ethanol soluble sugars and 52 per cent perchloric acid extractable materials.

Phloem pH determinations

Four samples of phloem were taken from each tree at the time samples were collected for carbohydrate analysis. These samples were placed in containers with 25 ml distilled water immediately upon removal from the tree. All substances exuding from the phloem were thus collected in the water. After allowing the samples to stand in water for eight to 12 hours, the pH of the resultant solution was determined with a Beckman pH meter.

Results and discussion

Oleoresin analysis

Oleoresins samples from only healthy and advanced-diseased trees were analyzed. In 1966, the number of trees from which samples were analyzed for monoterpene constituents was limited to seven in each disease class because several of the diseased trees that were tapped failed to yield enough oleoresin for analysis. Oleoresin from 20 additional pairs of trees (one healthy and one advanced-diseased) was analyzed in 1967.

The combined results of the 1966 and 1967 analyses showed no significant differences between disease classes in any of the terpene components (table 1). Thus, we must conclude that atmospheric pollution injury does not lead to qualitative changes in the major terpene components of ponderosa pine sapwood oleoresin.

The monoterpene analyses did show a marked difference in the relative amounts of limonene and Δ^3-carene in all but one of the sampled trees compared to those reported for ponderosa pine from other areas (Mirov, 1961). This difference may indicate a unique population of ponderosa pines in southern California (also observed by R. H. Smith, personal communication).

Studies reported in paper II have shown that oleoresin crystallization apparently increases with increase in disease severity. Since resin acids may be important in determining rate and amount of crystallization, an analysis of these constituents was made (table 2). Samples from only two trees in each disease class were analyzed. The relatively small differences between disease classes cannot be considered significant. Except for the higher percentage of laevopimaric + palustric acid and the lower percentage of abietic acid, the relative amounts of resin acids from the sapwood of ponderosa pine in southern California were generally similar to those from ponderosa pine heartwood (Riffer and Anderson, 1966).

TABLE 1.—RELATIVE AMOUNTS OF MONOTERPENES IN THE XYLEM OLEORESIN OF HEALTHY PONDEROSA PINES AND PINES INJURED BY ATMOSPHERIC POLLUTION

Disease class	Monoterpene constituents of xylem oleoresin					
	α-pinene	β-pinene	3-carene[1]	myrcene	limonene	β-phellandrene
	Percentage of total terpenes[2]					
Healthy	10.3	50.3	Trace	11.2	27.4	0.6
Range	(7-19)	(37-61)		(2-19)	(20-39)	(0.1-2.0)
Diseased	9.5	49.4	Trace	10.0	29.3	0.9
Range	(7-16)	(33-65)		(2-18)	(13-44)	(0.1-2.0)

[1] Although the turpentine of ponderosa pine in other areas of the geographic range are composed of large amounts of 3-carene, only trace amounts of this terpene were detected in most of the trees included in our analyses. 1 tree, in which 22 percent of the turpentine fraction was 3-carene, is not included in the table.

[2] Based on the average of 27 trees in each disease class. None of the differences between healthy and diseased trees were statistically significant.

TABLE 2.—RESIN ACID CONSTITUENTS OF PONDEROSA PINE OLEORESIN FROM 2 HEALTHY TREES AND 2 TREES SEVERELY AFFECTED BY ATMOSPHERIC POLLUTION

Resin acid	Disease class (percent)				Relative retention volume[1]
	Healthy		Advanced-diseased		
	Tree No. 1	Tree No. 2	Tree No. 1	Tree No. 2	
Dihydropimaric	0.5	1.0	0.5	Trace	0.94
Pimaric	8.0	6.0	7.5	9.0	1.00
Tetrahydroabietic	5.0	4.5	6.0	4.0	1.11
Laevopimaric+Palustric	29.5	31.5	29.5	35.5	1.24
Isopimaric	16.0	22.0	20.5	15.5	1.38
Abietic	14.5	14.5	13.0	10.0	2.00
Dehydroabietic	4.5	3.4	3.5	6.0	2.07
Neoabietic	17.5	14.5	13.5	16.5	2.29
X[2]	3.5	3.0	4.5	2.5	1.45
Y[2]	1.0	Trace	1.5	1.0	1.82

[1] Retention volume relative to primaric acid (=30.5 minutes).

[2] Unidentified.

Phloem carbohydrates

Samples were collected from nine healthy, ten intermediate- and ten advanced-diseased trees in July, 1966, and from 16, 18, and 25 trees in each disease class, respectively, in February, 1967. The results (table 3) indicate that chronic exposure to photochemical atmospheric pollutants may cause a reduction in the quantity of both soluble sugars and reserve polysaccharides. The difference between healthy and diseased trees appeared to be greater in summer than in winter, and the effect on soluble sugars appeared to occur earlier during symptom development than that on reserve polysaccharides. However, only the difference in reserve polysaccharides between intermediate- and advanced-diseased trees in summer was statistically significant (0.05 level of probability).

Results of analyses of the samples collected in February indicate a lower concentration of sugars and polysaccharides, especially the latter, than in July. These results do not agree with those of Hepting (1945) who, by using the takadiastase test, found that reserve carbohydrates (principally starch) in the "stem bark" of healthy shortleaf pine were higher in the winter. Possibly, the difference may be a reflection of the stress under which the trees in our study were growing.

TABLE 3.—THE CARBOHYDRATE CONTENT OF PONDEROSA PINE PHLOEM IN RELATION TO SEVERITY OF SYMPTOMS CAUS D BY CHRONIC EXPOSURE TO PHOTOCHEMICAL AIR POLLUTANTS

Time of sampling and disease class	Carbohydrate content expressed as glucose equivalents (mg/g dry weight)	
	Soluble sugars	Reserv polysaccharide
July 1966:		
Healthy	[1] 409±12	230±20
Intermediate	364±16	232±13
Advanced	367±14	174±13
February 1967:		
Healthy	331±8	70±5
Intermediate	305±7	104±7
Advanced	309±3	83±3

[1] 95 percent confidence limits of the mean.

Phloem pH

The pH of phloem samples from 12 ponderosa pines in each of the three disease classes was measured. The average pH and pH range were as follows:

Healthy: 5.49 (5.30–5.70).
Intermediate-Diseased: 5.59 (5.28–5.80).
Advanced-Diseased: 5.51 (5.33–5.80).

Thus, there was no apparent effect of disease caused by photochemical atmospheric pollution on the pH of phloem exudates, nor any relation between pH and susceptibility of ponderosa pine to bark beetle attack. However, it should be emphasized that the phloem was not macerated and the pH, as measured, may not reflect possible changes in cell pH.

Summary

Results of oleoresin analyses indicate that changes in relative proportions of monoterpenes do not occur in diseased trees; nor is there evidence of change in resin acids. Both soluble sugars and reserve polysaccharides were less in diseased trees, and lower in both healthy and diseased trees in winter than in summer. Reduction in quantity of sugars apparently occurred at an earlier stage of disease development than that of polysaccharides. Phloem pH did not appear to be affected. The significance of these results is discussed in paper IV of this Hilgardia.

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IV. THEORY ON THE RELATIONSHIPS BETWEEN OXIDANT INJURY AND BARK BEETLE INFESTATION

(F. W. Cobb, Jr., D. L. Wood, R. W. Stark, and J. R. Parmeter, Jr.)

Introduction

Certain relationships between insects and tree-invading fungi have long been recognized (Schmidberger, 1837; Hartig, 1878) and provide well-established ecological concepts. Ambrosia beetles serve as vectors for various fungi and feed upon them (Batra, 1963; Franke-Grossmann, 1963; Graham, 1967), apparently in some cases using them as the sole source of nutrition. Other insects feed upon sporophores and mycelia of plant pathogenic fungi (Paviour-Smith, . 1960; Lawrence, 1965) or upon diseased tissue such as galls caused by rust fungi. Various insects serve as vectors for plant pathogens (Leach, 1940; Carter, 1962; Stillwell, 1966), and others have a major role in spermatization of heterothallic fungi, including the rusts (Craigie, 1931). Some insects can also be important in pollination of dioecious higher plant parasites such as mistletoes (Hawksworth, 1961). Through their activities, insects may create wounds that can serve as infection courts for aerial (Craighead, 1916; McLarty, 1933; Graham and Harrison, 1954) or subterranean (Thomas and Wright, 1961) pathogens, and there may be synergistic relationships between insect and pathogen.

The above examples relate to the effects of insects in the epiphytology of plant pathogens. The influences of disease on the population dynamics of insects are less obvious and less clearly established. Evidence suggests that blue-stain fungi associated with bark beetles might alter the environment of the tree to favor the beetles (Craighead, 1925; Nelson and Beal, 1929; Leach, 1940; Mathre, 1964*a*). These fungi have often been thought to be instrumental in causing the rapid death of infested trees (Nelson, 1934; Craighead and St. George, 1940; Thatcher, 1960), and inoculations have shown that they are capable of causing death of the host in the absence of beetles (Craighead, 1928; Bramble and Holst, 1940; Mathre, 1964*a*, 1964*b*).

The possible relationship of diseases as predisposing factors for bark beetles has been suggested by a number of researchers. Rudinsky (1962*a*) associated the occurrence of heart rot caused by *Fomes pini* (Thor) Lloyd with increased susceptibility to these insects. Ehrlich (1939), Hetrick (1949), and Thomas and Wright (1961) observed *Armillaria mellea* (Vahl.) Quel. infecting the roots of various conifers prior to beetle attack. Franke-Grossmann (1948, 1954), Jorgensen

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and Petersen (1951), Bega, *et al.* (1966), Wagener and Cave (1946), and Gohrn, *et al.* (1954) have associated root infection by *Fomes annosus* (Fr.) Cke. with bark-beetle infestation. Wagener and Mielke (1961) noted the association of beetle outbreaks with occurrence of *Verticicladiella wagenerii* Kendrick. Both Lorio (1966) and Hartigan (1964) have associated beetle attacks with root disease caused by *Phytophtora cinnamomi* Rands. Struble (1957) and Miller and Keen (1960) have observed an increased incidence of beetle attacks on trees with dwarf mistletoe. The latter also noted the occurrence of beetle infestation in foreign stands severely infected by *Elytroderma deformans* (Weir) Darker, a needle pathogen. However, many of these reports have been based on observations alone. Studies to determine the effects of disease on the host that may help to elucidate the mechanisms of resistance are also lacking.

Recently we studied the relationship between disease caused by photochemical atmospheric pollution and the occurrence of bark beetle (Scolytidae) infestations (paper I), and the effects of this disease on host physiology (papers II and III). The effects of photochemical air pollution (chlorotic decline) on ponderosa pine (*Pinus ponderosa* Laws.) described in the three previous papers may be transmitted through the host to the beetle in various ways. This paper describes the importance of these effects in terms of bark beetle epidemiology.

The behavior of mark beetles culminating in an "infested" tree is for convenience considered in three phases. The first is the *dispersal* phase, which begins with emergence from brood trees and ends with initial boring activity in the selected host. The second is termed the *concentration* phase, in which successful penetration through the outer bark into the phloem tissue occurs. This activity results in the production of an attractant and subsequent mass attack. The third phase, *establishment,* includes the construction of egg galleries, oviposition, and development of the brood from egg to emerging adult.

Relationship of atmospheric pollution injury to the dispersal phase

Trees in an advanced state of chlorotic decline are attacked more frequently by both the western pine beetle and the mountain pine beetle than are healthy trees. The latter, *D. ponderosae,* showed a greater "preference" for diseased trees than did *D. brevicomis* (see paper I in this issue). The question arises as to whether these trees are "selected" by the beetles and, if so, does perception occur at a distance from or in contact with the host. Our study indicates that selection of diseased trees does occur (paper I). However, the lack of external evidence of attack on healthy trees may result from inhibition of boring activity by some unknown host factor such as a repellent or the absence of a phagostimulant.

An attack stimulus might be perceived at various distances and probably involves at least vision and chemoreception. Thorsteinson (1960), reviewing insect host selection, attaches little significance to host shape or color except at "close range" on the grounds that they are too variable and lack identifiable uniqueness which could explain the discriminating capability of insects.

However, recent studies indicate that vision could play an important role in host selection. Some emerging bark beetles are photopositive within certain temperature limits (Rudinsky and Vité, 1956; Graham, 1959; Perttunen, 1959; Rudinsky, 1962*b*; Atkins, 1966; Tsao, 1966). Shepherd (1966) has shown that the mountain pine beetle is photopositive at most prevailing temperatures (<35–37° C) and shows a positive response to black objects on a white arena or white objects on a black arena. This suggests that a flying beetle may respond to any strong color contrast, e.g., the chlorotic foliage of advanced-disease trees against a background of darker green. He further found that *D. ponderosae* responded positively to vertical stripes rather than to a mosaic, suggesting that the beetle is responding in its search for a host to the "vertical striping" of tree trunks against the background of underbrush or filtered light. Other authors have shown the importance of "striping" or vertical images in host selection by other scolytids (Chapman and Kinghorn, 1958; Henson, 1962; Vité and Gara, 1962; Gara, *et al.*, 1965).

Beetles may also be responding to a characteristic wave length of the electromagnetic spectrum. Kimmins (1966) showed that *Ips confusus* (LeC.) adults react positively to the regions between ultraviolet (3600A) and deep-red (7000A). Ultraviolet radiation is generally much more attractive than other wave lengths. Other authors have shown that many insects respond to infrared (Callahan, 1966; Evans, 1966). Measurable differences in infrared emissivity may exist between trees under stress and healthy trees (Weber, 1965; Heller, *et al.*, 1966). Therefore, it is possible that insects respond to these differences. Although the spectrum of ponderosa pine injured by atmospheric pollution has not been determined, such differences undoubtedly exist.

Long-range reception of olfactory stimuli by bark beetles has not been proven. Most researchers seem to agree that reception is "relatively shortrange" (Thorsteinson, 1960). Selection by bark beetles of hosts in various physiological states is well established. Trees under stress from drought (Craighead, 1925; St. George, 1930; Hall, 1958) or injured by fire (Furniss, 1965), lightning (Johnson, 1966), wind (Jacobs, 1936; Bedard, 1950; Massey and Wygant, 1954), defoliation (Wallace, 1944; Wickman, 1963) or in other "subnormal" physiological conditions (Anderson, 1944; Lejeune, *et al.*, 1961; Rudinsky, 1962*b;* Goeden and Norris, 1964) are more subject to attack by insects. This may be due to the formation of specific attractants (Person, 1931; Adlung, 1958), creation of visual stimuli as discussed above, or by providing susceptible material which is found by some random process (Vité and Wood, 1961; Wood 1963). Considerable evidence now exists that bark beetles respond to odors of cut host material during dispersal (Vité and Gara, 1962; McMullen and Atkins, 1962; Chapman, 1963; Atkins, 1966; Rudinsky, 1966*b*). The possibility that bark beetles are responding to specific odors produced by trees injured by atmospheric pollution must be considered.

There were no apparent changes in relative amounts of the major xylem monoterpenes in trees injured by air pollution (paper III). However, other undetected changes which may influence host attractiveness to bark beetles could be associated with disease. Bark beetle species are attracted or repelled by whole oleoresin or its various components (Perttunen, 1957; Vité and Gara, 1962; Chararas, 1962; Kangas, *et al.*, 1965; Heikkenen and Hrutfiord, 1965; Rudinsky, 1966*b*). The terpenes presently thought to be involved in host or primary attraction are α- and β-pinene, limonene, camphene, geraniol and α-terpineol. The Douglas fir beetle, *D. pseudotsugae* Hopkins, is attracted most by α-pinene, limonene and camphene; less by β-pinene, geraniol and α-terpineol (Rudinsky, 1966*b*). Perttunen (1967) showed that species of *Hylurgops* and *Hylastes* also respond to α-pinene and Kangas, *et al.* (1955) have shown that α-terpineol is attractive to *Blastophagus piniperda* L.

Respiratory fermentation products not directly related to the oleoresin system may also play a role in attraction (Person, 1931). Reduction of phloem carbohydrates in pollution-injured trees (see paper III) may affect their quantity and quality.

Heikkenen and Hrutfiord (1965) suggest that the quantity and character of vapors emanating from Douglas fir vary with the condition of the tree and may be associated with the water regime. During transpiration in healthy trees, a mixture of needle oils repellent to the Douglas fir beetle may be emitted whereas during subnormal transpiration caused by drought, defoliation, etc., more attractive concentrations may be produced because of an increase in temperature, absorption and/or a decrease in photosynthetic activity. Air pollution injury to ponderosa pine may have the same effect.

Relationship of disease to the concentration phase

The concentration phase of bark beetle attack is better understood than dispersal. Feeding activity associated with the establishment of initial galleries produces a pheromone which concentrates the population on host material. This phenomenon has been established for *Ips pini* (Say) (Anderson, 1948), *I. confusus* (Wood and Vité, 1961), *Dendroctonus brevicomis* and *D. ponderosae* (Vité and Wood, 1961; Vité and Gara, 1962), *D pseudotsugae* (McMullen and Atkins, 1962: Rudinsky, 1963), and *Trypodendron lineatum* (Oliv.) (Rudinsky and Daterman, 1964; Chapman, 1966) among others.

The stimuli which induce boring activity may be olfactory, tactile, gustatory, or may involve the absence of an inhibitor or repellent. It is difficult to assess how air pollution injury may affect this process, but the reduction in yield of oleoresin observed in this study could be important. Certain monoterpenes reportedly repel the Douglas fir beetle (Heikkenen and Hrutfiord, 1965; Rudinsky, 1966b) at close range in the laboratory. If this occurs in nature, a change in its relative concentration may lessen its repellent action. Such repellency for other *Dendroctonus* is not known. The quantity and composition of attractant precursors or stimulants present in phloem (Wood, *et al.*, 1966) may also be influenced by disease.

Oleoresin in living trees is a major obstacle to successful establishment of bark beetle galleries (Schwerdtfeger, 1955; Miller and Keen, 1960; Chararas, 1962; Rudinsky, 1962*a*; Stark, 1965). Resistance may manifest itself through oleoresin exudation pressure, rate and quantity of flow, propensity to crystallize, chemical composition, and possibly other characteristics which may, individually or together, affect the boring beetle.

Oleoresin exudation pressure (OEP) has been considered to be a decisive factor in the success or failure of the attacking pioneer beetles of some species (Vité, 1961; Vité and Wood, 1961; Rudinsky, 1966*b*). Our observations indicate that high OEP has little effect on the establishment of *D. valens,* a moderate effect on *D. brevicomis,* and a marked effect on *D. ponderosae*. These studies (paper I) reveal that 86 per cent and 59 per cent of the trees killed by the mountain pine beetle and the western pine beetle respectively were in the advanced-diseased group. Advanced- and intermediate-diseased trees were shown to have consistently lower OEP than healthy trees (see paper II). A similar effect was noted in Douglas fir infected with *Fomes pini* (Rudinsky, 1962*a*).

There is also evidence that OEP affects infection by blue-stain fungi thought to be important in bark beetle establishment. Mathre (1964*b*) showed that large ponderosa pines with OEP of 35 psi or less were susceptible to both *Ceratocystis minor* and *C. ips,* while large trees with OEP greater than 35 psi were resistant. Small diameter trees were susceptible regardless of OEP. However, the exact role of OEP as a resistance mechanism is still not clear. In a second-growth ponderosa pine stand, *D. brevi-*

comis infested the trees at the same rate in high- and low-pressure classes (Stark, 1965).

Rate of oleoresin flow and yield may be important in host resistance. Our study (paper II) has shown that severe air pollution injury reduces the rate and quantity of flow. This may also be related to the higher mortality rate caused by the mountain pine beetle in the advanced-disease class. We have also observed that mountain pine beetle appears to infest ponderosa pine of low resin yield in westside Sierra stands. Struble (1965) observed the same phenomenon in second-growth sugar pine. However, in the dense, second-growth ponderosa pine stands of the eastside Sierra, and in sugar pine generally, resin flow does not appear to impede this insect's success (Smith, R. H., personal communication).

Although the western pine beetle can overcome trees of high resin yield (Stark, 1965), trees of lower yield may be more easily killed. This was indicated by our results showing that mortality caused by *D. brevicomis* was significantly higher in advanced-diseased trees (paper I).

The rate of resin crystallization was increased in advanced-diseased trees (paper II). While there is no evidence that crystallization rate is a resistance factor to bark beetles, we believe that rapid crystallization of oleoresin would enhance successful establishment. Boring activity in the entrance tunnel and introduction of boring dust, fungal spores, etc., could initiate crystallization, facilitating removal of oleroresin from the gallery. The Douglas fir beetle cannot survive in liquid resin (Rudinsky, 1966b) while *D. valens* can. Dead adults of *D. brevicomis* and *D. ponderosae* have been observed in pitch tubes and galleries flooded with resin. Thus, the increased propensity to crystallize, associated with air pollution injury, could favor establishment.

Once a beetle has successfully established an initial entrance tunnel in its host, the secondary or sex attractant becomes the dominant stimulus in subsequent attack behavior. Not only is the initially attacked tree "filled in," but surrounding trees in all physiological states may be attacked. The sex attractant produced by bark beetles is so potent it may induce attack and infestation in nonhosts (Johnson, 1966; Miller and Keen, 1960) as well as apparently healthy host trees (Vité and Wood, 1961; Stark, 1965). If changes occur in monoterpene constituents in trees damaged by air pollution, the potency of the secondary attractant may be altered. Recent studies (Silverstein, *et al.*, 1968) indicate that such hydrocarbons may be involved.

The effects of air pollution injury in reducing sapwood and phloem moisture content indicate a water "disturbance" which in turn could affect the properties of oleoresin. Because feeding appears to be necessary before the secondary attractants are produced, changes in the nutritional qualities of the phloem could affect its potency (Pitman, 1966). We have shown that reductions in phloem carbohydrates (paper III) and phloem thickness (paper II) are associated with air pollution injury and could therefore influence the concentration phase.

Relationship of disease to the establishment phase

The effects of photochemical air pollution on the properties of oleoresin affecting initial penetration may also be operative during the establishment phase. Reduction in exudation pressure, flow rate, yield and the increase in crystallization of oleoresin may affect the amount of toxic vapors to which the beetle is exposed.

Reid (1963) found that "resinosis," the formation of secondary oleoresin in callous tissue, adjacent to the parent gallery, reduced egg eclosion. Rudinsky (1962a) suggests that resinosis in Douglas fir is greater and occurs sooner in trees with a high oleoresin exudation pressure than in trees of intermediate (and presumably low) pressure. Vité and Wood (1961) observed that in trees with an OEP greater than 1.5 atmospheres egg deposition and development were delayed. No observations were made on production of secondary oleoresin in our studies, but reduction in oleoresin yield and flow rate associated with photochemical air pollution injury may influence the degree of resinosis in the tree.

The recent discovery that growth of some species of blue-stain fungi is adversely affected by monoterpene vapors (Cobb, *et al.*, 1967) may also be significant, especially in relation to the decreased resin flow in severely diseased trees and to the possible effects of disease on monoterpene constituents of xylem resin.

By providing a more favorable environment for the establishment of blue-stain fungi, reduction in phloem and sapwood moisture associated with photochemical air pollution (paper II) may enhance gallery construction. Various authors have indicated that drying of the sapwood and phloem may occur through beetle activity in the absence of blue stain (Hetrick, 1949; Callaham, 1955; Rudinsky, 1962*b*). However, considerable evidence exists to support the hypothesis that blue-stain fungi facilitate beetle invasion by disturbing water conduction (Caird, 1935; Shepherd and Watson, 1959; Reid, 1961). Reid (1961) showed that *D. ponderosae* is unable to establish broods in trees which maintain a high moisture content. Mathre (1964*b*) showed that moisture content of the sapwood inoculated with *Ceratocystis* spp. was greatly reduced while uninoculated wounds in control trees did not dry appreciably. He also showed that a reduced sapwood moisture content may be related to increased susceptibility to the fungi. By comparing colonization in limbed and unlimbed severed trees, he demonstrated the apparent effect of moisture on *C. minor* and *C. ips.* Thirty-five days after inoculation, the sapwood of an unlimbed, severed tree was completely "blue-stained" and dry, but infection in a limbed tree was not extensive and the sapwood was still wet. Münch (1907) believed that blue-stain fungi are most pathogenic when water content of wood is below normal, and Bier (1964) has shown that relatively small reductions in phloem moisture content are associated with increased susceptibility of trees to other pathogenic fungi.

However, air pollution injury might adversely affect successful brood establishment by severely reducing moisture content. Reid (1962) found that when inner bark and sapwood moisture content in lodgepole pine dropped below 105 per cent and 60 per cent oven dry weight respectively, oviposition of the mountain pine beetle ceased and the beetles often reemerged. Miller and Keen (1960) report that infested ponderosa pine maintains a moisture content of 200–300 per cent and drying reduces brood success of the western pine beetle.

The effect of reductions in phloem thickness and carbohydrates associated with disease on success of beetle establishment is unknown. It may be deleterious to both the western pine beetle and the mountain pine beetle, since these insects establish their galleries primarily in the phloem-cambial region, scoring the sapwood only slightly. The effect on the mountain pine beetle should be greater because both the parent and the larvae develop within phloem whereas only parents and the early instar larvae of the western pine beetle utilize this tissue.

Limited observations on gallery formation and brood production in advanced-diseased trees and healthy trees showed some indication that both gallery length and total brood production were less in advanced-diseased trees. Thus, while advanced-diseased trees seem to provide a more attractive host, they may be physiologically less suitable for successful beetle development.

Air pollution injury increases the susceptibility of ponderosa pines to both attack and infestation by the western pine beetle and mountain pine beetle. This injury facilities establishment of the beetle on the host but may actually reduce the suitability of such trees as breeding material. Therefore, advanced-disease trees may act as "trap trees" in the sense that they absorb the resident beetle population and may actually prevent further build-up. In spite of the great abundance of advanced-disease trees in the area of the studies, there has been no noticeable increase in bark beetle infestations.

Summary

The foregoing discussion presents our views that a reduction of oleoresin exudation pressure, quantity, rate of flow, and an increase in the propensity of oleoresin to crystallize, and a reduction in phloem and sapwood moisture content enhance successful establishment of the western pine beetle and mountain pine beetle in ponderosa pine injured by photochemical atmospheric pollution. Hypotheses are presented which relate these results (papers II and III) to host susceptibility.

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BILL SCOTT REPORTS

HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. SCOTT. Mr. Speaker, we are mailing our monthly newsletter to each resident of the Eighth Congressional District of Virginia who has asked to receive it and I insert a copy of the March issue in the Record for the information of the membership:

[March 1970, volume IV, No. 3]

Your Congressman—Bill Scott Reports

A NEW BILL

A number of constituents employed as Metropolitan Washington policemen have indicated their concern with a requirement that D.C. policemen reside within a 21-mile radius of the Capitol building. I have requested the District of Columbia Commissioner to waive the rule as to a specific employee but have not had a response. Therefore, a bill has been introduced to remove the residence requirement entirely. The District of Columbia Committee has been requested to hold hearings on the measure and in view of the high crime rate in Washington and the inability of the Metropolitan police to bring its force up to full authorization, I am hopeful of favorable consideration.

POLLUTION

As national concern over pollution continues to grow, it has become increasingly apparent that decisive steps must be taken on the national level to curb the activities that threaten our environment. As a result, I have co-sponsored the seven bills recommended by the President to make a fresh start in this area. These bills touch on nearly every phase of pollution and include numerous proposals of ways to combat the serious pollution problem.

HEALTH BENEFITS HEARING

The Subcommittee on Retirement, Insurance and Health Benefits of the Post Office and Civil Service Committee is currently conducting hearings on health benefits for government employees. Continued increase in the cost of hospital and medical care has caused concern among both present employees and retirees. Our Subcommittee will consider a change in the ratio of payments by the government and the employees as well as the quality of medical care under government health plans. My own preference is for a 50–50 sharing of costs regardless of the plan or option chosen and at our initial hearing the Chairman of the Subcommittee said he concurred in this position.

YOUTH GROUPS

Since the beginning of the year I have met and talked with 16 school and scout groups and have many others scheduled for the coming months. The groups have ranged in size from 6 to 120 and have come from nearby Fairfax County and as far away as Hanover. Of course, I enjoy meeting with these young people and encouraging their interest in their government. However, due to other Congressional duties, I am sometimes unable to spend more than a few minutes with them. Small groups come by the office but larger ones are met on the Capitol steps where we have a chat and have our picture taken together. When time and circumstances permit I take them on the floor of the House for a brief visit. The office also supplies group passes to the House Gallery and information on various tours conducted in Washington. If you are planning to bring a group of youngsters to Washington in the future and would like assistance in arranging your visit, please let us know.

MERCHANT MARINE

Last week the House of Representatives passed the maritime programs authorization bill for fiscal year 1971. This measure provides for the construction of 19 new merchant marine vessels in FY 71 and is the first step in implementing the President's maritime program which, over a 10-year period, calls for the construction of 300 new vessels. It is the first decisive effort in decades to rebuild our merchant marine and is designed to reverse the sharp decline in American shipping and shipbuilding by making the American merchant marine more competitive. Of course, it will also provide shipping capability for our national defense.

POSTAL REFORM

Our House Post Office and Civil Service Committee for almost a year has been considering postal reform legislation, sometimes meeting as much as three times in a week. We took up titles of a bill, paragraph by paragraph, and completed consideration of a measure which would have provided for long time tenure for the Postmaster General, eliminated politics from consideration in postal appointments, retained Civil Service protection for postal employees, provided funds for modernization of buildings and equipment, and a new method of determining postal rates. Before a vote was taken however, a substitute measure was presented consisting of 148 pages and adopted by the Committee without discussion. The substitute, which will be presented to the House, provides for a Postal Service Authority to be operated by seven part-time councilmen who shall appoint a Director General, wage and hours of employees to be determined by collective bargaining with recognized representatives of employees with appeal rights to a board of arbitration. It does combine wage increases for some workers and establishes a commission to determine postal rates. My concern is that there will be little legislative oversight or opportunity for anyone to exercise any degree of control over the corporation should the substitute measure become law.

LET ME INTRODUCE

Much of the work of the Congressional office is done by a staff which consists of nine full-time and two part-time members. They are an excellent group and in order for you to become better acquainted with them and their duties, I want to introduce one of them to you each month.

Mrs. Pearl Hancock is in charge of our Fredericksburg office and started working with me in January 1967. She was formerly secretary to the Dean of Admissions at Mary Washington College and has also worked for Historic Fredericksburg and the Virginia State Employment Service. She is active in a number of local organizations including the Eastern Star, the Auxiliaries of the American Legion and the VFW and the Grace Memorial Church. Her responsibilities include keeping the District Office open each day for the convenience of constituents, correlating her activities with the Washington office, preparing correspondence, cutting stencils for our newsletters, clipping items of interest from the area newspapers for my information and setting up appointments for constituents who wish to visit the Fredericksburg office. She is an excellent stenographer and has a wide circle of friends in the area. Mrs. Hancock is a widow and usually takes her vacations at Christmas time or during the winter when the work load is lightest. Her interest in the office was demonstrated last year when she continued to come to work daily with her broken leg in a cast. She's a Pearl.

ADDITIONAL FEDERAL JUDGE

The House recently passed a bill by a vote of 366 to 18 to provide for new federal judgeships throughout the United States and which will add a federal judge for our Eastern District of Virgina. This will increase to 6 the judges in the Eastern District. In 1965, with three judges, this court ranked second highest in the nation in the number of cases handled by each judge. Two additional judges were added in 1966, but even with this added help Virginia's Eastern District continued to rank high nationally in caseload; ninth in 1967 and 1968 and eleventh in 1969 with an increase of over 100 percent in the last 11 years in new civil cases. The new district judge when seated should help the Federal court to handle the business brought before it more efficiently and expeditiously and thus reduce the delay in handling both criminal and civil cases.

CREDIT CARDS

Unsolicited credit cards and proposed legislation to prohibit them being sent through the mails were contained in a measure sponsored during the first session of the current Congress. Hearings have been completed and our Post Office and Civil Service Committee is favorably reporting a bill. In the meantime, the Federal Trade Commission issued a ruling prohibiting, with some exceptions, the mailing of unsolicited credit cards effective in May 1970. The Commission ruling mentioned the various undesirable results of unsolicited mailing brought out in the Congressional hearings such as theft from the mails, fraudulent use, the burden placed on an individual who receives and feels obligated to return or cancel the card. The conclusion was that the practice was an unfair method of competition over a competitor who does not utilize these unsolicited mailings. While it is hoped the legislation will soon be enacted, the Commission's ruling seems to be a step in the right direction, pending final Congressional action.

BILL CO-SPONSORED

I joined with others in introducing a measure to preserve the right of elementary and secondary students to attend their neighborhood schools. This measure states that the local school system shall have the right to determine the placement of any school facility to serve the needs of the community without federal intervention so long as no effort is made through its placement to discriminate against any student or group. It also provides that forcing a child to leave his neighborhood school because of race, creed, color, religion or national origin shall be illegal. Of course, the purpose is to maintain neighborbood schools and to prevent forced busing to achieve racial balance.

DISTRICT OF COLUMBIA CRIME BILL

We are all aware of the increasing crime problem throughout the country and specifically in the District of Columbia. However, the Attorney General has furnished information to Members of Congress indicating that during the last calendar year there was a total of 62,575 felonies committed in Washington and that it ranked first in the nation among cities having a population of 500,000 to 1 million inhabitants. The District of Columbia Crime Bill, which I co-sponsored, therefore appears to be every much in order. It is a comprehensive measure containing 439 pages. The major provisions of the bill relate to reorganization of the District of Columbia courts, changes in criminal laws and procedures and the establishment of a public defender service. Perhaps the specific points that have been given most attention through the news media are those related to pre-trial detention, the so-called "no-knock" provision for forceably entering a residence with a court order but without prior knowledge of the occupant and the transfer of the Lorton correctional institutions from the District of Columbia government to the U.S. Bureau of Prisons. All Members of Congress, I believe, want to protect the rights of citizens but are equally concerned with preserving order. It seems improbable that anyone's rights can be protected except under the rule of law and this measure seems to be a major step in the right direction.

GI BILL INCREASES

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. DUNCAN. Mr. Speaker, I was pleased to have supported the conference report on H.R. 11959 as agreed to by the House of Representatives yesterday.

As a member of the Committee on Veterans' Affairs and a strong supporter of this legislation since our public hearings in June last year, I am pleased to see that differences in the House and Senate version have been ironed out. As a result, the Nation's veterans who are pursuing courses of education and training will receive a well-deserved increase in monthly allowances when the conference report is agreed to by the other body and the compromise bill is approved by the President. The mail I have been receiving from veterans on college campuses across the country offers a striking example of the overwhelming need for increases in monthly educational allowances.

I am pleased also that the widows and sons and daughters of men who gave their lives in service will also share in the fruits of this legislation if they are pursuing programs of education or training. The bill as agreed to by the conferees authorizes a 34.6-percent increase in monthly educational allowances. Converted to dollars, this means that the veteran who is unmarried and attending school fulltime will have his monthly payments increased from $130 to $175 monthly effective February 1 of this year. From this monthly allowance, the veteran must pay his tuition and fees, purchase books, pay room and board and provide for other incidental and miscellaneous expenses. The increase is well-deserved and long overdue. I hope the other body will act with dispatch and that the President will speedily approve this legislation.

DILEMMA IN THE PARKS

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. BURTON of Utah. Mr. Speaker, a recent editorial in the Salt Lake Tribune concerns the dilemma facing those charged with the administration of our national parks. As a member of the House Interior Committee, I believe the matter is of sufficient interest to bring it to the attention of my colleagues in the Congress. The editorial follows:

[From the Salt Lake Tribune, Mar. 4, 1970]

DILEMMA IN THE PARKS

According to the 1916 act creating the National Park Service, America's national parks were "to conserve the scenery and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

That's still the Park Service's goal, though it is becoming increasingly difficult to attain. So many people in these mobile and affluent times want to enjoy the parks that it is almost impossible to "leave them unimpaired for future generations."

This isn't true of all the parks. It isn't even the case in all parts of those which draw the most people. But it is a problem that will touch more and more parks, monuments and national recreation areas, too.

Solving the increased user problem by constructing additional roads, campgrounds, etc., creates other problems. At what point, for instance, does usage cease to prove beneficial to both people and park? And how can a park be left "unimpaired" for future generations if it is criss-crossed by highways and blotched with hundreds of campgrounds, boat docks, restaurants and filling stations? Building additional national parks might prove feasible, though costly. But the most scenically unique spots have already been set aside.

Concern over present parks, ability to survive the crowds was expressed this week by Dr. Leslie L. Glasgow, assistant secretary of the interior, when he asked Congress for additional money to expand facilities at the Cape Cod National Seashore. As an alternative to expansion, he said the Park Service might have to resort to placing quotas on attendance.

Cape Cod National Seashore was opened in 1966. Now, less than four years later, it is too small to handle the four million persons who visited it in 1969. Clearly the pressure must be reduced.

Though we don't like the idea of having to make reservations to visit a national park, we fear some such emergency control is going to be necessary in the heavily used areas. Indeed, limitations on length of stay in camping areas, already are in effect in some parks.

Emergency measures have a way of becoming permanent. There is also a tendency to resort to such tactics before actual need is established. This must be guarded against while more lasting remedies are sought and applied.

We think a plan announced several months ago by Interior Secretary Walter J. Hickel holds great promise for diverting many park-bound vacationers. The Hickel plan calls for establishing a number of new, though not necessarily spectacular, parks nearer centers of population. It was designed to bring parks to people who otherwise couldn't enjoy them. But the "close to home" parks would also attract a lot of the people who are now driving several hundred miles farther along the road to a big name national playground.

More nearby parks, reasonable expansion of existing ones and emergency only use of visitor quotas could stave off the day when several years on a waiting list may be a prerequisite to seeing Yellowstone's geysers or Yosemite's falls.

DRAFT LOTTERY

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. DADDARIO. Mr. Speaker, on July 22, 1969, with my colleague from New Jersey, Mr. THOMPSON, I introduced H.R. 13025, a bill to amend the Military Selective Service Act of 1967 by instituting some 20 changes or alterations, including selection by lottery effective for all young men at age 19. In October 1969, the House passed H.R. 14001 which permitted the President to affect the latter change, and only this one change was made. It is increasingly apparent the Selective Service System continues to be plagued with virtually all of its previous ills. Even the uncertainty which the age 19 all or nothing lottery was designed to remove has remained. While one board need call upon only the low numbers, other boards with fewer eligible young men available have virtually run through all numbers, even those originally thought to be assured of exemption.

Beyond the rapid emerging problems of the lottery, the system contains inequities

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untouched by the either Presidential or congressional action. These problems are individually glaringly obvious to those who encounter them as they come of draft age. Collectively they are apparent to officials of the Selective Service and to Government appeals agents across the country. The latter office is, unfortunately, all too little known for in most instances the agent, customarily a local attorney, makes little effort to publicize the fact that the Government makes available free draft counselling service. To do so, would invite great demands on the agent's valuable time in an unpaid position.

Local board No. 1, in Hartford, Conn., differs from most in the Nation in that it has the services of a young attorney, Mr. Robert F. Ludgin, who has taken his duties as appeals agent sufficiently seriously to speak before student and parent groups advising them of the options open under the law and offering his services for consultation on individual cases. This extraordinary effort has been the subject of the lead editorial of one of Connecticut's leading papers, the Hartford Times. I insert the editorial, by the editorial page editor, Don O. Noel, Jr., into the Record at the close of my remarks.

In his effort to obtain fair treatment for those who seek his advice, Mr. Ludgin has become painfully familiar with all the inequities built into the system. Some months ago, Mr. Ludgin committed his criticism and recommendations regarding prospective changes in the draft system to paper. In January he rewrote his observations in the form of a letter and forwarded copies to President Nixon and the Secretary of Defense. More recently I obtained a copy of Attorney Ludgin's critique and find both his criticism and his recommended changes to be strikingly similar to those found in my bill, H.R. 13025, the Selective Service Act of 1969. I consider this similarity of significance because Mr. Ludgin drafted his letter without knowledge of the specific points raised by this legislation.

I recommend the following editorial and letter to my colleagues in hopes that attention may soon be turned to the remaining inequities in the Selective Service System so skillfully noted by Mr. Noel and Mr. Ludgin:

[From the Hartford (Conn.) Times, Mar. 14, 1970]

Are Deferments Essential? Making the Lottery Work—

(By Don O. Noel, Jr.)

We defer young men from the draft to avoid a surplus of soldiers.

It's that simple. If we didn't invent all kinds of handy definitions to make young men draft-exempt, we'd have too many ready to be drafted. Then we'd be forced to make "arbitrary" decisions as to who went and who didn't. People would be angry.

The categories of draft deferment are perhaps not as obvious.

They are obvious enough that people are becoming aware of them. A Senate subcommittee headed by Senator Edward Kennedy has just proposed virtual elimination of draft deferments.

No student deferments.

No occupational deferments.

One of the early proponents of this kind of reform—and an advocate of still more sweeping reform—has been Robert F. Ludgin, a young attorney who serves as government appeal agent for Local Board No. 1 in Hartford.

Bob Ludgin has been pressing reform for more than a year now, offending some and pleasing others.

Over lunch with him this week, I learned a lot about the draft.

Mr. Ludgin hardly fits the picture of a hot-eyed anti-war protester. On graduation from Princeton, he enlisted in the Marine Corps, somehow concealing his flat feet. After eight weeks of Marine Corps marching and hiking, a Corps surgeon politely but firmly threw him out.

He got into the draft business here by accident. Interested in public service, he told the Democratic Party he'd be glad to do something useful. When a vacancy occurred for a draft appeal agent, he was offered the job.

"I'd never heard of the position," he says. "My predecessor said it would only take two or three hours a month, and I said O.K."

It's been taking him at least five times that amount of time, but he's brought it on himself. The appeal agent is supposed to counsel with young men who have questions about the draft, explain their rights, help them prepare an appeal if they are not satisfied. Most draftees never know there is an appeal agent.

But Bob Ludgin got himself known, and he now has so many requests for advice that he holds little seminars for a dozen at a time, helping young men know their rights.

He also—and this is where he got to be controversial—began challenging the deferment system.

It's all well and good, he argued, to allow a young man to appeal an unfavorable classification.

But if another young man gets a favorable classification—that is, if he's deferred—improperly, then someone else will be drafted in his stead. Who gets to appeal that kind of decision?

The kind of deferment he went after was the kind that became permanent: The young man who parleyed college, a year of teaching, another year of graduate school, still another year of teaching, past his 26th birthday. At around age 24, he felt, draft boards ought to take a hard look at further deferments.

After prolonged negotiation with the selective service bureaucracy, he won the right to examine the files for deferments he felt were improper. He then won, again after long delay, the right to appeal them.

He appealed five cases. And after badgering the state appeal board for months, he finally had them reviewed, and won his point: All were ordered reclassified 1-A, draft-eligible.

All five were, by the time the ruling came down, past the age of 26, and as a practical matter are home free. But Bob Ludgin thinks he won a victory in principle that can be applied to future cases.

Meantime, the possibility opens for more sweeping reform. Now that the lottery system has been adopted, we have an easy way—arbitrary, but impartial—to take only a few of the young men of draft age.

Therefore, argues Mr. Ludgin—and Senator Kennedy, and others—why bother with deferments at all? Let everyone be "exposed" to the draft during the year in which his 19th birthday occurs. For one year, he will be eligible; he'll be able to guess his chances, to some extent, by the number his birth date draws in the lottery. But he'll have no more than a year of doubt.

As we've all been reading, the lottery system hasn't worked too well so far. Many boards had to use all the numbers up to 30 or 31 in January, and 28 this month. At that rate, everyone who isn't deferred will be called by the end of the year, no matter what his number.

It is, of course, the deferments that skewer the system; and June graduation may drastically change the numbers game.

But the long-range solution is to have no one deferrable. Eliminate the liaison officers for large corporations, whose job is to assure draft boards that any engineer they hire is involved somehow in defense-related work. Eliminate the men who "hide" in teaching jobs until they're 26.

Some fear that abandoning college deferments would persuade many young men to abandon college.

It might. But almost any college graduate of the postwar years will recall students—veterans, most often—who came to their studies with a purpose born of a year or so away from the ivory towers.

A year of travel, or productive work, might do wonders for many students. And if some, relieved of draft worries, never came back to college—how bad would that be?

Should we end the draft completely, and depend on a volunteer army?

No, says Bob Ludgin. The role of citizen-soldiers (and, incidentally, a citizen-dominated draft system, another reform he advocates) is an important balance on the military's role in a democracy.

Let's have a draft, he says. But make it fair.

January 20, 1970.

The President,
Washington, D.C.

Dear Mr. President: As the Government Appeal Agent for Local Board #1 here in Hartford, I am especially concerned about the need for legislation to improve and reform the Selective Service System.

Because it is likely that our Armed Forces would never request, and almost certain that they could never absorb, the services of all our nation's young men of draft age, the role of Selective Service must remain, as its name implies, the selection for mandatory military service of some men from among the total list of draft registrants. Therefore, so long as a military draft exists, the burdens of citizenship will continue to be distributed unevenly among the draft registrants. Inequities are an inherent and inescapable part of our military draft system. In addition, however, the current Selective Service Laws are responsible for intensifying the unfairness with which the draft system works.

Your interest and efforts in reforming the Selective Service System are commendable. The creation of the birthday-alphabetical lottery system is, I believe, a step in the right direction toward a draft system offering a greater measure of predictability to individual registrants. Also, it lays the foundation for building a military draft system that selects physically qualified registrants more randomly and less subjectively. But, if the draft is to be rid of much of its present unfairness, considerably more reforms remain to be carried out in the system.

Knowing that you are interested in further improvements in the draft system, I herewith humbly offer my own observations and suggestions on this subject.

Re: I-A-O and I-O Classifications, i.e. Deferments for Conscientious Objectors: The noble and humane idea of granting appropriate deferments to individuals who, by religious training and belief are conscientiously opposed to: a.) combatant training and service in the armed forces *or* b.) participation in war in any form *and* combatant and noncombatant training and service in the armed forces should be extended to recognize the dignity of every individual registrant's beliefs. These classifications should be made available to any registrant who is conscientiously opposed to: a.) combatant training and service in the armed forces; b.) participation in war in any form and participation in combatant and noncombatant training and service in the armed forces; *or* c.) participation in whatever declared or de facto war our military forces are engaged

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in at the time his classification is being determined, and participation in combatant and noncombatant training and service in the armed forces.

Re: II–S Classifications, i.e. Deferments for Undergraduate College Students: The present system of deferring any registrant who is a full-time college student making normal progress toward a degree discriminates unfairly against those individuals who have enjoyed the least of the educational and financial opportunities available in our society.

Although scholarships and loans are available for some students who cannot afford to pay their own way through college, many young men do have the grades to be accepted for college but are unable to obtain sufficient scholarships and loans to finance their education and are unable to do so with their own and their family's resources. Thus, due only to their financial condition, many registrants become subject to induction while others from more affluent families are deferred even though their scholastic abilities and achievements are no better than their poorer peers.

More generally, II-S deferments discriminate against the registrants from the least affluent sections of our society because such registrants are least likely to be attending college as a result of their life-long environmental deprivation.

Defense Secretary Laird's recent statement that you are considering asking Congress to discontinue student deferments comes as welcome news.

I agree that student deferments should be discontinued.

Re: II–A and II–C Classifications, i.e. Occupational Deferments: Because occupation deferments also tend to be given in favor of the better-educated, better-connected and more affluent registrants, they further intensify the disadvantages of being poor.

I urge that all occupation deferments be abolished.

For too long, occupational deferments have been available for certain favored registrants as the final building blocks in their pyramiding of deferments until their 26th birthday thereby allowing such registrants to obtain permanent exemptions from the military service.

Re: III–A(a) Classifications, i.e. Automatic Deferments for Fathers: The existence of deferments for fathers reflects the hesitancy of the government to interfere with the tranquillity of family life. Such a consideration is entirely proper. What should be an overriding consideration, however, is that the existence of this classification is unfair to those males in our society who, although desirous of experiencing the joys and responsibilities of raising a family, delay the assumption of family obligations until their careers and finances enable them to provide properly for their children.

The fact that a very large number of our military men do have families should lessen our fears of drafting fathers.

I believe that deferments for fathers should be terminated.

The right of a registrant to appear in person before his Local Board should be retained by allowing the registrant the right to appear before the District Draft Commission with which he is registered.

To insure nationwide uniformity in the administration of the law, an attempt should be made to establish a system that requires the District Draft Commission to make public their decisions in every case on which a hearing was had while protecting the rights of the individual registrants to personal privacy and public anonymity.

If such a District Draft Commission system were established, I believe that the present system with its State Appeal Boards and the Presidential Appeal Boards could be replaced by one National Appeal Board. It too should be composed of full-time fully salaried Presidential appointees serving overlapping terms of some 4–6 years. The decisions of this body should also be made public in the same fashion as those of the District Draft Commissions.

To insure that all the necessary facts are available to the District Draft Commissions for their case-to-case decisions, I suggest that the present use of Government Appeal Agents be replaced with a modified adversary system. In other words, the present denial by the Selective Service System to all registrants of the right to counsel should cease. A registrant should be given the right to appear in person with counsel and appropriate witnesses at his personal appearance before the District Draft Commission. Furthermore, registrants should also have the right to counsel when appealing to the National Appeal Board. Full-time staff attorneys should be hired for each District Draft Commission to serve as Government hearing officers. Their duty would be to represent the interests of the public and the Government in seeing that the laws are diligently and equally applied. Furthermore, other full-time attorneys should be hired for each District Draft Commission to serve as "advisors" to *all* registrants and as full legal counsel for those registrants who cannot afford to hire their own counsel.

Re: III–A (b) Classification, i.e. Deferments for Extreme Hardship to Dependents: The majority of III–A(b) deferments that are granted appear to be for extreme financial hardship. In other words, the registrant is deferred because but for his civilian wage earning capacity, one or more individuals dependent upon him for financial support would suffer extreme financial hardship. Because the Selective Service System Regulations do not elaborate on just what "extreme hardship" is supposed to mean, each Local Board is left to its own discretion in applying the "extreme hardship" standard, thereby creating a nationwide inequality in the application of the law. I think that serious consideration should be given to the idea of abolishing deferments for extreme hardship for financial reasons and replacing them with a system of financial support from the Federal Government to those individuals who are suffering extreme financial hardship due to the induction of a husband, divorced husband, father, son, grandson or brother upon whom they were financially dependent. Regulations should be issued spelling out in detail just what does constitute extreme financial hardship.

Because this classification is also used at appropriate times by Local Boards to defer registrants whose induction would cause extreme physical or emotional hardship to their dependent relative(s), I believe that this classification should be continued so long as it is specifically limited to cases of physical and emotional dependency. Here too, regulations should specify in sufficient detail what constitutes "extreme hardship."

Re: Streamling the System: The foundation of the organizational structure of the Selective Service System is, of course, the Local Boards. The existence of the Local Boards, however, is one of the major causes of inequality in the draft system. Because each Board has the authority to apply its own standards of "extreme hardship", "necessary to the maintenance of the national health, safety or interest", etc., the law is applied unequally from one area to the next. For the purpose of achieving a more uniform nationwide administration of the Selective Service Laws, I urge that the present system of Local Boards be abolished and be replaced with a system of statewide or even multi-statewide regional administrative districts. Each regional administrative district (hereinafter referred to as a District Draft Commission) under such a system, in addition to having full-time career clerical and administrative staff employees, should also have a full-time fully salaried Commission of some three, five or seven members whose responsibility would correspond to that which is presently held by Local Board members. In other words, the District Draft Commission would have the responsibility of deciding the classification of each registrant in its district. The District Draft Commissioners should be Presidential appointees who would serve overlapping terms of four or six years.

Re: "Civilianizing" the Selective Service System: Presently our national and state Selective Service System organizations are heavily staffed by career administrators who are military career personnel. Notwithstanding their integrity, dedication and competence, I believe that public acceptance of the Selective Service System would be improved if the system were staffed completely by administrators who were Civil Service personnel. After all, the purpose of Selective Service is to provide military manpower from among the civilian population. Those who administer the program should have greater ties to the civilian segment of our population. Immediately, the Selective Service System should be civilianized by giving appropriate Civil Service ratings to the current Selective Service administrators and by requiring them to retire from the military service. Over the long run, career administrators for the Selective Service System should be recruited from the civilian segment of the population.

Re: National Guard and Reserves: No attempt at removing the inequities in our military draft system would be complete without some reform in the methods of recruitment employed by our various national guard and reserve units.

Presently the existence of programs of 4–6 months active duty followed by several years of weekly or monthly drills offers an unfair partial escape from the draft to a privileged few. Too many of our national guard and reserve programs have selection procedures that favor the well-connected and the better-educated sections of our population. Continuation of these draft-substitute programs should be predicated upon a system of selecting *qualified* applicants on a more random basis.

Re: Volunteer Army: Finally, in view of your publicized desire for a well-paid completely volunteer army, I urge you to consider the benefits to our national moral consciousness of having citizen-soldiers. I fear that an army made up entirely of well-paid volunteers would begin to have some of the atmosphere of an old-fashioned "mercenary" force. Such an army would be much more willing than an impressed citizens' army to fight as directed no matter what the cause involved. Our present system requiring citizens to interrupt their personal plans to serve their nation in the armed forces keeps intense pressure upon our Federal Government, both from within the military and from among the citizenry, to use our military forces in such a way that lives are endangered and sacrified only when it is essential to our national security. I fear that with a volunteer army such pressure would be reduced.

Yours very truly,

Robert F. Ludgin.

THE 18-YEAR-OLD VOTE—IF CONSTITUTION BARS—IGNORE IT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. RARICK. Mr. Speaker, the action of the other body in substantially altering the character of the bill extending and applying to the Nation as a whole the Voting Rights Act of 1965 has brought before the House a most remarkable measure—among other things a right to vote for 18-year-olds by act of Congress completely bypassing the Constitution.

For many years the question of adjustment of the minimum age for exercising the franchise has been discussed and debated. These debates have, until now, taken place in the forum reserved by the Constitution for such decisions—the legislatures or conventions of the several sovereign States. Now, ignoring the Constitution, for the simple and obvious reason that the procedures prescribed by that basic charter cannot be operated by a minority, we have the new order of things before us as a statute, and a Federal statute at that.

The determination of the qualifications of voters is a matter expressly reserved to the States in their sovereign capacity. They may, as some have, elect to grant the franchise to different age groups within the State, on the basis of the local experience and the local political philosophy. This is as it was intended to be, and there has been no valid or legal reason shown why the States should be deprived of this power.

The power in the State to regulate voter qualifications is correct and proper for the same reason that it is correct and proper that the several sovereign States should separately denounce what acts are deemed by their people to be crimes within their borders. It is also a part of the same political philosophy of a federal system which holds that such other determinations as the age at which individuals are held to be criminally responsible for their own acts, or liable in tort for their own wrongs, or free to marry or to take other important actions without the consent of their parents or guardians, is properly a determination of the several States, and can be beneficially variable among them, relating in each State to the conditions which exist therein.

So it is with such things as the age at which a child may be licensed to drive, or to hunt, or permitted to drink, or to handle explosives, or to drop out of school, or to consent to many acts which may be detrimental to him. In all of these cases we have found it wise to leave to the people of the States the control over their own destinies.

So we have done with the franchise, and experience, wisdom, and the lessons of history prove we should continue to do. Where we have elected to take national action regarding the franchise we did not hesitate to adopt the course provided by the Constitution—a constitutional amendment. We did this to provide that all citizens might vote, and that women might vote. We have done it, albeit unwisely, to abolish the payment of a tax to the state as a prerequisite to the exercise of the franchise. If we now wish to make lowering of the voting age national policy, we should again follow the Constitution—we should amend it—not abrogate it. Otherwise our action is only a dangerous nullity.

A cursory examination of some of the emotional arguments made for this violation of the Constitution indicates at once how specious and dishonest they are. I will dispose of two of the most common quickly.

18-YEAR-OLDS ARE OLD ENOUGH TO FIGHT—THEY'RE OLD ENOUGH TO VOTE

It is said that those young men of 18 who are old enough to be drafted—to fight for, to risk their lives for, and to die for their country should be allowed to vote. This is an appalling non sequitur.

It presupposes that the qualifications for both military service and voting are the same, and that all who are eligible for that service should be permitted to vote. It logically disenfranchises all of those Americans who are not eligible for military service—including all of the women of the country. It would result, carried to its own logical conclusion, in an electorate consisting exclusively of honorably discharged veterans.

I doubt that any State legislature would face up to any proposal that it amend the selection laws, or Constitution, to extend the right to vote to any man serving their country in the Armed Forces or honorably discharged—regardless of their age.

Likewise, most sensible observers have noted that the screaming mob espousing this slogan are not veterans nor fighting men but rather draft dodgers, draft card burners, and revolutionary vandals who have no intention whatsoever of fighting—at least not for the United States.

MEDIAN AGE PROPAGANDA

It is said that the median age of Americans is only 27 years—the mark of an ever younger population, and that the decreasing median age makes it necessary, as a purely democratic process, to lower the minimum age for voting. This argument is neither true nor relevant—another word which is often heard these days.

First, the median age has nothing to do with the qualifications of the electorate. It is a statistic, and as any statistic is only valuable in its proper setting.

That the median age of our population is 27 years only means that there are as many Americans under that age as there are over it. So what? There is also a median height, a median weight, a median blood pressure or red blood count, a median income, and a median almost anything else subject to measurement. Of the half of the Americans who have not yet attained the age of 27 years, a significant percentage have not attained the age of 18 years—or 15 years—or 10 years—or 5 years—some are still infants in their mothers arms. But we are not yet counseled that these children must vote—in the interests of responsible government.

On the fallacy of the decreasing median age, the most recent statistical abstract of the United States sets the matter to rest, once and for all, I hope. Instead of being a decreasing figure, it is an increasing one. True, since 1950 it dropped from an alltime high of 30.2 years to its present level of 27.7 years. But from the time of its first census significance in 1820, it has risen from 16.7 years. Thus, if the shifting age median relates to the franchise, we should be considering raising the minimum voting age by the 11 years the median has risen, and establishing it at the age of 32 rather than the present age.

Statistical abstract follows:

STATISTICAL ABSTRACT OF THE UNITED STATES—1968

Total resident population excluding Armed Forces abroad

Year:	*Median age All classes*
Conterminous U.S.:[1]	
1790	([1])
1800	([1])
1810	([1])
1820	16.7
1830	17.2
1840	17.8
1850	18.9
1860	19.4
1870	20.2
1880	20.9
1890	22.0
1900	22.9
1910	24.1
1920	25.3
1930	26.4
1940	29.0
1950	30.2
1960	29.6
United States:[2]	
1950	30.2
1960	29.5
1967[3]	27.8

[1] Not available.

[2] Excludes Alaska and Hawaii.

[3] Estimate as of July 1.

Source. Dept. of Commerce, Bureau of the Census; Fifteenth Census Reports, Population, Vol. II, Sixteenth Census Reports, Population, Vol. II, Part 1, and Vol. IV, Part 1; *U.S. Census of Population: 1950,* Vol. II, Part 1; *U.S. Census of Population 1960,* Vol. 1, and Current Population Reports, Series P–25, Nos. 367 and 385.

THE 18-YEAR-OLDS TODAY ARE MORE INTELLIGENT AND BETTER INFORMED THAN ANY OTHER GENERATION

No one making this argument has ever bothered to produce the slightest proof of either of these assertions.

To the contrary, records in our public schools, the Selective Service System, and our Armed Forces show a constant decline in both intelligence and aptitude averages.

The common experience of adults—especially employers—is that today's young people cannot spell, cannot read, and cannot reason.

Yet, this is not to say that many of our young are not proficient in parrotting loudly the emotional slogan programed into them by the left-wing pseudo-intellectuals dominating our schools and the mass media.

I include in my remarks pertinent clippings of news stories and editorial comment relating to the concept of State determination of minimum voting age:

[From the Baton Rouge (La.) Morning Advocate, Mar. 16, 1970]

VOTES FOR 18-YEAR-OLDS DON'T GET WIDE BACKING

WASHINGTON.—Congress propelled by the Senate, is seriously considering lowering the voting age to 18 but the proposal has not gained wide support among the states.

Only four states now permit persons under 21 to vote, and in the 25 years since the idea first took hold, 41 states have specifically rejected it.

Perhaps of greater significance, in the last five years despite the increasing involvement of young Americans in political affairs, 21 states have turned down proposals to lower the voting age.

While it is true that state legislatures are not often advocates of great political changes, in eight of the 21 states rejection was by the voters in a statewide referendum.

Now that the Senate has voted overwhelmingly for the proposition and done it in a way that will force the House to consider it, the argument in the House will probably turn on constitutional issues.

AMENDMENT ROUTE

Most of the bills introduced in the House over the past few years to lower the voting age have been in the form of proposed constitutional amendments. The Senate has taken the position that a federal law is all that is needed.

The Constitution specifically leaves to the states the power to set qualifications for voters and when Congress has stepped into this area it generally has done so by constitutional amendment.

In 1870, the 15th Amendment barred the states from denying anyone the right to vote on account of race or color. In 1920, the 19th Amendment gave women the right to vote, and in 1962 the 24th Amendment prohibited poll taxes as a condition of voting.

The major statutory reach by Congress into state election procedures has been in the civil rights area where it has acted on the grounds that Negroes were being denied constitutional rights.

Whether the refusal of states to permit 18-year-olds to vote is a case of discrimination prohibited by the Constitution is questionable to many House members.

If such a law is passed, they say, why can't 17-or 16-year-olds claim they are being discriminated against?

MARKS BOUNDARY

The idea that 21 marks the boundary between adolescence and maturity apparently stems from medieval days when youths were knighted at 21. At any rate the standard found its way into the early constitutions of the various states and there it remains in most cases.

Georgia was the first state to make 18-year-olds eligible to vote. It did so in 1943 under the leadership of Gov. Ellis Arnall and the spur of World War II.

Kentucky followed suit in 1955 and no state has lowered its voting age since, although Hawaii and Alaska adopted lower ages in their constitutions when they became states. Hawaii set it at 20 and Alaska at 19.

Opponents of congressional action in this area say it should be left to the states to decide, and in the quarter century since Georgia showed the way the effort has been made in most of them. Maine has rejected the idea five times, Florida four times and Louisiana and Illinois three times.

Despite such setbacks supporters are still pushing ahead in the states and 10 states will vote this year on proposals to lower the voting age to 18.

They are Alaska, Connecticut, Hawaii, Maine, Massachusetts, Minnesota, Montana, Nebraska, Oregon and Wyoming. In addition the Delaware legislature has passed it and needs only to repass it this year to make it stick.

[From the Chicago (Ill.) Tribune, Mar. 16, 1970]

THE VOTING AGE IS A STATE MATTER

The United States Senate, by a vote of 64 to 17, has approved an amendment to the voting rights bill which would lower the voting age to 18 in all elections, federal, state, and local.

Even the author of this proposal, Sen. Mike Mansfield (D., Mont.), the majority leader, implicitly acknowledged that its constitutionality is doubtful. He said he favored continued work by a Senate subcommittee on a proposed constitutional amendment to lower the voting age. This alternative will be available if the House refuses to accept the Senate amendment or if it is enacted and later held unconstitutional by the courts.

A number of senators challenged the Mansfield amendment on constitutional grounds, but the majority apparently was more concerned about the possibility of offending 13 million potential new voters than about the violence it might do the Constitution or what is left of the federal principle in our system of government.

We favor reduction of the minimum voting age to 18, but we believe this is a matter for state action. Kentucky and Georgia already have lowered the minimum to 18; Alaska has lowered it to 19, and Hawaii has lowered it to 20. No federal action is required, but if it is desired a constitutional amendment is the procedure prescribed by the Constitution itself.

The 15th amendment was adopted to give Negroes the vote, the 19th to give women the vote, and the 24th to abolish poll taxes. Altho constitutional amendments were deemed necessary in all these cases, the United States Senate now proposes to ignore the Constitution in respect to federal legislation to lower the voting age.

The Constitution is explicit. It provides that electors of senators and members of the House of Representatives from each state "shall have the qualifications requisite for electors of the most numerous branch of the state legislature." For the election of the President and Vice President, the Constitution provides that "each state shall oppoint, in such manner as the legislature thereof may direct," as many electors as it has senators and representatives in Congress.

Clearly then the states, and not Congress, are empowered by the Constitution to prescribe qualifications for voting. Supporters of the Mansfield amendment relied upon the specious argument that the 14th amendment guarantees, among other things, "the equal protection of the laws" for all citizens, and authorizes Congress to enforce its provisions by "appropriate legislation." Under this authority, Congress, in the voting rights act of 1965, denied states the right to require literacy tests in English for persons who have completed the sixth grade in another language. The Supreme court, in Katzenbach versus Morgan, upheld this section of the act as applied to a New York statute which excluded Puerto Ricans, illiterate in English, from the franchise.

This law, however, was a determination by Congress that English literacy tests deny "the equal protection of the laws" to citizens who are literate in another language. It does not follow from the Supreme court's decision that a state law classifying citizens by age for voting purposes is discriminatory. If that were the case any qualification whatsoever would be discriminatory, for some could vote and others could not.

A dissenting opinion by Justice John M. Harlan, who was joined by Justice Potter Stewart, upheld New York's literacy test law. It said the act of Congress could not be sustained "except at the sacrifice of fundamentals in the American constitutional system—the separation between the legislative and judicial function and the boundaries between federal and state political authority." An attempt by Congress to usurp the right of the states to determine the minimum age for voting would do far greater violence to the constitutional system.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

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